

ORIGINAL

STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM AIKEN COUNTY

Doyet A. Early, III, Circuit Court Judge

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SC Court of Appeals

THE STATE,

RESPONDENT,

V.

MICHAEL TYRONE QUARLES,

APPELLANT

APPELLATE CASE NO. 2013-001159

RECORD ON APPEAL

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IN THE COURT OF
GENERAL SESSIONS

4 STATE OF SOUTH CAROLINA

5 State,

-VS-

6 MICHAEL T. QUARLES

7 Defendant.

TRANSCRIPT OF RECORD

13-GS-02-760, 761

May 14-15, 2013
Aiken, South Carolina

13 B E F O R E:

14 HONORABLE THE HONORABLE DOYET A. EARLY, III, Judge.

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Official Court Reporter

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21

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Qualifying of the Jury

34

1 breach of trust with fraudulent intent back in 1995. We
2 also excused Juror Number 53, while we took our break,
3 that is Kristy Emmerson. Ms. Emmerson -- we received a
4 phonecall that Ms. Emmerson had a medical emergency and
5 she's been excused for the balance of the week.

6 We had a side bar during the selection of the jury.
7 Mr. Chesser had a side bar with me wanting me to excuse
8 the lady who had chemo who worked at the correctional
9 institute in Edgefield. Is that right?

10 MR. CHESSER: Yes, Your Honor. That's Juror 190.

11 THE COURT: Juror Number 190. He thought that that
12 disqualified her -- the fact that she worked there. That
13 is not a qualifying requirement. That is an exemption
14 that's personal to the juror. She did not exercise it.
15 Anything else you need to put on the record concerning
16 that, Mr. Chesser?

17 MR. CHESSER: No, Your Honor.

18 THE COURT: All right. Anything we need to do before
19 we start the trial at 2 o'clock?

20 MR. CHESSER: Your Honor, we had discussed a couple
21 of days ago or yesterday, a couple of motions, at
22 pretrial. One of them is a Jackson v Denno motion. I
23 will tell the court that I've been over again the
24 interview conducted of Michael Quarles and at the
25 beginning of it at the two-minute mark it's a pretty

1 thorough invocation of rights -- not invocation. What I
2 meant is the opposite of that. It is a pretty thorough
3 advisement of the rights, and, so, I'm not going to pursue
4 the ---

5 THE COURT: Well, I think the record, though,
6 requires me to conduct a Jackson v Denno notwithstanding
7 you have no opposition to it.

8 MR. CHESSER: Very good. Other than that, we'd like
9 to address the issue of the admissibility of the
10 out-of-court identification of Michael Quarles.

11 THE COURT: That's the line-up question?

12 MR. CHESSER: Yes, Your Honor. And then, finally, we
13 had submitted and we would move to suppress, or not allow
14 into evidence, what I believe was the 9-1-1 call. It may
15 have been simply a call to law enforcement, but the victim
16 immediately after this incident made a call about three
17 minutes in length to law enforcement and we'd submitted
18 the written basis for that is a 403 objection, Your Honor.

19 THE COURT: More prejudicial than probative?

20 MR. CHESSER: That and I would preface that by saying
21 that essentially, I mean, technically and, in fact, it's
22 an out-of-court statement introduced for the truth and so
23 it actually begins as hearsay until the state comes up
24 with some other type of classification of it. But above
25 and beyond that, it's subject to a 403 analysis, and we

1 would submit -- if you want me to argue that now, Your
2 Honor...

3 THE COURT: No, sir. I want to do the Jackson v
4 Denno. I want to do the line-up and then I'll do that.

5 MR. CHESSER: Thank you, Your Honor.

6 THE COURT: Ready to proceed with Jackson v Denno?

7 MR. MCCARLEY: Yes, sir, Your Honor.

8 THE COURT: Well, since he's not opposing it, let's
9 do it in a fairly efficient manner.

10 MR. MCCARLEY: I will do my best, sir. The state
11 calls David Savage for the purposes of a Jackson v Denno
12 hearing as to the voluntariness of a statement given to
13 him.

14 DAVID E. SAVAGE, after being duly sworn,
15 testified as follows:

16 THE CLERK: Please have a seat in the witness box.
17 State your full name for the court and spell your last.

18 THE WITNESS: David E. Savage; S-A-V-A-G-E.

19 DIRECT EXAMINATION

20 BY MR. MCCARLEY:

21 Q Lieutenant Savage, where do you work?

22 A The Aiken County Department of Public Safety.

23 Q How long have you been working there, sir?

24 A I'm on my 23rd year.

25 Q And what is your position?

1 pretrial basis and obviously if anything is different
2 during the trial of the case we will deal with that at
3 that time. Anything else Mr. Solicitor?

4 MR. MOLONY: No, sir, Your Honor.

5 THE COURT: Mr. Chesser?

6 MR. CHESSER: Not on this matter, Your Honor.

7 THE COURT: You may step down. All right.

8 Mr. Chesser I'll hear you on the exclusion -- you say it's
9 a 9-1-1 tape. Is that exactly what it is?

10 MR. MOLONY: It is, Your Honor.

11 MR. CHESSER: It is a 9-1-1 tape? Okay. It's a call
12 to law enforcement but -- I'll call it a 9-1-1. I believe
13 it is a 9-1-1 call.

14 THE COURT: You say it's 9-1-1 in your motion to
15 exclude so I guess that's what it is.

16 MR. CHESSER: Okay. The call was made again
17 immediately after this incident and what -- my objection
18 is this, the call is as emotional as it can get. But, the
19 information that is related in this call is factual. The
20 State intends to prove that there was an armed robbery and
21 a kidnapping and that Michael Quarles participated in
22 this, and they're going to present the testimony of
23 Mrs. Guerriari, and she's going to testify to these -- to
24 the facts -- well her testimony is going to be that she
25 was robbed at gunpoint, at taser point, and she was

1 restrained.

2 Now, this tape -- the only reason that the state
3 wants to introduce this is for its emotional impact, and
4 it is overwhelming. In the first instance, technically
5 and, in fact, according to the law, this statement,
6 introduced for the truth of the matter asserted, is
7 hearsay. It is simply a prior out of court statement made
8 by this witness. This particular concept, the idea of the
9 testifying witness, if their statements constitute hearsay
10 is recognized, by the case of Saltz.

11 THE COURT: You got me a copy of that?

12 MR. CHESSER: Yes, sir, Your Honor. I highlighted
13 the portion --

14 THE COURT: State versus Saltz. Did you send me
15 that?

16 MR. CHESSER: Yes, sir.

17 THE COURT: You sent me...

18 MR. CHESSER: Well --

19 THE COURT: You sent me Foster.

20 MR. CHESSER: I'm sorry, that's the case that foster
21 relies on.

22 THE COURT: Hand me up Saltz. You don't have it?

23 MR. CHESSER: No, Your Honor.

24 THE COURT: We'll find it.

25 MR. CHESSER: Thank you. But what it says, and again

1 Foster just reiterates it, just cites it. Saltz is a case
2 from several years ago, that to me it was the first large
3 case that recognized that principal, but the fact is, that
4 she can testify and is expected and will testify as
5 exactly what happened.

6 THE COURT: It doesn't need to be bolstered by a
7 9-1-1 tape --

8 MR. CHESSER: Yes, sir, thank you -- I am starting to
9 repeat myself.

10 THE COURT: Cumulative, bolstering and highly
11 prejudicial because of the emotional effect.

12 MR. CHESSER: Thank you, Your Honor.

13 THE COURT: Mr. Molony?

14 MR. MOLONY: Your Honor, I think it's important
15 that--

16 THE COURT: Well is it bolstering her testimony.
17 She's going to testify as to what happened, isn't she?

18 MR. MOLONY: She is going to testify to what happened
19 right prior to her making this 9-1-1 call.

20 THE COURT: That's correct.

21 MR. MOLONY: However, what occurred at this point,
22 Your Honor, in this case is extremely probative. This is
23 a hand of one hand of all type of case. She does speak
24 with emotion, excited utterance, which would get it out of
25 the hearsay land that Mr. Chesser is referring to, and it

1 is important that she be able to testify as to -- through
2 this tape, what she saw, right at that time, right --
3 seconds after this startling event that had just occurred.
4 She'll testify through this tape, Your Honor, that there
5 were two males that entered. Well, the testimony that
6 will come out was that the defendant was not one of those
7 two males. I think it's important that what she says
8 during that time be entered into evidence to prove our
9 case from a hand of one hand of all theory, the excited
10 utterance I think is important, that the jury hear exactly
11 what she saw, exactly when the armed robbers left the
12 residence -- I mean, the business at that time, Your
13 Honor. The cases that the defense handed up, the Spears
14 case simply states that if you find that excited utterance
15 it does exist, you must conduct a 403 analysis of it and
16 whether or not it's more prejudicial than probative.

17 In this case, Your Honor, it's extremely probative
18 that the state be allowed to introduce this call to show
19 exactly what was going on in that store, at that time,
20 from the victim's perspective.

21 Further, Your Honor, the Foster case, that the
22 defense handed up, is a prior written statement by a
23 witness to a police officer, that the court stated was not
24 allowed to be entered in as a prior consistent statement.
25 This is not going to happen here, Your Honor. She will

1 not testify as to what she told the 9-1-1 operators.
2 She'll not testify as to anything said in the tape. We'll
3 simply ask her if she called 9-1-1 at that point, seconds
4 after these two gentlemen left the store, and really
5 minutes after the defendant left the store, and play the
6 tape, and once the tape the done, I'll ask her what
7 happened next. It won't be cumulative. It won't be any
8 more than exactly what it is, which is an excited
9 utterance.

10 As well as, Your Honor, under 80343, she'll state her
11 then existing physical condition. She states that she
12 felt like something tased her on the back. That's
13 important, I think, that the jury understands. She felt
14 it at that time. This is not something she later realized
15 there were marks on her back and she may have been tased.
16 Seconds after it, she's able to state exactly what she
17 felt, as well as, her mental condition at the time. This
18 is all not hearsay under 8033, Your Honor, exists mental
19 or emotional or physical condition at the time of this
20 statement and it can be entered for the substantive nature
21 of it --

22 THE COURT: Let's say all of that's correct. Don't I
23 have to do a 403 analysis as to whether or not it's more
24 prejudicial than probative. Your victim is going to get
25 up and testify as to all of that and then you turn around

1 and play a highly charged emotionally charged tape that
2 basically says the same thing that she's testifying in the
3 courtroom, does that not invoke 403 and the emotional
4 aspect of it, it would be highly prejudicial?

5 MR. MOLONY: I think it does invoke 403, Your Honor,
6 and there may be an emotional side of it. I do not
7 believe it is more prejudicial than it is probative.

8 THE COURT: I know that's your position. But what's
9 going to be in the tape that you can't get in by way of
10 testimony from your victim?

11 MR. MOLONY: Factually?

12 THE COURT: Yes, sir. Nothing. There is nothing to
13 preclude you from asking her everything that's on that
14 tape?

15 MR. MOLONY: Well some of the timing issues, Your
16 Honor, she gets up and locks the door and you can tell
17 when she does that through the tape.

18 THE COURT: And she can testify to that in the
19 courtroom. It's strictly cumulative and emotional, is it
20 not?

21 MR. MOLONY: If that's Your Honor's ruling.

22 THE COURT: No, that's not my ruling. I am asking
23 you a question. How is it different?

24 MR. MOLONY: I think it's very important that the
25 jury be able to hear exactly what happened in that store

1 at that time. There is no way she can do that on this
2 witness stand. It won't be cumulative, because she won't
3 testify as to what she told the 9-1-1 operator. Your
4 Honor is going to hear exactly what's going on at that
5 time, while she's in that store.

6 THE COURT: What are we going to hear other than what
7 she can testify to? We're going to hear screaming,
8 shouting or what?

9 MR. MOLONY: You'll hear screaming and you'll hear
10 shouting, yes, sir.

11 THE COURT: Here is what I am going to do, I am going
12 to reserve ruling on it. I think Mr. Chessser has sent me
13 a copy of the tape. I'll listen to it in chambers at the
14 break. I'll let y'all know how I am going to handle it.
15 Even if I let you know -- I'll make a pretrial ruling on
16 it, and perhaps as the trial goes on if you see that you
17 need it, we'll do a proffer during the trial so it'll be
18 in evidence and all that. Let's just -- do not mention
19 it. I'll just let you know what my ruling is when I come
20 back.

21 MR. MOLONY: Yes, sir, I think it is only three and a
22 half minutes, Your Honor.

23 THE COURT: What other cases do you want me to look
24 at other than Foster and what was the other one?

25 MR. CHESSER: Saltz.

1 THE COURT: Anything else? Those didn't deal with
2 9-1-1 tapes did they?

3 MR. CHESSER: No, let me say this, briefly, Your
4 Honor. I think that the state makes a good argument that
5 it is an excited utterance, so having said that Saltz and
6 those cases are for situations where, you know, there is
7 no hearsay exception for it to come in. And so when we're
8 dealing with excited utterance, the is question is really
9 the 403 analysis. That's it --

10 THE COURT: You're not trying to challenge what she
11 said on a prior consistent statement that it was
12 fabricated and all that.

13 MR. CHESSER: No.

14 THE COURT: You're just saying using a 403 analysis,
15 listen, Judge, she can get up and testify as to everything
16 she's got on the tape that emotionally and highly
17 prejudicial. That's your argument right.

18 MR. CHESSER: Yes, sir. And the other final thing
19 this the state argues -- saying exactly what happened.
20 She's saying what happened at that time, she saying what
21 happened just previously. In other words, she's saying
22 what happened when she got robbed and so she's not -- the
23 whole idea that she's saying exactly what's happening
24 right then and somehow that's relevant to the jury, it's
25 not, except for the emotion and passion and prejudice and

1 when Your Honor listens to that tape --

2 THE COURT: It's certainly relevant now as to what
3 happened during the robbery is certainly relevant. She
4 can testify as to everything that happened during the
5 robbery.

6 MR. CHESSER: Thank you Your Honor.

7 THE COURT: But, is it cumulative and prejudicial,
8 and is it more relevant than -- more probative than
9 prejudicial. And do you have any cases out there that
10 preclude playing the 9-1-1 tape of what a victim is going
11 through during the exact time of the robbery, or the
12 crime. And I know we've tried --

13 MR. CHESSER: I'll just say this.

14 THE COURT: I know we've tried hundreds of cases
15 where the 9-1-1 tape normally comes in. What is better
16 evidence than what she's saying right then and there when
17 she has just been robbed. So I have to balance that out.
18 When you're trying to present a true factual picture of
19 what happened -- or I assume that y'all are trying to
20 present a true factual picture and there's got to be some
21 cases out there dealing with 9-1-1 tapes. Basically the
22 same thing they are going to testify in the courtroom. I
23 would suggest both of you looking for something over the
24 break. I suspect my law clerk will find them in about two
25 minutes. Anything else?

1 MR. CHESSER: I beg the court's indulgence. Just one
2 brief thing. When you're evaluating this, you should be
3 aware that they have another tape, which they intend to
4 introduce, which Mrs. Guerrairi called law enforcement
5 before she got robbed and that tape talks about
6 Mr. Quarles -- well not Mr. Quarles, but it talks about an
7 individual coming in and she felt suspicious about this
8 person. I just think the context of this, I'd just like
9 you to be aware that there is this other tape that the
10 state intends to introduce when you're evaluating this
11 probative versus prejudicial effect.

12 THE COURT: We discussed that in chambers yesterday
13 and it sounds like to me she was very cognizant of or
14 perceived some type of danger to the point that she even
15 called 9-1-1 and said, listen, I don't like what's going
16 on and all of a sudden she is robbed and she calls back.
17 All of that -- I mean, it's all relevant. It is just
18 whether or not the prejudicial aspect of it outweighs the
19 probative aspect. I'll have to make that call when I
20 listen to it. I would urge y'all to try to find a case
21 dealing with 9-1-1 tapes that talk about ruling 403.
22 Thank you. Anything else?

23 MR. MOLONY: Nothing from the state, judge.

24 MR. CHESSER: Nothing from the defense, Your Honor.

25 (Whereupon, a break was taken.)

1 (WHEREUPON, a lunch break was taken.)

2 THE COURT: Gentlemen are y'all ready to proceed?

3 MR. MOLONY: Yes, sir, Your Honor.

4 MR. CHESSER: Yes, sir, Your Honor.

5 THE COURT: As far as the 9-1-1 tapes I have reviewed
6 the cases Mr. Chesser asked me to look at. We've done
7 some further review. How is it any different than putting
8 in photographs of a crime scene, or if we have a failure
9 to stop for blue light and watching the guy being chased
10 on video camera with the police, or DUI arrest, or any of
11 the reconstruction scenes we do today with photographs or
12 anything? How is it really any different than any of
13 that, Mr. Chesser?

14 MR. CHESSER: Well, Your Honor, know matter what it,
15 as you know, it would be analyzed under prejudice versus
16 probative test of 403.

17 THE COURT: I understand.

18 MR. CHESSER: If you have photographs it would be the
19 same issue. Any type of visual evidence like that. So I
20 think that there is a similarity. Other than that, if you
21 have a video for failure to stop for blue light that is
22 different because that's actually as it happened, as
23 opposed to somebody recounting it in this case immediately
24 after the fact. But there is a similarity. Your Honor, I
25 did look at some cases and they were not extremely

1 informative, but the essence of what I got from them is
2 they simply applied to 403 analysis --

3 THE COURT: I agree. All right, Mr. Solicitor, do
4 not mention it in opening statement that you got a 9-1-1
5 tape. When you get ready that you want to put it in,
6 let's do a proffer and I'll revisit it at that time on a
7 403 analysis.

8 MR. MOLONY: Yes, sir, Your Honor.

9 THE COURT: Thank you. Anything else?

10 MR. MOLONY: Nothing from the state.

11 MR. CHESSER: No, sir.

12 THE COURT: Bring the jury in, please.

13 (Whereupon, the jury came into open court at
14 approximately 2:05.)

15 THE COURT: Good afternoon. All right. The first
16 thing we have to do to start the trial I have to ask you
17 to stand one more time and raise your right hand and
18 accept the oath for this trial.

19 (WHEREUPON, the jury was sworn at 2:06.)

20 THE COURT: Let me hold the indictments, please. All
21 right the first thing we're going to do is I am going to
22 give you just a brief -- some brief remarks about the case
23 and let me once again importantly remind you that in this
24 case the defendant Mr. Quarles has been indicted by the
25 Aiken County Grand Jury for two offenses. One is for

1 THE COURT: And by the defendant?

2 MR. CHESSER: No, Your Honor,

3 THE COURT: All right. Mr. Molony, you may present
4 your opening statement.

5 OPENING STATEMENT

6 MR. MOLONY: Thank you, Judge. Ladies and gentlemen,
7 good afternoon. We're all here today for the exact same
8 reason because on February 19 of 2013 -- not that long ago
9 -- the defendant, Michael Quarles, along with two other
10 men planned, worked together, and then executed an
11 absolutely senseless and terrifying armed robbery and
12 kidnapping at the Quick Cash on Richland Road in Aiken,
13 South Carolina. And unfortunately for Penny, the victim,
14 you'll hear from shortly, she had front row seat to all of
15 it.

16 Now, I'm not going to stand up here and tell you
17 everything you're going to hear. That's the point of
18 opening statements usually is you'll hear from so and so.
19 Ultimately you're going to hear what you're about to hear.
20 But I do think it's important that you got a little bit of
21 an idea as to why you're hearing from certain people.
22 First you'll hear from Penny. That's obvious. She is
23 going to tell you what happened. She is going to tell you
24 how the defendant played a huge role in the beginning of
25 it, during it, and at the end of it. You'll later hear

1 that portion of it. But at the beginning how the
2 defendant came in first. She'll tell you exactly what he
3 did, how he kind of scoped the place out a little bit.
4 You'll then -- when she's done telling you exactly what
5 they did to her and what they took from the store. You'll
6 hear from a mailman who will be able to tell you kind of
7 what he saw that day. It is very important. Listen for
8 the next two witnesses, two daycare workers that were
9 across the street, and what they saw, how they saw the
10 defendant and what they saw the defendant doing.

11 Then you'll hear from pretty interesting guy. One of
12 the guys that worked with this defendant to plan it to
13 execute it, Carlos Williams. Now, Carlos Williams is
14 going to tell you his role in it. He is going to tell you
15 the defendant's role in it. He is going to tell you the
16 third gentleman's role in it. And his role, Carlos
17 William's role, is a big one. But he'll tell you that
18 he's still -- his charges are still pending. So, he'll
19 get up on the stand and tell you what happened. But
20 realize the state by no means is saying Carlos Williams is
21 the good guy. Carlos Williams is just as in the middle of
22 this thing as the defendant is .

23 Lastly, you'll hear through one of our investigators,
24 detectives with the city, you'll hear from the defendant
25 himself. You'll hear his statement that he gave law

1 enforcement officers when he was arrested. Listen to it
2 ladies and gentlemen. Listen to what he tells you -- not
3 that the rest of it is not going to be important, but what
4 he tells you at the end of this thing is going to be
5 extremely important and I think it's going to make it very
6 easy on all of it.

7 Now, the judge at the end to is going to tell you
8 what armed robbery is. Ultimately in this case I think
9 it's important you know it does not have to be an actual
10 deadly weapon. But, if the victim in this case, Penny,
11 thought what was used was a deadly weapon, that is
12 sufficient, and you'll hear from Carlos, and you'll hear
13 from Penny. Carlos will tell you it was a BB gun that was
14 black and looked like a pistol. So don't get tripped up
15 on that.

16 Next kidnapping is being held against your will,
17 being confined, even if for a moment, and you'll hear how
18 while they're in there getting the money, Penny is in
19 there. And any reasonable person would have felt free to
20 leave at this time. Penny will tell you she sure as heck
21 didn't.

22 Now, the last little issue I think that's important
23 for you to understand before we go into it, is the theory
24 that the judge mentioned one of the theories is, the hand
25 of one hand of all theory, which basically means these

1 people worked together throughout this crime and you'll
2 hear how the defendant did just that, from the beginning,
3 during the commission, and afterwards.

4 And in the end, as the Judge stated, the state does
5 bear the burden of proof of proving the defendant guilty
6 beyond a reasonable doubt and that's a burden we're more
7 than welcome to meet head on in this case. It is a burden
8 we will prove to you and suggests at the end you're firmly
9 convinced. You're firmly convinced. It's not beyond all
10 doubt. It's not, well maybe in this, never, never --
11 you're convinced using your common sense and at the end of
12 this, saying, Mr. McCarley and I are confident that you
13 will be as to each charge. Thank you for your time.

14 THE COURT: Mr. Chesser.

15 MR. CHESSER: May it please The Court.

16 OPENING STATEMENT

17 MR. CHESSER: Good afternoon. Thank you for being
18 here. I am Michael Chesser. I practice law here in
19 Aiken. I was born here a long time ago. I represent
20 Michael Quarles. Michael is accused in this case. The
21 charge is armed robbery and kidnapping, two charges. The
22 kidnapping, the Judge will explain at the end of this, is
23 defined -- it's a little different from what you might
24 think they talk about restraint and things of that nature.
25 He'll give you that.

1 What the state is arguing in this case is that
2 Michael Quarles is responsible or guilty for armed robbery
3 or kidnapping, even though he wasn't actually there when
4 Carlos Williams and Jamaques Salley robbed Mrs. Guerriari.
5 To give you a little idea of this was 10:30 on the morning
6 of February 19, really just two or three months ago. And
7 at some point the testimony will be that Carlos went into
8 the check cashing place with white gloves and a gun, which
9 he held on Mrs. Guerriari. And Jamaques Salley went in
10 with white gloves and a gun and a taser. So what the
11 state is doing here is they're seeking to hold Michael
12 Quarles responsible under this theory of the hand of one
13 is the hand of all. I'm not going to go into that a lot
14 here. The judge, again, will give you the law and y'all
15 will apply the facts to it. I think that -- I know I will
16 go into it deeply in closing and I'm sure that the
17 prosecutor will go into it deeply at closing.

18 I would submit to you that what they're going to have
19 is two burdens. One is, the hand of one, hand of all,
20 that type of legal theory. The other one is their burden
21 of proving guilt beyond a reasonable doubt, to eliminate
22 doubt in your mind. The nuances or the essence of what
23 the State contends is Michael Quarles participation in
24 this, they're going to attempt to prove primarily with the
25 testimony of Carlos Williams.

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1 Again, I'll go into this more at closing. But, right
2 now I will tell you that the state is leaning on a thin
3 reed, a weak ree. Williams is going to testify that he
4 went in there with a gun, he planned this. He went with
5 Jamaques Salley, bought the guns a few days before this.
6 He went with Jamaques Salley and bought the taser a few
7 days before this, he went in there, with Jamaques Salley,
8 and robbed Mrs. Guerrairi. He will be back tracking
9 continuously. That is the main witness that the state has
10 to talk about what they claim is Michael Quarles's
11 participation in this crime.

12 So this type of case is going to require your
13 complete attention and we picked you carefully, the State
14 and the Defense, we picked you carefully and we count on
15 you to listen to all the witnesses, to listen carefully
16 and this case is going to require all of your attention
17 and we thank you very much.

18 THE COURT: You may call your first witness.

19 MR. MOLONY: Thank you, Your Honor. The State calls
20 Penny Guerriari.

21 THE CLERK: Please come forward and place your left
22 hand on the Bible and raise your right.

23 PENNY GUERRIARI, being
24 first duly sworn, testifies as follows:

25 THE CLERK: Please have a seat in the witness box and

1 state your full name and spell your last.

2 THE WITNESS: Penny Guerriari.

3 DIRECT EXAMINATION

4 BY MR. MOLONY:

5 Q May I call you Penny?

6 A Yes.

7 Q Penny, how old are you?

8 A Twenty-five.

9 Q And did you go to school?

10 A I did.

11 Q Where did you go to school?

12 A Midland Valley.

13 Q Did you graduate?

14 A I did.

15 Q Do you have any children?

16 A Two.

17 Q How old are your kids?

18 A Seven and four.

19 Q And are you currently working anywhere?

20 A Yes.

21 Q Where are you working?

22 A The Quick Cash in North Augusta.

23 Q How long have you been employed with Quick Cash in
24 North Augusta?

25 A Since March.

1 Q And prior to being at the Quick Cash in North Augusta
2 where were you working?

3 A The Quick Cash on Richland Avenue in Aiken.

4 Q When did you start there?

5 A November.

6 Q Of 2012?

7 A (Witness nods head.)

8 Q Okay. What are your duties at the Quick Cash since
9 you've been there?

10 A I greet customers, make loans, courtesy phonecalls,
11 collection calls, make copies, file a lot of paperwork.

12 Q Okay. And were you working in that capacity on
13 February 19 of 2013?

14 A Yes.

15 Q And which store were you working in?

16 A The one on Richland in Aiken.

17 MR. MOLONY: Your Honor, may I approach?

18 THE COURT: You may.

19 Q I am going to show you what's been previously marked
20 for identification is State's Exhibit 1 and 2 and ask you
21 first if you recognize one?

22 A Yes.

23 Q And two?

24 A Yes.

25 Q What are they?

1 A They're the Quick Cash on Richland, the store I
2 worked in.

3 Q What's two?

4 A Two is the aerial view.

5 Q And do both of these pictures fairly and accurately
6 represent as to one the business that you worked in on
7 February 19, 2013 and, 2, the ariel view of that business
8 and the stores around it?

9 A Yes.

10 MR. MOLONY: Your Honor, at this time the State would
11 move to introduce Exhibits 1 and 2 into evidence?

12 THE COURT: Any objection.

13 MR. CHESSER: No objection

14 (State's Exhibit Number 1 is received into evidence.)

15 (State's Exhibit Number 2 is received into evidence.)

16 Q Is that store in Aiken County, Penny?

17 A Yes.

18 Q What time did y'all open that morning?

19 A Nine.

20 Q And what time did you get there?

21 A 8:45.

22 Q Okay. And just describe to the jury when you got
23 there at 8:45, what happened? What did you do?

24 A I go in. I get the checks. I take them to the bank.
25 I come back from the bank. If we had any checks cleared I

1 would enter them in as payments. I would start on
2 courtesy phonecalls, file my receipts, if we had any from
3 the deposits the day before.

4 Q And when you got back from the bank that morning were
5 there any customers at the store?

6 A There was a lady waiting to come in to the store.

7 Q And did she come in to the store at this time?

8 A She did. I let her in.

9 Q About what time would that have been?

10 A 9:20, 9:30.

11 Q And so she was the first customer that arrived that
12 day at 9:20 or 9:30?

13 A (Witness nods head.)

14 Q All right. What about the second customer?

15 A He was a male, maybe 10 or 15 minutes later. He come
16 in and got a 550 loan.

17 Q \$550?

18 A Yes.

19 Q All right. Do you remember how much money you
20 started that day with in the drawer?

21 A We always start each drawer with a thousand. I was
22 the only one -- you start each drawer with a thousand. I
23 was the only one working so there was only a thousand at
24 my drawer.

25 Q So no one was else was at the residence -- I mean,

1 the business, I'm sorry?

2 A No.

3 Q So after the second customer came in and got a \$550
4 loan. What was left in your drawer?

5 A 450.

6 Q \$450?

7 A Yes.

8 Q Now, once this second customer leaves and you get
9 them the loan, what did you do?

10 A I went to the back to put my receipts from the
11 deposit, from the day before, into the folders, put them
12 in the file cabinet.

13 Q Okay. And what happened next?

14 A I heard the door open. I walked to the door and
15 there was a male standing in the lobby, and he was
16 inquiring about a loan.

17 Q Okay. You say a male standing in the lobby. What
18 did this male look like?

19 A He was a big guy, light skinned, little hairs. He
20 had on a white hoodie with read writing.

21 Q You said light skin. What color was he?

22 A He was a black light skinned guy.

23 Q Okay. What was his build?

24 A A very big guy.

25 Q Okay. And what did he have with him?

1 A Nothing.

2 Q Did he have any keys with him?

3 A No keys. It was raining that day. No umbrella. No
4 paperwork. It was just him.

5 Q You said he was in there and he inquired about a
6 loan. What was he asking you?

7 A How do I get a loan? And I proceeded to ask him, do
8 you work? Yeah, he answered, you know. I walked around
9 the counter and he was like can you write it down what all
10 I needed and I wrote down that he needed a bank statement,
11 check stub. I asked him did he need an application. He
12 told me, no.

13 Q So he didn't have any of that with him?

14 A Nothing.

15 Q Did he give you any of his personal information at
16 that time that you can tell us?

17 A He might have told me a place of employment, but I
18 don't remember what he said.

19 Q Your Honor, may I approach?

20 THE COURT: You may.

21 Q Penny, I am going to show you what's been marked for
22 identification as State's Exhibit 4 and ask you if you
23 recognize this?

24 A That's the inside of the store.

25 Q Would this be a fair and accurate representation of

1 the way the inside of that Quick Cash looked that morning?

2 A Yeah.

3 MR. MOLONY: Your Honor, I ask permission for the
4 witness to be able to step down briefly.

5 THE COURT: Yes, sir.

6 Q Thank you. Now, show the jury where you are talking
7 with this man, you said he had a white shirt on with read
8 writing?

9 A White hoodie.

10 Q White hoodie, I'm sorry. Where was he and where were
11 you during this time?

12 A There's a room back over this way. He is standing in
13 the middle of the lobby here.

14 Q Okay. And when you were giving him information about
15 the loan, where was he standing?

16 A On the opposite side of this counter, and I was here,
17 right in front of this cash drawer.

18 Q Okay. Thank you. You can have a seat up there Did
19 you look him in his face while you were talking with him?

20 A Yes, he was directly across the counter.

21 Q How long did you have this conversation with him
22 concerning this loan?

23 A Four or five minutes.

24 Q What happened next?

25 A I handed him the sticky note that I had written the

1 information for the loan about and he walks out of the
2 store to the sidewalk and then I walked back to the back
3 to finish with my receipts.

4 Q Okay. Well, after that, what happened?

5 A I noticed that there were two black males -- it was
6 shortly after. There were two black males walking towards
7 the store. They were wearing black hoodies, and I noticed
8 out the corner of my eye, there is a window, and I seen my
9 mailman pull up. So when I seen him pull up, I looked
10 back through the door and I seen the two black males walk
11 down towards the hotel.

12 Q Now, I previously showed you this overview map --
13 Your Honor, I'd ask permission that the witness be able to
14 step down.

15 THE COURT: You may.

16 Q All right. Penny, can you show the jury where the
17 business was you were working in at that time?

18 A This is Quick Cash.

19 Q Okay and you stated -- to take you back a little bit,
20 that the bigger male with the white hoodie on walked out
21 of the store. Where did he walk out?

22 A The doors are here. He walked to the sidewalk here.

23 Q Okay that's when you went back into the back?

24 A Yes.

25 Q Now moments later -- minutes later you stated that

1 what happened?

2 A There were two black males coming this way and then
3 my mailman pulled up here, and then when I seen him, I
4 looked back up, and the two black males were headed this
5 way.

6 Q When you said this way, is this where this car is, is
7 this a path heading down?

8 A It's like a small driveway for the owners of this
9 building to enter the bottom of the building.

10 Q What did you notice about these two black males that
11 were suspicious to you?

12 A They were dressed all in black and they were looking
13 very, very hard at the store.

14 Q You state had the mailman came up and parked right
15 here?

16 A Yes, because my car was here. He parked right beside
17 my car.

18 Q And what did he do?

19 A He comes into the store and I have a brief
20 conversation about the two males that I was, you know, a
21 little concerned with.

22 Q You told him about it?

23 A Yeah. I asked him to go find out where they were.

24 Q Did he?

25 A Yeah. He walked out. He comes back in and gives me

1 public safety's number in case I seen them again, or got
2 nervous.

3 Q. And did you call public safety?

4 A I did.

5 Q Okay.

6 MR. MOLONY: Your Honor, may I approach?

7 THE COURT: Yes, sir.

8 Q Penny, I'm showing you what's been marked for
9 identification as State's Exhibit 3 and ask you if you
10 recognize this?

11 A Yes.

12 Q What is this?

13 A It's my 9-1-1 call to Public Safety.

14 Q Have you listened to this?

15 A I have.

16 Q Is this -- this is the call you made after speaking
17 with the mailman that day?

18 A Yes.

19 Q Okay. And is this the actual phonecall that you
20 made, no changes, no deletions?

21 A No, that's the call.

22 MR. MOLONY: Your Honor, at this time the State would
23 move to introduce and play for the jury Exhibit 3?

24 THE COURT: That's the 9-1-1 call we've been talking
25 about?

1 MR. MOLONY: No, sir.

2 THE COURT: That's the earlier call?

3 MR. MOLONY: Yes, sir.

4 THE COURT: Any objection.

5 MR. CHESSE: No objection, Your Honor.

6 (State's Exhibit Number 3 is received into evidence.)

7 (Whereupon, the CD is played for the jury)

8 Q Tell the jury what happened after that phonecall?

9 A Time I hung up that phone and looked up there was a
10 male coming in the door with a gun in my face and I seen
11 another arm behind him that turned off the lights.

12 Q What were they wearing?

13 A Black hoodies, sunglasses and white gloves.

14 Q Okay. You saw -- there were two males? Two?

15 A Two.

16 Q And after the lights went out, what happened?

17 A The males come behind the counter, and one had me by
18 the shoulder of my jacket, and they had me in the corner
19 beside the file cabinet, and they made me open the cash
20 drawer. They put me back in the corner. I could hear
21 them rustling around with the money, and then I felt him
22 let me go, and one lifted up my shirt, and I remember a
23 pain going throughout my body, and I remember laying on
24 the floor telling myself not to breathe and then finally I
25 gasped, jumped up, locked the door, grabbed the phone,

1 dialed 9-1-1 and got back up under the counter.

2 MR. MOLONY: Your Honor, may I approach?

3 THE COURT: Yes, sir.

4 Q Penny, I am going to show you what's been marked as
5 State's Exhibit 5, 6 and 7 and ask if you recognize them?

6 A That's inside the store.

7 Q And are these fair and accurate representations of
8 the way the inside of that store looked that day?

9 A Yes.

10 MR. MOLONY: Your Honor, at this time the state would
11 move to introduce five, six and seven into evidence.

12 THE COURT: Any objection?

13 (State's Exhibit Number 5-7 are received into
14 evidence.)

15 Q Where were you at whenever you felt them -- one hand
16 on you and the back of your shirt coming up and the taser
17 hitting?

18 A I was here. This file cabinet isn't up against the
19 wall. There is a door here and I was in front of this
20 door.

21 Q And where did you fall?

22 A Between that file cabinet and the wall.

23 Q Okay. And on State's Exhibit 6, what is this a
24 picture of?

25 A That's a picture of the cash drawer and the counter

1 that I hid up under.

2 Q And specifically State's Exhibit 7 what is this?

3 A The cash drawer where my cash was that morning.

4 Q How much cash did they take that day?

5 A \$447.

6 Q You stated after you got off the ground, and gasped
7 for breath, that you got up, locked the door -- the front
8 door to the place?

9 A Yes.

10 Q And then what did you do?

11 A I grabbed the phone and dialed 9-1-1 and got under
12 the counter.

13 Q Your Honor, at this time the state may need to
14 proffer some testimony.

15 MR. CHESSER: We would object, Your Honor, on the
16 grounds previously stated.

17 THE COURT: Okay. All right we had discussed that in
18 the pretrial. I am going to allow it. I've made a ruling
19 and I'll put it on the record in detail outside of the
20 presence of the jury. I will allow it and you'll be
21 protected on all of your arguments.

22 MR. MOLONY: May I approach, Your Honor?

23 THE COURT: Yes.

24 Q All right, Penny, I am showing you what's been marked
25 as State's Exhibit 8 and ask you if you recognize this.

1 A Yes.

2 Q What is it.

3 A It's my second 9-1-1 call.

4 Q Have you listened to this call?

5 A Yes.

6 Q And is it the call you made the morning of February 2
7 -- the second call you made on the morning of February 19,
8 2013?

9 A Yes.

10 MR. MOLONY: Your Honor, at this time the state would
11 move to introduce exhibit 8 into evidence and ask that it
12 be published to the jury.

13 THE COURT: All right. Subject to the objections
14 made earlier by the state and I will put a more detailed
15 ruling on the record at the appropriate time.

16 MR. MOLONY: Yes, sir.

17 THE COURT: Or the reason for the ruling.

18 (State's Exhibit Number 8 is received into evidence.)

19 (Whereupon, 9-1-1 CD was played for the jury)

20 Q Penny, did the officers make it in at this time into
21 the business?

22 A I was at the door.

23 Q And you stated earlier that you felt something on
24 your back. Did you hear anything?

25 A I heard some sort of noise. I didn't know what it

1 was. I was so tight that all I remember is the gun. I
2 thought they were going to shoot me.

3 Q Okay. Your Honor, may I approach the witness?

4 THE COURT: You may.

5 Q I am showing you what's been marked as State's
6 Exhibit 10 and State's Exhibit 11 and ask you if you
7 recognize these?

8 A It's me.

9 Q What are these?

10 A It's me and that's my back.

11 Q Where were these pictures taken?

12 A Right after the cops got there.

13 Q So this -- both of them were taken at the Quick Cash
14 in Aiken?

15 A Yes.

16 Q And they both depict the way you looked on
17 February 19 of 2013?

18 A Yes.

19 MR. MOLONY: Your Honor, the State would move to
20 introduce State's Exhibit 10 and 11 at this time?

21 THE COURT: Any objection?

22 MR. CHESSER: No objection.

23 (State's Exhibits Number 10, 11 are received into
24 evidence.)

25 Q Now the next day, Penny, did you have the opportunity

1 to meet with detectives about this case?

2 A I did.

3 Q Where did you meet with them at?

4 A Aiken Public Safety, after we went to a bond court.

5 Q Okay and while at Aiken Public Safety, did you tell
6 them further about this first gentleman that walked in to
7 the store that day?

8 A I did.

9 Q And were you presented a photo line up at that time?

10 A Yes.

11 MR. MOLONY: Your Honor, may I approach?

12 THE COURT: You may.

13 Q All right, Penny, I am showing you what's been marked
14 as State's Exhibit 12 and ask if you recognize this?

15 A Yes.

16 Q And what is it?

17 A It's the photo line up.

18 Q And did you initial this?

19 A I did.

20 Q And did you date this?

21 A Yes.

22 Q And did you ultimately pick someone out of this?

23 A I did.

24 Q What number did you pick?

25 A Number two.

1 Q Did anybody tell you --

2 MR. MOLONY: Your Honor, at this time, I'm sorry, the
3 State would move to introduce Exhibit 12 into evidence.

4 MR. CHESSER: No objection.

5 (State's Exhibit Number 12 is received into
6 evidence.)

7 Q Did anybody tell you who to pick?

8 A No.

9 Q Did anybody tell you that a suspect may be in there
10 or was in there?

11 A No.

12 Q Why did you pick number two?

13 A Because number two is who I was in the store talking
14 to that day.

15 Q Do you see that person in the courtroom here today?

16 A I do.

17 Q Would you please describe what he's wearing for the
18 jury?

19 A He is wearing a brown long sleeved shirt.

20 MR. MOLONY: Your Honor, may the record reflect that
21 the witness has identified the defendant.

22 THE COURT: Certainly.

23 MR. MOLONY: Please answer any questions that the
24 defense may have.

25 CROSS-EXAMINATION

1 BY MR. CHESSER:

2 Q I have a little trouble with your last name. Is it
3 Mrs. Guerriari?

4 A Uh-huh.

5 Q Okay. Thank you. You talked about the day -- the
6 19th, the day in question, and the weather, and you said
7 it was raining. Did you wear a raincoat to work that day?

8 A No, I had on a white jacket.

9 Q It was kind of misty, in fact, wasn't it?

10 A Yes.

11 Q How long had you been working for the check cashing
12 company at that time in February of this year?

13 A I started in November of 2012.

14 Q So four to five months. I just have to ask you to
15 say yes or no for the court reporter?

16 A Yes.

17 Q If someone comes in -- well let me understand a
18 little better. Those types of loans are they what are
19 called unsecured loans or do you have security like a
20 title for a vehicle or something?

21 A You write me a check.

22 Q Okay. But you have to have certain qualifications --
23 somebody needs to have a job or something of that nature;
24 is that right?

25 A Checking account, paycheck stub. Yes.

1 Q So there is a list. What is the list of things that
2 are typically required to get a loan there?

3 A Bank statement, check stub, photo ID, and you have to
4 do four references family members, full addresses, full
5 telephone numbers.

6 Q Okay. So it wouldn't be unusual for somebody to not
7 have all of those items when they first came to get a
8 loan, would it?

9 A Yes.

10 Q You mean it happens often, is that what you mean,
11 that they don't have something?

12 A No, more people -- normally people bring in light
13 bills, leases on apartments, something not needed for the
14 loan.

15 Q Okay.

16 A That we give them the ability to look up their bank
17 statement on our systems in the store.

18 Q So you need something where -- some type of official
19 document where you can then look them up?

20 A They can look up their bank statement in the store.

21 Q Okay. Now, you testified that two males entered the
22 store just shortly after the post man left; is that right?

23 A Yes.

24 Q Okay. Did both of those individuals have guns?

25 A I'm not sure.

1 Q And one of the individuals was in front of the other
2 one; is that right?

3 A Right.

4 Q Okay. Can you describe the person who was the first
5 one who was in front?

6 A He was a black male with a goatee and he had on
7 sunglasses and a black hoodie, white gloves, jeans.

8 Q Which of the individuals was taller of those two, the
9 one in front and the one behind, which was taller?

10 A The one in the front.

11 Q Okay. All right. Do you know -- I mean, have you
12 identified that person with law enforcement?

13 A Yes.

14 Q Who was it?

15 A Carlos Williams.

16 Q Okay. So who was the individual who turned off the
17 light switch?

18 A Jamaques Salley.

19 Q Who was the individual who held you?

20 A Carlos Williams.

21 Q So -- and I know this was traumatic. But, Carlos
22 Williams he pointed the gun at you?

23 A Yes.

24 Q All right. That's all the questions I have. Thank
25 you.

1 THE COURT: Redirect?

2 MR. MOLONY: Briefly, Your Honor.

3 REDIRECT EXAMINATION.

4 BY MR. MOLONY:

5 Q Mr. Chesser asked you did both individuals have guns?

6 A Yes.

7 Q The first individual that entered the store that day,
8 you didn't know who he was at the time, did you? Did you
9 know him personally?

10 A Are you talking about who entered --

11 Q I'm sorry that was a bad question. The two
12 individuals with gloves, hoodies, guns, did you know
13 either one of them personally?

14 A No.

15 Q And did you get a good enough look at either one of
16 them at the time to be able to tell law enforcement
17 exactly who they were?

18 A I could describe them.

19 Q Right. The defendant that you pointed out, did you
20 get a good look at him?

21 A Yes.

22 Q Did you get a better look at the defendant than you
23 did of the other two?

24 A I did.

25 Q And throughout this time these two -- the two in the

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1 black and hoodies and gloves and gun, you're in the
2 corner, you testified, that State's Exhibit 5, you're in
3 the back corner of this?

4 A Between the file cabinet and the wall.

5 Q And did you feel like you could get out of there at
6 this time?

7 A No. There was -- there is only a small space to
8 leave. No, he had me. He was holding me by the shoulder
9 of my jacket.

10 Q Thank you, Judge. Nothing further.

11 THE COURT: You may step down. Thank you, ma'am.
12 Next witness, please.

13 THE COURT: If you will stand right there and place
14 your left hand on the Bible and raise your right hand,
15 please.

16 WAYNE BRINEGAR, after being duly sworn,
17 testified as follows:

18 THE CLERK: Please have a seat in the witness box and
19 state your full name for the court, please and spell your
20 last.

21 THE WITNESS: Wayne Ellis Brinegar.

22 DIRECT EXAMINATION

23 BY MR. MCCARLEY:

24 Q Mr. Brinegar, where do you work?

25 A Postal service in Aiken South Carolina.

1 Q How long have you been working there?

2 A I've been working in Aiken nine years, postal service
3 for 42 years.

4 Q What do you do for the United States postal service?

5 A I'm a letter carrier.

6 Q What area do you cover?

7 A Down town Aiken, Richland Avenue, Vaucluse Avenue.

8 Q Does that include Richland Avenue West, going out of
9 down town?

10 A Yes.

11 Q Were you working February 19 of this year 2013?

12 A Yes.

13 Q Did you make a delivery to 114 Richland Avenue West?

14 A I did.

15 Q What business is that location?

16 A That's Quick Cash.

17 Q When you went inside to make that delivery tell me
18 what happened?

19 A That morning about 10:15, 10:20 it is about my normal
20 time there. I went in to drop off the mail. Penny was
21 there. She told me she was nervous because someone was
22 outside kind of looking suspicious to her. I told her, I
23 said, well let me look out and see if they're still here.
24 So I went out the door, took about five steps and I saw
25 two black gentlemen in black clothing and hoodies walking

1 down towards Days Inn, which is the next business.

2 MR. MCCARLEY: Okay. Hold on. Let me make sure that
3 the jury knows exactly where you're talking about. May he
4 step down, Your Honor?

5 THE COURT: You may.

6 Q Let the record reflect I am showing him State's
7 Exhibit 2, already entered into evidence. Just tell them
8 where you pulled up and then when you came out of the
9 door?

10 A I pulled upright here. Right off of Richland Avenue
11 walked in the front door, and when I stepped out about
12 five steps, the two gentlemen were walking down this
13 little walkway that goes down towards the Days Inn there.

14 Q This is the Days Inn, sir?

15 A This is the Days Inn, this is their parking lot. And
16 when I looked out they were still there, and kind of
17 mauling around and walking down towards the Days Inn, and
18 then I went back into the store.

19 THE COURT: You went back in where?

20 THE WITNESS: Back in the business, Quick Cash Loan.

21 Q When you went back inside to the Quick Cash what
22 happened then?

23 A I told Penny those gentleman were still there, and I
24 recommend since they were making her nervous and they
25 seemed like they were up to something that I gave her the

1 number for Aiken Public Safety, which I keep in my
2 cellphone, it's not the 9-1-1 number but it is the number
3 to the Aiken Police Department.

4 Q Then what did you do?

5 A Then I got back in my vehicle drove back on Richland
6 and make the right, right next to the Days Inn. Make that
7 delivery at Days Inn.

8 Q Did you see the two black males again?

9 A I did. They were down. There is like a little
10 recreation area or resort area, where they have banquets
11 and stuff on the right, on the porch right there, and I
12 got a better look at them. There were two gentlemen in
13 black clothing, hoods pulled up over their head. But they
14 were black hoods, hoodies. I walked into the Days Inn and
15 delivered their mail and walked back out, got in my
16 vehicle. I noticed they were still over there milling
17 around, not going anywhere.

18 Q All right and you never saw the defendant here
19 Michael Quarles that day; is that correct?

20 A No, sir.

21 Q You never saw a Silver Dodge Ram Truck?

22 A No, sir.

23 Q The two black males were on foot the entire time you
24 saw them?

25 A That's correct, yes.

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1 Q You then continued on your route?

2 A Yes, I continued west on Richland Avenue.

3 Q What happened next?

4 A I was about seven or eight deliveries past that,
5 which is approximately four to five minutes, I heard
6 sirens going that direction. And then I had a thought
7 that I wondered if that's where they were going to the
8 Quick Cash.

9 THE COURT: Hold on. You did what?

10 THE WITNESS: I heard sirens and police sirens going
11 behind me, which is where they was located. So in my mind
12 I wondered if they were headed that way.

13 Q Then what did you do sir?

14 A I continued on to make my deliveries. I go on down
15 Richland Avenue to about -- it takes me 20 or 25 minutes
16 to get back to that location and when I get back to the
17 location across from Quick Cash, which is a day care,
18 there were police officers and detectives --

19 Q Did you speak with law enforcement?

20 A Yes, there was a detective there. I spoke to
21 momentarily and told him -- he told me they had been
22 robbed. I said, yeah I saw -- I told him what I saw.
23 Took my name down and told him, you know, and then I
24 continued on --

25 Q You told law enforcement that day everything you told

1 me here today and told the jury?

2 A Exactly pretty much the same.

3 Q I beg the court's indulgence. Mr. Brinegar, please
4 answer any questions that Mr. Chessser has for you?

5 THE COURT: Any questions, Mr. Chessser?

6 MR. CHESSER: No, Your Honor.

7 THE COURT: You may step down. Next witness.

8 MR. MCCARLEY: May Mr. Brinegar be released from his
9 subpoena. He needs to get back to work.

10 THE COURT: Absolutely. He needs to deliver that
11 mail.

12 MR. MOLONY: State calls Shelia Fulmer.

13 THE COURT: Ma'am, if you will come right here and
14 place your left hand on the Bible and raise your right.

15 SHELIA FULMER, after being
16 first duly sworn, testifies as follows:

17 THE CLERK: Please have a seat in the witness box and
18 state your full name for the court and spell your last.

19 THE WITNESS: Shelia Fulmer, F-u-l-m-e-r.

20 THE COURT: Mrs. Fulmer, please speak up loudly.

21 Thank you.

22 DIRECT EXAMINATION

23 BY MR. MOLONY:

24 Q Mrs. Fulmer, where are you employed?

25 A Tender Loving Daycare.

1 Q Where is that located?

2 A On Richland Avenue.

3 Q In Aiken?

4 A Yes, in Aiken.

5 Q And Tender Loving Daycare. What do you do there?

6 A I have the two and three year old class.

7 Q Okay. And how long have you worked there?

8 A Over 30 years.

9 Q You worked there by yourself or who works?

10 A I work with my mom and my sister and one other
11 employee.

12 Q What hours do you work there at the daycare?

13 A I work from eight to six.

14 Q You said your sister, what is her name?

15 A Kathy.

16 Q What -- how long is the daycare open?

17 A 6:30 to 6:30 Monday through Friday.

18 Q And was the daycare open on February 19 of 2013?

19 A It was.

20 MR. MOLONY: Your Honor, I am going to ask that the

21 witness be able to step down and show her State's

22 Exhibit 2. It's already been introduced.

23 Q Okay. Can you show the jury -- this is State's

24 Exhibit 2. Can you show the jury where your place of

25 business is?

1 A Right here.

2 Q Okay. And what happened that was suspicious to
3 you -- what, if anything, happened on February 19 that
4 morning that was suspicious to you?

5 A Well, I was going from the play room to the
6 kitchen --

7 MR. MOLONY: Make sure you speak up for the court
8 reporter behind you.

9 A I was going from the play room to the kitchen and I
10 saw a truck backing up and so it just kind of caught my
11 eye and I stopped and watched it.

12 Q Okay. I'm sorry let me get you over here so they can
13 see you on this side. When you say you saw a truck
14 backing up, where was the truck?

15 A They were at the stop sign on Jasper and Richland and
16 was backing up.

17 Q Where were you?

18 A I was between the living room and the kitchen and the
19 dining room.

20 Q Okay.

21 A Okay. And it caught my eye backing up so I stopped
22 for a second to see what they were going to do. They
23 pulled forward to the stop sign again, and they backed up
24 again and stopped behind my car, which is the blue Tahoe
25 in the driveway and they stopped right here.

1 Q Okay and what happened next.

2 A So I continued to watch them, because I wanted to
3 know what they were doing. They continued to back up into
4 our dirt parking lot behind our business.

5 Q Okay.

6 A And --

7 Q You said a truck, what type of truck was this?

8 A It was a silver -- I think it was a Dodge 1500. It
9 was a light --

10 Q Big truck?

11 A Big truck, silver. Really pretty silver truck. The
12 passenger, which was a heavy set guy with little braids,
13 he had a white sweat shirt on with something on the front
14 of it, he got out and walked down Jasper and across the
15 street to the cash advance place.

16 Q Can you show us on the map where you saw him walking
17 -- so we can see you back here?

18 A They were here, parked back here in this parking lot.
19 He got out, and the truck and the driver stayed there. He
20 got out and walked down to Richland, across the street to
21 the cash place, went in. He wasn't in there that long,
22 you know, maybe four or five minutes. He wasn't in there
23 long at all. And I watched him come back out and he had a
24 white piece of paper. I watched him fold it, and he came
25 back across the street, got up on the sidewalk, and came

1 back up, and went back to the passenger side. And this
2 whole time I'm trying to still, you know, watch my class,
3 you know, and keep an eye on the children. But I keep
4 going back and forth to the window, and he goes to the
5 passenger side. So I have to go and do stuff with the
6 children. So the next time I come back and look out the
7 kitchen window, there are two guys dressed all in black,
8 hoodies pulled down, hands in their pocket --

9 Q Were either one of those two guys the guy you saw in
10 the white?

11 A No. No. These were thin, you know, slim guys.

12 Q Okay. Both hoodies on, all black, hands in their
13 pocket. One of them had like a book bag, backpack on.
14 They were standing on the front side of the truck and, you
15 know, within minutes -- a couple of minutes they turned
16 around and they started walking also, just like he had
17 done before, down here. But, instead of going to the cash
18 place, they walked down, you know, to the Days Inn. And
19 there is a banquet room somewhere over here, I think, this
20 must be it. But they walked over here to the banquet room
21 and it was kind of drizzly that day, not raining hard, but
22 enough. But that they stood underneath an awning. They
23 stayed there for quite a few minutes -- quite a while.

24 Q Okay and while they're there, where is the first --

25 A He is in the driver's seat of the truck; still behind

1 our day care.

2 Q Okay. And did you see that truck leave?

3 A I did. I did. As they walked across here to Days
4 Inn, he pulls out to the end of Jasper and Richland.

5 Q Did he stop?

6 A Barely. Barely. I grabbed a napkin and wrote the
7 description of the truck and what I could see on the
8 license plate as he was turning out. Once he turned
9 right, I had no idea where he went.

10 Q Why did you do that?

11 A Because they were up to no good. We could tell.
12 They were very suspicious. Something was going on; we
13 knew it. We just didn't know what.

14 Q When you say we?

15 A Me and my sister.

16 Q Did you tell her some of the things --

17 A Yes, that whole time I was telling her what I was
18 seeing and she was having her class. She was telling me
19 what she was seeing.

20 Q Okay.

21 A And I was doing that and I told her, I said call you
22 know -- call the police because something was definitely
23 going on. He ended up in the driver's seat, leaving in
24 the truck. And they're over here all dressed in black
25 just -- we didn't know where they were robbing. We didn't

1 know if they were going to the Days Inn, the cash place,
2 we had no idea. But, we knew they were up to something.

3 Q Did you tell your sister to call the police?

4 A Yes, and she did. And while she was on the phone
5 with them, they start moving, and they come over here up
6 this little -- there is a little stair case that goes up
7 the side of the cash place and they came up and went
8 straight in. My sister was on the phone with the police
9 at the time.

10 Q Okay. I'm going to show you what has been marked as
11 State's Exhibit 13 and ask if you recognize it?

12 A Yes, that's the dining room window that I was looking
13 out at.

14 Q Would this be a fair and accurate representation of
15 the view that you would have had through that window on
16 February 19 of 2013?

17 A Exactly, yes. He was -- when he was coming up to the
18 stop sign in the truck and they were going in. When he
19 was going in. Everything. Yes.

20 MR. MOLONY: Your Honor, at this time the State would
21 move to introduce Exhibit 13 into evidence?

22 MR. CHESSER: No objection

23 (State's Exhibit Number 13 is received into
24 evidence.)

25 Q Okay, I am going to back you up a little bit okay?

1 You stated that the first man gets out in -- wearing a
2 white hoodie with writing on it, walks over and comes back
3 across the street. Are you looking at a view much like
4 this at that time?

5 A Yes. Because, I'm thinking, I'm that close -- I look
6 out the window right there at him and he's walking past
7 me, and I can't believe that he doesn't even look over and
8 see me in the window.

9 Q Okay. And when you saw the truck come down after
10 that gentleman got back in -- I mean, in the vehicle. The
11 other two get out and make their trek down. When you saw
12 this truck moving out, did you have about this view at
13 that time as well?

14 A Yes.

15 Q And this is the stop sign you stated that that person
16 did not --

17 MR. CHESSER: Your Honor, I am just going to object.
18 I suggest he is leading the witness, Your Honor.

19 THE COURT: Sustained. Hold on. Rephrase the
20 question.

21 Q Yes, sir, Your Honor. Describe this stop sign from
22 State's Exhibit 13, compared to, you know, what we're
23 looking at on the map, just so they can get an
24 understanding?

25 A That is the stop sign that I witnessed the guy in the

1 white sweat shirt that went over first and came back, that
2 he -- after the two had walked across the street, he got
3 in the driver's side and came to that stop sign, yielded a
4 little, and then turned right and was gone.

5 Q Okay. You can have a seat. Thank you. Now, this
6 guy that you saw do you see him in the courtroom here
7 today?

8 A I do.

9 Q Could you please describe what he is wearing?

10 A He's wearing a light brown camel looking shirt and
11 black pants.

12 MR. MOLONY: Your Honor, may the record reflect that
13 the witness has identified the defendant.

14 THE COURT: Thank you.

15 MR. MOLONY: I don't have any further questions.

16 THE COURT: Mr. Chesser.

17 MR. CHESSER: I just have a few questions.

18 CROSS-EXAMINATION

19 BY MR. CHESSER:

20 Q Mrs. Fulmer, just a couple of questions. You saw the
21 pickup truck pull in to the parking lot of the daycare; is
22 that right?

23 A Uh-huh.

24 THE COURT: Answer yes or no for me.

25 THE WITNESS: I'm sorry. Yes.

1 Q At about what time was that?

2 A 10:20, 10:30. Somewhere in that area.

3 Q Okay and the individual that you identified as

4 Mr. Quarles, Michael Quarles, where was he in the vehicle?

5 A Passenger seat at first.

6 Q Okay. And that's the passenger seat?

7 A Of that silver truck.

8 Q Up front?

9 A Yes.

10 Q Who was driving the vehicle? I mean, well put it
11 this way. Mr. Quarles wasn't driving the vehicle at that
12 time, was he?

13 A At that time. The first time I saw him, no.

14 Q You testified that he drove it off, later.

15 A He drove it off after the other two had gone over and
16 robbed the store.

17 Q Okay. So the person who robbed the store was not
18 Mr. Quarles, was it?

19 A No. I guess not. I mean, not -- he wasn't the two
20 of them that walked across the street and we watched go
21 in, no.

22 Q Right. Okay. So you watched those other two
23 individuals walk across the street and then you and your
24 sister called public safety?

25 A (Witness nods head.)

1 Q Thank you. That's all the question I have.

2 THE COURT: Redirect.

3 REDIRECT EXAMINATION

4 BY MR. MOLONY:

5 Q The defendant was in the truck and gone when the
6 other two were in the business?

7 A Yes.

8 Q So he couldn't have been actually --

9 THE COURT: Hold on a second. We need to have a
10 response, please.

11 THE WITNESS: Yes.

12 Q So when the two males in all black actively go into
13 the Quick Cash, is the truck still there?

14 A No.

15 Q And the defendant was in that truck?

16 A Right.

17 MR. MOLONY: That's it, Your Honor. Nothing further.

18 THE COURT: You may step down. Next witness.

19 MR. MCCARLEY: The State calls Cathy Holsenback.

20 THE COURT: Mrs. Holsenback, please. Come forward
21 and place your left hand on the Bible and raise your
22 right.

23 KATHY HOLSENBACK, after being duly sworn,
24 testified as follows:

25 THE CLERK: Thank you. Have a seat in the witness

1 box and state your full name for the Court and spell your
2 last.

3 THE WITNESS: Kathy Holsenback, H-o-l-s-e-n-b-a-c-k.

4 DIRECT EXAMINATION

5 BY MR. MCCARLEY:

6 Q Mrs. Kathy, where do you work?

7 A Tender Loving Daycare.

8 Q Where is that located?

9 A 1205 Richland Avenue in Aiken.

10 Q Is that a cross the street from the Quick Cash on
11 Richland Avenue West?

12 A Yes, it is .

13 Q How long have you been working there?

14 A It's a family business. So about 30 years.

15 Q Okay. What do you do there?

16 A I am the assistant director.

17 Q And were you working on the morning of February 19,
18 2013?

19 A Yes, I was.

20 Q Why do you remember that day, ma'am?

21 A Because of all the activity that went on with the
22 suspicious men.

23 Q Okay. How did you first learn of anything suspicious
24 going on?

25 A My sister came to my room, where I was teaching in

1 the back, and told me to raise my blind and keep on eye on
2 that truck.

3 Q Who is your sister, ma'am?

4 A Sheila Fulmer.

5 MR. MCCARLEY: Permission to approach?

6 THE COURT: (Nods head affirmatively)

7 Q Mrs. Kathy, I am handing you what's been labeled
8 State's Exhibit 14. Do you recognize this view?

9 A Yes, I do.

10 Q Is that the view from your classroom?

11 A My classroom window, yes.

12 Q Is that an accurate representation from the view of
13 your classroom as it appeared on that day?

14 A Yes.

15 MR. MCCARLEY: The state moves to enter into this
16 evidence Your Honor State's Exhibit 14?

17 MR. CHESSER: No objection.

18 (State's Exhibit Number 14 is received into
19 evidence.)

20 Q Now Mrs. Kathy you pulled your blinds up. What did
21 you see?

22 A I just saw a nice silver truck parked there. I
23 didn't see anyone inside of it or anything.

24 Q What did you do then?

25 A I turned around and continued with my class. I kept

1 turning back and looking out the window.

2 Q When you say, continued in your class, did you have
3 kids in your classroom?

4 A Yes, I did.

5 Q So you kept checking back and forth between the kids
6 and the window?

7 A Right.

8 Q Okay. What happened next?

9 A Several of the children came to my desk and instead
10 of look at me they started looking past me out the window
11 so it made me turn around and that's when I saw the three
12 of them.

13 Q Okay. When you saw the three of them, could you
14 please describe those three people, ma'am?

15 A Yes, two of them were dressed in black, black
16 hoodies, white gloves. One had a backpack on, a black
17 backpack, and the other was a light skinned heavy set guy
18 with little braids in his hair.

19 Q What was he wearing?

20 A He was in all light colors, light colored clothes.

21 Q Light colored clothing?

22 A Uh-huh.

23 Q Is that gentleman in the courtroom here today?

24 A Yes, he is.

25 Q Could you please point him out.

1 A That is him, the defendant

2 Q What is he wearing ma'am?

3 A Brown shirt with a tie and black pants.

4 Q Your Honor, may the record reflect that the witness
5 has identified the defendant Michael Quarles?

6 THE COURT: Thank you.

7 Q After you saw the three gentlemen initially what
8 happened then?

9 A Well the two of them started walking out of our
10 parking lot towards Jasper -- towards the paved road.

11 Q When you say the two of them?

12 A The two in the hoodies.

13 Q What color were they wearing?

14 A Black hoodies.

15 Q Okay. Go ahead.

16 A And then the light skinned guy, in the light clothes,
17 got into the driver's side of the silver truck.

18 Q And that's the defendant Michael Quarles?

19 A That is.

20 Q And got into the driver seat?

21 A Uh-huh.

22 Q Then what happened?

23 A I got my children and took them so that they would
24 all be in one room, and then met up with my sister and we
25 watched out the windows, because we knew something was

1 going on.

2 Q When you say you met up with your sister --
3 permission to approach -- watched out the window, do you
4 recognize this?

5 A Yes.

6 Q I apologize this is State's Exhibit 15.

7 A That's the kitchen window that I was looking out of.

8 Q And is this an accurate representation of the window
9 and the view from it?

10 A Yes.

11 MR. MCCARLEY: The State moves to enter State's
12 Exhibit 15 into evidence, Your Honor.

13 MR. CHESSER: No objection.

14 MR. CHESSER: No objection.

15 (State's Exhibit Number 15 is received into
16 evidence.)

17 MR. MCCARLEY: Permission to publish.

18 Q Now, what was going on once you got to that window?

19 A The two guys in the black hoodies were going down to
20 the Day's Inn and they were just standing there under
21 their little banquet room or whatever for several minutes.
22 It was a good little while they were standing there. And
23 the silver truck, the light skinned guy that had got in
24 the silver truck, had drove out of the parking lot and
25 turned right on to Richland.

1 Q Okay.

2 A And I just kept an eye on them and kept watching out
3 the window at the two guys in the hoodies and I called --
4 I didn't call 9-1-1, but I called the none emergency
5 number. But, I wasn't sure if it was an emergency, but I
6 just knew something was wrong.

7 Q I understand. Permission to approach. Ma'am, do you
8 recognize this CD?

9 A Yes, I do.

10 Q Have you listened to this?

11 A Yes, I have.

12 Q Is it an accurate copy of the phonecall you made that
13 day to public safety?

14 A Yes.

15 MR. MCCARLEY: State moves to enter State's
16 Exhibit 16 into evidence?

17 MR. CHESSER: No objection.

18 (State's Exhibit Number 16 is received into
19 evidence.)

20 MR. MCCARLEY: And permission to publish, Your Honor.
21 (Whereupon, the cd was played for the jury.)

22 Q Mrs. Kathy, what did you do after you hung up the
23 phone with public safety?

24 A I kept watching and then it seemed like seconds
25 later, maybe a minute, the first officer pulled up and

1 Sheila and I both went to the door and we were kind of
2 trying to yell across the road at him to him where they
3 went, because they had just gone down, when he pulled in.

4 Q Did you write a statement for police that day?

5 A Yes, I did.

6 Q Did you talk to them that day?

7 A Yes.

8 Q Did you tell them everything that you've told the
9 jury here today?

10 A Yes.

11 Q And everything that was on that phonecall?

12 A Yes.

13 Q I beg the court's indulgence. Mrs. Kathy, please
14 answer any questions that Mr. Chessser has for you.

15 THE COURT: Mr. Chessser.

16 MR. CHESSER: I have no questions of this witness,
17 Your Honor.

18 THE COURT: All right. We're going to take a short
19 afternoon break. So you can stretch your legs, use the
20 restroom. Any of you smoke? If you need a smoke break
21 Mr. Whittle will show you how to do that. You have to go
22 downstairs. All right. Don't discuss the case. Don't
23 deliberate. I need between the 12 of you select me a
24 foreperson, please. Thank you. Everybody else remain
25 seated.

1 (Whereupon, the jury exited the courtroom at 3:30.)

2 THE COURT: All right anything for the record by the
3 state before we break?

4 MR. MOLONY: No, sir, Your Honor.

5 THE COURT: Mr. Chesser.

6 MR. CHESSER: No, Your Honor.

7 THE COURT: All right as to the ruling on the
8 admissibility of the 9-1-1 tape, I find after examination
9 of the totality of the circumstances that the tape is more
10 probative than prejudicial, and I therefore allowed it.
11 Mr. Chesser, I think you've made your full argument on the
12 case based on prejudicial versus probative. If you need
13 to put anything else on the record to protect your client
14 I'll be more than happy to let you do it now or later on,
15 whenever you feel like doing it.

16 MR. CHESSER: No, Your Honor, I think I made a full
17 argument. Thank you.

18 THE COURT: We'll stand at ease for about 10 or 15
19 minutes. The defendant obviously is in custody.

20 THE COURT: Anything for the record by the state
21 before we start back?

22 MR. MOLONY: No, sir, Your Honor.

23 THE COURT: By the defendant?

24 MR. CHESSER: No, Your Honor.

25 THE COURT: Bring the jury in please.

1 (Whereupon, the jury came into open court at
2 approximately 3:48.)

3 THE COURT: Were y'all able to get a foreperson? Who
4 is that?

5 THE JUROR: 118.

6 THE COURT: All right, ma'am. 118. If you would --
7 I need for you to take this seat here.

8 THE JUROR: I wanted to sit here.

9 THE COURT: Y'all just rotate down so we don't have
10 too much moving.

11 THE COURT: I'm sorry Mr. Whittle confused y'all.

12 THE BAILIFF: First time ever.

13 THE COURT: Getting it right. All right. Ma'am, I
14 hope you enjoy your position as foreperson. I was here
15 the other day a lady came out. She sat there. She was
16 the forelady. She was all frowned up. I said what's
17 wrong? She said I went to the bathroom and when they came
18 back out they had elected me. All right. Gentlemen, you
19 may call your next witness.

20 MR. MOLONY: Thank you, Judge, the State calls Carlos
21 Williams.

22 CARLOS D. WILLIAMS, after being duly sworn,
23 testified as follows:

24 THE COURT: Place your left hand on the Bible and
25 raise your right, please. Give us your full name, Carlos,

1 and spell your last for me, please.

2 THE WITNESS: Carlos Demetrius Williams;

3 D-E-M-E-T-R-I-U-S.

4 DIRECT EXAMINATION

5 BY MR. MALONY:

6 Q And your last name?

7 A Demetrius -- I mean, I'm sorry. Williams;

8 W-I-L-L-I-A-M-S.

9 THE COURT: Everybody gets nervous when they sit up
10 there. That's okay. Take a deep breath and answer his
11 questions.

12 THE WITNESS: Yes, sir.

13 Q Carlos, where are you currently living?

14 A Aiken County Detention Center.

15 Q And why are you there?

16 A Armed robbery and kidnapping.

17 Q Those charges are still pending against you?

18 A Yes, sir.

19 Q And before we get started have you been promised
20 anything for sitting there today and answering questions?

21 A No, sir.

22 Q Have any deals been made with you?

23 A No, sir.

24 Q And you stated that you have pending armed robbery
25 and kidnapping charges. Did you participate in an armed

1 robbery at the Quick Cash on February 19 of 2013?

2 A Yes, sir.

3 Q And did you participate in the kidnapping at the
4 Quick Cash here in Aiken on February 19, 2013?

5 A Yes, sir.

6 Q Tell me this. Who is Jamaques Salley?

7 A Mutual friend, friend that I guess you could say grew
8 up with. I know him since I was 16.

9 Q How old are you now?

10 A Twenty-one.

11 Q Okay. And was he with you on February 19 of 2013
12 during the commission of this armed robbery and
13 kidnapping?

14 A Yes, sir.

15 Q And explain to the jury how you know the defendant
16 Michael Quarles.

17 A I know Michael Quarles through Jamaques Salley.

18 Q How long did you know the defendant before
19 February 19, 2013?

20 A A couple of months.

21 Q Okay. Would you consider you and the defendant
22 friends at that time?

23 A Not really friends; more of acquaintances, if you
24 will.

25 Q Okay. Through the common friends you had was

1 Jamaques Salley?

2 A Yes, sir.

3 Q Now did the defendant participate in the armed
4 robbery on February 19, 2013?

5 A Yes, sir.

6 Q And in the kidnapping that same day?

7 A Yes, sir.

8 Q All right. Well, let's back up a little bit. When
9 did this plan first come about?

10 A About a week and a half prior to February 19.

11 Q Okay. And explain how it came about.

12 A Me and defendant's mutual friend had a conversation
13 about -- he was telling me about a place he had been
14 looking at for about a year and---

15 Q Which was where?

16 A Quick Cash.

17 Q Okay. Go on. I'm sorry.

18 A That was really the first time it came up and how --
19 it was really discussion between me and Jamaques about,
20 you know, what the place was and who -- what we were going
21 to do about it.

22 Q Okay. And did you ever prior to February 19, 2013
23 have any conversations with the defendant about it --

24 prior to the day of the armed robbery and kidnapping, did
25 you ever speak with the defendant about it -- about this

1 plan?

2 A Yes.

3 Q And explain when that happened.

4 A I want to say it was either Thursday or Friday.

5 Myself, Salley, and Mr. Quarles was together and we didn't

6 really talk about how it was going to happen and all that.

7 We just talked about, you know, we have this place we was

8 going to hit. We need you. We was letting him know we

9 needed him in on it.

10 Q When you say, hit, what do you mean?

11 A Rob.

12 Q Now, on that Friday -- is this the Friday before

13 February 19?

14 A Yes.

15 Q What if anything happened on that Friday? What if

16 anything happened on that Friday, prior to this armed

17 robbery?

18 A Could you clarify the question, please?

19 Q Sure. Were guns used in this armed robbery?

20 A Yes.

21 Q What type of guns?

22 A BB guns.

23 Q And where were they purchased?

24 A Walmart.

25 Q Explain when and who purchased those weapons?

1 A They were purchased late Friday night, early Saturday
2 morning, around that time. Salley and I went to Walmart
3 and Salley purchased the BB guns.

4 Q Okay and -- Your Honor may I approach?

5 THE COURT: You may.

6 Q All right. Carlos I am going to show you what's been
7 marked as State's Exhibit 17 and ask you if you recognize
8 that?

9 A Yes, sir.

10 Q What is it?

11 A It's myself and Salley walking out of Walmart.

12 Q And was this after y'all purchased the guns, the
13 Friday before?

14 A Yes.

15 Q And does this picture fairly and accurately depict
16 you and Jamaques Salley walking out of Walmart that night?

17 A Yes.

18 Q And what are you carrying?

19 A I'm carrying the bag with the BB guns in it.

20 Q Okay. What is he carrying?

21 A Bread.

22 THE COURT: I'm sorry. Carrying what?

23 THE WITNESS: Bread.

24 THE COURT: Bread?

25 MR. MOLONY: Your Honor, at this time the state would

1 move to introduce Exhibit 17 to the jury.

2 THE COURT: Any objection?

3 MR. CHESSER: No objection.

4 (State's Exhibit Number 17 is received into
5 evidence.)

6 Q Carlos, what are you wearing?

7 A Miami Heats hat, a white -- I guess, you would call
8 it cream colored Echo hoodie, pair of jeans and some
9 flaps.

10 Q Was that your sweat shirt?

11 A Yes.

12 Q All right. Was a taser used on or stun gun on
13 February 19 of 2013?

14 A Yes.

15 Q Explain to the jury where that was purchased and
16 when.

17 A That was purchased in Augusta at the Augusta barn
18 yard flea market.

19 Q Who purchased that?

20 A Salley purchased that.

21 Q Okay. And who was with him?

22 A I was.

23 Q All right. And when was that?

24 A Saturday. Saturday prior we went.

25 Q And was the defendant with you guys at that time?

1 A No, sir.

2 Q Did you ultimately -- did you ever have to go back to
3 Augusta?

4 A Yes.

5 Q Explain why?

6 A The taser required a key. I couldn't explain what
7 kind of key but it required a key in order for it to work.
8 The one that he bought did not have the key. So we had to
9 go back and get it.

10 Q Okay. Who wanted this taser?

11 A Salley.

12 Q All right. Now, the day before the robbery and
13 kidnapping -- armed robbery and kidnapping -- on Monday
14 February 18 of 2013, explain to the jury how the defendant
15 became involved that day.

16 A I believe Salley -- he -- me and him we were talking
17 about, you know, get the defendant in on it and Salley --
18 I was being told, you know, to go and pick Mike up the
19 next morning to check the place out.

20 Q All right. Specifically that night what was the plan
21 supposed to be as far as the defendant was involved?

22 A As far as his involvement---

23 MR. CHESSER: Your Honor --

24 THE COURT: Hold on a second.

25 MR. CHESSER: -- I would object to him testifying in

1 this way about a plan and so forth. If he can testify
2 what people said or what he understood so that I can
3 evaluate and make an objection. But -- so I would say
4 it's a lack of foundation here, if he's talking about
5 there was a plan. I don't even know what that means.

6 THE COURT: A plan? A plan is a plan. I'll allow
7 the question.

8 Do you know what he means when he says plan?

9 THE WITNESS: Yes, sir.

10 THE COURT: Answer the question.

11 Q So what was the plan?

12 A As far as Mike's involvement in the plan he was---

13 Q When you said Mike who are you referring to?

14 A The defendant.

15 Q Okay. Continue.

16 A As far as his involvement in the plan was he was
17 supposed to -- I was supposed to go and pick him up the
18 next morning.

19 Q On the 19th?

20 A On the 19th. He was supposed to go in and eye the
21 place, see where the light switches was, and see how many
22 people were working in there.

23 Q Okay. Now when you say Salley, are you referring to
24 Jamaques Salley?

25 A Yes.

1 MR. CHESSER: Your Honor, let me -- I want to renew
2 my objection. If he's talking about a plan that he had
3 with Jamaques Salley. I would object to the relevance of
4 it coming in. If there is no basis -- if there is no
5 testimony about communications -- actual communications
6 with Michael Quarles, then I would object to it coming in,
7 if there is no showing that Quarles -- had been
8 communicated to Quarles or anything of that nature. If
9 this is something that he's talking about with somebody
10 else; then that's a conspiracy with them and there is no
11 foundation, no showing that Quarles is involved.

12 THE COURT: Overruled. You may proceed.

13 Q So, when you went to bed the night of February 18,
14 what was the first thing you were supposed to do the next
15 morning?

16 A Go and pick up the defendant Mr. Quarles.

17 Q All right. So let's fast forward to the morning of
18 February 19, the day this armed robbery and kidnapping.
19 What's the first thing you did?

20 A I got up, got in my truck and went to Mr. Quarles'
21 residence.

22 Q And had you spoken with him on the phone?

23 A No, sir.

24 Q Why not?

25 A He didn't have the number. Me and him didn't

1 communicate like that. Like I said, he and I -- we were
2 known acquaintances on the street, but we're not really
3 good friends. I had no way of getting in touch with him.
4 As far as I knew he didn't have a phone.

5 Q All right. So what time were you supposed to pick
6 him up?

7 A Between somewhere around eight and nine. I know it
8 was early in the morning.

9 Q All right. And where did the defendant live?

10 A In the gap.

11 Q In the gap? Where -- where is the gap?

12 A Behind Crosland -- not Crosland -- Citizens Park.

13 Q Okay. And you testified that you got in your truck;
14 is that correct?

15 A Yes, sir.

16 MR. MOLONY: Your Honor, may I approach?

17 THE COURT: Yes, sir.

18 Q All right. Carlos, I am showing you what's been
19 marked State's Exhibit 18 and ask if you recognize this?

20 A Yes, sir. That's my truck.

21 Q Is this the truck you got in on February 19 of 2013?

22 A Yes, sir.

23 Q And the truck you went to the defendant's residence
24 in?

25 A Yes, sir.

1 MR. MALONY: Your Honor, at this time the state would
2 move to introduce Exhibit 18 into evidence.

3 THE COURT: Any objection?

4 MR. CHESSE: No objection.

5 (State's Exhibit Number 18 is received into
6 evidence.)

7 Q Was that your personal truck?

8 A No, sir. I say my truck because it was given to me
9 by my fiance's stepfather.

10 Q Okay. You were driving the truck?

11 A Yes.

12 Q You had permission to be driving the truck?

13 A Yes.

14 Q All right. So you go to the defendant's house. What
15 was the defendant's nickname?

16 A T or Mike.

17 Q Okay. You went to his house that morning?

18 A Yes.

19 Q Was the defendant outside when you pulled up?

20 A No, sir.

21 Q So what did you do?

22 A I got out and I knocked on the door.

23 Q Okay. And did the defendant come to the door at that
24 time?

25 A At the point where I was knocking on the door no one

1 came to the door; so---

2 Q Go ahead. I'm sorry.

3 A So I got back in my truck getting ready to pull out.

4 He walks out.

5 Q Okay. What was he wearing when he walked out the
6 house?

7 A Black hoodie. I'm thinking some blue jeans.

8 Q And did he get in your truck?

9 A Yes.

10 Q All right. When he got in your truck did you and the
11 defendant have any conversation about what was going on?

12 A As far as, you know, we had conversation about, you
13 know, you know you're supposed to go in, you know, and see
14 what's going on, where everything is at, but we got to
15 pick up J first. That's basically all the conversation we
16 had.

17 Q So who was going to be the one that put the final
18 touches on this blueprint of the armed robbery and
19 kidnapping?

20 A Salley. Jamaques Salley.

21 Q So where did you go from Carlos' house? You and
22 Carlos -- he got in your truck; is that right? Excuse me.
23 You're Carlos, aren't you?

24 A Yes.

25 Q You picked the defendant up. Where did you and the

1 defendant go from the defendant's house?

2 A We went to Jamaques' house.

3 Q Where was that at?

4 A In Crosland Park.

5 Q Okay. Did the defendant come right outside?

6 A Yes, I believe I was on the phone with him telling
7 him we was out there.

8 Q Okay. What was he wearing when he walked out?

9 A Black hoodie, khaki pants.

10 Q Did he have the taser with him at that time?

11 A Yes.

12 Q Did he have the BB gun with him at that time?

13 A Yes.

14 Q And specifically these BB guns that you and Jamaques
15 Salley had, had y'all done anything to the BB guns?

16 A When we bought them there was an orange tip on them
17 and we cut the orange tip off.

18 Q Okay. What if anything did Jamaques Salley do with
19 his BB gun when he got in the truck?

20 A He placed the BB gun and the taser on the back seat.

21 Q Okay. And the defendant still in the front seat?

22 A Yes, sir.

23 Q All right. So what was said at that time? Do you
24 remember?

25 A We talked about we needed a bag.

- 1 Q What was the bag for?
- 2 A To put the money in.
- 3 Q Okay. So what did y'all do?
- 4 A We went to Roses.
- 5 Q And where was that Roses? In Aiken?
- 6 A Yes.
- 7 Q Who went in to Roses?
- 8 A All three of us. Myself, Jamaques and Mr. Quarles.
- 9 Q And what were you wearing at that time?
- 10 A I was wearing my white Echo hoodie, blue jeans, black
- 11 boots.
- 12 Q And the defendant, what was he wearing?
- 13 A He was wearing a black hoodie and blue jeans.
- 14 Q Jamaques?
- 15 A Black hoodie and khaki pants.
- 16 Q All right. So you entered that Roses -- all three of
- 17 you -- and again what was the purpose of going in?
- 18 A To get a bag.
- 19 Q Okay. Now, did you ultimately find a bag?
- 20 A Yes, sir.
- 21 Q How long were y'all in Roses -- about how long?
- 22 A Fifteen, 20 minutes maybe.
- 23 Q And who bought the bag?
- 24 A Salley, Jamaques.
- 25 Q At any point did you carry the bag?

1 A Yes.

2 Q Okay. Who picked it out?

3 A I think Salley picked it out and I picked it up.

4 Q Was the defendant with you guys the whole time y'all
5 were doing this?

6 A Yes.

7 Q And did y'all go together to the check out lane?

8 A Yes.

9 Q And was the defendant with y'all at that time?

10 A Yes.

11 Q And after -- who paid for it?

12 A Salley, Jamaques.

13 Q And do you remember what he paid with?

14 A I can't remember if it was cash or his card.

15 Q Okay. Your Honor may, I approach?

16 THE COURT: Yes, sir.

17 Q Carlos, I am going to show you two pictures that's
18 been marked as State's Exhibit 19 and State's Exhibit 20.
19 Do you recognize these two pictures?

20 A Yes.

21 Q And what are these pictures of?

22 A The first picture is of myself and Mike, Mr. Quarles,
23 coming in to Roses.

24 Q When you said the first, is that 19?

25 A Exhibit 19.

1 Q Thank you. And what about 20?

2 A Myself and Mr. Quarles and Mr. Salley.

3 Q And where is this taken at?

4 A In Roses.

5 Q And were both of these pictures -- did they come from
6 and they depict you and the defendant, in 19, and all
7 three of you in 20 in Roses on February 19 of 2013?

8 A Yes.

9 MR. MOLONY: Your Honor, at this time the state would
10 move to introduce Exhibits 19 and 20 into evidence.

11 MR. CHESSER: No objection, Your Honor.

12 (State's Exhibit Number 19, 20 are received into
13 evidence.)

14 Q I am going to let you look this way. This is State's
15 Exhibit 20. Can you -- which one of the three is Jamaques
16 Salley in this picture?

17 A The first one.

18 Q With the hoodie up?

19 A Yes.

20 Q And which one is you?

21 A The one in the middle.

22 Q Okay. And which one is the defendant?

23 A Mr. Quarles is the last one.

24 Q Okay. And 19 you testified y'all entering. Who is
25 in the front of this picture?

1 A Myself.

2 Q And behind you?

3 A The defendant.

4 Q And again that sweat shirt was your sweat shirt?

5 A The white one, yes.

6 Q Now, Carlos, where did y'all go when y'all left
7 Roses?

8 A We went and parked at -- I don't know the name. It
9 is a daycare -- in a dirt area of a daycare across the
10 street from the Quick Cash.

11 Q All right. Y'all went immediately from Roses to
12 there?

13 A Yes, sir.

14 Q Who was driving?

15 A I was.

16 Q And you stated y'all parked in a dirt parking lot
17 behind the daycare?

18 A I guess its behind the daycare. I don't really know.

19 Q Right off of Richland Avenue?

20 A Yes, sir.

21 Q Okay. Now, you parked. What happens?

22 A We parked. We sat there and talked about what Mike
23 needed to do. He got out.

24 Q When you say Mike, again, who are you referring to?

25 A The defendant.

1 Q Okay.

2 A He got out, and walked across the street.

3 Q Where was he sitting at that time?

4 A He was still sitting in the passenger side.

5 Q In the front?

6 A In the front.

7 Q Okay.

8 A And he got out and went in the Quick Cash.

9 Q Okay. Prior to him going into Quick Cash, that white
10 Echo sweat shirt, were you still wearing it?

11 A Before he went?

12 Q When he went into Quick Cash were you wearing the
13 white Echo sweat shirt?

14 A No, sir.

15 Q Why not?

16 A We switched sweat shirts.

17 Q When did you switch?

18 A While we was sitting in the truck.

19 Q Why did y'all switch sweat shirts?

20 A I'm guessing because my sweat shirt is more
21 noticeable.

22 Q When you say, mine, the white one?

23 A The white one, yes, sir. The white Echo shirt is
24 more noticeable than a regular old black sweat shirt.

25 Q So the defendant put on your white sweat shirt?

1 A Yes.

2 MR. MOLONY: Your Honor, may I approach?

3 THE COURT: You may.

4 Q Carlos, I'm showing you -- it's been marked as
5 State's Exhibit 21 and ask if you recognize this?

6 A Yes.

7 Q What is this?

8 A That's my Echo shirt.

9 Q Is this the Echo sweat shirt you gave the defendant
10 on February 19, 2013?

11 A Yes.

12 Q Is this the sweat shirt he walked into the Quick Cash
13 Store with?

14 A Yes.

15 MR. MOLONY: At this time the State would move to
16 introduce State's Exhibit 21 into evidence.

17 MR. CHESSER: No objection, Your Honor.

18 (State's Exhibit Number 21 is received into
19 evidence.)

20 Q Why did the defendant enter the store?

21 A He was supposed to go in there and find out where
22 light switches were and find out how many people were
23 working.

24 Q While he was gone what were you and Jamaques Salley
25 doing?

1 A We was talking about what was going to be done and
2 how we was going to do it.

3 Q All right. What was going to be done and how were
4 y'all going to do it?

5 A We was to go in, get the money, run out the back --
6 well, run out the side and go around the back -- well,
7 what he told me was to go in, run down the stairs and run
8 around the back.

9 Q Okay. When you say the back, what do you mean?

10 A The back of the Quick Cash building.

11 Q Okay. Did Mike eventually walk back over to you
12 guys?

13 A Yes.

14 Q When I say, Mike, I mean the defendant?

15 A Yes.

16 Q All right. And when he gets back to the truck what
17 does he tell y'all?

18 A He said it is one person working in there, one
19 female, and I didn't really -- honestly, I really didn't
20 pay attention to much else of what he said. But I'm
21 pretty sure he was talking more about where the light
22 switches was --

23 MR. CHESSER: Objection, Your Honor.

24 THE COURT: What is the objection?

25 MR. CHESSER: He said he didn't pay attention and he

1 is pretty sure of something. I mean, he obviously didn't
2 hear it. If he didn't hear it, I would submit that he
3 can't testify to it.

4 THE COURT: Overruled. You can cross examine him on
5 all that. You'll have full opportunity to cross examine
6 him.

7 Q What did you hear him say?

8 A I heard him say there was one -- his words, one white
9 woman in there.

10 Q And was that part of the beginning of this what he
11 was supposed to be doing?

12 A Yes.

13 Q Now, did you and Jamaques Salley get out the truck at
14 that time?

15 A Yes.

16 Q Did you have anything on your hands?

17 A White gloves.

18 Q What type of gloves?

19 A Latex.

20 Q And both of you and Jamaques had latex gloves on?

21 A Yes.

22 Q What if anything else did you have on?

23 A I had on a blue New York hat and sunglasses.

24 Q Okay. And what were you wearing? What were you
25 wearing?

1 A I was wearing the defendant's sweat shirt and other
2 clothes.

3 MR. MOLONY: Your Honor, may I approach?

4 THE COURT: You may.

5 Q You stated you were wearing the defendant's sweat
6 shirt?

7 A Yes.

8 Q I am showing you what's in evidence as State's
9 Exhibit 19. Is this the sweat shirt you had on, the black
10 sweat shirt he's wearing here?

11 A Yes, sir.

12 Q And this is the white sweat shirt that's been entered
13 into evidence that he was wearing?

14 A Yes.

15 Q Why did you put this black sweat shirt on?

16 A Again, it was -- it is less noticeable than my white
17 echo shirt. Because if anybody -- it would have just been
18 a regular old black hoodie.

19 Q All right. So you and Jay get out the truck you
20 testified. What did the defendant do?

21 A He got out as well and got into the driver's side.

22 Q Okay. Did y'all walk from there?

23 A Yes, sir, we walked -- Salley -- Jamaques and I
24 walked across the street. By the time we got to the stop
25 sign at the end of that street, the defendant was pulling

1 out. He made a right and then he made another left on the
2 side street.

3 MR. MOLONY: Your Honor, may I approach?

4 THE COURT: You may.

5 Q I'm showing you what's been marked as State's
6 Exhibit 24 and ask if you recognize this?

7 A Yes.

8 Q What does this depict?

9 A Quick Cash, really two car dealerships, and the side
10 street to where my truck was parked.

11 Q Okay. And is this a fair and accurate depiction of
12 the area and how it would have looked around February 19
13 of 2013?

14 A Yes, sir.

15 MR. MOLONY: Your Honor, at this time the state moves
16 to introduce Exhibit 24 into evidence and ask that the
17 witness be able to step down.

18 THE COURT: Any objection?

19 MR. CHESSER: No, sir.

20 (State's Exhibit Number 24 is received into
21 evidence.)

22 THE COURT: Any objection?

23 MR. CHESSER: No, sir.

24 THE COURT: You may step down. Put him on the side
25 over there where the investigator is so the court reporter

1 can see him.

2 MR. MOLONY: Yes, sir.

3 (Whereupon, the witness steps down)

4 Q All right. Now, as y'all are walking across the
5 street, you stated the defendant pulled out and where did
6 he go in the truck?

7 A On the side street here.

8 Q Okay. And did you and Jamaques Salley immediately go
9 into the Quick Cash store?

10 A No, sir.

11 Q Why not?

12 A The mailman pulled up.

13 Q That wasn't going to help this armed robbery and
14 kidnapping, was it?

15 A No, sir.

16 Q All right. So what did y'all do?

17 A We walked. We continued to walk on the outside here
18 and walked and stood under -- right there at the hotel,
19 which is Days Inn hotel.

20 Q All right. And how long were y'all there?

21 A Maybe five minutes.

22 Q Okay. And again what were you waiting on?

23 A The mailman to leave.

24 Q And to your and Jamaques Salley's -- what did y'all
25 do right there? How many people were in that business at

1 that time?

2 A Mailman and the one other person that was in there.

3 So, two people.

4 Q All right. The mailman leave at some point --

5 A Yes.

6 Q -- shortly thereafter? And tell them what happened
7 next.

8 A We went up to the side stairs. Jamaques and I went
9 up the side stairs. I went in first. I asked the victim
10 to stand up, and with the gun out. Salley was looking for
11 the lights. We told each other everything is going to be
12 okay. And at that point that's when Jamaques came over
13 and basically took over everything else from that point.
14 He asked her where the money was and told her to get it.
15 She opened the register. I put the money in there, looked
16 at him. He told me to leave.

17 Q Where did you put the money?

18 A In the bag that was purchased at Roses.

19 Q All right. Let's slow down. You walked in with a
20 gun in your hand?

21 A Yes. Well, I pulled it out as I was going in, yes.

22 Q Okay. And were you looking right at the victim?

23 A Yes, sir.

24 Q And Jamaques Salley went -- before he went up to the
25 victim and where the money was, did the lights go off?

1 A Yes, sir.

2 Q Did he turn them off?

3 A Yes.

4 Q I am going to show you State's Exhibit 23-- 22 and
5 23. Let's start with 23. Do you recognize that?

6 A Yes.

7 Q All right. What is that?

8 A It's the stairs on the side of Quick Cash.

9 Q And are those the stairs that you went up?

10 A Yes, sir.

11 Q To go in to rob and kidnap? All right, State's
12 Exhibit 22.

13 MR. CHESSER: Your Honor, I object to the question it
14 is kidnapping. It calls for a legal opinion or
15 what-have-you that this defendant doesn't have or this
16 witness.

17 THE COURT: Rephrase the question.

18 Q Is this the stair well that you and Jamaques Salley
19 went up to enter on February 19, 2013?

20 A Yes.

21 Q All right. And State's Exhibit 22, what is this
22 depict?

23 A Picture of the Quick Cash, front entrance.

24 Q Okay. And---

25 A The stairs on the side.

1 Q Okay. And does this fairly depict the stairs at the
2 front entrance of the quick cash as it would have appeared
3 on February 19, 2013?

4 A Yes.

5 Q All right. So, Your Honor, at this time the state
6 moves to introduce 22, 23 into evidence.

7 MR. CHESSER: No objection.

8 (State's Exhibits Number 22-23 are received into
9 evidence.)

10 Q All right. So you go up the stair well, which is
11 where? Can you show the jury where these stairs are?

12 A Right here.

13 Q In the corner?

14 A Yes, sir.

15 Q Behind that what is that?

16 A Just this open area here and that back there.

17 Q Just so they can tell, when the mailman leaves, y'all
18 come from back here?

19 A Yes.

20 Q Up these stairs and into those doors?

21 A Yes, sir.

22 Q All right. Now, take me back in. You stated you got
23 the money out?

24 A Yes, sir.

25 Q And where did you put the money?

1 A In the bag that was purchased at Roses.

2 Q You were carrying that bag?

3 A Yes, sir.

4 Q What happened next?

5 A I looked at Jamaques. He was like you got it. I was
6 like, yeah. He was like well go out the door. I started
7 going out the door; I heard the taser go off, and I hear
8 the victim fall.

9 Q All right. Did you make it out the door?

10 A Yeah. Before I heard it or?

11 Q Did you hear while you were still in the business?

12 A Yes, sir.

13 Q All right. And then after you heard her, did you
14 stop or did you keep going out the door?

15 A I kept going out the door.

16 Q All right. And did Jamaques Salley follow you?

17 A Yes, sir.

18 Q All right. What did y'all do right -- as you're
19 walking out the front door, and you got the money at this
20 time?

21 A Yes.

22 Q What -- what happened?

23 A I started to run. I was told not -- he was like
24 don't run. We started walking down the stairs here. Once
25 we got to the bottom of the stairs we started running.

1 Q All right. And those are the same stairs you had
2 come up?

3 A Yes, sir.

4 Q All right. Show the jury where you ran.

5 A We ran down the stairs. There is a path somewhere
6 back here that leads right out here. It is a building
7 here, I don't know the name of it, but that's where my
8 truck was parked.

9 Q Who was in your truck?

10 A The defendant.

11 Q Where was he sitting?

12 A He was sitting in the front passenger side.

13 Q Was the truck running?

14 A Yes.

15 Q Why didn't y'all go back across the street to the
16 daycare as soon as you get out?

17 A Truck wasn't there.

18 Q You knew where the truck was going to be?

19 A No, I did not know where the truck was going to be.

20 Q All right. So who did you follow out of there?

21 A I followed Jamaques out.

22 Q Okay.

23 A I was the first one out the door. When we got to the
24 bottom of the stairs, he took off first and so I followed
25 behind him.

1 Q All right. And did he hesitate at all?

2 A No, sir.

3 Q Were y'all running?

4 A Yes, sir.

5 Q All right. So in that little gravel area, the
6 defendant is in the passenger side of the truck?

7 A Yes, sir.

8 Q The truck is running?

9 A Yes, sir.

10 Q Where did you sit?

11 A In the driver's side.

12 Q What about Salley?

13 A In the back seat.

14 Q All right. Where did y'all go?

15 A We came up the street and made that, I guess -- yes,
16 we went that way, towards the light, that's right there,
17 where Wendy's is, and that light.

18 Q What if anything did the defendant tell you or ask
19 you or ask Jamaques whenever y'all got in the truck?

20 A Get to the south side.

21 Q All right. Did he ever inquire about whether or not
22 you got any money?

23 A No, sir.

24 Q Okay. When did he find out you got money?

25 A When we got to the gap.

1 Q To the gap. Again, where is that?

2 A Behind citizens park.

3 Q Who lives there?

4 A The defendant.

5 Q Is that the first place y'all went?

6 A Yes.

7 Q On the way to the gap what, if anything, did you do
8 concerning your gloves?

9 A I threw them out the window.

10 Q Where was that at? Somewhere between there and the
11 gap?

12 A Yes, sir.

13 Q So, the defendant is in the front seat and y'all
14 immediately go to his house?

15 A Yes, sir.

16 Q Why immediately to his house?

17 A To get away from the north side -- west side,
18 whatever side it was. They just said get to the south
19 side.

20 Q And when you get to the gap, does the defendant just
21 get out the truck and go on in the house?

22 A No, sir. What happened -- we got there. When we
23 initially got there, we all got out. We went in the
24 house. Well, we ended up. We was in there maybe two
25 minutes. He said, you know, there was too many people in

1 there. Like, you know, it is too many people.

2 Q Where was the money at this time?

3 A It was in my -- well, no, it was in Salley's hands --
4 Jamaques hands --

5 Q All right.

6 A -- when we walked in the house. We was like, nah,
7 let's just leave or whatever. We got back in the truck
8 and went around the circle and we got in front of the same
9 street that the defendant lives on and that's where the
10 money was divided up between the three of us.

11 Q How much money did he get -- the defendant?

12 A A hundred dollars.

13 Q And what about you and Salley?

14 A Between 170 -- between 150 and 170 a piece.

15 Q Why did y'all get more than him?

16 A I'm guessing because all he did was go and see who
17 was all in there, and find out where the light switches
18 was, and have the truck ready for us, I'm guessing.

19 Q So y'all were the ones that went in with the guns.

20 He was the one---

21 A He was basically the lookout man, yeah.

22 Q Now, had there been -- did you have a plan if there
23 would have been 10 people in the Quick Cash, whether or
24 not y'all would have gone in?

25 A No, sir.

1 Q So, you get this money, Salley gets about the same
2 amount you get, and where did y'all go?

3 A Mike -- the defendant got out.

4 Q Took it? He had his \$100 at that time?

5 A Yes.

6 Q What happened?

7 A Everything was given to him -- the guns, the taser,
8 the bag.

9 Q Given to who?

10 A The defendant.

11 Q Why?

12 A I don't know.

13 Q Whose decision was that?

14 A Jamaques.

15 Q Whose decision was it to how much money to give each
16 one of y'all?

17 A Jamaques.

18 Q So---

19 THE COURT: Are you through with him over there?

20 MR. MOLONY: Yes, sir, I'm sorry.

21 (Whereupon, the witness retakes the witness stand.)

22 Q So the defendant took the gun -- both guns?

23 A Yes, sir.

24 Q The taser?

25 A Yes.

1 Q And the bookbag?

2 A Yes.

3 Q Okay. And have you seen any of those since then?

4 A No, sir.

5 Q Tell us about the rest of your day. Where did you go
6 from there?

7 A From there I went to Sunoco and got some gas -- well,
8 after we dropped him off I took Salley home.

9 Q Where was that?

10 A In Crosland Park.

11 Q All right.

12 A After I left there I went to Sunoco and got some gas
13 and I went to a couple of stores and I went home.

14 Q All right. Did you ever get your hair cut?

15 A Yes.

16 Q All right.

17 A I got my hair cut at Busy B's Barber Shop. I am
18 guessing it's Hampton. At that point while I was getting
19 my hair cut a couple of officers came in and started
20 asking questions.

21 Q Did you end up at the headquarters later that day?

22 A Yes.

23 Q And did you speak with the police later that day?

24 A Yes, sir.

25 Q Now, originally when you -- that day the first time

1 you spoke with them, did you tell them everything you told
2 us here today?

3 A No, sir.

4 Q Why not?

5 A Well, when they first came to me they was just saying
6 that my truck was in the area -- a truck with my color --
7 the color of my truck and make and model or whatever was
8 in the area and they was trying to find some stuff out.
9 So....

10 Q So, did you try to keep yourself out of it at that
11 time?

12 A Yes.

13 Q Now eventually did you tell investigators what
14 happened?

15 A Yes, sir.

16 Q Why?

17 A At that point it was no reason to lie any more.

18 MR. MOLONY: I beg the court's indulgence, Your
19 Honor. I have no further questions, Your Honor, but we do
20 have a very brief issue we need to take up.

21 THE COURT: Let me see y'all up here just a second.

22 (Whereupon, a bench conference was held.)

23 THE COURT: Trying to talk a little logistics to see
24 where we stand. Obviously Mr. Chesser has a right to
25 cross examine this witness and then I think they've got

1 one more police officer and then a second police officer
2 -- about an hour's worth of testimony maybe, and I'm not
3 sure what the defendant is going to have. So we will not
4 finish the testimony this afternoon.

5 What I'd like to do is go ahead and break now for the
6 evening so we can take care of everything else, start at
7 9:30 in the morning. We'll go straight through the
8 testimony, final arguments and I'll give you the
9 instructions on the law and you'll probably get the case
10 around 11, 11:15, and depending on where we are I'll
11 probably order lunch in for you, the Bowery or somewhere,
12 and we'll deliberate straight through. Once we conclude
13 the case then I'll release y'all for the rest of the week.
14 So you'll have tomorrow to do. Please do this for me.
15 When you go home tonight I hadn't seen any press in here.
16 But oftentimes it'll be in the newspaper or perhaps
17 something on TV. I ask you not to read anything in the
18 news, not to look at anything on TV. Don't discuss the
19 case with anyone, family friends or fellow jurors. Have a
20 pleasant evening. We'll start at 9:30 sharp in the
21 morning. I'll have you -- we can have doughnuts. We have
22 so sausage biscuits or fruit. We can't have all three.
23 One of the three. And some hot coffee. What is the
24 pleasure of the group? Somebody speak. Whoever speaks
25 first.

1 THE JUROR: Biscuits.

2 THE COURT: There you go. Sausage biscuits. Hot
3 coffee.

4 THE JUROR: Coffee.

5 THE COURT: And sausage biscuits.

6 THE FOREPERSON: That's fine.

7 THE COURT: We'll do that. And then I will order
8 lunch up there from the Bowery and they'll deliver that to
9 us. Don't discuss the case. Have a pleasant evening,
10 don't do any research internet or whatever. I look
11 forward to seeing you more tomorrow morning at 9:30. Be
12 here earlier than 9:30 if you want your biscuits and
13 coffee because you can't bring it out to the courtroom.
14 Everyone else remain seated.

15 (Whereupon, the jury exited the courtroom at 4:37.)

16 THE COURT: All right. Have a pleasant evening. I
17 got your chair. Jailors, y'all leave him back there for a
18 little while. Don't take him back to the jail until --
19 give us a few minutes please. All right. Anything for
20 the record by the state?

21 MR. MOLONY: Your Honor, I failed to move to
22 introduce State's Exhibit 4. It is a picture of inside
23 the residence that it's been testified to by a couple of
24 witnesses. But I would just like to move it into.

25 THE COURT: Inside the residence?

1 MR. MOLONY: Business, I'm sorry.

2 THE COURT: They testified to it and identified it
3 and you just didn't introduce it. Any objection, Mr.
4 Chessser?

5 MR. CHESSER: No, Your Honor.

6 THE COURT: Very well that is in evidence.

7 (State's Exhibit Number 4 is received into evidence.)

8 THE COURT: Anything else we need to do?

9 MR. MOLONY: Your Honor, I met with Carlos Williams
10 last night at the jail.

11 THE COURT: Carlos Williams.

12 MR. MOLONY: This co-defendant that just testified.
13 We found out -- I found out at the jail last night that
14 Carlos Williams stated the defendant told him, while back
15 here yesterday, that if you would have just kept your
16 mouth shut none of us would be in this mess. I came back
17 and worked last night. I told Mr. Chessser. I didn't want
18 to move it in without us doing this because I told him
19 this today. It was short notice. I didn't call him last
20 night, late last night. Out of precaution I didn't want
21 to do anything. But I'd like, I guess, Your Honor to
22 rule, if he's got any objection to it, it may be something
23 that I get into on cross examination -- I mean on redirect
24 tomorrow. I didn't want to do it on direct with the short
25 notice I gave Mr. Chessser.

1 THE COURT: Mr. Chesser? I'll give you an
2 opportunity tonight to talk to him if you want to, if that
3 will help.

4 MR. CHESSER: Yes, sir. I'll certainly talk to him.
5 On the issue of admissibility of this statement. I don't
6 know what exactly the state's position is, whether they
7 are taking the position they finished with their direct
8 and the issue -- it just depends on whether I opened the
9 door.

10 THE COURT: Well I think his position is that he
11 would like, out of an abundance of caution, discuss it
12 with you so you had advance notice of it, and he would
13 probably call him back tomorrow just to finish up with
14 that one piece of testimony.

15 MR. CHESSER: I see.

16 THE COURT: Obviously you would have the right
17 tonight to talk to Carlos. He might tell you something
18 different. I don't know.

19 MR. CHESSER: I'll talk with him about it and if I
20 can think of some appropriate objection I'll make it.

21 THE COURT: You can do that in the morning. It'll
22 give you some time.

23 MR. CHESSER: Thank you, Your Honor.

24 THE COURT: All right.

25 (Whereupon, a break was taken.)

1 (Whereupon, on May 15, 2013 the following proceedings
2 were held:)

3 THE COURT: Is the state ready to proceed?

4 MR. MOLONY: Yes, sir, Your Honor.

5 THE COURT: The defendant ready to proceed?

6 MR. CHESSE: Yes, Your Honor.

7 THE COURT: Bring the jury in, please.

8 (Whereupon, the jury came into open court at
9 approximately 9:39.)

10 THE COURT: Madam Forelady, ladies and gentlemen,
11 good morning. How are y'all? Unfortunately we had about
12 four things, five things set for 9:30. I didn't realize
13 that when I asked y'all to be here at 9:30. We were able
14 to move through them rather quickly. That's why we're a
15 few minutes late. We hadn't been sitting out here
16 talking.

17 Anything else for this witness by the state?

18 MR. MOLONY: Briefly, Your Honor.

19 DIRECT EXAMINATION

20 BY MR. MOLONY:

21 Q Carlos, you testified earlier that you and Salley
22 took the orange spots off of the BB guns?

23 A Yes.

24 Q Why did y'all do that?

25 A To make them look real.

1 Q And did they look real after that?

2 A Yes.

3 Q Now, when you went -- you stated the first thing that
4 -- the first place y'all went after this was to the
5 defendant's residence?

6 A Yes.

7 Q And after the money was divided, who left the
8 residence at that time?

9 A After the money was divided, Salley and I left.

10 Q Did you speak with the defendant any more that day?

11 A No, sir.

12 Q Now, since then have you spoken with the defendant
13 any more?

14 A In the -- at the detention center I have.

15 Q Okay. What did the defendant tell you at the
16 detention center -- in Aiken?

17 A Yes, sir.

18 Q What did he tell you?

19 A When he came into the pod, I asked him I was like,
20 you know, your boy's playing a dirty game --

21 MR. CHESSE: Your Honor, I would object and ask for
22 time and place, a little more specificity. I don't know
23 when he's talking about since February of this year.

24 THE COURT: Fair question. Ask him when and where.

25 Q When did you speak with him?

1 A Some time in February in C4. It was around the time
2 he first got arrested and he was put -- actually C3. He
3 was put back there in C3 right along with me.

4 Q So y'all were housed in the same pod?

5 A Yes, sir.

6 Q And where did this conversation take place?

7 A At my cell. He was standing outside my cell door. I
8 was inside.

9 Q And what was said?

10 A Like I said, I told him, you know, your boy is
11 playing a dirty game or whatever. He was, like, I know.
12 And he was, like, he told me, he told you to burn
13 evidence. He was like, no, when I found out y'all was
14 locked up, I just took the bag and guns and everything I
15 threw it down the drain.

16 Q Did he say what drain he threw the evidence down?

17 A No, sir.

18 Q Did you ask him?

19 A No, sir.

20 Q And have you been with the defendant in this
21 courthouse, alone, in the last week?

22 A Yes.

23 Q And did you have a conversation with the defendant at
24 that time?

25 A Yes.

1 Q Explain to the jury what that conversation was.

2 A We came back into the cell out there. He was---

3 Q When you say out there where do you mean?

4 A Right outside the door here in the court.

5 Q All right. When was this?

6 A It was Monday.

7 Q This week?

8 A Yes.

9 Q All right.

10 A He was -- he stated that if I hadn't said anything
11 they had nothing. Neither one of us would be in this
12 situation. Neither one of us -- they wouldn't have no
13 grounds for any of it. We wouldn't even be in this
14 situation if I would have kept my mouth shut.

15 Q What did you tell him?

16 A I said, what you expect me to do, you know? There
17 wasn't no point in it no more. As far as I'm concerned,
18 man, like I told him, as far as I'm concerned---

19 MR. CHESSER: Objection. It is some statement that
20 he made and I don't think it's relevant, Your Honor.

21 THE COURT: I'll sustain it.

22 Q Is that all he said?

23 A Yes, sir.

24 Q No further questions.

25 THE COURT: All right, cross examination, Mr.

1 Chesser.

2 CROSS-EXAMINATION

3 BY MR. CHESSER:

4 Q Mr. Williams, how old are you?

5 A Twenty-one.

6 Q Okay. And you have pending charges of armed robbery
7 and kidnapping?

8 A Yes.

9 Q And the armed robbery carries from 10 to 30 years; is
10 that right?

11 A Yes.

12 Q Whatever time you do, you get on that, you have to do
13 pretty much all of it; right?

14 A Yes, sir.

15 Q The kidnapping carries zero to 30. Is that your
16 understanding?

17 A Yes.

18 Q You have to do whatever time you get on that; right?

19 A Yes, sir.

20 Q And they could put them on top of each other; right?
21 You're looking at a maximum of 60 years; is that right?

22 A Yes, sir.

23 Q Have you ever been to prison?

24 A No, sir.

25 Q You don't want to go to prison; right?

1 A No, sir.

2 Q Now you were taken into custody on the day that you
3 robbed this cash and check place; right?

4 A Yes, sir.

5 Q Okay. And you were interviewed by Detective Savage
6 at that time; right?

7 A Yes, sir.

8 Q And that was February 19 of this year?

9 A Yes, sir.

10 Q Okay. So you robbed Ms. Guerriari about 10:30 on the
11 morning of February 19; right?

12 A I am guessing that's around the time.

13 Q It was in the morning, though; right?

14 A Yes.

15 Q And you held a gun in her face?

16 A I guess you could say that, yes, sir.

17 Q Okay. And then you were interviewed by Detective
18 Savage that afternoon; right?

19 A Yes, sir.

20 Q Now, at that time with Detective Savage you told him
21 you had nothing to do with this; right?

22 A Yes.

23 Q That you had ordered some type of a giant hamburger
24 at the Burger King?

25 A Yes, sir.

1 Q Okay. But Detective Savage told you that the first
2 person to cooperate gets the best deal; right?

3 A Okay.

4 Q Well, I need for you to answer yes or no if he said
5 that to you.

6 A Yes, sir.

7 Q Okay. Now you told him that in addition to the fact
8 that you telling him that you were at Burger King, that
9 you had nothing to do with this; right?

10 A Yes, sir.

11 Q Okay. You said you didn't know what was going on;
12 right?

13 A Yes, sir.

14 Q You told him that -- while you were telling him that
15 you were at Burger King and you had nothing to do with
16 this, you also told him that you were doing everything you
17 could to help him; right?

18 A Yes.

19 Q Didn't you ask Detective Savage can I please go home?

20 A More of a statement than a question.

21 Q Essentially you asked him if you could go home; is
22 that right?

23 A Yes, sir.

24 Q And at that time you told him you were telling the
25 truth; right?

1 A Yes, sir.

2 Q And you were lying; right?

3 A Yes, sir.

4 Q Now, you also told him -- you did admit to driving to
5 the check cashing location; right?

6 A Yes, sir.

7 Q And then it was after that you said you went to
8 Burger King and got some type of hamburger?

9 A Yes, sir.

10 Q Okay. And that was a lie?

11 A Which part?

12 Q Well, that's a good question. It was a lie that you
13 just drove there; right? In other words, after you drove
14 there you robbed the check cashing place; right?

15 A No.

16 Q Well, let me rephrase this again. After you drove to
17 the location, you and Jay Salley went into the check
18 cashing place and robbed it; right?

19 A Yes, we -- okay.

20 Q Okay. Now, at some time during that interview they
21 told you that you had been picked out of a line-up; right?

22 A Yes.

23 Q Okay. At that point you knew they weren't going to
24 believe what you had been telling them; right?

25 A I really can't answer that question, for the simple

1 fact of, you can't necessarily say what I believed at that
2 time, because it's in my mind and not yours.

3 Q Okay. After they told you that the victim,
4 Ms. Guerriari, had picked you out of a line-up as a person
5 who pointed a pistol at her, at that point you told the
6 detective that you didn't want to do it; right?

7 A Yes, sir.

8 Q You told him that Jay had threatened to tase you with
9 the taser before you went in the check cashing place;
10 right?

11 A Yes.

12 Q Is that true?

13 A No, sir.

14 Q So you were lying then?

15 A Yes, sir.

16 Q So you told him after you knew that the victim had
17 picked you out, you continued to lie; is that right?

18 A Not necessarily.

19 Q Okay. Again, at that point, after you had been told
20 that the victim had picked you out, you told the detective
21 that you had not -- no idea what happened to the gloves
22 you wore; right? You told him that; right?

23 A No, I told him that I threw them out.

24 Q You told the detective that you didn't get any money
25 from this robbery; right?

1 A In the initial interview, yes.

2 Q And you were lying; right?

3 A Yes.

4 Q Okay. Now you were subsequently interviewed. You
5 asked to speak to the detective again; right, Detective
6 Savage?

7 A Yes.

8 Q How long was that after your first interview on
9 February 19?

10 A Maybe a week, a couple of days. I am not really
11 clear on that.

12 Q Okay. Now, at that time you called Detective Savage
13 and you told him that you wanted to tell him more
14 information about this; right?

15 A Yes.

16 Q And the reason you wanted to do that was to help
17 yourself; right?

18 A I guess you could say that.

19 Q You still wanted to go home; right?

20 A Yes, sir.

21 Q You want to go home now, don't you?

22 A Yes, sir.

23 Q Okay. At this second interview, you continued to
24 tell the detective, that Jay had threatened you with a
25 taser; right?

1 A Yes.

2 Q And you're saying now that that was a lie; right?

3 A Yes.

4 Q And the reason you lied was because you thought it
5 would help you to go home; right?

6 A No, sir.

7 Q The reason you minimized your role in the robbery was
8 to increase the possibility you could go home; right?

9 A I don't see that I minimized my role in any part of
10 it.

11 Q When you had -- you called the detective and you said
12 I want to speak with you, this is after you've been in
13 jail a week, and you tell him, Detective, I didn't want to
14 do this; Jay threatened me with a taser; right?

15 A Right.

16 Q That's a lie; right?

17 A Okay.

18 Q You had a reason to lie; right? You wanted to go
19 home; right?

20 A Yes, sir.

21 Q You still want to go home; right?

22 A Yes, sir.

23 Q What you told the detective then, when you told him
24 you were trying to help him, was that you didn't realize
25 anything was actually going to happen, until you were

1 right outside the check cashing place; right?

2 A Yes.

3 Q Your words were all of a sudden it got real; right?

4 A Yes, sir.

5 Q And that's -- and you told the detective that you
6 didn't want to go through with it, when you and Jay were
7 standing outside of the check cashing place; right?

8 A When we was standing at the hotel.

9 Q Okay. You told him you didn't want to go through
10 with it; right?

11 A Yes.

12 Q And you told him again that Jay threatened you with a
13 taser; right?

14 A Yes, sir.

15 Q And you're saying that's a lie; right?

16 A Yes, sir.

17 Q Okay. Because you wanted to go home. That's the
18 only reason you would lie; right?

19 A Yes, sir.

20 Q You told the detective also that the only thing we
21 talked about in the car was that to see if Mike could go
22 in and go there and get a loan. That's what you told the
23 detective; right?

24 A In the initial interview, yes.

25 Q And in the second interview; right?

1 A No. I don't recall.

2 Q Didn't you tell the detective in the second
3 interview, I thought Mike was going in to get a loan for
4 real?

5 A I know for a fact that I told him that in the initial
6 interview. I can't recall that I told him that in the
7 second interview.

8 Q You told him in the second interview that you didn't
9 think Jay was serious about robbing this place?

10 A Yes.

11 Q And you told him that that was the truth; right?

12 A Yes.

13 Q You told him you didn't believe that you were
14 actually going to go through with the robbery; right?

15 A Yes.

16 Q Okay. In this second interview again with Detective
17 Savage, you told him, I just want to go home to my family.
18 Whatever y'all can do to help me, please help me so I can
19 go home to my family. That's what you told Detective
20 Savage; right?

21 A I can tell you that I told him, I want to go home to
22 my family. But I can't recall everything you just said.

23 Q You told Detective Savage, I'll do whatever I can to
24 help you. I'll give y'all whatever you need. You told
25 him that; right?

1 A Yes.

2 Q You told the detective that when Jay bought the
3 bookbag at Roses, that you didn't have any idea that you
4 were fixing to rob someplace; right?

5 A Yes.

6 Q You also told the detective that you had never talked
7 about robbing someplace before that day with Jay; right?

8 A No, sir.

9 Q You told the detective the only thing we talked about
10 in the truck was to see if Mike could go in there and get
11 a loan; right?

12 A Yes.

13 Q Okay. Now, this conversation, that you say, that you
14 had with Mike Quarles in jail, you're saying that that
15 occurred after your second interview with law enforcement?

16 A Actually, I can't recall when that conversation
17 happened; whether it was before or after my second
18 interview. I can recall that it did happen.

19 Q Okay. Well, here today let me ask you this; to go
20 back to something, has law enforcement made you any
21 promises of benefits that will -- that you'll get as a
22 result of your testimony?

23 A No, sir.

24 Q Okay. When you say they haven't made any promises, I
25 mean, you're here -- the point of your testifying is to

1 get a benefit; right?

2 A No. The point of my testifying is to tell the truth.

3 Q Okay. So, isn't it a fact, Mr. Williams, that the
4 point of your testimony is so you can go home, just like
5 that's been your goal since you were arrested on
6 February 19?

7 A No, that's not a fact.

8 Q Now the detective told you, in your second interview,
9 that even if you testify, you would still have to do a
10 little time on this armed robbery; right?

11 A I guess, you know, he told me that I'd have to do
12 time.

13 Q I need yes or no. Do you remember it?

14 A Not -- I vaguely remember it, yes.

15 Q Isn't it uppermost in your mind that the detective in
16 charge of this case tells you that you're only going to
17 have to do a little time for an armed robbery?

18 A Could you rephrase that question, please?

19 Q The most important thing for you is to get as little
20 time on this case as possible; right?

21 A I guess you could say that, yeah.

22 Q You've been talking about going home since the day
23 you were arrested; right?

24 A Yes, sir.

25 Q And the detective, tells you, that you'll only have

1 to do a little time, if you testify in this case; right?

2 A Okay.

3 Q And even after he told you that, you told him, that
4 the only reason you robbed this place was because Jay
5 threatened you with a taser; right?

6 A I can't recall that one.

7 Q Even after he told you that you would be looking at a
8 little time if you testified, you told him that you only
9 participated in this because you had to; right?

10 A Okay. First off, he never told me if I testified I
11 would be looking at a little time. I'll tell you that off
12 the bat. He never told me that. I knew -- not from
13 experience, but from, you know, my family's experience.
14 Time is inevitable. I am going to get time. So what's
15 the point in continuing to lie about it.

16 Q Isn't it true that you started lying about this case
17 on February 19 of 2013, Mr. Williams?

18 A Yes, sir.

19 Q This statement that you say that Mr. Quarles made to
20 you two days ago. Who was in the holding cell with you?

21 A A couple other inmates.

22 Q Did you tell law enforcement what their names were so
23 they could come testify about this statement?

24 A No, sir.

25 Q Those guys don't have 60 years hanging over their

1 head for armed robbery and kidnapping, do they?

2 A I don't know. I don't know none of them.

3 Q But you do; right?

4 A Yes, sir.

5 Q That's all the questions I have.

6 THE COURT: Redirect?

7 MR. MOLONY: Briefly, Your Honor.

8 **REDIRECT EXAMINATION**

9 BY MR. MOLONY:

10 Q Carlos, has Detective Savage ever said one word to
11 you about what amount of time you are going to get?

12 A No, sir.

13 Q Has anyone from the solicitor's office said anything
14 to you about what time you're going to get?

15 A No, sir.

16 Q And do you know whether or not you're going to get
17 time?

18 A I know I am going to get time.

19 Q You don't know how much?

20 A I just don't know how much. It could be anywhere
21 from the armed robbery taking 10 to 30 or zero to 30 off
22 the kidnapping. It could be anywhere between zero to 60
23 years. I am going to get time regardless.

24 MR. MOLONY: That's all, Your Honor.

25 THE COURT: You may step down. Thank you. Be

1 careful.

2 THE COURT: Next witness.

3 MR. MCCARLEY: Your Honor, the State calls
4 Lieutenant David Savage of the Aiken County Department of
5 Public Safety.

6 DAVID E. SAVAGE, after being duly sworn,
7 testified as follows:

8 THE CLERK: Have a seat in the witness box. Stating
9 your full name and spelling your last for the court,
10 please.

11 THE WITNESS: My name is David E. Savage,
12 S-a-v-a-g-e.

13 DIRECT EXAMINATION

14 BY MR. MCCARLEY:

15 Q Lieutenant Savage, where do you work sir?

16 A I work for the Aiken County Department of Public
17 Safety.

18 Q How long have you been there?

19 A Twenty-three years.

20 Q How long have you been in law enforcement?

21 A Twenty-three years.

22 Q What is your position there at the public safety?

23 A I am the lieutenant over investigations.

24 Q And what do you do as the lieutenant over
25 investigations?

1 A I supervise the day to day operations of our division
2 and I also investigate major crimes.

3 Q What day did you become involved in the armed robbery
4 and kidnapping that brought us all here?

5 A On February 19 of this year.

6 Q Who was the first person that you arrested that you
7 charged and arrested in this crime?

8 A Carlos Williams.

9 Q And did you interview him?

10 A I did.

11 Q Did you make him any promises or deals?

12 A I did not.

13 Q Do you have the authority to make deals?

14 A I do not.

15 Q Did you tell him that telling the truth would help
16 him?

17 A Yes, sir. I told him based on my 23 years of
18 experience, the first person that cooperates usually gets
19 the better results.

20 Q Did you ever tell him he was going home?

21 A I never told him that.

22 Q Did you tell him he was going to prison?

23 A I believe I said he is going to serve time, yes, sir.

24 Q Who is the next person that you arrested and charged
25 with the armed robbery and kidnapping in this case?

1 A Jamaques Salley.

2 Q When he was arrested are you aware of how much money
3 he had on him?

4 A I am.

5 Q How much was that?

6 A One hundred. May I refer to my notes.

7 Q Absolutely?

8 A 168.49.

9 Q Where is Mr. Salley now?

10 A He is at the Aiken County Detention Center.

11 Q Are his charges still pending?

12 A They are pending.

13 MR. CHESSER: Objection, Your Honor, to the relevance
14 of it. It has nothing to do with this defendant.

15 THE COURT: It is relevant. Thank you. Overruled.

16 Q Are you aware of any deals or offers that have been
17 made to Mr. Salley?

18 A No deals or offers.

19 Q Going back to the investigation, at what point was
20 the defendant Michael Quarles arrested?

21 A He was arrested on March 9 of 2013.

22 Q Can you please tell the jury the circumstances of
23 that arrest?

24 A Yes, that was on a Saturday. Lieutenant Key, who is
25 over D shift, patrol officer's called me at home, said

1 they received an anonymous tip, that Mr. Quarles who was
2 wanted was out on a house on Warren Street. The street
3 officers went to the door and the young lady let him in.
4 She said he is in the back closet hiding. They went to
5 the back closet and he was hiding under what clothes he
6 could hide under.

7 Q Did you interview the defendant Michael Quarles after
8 his arrest?

9 A I did on March 10 on Sunday morning.

10 Q Is Michael Quarles here in the court room today?

11 A He is.

12 Q Could you please point him out.

13 A He is sitting next to Mr. Chesser on the right with
14 the brown shirt.

15 Q Let the record reflect that Lieutenant Savage has
16 identified the defendant.

17 THE COURT: Very well.

18 Q When you interviewed him was there anyone else in the
19 room?

20 A There was. There was a young newer officer PS0
21 Lawrence.

22 Q Where did this interview take place?

23 A At the Aiken Department of Public Safety.

24 Q On what date again, I apologize?

25 A March 10.

1 Q Prior to interviewing him, did you read Michael
2 Quarles his Miranda Rights?

3 A I did read his Miranda Rights.

4 Q Does the Aiken Department of Public Safety use a
5 Miranda Waiver Sheet?

6 A We do.

7 MR. MCCARLEY: Your Honor, may I approach?

8 THE COURT: You may.

9 Q Lieutenant Savage what I'm handing you has been
10 previously marked State's Exhibit 26. Could you tell us
11 what that is, sir?

12 A That's an Aiken Department of Public Safety form for
13 advice of Miranda Rights.

14 Q All right. Did you read and explain that document to
15 the defendant?

16 A I did.

17 Q Did he initial it?

18 A He did initial.

19 Q How many times?

20 A Seven.

21 Q Did you force the defendant in any form or fashion to
22 initial that waiver?

23 A I did not.

24 Q Did you threaten the defendant?

25 A I did not.

1 Q Had he already been charged with kidnapping and armed
2 robbery?

3 A Yes, he was already charged.

4 Q So there was no threat of arrest?

5 A There was no threat of arrest. He was under arrest
6 already.

7 Q Did the defendant voluntarily give up his right to
8 have an attorney present?

9 A He did.

10 Q Did he voluntarily give up his right to remain
11 silent?

12 A He did.

13 Q Did you promise Michael Quarles anything?

14 A Not a thing.

15 Q Did you offer him any deals?

16 A Not a deal.

17 MR. MCCARLEY: Your Honor, the state now moves to
18 enter Exhibit 26 I believe it is into evidence.

19 MR. CHESSER: No objection.

20 (State's Exhibit Number 26 is received into
21 evidence.)

22 Q Could you please read that document to the jury?

23 A All right. This is what we read. Before we ask you
24 any questions you must understand your rights. Number
25 one, says, you have the right to remain silent. Number

1 two, says, anything you say can and will be used against
2 you in a court of law. Number three, says, you have the
3 right to talk to a lawyer for advice before we ask you any
4 questions, and have him with you during questioning.
5 Number four, says, if you can not after farred a lawyer
6 the court will appoint one to represent you without cost,
7 if you wish. Number five, says, if you decide to answer
8 questions now without a lawyer present, you will still
9 have the right to stop answering at any time. You also
10 have the right to stop answering at any time until you
11 talk to a lawyer. Number six, says, I have read this
12 statement of my rights and understand what my rights are.
13 And then I'll have him initial.

14 And then the waiver of rights. I am willing to make
15 a statement and answer questions. I do not want a lawyer
16 at this time. I understand and know what I am doing, no
17 promise, threats have been made to me and no pressure of
18 any kind has been used against me. And, again, he'll
19 initial, he'll sign it, and the officer that was in the
20 room witnessed it.

21 MR. MCCARLEY: Permission to approach Your Honor?

22 THE COURT: You may.

23 Q Lieutenant Savage, I am now handing you what's been
24 previously marked State's Exhibit 27?

25 A Do you recognize that.

1 A I do.

2 Q What is it sir?

3 A It is a DVD of an interview on Michael Quarles.

4 Q Have you watched that?

5 A I watched it, yes, sir.

6 Q Is it a true and accurate copy of the audio and video
7 taken on March 10, 2013?

8 A It is.

9 Q Have there been any changes, deletions, additions
10 subtractions?

11 A No.

12 MR. MCCARLEY: Your Honor, the State now moves to
13 enter the DVD of the interview into evidence.

14 MR. CHESSEY: No objection.

15 MR. MCCARLEY: And to publish it to the jury, sir.

16 THE COURT: You may.

17 (Whereupon, CD is played for the jury.)

18 MR. CHESSEY: Object.

19 THE COURT: Hold on. Cut it off.

20 (Whereupon, the CD is stopped pursuant to the Judge's
21 instructions.)

22 THE COURT: Mr. Chessy walk over here.

23 (Whereupon, a bench conference was held.)

24 THE COURT: Madam, Forelady, ladies and gentlemen,

25 y'all step out just a second. We need to run this forward

1 a little bit to another part because this part hasn't got
2 anything to do with it. Don't discuss the case and don't
3 deliberate.

4 (Whereupon, the jury exited the courtroom at 10:36.).

5 THE COURT: Y'all try to work it out please.

6 MR. MCCARLEY: Yes, sir.

7 THE COURT: The portion that Mr. Chesser objected to.

8 MR. CHESSER: We're at 24 minutes, Your Honor.

9 THE COURT: Y'all agree?

10 MR. MCCARLEY: Yes, sir.

11 THE COURT: What are you doing? You're not eating,
12 are you?

13 MR. MCCARLEY: Yes, sir, I am.

14 THE COURT: Ask the jury to come in -- hold on.

15 MR. CHESSER: Your Honor. I'd like to take this
16 opportunity to address a matter that it would be more
17 convenient if they're out.

18 THE COURT: Certainly. Is it an objection or what is
19 it? Something that's bothering you?

20 MR. CHESSER: I'll tell you what it is. What I am
21 going to ask a little later is to introduce a portion of
22 another interview, and it's -- I wanted to just address
23 the logistics while the jury was out. The part I want to
24 introduce it's the second debriefing or interview of
25 Carlos Williams and the way that it works on my computer

1 is if the interview is divided into segments. In this
2 case there's, I think, three segments. And the part I
3 want to introduce is at 1558 to 1630 on the second
4 segment. So I wanted to go ahead an address, while the
5 jury is out, the concept of introducing just part of this
6 interview, and also to address the logistics of it. It's
7 not extremely difficult, but what probably -- in order to
8 make it go smoothly, if the Court deems this admissible
9 depending on what the prosecution says, but at some point
10 we might want to cue it up and so forth. If it's -- that
11 portion is going to come in 1558 to 1630.

12 THE COURT: When are you going to do it?

13 MR. CHESSER: When? On my cross examination on
14 Detective Savage.

15 THE COURT: What is your position on whether you are
16 going to object to it or not?

17 MR. MCCARLEY: The objection is prior consistent
18 statement. You heard from Carlos Williams that what was
19 said, what was said. He, yes and no everything. I don't
20 know what you're going to hear on cross of Lieutenant
21 Savage. But I'd probably deal with it then as a prior
22 consistent statement, thus inadmissible.

23 THE COURT: We'll do it when we get to it. Are y'all
24 in agreement with what you need to do to finish up with
25 direct on this tape?

1 MR. CHESSER: Your, Honor for the record we stopped
2 at 24. At this point we're at 2917. So--

3 THE COURT: Does that satisfy your objection?

4 MR. CHESSER: Yes, sir.

5 THE COURT: All right. Bring the jury back, please.

6 (Whereupon, the jury came into open court at
7 approximately 10:40.)

8 THE COURT: All right. You may proceed.

9 (Whereupon, CD is played for the jury)

10 Q Lieutenant Savage, please answer any questions that
11 Mr. Chesser has for you.

12 CROSS-EXAMINATION

13 BY MR. CHESSER:

14 Q Lieutenant Savage, I want to ask you about Carlos
15 Williams. You interviewed him the first time on
16 February 19 of this year; right?

17 A I did.

18 Q And then you interviewed him again a week to 10 days
19 later; is that right?

20 A I don't remember the exact time frame, but it was a
21 week or so later.

22 Q Okay. And in the course of that interview there came
23 a point where you told him, talking to Carlos, you're
24 going to have to do a little time; right?

25 A I would have to review the video.

1 Q Okay. You have the video as a whole in connection
2 with this case, have you reviewed the video of your second
3 interview with Carlos Williams?

4 A Not for this trial. I reviewed everything on
5 Mr. Quarles.

6 MR. CHESSER: At this time I would like to address
7 something outside of the presence of the jury, Your Honor,
8 or alternatively I'll just move to introduce a section of
9 the interview with Carlos Williams.

10 THE COURT: That's the way to do it right there.
11 What section do you move to introduce?

12 MR. CHESSER: Your Honor, again, on what I am
13 presented with and I think what the prosecution has the
14 videos even though it's one interview, the computer
15 somehow breaks it down into, in this case, three files.
16 So what I'm requesting is 1558, that's 15 minutes and 58
17 seconds to 16 minutes and 30 seconds from the second
18 segment, of this second interview with Carlos Williams.

19 THE COURT: You want to introduce it into evidence.

20 MR. CHESSER: Yes, sir.

21 THE COURT: Mr. MCarley.

22 MR. MCCARLEY: No objection from the state, Your
23 Honor.

24 THE COURT: Do it then. Do y'all have the capability
25 of doing it?

1 MR. CHESSER: Yes, Your Honor.

2 THE COURT: All right. Gentlemen, let's move along
3 hold on a second. Don't play it unless it's what we're
4 looking for.

5 MR. CHESSER: Your Honor, I don't -- we don't want to
6 waist anybody's time. We would ask the jury to be
7 excused, Your Honor.

8 THE COURT: Well, you know, gentlemen. We had all
9 night to do this. Don't let me lose my patience. How
10 long will it take you, Mr. Chesser?

11 MR. CHESSER: It will literally take just five
12 minutes, Your Honor.

13 THE COURT: Literally. Have y'all ordered your lunch
14 yet?

15 JURORS: Yes, sir.

16 THE COURT: Well I can't make you do that. Give me
17 five minutes. Thank you. I'm sorry.

18 (Whereupon, the jury exited the courtroom at 10:48.).

19 (Defendant's Exhibit Number 1 is received into
20 evidence.)

21 THE COURT: Are you ready to proceed, Mr. Chesser?
22 Got your computer program in order?

23 MR. CHESSER: Yes, sir.

24 THE COURT: Bring the jury in.

25

1 (Whereupon, the jury came into open court at
2 approximately 11:03.)

3 MR. CHESSER: The defense moves this section it is 15
4 minutes and 57 seconds to 16 minutes and 30 seconds of the
5 second segment of the second interview with Carlos
6 Williams. That's actually about 45 minutes into the
7 second interview.

8 THE COURT: 45 minutes -- how long is the tape that
9 you're playing?

10 MR. CHESSER: The tape we're playing is 33 seconds,
11 Your Honor.

12 THE COURT: Okay.

13 MR. CHESSER: We would move to publish that at this
14 time.

15 THE COURT: No objection. Go ahead.

16 (Whereupon, a portion of the CD is played for the
17 jury)

18 Q That is in fact -- that is the second portion of the
19 interview you had with Carlos Williams, the second
20 interview; right?

21 A It is .

22 Q And even after that discussion, in that second
23 interview, Carlos Williams told you that he still didn't
24 believe the robbery was actually going to happen until he
25 was in front of the motel; right?

1 A He did.

2 Q That's all the questions I have. Thank you.

3 THE COURT: Redirect.

4 REDIRECT EXAMINATION

5 BY MR. MCCARLEY:

6 Q Thank you Your Honor. Very briefly. Lieutenant
7 Savage, did you make any promises to any of three
8 defendants in this case?

9 A No -- I'm sorry.

10 Q Go ahead, sir.

11 A I did not.

12 Q Did you make any deals with any of the three
13 defendants in this case?

14 A I did not.

15 Q Did you tell any one they were going home?

16 A I did not.

17 Q Can you make offers and deals?

18 A I cannot.

19 MR. CHESSER: Objection, Your Honor, he is going over
20 the same thing they went over in direct

21 THE COURT: Well but you sort of brought it back up
22 in cross so I'll allow it briefly.

23 MR. MCCARLEY: That is all, Your Honor.

24 THE COURT: Like I said I'll allow it briefly. Thank
25 you. Let the screen down, please. Next witness, please.

1 MR. MOLONY: Your Honor, the State rests.

2 THE COURT: Mr. Chesser let me see you, please.

3 (Whereupon, a bench conference was held.)

4 THE COURT: All right. Madam Forelady, ladies and
5 gentlemen, I intend to spend about three or four minutes
6 with the lawyers to see whether or not we have any more
7 testimony. Step out just for a second. I hope to have
8 the lunch here by eleven thirtyish (ph). That's a little
9 early. We got the other jury coming in and pick another
10 jury and trying to do too many things at one time. You
11 know, y'all are all going to have good exercise. It won't
12 take long.

13 (Whereupon, the jury exited the courtroom at 11:08.)

14 THE COURT: All right. Mr. Quarles, would you please
15 stand for me and raise your right hand.

16 MICHAEL QUARLES, after being duly sworn,
17 testified as follows:

18 EXAMINATION

19 BY THE COURT:

20 Q You can sit down. All right, Mr. Quarles, we've
21 reached the stage in the trial now where you can present
22 your own -- your defense and you can do that in a number
23 of ways. You can call witnesses. You can introduce
24 relevant exhibits and you can testify in your own defense.
25 If you exercise your right to testify or you decide to

1 THE COURT: All right, sir. Bring the jury in,
2 please. As we discussed at side bar, all motions at the
3 conclusion of the state's case will be made nunc pro tunc
4 as if made at the conclusion. Fair enough, Mr. Chesser?

5 MR. CHESSER: Yes, sir.

6 (The jury enters the courtroom at 11:15.)

7 THE COURT: All right. With now are in the stage of
8 the trial where the defendant can present his own defense.
9 Mr. Chesser, you may call your first witness.

10 MR. CHESSER: The defense calls Michael Quarles.

11 THE COURT: Mr. Quarles, come around please, place
12 your left hand on the Bible and raise your right.

13 MICHAEL QUARLES, after being duly sworn,
14 testified as follows:

15 THE CLERK: Have a seat in the witness box, state
16 your full name, spelling your last for the court please.

17 THE WITNESS: My name is Michael Quarles,
18 Q-u-a-r-l-e-s.

19 DIRECT EXAMINATION

20 BY MR. CHESSER:

21 Q Mr. Quarles, tell the jury how old are you are?

22 A I am 26.

23 Q Where are you from?

24 A I'm from Augusta Georgia, but raised around here.

25 Q You were raised around here?

- 1 A Yes, sir.
- 2 Q Where do you live here?
- 3 A Drive.
- 4 Q And about where is that located?
- 5 A Behind Citizens Park.
- 6 Q And who do live with there?
- 7 A My cousin.
- 8 Q And what is her name?
- 9 A May Abney.
- 10 Q And how long have you been living there?
- 11 A Off and on for about -- since I was -- off and on
- 12 since I was about 18.
- 13 Q How much education do you have?
- 14 A I completed the 11th grade.
- 15 Q What kind of work have you done?
- 16 A I've worked at Burger King. I worked at Amick's
- 17 Farms. I worked at Wendy's. I worked at Gary's
- 18 Hamburgers.
- 19 Q Okay. Do you know Jay Salley?
- 20 A Yes, sir.
- 21 Q Do you know Carlos Williams?
- 22 A Yes, sir.
- 23 Q And you know that you're here accused of an armed
- 24 robbery on February 19 of 2013; right?
- 25 A Yes, sir.

1 Q Now, if you would, tell the jury what happened on
2 that day, February 19 of 2013, in the morning.

3 A Carlos came and picked me up around -- it was
4 supposed to be at 8 o'clock, but he came around 9 o'clock.
5 We drove to get Jay from his house and then we went to
6 Dollar General. We went in and walked around. Then we
7 went to Roses and we went in and walked around a little
8 bit. Then Jay had got a bookbag and then we left and went
9 and parked in, I guess, which was the daycare parking lot
10 and he was, like, go in there and see if you can get a
11 loan because I can't, because I already had one with them
12 and I owe them. I went in and asked Mrs. Guerriari --

13 Q Okay. Let me just address these things one at a
14 time. Why did you go to this check cashing place?

15 A Jay asked me to.

16 Q Okay. Did you have a reason -- were you trying to
17 get a loan?

18 A Not until Jay asked me to.

19 Q But you owed Jay some money you said?

20 A Yes, sir.

21 Q Now, the bookbag that was purchased at Roses did you
22 buy that bookbag?

23 A No, sir.

24 Q Who bought it?

25 A Jay did.

1 Q Did you know why he bought it?

2 A No, sir.

3 Q Did Carlos tell you that he and Jay were going to
4 commit a robbery that morning?

5 A No, sir.

6 Q So and who was driving the vehicle?

7 A Carlos.

8 Q Did you tell him where to park?

9 A No, sir.

10 Q So after Jay asked you to get a loan, what happened
11 then?

12 A I went in and inquired about the loan, asked her what
13 all I would need, what paperwork I would need to bring
14 back. And I asked her to write it down for me and she
15 wrote it down on a piece of sticky note, and she gave me
16 an application and a sticky note, and I left back out the
17 store.

18 Q Okay you walked back to where the car -- the truck
19 was parked?

20 A Yes, sir.

21 Q And do you recall where it was parked?

22 A In the day care parking lot.

23 Q That's where Carlos had parked it?

24 A Yes, sir.

25 Q When you walked back over there what did you do?

1 A I got in the truck and Carlos and Jay was asking me
2 how many people in there? I was like one. They was,
3 like, did you get the loan? And they said, well did you
4 get the loan and I was, like, I ain't got all the stuff
5 with me.

6 Q Let me ask you to speak a little louder..

7 A They asked me how many people were in there. I said,
8 one. And then they said, well did you get the loan or
9 anything? I said, no, I got an application. I don't have
10 all the paperwork with me.

11 Q So, did you go into that check cashing place with the
12 idea of a casing it?

13 A No, sir.

14 Q Okay. And who was it who asked you how many people
15 were in there?

16 A Both of them were asking.

17 Q What happened after that?

18 A It was, like, all right well hold on real quick.
19 We'll be right back. They got out the truck.

20 Q Okay. And what did you do then?

21 A I got in the driver's seat and rolled -- I took a
22 right on Richland and a left on another street and I
23 backed the truck up and got out and walked to my aunt's
24 house.

25 Q Why did you do that?

1 MR. MOLONY: Your Honor, can I ask that he speak up a
2 little bit.

3 THE COURT: Speak up a little bit, please.

4 THE WITNESS: I took a right on Richland and then a
5 left on another street and I got out the truck and walked
6 to my aunt's house.

7 Q Okay. And what is your aunt's name.

8 A Her name is Brenda.

9 Q Okay. So, when was the next time that you saw Jay
10 and Carlos then?

11 A On the news. But I had talked to Jay later that day.

12 Q All right. Did Jay -- when you talked to Jay later
13 that day, did he tell you anything about what they had
14 done?

15 A Yes, sir.

16 Q Okay. When was the next time you talked to Carlos or
17 did you?

18 A I didn't talk to him any more.

19 Q Did you plan an armed robbery with Jay and Carlos on
20 or before on February 13?

21 A No, sir.

22 Q Did you participate in an armed robbery with Carlos
23 and Jay on February 13?

24 A No, sir.

25 Q Did you get any money out of any -- did they give you

1 any money later on?

2 A No, sir.

3 Q Did you dispose of guns or taser later on?

4 A No, sir.

5 Q Please answer any questions that the state has.

6 CROSS-EXAMINATION

7 BY MR. MALONY:

8 Q Mr. Quarles, how are you doing?

9 A I'm doing all right.

10 Q You stated that you finished the 11th grade in
11 school?

12 A Yes, sir.

13 Q Okay. I just briefly want to go through both, what
14 you said on your statement, and what you said here today.
15 All right.

16 A Yes, sir.

17 Q You testified that Carlos picked you up at 9; is that
18 right?

19 A Yes, sir.

20 Q And why did Carlos pick you up?

21 A Because Jay had asked me to ride with him the next
22 morning. He told me that Carlos was going to come pick me
23 up.

24 Q Because Jay told him what?

25 A Jay asked me -- he called me the night before. He

1 was, like, hey ride with me in the morning. I was, like,
2 okay for what? He was, like, don't worry about it. I'll
3 tell you in the morning. Later on he text me and said
4 Carlos is coming to get you at 8 o'clock.

5 Q So you talked to Jay the night before?

6 A Yes, sir.

7 Q And you knew Carlos was going to be there the next
8 morning around 8 o'clock; is that right?

9 A Yes, sir.

10 Q But he was a little late?

11 A Yes, sir.

12 Q Got there at nine, didn't he?

13 A Yes, sir.

14 Q And at that point, isn't it true, you testified that
15 y'all then went to Dollar General?

16 A Yes, sir.

17 Q And you were sitting in the front passenger seat of
18 that truck; weren't you?

19 A Yes, sir.

20 Q And you were wearing a black hoodie; is that right?

21 A Yes, sir.

22 Q And while at Dollar General, isn't it true, that you
23 stated on your statement, they didn't find what they
24 wanted there; is that right?

25 A Yes, sir.

1 Q Which was a bookbag?

2 A Yes, sir.

3 Q And then y'all went to roses; isn't that correct?

4 A Yes, sir.

5 Q And while at roses -- Your Honor, may I approach?

6 THE COURT: You may.

7 Q I am showing you State's Exhibit 20. That's you at
8 Roses; isn't it?

9 A Yes, sir.

10 Q Carlos Williams at Roses?

11 A Yes, sir.

12 Q Jamaques Salley at Roses?

13 A Yes, sir.

14 Q You're still in this black sweat shirt; right?

15 A Yes, sir.

16 Q Y'all are looking for this bookbag, aren't you?

17 A Yes, sir.

18 Q And y'all find the bookbag there; isn't that right?

19 A Yes, sir.

20 Q And y'all buy the bookbag there?

21 A Yes, sir.

22 Q Y'all got in the truck at that point; isn't that
23 right?

24 A Yes, sir.

25 Q And you're in the passanger -- you're not driving at

1 that time; right?

2 A No, sir.

3 Q Okay. And y'all immediately go to the daycare; isn't
4 that right?

5 A Yes, sir.

6 Q Which is across the street from the Quick Cash;
7 right?

8 A Yes, sir.

9 Q The daycare that you've heard testimony from?

10 A Yes, sir.

11 Q And y'all didn't have kids at the daycare, did you?

12 A No, sir.

13 Q Okay. And y'all went -- you testified just now y'all
14 went there for you to get a loan for Jamaques Salley?
15 Isn't that what you just testified to?

16 A It was to get a loan for myself, but also to pay him
17 back at the same time.

18 Q Okay. So you park at the daycare to go do that;
19 isn't that right?

20 A Yes, sir.

21 Q And was it really cold that day?

22 A No, sir, not really.

23 Q So you decided to put on Carlos Williams white hoody
24 sweat shirt, because as you stated in your statement, he
25 needekd something a little less obvious, didn't he?

1 A That's what I said in the statement, but the actual
2 reason what he told me is, his was too small and he wanted
3 to wear mine.

4 Q His was too small?

5 A Yes, sir.

6 Q It was too small for him, but it fits you?

7 A Yes, sir.

8 Q So what -- you admit that you say in your recorded
9 statement, that the jury just heard, Carlos said, give me
10 your hoodie because his was recognizable. Are you denying
11 that you said that?

12 A No, sir, I'm not.

13 Q And then you stated that you went in over there
14 because they told you to go see how many people were
15 working or were in the Quick Cash business at that time;
16 isn't that right?

17 A Yes that's what I said.

18 THE COURT: Speak up please.

19 THE WITNESS: Yes, sir, that's what I said.

20 Q Okay. And you did that, didn't you?

21 A No, sir, that's not why I actually went in. That's
22 what I told the detectives.

23 Q Did you go to the Quick Cash that day?

24 A Yes, sir.

25 Q And were you wearing the white sweat shirt of

1 Carlos'?

2 A Yes, sir.

3 Q Because his was too small?

4 A Yes, sir.

5 Q And it was just getting too uncomfortable for him in
6 that car, wasn't it?

7 A Yes, sir.

8 Q At the daycare?

9 A Yes, sir.

10 Q So you go in and you testify, and you stated, that
11 there was one person in the store; isn't that right?

12 A Yes, sir.

13 Q Is that her right there?

14 A Yes, sir.

15 Q That's the girl you talked to?

16 A Yes, sir.

17 Q And you talk to her, look her in her eyes, and you're
18 just wanting to get a loan so you can pay your buddy back,
19 is that your testimony?

20 A Yes, sir.

21 Q But your statement was you went in there to see how
22 many people were in there; isn't that right?

23 A Yes, sir.

24 Q And you went back and you told them one white girl,
25 didn't you?

1 A Yes, sir.

2 Q And you get in the driver's seat, didn't you?

3 A After they got out of the car, yes, sir.

4 Q They got out. Carlos is still wearing your hoodie;
5 isn't he?

6 A Yes, sir.

7 Q And you go to your aunt's house. Is that what you
8 just said?

9 A Yes, sir.

10 Q But, isn't it true, in your statement, you stated,
11 that you -- that they said drive and park over there. So
12 I drove and parked over there.

13 A Yes, sir that's what I said in the statement.

14 THE COURT: Speak up please.

15 THE WITNESS: Yes, sir that's what I said in the
16 statement.

17 Q Okay. And you didn't need any money to rob anybody,
18 did you?

19 A No, sir.

20 Q You got your own money, isn't that what you said?

21 A Yes, sir.

22 Q You ain't never done nothing like this? Isn't that
23 what you said?

24 A Yes, sir.

25 Q Isn't it true you were convicted in 2011?

1 MR. CHESSER: Objection.

2 THE COURT: What is the objection? You're going to
3 state it like we talked about right convicted of a felony,
4 right.

5 MR. MOLONY: Yes, sir.

6 MR. CHESSER: I'll withdraw the objection.

7 Q Isn't it true that you were convicted out of the
8 State of Georgia in 2011 of a felony?

9 A Yes, sir.

10 Q And the same day you were convicted of a second
11 felony?

12 A Yes, sir.

13 Q And the same day you were convicted of a third
14 felony?

15 A Yes, sir.

16 MR. CHESSER: Your Honor, I'd ask for a limiting
17 instruction at this time.

18 THE COURT: I'll do that in my charge. Ladies and
19 gentlemen, I'll just tell you right now that the fact that
20 he has a prior record with the three felonies, that's not
21 to be used as evidence of guilt in this case. It's simply
22 to be used by you in judging the believability or the
23 credibility of the witness. Is that satisfactory?

24 MR. CHESSER: Yes, Your Honor.

25 Q Now, I'll ask you, Mr. Quarles, in your statement

1 didn't you say that you were hiding in a closet on March 9
2 of 2013?

3 A Yes, sir.

4 Q And that you thought the more appropriate charge for
5 you would be accessory; isn't that right?

6 A Yes, sir.

7 Q Accessory before the fact due to you going in and
8 telling them how many people are in there; right?

9 A Yes, sir.

10 Q And while -- when you drove the truck over and waited
11 on them at the other spot that y'all had, that that was
12 the accessory after the fact, in your opinion, wasn't it?

13 A Yes, sir, that's what I said in the statement.

14 MR. MCCARLEY: I don't have anything else, Your
15 Honor.

16 THE COURT: Anything on redirect?

17 MR. CHESSER: No, Your Honor.

18 THE COURT: All right, sir, you may step down.

19 Please call your next witness.

20 MR. CHESSER: The defense rests, Your Honor.

21 THE COURT: Anything in reply by the state?

22 MR. MOLONY: No, sir.

23 THE COURT: Madam Forelady, ladies and gentlemen,
24 that concludes all the testimony in this case. Your food
25 should be here just shortly. So here is what I am going

1 her. So if that's believed and he's the hand of one, hand
2 of all, then it would support a verdict. So respectfully
3 denied. Anything else?

4 MR. CHESSER: Nothing further, Your Honor.

5 (Whereupon, the jury came into open court at
6 approximately 12:49.)

7 THE COURT: Okay. Sorry we took a little longer that
8 we expected. We got bogged down a little bit. We're now
9 at the stage of the trial where we hear the final
10 arguments. As I told you when we started that's not
11 evidence. You've already heard all the evidence. The
12 lawyers obviously are adversaries for their each
13 respective side so they'll be arguing the evidence in the
14 light most favorable to their position. Please listen
15 carefully, once they've completed their arguments then
16 I'll be in a position to charge the instruction of the law
17 and then you will be in a position to start your
18 deliberations.

19 THE COURT: Are you going to waive opening?

20 MR. MOLONY: Yes, sir.

21 THE COURT: Mr. Chesser.

22 CLOSING STATEMENT

23 MR. CHESSER: Thank you again for your service. Mike
24 Quarles he didn't put a gun in anybody's face, like Carlos
25 Williams did, in this case a BB gun. He didn't shock

1 anybody with a taser like Jay Salley did. But the state
2 attempts to hold him responsible for armed robbery and
3 kidnapping. There is a tremendous void in this case
4 because of the fact that the state is arguing that he
5 should be held responsible for something when he actually
6 wasn't even in the store. Now, they -- the state attempts
7 to fill this void primarily with Carlos Williams's
8 statements, and also with a statement of Michael Quarles.

9 I want to talk about Michael's statement that was
10 taken from him by law enforcement and that he was
11 questioned about by the state. If -- listen to that
12 statement, watching that statement, which you did, the
13 person who does the talking is Detective Savage. He is
14 saying: And then this happened, and then that happened
15 and then this happened. And Michael Quarles is just
16 basically sitting there listening to him. There is very
17 little that Quarles says. Ninety percent of it is
18 Detective Savage making these allegations, these
19 accusations. Quarles is just there. There is some
20 exceptions to that. There are some things he does speak.
21 But essentially the speaker is Detective Savage and you're
22 going to get, not what Mike Quarles says, but what
23 Detective Savage says in that interview.

24 Now, and that's true when he was subject to cross
25 examination by the state. Again, the prosecutor is

1 putting words in his mouth, saying this is what you said,
2 isn't that what you said, and it goes back to what
3 Detective Savage said in Quarles's interview.

4 Now, the state again attempts to fill this void with
5 primarily Carlos Williams. Carlos was taken into custody
6 on February 19th of this year and he immediately tells
7 Detective Savage, I want to go home. I'll do anything I
8 can to go home. And of course he says that he was
9 ordering a really large hamburger at Burger King when this
10 happened. And then he goes and changing history and
11 changing history up to the point where Mrs. Guerriari
12 identifies him as the person who pointed a BB gun at her.
13 And at that point history continues to evolve, and again
14 it's constantly an attempt by Carlos Williams to get
15 himself out of a problem. He has one goal, and I submit
16 to you that he continues to have that one goal, to go
17 home.

18 Again history as you heard you know he told law
19 enforcement, that he was down there by the hotel not too
20 far from the entry to the check cashing place, and he at
21 that point, he says, I don't want to do it. He said
22 Jamaques Salley threatened to tase him, and then he
23 changed that. And so I want to talk specifically -- I'm
24 sure you heard me question him about law enforcement and
25 to what extent they had encouraged his hopes, and his

1 fervent desire to go home.

2 The state, when they first put him up, as I recall,
3 the first question they asked him, has anybody promised
4 you anything. He says, of course, not. And he represents
5 to you, at this point, his goal is simply to promote
6 justice, and it doesn't matter to him what type of
7 sentence that he gets in his case.

8 What concerns me about this and is very important for
9 you to know when somebody has an extra motive to
10 misrepresent or not tell the truth. Now, it's obvious,
11 that Carlos has a motive to not go to prison, or if he
12 does to go to the least amount of time possible.

13 And, again, we're talking about the person who
14 pointed a BB gun at Mrs. Guerriari, the first one into the
15 store. But the tape -- the part of it that I introduced,
16 you can look at it again or what have you, but what I
17 recall it saying was that the tape says -- what, in fact,
18 Detective Savage says was, you're going to have to do a
19 little time on this. Those are his exact words and what
20 the state -- their argument is, well, you know that's not
21 a promise. That's just like a suggestion. That's just --
22 well you know, it doesn't really count for some reason.
23 And even in -- when they were questioning Detective
24 Savage, they said, did you make any promises. And he
25 insists, no, I didn't make any promises. Even though he

1 tells Carlos Williams, who is to say -- he says, I will
2 help you. I will tell you -- I'll do anything -- I'll say
3 anything and he's told, well you're going to have to do a
4 little time -- and what the State says is, well that's
5 just a vague -- that's too vague. But you have to look at
6 it from the point of view of Carlos Williams. What does
7 that mean to him?

8 Essentially they're holding out this ticket, the
9 lotto, so to speak, the shortest time possible is what
10 he's looking for, and he says I'll do -- I submit to you
11 to paraphrase him, I'll do and I'll say anything to win
12 that ticket. The ticket where either I don't have to go
13 to prison, even though Carlos is the principle in whatever
14 happened that day, or else he has to go for the least
15 amount of time. And you're talking about a guy who you
16 can sort of judge his moral fiber by the fact that he's
17 down there with a gun on Ms. Guerriari.

18 Armed robbery, the judge will explain to you, is
19 various ways that it can be accomplished. But one of
20 those ways involves the use of a deadly weapon, and I
21 would submit to you that BB gun is not a deadly weapon,
22 and a taser is specifically designed not to be a deadly
23 weapon. So consider that also.

24 But again the main point is Michael Quarles didn't do
25 this. He testified that they asked him to go along. Then

1 they asked him to go in the store and Detective Savage and
2 the State then told him well you must have done such and
3 such. You must have agreed to such and such. But the
4 only testimony they had to that again is Carlos Williams,
5 who I submit to you is not worthy of your belief for a
6 minute.

7 Other than that, you've heard the testimony. I want
8 to ask you to consider everything. The judge will tell
9 you of course not to start deliberating until you get back
10 there after you've heard the state's argument and after he
11 gives you permission to start deliberating. But Michael
12 Quarles is asking you to judge this case. I've asked you
13 to judge it. The state is asking you to judge it, and
14 we're confident that you'll do your duty. We thank you
15 very much.

16 CLOSING STATEMENT

17 MR. MOLONY: Thank you, Judge. May it please the
18 court. Mr. Chesser. Ladies and gentlemen, it's rare that
19 we can get up here at this point in the trial during the
20 closing arguments of the State. And with the two
21 different times that the defendant has told you why he's
22 guilty. We've got the state's evidence that we presented
23 up until that moment. The state's evidence, I'll go over
24 briefly. I am not going to be up here all day, because
25 frankly the defendant himself tells you why he is guilty,

1 not just in this interview that you heard. Also on this
2 witness stand.

3 Carlos Williams, he's guilty, too. He's absolutely
4 guilty. And his charges are pending just like the
5 defendant's are, as of now, for the same thing. Now,
6 Mr. Quarles -- Mr. Chesser stated that the state and I put
7 words in his mouth and that Detective Savage testified for
8 him the whole time.

9 I'll go over just some of the main things that he
10 said and that he said on this witness stand. But to
11 believe the defendant, what he told you today, at least
12 part of what he said, he agreed that he still thinks he is
13 just an accessory before and accessory after. But what he
14 told you was that he went to get a loan for Jamaques
15 Salley because Jamaques Salley -- he owed Jamaques Salley
16 money. But that Carlos Williams sweat shirt wasn't
17 fitting right, so he was uncomfortable in it so they
18 switched shirts and he would have you believe he never saw
19 a gun, never knew a mention of the gun while they're
20 changing shirts in front of the car. Then Carlos got the
21 gun and put it in the defendant's jacket. They got the
22 book bag prior to that because Jamaques was about to start
23 school, the defendant thought. But then he admitted to
24 getting the book bag so they could put the stuff in it.
25 He says that he goes to his Aunt May's house. That's the

1 first anybody has heard of Aunt May is, and I don't know
2 -- but he went to Aunt May's house and he just left the
3 truck there after he moved it. It is about credibility.
4 Who you believe and who don't you believe.

5 Who has something to gain? Does Carlos Williams have
6 something to gain? He got up here and told you what
7 happened. Now, he'll be dealt with, but he told you what
8 happened. Of course he's probably got something to gain.
9 He's trying, as he stated, to get whatever he can get out
10 of it. But he's guilty. He put the gun in the girl's
11 face.

12 The defendant was right there the whole time, ladies
13 and gentlemen. What did the State's evidence prove? It
14 proved that -- and the defendant himself, what did he tell
15 you. He gets a call from Jamaques Salley the night
16 Before. That he didn't tell him exactly what they were
17 going to do, but that Carlos Williams would be there
18 around eight to pick him up. Carlos was a little late, he
19 got there at nine. They went and picked up Jamaques
20 Salley and then went to Dollar General, he told you they
21 were looking for a bookbag. They didn't find one. They
22 then go to Roses. They get the bookbag. He tells you
23 they find the bookbag they need. They immediately go to
24 the daycare. And at the daycare, I don't think
25 Mrs. Holsenback or Mrs. Fulmer, the two daycare workers,

Closing by Mr. Malony

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1 have any motive to get up here and tell you they saw the
2 defendant get out of the passenger seat wearing the white
3 hoodie. Carlos Williams tells you, and the defendant
4 tells you on the stand and his interview, is that it was
5 because it was less recognizable. He then goes across the
6 street and he says that the reason he did it, is because
7 they told him to go see how many people were in there. He
8 does, comes back, and reports to them, one, and that one
9 you heard from.

10 That one is the one that was sitting in there scared
11 enough and suspicious enough in the beginning to call the
12 police and you'll have that jail call -- excuse me, the
13 call to 9-1-1. The mailman comes in and as soon as he
14 leaves, it's on. Terrified. Absolutely terrified. Gun
15 to her face, hit with a taser in her back. Carlos
16 Williams testified he heard her body hit the ground, as
17 he's running out with the money. And that the gun that
18 they used they rubbed off the orange part so it looked
19 like a real gun. No doubt that she thought it was a real
20 gun.

21 And in the meantime where is the defendant? He is
22 going to Aunt May's house. Or do you believe what he
23 said, whenever confronted, which was, they told me to
24 drive around after I got that done. I drove around,
25 picked them up. And the interesting thing, ladies and

1 gentlemen, is look where he parked, where he says he
2 parked and where Carlos says he parked; this is State's
3 24, you'll have it back there, right a cross the street
4 from the path where their get away was. He's sitting in
5 the passenger seat with the truck still running waiting on
6 them to go.

7 Now, I put words in his mouth is what the defense
8 attorney would like you to believe. Let me tell you what
9 he says, and this is the defendant's statement, ladies and
10 gentlemen. Carlos said, give me your hoodie because his
11 was recognizable. I gave him my hoodie. He gave me his.
12 I went in there and asked about the loan, come back out
13 and told them one person. He asked about a loan to figure
14 out who was in there. They was, like, drive and park
15 around there. So I drove and parked around there; got in
16 the passenger seat; they came back and we left. I can
17 keep going with his statement. You'll have it, if you
18 want to listen to it.

19 But in the end, I thought it was interesting, on the
20 stand still he thinks he's an accessory before and he
21 thinks he's an accessory after. But, unfortunately for
22 the defendant, he doesn't pick the law. I don't pick the
23 law. You don't pick the law. The judge will tell you the
24 law. And the law in this case is easy. The facts
25 themselves -- you're the judge of the facts. The facts

1 are there. Both from the State's evidence and from what
2 the defendant told you twice.

3 But the law itself is easy. And the hand of one, the
4 hand of all. I remember law school being absolutely
5 confused about it in the beginning -- didn't have a clue
6 how to really comprehend it. But ultimately it's simple.
7 The first case I had in my professor said, it's three men
8 get in a car to go kill another. One man drives. The
9 other two get out. One of those two kicks the door in and
10 walks back to the car. The third one walks in and shoots
11 the man. All three are guilty of murder.

12 MR. CHESSER: Your Honor, I object. I don't think
13 it's appropriate to talk about some other case, some other
14 time, some other place, some other factors.

15 THE COURT: Ladies and gentlemen, this is argument.
16 It's not facts in the case. He is just making an
17 illustration or example. I'll charge you on what the law
18 is.

19 MR. MOLONY: That's right. This is a hypothetical of
20 kind of how to think about it. In this case, it's really
21 not that hard. The first charge that the judge will tell
22 you is, of the crime, is armed robbery.

23 Armed robbery is taking the personal property -- the
24 testimony is \$447, she had done a loan -- of another,
25 Quick Cash, with Penny Guerriari. In the presence of

1 another, which is Penny. Carried away with the intent to
2 permanently deprive. Put the money in the bag, I ran down
3 the stairs, jumped in the truck, the defendant was waiting
4 on us. Armed with what appeared to be a real gun, a
5 deadly weapon, which was the weapon that Carlos Williams
6 told you they took the orange thing off and pointed it
7 right in her face. You can tell she thought it was a
8 deadly weapon, listening to her calls and listening to her
9 testimony.

10 Second, kidnapping, knowingly and unlawfully -- well
11 they knew only one person was in there, based on the
12 defendant telling them, and clearly the facts are unlawful
13 to go put a gun in the girl's face to steal the money.
14 Seize or confine. All right they forced Penny into the
15 corner. They hit her with a taser. They take the
16 money -- and they get out of there -- of another person.
17 In this case Penny was kidnapped. And it's not the
18 kidnapped where they take and throw them in the back of
19 the car. This is kidnapped where without authority of
20 law, she was not free to leave. She was confined and she
21 was seized. And she was -- and there is a bunch of others
22 ones the judge will read. It's only got to be one. Was
23 she seized or confined. It's only got to be one. It is
24 clear she was in the corner of that building.

25 And, lastly, the hand of one is the hand of all. And

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1 the Judge will charge you a rather lengthy charge of it
2 and ultimately it comes down to this. You'll hear these
3 words from him, where two or more, acting with a common
4 plan or intent, which is two or more, the defendant and
5 the other two. And the common plan is to see how many
6 people are in Quick Cash; get the bookbag; go in and rob
7 her at gunpoint; go to where the defendant is waiting on
8 them with the running truck and get out with the money.
9 The defendant gets the \$100 when he gets back to his
10 house.

11 And, two, are present at the commission of a crime.
12 Present means, sufficiently near to aid and abet and
13 assist in the commission of the crime. Again, the
14 defendant goes in; he scopes it out. He's a block away.
15 You can see it there, waiting on them. That's sufficient
16 to be present.

17 And, finally, it doesn't matter who goes in and
18 commits the crime, all are guilty. All are guilty beyond
19 a reasonable doubt, which means, firmly convinced. Now,
20 the judge is about to tell you exactly what this is and
21 he'll go through it in a little more detail but ultimately
22 then it's your turn to go back and use your common sense.
23 The common sense that you didn't check out at the little
24 metal detector downstairs. You get to bring it with you
25 and you use it everyday. And when you go back there your

1 job is not to punish or reward or -- your job is to put
2 the facts with the law, like, we know you'll do. That's
3 why you're here. That's why we picked you. And in the
4 end there is no doubt that you'll come back with two
5 verdicts, guilty of armed robbery and guilty of
6 kidnapping. Thank y'all.

JURY CHARGE

7
8 THE COURT: Madam forelady, ladies and gentlemen, my
9 instructions or charge is probably 10 to 15 minutes.
10 Everybody okay? Bathrooms or anything before we start?
11 Okay. Let me remind you that in this case the defendant
12 is charged with armed robbery and kidnapping. And the
13 fact that he's been indicted, as I told you earlier, is
14 not evidence in the case, and cannot be considered by you
15 as evidence of guilt in the case, and does not create new
16 presumption or inference. These documents, or these
17 indictments, are simply the formal written instrument
18 which contains the charges against the defendant. It's
19 the formal document by which this case is brought into the
20 courtroom.

21 As I said he's charged in two indictments, kidnapping
22 and armed robbery. You must decide each indictment
23 separately on the evidence, and the law applicable to it,
24 uninfluenced by your decision as to any other indictment.
25 He may be convicted on one and acquitted on another.

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1 Convicted on both or acquitted on both. You'll be asked
2 to write a separate verdict of guilty or not guilty as to
3 the kidnapping and armed robbery. In other words, you
4 consider the kidnapping and then you consider the armed
5 robbery, whichever way you want to do it and you consider
6 them separate and apart. They are two separate offenses.
7 And you can find him guilty or not guilty of one or
8 opposite on the other. Guilty on both, not guilty on
9 both. However you deem the evidence to be.

10 To both of these indictments he has plead not guilty.
11 That plea puts the burden on the State of South Carolina
12 to prove his guilt on both indictments to you beyond a
13 reasonable doubt. A person charged with committing a
14 criminal offense in South Carolina is never required to
15 prove himself innocent. I charge and instruct you that it
16 is an important constitutional rule of law that a
17 defendant in a criminal trial, no matter how serious the
18 charges may be, will always be presumed to be innocent of
19 the crimes for which the indictments were issued, unless
20 guilt has been proven by evidence satisfying you of that
21 guilt beyond a reasonable doubt.

22 The presumption of innocence does not end when you
23 start your deliberations, but it stays with the defendant
24 throughout the trial, until you reach a verdict of guilt
25 based on evidence satisfying you of that guilt beyond a

1 reasonable doubt.

2 Presumption of innocence is not a mere legal theory.
3 It's not a legal phrase. It is a substantial
4 constitutional rule which every defendant is entitled to
5 unless you the jury are satisfied of his guilt on evidence
6 which satisfies you beyond a reasonable doubt.

7 What is a reasonable doubt? Our law -- our Supreme
8 Court has defined reasonable doubt many times and the
9 short definition is a reasonable doubt is the kind of
10 doubt that would cause a reasonable person to hesitate to
11 act. The kind of doubt that would cause a reasonable
12 person to hesitate to doubt -- to act.

13 Proof beyond a reasonable doubt is proof that leaves
14 you firmly convinced of the defendant's guilt. There are
15 very few things in this world that we know with absolute
16 certainty and in criminal cases the law does not require
17 proof that overcomes every possible doubt. If based on
18 your consideration of the evidence, you are firmly
19 convinced that the defendant is guilty of the crimes
20 charged, you must find him guilty.

21 If on the other hand you think there is a real
22 possibility that he is not guilty, you must give him the
23 benefit of the doubt and find him not guilty.

24 Let me remind you that during the course of this
25 trial that you and I have had certain duties to perform.

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1 As I told you, my job is to charge or instruct you on the
2 law. You're to accept the law as I give it to you. If
3 you have some preconceived idea about what the law is or
4 should be, and it does not agree with what I say, please
5 set that aside and accept the law as I give it to you.

6 My other responsibility is to rule on the
7 admissibility of evidence to make sure that the lawyers
8 ask their questions pursuant to the rules of evidence, and
9 once it's admitted in to the evidence, then obviously you
10 become the finders of the facts. Since you are the judges
11 or the finders of the facts. Please, please if at any
12 time during the trial of the case I've done something up
13 here to make you believe that I have some opinion about
14 the facts, please set that aside. If I have yawned or
15 rolled my eyes or raised my glasses or did whatever, that
16 means that you think I was commenting on the facts, please
17 set that aside. I have no -- my position does not allow
18 me to have an opinion about the facts. That's solely up
19 to you. The 12 of you collectively acting as one, you are
20 the finders of the facts in the case.

21 As I told you in my opening remarks, this case, like
22 many cases, you heard testimony -- it is almost like night
23 and day. So you have to determine as the finders, or
24 judges of the facts, you have to determine the credibility
25 of the witnesses who have testified in the case.

1 Credibility simply means believability. Who do you
2 believe. It becomes your duty as jurors to analyze and
3 evaluate the evidence and determine which evidence
4 convinces you of its truth.

5 Now, in performing this duty you have the right to
6 believe everything a witness says. You can disbelieve
7 everything a witness says. You can believe a lot of
8 witnesses over one, one over a lot. You can believe a
9 little bit about what they say, and disregard the rest, or
10 you can believe a whole lot about what they say and
11 disregard a little bit of the rest.

12 In other words, you have the right to use your own
13 common sense in determining how people tell the truth and
14 apply that in this case, and reach what you find to be the
15 true facts, because you are the judges of the facts. You
16 may believe whether the witness has any bias in the case,
17 has any interest in the case, prejudice, and even how he
18 or she appeared on the witness stand.

19 In this case you have heard evidence that the
20 defendant was convicted of a crime or crimes other than
21 the one for which he is now on trial. The evidence of the
22 prior crimes may be considered by you, if you conclude it
23 is true, only in deciding whether the defendant's
24 testimony is believable and for no other purpose. You
25 cannot consider the defendant's prior record as any

JURY CHARGE

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1 evidence of the defendant's guilt of the charges we're
2 trying here today.

3 Let me now turn to the two indictments. The first
4 indictment he is charged with kidnapping. That is set out
5 in our statute in 16-3-910. In that particular indictment
6 the defendant is charged with kidnapping. The state must
7 prove beyond a reasonable doubt that the defendant
8 knowingly and unlawfully either seized, confined,
9 inveigled, decoyed, kidnapped, abducted or carried away
10 another person without authority of law.

11 Obviously to do something unlawfully is to do it
12 willfully against the law. Knowingly means with
13 knowledge, consciously, not accidentally. Seized means to
14 take hold of suddenly or forcibly. Confined means to
15 limit restrict or enclose within bounds, imprison or shut
16 or keep in. Inveigle means to lure, entice or lead astray
17 by false representations, promises or other deceitful
18 means. Decoy means to lure by or as if by decoy. Decoy
19 is something to entice a person into a trap. Kidnap is to
20 remove a person against his will by unlawful force or by
21 fraud. Abduct means to carry off secretly or by force for
22 an illegal purpose. Carry away means to remove. The
23 state does not have to prove that he did all of these
24 things. Instead if you find beyond a reasonable doubt
25 that the defendant did any of these things, you may find

1 the defendant guilty of kidnapping. And the kidnapping
2 does not have to be for any personal or monetary gain or
3 for any illegal purpose. But it may be for any reason
4 whatsoever. So, this is the law dealing with kidnap. --
5 kidnapping.

6 He's also charged with armed robbery. Armed robbery
7 is set out in our code section 16-11-330. In order to
8 prove this offense the state must first prove beyond a
9 reasonable doubt that the defendant took personal property
10 from the person or presence of another person. Property
11 is in the presence of a person if it is within that
12 person's reach, inspection, observation, or control. So
13 that the person could, if not overcome with violence or
14 prevented by fear, keep possession of the property. The
15 state also must prove beyond a reasonable doubt that the
16 defendant carried the property away intending to
17 permanently deprive the owner of the property and to keep
18 the property for the defendant's own use. The slightest
19 removal of the property or the complete possession of the
20 property, even for a moment, by the defendant, is
21 sufficient to show a taking and carrying away of the
22 property.

23 The taking and carrying away of the property must
24 have been done with violence or by putting the owner of
25 the property in fear of violence. And the robbery must

JURY CHARGE

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1 have been committed while the person was armed with a
2 pistol, or other type of deadly weapon or while alleging
3 either by action or words that he was armed while using a
4 representation of a deadly weapon, or of any object which
5 a person present, during the commission of the robbery,
6 reasonably believed to be a deadly weapon. So, that's the
7 law dealing with armed robbery.

8 Now, a general proposition of law is what we in the
9 legal profession call the hand of one is the hand of all.
10 If a crime or crimes, plural, is committed by two or more
11 people who are acting together in committing the crime,
12 the act of one is the act of all. The person who joins
13 with others to accomplish a criminal act is criminally
14 responsible for everything done by the other person or
15 persons which occur as a natural consequence of the acts
16 done in carrying out the common plan and purpose. For
17 example, two people can be killing -- strike that. Two
18 people can be guilty of killing another person, when only
19 one of the two had a gun and there was only one bullet,
20 and only one of the two fired the shot that caused the
21 death. If two or more people are together, acting
22 together, assisting each other in committing the crime,
23 the act of one is the act of all. As it is said sometimes
24 the hand of one is the hand of all.

25 Let me further tell you that there is another

1 proposition of law that says this. That mere presence at
2 the scene of a crime is not sufficient to prove someone
3 guilty of a crime. A defendant's presence where a crime
4 is being committed or mere association with the person who
5 commits the crime does not make him guilty as an
6 accomplice or the hand of one is the hand of all.

7 Now, as I said you must consider each indictment
8 separate and a part from the other. So you have two
9 indictments, ma'am, to consider. One is for kidnapping.
10 One is for armed robbery. You have two choices -- each
11 one is not guilty or guilty. There are two places to
12 check. One is not guilty and one is guilty. Whatever
13 your verdict is, you check that appropriate box or that
14 appropriate line for each one of them. Sign your name and
15 date it. Your verdict must be unanimous. All 12 of you
16 must agree as to the verdict.

17 As we say sometimes we you have absolutely no friends
18 to reward and no enemies to punish. You're to make your
19 decision based on the evidence that you've heard here
20 today and what you determine the true facts to be and
21 applying it to the law as I've given it to you. When you
22 have reached a unanimous verdict on both indictments,
23 knock on the door and Mr. Whittle or one of the bailiffs
24 will advise me, and we'll receive you back into the
25 courtroom.

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1 A lot of times while you're deliberating you may have
2 a question that you need to ask me. That's not unusual.
3 If you do, you have the write it out on -- they'll have
4 some pads in there for you. Please write out your
5 question. Knock on the door and Mr. Whittle will hand it
6 to me. Sometimes I can answer it. Sometimes I can't.
7 I'll send you back the best I can do. It just depends on
8 what the question is. I am going to ask you to step back
9 into your jury room, separate the alternates. Do not
10 start the deliberating yet. I have to ask the lawyers if
11 I have left anything out, or if I need to add anything.
12 And then I have to take a few minutes to make sure that we
13 have all the evidence. As soon as that is done, we'll
14 send the verdict form in and the evidence and you may
15 start your deliberations. If at any time during the
16 deliberation somebody needs a cigarette break or to go to
17 the bathroom or whatever, while they're out of the room
18 please stop deliberating until you have a full 12 of you
19 participating again in the deliberation. If you have any
20 questions just let us know. Y'all may step out now.
21 Don't forget the alternates Mr. Whittle.

22 (Whereupon, the jury exited the courtroom at 1:28.)

23 THE COURT: All right is there any objections
24 requested additions, or deletions to the charge by the
25 state?

1 MR. MOLONY: No, sir, Your Honor.

2 THE COURT: By the defendant?

3 MR. CHESSER: No, Your Honor.

4 THE COURT: Gentlemen, would you please come up and
5 review the exhibits to make sure that we have all of them,
6 and then review the verdict form, and then we will submit
7 it all to the jury for their deliberation.

8 MR. CHESSER: Your Honor, on these two -- there is 2
9 CD's. One of them is where we just submitted a portion of
10 Carlos Williams's second interview, and I would submit
11 that for practical reasons that shouldn't go back. They
12 can be informed they can view it at their pleasure --

13 THE COURT: I am going to let it go back as marked
14 what is on there. They can't look at it back there. If
15 they want to look at it, they'll have to bring it back out
16 here and we'll limit it to 1558 to 1630, and that will be
17 the only thing they'll see. And it's shown on a sticky in
18 there. So they have no means of watching it back there.
19 They'd have to come back out here. We can make sure
20 that's the only part they see. Fair enough?

21 MR. CHESSER: Yes, sir.

22 THE COURT: Y'all look at the verdict forms. I think
23 you've already looked at them.

24 MR. MOLONY: Yes, sir.

25 THE COURT: All right it is 1:31 both state and the

VERDICT

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1 defense counsel have reviewed all exhibits, and the
2 verdict forms and are in agreement that all are accounted
3 for. The case will be submitted to the jury to commence
4 their deliberations now. We will stand at ease. Anything
5 else, Mr. Chessser?

6 MR. CHESSER: Are the alternates back there.

7 THE COURT: They are back there, but they are
8 segregated from the 12 jurors.

9 MR. CHESSER: Thank you.

10 THE COURT: Make sure the alternates are not in
11 there. I have already told them twice. I assumed they
12 listen to me. All right we'll stand at ease.

13 (Whereupon, the jury begins to deliberate at 1:31.)

14 THE COURT: Is the state ready?

15 MR. MOLONY: Yes, sir, Your Honor.

16 THE COURT: Mr. Chessser, are you ready to receive the
17 verdict?

18 MR. CHESSER: Yes, sir, Your Honor.

19 (Whereupon, the jury came into open court at
20 approximately 2:18.)

21 THE COURT: Madam forelady, have y'all reached a
22 verdict?

23 THE FOREPERSON: Yes, sir, we have.

24 THE COURT: If you would hand it to Ms. Barbara
25 please.

VERDICT

1 (Whereupon, the verdict form is handed to the Clerk)

2

3 THE COURT: Mr. Chesser, have your client stand
4 please.

5 THE CLERK: Your Honor, we have state of South
6 Carolina county of Aiken versus Michael Tyrone Quarles
7 indictment number 2013-GS-02-00761. As to the offense of
8 kidnapping we the jury find the defendant guilty. Signed
9 by foreperson Rachel Marry of the 15th day of May, 2013.
10 Your Honor, we have state of South Carolina County of
11 Aiken versus Michael Tyrone Quarles indictment number
12 2013-GS-02-00760, as to the offense of armed robbery, we
13 find the jury -- we the jury find the defendant guilty.
14 Signed by foreperson Rachel Marry, 15th day of May, 2013.

15 THE COURT: Thank you. Anything for the jury before
16 I dismiss them, Mr. Chesser?

17 MR. CHESSER: No, Your Honor.

18 THE COURT: Ladies and gentlemen of the jury panel, I
19 can't thank you enough. That obviously concludes your
20 services this week. We just drew another jury we're going
21 to start another case here just in a few minutes. It is a
22 burglary case, I can't remember. Y'all did a great job.
23 I appreciate how well you listened and you were attentive
24 and I respect your verdict. What we'll have to do now is
25 I will impose sentence. But I am going to probably not

Sentencing

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1 keep this other jury waiting. I am going to let them come
2 in and get started in that case and I'll probably do it
3 later on this afternoon after five. But I thank you. You
4 will not have to come back any more this week. I've
5 already got the second jury drawn. They'll send you a
6 check. The clerk's office will. If anyone needs a work
7 excuse -- and -- just stay in the jury room. Ann will
8 walk back there. We'll send somebody up there to get
9 anyone a work ex excuse. I thank you. You have been a
10 pleasure to work with. Y'all are now exempt for three
11 years. Thank you seriously very much.

12 (Whereupon, the jury exited the courtroom at 2:20.)

13 THE COURT: Mr. Chessser, what I'd like to do is let
14 me go ahead and get cranked in this trial and we'll
15 sentence your -- around 4:30 or so. Just be back.

16 MR. CHESSER: Very good. Thank you.

17 THE COURT: Is that an imposition to you. You got
18 something you got to go do?

19 MR. CHESSER: No, sir. That will be fine.

20 THE COURT: Well hold on before he goes out.

21 Mr. Chessser, do you have any post trial motions you'd like
22 to make or would you like for me to give you the statutory
23 rule amount of time to file any post trial motions? I
24 think it's 10 days.

25 MR. CHESSER: Your Honor, let me have the time, if

1 you would.

2 THE COURT: Sure.

3 MR. CHESSER: Thank you.

4 THE COURT: All right. Any objection by the state?

5 MR. MOLONY: No, sir, Your Honor.

6 THE COURT: Thank you.

7 THE COURT: All right. We have received the verdict
8 from the jury. It was guilty on both counts, armed
9 robbery and kidnapping. Mr. Solicitor, anything else we
10 need for the record? I have received a note, letter from
11 the victim which I have read. Anything else we need to
12 do?

13 THE SOLICITOR: No, sir, Your Honor other than you
14 know the defendant's record is those three burglary
15 convictions from 2011.

16 THE COURT: Are they three separate convictions?

17 THE SOLICITOR: They were. I got the reports from
18 Georgia. They were three separate incidents.

19 THE COURT: Three different burglaries?

20 THE SOLICITOR: Yes, sir.

21 THE COURT: So he's got three prior burglaries.

22 THE SOLICITOR: Yes, sir that's correct. They were
23 burglary second non-violent. Equivalent of -- they were
24 residences during the daytime.

25 THE COURT: Mr. Chesser?

Sentencing

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1 MR. CHESSER: May it please the court,.

2 THE COURT: Yes, sir.

3 MR. CHESSER: Well Mr. Quarles stands before you
4 convicted of armed robbery and kidnapping facing up to 30
5 years on each charge. I can just tell you a few things.
6 He -- his mother was a drug addict and he went into foster
7 care at the age of five and he was raised in foster care
8 up until the age of 18. He was moved around a good bit.
9 At 18 he came out and he briefly had a relationship with
10 his natural father, but that didn't work. And so he ended
11 up fending for himself.

12 He -- in this case it's as if he had no family. I
13 mean I've had almost no contact with anybody. He lived
14 with his cousin May Abney, and I did talk to her on a
15 couple of occasions. I talked to her today. She was
16 going to try to make it. She had no transportation, that
17 type of thing. He refers to her as like his mother. The
18 other person that is like his mother is the mother of
19 Jamaques Salley. He has been calling her every other day
20 or more often from the jail. He and Jamaques, they
21 actually lived together for a while at a trailer or
22 something when Michael had a place to live and Jamaques
23 was looking for one. But he developed, again, kind of a
24 mother son relationship with Jamaques Salley's mother.
25 And I just point that out to you because the way it seems

1 to me it's very pitiful, somebody who really has never had
2 a family to speak of and it seems like he's just been
3 looking for one. I know that's pitiful. But I just
4 thought I would tell you that's how it seems to me.

5 THE COURT: Well it is pitiful.

6 MR. CHESSER: Other than that, Judge, in Georgia on
7 these charges his convictions, I've been working with
8 Miss Alves trying to understand it, and of course talked
9 with Michael. But it looks like he did two years in jail.
10 It looks like, he tells me, he got a 10 year sentence. He
11 has eight years probation. So I believe the way I believe
12 it works is he got credit for those two and then he comes
13 out. And their probation is equivalent to a sentence.
14 When they do it, they actually get credit when they're out
15 and they behave. That was imposed that eight year
16 probationary sentence was imposed at beginning of 2011.
17 If he got credit for it, then it would seem he has about
18 six years hanging over him. There is no way that this
19 sentence could be constructed, even if you had a the
20 desire to, concurrent with that sentence. I don't think
21 there is any way to do it because he's not going to be
22 able to serve that until he goes back to Georgia. So
23 having said that I just wanted to point out to the court
24 it may be like our system where you go back and you get
25 revoked. It might be all or up to the remaining portion.

1 But he has a considerable time that he's going to be
2 serving consecutive to whatever you impose on him today.

3 Other than that, you know, I read the letter from the
4 victim, too, and it is -- it's artistic. It is very
5 emotional, and I'm sure it is very heart felt. The only
6 thing I can say is that of the three people that were
7 involved in this that objectively Michael had the, if you
8 can say, the least role, he did.

9 THE COURT: And that's why I had numbers -- a number
10 of in-chambers discussions even as late as late yesterday
11 afternoon begging this young man -- the evidence was
12 overwhelming against him, confession of the co-defendant,
13 this young lady identifying him. I have never heard of a
14 9-1-1 tape where they on the phone when the robbery is
15 taking place. The suspicious activity, switching off the
16 clothes, buying the guns and the backpack. I begged --
17 not begged -- but I certainly told you that I would give
18 him considerable consideration for his accepting
19 responsibility, and what the range of my sentence would
20 be. And if he came out and I thought he was going to
21 accept responsibility to plead guilty and then we turned,
22 and I even gave you another chance last night this
23 morning. I don't know why he would not follow your
24 advice. I assume that was your advice. I know you. I
25 mean, it's his decision. But I'm sure -- and, you know,

1 if he is not going to accept responsibility then the
2 sentence is a different situation and what it would have
3 been had he accepted responsibility. So, you know, it's
4 pitiful.

5 But, you know, this poor lady taser gun stuck in her
6 back. I bet she thought she was dead. And it's such a
7 senseless, ill planned robbery that anybody could solve it
8 the way it happened. I just don't understand. The more I
9 sit up here, the more I don't understand with human
10 nature. I just do not understand. Anything you want to
11 tell me, sir?

12 MR. QUARLES: No, sir.

13 THE COURT: Even with his prior record if he would
14 have accepted responsibility I was willing to, you know,
15 give him considerable consideration. All right. Taking
16 into consideration the nature and severity of the offense,
17 the overwhelming evidence, the fact that he has three
18 prior burglaries, the fact that he would not accept
19 responsibility for these acts, as to indictment
20 13-GS-02-760 the sentence of the court is that you be
21 committed to the State Department of Corrections for a
22 period of 28 years. As to indictment 13-GS-02-761 for
23 kidnapping. It is the same sentence of 28 years. I will
24 let them run concurrent. You'll be given credit for your
25 time served. Good luck.

10 WITNESSES

Aiken Department Of Public Safety

David E Savage

Law Enforcement Case #: 13-21782

KNM

ARREST WARRANT NUMBER

FILED

2013A0220100174

W.C.C.P. & O.S.

Deputy Clerk

ACTION OF GRAND JURY

TRUE BILL

Ronnie M. Hall

Foreperson of Grand Jury

Date: May 9, 2013

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2013GS0200760

The State of South Carolina

County of Aiken

COURT OF GENERAL SESSIONS

MAY TERM 2013

THE STATE

vs.

MICHAEL TYRONE QUARLES

CDR #: 0139

Indictment for

ARMED ROBBERY

§ 16-11-0330(A)

J. STROM THURMOND, SOLICITOR

STATE OF SOUTH CAROLINA)
)
COUNTY OF AIKEN)
)

INDICTMENT FOR
ARMED ROBBERY

§ 16-11-0330(A)

At a Court of General Sessions, convened on May 13, 2013, the Grand Jurors of Aiken County present upon their oath:

That **MICHAEL TYRONE QUARLES**, along with others, did in Aiken County on or about February 19, 2013, while armed with a deadly weapon or while alleging either by action or words that he or another participant in the crime was armed while using a representation of a deadly weapon or an object which a person present during the commission of the robbery reasonably believed to be a deadly weapon, to wit: a handgun, a feloniously take from the person or presence of Penny Guerrieri by means of force or intimidation goods or monies of Quick Cash, such goods or monies being described as follows: Four Hundred Forty Seven and NO/100 (\$447.00) dollars, all in violation of §16-11-330, Code of Laws of South Carolina (1976), as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


J. STROM THURMOND, SOLICITOR

WITNESSES

Aiken Department Of Public Safety

David E Savage

Law Enforcement Case #: 13-21782

DOCKET NO. 2013GS0200761

The State of South Carolina

County of Aiken

KNM

COURT OF GENERAL SESSIONS

ARREST WARRANT NUMBER

MAY TERM 2013

FILED

2013A0220100206

Lin Howard
T.C.C.P. & O.S.

Cheryl S. Westall
Deputy Clerk

THE STATE

vs.

MICHAEL TYRONE QUARLES

ACTION OF GRAND JURY

TRUE BILL

Ronnie M. Hall

Foreperson of Grand Jury

Date: May 9, 2013

VERDICT

CDR #: 0095

Indictment for

KIDNAPPING

§ 16-03-0910

Foreperson of Petit Jury

Date:

J. STROM THURMOND, SOLICITOR

STATE OF SOUTH CAROLINA)
)
COUNTY OF AIKEN)
)

INDICTMENT FOR
KIDNAPPING

§ 16-03-0910

At a Court of General Sessions, convened on May 13, 2013, the Grand Jurors of
Aiken County present upon their oath:

That **MICHAEL TYRONE QUARLES**, along with others, did in Aiken County on
or about February 19, 2013, unlawfully seize, confine, inveigle, decoy, kidnap, abduct or
carry away Penny Guerrieri without authority of law, all in violation of §16-3-910 of the
Code of Laws of South Carolina (1976), as amended.

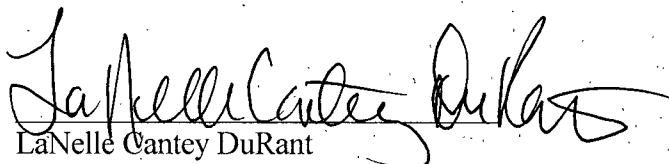
Against the peace and dignity of the State, and contrary to the statute in such case made and
provided.


J. STROM THURMOND, SOLICITOR

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

August 6th, 2014


LaNelle Cantey DuRant
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S. C. 29211-1589
(803) 734-1330

ATTORNEY FOR APPELLANT

RECEIVED
AUG 06 2014
SC Court of Appeals

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Aiken County

Doyet A. Early, III, Circuit Court Judge

RECEIVED
AUG 06 2014
SC Court of Appeals

THE STATE,

RESPONDENT,

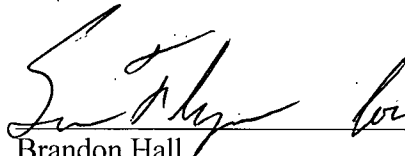
V.

MICHAEL TYRONE QUARLES,

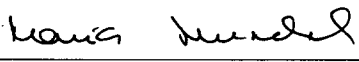
APPELLANT

CERTIFICATE OF SERVICE

I certify that a true copy of the Record on Appeal in the above referenced case has been served upon Christina J. Catoe, Esquire, at Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201, this 6th day of August, 2014.


Brandon Hall
Administrative Specialist

SUBSCRIBED AND SWORN TO before me
this 6th day of August, 2014.

 (L.S.)
Notary Public for South Carolina
My Commission Expires: July 3, 2023.