

STATE OF SOUTH CAROLINA
In the Supreme Court

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APPEAL FROM GREENVILLE COUNTY
Court of Common Pleas
G. Edward Welmaker, Circuit Court Judge

S.C. Supreme Court

Appellate Case No. 2014-000925
Circuit Court Case No. 2012-CP-23-07837

Gerald Brown, #174505,

PETITIONER,

v.

State of South Carolina,

RESPONDENT.

**APPENDIX TO
PETITION FOR WRIT OF CERTIORARI**

ALAN WILSON
South Carolina Attorney General

**JOSHUA SNOW KENDRICK
CHRISTOPHER S. LEONARD**

JOHN W. McINTOSH
Chief Deputy Attorney General

Kendrick & Leonard, P.C.
P.O. Box 6938
Greenville, SC 29606
(864) 760-4000

SALLEY ELLIOTT
Assistant Deputy Attorney General

ATTORNEYS FOR THE PETITIONER

KAREN RATIGAN
Assistant Deputy Attorney General

Office of the Attorney General
State of South Carolina
Post Office Box 11549
Columbia, SC 29211
(803) 734-3737

ATTORNEYS FOR THE RESPONDENT

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STATE OF SOUTH CAROLINA)
COUNTY OF GREENVILLE) COURT OF GENERAL SESSIONS
2007-GS-23-7600
2007-GS-23-7602-7606
2007-GS-23-7622
2007-GS-23-7633
STATE OF SOUTH CAROLINA)
PLAINTIFF))
vs.) TRANSCRIPT OF RECORD
GERALD BROWN)
DEFENDANT)

ORIGINAL

April 14-16, 2009
Greenville, South Carolina

B E F O R E :

THE HONORABLE EDWARD W. MILLER, Judge.

A P P E A R A N C E S :

DOUGLAS WEBB, ESQ.
Attorney for the State

RANDALL CHAMBERS, ESQ.
Attorney for the Defendant

APRIL HERRON
Official Court Reporter

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Tuesday, April 14, 2009

THE COURT: All right, anything before we bring the jury up here?

MR. WEBB: Just a couple of motions from the State, Judge.

THE COURT: Something you need to do before we pick a jury?

MR. WEBB: Well, that's up that to you. I just have a motion in limine to keep out material.

THE COURT: Material?

MR. WEBB: Yes.

THE COURT: Hazardous waste material?

All right. Let's get the jury, let's get them picked, and then we'll go from there.

MR. WEBB: That's fine.

THE COURT: All right. Y'all got voir dire, witness list, any of that stuff?

How about you, Randy, anything?

MR. CHAMBERS: No, sir.

THE COURT: Okay. No voir dire or anything?

MR. CHAMBERS: No, sir.

THE COURT: Ten and five in this? What is it?

MR. CHAMBERS: I know I've got ten.

THE COURT: All right. Ten and five.

THE CLERK: Alternate?

1 THE COURT: Alternate, right?

2 MR. WEBB: Yeah, we probably need an alternate,
3 right?

4 THE COURT: We're getting ready to pick the jury,
5 Mr. Brown, you're not dressed out, what's the problem?

6 MR. BROWN: Well, I had wrote down a few things,
7 forget them, for the most part. As you are aware, I'm
8 sure, that before Mr. Chambers was my appointed attorney,
9 I had another paid lawyer, Mr. Price. And we had came and
10 I, basically, fired Mr. Price because he hadn't been
11 coming to the jail to see me enough as far as going over
12 the case. Mr. Price actually came to court that day and
13 he actually told the Court that it was also, more or less,
14 his fault the reason why I had to do what I had to do as
15 far as relieving him as my counsel.

16 Probably after that was done, maybe in February, I'm
17 thinking it was February, Mr. Chambers came to see me at
18 the jail. And so he told me, said, it will be a year and
19 a half year, a year at the earliest before we will be
20 ready to go to trial. So he came prior -- well, after
21 that initial meeting, when he came to the jail and we
22 talked and he told me that, the next time he came to see
23 me was this past Wednesday. He came this past Wednesday
24 and told me that we will be going to trial yesterday. He
25 came that Wednesday. He came the following Friday and

1 Sunday.

2 Even Mr. Price came -- spent more -- out of all of
3 it, the three times that he came the past week,
4 altogether, it was probably maybe four hours. I have some
5 you know, very serious charges. And I don't think that
6 that's a sufficient amount of time. I'm facing a life
7 sentence. A couple of the charges that I actually have
8 are charges that carry a life sentence. And for four or
9 five hours of me talking back and forth with Mr. Chambers,
10 that's not a sufficient amount of time for -- to prepare,
11 you know, back and forth to me for a trial of this
12 magnitude. For example --

13 THE COURT: Mr. Brown, I handled your motion to
14 relieve Chip Price, didn't I?

15 MR. BROWN: Yes, sir.

16 THE COURT: And when was that?

17 MR. BROWN: That was in maybe November.

18 THE COURT: When was it?

19 MR. WEBB: November 3, Judge.

20 THE COURT: November 3rd of last year. And I know at
21 that time I told you that this case would go forward on
22 schedule. And I told you when you moved to relieve Chip
23 Price that that's not going to slow down the trial of this
24 case.

25 MR. BROWN: Well, Your Honor, it's not about slowing

1 down the trial of the case, it's about having, you know,
2 adequate representation. I mean --

3 THE COURT: Well, let me ask you this, we're going
4 forward today, do you want to put on street clothes?

5 MR. BROWN: I mean, I can put on street clothes or
6 whatever. But the thing is, I have a couple other things
7 that I want to --

8 THE COURT: Lay them out because I've got a jury
9 sitting over here waiting.

10 MR. BROWN: Before the Court, I mean, because --

11 THE COURT: Lay them out, tell me what they are.

12 MR. BROWN: Okay. For example, when Mr -- every time
13 he's came -- well, the past weekend, basically, that's
14 when he came to visit me.

15 THE COURT: All right. Let me tell you something,
16 I'm not going to listen to all your complaints about
17 Mr. Chambers, okay. I understand -- you're unhappy with
18 him, is that right?

19 MR. BROWN: I mean, I haven't had time -- I mean,
20 with Mr. Chambers, I mean, like I said, I've talked to him
21 altogether probably about four hours complete. I mean,
22 four hours complete that I --

23 THE COURT: I don't want to hear about your
24 relationship at that point. Is there a motion here that
25 you're trying to make?

1 MR. BROWN: I don't want him as my attorney. I mean,
2 if that's how I have to go, I mean, because --

3 THE COURT: All right. Let me make it clear to you.
4 As I told you back in November that you -- you know, you
5 get a lawyer provided to you. And if you're not going to
6 take the one that we give you, then you're going to do it
7 yourself. So you've got to make a decision right this
8 minute whether you want to represent yourself or you would
9 like Mr. Chambers to represent you. And I have known
10 Mr. Chambers since he came to this town to practice law
11 and he is an excellent trial attorney. So you make that
12 decision right now.

13 MR. BROWN: Well, Your Honor, I still -- like I said,
14 some things that I want to make noted for the record.
15 When Mr. Chambers came to see me -- I don't even think
16 Mr. Chambers -- I know he don't have a complete -- he
17 don't even have a complete copy of the discovery. I mean,
18 because he came and talked to me and I told him about the
19 incident about the \$23,000 that was this recovered during
20 the case. I told him that that money had been given back
21 to the alleged victim. He adamantly told me that the
22 money had not been given back, Greenville County had the
23 money. I had to go and pull out some paperwork to show
24 him where the money actually had been given back to the
25 alleged victim. I mean, there are -- every time

1 Mr. Chambers came to see me is three times.

2 THE COURT: Look, Mr. Brown, this is not the proper
3 forum for those issues. Okay. And we're here to try the
4 case. We're here to put the State to their burden. Now
5 the question is, do you want an attorney -- do you want
6 Mr. Chambers to represent you or do you want to do it
7 yourself?

8 MR. BROWN: Neither, Your Honor, because I don't see
9 where it will be any kind of way fair for me to have to
10 represent myself or for Mr. Chambers to represent me. I
11 mean, because -- I mean, I have a list of things. I mean,
12 do you think that four hours of consulting with --

13 THE COURT: Mr. Brown, I'm not here to answer your
14 questions. There are two options for you.

15 MR. BROWN: I mean, you are the Judge. I mean, you
16 have to do what you have to do, but I'm not going to agree
17 to have Mr. Chambers as my attorney and I'm definitely not
18 going to agree to go and represent myself. If the Court
19 makes Mr. Chambers go ahead or whatever, that's going to
20 be on the Court. I'm not going to say, yes, I agree with
21 that. I'm not going to do that.

22 THE COURT: Well, you've got a choice to make, either
23 Mr. Chambers or yourself. And you've known about this
24 since November.

25 MR. BROWN: Your Honor --

1 THE COURT: And I remember speaking to you about this.
2 and I made it plain to you at that time.

3 MR. BROWN: You spoke to me, Your Honor, you told me,
4 yes, I would have another attorney that would take over
5 the case or whatever. And that happened, another attorney
6 took over the case. But the attorney that -- Mr. Chambers
7 took over the case, but he has not -- I mean, four hours
8 of -- you know, it's ridiculous. I mean, four hours of --
9 and not just -- you know, I'm talking about over the last
10 four or five days. I mean, prior to that, Mr. Chambers
11 came to the jail and spoke to a group of us and maybe five
12 minutes, 10 minutes, he talked to me.

13 THE COURT: All right. Mr. Brown, I am acquainted
14 with your dissatisfaction. Are there any other issues
15 that you need to bring up other than this issue of the
16 problem you have with Mr. Chambers?

17 MR. BROWN: I mean, everything that I have is
18 surrounded around --

19 THE COURT: Related to that?

20 MR. BROWN: Yes, surrounded around the lack of time,
21 preparation and things I know he doesn't have as far as
22 the discovery is concerned because I had to go into the
23 paperwork that I have and let him see exactly what I was
24 talking about because he didn't have it.

25 THE COURT: All right. Do you have a change of

1 clothes?

2 MR. BROWN: No, sir.

3 MR. CHAMBERS: Your Honor, he indicated to me when I
4 talked to him here at the jail yesterday that he was not
5 going to wear street clothes. We did discuss that.

6 THE COURT: Well, if you do that -- is that what you
7 want?

8 MR. BROWN: I mean, like I told you before, it's not
9 what I want, Your Honor -- I mean, as far as the clothes,
10 yeah, I could put on some clothes, but I'm still not going
11 to agree to --

12 THE COURT: Well, we're going forward. And I told
13 you that in November, that it would not slow down the
14 progression of your case because you were unhappy with
15 Mr. Price, who you chose and you paid for and who is one
16 of the leading lawyers in the county. I told you that, it
17 was clear. Mr. Chambers has been appointed to represent
18 you and he's going to do it. And I told you, he's a fine
19 attorney.

20 Mr. Chambers, anything you need to tell me?

21 MR. CHAMBERS: No, Your Honor, not really. I mean,
22 we have met for longer than four hours. I will say that I
23 met with him initially when I was first appointed back at
24 the first of the year, went over -- had to talk to a group
25 of them, which I always address them as a group and then I

1 take them individually. We talked about his case. I made
2 some notes starting -- I had an assault and battery with
3 intent to kill case that I had to try last week. As soon
4 as that was over, I went to the jail, met with him for
5 about an hour, told him that I was going to be coming
6 back. Went back the night after that, we spent two or
7 three hours together then, discussed the case, went back
8 on Sunday evening and I spent at least three. So it's
9 been a total of about seven or eight hours preparing for
10 the case. As far as I know, I have all the discovery. If
11 they haven't provided it, then I'll bring that to the
12 Court's attention if they try to introduce something --

13 THE COURT: Let's get that on the record.

14 Mr. Webb, have you provided Mr. Chambers with all the
15 discovery in this case?

16 MR. WEBB: Yes, Your Honor.

17 THE COURT: All right. Okay. Is there anything --
18 any other issues that you can think of, Mr. Chambers?

19 MR. CHAMBERS: No, Your Honor.

20 MR. BROWN: You told me yourself you didn't have the
21 paper that I showed you --

22 THE COURT: Mr. Brown, we're not going to talk about
23 that now. We're going to talk about getting you dressed.
24 Do you want to wear your prison clothes in front of this
25 jury or are you going to get dressed?

1 MR. BROWN: I mean, I can get dressed, Your Honor.

2 THE COURT: If he's not going to be cooperative with
3 you, Mr. Chambers, there's not a whole lot you can do. We
4 need to get -- the public defender's office has a wardrobe
5 and, hopefully -- I guess you're aware of that,
6 Mr. Chambers. If you can get some kind of sizing from
7 him. And can we do this in a hurry since this jury is
8 sitting over there waiting.

9 MR. CHAMBERS: I'll go right down there, Your Honor,
10 and see what I can find.

11 THE COURT: Can you tell him your size, Mr. Brown?

12 MR. CHAMBERS: I've already asked him. He wears a 36
13 waist pants and size 12 shoe.

14 THE COURT: All right. Okay. Well, I guess we'll
15 just ask him to go back downstairs. We'll proceed with
16 some of these other -- one or two of these other motions.

17 Can you guys --

18 Alan, can y'all expedite this?

19 THE DEPUTY: Soon as we get the clothes, yes, sir.

20 THE COURT: Are the clothes up here or downstairs?
21 Probably downstairs.

22 Randy, can go get the clothes or we can call and get
23 somebody --

24 MR. CHAMBERS: I'll just bring them up here.

25 THE DEPUTY: Bring them up here, that's fine.

1 THE COURT: All right.

2 Mr. Brown, I see you are unchanged and you are
3 wearing shackles. Best you can, please raise your right
4 hand. As best you can, please raise your right hand.

5 All right. I will indicate for the record that he is
6 not making any attempt to do that.

7 I'm going to place you under oath.

8 GERALD BROWN, after being duly sworn, testified
9 as follows:

10 THE COURT: All right. I understand Mr. Chambers
11 brought some clothes up for you to change into; is that
12 right?

13 MR. CHAMBERS: Someone brought some clothes up.

14 THE COURT: Okay. Someone brought clothes. And you
15 are currently wearing your detention center orange suit?

16 MR. BROWN: Yes.

17 THE COURT: And I have been told that you have
18 refused to change into street clothes; is that correct?

19 MR. BROWN: Yeah, I didn't want the clothes that he
20 brought.

21 THE COURT: All right. You refused to change into
22 those close; is that correct?

23 MR. BROWN: I didn't want the clothes that he
24 brought.

25 THE COURT: Do you have another set of clothes up

1 here?

2 MR. BROWN: No, I don't.

3 THE COURT: Did you tell Mr. Chambers at the jail
4 that you were going to -- you did not want to wear street
5 clothes?

6 MR. BROWN: Well, we went back and forth over that.

7 THE COURT: That's yes or no question, yes or no?

8 MR. BROWN: Well, it's not a yes or no question.

9 THE COURT: Yes, sir, it is a yes or no question.
10 Did you tell him at the jail when he was with you that you
11 did not want to wear street clothes?

12 MR. BROWN: No, I didn't. We went back and forth --

13 THE COURT: All right. Well, do you have street
14 clothes up here?

15 MR. BROWN: No, I don't.

16 THE COURT: All right.

17 Mr. Chambers, did you get the street clothes?

18 MR. CHAMBERS: I went downstairs to the public
19 defender's office and retrieved as close as I could to his
20 size, a pair of blue pants, blue shirt and a pair of black
21 shoes.

22 THE COURT: All right.

23 Tell me what's wrong with those clothes, Mr. Brown?

24 MR. BROWN: Your Honor, with all due respect, I'm
25 trying to -- when I was trying to present the issues that

1 I had, basically, you know, everything just went unheard.
2 Basically, everything just went unheard.

3 THE COURT: No, sir, I heard what you had to say and
4 in the end, after your complaints, you did not ask to have
5 Mr. Chambers relieved.

6 MR. BROWN: I said that beforehand. When I first
7 started talking, I said that -- it was two things that I
8 said and one of them was that I did not want Mr. Chambers
9 to represent me.

10 THE COURT: Uh-huh. Well, at any time, you tell me
11 and I'll ask him to step aside because I'm sure he'd be
12 more than glad to do that and you can represent yourself.

13 MR. BROWN: Yeah, I mean, I don't want him to
14 represent me --

15 THE COURT: All right. you want to represent
16 yourself; is that right?

17 MR. BROWN: I made that plain and clear to him.

18 THE COURT: And you're going to represent yourself,
19 do you understand that?

20 MR. BROWN: I told you before I'm not going to agree
21 to represent myself.

22 THE COURT: All right. Fine.

23 Mr. Chambers, I cannot cut you loose, I'm sorry.

24 All right. now you are wearing shackles. And I'm
25 going to find, Mr. Brown, that you are -- even though you

1 are trying to hedge your answers, street clothes have been
2 provided to you and you have refused to change into those.
3 And I understand that from the deputies that that is
4 correct, he has refused to change into street clothes.
5 Now, you're also shackled on your -- around your waist and
6 at your wrist, would like to have those shackles removed?

7 MR. BROWN: No, I wouldn't. I think it would be
8 probably in my best interest for me to just leave them on
9 at this point.

10 THE COURT: Well, I will tell you and instruct you
11 that I think it is a big mistake on your part not to
12 change into street clothes. I will tell that it is also a
13 big mistake on your part not to have the shackles removed
14 so that you can assist your defense. You want to persist
15 in wearing the prison clothes and continue to be shackled?

16 MR. BROWN: I'm not going to persist in anything.
17 Like I told you, I don't even want Mr. Chambers as my
18 attorney and I'm not prepared to even go forward with the
19 trial.

20 THE COURT: Well, I'm going to find that he is
21 noncooperative, that he has indicated -- he indicated to
22 the deputies that he did not want to have the shackles
23 removed; is that correct?

24 THE DEPUTY: That's correct.

25 THE COURT: So I'm going to allow him to have what he

1 wants.

2 All right. Let's get the jury in here and pick the
3 jury.

4 (WHEREUPON, the jury enters the courtroom.)

5 THE COURT: All right. Ladies and gentlemen, welcome
6 up to courtroom number four. I want to thank y'all for
7 your patience. I hope it wasn't too uncomfortable over in
8 courtroom number three. I would have brought you up, but
9 we had a few matters we had to attend to before we can
10 bring you into the courtroom.

11 I want to tell you, ladies and gentlemen, that we are
12 about to -- well, before I go any further, let me
13 introduce myself. My name is Ned Miller. I'm one of your
14 local -- one of 13th Circuit Circuit Court Judges. It's
15 my pleasure to be up here handling general sessions court
16 this week. I welcome y'all up here. I hope you're having
17 a good experience and I hope at the end of the week that
18 you'll feel proud of your service as jurors and I
19 sincerely mean that.

20 I want to tell you that we are about to being a
21 criminal trial and there are several indictments involved
22 in this case. And this is the case of the State vs.
23 Gerald Brown. Now, before I introduce the indictments to
24 you, I'm going to ask the attorneys to stand and identify
25 themselves and also the client.

1 Mr. Webb.

2 MR. WEBB: Good morning, my name is Doug Webb. I'm a
3 prosecutor here on this case and I represent the State of
4 South Carolina. To my left is Lindsev Kicklichter, she's
5 my investigator. And to her left is Tracy Turner, she's
6 also a prosecutor in Greenville County. Thank you.

7 THE COURT: Thank you.

8 Mr. Chambers.

9 MR. CHAMBERS: My name is Randy Chambers and I
10 practice law here in Greenville with the Chambers Law
11 Firm. And I also work part-time with the Public
12 Defender's Office.

13 THE COURT: All right. Mr. Brown, would you stand.

14 This is --

15 Would you face the jury, please, sir.

16 This is Mr. Gerald Brown.

17 MR. BROWN: And Mr. Chambers is not my attorney. The
18 Judge is making him represent me today. I fired
19 Mr. Chambers.

20 THE COURT: All right. Mr. Brown, you may sit down.
21 Thank you.

22 All right. Ladies and gentlemen, we're about to
23 begin this trial. And the first -- there are several
24 indictments. The first indictment is indictment number
25 07-7622. This is an indictment with three counts for

1 kidnapping. Count one alleges that Gerald Brown did in
2 Greenville County on or about June 12th, 2007, unlawfully
3 seize, abduct, confine, inveigle, decoy or carry away
4 George Howard without the authority of law. Count two
5 alleges that Mr. Brown did in Greenville County on or
6 about June 12 of 2007 unlawfully seize, abduct, confine,
7 inveigle, decoy or carry away J. H. without the authority
8 of law. And count three alleges that Gerald Brown did in
9 Greenville County on or about the 12th day of June, 2007,
10 unlawfully seize, abduct, confine, inveigle, decoy or
11 carry away J. H. without the authority of law.

12 The next indictment is indictment 07-7606, it alleges
13 that Gerald Brown did in Greenville County on or about
14 June 12 of 2007, while armed with a deadly weapon or while
15 alleging either by action or words that he was armed while
16 using a representation of a deadly weapon or any object
17 which a person presents during the commission of a robbery
18 would reasonably believe to be a deadly weapon, take by
19 means of force or intimidation, goods or money described
20 as \$23,000 from the person or presence of George Howard.

21 The next indictment is indictment number 07-7605, it
22 alleges that Gerald Brown did in Greenville County on or
23 about June 12 of 2007, unlawfully and willfully enter the
24 dwelling of George Howard at 123 Turentine Circle without
25 consent -- excuse me, 125 Turentine Circle without consent

1 and with the intent to commit a crime therein and armed
2 with a deadly weapon and/or displayed what is or appears
3 to be a handgun or other firearm and/or the entering
4 and/or remaining did occur during the nighttime hours.

5 The next indictment is 07-7604. And this indictment
6 alleges that Gerald Brown did in Greenville County on or
7 about the 12th day of June, 2007, willfully and unlawfully
8 and maliciously torture, mutilate, injure, disable, poison
9 or kill a dog used by a law enforcement department or
10 agency in the performance of the functions or duties of
11 that department or agencies.

12 The next indictment is 07-7603 alleges that Gerald
13 Brown did in Greenville County on or about June 12, 2007,
14 willfully and unlawfully impersonate or represent himself
15 as a law enforcement officer to George Howard while at 125
16 Turentine Circle, Greenville, South Carolina and did act
17 upon such representation in accordance with authority
18 commonly given to such officers.

19 The next indictment is indictment number 07-7602. it
20 alleges that Gerald Brown did in Greenville County on or
21 about June 12, '07, willfully and unlawfully commit an
22 assault and battery upon George Howard constituting an
23 unlawful act of violent injury to George Howard
24 accompanied by circumstances of aggravation. That is the
25 infliction of serious bodily injury and/or the intent to

1 commit a felony.

2 The next indictment is indictment number 07-7600, it
3 alleges that Gerald Brown did in Greenville County on or
4 about June 12, 2007, possess or visibly display a handgun
5 during the commission or attempted commission of a violent
6 crime. That is burglary first degree and/or armed robbery
7 and/or kidnapping.

8 And finally, the last indictment is 07-7633 and it
9 alleges that Gerald Brown did in Greenville County on or
10 about June 12 of '07, knowingly, willfully and unlawfully
11 oppose or resist an arrest made by Hal Harris with the
12 Greenville County Sheriff's Office whom he knew or
13 reasonably should have known was a law enforcement
14 officer.

15 Now, ladies and gentlemen, to these indictments,
16 Mr. Brown has pled not guilty. And as such, that entitles
17 him to certain basic rights that belong to every citizen
18 in this country and every person charged with a crime.
19 And that is every person charged with a crime is presumed
20 to be innocent unless and until the State, who always has
21 the burden of proof, proves in the minds of 12 jurors
22 beyond any reasonable doubt each and every element of each
23 offense that a person is charged with. So please keep
24 that in mind throughout the course of these proceedings.

25 I further want to tell you that these documents that

1 I've read to you are not evidence. They are just what
2 they appear to be, they are pieces of paper and they
3 contain allegations that are not to be considered to be
4 evidence by you. Evidence will be presented here in the
5 courtroom. So do not think, do not take any inference or
6 presumption from the reading of these documents. They are
7 just pieces of paper that allow allegations made against a
8 citizen to wind their way through the system and arrive
9 here in court for a resolution.

10 Now, ladies and gentlemen, you all were qualified to
11 serve yesterday. I wasn't part of that process, but you
12 were qualified to serve as jurors for this week. Now,
13 I've got to qualify you to serve for the particular case,
14 so I'm going to ask you a few more questions. And I would
15 remind you that you are still under oath.

16 The first question I want to ask you is there any
17 member of the jury panel who is related by blood or
18 marriage or have a personal, business or social
19 relationship with any of the attorneys or any member of
20 their office in this matter? If so, please stand.

21 (There was no response.)

22 THE COURT: Is there any member of the jury panel who
23 is related by blood or marriage or have a business,
24 personal or social relationship with Mr. Gerald Brown? If
25 so, please stand.

1 (There was no response.)

2 THE COURT: Okay. I'm going to read a list of
3 potential witnesses. Please listen to this because I'm
4 going to want to know the same thing about these folks.
5 George Howard, Jarecus Howard, Dan Accord, with the
6 Greenville Sheriff's Office, Chuck Porter, with the
7 sheriff's office, Michael Bryan, with the sheriff's
8 office, Travis Wyatt, with the sheriff's office, Hal
9 Harris, with the sheriff's office, Ron Lendway, with the
10 sheriff's office, Kara Bennick, with property and evidence
11 room, Patricia Sullivan who is with 911 dispatch, and
12 Michael Thompson.

13 Now, is there any member of the jury panel who is
14 related by blood or marriage or has a business, personal
15 or social relationship with any of those potential
16 witnesses whose names I have just read? If so, please
17 stand.

18 (There was no response.)

19 THE COURT: Okay. Is there any member of the jury
20 panel who is familiar with or have any knowledge about the
21 events that I have read to you that are alleged in these
22 indictments? If so, please stand.

23 (There was no response.)

24 THE COURT: Okay. Is there any member of the jury
25 panel, family member or close friend who has been a victim

1 of or charged with any of these types of offenses? If so,
2 please stand.

3 (There was no response.)

4 THE COURT: Is there any member of the jury panel
5 who's aware of any bias or prejudice towards either the
6 State or the Defense? If so, please stand.

7 (There was no response.)

8 THE COURT: Is there any member of the jury panel who
9 is a member of or a contributor to a group whose primary
10 concern is the promotion of law enforcement or victims
11 rights? And by way of example, that would be MADD, SADD
12 or CAVE, anybody?

13 (There was no response.)

14 THE WITNESS: Okay. Thank you.

15 MR. CHAMBERS: Your Honor, you've got one.

16 THE COURT: Yes, sir. If you would, sir, your name?

17 PROSPECTIVE JUROR: Henley. I'm a member of MADD.

18 THE COURT: All right. Mr. Henley, would the fact
19 that you are a member of MADD, would that limit -- would
20 that limit your ability to be fair and impartial in this
21 case?

22 PROSPECTIVE JUROR: Only if alcohol was involved.

23 THE COURT: Well, I don't know whether alcohol is
24 involved or not, but could you listen to the evidence
25 presented in this case and the law as I would give it to

1 you and judge this case pursuant to the law based solely
2 on the merits of the issues presented in this court?

3 PROSPECTIVE JUROR: If alcohol, that's only problem I
4 would have with it, if alcohol was involved in it.

5 THE COURT: All right. Thank you very much, Mr.
6 Henley, I appreciate that.

7 All right. All right. Is this -- any member of the
8 jury panel who knows of any reason whatsoever why you
9 should not serve in this case with particular emphasis on
10 your ability to be fair and impartial to both the State
11 and the Defense in this case? If so, please stand.

12 (There was no response.)

13 THE COURT: And, clearly, what we're looking for
14 here, ladies and gentlemen, is a jury who can come in here
15 with an open mind with no predisposition as to how the
16 case ought to be decided, listen to the facts and listen
17 to the law and make a judgment based solely and
18 objectively on those issues. Is there anybody who cannot
19 do that? If so, please stand.

20 (There was no response.)

21 THE COURT: All right. Let me speak with the two
22 attorneys up here, two lead attorneys.

23 (WHEREUPON, a bench conference was held.)

24 THE COURT: Ladies and gentlemen, we're about to
25 engage in what we call as lawyers and, I guess as a Judge,

1 striking the jury. So when your name is called, please
2 stand in place. Thank you, very much.

3 THE CLERK: Juror No. 130, Susan Marshall.

4 (Susan Marshall, a white female, came forward.)

5 THE CLERK: What says the State?

6 MR. WEBB: Please present the juror.

7 THE CLERK: You may bring your personal belongings.

8 THE COURT: Wait a minute.

9 THE CLERK: Oh, I'm sorry. I am so sorry.

10 MR. CHAMBERS: That's okay. Excuse Ms. Marshall from
11 this case, please. 1X

12 THE CLERK: You may be seated. You're excused from
13 this trial.

14 Jury No. 234, Cynthia Gantt.

15 (Cynthia Gantt, a white female, came forward.)

16 THE CLERK: What says the State?

17 MR. WEBB: Present this juror.

18 MR. CHAMBERS: Excuse Ms. Gantt from this case,
19 please. 2X

20 THE CLERK: You may be seated. You're excused from
21 this trial.

22 Juror No. 177, Stephanie Robinson.

23 (Stephanie Robinson, a white female, came forward.)

24 THE CLERK: What says the State?

25 MR. WEBB: Please present this juror.

1 MR. CHAMBERS: Excuse Ms. Robinson from this case,
2 please.X3

3 THE CLERK: You may be seated. You're excused from
4 this case.

5 Jury No. 102, Lynn Hurst.

6 (Lynn Hurst, a white female, came forward.)

7 THE CLERK: What says the State?

8 MR. WEBB: Please present this juror.

9 MR. CHAMBERS: Excuse Ms. Hurst, please.X4

10 THE CLERK: You may be seated. You're excused from
11 this trial.

12 Juror No. 136, Linda McCreary.

13 (Linda McCreary, a white female, came forward.)

14 THE CLERK: What says the State?

15 MR. WEBB: Please excuse this juror.X1

16 THE CLERK: You may be seated. You're excused from
17 this trial.

18 Juror No. 214, Elizabeth Van Lew.

19 (Elizabeth Van Lew, a white female, came forward.)

20 THE CLERK: What says the State?

21 MR. WEBB: Please present this juror.

22 MR. CHAMBERS: Swear Ms. Van Lew, please.

23 THE CLERK: You may bring your personal belongings
24 and have a seat in the jury box.

25 Juror No. 34, Holly Amber Chandler.

1 (Holly Amber Chandler, a white female, came forward.)

2 THE CLERK: What says the State?

3 MR. WEBB: Please present this juror.

4 MR. CHAMBERS: Swear Ms. Chandler, please.

5 THE CLERK: Juror No. 181, Stephanie Roy.

6 (Stephanie Roy, a white female, came forward.)

7 THE CLERK: What says the State?

8 MR. WEBB: Please present this juror.

9 MR. CHAMBERS: Swear Ms. Roy, please.

10 THE CLERK: Thank you. You may have a seat in the
11 jury box.

12 Juror No. 113, ~~Carolyn Kennett~~,

13 (Carolyn Kennett, a white female, came forward.)

14 THE CLERK: What says the State?

15 MR. WEBB: Please present this juror.

16 MR. CHAMBERS: Swear Ms. Kennett, please.

17 THE CLERK: Thank you. You may be seated in the jury
18 box.

19 Juror No. 137, Chris McFeely.

20 (Chris McFeely, a white male, came forward.)

21 THE CLERK: What says the State?

22 MR. WEBB: Please excuse this juror.

23 THE CLERK: Thank you. You may be seated. You're
24 excused from this trial.

25 Juror No. 233, Amanda Bagwell.

1 (Amanda Bagwell, a white female, came forward.)

2 THE CLERK: What says the State?

3 MR. WEBB: Please present this juror.

4 MR. CHAMBERS: Swear Ms. Bagwell, please.

5 THE CLERK: Thank you. You may be seated in the jury
6 box.

7 Juror No. 149, Thomas Neely.

8 (Thomas Neely, a white male, came forward.)

9 THE CLERK: What says the State?

10 MR. WEBB: Please present this juror.

11 MR. CHAMBERS: Excuse Mr. Neely from this case,
12 please.

13 THE CLERK: You may be seated, you're excused from
14 this trial.

15 Juror No. 207, Teresa Thacker.

16 (Teresa Thacker, a white female, came forward.)

17 THE CLERK: What says the State?

18 MR. WEBB: Please present this juror.

19 MR. CHAMBERS: Swear Ms. Thacker, please.

20 THE CLERK: Thank you. You may be seated in the jury
21 box.

22 Juror No. 242, John Strickland.

23 (John Strickland, a white male, came forward.)

24 THE CLERK: What says the State?

25 MR. WEBB: Please present this juror.

1 MR. CHAMBERS: Excuse Mr. Strickland from this case,
2 please.

3 THE CLERK: You may be seated, you're excused from
4 this trial.

5 Juror No. 123, Tony Lollis.

6 (Tony Lollis, a white male, came forward.)

7 THE CLERK: What says the State?

8 MR. WEBB: Please present this juror.

9 MR. CHAMBERS: Excuse Mr. Lollis from this case,
10 please.

11 THE CLERK: You may be seated, you're excused from
12 this trial.

13 Juror No. 33, Cathy Tafaoa.

14 (Cathy Tafaoa, a white female, came forward.)

15 THE CLERK: What says the State?

16 MR. WEBB: Please present this juror.

17 MR. CHAMBERS: Swear Ms. Tafaoa.

18 THE CLERK: Thank you. You may be seated in the jury
19 box.

20 Juror No. 7, Amy Arledge.

21 (Amy Arledge, a white female, came forward.)

22 THE CLERK: What says the State?

23 MR. WEBB: Please excuse this juror.

24 THE CLERK: You may be seated, you're excused from
25 this trial.

1 Juror No. 28, Bennie Burton.

2 (Bennie Burton, a white male, came forward.)

3 THE CLERK: What says the State?

4 MR. WEBB: Please present this juror.

5 MR. CHAMBERS: Excuse Mr. Burton, please.

6 THE CLERK: You may be seat, you're excused from this
7 trial.

8 Juror No. 176, Amv Robinson.

9 (Amy Robinson, a white female, came forward.)

10 THE CLERK: What says the State?

11 MR. WEBB: Please present this juror.

12 MR. CHAMBERS: Swear Ms. Robinson, please.

13 THE CLERK: You may be seated in the jury box.

14 Juror No. 70, Raymond Flanders.

15 (Raymond Flanders, a white male, came forward.)

16 THE CLERK: What says the State?

17 MR. WEBB: Please present this juror.

18 MR. CHAMBERS: Swear Dr. Flanders, please.

19 THE CLERK: You may be seated in the jury box.

20 Juror No. 58, Frederick, Dreher.

21 (Frederick Dreher, a black male, came forward.)

22 THE CLERK: What says the State?

23 MR. WEBB: Please present this juror.

24 MR. CHAMBERS: Swear Mr. Dreher, please.

25 THE CLERK: You may have a seat in the jury box.

1 Juror No. 236, Linda Drake Hall.

2 (Linda Drake Hall, a white female, came forward.)

3 THE CLERK: What says the State?

4 MR. WEBB: Please present this juror.

5 MR. CHAMBERS: Excuse Ms. Hall from this case,
6 please.

7 THE CLERK: You may have a seat, you're excused from
8 this trial.

9 Juror No. 203, Kimberly Sudduth.

10 (Kimberly Sudduth, a white female, came forward.)

11 THE CLERK: What says the State?

12 MR. WEBB: Please present this juror.

13 MR. CHAMBERS: Swear Ms. Sudduth, please.

14 THE CLERK: You may have a seat in the jury box.

15 Juror No. 30, Donna Campbell.

16 (Donna Campbell, a white female, came forward.)

17 THE CLERK: What says the State?

18 MR. WEBB: Please present the juror.

19 MR. CHAMBERS: Excuse Ms. Campbell from this case,
20 please.

21 THE CLERK: Thank you. You may be seated, you're
22 excused from this case, this trial.

23 Juror No. 20, Bonnie Sleight.

24 (Bonnie Sleight, a white female, came forward.)

25 THE CLERK: What says the State?

1 MR. WEBB: Please present this juror.

2 MR. CHAMBERS: Swear Ms. Sleight, please.

3 THE CLERK: You may have a seat in the jury box.

4 THE COURT: One alternate, two and one.

5 THE CLERK: Juror No. 191, Karen Sitton.

6 (Karen Sitton, a white female, came forward.)

7 THE CLERK: What says the State?

8 MR. WEBB: Please present this juror.

9 MR. CHAMBERS: Swear Ms. Sitton, please.

10 THE CLERK: You may have a seat in the jury box.

11 THE COURT: All right. I'll say the same thing I say
12 at least once a week when we're doing trial. There are
13 two distinct groups in here. One group thinks they won
14 the lottery and one group thinks they lost and we all have
15 a pretty good idea of who sits there. But let me tell
16 you, from where I sit, I think that this group who were
17 selected has won this lottery. And they get the honor,
18 privilege and responsibility as serving as jurors in
19 Greenville County and it's a rare circumstance. It's rare
20 that any juror who has sat and heard a case that at the
21 end of their service does not feel fulfilled and satisfied
22 and proud of what they've done.

23 So having said that, ladies and gentlemen, all you
24 folks out there, I hope that you will have an opportunity
25 this week, and if not this week, sometime in the future to

1 have that honor and responsibility at some point in your
2 life. But at this time, I'm free to let you all go and
3 ask that you call back after 6:00 and find out when you
4 next need to check back. Thank you.

5 All right, ladies and gentlemen, I'm very sincere
6 when I say that I feel like you are the lucky ones to have
7 been selected. I know watching each of you come up here
8 to take your seat when your name was called how excited
9 you were about that, I could tell from your facial
10 expressions. But I am sincere about that and I mean it
11 when I say I've spoken to a lot of jurors who served and
12 it truly is a honor and privilege and an awesome
13 responsibility to serve as jurors. It's a very, very
14 important function that we ask you to complete and
15 undertake up here and it is not one that is commonly
16 shared among your fellow citizens. So it is truly an
17 honor and I know you all will take this seriously.

18 I want to tell you that we have a dispute about the
19 facts in this case. Any case that comes up here for
20 resolution by the jury, there's a dispute about the facts.
21 Could not be resolved in any other fashion than to ask 12
22 citizens to sit impartially and objectively and listen
23 calmly and without bias or emotion to the facts as they
24 are presented in this courtroom and to resolve the dispute
25 with respect to these facts.

1 I would remind you again that the indictments that I
2 have read to you are not evidence. And you should take
3 no -- make no presumption, take no inference from the fact
4 that an indictment was issued with respect to this case.
5 They are just documents which allow the case to wind its
6 way through the justice system to arrive here and have
7 these allegations and this dispute resolved.

8 I would also remind you and tell you that the
9 foundation of our justice system, which in my opinion,
10 makes us the freest country in the world and the best
11 place to live are that every person charged with the crime
12 is presumed innocent unless and until the charging body,
13 in this instance, the State, can prove to each juror
14 selected to hear a case, beyond a reasonable doubt that
15 each and every element of each offense that is charged.
16 So keep that in mind. Those rights belong to every
17 citizen and every person charged in this country. And we
18 protect them every time we swear a jury. So please keep
19 that in mind.

20 You can divide a trial into as many parts as you
21 like. If you watch television or read novels, they break
22 them down just like it's under an electron microscope.
23 But for our purposes, so you'll have a general idea about
24 where we are in the trial, I'll give you a little road
25 map. The first part is the opening statements to you by

1 the attorneys, which we're going to do after lunch. The
2 second part is the meat and potatoes of every case and
3 that is the presentation of the testimony and the evidence
4 in this case. And that can be testimony and evidence that
5 comes to you in one of three ways. One, as live testimony
6 or testimony from a witness. The second general way is
7 through the presentation of some type of physical document
8 or piece of evidence. And then the third way would be by
9 way of stipulation between the attorneys when they agree
10 that some fact is beyond dispute. So I don't know the
11 combination or how the evidence is going to be presented,
12 but those are commonly the three ways that evidence is
13 presented in a case.

14 Now, the third part of the trial will be the closing
15 arguments to you by the attorneys when they advocate to
16 you and urge you to view the facts in a light that will
17 allow their particular client or side to prevail. The
18 fourth part will be when I give you the charge as to what
19 the law is as it relates to this case. Then, finally, the
20 fifth part will be when you all retire to the jury room to
21 deliberate and decide this case and resolve this dispute.

22 So those are the five parts I break the case down
23 into and they are not of equal length. Generally, the
24 second part, which is the evidence and testimony is the
25 longest part. But you'll have some idea of where we are

1 in the trial of the case.

2 I will ask you to do many things, I'm sure,
3 throughout the course of the trial, but there are three
4 very, very important things that I emphasize to you right
5 now. And that is one, have an open mind. And that's why
6 we go through the process of asking you all those
7 questions to qualify you to serve in this case. Keep an
8 open mind throughout the course of this trial until it
9 comes time for you at the end of the case, when all of the
10 evidence and all of the law has been given to you, to make
11 your decision.

12 The second thing I would ask you to do is pay close
13 attention. And it's human nature and I'm as bad or worse
14 as anybody about daydreaming, letting your mind wander.
15 Well, if you do that, we all know it's human nature, if
16 you do that when you're deliberating with your fellow
17 jurors at the end of the case and you, perhaps, didn't pay
18 attention to a particular part of the trial, it turns out
19 that could be of vital importance and you would be at a
20 disadvantage with your fellow jurors. So I ask you and
21 instruct you to pay attention throughout the course of the
22 trial.

23 The final thing I ask you to do is to not talk to
24 anybody about this case until you are free to deliberate
25 at the end of the trial. So don't talk to the bailiffs

1 about the case. When you break for lunch, don't talk to
2 someone you meet on the street or if you call your office
3 or your home, you see somebody you know, don't talk about
4 the case. You don't know much about it now, but don't
5 talk about it. As the case progresses, you will know more
6 and more about it. I still tell you and instruct you and
7 it's part of your duty not to talk about this case.

8 Whv do I ask you to do that? You don't even talk
9 among yourselves about this case, so whv do I ask you to
10 do that? The reason is if you were to talk to someone
11 outside the trial, maybe tonight if this case goes into
12 tomorrow, and they made a comment to you about it, even an
13 innocent comment from someone who you like and trust or
14 someone who you don't like might impact your thought
15 processes in this case. And that is not fair and it's not
16 what we want. We don't want to have somebody who is not
17 making the sacrifices that you are making to have any
18 input in the outcome of this case. We're not interested
19 in what somebody out on the street thinks. We want your
20 opinions about it and yours alone. So don't do any
21 independent research on the internet. Don't go look
22 anything up. Don't go visit some scene. Everything that
23 you will need to decide this case should come in this
24 courtroom, subject to constitutional scrutiny. So keep
25 that in mind, that's why we ask you not to talk about it.

1 That's vitally important that you wait to make your
2 decision until the end of the case.

3 I'll tell you right now that you all are the sole
4 judges of the facts in the case. The law does not allow
5 me, the trial judge, to have an opinion about the facts of
6 the case. So it's up to you all to decide what to
7 believe, what not to believe, who to believe, who not to
8 believe and any combination of any of those things is
9 entirely up to you. You are the sole judges of the facts.
10 So don't think by anything I might say or do during the
11 course of the trial that I have an opinion about the facts
12 because I do not.

13 Now, that same law that makes you the sole judges of
14 the facts makes me the sole judge of the law. So if you
15 think you have some idea about what the law is or what the
16 law should be, then you will swear an oath to set aside
17 your own opinion and apply the law precisely as I give it
18 to you throughout the case and then at the end of the
19 trial.

20 Now, we're going to break for lunch. I've got some
21 matters I need to handle that -- while you're at lunch
22 and, of course, everybody up here has to get a little
23 lunch, too. So I'm going to ask you to come back at 2:30.
24 That's a little over two hours, that's a long time. They
25 will show you where to go when you come back. And I will

1 tell you that when you come back, I'm going to ask you to
2 do one other thing. And that is, we need a foreperson to
3 serve in this case. And that is a promotion without a
4 raise in pay. And what that foreperson's duties include
5 would just to be a moderator of the discussions at the end
6 of the case and also the jury spokesperson in the
7 courtroom should that become necessary. We can't allow
8 the alternate to serve as the foreperson. But we would
9 ask you, when you come back, to elect the foreperson and
10 we'll take it from there. If you can't do that, I
11 understand it might be difficult, don't worry, don't fret
12 about it, I'll appoint somebody. I'll pick somebody right
13 out of the hat to do it if you all have a hard time with
14 it.

15 And the only other thing I'll tell you, throughout
16 the course of the trial, there may be times when I ask
17 y'all to leave the courtroom or ask the lawyers to come up
18 and approach the bench. We're not trying to deceive you
19 in any way, but we are trying to keep -- maybe trying to
20 keep something from you and that is, perhaps, we need to
21 talk about a piece of evidence that, perhaps, is not
22 admissible. And we wouldn't want you to hear something
23 that is inappropriate, so we do it outside of your
24 presence so that you all will only hear those things which
25 are constitutionally appropriate.

1 And with that, ladies and gentlemen, I'm going to
2 excuse y'all for lunch and we will see you back at 2:30.
3 Thank you, very much.

4 (WHEREUPON, the jury came into open court at
5 approximately 12:20 p.m.)

6 THE COURT: All right. Any exception or objection to
7 the jury as impaneled?

8 MR. WEBB: Nothing from the State, Your Honor.

9 MR. CHAMBERS: None from the Defense, Your Honor.

10 THE COURT: Anything we need to take up right now?

11 MR. WEBB: Yes, Your Honor, briefly. I'm not sure
12 this is going to become an issue or not, but I have to
13 give you a little bit of background on the case to make
14 sure it makes sense. It's alleged that the Defendant
15 broke into and robbed the victims here, took \$23,000 in
16 cash, and was later and subsequently arrested. By his
17 statement at the hospital makes me think that there may be
18 a reference or inference that the victim in this case,
19 George Howard, was connected to drugs or that money, the
20 \$23,000, was connected to drugs. And I want to do a
21 motion in limine to prevent that from taking place. I
22 don't think there's any basis for it. I'm just trying to
23 foresee any possible issues.

24 One, I don't think -- even if some basis did exist,
25 one, I don't think it's relevant in this case. It doesn't

1 prove or isn't probative or doesn't mitigate any evidence
2 of the crimes charged, kidnapping, armed robbery, things
3 of that nature. Two, if it were relevant, I think it's
4 highly prejudicial against the victim and the State in
5 this case. So not only is it not relevant and probative,
6 but I think it's highly prejudicial. I have a case, if I
7 may pass that up?

8 THE COURT: Sure.

9 MR. WEBB: From the Court of Appeals, South Carolina,
10 this is 2008, and the Court of Appeals in a case that had
11 some similarities to this one, the victim -- it was a
12 murder case, the victim was found deceased, obviously, and
13 marijuana was found nearby. The defendant in that trial
14 went into previous drug dealings about the victim, went on
15 also to talk about the marijuana found at the scene. The
16 Court of Appeals upheld that based on my argument, one,
17 that it's not relevant, doesn't prove to mitigate any of
18 the elements charged of the crime. And two, even if it
19 were relevant, it's highly prejudicial.

20 THE COURT: Okay. Well, Mr. Chambers, anything you
21 want to tell me?

22 MR. CHAMBERS: Yeah, Your Honor, I disagree with the
23 solicitor. I think it is relevant. It may be
24 prejudicial, but I certainly don't think under rule 403
25 analysis it's so prejudicial that it shouldn't come in.

1 That goes right to the heart of whether or not the alleged
2 victim in this case was a drug dealer. And it is
3 definitely something that I intend to get into. Not only
4 that, but the victim -- or the alleged victim in this case
5 has a fairly substantial record of drug convictions. I
6 intend to ask him about those. We believe that it is
7 relevant.

8 THE COURT: All right. Well, I'm not going to rule
9 it out at this point. I mean, I think this is a bridge
10 that we have come to. I have not looked at any discovery,
11 I don't know what's been said. I think these are things
12 that have to be addressed as they come up, so we'll just
13 have to cross that bridge when we come to it. All right.

14 MR. WEBB: Couple other things, Judge, and
15 Mr. Chambers brought this up. George Howard's criminal
16 record. He is going to be the second witness for the
17 State. I don't know if you want to bring this up yet, in
18 2005, a conviction for PWID crack cocaine.

19 THE COURT: Okay.

20 MR. WEBB: But that is the only thing I see coming in
21 under Rule 609.

22 MR. CHAMBERS: That's true, Your Honor. The others
23 were from 1990 and would not be admissible, but he does
24 have that one conviction and I do intend to ask him that
25 when he testifies.

1 THE COURT: All right. Well, if y'all are in
2 agreement. Okay.

3 MR. WEBB: I believe that comes in under 609, Judge,
4 however, I don't think that bridges the gap to the
5 reference of drugs in this case with the money. I just
6 want to put that on the record.

7 THE COURT: Well, I don't know the facts. We'll just
8 have to cross that when we come to it.

9 MR. WEBB: Okay. And the third thing, Judge, there's
10 a 911 tape in this case. It will be played, most likely,
11 by the third witness in the case and it's been redacted.
12 I just want to make sure for the record that the
13 redactions made on this tape are agreed upon beforehand.

14 MR. CHAMBERS: Your Honor, my understanding is what
15 they want to redact is during the 911 call, the
16 complainant said several times that this house had been
17 broken into before. And he doesn't make any reference to
18 my client having been the one that broke into the house.
19 The rationale given to me why they redacted it was is it
20 somehow implicated my client. I really don't see it that
21 way. I don't see a reason to redact the tape and I would
22 actually like the tape played just as it was, the full
23 tape.

24 THE COURT: All right.

25 MR. WEBB: I have no objection. I'm concerned that

1 it would be prejudicial, but if they're waiving that, then
2 I'm fine with that.

3 MR. CHAMBERS: Mr. Brown may disagree with me. I
4 don't want to step on his toes here.

5 THE COURT: Well, you're the lawyer.

6 MR. CHAMBERS: He and I listened to it together and I
7 never heard any references to Mr. Brown having broken into
8 it before, just that the place has been broken into
9 before. In fact, it was referenced that the back door
10 itself couldn't be locked. You know, I frankly would like
11 the whole tape.

12 THE COURT: All right. Well, you want to ask your
13 client?

14 MR. CHAMBERS: Do you agree with me on that?

15 MR. BROWN: Yes, I agree with you on that, but there
16 is one other thing that -- well, you already addressed it,
17 but.

18 THE COURT: All right. I'm going to give you an
19 opportunity to make your motions.

20 Anything else from the State?

21 MR. WEBB: One last thing, Judge, as I previously
22 mentioned, there was a statement given at the hospital by
23 the Defendant.

24 THE COURT: Okay.

25 MR. WEBB: We might as well take this up pretrial and

1 have the officers testify, if you'd like, or we can do it
2 after lunch. I don't know when you would like to do this.

3 THE COURT: Well, I've got another matter I'm
4 supposed to hear. Why don't we do it after lunch? How
5 much testimony is there?

6 MR. WEBB: It's two witnesses, but they should both
7 be fairly brief.

8 THE COURT: All right. Let's do it after lunch.
9 2:15.

10 MR. WEBB: Thank you, Judge.

11 THE COURT: Anything from the Defense?

12 MR. CHAMBERS: No, Your Honor.

13 THE COURT: Okay. All right. All right. See
14 y'all -- see you guys at 2:15. If Mr. Brown changes his
15 mind and wants to wear street clothes, allow him to do so.

16 THE DEPUTY: Yes, Your Honor.

17 (WHEREUPON, a lunch break was taken.)

18 THE COURT: Okay, let's proceed to the Jackson v.
19 Denno.

20 MR. WEBB: State calls Officer Dan Acord.

21 THE COURT: Okay.

22 DAN ACORD, after being duly sworn, testified as
23 follows:

24 ///

25 ///

DIRECT EXAMINATION

1
2 BY MR. WEBB:

3 Q Officer, currently, where do you work?

4 A Greenville County Sheriff's Office.

5 Q Were you working the night of June 12th, 2007?

6 A Yes, sir, I was.

7 Q What role did you have in the incident in this case?

8 A I was one of the initial responding officers.

9 Q Do you remember talking to the defendant?

10 A Yes, once we got him out of the woods and took him to
11 the front of the house, I began asking him questions for
12 EMS to treat him.

13 Q Where was the different taken after this incident?

14 A Initially he was taken to the front of the house,
15 after that he was transported to the hospital.

16 Q Okay. I want to talk more about the hospital. Did
17 you go to hospital as well?

18 A I passed him off --

19 Q So did you go into the hospital?

20 A No, sir, I did not. The units met me out front.

21 Q At any time during this transportation or before, did
22 you Mirandize the defendant?

23 A Yes, sir, I did. When he was brought to the front of
24 house, on the porch, as I recall, he was Mirandized there.

25 Q And just for the record, what do you really tell

1 someone when their Mirandized?

2 A I read them the inside of the card I keep in my
3 pocket.

4 Q Okay. Do you still have the card with you?

5 A Yes, sir, I do.

6 Q Can you read it for the Court?

7 A You have the right to remain silent. Anything you
8 say can and will be used against you in a court of law.
9 You have the right to speak to an attorney and to have an
10 attorney present during any questioning. If you cannot
11 afford a lawyer, one will be provided for you at
12 government expense. Knowing and understanding your rights
13 as I have explained them to you, are you willing to answer
14 my questions without an attorney present.

15 Q And your interactions with the defendant, did you
16 ever at any time make any threats towards the defendant?

17 A Threats to the defendant? No, sir.

18 Q Did you make any promises?

19 A No, sir.

20 Q Did you coerce the defendant at any time?

21 A No, sir.

22 MR. WEBB: No more questions, Judge.

23 CROSS-EXAMINATION

24 BY MR. CHAMBERS:

25 Q Where was -- where was Mr. Brown when you read those

1 rights off of the card?

2 A He was at that time the present to house?

3 Q Okay. So he was still at the incident location?"

4 A Yes, sir, he was.

5 Q And this was after he had been apprehended from the
6 woods?

7 A Yes, sir.

8 Q What was his condition at that point? Was he
9 injured?

10 A I believe he had some injures from the dog bites,
11 other than that I'm not sure.

12 Q Was -- as he stood before you, how did he appear to
13 you?

14 A He was quiet, he stood and he didn't sav a word.

15 Q Was he in handcuffs?

16 A Yes, sir, he was.

17 Q And had he been placed under arrest at that point?

18 A Yes, sir, he had.

19 Q By you?

20 A I'm not sure. I'm sure who handcuffed him in the
21 woods. It might have been me.

22 Q But you're aware of the fact the he was under arrest?

23 A Yes, sir.

24 Q So you were the one who read him those Miranda rights
25 that you just recited to us?

1 A Yes, sir.

2 Q What was your reason for doing that?

3 A In case he made any statement. We asked him several
4 questions about what his name was, trying to get some
5 information from Mr. Brown for EMS because they were there
6 as well as trying to treat him.

7 Q Did you specifically ask him any questions or where
8 there others that asked him questions?

9 A I asked him the questions, what his name was, where
10 he was injured at. More for EMS, he didn't say anything.

11 Q He didn't respond to any of your questions?

12 A No, sir, he did not.

13 Q That was there on the porch?

14 A Yes, sir.

15 Q You said you were the one that drove him to the
16 hospital?

17 A Yes, sir.

18 Q But you did not go in the hospital?

19 A No, sir, I did no.

20 MR. CHAMBERS: Okay, thank you.

21 HAL HARRIS, after being duly sworn, testified as
22 follows:

23 THE CLERK: Thank you, you may be seated.

24 ///

25 ///

DIRECT EXAMINATION

1

2

3 BY MR. WEBB:

4 Q Officer Harris, did you respond to the victim's
5 resident in this case?

6 A I did.

7 Q That is on June 12th. 2007?

8 A Yes, sir.

9 Q And I want to talk to you about after the arrest,
10 were you there when the defendant was arrested?

11 A I was.

12 Q And what did you do after that?

13 A Once he had been arrested, taken out -- prior to him
14 being taken out, my dog and I exited the woods, he was
15 placed in the vehicle.

16 Q Was that your vehicle?

17 A Yes, sir.

18 Q And where was the defendant taken?

19 A I lost site of him until I got my dog taken care of
20 then I came back, when I secured sight of him the next
21 time, he was on the front porch.

22 Q So he went from your vehicle to the front porch?

23 A No, sir. He went from the woodline to the front
24 porch. I went a different direction than they did.

25 Q Got you. So he went to the front porch. Where did

1 he go from the front porch after that?

2 A I believe he was transported to the hospital.

3 Q Was he handcuffed during that time?

4 A When I saw him at the house from the time I made --
5 or from the time he was arrested he was placed in
6 handcuffs. When I saw him again on the front porch he was
7 in handcuffs. When I got to the hospital he was still in
8 handcuffs.

9 Q So you didn't see him between the time you saw him at
10 the front door until the time at the hospital?

11 A That is correct.

12 Q Now I want to talk to you about the hospital. This
13 occurred shortly after midnight, did you go to the
14 hospital?

15 A I have no idea.

16 Q Okay. And tell me, where in the hospital did you see
17 the defendant?

18 A I believe he was in intermediate care.

19 Q Was the defendant handcuffed at that point?

20 A Yes, sir.

21 Q Did he have any other resistance on?

22 A No, sir. I believe he was handcuffed to the bed if I
23 recall correctly.

24 Q Did you make any promises to him when you saw him?

25 A No, sir.

1 Q Did you make any threats at all?

2 A No.

3 Q Did you didn't him any comforts such as using the
4 bathroom or anything of that nature?

5 A No, sir.

6 Q Was he receiving medical care there at the bed while
7 he was there?

8 A Yes, sir, by a doctor as I recall.

9 Q And without -- what questions -- did you ask him any
10 kind of questions? What kind of questions did you ask the
11 defendant?

12 A Give me one moment, let me locate it. I ask him --

13 Q Well let me ask you this, was his statements after
14 that, your question, were they voluntarily?

15 A Yes, sir.

16 Q And you never made any promises or threats?

17 A No, sir.

18 MR. WEBB: No more questions, Judge.

19 CROSS-EXAMINATION

20 BY MR. CHAMBERS:

21 Q Now he was already in intermediate care when you got
22 there?

23 A Yes, sir.

24 Q Describe intermediate care, what's that?

25 A Not the emergency room. It's not the floor -- it's

1 not the floor -- I really don't know how to explain it.

2 It's something other than non-emergency care maybe.

3 Q Was he in a bed or a chair?

4 A He was in the bed.

5 Q All right. And was he still wearing the clothes that
6 he'd been wearing out there at the scene?

7 A I believe so, yes, sir.

8 Q What was -- could you describe it?

9 A I can go back at look at the photographs and tell
10 you.

11 Q You don't remember?

12 A No, sir.

13 Q Do you know if he'd been seen by the doctor?

14 A Yes, sir, he was scene by a doctor, sir.

15 Q All right. And you said that there were medical
16 personnel that were attending to him at that time?

17 A They were not attending to him while we're in the
18 room but he was receiving medical treatment.

19 Q So he did suffer come injuries out there at the seen?

20 A Yes, sir.

21 Q But so you don't know before you got there whether he
22 had been given any type of pain medications or any other
23 medications?

24 A I believe he wasn't given any pain medication at all
25 but I couldn't swear to that.

1 Q I'm not asking you what you believe, I'm asking you
2 what you know, do you know?

3 A No, sir, I don't.

4 Q So it's possible that he could have been given some
5 medication prior to you getting there, is that possible?

6 A Yes, sir.

7 Q Now when you went in you and asked him -- you didn't
8 Mirandize him, didn't you?

9 A No, sir, I didn't.

10 Q How is it that you're concerned about him being
11 apprized of his Miranda rights?

12 A I was already advised they had been given.

13 Q Who told you?

14 A Deputy Trey White.

15 Q Did they say where that had occurred?

16 A No, sir.

17 Q But you were just told that it happened?

18 A Pardon?

19 Q You'd just been told that it happened?

20 A That is correct.

21 Q But you didn't take it upon yourself to say I'm about
22 to ask this fella some questions, I'm going to let him
23 know that he doesn't have to talk to me. You didn't do
24 that?

25 A No, sir.

1 Q All right. So when you say he answered your
2 questions voluntarily wasn't based on any advice that you
3 gave him, is that correct?

4 A That's correct.

5 MR. CHAMBERS: Thank you.

6 MR. WEBB: Just one redirect.

7 REDIRECT EXAMINATION

8 BY MR. WEBB:

9 Q Approximately how much time passed between the
10 incident and the time at the hospital, do you remember
11 approximately?

12 A I say within two year hours approximately.

13 Q And in your interactions with the defendant, did he
14 appear lucid?

15 A Yes, sir.

16 O Coherent?

17 A Yes, sir.

18 MR. CHAMBERS: Objection, Your Honor.

19 THE COURT: What were his injuries?

20 THE WITNESS: Dr. if I recall stated suspect had
21 numerous puncture wounds, lacerations and abrasions, had
22 no broken bones or spurs. He was treated with
23 anticeptics.

24 THE COURT: Go ahead.

25 THE WITNESS: I believe I have the answer to

1 Mr. Chambers question that he asked me a few moments ago.

2 BY MR. WEBB:

3 Q Well you're reading from your report.

4 A Yes, sir. He was treated with antibiotic at the time
5 injest topical wound care. One suture was given to his
6 upper left thigh. That's the only thing noted.

7 Q All right, sir. So he didn't receive any general
8 paid medication.

9 A Nothing that I have listed in my report.

10 Q Okay. He was in the hospital?

11 A He was in the hospital.

12 Q Receiving medical care?

13 A Yes, sir.

14 MR. WEBB: Okay. All right.

15 THE COURT: Anything else?

16 MR. CHAMBERS: No, Your Honor.

17 THE COURT: Thank you, you can step down.

18 MR. WEBB: Judge, those are the two witnesses on the
19 Jackson v. Denno.

20 THE COURT: Anything from the defense?

21 MR. CHAMBERS: No evidence to present. No, Your
22 Honor.

23 THE COURT: Okay. All right, they appear to be
24 freely and voluntarily made.

25 MR. CHAMBERS: Well, Your Honor, I would argue to the

1 Court and just for the record, I would say that's true if
2 the officer says that he Mirandized my client at the
3 incident location on the porch. But everybody agrees that
4 he was injured, that he was then transported to the
5 hospital. And then when his questioning occurred at the
6 hospital, he was not at that point advised of his rights
7 to him to have to talk to anybody about it. Under the
8 circumstances, I believe that, considering the totality of
9 the circumstances, that he should have been reappriized of
10 his rights and given the opportunity to even decline to
11 speak or ask for a lawyer or avail himself of his rights.
12 So we would ask that any statement that they got as a
13 result of questions being expressed because they were not
14 freely and voluntarily given. Thank you, Your Honor.

15 THE COURT: All right. Well I'm going to find that
16 was freely and voluntarily given and there's just no basis
17 to find otherwise. What's been presented.

18 All right, anything else we need to deal with?

19 All right, Mr. Chambers, any pre-trial motions?

20 MR. CHAMBERS: No, Your Honor.

21 THE COURT: Okay. All right y'all get organized,
22 let's get this jury in here.

23 MR. CHAMBERS: Your Honor, I do have one pre-trial
24 motion. He ask the indictments in this case be stricken
25 because he was not indicted within 90 days of his arrest.

1 Okay. He was indicted 96 days after his arrest. As such
2 it's out position that those should be stricken and the
3 State not be allowed to go forward on the charges --

4 THE COURT: What's the basis of -- why should I do
5 that?

6 MR. CHAMBERS: Because under the rules they're
7 required to indict him within 90 days, they did not do
8 that in this particular case.

9 THE COURT: Anything from the State? Just tell me
10 about it.

11 MR. WEBB: Judge, I beleive, for the record, it was
12 92 days that he was indicted after our office received it.
13 A couple things on that matter, Judge, is that State vs.
14 Edwards. I'll pass that up.

15 THE COURT: Just tell me about it.

16 MR. WEBB: The case law basically says that
17 (inaudible) is not dismissal but other measures. And it
18 leads up to the trial Court's discretion on that.
19 However, I believe it was so close to the 90 days that it
20 -- the evidence applies. But, more importantly, Judge
21 Kittredge issued an Order, and I'll pass this up, back in,
22 I believe it was, giving the solicitor's office 180 days
23 to indict due to the large volume of cases coming into --

24 THE COURT: I don't need that.

25 MR. WEBB: -- Greenville County.

1 THE COURT: Okay.

2 MR. WEBB: And between the case law that I mentioned
3 and this order, I believe 92 days fits in with the law.

4 THE COURT: All right.

5 MR. CHAMBERS: In response, Your Honor, the
6 Administrative Order was signed by Judge Kittredge when he
7 was the Chief Administrative Judge way back in December of
8 2000. Not only is he no longer Chief Administrative
9 Judge, but as we all know, he has been elevated to a
10 higher court. And our position would be that this
11 Administrative Order is prolong (inaudible) and we would
12 again reassert our position that the solicitor's office
13 should not be allowed to go forward on these indictments.

14 THE COURT: Okay. Well, your motion is denied.

15 Y'all ready to go?

16 MR. WEBB: Yes, Your Honor.

17 THE COURT: Okay.

18 (WHEREUPON, the jury came into open court at
19 approximately 2:40 p.m.)

20 THE COURT: Ms. Tafaoa, thank you for agreeing to
21 serve as foreperson of the jury.

22 I hope y'all had a pleasant lunch. And at this time,
23 we are going to ask y'all to stand and take an oath.

24 THE CLERK: The response to the oath is, I will. If
25 you would raise your right hand.

1 (WHEREUPON, the jury was sworn.)

2 (WHEREUPON, State's Exhibit Nos. 1 through 10
3 were marked for identification only.)

4 THE COURT: All right. Ladies and gentlemen, we are
5 at this time ready to begin. And if you will remember my
6 five stages, we're going to do the opening statements of
7 counsel.

8 I know that you all have requested notepads and
9 pencils. Does everybody have access to one? Okay. The
10 only thing I would remind you about that is a couple of
11 things. One, when you're taking notes, sometimes you
12 might miss how someone looks on the witness stand and what
13 we call their demeanor, so just keep that in mind. Then
14 at the end of the case, you must remember that one
15 person's written notes carry no more weight than another
16 person's recollection. Okay. But as long as it helps you
17 all, then we want you to do it. All right. Thank you,
18 very much.

19 Mr. Webb.

20 OPENING STATEMENT

21 MR. WEBB: Good afternoon, my name is Doug Webb, I
22 introduced myself to you earlier. We are here today in the
23 case of the State vs. Gerald Brown, as you were told by
24 the clerk as well as the judge earlier today. And I want
25 to talk to you about the crimes and what the State needs

1 to prove in order for you to find the Defendant guilty and
2 how the State will prove that.

3 But first, I want to tell you what happened, what
4 happened on June 12th, 2007. The evidence will show that
5 Jarecus Howard, who was 13 years old at the time, along
6 with his younger brother, Javon, were coming home with
7 their dad, George, to go into their house a little bit
8 after midnight. They're coming back from their
9 grandmother's house. George, the father, was on his cell
10 phone talking to a friend, Michael Thompson. As they're
11 entering the house, a man came up to them, dressed as a
12 police officer, forces them into the house at gun point.
13 He gets them in the house, He forces them onto the ground.
14 He forces Jarecus and the father onto the ground inside
15 the house, right inside the front door. He makes Javon,
16 the five year old, stand in the corner right there with
17 them. And he starts threatening George Howard and asking
18 where the money is. He handcuffs George Howard and
19 Jarecus. He also uses duct tape to bind them. And then
20 he goes up to the attic and takes \$23,000 in cash from
21 George Howard.

22 Comes back down and he's not happy. He's not happy
23 with that amount of money. So then he keeps asking George
24 Howard, where is the rest of it? He goes looking around
25 that house, can't find anything else. He starts using

1 that stun gun on George Howard, all over his body. His
2 thigh, chest, arms, buttocks, groin area, everywhere,
3 wanting to get more money.

4 Well, remember, what I was telling you about when
5 they were going to the house that George Howard was on his
6 cell phone and he was talking to his friend, Michael
7 Thompson. Well, when the Defendant made them get on the
8 ground, that cell phone dropped on the ground, but it was
9 still on. So Michael Thompson could hear what was going
10 on, could hear everything, the threats, the screaming, the
11 duct tape of what was going on so he called the police.

12 He called the police and the police came to the
13 house, George Howard's house, and surrounded the house.
14 The Defendant didn't know about this. He didn't realize
15 the cell phone was still on. So as the Defendant is
16 leaving the house, he goes out the front door and he looks
17 and he sees a number of deputies standing there waiting
18 for him. He runs out the front door to the side of the
19 house and into the back of the house. He tries to make it
20 for the woods. There's a wooded area behind the house and
21 he tries to go through the woods to run away from the
22 officers. The officers are yelling for him to stop. He
23 doesn't stop. He keeps running. Still in his police
24 uniform trying to take as much money as he can with him.

25 The police warn him. They send a canine dog after

1 him. They chase after him. And the dog finally catches
2 up to him in the woods. And the Defendant starts beating
3 the dog, hitting the dog, pulling the dog's ears. By this
4 time, other deputies were able to catch up with him. They
5 started wrestling with the Defendant. After a minute or
6 two, they're able to subdue him. They find a gun right
7 there where they had been wrestling with him. Then he's
8 arrested. That's what happened on June 12th, 2007.

9 Now, there are three victims in this case. There's
10 George Howard, the father, and his two sons, Jarecus and
11 Javon. Jarecus is now, I believe, 14 and Javon is seven.
12 At the time, they were 13 and five. Three victims and
13 that's why there are three charges of kidnapping.

14 So now I want to talk to you about the charges.
15 First, the State has the burden of proof in this case. We
16 must prove beyond a reasonable doubt that the Defendant is
17 guilty. We welcome that burden and we will meet that
18 burden.

19 Now, let's talk about the charges here. I want to
20 briefly tell you about what each one requires to be
21 proven. First, armed robbery. Armed robbery is the
22 taking of money or goods from somebody with the use of a
23 deadly weapon. That's armed robbery. Kidnapping.
24 Kidnapping is forcing someone to go from one spot to the
25 next or even forcing someone to remain in the same

1 position. It doesn't have to involve kids, it could
2 involve adults. And it doesn't require someone to take
3 somebody from one building to the next. Just ever so
4 slightly is kidnapping, making someone go from one
5 position that they don't want to go into to the next or
6 even making someone stand in one spot. That is
7 kidnapping.

8 Burglary. Burglary is the unlawful entry of a
9 residence with the intent to commit a crime inside.
10 That's burglary. Impersonating a police officer is
11 dressing or acting like a police officer with the
12 authority to do so. That's impersonating a police
13 officer. ABHAN, assault and battery of high and
14 aggravated nature. First, it requires an assault and
15 battery. The unlawful touching or kicking or, basically,
16 touching of another person, that's assault and battery.
17 But then it requires an aggravator to make it high and
18 aggravated nature. You need an aggravator. In this case,
19 the two aggravators are the intent to commit a felony,
20 that the assault and battery occurred with the intent to
21 commit a felony. And the serious bodily injury that
22 George Howard suffered. Then you have the possession of a
23 weapon during the commission of a violent crime. You have
24 to prove -- the State has to prove that the Defendant
25 possessed a weapon, such as a gun during the commission of

1 a violent crime. Now, in South Carolina, violent crime --
2 a violent crime can be kidnapping, can be burglary, can be
3 armed robbery.

4 Resisting arrest is the next charge. That requires
5 the State to prove that the Defendant resisted a lawful
6 arrest. That they were under arrest and they either
7 struggled or ran from the police. That's resisting
8 arrest. And finally, injury to a police dog. Requires
9 that the Defendant hurt, kicked, punched, mutilated a
10 police dog while it was acting in its official capacity as
11 a K-9.

12 Those are the charges against the Defendant. And we
13 will prove those beyond a reasonable doubt today and
14 throughout this trial. We will prove that through the
15 testimony of the victims. They're going to sit right up
16 here and talk to you about what happened. Jarecus and
17 George will talk to you about what happened that night,
18 June 12th, June 2007. You will also hear from the friend,
19 Michael Thompson, who was listening on the telephone and
20 heard what was going on as well. And you will hear from a
21 number of Greenville County deputies that chased this
22 Defendant and wrestled with him and arrested him.

23 And after you hear from the victims and from Michael
24 Thompson and from law enforcement, I ask that you find the
25 Defendant guilty on all of these charges. Thank you.

1 THE COURT: Mr. Chambers.

2 OPENING STATEMENT

3 MR. CHAMBERS: Ladies and gentlemen, as I told the
4 jury when I had an opportunity to introduce myself, my
5 name is Randy Chambers and I'm representing Gerald Brown,
6 who is seated over here at the table. And as you've
7 already heard from, His Honor, as you've already heard
8 from the solicitor in this case, you're the triers of
9 fact. You've got probably the hardest job of anybody in
10 here because you're going to get -- at the end of all
11 this, you're going to get to wade through all the evidence
12 in the case and you're going to determine what the facts
13 are. And you're to do that, as the solicitor told you,
14 based on testimony from the witness stand, based on the
15 evidence that's going to be put before you. And all of
16 you as a deliberative body -- there will be 12 of you by
17 the time you go back there. We'll probably let the
18 alternate go unless one of you needs to be substituted
19 for. And you'll go in the back and all of you who come
20 from different walks of life, different ages, different
21 points of view, using the common sense that all of you
22 brought in here today, you are going to go through the
23 evidence and you're going to determine what the facts are
24 in this case and you're going to render a verdict.

25 Now, you have heard at this point the reading of the

1 indictments and you have heard from the solicitor about
2 what he tells you that he is going to show you. And I
3 hope you listened closely. First of all, the indictments,
4 as His Honor told you, those are allegations, they're
5 accusations. Now, when we're in court, you'll often hear
6 the person who is on trial referred to as the Defendant.
7 Gerald Brown, you will hear, is the Defendant in this
8 case. I used to be a Navy lawyer way back when and in the
9 military, we always referred to him as the accused. And I
10 think that's a much better term because that's what Gerald
11 Brown is as he sits here today. He is accused of having
12 done something wrong. And unless and until they prove
13 every element of every offense to you beyond a reasonable
14 doubt, you cannot convict him of those individual
15 offenses. And we've all heard the phrase guilty until
16 proven innocent. We've all heard the phrase beyond a
17 reasonable doubt. And we don't give that much thought in
18 our day-to-day lives, but it's very important. It's very
19 important.

20 A jury, such as you, sitting here, this is democracy
21 in its truest form. Most people will tell you it's not a
22 perfect system, but it is by far the best system that we
23 have to determine conflicts like this. And for it to
24 work, y'all have to hold the State to its burden. Now,
25 all of you took an oath a minute ago. And I don't know if

1 you took time to ponder exactly what that oath means. But
2 when His Honor was asking you questions earlier, all of
3 you indicated that you would be fair and unbiased to both
4 sides. All of you indicated that you could do your duty
5 as jurors. All of you took an oath that you could well
6 and truly try this case. And first and foremost what that
7 means is holding these folks to their burden.

8 And it always strikes me whenever I'm in a trial like
9 this and I'm sitting over there by myself with my client
10 and I look over and I see the solicitor and his
11 investigators and another solicitor and all these police
12 officers, the reason that the burden is so great and it's
13 because it's their case. They get to decide what evidence
14 comes in here before you. They have the means and the
15 method of bringing all that evidence in here before you.

16 Now, Gerald Brown doesn't have to offer any kind of
17 defense. He has no burden. He doesn't have any reason to
18 come before you and offer anything. So again, I hope that
19 you listened real closely to what the solicitor told you
20 he was going to prove happened out there on June 12th,
21 2007. And I want you to hold him to his burden.

22 Now, he went through what he said he was going to
23 prove to you. What I want to offer just a little bit is
24 to let you know that after all is said and done, you're
25 going to find that there are some things that are

1 irrefutable. It is irrefutable that Gerald Brown was at
2 that location that night. And he was apprehended by the
3 police out there. But as each one of those officers and
4 these victims, alleged victims, and everybody in this case
5 gets up there and starts to testify, you're going to start
6 to get the picture that there are some pretty big
7 discrepancies. You're going to get the picture that there
8 are some things that just don't add up. And you are going
9 to be left, I believe, at the end of this with some
10 questions. And if you have questions, then you have
11 doubt, you have reasonable doubt.

12 Now, I know I keep hammering that point home, but
13 it's very important. There are different levels of doubt,
14 there are different standards of doubt in any kind of
15 trial. If this were a civil case and we were here talking
16 about money damages, you would think, perhaps, as a scale
17 And the plaintiff in that case, the one seeking money
18 damages, would only have to tilt that scale slightly in
19 their favor. It's called the greater weight of the
20 evidence of a preponderance of the evidence. But in a
21 case such as this where their burden is beyond a
22 reasonable doubt, they have to tilt that scale all the way
23 over.

24 Now, you're going to be told later on that it's not
25 beyond an absolute doubt and that's true. But, ladies and

1 gentlemen, I'm here to tell you that even if you leave
2 this proceeding and go back and deliberate and you believe
3 at the end of it that Gerald Brown is probably guilty,
4 well, that's not enough. You have to be convinced beyond
5 a reasonable doubt. And that's what I'm talking about
6 when I talk about some of these inconsistencies and
7 questions you're going to hear about.

8 Just some of the things I anticipate you're going to
9 hear about will be that you're going to hear from George
10 Howard that the person that assailed him initially had a
11 shotgun. You're not going to hear anything about anybody
12 having a shotgun. You're going to hear from several of
13 the officers that he was wearing a police uniform, Gerald
14 Brown, and yet, when he was apprehended, he was not
15 wearing a police uniform. You are going to hear that he
16 was wearing a bullet proof vest and a T-shirt and they
17 could see all of those things. And you can ask yourself
18 if he had a bullet proof vest on top of a T-shirt, how did
19 they know he had a T-shirt that said police on it. If it
20 was the other way around and he had the shirt over the
21 bullet proof vest, how do they know that?

22 You heard the solicitor tell you that they found the
23 gun near where he was arrested. But what you're going to
24 hear, I believe the evidence is going to show, is that the
25 gun was actually placed just on a fallen tree. The

1 solicitor told you one of the police officers is going to
2 testify that when Gerald Brown ran around the house, he
3 was wearing the police uniform and he was wearing the
4 bullet proof vest. But one of the things you're going to
5 hear is the bullet proof vest was found up under the
6 house, so he couldn't have run around the house with it.
7 I believe the evidence is going to show that. And those
8 are just a few things.

9 Now, you may ask yourself, why is it that he was at
10 the scene of this -- was at this location? We believe the
11 evidence in this case is going to show that the reason
12 that Gerald Brown was there is he went there with \$23,000
13 in cash to buy drugs, and that was why he was there. The
14 evidence in this case is going to show that there is no
15 police officer or alleged victim or anybody else that can
16 identify the person that was actually inside that house
17 that they saw doing any of those things. Nobody saw his
18 face. Nobody identified Gerald Brown as that person that
19 was inside the house.

20 Ladies and gentlemen, these are just some of the
21 things I believe the evidence is going to show you by way
22 of inconsistencies in this case.

23 What I'm going to ask for you to do at this point is
24 what you took an oath to do, and that is to listen to all
25 this evidence and do it with a skeptical eye. Challenge

1 everything that you hear in your mind and ask yourself,
2 based on the testimony, the totality of the circumstances,
3 the demeanor of those folks that testify and everything
4 that you hear, view it with a skeptical eye because that
5 is what you're required to do.

6 Our position is at the end of this, they're not going
7 to meet their burden. We'll talk to you about that later.
8 Thank you, very much.

9 THE COURT: All right.

10 MR. WEBB: The State calls Jarecus Howard to the
11 stand.

12 MR. CHAMBERS: Your Honor, just very quickly, may we
13 approach, I had one thing I wanted to take up.

14 THE COURT: All right.

15 (WHEREUPON, a bench conference was held in the
16 presence of the jury but out of the hearing of
17 the jury.)

18 JARECUS HOWARD, after being duly sworn,
19 testified as follows:

20 THE CLERK: Would you please state your name for the
21 record.

22 THE WITNESS: Jarecus Howard.

23 DIRECT EXAMINATION

24 BY MR. WEBB:

25 Q Jarecus, good afternoon. How old are you, Jarecus?

- 1 A I'm fine.
- 2 Q How old are you?
- 3 A Fifteen.
- 4 Q And where do you go to school?
- 5 A Wade Hampton High School.
- 6 Q What year are you?
- 7 A 2012.
- 8 Q Are you a freshman, junior, senior?
- 9 A Freshman.
- 10 Q Now, where do you live?
- 11 A I stay in Taylors, Taylors Crossing.
- 12 Q Have you moved since June 12th, 2007, have you
- 13 changed houses?
- 14 A Yes.
- 15 Q Okay. Now, I want to talk to you about June 12th,
- 16 2007, shortly after midnight. Could you please tell me
- 17 where you were coming from that night?
- 18 A My grandmother's house.
- 19 Q Does she live in Greenville?
- 20 A Taylors.
- 21 Q Who were you with?
- 22 A My dad and my little brother.
- 23 Q And you said you're how old now?
- 24 A Fifteen.
- 25 Q So you were 13 at the time?

1 A Yes, sir.

2 Q And you were going home and what happened as you were
3 going home?

4 A I was going -- we was going in the house. I turned
5 around to close the door and seen the man running at us
6 with the gun, so I yelled for my dad.

7 Q Now, you said you were -- so tell me, who went into
8 the door first?

9 A My dad.

10 Q Then who after that?

11 A My little brother and then me.

12 Q Do you remember how old Javon was?

13 A Probably around like -- I don't remember.

14 Q Okay. So as you -- you said you were closing the
15 door, who did you see again or what did you see?

16 A I see the man running at us with a vest with sheriff
17 on it and with a gun in his hand.

18 Q Do you remember anything else he was wearing?

19 A He had a paintball mask.

20 Q And you said he was saying something to your dad,
21 what was he saying?

22 A He was telling everybody to get down.

23 Q Did you have an opportunity to shut the door?

24 A Huh-uh.

25 Q So what happened then?

1 A As he was yelling get down, we all got down. So he
2 put tape and handcuffs on my dad, then he came and taped
3 my arms, my legs and everything.

4 Q He taped you as well?

5 A Yes, sir.

6 Q Did he use handcuffs on you or just your dad?

7 A He used, I think, my little brother handcuffs on me.

8 Q Did he just find those in the house?

9 A Uh-huh.

10 Q What, if anything, did he have in his hands at this
11 time?

12 A He just had the gun.

13 Q And was he saying anything to you or your dad at this
14 time when he made you get on the ground?

15 A He was talking to my dad.

16 Q Can I ask you just to speak up just a tad so the jury
17 can hear you.

18 A Okay.

19 Q You said he was talking to your dad, what did he say
20 to your dad?

21 A He was like don't look down -- well, don't look up at
22 me or I'm going to shoot you. He was threatening him. And
23 he started asking about some money.

24 Q And where was Javon at this time?

25 A In the corner.

1 Q In the corner. Now, is this -- what room in the
2 house was this?

3 A Right there in the living room.

4 Q How far away from the living room from the front
5 door?

6 A It's not far. As soon as you walk in, you're in the
7 living room.

8 Q Okay. He was threatening your dad, you said, then
9 what happened?

10 A As he was threatening him? He was threatening --
11 after he asked for the money and everything, he was
12 threatening to tase my little brother and everything,
13 yeah.

14 Q Did he actually tase your little brother?

15 A No, sir.

16 Q Just threatening?

17 A Yes, sir.

18 Q After he threatened Javon with the taser, what
19 happened after that?

20 A He was torturing my dad with the taser and
21 everything. Just kept asking about money.

22 Q And did he find any money in the house?

23 A Yeah, after he went in the attic.

24 Q And did he come back down with it?

25 A I couldn't see, my face was taped up and everything,

1 so.

2 Q So tell me, what actually was taped up on you, your
3 hands?

4 A My arms, my legs and around my mouth and my eyes.

5 Q Now, you said he was tasing your dad, did he ever
6 tase you?

7 A No, sir.

8 Q At this point, you have duct tape around your eyes so
9 you can't really see exactly what's going on?

10 A Yes.

11 Q What about your ears, duct tape around your ears?

12 A No, sir.

13 Q After he came back down with the money from the
14 attic, what happened then?

15 A He was saying this is not real, this is not the real
16 money and he kept torturing him. So he called someone on
17 the cell phone. He was like he's not giving us the right
18 money.

19 Q Did he find any more money in the house?

20 A No, sir.

21 Q Did he look?

22 A Yes, he was rambling around the house.

23 Q You could hear this?

24 A Uh-huh.

25 Q Could you hear where he went in the house to look?

1 A I think he went in my dad's room. He had knocked a
2 lot of baskets down in the house and everything.

3 Q After he looked around the house, what did he do?

4 A Came back and tortured my dad.

5 Q When you say tortured, can you tell where he was
6 torturing him at?

7 A No, I couldn't see, so.

8 Q And after you heard him torturing your dad -- how
9 long did this take, how long did this happen when he was
10 torturing your dad?

11 A Around like 20, 30 minutes.

12 Q And so after he was done doing that, what happened?

13 A So he asked my little brother what he could count
14 to -- well, he told him to count to 100. My little
15 brother was like -- I think he said I can count to 11 at
16 the time.

17 Q Your brother couldn't count to 100, he could only
18 count to 11?

19 A Uh-huh.

20 Q What did the Defendant say back?

21 A He was like okay, well, turn around in the corner and
22 count to 11 four times and then get your brother handcuff
23 keys off the top of the refrigerator.

24 Q Then what did he do?

25 A After he said that, he went out the door.

1 Q Did you see him after that?

2 A Like after I got loose, after the police took
3 everything off me, they run him back around to the porch.

4 Q Was he wearing the same clothing then, do you
5 remember?

6 A I don't remember.

7 Q When you saw him, you said he was wearing a police
8 shirt, is that what you said?

9 A Uh-huh.

10 Q What else was he wearing again?

11 A A paintball mask and I think the vest had like
12 sheriff or police written on it.

13 Q Okay. And who entered -- what happened after he
14 left, someone else enter the house?

15 A The police.

16 Q And what did they do?

17 A They had to search the house first before they got us
18 loose because they was making sure everything was safe.
19 After they got us a loose, they asked my dad could he
20 identify the man and he was like no. So they took a
21 statement.

22 Q I'm going to show you a couple things, Jarecus.

23 (WHEREUPON, State's Exhibit No. 11 was marked
24 for identification only.)

25 BY MR. WEBB:

1 Q All right. Jarecus, I want to show you this bag.
2 It's been marked as State's Exhibit No. 11. Could you
3 please tell me what's inside this bag and if you've seen
4 it before?

5 A Can I open it?

6 Q Yes, you can open the bag. Without taking anything
7 outside of it, don't take anything outside, just look
8 inside the bag and tell me if you've ever seen what's
9 inside?

10 A Yes.

11 Q What's inside the bag?

12 A The paintball mask.

13 Q Is that the same paintball mask that the person that
14 came in your house was wearing?

15 A Yes.

16 MR. WEBB: Judge, the State moves to put State's
17 Exhibit No. 11 into evidence.

18 MR. CHAMBERS: Can I see it?

19 No objection, Your Honor.

20 THE COURT: Without objection.

21 (WHEREUPON, State's Exhibit No. 11 was admitted
22 into evidence.)

23 MR. WEBB: Permission to publish, Judge?

24 THE COURT: Is it marked?

25 MR. WEBB: It's marked, but you may want to put the

1 sticker on the actual mask.

2 (WHEREUPON, State's Exhibit No. 12 was marked
3 for identification only.)

4 BY MR. WEBB:

5 Q All right. Jarecus, I'm going to hand you what's
6 been marked State's Exhibit No. 12. Would you please look
7 inside this box without taking it out and just tell me if
8 you've ever seen what's inside?

9 A That's the gun I described, yeah.

10 Q Is that the same gun that you saw the perpetrator
11 with that night?

12 A That's the one he came running at us with.

13 MR. WEBB: Your Honor, the State moves to have
14 Exhibit No. 12 -- State's Exhibit No. 12 into evidence.

15 MR. CHAMBERS: No objection, Your Honor.

16 THE COURT: Okay.

17 MR. WEBB: Permission to publish, Judge?

18 THE COURT: Uh-huh.

19 MR. WEBB: And just for the record, this gun has been
20 checked and it's safe.

21 THE COURT: All right.

22 (WHEREUPON, State's Exhibit No. 12 was admitted
23 into evidence.)

24 BY MR. WEBB:

25 Q Jarecus, again, did this Defendant ever threaten you?

1 A Well, he was threatening to kill us, yes.

2 Q Jarecus, when you first saw this person that
3 approached you on the porch, where were you?

4 A At the door going in as to close the door.

5 Q So you were already going through the door?

6 A I had just got in the door.

7 Q So were you actually inside your house?

8 A I had stepped foot in, yes.

9 Q So where were your dad and brother?

10 A My dad, he was a couple steps in front of me and my
11 little brother -- well, my dad was in front and my little
12 brother was in the middle.

13 Q So all of you were already in house?

14 A I had just stepped foot in, yes.

15 Q Now, from where did you see this person that
16 approached you, where did they come from?

17 A He came from the side of the house because once I was
18 going in to close the door, he was already on the steps
19 like charging in.

20 Q But you were inside the house when you first saw the
21 person, correct?

22 A Yes.

23 Q So how is it that you know they came from the side of
24 the house.

25 A (There was no response.)

1 Q If you don't know, it's okay. You can just say I
2 don't know?

3 A I don't know.

4 Q And you said that the person that approached you was
5 wearing this mask, which you described as a paintball
6 mask; is that correct?

7 A Yes, sir.

8 Q Did this cover that person's whole face?

9 A Yes.

10 Q So you weren't able to identify the person that was
11 wearing this, were you?

12 A No, I couldn't see him till the police brought him
13 back on the porch.

14 Q Okay. But when you first saw this, you couldn't
15 identify the person that was wearing it? The face was
16 completely covered, correct?

17 A Yes, sir.

18 Q Is that right? I need you to answer out loud.

19 A Yes, sir.

20 Q And did you give a written statement to the police?

21 A Yes.

22 Q And you told them everything about the offense that
23 you recalled?

24 A Yes.

25 Q And you didn't tell them then that you could see the

1 person's face; did you?

2 A No.

3 Q Okay. And you also said that whoever the person was
4 that came up on the porch had this gun?

5 A Yes.

6 Q Now, do you remember in your statement that you
7 described it as a silver gun?

8 A Yes.

9 Q All right. And this gun is black and silver; is that
10 correct?

11 A Yes.

12 Q Okay. What else was the person that came up on the
13 porch carrying other than that gun?

14 A All I seen was the gun in his hands.

15 Q Okay. Did you see any kind of, say, a black bag?

16 A No.

17 Q Did you see any sort of a orange and gray type of
18 bag?

19 A No.

20 Q Did you see any color bag or anything else that this
21 person was carrying?

22 A No.

23 Q So the person that approached you on the porch was
24 wearing this mask and had this gun?

25 A Yes.

1 Q And that gun is all he had?

2 A He had on a vest and everything, yes.

3 Q Now, that vest, could you see the vest, was it
4 outside his shirt?

5 A I think so.

6 Q It was -- well, I want to answer if you know, do you
7 remember if it was outside his shirt?

8 A No.

9 Q You don't remember? So -- but are you sure that you
10 saw him wearing a vest?

11 A Yeah.

12 Q So you did see the vest?

13 A Yes.

14 Q So would that mean that the vest was outside the
15 shirt?

16 A Yes, because it had sheriff on the front.

17 Q It said sheriff, it had that word on it?

18 A Sheriff or police, yes.

19 Q So either sheriff or police?

20 A Yes.

21 Q And it was outside his shirt?

22 A Yes.

23 Q Okay. All right.

24 MR. WEBB: That's all the questions I have for you.

25 Thank you. Oh, I'm sorry, just real quick.

1 BY MR. WEBB:

2 Q You talked about some money and I believe you said it
3 was up in the attic; is that right?

4 A Uh-huh.

5 Q Did you know there was money in the attic?

6 A No.

7 Q So that's something you found out after the fact?

8 A Yes.

9 MR. WEBB: All right. Thank you.

10 MR. CHAMBERS: Just one question, Judge.

11 THE COURT: All right.

12 CROSS-EXAMINATION

13 BY MR. CHAMBERS:

14 Q Jarecus, is this the same gun that you saw on June
15 12th, 2007?

16 A Yes, sir, because I said it was silver, yeah.

17 MR. CHAMBERS: Nothing else, Judge.

18 THE COURT: All right. You can step down. Thank
19 you.

20 MR. WEBB: Your Honor, the State calls George Howard
21 to the stand.

22 THE CLERK: Thank you. You may be seated. Would you
23 please state your name for the record.

24 THE WITNESS: My name is George Howard.

25 ///

DIRECT EXAMINATION

1
2 BY MR. WEBB:
3 Q Mr. Webb, good afternoon.
4 A How are you doing?
5 Q Doing well. Tell me, do you still live in Taylors?
6 A Yes, I do.
7 Q You still live at the same residence?
8 A No, not at 125 Turentine, where this incident took
9 place.
10 Q When did you move?
11 A I moved maybe -- I would say maybe two to three weeks
12 after the incident occurred.
13 Q And tell me a little bit about your family, do you
14 have any children?
15 A Yes, I do.
16 Q And how many children do you have?
17 A I have six boys, actually.
18 Q What are their names?
19 A The names are Davunta, Jarecus, Javon, Jalen,
20 Quintavious and Jaquavious.
21 Q I sort of put you on the spot there.
22 A Yes.
23 Q Now, Jarecus and Javon, were they with you the night
24 of June 12th, 2007?
25 A Yes, they were.

- 1 Q Tell the jury where you were coming from that night?
- 2 A I was coming from my mom's house.
- 3 Q Their grandmother's house?
- 4 A Right, correct.
- 5 Q Where does she live?
- 6 A She live at 8 Gavin Place in Taylors.
- 7 Q And approximately what time were you coming back?
- 8 A It was after midnight, maybe 12:00 to 12:30.
- 9 Q Again, who was with you that night?
- 10 A It was Jarecus and Javon.
- 11 Q And what were you doing while you were walking back
- 12 to your house?
- 13 A While I was walking back to my house?
- 14 Q Walking to your house?
- 15 A Okay. I was getting -- putting my key in the door
- 16 and turning the lights on and on the cell phone talking to
- 17 Mike.
- 18 Q And Mike being, what's his last name?
- 19 A Mike Thompson.
- 20 Q How long have you known Michael Thompson?
- 21 A I would say well over 20 years.
- 22 Q How old are you, sir?
- 23 A I'm 37.
- 24 Q Did you grow up together, how did you know him?
- 25 A Yes, we grew up together.

1 Q In Taylors or where?

2 A Yes, in Taylors.

3 Q And you said you were on your cell phone talking to

4 him and you put the key in the door, what happened after

5 that?

6 A After I put the key in the door and opened the door,

7 I turned the light on, stepped in. My five-year-old,

8 Javon, five-year-old at the time was right behind me. And

9 I was talking to Mike and I heard Jarecus, my son, say,

10 Daddy. And I looked back and this guy was coming at us

11 with the gun.

12 Q You said that you went in, who was behind you again?

13 A Javon was behind me and then it was Jarecus.

14 Q And Jarecus yelled, Daddy, and you looked back, what

15 did you see?

16 A When I looked back, I saw the guy coming at us with

17 the gun with a mask on.

18 Q What was he wearing?

19 A It looked like the police. I thought it was the

20 police, I seen the police.

21 Q A shirt?

22 A Yes.

23 Q Could you tell anything else that he was wearing?

24 A No, I couldn't tell anything else that he was

25 wearing.

1 Q When you saw him, how far away was he from you at
2 first?

3 A When I first turned around, he pretty much had his
4 gun right there. It couldn't have been no more than two
5 to three feet away.

6 Q And do you remember what type of gun that was?

7 A At the time, I gave the statement, I had been through
8 a lot. I had been tased so much, so during my statement,
9 I said a shotgun just because he was so close on me, all I
10 could see was the barrel of a gun. So at the time when I
11 gave that statement, that's what I said.

12 Q And tell me, after he came up to you with that gun,
13 what happened?

14 A When he came up to me with the gun, he told us to get
15 down, so I got down. Jarecus got down. And I looked --

16 Q What about Javon?

17 A At this time, Javon, I'm assuming that he was over in
18 the corner area because he was a little spooked.

19 Q Now, when you say spooked, how did he act?

20 A It scared him, so he kind of got away from what was
21 coming.

22 Q And so what happened after that?

23 A So after that, he told me to get down, I got down and
24 he started to handcuff me. And I looked up and he pointed
25 the gun at me and told me he would kill me if I look up --

1 look at him, if I look at him. So he handcuffed me.

2 Q Now, he handcuffed you, where did he handcuff you?

3 Your hands, but in front or behind?

4 A He handcuffed me behind my back.

5 Q Then you say he threatened you, then what happened
6 then?

7 A Then he went over to Jarecus and duct taped him. He
8 duct taped his arms and his legs. After that, he came
9 back over to me and duck taped me around my eyes and my
10 ears. Then he duct taped me around my mouth, also. At
11 this time, he hadn't duct taped my legs, but a little
12 later on, he did duct tape my legs once he took me from
13 the living room to one of the bedrooms.

14 Q So let me just take a step back. You said he duct
15 taped your ears and eyes. Could you still hear or listen,
16 look after that?

17 A Yes, I could hear fine. I couldn't see. I couldn't
18 see at all.

19 Q Did he duct tape your mouth at all?

20 A Yes, he did duct tape my mouth.

21 Q Where did this initial duct taping occur?

22 A Right there in the living room. The house I was at
23 had a very -- as soon as you step in the front door,
24 that's the living room. And pretty much from where he
25 told me to lay down, I could almost touch the front door

1 with my feet.

2 Q What happened to that cell phone you were talking
3 with Michael Thompson on?

4 A I was on it and as soon as he told me to get down, I
5 just put the phone down.

6 Q How far away was it from you?

7 A It was right there within my hand reach.

8 Q Was it on or off?

9 A It was on.

10 Q And after he duct taped you, what happened?

11 A Well, like I said, he duct taped Jarecus. He came
12 back and duct taped my eyes. And I remember him saying,
13 you know where it is. Also, after that, he was asking
14 where was the money and he was threatening to duct tape
15 Javon, my five-year-old. And he started crying and --

16 Q You mean Javon?

17 A Javon was about to start to cry. And so I kind of
18 knew when he was like you know what it is, I told him, I
19 said, Look here -- this is exactly what I said, Look here,
20 I'm going to tell you where the money is, leave him alone.
21 Don't touch my son. And so --

22 Q Where did you tell him the money was?

23 A I told him it was in the attic. He picked me -- like
24 I said, at the time, he didn't have my feet duct taped, so
25 he took me back to the back room.

1 Q So you still were walking?

2 A I was handcuffed behind my back and duct tape around
3 my eyes and mouth.

4 Q But when you say he picked you up, he didn't actually
5 pick you up like carried you.

6 A No, he actually grabbed my arm and helped me up. I
7 couldn't see anything, so he guided me towards the back.

8 Q And where did he guide you?

9 A Towards the back room. The rooms are right there --
10 the hallway is so short, it's only maybe six feet long, so
11 the attic is right there.

12 Q What did you do then or what did he do?

13 A He told me to get down. He opened the attic, went up
14 in the attic. I was just laying there handcuffed and duct
15 taped. And he came back and he made a phone call.
16 Because he got the money, he made a phone call and he
17 called someone and said -- he said, He's acting like all
18 he's got is 20,000 or something he said. So he stayed on
19 the phone maybe 15, 20 seconds and he came back and he
20 asked me, you know, where is the real money? And that's
21 when he started tasing me with this taser.

22 Q Were you still underneath the attic at that time or
23 in the back room?

24 A Yes, I was right there in the back room.

25 Q How far is this away from the living room?

1 A Like I said, it's a small house, only 1100 feet. You
2 can take ten steps and be right there.

3 Q And he started tasing you. Where did he tase you at?

4 A I was right there around the attic.

5 Q I mean what parts of your body?

6 A Oh, he tased me in my neck, my arm, back of my arm,
7 my abdomen, my groin, my legs, my stomach, pretty much
8 everywhere he could pull my clothes off.

9 Q And how did that feel?

10 A Never felt that feeling before.

11 Q And how long did he tase you?

12 A He tased me at least four to three sessions -- three
13 or four sessions where he would tase me. He would go
14 ramble through the house and look for something, come back
15 and tase me again. He did that numerous times.

16 Q How long did each session of the tasing last?

17 A I would say two or three minutes, somewhere around
18 there.

19 Q Was he saying anything to you at that time?

20 A Yeah. At this time, he had really duct taped my
21 mouth to where I couldn't talk, so he told me if you feel
22 like talking, tap your legs. Because he had taped my
23 mouth, he duct taped my mouth again because I had come out
24 of the first duct tape, then he duct taped my mouth again.
25 He said if you feel like talking, just tap your leg and

1 I'll see you. And so he just tased me and tased me. And
2 I broke the duct tape around my legs, I guess, because I
3 was struggling so hard from when he was tasing me.

4 Q What happened after all the tasing, what did he do?

5 A Okay. After all the tasing, I heard him asking my
6 son could he count to a hundred for him.

7 Q Which son?

8 A He was asking Javon, my five-year-old.

9 Q What was your son's response?

10 A My son's was I can't count to a hundred, I can count
11 to 11.

12 Q Then what happened?

13 A Then I think he asked him to count to 11 numerous
14 times and then he left, so.

15 Q And now, this -- you say he started looking around
16 for more money, did he ever find any money?

17 A No.

18 Q Where did he look?

19 A There was baskets that were turned over. I could
20 hear in my room some of the dressers were opened. And
21 that's about it that I know of.

22 Q And now you said this Defendant was wearing a mask,
23 could you ever see his face?

24 A Through the mask, no, I really couldn't because every
25 time I try to look up, I only looked up once because after

1 that, he threatened to kill me if I looked at him again.

2 Q And after the Defendant left, what happened?

3 A After he left, we heard the police officers come
4 through and they were hesitant. Like they said, they were
5 making sure that there was no one else that was with him
6 when he ran out. So they searched the house first and
7 then they unbind us and it took a minute for them to
8 unbind us. And recently, after that, it was only maybe a
9 few minutes or so and they brung him -- they apprehended
10 him, I guess, and brung him back, placed him on the porch.
11 And I remember looking at him. He was pretty much laid
12 back on the concrete. I couldn't recognize the guy, I
13 didn't know him.

14 Q What was he wearing, was he wearing the same --

15 A All I remember was him being kind of bloody. I'm not
16 sure if the dog bit him. He was just layed back on the
17 porch with his head back. He has his eyes closed.

18 Q Now, tell me, do you know how much money he took from
19 your attic?

20 A Yes, it was 23,000.

21 Q Why did you have money up in your attic:

22 A It was money I saved and been saving.

23 Q How long you been saving that money?

24 A For a couple of years. And just say that I kept it
25 there. I just didn't give my money to the bank, just kept

1 it there.

2 Q And what happened with the money afterwards?

3 A Afterwards, that money was just mainly spent on
4 bills.

5 Q No, not how you spent it, was it given back to you?

6 A Yes, it was -- the police officers asked me was it my
7 money and I said yes and they brung the money back.

8 Q Where did they bring the money back from?

9 A From what I'm told, it was from the woods where they
10 apprehended him.

11 Q And so -- excuse me, they gave you back that money?

12 A Yes, they did.

13 Q Now, Mr. Howard, you've been convicted of a drug
14 offense; is that correct?

15 A Yes, I have.

16 Q In 2005, or what year?

17 A In 2002, I was actually charged.

18 Q And how has your life changed since then?

19 A Since then, I was given probation, three years
20 probation. I completed that. And I've just left that
21 lifestyle alone. Truly stayed away from that because that
22 was just something I just don't want to get back into.
23 Then at the same time, I have a lot of little boys to look
24 after.

25 Q Speaking of little boys, how is Javon doing?

1 A He's doing pretty good. He's doing pretty good,
2 second grade now.

3 Q How was he doing that night after the police came in
4 and untied you?

5 A It took him a while. He's still -- it took him a
6 little while to recover. He's still not fully recovered
7 from that.

8 Q All right. Now, I want to show you a couple of
9 things. First of all, I'm going to show you what's been
10 marked State's Exhibit No. 11. Have you ever seen this
11 before?

12 A Yes, I have.

13 Q When did you see it?

14 A I seen that the night of June 12th when this guy was
15 in the house.

16 Q All right.

17 BY MR. WEBB:

18 Q Mr. Howard, I want to show you what's been marked
19 State's Exhibit No. 2 and No. 3.

20 A All right.

21 Q Please tell me what those pictures are?

22 A This is a picture of 125 Turentine where I stayed,
23 where this incident occurred. And this is picture of my
24 arm from the handcuffs that were placed on me that night.

25 Q All right. Now, tell me about your injuries from the

1 tasing. How did that feel afterwards?

2 A Afterwards, I had burns all over my body from the
3 tasing and they were everywhere. I was just really sore
4 from that.

5 Q Have you healed since?

6 A Yes, from the tasing, yes.

7 MR. WEBB: Your Honor, the State moves Exhibit No. 2
8 and 3 into evidence.

9 MR. CHAMBERS: No objection, Your Honor.

10 MR. WEBB: All right. Without objection.

11 (WHEREUPON, State's Exhibit Nos. 2 and 3 were
12 admitted into evidence.)

13 MR. WEBB: Permission to publish, Judge?

14 THE COURT: Yes, sir.

15 MR. WEBB: No further questions, Your Honor.

16 THE COURT: Cross?

17 CROSS-EXAMINATION

18 BY MR. CHAMBERS:

19 Q All right, Mr. Howard, you said that you and your
20 boys were going into the house when this person
21 approached, correct?

22 A Correct.

23 Q Were you already in the house?

24 A Yes.

25 Q And you were on your cell phone?

1 A Yes, I was.

2 Q And how long had you been talking on your cell phone
3 at that point?

4 A I was talking to Mike Thompson right when I left my
5 mother's house and it's only 10 minutes away or so.

6 Q So you started talking to Mike Thompson on the cell
7 phone when you left your mom's house and just continued
8 that conversation as you arrived home?

9 A Correct.

10 Q And as you walked up onto your porch and into your
11 house, you're continuing to talk to him?

12 A Correct.

13 Q So you're holding it up to your ear?

14 A I was holding the phone when I was entering the door.
15 When I was entering with the key, I had the phone on my
16 shoulder turning it just like that.

17 Q But at no point was it ever away from your ear and it
18 was clearly visible; is that correct?

19 A Was it clearly visible?

20 Q Well, yeah, if I was looking at you doing whatever
21 you were doing, I'd see that you had a cell phone, right?

22 A Yes.

23 Q Okay. And you said at that point, you heard your son
24 yell and you turned around and you saw the person who was
25 wearing this paintball mask?

- 1 A Correct.
- 2 Q That covered their entire face?
- 3 A Yes.
- 4 Q You could not see the face?
- 5 A I saw the mask.
- 6 Q And you said that this person was also, as you
- 7 described it, wearing a police uniform; is that correct?
- 8 A I saw police on his shirt.
- 9 Q So you saw what kind of a shirt?
- 10 A I'm not sure what kind of shirt. I saw yellow police
- 11 stuff.
- 12 Q So you saw yellow police?
- 13 A Uh-huh.
- 14 Q Did you see anything else?
- 15 A No, the paint mask, saw him coming towards me.
- 16 Q Well, on his shirt, I mean, was it a T-shirt, was it
- 17 a collared shirt?
- 18 A I'm not sure. I just remember the letters police.
- 19 Q Okay. You didn't see a vest, a bullet proof vest?
- 20 A No, I didn't.
- 21 Q Did you see a gold badge?
- 22 A No, I didn't.
- 23 Q And when this person approached, you got a good look
- 24 at him as they approached, correct?
- 25 A I got a good look enough to see that mask and the

1 police.

2 Q And he had a good look at you as he approached,
3 right?

4 A I would say that, that would be up to his -- you got
5 to ask him that question.

6 Q Was there a light on?

7 A Yes, I turned the light on as I entered the house.

8 Q So as you're standing there in the house, there's a
9 light and you're standing there with your cell phone at
10 your ear and your shoulder, you were clearly visible,
11 right?

12 A Clearly visible to whom?

13 Q To the person with the mask and the gun?

14 MR. WEBB: Judge, I think that's speculation.

15 THE COURT: Well, he can ask him. That's all right.
16 go ahead.

17 THE WITNESS: Okay. So I want you to ask me that
18 again because I'm not really sure what you're asking.

19 BY MR. CHAMBERS:

20 Q All right. Let me ask you this way, Mr. Howard,
21 because I want to make sure I've got it correct. You had
22 stepped into your house and you have turned on the light,
23 correct?

24 A Correct.

25 Q So the interior light is on?

1 A Yes.

2 Q And you're standing there and as you hear, Daddy.
3 You turn and look, so you're now facing out the door?

4 A Correct.

5 Q And we're already established that you had your cell
6 phone and you were holding that up, right?

7 A That's when I was turning the key entering into the
8 door. Once I got in the door, I held it with my hand.

9 Q And you're holding it up to your ear?

10 A Right.

11 Q Because your continuing to talk to Mike Thompson?

12 A Right.

13 Q So as you turn and you're standing in the light,
14 you're talking on your cell phone?

15 A As I turned, I wasn't talking anymore because --

16 Q But did you still have it up to your ear?

17 A That, I'm not sure. I still had it in my hand.

18 Q So you're still -- so, logically, would it be safe to
19 say that a person approaching and you're standing in the
20 light would have a clear view of you, where you were?

21 A Yes.

22 Q Okay. And this person, you said you didn't see a
23 gold badge?

24 A Correct.

25 Q You didn't see a bullet proof vest?

- 1 A Correct.
- 2 Q But you did see a blue shirt of some sort that said
- 3 police across the front?
- 4 A Yes.
- 5 Q And when you gave your statement to the police, you
- 6 said that the person pointed a shotgun at me?
- 7 A Correct.
- 8 Q Now, you know what a shotgun is, right?
- 9 A I surely do.
- 10 Q A shotgun is a weapon that you hold with both hands
- 11 and you hold it up like that; is that right?
- 12 A Right.
- 13 Q And that's clearly what you told the police?
- 14 A Correct.
- 15 Q That was right after this happened, right?
- 16 A Right.
- 17 Q In fact, they wrote the statement down, had you
- 18 review it and sign it, correct?
- 19 A Correct.
- 20 Q All right. But, in fact, what you're saying now
- 21 is -- you're saying now this person didn't have a shotgun,
- 22 that this is what the person pointed at you.
- 23 A What I was saying, due to all that I went through,
- 24 all I really could see was the inside of the barrel and so
- 25 at the time that I did make that statement, I wasn't --

1 you know, I wasn't so sure whether it was the shotgun.

2 All I know I could see was the inside of the barrel.

3 Q Well, that's what you're saying now, but that's not
4 what you said when you gave the statement, right?

5 A Yes, that's what I'm saying now.

6 Q If I heard you correctly, you said that this person,
7 when they pointed the shotgun at you was two to three feet
8 away from you, correct?

9 A Correct.

10 Q And so enough of a distance back that you would have
11 seen what kind of gun they had?

12 A (The witness shook his head.)

13 Q Well, let me ask you this, if you were so shaken up
14 and so unsure about what kind of gun it was, at the time
15 you gave this statement, couldn't you have said, you know,
16 I'm telling you, man, I was shaken up, I have no idea what
17 kind of gun he was pointing at me?

18 A I surely could have said that.

19 Q But you didn't say that, did you?

20 A No, I didn't.

21 Q And you could have said I think it was a shotgun, but
22 I'm not sure it was a shotgun. You could have said that,
23 right?

24 A Yes, I could have.

25 Q But what you said was, correct me if I'm wrong, I

1 turned around and a shotgun was pointed at me and he had a
2 mask on?

3 A Right.

4 Q All right. Now, in addition to the gun, which at the
5 time you said it was a shotgun, what else did this person
6 have in his possession?

7 A I just remember the gun.

8 Q Okay.

9 A And the mask.

10 Q Did you see him carrying any kind of a bag?

11 A No, I didn't.

12 Q Was he wearing gloves?

13 A I don't remember that.

14 Q You don't remember or he wasn't wearing gloves?

15 A I don't remember that.

16 Q Once you got inside, did he immediately have you get
17 down on the ground?

18 A Yes.

19 Q And had you put your head down?

20 A Yes.

21 Q How soon after that was it this person taped your
22 eyes?

23 A How soon after that?

24 Q Yeah.

25 A Once he told me to get down, he handcuffed me and

1 then he went over to my son and duct taped him.

2 Q Once you got down on the ground, were you able to get
3 a better look at this person?

4 A Yes, once I looked up at him, he threatened to kill
5 me if I looked at him again.

6 Q But you were never able to see the person's face,
7 correct?

8 A No, I saw the mask and a face behind the mask.

9 Q So you couldn't identify who the person was who was
10 in there because you didn't see their face?

11 A No.

12 Q All right. And you said this person was asking you
13 where the money is. Did it at all surprise you that they
14 were asking you about money?

15 A Did it surprise me?

16 Q Yeah.

17 A The whole incident was a surprise.

18 Q I understand that, but, specifically, asking you
19 about money? Do you have any reason to believe anybody
20 would think you would have money?

21 A Do I have any reason to think?

22 Q Yeah.

23 A I can't think for other people, so I don't know what
24 they would think. I can only think for me.

25 Q Are you a drug dealer?

1 A No, I'm not.

2 Q So your testimony is that you're not dealing drugs

3 out of that house there at Turentine?

4 A No, not at all.

5 Q And you don't believe anybody would think that you

6 were dealing drugs out of that house there on Turentine?

7 A I don't know what anyone would believe, that's their

8 belief, I wouldn't have anything to do with what they

9 believe.

10 Q So this person, whoever it was, asked you where the

11 money is and you told him it's up in the attic?

12 A Correct.

13 Q And that's where you had this \$23,000 in cash that

14 you said you had been saving?

15 A That's right.

16 Q Just out of curiosity, why wouldn't you have that in

17 a bank where it could draw interest or you could put it in

18 a CD and draw interest or something along those lines?

19 A Well, I have my own reason and I just didn't take it

20 to the bank.

21 Q Well, could you share that reason with us?

22 A I just don't trust the bank, so I kept my own money.

23 Q And you had it inside a plastic Luvs wipes container;

24 is that correct?

25 A That's right.

1 Q Didn't have it in a safe or anything like?

2 A No.

3 Q Didn't have it in a burn-proof box?

4 A No.

5 Q Had it in a Luvs wipes container; is that right?

6 A That's correct.

7 Q Okay. So when he asked you about the money, you just
8 immediately said it's up in the attic?

9 A No.

10 Q Okay. When did you tell him it was up the attic?

11 A When I was talking to my lawyer a moment ago, I told
12 you when he started -- he was trying to duct tape my
13 five-year-old and that's when I said, look here, man, I'm
14 going to tell you where it's at and you can just get on
15 out of here.

16 Q Now, this attic, is it the kind that you have to
17 lower like a ladder down and climb up in it?

18 A Yes, pretty much.

19 Q Did you tell him specifically where he could find
20 this Luvs container once he got up here?

21 A I surely did.

22 Q You did or did not?

23 A I did.

24 Q And so after he got that, he wanted to know where the
25 real money was, this person, correct?

1 A That's what he kept asking.

2 Q All right. Now, you said that when he was in the
3 attic, you could hear well enough to hear that he called
4 somebody on the telephone?

5 A No, you said that, I didn't say when he was in the
6 attic. He called someone when he was right there beside
7 me.

8 Q Oh, okay. Was that before he went in the attic or
9 after?

10 A That's after he came out the attic.

11 Q Okay. What did you hear of that conversation?

12 A I heard him tell someone that this guy's only got
13 20,000 -- I think he said 20,000 and then -- the
14 conversation didn't last long and then he got off the
15 phone and commenced to tasing me again and asked me where
16 was the real money.

17 Q And when you gave your statement, did you say
18 anything to the police about this telephone call?

19 A Yes, I did.

20 Q I'm going to hand you your statement. First of all,
21 I want you to identify it and tell me if that is, in fact,
22 your statement.

23 A This is my statement.

24 Q Okay. Show me in there where you talked about the
25 phone call?

1 A I didn't write a statement. I asked the police to
2 find a cell phone that he called someone from because
3 that's who was involved. I was telling them to find it.
4 I never said I wrote it down in the statement.

5 Q So you didn't include that in your statement?

6 A No, I didn't.

7 Q All right. But you do say that you later asked the
8 police about a cell phone?

9 A Correct.

10 Q Did they tell you they had found a cell phone?

11 A Yes, they recovered a phone.

12 Q Did you ask the police who the last person that was
13 called on the cell phone was?

14 A I did.

15 Q What did the police officer say to you?

16 A The police officer asked me did I know someone by the
17 name of Duke.

18 Q Duke? And what did you tell them?

19 A I told them yes, that's his first cousin.

20 Q Well, that's not what you said then, though, is it?
21 You didn't say anything about him being his first cousin?

22 A At the moment, I didn't know who he was until I heard
23 his name the next day.

24 Q You, in fact -- and correct me again if I'm wrong,
25 didn't you tell the police that I've known Duke most of my

1 life. He lives in Taylors?

2 A Duke?

3 Q Yeah.

4 A I don't remember telling the police that. Do you
5 have that in the statement?

6 Q Well, I'm asking you if you said it?

7 A No.

8 Q You did not say it? Did you know Duke?

9 A Yes, I do know Duke.

10 Q Did you tell the police that, in fact, Duke was a
11 fellow named Andrell Terry?

12 A Yes, I did.

13 Q And how is it that you know Duke?

14 MR. WEBB: Your Honor, I'm going to object. This is
15 going into matters that aren't relevant in this case.

16 MR. CHAMBERS: I believe it is relevant.

17 THE COURT: I'm going to overrule the objection.

18 Go ahead.

19 BY MR. CHAMBERS:

20 Q How is it that you know Duke?

21 A He grew up in Taylors with me.

22 Q You say grew up, what was the relationship?

23 A I knew of him.

24 Q You ever buy drugs from him?

25 A No.

1 Q You ever involved in selling drugs with him?

2 A I don't know him. I don't have that type -- never
3 had that type of relationship with him.

4 Q Once you identified who this person was, did the
5 police give you any indication that they were interested
6 in talking to him?

7 A No, they didn't.

8 Q Okay. Now, the cell phone, once you laid down on the
9 ground, what did you do with it?

10 A It was right there in front of me.

11 Q Did the person that came in the house ever try to
12 take the cell phone from you, kick the cell phone away,
13 turn the cell phone off?

14 A No, they didn't.

15 Q In your statement, didn't you tell this person that
16 the police are coming?

17 A Yes, I did.

18 Q And how is it that you knew the police were coming?

19 A How is it that I knew?

20 Q Yes.

21 A I was saying that because I wanted him to leave. I
22 wanted to scare him so that he wouldn't be there.

23 Q And after they got Mr. Brown in the woods and brought
24 him back around on the front porch, you had an opportunity
25 to see him on front porch then, correct?

1 A Yes, I did.

2 Q Did you tell the police officers at that time that
3 you had never seen that person in your life?

4 A Yes. I told them I don't know who that guy was.

5 Q You said you'd never seen him in your life, correct?

6 A I said I've never seen this guy before.

7 Q Okay. And when they brought him around there, he
8 wasn't wearing a police uniform, was he?

9 A Not to my recollection.

10 MR. CHAMBERS: Okay. That's all the question I have
11 for you, Mr. Howard, thank you.

12 THE COURT: Any redirect?

13 MR. WEBB: No, sir.

14 THE COURT: All right, sir, you can step down.

15 THE WITNESS: Thank you.

16 THE COURT: All right. Ladies and gentlemen, why
17 don't we -- we've been here for about an hour and a half.
18 Let's take a short break, about 10 or 15 minutes and get
19 right back to it. Please don't talk about the case.

20 (WHEREUPON, the jury came left open court at
21 approximately 3:40 p.m.)

22 THE COURT: Let's be at ease.

23 (WHEREUPON, a short break was taken.)

24 THE COURT: What else you got, Mr. Webb?

25 MR. WEBB: Well, we have a few witnesses still left,

1 Judge. We have Michael Thompson coming up next, his
2 friend on the telephone. So I just want to make sure that
3 everyone is on the same page for that, for the unredacted
4 CD they want to put in evidence.

5 THE COURT: You have a CD of that phone call?

6 MR. WEBB: Yes.

7 THE COURT: Of Michael Thompson's phone call?

8 MR. WEBB: Yes, sir.

9 THE COURT: I thought he was on the phone with the
10 Defendant?

11 MR. WEBB: He called 911 from another phone.

12 THE COURT: All right. Okay. Let's go.

13 MR. WEBB: And at one point he's holding one phone to
14 the other so they can listen to what's going on.

15 THE COURT: Who says we're not technologically
16 advanced?

17 MR. WEBB: Your Honor, the tape is about 30 minutes
18 long, so I don't know if you want to -- what you want to
19 do after that?

20 THE COURT: Well, tell me how you going to -- you
21 know, what's your --

22 MR. WEBB: We can break after that. Then it's law
23 enforcement, so it would be a logical break after that,
24 but.

25 THE COURT: So how long will this witness take? Have

1 you got a long examination?

2 MR. CHAMBERS: Depends on what he says, Your Honor.

3 MR. WEBB: It shouldn't be any more than half an
4 hour, Judge.

5 THE COURT: All right. Let's crank them up, crank
6 them up.

7 (WHEREUPON, the jury came into open court at
8 approximately 4:15 p.m.)

9 THE COURT: All right. Y'all ready?
10 Okay, Mr. Webb.

11 MR. WEBB: The State calls Mr. Thompson to the stand.

12 THE COURT: All right.

13 Mr. Thompson, if would come around and be sworn.

14 THE CLERK: Place your left hand on the Bible, raise
15 your right.

16 MICHAEL THOMPSON, after being duly sworn,
17 testified as follows:

18 THE CLERK: Thank you, you may be seated. Please
19 state your full name for the record.

20 THE WITNESS: Excuse me?

21 THE CLERK: Please state your full name for the
22 record.

23 THE WITNESS: Michael Dwayne Thompson.

24 ///

25 ///

DIRECT EXAMINATION

BY MR. WEBB:

Q Mr. Thompson, how long have you known George Howard?

A Probably about 14 years, since I was in the fourth grade.

Q Were you in school together?

A Went to middle school and high school together.

Q Which high school did you go to?

A Riverside High School.

Q How well do you know him?

A Know him very well, we been friends for a long time.

Q Were you talking to him the night -- the morning of June 12th, 2007?

A Yes, sir, yes, I was.

Q And approximately what time were you talking to him?

A If I remember, it was a little bit after midnight.

Q And tell me how long did you talk to him?

A It was probably about five to ten minutes.

Q What were you talking to him about?

A Just called him up to say, you know, how you doing, heading home from my mom's house. Basically, that's about it.

Q Did anything out of the ordinary occur that night?

A Well, when I was talking to him, I remember him getting ready to walk into the house. The phone dropped,

1 I heard get down. And once I heard get down, I had
2 another cell phone in my house and I was like oh,
3 something wrong. I grabbed my other cell phone and
4 started dialing 911.

5 Q Did you get 911?

6 A Yes, I did.

7 Q And tell me what else did you hear, I guess, while
8 you were listening to your cell phone?

9 A Well, I got one cell phone in my ear listening to
10 what's going on in the house and dialing 911 on the other
11 and I can just hear get down, where's the money. I can
12 hear my friend saying, you know, don't have anything here.
13 And, basically, from there, I can just hear a conversation
14 going on about where's money. And I just knew at that
15 point he was getting robbed.

16 Q Where were you talking, you were across town?

17 A I was across town at my house, which was probably
18 about seven minutes away from where he lived.

19 Q So you were at your house?

20 A Correct.

21 Q Anyone with you at that time?

22 A My children.

23 Q Okay. And did you hear anything else during that
24 time that you were calling 911? I assume -- you said you
25 had the phones together?

1 A Yeah, I had -- my phone that I called him on, I still
2 had that. I had the 911 lady on. Basically, once I got
3 her, she was asking me what's the address and I'm trying
4 to explain to her the address and I'm still listening.
5 And I'm telling her, hey, try to get someone here, my
6 friend's getting robbed. He has his -- I thought, at the
7 time, one of his sons, I didn't know he had both, but hey,
8 he's getting robbed, try to get someone over there. And
9 she would say, you know, get the information. I could
10 hear her still talking to dispatch that she would be like,
11 you know, put the cell phone that you have called me on up
12 against the other phone. So --

13 Q Could you hear any voices or other sounds?

14 A Oh, yeah, I heard, like I said again, where's the
15 money. I heard screaming. I heard, you know, probably
16 within 10 to 15 minutes duct tape being pulled off. I
17 heard a lot of things.

18 Q Okay. I'm going to show you what's been marked
19 State's Exhibit No. 1, could you please tell me what this
20 is?

21 A This is basically the CD recording of the 911 call
22 that night.

23 Q Have you listened to it?

24 A Yes.

25 Q Did you sign the CD?

1 A Yes, I did, that's my signature.

2 Q Is this a fair and accurate representation of what
3 occurred that night, what you listened to?

4 A A 100 percent.

5 MR. WEBB: Your Honor, the State moves Exhibit No. 1
6 into evidence.

7 MR. CHAMBERS: No objection, Your Honor.

8 THE COURT: Okay.

9 MR. WEBB: Permission to publish, Judge?

10 THE COURT: Please.

11 (WHEREUPON, State's Exhibit No. 1 was admitted
12 into evidence.)

13 BY MR. WEBB:

14 Q Do you know approximately how long this 911 tape is?

15 A I think it was about 20 minutes.

16 Q Okay.

17 (WHEREUPON, State's Exhibit No. 1 was played for
18 the jury.)

19 MR. WEBB: Judge, I have no more questions.

20 THE COURT: All right.

21 Cross?

22 CROSS-EXAMINATION

23 BY MR. CHAMBERS:

24 Q All right. Mr. Thompson, you said that you have
25 known George Howard for 14 years; is that right?

1 A Yeah.

2 Q And are you aware of him being a drug dealer?

3 A No.

4 MR. WEBB: Objection, Your Honor.

5 THE COURT: Sustained.

6 BY MR. CHAMBERS:

7 Q Are you aware of him keeping large amounts of cash in
8 his home?

9 A No.

10 Q You didn't know anything about him keeping money up
11 in his attic?

12 A No.

13 Q You, on that tape, were very concerned about the back
14 door, said that the door didn't work. How is it that the
15 door didn't work?

16 MR. WEBB: Objection, Your Honor.

17 THE COURT: He can answer it if he knows.

18 THE WITNESS: How the door didn't work?

19 BY MR. CHAMBERS:

20 Q Yeah.

21 A I just know it had been broken, broken into.

22 Q But you said several times on the tape that the door
23 was broken. What did you mean when you said that?

24 A Like I said, it had been broken into?

25 Q Well, that's different than saying it was broken.

1 Are you aware of it not functioning, not working
2 correctly?

3 A Like I said, I just know the door been broken into.

4 Q How do you know about it being broken into?

5 A From previous break-ins.

6 Q How many times had it been broken into?

7 A Like on the tape, maybe two or three times.

8 Q Okay. Were you present during any of those break-ins
9 or you heard about them after the fact?

10 A I wasn't present, just heard about them after the
11 fact.

12 Q Did Mr. Howard report those to the police?

13 MR. WEBB: Objection, Your Honor, this is going out
14 of the scope of this case.

15 THE COURT: Well, I'll let him ask his question.

16 THE WITNESS: I don't know.

17 BY MR. CHAMBERS:

18 Q You don't know? You said at some point on the tape
19 that -- you're talking about that door not working, you
20 said it had been broken into before. You said these are
21 the same guys that broke in before. Do you recall saying
22 that?

23 A Yeah, that's what I said on the tape.

24 Q Why did you say it was the same guys?

25 A Because I just assumed.

1 Q So have you talked to Mr. Howard about prior
2 break-ins and the people that had done it and what he did
3 or anything in response to that?

4 A (There was no response.)

5 MR. WEBB: Judge, I think this goes to hearsay.

6 THE COURT: Well, he hasn't asked what he said, he
7 asked if he had talked to him about it. So there's a
8 little distinction there.

9 THE WITNESS: I mean, being friends, you always
10 mentioned hey, my house been broken into. About who, we
11 never discussed who done it.

12 BY MR. CHAMBERS:

13 Q So you had been talking to George for some time
14 before he got to his home?

15 A Yeah, I called him right -- I mean, we wasn't even on
16 the phone no more than ten minutes. We always call each
17 other.

18 Q When did you first realize that there was a problem,
19 that there was something wrong?

20 A As soon as the phone drop and I heard get down.

21 Q So you heard the phone drop?

22 A Uh-huh.

23 Q How would you describe that when the phone dropped?

24 A I mean, basically, it just like (indicated) and I
25 heard get down on the ground.

1 Q So you're saying you felt like the phone dropped to
2 the floor, like some distance?

3 A No, not like the phone was thrown or anything. It's
4 just -- I mean, you know, cell phones always pick up the
5 surroundings, so it's like (indicated) and I heard get
6 down on the ground. And that's when I immediately grabbed
7 my other cell phone.

8 Q And you said that you called 911 after that, how
9 quickly after you heard the phone drop and knew something
10 was going on did you call 911?

11 A As soon as I heard get down. Once I heard get down,
12 I grabbed my other phone and started dialing 911.

13 Q So you had more than one cell phone?

14 A Yes, sir.

15 Q Where was this other cell phone?

16 A Right beside my bed.

17 Q Why is it that you have more than one cell phone?

18 A Because at the time, I was investing in a real estate
19 company called Kingdom Living Properties Group and I used
20 one phone for my personal, one phone for business.

21 Q And there was a discussion between you and the
22 operator, several times she asked you how many voices you
23 could hear and you indicated a couple of different times
24 that you heard at least two distinct voices; is that
25 correct?

1 A That's what I said on the tape.

2 Q So -- but is that what you heard, that there were at
3 least two distinct voices?

4 A I mean, the only thing I can tell you is everything
5 was happening so fast and to make a distinction to say
6 okay, this voice from that voice -- I said what I said out
7 of the heat of the moment, but to say if I said I heard
8 three or four, right now, I can't say that I did.

9 Q But at the time that this was going on live and you
10 were giving play by play to the operator, you responded
11 several times that you heard at least two distinct voices,
12 correct?

13 A That's what I said on the tape.

14 Q Okay. And numerous times throughout that tape, you
15 used the term they, do you recall that? Talking about the
16 people that perpetrating the crime.

17 A Well, the only reason I used they is because in my
18 mind and this is just my own assumption, I didn't think
19 one person would be able to do this.

20 Q Really thought that was a task that would be hard for
21 one person to accomplish?

22 A That's what I was thinking at that time.

23 Q I understand. In fact, at one point, do you recall
24 saying, Don't want these guys to escape, they been robbing
25 my friend? Do you remember that?

1 A Yeah, I remember distinctly.

2 Q And do you recall at one point -- did the operator
3 say to you because I wasn't real clear on it, do you
4 recall her saying to you that they had surveillance and
5 they saw three separate guys in the house?

6 A I think that's what she said. She said they saw
7 three people.

8 Q Then later on, told you they had one in custody and
9 they were in pursuit of another; is that correct?

10 A I believe that's what the tape said.

11 MR. CHAMBERS: All right. That's all the questions I
12 have for you, Mr. Thompson. Thank you.

13 THE COURT: Mr. Webb, anything?

14 MR. WEBB: Nothing else, Judge.

15 THE COURT: All right. Thank you, sir. You can step
16 down.

17 MR. WEBB: Judge, I ask Mr. Thompson be excused.

18 MR. CHAMBERS: No objection, Your Honor.

19 THE COURT: Okay. He's released from the subpoena.

20 All right. Ladies and gentlemen, Madam Forelady, no
21 chance we'll finish the case today, obviously. So this
22 looks like a good time to break. I want to caution you
23 again about not talking to anybody about the case. And
24 I've talked a little bit about human nature and about
25 habits I was talking about, you know, fading out and not

1 paying attention, but we also know human nature -- or my
2 human nature, I would want to talk about this. I would
3 want to go home or go wherever I was going to see friends
4 and I'd want to go hey, I'm in this case. This has really
5 got me interested and this is what's happening and then
6 they would respond. And we know that's what everyone's
7 inclination would, you'd want to talk about it. Well, I
8 caution you not to do that.

9 If you do it, as I explained to you before, it would
10 be unfair to these parties for someone outside the
11 courtroom to have any input of any kind into this case.
12 It would be unfair to your fellow jurors for that to
13 happen and it would be unfair to yourselves. So don't
14 talk about the case and don't go online and do research or
15 anything like that. When the case is over, you can talk
16 about it, but not now.

17 Y'all have a pleasant evening and I'll see you back
18 at 9:30 in jury room. Okay. Thank you, very much.

19 (WHEREUPON, the jury left open court at
20 approximately 5:00 p.m.)

21 THE COURT: All right. Anything further before we
22 break?

23 MR. WEBB: Nothing from the State, Your Honor.

24 MR. CHAMBERS: Nothing from the Defense, Your Honor.

25 THE COURT: Mr. Brown, I offer you the opportunity to

1 wear your street clothes tomorrow if you want to. You
2 just make up your mind about that. I believe that you may
3 be discovering that Mr. Chambers is a pretty good lawyer.

4 All right, see y'all in the morning.

5 (WHEREUPON, the proceedings were concluded for
6 the day to be reconvened on April 15, 2009.)
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Wednesday, April 15, 2009

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THE COURT: Anything before we get started?

MR. WEBB: Just a couple things, Judge. One being Jarecus Howard is at school today. Now, George Howard can go back and get him if we need him, but he's missed a couple days of school, so he's at school today if we need him. I don't know if Mr. Chambers has any objection to that.

MR. CHAMBERS: I don't have any objection to that.

MR. WEBB: Okay, just wanted to make sure.

THE COURT: Did y'all have him under subpoena, Mr. Chambers?

MR. CHAMBERS: No, Your Honor.

THE COURT: Okay. He's your witness.

MR. WEBB: Okay. I just wanted to make sure. Hal Harris is going to be testifying later on today. He is the one that's over Cash, the K-9. He has a beeper that goes off -- the dog is in the car right now down outside. He has a beeper that goes off if something happens with Cash. I don't know how it works. I don't know if he presses a button, I don't know. But if it's okay with you, is it okay if he has that beeper on while he testifies?

THE COURT: No.

MR. WEBB: Okay. Another thing, Judge, is for

1 assault and battery of a high and aggravated nature, I ask
2 the Court to take judicial notice that the burglary, armed
3 robbery and kidnapping are thefts and felonies for the
4 purposes of ABHAN for the aggravator.

5 THE COURT: Well, now is not the appropriate time for
6 that. We'll deal with that when the -- I mean, you want
7 me to take judicial notice of what the law is? He hasn't
8 been convicted of anything.

9 MR. WEBB: I agree with that, Judge. Just for proof
10 in front of the jury, I'm just making sure --

11 THE COURT: Well, I mean, the testimony I've heard so
12 far, I don't know why you even need that. I'm not sure --
13 I'm just not following your train of thought here.

14 MR. WEBB: If I'm arguing in closing that an
15 aggravator is that he was committing a felony while he was
16 committing this assault and battery, I don't know any
17 other way for me to prove that kidnapping, armed robbery
18 or burglary that is a felony --

19 THE COURT: Well, you can argue -- when you get up
20 there, you can argue that and if I need to -- if you want
21 to request that be a jury charge, I mean, that's the
22 appropriate way to do it.

23 Now, anything else?

24 You got anything?

25 MR. CHAMBERS: No, Your Honor.

1 THE COURT: All right. You ready to go?

2 (WHEREUPON, the jury came into open court at
3 approximately 10:00 a.m.)

4 THE COURT: I hope y'all had a pleasant evening and
5 we are ready to resume testimony in the case.

6 MR. WEBB: Your Honor, the State calls Dan Accord to
7 the stand.

8 THE CLERK: Please come forward, place your left hand
9 on the Bible and raise your right to be sworn.

10 DAN ACORD, after being duly sworn, testified as
11 follows:

12 THE CLERK: Thank you, you may be seated. Please
13 state your name for the record.

14 THE WITNESS: It's Master Deputy Dan Accord,
15 A-C-O-R-D.

16 DIRECT EXAMINATION

17 BY MR. WEBB:

18 Q Officer Acord, good morning.

19 A Morning.

20 Q Where do you work?

21 A I work for the Greenville County Sheriff's Office.

22 Q How long have you been there?

23 A Coming up on ten years.

24 Q What are your duties with the Greenville County
25 Sheriff's Office?

1 A I'm currently a master deputy in uniform patrol
2 division. We answer 911 calls and we also do regular
3 street patrol.

4 Q Were you working the morning of June 12th, 2007?

5 A Yes, sir, I was.

6 Q And did you respond to the victim's house in this
7 case, George Howard?

8 A Yes, sir, on 125 Turentine Circle.

9 Q Why did you do that?

10 A That was at the request of dispatch, they had
11 received a 911 call and myself and several other units
12 responded lights and sirens.

13 Q Is this residence within Greenville County?

14 A Yes, sir, it is.

15 Q What did you see when you got there?

16 A When I arrived, Deputy Bryan was already on the
17 scene. Once other units started arriving, we surrounded
18 the house and I took up a position in the back corner of
19 the house.

20 Q So you were the second officer to the scene?

21 A Yes, sir.

22 Q Do you remember how many other officers arrived?

23 A After I got there, no, sir, I don't. I know it was
24 quite a few, but I don't know the exact number.

25 Q All right. Officer Acord, I'm going to show you --

1 (WHEREUPON, State's Exhibit No. 14 was marked
2 for identification only.)

3 BY MR. WEBB:

4 Q I'm going to show you what's been marked State's
5 Exhibit No. 14. Can you tell me what this is?

6 A That's an aerial shot of the house on Turentine
7 Circle.

8 Q Okay.

9 MR. WEBB: Your Honor, the State moves State's
10 Exhibit 14 into evidence.

11 MR. CHAMBERS: No objection, Your Honor.

12 THE COURT: Okay.

13 (WHEREUPON, State's Exhibit No. 14 was admitted
14 into evidence.)

15 BY MR. WEBB:

16 Q All right. You said that you got to the scene and
17 you went where?

18 A If you're looking at the house to the back right
19 corner of the house, we call it the -- like the three four
20 corner is what we would refer to it as, but it's the back
21 right of the house.

22 Q Okay. I'm going to hand you a little sticky note
23 with your name on there, could you please step down and
24 put the sticky where you went?

25 A (The witness complies.)

1 Q Okay. And when you went to the back of the house,
2 what could you see?

3 A From the back of the house, I think you can see on
4 the picture, there's a little grayish square, that's like
5 a little patio, a concrete patio. Just next to the house
6 on that concrete patio, there was a pair of doors. And
7 the blinds to the doors came down, but they did not quite
8 cover the entire window that was on the door. They
9 stopped maybe six inches or so from the bottom of the
10 window.

11 Q Were you able to look into that window?

12 A Yes, I was. It was a little bit difficult, but I
13 could do it.

14 Q What did you see when you looked in?

15 A There was an individual laying on the floor of what
16 appeared to be the living room or den or whatever room
17 that was.

18 Q And laying on the floor, could you tell what they
19 were wearing or why they were on the floor?

20 A I don't remember what they were wearing, but they
21 were lying on the floor. They appeared to be bound.

22 Q Okay. Could you tell what they were bound with at
23 that time?

24 A Some type of tape.

25 Q Could you see anyone else?

1 A There was an individual that kept walking between the
2 back portion of the house. The part of the house that I
3 could not see, he came from the right side and would come
4 across at different occasions back to the person that was
5 laying on the floor.

6 Q And that person, could you tell what they were
7 wearing?

8 A From the angle I was, I couldn't see their face. I
9 could see they were wearing some type of -- it appeared to
10 be a police issued bullet proof type vest and he had a
11 shirt on, which appeared to have police written on it.

12 Q How many people did you see walking?

13 A There was only one person that I saw.

14 Q How many people did you see on the floor at that
15 time?

16 A That was one person on the floor.

17 Q Tell me what happened -- how long were you at that
18 back door looking in?

19 A It was several minutes. I was giving out radio
20 traffic to the other people that were helping with the
21 parameter on the house. Because he would move off and it
22 would appear that he was either going to come towards the
23 back door or go out the front door, so I would back and
24 advise everybody else that he possibly was coming out of
25 the house and for them to prepare.

1 Q And tell the Court what happened after those couple
2 of minutes of watching him?

3 A After a few minutes of watching him, he made, again,
4 another move that appeared that he was either coming
5 out -- going to go out the front door or go back down that
6 hallway or whatever was off to the right-hand side. I
7 backed up and was about to get on the radio to tell
8 everybody that he was coming out. I heard Master Deputy
9 Porter start challenging an individual to the front.

10 Q When you say coming out, you mean coming out the
11 front door?

12 A Right, he was just coming out. The way he was
13 moving, when he started to move, I was backing up because
14 I was right there next to the door. I didn't want him to
15 open the door and see me.

16 Q What did you say you heard?

17 A Master Deputy Porter was on the front corner of the
18 house and I heard him challenging the individual, telling
19 him to drop the gun and get on the ground.

20 Q And what did you do then?

21 A I started to move towards the front of the house.
22 And I didn't take more than maybe a step or two and an
23 individual came running from the opposite side of the
24 house wearing the same clothing that the individual was
25 that was inside the house, through the backyard and he was

1 still holding the gun.

2 Q You say the same individual, same clothing?

3 A Same clothing description, yes, sir.

4 Q If you don't mind, step down again for me. I want to

5 have you stand up here while you tell me what happened.

6 So you're here and you said he went out the front door.

7 And then where did you see him next?

8 A I lost sight of him, of course, when he was in the

9 house and I backed up. When I saw him again, he was

10 running at an angle this way through the backyard towards

11 this way right here and down to the bottom corner.

12 Q What did you do then?

13 A Pointed my shotgun at him, started challenging him,

14 telling him to drop his gun and get on the ground. He

15 completely ignored any of my commands and continued to run

16 and ran towards and into the woods.

17 Q Could you tell what he was wearing at that point?

18 A He had the same thing on, looked like a police issues

19 bullet proof vest, a shirt that had yellow lettering on it

20 and looked like it said police. He was carrying a pistol

21 and he also had some type of mask on, but I couldn't --

22 you know, it happened so fast, I couldn't tell if he had

23 like a regular ski mask or some other type of mask on.

24 Q And how was the lighting in the backyard, were there

25 any lights on; do you remember?

1 A I don't remember being very good. I had my
2 flashlight on and I put in on him and pointed it at him
3 along with the shotgun.

4 Q What did you the after you saw him running towards
5 the woods?

6 A I started to run towards him, but Detective Harris,
7 the canine officer, had released his dog. And once the
8 dog's on the ground running, we don't move because the
9 dog doesn't know the difference between us and the person
10 he's supposed to be going after, so I just held my ground
11 where I was until he entered the woods. And Deputy Harris
12 and Deputy Bryan went into the woods after him and I ran
13 down -- the angle he was going, I ran down to cut down the
14 power line right there to maybe head him off.

15 Q Show them that little area where you went.

16 A I ran from here. I started to run straight and
17 stopped about right in here somewhere and then I ran over
18 here to the power line right of way.

19 Q And where did you see the Defendant run into the
20 woods?

21 A Somewhere in here.

22 Q Tell me what happened after you ran around the side
23 of the woods.

24 A Once I got down here to the power line right where I
25 could hear both Deputy Bryan and Deputy Harris giving

1 commands to him for him to drop the gun, get on the
2 ground. I could hear the K-9 making his noises. I heard
3 a taser deploy. And I thought at that point that they
4 were either fighting the subject or they had him
5 contained. So I took my shotgun and I slung it over my
6 back to go into the woods. And as I turned to go into the
7 woods, I met that subject. He wasn't wearing a mask at
8 that point. I met him and he was trying to come
9 underneath a log.

10 Q Did you see anyone else around him or was he just by
11 himself?

12 A Just Deputy Bryan and Deputy Harris trying to make
13 their way through the bush. I think he was just as
14 shocked to see me as I was to see him because I thought he
15 was being detained at that time.

16 Q And you said at that point he didn't have a mask on?

17 A He did not have a mask on.

18 Q Was he still wearing everything else?

19 A He was still wearing everything else, yes, sir.

20 Q What happened then?

21 A He saw me, pushed back up underneath the log and the
22 K-9 was hanging off of him. He went back into the woods,
23 kind of ducked down at a backwards angle away from me into
24 the brush.

25 Q Then what did you do?

1 A I ran through the brush, got around that tree and by
2 that point, Deputy Harris and Deputy Bryan were on him in
3 the woods. They were fighting with him. I got in there
4 as well with that fight. He was --

5 Q How long did this struggle or fight ensue, last?

6 A It was a good long while, maybe a couple of minutes.
7 I mean, it was a long fight.

8 Q You mentioned earlier, he was running -- when you saw
9 him the first time, running into the woods from the
10 backyard and you said he had a gun?

11 A Yes, sir.

12 Q Could you still tell if he had a gun at this time?

13 A I couldn't tell if he still had the gun or not.

14 Q How was the lighting in the woods?

15 A Horrible. I mean, the only thing that was lighting
16 him up was our flashlights, and, of course, they were not
17 steady on him because of the fight that was going on.

18 Q And so you said this fight lasted a couple of
19 minutes. How did it end?

20 A We were finally able to get him into handcuffs. It
21 took a lot. The dog was biting him. Deputy Harris and
22 Deputy Brown were both fighting with him. I was fighting
23 with him. It got to the point where we had run through
24 our entire force continuum and we had very few options
25 left. I had to strike him in the head several times with

1 my flashlight, which had absolutely no effect on him
2 whatsoever. It actually made him fight worse. We were
3 able to finally get his hands -- one hand behind his back
4 and he took his other hand and he kept shoving it towards
5 his waistband like he was trying to go for something. We
6 weren't sure if he still had the gun or not. And I did a
7 couple of palm heel strikes to his shoulder blade and then
8 we were able to get his arm back behind him. And at that
9 point, Deputy Porter was there, too, so there were four
10 officers and a dog on top of him and he still was fighting
11 us.

12 Q On that aerial, can you tell in the near vicinity of
13 where he was captured, he was subdued? If it's off the
14 map, you can go ahead and --

15 A It might be off the map and I would say it would be
16 somewhere around in this area over here. I'm not a 100
17 percent sure.

18 Q You can have a seat back. If you could, tell me
19 where -- or what happened after that, after you arrested
20 the Defendant?

21 A After he was under arrest, I had to go -- come back
22 out the woods to recover my shotgun. It got hung up in
23 the bushes as I was coming through to try and engage him.
24 When I collected it back up, I was coming out of the woods
25 and I saw a pistol laying on the tree -- the fallen tree

1 where I had initially encountered him, there was a pistol
2 sitting on top of that tree.

3 Q Officer Acord, I'm going to show you what's been
4 marked as State's Exhibit Nos. 5 and 6, can you please
5 tell me what those pictures are of?

6 A This would be the pistol that was sitting on the
7 tree, the round that was in the chamber and also, the
8 magazine.

9 Q Is that how it looked that night?

10 A When I made the weapon safe, yes, sir.

11 MR. WEBB: Your Honor, at this time, State moves
12 Exhibit Nos. 5 and 6 into evidence.

13 MR. CHAMBERS: No objection.

14 THE COURT: Okay.

15 (WHEREUPON, State's Exhibit Nos. 5 and 6 were
16 admitted into evidence.)

17 BY MR. WEBB:

18 Q Did you find anything else there that night in that
19 area?

20 A Not in that area, no, sir.

21 Q What did you do after that, after you retrieved your
22 shotgun?

23 A I moved back to the front of the house. Deputy Bryan
24 and Deputy Harris were moving him to the front of house.
25 And I went with them because he was still rather -- just

1 due to the fight that we had, he was still rather
2 uncooperative and I moved him to the front of the house to
3 wait on EMS to treat his injuries.

4 Q Now, I want to kind of go back a couple of steps here
5 and show you what's been marked State's Exhibit No. 4.
6 Please tell me what this is.

7 A This is the back of the house with the part of the
8 door that I was looking through.

9 Q Okay.

10 MR. WEBB: Your Honor, the State moves Exhibit No. 4
11 into evidence.

12 MR. CHAMBERS: No objection, Your Honor.

13 (WHEREUPON, State's Exhibit No. 4 was admitted
14 into evidence.)

15 BY MR. WEBB:

16 Q All right. You said that the other deputies took
17 around to the front of the house; is that right?

18 A Yes, sir.

19 Q What did you do then?

20 A He was seated on the front stairs of the house while
21 we waited for EMS. And once there, I read him his Miranda
22 rights. We began to ask him a couple questions about his
23 injuries, his medical history when EMS got there, what his
24 name was and he didn't respond to any questions, he
25 wouldn't answer any questions.

1 Q At any point, did you Mirandize the Defendant?

2 A Yes, sir, I did.

3 Q Tell me what Miranda is?

4 A It's his legal warnings that gives him -- let's him
5 know that he has a right to an attorney and he doesn't
6 have to answer any questions.

7 Q And how do you normally read Miranda to individuals?

8 A I carry a card in my pocket.

9 Q Do you have that today?

10 A Yes, sir, I do.

11 Q Do you mind reading to the Court what you normally
12 read to individuals and what you read to the Defendant
13 that night?

14 A No, sir. It says you have the right to remain
15 silent. Anything you say can and will be used against you
16 in a court of law. You have the right to speak to an
17 attorney and to have an attorney present during any
18 questioning. If you cannot afford a lawyer, one will be
19 provided for you at government expense. Knowing and
20 understanding your rights as I have explained them to you,
21 are you willing to answer my questions without an attorney
22 present.

23 Q Thank you. Now, where was the Defendant taken after
24 he was treated at the front porch?

25 A Once he was treated by EMS, he was transported to the

1 emergency room.

2 MR. WEBB: Judge, permission to publish these
3 pictures?

4 THE COURT: Yeah.

5 BY MR. WEBB:

6 Q Now, you said a minute that the fight lasted about
7 two minutes. Can you tell me and describe in detail the
8 Defendant's actions during this fight?

9 A He seemed to make no -- that I remember, he made no
10 statements, no comments. When he was being bitten by the
11 dog, he made -- there was no facial expression to pain.
12 When I hit him in the head with the flashlight when we
13 were running out of options and we had been fighting for
14 quite a while, he didn't even flinch.

15 Q What about his physical actions?

16 A He was grabbing the K-9, pushing him in the face. I
17 think I remember grabbing towards his face a lot. I don't
18 remember what, specifically, he grabbed, but he was
19 hitting him in the face.

20 MR. WEBB: No more questions, Judge.

21 THE COURT: Okay.

22 CROSS-EXAMINATION

23 BY MR. CHAMBERS:

24 Q Were you the second officer on the scene?

25 A Yes, sir, I was.

1 Q And I think you said Bryan got there before you; is
2 that correct?

3 A Yes, sir.

4 Q And did you immediately take up the position in the
5 rear of the house?

6 A Yes, sir.

7 Q Why is that?

8 A Detective Bryan had the front covered and nobody was
9 on the back at that point, obviously, because he was the
10 only person there.

11 Q And so -- and I don't know if you can see it, if you
12 need to, you can get down, but where you put this red
13 sticker, that's you at the rear of the house; is that
14 correct?

15 A Yes, sir, it is.

16 Q Now, when did you move up to where you looked into
17 that little crack under the door?

18 A I could see -- from where I was standing right there,
19 I just had to take a step or two forward and lean down and
20 look, just kind of kneel down and look through the blinds
21 that were barely covering the window.

22 Q So were you in the yard or were you up on a porch or
23 a patio or what were you on up there?

24 A I don't remember stepping up onto the patio, I
25 remember standing on the grassy area there and looking in

1 through at an angle up through the blinds.

2 Q And that was the little crack that we see in what's
3 been marked as the prosecution's Exhibit No. 4 that's
4 being passed around; is that correct?

5 A Yes, sir.

6 Q Did you have to actually get down on the ground like
7 that and look?

8 A This is actually -- there's a little bit of a hill
9 right here. I didn't have to kneel down too much, but it
10 was enough to where I had to get almost on one knee, yes,
11 sir.

12 Q And I believe you said that you could not see above,
13 say, chest level, you couldn't see the head or anything;
14 is that correct?

15 A No, sir. I don't remember seeing probably maybe
16 chest or a little bit higher.

17 Q So if you had to make an identification of the person
18 that was inside that house, you couldn't do it?

19 A That's right, no, sir.

20 Q And do you know where Bryan was in front of the
21 house?

22 A I don't. Initially, when I got here, he was
23 somewhere in this area, but once I moved to the back and
24 other units got there, I know he moved because he ended up
25 back here with Deputy Harris.

1 Q When you saw this subject come running around the
2 house, was that the first time that you saw him?

3 A The first time I saw him was inside the house.
4 Outside the house, that was the first time.

5 Q Okay. Well, the person that came around the house,
6 you didn't see them outside the house anywhere until they
7 came around the house; is that correct?

8 A No, sir, the first time I saw him was right there.

9 Q So did this person come around this way and you saw
10 them when they got about right there?

11 A I would assume so.

12 Q Well, what did you observe, I mean, that's what I'm
13 driving at?

14 A When I saw him, he was right here and he was running
15 at an angle and then he came around the corner and he was
16 running that way.

17 Q So you're saying that he came around this side of the
18 house?

19 A Yes, sir.

20 Q He certainly didn't come around this way?

21 A No, sir, he did not.

22 Q So the first time you laid eyes on that person was
23 right here?

24 A Yes, sir.

25 Q You can have a seat. Did you hit him with your

1 flashlight?

2 A Yes, sir.

3 Q In other words, I don't mean physically hit him, but
4 did you shine the light on him?

5 A Yes, sir, I did.

6 Q And that's how you see this person?

7 A Yes, sir.

8 Q And you said that the person that you saw was wearing
9 a mask of some sort?

10 A Yes, sir.

11 Q And you said the person that you saw was wearing a
12 bullet resistant vest of some sort?

13 A Yes, sir.

14 Q And you said the person that you saw was wearing a
15 blue T-shirt which appeared to have police written on it?

16 A Yes, sir.

17 Q And I read that from your report and you say appeared
18 to have police written on it, did it say police or what do
19 you mean by appeared to say police on it?

20 A I could see a P on this side and what looked like an
21 E over here and the writing was somewhat above the vest.

22 Q So in other words, what you're saying is that the
23 vest was not under the shirt, it was over the shirt?

24 A Yes, sir.

25 Q And you thought that it said police because you're

1 saying now you could see a P and an E; is that right?

2 A Yes, sir.

3 Q Did you see any kind of a badge or anything on this
4 person?

5 A No, sir, I did not.

6 Q Was this person wearing any kind of a hat or a cap or
7 toboggan or anything like that?

8 A He was moving pretty good through the backyard, I
9 couldn't tell.

10 Q I understand. Was he wearing like blue uniform pants
11 or something like that?

12 A I couldn't tell.

13 Q But the person that you saw definitely had on a vest
14 and a T-shirt that, as you described it, in the rear of
15 the house?

16 A In the rear of the house when he was running?

17 Q As he came around the rear of the house, that's where
18 you saw him, right?

19 A Right.

20 Q So he was wearing those items?

21 A Yes, sir.

22 Q And your testimony today is that once you encountered
23 Mr. Brown here coming out of the woods, that, in fact, he
24 was still wearing a vest and that t-shirt?

25 A Yes, sir.

1 Q That's what you testified to today?

2 A Yes, sir.

3 Q All right. And you said that the Smith and Wesson
4 .40 caliber, which you identified as this gun, was found
5 resting on a tree?

6 A Yes, sir.

7 Q And there's a picture of it, correct?

8 A Yes, sir.

9 Q Now, that picture, when I looked at it, I just looked
10 at it kind of hurriedly, it looked like the chamber had
11 been opened?

12 A Yes, sir.

13 Q So had you, actually, before that picture had been
14 taken picked the pistol up off the tree and cleared it of
15 any ammunition, in other words, to make it safe?

16 A Yes, sir, I made it safe.

17 Q So you had taken it from the tree and then put it
18 back before that picture taken?

19 A Yes, sir, I did.

20 Q Did you attempt to put it back in exactly the same
21 spot where you had found it?

22 A I set it back up on the tree where it was, yes, sir.

23 Q So that pistol was actually just resting on that
24 tree?

25 A Yes, sir.

1 Q It wasn't in Mr. Brown's possession?

2 A No, sir. When I found it, no, sir, it was sitting on
3 the tree.

4 Q And once he was apprehended, did you do a thorough
5 pat down and search for any weapons or anything?

6 A I did not. I believe one of the other deputies did.

7 Q Were you present when that happened?

8 A I don't remember.

9 Q Do you remember anybody saying that they found any
10 weapons on him?

11 A No, sir, I do not.

12 Q Okay. So when you -- you kept making reference to
13 him reaching for his waistband, it would appear, based on
14 what you're telling me now, that he didn't have any kind
15 of a weapon or anything in his waistband?

16 A He didn't at the time of arrest because nobody -- I
17 don't believe so because nobody said so, but at the time
18 we were fighting him, nobody knew.

19 Q But there were never any shots fired, were there,
20 from the person that you were chasing down in the woods or
21 from Mr. Brown?

22 A No, sir, there were no shots fired.

23 Q Never fired any at this dog that was attacking him?

24 A No, sir.

25 Q Never fired at any of the officers or anything like

1 that?

2 A No, sir.

3 Q Okay. Any -- no evidence of any other weapons being
4 used in any manner against any police officer or the dog
5 or anything like that, correct?

6 A From the time I saw him until he was -- you know,
7 from the time that I was with him and saw him, I never saw
8 him use a weapon, no, sir.

9 Q And you said ~~that you found in his pocket a cell~~
10 phone; is that correct?

11 A Yes, sir.

12 Q You're the one that actually found it?

13 A Yes, sir.

14 Q And you checked it and the last outgoing call was
15 made to somebody named Duke?

16 A Yes, sir, I believe that's -- yes, sir, that's
17 correct.

18 Q And the number was (864)363-1897?

19 A Yes, sir.

20 Q Are you the one that actually walked Mr. Brown around
21 to the front porch?

22 A I believe I was with -- I don't remember holding onto
23 him, but I believe I was with them when they were walking
24 him to the front porch.

25 Q Your testimony is that when he was walked around to

1 the front porch that he was still wearing this bullet
2 proof vest and this blue T-shirt?

3 A I don't believe he was wearing the vest or the
4 T-shirt. I think the dog had torn those items off of him
5 or, at least, tethered it.

6 Q So at that point, he didn't have those on?

7 A I can't say for sure. I don't believe he had the
8 vest on, the T-shirt, I'm not a 100 percent sure.

9 Q Was he wearing a shirt at all?

10 A I don't remember, sir.

11 Q You don't remember what he was wearing?

12 A No, sir.

13 Q Okay. When you walked him around to the front porch,
14 was Mr. Howard there, the alleged victim in this case?

15 A I don't know where Mr. Howard was.

16 Q So you don't recall Mr. Howard being on the porch?

17 A No, sir, I don't.

18 Q You don't have any recollection of Mr. Howard looking
19 at Mr. Brown and saying that he had never seen him before?

20 A No, sir, I do not.

21 Q Okay. Did you have a discussion with Mr. Howard
22 about the cell phone and the number for this person, Duke?

23 A No, sir, I don't believe I did.

24 Q All right. Did you ever do any follow up yourself to
25 try to determine who Duke was or call this number or pass

1 that information along to anybody so they could follow up,
2 perhaps, find out something about Duke?

3 A I did not follow up on that, no, sir.

4 Q Did you do any kind of follow up investigation
5 yourself after the Defendant was taken to the hospital?

6 A No, sir, I did not.

7 Q So you were done with the case at that point?

8 A Correct, yes, sir.

9 Q Were you out there when the forensics folks, crime
10 scene investigation people came to the scene?

11 A No, sir. I believe they were on the way when I left
12 to go to the hospital.

13 Q You testified about some of the items that you found
14 out there at the scene; is that correct?

15 A Yes, sir.

16 Q So you're familiar with some of the things that were
17 found at the scene?

18 A Some of them, yes, sir.

19 Q Well, let me ask you this and see if you know
20 anything about it. You've already testified that you
21 found the .40 caliber Smith & Wesson, basically, it was
22 placed and resting on a fallen tree; is that correct?

23 A Yes, sir.

24 Q And are you familiar with a black left-hand glove
25 that was found in the wooded area behind the residence?

1 A No, sir, I'm not.

2 Q Were you familiar with an empty blue plastic bag that
3 said Finish Line on it that was found on the ground in the
4 wooded area behind the residence?

5 A No, sir.

6 Q Were you familiar with the \$23,000 in U. S. currency
7 that was found and, eventually, returned to the alleged
8 victim in this case?

9 A I saw some money, but I don't know the quantity of
10 it, no, sir.

11 Q Where did you see the money?

12 A It was towards the wood line, I'm not sure if it was
13 in the woods or in the grass in the backyard. I'm not a
14 100 percent sure where it was, but I do remember seeing
15 something.

16 Q Do you recall seeing a black, gray and orange McGuire
17 work wear bag containing a Gerber nylon pouch, holster,
18 magazine pouch and a pair of Wilson's black safety wear
19 gloves, do you remember seeing that?

20 A No, sir.

21 Q Do you remember seeing a black ball cap that was a
22 size 7 1/2 that was apparently found on the ground in the
23 wooded area behind the residence?

24 A No, sir.

25 Q Do you remember seeing a pair of eyeglasses that were

1 found in the wooded behind the residence?

2 A No, sir.

3 Q Do you remember if at any point Mr. Brown indicated
4 that he wore glasses, needed glasses or those were his
5 glasses?

6 A He made no comments or statements to me, no, sir.

7 Q Okay. Are you familiar with the black B-Force face
8 shield mask that was found in the wooded area behind the
9 residence?

10 A I remember seeing the mask later, but not at the
11 time, no, sir.

12 Q Are you familiar with a white Hanes T-shirt that was
13 cut with suspected blood on it, a navy blue T-shirt with
14 police printed on it in yellow that was cut and was found
15 on the ground in front of the residence?

16 A The police shirt sounds familiar, but not from where
17 it was, no, sir..

18 Q So you're not familiar with anything that was found
19 in front of the residence?

20 A Other than the shirt, I believe that was the shirt he
21 was wearing, but I don't remember if it was torn off in
22 the woods or --

23 Q Are you familiar with a black glove right hand that
24 was found on the ground in front of the residence?

25 A No, sir.

1 Q How about police body armor that was found on the
2 ground in front of the residence?

3 A No, sir.

4 Q Not familiar with those items. All right. This cell
5 phone that you recovered, where did you find that?

6 A It was in his pocket.

7 Q Okay. You said a few minutes ago that you didn't do
8 a pat down or a search for any weapons or anything, so how
9 did you locate a cell phone in his pocket?

10 A Not in the woods, no, sir, I didn't. I believe that
11 took place in the front of the house.

12 Q Okay. So when you went around the house, you did do
13 a pat down?

14 A In the front of the house, yes, sir.

15 Q All right. Other than that cell phone, did you find
16 anything on him?

17 A I believe there was a business card holder and some
18 type of small white bag.

19 Q Okay. But no weapons of any kind?

20 A No, sir.

21 Q Okay.

22 MR. CHAMBERS: Thanks a lot, Deputy, that's all the
23 questions I have for you.

24 MR. WEBB: Just a couple questions, Judge.

25 THE COURT: All right.

REDIRECT EXAMINATION

BY MR. WEBB:

Q Officer Acord, are you aware of whether or not any evidence was transferred from the wood line area to the front of the house?

A Sir, I don't remember. It was a very stressful, dynamic situation.

Q I want to clarify because I think you told Mr. Chambers that you didn't see the gun in the wood line until after he had been arrested; is that correct?

A Yes, sir.

Q But did you ever see the gun beforehand?

A Yes, sir.

Q Where was that gun?

A In his hand when he was inside the house, then also in his hand as he was running through the backyard.

MR. WEBB: No more questions, Judge.

THE COURT: All right.

Recross?

RECROSS-EXAMINATION

BY MR. CHAMBERS:

Q Now, you're saying this is the gun that you saw on whoever it was that was inside the house, correct?

A Correct.

Q Now, just based on what you saw inside the house, you

1 couldn't identify Mr. Brown as that person?

2 A No, sir, I could not.

3 Q All right. And you said that when whoever the person
4 was that came around the house, you're saying now that you
5 could identify from the distance that you were and with
6 the lighting that you had that that was the same pistol?

7 A It appeared to be the same pistol, yes, sir.

8 Q And yet, you said the lighting wasn't good enough to
9 tell whether that was the mask that he was wearing?

10 A I was too focused on the gun, sir.

11 Q Did see this person throwing down stuff as he was
12 running through the yard, were you able to see that?

13 A No, sir.

14 MR. CHAMBERS: Okay, thank you.

15 THE COURT: All right. Thank you, sir, you can step
16 down.

17 MR. WEBB: Your Honor, the State calls Chuck Porter
18 to the stand.

19 THE CLERK: All right. Mr. Porter, if you would come
20 around and place your left hand on the Bible, raise your
21 right hand.

22 CHUCK PORTER, after being duly sworn, testified
23 as follows:

24 THE CLERK: Thank you, you may be seated. State your
25 name for the record.

1 THE WITNESS: Chuck Porter.

2 THE CLERK: Thank you.

3 DIRECT EXAMINATION

4 BY MR. WEBB:

5 Q Officer Porter, where do you work?

6 A Greenville County Sheriff's Office.

7 Q How long have you worked there?

8 A This is my ninth year there and then two years with
9 the Greer Police Department prior to that.

10 Q So you were working there June 12th, 2007?

11 A Yes, sir.

12 Q Did you respond out to the victim's house that night?

13 A Yes, sir, I did.

14 Q And do you know if there were any other officers
15 there on scene when you responded there?

16 A Yes, sir, I was, I believe, the third to arrive.
17 Master Deputy Acord and Deputy Bryan were already on the
18 scene upon my arrival.

19 Q Where did you go once you got there?

20 A To the front of the house -- if you're looking at the
21 front of the house at 125, I went to the right side to the
22 adjacent driveway where there was a pickup truck parked.
23 I had received information that the suspect was still
24 inside the house and was armed, so I wanted to take
25 position to cover so I had appropriate cover.

1 Q Officer Porter, I'm going to hand you a little dot
2 here, if you could take a step down and put this dot with
3 your name on where you took cover.

4 A (The witness complies.)

5 Q So you were actually at sort of the other driveway of
6 the residence?

7 A Yes. This truck, it may have been moved over this
8 way a little bit more, if this is the same pickup truck,
9 which I believe it is, but I was here, so I had the engine
10 block to use.

11 Q You can have a seat back. So how long were you
12 behind the truck there that night waiting?

13 A I couldn't give you a time frame. It was kind of a
14 tense situation, so I wasn't really keeping track of time
15 to be honest with you.

16 Q Is this residence within Greenville County?

17 A Yes.

18 Q Do you know where the other location of the other
19 officers were located?

20 A Yes.

21 Q Where were they?

22 A Master Deputy Acord was behind the house, the 125.
23 Deputy Bryan, I believe, took up a position towards the
24 left side of the house, if I remember correctly.

25 Q Tell me what happened while you were behind that

1 pickup truck?

2 A Well, as I was standing there, Master Deputy Acord
3 was behind the house to -- the back door on the house had
4 a large glass pane in it and the shades only came down
5 about three-quarters of the way. So he was able to see
6 inside and feed us information as we were in our
7 positions.

8 Q And after he gave you that information, how long
9 before anything happened?

10 A It was several minutes, yeah.

11 Q Okay. So then what happened?

12 A As I was standing there, at the time, I was arming my
13 shotgun anticipating somebody to come out the front door
14 or waiting for somebody to come out the front door. After
15 several minutes, the suspect emerged out of the front door
16 and stepped onto the front porch.

17 Q Could you tell what that person was wearing?

18 A He was wearing a mask, kind -- I could see the mask
19 in front of his face and his chest appeared to be larger,
20 like he was wearing body armor. Like when you look at a
21 cop from a profile, you can see the vest.

22 Q Could you tell anything he was wearing, a hat?

23 A There was a handgun, I could see it as he stood with
24 it down. He had a handgun in his hand.

25 Q And so you said you were to the side of the house,

1 was there any other officers in the front of the house?

2 A As other units arrived, they took up positions to
3 basically make what we call four corners on the house so
4 that we had a tight parameter, a tight lock on the house.

5 Q So when the Defendant went out the front door, how
6 was the lighting there in front of the house?

7 A There was a porch light on directly above him. And
8 then once he stepped down off the steps onto the walkway,
9 pitch black.

10 Q And did you say anything to the Defendant?

11 A When he stepped out, I immediately challenged him,
12 drop the gun, sheriff's office, drop the gun, drop the
13 gun.

14 Q What did he do?

15 A Stepped off the porch, turned right and took off
16 running.

17 Q To the right. Now, I'm going to have to ask you to
18 step down again.

19 A No, that's fine.

20 Q Going to have to go through each step here. So he
21 came out of where?

22 A Here.

23 Q Okay.

24 A And stepped off here and went this way.

25 Q What did you do?

1 A I went here and then by the time I got here -- and
2 let me say, I kind of hesitated for a minute just to make
3 sure nobody else was coming out because I had the shotgun,
4 I wanted to be able to challenge them. But once he went
5 this way, I came here and then here and then I could hear
6 other units -- I was yelling at this time he's coming
7 around your side, he's coming around to your side to let
8 these guys know that he was headed that way and that he
9 was still armed. I went this way and they went this way.

10 Q And you said you waited for a minute to see if anyone
11 else came out --

12 A It wasn't even a minute. When I say hesitated, I
13 mean I literally hesitated, stop, nothing, go.

14 Q Did you ever see anyone else come out of the house?

15 A No.

16 Q Just that one individual.

17 A Just that one individual.

18 Q Where did the Defendant go then?

19 A They went -- they came around the back side of the
20 house. I didn't see anything over here because, of
21 course, I was over here. But they went in the treeline, I
22 went into the treeline. They went in somewhere here. I
23 came this way and tried to get -- I assumed that he was
24 going to go this way because that's the line of travel he
25 had, so I tried to take a path to cut him off this way,

1 kind of eliminate that angle.

2 Q Did you see Officer Acord when you were going that
3 route?

4 A I was running this way. I didn't see them hit the
5 wood line. And the first visual contact I had with him
6 once they hit the treeline was in the woods.

7 Q And tell me what you saw them in the woods?

8 A Well, as I was running in, I could hear Deputy Harris
9 K-9 handler, yelling, Stop hurting my dog, stop hurting my
10 dog. Which just added that much more stress to the
11 situation because normally when somebody gets a dog on
12 them, they're not going to fight with the dog. This guy
13 was obviously fighting with the dog. I could hear the
14 other deputies yelling drop the gun. I could hear the
15 other deputies yelling get on the ground, show me your
16 hands, the stuff that we say.

17 Q Were you still armed at this time?

18 A Oh, yeah, I slung my shotgun across my back and was
19 trying to get in the woods deep enough to get to where
20 they were.

21 Q Tell me when you saw the Defendant, who was around
22 him and what did you see?

23 A Deputy Bryan, Master Deputy Acord and Deputy Harris
24 was all three wrestling, fighting with the suspect, trying
25 to get -- he wouldn't take his hands out. He was laying

1 this way face down and he wouldn't pull his hands out from
2 underneath him, which scared me, to be honest with you,
3 because that's bad.

4 Q Why is that bad?

5 A That, in my experience, indicates that somebody's
6 trying to conceal something or get their hands on
7 something they've got tucked in their waistband.

8 Q Okay.

9 A They kept trying to roll him over, he wouldn't roll
10 over. Deputy Harris, actually, had the dog biting the
11 suspect's shoulder trying to get him to comply and he
12 wouldn't comply.

13 Q So how long did this last?

14 A Too long. Again, with the time frame, I don't know
15 because time kind of slows down in those situations.

16 Q So what did you do while this was all going on?

17 A I unstrapped my shotgun from my back. And they
18 finally, through force, were able to get the suspect to
19 roll over on his back, at which point, I stepped up on top
20 of him and pointed the shotgun at him and said you need to
21 show your -- you know, put your hands up or put your hands
22 behind your back.

23 Q Did he stop fighting at that point?

24 A He eventually complied within a few seconds of that.

25 Q When you saw -- how's the lighting at that point in

1 the woods?

2 A It was dark. It was flashlight dark.

3 Q Did you have flashlights or --

4 A Yes.

5 Q Can you tell what the Defendant was wearing at that
6 time?

7 A I remember when they rolled him back over, at one
8 point when he rolled, I could see body armor laying
9 underneath him. And --

10 Q So he actually didn't have it on at that time?

11 A He had come loose or had been stripped off to some
12 degree. He also had on a shirt or remnants of a shirt
13 that had the word police written across the front in
14 yellow letters.

15 Q Anything else that you observed?

16 A The mask that I saw, I don't remember that he was
17 wearing that at that point. I believe that had come off
18 in the foot chase at some point.

19 Q Where was the Defendant taken then?

20 A Once we had him restrained in handcuffs, brought him
21 to his feet, he was taken out of the wood line by -- or
22 back towards the house. I stayed where I was in the wood
23 line. We had recovered a handgun on the top of the tree,
24 a fallen tree. And I stayed with that gun until forensics
25 was able to come pick it up.

1 Q All right. You can have a seat. Thank you. Do you
2 know how long it took forensics to get out there?

3 A It was long enough for me to realize it was pretty
4 hot and I was sweating, but I couldn't give you a time
5 frame. It was several minutes.

6 Q Do you remember that or the shirt or any other items
7 being moved from the wood line to another area?

8 A I don't -- I don't recall who picked it up or who
9 took it. My focus was on the handgun and staying with
10 that, so I wasn't really aware of who was taking what at
11 that point.

12 Q When you say handgun, I'm going to show you Exhibit
13 No. 12, is that what you're referring to?

14 A Yes.

15 Q And the mask that you saw before the wood line, is
16 this the same mask, State's Exhibit No. 11?

17 A Yeah. When he stepped out, I could see the outline,
18 the profile of it.

19 (WHEREUPON, State's Exhibit No. 15 was marked
20 for identification only.)

21 BY MR. WEBB:

22 Q Officer Porter, I'm going to show you what's been
23 marked as State's Exhibit No. 15. Can you tell me if
24 you've ever seen what's inside this bag before? You can
25 take it out.

1 A I can pull it out? Yes, sir.

2 Q And where did you see that?

3 A This was the shirt that the Defendant -- or the
4 suspect was wearing at the time.

5 Q Okay. Is that the same -- pretty much the same
6 condition --

7 A Pretty much the same condition as I recall it, yes.

8 MR. WEBB: Your Honor, the State moves No. 15 into
9 evidence.

10 MR. CHAMBERS: No objection, Your Honor.

11 THE COURT: Okay.

12 (WHEREUPON, State's Exhibit No. 15 was admitted
13 into evidence.)

14 (WHEREUPON, State's Exhibit No. 16 was marked
15 for identification only.)

16 BY MR. WEBB:

17 Q All right. I want you to look inside this box,
18 Officer Porter, and look at State's Exhibit No. 16. Could
19 you tell me what that is?

20 A That's body armor.

21 Q Have you ever seen that before?

22 A I can take this out?

23 Q Yeah.

24 A Yes, sir.

25 Q When did you see that?

1 A This is what was laying underneath the suspect as we
2 were --

3 Q In the wood line?

4 A Yes, sir, as we were wrestling with him.

5 MR. WEBB: Your Honor, at this time, the State moves
6 Exhibit No. 16 into evidence.

7 MR. CHAMBERS: No objection, Your Honor.

8 (WHEREUPON, State's Exhibit No. 16 was admitted
9 into evidence.)

10 BY MR. WEBB:

11 Q All right. Again, where was the Defendant taken from
12 the wood line?

13 A Back up towards the house, back through the woods.
14 Where he went after they left the wood line with him, I
15 don't know.

16 Q And you stayed with the gun?

17 A I did.

18 Q Did you see the Defendant at any time after the wood
19 line area?

20 A No, sir.

21 MR. WEBB: Okay. No more questions, Judge.

22 THE COURT: Cross?

23 CROSS-EXAMINATION

24 BY MR. CHAMBERS:

25 Q All right, Deputy, you said that when you got there,

1 you think you were the number three man on the scene?

2 A Yes, sir.

3 Q And you took up a position, actually, at the house
4 next door behind the pickup truck?

5 A Right.

6 Q Where you could see the front porch?

7 A Yes, sir.

8 Q About how far do you think that was, in feet, if you
9 could estimate?

10 A Forty-fiveish.

11 Q Okay. So you were about 45 feet from the front
12 porch. And I see what looks to be like a hedge or a bush
13 or something, was that blocking your view at all?

14 A No, sir.

15 Q Anything blocking your view?

16 A No, sir.

17 Q And you said the light was pretty good out there?

18 A This was a porch light on above, directly above --
19 well, where a porch light would normally be on a porch,
20 directly above the door.

21 Q While you were out there with that position, you were
22 in radio contact, I guess, with the other officers that
23 were on the scene?

24 A That's correct, sir.

25 Q Y'all were communicating with each other and you

1 could hear what each other was saying; is that right?

2 A Yes.

3 Q And Deputy Acord had actually said that he had found
4 a little crack, I guess, in the shade and he was kind of
5 looking in and he was able to see some things and was
6 telling y'all what was going on, correct?

7 A Yes, sir.

8 Q And according to the report that you -- by the way,
9 anytime you go out on something like this, do you later
10 prepare a narrative report where you sit down and write
11 stuff down, what happened?

12 A Yes.

13 Q When did you prepare this report?

14 A That night.

15 Q Okay. So the same night, you prepared your report?

16 A Yeah.

17 Q And everything that you deemed to be important, you
18 include in that; is that correct?

19 A Yes, sir.

20 Q Is the reason for that so that later on if you have
21 to come in and testify like this, you can remember all the
22 important facts?

23 A Yes.

24 Q Okay. So in your report, didn't you say that -- let
25 me see, that Acord let y'all know that the person inside

1 the house was wearing a bullet proof vest; is that right?

2 A Yes.

3 Q And wearing some type of police uniform; is that
4 right?

5 A Yes, sir.

6 Q So he indicated that it was a uniform that this
7 person was wearing?

8 A Yes.

9 Q And also said carrying some type of firearm?

10 A Yes.

11 Q So no indication of what type of firearm, just some
12 type of firearm?

13 A Yes.

14 Q And you said that after a while, you saw somebody
15 come out the front porch there; is that right?

16 A That's correct, sir.

17 Q And from the 45 feet away where you were, you were
18 able to tell that this person was wearing a bullet proof
19 vest, correct?

20 A Yes.

21 Q And you said that you could tell that they were
22 wearing a T-shirt that said police on it?

23 A Well, I couldn't, obviously, see the T-shirt from
24 there, that wasn't something that I would have been able
25 to discern from a profile.

1 Q So you didn't see that?

2 A Not until we were on top of him -- or I was on top of
3 him.

4 Q And you said you saw the person -- I believe your
5 testimony was that this person had a pistol in his hand?

6 A Yes, handgun, yes, that's correct.

7 Q Which hand?

8 A Can't say for certain.

9 Q Was the person holding the pistol out, was the pistol
10 down to his side?

11 A Down to the side.

12 Q So it was down to the side?

13 A Right.

14 Q So since you were over on this side of the house and
15 this person, I believe, you said now came out the front
16 door and then immediately went to the right away from you,
17 correct?

18 A Correct.

19 Q So it would seem to make sense that if the person
20 coming out had a pistol down at his side and you could see
21 it from where you were that the pistol would be in his
22 left hand; would that be a fair assumption?

23 A No. I can't say one way or the other what hand the
24 pistol was in.

25 Q Well, you would say, though, given where you were and

1 if the person has a pistol down at his side and you were
2 able to see it that it would be more likely to be over on
3 his left side than the right side, wouldn't you? Wouldn't
4 that be fair to say?

5 A Well, that would be an assumption. I'm not --

6 Q Well, I'm trying to try get what you saw. You said
7 you're not sure and I'm just trying to understand that if
8 it were in the right hand, not really an assumption, you
9 would have a hard time seeing it if it was down at his
10 side, wouldn't you? I mean, you were 45 feet away on the
11 opposite side of the house, correct?

12 A Correct.

13 Q Okay. And it was dark, but there was some light out
14 there?

15 A Porch light on, yes.

16 Q Light enough that you were able to see a pistol?

17 A Right.

18 Q And my point is, and you can just agree or disagree
19 with me?

20 A Okay.

21 Q That it would be harder if the person was holding it
22 in his right hand for you to have seen it from your
23 vantage point?

24 A I'll respectfully disagree with that.

25 Q So you think you could just as easily have seen a

1 pistol being held down at a person's right side as they
2 exit and you're over to the left of him and they
3 immediately turn and go the other way?

4 A Well, assuming that person didn't move his arms when
5 he walked, I would say that would be true.

6 Q Okay. But you were able to identify that it was a
7 pistol in his --

8 A I could see that he was holding a pistol, yes.

9 Q You just don't know what hand it was in?

10 A Right.

11 Q Okay. Did the person as he exited from the house, do
12 you remember whether he was wearing any kind of hat, cap,
13 toboggan, anything like that?

14 A All I could see was the profile of the mask. but I
15 don't recall any head gear.

16 Q Did he appear to be wearing gloves?

17 A Don't recall.

18 Q Did he appear to be holding any bags or carrying any
19 bags or anything like that?

20 A No.

21 Q Didn't? And so you said, if I remember correctly,
22 that you hesitated just a little bit and then you took
23 off?

24 A Correct.

25 Q And you got up -- you didn't go on around the path

1 that the person exiting the house went, you went down this
2 way toward where Acord had positioned himself; is that
3 correct?

4 A Right, towards the back of that house, the victim's
5 house.

6 Q And you called out and said heading your way?

7 A Right.

8 Q So that put everybody back there on alert that
9 somebody was heading in their direction?

10 A Correct.

11 Q Of course, Officer Bryan had himself positioned out
12 in front of the house, he could see what was going on as
13 well, correct?

14 A I would assume so, yes.

15 Q Okay. And you said that once you got back there in
16 the back, you could hear Officer Harris telling somebody
17 to leave his dog alone, you're hurting my dog?

18 A Stop hurting my dog, yes, sir.

19 Q And there was a lot of -- at that point, I guess,
20 there was a lot of yelling going on, a struggle going
21 on --

22 A Yes.

23 Q -- and you said time slowed down?

24 A As it -- yes.

25 Q Just because there was a lot going on, everybody was

1 under a lot of tension at that point?

2 A Correct.

3 Q High pressure situation?

4 A Yes.

5 Q But you said at some point in the woods, you
6 encountered a person that you were able to identify as
7 Mr. Brown here because at that point, he was not wearing a
8 mask?

9 A Right.

10 Q Did he have on any kind of gloves or anything?

11 A I don't recall gloves.

12 Q Was he wearing like a police uniform, pants or
13 anything?

14 A No, sir.

15 Q Was he wearing a cap or a hat or toboggan or anything
16 like that?

17 A I don't recall.

18 Q Okay. And you said that when you got up to him that
19 he was actually laying on the ground and had his hands
20 under him like this, and there was a dog chewing on his
21 right shoulder?

22 A A shoulder, I'm not going to tell you it was right or
23 his left, but it was a shoulder.

24 Q He was laying with his hands under him like this --

25 A Right.

1 Q The dog -- one of his shoulders, the dog was chewing
2 on it pretty good?

3 A Right.

4 Q And you said that concerned you because you were
5 afraid that, perhaps, he had a weapon. Did you find a
6 weapon on him?

7 A No, not in his possession at that time.

8 Q Do you know if anybody else found a weapon on him?

9 A I don't know if anybody else did.

10 Q Okay. And y'all were eventually able to get him to
11 turn over and handcuffed?

12 A That's correct, sir.

13 Q Did you perform any kind of search or anything of
14 him?

15 A I did not personally, no?

16 Q Anybody in your presence perform a search of him?

17 A Not to my recollection, no.

18 Q And you indicated that he had this vest laying under
19 him?

20 A Correct, yeah, he would have been laying on what I
21 would assume to be the back panel.

22 Q So the vest was there and he was laying on it?

23 A Right.

24 Q And you said that he still had this shirt on?

25 A Remnants of.

1 Q And when he got up and he was handcuffed, did you go
2 to the front of the house with him --

3 A No.

4 Q You stayed in the woods, that's right?

5 A I stayed in the woods.

6 Q But he was still wearing that when they took him to
7 the front?

8 A Best of my recollection, yes, sir.

9 Q In your report, you didn't indicate anything about
10 the vest being under him at that point, did you?

11 A No.

12 Q You didn't indicate anything about him wearing this
13 T-shirt in your report, did you?

14 A No, sir.

15 Q Okay. So you didn't -- those weren't items that you
16 felt like were important to include in your report?

17 A At the time, apparently, not.

18 Q But you testified to that today?

19 A Right.

20 Q That's what you're telling us, all right. And the
21 solicitor asked you about any of these items being carried
22 to the front, you said you didn't know anything about it?

23 A I don't, I don't. My focus was somewhere else.

24 Q I think you said you've been working for the
25 sheriff's office for nine years?

1 A Right. I've got 11 years total experience.

2 Q And you worked in Greer for how many years?

3 A Two years.

4 Q So 11 years in law enforcement?

5 A Yes.

6 Q And one of the things you learn in law enforcement is
7 to preserve the crime scene; is that right?

8 A Yes.

9 Q And it's important for when the forensics people come
10 out that evidence be left where you found it --

11 A Yes.

12 Q -- so they have a chance to come out and go through
13 it, correct?

14 A Yes.

15 Q And that was the reason you stayed there with that
16 pistol in the woods?

17 A Yes.

18 Q Because you wanted to make sure that that crime scene
19 was preserved until they got there to do what they do?

20 A Correct.

21 Q All right. Now, are you aware -- let me ask you
22 because I know there were some things you found and some
23 things you didn't find and I just want to kind of go over
24 some of these things and see if you know anything about
25 them?

1 A Sure.

2 Q We know that the .40 caliber Smith & Wesson, that was
3 laying on the log in the back --

4 A Right.

5 Q -- and you're familiar with that?

6 A Yes.

7 Q Did you know that an officer actually picked that gun
8 up, cleared it and then put it back on the log?

9 A Yes, sir, it seems that I -- when I was there with
10 the gun that the magazine was already out of the gun.

11 Q Now, I didn't hear any testimony about trying to
12 apprehend anybody else or anything out there at the scene.
13 So by the time that you were there and the gun was there,
14 did you feel like the scene had pretty much already been
15 secured?

16 A Well, when I arrived on that scene, we were still
17 fighting with the suspect, so --

18 Q Well, I mean, at the point, though, that he --
19 because you testified that he had been handcuffed and
20 taken around to the front of the house. At that point,
21 did you feel like things were pretty secured?

22 A Yes, sir.

23 Q Okay. It is -- in preserving crime scene, would
24 officers normally pick a gun up and clear it and then put
25 it back down like that?

1 A In some situations, yes. In some situations, no.

2 Q Okay. But as much as possible, you want to leave
3 things undisturbed?

4 A You want to try and leave them undisturbed, yeah.

5 Q Were you familiar with a black glove, left hand, that
6 was found in the wooded area back there where you were
7 behind the residence?

8 A No, sir.

9 Q Were you familiar with a black taser that was found
10 on the ground in the wooded area behind the residence?

11 A No, sir.

12 Q How about an empty blue plastic Finish Line bag that
13 was found on the ground in the wooded area behind the
14 residence?

15 A No, sir.

16 Q How about an empty Luvs wipes container that was
17 found on the ground in the backyard?

18 A No, sir.

19 Q How about \$23,000 in cash, did you ever see that?

20 A I saw it -- and all these things, I was aware after
21 the fact, but at the time I was in the woods, I had no
22 knowledge of these things.

23 Q Did you see the \$23,000?

24 A Yeah, I did.

25 Q Where did you see it?

1 A On the ground in the backyard, I believe.

2 Q How about a black, gray and orange McGuire & Nicholas
3 work wear bag that contained several items, including some
4 black safety wear gloves, did you see a bag like that?

5 A I did see it, but I don't -- at what point I saw it
6 would have been -- it would have been after the fact.

7 Q Okay. Was that found behind the residence or do you
8 know?

9 A To the best of my knowledge, it was, yeah.

10 Q How about a black size 7 1/2 ball cap that was found
11 in the wooded area behind the residence, any knowledge of
12 that?

13 A No, sir.

14 Q How about some eyeglasses that were found in the
15 wooded area behind the residence, any knowledge of that?

16 A No, sir.

17 Q A white Hanes T-shirt that had been cut, any
18 knowledge of that?

19 A No, sir.

20 Q How about a -- well, you've already said about the
21 blue navy T-shirt that had been cut, but this one,
22 according to the forensics folks, was found in front of
23 the residence. Are you aware of one that was found in
24 front of the residence?

25 A No, sir.

1 Q And how about a black glove, right hand, that was
2 found on the ground in front of the residence?

3 A No, sir.

4 Q How about police body armor that was -- you already
5 talked about that that was under --

6 A Right.

7 Q Are you familiar with one body armor that was found
8 in front of the residence?

9 A No.

10 Q Okay.

11 MR. CHAMBERS: That all the questions I have, thank
12 you.

13 MR. WEBB: I don't have any more questions.

14 THE COURT: Thank you, you can step down.

15 Y'all want to take a short break or you good? All
16 right, let's take just a 10 or 15-minute break. Thank you
17 very much. Please don't talk about the case.

18 (WHEREUPON, the jury came into open court at
19 approximately 11:00 a.m.)

20 THE COURT: Let's take a short break.

21 (WHEREUPON, a short break was taken.)

22 (WHEREUPON, the jury came into open court at
23 approximately 11:20 a.m.)

24 THE COURT: Okay.

25 All right, Solicitor.

1 MR. WEBB: Your Honor, the State calls Michael Bryan
2 to the stand.

3 THE COURT: Okay. Place your left hand on the Bible,
4 raise your right hand.

5 MICHAEL BRYAN, after being duly sworn, testified
6 as follows:

7 THE CLERK: Thank you, you may be seated. State your
8 name for the record.

9 THE WITNESS: It's Michael Bryan.

10 DIRECT EXAMINATION

11 BY MR. WEBB:

12 Q Officer Bryan, how long have you been with Greenville
13 County?

14 A It's coming up on five years now, sir.

15 Q Were you working the night of June 12th, 2007, in the
16 morning?

17 A I was.

18 Q And did you respond to the victim's house, George
19 Howard's house?

20 A I did.

21 Q And tell us, was anyone also on the scene when you
22 responded?

23 A I was actually the first one on the scene. Shortly
24 after that, Deputy Acord arrived, followed by, I believe,
25 Deputy Porter and then Deputy Harris, Deputy Moore and

1 Deputy White.

2 Q Do you remember approximately what time you arrived?

3 A It was right before 1:00 a.m. or right around 1:00
4 a.m.

5 Q What did you do when you got there?

6 A When I first pulled up -- we responded in emergency
7 mode, lights and sirens.

8 Q Why did you respond that way?

9 A Because the call given to us from dispatch was that
10 it was a home invasion in progress.

11 Q Okay.

12 A So I pulled up -- before entering the neighborhood, I
13 turned off all my lights and sirens to make a more
14 stealthy approach. I stopped several houses down, got out
15 of the car, tried to identify which house was 125. Once I
16 did, you could hear some yelling and some arguing from
17 within the house. I radioed back to dispatch to tell them
18 that I could hear the confrontation inside the house.

19 Q Now, how far were you away from the house to hear it?

20 A At the front corner of the property. Standing on the
21 road at the --

22 Q Approximately how many feet?

23 A Maybe 50, 60 feet.

24 Q Okay. And so after you heard this and you called
25 this in, what did you do?

1 A I then -- I didn't have real good cover from where I
2 was and I moved to the -- I was on the -- as you're
3 looking at it, on the right side of the house. I moved to
4 the right side where there's some thicker trees for cover.
5 Deputy Acord then arrived and I directed him to the rear
6 of the house so we had opposite corners. Once Deputy
7 Porter arrived, he advised me to move to the back of the
8 house, which I moved to the back left corner of the house.

9 Q And I want to take a step back here and talk to you
10 about the arguing, the voices you heard. Could you make
11 out anything what was being said or could you just hear
12 voices?

13 A I couldn't make out any -- what -- any specific
14 conversation, I could just hear some yelling and
15 screaming.

16 Q And if you don't mind, I'm going to hand you a red
17 dot with your name on it. Step down and place this red
18 dot of where you ended up standing by the house?

19 A Like I said, I started down in this area, parked my
20 car right about here. Walked up to about here, that's
21 where I could hear the yelling and screaming. Then moved
22 to this side of the house where these trees over this way.
23 And the Deputy Acord moved here. And when Deputy Porter
24 arrived, I moved back to this corner. It's kind of in the
25 shadow of the tree where this fence line travels like

1 this. And I took a position behind the fence, so I was
2 concealed behind the fence, but had a direct line of sight
3 to the back porch area.

4 Q Was anyone with you there in that corner?

5 A I was the first one there, but then shortly after
6 that, Deputy Harris arrived and he met with me there.

7 Q You might as well keep standing up because we're
8 going to go through it. How long did you wait there in
9 that position?

10 A It was only a couple of minutes. When Deputy Harris
11 arrived, we had a -- kind of a briefing, I guess, where --
12 since he's a K-9 handler, there's some rules on how to
13 work with the K-9, stuff that we discuss before any call.
14 Since this was an actively moving situation, we just did a
15 real quick briefing. And that if the person was to come
16 out the back door or if the person was to come out and run
17 around in any direction and he had to release the K-9, my
18 job was to hold the flashlight, illuminate the person who
19 was running and then he would be controlling the dog. He
20 told me not to give any commands. He would be giving the
21 commands as to not confuse the dog. So my job was to
22 illuminate anybody that may come around that corner.

23 Q Got you. How long did you wait there with Officer
24 Harris?

25 A Couldn't have been more than a minute or two.

1 Q Okay. And tell me what happened while you were
2 waiting there?

3 A Well, we were being updated by Deputy Acord who could
4 look underneath that window telling us that he could see
5 somebody moving around inside. He could see victims who
6 were taped up laying on the floor. He could see a man
7 with a gun.

8 Q Just one man with the gun?

9 A Just one man, yes, sir, just one person.

10 Q You're receiving this information?

11 A Yes, we were just across the yard.

12 Q Okay.

13 A He was -- I believe he tried to put some of it over
14 the air, but I remember speaking just directly to him
15 across the backyard.

16 Q Okay. And what happened then?

17 A Oh, I did forget to mention when I did move to the
18 back, when I initially went to the back, there was a black
19 bag sitting at the back corner. I started to open it, but
20 decided I'll leave it. So there was that black bag placed
21 right there at that back corner of the house.

22 Q How far away from the actual house was it? Was it
23 against the house?

24 A It was against the house, maybe inches away. It was
25 right at the corner of the house.

1 Q So you didn't actually look inside the bag at that
2 time?

3 A No. I kind of fidgeted with it, but then realized it
4 wasn't important and then moved.

5 Q So tell me what happened as you were standing there
6 getting the communication from Officer Acord.

7 A He was giving that information to us and then we
8 heard Deputy Porter yelling, Stop, sheriff's office,
9 something to that effect. And within just seconds, the
10 Defendant appeared right at this back corner.

11 Q When you say appeared, did you see him running around
12 the corner?

13 A Since it was dark, this was all dark, and as soon as
14 he came in this back section, you could hear the running,
15 you know, running through the grass. I turned on the
16 flashlight and saw him at that point. I saw the person
17 wearing a -- he had the mask, which is laying there on the
18 table. He had body armor. He had the gold badge flipped
19 to the front strap with the body armor. He had a gun. I
20 don't recall which hand, but he had a gun in his hands.
21 He went to go lean towards the bag, stopped -- because
22 when -- Deputy Acord and Deputy Harris were giving verbal
23 commands. He stopped, looked up, then ran straight
24 towards -- from this point and then ran back to the wood
25 line.

1 Q So how long was he in front of the bag?

2 A Momentarily. Just long enough before we engaged him.

3 Q And you said you had your flashlight on him?

4 A Yes.

5 Q Is that like a Mag light?

6 A Yes, it's a rechargeable Mag light D cell, about that
7 big.

8 Q And how far away were you from him as you were
9 shining your flashlight?

10 A Standing at this corner.

11 Q How many feet approximately would you say that was?

12 A That's maybe 30 or 40 feet.

13 Q Okay. So you say stopped at the bag momentarily,
14 then what did he do?

15 A When he got -- he looked up and then ran towards the
16 wood line this way.

17 Q And again, you say he was wearing the mask, what else
18 was he wearing?

19 A He had the vest and you could see the letters police
20 underneath the vest. The yellow letters stand out in the
21 dark and illuminated by the flashlight, I could see that.
22 But I distinctly remember the vest being over the top with
23 a badge clipped on it and the mask.

24 Q All right. So then you said you ran towards the wood
25 line?

1 A Yes.

2 Q Were you guys saying anything to him at that point?

3 A I was not, but they were -- Deputy Harris gave him an
4 abbreviated bite warning, stop or you'll be bitten.

5 Usually, it's a good bit longer and he'll discuss that
6 with you, but it was just very short because he was only
7 there for a second, Stop or you'll be bitten. He released
8 his dog. As he ran this way, Deputy Acord was in a
9 crossfire situation. I holstered my pistol, got my taser
10 and took one shot with my taser from about right here,
11 just laterally, and missed him. And the dog hit him as
12 they were going into the woods and Deputy Harris followed
13 him into the woods.

14 Q What did you do?

15 A There's a -- it's not apparent on this because the
16 foliage is over here, but there's a pathway that cuts into
17 the woods there and it's clear. They were going through
18 briars and a thicket. Deputy Acord went this way and I
19 was going up this pathway that was there. And when they
20 got to a stopping point up against a leaning down tree is
21 when I met back up with them. Cash was attached to the
22 Defendant and Deputy Harris was yelling at him to stop
23 hurting his dog and Deputy Porter was yelling, Give me
24 your hands. I was attempting to grab --

25 Q What was the Defendant doing at that point?

1 A Just fighting and trying to squirm away. He was
2 pinned up against the tree at that point. We had him
3 pressed up against the tree, which is down -- you know,
4 maybe at an angle like this.

5 Q Got you.

6 A Attempted to get his hands, but it's a real sweaty,
7 wet environment. Couldn't get a good hold on him. Drew
8 my taser again, this time without the cartridge because I
9 had already shot it. It's called a drop stun where you
10 just push it into them to shock. But with the dynamic
11 situation, it only maybe had a second or two where it
12 actually made contact with him and it was bumped off of
13 him. Re-holstered it, he fell down and kind of squirmed
14 away. Got around to the end of the down tree. Cash was
15 still on him, Deputy Harris was still on him. And then he
16 turned back, went under some branches and thicket. And I
17 saw that they were actually starting to back track, so I
18 went under the downed tree and met them as they were
19 coming out. He was crawling at that point. Deputy Harris
20 was at his feet, the dog was still on him, I believe, on
21 his thigh at that point. And he was on his back trying to
22 back pedal away.

23 Q To get away from --

24 A The dog and Deputy Harris. I was in a standing
25 position at this point, so I just jumped on his chest. He

1 was trying to get his hands down like this, so I pinned
2 his hands up against his chest and was holding him laying
3 on his chest. Deputy Harris was on his feet.

4 Q Let me stop you there, you said earlier you had seen
5 him with a gun and had a mask and a bullet proof vest and
6 this shirt. What was he wearing at that time when you saw
7 him in the wood line and he's wrestling, do you remember?

8 A I don't recall at that point, specifically. I just
9 remember we were fighting a figure in the wood line at
10 that point.

11 Q Okay. So tell me what happened then after you got
12 him?

13 A We were wrestling on the ground and this is actually
14 the funny part of the story because we -- as we roll off
15 the Defendant, Cash -- well, I roll on top of Cash. He
16 disengages. When he reengages, he engages me and starts
17 biting me and my leg. He gets three or four bites in the
18 back of my leg before I'm able to --

19 Q What did you do?

20 A Well, I'm holding the Defendant, I said, Hal, Hal,
21 your dog's biting me. Hal, you're dog's biting me. Hal
22 is Deputy Harris, the K-9 handler. And he stands up,
23 gives the verbal commands to get Cash off. He disengages
24 me. Deputy Acord and I are able to get a handcuff on one
25 hand, switch it to an arm bar movement, which flips you

1 over like this, rolled the Defendant over on his back.
2 He's still fighting with his other hand that he has not
3 given us yet. Deputy Harris gives a directed bite into
4 his shoulder, at which time, he gives his hand up and he's
5 handcuffed.

6 Q Got you. All right. You can have a seat. Thank
7 you. Now, how long did you stay there with the Defendant?

8 A Well, immediately after he was handcuffed and
9 detained, I did just another pat down search because of
10 the weapon. I needed to find out if he had that weapon
11 still or if he had any other weapons on him. In his
12 pocket, I found his wallet, opened up the wallet and
13 pulled out his ID card and was, actually, shocked that he
14 had his wallet and his ID on him at that time.

15 Q Why were you shocked about that?

16 A Most people, in my experience of having arrest in
17 these violent things, don't carry their ID with them.

18 Q And at this point, do you remember what he was
19 wearing, after he was subdued.

20 A He had the torn shirt on. The body armor panel, one
21 of them, they were laying on the ground underneath him
22 where he was finally placed in handcuffs and his gloves
23 were laying right there, too.

24 Q And what about the mask, do you remember seeing the
25 mask at that point?

1 A No.

2 Q Could you see his face, was he still wearing the
3 mask?

4 A No, the mask was -- he had lost the mask in the
5 woods, coming into the woods.

6 Q So you were able to see his face at that point?

7 A Yes. And I looked at the ID and I looked at him.
8 And that's what -- I was like wow, he has his ID.

9 Q Is that person in the courtroom today?

10 A Yes, it's Mr. Brown.

11 Q What is he wearing, if you don't mind?

12 A Oh, the blue shirt, blue collared shirt.

13 Q Thank you. Officer Bryan, I want to show you what's
14 been marked State's Exhibit No. 13. Could you please tell
15 me what that is?

16 A This is a South Carolina driver's license issued to
17 Gerald Brown. This is the driver's license which I
18 removed from his wallet that night.

19 MR. CHAMBERS: No objection.

20 MR. WEBB: Your Honor, the State moves Exhibit 13
21 into evidence.

22 (WHEREUPON, State's Exhibit No. 13 was marked
23 for identification and received into evidence.)

24 BY MR. WEBB:

25 Q All right. So what did you do with the Defendant

1 after that?

2 A I -- Deputy Porter and some other deputies and
3 troopers were there, they escorted Mr. Brown out to see
4 EMS. I had my injury and so I also walked out and met
5 with my supervisors and EMS for treatment.

6 Q Do you remember what was -- what happened with the
7 vest and the shirt that was falling off the Defendant in
8 the wood line?

9 A The shirt was still on him at that point. I believe
10 it was taken off at the front of the house. The vest, the
11 gloves and the wallet, I don't have a specific memory of
12 carrying them out, but I can't see myself leaving them in
13 the woods either. If I found them right there, I can only
14 assume that I carried them out and took them to the front
15 of the house.

16 Q All right. You talked about finding gloves, was the
17 Defendant wearing gloves or you just found them on the
18 ground?

19 A They were there where he was located or finally
20 arrested.

21 (WHEREUPON, State's Exhibit No. 17 was marked
22 for identification only.)

23 BY MR. WEBB:

24 Q Officer Bryan, I'm going to show you what's been
25 marked State's Exhibit No. 17. Could you tell me what

1 these are?

2 A Yeah, these are the leather gloves that we located
3 where he was arrested -- found.

4 MR. WEBB: Your Honor, State moves Exhibit No. 17
5 into evidence.

6 MR. CHAMBERS: No objection, Your Honor.

7 THE COURT: All right.

8 (WHEREUPON, State's Exhibit No. 17 was admitted
9 into evidence.)

10 BY MR. WEBB:

11 Q Officer Bryan, you said you saw a handgun. I want to
12 show you what's been marked State's Exhibit No. 12, a
13 handgun. Can you tell if this is the same handgun?

14 A That is the handgun that was, yes, located.

15 Q And the mask, State's Exhibit No. 11, is this the
16 same mask?

17 A Yes.

18 Q And this shirt?

19 A Yes.

20 Q And what about the vest, State's Exhibit No. 16?

21 A That's the vest and the panels that were located.

22 Q All right.

23 (WHEREUPON, State's Exhibit No. 18 was marked
24 for identification only.)

25 BY MR. WEBB:

1 Q All right. Officer Bryan, I'm handing you what's
2 been marked State's Exhibit No. 18. Would you please look
3 inside this bag and tell me what that is?

4 A Yes, this is -- it's a small gold badge, a holder for
5 that badge, and looks like a pair of hand -- a handcuff
6 case.

7 Q Have you ever seen the badge before?

8 A Yes, that's badge we located that following evening
9 and that's also the badge that he was wearing during the
10 incident.

11 Q And the case itself, have you ever seen that before?

12 A We located it when we located the badge.

13 MR. WEBB: Your Honor, State moves Exhibit No. 18
14 into evidence.

15 MR. CHAMBERS: No objection, Your Honor.

16 THE COURT: Okay.

17 (WHEREUPON, State's Exhibit No. 18 was admitted
18 into evidence.)

19 BY MR. WEBB:

20 Q If you don't mind taking that badge out and reading
21 to the jury what that badge actually says?

22 A It says special officer and it has a star on it.

23 Q Okay. And you saw that badge on the Defendant that
24 night?

25 A Yes, when he rounded the corner and I illuminated him

1 with my flashlight, he had a -- he had the badge clipped
2 on the strap of his vest. And I noted in my report I
3 remember the badge being there, but after reviewing the
4 evidence sheets and whatnot, I learned that the badge was
5 not collected, it was not located.

6 Q What did you do?

7 A We got off at seven in the morning. So Deputy White
8 and I, when we came back on at seven the following
9 evening, got permission to go back out for a follow up and
10 we walked the wood line, retraced the paths looking
11 because we knew there was stuff missing. And since it was
12 daylight at 7:30 at that point, located the badge, its
13 holder and that handcuff case laying in the woods in the
14 spot where the final arrest had taken place.

15 Q That was the same badge that you saw earlier that
16 same --

17 A Same night, yes.

18 (WHEREUPON, State's Exhibit No. 19 was marked
19 for identification only.)

20 BY MR. WEBB:

21 Q All right. Officer Bryan, I want to show you one
22 more thing here. Have you ever seen this bag before?

23 A Yes, that's the bag that was at the corner of the
24 house when I first passed that back corner of the house.

25 Q You said that's the bag -- was the Defendant ever

1 near that bag?

2 A That's the one when he was running, he paused a
3 second to bend down and get before he realized we were
4 there.

5 MR. WEBB: Your Honor, at this time, State moves
6 Exhibit 19 into evidence.

7 MR. CHAMBERS: No objection, Your Honor.

8 THE COURT: All right.

9 (WHEREUPON, State's Exhibit No. 19 was admitted
10 into evidence.)

11 BY MR. WEBB:

12 Q Officer Bryan, if you could, open this bag up and
13 please tell me what's inside the bag?

14 A There's a -- you want me to pull it out?

15 Q Sure.

16 A There's a holster for a gun. There's a couple
17 work -- like plastic cover gloves, a flashlight, looks
18 like a small flashlight, screwdriver, crow bar, a
19 leatherman, gum, and that looks like it.

20 Q Okay. Thank you. All right. Now, you said the
21 Defendant was taken by other deputies to the front of the
22 house; is that right?

23 A Yes.

24 Q What did you do again that evening?

25 A Since I had the injury to my leg, I went and met with

1 my sergeant, Sergeant Moore, and my lieutenant who had
2 arrived on scene, advised them of my injuries. They cut
3 my -- EMS cut my pants there, saw that due to abrasions
4 that it had to be treated. I also had numerous cuts from
5 the briars and the branches in the woods. I had
6 Mr. Brown's blood on me from the fight because he received
7 some bites. So due to the exposure of blood and to the
8 bite, I had to go the hospital, drove myself down to the
9 hospital.

10 Q Did you -- once you -- once the Defendant was
11 arrested and was taken from the wood line, did you ever
12 see the Defendant again that morning?

13 A Only very briefly. While I was speaking with the
14 sergeant and lieutenant, he was sitting there being
15 treated by EMS, but I didn't have any more interaction
16 with him at all.

17 Q Where was he being treated?

18 A On the front steps of the house.

19 Q Do you remember what he was wearing at that time?

20 A He had the torn shirt, white shirt I remember. I
21 believe they were removing the other stuff off of him.

22 Q Okay.

23 MR. WEBB: No more questions, Judge.

24 THE COURT: All right.

25 Cross?

CROSS-EXAMINATION

BY MR. CHAMBERS:

Q You were the first one to arrive?

A Yes, sir.

Q And you said that you didn't immediately go straight to the house, did you?

A I parked down the street.

Q Down the street. How far down the street?

A Maybe one or two houses.

Q Okay. Did you leave your car there?

A Yes, sir, I did.

Q So did you walk along the street, did you walk through the yards or how did you approach the house?

A Through the street.

Q Okay. And I believe you said that as soon as you got there, you could hear yelling and screaming?

A Yeah, from the street from the house.

Q How far were you from there when you could hear all that?

A As I approached about the corner of the property, what would be estimated as the corner of the property, halfway distance of the yards of the two houses.

Q Were you able to make out what was being said?

A No, sir.

Q Were you able to make out how many voices it was?

1 A No, sir.

2 Q Did it appear at all to be more than one voice or
3 just one voice or you don't know?

4 A Don't know.

5 Q And so once you actually approached the house, you
6 positioned yourself all the way back here at the wood
7 line?

8 A Can I step down so I can see what you're pointing at?

9 Q Yes, I should have asked you to do that. That's
10 where you positioned yourself?

11 A Yes, sir. You see the fence, I was right behind the
12 fence.

13 Q How did you get to that area, what approach did you
14 take?

15 A Right through over to these trees and moved right
16 between these two houses.

17 Q So you went right there?

18 A Right here.

19 Q When you took that position, had anybody else arrived
20 or were you still the first one there?

21 A Deputy Acord had arrived and Deputy Porter had
22 arrived.

23 Q Did you know where they were positioned?

24 A When -- I was here first, then Deputy Acord arrived,
25 so I moved here so we'd have opposite corners. Deputy

1 Porter was pulling in and he was -- I don't remember the
2 exact patch, but he was in this area and advised me to
3 move to the back. So I took that position on the back of
4 the house so we now had more coverage.

5 Q What was your reason for going all the way back here
6 into the woods?

7 A That's shadows, the wood line doesn't start until
8 about here. The coverage.

9 Q So you were behind the neighbor's fence, is that
10 where you were?

11 A Yes, sir, I was standing at the corner of the fence.

12 Q How far would you estimate you were from the house
13 right there?

14 A I'd say it was 30 or 40 feet.

15 Q Could you continue to hear yelling and screaming from
16 the house?

17 A I don't recall any at that point.

18 Q Okay. And did you stay -- you can have a seat. Did
19 you stay at that position?

20 A I stayed until the Defendant fled, then when it
21 became dynamic, I, of course, moved.

22 Q You made reference several times to the Defendant,
23 but at that point, wouldn't it be fair to say that all you
24 knew is that a person ran?

25 A The man in the mask wearing those items.

1 Q Okay. So the man in the mask. And was there a light
2 out there in the backyard?

3 A Just limited, you know, ambient moonlight. starlight.

4 Q So when this person came running around the house,
5 how were you able to see him?

6 A I illuminated him with my flashlight.

7 Q So you shined the flashlight on him?

8 A Yes, sir.

9 Q And you said whoever this person was stopped at the
10 corner of the house. And I'm going to ask you to get down
11 on more time. Where was this bag?

12 A Sitting right at the back corner.

13 Q Right here. So from here, you saw this person. Had
14 you already gotten that bag?

15 A I had stopped at the bag. I had not inspected it any
16 further, but I did take note of the bag.

17 Q Did you leave the bag?

18 A I left the bag.

19 Q Okay. So you're saying that the person that you
20 observed stopped at the bag. Did that person pick up the
21 bag?

22 A I wouldn't even call it a stop. He paused and by the
23 time he was at the bag, we -- Deputy Harris and Deputy
24 Acord had already engaged him with verbal commands. I had
25 illuminated him with my flashlight. So he paused and then

1 moved --

2 Q So the person didn't like come and kneel down like
3 that or anything?

4 A They stopped, made a similar motion, but did not get
5 on a knee to start digging in the bag. They didn't make a
6 full and complete stop.

7 Q Okay. So when this person came around, you were able
8 to illuminate them with the flashlight?

9 A Yes.

10 Q And the person was wearing a mask?

11 A Yes.

12 Q You said that the person was also wearing body armor?

13 A Yes.

14 Q I believe you said blue body armor?

15 A If I said blue body armor, I don't know.

16 Q If you want to, you can consult your report. I'm
17 actually reading from your report.

18 A Yes, it says blue body armor.

19 Q And a paintball mask?

20 A Yes.

21 Q Did you realize when you first saw it that it was a
22 paintball or is that something you concluded afterward?

23 A No, I've played paintball for many years. I
24 recognized it as a paintball mask.

25 Q I just wondered because everybody who's testified so

1 far, both victims and every police officer and everybody
2 involved seemed to just immediately know that that was a
3 paintball mask. But you knew that from playing paintball?

4 A I can just tell you from years in high school playing
5 paintball that I knew that was a paintball mask.

6 Q I guess I haven't played much paintball. But
7 everybody -- but you knew immediately that -- when you saw
8 it, you said that guy's wearing a paintball mask?

9 A Yes.

10 Q Were you able to see his face at all?

11 A No, not through the mask.

12 Q Were you able to tell whether it was a black male or
13 a white male?

14 A No.

15 Q Could you -- was the person that you saw wearing
16 gloves or do you recall?

17 A Don't recall.

18 Q And you indicated that this person was -- well, I
19 don't know, did you indicate that the person was carrying
20 a pistol or do you know?

21 A He was carrying a pistol. I believe in the report it
22 says a black pistol.

23 Q A black pistol?

24 A Yes.

25 Q And were you able to see it pretty clearly?

1 A I was able to see the outline of a pistol.

2 Q What made you say it was a black pistol then?

3 A Because it was dark. It wasn't chrome and shiny like
4 a chrome pistol or a shiny gold color, it was subdued.

5 Q But based on seeing the outline, you just put in your
6 report that it was a black pistol?

7 A Yes.

8 Q Okay. You didn't say anything about it being a
9 silver and black pistol?

10 A No.

11 Q And what hand was the person carrying the pistol?

12 A I don't recall.

13 Q You don't recall?

14 A No, sir.

15 Q Okay. I'm just thinking if I were out there and
16 somebody was running toward my general direction with a
17 gun, you didn't note of where the gun was?

18 A It was in his hand and both were in front of him in
19 the approximate same position.

20 Q So you don't know what hand it was in?

21 A No, sir.

22 Q And you were able to see, based on what you said
23 today and in the report, that this gold badge was attached
24 to the vest?

25 A Yes.

1 Q It says special officer?

2 A I couldn't read special officer from my position,
3 but, yes.

4 Q But you were able to tell us that?

5 A Yes, because it was -- with the flashlight hitting
6 it, it shines considerably more than anything else on him.

7 Q What side was it on?

8 A I believe it was on his right side.

9 Q The right side, okay. And as he approached, this
10 person, did you say anything to him?

11 A Can you --

12 Q Well, you were at the back and this person was
13 running toward the back?

14 A Yes.

15 Q So, generally, toward you, did you say anything to
16 the person?

17 A No. As I just discussed, Deputy Harris and I had
18 that short little meeting where he would be giving all the
19 commands because me yelling over his shoulder could
20 confuse the dog as to the intended person that he's
21 supposed to apprehend.

22 Q Did you stay behind your cover the entire time?

23 A No. As soon as the person in the mask ran and the
24 dog was released, I moved several feet beyond my cover to
25 get within range of my taser. I had a 25-foot cartridge

1 on there, which I fired at him as he entered the wood
2 line.

3 Q Where was the subject when the dog was released?

4 A In the yard, about midway, if I remember correctly.

5 Q If you would, get down there and just kind of
6 demonstrate for us where you might remember him being?

7 A Like I said, Deputy Harris and I were both here. He
8 turned, Deputy Porter was in this area.

9 Q Okay.

10 A As he gave a verbal command for him to run, the dog
11 was released as he runs to the back of the yard right
12 here. I don't believe the dog had bit him yet at that
13 point because I fired my taser just directly on line,
14 straight like that, just before he entered the wood line.

15 Q So the dog chased this person into the wood line?

16 A I believe he caught him as he was going into the wood
17 line.

18 Q But at that point, you couldn't see?

19 A Deputy Harris and him were all crashing into the wood
20 line all at the same time and I took the path of least
21 resistance.

22 Q Okay. So were they at the wood line when you moved
23 from your position or did you move from your position
24 before then?

25 A I had stepped out several feet to get within -- to

1 make sure I was in range on the taser.

2 Q They got into the woods there and you didn't really
3 view what was going on?

4 A No, I could clearly hear that they were fighting and
5 crashing through the woods, but I could not see them.

6 Q This person that you saw running through the
7 backyard, did you see this person like throwing any items
8 away, getting rid of anything as he went through?

9 A No.

10 Q Did not? And once this person was finally like --
11 you know, you had him in this one spot and he continued to
12 struggle and I think y'all finally subdued him in that
13 spot, you were there when that happened; is that correct?

14 A Yes.

15 Q And you're saying that the person that you subdued
16 and was arrested was Gerald Brown?

17 A It was.

18 Q Okay. And was your testimony a few minutes ago that
19 you actually did a search of his person?

20 A I patted him down, yes, sir.

21 Q Was that to look for weapons?

22 A Yes.

23 Q Did you find any weapons on him?

24 A No.

25 Q And you said you found his billfold, did you find the

1 billfold on his person?

2 A It was in his pocket, pants pocket.

3 Q In his pocket. Which pocket was it in?

4 A I don't recall. I remember it was his pants pocket.

5 Q But you are certain that it was in his pants pocket?

6 A Yes.

7 Q And you said that his ID and everything was actually
8 in his wallet?

9 A Yes, it was.

10 Q And you said that was a surprise to you?

11 A Yes, it was.

12 Q And it was a surprise to you that based on your years
13 in law enforcement, somebody that was going to commit a
14 home invasion would not carry his ID with him, correct?

15 A Well, not necessarily an home invoice, but,
16 generally, any...

17 Q Any kind of crime?

18 A Right.

19 Q In fact, I believe the words you used were you were
20 shocked by that?

21 A I was surprised.

22 Q Okay. And when he got up, you indicated that on that
23 spot you located the body armor panels that you identified
24 over here a few minutes ago?

25 A Yes, sir.

1 Q So they were actually on the right there?

2 A One was underneath him.

3 Q Yeah.

4 A I don't recall where the other one was, it may have
5 been laying on top of him, but it had been torn --

6 Q But it was right there?

7 A Yes.

8 Q It wasn't on him, it was on the ground?

9 A Because it had been torn apart, the velcro had come
10 apart on it.

11 Q I understand, but it was on the ground, that's all
12 I'm driving at?

13 A After we stood him up, yes, it was laying on the
14 ground.

15 Q And you said that there were a pair of gloves that
16 were on that spot as well?

17 A I think I said some gloves, yes.

18 Q And when the solicitor asked you, I think you
19 indicated that these were the gloves?

20 A Yes.

21 Q Okay. And those were right there at that spot?

22 A Yes.

23 Q Okay. Did -- once Mr. Brown was handcuffed and taken
24 to the front of the house, did you go with him?

25 A I was not escorting him up there. I made my way out

1 of the woods separately.

2 Q But you did observe that he was there and he was
3 being treated by EMS?

4 A Yes.

5 Q And I believe you said that at that point, he was
6 wearing a white T-shirt?

7 A If I remember correctly, he was wearing a white
8 T-shirt that was torn.

9 Q Do you recall what kind of T-shirt it was?

10 A Just a white plain undershirt.

11 Q Just a white undershirt?

12 A (The witness nods.)

13 Q What kind of pants did he have on?

14 A I don't recall the pants.

15 Q Well, you searched his pants, you don't recall what
16 they were?

17 A I know if they were -- they were dark in color. I
18 don't know if they were cargo pants. I don't know if they
19 were blue jeans. I don't know -- I didn't make any notes
20 as to what pants he was wearing in my report.

21 Q Any reason why you didn't make notes about what he
22 was wearing?

23 A About the particular pants style?

24 Q Uh-huh.

25 A No.

1 Q I'm not talking about style, but just, generally, was
2 it a pair of like police uniform pants?

3 A It wasn't like polyester like these, no, sir.

4 Q Was it jeans?

5 A I don't recall if it was jeans or like a dark khaki
6 or -- I don't recall that part.

7 Q Do you remember what kind of shoes he was wearing?

8 A No, sir.

9 Q You indicated that he had tried to reach for his
10 waistband, did you find anything in his waistband?

11 A No, sir.

12 Q And when he was at the front of the house being
13 treated, was -- who all was present, do you remember?

14 A Lieutenant Grainer and Sergeant Moore were the ones I
15 was speaking with. The EMS was up there. I don't recall
16 who else was up there at the time because I was focused on
17 speaking -- giving my update to my supervisors and then
18 receiving treatment for my injuries.

19 Q Now, you were the first officer on the scene, do you
20 remember seeing a black SUV driving away from the scene?

21 A No, sir.

22 Q You don't remember talking to anybody at the scene
23 about a black SUV driving away?

24 A I don't have any knowledge of a black SUV.

25 Q Okay. And as the first one on the scene, did --

1 well, did anybody provide you with any information about,
2 in particular, concern about the back door?

3 A I don't recall any.

4 Q Anybody ever say anything to you about the door being
5 broken or anything like that?

6 A I don't recall anything like that.

7 Q Anybody give you any information about this house
8 having been robbed or broken into before?

9 A I don't recall anything about it been burglarized.

10 Q Anybody ever give you any information about their
11 being any drug activity or anything taking place at this
12 house at any point?

13 A No. I did not know the Defendant nor the victim
14 prior to this interaction.

15 Q Have you ever heard of either one of them prior to
16 this?

17 A No.

18 Q You indicated that there was a trail, you can't
19 really tell now because of the foliage and everything
20 that's in this picture --

21 A Right.

22 Q -- but there's a trail that went from behind the
23 house through those woods right there?

24 A On the second day we went back out, it looked like
25 the kind of cut to dump leaves. There was a pile of

1 leaves back there.

2 Q Did anybody -- prior to this chase going into the
3 woods, was anybody ever positioned in those woods or
4 anything like that?

5 A No, Deputy Acord, Deputy Harris and I were the only
6 people back there.

7 Q So if there had been somebody that was back in these
8 woods or beyond these woods prior to the chase going into
9 the woods, you wouldn't have known about it; would you?

10 A If they were moving in the woods, we would have
11 probably heard them.

12 Q Well, you say probably, but, in reality, you don't
13 know, do you, whether anybody was there?

14 A Well, if they're crashing through the woods, we would
15 have heard them because it was quiet.

16 Q I didn't say crashing through the woods. I'm asking
17 you --

18 A If they were sneaking through the woods, no, I
19 probably would not have heard them, but if they were --

20 Q Or if they were just standing back there?

21 A No.

22 Q You wouldn't have known because y'all didn't put
23 anybody back there?

24 A That's correct.

25 Q All right. Who was in charge?

1 A It changed hands several times. Initially, I would
2 have been in charge until Deputy Acord got there, who
3 placed him in charge. Then Deputy Porter would have been
4 and, finally, Sergeant Moore when he arrived.

5 Q So Sergeant Moore came out there and at that point,
6 he was in charge?

7 A He was in charge.

8 Q So when y'all were wrapping everything up, Sergeant
9 Moore is the one that would have been in charge?

10 A Well, at the conclusion of it, Lieutenant Grainer
11 arrived, which supercedes Sergeant Moore.

12 Q I understand.

13 A But he was the one controlling the scene.

14 Q Were you involved in forensics being called out?

15 A No.

16 Q Were you there when forensics arrived?

17 A No.

18 Q Do you know if forensics arrived?

19 A Only based on the report.

20 Q So you have seen the report that forensics did come?

21 A Yes.

22 Q And they did collect certain items?

23 A Yes.

24 Q Have you looked at the forensic report?

25 A I've scanned over it, but I've not studied it.

1 Q Well, I want to ask you it because you talked about
2 collecting certain evidence and I just want to go over
3 some of this evidence with you and see if you saw it out
4 there and are familiar with it. The .40 caliber pistol,
5 do you recall where that was found?

6 A It was -- Deputy Acord located it on a tree and it
7 was -- when he located it, he cleared the live round out
8 of it, placed in back on the fallen tree, which I
9 mentioned we were penned up against during the initial
10 fight.

11 Q Did you see him clear the round out of it?

12 A No.

13 Q You did not? How do you know he did that?

14 A Because he told me he did that.

15 Q And do you know if that was after the Defendant had
16 been placed under arrest or before?

17 A No, after.

18 Q So it was after he was placed under arrest. So after
19 the Defendant is placed under arrest, he actually picked
20 that pistol up, in the process, disturbing it, and then
21 putting it back on the tree?

22 A Well, there was a lot of people in the woods and to
23 avoid any accidental discharges from that pistol, he did
24 discharge the round and take the magazine out of it for
25 safety of everyone around the scene.

1 Q Who were these people in the woods?

2 A There was Deputy Porter, Deputy Acord, Deputy Harris,
3 Cash, myself and, I believe, a couple of state troopers
4 showed up, but I don't --

5 Q You had some state troopers out there?

6 A I don't know. I believe they assisted Mr. Brown out,
7 but I was not -- I couldn't identify them if there were.

8 Q So you had like -- if we count the dog, you had like
9 seven or eight officers out there?

10 A Yes.

11 Q But there was state troopers there?

12 A Only after the completion of everything.

13 Q Okay.

14 A They were there after the entire scene was stopped.

15 Q So according to one of these police officers might
16 get hurt by this gun, so he cleared it?

17 A Yes.

18 Q And put it back down?

19 A Without being familiar with the gun, if it were to
20 fall off the tree or something like that and discharge,
21 that would be unfortunate.

22 Q But you didn't see him do it?

23 A No.

24 Q But he put it back on the tree?

25 A That's where it was located, yes.

1 Q Are you aware that that's where it was found, it was
2 resting on that tree right there?

3 A Yes.

4 Q Okay. Were you aware -- now, you talked about those
5 two gloves that you found and both of those were on the
6 wooded area, right?

7 A I believe so, yes.

8 Q Were you aware from looking at the crime scene
9 investigation report that one black glove, left hand, was
10 found in the wooded area behind the residence?

11 A No.

12 Q Okay. How about an empty blue plastic Finish Line
13 bag in the wooded area behind the residence, did you ever
14 see that?

15 A No, sir.

16 Q How about a black taser found on the ground in the
17 wooded area behind the residence?

18 A No, sir.

19 Q Did you ever see the cash, the \$23,000 in U.S.
20 currency?

21 A No, sir.

22 Q You didn't?

23 A No, sir.

24 Q And then the black, gray and orange McGuire &
25 Nicholas work wear bag?

1 A That's the bag located at the corner of the house, I
2 believe.

3 Q That's the bag that you talked about here?

4 A Yes, sir.

5 Q And that was -- that was found, I guess, at the
6 corner of the residence?

7 A Yes, sir.

8 Q And how about a black ball cap size 7 1/2 on the
9 ground in the wooded area behind the residence?

10 A No, sir.

11 Q How about some eyeglasses in the wooded area behind
12 the residence?

13 A No, sir.

14 Q Don't know anything about that?

15 A No, sir.

16 Q The police -- blue T-shirt with police printed on it
17 in yellow found on the ground in front of the residence,
18 familiar with that?

19 A As far as how it got to the front of the residence?

20 Q Well, are you familiar with it, is that that shirt
21 right there?

22 A That's that shirt right there. That's the shirt he
23 was wearing when he entered the woods.

24 Q This report that you reviewed --

25 A You say it's found in front of the residence.

1 Q Actually, says it's found on the ground. You can
2 look at it and tell me, is that what it says?

3 A That's what it says, yes, sir.

4 Q Then the blue body armor that was found on the ground
5 in front of the residence, do you recall that?

6 A Yes, sir.

7 Q When the solicitor asked you about it, you said that
8 you assumed, you don't know, for some reason, you assumed
9 that you carried this around to the front of the house?

10 A Right.

11 Q Why would you assume that?

12 A If I found it right there and took his wallet out of
13 his pocket, I can't see myself laying it in a pile in the
14 middle of the dark woods. I imagine I would have carried
15 it out with me.

16 Q Well, did you carry these black gloves out?

17 A The gloves, the body armor and the wallet with his
18 ID.

19 Q But we've already established that the gloves were
20 found on the ground in the wooded area behind the house?

21 A Both gloves?

22 Q Well, one glove.

23 A I may have carried --

24 Q So you would have carried one glove and not the
25 other?

1 A I would have gathered what I had right there and
2 taken it out.

3 Q You would have carried this gun out, too?

4 A I didn't touch the gun.

5 Q So I've always thought that police. When they arrive
6 at a crime scene, worked to preserve the crime scene; is
7 that not true?

8 -A In most cases, yes.

9 Q But this is not one of those cases?

10 A I did not want those items lost. If that was a
11 mistake on crime scene integrity, then that's my fault,
12 but --

13 Q You had seven police officers, counting the dog out
14 there, and you had forensics people on the way and you had
15 the crime scene secured?

16 A Yes. If I took them out and that's a violation of
17 the crime scene, then that's --

18 Q And you're not even sure that you carried it out,
19 you're making an assumption?

20 A Right.

21 Q And you're making that assumption now in court after
22 I've asked every witness so far about where that was
23 found; is that right?

24 A Well, they're probably going to tell you it was found
25 in front of the house based on the report and I don't know

1 that anybody else is going to claim removing it from the
2 woods. So with me finding it and knowing myself, that's
3 why I say I assumed I would have taken it out. Although,
4 I did not specifically state that I carried those items.

5 Q So your assumption is that you would breach protocol
6 by denigrating a crime scene?

7 A I'm not sure which protocol that you speak of, but,
8 yes.

9 Q It's the protocol you spoke of because you just said
10 to me that if I carried items that I found to somewhere
11 else, then that would have breached the crime scene,
12 correct?

13 A I don't know of a specific rule that states that off
14 the top of my head, but I will -- yes, in hindsight,
15 should everything have been left exactly where it was,
16 you're right, it should have.

17 Q I'm just curious why you would make that assumption
18 if you don't specifically know. You don't know that you
19 carried --

20 A But in my report, it says I located subject's wallet,
21 body armor panels and gloves in the spot after we got him
22 handcuffed. And that's the last mention I have of it.

23 Q And it doesn't say that I then picked those items
24 up --

25 A No, it doesn't.

1 Q -- and carried them around?

2 A No, it doesn't.

3 MR. WEBB: Your Honor, I think that's been asked and
4 answered.

5 THE COURT: That's all right. Go ahead.

6 BY MR. CHAMBERS:

7 Q So it doesn't say in your report that you picked them
8 up and carried them to the front of the house because you
9 wanted to be sure to preserve them, you didn't say that?

10 A No, I didn't say that.

11 Q And you prepared this report when?

12 A It would have been that day.

13 Q So that day. Is it important to prepare it that day?

14 A That way, it's fresh on your mind.

15 Q Exactly, it's fresh on your mind. Unlike today,
16 where now, you assume that you carried them to the front
17 of the house?

18 A Right.

19 Q Where the forensic report says they recovered it on
20 the ground at the front of the house?

21 A That's correct.

22 Q Because my thinking is, if I'm the one who picks that
23 up and carries it around to the front, I'm going to say to
24 somebody hey, I picked this up, here it is. But you
25 didn't do that?

1 A And I would agree with you in most situations, except
2 I was bleeding and needed to go to the hospital, so my
3 focus was on my own health and not necessarily the
4 absolute preservation of the crime scene.

5 Q You say your focus was on your own health, but,
6 apparently, your focus was on picking up evidence and
7 carrying it away from wherever it was located to another
8 location. Is that what you're telling me?

9 A I didn't understand your specific question.

10 THE COURT: Mr. Chambers, move on, I think you made
11 your point.

12 BY MR. CHAMBERS:

13 Q So, apparently, there was a forensic team that showed
14 up at some point to gather all this evidence, correct?

15 A Yes, sir.

16 Q And they spent enough time out there, I guess, to
17 locate all this, except they didn't locate the gold badge
18 that you talked about?

19 A That's correct.

20 Q And you went back later to look for the gold badge?

21 A That evening.

22 Q That same evening?

23 A Yes, sir.

24 Q Was it daylight or dark?

25 A It was 7:30 in the summer, so it was still daylight.

1 Q Still daylight. Did you have anybody with you
2 helping you look for this gold badge?

3 A Deputy Wyatt.

4 Q And where did y'all find it?

5 A In and around the area of where the Defendant was
6 finally arrested.

7 Q Okay. So you found it out there in the woods. Did
8 y'all find anything else while you were out there?

9 A Just those items I reflected that afternoon.

10 Q You feel confident that y'all collected every piece of
11 pertinent piece of evidence out there at this point?

12 A My specific reason for going out there was because I
13 knew he was wearing a gold badge. And I learned that
14 nobody had collected a gold badge, so I went to go back to
15 find it. And once we found the gold badge in the
16 immediate area, it was also the handcuff case and the
17 badge holder. We did not -- I did not see any other thing
18 of evidentiary value laying out there.

19 Q Are you aware either from being out there firsthand
20 or looking at the case file whether the crime scene
21 investigation folks took any swabs for possible DNA
22 analysis?

23 A I don't have any knowledge of that.

24 Q Is that something they would typically do based on
25 your experience?

1 A I don't know for what reason they would have in this
2 case.

3 Q For example, swab the trigger guard area on the .40
4 caliber for possible DNA analysis, would they have done
5 that?

6 A I don't know.

7 Q What about swab the taser for possible DNA analysis,
8 would they have done that?

9 A I never heard of them doing that.

10 Q All right. How about swabbing the eyeglasses for
11 possible DNA analysis, would they have done that?

12 A Still haven't heard of them ever doing anything like
13 that.

14 Q How about swabbing the inner side of the face
15 mask/shield for possible DNA analysis?

16 A Same thing.

17 Q You never heard of them doing anything like that
18 before?

19 A In my experience in working other cases, I've never
20 had anybody swab DNA off of items that have been recovered
21 at a crime scene.

22 Q Really? So it wouldn't be important to try to
23 determine if a person left DNA on an item so you would
24 know whether they had ever come in contact with that item
25 before?

1 A Not when we catch the person carrying the item.

2 Q Well, let's take the gun, for example, you didn't
3 catch this person carrying that gun, did you, you found
4 that gun on a tree?

5 A That's correct.

6 Q Okay. And DNA analysis might have confirmed that he
7 was carrying it?

8 A I don't know. I don't know enough about the
9 scientific side of it to know that.

10 Q How about something a little less sophisticated like
11 fingerprints? I'd say right now that my fingerprints are
12 probably on that weapon, wouldn't you?

13 A Probably not on that textured part that you're
14 grabbing, no.

15 Q Well, how about the trigger? You don't think it
16 would be worth looking to see if there were fingerprints
17 on it?

18 A I'm not trained in fingerprints, I couldn't advise
19 you on that.

20 Q So you're not familiar with the crime scene
21 investigation folks having gotten some latent prints on
22 any of the items they found such as the handcuffs and the
23 Luvs wipes container?

24 A The only thing I knew, the Luvs wipes container.
25 after speaking with Officer Lendway today.

1 MR. CHAMBERS: Okay. That's all the questions I have
2 for you, Officer. Thank you.

3 THE COURT: Redirect?

4 MR. WEBB: Briefly, Your Honor.

5 REDIRECT EXAMINATION

6 BY MR. WEBB:

7 Q This handgun, State's Exhibit No. 12, did you see
8 anyone carrying this exhibit that night?

9 A When the Defendant -- the man in the mask left the
10 house, he had the handgun in his hand as he rounded the
11 corner of the house.

12 Q And that man in the mask, what was he wearing on his
13 body?

14 A He had the mask, had the blue shirt, which you could
15 see the outside letters of police, which, in your mind,
16 you could see it says police, body armor over that, gold
17 badge running towards the woods.

18 Q When you subdued him and arrested him, what was
19 hanging off of him?

20 A The body armor panels, the ripped shirts. He still
21 had, of course, his pants.

22 Q These same items right up here?

23 A Yes.

24 MR. WEBB: No more questions.

25 ///

RECROSS-EXAMINATION

BY MR. CHAMBERS:

Q So you're saying say that the person that you saw run around the house was carrying this very pistol?

A He was carrying that pistol.

Q And even though you testified a little bit earlier that all you saw was the silhouette, correct?

A There's no other way the pistol could have gotten there.

Q Okay. So, in essence, you're making an assumption then, that's what you're doing, isn't it?

A Did I see him put the pistol on the tree, no, sir. But where the pistol was located was where we first all three made contact with him in the woods. Prior to that, he was carrying the pistol.

Q Deputy, I'm really just trying to get a straight answer from you. The solicitor asked you a minute ago on his redirect, after my cross, if the person whom he referred to as the Defendant and you couldn't identify him, came around the house, was he carrying this pistol and you responded yes; is that correct?

A That's how I responded.

Q All right. And I'm trying to harken you back to my cross-examination and if I remember you correctly, and I want you to correct me if this is wrong, did you not say

1 that you identified it as a black handgun because you
2 could only see the silhouette?

3 A Right, it was dark. You could see the silhouette of
4 the pistol. There was nothing overly shiny, I'm talking
5 about like a chrome handgun would be.

6 Q So the truth of the matter is you don't know that the
7 person running around the house was carrying this silver
8 and black pistol, do you?

9 A I would not have been able to tell you whether there
10 was silver on top of the pistol that night.

11 Q But you don't know that it was that pistol, do you?

12 A That's the pistol -- where it was located, I can say
13 in confident that that's the pistol. And through the
14 situation how it unfolded, through where it was located,
15 from where the fight took place to what I saw prior to,
16 that's the pistol I saw.

17 MR. CHAMBERS: Okay. Thank you. Thanks a lot.

18 MR. WEBB: No more questions, Judge.

19 THE COURT: All right. You can step down, Officer
20 Bryan.

21 Let me see the lawyers up here for a second.

22 (WHEREUPON, a bench conference was held in the
23 presence of the jury but out of the hearing of
24 the jury.)

25 THE COURT: All right. Madam Forelady, ladies and

1 gentlemen of the jury, probably now is a good time to
2 break for lunch. The next witness may take a little bit
3 longer. And so y'all are free to go about your business
4 and please be back at 2:00, that would give you about an
5 hour and a half. Remember, don't talk about the case.
6 Thank you, very much.

7 (WHEREUPON, the jury left open court at
8 approximately 12:30 p.m.)

9 THE COURT: Okay. I just want to put on the record
10 that we did just before the case -- before testimony
11 began, we had a bench conversation and Mr. Chambers
12 requested that the witnesses be sequestered. I granted
13 that motion. We never put it on the record, so I never
14 formerly instructed the witnesses not to speak to each
15 other and based on this last witness' testimony, he has
16 spoken with a different witness. So we had this most
17 recently conference, Mr. Webb told me that he informed
18 them that they are not to do that. So if you would
19 reemphasize that with the witness, Mr. Webb, I would
20 appreciate it.

21 MR. WEBB: Yes, sir.

22 THE COURT: See y'all at 2:00 then.

23 (WHEREUPON, a lunch break was taken.)

24 THE COURT: Y'all ready to go?

25 Y'all go get the --

1 THE DEPUTY: He just went to call them, sir.

2 THE COURT: All right. We've got Mr. Brown finally
3 dressed in street clothes and not wearing shackles.

4 Feel a little better, doesn't it, Mr. Brown?

5 MR. BROWN: It actually does.

6 THE COURT: Okay. Well, good.

7 Let's get the jury in here.

8 (WHEREUPON, the jury came into open court at
9 approximately 2:15 p.m.)

10 THE COURT: All right. Ladies and gentlemen of the
11 jury, I hope y'all had a pleasant lunch. And we're ready
12 to crank it back up.

13 Mr. Webb.

14 MR. WEBB: Your Honor, the State calls Sergeant Ron
15 Lendway to the stand.

16 THE COURT: Okay.

17 THE CLERK: If you'd put your left hand on the Bible,
18 raise your right to be sworn in.

19 RON LENDWAY, after being duly sworn, testified
20 as follows:

21 THE CLERK: Thank you, you may be seated. Would you
22 please state your name for the record.

23 THE WITNESS: Ronald David Lendway.

24 THE CLERK: Thank you.

25 ///

DIRECT EXAMINATION

1
2 BY MR. WEBB:

3 Q Officer Lendway, where do you work?

4 A Greenville County forensics within the crime scene
5 unit.

6 Q How long have you been there?

7 A I've been with the crime scene unit for approximately
8 eight years.

9 Q And were you with Greenville County before that or --

10 A No, I was with the Greer Police Department for five
11 years prior to that.

12 Q What are your duties and responsibilities in that
13 unit in Greenville County?

14 A We respond to different crime scenes within
15 Greenville County and we assist any agency that calls us
16 needing assistance, whether it's to a burglary, car
17 break-in, armed robbery, or a homicide or a death
18 investigation. And what we'll do is we'll photograph,
19 collect evidence or process for prints if it's needed.

20 Q On June 12th, 2007, did you go to a scene?

21 A Yes.

22 Q Do you remember where you went?

23 A 125 Turentine Circle in Taylors.

24 Q And that's in Greenville County?

25 A Yes, it is.

1 Q And approximately what time did you go out there?

2 A I arrived approximately 2:12 in the morning, just
3 after 2:00.

4 Q And what did you do and what did you see when you got
5 there?

6 A When I got to the scene, I noticed it was secured by
7 numerous deputies on the scene and I spoke with one of the
8 sergeants out there and just got preliminary information
9 as to what had taken place or what information that he
10 knew.

11 Q And after you talked to this sergeant, is that who
12 you talked to?

13 A Yes.

14 Q What did you do?

15 A I also had another technician with me who was fairly
16 new, so not only was I trying to obtain information, but I
17 was also running things through with him, also. But I was
18 advised of several items that were outside and inside the
19 residence that had evidentiary value.

20 Q All right. Let's talk about the items outside the
21 residence.

22 A Okay.

23 Q Can you just try -- and I know there are a number of
24 items in this case, just start and tell me what you found
25 outside the residence?

1 A Directly in front of the residence when I arrived,
2 there were several items on the ground in front of the
3 house just to the right of the front steps, which were
4 some body armor, a shirt that had police on it, a wallet
5 with some identification inside it, and also a white
6 T-shirt. And some of that clothing appeared to have
7 suspected blood on it and had some tears and also appeared
8 to be cut and was also told that's the point where EMS had
9 arrived to the scene, but they were not there when I had
10 arrived.

11 Q Now, you said you found a shirt at the scene. I'm
12 going to show you State's Exhibit No. 15. Have you ever
13 seen this before?

14 A Yes.

15 Q Was this the shirt that you saw that night?

16 A Yes.

17 Q And you said you saw body armor; is that right?

18 A Yes.

19 Q Let me show you State's Exhibit No. 16. is that the
20 same body armor?

21 A That is the body armor, yes.

22 Q Okay. Did you see a bag out in the yard?

23 A I did see a bag, however, it wasn't in the front
24 yard, it was more towards the rear left corner of the
25 house in the backyard.

1 Q What type of bag was that?

2 A What type of bag? It was a black bag. The name
3 brand was a McGuire Nicholas workwear bag.

4 Q Anything inside that bag?

5 A Yes, there was several items inside the bag.

6 Q Such as?

7 A Inside the bag were a Gerber nylon pouch, Uncle
8 Mike's holster and magazine pouch, a pair of Wilson black
9 safety wear gloves, allied pliers with multiple tool
10 attachments, a Cobalt screwdriver, a 12-inch wrecking bar,
11 open pack of Trident gum, a black mini Mag-lite with no
12 battery and a red/black flashlight, six volt, was also
13 inside the bag.

14 Q I'm going to show you State's Exhibit No. 19, is this
15 the same bag you located that you're referring to?

16 A Yes, it is.

17 Q All right, what else did you find outside of the
18 house?

19 A Outside the house, the next nearest item was there
20 was a large quantity of cash that was scattered in the
21 backyard of the residence.

22 Q Did you collect this cash?

23 A I didn't collect it, but the technician that was with
24 me, I had him collect it and also count the money.

25 Q And do you know how much value that money was?

1 A Twenty-three thousand dollars.

2 Q I'm going to show you State's Exhibit No. 8. Have
3 you ever seen that picture before, seen what's inside the
4 picture?

5 A Yes, this is the money that was recovered from the
6 backyard.

7 Q Okay.

8 MR. WEBB: Your Honor, at this time, the State moves
9 State's Exhibit No. 8 into evidence?

10 MR. CHAMBERS: No objection, Your Honor.

11 THE COURT: All right.

12 (WHEREUPON, State's Exhibit No. 8 was admitted
13 into evidence.)

14 BY MR. WEBB:

15 Q All right. You said you found money, \$23,000 worth,
16 did you find anything else outside the house?

17 A Yes, I did.

18 Q What did you find?

19 A One of the things I was notified by the deputies on
20 scene is that there was -- appeared to be a trail of
21 evidence throughout the woods coming from the back --
22 coming from the rear of the residence and it was almost in
23 a line. And some of the other items that were located in
24 the woods, excuse me, were a plastic bag that had Finish
25 Line written on it, a black taser was also found, a

1 black -- a black glove for the left hand was in the woods,
2 a set of keys, which we later found out belonged to the
3 victim and those keys were returned to the victim. In the
4 backyard was also an empty Luvs container. And there was
5 a Smith & Wesson handgun .40 caliber, and also a magazine.

6 Q I'm going show you what's been mark as State's
7 Exhibit No. 12. We just talked about the handgun. Is
8 this the same handgun that you found that night? Look at
9 it, please.

10 A Yes, it is.

11 Q And how do you know it is?

12 A Through the serial number.

13 Q Did you find any other items outside or is that it?

14 A With it -- with that handgun there, there was also a
15 magazine that did have some live round in it and also,
16 there was one additional live round. What I was told when
17 I got to the scene is they had found a gun into the woods
18 and one of the officers had cleared the weapon to make it
19 safe and he put it up on a fallen tree.

20 Q Now, I'm going to show you what's been marked State's
21 Exhibit No. 20, can you tell me what that is?

22 A It's a black bag.

23 Q And is that the same bag that you identified earlier?

24 A Yes, yes, it's that black bag right there.

25 Q Where was that found?

1 A It was -- at the rear of the house, if you're
2 looking -- if you're in the front yard looking at the
3 front of the house, it would be in your rear left back
4 corner of the house.

5 Q Okay. Thank you.

6 MR. CHAMBERS: No objection, Your Honor.

7 THE COURT: Okay.

8 MR. WEBB: State moves Exhibit No. 20 into evidence.

9 (WHEREUPON, State's Exhibit No. 20 was marked
10 for identification and received into evidence.)

11 BY MR. WEBB:

12 Q All right, and you were saying -- did you find
13 anything else outside?

14 A Yes.

15 Q What was that?

16 A There was also a black ball cap, size 7 1/2 from the
17 ground in the wooded area behind the residence. Also,
18 some eyeglasses from the ground in the wooded area, a
19 black V-Force face shield mask was also located in the
20 ground in the wooded area. Like I said, the other items
21 were in front of the house on the ground when I arrived.

22 Q Okay. Now, I'm going to show you State's Exhibit No.
23 11. You talked about finding a mask, is this the same
24 mask?

25 A Yes, it is.

1 Q All right. So those were the items found outside?

2 A Yes.

3 Q Did you go inside the residence?

4 A Yes, I did.

5 Q What did you find in there?

6 A Inside the residence, I located a set of handcuff
7 keys, which had two keys on one ring, which was located on
8 top of the kitchen counter. Also, located a piece of
9 silver duct tape from the living room floor, a handcuff
10 with a broken chain from the living room floor, a handcuff
11 with no chain from on top of the coffee table, a 3-M roll
12 of silver duct tape from the hallway floor, a set of
13 hinged handcuffs from the hallway floor and silver duct
14 tape with suspected blood on it from the hallway floor.

15 Q Now, did you process any fingerprints that night?

16 A Yes.

17 Q And on what items?

18 A Me and my parter, we processed items within the
19 residence to include open boxes in the kitchen. There
20 were opened cereal boxes and Pop Tart boxes. We processed
21 doorknobs, doors and we --

22 Q Were you able to find any prints off the doorknobs?

23 A There were no comparable prints that were lifted from
24 the scene.

25 Q And -- now, talk to me about some of the -- I know

1 you deal a lot with fingerprints in your line of work,
2 talk to me about how long a fingerprint could last?

3 A Under the best conditions, a fingerprint can last
4 years and years. I mean, it can last a very, very long
5 time.

6 Q Now, what kind of surfaces can it be pulled from and
7 are there any surfaces that can give you difficulty in
8 pulling?

9 A A smooth surface is the best surface to get a print
10 from. If you started getting into your more textured
11 surfaces or some fabrics and that kind of thing, the
12 chances of obtaining a latent print that's useable is very
13 low.

14 Q And so you said you lifted prints and did you find
15 any prints that matched anyone?

16 A Yes, I did.

17 Q What prints did you find there?

18 A The print that was matched with some of the Luvs
19 container that was located in the backyard, which was
20 processed once we got it back to our office. And that
21 print matched to the victim.

22 Q But no other prints matched anyone else?

23 A That's right.

24 Q All right. All right. I'm going to --
25

1 (WHEREUPON, State's Exhibit No. 21 was marked
2 for identification only.)

3 BY MR. WEBB:

4 Q All right. Sergeant Lendway, I'm going to hand you
5 what's been marked State's Exhibit No. 21, can you please
6 tell me what's inside this bag?

7 A You want me to pull it out?

8 Q Yeah, you can pull them out?

9 A These are glasses that I recovered from the ground in
10 the wooded area behind the residence.

11 Q Okay. Are they in the same condition as you remember
12 them?

13 A Yes.

14 Q Okay. Thank you.

15 MR. WEBB: Your Honor, State moves Exhibit No. 21
16 into evidence.

17 MR. CHAMBERS: No objection, Your Honor.

18 THE COURT: Okay. State's Exhibit 21.

19 (WHEREUPON, State's Exhibit No. 21 was admitted
20 into evidence.)

21 (WHEREUPON, State's Exhibit No. 22 was marked
22 for identification only.)

23 BY MR. WEBB:

24 Q All right. Sergeant Lendway, I'm going to hand you
25 what's been marked State's Exhibit 22. Can you look

1 inside this bag and tell me if you've ever seen what's
2 inside?

3 A Yes, this is the black taser that I located from the
4 wooded area behind the residence.

5 Q Okay. Do you remember how far in the wooded area you
6 located that?

7 A Like I said before, the items that were recovered in
8 the wooded area were kind of scattered and kind of in a
9 line. This item here was -- and yet, there was a small
10 backyard to the residence, then you get to the wood line.
11 From the start of the wood line, I would say
12 approximately 10 yards. It wasn't that far in, but was
13 all the way into the woods.

14 Q Okay. Thank you.

15 MR. WEBB: Your Honor, the State moves Exhibit 22
16 into evidence.

17 MR. CHAMBERS: No objection, Your Honor.

18 THE COURT: Without objection.

19 (WHEREUPON, State's Exhibit No. 22 was admitted
20 into evidence.)

21 (WHEREUPON, State's Exhibit No. 23 was marked
22 for identification only.)

23 BY MR. WEBB:

24 Q All right. Sergeant, I'm going to hand you what's
25 been marked State's Exhibit No. 23, can you tell me what's

1 inside that bag?

2 A This is the blue Finish Line plastic bag that I
3 recovered and this was also in close proximity to the
4 taser. And it's got Finish Line right on the bag.

5 Q Okay. Thank you.

6 MR. WEBB: Your Honor, State moves Exhibit No. 23
7 into evidence.

8 MR. CHAMBERS: No objection, Your Honor.

9 THE COURT: Okay. State's Exhibit 23.

10 (WHEREUPON, State's Exhibit No. 23 was admitted
11 into evidence.)

12 MR. WEBB: No more questions, Judge.

13 THE COURT: All right.

14 ?

15 CROSS-EXAMINATION

16 BY MR. CHAMBERS:

17 Q Sergeant Lendway, do you have a copy of your crime
18 search investigation report with you?

19 A Yes, I do.

20 Q Do you have the whole report?

21 A Yes.

22 Q All right. I want to go over that with you in a
23 minute, but first, I want to ask you, when you go out to a
24 scene and the police are already there, which, I guess, is
25 typically the situation, right?

1 A More than likely when we arrive, yes.

2 Q You said that when you came to this scene at a little
3 after two in the morning that the scene was already
4 secured?

5 A Yes.

6 Q What does that mean to you when you say the scene is
7 secured?

8 A That there is no more -- that they have the scene
9 under control.

10 Q And for your collection purposes, it is policy that
11 the police are supposed to leave evidence where it is
12 until you collect it?

13 A I'm a different agency than the sheriff's office.
14 Preferably, that's how we like to have. That's not always
15 the case, though. Sometimes you might have somebody move
16 something. Sometime the victim might pick something up.

17 Q But it's important as much as possible to have things
18 remain where they're found, correct?

19 A It's preferred that way.

20 Q And one of the things that you do when you go out and
21 collect evidence is you assign a number to everything that
22 you find; is that correct?

23 A Yes.

24 Q And I think you actually put down markers where you
25 find things?

1 A Right.

2 Q What's the reason for putting down those markers
3 where you find those things?

4 A Those are our evidence placards. And what I'll do if
5 I have multiple items or even if I just have one item, we
6 have lettered placards that are the yellow evidence
7 placards and we have a set that has numbers on them. And
8 we also have a set that has letters. In this case here,
9 since it was so much evidence, what I do on the items that
10 were outside the residence, I used numbers and the items
11 that were inside the residence, I used letters, just to
12 keep it somewhat less confusing. On the evidence, if you
13 look at my report where it's got the RL and then a number.

14 Q Yeah.

15 A Those numbers correspond with the numbered placards
16 on the scene.

17 Q Then you take pictures?

18 A Yes.

19 Q Of each item of evidence that you find?

20 A Yes.

21 Q And you take that picture where it is you found it?

22 A Yes.

23 Q And all of that is in an effort to sort of preserve
24 the scene, correct?

25 A Right.

1 Q In this particular case, I just want to go through
2 this list with you, and you have it there with you. The
3 items that you told the solicitor that you found outside
4 the residence RL-1 is a magazine, .40 caliber Smith &
5 Wesson containing 12 live cartridges, head stamped RP40SW
6 and one live cartridge head stamped Federal 40SW on ground
7 in wooded area behind residence; is that correct?

8 A Right.

9 Q And then RL-2 was a silver and black Smith & Wesson
10 semi-automatic handgun, Smith & Wesson 40B, .40 caliber,
11 serial number PBV7040 and one live cartridge head stamped
12 RP40S from on top of a fallen tree in wooded area behind
13 residence, correct?

14 A Right.

15 Q And then RL-3, you have black glove, parenthetically,
16 left hand, from ground in wooded area behind residence,
17 correct?

18 A Right.

19 Q And then RL-4 is one set of keys belonging to the
20 victim. And you put parenthetically, returned to the
21 victim, VA property and evidence form; is that correct?

22 A Right.

23 Q Now, you don't indicate where that was found. Where
24 was that found, do you know?

25 A Yes, it was in the woods behind the residence. It

1 was near the Finish Line bag and the taser.

2 Q Do you remember what kind of keys those appeared to
3 be?

4 A Just like a normal set of keys that somebody would
5 have for their vehicle and their house. Had a couple of
6 keys on it.

7 Q So all of the victim's personal keys, you found in
8 the wooded area behind the house?

9 A Right. We found a set of keys. We brought those
10 keys to the victim and he identified those as his keys.

11 Q Okay. And you gave those back to him?

12 A Right.

13 Q Then RL-5 is the black taser, which we've already
14 seen, this item over here --

15 A Right.

16 Q -- that you said was found from ground in wooded
17 behind the residence?

18 A Right.

19 Q So that -- empty blue plastic Finish Line bag from
20 ground in wooded area behind residence. That's that bag
21 right there?

22 A Right.

23 Q And RL-7, empty Luvs wipes container from ground in
24 backyard. That was in the backyard?

25 A Right.

1 Q Then RL-8 was the black, gray, orange McGuire &
2 Nicholas workwear bag and I won't go through the whole
3 list, but it contained a whole bunch of stuff --

4 A Right.

5 Q -- so that's that right there? RL-8A, those were
6 some other items that, I guess, were found in the bag; is
7 that --

8 A Right.

9 Q Is that right? Okay.

10 A And the reason why I listed it that way, I kept with
11 the number eight because it was also in the bag. But for
12 property and evidence purposes, we have to put weapons,
13 guns, knives, ammunition on their own P & E sheet,
14 property and evidence sheet, and submit that separately.
15 We can't put -- store their items in property and evidence
16 with guns over here, ammunition, jewelry and then
17 miscellaneous items, they have another area there. So we
18 have to put those on its own property and evidence sheet
19 to help them out when they store those items.

20 Q And RL-9 was the black ball cap, size 7 1/2 from the
21 ground in wooded area behind residence?

22 A Right.

23 Q RL-10, eyeglasses from ground in wooded area behind
24 residence?

25 A Yes.

1 Q And I believe you identified these as the glasses
2 that you found; is that correct?

3 A Right.

4 Q Black V-Force face shield/mask from ground in wooded
5 area behind the residence, and that's this?

6 A Right.

7 Q Okay. All right. White Hanes T-shirt cut with
8 suspected blood on it, navy blue T-shirt with police
9 printed on it in yellow on ground in front of residence;
10 is that correct?

11 A Yes.

12 Q Just out of curiosity, why did you put the white
13 T-shirt and the blue T-shirt, list both of those RL-12,
14 any reason?

15 A They were together.

16 Q Okay. And we've seen the blue T-shirt. The white
17 T-shirt, apparently, hasn't been introduced into evidence
18 yet; is that correct? I mean, you haven't seen it?

19 A I haven't seen it. I just came in.

20 Q RL-14 -- or RL-13 was a black wallet containing
21 identification for Gerald Brown, date of birth 9/23/73 and
22 miscellaneous business cards from ground in front of
23 residence, correct?

24 A Right.

25 Q RL-14, black glove, right hand, from ground in front

1 of residence, correct?

2 A Right.

3 Q And then RL-15, police body armor from ground in
4 front of residence, correct?

5 A That's right.

6 Q That's this body armor right here?

7 A Right.

8 Q And on each one of those things, you took a picture
9 with a placard where you found it?

10 A Right.

11 Q And then you created this report and it has all that
12 information?

13 A Right.

14 Q And then you said you did letters for the items you
15 found in the house?

16 A That's right.

17 Q And you have the report there that says RL-A was a
18 set of handcuff keys, two on a ring from on top of the
19 kitchen counter; is that right?

20 A Right.

21 Q And then RL-B, was silver duct tape from living room
22 floor, correct?

23 A Correct.

24 Q Then RL-C was a handcuff with broke chain from the
25 living room floor, correct?

1 A Yes.

2 Q RL-D was a handcuff with no chain from on top of the
3 coffee table?

4 A Right.

5 Q RL-E, 3M roll of silver duct tape from hallway floor,
6 correct?

7 A Yes.

8 Q RL-F, set of hinged handcuffs from hallway floor, you
9 found those, correct?

10 A Yes.

11 Q And then RL-G was silver duct tape with suspected
12 blood on it from hallway floor; is that correct?

13 A Yes.

14 Q And then you took a video of the crime scene; is that
15 correct?

16 A I didn't actually take the video, my partner did.

17 Q That would be forensic technician Brown?

18 A Right.

19 Q Now, on some of these items, you had some testing
20 done, is that correct, or, at least, you collected things
21 to have some testing done?

22 A Yes.

23 Q Do you order test, though, or do you merely collect a
24 sample so the testing can be done?

25 A I merely collect the samples so they can be done.

1 Q Do you do any follow-up with that or --

2 A No.

3 Q Once you've done it, you're finished?

4 A Once I've done them, I'm finished.

5 Q If you take a swab or dust for prints or do anything
6 like that, do you do that on your own or you instructed to
7 do that?

8 A I do that on my own.

9 Q And how do you determine what you're going to swab,
10 what you're going to dust, essentially, what you're going
11 to try and collect samples for?

12 A It depends on what type of evidence you might have.
13 In different areas inside -- you know, if it's inside of a
14 residence, it depends on the areas that were affected. If
15 you walk into a room and all your dresser drawers were
16 pulled out and the victim tells you that that's not how
17 they had it, well, then there's an area that you would
18 look for. You look for -- you know, some of it's obvious,
19 some of it may not be as obvious.

20 Q In this particular case, you -- looking at your
21 report, it appears that RL-2A, you took a swabbing from
22 the trigger guard area from RL-2, which is the Smith &
23 Wesson .40 caliber handgun for possible DNA analysis; is
24 that correct?

25 A That's right.

1 Q How would -- based on your experience and your
2 training, how would you get DNA material on a trigger
3 guard like that?

4 A How would you get DNA?

5 Q Yeah, I mean, in other words, I mean, just by
6 touching it, would my DNA be on there, possibly?

7 A Possibly.

8 Q So I wouldn't have to like bleed on it or sweat on it
9 or anything like that?

10 A That's right. You could cough on it.

11 Q And then RL-5A, you took a swabbing out of RL-5,
12 which is the taser for possible DNA analysis?

13 A Yes.

14 Q And you took -- RL-10A is you took a swabbing from
15 RL-10, the eyeglasses, for possible DNA analysis?

16 A Yes.

17 Q And then you also took -- RL-11A, you took a swabbing
18 from the mask for possible DNA analysis?

19 A Yes.

20 Q And how is it, if you recall, that you chose those
21 items to take swabs?

22 A Why is it those?

23 Q Yeah.

24 A The face shield, you're breathing into it. You may
25 have some build up of some DNA on the inner side of the

1 mask. The glasses, you know, you might have on the bridge
2 of your nose. Some people may sweat or you get what they
3 call sebaceous material on and around your face, which
4 could potentially have DNA. And what were the other
5 items?

6 Q You had the taser, the pistol, the mask and the
7 eyeglasses?

8 A Right. And the pistol and with the taser, somebody
9 would be holding those items.

10 Q So those in your estimation were items that would
11 most likely be things that possibly contained DNA material
12 that could be tested?

13 A Right.

14 Q It said you also took a swabbing of suspected blood
15 from RL-G, silver duct tape?

16 A Right.

17 Q And that is because you looked at it and it looked
18 like it had blood on it, correct?

19 A Right. And the victim had also said while he was
20 duct taped, he was trying to bite through and in the
21 process, he bit his lip, which was bleeding and he
22 believed that that was his blood.

23 Q And you dusted the Luvs wipes container and the
24 handcuffs, it says inside the residence. Now, does that
25 mean those were found inside the residence or that's just

1 where you tested them?

2 A That's where -- the handcuffs were from inside the
3 residence, but they were not processed until I got back to
4 the office. With this many items, doing the report and
5 testing the items, all these items, it's at least a week's
6 worth of work, so it's not something that you just go back
7 to the office and you're done with it. So, you know, it's
8 at least a week's worth of work to do different steps
9 within this process.

10 Q I understand. So you actually did the latent prints,
11 you checked those yourself; is that right?

12 A No, that's not right.

13 Q It's not right?

14 A What I will do is I'll process four fingerprints. If
15 there's any prints that I see are possibly comparable or
16 if they're of decent quality, I will send those up to our
17 latents division. We have three latent examiners that
18 will get our fingerprints from the crime scenes and will
19 try to determine who they belong to.

20 Q When you say comparable, what do you mean by that?

21 A Well, sometimes you can see a surface or -- you know,
22 for instance, if right now the pollen is out on some cars,
23 you may be able to see a handprint in the pollen, but if
24 you look as close as we have to look at that, what we're
25 looking for is the actual ridge detail that was left

1 behind. Same thing if you have an item that's really
2 dusty, you can touch that and there's no doubt that those
3 look like fingers, but to make an identification, you need
4 the actual ridge detail left from the oils on the hand
5 onto the surface. And what we do is look for that to lift
6 that off of the surface, send that to our latents division
7 to where they can possibly make a match.

8 So you see some items sometimes -- and it depends on,
9 you know, you might have weather conditions, you might
10 have somebody wearing gloves, you might have somebody
11 moving across the surface with a fast motion and it's just
12 a smear. You know, an item can be touched, but that
13 doesn't mean necessarily that there's a fingerprint that
14 they're able to work with.

15 Q Okay. And in this particular case, you didn't get a
16 comparable fingerprint off of the handcuffs; is that
17 right?

18 A Right.

19 Q But you did get one off of the Luvs wipes container?

20 A That's right.

21 Q And to your knowledge, that, ultimately, ended up
22 being the victim's fingerprint?

23 A Yes, I was notified that the print from the Luvs
24 container was from the victim.

25 Q So after you collected all these items that we just

1 talked about, they were packaged and placed into the DPS
2 property and evidence section and the latent lifts
3 reported to the DPS latent subsequent to evaluation; is
4 that correct?

5 A Yes.

6 Q So at that point, once it's in DPS property and
7 evidence, anybody that's investigating this can take that,
8 get it tested, do whatever they need with it --

9 A Right.

10 Q -- because you've put it in there for them to use as
11 they see fit?

12 A Right.

13 Q Is that right, okay. Could I see what you have as
14 far as your report goes? Is that -- is that a copy or the
15 original?

16 A No, this is copy.

17 Q Okay. Could I see it? Is this your entire -- what
18 I'm looking for, really, is the list of items that you
19 have. Yeah, there we go. I want you to look these three
20 pages over and tell me if that is a complete listing of
21 everything that you took into evidence out there at the
22 scene and if it is a complete listing of everything where
23 you took samples for possible testing, would you do that
24 for me?

25 A It is.

1 Q Okay.

2 MR. CHAMBERS: Your Honor, I would offer these three
3 pages of this report into evidence as Defendant's Exhibit
4 1.

5 MR. WEBB: Judge, I'm going to have to object. He
6 testified to the exact same thing. This is a police
7 report going into evidence which are --

8 THE COURT: Let me take a look at it.

9 THE WITNESS: It's just a copy that I made.

10 THE COURT: Don't, don't.

11 MR. CHAMBERS: And our position, Your Honor, is it's
12 merely an inventory.

13 THE COURT: Wait. Y'all come up here for one second.

14 (WHEREUPON, a bench conference was held in the
15 presence of the jury but out of the hearing of
16 the jury.)

17 (WHEREUPON, Defendant's Exhibit No. 1 was marked
18 for identification and received into evidence.)

19 THE COURT: All right.

20 I guess I neglected to tell y'all, if you ever need
21 anything, just signal to me or the bailiffs. We certainly
22 want to do everything we can to make you comfortable.

23 Okay.

24 All right, Mr. Chambers.

25 MR. CHAMBERS: Sergeants, that's all the questions I

1 have for you.

2 MR. WEBB: Nothing else from the State, Judge.

3 THE COURT: Okay.

4 You can step down. Thank you, sir.

5 How long is your next witness?

6 MR. WEBB: From the State, not too long, Judge.

7 THE COURT: Okay. Let's go ahead.

8 Y'all want a break now?

9 MADAM FORELADY: Do one more.

10 MR. WEBB: Your Honor, if we may approach?

11 (WHEREUPON, a bench conference was held in the
12 presence of the jury but out of the hearing of
13 the jury.)

14 MR. WEBB: Judge, the State call Travis Wyatt to the
15 stand.

16 THE CLERK: Place your left hand on the Bible, raise
17 your right hand.

18 TRAVIS WYATT, after being duly sworn, testified
19 as follows:

20 THE CLERK: Thank you, you may be seated. State your
21 name for the record.

22 THE WITNESS: It's Travis Wyatt.

23 THE CLERK: Thank you.

24 ///

25 ///

DIRECT EXAMINATION

BY MR. WEBB:

Q Officer Wyatt, good afternoon. How long have you been working with Greenville County?

A I've been a deputy for five years, been with the county for six years.

Q Were you working on June 12th, 2007?

A Yes, sir, I was.

Q Did you go out to the victim's house, George Howard's house?

A I did.

Q Approximately, what time did you go out there?

A I believe it was a little after one in the morning.

Q Why did you go out there?

A We were responding to a call -- I was responding as back up unit to the other detective that was already on scene to burglary that was in progress.

Q You said another deputy was on scene, just one deputy or --

A There were several deputies. I was one of the last ones to arrive, I believe. Master Deputy Acord, Deputy Bryan, Master Deputy Porter and Deputy Harris.

Q Where did you go once you arrived?

A Once I arrived on scene, we -- my supervisor was there, we started to pull my vehicle to -- my car was

1 still on Turentine Circle. We started to pull my vehicle
2 in front, directly in front of the house to provide us
3 with some sort of cover and to begin any kind of
4 negotiations or a call out that we were going to try.

5 Q I'm going to give you this dot here. If you don't
6 mind, put this dot to where you were near the house. You
7 can go ahead and step down.

8 A I was actually right here. We were pulling my
9 vehicle right up in front, directly in front of the house.

10 Q So you were right in front of the house?

11 A Yes, sir.

12 Q Approximately, how far a distance is that?

13 A Maybe a hundred yards. The exact distance, I'm not
14 sure, but maybe about -- less than a football field, I
15 know. I don't know the exact distance.

16 Q How was the lighting out at the house?

17 A It was dark. There were some interior lights on and
18 then there was -- right here where the driveway comes into
19 the porch, the little sidewalk here, there was one, like a
20 single-bulb light right there and that's the only light
21 that we had besides our flashlights.

22 Q How long did you wait by your car there?

23 A I was not there long. I had just brought my car up
24 Turentine Circle this way, had pulled my car right here.
25 And as soon as I got out of my car, that's when the

1 suspect came out of the front door.

2 Q You say the suspect, what was the suspect wearing?

3 A It was all dark. He was there for a split second.

4 Master Deputy Porter challenged him, identified himself,
5 sheriff's office, get on the ground and the suspect
6 immediately took off to his right and my left around the
7 corner of the house.

8 Q What did you do?

9 A At that point, once he came out, he went around the
10 side of the house. Myself and Sergeant Moore went
11 immediately and made entry inside into the front door of
12 the house.

13 Q What did you see when you went inside the house?

14 A We went inside. Mr. Howard was -- he was to my left.
15 Jarecus Howard, the younger one was to my right and the
16 youngest one, Javon, was also to my right, kind of over in
17 the corner. Once we made entry into the house, our
18 immediate was to -- for our safety and for the safety of
19 the other victims is clear the house, make sure we don't
20 have any other suspects inside.

21 Q You can go ahead and sit down. And tell me, what did
22 you do to clear the house, where did you go?

23 A Of course, I had my shotgun I had retrieved out of my
24 vehicle. We go in and clear -- we go in and clear the
25 immediate area that we're in and we do a room by room

1 search into the house. The attic stairs were pulled down,
2 we also went up into the attic to make sure we didn't have
3 anybody else -- any type of suspects.

4 Q So you searched the whole house?

5 A Yes, sir.

6 Q Did you find anyone else?

7 A The only people in the house were our three victims.

8 Q And did you see anyone else run outside the front
9 door when you were outside?

10 A No, sir, we made immediate entry into the house.

11 Q Now, I want to talk to you about the victims again.
12 You said you saw George Howard, where was he?

13 A He was laying on the ground to -- as you entered into
14 the house, he was laying on the ground to the left.

15 Q And you say he was on the ground, why was he on the
16 ground?

17 A That's the position that he was in. He was duct
18 taped. His whole face was duct taped, including from here
19 to the top, handcuffed behind his back and his feet were
20 duct taped.

21 Q What about Jarecus, the 13 year old?

22 A He was to my right. He had duct tape around his
23 eyes. He had duct tape around his feet, his wrist and he
24 was also handcuffed behind his back.

25 Q When you searched this house, did you see any money?

1 A There was no money inside.

2 Q Did you see any drugs lying around?

3 A No drugs.

4 Q And the third victim, Javon, where did you see him?

5 A He was standing off to -- kind of right near where
6 Jarecus was, he was just kind of standing there.

7 Q Was he glad to see you?

8 A He was. He was.

9 Q So what did you do, did you untie the victims?

10 A We had to -- the handcuffs that were on Jarecus, our
11 handcuff keys wouldn't fit. They were, I'm not sure if
12 they were toy handcuffs is the correct terminology, but my
13 handcuff key wouldn't fit them. So we actually had to
14 break those. And I took my pocketknife, which I carry on
15 duty, and cut the duct tape off his face.

16 Q And same goes with the other victim?

17 A Sergeant Moore was able to get George Howard, the
18 tape cut from -- we were concerned about his breathing, to
19 get the tape off of his mouth.

20 Q I'm going to show you what's been marked State's
21 Exhibit No. 7, would you please tell me what this picture
22 is of?

23 A That is a picture of -- it's the duct tape laying by
24 the couch where Jarecus was, the duct tape that we removed
25 from him and also one half of the handcuffs that we had

1 taken off of Jarecus.

2 Q Did you find other handcuffs, other parts of the
3 handcuffs other than that right there?

4 A I believe the other one was -- after we took them off
5 of him, we had a set them off to the side.

6 Q Got you.

7 MR. WEBB: Your Honor, at this time, State moves
8 Exhibit No. 7 seven into evidence.

9 MR. CHAMBERS: No objection, Your Honor.

10 THE COURT: Okay.

11 (WHEREUPON, State's Exhibit No. 7 was admitted
12 into evidence.)

13 (WHEREUPON, State's Exhibit No. 24 was marked
14 for identification only.)

15 BY MR. WEBB:

16 Q All right. Officer Wyatt, I'm going to show you
17 what's been marked State Exhibit 24, it's two bags here,
18 you might have to open one, but can you please tell me
19 what's inside those?

20 A This is one-half of the handcuff that I referred to
21 as a toy one because our handcuff keys wouldn't fit them.
22 This was the one that we removed from Jarecus.

23 Q What about that other bag?

24 A That's the -- this is the other half that would go to
25 this pair of handcuffs.

1 MR. WEBB: Your Honor, at this time, State moves
2 Exhibit No. 24 into evidence.

3 MR. CHAMBERS: No objection, Your Honor.

4 THE COURT: All right, no objection.

5 (WHEREUPON, State's Exhibit No. 24 was admitted
6 into evidence.)

7 BY MR. WEBB:

8 Q All right. So what did you do after you freed the
9 victims?

10 A We had -- once we had the other deputies we knew were
11 out in the back dealing with the suspect, once it was
12 clear for them, we -- once we had -- told the suspect was
13 in custody, we had EMS come in and start rendering aid to
14 the victims.

15 Q And did you later go back out to the scene?

16 A I did. Deputy Bryan had told me that night that he
17 had seen a gold badge on the suspect as he was running.
18 Due to the limited light we had that night, the next night
19 when we came back on shift, which would have been 7:00 is
20 when we come on, myself and Deputy Bryan went back to the
21 incident location. Deputy Bryan took me back into the
22 woods where the suspect was taken into custody and that's
23 when we found the gold badge, which was in a black -- sort
24 of a black holder and black handcuff case.

25 Q Is this the -- State's Exhibit No. 18, can you tell

1 me what that is?

2 A This is the gold badge that we found back inside --
3 back in the woods where the suspect was taken into
4 custody. And this is the belt -- badge holder that the
5 badge would clip onto and this is also the handcuff case
6 that we found back where the suspect had been taken into
7 custody.

8 Q Officer Wyatt, did you have any other involvement in
9 this case after that?

10 A After I had finished with everything I did on the
11 scene, I went to the hospital to relieve the deputy that
12 was at the hospital with the suspect. And I stayed there
13 until he was released by the doctor. At which point, I
14 transported him to the detention center and signed the
15 warrants.

16 MR. WEBB: No more questions, Judge.

17 THE COURT: Cross?

18 CROSS-EXAMINATION

19 BY MR. CHAMBERS:

20 Q Did you ever go to the rear of the house?

21 A No, sir, I didn't.

22 Q So you were positioned out front until after the
23 suspect ran out. And then after it was confirmed that he
24 had been arrested, you went into the house?

25 A No, sir. When he immediately came out of the house

1 and he went -- he took off to the side of the house, I
2 immediately made entry into the house. This was no delay
3 or waiting until he was in custody. We went directly into
4 the house.

5 Q So you did go on into the house. And prior to
6 tending to the people that were on the floor, did you do
7 like a sweep through the house to see if anyone else was
8 in there?

9 A We did. For our safety to make sure we had nobody
10 else and for the safety of the victims, we conducted a,
11 what we call a safety sweep to make sure that we had no
12 other suspects.

13 Q Okay. But when this person came running out of the
14 house, you were able to see the person?

15 A Yes, sir.

16 Q How visible was this person when they came out?

17 A He stepped out on the porch where he was wearing all
18 dark colors, very limited lighting. He was there for a
19 split second. When Deputy Porter identified himself,
20 challenged him to get on the ground and then he took off
21 immediately around the side of the house.

22 Q So you're saying it was fairly dark and you didn't
23 get a good look at the person; is that right?

24 A Yes, sir.

25 Q So, I mean, I'm looking at your report, I don't see

1 any note, any mention of the mask or the vest or the shirt
2 or any of the other things we heard about, so you weren't
3 able to tell me anything, were you?

4 A No, sir, he was there for a split second wearing all
5 dark when he immediately took off running.

6 Q Were you able to tell if he had a pistol or some
7 other type gun in his hand?

8 A He appeared to have something in his hand, but like I
9 said, he was there for very limited amount of time.

10 Q Were you able to tell if he had a taser in his hand?

11 A No, sir.

12 Q And you were, apparently -- I mean, all of y'all were
13 in radio contact with one another, correct?

14 A Yes, sir.

15 Q Any idea how many officers there were out there
16 total?

17 A If you'll give me just a second, I'll -- there were
18 five or six, just trying to -- if I'm trying to get my
19 memory and then there was other deputies, of course. In a
20 situation like this, we're going to bring everybody we can
21 to assist us, so there were other deputies who were on the
22 way to us.

23 Q Do you remember any state troopers being out there?

24 A I think a couple state troopers did show up.

25 Q Okay. And do you know how many people were on the

1 scene when you got there?

2 A Sergeant Moore, Deputy Bryan, Deputy Harris with his
3 K-9, Master Deputy Acord, Master Deputy Porter.

4 Q And did somebody direct you to take the position you
5 took out front or was that just your decision?

6 A The rest of the deputies were around back with the
7 exception of Sergeant Moore and I was there with him. He
8 directed me to pull my vehicle in front of the house.

9 Q And the badge you found, you went back and found that
10 the next evening?

11 A The next evening.

12 Q Okay. And did anybody that when you were in radio
13 contact say -- did anybody position themselves back in
14 these woods that you know of?

15 A Their exact location, I don't know. I knew they were
16 towards the rear of the residence.

17 Q And when you got the call, was there any mention made
18 or anything about being a particular concern about the
19 back door area?

20 A Nothing I can recall about the back door. I knew the
21 deputies were back in the area.

22 Q Okay. And I'm looking at your report and at one
23 point, you say I was advised by B34 Bryan that subject was
24 wearing a blue shirt that said police and was wearing the
25 body armor when arrested. So was that related to you?

1 A In our conversation, yes, sir, that's what he -- if I
2 put it in my report that night, I'm sure that's what I was
3 told.

4 Q That's why you wrote that down because he said that
5 to you?

6 A Yes, sir.

7 Q Okay. Thank you.

8 MR. CHAMBERS: That's all the questions I have.

9 THE COURT: Anything on redirect?

10 MR. WEBB: Nothing else, Judge.

11 THE COURT: All right. Thank you, sir. You can step
12 down.

13 Anything else?

14 MR. WEBB: I've got one more, Judge.

15 THE COURT: How long do you anticipate?

16 MR. WEBB: Could be a little longer.

17 THE COURT: All right. Well, ladies and gentlemen,
18 we're going to take a short break now. We'll get back to
19 you. Please don't discuss the case yet. Thank you, very
20 much.

21 (WHEREUPON, the jury left open court at
22 approximately 3:15 p.m.)

23 THE COURT: We'll be at ease.

24 (WHEREUPON, a short break was taken.)
25

1 (WHEREUPON, the jury came into open court at
2 approximately 3:50 p.m.)

3 THE COURT: Let's go.

4 MR. WEBB: The State calls Hal Harris to the stand.

5 THE CLERK: All right. Mr. Harris, place your left
6 hand on the Bible, raise your right hand.

7 HAL HARRIS, after being duly sworn, testified as
8 follows:

9 THE CLERK: Please be seated. State your name for
10 the record.

11 THE WITNESS: Harold Lee Harris.

12 THE CLERK: Thank you.

13 DIRECT EXAMINATION

14 BY MR. WEBB:

15 Q Officer Harris, where do you work?

16 A Greenville County Sheriff's Office.

17 Q And as a deputy there, are you a canine deputy?

18 A I am.

19 Q And what's the name of your dog?

20 A Cash.

21 Q How long have you had Cash?

22 A Since June of 2004 -- excuse me, June of 2004.

23 Q Did you ever have a dog before Cash or was that your
24 first dog?

25 A I had a couple dogs in training that washed out.

1 Q Do you still have Cash now?

2 A I do.

3 Q Now, did you respond on June 12, 2007, to the
4 victim's house, George Howard?

5 A I did.

6 Q Why did you go out there?

7 A I was actually on another channel on the other side
8 of town and I heard the call go out. So based on the
9 nature of the call, I responded.

10 Q And what did you see when you got there?

11 A I, actually, parked down the road, got Cash out. We
12 went up to the front of the residence and Sergeant Moore
13 directed me to the back of the house.

14 Q So where in the back of the house did you go?

15 A If you're facing the front door of the house, I was
16 on the left-hand side at the back corner, rear corner.

17 Q All right. I'm going to hand you a little red dot.
18 You see the other red dots on that map, but could you
19 please put this red dot to where you were at the house?

20 A (The witness complies.)

21 Q So you were with someone else?

22 A Yes, sir, I was with Deputy Michael Bryan.

23 Q And how long did you wait there at that corner?

24 A We were -- I had arrived on scene at 1:17 in the
25 morning and at 1:20 and 40 -- 1:20 a.m. and 40 seconds, we

1 were advised he was -- Mr. Brown was exiting the front of
2 the residence.

3 Q Now, Mr. Brown, the Defendant, is he in the courtroom
4 today?

5 A Yes, sir.

6 Q What is he wearing?

7 A Blue shirt, seated beside Mr. Chambers.

8 Q All right. Thank you. Now, you said that you
9 received information that he was leaving the house; is
10 that what you said?

11 A Yes, sir. I believe someone yelled he's running or
12 something to that nature. Somebody yelled he's running.

13 Q Do you remember who yelled?

14 A I don't.

15 Q And what did you see after you heard that yell?

16 A When I first met up with the Deputy Bryan, I
17 instructed him to not to yell out any commands, don't get
18 between the dog and the bad guy and to illuminate the
19 suspect with his flashlight, that's all I wanted him to
20 do. And I saw someone wearing a -- running in my
21 direction wearing what appeared to be a mask and a T-shirt
22 that said police on it.

23 Q Did you see anything else on him?

24 A No, sir.

25 Q So did Michael Bryan do what he was told and shine

1 the light on him?

2 A Yes, sir.

3 Q Right now, I want to kind of break and talk to you
4 about Cash, your K-9. What type of training has Cash had?

5 A We've done a 400-hour class, patrol class when I
6 first got him. And then we do -- been to numerous
7 seminars throughout his career and we do ten hours
8 maintenance training a week.

9 Q So Cash does the training, but you do it along with
10 him?

11 A Right. I believe right now, we've got around 1500
12 hours or in excess of 1500 hours together.

13 Q Cash has been on the job, you said, since 2004?

14 A Yes, I believe so, yes, sir.

15 Q All right. So you see the Defendant with your
16 flashlight or with Michael Bryan's flashlight?

17 A Right.

18 Q What happens then?

19 A I yell, Stop, police -- let me give you my exact
20 verbiage. Police dog, stop or you'll be bitten.

21 Q And did the Defendant stopped?

22 A No, sir. He actually turned 45 degrees to continue
23 running into the woods.

24 Q I'm sorry, step down and show me how he turned --
25 show me how he was and then after what you said how he

1 turned.

2 A If this is the corner of the house, as he ran around
3 the corner of the house, he started running. And when I
4 yelled, Stop, police dog. That's when he looked at me, he
5 almost turned his body 45 degrees and continued on that
6 same path into the wood line.

7 Q Do you know how far he was from you when you saw him
8 there?

9 A About 20 feet, maybe.

10 Q And tell me what happened then?

11 A I paused to make sure there were no deputies in
12 Cash's path, also, to give me another second and to give
13 Mr. Brown another second to actually understand -- hear
14 the command and to understand oh, I need to stop. But he
15 didn't, he continued to run. So I released Cash and
16 commanded him to apprehend him.

17 Q What do you say to Cash to command him to apprehend?

18 A It's a general term called packing.

19 Q So what did Cash do?

20 A Cash went and bit Mr. Brown on his right shoulder.

21 Q Where was the Defendant when Cash caught up with him?

22 A It was about three feet inside the wood line.

23 Q Okay. Were you able to see the Defendant and Cash
24 together?

25 A Yes, sir. I -- from the time that I saw him come

1 around the corner of the house, I never lost sight of him.

2 Q Both Cash and the Defendant?

3 A That's correct.

4 Q Okay. And what did you do then?

5 A I began chasing behind him in the woods.

6 Q How far were you away from them at this point?

7 A You know, we never got more than probably six or
8 seven feet away from each other. The problem is these
9 woods, it is pitch black, there's no other light source
10 other than my flashlight and it's really thick.

11 Q But you could see them there all the time?

12 A I was able to maintain contact. Whether I could see
13 this much of him or this much of him, I was able to keep
14 him --

15 Q Did you have a flashlight with you at that time?

16 A Yes, sir, this little one here, that's all I had.

17 Q Where was Deputy Bryan then?

18 A I couldn't tell you.

19 Q All right. So what did you -- you were six or seven
20 feet behind, did you catch up with the Defendant?

21 A Yes, I actually caught up with him, I think, three
22 times -- well, four total, but --

23 Q Were you saying anything to the Defendant or Cash at
24 this time?

25 A I was continually yelling for -- hang on, I'll give

1 you my exact verbiage. There were numerous times that I
2 told him to quit hurting my partner because he was hitting
3 Cash. Several times, Cash yelped.

4 Q Could you see what the Defendant was doing to Cash?

5 A Yes, sir. He -- he was punching him in the side --
6 on the left side of his face. One time, he grabbed his
7 collar and started choking him -- twisting his collar and
8 choking him with his collar. He was grabbing him by the
9 ear, holding his ear as tight as you can and then pulling
10 his hand off like he was trying to rip his ear off. He
11 was slamming him into trees. And I also was yelling the
12 entire time to lay down and I'll call the dog off.

13 Q Did he ever lay down?

14 A No, sir. I yelled to him -- like this was one
15 continuous yell the entire time. When I got done, I was
16 hoarse for two or three days after.

17 Q By continuous yelling, you mean you just kept --

18 A Continually giving commands, stop hurting my dog, lay
19 down, I'll call him off.

20 Q And so -- so tell me more about once you got up to
21 the Defendant?

22 A The three times that I caught him, several times he
23 was reaching around -- what appeared to be reaching around
24 with his arm. I tried to keep his torso in sight and
25 that's what I concentrated my flashlight on. It was so

1 thick in there, I was afraid if I did anything other than
2 concentrate on the largest part of his body, I may lose
3 him.

4 Q Could you tell what he was wearing at that point?

5 A Still something dark, but that's it.

6 Q So you were concentrating on his torso, what were you
7 doing there? Were you trying to apprehend the Defendant?

8 A Several times, I -- I think a couple times I jumped
9 on his back. Couple times, I hit him in the head with my
10 flashlight.

11 Q Did anyone catch up with you?

12 A Finally, at the end, the fourth time we struggled or
13 the fourth time I caught up with him, he fell -- he had
14 actually turned and started running back towards the house
15 and he fell. And by this time -- the total encounter in
16 the woods was about five minutes or a little over five
17 minutes. I just wrapped my arms around his waist and laid
18 on top of him and just started yelling for other people to
19 hurry up and get over there to us.

20 Q Were you able to see what he was wearing then?

21 A Something dark, a dark shirt.

22 Q All right. So tell me what happened then after he
23 was apprehended?

24 A Once other deputies got out there, he continually
25 tried to get up. He was reaching his hand near his rear

1 waistband -- excuse me, hang on. Reaching his hand near
2 his rear waistband. I remember -- I think Deputy Porter
3 asked him what was he reaching for. They were able to get
4 one cuff, I believe, on his right arm and he wouldn't put
5 his left hand behind his back. Even after a -- what we
6 call a drop stun with the taser, he still refused to
7 comply.

8 Q Were you guys able to handcuff him, though?

9 A Yes, sir.

10 Q Now, after he was handcuffed, where was he taken?

11 A I walked out of the woods first. At this point in
12 time, with my dog being kicked or -- excuse me, punched,
13 choked, ears trying to be ripped off and slammed in the
14 trees, that was over with, so now my new priority is
15 making sure that my dog is okay. So we exited the woods
16 first and I took Cash back to our car where I gave him
17 some water and did a preliminary check of him.

18 Q And tell me, how was Cash after that?

19 A He wasn't acting himself. He was acting different,
20 lethargic. He didn't want to get in the car. To get in
21 the back of our car, I -- the back seat is a kennel, so he
22 has to actually -- has to jump up to do that. He
23 hesitated to do that, which is unlike him.

24 Q Was he acting himself at all?

25 A No, he just -- and he was exhausted, too.

1 Q Did you take him anywhere?

2 A That day, actually, later in the day, I took him to
3 Cleveland Park Animal Hospital downtown.

4 Q And after this, did any sort of effects happen with
5 Cash, the affects of this hitting, punching, kicking?

6 A Yes, sir. On the 20th, I believe -- I'm not sure of
7 the day, but anyway, we had a training that week. I
8 didn't do any training with him. The vet at Cleveland
9 Park told me not to. So the following training date that
10 we attended was on June 20th, I believe, and the first
11 training that he took, which was a noncomplicated, just a
12 decoy standing there, send him for a short bite, his top
13 left canine fell out.

14 Q Is that unusual?

15 A Yes, sir, it was just -- or it had been repaired
16 prior to that.

17 Q Officer Harris, I'm going to show you what's been
18 marked State's Exhibit No. 9 and 10. Please tell me what
19 those pictures are of.

20 A Nine is a picture of Cash's tooth where the crown had
21 broken off.

22 Q What about 10?

23 A Ten is the crown with tooth fragments still inside of
24 it.

25 MR. WEBB: Your Honor, at this time, State moves

1 Exhibits No. 9 and 10 into evidence.

2 MR. CHAMBERS: No objection, Your Honor.

3 THE COURT: No objection.

4 (WHEREUPON, State's Exhibit Nos. 9 and 10 were
5 admitted into evidence.)

6 BY MR. WEBB:

7 Q Now, I want to turn your attention back to the
8 Defendant.

9 A Yes, sir.

10 Q Did you see the Defendant after he was taken away
11 from the incident location?

12 A Yes, sir, I saw him at the hospital.

13 Q Where did you see him in the hospital?

14 A Intermediate care at Greenville Memorial.

15 Q What was being done to him?

16 A He was being treated by a doctor.

17 Q And do you remember how he was dressed then?

18 A I believe he was in a hospital gown.

19 Q Do you remember if he had any handcuffs on?

20 A Yes, sir, he was handcuffed to the bed, I believe.
21 He was handcuffed, I don't remember.

22 Q Were you able to talk to him that evening?

23 A I did.

24 Q Did you ever make any sort of threats to him?

25 A No, sir.

1 Q Before talking to him?

2 A No, sir.

3 Q What about promises?

4 A No, sir.

5 Q Did you ever deny him any comforts such as going to
6 the bathroom or things of that nature?

7 A No, sir.

8 Q Did you do anything else to coerce any sort of
9 statement?

10 A No, sir.

11 Q And what did you ask him?

12 A I asked him why did he continue to fight and not give
13 up.

14 Q What was his response?

15 A Ain't nobody want to go to jail.

16 Q Did you ask shim anything else?

17 A I didn't ask him anything else. After that, he
18 stated -- or he kind of sighed and said it's just a crack
19 dealer.

20 And I said, Who, you?

21 And he looked -- he said, Nope.

22 And then I said, Who, the victim?

23 And then he just kind of looked at me like I should
24 have known it.

25 Q What kind of look was that?

1 A I don't even know if I can -- kind of surprised that
2 I didn't know it almost.

3 Q Got you. Is this residence in Greenville County?

4 A Yes, sir.

5 MR. WEBB: Nothing else, Judge.

6 THE COURT: All right.

7 Cross?

8 CROSS-EXAMINATION

9 BY MR. CHAMBERS:

10 Q What kind of dog is Cash?

11 A He's a German Shepherd.

12 Q How about how big is he?

13 A I think he's about -- it fluctuates, between 69 and
14 72 pounds.

15 Q And how far away from the wood line were you when you
16 let him go?

17 A Kind of hard -- from the wood line, I'd say 10 feet,
18 maybe, about 10 feet.

19 Q And so when you let the dog go, you said you took off
20 running, too?

21 A Yes, sir.

22 Q And I thought I heard you say a few minutes ago to
23 the solicitor that you at all times were within six to
24 seven feet away; is that what you said?

25 A I believe so, about.

1 Q In looking through your report, and I think you have
2 it there, you said just a few lines down, I then heard a
3 deputy shout he's got a gun. I caught up with the suspect
4 and cash in about 15 feet. So at some point, you were
5 about 15 feet away?

6 A About 15 feet in the wood line. When Cash first made
7 contact with Mr. Brown, Cash was about three feet into the
8 wood line.

9 Q Now, this suspect -- and everybody -- you and the
10 solicitor both keep referring to the Defendant, but when
11 he came around the house, you couldn't tell who it was
12 just by looking at them?

13 A No, sir.

14 Q Could you see their face?

15 A No, sir.

16 Q And your testimony was that the person that you saw
17 had on this T-shirt that said police on it?

18 A That's correct.

19 Q And you told the solicitor you didn't see anything
20 else, right?

21 A That's correct.

22 Q So you didn't see the bullet proof vest on him, did
23 you?

24 A Not initially. I did after the fact, but I didn't
25 then.

1 Q And I didn't hear you say anything about seeing him
2 with a gun?

3 A No, sir, never saw the gun.

4 Q Didn't hear --

5 A Until after the fact.

6 Q Didn't hear you say anything about him carrying a
7 taser?

8 A Sure didn't.

9 Q Didn't hear you say anything about him having this
10 blue Finish Line bag?

11 A No, sir.

12 Q Okay. Didn't hear you say anything about him having
13 on black gloves?

14 A No, sir.

15 Q Okay. Didn't hear you say anything about him wearing
16 a black, size 7 1/2 ball cap; is that right?

17 A No, sir.

18 Q Didn't hear you say anything about him having a gold
19 badge on; is that right?

20 A That's correct, I didn't.

21 Q Okay. And how many officers were there out there all
22 together, do you know?

23 A I have no idea. I know in the backyard was myself,
24 Deputy Bryan and Deputy Acord.

25 Q So there were three of you in the back?

1 A Then I believe Deputy Porter -- excuse me, Master
2 Deputy Porter and Deputy Wyatt at some point in time were
3 in the woods with us.

4 Q Did some others come running around and go in the
5 woods?

6 A I couldn't tell you.

7 Q Did you see any state troopers out there?

8 A Yes, sir.

9 Q When did they get there?

10 A Once again, I have no idea.

11 Q You don't know?

12 A No, sir.

13 Q Did you see them when you were in the woods running
14 around?

15 A I was focused on Mr. Brown, I didn't see anyone else.
16 That was my sole point of concentration.

17 Q Prior to the suspect coming around in the backyard,
18 do you know if there were any officers back here in this
19 wood line anywhere.

20 A I can't see it, may I walk over there?

21 Q Sure, come on down. Do you know if there were any
22 officers back in here?

23 A I have no idea.

24 Q Did you ever see if there was any kind of trail or
25 path or anything that went through here out behind the

1 house?

2 A Later on, I found out there was a trail. But, once
3 again, I can't give you really any landmarks of what was
4 going on in the woods. It was so dark, it was so thick.
5 And, once again, my concentration was focused on Mr. Brown
6 and my dog.

7 Q And you -- did you ever see what was over here on the
8 other side of this little wooded area?

9 A No, sir.

10 Q But there was a path that went through there?

11 A I never was on the path that I can recall. Once
12 again, I don't remember really any landmarks.

13 Q You said when the person came around the house,
14 they -- did you see them throw anything down or drop
15 anything down?

16 A No, sir. At the -- I was, once again, trying to
17 maintain my focus on him and then make sure there was no
18 deputy between Mr. Brown and my dog.

19 Q We heard Deputy Bryan a little earlier who was back
20 there with you, y'all were together, right?

21 A That's correct.

22 Q And when he came around the house, as soon as he got
23 in sight, is that where you told him to illuminate him?

24 A Yes, sir. I told him as soon as he could see him to
25 put a flashlight on him.

1 Q So he shined the light on him?

2 A Yes, sir.

3 Q And you could see him at that point?

4 A Yes, sir.

5 Q And did you see him drop anything or throw anything
6 down as he was running?

7 A No, sir.

8 Q You didn't? Did -- and then once you got in pursuit,
9 you had that small flashlight?

10 A That's right.

11 Q Your visibility was limited at that point?

12 A Yes, sir.

13 Q What you said there at the end, the person that you
14 saw you said had a police T-shirt, but your testimony was
15 later what you saw was a dark shirt; is that right?

16 A Yes, sir.

17 Q Okay. Thank you.

18 MR. WEBB: One question.

19 REDIRECT EXAMINATION

20 BY MR. WEBB:

21 Q The person that you talked to at the hospital, is he
22 in the courtroom today?

23 A Yes, sir.

24 Q And what is that person wearing?

25 A Blue shirt sitting beside Mr. Chambers.

1 MR. WEBB: Nothing else, Judge.

2 THE COURT: All right. Thank you, sir. You can step
3 down.

4 All right, call your next witness.

5 MR. WEBB: Your Honor, the State rests.

6 THE COURT: All right. Madam Forelady, ladies and
7 gentlemen of the jury, we're going to -- this is a time we
8 have to talk about some legal matters, so I'll ask y'all
9 to step back to your jury room. We'll be with you just as
10 soon as we can. Thank you.

11 (WHEREUPON, the jury left open court at
12 approximately 4:15 p.m.)

13 THE COURT: All right, any motions?

14 MR. CHAMBERS: Your Honor, I make a motion for
15 directed verdict as to all of the indictments, but I
16 specifically want to address a few of these.

17 One that I want to address specifically would be the
18 kidnapping charge of the youngest alleged victim. I don't
19 recall his name, I'll look for the indictment. But at any
20 rate, in his case, there was no testimony that that child
21 was restrained or anything in any way. And as such, our
22 position would be that the State has not met all of the
23 elements or presented evidence as to all of the elements
24 of that particular offense.

25 In regard to the impersonating a law enforcement

1 officer, we, specifically, say that there's absolutely no
2 evidence that the Defendant or anybody else at any point
3 identified himself as a police officer, made any
4 statements that they were a police officer. The only
5 evidence, really, to that effect that they have offered
6 was a T-shirt that says police on it and a badge that was
7 found out in the woods. There was -- and that's really
8 it, Your Honor. So our position is that to all the
9 indictments, they have failed to present some evidence as
10 to each element, but I wanted to specifically address
11 those.

12 THE COURT: All right.

13 Mr. Webb, anything you want to tell me?

14 MR. WEBB: Briefly, Your Honor. There's testimony
15 from the victims, George Howard and Jarecus, that the
16 Defendant came in the house and made Javon, the youngest
17 one, stand in the corner while the Defendant was armed
18 with a gun and a taser. He also made him count to -- or
19 tried to make him count to a hundred before leaving. Of
20 course, he couldn't count to a hundred, he could only
21 count to 11. That's the kidnapping on him. Just to make
22 one person stay in one spot meets the definition of
23 kidnapping.

24 As far as impersonating a police officer, the statute
25 doesn't require someone to actually say I'm a police

1 officer. I believe wearing a bullet proof vest, a police
2 shirt with a -- looks like a paintball mask/SWAT team mask
3 with a badge and also having handcuffs --

4 THE COURT: Wait, wait, wait a minute, SWAT team
5 mask?

6 MR. WEBB: Well, I think it looks a little bit like a
7 SWAT team mask.

8 MR. CHAMBERS: Even one of the cops said it was a
9 paintball mask.

10 THE COURT: I didn't hear anybody, any testimony
11 about being a SWAT team mask.

12 MR. WEBB: I think a reasonable person could think
13 that, someone -- a police officer could be wearing that
14 mask. But take the mask away, let's talk about the police
15 shirt, the bullet proof vest, the badge, the handcuffs,
16 the taser, I believe all of that shows an intent to
17 represent something that they're not, especially with a
18 badge that says 'special officer.

19 THE COURT: You're not going to tell me anything
20 else?

21 MR. WEBB: Well, it also goes to actually handcuffing
22 and duct taping a person to retain somebody. Again,
23 that's trying to show some sort of authority which they
24 don't actually have. Some authority that a police officer
25 would have if they were actually a police officer.

1 MR. CHAMBERS: Your Honor, under that theory, if I
2 went to a costume party dressed as a police officer, I
3 could get arrested for impersonating a police officer.

4 MR. WEBB: I think there's a big difference going to
5 a party and a home invasion and kidnapping three victims
6 and robbing them. I believe it's sort of the authority.
7 If you're going to a party, you don't represent yourself
8 -- or try to use authority that a police officer would
9 normally have. In a home invasion --

10 THE COURT: Well, Mr. Chambers, I'm going to -- I
11 mean, the statute reads unlawful for anyone to represent
12 to any person he is a law enforcement officer. I think in
13 the light most favorable to the State, wearing the shirt,
14 bullet proof vest and putting a badge on satisfies that
15 element. Then acting upon such representation to -- and I
16 think in the light most favorable to the State, entering
17 the house under those hospices satisfies that element. To
18 arrest or detain any person, I think did that. Search any
19 building, he did that. So I'm going to deny your motion.

20 All right. Anything else?

21 MR. CHAMBERS: Your Honor, I have -- my client is
22 weighing whether or not he wants to testify. If he choses
23 to do that, my preference would be to wait until tomorrow
24 morning rather than get started and have to stop somewhere
25 in the middle. Of course, that's up to the Court, that

1 would be my suggestion. I would, however, before we
2 leave, like for the Court to advise him of his right to
3 testify and not testify and we go ahead and do that.

4 THE COURT: Is there any other motions from anybody
5 before we get to that?

6 MR. CHAMBERS: Not for me.

7 MR. WEBB: Not from the State right now.

8 THE COURT: All right. Mr. Brown, if you would,
9 stand for me and raise your right hand.

10 GERALD BROWN, after being duly sworn, testified
11 as follows:

12 EXAMINATION

13 BY THE COURT:

14 Q All right, you can put your hand down. I want you to
15 be aware that you have an absolute Constitutional right to
16 take the stand in your own defense in this case and be
17 subject to examination by your attorney and
18 cross-examination by the State. You also have an absolute
19 Constitutional right to not take the stand and no
20 inference can be drawn from that. And I'll give a charge
21 to the jury instructing them if you want me to, some
22 people don't want it to be mentioned, but I'll tell the
23 jury that they cannot -- that that's -- that you are
24 simply availing yourself of your Constitutional rights and
25 that the burden always remains on the State. Do you

1 understand that?

2 A Yes, sir.

3 Q All right. Have you made a decision about whether or
4 not you want to testify in this case?

5 A Yes, I believe that I'm going to have to testify.

6 Q All right. Now, the only other thing I would tell
7 you is that the presentation of evidence by a defense --
8 by the Defense changes the order of closing arguments.
9 Okay. If you put up evidence, then the State gets the
10 last argument, okay. If you don't put it up, any
11 evidence, not just your testimony, but any evidence, then
12 you get the last argument. Okay. So are you aware of
13 that?

14 A I wasn't until just now.

15 Q Well, all right. Do you need a minute to think about
16 whether or not you want to testify?

17 A I think I'm still going to have to testify, I mean.

18 Q Okay. All right. And I -- you know, I would say
19 that there is Defendant's Exhibit in the record, so I
20 believe that really is sort of a moot issue.

21 How long do you anticipate his testimony would be?

22 MR. CHAMBERS: Well, Your Honor, I think his direct
23 testimony is probably going to take about half an hour.

24 THE COURT: Okay. Do you have any -- you want to
25 wait until tomorrow to start?

1 MR. WEBB: I'm fine with going forward. I guess I'll
2 leave it up to your discretion.

3 THE COURT: I tell you what, why don't we go forward
4 tomorrow, Mr. Brown. That will give you an opportunity to
5 go over your testimony with your attorney and get prepared
6 for it. I'm going to give you the benefit -- every
7 benefit that I can.

8 All right. Anything else before we break?

9 MR. WEBB: Nothing from the State, Judge.

10 THE COURT: All right, I'm going to bring the jury
11 back -- oh, I'm sorry, Mr. Chambers.

12 MR. CHAMBERS: I was just going to say that would be
13 fine.

14 THE COURT: Let's bring the jury back in and turn
15 them loose.

16 (WHEREUPON, the jury came into open court at
17 approximately 4:25 p.m.)

18 THE COURT: All right. Madam Forelady, ladies and
19 gentlemen of the jury, we're -- it's 4:30 in the afternoon
20 and we're at a point where if we kept going, it might --
21 we could go late. So I'm going to at this point break for
22 the day and ask y'all to come back tomorrow at 9:30. I
23 don't know if y'all agree with me or not, but you're
24 deeper into the trial now. There's more to think about,
25 more you want to talk about with people that you know.

1 Don't do it, okay? Just remember everything I told you
2 about the sanctity of the evidence. And with that, I'll
3 see y'all tomorrow morning at 9:30. Thank you, very much.

4 (WHEREUPON, the jury left open court at
5 approximately 4:27 p.m.)

6 THE COURT: Anything else?

7 MR. WEBB: Nothing from the State, Judge.

8 MR. CHAMBERS: Nothing from the defense, Judge.

9 THE COURT: All right. See y'all tomorrow morning.

10 MR. CHAMBERS: What time are we going to start,
11 Judge?

12 THE COURT: If you were listening, you would have
13 heard 9:30, Mr. Chambers. I know, I'm just teasing you.

14 Do y'all have any proposed jury charges, anything?

15 MR. CHAMBERS: I don't now, I may have some in the
16 morning.

17 THE COURT: Okay. All right.

18 (WHEREUPON, the proceedings were concluded for
19 the day to be reconvened on April 16, 2009.)
20
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1 Thursday, April 16, 2009

2 THE COURT: All right. Before we get started, two
3 things to put on the record. First one is a juror
4 approached one of the bailiffs and said something they had
5 to ask.

6 He said, What?

7 And they said, Why was the Defendant wearing orange?

8 And his response was, I cannot say anything. I can't
9 tell you anything.

10 So I'm putting that on the record. And let y'all
11 comment on it if you want to. Anything? I think we gave
12 more than adequate warnings to Mr. Brown about that and
13 more than adequate opportunity. It was clearly his
14 voluntary choice to dress as he did.

15 MR. WEBB: That would be the State's position.

16 MR. CHAMBERS: I don't think we need to give any kind
17 of instruction or anything. We just leave it the way it
18 is.

19 THE COURT: Okay. All right. Then the other thing I
20 wanted to tell you is that one of the jurors has a bad
21 headache and we've given her a couple of Advil. So just
22 keep that in mind and don't be yelling at the jury, I
23 guess.

24 Anything else before we get started? Any proposed
25 charges or anything like that?

1 MR. CHAMBERS: No, Your Honor. I did not ask
2 yesterday, but I asked the solicitor before we started
3 today if he intended to introduce any prior convictions
4 when my client testifies. He's indicate that there's a
5 prior armed robbery from 1991 that he wants to introduce.
6 I would object to the introduction or for him asking my
7 client about that. My client did serve time until April
8 of 2006. So, clearly, based on the rule, it would be
9 within the ten years. But under 403 analysis because it's
10 an armed robbery conviction and he is charged with armed
11 robbery here, we believe that it would be so prejudicial
12 as to, basically, irreparable harm against my client.
13 Only that basis, we object to them mentioning that when he
14 testifies.

15 THE COURT: All right.

16 MR. WEBB: If I may, Judge, the case of State vs.
17 Al-Amin, the Court of Appeals held that a crime of
18 dishonesty, such as armed robbery is a crime of dishonesty
19 and there is no balancing under 403.

20 THE COURT: I'm sure that's what it says, but I'm
21 going to find under 403, to name the specific offense
22 would be unduly prejudicial. But you can certainly
23 impeach him with his prior conviction for a felony.

24 MR. WEBB: Okay. That's all we were going to
25 request.

1 THE COURT: Anything else?

2 MR. CHAMBERS: No, Your Honor.

3 THE COURT: All right. Is he going to testify?

4 MR. CHAMBERS: He is going to testify, Your Honor.

5 THE COURT: All right. Mr. Brown, I just want to
6 make sure that -- do you have any questions you want to
7 ask me about your testimony? Not about what you're going
8 to say, but about whether or not you should do it? You
9 understand all your rights?

10 MR. BROWN: I have a question I want to ask him first
11 and then I will --

12 THE COURT: All right. Go ahead.

13 MR. CHAMBERS: Your Honor, one other thing before my
14 client takes the stand. He -- yesterday, when the Court
15 brought up the fact that during the sidebar I had asked
16 the witnesses be sequestered, but then we had never
17 addressed that on the record so you had not given a
18 specific instruction to the solicitor and to the witnesses
19 not to confer with one another. My client wants me to
20 place on the record an objection to the Court not having
21 not done that sua sponte and that the Court should have
22 done that. He's just worried about an appeal and being
23 able to preserve that issue on appeal. So for that
24 reason, I am now placing that on the record.

25 THE COURT: Okay. Well, I understand your position.

1 I don't think I'm under any obligation to do that. And,
2 certainly, as soon as the issue came to my attention, I
3 raised it. I was the one that raised it and noticed it.
4 So --

5 MR. CHAMBERS: You're -- I'm sorry, Your Honor.

6 THE COURT: No, I'm sorry. So at that point --

7 MR. CHAMBERS: And I would say just add for the
8 record, I addressed to the Court that I did not myself
9 place it on the record or ask for instruction. Thank you,
10 Your Honor.

11 THE COURT: Well -- and I don't know that -- all I
12 know is that one of the witnesses said that they had
13 talked about fingerprints with Sergeant Lendway, I think.
14 That's the only mention there was. And I'm going to
15 presume that they have not violated that. If you all have
16 evidence to the contrary, certainly, I would allow you to
17 make a proffer.

18 Anything else?

19 MR. CHAMBERS: No, Your Honor.

20 MR. WEBB: Nothing from the State, Your Honor.

21 THE COURT: Y'all have any -- well, we can talk about
22 jury charges later.

23 Let's go ahead bring them on.

24 (WHEREUPON, the jury came into open court at
25 approximately 9:53 a.m.)

1 THE COURT: All right. Ladies and gentlemen, welcome
2 back. I hope y'all had a pleasant evening, hope everyone
3 is doing well. If anyone has a problem throughout the
4 remainder of the trial, please let me know and we'll take
5 a break and try and help resolve any issue that somebody
6 might have.

7 With that, we're going to resume the case.

8 All right. Mr. Chambers.

9 MR. CHAMBERS: Your Honor, I call Gerald Brown.

10 THE COURT: Mr. Brown, come on around.

11 THE CLERK: Place your left hand on the Bible and
12 raise your right hand.

13 GERALD BROWN, after being duly sworn, testified
14 as follows:

15 THE CLERK: Thank you. You may be sated. Please
16 state your full name for the record.

17 THE WITNESS: Gerald Brown.

18 THE CLERK: Thank you.

19 DIRECT EXAMINATION

20 BY MR. CHAMBERS:

21 Q Mr. Brown, tell the jury a little bit about yourself,
22 where you're from, your family situation, life
23 experiences, that sort of thing.

24 A Okay.

25 Q Be sure to speak up so everybody can hear what you're

1 saying.

2 A Okay. As y'all know, my name is Gerald Brown, I'm 35
3 years old. From the Taylors area, basically, grew up in
4 the Taylors area pretty much all of my life. Lived in
5 Simpsonville before all of this stuff happened. First,
6 before I go into that any further, I want to say that, you
7 know, I'm truly sorry for what happened to those kids
8 because that really was very tragic what happened with the
9 kids. But also, I want to say that the truth has not been
10 told, the truth has not been told. I mean, there was a
11 lot of stuff that took --

12 THE COURT: All right. Mr. Brown, thank you, but you
13 need to be responsive to questions. You're not just going
14 to have a rambling narrative.

15 MR. BROWN: Okay.

16 BY MR. CHAMBERS:

17 Q You're going to have an opportunity to talk about all
18 of that. Let me ask you this, do you know George Howard
19 who is one of the alleged victims in this case?

20 A Yes, sir, I've known him all my life.

21 Q You've known him your whole life?

22 A My whole life.

23 Q And how do you know George Howard?

24 A I know George Howard because he and I, when we were
25 kids, we stayed in a place called Oak View. It's in the

1 Taylors area, it's called the projects. You know, back
2 then, Mr. Howard, we called him June. Mr. Howard actually
3 was the first individual to give me a nickname. He called
4 me Gerald, the Secret Squirrel, is the nickname that he
5 actually called me. I also know Mr. Howard from drug
6 deals that has been made --

7 MR. WEBB: Your Honor, I'm going to have to object.
8 This would be outside the scope of this case.

9 THE COURT: Well, I'm going to overrule your
10 objection.

11 Go ahead.

12 MR. BROWN: Mr. Howard is a friend -- was a good
13 friend of my first cousin, whose name is Andrea Terry, who
14 we call Duke. I think his name may have came up -- I know
15 the name is mentioned in the statements or whatever, I'm
16 not certain if it came up as far as in the trial or not.
17 It's so much, I had wrote some stuff down.

18 BY MR. CHAMBERS:

19 Q What I want you to do is focus on answering my
20 question. So you've known George Howard your whole life?

21 A Right.

22 Q And did -- have you spent time with him over the
23 years?

24 A Well, not a lot of time as of recently, before this
25 stuff happened. Like I said, him and my first cousin were

1 drug partners, you know, if you want to call it that or
2 friends or whatever. But the last three years, three
3 years ago I'd say, I was reintroduced into Mr. Howard's
4 life by way of my cousin, Andrea Duke Terry.

5 Q How were you reintroduced into George Howard's life?

6 A I mean with drugs, selling drugs.

7 Q Be specific, what kind of drug enterprise were y'all
8 involved in?

9 A Okay, Mr. Howard -- his mother stays at 8 Gavin Place
10 in Taylors. There's a house beside that, which is 6 Gavin
11 Place, which recently has been burned down. That is the
12 base of a drug operation. It was.

13 Q And who operated that drug operation beside
14 Mr. Howard's mother's house?

15 A Mr. Howard did.

16 Q All right. And you know that from being involved in
17 that?

18 A Yes, I do.

19 Q And you're saying that Andrea Terry, known as Duke,
20 is also involved?

21 A Right.

22 Q Okay. Were you -- had you ever been to George
23 Howard's home on Turentine Circle?

24 A Yes, I have been there.

25 Q How many times have you been there?

1 A I've just been there that one time dealing with the
2 incident that took place. Because we would never usually
3 go and meet Mr. Howard at 125 Turentine. We would
4 normally meet in the hood, so to say, which is a little
5 circle gathering place where his mother stayed and where
6 the other house was where we would go.

7 Q Okay. So this June 12th is the first time you had
8 ever been to 125 Turentine Circle?

9 A Yes, sir.

10 Q All right. Why don't you just kind of take it from
11 the top and tell us how that came about and what happened
12 from your recollection.

13 A Okay. My cousin, Andrea Duke Terry, he gave me
14 \$23,000. I was at -- he stays probably ten minutes away
15 from where Howard actually lives on 125 Turentine. And
16 probably five minutes away from the other address on
17 Gavin. Okay. I was supposed to go get 54 ounces of
18 cocaine from Mr. Howard that night, which is actually a
19 kilo and a half of cocaine. I took the \$23,000 with me in
20 that blue Finish Line bag that is sitting over there on
21 the table.

22 Q This bag right here?

23 A Yes, sir.

24 Q Okay. That's what you put your \$23,000 in?

25 A Yes, coming from Andrea Terry's house.

1 Q Okay. All right. Go ahead.

2 A Andrea Terry, actually, dropped me off at Howard's
3 house that particular night. When I got to Howard's house
4 that night, I heard some noises. I can't say exactly what
5 the noises were. It wasn't exactly screaming, it was more
6 like of a moaning type of sound. I went to the front
7 door, the front porch, and the door was halfway cracked,
8 maybe just enough to stick your head in. I stuck my head
9 into the door and seen somebody was laying on the floor
10 tied up. I didn't know who it was. I backed out
11 immediately. I got on my cell phone and called Duke,
12 which is whose money it was.

13 And he told me, he said, Go to the back of the
14 house -- he was more familiar with the area than what I
15 was. He said, Go and walk off into the woods. He said,
16 There's a trail back there. He said, Wait and I will come
17 and pick you up immediately.

18 And so that's what I did, I went into the woods and
19 waited. Behind the woods now, probably about maybe a 100
20 yards through the woods is actually a road that runs back
21 behind there. And there's some other houses and
22 apartments and whatnot that are actually on the other
23 side. So I was actually in the woods waiting on Duke to
24 come and pick me up from the location because I didn't
25 know what was going on. All I knew, somebody was in there

1 that was tied up and there was some moaning or whatever.

2 I didn't have a weapon or anything of that nature.

3 And, you know, I was scared. I had the \$23,000 in
4 the bag. And part of the reason he told me to go off into
5 the woods or whatever and wait for him because, you know,
6 it's a predominantly white neighborhood where this house
7 is at, actually. I didn't want to be walking down through
8 the neighborhood, you know, it's 12:00 or whatever, with a
9 bag with \$23,000 in it.

10 Q Let me ask you, the bag -- now, I want to back up
11 just a little bit and then we'll get on with that. Did
12 Duke give you this bag?

13 A No, actually, I had the bag in my Jeep.

14 Q And he gave you the \$23,000?

15 A Right.

16 Q And how was it \$23,000, was it packaged in any way,
17 was it loose, how was it?

18 A No, it was just like wrapped up in bundles. It was a
19 lot of different denominations of money and it was just
20 like, you know, folded.

21 Q So you put it in this bag and then you went there to
22 the residence?

23 A Right.

24 Q And then after you called him, you went around and
25 went into the woods as he asked you to. How were you

1 dressed?

2 A I had on a white T-shirt, some blue jeans and some
3 sneakers.

4 Q So after you talked to Duke and he told you to go
5 into the woods, what did you do?

6 A I just waited on Duke to come pick me up after I got
7 into the woods.

8 Q Were you able to find the trail he was talking about?

9 A Not really. I mean, there are -- it was pretty dark.
10 I mean, you know, you could see, you know, from the
11 moonlight a little bit, but you really could not see. So
12 I just, you know, really just like walked into the woods.

13 Q Did you encounter anybody or see anything in the
14 backyard or the woods or anything as you went back through
15 there?

16 A No, I didn't see anything. When I came from the
17 house, I came from facing the house around the right side
18 of the house into the woods.

19 Q Okay. So what happened after you went through the
20 woods and began to wait for Duke?

21 A Yeah, after I waited -- I waited for a while and it
22 seemed like, you know, forever, I just waited and he never
23 showed up. The next thing I know, I seen a light -- can I
24 go to the board?

25 Q Sure.

1 A I came from here and went around the house into the
2 woods back probably over in this area somewhere. While
3 waiting in the woods for Duke to come and pick me up, I
4 heard some screaming and some noise and just hollering
5 police and all kind of stuff. And I jumped up and I was,
6 you know, starting to run. The lights flashed from --
7 maybe from this area somewhere, a light flashed and hit
8 the woods and just -- you know, you could see flashes of
9 light from different directions. And so I just ran, you
10 know, ran through the woods probably back up through this
11 way somewhere. And when I ran up into the -- this part of
12 the woods, the dog -- the dog -- and the dog just coming,
13 you know, towards me. He had got right up on me and I had
14 the bag, the Finish Line bag, and I put the bag in front
15 of me, you know, like this and the money and stuff just
16 went out of the Finish Line bag. At this time, the dog
17 was -- you know, the dog was biting me pretty bad. I
18 mean, I got still permanent scars all over my body from
19 where the dog had bit me at.

20 Q Why were you running?

21 A Because I didn't -- I was running -- I didn't want to
22 go to jail. I mean, I got \$23,000 and from where I come
23 from, you know, \$23,000 -- you get caught with \$23,000,
24 you know, you going to jail. I mean, I don't know how it
25 is with everybody else, but from where I come, if the

1 police ride up and you're out and you got \$23,000 in your
2 pocket, they going to take the money, first of all and
3 probably going to take you to jail. And you're not even
4 going to get the money unless you can explain where you
5 got the money from.

6 Q Okay. So you took off running and you encountered
7 the dog?

8 A Right.

9 Q All right. What happened after that?

10 A I mean, like the officers said, it was -- that's one
11 of the parts the officers told was true because it was a
12 hell of a fight that was going on in there because I was
13 trying to keep this dog from killing me. I mean, the
14 dog -- if I could take off my pants and take off my shirt,
15 I mean, I got marks all over my body where the dog just --
16 where the dog -- where the dog bit me at. And not only
17 that, but the officers -- the officers, when -- when the
18 dog was attacking me and they got me on the ground, they
19 continued to let the dog just bite me on my arm. And one
20 of -- one of the officers who was handling the dog, he
21 said -- when they handcuffed me and stuff, he said he had
22 to get the dog a steak dinner because after he bite, he
23 get him -- he get a steak dinner after every bite he gets.
24 And -- I mean, that's pretty much it.

25 Q Go ahead and have a seat. Well, after they got you

1 handcuffed and everything, what did they do with you?

2 A They took me to the front of the house.

3 Q And then what?

4 A They just -- they just -- just left me to sit on the
5 front porch. You know, EMS came and looked at the bite
6 marks or whatever and -- I mean, EMS just came and then
7 they took me to jail.

8 Q Did they take you to the hospital at some point?

9 A Oh, yeah, they took me to the hospital.

10 Q Who took you, EMS or the police?

11 A The police.

12 Q Did -- what were you wearing when they took you
13 around to the front of the house?

14 A A T-shirt and jeans and a pair of sneakers.

15 Q The white T-shirt?

16 A Yes, sir.

17 Q Had that white T-shirt been damaged, was there blood
18 on it or anything?

19 A Yeah, it was blood all over it. I mean, bite marks
20 and everything from the dog and the struggle or whatever.

21 Q And you've been here when all the evidence was put
22 in, have you seen that white T-shirt?

23 A No, sir.

24 Q All right. Were you ever wearing this T-shirt here
25 that says police on it?

- 1 A No, sir.
- 2 Q You ever see this bag?
- 3 A No, sir.
- 4 Q What about this pistol?
- 5 A No, sir.
- 6 Q This -- I don't know what -- they called it a taser,
- 7 it might be a cattle prod or something like that, you ever
- 8 had that, seen that before?
- 9 A No, sir.
- 10 Q Any of these handcuffs, this badge, any of this other
- 11 stuff?
- 12 A No, sir.
- 13 Q How about these glasses?
- 14 A Yeah, those are mine.
- 15 Q Those are your glasses?
- 16 A Yeah.
- 17 Q Did you lose those during the struggle with the dog
- 18 and the cops?
- 19 A Yes, sir.
- 20 Q Did you ever wear these gloves?
- 21 A No, sir.
- 22 Q And the Finish Line bag, you said that was yours?
- 23 A Yes, sir.
- 24 Q All right. Did you ever say anything to the police,
- 25 either out there at the scene or at the hospital?

1 A Yeah, I didn't say nothing when I was at the scene or
2 whatever, but when I got to the hospital, they were -- the
3 doctor was examining me or whatever with his assistant and
4 one of the officers asked me, he asked me why didn't I
5 give up or stop fighting or something. And I told him I
6 didn't want to go to jail.

7 And -- and he said, he asked me another question
8 about -- I can't remember exactly, it was another question
9 that he asked me, though. I remember yesterday when the
10 officer gave his testimony about the situation at the
11 hospital, he said that I had said -- that I made mention
12 that it was only a crack dealer or something like that.
13 And what I said was, I said it was a drug deal. Because
14 while the doctor -- actually, the reason why I said it was
15 a drug deal because the doctor -- while the doctor was
16 working on me, on the cuts -- they put stitches in like
17 the back of my legs and whatnot. While they were putting
18 the stitches in the back of my legs, the police officer
19 actually told the doctor that I had been arrested for a
20 home invasion with two children present. That's when I
21 said that, you know, it was a drug deal. And that was all
22 I said the whole time or whatever.

23 Q Did anybody ever ask you to write anything down?

24 A To write anything down?

25 Q Yeah.

1 A No, sir.

2 Q Did anybody ever ask you to review the statement?

3 A No, sir.

4 Q Did anybody ever ask you about Andrea Terry, Duke?

5 A Well, when I got to the front of the house, one of
6 the officers had got my phone and looked at it and seen
7 where I had -- you know, on the phone, I got his nickname
8 on the phone. So they inquired about that, but that
9 was -- that was it.

10 Q Was George Howard out on the front porch when you
11 were around there?

12 A He came out on the front porch, I can't remember if
13 it was while EMS was working on me or after or before, but
14 he came -- yes, he came out and looked at me when they
15 brought him out.

16 Q He did look at you?

17 A Yes, sir.

18 Q Did he identify you?

19 A He said that -- he said -- when he give his testimony
20 that he said he told them that he had never seen this guy
21 before in his life. But what he actually said that
22 particular night was he said I never seen this dude in my
23 life.

24 Q All right.

25 MR. CHAMBERS: All right, Mr. Brown, that's all the

1 questions I have. Please answer any questions that the
2 solicitor might have.

3 CROSS-EXAMINATION

4 BY MR. WEBB:

5 Q All right. I want to talk about what happened here
6 on June 12th, 2007. But first, I want to ask you a little
7 bit about your prior history. You've been convicted of a
8 felony, haven't you?

9 A Yes, sir.

10 Q All right. Now, I want to talk about June 12th,
11 2007, and I want to see where we can agree and where we
12 can disagree, okay? So you're saying that you went there
13 that night, June 12th, 2007. What time did you go there?

14 A I don't know, it was probably about 12 something.
15 I'm not exactly sure of what time it was.

16 Q And how did you get there?

17 A Andrell Terry dropped me off.

18 Q He drove you?

19 A Yeah.

20 Q And then you said that he went around the house to
21 the back of the woods?

22 A No, I didn't say that?

23 Q What did you say?

24 A I said I went to the door of the house and the door
25 was cracked. I heard a faint noise of moaning or

1 something and I went to -- I peeked through the -- it was
2 just enough space for you to put your head or your face in
3 and I seen somebody laying on the floor, you know, bound.
4 And what I said was I immediately called after that.

5 Q Well, let me ask you, where did he go then? Do you
6 know where he went after he dropped you off?

7 A Well, I don't know where he went, but I know that the
8 area -- like I said, his house is only maybe 10 minutes
9 away from there.

10 Q Are you friends with him?

11 A He's my first cousin.

12 Q So is he still living in Greenville?

13 A I think so. The house that he actually had was 107
14 Drewrney Road in Taylors. I think it's D-R-E-W-R-N-E-Y,
15 something like that.

16 Q So you say he dropped you off and you were dressed in
17 a white T-shirt and jeans?

18 A Yes, sir.

19 Q Right. Then you walked up to the door with a bag
20 full of \$23,000 in cash?

21 A Right.

22 Q And that was your money?

23 A No, that was Mr. Terry's money. It wasn't my money.
24 I was middle man, so to say. Like I say, he's my first
25 cousin.

1 Q And so you said that money was going to be used to
2 buy crack cocaine?

3 A No, it was to buy a -- what I said was 54 ounces of
4 cocaine.

5 Q Okay, cocaine?

6 A Yes.

7 Q So you walked -- you're saying you walked up to the
8 house and this was -- you said after midnight, right
9 around midnight?

10 A Yeah, I'm not exactly certain what time it was, but I
11 know it was, at least, after 11, you know.

12 Q At least, after 11. So you walked up to the house
13 and did you knock on the door?

14 A No, I didn't.

15 Q Was the door already open?

16 A The door was, like I said, slightly cracked.

17 Q So you said that you looked in there and you saw how
18 many people in there, in the room?

19 A All I saw was the one person laying there.

20 Q Who was that?

21 A I don't know who it was because I didn't go in the
22 house to see.

23 Q You said that you knew George Howard, you weren't
24 concerned about someone's safety?

25 A Yeah, I was concerned. But, first and foremost, I

1 didn't know who was in the house. I didn't know if
2 somebody was in there with weapons or what. And I had to
3 be concerned about my own safety first and foremost.

4 Q So you just looked in there for a second; is that
5 right?

6 A Yeah.

7 Q You put your head in, looked in and saw somebody.
8 Was it an adult or was it a kid?

9 A I don't know if it was an adult or a kid. I know
10 that it wasn't a small child. The gentleman, Howard or
11 the young -- his son, Jarecus, that gave testimony, it
12 could have been either one of them as far as the body size
13 of the individual who was laying on the floor, the one
14 person that I saw.

15 Q Well, Jarecus was 13 at the time, right, and George
16 is in his early 30's?

17 A Yeah.

18 Q And George is -- even now, I mean, you saw them, he's
19 a lot bigger than Jarecus, his son, right?

20 A No, sir.

21 Q You don't think so?

22 A No, sir.

23 Q What about two years ago?

24 A I mean, like I said, the individual that was laying
25 on the floor was not a small child.

1 Q Okay. Did he have a bald head, shaved head like
2 George Howard?

3 A I do not know. I didn't try to examine the
4 individual who was laying on the floor. Like I said, I
5 was concerned about my -- first of all, I went there on a
6 drug deal, so, I mean, you know, of course, I'm not going
7 to go and -- you know, I'm already -- I didn't know what
8 was going on in the first place. I'm not going to go and
9 do an investigation as far as about what was going on
10 inside of their house.

11 Q So you didn't care about George Howard at that time?

12 A I'm not going to say that I didn't care about George
13 Howard at that time. Like I said, I had to make sure of
14 my own safety, first and foremost. Because I didn't know
15 what was going on. I mean, I'm out there with \$23,000 and
16 not my money and, you know, if something happened with
17 that money, then, basically, everything is going to fall
18 back on me anyway.

19 Q All right. So I'll ask again, what did you see? Was
20 that person facing you when you walked in or was that
21 person -- the back towards you? I mean, what could you
22 see?

23 A See, I didn't walk in.

24 Q Okay. Well, you looked in, what did you see?

25 A I peeped in, you know, for a brief moment, for a

1 brief moment. So no, I couldn't see what was going on in
2 there. I couldn't see what was going on in there, you
3 know.

4 Q Was that person duct taped?

5 A I don't know if they was duct taped or what. Man, I
6 can't -- like I told you, I peeped in there for a moment.
7 You think you can peep -- if somebody come at the door and
8 just peep in here, you think they could tell you
9 everything a person got on or what they --

10 Q Not everything, I'm just asking while they were on
11 the floor bound up. Obviously, you were scared -- your
12 testimony is you were scared and that's why you ran.
13 There has to be a reason for you to be scared, so I'm
14 asking if that person was bound up?

15 A I seen a person laying on the floor, man. They may
16 have been bound if they were -- I don't know what -- they
17 was laying on the floor. You know, I -- of course, now, I
18 know from all of the information that I've gotten as far
19 as the discovery and stuff, I know that -- from the
20 testimony, I know that the individuals had duct tape on
21 them. I know they had handcuffs.

22 Q I'm talking about what you observed?

23 A No.

24 Q Okay. So you're saying you saw one adult, not a kid,
25 on the ground; is that right?

1 A No, that's not right. I said I seen one individual
2 who was not a child, not a small child, man.

3 Q Not a small child. You saw one person, you peeked in
4 and then you ran; is that right?

5 A Well, I didn't initially run at first. I backed off
6 from the porch and called Terry.

7 Q So you never went inside the residence, you just
8 peeked in?

9 A Yeah, I never went inside.

10 Q So you never went up to the attic?

11 A No.

12 Q And you never saw that day -- that night, never saw
13 Jarecus Howard?

14 A I don't know who it was that was in there.

15 Q Do you know George Howard's sons at all?

16 A I don't know them as far as -- you know, yes, back
17 and forth from seeing them here at the trial. I seen them
18 a couple of times in Oak View is what it's called. But
19 they're kids, you know.

20 Q Jarecus Howard who testified on Tuesday, did you see
21 him that night?

22 A I don't know who it was I seen that was laying on the
23 floor, man.

24 Q Okay. So you never saw -- you couldn't tell if it
25 was Jarecus Howard?

1 A Right.

2 Q And you didn't see Javon Howard, the five year old?

3 A No, I didn't see a small child.

4 Q And you didn't recognize that person on the ground as
5 George Howard, the guy that you knew all of your life or
6 most of your life?

7 A Like I said, I didn't look in there long enough to
8 try and detect who it was laying on the floor.

9 Q Okay. So you never went inside and never went up to
10 the attic.

11 A No, sir.

12 Q And you never went around the kitchen looking for
13 money or anything like that?

14 A No.

15 Q So you're saying -- and did you, at this time, see
16 any police officers around the house?

17 A No.

18 Q So you're saying you saw this person bound up or
19 laying on the ground and you left. And where did you go?

20 A Into the wooded area that's behind the house.

21 Q So did you go to the left or to the right of the
22 house?

23 A Facing the house, I went to the right.

24 Q Okay. And how long did you stay in those woods?

25 A I don't know, it may have been -- like I said, it

1 seemed like it was forever. It may have been 20 minutes
2 or something of that nature, 20, 25 minutes, I'm not
3 certain. It was before all of the stuff happened with the
4 dog and police officers.

5 Q All right. So let me step back, when you peeked in
6 that house, could you tell if there was a cell phone lying
7 on the ground?

8 A If I could not tell who was -- how could I tell if a
9 cell phone was laying on the ground if I just peeked in
10 there? I couldn't even tell who was laying on the ground
11 or whatever. Of course, I couldn't see a cell phone.

12 Q Could the cell phone be right in front of you?

13 A If a cell phone was at the -- right at the door when
14 I peeped in, I may have could have seen it, but as far as
15 the interior of the house and all, I could not see if
16 there was a cell phone there or not.

17 Q So have you -- so this was the first time you ever
18 been to this house?

19 A Yes.

20 Q Could you, at least, say what room that person was
21 bound up in, was it a living room, was it a kitchen, was
22 it the hallway?

23 A I don't know.

24 Q Okay. So you ran back to the woods and you said you
25 waited there for 20 minutes?

1 A I don't know, like I said, the -- I wasn't keeping
2 track of the time. It seemed like it was forever, like I
3 said, because I wanted to get -- you know, I wanted to get
4 the hell out of there, you know.

5 Q Why didn't you just keep running?

6 A Where am I going -- where am I going to run to? I
7 mean, like I told you, this is a predominantly white
8 neighborhood. You know, I'm a black man running through a
9 white neighborhood with a bag with \$23,000 in it.

10 Q But there are woods here, correct, so you didn't keep
11 running through the woods, you just stayed right there?

12 A No, he told -- when I talked to my cousin who -- he
13 is more familiar with the area than I am because he has
14 been having dealings with Mr. Howard more than -- you
15 know, more than the dealing that I had. And so when I
16 called him, he directed me to go into them woods and wait
17 and he said he was going to come and pick me up.

18 Q And you never --

19 A He said --

20 Q And you never saw Duke?

21 A No, I never -- he never came. And I imagine that,
22 evidently, he seen the police officers or whatever when he
23 came to pick me up.

24 Q And so while you were waiting, did you see any
25 officers pull up to the front of the house or to the side

1 or go around the house?

2 A No, while I was waiting, I never seen any police
3 officers until the encounter.

4 Q And so when you peeked into the house, into the front
5 door, you never saw another officer at the back door,
6 right?

7 A No, sir.

8 Q All right. So you went to the woods and you waited
9 for approximately 20 minutes for this guy named Duke?

10 A Right.

11 Q And you just waited there? You didn't walk, you just
12 stayed right there with your money; is that right?

13 A Yeah, basically. You know, I paced a few feet or so,
14 but never just, you know, walked a 100 yards or whatever,
15 nothing like that, just paced a few feet once I got into
16 the woods where I felt sufficiently hidden.

17 Q So this bag that the testimony is was to the side of
18 the house over here, you'd never seen it before?

19 A No, sir.

20 Q And you didn't -- your testimony is, I want to be
21 clear on this, is that you did not come to the house
22 wearing this mask?

23 A No, sir, I didn't.

24 Q Before this trial, had you ever seen this mask?

25 A No, sir. Other than the evidentiary, the pictures,

1 you know, that I had of it.

2 Q What about this bullet proof vest?

3 A No, sir, same thing.

4 Q And this silver gun?

5 A Same thing.

6 Q But these glasses, you say, were yours?

7 A Yeah, those glasses belong to me.

8 Q What about these handcuffs?

9 A No, sir.

10 Q Taser?

11 A No, sir.

12 Q And this police shirt?

13 A No, sir.

14 Q All right. So you're saying you stood in the woods
15 and, all of a sudden, you saw a flashlight on you; is that
16 right?

17 A Not on me, I seen a flashlight hit the woods, you
18 know, it's black dark. I mean, if any light is
19 illuminated or whatever, you know, you're going to see it.

20 Q All right. So you see this flashlight and could you
21 hear anything?

22 A Like I said, I heard a lot of screaming and yelling.

23 Q Where did you hear the screaming, inside the house or
24 outside?

25 A No, at this time, it was the police that was yelling

1 and screaming.

2 Q All right. So you never heard any of the victims
3 screaming inside the house?

4 A Like I said, when I went to the door -- when I
5 initially went to the door, I heard groans, like groans
6 and grunts and moans or whatever. I was only there
7 momentarily and I went, you know, off into the woods,
8 maybe 30 or 40 or whatever into the woods.

9 Q You wait in the woods and you saw lights?

10 A Right.

11 Q Did you hear warnings from the police, anybody saying
12 come out with your hands up or anything of that nature?

13 A I mean, I couldn't make out exactly what, you know,
14 was being said. I know it was a lot of screaming and it
15 was just -- really, it was chaotic. I mean, I can't tell
16 you that I heard a specific command or anything of that
17 nature.

18 Q But at this time, you had money on you. You didn't
19 have any weapons and you didn't have any drugs, but you
20 hear police, right? So you didn't come out and say
21 police, you're here, they've been tied up. You didn't
22 come out and say that, did you?

23 A No, I didn't. I was trying to get away from there
24 with that \$23,000. Because that \$23,000 has a lot
25 attached to it.

1 Q But you only are aware of that \$23,000 having a lot
2 attached to it, right? No one else knows about that?

3 A What do you mean?

4 Q You're saying that money is dirty or corrupt?

5 A No, I'm not -- well, yeah, of course, the money is --
6 that's not what I'm saying, but, of course, the money is
7 dirty and corrupt. But that's not what I'm saying. What
8 I'm saying is that if you have \$23,000 of somebody's money
9 and it's drug money and something happens to that money
10 and you don't do what you supposed to do and the money or
11 the drugs don't get back to the person in which they
12 supposed to get back to, then that's going to be your ass.
13 I mean, pretty much.

14 Q So you weren't scared of the police or you weren't
15 scared, really, of the people in the house, you were
16 scared of more of like Duke, your first cousin?

17 A Yeah, yeah, my first cousin.

18 Q You're scared of your first cousin?

19 A I'm concerned. I'm not going to say I'm scared or
20 terrified, but yes, I was very concerned about that
21 \$23,000 not getting back to its rightful owner.

22 Q To the same person you're calling and saying they're
23 going to pick you up, right?

24 A Right.

25 Q So you hear the police and you see the flashlights

1 and then you say that -- did you start running at that
2 point?

3 A Say that again.

4 Q Did you start running when you heard the police or
5 did you still stay there at the same spot?

6 A No, I started running.

7 Q All right. And you ran in which direction?

8 A From -- like I said, from -- I was probably over in
9 here somewhere and I just ran, probably cut through the
10 woods, you know, ran back up through this area.

11 Q All right. And there you said you encountered a dog,
12 right?

13 A Yes.

14 Q And did you encounter a deputy, a Greenville County
15 deputy?

16 A Not at first, at first, it was just the dog.

17 Q And you never heard any warnings about this dog
18 coming after you?

19 A Man, I don't know if you've ever been in a situation
20 like that or not, but when you are in a situation, if you
21 think you are about to go to jail -- and beyond that, when
22 the dog actually attacked me, of course, I wasn't trying
23 to hear anything. I mean, you really -- stuff happens so
24 fast, you know, you're really just stuck.

25 Q I thought you said you weren't concerned about going

1 to jail, I thought you were more concerned about the
2 money?

3 A No, I never said that, you said that.

4 Q All right.

5 A I was concerned about going to jail and I was
6 concerned about the money, right.

7 Q Your cousin's money?

8 A Right.

9 Q All right. So the dog gets to you, you never heard
10 any warnings from say, Deputy Harris?

11 A Like I told you --

12 Q Yes --

13 A It's the same question --

14 Q You don't remember?

15 A It's the same question. I heard, you know, some
16 yellings, you know, and shoutings and, possibly, somebody
17 said police or something like that, but I can't say
18 exactly what they said. I know it was the police if
19 that's what you want to know. Yeah, I knew it was the
20 police.

21 Q Okay. I'm glad we can agree on that. Now, at that
22 point, you said that you went like this to the dog; is
23 that right?

24 A Well, the dog -- I tried to put the bag in front of
25 the dog. I have -- pretty much, I've had dogs all my

1 life, you know, pit bulls and different dogs. And most of
2 the time, if a dog comes at you, if you have a shirt or
3 something to put in front of the dog, it actually can stop
4 the dog from attacking you, but this dog wasn't, you know,
5 like a regular dog or whatever.

6 Q So you put the bag in front of you?

7 A Yeah, I put the bag in front of me at first trying to
8 stop him, you know, from attacking me, you know, and
9 then --

10 Q The bag with the cash?

11 A Right.

12 Q Did you try to run from the dog or did you try to go
13 head on with the dog?

14 A No, I mean, it was all a lot of different motions.
15 I mean, if a dog tried to attack you, yes, of course,
16 you're trying to get away from the dog, but you're also
17 trying to keep the dog from attacking you, keep the dog
18 from biting you or whatever.

19 Q So did you hit the dog?

20 A Yes, I grabbed the dog. I ain't going to say I hit
21 the dog with my fist or anything, but I grabbed the dog,
22 you know, to try to keep the dog --

23 Q By the neck?

24 A -- from biting me. I don't know if it was his head
25 or neck or what it is, I mean, I grabbed him, you know, to

1 try to keep him from biting me.

2 Q So did you choke the dog?

3 A I mean, yeah, you can probably say I choked him. And
4 if I would have had a gun, I would have probably killed
5 him.

6 Q Did you throw the dog against the tree?

7 A I don't think I threw the dog against the tree, man.
8 I mean, I know it was a lot of fighting and tussling going
9 on as far as with the dog, but everything just happened.
10 I don't know if I threw the dog against the tree or not,
11 man.

12 Q All right. So then at that point, deputies catch up
13 with you, right?

14 A Yeah.

15 Q So they came and you're saying at that point, you
16 just gave up?

17 A No, I didn't give up.

18 Q Okay.

19 A I didn't give up.

20 Q So why didn't you give up?

21 A Because I didn't want to go to jail.

22 Q Did you have your hands in front of you like this?

23 A I don't know where I had my hands, man. I know it
24 was a fight, it was a struggle. I was trying to keep, you
25 know, from going to jail. I don't know, you know, where

1 my hands were.

2 Q So you didn't care about that money there, that
3 \$23,000 you had in your hands?

4 A I mean, the money was -- at this time, the money was
5 gone because the money was slung all over the place. You
6 know, at this time, the money wasn't even an issue. Now,
7 the only issue was me trying not to go to jail.

8 Q So you're saying, if I understand you, you did
9 struggle with the officers; is that right?

10 A Yes, that's right.

11 Q And finally, after a few minutes, they were able to
12 handcuff you; is that right?

13 A Right.

14 Q And then when they handcuffed you, did they stand you
15 up?

16 A Yeah, you know, they had to stand me up.

17 Q When they stood you up, this shirt wasn't hanging off
18 of you, is that what your testimony is?

19 A Yes, that's what my testimony is, I had on white
20 t-shirt.

21 Q Not underneath this?

22 A No, sir.

23 Q All right. And this wasn't hanging off of you
24 either --

25 A No, sir --

1 Q -- is that your testimony?

2 A -- that's my testimony.

3 Q And you never saw this -- by the way, was there a
4 tree nearby?

5 A There were -- in those woods, there were numerous
6 trees, I mean, it was woods.

7 Q Was there a tree that was sort diagonal, like almost
8 had fallen down?

9 A Yeah, there were a lot of trees, not just one tree
10 that had fallen down, it was -- it may have been 20 or 30
11 trees that had fallen down through those woods. I mean, I
12 don't know how many it was. I didn't try to count them.

13 Q All right. So you never saw this gun on that tree
14 where you had been struggling?

15 A No, sir.

16 Q All right. So then they stood you up and they took
17 you into the front of the house; is that right?

18 A Right.

19 Q And EMS treated you?

20 A Right.

21 Q All right. And then they took you to the hospital?

22 A Right.

23 Q And there at the hospital, you were being treated by
24 a doctor and nurse; is that correct?

25 A By a doctor and -- I don't know if it was a nurse or

1 not, but it was Dr. Circle. And there was a white
2 gentleman and the guy that he had helping him was a young
3 black guy. I don't know if he was a nurse or what he was.

4 Q Now, Deputy Wyatt testified that he gave you Miranda,
5 Miranda rights; is that right, did he give you Miranda
6 rights that night?

7 A No, I don't think Deputy Wyatt testified to that. I
8 think he said that --

9 Q Or Dan Acord?

10 A -- the other officer -- one of the other officers had
11 gave me a Miranda back at the house, what he said. I
12 don't really remember if he did not or not, but that's
13 what he said. But Wyatt didn't.

14 Q Okay. Did Officer Acord -- do you remember Officer
15 Acord giving you Miranda?

16 A I don't really remember.

17 Q Okay. So you went to the hospital and you were being
18 treated and -- did you talk to Hal Harris that night,
19 Deputy Hal Harris, the K-9 officer?

20 A Yeah, I mean, I'm not too familiar on who is who. I
21 mean, I can look at the gentleman that's sitting back in
22 the courtroom now. I can't tell whose name -- I talked to
23 an officer, but I don't know if it was -- I think it was
24 Harris, I think it was.

25 Q Okay. So you spoke with an officer at the hospital,

1 correct?

2 A Right.

3 Q And when you spoke at the hospital to that officer,
4 you said that that person was a drug dealer, correct?

5 A Are you asking me or are you telling me that?

6 Q I'm asking you that?

7 A What I said was at the hospital, when the doctor was
8 working, was working on my wounds or whatever, the
9 officers was in the hospital and they was talking to the
10 doctor. And they said they had just arrested me for a
11 home invasion that involved two children. And when they
12 was telling the doctor that, I said that it was a drug
13 deal, that's what I said.

14 Q And these two children -- you weren't familiar at
15 that time about the two children, right?

16 A Not being inside the house or whatever.

17 Q You just -- all you said it was a drug deal. You
18 didn't say, Oh, it didn't involve two children, what are
19 you talking about?

20 A Yeah, I was refuting what the officer had said
21 because he said it was a home invasion involving two kids.
22 And that's why I said it was a drug deal, refuting what
23 the officer had said.

24 Q So you didn't refute it by saying it was two kids,
25 you just said -- you didn't say he was a drug dealer, you

1 said it was a drug deal?

2 A Right.

3 Q Is that what you're saying?

4 A Yes.

5 Q And then your testimony is that he never said, who,
6 what are you talking about, he never said that to you?

7 A Yes. Actually, I wrote that down --

8 Q You wrote that down that night?

9 A No, I wrote it down right here exactly what was said,
10 exactly what the officer said at the hospital. Officer
11 Harris said in his statement while in the suspect's room,
12 he said, I spoke to him. I asked the suspect why did he
13 continue to fight and not give up.

14 The suspect stated, Ain't nobody want to go to jail.
15 And I did say that.

16 Q All right.

17 A The suspect then -- the suspect stated, Ain't nobody
18 want to go to jail. The suspect then sighed and states,
19 It's just a crack dealer.

20 This is what the officer said I said.

21 Q Did you say that?

22 A No, sir, I didn't say that.

23 Q Okay.

24 A I said -- like I told while ago, I said it was a drug
25 deal.

1 I asked the suspect, Who, you?

2 The suspect stated, No.

3 I then asked, Who, the victim?

4 The suspect looked at me like I should have known
5 that.

6 Then it says that Wyatt was present during the above
7 statements. And I also -- let me finish. I also wrote
8 down what Officer Wyatt said, also. And Wyatt said in his
9 statement while at the hospital -- these two officers were
10 together questioning me or whatever.

11 It says Wyatt says in his statement that while at the
12 hospital, the suspect made the comment, He is just another
13 crack dealer. Then he says, when asked who he was talking
14 about, he stated, The man at the house.

15 So Officer Wyatt said that I said the man at the
16 house. But Officer Harris said I just sighed. I didn't
17 say anything as far as when referred to what I was talking
18 about. I just sighed, you know, like --

19 Q My question to you is did you say that or did you
20 not?

21 A I said what I told you two or three times before. I
22 said that it was a drug deal.

23 Q Okay. But you never said he was a drug dealer.

24 And then they said, Who?

25 And you looked at them.

1 You never did that?

2 A No.

3 Q So let's talk about what we agree on. We agree that
4 you went to 125 Turentine Circle that night, all right?
5 You went there and you're saying that you went in there
6 and you just looked, correct?

7 A I didn't go in there, yeah, I peeped through the
8 door.

9 Q So we agree that you went there that night, but you
10 disagree that you ever went inside the house?

11 A Right.

12 Q Okay. And you disagree to wearing any of these items
13 or having any of these items, except for these glasses?

14 A And the bag.

15 Q The Finish Line bag. And you disagree with the
16 testimony that you ever ran outside the front of the
17 house, saw officers and you ran to the side of the house?

18 A No, it wasn't me.

19 Q It wasn't you. Was it Duke?

20 A I don't know who it was. I know it wasn't me. I
21 mean, I can only speak for my involvement.

22 Q All right. Couple other things. You're saying that
23 the money was never found in a baby wipes container?

24 A I don't know where the money was found. I have
25 pictures that show money scattered all over the ground and

1 a container that is sitting there.

2 Q Okay. And you're saying the money was found in the
3 woods and not in the backyard; is that correct?

4 A No, I'm not saying that. I don't know exactly -- the
5 money was scattered all over the place. I know that --

6 Q When you caught the dog, where were you?

7 A Probably -- I mean, it was all over the place,
8 really, I mean.

9 Q Were you in the woods? Do you remember trees being
10 around you?

11 A It was trees, yeah, it was trees around. Not all
12 around us, some little brush and stuff, too. I mean, to
13 the back of me were nothing but trees. But to the front,
14 you know, you could see, actually, the backyard and stuff.

15 Q And so when -- again, when you looked in the house,
16 you had a cell phone on you, when you went in there and
17 saw this person on the ground, you had a cell phone on
18 you?

19 A See, you keep trying to say that I went in there.
20 Yeah, I --

21 Q I'll rephrase it, when you looked in the house, you
22 had a cell phone on you?

23 A Yes.

24 Q And instead of calling the police, you called Duke;
25 is that correct?

1 A Right, right. I mean, I wasn't calling the police
2 because I had \$23,000. My objection that particular night
3 was to call Duke. When Duke came and arrived to pick me
4 up, I was going to call 911 while leaving. I wasn't going
5 to call 911 before he arrived waiting for the police to
6 get there with me having \$23,000 in cash.

7 Q So you didn't think about calling 911 while you were
8 waiting 20 minutes in the woods?

9 A No. I mean, because like I said, I'm out there with
10 \$23,000. I don't --

11 Q With this person moaning on the ground and it could
12 be George Howard, your life-long friend?

13 A I mean, that's just how it is, man, that's just how
14 it is. You may not like it. I mean, it may have been
15 wrong on my part, but that's just how it is.

16 MR. WEBB: I have no more questions.

17 REDIRECT EXAMINATION

18 BY MR. CHAMBERS:

19 Q Gerald, after Duke dropped you off, how were you
20 going to leave after you completed the drug deal?

21 A Howard was actually going to take me back in one of
22 his vehicles.

23 Q And after you talked to Duke and he told you to go in
24 the woods, where is it that he was going to come pick you
25 up?

1 A He just told me to wait in the woods. Like I said,
2 behind the woods, there is a road that runs back there and
3 there's some other houses on the other side and some
4 apartments or whatever. And he told me just to wait there
5 and when he came -- when he showed up, he was going to
6 call and we was going -- you know, let me know where to
7 come out of the woods out or whatever.

8 MR. CHAMBERS: Okay. Thank you.

9 THE COURT: All right. Anything else?

10 RECROSS-EXAMINATION

11 BY MR. WEBB:

12 Q And Duke's your first cousin, right?

13 A Yes, he is.

14 Q And you say he still lives in Greenville?

15 A He stays in Greenville or the Taylors area. Like I
16 said, the house that he was living at recently burned
17 down, as so did the house where Mr. Howard and all of us
18 have been known to hustle at also recently burned down.

19 Q Yes or no, does he still live in Greenville County?

20 A I don't know. I mean, really --

21 MR. CHAMBERS: Just briefly, Your Honor.

22 FURTHER REDIRECT EXAMINATION

23 BY MR. CHAMBERS:

24 Q Had you and I discussed calling Andrell Terry as a
25 witness?

1 A Yes, sir, we actually did.

2 Q Did we make an effort to find Andrell Terry?

3 A Yes, we did make an effort to find Mr. Terry.

4 Q And were we successful?

5 A No, we weren't.

6 THE COURT: Okay. Thank you, sir. You can step
7 down.

8 MR. CHAMBERS: The Defense rest, Your Honor.

9 THE COURT: All right. Let me see the lawyers up
10 here from a second.

11 (WHEREUPON, a bench conference was held in the
12 presence of the jury but out of the hearing of
13 the jury.)

14 THE COURT: All right. Madam Forelady, ladies and
15 gentlemen of the jury, this is another one of those times
16 we have to take up some legal matters outside your
17 presence. It's probably also a good time to take a little
18 break. I want to tell you we're getting close to the end
19 of the second part of the trial, which is presentation of
20 the testimony and the evidence. I know the temptation is
21 strong to talk about it. Resist that. The case will
22 belong to you and you can talk about it all you want in
23 the near future. But right now, just keep your thoughts
24 to yourself. And we'll get back to you in just a few
25 minutes. Thank you.

1 (WHEREUPON, the jury left open court at
2 approximately 10:50 a.m.)

3 THE COURT: Okay. Any motions?

4 MR. CHAMBERS: Your Honor, I would renew my motion
5 for a directed verdict as to all indictments.

6 THE COURT: Okay. Same ruling.

7 We'll just take a few minutes.

8 (WHEREUPON, a short break was taken.)

9 THE COURT: All right. You want to talk about jury
10 charges?

11 MR. CHAMBERS: I don't have any special requests,
12 Your Honor.

13 THE COURT: Okay. All right. Okay.

14 MR. CHAMBERS: I would like to -- every Judge seems
15 to do a little bit different, how are you going to charge
16 reasonable doubt?

17 THE COURT: You've tried them in front of me before.

18 MR. CHAMBERS: I can't remember, though.

19 THE COURT: Well, I can't help you with your memory.
20 That's what fish oil is all about.

21 MR. CHAMBERS: Yeah, I need that.

22 THE COURT: You'll probably like it. All right.
23 Well, let me tell you what I've got out and y'all tell me
24 what you want and don't want. Let me get it organized.

25 MR. WEBB: Judge, if I may. I apologize for this, I

1 just received confirmation from the victim about
2 something. I would like to put the victim back up on the
3 stand for rebuttal.

4 THE COURT: Okay. All right. Now, that you got me
5 started on the jury charges.

6 MR. WEBB: I apologize about that, Judge.

7 THE COURT: All right. I've got duties of the judge
8 and jury, arrest, you know -- indictment not evidence,
9 multiple charges, credibility of witnesses, presumption of
10 innocence, reasonable doubt, do you want circumstantial
11 evidence?

12 MR. CHAMBERS: I don't.

13 THE COURT: I didn't think you did.

14 You want it?

15 MR. WEBB: Yes, Your Honor.

16 THE COURT: All right. You want something on the
17 statement of the Defendant about freely and voluntarily,
18 is that an issue in this matter?

19 MR. CHAMBERS: No, Your Honor, it's really not.

20 THE COURT: Okay. All right. Prior record, limited
21 for impeachment. Do you want anything about the hand of
22 one is the hand of all?

23 MR. CHAMBERS: No, sir, Your Honor.

24 MR. WEBB: Well, I mean -- no, I don't think so. I
25 think it was he was in the house or he wasn't.

1 THE COURT: Okay. And then identification, you want
2 a charge on identification?

3 MR. WEBB: Yes.

4 THE COURT: Okay. All right. I think that's
5 probably appropriate.

6 All right. Okay. Well, let's bring the jury back
7 and take care of the rebuttal and move on.

8 (WHEREUPON, State's Exhibit Nos. 25 & 26 were
9 marked for identification only.)

10 (WHEREUPON, the jury came into open court at
11 approximately 11:15 a.m.)

12 THE COURT: All right, Mr. Webb.

13 MR. WEBB: Your Honor, the State calls George Howard
14 to the stand.

15 THE COURT: All right. You are still under oath,
16 Mr. Howard.

17 FURTHER REDIRECT EXAMINATION

18 BY MR. WEBB:

19 Q Mr. Howard, I just want to talk to you briefly about
20 the money that was in your house?

21 A All right.

22 Q How much again, how much did you have up there?

23 A It was 23,000.

24 Q And tell me how it was packaged?

25 A I wrapped it with rubber bands and -- maybe three

1 times, rubber band around it three or four times.

2 Q What sort of denominations, do you remember? What
3 kind of -- 10's, 20's?

4 A In stacks of a thousand.

5 Q So about 23 stacks total?

6 A Yes.

7 Q And you say you wrapped it with rubber bands, were
8 they put inside anything?

9 A Yeah, put inside of a wipes.

10 Q A wipes --

11 A Box.

12 Q -- container?

13 A Yeah, wipes container.

14 Q Mr. Howard, I'm going to show you what's been marked
15 State's Exhibit Nos. 25 and 26. Please tell me what that
16 is?

17 A This is the money that I had kept in my attic.

18 Q And is there a container in those pictures?

19 A Yeah, the Luvs container.

20 Q Is that a fair and accurate representation of your
21 money in the container?

22 A That's my money.

23 Q All right.

24 MR. WEBB: Your Honor, the State moves Exhibits 25
25 and 26 into evidence.

1 MR. CHAMBERS: No objection, Your Honor.

2 THE COURT: All right. Without objection.

3 (WHEREUPON, State's Exhibit Nos. 25 & 26 were
4 admitted into evidence.)

5 BY MR. WEBB:

6 Q Mr. Howard, is this your -- can you tell where this
7 is, these pictures are taken?

8 A This is right in back of my yard.

9 Q Can you tell how far away from your house that is?

10 A I can't tell you approximately how far it is, but
11 pretty much right there close to my back door.

12 Q Is it in the woods?

13 A No, that's not in the woods.

14 Q It's in your backyard?

15 A Yes.

16 Q In these pictures, do you see any Finish Line blue
17 bags?

18 A No, there's no Finish Line bag in either one.

19 MR. WEBB: Nothing further, Judge.

20 FURTHER RECROSS-EXAMINATION

21 BY MR. CHAMBERS:

22 Q So this money -- if I remember correctly, you said
23 you had been saving that money; is that right?

24 A Correct.

25 Q How long had you been saving it?

1 A For a few years.

2 Q For a few years?

3 A Yes.

4 Q And so how often would put money in there?

5 A I couldn't tell you, actually.

6 Q And so after all these years of saving, you had

7 exactly \$23,000?

8 A That's what I had in the container.

9 Q So in that container. And you said that -- I want to

10 show you -- I guess, the police or somebody after the

11 fact, and it's been marked as State's Exhibit 8, they

12 gathered up all the money and kind of stacked it up there

13 out on your -- is that your kitchen counter?

14 A Yes, it is.

15 Q All right. I mean, that's the currency that they

16 found, did they let you look at that?

17 A Yes.

18 Q And they actually gave that back to you, didn't

19 they -- or gave it to you, let's say that?

20 A Yes.

21 Q All right. And you said that you had it in 23

22 separate stacks?

23 A Probably so.

24 Q Well, that's what the solicitor just asked you and

25 you said 23 separate stacks, right?

1 A Yes.

2 Q Some of them were 100's; is that right? You can look
3 at the picture if you need to refresh your memory. In
4 fact, let's do that.

5 A All right.

6 Q Some of them are 100's?

7 A Yes.

8 Q Is that right? Some of them are 10's, see some 10's
9 in there?

10 A Hundreds, tens and twenties.

11 Q Yeah, you got some 20's? And so you stacked all that
12 up in 23 stacks of a thousand, all those different bills;
13 is that right?

14 A Yes.

15 Q Some stacks would, obviously, be a little bit bigger
16 than others because, you know, it takes fewer hundreds to
17 get to a thousand than it does, say, 20's and 10's, right?

18 A Uh-huh.

19 Q And then when you got all that money that we see
20 that's spread out across that entire kitchen counter
21 there, you then wrapped that up three times with rubber
22 bands?

23 A What are you saying?

24 Q Well, I'm repeating what you said on your direct
25 testimony just a minute ago. I mean, if that was wrong

1 when you said it, then let me know that now?

2 A Nothing was wrong.

3 Q So that is what you said, you said you got all this
4 money that's spread out across that entire kitchen counter
5 in 23 stacks and you rolled it up and you put rubber bands
6 around it three times?

7 A How many times you want me to answer? How many times
8 do I need to --

9 Q Okay. I just want to make sure, that's what you did?

10 A Yeah.

11 Q And then you -- all of it -- I guess we're passing
12 that picture around, so they can look at it, but all of it
13 you say went inside that Luvs baby wipes container?

14 A Yes.

15 Q All of it. Okay. And in that picture that the
16 solicitor showed you, was that money in a nice roll with
17 rubber bands around it three times?

18 A I'm not sure.

19 Q Well, you want to look at the picture again, I can
20 get it back from the jury?

21 Can I see that, please?

22 Is it in a roll?

23 A You say is it in a roll?

24 Q Yeah, is it in a roll?

25 A It's in -- what you -- I mean --

1 Q Oh, okay, so all those bills that are scattered
2 around far and wide all over the yard there, I'm not
3 seeing that, that's money that's rolled up all together?

4 A Those are in separate stacks of a thousand.

5 Q Okay. All right. And you said -- we've got some
6 bills that are here and we've got some bills that are way
7 out there. I mean, they're not all out there together,
8 are they?

9 A What do you mean they're not there together, they're
10 right there in the picture.

11 Q Okay. All right. I guess that's the best answer I'm
12 going to get. Thank you.

13 MR. CHAMBERS: I have nothing else, Judge.

14 THE COURT: All right. Thank you, sir. You may step
15 down.

16 MR. WEBB: That's all, Judge.

17 THE COURT: All right. Ladies and gentlemen, we've
18 concluded the second part of the trial, so we've heard all
19 the testimony and all the evidence. That's everything
20 that we're going to hear and see. I need to speak with
21 the attorneys for a few minutes about my charge to you on
22 what the law is going to be and make sure I include
23 everything that I need to and don't include things that
24 don't need to be included.

25 Additionally, it's 11:30 and I am going to ask the

1 bailiffs to provide you with a menu and let y'all pick out
2 something for lunch because I anticipate we're going to do
3 arguments and charge, that will be a continuous process,
4 and then y'all will be excused. So let's go ahead and get
5 a menu and we'll get back with you just as soon as --
6 probably when you all are finished picking out everything
7 that -- your lunch. Okay. Thank you, very much.

8 (WHEREUPON, the jury left open court at
9 approximately 11:25 a.m.)

10 THE COURT: All right. Anything else?

11 MR. WEBB: Nothing from the State, Judge.

12 THE COURT: Okay. Well, anything -- we're satisfied
13 with the jury charge and all that stuff?

14 MR. CHAMBERS: Yes, sir, Your Honor.

15 THE COURT: Mr. Webb?

16 MR. WEBB: Well, Judge, I think that hand of one.
17 hand of all may be applicable here. There's testimony
18 that the Defendant went in there and talked to somebody
19 while inside the residence. You know, if there are sort
20 of shades of gray here, I think the jury can believe that
21 was a two-man job and that might be an argument and that
22 the Defendant wasn't involved --

23 THE COURT: Well, who said that he was talking to
24 anybody, what was that? I can't remember.

25 MR. WEBB: The victims were tied up and then he said

1 he called somebody and said give me the real money or
2 where is the real money. So it's one of those borderline
3 issues, but I think that --

4 THE COURT: In other words, you think then if the
5 jury were to believe that Mr. Brown was not the one in the
6 house, he might have been the one on the other end of the
7 phone?

8 MR. WEBB: Or around the house waiting to get away or
9 maybe they think -- the argument is maybe Duke was the
10 main person they're trying to set up this situation,
11 mysterious Duke.

12 THE COURT: Mr. Chambers?

13 MR. CHAMBERS: Your Honor, I think that charge would
14 be completely inappropriate. I mean, their whole theory
15 and all their evidence is is that Mr. Brown is the one
16 that went into the house, committed the robbery and left.
17 They haven't entered any evidence about anybody else being
18 involved and there was nothing about Mr. Brown's testimony
19 that would have indicated that -- I mean, he, of course,
20 denied that he committed any kind of a robbery. There was
21 nothing to say that he had an accomplice or anything of
22 that sort.

23 THE COURT: Well, he did, but that was a different
24 crime.

25 MR. CHAMBERS: Well, yeah. I think that charge would

1 be more confusing than it would be beneficial.

2 THE COURT: All right. Well, let me just -- we'll
3 think about it for a little bit. Y'all just be at ease.
4 If you want a few minutes to look over your notes.

5 (WHEREUPON, a short break was taken.)

6 THE COURT: Okay, y'all ready?

7 MR. CHAMBERS: Yes, sir.

8 MR. WEBB: Yes, sir. Judge, one thing about the
9 charge is that request that burglary, kidnapping, armed
10 robbery--

11 THE COURT: That all comes out. It comes crimes of
12 violence. And I will charge hand of one. I'll show you
13 the verdict form after I have it. I don't have one
14 printed just yet.

15 (WHEREUPON, the jury came into open court at
16 approximately 11:38 a.m.)

17 THE COURT: All right. Madam Forelady, ladies and
18 gentlemen of the jury, as I told you, we finished the
19 first two parts of the trial. And I want to congratulate
20 you all and thank you all for the close attention you've
21 paid throughout the trial so far. And I ask you to
22 continue to pay attention to these fine attorneys as they
23 make their closing arguments.

24 All right. Yes, sir.

25 MR. CHAMBERS: May it please the Court, Your Honor.

1 THE COURT: Yes, sir.

2 CLOSING STATEMENT

3 MR. CHAMBERS: Ladies and gentlemen, it's actually
4 been a fairly long week. I'm sure it's probably seemed a
5 lot longer to you than it has to most of us because I'm
6 sure a lot of you were sitting there thinking about other
7 things that you had to do and places that you needed to
8 be. But I'm going to tell you without reservation that
9 there's not a more important place for any of you to be
10 than where you were this week. And the reason for that
11 is, as you've now heard -- and you've heard all the
12 evidence and seen all the evidence that you're going to
13 get to have in front of you.

14 The solicitor and the State have made some very
15 serious allegations, very serious accusations against
16 Gerald Brown. Short of murder, they don't get much more
17 serious than this. You know, it's three counts of
18 kidnapping, an armed robbery, a burglary first, all of
19 which are classified as violent crimes. And then they
20 threw in just for good measure, as you heard, the
21 impersonating a police officer and doing harm to a police
22 dog. Really serious charges.

23 And you've heard from the very beginning of this
24 trial something that all of you already knew before you
25 got in here, but it's certainly reemphasized at this

1 point, that these folks seated over here, the solicitor,
2 his assistant, all those police officers seated back
3 there, they have the burden of proof. And that burden of
4 proof is proof to you beyond a reasonable doubt that
5 Gerald Brown committed those offenses. And they have to
6 bring evidence to you that proves each and every element.
7 And His Honor has already alluded to this and he will tell
8 you again when he talks to you about reasonable doubt,
9 that if you have any reasonable doubt as to any element of
10 any of those offenses, then on that offense, you have to
11 find Gerald Brown not guilty. And please keep in mind
12 that it's not a standard of I think he's probably guilty,
13 it is a standard of I am convinced beyond a reasonable
14 doubt.

15 Now, judges give all sorts of instructions about what
16 amounts to reasonable doubt. Sometimes they tell you it's
17 is a doubt that would cause a reasonable man to hesitate
18 to act. Sometimes they tell you that it's proof that will
19 leave you firmly convinced. But as you think about that,
20 think about it this way. If you had to bet something that
21 was near and dear to you, something that you held very
22 important, if you had to risk that based on the decision
23 that you make here being right or wrong, that would be
24 reasonable doubt. So you have to weigh all of the
25 evidence. And there's a lot of it here that you can go

1 through and we're going to spend a good bit of time
2 talking about it. And I'm going to apologize to you in
3 advance, I'm probably going to take a little while here.

4 I'm always a little bit nervous at the end of a trial
5 when I have to get up. I take my responsibility very
6 seriously. I am the voice for Gerald Brown. I am his
7 advocate here and I speak for him. So when I stand up in
8 closing arguments, I always worry to some degree that I'm
9 going to forget something that was important and I'm going
10 to leave out some important point and I'm going to let
11 unsaid something that needs to be said.

12 The one thing that gives me solace, though, is that I
13 have stood in front of a lot of juries over the years and
14 I have seen jurors just like you who sit there and you
15 listen to all the evidence and you take notes. And I take
16 solace in the fact that if I miss something, you heard it.
17 The other thing that I take solace in is you're going to
18 go back there as a deliberative body, 12 of you, and
19 you're going to have to reach a unanimous verdict. And
20 you're going to use your common sense and life experience
21 and everything that all of you brought into this process.
22 But the other thing about that is you're going to be 12
23 individuals. You will have to make a unanimous decision,
24 but none of you is more important than the other.
25 Nobody's opinion matters more than the other's opinion.

1 So when you go back there, don't agree just for the sake
2 of coming to an agreement. You have an opinion, a
3 strongly held opinion, you need to hold that opinion. And
4 ladies and gentlemen, your opinion should only be based on
5 the evidence or, perhaps, the lack of evidence in this
6 case.

7 Now, the solicitor, as we have discussed and you'll
8 hear again and again, has the burden of proof. That means
9 he got to talk to you first, that means he's going to get
10 to talk to you last. I'm not real fond of that rule, but
11 that's how it goes. Lawyers always like to get the last
12 word. But when I sit down, he's going to get to stand.
13 He's going to present, I think, a slide show to you, he's
14 going to put it up there on the projector, and he's going
15 to talk to you about this case. But as he is talking to
16 you, I want you to remember the things that you and I are
17 about to talk about. As he is talking to you, I want you
18 to remember the fact that this was his case to bring to
19 you. He chose the evidence that he was going to present
20 to meet his burden of proof. And he chose those things
21 that he was not going to present, that he didn't think was
22 necessary. And we're going to spend a good bit of time
23 talking about that.

24 At this point, ladies and gentlemen, you have heard
25 from the alleged victims in this case. You have heard

1 from the police officers that were out there on the scene
2 or, at least, some of them. And you have heard from the
3 Defendant. Now, the Defendant didn't have to testify,
4 didn't have to tell you anything. But he got up there and
5 he told you what happened. One of the things you get to
6 do and one of the things we talk about is you get to judge
7 demeanor. You get to judge the way, how it stacks up
8 against circumstances, whether there are any
9 inconsistencies, whether there are any things that don't
10 make sense. And those are very important things that
11 you're going to have to do and all of you are equipped to
12 do it. You're equipped to do it because we do it every
13 day. We come into contact with people and we judge those
14 people and we size those people up. And we say, do I like
15 this person? Is this person telling me the truth? Can I
16 trust this person? That's what you're going to be called
17 upon to do. That is what you're going to be called upon
18 to do. And all of you get to go back there and talk about
19 it after the fact.

20 Now, I suspect that what the solicitor is going to
21 tell you -- and I'm paraphrasing because I don't know
22 exactly what he's going to say, but he's going to tell you
23 something along the lines of don't pay any attention to
24 anything defense counsel just told you. That he is trying
25 to take your mind away from what the facts are in this

1 case and he's throwing out a bunch of red herrings. Well,
2 a lot of times, I will tell that what they refer to as red
3 herrings really amounts to reasonable doubt.

4 I suspect that what he is going to tell you is this
5 is a simple case. They kept referring to the person that
6 ran out of the house as the Defendant. They're going to
7 say the Defendant ran out of the house and the police
8 officers saw him go into the woods and they caught him
9 red-handed and that's the case and that's all you need to
10 know.

11 All right. The problem with that is you heard a
12 completely different set of events from Gerald Brown. So
13 you get to weigh what they told you with what Gerald Brown
14 told you. And if you remember what Gerald Brown told you
15 was I went there with \$23,000 in cash to purchase 54
16 ounces of cocaine from George Howard. And when I went up
17 to the door, I could tell that something was wrong. It
18 was cracked. And from the crack, I could see that
19 somebody was laying on the floor and I heard some moaning
20 and I didn't know what was going on. And maybe he's not
21 going to get the good samaritan award, but he backed away
22 from there and he called the cousin that had dropped him
23 off and said hey, something's going on over here. So he
24 didn't walk in there. And remember, I may be getting
25 ahead of myself a little bit, but the police officers

1 didn't go running in there either. They kind of waited
2 until everything was cleared out a little bit.

3 But be that as it may, this guy Duke told him, he
4 said there's a wooded area back behind the house with a
5 trail that goes through there. Go back there and wait for
6 me and I'm going to call you and come by and pick you up.
7 Now, remember, the original plan was that George Howard
8 was going to leave with Gerald and they were going to go
9 that way. And, of course, the solicitor is going to tell
10 you that that just doesn't make sense, it defies all the
11 evidence and on and on and on.

12 So with that said, ladies and gentlemen, let's go
13 through the evidence. Now, I usually get up here and try
14 to impress everybody with my powers of recall. But,
15 honestly, there is so much in this case that is wrong that
16 I made some notes and I'm going to refer to those notes.
17 I'm going to walk you through the evidence as best I can.
18 And, you know, as you go through this, it was clear to me
19 at any rate, that there are just -- I mean, not only are
20 we talking about inconsistencies, but just what appeared
21 to be lies and untruths and just being misled.

22 Now, the first witness that you heard from was young
23 man, Jarecus. A fine young man. And I am not in any way
24 here to try to case aspersions on Jarecus. But as he
25 testified, it appeared to be that he had -- that somebody

1 had been talking to him about what had gone on in this
2 particular case. You remember what he told you was that
3 they had just gotten inside the house and he said that
4 this guy came running up from around the side of the house
5 and that he pointed a silver pistol at him. And that they
6 went on in and they were all three in the house. And then
7 he told you how they commenced to putting duct tape on him
8 and all the other things that he talked about.

9 The thing that struck me as curious is when I asked
10 him, If you were already inside the house, how could you
11 tell where this person you say came up with the silver
12 pistol came from? And he just froze, he didn't know.
13 Nobody had talked to him about that. He had no way of
14 knowing. He said that the person that came in there was
15 wearing a vest that said on it sheriff or police. Well, I
16 don't know -- the only vest that we have that's been
17 introduced into evidence says neither one of those things,
18 sheriff or police, and said that was outside the shirt
19 this person was wearing.

20 I asked him about the gold badge. Because, remember,
21 he probably -- if he is to be believed, probably had the best
22 view of this person that was supposed to have accosted
23 them, the best view of anybody. And he didn't see on the
24 front a gold badge. Did not see that.

25 Said that he saw him wearing a paintball mask. And

1 the thing that just struck me as funny and maybe I'm the
2 only one that doesn't now this, but everybody that
3 testified immediately said and recognized that to be a
4 paintball mask. You know, there's a lot of things they
5 couldn't see, couldn't make out, but all those people at
6 different vantage points that identified this person said
7 they were wearing a paintball mask. A mask that
8 completely covered the face of whoever this person was
9 supposed to be.

10 Then we move on to George Howard. There's a lot
11 about what George Howard said that I don't understand and
12 it just doesn't ring true to me, all right. First of all,
13 he says that when he went up to the house that he was on
14 his cell phone. That he was holding it up to his ear,
15 that as he was getting in the door, he actually kind of
16 did this and kept talking. And that when this person --
17 when he heard his son yell, Daddy. That he turned around
18 and he was still talking on his cell phone.

19 And maybe I watch too many shows or think about this
20 stuff too much, but I am telling you that if I were
21 committing an armed robbery on somebody that I would get
22 rid of that cell phone. I mean, there's no way they
23 couldn't have seen it. I mean, they were standing right
24 there. Mr. Howard and Jarecus both told you it was good
25 lighting, they had just turned the lights on and they were

1 standing inside the house. And yet, nobody does anything
2 with the cell phone. And the cell phone continues to be
3 on where there was supposedly an open line to Michael
4 Thompson who can hear everything that's going on in the
5 house and on and on.

6 George Howard, also -- and when judging his
7 testimony, one of the things that you can consider in his
8 credibility is, as you heard, that he was convicted of
9 possession with intent to distribute crack cocaine back in
10 2005. And you can consider that for his credibility.

11 Now, ladies and gentlemen, you have also heard
12 evidence that the alleged victim in this case was involved
13 in a drug trade. That he was involved in dealing in
14 cocaine and other drugs. And he says that he had \$23,000
15 in cash in his attic. He said that he had been saving
16 that for years. But it's \$23,000 in cash, which he had
17 separated it in stacks of a thousand. And he says he was
18 keeping in it in a Luvs wipes box in the attic. And when
19 I asked him why he didn't put it in the bank, at first, he
20 said he didn't want to say. And then he said, after I
21 pushed him a little bit, Well, I just don't trust banks.
22 And I guess here lately, maybe it's a good idea not to
23 trust banks, but over the last few years -- I mean, I
24 would have to think that a bank is a much better place to
25 keep \$23,000 in cash money than a Luvs box in the attic.

1 You know, especially, if I'm saving it and I want to do
2 something with it. You know, there's a -- you know, one
3 of the greatest things going is compound interest. You're
4 doing yourself a disservice if you put it in the attic.
5 Normally, if people just stash money somewhere like that,
6 there's a reason for it and it's usually not a legitimate
7 reason. So if we assume that he's telling the truth about
8 having \$23,000 in the house, I don't know, something
9 doesn't add up.

10 I'm not here to tell you that I have all the answers,
11 I wish I did. If I did, I would stand up and just tell
12 you straight out. But there are a lot of things for which
13 there are no answers in this case. And as we go through
14 these, remember, if you have questions about anything,
15 then that has to lure to the benefit of Defendant, that's
16 the law. You can't sustain a guilty verdict on lies,
17 half-truths, discrepancies, doubts. That's really what it
18 amounts to.

19 The other thing about George Howard is, remember,
20 they brought him around -- and he was apparently walking
21 all over the scene, you know. So he was able -- he was
22 walking around, he was able to see where things were and
23 whatnot, I don't know. Because they showed him this
24 money. He said he went in and got a look at that. And
25 they actually gave him the \$23,000 just because he said it

1 was his. And he got to go around and get is good look at
2 George Howard. And he told you that when he saw George
3 Howard that George Howard was wearing a white T-shirt that
4 had blood on it, that he was wearing -- he wasn't wearing
5 a police uniform. He didn't see a police uniform. And
6 when the cops asked him about this guy, his testimony was
7 he told them that he had never seen him, he didn't know
8 who he was. Did not know who he was. And yet, we hear
9 when he testifies, known him a long time. He's Duke's
10 first cousin, he said that.

11 The other thing that I -- at least, was interesting
12 to me is he asked the police officer, Did you find the
13 cell phone? Just on his own.

14 And the cops said, Yeah, we found a cell phone in his
15 pocket.

16 He said, Well, what was the last call he made?

17 And they said, Well, it was to somebody named Duke.

18 Now, Duke is not an uncommon name or nickname. I've
19 heard it a lot in my life. Yet, this man immediately
20 said, Well, that's Andrell Terrv, he lives up in Taylors.

21 And the funny thing about that is, first of all, he
22 knows this person. And secondly, that is the very person
23 that brought Gerald Brown over there that night that had
24 been involved in the drug trade with George Howard.

25 And the other thing that's odd about that is nobody

1 involved in this case at any point thought it might be
2 important to talk to Andrell Terry. As you heard, we
3 tried to find him and we couldn't locate him. But nobody
4 thought it might be a good idea to call that number.
5 Nobody thought it would be a good idea to find out where
6 he lives over in Taylors because, apparently, George
7 Howard knew. Nobody involved in this case thought he
8 might have some information that would shed light, or
9 maybe they did and we just don't know about it, but we
10 certainly didn't hear about it. That's something for you
11 to consider in this case.

12 Then they call Michael Thompson. Now, Michael
13 Thompson said that he was having this conversation and it
14 had been going on for five or ten minutes, then, all of a
15 sudden, he heard something about a gun and he knew his
16 friend was being robbed. So he said he picked up his
17 other cell phone, which he happened to have right there,
18 and called the police. And you heard the 911 tape, went
19 on for about 30 minutes. And you can listen to that again
20 if you need and you want to remember what he said.

21 But there were couple things that really stood out to
22 me. One is on several different occasions when asked by
23 the 911 operator, he said that there -- it sounded to him
24 like there was at least two distinct voices. Two distinct
25 voices. And the other thing that he kept going on and on

1 about -- and again, if you need to, you can listen to that
2 tape, is he kept asking about that back door. You got
3 somebody at the back door? Have you checked the back
4 door? They've robbed my friend before. I don't remember
5 the exact words, but it was -- you know, the indication
6 was this was not an unusual occurrence at the Howard
7 household, that it had happened before. And, in fact, on
8 the 911 tape, he says, That door's broke, it doesn't work.

9 Now, when I asked him about it, again, I have no
10 reason why he would just not want to answer this question,
11 he -- I just could not get him to say it. But what he
12 said was he said, Well, I said it had been broken into
13 before. But again, you can listen to the 911 tape. He
14 over and over and over again is concerned about that back
15 door and gives every indication that place had been broken
16 into before and that my friend is being robbed. He used
17 the word they a lot. He talked about they are robbing him
18 again. You know, all of which was not addressed at all by
19 the solicitor and really cast doubt on the evidence that
20 was presented to you in this case. He even said at one
21 point, I think it's the same guys. That's what he said.
22 And you can listen to it on the 911 tape if you need do.

23 And the other thing that struck me as funny is that
24 the 911 operator, who is in control of that whole thing,
25 she is talking to the -- Michael Thompson on the phone and

1 she is in touch with all these officers and, apparently,
2 knows when somebody arrives and where they're taking a
3 position. And she says at one point, they have one in
4 custody, they're pursuing the other. That's what's on the
5 911 tape.

6 All right. So then we hear from Deputy Dan Acord.
7 And he says that he was responding to a dispatch 911 call,
8 that Deputy Bryan was ahead of him and was already on the
9 scene. He said he took up his position right here in the
10 rear of the house. And that's where he stayed pretty much
11 until Harris took off with his dog because they were
12 standing there together. He said that when he saw the
13 person that was running around through there that he kind
14 of hesitated here where he had seen this black bag, the
15 black, orange and gray bag that we later saw put into
16 evidence. That it was just like a hesitation and then he
17 took off running. Then they moved out and the dog took
18 off with Harris and they pursued whoever that person was
19 that entered into the woods.

20 He said when he testified that this was the same
21 pistol. But in his report, because I asked him, he said
22 that as he came around through there that it was a black
23 pistol. And I asked him how he could tell if -- he said
24 he could see -- all he could see was the silhouette. But
25 for some reason, when he testified here in court, he was

1 absolutely certain from that distance that he was when he
2 said he could only see a silhouette that that was the
3 pistol. But the other thing I find interesting is he
4 couldn't tell you what hand it was in. Now, this is a
5 trained professional who, at all times, police officers
6 have to be worried about their safety because, you know,
7 bad guys sometime shoot at them. And yet, he couldn't
8 tell you what hand the pistol was in, but he could tell
9 you as he took the stand that was exactly the pistol that
10 he saw, which brings me back -- I want to the back up just
11 a minute because I forgot something that was really
12 important. See, I told you I was worried that I would
13 forget something.

14 Remember, that George Howard told you that -- he
15 didn't say anything about seeing a pistol. He said that
16 he was two or three feet away from this guy and he had a
17 shotgun pointed at him. And when I pressed him about the
18 difference, he said, Well, I've had time to think about it
19 now. So when his mind was the freshest, he said it was a
20 shotgun. And now, because it doesn't fit the facts, it's
21 a pistol. And he said the reason I couldn't tell is I was
22 looking right down the barrel of that thing. Folks, think
23 about the other stuff he told you. He seemed okay on
24 those details. There is no way on earth to confuse this
25 for a shotgun. Anybody knows the difference between a

1 shotgun and a pistol. I don't care how much stress you're
2 under, you got a shotgun pointed at you, you know it.

3 You heard all these police officers talking about
4 getting their shotguns out of the car. Why do you think
5 the police officers carry shotguns, especially a pump
6 shotgun? Because it makes a big impact on somebody and
7 when they pump that thing, it tends to get people's
8 attention. So he said that the person that walked up on
9 the porch pointed a shotgun at him. That's a huge
10 discrepancy. We didn't make that up, that's what the
11 evidence shows. It's easy to come back in hindsight when
12 you realize there's a problem in the case and start trying
13 to short it up by having a convenient memory that wasn't
14 what you had when this was most fresh in your mind. So
15 there's something about that that doesn't ring true.

16 Deputy Acord said that as this person came around the
17 house -- and remember, nobody was able to see who this
18 person in the house was. I asked them, they couldn't tell
19 me whether he was white or black, they couldn't see his
20 face, nobody could. There was no way to get any
21 independent identification who this person was. And Acord
22 said that as he came around there, I put the flashlight on
23 him. Harris even said that I wanted him to illuminate him
24 with a flashlight and he did that. And he said that he
25 was wearing the vest and that he had a T-shirt on under it

1 that said police and he knew that because he could see the
2 P and the E. And that was all that he could see, and he
3 could see the mask. Didn't remember anything about any
4 gloves, didn't remember anything about him carrying a bag,
5 didn't remember anything about him having this -- they
6 called it a taser, so we'll call it a taser, in his hand.
7 You know, none of these stuff.

8 And the other thing is he didn't mention anything
9 about a ball cap. We're going to talk some more about
10 that later, but among the other things that were found out
11 in the woods, there was a black size 7 1/2 ball cap. And
12 you remember that none of these officers talked about a
13 person wearing a black ball cap. But like I said, we'll
14 talk some more about that in a little bit.

15 Then you heard from Deputy Chuck Porter who said that
16 he was the third person on the scene, said he responded to
17 a 911 call. And when he got there, he went to the place
18 next door and he stood behind this pickup truck. And he
19 got behind the engine block because that would provide the
20 most protection in case he was going to be shot at. And
21 he stayed there until the person came running out of
22 house. And from his vantage point, which I believe he
23 said was about 45 feet away, but you can see it on the
24 picture, he said that the person was wearing a vest. He
25 made no mention of gloves, he made no mention of a cap.

1 And he said that he saw that he was carrying a pistol.
2 Couldn't tell what kind it was, but that it was a pistol.

3 And I asked him, I said, Which hand was it in?

4 He said, I don't know.

5 Then I said, Was it more likely, given the fact --
6 because, remember, he said that he -- he said the person
7 came out the front and then went to his right. And
8 remember, Porter is over here. And I asked him, I said,
9 Well, since you could see the pistol, would it be more
10 likely that it was in his left hand than it was in his
11 right hand? And I really could never get him to answer
12 that.

13 Now, the reason that's important, folks, is one of
14 the things that I always hear prosecutors say is police
15 officers have no ax to grind. They go out there and they
16 investigate and they come in and they report and they
17 really don't care after that. Well, that's not true.
18 They have made a case and they have a vested interest in
19 seeing that case through. There was no reason in the
20 world for Porter to try to evade that question. I mean,
21 he could have just as easily said, you know, I'm just not
22 sure. I didn't see it. But that is not what he said.
23 And y'all remember that, you listened to it. You listened
24 to it. Common sense tells you -- because he said the
25 pistol was down at his side. Common sense tells you that

1 it would have been easier to see in the left than the
2 right. Now, why would they not want to answer that
3 question? Because they got 50/50 chance of being wrong.
4 You know, if they say it was in the left hand and then I
5 can then elicit the fact that Gerald Brown is
6 right-handed, then, all of a sudden, they put the gun in
7 the wrong hand. That's why he didn't answer that
8 question.

9 And he told you that he eventually went around the
10 house himself and he was involved in the pursuit and all
11 the struggling and everything that when on. And he said
12 that when he was over and done that Gerald Brown was lying
13 on this body armor, that it was under him. That he was
14 not wearing it, that it was under him. And said that he
15 was wearing remnants of a shirt that said police.

16 Okay. And you're going to hear about this again.
17 Because a lot of the officers mentioned it. And it's one
18 of the things that has troubled me about this case since I
19 have started working on it. Everyone of these guys wants
20 to tell you that when they caught up with Gerald Brown, he
21 was wearing this shirt and that it had been ripped up and
22 all this. I don't know anything this shirt, how it got in
23 this condition or anything. I do know -- and you can look
24 at the list, that by the time the forensic guys got there
25 that they found this shirt in front of the house. They

1 got there, they found it in front of the house.

2 The thing, though, that's significant about this
3 because I want you to remember, they set this German
4 Shepherd loose back there. It got ahold of Gerald Brown
5 and it ate him up good. It even ate up one of the police
6 officer's legs. All right. Tore his shoulder all to
7 pieces, tore his leg all to pieces. He had -- he was
8 bleeding, had blood all over him, okay. There is no blood
9 at all on this shirt. This is the shirt that Gerald Brown
10 was supposed to be wearing when they dragged him out of
11 those woods. In fact, if you believe the police officers
12 involved, he was wearing it when they took him to the
13 front house, and there is no blood on it. Guess what,
14 there's no blood on this vest here, none, zero. He had to
15 be taken to the hospital to be stitched up, we know he was
16 bleeding.

17 The one thing I want to you remember, again, you can
18 look at this list later. He told you he was wearing a
19 white T-shirt. Guess what, the white T-shirt had blood on
20 it. Where is that white T-shirt, folks? Not in evidence.
21 Not in evidence. You don't get to see that. But when you
22 look at this list, Defendant's Exhibit 1, you can look on
23 there and you can see white Hanes T-shirt cut with
24 suspected blood on it. So we do have a shirt with blood
25 on it. We have the white T-shirt that he was wearing.

1 And I guess if I was the solicitor and I was trying
2 to salvage thing, I would probably stand up here and go
3 well, you know, he had the white T-shirt over this and it
4 soaked it up and that's why it got on it. Ladies and
5 gentlemen, he's permanently scarred from this. He had to
6 be stitched. If he's been wearing this T-shirt, it would
7 have bled through. If he would have been wearing that, it
8 would have bled through. No blood. No blood.

9 Then we have Deputy Michael Bryan, who was the first
10 man on the scene. He told you that he parked down the
11 street and he came down this way and then he eventually
12 took his position back here in the back of the house.
13 Now, he's the first guy, okay, and he goes to the back.
14 Later on, these other guys start to arrive. We don't
15 really know how much longer after he got there it was, but
16 we know that's where he went. Okay.

17 And we already talked about what he said he saw, that
18 he shined the flashlight. But some of the things that
19 stood out to me about Deputy Bryan's testimony is, among
20 other things, he said that after they had subdued Gerald
21 Brown that they patted him down for weapons. Did not find
22 any weapons on him. And every one of the police officers
23 asked about this told you they didn't find any weapons on
24 him. This was a person that was supposed to be armed with
25 a pistol, with a taser and -- I just find it interesting

1 when you're being mauled by a dog and he's supposed to
2 have a pistol and a taser and he didn't use either one of
3 them. It's because he didn't have them, okay. Moreover,
4 the pistol was supposedly found just resting on a tree
5 like somebody had set it down there. Not like it was on
6 the ground from the struggle or anything like that, like
7 somebody had set it down on the tree.

8 The other thing that was interesting is he indicated
9 that when he patted him down that he had his wallet and
10 his ID. And he said he found that very unusual because in
11 his years of experience, you wouldn't go to commit a crime
12 like the one he's accused of with his ID. And that makes
13 sense. Makes sense to me because it would make it a lot
14 easier for you to get caught if that were the case. Took
15 the wallet out of his pocket.

16 I asked him and I asked all the officers, were you
17 aware -- did anybody look to see if there was anybody back
18 here in these woods or see where the path went or anything
19 like that? No. None of them. They had no idea. And as
20 far as the wallet goes, which is also odd, and you can
21 look at the list, he said he found the wallet in his
22 pocket. It actually was found on the ground in front of
23 the house.

24 Now, the body armor, according to forensics, was also
25 found on the ground in front of the house. But you heard

1 from several of those deputies, including Acord, that it
2 was -- that he had been wearing it and that it was in the
3 woods. Now, the thing that's important and I want you to
4 think about is several witnesses had testified before
5 Acord took the stand. And I had asked several of them
6 about where all these items were located, one of which was
7 the body armor. So when Acord testifies, he says, Well, I
8 assume that I picked that up and carried it to the front
9 of the house. He never would come right out and say he
10 did. He said I assume I did that.

11 Now, we established that it is very important to
12 preserve a crime scene and that you want to leave things
13 as much as possible where you find them. We established
14 that with the police officers and we established that with
15 the forensics guy. In fact, it was so important to these
16 guys that they even had an officer stand guard, as you
17 will recall, back there where the pistol was. They didn't
18 want it moved. But for some reason, because it has doubt
19 on their case, Acord now assumes he carried the vest to
20 the front of the house. He said if I did it, I did
21 something wrong, but I assume that I did that. There was
22 really no reason to do it and I couldn't get him to give
23 me a reason to do it.

24 The one thing he did say, if you recall, is while all
25 the officers were sequestered out there, he indicated that

1 he been talking about the case to one of the police
2 officers. So we know that as they went out, they were
3 aware of what was being testified to here in court. So,
4 all of a sudden, based on this assumption that he makes
5 that he carried that vest around, we, all of a sudden,
6 have the vest sitting down on the ground where everybody
7 said they saw it in front of the house because they said
8 it was carried around there by Acord. Now, we didn't hear
9 that from anybody else, but he said that was his
10 assumption.

11 Now, Sergeant Lendway came in and he was a pretty
12 straightforward guy. I mean, he just came out and did his
13 job, you know, he collected the evidence. He gave numbers
14 to all the evidence. He put placards by the evidence and
15 he took pictures of the evidence with the placards where
16 he found it. He said that it is important to preserve the
17 crime scene. It's not always done, but it is, as much as
18 possible to leave evidence where it's found. And it's so
19 important, they do document where they find it. You'll be
20 able to look at that report and you'll be able to go over
21 it. And you'll be able to see that a number was assigned
22 to each one and you'll be able to see they took pictures
23 of it where it was. And he went through all that. And I
24 talked to him about whether everything that was found. He
25 said he got there about 2:12 a.m. Said the scene was

1 secure when he arrived. He talked to the sergeant. He
2 had another technician with him. He said that he followed
3 a trail of evidence through the woods.

4 One of the things that he found that I thought was
5 interesting was he actually found the victim's keys in the
6 woods. He found the house key, car keys, normal keys that
7 we would carry. And I made a note of that, I put a star
8 by it and wondered to myself, why in the world would
9 George Howard's keys be out in the woods? We didn't hear
10 any testimony from anybody that said his keys were taken
11 from him, that he had to surrender his keys. I mean, the
12 only occasion would be at some point George Howard was out
13 in the woods. I don't know how else his keys could have
14 gotten there. I mean, there was no testimony that anybody
15 took that man's keys and carried them off to the woods.
16 Zero.

17 The other thing that was really interesting to me
18 about what Sergeant Lendway had to say was there was
19 several items that he took swabs from. He took a swabbing
20 from the trigger guard area on the pistol for possible DNA
21 analysis. We have heard nothing about that evidence. No
22 tests, whether they came back negative or positive. Why
23 is that important? It's important because it could have
24 established if it was somebody other than Gerald Brown.
25 So either they chose not to do the test or I don't know.

1 I mean, I'll leave that to y'all. But that is clearly a
2 doubt that exist in this case.

3 Then there's the taser. Said that -- and remember,
4 supposedly, this taser was used over and over again. Said
5 they checked it, they swabbed it for DNA analysis. You
6 didn't hear anything about that. You got nothing. The
7 eyeglasses, which we know that Gerald Brown was wearing
8 because he told you, and they came off when the dog was
9 eating him up on the ground. The glasses that he was
10 supposed to be wearing up under this paintball mask. We
11 know had glasses out there, they were found on the scene.
12 It would seem to me that it would be difficult to put a
13 paintball mask on over your glasses, but I'll leave that
14 to y'all.

15 And then he checked -- he swabbed the face mask and
16 shield for possible DNA analysis because ne said that, you
17 know, you breath and there's a lot of moisture. And think
18 about it, whoever was wearing this thing was huffing
19 pretty good if what the cops said is true about this
20 person going back through the yard, so they would have
21 been breathing nice and heavy by the time that that thing
22 came off. And you would think that they probably found
23 something.

24 He said he took a swab of suspected blood from the
25 silver duct tape. We didn't find anything out about that.

1 Even took some additional photographs, RL-A through RL-G,
2 some of the things they found in the house. Found a
3 latent print from the Luvs wipes container. And the only
4 thing that they found on that was the fingerprints of
5 George Howard.

6 Now, the assumption that they want you to make is
7 that the money was inside the Luvs container because the
8 Luvs container was found out in the backyard. But,
9 remember, George Howard was out there walking around.
10 He could have seen that Luvs container. I want you to
11 take a look at that picture of the Luvs container. I want
12 you to take a look at all this money. And I want you to
13 ask yourself if all that money could have fit inside that
14 container. It seems unlikely, especially when you
15 consider that he rubber band it three times. I would
16 think it would have a hard time coming loose if everything
17 he said about is true. But they didn't find any other
18 prints on it.

19 They checked the handcuffs from inside the residence,
20 don't know whether they found anything on that or not
21 because we didn't hear about it. And I don't know whether
22 they took any other prints or not. One thing about it,
23 you know, the officer told you that sometimes it's
24 difficult to get prints off of, say, textured items. All
25 right, we'll give them a break on the pistol because that

1 is a textured hand grip. Maybe they couldn't get anything
2 good off of that. And we don't know if there was any DNA
3 on there because he didn't see it.

4 But there's nothing textured about this. And just
5 remember, the testimony is that Gerald Brown was tasing
6 that man over and over. Look at that, does that look like
7 you can get some prints off of that? It does to me. He
8 said they didn't get anything. Or maybe they didn't
9 check, I don't know, because that's not on here. So maybe
10 that wasn't something they wanted to test. That seems
11 like a pretty smooth surface. It would be hard, I would
12 think, to handcuff somebody without getting your
13 fingerprints on it. But you don't hear anything about
14 that. And these were all things that would be important.
15 After all, it's their case to make. Their case to make.
16 Okay.

17 And I want you to go through this list. And the
18 reason I wanted it in evidence -- oh, yeah, another thing,
19 they took pictures of everything where all this evidence
20 was located. And the solicitor could have presented all
21 of that to you, but they didn't. You got some pictures,
22 others you don't. The other thing is, and you're going to
23 read this, they took a video of the crime scene where, I
24 guess, they walked around and kind of saw the whole scene,
25 kind of laid out where everything was. You could have

1 that now and get a much better idea about where things
2 were located. They chose not to give that to you. Maybe
3 it didn't help their case. I don't know.

4 And as you go through this and you consider the
5 testimony of everybody that you heard from, I want you to
6 look real hard at this list and where things were found.
7 And then the other thing I want you to do is I want you to
8 consider just the number of things that were found. If it
9 is to be believed that Gerald Brown, all by himself, was
10 the person that went in and robbed this place, knowing
11 that this person who says he's not a drug dealer would
12 have \$23,000 or some other larger amount of money, I
13 guess, in his home to be robbed, that when he arrived
14 there, he was carrying this bag, that he had this bag,
15 because this was found out there. That he was wearing
16 these gloves, which was somehow -- one of them was found
17 in front of the residence, one of them was found in the
18 woods because you can look at the list, that somehow,
19 those came off of him. I'll take those off.

20 Then he had on this mask and he had on that and he
21 was carrying -- he was carrying a pistol and a taser. And
22 none of these officers when they saw this person running
23 out, because I asked every one of them, saw this. None of
24 them saw that bag. None of them didn't say anything about
25 any gloves. And then there's the ball cap. Nobody saw

1 the ball cap. You know, there was a black ball cap found
2 out in the woods, along with George Howard's keys, which I
3 keep coming back to. Somehow his keys ended up out there.
4 But I want you to go through that. The other thing that
5 makes me wonder about the whole thing is that, you know,
6 they say the police body armor was found in the back near
7 him. But this list clearly has it in front of the house.
8 There's a whole lot of stuff that you don't know.

9 Then when you look at stuff that was inside the
10 house, whoever this person was -- and remember, there's no
11 bag, apparently, found inside the house. But the set of
12 handcuffs with two on the key ring from on top of the
13 kitchen counter -- or a set of handcuff keys. Silver duct
14 tape, handcuff with broken chain, handcuff with no chain,
15 3M roll of duct tape, silver-hinged handcuffs and another
16 roll of duct tape. So there's three separate rolls of
17 duct tape and all this other stuff. Whoever was supposed
18 to have gone in there, they had lot of stuff with them,
19 that one person did, a lot. None of these officers saw
20 when this person came running out back.

21 Now, Deputy Wyatt came along. I didn't take a whole
22 lot of notes on him. The thing that stood out to me is he
23 testified that Gerald was wearing the body armor when he
24 was arrested, not that it was found on the ground. Now,
25 you've heard from several of the officers that the body

1 armor was on the ground and said he was laying on it.
2 Then you hear from Wyatt that he was actually wearing the
3 body armor. Then, of course, we know that it was actually
4 found in front of the house, in front of the house.

5 And the other thing is -- and I don't want to spend a
6 lot of time on this, that he testified as to the statement
7 that he heard in the hospital, but his recollection of the
8 statement was different than the recollection that Harris
9 had of the statement. Gerald covered that when he
10 testified. And y'all remember that. There was a
11 distinction. Gerald told you what he said. And, you
12 know, they didn't ask him to write anything down. They
13 didn't give him anything to look over, so he didn't have
14 any input on what they put in their narrative report. But
15 remember, the preliminary reports are different. They're
16 different.

17 Deputy Harris, the one that brought the dog out and
18 was stationed back here, said, among other things, that he
19 first saw this person run out of the house when Bryan
20 illuminated him -- illuminated the suspect. Now, what he
21 said in his report and what he admitted to me when I was
22 cross-examining him is that he said that he could see him
23 pretty good when that flashlight was on him and all he saw
24 was the police shirt with police written right across the
25 shirt. Now, remember, the other officers had said that he

1 had the vest on top and it had P and E and that's all they
2 could see. He said I didn't see a vest. I saw police.
3 He later did say, after I questioned him about it a little
4 bit, Well, I didn't see it until we got into the woods.
5 So, apparently, if he's to be believed, this person he
6 says he never lost sight of went from having no vest to
7 having a vest.

8 And the other thing I thought was interesting he says
9 in his report and he said when I cross-examined him that
10 there at the end, he said that Gerald was not wearing a
11 police shirt, said he was wearing a dark shirt. And I
12 asked him about that again, I said, You sure it was dark?
13 Yeah, he was wearing a dark shirt. He's all over the
14 place on what kind of shirt he was wearing, he really is.

15 He said that he never lost sight, that he was always
16 right there with Cash. He was keeping up with his German
17 Shepherd because it was supposedly chasing somebody back
18 into the woods. But in his report, he actually said at
19 one point, he was 15 feet away. And we talked about that
20 on cross-examination.

21 The other thing that was interesting to me is when he
22 first got there, he talked to Bryan and he said, Now, let
23 me tell you, I'm going to work with the dog. First of
24 all, don't say anything because I don't want to confuse
25 the dog as far as commands go. The other thing is don't

1 get out there in the way because he'll attack whoever is
2 out there. Now, he's not locked on to one person, he's
3 going to attack whoever is out there. And, unfortunately,
4 in this case, it ended up to be Gerald Brown, who was
5 waiting in the woods for Duke to come get him.

6 And then they brought George Howard in in rebuttal
7 and you heard what he had to say. And we've already
8 talked about that.

9 Like I said, folks, when you go through this, I'm not
10 telling you I have all the answers. I wish I did. I wish
11 I could lay it out to where I knew exactly what happened.
12 I do know that what Gerald Brown told me and I know what
13 he told you. He took the stand just like everybody else
14 in this case did, he was placed under oath and he answered
15 my questions and he told you what happened. More
16 importantly, he answered the questions of the solicitor.
17 And the solicitor tried really hard over and over again to
18 get him to change his story, to get him to back off from
19 his story, but there wasn't any hedging. There wasn't the
20 hedging that you saw from the other witnesses. It wasn't
21 the trying to wiggle out of answering a question the way
22 you heard from the other witnesses. Very straightforward.
23 He said I saw the door cracked, I heard noises. I
24 suspected something was going on. I stepped back and I
25 called the guy that dropped me off. Because remember, as

1 far as he knew, George Howard was expecting him there.
2 They had done business together before. He didn't want to
3 walk into a situation that could get him in danger. So he
4 backed off and he did what Duke said. He said --

5 So the solicitor kept trying to say what could you
6 see while you were in there? And he had to tell him over
7 and over and over again I never went in. I'm telling you
8 what I could see. And then he got on him about well, why
9 wouldn't you call 911, why wouldn't you do this. He was
10 there with \$23,000 to buy 54 ounces of cocaine. I
11 wouldn't expect him to call 911. I certainly wouldn't
12 expect him to rush into something that he doesn't know
13 what he's getting himself into. That's just how it is.
14 That's just how it is folks. But again, I don't have all
15 the answers. But the truth of the matter is, neither do
16 they. They're the ones that got to choose what you saw.
17 They're the ones that got to put their case up.

18 Like I said, the solicitor is going to stand up here
19 in a minute and he's going to show you a Power Point
20 presentation. And he's going to talk to you about how you
21 shouldn't listen to me and how everything I said is meant
22 to distract and just focus on what he says. And, you
23 know, I will be sitting over there trying to bite my
24 tongue because I'm not going to be able to get up and
25 answer. But what I want you to ponder as he goes through

1 this case, I want you to think about the things that we've
2 already talked about. I want you to think about how these
3 officers arrived one at a time. The first officer goes to
4 the back, then this officer's here, then this officer
5 here, this officer here and how all that happened. They
6 have no idea what happened before they got there.

7 They have not done anything to establish a time line
8 here, so we don't now when things transpired, how things
9 transpired. They don't know anything at all about what
10 happened before they got there. They don't know whether
11 anybody was back here in these woods or been back there or
12 put anything back there. They didn't do anything at all
13 to look into this information about Duke and about George
14 Howard being a drug dealer and about any of that stuff to
15 see if there's any substance to it. They didn't do any of
16 that.

17 They took everything they were told by George Howard
18 at face value. George Howard, who says that he foregoes
19 banks and saves exactly \$23,000 in a Luvs container in his
20 attic. George Howard, who apparently had been robbed
21 before, according to his, apparently, best friend, Michael
22 Thompson. Robbery said we've heard nothing about it,
23 nothing about it ever being reported before, about anybody
24 looking into that. I find that peculiar. And to me, that
25 cast doubt on this whole case. George Howard, who,

1 strangely enough, his keys are found out in the woods for
2 some reason. And at no point did you hear anybody talk
3 about keys being taken, about him saying he lost his keys.
4 You know, they returned his -- this supposedly his money
5 to him. He got \$23,000 when all was said and done.

6 You have the discrepancies about where things were
7 found and where the police officer said they saw them.
8 And I want you to think as the solicitor is telling you
9 what a straightforward and easy case this is about Gerald
10 Brown supposedly showing up, as I showed you a few minutes
11 ago, with all this stuff and how they didn't see any of
12 that, this person that was supposed to be running out
13 through there.

14 And you can look at how the money was scattered
15 around the yard, which would be perfectly consistent with
16 what Gerald told you. I want you to think about how there
17 is no blood on this shirt. I want to think about how
18 there is no blood on this vest. I want you to think as
19 you look at the pictures and things that were presented to
20 you about all the pictures that you didn't get to see,
21 about all the DNA testing that you didn't get to hear
22 about, about all the fingerprint analysis that you didn't
23 hear anything about, about the video that was taken at
24 scene that you didn't get to see.

25 You know, I guess it might be easier to shrug that

1 off and say it doesn't matter, but it matters. It matters
2 more here than probably anywhere. Gerald Brown is charged
3 with three counts of kidnapping, armed robbery, burglary
4 first. All of these are most serious offenses which is
5 classification under the law. All of these are classified
6 as violent felonies. We're dealing in high stakes here,
7 okay. Each and every one of these cases, each and every
8 one of these indictments that they brought, these
9 accusations, they have to bring you the evidence to prove
10 their case. And there is a mountain of doubt in this
11 case. Reasonable doubt, way beyond reasonable doubt, way
12 beyond a reasonable doubt.

13 Now, you may say to yourself, why was Gerald Brown
14 out there? If he was out there, he had to be the one that
15 did it. Ladies and gentlemen, that -- first of all, he
16 told you why he was out there. And you got to hear his
17 testimony and you got to see how he was through
18 cross-examination. But more than that, it takes more than
19 that from them. You got to look at all the doubt in this
20 case. You have got to examine it in this case.

21 Now, I've reached the point that I dread most in any
22 one of these trials and that's the part where I feel like
23 I said everything that there is to say and I have to go
24 over there and sit down. And I know as soon as I do,
25 Gerald's probably going to say to me you left this out.

1 Or I'm going to remember I forgot to say something and I'm
2 going to wish that there was something more that I did.
3 It's just like I told you, I take this seriously. It is
4 important because a person should not be subjected to
5 being convicted of the type of offenses that he is charged
6 with unless there is irrefutable evidence of his guilt.
7 Our position is that there's just not in this case.

8 I ask y'all to remember everything that we've talked
9 about. More importantly, I ask you to remember everything
10 that you observed, everything that you heard, everything
11 that you saw. And I want you to know that when you go
12 back there and you start to deliberate that you need to
13 examine all this evidence. You need to discuss all this
14 evidence. If there's testimony that you want to hear
15 again, you can come out here and they'll play it for you.
16 If there's a tape or something that you want to hear, then
17 they'll let you listen to it. And all of you swore and I
18 know that you're going to live up to your obligation that
19 you are going to hold them to their burden.

20 So this is the last words I get to say. I
21 appreciate -- I appreciate your patience with me. I
22 appreciate the diligence with which each of you have
23 approached your duty here. They didn't prove their case.
24 Not guilty is the appropriate verdict on every one of
25 these charges in this case. I'm going to ask you to go

1 back when you deliberate and come back with that.

2 You know, I don't know if I told you this or not, but
3 the word verdict comes from the Latin word veredicto,
4 which is to speak the truth. A verdict cannot be a true
5 verdict if it's based faulty evidence, lies, half-truths
6 and misleading testimony. Remember that. Thank you,
7 folks.

8 THE COURT: All right, Mr. Webb.

9 CLOSING STATEMENT

10 MR. WEBB: May it please the Court?

11 First of all, I want to thank you for all your time
12 and hard work these past few days. This is a very, very
13 important case because of the crimes charged and the
14 victims that were assaulted and robbed.

15 Now, Mr. Chambers got up here and talked through all
16 the witnesses and what they said, the officers and the
17 victims and Michael Thompson and the 911 call. And I ask
18 you just to use your memory. And you can come back and
19 listen to it if you want, but please use your memory
20 because a lot of things that Mr. Chambers said were
21 inaccurate. The Defense is trying to muddy up the water
22 on a case that is pretty straightforward. The evidence is
23 there to prove beyond a reasonable doubt, clearly, beyond
24 a reasonable doubt.

25 Now, beyond a reasonable doubt. I want to talk to

1 you. The State does have the burden of proof in this
2 case. We must prove beyond a reasonable doubt that the
3 Defendant is guilty of all the crimes. Now, a reasonable
4 doubt isn't all doubt. The key word is reasonable. There
5 are very few things in this world that is absolute
6 certain, you know, you can be absolutely certain about.
7 And the law does not require you to be absolutely certain
8 on this case.

9 Now, this case, really, what it comes down to is who
10 do you believe. Do you believe the Defendant's testimony
11 or do you believe the victims, Jarecus Howard and George
12 Howard, Michael Thompson's 911 call and all the officers
13 that testified? Now, Mr. Chambers, in defense -- I guess
14 the defense here is there's a conspiracy against the
15 Defendant. There's no conspiracy here. They testified
16 truthfully on the stand to what happened, what they saw.
17 And we're going to talk to you -- I'm going to talk to you
18 in a minute about why you should believe the State instead
19 of the Defendant, but, first, let me talk to you about the
20 charges.

21 Armed robbery. I just want to remind you that armed
22 robbery requires that they be a taking of goods or money,
23 which in this case is \$23,000, by the use of a deadly
24 weapon. In this case, that would be a gun. Burglary,
25 first degree. Burglary is the unlawful entering of a

1 house. That occurred in this case when the Defendant
2 jumped through the front door, threw the victims on the
3 ground and made Javon Howard stand in a corner. That's
4 the unlawful entry. And the crime that occurred inside,
5 kidnapping. The robbery itself is the taking of the
6 money. The fact that he was armed with a gun makes it a
7 burglary first degree. And that it occurred at nighttime
8 makes it a burglary first degree.

9 Next charge is kidnapping. Like I said in the
10 opening statement, does not have to involve a kid and it
11 doesn't really have to take a napping from one place to
12 the next. It can make someone just stand in one spot like
13 the Defendant did with Javon Howard on June 12th, 2007.
14 Stand in that corner, count to a hundred before I leave.
15 I can't, I can only count to 11. Then count to 11 five
16 times. That was kidnapping of Javon Howard. Kidnapping
17 on Jarecus and George occurred when he made them get on
18 the ground and put duct tape around them and handcuffs.
19 That was kidnapping on them.

20 The assault and battery of a high and aggravated
21 nature. The assault and battery occurred on George
22 Howard. The Defendant got this taser and started to tase
23 George Howard over and over and over again. And,
24 apparently, it still has a battery in it, so be careful.
25 So he tased him over and over and over again and made that

1 sound while he was tasing him. Tased him on his chest,
2 the groin, the thigh, all over his body. That was serious
3 injury. That was the aggravated that made it an assault
4 and battery of a high and aggravated nature. You heard
5 the testimony through George Howard that he never
6 experienced any sort of pain before like that through that
7 tasing. Also another aggravator for that assault and
8 battery to make it the enhanced crime is that it occurred
9 with the intent to commit a felony. It occurred with the
10 intent to commit that burglary and that armed robbery and
11 that kidnapping. It occurred during that.

12 Now, the next charge, impersonating a police officer.
13 That occurs when someone dresses or acts like a police
14 officer and tries to use authority like an officer would
15 use. That occurred when this Defendant put on this shirt,
16 wore this shirt underneath this vest with a white T-shirt
17 underneath both of those, came in with that mask and with
18 a special officer badge along with handcuffs and a gun and
19 that taser and acted like a police officer, went into the
20 house and detained them. That was impersonating a police
21 officer.

22 Now, resisting arrest. That occurred when the
23 Defendant fled from the front door, went to the side of
24 the house. You heard testimony from Officer Porter,
25 Wyatt, Bryan and Harris that the Defendant ran out the

1 front door, went around the house and ran into the woods.
2 Running away was resisting arrest. But also struggling
3 with the officers, putting his hands in front of him,
4 fighting, kicking, pushing, that's resisting arrest.

5 Then the injury to a police dog. Cash. You heard
6 testimony from Hal Harris that Deputy Harris gave the
7 Defendant numerous warnings and then let Cash go. The
8 Defendant, in turn, punched, kicked, choked and threw the
9 dog against the tree. Hal Harris saw this. Cash was
10 injured and he had to take him to the vet. He lost a
11 tooth, his canine. So the dog was injured in its line of
12 duty and that's what's required for that charge. All
13 right. So those are the charges that's been brought
14 against the Defendant in this case.

15 Now, I want to talk to you about why the State is
16 believable in this case as compared to the Defendant, all
17 right. So first, let's talk about all the consistent
18 things that occurred with the State's witnesses, all the
19 consistencies. All right. Now, you got to remember,
20 you've got to take a step back because it's easy to talk
21 about this in hindsight and think that everyone was calm
22 and cool. But you've got to remember that these victims
23 were duct taped, handcuffed. George was being tased.
24 Javon Howard was five years old. Jarecus was 13. They're
25 under a lot of stress, pain. They're scared, terrified.

1 Someone has invaded their home. You've got to look at
2 this and realize where this testimony is coming from.

3 The same with the officers. It's 1:00 at night.
4 Everyone has a different perspective on the case. And the
5 Defense tries to make these different perspectives seem
6 that they're inconsistent, but they're not. Different
7 officers could see different things, but they all matched
8 up. They all matched up.

9 All right. So let's start with the two victims,
10 George and Jarecus. They both testified that this
11 Defendant came in wearing this mask, wearing this mask
12 with this gun. They couldn't tell, because it happened so
13 quickly, what was they were wearing, so it was dark
14 clothing. They were quickly put on the floor and duct
15 taped. Taped around their eyes so they couldn't see what
16 else was going on.

17 Now, the Defense talked a lot about keys taken and
18 keys were found. Well, remember the testimony of George
19 Howard, he was unlocking the door. The keys were right
20 out there in the open. And then he was duct taped around
21 his eyes. He couldn't see the Defendant pick up the keys
22 and run with them. He couldn't have done that. Jarecus
23 couldn't have done that.

24 But they both testified consistently with each other
25 that they saw the silver gun and his mask and what

1 occurred inside that house. They both said they were put
2 on the ground, on the floor, Javon in the corner and the
3 Defendant starts tasing George Howard. And after he got
4 the money from the attic -- remember, the attic -- the
5 stairs were pulled down when Officer Wyatt went in to untie
6 and rescue the victims. That's consistent, remember that.

7 The Defendant -- their testimony was that the
8 Defendant went up to the attic, got the money and was mad
9 because he didn't get all of it or wanted more. Where's
10 the real money? He starts tasing George Howard again.
11 Both of them testified to that. Then started rummaging
12 around the house for more money. And then he made Javon
13 Howard count to 100 in the corner, but he couldn't do
14 that. That was the testimony. Again, it was a traumatic,
15 traumatic event for them. And they got up here and
16 testified truthfully to what they remembered

17 Then you have the officers. You have all of them
18 that arrived shortly after another. And this was a matter
19 of seconds -- minutes, if not seconds. They surround his
20 house. White's up front, Porter's by the truck, Acord's
21 in the back window, back door looking. And he sees one
22 person, one person underneath. And he could tell that
23 this person was wearing this vest and this police shirt.
24 He could see everything below the chest line is what he
25 testified to. One person he could see.

1 Then Deputy Bryan and Hal Harris with the dog, went
2 to this corner. The testimony is extremely consistent
3 that Dan Acord is relaying what's going on inside the
4 house. He's seeing the Defendant walking around over the
5 top of the two victims. He couldn't see Javon in the
6 corner from his angle, but he could see the two victims.
7 And then shortly after that, he could see him start
8 walking to the front door. He could see the Defendant
9 walking to the front door and go out. And that's when
10 Chuck Porter saw him dressed up in the mask with the gun,
11 the silver and black gun, and wearing what he was wearing,
12 the police shirt and the vest. And that's when ran to the
13 side of the house. And that's when he stopped at the
14 black bag momentarily.

15 Because what happened, members of the jury, what
16 really happened in this case is he was scouting out this
17 house waiting for the victims to get home. He knew there
18 was money inside. He had placed this black bag to the
19 side of the house with everything that he needed inside,
20 he put it right there and he scouted out waiting for them
21 to return from the grandmother's house. And when he saw
22 them come in, he ran from the side of the house, from this
23 black bag and came to the front door and that's when the
24 crimes occurred.

25 So then, when he -- going back to what I was saying,

1 he ran around the house, stopped at this black bag that he
2 had brought with all his tools in there, flashlights,
3 other burglary tools, things of that nature, gloves, all
4 kinds of things. Deputy Bryan saw him stop right there
5 and then he flashed his flashlight on him. And Hal Harris
6 did see him and they both saw what he was wearing, the
7 vest and the police shirt and, at that time, the mask and
8 the gun. And Hal Harris then testified that he warned the
9 Defendant numerous times to stop. He saw the Defendant
10 run. He testified, and this is extremely important, he
11 never lost eye contact with this person at the side of the
12 house. The Defendant. Never lost eye contact. He let
13 the dog loose the dog -- the dog followed, and Hal Harris
14 ran, he testified, seven or eight feet behind. Seven or
15 eight feet behind. Never lost eye contact. Of course,
16 then the Defendant struggled with the dog, choked,
17 punched, kicked, just kept resisting, just didn't lay
18 down. Hal Harris kept on saying stop and I'll release the
19 dog. Stop and I'll release the dog. Did not do that.

20 Other deputies came up to him. Acord came up to the
21 side of woods. Michael Bryan came up. Chuck Porter
22 finally came up as well. They all came up to arrest the
23 Defendant. And finally, after a couple of minutes of
24 fighting, they were able to force the Defendant's hands
25 behind his back to handcuff him. At points, he was

1 reaching for his waistband. And, of course, what was
2 later found was this gun by the tree. But these deputies
3 testified that what he was wearing when he was arrested.
4 They say the mask was no longer on him. It had come off,
5 was found on the ground. But they said that this police
6 shirt -- he was wearing a white shirt. They testified
7 that this police shirt was hanging off of him from the
8 struggle.

9 And, you know, those talks about blood, you know,
10 obviously -- I honestly think I can see blood right here.
11 This is a navy shirt, but I see blood right here. But
12 I'll leave that up to you to examine back there when
13 you're deliberating. But this is a navy shirt. Of
14 course, it's not bright red, that's not how blood shows up
15 on navy shirts. But the Defense made a big deal about no
16 blood being on there. Yes, there was a white T-shirt with
17 a lot of blood on it, but we didn't put that in evidence
18 because it had no real evidentiary value. But this is
19 blood from the Defendant and because he was wearing the
20 police shirt. It's on the sleeve. And maybe you'll see
21 more than that --

22 MR. BROWN: Well, why didn't you --

23 THE COURT: Hey, hey, no, sir.

24 MR. WEBB: All right. As I was saying, they also saw
25 this bullet proof vest hanging off of him when they

1 arrested him. They saw this hanging off of him. They
2 found this gun right by where they had arrested him, the
3 same gun the other officers had seen him carry. They
4 later found in the same area this special officer badge,
5 which Michael Bryan had seen him wearing because he shined
6 his flashlight, remember that? He shined his flashlight
7 and he said that it illuminated, that it was on his side.
8 And the next day, he went to that same area when the sun
9 was out and found this.

10 Now, the Defense makes a big deal about this
11 evidence, the shirt and the bullet proof vest being taken
12 from the wood line area to the front of the house. And
13 Deputy Bryan testified that it would be his natural
14 response to take that. Did not -- this has not been
15 destroyed. It's still here for you to observe. He was --
16 he had been bitten and he had just taken it. Now, there's
17 a big difference between a shirt and a gun, moving the
18 two. But the shirt was hanging off the Defendant or
19 something else that has just fallen, it's real easy just
20 to pick up and put somewhere else. The gun, well, that
21 could be loaded, I'll leave that right there.

22 Then let's talk about the gun and fingerprints and
23 things of that nature. You heard Ron Lendway testify that
24 fingerprints are difficult to ascertain, to get. They
25 could be smudged. There could be moisture. There could

1 be numerous reasons why they can't get fingerprints. He
2 tried to test all the items, that was his testimony. I
3 ask you to remember that. The Defense left that out of
4 their presentation. But he tried to test all the items
5 and he could only get potential prints from a couple of
6 items. And the only positive prints that he could
7 actually make out was from the victim on the wipes box.
8 That was the only print.

9 The Defense also talked about DNA swabs. Why weren't
10 DNA swabs taken? Or if they were, why weren't they
11 submitted and why weren't they taken? Members of the
12 jury, I have a son, if my son goes into the cookie jar in
13 the kitchen when he's not supposed to and I see him
14 reaching into that cookie jar, I've got him red-handed. I
15 don't go testing for DNA. There are so many witnesses
16 here that saw this Defendant and caught him red-handed
17 with this gun and with this police shirt and with this
18 vest and with this mask. It was the same person that was
19 inside and ran outside the house. There are different
20 perceptions here, ladies and gentlemen, but they are all
21 consistent with each other.

22 Now, the Defense also talks about the 911 call,
23 Michael Thompson. And, of course, the Defendant in his
24 testimony -- it can't be explained in his testimony about
25 the cell phone while it's being reported and everything

1 that's going on. The only testimony that makes sense is
2 what happened, George Howard on the phone. He was put on
3 the floor. The Defendant either didn't realize it or knew
4 about it, I don't know why he didn't shut it off, who
5 knows, but it captured what was going on. And Michael
6 Thompson from across town called the police. He called
7 the 911 operator. They're not there at the scene of the
8 crime, so they're listening with Michael Thompson putting
9 the two phones together and trying to figure out what's
10 going on. They don't know what's going on. So the
11 Defense makes a big deal about -- you know, in the tape,
12 they don't know if it's one person or two persons or
13 what's going on. It's confusing. It's a high stress
14 situation. You heard Michael Thompson talking about I
15 need to go over there. I'm worried about my friend. I've
16 got to go over there. They don't know what's going on.
17 They don't know what's there. They're trying to figure
18 out how many voices they hear. Well, it's just one voice.
19 It was the Defendant.

20 And now, it's easier to realize that, but at the
21 time, it's a highly stressful situation. Your friend is
22 being robbed and you're trying to figure out who's there
23 and it's either one or two people. There's no other
24 evidence of another person in this case. Except for the
25 Defendant testified that some guy, his first cousin, Duke.

1 dropped him off there.

2 So I've talked to you about the believability of the
3 State's case, let's talk about the Defendant. The
4 Defendant got up here and testified to you that he was
5 dropped off by this mysterious Duke fellow, his first
6 cousin, who lives in Greenville, but he can't find him.
7 And he was dropped off for a drug deal carrying this
8 Finish Line bag full of money that was just right in here.
9 Walked up to the front door, peeked in, didn't go inside
10 and saw somebody, somebody on the ground moaning and
11 groaning. Well, he didn't actually look to see who it was
12 or what the situation was. It could have been George
13 Howard, it could have been anybody, he didn't know. So
14 what did he do? He says he ran to the woods and stayed
15 right there for 20 minutes and called Duke. Duke never
16 showed back up. The officers never saw anyone else. The
17 only person they ever saw was this Defendant wearing these
18 items. That's the only thing they ever saw. Same with
19 the victims.

20 Look, the Defendant spent a lot of time to come up
21 with a story that he could tell you, but it is a story.
22 He's trying to piece it in with the facts that we have and
23 try to come up with something. Well, it doesn't make
24 sense. First of all, take the credibility. Y'all
25 remember, he's already been convicted of a felon. Second,

1 going up to the house and seeing somebody tied in there
2 and just running doesn't make any sense. Third, waiting
3 in the woods and then being -- talking about the dog
4 getting him and the officers coming up to him and the
5 struggle that ensued. And the money -- and he already
6 said that he was in the wood line, remember that. He says
7 he was in the woods fighting with the dog and the
8 officers. And that's when he said the money -- he threw
9 the bag up and the money went (indicated). All right.
10 That's what he said. He was in the woods.

11 Then we put George Howard back on the stand, talked
12 about how he kept his money. He kept his money in a Luvs
13 wipes container, wrapped around in rubber bands. You saw
14 pictures from that night from the backyard, not from the
15 woods. Another discrepancy that totally throws out,
16 totally throws out the Defense's argument.

17 All right. So, then I want to talk to you about the
18 Defendant talked about his statement to Hal Harris at the
19 hospital. He talked to Hal Harris at the hospital while
20 he was being treated. Hal Harris testified to you that
21 what he said was, Why did you do this? What are you
22 talking about, he was just a drug dealer.

23 Hal Harris said, Who, you?

24 No.

25 The victims?

1 And he kind of gave him a look like didn't you know.

2 That was Hal Harris testifying to you under oath.

3 The Defense is saying you should believe the Defendant
4 saying that Oh, well, he's just a drug dealer, don't worry
5 it. I didn't actually go in the house. He didn't say
6 anything about No, I didn't see any kids or anything else
7 like that. He says Oh, no, that was my excuse for that
8 question. That doesn't make any sense.

9 Members of the jury, like -- well, like what I said,
10 what this case is about is who do you believe? Who do you
11 believe? Do you believe all the witnesses for the State
12 or the Defense with numerous holes in his story that just
13 doesn't make any sense? Everything is consistent from the
14 State. All exceptions may be a little bit different, but
15 they're all consistent.

16 Now, it's easy for the Defense when the Defendant
17 doesn't want to take responsibility for his actions or
18 accountability to say Well, the victim was a drug dealer.
19 Or the police moved evidence and I shouldn't be guilty.
20 Or they should have done this or should have done that.
21 It's easy to shift blame to other people. But the blame
22 here, and you can see all the evidence and the testimony,
23 is on the Defendant. The blame is on the Defendant. And
24 it's time to hold him responsible from his actions.

25 Ladies and gentlemen, it doesn't matter if George

1 Howard was involved in drugs that night or in the past.
2 There's no evidence there. They searched the house when
3 they went in, they didn't see any drugs. That's another
4 hole in the Defense story. Travis Wyatt went inside the
5 house, they never saw any drugs when they went around the
6 house and saw it. That's another whole. But even if he
7 was connected with drugs, it doesn't excuse the
8 Defendant's actions. He just tried to paint the Defendant
9 in a bad light and that is not mitigating. And remember
10 about the kids, the kids, Jarecus Howard, age 13, and
11 Javon Howard, age five. Remember about them being
12 kidnapped and what was done with them.

13 I ask that you hold him accountable and responsible
14 for his actions. I ask that you find the Defendant guilty
15 of all the charges. Thank you.

16 THE COURT: Madam Forelady, ladies and gentlemen of
17 the jury, why don't we take just a short recess, come back
18 before we eat. I think your lunches are here. But I'm
19 going to charge you on the law and then the case will
20 belong to you. Don't start talking about the case yet.
21 Let's take about a five -- just as quickly as you're ready
22 and we'll get you back, okay.

23 Everyone else remain seated.

24 (WHEREUPON, the jury left open court at
25 approximately 1:10 p.m.)

1 THE COURT: All right. Take about a five-minute
2 break.

3 (WHEREUPON, a short break was taken.)

4 (WHEREUPON, the jury came into open court at
5 approximately 1:20 p.m.)

6 THE COURT: All right. Ladies and gentlemen of the
7 jury, during this trial, you and I have certain duties to
8 perform. And as the trial judge, it is my responsibility
9 to preside over the trial and to rule on the admissibility
10 of the evidence that's offered during the trial. It's
11 also my duty to charge you the law applicable to the case.
12 And it is your duty as jurors to accept and apply the law
13 as I now state it to you. As I told you in my opening
14 comments, if you think you have any idea as to what the
15 law is or what the law should be and it differs from what
16 I tell you the law is now, you have sworn an oath to set
17 aside your own opinion and to apply the law precisely as I
18 state it now.

19 I also remind you that in every case up here tried
20 before a jury, the jury is the sole and exclusive judge of
21 the facts. And a trial judge is not allowed to have an
22 opinion about the facts. So please do not think by
23 anything I may have said or done throughout the course of
24 this trial that I have an opinion about the facts because
25 I do not.

1 Now, necessarily -- well, first, let me instruct you
2 that the fact, I tell you this again, the fact that the
3 Defendant was arrested, charged and indicted in this case
4 is not evidence of guilt. Nor does it create any
5 presumption or inference of guilt. The documents that he
6 was arrested by and indicted with are simply the formal
7 written instruments which contain the charge made *against*
8 the Defendant. And they serve as the formal documents by
9 which the case is processed and brought into court.

10 Now, as you are aware, there are several indictments
11 in this case and they charge several different offenses
12 against Mr. Brown. The first indictment would be
13 kidnapping and there are three separate counts of
14 kidnapping charges, allegations against him. The first is
15 against George Howard and the other two are against both
16 of -- each of the children in this case. There's also an
17 indictment for armed robbery. There is also an indictment
18 for burglary in the first degree. There is also an
19 indictment for malicious injury to a police dog. There is
20 also an indictment for impersonating law enforcement.
21 There is also an indictment for assault and battery of a
22 high and aggravated nature. There is also an indictment
23 for possession of a weapon during the commission of a
24 crime. And finally, there is also an indictment for
25 resisting arrest.

1 Now, I would tell you that each indictment and each
2 count in the kidnapping indictment represent a separate
3 and distinct offense. And you must decide each count and
4 each indictment separately on the evidence and the law
5 applicable to that count and that indictment uninfluenced
6 by your decision as to any other indictment or count
7 considered by you. And the Defendant may be convicted or
8 acquitted on any or all of the offenses charged. And you
9 will be asked to write a separate verdict of either guilty
10 or not guilty for each indictment and for each count in
11 the kidnapping indictment. So they are separate and
12 distinct and each must stand on its own merits.

13 Now, necessarily, you -- as part of your job, you
14 must determine the credibility or believability of the
15 witnesses who have testified in the case. And it becomes
16 your duty as jurors to evaluate the evidence and determine
17 which evidence convinces you that it is true. And in
18 determining the believability of the witnesses, you may
19 believe one witness over several or several over one. You
20 may believe a part of the testimony of a witness and
21 reject the remaining part. You may believe the testimony
22 of a witness in its entirety or reject that same testimony
23 in its entirety. And you may consider whether the witness
24 has an interest in the result of the trial, whether the
25 witness is prejudice towards the State or the Defense, the

1 opportunity for that -- each witness to have seen the
2 matters and things about which that witness has testified
3 and the way the witness acts on the witness stand or what
4 we call a witness' demeanor.

5 You have also heard evidence that the Defendant,
6 Mr. Brown, was convicted of a crime other than the one for
7 which he is now on trial. And this evidence may be
8 considered by you if you conclude this it is true only in
9 deciding whether the Defendant's testimony is believable
10 and for no other purpose. You must not consider the
11 Defendant's prior record of any evidence of the
12 Defendant's guilt of the charge we are trying today.

13 The Defendant has pled not guilty to these
14 indictments and that plea puts the burden on the State to
15 prove the Defendant guilty. A person charged with
16 committing a criminal offense in South Carolina is never
17 required to prove themselves innocent. And I charge you
18 that it is a cardinal and important rule of the law that
19 the Defendant in a criminal trial will always be presumed
20 to be innocent of the crime for which an indictment has
21 issued unless guilt has been proven by evidence satisfying
22 each of you of guilt and beyond a reasonable doubt.

23 Now, a reasonable doubt is the kind of doubt which
24 would cause a reasonable person to hesitate to act. And
25 reasonable doubt may arise from the evidence which is in

1 this case or from the lack or absence of evidence in the
2 case. And you, the jury, must determine whether or not
3 reasonable doubt exists as to the guilt of this Defendant.
4 And the State has the burden of proving each and every
5 element of a crime beyond a reasonable doubt. And any
6 reasonable doubt that you may have in your deliberations
7 should be resolved in favor of the Defendant.

8 An issue in this case is the identification of the
9 Defendant as the person who committed the crime charged.
10 The State has the burden of proving identity and beyond a
11 reasonable doubt. And you must be satisfied beyond a
12 reasonable doubt of the accuracy of the identification of
13 the Defendant before you may convict him. Identification
14 testimony is an expression of belief or impression by a
15 witness and you must determine the accuracy of the
16 identification of the Defendant. You must consider the
17 believability of each identification witness in the same
18 way as any other witness. And you may consider whether
19 the witness had an adequate opportunity to observe the
20 offender at the time of the offense. And this may be
21 affected by things like how long or short a time was
22 available, how far or close the witness was, the lighting
23 conditions, whether the witness had a chance to see or
24 know the person in the past. Once again, I instruct you
25 that the burden of proof on the State extends to every

1 element of the crime charged and this, specifically,
2 includes the burden of proving beyond a reasonable doubt
3 the identity of the Defendant as the person who committed
4 the crimes charged.

5 Now, if a crime is committed by two or more people
6 who are acting together in committing a crime. the act of
7 one is the act of all. And a person who joins with
8 another to accomplish an illegal purpose is criminally
9 responsible for everything done by the other person which
10 occurs as a natural consequence of the acts done in
11 carrying out the common plan and purpose. For example,
12 two people can be guilty of killing another person when
13 only one of the two persons had a gun, there was only one
14 bullet and only one of the two fired the shot that caused
15 the death. So two or more people are together, acting
16 together, assisting each other in committing the offense.
17 the act of one is the act of all or as it is sometimes
18 said, the hand of one is the hand of all.

19 There are two types of evidence which are generally
20 presented during a trial, direct evidence and
21 circumstantial evidence. And direct evidence is the
22 testimony of person who claims to have actual knowledge of
23 a fact, such as an eyewitness. It is evidence which
24 immediately establishes the main fact to be proven.
25 Circumstantial evidence is proof of a chain of facts and

1 circumstances indicating the existence of a fact. It is
2 evidence which immediately establishes collateral facts
3 from which the main fact may be inferred. Circumstantial
4 evidence is based on inference and not on personal
5 knowledge or observation.

6 Now, the law makes absolutely no distinction between
7 the weight or value to be given to either direct or
8 circumstantial evidence. Nor is a greater degree of
9 certainty required of circumstantial evidence than of
10 direct evidence. And you should weigh all of the evidence
11 in this case. After weighing all of the evidence, if you
12 are not convinced of the guilt of the Defendant beyond a
13 reasonable doubt, you must find him not guilty.

14 Now, I'm going to charge you the law as it relates to
15 each of the offenses charged. The Defendant is charged
16 with kidnapping. He is charged with three counts of
17 kidnapping. This law applies to each of the three counts.
18 The State must prove beyond a reasonable doubt that the
19 Defendant knowingly and unlawfully seized, confined,
20 inveigled, decoyed, kidnapped, abducted or carried away
21 another person without authority of law. To do a thing
22 unlawfully is to do it willfully against the law.
23 Knowingly means with knowledge, consciously, not
24 accidentally. To seize means to take hold of suddenly or
25 forcibly. To confine means to limit, restrict or enforce

1 within bounds, imprison or shut or keep in. Inveigle
2 means to lure, entice or lead astray by false
3 representations, promises or other deceitful means. Decoy
4 means to lure by or as if by decoy. A decoy is something
5 to entice a person into a trap. Kidnap is to remove a
6 person against his will by unlawful force or by fraud.
7 Abduct means to carry off secretly or by force for an
8 illegal purpose. And carry away means to remove.

9 The State does not have to prove that the Defendant
10 did all of these things. Instead, if you find beyond a
11 reasonable doubt that the Defendant did any of these
12 things, you may find the Defendant guilty of kidnapping.
13 And something done without authority of law is something
14 which the law does not sanction, permit, allow, condone or
15 provide justification for.

16 Now, armed robbery, the Defendant is charged and
17 indicted for armed robbery. In order to prove this
18 offense, the State must first prove beyond a reasonable
19 doubt that the Defendant took personal property from the
20 person or presence of another person. Property is in the
21 presence of a person if it is within the person's reach,
22 inspection, observation or control so that the person
23 could, if not overcome with violence or prevented by fear,
24 that person could keep possession of the property. The
25 State must also prove beyond a reasonable doubt that the

1 Defendant carried the property away intending to
2 permanently deprive the owner of the property and to keep
3 the property for the Defendant's own use. The slightest
4 removal of the property or the complete possession of the
5 property, even for an instant, by the Defendant is
6 sufficient to show a taking and carrying away of the
7 property. And the taking and carrying away of the
8 property must have been done with violence or by putting
9 the owner of the property in fear of violence. And,
10 finally, the State must prove beyond a reasonable doubt
11 that the Defendant was armed with a deadly weapon during
12 the robbery.

13 And a deadly weapon is any article, instrument or
14 substance which is likely to cause death or great bodily
15 harm. Whether an instrument has been used as a deadly
16 weapon depends on the facts and circumstances of each
17 case. The following are examples of instruments which may
18 be deadly weapons, pistol, a shotgun, a rifle, a dirk, a
19 dagger, a knife, a slingshot, metal knuckles, a razor,
20 gasoline, a fire bomb, a Molotov cocktail or lighter
21 fluid.

22 Now, the Defendant is also charged with first degree
23 burglary. And the State must prove beyond a reasonable
24 doubt that the Defendant entered a dwelling without
25 consent. And a dwelling is any building or portion of a

1 building in which a person ordinarily sleeps. A building
2 constructed as a dwelling that has never been occupied
3 cannot be considered a dwelling for the purposes of
4 burglary. But a building is a dwelling even if the
5 residents are temporarily absent from the building.

6 And in order to prove that the Defendant entered the
7 dwelling, the State does not have to show that the
8 Defendant's entire body entered the dwelling. The
9 smallest entry is sufficient. It may be any part of the
10 body, such as a hand or foot or even an instrument such as
11 a hook or other instrument. In addition, the State does
12 not have to prove that force was used to gain entry.

13 Next, the State must prove and beyond a reasonable
14 doubt this the Defendant intended to commit a crime,
15 either a felony or a misdemeanor at the time of the
16 illegal entry. The mere entry into a dwelling without
17 consent is not burglary. If the intent to commit a crime
18 is formed after the entry, it is not burglary. On the
19 other hand, if the Defendant intended to commit a crime at
20 the time of the entry, it is a burglary, even if the
21 intent was abandoned after the entry. And it does not
22 matter that the intended crime was not completed. Now,
23 intent may be shown by acts and conduct of the Defendant
24 and other circumstances from which you may naturally and
25 reasonably infer intent.

1 Now, finally, burglary first. The State must prove
2 beyond a reasonable doubt while entering or while in the
3 dwelling or when fleeing, the Defendant or an accomplice
4 was armed with a deadly weapon or explosive. And as I
5 told you -- I think I told you, a deadly weapon is any
6 article, instrument or substance which is likely to cause
7 death or great bodily harm. And whether an instrument has
8 been used as a deadly weapon depends on the facts and
9 circumstances of each case.

10 Secondly, they may prove when entering, while in the
11 dwelling or when fleeing, the Defendant or an accomplice
12 caused physical injury to anyone who was not participating
13 in their crime. Thirdly, when entering, while in the
14 dwelling or when fleeing, the Defendant or an accomplice
15 used or threatened to use a dangerous object. Next, when
16 entering, while in the dwelling or fleeing, the Defendant
17 or an accomplice displayed what was or appeared to be a
18 knife, pistol, revolver, rifle, shotgun, machine gun or
19 other firearm. The Defendant -- and finally, the
20 Defendant remained in the dwelling in the nighttime.
21 Nighttime is the period between sunset and sunrise during
22 which there is not enough daylight to recognize a person's
23 face except by artificial light or moonlight. Okay.

24 So the State has to prove beyond a reasonable doubt
25 at least one of those elements that I -- with respect to

1 the -- they have to prove they went into the house
2 unlawfully, against the consent and that it was a dwelling
3 and they also have to prove at least one of those final
4 conditions that I have read to you. Okay?

5 Now, assault and battery of a high and aggravated
6 nature is an unlawful act of violent injury to the person
7 of another accompanied by circumstances of aggravation.
8 An assault occurs when a person unlawfully attempts or
9 offers to commit a violent injury upon another person and
10 had the present ability to complete the attempted injury.
11 An assault is the intentional creation of a reasonable
12 fear of immediate bodily harm. It is not necessary that
13 the attempted injury or harm actually take place to
14 accomplish an assault. For example, if I walk up to you
15 and when we are within arms reach, I draw back to hit you,
16 that is an assault.

17 Now, a battery is the unlawful touching of another
18 person by the person who committed the assault. So an
19 unlawful touching can be created by a part of the
20 accused's body or by any object the accused puts in
21 motion. A battery is the completion of the assault by
22 using or applying force to another person, however slight,
23 in a rude, angry or resentful manner without legal
24 justification for doing so. So using my earlier example,
25 if I carry through the assault by hitting you, that is a

1 battery. Now, that's an assault and battery.

2 The State must also prove a circumstance of
3 aggravation. Now, a circumstance of aggravation includes
4 the use of a deadly weapon, the incident to commit a
5 felony, the infliction of serious bodily injury, a great
6 disparity between the ages or physical conditions of the
7 parties, a difference in the genders of the parties,
8 purposeful inflection of shame and disgrace and the
9 resistance of lawful authorities. These are only examples
10 of aggravation. So you must find an assault, you must
11 find a battery and you must find an aggravating
12 circumstance. Okay.

13 Now, possession of a weapon during the commission of
14 a violent crime. The Defendant is charged with possession
15 of a weapon during the commission or attempt to commit a
16 violent crime. The State must prove beyond a reasonable
17 doubt that the Defendant was in possession of a firearm or
18 visibly displayed what appeared to be a firearm during the
19 commission of a violent crime. And a firearm means any
20 machine gun, automatic rifle, revolver, pistol or any
21 weapon which will, is designed to or may be readily
22 converted to expel a projectile.

23 In order to find the Defendant guilty of possession
24 of a weapon during the commission of a violent crime, you
25 must first find the Defendant guilty of either committing

1 a violent crime or attempting to commit a violent crime.
2 And I would tell you that armed robbery, kidnapping,
3 burglary first are violent crimes.

4 Now, the Defendant is also indicted for resisting
5 arrest. The State must prove beyond a reasonable doubt
6 that the Defendant knowingly and willfully opposed or
7 resisted a law enforcement officer in serving, executing
8 or attempting to serve or execute a legal writ or process
9 or resisted a lawful arrest being made by a person the
10 Defendant knew or reasonably should have known was a law
11 enforcement officer. Knowingly means with knowledge,
12 consciously done. Willfully means done intentionally and
13 not done by accident. Resist means to oppose, strive
14 against or obstruct. Obstruct means to impede, hinder or
15 interfere with. I will tell you that even peaceful,
16 nonviolent, indirect obstruction of an arrest or the
17 service or execution of process is considered resisting
18 arrest. And if the means used are sufficient to prevent
19 the officer from making an arrest, the Defendant is guilty
20 of resisting arrest.

21 And finally, it is also unlawful for a person -- no,
22 not finally, sorry. Also, unlawful for a person to
23 willfully or maliciously torture, mutilate, injure,
24 disable, poison or kill a dog or a horse used by a law
25 enforcement department or agency in the performance of the

1 functions or duties of the department that would cause the
2 dog or horse undue suffering or pain. Okay.

3 It is also unlawful for -- and the Defendant is
4 indicted for, unlawful for a person other than a duly
5 authorized law enforcement officer to represent to any
6 person that he is a law enforcement officer and acting
7 upon such representation to arrest or detain any person,
8 search any building or automobile or in any way
9 impersonate a law enforcement officer or act in accordance
10 with the authority commonly given to such officers.

11 Now, ladies and gentlemen, we have prepared a verdict
12 form in this case which lays out each of the charges
13 against the Defendant.

14 Now, Madam Forelady, I think this is
15 self-explanatory. And we'll send this back in the jury
16 room with you. And it addresses each and every -- each
17 and every offense alleged against Mr. Brown. But I want
18 to tell you that with respect to each of those cases,
19 there are two possible verdicts. No importance to the
20 order in which I state them. one's got to be stated first.
21 They are guilty or not guilty. Okay?

22 Now, I will tell you that all 12 of you must agree on
23 your verdict. Your verdict must be unanimous. The
24 verdict cannot be based on sympathy, passion, prejudice,
25 emotion or any other consideration which is not in

1 evidence in this case. I want to tell you, you have no
2 friends to reward here and you have no enemies to punish.

3 So ladies and gentlemen, I'm going to excuse you now
4 to your jury room. Please don't begin your deliberations
5 just yet. Before you start that, I want to go over my
6 charge on the law with the attorneys, make sure I didn't
7 misstate something or omit something. And when the
8 verdict comes in with all the evidence, then you all can
9 begin your deliberations. But I do want to encourage you
10 to go ahead and get organized for your lunch, though. So
11 you are free to go.

12 Ms. Sitton, let me ask you to remain for just a
13 moment.

14 (WHEREUPON, the jury left open court at
15 approximately 1:45 p.m.)

16 THE COURT: All right. Any exception or objection to
17 the charge as stated?

18 MR. WEBB: Not from the State, Judge.

19 MR. CHAMBERS: Your Honor, we state our objection to
20 the hand of one, hand of all charge.

21 THE COURT: Okay. All right. Let me let y'all take
22 a look at the verdict form and make sure you're okay with
23 that before we send them back.

24 Ms. Sitton, you were an excellent juror.

25 MS. SITTON: Thank you.

1 THE COURT: You're just as good as everybody else who
2 sat through this entire trial. By all rights, you ought
3 to be able to go back there and deliberate, but the law
4 only allows 12. It may be a relief to you or it may upset
5 you. Some people get a little distressed that they didn't
6 get to do it. But, of course, you realize it took three
7 days and so we needed you and you performed a great
8 service. I hope it's been a good experience for you.

9 And on behalf of all the people of Greenville County
10 and the State of South Carolina, I want to thank you. And
11 I want to tell you that your service for the week is
12 complete. I think we have a lunch for you if you want it.
13 Please help yourself. And other than that, you're free to
14 go. You're free to stay. You're free to talk about the
15 case with anybody you want to or not. And if somebody
16 bugs you about the case, get their name, tell the clerk of
17 court and we'll straighten it out. We don't want you to
18 feel any sort of embarrassment or harassment as a result
19 of your service. Thank you, ma'am. Thank you, very much.

20 (WHEREUPON, the alternate was excused.)

21 THE COURT: All right. Are you good to go?

22 MR. WEBB: Yeah, I don't think there's any difference
23 for the kidnapping.

24 THE COURT: Is that right?

25 MR. CHAMBERS: Fine with me, Judge.

1 THE COURT: Okay. All right. We'll be at ease.

2 (WHEREUPON, court was at ease awaiting a verdict
3 at approximately 1:50 p.m.)

4 THE COURT: Make this a Court's Exhibit, which is
5 where they requested copy of charges. The jury charge on
6 the offenses, which I gave to them, and which we will mark
7 and make part of the record at the close of the case.

8 I have two more notes. The first one is we have a
9 question about one word on the forensics report. Second
10 question is, and I quote, we would like to review all
11 testimony from police officers. So I would propose we
12 bring them back in -- well, first, let me ask -- I mean,
13 the forensics report is in evidence, is that right?

14 MR. WEBB: Mr. Chambers put it in there.

15 MR. CHAMBERS: It is the list of items.

16 THE COURT: Do you have another copy of that?

17 MR. CHAMBERS: I could get one --

18 THE COURT: Well, I tell you what let's do. First of
19 all, let me do this, I'm going to send this back to them.
20 Of course, we'll make it a Court's Exhibit. And I'm going
21 to write please indicate -- about if I send them a
22 highlighter and ask them to highlight the word. Well, of
23 course, that might change the -- let's just, please
24 indicate -- I'll give them a sticky note to stick on it
25 with an arrow to indicate what word you're concerned with.

1 Then bring the report out without the jury, we'll all look
2 at it and see if we can come to a consensus, otherwise --
3 and then we'll deal with it when it comes out.

4 Now with respect to the second one, I suggest that we
5 bring them out to the courtroom. April can give me an
6 estimate on the number of hours of testimony that they
7 want and we will -- and then I will ask them if they can
8 be more specific about what they're interested in. I can
9 say we can listen to it all if that's what you prefer or
10 give us something more specific and we will try and
11 pinpoint it. Okay? Is that agreeable with everybody?

12 MR. WEBB: That's fine, Judge.

13 MR. CHAMBERS: That's fine, Your Honor. I don't want
14 to deter them if they really want to sit and listen to all
15 of it.

16 THE COURT: We'll stay till midnight. All right.

17 All right. Let me get the lawyers to come up here,
18 I'll show you.

19 (WHEREUPON, a bench conference was held.)

20 THE COURT: This is on Defendant's Exhibit No. 1. It
21 is -- the word is in parentheses and it is cut, C-U-T.
22 They want to know --

23 MR. WEBB: If it was cut off with scissors or how it
24 was cut off, tore off or cut off.

25 THE COURT: Tore off or cut off.

1 MR. WEBB: If EMS cut it off with scissors or --

2 MR. CHAMBERS: My position would be, Your Honor, we
3 can't provide any explanation.

4 THE COURT: Can't comment on the facts.

5 And for the record, the word cut is on the report at
6 RL-12. And there are actually two words in parentheses,
7 cut. And it is the second one, which is referring to the
8 navy blue T-shirt with police printed on it in yellow,
9 parentheses, cut, end parentheses, comma.

10 We'll bring them back and I'll explain it to them.

11 (WHEREUPON, the jury came into open court at
12 approximately 4:09 p.m.)

13 THE COURT: All right. Ladies and gentlemen, welcome
14 back. I've got Defendant's Exhibit No. 1 with the word
15 that you requested an explanation of. Let me just tell
16 you that I'm not going to do that, I'm not allowed to do
17 that. That would be a comment on the facts. It is for
18 you all to determine from the evidence what that word
19 means to you. It's up to you to decide. Okay. So I hope
20 you understand that would be an inappropriate comment by
21 the Judge on the facts. So I will not respond to that
22 question.

23 With respect to the second question, which is, would
24 like to review all testimony from police officers. I want
25 to tell you that there are probably in excess of four

1 hours of testimony from the police officers. And we are
2 happy to do that if that's what you all want us to do. We
3 will play it all back for you. But let me suggest -- and
4 it might be what you all want, but if you can be a little
5 more specific and tell us what it is you're interested in,
6 we can try and locate that in the recording, because it's
7 not typed out or anything, and play particular parts back
8 or we will play it all back. It is entirely up to you.

9 So let me ask y'all to retire to the jury room, tell
10 us what you want and we'll provide it for you. Okay?

11 MADAM FORELADY: I believe we know now if that will
12 save time.

13 THE COURT: Sure, yes, ma'am.

14 MADAM FORELADY: Specifically, the testimony from
15 each officer about the blue police shirt back in the
16 woods.

17 THE COURT: About the blue police shirt. All right.
18 Let me get y'all to retire to your room because it takes
19 some time to locate that in the proceedings. Okay. Thank
20 you very much.

21 (WHEREUPON, the jury left open court at
22 approximately 4:10 p.m.)

23 THE COURT: All right. Who took good notes?
24 Let's go off the record.

25 (WHEREUPON, a short break was taken.)

1 (WHEREUPON, Court's Exhibit Nos. 1 through 6
2 were marked for identification and received into
3 evidence.)

4 THE COURT: The next question is is it possible to
5 look at each officer's written statement they used when
6 testifying that were written the day of the incident?

7 No, they're not in evidence.

8 (WHEREUPON, Court's Exhibit Nos. 7 through 9
9 were marked for identification and received into
10 evidence.)

11 (WHEREUPON, the jury came into open court at
12 approximately 4:40 p.m.)

13 THE COURT: Okay.

14 (WHEREUPON, the testimony of Chuck Porter was
15 played for the jury.)

16 THE COURT: All right, okay. Thank you, very much.

17 (WHEREUPON, the jury left open court at
18 approximately 5:00 p.m..)

19 THE COURT: Be at ease.

20 (WHEREUPON, court was in recess awaiting a
21 verdict.)

22 (WHEREUPON, the jury came into open court at
23 approximately 5:13 p.m.)

24 THE COURT: All right, Madam Forelady, I understand
25 y'all have reached a verdict?

1 MADAM FORELADY: Yes, sir, we have.

2 THE COURT: Would you please hand it to the bailiff.

3 Clerk, would you please publish the verdict.

4 VERDICT

5 THE CLERK: Your Honor, case 2007-GS-23-7633, 7600,
6 7602, 7603, 7604, 7605, 7606, 7622. As to the charge of
7 resisting arrest, we, the jury, find the Defendant guilty.
8 As to the charge of possession of a weapon during the
9 commission of a crime, we, the jury, find the Defendant
10 guilty. As to the charge of assault and battery of a high
11 and aggravated nature, we, the jury, find the Defendant
12 guilty. As to the charge of impersonating a law
13 enforcement officer, we, the jury, find the Defendant
14 guilty. As to the charge of malicious injury to a police
15 dog, we, the jury, find the Defendant guilty. As to the
16 charge of burglary first degree, we, the jury, find the
17 Defendant guilty. As to the charge of armed robbery, we,
18 the jury, find the Defendant guilty. As to the charge of
19 kidnapping of George Howard, we, the jury, find the
20 Defendant guilty. As to the charge of kidnapping Jarecus
21 Howard, we, the jury, find the Defendant guilty. As to
22 the charge of kidnapping of Javon Howard, we, the jury,
23 find the Defendant guilty.

24 Is this your verdict, if so, raise your right hand?

25 (WHEREUPON, all members of the jury raised their

1 right hand.)

2 THE CLERK: Thank you.

3 THE COURT: Anything further of the jury?

4 MR. WEBB: Nothing from the State, Judge.

5 MR. CHAMBERS: Your Honor, I normally don't request
6 it, but I would request that the Court poll the jury.

7 THE COURT: All right.

8 THE CLERK: Ladies and gentlemen, the verdict that I
9 have just published was the verdict you reached in the
10 jury room. I ask you was that your verdict then and is it
11 your verdict now? As I call your name, please answer yes
12 or no.

13 Cathy Tafaoa?

14 MS. TAFAOA: Yes.

15 THE CLERK: Elizabeth Van Lew?

16 MS. VAN LEW: Yes.

17 THE CLERK: Holly Chandler?

18 MS. CHANDLER: Yes.

19 THE CLERK: Stephanie Roy?

20 MS. ROY: Yes.

21 THE CLERK: Carolyn Kenne~~tt~~?

22 MS. KENNETT: Yes.

23 THE CLERK: Amanda Bagwell?

24 MS. BAGWELL: Yes.

25 THE CLERK: Teresa Thacker?

1 MS. THACKER: Yes.

2 THE CLERK: Amy Robinson?

3 MS. ROBINSON: Yes.

4 THE CLERK: Raymond Flanders?

5 MR. FLANDERS: Yes.

6 THE CLERK: Frederick Dreher?

7 MR. DREHER: Yes.

8 THE CLERK: Kimberly Sudduth?

9 MS. SUDDUTH: Yes.

10 THE CLERK: Bonnie Sleight?

11 MS. SLEIGHT: Yes.

12 THE CLERK: Thank you.

13 THE COURT: All right.

14 Madam Forelady, ladies and gentlemen of the jury, I
15 want to thank you very much for your service in this case
16 and for your service throughout the week. We are not
17 going to try and start another trial this week, so you all
18 are going to be dismissed for the week and for the rest of
19 the year. Of course, you get the exemption for the next
20 couple of years as well. But I think and I hope that you
21 have enjoyed your service and I hope that you all feel
22 proud of what you've done. Serving on a jury is never an
23 easy thing. And it is a vital service that each citizen
24 performs for their fellow citizens. So we thank you very
25 much.

1 With that, you're free to go. First, let me tell
2 you, you're free to talk about the case with whoever you
3 want to, whenever, however. But I will tell you, if
4 somebody bothers you, comes to talk to you and you don't
5 want to talk about the case, just let the clerk of court
6 know who that person is and we will fix that problem
7 because we don't want you to feel harassed or bothered.

8 With that, ladies and gentlemen, I hope you have a
9 pleasant weekend. Thank you, very much.

10 And, ma'am, we need to get you to sign the
11 indictments themselves, so if you don't mind. Come on
12 over here, we've got them for you. Thank you, very much.

13 (WHEREUPON, the jury left open court at
14 approximately 5:18 p.m.)

15 THE COURT: All right. Do we have any motions?

16 MR. CHAMBERS: Motion for a new trial, Your Honor.

17 THE COURT: All right. That's denied. Okay.

18 All right. Y'all want to come around.

19 Mr. Webb?

20 MR. WEBB: Judge, you know the facts of the case. I
21 just want to talk about his prior record. He has an armed
22 robbery from 1991 and three counts of assault and battery
23 with intent to kill. He has been in jail since the
24 incident date. The State has served notice on the
25 Defendant as well as his attorney, Mr. Chambers, with

1 notice of life without parole. I will hand the notice
2 documents with the proof of service as well as Defendant's
3 prior convictions for the armed robbery as well as the
4 assault and battery with intent to kill for purposes of
5 record for the Court.

6 THE COURT: All right.

7 You've seen these, Mr. Chambers?

8 MR. CHAMBERS: I have, Your Honor. I have not seen
9 my client's copy. I received a copy -- I'm, honestly, not
10 sure how I received it, if I got it in the mail or if they
11 dropped it off at the public defender's office, but I got
12 a copy of it a few weeks ago. Thankfully, I haven't had
13 to deal with this statute a lot, so I don't know if they
14 have complied with the notice requirement. I would ask
15 the Court to, obviously, make sure they have satisfied
16 that based on what you've been presented.

17 The other thing I wanted to bring to the Court's
18 attention, Your Honor, is that -- and I've looked into
19 this some, couldn't find anything that was on point, but
20 my client's prior convictions that would make him eligible
21 for the life without the opportunity for parole happened
22 when he was 16 years old. So he was a juvenile.
23 Obviously, he was tried as an adult and he was sentenced
24 as an adult, but I would still make the argument for the
25 record that given the fact that he was under the age of 18

1 and not legally an adult that those convictions should not
2 apply to enhance his sentence in this instance. So he
3 should not, therefore, be eligible for life without
4 parole.

5 THE COURT: All right. Well, do you have any
6 authority to support that position?

7 MR. CHAMBERS: No, Your Honor. As I said, I didn't
8 see any cases that were on point when I looked. So it
9 would be, obviously, a case to first impression as far as
10 I know.

11 THE COURT: All right.

12 Mr. Brown, your lawyer was Jess McCall?

13 MR. BROWN: Yes, sir.

14 THE COURT: Well, I've got affidavit of service. I
15 think it qualifies under the statute, takes away all
16 discretion in my sentencing with respect to the
17 kidnapping, burglary first and the armed robbery, so.

18 Anything you want to tell me?

19 MR. CHAMBERS: Well, Your Honor, there's a lot I
20 could tell you, but if the sentence is mandatory, it's
21 really not going to do us any good.

22 THE COURT: Well, I believe it is.

23 Anything you want to say, Mr. Brown?

24 MR. BROWN: I mean, yeah, there is a lot that I want
25 to say, but at this point, I don't know how good it would

1 be. I know that -- you know, during the whole trial, I
2 mean, I had confidence that the right thing would happen.
3 And everybody came into the court and lied. I mean,
4 everybody came into the court and lied. You know, it is
5 what it is. I just have to, you know, fight back on
6 appeal or whatever. But you know, I retain my innocence.

7 THE COURT: Okay. Well, I don't guess there's any
8 victim input?

9 MR. WEBB: No, Your Honor, they support the State's
10 position.

11 THE COURT: Okay. What does injury to a police dog
12 carry, one year?

13 MR. WEBB: I believe it's five, but -- Judge, I don't
14 have --

15 THE COURT: And I'm missing a sentencing sheet,
16 aggravated assault and battery? I do not have that up
17 here.

18 Mr. Brown, while they try and organize that, you
19 understand that you have a right to appeal this decision?

20 MR. BROWN: Yes, sir.

21 THE COURT: You need to let your attorney know if you
22 want to do that and you need to do that as quickly as
23 possible so we have time to file that.

24 MR. CHAMBERS: He's already informed me, Your Honor,
25 we're going to file notice of appeal this week.

1 THE COURT: All right. What was the police dog?

2 MR. WEBB: The indictment?

3 THE COURT: No, what's the term?

4 MR. WEBB: Injury to a police dog.

5 THE COURT: How much does it carry?

6 MR. WEBB: We're looking.

7 THE COURT: Have you gone to get the sentencing
8 sheet?

9 While we're waiting on this form, if you want to sit
10 down or stand up, wherever you're most comfortable, sir.

11 Anything else anybody wants to tell me?

12 MR. WEBB: Nothing from the State, Judge.

13 SENTENCING

14 THE COURT: Okay. All right. As you know, I don't
15 have any discretion under this case -- under the statute,
16 so for armed robbery, you're sentenced to the Department
17 of Corrections for life without parole. On burglary
18 first, life without parole. On kidnapping, each of the
19 three counts, life without parole. Assault and battery of
20 a high and aggravated nature, ten years. On the
21 impersonating a police officer, one year. Possession of a
22 weapon during a crime. five years One year on the
23 existing arrest. Five years on the police dog -- injury
24 to a police dog. Credit for time he's entitled to. Best
25 of luck to you.

1 MR. BROWN: So I have four life sentences?

2 THE COURT: Five.

3 MR. BROWN: Five.

4 THE COURT: All right. Best of luck to you.

5 (WHEREUPON, the proceedings were concluded.)

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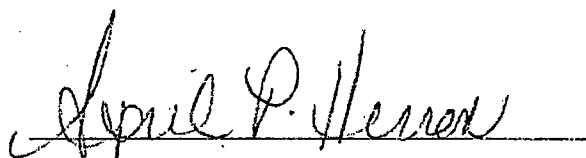
CERTIFICATE OF REPORTER

STATE OF SOUTH CAROLINA)
COUNTY OF GREENVILLE)

I, APRIL P. HERRON, Official Court Reporter for the Thirteenth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Court of General Sessions for Greenville County, South Carolina, on the DT day of April, 2009.

I do further certify that I am neither of kin, counsel nor interest to any party hereto.

March 23, 2009



APRIL P. HERRON, Court Reporter

WITNESSES

T. Wyatt / Tucker / s

Greenville County Sheriffs Office

6/12/2007

ARREST WARRANT NUMBER

1516951

ACTION OF GRAND JURY

TRUE BILL

FOREMAN GRAND JURY

Foreperson of Grand Jury

VERDICT

Guilty

Cathy Lapaoz
Foreperson of Petit Jury

4/16/09
Date:

DOCKET NO. 2007-GS-23-
KBF

007600

The State of South Carolina

County of Greenville

COURT OF GENERAL SESSIONS

SEPTEMBER TERM 2007

THE STATE

vs.

County

GERALD BROWN

Indictment for

0549

POSSESSION OF WEAPON DURING THE
COMMISSION OF A CRIME

VIOLATION § 16-23-0490

4/16

STATE OF SOUTH CAROLINA)

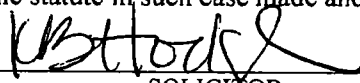
COUNTY OF GREENVILLE)

INDICTMENT FOR
POSSESSION OF WEAPON DURING THE COMMISSION OF A
CRIME

At a Court of General Sessions, convened on September 18, 2007 the Grand Jurors of Greenville
County present upon their oath:

That GERALD BROWN did in Greenville County, on or about the 12th day of June 2007, possess or visibly
display a handgun during the commission or attempted commission of a violent crime, to wit: BURGLARY
FIRST DEGREE, and/or ARMED ROBBERY, and/or KIDNAPPING. This is in violation of §16-23-490 of the
South Carolina Code of Laws (1976) as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


SOLICITOR

STATE OF SOUTH CAROLINA

COUNTY OF GreenvilleSTATE VS.Gerald Brown

AKA: _____

Race: B Sex: M Age: 35DOB: 09-23-1973 SS#: _____Address: Leighton CtSimpsonville, SC 29680-7049DL#: 101093003 SID#: _____

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2007GS2307600A/W#: 1516951Date of Offense: 6/12/2007S.C. Code § : 16-23-0490CDR Code #: 0549

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was ☐ CONVICTED OF or ☐ PLEADS
TO: Possession of a weapon during the commission of a violent crime

in violation of § 16-23-0490 of the S.C. Code of Laws, bearing CDR Code # 0549

☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC ☐ §17-25-45
w/minor 1st or Lewd Act)

The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (Defendant initial)The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Webb, Douglas

SC Bar#

Defendant

Attorney for Defendant

SC Bar#

WHEREFORE, the Defendant is committed to the ☐ State Department of Corrections, ☐ County Detention Center,
for a determinate term of 5 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years
and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment
of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____
months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of
probation, which are incorporated by reference.

☐ CONCURRENT or ☐ CONSECUTIVE to sentence on: _____☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied
by the State Department of Corrections.☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUP

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms: _____

☐ set by SCDPPPS _____

Recipient: _____

*Fine: \$ _____

§ 14-1-206 (Assessments 107.5 %) \$ _____

§ 14-1-211(A)(1) (Conv. Surcharge) \$100 \$ 100.00

§ 14-1-211(A)(2) (DUI Surcharge) \$100 \$ _____

§ 56-5-2995 (DUI Assessment) \$12 \$ _____

§ 56-1-286 (DUI Breath Test) \$25 \$ _____

§ 35.13 (Public Def/Prob) \$500 \$ _____

§ 73.3, 1B TP (Law Enforce. Funding) \$25 \$ 25.00

§ 33.7, 1B TP (Drug Court Surcharge) \$100 \$ _____

§ 50-21-114(BUI Breath Test Fee) \$50 \$ _____

§ 56-5-2942(J) (Vehicle Assessment) \$40/ea \$ _____

3% to County (if paid in installments) \$ _____

§ 90.11 TP (SCCJA Surcharge) \$5 \$ 5.00

TOTAL \$ _____

Paul B. Wickenstein
Clerk of Court/ Deputy ClerkCourt Reporter: Heron

_____ days/hours Public Service Employment

Obtain GED _____

Attend Voc. Rehab. or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling _____

Random Drug/Alcohol testing _____

Fine may be pd. in equal, consecutive weekly/monthly
pmts. of \$ _____ beginning _____

\$ _____ paid to Public Defender Fund

Other: _____

☐ Appointed PD or appointed other counsel §35.13 TP
Requires \$500 be paid to Clerk during probation.PRESIDING JUDGE EDU.MCJudge Code: 211310Sentence Date: 4-16-09

SCCA/217 (03/2009)

WITNESSES

T. Wyatt

Tucker IS

Greenville County Sheriffs Office

6/12/2007

ARREST WARRANT NUMBER

1516950

ACTION OF GRAND JURY

~~TRUE BILL~~

[Signature]
FOREMAN GRAND JURY

Foreperson of Grand Jury

VERDICT

GUILTY

Chadley Saffar
Foreperson of Petit Jury

4/16/09
Date:

DOCKET NO. 2007-GS-23-

KB

007602

The State of South Carolina

J
County of Greenville

COURT OF GENERAL SESSIONS

SEPTEMBER TERM 2007

THE STATE

vs.

GUILTY
GERALD BROWN

J
Indictment for

0013

ASSAULT AND BATTERY OF A HIGH AND
AGGRAVATED NATURE

VIOLATION § C/L

STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)

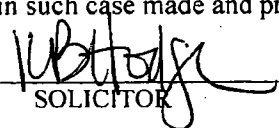
INDICTMENT FOR
ASSAULT AND BATTERY OF A HIGH AND AGGRAVATED
NATURE

At a Court of General Sessions, convened on September 18, 2007 the Grand Jurors of Greenville

County present upon their oath:

That GERALD BROWN did in Greenville County, on or about the 12th day of June 2007, willfully and unlawfully commit an assault and battery upon GEORGE HOWARD constituting an unlawful act of violent injury to GEORGE HOWARD, accompanied by circumstances of aggravation, to wit: infliction of serious bodily injury, and/or intent to commit a felony. This is in violation of the Common Law of the State of South Carolina.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



SOLICITOR

STATE OF SOUTH CAROLINA

COUNTY OF GreenvilleSTATE VS.Gerald Brown

AKA: _____

Race: B Sex: M Age: 35DOB: 09-23-1973 SS#: _____Address: Leighton CtSimpsonville, SC 29680-7049DL#: 101093003 SID#: _____

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2007GS2307602A/W#: 1516950Date of Offense: 6/12/2007S.C. Code § : C/L 17-25-0030CDR Code #: 0013

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADS TO: Assault / Assault and battery of a high and aggravated nature (ABHAN)

in violation of § C/L 17-25-0030 of the S.C. Code of Laws, bearing CDR Code # 0013

☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC ☐ §17-25-45 w/minor 1st or Lewd Act)

The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. _____ (Defendant initial)The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Webb, DouglasSC Bar#DefendantAttorney for DefendantSC Bar#

WHEREFORE, the Defendant is committed to the ☐ State Department of Corrections, ☐ County Detention Center, for a determinate term of 10 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment of \$ _____; plus costs and assessments as applicable*; the balance is suspended with **probation** for _____ months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☐ CONCURRENT or ☐ CONSECUTIVE to sentence on: _____☐ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections.☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUP _____

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms: _____

☐ set by SCDPPPS _____

Recipient: _____

*Fine: \$ _____

§ 14-1-206 (Assessments 107.5 %) \$ _____

§ 14-1-211(A)(1) (Conv. Surcharge) \$100 \$ 100.00

§ 14-1-211(A)(2) (DUI Surcharge) \$100 \$ _____

§ 56-5-2995 (DUI Assessment) \$12 \$ _____

§ 56-1-286 (DUI Breath Test) \$25 \$ _____

§ 35.13 (Public Def/Prob) \$500 \$ _____

§ 73.3, 1B TP (Law Enforce. Funding) \$25 \$ 25.00

§ 33.7, 1B TP (Drug Court Surcharge) \$100 \$ _____

§ 50-21-114(BUI Breath Test Fee) \$50 \$ _____

§ 56-5-2942(J) (Vehicle Assessment) \$40/ea \$ _____

3% to County (if paid in installments) \$ _____

§ 90.11 TP (SCCJA Surcharge) \$5 \$ 5.00

TOTAL \$ _____

Paul B. Wickens

Clerk of Court/ Deputy Clerk

Court Reporter: HensonPRESIDING JUDGE W. W. WickJudge Code: 2111310Sentence Date: 4-16-09

SCCA/217 (03/2009)

WITNESSES

T. Wyatt

Tucker/S

Greenville County Sheriffs Office

6/12/2007

ARREST WARRANT NUMBER

1798222

ACTION OF GRAND JURY

TRUE BILL

[Signature]
FOREMAN GRAND JURY

Foreperson of Grand Jury

VERDICT

Guilty

Cathy Infano
Foreperson of Petit Jury

4/16/09
Date:

DOCKET NO. 2007-GS-23-

KBF

007603

The State of South Carolina

County of Greenville

COURT OF GENERAL SESSIONS

SEPTEMBER TERM 2007

THE STATE

vs.

GERALD BROWN

Guilty

Indictment for

0088

IMPERSONATING LAW ENFORCEMENT

VIOLATION § 16-17-0720

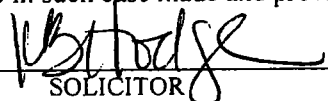
4/16/09

STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)

INDICTMENT FOR
IMPERSONATING LAW ENFORCEMENT

At a Court of General Sessions, convened on September 18, 2007 the Grand Jurors of Greenville County present upon their oath:
That GERALD BROWN did in Greenville County, on or about the 12th day of June 2007, willfully and unlawfully impersonate or represent himself as a law enforcement officer to GEORGE HOWARD while at 125 Turentine Circle, Greenville, South Carolina and did act upon such representation in accordance with authority commonly given to such officers. This is in violation of §16-17-720 of the South Carolina Code of Laws (1976) as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


SOLICITOR

STATE OF SOUTH CAROLINA

COUNTY OF GreenvilleSTATE VS.Gerald Brown

AKA: _____

Race: B Sex: M Age: 35DOB: 09-23-1973 SS#: _____Address: Leighton Ct
Simpsonville, SC 29680-7049DL#: 101093003 SID#: _____

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2007GS2307603A/W#: 1798222Date of Offense: 6/12/2007S.C. Code § : 16-17-0720CDR Code #: 0088

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was ☐ CONVICTED OF or ☐ PLEADS
TO: Impersonating law enforcement officerin violation of § 16-17-0720 of the S.C. Code of Laws, bearing CDR Code # 0088☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC ☐ §17-25-45
w/minor 1st or Lewd Act)The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. _____ (Defendant initial)The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Webb, Douglas74747
SC Bar#

Defendant

Attorney for Defendant

SC Bar#

WHEREFORE, the Defendant is committed to the ☐ State Department of Corrections, ☐ County Detention Center,
for a determinate term of 1 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years
and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment
of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____
months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of
probation, which are incorporated by reference.☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: _____☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied
by the State Department of Corrections.☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUP _____

Total: \$ _____ plus 20% fee: \$ _____ days/hours Public Service Employment

Payment Terms: _____

☐ set by SCDPPPS _____

Recipient: _____

*Fine: \$ _____

§ 14-1-206 (Assessments 107.5 %) \$ _____

§ 14-1-211(A)(1) (Conv. Surcharge) \$100 \$ 100.00

§ 14-1-211(A)(2) (DUI Surcharge) \$100 \$ _____

§ 56-5-2995 (DUI Assessment) \$12 \$ _____

§ 56-1-286 (DUI Breath Test) \$25 \$ _____

§ 35.13 (Public Def/Prob) \$500 \$ _____

§ 73.3, 1B TP (Law Enforce. Funding) \$25 \$ 25.00

§ 33.7, 1B TP (Drug Court Surcharge) \$100 \$ _____

§ 50-21-114(BUI Breath Test Fee) \$50 \$ _____

§ 56-5-2942(J) (Vehicle Assessment) \$40/ea \$ _____

3% to County (if paid in installments) \$ _____

§ 90.11 TP (SCCJA Surcharge) \$5 \$ 5.00

TOTAL \$ _____

Paul B. Workensin
Clerk of Court/ Deputy ClerkCourt Reporter: HeronPRESIDING JUDGE W. W. W.Judge Code: 2111310Sentence Date: 4-16-09

SCCA/217 (03/2009)

WITNESSES

T. Wyatt

Tuckers

Greenville County Sheriffs Office

6/12/2007

ARREST WARRANT NUMBER

1516954

ACTION OF GRAND JURY

TRUE BILL

[Signature]
FOREMAN GRAND JURY

Foreperson of Grand Jury

VERDICT

Guilty

Cath Salazar
Foreperson of Petit Jury

4/16/09
Date:

DOCKET NO. 2007-GS-23-

KBF

The State of South Carolina

007604

County of Greenville

COURT OF GENERAL SESSIONS

SEPTEMBER TERM 2007

THE STATE

vs.

Guilty

GERALD BROWN

Indictment for

2399

MALICIOUS INJURY TO A POLICE DOG

VIOLATION § 47-03-0620

[Signature]

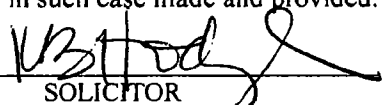
STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)

INDICTMENT FOR
MALICIOUS INJURY TO A POLICE DOG

At a Court of General Sessions, convened on September 18, 2007 the Grand Jurors of Greenville
County present upon their oath:

That GERALD BROWN did in Greenville County, on or about the 12th day of June 2007, willfully and
maliciously torture, mutilate, injure, disable, poison, or kill a dog used by a law enforcement department or
agency in the performance of the functions or duties of the department or agency. This is in violation of § 47-3-
620 of the South Carolina code of Laws (1976) as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


SOLICITOR

STATE OF SOUTH CAROLINA

COUNTY OF Greenville

STATE

VS.

Gerald Brown

AKA:

Race: B Sex: M Age: 35

DOB: 09-23-1973 SS#:

Address: Leighton Ct

Simpsonville, SC 29680-7049

DL#: 101093003 SID#:

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2007GS2307604

A/W#: 1516954

Date of Offense: 6/12/2007

S.C. Code § : 47-03-0630, 0620

CDR Code #: 2399

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was ☐ CONVICTED OF or ☐ PLEADS TO: Injury to a Police Dog

in violation of § 47-03-0630, 0620 of the S.C. Code of Laws, bearing CDR Code # 2399

☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC ☐ §17-25-45 w/minor 1st or Lewd Act)

The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (Defendant initial)

The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Webb Douglas

SC Bar#

Defendant

Attorney for Defendant

SC Bar#

WHEREFORE, the Defendant is committed to the ☐ State Department of Corrections, ☐ County Detention Center, for a determinate term of 5 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment of \$ _____; plus costs and assessments as applicable*; the balance is suspended with **probation** for _____ months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☐ CONCURRENT or ☐ CONSECUTIVE to sentence on: _____

☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections.

☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUP

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms: _____

☐ set by SCDPPPS _____

Recipient: _____

*Fine: \$ _____

§ 14-1-206 (Assessments 107.5 %) \$ _____

§ 14-1-211(A)(1) (Conv. Surcharge) \$100 \$ 100.00

§ 14-1-211(A)(2) (DUI Surcharge) \$100 \$ _____

§ 56-5-2995 (DUI Assessment) \$12 \$ _____

§ 56-1-286 (DUI Breath Test) \$25 \$ _____

§ 35.13 (Public Def/Prob) \$500 \$ _____

§ 73.3, 1B TP (Law Enforce. Funding) \$25 \$ 25.00

§ 33.7, 1B TP (Drug Court Surcharge) \$100 \$ _____

§ 50-21-114(BUI Breath Test Fee) \$50 \$ _____

§ 56-5-2942(J) (Vehicle Assessment) \$40/ea \$ _____

3% to County (if paid in installments) \$ _____

§ 90.11 TP (SCCJA Surcharge) \$5 \$ 5.00

TOTAL \$ _____

Clerk of Court/ Deputy Clerk

Court Reporter: Huron

_____ days/hours Public Service Employment

Obtain GED _____

Attend Voc. Rehab. or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling: _____

Random Drug/Alcohol testing _____

Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ _____ beginning _____

\$ _____ paid to Public Defender Fund

Other: _____

☐ Appointed PD or appointed other counsel, §35.13 TP

Requires \$500 be paid to Clerk during probation.

PRESIDING JUDGE Paul B. WickensJudge Code: 21-1-13-10Sentence Date: 4-16-09

SCCA/217 (03/2009)

WITNESSES

T. Wyatt

Hucker 15

Greenville County Sheriffs Office

6/12/2007

ARREST WARRANT NUMBER

1516946

ACTION OF GRAND JURY

TRUE BILL

[Signature]
FOREMAN GRAND JURY

Foreperson of Grand Jury

VERDICT

Guilty

[Signature]
Foreperson of Petit Jury

Date: *4/16/09*

DOCKET NO. 2007-GS-23-

KBF

The State of South Carolina

007605

County of Greenville

COURT OF GENERAL SESSIONS

SEPTEMBER TERM 2007

THE STATE

vs.

GERALD BROWN

Guilty

Indictment for

0079

BURGLARY FIRST DEGREE

VIOLATION § 16-11-0311

447

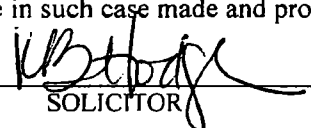
STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)

INDICTMENT FOR
BURGLARY FIRST DEGREE

At a Court of General Sessions, convened on September 18, 2007 the Grand Jurors of Greenville
County present upon their oath:

That GERALD BROWN did in Greenville County, on or about the 12th day of June 2007, willfully and
unlawfully enter the dwelling of GEORGE HOWARD located at 125 Turentine Circle, without consent and with
the intent to commit a crime therein and armed with a deadly weapon, and/or displays what is or appears to be a
handgun or other firearm, and/or the entering and/or remaining did occur during the nighttime hours. This is in
violation of §16-11-311 of the South Carolina Code of Laws (1976) as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


SOLICITOR

STATE OF SOUTH CAROLINA

COUNTY OF Greenville
STATEVS.
Gerald Brown

AKA:

Race: B Sex: M Age: 35DOB: 09-23-1973 SS#:Address: Leighton Ct
Simpsonville, SC 29680-7049DL#: 101093003 SID#:

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2007GS2307605A/W#: I516946Date of Offense: 6/12/2007S.C. Code § : 16-11-0311CDR Code #: 0079

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was ☐ CONVICTED OF or ☐ PLEADS
TO: Burglary / Burglary (After June 20, 1985) - First degreein violation of § 16-11-0311 of the S.C. Code of Laws, bearing CDR Code # 0079☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC ☒ §17-25-45
w/minor 1st or Lewd Act)The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (Defendant initial)The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Webb, Douglas

SC Bar#

Defendant

Attorney for Defendant

SC Bar#

WHEREFORE, the Defendant is committed to the ☐ State Department of Corrections, ☐ County Detention Center,
for a determinate term of 1 WOP days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years
and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment
of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____
months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of
probation, which are incorporated by reference.☐ CONCURRENT or ☐ CONSECUTIVE to sentence on: _____☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied
by the State Department of Corrections.☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUP

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms: _____

☐ set by SCDPPPS

Recipient: _____

*Fine: \$ _____

§ 14-1-206 (Assessments 107.5 %) \$ _____

§ 14-1-211(A)(1) (Conv. Surcharge) \$100 \$ 100.00

§ 14-1-211(A)(2) (DUI Surcharge) \$100 \$ _____

§ 56-5-2995 (DUI Assessment) \$12 \$ _____

§ 56-1-286 (DUI Breath Test) \$25 \$ _____

§ 35.13 (Public Def/Prob) \$500 \$ _____

§ 73.3, 1B TP (Law Enforce. Funding) \$25 \$ 25.00

§ 33.7, 1B TP (Drug Court Surcharge) \$100 \$ _____

§ 50-21-114(BUI Breath Test Fee) \$50 \$ _____

§ 56-5-2942(J) (Vehicle Assessment) \$40/ea \$ _____

3% to County (if paid in installments) \$ _____

§ 90.11 TP (SCCJA Surcharge) \$5 \$ 5.00

TOTAL \$ _____

Paul B. Wicks
Clerk of Court/ Deputy ClerkCourt Reporter: AmonPRESIDING JUDGE EDW MJudge Code: 2 1 1 1 3 10Sentence Date: 4-16-09

SCCA/217 (03/2009)

WITNESSES

T. Wyatt

/TUCKER 15.

Greenville County Sheriffs Office

6/12/2007

ARREST WARRANT NUMBER

1516945

ACTION OF GRAND JURY

TRUE BILL

FOREMAN GRAND JURY

Foreperson of Grand Jury

VERDICT

GUILTY

Foreperson of Petit Jury

Date:

DOCKET NO. 2007-GS-23-

KBF

The State of South Carolina

007606

County of Greenville

COURT OF GENERAL SESSIONS

SEPTEMBER TERM 2007

THE STATE

VS.

GERALD BROWN

GUILTY

Indictment for

0139

ARMED ROBBERY

VIOLATION § 16-11-0330

498

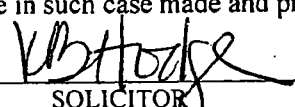
STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)

INDICTMENT FOR
ARMED ROBBERY

At a Court of General Sessions, convened on September 18, 2007 the Grand Jurors of Greenville
County present upon their oath:

That GERALD BROWN did in Greenville County, on or about the 12th day of June 2007, while armed with a deadly weapon, or while alleging either by action or words he was armed while using a representation of a deadly weapon or any object which a person present during the commission of the robbery would reasonably believe to be a deadly weapon, take by means of force or intimidation, goods or monies described as: Twenty-three Thousand U.S. Dollars (\$23,000) from the person or presence of GEORGE HOWARD. This is in violation of §16-11-330 of the South Carolina Code of Laws (1976) as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


SOLICITOR

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Greenville
 STATE VS.
Gerald Brown

AKA:
 Race: B Sex: M Age: 35
 DOB: 09-23-1973 SS#: _____
 Address: Leighton Ct
Simpsonville, SC 29680-7049
 DL#: 101093003 SID#: _____

INDICTMENT/CASE#: 2007GS2307606
 A/W#: 1516945
 Date of Offense: 6/12/2007
 S.C. Code § : 16-11-0330(A)
 CDR Code #: 0139

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was ☐ CONVICTED OF or ☐ PLEADS
 TO: Armed Robbery

in violation of § 16-11-0330(A) of the S.C. Code of Laws, bearing CDR Code # 0139
☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC §17-25-45
 w/minor 1st or Lewd Act)

The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (Defendant initial)
 The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST

Webb, Douglas 74747 SC Bar# Defendant Attorney for Defendant SC Bar#
§17-25-45(A)

WHEREFORE, the Defendant is committed to the ☐ State Department of Corrections, ☐ County Detention Center,
 for a determinate term of LWOP days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years
 and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment
 of \$ _____; plus costs and assessments as applicable*; the balance is suspended with **probation** for _____
 months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of
 probation, which are incorporated by reference.

☐ CONCURRENT or ☐ CONSECUTIVE to sentence on: _____
☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied
 by the State Department of Corrections.

☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUP _____

Total: \$ _____ plus 20% fee: \$ _____ days/hours Public Service Employment

Payment Terms: _____ Obtain GED _____

☐ set by SCDPPPS _____ Attend Voc. Rehab. or Job Corp. _____

Recipient: _____ May serve W/E beginning _____

*Fine: \$ _____ Substance Abuse Counseling _____

§ 14-1-206 (Assessments 107.5 %) \$ _____ Random Drug/Alcohol testing _____

§ 14-1-211(A)(1) (Conv. Surcharge) \$100 \$ 100.00 Fine may be pd. in equal, consecutive weekly/monthly

§ 14-1-211(A)(2) (DUI Surcharge) \$100 \$ _____ pmts. of \$ _____ beginning _____

§ 56-5-2995 (DUI Assessment) \$12 \$ _____ \$ _____ paid to Public Defender Fund

§ 56-1-286 (DUI Breath Test) \$25 \$ _____ Other: _____

§ 35.13 (Public Def/Prob) \$500 \$ _____

§ 73.3, 1B TP (Law Enforce. Funding) \$25 \$ 25.00

§ 33.7, 1B TP (Drug Court Surcharge) \$100 \$ _____

§ 50-21-114(BUI Breath Test Fee) \$50 \$ _____

§ 56-5-2942(J) (Vehicle Assessment) \$40/ea \$ _____

3% to County (if paid in installments) \$ _____

§ 90.11 TP (SCCJA Surcharge) \$5 \$ 5.00

TOTAL \$ _____

Paul B. Wickens

Clerk of Court/ Deputy Clerk

Court Reporter: W. W. W.

PRESIDING JUDGE W. W. W.

Judge Code: 21-1-13-10

Sentence Date: 4-16-08

SCCA/217 (03/2009)

WITNESSES

T. Wyatt

Tucker / 5

Greenville County Sheriffs Office

6/12/2007

ARREST WARRANT NUMBER

1516947, 1516948, 1516949

ACTION OF GRAND JURY

TRUE BILL

FOREMAN GRAND JURY

Foreperson of Grand Jury

VERDICT

Guilty

Foreperson of Petit Jury

Date:

DOCKET NO. 2007-GS-23-

KBF

The State of South Carolina

007622

County of Greenville

COURT OF GENERAL SESSIONS

SEPTEMBER TERM 2007

THE STATE

vs.

GERALD BROWN

County

Indictment for

0095

KIDNAPPING (x3)

VIOLATION § 16-03-0910



STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)

INDICTMENT FOR
KIDNAPPING (x3)

At a Court of General Sessions, convened on September 18, 2007 the Grand Jurors of Greenville
County present upon their oath:

COUNT I

That GERALD BROWN did in Greenville County, on or about the 12th day of June 2007, unlawfully seize,
abduct, confine, inveigle, decoy or carry away GEORGE HOWARD, without the authority of law. This is in
violation of §16-3-910 of the South Carolina Code of Laws (1976) as amended.

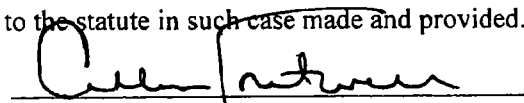
COUNT II

That GERALD BROWN did in Greenville County, on or about the 12th day of June 2007, unlawfully seize,
abduct, confine, inveigle, decoy or carry away J.H., without the authority of law. This is in violation of §16-3-
910 of the South Carolina Code of Laws (1976) as amended.

COUNT III

That GERALD BROWN did in Greenville County, on or about the 12th day of June 2007, unlawfully seize,
abduct, confine, inveigle, decoy or carry away J.H., without the authority of law. This is in violation of §16-3-
910 of the South Carolina Code of Laws (1976) as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


SOLICITOR

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF GreenvilleSTATE VS.Gerald Brown

AKA: _____

Race: B Sex: M Age: 35DOB: 09-23-1973 SS#: _____Address: Leighton CtSimpsonville, SC 29680-7049DL#: 101093003 SID#: _____INDICTMENT/CASE#: 2007GS2307622A/W#: 1516947Date of Offense: 6/12/2007S.C. Code §: 16-03-0910CDR Code #: 0095

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was ☐ CONVICTED OF or ☐ PLEADS TO: Kidnappingin violation of § 16-03-0910 of the S.C. Code of Laws, bearing CDR Code # 0095☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC ☒ §17-25-45 w/minor 1st or Lewd Act)The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. _____ (Defendant initial)The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Webb, DouglasSC Bar# 74747

Defendant

Attorney for Defendant

SC Bar#

WHEREFORE, the Defendant is committed to the ☐ State Department of Corrections, ☐ County Detention Center, for a determinate term of 180 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment of \$ _____; plus costs and assessments as applicable*; the balance is suspended with **probation** for _____ months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☐ CONCURRENT or ☐ CONSECUTIVE to sentence on: _____☐ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections.☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUP

Total: \$ _____ plus 20% fee: \$ _____ days/hours Public Service Employment

Payment Terms: _____

☐ set by SCDPPPS

Recipient: _____

*Fine: \$ _____

§ 14-1-206 (Assessments 107.5 %) \$ _____

§ 14-1-211(A)(1) (Conv. Surcharge) \$100 \$ 100.00

§ 14-1-211(A)(2) (DUI Surcharge) \$100 \$ _____

§ 56-5-2995 (DUI Assessment) \$12 \$ _____

§ 56-1-286 (DUI Breath Test) \$25 \$ _____

§ 35.13 (Public Def/Prob) \$500 \$ _____

§ 73.3, 1B TP (Law Enforce. Funding) \$25 \$ 25.00

§ 33.7, 1B TP (Drug Court Surcharge) \$100 \$ _____

§ 50-21-114(BUI Breath Test Fee) \$50 \$ _____

§ 56-5-2942(J) (Vehicle Assessment) \$40/ea \$ _____

3% to County (if paid in installments) \$ _____

§ 90.11 TP (SCCJA Surcharge) \$5 \$ 5.00

TOTAL \$ _____

Paul B. Wickens
Clerk of Court/ Deputy Clerk

Court Reporter: HannPRESIDING JUDGE 21111111Judge Code: 21111111Sentence Date: 4-16-09

SCCA/217 (03/2009)

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Greenville
 STATE VS.
Gerald Brown

INDICTMENT/CASE#: 2007GS2307622A/W#: 1516948Date of Offense: 6/12/2007S.C. Code § : 16-03-0910CDR Code #: 0095

AKA: _____
 Race: B Sex: M Age: 35
 DOB: 09-22-1973 SS#: _____
 Address: Leighton Ct
Simpsonville, SC 29680-7049
 DL#: 101093003 SID#: _____

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was ☐ CONVICTED OF or ☐ PLEADS
 TO: Kidnapping

in violation of § 16-03-0910 of the S.C. Code of Laws, bearing CDR Code # 0095

☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC ☒ §17-25-45
 w/minor 1st or Lewd Act)

The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (Defendant initial)The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Webb, DouglasSC Bar# 74747

Defendant

Attorney for Defendant

SC Bar#

WHEREFORE, the Defendant is committed to the ☐ State Department of Corrections, ☐ County Detention Center,
 for a determinate term of 4WOP days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years
 and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment
 of \$ _____; plus costs and assessments as applicable*; the balance is suspended with **probation** for _____
 months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of
 probation, which are incorporated by reference.

☐ CONCURRENT or ☐ CONSECUTIVE to sentence on: _____☐ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied
 by the State Department of Corrections.☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUP _____

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms: _____

☐ set by SCDPPPS _____

Recipient: _____

*Fine: \$ _____

§ 14-1-206 (Assessments 107.5 %) \$ _____

§ 14-1-211(A)(1) (Conv. Surcharge) \$100 \$ 100.00

§ 14-1-211(A)(2) (DUI Surcharge) \$100 \$ _____

§ 56-5-2995 (DUI Assessment) \$12 \$ _____

§ 56-1-286 (DUI Breath Test) \$25 \$ _____

§ 35.13 (Public Def/Prob) \$500 \$ _____

§ 73.3, 1B TP (Law Enforce. Funding) \$25 \$ 25.00

§ 33.7, 1B TP (Drug Court Surcharge) \$100 \$ _____

§ 50-21-114(BUI Breath Test Fee) \$50 \$ _____

§ 56-5-2942(J) (Vehicle Assessment) \$40/ea \$ _____

3% to County (if paid in installments) \$ _____

§ 90.11 TP (SCCJA Surcharge) \$5 \$ 5.00

TOTAL \$ _____

Paul B. Wickens
 Clerk of Court/ Deputy ClerkCourt Reporter: AcornPRESIDING JUDGE SCCJAJudge Code: 2111310Sentence Date: 4-16-09

SCCA/217 (03/2009)

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Greenville

STATE VS.

Gerald Brown

AKA:

Race: B Sex: M Age: 35

DOB: 09-23-1973 SS#:

Address: Leighton Ct

Simpsonville, SC 29680-7049

DL#: 101093003 SID#:

INDICTMENT/CASE#: 2007GS2307622

A/W#: I516949

Date of Offense: 6/12/2007

S.C. Code §: 16-03-0910

CDR Code #: 0095

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was ☐ CONVICTED OF or ☐ PLEADS
TO: Kidnapping

in violation of § 16-03-0910 of the S.C. Code of Laws, bearing CDR Code # 0095

☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC §17-25-45
w/minor 1st or Lewd Act)

The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (Defendant initial)The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Webb, Douglas

SC Bar#

Defendant

Attorney for Defendant

SC Bar#

WHEREFORE, the Defendant is committed to the ☐ State Department of Corrections, ☐ County Detention Center,
for a determinate term of LWOP days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years
and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment
of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____
months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of
probation, which are incorporated by reference.

☐ CONCURRENT or ☐ CONSECUTIVE to sentence on: _____☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied
by the State Department of Corrections.☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUP _____

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms: _____

☐ set by SCDPPPS _____

Recipient: _____

*Fine:

§ 14-1-206 (Assessments 107.5 %) \$ _____

§ 14-1-211(A)(1) (Conv. Surcharge) \$100 \$ 100.00

§ 14-1-211(A)(2) (DUI Surcharge) \$100 \$ _____

§ 56-5-2995 (DUI Assessment) \$12 \$ _____

§ 56-1-286 (DUI Breath Test) \$25 \$ _____

§ 35.13 (Public Def/Prob) \$500 \$ _____

§ 73.3, 1B TP (Law Enforce. Funding) \$25 \$ 25.00

§ 33.7, 1B TP (Drug Court Surcharge) \$100 \$ _____

§ 50-21-114(BUI Breath Test Fee) \$50 \$ _____

§ 56-5-2942(J) (Vehicle Assessment) \$40/ea \$ _____

3% to County (if paid in installments) \$ _____

§ 90.11 TP (SCCJA Surcharge) \$5 \$ 5.00

TOTAL \$ _____

Paul B. Wickens

Clerk of Court/ Deputy Clerk

Court Reporter: HensonPRESIDING JUDGE E. W. MooreJudge Code: 211-1310Sentence Date: 4-16-09

SCCA/217 (03/2009)

WITNESSES

T. Wyatt

Greenville County Sheriffs Office

6/12/2007

ARREST WARRANT NUMBER

I516953

ACTION OF GRAND JURY

TRUE BILL

Nicki Cummins
Foreperson of Grand Jury

VERDICT

Guilty:

Cathy Safford
Foreperson of Petit Jury

4/16/09
Date:

AMENDED INDICTMENT

DOCKET NO. 2007-GS-23-007633

RDW

The State of South Carolina

County of Greenville

COURT OF GENERAL SESSIONS

February

TERM 2009

THE STATE

vs.

Guilty
GERALD BROWN

Indictment for

0326

RESISTING ARREST

VIOLATION § 16-09-0320(A)

STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)

AMENDED INDICTMENT FOR
RESISTING ARREST

JUN 17 2007

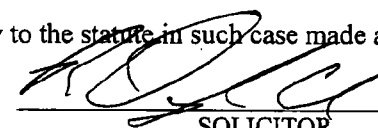
At a Court of General Sessions, convened on

the Grand Jurors of Greenville

County present upon their oath:

That GERALD BROWN did in Greenville County, on or about the 12th day of June 2007, knowingly, willfully and unlawfully oppose or resist an arrest being made by Hal Harris with the Greenville County Sheriff's Office whom he knew or reasonably should have known was a law enforcement officer. This is in violation of §16-9-320(A) of the South Carolina Code of Laws (1976) as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


SOLICITOR

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Greenville

STATE

VS.

Gerald Brown

AKA:

Race: B Sex: M Age: 35DOB: 09-23-1973 SS#: iAddress: Leighton CtSimpsonville, SC 29680-7049DL#: 101093003 SID#: INDICTMENT/CASE#: 2007GS2307633A/W#: 1516953Date of Offense: 6/12/2007S.C. Code § : 16-09-0320(A)CDR Code #: 0326

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was ☐ CONVICTED OF or ☐ PLEADS
TO: Resisting Arrest

in violation of § 16-09-0320(A) of the S.C. Code of Laws, bearing CDR Code # 0326

☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC ☐ §17-25-45
w/minor 1st or Lewd Act)

The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (Defendant initial)

The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Webb, DouglasSC Bar# 74747

Defendant

Attorney for Defendant

SC Bar#

WHEREFORE, the Defendant is committed to the ☐ State Department of Corrections, ☐ County Detention Center,
for a determinate term of 1 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years
and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment
of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____
months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of
probation, which are incorporated by reference.

☐ CONCURRENT or ☐ CONSECUTIVE to sentence on: _____

☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied
by the State Department of Corrections.

☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUP _____

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms: _____

☐ set by SCDPPPS _____

Recipient: _____

*Fine:

§ 14-1-206 (Assessments 107.5 %) \$ _____

§ 14-1-211(A)(1) (Conv. Surcharge) \$100 \$ 100.00

§ 14-1-211(A)(2) (DUI Surcharge) \$100 \$ _____

§ 56-5-2995 (DUI Assessment) \$12 \$ _____

§ 56-1-286 (DUI Breath Test) \$25 \$ _____

§ 35.13 (Public Def/Prob) \$500 \$ _____

§ 73.3, 1B TP (Law Enforce. Funding) \$25 \$ 25.00

§ 33.7, 1B TP (Drug Court Surcharge) \$100 \$ _____

§ 50-21-114(BUI Breath Test Fee) \$50 \$ _____

§ 56-5-2942(J) (Vehicle Assessment) \$40/ea \$ _____

3% to County (if paid in installments) \$ _____

§ 90.11 TP (SCCJA Surcharge) \$5 \$ 5.00

TOTAL \$ _____

Paul B. Wickensimer

Clerk of Court/ Deputy Clerk

Court Reporter: HensonPRESIDING JUDGE E. C. W. M. DeJudge Code: 2111310Sentence Date: 4-16-09 482

SCCA/217 (03/2009)