

 ORIGINAL

STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM NEWBERRY COUNTY

Eugene C. Griffith, Jr., Circuit Court Judge

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SC Court of Appeals

THE STATE,

RESPONDENT,

V.

ERNEST EUGENE WILLIAMS, JR.,

APPELLANT

APPELLATE CASE NO. 2013-002618

RECORD ON APPEAL

SUSAN B. HACKETT
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589
(803) 734-1330

Attorney for Appellant

ALAN WILSON
Attorney General

JENNIFER ELLIS ROBERTS
Assistant Attorney General
Office of the Attorney General
PO Box 11549
Columbia, SC 29211

DAVID STUMBO
Solicitor, Eighth Judicial Circuit
Post Office Box 516
Greenwood, SC 29648
(864) 942-8800

Attorneys for Respondent

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State of South Carolina)
 vs.) Transcript of Record
)
Ernest E. Williams, Jr.)
 DEFENDANT)

December 2, 2013
Newberry, South Carolina

B E F O R E:

Honorable Eugene C. Griffith, Jr., Judge

A P P E A R A N C E S

Dale Scott, Deputy Solicitor
Taylor Daniel, Assistant Solicitor
Attorneys for the State

Charles Verner, Assistant Public Defender
Attorney for the Defendant

Joy E. Holston
Official Court Reporter

1 about to be shown. You are free to go until 2:30. You
2 have jury badges on, that is to alert anybody involved
3 with the trial to not come and speak to you to try to
4 influence you in any way whatsoever. The bailiffs will
5 meet and greet, speak to you. That is their job. The
6 lawyers are by rule kind of required to do nothing more
7 than say, good afternoon or good morning. That is all you
8 are going to get out of them. The witnesses involved
9 likewise the same way. Don't begin discussing the case
10 until you have heard everything in the case. You don't
11 know enough to decide the case. So until you get
12 everything, all the testimony, all the evidence and the
13 Court's instructions you are not allowed to discuss the
14 case or anything about it until the very end. You can
15 talk about football games, whatever but just not about the
16 case. The case is off limits until I say begin
17 deliberations. See you at 2:30.

18 (Whereupon, the jury was excused from open court for
19 a lunch break.)

20 (Whereupon, the trial was moved to the Family
21 Courtroom.)

22 MR. VERNER: Ernest Williams, please.

23 (Whereupon, Ernest Williams enters the courtroom.)

24 THE COURT: This is a pretrial hearing. Mr. Scott.

25 MR. SCOTT: Your Honor, we would call Allison Moore

1 to the stand.

2 ALLISON MOORE, being
3 first duly sworn, testified as follows:

4 DIRECT EXAMINATION

5 By Mr. Scott:

6 Q Ms. Moore, you work with the Newberry Police
7 Department, correct?

8 A Yes sir, I do.

9 Q And how long have you been with that agency?

10 A For about seven years.

11 Q What are your primary duties?

12 A I am the juvenile officer and I also do adult
13 investigations as well.

14 Q So you are an investigator with the department?

15 A Yes, sir.

16 Q And December of last year, specifically December 8th
17 of 2012, were you working in that capacity?

18 A Yes sir, I was the on call investigator that evening.

19 Q On that particular evening did you have an occasion
20 to respond to the LI'L Cricket on Kendall Road?

21 A Yes, sir.

22 Q And what kind of crime were you responding to?

23 A To an armed robbery.

24 Q And what did you understand about that particular
25 armed robbery?

1 A That there was a black male subject that came into
2 the store armed with a revolver and demanded cash from the
3 clerk.

4 Q You said armed with what?

5 A With a revolver.

6 Q Okay. And were you able to speak with the clerk?

7 A Yes, sir.

8 Q What was his name?

9 A Frederick Cooper.

10 Q Video surveillance, was there any video surveillance?

11 A Yes sir, there was.

12 Q Were you able to review it?

13 A Yes, sir.

14 Q Did you recognize the suspect at that time?

15 A No sir, I did not.

16 Q Did the image you saw from the video, did it match
17 the description that Mr. Cooper had given you?

18 A Yes, sir.

19 Q So you processed the scene?

20 A Yes, sir.

21 Q Any other locations on Kendall Road come into play
22 that night?

23 A Yes, sir. A pair of shoes and a peanut cup was found
24 behind Diamond Motors which is just maybe a block away
25 from the LI'L Cricket. And the suspect that evening at

1 the armed robbery took a cup of peanuts.

2 Q Diamond Motors sill on Kendall Road?

3 A Yes, sir.

4 Q Still in the jurisdiction of Newberry Police
5 Department?

6 A The County.

7 Q That is in the County?

8 A That is in the County, yes sir.

9 Q Just outside the line?

10 A Just outside.

11 Q Tell me about El Tipico, what is El Tipico?

12 A El Tipico is to the right of Diamond Motors which is
13 also in Newberry County. They also have video
14 surveillance and the subject was on their video as well
15 entering and exiting their business.

16 Q On that same night?

17 A Same night, yes sir.

18 Q How did you make the connection, the guy you are
19 looking for involved with an armed robbery at the LI'L
20 Cricket, how did you make the connection of him being
21 there and then at El Tipico?

22 A Same clothing.

23 Q Did the County come into play, the Sheriffs
24 Department come into play during this investigation on
25 December the 8th?

1 A Yes sir, from my understanding they gave chase of a
2 possible suspect that night and also Lieutenant Schumpert
3 identified the subject from the video, from El Tipico.

4 Q Okay. So let me be clear. You are investigating an
5 armed robbery at the LI'L Cricket on Kendall, did you put
6 out a BOLO, be on the lookout of a suspect over the radio?

7 A The Lieutenant on shift may have that day but I
8 didn't personally, no.

9 Q Did you hear that on the radio about them chasing
10 somebody?

11 A Yes sir, on my way to the call I did hear that on the
12 radio that they were possibly chasing a suspect matching
13 the description.

14 Q What was the description?

15 A A black male, about 5'7", 5'8", wearing a red jacket.

16 Q Was there any arrest made that night?

17 A Not that night, no sir.

18 Q You mentioned Odell Schumpert with the sheriffs
19 department. You said he reviewed the El Tipico video?

20 A He reviewed a picture that was taken from the video
21 surveillance because that video surveillance could not be
22 downloaded at the time. So he reviewed a picture, a still
23 shot of that picture from that video surveillance.

24 Q This is State's ID number 11. Do you recognize that?

25 A Yes, sir.

1 Q What is that?

2 A That is a still picture from their video surveillance
3 from El Tipico.

4 Q Do you know who generated this image?

5 A Sergeant Kevin Goodman with the City Police
6 Department.

7 Q So y'all actually reviewed the El Tipico video, you
8 weren't able to burn it that night but he takes a picture
9 of it with his phone?

10 A Yes, sir.

11 Q And he shows that to Odell Schumpert?

12 A Yes, sir.

13 Q You are saying Odell Schumpert gives you a name at
14 that point?

15 A He immediately identified the subject.

16 Q What is the name he gave you?

17 A Ernest Williams.

18 Q So you developed Ernest Williams as somebody you are
19 looking for on the night of December 8th?

20 A Yes, sir.

21 Q When did you finally catch up with Ernest Williams?

22 A A couple of days later we learned that he was in
23 Columbia at some sort of hospital. I believe the subject
24 told some police officers that were there, I believe I
25 have, they have warrants on me. They checked and sure

1 enough there were and so they detained him and notified
2 us.

3 Q So Newberry Police Department drove down to Columbia
4 to pick up Ernest Williams?

5 A Yes, sir.

6 Q And then where did they take him?

7 A I believe they brought him straight to my office, I
8 believe.

9 Q Was he wearing just regular street clothes when you
10 saw him?

11 A As far as I can remember correctly, yes.

12 Q You say he came to your office?

13 A Yes, sir.

14 Q At the police department?

15 A Yes, sir.

16 Q Do you remember approximately what time it was?

17 A Late afternoon.

18 Q And what was the date?

19 A Without looking at my notes, sir, I can't recall. I
20 know it was a couple of days later after--

21 Q If I showed you your notes would that refresh your
22 memory?

23 A Yes sir, hopefully. It would have been on the 14th.

24 Q Okay. So y'all catch up with him about a week after
25 the incident occurred?

1 A Yes, sir.

2 Q And he is brought directly to your office at the
3 police department?

4 A Yes.

5 Q So, he is in custody when he gets there, correct?

6 A Yes, sir.

7 Q In handcuffs, do you recall?

8 A Yes, sir.

9 Q And who all is in your office with you when he is in
10 there?

11 A Ernest Williams, myself and Sergeant Goodman.

12 Q What is the first thing you do when he comes into
13 your office?

14 A I immediately read him his Miranda warnings.

15 Q And you read them aloud to him?

16 A Yes, sir.

17 Q Did he seem to understand them?

18 A Yes, sir.

19 Q Did he seem, does he appear to be intoxicated or
20 under the influence of anything?

21 A No, sir.

22 Q And were there any threats or intimidation used
23 against him in your presence?

24 A No, sir.

25 Q By you or Kevin Goodman?

1 A No, sir.

2 Q And did he make any statements to you?

3 A He did, after I read him his Miranda, yes he did.

4 Q Do you read the Miranda from a card or how do you, do
5 you recite them, how do you do it?

6 A I read them from the statement form, our statement
7 form.

8 Q Okay. Let me show you State's number 4, ID, do you
9 recognize this?

10 A Yes, sir.

11 Q What is this?

12 A That is our Newberry City Police Department statement
13 with wavier rights.

14 Q Would you read those waiver rights that you read to
15 him that night?

16 A Yes, sir. It says I have the right to remain silent,
17 anything I say can and will be used against me in a court
18 of law. I have the right to talk with an attorney and
19 have him or her present with me while I am being
20 questioned. If I cannot afford to hire an attorney one
21 will be appointed to represent me before any questioning
22 if I wish. I can decide at any time to exercise these
23 rights and not answer any questions or make any statements
24 if I wish. I understand each of these rights as they have
25 been explained to me. Having these rights in mind I do

1 wish to speak to law enforcement.

2 Q How did he indicate that he understood those rights?

3 A He said he did and he also initialed by each one of
4 them that he understood.

5 Q Those EW's that are there beside each one of those
6 enumerated rights, that is his handwriting?

7 A Yes, sir.

8 Q And that would be his signature?

9 A Yes, sir.

10 Q And who filled this top part out?

11 A That is my handwriting.

12 Q And you indicated Ernest Eugene Williams, Jr. is 44
13 years of age at the time. You have got his address here,
14 you have got he finished twelfth grade in school and that
15 he can read and write?

16 A Yes, sir.

17 Q That is what he informed you of that day?

18 A Yes, sir.

19 Q Okay. Whose handwriting is in the body of this?

20 A That is Mr. Williams'.

21 Q So he sat down with pen and paper and filled this
22 out?

23 A Yes, sir.

24 Q Did y'all have a conversation prior to him writing
25 this or did he just sit down and put pen to paper?

- 1 A We had a conversation prior.
- 2 Q What did he tell you?
- 3 A He pretty much admitted that he robbed the LI'L
- 4 Cricket that night. And that he was sorry.
- 5 Q Did you see him being threatened in any way for him
- 6 to give this statement?
- 7 A No sir, he was not.
- 8 Q What else did he indicate, you said there was a
- 9 revolver involved, did he tell y'all where that was?
- 10 A He told us that he had borrowed that and that he had
- 11 given it back to the person he borrowed it from.
- 12 Q Who did he borrow it from?
- 13 A He never would tell us.
- 14 Q Did he indicate some familiarity with the, that LI'L
- 15 Cricket?
- 16 A He did, because he indicated that he knew the clerk.
- 17 Q What time of day did you say this statement was
- 18 taken?
- 19 A It was late evening, I believe we finished up around
- 20 5:00 o'clock or so.
- 21 Q Did he ask to end the conversation at any point?
- 22 A No, sir.
- 23 Q Did he ask, do you recall if he needed any bathroom
- 24 breaks?
- 25 A Never asked.

1 Q Water breaks?

2 A No, sir.

3 Q After he gave the statement was he asked to sign his
4 statement?

5 A Yes, sir.

6 Q Was he allowed to review his statement?

7 A He was.

8 Q After that did anything else happen that night?

9 A No, sir.

10 Q You said it was you, Kevin Goodman and Ernest
11 Williams?

12 A That's all, yes sir.

13 Q Please answer any questions Mr. Verner may have.

14 CROSS-EXAMINATION

15 By Mr. Verner:

16 Q Officer Moore, who was conducting the investigation
17 of Ernest Williams for law enforcement?

18 A I was.

19 Q Who was with you?

20 A In the interview room?

21 Q Yes, ma'am.

22 A Myself, Sergeant Goodman and Ernest Williams.

23 Q My understanding is he was not identified by the
24 store clerk, was he?

25 A No, sir.

1 Q Are you also the officer who prepared the photo
2 lineup or would that have been a separate officer?

3 A That was a separate officer.

4 Q Do you know where Ernest was arrested or found prior
5 to the interview?

6 A It was in Columbia, it was a hospital.

7 Q He was in a mental health facility?

8 A I reckon so, sir.

9 Q Was he interviewed the same day he was brought back
10 to Newberry?

11 A Yes, sir.

12 Q But you are not the officer who went to Columbia to
13 arrest him?

14 A No, sir.

15 Q Or pick him up?

16 A No, sir.

17 Q Do you know how law enforcement was aware he was in
18 Columbia?

19 A I believe in Columbia, I believe he told officers
20 there that he possibly had warrants on him and they
21 checked.

22 Q He called and said, I hear you are looking for me or
23 something to that affect?

24 A I am assuming that is how it went, I don't know.

25 Q As far as the photo identification you were not

1 involved in at all?

2 A No, sir.

3 Q Either giving it to the witness?

4 A No, sir.

5 Q How long do you think you talked or interviewed Mr.
6 Williams prior to him doing the written statement?

7 A It wasn't long at all.

8 Q Go ahead and, prior to him starting to write the
9 statement, I will backtrack, how long do you, after he
10 wrote the statement on December 14th, apparently about
11 5:00 in the evening, 17:00, I suppose that is 5:00 o'clock
12 in the evening?

13 A Yes, sir.

14 Q Would there have been any further investigation of
15 him after or interrogation after the 5:00 o'clock of the
16 written statement?

17 A No, sir.

18 Q So once you had a written statement he was pretty
19 much taken back to the detention center?

20 A That's correct.

21 Q Do you recall what time he arrived or what time the
22 interrogation was?

23 A I do not, sir.

24 Q Do you remember who picked him up from Columbia?

25 A I believe that was Ryan Gunwall and Richard Mercer.

1 Q Do you know whether they talked to him about why they
2 were picking him up?

3 A I do not.

4 Q And did you do a Miranda rights form?

5 A No sir, just the Miranda on top of that form, that
6 statement form.

7 Q You had him initial and that was read to him line for
8 line or just you read it?

9 A I read it aloud.

10 Q And then he went back and initialed all of them or
11 did he do it after you finished each sentence, he
12 initialed after you finished each sentence?

13 A He initialed after we had went through them and then
14 before he wrote his statement we went through them again.

15 Q Did he appear to know what y'all were coming to talk
16 to him about?

17 A Yes, sir.

18 Q Did Mr. Goodman participate in the interview or was
19 it primarily just you doing the talking?

20 A Primarily me.

21 Q He was just there as a witness to observe?

22 A Yes, sir.

23 Q Was the interview recorded by video?

24 A No, sir.

25 Q Is there any reason it could not have been recorded

1 by video?

2 A No, sir.

3 Q Did you go over the facts of the alleged charges with
4 him prior to him writing the statement or did you just
5 give him the statement and said, write what happened?

6 A No, we talked about it before he wrote the statement.

7 Q And in the statement it appears, after he had written
8 the statement did you go back over it with him to make
9 sure that that was what he intended to write?

10 A Yes, before he signed it I had him initial the
11 beginning and the ending of the sentence and any mistakes
12 he made he needed to initial.

13 Q But did you read it prior to him signing it?

14 A I don't recall.

15 Q But y'all typically go over what he writes in the
16 statement and that is consistent with either what you or
17 he--

18 A I may have, I don't recall.

19 Q In his original statement he indicated originally
20 that he had gone into LI'L Cricket to buy pecans?

21 A Yes.

22 Q And that appears to be scratched out and peanuts is
23 written over it?

24 A Right.

25 Q Did you suggest to him that it was peanuts, not

1 pecans?

2 A I did not.

3 Q That was just something on his own he found and
4 corrected?

5 A Yes, sir.

6 Q And he initially identifies the store clerk as James,
7 not Fred, is that correct and then he appears to scratch
8 that out?

9 A Without looking at the statement, yes sir.

10 Q And that is not your suggestion that he change the
11 name or correct the name?

12 A No, sir.

13 Q Have you seen the video?

14 A Yes, sir.

15 Q Of the crime?

16 A Yes, sir.

17 Q There is a depiction where it appears somebody pulls
18 a firearm in the video?

19 A Yes.

20 Q Does that appear to be a revolver or an automatic
21 type pistol to you, to your recollection?

22 A Well, it has been a while since I reviewed it so I
23 would have to review it again.

24 Q You haven't reviewed it recently?

25 A No, sir.

1 Q After he gave, well how did it come to you that he
2 was a suspect in this crime in the first place?

3 A Sergeant Goodman approached me and advised that
4 Lieutenant Schumpert had identified him.

5 Q By Lieutenant Schumpert, that is the deputy?

6 A Yes, sir. He works for the Newberry County Sheriffs
7 Office.

8 Q At the time that you interviewed him are you aware of
9 any other evidence that connected him?

10 A Not at the time.

11 Q Except there was a video and one of the officers said
12 that it appears to be Ernest Williams?

13 A Yes, sir.

14 Q Did Ernest have short hair or long hair at the time
15 that you interviewed him or do you even remember?

16 A Short hair.

17 Q Like he has today?

18 A Yes, sir.

19 Q Do you know how long he had been in the mental health
20 facility at the time that you had interviewed him?

21 A I do not.

22 Q Did you participate in any kind of search warrants or
23 consent to search of any other property of Ernest
24 Williams?

25 A We did a consent to search on his DNA.

1 Q You took the swab samples of his cheeks?

2 A Yes, sir.

3 Q Did you participate in any other type of--

4 A No, sir.

5 Q Did you take custody of any other, like shoes or any
6 other pieces of evidence?

7 A Yes, sir. That night of the incident a peanut cup
8 was collected and a pair of shoes were collected.

9 Q Was Ernest handcuffed at the time you interviewed
10 him?

11 A Yes sir, I believe he was.

12 Q Is it possible that one of his arms would have been
13 handcuffed to the chair?

14 A I don't recall that.

15 Q Does that sometimes happen or is that--

16 A Sometimes, yes sir.

17 Q That is kind of case by case?

18 A Yes.

19 Q Did you show Ernest the video prior to interviewing
20 him?

21 A Not prior, no sir.

22 Q Not prior?

23 A No, sir.

24 Q Are you sure about that?

25 A As far as I can recall, yes sir.

1 Q Do you know whether Ernest was taking medication at
2 the time you interviewed him?

3 A I do not recall but I know he has a number of medical
4 issues so he may have been.

5 Q Thank you.

6 THE COURT: Anything else, Mr. Scott.

7 REDIRECT EXAMINATION

8 By Mr. Scott:

9 Q Did you ultimately show him the video that day?

10 A Yes, sir.

11 Q What did he do?

12 A I showed him a clip and he smiled like, yes, that is
13 me.

14 Q That is all.

15 RECROSS-EXAMINATION

16 By Mr. Verner:

17 Q Did he say, yes, that is me. Or he just smiled as
18 what you took as kind of a--.

19 A Yes sir, he just smiled.

20 Q And the words were yours but that is how you took it?

21 A Yes, sir. That is how I took it.

22 Q Thank you.

23 THE COURT: You may step down.

24 MR. SCOTT: Ryan Gunwall.

25 RYAN GUNWALL, being

1 first duly sworn, testified as follows:

2 DIRECT EXAMINATION

3 By Mr. Scott:

4 Q Mr. Gunwall, you are working under probation now,
5 right?

6 A Yes.

7 Q Last December you would have been with the city
8 police?

9 A Yes, sir.

10 Q Did you have an occasion on December 14th of 2012 to
11 travel down to Richland Medical Park to pick up Ernest
12 Williams?

13 A Yes, sir.

14 Q Do you recall how y'all found out he was down there?

15 A I forget exactly who notified me was. I was on light
16 duty at the time. I had had shoulder surgery and I was
17 just informed that I would be riding with Corporal Mercer
18 to pick him up from, he was in the mental institution down
19 there and bring him back. I don't remember exactly who
20 notified us but I was just notified I would be riding with
21 Corporal Mercer to assist him in picking him up.

22 Q So your sole responsibility was to drive down there
23 and transport him down back to Newberry?

24 A That's correct.

25 Q That was at 9 Medical Park over there, that is

1 Richland Memorial?

2 A Richland Springs I believe is what it is called.

3 Yes, it is right beside the hospital.

4 Q And when you get down there and you meet him, what do
5 you do, put him in handcuffs?

6 A Actually we had to go through the main hospital to
7 get security passes and all of that and then get over
8 there and we had to meet up with the actual Columbia
9 Police Department and actually had them assist us in
10 placing him in custody and then taking custody from them.
11 Yes, sir.

12 Q So when you get down there he is already in custody,
13 is that right?

14 A No, he was actually in the mental facility and then
15 we, with the assistant of the Columbia Police Department
16 placed him in custody and transported him back.

17 Q He was in handcuffs?

18 A Yes.

19 Q Did you read him his Miranda warnings when y'all
20 picked him up?

21 A No, we did not. We were not questioning him in any
22 way.

23 Q Did you inform him why y'all were there?

24 A We just notified him that we were transporting him
25 back to Newberry. He had some charges he was facing and

1 we placed him in the car and began to ride back to
2 Newberry.

3 Q Did you tell him what charges he was facing in
4 Newberry?

5 A Not at that time, no.

6 Q When did you inform him?

7 A He asked us what was going on later on, the ride down
8 and then we informed him what we were bringing him for.
9 And that is when we told him what the charges were.

10 Q What did he say in response?

11 A I don't remember the exact words, it has been quite a
12 while but he said something to the affect of he was messed
13 up at the time so there wasn't nothing that law
14 enforcement could do to him about that.

15 Q He was messed up?

16 A As in high or drunk, he didn't elaborate much and we
17 told him we didn't want to hear anymore. We were taking
18 him to talk to investigators and we didn't want to, not to
19 speak anymore about it. Again, we weren't questioning
20 him.

21 Q You are not asking him questions. This is something
22 he spontaneous tells you?

23 A Yes.

24 Q Upon hearing the charges he is facing?

25 A Yes.

1 Q What was it again, what was the statement he made?

2 A That he was messed up at the time and pretty much
3 there was nothing that could be done about it because he
4 was messed up.

5 Q Okay. I am just wondering, what specifically did you
6 tell him. Did you tell him the charges he was facing or
7 did you tell him the allegations, the underlined
8 allegations?

9 A We just told him the charge on the warrant.

10 Q Did y'all serve him with the warrant there?

11 A Not at that time. We usually wait until you get back
12 to the jail to serve the warrant.

13 Q And y'all took him from there back to the police
14 department?

15 A Yes, sir.

16 Q And released him to Kevin Goodman and Allison Moore?

17 A Yes and we stayed there at the police department
18 until they were done and then I believe, not sure if I
19 went with Corporal Mercer at that time but I think
20 Corporal Mercer just took him back to the jail because it
21 was getting close to time to go home at the 5:00, 6:00
22 o'clock hour.

23 Q So you didn't Mirandize him but the statement you
24 eluded to earlier, was this, was something he, I guess
25 just spontaneous told you about?

1 A Yes. Like I said, we weren't questioning him so it
2 is not our job to question him. We are just transporting
3 him.

4 Q Thank you.

5 CROSS-EXAMINATION

6 By Mr. Verner:

7 Q Did you write out an incident report or a
8 supplemental report on this transport?

9 A I did not, sir. And, again, I was just helping
10 Corporal Mercer, he did the supplemental.

11 Q Officer Mercer did the report for both of you?

12 A Yes, sir.

13 Q Did you have a chance to review with Officer Mercer--

14 A I did just a second ago, yes sir.

15 Q He didn't mention any statement in his report, did
16 he?

17 A No, sir. He did not.

18 Q My recollection, you testified at the pretrial motion
19 in August, didn't you?

20 A Yes, sir.

21 Q I don't recall, did you testify before the jury too
22 or did you just testify in the pretrial?

23 A I honestly don't remember.

24 Q At the last trial we had you didn't mention the
25 statement, did you, that he made in the car, did you?

1 A I don't even remember if I was asked to be honest.

2 Q Do you recall testifying about it?

3 A I do recall testifying, yes sir.

4 Q But about that statement specifically?

5 A About the statement?

6 Q Yes.

7 A No, sir.

8 Q You may have, you may not have, you don't recall
9 today whether you did or didn't?

10 A Yes, sir.

11 Q And what state of mind would you have characterized
12 Ernest Williams back in December of 2012?

13 A I would say he was fairly normal.

14 Q Did he have long hair or short hair at that time or
15 do you recall?

16 A I don't recall.

17 Q Thank you.

18 MR. SCOTT: The State would call Kevin Goodman.

19 KEVIN GOODMAN, being

20 first duly sworn, testified as follows:

21 DIRECT EXAMINATION

22 By Mr. Scott:

23 Q Mr. Goodman, you are a sergeant at the police
24 department?

25 A Yes, sir.

1 Q Did you become involved with this case involving
2 Ernest Williams on December 8th of last year?

3 A Yes sir, I did.

4 Q Did you respond to the LI'L Cricket that night?

5 A I did, I was working in another capacity at that time
6 but I did go to the LI'L Cricket to offer any assistance
7 to Sergeant Moore.

8 Q What capacity were you working in?

9 A I was actually working Grant Homes that particular
10 night.

11 Q Security?

12 A Yes, sir.

13 Q And how did you become aware of the incident at LI'L
14 Cricket?

15 A By radio, dispatch.

16 Q What was the dispatch that you heard?

17 A That it was an armed robbery at the LI'L Cricket on
18 Kendall Road.

19 Q Did y'all have a description at the time?

20 A To the best of my recollection all that I can
21 remember is a black male with a red coat, at that
22 particular time.

23 Q When you went to the LI'L Cricket were you able to
24 review their surveillance?

25 A I didn't view their surveillance, no sir.

1 Q Whose surveillance did you view?

2 A I viewed El Tipico.

3 Q Tell us again, what, how close, what is the
4 geographical speaking or distance wise, how close is El
5 Tipico to the LI'L Cricket?

6 A Maybe two tenths of a mile, I am not real sure, it is
7 right down the street.

8 Q Just a few blocks away?

9 A Maybe a block.

10 Q How does Kevin Goodman investigate the crime at the
11 LI'L Cricket on Kendall, how does he end up going to the
12 El Tipico on Kendall?

13 A Well, the County got in a chase that night from my
14 understanding from the radio. They saw a suspect around
15 the El Tipico area that fit that description and they
16 started chasing him. I got word that that suspect had
17 been in the El Tipico. So I went down because Ms. Moore
18 was processing the scene at the LI'L Cricket. I went down
19 to view it myself to see if I could recognize the person
20 on video.

21 Q Did you pull the video at the time?

22 A The lady, she didn't know how to burn it
23 to a CD or download it to a junk drive. So at that
24 particular time I just had her pause it at the best show
25 that we could get and I took a picture of it with my

1 phone.

2 Q Again, this is State's number 11. Is that the
3 picture you took?

4 A Yes, sir.

5 Q How did you end up utilizing that still shot that you
6 took of the video?

7 A The officers on the scene had a perimeter set up
8 because again, the County had gotten into a chase. So, I
9 just kind of took my phone and went from officer to
10 officer to see if they knew, because I could not identify
11 him, I didn't know him. So I went from officer to
12 officer, I ended up talking to, meeting up with Lieutenant
13 Schumpert back at the LI'L Cricket on Kendall Road. And
14 he immediately identified him as Poochie. And I didn't
15 know who Poochie was and he said, Ernest Williams. And I
16 still didn't know him but we met up at the police
17 department. We had Ernest Williams in our data base but
18 we didn't have a picture of him so Lieutenant Schumpert
19 printed a picture off of their data base from his patrol
20 car of Ernest Williams.

21 Q So y'all have got a suspect now, you have got a name
22 to match the suspect?

23 A Yes, sir.

24 Q Did y'all make any arrest that night?

25 A No, sir.

1 Q I think we just heard, you got up with him December
2 14th down at Richland Memorial?

3 A That's right.

4 Q Were you involved in the interview with him when they
5 brought him back to the police department?

6 A I pretty much sat there and listened to it.

7 Q You would have been a witness to the statement?

8 A Yes, sir.

9 Q Investigator Moore was primarily doing the
10 questioning I guess?

11 A Right.

12 Q When he got there what did you guys tell him?

13 A Other than Sergeant Moore reading him his rights and
14 informing him on what was going on I didn't tell him
15 anything.

16 Q You witnessed her give him his Miranda warnings?

17 A Right.

18 Q And how did she administer them to him?

19 A She read the rights from that form there and had him
20 to initial.

21 Q State's ID number 4 you are talking about?

22 A Yes, sir.

23 Q And did you watch him initial it?

24 A Yes, sir.

25 Q Did he appear to understand these rights as read to

1 him in your opinion?

2 A He did.

3 Q Did he appear lucid, did he appear clearheaded?

4 A To me he did, that was my first time meeting Ernest
5 so I couldn't compare him to, you know, what he was on a
6 normal day compared to that day but he seemed normal to
7 me.

8 Q He didn't appear to be under the influence of
9 anything like that?

10 A No, sir.

11 Q This ended at 5:00 o'clock p.m. so it was in the
12 afternoon time?

13 A Yes, sir.

14 Q Do you recall if he was handcuffed during this
15 interview?

16 A I know he was handcuffed when he got there. He
17 probably would have been handcuffed in the beginning. But
18 in order to do his initials on his statement he would have
19 to be at least one hand free, his writing hand.

20 Q Okay. Was he threatened or intimidated in your
21 presence in any way?

22 A Not at all.

23 Q Did he ask for a lawyer at any time?

24 A No, sir.

25 Q Did he ask to stop the interview at any time?

1 A No, sir.

2 Q You witnessed him write this statement out?

3 A Yes, sir.

4 Q And you witnessed him sign it?

5 A Yes, sir.

6 Q Thank you.

7 CROSS-EXAMINATION

8 By Mr. Verner:

9 Q Officer Goodman, did you help assist to prepare a
10 photo lineup of this case?

11 A No, sir.

12 Q So you did respond to the scene the night of the
13 alleged armed robbery to the LI'L Cricket?

14 A Yes sir, I did.

15 Q There were other officers prior to your arrival
16 already there?

17 A Yes sir, the initial responding officer, yes sir.

18 Q And then how long did it take to get the tip or the
19 understanding to go down and speak to somebody at El
20 Tipico, that same night or later on that week?

21 A No, it was that night. It all kind of happened, when
22 all of that stuff was going on, to really give you a
23 timeframe but shortly after Sergeant Moore arrived on the
24 scene, somewhere in that area there was, it was relayed to
25 us that the video was at the El Tipico.

1 Q Okay. And how many, the lady I suppose was a
2 Hispanic lady you spoke to?

3 A Yes, sir.

4 Q You asked her to play back the video?

5 A Yes, sir.

6 Q Did it have any timestamps or anything to indicate
7 what time of day?

8 A It would have the time on the screen, yes sir. But
9 for me to tell you that here now, I couldn't tell you
10 without looking at the video.

11 Q Do y'all have the video from El Tipico?

12 A I am pretty positive we do.

13 Q And you believe there was a timestamp from the video?

14 A I believe that it did have the time on it.

15 Q Do you recall how many pictures you took of the video
16 from El Tipico?

17 A On that particular night I only took that shot there
18 with my phone.

19 Q That was just--

20 A That was the best shot, to determine the best picture
21 from the video that night.

22 Q And this was the basis that Ernest Williams to your
23 understanding was identified by Deputy Schumpert?

24 A That's right.

25 Q This is the same picture?

1 A Yes, sir.

2 Q It might have been printed up differently?

3 A Right, it was downloaded to the computer and printed
4 off, yes sir.

5 Q Do you remember how long the interview lasted with
6 Ernest Williams?

7 A I am not sure.

8 Q Would there typically be some kind of notation
9 showing what time he came in, write on the Miranda forms
10 or not just on this particular case?

11 A In this particular case I don't know if that was
12 written down or not. I did not.

13 Q Do you normally write what time an interview starts
14 and ends or is that just not necessary?

15 A It depends on the investigator. I do typically when
16 I conduct one I will write down the time that we get
17 started. But the majority of the time when I am
18 interviewing someone it is an appointment that is already
19 set up. So I typically know about what time that person
20 is coming in.

21 Q And it appears from this that Officer Moore indicated
22 that it ended on December 14th at 5:00 o'clock in the
23 evening, is that consistent with your recollection?

24 A That would be--

25 Q Could it have been as long as an hour with him?

1 A It could have been thirty mintues to forty-five
2 minutes to an hour, yes sir, I guess.

3 Q Could it have been longer or you just don't have a
4 good enough memory?

5 A I don't have a good enough memory to say, I wouldn't
6 say longer than an hour, no sir.

7 Q Did you participate in any of the discussion about
8 the charges with Ernest Williams?

9 A When you say participate?

10 Q It appears Officer Moore was the lead investigator
11 and would have been the lead interrogator of Ernest
12 Williams?

13 A Right.

14 Q Were you there just to witness or were you there also
15 to participate in the interrogation?

16 A I was there to witness.

17 Q So you had conversation within minimal?

18 A It would have been very minimal.

19 Q You didn't know Ernest Williams beforehand so you
20 wouldn't have had any small talk?

21 A When I saw Ernest, I can remember seeing, it is a
22 small town and I was married in a family that he has a
23 cousin in. So I knew of him, I didn't really know him but
24 I have seen him around.

25 Q But not good enough--

1 A But not good enough relationship to sit down and have
2 a chitchat about old days, no sir.

3 Q Do you recall showing Ernest the video, either of the
4 surveillance videos?

5 A He wanted to see it, yes sir.

6 Q Was that before or after he gave this written
7 statement?

8 A That was right at the end afterwards he wanted to see
9 it.

10 Q Are you sure it could have been possibly before he
11 gave the written statement?

12 A To the best of my recollection it was right at the
13 end.

14 Q And after, were you aware that Ernest had been in a
15 mental health facility prior to the interview, in fact the
16 same night of the interview he was taken from a mental
17 health facility?

18 A I was told that he was on his way from a hospital in
19 Columbia. Now, at the beginning I didn't know if that was
20 a mental institute or if he was coming from a regular
21 hospital. I later learned that it was--

22 Q Were you involved in talking to family, finding out
23 where he was, did you have any involvement in that? At
24 some point either he or his family contacted law
25 enforcement and said, Ernest is in Columbia.

- 1 A I didn't talk to his family about where he was. I
2 was just told that he was being transported back.
- 3 Q So that was done by another officer?
- 4 A Right.
- 5 Q How they found him you were not involved in?
- 6 A No, sir.
- 7 Q Did he appear to be nervous?
- 8 A He appeared to be a little nervous.
- 9 Q Do you recall after Ernest had written his statement
10 out did you or Officer Moore go back over it with him to
11 make sure it was as he wanted it written?
- 12 A At the end of the statement it is normally procedural
13 that we will make sure, you know, if there is anything
14 else you want to add, read over it and make sure it is
15 what you want, that kind of thing, if you made any
16 mistakes, clear them up, scratch them out, put your
17 initials, that kind of thing. Just to make sure that once
18 you initial it at the end you don't have to go back and
19 add anything else.
- 20 Q Do you know whether he was given a copy of his
21 statement?
- 22 A I don't know that.
- 23 Q Do you typically give suspects a copy of their
24 statement?
- 25 A Yes. If they want it.

1 Q It appears that Ernest made some corrections to his
2 statement. Do you recall whether those came after he
3 reviewed it with you and Officer Moore or while he was
4 writing it or if you don't remember.

5 A I don't know if he did it while he was writing or at
6 the end. But every correction was his.

7 Q Did you have any other involvement in this case other
8 than the interview, you investigated the day of the
9 incident and then you interviewed or witnessed the
10 interview about a week later. Do you have any other
11 involvement in the case?

12 A No, sir.

13 MR. SCOTT: Nothing further from the State. Your
14 Honor, he was clearly in custody at the time he was at the
15 police department. However it is also clear to me that
16 throughout testimony that he was probably Mirandized and
17 informed of all of his rights, right to remain silent,
18 right to a lawyer, right to end the interview at any time.
19 However, he did freely and voluntarily give the statement
20 first orally.

21 MR. VERNER: I am inclined to put my witness up
22 before, I don't know if he wants to argue now, I was
23 inclined to put my witness up.

24 MR. SCOTT: I am premature, I am sorry.

25 MR. VERNER: My understanding, he has the burden of

1 proving the statement is voluntarily. So I think it is
2 proper for him to speak now but I was inclined to call
3 another witness.

4 MR. SCOTT: That was about it, Your Honor, I think
5 freely given orally first of all. And then again, the
6 Miranda rights read to him and then he was able to review
7 them and initial them. He has signed it, at the total
8 looks like four times, three times on this particular
9 sheet. That would be the State's evidence as far as the
10 Jackson V. Denno and voluntariness nature of the
11 statement.

12 THE COURT: Mr. Verner, you said that you are
13 inclined to call your client.

14 MR. VERNER: For the purpose of this Jackson V.
15 Denno, yes sir. And while he is taking the stand, on a
16 procedural note. We have got another plea lined up and I
17 understand the Court is going to get involved with this
18 case. But they have got a victim, I have got some
19 witnesses, if we could schedule a time in the morning or,
20 I don't know, if we are going to do it today they can
21 stay. But if we were not going to do it today I didn't
22 want them to have to stay. And they have got a victim and
23 we have got witnesses.

24 MR. SCOTT: We could do that, that plea and rest for
25 the day and hit the ground running tomorrow morning. I

1 think this would be a day and a half trial..

2 THE COURT: Let me finish this and do that plea. Why
3 don't we bring the jury in in the morning, that way they
4 won't be sitting back there. I am going to excuse the
5 jury.

6 (Whereupon, the Court talks to the jury in the jury
7 room and excuses them until 9:30 the next morning.)

8 THE COURT: All right, Mr. Verner.

9 MR. VERNER: Ernest Williams, Your Honor.

10 ERNEST WILLIAMS, being
11 first duly sworn, testified as follows:

12 DIRECT EXAMINATION

13 By Mr. Verner:

14 Q Mr. Williams, on December 14th of 2012 that is the
15 date that you were arrested or turned yourself in to the
16 police, do you remember that day?

17 A It was December the 14th.

18 Q Yes, sir. Do you remember, do you remember where you
19 were that day?

20 A Yes.

21 Q Where?

22 A At the mental health.

23 Q Do you remember what facility you were in?

24 A No, sir.

25 Q It was part of the Baptist Hospital though?

1 A Say that again.

2 Q It was part of the Richland Palmetto Hospital?

3 A Yes.

4 Q Where is that in Columbia, do you know?

5 A I don't know what street it is on.

6 Q Do you recall it being on 9 Medical Park Drive?

7 A Yes.

8 Q How long had you been at the mental health facility?

9 A I think four days to a week.

10 Q How did you get down there?

11 A Sherry Scott and another officer, I don't know her
12 name.

13 Q Taken down there by the sheriffs department?

14 A Yes.

15 Q What was the reason?

16 A My friend was in the hospital so my lupus started
17 acting up and asked the doctor there, I said, I hear
18 voices now. And he said what it was. I said, kill myself
19 or kill someone. So the next thing they were putting me
20 in the police car.

21 Q Were you taking any medication?

22 A Yes.

23 Q What were you taking medication for?

24 A My lupus and I had a skin disease.

25 Q What are the symptoms of lupus?

1 A Like cancer.

2 Q How does it affect you?

3 A It affects me in a lot of ways. Like, the doctor
4 already told me, my legs would start swelling up, my feet
5 and my stomach and my head.

6 Q And were you in the process of trying to get
7 disability for the lupus condition?

8 A Yes.

9 Q Do you remember who your attorney was?

10 A Jefcoat.

11 Q Mr. Jefcoat of Newberry?

12 A Yes.

13 Q You hadn't gotten a resolution on that case, have
14 you?

15 A No, sir. If I get out or once I get out I have got
16 one more class to attend.

17 Q What kind of class would you attend?

18 A You have got to go in front of the Judge for him to
19 give you like disability or something, SSI.

20 Q How far did you go through school?

21 A I completed the 12th.

22 Q Were you working, what was the last job you had?

23 A The last job I had was at Kiswire.

24 Q How long ago was that?

25 A 2007 but once I got to this point, disability, so

1 that was it, I couldn't work no longer.

2 Q How did you come to contact law enforcement, did they
3 contact you at the facility or did you contact them or how
4 was that arranged to the best of your understanding?

5 A Well, when I was at the facility I get a phone call
6 from my mom and she, I said, what is going on. She said,
7 the police have been up here. I said, the police. I
8 said, what is the police looking for me for. And she
9 said, something, I just know they are looking for me. So
10 about, within thirty minutes to an hour my girlfriend
11 called me. She said the police came over my house. I
12 said, for what. And she said, basically the same thing.

13 Q Did you contact the police or did your mother?

14 A I did.

15 Q And told them where you were?

16 A I told the guy at mental health, I said my mom and my
17 girlfriend called me and told me the police was looking
18 for me and I wanted to know why. So I told him to get in
19 contact with Lee Foster or whoever to come and get me.

20 Q For the purpose of taking to them?

21 A Yes.

22 Q Do you recall Mr. Gunwall and Mr. Mercer coming to
23 pick you up? Do you recall who the officers were to pick
24 you up?

25 A I don't know them by name, I don't know no officer by

1 name but a couple.

2 Q At the hospital, was that an inpatient facility, were
3 you allowed to leave?

4 A I was inpatient, no, you couldn't leave.

5 Q That was for several days at least?

6 A Yes.

7 Q Do you recall having them telling you, the officers
8 who were picking you up from Columbia, do you recall them
9 explaining to you what they were charging you with or why
10 you were being picked up?

11 A Well, when they first entered, no, they didn't enter
12 the inside. They brought me outside, I really couldn't
13 remember what they was saying because I was on medication.

14 Q What kind of medication were you on?

15 A I was on steroid pills and Lortabs.

16 Q Lortabs were being prescribed to you for what reason?

17 A Cause of my lupus, take away the pain, pain pills.

18 Q Do you recall having any kind of conversation on the
19 drive home with the officers about what they alleged that
20 you had done?

21 A Can't remember.

22 Q Do you recall giving any kind of statement to Officer
23 Gunwall or Officer Mercer?

24 A No, sir.

25 Q Do you recall meeting with Officer Moore or Officer

1 Goodman at the City Police Department?

2 A Yes.

3 Q What was your state of mind at that time?

4 A I was still woozy.

5 Q Did you know what specific crime they were accusing
6 you of or just that it was, did they tell you that they
7 wanted to talk to you about an armed robbery?

8 A At first when I came, I am going to read this right
9 here first. When they brought me from the mental health
10 they took me to the city to see Mr. Moore, Ms. Moore and
11 Mr. Goodman. First of all, they demanded me to look at
12 the video and told me to write what happened in the video.
13 I admit the truth, I was on medication at the moment and I
14 was out of my mind, didn't know if I was coming or going.
15 My lupus was acting up and they knew it. They took
16 advantage of a weak and vulnerable man, me. I got tricked
17 and I was intimidated by them plus Mr. Goodman, he was
18 mean mugging me--

19 Q He was what?

20 A He was mean mugging me.

21 Q Does that mean looking at you, staring at you in a
22 hostile manner?

23 A Yes. I was afraid of him, I was scared. They
24 handcuffed my left hand to the chair. I didn't have my
25 lawyer or mother at my side. They made me confess. My

1 background is good. Only have blue tickets, I did ten
2 years from '97 to 2004, never gotten in trouble since.
3 That was it.

4 Q And those are from the notes you used to refresh
5 your recollection earlier today?

6 A Yes.

7 Q Your own notes?

8 A Yes.

9 Q Did they show you the video before or after you wrote
10 out the--

11 A Before, when I first got there.

12 Q Did they go over Mr. Cooper's statement with you
13 prior to you testifying?

14 A Mr. Cooper?

15 Q The victim, the cashier?

16 A I can't recall.

17 Q Did you know his name prior to the interview?

18 A No, sir.

19 Q You identified him initially as James but then
20 corrected that--

21 A Yes, I thought he was Johnny Tribble.

22 Q You recall whether that was your memory or was it one
23 of the officer's?

24 A I think one of the officer's, I don't know him from a
25 can of paint.

1 Q Okay. You initially wrote pecans in your statement
2 but changed that to peanuts?

3 A Yes.

4 Q Was that at your, refreshing your recollection or one
5 of the officers suggested that you make that change.

6 A I can't recall.

7 Q Is the statement a true statement that you gave law
8 enforcement?

9 A Yes, right here, yes.

10 Q The written statement that they have read over and
11 shown, is that truly what happened on that date?

12 A Yes, because, yes. When they showed me the film I
13 just started writing from there.

14 Q But is that truly what happened or is that just what
15 you want--

16 A That is what happened.

17 Q I just want to make sure you are hearing my question
18 correctly. This statement that you wrote out on December
19 14th of 2012?

20 A It came from me looking at the video.

21 Q You admit that you wrote this statement?

22 A Yes.

23 Q But you are saying today that that is not truly what
24 happened, I wasn't involved in it, right?

25 A Right.

1 Q So you deny that you were actually the one who robbed
2 the store?

3 A Yes, I am not the one.

4 Q But you agree that you wrote the statement but you--

5 A Yes.

6 Q Why did you write this statement again?

7 A Because I didn't really have nobody beside me and I
8 felt like they wanted some answers but they were getting
9 answers from the wrong person.

10 Q Were you expecting some kind of beneficial treatment
11 or some kind of helpful treatment if you wrote the
12 statement?

13 A Not really.

14 Q What did you think you would get out of writing this
15 statement?

16 A I thought they were going to let me go.

17 Q Did anybody specifically say they were going to let
18 you go?

19 A No.

20 Q Was that your understanding of what was going to
21 happen?

22 A Yes.

23 Q Were you in a clear state of mind on that day?

24 A No sir, I was on medication.

25 Q That is all I have.

1 CROSS-EXAMINATION

2 By Mr. Scott:

3 Q Mr. Williams, do you remember me?

4 A Yes, remember you from July.

5 Q We had this same hearing back in July, do you recall
6 that?

7 A Yes.

8 Q And you told me you were from Newberry?

9 A Yes, born and raised.

10 Q You went to Newberry High?

11 A Yes.

12 Q Graduated the 12th grade?

13 A Yes.

14 Q I recall you talking about your lupus then and some
15 of the side affects you had with it. And you are
16 prescribed steroids, the doctor prescribed those steroids
17 to you?

18 A Yes.

19 Q And the doctor prescribed Lortab to you?

20 A Yes.

21 Q And you take them as prescribed, correct?

22 A Yes.

23 Q As a matter of fact, when officers first made
24 contact, that December 14th date we are talking about, you
25 were inpatient care down at Richland Memorial?

- 1 A Yes.
- 2 Q And you were under a doctor's care?
- 3 A Yes.
- 4 Q And he was supervising pretty much everything you did
- 5 whole you were there, correct?
- 6 A Yes.
- 7 Q And they would administer the medicine to you,
- 8 correct?
- 9 A Well, at this time, yes, yes.
- 10 Q So they were administering it to you as directed,
- 11 correct?
- 12 A I think at first, when I was at the hospital, I left
- 13 the hospital to go to mental health, I think I had my
- 14 Lortabs on me. Most every time I was on the street and I
- 15 go somewhere I always keep my Lortabs on me.
- 16 Q Did you tell the doctors there you had those Lortabs?
- 17 A Yes.
- 18 Q And they got them from you, correct?
- 19 A Yes, they took them from me.
- 20 Q And while you were in inpatient treatment down there
- 21 you would not have had access to alcohol, correct?
- 22 A No, sir.
- 23 Q Or crack?
- 24 A No, sir.
- 25 Q Marijuana?

1 A No, sir.

2 Q Any illegal drugs?

3 A No, sir. They wouldn't let me go out, once I checked
4 in.

5 Q So when officers in Newberry first meet up with you
6 they have to take you out of those doctors who were
7 treating you, they have got to take you from them to bring
8 you back up here to Newberry, correct?

9 A Yes.

10 Q Now, you have had lupus since '08, that is when you
11 were diagnosed with it, right?

12 A Yes.

13 Q So you have learned to deal with it to some degree,
14 correct?

15 A Yes.

16 Q But you say it does require these medications?

17 A Yes, the doctor told me for my life, the doctor told
18 me it was going to be off and on. I could be feeling good
19 today and tomorrow I could be feeling bad.

20 Q So you have good days and bad days?

21 A Bad days, yes.

22 Q Back in July and I remember that trial because that
23 is when it rained on the inside of the courtroom, right?

24 A Yes.

25 Q You described going to the police department and

1 being in a good mental state of mind?

2 A I can't recall.

3 Q Isn't that what you said when we had the last
4 pretrial hearing?

5 A I just said I can't recall.

6 Q Okay. What is your testimony today, what kind of
7 state of mind were you in after going to supervised
8 medical care to the police department?

9 A What today?

10 Q I am sorry, December 14th whenever you were under
11 supervised treatment down at the hospital and you were
12 transported back to Newberry, what kind of state of mind
13 were you in then?

14 A I wasn't in my right state of mind.

15 Q Why not?

16 A Because I was on medication.

17 Q But a doctor gave you the correct kind of medication,
18 correct?

19 A Just because the doctor give you medication that
20 don't mean it is going to hit right then. I can take
21 steroids now, that don't mean that I am going to be
22 drowsy, it is going to take time. Because when they first
23 came there I was, I was asleep.

24 Q You gave your statement on the 14th that it ended at
25 5:00 p.m., correct?

1 A What ended?

2 Q The statement.

3 A When the mental health people came and got me I was
4 asleep at the time.

5 Q Okay. I am not talking about the mental health
6 people, all right. December 14th when the police
7 department go down there and take you from the mental
8 health people, about what time of day was that?

9 A I don't know but it was daylight.

10 Q What state of mind were you in when you left Richland
11 Memorial and came back up here to Newberry?

12 A Like I say, I was out of it.

13 Q What does that mean, how were you out of it?

14 A Because I was on medication, I wasn't myself.

15 Q Aren't these drugs you have been taking since 2008?

16 A No.

17 Q How long have you been taking Lortab?

18 A I think I started taking Lortab like 2010. It is
19 different kind of medicine that I was given. I had like,
20 I had like five to six different kind of pills. I don't
21 know all of them big words name.

22 Q Did you take them on the 14th?

23 A I took some on the 14th.

24 Q Lortabs?

25 A Yes.

1 Q And steroids?

2 A Yes. I take like Lortab four times a day.

3 Q Did the doctor give too many to you that day?

4 A No. I was used to taking four a day, that morning,
5 12:00 o'clock that evening. Well, 6:00 that morning,
6 12:00 that evening.

7 Q So on the 14th the doctors had given you your
8 medicine like you are suppose to be taking it. The
9 doctors prescribe that medicine to you, correct?

10 A Yes.

11 Q And what does it take, 40 minutes or so to get from
12 downtown Columbia up here?

13 A Yes, if there is no traffic.

14 Q And did you tell anybody about feeling, how would you
15 describe, tell me again you are out of it. What does that
16 mean?

17 A Weak.

18 Q But could you understand where you were?

19 A I knew I was at the mental health.

20 Q Did you know when you were in Newberry?

21 A The only way I knew I was in Newberry when they took
22 me down to the city.

23 Q You knew where you were?

24 A I felt like, why didn't they take me to Newberry
25 Detention Center.

- 1 Q They took you directly to the police department?
- 2 A To the city.
- 3 Q To the police department?
- 4 A Yes.
- 5 Q Okay. And now when you got there it is still
- 6 daylight?
- 7 A Yes.
- 8 Q You are still wearing your street clothes, right?
- 9 A The clothes I got on today.
- 10 Q Okay. And when you went in you sat in a room with
- 11 Kevin Goodman and Allison Moore, correct?
- 12 A Well, I was sitting in the room with Ms. Moore but I
- 13 always knew, I didn't know his name was Kevin Goodman. I
- 14 always thought his name was Mr. Bowie.
- 15 Q I think that is a nickname that he goes by. But you
- 16 knew who he was?
- 17 A Yes.
- 18 Q And do you remember when Allison Moore read you the
- 19 Miranda warnings?
- 20 A I can't recall.
- 21 Q Can I show you something. This is State's number 4.
- 22 Do you recognize this?
- 23 A Yes.
- 24 Q What is this?
- 25 A It says, waiver of rights.

1 Q Whose handwriting is this in the body of this?

2 A My handwriting.

3 Q And you indicated on here that you completed the 12th
4 grade?

5 A Yes.

6 Q And you recited your social security number and your
7 address?

8 A Yes.

9 Q Date of birth and telephone number?

10 A Yes.

11 Q And what does this say right here in the middle of
12 the page?

13 A Miranda rights.

14 Q And how many different Miranda rights are given to
15 you?

16 A Seven.

17 Q And what is this handwriting to the left to each one
18 of these seven rights?

19 A It is my initials.

20 Q And whose handwriting is that?

21 A Mine.

22 Q Do you recall putting your initials on there when
23 those were read to you?

24 A I think I have read that myself.

25 Q But do you recall putting your initials beside them

1 after you read them?

2 A I do believe.

3 Q And do you recall being read, I have the right to
4 remain silent?

5 A I can't remember all of that.

6 Q But you do remember initialing it?

7 A Yes.

8 Q Anything I say can and will be used against me in a
9 court of law. Do you recall that right?

10 A I can't remember.

11 Q But you did signature beside it, correct?

12 A Yes.

13 Q I have the right to talk with an attorney and have
14 him or her present with me while I am being questioned.
15 Do you put your initial beside that right?

16 A I don't remember but I initialed it.

17 Q What do those initials beside each one of those
18 rights indicate to you?

19 A Once I read it I put my initials beside it.

20 Q I mean you have got good handwriting, don't you think
21 you have got pretty good handwriting?

22 A Yes.

23 Q And you went on to 12 grades at Newberry High, right?

24 A Yes but that hasn't got nothing to do with your
25 handwriting.

1 Q Where did you learn to write?

2 A School.

3 Q I guess my point is, you have gotten an education,
4 correct?

5 A Yes.

6 Q In fact you held down a job at Kiswire for a few
7 years, right?

8 A Seven.

9 Q Seven years?

10 A And fifteen at Newberry College.

11 Q Do what now?

12 A And fifteen at Newberry College, I worked there.

13 Q What did you do at Newberry College?

14 A Was like a cleanup person.

15 Q You have lived in the real world and you have worked
16 in the real world and you understood these rights when
17 they were read to you, correct?

18 A Yes, but I wasn't sick then when I was working.

19 Q Now, what does lupus have to do with understanding
20 these rights right here?

21 A Lupus, it messes with your head sometimes. You don't
22 know if you are coming or going. Only I can be the one to
23 tell you, you have to experience it yourself.

24 Q I understand there is some physical pain that goes
25 with it?

1 A All the time.

2 Q Is that what causes, I don't know what you are
3 talking about, when it affects your mind, is it physical
4 pain?

5 A Yes. I am in pain.

6 Q That is why you take the Lortabs, right?

7 A Yes.

8 Q That LI'L Cricket on Kendall Road, that is near your
9 home there on Cottage Avenue, is that correct?

10 A About a couple of blocks away from where I stay.

11 Q And this LI'L Cricket has been there for some time
12 and you go there pretty regularly, right?

13 A Basically I go from BP to Food Lion, that is when
14 Food Lion was open, maybe to the LI'L Cricket.

15 Q That LI'L Cricket you have been going to for a while.

16 MR. VERNER: Respectfully, I do think this is beyond
17 the Jackson v. Denno, voluntariness of the statement.

18 THE COURT: I will sustain that.

19 Q After this questioning Kevin Goodman is in the room
20 with you, Allison Moore is there, did you ask to end this
21 statement at any time?

22 A I didn't ask nothing.

23 Q You just wrote the statement out?

24 A Yes.

25 Q It was after that that you say they let you watch the

1 video?

2 A They let me watch the video first.

3 Q And you are saying you watched the video first and
4 then you wrote the statement?

5 A As I was watching the video I was writing down. What
6 got me, they kept showing, I don't think they had no
7 photo. When they showed the video I was like, I can't
8 tell who this person is. The person got, there was a
9 person walking with a body but no face. If the police
10 could not identify them what made them think I could
11 identify him.

12 Q What did the video show?

13 A Showed a man with a red coat on, hoody. I think he
14 had a stocking cap or a cap or something, I could not
15 identify him.

16 Q But you remember this whole exchange, you remember a
17 lot of details about watching the video and sitting there
18 talking?

19 A I watched the video over ten times.

20 Q I am talking about that day. You remember a lot
21 about that interview, right?

22 A Basically.

23 Q And you remember, I think you said Kevin Goodman was
24 mean mugging you?

25 A I call mean mugging, like staring at me. I know

1 Kevin Goodman, well Bowie, Mr. Bowie as I know him. He
2 ain't look like he is a violent person but I just call him
3 mean mugging.

4 Q I guess my point, do you remember the faces he was
5 making, you remember that you were wearing those same
6 clothes that you are wearing today. You remember it was
7 day time?

8 A That has been a year later. On the 14th of this
9 month will be a year. I didn't recall all of that back
10 then. But now I can say, I am feeling good right now.

11 Q Doesn't that indicate that you were in a pretty good
12 state of mind then if you remember what all was happening?

13 A If you put a TV in front of me of course I am going
14 to know by looking at it.

15 Q This is your statement, correct?

16 A Yes.

17 Q And these are your initials, correct?

18 A Yes.

19 Q Thank you.

20 MR. VERNER: No more questions.

21 THE COURT: You may step down, Mr. Williams.

22 MR. SCOTT: Your Honor, essentially what I was saying
23 but the only thing that I would just add was, he is taking
24 pain killers and they are being administered by a trained
25 medical professional. He is able to recall pretty good

1 detail everything that was happening that day. That
2 indicates to me in a pretty clear state of mind. As he
3 said, he has got all twelve years of education. He is an
4 educated individual. Admits to the statement, admits to
5 his initials by each one of the rights in Miranda. It was
6 testified to earlier, he appeared to have no trouble
7 understanding it and did not indicate that he had any
8 trouble understanding his rights. Your Honor, we would
9 ask that the statement has been identified as State's
10 number 4 be admitted as freely and voluntarily given.

11 THE COURT: Mr. Verner.

12 MR. VERNER: May it please the Court, Your Honor, we
13 would ask the Court, were there two statements. The first
14 statement I would like to address, the one by Officer
15 Gunwall who testified today. Prior to his testimony 15
16 minutes ago or how ever long it was. There has been
17 nothing given to me about that statement. He testified at
18 the trial, I don't remember whether he testified before
19 the jury or not, likely he did but he did not testify
20 about any statement nor was there any kind of written
21 recollection. He testified he was aware he was a suspect
22 in an armed robbery and had not been Mirandized. I would
23 ask that that statement to be, because we were never
24 provided any, until today, that that statement existed
25 even though we tried the case last time. I would ask for

1 that case to be struck for several grounds.

2 MR. SCOTT: I will stipulate to that, Your Honor,
3 that was sort of, the only reason we even called him was
4 because he was addressed with Mr. Verner, just willing to
5 establish--

6 THE COURT: It won't be introduced during testimony.

7 MR. VERNER: In case-in-chief. Thank you, Judge.
8 The second is, just, it is clear he had been in a medical
9 park, mental health facility operated by Richland
10 Palmetto. Had been in there for several days. In
11 hindsight it doesn't seem to make a lot of sense to take
12 somebody out of a mental health facility and interrogate
13 him the same day, both because of the probability that he
14 is taking prescribed medicines and of course his state of
15 mind at that time. And that is just in a totality of
16 circumstances. He has got a history of lupus and on that,
17 Your Honor, I will mention that at the end of it. But
18 just, it raises a red flag when you pull somebody out of a
19 mental health treatment facility and interview him the
20 same day that he is very likely not in his right mind or
21 under the influence of pharmacology. And secondly, Your
22 Honor, because there are some material changes to the
23 statement that were corrected, an inclination that the
24 statement may have been coached in part, given his state
25 of mind we would ask the Court to, it characterizes it as

1 an involuntary statement. I don't really challenge that
2 the Miranda was given but just, at first blush there just
3 appears to be a very large red flag that there is some
4 possibility to probability that he might not have been in
5 his right mind, taking him from a mental health facility
6 and interrogating him immediately upon his arrest, Judge.
7 The separate issues, may I approach, Judge. The issue of
8 his competency. I did subpoena the Department of Mental
9 Health and he has got no prior mental health records. I
10 would offer that as a Court's exhibit. I have got a faxed
11 reply from the Department of Mental Health indicating he
12 has never been a patient. And as identification, I did
13 speak to Sam Jefcoat, his disability, that claim has been
14 withdrawn. Clearly he has lupus, there is no indication
15 that mental health was a part of his disability claim but
16 it is clear through Mr. Jefcoat's testimony and the
17 doctor's report that he has had a long history of lupus
18 and bad eczema. That would be number two.

19 THE COURT: Court's 1 and 2, mark them.

20 (Whereupon, Court's Exhibit 1 and 2 were marked for
21 identification only.)

22 MR. VERNER: The doctor's report indicates just
23 chronic lupus and skin eczema. That would be our motion
24 in our case, Your Honor.

25 THE COURT: I think that based upon the testimony

1 that has been presented, considering the Jackson v. Denno,
2 the State has provided that he was in custody, advised and
3 explained of his rights, he initialed and understood his
4 rights. He was then interviewed and allowed to write the
5 statement himself. I think all of those considered, the
6 observation of two officers he appeared lucid and normal.
7 I think that the statement will be admitted as voluntarily
8 given understanding to challenge the, some of the issues
9 of not having prior knowledge of any medical history or
10 mental illness or mental status of Mr. Williams. I am
11 going to allow it. All right. What else. You are not
12 going to bring in the verbal statement from the patrol car
13 coming back from Columbia.

14 MR. SCOTT: No, sir. I think that is all pretrial.
15 I don't think there is a Neal V. Biggers issue. There was
16 a photo lineup given however he was not one of the people
17 in the lineup, this is before they get the name of Ernest
18 Williams. So unless Charles knows of something else that
19 would be the only pretrial matters we have.

20 THE COURT: Okay. Anything else from you, Mr.
21 Verner?

22 MR. VERNER: Not about Mr. Williams.

23 THE COURT: No other pretrial matters we will get
24 ready on this one at 9:30 in the morning. Give
25 preliminary instructions to the jury. If y'all have any

1 is going to place you under oath and then I want you to
2 take the notepad count.

3 (Whereupon, the jury was sworn at approximately 9:50
4 a.m.)

5 THE COURT: See if you want any notepads.

6 FORELADY: We need four notepads. What does the
7 alternate do.

8 THE COURT: The alternate is part of the 13. The
9 alternate's job is to listen just as attentively.
10 Something may happen during the trial to cause one juror
11 to not be able to come back, they may get an upset
12 stomach, a child may get hurt, something unexpected. If
13 that happens then the alternate moves in and becomes one
14 of the 12. Because we don't know what will happen the
15 alternate is part of the 13 and he does what y'all do,
16 listens, listens to my instructions and he will sit with
17 the jury just like y'all up to the very end. Until I say
18 begin your deliberations he is still in the room with
19 y'all. So he gets all of the snacks and the coffee just
20 like y'all do and he gets paid the same, he just doesn't
21 get to participate in the deliberations. I want you to
22 give your attention to the opening comments and statements
23 made by the attorneys. And then after they get done with
24 that we will have our first witness. Mr. Daniel.

25 MR. DANIEL: Thank you, Your Honor, may it please the

1 Court. Ladies and gentlemen, Ernest Williams is a taker,
2 he takes what he wants, when he wants, at least that was
3 the case on December the 8th of 2012. That is why you are
4 here today. I am going to submit to you on that date,
5 December 8th of 2012 Ernest Williams was the worse kind of
6 taker, he took by force, threat of force, violence and
7 intimidation. That is what he did. That is why Ernest
8 Williams stands before you on trial today for committing
9 the offenses of armed robbery, possession of a weapon
10 during a violent crime, that violent crime being armed
11 robbery. Unfortunately this case presents all too common
12 scenarios that we are used to seeing on the news. This
13 State, this Country for that matter, the scenario where a
14 convenient store clerk/cashier is robbed at gunpoint. And
15 that is what is before you today, these facts. The
16 convenient store in this case is the LI'L Cricket on 1315
17 Kendall Road, a few miles from this Court House. The
18 cashier, Frederick Cooper, that is our victim in this
19 case. Here is what we, the State, intend to prove in this
20 trial, I will kind of give you a roadmap in this case.
21 Some of the factual issues. On December the 8th of 2012
22 was a Saturday, about 10:00 p.m. Ernest Williams entered
23 the LI'L Cricket on Kendall Road here in Newberry County,
24 he was wearing a red coat, he enters the store. Like most
25 customers he cruises the aisles, he heads to the area of

1 the store where they are selling peanuts. Now the way
2 they had it set up at the LI'L Cricket is you can scoop
3 the peanuts yourself, put them in a cup. Ernest Williams
4 does that, heads to the front of the store, places the
5 peanuts on the counter like he is intended to make a
6 purchase, just like a normal paying customer would do.
7 Ernest Williams, he puts the peanuts on the counter and he
8 heads to the restroom. Moments later Ernest Williams
9 comes out of the bathroom, this time he is armed with a
10 weapon. In his hand he is brandishing a handgun. He goes
11 to the back of the counter where Frederick Cooper is
12 standing, points the handgun to Frederick Cooper, demands
13 that Frederick Cooper open the cash register. Frederick
14 Cooper complies, what other choice does he have, he is
15 staring down the barrel of a gun. Ernest Williams cleans
16 out the register, leaves. But wait, what does he forget,
17 he forgets the peanuts so he comes back in to get his
18 peanuts and that is going to be a key point later on, this
19 peanut cup. So finally Ernest Williams exits for good
20 this time. Frederick Cooper calls the police and reports
21 an armed robbery just occurred. The police arrives, the
22 investigation commences. They are on the hunt for a
23 robbery suspect who is wearing a red coat, someone wearing
24 a red coat, the hood was up at the time when he was at the
25 LI'L Cricket. Frederick Cooper is able to give a

1 description, a physical description, gender, race, build,
2 what he is wearing, the red coat particularly. The police
3 gets that, that is relayed. There is a perimeter set up
4 in this area. And this in kind of the Nance Forest, there
5 is a playground nearby, Kendall Road kind of intersects
6 College Street and Nance Street. So this is the area we
7 are talking about where the perimeter is established
8 looking for this robbery suspect. So those are the facts
9 in the case. So how are we, the State, going to prove
10 this. What evidence are we going to introduce to show you
11 that Ernest Williams was the robber. Well, you are going
12 to hear testimony. First and foremost you are going to
13 hear testimony from the victim in this, you are going to
14 see the surveillance tape, give you a play by play about
15 Ernest Williams carried out the robbery. You are going to
16 see that. You are going to hear testimony from the law
17 enforcement officers who were involved tracking Ernest
18 Williams, ID'd him, how they ultimately made the arrest.
19 You are going to hear testimony about that. You are going
20 to hear testimony about the physical evidence that was
21 seized in the vicinity of this LI'L Cricket, the peanut
22 cut and a pair of shoes. You are going to hear about how
23 that comes into play which that links Ernest Williams to
24 the robbery at the LI'L Cricket, you are going to hear
25 about that. And lastly and most importantly you are going

1 to hear testimony from Allison Moore and Kevin Goodman of
2 the Newberry Police Department. They were the two
3 investigating officers in this case. And once Ernest
4 Williams was apprehended as the individual believed to
5 have committed this robbery, Ernest Williams gives a
6 confession or he admits his involvement. Now, what I mean
7 by that is he admits, hey, I am the guy, the videotape
8 doesn't lie. You get to hear that statement and the
9 officers who were present when that statement was made by
10 Ernest Williams. That is kind of the roadmap of this
11 case, what the State intends to introduce. It is all
12 going to be laid out in front of you. You are the judges
13 of the facts. His Honor is the Judge of the law. You are
14 going, at the conclusion of this trial you are going to
15 have to go back there and deliberate and decide what
16 happened, is Ernest Williams the perpetrator of this
17 crime. You are going to have to determine that. Use your
18 common sense, logic, reasoning, same common sense you had
19 when you walked in this courtroom. You are going to need
20 it more than ever for this trial. Common sense is going
21 to tell you that Ernest Williams is guilty of this
22 offense. That is what we, the State, intends to prove.
23 Briefly I am going to touch on the law, armed robbery.
24 That is what Ernest Williams is on trial for. Armed
25 robbery is pretty simple, I think of it as taking property

1 from another by force. I think pointing a handgun at
2 somebody, demanding that they open the register and you
3 are cleaning it out, that is taking a property that
4 doesn't belong to you by force, armed robbery. If you
5 think Ernest Williams is guilty of armed robbery then you
6 find him guilty of possession of a weapon during a violent
7 crime, being armed robbery. He has a gun, you will hear
8 Ernest Williams confession. He talks about the gun, you
9 will hear Frederick Cooper tell you, hey there was a gun
10 in my face. So that is the two charges this trial is
11 about. Now, the burden is on the State to prove Ernest
12 Williams guilt beyond a reasonable doubt. Ernest Williams
13 doesn't have to prove anything, he has the presumption of
14 innocence. The Judge will instruct you on that in detail
15 at the end of this trial. So it is on us to prove that
16 and we gladly accept that burden. But proof beyond a
17 reasonable doubt, that is kind of an abstract concept.
18 The way I like to think of it is, proof that leaves you
19 firmly convinced that Ernest Williams is guilty of
20 committing armed robbery. That is how I think of proof
21 beyond a reasonable doubt. We have to leave you firmly
22 convinced. It is common sense. For instance, you woke up
23 one morning and you looked on the weather channel on your
24 phone. they say, hey, there is ninety percent chance of
25 rain. So you head to work, you don't see it rain. Once

1 you get to work you hear raindrops, what sounds like
2 raindrops hitting the roof of the building, you still
3 don't see the rain. Then you have a coworker come in,
4 they are wearing a raincoat, they have got an umbrella,
5 you see water on their raincoat, you see them holding an
6 umbrella. That morning when you woke up, ninety percent
7 chance of rain you heard from the weather people. You go
8 into work and you hear rain drops on the building hitting
9 the roof, you see a coworker wearing a raincoat with water
10 on it. What are you going to conclude from that. It is
11 raining, that is firmly convinced right there. That is
12 kind of an example of what firmly convinced is. And that
13 is all we have to do in this case and that is what you
14 have in this case. You have these pieces of evidence, you
15 have Frederick Cooper as any eyewitness testimony, you
16 have the surveillance tape that captured the armed robber,
17 you have testimony from law enforcement officers who are
18 able to ID him, link Ernest Williams to the robbery
19 through physical evidence and individuals who recognize
20 Ernest Williams from surveillance footage. And lastly you
21 have a confession. So it is kind of like the scenario I
22 just described with, even though you didn't see it raining
23 you conclude that it is raining, you are firmly convinced.
24 None of you guys were there that night of the armed
25 robbery, I wasn't there, you weren't there. You didn't

1 see it, just like you didn't actually see it raining but
2 you concluded it was raining from all of those pieces of
3 evidence that I just described. Mr. Verner may say, well,
4 what if I were to tell you that there was a sprinkler
5 system outside the place where you worked. That is why
6 this person was wet. Okay. Yes, that is doubt right
7 there but is that doubt reasonable to think that the
8 person that was wet because there was a sprinkler system.
9 No. That is not reasonable doubt, your doubt has to be
10 reasonable. Your firmly convinced standard, use your
11 common sense and that is what I ask you. And just
12 briefly, my name is Taylor Daniel. I was introduced back
13 during jury selection yesterday. I will be trying this
14 case along with Deputy Solicitor Dale Scott. We work for
15 the Eighth Circuit Solicitor's office. Your elected
16 Solicitor is David Stumbo. The Eighth Circuit is
17 comprised of Newberry County, Laurens, Greenwood and
18 Abbeville. And basically what is a Solicitor, a
19 prosecutor, we enforce the criminal laws of the State of
20 South Carolina. And even though it is the State of South
21 Carolina, it is really the people, that is what it means.
22 We represent the victim and the public at large
23 essentially by enforcing these criminal laws. That is
24 what I like to think of when you think of the State. That
25 is our job, that is what we are here to do and the burden

1 is on us to prove his guilt and I believe at the
2 conclusion of this case you will find Ernest Williams
3 guilty of these two offenses. Thank you for your time.

4 THE COURT: Mr. Verner.

5 MR. VERNER: May it please the Court and members of
6 the jury. They want you to convict Ernest Williams of
7 armed robbery and that is all well and good. I want to
8 disagree a little bit with the Solicitor, the Assistant
9 Solicitor here. When he says if you think he is guilty
10 you can convict him, no. You have to be sure because what
11 you do today, if you convict him, this is an armed robbery
12 charge. This isn't coming in wet from a rain storm or you
13 can get just as wet from a sprinkler. The State has the
14 burden of proving there was no sprinkler outside. This is
15 an armed robbery case, we are not talking theoretically
16 issues here. A man is going to be punished for armed
17 robbery, if all twelve of you are firmly convinced that
18 there is no other reasonable person other than Ernest
19 Williams who robbed the store. That is what you are going
20 to do today. It is not theoretical. I do want to clarify
21 something. Now, the Court talked about there might be
22 appeals down the line. They don't correct jury verdicts.
23 They correct when a Judge makes a mistake of law, charges
24 the wrong law. They don't have authority to second guess
25 what you do today. There is not a calvary coming to his

1 rescue if you get it wrong today. You have got to reach a
2 verdict that in your heart you think is true. And I don't
3 fault you in either verdict. I am here full-time, they
4 are here full-time, we all respect your verdict. They
5 have the burden of proving that nobody else realistically
6 robbed the store. And we have got basically two pieces of
7 evidence. We have got an identification of the suspect
8 and we have got the confession. And I will address both.
9 The only evidence, disregarding the confession,
10 disregarding the confession, the only evidence against
11 Ernest Williams is that in another surveillance tape at a
12 different place an officer says, well, that looks like
13 Ernest Williams. They did identify him, the cashier
14 didn't identify him, nobody identified him, just from a
15 later date from a different videotape an officer said,
16 well, that looks like Ernest Williams. That is the entire
17 case they have, period. If we don't have the confession
18 that is the entire case. An officer says it looks like
19 Ernest Williams. and I submit to you you are going to
20 watch the videotape and the other evidence. There is no
21 way you can identify who it is in the videotape and you
22 will see why. He is not on the videotape at all whoever
23 robbed the store. One problem is that the cashier
24 identified the man who robbed him as being up to 5'10" in
25 height. Stand up for a second, Ernest. I am 6'2", Ernest

1 is 5'3". And you are going to see the videotape. That is
2 the entire case. You can sit back down, Ernest. Ernest
3 says, I'm not the guy who did it. So we come to the
4 confession. There is a written confession where Ernest
5 said, I robbed the store. I submit to you there are some
6 problems with the confession. The very first is that
7 Ernest was in a mental health facility. They picked him
8 up in Columbia in a mental health facility, interrogated
9 him the same day. And it is not on videotape, we don't
10 know how long it lasted or Ernest is going to tell you
11 they told him about the charges, that he watched the
12 videotape. He didn't think he was getting in the trouble
13 he is getting. He was cooperating, it is not something I
14 would do but it happens. I am just falling back on the
15 oldest defense we have in the U.S. Supreme Court, that a
16 system of criminal law enforcement which comes to depend
17 on a confession in the long run is less reliable and it is
18 more subject to abuse than a system that depends on
19 extrinsic evidence, that is actual proof, independently
20 secured through a skillful investigation. They have got
21 the sample of DNA from the suspect, whoever robbed the
22 store, they took the DNA, they took the peanut cup, they
23 took some articles of clothing and they sent it to SLED
24 for DNA and they have not gotten the results back yet
25 where they have got the man's DNA which is as conclusive

1 as fingerprints. Before they even have that evidence in
2 court to show you they want you to convict Ernest when
3 they have got the actual DNA footprint that they haven't
4 bothered to wait for the results for. That might raise a
5 red flag. And I will tell you, I wasn't there. I can't
6 tell you from a known fact what I know about what happened
7 in December of 2012, none of you do which y'all are going
8 to have to make a best decision based on the evidence.
9 The burden of proof is basically, they tell you in law
10 school, it is the burden of production which means if they
11 have proof they have to produce it in front of you and
12 then after they produce the evidence they have to persuade
13 all twelve of you that every fact that they argue from the
14 evidence that they have produced is true. There are
15 problems that I will get to beyond that with the
16 confession. But Ernest didn't realize he was getting into
17 the trouble he is getting into. There is a problem with
18 interrogating, I submit to you somebody you take out of a
19 mental health clinic and interrogate him the same day
20 within an hour of leaving the mental health clinic. He is
21 on medications, he is not thinking clearly, he has other
22 problems. When you show him the tape and tell him what he
23 is being charged with doing I submit probably most
24 confessions are true but I submit there are confessions
25 when people just want things to go away. Yes, I did it

1 when they didn't really do it, not thinking that the
2 consequences would be this severe. And I submit, if the
3 proof is there convict him. If there is any possibility
4 that maybe there was a sprinkler out there or that there
5 was another man out there you are duty bound to find him
6 not guilty. That is the role of the jury, not to find the
7 truth, it is to protect the citizen from the State.
8 Before the State can take your liberty, your life or your
9 property they have to convince twelve people who live in
10 your community of every essential fact they claim is true.
11 We don't work together here, we are not a team, we are an
12 adversarial system. The jury is on the side of the
13 defendant, that is why you are in the constitution is to
14 protect the citizen against mistaken or false charges.
15 And that is what I would ask you to consider at the end of
16 the case.

17 THE COURT: We will take a break. Step back to the
18 jury room, don't discuss the case. We will be back in ten
19 minutes.

20 (Whereupon, the jury was excused from open court for
21 a short break.)

22 THE COURT: We will take a break.

23 (Whereupon, a short break was taken.)

24 THE COURT: Bring the jury in.

25 (Whereupon, the jury came into open court at

1 approximately 10:32 a.m.)

2 THE COURT: The State may call its first witness.

3 MR. SCOTT: May it please the Court, the State calls
4 Frederick Cooper.

5 FREDERICK COOPER, being
6 first duly sworn, testified as follows:

7 DIRECT EXAMINATION

8 By Mr. Scott:

9 Q Good morning, Mr. Cooper.

10 A Good morning.

11 Q Where are you from?

12 A Newberry, here.

13 Q Did you grow up here?

14 A Yes.

15 Q Did you go to school here?

16 A Yes, sir.

17 Q Did you graduate?

18 A Yes.

19 Q Newberry High?

20 A Yes.

21 Q How old are you right now?

22 A 34.

23 Q Where are you employed?

24 A International Paper in Prosperity.

25 Q December of last year where were you working?

1 A LI'L Cricket on Kendall Road.

2 Q Okay. That is the LI'L Cricket, if we turn left here
3 and went down Nance Street, once we got to Kendall you
4 take a right?

5 A Yes.

6 Q It is right there on the left?

7 A Yes.

8 Q Just a couple of miles down the road from here,
9 right?

10 A Yes, sir.

11 Q Now on December 8th how long had you been working for
12 LI'L Cricket at that point?

13 A Going on two years.

14 Q And what was your job there?

15 A Cashier.

16 Q Primarily did you work a set number of hours or did
17 it change from time to time?

18 A It varied.

19 Q Do you recall what shift you had December 8th?

20 A Yes, I had the second shift.

21 Q When do you start the second shift?

22 A Sometimes 2:00, maybe 3:00 in the afternoon.

23 Q How long does that last?

24 A It last from 11:00 o'clock, 10:00 o'clock, 1:00
25 o'clock.

1 Q Do you remember that night?

2 A Yes.

3 Q Why do you remember that night?

4 A Well, it was a night that got rough.

5 Q Were you working alone that night?

6 A Yes.

7 Q I guess tell us what you remember, when did this
8 occur, what time was it approximately?

9 A It was going on 10:00 o'clock, I know that.

10 Q Do you recall when the suspect came into the LI'L
11 Cricket?

12 A Yes.

13 Q What did he do when he came in?

14 A He came in, I spoke, I had other customers who I
15 spoke to. Walked to the back of the store, fixed him a
16 cup of peanuts, came through the store, sat the peanuts on
17 the counter, went to the restroom--

18 MR. VERNER: Your Honor, I am having a problem
19 hearing him.

20 THE COURT: You will need to speak right in the
21 microphone.

22 Q What I heard is he went to the back and got some
23 peanuts, placed them on the counter, left them there and
24 then went to the restroom. Is that what you just said?

25 A Yes.

1 Q Then what did he do?

2 A Then after he came back from the restroom, he walked
3 to the front, walked to the side of the counter. I wasn't
4 paying that much attention because we have a lot of
5 customers that comes inside to get tobacco products. And
6 I looked at him and then that is when I seen the weapon
7 which was the gun.

8 Q Are you sure it was a gun?

9 A Yes.

10 Q How close was the gun to you?

11 A It was, it wasn't far but it wasn't close up, close
12 up. It was probably a couple of feet.

13 Q Have you ever had a gun held on you before?

14 A No.

15 Q Is that something that you will ever forget?

16 A No.

17 Q I guess your eyes are focused on the gun at that
18 point?

19 A Right.

20 Q Do you recall what it looked like?

21 A It was a revolver, I know that.

22 Q What do you mean by a revolver, are you talking about
23 the chamber that spins?

24 A Yes.

25 Q Some people call it like a cowboy style gun?

1 A Yes.

2 Q Was it pointed at you?

3 A Yes.

4 Q Do you remember what the suspect said?

5 A Not correctly but vaguely it was along the terms of,
6 you know, I don't want to hurt you, open the register. So
7 I opened the register and I stood back.

8 Q What did he do?

9 A Went into the register and took the money out.

10 Q Then what did he do?

11 A Then he left, walked toward the gas pumps and turned
12 back around and came back in, grabbed the peanuts and then
13 left.

14 Q Did you call the police?

15 A Yes.

16 Q Describe the guy who came in and robbed you at
17 gunpoint, what was he wearing?

18 A A red jacket with a hood on, Chicago Bulls jacket
19 with a hood on it.

20 Q Did he have the hood on the whole time?

21 A Yes.

22 Q Do you remember what kind of pants or anything that
23 he was wearing?

24 A I know it was dark colored pants. I am not sure if
25 they were black or blue but it was dark colored.

1 Q Was anyone else in the convenient store when he
2 robbed you?

3 A During the robbery, no sir.

4 Q Just you and he?

5 A Yes.

6 Q Do y'all have surveillance video there?

7 A Yes, sir.

8 Q Did y'all's surveillance system capture the robbery?

9 A Yes.

10 Q Have you had a chance to watch it?

11 A Yes.

12 Q Let me show you State's number 1 here, do you
13 recognize that?

14 A Yes.

15 Q Did you watch this video?

16 A Yes.

17 Q Did it accurately depict what occurred December 8th
18 of last year?

19 A Yes.

20 MR. SCOTT: Your Honor, the State would introduce
21 State's number 1 for admission into evidence.

22 MR. VERNER: No objection, Your Honor.

23 THE COURT: No objection, State's 1 is admitted.

24 (Whereupon, State's Exhibit 1 was admitted into
25 evidence.)

1 (Whereupon, the video was played starting at 10:51
2 a.m.)

3 Q Frederick, I am going to I guess shift the cursor to
4 the scenes that I have marked on here that show when
5 people are coming and going. So what is this view here we
6 are looking at?

7 A It is behind the counter.

8 Q And I guess it is pretty clear, this is the cash
9 register here?

10 A Yes.

11 Q This is where customers usually approach you?

12 A Yes.

13 Q Whose feet are those?

14 A The robber.

15 Q And that is one minute and twenty seconds into the
16 video, I am going to fast forward to four minutes then.
17 Who is that?

18 A That is a customer.

19 Q Who is this in the blue shirt?

20 A That is me in the blue shirt.

21 Q But this customer is not the individual with the red
22 jacket that you were describing?

23 A No.

24 (Whereupon, the video continues to play.)

25 Q That is what you described earlier, that was the

1 person in the red jacket buying the peanuts and setting
2 them on the counter?

3 A Yes.

4 Q And at this point you are stating that he goes back
5 to the rear of the LI'L Cricket?

6 A To the side, the restroom area.

7 MR. VERNER: Asking a leading question, Your Honor.

8 THE COURT: Don't lead.

9 Q Is that the entire angle, the robber from that angle?

10 A Yes.

11 Q Let me show you a different camera angle. What was
12 he doing there?

13 A That is when he came and sat the peanuts on the
14 counter and walked away to the restroom area.

15 Q Just out of view is the restroom area, is that the
16 direction he was heading in?

17 A Yes.

18 Q So that is after he returned from the restroom and
19 what happens when he returns from the restroom?

20 A That is when he walks to the side of the counter.

21 Q Okay. What angle is this right here?

22 A That is behind the counter in the corner.

23 Q This is the view behind the counter?

24 A Yes.

25 Q So what we are looing at here is the top of the

1 screen would be the cash register area, is that correct?

2 A Yes.

3 Q In that video what is that in his right hand?

4 A A gun.

5 Q That is the gun you described earlier?

6 A Yes.

7 Q I just want to show you one, the last angle here.

8 What is this angle in this video?

9 A That is the angle, the camera that points directly at
10 the front door.

11 Q Okay. Is something wrong with this camera?

12 A Yes, sir. It has something wrong with it.

13 Q Okay. I am going to one minute and sixteen seconds.

14 What is that we see in one minute and sixteen seconds?

15 A The robber.

16 Q Now, I am going to go to five minutes. What was
17 that?

18 A That is the robber leaving.

19 Q Why does he come back in?

20 A For a cup of peanuts.

21 Q If he enters at one minute and sixteen seconds and

22 leaves at about five minutes into the video, this whole

23 thing takes place in less than four minutes?

24 A Yes.

25 Q While he was in there were you able to get a good

- 1 look at his face?
- 2 A Yes.
- 3 Q Even though he was wearing the hood?
- 4 A Yes.
- 5 Q And do you see the man who stuck the gun in your face
- 6 on December 8th?
- 7 A Yes.
- 8 Q Where is he?
- 9 A The gentleman sitting at the table.
- 10 Q Are you sure?
- 11 A Yes.
- 12 Q Will you ever forget his face?
- 13 A No.
- 14 Q Even though he was wearing the hood you were still
- 15 able to clearly see his face?
- 16 A Yes.
- 17 Q Were you able to see while he was walking around the
- 18 store?
- 19 A Yes.
- 20 Q Were you able to see him when he put the peanuts on
- 21 the counter?
- 22 A Yes.
- 23 Q Were you able to see him when he walked around to the
- 24 side and put a gun in your face?
- 25 A Yes.

1 Q After this occurred what did you do?

2 A Locked the door and called the police and my manager.

3 Q Did the police show up?

4 A Yes.

5 Q Did you tell them what happened?

6 A Yes.

7 Q Thank you, Mr. Cooper. Please answer any questions
8 that Mr. Verner may have for you.

9 CROSS-EXAMINATION

10 By Mr. Verner:

11 Q Mr. Cooper, did you ever identify Ernest Williams as
12 the person who robbed you before he was sitting beside me?

13 A Yes.

14 Q When did you identify him before?

15 A In the lineup.

16 Q You identified him in a photographic lineup?

17 A Yes.

18 Q Are you sure?

19 A Yes.

20 Q Do you remember when you were shown that photographic
21 lineup?

22 A Yes. I think it was on that Monday.

23 Q Do you remember which officer showed you the lineup?

24 A I am not really too sure. But I remember, I went
25 down to Nance Street and I was shown some pictures.

- 1 Q Was it like a six person photo lineup?
- 2 A Yes, sir.
- 3 Q And there would be just six African men that you
- 4 didn't know and you signed, initialed which one it was?
- 5 A Yes.
- 6 Q Can you be mistaken or are you sure of that?
- 7 A I am sure.
- 8 Q Is it fair to say, while I am looking for this
- 9 document I am looking for, that you indicated to Officer
- 10 Hunter, that night you spoke to Officer Hunter that came
- 11 to your store first, right?
- 12 A Yes.
- 13 Q Several police officers responded, while it was fresh
- 14 in your mind the officers were asking you what happened
- 15 and you speak to them, right?
- 16 A Yes.
- 17 Q Is it fair to say that you identified that the man
- 18 who robbed you was between 5'8 and 5'10".
- 19 A Well, I am not sure, I am not good with height to be
- 20 honest with you, sir.
- 21 Q How tall are you?
- 22 A Six foot.
- 23 Q And there was also another individual who was in the
- 24 store for some period of time?
- 25 A Yes.

1 Q For about two or three minutes with the man who
2 robbed you, there was another customer there?

3 A Correct.

4 Q This is still of the other customer who was in the
5 store?

6 A Correct.

7 Q And you can clearly see his face?

8 A Yes.

9 Q On the videotape. And he would have been in the
10 store, I think, he was in the store for about two or three
11 minutes with the man who robbed you?

12 A Yes.

13 Q Fairily clear depiction of his face in the video?

14 A Yes.

15 Q And for at least a short period of time he was right
16 next to the man who robbed you as they were lined up?

17 A Correct.

18 Q Do you know who that man is?

19 A I just know his face.

20 Q Okay. Is this the lineup that you were shown, that
21 you had found?

22 A Yes, I was shown that.

23 Q And you signed the photographic lineup for them too,
24 like that, right. Is that your signature?

25 A Yes.

- 1 Q What does it say about whether someone was identified
- 2 in the lineup?
- 3 A The one I identified.
- 4 Q You didn't as of 12/8/2012, the photo lineup you were
- 5 shown you did not identify anybody?
- 6 A On the night of the robbery, no.
- 7 Q And I suppose you called the police as soon as you
- 8 locked the door, the first thing you did was call the
- 9 police or did you call the police first?
- 10 A I am not too sure how it went.
- 11 Q And did they arrive fairly promptly?
- 12 A Yes.
- 13 Q How did the man who robbed you get away?
- 14 A On foot.
- 15 Q And you sure he didn't run into a car or a bicycle
- 16 that was out in the parking?
- 17 A There was no vehicle in the parking lot.
- 18 Q Now LI'L Cricket, this is on Kendall Road, right?
- 19 A Correct.
- 20 Q And what is behind LI'L Cricket?
- 21 A Apartment complex.
- 22 Q He didn't run off towards the apartment complex
- 23 behind LI'L Cricket?
- 24 A I am not too sure but I don't think so.
- 25 Q And if you are looking at Kendall Road from the

1 store, if you go right that would be towards the Nance
2 Street corner?

3 A Yes, correct.

4 Q And if you look left that would be back towards the
5 Lewis Rich, the sheriffs department and the jail?

6 A Correct.

7 Q What is across the street from the--

8 A A park.

9 Q Okay. Which direction did he run? Did he walk or
10 run or did you even look?

11 A I didn't look.

12 Q Did you see him, in what general direction did he
13 start off leaving?

14 A Yes and that would be going towards the Nance Street.

15 Q And you are clear that there was no other car that
16 picked him up or anything like that out in the parking
17 lot?

18 A Correct.

19 Q Did you know who it was that robbed you?

20 A I knew his face. Well, it was my first time to have
21 seen him but I know that face.

22 Q But you didn't know him then?

23 A No.

24 Q Are you still at that LI'L Cricket store?

25 A No, sir.

1 Q When he left he clearly had on a big red jacket with
2 a hood?

3 A Correct.

4 Q And a cup of peanuts, anything else that he had?

5 A And the weapon.

6 Q And the gun?

7 A And the money.

8 Q And the money from the cashier. And if you go right
9 I suppose the El Tipico, the little Mexican cantina is on
10 the corner of Nance and Kendall Road?

11 A In that area.

12 Q In that general area?

13 A Yes.

14 Q How far away would you say that is, as long as a
15 football field or further?

16 A Kind of.

17 Q Do you remember who, your best recollection is that
18 you did pick out Ernest Williams from a photo lineup?

19 A Correct.

20 Q Do you remember what officer showed that to you?

21 A I am not too sure. I can't remember if it was
22 Officer Moore or not.

23 Q Officer Moore is the officer sitting at the desk?

24 A Correct.

25 Q Which officer from the City police department did you

1 deal with the most after you were robbed, several of them?

2 A Yes, several.

3 Q Thank you.

4 RECROSS-EXAMINATION

5 By Mr. Scott:

6 Q Mr. Cooper, you said he left towards Nance Street.

7 Are you familiar with El Tipico?

8 A Yes.

9 Q What is that?

10 A It is a bar/restaurant.

11 Q A bar/restaurant. And it is in that direction?

12 A Yes.

13 Q What about Diamond Motors?

14 A Yes.

15 Q Where is that?

16 A Like two doors down, two doors before you get to El
17 Tipico.

18 Q What about the One Stop?

19 A Yes, that is in between.

20 Q So if you left out of LI'L Cricket and you took a
21 right towards Nance that is where those businesses would
22 be?

23 A Correct.

24 Q That photo lineup that Mr. Verner showed you, the
25 defense just showed you this but I have got it marked now

1 State's number 15. Do you recognize that?

2 A Yes.

3 Q Now San Hunter showed that to you, right?

4 A Yes.

5 Q And the second page, is that your signature down at
6 the bottom?

7 A Yes.

8 Q And I think the defense has asked you about it and it
9 said no picture was identified?

10 A Yes.

11 Q So in this photo lineup you didn't make any
12 selection?

13 A Correct.

14 Q In other words, you said none of those six people
15 were the ones who robbed you?

16 A Correct.

17 Q As a matter of fact, Ernest Williams is not in that
18 six pack, is he?

19 A No.

20 Q To your knowledge was that before law enforcement had
21 ID'd him?

22 A Correct.

23 Q Is that the photo lineup that you were talking about
24 earlier?

25 A Sir?

1 Q Is that the photo lineup you were talking about
2 earlier when the defense was asking you about a photo
3 lineup identification?

4 A Yes, when I said I didn't see anyone?

5 Q Yes, sir.

6 A Correct.

7 Q Did you notice anything about the fellow who robbed
8 you that night, did you notice anything about the way he
9 walked?

10 A No.

11 MR. SCOTT: Your Honor, the State would offer number
12 15 for admission into evidence.

13 MR. VERNER: No objection, Your Honor.

14 THE COURT: 15 is admitted without objection.

15 (Whereupon, State's Exhibit 15 was admitted into
16 evidence.)

17 Q I am going to show you State's 7, 8, 9 and 10.

18 MR. VERNER: I have got no objection to the
19 photographs that come from the videotape and no objection
20 to the lineup.

21 THE COURT: That is 7, 8, 9 and 10?

22 MR. SCOTT: Yes, sir.

23 THE COURT: Admitted without objection.

24 (Whereupon, State's Exhibits 7, 8, 9, and 10 were
25 admitted into evidence.)

1 Q Those are State's 7, 8, 9 and 10, are those just
2 still shots basically taken from that same surveillance
3 video we just watched?

4 A Yes.

5 Q Thank you. That is all.

6 MR. VERNER: No redirect.

7 THE COURT: You may step down. Call your next
8 witness.

9 MR. DANIEL: The State calls Sam Hunter.

10 SAM HUNTER, being
11 first duly sworn, testified as follows:

12 DIRECT EXAMINATION

13 By Mr. Taylor:

14 Q State your name, please.

15 A Sam Hunter with Newberry City Police Department.

16 Q You say you work with Newberry Police Department, how
17 long have you been working?

18 A 20 years.

19 Q 20 years. What are your present duties at the
20 Newberry Police Department.

21 A My duties consist of me executing and carrying out
22 city ordinances, local laws, state and federal laws as
23 well.

24 Q You take part in criminal investigations?

25 A Yes, I do.

1 Q Were you working in the same capacity of December of
2 last year of 2012?

3 A Yes, I was.

4 Q Going back to that date, December 8th of 2012, about
5 a year ago now, did you have an occasion to respond to the
6 LI'L Cricket convenient store, the one located at 1315
7 Kendall Road?

8 A Yes, sir. In fact on December the 8th of 2012 around
9 10:10 p.m. I was on duty at that particular time and I was
10 dispatched in order to respond to the scene of the LI'L
11 Cricket which is located on Kendall Road which is also
12 known as Highway 121 which is at the intersection of
13 Highway 121 and Lewis Rich Road. I was the primary
14 officer that responded to the LI'L Cricket at 10:10 p.m.
15 on that night in reference to an armed robbery. Once I
16 had arrived on the scene I was immediately met by the
17 store clerk, the cashier which is Mr. Frederick Cooper.
18 Once I was met by him he informed me that he was robbed by
19 gunpoint. He also informed me that he was very familiar
20 with the subject's face. At the time he could not
21 identify the subject as far as what his name was but--

22 Q Let me stop you for a second. So you are dispatched
23 to this LI'L Cricket, that is in Newberry County, right,
24 this LI'L Cricket?

25 A That's correct.

1 Q You are dispatched in reference to an armed robbery.
2 You get there and you said that Frederick Cooper, that is
3 who you see on the scene there at LI'L Cricket?

4 A That's correct.

5 Q And Frederick Cooper is working the night shift?

6 A That's correct.

7 Q And he indicates there is an armed robbery that just
8 occurred?

9 A That's correct.

10 Q So you were the first officer on the scene?

11 A Yes.

12 Q Did any officers join you after that once you got
13 there?

14 A Yes, I was immediately assisted by my supervisor,
15 Lieutenant Doug Haltiwanger and once he arrived on the
16 scene we did our investigation part of it and then we
17 notified the investigators on call in order to respond to
18 the scene as well.

19 Q So that is how the investigation was launched pretty
20 much?

21 A Correct.

22 Q Did Frederick Cooper know the suspect, the robbery
23 suspect, did he know, did he give you a name or anything
24 like that to work with?

25 A During that particular time he was not able to advise

1 law enforcement a name but he was one-hundred percent
2 conclusive as far as being able to recognize his face. He
3 just wasn't able to put a name with the face on that
4 night.

5 Q So Frederick Cooper was able to provide you guys with
6 a physical description of the suspect?

7 A That is correct.

8 Q And we are talking, race, build, what they are
9 wearing, clothing, is that what we are talking about?

10 A That is correct. He gave us a full detail
11 description of the suspect that robbed him at gunpoint.

12 Q Was Frederick Cooper able to provide you what
13 direction he left the store, anything?

14 A I recall him telling me that after the subject had
15 robbed him he left out the store and he walked in the
16 right direction away from the store. The right direction
17 was leading towards Highway 121 and Nance Street, in the
18 direction like going towards Nance Forrest Apartments.

19 Q And what are the businesses or landmarks in this area
20 on Kendall Road, what are the surroundings?

21 A There is a One Stop Convenient Store which is located
22 down the street from the LI'L Cricket and also a Mexican
23 restaurant. That particular Mexican restaurant and the
24 One Stop is located on the back side of Nance Forrest
25 Apartments.

1 Q And were you able to relay this information about the
2 suspect's physical description, what he is wearing, were
3 you able to relay that to other officers?

4 A Yes, we was able to relay all of that information to
5 the Newberry City and to Newberry County Sheriffs
6 Department as well.

7 Q And was the acronym, BOLO, was a BOLO sent out on
8 this robbery suspect, what does that mean?

9 A Yes, BOLO simply means to be on the lookout. And we
10 did conduct a BOLO in order for the, all the local
11 agencies to be aware of what the suspect looked like.

12 Q And what other agencies were involved in this?

13 A Newberry County Sheriffs Department and Newberry City
14 Police Department.

15 Q Based on the physical description given by Frederick
16 Cooper did you, were you able to show Mr. Cooper any
17 potential suspects based on that description that he gave
18 you?

19 A Well prior to me conducting a photo lineup I asked
20 Mr. Frederick Cooper did he have any information regarding
21 the suspect on a surveillance video. And at that point he
22 responded by advising me, yes he did. I then requested to
23 take a look at the video. So he escorted me back to the
24 room where the surveillance equipment is located at. And
25 I had the opportunity to view the surveillance video just

1 as the jury had the opportunity to view it today as well.
2 Also I had the occasion to watch Mr. Frederick Cooper as
3 he adjusted the surveillance video by pausing it and
4 zooming it in on the suspect's face in order for us to get
5 a clearer picture of how the individuals face actually
6 looked. Once I got a clear view of how the individual
7 looked I had perceived in my mind who the suspect appeared
8 to look like. So at that point I went to my patrol car
9 and I turned my computer laptop on and I conducted a photo
10 lineup of six individuals who had basically the same
11 similarities as the individual that I noted on the video.
12 Once I conducted that photo lineup I then requested for
13 Mr. Frederick Cooper, the cashier, to come out to my
14 patrol car in order for him to observe the six black males
15 that I had in the photo lineup.

16 Q I am going to hand you what has already been admitted
17 into evidence as State's number 15. If you will look at
18 that for me. Do you recognize that?

19 A Yes, I do. That is the one that I conducted.

20 Q Those are the six potential suspects that you showed
21 Mr. Cooper?

22 A Yes sir, it is.

23 Q And that was based upon you viewing the video and
24 also the description that Mr. Cooper had given you of what
25 the suspect looked like?

1 A Exactly.

2 Q And so you pulled that up, you generated this and
3 showed Mr. Cooper?

4 A I did.

5 Q Now, these six individuals depicted in these photos,
6 are they Ernest Williams, any of them?

7 A They are not. In fact, once I provided Mr. Cooper
8 with the opportunity to observe that particular photo
9 lineup I recall him responding to me by saying, no,
10 neither one of these suspects are the ones who robbed me
11 at gunpoint. He responded by saying, I know him when I
12 see him.

13 Q So, Frederick Cooper indicated Ernest Williams was
14 not one of those six individuals?

15 A That's correct.

16 Q And at the time, did you have any leads suggesting
17 that Ernest Williams was a suspect in this armed robbery
18 at the time you showed Mr. Cooper those images?

19 A At the time I showed it to him, no, I did not. I
20 just looked at the face and during that particular time
21 all I could say was that the individual looks very
22 familiar but I wasn't able to identify him by putting a
23 name with the face.

24 Q So Frederick Cooper basically was, he couldn't pick
25 him out, couldn't pick Ernest Williams out because Ernest

1 Williams wasn't in those six photos. Is that correct?

2 A That's correct.

3 Q And also this is part of State's 15, what is this
4 form right here. Do you recognize that?

5 A Yes, this is simply a printout of a photographic
6 lineup that we have to conduct in order for the viewer to
7 read it and sign it in order to verify whether the suspect
8 was in the lineup or not.

9 Q And you furnished that form to Mr. Cooper?

10 A Yes, I did.

11 Q What other involvement did you have in this
12 investigation on the night of December 8th. Is that the
13 extent of your role?

14 A Pretty much. Since I was the primary officer who
15 responded to the scene my main responsibility was to
16 protect the crime scene so that it would not be
17 contaminated and to look out for the safety and the
18 wellbeing of anyone who was in the store at that time
19 including myself and other police officers that were in
20 route to the scene. Once we got the perimeter secured and
21 reviewed the surveillance tape that is when myself and my
22 Lieutenant Haltiwanger dispatched for the investigators to
23 respond to the scene in order to take over.

24 Q And that, at that point you had no further
25 involvement?

1 A I did not.

2 Q But you did view the surveillance footage from the
3 LI'L Cricket that night?

4 A I did. I was able to observe the individual as he
5 was walking through the store. I noticed that he had a
6 very slow walk, a very unique walk that is easy to recall
7 whenever you see that walk again. I recall him having on
8 a red Chicago Bulls jacket with the hood over his head,
9 some dark jeans and dark shoes.

10 Q And from viewing the videotape how tall would you
11 estimate this individual was wearing the red coat?

12 A By viewing the tape I would have to say he was
13 somewhere around 5'3".

14 Q What kind of weight?

15 A Probably about 130 pounds.

16 Q Muscular?

17 A Very thin.

18 Q Very thin. And you did not personally see that
19 individual?

20 A Not at the time I did not.

21 Q No further questions.

22 CROSS-EXAMINATION

23 By Mr. Verner:

24 Q Officer Hunter, were you in your own patrol car that
25 night?

1 A Yes, I was working on duty that night.

2 Q And you indicated Officer Haltiwanger also responded?

3 A Yes, sir.

4 Q But he just would have been a separate, he would have
5 come independently in his own vehicle?

6 A He was the secondary officer who responded to assist
7 in this case.

8 Q And on December 8th of 2012, I understand you are a
9 patrol officer?

10 A I am a sergeant who patrols the city of Newberry.

11 Q And the, typically the patrol responds first to crime
12 scenes and then after the scene is secured then the
13 investigators come in and actually process?

14 A That's correct.

15 Q And basically once the ball is handed off to the
16 investigators the patrol goes back to patrol and it
17 becomes the investigators case. You don't typically stay
18 involved in the investigation of a case after you respond,
19 do you?

20 A That is correct.

21 Q You might be involved, the investigator might bring
22 you back and talk to you further and ask you to do things
23 but primarily after you respond the case is handed to
24 people who are trained, specifically to investigators?

25 A That's correct.

1 Q And you did have occasion to watch the video from the
2 actual source they actually recorded on the night of
3 December 8th?

4 A That's correct.

5 Q And every time, almost every time you have to respond
6 to any kind of issue that is of importance, you are
7 required to make reports?

8 A That's correct. Every incident has to be documented.

9 Q Now, you have the benefit of the laptop computer, I
10 suppose, that you could make reports in your actual patrol
11 cruiser?

12 A That's correct.

13 Q And other times you will just wait until you get back
14 to the main office to do your report?

15 A Me personally, I make the habit of documenting all of
16 my incident reports immediately after the scene while it
17 is still fresh in my memory.

18 Q And you understand that your report being used by the
19 investigators and people later on down the line, that is
20 important to try to get it as close and direct as you best
21 have known?

22 A That's correct.

23 Q And that is not just you, that is every officer
24 pretty much, it is the police reports?

25 A That is the best procedure.

1 Q You prepared a photo lineup on your computer, did you
2 individually select six people that you wanted in it or
3 did you just basically enter generic information, I want
4 six black males of a specific age range?

5 A Exactly and it just provides it within its own self.
6 Once you provide a race, a gender, a height, a weight,
7 then it starts spitting them out, so to speak.

8 Q So you basically just put in the generic information
9 and the computer has a data base and it selects?

10 A That's correct.

11 Q And in this case did you, are you able to choose
12 somebody specifically. For instance, if I were the
13 officer and I thought Sam Hunter was the suspect, I do a
14 photo lineup where I type in, I want Sam Hunter's picture
15 in there.

16 A Right.

17 Q And then five other people who match that general?

18 A Would pop up.

19 Q So you can include somebody's name in there?

20 A Yes, you can. If you think you know who it is, yes,
21 you can.

22 Q The photo lineup at that time, you just used six
23 generic or just six people in general matched who you
24 thought were similar?

25 A On that particular night when I looked at that

1 individual on the video he appeared to look like someone
2 who I was familiar with. And I took that particular
3 individual and placed this information in the data base.
4 And once I did that other black males popped up that fit
5 that same description.

6 Q So your photo lineup was based on, you actually had a
7 specific name that you typed in the computer?

8 A That's correct.

9 Q So you just didn't put general information in, you
10 said, I think that is John Brown and you typed in John
11 Brown's name and then the computer put five other people
12 that matched John Brown's. Who did you type in, who did
13 you think it was at that time? I will make it easy for
14 you, you thought it was somebody else, didn't you?

15 A It appeared to be somebody else. I wasn't
16 one-hundred percent conclusive whether it was the
17 individual that I put in. But the similarities were the
18 same.

19 Q So after you watched the video the same night this
20 happened from the original source you thought it was
21 somebody other than Ernest Williams?

22 A That is fair to say.

23 Q That is who you thought it was initially?

24 A It is not who I thought it was.

25 Q But it turned out that Mr. Cooper did not identify.

1 who you thought it might have been?

2 A That's correct.

3 Q In your report have you had an occasion to refresh
4 your recollection by reading your incident report prior to
5 your testimony today?

6 A Oh, yes.

7 Q On December the 8th you estimated his height was 5'8"
8 to 5'10".

9 A Yes.

10 Q But today you are changing your opinion taking the
11 guy was more like 5'3".

12 A I am not changing my opinion, I have to document what
13 the complainant informs us.

14 Q So the 5'8", 5'10" actually was not your guess from
15 the video, it was actually Mr. Cooper's?

16 A That's correct.

17 Q That would have been one of the standard questions
18 you would ask somebody when you are a victim of a crime,
19 roughly how tall?

20 A That's correct.

21 Q You see the doors behind you?

22 A Yes.

23 Q Sometimes doors have marks on them, strips, were you
24 able to use those or can you just not see clearly?

25 A I know exactly what you are talking about. And those

1 height strips that are on the sides of the doors, they are
2 placed there conveniently for the cashier, for the cashier
3 to observe the subject as they are leaving the store or
4 when they are coming in the store.

5 Q If a camera is set up on the ceiling it is looking
6 down and won't have the proper angle, it is actually
7 looking down, the angle changes?

8 A Exactly.

9 Q Did you have any, after you secured and responded to
10 the LI'L Cricket on December 8th did you have any further
11 involvement in the case?

12 A No, sir.

13 Q It would have been handed off, unless somebody came
14 and asked you questions or ask you to do things you would
15 have entirely handed off the case to the investigator?

16 A That's correct.

17 Q Is it fair to say from watching the video that there
18 appears to be a cowboy type or a long barreled gun,
19 handgun?

20 A It is obvious that it is a revolver type handgun.

21 Q Is it obvious from the videotape that it is a
22 revolver or that it is just a long barreled handgun?

23 A It is obvious to me from the video that it is a long
24 revolver handgun.

25 Q And you can, you look at a lot of handguns, you can

1 clearly tell from watching the videotape that that is a
2 long, what I call a cowboy gun, a long handled revolver as
3 opposed to an automatic?

4 A That's right.

5 Q But you would agree that long handled, or would you,
6 that long handled revolvers are a lot more rare, typically
7 revolvers can be snub nosed or short barreled?

8 A I wouldn't agree with that.

9 Q Do automatics tend to be longer than handguns, than
10 revolvers?

11 A Generally automatics are a little shorter as far as
12 the barrel when it comes to revolver type handguns. The
13 ones that I have encountered.

14 Q Sometimes I have seen the police use these. They
15 have got a printout sheet that has got all kinds of
16 different handgun pictures on it and the victim or the
17 witnesses will circle, was that done in this case?

18 A Not by me it wasn't.

19 Q Did you recover any evidence other than the videotape
20 that you secured in this case?

21 A I wasn't the one who recovered the video.

22 Q Did you take any custody of any evidence other than
23 just the videotape that, that might have been taken by
24 investigators?

25 A Exactly, it was taken by an investigator.

1 Q So you didn't take actually custody of any of the
2 evidence?

3 A No sir, I didn't.

4 Q Do you recall who was the lead investigator that
5 would have turned this case over to?

6 A That would be Sergeant Allison Moore.

7 Q Officer Moore or Investigator Moore is at the
8 prosecutor's table?

9 A Yes.

10 Q Thank you.

11 REDIRECT EXAMINATION

12 By Mr. Daniel:

13 Q Officer Hunter, did you generate the incident report
14 in this case?

15 A Yes.

16 Q In the incident report where it describes--

17 MR. VERNER: Your Honor, I object to that form of
18 question.

19 THE COURT: Rephrase that.

20 Q You described the suspect that you observed in the
21 video to be 5'3", is that correct?

22 A Yes.

23 Q That was your earlier testimony?

24 A Yes.

25 Q And in the incident report the subject, the suspect

1 is not described as being 5'3", is that correct?

2 A That's correct.

3 Q But you, were you documenting what Frederick Cooper
4 told you or was that your own reception of how tall?

5 A My reception of how tall he was was around 5'3" but I
6 documented what Mr. Frederick Cooper had informed me on
7 that night which was around 5'8".

8 Q And going back to the list of six potential suspects
9 that you generated and provided to Frederick Cooper, I
10 hand you State's 15, what is depicted in those six images?

11 A Six black males.

12 Q And height and weight of these black males or does it
13 even indicate that?

14 A This sheet right here doesn't indicate it for me.

15 Q And the race and gender of Ernest Williams?

16 A Black male.

17 Q And Frederick Cooper did not indicate to you that
18 those six individuals were Frederick, I mean Ernest
19 Williams?

20 A That's correct.

21 Q No further questions.

22 MR. VERNER: I don't have any further questions, Your
23 Honor.

24 THE COURT: You may step down. We are going to take
25 a break. Step back in the jury room and don't discuss the

1 case.

2 (Whereupon, the jury was excused from open court for
3 a break.)

4 THE COURT: We will take a few minutes.

5 (Whereupon, a short break was taken.)

6 THE COURT: Bring the jury in.

7 (Whereupon, the jury came into open court at
8 approximately 11:43 a.m.)

9 THE COURT: Call your next witness.

10 MR. SCOTT: The State calls Doug Haltiwanger.

11 DOUG HALTIWANGER, being

12 first duly sworn, testified as follows:

13 DIRECT EXAMINATION

14 By Mr. Scott:

15 Q State your name.

16 A Lieutenant Douglas Haltiwanger of the Newberry Police
17 Department.

18 Q Lieutenant, December the 8th of 2012 around 10:00
19 o'clock that night were you on duty?

20 A Yes.

21 Q What are your duties with the Newberry Police
22 Department?

23 A I investigate crimes, enforce state statutes, city
24 ordinances and also supervise the shift working.

25 Q Did you have an occasion to respond to the LI'L

1 Cricket on Kendall Road?

2 A Yes, sir.

3 Q That is in the--

4 A In the City of Newberry on Kendall Road.

5 Q And what was that in reference to, why did you go
6 there?

7 A It was dispatched as an armed robbery.

8 Q What did you do when you got there?

9 A I was actually the second to arrive on the scene,
10 Sergeant Hunter had arrived before me and informed me he
11 had the scene secure. I began to set a perimeter up in
12 the area for a search of a possible suspect after he just
13 gave us the information over the radio. And then once I
14 had that set up I did respond to the LI'L Cricket.

15 Q What was the description?

16 A It was a black male with a red hoody type jacket,
17 ball jacket, football jersey or basketball jersey type
18 jacket.

19 Q Would be like a sports logo on it?

20 A Yes, sir.

21 Q So you set up a perimeter, what does that mean?

22 A We get officers in the area to begin searching for
23 the suspect. It puts a little systematic search to it.

24 Q Was there ever, while you set up the perimeter was
25 there ever any information that you were aware of that the

1 suspect matching that description?

2 A Just what Sergeant Hunter had gave us out.

3 Q It was not a very, let me think of another way to ask
4 that question. Did you receive any information while you
5 were out there that there was a suspect seen in the area
6 matching that description?

7 A After I had responded to the LI'L Cricket, a short
8 while later I gave that information by communications that
9 Newberry County Sheriffs Office just down the road had
10 responded to a suspicious person's call that match that
11 description.

12 Q All right. And where was that incident, where did
13 that occur?

14 A That took place around the El Tipico One Stop area.

15 Q In relation to the LI'L Cricket how far away is the
16 El Tipico?

17 A Two blocks.

18 Q So you are saying that there was a call over the
19 radio that somebody matched that description was seen at
20 the El Tipico?

21 A That is what I was told by dispatch. The actual call
22 went over the sheriffs office radio.

23 Q Okay. So that information was related to you?

24 A That information was related to me.

25 Q Did you head up toward the El Tipico?

1 A Yes, sir.

2 Q What did you do up there?

3 A One of the deputies there on the scene told me the
4 area basically that they had saw somebody matching the
5 description and he ran when they got there. And I got
6 out, generally with my experience if we find a suspect
7 run, that they have a gun or contraband or something they
8 tend to drop it. And by my experience I started looking
9 in the area, around the area they said he ran in.

10 Q Okay, and?

11 A I noticed some shoes there that just didn't fit in.
12 At that time I had no description of those shoes or a
13 suspect. And made a mental note that they were there.

14 Q Where?

15 A It was in the area kind of between Diamond Motors and
16 the One Stop right above the El Tipico. And in the
17 information I had he had ran from kind of the El Tipico
18 behind Diamond Motors towards the One Stop out towards
19 Nance Forrest. And that was the area I was looing in.

20 Q So while you are out there on the scene of the El
21 Tipico and the One Stop and the Diamond Motors you just
22 see a pair of shoes sitting on the ground?

23 A I walked across one shoe and then about twenty feet
24 it was another shoe on the ground. That is not normally
25 something you see laying out like that so I made a note of

1 it to myself to check on, to that suspect, what kind of
2 shoes he had on. And I responded back to the LI'L Cricket
3 within a few minutes. And at that time we had looked at
4 the video and I was informed that the suspect had kind of
5 black shoes with like a red trim around them. And at that
6 time Sergeant Moore also informed that when he left the
7 store he had a cup of Peanut Patch peanuts. And I
8 informed Sergeant Moore, I said, I know where the shoes
9 are and I believe I also saw the cup there. And then me
10 and her responded back to them.

11 Q Let me show you State's number 3. Do you recognize
12 that?

13 A Yes, sir. That appears to be the same cup I saw that
14 night.

15 Q That is the one you showed Investigator Moore?

16 A Yes, sir.

17 MR. SCOTT: The State would offer number 3 for
18 admission into evidence.

19 MR. VERNER: No objection.

20 THE COURT: Without objection number 3 is admitted.

21 (Whereupon, State's Exhibit 3 was admitted into
22 evidence.)

23 Q It looks like that cup was dusted for fingerprints,
24 did you do that or was that investigations?

25 A That was investigations.

1 Q Let me show you State's number 2. Do you recognize
2 these?

3 A Yes, those are the shoes I found that night.

4 Q What size shoes are those?

5 A I would guess somewhere around, between 7 1/2, 8 1/2,
6 8 somewhere in that area. I don't see it actually on
7 them.

8 Q We don't really have to guess. Look in the inside of
9 the tongue.

10 A I see it on this one. This is US 8 1/2, 8.5.

11 Q Now you are saying those were at least similar to the
12 ones you saw in the video surveillance of the LI'L
13 Cricket?

14 A Yes, sir.

15 Q And these are the ones you showed Allison Moore?

16 A Yes, sir.

17 Q These were found behind Diamond Motors?

18 A Kind of behind Diamond Motors towards the One Stop.
19 One was found almost behind, the other one was a little
20 bit towards the One Stop.

21 MR. SCOTT: The State would also offer number 2 for
22 admission.

23 MR. VERNER: No objection.

24 THE COURT: State's number 2 is admitted without
25 objection.

1 (Whereupon, State's Exhibit 2 was admitted into
2 evidence.)

3 Q I am going to show you what has been marked as
4 State's number 16, ask you to take a look at it?

5 A This is the area the LI'L Cricket, the One Stop and
6 the motor company and all.

7 Q Do you see in that aerial, do you see the LI'L
8 Cricket Convenient Store?

9 A Yes, sir.

10 Q And do you see Diamond Motors?

11 A Yes, sir.

12 Q Do you see El Tipico?

13 A Yes, sir.

14 Q Is the One Stop on there?

15 A Yes, sir.

16 MR. SCOTT: Your Honor, the State would offer number
17 16 for admission into evidence.

18 MR. VERNER: No objection.

19 THE COURT: Number 16 is admitted.

20 MR. SCOTT: Permission to publish too, Your Honor.

21 THE COURT: All right.

22 (Whereupon, State's Exhibit 16 was admitted into
23 evidence.)

24 Q You said this was a depiction, what did you call it,
25 Nance Forest?

1 A Nance Forrest is an apartment complex over here
2 behind, right there, that is Nance Forest apartment
3 complex.

4 Q This is a document I was using for some notes earlier
5 so there is some things circled on here. This business
6 right here that is circled, what is that?

7 A That would be El Tipico.

8 Q This business here that is circled, what is that?

9 A Diamond Motor Company.

10 Q And this?

11 A That would be the One Stop.

12 Q Further down here, what is that?

13 A That would be LI'L Cricket.

14 Q Okay. And you stated earlier, these are all
15 approximately two city blocks apart?

16 A Approximately two city blocks.

17 Q Here at the LI'L Cricket is where the armed robbery
18 occurred, is that right?

19 A Yes, sir.

20 Q And Diamond Motors, somewhere between here and El
21 Tipico is where you found the shoes, is that correct?

22 A The other side towards the One Stop.

23 Q Okay. That side?

24 A Right in that area.

25 Q Okay.

1 A The deputy had told me, the suspect they had seen had
2 run from El Tipico behind Diamond Motors towards the One
3 Stop, towards Nance Forrest.

4 Q So somebody at El Tipico tells you he ran this way?

5 A He ran, close to that.

6 Q Okay. So after finding this evidence and setting up
7 the perimeter and taking that information, you just turned
8 it over to investigations at that point?

9 A I notified investigations and pretty much turned it
10 over to them at that point.

11 Q Was that the extent of your involvement in this case
12 then?

13 A That is pretty much my extent.

14 Q Thank you. Please answer any questions Mr. Verner
15 may have.

16 MR. VERNER: I don't have any questions of Officer
17 Haltiwanger.

18 THE COURT: Thank you. Let's take our lunch break.
19 We will start back at 1:30 sharp. Don't discuss the case.
20 Thank you.

21 (Whereupon, the jury was excused from open court for
22 a lunch break.)

23 THE COURT: We will stand at ease, I'll be back over
24 here at 1:15.

25 (Whereupon, a lunch break was taken.)

1 THE COURT: Is the State ready?

2 MR. SCOTT: Yes, Your Honor.

3 THE COURT: The defense?

4 MR. VERNER: Yes, sir.

5 THE COURT: Bring the jury in, please.

6 (Whereupon, the jury came into open court at
7 approximately 1:30 p.m.)

8 THE COURT: Call your next witness.

9 MR. SCOTT: The State calls Allison Moore to the
10 stand.

11 DIRECT EXAMINATION

12 By Mr. Scott:

13 Q State your name.

14 A Allison Moore.

15 Q Allison, you are an investigator with the city?

16 A Yes, sir.

17 Q And how long have you been with the city?

18 A About seven years.

19 Q What kinds of crimes are you involved in as an
20 investigator?

21 A Pretty much all of them, all sorts.

22 Q We heard from people who were, I guess, sort of,
23 talked about road duty or being on patrol and then turning
24 the case over to the investigators. What does that mean,
25 what do the investigators do?

1 A Once the road patrol completes a report, completes
2 their investigation and do the report the report is handed
3 over to the investigator who pretty much investigates the
4 crime that has been committed.

5 Q And did you have an occasion to investigate a crime
6 December 8th of last year at the LI'L Cricket on Kendall
7 Road?

8 A Yes, sir.

9 Q What was the nature of the crime?

10 A It was an armed robbery.

11 Q Do you remember about what time you got to the LI'L
12 Cricket?

13 A It probably was 10:30, 10:45.

14 Q This was, I guess you come in response to the initial
15 responders who call in their findings, is that right?

16 A Yes, sir. I got a call, I was the on call
17 investigator that evening and I got a call from Lieutenant
18 Haltiwanger to respond to that scene to investigate the
19 armed robbery.

20 Q And what did your investigation entail when you got
21 to the LI'L Cricket?

22 A I spoke with Sergeant Hunter who gave me the details
23 that he was informed and I proceeded to process the scene,
24 watched their video surveillance. I was then, then later
25 on Lieutenant Haltiwanger advised me of where he found the

1 shoes and the peanut cup.

2 Q Did you speak with Mr. Cooper, the clerk?

3 A I don't recall, if I did it probably was briefly.

4 Q So you reviewed the video surveillance?

5 A Yes, sir.

6 Q What did you observe?

7 A I saw a gentleman, a black male subject wearing a red
8 coat, he had the hood up, demand money from the clerk with
9 a revolver.

10 Q You were clearly able to see that a firearm was used?

11 A Yes, sir.

12 Q So what is the, I mean, how does the case pick up
13 from there because you don't have a suspect yet, do you?

14 A No, sir. At that point I believe with the help of
15 Sergeant Goodman and Lieutenant Schumpert with the
16 Newberry County Sheriffs Department a suspect was formed.

17 Q Okay. Let me back up. You talked about Haltiwanger
18 finding some shoes in a cup?

19 A Yes, sir.

20 Q And I guess what you are talking about is State's
21 number 3 and State's number 2?

22 A Yes, sir.

23 Q I think he testified they were found somewhere up
24 Kendall Street past Nance into El Tipico and Diamond
25 Motors?

- 1 A That's correct.
- 2 Q Did you respond to that area that you found those?
- 3 A I did. I responded with him.
- 4 Q Did you seize those items?
- 5 A I did.
- 6 Q I ask him about it earlier, it looks like at least
- 7 the cup, State's number 3 has been dusted for
- 8 fingerprints. Were you involved with that?
- 9 A I was not. Captain Counts with the city.
- 10 Q To your knowledge were any identifiable fingerprints
- 11 lifted?
- 12 A No sir, not to my knowledge.
- 13 Q Is that uncommon?
- 14 A No, sir.
- 15 Q Now, I think in some other testimony or at some point
- 16 there was reference made to DNA samples?
- 17 A Yes, sir.
- 18 Q Did you attempt to take any DNA samples from these
- 19 items?
- 20 A I did not. I believe Captain Counts did that as
- 21 well.
- 22 Q To your knowledge were there attempts to take DNA?
- 23 A There were attempts, yes.
- 24 Q And after you attempted to take DNA from these, what
- 25 would that be, touch DNA or how would you take DNA from

1 these items?

2 A Yes sir, that would be touch DNA, it would be taken
3 with two swabs where, you put some saline solution on it
4 and rub it, rub the outer part where somebody would touch
5 the cup with swabs. And they would be sent to SLED for
6 analysis.

7 Q Did you see any blood or saliva or any kind of fluids
8 on these items?

9 A No, sir.

10 Q But you still tried to take some DNA from them?

11 A I believe Captain Counts did, yes.

12 Q To your knowledge, your agency tried to take--

13 A Yes.

14 Q And you sent them to SLED?

15 A Yes.

16 Q To your knowledge have any results came back from
17 SLED?

18 A No sir, it is not uncommon either. It takes a while.

19 Q Now these items were found how far away from the LI'L
20 Cricket?

21 A They were behind the Diamond Motors, in between
22 Diamond Motors and One Stop. So that is a block, two
23 blocks away.

24 Q Now, you had a general description I think of the
25 suspect from LI'L Cricket and of course you were able to

1 watch the surveillance videos. Kind of had an idea of
2 what this person looked like?

3 A Yes, sir.

4 Q To your knowledge was anyone matching that
5 description seen in the nearby vicinity that night?

6 A Yes, sir. I was also aware that the County may have
7 seen a subject matching that description and had ran from
8 that area.

9 Q What area?

10 A Around the One Stop, Diamond Motors, El Tipico area.

11 Q Were you able to to your knowledge was anyone able to
12 gain any sort of surveillance footage from those
13 locations?

14 A Sergeant Goodman was able to obtain a still
15 photograph from the El Tipico, from their video
16 surveillance.

17 Q Were you able to see that video?

18 A Not that night, no sir.

19 Q Have you watched it?

20 A Yes sir, I have.

21 Q And were you able to, I guess, download the video
22 from their system onto your computer?

23 A Yes sir, I was.

24 Q And were you able to review it?

25 A Yes, sir.

1 Q And did you see the picture that Kevin Goodman
2 obtained that night?

3 A I have.

4 Q Let me show you State's number 11. Do you recognize
5 that?

6 A I do. This is the picture that he took from El
7 Tipico.

8 Q And so that comes from the surveillance, the video
9 but he took a picture, a still shot of part of that video
10 is what you are saying?

11 A Correct. Because the owner that night or the
12 manager, whomever, could not download that video that
13 night so he just took a still photo of it.

14 Q Okay. And the video surveillance came from December
15 8th of 2012 from El Tipico, right?

16 A Yes, sir.

17 Q So let me get it straight. The same night that the
18 armed robbery occurs, two blocks away at the El Tipico the
19 same suspect or what appears to be the same suspect is
20 seen on their surveillance video, is that correct?

21 A That's correct. The same clothing.

22 Q Using those videos and that still shot were y'all
23 able to come up with a name of the suspect?

24 A Yes, sir.

25 Q What name was that?

- 1 A Ernest Williams.
- 2 Q So did you arrest him that night?
- 3 A No, sir.
- 4 Q Was he found that night?
- 5 A No, sir.
- 6 Q When did y'all catch up with Ernest Williams?
- 7 A I believe it was on the 14th, I believe.
- 8 Q So this happened on the 8th and y'all catch up with
- 9 him on the 14th?
- 10 A Correct.
- 11 Q Almost a week later?
- 12 A Correct.
- 13 Q And where did y'all find him?
- 14 A He was at a hospital in Columbia.
- 15 Q So he had a pending warrant that hadn't been served
- 16 on him yet?
- 17 A Correct.
- 18 Q Now, do other law enforcement agencies, I don't know,
- 19 do their, whatever systems they use, do they come across
- 20 somebody like Ernest Williams, does it pop up on their
- 21 radar that he has pending warrants in other jurisdictions?
- 22 A Sure. Yes, sir.
- 23 Q Is that what happened?
- 24 A I believe that is what happened, yes sir.
- 25 Q So he is down in Columbia at a hospital?

1 A Yes.

2 Q I have heard two other proceedings here that it was a
3 mental hospital?

4 A Yes sir, that is my understanding.

5 Q Something to be, that he was, was being treated for
6 some sort of, we don't know what he was treated for but he
7 was, I guess, was determined a mental type facility down
8 there?

9 A Yes, sir.

10 Q To your knowledge when was he checked in down there?

11 A It was the 12th.

12 Q So let me get my timeline straight. So this robbery
13 occurs December 8th. Checks himself in or he is checked
14 in at Richland Memorial on the 12th. And then on the 14th
15 he is arrested?

16 A That's correct.

17 Q So send officers from Newberry down to Columbia to
18 pick him up?

19 A Yes, sir.

20 Q And where do they take him?

21 A They brought him directly to my office.

22 Q Here at the--

23 A Newberry City Police Department.

24 Q Don't take him to the jail, they have him come to
25 your office?

1 A That's correct.

2 Q Describe your office, please.

3 A It is a small room, a little bit bigger than this box
4 right here. I have a desk, a window and two chairs and my
5 chair.

6 Q Pictures on the wall?

7 A Yes, sir.

8 Q Is that the office you go into to work every day?

9 A Yes sir, I do.

10 Q What did you do when you brought him into your
11 office?

12 A When he came into my office I immediately pulled out
13 a statement, one of our common statement forms and I read
14 him the Miranda warnings at the top of that form.

15 Q And how did you read him the Miranda warnings or do
16 you recite them from memory. How do you do that?

17 A No sir, I read them.

18 Q What are Miranda warnings?

19 A They are your rights under Miranda that you have the
20 right to remain silent, and anything you say can and will
21 be used against you in a court of law.

22 Q Are these the warnings you give to anyone before you
23 question them?

24 A Before your questioning, yes.

25 Q Because that is why he was brought to your office, to

- 1 be questioned?
- 2 A Correct.
- 3 Q Was he in handcuffs when he was brought in?
- 4 A Yes, sir.
- 5 Q At some point was the handcuffs taken off?
- 6 A Yes sir, because he had to write a statement so they
- 7 were to initial the Miranda warnings.
- 8 Q Let me show you State's number 4. What is that?
- 9 A That is our statement form.
- 10 Q Now, the top section, what was the title of the
- 11 statement form?
- 12 A It is subject statement with wavier of rights.
- 13 Q And at the top portion, the top paragraph, what is
- 14 that all about?
- 15 A That is just his general information, his name, his
- 16 age, his address, what grade he completed in school, date
- 17 of birth, social security number, telephone number.
- 18 Q And all of this is provided by Mr. Williams?
- 19 A Yes.
- 20 Q And what level of education did he complete?
- 21 A He stated that he completed the 12th grade.
- 22 Q So he graduated high school?
- 23 A Yes, sir.
- 24 Q And he gives you his address?
- 25 A He does.

1 Q What is his address?

2 A [REDACTED]

3 Q After the informational section, what is the next
4 portion of that document?

5 A That is your Miranda rights.

6 Q It looks like they are broken down into seven
7 different rights, is that correct?

8 A Yes, sir.

9 Q And out to the left of that is a blank, what is the
10 purpose of the blank next to each one of those rights?

11 A So the individual initials them, stating pretty much
12 that he understands them.

13 Q Read to us the first right.

14 A It says I have the right to remain silent.

15 Q Did he initial that?

16 A He did.

17 Q He wrote that?

18 A Yes, sir.

19 Q What is the next one?

20 A Anything I say can and will be used against me in a
21 court of law.

22 Q Again did he initial it?

23 A He did.

24 Q Next?

25 A I have the right to talk with an attorney and have

1 him or her present with me while I am being questioned.

2 He also initialed that.

3 Q Okay.

4 A If I cannot afford to hire an attorney one will be
5 appointed to represent me before any questioning if I
6 wish. He placed his initials. I can decide at any time
7 to exercise these rights and not answer any questions or
8 make any statements if I wish. He initialed that. I
9 understand each of these rights as they have been
10 explained to me. He also initialed that. And it says,
11 having these rights in mind I do wish to speak to law
12 enforcement in which he initialed.

13 Q The initials were done to indicate he understood the
14 rights as you read them to him?

15 A Correct.

16 Q Now the top portion, did he indicate whether or not
17 he could read and write?

18 A He did. It says I have finished the 12th grade in
19 school and I can read and write.

20 Q Do you recall if he was reading along with you as you
21 read him the rights?

22 A To the best of my knowledge, yes sir.

23 Q After you gave him all of his Miranda rights did he
24 speak with you a little bit before putting pen to paper?

25 A He did.

1 Q And tell me what he said.

2 MR. VERNER: Your Honor, this is subject to my
3 earlier objections.

4 THE COURT: Your objection is noted on the record.

5 Q What did he say?

6 A He said that he committed the armed robbery and that
7 he was sorry that he did so.

8 Q So he expressed some kind of remorse about it?

9 A He did.

10 Q Did he appear to be under the influence of anything?

11 A No sir, he did not. He seemed normal just like we
12 are today.

13 Q Did he appear to have difficulty understanding you as
14 you read him his rights?

15 A Absolutely not.

16 Q Did you ask him to write what he had told you onto
17 the statement?

18 A Yes, sir.

19 Q Did he do so?

20 A Yes, sir.

21 Q And is that what is contained in this number 4?

22 A Yes, sir.

23 Q And he filled out two pages of your statement form?

24 A Yes, sir.

25 Q After he fills it out, when any suspect fills out a

1 statement of form what do you ask them to do?

2 A I ask him to initial the beginning of the statement
3 and the end of the statement and anywhere he made mistakes
4 or corrections for him to initial as well. That way it is
5 that he did those initials and we did not do that.

6 Q Did he initial portions of that statement?

7 A He did. He initialed the beginning, the end of each
8 page and also where ever he made a mistake.

9 Q Did he make any mistakes that he corrected upon
10 review?

11 A He did.

12 Q What were they?

13 A He had put in here where he had bought pecans but he
14 scratched it out and put peanuts.

15 Q Did you tell him to do that?

16 A No, sir.

17 Q Did anyone in there tell him to do that?

18 A No, sir.

19 Q He did that after reviewing his written statement?

20 A Yes.

21 Q He made corrections and that was one of them?

22 A Yes, sir.

23 Q Any other corrections that he made?

24 A He had put in here at the beginning that the clerk's
25 name was James. But he realized his name was Fred because

1 he mentioned it in the statement later that his name was
2 Fred.

3 Q Okay. So the first sentence he writes James and then
4 later throughout he is writing Fred?

5 A Right.

6 Q And you are saying once he reviews it he changed the
7 first James to Fred?

8 A Yes, sir.

9 Q Who is Fred?

10 A Frederick Cooper, the clerk that night at the LI'L
11 Cricket.

12 Q Did he sign his statement afterwards?

13 A He did.

14 Q Was he threatened or intimidated in any way?

15 A Absolutely not.

16 Q Did he ask you, Ms. Moore, may I please have a glass
17 of water?

18 A No, sir.

19 Q Did he ask Ms. Moore, can we please end this
20 conversation?

21 A No sir, he did not.

22 Q Did he ask for a lawyer?

23 A No, sir.

24 Q Did he ask to go to the restroom?

25 A No, sir.

1 Q So it is your testimony that he freely and
2 voluntarily gave that statement?

3 A Yes, sir.

4 Q Who was in the office with you and Mr. Williams when
5 he gave that statement?

6 A Sergeant Kevin Goodman with the City Police
7 Department.

8 MR. SCOTT: Your Honor, the State would offer number
9 4 for admission into evidence.

10 THE COURT: It will be admitted upon the prior
11 objection you made.

12 MR. VERNER: Yes, sir.

13 MR. SCOTT: The State would also offer State's number
14 11 for admission.

15 MR. VERNER: No objection.

16 THE COURT: Number 11 is admitted without objection.
17 (Whereupon, State's Exhibits 4 and 11 were admitted
18 into evidence.)

19 Q This is State's number 11. Describe what this is one
20 more time?

21 A That is the still shot of the video surveillance from
22 El Tipico of, the subject there exiting the building.

23 Q Taken the same night of the armed robbery down at the
24 LI'L Cricket?

25 A Correct.

1 Q And this is the one that, an identification was made
2 with the name Ernest Williams?

3 A Yes, sir.

4 Q And State's number 4, this is his statement you
5 mentioned earlier. Tell me what he says in the statement?

6 A Would you like for me to read it, sir?

7 Q Yes.

8 A It says I walk on 121 around 10 or 11 p.m. last
9 Saturday night. I remember going into LI'L Cricket to buy
10 peanuts and I went behind the counter and pulled out a gun
11 and I told Fred to put his hands down but at first he had
12 his hands up and I said don't be scared, I'm not going to
13 hurt you at all, just don't call the police on me. I want
14 you to be there with me when I go to court, when I face
15 the Judge, he made all the ruling. The gun that I was,
16 the gun that I used was a revolver, it wasn't loaded at
17 all, nothing wasn't in the gun, I made a big mistake and I
18 am paying for my mistake. I made my first big mistake
19 back in January 13th, 2001 and I haven't been in trouble
20 since September 10, 2004, eight years. I am deeply sorry
21 for LI'L Cricket and its staff. My apology goes out to
22 LI'L Cricket. Whenever I see Fred I will apologize to him
23 dearly. My bad, my brother.

24 Q That was the conclusion of the statement. Who is
25 Fred?

1 A Fred Cooper, the clerk.

2 Q Okay. Is that the entire--

3 A No sir, that was just the first page.

4 Q I interrupted you.

5 A You want me to continue, sir?

6 Q Yes, ma'am.

7 A One day I had my girlfriend to call me and put me on
8 three-way with Fred, Fred a nice guy that doesn't bother
9 no one coming in LI'L Cricket. He has that sweet
10 personality, welcome to LI'L Cricket, how are you doing
11 today. He was just doing his job and doing the best to
12 his knowledge. He was doing the best to his acknowledge,
13 me for being a true person and well respected person.
14 That was not me but the camera I seen was me. So I can't
15 lie about this situation at all, I know myself and the
16 camera don't lie. It was me in a bad situation but the
17 end of the night I made it a good situation. I am glad
18 this situation will soon be over and I can start my life
19 over and look forward to the future.

20 Q I think I already asked this but did you do anything
21 to coerce him into writing this?

22 A No, sir.

23 Q Did you suggest to him who Fred was?

24 A No, sir.

25 Q Please answer any questions Mr. Verner may have for

1 you.

2 CROSS-EXAMINATION

3 By Mr. Verner:

4 Q Investigator Moore, you were the lead criminal
5 investigator in this case?

6 A Yes sir, I was.

7 Q Did you prepare any photo lineups for Frederick
8 Cooper?

9 A No, I did not.

10 Q Would it be likely that somebody else in your office
11 would have prepared a photo lineup after the date of the
12 scene for him to identify?

13 A Not to my knowledge.

14 Q So, if Mr. Cooper had been shown a photo lineup on
15 the night of December 8th it would have, you don't recall
16 doing one in this case?

17 A No sir, I did not do one.

18 Q And it is unlikely that anybody else in your agency
19 would have done one after the date of, that would have
20 been your responsibility?

21 A Yes, sir.

22 Q Are you aware of any photo lineup where Fred Cooper
23 identified?

24 A Not to my knowledge, no.

25 Q On December 17th Mr. Williams voluntarily let you

1 take a DNA sample from him, correct, of 2012?

2 A Yes sir, I believe it was the 17th.

3 Q Does your paperwork that you took a voluntary sample
4 from Ernest?

5 A Yes sir, on December 17th.

6 Q Of 2012?

7 A Yes, sir.

8 Q And that would have been sent down to SLED along with
9 the sample?

10 A That's correct.

11 Q So SLED hasn't sent back a report saying that there
12 was DNA found on any of the items taken?

13 A No sir, they have not completed their analysis.

14 Q And they also haven't sent down a report saying there
15 was no DNA found, that was just, we don't know what they
16 have concluded?

17 A Correct, yes sir, I have not seen a report.

18 Q Are you aware of, at least by December 9th of 2012,
19 that is the date that the warrants were issued on Ernest
20 Williams?

21 A Yes sir, without looking at the warrant, yes sir.

22 Q Was a red Chicago Bulls or any kind of red jacket
23 ever taken into evidence or found?

24 A No, sir.

25 Q Was any physical evidence related to Ernest Williams

1 to your knowledge taken into any evidence?

2 A No, sir.

3 Q Such as the gun?

4 A No, sir.

5 Q The clothing?

6 A No, sir.

7 Q The hat?

8 A No, sir.

9 Q The shoes were taken but is there any evidence that
10 you are aware of other than their location that they are
11 Mr. Williams' shoes?

12 A They appear to be the same shoes from the video
13 surveillance at the LI'L Cricket.

14 Q But you haven't asked his mother or anybody like that
15 to, ask to determine whether he had actual shoes like
16 this?

17 A No, sir.

18 Q Okay. State's 11 is the photograph taken from the El
19 Tipico outside?

20 A Yes, sir.

21 Q Was that taken before the robbery or after?

22 A That was taken after the robbery.

23 Q How do you know, the photograph was taken after or
24 the video.

25 A The still shot was taken--

1 Q After the robbery but is that video, do you know
2 whether that is from before the robbery, after the
3 robbery?

4 A I believe that video was from before.

5 Q Are you sure of that, is it timestamped?

6 A It is not timestamped, no sir.

7 Q What time did you arrive on the scene of LI'L
8 Cricket?

9 A It probably, 10:30, 10:45, somewhere along in that
10 area.

11 Q At night?

12 A Yes, sir.

13 Q And so that appears to be a daytime photograph or are
14 there lights outside of the El Tipico?

15 A Yes sir, there are lights, that is a nighttime
16 photograph.

17 Q And that would have been under like a street light or
18 under--

19 A Under their outside business lights.

20 Q Do you, as an investigator, would you be prepared to
21 make a conclusive determination as to who that was based
22 on that photograph?

23 A No, I cannot, no.

24 Q It is not a clear photograph?

25 A It is a clear photograph but I don't know who the

1 individual is.

2 Q Do you think that you could make a conclusive
3 identity of somebody based on that photograph?

4 A Absolutely.

5 Q There is a big hat on his head?

6 A Yes, sir.

7 Q And did you see that hat on the video from the LI'L
8 Cricket?

9 A Yes, sir.

10 Q Is that taken from the same, eye level photograph or
11 is that a camera pointing down at him from a ceiling or
12 high angle?

13 A That appears to be from a high angle.

14 Q Okay. Are you prepared to testify that you have seen
15 the photograph and you have seen Ernest Williams today,
16 that that is the same man?

17 A Yes, sir.

18 Q Your testimony is that that photograph is good enough
19 to make a conclusive identification of Ernest Williams
20 today?

21 A I believe it could if you know him, yes sir.

22 Q He appears to have the hat down to his nose, is that
23 correct, or certainly a shadow of his hat goes down the
24 nose?

25 A It doesn't appear to go to his nose.

1 Q Can you see his eyes at all?

2 A No, sir.

3 Q Can you tell whether he has got a beard at all?

4 A No, sir.

5 Q No he doesn't or no, you can't tell?

6 A It doesn't appear that he does.

7 Q You don't think he could have a beard in that?

8 A It is possible. I mean the shadows.

9 Q That's right, it is greatly effective by the shadows
10 in the photograph, right?

11 A Yes, sir.

12 Q Just to clarify, the Solicitor seemed to imply with
13 his question that Ernest was arrested in Columbia by a
14 different law enforcement agency, that is not correct, is
15 it?

16 A No, sir. I think he was detained by the agency
17 knowing that we had active warrants on him.

18 Q Because his mother, because he or his mother had
19 called law enforcement and said that is where he is?

20 A I believe that is correct, yes.

21 Q You found him in Columbia because he or somebody on
22 his behalf contacted y'all and said, you can pick me up
23 and talk to me?

24 A Correct.

25 Q Were you aware that he was at a mental health

1 facility when you met him about 5:00 o'clock on December
2 14th of 2012?

3 A I knew he was at the hospital, I don't think I fully
4 knew that it was a mental health hospital.

5 Q How long do you think the interview lasted between
6 you and Ernest Williams from when he first was brought to
7 Nance Street and he signed the statement?

8 A It wasn't long at all, it had to have been, it was
9 under an hour.

10 Q Could it have been as long as an hour?

11 A I wouldn't say so, no sir.

12 Q He didn't come in and just immediately write his
13 statement though, did he?

14 A No, sir.

15 Q Did you discuss the allegations against him?

16 A Yes, sir.

17 Q In fact Mr. Cooper had already, earlier that day or
18 at least on the 8th, Mr. Cooper had already provided you a
19 written statement of what happened in his words, is that
20 correct?

21 A I don't believe that he would have provided that to
22 me.

23 Q That would be in your file?

24 A Yes, sir.

25 Q Was the contents of Mr. Cooper's statement read to

- 1 or, either read by or read to Mr. Williams?
- 2 A No, sir.
- 3 Q It wasn't or you don't recall?
- 4 A I don't recall but I don't believe it was.
- 5 Q Was the videotape shown to Mr. Williams?
- 6 A From LI'L Cricket.
- 7 Q Yes, ma'am?
- 8 A Yes, sir.
- 9 Q Prior or after the statement?
- 10 A Towards the end of the statement.
- 11 Q It appears he references it in the statement?
- 12 A Correct.
- 13 Q So it must have been shown to him either before or
- 14 during?
- 15 A It was not shown before, no sir.
- 16 Q Was he writing, was he looking at the video and
- 17 writing?
- 18 A No sir, towards the end he stopped his statement, we
- 19 showed him the video because he requested to see it.
- 20 Q Do you know at what point he stopped writing and then
- 21 wanted to see the video?
- 22 A It was towards, it was the very end, the last couple
- 23 of sentences.
- 24 Q He seems to indicate that he saw the video in the
- 25 past but the camera I seen was me, that indicates that he

1 had seen it earlier?

2 A No sir, we did not show him the video before he
3 started writing his statement.

4 Q Okay. Are you sure about that but that would be most
5 likely what you--

6 A I am sure, sir.

7 Q Was there any talk about helping him out if he
8 admitted to it?

9 A No, sir.

10 Q Were you aware of whether he was taking any
11 medications at the hospital?

12 A I was not aware of any.

13 Q In his statement, this is a portion of the statement
14 you are talking about?

15 A What is your question again, sir?

16 Q That is the statement that you have been talking
17 about, that you read for the jury?

18 A Yes, sir.

19 Q When he first wrote the statement he seemed to have
20 indicated that he bought pecans?

21 A Yes, sir.

22 Q When somebody gives a statement is it read to them
23 either by themselves or that you read it to them at the
24 end of it?

25 A No sir, I don't read it, they normally review it

1 themselves.

2 Q But at the end of it it is, if somebody gave a
3 statement that was inconsistent with what you knew was a
4 fact in your case would that be something that you would
5 address with them?

6 A No, sir.

7 Q So if somebody had written a statement saying, I went
8 into the house and it was daytime at noon and you knew for
9 a fact that it was at midnight, you wouldn't say, hey--

10 A No sir, that is their statement.

11 Q So, when y'all are talking about the facts you don't
12 clarify what they mean by--

13 A No, when they write their statement that is their
14 statement.

15 Q But if they may put something in it that you know for
16 a fact is not true you don't discuss that with them?

17 A No sir, I don't, no sir.

18 Q So if they say somebody was with me that you knew was
19 in jail you wouldn't bring that up to them?

20 A No, sir.

21 Q And he also indicates that he told James, and then it
22 is scratched out and put Fred. At the end of his
23 statement did you ask him to clarify if it wasn't pecans,
24 it was peanuts?

25 A No, sir. I did not, no.

1 Q The same question, did you ask him to clarify that
2 the clerk's name was not James, it was Fred?

3 A No sir, I did not.

4 Q It is a fact, isn't it, that, when Mr., Officer Kevin
5 Goodman took, downloaded the photograph from El Tipico he
6 passed that photograph along to other police officers to
7 see if they could identify him?

8 A Yes sir, he passed it on to Lieutenant Schumpert with
9 the Newberry County Sheriffs office.

10 Q Do you know whether he showed other officers from the
11 City Police Department?

12 A That I am not aware of.

13 Q But certainly he would have more access to city
14 police officers than he would county deputies, wouldn't
15 he?

16 A Yes, sir.

17 Q Are you saying he didn't show it to other officers or
18 just you don't know how many people he showed it to?

19 A I don't know how many people he showed it to.

20 Q From the store can you tell me, there was actually a
21 customer who came in just shortly before Mr. Cooper was
22 robbed, right?

23 A Yes sir, it appears.

24 Q And that is taken from the LI'L Cricket surveillance
25 tape?

1 A Yes, sir.

2 Q And that photograph is fairly clear, isn't it?

3 A Yes, sir.

4 Q And we know for a fact that a customer was standing
5 in line with the man who robbed Mr. Cooper?

6 A Yes sir, it appears so, yes.

7 Q Did you make any attempt to identify who this man
8 was, who may have known him in the same community store?

9 A I did not, personally, no.

10 Q Do you know if anybody else, he would have been in
11 the best position to identify, other than Mr. Cooper, the
12 person standing in line next to the man who robbed him
13 would have been in good position to identify possibly?

14 A Correct but I don't know that individual.

15 Q Did you make any attempt to see if you could
16 identify?

17 A No, sir.

18 Q Do you know if any other officer attempted to
19 identify?

20 A Not to my knowledge.

21 Q It appears, because the arrest warrants were issued
22 on December 9th, which is the following day, did you go or
23 did you personally make any attempt to arrest Mr.
24 Williams?

25 A Not personally, no.

1 Q You didn't go to his home?

2 A No, sir.

3 Q Do you know of any other officers?

4 A Not to my knowledge but it is possible.

5 Q We know somebody must have contacted them because
6 they contacted you saying, we know you are looking for
7 Ernest, right?

8 A To my best recollection, I guess it was Richland
9 County I believe contacted us.

10 Q Right. But somebody from Newberry notified the
11 Williams' that they were looking for Ernest, right?

12 A I am assuming sir, I don't know.

13 Q But when the arrest warrant was issued on December
14 9th were you the officer who obtained the arrest warrants?

15 A I was.

16 Q So you went to the Magistrate and presented the
17 evidence that you had that you felt supported the arrest
18 for Ernest Williams?

19 A Exactly.

20 Q And he, and then you signed the affidavit under oath
21 and then you issued the arrest warrant?

22 A Correct.

23 Q So what happened to the arrest warrants, did you give
24 those, another officer to serve or to find Ernest Williams
25 or what normally happens when you get an arrest warrant?

1 A Normally it is by word of mouth that we do have a
2 warrant on hand for an individual and we also have a
3 drawer that these warrants go into at the police
4 department. And officers come in from various shifts and
5 they will go through the drawer and pick out the warrants
6 and possibly attempt to serve them.

7 Q So, when the officers come on duty they are basically
8 told today we have got arrest warrants on A, B, C and D
9 and so they kind of have that in the back of their mind
10 but it is not just given to a specific officer and said,
11 go find this guy?

12 A Correct.

13 Q Do you recall calling the home of the Williams'?

14 A No, sir.

15 Q And you testified that Captain Counts was the man who
16 actually took the DNA samples and the fingerprints?

17 A Yes sir, I believe it was.

18 Q And is it fair to say that he has got 20 years or
19 more experience of doing that?

20 A Absolutely.

21 Q And has probably testified in hundreds of cases?

22 A Absolutely.

23 Q And also, in fact, does he also teach courses to
24 police?

25 A Yes sir, I believe he does.

1 Q In that area, he is not just a run of the mill, he is
2 actually received some claim as having advanced knowledge
3 in his field?

4 A Yes, sir.

5 Q And he goes to many other states to teach?

6 A Correct.

7 Q So he is just not an average level, he has got a high
8 level of expertise of taking fingerprints and DNA samples?

9 A Yes sir, I would say so.

10 Q And to your knowledge he didn't obtain any
11 fingerprints or DNA?

12 A No, sir. No fingerprints to my knowledge which is
13 not uncommon but he did take DNA swabs, yes sir.

14 Q And he is not just guessing when he does that, he is
15 experienced in what he wants to be looking for?

16 A Yes.

17 Q And he is not taking DNA samples just to take them,
18 he only takes when he thinks that they would likely leave
19 results?

20 A Correct.

21 Q Because it is hard enough to get results back from
22 SLED?

23 A Yes sir, it is.

24 Q So I can clarify, you did respond to LI'L Cricket
25 that night?

1 A Yes sir, I did.

2 Q About how long after the first officers arrived do
3 you think that you got there?

4 A Twenty, thirty, forty minutes, maybe.

5 Q Are you aware of any customers or workers at the El
6 Tipico that are saying, yes, we saw Ernest Williams here
7 at this place today?

8 A I am not aware.

9 Q But you have got the videotape that you believe to be
10 Ernest Williams?

11 A Correct.

12 Q Did you ask, did you go to the El Tipico yourself?

13 A I did.

14 Q Did you ask people there if they had seen him or seen
15 other people on the tape?

16 A I didn't go that night, no sir, I went later.

17 Q Thank you.

18 REDIRECT EXAMINATION

19 By Mr. Scott:

20 Q State's number 4, his statement, what time did that
21 end?

22 A At 17:00 which is 5:00 p.m.

23 Q Okay. That is late afternoon December 14th?

24 A Correct.

25 Q Now, in this statement you testified he appeared to

1 understand the directions he was given, he understood why
2 he was there and he understood his Miranda warnings?

3 A Yes, sir.

4 Q So after he reads the entire thing, that is after he
5 reads it he makes the entire statement, that is when he
6 goes back and reviews it for mistakes?

7 A Correct.

8 Q So he would have made that amendment after writing
9 the entire statement?

10 A Correct.

11 Q He would have made this amendment after writing the
12 entire statement?

13 A Correct.

14 Q It is your testimony that you didn't instruct him
15 that he had made a mistake, is that correct?

16 A No sir, I did not.

17 Q What about the other officer, Investigator Goodman
18 who was in there. Did you instruct him that he had made a
19 mistake and that he needed to correct it?

20 A No sir, not to my knowledge, no.

21 Q So he writes the whole statement and at first he
22 refers to the clerk as James and then he refers to him as
23 Fred in the second part twice?

24 A Correct.

25 Q He misspelled knowledge, he apparently corrected it,

1 is that correct?

2 A Yes, sir.

3 Q And these were him spotting these mistakes and making
4 the corrections himself?

5 A That's correct, that is why when they make those
6 mistakes we have them initial it..

7 Q Okay. Now what exactly did you tell him about the
8 case you were investigating before he began writing the
9 statement?

10 A To the best of my knowledge I told him that I was
11 investigating the armed robbery that occurred at the LI'L
12 Cricket and we began discussing it.

13 Q Now, was that pretty much the extent of what you are
14 telling him you are investigating or do you go into great
15 details of how the robbery takes place?

16 A No, sir. At the beginning that is the extent.

17 Q Did he immediately say that was me, I made a mistake?

18 A Not immediately, I would maybe say five minutes into
19 our conversation he finally said, yes, I did it.

20 Q What was that conversation, were you grilling him,
21 was it like TV where you hold the light?

22 A No, sir. We were talking just like we are now.

23 Q How did he come around to admitting to it, do you
24 recall?

25 A I don't recall..

1 Q Were you giving, I guess what I am asking, were you
2 telling him like how we testified to today, blow by blow
3 how it happened?

4 A Yes, sir. I told him there was an armed robbery, we
5 had video surveillance, things of that nature. And he
6 finally said, yes, I committed it.

7 Q Then he began writing his statement, somewhere
8 towards the end you let him watch the video?

9 A Yes.

10 Q What did he do while he watched the video?

11 A He actually grinned, like, yeah, that's me.

12 Q While he was watching it you watched him smile?

13 A I did, I turned around and I saw him grinning from
14 ear to ear. He seemed proud of what he did.

15 Q Did y'all ever find the gun?

16 A No, sir.

17 Q What did he say about the gun?

18 A He said he borrowed it from a friend and after he
19 committed the robbery he turned the gun back over to that
20 friend.

21 Q Did he tell you who the friend was?

22 A He never would.

23 Q Thank you.

24 RECROSS-EXAMINATION

25 By Mr. Verner:

1 Q When you say he grinned like that was me, those are
2 your words that you are describing?

3 A Yes sir, those are my words.

4 Q That is how you took his smile, but he didn't
5 actually say that?

6 A No, sir.

7 Q And likewise, when you say he grinned like he was
8 proud, that is your interpretation of the grin?

9 A That is my interpretation.

10 Q Was the confession videotaped?

11 A No, sir.

12 Q Is there a reason it is not videotaped?

13 A No, sir.

14 Q Does your office have a policy of not videotaping
15 interviews?

16 A No, we do not have a policy on conducting interviews
17 and videotaping, no.

18 Q And in fact there are video cameras in abundance at
19 the police department, almost every car has a video
20 camera, doesn't it?

21 A Every car but our police department does not.

22 Q You would agree that the jury could interpret his
23 smile or the interview if it was videotaped encounter?

24 A Yes, sir. Everybody would have their own
25 interpretation.

1 Q Thank you.

2 THE COURT: You may step down. Call your next
3 witness.

4 MR. SCOTT: The State calls Kevin Goodman to the
5 stand.

6 KEVIN GOODMAN, being
7 first duly sworn, testified as follows:

8 DIRECT EXAMINATION

9 By Mr. Scott:

10 Q State your name for the record.

11 A Kevin Goodman.

12 Q Mr. Goodman, you are an investigator with the police
13 department as well?

14 A I am.

15 Q And did you have an occasion to get involved in this
16 case on December 8th?

17 A Yes sir, I did.

18 Q How did you become involved in it?

19 A Actually that particular night I was working security
20 at Grant Homes and when the call came out I just responded
21 to the area to help set up a perimeter.

22 Q What is the call, there is a call over the radio?

23 A An armed robbery on the LI'L Cricket on Kendall Road.

24 Q So you were nearby?

25 A Yes sir, just up the street in Grant Homes.

1 Q You were working, that is an apartment complex?

2 A Yes.

3 Q And that is a part-time thing, you work security over
4 there?

5 A That is part-time, yes sir.

6 Q And approximately what time of night was this?

7 A That I was working Grant Homes?

8 Q Yes.

9 A I worked Grant Homes from 6:00 p.m. to, on Friday
10 nights from 5:00 to 1:00 and on Saturdays from 6:00 to
11 2:00 a.m.

12 Q This was a Saturday night?

13 A I can't remember what night it was.

14 Q December 8th, you do recall that night?

15 A I remember that night, I don't remember if it was a
16 Friday night or a Saturday night but I do remember that
17 night.

18 Q What time do you think you got over to the LI'L
19 Cricket?

20 A I didn't immediately respond to the LI'L Cricket, I
21 actually just started patrolling the area because the call
22 came out that the suspect had already left. So there was
23 an officer, I believe Sergeant Hunter who had already
24 arrived on the scene so there was no need for me to go
25 there.

1 Q So you are saying the call came out, did you get a
2 description of the suspect they were looking for?

3 A Yes, sir. The red jacket, the black male, red
4 jacket, approximately 5'8" or so and I believe they said
5 dark pants.

6 Q So you are, instead of going directly to LI'L Cricket
7 you are out kind of looking around for this person?

8 A Right.

9 Q Okay. Obviously didn't find him that night, correct?

10 A That's correct.

11 Q So where did you go after patrolling?

12 A After some time I ended up going to the LI'L Cricket
13 to see if Ms. Moore needed any help. She didn't and I was
14 later ended up at the El Tipico.

15 Q How did you think to go over to the El Tipico?

16 A Well, we got word that the county had someone that
17 fit that description, that we had from the LI'L Cricket
18 that ran from them down around the One Stop El Tipico
19 area. So I went there and it is just, I have been
20 investigating since '99 so normally what we do is, we will
21 try to find a store or something that has security
22 surveillance and start reviewing that to see if we can see
23 if this person came in and out of the stores. Typically
24 when things like this happen there is a lot of times they
25 will case places, go in and out of different stores before

1 they actually picture one that they actually want to rob.

2 So that is what I did.

3 Q And at that point, when you go up to LI'L Cricket had
4 you already seen the video, I am sorry, when you go up to
5 El Tipico had you already seen the video at the LI'L
6 Cricket.

7 A I don't remember viewing the video. I do remember
8 seeing a small portion of the video.

9 Q Which video are we talking about?

10 A At the LI'L Cricket, I am sorry. And it would be the
11 portion of him, the suspect coming down that aisle, that
12 drink aisle toward the front. But I couldn't recognize
13 who he was but once I reviewed the video at El Tipico,
14 that same dressed person was the same dressed person, the
15 same dressed person in the LI'L Cricket was the same
16 dressed person in the El Tipico.

17 Q But what was the difference, could you see his face
18 better or something?

19 A They had some closeup shots of him especially coming
20 out, going in and coming out of El Tipico.

21 Q Let me ask you, this State's number 7, where was that
22 taken?

23 A This is at the LI'L Cricket.

24 Q This, State's number 11, where was this taken?

25 A This was at El Tipico.

1 Q What is the difference between his jacket at LI'L
2 Cricket and the El Tipico?

3 A The hood is not on his head.

4 Q So he is wearing his hood in the LI'L Cricket?

5 A Right.

6 Q So at the El Tipico he doesn't have his hood on his
7 head, is that what you are saying?

8 A Correct.

9 Q So you thought these videos would help identify him
10 better?

11 A Yes. In this actual picture here really doesn't do
12 justice for that video at El Tipico. When you look at
13 live, I mean you can actually tell it is the same
14 identical--

15 MR. VERNER: I would ask that he refer to which
16 document.

17 A This, State's exhibit 11, I mean it doesn't do
18 justice, it kind of lightens the jacket up but when you
19 are actually looking at the video itself at El Tipico, I
20 mean you can tell that it is, this right here makes it
21 look like an off red, it makes it look dark red like.

22 Q As a matter of fact though, how was that picture
23 taken?

24 A This was taken with my cell phone.

25 Q That was taken the night of December 8th?

1 A The night of December 8th, yes sir.

2 Q But you said you were unable to burn the video that
3 night?

4 A Right. The lady that was actually, there was a small
5 language barrier there and she didn't understand how to
6 burn the video or how to dub it to a junk drive. So we
7 were going to have to set up another time for me to come
8 back to get that done.

9 Q But y'all were interested in making an ID that night?

10 A Right, we had an armed robbery suspect out there so
11 the sooner we got a better idea of who we were looking for
12 the better. So, I froze it and took a picture of the best
13 shot that I thought.

14 Q And then how did you utilize that still shot that you
15 were able to generate with your cell phone?

16 A Well, I still couldn't identify him. It was one of
17 those things, I guess, living in a small town. You know a
18 face but just can't put a name with it, features and stuff
19 look familiar but you just, for some reason you can't put
20 a name with it. So I showed it around to some of the
21 other officers, probably Lieutenant Haltiwanger, there was
22 a deputy that was down around the El Tipico area that
23 looked at it, he didn't know who it was. Eventually I
24 ended up meeting up with Lieutenant Schumpert from
25 Newberry County Sheriffs Department. And he was, almost

1 said immediately, said that was Poochie.

2 Q That is a nickname?

3 A That is a nickname. I asked him, my response is who
4 is Poochie. And he said Ernest Williams. And I went on,
5 are you sure. And he said he is down the street from his
6 house almost daily and the same Chicago Bulls jacket.

7 Q So he immediately identified that?

8 A Immediately.

9 Q Let me show you State's number 6, do you recognize
10 that?

11 A Yes sir, that would be the burned DVD from El Tipico.

12 Q That is the video that you were able to obtain
13 eventually from El Tipico?

14 A Yes, sir.

15 Q And that video surveillance depicts events that
16 happened December 8th of 2012?

17 A December 8th of 2012, yes sir.

18 Q In fact you were able to review that video on
19 December 8th of 2012?

20 A On December 8th I reviewed it.

21 Q Have you reviewed that video since then?

22 A Yes.

23 Q And was it the same video you saw December 8th of
24 2012?

25 A Yes, sir.

1 MR. SCOTT: Your Honor, the State would offer State's
2 number 6 for admission into evidence.

3 MR. VERNER: No objection.

4 THE COURT: State's 6 is in evidence.

5 (Whereupon, State's Exhibit 6 was admitted into
6 evidence.)

7 (Whereupon, a DVD was played for the jury.)

8 Q Investigator Goodman, where is this?

9 A This is at the El Tipico.

10 Q This is the inside area of the bar/restaurant?

11 A Yes, coming into the bar area.

12 Q This would be the front door?

13 A Yes, sir.

14 Q Does that face Kendall Road?

15 A Yes, that is facing Kendall Road.

16 Q 121?

17 A 121.

18 Q Okay. Who is this walking in the door?

19 A That is the suspect. As you can see that is very
20 close to what you see at the LI'L Cricket.

21 Q He is not wearing the hood?

22 A He is not wearing the hood.

23 Q And the date of this is timestamped and would be at
24 the top, is that correct?

25 A Yes, sir.

1 Q So December 8th of 2012 and what time is this?

2 A That is 9:00 o'clock.

3 Q That is approximately an hour before the LI'L Cricket
4 robbery?

5 A Right.

6 Q That was him, approximately two and a half minutes he
7 was in the El Tipico?

8 A That's right.

9 Q Did you obtain multiple camera angles?

10 A Yes, sir. This camera angle right here is just
11 outside of the front door of El Tipico which would be if
12 you are facing El Tipico to the left.

13 Q So this here on the left, is that the front door of
14 the El Tipico?

15 A That is the front door there, right in there.

16 Q And then in the other side of this parking lot is
17 121?

18 A 121, Kendall Road.

19 Q Okay. Do you recognize this figure?

20 A Yes, sir. That description fits the same description
21 of the person that I saw, that was captioned at the LI'L
22 Cricket.

23 Q Okay. But again, this is El Tipico surveillance?

24 A This is El Tipico.

25 Q On December 8th?

1 A Yes, sir.

2 Q What time is this?

3 A It is 8:59:22.

4 Q So this is the person before they come in?

5 A Yes. And this is the suspect leaving.

6 Q So these El Tipico's videos were valuable because, I
7 guess you see a clearer picture of the suspect in these
8 videos?

9 A Right.

10 Q And there was no incident that occurred at El Tipico,
11 correct?

12 A The only thing that we got was a suspicious person at
13 the One Stop which is two doors up from El Tipico back
14 toward the LI'L Cricket. And when the deputies responded
15 they saw someone that fit the description of the other
16 person from the LI'L Cricket leaving the area of El
17 Tipico. And he ran up behind the little car place right
18 beside it, whatever the name of that car place is, back
19 towards the One Stop, back behind that place, the car lot.
20 And then back behind El Tipico and there is a little path
21 that cuts up to Nance Forrest, back that way.

22 Q All of that is what leads you up to El Tipico from
23 LI'L Cricket?

24 A That's right.

25 Q And then you find this video and it is occurring

1 approximately forty-five minutes to one hour before the
2 LI'L Cricket armed robbery?

3 A Right.

4 Q Let me show you State's 12, 13 and 14. Do you
5 recognize those?

6 A Yes sir, these are still shots of the video that we
7 just saw of the suspect. This one is exhibit 12, is the
8 suspect entering. And I believe it is, 13 and 14 is of
9 the suspect exiting El Tipico.

10 Q And do those fairly and accurately depict images
11 contained in the video we just watched?

12 A Yes, sir.

13 Q And these depict images you watched on the video
14 December 8th, 2012?

15 A Yes, sir.

16 MR. SCOTT: Your Honor, we ask to admit 12, 13 and
17 14.

18 MR. VERNER: No objection.

19 THE COURT: 12, 13 and 14 are admitted into evidence.
20 (Whereupon, State's Exhibits 12, 13 and 14 were
21 admitted into evidence.)

22 Q So these are just still photos that are taken from
23 the El Tipico surveillance video?

24 A That's right.

25 Q I noticed the person in this video, these still shots

1 and these videos wearing a blue cap of some sort?

2 A Some type of cap, yes sir.

3 Q In reviewing the LI'L Cricket footage depicted in
4 State's number 7, although he is wearing a hood were you
5 able to depict a blue hat underneath the hood?

6 A I can't sit here and say a blue hat but you can see
7 in the video in this LI'L Cricket, you can see the rim of
8 a hat. To say it is blue I wouldn't be able to tell you
9 it is blue.

10 Q I neglected this earlier. Aside from the angles we
11 saw of the El Tipico surveillance video were there, was
12 there an inside angle at the poolroom you remember?

13 A Yes sir, there is some video from the pool room as
14 well.

15 Q Let me show you State's number 5, do you recognize
16 that?

17 A Yes, sir. That would be another portion of the
18 video.

19 Q El Tipico again but just, was that another inside
20 angle?

21 A Different angles, yes sir.

22 Q Thank you. Have you reviewed this?

23 A I have reviewed it, not recently, but I have reviewed
24 it.

25 Q Does this depict the same video that you reviewed

1 December 8th of 2012?

2 A Yes, sir.

3 MR. SCOTT: Your Honor, the State would admit number
4 5 for admission into evidence.

5 MR. VERNER: No objection.

6 THE COURT: Without objection 5 is admitted.

7 (Whereupon, State's Exhibit 5 was admitted into
8 evidence.)

9 Q What is this?

10 A This is the inside, when you first come into the door
11 at the El Tipico and then you make that right turn to go
12 into the pool area to the right area of the eating area of
13 the El Tipico.

14 Q And these times correspond with the other videos?

15 A Yes, sir.

16 Q So he comes in the front door and makes that turn,
17 this is the room he walks into?

18 A Yes. That is the suspect walking through.

19 Q So utilizing the El Tipico videos and the still shot
20 you were able to come up with a name, Ernest Williams?

21 A That's right.

22 Q And that was through an identification made from
23 Odell Schumpert with the sheriffs department?

24 A That's right.

25 Q Did you arrest Ernest Williams that night?

1 A No, sir.

2 Q It was testified to he was arrested December 14th?

3 A I think that is right..

4 Q Did you have an occasion to speak with him that day?

5 A I had an opportunity to sit in on the interview.

6 Q Is that typical?

7 A Yes.

8 Q You were I guess a witness of some sort to the
9 statement?

10 A Well, we try to investigate, we try to sit in on
11 interviews. It is a good practice they teach you. If I
12 am interviewing you I am focused on what you are saying
13 and a lot of times it is good to have a note taker just in
14 case I miss something you saw. I am just there to
15 witness, someone else be there to witness the conversation
16 and maybe, four ears are better than two.

17 Q Allison Moore, the other investigator, was the
18 primary?

19 A She is the primary.

20 Q Investigator?

21 A Right.

22 Q She would have been the one to read Miranda?

23 A That's right.

24 Q She would have been the one asking questions?

25 A That's right.

- 1 Q You weren't the muscle, were you?
- 2 A No, sir.
- 3 Q Was he intimidated at all?
- 4 A No, sir.
- 5 Q Did you attempt to coerce him in any way?
- 6 A No sir, not at all.
- 7 Q Didn't try to scare him?
- 8 A No.
- 9 Q Did you make any mean faces at him?
- 10 A No, sir.
- 11 Q Did he seem clearheaded?
- 12 A He did to me.
- 13 Q How long have you been an investigator?
- 14 A Since 1999.
- 15 Q Do you come across people very often who appear to be
- 16 under the influence of drugs or alcohol?
- 17 A I have.
- 18 Q Did he appear to have any of those handicaps?
- 19 A No, sir.
- 20 Q And you heard earlier about him initialing the
- 21 Miranda warnings, did you witness him doing that?
- 22 A Yes sir, I did.
- 23 Q Tell me what you remember him saying when he got
- 24 there about this incident y'all were investigating?
- 25 A I was just, in the beginning it is a lot of small

1 talk. What do you want with me, it is kind of explained
2 by Sergeant Moore, why you are there and what the
3 allegations are. The Miranda's are read and he was very
4 apologetic. He seemed sorry for what he had done and said
5 he made a mistake. He did talk about being on medication
6 for something that he was going through. He alluded to
7 having a couple of drinks that day. He didn't remember a
8 lot about that night. So he talked, he wasn't
9 belligerent, he wasn't argumentative, he just had a normal
10 conversation.

11 Q Was he apologetic?

12 A Yes, he was very apologetic. He kept saying that
13 Fred was a good guy. From the way he talked it was almost
14 like he knew Fred because he didn't call him Frederick and
15 he wasn't real, it was like Fred is a good guy and doesn't
16 bother anybody. It just appeared that he knew him
17 personally.

18 Q What about this [REDACTED] address, are you
19 familiar with that area?

20 A Vaguely yes, that is in the county. But, yes, I am
21 familiar with it.

22 Q About how far away is it from that LI'L Cricket?

23 A A mile, a mile and a half, it is just past Pope
24 Street, across the railroad track what we call the Hood,
25 what we call the Hood up in the Helena area section of

1 Newberry.

2 Q So it is nearby?

3 A Yes, sir. A mile, mile and a half maybe at the most
4 I would guess.

5 Q Did you say anything to him to the affect of, if you
6 just say it we will take care of you, everything will be
7 okay?

8 A No, sir.

9 Q You say you didn't coerce him in any way?

10 A No, sir.

11 Q Now after he wrote out the statement, did you witness
12 him write the statement?

13 A Yes sir, I did.

14 Q Do you recall him, giving him a chance to review his
15 statement afterwards?

16 A He did. And I had an opportunity to read it as well.

17 Q And we were talking about some amendments that were
18 made on there?

19 A That's right.

20 Q Did you or Allison Moore point those out to him?

21 A I pointed out, in reading his statement, because I am
22 not the lead investigator, he referred to a James and then
23 he referred to a Fred. My questions was, who is James.
24 Because I didn't know if there was someone else he was
25 talking about or if he was talking about the same person.

1 And then he said, oh, that was my mistake, he kind of knew
2 him as James for some reason but it was Fred. He made
3 that correction, but I did ask the question, I raised the
4 question, who was James. I guess just because I am not
5 the lead investigator, there is another person involved
6 that I didn't know about. Now as far as the pecans and
7 peanuts, that's completely him because I had no idea what
8 he went there for initially.

9 Q So you are saying he wrote the whole thing out, the
10 first page and the second page?

11 A Right.

12 Q As I pointed out earlier, he mentions James in his
13 first sentence but then he refers to a Fred at least twice
14 later on in the statement?

15 A Twice or, it is Fred here, at least three more times
16 he refers to a Fred and one time a James.

17 Q So you are saying after you saw him mention Fred
18 afterwards, you said, okay, who is this James guy, that is
19 when he made this correction?

20 A Right. He was like, James, I don't know how, he
21 somehow said he thought he knew him by James.

22 Q Then he refereed to him as Fred afterwards?

23 A But then he referred to him as Fred the entire way
24 throughout the statement. So, that is what led me to ask
25 who was James.

1 Q And I remember going to the LI'L Cricket to buy
2 pecans and then he changed it to peanuts. That was him?

3 A That was him, I didn't have a reason to question that
4 at all.

5 Q Had y'all told him prior to writing that statement
6 that the person involved had bought some peanuts?

7 A No.

8 Q He knew that on his own?

9 A Right.

10 Q After he finished the statement was he just taken
11 back to the jail?

12 A Taken to the jail, yes sir.

13 Q Did he tell you what, any kind of illness or ailments
14 I guess that he suffered from at the time?

15 A He talked about a skin disease. I don't really know,
16 I can't remember. I just remember him talking about a
17 skin disease and lupus, I don't know what that is. But I
18 can remember him talking about lupus.

19 Q Those were two ailments that he said that he had
20 suffered from?

21 A Yes, sir. And I want to make sure I am clear. It is
22 skin something, I don't want to say disease or a rash but
23 it is something with his skin that he had problems with.
24 I can't remember verbatim exactly that it was a skin
25 disease or a skin rash or something and then lupus.

1 Q And any time during that interview did he say he was
2 suffering any kind of side effects from his lupus or his
3 skin disease?

4 A No.

5 Q Did he say any medications he was taking were
6 affecting him in any way?

7 A He didn't say it was affecting him in any way, no
8 sir.

9 Q Thank you. Answer any questions Mr. Verner has for
10 you.

11 THE COURT: We will take a break before we
12 cross-examine. Step back in the jury room and don't
13 discuss the case. We will be right back.

14 (Whereupon, the jury was excused from open court for
15 a break.)

16 THE COURT: We will take a short break. You can step
17 down and don't talk about your case with anyone.

18 (Whereupon, a short break was taken.)

19 THE COURT: Let's bring the jury in, please.

20 (Whereupon, the jury came into open court at
21 approximately 3:19 p.m.)

22 THE COURT: Mr. Verner.

23 CROSS-EXAMINATION

24 By Mr. Verner:

25 Q From the El Tipico video or the LI'L Cricket

1 surveillance tape, were you able to identify the suspect?

2 A No sir, not me.

3 Q You have been in Newberry since 1999 or as a law
4 enforcement officer?

5 A I have been a police officer since 1995, I have been
6 in investigations since 1995.

7 Q So you have a city police officer here in Newberry
8 since 1995?

9 A Since 1995.

10 Q And from the videotape you weren't able to identify?

11 A That's right.

12 Q Did you have any, after you went to the El Tipico on
13 the night of December 8th of 2012 and you obtained the
14 photograph and the video that we have seen just a few
15 minutes ago. Did you have any further involvement in the
16 investigations?

17 A Other than sitting in on the interview.

18 Q Interrogation or the interview?

19 A Yes, sir.

20 Q That was your only, you didn't go out and look for
21 evidence or fingerprints or that type?

22 A No, sir.

23 Q Did you have anything to do with trying to find out
24 where Ernest Williams was?

25 A As far as that night we looked for the suspect just

1 searching the area but as far as going out after a warrant
2 was served, signed on him, no sir.

3 Q And is that an accurate, when a warrant is obtained
4 just is basically whenever the officers come on the next
5 shift, they are just informed these are people who just
6 picked up warrants and be on the lookout for them or do
7 y'all actually, once you get a warrant signed by a Judge
8 do y'all go immediately to try to find and arrest that
9 person?

10 A That can vary depending on the situation. If it is
11 someone that we know where they are at we will go look for
12 them. If it is someone that we don't know we typically
13 put it in the book, put in the drawer and the next shift
14 comes on we will pick it up.

15 Q And the more serious the charge such as an armed
16 robbery the more likely you are to go try to find him
17 immediately?

18 A Well, the more serious the crime, yes sir.

19 Q Is it likely that on armed robbery warrants that law
20 enforcement would have gone, assuming that we knew where
21 his address was, that we would have gone to his house that
22 night?

23 A Yes.

24 Q Not always but usually the case on an armed robbery
25 case?

1 A If we can get an idea on someone and have a good idea
2 where they are at, yes sir.

3 Q If it is a violent crime we don't sit around at the
4 police department, they go ahead and send the police as
5 soon as they have identified who they think it is?

6 A Yes sir, as long as we know for sure that is who we
7 are looking for. We don't just assume and go, you know--

8 Q Right. Once you get an arrest warrant signed by the
9 Judge--

10 A Right. Once the arrest warrant is signed then you
11 try to serve it, yes sir.

12 Q Did you prepare any photo lineups in this case?

13 A No, sir.

14 Q So you would not have shown any photo lineups to Mr.
15 Cooper?

16 A I don't remember showing any lineups to anyone. The
17 only lineup I remember is the one that was shown that
18 night that I didn't take a part in.

19 Q That was with Officer Hunter?

20 A Officer Hunter, that's right.

21 Q How many investigators works with the city police
22 department or did at least as of December 8th?

23 A Four.

24 Q Four?

25 A Yes, sir. The captain is an investigator as well so

1 we count him as an investigator.

2 Q Who is that?

3 A The captain.

4 Q Captain Counts?

5 A Captain Counts, Captain Atkins now but any captain is
6 a part of the investigative team, yes.

7 Q So back in December 8th of 2012 you were primarily
8 the investigator?

9 A I was an investigator, yes sir.

10 Q And Investigator Moore was an investigator?

11 A That's right.

12 Q And who were the other two?

13 A Lieutenant McClurkin and Captain Atkins.

14 Q Okay. Now Captain Atkins, at that time he was an
15 investigator?

16 A I don't know when he was promoted to be honest with
17 you.

18 Q When an investigation gets assigned to one of the
19 investigators typically that is the investigator that
20 controls and does most of the work?

21 A That's right.

22 Q It is assigned to one investigator unless it is a
23 really big type case?

24 A That's right.

25 Q Did anybody, was the El Tipico still open at the

1 time?

2 A It was.

3 Q And it looked like from the video that I watched that
4 there was some black guys playing pool on the table in the
5 bathroom?

6 A That's right.

7 Q Did you go around and ask anybody, hey, do you know
8 who this person is?

9 A When I went in there those people were not in there.

10 Q Okay. Did you go around and ask the bartender or
11 anybody in there if they had remembered seeing the man
12 with the red jacket?

13 A The lady that showed the video, she was an Hispanic
14 lady. And there was a language barrier but she didn't
15 know him and I guess she understood what I was asking.
16 She understood enough to take me back and show me the
17 video.

18 Q But you didn't ask any of the other patrons if they
19 knew who that was or if they remember seeing anybody?

20 A No, sir.

21 Q But there were still other customers in?

22 A I remember no one in the pool hall but I do remember
23 one or two people in the eating area when you first come
24 in.

25 Q And then basically after you encountered Lieutenant

1 Schumpert, was that out there at the scene of the El
2 Tipico or was that later on back at the--

3 A Back at the LI'L Cricket.

4 Q So that is where you showed him the picture?

5 A That's right.

6 Q Do you recall how many officers you showed the
7 photographs to?

8 A It would have been the officer at the El Tipico, the
9 little car lot right there in between El Tipico and One
10 Stop. That officer which was a deputy, I don't remember
11 his name. Lieutenant Haltiwanger, Sam Hunter and
12 Lieutenant Schumpert. Because Lieutenant Haltiwanger and
13 Sam Hunter and Lieutenant Schumpert, they are all there at
14 the LI'L Cricket together, it is not like I went to
15 different locations. They were all there together--

16 Q Basically handing the picture around, and they all
17 looked at it?

18 A Right.

19 Q When you were at the scene, are you qualified to take
20 fingerprints. Do you have to specially be qualified to
21 take fingerprint samples from a crime scene?

22 A To try to develop latent prints?

23 Q When you are a police officer do you have to have
24 some kind of special certification to take latent--

25 A To process crime scenes, yes, you have to go through

1 crime scene process and stuff, yes sir.

2 Q So just being a police officer doesn't qualify you to
3 take the--

4 A Not necessarily, not until you actually take the
5 class.

6 Q You have to be certified at an advanced level. Are
7 you certified to take fingerprints?

8 A Yes, sir.

9 Q Were you as of December 8th of 2012?

10 A Yes, sir.

11 Q Did you take any fingerprints?

12 A No sir, I didn't.

13 Q Did you remember meeting with Captain Counts at that
14 time?

15 A That night?

16 Q Right.

17 A No sir, he didn't come to the scene that night.

18 Q And Captain Counts still is not always but generally
19 called in when there are fingerprints?

20 A What Captain Counts does, he is on a part-time basis,
21 he is retired, he travels now and teaches. Like today he
22 came in, if we have evidence that we have collected
23 throughout the week from last Wednesday or last Tuesday he
24 will come in and process those things at the lab and make
25 a finding one way or the other.

1 Q Okay. So other officers may do it too but typically
2 he is the final say on whether fingerprints match or don't
3 match?

4 A Right. To identify someone by fingerprint, to say
5 that this print on this paper belongs to you he does that,
6 yes sir. I can develop the fingerprint, collect it but he
7 would have to say it belonged to you. He is an expert in
8 that, not me.

9 Q Okay. Did you have a relationship with Ernest
10 Williams prior to December 14th of 2012?

11 A A relationship, no sir.

12 Q So he was basically a stranger to you on December
13 14th?

14 A I knew of his face, I never knew his name at all.

15 Q But had seen him around?

16 A But had seen him around, again it is a small town so
17 I have seen a lot of people in 18 years. And with the
18 exception that my first wife's half brother is in his
19 family somehow so I have been around but not a close
20 relationship with Ernest.

21 Q And familiar with his face but might confuse his name
22 with somebody's else so that is why you don't want to
23 identify him?

24 A Familiar with his face but I couldn't have told you
25 his name that night. I couldn't even make up a name to

1 tell you.

2 Q Did you speak to Frederick Cooper that night?

3 A No, sir.

4 Q I assume you, yourself, have conducted interviews at
5 the city police department?

6 A Yes, sir.

7 Q Have you been the lead investigator or lead
8 interrogator?

9 A Yes.

10 Q And typically by policy usually if there would be a
11 second witness who would try to sit in with you?

12 A We try.

13 Q And that second witness is always police officers?

14 A Yes, sir.

15 Q Are these interviews videotaped?

16 A No, sir.

17 Q Is there any reason they couldn't be videotaped?

18 A To my knowledge, no, we have no way of taping a
19 video, an interview. I know that I was certified in
20 interviewing children of sexual assaults and that was one
21 of the issues that we had at that time, that we didn't
22 have the capability of doing forensic interviews,
23 videotaping them. So I don't know of a way to do that.

24 Q A forensic interview of a child is much of a
25 different protocol than interviewing a suspect?

1 A Absolutely.

2 Q And when you are interviewing a child usually the
3 child is a victim or at least an alleged victim?

4 A Right..

5 Q That is a different animal than interviewing
6 criminals?

7 A Absolutely.

8 Q And there are different rules on how that evidence
9 can be used?

10 A Yes, sir.

11 Q Why can't you just set a video camera, the El Tipico
12 appears to have at least four cameras, several different
13 cameras in their store?

14 A I think four or more.

15 Q And you were able to access them and download them
16 and bring them to court today?

17 A Yes, sir. Now, I didn't actually do the downloading.
18 But, yes, they were downloaded.

19 Q And LI'L Cricket seemed to have had four videotapes
20 that they were able to provide to law enforcement?

21 A That's right.

22 Q And your testimony is y'all can't put a video camera
23 in the interview room?

24 A That is not my decision. I am an investigator. That
25 would be more of an administrative thing, the Chief may be

1 able to answer that. I couldn't tell you.

2 Q Do you know if that is a deliberate decision not to
3 videotape these interviews?

4 A That would require me to try to assume why my boss
5 don't have it in there. I don't know that, that is
6 something that the city manager and the Chief would have
7 to answer.

8 Q That is at a higher--

9 A Yes, that is above my pay grade, yes sir.

10 Q The fact, almost every police car or patrol car
11 carries a video camera in it, doesn't it?

12 A That's right.

13 Q How long do you recall Ernest Williams being at the
14 city police department?

15 A On the day of the interview, if I had to guess, no
16 more than, less than an hour, no more than an hour.

17 Q Are you sure whether he was shown the video, when he
18 was shown the videotape?

19 A I remember Ernest stopping somewhere in his
20 statement, while he was writing, he wanted to see the
21 video. And he was shown the video at some point but at
22 what point, what sentence, what line he was on I could not
23 tell you.

24 Q Do you remember what Ernest was wearing that day?

25 A I don't.

1 Q You don't recall whether he was already in the jail
2 issued clothes or whether he was in civilian clothes?

3 A He came straight from some hospital so he wouldn't
4 have been in jail for us.

5 Q As an investigator, in general, does it sound like a
6 good idea to interview somebody the same day they are
7 being taken from a mental health institution?

8 A It depends on that person's state of mind. At the
9 beginning of any interview, if we feel like there is some
10 issues, if, we will stop it and not conduct the interview.

11 Q And some of the reasons are is they might be on
12 medications?

13 A Say that again.

14 Q At least one of the reasons is that they might be on
15 medication?

16 A Not just on medication but it has to, we have to feel
17 like that medication is, has you impaired somehow.

18 People, I mean, there is a lot of people that take
19 medication every day but they function every day and they
20 can go to an interview. But if it has got them kind of
21 delirious, out of their mind, that is different. You
22 wouldn't interview someone that's impaired somehow.

23 Q I am not suggesting that was the fact in this case.
24 But just in general, a red flag in talking with somebody
25 who is in a mental health facility, is that they might be

1 taking medication?

2 A If they are in a mental institution--

3 Q That is a possibility--

4 A --it is a possibility that he is taking medication,
5 yes sir.

6 Q And they could be in a state of emotional distress?

7 A Could be.

8 Q And there are other reasons, were you aware that he
9 was being taken out of a mental health facility that same
10 day?

11 A Honestly I was aware, I was under the impression that
12 he was just coming from Palmetto Richland. I didn't know
13 he was coming from a mental institution.

14 Q Would you have done things a little bit differently
15 if you had been aware he was coming out of a mental health
16 facility?

17 A His demeanor that day, I would have continued with
18 the interview.

19 Q Primarily Investigator Moore was the lead
20 investigator?

21 A She was.

22 Q Were you making notes, contemporaneously with the
23 questions or you were just making mental notes?

24 A Just mental notes.

25 Q And then with the mental notes, when he wrote James

1 you realized that that was inconsistent with the clerk's
2 name?

3 A It was inconsistent with what he was saying. Again,
4 in the small talk in the beginning he referred to the
5 clerk as Fred and Fred is a nice guy and Fred is a good
6 guy. And then in reading his statement there was a James
7 and then everything else was Fred. So not being the lead
8 investigator I just asked who James was. Just, you know,
9 just to clarify whether James was his middle name or is
10 James a totally different person or who.

11 Q And he actually wrote that he had gone in to buy
12 pecans and then later changed it to peanuts?

13 A That's right.

14 Q I believe you testified that you don't recall
15 specifically saying that?

16 A I wouldn't have reason to question that because I
17 wouldn't have known what he went in there for.

18 Q After somebody gives a written statement to law
19 enforcement do you typically read it out loud to them to
20 make sure that is what they will be tending to say?

21 A We will go over the statement together to give
22 anybody the opportunity to add, take away, do whatever,
23 make changes to their statement. And they are allowed to
24 put whatever they want to put in that statement, it is
25 their statement.

1 Q If somebody had given a statement and included
2 something, something in the investigation that you knew
3 for a fact wasn't true, such as they said I was with John
4 Brown and you knew for a fact John Brown was locked up at
5 the jail when this happened. Would you point that out to
6 them?

7 A When I get them to go back and change their
8 statement, no sir, I wouldn't point that out to them.
9 Again, that is their statement and if, I can't make them
10 change it. If that is who they want to say they was with
11 then that is who they say they are with.

12 Q Would you at least mention it to them, are you sure
13 you were with this guy?

14 A No, because when you do that it is almost like you
15 are trying to get them to change it. So, no, that is, the
16 only reason I questioned James is because it was like when
17 you read it he is referring to the same person but he
18 calls him by a different name in the beginning. But
19 everything else is Fred and everything that he said was
20 Fred.

21 Q So if somebody had written a statement and you knew
22 part of it was not accurate then you would still use that
23 as a statement in the evidence file.

24 A Absolutely. There was been times in my past where we
25 have taken three statements because they want to change a

1 statement. But if that is their statement that is theirs.

2 Q Are you aware of any, other than the, we have seen
3 the videotape, we have seen the El Tipico tape and we have
4 seen the LI'L Cricket tape. Other than the videotapes and
5 the confession that he gave are you aware of any physical
6 evidence of any sort that directly--

7 A No sir, none other than what is here today.

8 Q The case is the confession, the two videotapes and
9 Officer Schumpert's or Deputy Schumpert's identification?

10 A Yes sir, everything that has been testified in here
11 and introduced today.

12 Q Thank you.

13 THE COURT: Any redirect?

14 MR. SCOTT: Nothing from the State, Your Honor.

15 THE COURT: You may step down. Call your next
16 witness.

17 MR. SCOTT: The State calls Odell Schumpert.

18 ODELL SCHUMPERT, being
19 first duly sworn, testified as follows:

20 DIRECT EXAMINATION

21 By Mr. Scott:

22 Q State your name.

23 A Odell Schumpert.

24 Q Deputy Schumpert, you are with the sheriffs
25 department, right?

1 A That's correct, sir..

2 Q How did the sheriffs department become involved with
3 the city case on December 8th of 2012 at the LI'L Cricket
4 on Kendall Road.

5 A Normally we, all agencies here in the county will get
6 together and help one another out. But on that particular
7 night in question right there at the One Stop which is the
8 old Mr. K. III or now the San Jose across from Pee Wee's,
9 I received a call because I am the shift supervisor and i
10 sent a deputy out in reference to a suspicious person that
11 had on a red jacket, a blue hat and possibility had a gun.
12 And at that particular point and time the subject or the
13 person had gone into the store, itself, and was asking
14 questions about how much something costs. And it was
15 close to closing time so it had to be about maybe, ten
16 minutes to 10:00, something like that, 9:50, somewhere
17 along in there.

18 Q You are talking about the One Stop?

19 A Yes sir, it is right next door to the, well, you have
20 got, what is it, Latinda which is in the city and then you
21 have the old flower place which is now the church right
22 there. That is in the city. And then you have Mr. K.
23 which used to be Mr. K. III and then you have the Diamond
24 Motors and then you have El Tipico. So it is just all
25 right there in that little corner.

1 Q So this is in the county but then two blocks down the
2 road at the LI'L Cricket, that is the city's jurisdiction?

3 A Yes, sir. As a matter of fact, like I said, the
4 Latinda which is the Hispanic restaurant right there on
5 the corner of Nance and Kendall. That is in the city
6 limits. The flower shot that used to be the old flower
7 shot that is now the, it is a car dealership now, that is
8 in the city. But then you go down and you have got Mr.
9 K., Diamond, Morris, all of that is in the county. Then
10 you go on up the street and then you have Kunkle Tire
11 which is in the city. So it is kind of flip flops back
12 and forth right there.

13 Q And you are going out there December 8th at ten to
14 10:00?

15 A Yes, sir.

16 Q You are investigating something that occurred at the
17 One Stop?

18 A Yes, sir. As a matter of fact the call came out as a
19 suspicious person that was in the store asking how much
20 things cost and it was close to closing so they wanted an
21 escort. So I had a deputy go in route to provide an
22 escort while they closed up. But while they were, while
23 we were in route that way that subject had walked outside
24 and supposedly one of the customer's who had walked out of
25 the store saw him standing on the side of the building

1 possibly with a gun. And that is why we were in the area.

2 Q Were you aware at that time of the armed robbery that
3 had occurred down the street at the LI'L Cricket?

4 A It hadn't taken place yet. It took place right
5 within that timeframe. We were responding to Mr. K. at
6 that particular point and time. And while we were
7 responding to Mr. K. being that we are on separate
8 channels then we got the call from the city that had an
9 armed robbery.

10 Q Let me show you State's number 16. Do you recognize
11 what that is?

12 A I do.

13 Q What is that?

14 A This is where Nance Street and Kendall cross over.
15 You have the LI'L Cricket here and the places that they
16 are talking about is the El Tipico and Mr. K. here. And
17 this is Nance Street and this is where it is headed back
18 to the city towards the railroad tracks and Nance Forrest.
19 And this is where it is headed out into the county towards
20 Airport Road.

21 Q And you see the One Stop on there as well?

22 A Yes, sir.

23 Q So now I am pointing here to State's 16. What is
24 this that I have the laser pointer on?

25 A That is the LI'L Cricket, sir.

1 Q This is Kendall Road or 121?

2 A Yes, sir.

3 Q This is Nance Street and LI'L Cricket is in the city
4 boundaries so this would be a city police jurisdictional
5 case?

6 A Yes, sir.

7 Q And then up here, is this the One Stop?

8 A No sir, that is the old flower shop. Well, yeah,
9 that was the One Stop. The flower shop is right next
10 door, the One Stop and then the car lot and El Tipico.

11 Q So now I have my laser pointer on El Tipico?

12 A Yes, sir.

13 Q And this is Diamond Motors?

14 A Yes, sir.

15 Q And this is the One Stop, this convenient store, is
16 that what you are saying?

17 A Yes, sir. It is mostly catered to Hispanics.

18 Q Okay. But all of these would be Newberry sheriffs
19 department jurisdictional type locations?

20 A Yes, sir.

21 Q So at this location somewhere around 10:00 p.m. on
22 December 8th you and deputies respond in reference to
23 basically just a suspicious person loitering?

24 A At that particular point and time but it kind of got,
25 when they called back and said one of the customers had

1 walked outside and saw that he was digging around and had
2 a gun, what appeared to be a gun in his waist and then we
3 kind of picked up the pace a little bit.

4 Q Did you have any physical description of this person?

5 A They gave a black male, roughly about 5'5", 5'4",
6 somewhere along in there, about 120, 130 pounds, red
7 jacket and dark pants and a blue hat.

8 Q Were y'all able to locate this individual on that
9 night?

10 A No, sir. He was gone by the time we got there but we
11 had basically set up a little perimeter in the area to
12 ride the area to see if we could find him walking in the
13 area, to see exactly what was going on.

14 Q And at this point are you crossing paths with the
15 police department and their investigation?

16 A At that particular point, while we were setting our
17 perimeter up this happened at the LI'L Cricket. So we
18 came down to the LI'L Cricket and I was talking with them
19 down at the LI'L Cricket and my deputies were up in the
20 county, so to speak. So once I got there and I talked to
21 Officer Hunter, he kind of explained to me what was going
22 on. I kind of explained to him what we just had right
23 down the street so we kind of got together.

24 Q At some point, were you involved in getting the
25 videos from the El Tipico?

1 A No, sir. I was not.

2 Q Are you aware of Kevin Goodman's efforts to gain
3 video from that location?

4 A I knew he was in the area because he came over the
5 radio and told us he was coming out of Grant's to help set
6 the perimeter and whatnot. So I got with Sergeant Hunter
7 and to see if they needed the dogs or whatnot, how could
8 we assist them in getting what is going on.

9 Q So this kind of becomes a joint effort between the
10 two agencies?

11 A Yes, sir.

12 Q And at some point were you able to meet up with Kevin
13 Goodman with the city?

14 A Yes, I met with him back over at the LI'L Cricket.

15 Q How long have you lived in Newberry?

16 A Almost 43 years. I was born and raised here.

17 Q You know a lot of people from here?

18 A Yes, sir.

19 Q And did he show you a picture that night and ask if
20 you could recognize this person?

21 A Yes sir, he did.

22 Q This is State's number 11. Is this what he showed
23 you?

24 A Yes, sir.

25 Q Was this picture, was this someone who is familiar to

1 you?

2 A Yes sir, it is.

3 Q This is somebody you knew for some time?

4 A Yes sir, basically we rode the school bus together
5 coming up and I think his girlfriend or his acquaintance
6 lives right down the road from me and he walks by my house
7 on a regular--

8 Q Have you seen his girlfriend today?

9 A She was here but I don't see her now.

10 Q Where was she seated?

11 A She was seated over there behind the corrections
12 officer over there on the second row.

13 Q She lives, what, three houses down from you?

14 A Yes, sir.

15 Q So you have seen this individual at that home a
16 number of times?

17 A Yes, sir. As a matter of fact I spoke with him about
18 5:30 on the 8th when I was out at the mailbox before I
19 went to work because he was walking past.

20 Q What was he wearing that day?

21 A He had on a red Chicago Bulls jacket, a blue hat,
22 just like he was dressed right then.

23 Q Is that a jacket he wears often in your experience?

24 A Yes, sir.

25 Q Chicago Bulls jacket?

1 A Yes, Chicago Bulls jacket.

2 Q Now this person you grew up riding the school bus
3 with and who is walking by your house all the time, what
4 is his name?

5 A His name is Poochie, that is his nickname but it is
6 Ernest Williams.

7 Q Okay, Poochie? That is how you always have referred
8 to him?

9 A Yes sir, Poochie, Ernest.

10 Q When Kevin Goodman showed you this how long did it
11 take you to pick Poochie out as being the person in the
12 photo?

13 A I had no doubt.

14 Q Do you have any doubt to this day?

15 A No, sir.

16 Q Do you see Ernest Williams in the courtroom today?

17 A Yes, sir.

18 Q Where is he?

19 A Sitting right there at the defendant's table.

20 Q Thank you.

21 CROSS-EXAMINATION

22 By Mr. Verner:

23 Q Deputy Schumpert, did you bring a copy of your
24 incident report on a suspicious person?

25 A No, sir. I was not the actual officer on that, I was

1 the approving officer. I believe it was Deputy Wilbanks.
2 who actually took that call.

3 Q Did you review the incident report for the suspicious
4 person prior to today?

5 A No sir, I did not.

6 Q How do you remember so well the height of the
7 suspicious person from December of 2012?

8 A There are certain things you don't forget especially
9 with Deputy Wilbanks, he was a fairly new deputy at the
10 academy and I had to calm his nerves a little bit.

11 Q But is it fair to say that you respond to calls
12 probably every night that you are on shift?

13 A Yes, sir.

14 Q Five days a week for the last two years?

15 A Yes sir, when I am on shift, yes sir.

16 Q And you still got a clear recollection that they said
17 it was a person about 5'5"?

18 A Yes, sir.

19 Q When you identified Ernest Williams from that
20 photograph did you issue any kind of report or statement?

21 A No sir, I just advised Sergeant Goodman with the city
22 who it was.

23 Q Do you know where Ernest Williams lives?

24 A Yes, I do.

25 Q That knowledge would have been available to law

1 enforcement the night of December 8th of 2012?

2 A Yes, sir.

3 Q Are you aware of anything, are you aware of where his
4 girlfriend lives too?

5 A Yes, sir.

6 Q So you had both Ernest's address and his girlfriend's
7 address?

8 A Yes, sir.

9 Q Do you know if any attempts were made to go to his
10 home to arrest him?

11 A We did not go to his house to arrest him, we went to
12 his house to locate him in order to find out where he was
13 or, so they could talk with him.

14 Q But you would have most likely arrested him at some
15 point?

16 A Well, it really wasn't my call so to speak. We were
17 an assisting agency. So I got with the Lieutenant which
18 was Lieutenant Haltiwanger and got two guys from my shift
19 and we went to his mom's house and over to his in folks
20 right there on Cottage and Gray and I stopped by his
21 girlfriends's house and I stopped by a friend's house that
22 was over at Nance Forrest.

23 Q And Cottage and Gray, that is near where the old Food
24 Lion is?

25 A That's correct. Yes, sir. That is Helena section.

1 Q Did you meet his mother?

2 A I spoke with her.

3 Q But Mr. Williams wasn't there?

4 A No, sir. He was not there. I spoke with her and
5 Tosha.

6 Q Tosha is another family member?

7 A Yes, sir.

8 Q Did they indicate that he does live there though at
9 Cottage?

10 A They said he hadn't been there for about maybe a day
11 or two. They hadn't talked with him for about a day or
12 two.

13 Q Were you able to locate a red jacket?

14 A After I got the initial call that night and when I
15 went by his mom's, by his girlfriend's and friends and
16 whatnot, I had nothing else to do with it.

17 Q So basically it would have ended, to let him know we
18 need to talk to him?

19 A Yes. When you speak with him, if he does not feel
20 comfortable call into the city and have him to stop by my
21 house and talk to me.

22 Q But that is not just in this case, that is something
23 you typically do when you talk to a family member and you
24 are looking for a suspect you will say, have him contact
25 us?

1 A Yes.

2 Q And to your understanding that was done in this case,
3 they did contact him?

4 A No, they didn't contact me. I had no dealings
5 outside of that night.

6 Q Up until today?

7 A That's it.

8 Q Is it fair to say that the individuals got a hat all
9 the way up to, the shadow goes beyond the eyes?

10 A I guess you could say it is fair to say but I know
11 him because I just spoke with him at 5:30 while I was
12 getting the mail and he was walking down to where his
13 girlfriend lives at. And we got the call about five hours
14 later, less than five hours later.

15 Q You didn't make any kind of notation or tell the city
16 police officers that you had seen him earlier that day?

17 A I can't remember if I told them I saw him earlier
18 that day or not. But I told them I knew exactly who he
19 was.

20 Q Did you identify Ernest Williams by any other source
21 or this is the only source, what we are seeing today is
22 the only thing you used to identify him?

23 A I was showed that picture and they asked me who it
24 was and I told them.

25 Q You didn't identify him from any other video?

1 A I hadn't seen any other video, I just saw a picture.

2 Q Thank you.

3 THE COURT: Redirect.

4 MR. SCOTT: The State rest, Your Honor.

5 THE COURT: All right, let's take a break. Step in
6 the jury room, you can't begin discussing the case.

7 (Whereupon, the jury was excused from open court for
8 a break.)

9 THE COURT: Mr. Verner.

10 MR. VERNER: Your Honor, I would move for a directed
11 verdict. I understand it is the weight of the evidence
12 but no direct evidence of any source pointing to Ernest
13 Williams and I would ask the Court to consider a directed
14 verdict.

15 THE COURT: I think this is an evidence case and I
16 think there is enough there for the jury to consider.
17 There has been a lot of testimony, the physical presence
18 of someone, he identified the defendant. There is enough
19 for the jury to consider just on that. He identified the
20 gun, he identified the face. Without even the video there
21 is enough to get it to the jury.

22 MR. VERNER: Thank you, Your Honor.

23 THE COURT: So respectfully I deny that. Are you
24 going to put anything up?

25 MR. VERNER: I intend to most likely call the

1 and testify here in a moment?

2 MR. WILLIAMS: Yes, sir.

3 THE COURT: So you understand your rights?

4 MR. WILLIAMS: Yes, sir.

5 THE COURT: All right. Okay.

6 MR. VERNER: Your Honor, I think that the State would
7 impeach him for a shoplifting conviction on March of 2008,
8 and a shoplifting on, I don't know if this is the same.
9 They would have one shoplifting that they would intend to
10 impeach him with. I think that is proper, Judge, I think
11 my question is whether they would be allowed to say third
12 offense because that does bring in other convictions or
13 just that he was convicted of shoplifting.

14 THE COURT: I think they would be limited that he,
15 was he convicted or plead guilty to it.

16 MR. SCOTT: He plead.

17 THE COURT: He plead guilty to shoplifting. And the
18 indictment would be allowed to be introduced, it says
19 shoplifting third. We can redact and just use the
20 indictment, he plead on that.

21 MR. VERNER: Your Honor, respectfully, I don't know
22 that they get to introduce the indictment.

23 THE COURT: He is not going to deny it.

24 MR. VERNER: So the Court is precluding them from
25 saying shoplifting third?

1 THE COURT: Yes. It is a crime of dishonesty is what
2 he would say, I mean you can say what you want. Are we
3 ready?

4 MR. VERNER: Yes, Your Honor.

5 THE COURT: Bring the jury.

6 (Whereupon, the jury came into open court at
7 approximately 4:18 p.m.)

8 THE COURT: Ladies and gentlemen, you have heard all
9 the testimony from the State you are going to hear. Now
10 it is the defense's opportunity to call any witnesses they
11 wish to call. Mr. Verner.

12 MR. VERNER: Your Honor, Ernest Williams wants to
13 testify.

14 THE COURT: Mr. Williams, come around and be sworn.

15 ERNEST WILLIAMS, being
16 first duly sworn, testified as follows:

17 DIRECT EXAMINATION

18 By Mr. Verner:

19 Q State your name.

20 A Ernest Williams.

21 Q Ernest, how old are you?

22 A 45.

23 Q Where are you from?

24 A Newberry.

25 Q Where did you go to high school?

1 A Newberry High School.

2 Q Did you graduate?

3 A Yes.

4 Q Do you remember being arrested for this crime back in
5 December of 2012?

6 A Yes.

7 Q I am going to talk first, you gave a statement
8 saying, admitting that it was you who robbed the LI'L
9 Cricket, didn't you?

10 A Yes.

11 Q And do you agree that that was the statement you
12 wrote out?

13 A Yes.

14 Q Before the police arrested you where were you?

15 A At a mental health facility in Columbia.

16 Q Why were you at the mental health facility?

17 A Because, well, when I was at Newberry Hospital I
18 started having problems at Newberry Hospital and the
19 doctors came, the doctor came in the room and I said I
20 hear voices.

21 Q I am going to back up for just a second. Why were
22 you in the hospital?

23 A I was with, one of my friend's was in the hospital
24 and I was staying out there with him.

25 Q So you were actually just there visiting somebody

1 else?

2 A Right.

3 Q I am going to ask at this point, do you have any
4 health issues at this time?

5 A Yes.

6 Q What is that?

7 A I have lupus and skin disease.

8 Q I don't know what lupus is, what is lupus?

9 A Lupus is something like, next to a cancer.

10 Q How does that affect you on a day to day basis?

11 A It has affected me a lot. It is, at the time when I
12 was admitted to mental health I had lost memories, severe
13 headaches, falling out, like that.

14 Q How is lupus treated?

15 A Lupus, well, they was giving me all kinds of
16 medicines but I knew two medicines that they were giving
17 me that was doing me some good. And that was Lortab and
18 steroid pills. But the rest of the pills wasn't doing
19 nothing for me.

20 Q You were also taking other medications at that time
21 too?

22 A Yes.

23 Q How long had you been in Columbia?

24 A I want to say from four to six days.

25 Q Now we heard, is it fair to say that December 12th is

1 when you went to Columbia?

2 A It was somewhere around in that time.

3 Q But you admit that you were at Newberry Hospital is
4 where you were originally?

5 A Yes.

6 Q Where do you live in Newberry, Ernest?

7 A I live at [REDACTED], Helena but it is AKA,
8 The Hood.

9 Q That is in Newberry?

10 A Yes.

11 Q Who do you live with?

12 A My mother.

13 Q What is her name?

14 A Carrie Coleman.

15 Q Where does your girlfriend live?

16 A She lives, [REDACTED], Newberry.

17 Q Is that on [REDACTED]?

18 A No, that is her mother's house.

19 Q What is your girlfriend's name right now?

20 A Carla Penny.

21 Q And she was the lady sitting behind you in the
22 audience earlier today and yesterday?

23 A Yes.

24 Q Her address is not on Cherry Lane but she does, her
25 mother lives?

- 1 A Yes, she used to stay on Cherry Lane.
- 2 Q December of 2012 was she living on Cherry Lane?
- 3 A No.
- 4 Q She was at Newberry Arms Apartments?
- 5 A Yes.
- 6 Q And what, do you know what street Newberry Arms
- 7 Apartments is on?
- 8 A No.
- 9 Q What part of Newberry, what part of the town is that
- 10 in?
- 11 A Right, over there by the Wise Street area.
- 12 Q Okay. Which is on the entirely opposite end of
- 13 Helena?
- 14 A Yes.
- 15 Q Wise Street is closer towards the 219, the Wilson
- 16 Road area?
- 17 A Yes.
- 18 Q At some point you heard law enforcement was looing
- 19 for you, is that correct?
- 20 A Yes.
- 21 Q How do you remember hearing that news?
- 22 A Well, my mom had called me first and she was saying
- 23 the police was looking for you. And I said, what. The
- 24 police looking for who, me. Like that.
- 25 Q And she explained, did she tell you who specifically

1 or just in general the police?

2 A The police.

3 Q And what did you do when you got that--

4 A Then about 35, about 30 minutes to 45 minutes my
5 girlfriend called me. She said the police came over to my
6 house looking for you. And I said, for what. Like that.

7 Q Did you sometimes spend the night at your
8 girlfriend's house?

9 A No.

10 Q Usually not?

11 A Sometimes I spend the night over at her house.

12 Q But you didn't live there but on occasion you might
13 stay the night?

14 A Right.

15 Q And but your residence full time--

16 A Mostly time with my mom and to her house.

17 Q And where are you clothes and personal items and
18 things like that kept?

19 A At my mother's house and her house.

20 Q So your girlfriend called a little bit after your
21 mother and said the police were looking for you?

22 A Yes.

23 Q What did you do after that?

24 A So I think we talked one more time that night, it
25 might have been that day because I think she had, well,

1 she had Frederick on a three-way.

2 Q While you were at the mental health facility?

3 A Yes.

4 Q How did you know his name was Frederick?

5 A Frederick, well, she knew him but I don't.

6 Q Do you know Frederick Cooper, as of December of 2012
7 did you know Frederick Cooper by name?

8 A I don't know him from a can of paint.

9 Q Did you know him by face or by nickname?

10 A No.

11 Q Did you have any kind of relationship where you knew
12 him or on a friendly basis with him?

13 A No.

14 Q How did his name get to your attention?

15 A Whenever my girlfriend called me and told me that she
16 got him on a three-way, she was saying something about he
17 said I took \$53.00 dollars and she wanted to pay LI'L
18 Cricket back.

19 Q That was her idea?

20 A Yes.

21 Q Did you talk to Frederick on the three-way call?

22 A No.

23 Q So there was a three-way phone call that she spoke to
24 him. And she just heard you were in trouble and wanted to
25 resolve it. But at some point someone contacted law

1 enforcement, is that correct?

2 A She might have said that she talked to him.

3 Q So you don't know if it was a three-way call or just
4 that she had told you she had spoke to him?

5 A Yes. You know, like if she called him she could be
6 on the line with him but have me on the other end.

7 Q But you didn't participate in a phone call to him
8 directly?

9 A Right.

10 Q What happened after that phone call?

11 A She said she will call back but she never did call
12 back so I went to my room. Then when I entered my room a
13 nurse came, she knocked on the door because I don't think
14 they can just walk in your room, they knocked on the door.
15 And she said she wanted to take some blood or something.
16 But me, myself, that is the reason why I don't go to the
17 hospital because I am scared of needles. I would rather
18 take the pill then get shots.

19 Q Well, the nurse, as far as you and law enforcement
20 what happened at the hospital?

21 A You are talking about when the police came?

22 Q Did you contact the police and tell them--

23 A No. Since my mom and my girlfriend told me the law
24 was looking for me so I am thinking, the only way I could
25 get out of this trouble, the trouble that I think I am in,

1 is go to the police, don't run from them. Once you run
2 from them then you are playing guilty. So I talked to my
3 doctor and I said, man, I think I am having problems
4 because I just got finished talking to my mom and my
5 girlfriend. They said the police is looking for me, I
6 said can you contact them in any kind of way to tell them
7 to come up here and talk to me, anything like that.

8 Q And then what happened after that conversation with
9 your doctor.

10 A So I think, I went and laid down. So, most of the
11 time I was there I was just sleeping.

12 Q Were you being prescribed any medications while you
13 were at the facility?

14 A When I went to the mental health from the house I had
15 some Lortabs in my pocket, 120 Lortabs and I had some
16 steroid pills. Everywhere I went I always took my pills
17 with me because I always be in pain. And the only way I
18 could really feel good if I am taking those steroid pills
19 and the Lortabs.

20 Q Were they prescribing you any other medications that
21 you remember?

22 A Like three more different medications but the three
23 that, the three more, it wasn't doing nothing for me.

24 Q So you told the doctor, well the psychologist that
25 the police were looking for you and try to notify them

1 that you were here and you would talk to them at the
2 facility, right?

3 A Yes.

4 Q What happened next?

5 A See, when I was at the, let me go back for a second.
6 When I was at the hospital, when the doctor came in the
7 room, I say, hey man, I hear voices. And he was like,
8 what. I said, man, it is like telling me to harm myself
9 or harm someone else. So when he came back in the room he
10 said, come and go with me. So as I go out the hallway I
11 see, he said go with these people right here. He was
12 talking about Sherry Scott.

13 Q Sherry Scott is a deputy at the Newberry County?

14 A Yes.

15 Q In fact she in the courtroom right now?

16 A Yes. Sherry Scott and a white officer, I don't know
17 his name.

18 Q What happened.

19 A I got in the truck and they took me to the mental
20 health.

21 Q That is when you left from Newberry to go to
22 Columbia. I am asking about when, after you were already
23 there how you came--

24 A When I was at mental health?

25 Q Once you were in Columbia.

1 A A knock came on the door again and it was the doctor.
2 He said, Newberry is here to see you. So I don't think
3 the doctor let Newberry inside the place, I think I had to
4 go on the outside of the place. So as I walk out, you
5 know, in the inside you have got a lot of security guards.
6 So now they are leaving me on the outside to talk to the
7 sheriff. So when I got outside I looked down the rail, I
8 am thinking them are security guards. But I happened to
9 look where the cars were and I said, there is Newberry
10 County. Then they approached me.

11 Q You remember which officer picked you up from
12 Columbia?

13 A No.

14 Q They brought you back, did they talk to you out there
15 at the facility or did they bring you back to Newberry?

16 A I can't recall, that they talked to me out there.
17 The only thing I just know I was in the car.

18 Q Were you cuffed?

19 A When I got in the car, yes.

20 Q How were you handcuffed?

21 A I think in front.

22 Q And it was two officers or how many officers?

23 A It was two cars and four officers.

24 Q Four officers came, did they talk to you out there in
25 the cars or anywhere?

1 A No. Once I got in the car I think I dozed off to
2 sleep and the next thing I know I was coming into the city
3 police department.

4 Q Did they take you to the Lewis Rich Detention Center
5 first or just straight to the Nance Street city police
6 department?

7 A Straight to the city police department.

8 Q And that is where the fire department is on one side
9 and the police are on the other?

10 A Yes.

11 Q Do you remember talking to them on the ride back?

12 A No, sir.

13 Q Did they tell you what you were under arrest for?

14 A Not that I know of. Because at the time from taking
15 that medication I was a little weak and woozy.

16 Q What kind of schedule were you taking medication?

17 A Well, I was, well the doctor, the doctor didn't tell
18 me. I told the doctor I had been taking the Lortab like
19 6:00 o'clock in the morning, 12:00 that afternoon, 6:00
20 that evening and 12:00 before I go to bed. And I said, is
21 that too much. She said, no. Because she used to give me
22 like 30. And she said, well, since you are taking them
23 like that I will give you 120.

24 Q I am talking about when you were in Columbia were
25 they giving you a prescription at a certain amount of

1 time, at a certain period of time every day or, they
2 certainly weren't letting you self medicate yourself, were
3 they?

4 A No, they was passing it out.

5 Q Do you recall how often, was it one time a day or
6 more than one time a day?

7 A It was like four times like I just said.

8 Q So even when you were at the facility in Columbia it
9 was still four times a day. It was Lortab and some other
10 pills?

11 A Yes. Then they was taking blood all the time.

12 Q And then you came to Nance Street city police
13 department?

14 A Yes.

15 Q Did you know the two officers who brought, any of the
16 officers who brought you back?

17 A No.

18 Q What happens when they bring you back to the city
19 police station?

20 A They bring me to the city police station, they walk
21 me into the building. I really couldn't tell you where
22 the room was but when I went in a room I seen Ms. Moore--

23 Q Did you know Officer Moore or Deputy, Detective Moore
24 at that time?

25 A No.

1 Q You saw Detective Moore?

2 A When I saw Ms. Moore then I seen what I always call
3 him, Mr. Bowie but Mr. Bowie is Kevin Goodman.

4 Q You saw Detective Goodman was also in the room?

5 A Yes.

6 Q You did know him?

7 A Yes, I know him.

8 Q Well or just kind of, you weren't a friend of his?

9 A I was just, I knew him because I think he used to go
10 with my, well he was married to my cousin's sister.

11 Q Distantly related somehow to you?

12 A Yes.

13 Q What happened when you were in the room with the two
14 detectives. Were there any other officers in that room?

15 A No, when I first entered the room, no. I am not
16 crazy, when I first entered the room I knew I was going to
17 be interrogated. So I am like, looking around to see if
18 anyone going to take pictures, like sound and all of that
19 right there, recall it. But it was just them, it was
20 clear.

21 Q How long do you think you were in the room with the
22 two detectives?

23 A About 45 minutes to an hour and then--

24 Q Did you tell them that you had just come from a
25 mental health facility?

1 A I figured since the police came, I figured they
2 should know that.

3 Q You would assume that they might know you had been--

4 A Yes.

5 Q How does the conversation start between you and the
6 two, were there any other deputies ever come in at any
7 time?

8 A No.

9 Q What happened when they bring you into the room?

10 A When they brought me into the room, when I sat down
11 Mr. Goodman, he came over there where I was and had my
12 left hand hooked to the chair. And I said, hey, what
13 what, kind of like that.

14 Q Your left hand was cuffed to the chair?

15 A Yes.

16 Q The arm of the chair, I guess?

17 A Yes.

18 Q Did they remove the other constraints on your right
19 arm?

20 A Yes, they had already took it off.

21 Q Were you in leg restraints at that time?

22 A I can't remember.

23 Q Do you remember what happened, was that before the
24 conversation started, happened?

25 A Yes.

1 Q Do you recall how the conversation started once you
2 entered the room with the two detectives?

3 A I couldn't remember.

4 Q Did you talk for a while about, did you ask them why
5 they had brought you in I suppose?

6 A Yes, that came up first. I was wondering, I was
7 asking them why am I down here and stuff like that.

8 Q Did they inform you you were a suspect of an armed
9 robbery?

10 A They said I was a suspect and then I said, y'all got
11 me mistaken by somebody else.

12 Q And on that subject have you ever been mistaken by
13 law enforcement for being somebody else before?

14 A Yes. On three different occasions.

15 Q You at least have been stopped by law enforcement
16 thinking you might be somebody else?

17 A I get this every day.

18 Q Well, you can recall several times that it has
19 happened?

20 A I get this.

21 Q Who primarily did you talk to, did you talk to both
22 of them equally or was it Detective Moore leading the talk
23 with you or were they both equally?

24 A More with talking most of the time but Bowie would
25 say something.

1 Q He was engaged in the conversation but he just, it
2 was primarily you and Detective Moore?

3 A Like when I get finished talking to Ms. Moore then
4 Mr. Bowie would say, let's go ahead and tell the truth, go
5 ahead and tell the truth. Like that.

6 Q What was your, how were you feeling, what was your--

7 A I wasn't really feeling good because I felt like they
8 came and got me when I was unstable.

9 Q Were you scared?

10 A Yes, I was scared, of course.

11 Q Did they talk to you about the facts of what they
12 thought you had done?

13 A Yes.

14 Q Did they show you a video?

15 A That's what I want to see first.

16 Q That is my question. Did you see the video before
17 you gave your statement, during the statement or after the
18 statement?

19 A I seen the video first.

20 Q Before you put your pin and paper?

21 A Yes.

22 Q Did you know the name, Fred Cooper prior to that
23 time?

24 A By talking to my girlfriend, yes.

25 Q Why would you write a statement implicating yourself

1 in doing this if you hadn't done it?

2 A Because I was scared and afraid. If I knew what I
3 knew back then I would have never gave that statement. If
4 I knew it was going to come to this point.

5 Q What was your expectation if you cooperated with the
6 two detectives, what was going to happen?

7 A My expectations. If I knew that I would cooperate
8 with them this problem would go away. I didn't think it
9 would turn out like this.

10 Q Did you rob the LI'L Cricket.

11 MR. SCOTT: Your Honor, I would object to him reading
12 answers to these questions which it appears he is doing.
13 There is something that it appears the witness has that he
14 is reading from.

15 THE COURT: What do you say about that.

16 MR. VERNER: Judge, I think you can charge him that
17 he has got to testify from memory. If he can't recall
18 then he has got--

19 THE COURT: Mr. Williams, the way it works in live
20 testimony is Mr. Verner will ask you a question and you
21 can respond. If you know the answer from your memory and
22 if you don't Mr. Verner can offer you something to refresh
23 your memory. Otherwise you have got to testify from your
24 memory because that is the best evidence, that is what the
25 jury wants to hear.

1 Q And these notes that you are looking at, they are not
2 notes that I have given you before, are they?

3 A No.

4 Q You just had time to sit and write notes about this
5 incident?

6 A I started writing these notes on July the 23rd.

7 Q Of this year?

8 A I don't know if I can say this.

9 Q They are not notes I have given you about what my
10 questions will be and what I want you to answer on it?

11 A No. I don't know if I can say this. On July the
12 23rd--

13 THE COURT: Mr. Verner, why don't you look at the
14 notes he has.

15 MR. VERNER: I have seen them, Judge.

16 THE COURT: Well, ask him when he wrote them so that
17 way we can identify what he has got and utilize it that
18 way. So ask that question.

19 MR. VERNER: Judge, I think I am prepared to move
20 beyond the notes. My question is they are not notes that
21 I have given you. And I think he has answered no.

22 THE COURT: I think he did. So the jury will
23 understand, these are notes that he made for himself for
24 his own benefit as to his recollection of the events that
25 had transpired over the last many months.

1 A On the 23rd of July--

2 Q That is fine. They are notes that you prepared for
3 yourself?

4 A Yes. I was in a jury trial--

5 Q That's okay.

6 THE COURT: That's another issue.

7 A Okay.

8 Q Do you own a red Chicago Bulls jacket?

9 A No.

10 Q Did you own a red, blue, I guess a skiers cap or some
11 kind of--

12 A No. I am like a sport persons. I dress with like
13 sports clothes. I never owned a red Chicago Bulls coat.
14 I mostly wear Dallas Cowboys outfits because every time
15 you see me you will see me with like bluejeans, cowboys
16 sweater, when you see me I have got on Dallas Cowboys.

17 Q What was your expectation of what would happen if you
18 admitted that you were the person that the police were
19 looking for?

20 A I probably would be in trouble.

21 Q But you thought it was something that--

22 A I feel that it would be some, if I confessed it would
23 help me a lot.

24 Q Did you have an attorney with you when you gave your
25 statement?

1 A No.

2 Q Did you have any family members of anybody who was
3 able to talk to you prior to that statement?

4 A No, I wish I had of had my mom or a lawyer.

5 Q Were you clearheaded when you gave that statement?

6 A I can't really say I was clearheaded.

7 Q You thought if you told what they had informed you
8 that it would go away?

9 A I would have to put it like this to myself. I was
10 out of my mind because of this disease, this lupus and
11 then I start forgetting things. Like I always said, like
12 today I could be feeling good. Tomorrow I could be
13 feeling bad. When I left yesterday I started feeling bad
14 because when I am at Newberry Detention Center, I have
15 been locked up for a year and they haven't gave me no kind
16 of medication and I have got medication there. I have got
17 Lortabs there and I ask the nurse, can I get a couple of
18 them Lortabs because I ain't feeling good today.

19 Q That's fine. I think you are really getting a little
20 bit of off line. This statement was done all in your
21 handwriting, the written statement that you gave law
22 enforcement, that is your handwriting?

23 A I think so.

24 Q Do you remember the Miranda warnings being read to
25 you?

1 A I can't remember all of that. Can I look at the
2 paper.

3 Q Yes. Is that your handwriting?

4 A Yes.

5 Q So you agree you wrote that statement?

6 A Yes.

7 Q Okay. Did either Detective Moore or Detective
8 Goodman give you some of the information to write in on
9 there?

10 A I can't recall. When I got finished, as I was
11 watching the video I was just writing down how it was
12 going. But I didn't think at the time that I was writing
13 this and putting myself in this. I was like saying the
14 suspect.

15 Q Is that a word you would typically use, suspect?

16 A Yes, because when I looked at the film and I said,
17 that's not me. I said y'all are looking for a guy that
18 was like 5'8" to 5'10".

19 Q How tall are you by the way?

20 A 5'3", 130. But when they got me I was like 113. It
21 just was the wrong guy. I ain't never pulled no stunt
22 like this and I never will. But I told them, to prove me
23 guilty show me in the video me. Y'all are going off with
24 assumptions, show me. Show my face. I looked at them
25 pictures over 100 times in my jail cell. I still can't

1 identify the person on the picture.

2 Q I am asking you about what they showed you, the video
3 at the city police department. Did you tell them that was
4 not you initially?

5 A Yes.

6 Q Or did you come out and say in the beginning it was
7 me?

8 A I said it wasn't me. When I got this paper I was
9 looking at the video and I just starting writing from the
10 video.

11 Q Do you know why you wrote his name as James, Mr.
12 Cooper's name as James?

13 A I don't even know why.

14 Q Do you know why you wrote pecans?

15 A Well, at the time when I had got sick I didn't have
16 no job so mostly every morning around 8:00, maybe 10:00
17 o'clock I go pick pecans.

18 Q Did somebody correct you when you wrote James. Do
19 you remember Detective Goodman correcting you, saying that
20 his name is Frederick or who you are talking about?

21 A I don't know which one said it but I know they said
22 Frederick. So when they said Frederick I said Fred. I
23 was just making the name short.

24 Q What about, did somebody correct you on the pecans?

25 A I can't recall.

- 1 Q Do you know who the man on the video is?
- 2 A You talking about the cashier?
- 3 Q No, the man who robbed him?
- 4 A No.
- 5 Q You were saying that was not you?
- 6 A Say that again.
- 7 Q You are saying under oath that is not you?
- 8 A You are talking about the person that--
- 9 Q Robbed Mr. Frederick Cooper?
- 10 A Oh no, that is not me.
- 11 Q If Mr. Scott has any questions.

12

CROSS-EXAMINATION

13 By Mr. Scott:

- 14 Q Mr. Williams, you are from Newberry?
- 15 A 45 years.
- 16 Q Did you say Cottage Avenue is where you live?
- 17 A Yes.
- 18 Q Not College?
- 19 A C-O-T-T-A-G-E.
- 20 Q Okay. about how far away is that from the LI'L
- 21 Cricket on Kendall?
- 22 A About, I would say if I am walking about 15 minutes.
- 23 Q Okay. That is somewhere you walk to frequently,
- 24 isn't it?
- 25 A No.

1 Q You go in there and get peanuts a lot though, don't
2 you?

3 A I go in there, I go in the LI'L Cricket. I ain't
4 going to deny that, that is a store. I go to the LI'L
5 Cricket only for two reasons. Because we have got a BP
6 right here on 121 and we had a Food Lion on 121. At some
7 time BP and Food Lion bill be higher than LI'L Cricket
8 bill. BP don't sell peanuts. Food Lion sells peanuts but
9 in the can. I like hot boiled peanuts.

10 Q Out of the cup?

11 A Cup, yes.

12 Q And that is where you got to go to get them is the
13 LI'L Cricket down on Kendall?

14 A I can go somewhere else to get it but LI'L Cricket is
15 close to my home.

16 Q So that is why you go to that LI'L Cricket because it
17 is close to your home and it has got the boiled peanuts,
18 the hot ones that you can just scoop out and put into the
19 cup, correct?

20 A True.

21 Q Do you pretty much get around by walking?

22 A Well, I used to have a car.

23 Q I guess around this time last year were you driving
24 then or were you primarily just walking?

25 A Car.

1 Q But from Cottage to LI'L Cricket you would say it
2 would be something that you would walk to?

3 A Walk to?

4 Q Yes, sir.

5 A No, no.

6 Q You wouldn't walk there?

7 A No. Most of the time, if I ever go down that way I
8 would at least ride a bike or be in a car.

9 Q We talked about El Tipico and the One Stop, are those
10 places on the way to your home?

11 A No.

12 Q From the LI'L Cricket?

13 A When I am at my house I am going toward the El
14 Tipico.

15 Q What kind of place is El Tipico?

16 A To me, to my knowledge I take it to be a club, disco
17 club.

18 Q Do you ever go there to hang you?

19 A I went there like, see I am not the party type. I
20 went there like two times. I didn't like it because on
21 one night I was there, the police came in there. You
22 might as well say, like the police were fighting, like two
23 guys and I didn't like it since.

24 Q Now you worked at Newberry College, correct?

25 A Yes.

1 Q And you worked there over a good period of time,
2 right?

3 A Almost on and off for 15 years.

4 Q 15 years?

5 A Yes.

6 Q And then at Kiswire, correct?

7 A Yes, I worked there at Kiswire for seven years until
8 I got sick.

9 Q Anywhere else besides--

10 A I done worked at a lot of jobs.

11 Q What else did you do primarily?

12 A When I was at Kiswire?

13 Q Well, at the other jobs?

14 A Most of the time, you know, when I was at the VC
15 going to school I got a little trade for auto body repair
16 and auto mechanic. Mostly I am under the tree, working on
17 cars and I got that skill of a welder.

18 Q The VC, what is that?

19 A Vocation Center.

20 Q That is something that you went to?

21 A When I was going to school.

22 Q So you were able to pick up mechanics skills while
23 you were there?

24 A Yes.

25 Q Then you graduated from Newberry High?

- 1 A Yes. I do a little brick mason.
- 2 Q Tell me about lupus, I have heard of it, I am not
3 real familiar with the disease but does it cause you
4 physical pain, kind of what it does to you?
- 5 A Yes.
- 6 Q And Lortabs, you take those to manage the pain?
- 7 A Yes.
- 8 Q Four times a day is what the doctor told you to take
9 them?
- 10 A Yes.
- 11 Q Every six hours?
- 12 A Yes.
- 13 Q And then a steroid you said?
- 14 A Yes.
- 15 Q What other medicines are you on?
- 16 A At that time?
- 17 Q Yes.
- 18 A Or right now?
- 19 Q December of last year?
- 20 A Like I stated earlier when I was talking to Mr.
21 Verner, it was like five different pills that I was taking
22 but I knew the Lortabs and I knew the steroid pills. But
23 like over there, I didn't know their name but they was
24 like long names but I couldn't remember what they was.
- 25 Q How did you get them?

1 A The doctor prescribed them.

2 Q Okay. So December 8th of last year you would have
3 been taking these?

4 A Yes.

5 Q And then you talked about going to Richland Memorial
6 when you were talking to Mr. Verner?

7 A Yes.

8 Q And the doctors down there kept giving you the
9 prescribed medicines, is that correct?

10 A Yes.

11 Q But they wouldn't let you have it while you were
12 there, they took it away from you and they would give it
13 to you, is that correct?

14 A Yes.

15 Q And they didn't let you drink any alcohol while you
16 there, correct?

17 A No.

18 Q Didn't let you do any kind of other drugs other than
19 the ones that were prescribed to you, correct?

20 A The only medication that I got other than the one
21 that I brought, I met this older guy and he had some like
22 Seroquel and I said, let me get one of them and he started
23 giving them to me. That made me sleep better.

24 Q That was something that helped you sleep?

25 A Yes, Seroquel will put you to sleep.

1 Q Who did you get those Seroquel from?

2 A I don't know his name.

3 Q You weren't suppose to be doing that, were you?

4 A No.

5 Q It was something that you felt like you needed to do
6 to help yourself sleep?

7 A Right.

8 Q December 14th when Newberry Police come to get you
9 and bring you back here and you give that statement that
10 y'all were just talking about, in fact you may still have
11 it up there. You left directly from the hospital down at
12 Richland Memorial, correct?

13 A Yes.

14 Q You were under doctors supervision?

15 A Yes.

16 Q Presumably unable to abuse any of these prescription
17 drugs, correct?

18 A True.

19 Q And then got you back here, 45 minutes down 26 to get
20 here?

21 A Yes.

22 Q And that was late afternoon on the 14th, correct?

23 A It was daylight.

24 Q And when you get here you say you went to Allison
25 Moore's office?

1 A Yes.

2 Q Did you tell them at any time, I am feeling bad?

3 A At that time I didn't tell them nothing because they
4 started questioning me.

5 Q After your Miranda rights?

6 A I can't remember because this is the first time I
7 ever heard that word.

8 Q Well, may I. This is State's number 4. You are
9 Ernest Eugene Williams, Jr., correct? 44 at the time, is
10 that correct, Mr. Williams?

11 A Yes.

12 Q Is this information you were giving them?

13 A Them are my initials but I can't recall.

14 Q Okay. Right here beside, I have the right to remain
15 silent. Is that your initial?

16 A It is like I just stated, yes.

17 Q Anything I say can and will be used against me in the
18 court of law. Is that your initial beside that?

19 A Yes.

20 Q And given a right to have an attorney with you. Is
21 that your initial beside that right?

22 A Yes.

23 Q And then you can get a free lawyer if you can't
24 afford one. Is that your initial right there by number
25 four?

1 A Yes, that is my initial.

2 Q And I can decide at any time to exercise these rights
3 and not answer any more questions?

4 A Yes.

5 Q I understand all of these rights as explained to me.
6 Is that your initial?

7 A Yes.

8 Q Having these rights in mind I wish to speak with law
9 enforcement. Is that your initial there?

10 A Yes.

11 Q And then after all of that that is when you give this
12 statement to law enforcement?

13 A After the video.

14 Q You watched the video and then you give the
15 statement?

16 A Yes.

17 Q That is your handwriting, correct?

18 A True.

19 Q And it appears to be very neat handwriting to me.

20 A It is all right, I ain't going to say neat.

21 Q Legible, you can read it, correct?

22 A Yes.

23 Q So is it your testimony that you were not clearheaded
24 when you gave that statement?

25 A No, I wasn't clearheaded.

1 Q What were you?

2 A You know, like my mind wasn't there.

3 Q Where was it?

4 A When you are on medication you really don't, I ain't
5 going to say you do everything like you are suppose to do.

6 Q But it appears to me you remember a lot about this
7 statement and everything that was going on while you were
8 giving the statement. That would indicate a clear mind,
9 correct?

10 A I correct that, yes. But you are not me.

11 Q No I am not. But you remember it being daylight when
12 you gave the statement. You remember your left hand being
13 handcuffed to the chair?

14 A That is easy to remember. We are talking about
15 writing line behind lines.

16 Q I am not asking about that. I am asking about your
17 state of mind and if you are not of clear mind then how
18 can you remember all of these things now?

19 A That has been a year later.

20 Q You remember when you wanted to watch the video, you
21 remember what Kevin Goodman said to you?

22 A You probably could ask me something today and fifteen
23 more minutes I might be done forgot.

24 Q We are not talking about today, we are talking about
25 what happened December 14th?

1 A Basically the same thing, the same answer.

2 Q What is the same answer?

3 A What I just said.

4 Q That you remember it clearly?

5 A Some of this, I ain't going to say I remember all of
6 this.

7 Q You even told your lawyer what you were hoping to
8 happen should you give a statement, correct?

9 A True.

10 Q And now you graduated high school, right?

11 A Yes.

12 Q And you have held down at least two jobs for
13 substantial periods of time, correct?

14 A True.

15 Q Tell me how it is that in your mind you thought
16 admitting to doing an armed robbery will get you out of
17 trouble?

18 A When I confessed I thought that it would get me out
19 of trouble. But when I did confess I was intimidated.

20 Q With all due respect my five-year-old knows, don't
21 say you did something your sister did when she is the one
22 who did it. Why would you confess to something you are
23 now saying you didn't do?

24 A Because at that time I thought, well, I am going to
25 put it like this. I thought they was trying to build a

1 case.

2 Q And?

3 A So I confessed that I did it which I shouldn't have
4 never confessed when I didn't do it.

5 Q Who does that, Mr. Williams. Who admits to doing
6 something they didn't do?

7 A That's true.

8 MR. VERNER: I object to the form of that question.

9 THE COURT: Rephrase that question.

10 Q You don't admit to something that you didn't do,
11 correct?

12 A True.

13 Q But that is your testimony today, that that is what
14 you did on December 14th?

15 A I did that because I was out of mind.

16 Q I am just asking you to explain that, what does that
17 mean that you are out of mind, I don't understand?

18 A I wasn't myself, I'll put it like that.

19 Q Who were you?

20 A Who was me?

21 Q Who were you if you weren't yourself?

22 A Not the way that you are trying to put it.

23 Q You are out of your mind?

24 A I lost my mind.

25 Q You have got to explain that to this jury and me

1 better because I don't understand what that means. You
2 remember very clearly everything that happened that day,
3 correct?

4 A Yes.

5 Q You remember giving that statement, correct?

6 A Yes.

7 Q And it is your testimony today that you admitted to
8 doing an armed robbery because you thought it would get
9 you out of trouble?

10 A Like I say, I confessed to that but it is not true.

11 Q Okay. And you said you did watch the video while you
12 were in there, right?

13 A Yes.

14 Q Did you say the person that I saw on the camera was
15 me so I can't lie about this situation. I know myself and
16 the camera don't lie. It was me in a bad situation,
17 correct?

18 A Yes. I just stated that.

19 Q What size shoe do you wear?

20 A From a 7 and a half to a 9.

21 Q What size shoe are you wearing today?

22 A A size 8.

23 Q When is the last time you saw these shoes?

24 A I never saw them shoes.

25 Q Where was the last place you saw this cup?

- 1 A The last place I saw that cup was at LI'L Cricket.
2 Not that cup.
- 3 Q Which cup?
4 A Peanut cup.
- 5 Q Because that is where you go to get your peanuts?
6 A Sometimes.
- 7 Q And you don't know who that person is, Mr. Williams?
8 A Don't have no clue.
- 9 Q Where were you on the night of December 8th of 2012?
10 A If I am not mistaken I think I was at the basketball
11 game when Newberry High School played their championship
12 game on November the 8th.
- 13 Q Okay, who did they play that night?
14 A I don't know the team that beat them.
- 15 Q Do you think that is where you were at 10:00 o'clock
16 December the 8th night?
17 A I can't recall what time.
- 18 Q Okay. It is your testimony today though that is not
19 you in the picture we are all looking at right now?
20 A No. After the game was over I don't think I would be
21 in Newberry at 10:00 o'clock because of traffic.
- 22 Q That is where you live though, isn't it?
23 A I am saying coming back down the road.
- 24 Q It is your testimony that these size 8 and a half
25 shoes aren't yours?

1 A That's right.

2 Q Thank you.

3 REDIRECT EXAMINATION

4 By Mr. Verner:

5 Q It is your testimony today, Ernest, is that you are
6 not the man who robbed the LI'L Cricket on December 8th of
7 2012?

8 A No.

9 Q No, you did not rob the store?

10 A No, I did not rob the store.

11 Q Okay. You can step down.

12 THE COURT: You can step down.

13 MR. VERNER: Your Honor, given the hour I would ask
14 the Court to adjourn today.

15 THE COURT: That suits me. All right. Ladies and
16 gentlemen, y'all can get your stuff and head home. We
17 still have got a little more work to do. We will
18 reconvene tomorrow morning at 9:30. Don't discuss the
19 case with anyone. Have a good evening and we will see you
20 in the morning.

21 (Whereupon, the jury was excused from open court for
22 the day.)

23 THE COURT: We will see you all in the morning.

24 (Whereupon, the case will resume the next morning at
25 9:30 a.m.)

1 them all you like. You will have all the evidence
2 admitted with you during your deliberations. So as the
3 lawyers refers to pieces of evidence understand you will
4 get to see it more if you like. I believe that is it.
5 Mr. Verner.

6 MR. VERNER: May it please the Court, Your Honor.

7 THE COURT: Yes, sir.

8 MR. VERNER: It is not a surprise I am going to ask
9 you to find Ernest Williams not guilty in this case and
10 here is why I submit to you that the State has not reached
11 the burden of proof. And there are really two burdens of
12 proof. One is in a civil case when you are talking about
13 a car accident. The litigants just have to prove that
14 something happened more likely or not. We are not
15 one-hundred percent sure, we are not strongly sure, we
16 just think more likely than not. That is the standard in
17 civil court when you are suing an insurance company. In
18 criminal court when you are taking somebody's liberty, and
19 this is criminal court, this is felony criminal court.
20 The standard is you have to be firmly convinced. That
21 doesn't mean no doubt. The Solicitor will talk about
22 doubt and I am arguing that there can be a fanciful doubt,
23 I am not, whether there can be a real doubt that they
24 haven't reached. And that that is, is just everybody has
25 their own point. I can't really tell you what it is. You

1 know what firmly convinces you. But at the end of the day
2 you are talking liberty. So I will submit that it has to
3 be, if there is any possible chance realistically that it
4 might be somebody else and he was mistakenly identified he
5 is entitled to a not guilty verdict. He is the only
6 person who has got chips on the table. And I want to
7 briefly talk about this case in two parts. There is a
8 confession and there is the actual evidence. And let me
9 just address the confession first. I understand, I can
10 talk all day long and try to convince you that a
11 confession, you should be leary of confessions but it is
12 just common sense. People don't admit to things they
13 don't do. And that is generally true, I believe that too.
14 But I can argue and argue to set that aside and actually
15 look at the evidence but I just want to submit that here
16 are some people who agree with me. That you shouldn't
17 take confessions to convict somebody without hard evidence
18 on the other side. When you look at your money, everybody
19 who has got long hair on your money, George Washington,
20 Thomas Jefferson, Ben Franklin, they didn't believe you
21 should convict people by confessions. And how do we know
22 that. Because when they wrote the constitution after the
23 revolutionary war, when they passed the constitution they
24 passed ten amendments at the same time, the bill of
25 rights. The fifth amendment, within the first ten

1 minutes, number five says they don't want you to convict
2 somebody, confessions. It is your right to remain silent
3 because they understood that people do confess, or made to
4 confess or confessed to things that are not guilty of.
5 And that is why we have got, that is the only kind of
6 evidence that comes in. Ordinarily all Judge Griffith and
7 he has got a lot of authority, a lot of power but all he
8 basically does in a trial is decide whether it is valid
9 evidence that can come in or not, whether there is a
10 foundation for the evidence and just, he is a gatekeeper
11 from what y'all can see or hear. But what it means is
12 you, he has got no authority whatsoever to make any kind
13 of determination, he can't even tell you the sky is blue
14 unless the parties agree to it. That is entirely up to
15 the jury. But all evidence has to come through the Court
16 before it gets to you. The only piece of evidence that
17 you have got a right to overrule a Judge on is a
18 confession because the fifth amendment of the constitution
19 that says, even though a Judge finds that the confession
20 can come in under the rules the jury also gets to
21 determine whether it is a valid confession. And then the
22 U.S. Supreme Court about 200 years later in the 60's, in
23 the U.S. Supreme Court, that little quote I read you
24 earlier, in one of their major decisions they said that
25 just law enforcement that relies on confessions alone,

1 without actually doing a skillful investigation of the
2 case, is just, is a broken system. And the problem is,
3 once you do reach a confession there is a tendency that
4 stops the case, we think somebody did it and we spoke to
5 them, they admitted to doing it, let's move on to the
6 next. That is not a skillful investigation. That is a
7 confession and it might be correct but that is not a
8 skillful investigation. A skillful investigation is when
9 you have shoes, the only reason this was offered as
10 evidence for you, I didn't hear any testimony about whose
11 shoes these were other than he appeared to be the person
12 who robbed the store. They were put in for a reason
13 because the State believes that these are the shoes that
14 the man wore. And that is the peanut cup that was stolen.
15 They took DNA from the shoes and they sent it to the SLED
16 laboratories for the DNA test. They have not done
17 anything to get the results back. Do you think a skillful
18 investigation would include, if you sent the results into
19 SLED, that you could wait until you get a result back.
20 DNA is almost conclusive. We know there is DNA just all
21 over the shoes, they wouldn't have taken the shoes if they
22 weren't just a, dogs can't chase people if they are not
23 leaving substances from their shoes, it is just, that
24 would be a skillful investigation. I submit to you what
25 happened was, when Ernest was identified as possibly being

1 the man, they spoke to him, they got a confession, they
2 filed the case away and then they moved on to other
3 business and they may or may not have gotten it right.
4 And then this is the actual evidence that you saw, Mr.
5 Cooper, the clerk at LI'L Cricket testified that he was
6 robbed, I don't dispute that. But in court he made an
7 identification of Ernest Williams. It is awfully easy to
8 identify the man sitting beside the attorney in trial as
9 being the culprit. I am not saying it is sinister but it
10 is just, he didn't identify anybody that night. He
11 believes he may have been shown a picture of Ernest
12 Williams close into the scene. Law enforcement says I
13 don't remember, it wasn't a photo lineup. I do think it
14 is possible that maybe over the year that this case was
15 taken that he has seen a picture, he has seen Ernest
16 Williams. And in his mind he believes now that is who
17 robbed him but he didn't identify him in a photo lineup.
18 Law enforcement didn't show him a photo lineup. Over time
19 he may have seen a picture and in his mind he is now
20 convinced it is Ernest Williams. But there is no evidence
21 other than when he came in here to court that he has ever
22 identified Ernest Williams before. There is no evidence
23 that the State had the burden of showing that to you that
24 there was ever anything other than in-court identification
25 which I would ask you to be, an in-court identification

1 without a prior identification, it is just awfully easy to
2 stand there and say that man on trial is the guy who
3 committed the crime. That is just, it is a show up and it
4 is not a fair identification. You are going to have the
5 videos, they printed out what they believe are the best
6 photographs to identify the suspect. I guarantee you the
7 Solicitor's office didn't just pick random photographs for
8 you to look at. They have picked up what they think are
9 their strongest photographs for you to identify the man.
10 And just, you are going to have these photographs, not a
11 single one from the LI'L Cricket is strong enough to
12 identify anybody other than there is a black man in a red
13 jacket. You have the El Tipico video and pictures and I,
14 that is the only picture that an identification was made
15 in this case. This is the only piece of evidence that an
16 identification was made of. And I do have some problems
17 with this. It is at nighttime. The man has got a hat
18 halfway over his head, you can't see his eyes. I mean his
19 face don't start to the top of his nose and you can't
20 really see his jawline because of the shadows. That is
21 the only, only, only, piece of evidence they have got in
22 this case. And look at this photograph, is this a fair
23 picture to identify somebody with. And I am not saying
24 Deputy Schumpert has got ill motives. I am saying he has
25 based a decision based on this one photograph. And when

1 you make an identification that is who you believe. It is
2 in good faith, that is who you believe you saw the first
3 time. I mean, we have all read this phrase before. I
4 could have sworn that was you. Have you ever heard
5 somebody say, I could have sworn to you I saw her with.
6 Well, when you see somebody and you associate them with
7 some event or some place that is the face you see in your
8 mind. They have no other evidence than this photograph.
9 They have gotten videos they have shown you, this is the
10 best photograph from the video they have and they want you
11 to base the armed robbery conviction on this. They have
12 got DNA from the shoes, but we haven't seen the results,
13 they haven't waited for the results. They have a
14 confession and just, some of the red flags, I wasn't
15 there, it might be a true confession, it might not be.
16 Just some red flags I have with it are when you pick a man
17 up from a mental health facility and interrogate him
18 within an hour of being released. I don't know, you
19 cannot know what kind of state of mind he is in. It is
20 clear he was shown the video because he refers to the
21 video and they had all the evidence to show him and tell
22 him the facts. There is just a red flag on the confession
23 alone, the fact that you take a man out of a mental
24 institution and get the confession and then, this one
25 piece of evidence is the only hard evidence they have. I

1 would ask you to find him not guilty just for the sole
2 reason that we are not just strongly convinced they have
3 enough evidence yet to convict him.

4 THE COURT: Mr. Scott.

5 MR. SCOTT: May it please the Court.

6 THE COURT: Yes, sir.

7 MR. SCOTT: As Don King would say, only in America,
8 ladies and gentlemen, only in America do we get twelve
9 people together to decide a case. You have got the victim
10 who ID's the suspect, the sheriffs deputy who ID's the
11 suspect and then the suspect admits it. Only in America.
12 The best, the great thing about America, isn't it. That
13 we get twelve people together who have to unanimously come
14 to a conclusion that this man did or did not commit the
15 crime. All of us are entitled to that right. Certainly
16 Mr. Ernest Williams is entitled to that right and you all
17 were picked as representatives of this community of
18 Newberry County to be fair and impartial and decide this
19 case based solely on the facts and the evidence presented
20 from here. Only in America. And it would be
21 inappropriate for you to decide his fate based on anything
22 other than the evidence presented these last couple of
23 days from this stand. I submit to you it would be in
24 appropriate to sit back there and deliberate and say, that
25 is not exactly how they do it on TV or, you know, maybe he

1 should just get a second chance. No. You are to decide
2 this case based on the evidence and what you have seen
3 with your own eyes and heard with your own ears here in
4 court. On the other hand you cannot say, I always said if
5 I got on a jury I would convict the guy. No. It is from
6 the evidence and using your common God given sense and
7 your life experiences and all of your reason and logic
8 that you brought with you to court. There is not a sign
9 out there that says, check your common sense at the door.
10 That is why you guys were picked. I mean, when we sat
11 there and picked you guys, you see us flipping through
12 papers and looking at you and examining you we kind of
13 have some information on you guys that we pick you based
14 on education levels, occupations, where you are from. You
15 all were picked, handpicked by each one of us because we
16 thought you could be fair and impartial to both sides.
17 And that is why you are here and that is why certain
18 people were let go and that is why certain people were
19 picked. You took an oath at the beginning to be fair and
20 impartial and that is all you need to do to decide this
21 case based on the evidence as presented from that stand.
22 I submit to you this is not a difficult case, no need to
23 make it complicated. December 8th of last year Ernest
24 Williams was on a mission, that area that we heard about
25 where Nance Street meets Kendall Road, he was all over the

1 place. We seen him at El Tipico, we see him on multiple
2 video cameras at El Tipico. Appears to be casing the
3 place, I submit to you, he was just wondering about
4 aimlessly not purchasing anything, walking around
5 aimlessly, you picked him up very clearly in the video.
6 He was seen at the One Stop next door, he has run off from
7 there. Allegedly had flashed a gun on the street. And
8 then around 10:00 o'clock he shows up at the LI'L Cricket.
9 And that is why we are here. He has got his hood on at
10 this point, we see him very clearly enter the store, we
11 see him walk around again aimlessly and we see him get
12 those peanuts that he likes so much, talked about from the
13 stand. Frederick Cooper has seen him in there before,
14 recognizes his face, doesn't really think anything of it
15 until he has got a pistol held on him. I submit to you he
16 will remember that the rest of his life. I submit to you
17 he testified truthfully that he remembered that face the
18 rest of his life. All the man was doing was working for a
19 paycheck. What did Frederick Cooper do to deserve that.
20 And I understand that Ernest Williams is apologetic and I
21 understand Ernest Williams appears very meek and mild here
22 in court. But that is not who confronted Frederick Cooper
23 last year. He wasn't meek and mild then, he was a lion
24 then. And that is who we are trying. I want to remind
25 you all that Ernest Williams, he is an educated man, he

1 graduated from the same high school some of you did, got
2 his degree there. School educated, he is trade educated,
3 he is life educated. Talked about getting a education and
4 working on cars and mechanics and everything. Held down a
5 job at Newberry College for 15 years, worked at Kiswire
6 for some time. Ernest Williams knows what he is doing.
7 But Ernest Williams is a taker, he is the worst kind of
8 taker, is the kind of taker who will put someone else's
9 life at risk to get what he wants. Wonder what went on in
10 Frederick Cooper's mind when that gun was pointed at him.
11 What goes through anybody's mind when a gun is pointed at
12 them. And that is what we are really here for. This is a
13 serious crime, this courtroom is fairly modest, this is
14 the family courtroom, it is not as grand as the court we
15 usually try these felony cases in across the street. This
16 is our temporary home while they work on that and renovate
17 it. But don't let it be lost, this is a serious crime.
18 This involves somebody roaming the streets in Newberry
19 with a pistol, acting extremely reckless. Now, they catch
20 up with him December 14th, they find him at Richland
21 Memorial and the only evidence that he was at a mental
22 facility comes from the defense, that he is at Richland
23 Memorial, he is transported back here. Remembers in great
24 detail the time it was when he was driven back here, the
25 sheriffs department, remembers things like what he was

1 wearing, his left hand being handcuffed to the chair while
2 he was being spoke to by Allison Moore, spoken to by Kevin
3 Goodman. Remembers Kevin Goodman, everything he was
4 saying, very clearheaded. The police officers testified
5 to that. He wasn't under the influence of anything, he
6 understood everything we said, initialed by his rights,
7 Miranda warnings that everybody gets before they are
8 questioned by the police. Spoke to him first verbally,
9 said I did it, I am sorry, tell the guy I am sorry. He is
10 apologetic now, that doesn't completely atone for what he
11 did back on December 8th. Then he is given a chance to
12 pen to the paper and again, he admits to it. As I said,
13 as a small child, we don't admit to something we don't do
14 especially an armed robbery. Does that make any sense at
15 all. If you didn't do it who says, yeah, I did and then
16 goes on to name the clerk's first name, goes on to talk
17 about peanuts. He reviews it, even at that point he
18 doesn't say, wait a minute, what I am doing here. Let me
19 change my story, I didn't do it. It is only when he is in
20 court here today that he is telling y'all, disregard that
21 confession, okay. And the defense attorney says,
22 disregard that confession, please. Can I do that over
23 again and disregard those videotapes. And disregard that
24 deputy who ID'd me and disregard that clerk who ID'd me.
25 Disregard all of that. Odell Schumpert, y'all heard him,

1 he was the deputy I am referring to. This isn't somebody
2 who just sees Ernest Williams for the first time, this is
3 a guy he grew up with. Saw him earlier that day wearing
4 the same jacket, says he wears the Chicago Bulls jacket
5 all the time. He was wearing it that day five hours
6 before this incident occurred with the blue hat. What are
7 we to believe, some alternate story. I mean was the
8 alternate story, is there an Ernest Williams lookalike
9 that wears the same Chicago Bulls jacket, walks around the
10 same places that Ernest Williams hangs out at and commits
11 these crimes. No, that is not a reasonable doubt. That
12 is not reasonable. That is the standard, that is the
13 standard that I have to prove this case to y'all, beyond a
14 reasonable doubt. That is the key word, reasonable. That
15 is why I talk about reason and logic and common sense and
16 everything like that. You can have some doubt about some
17 things involved with this case, none of us were there, how
18 can we be completely one-hundred percent positive of
19 anything that happened in this case. We weren't there.
20 You have to be firmly convinced, as Mr. Daniel's said in
21 his opening statement, it is not beyond all doubt, it is
22 beyond a reasonable doubt. I hope that makes sense to
23 y'all, it is a standard that we have to meet, it is our
24 burden of proof but it is difficult to explain. I think
25 firmly convinced is the best way to describe it and this

1 Judge will mention that twice in his charges to y'all,
2 firmly convinced is what you all need to be inside of this
3 case. You are going to have all of this evidence. I do
4 want to point out, we talk about this photo lineup, there
5 was one given and I tried to explain it and I hope y'all
6 understand that Ernest Williams was not in that lineup.
7 They showed Frederick Cooper a lineup, it has got six
8 black males, none of which Ernest Williams because it is
9 before Odell Schumpert has ID'd the picture given the
10 name. Of course Frederick Cooper looks at it and says,
11 none of those are the guy that robbed me. Well, that is
12 right because Ernest Williams wasn't in there. Armed
13 robbery, talked about it earlier in the opening, it is
14 taken by force using a deadly weapon. Okay, the deadly
15 weapon involved in this case is a revolver type pistol.
16 We have to show you that Frederick Cooper was robbed,
17 something was taken from him by force, that being that
18 money. You can see Frederick Cooper's hand read in the
19 cash register and take that money, that is the taking.
20 And the force is him holding the deadly weapon on him.
21 Okay. That is very clear in the video which y'all will be
22 able to watch anytime y'all want. You don't even have to
23 believe, it could have been a toy pistol. The fact is is
24 that he represented it to be a weapon of some sort, meets
25 that burden of armed robbery. Robbing somebody with a

1 deadly weapon or what appears to be deadly weapon or what
2 the victim believes to be a deadly weapon. Possession of
3 a weapon during the commission of a violent crime is his
4 second charge. He has got two charges that y'all are
5 going to decide. That is what it sounds like. He
6 possessed a weapon during the commission of a violent
7 crime and a possession of the weapon, again, the revolver
8 that he had. So that is pretty much it. That is the law,
9 the Judge is going to clarify the law for y'all. Y'all
10 are going to take that law, apply it to those facts and
11 then come up with a verdict. The word, verdict, a lot of
12 people talk about it in their opening and closing, it is a
13 Latin term. It means to speak the truth, that is all we
14 are asking you to do is to speak the truth based on what
15 you have heard here, not based on what they do on TV or
16 what some other highly published trial you saw on TV, what
17 they did there. These facts of this case, you have no
18 friend here to reward, you have no enemy here to punish.
19 I ask you to go back there and deliberate and find him
20 guilty beyond a reasonable doubt of armed robbery and
21 possession of a weapon during the commission of a violent
22 crime. Thank you.

23 THE COURT: Ms. Wise, it is going to take me about
24 twenty mintues to give you my instructions. Are y'all
25 good or do y'all want a break.

1 FOREPERSON: No, sir.

2 THE COURT: Pardon me for having to read this but I
3 will talk to you a little bit and I will read some to you.
4 Some of the stuff I know pretty well by heart and so I
5 will be able to tell it to you, some of it I don't. But,
6 Ms. Wise and members of the jury, the State of South
7 Carolina in this case is charging the defendant, Mr.
8 Ernest Eugene Williams, with armed robbery and possession
9 of a weapon during the commission of a violent crime. You
10 will have a verdict form and that is what I went and asked
11 the lawyers about, to make certain they understood the
12 verdict form that my law clerk has prepared for you. You
13 will have that verdict form with you in the jury room. So
14 bear in mind, of course, Mr. Williams has plead not guilty
15 to these two charges and by that plea he denies all of the
16 charges alleged in the two indictments which I showed you
17 earlier. You won't have the indictments in the jury room
18 but you will have the verdict form. As I told you
19 earlier, an indictment is merely an accusation of the
20 charges that the State has made against Mr. Williams so
21 that he knows and he is on notice by the State of what to
22 be prepared to come into court to defend. So you are to
23 consider the evidence which has been presented from the
24 various witnesses, along with any exhibits which have been
25 introduced into the record in the case and the videos

1 which have been introduced.

2 Mr. Williams comes into this court clothed with a
3 presumption of innocence and this presumption of innocence
4 continues throughout this case and entitles him to a
5 verdict of not guilty unless and until it is dispelled by
6 the evidence satisfying you, the jury, beyond a reasonable
7 doubt of his guilt of the offenses charged. The State
8 must prove each and every element of both offenses in
9 order to sustain a conviction and they must prove these
10 elements beyond a reasonable doubt. I will provide you a
11 definition of reasonable doubt in a moment.

12 Now, as I told you early on, as under the
13 Constitution and laws of the State of South Carolina you
14 twelve are the sole finders of the facts in this case. So
15 do not take by what I am saying, that I am trying to
16 suggest to you what facts to find or what opinion I may
17 have on the guilt or innocence of anyone in the courtroom.
18 That is your duty and your duty as fact finders to reach
19 that decision and not mine.

20 The Constitution and laws makes you the finders of
21 fact, makes me the instructor of law. I am the sole and
22 only instructor of the law and you must accept as correct
23 the law which I am instructing you today, apply it to this
24 evidence as you find it and reach a verdict and your
25 verdict must be unanimous. Now, if I should make an error

1 in the law as I am instructing it to you there is another
2 time and another place where that error can be corrected,
3 if necessary. But for the purpose of this case you must
4 accept the law as I am instructing it to you at this time.
5 I tell you that neither you nor I for that matter should
6 be concerned about what we think the law ought to be but
7 only concern ourselves with what I am instructing the law
8 to in fact be.

9 Now, as the sole fact finders you should have
10 listened closely to the testimony and evidence presented
11 and you should weigh this evidence using your good
12 judgment and common sense. Weighing evidence is entirely
13 a mental process. You don't have a set of scales
14 anywhere, you evaluate the evidence as you find it and
15 weigh it mentally. Evidence weighs with you that
16 convinces you of its truth. You understand your objective
17 here today is to find true facts. You are the judges of
18 the credibility of the witnesses and believability of the
19 witnesses who have testified in this case. Now, in
20 passing upon one's credilbity you can consider anything
21 in your good judgment and common sense you wish to make
22 the determination of the truth you are hearing. You can
23 consider things such as this: What was the manner and
24 appearance of the witness who testified. Was the witness
25 straightforward or was the witness hesitant in answering.

1 How did the witness come to know the facts to which he or
2 she testified to, what was her ability or his ability to
3 know these facts. Is there some reason a witness would
4 want to give testimony which would help or hurt one side
5 or the other. In other words, were any of the witnesses
6 biased or prejudiced. Was any of the testimony of a
7 witness strengthened or weakened by other testimony or
8 other evidence. You, the jury, may believe as much or as
9 little of each witnesses testimony as you deem proper.
10 You may believe the testimony of a single witness against
11 that of many or just the opposite. You may believe part
12 of a witnesses testimony and disbelieve the rest. The
13 fact that testimony is not disputed does not mean you must
14 accept it as true and undisputed. You must still gauge
15 the credibility of all of the witnesses to determine their
16 believability or the truth of the facts offered through
17 this testimony. Keep in mind, throughout this process,
18 you have but one objective and that is to seek the truth.

19 Now, in cases tried in Court of General Sessions and
20 Court of Common Pleas, there are generally two types of
21 evidence presented during a trial, there is direct
22 evidence and there is circumstantial evidence. Direct
23 evidence is this, it is testimony of a person who asserts
24 or claims to have actual knowledge of a fact, such as an
25 eyewitness. An eyewitness would describe what he or she

1 saw or heard or thought, not thought, but smell.
2 Circumstantial evidence on the other hand is proof of a
3 chain of facts and circumstances indicating an existence
4 of yet another fact. Our law makes absolutely no
5 distinction between the weight or value to be given to
6 either direct or circumstantial evidence. Nor is a
7 greater degree of certainty required of circumstantial
8 evidence than of direct evidence. You should just weigh
9 all the evidence presented in this case. After weighing
10 all the evidence if you are not convinced of the guilt of
11 the defendant beyond a reasonable doubt you must him not
12 guilty.

13 Now, in a criminal prosecution such as a case like
14 you have heard over the last two days, the burden of proof
15 is upon the prosecution or the State. The defense has no
16 burden whatsoever, as the defendant is presumed to be
17 innocent. In this State and according to our Constitution
18 the prosecution must prove their case to the standard of
19 proof called beyond a reasonable doubt before a finding of
20 guilt may occur. If the State fails to meet this burden
21 then the defendant is entitled to a not guilty or an
22 acquittal verdict.

23 Now, I have used the term, reasonable doubt, several
24 times. What is a reasonable doubt. It is simply this. A
25 reasonable doubt is the kind of doubt that which would

1 cause a reasonable person to hesitate to act. A
2 reasonable doubt is a doubt which would make an honest,
3 sincere, conscientious juror in search of the truth to
4 hesitate to act. Proof beyond a reasonable doubt is proof
5 which leaves you firmly convinced of the defendant's
6 guilt. If you have a doubt for which you can give or
7 assign a reason as to the guilt of the defendant then he
8 is entitled to a verdict of not guilty. Reasonable doubt
9 may arise from evidence which is in the case or from lack
10 or absence of evidence in the case. You, the jury, must
11 make the determination of whether or not reasonable doubt
12 exists as to the guilt of the defendant. Now, I tell you,
13 the very fact that you, the jury, engage in full and free
14 discussion on the issue of guilt or non-guilt in this case
15 would not automatically mean that a reasonable doubt
16 exists.

17 Now, in all criminal cases there is a requirement of
18 criminal intent. Criminal intent is a necessary element
19 of each crime that must be proved by the State beyond a
20 reasonable doubt. Criminal intent is always a matter
21 which must be determined by the jury from the
22 circumstances surrounding the situation. There is no way
23 to prove intent to a mathematical certainty. There is no
24 way medical science can dissect a person's brain and
25 determine what he or she had in mind. So the law states

1 criminal intent may be inferred from the circumstances
2 shown to have existed, both before and after the fact.
3 This is how you, the jury, make a determination of whether
4 or not the element of intent was present. Criminal intent
5 is a state of mind that operates jointly with an act or
6 omission in the commission of a crime. Criminal intent is
7 a mental state of conscious wrongdoing so it is up to you,
8 the jury, to determine what the defendant intended to do
9 based upon circumstances shown to have existed. I tell
10 you that the State must prove criminal intent beyond a
11 reasonable doubt just as the State must prove other
12 elements of the crime beyond a reasonable doubt.

13 Now, I have allowed some of the jurors to take notes
14 during the case. Please remember that some people are
15 better note takers than others. Juror notes should not be
16 given any greater weight than the recollection of any
17 juror who did not take notes. The recollection of
18 individual jurors should be considered as reliable as
19 notes taken by jurors who took notes.

20 Now, the specifics of the law in this case regrading
21 the two offenses charged. Mr. Williams is charged with
22 armed robbery and possession of a weapon during the
23 commission of a violent crime.

24 Armed robbery is defined in our State under section
25 16-11-330. In order to prove this offense, the State must

1 first prove beyond a reasonable doubt that the defendant
2 took personal property from the person or presence of
3 another. Property is in the presence of a person if it is
4 within the person's reach, inspection, observation or
5 control so that the person could, if not overcome with
6 violence or prevented by fear, to keep possession of that
7 property. The State must also prove beyond a reasonable
8 doubt that the defendant carried away the property
9 intending to permanently deprive the owner of the property
10 and to keep the property for the defendant's own use. The
11 slightest removal of the property or the complete
12 possession of the property, even for an instant is by the
13 defendant, it is sufficient to show a taking and carrying
14 away of the property. The taking and carrying away of the
15 property must have been done with violence or by putting
16 the owner of the property in fear or violence. Finally,
17 the State must prove beyond a reasonable doubt that the
18 defendant was armed with a deadly weapon during the
19 robbery. A deadly weapon is any article, instrument, or
20 substance which is likely to cause death or great bodily
21 harm. Whether an instrument has been used as a deadly
22 weapon depends upon the facts and circumstances of each
23 case. The following are examples of instruments which may
24 be considered deadly weapons such as, a pistol, a shotgun,
25 a rifle, a knife, a razor, and a gun may be a deadly

1 weapon even if it is not operating.

2 Now, the defendant is also charged with possession of
3 a weapon during the commission of a violent crime. This
4 is defined under code section 16-23-490. The State must
5 prove beyond a reasonable doubt that the defendant was in
6 possession of a firearm or visibly displayed what appeared
7 to be a firearm during the commission of a violent crime.
8 A firearm means any machine gun, automatic rifle, a
9 revolver, a pistol or any weapon which will, or is
10 designed to convert or expel a projectile. In order to
11 find the defendant guilty of possession of a weapon during
12 the commission of a violent crime you must first find the
13 defendant guilty of either committing a violent crime or
14 attempting to commit a violent crime. And I tell you that
15 violent crimes are listed in code section 16-1-60 and an
16 armed robbery is defined under that code section as a
17 violent crime. The State must also prove beyond a
18 reasonable doubt that the weapon furthered advanced or
19 helped in the commission of the crime.

20 Ms. Wise, members of the jury, as you retire to begin
21 deliberations I wish to express the hope that each of you
22 will be mindful of the importance of your responsibility
23 in this case. You are not called upon very often to be
24 jurors. You and I are acting for this community and that
25 is why you and I must see to it that this trial is fair

1 and the verdict is just. You have observed that during
2 this trial that the attorneys has addressed me as Your
3 Honor. And the reason is that the Court is entrusted with
4 the honor of the community, the Country and this State in
5 seeing that every person tried in the courtroom receives
6 fair and impartial justice. You, the jury, must take also
7 into care the preservation of this honor. I am not trying
8 to tell you how to decide this case. I have already told
9 you, that under the laws of the State of South Carolina
10 you, the jury, are the judges of all questions of fact.
11 It would be highly improper for me to influence you in the
12 performance of that duty. I will not suggest to you what
13 type of verdict to reach. But as the presiding officer, I
14 am vitally convinced whatever verdict you find will be the
15 result of your going into that jury room and confining
16 your consideration to the evidence and the law that you
17 have heard in this courtroom and nothing else, weighing
18 the evidence and instructions given to you fairly and
19 impartially. And I have every confidence that you will
20 reach a verdict that will be fair and just. And I remind
21 you your verdict must be unanimous. Everyone is entitled
22 to justice in the case, both the State and the defendant.
23 All are entitled to justice, nothing more, nothing less.
24 You owe no support or sympathy to anyone. I am under the
25 confirmed opinion that whatever verdict you reach will

1 represent the truth and justice for all the parties
2 involved.

3 Let's see, let me get the verdict form. I am going to
4 show you the verdict form, it shows count one, not guilty,
5 guilty. Count two, not guilty, guilty. That is the
6 verdict form, not very complicated. That is not
7 necessarily the order that you have got to decide this, it
8 is however y'all like. Now, what I need to do now is put
9 y'all in the jury room, all thirteen. And I need to ask
10 the lawyers, because my instructions were about fifteen
11 minutes. The attorneys have an opportunity to make
12 suggestions or clarifications, they can say, Judge, I
13 think you need to clarify the law that you suggested or
14 instructed on, one of the two charges. And they want to
15 tell me or perhaps not. If they have no clarifications or
16 requests for additional instructions then I will send you
17 all of the evidence and bring the evidence to you in the
18 jury room with this on top. Once you get this then you
19 can begin discussing the case and begin your
20 deliberations. Now, if you want to play the videos we
21 will make a video player or computer available to you.
22 You can probably select somebody to get a quick lesson on
23 how to run the video player. I am certain somebody is
24 computer literate. Y'all figure out who that is and let's
25 train him how to run the video player, him or her, it

1 doesn't matter to me. But we can do that. If you want to
2 hear testimony replayed Ms. Holston has got a record of
3 everything said. It would help me, if you say we would
4 like to hear testimony of so and so witness, write it down
5 and hand it to the bailiff and the bailiff will come to me
6 and find me and say, the jury would like to hear testimony
7 of this witness again. Ms. Holston can then, she will go
8 to her recorder over there and she can retrieve it. It
9 will take a few minutes to do that. If you have any
10 questions about my instructions write those down, can you
11 instruct us on, whatever it is, write that down and I will
12 try to answer it. Now, one common question is, is there
13 some other evidence. Can we hear testimony from another
14 witness. The answer is, what y'all have heard is what
15 y'all get. Why another witness did testify or didn't
16 testify, I can't answer that question, it is outside my
17 control. I just rule on the things presented to me and
18 y'all have got to reach your verdict based on what has
19 been presented to you. So there is no opportunity for us
20 to send for other evidence regardless, it may not be
21 available. I don't know, that is just not an issue that
22 we get to address in our part of the trial. If you need a
23 break of any type stop deliberating and take your break.
24 Y'all can only talk when all twelve people are in the
25 room. If somebody wants a break, go to the bathroom just

1 stop and everybody take a break. Cell phones have
2 information and access to the internet. You are not
3 allowed to do any type of research. Some juror way back,
4 on a case that I heard about. Somebody had a cell phone
5 and they called their family and looked up something on
6 wikipedia. That is not the law, the law is what I have
7 got to give you. Step in the jury room and we will either
8 bring you back in here or we will send everything to you.
9 And once we start deliberations that is when I will
10 retrieve the alternate out.

11 (Whereupon, the jury was excused from open court at
12 approximately 10:30 a.m.)

13 THE COURT: Any additions, deletions, suggestions on
14 the instructions?

15 MR. VERNER: Judge, for the record, I asked the Court
16 to allow me to renew my motion for directed verdict at the
17 close of the case.

18 THE COURT: The record will be protected on that. I
19 don't think there is any basis to change it. The evidence
20 that has been presented I think is a weigh question for
21 the jury to weigh the evidence. And so your motion was
22 properly made and properly renewed for the close of your
23 case prior to the closing arguments. My ruling will be
24 consistently the same.

25 MR. VERNER: Thank you, Judge. And, Your Honor, I

1 didn't hear the Court charge on the confession. Did the
2 Court charge on the voluntariness of the confession?

3 THE COURT: I did not. You are correct. I will do
4 that. What else?

5 MR. VERNER: That is the only thing that I didn't
6 recall hearing.

7 MR. SCOTT: The reasonable doubt charge, Judge, the
8 only thing that I noticed, is the part that if you have a
9 doubt that you can assign a reason you must find him not
10 guilty. And I kind of waited on the, if on the other hand
11 part. Do you charge that?

12 THE COURT: No.

13 MR. SCOTT: The armed robbery that, not a charge of
14 statute, the representation of a deadly weapon. Had you
15 intended to charge that?

16 THE COURT: I thought I said that.

17 MR. SCOTT: In the possession of the weapon during
18 the commission of a violent crime I think you did mention
19 the, you said a pistol that doesn't work could suffice. I
20 guess the statute, he was armed while using a
21 representation of a deadly weapon or any object which a
22 person present during the commission of the robbery
23 reasonably believed to be a deadly weapon. And I could
24 have missed that.

25 THE COURT: So what did I leave out? Say it again.

1 (Whereupon, the jury came into open court at
2 approximately 10:53 a.m.)

3 THE COURT: I have got another instruction. Being in
4 this courtroom, I am in the big court house, that is where
5 my office is and all of my books. But some of the books I
6 use are packed up because of all of the moisture problems
7 we have had. So we kind of had to shuffle around is what
8 took so long. We had to find the instruction, one of the
9 lawyers asked me for. And it took a while to find it
10 because of that issue. Thank you for your patience. I
11 have now retrieved it on my IPAD. This involves the
12 statement of the defendant giving. Y'all heard a
13 statement of the defendant in this trial. The statement
14 was alleged to have been made by the defendant. It has
15 been admitted into evidence in this case. And while the
16 Court has determined the statement is admissible I
17 instruct you that you make the ultimate decision whether
18 or not the defendant made the statement. If the defendant
19 did make the statement, you must determine whether the
20 statement was made by the defendant voluntarily and of his
21 own free will. This means the statement was not caused by
22 pressure, force, fear, coercion or intimidation or by any
23 hope or promise of leniency or reward of any kind. In
24 determining whether the statement was voluntary you should
25 consider both the characteristics of the defendant and the

1 details of the question. Some of the factors that you can
2 consider are the age of the defendant, the defendant's
3 education or lack of education. The defendant's mental
4 ability or capacity. The defendant's IQ or intelligence,
5 the defendant's background and environment. The place and
6 length of the detention, the nature of the questioning and
7 the advice or lack thereof to the defendant of the
8 constitutional rights including but not limited to, the
9 rights to remain silent, that any statement could be used
10 against him in a court of law, the right to have a lawyer
11 present, that if he could not afford a lawyer a lawyer
12 would be appointed to represent him without any cost and
13 he could not stop making a statement at any time. You
14 must carefully consider all of the surrounding
15 circumstances before you give any weight to the alleged
16 statement. The State has the burden of proving beyond a
17 reasonable doubt that the statement was voluntary. If you
18 determine it was you may give the statement any further
19 consideration that you deem proper. And you must decide
20 what weight, if any, should be given to this statement.
21 If you determine the statement was not free and voluntary,
22 the statement of the defendant, you should not consider
23 the statement at all. All right. That represents the
24 requested instructions from the defense and the State?

25 MR. SCOTT: Yes sir, it does.

1 THE COURT: Mr. Verner?

2 MR. VERNER: Yes, sir.

3 THE COURT: Can we now follow Ms. Wise in the jury
4 room with the exhibits?

5 MR. SCOTT: Yes, sir.

6 MR. VERNER: Yes, sir.

7 THE COURT: Okay. Now, all of the instructions have
8 now been given to you, if you need more you write down
9 what you need, Ms. Wise. Ms. Wardlaw, please help them
10 with the exhibits and the verdict form. Y'all are excused
11 to your jury room and then you can begin your
12 deliberations. The alternate can stay here with us.

13 (Whereupon, the jury started deliberations at
14 approximately 10:55 a.m.)

15 (Whereupon, the alternate was excused from the trial
16 of the case at approximately 10:56 a.m.)

17 THE COURT: Exhibit 17 was admitted without
18 objection? That is the timestamped video.

19 MR. SCOTT: Yes, sir.

20 MR. VERNER: Yes, sir.

21 THE COURT: We have a question from the jury. They
22 want to replay the testimony of Frederick Cooper and they
23 want to see the video. We will show them how to run the
24 computer to watch the videos. I sent them, do they want
25 to see the video first or testimony first. While we were

1 getting the video ready the second question came out.

2 That is number 2, actually. The testimony first and then
3 the video. Court's 3 and Court's 4.

4 (Whereupon, Court's Exhibit 3 and 4 were marked for
5 identification only.)

6 THE COURT: Let's bring the jury in.

7 (Whereupon, the jury came into open court at
8 approximately 11:25 a.m.)

9 (Whereupon, the testimony of Frederick Cooper was
10 played to the jury, starting at 11:26 a.m. and ended
11 at 11:53 a.m.)

12 (Whereupon, the jury returned to the jury room at
13 11:48 to view video.)

14 (Whereupon, the jury returned to deliberations at
15 approximately 11:49 a.m.)

16 (Whereupon, a lunch break was taken from 12:00 p.m.
17 to 1:10 p.m., the jury had lunch in the jury room.)

18 (Whereupon, the jury continued deliberations at
19 approximately 1:15 p.m.)

20 THE COURT: The jury has reached a verdict. Are we
21 ready?

22 MR. SCOTT: Yes, Your Honor.

23 MR. VERNER: Yes, sir.

24 THE COURT: Bring the jury in.

25 (Whereupon, the jury came into open court with the

1 verdict at approximately 1:40 p.m.)

2 THE COURT: Ms. Wise, has the jury reached a verdict?

3 MS. WISE: Yes, sir.

4 THE COURT: Is this a unanimous verdict?

5 MS. WISE: Yes, sir.

6 THE COURT: Hand it to the bailiff, please. Madam
7 Clerk, if you will read the verdict.

8 MADAM CLERK: The State versus Ernest Williams, Jr.,
9 Count One, 2013-GS-36-0124, armed robbery. We find the
10 defendant, Ernest Williams, Jr., guilty.

11 Count Two, 2013-GS-36-0125, possession of a weapon
12 during the commission of a violent crime. We find the
13 defendant, Ernest Williams, Jr., guilty.

14 Signed Audrey Wise, Foreperson. Ladies and gentlemen
15 of the jury, if this is your verdict please state by
16 raising your right hand.

17 (Whereupon, all jurors raised their hands.)

18 THE COURT: Mr. Verner, any further issue for the
19 jury?

20 MR. VERNER: No, Your Honor.

21 THE COURT: Ms. Wise, I would like to, go back to the
22 jury room and I will come back and talk to you for a
23 minute. And then you will be released. We have got
24 checks too.

25 (Whereupon, the jury was excused from open court.)

1 what I would call an ugly armed robbery. We just ask you
2 to be lenient for Mr. Williams. Thank you, Judge.

3 THE COURT: Mr. Williams, anything you want to say?

4 MR. WILLILAMS: Your Honor.--.

5 THE COURT: Yes, sir.

6 MR. WILLIAMS: I apologize.

7 THE COURT: Mr. Scott.

8 MR. SCOTT: The extent of his record is like five
9 petty larcenies in '86, DUI's in '91 and '95. He had two
10 property offenses. He had a probation violation, one in
11 '06 and one in '08. As he just said, he was apologetic,
12 we have seen these cases a lot.

13 THE COURT: All right, Mr. Verner, is that all?

14 MR. VERNER: Yes, sir.

15 THE COURT: Sentence on indictment 13-GS-36-124,
16 armed robbery indictment. The sentence of the Court is 18
17 years. Run that concurrent with the 5 years on the
18 possession of a weapon, they will run concurrently. Get
19 credit for the days since December 14th of 2012.

20 MR. VERNER: Thank you, Your Honor.

21 MR. SCOTT: Thank you, Your Honor.

22 *** END OF REQUESTED TRANSCRIPT OF RECORD ***

23

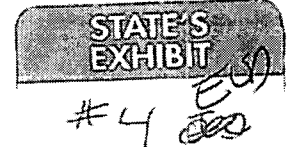
24

25

Suspect Statement With Waiver of Rights

Ernest Eugene Williams Jr, am 44 years of age, and my present address is
[REDACTED]. I have finished the 12th grade in school and I can read
and write. My date of birth is [REDACTED] and my social security number is [REDACTED]. My
telephone number is [REDACTED]. I make the following statement to Sgt. A. J. Moore.

Miranda Rights



- EW (1) I have the right to remain silent.
EW (2) Anything I say can and will be used against me in a court of law.
EW (3) I have the right to talk with an attorney and have him/her present with me while I am being questioned.
EW (4) If I cannot afford to hire an attorney, one will be appointed to represent me before any questioning if I wish.
EW (5) I can decide at any time to exercise these rights and not answer any questions or make any statements if I wish.
EW (6) I understand each of these rights as they have been explained to me.
EW (7) Having these rights in mind, I do wish to speak to law enforcement.

I walk on I-21 around 10:00 or 11:00 pm Last Saturday night
I remember going into Li-Cricket to buy ^{peanuts} and I went
behind the counter and pulled out a gun and I told ^{Fred} ~~James~~ EW
to put his hand down but at first he had his hand up and
I said don't be scared I'm not going to hurt you at all
Just don't call the police on me, I want u to be there with
me when I go to court, when I face the judge he made
all the ruling. The Gun that I use was a revolver it wasn't
loaded at all, nothing wasn't in the gun, I made a Big
mistake and I'm paying for my mistake. I made my first
Big Mistake back in Jan-13-2001 and I having been in trouble
since 9-10-2004, Eight yrs. I am deeply sorry for Li-Cricket
and the staff my apologize goes out to Li-Cricket, whenever I see
Fred I will apologize to him early, my Bad my Brother. EW

Ernest Eugene Williams Jr.

SIGNED

Page 1 of 2

A. J. Moore

WITNESS

Date and Time Finished: 12-14-12 @ 1100

STATEMENT OF

(CONTINUED)

EW
 one day I had my girlfriend to call me and put me on 3-ways with Fred, Fred a nice guy that doesn't bother no one coming in Li-Cricket, he has that sweet personalized welcome to Li-Cricket, How u doing today. he was just doing his job and doing the best to his ^{EW} knowledge. he was doing his best to acknowledge me for being a true person and a well-respect person. That was not me, but the camera I seen ^{EW} was me, so I can't lie about this situation at all, I know myself and the camera don't lie, it was me in a bad situation but the end of the night I made it a good situation, I'm glad this situation will be soon over and I can start my life over and look forward to the future EW

I have made the foregoing statement freely and voluntarily without fear, threat, promise, or reward, or hope of reward of any kind.

WITNESS: Kevin R. [Signature]

SIGNED: Ernest Eugene Williams Jr

WITNESS: A. J. [Signature]

This is to certify that I have read or have had read to me the foregoing statement consisting of 2 pages and a copy has been given me this 14 day of December, 20 12.

SWORN TO AND SUBSCRIBED BEFORE ME

THIS 14 DAY OF Dec, 20 12.

SIGNED: Ernest Eugene Williams Jr

[Signature]
 NOTARY PUBLIC FOR SOUTH CAROLINA
 MY COMMISSION EXPIRES 3-20-18.



Beckman Center for Mental Health Services

	Newberry Mental Health Clinic 2043 Medical Park Drive Newberry, SC 29108 Office # (803) 276-8000 FAX # (803) 276-6669	
To: Charles Verner From: Jo Lancaster Date: July 26, 2013	TELEPHONE NO. PAGES INCLUDED THIS PAGE 4	FAX 803-276-7834 TIME See Date Stamp
☐ Urgent ☐ For Review ☐ Please Comment ☐ Please Reply ☐ Please Recycle		
SUBJECT :		
MESSAGE : Newberry Mental Health does not have any medical records on this individual		
PRIVACY NOTICE: THIS COMMUNICATION IS INTENDED ONLY FOR THE USE OF THE INDIVIDUAL OR ENTITY TO WHICH IT IS ADDRESSED AND MAY CONTAIN SCDMH PATIENT OR OTHER INFORMATION, THAT IS PRIVATE AND PROTECTED FROM DISCLOSURE BY APPLICABLE LAW INCLUDING 45 CFR PART 160 (HIPAA), 42 CFR PART 2 (ALCOHOL AND DRUG PROGRAM CONFIDENTIALITY, WHEN APPLICABLE), § 44-22-100, S.C. CODE (SCDMH PATIENT CONFIDENTIALITY). IF THE READER OF THIS MESSAGE IS NOT THE INTENDED RECIPIENT OR RESPONSIBLE FOR DELIVERING THE MESSAGE TO THE INTENDED RECIPIENT, YOU ARE HEREBY NOTIFIED THAT ANY DISSEMINATION, DISTRIBUTION OR COPYING OF THIS COMMUNICATION OR THE INFORMATION CONTAINING WITHIN IT, IS STRICTLY PROHIBITED AND MAY SUBJECT THE VIOLATOR TO CIVIL AND/OR CRIMINAL PENALTIES. IF YOU HAVE RECEIVED THIS COMMUNICATION IN ERROR, PLEASE NOTIFY US IMMEDIATELY BY TELEPHONE, REPLY E-MAIL OR FAX USING THE PHONE NUMBER OR ADDRESS IDENTIFIED IN THIS COMMUNICATION AND DESTROY OR DELETE ALL COPIES OF THIS COMMUNICATION AND ALL ATTACHMENTS.		

**South Carolina Department of Mental Health
Prohibition of Redisclosure of Medical Records**

Notice: The attached information is protected by state or federal law. Further disclosure accordance with those State or federal laws may result in criminal penalties.

The attached information has been disclosed to you from records whose privacy is protected from disclosure by federal and state law including, as applicable, 45 CFR Part 160 *HIPPA); 42 CFR Part 2, (Alcohol and Drug Treatment) and section 44-22-100, Code of Laws of South Carolina. The applicable law or laws may prohibit you from making further disclosure without the specific written authorization by the individual to whom it pertains or their authorized representative, or as otherwise permitted or required by law. A general authorization for release of information is not sufficient for this purpose unless it conforms to the specific requirements of the applicable law or laws. Further disclosure not in accordance with applicable federal and state law may result in civil or criminal penalties.

TRANSMISSION VERIFICATION REPORT

TIME : 07/26/2013 15:57
 NAME : HARLEY @ VERNER LAW
 FAX : 8032767834
 TEL : 8032760812
 SER. # : BR0E8J809270

DATE, TIME
 FAX NO./NAME
 DURATION
 PAGE(S)
 RESULT
 MODE

07/26 15:57
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 OK
 STANDARD
 ECM

STATE OF SOUTH CAROLINA
 IN THE COURT OF GENERAL SESSIONS
 COUNTY OF NEWBERRY

STATE OF SOUTH CAROLINA

Against,

ERNEST EUGENE WILLIAMS,

Defendant.

SUBPOENA

FOR AN ACTION PENDING IN
 GENERAL SESSIONS COURT

CASE NO. 13-GS-36-0124

ISSUED TO: SC DEPT. OF MENTAL HEALTH

☐ YOU ARE COMMANDED to appear in the above named Court at the place, date and time specified below to testify in the above case.

PLACE OF TESTIMONY

DATE AND TIME

☐ YOU ARE COMMANDED to appear at the place, date and time specified below to testify at the taking of a deposition in the above case.

PLACE OF DEPOSITION

DATE AND TIME

☒ YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects in your possession, custody and control at the place, date and time specified below (list documents and objects).

PLACE OF INSPECTION

DATE AND TIME

NEWBERRY COUNTY COURTHOUSE
 1229 COLLEGE STREET
 NEWBERRY SC 29108

JULY 29, 2013 AT 10:00 A.M.

☐ YOU ARE COMMANDED to permit inspection of the following premises at the date and time

07/26/2013 15:57 8032767834

HARLEY @ VERNER LAW

PAGE 01/02

STATE OF SOUTH CAROLINA IN THE COURT OF GENERAL SESSIONS COUNTY OF NEWBERRY	
STATE OF SOUTH CAROLINA Against, ERNEST EUGENE WILLIAMS, Defendant.	SUBPOENA FOR AN ACTION PENDING IN GENERAL SESSIONS COURT CASE NO. 13-GS-36-0124
ISSUED TO: SC DEPT. OF MENTAL HEALTH	

☐ YOU ARE COMMANDED to appear in the above named Court at the place, date and time specified below to testify in the above case.

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NEWBERRY COUNTY COURTHOUSE
1229 COLLEGE STREET
NEWBERRY SC 29108

JULY 29, 2013 AT 10:00 A.M.

☐ YOU ARE COMMANDED to permit inspection of the following premises at the date and time specified below.

PREMISES TO INSPECT	DATE AND TIME

ANY SUBPOENAED ORGANIZATION NOT A PARTY TO THIS SUIT IS HEREBY DIRECTED PURSUANT TO RULE 30(b)(6), SORCP, TO FILE A DESIGNATION WITH THE COURT SPECIFYING ONE OR MORE OFFICERS, DIRECTORS, MANAGING AGENTS, OR OTHER PERSON WHO CONSENT TO TESTIFY ON ITS BEHALF, AND SHALL SET FORTH, FOR EACH PERSON DESIGNATED, THE MATTERS ON WHICH HE WILL TESTIFY OR PRODUCE DOCUMENTS OR THINGS. THE PERSON SO DESIGNATED SHALL TESTIFY AS TO MATTERS KNOWN OR REASONABLY AVAILABLE TO THE ORGANIZATION.

ISSUING OFFICER'S NAME, ADDRESS AND PHONE NUMBER

Charles V. Verner, 1219 Boyce Street, Newberry, South Carolina 29108 -- (803) 276-0812

I CERTIFY THAT THE SUBPOENA IS ISSUED IN COMPLIANCE WITH RULE 45(c)(1) AND THAT NOTICE AS REQUIRED BY RULE 45(b)(1) HAS BEEN GIVEN TO ALL PARTIES.

Charles Verner

7-26-2013

ISSUING OFFICER'S SIGNATURE AND TITLE (INDICATE IF ATTORNEY FOR PLAINTIFF OR DEFENDANT)
SCCA FORM 234 (7/03) (SEE RULE 45, SOUTH CAROLINA RULES OF PROCEDURE)

DATE

by Fax 803-276-6669

ITEMS COVERED UNDER THIS SUBPOENA

ANY AND ALL DOCUMENTS, RECORDS, REPORTS, CHARTS, DATA COMPILATIONS, PHOTOGRAPHS, VIDEO OR AUDIO RECORDINGS, GRAPHS, MEDICAL, MENTAL HEALTH OR TREATMENT RECORDS, AND ANY OTHER ITEM PERTAINING TO THE FOLLOWING:

ERNEST EUGENE WILLIAMS

D/O/B: [REDACTED]

SSN: [REDACTED]

*You may make arrangements with the issuing attorney to provide this information by other methods than personal delivery. Contact CHARLES VERNER, Newberry County Public Defender, at 803-276-0812, or by email at lawyer@sc.rr.com.



The following is a summary of the physical condition of Ernest D. Williams, Jr.

<DATE OF BIRTH>

This is in response to a letter from Mr. S H Jefcoat attorney at law. The the patient has what has been clinically diagnosed as lupus erythematosus / systemic lupus erythematosus

He is on a number of medications for skin manifestations of this illness. He is afflicted with joint pains as well as a pustular rash that is diffuse and involves his hands and feet primarily. He has been seen by one of the Dermatology groups in Greenwood to assist with the diagnosis but unfortunately because of his medical insurance coverage or specifically lack thereof, he has been seen primarily in the emergency department and this is a very unsatisfactory way of management in terms of chronic illness—which this is. This is a illness that has no specific cure; only treatment for flare-ups of joint pain, rashes, etc.. There are better ways of treating his illness that might provide some improvement in his overall ability to do activity but the patient is certainly completely and totally disabled related to this illness. Unfortunately the predictability of flare-ups is very difficult. He may go several months without a significant flare-up but when the illness is present, he is basically unable to perform any activity at all.

Suffice it to say that he is predictably going to have flare-ups that will completely incapacitate him in terms of any activity and this is likely to occur for many days in a row and perhaps even a few weeks in succession and it is likely to occur several times a year. He may very well do well in a setting that will allow the use of chronic medications but unfortunately he lacks the funds and unfortunately also lacks the insight in terms of treatment to get this done.

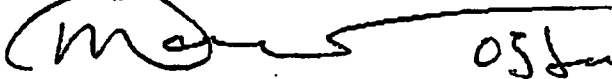
During times that his illness is not active. He appears relatively healthy and he is not impaired in doing any type of physical labor. Unfortunately this is not a predictable state.

Records are available and I have actually taken the liberty of enclosing some of these for use in his assistance in obtaining some form of ongoing care.

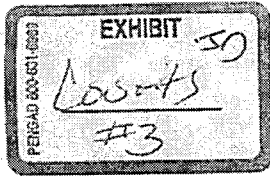
There are medications available that might ameliorate his symptoms in the long run and might improve his longevity.

I hope this has been of some benefit.

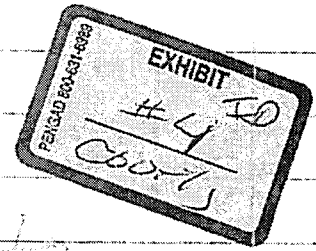
Sincerely,

 05 July 2012

Mark A. Davis, MD



Frederick Cooper's
testimony



We want to
see
video

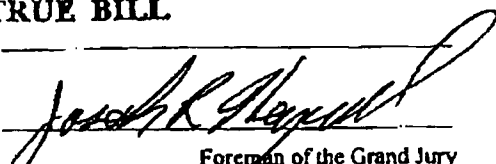
WITNESSES

Allison Moore
Newberry Police Department

WARRANT NUMBER

2012A3620200241

TRUE BILL


Foreman of the Grand Jury
Date: 3-15-13

VERDICT

GUILTY
Audrey White
Foreman

THE STATE OF SOUTH CAROLINA

COUNTY OF NEWBERRY

COURT OF GENERAL SESSIONS

March Term, 2013

Indictment # 2013-CS-36-0124

THE STATE

vs.

Ernest Eugene Williams Jr.

INDICTMENT FOR

Armed Robbery

§16-11-0330(A)

12/4/13

CDR: 0139

THE STATE OF SOUTH CAROLINA

COUNTY OF NEWBERRY

INDICTMENT FOR**ARMED ROBBERY****§16-11-0330(A)**

At a Court of General Sessions, convened on the 15th day of March, 2013, the Grand Jurors of Newberry County present upon their oath:

That Ernest Eugene Williams Jr., in Newberry County, on or about December 8, 2012 willfully and unlawfully 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 reasonably believed to be a deadly weapon, feloniously take from the person or presence of Frederick Cooper by means of force or intimidation, goods or monies described as follows: U.S. currency and a can of peanuts, with intent to deprive the owner, Lil' Cricket convenience store, permanently of such property, in violation of Section 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 cases made and provided.


Deputy Solicitor

300
STATE OF SOUTH CAROLINACOUNTY OF Newberry
STATE VS.
Ernest Eugene Williams Jr.

AKA:

Race: AA Sex: M Age: 44

DOB: [REDACTED] SS#: [REDACTED]

Address: [REDACTED]

City, State, Zip: [REDACTED]

DL#: [REDACTED] SID#: [REDACTED]

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was

TO: Robbery / Armed Robbery, robbery while armed or allegedly armed with a deadly we

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 w/minor 1st or Lewd Act) ☐ §17-25-45The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Scott, Dale

73081
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 18 days/months/years ☐ 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: 2013 GS 36-125
☒ 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. Since Dec. 19, 2012

☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

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	\$ <u>100.00</u>
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§ 56-5-2995 (DUI Assessment)	\$12	\$
§ 56-1-286 (DUI Breath Test)	\$25	\$
Proviso 47.9 (Public Def/Prob)	\$500	\$
§ 14-1-212 (Law Enforce. Funding)	\$25	\$ <u>25.00</u>
§ 14-1-213 (Drug Court Surcharge)	\$150	\$
§ 50-21-114 (BUI Breath Test Fee)	\$50	\$
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ca	\$
Proviso 90.5 (SCCA Surcharge)	\$5	\$ <u>5.00</u>
3% to County (if paid in installments)		\$ <u>3.30</u>
TOTAL		\$ <u>13.30</u>

Clerk of Court/ Deputy Clerk

Court Reporter: Jay [Signature]

SCCA/217 (03/2014)

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2013-GS-36-0124

A/W#: 2012A3620200241

Date of Offense: 12/8/2012

S.C. Code § : 16-11-0330(A)

CDR Code #: 0139

SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADS

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 w/minor 1st or Lewd Act) ☐ §17-25-45The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

Attorney for Defendant

☒ State Department of Corrections, ☐ County Detention Center,

for a determinate term of 18 days/months/years ☐ 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.

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SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms: _____

☐ Set by SCDPPPS _____

Recipient: _____

*Fine:

§ 14-1-206 (Assessments 107.5 %)	\$	
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§ 56-5-2942(J) (Vehicle Assessment)	\$40/ca	\$
Proviso 90.5 (SCCA Surcharge)	\$5	\$ <u>5.00</u>
3% to County (if paid in installments)		\$ <u>3.30</u>
TOTAL		\$ <u>13.30</u>

Other: _____

☐ Appointed PD or appointed other counsel,
47.12 requires \$500 be paid to Clerk
during probation.

SC Court of Appeals

Presiding Judge

Judge Code: 2154Sentence Date: 12-4-13

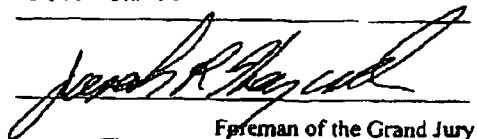
WITNESSES

Allison Moore
Newberry Police Department

WARRANT NUMBER

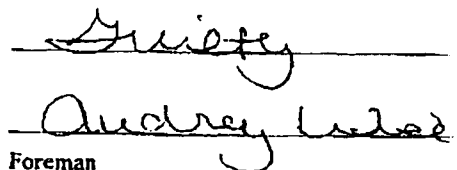
2012A3620200242

TRUE BILL


Foreman of the Grand Jury

Date: 3-15-13

VERDICT


Foreman

THE STATE OF SOUTH CAROLINA

COUNTY OF NEWBERRY

COURT OF GENERAL SESSIONS

March Term, 2013

Indictment # 2013-GS-36-0125

THE STATE

vs.

Ernest Eugene Williams Jr.

INDICTMENT FOR

Possession of a Weapon During the Commission of a

Violent Crime

§16-23-0490

12/4/13

CDR: 0549

THE STATE OF SOUTH CAROLINA

COUNTY OF NEWBERRY

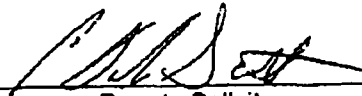
INDICTMENT FOR

**POSSESSION OF A WEAPON DURING THE
COMMISSION OF A VIOLENT CRIME
§16-23-0490**

At a Court of General Sessions, convened on the 15th day of March, 2013, the Grand Jurors of Newberry County present upon their oath:

That Ernest Eugene Williams Jr., in Newberry County, on or about December 8, 2012 possess a firearm or visibly displayed what appeared to be a firearm during the commission of a violent offense, to wit: Armed Robbery, or any lesser included violent offense, in violation of Section 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 cases made and provided.


Deputy Solicitor

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

303

COUNTY OF Newberry

STATE VS.

Ernest Eugene Williams Jr.

AKA:

Race: AA Sex: M Age: 44

DOB: SS#

Address:

City, State, Zip:

DL#: SID#

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was

TO: Weapons / Poss. weapon during violent crime, if not also sentenced to life witho

INDICTMENT/CASE#: 2013-GS-36-0125

A/W#: 2012A3620200242

Date of Offense: 12/8/2012

S.C. Code § : 16-23-0490

CDR Code #: 0549

SENTENCE SHEET 5 yrs

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 w/minor 1st or Lewd Act) ☐ §17-25-45The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST: 73081

Scott, Dale

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: 2013 GS 36-124
☒ 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. Since Dec 14 2012☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

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	\$
Proviso 47.9 (Public Def/Prob)	\$500	\$
§ 14-1-212 (Law Enforce. Funding)	\$25	\$ 25.00
§ 14-1-213 (Drug Court Surcharge)	\$150	\$
§ 50-21-114(BUI Breath Test Fee)	\$50	\$
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ca	\$
Proviso 90.5 (SCJA Surcharge)	\$5	\$ 5.00
3% to County (if paid in installments)	\$	\$ 3.24
TOTAL	\$	\$ 133.90

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: ☒ P.D. FUND

DEC 12 2013

SC Court of Appeals

☐ Appointed PD or appointed other counsel, 47.12 requires \$500 be paid to Clerk during probation.

Clerk of Court/ Deputy Clerk

Court Reporter:

SCCA/217 (03/2011)

Presiding Judge

Judge Code:

Sentence Date:

7184
12-4-13

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

March 11th, 2015

A handwritten signature in cursive script that reads "Susan B. Hackett". The signature is written in dark ink and is positioned above the printed name and title.

Susan B. Hackett
Appellate Defender

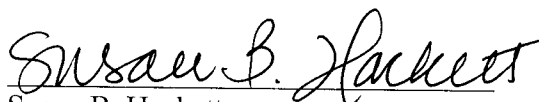
South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S. C. 29211-1589
(803) 734-1330

ATTORNEY FOR APPELLANT

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Susan B. Hackett
Appellate Defender

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ATTORNEY FOR APPELLANT

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Newberry County

Eugene C. Griffith, Jr., Circuit Court Judge

 ORIGINAL

RECEIVED

MAR 11 2015

SC COURT OF APPEALS

THE STATE,

RESPONDENT,

V.

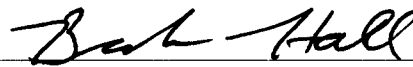
ERNEST EUGENE WILLIAMS, JR.,

APPELLANT

APPELLATE CASE NO. 2013-002618

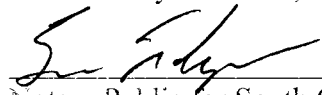
CERTIFICATE OF SERVICE

I certify that a true copy of the Record on Appeal in the above referenced case has been served upon Jennifer Ellis Roberts, Esquire, at the Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201, this 11th day of March, 2015.



Brandon Hall
Administrative Specialist

SUBSCRIBED AND SWORN TO before me
this 11th day of March, 2015.



(L.S.)

Notary Public for South Carolina

My Commission Expires: October 30, 2022.