

VOLUME ONE
RECEIVED

AUG 27 2015

S.C. Supreme Court

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Appeal from Horry County

Kristi Lea Harrington, Circuit Court Judge

CRYSTAL TURNER,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2015-000098

APPENDIX

JOHN H. STROM
Appellate Defender

South Carolina Commission on Indigent
Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589

ATTORNEY FOR PETITIONER

ALAN WILSON
Attorney General

JOSHUA L. THOMAS
Assistant Attorney General

P. O. Box 11549
Columbia, SC 29211

ATTORNEYS FOR RESPONDENT

INDEX

INDEX	i
TRIAL TRANSCRIPT VOL. 1	1
TRIAL TRANSCRIPT VOL. 2	441
APPLICATION FOR POST-CONVICTION RELIEF	767
RETURN	773
POST-CONVICTION RELIEF HEARING TRANSCRIPT	778
ORDER OF DISMISSAL	859
INDICTMENT	867

STATE OF SOUTH CAROLINA)
COUNTY OF HORRY) IN THE COURT OF GENERAL SESSIONS

STATE OF SOUTH CAROLINA)

Original

-VS-)

CRYSTAL TURNER; AND)

2009-GS-26-02173,
02174;

CHARLES ANDREW SKIPPER,)

2009-GS-26-02169,
02170,

DEFENDANTS)

THE FOLLOWING PROCEEDINGS WERE HELD BEFORE THE HONORABLE

THE HONORABLE THOMAS W. COOPER, JR.;

IN THE CIRCUIT COURT OF HORRY COUNTY, BEGINNING AT 1:06

PM, ON THE 13TH DAY OF SEPTEMBER, 2010, AT THE HORRY

COUNTY COURTHOUSE, 15TH JUDICIAL DISTRICT, HORRY COUNTY

GENERAL SESSIONS COURT, CONWAY, SOUTH CAROLINA.

REPORTED BY: H. EUGENE BUCKNER, CVR

ORIGINAL

H. EUGENE BUCKNER, CVR
OFFICIAL COURT REPORTER AT LARGE
15TH JUDICIAL DISTRICT
PO BOX 1462, CONWAY, SC 29526-1462

VOLUME 1

APPEARANCES:

Lawrence R. Filiberto, Esquire;
Assistant Solicitor
15th Circuit Solicitor's Office
P.O. Box 1276
Conway, SC 29528

(843) 915-5460

.... ON BEHALF OF THE STATE

R. Scott Joye, Esquire
Joye Nappier & Risher, LLC
3575 Hwy. 17 Bus.
Murrells Inlet, SC 29576

(843) 357-6454

.... ON BEHALF OF DEFENDANT TURNER

Orrie E. West, Esquire; and
Kia Wilson, Esquire
Horry County Public Defender's Office
P.O. Box 1666
Conway, SC 29526

(843) 915-5385

.... ON BEHALF OF DEFENDANT SKIPPER

INDEX OF TESTIMONY

PROCEEDINGS OF <u>09/13/10</u>	
MOTIONS IN LIMINE	8
 PROCEEDINGS OF <u>09/14/10</u>	
DEFENDANT SKIPPER PLEADS GUILTY	90
FURTHER MOTION BY DEFENDANT TURNER	119
SELECTION OF THE JURY	129
OPENING REMARKS BY COURT AND COUNSEL	225
TESTIMONY OF JIMMY PIGATE	248
TESTIMONY OF OFFICER ROBERT SAULS	253
MATTERS OUTSIDE OF JURY	259
TESTIMONY OF PETER CESTARE	277
TESTIMONY OF HEATHER BRUMMETT	305
MATTERS OUTSIDE OF JURY	311
TESTIMONY OF JAMIE DEAN WHITE	322
TESTIMONY OF LUTHER OXENDINE	364
TESTIMONY OF CHARLES ANDREW SKIPPER	405

VOLUME II -- Follows Under Separate Cover

PROCEEDINGS OF <u>09/15/10</u>	441
TESTIMONY OF CHAD E. RICHARDSON	444
TESTIMONY OF DR. EDWARD PROCTOR	451
JASON V DENNO HEARING OUTSIDE JURY	457
TESTIMONY OF TIM TROXELL	459

STATE RESTS -- MOTIONS 500

DEFENSE CASE

TESTIMONY OF JEFF JAMES 511

TESTIMONY OF JACK BAKER 547

TESTIMONY OF JAMES RICKY NOBLES 556

TESTIMONY OF RENEE NOBLES 564

TESTIMONY OF JOSH SLOAN 573

VOIR DIRE OF DEFENDANT TURNER 587

PROCEEDINGS OF 09/16/10 591

DISCUSSION REGARDING JUROR 591

TESTIMONY OF DETECTIVE ALAN LARGE 600

TESTIMONY OF JOHN GONSKA 607

MATTERS OUTSIDE OF JURY 613

DEFENSE RESTS 616

MOTIONS AND MATTERS OUTSIDE OF JURY 618

CLOSING ARGUMENTS OF COUNSEL 634

JUDGE'S CHARGE TO THE JURY 668

REQUEST BY THE JURY 698

VERDICT, MOTIONS, AND SENTENCING 707

SENTENCING OF CHARLES ANDREW SKIPPER 746

.....
.....
.....
.....

INDEX OF EXHIBITS

STATE'S EXHIBIT NUMBER 1, PHOTO.....	300
STATE'S EXHIBIT NUMBER 2, PHOTO.....	300
STATE'S EXHIBIT NUMBER 3, PHOTO.....	295/296
STATE'S EXHIBIT NUMBER 4, PHOTO.....	295/296
STATE'S EXHIBIT NUMBER 5, PHOTO.....	
STATE'S EXHIBIT NUMBER 6, PHOTO.....	
STATE'S EXHIBIT NUMBER 7, PHOTO.....	284
STATE'S EXHIBIT NUMBER 8, PHOTO.....	285
STATE'S EXHIBIT NUMBER 9, PHOTO.....	308
STATE'S EXHIBIT NUMBER 10, PHOTO.....	297
STATE'S EXHIBIT NUMBER 11, PHOTO.....	297
STATE'S EXHIBIT NUMBER 12, PHOTO.....	297
STATE'S EXHIBIT NUMBER 13, LARGE BLOW-UP ARIAL PHOTO.....	291/292
STATE'S EXHIBIT NUMBER 14, GUN IN BAG.....	302
STATE'S EXHIBIT NUMBER 15, PROJECTILE IN BOX.....	309
STATE'S EXHIBIT NUMBER 16, PROJECTILE IN BOX.....	309
.....	
COURT'S EXHIBIT NUMBER 1, PACKAGE OF DOCUMENTS ADVISING CHARGES ON DEFENDANT TURNER.....	44
COURT'S EXHIBIT NUMBER 2, LOG OF LEGAL WORK BY PUBLIC DEFENDER'S OFFICE RE. DEFENDANT SKIPPER...	106
COURT'S EXHIBIT NUMBER 3, LETTER OF MAY 16, 2009, RE. JAMIE DEAN WHITE.....	313
COURT'S EXHIBIT NUMBER 4, MIRANDA RIGHTS FORM RE. CRYSTAL TURNER.....	462

1 THE COURT:

2 Folks, the first matter of
3 business is the motion by Mr. Joye on behalf of Ms.
4 Turner to sever case from that of Mr. Skipper.

5 Mr. Solicitor, did you receive a
6 copy that motion?

7 MR. FILIBERTO:

8 I -- I did, Your Honor.

9 THE COURT:

10 All right.

11 Mr. Joye, I'll be glad to hear
12 from you.

13 MR. JOYE:

14 Your Honor, in this particular
15 case -- uh -- we have -- there are actually six people
16 charged in this particular case.

17 Uh -- My client, Crystal Turner --
18 uh -- was someone who -- who, every Wednesday night, went
19 to the bar in Aynor called Big Easy's, and sang karaoke.

20 Uh -- On this particularly night,
21 a somewhat on again off again friend of hers named Paige
22 called her earlier in the day and says:

23 Are you going over there?

24 And she said:

25 Sure.

1 And the thing that is undisputed
2 in a lot of these facts, in that she met -- uh -- she
3 came from Marion.

4 They came from Mullins -- Dillon
5 through Mullins -- and they met at Arial's Crossroads (?
6 phonetic).

7 Uh -- Paige was under the
8 assumption that -- No, Your Honor.

9 Crystal was under the assumption
10 that -- that Paige and Paige's boyfriend, Luke, we're
11 going to meet her.

12 Well, it turned out to be Paige,
13 Luke, Luke's brother -- uh -- Jamie, and also Mr.
14 Skipper.

15 Uh -- Our version of the facts is
16 much different from what the -- the State alleges.

17 The State alleges that my client
18 actually picked out a victim to rob. And that he left
19 -- the victim left with another girl, Stacy, who showed
20 up with that other group later on that day -- later on
21 that night. And that Stacy lured, Mr. Rabon, the victim,
22 out to a secluded spot to rob.

23 And then at that time, they robbed
24 him.

25 Mr. Skipper, according to what

1 seems to be the overweight -- overwhelming amount of
2 testimonial evidence, Mr. Skipper, upon the successful
3 completion of the robbery, shot and killed Mr. Rabon in
4 cold blood.

5 Mr. Rabon was with his hands
6 standing there like this (gestures, indicating a hands-up
7 position).

8 As best I understand the facts of
9 this case, those -- a lot of those things I don't think
10 are disputed.

11 There -- Everything in this case
12 is testimonial in nature.

13 I thoroughly expect that they're
14 going to be a number of people who testify.

15 Every one of them -- Of course,
16 every one of them I'm going to testify that she set up a
17 robbery.

18 THE COURT:

19 Uh-huh.

20 MR. JOYE:

21 Uh -- Every one of them's going to
22 testify that they borrowed her car.

23 However, they said that they were
24 going to take a pack -- they were borrowing her car to go
25 get a pack of cigarettes, after the victim left with

1 Stacy Johnson.

2 Judge, in all fundamental
3 fairness, every -- the overwhelming weight of the
4 evidence seems to be pointing to Mr. Skipper's -- uh --
5 cold-blooded nature of this crime.

6 This was -- Ms. -- uh -- Crystal
7 Turner remained at the bar the whole time. Stayed there
8 throughout the night.

9 Ended up not even leaving the --
10 the area of the bar until some 2 -- 3 o'clock in the
11 morning.

12 Uh -- We just feel like,
13 particularly in this case -- and knowing that it's Your
14 Honor's sound discretion to get to -- uh -- Your Honor,
15 in his sound discretion, is the one who decides whether
16 or not this case is tried together.

17 It seems to me that it's
18 fundamentally unfair to try her, when the issue seems to
19 be very, very, triable as to whether or not -- She
20 actually picked the man out at someone that they could
21 have drinks with -- uh -- that seems to -- That story
22 develops among the rest of her codefendants, who she
23 really didn't know, later on, three and four days after
24 -- after the killing.

25 Ms. Turner cooperated with the

1 police fully from moment one. Told them who she was
2 with. What she did.

3 Uh -- Told them that the very next
4 day -- uh -- right after it happened. Eventually called
5 Detective Gonska after she realized that someone had been
6 shot, and said:

7 Hey, I need -- you know -- I want
8 to help you any way I can.

9 The rest of the codefendants that
10 she didn't know -- uh -- seemed to develop their stories
11 somewhat later.

12 Uh -- One of the -- One of the
13 codefendants, who she never knew before, banged on the
14 table and says:

15 I never heard Crystal Turner say
16 anything.

17 Now, when they're getting a deal
18 two years later, then the testimony changes.

19 However, I don't want the blood
20 that's on Mr. Skipper's hands to taint Ms. Turner's
21 trial.

22 And I believe that this is the
23 classic example of:

24 That fundamental fairness says,
25 she should get a trial by herself; and not standing

1 beside Mr. Skipper.

2 THE COURT:

3 All right.

4 Thank you, Mr. Joye.

5 Of course --

6 MR. JOYE:

7 Your Honor, I'm -- I'm sorry.

8 Before I -- Also, there is a Bruton issue that I believe
9 that:

10 In Mr. Skipper's statement, Mr.
11 Skipper said -- a number -- a couple of the codefendants
12 said:

13 Ms. Turner shows up because she
14 needed to pay a power bill.

15 Mr. Skipper, in talking to the
16 police, said it was Paige, his own sister, who had to pay
17 a power bill, or the power was going to be turned off.

18 THE COURT:

19 Uh-huh.

20 MR. JOYE:

21 And, I want the opportunity to
22 call him.

23 He can deny it. But it's on the
24 tape.

25 THE COURT:

1 Well --

2 MR. JOYE:

3 So -- So, the very motive that
4 they say that Ms. Turner has, Mr. Skipper discounts.

5 THE COURT:

6 All right. Thank you.

7 Mr. Filiberto?

8 MR. FILIBERTO:

9 Thank Your Honor.

10 Your Honor, The Court is aware --

11 uh -- the decision whether or not to sever -- sever a
12 trial like this is in the sound discretion of The Court.

13 The Defense is under the
14 obligation to show The Court that his client would be
15 declared (sic) a specific right at trial if the -- if the
16 case is not severed.

17 I don't think that Mr. Joye can
18 even come close to that.

19 The fact that he simply doesn't
20 want his client at the same table with Mr. Skipper, I
21 think the -- uh -- case law is -- refers to that as sort
22 of a spill-over affect on -- on his client.

23 And the case law is clear that:

24 That can be resolved with a
25 specific instruction to the jury that:

1 The cases are to be considered
2 separately.

3 That they are -- uh -- That they
4 are -- uh -- separate Defendants; and -- and have to make
5 those decisions independent.

6 The -- The -- uh -- Supreme Court
7 has said it will not reverse a decision -- uh -- against
8 severance unless there's a actual prejudice being able to
9 be showed.

10 With respect to -- uh -- With
11 respect to -- uh -- the Bruton issue -- uh -- there's
12 actually been -- or there's more of a Bruton issue where
13 Mr. Skipper does indicate that Ms. Furness and -- uh --
14 and Ms. Turner planned these -- this.

15 The State would not be planning on
16 producing any of that at the -- in its case in chief.

17 Uh -- It's -- uh -- It's clearly
18 easily deleted -- uh -- later on, if it's necessary that
19 -- That one statement, that's really the only real
20 statement.

21 Uh -- Mr. -- uh -- If Mr. Skipper
22 does take the stand is the only way that statement's even
23 going to come in, in which case, he'll be available for
24 cross-exam by Mr. Joye.

25 In addition, Your Honor, as Mr.

1 Joye indicated, there is six codefendants in this trial,
2 all of which those charges are pending.

3 Uh -- The -- The -- Just in the
4 interest of economy, to try this case six separate times
5 makes no sense whatsoever.

6 I believe that there is no basis
7 -- uh -- uh -- there's been no establishment of the
8 specific trial right that Ms. Turner would be prohibited
9 from exercising.

10 And we'd ask The Court not to
11 sever the -- this trial.

12 THE COURT:

13 All right. Thank you.

14 The -- uh -- The matter of a
15 severance, of course, is a matter that has to be looked
16 at from the issue of fundamental fairness in the first
17 instance, and whether or not a codefendant will be denied
18 a right to a fair trial and would be denied a right to
19 present any defenses if the trial was to be conducted
20 jointly.

21 Uh -- In so far as the statement
22 of -- of this Defendant that someone else had a power
23 bill that was due -- uh -- whereas, some Defendants may
24 testify that it was at the power bill of -- of his client
25 that was due, I'm not sure what portions of those

1 statements intend to come in.

2 But certainly -- uh -- there would
3 be no need to redact from Mr. Skipper's statement, any
4 statement about someone who's not on trial in this
5 particular case.

6 It is Bruton that presents --
7 prevents the introduction into evidence of a non-
8 testifying codefendant's statement that implicates
9 another Defendant on trial.

10 And if in fact the statement
11 regarding who owed the power bill is of someone else not
12 on trial in this particular case, that redaction would
13 not have to be there.

14 And the statement could come in
15 for that purpose -- uh -- to clear up that point, if
16 indeed that it becomes an issue at all.

17 As to the other test -- uh --
18 Defendants, who apparently are going to testify, or at
19 least, I am led to believe they're going to testify -- uh
20 -- the -- uh -- Ms. Turner will have the right of -- of
21 confrontation of those witnesses.

22 And their testimony can be
23 treated, of course, in the full by cross-examination.

24 And that would be the case, of
25 course, whether -- whether Ms. Turner is tried with Mr.

1 Skipper or not.

2 But nothing is going to change in
3 that regard.

4 And -- And sitting at the table in
5 this particular case, or on the same side of The
6 courtroom as it were, as a Defendant who is on trial in
7 this particular case, is not enough, in and of itself in
8 my view, to deny Ms. Turner a right to a fair trial.

9 The charges are different.

10 The -- uh -- The proof will be
11 somewhat different, obviously.

12 Uh -- The jury will be properly
13 instructed that it must consider the evidence against
14 each of these individuals and against -- as to each
15 particular charge, separate and independent of each
16 other; and that their decision in one case, and in one
17 indictment, does not control their decision on another.

18 I cannot find in this particular
19 case where the charges, even though they are related --
20 accessory before the fact is a felony, and then, the
21 felony itself -- well clearly they are related, the proof
22 as to one or the other is going to be decidedly
23 different: and Ms. Turner would not be denied her right
24 to present her case in full.

25 Nor would her fundamental right to

1 a fair and impartial trial be denied by trying her case
2 jointly with Mr. Skipper.

3 So the motion for severance, Mr.
4 Joye, is respectfully denied.

5 MR. JOYE:

6 Your Honor, may I have a moment?

7 THE COURT:

8 Okay.

9 MR. JOYE:

10 Your Honor, I would be forced to
11 for a continuance based on the fact that the charges for
12 which Ms. -- uh -- Turner is charged -- and I'm somewhat
13 loathe to do this -- but it is -- it is, very much so, a
14 very, very, serious case.

15 And I know that in this own
16 courtroom -- this own county -- in Horry County,
17 concerning -- at one time there was a waive in a
18 defective indictment.

19 Your Honor, the charges against
20 Ms. Turner originally were murder and armed robbery.

21 Those charges have since been
22 dismissed. And the solicitors office has directly
23 presented an indictment, which has never been served on
24 me as attorney of record, nor Ms. Turner, in any way,
25 shape, or fashion.

25 Mr. Joye has clearly, for a very

1 long time, known.

2 I believe he was sent copies of
3 those indictment.

4 He says he wasn't.

5 I don't have my whole file up
6 here, so I can't look for the -- for that information.

7 Uh -- But this is purely an
8 attempt to circumvent the Judge's ruling when denying the
9 motion for severance.

10 And I'd ask The Court to allow
11 this trial to go forward.

12 Twenty -- Twenty-five months since
13 Mr. Rabon was murdered. His family certainly deserves a
14 day in court as well.

15 Mr. Joye to -- uh -- to suggest
16 that he was unaware of this is totally disingenuous.

17 MR. JOYE:

18 Your Honor, I certainly would not
19 commit a fraud upon This Court.

20 THE COURT:

21 Right.

22 MR. JOYE:

23 And -- And to tell you that I have
24 ever gotten a copy of one indictment from The State, that
25 indictment has to be served. And that's what case law

1 says.

2 THE COURT:

3 Okay.

4 MR. JOYE:

5 Your Honor, I thought I had Gates,
6 and I can't seem to get my hands on it. But I'll be
7 happy to hand Evans to the Solicitor's office.

8 And here's -- here's Evans, Your
9 Honor. But it refers to Gentry.

10 And it says -- uh -- on Page 12 of
11 18, Sections 6 -- 6 and 7 -- it says that:

12 An indictment is a notice
13 document.

14 No person shall be held to answer
15 in any court for an alleged crime or offense unless upon
16 indictment by the grand jury.

17 Uh -- The charging document in
18 this case -- and like Your Honor so clearly said earlier,
19 the charging document was the murder and armed robbery
20 warrants.

21 Different case. Different
22 elements. Different entirely from the issue that we're
23 now raising, which says:

24 Accessory before the fact of armed
25 robbery and accessory before the fact of murder, which

1 must under a directly presented indictment, which have
2 never been served on my client or me as attorney of
3 record.

4 In every case that I've ever had
5 when there was a directly presented indictment, we
6 literally did it in court, or I signed a waiver.

7 THE COURT:

8 Now, there's a distinction, of
9 course, between a waiver of an indictment and service of
10 an indictment.

11 Can you point me to some case law
12 on that particular point?

13 Gentry, of course, stands for --
14 for -- uh --

15 MR. JOYE:

16 Your Honor, I had thought I had --
17 Where's Gentry?

18 THE COURT:

19 What were the other cases you
20 cited?

21 MR. JOYE:

22 Gentry; but there was -- there was
23 another case that I had -- that I had -- for whatever
24 reason, can't seem to get my hands on earlier.

25 THE COURT:

25 | MR. JOYE:

1 Yes sir.

2 And so the charging documents
3 actually are -- The charging documents were the murder
4 and armed robbery warrants, which have never been served
5 -- I mean, which were served. And they've been
6 dismissed.

7 I think the public record shows
8 that they have been disposed of and that we've never been
9 presented with the actual -- with the actual indictment
10 for which Ms. Turner's on trial.

11 MR. FILIBERTO:

12 Your Honor, we have had several
13 public hearings. We've had a -- a -- a rule -- a mo --
14 a rule to show cause for which the Defendant was -- had a
15 bond revoked.

16 We had a reinstatement bond
17 hearing, all of which, every time the discussion of the
18 charges was clearly made -- made clear to -- to Mr. Joye.

19 He knew what the charges have
20 been. He's known for two years.

21 THE COURT:

22 All right.

23 THE COURT:

24 I -- I take it discovery has been
25 exchanged in this regard?

1 MR. JOYE:

2 Yes sir.

3 I've never -- And -- And I'll be
4 happy to give the Solicitor all the time in the world he
5 wants to show me a copy of the indictment that's ever
6 been sent to my office.

7 And I think we have an actual --

8 MR. FILIBERTO:

9 I want to say, Your Honor, in the
10 past -- I don't want to speak over him.

11 THE COURT:

12 Go ahead.

13 MR. FILIBERTO:

14 I've also, in the past, invited --
15 uh -- Mr. Joye, at his convenience, to come to my office
16 and review everything in my file.

17 MR. JOYE:

18 Your Honor, that's --

19 MR. FILIBERTO:

20 He didn't --

21 MR. JOYE:

22 -- not the issue.

23 THE COURT:

24 Let's let him finish talking.

25 Yes sir? Go ahead.

1 MR. FILIBERTO:

2 He's been taking advantage of
3 that, Your Honor.

4 And I -- From my -- The -- The
5 indictments themselves, I've read them. On there face,
6 they're fine.

7 The Defense knew -- And this is
8 simply -- uh -- as I indicated, Your Honor, just a --

9 THE COURT:

10 Right.

11 MR. FILIBERTO:

12 -- a backwards attempt to
13 circumvent The Court's ruling on severance.

14 MR. JOYE:

15 Your Honor, if I may?

16 THE COURT:

17 All right.

18 MR. JOYE:

19 I wish I could -- I don't know
20 what I -- I've got to get that other case.

21 Your Honor, if you'd like to take
22 a break, I'll be happy to --

23 THE COURT:

24 All right. I can look at this
25 right -- right now.

1 MR. JOYE:

2 Those -- Those are copies of all
3 the discovery that's been sent to my office.

4 No question but that Mr. Filiberto
5 absolutely has invited me to come in his office and look.

6 But again, this is about service
7 of the charges for which -- and it specifically has to
8 either be waived, or done -- or -- or that she has to be
9 served with the indictments for which she's going to
10 trial.

11 MR. FILIBERTO:

12 And Your Honor, if there's not a
13 -- an amount of lead time, we'll be happy to go down and
14 get a couple of certified copies and serve Mr. Joye right
15 now.

16 THE COURT:

17 The -- uh --

18 MR. JOYE:

19 Judge, if you want to make this a
20 part of the record?

21 Or, do you want me to have them
22 back, or --

23 THE COURT:

24 You can have those back. I -- I
25 don't think there's any dispute about that.

1 I'm still searching for a -- a
2 statute or some case law, Mr. Joye, that requires the
3 service of the indictment.

4 The indictment is a notice
5 document, of course. And certainly, the Defendant
6 should have notice of what the charges are.

7 That's not to say that the
8 indictment is a sole method of providing that notice.

9 Uh -- The cases that you have
10 cited:

11 Gentry, of course, deals with the
12 elements of a particular offense and whether or not the
13 indictment was sufficient on its face as to confer
14 jurisdiction on The Court.

15 Uh -- The Evans case seems to
16 largely state the same.

17 Clearly, an individual has to be
18 entitled to notice to be able to mount a defense against
19 the charges for which she is facing in this particular
20 case.

21 Uh --

22 MR. JOYE:

23 I -- There it is, Judge. I'm
24 sorry.

25 I'm sorry, and I don't have but

1 one copy. I knew I had that stuff.

2 Your Honor, this is State v
3 Smalls. It was decided -- uh -- May 23rd, 2005. And
4 what this says, in State v Smalls -- and I'll give you
5 the cite, Your Honor:

6 613 Southeastern Second, 754.

7 It says:

8 Although an indictment does not
9 confer subject matter jurisdiction, due process requires
10 that a criminal defendant be properly served with a valid
11 indictment.

12 The indictment is a notice
13 document that's required by our state constitution and
14 statutes.

15 Okay. And that's citing, I
16 think, Gentry and Evans.

17 THE COURT:

18 Was Smalls a death penalty case?

19 MR. JOYE:

20 I -- uh -- That I don't -- don't
21 remember, Your Honor.

22 THE COURT:

23 No he wasn't. I see it right on
24 the face of this document.

25 MR. JOYE:

1 Okay.

2 THE COURT:

3 Let me -- Let me get this off my
4 computer, Mr. Filiberto, so that you can be looking at it
5 as well.

6 Mr. Filiberto, you want to address
7 the State v Smalls case?

8 MR. FILIBERTO:

9 I'll be happy to, Your Honor.

10 Your Honor, this case really is
11 about subject matter jurisdiction for a plea which The
12 Court determined that The Court had subject matter
13 jurisdiction without a -- uh -- indictment.

14 This -- uh -- One sentence that's
15 in this case is pure dictive (sic) -- has absolutely
16 nothing to do with the matter that was before The Court.

17 It's not binding in -- in this
18 court. And we'd ask The Court -- Again, the Defendant
19 has had notice for two years of what they were -- what
20 they were -- had been indicted for.

21 And be happy to -- uh -- to -- uh
22 -- give them time and present them new copies of the
23 indictment, where they can look at it, if they want to
24 make any challenges to the sufficiency of the indictment.

25 THE COURT:

1 Right.

2 Mr. Filiberto, the -- you're --
3 you're right. The -- uh -- The Smalls case -- uh -- and
4 Gentry most -- have said that -- uh -- and I misstated a
5 few moments ago, that:

6 Indictments no longer confer
7 subject matter jurisdiction on The Court.

8 They are notice documents to
9 inform the Defendant of what they're charged with to
10 allow them to -- uh -- to decide whether they want a
11 trial or want -- want to plead guilty to the charge.

12 But -- And the case of State v
13 Smalls, of course, involved a waiver after all. And in
14 that particular case, the -- uh -- The Court held that --
15 uh -- that the issue of the indictment was not -- uh --
16 of a concern, because the Defendant had pled guilty and
17 signed a waiver of his right to an indictment, and
18 therefore, could not be held to complain.

19 But -- But the case states pretty
20 plainly that:

21 Although an indictment does not
22 confer subject matter jurisdiction, due process requires
23 that a criminal defendant be properly served with a valid
24 indictment.

25 Now, to read the rest of the case,

1 it would certainly lead you to believe -- and to read the
2 other cases on this issue -- that there are other ways,
3 of course, to put a defendant on notice -- uh -- as to
4 what the charges are, and to enable the individual -- uh
5 -- to decide things.

6 As a matter of fact, citing Evans,
7 the Smalls case said:

8 The primary purpose of an
9 indictment -- purposes of an indictment are to put the
10 defendant on notice of what he is called upon to answer,
11 that is, to apprise him of the elements of the offense;
12 and to allow him to decide whether to plead guilty or to
13 stand trial.

14 Uh -- And so, there might well be
15 other ways to put someone on notice. But that doesn't
16 address the -- the -- the rather unequivocal statement of
17 the Supreme Court:

18 Due process requires that a
19 criminal defendant be properly served with a valid
20 indictment.

21 I -- I don't think we can avoid or
22 ignore the consequences of that bald-faced statement.

23 Uh -- And I don't know what -- how
24 I would be justified in saying it does not apply.

25 Uh -- I'll -- I'll look at it to

1 see if there is some equivocation. Is there some
2 ambiguity? And is there a loophole there?

3 But -- But -- uh -- But:

4 Although an indictment does not
5 confer subject matter jurisdiction.

6 You don't have to have indictment
7 in order to confer jurisdiction. But that's not the
8 issue.

9 Due process requires that a
10 criminal defendant be properly served with a valid
11 indictment.

12 I will grant the continuance on
13 that basis.

14 I think it is inescapable.

15 And -- uh -- And I feel that at
16 this point, service of the indictment while the jury is
17 waiting and wondering what we're doing would not satisfy
18 the due process requirements -- uh -- in this particular
19 case.

20 It would -- uh -- There's no
21 avoiding that. I'm sorry.

22 The continuance, then, as to Ms.
23 Turner, is granted.

24 She can be served with copies of
25 the indictment and tried at a subsequent term of court.

1 MR. FILIBERTO:

2 Your Honor, if we agree to a
3 continuance till tomorrow and serve them today, can we
4 then have this trial tomorrow?

5 THE COURT:

6 Uh -- What I need to know,
7 specifically, Mr. Filiberto is:
8 What exactly has been done in
9 discovery.

10 And that's the reason I wanted to
11 know about discovery a while a go.

12 I want to know:

13 What has been done in discovery.

14 What has been done in conferences,
15 and anything else on the issue of notice.

16 And so, if you can satisfy me with
17 that this afternoon, I'll be glad to deal with it
18 tomorrow.

19 There is a specific case dealing
20 with a death penalty issue -- uh -- which has held that
21 there's -- there's a -- there is a specific statute that
22 requires the service of a -- an indictment in a capital
23 case three days prior to trial.

24 That's a capital case.

25 And there is a capital case which

1 held the fact that -- for the fact that -- uh -- because
2 the notice of the State to seek the death penalty had
3 been withdrawn -- uh -- that the defendant in that case
4 was not entitled to the three-day notice. And the case
5 went forward without it.

6 So what I would think that if that
7 was a death penalty case, and the statute -- in the face
8 of a statute which requires the service of an indictment
9 three days in advance of a trial, that if you can satisfy
10 me about the -- satisfy me about the notice requirements
11 in this particular case and serve the indictment today,
12 the case can go forward tomorrow.

13 MR. FILIBERTO:

14 I will -- uh -- be happy to give
15 you a tremendous amount of information --

16 THE COURT:

17 All right.

18 MR. FILIBERTO:

19 -- Your Honor, that -- that will
20 show Mr. Joye's been well aware of what the charges are.

21 We'll get certified copies of the
22 indictments. We'd ask that -- uh -- The Court would be
23 willing to serve the indictments in this courtroom.

24 Uh -- Sometime this afternoon at
25 lunch, I'll get the certified copies --

1 THE COURT:

2 You can.

3 MR. FILIBERTO:

4 -- and bring back the rest of that
5 information.

6 THE COURT:

7 Advise the jury that they need to
8 report back to the juryroom at 2:30 this afternoon
9 downstairs.

10 Judge -- Judge -- uh -- I think
11 John needs them this afternoon -- or Judge -- it might be
12 Judge Seals.

13 I will not need the jury this
14 afternoon.

15 MR. FILIBERTO:

16 Thank Your Honor.

17 THE COURT:

18 All right.

19 Folks, we'll be in recess here
20 until a quarter of 3:00. We'll take one hour for lunch.

21 Thank you.

22 MR. JOYE:

23 Thank Your Honor.

24 MS. WILSON:

25 Thank Your Honor.

1 MR. JOYE:

2 Your Honor, may my client remain
3 free on bond?

4 THE COURT:

5 Yes, she can.

6 MR. JOYE:

7 Thank you.

8 THE COURT:

9 The continuance has been granted
10 until tomorrow in her case.

11 MR. JOYE:

12 Okay. Thank Your Honor.

13 THE COURT:

14 All right.

15 (REPORTER'S NOTE: The references
16 made by The Court to "the jury" are in fact in reference
17 to the jury venire panel that was set aside to select
18 from in this case.

19 No jury was selected or sworn at
20 this point in these proceedings.)

21 (WHEREUPON: The court was
22 declared in recess at 1:45 PM, September 13, 2010.)

23 (WHEREUPON: The court was called
24 to order by the Bailiff at 2:48 PM, September 13, 2010;
25 and all pertinent parties, except for Mr. Filiberto,

1 along with their counsel, were back and present in the
2 courtroom.)

3 DEPUTY:

4 Order in the court. All Rise.

5 THE COURT:

6 Thank you.

7 Thank you, ladies and gentlemen.

8 Please be seated. Good afternoon.

9 Can somebody check out in the hall
10 and see if the Solicitor is coming?

11 Thank you, sir.

12 DEPUTY:

13 He's on his way.

14 THE COURT:

15 Thank you.

16 WHEREUPON: Mr. Filiberto returned
17 to the courtroom at 2:53 PM, September 13, 2010.

18 MR. FILIBERTO:

19 My apologies, Your Honor. I
20 thought you said 3:15.

21 THE COURT:

22 It was a quarter till.

23 But anyway, we're here.

24 Gentlemen, before we broke for
25 lunch, I'd -- uh -- indicated my -- uh -- rationale

1 behind allowing the service of the indictment today,
2 provided that notice could also be shown.

3 As a means of providing the due
4 process requirements of the law -- uh -- there is no time
5 frame mentioned in the -- in the State versus Smalls
6 case.

7 And so, I drew on the statute --
8 Section 17-19-80.

9 This is the code section that
10 requires that a person, who has been indicted for a
11 capital offense, have a copy of the indictment served on
12 them.

13 And the statute says:

14 Whoever shall be accused and
15 indicted for any capital offense whatsoever shall have a
16 true copy of the whole indictment, but not the names of
17 the witnesses, delivered to him three days at least
18 before you he shall be tried for such offense, whereby to
19 enable him to advise with counsel and so forth.

20 Uh -- So, if in a capital case --
21 that is a case in which the State is seeking the death
22 penalty -- the service of an indictment three days in
23 advance is deemed to be appropriate and sufficient notice
24 under the circumstances, then in a case like this,
25 assuming that notice can be shown, certainly one day

1 indictment -- uh -- or one day notice is sufficient
2 insofar as the service of the indictment is concerned.

3 And I hold that to satisfied the
4 due process requirements which is outlined in the Smalls
5 case.

6 All of that, of course, is
7 dependent upon notice being shown.

8 Uh -- And testimony -- or at least
9 the -- Obviously in this particular case, representations
10 have been made that the -- this case is two years old,
11 and that notice has been going back and forth in one
12 fashion or another for the last -- most of those two-year
13 period.

14 And Mr. Filiberto, I -- I'd ask
15 you to please be fair to let me know what sort of notice
16 has been provided, so that I can satisfy myself and this
17 record that -- uh -- due process is not being -- uh --
18 violated in connection with this particular case.

19 All right.

20 MR. FILIBERTO:

21 I can do that, Your Honor.

22 THE COURT:

23 Yes sir.

24 MR. FILIBERTO:

25 Your Honor, if I might approach?

1 I didn't bring an extra copy
2 because I thought we had a few more minutes.

3 THE COURT:

4 Okay.

5 MR. JOYE:

6 Your Honor, if I -- if I may?

7 THE COURT:

8 Yes.

9 MR. FILIBERTO:

10 Yes. I asked if we could
11 approach.

12 THE COURT:

13 All right.

14 MR. FILIBERTO:

15 This is a copy of a letter that I
16 sent to Mr. Joye, back in '08, scheduling a bond hearing,
17 where on the body of the letter, Your Honor, it indicates
18 that she is being indicted as an accessory before the
19 fact.

20 THE COURT:

21 All right.

22 MR. FILIBERTO:

23 Uh -- This is -- uh -- an
24 invitation, more recent, inviting Mr. Joye to come to my
25 office to review my file, clearly indicating that this is

1 -- she's -- we're advancing accessory before the fact.

2 THE COURT:

3 All right.

4 MR. FILIBERTO:

5 This is a copy of our short trial
6 roster that -- uh -- the line is -- uh -- or the top case
7 -- uh -- is this case -- uh -- with respect to Ms. Turner
8 where it list the charge as accessory before the fact.

9 THE COURT:

10 Okay.

11 MR. FILIBERTO:

12 And, Your Honor, this is a -- a
13 photo copy of -- a certified copy of an order and rule to
14 show cause, and my affidavit, which was served on Mr.
15 Joye.

16 And if you read -- The second
17 subsection of the affidavit indicates that she was
18 arrested and charged with murder and armed robbery, but
19 has subsequently been indicted for accessory before the
20 fact of murder and accessory before the fact of armed
21 robbery.

22 THE COURT:

23 Okay.

24 MR. FILIBERTO:

25 I believe -- I had more. I just

1 put that --

2 THE COURT:

3 Okay. Thank you.

4 Mr. Joye, do you --

5 MR. JOYE:

6 I don't dispute any -- anything he

7 -- he's -- he's said, Your Honor.

8 THE COURT:

9 Okay. All right. Okay.

10 Okay.

11 Let me get these marked as a

12 Court's Exhibit, if I could, please, sir.

13 Are these copies for the record --

14 uh -- Mr. Filiberto?

15 MR. FILIBERTO:

16 Those are photocopies, Your Honor.

17 They're not certified copies. I can get The Court

18 certified copies.

19 THE COURT:

20 No. That's fine.

21 If we can have all these marked as

22 a group -- uh -- Court's Exhibit Number 1.

23 WHEREUPON: THE REFERRED TO PACKET

24 OF DOCUMENTS ADVISING CHARGES ON TURNER WAS MARKED BY THE

25 COURT REPORTER AS COURT'S EXHIBIT NUMBER 1.

1 THE COURT:

2 Thank you.

3 All right, folks, Court's Exhibit
4 Number 1 contains, without dispute -- uh -- various
5 documents exchanged between State's Counsel and Ms.
6 Turner's Counsel in this regard -- uh -- concerning the
7 nature of these charges and the names of the charges for
8 which Ms. Turner has been indicted and will be tried.

9 The first is a letter of September
10 the 11th of 2008, a little over two years ago -- uh -- to
11 -- uh -- Mr. Joye from Mr. Filiberto, indicating that --
12 uh -- the pending murder charge will be indicted as an
13 accessory before the fact.

14 August the 2nd of 2010, advising
15 this case being set for trial for this week.

16 Uh -- The -- uh -- reference on
17 the letter indicates accessory before the fact of murder
18 -- armed robbery, the short trial docket dated Septem --
19 for the -- for this term of court indicating the charges.

20 Uh -- An affidavit attached to a
21 rule to show cause dated April 15th of this year -- uh --
22 indicating the charges.

23 I find then, that:

24 On the basis of Courts Exhibit
25 Number 1, and the attachments thereto -- uh -- sufficient

1 notice has been provided to satisfy the due process.
2 requirements of the law; and that the service of the
3 indictment today -- uh -- will also satisfy the more
4 technical requirements of State versus Smalls to allow
5 this case to go forward tomorrow in a timely manner.

6 Uh -- Mr. Joye, I'll be glad to
7 hear any exceptions that you wish to -- to -- uh -- to
8 make to the -- to that ruling.

9 But it appears that the -- that
10 the requirements of the law have now been met.

11 MR. JOYE:

12 For the record, Your Honor -- uh
13 -- I would -- This case has never been called for trial.
14 Nor, have I ever asked for this case to be continued.

15 THE COURT:

16 Right.

17 MR. JOYE:

18 Not in the two years that I've
19 been involved on it -- two-plus years that I've been
20 involved -- two years that I've been involved on it.

21 THE COURT:

22 Right.

23 MR. JOYE:

24 And -- uh -- I certainly don't
25 dispute -- uh -- the notice that was given.

1 I know one -- at one time, he
2 said:

3 This is what I'm going to do.

4 Uh -- So, he changed my mind. And
5 I -- I didn't know whether he did or didn't.

6 But, in fact, it was only on
7 Thursday that I believe that I -- that I saw the
8 affidavit, and raised -- became -- raised the issue or
9 looked at the affidavit. Saw the affidavit that he gave
10 you as one of the notice requirements.

11 THE COURT:

12 Right.

13 MR. JOYE:

14 Uh -- Your Honor, I anticipate a
15 rather lengthy trial.

16 Uh --

17 THE COURT:

18 Right.

19 MR. JOYE:

20 I mean, I -- I'm looking at
21 something close to 13 witnesses.

22 Uh -- Service is not going to be
23 had until today.

24 We're talking about someone that
25 faces a potential life sentence.

1 THE COURT:

2 Right.

3 MR. JOYE:

4 Uh -- Judge, I would ask that this
5 case be continued -- uh -- to allow us to continue to
6 prepare for this trial.

7 Uh -- I know that -- uh -- Ms.
8 West and Ms. Wilson are sitting, ready -- and ready to
9 go.

10 And I would ask that we be allowed
11 to continue this case. And that this would dovetail into
12 our motion for severance.

13 Uh -- And again, Judge, would --
14 would express to you:

15 Uh -- I certainly believe the
16 Sheriff's Office anticipates we've got a dangerous man
17 back here.

18 We got four Sheriff's Deputies
19 sitting behind us. Uh -- And I certainly don't believe
20 it is because of my client.

21 THE COURT:

22 Right.

23 MR. JOYE:

24 Uh -- Judge, I would just say that
25 -- uh -- given -- given everything, the whole totality of

1 the circumstances -- and usually it's the State talking
2 about totality of circumstances.

3 THE COURT:

4 Right.

5 MR. JOYE:

6 I would have ask that we be
7 allowed to continue in this case until an appropriate
8 term of court and prepare in that manner.

9 THE COURT:

10 Thank you.

11 Uh -- Mr. Joye, I appreciate that.

12 We -- uh -- We will make as good a
13 use as we can of the time that we have.

14 And -- And the -- uh -- reporter
15 has got vacation plans for Saturday. He's got to be out
16 of here.

17 And -- uh -- And hopefully we
18 won't have to get another court reporter in from Columbia
19 to complete the trial of this case.

20 I have to be out for a part of
21 Wednesday afternoon as I've told you.

22 I understood that -- uh -- the
23 best estimates were, initially, that -- uh -- this case
24 would go to a jury, perhaps on Thursday.

25 Now, I take it, it will be Friday.

1 We're going to start each day at
2 9:30. And if we have to work late, we'll work late,
3 except for -- except for Wednesday when I can't work
4 late.

5 Uh -- And so I want us to make as
6 good a use as we can of the time that we do have.

7 And, along those lines, I'd like
8 to know right now if there are any additional motions
9 that need to be heard.

10 Are there Jackson v Denno issues?
11 Are there identification issues?
12 Any other issues that that we need
13 to have?

14 The jury's going to come back at
15 9:30 tomorrow morning. And -- uh -- And I don't want to
16 keep them waiting any longer.

17 I kept them waiting today of
18 course. But I don't want to do that tomorrow.

19 So, if we've got any other
20 motions, I'd like to deal with them this afternoon.

21 Or, if we can't deal with them
22 this afternoon, then we'll get here before 9:30 in the
23 morning.

24 I'll be here at 9:30.

25 I'll be here earlier, if I have

1 to.

2 So -- uh -- are there any motions,
3 first of all, Mr. Filiberto, that the State -- uh --
4 anticipates?

5 You mentioned earlier a -- a
6 statement -- or somebody mentioned a statement of the --
7 of one of the defendants.

8 Do we have Jackson V. Denno issues
9 that we need to deal with; and that we can deal with this
10 afternoon?

11 MR. FILIBERTO:

12 Your Honor, at this time -- uh --
13 there are statements -- two statements given to law
14 enforcement by Crystal Turner; two statements given to
15 law enforcement by Mr. Skipper.

16 Uh -- At this point, Your Honor,
17 with respect to my case in chief, I do not anticipate
18 needing to put those statements in.

19 THE COURT:

20 Okay.

21 MR. FILIBERTO:

22 Uh -- The -- uh -- Really, that --
23 that motion would be properly -- uh -- raised by the
24 Defense.

25 THE COURT:

1 Right.

2 MR. FILIBERTO:

3 Uh -- And you'd have to -- If they
4 felt that under Jackson V. Denno, they wouldn't be
5 admissible.

6 THE COURT:

7 Right.

8 MR. FILIBERTO:

9 And Your Honor, I don't want to
10 get too far away and -- and just one final -- I'd ask The
11 Court allow me to serve -- uh -- Mr. Joye --

12 MR. JOYE:

13 Your Honor, we'd be happy to
14 accept service on that.

15 THE COURT:

16 Okay. You can go ahead. We'll
17 take care of that right now.

18 MR. FILIBERTO:

19 Thank you, sir.

20 WHEREUPON: Mr. Filiberto handed
21 the indictments to Mr. Joye.

22 THE COURT:

23 All right.

24 Uh -- Ms. Wilson, Ms. West, do you
25 all anticipate any motions from -- from Mr. Skipper

1 pretrial -- of a pretrial nature.

2 Ms. Wilson?

3 MS. WILSON:

4 Yes, sir, Your Honor.

5 Uh -- One of our motions would
6 obviously be -- uh -- a request for sequestration of any
7 of any of the witnesses.

8 Uh -- Obviously, we don't want
9 everyone sitting in court together listening to all the
10 testimony.

11 THE COURT:

12 Right.

13 MS. WILSON:

14 Uh -- And in addition -- uh --
15 Actually, Your Honor, I think that's it for us. We're
16 good.

17 THE COURT:

18 All right.

19 Uh -- The sequestration order, if
20 it's granted, of course will be reciprocal. That is, all
21 of the witnesses, except those who are allowed in the
22 courtroom.

23 That would be -- uh -- from the
24 Defense perspective -- or from the State's perspective,
25 the chief investigating officer -- uh -- the victims,

1 representative of the victim's family.

2 Uh -- What says the State to the
3 sequestration requests, Mr. Filiberto.

4 MR. FILIBERTO:

5 Uh -- No objections. I'd just
6 like to be clear if that includes -- uh -- potential
7 rebuttal witnesses.

8 COURT REPORTER:

9 Includes what? I'm sorry?

10 THE COURT:

11 No.

12 MR. FILIBERTO:

13 Rebuttal witnesses.

14 THE COURT:

15 No. No.

16 All right. It would be the --
17 those who have been testifying in the -- would be
18 expected to be testifying in chief -- yeah -- on either
19 side.

20 MS. WILSON:

21 Thank Your Honor.

22 THE COURT:

23 All right.

24 MS. WEST:

25 Your Honor, if I could be heard?

1 THE COURT:

2 Ms. West.

3 MS. WEST:

4 I believe under two codefendants
5 like this, The Court establishes the order of who will go
6 first and who will go second.

7 THE COURT:

8 Right.

9 MS. WEST:

10 And I'd just appreciate it if The
11 Court would offer to do that.

12 THE COURT:

13 It's a good point, Ms. West. I
14 appreciate that.

15 Uh -- In this particular case, the
16 -- uh -- let me check and see if I've got any guidance
17 from these things.

18 Sometimes I look for the dates to
19 find out if there's any significance to them.

20 Uh -- These -- These indictments
21 were all returned on the same day.

22 The crime occurred on the same
23 day; and of course, the indictment.

24 I will go with -- uh -- Unless --
25 uh -- the Defendants themselves agree otherwise, I'll go

1 in alphabetical order.

2 That is:

3 Mr. Skipper -- uh -- will -- uh --
4 cross-examine first. Present the closing -- uh -- open
5 arguments first.

6 Uh -- Ms. Turner will go second.

7 MS. WEST:

8 Thank Your Honor.

9 THE COURT:

10 Unless you all agree otherwise.

11 MR. JOYE:

12 That's certainly agreeable to me,

13 Your Honor.

14 THE COURT:

15 All right.

16 And, in striking the jury, of
17 course, the same way.

18 As the jury is stricken, Mr.

19 Skipper first for the Defense, and Ms. Turner second for
20 the Defense.

21 MR. FILIBERTO:

22 Your Honor, I had one -- uh --
23 motion in limine I'd like to raise before The Court.

24 I would ask that The Court order
25 that there be, during the -- their openings, closings, or

1 any point during the trial, that the Defense be precluded
2 from raising the issue of the potential sentence the
3 defendants are facing.

4 THE COURT:

5 I -- uh -- Certainly that would be
6 improper. And I -- Given the fact that these all
7 experienced trial lawyers, I trust that nobody will --
8 will transgress into that area.

9 Uh -- Sentencing, as we all know,
10 is not for this jury's consideration.

11 Thank you.

12 All right.

13 Ms. West, Wilson; any additional
14 concerns from -- uh -- from Mr. Skipper's perspective?

15 MS. WILSON:

16 None Your Honor.

17 THE COURT:

18 Thank you Ms. Wilson.

19 Mr. Joye, now from Ms. Turner?

20 MR. JOYE:

21 Your Honor -- and I alluded to
22 this earlier.

23 Uh -- And I know there's probably
24 no good that -- I -- I don't know, but there's -- we've
25 got an awful lot of law enforcement sitting beside and

1 behind these two defendants.

2 THE COURT:

3 Right.

4 MR. JOYE:

5 And it really gives the appearance
6 that we're dealing with really dangerous, dangerous,
7 characters.

8 And I think due process would
9 demand that -- that -- I certainly understand an officer
10 who's -- who's seated behind -- having -- having been --
11 Having a defendant come across my back before, I
12 understand and appreciate it.

13 THE COURT:

14 Right.

15 MR. JOYE:

16 But I -- I believe four would be
17 somewhat of an overkill.

18 And I know that that may not even
19 be the case tomorrow.

20 THE COURT:

21 All right.

22 MR. JOYE:

23 But if they would be evenly
24 distributed throughout the courtroom, so that one could
25 take any particular inference from where they're seated?

1 THE COURT:

2 All right.

3 I'll be glad for -- uh --
4 whoever's in charge of security to -- to discuss those
5 issues with me.

6 I'm not sure who -- Uh -- Mr.
7 Brook -- uh -- Mr. James and I can talk about that. And
8 we'll see if there's some way that cannot be -- uh --
9 done.

10 We'll -- We'll see if we need to
11 do anything different about that.

12 Uh -- The first concern always, of
13 course, is security in a courtroom -- security of
14 everybody -- uh -- the jury, the participants, or
15 parties, themselves, whenever that's necessary.

16 And I yield to security in that
17 regard, unless I just feel that things are out of
18 proportion.

19 So before I make a decision in
20 that regard, Mr. Joye, I want to hear securities input on
21 it.

22 MR. JOYE:

23 Certainly, Your Honor.

24 And that's -- Certainly that's
25 something we can deal with tomorrow.

1 But I --

2 THE COURT:

3 All right.

4 MR. JOYE:

5 I felt it was appropriate to raise
6 it.

7 THE COURT:

8 All right. Thank you.

9 MR. JOYE:

10 Uh -- Judge, there is an
11 allegation -- uh -- in one of -- uh -- one of Paige
12 Furness or Paige Skippers' numerous statements to police
13 about a drug dealing of buying Adderalls to sell to
14 Crystal Turner.

15 Uh -- I don't believe that there
16 is -- uh -- anything to substantiate that.

17 And she gives several different
18 stories about this Adderall.

19 THE COURT:

20 Uh-huh.

21 MR. JOYE:

22 Uh -- But she buys it from Stacy
23 Johnson, which is another witness in the case.

24 THE COURT:

25 Right.

1 MR. JOYE:

2 So, I would ask, Your Honor, that
3 we be allowed to explore the buying and selling of
4 Adderall between two of the State's witnesses -- uh --
5 however, no mention of it not being a part and parcel of
6 anything to do with our case.

7 And simply, that we be allowed to
8 impeach Stacy Johnson and/or Paige Skipper regarding this
9 buying of Adderall between the two for -- for Paige
10 Skipper's to sell to make money.

11 Uh -- She alleges that she sold it
12 to my client. My client adamantly denies it.

13 But it's not part of the case.

14 But it is impeachment evidence.

15 THE COURT:

16 All right.

17 Well, Mr. -- Mr. Filiberto, let me
18 hear from you?

19 MR. FILIBERTO:

20 Sure.

21 Uh -- Your Honor, neither of those
22 -- uh -- Defendants have been arrested or charged.

23 If that happened, it happened in
24 another county in another jurisdiction.

25 The -- uh -- We would first argue

1 that it would -- any discussion of that would be
2 completely irrelevant.

3 Certainly the State has no
4 intention of bringing that up in its case.

5 THE COURT:

6 Right.

7 MR. FILIBERTO:

8 The -- uh -- If the -- If Mr. Joye
9 wants to go there, and if The Court allows him to go
10 there, and determines that it's -- that it is relevant --

11 THE COURT:

12 Uh-huh.

13 MR. FILIBERTO:

14 -- then, I think, by all means,
15 that the -- the -- the statements that -- that one was
16 buying at -- uh -- at the request and -- and delivering
17 it to his client is clearly fair game.

18 You can't have it both ways.

19 THE COURT:

20 Right.

21 Uh -- It -- The question as to
22 whether it would be impeachable or not -- or impeachment
23 evidence, I should say, Mr. Joye, would -- would depend
24 on how it's being offered and who it's being offered
25 against -- uh -- and whether or not that person's -- uh

1 -- credibility or character has been put into evidence.

2 So we'd have to deal with that
3 after we get to that point.

4 So, there is a concern, of course,
5 if that -- if that transaction comes into the -- into the
6 record, and if the jury is entitled to -- to hear some of
7 it, it might very well be entitled to hear all of it, in
8 order to give the jury some basis upon which to -- to
9 form -- uh -- an opinion as to whether or not the
10 testimony is truthful and how it -- uh -- and how it
11 impacts on that credibility.

12 So I can't tell you right this
13 minute that I'm ruling it out of hand, because it might
14 very well be impeachment evidence.

15 And it might very well be,
16 depending upon how -- how it comes in.

17 But -- uh -- you would have to be
18 cautious about opening a door in that regard that might
19 subject your -- your client's conduct to -- uh -- to a
20 scrutiny on the same basis.

21 Thank you.

22 Until I hear it, I don't know what
23 it's going to be. And so I can't rule in advance.

24 All I can just tell you is that's
25 what the concerns are; and to tread in that regard with

1 those concerns in -- in mind.

2 All right.

3 MS. WEST:

4 I -- And Your Honor, I forgot one
5 last matter.

6 THE COURT:

7 Okay. Let me make sure I'm
8 through with Mr. Joye.

9 Mr. Joye?

10 MR. JOYE:

11 Your Honor, once again, Charlie
12 Skipper makes the statement -- I understand that the
13 State -- the State is not going to put it in.

14 But Charlie Skipper makes the
15 statement that his sister Paige, that her power was about
16 to be turned off and that that was the motive for the
17 planning of this whole crime; all right.

18 Like all good lies, which we sub
19 -- which we submit Paige Skipper is doing --

20 THE COURT:

21 Uh-huh.

22 MR. JOYE:

23 -- Paige Skipper points at Crystal
24 Turner, and says:

25 It's Crystal Turner's power that's

1 about to be turned off.

2 But I -- we feel it's very
3 important that that piece of evidence get up before the
4 jury because that's the only motive that the State in any
5 of the discovery has eluded to as to why in the world my
6 client would go to somewhere in Aynor where everybody
7 knows her and set up a robbery by a bunch of people that
8 nobody knows.

9 THE COURT:

10 Right.

11 Well, of course, if -- uh -- if --
12 if Paige -- is it -- Skipper, is that her last name?

13 MR. JOYE:

14 Furness, Skipper --

15 THE COURT:

16 Okay.

17 MR. JOYE:

18 -- and I think she's married again

19 --

20 THE COURT:

21 Okay.

22 MR. JOYE:

23 -- to some man. So I'm not quite
24 sure.

25 THE COURT:

1 Well Paige -- If Paige testifies
2 in that regard, certainly you'd be able to cross-examine
3 her as to -- uh -- I guess of whether her -- her power
4 was going to be turned off, or whether -- whether
5 Crystal's power was going to be turned off.

6 That would be ripe product for
7 cross-examination.

8 I would think, perhaps if it's --
9 that is a critical issue, that perhaps something from the
10 power company could be brought to bear on that issue.

11 If it bears that strongly on
12 motive, somebody somewhere in the power company will
13 know.

14 Uh -- And -- uh -- I realize you
15 don't have any burden of proof in this regard.

16 But -- But rather than having two
17 people -- uh -- parrying back and forth as to whose
18 lights are going to be cut off, if it's that important an
19 issue, and if this jury is simply going to be asked in
20 the blind to accept one person's word over the other --
21 in other words, flip a coin -- uh -- I would suggest
22 perhaps that maybe an unbiased, disinterested witness, or
23 the testimony of someone who could -- could give more
24 direct -- uh -- insight into that issue be brought to
25 bear.

1 I don't want to attempt to try
2 anybody's case for them --

3 MR. JOYE:

4 Right.

5 THE COURT:

6 -- but that is a critical issue,
7 and if that -- if this case is going -- as far as your
8 client is concerned, is going to determine whether or not
9 a jury believes that her power is going to be turned off,
10 or Paige's power is going to be turned off, I don't know
11 whether -- whether I would trust it to the jury to decide
12 which one of those two to believe.

13 I --

14 MR. JOYE:

15 Well, Your Honor, the -- part of
16 the problem is -- is the -- the -- Mr. Skipper, in his
17 first interview, within four or five days of this
18 incident, is talking about Paige setting this up because
19 she needed the power bill paid.

20 So, in -- in their -- their theory
21 of the case, my client is the mastermind because of their
22 power -- the power -- because of her power bill, and that
23 -- Clearly Charley believes that Paige set it up because
24 of that specific issue.

25 That again get to our -- our

1 Bruton issue, Judge.

2 THE COURT:

3 All right. All right.

4 Uh -- I -- I can't add any more to
5 that than I already have.

6 Regardless, if that's how this
7 issue is going to turn about, and if the jury is going to
8 be asked to choose to believe between one person accused
9 of murder and armed robbery, another person accused of
10 accessory before and after the fact of armed robbery and
11 murder, and a third person who is not on trial in this
12 particular case, who must be charged with something --
13 and I don't know what it is, but I suppose it's a similar
14 thing.

15 That:

16 For any of that testimony -- For
17 any of that testimony, if it is that pivotal -- uh -- to
18 -- uh -- to be presented to a jury in that fashion, no
19 one could predict how a jury is going to deal, when
20 you've got three different parties, all of whom's
21 character can be put into question by -- uh -- the
22 charges against them -- or the accusations against them.

23

24 And as I have said, I say again:

25 It's a simple enough matter to get

1 somebody from the power company to come in here and say:

2 This isn't whose power is going to
3 be -- This is we got the notice to.

4 Now, of course, you give up the
5 right to make the last argument if you do that.

6 But, with two witnesses -- or two
7 defendants in this particular case -- and you say you've
8 got 13 witnesses, you're not going to get the last
9 argument anyway.

10 MR. JOYE:

11 No sir. You're -- You're
12 absolutely correct in that --

13 THE COURT:

14 So -- So -- So there -- I -- I
15 don't see that as a reason to separate this trial, nor --
16 nor to get overly concerned.

17 Uh -- The jury's going to have
18 both sides of that before them.

19 They're going to know -- uh --
20 what the various witnesses say, I suppose, about whose
21 powers is going to get turned off.

22 So -- uh --

23 MR. JOYE:

24 It -- It actually goes a little
25 deeper than that, Your Honor, in that -- in that all

1 statements that are made, initially -- uh -- initially
2 talked to that power bill owed by Paige.

3 Paige is the only one that points
4 to Crystal in saying:

5 It's her power bill.

6 THE COURT:

7 Right. That's what --

8 MR. JOYE:

9 Most -- Most good lies wrap
10 themselves in the truth, Judge.

11 That's what I understood a while a
12 go.

13 I understood that -- that -- uh --
14 that initially -- uh -- everybody pointed the finger at
15 Paige.

16 That's what I understood.

17 And that Paige pointed the finger
18 at your client.

19 Uh -- That's -- That was my
20 understanding of -- of the facts earlier.

21 I say again:

22 Does anybody know where the power
23 company is located?

24 Is there anybody in the whole
25 power company's place that could be brought in here to

1 say:

2 This is the person that we sent a
3 late notice to.

4 And it -- it might now be either
5 one.

6 So -- And I say that -- I'm not
7 attempting to shift the burden in this regard.

8 But -- uh -- But, as between
9 testifying codefendants and -- and -- uh -- and a -- and
10 a defendant who's on trial that does not have to testify
11 -- uh --

12 MR. JOYE:

13 Thank you.

14 THE COURT:

15 I'd try to get the power company
16 people here, that's -- uh -- if it's going to keep my
17 client out of jail.

18 All right.

19 MR. FILIBERTO:

20 Your Honor, I might have one more
21 matter, if I might?

22 THE COURT:

23 Okay.

24 Well, and so does --

25 MR. FILIBERTO:

1 Oh, okay.

2 THE COURT:

3 -- Ms. West. That's right.

4 MS. WEST:

5 And mine, this morning, Your
6 Honor, when we were in chambers -- uh -- the Solicitor
7 made reference to a statement that I think he said he
8 wasn't going to use.

9 And I just want to confirm that
10 they're -- that he is not going to use -- uh --
11 statements that -- that are crimes -- that my client may
12 have killed somebody else.

13 THE COURT:

14 Okay.

15 MS. WEST:

16 He said that he was not.

17 THE COURT:

18 He --

19 MR. FILIBERTO:

20 Absolutely, Your Honor.

21 MS. WEST:

22 I just want to make sure.

23 MR. FILIBERTO:

24 That -- That would be grounds for
25 a mistrial.

1 MS. WEST:

2 Thank you very much.

3 MR. FILIBERTO:

4 And I wouldn't go there.

5 THE COURT:

6 Okay. That -- All right.

7 All right, Mr. Filiberto, back to
8 you.

9 MR. FILIBERTO:

10 One last matter that I just was
11 made aware of.

12 Uh -- Mr. Joye apparently handed
13 -- uh -- a -- a Solicitor's Office Investigator a
14 subpoena a little bit earlier -- uh -- today -- uh -- to
15 be here.

16 Now with the order of sequest --
17 sequestration -- Your Honor, she has -- was going to be a
18 rebuttal witness for me.

19 She's under my subpoena.

20 But I -- But because she was going
21 to be a rebuttal, because she has interviewed so many of
22 the people that are going to be testifying --

23 THE COURT:

24 Right.

25 MR. FILIBERTO:

1 I'd ask that she be in here.

2 I'd ask that either Mr. Joye waive
3 the -- and -- and I'd have to ask -- Also, Ms. Wilson
4 waived that Carmen be allowed to come in, but the
5 sequestration order --

6 MS. WEST:

7 Your Honor, it's my understanding
8 that Carmen Mureddu was the lead investigator and that
9 The Court said that the lead investigator could stay.

10 THE COURT:

11 Well --

12 MR. FILIBERTO:

13 No --

14 MR. JOYE:

15 Yes, Your Honor. I would -- I
16 would -- Either -- Either Ms. Mureddu or Mr. Troxell, but
17 I would not think both.

18 One was the Solicitor's
19 investigator; one's the original Horry County detective;
20 and I would ask that one or the other; but not both.

21 MR. FILIBERTO:

22 Mr. Troxell -- Detective Troxell
23 -- I think, Sergeant Troxell now -- is the lead
24 investigator from the Horry County Police Department.

25 However, if -- uh -- if Mr. Joye's

1 going to stand firm in that, I -- I guess I would ask The
2 Court to make inquiry for some offer of proof as to what
3 he needs her for -- to testify.

4 Because I don't believe there's
5 anything that could be helpful to his client.

6 THE COURT:

7 All right.

8 And what's her last name again?

9 MR. FILIBERTO:

10 Mureddu. Uh -- M-u-r-e-d-d-u.

11 THE COURT:

12 Okay. All right.

13 Uh -- Mr. Joye, did you intend to
14 call her as a witness in your case? Uh --

15 MR. JOYE:

16 I very -- very -- very much so
17 could, Your Honor.

18 Uh -- And I -- I hate to go back
19 to it.

20 But we've had so many stories
21 where things progressively get worse and worse and worse
22 for my client --

23 THE COURT:

24 Right.

25 MR. JOYE:

1 -- when some of -- at least one of
2 them stands there and says:

3 I never heard Crystal say
4 anything.

5 THE COURT:

6 Right.

7 MR. JOYE:

8 And so, our theory of the case is:

9 Three or four days after this
10 thing happens, people are seeing them -- things are
11 getting -- they -- they shore up a story that comes --

12 THE COURT:

13 Right.

14 MR. JOYE:

15 -- they -- They've got one product
16 to sell, because she's the only one that wasn't there at
17 the murder scene.

18 THE COURT:

19 Okay.

20 MR. JOYE:

21 She's the only one anybody knows
22 at the bar in Aynor.

23 She's invariably the first one
24 they're going to point to. And they don't have anything
25 else to sell, Judge.

1 THE COURT:

2 Right.

3 MR. JOYE:

4 They were all there at the scene
5 of a murder.

6 The one thing that they got to
7 sell is Crystal Turner; and that's what they've done.

8 THE COURT:

9 Okay.

10 MR. JOYE:

11 So that works other than our
12 theory of the case. And Ms. Mureddu -- uh -- one of --
13 one of the two of them, I would submit, needs to be lead
14 investigator; and the rest -- other one just simply be a
15 witness.

16 THE COURT:

17 Well, of course, the lead
18 investigator's is who it is.

19 I mean, we can't change that just
20 by sticking labels on this thing.

21 Ms. Mureddu is -- uh -- Sergeant
22 Troxell is the lead investigator. He's so designated.

23 Uh -- Ms. Mureddu apparently -- uh
24 -- you're asking her to be here because you want to be
25 sure that she listens to these folks testify, and can, if

1 you choose to call her, contradict what they say, because
2 of what they said earlier.

3 MR. JOYE:

4 She -- She, in fact -- She had
5 conversations with at least 4 or 5 of them after their
6 initial two or three interviews.

7 And -- And then later, she was the
8 one that when and talked to them at later points, not the
9 lead investigator.

10 So, I -- I guess he's saying that
11 she's the lead investigator for the Solicitor's Office,
12 or the -- and that Sergeant Troxell is lead investigator
13 for Horry County Police.

14 Uh -- Seems to me that -- that one
15 of the them's the lead investigator and the other one is
16 simply a witness.

17 THE COURT:

18 Well, could well be.

19 In any event, Sergeant Troxell nor
20 Investigator Mureddu will be subject to see -- to the
21 sequestration order.

22 MR. FILIBERTO:

23 Thank Your Honor.

24 MR. JOYE:

25 Thank Your Honor.

1 THE COURT:

2 Okay. Good. All right.

3 Uh -- Anything -- Any other
4 motions that we anticipate?

5 (No response.)

6 THE COURT:

7 Folks, because we -- we are going
8 to be -- uh -- trying to -- Well, we should in every case
9 try to make good use of our time and of the jury's time,
10 especially.

11 And -- uh -- I think I've been
12 with you all enough to -- to know that I'm -- uh -- uh --
13 I like to consider myself somewhat patient.

14 The only thing that I get
15 impatient about is wasting a jury's time.

16 And so -- uh -- if we've got -- if
17 we've got problems that -- uh -- are easily anticipated,
18 or that should be reasonably anticipated in advance, I
19 like to know about those, so that I can tell a jury -- uh
20 -- when to get here or when not to get here.

21 Uh -- Because when I got a jury
22 here, I really don't want to waist their time.

23 They're going to be here at 9:30
24 in the morning.

25 And I would anticipate at that

1 point in time, that the jury will come, and we'll begin
2 the jury selection process.

3 And so to that end, I would
4 anticipate -- invite from you all right now, any unusual
5 voir dire request that you might have -- uh -- so that we
6 can deal with today.

7 And to the extent we need to,
8 we'll deal with them on the record.

9 Let me tell you, as a matter of
10 practice, what I do; so that perhaps it will ease your
11 mind somewhat on -- on the side of -- either side of this
12 particular issue.

13 Of course in addition to all the
14 questions that we all ask about connections with the --
15 uh -- with the parties in this case; that is, any of the
16 Defendants, or the victim, or any of the witnesses, or
17 the lawyers, or the police officers, or anybody else, or
18 to any knowledge about this case -- and I understand that
19 some notoriety initially attached itself to this case two
20 years ago -- and we'll deal with that just like we always
21 do;

22 I also ask of a jury if any of
23 them or any members of their immediate family have ever
24 had any connection with a crime of personal violence.

25 And I, of course, define crimes of

1 personal violence as murder and armed robbery and
2 kidnapping, and assault and battery, and all those other
3 things, without being exhaustive, but to give them some
4 idea of what a crime of personal violence is.

5 And I ask them if their
6 involvement, or that of their family member was either
7 that as a witness to the charge -- or the crime, or a
8 victim of the crime, or a defendant in the crime, so as
9 to give some balance of that question.

10 And once we've got them
11 identified, I'll bring them up here in the morning,
12 individually, and inquire about them, as to whether it
13 was them or a family member; and for them to tell me what
14 the situation was; and then to ask them whether or not
15 that situation would bear on their ability to be fair and
16 impartial.

17 So I'm going to do that, whether
18 you ask me to or not.

19 Uh -- So -- uh -- if there are any
20 other voir dire request, if you got your copies of your
21 voir dire -- and since you anticipated, initially, that
22 we were going to be picking a jury right now or would
23 have one in the box already, I assume that if you've got
24 -- uh -- some voir dire issues, that you would have them
25 ready to be presented to me.

1 I will be glad to deal with those
2 now, so that we can put those on the record before we go
3 any further.

4 MR. JOYE:

5 Your Honor, the -- and we've
6 talked about this earlier and -- uh -- but just -- We
7 would ask that you -- uh -- ask about any of the usual
8 alphabet soups for victim's rights.

9 THE COURT:

10 I'll do that. I'll do that.

11 MR. JOYE:

12 Okay.

13 And I figured that probably was
14 part and parcel of that other question.

15 THE COURT:

16 I could have said that. You're
17 right, Mr. Joye. But I -- But I do ask that question.

18 MR. JOYE:

19 Uh -- And then -- uh -- secondly:

20 If any -- any -- uh -- juror or
21 immediate family member is employed with law-enforcement?

22 THE COURT:

23 I'll do that.

24 MR. JOYE:

25 Other than that, I -- I -- Ms.

1 West and Ms. Wilson and I discussed it earlier. And I
2 don't think that there's anything else.

3 THE COURT:

4 Okay.

5 MR. FILIBERTO:

6 Nothing from the States, sir.

7 THE COURT:

8 All right. Thank you.

9 Okay.

10 The strikes, of course, in this
11 case will be ten for the State, and twenty for the
12 Defense; so ten each, unless you all agree to divide them
13 otherwise, and we'll go, as I said, Ms. West and Ms.
14 Wilson, with you all first; and then, Mr. Joye, to you.

15 We'll select two alternatives in
16 this case.

17 As for the alternates, the strikes
18 will be one for the State; two for the Defense. And you
19 all can divide those two any way you want to.

20 Uh -- And -- uh -- once we've got
21 the jury in place -- uh -- I will appoint a Foreperson,
22 and they'll be sworn, and I'll make some brief
23 introductory comments and allow you all brief opening
24 statements. And then, we'll start the trial.

25 Uh -- Does anybody anticipate any

1 -- anything else, or have any other issues that you would
2 like for me to address -- uh -- this afternoon.

3 Mr. Filiberto, from the State?

4 MR. FILIBERTO:

5 Nothing, sir.

6 THE COURT:

7 Thank you.

8 Ms. West; Ms. Wilson? Ms. Wilson?

9 MS. WILSON:

10 Nothing, Your Honor.

11 THE COURT:

12 Thank you.

13 Mr. Joye?

14 MR. JOYE:

15 Your Honor -- uh -- I'll be here
16 probably at 9:15 every morning prior to the -- you know
17 -- Sometimes things come to you that --

18 THE COURT:

19 I know.

20 MR. JOYE:

21 -- just can't be helped.

22 THE COURT:

23 Right.

24 MR. JOYE:

25 and -- And I would just say that

1 if we're all here at 9:15 --

2 THE COURT:

3 Right.

4 MR. JOYE:

5 -- perhaps, then that'll -- won't

6 waist --

7 THE COURT:

8 Okay. Well, that'll be good.

9 MR. JOYE:

10 -- time -- or the jurors' time.

11 THE COURT:

12 And I'll be here -- uh -- a little

13 early as well.

14 And -- uh -- if y'all would like

15 to, if you'll approach, I can give you my cell phone

16 number, so that if anything comes up overnight that tells

17 you all:

18 Wait a minute, we've got a real

19 emergency in this case, you can call me on my cell phone;

20 and I'll know -- and I'll know to be here earlier than I

21 had done told you I was; and I'll try to figure out some

22 way to get in touch with Mr. Buckner to get him here too.

23 MR. JOYE:

24 Oh, you didn't want that on the

25 record. (Laughter.)

1 Why don't we -- We can all put --
2 put everybody's on here.

3 MR. FILIBERTO:

4 Thank Your Honor.

5 THE COURT:

6 Thank you.

7 MR. JOYE:

8 I thought we'd put all --
9 everybody'd put them on --

10 THE COURT:

11 Okay.

12 MR. JOYE:

13 -- whatever.

14 THE COURT:

15 Okay. Thank you.

16 MR. JOYE:

17 I think I got Ms. West, but --

18 THE COURT:

19 All right.

20 Well, folks, I think we've done
21 all that we can do in the absence of a jury.

22 Uh -- And -- uh -- I'm like you
23 all. I'll probably get in my car and about the time I
24 get to Gresham, something will occur to me that -- uh --
25 that I've left out.

1 But if -- uh -- if not, I'll look
2 to see you all the morning -- in the morning at 9:30.

3 We'll be in recess in this case
4 until 9:30 tomorrow morning.

5 Uh -- Before I leave today -- uh
6 -- Mr. James, you and I can talk about these security
7 issues.

8 If you'll talk with the officers
9 who are in charge of that -- of these individuals, and
10 let me know about that.

11 DEPUTY BROOKS:

12 Yes sir.

13 THE COURT:

14 And then, I'll -- uh -- We'll look
15 to start in the morning in this case.

16 Anything further in this case
17 before we break for the day?

18 Mr. Filiberto?

19 MR. JOYE:

20 Your Honor, of the 65 that we
21 chose earlier today, they are -- we threw them all back
22 in the pool?

23 THE COURT:

24 They're back in the pool, as I
25 understand it.

1 CLERK:

2 Yes sir.

3 THE COURT:

4 Yeah, they've all been thrown into
5 the mix.

6 That's what Judge John said he was
7 going to do.

8 MR. JOYE:

9 Okay.

10 THE COURT:

11 So they're all back -- So these --
12 uh -- the -- the -- uh -- the original 65 will -- will
13 not be our -- some of them may, some of them may not.

14 MR. JOYE:

15 Thank Your Honor.

16 THE COURT:

17 Okay. All right.

18 Folks, thank you for your
19 patients. And I'm sorry about these interruptions, but
20 we will -- we will work in spite of all this, and -- and
21 get this thing done.

22 MR. JOYE:

23 Thank you, Judge.

24 MR. FILIBERTO:

25 Thank Your Honor.

1 MS. WEST:

2 Thank Your Honor.

3 MS. WILSON:

4 Thank Your Honor.

5 THE COURT:

6 Thank you. Uh -- Do you know if
7 the Solicitor's office has anything else they want us to
8 do this afternoon, Larry.

9 MR. FILIBERTO:

10 I can check, sir. That I'm aware
11 of anything, no.

12 THE COURT:

13 Well --

14 MR. FILIBERTO:

15 I think they told me they'd be in
16 trial.

17 THE COURT:

18 Well, no point in checking. If
19 they weren't looking for us to do something, we won't
20 disappoint them.

21 Thank you.

22 All right, folks, 9:30 tomorrow
23 morning.

24 (WHEREUPON: The court was
25 declared in recess at 3:46 PM, September 13, 2010.)

1 to order by the Bailiff at 9:37 AM, September 14, 2010;
2 and all pertinent parties, along with their counsel, were
3 back and present in the courtroom.)

4 DEPUTY:

5 Order in The Court. All rise.

6 THE COURT:

7 Thank you. Thank you, ladies
8 and gentlemen. Please be seated. Good morning.

9 All right.

10 Mr. Filiberto, Ms. Wilson, Ms.
11 West? Gentlemen, ladies?

12 MR. FILIBERTO:

13 Your Honor, at this time the State
14 will be calling cases of -- back in 2009-GS-26-2169 and
15 2170. 2169 is a true billed -- uh -- indictment for
16 murder.

17 2170 is a true billed indictment
18 for armed robbery.

19 Uh -- This case has been called
20 for trial; but now we are informed -- uh -- by Defense
21 Counsel that -- uh -- the Defendant has decided to enter
22 a guilty plea.

23 We'd ask The Court to qualify the
24 plea and hold sentencing in abeyance until after this
25 trial.

1 THE COURT:

2 All right. Thank you.

3 Do you have a plea sheet?

4 MR. FILIBERTO:

5 I do sir.

6 THE COURT:

7 Thank you.

8 WHEREUPON: Defendant Skipper was
9 sworn by clerk in open court at 9:46 AM, September 14,
10 2010.

11 THE COURT:

12 Okay.

13 Ms. Wilson, Ms. West, ladies, you
14 all represent Mr. Skipper. And you have advised him of
15 the nature of these charges, the significance of his
16 guilty plea to these particular charges, the possible
17 sentences he can receive, and the constitutional rights
18 which are his, including that of a trial.

19 Does he seem to understand all of
20 that so far as you all know, ladies?

21 MS. WILSON:

22 Yes sir.

23 MS. WEST:

24 Yes sir.

25 THE COURT:

1 And he indicates to you that he
2 wishes to plead guilty to these charges?

3 MS. WILSON:

4 Yes sir. He does.

5 THE COURT:

6 Do you concur in his decision in
7 that regard to plead guilty under these circumstances,

8 Ms. Wilson?

9 MS. WILSON:

10 Yes I do.

11 THE COURT:

12 Ms. West?

13 MS. WEST:

14 Yes I do, Your Honor.

15 THE COURT:

16 Thank you.

17 Mr. Skipper, do you understand
18 that when you plead guilty to murder, you can receive a
19 sentence of life imprisonment without parole, and that
20 you must receive a sentence of at least 30 years
21 imprisonment.

22 No part of that can be suspended.

23 And it is a day for day sentence; that is, every day of
24 whatever sentence you get, if it's less than life without
25 parole has to be served.

1 No percentages off. No good
2 time. No credits or anything of that nature.

3 Do you understand that?

4 DEFENDANT SKIPPER:

5 Yes sir.

6 THE COURT:

7 For armed robbery, you can receive
8 a sentence of up to 30 years imprisonment. And you must
9 receive a sentence of at least 10 years, none of which
10 can suspended.

11 That is an 85 percent crime.

12 That means that you have to serve
13 at least 85 percent of whatever portion of that sentence
14 you receive before you would be considered to be released
15 in the community?

16 Do you understand that?

17 DEFENDANT SKIPPER:

18 Yes sir.

19 THE COURT:

20 Both of these crimes are
21 classified under our law as most serious offenses.

22 That means that:

23 If you do not receive a life
24 imprisonment sentence, when you get out of jail, if you
25 should ever commit another crime of this nature, then you

1 would be sent to jail for life without the possibility of
2 parole.

3 You would die in jail, as a result
4 of the record that you have built here today, and any
5 subsequent crime of this nature.

6 Do you understand that?

7 DEFENDANT SKIPPER:

8 Yes sir.

9 THE COURT:

10 Before I can accept your plea on
11 these charges, Mr. Skipper, I have to ask you some
12 questions to make sure that you understand what this is
13 all about.

14 How old are you?

15 DEFENDANT SKIPPER:

16 28.

17 THE COURT:

18 Sir?

19 DEFENDANT SKIPPER:

20 28 years old sir.

21 THE COURT:

22 How much education do you have?

23 DEFENDANT SKIPPER:

24 I have a GED, sir.

25 THE COURT:

1 What sort of work were you doing
2 when you were arrested?

3 DEFENDANT SKIPPER:

4 I was working tree work. I worked
5 for a tree company, sir.

6 THE COURT:

7 Are you married?

8 DEFENDANT SKIPPER:

9 Yes, sir, I am.

10 THE COURT:

11 Do you have any children?

12 DEFENDANT SKIPPER:

13 Yes sir, I do.

14 THE COURT:

15 How many?

16 DEFENDANT SKIPPER:

17 Two.

18 THE COURT:

19 And what are their ages?

20 DEFENDANT SKIPPER:

21 Seven and eight.

22 THE COURT:

23 Have you ever been treated for
24 alcohol, or drug abuse, or mental illness?

25 DEFENDANT SKIPPER:

1 Uh -- Drug and alcohol abuse, sir.

2 THE COURT:

3 And when was that?

4 DEFENDANT SKIPPER:

5 Uh -- About three years ago.

6 DEFENDANT SKIPPER:

7 What sort of treatment did you
8 receive?

9 DEFENDANT SKIPPER:

10 I had went to drug and alcohol
11 abuse class. But I failed -- uh -- I failed a drug
12 test while on probation.

13 THE COURT:

14 Okay.

15 Are you today under the influence
16 of alcohol, or drugs, or anything that would make it
17 difficult for you to understand what you're doing?

18 A. No sir.

19 THE COURT:

20 You have discussed with your
21 attorneys, the nature of these charges and your
22 constitutional rights, and the significance of the pleas
23 that you're about to enter? Is that right?

24 DEFENDANT SKIPPER:

25 Yes sir.

1 THE COURT:

2 Have you understood the
3 discussions that you have had with your attorneys?

4 DEFENDANT SKIPPER:

5 Yes sir.

6 THE COURT:

7 All right.

8 Do you understand that:

9 When you enter this plea, you have
10 to give up certain important constitutional rights.

11 You have to first of all give up
12 your right to remain silent, your right to say nothing at
13 all.

14 Under our law, no one can force
15 you to testify against yourself.

16 No one can make you admit that
17 you're guilty.

18 But, if you plead guilty, you have
19 to tell me you're guilty. So you give up your right to
20 remain silent when you plead guilty.

21 Do you understand that?

22 DEFENDANT SKIPPER:

23 Yes sir.

24 THE COURT:

25 You have a right to a jury trial

1 on either or both of these charges.

2 You do not have to convince the
3 jury that you're not guilty of these charges. The State
4 has to convince the jury that you are guilty of them.

5 But, if you plead guilty, you
6 don't get a jury trial. You give up that right.

7 Do you understand that?

8 DEFENDANT SKIPPER:

9 Yes sir.

10 THE COURT:

11 You have a right to question the
12 witnesses that the State would call to testify against
13 you.

14 And you have the right to call
15 your own witnesses to testify for you, and to tell your
16 side of the story.

17 But if you plead guilty, you don't
18 get to question or call witnesses. You give up that
19 right.

20 Do you understand that?

21 DEFENDANT SKIPPER:

22 Yes sir.

23 THE COURT:

24 Do you understand the rights I
25 have just explained to you, Mr. Skipper?

1 DEFENDANT SKIPPER:

2 Yes sir, I do.

3 THE COURT:

4 Do you understand that when you
5 plead guilty, you give up these rights?

6 DEFENDANT SKIPPER:

7 Yes sir, I do.

8 THE COURT:

9 Is that what you want to do?

10 DEFENDANT SKIPPER:

11 Yes sir, it is.

12 THE COURT:

13 You understand that you don't get
14 a trial when you plead guilty?

15 DEFENDANT SKIPPER:

16 Yes sir.

17 THE COURT:

18 Indictment Number 169 charges you
19 with murder.

20 The indictment says that:

21 You, Charles Andrew Skipper, along
22 with one of more codefendants, did, in Horry County, on
23 or about August the 14th of 2008, willfully, feloniously,
24 and intentionally kill the victim, Ronald Rabon, with
25 malice aforethought, either expressed or implied by means

1 of a gunshot; and that he died as result of that, here in
2 Horry County, in violation of the law.

3 Do you understand those charges?

4 DEFENDANT SKIPPER:

5 Yes sir, I do.

6 THE COURT:

7 How do you plead to the charge of
8 murder?

9 DEFENDANT SKIPPER:

10 Guilty.

11 THE COURT:

12 The indictment says that:

13 You did, along with codefendants.

14 And so, there are two theories
15 under which someone can be found guilty or plead guilty
16 to this particular crime.

17 That is:

18 If they actually did the shooting;
19 or if they were involved in it as an accompish, one who
20 aided and abetted and assisted in the commission of the
21 crime.

22 Now, my understanding is that you
23 have acknowledged to your lawyers and to the State that
24 you actually pulled the trigger on the gun that resulted
25 in the death of Mr. Ronald Rabon.

1 of a gunshot; and that he died as result of that, here in
2 Horry County, in violation of the law.

3 Do you understand those charges?

4 DEFENDANT SKIPPER:

5 Yes sir, I do.

6 THE COURT:

7 How do you plead to the charge of
8 murder?

9 DEFENDANT SKIPPER:

10 Guilty.

11 THE COURT:

12 The indictment says that:

13 You did, along with codefendants.

14 And so, there are two theories
15 under which someone can be found guilty or plead guilty
16 to this particular crime.

17 That is:

18 If they actually did the shooting;
19 or if they were involved in it as an accompish, one who
20 aided and abetted and assisted in the commission of the
21 crime.

22 Now, my understanding is that you
23 have acknowledged to your lawyers and to the State that
24 you actually pulled the trigger on the gun that resulted
25 in the death of Mr. Ronald Rabon.

1 Is that correct?

2 DEFENDANT SKIPPER:

3 Yes sir.

4 THE COURT:

5 Indictment Number 170 charges you
6 with armed robbery.

7 That indictment says that:

8 You, along with one or more
9 codefendants, did in Horry County at the same time and
10 place; that is August the 14th of 2008, while armed with
11 a deadly weapon, take and carry away the personal
12 property of Ronald Rabon from his immediate presence with
13 the intent to deprive him of the possession of that
14 property by force or threats of -- or -- or intimidation,
15 in violation of the law.

16 You are therefore charged with
17 armed robbery in connection with those events.

18 Do you understand that charge?

19 DEFENDANT SKIPPER:

20 Yes sir, I do.

21 THE COURT:

22 How do you plea to the charge?

23 DEFENDANT SKIPPER:

24 Guilty.

25 THE COURT:

09/14/10 -- DEFENDANT SKIPPER PLEADS GUILTY

102

1 Do you understand that when you
2 plead guilty, you admit the truth and charges against
3 you?

4 DEFENDANT SKIPPER:

5 Yes sir, I do.

6 THE COURT:

7 You may have defenses for these
8 charges. I don't know whether you do or not.

9 But, you understand that if you
10 plead guilty, you have given up any defenses that you
11 might have for these charges?

12 DEFENDANT SKIPPER:

13 Yes sir I do.

14 THE COURT:

15 You may have made statements in
16 this case. I'm not sure whether you have or not. I
17 understand that you have. But I don't know what the
18 content of it is.

19 You understand that by pleading
20 guilty you give up your right to -- to challenge the
21 constitutionality, or the admissibility of those
22 statements?

23 Do you understand that?

24 DEFENDANT SKIPPER:

25 Yes sir, I do.

09/14/10

-- DEFENDANT SKIPPER PLEADS GUILTY

103

1 THE COURT:

2 Did you commit the -- the offenses
3 described in these indictments to which you've just pled
4 guilty?

5 DEFENDANT SKIPPER:

6 Yes sir, I do.

7 THE COURT:

8 Has anyone promised you anything,
9 or held out any hope of reward to get you to plead guilty
10 to these charges?

11 DEFENDANT SKIPPER:

12 No sir.

13 THE COURT:

14 Has anyone threatened you or
15 forced you to get you to plead guilty?

16 DEFENDANT SKIPPER:

17 No sir.

18 THE COURT:

19 Have you had enough time to make
20 up your own mind about whether you wish to plead guilty
21 in this case?

22 DEFENDANT SKIPPER:

23 Yes sir.

24 THE COURT:

25 Are you pleading guilty of your

1 own free will and accord?

2 DEFENDANT SKIPPER:

3 Yes sir.

4 THE COURT:

5 Are you satisfied with everything
6 that Ms. Wilson and Ms. West have done for you as your
7 lawyers in this case?

8 DEFENDANT SKIPPER:

9 Definitely; yes sir.

10 THE COURT:

11 Have you talked with them for as
12 long and as often as you need to, to get them to properly
13 represent you in this case?

14 DEFENDANT SKIPPER:

15 Yes sir.

16 THE COURT:

17 Do you need any more time to talk
18 with them now?

19 DEFENDANT SKIPPER:

20 No sir.

21 THE COURT:

22 Have you understood the talks that
23 you've had with him?

24 DEFENDANT SKIPPER:

25 Yes sir.

1 THE COURT:

2 And you feel they've done
3 everything that they can or should do for you in this
4 particular case?

5 DEFENDANT SKIPPER:

6 Yes sir.

7 THE COURT:

8 All right.

9 Uh -- Ladies, I understand that
10 you want to put something on the record regarding the --
11 uh -- the efforts that you've expended in connection with
12 this.

13 MS. WILSON:

14 Yes sir, we do.

15 Your Honor, I have -- uh -- a list
16 of the hours that -- uh -- we performed in -- in
17 preparing, going through the evidence -- uh -- speaking
18 with Mr. Skipper.

19 Uh -- Everything that we've done
20 is documented time-wise as far as what we've done in this
21 case.

22 And we wanted to make that part of
23 the record for The Court.

24 If I can hand this up.

25 THE COURT:

1 That's fine.

2 Has Mr. Skipper seen a copy of it,

3 Ms. -- Ms. Wilson?

4 MS. WILSON:

5 Actually, Your Honor, I think he
6 looked at my original copy.

7 THE COURT:

8 Okay.

9 MS. WILSON:

10 I don't know if that --

11 THE COURT:

12 Okay. Good, If you'll pass
13 that up, we'll make it a Court's Exhibit.

14 MS. WILSON:

15 Thank you.

16 THE COURT:

17 Thank you. This will be Court's
18 next.

19 WHEREUPON: THE REFERRED TO LOG OF
20 LEGAL WORK BY PUBLIC DEFENDER'S OFFICE RE. DEFENDANT
21 SKIPPER WAS MARKED BY THE COURT REPORTER AS COURT'S
22 EXHIBIT/S NUMBER 2.

23 MS. WEST:

24 Additionally, Your Honor, for the
25 record I'd like to also say that -- uh -- the Solicitor's

1 Office has provided us with audio tapes, videotapes,
2 documents, discovery.

3 Uh -- There's even been some
4 requests as late as last week. And they have given us
5 everything that we've requested -- uh -- even NCICs in
6 advance of trial, which is unusual. But they've been
7 very cooperative.

8 And every document that was
9 involved in this Skipper case has been thoroughly
10 reviewed by Ms. Wilson and I, and reviewed with the
11 client.

12 THE COURT:

13 Thank you, Ms. West.

14 And so you feel that you have had
15 sufficient -- uh -- discovery involvement to -- uh -- to
16 assist you in your representation, and to make that
17 representation complete in this regard?

18 MS. WEST:

19 That's correct, Your Honor.

20 And as a matter of fact, we also
21 went to the crime scene. Uh -- And we were prepared to
22 go to trial on this matter.

23 We're very comfortable they we
24 were -- we were prepared in that regard.

25 THE COURT:

09/14/10 -- DEFENDANT SKIPPER PLEADS GUILTY

108

1 I understood that.

2 All right. Thank you.

3 Mr. Skipper, have you understood
4 the questions that I've asked you?

5 DEFENDANT SKIPPER:

6 Yes sir, I have.

7 THE COURT:

8 Is there anything that you would
9 like for me to go over with you again?

10 DEFENDANT SKIPPER:

11 No sir, there's not.

12 THE COURT:

13 Do you understand that you've got
14 the right to appeal your guilty plea, and any sentence
15 that might be imposed upon you. But you must file a
16 notice of your intention to appeal within 10 days of the
17 date of the imposition of your sentence?

18 Do you understand that?

19 DEFENDANT SKIPPER:

20 Yes sir, I do.

21 THE COURT:

22 All right.

23 Uh -- Mr. Solicitor, you want to
24 give me -- uh -- a brief presentation of the facts. And
25 then I'll be -- uh -- able to allow you to ask any

1 further questions of Mr. Skipper in regard to his
2 involvement, or that of Ms. Turner.

3 MR. FILIBERTO:

4 Thank you, Your Honor.

5 Uh -- Again, Your Honor, really --
6 gone over the fundamental facts -- uh -- earlier.

7 THE COURT:

8 Right.

9 MR. FILIBERTO:

10 August -- The early morning hours
11 of August 14th, 2008, Mr. Skipper and a number of other
12 people, including Ms. Turner, were a bar in Aynor.

13 Uh -- The -- uh -- decision was
14 made to rob someone.

15 And -- uh -- ultimately, Mr. Rabun
16 -- Ronald Rabon, the victim in this case was tricked or
17 fooled into leaving the bar with one of the codefendants;
18 taken down on Tobacco Leaf Road -- on a dirt road in a
19 very remote area, where he was robbed of his personal
20 property at gun point -- uh -- and -- uh -- and then
21 shot.

22 Uh -- And he died as a result of
23 those injuries that he sustained at that time.

24 Uh -- the -- uh -- Obviously, Mr.
25 Skipper has stood here today and taken responsibility as

1 the shooter.

2 We believed that to have been the
3 case from very early on in -- uh -- in our working on
4 this case.

5 And -- uh -- I would have a few
6 questions just to put on a record for Mr. Skipper, if
7 that --

8 THE COURT:

9 This -- This --

10 MR. FILIBERTO:

11 -- would be allowable to The
12 Court.

13 THE COURT:

14 This is the time.

15 MR. FILIBERTO:

16 Uh -- Mr. Skipper, have you -- did
17 you -- Prior to that night of August 13th, had you ever
18 met Ronald Rabon?

19 DEFENDANT SKIPPER:

20 No sir, I had not.

21 MR. FILIBERTO:

22 How was he selected as a -- uh --
23 person to rob?

24 DEFENDANT SKIPPER:

25 Uh -- My sister and Crystal --

1 THE COURT:

2 Can you -- Can you -- Mr. Skipper,
3 I'm going to have to ask you to speak up.

4 That microphone -- uh -- can you
5 speak right into it. It might help a little bit.

6 Thank you. Go ahead.

7 DEFENDANT SKIPPER:

8 Crystal Turner and my sister -- uh
9 -- I'm sorry. Crystal Turner and my sister (trails off
10 to inaudible) --

11 COURT REPORTER:

12 I'm sorry. I'm still not picking
13 him up.

14 THE COURT:

15 Yeah. Yeah. Now -- Now that
16 you've got the microphone, if you'll just speak in a
17 normal tone of voice, Mr. Skipper, we'll be able to hear
18 you.

19 Thank you.

20 COURT REPORTER:

21 You need to hold right near him,
22 though. He's really speaking quite low.

23 DEFENDANT SKIPPER:

24 Uh -- My -- My sister, Paige
25 Furness and Ms. -- and Ms. Crystal Turner, they both

09/14/10 -- DEFENDANT SKIPPER PLEADS GUILTY

112

1 picked him. That's how it came about. That's how it was
2 him.

3 MR. FILIBERTO:

4 Were you -- Were you present and
5 could hear that conversation?

6 DEFENDANT SKIPPER:

7 Yes sir.

8 MR. FILIBERTO:

9 Who decided where the robbery
10 would take place?

11 DEFENDANT SKIPPER:

12 Uh -- Well, Crystal Turner, she
13 gave me directions to the place where it was -- happened
14 at.

15 MR. FILIBERTO:

16 And did -- Were you -- Did she
17 make -- uh -- her vehicle available to you?

18 DEFENDANT SKIPPER:

19 Yes sir, she did.

20 DEFENDANT SKIPPER:

21 When you took that vehicle down
22 there, did -- was she aware that you were going down
23 there to rob Ronald Rabon?

24 DEFENDANT SKIPPER:

25 Yes sir.

09/14/10

-- DEFENDANT SKIPPER PLEADS GUILTY

113

1 MR. FILIBERTO:

2 I've nothing further, Your Honor.

3 THE COURT:

4 All right, thank you.

5 All right. I'll find that
6 there is a substantial, factual basis for this plea.

7 I find it was made freely,
8 voluntarily, knowingly, and intelligently, after the
9 advice of a very competent attorney with whom the
10 Defendant says he is satisfied.

11 And I will accept the plea..

12 Mr. Skipper understands what he's
13 doing.

14 He's had the services of competent
15 lawyers in this particular case.

16 The plea has been freely and
17 voluntarily entered. And, obviously, there is a
18 substantial factual basis to support the plea.

19 Uh -- I will withhold any matters
20 of aggravation and mitigation until we deal with the
21 issue of sentence, which will be sometime after Mr.
22 Skipper testifies.

23 MS. WEST:

24 Your Honor, may Mr. Filiberto and
25 I approach real quick.

1 THE COURT:

2 Okay.

3 MR. JOYE:

4 Your Honor, may I also?

5 MS. WEST:

6 It's not that kind of party.

7 THE COURT:

8 Okay.

9 MS. WEST:

10 I've got his numbers at 2169 and

11 2170.

12 (Does not confer off the record at
13 the bench, but speaks just in front of the bench.)

14 MS. WEST:

15 Am I wrong, or is there something
16 wrong.

17 Does anybody else have the
18 indictments, 'cause he kept saying different numbers.

19 THE COURT:

20 Okay. I was just reading from
21 the -- uh -- from the sentence sheets.

22 MS. WEST:

23 Yeah, well --

24 THE COURT:

25 2179, and --

1 MS. WEST:

2 It is 21?

3 THE COURT:

4 Yes, it is. I -- I just used 169
5 and 170. You're right.

6 MS. WEST:

7 Okay.

8 THE COURT:

9 I'm sorry.

10 MS. WEST:

11 Okay. All right. Okay.

12 THE COURT:

13 Thank you.

14 Uh -- Mr. Reporter, if you will --
15 uh -- I was just using the last three digits in a sort of
16 a shorthand fashion.

17 But the indictments are really
18 2169 and 2170. I was using the last three; and I
19 apologize for that.

20 Thank you, Ms. West.

21 Okay. All right.

22 Anything further?

23 MR. FILIBERTO:

24 Uh -- Not at this time with
25 respect to Mr. Skipper.

1 We'd ask --

2 THE COURT:

3 All right.

4 MR. FILIBERTO:

5 -- that he be kept available.

6 THE COURT:

7 Of course he will be.

8 And -- uh -- will stand Mr.

9 Skipper's matter aside until an appropriate time to deal
10 with it.

11 And now, we'll let -- uh -- Ms.

12 Heather go back downstairs and try to get us a jury
13 scared up down there; okay.

14 MS. WEST:

15 Thank you very much.

16 MS. WILSON:

17 Thank Your Honor.

18 THE COURT:

19 Good.

20 MR. JOYE:

21 Your Honor, it seems to me that --
22 uh -- at some point in time, we might have a discussion
23 about --

24 COURT REPORTER:

25 Is this still on the record?

1 THE COURT:

2 No. No.

3 You want to do it on the record?

4 MR. JOYE:

5 I -- uh -- No. It's more of a
6 housekeeping matter.

7 THE COURT:

8 That's what I thought.

9 MR. JOYE:

10 But it seems to me we might have
11 -- want to have a discussion before we ever start this
12 about exhibits, or whatever.

13 And -- uh -- I think they're a lot
14 of things that we can stipulate, now that -- uh -- that
15 Mr. Skipper has pled.

16 THE COURT:

17 Okay.

18 MR. JOYE:

19 And -- And I certainly would --
20 whenever The Court deems that appropriate.

21 THE COURT:

22 Okay. When --

23 MR. JOYE:

24 And there's another -- I've got
25 another -- uh -- pretrial motion that, whenever The Court

09/14/10 -- DEFENDANT SKIPPER PLEADS GUILTY

118

1 seems --

2 THE COURT:

3 Okay.

4 MR. JOYE:

5 -- to think that appropriate.

6 THE COURT:

7 Well, let's -- uh -- let's do
8 this.

9 I can deal with the pretrial
10 motion now, before we get off the record.

11 In regard to the -- uh --
12 stipulations and the exhibits, let me suggest that -- uh
13 -- you and Mr. Filiberto get together and see what can be
14 premarked -- uh -- without objection; and go ahead and
15 get those labeled.

16 That'll save some time for Mr.
17 Buckner -- uh -- if we've got those things already marked
18 and numbers.

19 Uh -- If they -- If there is an
20 objection to one, you can still go ahead and mark it and
21 number it, but just mark it for I.D. and we'll deal with
22 the objection -- uh -- when it comes up.

23 So that -- We can take care of the
24 exhibits in that way. But before we get to that issue,
25 let's deal with the -- uh -- additional pretrial motion,

1 Mr. Joye.

2 MR. JOYE:

3 Your Honor, yesterday before we
4 left -- uh -- Mr. Filiberto made a motion that we would
5 not be able to -- I don't believe -- in opening or
6 closing or any cross-examination, talk about potential
7 sentences.

8 Uh -- I'm going to hand -- I'm
9 going to hand up the 3 cases -- uh -- State v Samuel
10 Brown.

11 That case is -- uh -- 399
12 Southeastern Second 593.

13 THE COURT:

14 Uh-huh.

15 MR. JOYE:

16 A 1991 case.

17 563 Southeastern Second 315, State
18 v Danny Mizelle and Tootie Mizelle.

19 Uh -- And finally, State v Currie.
20 And that's -- uh -- 370 South Carolina 674, 632
21 Southeastern Second 649.

22 And all of these cases stand for
23 the proposition that -- uh -- that the confrontation
24 clause in the United States -- uh -- trumps anything else
25 in terms of dealing with asking the potential sentences

FURTHER MOTION BY DEFENDANT TURNER

120

1 of codefendants in the same case.

2 Although we know it's improper --
3 that we can't talk about what potential sentences Ms.
4 Turner may face, it is resolutely proper to -- uh -- to
5 question the codefendants on their particular sentences,
6 thereby trumping any -- any issues that the State may be
7 prejudiced by indirectly -- them knowing what potential
8 sentences that Ms. Turner faces.

9 THE COURT:

10 Yeah. And for -- And that's being
11 offered, of course, for a different purpose.

12 It's being offered to -- to show
13 the possible bias of a codefendant who's testifying
14 against your client.

15 MR. JOYE:

16 Yes sir.

17 THE COURT:

18 And that's right. You can do
19 that.

20 MR. JOYE:

21 And -- uh -- I -- And also, I
22 just -- And I would think that -- uh -- I would think
23 that I would have the leeway to at least say -- tell the
24 jury that she's facing maybe --

25 THE COURT:

1 No. Nope. That when you cross
2 the line.

3 MR. JOYE:

4 Okay. All right.

5 THE COURT:

6 That's when you cross the line.

7 MR. JOYE:

8 Well, it -- Certainly if we know
9 what the lines are, then we -- we won't --

10 THE COURT:

11 That's right.

12 MR. JOYE:

13 -- we won't venture to --

14 THE COURT:

15 Yeah.

16 These cases stand for the
17 proposition, as I -- as I recall them, Mr. Joye -- and
18 you've read them since I have.

19 Uh -- When a -- When a codefendant
20 is testifying against -- uh -- another defendant in
21 trial, and the possibility of his cooperation, and some
22 sort of leniency in sentence is likely to result from
23 that testimony, that:

24 Under our own rules of evidence --
25 and there's a rule of evidence that deals with showing

FURTHER MOTION BY DEFENDANT TURNER

122

1 possible bias, which is a pretty wide-open rule -- uh --
2 that -- uh -- that the -- uh -- the defendant who is on
3 trial can -- uh -- in order to show the possible bias of
4 -- of the testifying codefendant, what sentence he is
5 likely to receive -- or what sentence he could receive.

6 And that, therefore the jury is
7 able -- better able to evaluate -- uh -- uh -- whatever
8 interest he might have in offering his testimony.

9 Uh -- That's -- And I don't think
10 that's what Mr. Filiberto was concerned about yesterday.

11 I think he was concerned about --
12 uh -- about the jury being told -- or being --

13 MR. JOYE:

14 That was my -- That was my initial
15 reaction, Judge.

16 But I --

17 THE COURT:

18 Right.

19 MR. JOYE:

20 But --

21 THE COURT:

22 Right.

23 MR. JOYE:

24 But the very broad nature of what
25 he -- what he stated --

1 THE COURT:

2 Right.

3 MR. JOYE:

4 -- caused me some concern.

5 THE COURT:

6 Right.

7 MR. JOYE:

8 And I would -- I would suggest
9 that I -- I be allowed to certainly go into it, even in
10 -- in -- in opening and closing, that these folks -- uh
11 -- I believe one of those cases stands for the
12 proposition where you have a wide-open proffer such as
13 you do here, that -- that that's even more important to
14 explore --

15 THE COURT:

16 Right.

17 MR. JOYE:

18 -- than if -- if we had a hard and
19 fast deal for these codefendants to get.

20 THE COURT:

21 Okay.

22 MR. JOYE:

23 And -- uh --

24 THE COURT:

25 I don't think -- Mr. Filiberto,

FURTHER MOTION BY DEFENDANT TURNER

124

1 you have any quarrel with any of that?

2 MR. FILIBERTO:

3 None. None whatsoever, Your
4 Honor.

5 THE COURT:

6 Okay.

7 MR. FILIBERTO:

8 I just didn't want him laying out
9 for the jury what his client is facing.

10 THE COURT:

11 That's right. That -- That's the
12 line. But you're right about those. Thank you.

13 MR. JOYE:

14 Your Honor -- uh -- I guess I
15 would be -- In -- In -- In clearly establishing where the
16 line is, I would be able to state that she's facing a
17 loss of her freedom.

18 THE COURT:

19 Oh, sure.

20 MR. JOYE:

21 And being taken away from her
22 family?

23 THE COURT:

24 Surely.

25 MR. JOYE:

1 Okay.

2 THE COURT:

3 That's --

4 MR. JOYE:

5 Just never say anything about lots
6 of years or anything of that nature?

7 THE COURT:

8 That's exactly right.

9 MR. JOYE:

10 Thank you, Judge.

11 THE COURT:

12 Good. Thank you.

13 All right.

14 Uh -- We've got to deal with that
15 pretrial issue and then y'all can put your heads together
16 and see what we can do about exhibits in short-circuiting
17 the -- the -- uh -- any delay with that; okay.

18 MR. FILIBERTO:

19 I've got a number of them already
20 marked, sir.

21 THE COURT:

22 You've got them already done?

23 MR. FILIBERTO:

24 Yes sir.

25 THE COURT:

FURTHER MOTION BY DEFENDANT TURNER

126

1 Well you all are always -- always
2 ahead of me. I'm not surprised at that.

3 MR. JOYE:

4 Well, now I've not -- I haven't
5 seen what he's marked.

6 THE COURT:

7 Okay.

8 MR. JOYE:

9 But we -- Certainly, we can go
10 ahead and get -- get a jury picked. Get them squared
11 away.

12 THE COURT:

13 All right.

14 MR. JOYE:

15 And then we can come in and deal
16 with any housekeeping matters.

17 THE COURT:

18 All right, good.

19 Ms. Williams I'm going to go down
20 and -- They've got some trouble with some scanning down
21 there. And I think she was down there working on that
22 this morning.

23 CLERK:

24 Actually, I think they've got the
25 panel ready, Judge --

1 THE COURT:

2 Oh, they're ready.

3 CLERK:

4 -- when they're ready for them to
5 come up.

6 THE COURT:

7 They can come on up?

8 CLERK:

9 I think so.

10 THE COURT:

11 Good.

12 MR. JOYE:

13 Judge, before they do, I think we
14 wanted to try to get things squared away over here --

15 THE COURT:

16 Okay.

17 MR. JOYE:

18 -- since things have changed
19 drastically.

20 THE COURT:

21 All right. All right. All
22 right.

23 Tell them we're redecorating and
24 as soon as we finish, they can --

25 CLERK:

FURTHER MOTION BY DEFENDANT TURNER

128

1 Bring them up.

2 MR. FILIBERTO:

3 Your Honor, actually --

4 CLERK:

5 You want to hold them until we
6 send for them?

7 THE COURT:

8 Yes.

9 CLERK:

10 Okay.

11 MR. FILIBERTO:

12 You need me?

13 THE COURT:

14 Yeah.

15 (WHEREUPON: Counsel for each party
16 conferred off the record with The Court at the bench at
17 10:08 AM, September 14, 2010.)

18 (WHEREUPON: The court was
19 declared in recess at 10:10 AM, September 14, 2010.)

20 (WHEREUPON: The jury venire
21 prequalified for possible selection in the case was into
22 the courtroom at 10:23, September 14, 2010; and was in
23 fact present during the following proceedings.)

24 (WHEREUPON: The court was called
25 to order by the Bailiff at 10:25 AM, September 14, 2010;

SELECTION OF THE JURY

129

1 and all pertinent parties, along with their counsel, were
2 back and present in the courtroom.)

3 DEPUTY:

4 Order in the court. All Rise.

5 THE COURT:

6 Thank you.

7 Thank you, ladies and gentlemen.

8 Please be seated.

9 Good morning.

10 VARIOUS VOICES FROM VENIRE:

11 Good morning.

12 THE COURT:

13 Ladies and gentlemen, my name is
14 Tommy Cooper.

15 I'm a Circuit Judge from up in
16 Manning.

17 Clarendon County is my home, and
18 has been now for 30-some odd years.

19 I'm a retired Circuit Judge.

20 Uh --- I'm not retired this week.

21 But most of the time, I'm retired.

22 (Laughter.)

23 THE COURT:

24 Uh -- For 15 years I was a full-
25 time Circuit Judge. And I had the opportunity during

SELECTION OF THE JURY

130

1 those 15 years to move throughout the state, and to spend
2 a good bit of time here in Horry County.

3 And I'm delightful -- uh -- I'm
4 delighted that -- uh -- that since my retirement, you all
5 have a nice new courthouse to come in.

6 And I can tell you:

7 While I enjoyed my -- my -- my
8 years across the street in the old courthouse, I'm
9 enjoying these -- these years in this nice, new, facility
10 even more.

11 And I want thank you and the other
12 taxpayers of Horry County who makes it possible for all
13 of us.

14 (Laughter.)

15 THE COURT:

16 As you know, ladies and gentlemen,
17 you've been summoned here this week to serve potentially
18 as jurors in the Court of Common Pleas and in the Court
19 of General Sessions.

20 And in this courtroom, we are
21 about to draw a jury in the Court of General Sessions.
22 That's criminal court.

23 You've already met, most of you --
24 All of you have met Judge John, your own resident judge
25 here from the 15th Circuit.

25 Ladies and gentlemen, as you have

SELECTION OF THE JURY

132

1 heard, the Solicitor has called the cases of State versus
2 Crystal Turner.

3 And in Indictment 2173, Ms. Turner
4 is charged with accessory be -- before the fact of a
5 felony.

6 That indictment says that:

7 Crystal Turner did here, in Horry
8 County, on or about August the 14th of 2008, advised, or
9 agreed with, or urged, or hired, or in some way, aided,
10 counseled, or encouraged, the principal felon to commit
11 the crime of murder; but was not present when the crime
12 itself was committed, in violation of the law.

13 Indictment Number 2174 charges
14 accessory before the fact of a felony, armed robbery.

15 And that indictment says that:

16 Ms. Turner did in Horry County at
17 the same time and place, that is August the 14th of 2008,
18 advised, or agreed with, or urged, or hired, or in some
19 way, aided, counseled, or encouraged, the principal felon
20 to commit the felony of armed robbery; but was not
21 present when that crime itself was committed, in
22 violation of the law.

23 Now, ladies and gentlemen, the
24 indictments which I have just read to you are not
25 evidence, nor are they proof of the charges that they

SELECTION OF THE JURY

133

1 contain.

2 They're charging papers; legal
3 documents that tells you, or me, or anybody else who
4 reads these documents, what this is all about.

5 To the charges contained in these
6 indictments, Ms. Turner has entered pleas of not guilty;
7 and has requested a jury trial at your hands.

8 Ms. Turner, would you please stand
9 and face the jury behind you.

10 (WHEREUPON: Defendant Turner does
11 as instructed.)

12 THE COURT:

13 Thank you, ma'am. You can be
14 seated.

15 Ladies and gentlemen, I first need
16 to know if any of you all are related by blood or
17 connected by marriage, that is, are you kin to Ms.
18 Crystal Turner?

19 Or, are you a friend of his -- of
20 hers; or a casual acquaintance of hers; or a business
21 associate of hers; or a person that has any direct or
22 indirect contact with Ms. Turner.

23 If so, will you please stand?

24 (No response.)

25 THE COURT:

SELECTION OF THE JURY

134

1 Thank you.

2 Mr. Rabon's first name, Mr.

3 Filiberto?

4 MR. FILIBERTO:

5 Ronald.

6 THE COURT:

7 The alleged victim in the -- in
8 the cases for which Ms. Turner is on trial -- uh -- that
9 is the principal felony of armed robbery and murder;
10 Ronald Rabon was the victim in those particular cases.

11 So, I need to know now if any of
12 you all have any connection with Mr. Rabon?

13 Were your friend of his; or a
14 casual acquaintance of his?

15 Were you related to him by blood
16 or marriage or otherwise?

17 Or, did you have any connection
18 whatsoever with Mr. Ronald Rabon?

19 If so, will you please stand?

20 (WHEREUPON: A juror stood in
21 response.)

22 THE COURT:

23 Yes ma'am. Your --

24 JUROR SANDERS:

25 I'm a friend of his daughter.

SELECTION OF THE JURY

135

1 THE COURT:
2 All right.
3 Your name please, ma'am.
4 JUROR SANDERS:
5 Leslie Sanders.
6 THE COURT:
7 Ms. Sanders, do you know your
8 number?
9 JUROR SANDERS:
10 330.
11 THE COURT:
12 Thank you, Ms. Sanders.
13 Ms. Sanders -- uh -- you say you
14 -- Are you an acquaintance or a friend?
15 How would you characterize your
16 relationship with Ms. Rabon's daughter?
17 JUROR SANDERS:
18 Uh -- My boss is a friend of hers.
19 And she paid on my work team's stickball league.
20 THE COURT:
21 Okay. Would you characterize that
22 as a close relationship, or a casual relationship?
23 How would you characterize it, Ms.
24 Sanders?
25 JUROR SANDERS:

SELECTION OF THE JURY

136

1 Casual relationship.

2 THE COURT:

3 Would that relationship that you
4 have, with the daughter of Mr. Rabon in this particular
5 case, make it difficult for you to serve fairly and
6 impartially as a juror in a case of this nature?

7 JUROR SANDERS:

8 It would make it difficult.

9 THE COURT:

10 I can understand that. We will
11 stand you aside as a juror in this trial.

12 Juror Number 330 will be set
13 aside.

14 Thank you, Ms. Sanders.

15 You stay, though, for the time
16 being. Thank you.

17 Ladies and gentlemen, I read the
18 indictment to you, as I've said, not because it is
19 evidence, nor is it proof of the charges, but it tells us
20 what this case is all about, because I need to know if
21 any of you all know anything about this case.

22 If you have seen, or heard, or
23 read anything about this case, or if you have any
24 knowledge about this case from any source at all, will
25 you please stand?

1 Now, according to the -- The
2 indictment is not very complete. And it doesn't have to
3 be complete -- uh -- about all the facts of this case.

4 But this crime occurred on August
5 the 14th, 2008, over in the Aynor section?

6 Is that right?

7 MR. FILIBERTO:

8 Yes sir.

9 THE COURT:

10 And what was the name of the
11 place.

12 MR. FILIBERTO:

13 Uh -- Big Easy's Bar.

14 THE COURT:

15 It started at Big Easy and then
16 went from there.

17 MR. FILIBERTO:

18 And the murder took place on
19 Tobacco Leaf Road.

20 THE COURT:

21 What --

22 MR. FILIBERTO:

23 Tobacco Leaf Road.

24 THE COURT:

25 Tobacco Leaf Road.

SELECTION OF THE JURY

138

1 Uh -- So, if any of you have heard
2 anything, read anything, seen anything, or know anything
3 about anything about that case from any source at all,
4 will you please stand?

5 WHEREUPON: A juror stood up in
6 response.

7 THE COURT:

8 Yes ma'am. Your name please,
9 ma'am?

10 JUROR HOENSCHIED:

11 Kelly Hoenscheid -- uh -- 188.

12 THE COURT:

13 All right. Let me get you
14 located.

15 Ms. Hoenscheid, would you please
16 come forward and let me ask you some further questions up
17 -- up here in the presence of The Court reporter, and the
18 lawyers as well, please.

19 (WHEREUPON: The juror came
20 forward as instructed by The Court.)

21 THE COURT:

22 You going to turn around and go
23 right there, okay.

24 If you would you speak so that --
25 uh -- he can hear you.

1 Ms. Hoenscheid, what do you know
2 about this case?

3 JUROR HOENSCHIED:

4 (Whispering) Uh -- Just that -- uh
5 -- that there was some other people involved.

6 THE COURT:

7 And where do you get that
8 information from.

9 JUROR HOENSCHIED:

10 News.

11 THE COURT:

12 Was it the time that it happened,
13 two years ago?

14 JUROR HOENSCHIED:

15 No, it was on the news last night.

16 THE COURT:

17 So, it was an article that was in
18 a recent newspaper?

19 JUROR HOENSCHIED:

20 No, on TV.

21 THE COURT:

22 On TV?

23 JUROR HOENSCHIED:

24 (Nods in the affirmative.)

25 THE COURT:

SELECTION OF THE JURY

140

1 Okay.

2 MR. JOYE:

3 Channel 15 carried it last night,
4 Judge; and so did -- uh -- this morning --

5 COURT REPORTER:

6 I'm sorry. I didn't get you.

7 MR. JOYE:

8 Channel 15 carried it last night
9 on --

10 THE COURT:

11 Okay.

12 MR. JOYE:

13 -- on Carolina Live, as well as
14 there was an article in the newspaper this morning.

15 THE COURT:

16 Okay.

17 Uh -- Did you know anything about
18 it other than that?

19 JUROR HOENSCHIED:

20 I don't think so. I turned the
21 channel. It was really just very brief.

22 THE COURT:

23 Okay.

24 Based on what you saw on
25 television yesterday, or today, or whenever Ms.

SELECTION OF THE JURY

141

1 Hoenscheid, did you form in your own mind or express any
2 opinion to anybody else as to the guilt of Ms. Turner in
3 this particular case?

4 JUROR HOENSCHIED:

5 No sir.

6 THE COURT:

7 If you were asked to serve as a
8 juror, would you be able to set aside what you saw on
9 television and decide this case based on just the
10 evidence that you would hear in court without regard to
11 that.

12 JUROR HOENSCHIED:

13 I think I could.

14 THE COURT:

15 And would you do that please,
16 ma'am?

17 JUROR HOENSCHIED:

18 Yes.

19 THE COURT:

20 Thank you ma'am. Uh -- I'll to
21 send you back.

22 Please don't discuss that TV -- uh
23 -- with anyone else when you go back there and sit down.

24 JUROR HOENSCHIED:

25 Okay.

SELECTION OF THE JURY

142

1 THE COURT:

2 Thank you, ma'am.

3 (WHEREUPON: The jury venire
4 member returned and sat with the remaining panel as
5 directed.)

6 THE COURT:

7 Ladies and gentlemen, I'm going to
8 read to you a list of potential witnesses that may
9 testify in the trial of this case.

10 And then, I'm going to ask you if
11 you have any connection with any of these potential
12 witnesses.

13 The witness is -- The potential
14 witness list is rather lengthy. It's much longer than
15 the list of actual witnesses will be.

16 Uh -- But in any event, I'm going
17 to read this to you. And I'll break it up from time to
18 time to give you a chance to comment on any connection
19 that you might have with any of those folks that I've
20 read about up to that point.

21 Potential witnesses who may
22 testify in the trial of this case from the Horry County
23 Police Department are:

24 Tim Troxell;

25 Allen Large;

SELECTION OF THE JURY

143

1

Todd Cox;

2

Officer Sauls;

3

Peter Cestare;

4

Heather Brummett.

5

(No response.)

6

THE COURT:

7

Other witnesses:

8

Edward Proctor;

9

Renee Nobles;

10

Robert Forslund;

11

Jimmy Pigate;

12

Jamie White;

13

Paige Furness;

14

Luther Oxendine;

15

Stacy Johnson;

16

Charlie Skipper;

17

Chad Ecedra Richardson;

18

Jeff James;

19

Dan DeFreese;

20

Renee Hardwick; and

21

Carmen Mureddu, from the

22

Solicitor's Office.

23

(No response.)

24

Are any of you related by blood or

25

connected by marriage to any of those potential

SELECTION OF THE JURY

144

1 witnesses.

2 Or, are you friends of there's; or
3 business associates; or casual acquaintances; or people
4 who have any direct or indirect contact with any of those
5 potential witnesses?

6 If so, please stand.

7 WHEREUPON: A couple of jurors
8 stood in response to The Court's inquiry.

9 THE COURT:

10 Yes ma'am? Over here. You
11 stood first. Your name please, ma'am?

12 JUROR WAKEFIELD:

13 Colleen Wakefield, 389.

14 THE COURT:

15 I'm sorry.

16 JUROR WAKEFIELD:

17 Colleen Wakefield, 389.

18 THE COURT:

19 Thank you, Ms. Wakefield.

20 Tell me who the connection is with
21 please, ma'am.

22 JUROR WAKEFIELD:

23 Ed Proctor.

24 THE COURT:

25 And what is the nature of that?

1 JUROR WAKEFIELD:

2 Just social friends.

3 THE COURT:

4 Would you refer to that as a
5 casual relationship, or a close friendship?

6 How would you describe it?

7 JUROR WAKEFIELD:

8 Uh -- Casual.

9 THE COURT:

10 All right.

11 JUROR WAKEFIELD:

12 He and my husband play golf
13 together from time to time.

14 THE COURT:

15 Okay.

16 Would that relationship, as you've
17 described it, Ms. Wakefield, make it difficult for you to
18 serve fairly and impartially as a juror in the case in
19 which Mr. Proctor is likely to testify?

20 JUROR WAKEFIELD:

21 No sir.

22 THE COURT:

23 Would you be able to set aside
24 that association and decide this case based on the
25 evidence that you would hear in court without regard to

SELECTION OF THE JURY

146

1 that?

2 JUROR WAKEFIELD:

3 Yes.

4 THE COURT:

5 Would you do that please, ma'am?

6 JUROR WAKEFIELD:

7 Yes.

8 THE COURT:

9 Thank you, ma'am, Ms. Wakefield.

10 Yes sir? Your name please, sir?

11 JUROR BRYAN:

12 Uh -- Foster Bryan, Juror 49.

13 I'm a physician at Grand Strand,
14 and a close friend and colleague of Doctor Proctor.

15 THE COURT:

16 Okay.

17 And your -- Dr. Bryan, your number
18 again?

19 JUROR BRYAN:

20 49.

21 THE COURT:

22 Thank you. Would that
23 relationship that you've just described make it difficult
24 for you to be fair and impartial as a juror in the trial
25 of a case in which he is likely to testify?

1 JUROR BRYAN:

2 Uh -- No.

3 THE COURT:

4 Would you be able to set that
5 association aside and decide this case on the basis of
6 the evidence you hear in court without regard to that?

7 JUROR BRYAN:

8 Yes.

9 THE COURT:

10 And would you do that please, sir?

11 JUROR BRYAN:

12 Yes sir.

13 THE COURT:

14 Thank you, Doctor.

15 Other potential witnesses who may

16 testify are:

17 Sherry Todd;

18 Jeff James;

19 Ricky Nobles;

20 Renee Nobles;

21 Ted William Perdue;

22 Josh Logan;

23 Detective John Gonska; G-o-n-s-k-

24 a, from the Horry County Police Department;

25 Jack Baker;

SELECTION OF THE JURY

148

1 Mark Lewis.

2 Are any of y'all -- any of you all
3 related by blood or connected by marriage to any of those
4 potential witnesses; or friends of theirs; business
5 associates of theirs; casual acquaintances; or people who
6 have any direct or indirect contact with any of those
7 potential witnesses?

8 If so please stand?

9 (No response.)

10 Thank you.

11 The lawyers who will be involved
12 in the trial of this case, ladies and gentlemen:

13 On behalf of the State, the case
14 will be prosecuted by Assistant Solicitor Larry Filiberto
15 of the Horry County Solicitor's Office -- the 15th
16 Judicial Circuit Solicitor's Office.

17 The Defendant, Ms. Turner, is
18 represented by -- by Mr. Scott Joye of the Horry County
19 Bar.

20 Thank you.

21 MR. JOYE:

22 Your Honor, did you want me to
23 introduce the other members my firm, and --

24 THE COURT:

25 If you would, that would be

1 helpful. Please.

2 MR. JOYE:

3 I'm Scott Joye.

4 I practice law in Horry and
5 Georgetown counties.

6 My -- uh -- practice is located
7 over in Murrell's Inlet.

8 Uh -- I have -- uh -- two
9 partners, Mark Napier -- uh -- also Don Risher.

10 My associate -- I have an
11 associate by the name of Wendy Hardin.

12 Uh -- Assisting me today is Alexis
13 High (? phonetic). And she's -- uh -- to my left.

14 THE COURT:

15 Thank you.

16 Folks, I need to know about your
17 connection and association with any of these lawyers; or
18 -- or the partners or associates of the law firm that's
19 involved.

20 Are any of you, first of all,
21 related by any of these folks by blood or by marriage;
22 that is, are you kin to them?

23 Or, are you a friend of theirs; or
24 a business associate; or a casual acquaintance of theirs?

25 Or, have you been represented by

SELECTION OF THE JURY

150

1 any of them?

2 Or, have you been sued by any of
3 them before?

4 If you have, would please stand.

5 (No response.)

6 THE COURT:

7 Thank you.

8 Ladies and gentlemen, armed
9 robbery and murder are crimes of personal violence; that
10 is to say, they are crimes against the person.

11 There are other type crimes of
12 personal violence -- uh -- which are not involved in this
13 particular case:

14 Assault and battery of a high and
15 aggravated nature;

16 Kidnapping;

17 Criminal sexual conduct.

18 Uh -- Those are the examples --
19 and I use them only as examples -- of personal violent
20 crimes.

21 Because, I need to know if any of
22 you all, or any members of your immediate family, have
23 ever been involved in any way with a crime of personal
24 violence?

25 Well, now, first of all, the

1 question applies not only to you; it applies to any
2 member of your immediate family; that would be of your
3 household.

4 It's not that we're not interested
5 in what happened to your great uncle six times removed,
6 but it really doesn't involve us here today. And so, we
7 don't need to know about that.

8 And so, not only you, but any
9 member of your household; your immediate family?

10 The question involves a wide range
11 of possible involvement in a crime of personal violence.

12 You or your family member could
13 have been a victim of the crime; that is, a person
14 against whom the crime was inflicted.

15 You or your family member could
16 have been a defendant; that is, a person who was charged
17 with committing the crime.

18 You or your family member could
19 have been a witness; that is, one who was involved, who
20 witnessed a crime and who was called upon to testify and
21 talk about it at some point in time.

22 So, if that question involves you,
23 or any family member of yours in any way whatsoever,
24 would you please stand now, and let me find out who you
25 are.

SELECTION OF THE JURY

151

1 question applies not only to you; it applies to any
2 member of your immediate family; that would be of your
3 household.

4 It's not that we're not interested
5 in what happened to your great uncle six times removed,
6 but it really doesn't involve us here today. And so, we
7 don't need to know about that.

8 And so, not only you, but any
9 member of your household; your immediate family?

10 The question involves a wide range
11 of possible involvement in a crime of personal violence.

12 You or your family member could
13 have been a victim of the crime; that is, a person
14 against whom the crime was inflicted.

15 You or your family member could
16 have been a defendant; that is, a person who was charged
17 with committing the crime.

18 You or your family member could
19 have been a witness; that is, one who was involved, who
20 witnessed a crime and who was called upon to testify and
21 talk about it at some point in time.

22 So, if that question involves you,
23 or any family member of yours in any way whatsoever,
24 would you please stand now, and let me find out who you
25 are.

SELECTION OF THE JURY

152

1 And then, we will inquire of you
2 privately about your situation further.

3 WHEREUPON: Several venire members
4 stood in response to The Court's inquiry.

5 THE COURT:

6 Yes ma'am, in the back? Your name
7 please, ma'am and number?

8 JUROR HALL:

9 Carrie Hall, 163.

10 THE COURT:

11 Ms. Hall; H-a-l-l?

12 JUROR HALL:

13 (Nods in the affirmative.)

14 THE COURT:

15 Thank you, Ms. Hall.

16 Ms. Hall, if you'll come out and
17 get right here in this -- you'll be number one in the in,
18 right here -- uh -- right -- just before you go through
19 the gate there, to the rail.

20 That's a good place to stop.

21 (Venire Member lines up as
22 directed by the Bailiff.)

23 THE COURT:

24 Your name please, ma'am?

25 JUROR ANDERSON:

SELECTION OF THE JURY

153

1 Melanie Anderson.

2 THE COURT:

3 And your number?

4 JUROR ANDERSON:

5 10.

6 THE COURT:

7 10?

8 JUROR ANDERSON:

9 (Nods in the affirmative.)

10 THE COURT:

11 Thank you, Ms. Anderson. You'll

12 be number, next.

13 (Venire Member lines up as

14 directed by the Bailiff.)

15 THE COURT:

16 Uh -- Ms. Juror Number 188, Ms.

17 Hoenscheid? Did I say that right?

18 JUROR HOENSCHIED:

19 (Nods in the affirmative.)

20 THE COURT:

21 Thank you. You'll be next.

22 (Venire Member lines up as

23 directed by the Bailiff.)

24 THE COURT:

25 Doctor --

SELECTION OF THE JURY

154

1 JUROR BRYAN:

2 49.

3 THE COURT:

4 Doctor Bryan?

5 JUROR BRYAN:

6 (Nods in the affirmative.)

7 (Venire Member lines up as
8 directed by the Bailiff.)

9 THE COURT:

10 Yes ma'am. Your name?

11 JUROR PAPANDREA:

12 295, Papandrea.

13 THE COURT:

14 Ms. Papandrea, you'll be next in
15 line. Thank you.

16 (Venire Member lines up as
17 directed by the Bailiff.)

18 THE COURT:

19 Yes ma'am.

20 JUROR COKER:

21 76, Carol Coker.

22 THE COURT:

23 Ms. Coker; thank you.

24 (Venire Member lines up as
25 directed by the Bailiff.)

SELECTION OF THE JURY

155

1 THE COURT:

2 Yes ma'am.

3 JUROR OSBORNE:

4 292, April Osborne.

5 THE COURT:

6 Okay, 292, Ms. Osborne.

7 (Venire Member lines up as
8 directed by the Bailiff.)

9 THE COURT:

10 Ma'am?

11 JUROR FOX:

12 36, Tammy Fox.

13 THE COURT:

14 Okay. 136, did you say?

15 JUROR FOX:

16 Yes.

17 THE COURT:

18 I know I'm overlooking it. I see
19 it. Thank you, Ms. Fox.

20 (Venire Member lines up as
21 directed by the Bailiff.)

22 THE COURT:

23 Yes ma'am?

24 JUROR ROMINE:

25 Phyllis Romine, 325.

1 THE COURT:

2 Thank you. Your last name again
3 please, ma'am?

4 JUROR ROMINE:

5 Romine.

6 THE COURT:

7 Thank you, Ms. Romine. We have
8 room back there for you in line?

9 JUROR ROMINE:

10 Yep.

11 THE COURT:

12 Okay.

13 (Venire Member lines up as
14 directed by the Bailiff.)

15 THE COURT:

16 All right.

17 Counsel if you will approach? Ms.
18 Hall, if you'll come forward please, ma'am.

19 Ms. Hall, if you'll stand right
20 there and speak so he can hear you.

21 (Venire member does as
22 instructed.)

23 THE COURT:

24 Ms. Hall, was it you or a family
25 member involved?

SELECTION OF THE JURY

157

1 JUROR HALL:

2 Myself.

3 THE COURT:

4 And what was the situation please,
5 ma'am?

6 JUROR HALL:

7 Uh -- It was breaking and entering
8 with the intent to assault and -- (trails off to
9 inaudible) --

10 COURT REPORTER:

11 And to what? What was the last
12 thing that you said?

13 JUROR HALL:

14 It was breaking and entering with
15 intent to assault. It was domestic -- It was domestic
16 violence.

17 THE COURT:

18 Was it one or two events?-

19 JUROR HALL:

20 It was an assault and battery.

21 THE COURT:

22 What that separate events?

23 JUROR HALL:

24 It was a domestic -- uh --
25 domestic violence.

1 It was assault and battery, but
2 breaking and entering with the intent to assault me.

3 THE COURT:

4 Was that two separate events, or
5 just one.

6 JUROR HALL:

7 Just one.

8 THE COURT:

9 Same event. Uh -- Was the -- Was
10 anyone ever caught and prosecuted as result of that?

11 JUROR HALL:

12 Yes sir.

13 THE COURT:

14 Okay.

15 Uh -- Would your involvement as a
16 victim in that regard, Ms. Hall, make it difficult for
17 you to serve fairly and impartially as a juror in this
18 particular case?

19 JUROR HALL:

20 Yes.

21 THE COURT:

22 Could you set aside your own
23 experience and decide this case based on the evidence you
24 would hear in this case without regard to that?

25 JUROR HALL:

SELECTION OF THE JURY

159

1 Yes sir.

2 THE COURT:

3 And would you do that please,

4 ma'am?

5 JUROR HALL:

6 Yes.

7 THE COURT:

8 Thank you, Ms. Hall.

9 JUROR HALL:

10 Uh-huh.

11 THE COURT:

12 You may have a seat.

13 Ms. Anderson, come forward?

14 (Venire member does as

15 instructed.)

16 THE COURT:

17 If you'll speak so that he can

18 hear you, Ms. Anderson.

19 JUROR ANDERSON:

20 (Nods in the affirmative.)

21 THE COURT:

22 Was it you or a family member?

23 JUROR ANDERSON:

24 Family member.

25 THE COURT:

SELECTION OF THE JURY

160

1 And what was your relation please,
2 ma'am?

3 JUROR ANDERSON:

4 My son.

5 THE COURT:

6 Your son. And what was the
7 involvement please, ma'am?

8 JUROR ANDERSON:

9 I'm not absolutely sure, but I
10 think it was -- (trails off to inaudible) ---

11 COURT REPORTER:

12 I'm sorry, ma'am. It was what?

13 JUROR ANDERSON:

14 Rape on a child.

15 THE COURT:

16 And your son was charged with
17 that?

18 JUROR ANDERSON:

19 Yes sir.

20 THE COURT:

21 Was he tried and convicted for
22 that.

23 JUROR ANDERSON:

24 No. He pled guilty.

25 THE COURT:

SELECTION OF THE JURY

161

1 He pled guilty. How long ago was
2 that, Ms. Anderson?

3 JUROR ANDERSON:

4 Uh -- Three years ago, I do
5 believe.

6 THE COURT:

7 Is he still incarcerated?

8 JUROR ANDERSON:

9 Yes sir.

10 THE COURT:

11 Was he living with you at the time
12 when he committed the offense?

13 JUROR ANDERSON:

14 No sir.

15 THE COURT:

16 Did it happen here in Horry
17 County?

18 JUROR ANDERSON:

19 No sir.

20 THE COURT:

21 Out of state?

22 JUROR ANDERSON:

23 Uh -- No sir. I think it was in
24 Charleston.

25 THE COURT:

SELECTION OF THE JURY

162

1 I see.

2 Ms. Anderson, would your
3 involvement indirectly as a victim in that case through
4 you son involved as a criminal defendant, would that make
5 it difficult to you to be fair and impartial as a juror
6 in the trial of this case.

7 JUROR ANDERSON:

8 No.

9 THE COURT:

10 Could you set aside your won
11 experience and decide this case based on the evidence
12 that you will hear in The courtroom in regard to that?

13 JUROR ANDERSON:

14 (Nods in the affirmative.)

15 THE COURT:

16 And would you do that please,
17 ma'am?

18 JUROR ANDERSON:

19 Yes sir.

20 THE COURT:

21 Thank you, Ms. Anderson. You can
22 go back and have a seat.

23 COURT REPORTER:

24 Would you mind pulling that table
25 out of the way. They have to stand so far it's hard to

SELECTION OF THE JURY

163

1 hear them whisper.

2 Thank you, Your Honor.

3 THE COURT:

4 Okay.

5 Ms. Hoenscheid, come forward

6 please, ma'am.

7 (Venire member does as

8 instructed.)

9 THE COURT:

10 Stand right there and speak so

11 that he can hear you.

12 Ms. Hoenscheid, was it you or a

13 family member involved?

14 JUROR HOENSCHIED:

15 Both.

16 THE COURT:

17 Both; okay. Let's take you first

18 of all. The situation involving yourself, what was that

19 about?

20 JUROR HOENSCHIED:

21 Armed robbery.

22 THE COURT:

23 How long ago was that?

24 JUROR HOENSCHIED:

25 About a year ago, I think.

1 THE COURT:

2 And where did that happen?

3 JUROR HOENSCHIED:

4 Uh -- At our home -- uh -- At out
5 home in Myrtle Beach.

6 THE COURT:

7 Okay.

8 Was anybody caught and convicted
9 as result of that?

10 JUROR HOENSCHIED:

11 I'm not sure, but I don't think
12 so.

13 THE COURT:

14 Okay.

15 So, no arrests, to your knowledge,
16 have been made yet?

17 JUROR HOENSCHIED:

18 Right (trails off to inaudible) --

19 THE COURT:

20 What was that?

21 JUROR HOENSCHIED:

22 They didn't tell us anything.

23 THE COURT:

24 Was that a family home; or was it,
25 you were living there by yourself?

SELECTION OF THE JURY

165

1 JUROR HOENSCHIED:

2 Family home --

3 THE COURT:

4 All right.

5 JUROR HOENSCHIED:

6 -- with my husband.

7 THE COURT:

8 Okay.

9 And tell me then, what other

10 situation.

11 JUROR HOENSCHIED:

12 Uh -- Well, that was my husband

13 and I live -- many years ago -- a home robbery -- uh --

14 when I was young.

15 So you were a victim of a home

16 robbery when you were young?

17 JUROR HOENSCHIED:

18 Yes sir.

19 THE COURT:

20 Okay. And where did that occur?

21 JUROR HOENSCHIED:

22 Michigan.

23 THE COURT:

24 In Michigan.

25 JUROR HOENSCHIED:

1 Was anybody ever caught and
2 convicted of that?

3 JUROR HOENSCHIED:

4 I believe so. I can't remember.

5 THE COURT:

6 A long time ago.

7 JUROR HOENSCHIED:

8 (Nods in the affirmative.)

9 THE COURT:

10 Okay.

11 Ms. Hoenscheid, would your
12 involvement as a victim in those -- those two particular
13 events, make it difficult for you to serve fairly and
14 impartially as a juror in this particular case?

15 JUROR:

16 Could you -- (trails off to
17 inaudible) --

18 THE COURT:

19 Yes ma'am.

20 COURT REPORTER:

21 I didn't hear that.

22 THE COURT:

23 She said she didn't --

24 JUROR HOENSCHIED:

25 I didn't understand the question.

SELECTION OF THE JURY

167

1 THE COURT:

2 She wants me to repeat it.

3 Would your involvement as a victim
4 in that particular case, or any of those cases, make it
5 difficult to serve fairly and impartially as a juror in
6 this case? I don't think so. Would you be able to set
7 such release.

8 No, it would not.

9 THE COURT:

10 Would you be able to set aside
11 your own experience in those two events and decide this
12 case based on the evidence that you would hear in this
13 courtroom on these charges --

14 JUROR HOENSCHIED:

15 Yes sir.

16 THE COURT:

17 -- without regard to your own
18 experience as a victim?

19 JUROR HOENSCHIED:

20 Yes sir.

21 THE COURT:

22 And would you do that please,
23 ma'am.

24 JUROR HOENSCHIED:

25 Yes sir.

1 THE COURT:

2 Thank you, ma'am. You can go back
3 and have a seat.

4 (Venire member does as
5 instructed.)

6 THE COURT:

7 Doctor Bryan?

8 If you'll stand there and speak so
9 he can hear you.

10 (Venire member does as
11 instructed.)

12 THE COURT:

13 Was it you or a family member.

14 JUROR BRYAN;

15 Uh -- It was actually testifying
16 as an expert witness in an attempted murder trial in 1993
17 as a treating physician.

18 THE COURT:

19 I see.

20 Uh -- And it was a murder case?

21 JUROR BRYAN:

22 It was attempted murder.

23 THE COURT:

24 Was that here in Horry County?

25 JUROR BRYAN:

SELECTION OF THE JURY

169

1 It was in Atlanta, Georgia.

2 THE COURT:

3 Uh -- Did you -- Did you treat the
4 -- the victim.

5 JUROR BRYAN:

6 The victim, I was his treating
7 physician.

8 THE COURT:

9 Would your involvement as a
10 witness and a treating physician for a victim in a case
11 of the nature that you've described make it difficult for
12 you to be fair and impartial as a juror in this
13 particular case?

14 JUROR BRYAN:

15 No.

16 THE COURT:

17 Could you set aside that
18 experience and decide this case based on the evidence
19 that you will hear in court?

20 JUROR BRYAN:

21 Yes. .

22 THE COURT:

23 And you'll do that?

24 JUROR BRYAN:

25 Yes sir.

1 THE COURT:
2 Thank you, Doctor.
3 You may go back and have a seat.
4 (Venire member does as
5 instructed.)
6 THE COURT:
7 Ms. Papandrea.
8 (Venire member does as
9 instructed.)
10 Please stand there and speak so
11 that he can hear you, please, ma'am.
12 JUROR PAPANDREA:
13 Yes sir.
14 THE COURT:
15 Was it you or a family member
16 involved?
17 JUROR PAPANDREA:
18 A family member; my husband.
19 THE COURT:
20 Your husband?
21 JUROR PAPANDREA:
22 Uh-huh.
23 THE COURT:
24 And what was the involvement
25 please, ma'am.

SELECTION OF THE JURY

171

1 JUROR PAPANDREA:

2 He's a convicted felon for a
3 nonviolent crime that occurred.

4 It shouldn't have gone to court.

5 THE COURT:

6 All right.

7 JUROR PAPANDREA:

8 Uh -- We've tried to get him
9 justice for the last 10 years with no success.

10 THE COURT:

11 Did that happen here in Horry
12 County or somewhere --

13 JUROR PAPANDREA:

14 New Jersey.

15 THE COURT:

16 New Jersey?

17 JUROR PAPANDREA:

18 Uh-huh.

19 THE COURT:

20 Okay.

21 Would your involvement, through
22 that of your husband, in that regard make it difficult
23 for you to be fair and impartial as a juror in this case?

24 JUROR PAPENDREA:

25 Absolutely.

SELECTION OF THE JURY

172

1 THE COURT:
2 Ma'am?
3 JUROR PAPENDREA:
4 Yes.
5 THE COURT:
6 It would?
7 JUROR PAPENDREA:
8 (Nods in the affirmative.)
9 THE COURT:
10 All right.
11 We're going to stand aside Ms.
12 Papendrea for this particular case; okay.
13 If you'll stay with us. Don't
14 leave just yet.
15 JUROR PAPANDREA:
16 All right.
17 THE COURT:
18 Thank you.
19 THE COURT:
20 Juror Number 295 will be set aside
21 as a juror in this case.
22 Thank you.
23 (Venire member does as
24 instructed.)
25 THE COURT:

SELECTION OF THE JURY

173

1 Ms. Coker?

2 (Venire member does as

3 instructed.)

4 THE COURT:

5 Ms. Coker, please speak so he can

6 hear so.

7 Uh -- Was it your or a family

8 member involved?

9 JUROR COKER:

10 Both.

11 THE COURT:

12 All right. Let's start with you.

13 What was your involvement?

14 JUROR COKER:

15 Uh -- Well, I'm a nurse. So I was

16 -- uh -- testifying for a case member for someone.

17 I worked their case and they had

18 as a lawsuit.

19 THE COURT:

20 Okay.

21 JUROR COKER:

22 And then -- uh -- the Archie Lee

23 case, about 15 years ago.

24 THE COURT:

25 What was your involvement with

SELECTION OF THE JURY

174

1 that?
2 JUROR COKER:
3 I was -- uh -- the number one --
4 THE COURT:
5 You were --
6 JUROR COKER:
7 -- uh -- Plaintiff.
8 THE COURT:
9 You were the Plaintiff in that
10 case?
11 JUROR COKER:
12 (Nods in the affirmative.)
13 THE COURT:
14 Okay.
15 MR. JOYE:
16 Number 1 what?
17 JUROR COKER:
18 Plaintiff.
19 MR. JOYE:
20 Plaintiff?
21 THE COURT:
22 Actually the victim, as it were?
23 JUROR COKER:
24 Yes.
25 THE COURT:

SELECTION OF THE JURY

175

1 Choice of words.

2 MR. JOYE:

3 Okay.

4 THE COURT:

5 Ms. Coker, would -- uh -- either
6 of those events make it difficult for you to be fair and
7 impartial as a juror in this particular case?

8 JUROR COKER:

9 No.

10 THE COURT:

11 Could you set aside your own
12 experience -- And I'm familiar with the Archie Lee case;
13 a right notorious case --

14 JUROR COKER:

15 Would that make it difficult for
16 you to serve fair and impartial?

17 JUROR COKER:

18 No.

19 THE COURT:

20 Could you set aside those
21 experiences and decide this case based on the evidence
22 that you would hear in court?

23 JUROR COKER:

24 Yes sir.

25 THE COURT:

SELECTION OF THE JURY

176

1 And will you do that please?

2 JUROR COKER:

3 Yes sir.

4 THE COURT:

5 Thank you so much, Ms. Coker. You

6 may go back and have a seat.

7 (Venire member does as

8 instructed.)

9 THE COURT:

10 Ms. Osborne?

11 (Venire member does as

12 instructed.)

13 THE COURT:

14 Ms. Osborne, if you'll speak so

15 that he can hear it.

16 Was you or a family member.

17 JUROR OSBORNE:

18 Family member.

19 THE COURT:

20 And what was the relationship

21 please?

22 JUROR OSBORNE:

23 My father and stepmother.

24 THE COURT:

25 And what was the involvement?

SELECTION OF THE JURY

177

1 JUROR OSBORNE:

2 They were murdered.

3 THE COURT:

4 Okay. What were their names.

5 JUROR OSBORNE:

6 Glenn was my father's name and --

7 THE COURT:

8 Glenn Osborne?

9 JUROR OSBORNE:

10 Yes.

11 THE COURT:

12 Glenn Osborne your father?

13 JUROR OSBORNE:

14 Yes.

15 THE COURT:

16 I knew him very well. I taught
17 her father in school years and years ago.

18 He and his wife were killed by her
19 first husband. Is that correct?

20 JUROR OSBORNE:

21 That's correct.

22 THE COURT:

23 How long ago was that?

24 JUROR OSBORNE:

25 17 years.

SELECTION OF THE JURY

178

1 THE COURT:

2 Would that make it difficult for
3 you to be fair and impartial as a juror in this
4 particular case?

5 JUROR OSBORNE:

6 No sir.

7 THE COURT:

8 Could you set aside your own
9 experience --

10 JUROR OSBORNE:

11 Yes.

12 THE COURT:

13 -- and decide this case based on
14 the evidence that you'll hear in this courtroom?

15 JUROR OSBORNE:

16 Yes sir.

17 THE COURT:

18 And would you do that?

19 JUROR OSBORNE:

20 Absolutely.

21 THE COURT:

22 Thank you, ma'am. You may go back
23 and have a seat.

24 JUROR OSBORNE:

25 Thank you.

SELECTION OF THE JURY

179

1 (Venire member does as
2 instructed.)

3 THE COURT:

4 Ms. Fox?

5 (Venire member does as
6 instructed.)

7 THE COURT:

8 If you speak so he can hear you.

9 Was it you or a family member, Ms.

10 Fox.

11 JUROR FOX:

12 My two boys, ages six and nine at
13 the time. They're 22 and 25 now but they were molested
14 by a 15-year-old and it went to court.

15 And the results of the 15-year-old
16 was five years probation, and a year of counseling.

17 THE COURT:

18 Was he handled in General Sessions
19 Court, or was it Family Court --

20 JUROR FOX:

21 Family Court, I believe.

22 THE COURT:

23 It was?

24 Was that here in Horry County?

25 JUROR FOX:

SELECTION OF THE JURY

180

1 No.

2 THE COURT:

3 Where was it?

4 JUROR FOX:

5 It was in -- uh -- uh -- in

6 Indiana.

7 THE COURT:

8 All right.

9 THE COURT:

10 Did your boys have to undergo

11 counseling as --

12 JUROR FOX:

13 Yes. Uh-huh.

14 THE COURT:

15 How old are they now?

16 JUROR FOX:

17 Uh -- They're 22 and 25.

18 THE COURT:

19 And how are they doing.

20 JUROR FOX:

21 They're doing fine as adults.

22 THE COURT:

23 All right. Thank you, Ms. Fox.

24 Would your experience, Ms. Fox, in

25 that regard as a victim, two of your sons, make it

SELECTION OF THE JURY

181

1 difficult for you to be fair and impartial as a juror in
2 this case?

3 JUROR FOX:

4 Absolutely not.

5 THE COURT:

6 Could you set aside that
7 experience and decide this case from what you would hear
8 in court without regard to that?

9 JUROR FOX:

10 Yes sir.

11 THE COURT:

12 And would you do that please,
13 ma'am.

14 JUROR FOX:

15 Yes.

16 THE COURT:

17 Thank you, Ms. Fox. You may go
18 back and have a seat.

19 (Venire member does as
20 instructed.)

21 THE COURT:

22 Ms. Romine.

23 If you would stand right there and
24 speak so that he can hear you please, ma'am.

25 (Venire member does as

1 instructed.)

2 THE COURT:

3 Was it you or a family member that

4 was involved?

5 JUROR ROMINE:

6 Family member.

7 THE COURT:

8 And what was her relation to you?

9 JUROR ROMINE:

10 (Inaudible whisper.)

11 COURT REPORTER:

12 I'm sorry ma'am?

13 THE COURT:

14 Grandmother.

15 JUROR ROMINE:

16 My grandmother, but that was so

17 long ago.

18 THE COURT:

19 Long ago? And what was -- What

20 happened to your grandmother?

21 JUROR ROMINE:

22 She was shot and killed by (trails

23 off to inaudible).

24 THE COURT:

25 Shot and killed by a stalker?

SELECTION OF THE JURY

183

1 JUROR ROMINE:

2 Shot and killed.

3 THE COURT:

4 Okay. I understand.

5 Uh -- And I take it someone was
6 caught and prosecuted for that?

7 JUROR ROMINE:

8 Yes sir, he was.

9 THE COURT:

10 He was? Would your experience in
11 that regard, however long ago it might have been, make it
12 difficult for you to be fair and impartial as a juror in
13 this particular case?

14 JUROR ROMINE:

15 No sir; it wouldn't.

16 THE COURT:

17 Could you set aside that
18 experience and decide this case based on the evidence
19 that you hear in court?

20 JUROR ROMINE:

21 I will.

22 THE COURT:

23 And will you do that please,
24 ma'am?

25 JUROR ROMINE:

SELECTION OF THE JURY

184

1 Yes, I will.

2 THE COURT:

3 Thank you so much. You can go
4 back and have a seat.

5 MR. JOYE:

6 What was her number?

7 THE COURT:

8 325.

9 Ladies and gentlemen, thank you
10 for your patience, those of you who had to come forward
11 and those of you who had to sit there patiently while
12 those other folks did -- while we worked through that
13 part of this process.

14 Ladies and gentlemen, I need to
15 know now if any of you all are members of, contributors
16 to, or supporters of any law enforcement support
17 organizations, or victims' rights organizations such as
18 MADD, SADD, CAVE, CADRE, or the like.

19 If so, please stand.

20 (No response.)

21 THE COURT:

22 Thank you.

23 Have any of you ever been, or --
24 or any members of your immediate family now, or ever been
25 employed by law enforcement; law enforcement officer?

SELECTION OF THE JURY

185

1 If you would, please stand.

2 WHEREUPON: Several members of the

3 jury venire stood in response to The Court's inquiry.

4 All right.

5 I'm going to start on this side

6 this time just be fair.

7 Up against the wall, your name

8 please, sir?

9 JUROR RECTOR:

10 Glenn Rector, 308.

11 THE COURT:

12 I'm sorry?

13 JUROR RECTOR:

14 308, Glenn Rector.

15 THE COURT:

16 All right. Let me find you.

17 Mr. Rector, is it you or a family

18 member?

19 JUROR RECTOR:

20 Myself.

21 THE COURT:

22 And you were employed with which

23 law enforcement agency?

24 JUROR RECTOR:

25 Mount Airy City Police in North

SELECTION OF THE JURY

186

1 Carolina.

2 THE COURT:

3 All right.

4 Thank you, sir. You can have a
5 seat.

6 Yes ma'am; in the front? Your
7 name, please?

8 JUROR BODDIE:

9 Michelle Boddie, Number 35.

10 THE COURT:

11 All right, Ms. Boddie. Was it you
12 or a family member who's employed?

13 JUROR BODDIE:

14 My husband.

15 THE COURT:

16 All right. And where was he
17 employed, or is employed?

18 JUROR BODDIE:

19 Uh -- Homeland security; he was.

20 THE COURT:

21 He was? All right. Thank you
22 ma'am.

23 Yes ma'am, at the back over there,
24 please?

25 JUROR HUGHEY:

SELECTION OF THE JURY

187

1 Uh -- Mary Hughey, 196.

2 THE COURT:

3 Ms. Hughey, was it you or a family

4 member?

5 JUROR HUGHEY:

6 It's my brother-in-law.

7 THE COURT:

8 And what was his employment?

9 JUROR HUGHEY:

10 He is -- uh -- employed with SLED,

11 Director Of Forensics and Toxicology.

12 THE COURT:

13 Okay.. What's his name?

14 JUROR HUGHEY:

15 (Not Audible.)

16 THE COURT:

17 Okay. Thank you.

18 COURT REPORTER:

19 What did she say, Your Honor? I'm

20 sorry. I didn't get the first --

21 THE COURT:

22 Todd Hughey. Thank you.

23 Yes, on the isle there, please,

24 ma'am?

25 JUROR STORMS:

SELECTION OF THE JURY

188

1 Marilyn Storms, 361. Myself, in
2 the U.S. Air Force Law Enforcement.
3 THE COURT:
4 All right. Thank you Ms. Storms.
5 Yes sir?
6 JUROR GERALD:
7 (Not Audible.) Cousin.
8 THE COURT:
9 All right.
10 COURT REPORTER:
11 Judge, I'm sorry. I didn't get --
12 THE COURT:
13 Your number please, sir?
14 JUROR GERALD:
15 146.
16 THE COURT:
17 146?
18 COURT REPORTER:
19 Your Honor, I didn't -- I didn't
20 get what he said.
21 JUROR GERALD:
22 Randy Gerald.
23 THE COURT:
24 All right. Let me get your
25 name, first of all.

SELECTION OF THE JURY

189

1 JUROR GERALD:

2 Gilbert Gerald.

3 THE COURT:

4 Okay. Gilbert?

5 MR. JOYE:

6 Your Honor, can we come up to you
7 a second? One second?

8 THE COURT:

9 Yeah.

10 Where is Randy Gerald employed,
11 Mr. Gerald?

12 JUROR GERALD:

13 He was employed. It's -- The
14 bridge was named after him.

15 THE COURT:

16 Okay.

17 WHEREUPON: Counsel approaches The
18 Court at the podium and confers with The Court off the
19 record and out of ear shod of the reporter.

20 THE COURT:

21 I got it. Thank you, Mr. Gerald.

22 I understand that situation. Thank you.

23 Yes sir. In the back. Your name
24 please, sir?

25 JUROR COYLE:

SELECTION OF THE JURY

190

1 Patrick Coyle, Number 86.

2 THE COURT:

3 All right.

4 JUROR COYLE:

5 Son.

6 THE COURT:

7 And where is your son employed?

8 JUROR COYLE:

9 Uh--- Police Department,

10 Department, Rhode Island, up in New England.

11 THE COURT:

12 Thank you, sir.

13 Yes ma'am; your name please?

14 JUROR DROBISH:

15 Number 108, Rose Drobish. My

16 son. Pennsylvania State police.

17 THE COURT:

18 Thank you.

19 Yes ma'am?

20 JUROR CELI:

21 Clara Celi, Number 64. My

22 brother and my nephew.

23 THE COURT:

24 And where are they employed?

25 JUROR CELI:

SELECTION OF THE JURY

191

1 NYPD.

2 THE COURT:

3 All right. Thank you ma'am.

4 Folks, those of you who just stood
5 in response to the answer -- to that question; now I need
6 to know if your involvement, or if the involvement of
7 your relatives as a member of law enforcement, would make
8 it difficult for you to serve fairly and impartially as a
9 juror in this particular case?

10 If it would, would you please
11 stand?

12 (No response.)

13 THE COURT:

14 Thank you.

15 Ladies and gentlemen, have any of
16 you formed in your own mind, or expressed to anyone else,
17 any opinion as to the guilt or the innocence of Ms
18 Turner.?

19 If you have, would you please
20 stand?

21 (No response.)

22 THE COURT:

23 Are any of you aware of; that is
24 to say, conscious of any bias or prejudice that you might
25 have for or against the State of South Carolina, or for

1 or against Ms. Turner?

2 If you are so aware, would you
3 please stand?

4 (No response.)

5 THE COURT:

6 Do any of you know of any reason
7 of any kind whatsoever that would keep you from serving
8 fairly and impartially as a juror in this case?

9 If you know of any such reason,
10 would you please stand?

11 (No response.)

12 THE COURT:

13 Thank you.

14 Mr. Filiberto, any further
15 questions from the State?

16 MR. FILIBERTO:

17 No sir.

18 MR. JOYE:

19 May we approach?

20 THE COURT:

21 Mr. Joye?

22 (WHEREUPON: Counsel for each party
23 conferred off the record with The Court at the bench at
24 2:59 AM, September 14, 2010.)

25 THE COURT:

SELECTION OF THE JURY

193

1 All right.

2 Mr. Reporter, if you will not a
3 sidebar conference regarding a request for addition voir
4 dire.

5 Defendant wants us to put it on
6 the record. We'll put it on record later.

7 MR. JOYE:

8 Thank you.

9 THE COURT:

10 Thank you.

11 All right. Madam Clerk, you can
12 give us a jury.

13 The strikes will be five and five.

14 CLERK:

15 When I call you names --

16 THE COURT:

17 Just one -- Just one second.

18 CLERK:

19 Okay.

20 THE COURT:

21 Let me get back to my place.

22 CLERK:

23 Okay.

24 THE COURT:

25 Uh -- Strikes, what are they?

SELECTION OF THE JURY

194

1 Five and ten?

2 Five for the State. Ten for the
3 Defense.

4 We'll select two alternates. The
5 strikes will be one for the State, two for the Defense as
6 to each of the two alternates.

7 MR. JOYE:

8 Are they going to stand where they
9 are, Your Honor?

10 THE COURT:

11 How do y'all normally do it?

12 CLERK:

13 Judge, we normally -- uh -- When I
14 call their name, if they will come up and bring any
15 belongings with them.

16 THE COURT:

17 Okay.

18 CLERK:

19 And they'll stand in front of the
20 podium and face the back of the courtroom.

21 MR. JOYE:

22 Thank Your Honor.

23 THE COURT:

24 All right.

25 Let me go around and get in my

SELECTION OF THE JURY

195

1 other seat, ladies, and we'll be ready -- and gentlemen -
2 - to start.

3 (WHEREUPON: The Court resumes his
4 normal seat at the bench; having been addressing the
5 venire panel from a podium in the middle of the
6 courtroom.)

7 THE COURT:

8 All right.

9 Ladies and gentlemen, you've heard
10 the instructions from the Clerk. And she's told you what
11 you need to do if your name is called.

12 If you'll please follow those
13 instructions. And -- uh -- And continue to abide by
14 those instructions throughout this process.

15 Madame Clerk?

16 CLERK:

17 Juror Number 361, Maryland Storms.

18 (WF)

19 If you'll please come to the
20 front. If you'll stand right there. The Deputy will
21 show you.

22 (WHEREUPON: The juror came
23 forward and turned and faced counsel table as
24 instructed.)

25 CLERK:

SELECTION OF THE JURY

196

1 What say the State?

2 MR. FILIBERTO:

3 Please -- Please present the
4 juror.

5 CLERK:

6 Defense?

7 MR. JOYE:

8 Please excuse the juror from the
9 trial of this case.

10 CLERK:

11 You're excused from this
12 particular case.

13 If you'll just go have a seat and
14 remain with us please.

15 (WHEREUPON: This jury panel
16 member, not being accepted by all parties, returned to
17 the panel and was not seated as a juror in this case.)

18 CLERK:

19 340, Heather Sellers? (WF)

20 (WHEREUPON: The juror came
21 forward and turned and faced counsel table as
22 instructed.)

23 CLERK:

24 What say the State?

25 MR. FILIBERTO:

SELECTION OF THE JURY

197

1 Please present the juror.

2 CLERK:

3 Defense?

4 MR. JOYE:

5 Please seat the juror.

6 CLERK:

7 Please be seated in the jury box.

8 (WHEREUPON: This juror, having
9 been accepted by the parties, was seated as a juror in
10 this case.)

11 CLERK:

12 394, Terry Warren. (BM)

13 (WHEREUPON: The juror came
14 forward and turned and faced counsel table as
15 instructed.)

16 CLERK:

17 What say the State?

18 MR. FILIBERTO:

19 Please excuse this juror.

20 CLERK:

21 You are excused from this
22 particular case.

23 (WHEREUPON: This jury panel
24 member, not being accepted by all parties, returned to
25 the panel and was not seated as a juror in this case.)

SELECTION OF THE JURY

198

1 CLERK:

2 143, Katherine Gardner. (WF)

3 (WHEREUPON: The juror came

4 forward and turned and faced counsel table as

5 instructed.)

6 CLERK:

7 What say the State?

8 MR. FILIBERTO:

9 Please present the juror.

10 CLERK:

11 Defense?

12 MR. JOYE:

13 I'm sorry ma'am. The number on
14 that again?

15 CLERK:

16 143, Katherine Gardner.

17 MR. JOYE:

18 Please seat the juror in the trial
19 of this case.

20 CLERK:

21 Please be seated in the jury box.

22 (WHEREUPON: This juror, having
23 been accepted by the parties, was seated as a juror in
24 this case.)

25 CLERK:

SELECTION OF THE JURY

199

1 315, Billie Richardson. (BM)

2 (WHEREUPON: The juror came
3 forward and turned and faced counsel table as
4 instructed.)

5 CLERK:

6 What say the State?

7 MR. FILIBERTO:

8 Please excuse this juror.

9 CLERK:

10 You're excused from this
11 particular case.

12 (WHEREUPON: This jury panel
13 member, not being accepted by all parties, returned to
14 the panel and was not seated as a juror in this case.)

15 CLERK:

16 282, Charles Nichols. (BM)

17 (WHEREUPON: The juror came
18 forward and turned and faced counsel table as
19 instructed.)

20 CLERK:

21 What say the State?

22 MR. FILIBERTO:

23 Please present the juror.

24 CLERK:

25 Defense?

SELECTION OF THE JURY

200

1 MR. JOYE:

2 Please seat the juror in the trial
3 of this case.

4 CLERK:

5 Please be seated in the jury box.

6 (WHEREUPON: This juror, having
7 been accepted by the parties, was seated as a juror in
8 this case.)

9 CLERK:

10 38, Don Boucino. (WM)

11 (WHEREUPON: The juror came
12 forward and turned and faced counsel table as
13 instructed.)

14 CLERK:

15 What say the State?

16 MR. FILIBERTO:

17 Please present the juror.

18 CLERK:

19 Defense?

20 MR. JOYE:

21 Please seat the juror of the trial
22 of this case.

23 CLERK:

24 Please be seated in the jury box.

25 (WHEREUPON: This juror, having

SELECTION OF THE JURY

201

1 been accepted by the parties, was seated as a juror in
2 this case.)

3 CLERK:

4 54, Clara Celi. (WF)

5 (WHEREUPON: The juror came
6 forward and turned and faced counsel table as
7 instructed.)

8 CLERK:

9 What say the State?

10 MR. FILIBERTO:

11 Please present the juror.

12 CLERK:

13 Defense?

14 MR. JOYE:

15 Please excuse the juror from the
16 trial of this case.

17 CLERK:

18 You're excused from this
19 particular case.

20 (WHEREUPON: This jury panel
21 member, not being accepted by all parties, returned to
22 the panel and was not seated as a juror in this case.)

23 CLERK:

24 191, Pamela Hord. (WF)

25 (WHEREUPON: The juror came

1 forward and turned and faced counsel table as
2 instructed.)

3 CLERK:

4 What say the State?

5 MR. FILIBERTO:

6 Please present the juror.

7 CLERK:

8 Defense?

9 MR. JOYE:

10 Please excuse the juror from the
11 trial of this case.

12 CLERK:

13 You're excused from this
14 particular case.

15 (WHEREUPON: This jury panel
16 member, not being accepted by all parties, returned to
17 the panel and was not seated as a juror in this case.)

18 CLERK:

19 127, Patricia Felberg. (WF)

20 MR. JOYE:

21 One -- I'm sorry?

22 CLERK:

23 127.

24 (WHEREUPON: The juror came

25 forward and turned and faced counsel table as

SELECTION OF THE JURY

203

1 instructed.)

2 CLERK:

3 What say the State?

4 MR. FILIBERTO:

5 Please present the juror.

6 CLERK:

7 Defense?

8 MR. JOYE:

9 Please excuse the juror from the

10 trial of this case.

11 CLERK:

12 You're excused from this

13 particular case.

14 (WHEREUPON: This jury panel

15 member, not being accepted by all parties, returned to

16 the panel and was not seated as a juror in this case.)

17 CLERK:

18 28, Rodney Bellamy. (WM)

19 (WHEREUPON: The juror came

20 forward and turned and faced counsel table as

21 instructed.)

22 CLERK:

23 What say the State?

24 MR. FILIBERTO:

25 Please present the juror.

SELECTION OF THE JURY

204

1 CLERK:

2 Defense?

3 MR. JOYE:

4 Please seat the juror in the trial
5 of this case.

6 CLERK:

7 Please be seated in the jury box.

8 (WHEREUPON: This juror, having
9 been accepted by the parties, was seated as a juror in
10 this case.)

11 CLERK:

12 51, Harriet Burnett. (WF)

13 (WHEREUPON: The juror came
14 forward and turned and faced counsel table as
15 instructed.)

16 CLERK:

17 What say the State?

18 MR. FILIBERTO:

19 Please present the juror.

20 CLERK:

21 Defense?

22 MR. JOYE:

23 Please excuse the juror from the
24 trial of this case.

25 CLERK:

SELECTION OF THE JURY

205

1 You're excused from this
2 particular case.

3 (WHEREUPON: This jury panel
4 member, not being accepted by all parties, returned to
5 the panel and was not seated as a juror in this case.)

6 CLERK:

7 42, Sherita Brenneman. (BF)

8 (WHEREUPON: The juror came
9 forward and turned and faced counsel table as
10 instructed.)

11 CLERK:

12 What say the State?

13 MR. FILIBERTO:

14 Please present the juror.

15 CLERK:

16 Defense?

17 MR. JOYE:

18 Please seat the juror in the trial
19 of this case.

20 CLERK:

21 Please be seated in the juror box.

22 (WHEREUPON: This juror, having
23 been accepted by the parties, was seated as a juror in
24 this case.)

25 CLERK:

SELECTION OF THE JURY

206

1 10, Melanie Anderson. (WF)

2 (WHEREUPON: The juror came
3 forward and turned and faced counsel table as
4 instructed.)

5 CLERK:

6 What say the State?

7 MR. FILIBERTO:

8 Please excuse this juror.

9 CLERK:

10 You're excused from this
11 particular case.

12 (WHEREUPON: This jury panel
13 member, not being accepted by all parties, returned to
14 the panel and was not seated as a juror in this case.)

15 CLERK:

16 171, Emilyn Harris. (WF)

17 (WHEREUPON: The juror came
18 forward and turned and faced counsel table as
19 instructed.)

20 CLERK:

21 What say the State?

22 MR. FILIBERTO:

23 Please present the juror.

24 CLERK:

25 Defense?

SELECTION OF THE JURY

207

1 MR. JOYE:

2 Please seat the juror in the trial
3 of this case.

4 CLERK:

5 Please be seated in the jury box.

6 (WHEREUPON: This juror, having
7 been accepted by the parties, was seated as a juror in
8 this case.)

9 CLERK:

10 292, April Osborne. (WF)

11 (WHEREUPON: The juror came
12 forward and turned and faced counsel table as
13 instructed.)

14 THE COURT:

15 Did you skip one?

16 CLERK:

17 Judge, that's one the ones that
18 you --

19 THE COURT:

20 That's right. Yeah, thank you.

21 CLERK:

22 What say the State?

23 MR. FILIBERTO:

24 Please excuse this juror.

25 CLERK:

25 (WHEREUPON: This juror, having

SELECTION OF THE JURY

209

1 been accepted by the parties, was seated as a juror in
2 this case.)

3 CLERK:

4 35, Michelle Boddie. (BF)
5 (WHEREUPON: The juror came
6 forward and turned and faced counsel table as
7 instructed.)

8 CLERK:

9 What say the State?

10 MR. FILIBERTO:

11 Please present the juror.

12 CLERK:

13 Defense?

14 MR. JOYE:

15 Please excuse the juror from the
16 trial of this case.

17 CLERK:

18 You're excuse from this particular
19 case.

20 (WHEREUPON: This jury panel
21 member, not being accepted by all parties, returned to
22 the panel and was not seated as a juror in this case.)

23 CLERK:

24 359, Dorothy Stitt. (WF)

25 (WHEREUPON: The juror came

SELECTION OF THE JURY

210

1 forward and turned and faced counsel table as
2 instructed.)

3 CLERK:

4 What say the State?

5 MR. FILIBERTO:

6 Please seat the juror.

7 CLERK:

8 Defense?

9 MR. JOYE:

10 Please seat the juror in the trial
11 of this case.

12 CLERK:

13 Please be seated in the jury box.

14 (WHEREUPON: This juror, having
15 been accepted by the parties, was seated as a juror in
16 this case.)

17 CLERK:

18 414, Rene Yeck. (WF)

19 (WHEREUPON: The juror came

20 forward and turned and faced counsel table as
21 instructed.)

22 CLERK:

23 What say the State?

24 MR. FILIBERTO:

25 Please excuse the juror.

SELECTION OF THE JURY

211

1 CLERK:

2 You're excused from this
3 particular case.

4 (WHEREUPON: This jury panel
5 member, not being accepted by all parties, returned to
6 the panel and was not seated as a juror in this case.)

7 CLERK:

8 112, Jason Dupree. (WM)

9 (WHEREUPON: The juror came
10 forward and turned and faced counsel table as
11 instructed.)

12 CLERK:

13 What say the State?

14 MR. FILIBERTO:

15 Please present the juror.

16 CLERK:

17 Defense?

18 MR. JOYE:

19 Please seat the juror in the trial
20 of the case.

21 CLERK:

22 Please be seated in the jury box.

23 (WHEREUPON: This juror, having
24 been accepted by the parties, was seated as a juror in
25 this case.)

SELECTION OF THE JURY

212

1 CLERK:

2 308, Glenn Rector. (WM)

3 (WHEREUPON: The juror came
4 forward and turned and faced counsel table as
5 instructed.)

6 CLERK:

7 What say the State?

8 MR. FILIBERTO:

9 Please present the juror.

10 CLERK:

11 Defense?

12 MR. JOYE:

13 Please excuse the juror from the
14 trial of this case.

15 CLERK:

16 You're excused from this
17 particular case.

18 (WHEREUPON: This jury panel
19 member, not being accepted by all parties, returned to
20 the panel and was not seated as a juror in this case.)

21 CLERK:

22 49, Foster Bryan. (WM)

23 (WHEREUPON: The juror came
24 forward and turned and faced counsel table as
25 instructed.)

SELECTION OF THE JURY

213

1 CLERK:
2 What say the State?
3 MR. FILIBERTO:
4 Please present the juror.
5 MR. JOYE:
6 Defense?
7 MR. JOYE:
8 Please seat the juror in the trial
9 of this case.
10 CLERK:
11 Please be seated in the jury box.
12 (WHEREUPON: This juror, having
13 been accepted by the parties, was seated as a juror in
14 this case.)
15 CLERK:
16 411; Justin Worchester. (WM)
17 (WHEREUPON: The juror came
18 forward and turned and faced counsel table as
19 instructed.)
20 CLERK:
21 What say the State?
22 MR. FILIBERTO:
23 Please present the juror.
24 CLERK:
25 Defense?

SELECTION OF THE JURY

214

1 MR. JOYE:

2 Please excuse the juror from the
3 trial of this case.

4 CLERK:

5 You're excused from this
6 particular case.

7 (WHEREUPON: This jury panel
8 member, not being accepted by all parties, returned to
9 the panel and was not seated as a juror in this case.)

10 CLERK:

11 333, Travis Sarvis. (WM)

12 (WHEREUPON: The juror came
13 forward and turned and faced counsel table as
14 instructed.)

15 CLERK:

16 What say the State?

17 MR. FILIBERTO:

18 Please present the juror.

19 CLERK:

20 Defense?

21 MR. JOYE:

22 Please seat the juror in this
23 particular case.

24 CLERK:

25 Please be seated in the jury box.

SELECTION OF THE JURY

215

1 (WHEREUPON: This juror, having
2 been accepted by the parties, was seated as a juror in
3 this case.)

4 THE COURT:

5 Alternates now, Madame Clerk.

6 The strikes will be two for the
7 Defense, one for the State; that's to each of the two
8 alternates.

9 CLERK:

10 Two alternate, Judge?

11 THE COURT:

12 Two alternates.

13 CLERK:

14 235, Jon Leonardi. (WM)

15 (WHEREUPON: The juror came
16 forward and turned and faced counsel table as
17 instructed.)

18 CLERK:

19 What say the State?

20 MR. FILIBERTO:

21 Please present the juror.

22 CLERK:

23 Defense?

24 MR. JOYE:

25 Please seat the juror.

SELECTION OF THE JURY

216

1 CLERK:

2 Please be seated in the juror box.

3 (WHEREUPON: This jury panel
4 member, not being accepted by all parties, returned to
5 the panel and was not seated as a juror in this case.)

6 CLERK:

7 363, Katherine Strickland. (WF)

8 (WHEREUPON: The juror came
9 forward and turned and faced counsel table as
10 instructed.)

11 CLERK:

12 What say the State?

13 MR. FILIBERTO:

14 Please present the juror.

15 CLERK:

16 Defense?

17 MR. JOYE:

18 Please seat the juror in the trial
19 of this case.

20 CLERK:

21 Please be seated in the juror box.

22 (WHEREUPON: This juror, having
23 been accepted by the parties, was seated as a juror in
24 this case.)

25 THE COURT:

SELECTION OF THE JURY

217

1 Mr. Filiberto, are there any
2 matters of law regarding the jury selection process from
3 the Stale?

4 MR. FILIBERTO:

5 Nothing, sir.

6 THE COURT:

7 Thank you.

8 Mr. Joye; from the Defense?

9 MR. JOYE:

10 No, Your Honor.

11 THE COURT:

12 Thank you.

13 (WHEREUPON: The jury was selected
14 without exception or objection by either part at 11:16
15 AM, September 14, 2010.

16 THE COURT:

17 What about the balance of the
18 panel?

19 CLERK:

20 They are to call back tonight
21 after six.

22 THE COURT:

23 Thank you.

24 Ladies and gentlemen, those of you
25 who have not been selected as jurors for the trial of

1 this case, thank you so much. for your cooperation this
2 morning.

3 You are free to go now for the
4 balance of the day.

5 But I want you to call the number
6 that you received yesterday when you were qualified as
7 jurors.

8 Call that number after six o'clock
9 this afternoon for further instructions.

10 Have a safe trip home. Thank you
11 very much.

12 (WHEREUPON: The venire panel
13 members not chosen in the case withdrew from the
14 courtroom at 11:17 AM, September 14, 2010; and was no
15 longer present during the following proceedings.)

16 THE COURT:

17 Ladies and gentlemen, you have
18 been selected as jurors in the trial of this case and
19 we're ready to start this trial.

20 But I'm going to send you to your
21 juryroom for just a few moments to give you a chance to
22 -- to -- uh -- take a -- a brief break before we start
23 the trial; because you all have been, either downstairs
24 or here, sitting patiently.

25 Or, you might have been sitting

SELECTION OF THE JURY

219

1 impatiently; but at least you've been sitting for an
2 extended period of time.

3 And we're going to take a --
4 fifteen minutes at this point in time to do two things:

5 First of all, for us to take a
6 brief break; and then to give you a chance to get
7 acquainted with your juryroom, which will be your home
8 away from home when you're not in this courtroom for the
9 next couple of days.

10 When you come back out, and before
11 we start the trial of the case, I'm going to give you
12 some instructions about things that you may or may not do
13 as jurors during this trial.

14 Uh -- Right this minute, in the
15 few minutes that you're in the juryroom before those
16 instructions, please don't discuss this case or any
17 issues that might be involved in this case.

18 Uh -- If you have cell phones that
19 you brought with you, if you'll turn those in before you
20 go.

21 We don't want anybody doing any
22 texting in regard to this case, or anything else, quite
23 frankly, in that regard during your service as jurors
24 while you're in the juryroom.

25 We'll get you out shortly to -- to

1 start the trial of this case, probably in the next 15
2 minutes.

3 Please go to the juryroom. And
4 we'll bring you out shortly.

5 Thank you.

6 (WHEREUPON: The jury empanelled
7 in the case withdrew from the courtroom at 11:17 AM,
8 September 14, 2010; and was no longer present during the
9 following proceedings.)

10 THE COURT:

11 Folks, in just a few moments, the
12 jury's going to come back in and be sworn.

13 I'll appoint a foreperson and make
14 some introductory comments; allow you to open; and we'll
15 start the trial.

16 Uh -- Mr. Filiberto, are there any
17 things from the State's perspective that we need to deal
18 with before that happens?

19 MR. FILIBERTO:

20 Nothing from the State.

21 THE COURT:

22 Thank you.

23 Mr. Joye, from the Defense?

24 MR. JOYE:

25 No, Your Honor.

SELECTION OF THE JURY

221

1 THE COURT:

2 Okay.

3 Then, let's take 15 minutes, and
4 start back just a little after half passed the hour.

5 Thank you.

6 (WHEREUPON: The court was
7 declared in recess at 11:18 AM, September 14, 2010.)

8 (WHEREUPON: The court was called
9 to order by the Bailiff at 11:36 AM, September 14, 2010;
10 and all pertinent parties, along with their counsel, were
11 back and present in the courtroom.)

12 DEPUTY:

13 Order of The Court. All rise.

14 THE COURT:

15 Thank you. Thank you ladies and
16 gentlemen. You all can be seated.

17 MR. FILIBERTO:

18 Your Honor, if Mr. Joye and I
19 might approach?

20 THE COURT:

21 Okay.

22 (WHEREUPON: Counsel for each party
23 conferred off the record with The Court at the bench at
24 11:37 AM, September 14, 2010.)

25 THE COURT:

1 Uh -- Mr. Reporter, the record
2 should reflect a sidebar conference that we held during
3 the voir dire of the jury, at which time Mr. Joye had
4 asked for an additional question to be asked of the jury
5 concerning -- uh -- their understanding of the
6 presumption of innocence.

7 I declined to do that.

8 That is a proper instruction which
9 I will give in a few moments to the jury as they are
10 brought in; and of course, at the conclusion of the trial
11 as well.

12 So -- uh -- the record should
13 reflect that he did request that.

14 Also, in regard to the number of
15 strikes, the number of preemptory strikes as established
16 by Section 14-7-11 10 -- uh -- does not include
17 accessories before the fact -- uh -- as a 10 strike case.

18 However -- uh -- both parties
19 agreed that -- uh -- that ten strikes would be given in
20 this particular case for the Defense. And so I did that.

21 Uh -- The statute is pretty clear
22 that -- uh -- if the case is not -- if the charge is not
23 enumerated under the statute, that it's a five-strike
24 case.

25 Uh -- I wanted to explain, so

SELECTION OF THE JURY

223

1 that, in case an Appellate Court should read this record
2 and wonder why dumb Judge Cooper gave ten strikes in this
3 case -- uh -- the record should reflect that it was done
4 with the consent of the parties.

5 Thank you.

6 All right.

7 Are we ready for the jury now?

8 MR. FILIBERTO:

9 Yes sir.

10 THE COURT:

11 Okay.

12 Bring us the jury, please.

13 (WHEREUPON: The jury empanelled
14 in the case was escorted back into the courtroom at 11:38
15 AM, September 14, 2010; and was in fact present during
16 the following proceedings.)

17 THE COURT:

18 Dr. Bryan, I'm going to ask you to
19 sit in that front chair, right there. Thank you, sir

20 Dr. Bryan, I want you to sit there
21 because I wanted you to serve as the Foreperson of the
22 Jury.

23 That means that you will be the
24 jury spokesman in court. And when the trial is over,
25 you will be responsible for writing the verdict of the

1 jury.

2 But, I'll tell you more about that
3 before you have to do it. You don't to concern yourself
4 about that now. Just remember, you have a reserved seat.

5 Mr. Leonardi and Ms. Strickland,
6 as alternate jurors, you will occupy those two chairs
7 throughout the trial of this case, unless sometime during
8 the trial, I ask you to sit somewhere else; okay.

9 The rest of you folks don't have
10 reserved seats. You just got to do the best you can when
11 you come in from time to time. But all the seats are
12 exactly the same.

13 It's always a good idea to move on
14 way down before you sit down, because if you don't,
15 somebody's going to have to stumble across your feet to
16 get to that open chair. And that get's sort of fun to
17 do in the course of a trial.

18 You're going to be sworn in now as
19 jurors. And I want you to pay particular attention to
20 the oath that you're about to take.

21 It is a time honored oath. It is
22 an artfully worded oath that explains you very concisely,
23 and at the same time very completely, what your
24 responsibilities are as jurors in this case.

25 I'm going to be reminding you

OPENING REMARKS BY COURT AND COUNSEL

225

1 during this trial, and indeed after the trial, as to what
2 you've sworn to do as jurors in this case.

3 Thank you.

4 Madame Clerk?

5 (WHEREUPON: The jury is sworn in
6 open court by the Clerk at 11:40 AM, September 14, 2010.

7 THE COURT:

8 Ladies and gentlemen, let me take
9 just a few moments to explain to you the process that we
10 will follow throughout the trial of this case, and tell
11 you what your role as jurors will be in this trial.

12 In a moment, when I finish talking
13 to you, Mr. Filiberto, on behalf of the State, is going
14 to stand before you and make a brief opening statement.

15 And in that opening statement, he
16 is going to outline for you in something of a preview
17 fashion what this case is all about from the State's
18 point of view

19 He may indicate to you some of
20 what the State intends to offer by way of proof in
21 support of the charges that it has brought in these two
22 indictments.

23 When Mr. Filiberto has finished
24 the opening statement of the State, then Mr. Joye on
25 behalf of Ms. Turner has a right to make an hoping

1 statement. But he is under no obligation to do that.
2 And I'll tell you why in just a minute.

3 After the opening statements have
4 been made, then you will actually begin to see and hear
5 the presentation of evidence.

6 Evidence, for the most part, will
7 take the form of the testimony of witnesses who will take
8 an oath and sit right there in that chair between you and
9 me and answer questions that the lawyers for both sides
10 will get to ask of them.

11 Evidence might also take the form
12 of photographs, or diagrams, or documents, or maps, or
13 charts.

14 I haven't seen the evidence, so I
15 don't know what it will be. But it would not be unusual
16 for those sorts of things to come into evidence during
17 the course of this trial.

18 The State will offer its evidence
19 and testimony first.

20 And when the State has completed
21 its evidence and testimony, then the Defendant has a
22 right to offer evidence and testimony if it chooses to do
23 so; but it doesn't have to do so.

24 After all of the evidence and
25 testimony has been presented, then the lawyers will come

1 back before you and present their final arguments --
2 their closing statements, as they're sometimes called.

3 And then after that has been done,
4 I will instruct you or charge you as to what the law is
5 in this case.

6 And then after that has been done,
7 you will be able to go into your juryroom, where you left
8 a few moments ago, and discuss this case among yourselves
9 and deliberate and reach a verdict in this case.

10 I tell you again that:

11 During the course of this trial,
12 you're not allowed to talk about this case with anybody,
13 even among yourselves.

14 It might seem logical to you that
15 the time to talk about something is when you've just
16 heard it.

17 And perhaps, logically, if that
18 were the only consideration, that would be the best time
19 to do it.

20 But if you start talking about the
21 testimony of an early witness, you might disregard the
22 testimony of a later witness that's different from the
23 testimony that you've already started to talk about.

24 And so, you have to keep an open
25 mind throughout these entire proceedings.

1 And for that reason, you're not
2 allowed to discuss this case at any time with anyone,
3 even among yourselves, until the trial is over and I've
4 instructed you to do that.

5 And you can't talk with anybody
6 else about it. And you can't try to find out anything on
7 your own about it.

8 You can't expose yourself to any
9 information about this case from any source at all.

10 The oath that you just took a
11 moment ago says that:

12 You will well and truly try this
13 case and render a true verdict according to the evidence
14 and the law so help you God.

15 The evidence is going to come to
16 you from that witness chair right there; and from those
17 items and those documents of evidence; and from no other
18 source.

19 And so, if you were to try to find
20 out something on your own about this case, or if you let
21 somebody else talk with you about this case, you will
22 have violated the oath that you just took to base your
23 verdict in this case on the evidence that you will hear
24 in this courtroom.

25 So let me reassert you what the

1 evidence is in this case.

2 The evidence is that testimony and
3 those items and documents.

4 And so, that means that the
5 opening statements and the closing statements are not
6 evidence.

7 And it means that the questions
8 that the lawyer ask are not evidence either.

9 It is not the question that is
10 evidence. It is the answer to that question that comes
11 from a witness who's supposed to know what he or she is
12 talking about and who has taken an oath, and who is asked
13 questions by lawyers for both sides, so that that
14 testimony meets the test of strict proof, or is put to
15 the crucible of proof under cross-examination.

16 Now, those other things, the
17 questions and the opening statements are helpful and we
18 couldn't conduct a very orderly trial without them. But
19 they, themselves, are not evidence.

20 Your verdict has to rest on the
21 evidence, or the lack of evidence, in the trial of the
22 case.

23 Now, the reason it's important
24 that you understand the distinction between what is and
25 what is not evidence is this:

1 When it comes to the matter of
2 evidence, ladies and gentlemen, you all actually act as
3 jurors -- excuse me -- as judges.

4 The badge that you're wearing says
5 "Jurors." But on evidence matters, that badge should
6 more correctly say "Judge."

7 Because when it comes to the
8 matter of evidence, you have to decide where the truth of
9 the case lies.

10 Now, I've got the easy job.

11 As the judge of the law, all I've
12 got to do is decide as a matter of law whether you can
13 hear somebody tell you something, or whether you can look
14 at an item of evidence or not.

15 But once that I -- I decide that
16 you can hear the testimony or look at the evidence, then
17 from that point on, what you do with it is entirely up to
18 you.

19 You've got the right to believe it
20 or not believe it.

21 You've got the obligation to
22 assign weight to it, and force and effect to it, if you
23 do believe it.

24 That means you got to pay
25 attention.

OPENING REMARKS BY COURT AND COUNSEL

231

1 I told you a while ago you had to
2 keep an open mind.

3 Well, let me remind you now,
4 you've got to keep an open ear.

5 Because if you don't, you're not
6 going to be in the -- in a position when this trial is
7 over to go back across the hall into that juryroom and
8 start talking about this case among yourselves.

9 So please, keep your attention
10 focused on what is before you in this courtroom. And I
11 know that you will do that.

12 Now, ladies and gentlemen, I told
13 you a few moments ago that -- that the Defendant in this
14 case, Ms. Turner, doesn't have to offer an opening
15 statement or doesn't have to present evidence and
16 testimony if she chooses not to do so.

17 And the reason for that is:

18 She's pled not guilty, as you
19 know, to the charges in this indictment.

20 And the effect of a plea of not
21 guilty by a defendant in a criminal case is to place the
22 burden of proof on the State to prove the guilt of that
23 defendant beyond a reasonable doubt before you as a jury
24 can convict a defendant and find her guilty.

25 I'm certain that all you -- of you

1 -- have heard at one point in time, the say -- the saying
2 -- the phrase "innocent until proven guilty."

3 Well, that's what I'm talking
4 about right now.

5 If you'll look at that four-word
6 phase, "innocent until proven guilty," you'll see that
7 there is nothing in that phrase that says that innocence
8 has to be proven.

9 It is guilt that as to be proven;
10 not just in this case, but in every case of this sort
11 that is brought in our courts.

12 And so Defendant doesn't have to
13 take the stand and try to convince you that she's not
14 guilty of the things she's accused of doing.

15 And she doesn't have to bring in
16 other witnesses and present other evidence to try to
17 convince you that she is not guilty of those charges.

18 She is presumed in law to be
19 innocent of those charges. And that presumption of
20 innocence remains in place unless and until the State is
21 able to overcome it by evidence that convinces you of her
22 guilt beyond a reasonable doubt.

23 When the trial is over, I'll tell
24 you a little bit more about what we mean by the phrase
25 "proof beyond a reasonable doubt."

24 We find the Defendant guilty; or

25 We find the Defendant not guilty,

1 according to your view of the evidence in this case.

2 Thank you folks for you attention
3 to these remarks.

4 Now please listen to the lawyers
5 as they make their opening statements.

6 Mister Filiberto.

7 MR. FILIBERTO:

8 Thank Your Honor.

9 THE COURT:

10 Yes sir.

11 MR. FILIBERTO:

12 If it please The Court?

13 THE COURT:

14 Yes sir.

15 MR. FILIBERTO:

16 To get started this morning, I
17 want to reiterate -- uh -- thanks for your service in
18 this matter.

19 The jury is an extremely important
20 part of any criminal trial and I think no doubt that it
21 virtually never comes at a convenient time for anybody.

22 Your service is very important.

23 Juries are the best way that we
24 know of to ensure that the Defendant in the case and the
25 State of South Carolina both get the fair trial that

1 they're entitled to.

2 And during this trial, it's going
3 to be a little bit of a challenge, I think that it will
4 be for me, to keep track of all the participants -- all
5 the people involved in this.

6 While there's really one defendant
7 on trial here this week, they're actually six people that
8 were charged and arrested related to the armed robbery
9 and the murder of Ronald Rabon.

10 The evidence in this case will
11 take you back to August 13th, 2008.

12 That's when this group of six
13 people ultimately got together in a little bar over in
14 Aynor called Big Easy's.

15 It's right there on 501 just a
16 little bit outside of town. It used to be called Aynor
17 Food and Spirits.

18 It was while they were all there,
19 that a plan starts to develop. They decided they were
20 going to rob somebody.

21 And it was during that plan that
22 the Defendant in this case got involved.

23 Evidence that we'll put up on the
24 witness stand will tell you that she was the one person
25 who was a real regular at that bar.

1 She knew the people there.

2 When the question was posed to
3 her, the evidence is going to show you that -- that she
4 selected Ronald Rabon as a good candidate -- as somebody
5 to be robbed.

6 He always had money. He would
7 always buy drinks for girls.

8 The evidence is going to show you
9 that she was directly involved in the planning of this
10 robbery.

11 She was aware that there was a gun
12 possessed by one of the defendants; that she's the one
13 who directed them where -- how they could get him out the
14 bar; where they should take him. And she let the group
15 use her car to go out there, knowing that this was going
16 to be a robbery.

17 The evidence is going to show you
18 that the rest of the codefendants went out there, using
19 her car, and forced Mr. Rabon out of the car he was
20 sitting in.

21 They held him at gunpoint. Took
22 his personal property from his pocket. And then, one of
23 the defendant's shot and killed him, and left him laying
24 there on the side of -- of that dirt road down in Aynor.

25 The location where they bought him

OPENING REMARKS BY COURT AND COUNSEL

237

1 was predetermined during their planning.

2 This was a -- This was a plan for
3 them. The plan came together. They got his money. They
4 took his property and they left him here -- there for
5 dead.

6 At the end of the trial, after the
7 close of all the evidence, I'm just going to ask you -- I
8 know that you're going to be thinking about -- most of
9 this evidence is going to be about these six people.

10 I'm going to ask you to remember
11 that one additional person, and that would be Ronald
12 Rabon, a man that was truly innocent and the victim of a
13 bunch of predators that picked him out, tricked him into
14 leaving a bar, and then robbed him, and shot and killed
15 him.

16 THE COURT:

17 Thank you Mr. Filiberto.

18 Mr. Joye?

19 MR. JOYE:

20 May it please The Court?

21 THE COURT:

22 Yes sir.

23 MR. JOYE:

24 Innocent. Innocent. Innocent.

25 Crystal Turner sits here today

1 innocent of the charge that is before her today.

2 I want to tell you in the evening
3 and morning of April 13th-14th, a terrible, terrible,
4 terrible, terrible tragedy happened to Ronald Rabon.

5 Mr. Rabon has a lot of family and
6 friends here. And it was a horrendous tragedy -- a
7 horrendous tragedy.

8 Crystal Turner had nothing to do
9 with the tragedy that befell Ronald Rabon that night.

10 Mr. Filiberto talks to you about
11 evidence.

12 I'll tell you what he's going to
13 put up as evidence.

14 He's going to put up five people
15 right here (knocks on witness stand rail) to testify that
16 Crystal Turner; who goes to this place every single
17 Wednesday night; who knew Mr. Rabon; who had drinks with
18 Mr. Rabon; who was meeting her boyfriend there that
19 night; got called by her friend Paige.

20 Now, her friend Paige was supposed
21 to come with her boyfriend, Luke Oxendine.

22 Luke Oxendine was a recently
23 released prisoner, who was a -- convicted of robbery; who
24 came with his brother Jamie.

25 So instead of Crystal's picking up

OPENING REMARKS BY COURT AND COUNSEL

239

1 Paige and Luke -- Luke, who's going to go with them to
2 sing karaoke -- she not only end up with Luke, convicted
3 felon, robber, she ends up with Luke's brother, Jamie,
4 convicted felon, robber, both recently released from
5 prison.

6 And who else is with them?

7 Paige's brother, Charlie Skipper,
8 who pled in this courtroom to cold-bloodedly murdering
9 Ronald Rabon after the robbery had occurred.

10 You know, the -- the great thing
11 about our system is:

12 You guys get to make a decision to
13 say:

14 Does this make sense?

15 Does it make sense that Crystal
16 Turner would set up Ronald Rabon to be murdered in a bar
17 where she goes with 4 other people -- and later a 5th one
18 shows up -- where everybody says:

19 They borrowed her car to go get
20 cigarettes.

21 Where everybody says:

22 Her car was almost out of gas.

23 And they come in. They give her \$20.00 and the keys.

24 They leave with another girl, Stacy Johnson, who lured

25 Ronald Rabon to that dirt road in Horry County outside of

1 Aynor.

2 They said that Crystal wanted
3 money out of it.

4 I submit to you that:

5 When Jamie came in -- and
6 everybody's going to testify that Jamie came in, handed
7 her the keys and \$20.00; and said:

8 Stacy's giving us a ride back over
9 to where Stacy -- to where Paige's car was parked.

10 If she set up a robbery, she would
11 have called:

12 Where's my money? I want my
13 money. I need my money.

14 If you are the mastermind behind a
15 robbery, you want your money.

16 They can't show that. They cannot
17 show that.

18 What the evidence will show, if
19 you keep an open mind and don't believe whole-heartedly
20 what these folks -- and by the way:

21 All of these folks have signed
22 some called a proffer agreement which says:

23 The government promises, based on
24 your cooperation here, testifying against Crystal Turner,
25 to decide what we're going to let you plead to?

OPENING REMARKS BY COURT AND COUNSEL

241

1 Except this Charlie Skipper.

2 And Charlie Skipper is the

3 shooter. He shot an innocent man in cold blood.

4 Innocent man in cold blood.

5 And now he's pled guilty.

6 And he's going to testify today,

7 hopefully, to put her in prison; to take away her

8 freedom, so that he lessens the blow to himself.

9 You know, the thing about this
10 trial, there is no question period that five people went
11 out and took part in, and robbed Ronald Rabon.

12 And one, when it was over, shot
13 him, and killed him, and left him on a muddy dirt road
14 outside Of Aynor.

15 That's a tragedy.

16 And I can tell you:

17 My heart goes out to that family
18 and those friends.

19 But, ladies and gentlemen, we
20 cannot make one tragedy into two, simply because these
21 folks over here -- I'll tell you who was mastermind.

22 Paige was mastermind.

23 Paige's own brother and Stacy
24 Johnson both said:

25 Paige needed money to pay her

1 power bill.

2 What did Paige say?

3 Crystal needs the money to pay a

4 power bill.

5 You know, if you're going to lie,
6 the best way to do it is:

7 Wrap that lie around some truth.

8 Because it makes it a whole lot
9 easier to be believable -- a whole lot easier to be
10 believable.

11 So, Paige's own family says:

12 Her power was about to get turned
13 off. And so, she is the one that needed the money.

14 What did Crystal get?

15 What will every single one of them
16 tell you?

17 \$20.00.

18 If you set up a robbery at
19 midnight at the bar in Aynor, do you stick around till
20 three o'clock in the morning at the same bar with your
21 boyfriend?

22 Does it make sense?

23 Does it add up?

24 It doesn't add up, ladies and
25 gentlemen.

OPENING REMARKS BY COURT AND COUNSEL

243

1 You know why it doesn't add up?
2 'Cause Crystal Turner is innocent.
3 Now, what did she tell them?
4 She told Paige that Ronald Rabon
5 had brought her drinks before.
6 And guess what?
7 Paige, and this crowd, who I don't
8 -- only one of them that I know of has a job, Stacy.
9 None of them had any money. None
10 of them had any money.
11 They came to a bar with zero
12 money, expecting to hang out and drink and party; do
13 whatever.
14 They needed somebody to buy
15 drinks.
16 Crystal told them:
17 This guy will buy you drinks. He
18 usually keeps enough money to buy you some drinks.
19 When they first go talk to Stacy
20 Johnson, she tells the truth, ladies and gentlemen.
21 She tells the truth from day one.
22 She says:
23 I never heard Crystal Turner say
24 anything.
25 She says -- they keep trying to

1 get her to -- to say Crystal Turner set up some robbery.

2 She pounds on the table

3 (demonstrates by pounding on the jury rail).

4 I never heard Crystal Turner say
5 anything.

6 Back in August 14 -- August 15th,
7 '09 -- in -- in '08.

8 In '09, the come back.

9 She adds to the store a little
10 bit; but she really doesn't put Crystal in it; okay.

11 In '010 -- in 2010, they go back
12 to her.

13 She signs a proffer agreement that
14 says:

15 Based on my cooperation, you,
16 government, are going to consider my cooperation in
17 trying to convict Crystal Turner in helping me with my
18 sentence and/or my charges.

19 The testimony that you're going to
20 hear is bought and paid for.

21 Law-enforcement jumped to a
22 conclusion. And everybody got on the bandwagon.

23 They had Stacy in the game.

24 They're looking for Crystal Turner
25 to get convicted to get their deal sweeter.

OPENING REMARKS BY COURT AND COUNSEL

245

1 That's where you get to determine
2 the credibility of these witnesses, three of whom are ex-
3 con, felons.

4 Crystal Turner; never been in
5 trouble in her life. Never been in trouble in her life.

6 You know, when I was coming in
7 here, that big deputy sitting at the back over there, he
8 was working a cross-word puzzle.

9 And I said:

10 Well, you know -- I said:

11 Well, how's it doing?

12 He said:

13 Well, I'm just putting some
14 letters in here.

15 Said:

16 I don't care if it's right or
17 wrong, I just want them to fit.

18 I submit to you:

19 That's what the government is
20 doing to you right now -- is trying to do to Crystal
21 Turner.

22 They're trying to make it fit.

23 They don't care if it's right or
24 wrong, they want it to fit.

25 This is a five-piece puzzle.

1 Luther Oxendine.

2 Jamie White.

3 Charlie Skipper.

4 Paige Skipper Furness.

5 Stacy Johnson.

6 The piece that doesn't fit; the
7 piece that doesn't make sense, is Crystal Turner.

8 The best you folks can ever do is
9 give her a verdict of not guilty.

10 And you cannot -- When you go back
11 in that jury room, every one of you will have to carry
12 this presumption of innocence with you.

13 Unless and until all of you agree
14 that it's not possible, or that -- that beyond -- that
15 she's guilty beyond a reasonable doubt;

16 that it's not possible that
17 there's an explanation for it;

18 that it's not possible that these
19 people are lying;

20 that it's not possible that he's
21 bought and paid for them with his proffer agreement.

22 Ladies and gentlemen, I submit to
23 you:

24 This is one of the most important
25 days in the lives and family and friends of Crystal -- of

OPENING REMARKS BY COURT AND COUNSEL

247

1 -- of Mr. Rabon.

2 I submit to you:

3 It's one of the most important
4 days in the life of Crystal Turner.

5 And ladies and gentlemen, it's one
6 of the most important days in your lives.

7 Because you have to decide beyond
8 all reasonable doubt that Crystal Turner is guilty of
9 setting up a robbery of Ronald Rabon; and that, he later
10 was killed during that robbery.

11 And I'm telling you, you cannot.

12 Because Crystal Turner is innocent
13 of those charges -- innocent of those charges -- innocent
14 of those charges.

15 THE COURT:

16 Thank you Mr. Joye.

17 Mr. Filiberto, you can call your
18 first witness.

19 MR. FILIBERTO:

20 Thank you.

21 THE COURT:

22 Come forward please, sir, and be
23 sworn.

24 MR. JOYE:

25 Your Honor, may we approach very

1 quickly?

2 THE COURT:

3 Yes sir.

4 (WHEREUPON: Counsel for each party
5 conferred off the record with The Court at the bench at
6 5:06 PM, September 14, 2010.)

7 THE COURT:

8 Go ahead.

9 WHEREUPON: JIMMY PIGATE WAS DULY

10 SWORN AND TESTIFIED UNDER OATH AS FOLLOWS:

11 CLERK:

12 If you'll speak into the
13 microphone. State your full name; and spell your last
14 name.

15 WITNESS:

16 Jimmy Pigate; P-i-g-a-t-e.

17 DIRECT EXAMINATION BY MR. FILIBERTO:

18 Q. Okay. Sir, how do you pronounce your last name
19 again?

20 A. Pigate.

21 Q. Pigate. Thank you. Mr. Pigate, will you please
22 tell The Court where you're currently employed?

23 A. Waste Industries.

24 Q. What kind of work do you normally do?

25 A. I'm a supervisor for a garbage truck route.

TESTIMONY OF JIMMY PIGATE

249

1 Q. Were you working during the early morning hours of
2 August 14th, 2008?

3 A. Yes, I was.

4 Q. Where? What was your job assignment that morning?

5 A. I was assisting another driver who was unfamiliar
6 with the route. And I was helping navigate the truck;
7 show him where -- where things were.

8 Q. Sometime that morning, did you travel down Tobacco
9 Leaf Road in Aynor?

10 A. Yes, we did.

11 Q. About what time was that?

12 A. Uh -- About 2:30 in the morning.

13 Q. Where is -- uh -- that area located? What county is
14 it?

15 A. Horry County.

16 Q. And at that time, did you notice something that
17 caused you some concern?

18 A. Uh -- Yes, we did.

19 Q. Why don't you tell us what that was?

20 A. At first glance we thought a bag of trash was on the
21 side of the road. And as we got closer, we realized it
22 was a person laying there.

23 Uh -- We stopped the truck -- uh
24 -- about 25 feet away, I guess, and got out.

25 Thought maybe someone was drunk,

1 fell down, or whatever.. Thought we could assist him.

2 Uh -- Felt his neck. Uh --

3 Realized he was deceased; and we called 911.

4 Q. Can you describe the area where you found his body?

5 A. It's a dirt road; just a few houses on it. Uh -- It
6 was -- had been raining. It was right muddy.

7 Q. Any lights?

8 A. No. It was very dark.

9 Q. You said you called 911?

10 A. That's right.

11 Q. After you notified -- uh -- the police, did you do
12 -- touch or do anything else at the scene there?

13 A. No, we did not.

14 Q. And did the police ultimately arrive on the scene?

15 A. Yeah. The paramedics arrived first.

16 MR. JOYE:

17 Your Honor, I object of the
18 leading.

19 I -- I think he can ask:

20 What happened?

21 THE COURT:

22 Well:

23 "Did the police arrive on the
24 scene?" doesn't suggest the answer.

25 It could be "yes." It could be

TESTIMONY OF JIMMY PIGATE

251

1 "no."

2 It's okay. Go ahead.

3 MR. FILIBERTO:

4 Thank you, sir.

5 Please answer any questions

6 Defense Counsel has.

7 THE COURT:

8 All right.

9 Mr. Joye, you can cross-examine.

10 COURT REPORTER:

11 I didn't get his last answer, Your

12 Honor, because everybody was -- What was your last

13 answer?

14 WITNESS:

15 I forgot the question.

16 MR. FILIBERTO:

17 The answer was:

18 Did the police ultimately arrive?

19 WITNESS:

20 Yeah.

21 MR. FILIBERTO:

22 Or the question was:

23 Did the police ultimately arrive

24 at the scene.

25 WITNESS:

TESTIMONY OF JIMMY PIGATE

252

1 Yes, they did.

2 MR. JOYE:

3 No questions for Mr. Pigate.

4 Thank you, sir.

5 THE COURT:

6 Thank you, sir.

7 Mr. Pigate, you can step down.

8 Thank you.

9 MR. FILIBERTO:

10 Your Honor, we'd ask that -- uh --

11 this witness be excused from his subpoena.

12 MR. JOYE:

13 Without objection.

14 THE COURT:

15 You can be excused. Thank you,

16 sir, for coming.

17 MR. FILIBERTO:

18 Uh -- The State would call Robert

19 Sauls -- Officer Robert Sauls.

20 BAILIFF:

21 Not here.

22 MR. FILIBERTO:

23 The Court's quick indulgence for

24 just one minute, Your Honor.

25 THE COURT:

TESTIMONY OF OFFICER ROBERT SAULS

253

1 Okay.

2 THE COURT:

3 The Court's indulgence just one
4 minute. They're getting Officer --

5 THE COURT:

6 Okay.

7 Ladies and gentlemen, the witness
8 who are -- witnesses who are not testifying in the trial
9 of this case; during the time before their testimony,
10 they're being sequestered.

11 That is, they're kept out of the
12 courtroom in another room down the hall, so that accounts
13 for a small, slight delay from time to time.

14 Officer Sauls, come forward
15 please, sir, to be sworn.

16 WHEREUPON: OFFICER ROBERT SAULS
17 WAS DULY SWORN AND TESTIFIED UNDER OATH AS FOLLOWS:

18 CLERK:

19 Thank you. Please be seated.

20 Okay. If you'll state your full
21 name; and spell your last name?

22 WITNESS:

23 Uh -- I'm Officer Robert Sauls;
24 last name, S-a-u-l-s.

25 CLERK:

1 Okay. If you'll please speak
2 into the microphone.

3 DIRECT EXAMINATION BY MR. FILIBERTO:

4 Q. Officer Sauls, where are you currently employed?

5 A. I'm currently employed at Horry County Police
6 Department.

7 Q. And how long have you been employed with them?

8 A. Uh -- Approximately 3 years.

9 Q. And were you working back on the early morning hours
10 of August 14th, 2008?

11 A. Yes sir, I was.

12 Q. Were you dispatched to a call out in Aynor?

13 A. Uh -- Yes sir, I was.

14 Q. Tell us about that call.

15 A. Uh -- On August 14th, 2008 -- uh -- approximately --
16 uh -- 3:30 in the morning, I was dispatched to the area
17 of Tobacco Leaf Road referencing a -- uh -- body call.

18 Uh -- I responded, along with --
19 uh -- Sergeant Warren Larimore, who was my supervisor at
20 the time, and Horry County Fire and EMS.

21 Uh -- Upon arrival, I saw a -- uh
22 -- a body, which appeared to be male -- uh -- lying on
23 the side of the roadway, like I said, on Tobacco Leaf
24 Road in the Aynor county -- uh -- Aynor area of Horry
25 County.

TESTIMONY OF OFFICER ROBERT SAULS

255

1 Uh -- Officer -- uh -- uh -- I'm
2 sorry -- EMT Technician -- uh -- Tim Parker -- uh -- did
3 initial check of the body.

4 Found that there was a -- uh -- a
5 -- a small hole in the chest, which appeared to be a --
6 uh -- small caliber bullet hole.

7 Uh -- I spoke with the two -- uh
8 -- Complain -- with the Complainant and his partner.

9 Uh -- The Complainant was Mr.
10 Jimmy Pigate. He worked for -- uh -- uh -- a waste
11 management type company.

12 He said that he arrived and found
13 this body in the middle of the road.

14 Himself and his -- uh -- partner
15 approached the body. He was the only one who touched the
16 body. Said he went to feel for a pulse, and -- uh --
17 felt that it was cold.

18 And, at that time, pulled away
19 from the body and called -- uh -- Horry County Dispatch.

20 Q. Did you -- uh -- ask for some additional law-
21 enforcement assistance?

22 A. Uh -- Yes. Uh -- Per our protocol, -- uh --
23 Sergeant War -- uh -- Sergeant Warren Larrimore contacted
24 our Violent Crime's Division, as well as the Crime Scene
25 Division.

1 Q. Did you do anything to secure that scene?

2 A. Uh -- Yes sir. We -- uh -- We actually set up a
3 crime scene.

4 Q. When you say that, what does that entail?

5 A. Uh -- We -- We pretty much set an area off where
6 nobody entered or exited -- uh -- unless we were -- you
7 know -- uh -- privy to that information.

8 Uh -- We use, usually, crime scene
9 tape to set that off.

10 Q. And did ultimately some -- uh -- more senior
11 officers arrive at the scene?

12 A. Uh -- Yes sir. Detective Tim Troxell arrived on
13 the scene and took over the case.

14 Q. And did you -- uh -- relinquish control of the scene
15 to him at that time?

16 A. Yes.

17 MR. FILIBERTO:

18 Thank you. Please answer any
19 questions Mr. Joye has.

20 MR. JOYE:

21 Thank you.

22 Nothing for -- uh -- Officer
23 Sauls.

24 Your Honor, we'd have no objection
25 to him being excused.

TESTIMONY OF OFFICER ROBERT SAULS

257

1 THE COURT:

2 Thank you, Mr. Joye.

3 Officer Sauls, you can step down
4 and be excused. Thank you for coming.

5 WITNESS:

6 Thank you.

7 MR. FILIBERTO:

8 Your Honor, if we might approach?

9 THE COURT:

10 Yes sir.

11 (WHEREUPON: Counsel for each party
12 conferred off the record with The Court at the bench at
13 12:14 PM, September 14, 2010.)

14 THE COURT:

15 Ladies and gentlemen, sometimes we
16 whisper up here -- uh -- behind your back.

17 We don't mean to be rude, but it
18 keeps us from having to send you back into the juryroom.
19 And sometimes, I can't tell you what we're whispering
20 about until the trial is over.

21 Uh -- I tell folks on juries:

22 If you're ever curious about what
23 we're whispering about, when your role as jurors is over,
24 if you'll come and ask me what we're whispering about,
25 and if I can remember what we're whispering about, I'll

1 tell you.

2 But I can tell you what we're
3 whispering about a minute ago.

4 We were talking -- talking about
5 your immediate future; and that's lunch.

6 Uh -- The next witness is going to
7 be somewhat lengthy. And -- uh -- And it would intrude
8 well into the lunch hour.

9 And so, rather than interrupt that
10 testimony in midstream so that we could take a lunch hour
11 and then come back and ask you to pick it up where we
12 left off, the best thing to do is to stop here a little
13 early for lunch.

14 Our normal hours of operation,
15 folks, start in the morning at 9:30. And we look for a
16 starting -- stopping place sometime around 12:30 or one
17 o'clock.

18 But it -- if it appears, as it
19 does in this case, that -- uh -- we would intrude into
20 that hour -- into that lunch hour, we'll stop earlier.

21 I want you to be back in the
22 juryroom please at 1:30.

23 That's an hour and 15 minutes.

24 I think that's enough time to get
25 -- to give you enough chance to get some lunch.

MATTERS OUTSIDE OF JURY

259

1 If you'll please be back in the
2 juryroom at 1:30.

3 Uh -- I remind me again not
4 discuss this case with anybody else, or among yourselves
5 when you get back.

6 If you'll follow the Bailiffs
7 through here, they'll show you the secret, back way, that
8 you are to come and go as jurors during the course of
9 this trial.

10 Thank you.

11 (WHEREUPON: The jury empanelled
12 in the case withdrew from the courtroom at 12:16 PM,
13 September 14, 2010; and was no longer present during the
14 following proceedings.)

15 THE COURT:

16 All right.

17 Anything before we break for lunch
18 in this case, Mr. Filiberto, from the State?

19 MR. FILIBERTO:

20 Nothing, sir.

21 THE COURT:

22 Mr. Joye?

23 MR. JOYE:

24 Your Honor, one little thing that
25 we can either take up -- uh -- before or after -- uh --

1 and -- and I don't -- it's -- it -- it's in regards to
2 the photographic evidence that -- that I'll have
3 objection to a couple of photographs.

4 I don't care when The Court takes
5 it up.

6 THE COURT:

7 Okay.

8 We'll do that before we start back
9 this afternoon after lunch.

10 MR. JOYE:

11 Thank Your Honor.

12 THE COURT:

13 If you all could just let me see
14 what the -- what the objected to evidence is, and the --
15 and the evidence you don't have any objections to in that
16 regard, I can mull over that. And it'll take a little
17 bit of the time when we come back; okay.

18 MR. JOYE:

19 Thank Your Honor.

20 THE COURT:

21 All right. Thank you.

22 All right. Folks, in this case,
23 we'll be in recess until 1:30.

24 I've got -- uh -- a -- a brief
25 matter on a bond hearing that I need to take care of if

MATTERS OUTSIDE OF JURY

261

1 everybody's here on that -- uh -- if they can be rounded
2 up real quickly.

3 (WHEREUPON: The court was
4 declared in recess for this particular case at 12:18 PM,
5 September 14, 2010.)

6 (WHEREUPON: This particular case
7 was called again to order by The Court at 1:34, September
8 14, 2010; and all pertinent parties, along with their
9 counsel, were back and present in the courtroom.)

10 THE COURT:

11 Okay. All right.

12 MR. JOYE:

13 Judge, it might be a good point
14 for me to bring up something.

15 THE COURT:

16 Okay.

17 MR. JOYE:

18 Uh -- Four of the five defendants
19 who are testifying against Ms. Turner today --

20 THE COURT:

21 Yes sir.

22 MR. JOYE:

23 -- uh -- are testifying pursuant
24 to a proffer agreement.

25 THE COURT:

1 Right.

2 MR. JOYE:

3 Uh -- As Your Honor is very aware,
4 these proffer agreements have language regarding
5 polygraphs.

6 THE COURT:

7 All right.

8 MR. JOYE:

9 Uh -- I don't know -- I've never
10 been told whether or not -- uh -- they've ever been
11 polygraphed.

12 And of course, the Solicitor's
13 Office has made the point that:

14 Uh -- We don't have to tell you
15 that.

16 And that's -- that's fine.

17 But if the proffer agreements,
18 which I intend to enter into evidence -- uh -- mention a
19 polygraph, and they've been polygraphed, then I need to
20 know what those results are?

21 Or, in the alternative, that
22 provision that mentions polygraphs has to be redacted.

23 But I would think in a full and
24 fair disclosure of the evidence, I should know:

25 Have they ever been polygraphed?

1 I mean, I -- My -- My
2 understanding is the polygraph provision is -- uh -- is
3 -- is something that's not admissible.

4 THE COURT:

5 Right.

6 MR. JOYE:

7 Uh -- Didn't intend to bring it
8 in.

9 But my understanding is the
10 Solicitor's going to argue that -- that the proffer
11 agreement comes in, in whole.

12 If it does, then I mean -- then I
13 would submit to you that I should have the benefit of
14 knowing the results of any and all polygraphs that
15 they've taken.

16 And if he wants that in, then I
17 get to ask him if they -- if they were polygraphed.

18 THE COURT:

19 Well --

20 MR. JOYE:

21 I -- I don't think he gets to have
22 it both ways, Judge.

23 THE COURT:

24 All right. Thank you, Mr. Joye.

25 MR. FILIBERTO:

1 In response, Your Honor, first of
2 all, the State doesn't plan to put the agreements in.

3 Doesn't plan to testify -- solicit
4 testimony about polygraphs.

5 Mr. Joye is the one looking to
6 have it both ways.

7 He wants to put it in. He wants
8 to redact part of the agreement; but only wants to put
9 the part of the agreement in that he wants the jury to be
10 able to see.

11 Your Honor, I think that in the
12 fairness -- for the jury to be able to make the -- Mr.
13 Joye's making the choice to enter those things as
14 evidence.

15 It's fair for the jury to know the
16 entirety of the agreement; not the fact that -- uh -- not
17 -- not just the questions that he would want to ask.

18 The State has no intention of
19 raising -- It would be improper.

20 There should be no testimony in
21 this trial at all related to polygraphs.

22 The Court's well aware, it's
23 completely inadmissible -- uh -- and would -- it would
24 not -- uh -- you know -- it would not be proper for that
25 to come in.

1 However, if Mr. Joye does choose
2 to put it in, the State would argue that -- that the --
3 what he's putting into evidence -- what he's -- what he's
4 choosing to redact out is simply something that shows the
5 -- the jury that they were agreeing to be polygraphed.

6 And -- uh -- And again, I think
7 it's proper that the agreement be put in, in its
8 entirety.

9 THE COURT:

10 All right.

11 MR. JOYE:

12 Your Honor, I -- Honestly, I --
13 I've tried several cases in -- in Federal Court, all of
14 which the plea agreements absolutely, completely, and
15 always redact -- and they're always put into -- into
16 evidence by the prosecution -- by the government.

17 The polygraph provision is
18 redacted out of them.

19 Uh -- I know there's Fourth
20 Circuit case law on it, because the government in a
21 federal trial almost never polygraphs its witnesses.

22 THE COURT:

23 Uh-huh.

24 MR. JOYE:

25 Uh -- But makes them subject to

1 that provision.

2 Here, he -- he says:

3 I can't put the poly -- the
4 proffers in.

5 The proffers are the deals they've
6 made subject to a polygraph provision, which I have no
7 clue whether they took or didn't take, and the results
8 thereof.

9 MR. FILIBERTO:

10 Your Honor, it's not exculpatory.

11 It is -- It is clearly improper.

12 If Mr. Joye were to raise it, I
13 would object.

14 If he brought up anything related
15 to a polygraph during the trial in front of the jury, I
16 would object.

17 It is Mr. Joye's moving to put the
18 agreement in. It's his decision.

19 If he does, I would just ask that
20 they go in, in its entirety.

21 And, Your Honor, again, this -- uh
22 -- I'm -- I'm aware of no State court requirement that --
23 uh -- that I disclose -- uh -- if I have or have not
24 polygraphed any of these witnesses.

25 THE COURT:

1 Uh -- The issue of the polygraph,
2 course, is so well-established that I -- I don't know.

3 I've just got 20 cases in front of
4 me right this minute, I'll be glad to cite into the
5 record that stands for the same proposition.

6 I'll cite -- cite State versus
7 Wright, W-r-i-g-h-t; 471 Southeastern Second 700.

8 This is a slightly different
9 situation involving the polygraph of a defendant.

10 Uh -- And -- uh -- uh --

11 MR. FILIBERTO:

12 It should be a polygraph of a
13 witness, Your Honor; not to interrupt.

14 THE COURT:

15 I understand that.

16 But polygraph is polygraph, I
17 think, as far as the law is concerned.

18 Uh -- Generally the results of
19 polygraph examinations are inadmissible because of the
20 reliability of the polygraph is questionable.

21 Uh -- And that's, of course, a
22 general proposition.

23 Uh -- I, over the years, have
24 searched for -- for -- uh -- exceptions to that
25 proposition.

1 At one point in time, I -- I -- uh
2 -- thought that the case of State versus Council, C-o-u-
3 n-c-i-l -- uh -- which had to do with expert witness'
4 testimony -- uh -- under Dalbert and under State v Davis,
5 whether those things were opening the door for the
6 science at one time to -- to be developed to the point
7 that the polygraph would be admissible.

8 And I think that it might be one
9 of these days. Because this case law specifically says:

10 Because the reliability of a
11 polygraph is questionable.

12 If it ever occurs that the
13 reliability of the polygraph -- uh -- is no longer
14 questionable, then that, of course, might be different.

15 But the short answer is:

16 Polygraph -- Any reference to
17 polygraph doesn't come in.

18 As to whether or not the proffer
19 agreement comes in, that's another matter.

20 And -- uh -- since I'm the only
21 one in the courtroom who hasn't read it, perhaps it would
22 be helpful if I read it before I ruled on whether or not
23 it comes in, in the absence of -- uh --

24 MR. JOYE:

25 Your Honor, I believe these are

1 all the same. And I'll be happy to show you, and show
2 -- point it out, and let you read it.

3 Section 2 is the only part that --
4 that refers to any polygraph.

5 THE COURT:

6 Right.

7 MR. JOYE:

8 And that -- My point being:
9 If it comes in for impeachment
10 purposes to say:

11 You're getting a deal.

12 THE COURT:

13 Right.

14 MR. JOYE:

15 And then it says:
16 You should be subjected to
17 polygraph.

18 Then the jury is going to assume
19 that they were all polygraphed, and they're all telling
20 the truth.

21 MR. FILIBERTO:

22 Your Honor, I think --

23 MR. JOYE:

24 I have no clue either way, because
25 that's not been -- uh -- relayed to me.

1 THE COURT:

2 Right.

3 MR. JOYE:

4 And my position is --

5 THE COURT:

6 Well --

7 MR. JOYE:

8 -- that -- that redacted --THE

9 COURT:

10 Right. Right.

11 You -- You -- I understand your

12 position. I just don't understand what the agreement

13 says.

14 MR. JOYE:

15 Okay.

16 THE COURT:

17 I don't need any further argument

18 on it from either side.

19 I -- I know what it says. I mean,

20 I know what the law is. I understand the positions.

21 I just need to read it. And

22 before it's intended be offered, I'll -- I'll rule on it.

23 Is it intended -- Do you intend to

24 -- to try to get it in shortly -- uh -- Mr. -- Mr. Joye.

25 MR. JOYE:

MATTERS OUTSIDE OF JURY

271

1 Your Honor, unfortunately, I have
2 no clue when -- when any of the witnesses for the
3 government are coming.

4 THE COURT:

5 Okay. All right.

6 MR. JOYE:

7 So I -- I just thought this was an
8 opportune time to take this up.

9 THE COURT:

10 Okay. All right. Well, it is.
11 And appreciate the heads up on it. And we'll -- I'll
12 have a chance to -- to read it and -- uh -- while --
13 while the next witness is coming up.

14 The next witness is not going to
15 be -- Is it going to be one of the codefendants?

16 MR. FILIBERTO:

17 No sir.

18 THE COURT:

19 Okay. Didn't think so.

20 All right.

21 COURT REPORTER:

22 Y'all were going to put something
23 on the record, right -- We did something after I had
24 closed the record down right before lunch?

25 THE COURT:

1 It had to with admissibility of a
2 photograph. Uh -- There was a -- Mr. Joye objected to
3 the introduction of either State's 7 or 8. I can't
4 remember which one it was.

5 Uh -- It was -- It was a
6 photograph showing the -- uh -- the victim --

7 MR. FILIBERTO:

8 Seven and eight, sir.

9 THE COURT:

10 Seven and eight.

11 MR. FILIBERTO:

12 And I think it was seven. I think
13 it was eight, rather, where the objection was raised by
14 seven and eight, where he objected --

15 THE COURT:

16 Right. Objected that it was --
17 that it was more prejudicial than probative.

18 Uh -- The -- uh -- The -- The
19 crime scene, itself; the -- uh -- the jury has a right to
20 -- uh -- to view that in so far as it possibly can by way
21 of photograph, if indeed the photograph is not unduly
22 prejudicial.

23 Uh -- It shows the victim,
24 obviously.

25 Uh -- It shows some blood stains

1 on the T-shirt of the -- or sweat shirt that he's
2 wearing. I can't recall which.

3 Uh -- And -- And Mr. Joye timely
4 objected to that as being unduly prejudicial.

5 Uh -- The Solicitor, Mr.
6 Filiberto, mentioned that -- uh -- that that is the least
7 onerous of several pictures of the same nature -- uh --
8 that -- uh -- that he has in his file that he chooses to
9 offer for the purpose of showing -- uh -- the name on the
10 shirt itself -- uh -- to show some connection between the
11 -- the T-shirt itself and the Defendant in this case, who
12 mentioned that particular T-shirt at one point in time.

13 Uh -- Obviously, any evidence that
14 shows a body is to some extent prejudicial.

15 That's not the issue.

16 The issue is:

17 Whether it is so unusual unduly
18 prejudicial; whether its probative value is outweighed by
19 its prejudicial impact.

20 I cannot find that to be the case
21 in this particular situation, as -- uh -- it shows the
22 deceased victim.

23 It shows a dead body. There's no
24 objective -- There's no way around that.

25 Uh -- But, I do not find that the

1 -- that the -- that the blood stain on the T-shirt -- or
2 that the relative closeness of it -- it's taken -- it's a
3 full body length -- the photograph was and you can see
4 how far away it was taken -- is unduly prejudicial in
5 this particular case.

6 So, I've overruled Mr. Joye's
7 objection to -- to 7 and 8; or 7 or 8.

8 MR. JOYE:

9 May I put one final thing on the
10 record, Your Honor.

11 THE COURT:

12 Okay.

13 MR. JOYE:

14 Uh -- Your Honor -- and I only
15 thought of it when Your Honor said that:

16 The crime scene in this case was
17 down on the dirt road where the body is.

18 THE COURT:

19 Right.

20 MR. JOYE:

21 The crime scene in an accessory
22 before the fact is the bar, Easy's, where allegedly -- uh
23 -- my client, Ms. Turner, set up -- set -- set the wheels
24 in motion for the completed act down the road; and that
25 -- uh -- is it at that point, when she put -- when she

1 put the wheels in motion, if you believe the government's
2 case, the crime scene's the bar, Easy's.

3 We've got someone who's pled
4 guilty to murder. So they satisfied that element.

5 THE COURT:

6 Right.

7 MR. JOYE:

8 Therefore, there would be no
9 reason to put that particular photo into evidence except
10 for it's prejudicial value.

11 THE COURT:

12 Right.

13 I -- I note that.

14 Of course, they -- Had it not been
15 for what happened down the road, then your client
16 wouldn't be here today.

17 Uh -- The evidence against her,
18 obviously -- apparently -- from what you all have told me
19 will -- uh -- will be testimony about what occurred in or
20 around the bar itself, away from the crime scene that's
21 shown on the -- uh -- on the -- uh -- on the photograph.

22 And you're exactly right about
23 that.

24 But, except for -- except for the
25 crime scene on the road -- uh -- there would be no

1 accessory before the fact; because there would be no fact
2 that would require her to be charged in that regard.

3 The jury's entitled to get the
4 benefit of all of the information surrounding the
5 entirety of the crime.

6 Uh -- And so, I simply re --
7 reiterate my ruling in that regard; okay.

8 MR. JOYE:

9 Thank Your Honor.

10 THE COURT:

11 Thank you.

12 MR. FILIBERTO:

13 Thank Your Honor.

14 THE COURT:

15 You got them all yet?

16 BAILIFF:

17 Yes sir.

18 THE COURT:

19 Thank you.

20 Everybody ready for the jury?

21 MR. FILIBERTO:

22 Yes sir.

23 THE COURT:

24 Okay. Bring us the jury, please.

25 (WHEREUPON: The jury empanelled

TESTIMONY OF PETER CESTARE

277

1 in the case was escorted back into the courtroom at 1:47
2 PM, September 14, 2010 and was in fact present during the
3 following proceedings.)

4 THE COURT:

5 Mr. Foreman, ladies and gentlemen,
6 good afternoon and thank you for your prompt return from
7 lunch.

8 We're now ready to pick up where
9 we left off earlier in the day as the State is continuing
10 to offer evidence and testimony in this case.

11 Mr. Filiberto

12 MR. FILIBERTO:

13 Thank you.

14 The State calls Peter Cestare.

15 THE COURT:

16 Come forward please; and be sworn.

17 WHEREUPON: PETER CESTARE WAS DULY

18 SWORN AND TESTIFIED UNDER OATH AS FOLLOWS:

19 CLERK:

20 Thank you. Please be seated.

21 If you would please state your

22 full name and spell your last name?

23 WITNESS:

24 My name is Peter Cestare; C-e-s-t-

25 a-r-e.

1 DIRECT EXAMINATION BY MR. FILIBERTO:

2 Q. Where are you currently employed?

3 A. I am employed with the Horry County Police
4 Department. My position there is -- uh -- titled
5 Specialist. And I'm in charge of the crime scene -- uh
6 -- section and the property and evidence section.

7 Q. How long have you been doing that?

8 A. For Horry County, I am in my 8th year now. I ---
9 Prior to Horry County, I was employed with -- uh -- NYPD
10 in New York City.

11 Q. And were you working in your capacity as head of the
12 crime scene during the early morning hours of August
13 14th, 2008?

14 A. Yes sir, I was.

15 Q. And were you -- At some point, did you receive a
16 call related -- uh -- to the matter that brings us here
17 today?

18 A. Yes sir, I did.

19 Q. Uh -- Where were you dispatched? In what location?

20 A. It was the early morning hours on Thursday, August
21 14th, about ten to four in the morning when I received
22 the phone call -- I was at home -- uh -- requesting that
23 I respond out to Tobacco Leaf Lane in Gallivants Ferry in
24 reference to a deceased male found in the roadway there.

25 Q. Now, at the time you arrived at the -- uh --

TESTIMONY OF PETER CESTARE

279

1 location, had that area been secured?

2 A. Yes sir, it was. Uh -- At the initial time of my
3 notification -- uh -- Horry County Dispatch -- uh --
4 advised me that -- uh -- that our patrol units were on
5 the scene, and that they had closed that section of
6 roadway on Tobacco Leaf Lane.

7 Q. And again, as a crime scene -- uh -- specialists,
8 why is that done?

9 A. It's closed off to preserve evidence, and so that we
10 can conduct a proper investigation from that point.

11 Q. Now, when you arrived there, can you just give us a
12 description of the general area?

13 A. Yes sir. It's -- uh -- Tobacco Leaf Lane is
14 located off of Highway 501 in Gallivants Ferry.

15 Uh -- It is a -- At the time, it
16 was a dirt road -- uh -- that extended from Highway 501
17 -- uh -- going -- uh -- back in the southward direction,
18 I believe it is.

19 I'm not quite sure without seeing
20 the -- the map orientation on it.

21 Uh -- But it's a -- it was a dirt
22 road that extended off of Highway 501. Uh -- Nothing on
23 either side of the roadway but a -- uh -- heavily wooded
24 area.

25 Q. And at that hour -- that hour of the morning, was

1 there -- was there any light?

2 A. There was minimal lighting. Uh -- Uh -- It was
3 basically -- Lighting that was out there was supplied
4 lighting.

5 Uh -- When I arrived, there was a
6 garbage truck in the roadway in front of me.

7 I was told that people from the
8 garbage truck were the ones that found -- uh -- came upon
9 the man lying in the roadway.

10 The only lighting at that point
11 was the headlights from the garbage truck that were
12 illuminating the roadway.

13 Q. Now, would you describe to the jury generally what
14 your responsibilities would be in processing this kind of
15 a --

16 A. At that point, it -- it -- it kind of sets
17 everything in motion from a crime scene standpoint.

18 Uh -- There are investigators
19 responding. There are patrol officers there.

20 There's crime scene personnel, and
21 myself, in this case.

22 Uh -- Finding out what occurred --
23 uh -- and -- and being able to secure evidence and so
24 forth is probably the most primary thing that occurs at
25 that particular time.

TESTIMONY OF PETER CESTARE

281

1 Uh -- Caution has to be taken as
2 to not to destroy evidence or in any way -- uh -- damage
3 any evidence while actually trying to locate evidence.

4 So it's -- it's -- Unlike the TV
5 shows, which kind of portray the crime scene in a -- in a
6 different light -- uh -- most of what you see on TV is
7 not -- is not the true case.

8 Uh -- It's a very painstaking and
9 tedious process that takes quite a while to -- uh --
10 actually determine what is -- what is evidence and what
11 is -- what is usable and what's not.

12 Q. Tell us now what you actually observed when you
13 arrived on the scene, specifically?

14 A. Uh-huh. In the -- uh -- In the dirt roadway, there
15 were several -- uh -- footwear impressions. There were
16 several tire wear impressions.

17 Uh -- Again, bear in mind, this is
18 -- uh -- time -- based on the time of day. It's dark.
19 So illumination is -- is a problem.

20 And bringing in any other
21 equipment at that point to light the area up is only
22 going to alter your crime scene in some manner.

23 So we chose not to do that.

24 Instead, we secured it.

25 I did an initial entry into the

TESTIMONY OF PETER CESTARE

282

1 crime scene with -- uh -- with the assigned detective,
2 Detective Tim -- Tim Troxell.

3 Uh -- He and I took a general
4 overview of what was in that crime scene as far as
5 evidence-wise. Took a few pictures. Backed out.

6 And we left the area intact as we
7 found it until daylight, where we could better see any
8 evidence.

9 At -- At the -- uh -- initial
10 point of entry into the scene -- as I said, it was a dirt
11 roadway -- some -- somewhat -- uh -- wet or moist where
12 it had -- uh -- dew on the ground and so forth.

13 So it was a little bit muddy.

14 Uh -- I found a adult male -- uh
15 -- lying face up on the south side of that roadway -- uh
16 -- with his head towards the 501 direction of the roadway
17 -- uh -- and his feet towards the -- uh -- uh -- uh --
18 western direction on it -- and his feet towards the east
19 end of the roadway.

20 Uh -- He was laying, as I said,
21 face up.

22 He was wearing -- uh -- a T-shirt
23 -- uh -- shorts and sandals.

24 There was an obvious gunshot wound
25 -- uh -- to his chest.

TESTIMONY OF PETER CESTARE

283

1 And at that point -- uh -- just
2 initial photographs were taken. And we backed out to
3 allow -- uh -- for -- for better lighting.

4 Q. Did you notice anything -- uh -- remarkable about --
5 uh -- the pockets of the clothing that the victim was
6 wearing?

7 A. Yes sir. The -- The victim's pockets were all
8 turned outward.

9 MR. FILIBERTO:

10 Approach the witness, Your Honor?

11 THE COURT:

12 Yes sir.

13 DIRECT EXAMINATION BY MR. FILIBERTO CONTINUED:

14 Q. Let me show you this. It's been marked as State's
15 1.

16 Wait a minute.

17 Let me show you what's been marked
18 as State's 7 and 8, and ask if you --

19 MR. JOYE:

20 Your Honor --

21 THE COURT:

22 Subject to objection, yes sir.

23 MR. JOYE:

24 Thank you.

25 THE COURT:

1 Okay.

2 DIRECT EXAMINATION BY MR. FILIBERTO CONTINUED:

3 Q. And ask if you recognize those?

4 A. Yes sir, I do.

5 Q. What are they?

6 A. These are photographs that I had taken that morning.

7 Seven is a photograph -- uh -- Can
8 I show these photographs?

9 THE COURT:

10 Yes. They're in evidence.

11 WITNESS:

12 Sir?

13 THE COURT:

14 Yes sir. They're in evidence.

15 WITNESS:

16 Okay.

17 Uh -- Photograph -- uh -- State's
18 Exhibit 7 shows the victim in the roadway as I viewed him
19 standing back from where -- about the front of where the
20 garbage truck was parked -- that initial -- we saw him in
21 the roadway.

22 Uh -- In that photograph, you'll
23 also notice -- uh -- there are small yellow markers in
24 the roadway.

25 That was from my initial entry in

TESTIMONY OF PETER CESTARE

285

1 the roadway.

2 Those were items of potential
3 evidence that I had flagged for -- for -- uh -- for a
4 closer look as we got into it later on in the daylight
5 hours.

6 Photograph 8 -- uh -- State's
7 Exhibit 8, I'm sorry -- is -- was taken prior to 7.

8 As you'll notice, there are no
9 yellow markers in it.

10 That's the victim as I found him
11 in the roadway.

12 MR. FILIBERTO:

13 Thank you.

14 And again, Your Honor, just so I'm
15 clear, these are in evidence?

16 THE COURT:

17 Oh, yes sir.

18 MR. FILIBERTO:

19 Subject to Defense's objection.

20 Permission to publish these to the
21 jury.

22 THE COURT:

23 Yes sir.

24 COURT REPORTER:

25 Your Honor, I don't have them down

1 as being in.

2 THE COURT:

3 Well, they're in. They're in
4 evidence. Seven and eight are in evidence. They --
5 They were argued out of the presence of the jury, and so
6 they're in evidence.

7 (WHEREUPON: The exhibits were
8 shown to the jury.)

9 (REPORTER'S NOTE: This reporter
10 has no record of these exhibits being formally introduced
11 into evidence on the record prior to this time.)

12 DIRECT EXAMINATION BY MR. FILIBERTO CONTINUED:

13 Q. Now, were you able to recover any identification of
14 the victim at the crime scene?

15 A. No sir. Uh -- As I mentioned a few moments ago,
16 his pockets were turned outward.

17 There was no identification on him
18 at all.

19 Q. Now, part of the overall investigative effort I
20 believe that was related to determine his identity?

21 A. Yes sir. Uh -- Uh -- Later on that morning, while
22 we were still at the scene, another one of the Horry
23 County detectives -- uh -- came up that was assisting in
24 this investigation.

25 He recognized -- uh -- the victim

TESTIMONY OF PETER CESTARE

287

1 -- uh -- and -- and knew him by the name of Ronald Rabon.

2 Q. Sometime during the morning while you were
3 processing the -- the crime scene, were you made aware of
4 a -- of another location that might have possible
5 evidentiary value?

6 A. Yes sir, I was.

7 MR. JOYE:

8 I object to nature the question.

9 THE COURT:

10 Well, I -- I think he --

11 MR. JOYE:

12 Were you made aware of the --

13 THE COURT:

14 He's specifically trying to lead
15 him around hearsay evidence, is what he's trying to do.

16 I'll allow that. That's fine.

17 It's just -- I'll allow the
18 introduction of the questions by leading -- uh --
19 questions, if they will assist in the preparation of it.

20 Otherwise, he'd have to go into
21 hearsay.

22 How'd you find it out.

23 Then, that would be another
24 objection.

25 It's fine. Go ahead.

1 MR. FILIBERTO:

2 Thank you, Your Honor.

3 DIRECT EXAMINATION BY MR. FILIBERTO CONTINUED:

4 Q. Again, were you -- were you -- Did you later
5 determine another location of interest?

6 A. Yes sir. Uh -- As part of this investigation,
7 because of the location -- you know -- here we are
8 standing in the middle of a dirt road.

9 Obviously, this man got there
10 somehow.

11 Uh -- Detectives were sent out in
12 the general area to -- uh -- canvas, or -- or -- or take
13 a visual look at the surrounding area to see if there was
14 anything that may look like it had anything to do with --
15 with this part -- part of their routine investigation.

16 And as such, one of the detectives
17 came across -- uh -- a vehicle that matched the
18 description of the -- of this victim's vehicle sitting --
19 uh -- in -- in a parking area adjacent to a bar in the, I
20 guess, Aynor-Gallivants' area called Big Easy's.

21 Uh -- Once the vehicle was found
22 there, they checked it through the -- uh -- Department of
23 Motor Vehicle records.

24 Based on the license plate, they
25 were able to determine that they believed it was in fact

TESTIMONY OF PETER CESTARE

289

1 the victim's vehicle -- Mr. Rabon's vehicle.

2 Uh -- That -- At that particular
3 time, Big Easy's was also closed off with crime scene
4 tape. And that area was -- was going to be viewed as a
5 possible continuation scene, or second scene, if you will
6 to where we were -- initially were.

7 Uh -- So yes, we did come across
8 another location at Big Easy's.

9 Q. After you finished documenting the scene out there
10 on Tobacco Leaf Road -- uh -- did what you were going to
11 do -- at some point -- uh -- was Mr. Rabon's body
12 removed?

13 A. Yes sir. At -- uh -- At the conclusion of the
14 investigation on Tobacco Leaf Lane, Mr. Rabon's body was
15 transported by Horry County Transport through the
16 coroner's office to Grandstand Hospital -- uh -- where an
17 autopsy was scheduled to be -- be performed later that
18 morning.

19 Q. To your knowledge, did anybody from Horry County
20 Crime Scene attend that autopsy?

21 A. Yes sir. Uh -- A member of my staff, Investigator
22 Heather Brummett.

23 Uh -- I had called her in to meet
24 me on Tobacco Leaf Lane.

25 She came in -- uh -- sometime

1 after I initially arrived.

2 She viewed the -- the scene on
3 Tobacco Leaf Lane.

4 When the detective found Mr.
5 Rabon's vehicle at Big Easy's, I sent Heather to that
6 area to do initial string of photographs.

7 And then from there, she was
8 instructed to respond to Grandstrand Regional Medical
9 Center for -- to -- uh -- attend the autopsy.

10 So yes, Investigator Brummett
11 attended it.

12 Q. How far away is Big Easy's from the location where
13 you found Mr. Rabon's body?

14 A. I -- I guess -- would say it's probably between a
15 quarter of and half a mile away.

16 Approach the witness, Your Honor?

17 THE COURT:

18 Yes sir.

19 MR.. JOYE:

20 Your Honor, may I also?

21 THE COURT:

22 Sure. Uh-huh.

23 DIRECT EXAMINATION BY MR. FILIBERTO CONTINUED:

24 Q. I show you what's been marked as State's 13, and ask
25 you if you recognize this?

TESTIMONY OF PETER CESTARE

291

1 A. Yes I do.

2 Q. Would you please tell us what it is?

3 A. This is an aerial photograph of Highway 501 showing
4 Tobacco Leaf Lane and Big Easy's Bar and Grill, along
5 with several other -- uh -- wooded and small residential
6 areas.

7 But it -- it pretty much covers
8 the track of ground from Big Easy's to Tobacco -- to
9 Tobacco Leaf Lane.

10 Q. And you know where this was obtained?

11 A. Yes sir. It was obtained through the Horry County
12 Police GIF System.

13 Q. This fairly and accurately portray the scene at the
14 time of the crime?

15 A. Yes sir, it does.

16 MR. FILIBERTO:

17 Your Honor, at this time, the
18 State would move to have State's 13 entered into
19 evidence.

20 THE COURT:

21 All right. Mr. Joye?

22 MR. JOYE:

23 Without objection, Your Honor.

24 THE COURT:

25 Thank you, sir.

TESTIMONY OF PETER CESTARE

292

1 Without objection, 13 in evidence.

2 WHEREUPON: THE AFOREMENTIONED
3 ARIAL PHOTOGRAPH, EARLIER MARKED BY THE COURT REPORTER AS
4 STATE'S EXHIBIT NUMBER 13 WAS ENTERED INTO EVIDENCE
5 WITHOUT OBJECTION.

6 MR. FILIBERTO:

7 Your Honor, can I ask that the
8 witness step down.

9 THE COURT:

10 Yes sir.

11 Detective, if you'll step down
12 please, sir. And stand on the other side of the easel
13 facing in this direction so that you'll be facing the
14 court reporter, please. Thank you.

15 WITNESS:

16 Yes, Your Honor.

17 COURT REPORTER:

18 Would you also keep him near the
19 mic, please.

20 MR. FILIBERTO:

21 Yes sir.

22 DIRECT EXAMINATION BY MR. FILIBERTO CONTINUED:

23 Q. Specialist Cestare, would you -- uh -- make sure
24 I've got a -- a good point.

25 But I think I'd rather have you

TESTIMONY OF PETER CESTARE

293

1 take one of these stickers and mark -- the first, where
2 Big Easy's -- where -- where the bar is that you located
3 the victim's truck?

4 A. This is Big Easy's here.

5 THE COURT:

6 I'm sorry. But you have to keep
7 your voice up. Thank you.

8 WITNESS:

9 Uh -- This is Big Easy's here.

10 And I've placed a red sticker on
11 top of the establishment.

12 DIRECT EXAMINATION BY MR. FILIBERTO CONTINUED:

13 Q. Now, would you point for the jury where Tobacco Leaf
14 Road is on this map?

15 A. Tobacco Leaf Lane runs here, off of Highway 501.

16 Q. And I would ask you to put a sticker approximately
17 where you found Mr. Rabon's body.

18 A. Okay. I'm going to estimate it -- I clocked it
19 with the odometer in the police car at approximately .2
20 miles.

21 I'm going to say it's roughly
22 around here.

23 Q. Thank you. If I could get you to go back to the
24 witness stand, please, that'd be great.

25 A. (Witness does as instructed.)

1 Q. Thank you. At some point that morning did you --
2 were you able to gain -- uh -- entrance into -- inside
3 Big Easy's?

4 A. Yes sir. Uh -- Again, once I completed on Tobacco
5 Leaf Lane, I personally responded over to Big Easy's --
6 uh -- where I photographed the -- uh -- entire -- uh --
7 establishment from the outside -- the surrounding grounds
8 around it; the victim's vehicle there.

9 Q. Okay.

10 A. Uh -- And I was able to get inside the building.

11 Q. Let me show you State's 3 and 4, and ask if you if
12 you recognize them?

13 MR. JOYE:

14 Your Honor, may I again?

15 THE COURT:

16 Sure, anytime. Yes.

17 WHEREUPON: Mr. Joye approaches
18 the witness stand to examine the exhibits.

19 WITNESS:

20 Yes sir, I do. I recognize both
21 -- uh -- 3 and 4.

22 Q. Would you please describe -- tell us what they are?

23 A. Photograph 4 shows the -- uh -- front of Big Easy's.

24 Uh -- That's looking at the -- uh -- building from the
25 501 side of the highway.

1 So if you were passing along on
2 501, that's the view you would see of Big Easy's.

3 Photo 3 shows -- uh -- just some
4 segment of the building.

5 It actually shows the -- uh --
6 corner of the building on this side; and the woods lying
7 next to it.

8 Q. Is there -- uh -- something else in that photo?

9 A. Yes. In Photo 3 is the victim's vehicle, very
10 faintly seen here.

11 And -- But just to the side of the
12 building -- uh -- there's a tree line that has almost
13 like pull-in, dirt, parking stalls. And that's where the
14 vehicle -- the victim's vehicle had been parked.

15 MR. FILIBERTO:

16 Thank you.

17 Your Honor, The State would move 3
18 and 4 into evidence.

19 MR. JOYE:

20 Without objection, Your Honor.

21 THE COURT:

22 Without objection, State's 3 and 4
23 in. Thank you.

24 WHEREUPON: TWO PHOTOS, EARLIER
25 MARKED BY THE COURT REPORTER AS STATE'S EXHIBITS NUMBERS

1 3 AND 4 WERE ENTERED INTO EVIDENCE WITHOUT OBJECTION.

2 DIRECT EXAMINATION BY MR. FILIBERTO CONTINUED:

3 Q. And again -- uh -- you indicated that you were able
4 to gain access inside -- uh -- Big Easy's Bar?

5 A. Yes sir. The -- uh -- owner or proprietor of Big
6 Easy's had -- uh -- was contacted and asked to come down,
7 so that we could potentially gain entrance into it.

8 Uh -- I did in fact go inside Big
9 Easy's. I took several photographs inside; and was
10 explained certain areas where -- where people had been
11 sitting during the evening hours while the establishment
12 was open.

13 Q. And again, I'm going to show you State's 10, 11, and
14 12; and ask you if you can identify them?

15 A. Yes sir. 10, 11, and 12, are also photographs that
16 I took.

17 10 is a -- uh -- photograph --
18 Coming inside the -- the front door of Big Easy's,
19 looking to your immediate right as you walk in the door.

20 That would be what you would see
21 in Big Easy's.

22 Uh -- Coming in Big Easy's and
23 looking straight back from the -- from the main door,
24 this State's Exhibit 11 -- that shows the -- basically
25 the center area of the bar.

TESTIMONY OF PETER CESTARE

297

1 And State's Exhibit 12, looking to
2 your left, walking into Big Easy's is the -- is the
3 Seattle bar area.

4 Q. And does it fairly and accurately portray what you
5 saw that morning when you were on the scene?

6 A. Yes sir, I does.

7 MR. FILIBERTO:

8 And The State would move to have
9 State's 10, 11 -- uh -- and 12, into evidence.

10 MR. JOYE:

11 Again without objection, Your
12 Honor.

13 THE COURT:

14 Thank you, sir. Without
15 objection, 10, 11, and 12, in evidence.

16 WHEREUPON: THREE PHOTOS, EARLIER
17 MARKED BY THE COURT REPORTER AS STATE'S EXHIBITS NUMBERS
18 10, 11, AND 12, WERE ENTERED INTO EVIDENCE WITHOUT
19 OBJECTION.

20 DIRECT EXAMINATION BY MR. FILIBERTO CONTINUED:

21 Q. Specialist Cestare, after you finished processing
22 the scene over at -- uh -- Big Easy's, did you later have
23 occasion to go with Horry County detectives over to
24 Marion County?

25 A. Yes sir. Uh -- We went to -- uh -- Marion --

1 Marion County, Dillon County, pretty much -- uh -- from
2 that point on.

3 Q. Did you have occasion to be part of the team
4 executing a search warrant on a -- on a automobile?

5 A. Yes sir, I did -- uh -- on two -- two different
6 dates in Marion County.

7 The first one on August the 15th
8 -- uh -- in Marion County, I executed a search warrant on
9 a -- uh -- Buick Century with a South Carolina tag of
10 328XGD.

11 And then on the 18th, I executed
12 another search warrant on a -- uh -- vehicle with a South
13 Carolina tag 541AZY, both at the Marion County Sheriff's
14 Office.

15 Q. With respect to the -- uh -- the -- uh -- I think it
16 was a Buick Century.

17 Uh -- Did you find anything of --
18 of interest in searching that vehicle?

19 A. Yes sir. On -- On August 15th, myself,
20 Investigator Brummett, and Detective Bell -- uh -- uh --
21 Detective Bell from Marion County's Sheriff's Office --
22 uh -- conducted a search warrant on a -- uh -- Buick
23 Century.

24 In that vehicle -- uh -- we had
25 found several -- several -- uh -- uh -- several items

1 that were -- where we collected touch DNA swabs -- uh --
2 on the interior and exterior of the vehicle.

3 And on -- And under the -- uh --
4 front passenger side seat, I recovered a -- uh -- uh --
5 revolver and a pair of shorts.

6 Q. Thank you. Again, I show you State's 1 and 2, and
7 ask you if you could identify them for us?

8 A. Yes sir. State's 1 and 2 are photographs that I
9 took as well.

10 State's 1 shows -- There's a view
11 looking in from the front passenger side door of the
12 vehicle, looking under the front passenger seat.

13 Uh -- There's a pair of blue plaid
14 shorts, which, when I initially looked up under the seat,
15 I could see something shiny sticking out of a section of
16 the -- uh -- of the shorts.

17 I pulled that forward.

18 State's Exhibit 2 is what I saw
19 when I pulled the shorts forward on to the front -- front
20 floorboard of the vehicle.

21 It's a Smith and -- Smith and
22 Wesson Model 442 revolver, silver in color, with serial
23 number of BTE7906.

24 Q. And do those photos fairly and accurately portray
25 what you found when you were executing that search

1 warrant?

2 A. Yes sir, they do.

3 MR. FILIBERTO:

4 The State would move to have
5 State's 1 and 2 into evidence.

6 MR. JOYE:

7 Again, without objection, Your
8 Honor.

9 THE COURT:

10 Thank you, sir.

11 Without objection, 1 and 2.

12 WHEREUPON: TWO PHOTOS, EARLIER
13 MARKED BY THE COURT REPORTER AS STATE'S EXHIBITS NUMBERS
14 1 AND 2 WERE ENTERED INTO EVIDENCE WITHOUT OBJECTION.

15 DIRECT EXAMINATION BY MR. FILIBERTO CONTINUED:

16 Q. Specialist Cestare, after you photographed and
17 collected the evidence at that scene -- uh -- while you
18 were executing that search warrant -- uh -- did you
19 collect that -- any evidence?

20 A. Yes sir. Uh -- The -- uh -- The gun -- uh -- the
21 shorts that it was wrapped in, were collected and
22 immediately placed into a -- uh -- gun box.

23 Q. And what -- what did you do with it then?

24 A. That was taken back to the Horry County Police
25 Department -- uh -- to be assigned to -- uh -- SLED, the

TESTIMONY OF PETER CESTARE

301

1 State Law Enforcement Division to -- uh -- have testing
2 done on -- on that weapon.

3 MR. FILIBERTO:

4 Just one minute, Your Honor.

5 DIRECT EXAMINATION BY MR. FILIBERTO CONTINUED:

6 Q. I'm going to show you what is marked State's Exhibit
7 14, and ask you if you look in that bag and tell us if
8 you recognize it?

9 WITNESS:

10 I don't want to touch it, if you
11 don't mind.

12 THE COURT:

13 No sir. Go ahead.

14 (WHEREUPON: The witness puts on a
15 pair of green rubber gloves prior to handling the
16 exhibit.

17 WITNESS:

18 It's never too easy to get these
19 on when you're sweating.

20 Okay.

21 Yes sir. Inside this bag, is the
22 shorts and the gun that I removed from under the front
23 passenger seat of that Buick.

24 DIRECT EXAMINATION BY MR. FILIBERTO CONTINUED:

25 Q. Has anything added to that gun since the time you

1 recovered it?

2 A. Yes sir. Uh -- Earlier today, a lock was placed
3 through it for courtroom purposes.

4 Q. Is that in the same condition as you found it
5 initially when you're recovered it from the vehicle?

6 A. Yes sir, outside of the fact that it has been sent
7 to SLED for testing purposes; yes.

8 Q. Essentially in the same condition?

9 A. Yes.

10 MR. FILIBERTO:

11 The State would move to have this
12 entered into evidence.

13 MR. JOYE:

14 Without objection, Your Honor.

15 THE COURT:

16 Thank you.

17 Without objection, 14 in evidence.

18 WHEREUPON: A GUN THAT WAS EARLIER
19 MARKED BY THE COURT REPORTER AS STATE'S EXHIBIT NUMBER 14
20 WAS ENTERED INTO EVIDENCE WITHOUT OBJECTION.

21 MR. FILIBERTO:

22 And I'd like to publish this, Your
23 Honor.

24 THE COURT:

25 All right.

TESTIMONY OF PETER CESTARE

303

1 WHEREUPON: Mr. Filiberto shows
2 State's Exhibit Number 14 to the jury.

3 DIRECT EXAMINATION BY MR. FILIBERTO CONTINUED:

4 Q. Specialist Cestare, did you later receive back any
5 reports from SLED regarding that weapon?

6 A. Yes sir, I did.

7 Uh -- This weapon was sent to SLED
8 for --

9 MR. JOYE:

10 Your Honor, I object to any
11 reports unless he did any testing on that weapon himself.

12 THE COURT:

13 Right.

14 I'll -- uh -- If -- If the
15 report's to -- to be marked for identification to be --
16 uh -- to be substantiated by somebody else, I'll allow
17 that.

18 But -- uh -- he can't testify as
19 to the results of them, unless he did it himself.

20 MR. FILIBERTO:

21 That's fine, Your Honor. I'll
22 withdraw the question.

23 THE COURT:

24 Okay; thank you.

25 MR. FILIBERTO:

1 Put that back in the bag, please.

2 WITNESS:

3 All right.

4 MR. FILIBERTO:

5 Thank you, Specialist Cestare.

6 Please answer any questions Mr.

7 Joye may have.

8 THE COURT:

9 Thank you.

10 Mr. Joye, cross-examine?

11 DEFENSE COUNSEL"

12 I have no questions of this

13 witness. Thank you, sir.

14 WITNESS:

15 Thank you.

16 THE COURT:

17 Thank you, Specialist. You can

18 step down.

19 WITNESS:

20 Okay. Thank you, Your Honor.

21 THE COURT:

22 Thank you.

23 MR. FILIBERTO:

24 I'm informed our witness is in the

25 -- uh -- restroom. She'll be here in just one moment.

TESTIMONY OF HEATHER BRUMMETT

305

1 THE COURT:

2 All right.

3 So that is one call which is
4 superior to the call of The Court.

5 (Laughter erupts in the
6 courtroom.)

7 MR. JOYE:

8 Somehow, it always works that way,
9 Judge.

10 THE COURT:

11 Yes sir.

12 Come forward please, ma'am and be
13 sworn.

14 WHEREUPON: HEATHER A. BRUMMETT

15 WAS DULY SWORN AND TESTIFIED UNDER OATH AS FOLLOWS:

16 CLERK:

17 Please be seated. Okay. If
18 you'll please state your full name; and spell your last
19 name.

20 WITNESS:

21 Heather A. Brummett; B-r-u-m-m-e-
22 t-t.

23 DIRECT EXAMINATION BY MR. FILIBERTO:

24 Q. Ms. Brummett, where are you currently employed?

25 A. The Horry County Police Department.

1 Q. In what capacity?

2 A. As a Crime Scene Investigator.

3 Q. And Investigator Brummett, were you working in that
4 capacity back on -- uh -- August 14th, 2008?

5 A. Yes, I was.

6 Q. Were you assigned to any duties related to the
7 matter that brings us to court today?

8 A. Uh -- Yes. I was notified by my supervisor to
9 respond to the scene.

10 Q. Where did you go to?

11 A. Uh -- Tobacco Leaf Road, originally. Uh -- I was
12 only there for a short time.

13 As soon as I got there, he sent me
14 to -- uh -- Big Easy's. That is a bar.

15 Q. And what were your duty -- what were your duties
16 over there?

17 A. Uh -- Well, originally I was going to assist with
18 the crime scene. However, we come to find out that Dr.
19 Proctor was ready to do the autopsy.

20 So he just asked me to take a few
21 shots and let him know what was seen there.

22 And then I responded to the
23 hospital to perform the autopsy.

24 Q. Did you perform the autopsy.

25 A. I'm sorry; no. To -- uh -- To -- To photograph and

1 collect evidence from the autopsy.

2 Q. Okay. Uh -- What time approximately did the
3 autopsy take place.

4 A. I don't recall without looking at a photo or -- you
5 know.

6 Q. Okay. Do you know where it took place?

7 A. Yes, at Grandstrand Regional Medical Center.

8 Q. Let me show you what's been marked as State's 9.

9 MR. JOYE:

10 If I could, please.

11 WHEREUPON: Mr. Joye comes up and
12 views the photo.

13 DIRECT EXAMINATION BY MR. FILIBERTO CONTINUED:

14 Q. I ask if you can -- if you recognize that?

15 A. Yes.

16 Q. Could you tell us what it is?

17 A. This is a photo of an X-ray -- uh -- taken of the
18 victim's chest.

19 Q. Does it reveal anything remarkable for you?

20 A. Uh -- Yes. There are two bright indentions in the
21 chest -- uh -- which was -- come to find out, it was --
22 uh -- the dead body.

23 Q. Does it accurately -- the photo accurately reflect
24 the X-ray you viewed?

25 A. Yes, it does.

1 MR. FILIBERTO:

2 Your Honor, the State would move
3 State's 9 into evidence.

4 THE COURT:

5 Without objection, I understand?

6 MR. JOYE:

7 Without objection, Your Honor.

8 THE COURT:

9 Thank you. State's 9 in
10 evidence.

11 WHEREUPON: A PHOTO EARLIER MARKED

12 BY THE COURT REPORTER AS STATE'S EXHIBIT NUMBER 9 WAS

13 ENTERED INTO EVIDENCE WITHOUT OBJECTION.

14 DIRECT EXAMINATION BY MR. FILIBERTO CONTINUED:

15 Q. And during the autopsy, did you -- uh -- have
16 occasion to recover any physical evidence?

17 A. Yes, I did.

18 Q. Could you tell us what that was?

19 A. Uh -- I collected the victim's clothing, two
20 projectiles.

21 Uh -- The Pathologist had
22 collected blood from the victim, which I then, in turn,
23 collected -- the two purple-topped tubes of blood -- uh
24 -- and X-ray.

25 Q. Let me show you what's been marked as State's 15 and

TESTIMONY OF HEATHER BRUMMETT

309

1 State's 16, and ask you if you can identify those?

2 A. Yes, I can.

3 Q. Please tell us what they are.

4 A. Uh -- These are the boxes that I collected the
5 individual projectiles in from the autopsy.

6 Q. How do you know that they are in that -- in that box
7 -- in those boxes?

8 A. Uh -- Because on each box, I write the case number,
9 my initials, what's in the box -- uh -- and the date.

10 Q. While those projectiles were in your care and
11 custody, did you do anything to change or alter them in
12 any way?

13 A. No, I did not.

14 MR. FILIBERTO:

15 Thank you.

16 The State would move State's 15
17 and 16 into evidence, Your Honor.

18 MR. JOYE:

19 Without objection, Your Honor.

20 THE COURT:

21 Thank you.

22 WHEREUPON: TWO PROJECTILES,
23 EARLIER MARKED BY THE COURT REPORTER AS STATE'S EXHIBITS
24 NUMBERS 15 AND 16 WERE ENTERED INTO EVIDENCE WITHOUT
25 OBJECTION.

1 MR. FILIBERTO:

2 That's all I have. Please answer
3 any questions Mr. Joye may have.

4 THE COURT:

5 Mr. Joye, cross-examine?

6 MR. JOYE:

7 Nothing for this witness, Your
8 Honor.

9 THE COURT:

10 Thank you.

11 Ms. Brummett, you can step down.

12 Thank you, ma'am.

13 WITNESS:

14 Thank you.

15 MR. FILIBERTO:

16 Your Honor -- uh -- the deputy
17 informs me it's going to take them 5 minutes to get him
18 up.

19 MR. JOYE:

20 Your Honor, I think that will
21 bring us to something we were dealing with before the
22 jury came in.

23 THE COURT:

24 All right.

25 Uh -- Folks, let me send you to

1 your jury for just a few moments.

2 We'll take a brief afternoon break
3 at this time; 10 maybe -- no more than 15 minutes,
4 depending on how long it takes to get the next witness in
5 place.

6 We've got a matter we need to take
7 up out of your presence in any event.

8 So please step to the juryroom,
9 and remember as always not to discuss this case among
10 yourselves.

11 Thank you.

12 (WHEREUPON: The jury empanelled
13 in the case withdrew from the courtroom at 2:28 PM,
14 September 14, 2010; and was no longer present during the
15 following proceedings.)

16 THE COURT:

17 All right.

18 Uh -- You're referring, Mr. Joye,
19 to the issue of the polygraph on the proffer?

20 Is that what you're talking about?

21 MR. JOYE:

22 Yes, Your Honor.

23 THE COURT:

24 Okay.

25 MR. JOYE:

1 Uh -- It's -- My position is:
2 If the proffer comes in, it should
3 be properly redacted.

4 THE COURT:

5 I understand. Okay. All right.

6 MR. JOYE:

7 And -- And I -- And I did intend
8 to put that in, because that's the substance of the
9 governments deal with the defendants.

10 THE COURT:

11 Right.

12 MR. FILIBERTO:

13 And Your Honor, the State's
14 position is that that agreement indicates they may or may
15 not be -- they may or may not be polygraphed.

16 THE COURT:

17 I understand.

18 MR. FILIBERTO:

19 And if Defense is putting it in,
20 we ask that it be put in its entirety --

21 THE COURT:

22 Right.

23 MR. FILIBERTO:

24 -- in fairness to the jury.

25 THE COURT:

1 Okay.

2 Gene, let me get you to mark this
3 as a Court's Exhibit right now, so that somebody will
4 know what I'm talking about.

5 WHEREUPON: THE LETTER OF MAY 16,
6 2009, RE. JAMIE DEAN WHITE'S PROFFER WAS MARKED BY THE
7 COURT REPORTER AS COURT'S EXHIBIT NUMBER 3.

8 COURT REPORTER:

9 Your Honor, this will be Court's
10 3.

11 THE COURT:

12 Thank you.

13 We have been discussing out of the
14 presence of the jury what I have had marked for the time
15 being as Court's Exhibit Number 3.

16 This may very well end up being a
17 Defense Exhibit.

18 It happens to be a letter from the
19 Solicitor's Office to Barbara Wilson Pratt, dated May the
20 16th of 2009, which contains the terms of a proffer made
21 by the State to Ms. Pratt in return for her testimony.

22 There are two points in this
23 letter which are -- uh -- the subject of This Court's
24 research.

25 And I offer them in the order in

1 which they come up.

2 The first is Paragraph Number 2,
3 which State's that Jamie Dean White shall submit himself
4 to a polygraph examination to verify all information
5 provided to the State at the election of the State.

6 And it goes on to state how the
7 polygraph examination shall be selected, and the terms
8 and conditions, and so forth of any exclamation, should
9 they be conducted.

10 The case of State versus McGuire,
11 M-c-capital G-u-i-r-e found at 253 Southeastern Second
12 103, a 1979 Supreme Court case, speaks to this very
13 issue.

14 In that particular case, a
15 defendant on trial sought to introduce evidence of a
16 polygraph which had been taken by a testifying
17 codependent, Mr. Crosby.

18 Uh -- The -- uh -- case states:

19 Crosby also testified in response
20 to questions of the Solicitor that he had made an
21 agreement with a police officer to take a polygraph
22 examination concerning the case.

23 Very similar to Paragraph Number 2
24 of Court's Exhibit 3.

25 He described the conversation with

1 the officer in which the officer said to -- to -- uh --
2 uh -- Mr. McGuire, who was the defendant in this case,
3 concerning the polygraph examination:

4 Well, you're next.

5 McGuire is purported to have said
6 he had nothing to hide.

7 And then, the officer later
8 corroborated Crosby's agreement to take the polygraph,
9 and corroborated the claim that he said that Mr. McGuire,
10 the Defendant, would be next.

11 All of those things were objected
12 to by Mr. McGuire's counsel.

13 Uh -- There were other problems
14 with the trial which resulted in -- in a reversal.

15 The short -- uh -- The short
16 answer is that:

17 Uh -- The Court says:

18 We hold that reference to a
19 polygraph examination was improper.

20 Cited an AMJUR site.

21 It is generally held in criminal
22 prosecutions that evidence is not admissible that the
23 accused was willing or unwilling to take a lie detector
24 test.

25 So this is going back to the -- uh

1 -- to the -- uh -- the reference -- the side door
2 reference to the testing offered Mr. McGuire, the
3 Defendant.

4 Uh -- The record here presents a
5 close question for the testimony is inferable that
6 McGuire was offered a polygraph examination.

7 It left the jury to speculate, and
8 to conclude that he refused to take the test.

9 The mention of a polygraph test
10 might arise in any one of a number of ways.

11 The safer course would be --
12 normally be to avoid any mention of a polygraph
13 examination.

14 And if such is brought out, the
15 trial judge should be meticulous to see that no improper
16 reference is created.

17 In that particular case, it had to
18 do with the offering of a polygraph to a testifying
19 codefendant and to the Defendant, himself.

20 Well, we don't have even that
21 degree of certainty in this particular case.

22 We just got a provision that the
23 -- that Mr. White shall submit himself to one if one
24 comes up.

25 And if the jury is left to

1 speculate in the question of State versus McGuire as to
2 whether McGuire took the test and how he did on that
3 basis, in which the officer told him he -- You're going
4 to be next.

5 Then the level of speculation
6 suggested by Paragraph 2 of Court's 3 is even higher.

7 And for that reason, Paragraph 2
8 should not go to a jury.

9 So then the question is whether
10 the letter itself should go to the jury.

11 And that brings into play, Rule
12 608(c), which goes to evidence of bias.

13 And that rule says that:

14 Bias, prejudice, or any motive to
15 misrepresent, may be shown to impeach the witness, either
16 by examination of the witness, or by evidence otherwise
17 abused.

18 Court's 3 is evidence otherwise
19 abused.

20 And in Court's 3, in Paragraph 4:

21 The State shall consider the
22 extent and degree of cooperation of Jamie Dean White in
23 the election of charges, and at the sentencing of Jamie
24 Dean White; and to advise The Court of Jamie Dean White's
25 extent and degree of cooperation in connection with this

1 matter.

2 The fact that this proffer
3 indicates that, of course, the State shall advise The
4 Court of the degree of cooperation is one thing.

5 But that's entirely within Mr.
6 White's control -- the extent to which he intends to
7 cooperate.

8 But the election of charges is
9 entirely within the purview of the State, within
10 reasonable parameters, of course.

11 And the fact that the State could,
12 if it chose to, reduce charges or allow Mr. White to
13 plead to lesser charges is clearly evidence of bias that
14 could be -- or should be -- admissible under Rule 608(c).

15 Court's 3, and its progeny, or
16 its offspring with the other similar codefendants,
17 assuming the others to be exactly the same is admissible
18 with Paragraph Number 2 redacted, over objection of
19 State's Counsel.

20 MR. JOYE:

21 Your Honor, may I -- may I look at
22 that one further a minute. There was another provision
23 that I -- It's here on another one.

24 Your Honor, if you'd look at the
25 bottom -- uh -- of -- under 2, which doesn't seem to be

1 connected in 2, but it says:

2 The mission of the 15th Circuit
3 Solicitor's Office to uphold the public's trust in
4 pursuit of justice and enforcement of the law.

5 I think that's a pretty self
6 serving statement. And I don't see where it's of any
7 evidentiary value at all; and could be just -- uh --
8 extremely prejudicial.

9 THE COURT:

10 I -- I don't like it's prejudicial
11 for the Solicitor's Office to be able to -- to represent
12 to a jury that it -- that it's to uphold the public
13 trust.

14 Uh -- Mr. -- uh -- Mr. Filiberto
15 is perfectly free to argue that. And this apparently is
16 a part of the -- I take it's a part of --

17 MR. FILIBERTO:

18 The stationery, Your Honor.

19 THE COURT:

20 Of the stationery. Yeah.

21 I'm not going to make them redact
22 the -- uh -- the credit portion of the stationery.

23 You can -- That's --

24 MR. JOYE:

25 Your Honor, if I chose not to put

1 that in, but simply to cross-examine using 1, 3, 4, 5,
2 and 6, I -- I believe I could use that to impeach without
3 actually putting that in.

4 THE COURT:

5 Well, there's certainly a way to
6 do it. It's whether you choose to do it that way.

7 That's right.

8 MR. JOYE:

9 Thank Your Honor.

10 THE COURT:

11 All right. Okay.

12 Do y'all need a break? It's a
13 Courts Exhibit. You can get it back if you want to have
14 it remarked.

15 MR. JOYE:

16 It's -- I think it's probably a
17 good chance to take a break, because if we bring them
18 back in, then 30 minutes from now we may need to take a
19 break; and --

20 THE COURT:

21 All right.

22 All right, folks, let's just take
23 about 10 minutes. Start back at 10 minutes of the hour,
24 please.

25 Thank you.

MATTERS OUTSIDE OF JURY

321

1 (WHEREUPON: The court was
2 declared in recess at 2:38 PM, September 14, 2010.)

3 (WHEREUPON: The court was called
4 to order by the Deputy at 2:57 PM, September 14, 2010;
5 and all pertinent parties, along with their counsel, were
6 back and present in the courtroom.)

7 DEPUTY:

8 Order in the court. All rise.

9 THE COURT:

10 Thank you.

11 Thank you, folks. You all can be
12 seated.

13 Folks, is everybody ready for the
14 jury?

15 MR. FILIBERTO:

16 The State's ready.

17 MR. JOYE:

18 Yes, Your Honor.

19 THE COURT:

20 Yes sir. You can bring us the
21 jury. Thank you.

22

23 (WHEREUPON: The jury empanelled
24 in the case was escorted back into the courtroom at 2:57
25 PM, September 14, 2010; and was in fact present during

1 the following proceedings.)

2 THE COURT:

3 Mr. Filiberto, you can call your
4 next witness.

5 MR. FILIBERTO:

6 The State will call Jamie White.

7 THE COURT:

8 Mr. White.

9 Mr. White come forward, please;
10 and be sworn.

11 I note that -- uh -- Mr. White's
12 counsel is still in the courtroom.

13 MS. PRATT:

14 Yes, Your Honor, Barbara Pratt of
15 the Horry County Bar.

16 THE COURT:

17 Thank you Ms. Pratt.

18 WHEREUPON: JAMIE DEAN WHITE WAS
19 DULY SWORN AND TESTIFIED UNDER OATH AS FOLLOWS:

20 CLERK:

21 Please be seated. If you will
22 State your full name, and spell your last name.

23 WITNESS:

24 Jamie White. White; W-h-i-t-e.

25 DIRECT EXAMINATION BY MR. FILIBERTO:

TESTIMONY OF JAMIE DEAN WHITE

323

1 Q. Mr. White, let's get right into this and start with
2 what happened back on August 13th, 2008.

3 On that night, did you go to a bar
4 in Aynor, South Carolina?

5 A. Yes sir.

6 Q. How did you get over to that bar?

7 A. I got over there with -- uh -- Paige Turner -- with
8 Paige Skipper and Crystal Gayle Turner, Luther Oxendine,
9 Charlie Skipper and myself.

10 Q. When you were up at the bar, who was -- uh -- who
11 was driving?

12 A. Crystal.

13 Q. When you arrived at the bar, where did you park?
14 The front? Back? Side?

15 A. The back, sir.

16 Q. Was anybody else out in the back when you arrived
17 there?

18 A. Uh -- Jack -- I believe that's his name was out back
19 and Jeff, which was Crystal's boyfriend at the time.

20 Q. What happened when y'all got out of the car?
21 Anything happen out there in the parking lot?

22 A. Charlie Skipper and Jeff was talking about selling a
23 gun, which Jeff had had. And -- uh -- Skipper pulled
24 out a gun and stated that he had a gun on him as well.

25 Q. After that conversation -- Oh, let me step back.

25 And I just don't want to get that

1 -- get to that point.

2 THE COURT:

3 I won't let you get stuck.

4 MR. JOYE:

5 Thank you, sir.

6 THE COURT:

7 All right. Go ahead. Go ahead.

8 The question was --

9 MR. FILIBERTO:

10 What happened when you all sat
11 down?

12 Thank you, Judge. I'm sorry.

13 THE COURT:

14 All right. Go ahead.

15 DIRECT EXAMINATION BY MR. FILIBERTO CONTINUED:

16 Q. What happened when you all sat down at the table?

17 A. Crystal and Paige brung up the subject about Mr.
18 Rabon having money on him at the time.

19 And Crystal stated that:

20 That's a man that we could rob, if
21 we was looking for someone to rob that night.

22 Q. Had you ever met Mr. Rabon before that night?

23 A. No sir.

24 Q. You hadn't met Crystal before that night, had you?

25 A. Once, prior to that.

1 Q. Did that conversation continue?

2 A. Yes sir. It continued.

3 Q. Tell us about that conversation.

4 A. Uh -- Paige asked Crystal if it was someone in the
5 bar that we could rob.

6 And Crystal stated that she knew
7 for a fact that Mr. Rabon had money on him. He always
8 kept money on him, because she had frequented the bar
9 regularly, and that, if we wanted to rob someone, that --
10 that he would be a good man to rob because he always
11 leaves the bar with a female.

12 And that she knew that we could
13 take him down the dirt road and he would go.

14 Q. Who else was involved in that conversation at the
15 table?

16 A. It was Luther Oxendine, Charlie Skipper, Paige --
17 and Paige.

18 Q. Sometime later that night, did another person show
19 up at the bar to join you?

20 A. Yes sir.

21 Q. Who was that?

22 A. That was Stacy Johnson.

23 Q. When she arrived, did anything happen?

24 A. We went back outside and talk to -- Like:

25 Charlie walked out and he talked

1 to Stacy.

2 And then we all went out and
3 talked to Stacy.

4 Q. Where was -- Where did that conversation take place?

5 A. In Stacy's car.

6 Q. And tell me -- tell The Court exactly who was
7 present for that conversation?

8 A. It was Luther Oxendine, myself, Charlie Skipper,
9 Crystal, and Paige.

10 Q. So Crystal Turner was there?

11 A. Yes sir.

12 Q. And do you remember what was discussed?

13 A. They was talking about the robbery.

14 MR. JOYE:

15 Objection.

16 THE COURT:

17 How do you avoid the hearsay
18 nature of that, Mr. Filiberto?

19 DIRECT EXAMINATION BY MR. FILIBERTO CONTINUED:

20 Q. Did the same subject come up?

21 A. Yes sir.

22 Q. Was Crystal Turner involved in that conversation?

23 MR. JOYE:

24 Objection, Your Honor.

25 I mean, we're talk --

1 THE COURT:

2 Well --

3 MR. JOYE:

4 We're talking about a conversation
5 and he's trying to -- trying to backdoor, when it's all
6 hearsay.

7 THE COURT:

8 Well, if -- Whatever Crystal said
9 is not hearsay.

10 MR. JOYE:

11 He -- He's --

12 THE COURT:

13 He's got every right to ask what
14 -- if Crystal said anything.

15 And so, it's perfectly appropriate
16 to ask if she was involved in the conversation before he
17 can answer that question.

18 I'll allow him. Go ahead.

19 MR. FILIBERTO:

20 Thank you, Your Honor.

21 DIRECT EXAMINATION BY MR. FILIBERTO CONTINUED:

22 Q. What did Crystal say during that conversation?

23 A. She once again stated that Mr. Rabon would be a
24 prime candidate for the robbery because she knew for a
25 fact that he had money on him.

TESTIMONY OF JAMIE DEAN WHITE

329

1 Q. Did Ms. Turner give you any insight as to where this
2 robbery should take place?

3 A. Yes sir.

4 Q. What did she tell you?

5 A. She said:

6 Once we leave the bar, take a left
7 right time you come out of the bar, and go down a little
8 piece; and there will be a dirt road on your right.

9 She say:

10 And that would have been a good
11 spot because nobody traveled a dirt road like that.

12 Q. To your knowledge, did Mr. Rabon leave the bar a
13 little bit later?

14 A. Yes sir.

15 Q. Do you know who he left with?

16 A. Yes sir.

17 Q. Who?

18 A. He left with Stacy Johnson.

19 Q. After they left, what happened?

20 A. Crystal gave Paige the keys to her car and told us
21 that we could use her car. All she wanted was a little
22 bit of gas money when we got back.

23 Q. Do you have any doubt that Crystal Turner knew why
24 you were using the car?

25 MR. JOYE:

25 A. When we arrived there, me, Luther Oxendine, and

TESTIMONY OF JAMIE DEAN WHITE

331

1 Charlie Skipper, exited the vehicle.

2 Charlie Skipper goes to the
3 driver's side where Stacy Johnson was, and he pulled a
4 gun and put it in Stacy Johnson's face.

5 He demanded them out of the car at
6 gunpoint.

7 So my -- my brother, he goes
8 around the car and gets Mr. -- Mr. Rabon out the car.

9 And Stacy gets back in the car,
10 and she leaves.

11 Charlie holds Mr. Rabon at
12 gunpoint and demand's money.

13 And Mr. Rabon said:

14 Take what I have. Please don't
15 hurt me.

16 And I proceeded to take the money
17 from Mr. Rabon.

18 I get in -- back in the car.

19 And that's when Charlie shoots Mr.
20 Rabon.

21 Q. So your testimony here is, today, that you
22 participated in the robbery of Ronald Rabon?

23 A. Yes sir.

24 Q. And you were present at that scene when he was shot
25 and killed?

1 A. Yes sir.

2 Q. Do you have any idea how much money Mr. Rabon was
3 carrying when he was robbed?

4 A. A little over \$600.00.

5 Q. Do you know how that money was split up?

6 A. Yes sir.

7 Q. If it was split up?

8 A. Yes sir. It was split up. Everybody received a
9 hundred dollars, including Crystal, because my brother,
10 Luther Oxendine, went back into the bar and give Crystal
11 the money when we got back to the bar.

12 Q. Mr. White, early on in this investigation -- uh --
13 did the police contact you?

14 A. They contacted Paige. And Paige told us that the
15 police was looking for us.

16 Q. Did you ultimately surrender to the police? Or were
17 you arrested?

18 A. Yes sir.

19 Q. Did you give a statement to the police?

20 A. Yes sir.

21 Q. When you gave that statement, were you honest?

22 A. Yes sir.

23 Q. Your original -- In your original statement to the
24 police, your testimony is that you were -- you were
25 completely honest to them?

TESTIMONY OF JAMIE DEAN WHITE

333

1 A. Yes sir.

2 Q. The first time you spoke to, I believe it was,
3 Detective Troxell?

4 A. Yes sir.

5 Q. Okay. Did you subsequently -- Did you later enter
6 into an agreement to give a statement to the -- to
7 cooperate with the State with the prosecution of this
8 case and enter an agreement with the State?

9 A. I -- I was -- My pro-offer with the State, but I
10 was --

11 Q. Did you -- Did you sign an agreement that you were
12 going to be willing to testify here today?

13 A. Yes sir.

14 Q. Now, as a result of your involvement in the robbery
15 and subsequent murder of Mr. Rabon, were you charged?

16 A. Yes sir.

17 Q. What charges are you facing?

18 A. Murder and armed robbery.

19 Q. Are those charges still pending today?

20 A. Yes sir.

21 Q. In terms of your agreement, have you been promised
22 anything?

23 A. No sir.

24 Q. But you're hoping that your testimony will help you?

25 A. Yes sir.

1 Q. What is the primary thing that your agreement
2 requires you to do?

3 A. Be honest with the State and all the state officials
4 that I come in contact with.

5 Q. And if it's determined that you are not honest, what
6 happens to your agreement?

7 A. It is taken away from me.

8 Q. Okay, Mr. White, have you been honest here today?

9 A. Yes sir.

10 Q. And just couple more questions. So we're clear, you
11 were present at a table at a time a conversation took
12 place about a robbery?

13 MR. JOYE:

14 Objection; leading, Your Honor.

15 THE COURT:

16 It's -- It's leading, but it's
17 cumulative to what he's already said. So it's not
18 anything new.

19 I'll allow him to summarize it, if
20 he wants to. Go ahead.

21 DIRECT EXAMINATION BY MR. FILIBERTO CONTINUED:

22 Q. Again -- uh -- Mr. White, was Crystal Turner present
23 at -- at a -- at that conversation that took place inside
24 Easy's Bar?

25 A. Yes sir.

1 Q. And again, the -- the -- the nature of that
2 conversation was what?

3 A. Was that: If we wanted to rob somebody, Mr. Rabon
4 would be a man for us to rob.

5 Q. And, again, your testimony is outside that -- uh --
6 You previously testified that y'all were sitting in Stacy
7 Johnson's car.

8 Was Crystal Turner present then?

9 A. Yes sir. She was standing on the outside.

10 Q. And was that conversation also involving a plan to
11 rob Ronald Rabon?

12 MR. JOYE:

13 Objection.

14 Unless it's something he said or
15 she said, then that's an improper question.

16 THE COURT:

17 All right.

18 I'll sustain that objection,
19 unless Crystal was involved in -- unless you set it
20 right.

21 DIRECT EXAMINATION BY MR. FILIBERTO CONTINUED:

22 Q. Did Crystal say anything while she was standing
23 outside the car about robbing Ronald Rabon?

24 A. Yes sir.

25 Q. All right. What was that?

1 A. She was -- Paige asked her if she was for sure that
2 Mr. Rabon had money on him.

3 And he said -- She stated --
4 Crystal stated that she was positive Mr. Rabon had money
5 on him.

6 MR. FILIBERTO:

7 Thank you, Mr. White.

8 If you would answer any questions
9 Mr. Joye might have.

10 THE COURT:

11 Mr. Joye, you can cross-examine.

12 CROSS-EXAMINATION BY MR. JOYE:

13 Q. Mr. White, did you sign what's called a proffer
14 agreement with the State?

15 A. Yes sir.

16 Q. When did you sign that?

17 A. Uh -- It's been a long time now, sir. I --

18 Q. Sir?

19 A. I forgot the exact date.

20 Q. Let me show you this document. See that document?

21 A. Yes sir.

22 Q. Do you recognize that document?

23 A. Yes sir.

24 Q. What is that?

25 A. The pro-offer agreement that I had signed.

TESTIMONY OF JAMIE DEAN WHITE

337

1 Q. Okay. And in that proffer agreement, read -- Can
2 you read for the jury Section 4?

3 A. Yes sir. It says:

4 The State shall consider the
5 extent and degree of carpel -- cooperation of Jamie Dean
6 White in the election of charges and at the sentencing of
7 Jamie Dean White and shall advise The Court of Jamie Dean
8 White's extent and degree of cooperation as connected --
9 in connection with this matter.

10 Q. Now, let me ask you this:

11 All the law enforcement officers
12 that you talked with, there weren't any of them that --
13 any of them present at any of these things, were there?

14 A. No sir.

15 Q. So basically, we would just have to take yours,
16 Paige's, Stacy's, Charlie's, and -- uh -- your brother
17 Luke's word for it, wouldn't we?

18 A. Yes sir, because we was all there.

19 Q. Yeah. And -- Now, there was some conversation that
20 night about where -- with -- with -- with -- uh --
21 Crystal's boyfriend, Jeff, wasn't it?

22 A. Yes sir.

23 Q. And actually, where did the gun come from that was
24 used to kill Ronald Rabon?

25 A. It come from a burglary in North Carolina.

1 Q. And who participated in that burglary?

2 A. Me and Charlie Skipper.

3 Q. You and Charlie Skipper went and broke in and stole
4 the gun in Roland, North Carolina?

5 A. Yes sir.

6 Q. And the day that that happened, this was August 13th
7 -- 14th. What date was that, that that happened?

8 MR. FILIBERTO:

9 I'm going to have to ask object to
10 relevance.

11 THE COURT:

12 I -- I -- I will -- I will allow
13 him to testify, if he remembers the day as to -- uh --
14 the --

15 WITNESS:

16 I can't recall the exact date that
17 was, sir.

18 CROSS-EXAMINATION BY MR. JOYE CONTINUED:

19 Q. Well could you guesstimate how long it was prior to
20 this incident?

21 MR. FILIBERTO:

22 Your Honor, it calls for
23 speculation, Judge.

24 THE COURT:

25 Well, it -- if he can give an

TESTIMONY OF JAMIE DEAN WHITE

339

1 estimated guess.

2 He might not know exactly the
3 time, but he can tell whether it was the week before, the
4 month before, or the year before, to set some time-frame
5 up for the jury's understanding, I'll allow him to do it.

6 If he can't, he can't.

7 WITNESS:

8 I believe it was a few days
9 before. I'm not --

10 CROSS-EXAMINATION BY MR. JOYE CONTINUED:

11 Q. And now you'd just gotten out of prison in North
12 Carolina, hadn't you?

13 A. No sir.

14 Q. I'm going to hand you a copy of the transcript that
15 I've been -- uh -- provided by the -- uh -- Solicitor's
16 office.

17 If you'd just read the
18 highlighted, yellow portion?

19 A. I just came home from prison, July 31st of 2008. My
20 brother was talking to Paige Furness. We --

21 Q. That's fine. That's fine. Just the highlighted
22 portion.

23 So July 31st, 2008, would've been
24 a few days before August 13th, 2008, right?

25 A. Yes sir.

1 Q. So were you as truthful in this statement as you are
2 here in the courtroom today?

3 A. Yes sir.

4 Q. So -- So when you say that you hadn't just got home
5 a few days earlier from prison, one of these two
6 statements necessarily must be a lie?

7 A. No sir. You asked me if I come home from North
8 Carolina prisons. I come from South Carolina --

9 Q. Oh, South Carolina prison; okay.

10 And that was that for?

11 A. For grand larceny.

12 Q. Now what else were you charged with at that time?

13 A. Uh -- Three counts of grand larceny. Three counts
14 of malicious injury to private property.

15 MR. FILIBERTO:

16 Your Honor, object. And if we
17 could approach?

18 THE COURT:

19 All right

20 (WHEREUPON: Counsel for each party
21 conferred off the record with The Court at the bench at
22 3:18 PM, September 14, 2010.)

23 CROSS-EXAMINATION BY MR. JOYE CONTINUED

24 Q. In fact, you were -- uh -- you were convicted of
25 common law robbery; weren't you?

TESTIMONY OF JAMIE DEAN WHITE

341

1 A. Yes sir.

2 Q. Okay. Not grand larceny?

3 A. The common law robbery was in 2003.

4 Q. And you had just gotten home several days earlier?

5 A. For the grand -- grand larceny and malicious damage
6 to private property and petty larceny.

7 Q. Okay. So you had something else that you were
8 convicted of after that, that you went to prison for?

9 A. Exactly.

10 Q. Okay. And did you go to prison for the 2003?

11 A. No sir. I was given five years suspended to three
12 years probation.

13 Q. Didn't do too well on that, did you?

14 A. Yes, I completed on probation.

15 Q. Well, let me ask you this:

16 Were you on parole when you did
17 this offense?

18 A. Yes sir. I come home on parole.

19 Q. And, in fact, you weren't supposed to be anywhere
20 near the bar?

21 A. Yes sir.

22 Q. Now, you testified -- I'm going to take you back to
23 2009 -- just out of curiosity, how many times did you
24 give a statement to the police in this case?

25 A. Once.

1 Q. So you didn't talk with the police on 8/15, one day
2 after?

3 A. That's the night they -- they tried to get me to
4 talk. But I told them I wanted my attorney present at
5 the time.

6 Q. All right. But then -- then you got in touch with
7 them on 8/19/08?

8 A. Yes sir.

9 Q. Okay. And then you met with this lady here, Ms.
10 Mureddu, on 8/06/09?

11 A. Yes sir.

12 Q. And also met with her again on the 31st of August,
13 2010?

14 A. Yes sir.

15 Q. So how many times did you meet with the police, or
16 law-enforcement, or the Solicitor's Office, or anybody
17 else?

18 A. I can't give the exact amount of times.

19 Q. Well, four sound correct?

20 A. Close to that.

21 Q. More than once, right.

22 A. Yes sir.

23 Q. But you testified you only talked them once, right?

24 A. No. I testified I only give one statement.

25 Q. Okay. So you didn't give them a statement on August

TESTIMONY OF JAMIE DEAN WHITE

343

1 6th, 2009?

2 A. The same statement that I have given previously
3 when I talked to Detective Troxell, if that's the same
4 statement.

5 Q. But that was with Carmen Mureddu?

6 A. Yes sir.

7 Q. And now you had met Crystal Turner one time?

8 A. Yes sir.

9 Q. And had you ever been to that Aynor bar?

10 A. No sir.

11 Q. Did anybody know you at that Aynor bar?

12 A. No sir; nothing but who I come with.

13 Q. Okay. Uh -- Now, I'm going to show you this. And
14 it says -- I want you to read only the highlighted and
15 underlined portion of, again, this transcript that was
16 provided me by the Solicitor's Office.

17 A. It says:

18 Paige kept saying:

19 Well, if we're going to rob him,
20 we're going to rob him. So I reckon Crystal brushed it
21 off or whatever. I don't know.

22 Don't -- I don't know.

23 So when we got to go outside the
24 other bar, that's when they told me about them robbing
25 the man.

1 Q. So you told them on August 9th, 2000 -- let's see --
2 August the 9th, 2009 -- August 6th, 2009 -- that Crystal
3 just brushed it off?

4 A. Yes sir.

5 Q. Didn't you?

6 A. I said I thought she brushed it off.

7 Q. But now you don't -- you think different.

8 Let me ask you:

9 Do you remember better today than
10 you do (sic) back then?

11 A. I remember -- I remember the same exact thing I'm
12 telling you today.

13 Q. Well, you do? Then, back then, you thought she'd
14 just brushed it off?

15 A. Yes sir. I mean --

16 Q. And what were y'all doing out at the car that night?

17 A. We was smoking mari-juana (pronounced Mary Jaywana).

18 Q. And Crystal was not smoking marijuana, was she?

19 A. No sir.

20 Q. And you don't have a clue whether Crystal ever knew
21 whether -- uh -- Ronald Rabon -- I mean -- excuse me --
22 whether -- whether Charlie Skipper had a gun?

23 A. She was -- I believe she was around when he
24 presented the gun to Mr. Jeff.

25 Q. Now, didn't you just tell the Solicitor you have no

1 clue.

2 A. (No response.)

3 Q. You say you believe she was around. But you don't
4 know?

5 A. Yes sir.

6 Q. You don't know if she ever saw it?

7 A. If she didn't -- I -- I believe she saw it, because
8 we was all standing around there. But I can't exactly
9 say where she was standing next.

10 Q. Now Crystal didn't tell you, one -- person she met
11 one time before -- that -- where to go; did she?

12 A. I don't understand your question?

13 Q. In fact, Crystal never -- You never heard Crystal
14 say anything about:

15 Y'all go down here.

16 A. Yeah --

17 Q. That was all Paige, wasn't it?

18 A. No, that was Crystal.

19 Q. In fact, Paige was the one that wanted to rob
20 somebody?

21 A. Yes sir.

22 Q. Paige was one that had to pay a power bill? In
23 fact, you were living with Paige, weren't you?

24 A. No sir.

25 Q. Well hadn't you been kicked out -- Hadn't you and

1 Luther been kicked out of your home in Rolands?

2 A. No sir.

3 Q. The -- uh -- Again, I'm going to show you your
4 statement back in 2009.

5 That's your answer right here.

6 What does it say?

7 A. Paige Furness made the plans.

8 Q. Okay. What else did you say about that?

9 A. Because she said:

10 What if the fellow had a gun?

11 Q. So --

12 COURT REPORTER:

13 I'm sorry. I didn't understand
14 him.

15 Because she said what?

16 WITNESS:

17 Because she said:

18 The fellow has a gun. What if the
19 fellow has a gun.

20 CROSS-EXAMINATION BY MR. JOYE CONTINUED:

21 Q. Now Paige was your brother's girlfriend?

22 A. Yes sir.

23 Q. And the first time that you gave a statement
24 implicating Crystal was long after -- long after she'd
25 been arrested?

TESTIMONY OF JAMIE DEAN WHITE

347

1 A. I don't understand your question.

2 Q. I said:

3 The first time you ever made a
4 statement implicating Crystal Turner was long after you
5 had been arrested; wasn't it?

6 A. I don't -- What? About three or four days?

7 A. But you guys were communicating pretty extensively
8 back-and-forth in the jail, weren't you?

9 A. Meaning who?

10 Q. Meaning you, Stacy. You were -- You were sending
11 letters to everybody, weren't you?

12 A. Nah, just me and Stacy. I wrote Crystal once,
13 maybe twice.

14 Q. And you only would communicate with Stacy?

15 A. Yes sir.

16 Q. And you hope today -- Hold on a second.

17 All right.

18 And I'm going to read Carmen's
19 part:

20 I want to try to go back a little
21 bit more about -- uh -- when you're back at the bar and
22 the major planning in your mind if you had to retell the
23 story in court, the major planner -- I mean -- who's
24 number one --

25 MR. FILIBERTO:

1 Your Honor, I have to object to
2 Mr. Joye's testifying.

3 MR. JOYE:

4 I'm --

5 THE COURT:

6 All right.

7 MR. JOYE:

8 I'm -- I'm reading the question.

9 I'm going to let him response, Your Honor.

10 THE COURT:

11 All right... Get to the question,
12 then.

13 CROSS-EXAMINATION BY MR. JOYE CONTINUED:

14 Q. I -- I mean, who's number one? Who is the first one
15 to say what we're going to do tonight? Who would you say
16 that is?

17 You want to read your response?

18 You want to respond to it now.

19 And then, I'll let you read your response?

20 A. I'd rather read my response.

21 Q. Go ahead and respond to it. Who would you say?
22 Who would you have told them back in 2009 planned this
23 thing?

24 A. Crystal had it planned out. But Paige brought the
25 subject up.

TESTIMONY OF JAMIE DEAN WHITE

349

1 Q. Now you want to read your response for me, please?

2 A. It would have been Paige because she stated that she
3 was the first -- robbing him come about out of her mouth.

4 Q. Okay. So, it came out of Paige's mouth?

5 A. (No response.)

6 Q. Is that correct?

7 A. Yes sir.

8 Q. And it's your testimony today -- Did you ever --
9 Who's Ted Perdue (? phonetic)?

10 A. That was a old cell-mate of mine.

11 Q. Okay. Did you ever talk -- You talked with Ted
12 about your charges; didn't you?

13 A. No sir.

14 Q. You didn't tell Ted Perdue (? phonetic) you shot
15 Ronald Rabon?

16 A. No sir.

17 Q. You didn't tell Ted Perdue (? phonetic) that you
18 were the one that got the money?

19 A. No sir.

20 Q. In fact, you were the one that did take the money
21 off of Mr. Rabon correct?

22 A. Yes sir.

23 Q. And when you took the money off of Mr. Rabon, in
24 fact there was a thousand dollars, not 720; was it?

25 A. No sir.

1 Q. Or 620?

2 A. No sir. It was just --

3 Q. You didn't tell him that?

4 A. No sir.

5 Q. So if he comes in this courtroom --

6 THE COURT:

7 You -- If you'll let him finish
8 the answer, please?

9 MR. JOYE:

10 Yes sir.

11 CROSS-EXAMINATION BY MR. JOYE CONTINUED:

12 Q. And so if he comes into this courtroom and says that
13 you -- you pocketed \$400.00 before you split it with
14 anybody, that would be a lie?

15 A. Yes sir.

16 Q. Okay. Now, Crystal Turner wasn't there that night
17 when this happened was she?

18 A. (No response.)

19 Q. Wasn't there at the scene on Tobacco Leaf Road?

20 A. No sir.

21 Q. And in fact, you gave four separate statements to
22 the Solicitor's Office and law enforcement in this
23 particular case before y'all ever got the story 100
24 percent straight?

25 A. My story never changed at all during these

1 statements.

2 Q. Okay. Well, today you testified that Crystal
3 Turner planned it.

4 And you've testified that Paige
5 Furness planned it, and Paige Furness was the number one
6 planner.

7 But today, you're testifying
8 Crystal Turner planned this robbery?

9 A. She tell (sic) us where we could take Mr. Rabon to
10 have him in a secluded area so that we could rob him.

11 Q. She told you that directly?

12 A. Yes sir.

13 Q. Now let me ask you this:

14 Crystal Turner goes to that bar
15 every week.

16 A. She frequents often.

17 Q. She knew everybody at the bar?

18 A. Yes sir.

19 Q. You, Charlie Skipper, and Luther Oxendine; y'all
20 knew nobody?

21 A. No sir.

22 Q. Tell us about how you were dressed relative to
23 everybody else at the bar?

24 A. I was dressed in some -- some blue jeans, hat, some
25 tinamon (? phonetic) boots, and a T-shirt.

1 COURT REPORTER:

2 What kind of boots, sir?

3 WITNESS:

4 Timberland boots.

5 COURT REPORTER:

6 What kin?

7 WITNESS:

8 Timberland.

9 COURT REPORTER:

10 Timberland.

11 WITNESS:

12 Yes sir.

13 CROSS-EXAMINATION BY MR. JOYE CONTINUED:

14 Q. You aren't really dressed like the good old boys at
15 the Easy's in Aynor, were you?

16 A. I didn't know what type of clothes or -- No, not the
17 clothes we was going in.

18 Q. And the answer would be "no?"

19 A. Yes sir.

20 Q. Okay. So you guys kind of stuck out like a sore
21 thumb in this bar in Easy's -- at Easy's in Aynor?

22 A. Yes sir.

23 Q. So -- But while you're there, you want this jury to
24 believe that Crystal Turner set you up to rob a man,
25 when, invariably, the first person they going to come

TESTIMONY OF JAMIE DEAN WHITE

353

1 back to is Crystal?

2 MR. FILIBERTO:

3 Your Honor, it calls for
4 speculation.

5 THE COURT:

6 It does. I'll sustain the
7 objection.

8 CROSS-EXAMINATION BY MR. JOYE CONTINUED:

9 Q. You believe that your cooperation in convicting
10 Crystal Turner will help you?

11 That's why you're testifying here
12 today; isn't it?

13 A. Yes sir.

14 Q. That would give you an awful, powerful, incentive to
15 lie; wasn't it?

16 A. I'm not lying.

17 Q. It would give you an awful, powerful, incentive to
18 lie?

19 MR. FILIBERTO:

20 Objection; asked and answered,
21 Your Honor.

22 THE COURT:

23 I'll sustain that objection.

24 That's going to be for the jury's determination.

25 MR. JOYE:

1 Beg The Court's indulgence?

2 THE COURT:

3 All right, sir.

4 CROSS-EXAMINATION BY MR. JOYE CONTINUED:

5 Q. Hey -- When you first got in Crystal's car, why did
6 you get in Crystal's car?

7 A. Because she had more room in her car than Paige had
8 in her car.

9 Q. All right. Why did you get in Crystal's car that
10 particular night?

11 I mean, at the bar?

12 A. To go rob Mr. Rabon.

13 Q. But, you sat there at the table and said the reason
14 you got in -- in that car was to get a pack of
15 cigarettes; wasn't it?

16 A. No sir.

17 Q. So, if Jeff James comes in here and testifies that
18 y'all said y'all were going to get a pack of cigarettes,
19 that'd be a lie?

20 A. I never said we was going to get a pack of
21 cigarettes.

22 Q. Okay. But you didn't say -- you didn't say:

23 Give me the keys. I'm going -- We
24 going to rob somebody, either, did you?

25 A. I never stated anything with the keys with him.

1 Q. Okay. And --

2 MR. JOYE:

3 Beg The Court's indulgence.

4 THE COURT:

5 Okay.

6 CROSS-EXAMINATION BY MR. JOYE CONTINUED:

7 Q. Now, if you sent Crystal -- You did send Crystal a
8 couple of letters, didn't you?

9 A. Yes sir.

10 Q. And if you said in your letter that you had nothing
11 -- she had -- you knew that she had nothing to do with
12 it; would that be a lie now, or a lie then?

13 A. I was referring to the murder and the armed
14 robbery, sir; not the whole -- what we -- where we could
15 take Mr. Rabon or none of that.

16 Q. Oh. So you're now saying that when you wrote
17 Crystal and said:

18 You didn't have anything to do
19 with this.

20 She didn't have anything to do
21 with the armed robbery nor a murder?

22 That's correct?

23 A. Yes, when it took place.

24 Q. Anything? She didn't have anything to do with an
25 armed robbery I remember murder?

1 MR. FILIBERTO:

2 Your Honor, asked and answered.

3 THE COURT:

4 Well, it -- it has been answered;
5 but not -- not directly, I think.

6 I'll allow him to -- uh -- inquire
7 again, if he wishes to.

8 WITNESS:

9 I can't recall. I -- I know I
10 told her she ain't had nothing to do with the -- the
11 murder and the armed robbery when it took place.

12 CROSS-EXAMINATION BY MR. JOYE CONTINUED:

13 Q. But you didn't write that in the letter?

14 A. I wrote --

15 Q. The letter just says:

16 You didn't have anything to do
17 with the murder and armed robbery?

18 A. I can't recall.

19 Q. Would you give a date -- Would you identify that?

20 A. Yes sir. This is the letter that I wrote Crystal.

21 Q. And when is it?

22 A. 4/17/2009.

23 Q. Would you read the highlighted part, please?

24 A. I said -- It says:

25 I told the police that you didn't

1 leave the bar and didn't have anything to do with what
2 happened.

3 You left out a part:

4 After we left the bar.

5 Q. Okay.

6 A. I'll take the stand on -- on your behalf because you
7 shouldn't be in this mess; and I'm truly sorry that you
8 are.

9 MR. JOYE:

10 Thank you, sir. Nothing further.

11 THE COURT:

12 All right.

13 Redirect?

14 REDIRECT EXAMINATION BY MR. FILIBERTO:

15 Q. Mr. White, I'm going to ask you to re-read this
16 sentence -- this top sentence.

17 But I want you to continue after
18 the point where the redaction stops, and read to where
19 there is a period of the -- of that sentence.

20 A. It says:

21 I told the police that you didn't
22 leave the bar and didn't have anything to do with what
23 happened after we left the bar.

24 Q. So it's not that: You didn't have anything to do
25 with it; but that it was what happened after you left the

1 bar?

2 A. Yes sir.

3 Q. Mr. White, you're sitting on the witness stand today
4 testifying about your involvement in armed robbery and a
5 murder.

6 Is that correct?

7 A. Yes sir.

8 Q. When you went up there, you took an oath. So you're
9 under oath to tell the truth?

10 A. Yes sir.

11 Q. And again, what are you charged with right now?

12 A. Murder and armed robbery.

13 Q. And have the State; have I; or anybody from my
14 office, promised that you will be allowed to plead to
15 anything less than that?

16 A. No sir.

17 Q. The testimony you gave here today, the truth?

18 A. Yes sir.

19 Q. And -- And it's -- Is it -- And your testimony is
20 that:

21 You overheard Crystal Turner --

22 MR. JOYE:

23 I'm going to object, Your Honor.

24 THE COURT:

25 Yeah.

TESTIMONY OF JAMIE DEAN WHITE

359

1 MR. JOYE:

2 He's -- He's leading him.

3 THE COURT:

4 That's -- That's been asked and
5 answered. I realize it's been gone into before; unless
6 this is something different.

7 REDIRECT EXAMINATION BY MR. FILIBERTO CONTINUED:

8 Q. Did -- Did Crystal Turner -- Was Crystal Turner
9 involved in the planning of the armed robbery?

10 A. Yes sir.

11 MR. FILIBERTO:

12 Nothing further.

13 THE COURT:

14 Any follow up on those points, Mr.
15 Joye?

16 MR. JOYE:

17 One second, Your Honor.

18 THE COURT:

19 Okay.

20 RECROSS-EXAMINATION BY MR. JOYE:

21 Q. You don't have any idea what the government deal may
22 eventually be with you; do you?

23 A. No sir.

24 Q. And you hope for as good a deal as possible?

25 A. Yes sir.

1 Q. You hope for a deal. As far as you know, you could
2 actually -- You're subject to life in prison; are you
3 not?

4 A. Yes sir.

5 Q. And that's on the murder?

6 A. Yes sir.

7 Q. And do you know what you are subject to on the armed
8 robbery?

9 A. 30 years -- 15 to life -- I --

10 Q. 15 to life. For all you know, you may -- If -- If
11 things go well enough against Ms. Turner, you might could
12 get a -- a deal that let's you to plead to -- I don't
13 know -- strong armed robbery; zero to 15.

14 MR. FILIBERTO:

15 Your Honor, objection. It calls
16 for speculation.

17 THE COURT:

18 It does. * That's completely
19 speculative. Thank you.

20 RECROSS-EXAMINATION BY MR. JOYE CONTINUED:

21 Q. In other words, they haven't promised you anything
22 except for:

23 They're going to absolutely help
24 you for your testimony?

25 MR. FILIBERTO:

TESTIMONY OF JAMIE DEAN WHITE

361

1 Objection, Your Honor. That's not
2 in evidence.

3 THE COURT:

4 Right.

5 MR. JOYE:

6 I think that's part and parcel of
7 the proffer, Your Honor.

8 It says that we're going to --
9 we're going to evaluate everything you tell us --

10 THE COURT:

11 Well, you -- you read that in the
12 record.

13 The jury can determine whether
14 that is a promise or whether -- uh -- uh -- or whether
15 it's something else other than that; that they would take
16 it into account in deciding what charges, and will also
17 tell The Court about cooperation.

18 RE CROSS EXAMINATION BY MR. JOYE CONTINUED:

19 Q. So the truth is:

20 You have every reason to not tell
21 the truth to help yourself, because -- Who interprets
22 what the truth is here?

23 A. (No response.)

24 Q. I mean, who -- who -- who -- Under this proffer
25 agreement, who interprets what the truth is?

1 A. I have no idea, sir.

2 Q. The government determines who -- what the truth is;
3 doesn't it?

4 A. I would think the jurors would.

5 Q. No. I mean, under your agreement; not -- not what
6 -- what they believe or disbelieve in the jury room.

7 The government decides what the
8 truth is in this case; right?

9 A. Yes sir.

10 Q. And the government decides how much to help you;
11 right?

12 A. Yes sir.

13 Q. And so, the more you help the government, the more
14 you hope they help you; right?

15 A. Yes sir.

16 Q. And you wouldn't get up on that stand and tell a lie
17 to help you; would you?

18 A. No sir.

19 MR. JOYE:

20 Thank you, sir.

21 Nothing further.

22 THE COURT:

23 Mr. Filiberto, he's your witness,
24 so you've got the last word.

25 RE-REDIRECT EXAMINATION BY MR. FILIBERTO:

TESTIMONY OF JAMIE DEAN WHITE

363

1 Q. Mr. White, today as you sit here, have you told the
2 truth?

3 A. Yes sir.

4 Q. Have you testified to your involvement in an armed
5 robbery?

6 A. Yes sir.

7 MR. JOYE:

8 Your Honor, all that's been asked
9 and answered. I'd object.

10 THE COURT:

11 Well, it has been. But of course
12 -- uh -- I believe that -- uh -- I allowed some
13 redundancy in your questions as well.

14 MR. JOYE:

15 Thank you, Judge.

16 THE COURT:

17 So -- uh -- go ahead.

18 RE-REDIRECT EXAMINATION BY MR. FILIBERTO:

19 Q. Your testimony has in essence created a situation
20 where -- where you've -- you've given up all your
21 defenses to the crimes you're charged with?

22 A. Yes sir.

23 MR. FILIBERTO:

24 Nothing further, Judge.

25 THE COURT:

1 Thank you.

2 Please step down, Mr. White.

3 Mr. Filiberto, you can call your
4 next witness.

5 MR. FILIBERTO:

6 Thank you.

7 The State calls Luther Oxendine.

8 THE COURT:

9 Mr. Oxendine, come forward please
10 and be sworn.

11 WHEREUPON: LUTHER OXENDINE WAS
12 DULY SWORN AND TESTIFIED UNDER OATH AS FOLLOWS:

13 CLERK:

14 Thank you. Please be seated.

15 THE COURT:

16 The record should reflect that the
17 representative from Mr. Oxendine's attorney's office is
18 also in court. Is that right?

19 MR. HILLER:

20 Correct, Your Honor. My name is
21 Jonathan Hiller from the Gardner Law Firm in the Horry
22 County Bar.

23 THE COURT:

24 Thank you, Mr. Hiller.

25 CLERK:

TESTIMONY OF LUTHER OXENDINE

365

1 If you'll scoot up, speak into the
2 microphone; state your full name; and spell your last
3 name?

4 WITNESS:

5 Luther Oxendine: O-x-e-n-d-i-n-e.

6 DIRECT EXAMINATION BY MR. FILIBERTO:

7 Q. Mr. Oxendine, I guess with you also, I'll get right
8 back to what happened back on August 13th of 2008.

9 And again, I'll ask you:

10 On that night, did you travel to
11 -- uh -- Aynor, South Carolina?

12 A. Yes sir.

13 Q. Where did you go?

14 A. Some bar off of 501.

15 Q. How did you get there?

16 A. Paige Furness.

17 Q. Did Ms. Furness drive you to the bar?

18 A. Can you repeat that?

19 Q. Did Ms. Furness drive you all the way to the bar?

20 A. No sir.

21 Q. How do you get to the bar, then? Why don't you
22 tell the jury how you got to the bar.

23 A. We went to some old abandoned store off the -- uh --
24 bypass -- off of 501.

25 Q. Okay.

1 A. And then we met Crystal Turner at the bar -- I mean

2 Q. Okay. Was that the first time you ever met Crystal
3 Turner?

4 A. No sir.

5 Q. You had met her previous to that?

6 A. Yes sir.

7 Q. Now when y'all got in Ms. Turner's car, who else was
8 in there?

9 A. Just her.

10 Q. And -- And you, and who else?

11 A. Just me, Paige, Crystal, and Skipper, and White
12 (pronounced it "wat").

13 COURT REPORTER:

14 And who?

15 WITNESS:

16 White (pronounced it "wat").

17 COURT REPORTER:

18 Watson?

19 WITNESS:

20 White (pronounced it "wat").

21 MR. FILIBERTO:

22 White. Mr. White, who just
23 testified.

24 DIRECT EXAMINATION BY MR. FILIBERTO CONTINUED:

25 Q. When you arrived at the bar, was anybody out in the

1 parking lot?

2 A. When -- When we arrived, Jeff was sitting in his
3 truck.

4 Q. What happened after you -- you got there?

5 A. We got out the car; started smoking a blunt. And
6 Jeff was standing there talking to us.

7 And then he mentioned something
8 about a 44 caliber gun he was trying to sell.

9 Q. Did he show you the gun?

10 A. Yes sir.

11 Q. Anybody else show a gun?

12 A. Yes sir.

13 Q. Who?

14 A. Skipper.

15 Q. When he showed that gun, who was he showing it to?

16 A. Jeff.

17 Q. Who else was present when he was showing it to Jeff?

18 A. Paige, me, Jamie, and Crystal.

19 Q. When that was going on, were -- were those guys
20 trying to hide the gun?

21 A. No sir.

22 Q. It was out in the open?

23 A. Yes sir.

24 Q. At some point after that, did you go inside the bar?

25 A. Yes sir.

1 Q. What did you do there?

2 A. We walked in the back door and sat at the table next
3 to the back door.

4 Q. And who was at the table?

5 A. Me, Paige, Jamie, Skipper, Crystal, and Jeff.

6 Q. Did y'all start talking about something?

7 A. Paige was -- and Crystal was talking about who she
8 could rob.

9 Q. Did anybody come up with a suggestion?

10 A. Yes sir.

11 Q. Who?

12 A. Crystal.

13 Q. Who did she suggest?

14 A. She pointed at -- uh -- Ronald Rabon.

15 Q. Later on that night, does another person come in,
16 that you knew, to the bar?

17 A. Yes sir.

18 Q. Who is that?

19 A. Johnson -- Stacy Johnson.

20 Q. And when she got there, what happened?

21 A. We went out to the car. We sat in the car.

22 They told her the details of how
23 to get the man out from the bar.

24 MR. JOYE:

25 Your Honor, I'm going to object.

TESTIMONY OF LUTHER OXENDINE

369

1 "They -- They told her" has not
2 told us anything about who said what.

3 THE COURT:

4 All right. I'll sustain that
5 objection.

6 Go ahead.

7 DIRECT EXAMINATION BY MR. FILIBERTO CONTINUED:

8 Q. Tell us who was out at the car.

9 A. Me, Paige, Skipper, White, and Crystal.

10 Q. What, if anything, did Crystal tell the people in
11 the car?

12 A. Crystal really didn't say too much. But she -- uh
13 -- was sitting on the outside car. And Paige told her --

14 MR. JOYE:

15 I'm going to object to whatever
16 Paige told her.

17 THE COURT:

18 I'll sustain the objection as what
19 Paige may have told her.

20 DIRECT EXAMINATION BY MR. FILIBERTO CONTINUED:

21 Q. Without saying what anybody told you, did the
22 discussion involve what you talked about at the table
23 inside?

24 A. Uh-huh.

25 MR. JOYE:

1 Your Honor, I'm going to object
2 again, Your Honor.

3 Now he's trying to talk about what
4 the discussion -- We can see who said what --

5 THE COURT:

6 Right.

7 MR. JOYE:

8 -- but -- but what the discussion
9 was about and who said it is not being offered --

10 MR. FILIBERTO:

11 Your Honor --

12 THE COURT:

13 it looks like

14 MR. FILIBERTO:

15 -- I didn't ask who said it.

16 THE COURT:

17 I'll -- I will allow that -- that
18 general testimony.

19 He's already talked about what
20 they talked about inside the bare where everybody was
21 present.

22 And it's okay if they talked about
23 the same thing outside, if that's what the answer's going
24 to be, he can -- he can inquire about that without being
25 more specific.

TESTIMONY OF LUTHER OXENDINE

371

1 DIRECT EXAMINATION BY MR. FILIBERTO CONTINUED:

2 Q. Again -- uh -- Mr. Oxendine, the discussion at the
3 car, was it basically the same discussion that occurred
4 inside?

5 A. Yes sir.

6 Q. And again, the discussion inside involved a robbery?

7 A. Yes sir.

8 Q. And later on that night, did you end up leaving the
9 bar?

10 A. Yes sir.

11 Q. Who did you leave with?

12 A. I left with Charlie Skipper, Paige Furness, and
13 Jamie White.

14 Q. Where did you go?

15 A. We went to the dirt road.

16 Q. Why did you go there?

17 A. Really, I thought we was going to the store; because
18 Paige asked me to ride to the store with them.

19 Q. So you had no idea what you were going to do?

20 A. No sir.

21 Q. You testified that there was a discussion about a
22 robbery?

23 A. Yes sir.

24 Q. At some point. while you were in the car, did you --
25 did something happen to make you believe you weren't

1 going to the store?

2 A. Yes sir.

3 Q. What?

4 A. When they started talking -- When we turned on the
5 dirt road, they pointed right there -- told me "right
6 there."

7 MR. JOYE:

8 Object -- Objection, Your Honor.

9 My client was no where near that
10 conversation. Anything that anybody else said is now
11 hearsay.

12 MR. FILIBERTO:

13 Your Honor, he --

14 THE COURT:

15 He's not talking about what he
16 said --

17 MR. FILIBERTO:

18 -- he said --

19 THE COURT:

20 -- he said that what happened was,
21 when he turned off the dirt road, that told him what they
22 were going to do.

23 MR. JOYE:

24 Oh, I'm sorry. I misunderstood
25 his answer. I apologize, Your Honor.

TESTIMONY OF LUTHER OXENDINE

373

1 THE COURT:

2 Thank you.

3 DIRECT EXAMINATION BY MR. FILIBERTO CONTINUED:

4 Q. What happened when you -- uh -- went down the dirt
5 road? Tell us exactly what happened.

6 A. When we turned on the dirt road, we pulled behind
7 Stacy Johnson's car. And -- uh -- Skipper couldn't open
8 his door. So he asked me to open his car door.

9 At -- At the time, I got out and
10 opened his car door.

11 Q. What happened next?

12 A. Skipper walked to the driver's side door and stuck
13 the gun to Stacy Johnson's head.

14 Q. And then what happened?

15 A. And then he ordered Ronald Rabon to get out the
16 vehicle.

17 Q. What were you doing when this was happening?

18 A. I was standing on the passenger side of the car.

19 Q. Tell the jury what happened next.

20 A. Then Ronald Rabon got out. Skipper told him to put
21 his hands up.

22 He put his hands up. He said:

23 Take whatever you want.

24 And then, that's what happened.

25 Q. After you -- those of you that may have took his

1 property, what happened next?

2 A. Skipper shot him five times in the chest.

3 Q. At some point after that, did you return back to
4 Easy's Bar?

5 A. Yes sir.

6 Q. What did you do when you got to Easy's Bar?

7 A. I went in and gave Crystal Turner her car keys and
8 \$20.00.

9 Q. Have any conversation with her?

10 A. No sir.

11 Q. Mr. Oxendine, you've -- uh -- as -- as you're
12 testifying here today, just so we're clear, are you
13 admitting your responsibility and involvement in the arm
14 robbery of Ronald Rabon?

15 A. Yes.

16 Q. You were present there at the time when Charlie
17 Skipper shot and killed him?

18 A. Yes sir.

19 Q. No question about any of that?

20 A. (Nods in the negative.)

21 Q. And when you were first arrested, did you the police
22 any statements?

23 A. No sir.

24 Q. At some point, did you ask to be interviewed?

25 A. No sir.

TESTIMONY OF LUTHER OXENDINE

375

1 Q. You've never given the police a statement?

2 A. I gave them a statement once they come and got me
3 from Dillon County.

4 I was held in Dillon County on a
5 drug charge.

6 Q. Once you got here, did you give the police a
7 statement?

8 A. Yes sir.

9 Q. Were you honest during that statement?

10 A. No sir.

11 Q. Why not?

12 A. I didn't want to take a fall for something I ain't
13 do.

14 Q. When you say that, what specifically didn't you do?

15 A. I didn't -- I didn't kill the man. So --

16 Q. You didn't pull the trigger?

17 A. No sir.

18 Q. Okay. Was there a time later that you gave
19 additional statement?

20 A. Yes sir.

21 Q. Was that before or after you entered into a proffer
22 agreement to testify here today?

23 A. I didn't get no offer or nothing on agreement; but I
24 did give a statement after.

25 Q. Did you -- Did you agree -- Did you sign a piece of

1 paper agreeing to testify?

2 A. Yes sir.

3 Q. Okay. Does that agreement require you to do
4 anything specific?

5 A. (Nods in the negative.) No.

6 Q. Does it require you to tell the truth?

7 A. Yes sir.

8 Q. Mr. Oxendine, you been previously convicted of any
9 crimes?

10 A. Yes sir.

11 Q. Why don't you tell us about those.

12 A. Back in '03, I was -- uh -- convicted of armed
13 robbery.

14 Q. Armed robbery or strong armed robbery?

15 A. It was armed robbery, but they broke it down to
16 common law robbery.

17 Q. Uh -- What else?

18 A. And then, '05 '06, I went to prison for -- uh --
19 grand larceny and receiving stolen goods; and they broke
20 it down to receiving stolen goods.

21 Q. Okay. So this isn't your first brush with the law?

22 A. No sir.

23 Q. As a result of your involvement in what happened to
24 Ronald Rabon, were you charged with any crime?

25 A. What you mean by that?

TESTIMONY OF LUTHER OXENDINE

377

1 Q. Why are you in jail right now?

2 A. (No response.)

3 Q. Why are you in jail right now?

4 A. Right now?

5 Q. Yeah.

6 A. For murder and armed robbery.

7 Q. So you were charged with murder and armed robbery?

8 A. Yes sir.

9 Q. Does your proffer agreement give you any promises?

10 A. No sir.

11 Q. And if the State determines that you've lied, what
12 happens to your proffer agreement?

13 A. It goes out the window, I reckon.

14 Q. Just -- uh -- briefly, one more -- I have two more
15 questions.

16 When you arrived at the bar, of
17 the people that were in your vehicle, who's the person
18 that presented the gun and showed the gun to Jeff?

19 A. Just Skipper.

20 Q. Crystal Turner was present when -- when he did that?

21 A. Yes sir.

22 MR. JOYE:

23 Objection, Your Honor. That's
24 leading.

25 THE COURT:

1 It's repetitious of what he's
2 already said. It's not new. I'll allow it.

3 DIRECT EXAMINATION BY MR. FILIBERTO CONTINUED:

4 Q. And who is the person that picked out Ronald Rabon
5 to be robbed?

6 A. Crystal Turner.

7 MR. FILIBERTO:

8 Okay. Nothing further. Please
9 answer any questions Mr. Joye has.

10 THE COURT:

11 Mr. Joye, you want to cross-
12 examine?

13 CROSS-EXAMINATION BY MR. JOYE:

14 Q. And you said the government didn't promise you
15 anything?

16 A. No sir.

17 Q. Will you read Number 4? See if you can identified
18 this.

19 You recognizes this paper?

20 A. I recognize it.

21 Q. And what is it?

22 A. (No response.)

23 Q. It's a proffer agreement, right?

24 A. (No response.)

25 Q. And in -- in Number 4, doesn't the State promise you

TESTIMONY OF LUTHER OXENDINE

379

1 to consider the extent and degree of your cooperation in
2 making a sentencing and/or a plea recommendation?

3 A. (No response.)

4 Q. Well, you can read it for us.

5 Mr. Oxendine, read Number 4 for
6 us, please.

7 A. The State shall include the intents (sic) and degree
8 of --I don't know those big words there, sir.

9 Q. Okay. State shall consider the extent and degree
10 of the cooperation --

11 A. -- of Luther Oxendine in -- in the election of
12 charges at the sentencing of Luther Oxendine, and shall
13 advise --

14 Q. So -- So the State did promise you something, right?

15 A. (No response.)

16 Q. It promised you that they would consider the nature
17 and extent of your cooperation in deciding what to
18 eventually let you to plead guilty to?

19 A. (No response.)

20 Q. Correct?

21 A. Yes sir.

22 Q. Uh -- Now, you had a lot of opportunity to meet with
23 your attorney?

24 A. Yes sir.

25 Q. And it's your -- your -- I -- I'm certain -- Not to

1 get into what your attorney told you, but I'm certain
2 your attorney explained the law to you as it pertains to
3 "hand of one is hand of all?:

4 A. Yes sir.

5 Q. So you're admitting your guilt to the murder of
6 Ronald Rabon here today?

7 A. (No response.)

8 MR. FILIBERTO:

9 Your Honor, it calls for a legal
10 conclusion. The State will object.

11 THE COURT:

12 Yes, it does. He's -- He's
13 testified as to what he did.

14 It'll be a -- a legal conclusion
15 as to what that amounts to.

16 MR. JOYE:

17 I'll be happy to withdraw it, Your
18 Honor.

19 THE COURT:

20 Thank you.

21 CROSS-EXAMINATION BY MR. JOYE CONTINUED:

22 Q. Uh -- Now, you said that -- You'd been involved in
23 the system for a long time, haven't you, Luther?

24 A. Yes sir.

25 Q. And you know how this game's played, don't you?

1 A. Yes sir.

2 Q. In other words, you know that -- that your
3 cooperation -- you testifying against Crystal Turner is
4 something that the government can decide to use to help
5 you?

6 A. (No response.)

7 Q. Correct?

8 A. Yes.

9 Q. And so, you want to help the government; don't you?

10 A. Yes sir.

11 Q. You want as good a deal as you can possibly get;
12 don't you?

13 A. Yes sir.

14 Q. Now, under your proffer agreement, the government's
15 the one that decides whether you've been truthful or not;
16 right?

17 A. Yes.

18 Q. So the government is the one -- They can say:

19 He didn't tell a hundred percent
20 of the story against Crystal Turner. He's not
21 cooperated.

22 Right?

23 A. Yes sir.

24 Q. But the truth of the matter is, there aren't but six
25 people in this whole wide world that know whether or not

1 you're being truthful about Crystal Turner; is it?

2 A. Yes.

3 Q. Thank you. Mr. Filiberto wasn't there?

4 A. Uh-uh.

5 Q. Detective Troxell wasn't there?

6 A. No.

7 Q. Investigator Mureddu wasn't there?

8 A. No.

9 Q. So if five of you all lied and the government
10 believes it, nobody knows; right?

11 A. You're right.

12 Q. So the only person in the world -- If you don't
13 testify how they want you to testify, you -- your plea --
14 your proffer agreement's in danger; right?

15 A. Yes.

16 Q. And you can go down for life in prison?

17 A. (No response.)

18 Q. But you don't want to get life; do you?

19 A. (No response.)

20 Q. Come on, tell the truth. You don't want to get
21 life; do you?

22 A. I don't; but if I have to, I have to.

23 Q. But you don't want to?

24 A. No.

25 Q. You want to cut as good a deal as you can possibly

1 cut?

2 A. I'm going to be honest with you, they can't cut me
3 as good a deal as -- that I want.

4 Q. Okay. (Some chuckling.) But it's -- They can cut
5 you a better deal than what you got?

6 A. They can't even cut me a better deal than what I
7 got.

8 Q. All right. Well, doesn't -- doesn't the proffer
9 agreement say that they -- they can consider -- they can
10 even reduce the charges; can't they?

11 A. No sir.

12 Q. It doesn't say that? Okay.

13 A. No.

14 Q. Well, let's go ahead and -- back -- and let's
15 revisit this.

16 The State shall consider the
17 extent and degree of cooperation of Luther --

18 MR. FILIBERTO:

19 The State would ask that he ask a
20 question.

21 MR. JOYE:

22 Your Honor, I -- I'm getting ready
23 to.

24 THE COURT:

25 Well --

1 MR. FILIBERTO:

2 You're reading --

3 MR. JOYE:

4 Mr. Oxendine --

5 THE COURT:

6 Wait a minute, gentlemen. Now

7 wait a minute.

8 I can listen to one of you at a

9 time.

10 MR. FILIBERTO:

11 My apologies, Your Honor.

12 MR. JOYE:

13 My apologies, Your Honor.

14 THE COURT:

15 All right.

16 Now, he's -- he's got a right to

17 ask -- He said that the -- his understanding of the

18 proffer is that the State cannot reduce the charges.

19 If there's a provision in the

20 proffer agreement that brings that statement into

21 question, he's got a right to cross-examine him on it.

22 So go ahead and do it.

23 MR. JOYE:

24 And, Your Honor, I'm doing this

25 because of the difficulty reading. I --

TESTIMONY OF LUTHER OXENDINE

385

1 THE COURT:

2 I understand that. That's right.

3 CROSS-EXAMINATION BY MR. JOYE CONTINUED:

4 Q. The State shall consider the extent and degree of
5 cooperation of Luther Eugene Oxendine in the election of
6 charges and at the sentencing.

7 So they have promised you to
8 consider your testimony today against Crystal Turner in
9 deciding on how to eventually -- what you eventually will
10 plea to?

11 A. Uh-huh.

12 Q. All right. But that ain't what you just said; is
13 it?

14 A. No sir.

15 Q. In other words, you just lied?

16 A. Be -- Be truthful with you, if I don't want them to
17 reduce the charges, then I could take just what I'm
18 charged with to trial, if they ain't reducing it.

19 Q. Okay. But you understand that you will have an
20 admission on this record to participating in a robbery
21 that -- that resulted in a murder?

22 A. Uh-huh.

23 Q. Of Mr. Ronald Rabon?

24 A. Uh-huh.

25 THE COURT:

1 Mr. Oxendine, I'll have to ask you
2 to say "yes" or "no" please, if you will.

3 WITNESS:

4 Yes sir.

5 THE COURT:

6 It's difficult for us to
7 understand; okay.

8 WITNESS:

9 Yes sir.

10 THE COURT:

11 Thank you.

12 CROSS-EXAMINATION BY MR. JOYE CONTINUED:

13 Q. And if you violate these terms, as the State
14 understands and the State believes the truth to be, this
15 whole thing's null and void; right?

16 A. Could you repeat that and put it in just --

17 A. I said: If you violate the terms of this proffer
18 and the State believes you violate this -- terms of this
19 proffer, it renders everything null and void; doesn't it?

20 A. Yes sir.

21 Q. So, if the truth was Crystal Turner didn't have
22 anything to do with it, and you testified to that fact,
23 the State could say:

24 Your deal ain't no good?

25 A. Yes sir.

TESTIMONY OF LUTHER OXENDINE

387

1 Q. Some mighty strong incentive to not tell the truth;
2 isn't it, Mr. Oxendine?

3 A. I would of told the truth without signing it.

4 Q. Oh, well -- All right. Well, good. Lets go back
5 to that.

6 When you -- uh -- first spoke with
7 law enforcement, you told them that you didn't see
8 anybody that you knew that night; that you and Paige went
9 to the bar; correct?

10 A. Correct.

11 Q. And that was a lie; wasn't it?

12 A. Yes sir.

13 Q. And in fact, you said that you and Paige drove there
14 in her car. And that was a lie; wasn't it?

15 A. Yes sir.

16 Q. And you said that you never saw anybody else that
17 you knew. That was a lie?

18 A. Yes sir.

19 Q. And that you never left the bar; and that was a lie?

20 A. Yes sir.

21 Q. How many lies you reckon you told that first time
22 you talked to law enforcement?

23 A. The whole test -- uh -- the whole statement, sir;
24 I'll be honest with you, because I didn't want to go to
25 jail.

1 I was going to Family Court that
2 -- that Friday.

3 Q. So you would lie to not go to jail?

4 A. Yes sir.

5 Q. Well, you absolutely would then lie to get out of
6 jail a lot sooner than when you potentially could;
7 wouldn't you?

8 A. No sir.

9 Q. Oh, you wouldn't lie for that. You would only lie
10 to not go to jail?

11 A. Yes sir.

12 Q. All right. And so everything you said here today
13 has been one hundred percent the truth?

14 A. Yes sir.

15 Q. All right. Well, good. Let's -- Let's -- Now,
16 did you tell the truth to Investigator Carmen Mureddu --
17 uh -- back when she interviewed you -- uh -- Let me get
18 my program of when everybody talked.

19 I assume that you had a
20 conversation with Ms. Mureddu back in September the 2nd
21 of '09.

22 Do you remember that?

23 A. Yes sir.

24 Q. And did you tell her one hundred percent the truth
25 at that point after you'd signed this proffer agreement?

1 A. Probably not.

2 Q. Probably not?

3 A. No sir.

4 Q. So you mean you would of lied and made that proffer
5 agreement null and void?

6 A. (No response.)

7 Q. Don't know?

8 A. Nah, I wouldn't have done that, but --

9 Q. Oh, you -- Well, you do understand that the proffer
10 agreement -- if they decide that you lied, becomes null
11 and void?

12 A. I know that.

13 Q. Okay. But you would lie -- But you say you
14 probably didn't tell them the truth then either?

15 A. Yes.

16 Q. Huh. Are you saying that?

17 A. (No response.)

18 Q. So -- So you're telling the government they need to
19 go ahead and null and void your proffer agreement because
20 you lied back in September '09 --

21 A. I didn't say --

22 Q. -- after you promised to the tell the truth.

23 A. I didn't say I lied back in September. I -- (over
24 talking of Defense Counsel blurs out remainder of reply)

25 --

1 Q. Oh, I thought that's what you just said.

2 I said:

3 Did you tell them the truth.

4 And you said:

5 No, probably not.

6 COURT REPORTER:

7 I need you to let him finish.

8 MR. JOYE:

9 Okay. I'm sorry. I --

10 THE COURT:

11 Uh -- Mr. Buckner, I'll -- Mr. --

12 uh -- Mr. --

13 MR. JOYE:

14 Your Honor, I'll do better. I was
15 talking --

16 THE COURT:

17 -- Filiberto and I will try to
18 keep him on track. If he doesn't finish and nobody wants
19 him to finish, he just won't finish.

20 MR. JOYE:

21 He just wasn't saying anything,
22 Judge. I think that was the problem.

23 THE COURT:

24 Thank you. But he does -- You do
25 need to let him finish and don't cut him off --

TESTIMONY OF LUTHER OXENDINE

391

1 MR. JOYE:

2 Yes, sir, Your Honor.

3 THE COURT:

4 -- don't cut him off.

5 COURT REPORTER:

6 He asked him one question I didn't
7 get. Did you say -- You said something "probably so?"
8 Is that -- That's what I thought you said.

9 WITNESS:

10 (Shrugs his shoulders.)

11 CROSS-EXAMINATION BY MR. JOYE CONTINUED:

12 Q. Give me one second and I'll help you find some of
13 things -- in -- Ms. Mureddu said:

14 Okay.

15 And if we'll start right here.

16 And I -- I'll try to help you.

17 Okay. Tell me exactly what it
18 was that Crystal said?

19 Okay.

20 This is what you answered:

21 Can you read that to the jury,
22 please, the highlighted portion?

23 A. Oh, I don't know -- I don't know too much about it
24 because I ain't -- I ain't -- I ain't --

25 Q. I hear bits and pieces.

1 A. I hear bits and pieces of it.

2 Q. Okay. So you didn't hear Crystal say anything
3 about it?

4 A. About what?

5 Q. According to this? According to this?

6 A. I was sitting there. I knew Crystal told them who
7 to get.

8 Q. Okay. But you didn't hear it said out of Crystal's
9 mouth, did you? According to this?

10 A. Uh-huh.

11 Q. That's right. You're saying you didn't hear it
12 according -- you hear bits and pieces, but:

13 I don't know too much about it.

14 That's right?

15 A. Yes sir.

16 Q. Okay. And Crystal was getting ready to go to work
17 at that bar; wasn't she?

18 A. I don't know.

19 Q. As far as you knew?

20 A. Well -- Well, good. Now let's go back to this.

21 What does she say?

22 What do you say, Luke?

23 A. She was fixing to work at the bar.

24 Q. Okay. Well, isn't that a little different than
25 what you just told me just now, just standing here?

TESTIMONY OF LUTHER OXENDINE

393

1 A. I didn't know it was -- I didn't know it at that
2 point in time.

3 I know I found that out in the
4 jail when the bar-owner got locked up for beating his old
5 lady.

6 Q. And she says:

7 And all right. So you weren't --
8 you didn't hear any part of the plan?

9 And you said?

10 A. I didn't hear nothing -- nothing at all.

11 Q. I didn't hear none of it.

12 A. Uh-huh.

13 Q. Okay. So you, back then, after you signed this
14 proffer agreement and you swear to tell the truth, you
15 didn't hear none of it?

16 That's what you said; right?

17 A. Uh-huh.

18 Q. All right.

19 THE COURT:

20 Once again, Mr. Oxendine, please
21 say --

22 WITNESS:

23 Yes sir.

24 THE COURT:

25 -- you need to say "yes" or "no."

1 Thank you.

2 CROSS-EXAMINATION BY MR. JOYE CONTINUED:

3 Q. All right. And so, this is you.

4 Then about five minutes later,
5 Paige come out behind him and she said -- she was like:
6 All you got to do is ride with us.
7 Right?

8 A. (No response.)

9 Q. That's what you said.

10 A. That's what I said, yeah.

11 Q. Okay. And -- And then Paige says -- and you said:

12 Yeah. Look, we needed to go to
13 the store and get me some cigarettes.

14 By the way, what does Paige smoke?

15 A. Marlboro Lights.

16 Q. She doesn't smoke Newports?

17 A. No sir.

18 Q. So, if she says in any recorded interview that she
19 smokes Newports, that would be --

20 A. That would be a lie.

21 Q. So Paige would be lying?

22 A. Yes sir.

23 Q. Okay. Have you never known Paige to tell a lie?

24 A. I ain't never known a woman that don't lie and don't
25 cheat at the same time.

TESTIMONY OF LUTHER OXENDINE

395

1 (Laughter erupts in the
2 courtroom.)

3 Q. Okay. So Paige said:

4 Look, we need to go to the store
5 and get me some cigarettes --

6 A. Yes sir.

7 Q. -- didn't she? That's what you said?

8 A. Yes sir.

9 Q. That's what said at the table. When she left, she
10 got --

11 A. No sir.

12 MR. FILIBERTO:

13 Your Honor, I'm going to object as
14 hearsay --

15 THE COURT:

16 Right. That's right.

17 MR. JOYE:

18 I --

19 THE COURT:

20 We're getting into a whole lot
21 into what Paige said at this particular point.

22 And she hadn't -- And -- And
23 Paige's credibility has not yet an issue, even though
24 both you and -- uh -- Mr. Oxendine seemed to reach a
25 conclusion in that regard -- uh --

1 CROSS-EXAMINATION BY MR. JOYE CONTINUED:

2 Q. In your mind, having listened to the conversation,
3 you believed you were going to get cigarettes; didn't

4 you?

5 A. Yes sir.

6 Q. Let me ask you:

7 Later that night -- what -- After

8 seeing a man killed in cold blood after you've robbed

9 him, what did you and Paige do?

10 A. Went home.

11 Q. Went to her house and had breakfast; didn't you?

12 A. Yes sir.

13 Q. And when you came back in from this -- uh -- robbery

14 in which Mr. Rabon was killed, what did you give Crystal?

15 A. I gave Crystal her car keys and \$20.00.

16 Q. She wasn't like:

17 Where's the rest of it?

18 A. No.

19 Q. She wasn't calling Paige on the phone repeatedly

20 while y'all are on the way home?

21 A. No.

22 Q. So Crystal set up this robbery; and she doesn't call

23 to see what her take is?

24 A. (No response.)

25 Q. No?

1 A. No.

2 Q. And -- uh -- now when this -- When it came out that
3 Mr. Rabon had been killed, where were you, Paige, your
4 brother Jamie, Charlie and Stacy?

5 A. Charlie and Stacy was at their house.

6 Q. Weren't --

7 A. And me and my brother --

8 Q. Weren't you -- Weren't the five of y'all sitting
9 around at noon the following day, on 14th, after Mr.
10 Rabon had been killed, and it came out on the news on
11 WBTW Channel 13?

12 A. When they come across the news, they was just
13 pulling up in our yard.

14 Q. So you guys were all together?

15 A. Yes sir.

16 Q. You never talked -- After the day that you gave the
17 keys and \$20.00 to Crystal, you never, ever, spoke to
18 Crystal Turner again; did you?

19 A. No sir.

20 Q. And you were with Paige pretty much though
21 constantly until ya'll were arrested; correct?

22 A. Yes sir.

23 Q. Was Crystal calling Paige repeatedly?

24 A. No sir; as far as I know, not.

25 Q. But you were there? You -- You -- You would have

1 known?

2 A. No.

3 Q. You would -- You would have known kind of -- You
4 would've heard her say:

5 Hey Crystal; or something on the
6 telephone; wouldn't you?

7 A. No.

8 Q. You would have heard her answer the telephone? You
9 would -- You mean, you would say that you could be
10 sitting beside somebody all the time and not have a clue
11 who they're talking to all the time?

12 A. How many women are going to let you know how many
13 people call their phone?

14 Q. Well, let's put it this way:

15 There were no repeated calls over
16 and over to Paige's phone right after this thing
17 happened?

18 A. No sir.

19 Q. No repeated calls all the way back to Dillon?

20 A. No sir.

21 Q. Uh -- And -- uh -- now, you, at that time, were also
22 selling some weed, weren't you?

23 A. Yes sir.

24 Q. And you traded -- uh -- some weed for 150 --

25 A. Ecstasy.

TESTIMONY OF LUTHER OXENDINE

399

1 Q. Ecstasy pills?

2 A. Yes sir.

3 Q. So you were in the drug business too?

4 A. Yes sir.

5 Q. Uh -- Now, no question but you know how this game's
6 played; that if you -- if you cooperate, you help them,
7 they help you?

8 A. Yes sir.

9 Q. That's what you're doing here today, right?

10 A. I'm trying to help myself, sir.

11 MR. JOYE:

12 Nothing further then, Mr.

13 Oxendine. Thank you, sir.

14 THE COURT:

15 Thank you.

16 WITNESS:

17 Yes sir.

18 THE COURT:

19 Mr. Filiberto?

20 MR. FILIBERTO:

21 Just briefly.

22 REDIRECT EXAMINATION BY MR. FILIBERTO:

23 Q. Mr. Oxendine, any time Investigator Mureddu
24 interviewed you, were you ever asked to do anything other
25 than tell the truth?

1 A. No sir.

2 Q. Did she have ask you to come up with testimony to
3 implicate Crystal Turner?

4 A. No sir.

5 MR. JOYE:

6 I'm going to object to that, Your
7 Honor.

8 THE COURT:

9 That's -- I'll sustain it. That's
10 a leading question. Thank you.

11 REDIRECT EXAMINATION BY MR. FILIBERTO CONTINUED:

12 Q. The testimony you're giving here today, the truth?

13 A. Yes sir.

14 Q. Has anybody from my office ever directly asked you
15 to do anything other than tell the truth?

16 A. No sir.

17 MR. FILIBERTO:

18 Nothing further.

19 THE COURT:

20 Thank you.

21 Any follow up on those other
22 questions?

23 MR. JOYE:

24 Yes sir; one question.

25 RECROSS-EXAMINATION BY MR. JOYE:

TESTIMONY OF LUTHER OXENDINE

400

1 A. No sir.

2 Q. Did she have ask you to come up with testimony to
3 implicate Crystal Turner?

4 A. No sir.

5 MR. JOYE:

6 I'm going to object to that, Your
7 Honor.

8 THE COURT:

9 That's -- I'll sustain it. That's
10 a leading question. Thank you.

11 REDIRECT EXAMINATION BY MR. FILIBERTO CONTINUED:

12 Q. The testimony you're giving here today, the truth?

13 A. Yes sir.

14 Q. Has anybody from my office ever directly asked you
15 to do anything other than tell the truth?

16 A. No sir.

17 MR. FILIBERTO:

18 Nothing further.

19 THE COURT:

20 Thank you.

21 Any follow up on those other
22 questions?

23 MR. JOYE:

24 Yes sir; one question.

25 RECROSS-EXAMINATION BY MR. JOYE:

1 Q. Who decides what the truth is in this case?

2 MR. FILIBERTO:

3 Your Honor, I object.

4 THE COURT:

5 No sir. No sir.

6 MR. FILIBERTO:

7 That doesn't have anything to do
8 with anything --

9 THE COURT:

10 The question was whether he was
11 asked to tell anything other than the truth.

12 That's an argument. But it's not
13 for cross-examination of him anymore.

14 MR. JOYE:

15 Your Honor, I --

16 THE COURT:

17 No sir. I've ruled.

18 RE-CROSS-EXAMINATION BY MR. JOYE CONTINUED:

19 Q. Well, under your proffer agreement, who --

20 THE COURT:

21 The proffer agreement was not
22 brought up into this, please, sir.

23 Let's keep it -- The question was
24 whether he told the truth to Ms. Mureddu; whether she
25 asked him to tell anything else.

TESTIMONY OF LUTHER OXENDINE

402

1 So please focus it on the basis of
2 redirect. Your recross has to be within that limit.

3 MR. JOYE:

4 Thank you, sir.

5 THE COURT:

6 All right.

7 MR. JOYE:

8 Nothing further.

9 THE COURT:

10 Good. Thank you. You can step
11 down, Mr. Oxendine.

12 WITNESS:

13 Yes sir.

14 THE COURT:

15 Folks, let's take a brief
16 afternoon break. We've been at this a little while.
17 Let's start back at 25 of the hour, and try to -- Do we
18 have another witness we can get in between then?

19 MR. FILIBERTO:

20 I think we can get in one more
21 witness tonight, sir.

22 THE COURT:

23 All right. Very good.

24 We'll try to get in one more
25 witness before we break for the day.

1 Please go to your juryroom, but do
2 not discuss this case among yourselves while you're
3 there.

4 We'll start back in -- uh -- 15
5 minutes. Thank you.

6 (WHEREUPON: The jury empanelled
7 in the case withdrew from the courtroom at 4:20 PM,
8 September 14, 2010; and was no longer present during the
9 following proceedings.)

10 THE COURT:

11 Who will the next witness be, Mr.
12 Filiberto?

13 MR. FILIBERTO:

14 Charlie Skipper, sir.

15 THE COURT:

16 All right.

17 Folks, we'll be in recess for 15
18 more minutes. Thank you.

19 (WHEREUPON: The court was
20 declared in recess at 4:21 PM, September 14, 2010.)

21 (WHEREUPON: The court was called
22 to order by the Bailiff at 4:37 PM, September 14, 2010;
23 and all pertinent parties, along with their counsel, were
24 back and present in the courtroom.)

25 DEPUTY:

TESTIMONY OF LUTHER OXENDINE

404

1 Order in The Court. All rise.

2 THE COURT:

3 Thank you, folks. Be seated,
4 please.

5 Gentlemen, are both sides ready
6 for the jury?

7 MR. FILIBERTO:

8 The State ready, sir.

9 MR. JOYE:

10 Yes, Your Honor.

11 THE COURT:

12 Good. Thank you. Bring us the
13 jury, please.

14 (WHEREUPON: The jury empanelled
15 in the case was escorted back into the courtroom at 4:38
16 PM, September 14, 2010; and was in fact present during
17 the following proceedings.)

18 THE COURT:

19 Mr. Filiberto, you can call your
20 next witness.

21 MR. FILIBERTO:

22 The State calls Charlie Skipper.

23 THE COURT:

24 Charlie Skipper please.

25 Mr. Skipper, come forward please;

1 and be sworn.

2 WHEREUPON: CHARLES ANDREW SKIPPER
3 WAS DULY SWORN AND TESTIFIED UNDER OATH AS FOLLOWS:

4 CLERK:

5 Thank you. Please be seated.

6 WITNESS:

7 Yes ma'am.

8 CLERK:

9 If you would please state your
10 full name and spell your last name.

11 WITNESS:

12 Charles A. Skipper -- uh -- S-k-i-
13 p-p-e-r.

14 CLERK:

15 Thank you. Just be sure to speak
16 into the microphone.

17 WITNESS:

18 Okay.

19 DIRECT EXAMINATION BY MR. FILIBERTO:

20 Q. Mr. Skipper, the night of August 13th in 2008, did
21 you -- uh -- come to Horry County?

22 A. Yes sir, I did.

23 Q. Where did you go?

24 A. Uh -- We went to -- uh -- I believe it's Aynor Bar
25 and Spirits.

1 Q. Big Easy's -- Is that --

2 A. Yes sir. Yes sir.

3 Q. When you got to the bar, what happened?

4 A. Uh -- We met with -- uh -- Crystal Turner's
5 boyfriend at the time, I do believe.

6 Q. Where was that? Was that was outside?

7 A. Yes sir.

8 Q. Tell us about that. What happened next?

9 A. Uh -- We had a conversation in which -- uh -- guns
10 were shown and he was -- uh -- wanting to sell a -- a --
11 a firearm at the time.

12 Uh -- We then showed -- uh -- Mr.
13 James -- uh -- the firearm that we had.

14 And we continued to have a
15 conversation about the -- the actually -- uh -- of the
16 shooting of the gun.

17 Q. Who was present when the conversation transpired?

18 A. Uh -- Myself, Mr. Oxendine -- uh -- Mr. White -- uh
19 -- Mr. James -- uh -- and my sister.

20 And Ms. Turner was standing at the
21 front of the car.

22 Q. This showing of the guns, was this done secretly?

23 A. No sir. No sir. It was done right out in the
24 open.

25 Q. After that was done, did y'all go in the bar?

- 1 A. Uh -- Yes sir, we did.
- 2 Q. Where did you -- where did y'all sit?
- 3 A. We sat in a -- a back -- a table in the back right
- 4 next to the back door.
- 5 Q. And when you first arrived there, before you went
- 6 in, you guys do anything else?
- 7 A. Uh -- Yes sir. We talked. We --
- 8 Q. You smoke anything?
- 9 A. Yes sir. Yes sir, we did. Yes sir.
- 10 Q. What did you smoke?
- 11 A. We -- We smoked marijuana.
- 12 Q. Now in the bar, at the table you said you sat at,
- 13 who was -- who all was around that table?
- 14 A. Uh -- Myself -- uh -- Mr. James, Crystal Turner,
- 15 Luther Oxendine, Jamie White, and my sister, Paige
- 16 Furness.
- 17 Q. What did y'all talk about?
- 18 A. We -- We just started out as everyday talk about the
- 19 bar or whatnot; because we had never been there.
- 20 Q. Did anybody bring up the subject of a robbery --
- 21 robbing someone?
- 22 A. Yes sir.
- 23 Q. Who brought it up?
- 24 A. My sister.
- 25 Q. Did Crystal Turner respond to that?

1 A. Uh -- At first it was brought up as someone who
2 would buy her drinks. And then she told her -- she told
3 my sister -- Ms. Turner told my sister that -- uh -- Mr.
4 Rabon would.

5 And from there, it went from my
6 sister asking her to tell her a little bit more --

7 MR. JOYE:

8 Objection to what his sister --

9 THE COURT:

10 I think he's -- he's being general
11 about telling more. But I'll -- I'll sustain the
12 objection if he gets into specific conversation.

13 Thank you.

14 MR. JOYE:

15 Thank you.

16 THE COURT:

17 Okay.

18 DIRECT EXAMINATION BY MR. FILIBERTO CONTINUED:

19 Q. Please continue.

20 A. Uh -- The conversation there went into her telling
21 her that -- uh -- Mr. Rabon had money and would buy
22 drinks.

23 Uh -- Then, she told us -- she
24 asked -- well, my sister asked her was --

25 MR. JOYE:

Objection.

DIRECT EXAMINATION BY MR. FILIBERTO CONTINUED:

Q. Let's not say what your sister asked her.

A. Okay.

Q. Uh -- What did Ms. Turner say?

A. Ms. Turner --

Q. After -- After she said that he would -- that Mr.

Rabon would buy her drinks?

Did she say something later about

Mr. Rabon?

A. Uh -- She said that he would pay her for sex.

COURT REPORTER:

He would what?

WITNESS:

Pay her for sex.

DIRECT EXAMINATION BY MR. FILIBERTO CONTINUED:

Q. Was it after that, that the subject of a robbery

came up?

A. Uh-huh. Yes sir. She said that.

Q. Who was involved in that conversation about the

robbery?

A. Uh -- My sister, Paige Furness, and Ms. Turner.

Q. Were you also involved in that conversation?

A. I was sitting there. Yes sir, I was.

Q. Could you tell us about the -- the plan that

1 developed as it relates to robbing Mr. Rabon.

2 A. Okay. Uh --

3 Q. Without telling us what -- what anybody other than
4 what Ms. Turner said.

5 A. Okay. Uh -- Ms. Turner said that my sister needed
6 to go to sit at the bar, and she would get Mr. Rabon to
7 come over and speak with us.

8 Uh -- So they went up to bar.

9 He didn't show any interest.

10 So Ms. -- Ms. Turner went over and
11 basically just showed him some cleavage so he would come
12 over.

13 Q. Did he come over?

14 A. Yes -- uh -- not at that time. Not at that time.

15 Q. Was there -- Did somebody join your group a little
16 later on that night?

17 A. Yes sir; Stacy Johnson.

18 Q. What happened when she got to the -- to the bar?

19 A. When -- When she came to the bar, we all -- we went
20 outside. Uh -- And we smoked marijuana.

21 And we -- her and my sister and
22 myself -- standing right there in the car -- talked about
23 the robbery.

24 Q. All right. And who else was there besides those
25 people?

1 A. Uh -- Mr. Oxendine and Mr. White.

2 Q. Ms. Turner with you?

3 A. Uh -- No sir. Ms. -- Ms. Turner was inside at the
4 time.

5 Q. At some point, was there a conversation between you
6 and Ms. Turner about the robbery?

7 A. No sir.

8 Q. And what you're saying is that -- All right, I want
9 to make sure I understand your testimony.

10 At the table, was there a
11 discussion --

12 A. Yes sir. Yes sir. I misunderstood --

13 Q. Did the discussion have to do with who would be a
14 good person to rob?

15 A. Yes sir. I misunderstood you. I'm sorry.

16 Q. Okay. And -- And Ms. Turner responded to that?

17 A. Yes sir.

18 Q. Ms. -- Ms. Turner indicate that she'd let y'all use
19 her car?

20 A. Yes sir.

21 Q. Tell us about that?

22 A. Uh -- When -- When she -- She told us we could use
23 her car. Uh -- She actually gave us directions to the
24 dirt road to where we could go so that Mr. Rabon could be
25 robbed.

TESTIMONY OF CHARLES ANDREW SKIPPER

412

1 Q. Was there any chance she didn't understand what
2 y'all were going to do?

3 A. No sir.

4 MR. JOYE:

5 Objection as to what --

6 THE COURT:

7 I'll sustain the objection as to
8 whether she could not have misunderstood.

9 That's to be a perception matter.

10 You can certainly say what was
11 said.

12 The jury would have to make a
13 conclusion as to whether it could have been under --
14 misunderstood.

15 DIRECT EXAMINATION BY MR. FILIBERTO CONTINUED:

16 Q. Did Ms. Turner ever indicate that she wanted
17 something out of it?

18 A. She said that she wants some money too.

19 Q. And somebody else joined you -- your group later?

20 A. Yes sir.

21 Q. And you've already testified that was Stacy Johnson?

22 A. Yes sir.

23 Q. At some point, did Mr. Rabon leave the bar?

24 A. Yes sir.

25 Q. Who'd he go with?

1 A. He went with Stacy Johnson.

2 Q. Did you follow him?

3 A. Yes, we did, sir.

4 MR. JOYE:

5 Your Honor, I'm going to object.

6 What did you do?

7 What happened then?

8 Those -- Those are -- Those are --
9 are questions. These are leading questions. And -- And
10 it's been over and over and over.

11 And I'm going to object.

12 MR. FILIBERTO:

13 Your Honor, may we -- May we
14 approach?

15 THE COURT:

16 Sure.

17 MR. FILIBERTO:

18 Okay.

19 (WHEREUPON: Counsel for each party
20 conferred off the record with The Court at the bench at
21 4:54 PM, September 14, 2010.)

22 THE COURT:

23 Thank you. The -- The objection
24 is overruled. The -- uh -- Some degree of -- of leading
25 is allowed under the rules to try to develop the

1 testimony in a timely way.

2 Uh -- The answer is not
3 necessarily being suggested completely by these
4 questions.

5 THE COURT:

6 Mr. Filiberto?

7 MR. FILIBERTO:

8 Thank you, Your Honor.

9 DIRECT EXAMINATION BY MR. FILIBERTO CONTINUED:

10 Q. Just to get back then, you went to a location away
11 from the bar?

12 A. Yes sir.

13 Q. And who told you where to go?

14 A. Uh -- Ms. Turner.

15 Q. When she was telling you that, was that conversation
16 in the context that you were going there to rob Mr.
17 Rabon?

18 A. Yes sir.

19 Q. Whose vehicle did you use?

20 A. Ms. Turner's.

21 Q. When you got to the location out there on the dirt
22 road, tell us what happened next?

23 A. Uh -- Myself, Mr. White, and Mr. Oxendine, and my
24 sister -- uh -- we pulled up behind -- we pulled up on
25 Tobacco Leaf Road behind Stacy Johnson and Mr. Rabon in

1 her vehicle.

2 Q. Then what happened next?

3 A. Uh -- We then proceeded to get out of the car. I
4 walked around to the driver's side. I opened the door.

5 I -- I instructed -- uh -- Mr.
6 Rabon to get out..

7 Mr. -- Mr. White and Mr. Oxendine
8 then snatched him out of the car he was in.

9 Stacy Johnson then drove away.

10 Uh -- Then he was being robbed and
11 then I -- I shot him.

12 Q. So you shot Mr. -- You sitting here today testifying
13 that you shot Mr. Rabon?

14 A. Yes sir, I am.

15 Q. Early in -- When you were first arrested in this
16 case, what were you charged with?

17 A. Murder and armed robbery.

18 Q. Murder and armed robbery?

19 A. Yes sir.

20 Q. And early in this case back in August of 2008, did
21 you give law enforcement -- did you give the police a
22 statement?

23 A. Yes sir.

24 Q. Were you interviewed by Detective Troxell?

25 A. Yes sir, I was.

1 Q. Were you honest when you gave that statement?

2 A. No sir, I wasn't.

3 Q. And what's the status of your murder and your armed
4 robbery charge right now?

5 A. Uh -- I had pleaded guilty. And --

6 Q. You pled guilty?

7 A. Yes sir. I pled guilty. And I am waiting to be
8 sentenced.

9 Q. You pled guilty to murder?

10 A. Yes sir.

11 Q. And you pled guilty to armed robbery?

12 A. Yes sir.

13 Q. Have you signed -- Did I -- you and I sign any kind
14 of a proffer agreement?

15 A. No sir.

16 Q. Now, you pled guilty; but have you been sentenced?

17 A. No sir.

18 Q. But you've not been promised anything by -- by the
19 State?

20 A. No sir, I have not.

21 Q. Nor the prosecution? You've got no agreement?

22 A. No sir.

23 Q. Why are you testifying today?

24 A. I just believe that -- you know -- it was wrong when
25 -- you know -- that everybody needs to -- it should be

1 heard -- be known.

2 Q. Mr. Skipper, have you ever been convicted of a crime
3 in the past?

4 A. Yes sir, I have.

5 Q. Tell us what you've been convicted of?

6 A. Uh -- Assault. Uh -- CDV. Uh -- Second-degree
7 burglary. Uh -- I said CDV -- excuse me. Uh --
8 Receiving stolen goods; things of that nature.

9 Q. Property crimes, mostly?

10 A. Yes sir.

11 Q. So you're really -- To be clear, though, you're here
12 in the court today under oath making a record that you
13 participated in a robbery?

14 Is that right?

15 A. Yes sir.

16 Q. And you are testifying here without any obligation
17 from me or me having any obligation to you?

18 A. Yes sir., I am.

19 MR. FILIBERTO:

20 Nothing further.

21 THE COURT:

22 Okay.

23 Mr. Joye, you can cross-examine.

24 CROSS-EXAMINATION BY MR. JOYE:

25 Q. Mr. Skipper, up until today, you have adamantly

TESTIMONY OF CHARLES ANDREW SKIPPER

418

1 denied that you ever shot anybody; and in fact, said that
2 Jamie shot Ronald Rabon?

3 Is that correct?

4 A. Yes sir, it is.

5 Q. Now, you were here yesterday? And you agreed to
6 test -- to plead guilty late yesterday evening knowing
7 that we were going to try this case today?

8 A. (No response.)

9 Q. Is that correct?

10 A. Yes sir.

11 Q. And you've been in the system before, have you not?

12 A. Yes, I have.

13 Q. You know the game's played?

14 A. Yes sir.

15 Q. You know that if you felt that they had a really
16 strong case against you, that the best that you can have
17 to try to save yourself from life in prison is to testify
18 here today?

19 A. (No response.)

20 Q. Didn't you?

21 A. Yes sir.

22 Q. You've got a stake in testifying here today, in that
23 you want to get some deal better than life in prison?

24 And you would hope for something
25 is the neighborhood of 30; right?

1 A. Right. But what I get, I deserve.

2 Q. So you don't care. You -- You'd just -- You'd be
3 happy if they'd just give life and you'd go on down the
4 road?

5 A. Like I said, anything what I get is what I deserve.

6 Q. The truth is:

7 You hope to get some consideration
8 here today for your testimony; don't you?

9 A. I just want the truth to be known.

10 Q. Now, no question the reason for this robbery was
11 'cause Paige needed to pay a power bill? That -- Wasn't
12 it?

13 A. Yes sir.

14 Q. And that's what you told them right there in the
15 beginning?

16 A. Yes sir.

17 Q. Now you weren't truthful right there in the
18 beginning; were you?

19 A. No sir, I was not.

20 Q. It's only when your back's against the wall, trying
21 to save yourself from a life sentence, do you come in
22 here offering up the truth?

23 A. (No response.)

24 Q. Right?

25 A. The truth needs to be known.

1 Q. Only when your back's against wall, do you come in
2 here offering up the truth?

3 A. No response.

4 Q. Correct?

5 A. If that's how you see it.

6 Q. The -- uh -- The original issue was:

7 Paige didn't have any money when
8 she went to the bar, did she?

9 A. No sir.

10 Q. She needed somebody to buy her drinks; didn't she?

11 A. Yes sir.

12 Q. And Crystal Turner pointed out Ronald Rabon as
13 someone that might buy her drinks; correct?

14 A. Early on, yes sir.

15 Q. And in fact, Crystal tried to get Ronald Rabon
16 interested in Paige to buy her drinks; didn't she?

17 A. Yes sir.

18 Q. And at some point in time, Paige came to Crystal and
19 said -- strike that.

20 The -- The -- Crystal -- Paige
21 wanted some way to get more money out of Mr. Rabon;
22 didn't she?

23 A. That is correct.

24 Q. And she repeatedly hounded Crystal about that;
25 didn't she?

1 A. They had a conversation we was around.

2 Q. Crystal said:

3 I don't know, you might have sex
4 with him and he might give you some money; didn't she?

5 A. No sir.

6 Q. Didn't she --

7 MR. FILIBERTO:

8 Your Honor, I'm going to object to
9 -- to the hearsay.

10 MR. JOYE:

11 I said: Crystal said, Your Honor.

12 THE COURT:

13 That's right. I'll -- I'll allow
14 that.

15 CROSS-EXAMINATION BY MR. JOYE CONTINUED:

16 Q. Didn't you just testify for Mr. Filiberto that the
17 original deal was that he might be interested in having
18 sex for money?

19 A. No. She said he would pay her for sex.

20 Q. Okay. And if he was going to pay her for sex, he
21 might go down the road to have sex; right?

22 A. Yes sir.

23 Q. Probably weren't going to do it outside in the
24 parking lot?

25 A. (No response.)

1 Q. Is that correct?

2 A. I would think not.

3 Q. So Crystal told Paige about where to go to have --
4 where to go to have sex, she may have told them where
5 they eventually went; correct?

6 A. Yes sir.

7 Q. Now at the time that -- uh -- this took place, you
8 were living with Stacy Johnson; weren't you?

9 A. Yes sir, I was.

10 Q. Uh -- You called Stacy to come to the bar; didn't
11 you?

12 A. Yes, I did.

13 Q. Uh -- Now, tell us -- When -- When you guys went to
14 the bar, tell us -- Can you tell us how you were dressed
15 that night?

16 A. Pair of shorts, T-shirt, baseball cap, and pirate
17 sneakers.

18 Q. Let me ask you:

19 You know, I'm -- I'm a country
20 boy. And we wear our baseball caps, we kind of curl them
21 up like that and put them on forward.

22 You weren't wearing your baseball
23 cap like that; were you?

24 You were wearing it kind of
25 sideways?

1 A. I wore it backwards.

2 Q. Backwards?

3 A. Yes sir.

4 Q. Okay. Uh -- Now, you guys didn't really fit in, in
5 this bar, did you?

6 A. No sir.

7 Q. In fact, you guys stuck out like a sore thumb in
8 this bar; didn't you?

9 A. I guess you could say.

10 Q. In fact, everybody -- You -- You didn't look
11 anything like the rest of the patrons of the bar?

12 A. No sir. They was other nature; yes sir.

13 Q. Uh -- You and Charlie and Luke -- I mean, excuse me.

14 You and Luke and Jamie, y'all were
15 dressed in what I would call kind of a urban fashion;
16 right?

17 A. I guess you could say I was.

18 Q. Baggier pants?

19 A. No sir.

20 Q. Oversized T-shirts?

21 A. No sir.

22 Q. Baseball caps on backwards?

23 A. No sir; shorts -- Shorts and jeans. It was simple.

24 Q. Who had on the -- the -- the tennis shoes with the
25 skulls and cross bones on them?

1 A. I did.

2 Q. Okay. Did you see anybody else with skulls and
3 crossbones on their tennis shoes in -- in Big -- in
4 Easy's that night?

5 A. I hadn't really paid attention to nobody else's
6 shoes.

7 Q. Uh -- How many times had you met Crystal Turner
8 prior to that night?

9 A. Ummm -- Three times, maybe.

10 Q. Y'all have any extension conversations?

11 A. Uh -- Once. Once.

12 Q. Only one time?

13 A. Yes sir.

14 Q. Where was that?

15 A. The time I met her in Marion.

16 Q. How long ago was that?

17 COURT REPORTER:

18 I'm sorry. I didn't get that.

19 When what?

20 WITNESS:

21 When what?

22 COURT REPORTER:

23 I didn't get your answer.

24 WITNESS:

25 Oh, I said: Yes sir. Yes sir.

1 I met her in Marion.

2 COURT REPORTER:

3 You met her in Marion?

4 WITNESS:

5 (Nods in the affirmative.)

6 COURT REPORTER:

7 Okay..

8 CROSS-EXAMINATION BY MR. JOYE CONTINUED:

9 Q. How long was that prior to August 13th or 14th?

10 A. Just a few days.

11 Q. In fact really and truly, Crystal really didn't know
12 much of anybody but Paige?

13 A. Right. Yes sir.

14 Q. So --

15 A. I met her through my sister.

16 Q. Right.

17 A. Yes sir.

18 Q. So she knew Paige?

19 A. Yes sir.

20 Q. Didn't know Stacy?

21 A. No sir.

22 Q. Uh -- How long had Luke and -- and Paige been going
23 together?

24 A. I could not tell you that, honestly.

25 Q. It wasn't long prior to this; was it?

1 A. I'm not sure.

2 Q. Uh -- Now, when you first talked to -- Was it
3 Detective Troxell you talked to first?

4 A. Yes sir, it was.

5 Q. And you lied to try to get yourself out of this?

6 A. Yes, I did.

7 Q. Didn't work out too well for you?

8 A. I'm still here, aren't I?

9 Q. Yes sir, you are.

10 Uh -- Now you wouldn't lie to try
11 to get a reduced sentence; would you?

12 A. No sir.

13 Q. But you'd lie to try to not go to jail?

14 A. After you sit long enough, you kind of want to go
15 ahead and get it over with.

16 Q. Well, get what over with? You're locked up now.

17 A. Right.

18 Q. You gone be locked up tomorrow?

19 A. Right.

20 Q. Probably gone be locked up for a long, long time?

21 A. You're right.

22 Q. And the only way that you can reduce that being
23 locked up is if the Solicitor's Office and The Court give
24 you some consideration for your testimony today, right?

25 A. I guess you could say so; yes sir.

1 Q. And, outside of six people in this whole wide world
2 who absolutely, positively, know the truth about what
3 happened that night -- seven, but he's deceased because
4 you shot and killed him; right?

5 A. Correct.

6 Q. Outside of six people, nobody else can ever know the
7 absolute truth, can they?

8 A. I guess you're right.

9 Q. So if five people say:

10 This is what's happening.

11 The sixth person is kind of the
12 odd man out by its accumulative effect; right?

13 A. Truth is truth.

14 Q. But the truth in this case is what five of you say
15 against what one says; isn't it?

16 A. You're right.

17 Q. And the only way -- only ones to know the truth are
18 the six of you?

19 A. You're right.

20 Q. You made sure the seventh one can't never tell the
21 truth?

22 A. You're right; I did.

23 Q. The truth is:

24 Crystal was there with her
25 boyfriend, Jeff James?

- 1 A. (No response.)
- 2 Q. Correct?
- 3 A. Correct.
- 4 Q. The truth is: She was there singing karaoke?
- 5 A. That she did.
- 6 Q. Did you sing any karaoke?
- 7 A. Do I look like the type that sings karaoke?
- 8 Q. No sir, you don't.
- 9 A. All right, then.
- 10 Q. Uh -- But Ms. Turner, she -- she sings karaoke?
- 11 A. Yes sir, she did.
- 12 Q. Mr. James, he sings karaoke?
- 13 A. I guess he did. I can't recall him singing that
- 14 night.
- 15 Q. All right. You don't remember whether he sang or
- 16 not?
- 17 A. I really don't remember if he sang or not. He may
- 18 have.
- 19 Q. Everything clear in your mind about that night?
- 20 A. Pretty much; yes sir.
- 21 Q. You guys were going in and out smoking a right good
- 22 bit of weed; weren't you?
- 23 A. Yes sir.
- 24 Q. Doesn't affect your memory any, y'all smoking all
- 25 that weed out in the parking lot?

1 A. Not really/

2 Q. You -- uh -- When y'all were sitting in the bar,
3 y'all were sitting right under the karaoke system;
4 weren't you?

5 A. Sitting right across from it.

6 Q. The bar's not real big; is it?

7 A. No sir. No sir, it's not.

8 Q. So it's loud?

9 A. Somewhat, yes sir.

10 Q. And as I understand it, Crystal and her boyfriend
11 were sitting right together?

12 A. Right in front of me; yes sir.

13 Q. Now did her boyfriend take any -- Mr. James, he --
14 he take any part in all this planning and plotting and
15 scheming?

16 A. Only thing that was said by Mr. James was when -- uh
17 -- Crystal -- uh -- when Crystal -- uh -- when Ms. Turner
18 -- uh -- insinuated that -- uh -- Mr. Rabon would buy her
19 drinks, she said:

20 Mr. Rabon has -- Ronald -- Ronald
21 has money?

22 And he said:

23 Yes.

24 That's all that was said by Mr.

25 James.

1 Q. Well, he just kind of ignored all these
2 conversations that y'all were having about robbing and
3 everything?

4 A. I don't know if he paid any attention. I couldn't
5 say that.

6 Q. But he was sitting right there?

7 A. Back and forth. When he went to the bar, back and
8 forth.

9 Q. And right there beside Ms. Turner?

10 A. Right.

11 Q. Now, when y'all are plotting and planning outside,
12 you said Ms. Turner wasn't there; she was standing -- she
13 was inside?

14 A. Most of the -- Most of the planning was done on the
15 inside the bar.

16 Q. When -- When you said y'all were plotting and
17 planning outside, you said she wasn't there; right?

18 A. Right.

19 Q. And y'all were in -- sitting her car smoking a -- or
20 Stacy's car, smoking a blunt?

21 A. Yes sir.

22 Q. And let me ask you:

23 After you shot and killed Mr.

24 Rabon in cold blood, and y'all were riding back, do you
25 know of your own knowledge what Crystal -- what happened

1 when they got back to the bar?

2 Oh, you were riding with Ms.

3 Johnson; weren't you?

4 A. Yes sir. But we still went back to the bar. Yes
5 sir.

6 Q. So did you see someone go inside and take Ms. Turner
7 her keys back?

8 A. Uh -- Luther Oxendine took her, her keys and some
9 money.

10 Q. Were you there? Were you -- Did you see what, if
11 anything, Mr. Oxendine took to give Ms. Turner?

12 A. Some money and some keys. That was it.

13 Q. Okay. So the five of you then get in the car and
14 ride back to Arial's Crossroads?

15 A. Yes sir. Yes sir.

16 Q. You remember either Ms. Johnson getting called or
17 Ms. -- or your sister, Paige, getting called by Ms.
18 Turner?

19 A. Not that I can't recall. No sir.

20 Q. So Crystal Turner set up a robbery and doesn't call
21 to see what her take is?

22 A. No sir. They spoke the next morning.

23 Q. Who spoke the next morning?

24 A. Uh -- My sister and her.

25 Q. How do you know that?

TESTIMONY OF CHARLES ANDREW SKIPPER

432

1 A. I was at the house when -- when she called.

2 Q. Now, that -- Okay. In fact, you called --

3 A. I called --

4 Q. -- Ms. Turner at 10 o'clock that next morning;
5 didn't you?

6 A. Yes, I did.

7 Q. And you said:

8 You need to talk to Paige?

9 A. No. I -- I asked her -- I was calling to speak with
10 her over a bull dog.

11 COURT REPORTER:

12 Over a what?

13 MR. JOYE:

14 Over a bull dog.

15 WITNESS:

16 I called to talk with her over
17 buying a bull dog -- over buying a bull dog.

18 CROSS-EXAMINATION BY MR. CONTINUED:

19 Q. She had a bull dog?

20 A. Yes sir.

21 Q. That she wanted to sell?

22 A. Yes sir.

23 Q. And you were going to buy it from her?

24 A. Right.

25 Q. Uh -- What did you do after you dropped off -- uh --

1 I believe it was Jamie and Paige at Paige's car?

2 A. It was Luke, Jamie, and Paige.

3 Q. Luke, Jamie, and Paige?

4 A. (Nods in the affirmative.)

5 Q. What did you and Stacy Johnson do?

6 A. Uh -- I believe we went to Wal-Mart. And then we
7 went to get something to eat.

8 Q. You went to Wal-Mart and bought some stuff with the
9 proceeds that you had taken from Mr. Rabon?

10 A. I can't say that's where it came from. She had
11 money before.

12 Q. Who had money?

13 A. Ms. -- Ms. Johnson.

14 Q. Okay. Did you -- And you bought something to eat?

15 A. Yes sir.

16 Q. Uh -- During all these conversations, Mr. James is
17 just sitting there listening?

18 A. (No response.)

19 Q. During all this planning and plotting --

20 A. I can't --

21 Q. -- inside the bar?

22 A. I can't say. Because he -- Like I said, he went
23 back -- he was going back and forth to the bar every time
24 he would get him a drink.

25 And I can't say that he heard

1 everything.

2 If I said that, I'd be lying.

3 Q. The truth is:

4 It's you and Paige, Luther and
5 Jamie, who were doing all the talking about robbing
6 somebody; wasn't it?

7 A. No sir.

8 Q. Where did the gun come from that you used?

9 A. Uh -- It came from -- uh -- It came from a burglary
10 in North Carolina.

11 Q. And who committed that burglary?

12 A. Uh -- Mr. White and Mr. Oxendine.

13 Q. So if Mr. White or Mr. Oxendine said that you were
14 the one that stole that gun, they would be lying?

15 A. Yes sir.

16 Q. Very quickly. You don't want to spend the rest of
17 your life in prison; do you?

18 A. No sir.

19 Q. And you hope that you will get some consideration
20 for both pleading -- yes?

21 A. I pled because I was guilty.

22 Q. Well, you could've done that a couple of years -- a
23 year ago; couldn't you?

24 A. Uh -- After you sit for awhile, you're ready to go.

25 Q. Ready to go where?

1 Q. Ready to go ahead and -- and -- Have you had to pull
2 any J. Rueben Long?

3 Q. No sir, I -- Well, actually, I have.

4 A. Yeah?

5 Q. But -- uh --

6 A. When you been there long enough, you want to go on
7 up on the road where you supposed to be and where you're
8 going.

9 Q. So the food gets a lot better?

10 A. No. Just -- Just kind of get tired of waiting.

11 Q. Well, you been up the road before?

12 A. Yes I have.

13 Q. Well, you wouldn't plead to something you didn't do
14 just to leave the food at J. Reuben Long; would you?

15 A. No, I pled because I was guilty.

16 Q. Okay. And you hope to someday get out of jail;
17 don't you?

18 A. Yes sir, I do.

19 Q. And no question but that you would lie to not go to
20 jail?

21 A. (No response.)

22 Q. No question about that?

23 A. Could you repeat the question again, please?

24 Q. No question but that you would lie to not go to
25 jail?

TESTIMONY OF CHARLES ANDREW SKIPPER

436

1 A. Yes sir.

2 Q. But your testimony here is, today, that you wouldn't
3 lie to get out of jail a lot sooner than you might
4 otherwise get out?

5 A. No, I would not lie.

6 MR. JOYE:

7 Thank you, sir.

8 THE COURT:

9 Mr. Filiberto, redirect?

10 MR. FILIBERTO:

11 Nothing, Your Honor.

12 THE COURT:

13 Thank you.

14 Mr. Skipper, you can step down.

15 WITNESS:

16 Thank you, sir.

17 THE COURT:

18 Folks, this is a logical place for
19 us to stop. The hour is upon us and this is a good -- a
20 good place in the status of the case as well.

21 So, I'm going to send you home and
22 ask that you please be back in the juryroom tomorrow
23 morning at 9:30.

24 We'll continue the trial at that
25 time.

1 Now, I have a conflict tomorrow
2 afternoon that is going to take me out of the -- uh -- of
3 the courtroom.

4 I serve as chair of a committee --
5 uh -- in a Presbyterian-wide church -- uh -- setting that
6 I have to attend tomorrow.

7 It's been a long standing
8 committee and I can't stop it, because I -- I'm the
9 chairperson of it and some folks are depending on that.

10 So, I'm going to be leaving here
11 around 2:30 tomorrow afternoon. So that probably means
12 we'll take a -- a lunch like we did today, probably
13 around 12:30 or something and come back; and then, get in
14 some work in the afternoon, so that I can leave by 2:30.

15 I tell you that so that you can
16 make some plans for tomorrow afternoon if you -- if you
17 want to, or if you can on short notice -- uh -- to occupy
18 yourselves some other way tomorrow afternoon.

19 Uh -- It's not likely that we will
20 be finished with the trial so we'll have to come back
21 Thursday in any event.

22 Uh -- But I wanted to let you know
23 that, so that you can make your plans.

24 I remind you again, ladies and
25 gentlemen, please don't discuss this case with anybody.

1 Don't expose yourself to any
2 information about this case that might be generated as a
3 result of publicity.

4 You've noticed the television
5 camera in the back.

6 Uh -- I may disappoint you by
7 saying that:

8 You will not show up on the
9 television.

10 The rules do not allow them to
11 depict per -- uh -- the -- uh -- images of jurors on
12 television for -- for many reasons.

13 So your privacy in that regard
14 will be protected.

15 Uh -- But even if it were not, you
16 couldn't watch the -- uh -- the television news about
17 this.

18 And you really don't need to.
19 You've been here 10 or 15 feet away from what's been
20 happening in this courtroom. You don't need to watch it
21 on television.

22 Also, please don't expose yourself
23 to any news' publicity that might be -- uh -- in the
24 newspapers.

25 And don't talk about it among

1 yourselves when you get back in the morning.

2 Have a safe trip home, ladies and
3 gentlemen. And I'll see you tomorrow morning at 9:30.

4 Thank you.

5 (WHEREUPON: The jury empanelled
6 in the case withdrew from the courtroom at 5:15 PM,
7 September 14, 2010; and was no longer present during the
8 following proceedings.)

9 THE COURT:

10 Mr. Filiberto, anything further
11 from the State before we break for the day?

12 MR. FILIBERTO:

13 Nothing from the State, Your
14 Honor.

15 THE COURT:

16 Mr. Joye?

17 MR. JOYE:

18 No, Your Honor.

19 THE COURT:

20 Okay.

21 How are we doing schedule-wise
22 from your perspective, Mr. Filiberto?

23 MR. FILIBERTO:

24 We're actually doing well, sir.

25 THE COURT:

TESTIMONY OF CHARLES ANDREW SKIPPER

440

1 All right.

2 MR. JOYE:

3 I figure we're probably singing
4 along pretty good, Judge.

5 THE COURT:

6 Okay. Well good.

7 Thank you. Well, I appreciate
8 both of you all's -- uh -- expeditious use of time to get
9 that done.

10 That's -- uh -- That's helpful to
11 know.

12 All right. Gentleman, we'll see
13 you at 9:30 tomorrow morning.

14 MR. JOYE:

15 Thank you, Judge.

16 DEPUTY:

17 Everybody keep your seats in the
18 courtroom until we get the jury out; unless you're an
19 attorney.

20 (WHEREUPON: The jury empanelled
21 in the case withdrew from the courtroom at 5:16 PM,
22 September 14, 2010; and was no longer present during the
23 following proceedings.)

24 (WHEREUPON: The court was
25 declared in recess at 5:17 PM, September 14, 2010.)

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23

VOLUME II

Volume II STATE V CRYSTAL TURNER

See Volume I for Table of Contents and Indexes

1 (WHEREUPON: The court was called
2 to order by the Bailiff at 9:41 AM, September 15, 2010;
3 and all pertinent parties, along with their counsel, were
4 back and present in the courtroom.)

5 DEPUTY:

6 Order in the court. All Rise.

7 THE COURT:

8 Thank you ladies and gentlemen.
9 Please be seated. Good morning.

10 All right. Folks, the jurors are
11 all here. Is the State ready to proceed, Mr. Filiberto?

12 MR. FILIBERTO:

13 Yes, Your Honor.

14 THE COURT:

15 Mr. Joye, is the Defense ready?

16 MR. JOYE:

17 Yes, Your Honor.

18 THE COURT:

19 Thank you. You can bring us the
20 jury.

21 (WHEREUPON: The jury empanelled
22 in the case was escorted back into the courtroom at 9:43
23 AM, September 15, 2010; and was in fact present during
24 the following proceedings.)

25 THE COURT:

1 Got you locked out?

2 UNKNOWN JUROR:

3 Yeah, I think so.

4 THE COURT:

5 Okay. We'll get somebody to see

6 if --

7 UNKNOWN JUROR:

8 I guess we can go on home.

9 THE COURT:

10 Y'all just can't jump over that

11 thing?

12 (Laughter erupts in the

13 courtroom.)

14 THE COURT:

15 When you had some difficulty
16 getting in that -- uh -- into the jury box this morning,
17 I thought there was a hold-over.

18 We had a power surge earlier this
19 morning. Around 8:30 or quarter to nine, the power
20 surged and all the lights went out.

21 And momentarily, the -- the
22 electronic locks on the outside of these doors was
23 frozen, and we couldn't use our pass keys to get in.

24 And so -- uh -- I didn't know
25 whether that was hooked up to it or not. So --

TESTIMONY OF CHAD E. RICHARDSON

444

1 (Laughter again erupts in the
2 courtroom.)

3 THE COURT:

4 Thank you, folks, for your prompt
5 return.

6 We're ready now to resume the
7 trail of this case. The State is continuing to offer
8 evidence and testimony.

9 Mr. Filiberto?

10 MR. FILIBERTO:

11 Thank you, Your Honor.

12 The State would call Chad

13 Richardson.

14 THE COURT:

15 Mr. Richardson, come forward
16 please; and be sworn.

17 WHEREUPON: CHAD E. RICHARDSON WAS
18 DULY SWORN AND TESTIFIED UNDER OATH AS FOLLOWS:

19 CLERK:

20 Thank you. Please be seated.

21 Okay. If you will scoot up and
22 speak into the microphone. Please state your full name;
23 and spell your last name.

24 WITNESS:

25 Chad E. Richardson, R-i-c-h-a-r-d-

1 s-o-n.

2 CLERK:

3 If you could scoot a little
4 closer?

5 COURT REPORTER:

6 I don't think the mics are on.

7 CLERK:

8 Give me just a second and they
9 should come on.

10 COURT REPORTER:

11 Okay.

12 THE COURT:

13 All right. I think we're live
14 now. Go ahead.

15 DIRECT EXAMINATION BY MR. FILIBERTO:

16 Q. Good morning Mr. Richardson.

17 A. Uh-huh.

18 Q. Let's just get right to the subject. Are you
19 familiar with the place in Aynor called Big Easy's?

20 A. Yes sir.

21 Q. How do you know that place?

22 A. I work there now as a cook.

23 Q. Were you working back on August 13th, 2008?

24 A. Yes sir.

25 Q. At some point, did you go out back behind the bar --

1 A. Yes.

2 Q. -- with somebody else?

3 A. Yes sir.

4 Q. Who is that?

5 A. Uh -- Jeff -- I forget his last name.

6 Q. Why did you go out back -- out back behind the bar?

7 A. He was wanting to sell a gun and he was showing it
8 to me.

9 Q. When he is showing that you, did anything else
10 happen?

11 A. Uh -- Yes. Some people pulled up in a car.

12 Q. When you say people --

13 A. Uh --

14 Q. -- who did you recognize in that car; anybody?

15 A. Uh -- Crystal; and I didn't know the other people
16 that was with her.

17 Q. What happened after they got there?

18 A. Uh -- As soon as they got out the car -- a guy got
19 out the car. He walked up and he seen me holding the
20 gun. He pulled out a gun out of his pocket.

21 And that's when I gave the gun
22 back to Jeff and walked in.

23 Q. When that happened, was everybody that got out the
24 car still there?

25 A. Nah. They hadn't had time to get in the bar yet.

1 But they was -- I think the girls was going in the bar.

2 Q. Okay. The -- uh -- Did you stay outside after they
3 arrived?

4 A. No sir.

5 Q. Why not?

6 A. Well, I didn't know them. And I didn't -- When I
7 seen the gun, I just -- I walked away.

8 MR. FILIBERTO:

9 Mr. Richardson, thank you.

10 CROSS-EXAMINATION BY MR. JOYE:

11 Q. Good morning, Mr. Richardson.

12 A. Good morning.

13 Q. You and I ever spoke before?

14 A. No sir.

15 Q. Okay. Uh -- Do you know Crystal?

16 A. Ye sir.

17 Q. How did you know Crystal?

18 A. She used to come in there all the time. And I'd
19 cook for her.

20 Q. Uh -- So she was somebody that was there a lot?

21 A. Yeah. She'd come about every -- once a week --
22 twice a week.

23 Q. Usually come by herself?

24 A. Most of the time.

25 Q. How would you describe the -- the -- uh -- the folks

1 that came with Crystal that day?

2 A. I really -- I had never seen them before. I didn't
3 know him. I mean --

4 Q. Did they dress like the people in -- They didn't
5 really dress like the people that you're used to seeing
6 in there?

7 A. No sir.

8 Q. Uh -- Do you know what I mean by urban wear?

9 A. Yes sir.

10 Q. Would you describe the way that they dressed as
11 wearing urban wear?

12 A. Yes sir.

13 Q. Uh -- Meaning baggy pants?

14 A. Yes sir.

15 Q. Hat cocked sideways?

16 A. Yes sir.

17 Q. Oversized shirts and jerseys?

18 A. Yes sir.

19 Q. Uh -- Had you ever seen Crystal Turner with anybody
20 like that in there before?

21 A. No sir.

22 Q. Was it pretty much sort of out of character for her
23 to have someone in there like that?

24 A. Yes sir. I mean --

25 Q. Uh -- And this gun that -- uh -- that be pulled out,

1 you say Crystal was already headed in the bar?

2 A. They was walking towards it -- to the door, yes.

3 Q. Her back would have been towards you? She was
4 already close to the door?

5 A. I would say. I mean, I really -- I wasn't paying
6 attention to that. I was looking at the gun.

7 Q. Did Crystal act any different that night than you
8 had ever seen her act before?

9 A. No sir.

10 Q. Uh -- Did you have occasion to see her any other
11 time during the night?

12 A. Well, I seen them sitting down, but -- you know -- I
13 was cooking. I didn't really talk to them or anything.

14 Q. Did you hear Crystal sing that night?

15 A. I couldn't recall.

16 Q. But generally when she came on Karaoke Night, she
17 sang; didn't she?

18 A. Yes sir.

19 Q. It wouldn't surprise -- It would be kind of
20 surprising if she didn't sing; wouldn't it?

21 A. Well, I -- I wouldn't know really. I mean yes and
22 no (chuckles).

23 Q. So you can't say beyond any reasonable doubt that
24 Crystal ever saw that other guy with the gun?

25 A. No sir. No.

TESTIMONY OF CHAD E. RICHARDSON

450

1 Q. Don't have any clue whether she saw him?

2 A. No sir.

3 MR. JOYE:

4 Mr. Richardson, thank you sir.

5 WITNESS:

6 Thank you.

7 THE COURT:

8 Mr. Filiberto, redirect?

9 MR. FILIBERTO:

10 One question.

11 REDIRECT EXAMINATION BY MR. FILIBERTO:

12 Q. You don't know that she didn't see the gun either,

13 do you, sir?

14 A. No sir.

15 MR. FILIBERTO:

16 Nothing further.

17 THE COURT:

18 Thank you.

19 MR. JOYE:

20 Your Honor, I have no -- this

21 witness is free to leave --

22 THE COURT:

23 Good. Thank you.

24 MR. JOYE:

25 -- as far as I'm concerned.

1 THE COURT:

2 All right.

3 Thank you, Mr. Richardson. You
4 can step down. And without objection, you can be
5 excused.

6 MR. FILIBERTO:

7 The State calls Dr. Edward
8 Proctor.

9 THE COURT:

10 Okay. Doctor Proctor, come
11 forward please, sir, to be sworn.

12 WHEREUPON: DR. EDWARD PROCTOR WAS
13 DULY SWORN AND TESTIFIED UNDER OATH AS FOLLOWS:

14 CLERK:

15 Thank you. Please be seated.

16 MR. JOYE:

17 Your Honor?

18 THE COURT:

19 Yes sir.

20 MR. JOYE:

21 We -- We would stipulate to Doctor
22 Proctor's expertise as a forensic pathologist.

23 THE COURT:

24 All right. That may save a
25 little time. But still, you may want to develop that to

TESTIMONY OF DR. EDWARD PROCTOR

452

1 some limited extent though.

2 Mr. Filiberto, go ahead.

3 MR. FILIBERTO:

4 Yes sir. I actually would like
5 to.

6 THE COURT:

7 Uh-huh.

8 CLERK:

9 If you'll please state your full
10 name; and spell your last name.

11 WITNESS:

12 Yes ma'am. I'm Edward Leroy
13 Proctor, Jr. And that's P-r-o-c-t-o-r.

14 DIRECT EXAMINATION BY MR. FILIBERTO:

15 Q. Doctor you currently licensed --

16 A. Yes, sir, I am.

17 Q. -- to practice -- What states are you licensed in?

18 A. I have a medical license in South Carolina and North
19 Carolina.

20 Q. How long have you been licensed to practice
21 medicine?

22 A. Since 1978 -- '79.

23 Q. And do you specialize in anything?

24 A. I am a pathologist by training.

25 Q. Can you explain what a pathologist does?

1 A. Yes sir. A pathologist is a physician who examines
2 specimens, tissues removed at the time of surgery, or at
3 the biopsy to give a -- uh -- diagnosis.

4 Uh -- A pathologists also examines
5 bodily fluids -- uh -- runs a clinical lab, blood bank,
6 chemistry lab.

7 And in my practice, that's what we
8 do.

9 Q. As part of that, do you also perform autopsies?

10 A. Yes sir, I do.

11 Q. Doctor, how many autopsies have you performed?

12 A. I perform approximately 275 to 300 forensic cases
13 per year; and have been for approximately 20 years.

14 Q. Have you ever previously been qualified as an expert
15 in forensic pathology?

16 A. Yes sir, I have.

17 Q. Testified in court?

18 A. Yes, I have.

19 Q. Approximately how many times?

20 A. In this court, probably 25 -- 30 times.

21 MR. FILIBERTO:

22 And at this point -- uh -- I -- I
23 realize that -- uh -- no objection, but the State would
24 move to have Dr. Proctor --

25 THE COURT:

1 He's -- He's so qualified.

2 MR. FILIBERTO:

3 -- qualified as an expert in
4 pathology.

5 DIRECT EXAMINATION BY MR. FILIBERTO CONTINUED:

6 Q. Did you perform an autopsy on Ronald Rabon?

7 A. Yes sir, I did.

8 Q. Where did that examination take place?

9 A. That examination took place in the morgue at Grand
10 Strand Regional Medical Center in Myrtle Beach.

11 Q. As part of that, did you initially to a -- a -- a
12 visual inspection of the body?

13 A. Yes sir, I did.

14 Q. Were there any physical wounds?

15 A. Yes sir. There were. There were multiple.

16 Q. Could you describe them for us?

17 A. There were multiple gunshot wounds. Uh -- The first
18 -- let's take them in sequence -- uh -- was a gunshot
19 wound to the anterior abdomen just below the rib cage in
20 the mid-line.

21 There was a second wound in the
22 anterior axillary line, which is the front part of the
23 chest, laterally just at the lateral aspect of the rib
24 cage.

25 There was a gunshot wound in the

1 left back, just left of the mid-line back; and a gunshot
2 wound in the right -- what we call the iliac crest area
3 where the prominence of the pelvis anterior -- there was
4 a wound there.

5 Q. As a result of your autopsy, did -- did you recover
6 any physical evidence?

7 A. Uh -- At the time of the autopsy, any items of
8 clothing or whatnot that were there, were taken by the
9 Horry County Crime Scene Investigators.

10 And as a consequence of my
11 autopsy, I retrieved two projectiles.

12 Q. Dr. Proctor, based -- uh -- upon your autopsy and
13 within reasonable doubt and medical certainty, have you
14 formed an expert opinion as to the manner and cause of
15 death of Ronald Rabon?

16 A. Yes sir, I have.

17 Q. Could you please tell us?

18 A. Uh -- Mr. -- Mr. Rabon died as result of these
19 gunshot wounds -- uh -- the most significant ones being
20 the wound in the anterior abdomen which passed front to
21 back.

22 It penetrated the apex of the
23 heart, resulting in a tremendous amount of hemorrhage.
24 And as a consequence of my autopsy, the cause of death
25 would be gunshot wound with massive hemorrhage; manner of

TESTIMONY OF DR. EDWARD PROCTOR

456

1 death, homicide.

2 MR. FILIBERTO:

3 Nothing further. Mr. Joye?

4 MR. JOYE:

5 Nothing of this witness.

6 THE COURT:

7 Thank you.

8 MR. JOYE:

9 Thank you, Dr. Proctor.

10 WITNESS:

11 Yes sir.

12 THE COURT:

13 Thank you, Doctor. You can be
14 excused. Thank you for coming.

15 WITNESS:

16 Thank Your Honor.

17 MR. FILIBERTO:

18 Your Honor, may we approach?

19 THE COURT:

20 Sure.

21 (WHEREUPON: Counsel for each party
22 conferred off the record with The Court at the bench at
23 9:54 AM, September 15, 2010.)

24 THE COURT:

25 Ladies and gentlemen, I've

1 just been advised that the next witness may go into some
2 areas of testimony that will require me to take up a
3 matter of law outside of your presence.

4 And so, I'm going to send you back
5 to your juryroom for a few moments while I tend to that
6 matter.

7 Uh -- Hopefully, there is still
8 some biscuits or doughnuts, or something back there, that
9 you can nibble on while we're doing this.

10 Please don't discuss this case
11 among yourselves. We'll get you out as soon as we can as
12 soon as I've dealt with this matter of law.

13 Thank you.

14 (WHEREUPON: The jury empanelled
15 in the case withdrew from the courtroom at 9:55 AM,
16 September 15, 2010; and was no longer present during the
17 following proceedings.)

18 THE COURT:

19 Mr. Reporter, this will be a
20 Jackson v Denno hearing in connection with the testimony
21 of the next witness.

22 Mr. Filiberto, you can call your
23 witness.

24 MR. JOYE:

25 Your Honor, one -- one quick

1 matter.

2 Uh -- I never anticipated we were
3 going to be this quickly -- I -- I just want The Court to
4 know that I've sent out to try to get witnesses here.

5 Uh -- Judge --

6 THE COURT:

7 Okay.

8 MR. JOYE:

9 -- uh -- I don't if we can get
10 them here before the end of this witness; but I wanted
11 The Court to know --

12 THE COURT:

13 Okay.

14 MR. JOYE:

15 -- that I'm diligently trying at
16 this point.

17 THE COURT:

18 Okay. Well -- Well, we'll have
19 some matters of law we need to be working in any event.

20 MR. JOYE:

21 Yes sir.

22 THE COURT:

23 This witness will take a while, I
24 would imagine.

25 All right. Yes sir, Mr.

1 Filiberto?

2 MR. FILIBERTO:

3 The State calls Sergeant Tim
4 Troxell.

5 THE COURT:

6 Come forward please, sir, and be
7 sworn.

8 WHEREUPON: TIM TROXELL WAS DULY
9 SWORN AND TESTIFIED UNDER OATH AS FOLLOWS:

10 CLERK:

11 Thank you. Okay. If you'll
12 please state your full name and spell your last name.

13 WITNESS:

14 Tim Troxell; T-r-o-x-e-l-l.

15 VOIR DIRE EXAMINATION BY MR. FILIBERTO:

16 Q. Sergeant Troxell, where are you currently employed?

17 A. With the Horry County Police Department.

18 Q. Back in August of 2008, what was your assignment?

19 A. I was a Violent Crimes Investigator with the
20 Criminal Investigation's Division at the Horry County
21 Police Department.

22 Q. Were you given responsibility to head up the
23 investigation into the murder of Ronald Rabon?

24 A. Yes sir, I was.

25 Q. As part of your investigation, did you have occasion

TESTIMONY OF TIM TROXELL

460

1 on August 15th, 2008 to interview the Defendant, Crystal
2 Turner?

3 A. Yes sir, I did.

4 Q. Where did that interview take place?

5 A. At the Horry County Police Department.

6 Q. Was the Defendant handcuffed?

7 A. No sir.

8 Q. Was she made to be standing up?

9 A. No sir.

10 Q. Who was in the room?

11 A. Myself and Detective Todd Cox.

12 Q. Was -- At the time, was Ms. Turner under arrest?

13 A. No sir.

14 Q. At the time, was she a -- a suspect --

15 A. Yes sir.

16 Q. -- in the matter of Ronald Rabon?

17 A. She was a -- a person of interest in the case.

18 Q. Prior to your interview -- uh -- did you advise Ms.
19 Turner of her -- of her Miranda rights?

20 A. Yes sir, I did.

21 Q. Was it orally?

22 A. Yes sir, handwritten.

23 Q. Did you inquire whether or not she was under any
24 drugs at the time?

25 A. Yes sir, I did.

1 Q. And how did she respond?

2 A. She was under the influence of no drugs.

3 Q. She appear to understand your questions?

4 A. Yes sir.

5 Q. Did she -- What -- What level of -- uh -- education
6 did she indicate she had?

7 A. A high school diploma.

8 Q. Did she -- uh -- sign the Miranda Form?

9 A. Yes sir, she did.

10 Q. Do you have that with you?

11 A. Yes sir, I do.

12 Q. Is this the original?

13 A. Yes sir, it is.

14 Q. At any point, did -- uh -- was she threatened?

15 A. No sir.

16 Q. When she wanted to take a break, did you allow her
17 to?

18 A. I actually believe we did take a break for
19 approximately 10 minutes during the course of the
20 interview.

21 Q. Did you offer to let her use the restroom?

22 A. And offered to get her a drink if she needed one.

23 COURT REPORTER:

24 A drink of what?

25 WITNESS:

TESTIMONY OF TIM TROXELL

462

1 A drink, if she needed one.

2 VOIR DIRE EXAMINATION BY MR. FILIBERTO CONTINUED:

3 Q. On this Miranda Form, did -- did you ask her if she
4 was willing to speak to you outside the presence of an
5 attorney?

6 A. Yes sir, I did.

7 Q. And how did she respond?

8 A. She had indicated that she wished to speak without
9 an attorney present by her initials.

10 Uh -- She also printed her name,
11 and followed that up by her signature.

12 MR. FILIBERTO:

13 No further questions, Your Honor.

14 THE COURT:

15 Could I look at the -- uh -- Could
16 I have the Miranda Form marked as a Court's Exhibit,
17 please --

18 MR. FILIBERTO:

19 Yes sir.

20 THE COURT:

21 -- for the time being.

22 WHEREUPON: THE MIRANDA FORM WAS
23 MARKED BY THE COURT REPORTER AS COURT'S EXHIBIT NUMBER 4.

24 COURT REPORTER:

25 Your Honor, this will be Court's

1 Exhibit 4.

2 THE COURT:

3 Thank you.

4 All right. Mr. Joye, you can
5 cross-examine.

6 MR. JOYE:

7 Your Honor, I don't have any
8 questions.

9 THE COURT:

10 Okay.

11 MR. JOYE:

12 I don't -- I don't think there's
13 any question that the -- the statement given both times
14 was freely and voluntarily given.

15 THE COURT:

16 Good. Thank you.

17 Uh -- The voluntariness of the --
18 of the statements are conceded.

19 I find, moreover, that Court's
20 Exhibit Number 4 indicates that Ms. Turner was
21 appropriately advised of her rights under the Miranda
22 case; and that she chose to waive those rights and to
23 make a statement.

24 Therefore her statement is
25 admissible for consideration by the jury.

TESTIMONY OF TIM TROXELL

464

1 Thank you. All right.

2 We'll bring the jury back in, if
3 they're ready to come back in.

4 Uh -- Check and make sure they're
5 all ready. Some of them might be in the restroom. Don't
6 bring just a piece of them in.

7 And -- uh -- Madame Clerk --

8 CLERK:

9 Yes sir.

10 THE COURT:

11 -- I will ask you please to swear
12 -- uh -- Sergeant Troxell again in the presence of the
13 jury so that they will understand with their own eyes
14 that he is under oath.

15 MR. FILIBERTO:

16 Your Honor, should he step back
17 down?

18 DEPUTY:

19 Yes sir, they are ready.

20 THE COURT:

21 Yes sir. You can bring them in,
22 then. Thank you.

23 (WHEREUPON: The jury empanelled
24 in the case was escorted back into the courtroom at 10:02
25 AM, September 15, 2010; and was in fact present during

1 the following proceedings.)

2 THE COURT:

3 Thank you, folks, for your
4 patience as we -- uh -- worked through a necessary matter
5 of law before we moved to the next witness.

6 Mr. Filiberto, you can call your
7 next witness.

8 MR. FILIBERTO:

9 The State will call Sergeant Tim
10 Troxell.

11 THE COURT:

12 Sergeant Troxell, come for please
13 sir, and be sworn.

14 WHEREUPON: Sergeant Troxell was
15 again sworn by the Clerk in open court in front of the
16 jury.

17 CLERK:

18 Please state your full name and
19 spell your last name.

20 WITNESS:

21 Tim Troxell; T-r-o-x-e-l-l.

22 THE COURT:

23 Mr. Filiberto?

24 MR. FILIBERTO:

25 Thank you.

TESTIMONY OF TIM TROXELL

466

1 DIRECT EXAMINATION BY MR. FILIBERTO:

2 Q. Sergeant Troxell, where are you currently employed?

3 A. At the Horry County Police Department.

4 Q. And what were your assigned duties back in August of
5 2008?

6 A. I was an Investigator with the crimes -- Violent
7 Crimes Unit in the Criminal Investigation Division.

8 Q. Were you given some responsibilities related to the
9 case that brings us here today?

10 A. Yes sir, I was the lead investigator.

11 Q. During the course of your investigation, did you --
12 did you obtain information that gave you an interest in
13 speaking to the Defendant?

14 A. Yes sir, we did.

15 Q. On August 15th, 2008, did you have occasion to
16 interview the Defendant?

17 A. Yes sir, I did.

18 Q. Where did that interview take place?

19 A. At the Horry County Police Department.

20 Q. In that interview, did the Defendant indicate to you
21 that there was a discussion --

22 MR. JOYE:

23 What -- Your Honor, I'm going to
24 object to the leading nature --

25 THE COURT:

1 I -- I sus -- It is.

2 Be a little more cautious
3 regarding leading in this particular area, please.

4 Thank you.

5 It's involving -- It's already
6 developed.

7 DIRECT EXAMINATION BY MR. FILIBERTO CONTINUED:

8 Q. Did the Defendant indicate to you that there was a
9 -- skip -- No, I'm sorry. It's the same thing.

10 MR. JOYE:

11 I'm going to object again, Your
12 Honor.

13 THE COURT:

14 Okay.

15 MR. JOYE:

16 Did the Defendant state --

17 THE COURT:

18 No, don't say anything. You
19 objected and I sustained. That's all. Thank you.

20 DIRECT EXAMINATION BY MR. FILIBERTO CONTINUED:

21 Q. As a result of your interview -- the questions you
22 asked -- did -- did Crystal Turner acknowledge that she
23 pointed out --

24 MR. JOYE:

25 Objection, Your Honor; again, he's

TESTIMONY OF TIM TROXELL

468

1 leading.

2 MR. FILIBERTO:

3 I don't --

4 THE COURT:

5 Yes sir. You can ask him what
6 she acknowledged that she did regarding a particular
7 point, if she had any acknowledgment, without asking him
8 specifically.

9 MR. FILIBERTO:

10 Yes sir.

11 THE COURT:

12 We -- I will --

13 DIRECT EXAMINATION BY MR. FILIBERTO CONTINUED:

14 Q. Did Crystal Turner make any acknowledgements to you
15 during that interview?

16 A. Yes sir, she did.

17 MR. JOYE:

18 Your Honor --

19 THE COURT:

20 No sir.

21 MR. JOYE:

22 -- I'm going to object again.

23 THE COURT:

24 No sir. That's clearly open-
25 ended. Did she make an -- The answer can be "yes" or

1 no." The question does not suggest the answer.

2 A leading question is one that
3 suggests the answer. That does not.

4 Go ahead.

5 DIRECT EXAMINATION BY MR. FILIBERTO CONTINUED:

6 Q. Go ahead and just tell us.

7 A. Yes sir, she did. Uh -- At several points during
8 the course of the interview she indicated she was one
9 that identified Ronald Rabon as having money; and
10 actually conferred with her boyfriend, Jeff James, that
11 Ronald Rabon had money -- uh -- and she knew this because
12 he was -- previously had purchased her drinks while she
13 was in the bar.

14 Q. What was the context of that? What did she tell
15 you was the context of that?

16 A. A joke.

17 Q. At some point, did she indicate that there was a
18 discussion -- uh -- again -- from what I understood she
19 always knew -- uh --

20 MR. JOYE:

21 Your Honor, I'm going to object
22 again.

23 I don't believe that was open-
24 ended either.

25 THE COURT:

1 And I -- I didn't fully understand
2 the question. I'm sorry. My ancient ears had some
3 trouble.

4 Would you repeat it, please, sir,
5 Mr. Filiberto?

6 MR. FILIBERTO:

7 Actually, I need to rephrase it.

8 THE COURT:

9 Okay. That'd be good.

10 DIRECT EXAMINATION BY MR. FILIBERTO CONTINUED:

11 Q. Did the Defendant acknowledge giving directions to a
12 certain location?

13 MR. JOYE:

14 Your Honor, again, that is a
15 leading question.

16 THE COURT:

17 Well, it is somewhat. But it
18 doesn't -- It -- It helps us get to a -- uh -- a point to
19 develop the testimony.

20 It is not -- It doesn't suggest
21 anything other than what the area of the acknowledgment
22 was.

23 You can ask the question. You can
24 answer it.

25 WITNESS:

1 Yes sir, she did. She provided --
2 uh -- Paige Skipper with directions to Tobacco Leaf Road,
3 as well as directions back to the bar from Tobacco Leaf
4 Road.

5 Q. What else did she -- uh -- What else did -- What
6 else did she tell you during the interview related to
7 this case?

8 A. She also indicated that while Paige and Stacy were
9 at the bar -- uh -- trying to get Mr. Rabon's attention,
10 they were unsuccessful in their efforts to do so -- uh --
11 at which point, she approached the bar, bent over at the
12 waist, exposed some cleavage to get his attention, which
13 prompted him later to come over and speak to Paige and
14 Stacy.

15 Q. Did she say anything about her car?

16 A. Paige had asked to borrow her car. Uh -- And
17 initially, it was under the guise of -- Paige told her
18 that she was going to the store to buy some cigarettes.

19 Uh -- Crystal questioned why --
20 what the exact reason was.

21 She indicated to me that she
22 didn't believe Paige was going to buy cigarettes; that
23 there was another reason she wanted to borrow her car.

24 Q. During your interview, did she ever acknowledge that
25 she knew that there was going to be a robbery?

TESTIMONY OF TIM TROXELL

472

1 A. Yes. She acknowledged several times that there was
2 conversations of a robbery -- of a plan of a robbery.

3 Uh -- She acknowledged that she
4 identified Ronald Rabon as an individual having money who
5 they could rob.

6 Q. Did she say anything else about the dirt road?

7 A. Other than they had traveled down there previously
8 -- uh -- I guess Paige had been to the bar with Crystal;
9 on a prior occasion, they stopped on that dirt road,
10 previous.

11 Q. Did she say why she gave Paige directions to the
12 dirt road?

13 A. At one point in -- towards the conclusion of the
14 interview -- she had -- she was asked if -- uh -- Paige
15 was going to the dirt road to smoke dope -- she was out
16 just -- there was other reasons?

17 She said:

18 Yes, as far as the sex and rob
19 thing, and also to smoke dope.

20 MR. FILIBERTO:

21 Nothing further.

22 THE COURT:

23 Mr. Joye, you can cross-examine.

24 CROSS-EXAMINATION BY MR. JOYE:

25 Q. Detective Troxell, Crystal told you that initially

1 Paige was looking for somebody to buy her drinks?

2 A. Yes sir.

3 Q. Okay. Crystal told you that she was -- identified
4 Ronald Rabon as someone who would have money to buy
5 drinks?

6 A. Yes sir.

7 Q. Crystal told you that she thought it was a joke?

8 A. Yes sir.

9 Q. She never acknowledged that she was in on any plot
10 to rob anybody; did she?

11 A. She acknowledged --

12 Q. Other than in the context of a joke?

13 A. She only acknowledged it was a joke after she made
14 the statement implicating herself in identifying Ronald
15 Rabon in a plot for the robbery.

16 I think after she realized the
17 statement that she made to us, she threw the -- the joke
18 aspect out there.

19 Q. But you don't know that?

20 A. No sir.

21 Q. But that was your -- your thought process?

22 A. After her --

23 Q. That's what you thought she thought?

24 A. After --

25 Q. Right?

1 A. After every statement that she implicated herself in
2 the robbery plan, she indicated it was a joke.

3 Q. No. The robbery plan only came about after she had
4 identified Ronald Rabon as someone that could buy them
5 drinks?

6 A. And Paige asked who she could rob.

7 Q. But there was something in between now, wasn't it.
8 And -- And -- And no question but you, as the chief
9 investigating officer and lead detective in this
10 particular case -- There was no question but that there
11 was a later discussion about this being someone that
12 maybe would pay to have sex?

13 A. Yes sir, that came up.

14 Q. And that Ronald Rabon would be someone that had
15 money that could do that?

16 A. Yes sir.

17 Q. So, as far as you know, when she identified Ronald
18 Rabon as someone with money -- that he was someone with
19 money to -- uh -- to have sex?

20 A. That came up later in the conversation. The --
21 Ronald Rabon would buy drinks and who he could -- she
22 could rob -- was initial.

23 Later in the interview, she
24 brought up the sexual aspect.

25 Q. She told, consistently, that she thought it was a

1 joke?

2 A. Yes sir.

3 Q. She told, consistently, that she had identified a
4 place to go and have sex?

5 A. But she also later said they could rob him.

6 Q. She didn't say that:

7 Hey, you can go and rob him here.

8 She said:

9 That place to go have sex.

10 She never said -- She acknowledged
11 that others had conversations about a place to rob him;
12 right?

13 A. No sir. I believe she was actually asked:

14 When you told her about the dirt
15 road, it wasn't you were talking about where she could go
16 smoke dope. You were telling them where Stacy could go
17 and have sex; and with that dude, if they were going to
18 rob him, that's where they could -- the place to do it;
19 isn't that right?

20 And she responds:

21 Yes, that's right.

22 Q. Where's -- Where's -- uh -- Can you point me -- I
23 know you're looking at a transcript of -- uh -- of your
24 interview.

25 Can you point me to where you are,

1 so that we can both be on the same page?

2 A. These are my handwritten notes that I took last
3 night of the interview. It's toward the back portion of
4 the -- I'm not sure. I don't have the actual
5 transcript.

6 Q. Have you seen the transcript of this, your
7 interview?

8 A. No sir. I have not.

9 Q. Have you reviewed your --

10 A. No sir, I have not.

11 Q. -- interview with her?

12 A. I've reviewed my interview on CD. But I've not --

13 Q. When did you review that?

14 A. Last night.

15 Q. Okay. Well, you would have a pretty good
16 indication in looking at the transcript; wouldn't you?

17 A. Yes sir.

18 Q. All right. You want to guide me to -- uh -- I know
19 it may take a minute or two.

20 A. I don't know where it is in the transcript. I'm not
21 familiar with these transcripts.

22 Q. Well, the transcripts simply -- you're familiar on
23 the -- the -- the CD?

24 A. Yes sir.

25 Q. Well, the transcript is nothing but a written

1 version of the CD.

2 So if you know where it was on the
3 CD, you would know where it was in the transcript;
4 wouldn't you?

5 MR. FILIBERTO:

6 Your Honor, I object.

7 The witness has indicated that he
8 took notes listening to the tape.

9 THE COURT:

10 Right.

11 MR. FILIBERTO:

12 Because he -- If Counsel wants to
13 put the transcripts in evidence, he's certainly entitled
14 to do that.

15 THE COURT:

16 Well, who prepared the transcript?
17 Let's deal with that first of all.
18 Where did the transcript come
19 from?

20 MR. JOYE:

21 The Solicitor's Office, Your
22 Honor.

23 THE COURT:

24 All right. So, if it's in the
25 transcript that the Solicitor's Office provided, it

TESTIMONY OF TIM TROXELL

478

1 should be a minor point -- if you -- you locate it, I
2 mean, if that's an issue.

3 If the transcript is accurate of
4 what's on the tape?

5 The officer testified he never had
6 seen the transcript. He listened to the CD.

7 The representation is that the
8 transcript is an accurate depiction of what's on the CD.

9 The jury will make of that what it
10 wishes, if there's a distinction.

11 WITNESS:

12 I can't find it in there, Mr.
13 Joye.

14 It's not in here.

15 MR. JOYE:

16 Your Honor, could we take a recess
17 and try to get to where we -- where we need to be?

18 I -- I hate to do that. But --
19 But we've got an official transcript of the -- and we've
20 got the CD.

21 And I -- And -- And --

22 WITNESS:

23 I have the CD in my possession.

24 MR. JOYE:

25 At least if --

1 THE COURT:

2 All right.

3 Uh -- Here's what we can do.

4 Uh -- Right this minute, we can --
5 we can move on.

6 I realize this is a -- a point
7 which you obviously want to develop.

8 Uh -- And the officer testified
9 that the CD apparently contains the statement somewhere
10 that the -- uh --

11 MR. JOYE:

12 Okay. I think -- uh -- the
13 Solicitor may have -- may have helped us a little bit.

14 THE COURT:

15 Okay.

16 CROSS-EXAMINATION BY MR. JOYE CONTINUED:

17 Q. All right. Since we're going to develop that,
18 let's -- let's move on a little bit.

19 And -- uh -- this is Page 40.

20 And I assume this is what you're
21 talking about.

22 Let's start at Line 862 and go all
23 the way to -- to 881.

24 A. Through 881?

25 Q. Yes sir.

TESTIMONY OF TIM TROXELL

480

1 A. Well, as far as the sex and -- and the money, and
2 the idea of robbery, yes.

3 But it was took as a joke as far
4 as the robbery goes.

5 But if they wanted money out of
6 him, they could go off with him and have sex.

7 He'd probably pay for sex.

8 I mean, yeah, that.

9 But it wasn't when -- Let's talk
10 about this part.

11 When you told her about the dirt
12 road, it wasn't that you were talking about where she
13 could go smoke dope. You were telling them where Stacy
14 could go and have sex with that dude. And if they were
15 going to rob him, that would be --

16 COURT REPORTER:

17 You will need to slow down just a
18 little bit, Detective.

19 WITNESS:

20 Okay.

21 COURT REPORTER:

22 You're reading fast.

23 WITNESS:

24 But wasn't it when -- Let's talk
25 about this part.

TESTIMONY OF TIM TROXELL

481

1 When you told her about the dirt
2 road, isn't it you were talking about where she could go
3 smoke dope.

4 You were telling them where Stacy
5 could go and have sex with that dude, and if they were
6 going to rob him, that would be the place to do it.

7 | Isn't that right?

8	Crystal:

9 That's right.

[illegible]

12 That's right.

13	All right.

14 But as far as knowing they were
15 going to rob the guy; no.

16 Well, I mean, I never knew -- I
17 mean, don't get me wrong. I know you might say:

18 Well, hey, she let them borrow her
19 car to go get cigarettes.

20 But honestly, that's what she
21 said:

22 I'm going to go get cigarettes.

23 I said:

24	Okay.

25 But you have no -- at that point

TESTIMONY OF TIM TROXELL

482

1 -- and at that time they were going.

2 No, I didn't. Honestly, I did
3 not, because I never seen what happened at the bar.

4 She came up to me.

5 They were out of cigarettes. So
6 they asked me to borrow one of my cigarettes. So they
7 were going to buy cigarettes.

8 Q. Okay. Let me ask you this, Detective Troxell:

9 The question you were after was a
10 rather complex one. It was three parts; right?

11 You were going to go smoke dope,
12 have sex and rob someone?

13 A. Yes sir.

14 Q. Okay. So she said "yes." But she later qualified
15 that "yes," didn't she?

16 A. To an extent, yeah.

17 Q. Okay. So we can't know here, based on your
18 interview and this alleged admission, what she really was
19 saying "yes" to; can we?

20 A. It's open to interpretation.

21 Q. Certainly. It's open to interpretation whether she
22 said:

23 Yes, that they were going
24 somewhere to smoke dope; yes.

25 It's open to interpretation of

1 whether she said:

2 Yes, that would be a good place
3 for them to go have sex?

4 A. Yeah.

5 Q. And it would be open to interpretation:

6 Yes, that was a place that they
7 could rob him?

8 A. Yes.

9 Q. And we can't know what her state of mind was when
10 she did that; can we?

11 A. No sir.

12 Q. Uh -- Now you have interviewed a lot of the
13 witnesses in this case?

14 A. Yes sir.

15 Q. Some repeatedly?

16 A. Yes sir.

17 Q. And to a person, they were pretty deceptive from
18 beginning to end; correct?

19 A. To include your client.

20 Q. To include my client?

21 A. Yes sir.

22 Q. Now, let me ask you this:

23 You were present the very first
24 interview of my client?

25 A. No sir.

1 Q. Weren't you and Alan Large present for the very
2 first interview --

3 A. No sir.

4 Q. -- of my client in Dillon County?

5 A. No sir. That was Detective John Gonska and
6 Detective Alan Large.

7 I came in at a later point after
8 they had concluded the interview.

9 MR. JOYE:

10 Beg The Court's indulgence.

11 THE COURT:

12 Okay.

13 CROSS-EXAMINATION BY MR. JOYE CONTINUED:

14 Q. What -- What exactly do you -- did -- do you say
15 that she was deceptive about initially?

16 A. In her initial interview she made no mention and
17 intentionally admitted --

18 Q. Okay. I'm going --

19 A. -- omitted --

20 Q. -- to stop you there a second.

21 In her initial interview with you?

22 A. With Detective Gonska and Detective Large.

23 Q. Well, you -- Detective Troxell, you've just told us
24 you weren't there with the initial interview?

25 A. In my interview with Crystal, she admitted to me

1 that she omitted the part of the planned robbery in her
2 initial interview intentionally.

3 Q. Do you know where -- Did you review that yesterday?

4 A. Yeah. That's in the transcript, sir. That was in
5 the CDs.

6 Q. And you --

7 A. She was asked directly:

8 What was different in her initial
9 statement and the Statement she provided to Detective Cox
10 and I; and that was the robbery plot.

11 Q. Uh -- Did she have any clue, initially, what you
12 were interviewing her about?

13 A. I -- When -- I don't know. I wasn't there --

14 Q. Did you guys tell her what you were interviewing her
15 for?

16 A. At the initial interview, I wasn't there. I don't
17 know what she was told.

18 Q. So she may not have even been told what she was
19 being interviewed about?

20 A. I can't answer. I wasn't there.

21 Q. Uh -- And she told -- okay.

22 When she admitted to you that she
23 didn't say anything about a robbery, she didn't -- she
24 still talked about it as being a joke?

25 A. Yes sir.

1 Q. So if she didn't know why she was being interviewed,
2 it might not be relevant?

3 A. I can't speak to that interview or the relevancy of
4 that interview.

5 Q. And you can't tell us whether or not -- whether or
6 not it was discussed -- anything about a robbery in that
7 interview?

8 That would have to be someone
9 else; wouldn't it?

10 A. Yes sir, it would.

11 Q. Uh -- Now, you're pretty much though a professional.
12 And you been a -- been a cop for how long?

13 A. Eight years.

14 Q. And during your time as a cop, how many interviews
15 do you think perhaps you've -- uh -- you've conducted?

16 A. I couldn't give you a number; countless.

17 Q. A lot?

18 A. Yes sir.

19 Q. And you -- you ask questions like:

20 Well, it was a good place to go
21 smoke dope, have sex, and rob?

22 A. Yes sir.

23 Q. Now that's a three-part question. That's not three
24 questions. That's three questions in once (sic); right?

25 A. Yes sir.

1 Q. Any one of which could be "yes?"

2 A. Any one of which could have been "no."

3 Q. Exactly. So -- But she -- she -- she said "yes."

4 But she qualified that "yes."

5 didn't she?

6 A. Yes sir.

7 Q. Okay. Uh -- Now I'm going to read you a part of
8 the transcript -- uh -- that -- uh -- that you -- of your
9 interview with Paige Furness.

10 MR. FILIBERTO:

11 Object as hearsay, Your Honor.

12 MR. JOYE:

13 No, Your Honor. This is his
14 questions, Judge.

15 THE COURT:

16 Well, that still -- How does that
17 change the hearsay nature of it?

18 Somebody -- test -- The testimony
19 is that someone else, who is outside of the courtroom --

20 MR. JOYE:

21 No sir.

22 THE COURT:

23 -- and is not here to cross-

24 examine --

25 MR. JOYE:

TESTIMONY OF TIM TROXELL

488

1 This -- This is his question.

2 THE COURT:

3 His question?

4 MR. JOYE:

5 His question. Not his answer.

6 Not the answers; only his question.

7 THE COURT:

8 Okay. I'll -- I'll allow you to
9 do that.

10 CROSS-EXAMINATION BY MR. JOYE CONTINUED:

11 Q. Would you please read this question that you asked
12 Paige Furness?

13 A. Well, I guess going back, you're going to have to
14 explain to me how the person who apparently needed the
15 money -- the motivation behind all this whole thing is
16 that Crystal needed money to pay her power bill; right.

17 And Crystal's the one --

18 Q. Okay. Yeah, I'm sorry. I just don't want you to
19 read the answers, because --

20 A. Okay.

21 Q. -- that would be improper.

22 A. And Crystal's was the one that sits at the bar
23 drinking, having a good time, singing karaoke while all
24 of you are out there committing felonies down the road.

25 You know, to me it doesn't make a

1 whole lot of sense. The only thing -- impression that
2 I'm getting is that y'all ain't real tight with Crystal.

3 Q. Okay. Let's see. Let's try this question, Number
4 25, and it goes on into the next page.

5 A. And again, that does not make sense to me.

6 Why is Crystal going to be like
7 that.

8 All right. That's a dude that
9 you need to get. That's the guy that's got the money.

10 And she's not going to profit from
11 it?

12 Because if you guys go there, and
13 you -- this dude -- and you score a grand, the hell with
14 Crystal. She doesn't know what the hell I got.

15 Q. Okay. And now this question.

16 A. Let me tell you what makes even less sense, is that
17 Crystal's going to sit out here where you are at, listen
18 to karaoke and drink liquor and have a good time with her
19 man, Jeff, there in the bar, while all of y'all go out
20 and do this dirty work and you weren't going to get
21 anything out of it; but Crystal, sitting on her a
22 specific standard at the bar, was going to get some?

23 That makes no sense.

24 Q. And this question.

25 A. Just listen. Let me -- and I'll break it down --

TESTIMONY OF TIM TROXELL

490

1 COURT REPORTER:

2 I'm sorry. I didn't get the first
3 part of that.

4 WITNESS:

5 Just listen. Let me -- and I'll
6 break it down for you pretty fast; okay.

7 Crystal's sitting in the bar.

8 She's listening to karaoke.

9 She's having a good night; okay.

10 You don't drink. Have never been
11 in trouble; is now going along with this plan that she's
12 concocted according to you?

13 And you're going to drive these
14 guys down the road to, in essence, rob this guy.

15 And then, when you get back, she's
16 getting money and you ain't getting a damn dime.

17 And you're just actually involved
18 in a crime?

19 That doesn't make any sense.

20 You're saying that, no -- from
21 your version of the story -- profit at all then?

22 But you damned sure did put your
23 life on the line in the way you're it.

24 Am I?

25 Q. Thank you. No question that you told Paige this

1 whole thing didn't make any sense?

2 A. Yes sir.

3 Q. Now, Crystal was the one that always went to the
4 bar?

5 A. Yes sir.

6 Q. Crystal's the one that's singing karaoke?

7 A. Yes sir.

8 Q. Crystal's the one that's with her boyfriend?

9 A. Yes sir.

10 Q. Crystal told you that she didn't leave the bar till
11 2:30 -- 3 o'clock that night?

12 A. Yes sir.

13 Q. Were you able to confirm that in any way?

14 A. No sir.

15 Q. Okay. You may not know this of your own
16 knowledge, but did Crystal call back law enforcement and
17 give them a second interview?

18 A. No sir, not to my knowledge.

19 Q. Okay. Again, I didn't know if it would be within
20 your knowledge or not. Uh -- Excuse me one second.

21 Now, we made a little chart here.

22 And I -- I just wanted to let you look at it.

23 Now if we start with Paige

24 Furness, who's Luther Oxendine to Paige Furness?

25 A. Her boyfriend.

1 Q. Who's James White to Luther Oxendine?

2 A. His brother.

3 Q. Who's Charlie Skipper to Paige Furness?

4 A. Her brother.

5 Q. Who's Stacy Johnson to Charlie Skipper?

6 A. His girlfriend.

7 Q. In that equation, where does Crystal fit in?

8 A. No affiliation or ties.

9 Q. Did you have a chance to check -- uh -- for any type
10 of criminal record that Crystal Turner might have had?

11 A. Yes sir, I did.

12 Q. And what did you find?

13 A. I can't recall. I can refer to my notes.

14 Q. Please do.

15 A. Based on the information here, no record at the
16 time.

17 Q. And who invariably have the finger have first
18 pointed to?

19 Who did it first point to
20 immediately?

21 A. Uh --

22 Q. When -- When you -- When you were able to discover
23 and -- and do your initial investigation, who did the
24 finger initially point?

25 A. Paige, Luke, Charlie, and Stacy, and Jamie White.

1 Q. Okay. And who pointed you in the direction of
2 Paige, Charlie, Luke, Jamie White and Stacy Johnson?

3 A. Crystal.

4 Q. Did you first interview Paige Furness?

5 A. Yes sir.

6 Q. And she wasn't honest and continued to not be honest
7 on and on and on; didn't she?

8 A. Yes sir.

9 Q. Uh -- I think you've got my package.

10 A. I'm sorry. Did I take it? Okay.

11 MR. JOYE:

12 Thank you.

13 Detective, thank you, sir.

14 Answer any questions the
15 prosecutor might have.

16 THE COURT:

17 Mr. Filiberto, redirect?

18 MR. FILIBERTO:

19 Thank you, sir.

20 REDIRECT EXAMINATION BY MR. FILIBERTO:

21 Q. Mr. Joye asked you to read a lot of your questions
22 to Paige Furness.

23 Do you remember when that
24 interview took place?

25 A. That was August, I believe, the 14th, that evening

TESTIMONY OF TIM TROXELL

494

1 at the Dillon County Sheriff's Office.

2 Q. So was that prior to your interviewing Crystal
3 Turner?

4 A. Yes sir.

5 Q. Are you trained in -- in interrogating criminal
6 suspects?

7 A. Yes sir.

8 Q. Help us to understand why you would phrase questions
9 like that like you phrase the questions to -- uh -- Paige
10 Furness?

11 A. To get more information out of Paige; to -- to let
12 her -- to make her know that -- uh -- what she was saying
13 didn't make sense and to get some admission out of her as
14 far as her culpability in this aspect.

15 Q. So with every piece of -- every question that you
16 asked her, would you have absolutely believed those
17 things that you saying to be true?

18 A. Not at all.

19 MR. FILIBERTO:

20 I'm not done yet. (To Defense
21 Counsel, who had risen apparently to examine.)

22 MR. JOYE:

23 Oh, I'm sorry. I apologize.

24 THE COURT:

25 That's okay.

1 MR. JOYE:

2 I apologize, Solicitor.

3 THE COURT:

4 Okay.

5 MR. JOYE:

6 I thought you were headed back to
7 the table.

8 THE COURT:

9 You'll get another turn Mr. --

10 MR. JOYE:

11 Yes sir. I --

12 THE COURT:

13 All right.

14 MR. JOYE:

15 -- jumped the gun a little bit,

16 Judge. I'm sorry.

17 REDIRECT EXAMINATION BY MR. FILIBERTO CONTINUED:

18 Q. You had also talked -- I'll have you read in a
19 section of the transcript of the interview with his
20 client.

21 At the time that she answered the
22 question, that Mr. Joye characterized as a three-part
23 question, after she answered, did she immediately try to
24 qualify it?

25 A. Nah, I believe she said:

TESTIMONY OF TIM TROXELL

496

1 Yeah, that's right. Yeah, that's
2 right. Twice. And then --

3 Q. And then, did you ask -- And you followed that up
4 with another question. Is that right?

5 A. I believe so. If I could look at a transcript, I --

6 Q. Yeah, I'll bring you a transcript.

7 MR. JOYE:

8 Solicitor, that's Page 8.

9 REDIRECT EXAMINATION BY MR. FILIBERTO CONTINUED:

10 Q. It's on the line there.

11 A. Yes sir. She -- She said:

12 Well, as far as the sex and money
13 and the idea of robbery, yeah.

14 Uh -- And she goes -- continues on
15 with that answer.

16 And then, I asked:

17 But looking at when -- let's talk
18 about this part. When you told her about the dirt road,
19 isn't it you were talking about where she could go smoke
20 dope. You were telling them where Stacy could go and
21 have sex with that dude; and if you were going to rob
22 him, that would be the place.

23 And then, she said:

24 Yeah, that's right; again.

25 Q. And then, did you ask another question?

1 A. I replied "Okay."

2 Q. But she didn't -- she didn't qualify her -- her
3 answer right away. It was some point after you had asked
4 that, then asked another question?

5 A. That she responded "yes" to.

6 MR. FILIBERTO:

7 Nothing further.

8 THE COURT:

9 Mr. Joye?

10 RECROSS-EXAMINATION BY MR. JOYE:

11 Q. You -- uh -- It's possible sitting here today that
12 when Crystal Turner had those discussions with Paige
13 Furness --

14 MR. FILIBERTO:

15 Your Honor, I object; outside the
16 scope.

17 THE COURT:

18 Yes. I -- I think the questions
19 were -- were limited to -- to this officer's
20 conversations with -- uh -- with your client in the one
21 regard, and then his questions of -- of Paige, and why
22 the motivation for the questions.

23 So stay within that limit, please.

24 MR. JOYE:

25 Okay.