

VOLUME TWO

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

1 RECROSS EXAMINATION BY MR. JOYE CONTINUED:

2 Q. No -- No question but that you tripled-up that
3 question:

4 Smoke dope, have sex, robbery?

5 A. Yes sir.

6 Q. And again, "yes" to any of them; "yes" to one of
7 them; "yes" to all of them; "don't know."

8 But she explained to you further
9 down the road; didn't she?

10 A. Yes.

11 Q. And you can't say here today whether or not in her
12 mind the robbery part or the sex part was a joke?

13 A. No sir. I can't speak for what was in her mind.

14 MR. JOYE:

15 Thank you, Detective.

16 THE COURT:

17 Mr. Filiberto, you have the last
18 word. You don't have to take it, but you've got it.

19 MR. FILIBERTO:

20 Yes, Your Honor. I appreciate
21 that.

22 RE-REDIRECT EXAMINATION BY MR. FILIBERTO:

23 Q. You don't know what was in her mind. You've already
24 testified to that.

25 But based on that conversation,

1 you charged her with complicity in this criminal act;
2 right?

3 A. Yes sir.

4 MR. FILIBERTO:

5 Nothing further.

6 MR. JOYE:

7 And Your Honor --

8 THE COURT:

9 Thank you.

10 MR. JOYE:

11 -- can I get a follow-up to that
12 question, because that's kind of letting in something a
13 little bit different.

14 THE COURT:

15 Uh -- No sir. It's just whether
16 that interview was the basis of -- or -- I'll allow you
17 to find that -- You can ask him whether or not that
18 interview was the basis of those charges?

19 RE-RE-CROSS-EXAMINATION BY MR. JOYE:

20 Q. You had a conversation with someone before you then
21 put Crystal Turner under arrest; didn't you?

22 A. I had several conversations with numerous people.
23 I'm not sure what you are specifically referring to.

24 Q. Okay.

25 MR. JOYE:

1 Forgive me. I'm trying to find
2 something. Beg The Court's indulgence, Your Honor.

3 THE COURT:

4 All right.

5 MR. JOYE:

6 Never mind. Thank -- Thank you,
7 Detective.

8 You can step down, Sergeant.

9 Thank you very much.

10 Mr. Filiberto

11 MR. FILIBERTO:

12 Your Honor, that -- that would be
13 -- At this time, the State rests.

14 THE COURT:

15 Thank you.

16 Ladies and gentlemen, the State
17 has rested its case in chief. That means that you have
18 now heard all of the evidence and testimony that you will
19 hear from the State in the presentation of its case in
20 chief.

21 Necessarily, at this juncture of
22 every trial of this nature, I have to send you out of the
23 juryroom -- into the juryroom once again while I deal
24 with the matters of law that I'm required to deal with
25 now.

1 I ask you again, please, to
2 remember not to discuss this case among yourselves while
3 you're in the juryroom.

4 We'll get you out shortly to let
5 you know about the balance of the morning's work.

6 Thank you.

7 (WHEREUPON: The jury empanelled
8 in the case withdrew from the courtroom at 10:42 AM,
9 September 15, 2010; and was no longer present during the
10 following proceedings.)

11 THE COURT:

12 Mr. Joye, I'll be glad now to hear
13 the motions from the Defense.

14 MR. JOYE:

15 Your Honor, we would ask for a
16 directed verdict as to accessory before the fact of armed
17 robbery and murder based on the fact that -- uh -- based
18 on the fact that:

19 There is no evidence, other than
20 the testimony -- uh -- previously presented by -- uh --
21 Luther Oxendine -- uh -- Chris -- Charlie Skipper, as
22 well as -- uh -- Jamie White, that -- uh -- Crystal
23 Turner was ever involved in any kind of plot to rob -- uh
24 -- all of which Detective Troxell admitted on the stand
25 that it was -- could be nothing -- it was a very

1 reasonable possibility that this was nothing more than a
2 joke.

3 That -- That Crystal Turner had
4 identified -- uh -- Ronald Rabon as someone who would buy
5 drinks.

6 Uh -- I think that -- uh -- that's
7 been borne out through -- through the testimony, that
8 Crystal Turner -- uh -- If -- If Crystal Turner did that,
9 then she's committed no crime.

10 Secondly:

11 If Crystal Turner -- uh -- said:

12 Look, someone you can talk to that
13 he -- later -- At the time that she identified Ronald
14 Rabon as someone for money -- with some money, that
15 context to everyone here was in "buy drinks."

16 Every single person to a fault
17 said that that was about buying drinks.

18 Only after she had identified him
19 as someone to buy drinks, did they talk about robbery.

20 Uh -- Further, that -- that it --
21 the testimony's been that they borrowed the car
22 ostensibly to go and buy cigarettes.

23 Uh -- Luther Oxendine, who was a
24 party to that conversation said:

25 Yeah, it was about going to buy

1 cigarettes.

2 In fact, he even thought that they
3 were going to buy cigarettes. And only after he gets in
4 the car, does he discover that they're not going to buy
5 cigarettes.

6 Uh -- So that would in no way
7 implicate Crystal Turner in any plot to rob -- to rob Mr.
8 Rabon.

9 Finally, there seems to be no
10 indication that Crystal Turner ever called anyone looking
11 for anything out of any plot to rob in which she's the
12 alleged master -- mastermind.

13 Nor does she go out there and
14 speak to them after the allege -- alleged robbery attempt
15 happens -- or robbery and murder -- subsequent murder
16 happens.

17 And in the light most favorable to
18 the State, we feel that they failed to meet their burden
19 as to accessory before the fact of armed robbery and
20 accessory before the fact of murder.

21 THE COURT:

22 All right. Thank you, Mr. Joye.

23 Uh -- Gentlemen, as we all know,
24 Rule 19 is the rule of criminal procedure that governs
25 this particular motion.

1 And the cases that are cited under
2 that rule give guidance to us at the circuit bench and
3 the trial bench level on how the -- uh -- motion must be
4 evaluated and how it must be construed.

5 As we know, the evidence, first of
6 all, has to be viewed in the light most favorable to the
7 State.

8 And if there is any direct
9 evidence, or if there's any substantial circumstantial
10 evidence, from which the guilt of the accused might be
11 determined, then the motion must necessarily be denied.

12 The testimony of the -- uh -- of
13 the three essential codefendants in this regard, Mr.
14 White, Mr. Oxendine, Mr. Skipper -- uh -- is sufficient
15 to overcome -- uh -- the burden that is on the State to
16 get past this particular level in any event.

17 Uh -- While there may be some
18 nuances to that testimony -- and certainly there are ripe
19 areas for the -- for the jury's consideration and for
20 argument -- uh -- if I take that testimony in the light
21 most difficult to the State, then I must necessarily
22 determine that there is sufficient evidence before this
23 jury, if they choose to believe that testimony in the
24 light most favorable to the State, from which the guilt
25 of Ms. Turner could be concluded.

1 The same is true for the test --
2 for the statement that she gave to -- to Sergeant
3 Troxell.

4 Uh -- It is true, the -- one of
5 the questions -- the question that was the point of a
6 great deal of direct and cross-examination had three
7 parts to it, and a single answer -- uh -- and has been
8 argued here in -- in -- uh -- in the course of that
9 testimony.

10 The jury must determine whether or
11 not that single answer applies to all three of those
12 questions or to a single part of it.

13 But nonetheless, the jury can make
14 whichever of those decisions it chooses to do according
15 to its view of the evidence.

16 And for that reason, I find that
17 the State has presented sufficient evidence in the light
18 most favorable to its position; that the motion should be
19 denied.

20 All right.

21 Uh -- Mr. Joye, I know you're
22 going to need a few moments to get things together?

23 MR. JOYE:

24 Yes, sir, I am.

25 THE COURT:

1 Uh --

2 MR. JOYE:

3 At this point, Judge, I would
4 renew all previous objections just -- just to --

5 THE COURT:

6 All right, sir.

7 MR. JOYE:

8 -- create a record.

9 THE COURT:

10 I'll note -- I'll note the renewal
11 of those. And I'll renew my previous rulings in that
12 regard without the necessity to go back over those things
13 again.

14 Uh -- Let's take, for our
15 purposes, folks -- uh -- about 13 or 14 more minutes.

16 At 11 o'clock, if you all can --
17 can visit me in chambers and let me know where we are;
18 okay.

19 MR. JOYE:

20 Thank Your Honor.

21 THE COURT:

22 Thank you.

23 We'll be in recess until 11
24 o'clock.

25 (WHEREUPON: The court was

1 declared in recess at 10:48 AM, September 15, 2010.)

2 (WHEREUPON: The court was called
3 to order by the Bailiff at 11:21 AM, September 15, 2010;
4 and all pertinent parties, along with their counsel, were
5 back and present in the courtroom.)

6 DEPUTY:

7 Order in the court. All Rise.

8 THE COURT:

9 Thank you. Ladies and gentlemen,
10 you all can be seated.

11 Folks, we -- uh -- because of
12 scheduling situations and availability of witnesses,
13 we're going to take a very early lunch; stop now; come
14 back at 12:15.

15 We'll work until 2:30 this
16 afternoon.

17 You can bring us the jury please,
18 sir.

19 (WHEREUPON: The jury empanelled
20 in the case was escorted back into the courtroom at 11:22
21 AM, September 15, 2010; and was in fact present during
22 the following proceedings.)

23 THE COURT:

24 Ladies and gentlemen, as you know,
25 the State has rested its case in chief. And the

1 Defendant has the opportunity to offer evidence and
2 testimony at this time. But, as I told you earlier, is
3 under no obligation to do that.

4 The Defendant intends to offer
5 evidence and testimony in this particular case.

6 But, because the State rested a
7 little earlier than the Defense anticipated and perhaps
8 that anybody anticipated -- it's hard to tell how long
9 these witnesses are going to take quite frankly.

10 Sometimes, they take a little
11 while. Sometimes they take longer.

12 Uh -- There will not be any
13 witnesses available to begin the case from the Defense
14 perspective until 12:15.

15 And so, we're going to take an
16 early lunch and get you back at 12:15. And we'll work
17 until 2:30 this afternoon.

18 I apologize for chopping this day
19 up into segments like this, but -- uh -- we were not
20 going to be able to finish the trial today in any event.

21 And so, you were going to have to
22 come back tomorrow in any event.

23 So we have not -- uh -- we have
24 not extended it into another day unnecessarily.

25 It was going to take into another

1 day regardless of what happened.

2 And so -- uh -- you've got not
3 quite an hour. I think that'll give you enough time to
4 get a quick bite to eat.

5 And -- uh -- if you don't have
6 enough time, I -- I've still got half of a ham biscuit
7 down in --

8 (Laughter erupts in the
9 courtroom.)

10 THE COURT:

11 -- and I'll be -- I'll be glad to
12 share with somebody.

13 But -- uh -- please be back in
14 your juryroom at 12:15, and we'll work from then until
15 2:15 and you'll have the rest of the afternoon off.

16 Thank you for your patience with
17 us folks, and enjoy your brief lunch.

18 Thank you.

19 (WHEREUPON: The jury empanelled
20 in the case withdrew from the courtroom at 11:24 AM,
21 September 15, 2010; and was no longer present during the
22 following proceedings.)

23 THE COURT:

24 All right.

25 Mr. Joye, Anything further from

1 the Defense before we break for lunch?

2 MR. JOYE:

3 No, Your Honor.

4 THE COURT:

5 Mr. Filiberto?

6 MR. FILIBERTO:

7 No sir.

8 THE COURT:

9 Thank you folks. 12:15.

10 MR. FILIBERTO:

11 Yes sir.

12 (WHEREUPON: The court was
13 declared in recess at 11:25 AM, September 15, 2010.)

14 (WHEREUPON: The court was called
15 to order by the Bailiff at 12:30 PM, September 15, 2010;
16 and all pertinent parties, along with their counsel, were
17 back and present in the courtroom.)

18 DEPUTY:

19 Order in the court. All Rise.

20 THE COURT:

21 Thank you.

22 Thank you, ladies and gentlemen.

23 Please be seated. Good afternoon.

24 Gentlemen, are both sides ready
25 for the jury?

1 Mr. Joye?

2 MR. JOYE:

3 Yes, sir, Your Honor.

4 THE COURT:

5 Mr. Filiberto?

6 MR. FILIBERTO:

7 Yes sir.

8 THE COURT:

9 You can ring us the jury please,
10 sir.

11 (WHEREUPON: The jury empanelled
12 in the case was escorted back into the courtroom at 12:32
13 PM, September 15, 2010; and was in fact present during
14 the following proceedings.)

15 THE COURT:

16 Thank you, ladies and gentlemen.

17 We now resume the trial of this
18 case as the Defendant has the opportunity to offer
19 evidence and testimony.

20 Mr. Joye?

21 MR. JOYE:

22 Yes, Your Honor.

23 Uh -- Defense calls Jeff James.

24 THE COURT:

25 Mr. James, come forward please,

TESTIMONY OF JEFF JAMES

512

1 and be sworn

2 WHEREUPON: JEFF JAMES WAS DULY
3 SWORN AND TESTIFIED UNDER OATH AS FOLLOWS:

4 CLERK:

5 Thank you. Okay. If you'll
6 scoot up, speak into the microphone, state your full
7 name; and spell your last name?

8 WITNESS:

9 Uh -- Jeffrey Dennis James; J-a-m-
10 e-s.

11 DIRECT EXAMINATION BY MR. JOYE:

12 Q. Good afternoon, Mr. James. Uh -- Do you know
13 Crystal Turner?

14 A. Yes, I do.

15 Q. How did you know her?

16 A. Uh -- I used to date her.

17 Q. Okay. When -- When did you first meet Crystal? A.

18 A. Uh -- Was beginning of the summer, roughly, of the
19 year that all this happened, me and her met.

20 Q. Okay. 2008?

21 A. Yeah.

22 Q. And how did y'all meet?

23 A. Uh -- Basically at the Aynor bar.

24 Q. Okay. As in -- Was that -- Is there another name
25 for that?

1 A. Uh -- Easy's.

2 Q. Okay. And when you met at the Aynor bar, how did
3 y'all meet?

4 A. Ummm -- We just kind of started talking, you know.
5 She had come over. And I don't remember exactly how it
6 come about, but I ended up with her phone number.

7 And one night, I came back in --
8 uh -- and I seen her across the room sitting with Mr.
9 Jack at his table and all.

10 And -- uh --

11 Q. And when you say Mr. Jack, who do you mean?

12 A. Uh -- Just an old guy that goes to the bar all the
13 time.

14 Q. Do you his last name?

15 A. Not really. And -- uh -- I just seen her sitting
16 there. And I remembered I had her number from a few days
17 before -- you know.

18 And so I texted her, you know.
19 She smiled, you know. And then we started talking from
20 there.

21 Q. What was your marital situation at that point?

22 A. I was married.

23 Q. Uh -- Where were you living at that point?

24 A. At that point, I had moved out from my wife's house
25 and had moved into a camper behind my friend's house.

TESTIMONY OF JEFF JAMES

514

1 Q. So, when you say you were married, you were actually
2 married but separated?

3 A. Yeah. I mean, it wasn't a legal separation. But
4 yeah, we were separated. I had moved out.

5 Q. Okay. And why -- why did y'all like to go -- Why
6 did you like to go to the Aynor bar?

7 A. Honestly, I really hadn't gone up there a lot before
8 that time.

9 But at the time, I had a -- I had
10 my own business in Loris. And it was kind of failing,
11 you know.

12 So me and my buddy, that I was
13 staying behind his house, me and him started going up
14 there to kind of I guess relieve the stress or whatever
15 -- you know -- just kind of take a break.

16 And that's when I started hanging
17 out up there.

18 Q. Okay. Uh -- What was significant about Wednesday
19 nights at that bar?

20 A. Karaoke night.

21 Q. Okay. And were you a participant in that?

22 A. Yeah.

23 Q. How about Crystal?

24 A. Yeah. She also sang karaoke a lot.

25 Q. Did y'all enjoy that?

1 A. Oh, yeah. Yeah, we --

2 Q. You share --

3 A. -- we got to where we started going every Wednesday
4 night. Because after me and her started dating, I didn't
5 really care for the whole going out thing, you know.

6 And so just on -- basically on
7 Wednesday nights, we just started going out there to
8 sing, you know.

9 Q. And how -- how often would y'all go to the Aynor
10 bar?

11 A. Uh -- Pretty much every Wednesday night. Uh --
12 Every once in a while, we might go for -- on a Friday
13 night or a Saturday night for an hour or two or whatever.

14 And then -- you know -- we'd
15 probably either go back to her house and hang out or
16 whatever, you know.

17 Q. Uh -- At some point in time -- Let's -- Let's move
18 ahead to August the 13th.

19 Do you remember August 13th?

20 A. Yeah.

21 Q. What, if anything, was going on with your
22 relationship during that time period with Crystal?

23 A. Me and her had broke up at the time. And -- uh --
24 We had broken up. It was either the Friday night before
25 that or the Saturday night before that.

TESTIMONY OF JEFF JAMES

516

1 And -- uh -- she had called me
2 earlier that day and asked me would I talk with her about
3 us and all.

4 And I was like:

5 Yeah, you know. You know, What
6 do you want to talk about?

7 She said:

8 No. I'd rather you meet me and
9 let's talk face-to-face; but sit down talk about this,
10 you know.

11 Q. And that was Wednesday night?

12 A. Yeah.

13 Q. And where did y'all decide to talk about it?

14 A. I told her I'd meet her at Easy's at the bar in
15 Aynor.

16 Q. What time did you get to Easy's?

17 A. It's been two years. I -- I mean -- I want to say
18 it was a round 8 o'clock.

19 Q. And when you arrived at Easy's -- uh -- were they
20 there? Was Crystal there yet?

21 A. No. No.

22 Q. When you first saw Crystal, where were you?

23 A. I was outside in the parking lot with Chad.

24 Q. Chad Richardson?

25 A. Richardson; Yeah.

1 Q. And what were you doing?

2 A. Uh -- I always carry -- I keep a handgun in my
3 truck. And -- uh -- he had asked me about my handgun
4 because my brother was talking about it.

5 And -- uh -- I said:

6 Yeah, I'm trying to sell it, you
7 know.

8 So me and him had walked outside
9 and he was looking at my gun, you know.

10 And that's when they pulled up.

11 Q. Okay. And when they pulled up, what -- what
12 happened at that point?

13 A. Well, she pulled up. And there was her, another
14 girl, and three guys that got out the car.

15 Q. Do you -- Did you know any of them?

16 A. No.

17 Q. Had you met any of them previously?

18 A. No.

19 Q. What were their names? Do you know now?

20 A. I know -- I know two of them's names, yeah.

21 Q. Who were they?

22 A. Uh -- Paige and Charles.

23 Q. Okay. Uh -- Who are Paige and Charles?

24 A. Paige is -- uh -- it was Crystal's best friend.

25 And she had told me all about their relationship when she

TESTIMONY OF JEFF JAMES

518

1 was with -- uh -- I can't think of his name right now --
2 but it was her ex-boyfriend who -- her -- father of her
3 baby.

4 She told me all about how she --
5 Paige didn't have a place to stay.

6 Paige moved -- She let Paige move
7 in with her.

8 Uh -- And then her and her
9 boyfriend -- uh -- ended up together. And they ran off
10 together, you know.

11 Q. How would you characterize the relationship between
12 Paige and Crystal?

13 A. I wouldn't have -- I would have characterized it as
14 bad.

15 Q. Now, when -- when Paige and the three others pulled
16 up at the bar, what -- what did they do?

17 A. They just got out the car. Uh -- When they got the
18 car -- everybody was getting out of the car and
19 everything.

20 And when I saw them pull up, I
21 started to put my gun back in the truck where I keep it
22 hid up under the seat.

23 And -- uh -- one of the guys in
24 the back seat brought out a pistol.

25 He says:

1 Oh, I -- I see you've got a gun.

2 He says:

3 Yeah, I don't go nowhere without
4 mine neither.

5 And he pulls a pistol out, you
6 know. And --

7 Q. Do you know -- Do know where Crystal was at that
8 time?

9 A. She -- If I'm not mistaken, her and Paige had
10 already walked into the bar.

11 Q. Now, could you describe the three guys that came
12 with Crystal that day?

13 A. Yeah. One was probably early twenties, dark hair -
14 - uh -- about -- I don't know -- 5' 6" -- 5' 7" or so.

15 Uh --

16 Q. How was he dressed?

17 A. Blue jeans, T-shirt.

18 Q. Did these three guys dress like the rest of the
19 people at the Aynor bar?

20 A. I reckon so. I mean, they just -- uh -- One of the
21 guys looked a little more kind of hipp-hoppy or whatever,
22 you know.

23 I mean, didn't -- He really didn't
24 look like he fit in too much, you know.

25 But, I mean, there's a diverse

1 crowd at the bar Aynor.

2 Q. Okay.

3 A. I mean, you meet all kinds of people out there.

4 Q. Okay. And when one of the guys -- Do you know who
5 showed you their gun?

6 A. I don't remember exactly which one. It was too
7 dark there. The guys -- One of them had sunglasses.

8 I want to think it was the younger
9 guy that didn't have sunglasses on.

10 Q. Did you subsequently find out who he might be?

11 A. Uh -- Yeah, after they questioned me. But I don't
12 remember his name.

13 Q. Do you remember what his relationship to -- uh -- to
14 Paige was?

15 A. No. No. The guy with glasses was Paige's --
16 supposedly Paige's boyfriend. The guy with the
17 sunglasses.

18 This other guy, I think, was his
19 brother. I don't know.

20 Q. Do you know what the relationship with Charlie to
21 Paige was?

22 A. No.

23 Q. And do you know approximately what time they got
24 there?

25 A. I'd say around 8:30 -- 8:45. 'Cause it was about

1 30 minutes or so after I got here.

2 I went in. Sat down at the bar;
3 got a beer, and drank a few swallows out of it.

4 Then me and Chad walked outside,
5 so --

6 Q. Okay. Uh -- When y'all all got there, do you know
7 where you sat?

8 A. Yes.

9 Q. And where was that?

10 A. Uh -- If you come in the front door, it's the far
11 right side row of tables, all the way to the back next to
12 the DJ booth, karaoke stand or whatever.

13 Q. I want you to look at that picture. This is -- uh
14 -- State's Exhibit Number 10.

15 Uh -- Can you tell what that is?

16 A. That's when you come in the door all the way to the
17 right where the pool table and all is; and the dart board
18 and everything.

19 Q. Okay. But that's the interior of the bar?

20 A. Yes.

21 Q. Okay. Is the table y'all were sitting at there?

22 A. No.

23 Q. Okay. How about this particular picture?

24 A. Yeah.

25 THE COURT:

TESTIMONY OF JEFF JAMES

522

1 Number please?

2 MR. JOYE:

3 I'm sorry. Uh -- State's Exhibit

4 Number 11.

5 THE COURT:

6 Thank you.

7 WITNESS:

8 Yes. The table we were sitting at
9 is in that picture.

10 DIRECT EXAMINATION BY MR. JOYE CONTINUED:

11 Q. Can you come down here and point to -- point it to
12 the jury --

13 A. Come around?

14 Q. Yes sir. You're going to have to come near this --
15 uh -- microphone so that they can hear everything you
16 say.

17 A. Okay.

18 Q. Generally, they don't have that problem with me.

19 A. All right.

20 Q. Show -- Can you show the jury where y'all were
21 sitting?

22 A. This is the table we were sitting at.

23 Q. All right. Where'd the DJ -- I mean, the -- the
24 karaoke set up?

25 A. Right there, back by the speakers.

1 Q. Where does he set the speakers?

2 A. Uh -- He sets them on either side of the booth, and
3 sets his equipment up there. And the monitor sets right
4 here.

5 Q. Okay. And where were you and Crystal sitting?

6 A. Okay. I was sitting on this side of the table
7 facing the DJ booth, right up against the wall right
8 here. And Crystal sat right beside me.

9 Q. Okay. Where is the speak -- And where -- Where was
10 the rest of them?

11 A. Uh -- The three guys sat on this end of the bar --

12 Q. Right.

13 A. -- uh -- on this end of the table. Uh -- The one
14 guy with the glasses sat right at the corner. And Paige
15 sat right there at the end.

16 Q. Okay. All right. And how would you characterize
17 the noise level where y'all were sitting?

18 A. Pretty loud.

19 Q. And where were the speakers again?

20 A. One was placed on this side and one on the side on a
21 stand. And the monitor was right here.

22 Q. So y'all were sitting basically right in front of
23 the speakers?

24 A. Pretty much.

25 Q. Okay. If you would please, take the stand, sir.

1 A. (Witness does as instructed.)

2 Q. Tell the jury about how that night went in terms of
3 -- you know -- you and Crystal and you and the rest of
4 them?

5 A. Uh -- What do you mean?

6 A. I mean, were y'all all -- you know -- Sometimes you
7 meet people and you're immediately best friends.

8 A. Uh -- They wasn't like that with me; not with me.

9 I went there for a reason.

10 Q. And what was that?

11 A. To talk with Crystal. And that's --

12 Q. Did y'all -- Did y'all do that?

13 A. Yeah. And that's pretty much what we did most of
14 the night.

15 I sat up against the wall; faced
16 her; she faced me; and we sat there for almost all night,
17 just sitting there talking for the most part, you know.

18 Q. How about them? Did they sing karaoke?

19 A. No. No.

20 Q. Uh -- What did they do, generally?

21 A. They guys kept getting up and going outside -- you
22 know -- 5 -- 10 minutes at a time -- you know -- maybe a
23 little longer.

24 I didn't really keep up with what
25 they were doing. I was talking with Crystal.

1 Uh -- But they kept going up --

2 They kept getting up and going outside a lot.

3 Q. How about Crystal? Did -- Did -- uh -- Where'd --

4 Where'd -- Was she with them, or she with you, or what?

5 A. No; she was there with me, talking.

6 Q. Uh -- How was Crystal acting that night?

7 A. Not anything out of the ordinary -- you know --

8 other than -- you know -- us being broke up.

9 She was upset about that. I was

10 too, you know.

11 Q. Was that your primary focus all night?

12 A. Yes.

13 Q. How about Paige? What did -- What, if anything,

14 was she doing?

15 A. She just sat there at the end of the table with the

16 guy with the glasses that she said was her boyfriend or

17 whatever.

18 They talked a lot.

19 Uh -- But that -- you know -- Like

20 I said, the guys kept getting up and going outside, you

21 know.

22 So she'd just sit there and watch

23 the DJ, you know.

24 And a couple of times, she got up

25 and walked outside with them.

TESTIMONY OF JEFF JAMES

526

1 But that's all I really recall.

2 Q. Do you ever remember Crystal going outside with
3 them?

4 A. No.

5 Q. Uh -- What if anything were they drinking?

6 A. I really don't remember. They weren't really -- I
7 don't think they were drinking alcohol, you know.

8 I think the girl at the end,
9 Paige, I think she might've had one drink or two.

10 But I don't remember anybody else
11 really drinking.

12 Q. What -- Was there anything unusual about that night
13 other than the fact that Crystal came with these three
14 guys?

15 A. No.

16 Q. Okay.

17 A. No.

18 Q. Did at some point in time somebody else come in?

19 MR. FILIBERTO:

20 Your Honor, I'm going to object to
21 the leading questions.

22 THE COURT:

23 All right. No. That's -- That's
24 pretty -- It could be anybody.

25 It doesn't suggest who it was,

1 just if anybody else came in. I mean, that's -- I'll
2 allow the question.

3 Go ahead.

4 DIRECT EXAMINATION BY MR. JOYE CONTINUED:

5 Q. Did at some point in time anybody else join them?

6 A. They -- Somebody else came in. And Paige said the
7 -- the girl's name that came in.

8 But the girl came in and sat at
9 the bar.

10 She never came over to the table
11 or anything.

12 Q. Do you ever talk to her?

13 A. No.

14 Q. Were you ever introduced to her?

15 A. No.

16 Q. Do you remember Crystal spending any time with her?

17 A. No.

18 Q. Uh -- What if anything was mentioned about anybody
19 with a lot of money.

20 A. I never heard anything mentioned about anybody with
21 money.

22 Q. Uh -- Did at some point in time, any -- everybody
23 except you and Crystal -- uh -- Did at some point in
24 time, you ever notice whether or not the -- the person
25 that came in and joined later had left?

TESTIMONY OF JEFF JAMES

528

1 A. Not till later. Uh -- The girl that was sitting at
2 the end of the table, Paige, had walked up there and was
3 talking with the girl.

4 Q. How long was she up there talking with her?

5 A. I'd say 45 minutes, maybe an hour, you know.

6 Q. Did you ever notice anybody going up there and
7 talking to Paige and the girl at the bar?

8 A. No. I never really paid that much attention to them
9 being up there, you know. I didn't think nothing of it.

10 She had stated when she came in
11 that she knew the girl.

12 So when she went over there and
13 talked wither her, I didn't --

14 Q. Did Crystal pay much attention to what they were
15 doing?

16 A. No.

17 Q. So at some point in time, did any -- either one of
18 them come back to the table?

19 A. Yes.

20 Q. Who came back to the table?

21 A. Paige.

22 Q. And what did she do once she got to the table?

23 A. Well, she sat down. Uh -- The guys had come back
24 in and they had sat down at the table.

25 Uh -- She sat down.

1 A few minutes went by.

2 We were watching -- Me and her --
3 Me and Crystal were talking. And they were kind of
4 turned watching the DJ or what -- whoever was up there
5 singing.

6 I don't remember who was singing
7 at the time.

8 And -- uh -- I'd say 15 minutes or
9 so went by. And -- uh -- they asked her -- they --

10 MR. FILIBERTO:

11 Objection to hearsay, Your Honor.

12 THE COURT:

13 Thank you.

14 Who is -- Who are we talking
15 about, Mr. -- Mr. Joye?

16 MR. JOYE:

17 Uh -- Your Honor, I --

18 WITNESS:

19 They --

20 DIRECT EXAMINATION BY MR. JOYE CONTINUED:

21 Q. No. Don't say what anybody said. As a result of
22 any conversations, what did Crystal do?

23 A. Nothing.

24 Q. Uh -- Did at some point in time Paige and the three
25 guys leave?

1 A. Yes.

2 Q. How did they leave?

3 A. They left with Crystal's car.

4 Q. And do you know why they left?

5 A. Yes.

6 Q. Why?

7 A. They said they needed cigarettes.

8 Q. And how did they -- How did they -- So, Paige gave
9 them the keys?

10 A. No. Crystal gave --

11 Q. I mean, Crystal gave them the keys?

12 A. What happened was:

13 The keys -- The phone -- My phone,
14 my keys, and her keys, I had all pushed up against the
15 wall. Because the table sits up against the wall.

16 And so when they asked to borrow
17 the car, she said: Okay.

18 And I reached and grabbed the keys
19 and handed them to Crystal. She gave them to them.

20 Q. And how long were they gone?

21 A. I want to say 30 to 45 minutes. But I don't
22 remember a timeline now.

23 Q. How was Crystal acting while they were gone?

24 A. Not anything out the normal. I mean, me and her sat
25 there and talked a good bit.

- 1 As a matter of fact, I think we
2 both sang a song while she was -- while they were gone.
- 3 Q. Uh -- Did you sing that night?
- 4 A. Yes.
- 5 Q. Did she sing that night?
- 6 A. Yes.
- 7 Q. When you were singing, how far way from Crystal were
8 you?
- 9 A. Uh -- At least as close as me to the jury.
- 10 Q. Okay.
- 11 A. That's the furthestest away --
- 12 Q. There's a juror over here and there's a juror down
13 there --
- 14 A. Right -- Right here.
- 15 Q. Right here; okay.
- 16 A. Right in here, yeah.. Because the -- when you go up
17 to sing, like this is the stand (indicating) and that's
18 our table.
- 19 I was standing right at that
20 corner the whole time, you know (indicating).
- 21 Q. And -- And --
- 22 A. I would walk around in front -- you know --
- 23 Q. And what seemed to be -- What was Crystal doing and
24 -- doing during that time?
- 25 A. Pretty much watching me sing.

TESTIMONY OF JEFF JAMES

532

1 Q. Watching her, did she seem to be enjoying your
2 singing?

3 A. Oh, yeah.

4 Q. Did you enjoy watching Crystal sing?

5 A. Yes.

6 Q. When Crystal was singing --- and you being boyfriend
7 and girlfriend -- where was your attention focused?

8 A. On her.

9 Q. How about when you were singing, where was her
10 attention focused?

11 A. For the most part on me.

12 Q. Uh -- At some point in time they returned. Did you
13 see all of them?

14 A. No.

15 Q. Who did you see?

16 A. The guy with the sunglasses -- the one that was
17 supposedly Paige's boyfriend.

18 Q. And what did he -- what did he do?

19 A. He just walked in the door, set the keys on the
20 table, and says:

21 We're gone.

22 Q. Was there anything with the keys?

23 A. No.

24 Q. Did you see him hand Crystal anything?

25 A. No. We were on the opposite side of the table.

1 Q. Who?

2 A. Me and Crystal.

3 Q. You and Crystal were on the opposite side of the
4 table?

5 A. Yes.

6 Q. Did you see him -- Could he have handed her
7 something and you not see it?

8 A. No. Because, like I said, he -- he was on the
9 opposite out of the table.

10 Q. Oh --

11 A. He just walked in --

12 Q. -- from -- from the two of y'all?

13 A. From us, yes.

14 Q. Okay.

15 A. He came in the back to by the DJ booth. Walked in.
16 Set the keys on the table, and said:

17 We're gone.

18 And Chrys said:

19 Okay.

20 Q. Did -- Was there -- Was there a point in time that
21 Crystal received a call?

22 A. Yes.

23 Q. Be -- Before they got back?

24 A. Be -- Yes. Yes.

25 Q. And as a result of that call, did you have to help

1 Crystal do anything?

2 A. No, not really. She -- During the call, she -- I
3 heard her say -- I was sitting right beside her --

4 MR. FILIBERTO:

5 Objection to hearsay, Your Honor.

6 MR. JOYE:

7 Okay.

8 THE COURT:

9 Okay.

10 DIRECT EXAMINATION BY MR. JOYE CONTINUED:

11 Q. As a result of what she said, what did you tell
12 Crystal?

13 A. I told her wherever they're at, any side road you
14 get off of at 501 at Aynor, if you'll make a couple of
15 rights, you'll pretty much end back up on 501.

16 Q. Now, what was Crystal's reaction to that call?

17 A. She said that --

18 MR. FILIBERTO:

19 Objection to hearsay.

20 DIRECT EXAMINATION BY MR. JOYE CONTINUED:

21 Q. No, not as what she said; but can you tell how her
22 demeanor was, or what you observed about her, or --

23 A. She looked surprised that they were lost.

24 Q. Because the best you -- you knew, they were going to
25 get cigarettes.

1 MR. FILIBERTO:

2 Objection to the leading, Your
3 Honor.

4 THE COURT:

5 It is leading. I'll sustain that.

6 MR. JOYE:

7 Okay.

8 DIRECT EXAMINATION BY MR. JOYE CONTINUED:

9 Q. Now they left at -- Did you -- What did -- did
10 Crystal do? Did -- Did -- I mean, what time was that?

11 A. I want to say it was around between 1:00 and 1:30 --
12 around one-ish -- a little bit after 1:00 or so, you
13 know.

14 Q. Where was Crystal's attention focused from 1:30 on
15 that night?

16 A. We were right there together. It was just me and
17 her.

18 And I mean, we sat there close
19 together, making-out, talking, you know.

20 Q. And did she do anything else? Make any calls?

21 A. No.

22 Q. Do anything --

23 A. No. No.

24 Q. What if anything struck you as odd about Crystal
25 from that point on?

TESTIMONY OF JEFF JAMES

536

- 1 A. Nothing.
- 2 Q. And who was at the bar that late at night?
- 3 A. There was me -- uh -- Eddie -- uh -- Ricky, Renee --
- 4 uh --
- 5 Q. Eddie is?
- 6 A. Eddie's my brother.
- 7 Q. Eddie James?
- 8 A. Eddie James, yeah.
- 9 Q. Ricky is?
- 10 A. The owner of the bar.
- 11 Q. And his last name?
- 12 A. Uh -- I don't remember -- Nobles, yeah.
- 13 Q. And his wife?
- 14 A. Uh -- Renee.
- 15 Q. Anybody else?
- 16 A. Chad Richardson -- uh --
- 17 Q. And does Chad do at the bar?
- 18 A. Uh -- He was the cook.
- 19 Q. Who else?
- 20 A. Uh -- Well, the DJ guy, he put all his stuff up and
- 21 left.
- 22 Uh -- And then there was another
- 23 guy that I went to school with. And I can't think of his
- 24 name.
- 25 But --

1 Q. Who were among the last to leave the bar?

2 A. I guess that would be Ricky, Renee, Eddie and Josh.

3 I left around 3.

4 Q. Okay. When did Crystal leave?

5 A. The same time I did.

6 Q. Before you left the bar, where did y'all go when you
7 immediately when out of the bar?

8 A. When we -- When we immediately left the bar, we got
9 in our cars and left.

10 But we had walked outside one time
11 before.

12 Q. I know this is an embarrassing question, but what
13 did you do outside?

14 A. We had sex in the car.

15 Q. Where?

16 A. In the -- In my truck.

17 Q. Did you go anywhere? Where -- Where -- Where did
18 that happen?

19 A. Right at the back door. And that's where I was
20 parked at.

21 Q. And when you left the bar, where did you -- When you
22 left, where did Crystal go?

23 A. When -- When -- When we left altogether?

24 Q. Yeah. When you left -- When you left, finally?

25 A. When we -- When we walked -- When we walked outside,

TESTIMONY OF JEFF JAMES

538

1 we were outside about 20 minutes or so.

2 Then I walked back in and got
3 another beer. Drank part of it, you know.

4 I know this is wrong, but -- you
5 know -- I took the rest of it with me.

6 But -- uh -- she had told me
7 earlier that she didn't have enough money for gas.

8 So I had like -- I want to say it
9 was \$10 on me -- because I remember:

10 It was 2.50 for the beer, and I
11 gave her what was left.

12 And I followed her to the -- uh --
13 Stuckey's, which is right there beside the Huddle House,
14 to get gas.

15 So she --

16 Q. And that's going towards Marion, or going towards
17 Aynor?

18 A. Towards Aynor -- into Aynor.

19 Q. Why did you follow her?

20 A. To make sure she made it.

21 Q. And why was that?

22 A. Because she was out of gas.

23 Q. And who paid for the gas?

24 A. I did. I didn't -- I did not go to the store. I
25 gave her the money.

1 I flashed my lights.

2 The store is right at the red
3 light.

4 Q. Okay.

5 A. When she made it through the red light, I flashed my
6 lights, and took my right, and went on home.

7 Q. So you just made sure she got to the store?

8 A. Yes. I followed her back into Aynor.

9 Q. When's the next time that you talked to Crystal?

10 A. Uh -- Probably 45 minutes or so later. Uh --

11 Q. Why did you talk to her then?

12 A. Because I told her to text me or call me when she
13 got home.

14 Q. And that happened?

15 A. No. No. I got home and got me something to eat,
16 and was sitting on the side of the bed; and I texted her
17 and said:

18 Are you okay? You make it home?

19 She said:

20 Yeah.

21 Q. Okay. And are you and Crystal still together?

22 A. No.

23 Q. How long you been split up?

24 A. Two years.

25 Q. And why are you here testifying today?

1 A. To tell the truth.

2 Q. And are you doing that?

3 A. Yes.

4 MR. FILIBERTO:

5 Thank you, sir. Nothing further.

6 Answer any questions Mr. Filiberto

7 may have.

8 THE COURT:

9 Mr. Filiberto, you can cross-

10 examine.

11 MR. FILIBERTO:

12 Thank you, sir.

13 CROSS-EXAMINATION BY MR. FILIBERTO:

14 Q. Mr. James, you indicated that you had broken up with
15 Crystal Turner before you met -- before you met that
16 night on April -- uh -- August 13th, 2008?

17 A. Yes.

18 Q. Who had broken it off?

19 A. Uh -- We had been -- She was working at a bar and --
20 around Dillon area or Latta, or whatever.

21 And -- uh -- I had been up there
22 with her just hanging out with her at the bar.

23 And some things conspired (sic) up
24 there with a guy touching her improperly, and she didn't
25 want me to do nothing about it or say nothing to the guy.

1 And I just didn't think it was
2 right, you know.

3 It was almost like she was
4 defending him instead of me, you know.

5 So I told her, I said:
6 Look, this just ain't working.
7 And that was it.

8 We got in a big argument over
9 that.

10 Q. You -- uh -- testified that -- uh -- when you were
11 out showing your gun to Mr. Richardson, that's when the
12 car pulled up?

13 A. Yes.

14 Q. Is that right?

15 A. Yes.

16 Q. And -- uh -- you said at that point you went to put
17 your gun back away. Why -- Why did you to do that?

18 A. Because I had the gun. We were -- Me and Chad was
19 standing in the door. And that's not something you
20 really flash to everybody, you know.

21 And it was a very large gun.

22 It was a 44 magnum.

23 And -- uh -- we were standing in
24 the door way. And when they got out, the one boy looked
25 at me and says:

TESTIMONY OF JEFF JAMES

542

1 Oh, I see you've got a gun. I
2 carry mine with me everywhere too.

3 And he had it in his hand.

4 And that's when I turned and was
5 sticking my gun back under the seat.

6 Q. You never -- You didn't know these people, right?

7 A. Yeah, I didn't know them at all. I was real
8 nervous.

9 Q. Okay. And you went into the bar. You were sitting
10 at that that table. You weren't with Crystal every --
11 every minute of the night; right?

12 A. No.

13 Q. You -- There were times she was involved in
14 conversations that you weren't part of?

15 A. Right.

16 Q. The -- uh -- So you couldn't know what those
17 conversations were about; right?

18 A. Right.

19 Q. Did you know Ronald Rabon?

20 A. I had seen him in the bar several times. I didn't
21 know him personally, no.

22 Q. Now, you indicated that during the night you'd spent
23 a lot of time talking to -- to Crystal?

24 Is that correct?

25 A. Yes.

1 Q. And at some point during that night, did she tell
2 you that she needed money for a bill?

3 A. No.

4 Q. She didn't tell that she -- she needed money for a
5 bill?

6 A. No. She had talked -- I want to say it was earlier
7 that day when we were on the phone, or something, she had
8 said something about a light bill -- you know -- was
9 coming due -- either her light bill or cell phone bill,
10 one.

11 I can't remember exactly.

12 Q. Didn't you meet -- uh -- and give an interview to --
13 uh -- Investigate Mureddu back on March 30th of this
14 year?

15 A. Of this year?

16 Q. Yes.

17 A. That was Investigator who?

18 A. Mureddu, sitting right here.

19 A. Yeah. Yes.

20 Q. Isn't it true that you told her that that night
21 Crystal Turner told you that she needed money for a pay -
22 -- to pay her power bill or her lights were going to get
23 turned off?

24 A. Uh -- Yeah. Like I said, they -- she told me that.
25 I think it was earlier that day though.

TESTIMONY OF JEFF JAMES

544

1 Q. And --

2 A. It could have been earlier that evening. I -- I
3 don't remember. That's been two years ago.

4 Q. Okay. The -- uh -- That wasn't the first time she
5 asked you -- asked your for money; is it?

6 A. No.

7 Q. In the past you had sometimes given her money;
8 hadn't you?

9 A. Yes.

10 Q. You didn't give her any money that night, though?

11 A. Not other than the money for her gas that night.

12 Q. Yeah. We'll get -- We'll get back to that.

13 Uh -- Now, when you were
14 interviewed, you told Investigator Mureddu you had no
15 idea of whether or not Crystal Turner was involved in
16 this or not?

17 A. Right.

18 Q. The fact is, you expressed some concern that you
19 thought you might have been called down to the bar to be
20 robbed; didn't you?

21 A. Yes, that was told to me afterwards.

22 Q. So, you're not sure really of what happened?

23 A. No.

24 Q. And when you gave -- when you gave -- uh -- Crystal
25 Turner seven -- I think was \$7.50 --

1 A. Yes.

2 Q. -- I don't want to put words in your mouth -- but
3 the change from your ten-dollar bill --

4 A. Yes.

5 Q. -- for gas, because she'd said she needed gas -- uh
6 -- and you followed her down the road.

7 You don't know how much gas you
8 put in?

9 Is that right?

10 A. No. I had a --

11 Q. I mean, you just drove away. You flashed your
12 lights and you drove away.

13 A. Yeah, I parted at the red light.

14 Q. You do know how much gas you put in --

15 A. Right.

16 Q. -- and how much money she had on her?

17 A. No.

18 Q. Didn't -- Didn't show you that she had no money.
19 She --

20 A. No.

21 MR. FILIBERTO:

22 Uh -- And -- uh -- okay.

23 I have nothing further. Thank
24 you, sir.

25 THE COURT:

TESTIMONY OF JEFF JAMES

546

1 Mr. Joye redirect?

2 REDIRECT EXAMINATION BY MR. JOYE:

3 Q. The part about being called down there to be robbed,
4 that was just speculation at a later time?

5 A. Yes.

6 Q. Uh -- Again, you never heard anything about a
7 robbery?

8 A. No.

9 Q. And what if anything was unusual about that night
10 other than those people who come in with Crystal?

11 A. That was the very unusual part. That was it.

12 Q. What if anything was unusual about Crystal's
13 behavior that night?

14 A. Nothing, really. She didn't act any different.

15 I mean -- I mean, it was -- it was
16 a different situation, you know.

17 We were broke-up trying to rehash
18 things out. But other than that; no.

19 MR. JOYE:

20 Thank you, Mr. James.

21 You -- I assume -- Solicitor --
22 Mr. James is free to leave?

23 MR. FILIBERTO:

24 Nothing further. And you can
25 certainly release him from subpoena.

1 THE COURT:

2 Thank you, Mr. James.

3 You can step down, and you can be
4 excused. Thank you for coming.

5 MR. JOYE:

6 Thank you, Mr. James.

7 WITNESS:

8 Okay.

9 MR. FILIBERTO:

10 Defense calls Jack Baker.

11 THE COURT:

12 All right, sir?

13 MR. JOYE:

14 He's going to get him, Your Honor.

15 THE COURT:

16 Got you.

17 MR. JOYE:

18 Mr. Court Reporter, Jack Baker.

19 THE COURT:

20 Come forward, Mr. Baker, and be
21 sworn.

22 WHEREUPON: JACK BAKER WAS DULY

23 AFFIRMED AND TESTIFIED UNDER OATH AS FOLLOWS:

24 CLERK:

25 Thank you. Please be seated.

TESTIMONY OF JACK BAKER

548

1 Please speak into the microphone. State your full name;
2 and spell your last name.

3 WITNESS:

4 Full name is Jack Baker.

5 CLERK:

6 Okay. And if you will spell your
7 last name?

8 WITNESS:

9 B-a-k-e-r.

10 DIRECT EXAMINATION BY MR. JOYE:

11 Q. Good afternoon, Mr. Bakker. Hold on a second. I
12 want to get something.

13 Mr. Baker, I appreciate your being
14 here today, sir.

15 A. (Nods in the affirmative.)

16 Q. Uh -- Where you live?

17 A. [REDACTED] South, Gallivants Ferry.

18 Q. And therefore aside from the partly called me she's

19 A. Okay. And how far is that from -- uh -- from the
20 bar they call Easy's?

21 A. Uh -- About 6 mile.

22 Q. And you know Ms. Crystal Turner?

23 A. I do.

24 Q. How do you know her, sir?

25 A. I met her about seven years ago. I don't remember

1 just where I met her. But I -- I met her about seven
2 years ago. And I've known her ever since then

3 Q. Okay. How often -- How often did you -- did you
4 see her? Or how often do you see her now?

5 A. Uh -- Used to see her probably a couple times a
6 week.

7 I --

8 Q. And where would you see her?

9 A. I very seldom see her now.

10 Q. Where would --

11 A. Uh -- Most times when I'd see her, she was either up
12 town here fixing to go to work, or she was at the Aynor
13 bar.

14 Q. When she was up town fixing to go to work --

15 A. Uh-huh.

16 Q. -- up town, where, sir?

17 A. She was working up here at -- uh -- 911 office.

18 Q. Okay, sir. And -- uh -- did you -- Back in 2008,
19 did you used to frequent ease -- Easy's?

20 A. Yes sir.

21 Q. You still go up there?

22 A. No sir.

23 Q. You don't?

24 A. (Nods in the negative.)

25 Q. Uh -- Would do you do? What -- What do you do now?

TESTIMONY OF JACK BAKER

550

1 A. I'm retired.

2 Q. Okay. Retired from what?

3 A. I was a low-boy driver with a construction company.

4 Q. Okay. And do you still work a little bit part-
5 time?

6 A. If I get a chance to make some cash, yes sir.

7 Q. When did you -- Did you do any other work after you
8 -- uh -- after working at the -- uh -- as a truck driver?

9 A. I worked part-time some with Excalibur Security --
10 uh -- down at Myrtle Beach doing security work; but that
11 was just part-time.

12 Q. Uh -- Can you drink?

13 A. No sir.

14 Q. Explain Jack-in-Coke for the jury?

15 A. I get a glass of coke, stick my finger in it; and I
16 got Jack-in-coke.

17 (Chuckles are heard in the
18 courtroom.)

19 DIRECT EXAMINATION BY MR. JOYE CONTINUED:

20 Q. And you -- uh -- When Crystal come in the bar, what
21 would she do?

22 A. She'd always come up to me and speak to and hug my
23 neck.

24 Q. Sit around with you?

25 A. Sit around with me and talk with me. We'd dance

1 together -- different -- different things, just
2 socialize.

3 Q. Tell about Crystal at Easy's? How did people --
4 How did people feel about her up there, or --

5 A. She always --

6 MR. FILIBERTO:

7 Objection, calls for speculation,
8 Your Honor.

9 THE COURT:

10 I'll sustain that objection.

11 DIRECT EXAMINATION BY MR. JOYE CONTINUED:

12 Q. How did she act towards people up there at Easy's?

13 A. She was always --

14 MR. FILIBERTO:

15 Same objection, Your Honor.

16 THE COURT:

17 No sir. That's how she acted
18 towards people. That's okay, if he can talk of -- of his
19 personal knowledge related to her.

20 Go ahead.

21 DIRECT EXAMINATION BY MR. JOYE CONTINUED:

22 Q. How did she act towards people up there?

23 A. I always seen her conduct herself as a lady. And
24 she tried to be friends with everybody she front up with.

25 I didn't -- don't know that she

1 knew a stranger.

2 Q. Okay. Uh -- Were you there on the night Mr. Rabon
3 was killed?

4 A. I was.

5 Q. Did you see Crystal that night?

6 A. I did.

7 Q. What if anything was unusual about her behavior or
8 anything else?

9 A. Nothing whatsoever that I remember.

10 Q. Now the people she was with, other than Mr. James --
11 You know Mr. James, don't you, sir?

12 A. I do.

13 Q. Other than the people -- Mr. James -- the people she
14 was with, had you seen them before?

15 A. No sir.

16 Q. Now with respect to how they appeared that night,
17 did they fit in at the Aynor bar?

18 A. No sir.

19 Q. Why didn't they fit in?

20 A. Well, I hate to talk bad about anybody, but to me
21 they appeared to be a bunch of crack addicts or hoodlums.

22 Q. And you --

23 A. But that was my opinion.

24 Q. Okay.

25 (Chuckles were heard in the

1 courtroom.)

2 DIRECT EXAMINATION BY MR. JOYE CONTINUED:

3 Q. And would that be -- Anything in particular that
4 made you think that?

5 A. Their appearance; the way they acted. They couldn't
6 be still.

7 Q. Anything at all unusual about how Crystal acted that
8 night?

9 A. No sir.

10 MR. JOYE:

11 Mr. Baker, if you would, answer
12 any questions Mr. Filiberto has for you.

13 WITNESS:

14 All right.

15 THE COURT:

16 Mr. Filiberto?

17 MR. FILIBERTO:

18 Thank you, Judge. Uh -- Just --
19 Just real briefly.

20 CROSS-EXAMINATION BY MR. FILIBERTO:

21 Q. What time do you remember you got to the bar that
22 not?

23 A. I don't remember exactly. I was coming from
24 Florence.

25 I'd been over to the hospital and

1 was coming back. And I had stopped by to see Ralph and
2 his wife.

3 Q. And how long -- excuse me. Do you remember how
4 long you were there?

5 A. 45 minutes.

6 Q. 45 minutes?

7 A. Yes sir.

8 Q. Okay. Did you talk to the Defendant Crystal
9 Turner?

10 A. I did.

11 Q. What did you talk about?

12 A. Well, she came in after I had went in the door, and
13 fussed at me a little bit because I didn't hear when she
14 hollered at me when I went in the door.

15 She was telling me:

16 "Hey."

17 And I didn't hear her.

18 And she come up and fussed at me a
19 little bit and hugged me.

20 And I apologized for not hearing
21 her, 'cause sometimes I can't hear good.

22 And they -- uh -- And then she
23 went on. And her and Jeff were -- were sitting over
24 there at the table.

25 And I stood there at the DJ's

1 table talking to him. And --

2 Q. Did you -- okay.

3 A. -- that's where I stayed the whole time I was there.

4 Q. So you didn't go over and sit at the table with
5 Crystal, did you?

6 A. No sir.

7 Q. Did not involve yourself in any of those
8 conversations?

9 A. No sir.

10 MR. FILIBERTO:

11 Nothing further. Thank you.

12 MR. JOYE:

13 Mr. --

14 THE COURT:

15 Redirect?

16 MR. JOYE:

17 Mr. Baker, thank you so much for
18 being here today. And Solicitor, I assume he can be
19 released?

20 MR. FILIBERTO:

21 Yes.

22 MR. JOYE:

23 Thank you, sir.

24 THE COURT:

25 Mr. Baker, you can step down.

TESTIMONY OF JAMES RICKY NOBLES

556

1 Thank you for coming, sir.

2 WITNESS:

3 Do I need to come back Thursday?

4 THE COURT:

5 No sir.

6 MR. JOYE:

7 No sir. No sir.

8 THE COURT:

9 No sir.

10 WITNESS:

11 Okay. Thank you, then.

12 MR. JOYE:

13 Ricky Nobles.

14 Mr. Court Reporter, Ricky Nobles.

15 Good morning, Mr. Nobles.

16 THE COURT:

17 Mr. Nobles, come forward, please.

18 MR. JOYE:

19 Your Honor, Defense calls Ricky

20 Nobles.

21 WHEREUPON: JAMES RICKY NOBLES WAS

22 DULY SWORN AND TESTIFIED UNDER OATH AS FOLLOWS:

23 CLERK:

24 Please be seated.

25 COURT REPORTER:

1 Hold up a minute. I've got a
2 little computer glitch here.

3 (WHEREUPON: The court reporter
4 proceeded to change out his file.)

5 COURT REPORTER:

6 All right.

7 THE COURT:

8 You got it? Good, thank you.

9 CLERK:

10 If you would please state your
11 full name; and spell your last name?

12 WITNESS:

13 James Richard Nobles; N-o-b-l-e-s.

14 DIRECT EXAMINATION BY MR. JOYE:

15 Q. Good afternoon, Mr. Noble.

16 A. 'Afternoon.

17 Q. Uh -- Where you live?

18 A. Uh -- [REDACTED], Gallivants Ferry, South
19 Carolina.

20 Q. How long have you lived there?

21 A. Since -- uh --

22 Q. How long have you lived in Horry County?

23 A. All my life -- 50 years.

24 Q. And -- uh -- Mr. Nobles, what do you do?

25 A. I run a bar and grill in Aynor.

TESTIMONY OF JAMES RICKY NOBLES

558

1 Q. And what's the name of that bar and grill in Aynor?

2 A. Easy's.

3 Q. And how long have you owned the bar and grill in
4 Aynor?

5 A. Four or five years. I don't know exactly.

6 Q. And did you own it back on August 13th, 2008?

7 A. Yes sir.

8 Q. Do you know Crystal Turner?

9 A. Uh -- From coming out there, yes sir.

10 Q. Uh -- How long you known Crystal Turner?

11 A. Ever since she was coming out there. I don't
12 remember exactly.

13 Q. You got any estimate of how -- how much -- uh -- how
14 long you had known her on August 13th of --

15 A. I -- Maybe a year or so, I guess. Since she's been
16 coming out there. I don't remember exactly.

17 Q. Okay. You're going to have to speak up a little
18 bit.

19 A. Okay.

20 Q. It's a little bit hard for these folks to hear --

21 A. I'm a little nervous, too.

22 Q. Okay. Uh -- And what was your impression of
23 Crystal Turner?

24 A. She seemed about nice girl. I mean, I never seen
25 anything of the way out of her at all.

1 Q. She ever cause you any problems before?

2 A. No sir. No sir.

3 Q. She ever apply for a job out there?

4 A. Uh -- She spoke to me about a job.

5 Q. Prior to August 13th, 2008, were you considering
6 hiring her --

7 A. Yes sir.

8 Q. -- for a job?

9 A. Yes sir, I did.

10 Q. Had you talked about that, that you -- you might
11 hire her?

12 A. Yes sir.

13 Q. And -- uh -- can you tell how Crystal acted when she
14 was at the bar.

15 A. Always carried herself in a pretty professional
16 manner. I never seen anything out of the way. Uh --
17 Seemed to be a nice enough girl. I mean, I seen nothing
18 out of the way.

19 Q. From your observation --

20 COURT REPORTER:

21 I'm sorry. I didn't get that
22 last --

23 WITNESS:

24 I seen nothing out of the way.

25 DIRECT EXAMINATION BY MR. JOYE CONTINUED:

TESTIMONY OF JAMES RICKY NOBLES

560

1 Q. From -- From your observations -- uh -- how was
2 Crystal Turner with the rest of the patrons in the bar?

3 A. Seemed to get along fine.

4 Q. Uh -- And did you -- uh -- Were you over there on
5 Wednesday nights?

6 A. I stopped in only for a few minutes. I'd been out
7 of town.

8 Q. No, not this particular Wednesday night, but
9 generally on Wednesday night?

10 A. Uh -- Yeah, sometimes.

11 Q. And what if anything would Crystal Turner do on
12 Wednesday -- What was significant about Wednesday night
13 at Easy's Bar?

14 A. Well, we used to have karaoke.

15 Q. What kind of crowd would you have for the karaoke
16 night?

17 A. Pretty good crowd.

18 Q. And how about Crystal? Uh -- When would she
19 generally come?

20 A. Uh -- She'd come on Wednesdays and on the weekends
21 sometimes.

22 Q. And what would she do when she came on Wednesdays?

23 A. Uh -- She -- She carried herself in a pretty
24 professional manner. I mean, never out of the way.

25 She would sing karaoke a little

1 bit and I never seen anything bad.

2 Q. You know Mr. Jeff James?

3 A. Yes sir.

4 Q. Would she occasionally be out there with Mr. Jeff
5 James?

6 A. Yes sir, they would sit together.

7 Q. And -- uh -- as far as the people in Easy's Bar,
8 Crystal Turner would be a regular, wouldn't she?

9 A. I would say so, yes.

10 Q. Generally, most of the regulars would know each
11 other?

12 MR. FILIBERTO:

13 Objection to the leading form of
14 the questions, Your Honor.

15 THE COURT:

16 I'll sustain the objection.

17 WITNESS:

18 I mean, I guess. I don't know.

19 DIRECT EXAMINATION BY MR. JOYE CONTINUED:

20 Q. Uh -- You know, there used to be a TV show, Cheers.

21 Is that the kind of bar this is?

22 A. It's a pretty laid-back place; yes sir.

23 Q. Now, were you there on August -- the night of -- uh
24 -- August 13th, 2008?

25 A. No sir. I just stopped in. I'd been out of town

TESTIMONY OF JAMES RICKY NOBLES

562

1 in a meeting.

2 Q. Who was there that night?

3 A. Uh --

4 Q. I mean, as far as what -- what's running bar?

5 A. I mean, I would have to guess. I mean, I -- I
6 don't -- I couldn't tell you that I remember exactly who
7 was there.

8 I mean, I think my wife was
9 working.

10 Q. And her name is?

11 A. Renee -- Renee Nobles.

12 Q. You don't really have any independent recollection
13 of that night as far as Crystal --

14 A. No sir.

15 MR. JOYE:

16 Thank you, sir.

17 WITNESS:

18 Yes sir.

19 Nothing further. Answer any
20 questions Mr. Filiberto may have.

21 THE COURT:

22 Mr. Filiberto, any questions?

23 MR. FILIBERTO:

24 Nothing sir.

25 THE COURT:

1 Thank you.

2 Mr. Nobles, you any kin to Raymond

3 Nobles?

4 WITNESS:

5 Yes sir.

6 THE COURT:

7 I can tell.

8 (Witness laughs.)

9 THE COURT:

10 He's right down the hallway. We
11 might want to ask him some questions if I can get him up
12 here.

13 You want me to get him in here?

14 WITNESS:

15 No sir.

16 (Laughter erupts in the
17 courtroom.)

18 THE COURT:

19 Thank you, Mr. Nobles. You're
20 excused.

21 WITNESS:

22 Thank you.

23 MR. JOYE:

24 Thank you, Mr. Nobles.

25 Defense calls Renee Nobles.

TESTIMONY OF RENEE NOBLES

564

1 Renee Nobles.

2 WHEREUPON: RENEE NOBLES WAS DULY
3 SWORN AND TESTIFIED UNDER OATH AS FOLLOWS:

4 CLERK:

5 Please be seated. Okay. If
6 you'll scoot up. Speak into the microphone. Please
7 state your full name; and spell your last name.

8 WITNESS:

9 Renee Nobles; N-o-b-l-e-s.

10 DIRECT EXAMINATION BY MR. JOYE:

11 Q. Good afternoon, Ms. Nobles. Uh -- Thank you for
12 being here.

13 Uh -- Where you live?

14 A. Uh --

15 Q. I don't need your address, but where generally do
16 you live?

17 A. Aynor.

18 Q. Aynor? And who's your husband?

19 A. Ricky Nobles.

20 Q. That would be Mr. Nobles who just left here?

21 A. Yes sir.

22 Q. And Ms. Nobles -- uh -- what do you and Mr. Nobles
23 do?

24 A. Uh -- I'm a cosmetologist, and husband my husband
25 has Easy's Bar and Grill in Aynor.

1 Q. And who helps him at Easy's Bar and Grill in Aynor?

2 A. Uh -- Eddie Bains, Vernon Johnson, Elson Graham.

3 Q. Isn't there somebody else that helps him too?

4 A. I don't anymore. I haven't worked there in over
5 two years.

6 Q. Okay. Didn't there used to be somebody that --

7 A. Me.

8 Q. Okay. And do you know Crystal Turner?

9 A. Yes sir.

10 Q. How do you know Crystal Turner?

11 A. Uh -- From her -- uh -- going out to the -- the bar
12 and grill.

13 Q. Okay. And how -- how long before August 13th,
14 2008, did you know Crystal Turner?

15 How long has she been coming in
16 the bar?

17 A. Occasionally, on Wednesday nights most of the time.
18 It was like every Wednesday night for karaoke.

19 Q. And what she do when she was there on Wednesday
20 night?

21 A. She sang and drank.

22 Q. Uh -- With if any problems did Crystal Turner ever
23 cause at Easy's.

24 A. None to my knowledge.

25 Q. Uh -- At one point, you and your husband had

1 discussed hiring Crystal, hadn't you?

2 A. My husband did; yes sir.

3 Q. Uh -- How was she with the rest of your patrons from
4 what you observed?

5 A. I really didn't see her interact with a lot of
6 customers.

7 It was basically whoever she came
8 with.

9 Q. Okay. What would you be doing when you were there
10 at the --

11 A. Bartending, cooking, just whatever needed to be
12 done.

13 Q. You had your hands full?

14 A. Yes sir.

15 Q. Now on the night of August 13th, 2008, who was
16 running the bar?

17 A. I was.

18 Q. And did you have an occasion -- uh -- to see Crystal
19 that night?

20 A. Yes sir.

21 Q. And where did you see Crystal that night.

22 A. As in where she was sitting?

23 A. Yeah. I mean, did -- any general observation. Who
24 was she with?

25 A. Uh -- She was with -- uh -- Jeff James. Uh --

1 Q. And that was her boyfriend at the time?

2 A. Yes sir.

3 Q. Uh -- Do you know any other people she was with?

4 A. Yes sir.

5 Q. Who was she -- Who --

6 A. Uh -- She came in actually with five other people --
7 or four other people.

8 Q. Do you know those folks?

9 A. No sir.

10 Q. So other than she and Jeff, you really didn't know
11 anybody that she came with?

12 A. No sir. I just seen them walk in together. And
13 the guys and the other girl sat at the table with her.

14 Q. What -- When you say "other girls," did -- was it
15 more than one?

16 A. Yes sir. The blond headed girl, I think which her
17 name is Stacy, she didn't come in till really, really,
18 late.

19 Q. And where did she sit when she came in?

20 A. She came and sat at the bar.

21 Q. Uh -- Did you ever see her at the table with
22 Crystal?

23 A. Not to my knowledge; no sir.

24 Q. What if anything did you observe about Crystal
25 interacting with Stacy at the bar?

1 A. I didn't.

2 Q. As far as you know, she never talked to Stacy at the
3 bar?

4 A. Not to my knowledge.

5 Q. Uh -- And let me ask you:

6 Do you sell cigarettes at the bar?

7 A. Yes sir.

8 Q. What kind of cigarettes?

9 A. Uh -- Marlboro, Marlboro Light, Salem --

10 Q. You sell Newports?

11 A. No sir.

12 Q. Uh -- So if someone wanted Newports, where would
13 they have to go?

14 A. Probably to a convenience store.

15 Q. And how much do you charge for cigarettes there?

16 A. Six dollars.

17 Q. Six dollars?

18 A. (Nods in the affirmative.)

19 Q. Okay. Uh -- What if anything -- How was Crystal
20 acting that particular night?

21 A. Well, like I said, she was at a distance. I
22 couldn't really observe her.

23 Q. As far as you know, nothing unusual?

24 A. Not to my knowledge; no sir.

25 Q. Excuse me one second, ma'am. The blonde at the bar

1 and the other girls that arrived with Crystal -- uh --
2 did you ever see them speaking with -- uh -- the victim,
3 Ronald Rabon?

4 A. Yes sir.

5 Q. Where were they?

6 A. They were sitting at -- at the bar.

7 Q. And the girl with -- that you said was Stacy -- the
8 other girl --

9 A. Paige.

10 Q. Paige? Did she order any drinks?

11 A. Yes sir. I think Malibu and Pineapple.

12 Q. As far as you know, she drank them?

13 A. Uh-huh.

14 Q. Uh -- Did -- Who was buying their drinks?

15 A. They bought the first ones.

16 Q. Who bought the next ones?

17 A. Ronald did.

18 Q. Uh -- And did you ever see Ronald leave the bar?

19 A. Yes sir.

20 Q. With whom?

21 A. With Stacy and Paige.

22 Q. Did you see Crystal leave the bar with them?

23 A. No sir.

24 MR. JOYE:

25 Ma'am, if you would, please answer

TESTIMONY OF RENEE NOBLES

570

1 any questions Mr. Filiberto might have for you.

2 THE COURT:

3 Mr. Filiberto, cross-examine?

4 MR. FILIBERTO:

5 Thank you, Your Honor.

6 CROSS-EXAMINATION BY MR. FILIBERTO:

7 Q. Ms. Nobles, I don't have but a few questions.

8 The night back on August 13th in
9 2008, that -- uh -- that -- uh -- the blonde-haired girl,
10 that you referred to as Stacy, left the bar, how many
11 people were in the bar that night?

12 A. Uh -- Besides them, I'd probably say maybe eight --

13 Q. A good group?

14 A. -- total.

15 Q. As bartender --

16 A. It was at closing time.

17 Q. As bartender, you were busy?

18 A. (Nods in the affirmative.)

19 Q. Serving drinks for a lot of people?

20 A. (Nods in the affirmative.)

21 Q. Was your attention on Crystal Turner the whole
22 night?

23 A. No sir.

24 Q. Well, you said that you didn't notice that she came
25 over to the bar. But is it possible she came over to the

1 bar?

2 A. Yes sir.

3 Q. And you never ventured out behind the bar over to
4 the table where Crystal was at?

5 A. No sir.

6 Q. So you weren't part of any of those conversations?
7 Is that right?

8 A. No sir.

9 MR. FILIBERTO:

10 Nothing further.

11 THE COURT:

12 Redirect?

13 MR. JOYE:

14 Your Honor, just give me one
15 second, please.

16 THE COURT:

17 Okay.

18 MR. JOYE:

19 Uh -- We'd call -- uh -- Josh --

20 THE COURT:

21 Can -- Can we let Ms. Nobles go
22 first?

23 MR. JOYE:

24 Sir?

25 THE COURT:

TESTIMONY OF RENEE NOBLES

572

1 Can we turn Ms. Nobles loose?

2 MR. JOYE:

3 I'm sorry. I apologize for that.

4 THE COURT:

5 Okay.

6 MR. JOYE:

7 Ms. Nobles, I'm sorry.

8 THE COURT:

9 Thank you, Ms. Nobles.

10 MR. JOYE:

11 You're --

12 WITNESS:

13 Thank you.

14 MR. JOYE:

15 You're -- You're free to leave,

16 ma'am.

17 THE COURT:

18 Thank you.

19 MR. JOYE:

20 I'm --

21 THE COURT:

22 I appreciate your thinking ahead,

23 though (chuckles).

24 MR. JOYE:

25 I'm thinking one -- one step --

1 thank you, ma'am. I'm thinking one step too far ahead,
2 Judge.

3 THE COURT:

4 That's all right. That's better
5 than getting behind.

6 MR. JOYE:

7 Josh, come on forward.

8 THE COURT:

9 Come forward please, sir, and be
10 sworn.

11 MR. JOYE:

12 Mr. Court Reporter, Josh Sloan.

13 WHEREUPON: JOSH SLOAN WAS DULY

14 SWORN AND TESTIFIED UNDER OATH AS FOLLOWS:

15 CLERK:

16 Thank you. Please be seated.

17 Okay. If you'll scoot up and speak into the microphone.

18 State your full name; and spell your last name.

19 WITNESS:

20 Joshua Stephan Sloan; S-l-o-a-n.

21 DIRECT EXAMINATION BY MR. JOYE:

22 Q. Mr. Sloan, good afternoon, sir. How are you?

23 A. Good.

24 Q. Where are you from, sir?

25 A. UCLA.

1 Q. Explain that to the folks that might be here from
2 the other side of the world today.

3 A. Upper Conway Lower Aynor.

4 Q. Generally Gallivants Ferry, Aynor?

5 A. Yes sir.

6 Q. Uh -- And -- uh -- how long have you lived there?

7 A. 26 years.

8 Q. Where did you live the rest of the time?

9 A. Canada.

10 Q. Okay. What do you do, sir?

11 A. I own a tax firm.

12 Q. Okay. And where is that?

13 A. Aynor.

14 Q. Okay. And do you know Crystal Turner?

15 A. Not very well.

16 Q. When you probably -- When did you probably first
17 meet her?

18 A. I probably met her through Jeff James, maybe two or
19 three times.

20 Q. Uh -- Would that have been prior to August 13th,
21 2008?

22 A. Yes.

23 Q. Okay. Were you at -- Do you sometimes go to the
24 bar called Easy's?

25 A. Often.

1 Q. Uh -- Sing karaoke?

2 A. No sir.

3 Q. Were you there the evening of August 13th, 2008?

4 A. Yes.

5 Q. And what if anything do you -- Do you remember
6 seeing Crystal Turner and Jeff James that night?

7 A. Yes.

8 Q. And where were they?

9 A. They were near the projector screen.

10 Q. Near the projector screen?

11 A. (Nods in the affirmative.)

12 Q. Excuse me. I show you State's Exhibit Number 11.
13 Does that look familiar to you?

14 A. Yes sir.

15 Q. And what is that?

16 A. That's a picture of the bar.

17 Q. Okay. And can you come down here a second, sir?

18 A. (Witness does as instructed.)

19 Q. Now, I'm going to put you right in front of this
20 microphone where you can make sure that everybody hears
21 you and the court reporter can hear you.

22 Come on right here, sir.

23 A. (Witness does as instructed.)

24 Q. All right. Where were you that night?

25 A. I would've been around this corner.

TESTIMONY OF JOSH SLOAN

576

1 Q. Okay. This shows -- I'm sorry -- so everybody can
2 see -- back over here?

3 A. Yes sir, on the bar side (indicating).

4 Q. Okay. Where were Jeff and Crystal?

5 A. This table right here (indicating).

6 Q. And who was at that table with them?

7 A. (Trails off to inaudible).

8 COURT REPORTER:

9 You're getting him way away from
10 the mic.

11 THE COURT:

12 Yeah.

13 MR. JOYE:

14 I'm sorry. I'm sorry.

15 I'm trying to get it where
16 everybody can see.

17 Thank you, ma'am.

18 DIRECT EXAMINATION BY MR. JOYE CONTINUED:

19 Q. Now, do you know where -- where exactly they were?

20 A. Right --

21 Q. Which table?

22 A. This table.

23 Q. And where -- where is that table located?

24 A. (No response.)

25 Q. Relative to the speakers, where was that table?

1 A. Speakers?

2 A. Yeah. When -- When they would have -- When they
3 would have Karaoke Night --

4 A. The speakers would be right here.

5 Q. Okay.

6 A. On this side of the bathroom -- chalkboard.

7 COURT REPORTER:

8 This side of that what, sir?

9 MR. JOYE:

10 Chalkboard.

11 DIRECT EXAMINATION BY MR. JOYE CONTINUED:

12 Q. And have you have a set up over there?

13 A. I have.

14 Q. What --

15 A. Not often, though.

16 Q. What kind of noise would there be? How would you
17 characterize the noise there on Karaoke Night when your
18 under the speakers?

19 A. It's probably pretty loud. Uh -- It depends on what
20 song is on.

21 Q. Okay. And do you -- Thank you, sir. You can
22 retake the stand.

23 A. (Witness does as instructed.)

24 Q. And do you remember when you first saw Crystal and
25 Jeff that night?

TESTIMONY OF JOSH SLOAN

578

1 A. Not particularly, no.

2 Q. Uh -- Do you remember seeing them that night?

3 A. I do.

4 Q. What if anything was unusual about who was sitting
5 with them?

6 A. They -- The rest of the crowd that was sitting with
7 them, I don't think they've ever been to the bar before.

8 Q. Uh -- How would you character --

9 A. They were -- They were not locals.

10 Q. Okay. And how would you characterize how they were
11 dressed or --

12 A. Uh --

13 Q. What -- Was there anything unusual about them, other
14 than not locals?

15 A. They were kind of antisocial.

16 Q. Okay.

17 A. They kept to themselves.

18 Q. How about Crystal and Jeff? How -- What can --
19 What can you tell us about their inaction with -- with
20 them?

21 A. I just -- They talked -- They talked alone.

22 Q. Who talked alone?

23 A. Crystal and Jeff.

24 Q. Uh --

25 A. I mean, they were there -- they were together when

1 the rest of the crowd wasn't there.

2 Q. Okay. Crystal and Jeff were there? What -- What
3 about the -- the other three?

4 What were they doing?

5 A. I -- I guess they were just sitting there. They --
6 Some of them were standing up at the corner near where
7 the kitchen is for awhile, which was right behind the
8 table I just showed.

9 Uh -- Can you be more specific?

10 I mean --

11 Q. Okay. That's fine. Uh -- Pardon me -- Pardon me
12 one second, sir.

13 A. Okay.

14 Q. Uh -- What if anything did you notice about -- uh --
15 did -- if anything was unusual about Crystal or Jeff's
16 behavior that night?

17 A. Nothing.

18 Q. Everything appear to be normal?

19 A. Yes sir.

20 Q. Now -- uh -- you said that they were antisocial.
21 How would that relate to Crystal and Jeff?

22 A. What you mean?

23 Q. Well, you said that they were antisocial. Did
24 anything --

25 A. They -- They kept to -- The rest of that crowd kept

1 in that section of the bar.

2 I know Jeff came over there and
3 talked to us a couple times.

4 Q. Okay. What did you notice about Crystal and Jeff's
5 interaction with those guys?

6 A. Not much. I mean, they sat with them for a little
7 while, though -- was all I noticed.

8 MR. JOYE:

9 Thank you, sir. Answer any
10 questions Mr. Filiberto might have.

11 THE COURT:

12 Mr. Filiberto?

13 CROSS-EXAMINATION BY MR. FILIBERTO:

14 Q. Where you ever sitting over with Crystal Turner and
15 Jeff James and the rest that group?

16 A. No.

17 Q. There were times that they were all sitting together
18 and some times that they came apart, and some of them got
19 up and moved around.

20 Is that right?

21 A. Yes.

22 Q. You have no idea what was -- what was going on over
23 there between them?

24 A. No sir.

25 Q. And you -- you're a regular at that bar?

1 A. Yes sir.

2 Q. And you say these guys were not regulars, or -- or
3 maybe the first time that they were there?

4 A. Yes sir.

5 Q. From out of town?

6 A. Uh --

7 Q. Or not from out of town, but -- uh -- but just not
8 -- not ever been there before?

9 A. (Nods in the affirmative.)

10 Q. Is that the first time anybody that hasn't been
11 there before who's ever not there?

12 A. (No response.)

13 Q. I mean, did -- did anybody ever come in that bar
14 before that you never saw there?

15 A. Sure.

16 Q. Okay. So not the first people to come in and --

17 A. Yes sir.

18 Q. Even though you're -- It sounds like you're a pretty
19 good regular there?

20 A. Yes sir.

21 Q. You probably get to meet a lot of the local folks?

22 A. Uh -- Ricky's my uncle now.

23 Q. Okay. So, the owner of the bar is your uncle?

24 A. (Nods in the affirmative.)

25 MR. FILIBERTO:

TESTIMONY OF JOSH SLOAN

582

1 Nothing further. Thank you.

2 THE COURT:

3 Mr. Joye?

4 MR. JOYE:

5 Thank you, sir. You may be
6 excused.

7 THE COURT:

8 You can step down, Mr. Sloan. You
9 can be excused. Thank you for coming.

10 MR. JOYE:

11 Your Honor, may we approach?

12 THE COURT:

13 Sure.

14 (WHEREUPON: Counsel for each party
15 conferred off the record with The Court at the bench at
16 1:42 PM, September 15, 2010.)

17 THE COURT:

18 Ladies and gentlemen, we don't
19 have any other witnesses available this afternoon.

20 We'll have -- uh -- a few
21 witnesses in the morning; not many left. And we will be
22 able to finish this trial tomorrow.

23 Uh -- And so -- uh -- that eases
24 my guilt somewhat at having to call the afternoon off
25 because of my commitment and my earlier conflict in this

1 case.

2 I appreciate, once again, you
3 all's cooperation and your patience as we have sort of
4 chopped up your day -- uh -- and your week as a matter of
5 fact.

6 But -- uh -- But we have every
7 belief that -- uh -- we'll be able to conclude this trial
8 tomorrow.

9 I'm going to send you home now for
10 the balance of the day; and ask that you be back in the
11 juryroom tomorrow morning at 9:30.

12 We'll bring you out at 9:30 to
13 begin -- uh -- what should be the final day of testimony
14 and trial in this particular case.

15 Please don't discuss this case
16 with anybody or among yourselves, or expose yourself to
17 any information about this case from any source at all.

18 Thank you, folks.

19 (WHEREUPON: The jury empanelled
20 in the case withdrew from the courtroom at 1:44 PM,
21 September 15, 2010; and was no longer present during the
22 following proceedings.)

23 THE COURT:

24 Before we break for the day,
25 folks, let me take care of a couple of housekeeping

1 matters.

2 Uh -- First of all, if either of
3 you have any request to charge -- uh -- I'll be glad to
4 accept those this afternoon or first thing in the
5 morning.

6 Uh -- Let me give you the benefit
7 of what I feel at this point in time would be appropriate
8 charges so that you can mull that around and take that
9 into account and decide whether you want to object to any
10 of these or suggest any additional charges.

11 And also -- uh -- Mr. Joye -- uh
12 -- I'll need to inquire of you as to whether or not you
13 wish for me to advise Ms. Turner of her right to testify
14 or not to testify.

15 Uh -- We can do that this
16 afternoon, if that's an appropriate thing, while we've
17 got some time.

18 Uh -- Folks, my general charge on
19 the law includes a reasonable doubt definition from
20 Victor versus Nebraska or State versus Manning.

21 That is the charge they says:

22 Uh -- The reason -- uh -- The --
23 uh -- "firmly convinced" charge, or "real possibility
24 that one is not guilty" charge.

25 That's the -- uh -- There are

1 other definitions of course of reasonable doubt. And you
2 all are -- are -- are free to argue any of them which are
3 appropriate and have been approved by our Supreme Court.

4 I just did not want you to -- to
5 -- uh -- tell the jury in your closing arguments that the
6 judge is going to be telling you that a reasonable doubt
7 is the type of doubt that would cause a reasonable person
8 to hesitate to act.

9 Because that's not -- that's not
10 what the judge is going to be telling them.

11 Uh -- Depending upon whether or
12 not Ms. Turner testifies of course, I will charge
13 appropriately in that regard.

14 Under credibility of witnesses, I
15 will charge my standard charge on credibility of
16 witnesses, which includes:

17 Whether the witness has a cause or
18 a reason to be biased or prejudiced, or an interest to be
19 served by the testimony of the witness.

20 I will charge the -- uh -- limited
21 purpose evidence of a conviction of a crime by a witness.

22 I will charge a witness who has
23 been guilty to a crime arising out of the same events
24 where it's not to be considered against a Defendant, but
25 only as an issue of credibility.

1 I will charge expert witness
2 testimony.

3 I will charge very briefly the
4 elements of armed robbery and of murder.

5 I will not go into those in any
6 great detail in this -- in this regard, because they have
7 been admitted to by Mr. Skipper.

8 I simply need to advise the jury
9 as to what -- uh -- Ms. Turner is on trial for being an
10 accessory before.

11 And I will charge the -- uh -- law
12 on accessory before the fact.

13 Uh -- I will charge criminal
14 intent.

15 And those are the charges which
16 have occurred to me that I've been putting together
17 during the course of this trial.

18 Uh -- I'll give you all overnight,
19 as I've said, to -- to generate any additional charges or
20 to think of any exceptions to those.

21 Uh -- Mr. -- Mr. Joye, do I need
22 to discuss with Ms. Turner her right to testify or not to
23 testify, or is that not going to be an issue that you
24 need --

25 MR. JOYE:

1 Your Honor, for the record, I
2 always appreciate that -- that -- uh -- that instruction.

3 THE COURT:

4 All right... All right.

5 We'll do it right now, then.

6 Ms. Turner, will you please stand
7 right where you are and raise your right hand and let me
8 put you under oath.

9 WHEREUPON: DEFENDANT TURNER WAS
10 DULY SWORN AND ANSWERED VOIR DIRE UNDER OATH AS FOLLOWS:

11 THE COURT:

12 Ms. Turner, you -- uh -- you may
13 be called to testify as a witness in this particular
14 case.

15 I don't know whether you will or
16 not. That's a decision that you and your attorney will
17 make after you've been fully advised as to what your
18 rights are.

19 I tell you that:

20 Under the Fifth Amendment of our
21 United State's Constitution, no person can be compelled
22 in any criminal proceeding to be a witness against
23 herself.

24 In other words, no one can be
25 compelled to incriminate herself.

1 In other words, you have a right
2 to remain silent.

3 And our South Carolina
4 Constitution has a similar provision.

5 And what that means is that:

6 You have a right to testify.

7 But you also have a right not to
8 testify.

9 If you choose not to testify, as
10 you have a right to do, the jury will be instructed by me
11 that they cannot consider the fact that you did not
12 testify as an element of your guilt or your innocence.

13 They cannot take that into
14 account. They cannot give it any weight whatsoever.

15 But if you choose to exercise your
16 constitutional right that's a factor that cannot and must
17 not be considered by them and they're not allowed even to
18 discuss that matter in the juryroom.

19 On the other hand, if you give up
20 your right to remain silent and give up your right not to
21 testify, then you'll take the stand under oath just like
22 all of these other witnesses have been doing.

23 And you will be asked questions,
24 not only by Mr. Joye, but also by Mr. Filiberto.

25 And you can be cross-examined and

1 impeached on any issue that is relevant in this
2 particular case.

3 Do you understand all that?

4 DEFENDANT TURNER:

5 Yes sir.

6 THE COURT:

7 Do you understand the rights that
8 I've explained to you about your rights to testify and
9 not to testify?

10 DEFENDANT TURNER:

11 Yes sir.

12 THE COURT:

13 Do you have any questions that you
14 want to ask me about those particular rights?

15 DEFENDANT TURNER:

16 No sir.

17 THE COURT:

18 So, can I assume, then, if --if
19 whatever your decision is -- is in this case, whether
20 it's to testify or not to testify, that decision will be
21 done with a full understanding of what your legal rights
22 are?

23 DEFENDANT TURNER:

24 Yes sir.

25 THE COURT:

1 Thank you ma'am.

2 MR. JOYE:

3 Thank Your Honor.

4 THE COURT:

5 All right.

6 Mr. Joye, anything further before
7 we break today from the -- uh -- from the Defense?

8 MR. JOYE:

9 Nothing from me, Your Honor.

10 THE COURT:

11 Thank you.

12 Mr. Filiberto?

13 MR. FILIBERTO:

14 Nothing from the State, Your
15 Honor.

16 THE COURT:

17 All right, folks, 9:30 tomorrow
18 morning. Thank you.

19 (WHEREUPON: The court was
20 declared in recess at 1:50 PM, September 15, 2010.)

21 (WHEREUPON: The court was called
22 to order by the Bailiff at 9:57 AM, September 16, 2010;
23 and all pertinent parties, along with their counsel, were
24 back and present in the courtroom.)

25 DEPUTY:

1 Order in the court. All Rise.

2 THE COURT:

3 Thank you.

4 Thank you ladies and gentlemen.

5 Please be seated. Good morning.

6 Gentleman, I'm advised that one of
7 our jurors, Jurors Number 171 on your list, Ms. Harris,
8 Emlyn Harris, is not yet here.

9 Uh -- She's has had some
10 difficulty in the past in getting here in the mornings
11 and after lunch.

12 We're not sure of what her
13 situation is.

14 I don't know what her work
15 situation it or her family situation is that has
16 occasioned those delays. But nonetheless, she is not
17 here.

18 They have called the numbers that
19 they have had and have received no answer.

20 Uh -- I -- When Mr. James told me
21 the problem a few moments ago, we discussed this.

22 And I said that I would wait until
23 10:00 o'clock before I began without her. But if by 10
24 o'clock, if she's not here -- uh -- my intention is not
25 to delay the trial anymore -- uh -- but to replace her

DISCUSSION REGARDING JUROR

592

1 with one of the two alternates.

2 The two alternates names or
3 numbers will be placed in a -- well, not in a hat.

4 It will be a blind draw between
5 the two of them. And one of them will be used to replace
6 her.

7 Mr. Filiberto, let me hear from
8 you on that regard, and -- uh -- see what the State's --
9 the State's position is.

10 MR. FILIBERTO:

11 I have no objections, Your Honor.

12 I see no reason to delay the
13 trial.

14 MR. JOYE:

15 Your Honor --

16 THE COURT:

17 Uh-huh.

18 MR. JOYE:

19 I see no reason -- If, after our
20 charge conference, she hasn't arrived, then I would --

21 THE COURT:

22 Right.

23 MR. JOYE:

24 I would be okay with that.

25 THE COURT:

1 Right.

2 MR. JOYE:

3 Uh -- I'm really not -- I -- I
4 really like -- like -- uh -- all of my jurors, or all the
5 initial twelve.

6 But I know that The Court's not
7 going to unduly delay it.

8 THE COURT:

9 Yes. We can't --

10 MR. JOYE:

11 But the charge conference should
12 take a few minutes. And --

13 THE COURT:

14 Well, of course, we're not going
15 to do the charge conference until after we have finished
16 all of the evidence and testimony.

17 MR. FILIBERTO:

18 Thank Your Honor.

19 MR. JOYE:

20 Oh, I --

21 MR. FILIBERTO:

22 Thank Your Honor.

23 MR. JOYE:

24 I thought you wanted to do the
25 charge conference this morning?

DISCUSSION REGARDING JUROR

594

1 THE COURT:

2 Well, I -- I wanted you all to
3 submit to me any request of charges --

4 MR. JOYE:

5 Oh, okay.

6 THE COURT:

7 -- that you have this morning --

8 MR. JOYE:

9 Okay. All right.

10 THE COURT:

11 -- so that I could review then.

12 But the charge conference, we'll

13 do that after all of the evidence testimony is in.

14 So I'm -- I'm sorry that I was not
15 clearer on that.

16 MR. JOYE:

17 Okay.

18 THE COURT:

19 And I -- I did say I'd like for
20 you to present your charges to me this morning.

21 You're exactly right.

22 But I meant for you -- uh -- The
23 best time to do the -- uh -- the conference is after all
24 of the evidence and testimony is in, because some of the
25 additional evidence and testimony may suggest another

1 charge, and -- uh -- we'd have to do it all over again.

2 And -- uh -- I -- like you, Mr.

3 Joye, I -- I like all of the jurors. But if -- if

4 they're not here, we -- uh -- there's not much we can do
5 with them.

6 All right.

7 Uh -- Madame Clerk, have you got
8 two pieces of paper you could write down Numbers 235 and
9 363 on?

10 CLERK:

11 Yes sir.

12 You want me to take them and fold
13 them up, Judge?

14 THE COURT:

15 Just take them and fold them up
16 and -- and that's right -- once or twice is enough.

17 You don't have a cigar box or
18 something you can put them in, do you?

19 CLERK:

20 No sir.

21 THE COURT:

22 I think that these will be --

23 COURT REPORTER:

24 I have something, Your Honor.

25 THE COURT:

DISCUSSION REGARDING JUROR

596

1 That's okay. I'll just mix them
2 up right here and --

3 COURT REPORTER:

4 I have a box, Your Honor.

5 MR. JOYE:

6 I've got the swish or squeeze (?
7 phonetic) box over here, Judge.

8 THE COURT:

9 Do you? That's okay.

10 I'll just -- You got one?

11 Okay. We can do this like we
12 used to do jurors.

13 Ladies and gentlemen, this is the
14 way we used to pick all the jurors. You put the names
15 in a box like that and draw them out.

16 Pick one.

17 WHEREUPON: The Clerk reached
18 above her head to the box on the bench and pulls out a
19 folded number.

20 THE COURT:

21 And the winner?

22 CLERK:

23 235.

24 THE COURT:

25 235. Mr. Leonardi will be the

1 principal juror replacing -- uh -- Ms. Harris.

2 All right.

3 Mr. Joye, do you have your -- A
4 while ago, you were making sure your witnesses was here.

5 Do you have a witness?

6 MR. JOYE:

7 Oh, yes sir. I'm all -- I'm --
8 I'm ready to role.

9 THE COURT:

10 Ready to go? All right. Thank
11 you.

12 All right.

13 Uh -- Mr. James, let's make sure
14 that -- uh -- Ms. Harris is not here. And if she's not
15 here, I will bring the other jurors in.

16 And if she should -- uh -- come up
17 at some point in time, if -- uh -- I would like for her
18 to stay here and let me talk with her.

19 Uh -- She will not be in the
20 juryroom, of course; but -- uh -- if we can keep her
21 somewhere.

22 I don't mean to lock her up; but
23 just put her somewhere.

24 I'd just like to know what -- uh
25 -- what -- what the problem is, so that I can address it,

DISCUSSION REGARDING JUROR

598

1 if I need to; all right.

2 DEPUTY:

3 If she's not back here, just bring
4 them on?

5 THE COURT:

6 Yes sir.

7 DEPUTY:

8 All right, Your Honor.

9 THE COURT:

10 Bring out who we've got.

11 (WHEREUPON: The newly modified
12 jury now empanelled in the case was escorted back into
13 the courtroom at 10:03 AM, September 16, 2010; and was in
14 fact present during the following proceedings.)

15 THE COURT:

16 Mr. Leonard?

17 JUROR LEONARDI:

18 Yes sir.

19 THE COURT:

20 I'm going to ask you to come down
21 please and take a seat on this front row.

22 Uh -- One of your members -- uh --
23 is -- is not -- is not arrived yet this morning, as you
24 all know.

25 And -- uh -- we have tried to

1 contact her to -- to see. We hope that she has not
2 experienced any emergency -- uh -- that had delayed her
3 coming.

4 But -- uh -- we don't have any way
5 of -- We've tried to get in touch with her without any
6 success. The deputy has been trying that since some
7 time ago.

8 And so, that's the reason that we
9 have alternates.

10 Uh -- And that's the reason that
11 -- uh -- we've asked Mr. Leonardi and Ms. Strickland to
12 be with us, because in the event that somebody can't be
13 here for whatever reason, the alternates are there to --
14 to take place of that -- uh -- of that absent juror.

15 And so -- uh -- that's what we've
16 done. And that process has been taken care of, and I
17 apologize for the delay.

18 But now we're ready to resume the
19 trial of this case.

20 As you recall, when we left
21 yesterday afternoon, the Defense was offering evidence
22 and testimony.

23 And we'll pick up where we left
24 off yesterday in that regard.

25 Mr. Joye?

TESTIMONY OF DETECTIVE ALAN LARGE

600

1 MR. JOYE:

2 Yeah. Thank Your Honor.

3 Uh -- We'd call Detective Allen
4 Large.

5 THE COURT:

6 Detective Large, come forward
7 please and be sworn.

8 WHEREUPON: DETECTIVE ALAN LARGE

9 WAS DULY SWORN AND TESTIFIED UNDER OATH AS FOLLOWS:

10 CLERK:

11 Thank you. Please be seated.

12 Okay. If you'll please state
13 your full name; and spell your last name?

14 WITNESS:

15 It's Troy Alan Large; L-a-r-g-e.

16 DIRECT EXAMINATION BY MR. JOYE:

17 Q. Detective Large, where do you work?

18 A. Uh -- Horry County Police Department.

19 Q. And what do you do for Horry County Police
20 Department?

21 A. I am -- uh -- assigned to the -- uh -- Investigative
22 Division of the -- uh -- the term is the Violent Crime
23 Section of CID.

24 Q. Uh -- Did you have the occasion to be involved in
25 the investigation of the murder of Ronald Rabon?

1 A. Uh -- Yes sir, I was.

2 Q. Uh -- Did you have the occasion to speak with -- uh
3 -- Did you have the occasion to speak with Crystal Turner
4 during that investigation?

5 A. Yes sir.

6 Q. Do you know approximately when that was?

7 A. Uh -- We were called out in the early morning hours
8 in reference to Mr. Rabon's death.

9 Uh -- Prior to -- uh -- meeting
10 Ms. Turner, we'd been working the investigation since
11 finding Mr. Rabon's body; and had gotten information from
12 a James subject about Ms. Turner.

13 And from the James' residence,
14 which is over in -- uh -- Aynor section of Horry County,
15 we went over to Marion County.

16 So it was sometime in early
17 morning of the -- uh -- initial investigation.

18 Q. Do you have an independent recollection if you
19 talked to her and told her why you were speaking with
20 her?

21 A. Uh -- Yes. I explained to her that -- uh -- we
22 wanted to document -- uh -- her last 24 hours of who she
23 was with, and what she was doing, and where she was at.

24 Q. Did you tell her what you were investigating?

25 A. Uh -- No sir. Told her we were investigating an

TESTIMONY OF DETECTIVE ALAN LARGE

602

1 incident that had happened in Horry County, and that we
2 needed to -- you know -- just find out her -- uh -- time-
3 line of who she was with and -- and what she did in the
4 last day or so.

5 Q. Did you tell what that incident was?

6 A. No sir.

7 MR. FILIBERTO:

8 Thank you, Detective.

9 Answer any questions Mr. Filiberto
10 may have.

11 THE COURT:

12 Mr. Filiberto, you can cross-
13 examine.

14 MR. FILIBERTO:

15 Thank you.

16 CROSS-EXAMINATION BY MR. FILIBERTO:

17 Q. Just -- Just briefly, Detective Large:

18 When you met with Ms. Turner, you
19 told her where you worked?

20 A. Yes sir.

21 Q. Told her what you did?

22 A. Yes sir.

23 Q. And you interviewed her?

24 A. Yes sir.

25 Q. At anytime during that interview, did she ever tell

1 you --

2 MR. JOYE:

3 Objection to anything she said.

4 I -- We didn't go into that. That
5 would be improper cross, Your Honor.

6 The only thing we asked --

7 THE COURT:

8 No sir. Cross-examination is
9 wide open. If it's recross and re-direct, I limit it to
10 the previous testimony.

11 Yes. Thank you.

12 CROSS-EXAMINATION BY MR. FILIBERTO CONTINUED:

13 Q. At any time during that interview, when you there
14 with -- with Ms. Turner, did she ever mention anything
15 about conversations that occurred at the bar about a
16 robbery?

17 A. No sir.

18 Q. Did she ever mentioned Ronald Rabon's name?

19 A. Uh -- I can't recall. Like I said -- uh -- trying
20 to set the foundation of -- of where Mr. Rabon was at,
21 and anybody that had any contact with him.

22 Uh -- There was identification of
23 -- of the people that -- that she saw that she knew to
24 obtain names.

25 And that's what we we're trying to

TESTIMONY OF DETECTIVE ALAN LARGE

604

1 do at the time.

2 So she may have -- uh -- given Mr.
3 Rabon's name along with several other persons that she
4 knew or was with at the bar that evening.

5 So, specifically, I can't remember

6 Q. No question she never mentioned anything about
7 anybody talking about a robbery?

8 A. No. That was never mentioned.

9 MR. FILIBERTO:

10 Nothing further.

11 THE COURT:

12 Thank you.

13 Now, redirect?

14 MR. JOYE:

15 Yes sir.

16 REDIRECT EXAMINATION BY MR. JOYE:

17 Q. Do you have any knowledge whether she knew whether a
18 robbery had occurred?

19 A. No sir.

20 Q. Was she -- She told you exactly who she was with?

21 A. Yes. She provided information of -- uh -- her last
22 24 hours up until when she was with her child and mother
23 at her house.

24 Q. And that led directly to ultimately the five
25 suspects that were arrested in this matter?

1 A. Uh -- It -- uh -- It helped identify -- uh --
2 subjects that were at the -- uh -- establishment during
3 the time Mr. Rabon was there.

4 Q. And she identified who she went with; not evasive?

5 A. No. Uh -- She gave -- uh -- information about
6 driving and -- and -- uh -- who she was with.

7 Q. Straightforward and forthright?

8 A. Ss far as I know at that time; yes sir.

9 MR. JOYE:

10 Thank Your Honor.

11 THE COURT:

12 Thank you. Any follow-up, Mr.

13 Filiberto?

14 MR. FILIBERTO:

15 Just one very quick -- two really
16 quick questions.

17 RECROSS-EXAMINATION BY MR. FILIBERTO:

18 Q. Did she give you information about other people,
19 other than the people who were arrested and charged in
20 this crime?

21 A. Uh -- I mean, she -- she provided a timeline and who
22 she saw.

23 At that point of the
24 investigation, she provided a timeline and all the
25 persons that she knew of by name that were there at the

TESTIMONY OF DETECTIVE ALAN LARGE

606

1 -- uh -- Spirits.

2 I believe it's called the Spirit's
3 Club in Aynor.

4 And her whereabouts from earlier
5 in the day until the time we arrived to interview her.

6 Q. But more than the -- more than the other five people
7 who were arrested?

8 A. Yes. Yes.

9 MR. JOYE:

10 Thank you, Detective Large. No
11 further questions.

12 WITNESS:

13 Thank you.

14 THE COURT:

15 Thank you.

16 Detective, you can step down.

17 WITNESS:

18 Thank you.

19 THE COURT:

20 And you can be excused. Thank
21 you, sir.

22 MR. JOYE:

23 I call Detective John Gonska.

24 THE COURT:

25 Detective Gonska, come forward

1 please, sir, and be sworn.

2 WHEREUPON: JOHN GONSKA WAS DULY
3 SWORN AND TESTIFIED UNDER OATH AS FOLLOWS:

4 CLERK:

5 Thank you. Please be seated.

6 Okay. If you'll just scoot up just a little bit and
7 speak into the microphone. State your full name; and
8 spell your last name.

9 WITNESS:

10 John David Gonska; G-o-n-s-k-a.

11 MR. JOYE:

12 Excuse me one second. Thank you.

13 DIRECT EXAMINATION BY MR. JOYE:

14 Q. Detective Gonska?

15 A. Yes sir.

16 Q. Where do you work, sir?

17 A. The Horry County Police Department.

18 Q. And what do you do, sir?

19 A. I'm a Detective in the Violent Crimes Division.

20 Q. And what if anything was your involvement in the
21 investigation of the robbery and murder of Ronald Rabon?

22 A. I was -- uh -- assisting detective in the case for
23 the lead detective, Detective Troxell.

24 Q. Okay. Were you present when Crystal Turner was
25 initially interviewed?

TESTIMONY OF JOHN GONSKA

608

1 A. Yes sir.

2 Q. And do you remember approximately what time that
3 might've been?

4 A. I believe it was maybe late morning -- uh -- mid
5 afternoon.

6 Q. And Detective Gonska, were you the person asking her
7 the questions?

8 A. No sir.

9 Q. Who was that?

10 A. Detective Large.

11 Q. Okay. Uh -- Let me ask -- show you this and see if
12 you recognize what that is?

13 A. Just this top sheet?

14 Q. Sir?

15 A. Just this top sheet?

16 Q. Yeah. Well, the whole thing. I mean, it's all
17 part of one record.

18 Do you know what that record is?

19 A. It appears to be cell phone records.

20 Q. Of whom?

21 A. Ms. Turner.

22 Q. Okay. And I would ask you to turn your attention --
23 excuse me -- I -- I'm not -- don't have my classes on.
24 I'm going to have to find some real quick.

25 Uh -- Turn your attention to the

1 phone call on August 14th, that first one right there,
2 the three starred phone calls.

3 Can you tell me who that's from,
4 and who that's too; how long and at what times?

5 A. I don't recognize the call-from, but the number two
6 is my cell phone number.

7 Q. How long is it?

8 A. One is for two minutes and 39 seconds.

9 Q. And what time was it?

10 A. Seven forty -- uh -- seven thirty -- 7:39 in the
11 morning on the 15th.

12 Q. Now I'm going to point you right here.

13 A. Okay.

14 Q. And you're sure --

15 A. Okay.

16 Q. Fifteen -- Military time, they --

17 A. It would be 3:46 PM.

18 Q. Okay. 3:46 PM. That was after you had spoken to
19 -- y'all had spoken to Crystal Turner that morning?

20 A. (Hesitates -- No Verbal Response.)

21 Q. You spoke to her in the late morning hours?

22 A. Late morning -- early afternoon is what I said.

23 Q. Okay. And then she called you at --

24 A. 1546.

25 MR. FILIBERTO:

TESTIMONY OF JOHN GONSKA

610

1 Your Honor, I object to the
2 leading form of the question.

3 MR. JOYE:

4 Okay.

5 THE COURT:

6 Well, I think he just -- he's --
7 he's asking for the time, so it's -- it doesn't suggest
8 what time.

9 Uh -- Go ahead.

10 DIRECT EXAMINATION BY MR. JOYE CONTINUED:

11 Q. What time did she call you, sir?

12 A. 1546.

13 Q. Which is what time?

14 A. 3:46 in the afternoon.

15 Q. All right. And the next call to your number?

16 A. 2111 hours.

17 Q. And what time is that it in -- not officer time, but
18 in normal people's time?

19 A. That'd be 9:00 PM.

20 Q. Okay.

21 A. 9:11.

22 Q. The third starred -- Whose that call to?

23 A. To my cell phone number.

24 Q. How long is that call?

25 A. How long? Two minutes and 39 seconds.

1 Q. And when was that? What date was that?

2 A. That was on the 15th.

3 Q. Do you have any independent recollection of those
4 phone calls?

5 A. I do not recall the conversations that took place.

6 Uh -- The conversations were
7 within a couple of minutes of -- whether they were voice
8 mails or actual conversations, I do not recall the
9 conversation.

10 Q. But that appears to be Crystal Turner's phone
11 record?

12 A. Yes sir.

13 MR. JOYE:

14 Detective Gonska, thank you.

15 Answer any questions Mr. -- Mr.

16 Filiberto may have.

17 MR. FILIBERTO:

18 No questions, Your Honor.

19 THE COURT:

20 Thank you.

21 Detective, you can step down and
22 be excused. Thank you, sir.

23 WITNESS:

24 Your Honor, I just for the record
25 want to apologize for my dress attire.

TESTIMONY OF JOHN GONSKA

612

1 Uh -- I was out of state for the
2 last few days and just found out this morning that I was
3 to appear in court --

4 THE COURT:

5 You -- You're find, Detective.
6 Thank you very much.

7 WITNESS:

8 Thank you.

9 THE COURT:

10 I appreciate that, but I
11 understand that some of you folks actually have to work
12 outside of this courtroom.

13 (Laughter erupts in the
14 courtroom.)

15 THE COURT:

16 Thank you.

17 Mr. Joye?

18 MR. JOYE:

19 Your Honor, I have a matter to
20 take up outside the presence of the jury.

21 THE COURT:

22 Ladies and gentlemen, let me send
23 you to your juryroom for just a few moments, please,
24 while I deal with a matter of law outside of your
25 presence.

1 Please do not discuss this case
2 among yourselves while you're in the juryroom.

3 (WHEREUPON: The jury empanelled
4 in the case withdrew from the courtroom at 10:19 AM,
5 September 16, 2010; and was no longer present during the
6 following proceedings.)

7 THE COURT:

8 Mr. Joye?

9 MR. JOYE:

10 Your Honor, now would be a proper
11 time to -- uh -- inquire of Ms. Turner and make sure and
12 make our record as to her -- You've already asked her the
13 questions; but then, to make sure of whether or not she's
14 going to testify.

15 THE COURT:

16 All right.

17 Ms. Turner, I advised you
18 yesterday as to your rights regarding testifying or not
19 testifying.

20 Do you recall those discussions?

21 Do you remember them?

22 DEFENDANT TURNER:

23 Yes sir.

24 THE COURT:

25 All right.

MATTERS OUTSIDE OF JURY

614

1 Have you and Mr. Joye reached a
2 decision as to whether or not you are going to testify in
3 this case?

4 DEFENDANT TURNER:

5 (Hesitates -- No Verbal Response.)

6 THE COURT:

7 Ms. Turner?

8 DEFENDANT TURNER:

9 (Hesitates -- No Verbal Response.)

10 THE COURT:

11 Ma'am?

12 DEFENDANT TURNER:

13 No sir.

14 THE COURT:

15 You have not reached a decision?

16 DEFENDANT TURNER:

17 Yes sir, I have reached a
18 decision.

19 THE COURT:

20 And -- And what is that decision?

21 DEFENDANT TURNER:

22 No sir, I'm not.

23 THE COURT:

24 All right. Thank you.

25 And you've done that, of course,

1 with full understanding of what your rights are in this
2 regard.

3 Is that right?

4 DEFENDANT TURNER:

5 I have.

6 THE COURT:

7 Thank you.

8 Mr. Joye, do you ask me to -- Do I
9 need to make any further inquiry into -- uh -- into her
10 understanding?

11 MR. JOYE:

12 No sir.

13 THE COURT:

14 Thank you.

15 Ms. Turner, you can be seated.

16 Thank you.

17 MR. JOYE:

18 Your Honor -- uh -- when --
19 whenever the jury comes in, the Defense would rest.

20 THE COURT:

21 All right.

22 All right.

23 Uh -- Does the State anticipate
24 any rebuttal at this time?

25 MR. FILIBERTO:

DEFENSE RESTS

616

1 Your Honor, no.

2 THE COURT:

3 Okay. Good.

4 We'll bring them back in very
5 quickly, and they'll go back -- right back out.

6 (WHEREUPON: The jury empanelled
7 in the case was escorted back into the courtroom at 10:23
8 AM, September 16, 2010; and was in fact present during
9 the following proceedings.)

10 THE COURT:

11 Thank you, folks, for your
12 patience once again as we have necessarily sent you out
13 of the courtroom to deal a the matter that we had to take
14 up outside of your presence.

15 As I told you earlier when -- when
16 I was telling you about -- I was whispering at this -- at
17 the bench here, if -- uh -- if you're curious about what
18 happens when you're outside of the courtroom, when your
19 role as jurors in this case is over, if you ask me about
20 it -- and I think I'll probably be able to remember it --
21 I'll tell you.

22 All right. Mr. Joye?

23 MR. JOYE:

24 Your Honor, the Defense rests.

25 THE COURT:

1 Thank you.

2 Mr. Filiberto, is there anything
3 from the State in reply?

4 MR. FILIBERTO:

5 Nothing, sir.

6 THE COURT:

7 Thank you.

8 Now, ladies and gentlemen, that
9 means that you have now heard all of the evidence and
10 testimony that you will hear in the trial of this case.

11 You have yet to hear the final
12 arguments that the lawyers will present to you, and the
13 charge on the law, which will be given after that has
14 been done.

15 Necessarily, once again, I've got
16 to send you out for a few minutes while we make
17 arrangements to put those final pieces in place.

18 And so -- uh -- this will likely
19 be -- uh -- an official morning recess for you all.

20 Because, when you come back out,
21 we will immediately go into the final arguments and then
22 the charge on the law, which I will give you.

23 And then, you will go back in your
24 juryroom to deliberate to reach verdict in this
25 particular case.

1 I remind you, again, that:

2 Even though you have all of the
3 evidence and the testimony, you have not heard the law.

4 And your verdict in this case must
5 rest not upon the evidence alone, but upon the law which
6 I will give you.

7 And so it's still improper for you
8 to discuss any of the matters concerning this case in any
9 way whatsoever.

10 Thank you, ladies and gentlemen.

11 If you'll go to your juryroom,
12 it'll probably take us about 15 or 20 minutes, at least,
13 to get things in place.

14 (WHEREUPON: The jury empanelled
15 in the case withdrew from the courtroom at 10:25 AM,
16 September 16, 2010; and was no longer present during the
17 following proceedings.)

18 THE COURT:

19 Gentlemen, I note the -- uh -- the
20 renewal of any motions -- uh -- previously made; and the
21 renewal of any exceptions.

22 I will likewise renew my earlier
23 rulings in that regard as well.

24 I will, however, be glad to
25 entertain any additional motions, or any additional

1 grounds, at this point.

2 Uh -- Mr. Joye?

3 MR. JOYE:

4 Your Honor, I would move for a
5 directed verdict on the charge of accessory before the
6 fact for armed robbery, as there was absolutely zero
7 testimony that my client, Crystal Turner, ever knew that
8 anyone had a gun.

9 That the best that anyone could
10 ever say was that she may have been a part of the
11 discussions about a robbery, which would then allege a
12 common law robbery.

13 At best, they said that she may
14 have been around when there was a gun -- uh -- shown.

15 And if they can't show this --
16 that she knew and had knowledge that there was -- that
17 anyone was -- any one of the codefendants was armed, then
18 necessarily, she couldn't reasonably infer that the
19 robbery would be an armed robbery.

20 And, if in that case, then, the
21 reasonable -- uh -- consequence of her actions would not
22 -- would not lead to a murder as there never was anyone
23 armed.

24 THE COURT:

25 There's -- There's evidence on

1 either side of that particular issue.

2 Uh -- Certainly, the -- uh -- two
3 of the codefendants testified that -- uh -- everyone was
4 present at the time.

5 As a matter of fact, one said that
6 she was standing at the front of the vehicle when the
7 weapon was being shown.

8 There's also been testimony that
9 she was either in the bar or on her way to the bar at the
10 time the weapon was being shown.

11 But -- But -- uh -- there is -- uh
12 -- sufficient evidence in this particular case, taking
13 that evidence in the light most favorable to the State
14 once again, as I will do, from which a jury could
15 conclude that she did in fact know that there was going
16 to be a weapon used, and that there was going to be a
17 robbery.

18 Uh -- I need not deal as -- with a
19 matter of law as to whether or not the -- uh -- The fact
20 that she may have known that a robbery was going to occur
21 is enough to hold her responsible for the -- uh -- the
22 fact that murder actually occurred.

23 Because, I think there's evidence
24 in this particular case in which a jury could conclude
25 that she was aware of the presence of the gun.

1 I note and -- uh -- respectively
2 deny your motion.

3 All right.

4 MR. JOYE:

5 Thank Your Honor.

6 THE COURT:

7 All right.

8 Uh -- Folks, now is the time I
9 think for us to go over the -- uh -- the request to
10 charge.

11 I have -- uh -- gone over my
12 proposed charges with you all briefly yesterday and --
13 and showed some of those to you in chambers this morning.

14 Uh -- I have been given -- uh --
15 Judge Anderson's charge from his -- uh -- book, the
16 accessory before the fact, which in large measure tracks
17 the -- uh -- the -- one of the charges that I had given
18 to you.

19 Some of the paragraphs are -- are
20 -- uh -- duplicative in certain respects, so I will not
21 charge all of those things.

22 I'm talking about the Anderson
23 charge.

24 And some of them do not apply in
25 this particular case.

MOTIONS AND MATTERS OUTSIDE OF JURY

622

1 The -- uh -- The intent charge,
2 Mr. Joye, that you had requested, of course, is an
3 appropriate charge.

4 That's at the top of Paige 144.

5 Uh -- And I will -- uh -- I will
6 certainly charge that portion of it.

7 There are portions of it that do
8 not apply, of course. Uh -- And I will -- I will leave
9 those out.

10 But basically, that's a -- that's
11 a -- a fair assessment of the law. And I will charge
12 that in addition to the -- to the --

13 MR. JOYE:

14 Your Honor --

15 THE COURT:

16 -- basic charge that I will --
17 that I will give.

18 Yes?

19 MR. JOYE:

20 You're saying the three paragraphs
21 of the Anderson charge:

22 "In order to render one..."

23 And then:

24 "The mere fact..."

25 And then:

1 "The mere fact?

2 From the top of that page down to

3 where it says:

4 "South Carolina Code Section --

5 THE COURT:

6 That's right.

7 Yeah. The first paragraph -- uh

8 -- that clearly is an appropriate charge under these

9 particular facts.

10 Uh -- Uh -- And the second part is

11 "the mere fact that a person has knowledge," of course --

12 uh -- is a -- uh -- is an appropriate charge as well.

13 Uh -- I'm trying to see how the

14 third paragraph is suggested by the evidence in this

15 case.

16 But if you can show that to me, I

17 -- It's an appropriate statement of the law.

18 So, if you'll let me know how the

19 evidence suggests that charge, I'll be glad to take it

20 into account.

21 MR. JOYE:

22 Well, that -- The third one says:

23 The Defendant had knowledge and --

24 uh -- that somebody else was going to do something, and

25 concealed it or failed to prevent it.

1 THE COURT:

2 Right.

3 MR. JOYE:

4 So if you believe the testimony --
5 uh -- in certain respects that -- uh -- particularly when
6 -- when the State introduced her own statement about the
7 issue of going down the road to have sex -- uh -- that
8 basically, that she didn't do anything about it, or -- or
9 that she heard them talking about it and she thought it
10 was a joke; that she thought the robbery issue was a joke
11 --

12 THE COURT:

13 Yeah.

14 MR. JOYE:

15 -- then she may have knowledge of
16 an intended crime --

17 THE COURT:

18 Okay. You're right. I'll give
19 that.

20 MR. JOYE:

21 Thank you, sir.

22 THE COURT:

23 Now the -- There's one paragraph
24 from the charge on the first page that is not appropriate
25 in this case, and that is the third paragraph from the

1 bottom:

2 The State must prove the principle
3 is guilty or the accessory may not be convicted.

4 In this particular case, of
5 course, the -- uh -- the jury we told that the principle
6 has actually pled guilty to the crimes in that regard.

7 Uh -- The rest of that appears to
8 be appropriate, though.

9 All right.

10 Uh -- Mr. Filiberto, let me come
11 back to you now and see if there are any additional
12 requests or any exceptions from the State in this regard?

13 MR. FILIBERTO:

14 No exceptions, Your Honor.

15 THE COURT:

16 Thank you.

17 Mr. Joye, are there any additional
18 requests or exceptions from the Defense?

19 MR. JOYE:

20 Your Honor, I believe -- I believe
21 we have it covered, having gone through everything of
22 yours -- uh -- last night and -- uh --

23 THE COURT:

24 Okay.

25 MR. JOYE:

MOTIONS AND MATTERS OUTSIDE OF JURY

626

1 -- I don't see anything else,
2 Judge.

3 THE COURT:

4 All right. All right.

5 Gentlemen, let me hand you the
6 forms of the verdict in this particular case, which are
7 quite simple.

8 I give them to you simply for your
9 -- uh -- for your information.

10 Uh -- You can keep those if you
11 like.

12 There are separate verdict forms
13 obviously for each of the two charges as -- as we had
14 indicated.

15 Uh -- Let's go to the matter now
16 of arguments.

17 Uh -- Mr. Joye, you will open on
18 behalf of the Defendant, having presented evidence in
19 this case.

20 And Mr. Filiberto, you will close.

21
22 Uh -- Mr. Joye, how long do you
23 think you might take in your argument in full?

24 And I -- Let me tell you,
25 gentlemen, I'm not sure that I've ever tried a case with

1 you all to conclusion.

2 I don't ring a bell or blow a
3 whistle when you get to the appointed time that you've
4 told me you think you might take.

5 But I do, if I get the impression,
6 as your argument continues to go on, that you have
7 completely forgotten how long you told me you were going
8 to take, I'll probably find some discreet way to let you
9 know.

10 (Laughter erupts in the
11 courtroom.)

12 THE COURT:

13 So, with those limitations, if --
14 uh -- if -- uh -- Can I get -- Can I get an idea?

15 And really, what I'm trying to do,
16 gentlemen, is plan as to whether or not I'm going to have
17 to take a break between the arguments and charge -- uh --
18 whether lunch is going to be a factor within that time
19 period.

20 That's all -- That's really --
21 It's a -- It's a curiosity question more than anything
22 else.

23 Uh -- Mr. Joye, how long you think
24 you might take in opening?

25 MR. JOYE:

MOTIONS AND MATTERS OUTSIDE OF JURY

628

1 Your Honor, I think -- uh -- my
2 mentor, Judge Floyd, said:

3 Even Billy Graham can't hold
4 somebody's attention for longer than 15 to 20 minutes, so
5 --

6 THE COURT:

7 Well, that's right.

8 MR. JOYE:

9 Of course, he used to then charge
10 for an hour and a half.

11 THE COURT:

12 That's right.

13 (Laughter erupts in the
14 courtroom.)

15 THE COURT:

16 Right. All right.

17 I don't know whether to accept
18 Billy Graham's 20 minutes Judge Floyd's hour and a half
19 from you --

20 (Laughter erupts in the
21 courtroom.)

22 THE COURT:

23 -- but --

24 MR. JOYE:

25 No sir. I would say 15 to 20

1 minutes.

2 THE COURT:

3 All right. Okay.

4 MR. JOYE:

5 But there is a lot --

6 THE COURT:

7 I understand

8 MR. JOYE:

9 -- to discuss in this case.

10 THE COURT:

11 Obviously. And certainly, you've
12 got the latitude within those time frames.

13 Mr. Filiberto, how long do you
14 think you might take?

15 MR. FILIBERTO:

16 I think just about the same amount
17 of time, sir.

18 THE COURT:

19 All right. Good. Okay.

20 That's helpful to me -- uh -- in
21 trying to decide how to plan the rest of the morning.

22 All right, folks, you probably
23 need to take a few more moments, at least, to get your
24 things ready and the evidence in order.

25 So -- All right.

MOTIONS AND MATTERS OUTSIDE OF JURY

630

1 Let me ask -- Remind you of this;
2 and -- and Mr. Buckner has asked me, wisely, to -- to
3 remind you all of this.

4 Uh -- Of course when you are
5 arguing, you are away from your microphones at your desk
6 there, and you also have your back to -- uh -- to me and
7 to the court reporter.

8 It's important that you keep your
9 voices up during that period of time because we like to
10 hear what you're saying as well.

11 And so -- uh -- if you'll please
12 be mindful of that -- uh -- things should move along
13 without any difficulty.

14 All right.

15 Before we recess and -- uh -- and
16 then reconvene for final arguments, Mr. Filiberto, is
17 there anything further from the State?

18 MR. FILIBERTO:

19 Nothing, Your Honor.

20 I -- I did make a -- uh -- board
21 to go over the law in accessory before the fact.

22 Does Your Honor want to review
23 that before I use it.

24 THE COURT:

25 Uh -- I'll be glad to look at it.

1 But I -- If it's consistent with what I have --

2 MR. FILIBERTO:

3 It's right from the model
4 instructions.

5 THE COURT:

6 That's fine. You can use that.

7 I don't --

8 MR. JOYE:

9 You're talking about just the
10 three elements?

11 MR. FILIBERTO:

12 Yeah.

13 THE COURT:

14 Yeah. We can over that.

15 MR. JOYE:

16 Judge, we'll look at it. We
17 probably can agree on it.

18 THE COURT:

19 All right.

20 MR. JOYE:

21 And Mr. Buckner, I'll do my best
22 to keep my voice up.

23 THE COURT:

24 Okay, folks, we'll -- uh -- we'll
25 take 15 minutes, and we'll start back at 10 minutes of

MOTIONS AND MATTERS OUTSIDE OF JURY

632

1 the hour; okay.

2 Thank you.

3 (WHEREUPON: The court was
4 declared in recess at 10:44 AM, September 16, 2010.)

5 (WHEREUPON: The court was called
6 to order by the Bailiff at 10:57 AM, September 16, 2010;
7 and all pertinent parties, along with their counsel, were
8 back and present in the courtroom.)

9 BAILIFF:

10 All Rise.

11 THE COURT:

12 Thank you. Thank you, ladies and
13 gentlemen. Please be seated.

14 I apologize for the slight delay,
15 folks.

16 I got involved in a telephone call
17 and I ran a little late. It is hard to hang up on
18 somebody when they're still talking. But I apologize for
19 talking too long.

20 MR. JOYE:

21 Judge --

22 THE COURT:

23 Yes sir?

24 MR. JOYE:

25

1 I've had my client's grandmother
2 sequestered. They've gone to get her and let her in
3 here --

4 THE COURT:

5 All right. That's fine.

6 MR. JOYE:

7 -- in here before we start.

8 THE COURT:

9 That's fine.

10 MR. JOYE:

11 Before we lock the doors.

12 THE COURT:

13 All right.

14 Okay?

15 MR. JOYE:

16 Yes sir.

17 THE COURT:

18 All right, folks. We'll bring
19 the jury in, and Mr. Joye, you will open, and Mr.
20 Filiberto, you will close.

21 Bring the jury please.

22 (WHEREUPON: The jury empanelled
23 in the case was escorted back into the courtroom at 11:00
24 AM, September 16, 2010; and was in fact present during
25 the following proceedings.)

CLOSING ARGUMENTS OF COUNSEL

634

1 THE COURT:

2 Ms. Forelady and members of the
3 jury, thank you again for your patience with us this
4 morning as we have run you in and out of the courtroom
5 from time to time.

6 But now -- uh -- you're going to
7 be with us for a while as we going into the very final
8 phase of the trial of this case.

9 Mr. Joye will present the first of
10 the final arguments on behalf of his client.

11 And when he has completed his
12 final argument on Ms. Turner's behalf, then Mr.
13 Filiberto, on behalf of the State, which has the burden
14 of proof, has a right to make the last of the final
15 arguments.

16 After that has been done, then I
17 will instruct you or charge you as to what the law is;
18 and then you will be able to finally talk about this case
19 among yourselves to deliberate and to reach a verdict.

20 You've been attentive throughout
21 the trial of this case and we appreciate that.

22 Uh -- I am certain that you
23 understand the importance of the issues that are involved
24 in this case to both sides, both to the State and to Ms.
25 Turner.

1 And you have given this case the
2 attention that it deserves. And I want you to continue
3 to give that same attention now to the lawyers as they
4 argue and to me as I charge you.

5 Mr. Joye?

6 MR. JOYE:

7 Thank Your Honor.

8 Ladies and gentlemen, when we
9 began this trial, I told you that Crystal Turner was
10 innocent.

11 She sits here cloaked in
12 innocence.

13 That's the legal presumption.

14 That means when His Honor charges
15 you, that you -- the 12 of you who ultimately decide this
16 case, carry that presumption into your juryroom.

17 Only when all 12 of you -- and if
18 -- all 12 of you agree unanimously that beyond all
19 reasonable doubt that Crystal Turner is guilty of
20 accessory before the fact of armed robbery -- is guilty
21 of accessory before the fact of murder.

22 Now, I told you what the evidence
23 was going to be in this case.

24 The Solicitor's office showed you
25 a picture of a dead body. That's tragic.

CLOSING ARGUMENTS OF COUNSEL

636

1 That's tragic for the family and
2 friends of Ronald Rabon.

3 That's tragic for the people here
4 in Horry County.

5 What I told you is:

6 Don't follow one tragedy by
7 committing another.

8 Don't commit another tragedy and
9 rip away a daughter from her parents -- a granddaughter
10 from her grandparents -- and a mother from her child.

11 You know, so often times in
12 representing people:

13 Well, I fell in with the wrong
14 crowd.

15 Yeah, well generally they're
16 friends with that crowd; not Crystal Turner.

17 She was friends with one person,
18 Paige Skipper.

19 And what does Paige do?

20 She was supposed to meet Paige and
21 her boyfriend Luke to go to sing karaoke.

22 Did she call up Paige?

23 No.

24 Everything points to Paige calling
25 Crystal.

1 Crystal was going to meet her
2 boyfriend, Jeff James, that night because she wanted to
3 get back with him.

4 Crystal was going to sing karaoke
5 like she normally does. And she did.

6 That's what the evidence shows.

7 Every witness that came in here
8 said Crystal -- except for three -- said:

9 Crystal was one hundred percent
10 normal.

11 She was normal Crystal that comes
12 in there and sings karaoke, drinks and has a good time,
13 except for she brought some people with her.

14 She brought 4 people with her, but
15 somebody else showed up, Stacy.

16 Of course, Stacy and Paige are not
17 here. They've never testified. They're witnesses.

18 Now, the Solicitor's Office will
19 tell you:

20 We could call them.

21 But we don't have to prove
22 anything. They got prove with their witnesses.

23 I told you that this -- you know
24 -- we watch Crime Scene Investigation, and we see all
25 kinds of crime scenes.

CLOSING ARGUMENTS OF COUNSEL

638

1 Well, we had the crime scene
2 investigators here.
3 We had Ms. Brummett, Mr. Cestare.
4 I didn't have anything to ask
5 them.
6 They didn't have anything to say
7 about Crystal.
8 All they had something to say was
9 that Mr. Rabon had been murdered, and truly, he was.
10 They brought in Mr. Pigate. Mr.
11 Pigate said he found the body. You all know about that.
12 That doesn't say anything about
13 Crystal.
14 Brought in Officer Sauls. He said
15 he was at first responding officer and he secured the
16 area.
17 He didn't have anything said about
18 Crystal.
19 They brought in Doctor Proctor,
20 who is a very well-respected forensic pathologist in this
21 area; been doing it for 20-some years.
22 He didn't have anything to say
23 about Crystal.
24 We didn't ask him a question.
25 We didn't ask any of them a

1 question.

2 Why?

3 It didn't have anything to do
4 about Crystal.

5 So, who did we have anybody to say
6 anything about?

7 We had Luther Oxendine; we had
8 Charlie Skipper; we had Jamie White, all of whom have
9 been in the system for years; all of them have been to
10 prison; all of whom admitted on this stand they know how
11 the game's played.

12 All of them told you they were
13 facing life, and then, 30 to life on the robbery; two of
14 whom are looking by their own -- by the Solicitor's
15 Office' own proffer agreement that says:

16 You tell the truth.

17 Now, I'm going to get back to
18 that.

19 You tell the truth to our
20 satisfaction -- us, the government -- because we believe
21 we know what the story is; okay.

22 Mr. Filiberto believes he knows
23 what the story is.

24 And if you help us convict Crystal
25 Turner, we're going to help you.

CLOSING ARGUMENTS OF COUNSEL

640

1 Written and signed by Mr.
2 Filiberto; written and signed by Mr. White; Mr. Oxendine.

3 Mr. Skipper, who had lied
4 previously and admitted he had been lying, said:

5 Well, I'll get what I get. I just
6 want to get out of J. Reuben Long because the food ain't
7 no good.

8 Do you folks believe that?

9 Do you folks believe for a minute
10 he's not looking to try to do something to make sure he
11 doesn't spend the next -- well, his entire life in jail.

12 The only way -- The only way --
13 His back was against the wall and he knew it 'cause he's
14 been in the system. He knows the system.

15 The only way he gets a break is to
16 come up here and testify against Crystal Turner.

17 The only way.

18 The government made a deal with
19 the blood of Mr. Ronald Rabon to convict Crystal Turner.

20 What the evidence shows?

21 Crystal Turner picked out Ronald
22 Rabon as someone that could buy drinks.

23 Crystal Turner picked out Ronald
24 Rabon as someone that could buy drinks.

25 How do we get some money out of

1 him?

2 I don't know. One of you girls
3 could sleep with him. Ain't -- Ain't my business.

4 Where could we do that?

5 There's a dirt road down there.

6 You might could go down there.

7 Ladies and gentlemen, it doesn't
8 make sense.

9 Now let's talk about the fourth
10 witness against Crystal Turner.

11 Detective Tim Troxell is a -- an
12 experienced, trained, professional police officer, who
13 interviewed Crystal Turner.

14 And I want to point out what he
15 says. And you know, I got to looking at that question
16 on Page 40 of the transcript, Lines 865 to 868 -- Page
17 40, now.

18 Now, mind you, this is after she
19 had been interviewed by Detective Allen Large.

20 And she tells him where she's
21 been; what she's doing.

22 So this mention anything about a
23 robbery?

24 Anybody ever testify up here that
25 Crystal Turner knew anything -- body -- had been robbed?

CLOSING ARGUMENTS OF COUNSEL

642

1 Did Mr. Filiberto even ask the
2 question of these folks.

3 Did Crystal know he had been
4 robbed -- that Ronald Rabon had been robbed?

5 Did Crystal Turner know that
6 Ronald Rabon had been murdered?

7 I submit to you, if she'd thought
8 he'd been robbed, she wouldn't have been having sex in
9 the parking lot at 2:30 -- three o'clock in the morning.

10 Wouldn't happen. Wouldn't stick
11 around for it.

12 The timeline that they give, they
13 left about one o'clock.

14 They say the scene of the crime of
15 accessory before the fact of murder and armed robbery is
16 Easy's Bar in Aynor.

17 Since when do people stick around
18 the scene of a crime?

19 Since when do they hang out in the
20 parking lot and have sex?

21 Singing karaoke, drinking?

22 And stick around, and stay at the
23 scene of a crime?

24 If Mr. Rabon's robbed; he calls
25 the police, who they coming straight to?

1 Crystal Turner.

2 She knows that.

3 Any mention of a job -- a robbery
4 was simply to her a joke.

5 And the judge is going to -- going
6 to -- he's going to charge you on "intent."

7 She's got to have the requisite
8 intent to assist and aid in a robbery.

9 And no -- not just robbery; an
10 armed robbery; okay.

11 Nobody on this witness stand said:

12 She saw the gun.

13 Either she was at the front car
14 walking in or already in the bar; the best they could
15 ever say.

16 She wasn't standing around where
17 they were showing the gun.

18 But back to Detective Troxell and
19 what his question was that's the smoking gun in this
20 case.

21 When Crystal Turner has no lawyer;
22 she's sitting there answering all the questions he has.

23 And I want y'all to let's break
24 this sentence down.

25 Now I'm no English major, but I

CLOSING ARGUMENTS OF COUNSEL

644

1 can break this thing down a little bit.

2 When you told her about the dirt
3 road -- isn't it, you weren't talking about where she
4 could go smoke dope? Question.

5 You were telling them where Stacy
6 could go and have sex with that due?

7 She was telling them where -- if
8 she wanted to have sex with him, she could go have sex
9 with him.

10 And -- Now, it doesn't say -- It
11 says:

12 If they were going to rob him,
13 that would be a good place to do it; right?

14 Yeah.

15 Okay.

16 Does it say:

17 And they told him -- And you told
18 them if they were going to rob him that would be a good
19 place to do it?

20 It doesn't say that.

21 That question doesn't say that.

22 So she's not answering: Yeah.

23 That -- Ladies and gentlemen -- or
24 that:

25 Hey guys, this would be a good

1 place to go rob him.

2 She wasn't saying that.

3 That ain't what that question
4 says.

5 That questions says:

6 You were telling them where Stacy
7 could go and have sex with that dude?

8 Yes.

9 The answer is, unequivocal, yes.

10 Now, if they were going to rob
11 him, that would probably be a pretty good place?

12 Yeah.

13 But you didn't tell them to go rob
14 him there?

15 That ain't what that question
16 says.

17 Ask her.

18 She's testified.

19 You know, she didn't take the
20 stand here today.

21 But I'm telling you, she testified
22 right here.

23 She testified for at least 40
24 pages the day after the -- the -- two days -- well, the
25 -- murdered on the early morning of the 14th -- on the

CLOSING ARGUMENTS OF COUNSEL

646

1 15th.

2 Now a lot's been made -- a lot's
3 been made about the fact that she didn't tell Detective
4 Large about the robbery.

5 Detective Large said:

6 She was not evasive. She clearly
7 told where she'd been, what she'd been -- and who she'd
8 been with.

9 Now the rest of them, they were
10 evasive.

11 Why?

12 They knew what they had done.

13 As far as Crystal Turner is
14 concerned, she had done nothing.

15 As far as she's concerned today,
16 she's done nothing.

17 What does she do when she figures
18 out what this is all about?

19 She picks up the phone.

20 She calls Detective John Gonska,
21 not once, not twice, but three times.

22 The wicked flee when no man
23 pursueth. But the righteous are bold like the lion.

24 I'm telling you:

25 Crystal Turner was bold like that

1 lion.

2 She picked up the phone and called
3 them.

4 They don't have to go hunt her
5 down.

6 She calls them.

7 Let me tell you:

8 Now, I've got more to tell you.

9 I got -- Paul Harvey says -- the rest of the story to
10 tell you.

11 There wasn't a rest of the story.

12 She had no clue what in the world

13 Alan Large was talking with them about.

14 The funny thing is, John Gonska
15 seems to have no independent recollection of what in the
16 world they were talking about.

17 Go back to what Detective Troxell
18 say, and he's talking to Paige:

19 Well, I guess going back, you're
20 going to have to explain to me how the person who
21 apparently needed money -- The motivation behind the
22 whole thing is that Crystal needed money to pay her power
23 bill; right?

24 And Crystal's the one that sits at
25 a bar, drinking, having a good time, singing karaoke,

CLOSING ARGUMENTS OF COUNSEL

648

1 while all of you are out there committing -- committing
2 felonies down the road?

3 You know, it doesn't make a lot of
4 sense to me.

5 The only thing -- The only
6 impression that I'm getting -- that y'all ain't real
7 tight with Crystal.

8 His words. His thoughts.

9 Let me tell you what makes even
10 less sense, is that:

11 Crystal's going to sit up here
12 where you are at, listen to karaoke, and drink liquor,
13 and have a good time with her man, Jeff, there in the
14 bar, while all of you go out and do the dirty work; and
15 you weren't going to get anything out of it?

16 But Crystal's sitting on her ass
17 at was going to get some?

18 That makes no sense.

19 Boy, has he got that right. Boy,
20 has he got that right.

21 Crystal is sitting at the bar.
22 She's listening to karaoke. She's having a good night;
23 okay.

24 You don't drink. You've never
25 been in trouble. You're now going to go along with this

1 plan that she's concocted, according to you, and you're
2 going to drive these guys down the road and then rest --
3 and just rob this guy. And then when you get back,
4 she's going to get any money and you ain't getting a damn
5 dime? Actually involved in a crime?

6 That doesn't make any sense.

7 You're saying that no, from your
8 version of the story you don't even profit at all?

9 Ladies and gentlemen, it doesn't
10 make sense.

11 It never has made sense.

12 It hasn't made sense since day
13 one.

14 He's their best witness -- their
15 best witness; certainly not the thieves, robbers,
16 murderers, drug dealers, that they sat on the stand right
17 here, who, by ages 24, 25, and 26, have already been in
18 prison -- who've been in the system at least five years?

19 They made a deal with the blood of
20 Ronald Rabon to convict Crystal Turner.

21 They made a deal that helped three
22 people involved in an armed robbery and murder to try to
23 get better sentences to convict Crystal Turner.

24 I told you this thing was a
25 puzzle.

CLOSING ARGUMENTS OF COUNSEL

650

1 Paige Furness, who's the one that
2 Crystal had some tie to; her brother, Charlie Skipper,
3 who shoots and kills Ronald Rabon.

4 His girlfriend, Stacy Johnson, who
5 lured Ronald Rabon out of the bar.

6 By the way, Ms. Nobles said:

7 Two of them left with him, Paige
8 Furness and Stacy Johnson.

9 Y'all remember that. Remember
10 that.

11 And then, Paige, her boyfriend
12 Luther, and his brother James, who doesn't fit in this
13 thing; what do all of these defendants have to sell?

14 Crystal Turner.

15 They got to make a deal somehow.
16 They can't make a deal on each other, 'cause they are all
17 intertwined.

18 So the only thing that they can
19 make a deal with -- the only person that they can make a
20 deal with -- Crystal Turner.

21 Three witnesses up here, says:

22 Not but six people in the world
23 that know the truth.

24 Of course the government, Mr.

25 Filiberto, gets to decide what the truth is as to these -

1 - what the -- what these defendants are telling; see.

2 They jumped to a conclusion. And
3 they arrested Crystal Turner. And they been stuck with
4 that every (sic) since.

5 Every (sic) since that day, they
6 are stuck with it.

7 Every (sic) since that day, they
8 are stuck with:

9 We've arrested Crystal Turner.
10 She must be guilty. She's hanging out with these guys.

11 Let me tell you something:

12 When you leave this trial, tell
13 your brothers and sisters, tell your children, tell your
14 grandchildren:

15 Ladies and gentlemen, all you got
16 to do is hang with the wrong people, and you can find
17 yourself in the position Crystal Turner is.

18 You don't have to be guilty.

19 It's like riding with the guy in
20 the car who's -- who's got a joint in the ashtray.

21 Police pull him and you got four
22 people in the car, four people are going to jail.

23 Regardless of whose dope it is,
24 four people are going to jail.

25 Here, four of these people rode in

CLOSING ARGUMENTS OF COUNSEL

652

1 the car with Crystal; Crystal went to jail.

2 They cut a deal with them, says:

3 You fellows -- You know, when you
4 live the kind of life that Luther, Jamie, and Charles
5 Skipper lead, your life is a lie.

6 Your entire life is a lie.

7 You know, my dad, who's been
8 present throughout this trial, says:

9 Son, what you are speaks so loud I
10 can't hear a word you say.

11 I assume y'all know what he meant
12 by that, because he caught me in a lie.

13 That means he can't believe
14 anything I say -- nothing I say.

15 Everything's a lie.

16 What you are speaks so loud, I
17 can't hear a word you say.

18 Ladies and gentlemen, what these
19 people are speaks so loud, I submit to you, you can't
20 believe a word of what they say.

21 Not one person says that they --
22 that Crystal knew anybody was robbed that night.

23 Detective Large basically told you
24 as much. He says she wasn't evasive; told us where she'd
25 been and how she -- acted just normal.

1 Ladies and gentlemen, His Honor is
2 going to charge you on "intent," see.

3 Because, even if Crystal Turner
4 heard a discussion about robbing someone, they've got to
5 prove more than she had knowledge that a crime was going
6 to be committed.

7 Well, I'm telling you:

8 She didn't know.

9 And Alan Large told you as much.

10 And when she know, picked up the
11 phone and calls Detective John Gonska.

12 And the fact that, even if she
13 knew and didn't -- and concealed it, or even failed to
14 prevent it, she is not guilty as an accessory -- not
15 guilty.

16 I submit to you the best that you
17 can do is go back there and say:

18 Crystal Turner, you're not guilty.

19 The sad part is, you can't come
20 out hear and say:

21 She's innocent.

22 But there is a good thing in that.

23 When she goes back there, she's
24 innocent.

25 But you can't deliver a verdict of

CLOSING ARGUMENTS OF COUNSEL

654

1 innocence.

2 You -- They've got to prove it
3 beyond all reasonable doubt, which means:

4 If it's possible she told them
5 that that would be a good place to go have sex, even if
6 it were money, she's not guilty of either one of the two
7 crimes charged.

8 Ladies and gentlemen, she's put
9 her trust in me today. But her fate lies with you
10 folks.

11 Go back there, tell the State of
12 South Carolina; tell the prosecutor (knocks on jury rail
13 in unison while speaking):

14 We can't believe the evidence you
15 put up in front of us because what they say speaks so
16 loud we can't hear a word they say.

17 Crystal Turner is innocent. And
18 you folks, I'm asking you to send her home to the family
19 and friends that love her.

20 Send her home to her two-year-old
21 daughter.

22 THE COURT:

23 Thank you Mr. Joye.

24 Mr. Filiberto?

25 MR. FILIBERTO:

1 Thank Your Honor.

2

3 Y'all know who never get's to go
4 home is Ronald Rabon.

5 This trial has been about greed,
6 senseless violence and a truly innocent man.

7 You know, being guilty of
8 accessory before the fact to a crime doesn't mean you're
9 the master mind, that you're the pied piper or the
10 leader.

11 It means you helped. You knew
12 about it and you helped.

13 Crystal Turner helped.

14 It's really important that you
15 remember what His Honor said before we started -- when we
16 were starting the trial, that the evidence that you're
17 going to consider really comes from that witness chair
18 and the statements of the people who sit in that chair,
19 and from the physical items that The Court admits.

20 What Mr. Joye says and I say in
21 our openings and our closings; the questions that we've
22 asked the witnesses; that's not evidence -- has nothing
23 to do with evidence.

24 Any other discussions that he and
25 I may have had in your presence; none of that's evidence.

CLOSING ARGUMENTS OF COUNSEL

656

1 It's what comes from that witness
2 stand.

3 I'd like to start by talking a
4 little bit about the evidence that came from that witness
5 stand.

6 I'd like to start first with the
7 -- with the issues of armed robbery and murder.

8 Those have to be established for
9 you before you can find Crystal Turner guilty of an
10 accessory before the fact.

11 Well, the evidence was clear and
12 uncontroverted. There was no argument that Ronald Rabon
13 was taken down a dirt road; that his property was taken
14 from him; and that he was shot and killed.

15 The testimony came from the people
16 who actually did it.

17 So it's a very rare situation to
18 be able to have a trial where the people who actually
19 committed the principle crime are sitting here telling
20 you:

21 Yes, I did it.

22 You heard from the people who
23 said:

24 I took his property out of his
25 pocket.

1 And the person who said:

2 I pointed a gun at him. I got
3 him out of the car. They took his stuff. And I shot
4 him and I killed it.

5 There's No question -- no dispute
6 about the fact that he was robbed and he was murdered.

7 You heard from Dr. Proctor who
8 told you that Mr. Rabon was shot; that he was hit four
9 times; and that the manner of his death was homicide.

10 Those crimes did happen. There's
11 no question about it.

12 Now let's talk about what happened
13 a few hours before those crimes occurred over there at
14 Easy's Bar.

15 As you are aware, there is five
16 other people in this matter that were charged.

17 You heard from three of them.

18 Mr. Joye would have you believe
19 that nothing they say can be taken -- you can't hear into
20 that.

21 Well, actually, he wants you to
22 believe the part where they confessed to the armed
23 robbery and murderer of Ronald Rabon; but just like parts
24 that they had to say about your client.

25 You heard the testimony.

CLOSING ARGUMENTS OF COUNSEL

658

1 In the beginning, they
2 acknowledged they gave statements that were inaccurate --
3 that were false.

4 They were trying to avoid being in
5 trouble for what they did.

6 Early on, though, they also told
7 you that the statements that -- once they realized they
8 weren't getting away with this, they gave new statements.

9 They contacted the police on their
10 own and they -- they -- they gave new statements.

11 At some point they entered into an
12 agreement. That agreement promises them nothing.

13 They have no guarantees.

14 Simply stated, they've confessed
15 and they're trying to help themselves, which is not
16 abnormal at all.

17 They -- They are sitting there in
18 that chair acknowledging to you what they did in
19 testifying and telling you that they were directly
20 involved in the armed robbery and murder of Ronald Rabon.

21 They've -- They've sealed their
22 own fate. It's just a question of what happens.

23 Today is not their day in court.

24 Today is coming. Their charges
25 are still pending.

1 Everyone of them -- Those two
2 people that -- Two of the three people you've heard from
3 are still charged today, from their testimony out of
4 their mouth, with murder and armed robbery.

5 That hasn't changed.

6 You know, I would never really
7 stand up here and tell you that these are people of high
8 character. They're not.

9 They're admitted thieves and
10 murderers. They're criminals.

11 Those are the people you get that
12 can testify about specifics in a crime like this.

13 Conspiracies like this are not
14 laid out in front of the church steeple.

15 They are amongst those people that
16 are going to be involved. And they are not nice people.

17 There is no way for us to be able
18 to get somebody that you would think was a pillar of the
19 community that could stand here and verify the
20 conversations that went on between those co -- those
21 defendants, Cristal Turner's -- codefendants of Crystal
22 Turner.

23 As indicated, four out of the five
24 remaining codefendants did agree to provide testimony --
25 give statements.

CLOSING ARGUMENTS OF COUNSEL

660

1 It was the fifth one who, on
2 Tuesday. rather than face y'all, decided he was going to
3 plead guilty to murder and armed robbery.

4 No deal. No promise. No
5 agreement. No nothing.

6 And he sat there in that witness
7 chair and you can make fun of the way he answered some of
8 those questions but, he told you:

9 No question that Crystal Turner
10 was directly involved in the conversation and plan to rob
11 Ronald Rabon.

12 That she -- That he -- She IDed
13 him as a guy -- a guy to rob -- a guy that had a lot of
14 money.

15 He's got nothing.

16 He's going to prison for a very
17 long time. And it's just a question of how long.

18 That's not up to me.

19 It's going to be up to His Honor,
20 who's going to sentence him after this trial.

21 What's his motive?

22 He has hardly taken the biggest
23 part of this fall that he can take.

24 He sat there in that chair.

25 I don't know of many people who

1 could really do that; sit there and admit to y'all that
2 he took out a gun and shot that man dead in cold blood.

3 There is no -- It -- It's almost
4 impossible to fathom somebody could sit and admit that
5 openly in court.

6 I want to talk about something Mr.
7 Joye said.

8 He -- uh -- He talked about
9 Crystal Turner not knowing that Charlie Skipper was
10 armed.

11 And I thought about that a little
12 bit. And I thought about Jeff James' testimony.

13 He told you Crystal had called
14 him. They'd been dating, but they had broken up.

15 But she wanted him to come down to
16 the bar and meet him. She wanted to try and get back up
17 with him.

18 I figured out the logic of this.

19 She pulled up behind the bar
20 there. Gets out of the car with three guys and her
21 girlfriend, Paige -- Paige Skipper Furness.

22 And she would have you believe she
23 just walks right by her boyfriend, who's out there
24 showing a gun to somebody, and goes right in the bar.

25 That doesn't make any sense.

CLOSING ARGUMENTS OF COUNSEL

662

1 She's going to hang there with her
2 -- the man that she called to meet her down there to hang
3 out with.

4 The testimony was that she was
5 standing right there, and that -- that Charlie Skipper
6 immediately presented his gun and said:

7 See, I got a gun too.

8 She knew he had a gun. There's no
9 question.

10 Each of the people who sat in that
11 witness chair that are charged in this crime told you:

12 Crystal Turner was involved in the
13 planning. She picked out the victim.

14 They told you that she let -- that
15 she let them use her car.

16 She told him where to go.

17 And she wanted some proceeds from
18 the robbery.

19 They told you that.

20 Now, you also heard from Detective
21 Tim Troxell, who talked about an interview that he
22 conducted with Crystal Turner.

23 And Mr. Joye kind of read to you a
24 little bit from -- uh -- a transcript of part of that
25 interview.

1 And I wanted to -- uh -- I looked
2 it up as he was reading it, and I wanted to -- uh -- to
3 revisit it, just because I want to be clear.

4 He kind of broke it down and said:

5 That's one question. That's
6 another question. That's another question.

7 But I would re-read this to you
8 and just say:

9 Well wasn't it -- Let's talk about
10 this part:

11 When you told her about the dirt
12 road, isn't it, you were talking about where she could go
13 smoked dope (comma), 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 that would be the place to do it?

16 Isn't that right?

17 Crystal Turner:

18 That's right.

19 Detective:

20 Okay.

21 Crystal Turner:

22 And to smoke door -- dope of
23 course?

24 That's right.

25 Two times she said:

CLOSING ARGUMENTS OF COUNSEL

664

1 That's right..

2 That's what I told them. I knew
3 that..

4 Defense would have you believe
5 that sending them down there to Tobacco Leaf Road, that
6 they just wanted to go over there -- they were going to
7 get some cigarettes and smoke dope.

8 There's testimony that they were
9 going in and out the back of the bar all night smoking
10 dope.

11 I'm not sure why they really
12 needed to go down there.

13 But, they would have believe that.

14 They'd also have you believe that
15 it was just a lining up of coincidence that that's where
16 Ronald Rabon Rabon's body was found -- just a lining up
17 of coincidence, which doesn't add up.

18 It doesn't make any sense.

19 Go back to:

20 Crystal Turner's got the time --
21 boyfriend to -- Defense witness.

22 And he got on the stand. And what
23 does he to you?

24 He tells you that:

25 During his conversation that night

1 with Crystal Turner, she tells him that she needs money
2 to pay her power bill.

3 He tells you that he's given her
4 money in the past when she's needed money. But he didn't
5 give her any money that night.

6 You know, there was a lot of
7 questions early on in this case about the power bill and
8 who had the money -- who had the motive -- who needed the
9 money.

10 The Defense witness told you:

11 Crystal Turner needed money.

12 She needed money to pay her power
13 bill or her power was going to be shut off.

14 Her boyfriend didn't give her the
15 money.

16 That's an important fact for you
17 to remember.

18 Before the -- Before your
19 deliberations begin, Judge Cooper is going to instruct
20 you on the law.

21 And anything that I might say
22 about the law that you would think is inconsistent with
23 what he says, obviously, he's the judge of the law.

24 But I do want to talk about the
25 law of accessory before the fact, because it's a little

CLOSING ARGUMENTS OF COUNSEL

666

1 confusing, I think.

2 It's kind of hard sometimes to
3 wrap your brain around: not being present at the crime
4 and having responsibility for the crime.

5 The judge is going to instruct you
6 that:

7 If you find that Crystal Turner
8 did any of the following, that she is guilty, that she --
9 and that she knew what was going on; that she's guilty of
10 the crime of accessory before -- before the fact of a
11 felony.

12 There's two charges here.

13 The two underlying felonies are
14 armed robbery and murder.

15 You have to find that she advised
16 and agreed with, or urged, or hired, or in some way
17 aided, counseled, or encouraged the perpetrator -- and in
18 this case, there's more than one -- to commit the felony;
19 and the Defendant who was not present when the crime was
20 committed -- that's undisputed -- she wasn't there -- she
21 wasn't down there at Tobacco Leaf Road -- and where the
22 principal committed the crime.

23 Again, I believe that to be
24 undisputed.

25 Mr. Rabon was robbed of his

1 property at gun point, and that he was shot, and
2 murdered, and left on the side of that dirt road.

3 No question about it.

4 Ladies and gentlemen, make no
5 mistake about it.

6 But for the help that Crystal
7 Turner gave her codefendants that night -- had she not
8 done that, it's possible that Ronald Rabon, today, could
9 walk in the door and sit down in this courtroom.

10 He can't do that.

11 No one is saying she pulled the
12 trigger or that she was even present at the scene.

13 If she did, or if she was, we
14 wouldn't be doing a trial for accessory before the fact.
15 We'd be doing the trial for murder and armed robbery.

16 But if she had not identified
17 Ronald Rabon as a good candidate to rob, a guy that had
18 money;

19 If she had not helped to get his
20 attention -- come over to the bar and make sure that he
21 spoke with Tracy -- uh -- Stacy Johnson and Paige
22 Furness;

23 If not advised them where to take
24 -- If she had not advised them where to take Mr. Rabon
25 down to a remote area where a robbery could take place;

JUDGE'S CHARGE TO THE JURY

668

1 and

2 If she had not lent them her car
3 to use, looking to get payment back for that use;

4 Had she not done all of those
5 things, or any of those things, we wouldn't be here
6 today.

7 And again, had she not done those
8 things, it's very possible Mr. Rabon could walk in here
9 and sit down.

10 As you go in to liberate, I'd ask
11 you to consider all those things.

12 And I'd ask you, as you render a
13 verdict in this case, that you render a verdict that
14 speaks justice to all the parties in this case; but
15 mostly, speak -- render a verdict that speaks justice to
16 Ronald Rabon.

17 Thank you.

18 THE COURT:

19 Thank you, Mr. Filiberto.

20 Now Mr. Foreman, and Ladies and
21 gentlemen of the jury, please give me your attention for
22 a few more moments now.

23 You have been very patient
24 throughout the course of this trial and you have listened
25 very attentively to the arguments that have been

1 presented by Mr. Joye and Mr. Filiberto.

2 And it is now my responsibility
3 under our law to instruct you or charge you as to what
4 the law is in this case. And it is your duty as jurors
5 to accept and apply the law as I now state it to you.

6 As jurors, ladies and gentlemen,
7 it is your exclusive duty to decide all issues of fact in
8 the case.

9 And for that purpose, you have to
10 determine the effect, and the value, and the weight, and
11 the truthfulness of the evidence that you have seen and
12 heard.

13 Both the State and the Defendant
14 have a right to expect that you will conscientiously
15 consider and evaluate the evidence, and that you will
16 apply the law of the case to that evidence, so that both
17 the State and the Defendant will receive a fair and
18 impartial trial at your hands.

19 Throughout the course of this
20 charge, ladies and gentlemen, when I use the word
21 "Defendant," I am referring to Crystal Turner.

22 Ms. Turner is indicted by the
23 grand jury of Horry County and charged in one indictment
24 with accessory before the fact of a felony of murder.

25 That indictment says that:

JUDGE'S CHARGE TO THE JURY

670

1 She did here in Horry County on or
2 about August the 14th of 2008, advise, or agree with, or
3 urge, or hire, or in some way aided or counseled or
4 encouraged the principal felon to commit the crime of
5 murder; and that she was not present when the crime
6 itself was committed, all in violation of the law.

7 The other indictment accuses her
8 of accessory before the fact of the felony of armed
9 robbery.

10 And that indictment says that:

11 She did here in Horry County, at
12 the same time and place, advise, or agree with, or urge,
13 or hire, or in some way aided or counseled, or encouraged
14 the principal felon to commit the crime of armed robbery;
15 and that she was not present when the crime was
16 committed, all in violation of the law.

17 I remind you again, as I did
18 before this trial began, that those indictments are not
19 evidence, nor are they proof of the charges that they
20 contain.

21 They are charging documents. They
22 are legal documents to tell you, or me, or anybody else
23 that reads the, what this case is all about, and what
24 these charges are.

25 To the charges contained in those

1 indictments, Ms. Turner has entered pleas of not guilty
2 and has requested a jury trial at your hands.

3 The legal effect of a plea of not
4 guilty by a defendant in a criminal case is to place the
5 burden of proof upon the State to prove by evidence the
6 guilt of the accused beyond a reasonable doubt before you
7 as a jury can convict her and find her guilty.

8 The Defendant, Ms. Turner, is
9 presumed in law to be innocent of the charges contained
10 in those indictments.

11 It is a fundamental rule of our
12 law of evidence that the Defendant, regardless of the
13 nature of the charges, the seriousness of the charges,
14 and the number of charges against her, will always be
15 presumed innocent of the charges for which she has been
16 indicted unless or until her guilt has been proven by
17 evidence that satisfies you of the jury of that guilt
18 beyond a reasonable doubt.

19 The presumption of innocence is
20 not a mere legal theory. It is not an empty legal
21 phrase.

22 The presumption of innocence is a
23 substantial right.

24 It has been likened to a robe of
25 righteousness which is placed about the shoulders of a

JUDGE'S CHARGE TO THE JURY

672

1 defendant. And it assigns to that defendant the class
2 know as "the innocent."

3 And that presumptive robe of
4 righteousness continues to rest about the shoulders of
5 the defendant until that robe of righteousness has been
6 stripped from her person by evidence -- evidence that
7 satisfies you of her guilt beyond a reasonable doubt.

8 The presumption of innocence
9 accompanies the defendant from the time of her arrest.
10 It follows her throughout this trial.

11 It even continues to exist to her
12 benefit as you go into the juryroom to deliberate and to
13 reach a verdict in this case.

14 The presumption of innocence
15 continues in existence for the benefit of the defendant
16 unless and until you the jury reach the conclusion that
17 the State has proven her guilt beyond a reasonable doubt.

18 So that, then, is the burden of
19 the State, to prove guilt beyond a reasonable doubt.

20 Some of you may have served as
21 jurors in civil cases before. And if you did, you were
22 told by the judge that:

23 In a civil case, it is only
24 necessary that a party who has the burden of proof
25 present evidence that is more convincing on that party's

1 side than the evidence is on the other party's side.

2 But in criminal cases, the State's
3 proof has to be more powerful than that.

4 Here, it has to be proof beyond a
5 reasonable doubt.

6 And so what do we mean by the
7 phrase "proof beyond a reasonable doubt?"

8 Proof beyond a reasonable doubt is
9 proof that leaves you firmly convinced of the Defendant's
10 guilt.

11 Now, there are very few things in
12 this world that you and I know with absolute certainty.

13 And in criminal cases, the law
14 does not require proof that overcomes every possible
15 doubt.

16 And so, if based on your
17 consideration of the evidence, you are firmly convinced
18 that the Defendant is guilty of the crime charged, you
19 must find her guilty.

20 If, on the other hand, you think
21 there's a real possibility that she is not guilty, you
22 must give her the benefit of the doubt and find her not
23 guilty.

24 Reasonable doubt can arise from
25 evidence in the case; or, it might arise from the lack of

JUDGE'S CHARGE TO THE JURY

674

1 evidence in the case. But you, ladies and gentlemen,
2 must determine whether or not reasonable doubt exists as
3 to the guilt of this Defendant.

4 I tell you that:

5 She is entitled to every
6 reasonable doubt which arises in the case.

7 And so, if on any issue of fact,
8 which is essential to a conviction and a verdict of
9 guilty, you have a reasonable doubt as to how that issue
10 should be resolved, it is your duty to resolve that
11 reasonable doubt in front of the Defendant.

12 I remind you again, that:

13 The defendant is never required to
14 prove her innocence. But the State is required in law to
15 prove every essential element of the offense charged
16 against her by evidence that satisfies you as a jury of
17 her guilty beyond a reasonable doubt before you can
18 convict her and find her guilty.

19 And that regard, I instruct you
20 now, and I emphasize to you, that the fact that this
21 Defendant did not testify in her own behalf is not a
22 factor to be considered by you in any way in your
23 deliberation, and in your consideration on the question
24 of her guilt or innocence.

25 It must not be considered by you

1 in any manner whatsoever against the Defendant.

2 Because the Defendant has a
3 constitutional right to remain silent. And if she
4 chooses to exercise that constitutional right, that fact
5 cannot, and must not, be considered by you in your
6 deliberation.

7 Under you oath, then, you are to
8 reach no inference and draw no conclusion whatsoever from
9 the fact that this Defendant did not, herself, testify.

10 That should not even be discussed
11 by you in the juryroom.

12 Because, the burden, as I have
13 said, is on the State.

14 The Defendant has no obligation to
15 prove her innocence. And the burden of proof remains
16 upon the State to prove guilt beyond a reasonable doubt.
17 And the fact that this Defendant did not testify is not a
18 factor to be considered by you in determining her guilt
19 or innocence.

20 And so, if then, upon the whole
21 case, ladies and gentlemen, you have a reasonable doubt
22 as to the guilt or the innocence of the Defendant, she is
23 entitled to that reasonable doubt, and would be entitled
24 to an acquittal and a verdict of not guilty.

25 But, on the other hand, if upon

JUDGE'S CHARGE TO THE JURY

676

1 the whole case, you find that the State has proven by
2 evidence that satisfies you -- uh -- as a jury of her
3 guilt beyond a reasonable doubt, then, in those
4 circumstances, it is equally your duty to convict her,
5 and to find her guilty.

6 Now, during this trial, ladies and
7 gentlemen, each of us, you and I, have our separate and
8 independent duties to perform.

9 As a trial judge, it's my judge
10 (sic) to preside over the trial of this case. And I also
11 have the duty or responsibility to rule upon or pass upon
12 the admissibility of the evidence which has been offered
13 during the course of this trial. And you're to consider
14 only the competent evidence before you.

15 That is:

16 You are to consider only the
17 testimony which has been offered from that witness stand
18 and any exhibits or items which have admitted -- admitted
19 into the record of this case during the course of this
20 trial.

21 I also have the additional duty to
22 instruct you as to what the law is in this case, because,
23 as I've told you earlier, I'm made the sole judge of the
24 law of the case.

25 And it is your duty to accept the

1 law as I now state it to you to be the correct law.

2 You may have brought with you into
3 your service this week as jurors some preconceived ideas
4 about what you think the law is; or you might have some
5 preferences about what you would like for the law to be.

6 Well, ladies and gentlemen, I tell
7 you now that if your ideas about the law or what you
8 would like for the law to be disagree with what I'm
9 telling you now the law actually is, under your oaths,
10 you are obligated to abandon your conceptions about the
11 law, and your preferences about the law, because you are
12 sworn to accept the law precisely as I state it to you
13 now.

14 And in every case tried in this
15 court before a jury, I have told you, you as the jury are
16 the sole and exclusive judge of the facts of the case.

17 You're the judge of the facts.
18 I'm the judge of the law.

19 And our Constitution has said that
20 as a trial judge, I can't comment upon the facts of the
21 case. I can't intimate, or state, or hint to you, any
22 indication, or any feeling that I might have about the
23 facts of this case.

24 And since you are the sole judge
25 of the facts of the case, you're not to gather from

JUDGE'S CHARGE TO THE JURY

678

1 anything that I have said during the course of this
2 trial, or anything that I'm saying to you now during the
3 course of this charge, that I have an opinion about the
4 facts of the case.

5 I'm not allowed such an opinion
6 under the law, because that is solely a matter for you,
7 ladies and gentlemen, to determine.

8 And so as jurors, then, it becomes
9 your duty, as I have told you, to determine the effect,
10 and the value, and weight, and the truthfulness of the
11 evidence which has been offered during the course of this
12 trial.

13 And as you determine what the true
14 facts are, you are necessarily called to pass upon the
15 credibility or the believability of the witnesses who
16 have testified. And you must decide the value and the
17 weight that you will give to the testimony that you have
18 heard.

19 You, and you alone, must decide
20 the force, and the effect, and the truth of the testimony
21 which you have heard.

22 Now, there are a lot of things
23 that you can take into account as you make your decision
24 about the credibility or the believability of the
25 witnesses.

You can ask yourself whether the

JUDGE'S CHARGE TO THE JURY

680

1 testimony of a witness was made stronger by other
2 evidence in the case; or was it made weaker by other
3 evidence in the case.

4 You have heard in this case, the
5 testimony of witnesses who have a prior record -- prior
6 criminal records -- for other offenses.

7 That evidence of a prior criminal
8 record was admitted, and may be considered, only on the
9 purpose of deter -- only for the purpose of determining
10 the credibility or the believability of the testimony of
11 the witness himself or herself.

12 In other words, you can give that
13 evidence -- that is, the evidence of a criminal record --
14 such weight and such value as any that you think it is
15 entitled to receive on the sole issue of the credibility
16 or the believability of the testimony offered by that
17 witness.

18 You've heard the testimony -- uh
19 -- that a witness has pled guilty to a crime arising out
20 of the same events for which this Defendant is on trial.

21 That guilty plea is not evidence
22 against this Defendant. And you may consider it only in
23 determining the credibility or believability of that
24 witness.

25 You've heard the testimony of a

1 person is has been qualified as an expert witness.

2 Normally, under our law, ordinary
3 witnesses are not allowed to express their opinions about
4 thing.

5 They can tell you what they saw,
6 or what they heard; but they can't tell you what
7 conclusions they made, or what opinions they might have
8 as a result of what they've seen and heard.

9 However, expert witnesses are
10 witnesses, who, because of their training and their
11 experience and their education, have been experts in some
12 field. And they are qualified as an experts in those
13 fields. And therefore, they're allowed to render their
14 opinions as experts in the fields in which they are
15 qualified.

16 Expert opinion testimony or
17 regular testimony, however, is judged just like each
18 evidence.

19 That is to say:

20 Whether the testimony comes from a
21 lay witness, or comes from the testimony of an expert
22 witness, you have the right to believe it or not to
23 believe it.

24 You can accept it or you can
25 reject it.

JUDGE'S CHARGE TO THE JURY

682

1 You can give it as much weight as
2 you think it deserves according to your view of the
3 evidence in this case.

4 Because, ladies and gentlemen, as
5 jurors, you've got the right to believe a small portion
6 of the testimony of a single witness; and to disbelieve
7 the larger portion of the testimony of that same witness.

8 Or, you can do it the other way
9 around.

10 You can believe the larger part
11 and believe (sic) the smaller part.

12 You can believe all of what a
13 witness tells you, or none of a witness tells you.

14 But, ladies and gentlemen, you
15 don't exercise those discretions and those decisions
16 arbitrarily.

17 Because what we ask you to do is
18 this is use your mental process, and in determining what
19 you consider to be true, what we ask you to do is to
20 exercise your good judgment, your common sense, your
21 sense of logic and reason, and your experiences in life.

22 And you apply those abilities that
23 each of you have and that each of you uses outside of
24 this courtroom every day of your lives.

25 And you bring those things to bear

1 on what you have heard in this courtroom. And then you
2 determine what (sic) the truth of this case lies.

3 And when you have found the truth,
4 you will take the truth that you find and apply the law
5 as I give it to you; and those who thinks will come
6 together -- the truth that you find and the law that I
7 give you --to result in a verdict which will speak the
8 truth of this case.

9 Now, ladies and gentlemen, let me
10 describe for you very briefly the crimes of murder and
11 armed robbery.

12 Ms. Turner is not on trial for
13 murder and armed robbery. She is on trial for accessory
14 before the fact of murder and armed robbery.

15 And so I don't need to define
16 those things for you as -- in as great a detail as I
17 would, if those were offenses for which she was on trial.

18 But I tell you that:

19 Murder is the killing of any
20 person with malice aforethought, either expressed or
21 implied.

22 Malice suggests a wickedness, a --
23 a maliciousness, a hatred, a determination to do what one
24 knows to be wrong without any legal cause or without just
25 provocation.

JUDGE'S CHARGE TO THE JURY

684

1 Armed robbery is defined as:

2 Robbery while a person is armed
3 with a deadly weapon -- a handgun, for example.

4 Robbery is defined as the unlawful
5 taking of somebody else's personal property, like money,
6 from that person, and carrying it away, and converting it
7 to the taker's own use, by putting the victim in fear or
8 violence -- or by the use of fear or violence -- and all
9 while armed with a deadly weapon.

10 Those are the crimes of murder and
11 armed robbery.

12 Now Ms. Turner is charged with
13 accessory before the fact -- before the fact of those
14 charges.

15 Now, in order to prove that she is
16 guilty of accessory before the fact of murder, or
17 accessory before the fact of armed robbery, the State has
18 to prove beyond a reasonable doubt that:

19 She either advised, or agreed, or
20 urged, or counseled, or hired, or in some way aided or
21 abetted another person to commit the crime; and that she
22 was not present when the crime was committed.

23 To aid means to help, to promote
24 the course or the accomplishment of, to give support to,
25 or to give assistance to.

1 To abet means to encourage or to
2 appear to favor or support.

3 Section 16-1-40 of our Code of
4 Laws says that:

5 A person who aids in the
6 commission of a felony, or is an accessory before the
7 fact of the commission of a felony, by counseling or
8 hiring, or otherwise procuring the felony to be
9 committed, is guilty of a felony.

10 And so there are three elements
11 which have to be proven by the State beyond a reasonable
12 doubt in order to justify the conviction of the Defendant
13 as an accessory before the fact of either of these
14 crimes.

15 The State must first prove that:

16 This Defendant advised, or agreed,
17 or urged, or in some way aided some other person to
18 commit the offense.

19 The State must also prove that:

20 The Defendant was not present when
21 the offense was committed.

22 And finally, the State has to
23 prove that:

24 Some principle actually committed
25 the crimes themselves.

JUDGE'S CHARGE TO THE JURY

686

1 The State -- The State need only
2 prove that some principal committed the crime at the
3 behest of the accessory to support a conviction for being
4 an accessory before the fact.

5 So an accessory before the fact is
6 one who, although not the chief actor in the offense
7 itself, nor being present at performance of the crime
8 itself, is in some way concerned with it before the fact.

9 That is:

10 One who is absent at the time of
11 the offense, yet procures it, or counsels it, or commands
12 another to commit it, and is therefore equally guilty
13 with the principal.

14 In order to render one guilty as
15 an accessory before the fact, she must have had the
16 requisite criminal intent.

17 Such person must have the same
18 intent as the principal.

19 However, she need not necessarily
20 have intended the particular crime committed by the
21 principal, because an accessory is liable for any
22 criminal act which in the ordinary course of things was a
23 natural or probable consequence of the crime that she
24 advised or commanded.

25 The fact that the crime is not

1 committed in the particular way designated by the
2 procurer or the conspirator does not prevent her from
3 being liable as an accessory before the fact.

4 The concept of accessory before
5 the fact has been held to presuppose some prearrangement
6 with respect to the commission of the crime in question.

7 The mere fact that a person with
8 knowledge that another intends to commit a crime and
9 acquiesces in its commission will not render her an
10 accessory before the fact provided she does nothing to
11 procure or to bring about the commission of the crime.

12 The mere act that the Defendant
13 had knowledge of an intended crime on the part of another
14 and concealed the same, or failed to prevent it, will not
15 render the Defendant an accessory before the fact.

16 Now, ladies and gentlemen, those
17 are the elements of the offense of accessory before the
18 fact.

19 Number 1:

20 That she advised, or agreed, or
21 urged, or in some way aided some other person to commit
22 the offense of murder and/or armed robbery.

23 And:

24 That she was not present when the
25 offense was committed.

JUDGE'S CHARGE TO THE JURY

688

And:

That some other person actually committed the crime.

I remind you that the burden is on the State to prove each of those elements beyond a reasonable doubt.

If the State has met its burden of proof as to each of those elements beyond a reasonable doubt as to each of the charges, accessory before the fact of murder, and accessory before the fact of armed robbery, then it is entitled to a verdict of guilty as to either or both of those charges.

If the State fails to meet its burden of proof as to all of those elements on any of the two charges, or both of the two charges, then, it has not met its burden of proof and the Defendant in those circumstances is entitled to a verdict of not guilty.

Now, ladies and gentlemen, finally -- and that's a word you've been hanging on for a while to hear "finally" -- finally, let me tell you that:

You don't serve as jurors in this
or in any case as partisans or advocates for either the
State of South Carolina or for this Defendant.

You don't serve as jurors to
punish your enemies nor to reward your friends.

1 Obviously, that would not be a
2 system of justice at all.

3 You have been selected by the
4 State and this Defendant as fair and impartial jurors.

5 And so, it is your duty, then, by
6 your joint deliberations, to determine the truth in this
7 case, giving to this Defendant the benefit of every
8 reasonable doubt on each and every issue.

9 And then, to the facts which you
10 determine to be true, you take and apply the law which I
11 have just given you, and thus arrive at a verdict which
12 will speak the truth of this case.

13 And that's what the word "verdict"
14 means. It means a truthful saying.

15 And once you have done that, you
16 will have satisfied the oath that you took before you
17 began the trial of this case to well and truly try this
18 case and to render a true verdict according to the law
19 and the evidence so help you God.

20 I'm confident that you will do
21 just that; and that you will do nothing less than that.

22 Now I want to review with you, the
23 forms for the verdict in this particular case.

24 Madam Clerk, would you give these
25 to the foreman please.

JUDGE'S CHARGE TO THE JURY

690

1 CLERK:

2 (Did as instructed by The Court.)

3 THE COURT:

4 There are two verdict forms in
5 this particular case because there are two separate
6 charges.

7 One is accessory before the fact
8 of murder.

9 And the other is accessory before
10 the fact of armed robbery.

11 You will consider the evidence on
12 each of these two charges independent of the evidence on
13 the other.

14 Your verdict on one of those
15 charges does not necessarily control your verdict on the
16 other.

17 This Defendant can be convicted or
18 acquitted of either or both of the charges contained in
19 those indictments according to your belief and your -- of
20 the weight of the evidence in this case and the law as I
21 have instructed you.

22 Now, you're not to pay any
23 attention whatsoever to the order in which I have placed
24 those verdict forms on the sheet.

25 Please don't draw any inference or

1 reach any conclusion whatsoever from the order that I
2 have them on there.

3 I simply write them in the order
4 that they are easiest for me to explain.

5 The verdict form as to each of the
6 two charges is exactly the same.

7 The only distinction is:

8 One is accessory before the fact
9 of murder. The other is accessory before the fact of
10 armed robbery.

11 And Mr. Foreman, you can see on
12 the form in the body of the verdict form itself which is
13 which in that regard.

14 The verdict form reads:

15 As to the charge of accessory
16 before the fact of a felony -- either murder or armed
17 robbery -- we the jury unanimously find the Defendant
18 Crystal Turner -- And the first possible verdict form is:

19 Not guilty.

20 That's the verdict form that you
21 will arrive at if you find that the State has failed to
22 meet its burden of proof as to that particular crime as
23 I've instructed you beyond a reasonable doubt.

24 If that's the verdict form which
25 you arrive at, Mr. Foreman, you will indicate that by

JUDGE'S CHARGE TO THE JURY

692

1 putting a check or an X mark in the space that you see we
2 have provided to the left of that choice.

3 The other possible verdict form as
4 each of these charges is:

5 As to the charge of accessory
6 before the fact of a felony -- either murder or armed
7 robbery -- we the jury unanimously find the Defendant
8 Crystal Turner: Guilty.

9 That's the verdict form that you
10 will arrive at if you find that the State has met it
11 burden of proof beyond a reasonable doubt as I instructed
12 you.

13 And if that's the verdict form
14 that you arrive at, Mr. Foreman, you will indicate that
15 likewise by putting an X or a checkmark in the space that
16 we have provided.

17 Now, whatever the verdict is, it
18 has to be unanimous.

19 I have given the verdict form to
20 the Foreman because he's the person that's got to fill it
21 out.

22 But obviously, it will not be his
23 verdict alone. The verdict has to be unanimous. And
24 all 12 of you have to agree as to what the verdict is,
25 Mr. Foreman, before you're allowed to sign -- to fill out

1 that verdict form or to sign it.

2 I'm going to send it to your
3 juryroom now.

4 I ask that you wait just a moment
5 before you begin your deliberations.

6 I've got to talk with the lawyers
7 to see if I have left out anything or if I have misstated
8 anything.

9 And if I have, I'll have to bring
10 you out to correct that.

11 But I do not have to bring you
12 out, we will send in these items of evidence. And once
13 the items of evidence have been delivered, that will be
14 your signal to begin your deliberations; please, not
15 until then.

16 Once the items of evidence have
17 been delivered, you will begin your deliberations. And
18 you will deliberate until you reach verdicts in these
19 cases, at which point, Mr. Foreman, you will fill out the
20 verdict form and sign it; knock on the door, advise the
21 Bailiff, and he'll bring you to receive the verdict.

22 Please step to your juryroom now
23 please and do not yet begin your discussions.

24 Ms. Strickland, can I just get you
25 to stay where you are for the time being please?

JUDGE'S CHARGE TO THE JURY

694

1 ALTERNATE JUROR:

2 (Nods in the affirmative.)

3 THE COURT:

4 Thank you.

5 (WHEREUPON: The jury empanelled
6 in the case withdrew from the courtroom at 12:09 PM,
7 September 16, 2010; and was no longer present during the
8 following proceedings.)

9 THE COURT:

10 Mr. Filiberto, any exceptions or
11 request for additional charge from the State?

12 MR. FILIBERTO:

13 No sir.

14 THE COURT:

15 Thank you.

16 Mr. Joye, from the Defense?

17 MR. JOYE:

18 No, Your Honor.

19 THE COURT:

20 Thank you.

21 Gentleman, if you all will -- uh
22 -- review the -- uh -- items of evidence with the
23 reporter and make sure everything is in order; and then
24 when that's done, you can take them in and tell them to
25 start their deliberations.

1 Ms. Strickland, you were the
2 alternate juror. You've probably figured out what your
3 role is in this particular case.

4 And it's your job, like the job of
5 Mr. Leonardi, who had to take the place of a principal
6 juror, would have been to take the place of a juror had
7 we lost another one.

8 Uh -- Please -- uh -- you've just
9 been as attentive as anybody else in the course of this
10 trial.

11 You're as equally capable of
12 deliberating and reaching a decision as those 12 are in
13 that room. But you don't have to do it.

14 If you had not been here, and if
15 Mr. Leonardi had not been here, and if a juror had not
16 been able to complete the trial, we'd have to start this
17 thing all over at some point in time from scratch.

18 We wouldn't have been able to
19 finish it.

20 So seeing the two of you here each
21 day gave me the peace of mind of knowing:

22 We're going to be able to complete
23 this trial.

24 And I appreciate you -- your --
25 your spending that time with us.

25 Thank you, ma'am. You're free to

1 go.

2 (WHEREUPON: Per instructions by
3 The Court, both counsel reviewed and agreed upon the
4 evidence to be submitted to the jury and informed The
5 Court of their agreement.)

6 THE COURT:

7 All right, sir.

8 You can -- uh -- take those items
9 in and tell the jury they can begin deliberations.

10 MR. FILIBERTO:

11 Your Honor, if I -- if I can
12 approach on a question that's not on the record?

13 THE COURT:

14 Yes sir. You have a question,
15 Mr. Filiberto?

16 MR. FILIBERTO:

17 Not -- Not on -- Not on this
18 record, Your Honor; on another record.

19 THE COURT:

20 Off the record. Okay.

21 All right, ladies and gentlemen,
22 in this case, we'll stand at ease until we hear from the
23 jury.

24 Uh -- We'll remain at ease until
25 we hear from the jury.

REQUEST BY THE JURY

698

1 (WHEREUPON: The court was
2 declared in recess at 12:12 PM, September 16, 2010.)

3 (WHEREUPON: We were informed that
4 the jury had a request at 1:24 PM, September 16, 2010.)

5 (WHEREUPON: The court was called
6 to order by the Bailiff at 1:32 PM, September 16, 2010;
7 and all pertinent parties, except for the Defendant
8 Turner, were back and present in the courtroom.)

9 DEPUTY:

10 Order in the court. All Rise.

11 THE COURT:

12 Thank you, ladies and gentlemen.

13 Please be seated.

14

15 Folks, I have a request from the
16 jury that reads as follows:

17 Transcripts; testimony of Jamie
18 White, Luther Oxendine, Charles Skipper, Jeff James,
19 Sergeant Troxell.

20 Uh -- I'm going to bring them out
21 and first of all kind of explain the facts of life to
22 them (chuckles) about we work here.

23 And -- uh -- and ask them to
24 please go back and focus -- uh -- on what particular
25 areas of testimony they want.

1 And after I explain the difficulty
2 in getting all this stuff up, and the time it's going to
3 take to do it, asked them to -- uh -- to please -- first
4 of all, that we cannot provide a transcript; that the
5 only thing we can do is play the testimony back.

6 And that is a -- is a time-
7 consuming process, but we'll do it if there's no other
8 way for them to arrive at -- uh -- at a common
9 understanding of what these folks said.

10 But I'm going to ask them, rather
11 than have to replay -- uh -- the entire testimony of
12 these witnesses, which would in essence be a retrial of
13 the case.

14 Uh -- And I -- I'm sure they --
15 that they don't want that -- to focus on the areas that
16 they have some question about; and see if they can't send
17 us that out and we'll work from that point; all right.

18 MR. JOYE:

19 Your Honor, I called my client and
20 they -- they were on the way.

21 I kind of hate for them to come
22 out here and she's not be sitting here; so let me -- let
23 me check and see where they are.

24 THE COURT:

25 Okay.

REQUEST BY THE JURY

700

1 (WHEREUPON: At 1:34 PM, September
2 16, 2010, Defense Counsel left the courtroom to contact
3 his client. He came back in at 1:37 PM.)

4 THE COURT:

5 Bring us the jury, please.

6 (WHEREUPON: The jury empanelled
7 in the case was escorted back into the courtroom at 1:39
8 PM, September 16, 2010; and was in fact present during
9 the following proceedings.)

10 THE COURT:

11 Ladies and gentlemen, I have
12 received your request for transcripts of the testimony of
13 Jamie White, Luther Oxendine, Charles Skipper, Jeff
14 James, and Sergeant Troxell.

15 I wish that the technology -- uh
16 -- in our Court's will allow us to provide you a
17 transcript of the testimony; but unfortunately they do
18 not.

19 Uh -- Mr. Buckner is transcribe --
20 is taking this down of course and dictating it into his
21 computer.

22 Uh -- Then he has to type out the
23 -- the transcript thereafter -- uh -- from the computer
24 and from his recordings in order to generate the actual
25 typed word.

1 And so we don't have that
2 available to you.

3 Uh -- It is possible for us to --
4 to replay -- uh -- all or portions of the testimonies of
5 any of -- of -- of any of the witnesses.

6 Uh -- I -- I don't think that's
7 what you want, because I don't think you want to sit
8 through it again.

9 You've sat through it once in its
10 entirety.

11 And I -- I've just made some brief
12 notes.

13 Uh -- Mr. White's testimony was
14 about 46 minutes.

15 Mr. Oxendine's was 36 minutes.

16 Mr. Skipper's was 47 minutes.

17 Mr. James, 40 minutes.

18 And Sergeant Troxell was 42
19 minutes.

20 So if you put all that together,
21 it's -- it's -- uh -- well, it's -- it's probably about a
22 day's testimony being replayed.

23 So how do we deal with the fact
24 that you all might have some questions about what some of
25 these folks said?

REQUEST BY THE JURY

702

1 Well, the first thing that we ask
2 you to do is to depend on your collective memory -- that
3 is, not the memory of any one of you, but on your
4 collective memory -- to try to get -- uh -- a consensus
5 about somebody's -- what somebody said.

6 But supposing you cannot do that?

7 And suppose that there are some
8 particular areas that are critical to your understanding
9 of this case and your decision in this case that you just
10 simply need to hear again?

11 Uh -- If you can focus us to those
12 particular areas, we'll be glad, as we can, to try to
13 locate those things.

14 It's -- It's somewhat of a time-
15 consuming thing, but it can be done.

16 Mr. Buckner just has -- he has to
17 go back through his -- through his -- his tapes and his
18 computer to try to locate those questions and those
19 answers.

20 Uh -- But it is -- But it is
21 preferred, of course, to having -- uh -- to play the
22 whole thing back.

23 Now, if you need to hear the whole
24 thing, we can play the whole thing.

25 I don't want to -- I don't want

1 you to -- to leave with impression that we're not willing
2 to -- to -- uh -- to do whatever you need for us to do
3 within reason to try to -- to set your mind at ease about
4 these factual differences.

5 But I'm -- I'm confident that all
6 of you paid attention.

7 I know you paid attention because
8 I was watching you during the -- the original testimony
9 of these folks.

10 And so, I ask you, if you would
11 please, to go back and see if you can not focus on
12 important points of testimony -- important questions and
13 answers that you would like us to try to focus on.

14 And it might well be that the
15 lawyers can get together and say:

16 Well, this is the answer to that
17 question; and just tell you.

18 But if not, then there's a way for
19 us to try to locate it and -- and make it available to
20 you.

21 But I -- I'm hesitant at this
22 juncture to ask Mr. Buckner just to tee this all up and
23 start -- and start playing the trial back for you again
24 -- uh -- from about a third of the witnesses who
25 testified in this case; unless that's what you really

1 need.

2 I assume that when you asked for a
3 transcript, you thought we could just give you a
4 transcript and you could just look it up and find out
5 what you wanted for yourself.

6 And like I say, I wish we could do
7 that; but we can't.

8 We just don't have the technology
9 to do it.

10 Uh -- And so we have to do the
11 best that we can as I've suggested that to you.

12 Do you -- uh -- Mr. Foreman and
13 ladies and gentlemen, do you have some understanding of
14 what our limitations are in that regard?

15 FOREPERSON:

16 (Nods in the affirmative.)

17 THE COURT:

18 Do you think, then, you can go
19 back and try to -- uh -- uh -- focus on the points that
20 year old would like for us to touch on with these
21 individual witnesses?

22 Is that --

23 FOREPERSON:

24 I believe we can come to that.

25 THE COURT:

1 Okay. Thank you.

2 If you can do that, it would be
3 helpful to you all and to us I think in understanding an
4 expeditious manner of getting this to you.

5 And hopefully, while you're doing
6 this, your -- your lunch should be here momentarily.

7 It should have been here some time
8 ago.

9 Is it here?

10 DEPUTY:

11 Yes sir.

12 THE COURT:

13 It's here.

14 So -- uh -- uh -- you can -- you
15 can chew on that while you chew on this, and then --

16 (Laughter erupts in the
17 courtroom.)

18 THE COURT:

19 -- and let us know what you want
20 us to do next; all right?

21 Thank you, folks. I appreciate
22 your efforts.

23 (WHEREUPON: The jury empanelled
24 in the case withdrew from the courtroom at 1:44 PM,
25 September 16, 2010; and was no longer present during the

REQUEST BY THE JURY

706

1 following proceedings.)

2 THE COURT:

3 Any exceptions, Mr. Filiberto, to
4 those remarks?

5 MR. FILIBERTO:

6 No sir.

7 THE COURT:

8 Mr. Joye?

9 None, Your Honor.

10 THE COURT:

11 Thank you.

12 All right, folks, we'll see what
13 they come up with next. And I do know that they've got
14 -- uh -- that their food is here. So I imagine that
15 they will probably work on that and get us a response in
16 -- in the near future.

17 Thank you.

18 THE COURT:

19 We'll be at ease for a while.

20 COURT REPORTER:

21 Your Honor, this will be Court's
22 Exhibit 5.

23 THE COURT:

24 Thank you.

25 WHEREUPON: THE JURY'S NOTE WAS

1 MARKED BY THE COURT REPORTER AS COURT'S EXHIBIT NUMBER 5.

2 (WHEREUPON: The court was
3 declared in recess at 1:44 PM, September 16, 2010.)

4 (WHEREUPON: At 2:16 PM, September
5 16, 2010, we are informed that the jury had a verdict;
6 and the deputy went to round up the parties.)

7 (WHEREUPON: The court was called
8 to order by the Bailiff at 2:21 PM, September 16, 2010;
9 and all pertinent parties, along with their counsel, were
10 back and present in the courtroom.)

11 BAILIFF:

12 Order in the court. All Rise.

13 THE COURT:

14 Thank you, ladies and gentlemen.

15 Please be seated. Good afternoon.

16 Ladies and gentlemen, I'm advised
17 that the jury has reached a verdict.

18 Are both the State and the Defense
19 ready to receive the verdict?

20 MR. JOYE:

21 Defense is ready, Your Honor.

22 THE COURT:

23 State's ready?

24 MR. FILIBERTO:

25 State's ready.

1 THE COURT:

2 Ladies and gentlemen -- uh -- you
3 all obviously on either side of the isle have a great
4 deal of interest in this case personal and otherwise, and
5 understand that.

6 You've been here throughout the
7 trial. And you've conducted yourselves as ladies and
8 gentlemen in the proper decorum that This Court requires.
9 And I appreciate that.

10 When this verdict is announced,
11 whatever it shall be -- and no one knows in this
12 courtroom just yet -- I imagine there might be
13 disappointment on one side, and perhaps -- uh -- relief
14 on the other.

15 I'm not sure where that relief or
16 disappointment will fall.

17 But I must tell you that:

18 Uh -- I expect you to continue to
19 use the same decorum and respect for this proceeding that
20 you've used throughout this trial.

21 I don't expect you to be devoid of
22 emotion. All of us have emotion.

23 But I do -- do not expect you to
24 show any of those emotions in an untoward way.

25 And so, if you feel like you might

1 have some difficulty controlling your emotions when this
2 verdict is announced -- whatever it shall be -- I'll give
3 you a chance to leave the courtroom now.

4 Because if you stay here, we will
5 expect you to keep your emotions in check as you have
6 done throughout the trial of this case.

7 Thank you.

8 Bring us the jury.

9 (WHEREUPON: The jury empanelled
10 in the case was escorted back into the courtroom at 2:23
11 PM, September 16, 2010; and was in fact present during
12 the following proceedings.)

13 THE COURT:

14 Mr. Foreman and ladies and
15 gentlemen, have you reached a verdict?

16 FOREPERSON:

17 Uh -- Yes sir, we have.

18 THE COURT:

19 It's the verdict unanimous?

20 FOREPERSON:

21 Yes sir, it is.

22 THE COURT:

23 Thank you.

24 Would you hand it to the Clerk and
25 she'll pass it forward, please. Thank you.

VERDICT, MOTIONS, AND SENTENCING

710

1 (WHEREUPON: The Clerk receives
2 the verdict and hands to The Court for his review.)

3 THE COURT:

4 Thank you. You may publish the
5 verdict.

6 CLERK:

7 Indictment Number 2009-GS-26-2173,
8 in the State of South Carolina, County of Horry, versus
9 Crystal Turner:

10 As to the charge of accessory
11 before the fact of a felony murder, we the jury
12 unanimously find the Defendant Crystal Turner:

13 Not guilty.

14 Indictment Number 2009-GS-26-2174,
15 in the State of South Carolina, County of Horry, versus
16 Crystal Turner:

17 As to the charge of accessory
18 before the fact of a felony, armed robbery, we the jury
19 unanimously find the Defendant Crystal Turner:

20 Guilty.

21 Dated September 16th of 2010,
22 signed by Foreperson, Juror Number 49, Foster Bryan.

23 Ladies and gentlemen of the jury,
24 if this is your verdict, so signify by raising your right
25 hand.

1 (WHEREUPON: All members of the
2 jury raised their right hand.)

3 CLERK:

4 Thank you.

5 THE COURT:

6 Thank you.

7 The record should reflect that all
8 12 are in accordance with the verdict.

9 Mr. Joye, does the Defense desire
10 polling of the jury.

11 MR. JOYE:

12 I would, Your Honor.

13 THE COURT:

14 Thank you.

15 Ladies and gentlemen, you're going
16 to be polled now, individually.

17 That means your names are going to
18 be called individually. And as your names are called,
19 if you will stand in place right where you are, please.

20 And the Clerk will ask you:

21 Were these your verdicts; and are
22 they still your verdicts?

23 And if you will give the
24 appropriate answer, whatever that answer shall be.

25 Thank you.

VERDICT, MOTIONS, AND SENTENCING

712

1 Madame Clerk?

2 CLERK:

3 Juror Number 340, Heather Sellers.

4 WHEREUPON: This juror stood as

5 requested by the Clerk.

6 CLERK:

7 Is this your verdict?

8 JUROR SELLERS:

9 Yes.

10 CLERK:

11 Is this still your verdict?

12 JUROR SELLERS:

13 Yes.

14 CLERK:

15 Thank you.

16 143, Katherine Gardner.

17 WHEREUPON: This juror stood as

18 requested by the Clerk.

19 CLERK:

20 Is this your verdict?

21 JUROR GARDNER:

22 Yes.

23 CLERK:

24 Is it still your verdict?

25 JUROR GARDNER:

1 Yes.

2 CLERK:

3 Thank you.

4 282, Charles Nichols.

5 WHEREUPON: This juror stood as

6 requested by the Clerk.

7 CLERK:

8 Is this your verdict?

9 JUROR NICHOLS:

10 Yes.

11 CLERK:

12 Is it still your verdict?

13 JUROR NICHOLS:

14 Yes.

15 CLERK:

16 Thank you.

17 38, John Boucino.

18 WHEREUPON: This juror stood as

19 requested by the Clerk.

20 CLERK:

21 Is this your verdict?

22 JUROR BOUCINO:

23 Yes.

24 CLERK:

25 Is it still your verdict?

VERDICT, MOTIONS, AND SENTENCING

714

1 JUROR BOUCINO:

2 Yes.

3 CLERK:

4 Thank you.

5 28, Rodney Bellamy.

6 WHEREUPON: This juror stood as
7 requested by the Clerk.

8 CLERK:

9 Is this your verdict?

10 JUROR BELLAMY:

11 Yes ma'am.

12 CLERK:

13 Is it still your verdict?

14 JUROR BELLAMY:

15 Yes ma'am.

16 Thank you.

17 42, Sherita Brenneman.

18 WHEREUPON: This juror stood as
19 requested by the Clerk.

20 CLERK:

21 Is this your verdict?

22 JUROR BRENNEMAN:

23 Yes.

24 CLERK:

25 Is this still your verdict?

1 JUROR BRENNEMAN:

2 Yes.

3 CLERK:

4 Thank you.

5 224, Timothy Knox.

6 WHEREUPON: This juror stood as
7 requested by the Clerk.

8 CLERK:

9 Is this your verdict?

10 JUROR KNOX:

11 Yes.

12 CLERK:

13 Is this still your verdict?

14 JUROR KNOX:

15 Yes.

16 CLERK:

17 Thank you.

18 359, Dorothy Stitt.

19 WHEREUPON: This juror stood as
20 requested by the Clerk.

21 CLERK:

22 Is this your verdict?

23 JUROR STITT:

24 Yes.

25 CLERK:

VERDICT, MOTIONS, AND SENTENCING

716

1 Is it still your verdict?
2 JUROR STITT:
3 Yes.
4 CLERK:
5 Thank you.
6 112, Jason Dupee.
7 WHEREUPON: This juror stood as
8 requested by the Clerk.
9 CLERK:
10 Is this your verdict?
11 JUROR DUPEE:
12 Yes.
13 CLERK:
14 Is this still your verdict?
15 JUROR DUPEE:
16 Yes.
17 CLERK:
18 Thank you.
19 333, Trav -- Travis Sarvis.
20 WHEREUPON: This juror stood as
21 requested by the Clerk.
22 CLERK:
23 Is this your verdict?
24 JUROR SARVIS:
25 Yes ma'am.

1 CLERK:
2 Is this still your verdict?
3 JUROR SARVIS:
4 Yes ma'am.
5 CLERK:
6 Thank you.
7 239, Jon Leonardi.
8 WHEREUPON: This juror stood as
9 requested by the Clerk.
10 CLERK:
11 Is this your verdict?
12 JUROR LEONARDI:
13 Yes.
14 CLERK:
15 Is this still your verdict?
16 JUROR LEONARDI:
17 Yes.
18 CLERK:
19 Thank you.
20 49, Foster Bryan.
21 WHEREUPON: This juror stood as
22 requested by the Clerk.
23 CLERK:
24 Is this your verdict?
25 JUROR BRYAN:

VERDICT, MOTIONS, AND SENTENCING

718

1 Yes.

2 CLERK:

3 Is this still your verdict?

4 JUROR BRYAN:

5 Yes.

6 CLERK:

7 Thank you.

8 THE COURT:

9 Thank you.

10 Is there anything further before

11 the jury is dismissed from -- Mr. Joye -- from the

12 Defense?

13 MR. JOYE:

14 No, Your Honor.

15 THE COURT:

16 Thank you.

17 Mr. Filiberto?

18 MR. FILIBERTO:

19 No sir.

20 THE COURT:

21 Thank you. You can be seated.

22 Uh -- Ladies and gentlemen, I want

23 to thank you for your service as jurors in the trial of

24 this case.

25 Uh -- You all have -- have paid

1 attention throughout the trial of this case.

2 You have been prompt.

3 You all have been prompt and
4 you've been here when we've asked you to be here every
5 day.

6 You have been patient with the
7 fact that we have chopped up some of these proceedings
8 somewhat unfortunately. But you have been patient
9 throughout that.

10 I never comment upon a verdict of
11 a jury.

12 I have never commend, nor do I
13 condemn a jury for the verdicts that it reaches.

14 I have been glad over the past 18
15 -- going on 19 years now -- to place those difficult
16 decisions in the hands of capable people like you.

17 And so I never criticize a verdict
18 that you reach. I comment upon the quality of your
19 service.

20 That is, as jurors, you have been
21 here. You've paid attention throughout the trial of this
22 case.

23 You have deliberated thoughtfully,
24 and you have rendered a verdict in my view which is
25 within the evidence in this particular case.

VERDICT, MOTIONS, AND SENTENCING

720

1 I tell you, ladies and gentlemen,
2 that you no -- no longer -- uh -- have any restrictions
3 about discussing this case with anybody.

4 You can talk the talk with anybody
5 that you want to about it, if you want to.

6 And so, if someone should ask
7 about this case, and if you should care to discuss it,
8 you have every right to do that.

9 But, by the same token, if you
10 don't care to discuss it, you don't. And all you got to
11 do is tell them that you do not care to discuss it. And
12 that should end the discussion there.

13 If for some reason, it doesn't, of
14 course, and if they persist in their efforts to talk with
15 you after you've made it plain to them that you don't
16 want to do that, if you'll contact the Clerk's Office,
17 they'll get in touch with me and we'll take care of that
18 matter for you.

19 Because I can tell you, in the
20 final analysis, you only need to answer to your own
21 conscience for the verdict which you reached.

22 And you have no need to fear your
23 conscience in this case for the verdict that you've
24 reached.

25 Let me tell you that:

1 You've gained an exception -- uh
2 -- from service on a jury for the next 3 years.

3 You should not even get called.

4 You probably will not.

5 But if you do, and if you don't
6 want to serve, just tell the Judge that you served in
7 September of 2010. And if it's within three years, you
8 won't have to serve again.

9 But if your service has been
10 particularly meaningful to you and you would like to
11 repeat it, I'm sure that that judge would like to have
12 the benefit of your service, just as I have; and you can
13 stay if you wish to.

14 You'll get a check in the mail in
15 the next few days.

16 It's not going to begin to pay you
17 for the time that -- uh -- we have intruded into your
18 lives, and for the -- uh -- the effort that you've put
19 into this particular case.

20 We can't afford to hire jurors to
21 do this work. We don't want professional jurors to do
22 this work.

23 We want people like you.

24 We want people who have other
25 things to do and who would rather not be here, but who

VERDICT, MOTIONS, AND SENTENCING

722

1 have answered the call that comes to them, like you did,
2 and who have laid aside the things that you all had to do
3 -- important things that you had to do -- but that you
4 were willing to lay aside to come into this courtroom and
5 help us do the things that we have to do.

6 So we can't afford to pay people
7 to do what you've done.

8 We have to ask good people like
9 you to make the sacrifices that you have made so that we
10 can do the work that we have to do.

11 We have acquainted you with a side
12 of life that most of you have never been acquainted with
13 before today.

14 And we apologize for that.

15 But that is what happens in these
16 courtrooms. And that's what happens in the real world
17 out there.

18 And without good folks like you to
19 help us resolve the disputes that arise out of those
20 types of controversies and those types of conflicts, then
21 those types of conflicts would be even more widespread
22 than there are now.

23 And so, by your service, you help
24 us to maintain the competence that is necessary in our
25 system of justice.

1 And you help us maintain a sense
2 of law and order to the good of the people of your County
3 and -- and throughout.

4 I appreciate the chance of having
5 serve served with you. And you all are free to go.

6 (WHEREUPON: The jury empanelled
7 in the case withdrew from the courtroom at 2:30 PM,
8 September 16, 2010; and was no longer present during the
9 following proceedings.)

10 THE COURT:

11 Mr. Joye, I'll be glad now to hear
12 any motions from the Defense?

13 MR. JOYE:

14 Yes, Your Honor.

15 I would move for a new trial -- uh
16 -- notwithstanding the verdict.

17 Uh -- I believe in the light most
18 favorable to the State, that -- uh -- that they could not
19 have carried the day on the armed robbery charge based on
20 the fact that there was never any evidence that would
21 prove beyond a reasonable doubt that my client, Ms.
22 Turner, ever saw a gun.

23 So it would never have been the
24 reasonable and possible consequence of that that led to
25 the armed robbery.

1 THE COURT:

2 All right. Thank you, sir.

3 For reasons that I cited earlier
4 during the motions for a directed verdict at the
5 conclusion of the State's case, and again at the
6 conclusion of the trial of this case, I believe that
7 there was sufficient evidence before this jury, if they
8 chose to believe it, that Ms. Turner was aware of what
9 was going on, at least as far as a robbery is concerned;
10 and that she had -- uh -- participated in it to the
11 extent that the law requires in order to justify a
12 verdict on this particular charge.

13 I think it is significant in this
14 particular case that this jury has deliberated, quite
15 candidly, the distinction between the accessory before
16 the fact of murder and accessory before the fact of armed
17 robbery.

18 And their verdict indicates that
19 they did not believe that Ms. Turner intended for a -- a
20 murder to have occurred.

21 But they did believe that she was
22 aware of the fact that a robbery was in the offing; and
23 that she had assisted in planning that by picking out the
24 victim and perhaps otherwise planning for the -- the
25 sight of it, and lending her car and things of that

1 nature.

2 All of those things in the light
3 most favorable to the State in my view is sufficient
4 evidence to support the verdict that the jury's reached
5 in this regard.

6 And so your motion is respectfully
7 denied.

8 All right.

9 Is the State ready to proceed with
10 sentencing, Mr. Filiberto?

11 MR. FILIBERTO:

12 Yes sir. One quick second.

13 THE COURT:

14 All right.

15 MR. FILIBERTO:

16 Your Honor, may I approach?

17 THE COURT:

18 Yes sir.

19 WHEREUPON: There was a brief
20 conference at the bench regarding the sentencing sheet.

21 THE COURT:

22 Mr. Filiberto?

23 MR. FILIBERTO:

24 Thank you, Your Honor.

25 Uh -- Your Honor has obviously

VERDICT, MOTIONS, AND SENTENCING

726

1 presided over this trial, so there's no need to -- to
2 revisit the facts.

3 I do have -- uh -- two members of
4 -- uh -- Mr. Rabon's family who had requested the
5 opportunity -- uh -- pursuant to the Victim's Rights Act
6 --

7 THE COURT:

8 Certainly.

9 MR. FILIBERTO:

10 -- to address The Court at the
11 appropriate time.

12 THE COURT:

13 I'll be glad here from them when
14 you -- uh -- when you have completed what you want to
15 tell me.

16 Your Honor, certainly the jury
17 made a distinction between the accessory before the fact
18 of murder.

19 But the evidence was there that
20 there was a gun available.

21 They didn't believe that the
22 Defendant -- uh -- intended to -- uh -- be a part of
23 something that would end-result in murder.

24 THE COURT:

25 Uh-huh.

1 MR. FILIBERTO:

2 However, as I indicated in my
3 closing argument, what the Defendant did -- but for what
4 she did, Mr. Rabon could clearly walk in this courtroom
5 tonight.

6 She was part of a group. She
7 needed money. And she sat these people -- uh -- up with
8 the information, the car; said she wanted to get paid for
9 this.

10 She did get paid for it. It was
11 cold. It was heartless.

12 And I would ask The Court to
13 impose a sentence that sends the message that that
14 behavior just can't be tolerated.

15 THE COURT:

16 Uh-huh. Thank you.

17 I'll be glad to hear from any
18 members of the family who would like to address The
19 Court.

20 Your name, please, ma'am?

21 TRACY RABON:

22 My name is -- uh -- Tracy Rabon.

23 THE COURT:

24 Ms. Rabon?

25 TRACY RABON:

1 I'm the oldest child and only
2 daughter of Ronald Rabon.

3 I want to take this time to
4 address The Court on behalf of my dad and our family and
5 friends.

6 They've heard testimony from
7 several people of what took place on the night of August
8 13th, 2008.

9 And the one common denominator in
10 all this (sic) stories is the involvement of Crystal
11 Turner.

12 All parties have testified that
13 she was the only person familiar with the bar, the
14 patrons of the bar, and its surroundings.

15 All versions are consistent in
16 saying that:

17 Crystal Turner singled out my dad,
18 stating that he always carried cash and would be a great
19 candidate for robbery.

20 Obviously, if she had not pointed
21 fingers towards my dad, then I would not be standing here
22 before you today.

23 But because she singled him out at
24 the bar that night, I and my two brothers have lost a
25 very loving dad; a man that was loved by his family and

1 the community as noted by the attendance in the courtroom
2 here today and always; a man who never got to meet his
3 granddaughter.

4 She just recently turned one year
5 old; or the grandchildren that will follow.

6 A man that would never get to walk
7 his only daughter down the isle at her wedding.

8 A man whose life was cut short at
9 the age of 54 because of \$600.00 that was taken from him.

10 So, Your Honor, on behalf of the
11 family of Ronald Rabon, we -- we request of you that you
12 give Crystal Turner the maximum sentence for this crime.

13 THE COURT:

14 Thank you Ms. Rabon.

15 SHANNON KITE:

16 My name is Shannon Kite.

17 THE COURT:

18 Spell your last name, please

19 ma'am.

20 SHANNON KITE:

21 K-i-t-e.

22 THE COURT:

23 Thank you, ma'am.

24 SHANNON KITE:

25 I have a short little letter. And

VERDICT, MOTIONS, AND SENTENCING

730

1 then one other.

2 THE COURT:

3 Okay.

4 SHANNON KITE:

5 Ronald was my first love, my first
6 husband, and the father of my children.

7 We were divorced, but he will
8 always have a special place in my heart.

9 He was a friend to anyone he met.

10 And he did not deserve to be
11 murdered and his name drug through the trial this week --
12 (trails off to an inaudible utterance?).

13 An unknown author once wrote:

14 There are things that we don't
15 want to happen, but have to accept. Things that we don't
16 want to know, but we have to learn. And people we can't
17 live without, but we have to let go.

18 If ever a storm that our family
19 has weathered together, this one -- the loss of our
20 father, our son, our brother, our uncle, cousin and
21 friend -- this storm has easily been the most difficult.

22 The day that Crystal Turner
23 decided to single out my uncle as being the perfect pick
24 was a day that had and will forever change our lives.

25 The night she laid out the plans

1 for this awful arrangement was the very night that she
2 also altered the course of this family's future; these
3 children's future; these grandchildren's future.

4 Never again, will we be able to
5 see him stroll through the door at Christmas wearing his
6 Santa suit and matching bag of presents, as he always
7 did.

8 Never again will his children be
9 able to go out on a sunny Sunday afternoon and play with
10 -- with him in a round of golf, or sit around the table
11 eating a big box of Maryland Fried Chicken, which he
12 loved.

13 His mother will never see that red
14 rose cut fresh the morning of Mother's Day and placed
15 carefully in a 20 ounce Diet Coke bottle, as he always
16 did.

17 There will be no more lawnmower
18 races with neighbors; no more days of singing to his
19 pond; driving a tractor, one of his favorite things.

20 When these people involved,
21 including Ms. Turner, selected him and chose to rob him
22 for a measly \$600.00, they may have succeeded in that
23 mere financial gain. But they robbed our family and
24 friends of so much more.

25 No price could ever be placed on

1 our memories that we hold, and no value given to this
2 spirit that lives in our hearts today.

3 From his mother's heart, it's hard
4 to feel sorry for any of them right now, but I am sorry
5 for their children and their family members; because now
6 they will have to suffer due to their decision.

7 They will have an emptiness in
8 their heart because of what they did, much like the void
9 in my heart for never having a chance to see my son
10 again.

11 My uncle never had what anyone
12 would call the perfect life, facing countless heartaches
13 and trials in his life, he had every reason to give up;
14 ever reason to retreat to solitude, and shy away from
15 those he loved, because of loads of hurt and
16 disappointment.

17 But he wasn't brought up that way.

18 From an early age, he was taught
19 the value and importance of family, working in the fields
20 of the family, eating the meals with the family, caring
21 for a sick father, as he did, because family sticks
22 together.

23 And though he had every reason to
24 abandon that principle time and again, it was the
25 community of the family that brought him through (begins

1 to weep very profusely) and the legacy that he leaves
2 behind was just that.

3 And we will honor that legacy; a
4 strong united family that will weather this storm and any
5 others together.

6 These people involved, Ms. Turner,
7 they may all think -- they may all think that they left
8 him in a dark and muddy street to die a terrible, lonely,
9 death.

10 At least that's what they may
11 think.

12 But we feel otherwise.

13 He was not alone.

14 And in some way, every one of us
15 here was with him in tears, warming him with thoughts of
16 family, especially the children.

17 And we also believe that he was in
18 the presence of an Almighty God extending him mercy and
19 grace in those final moments and comforting my uncle like
20 no one could.

21 As I opened about the unknown
22 author:

23 There are things that we don't
24 want to have -- to happen, but we have to accept.

25 We have to accept that he is gone

1 and our lives are forever changed.

2 He wrote that:

3 We don't want to know -- things
4 that we don't want to know, but we have to learn.

5 We didn't want to hear these
6 details, such as the way he pleaded for these people not
7 to hurt him; but yet was killed anyway.

8 However, we had to learn them.

9 And as he wrote:

10 There are people that we can't
11 live without, but we have to let go.

12 Every day that passes, we can't
13 bear the thoughts of living without our father, our son,
14 our brother, our uncle, our friend.

15 But we have to let go.

16 And we have to let go because of
17 someone else's poor decision.

18 We will always have to endure the
19 repercussions of their actions -- of her action.

20 Maybe someday God -- Maybe someday
21 you all can find God's forgiveness.

22 And maybe someday we can truly
23 forgive. But we can never forget.

24 THE COURT:

25 Thank you, Ms. Kite.

1 MR. FILIBERTO:

2 Your Honor, that's the State's
3 presentation.

4 THE COURT:

5 Thank you.

6 Mr. Joye, I'll be glad to hear
7 from you; and from Ms. Turner or anyone on her behalf.

8 MR. JOYE:

9 I've been through this trial never
10 at a loss for words.

11 But they seem to escape me now,
12 Judge.

13 I've been through the last two
14 years with Crystal Turner.

15 She's done everything I've asked.

16 I felt she's been honest with me
17 all -- always, at every point.

18 I never get up here in front of
19 this jury and tell them that my client is innocent.

20 I may say:

21 They're cloaked innocence.

22 And I may say a number of things
23 about them being not guilty beyond a reasonable doubt.

24 Not today.

25 Quite honestly, I believe the jury

1 got it wrong.

2 But they have spoken.

3 She's a mother.

4 She's the daughter.

5 She's a granddaughter.

6 And she's somebody else's baby.

7 Often times, we find ourselves in
8 situations we may not have anticipated. And I clearly
9 believe the Crystal ever anticipated it that night.

10 Crystal's never been in any
11 trouble before. And here she finds herself, based on bad
12 decisions and poor choices of who she spent her time
13 with.

14 Judge, given everything that --
15 that Crystal immediately tried to cooperate.

16 I think we corroborated that with
17 Sergeant John Gonska.

18 And when she spoken to Sergeant
19 Alan -- or Detective Allen Large, that she wasn't
20 evasive.

21 She told where she'd been.

22 She tried to cooperate.

23 Your Honor, I would ask that This
24 Court give her a minimum sentence.

25 I understand that this accessory

1 before the fact carries the same as the principal.

2 Somehow, in this case, that just
3 doesn't seem fair.

4 I know the Rabons have -- and
5 family and friends have lost a loved one, a friend, a
6 relative.

7 Someone else is losing a relative;
8 a friend; a mother.

9 She has a two-year-old daughter at
10 -- at home.

11 And Judge, I would ask that This
12 Court give her the minimum sentence that it can impose,
13 knowing that that's still one heck of a sentence for
14 someone who's never been in trouble before, never touched
15 a gun, never really understood the implications of what
16 was happening that night.

17 Thank you, Judge.

18 THE COURT:

19 Thank you, Mr. Joye.

20 Does anyone on behalf of Ms.
21 Turner's family wish to speak?

22 MR. JOYE:

23 Your Honor, I just -- I don't
24 think Ms. Turner's just capable of speaking right now.

25 THE COURT:

VERDICT, MOTIONS, AND SENTENCING

738

1 All right.

2 MR. JOYE:

3 I know that there's a lot of
4 things she'd like to say; but --

5 THE COURT:

6 Right. All right.

7 (WHEREUPON: A lady from the
8 audience rises and comes forward to speak.)

9 THE COURT:

10 Yes ma'am?

11 JO TURNER:

12 My name is Jo Turner.

13 THE COURT:

14 If you will face this direction,
15 please ma'am, Ms. Turner, and speak into that microphone.

16 Thank you, ma'am.

17 JO TURNER:

18 My name is Joe Turner.

19 This is my daughter, Crystal.

20 THE COURT:

21 Yes ma'am.

22 JO TURNER:

23 And I don't care what nobody says,
24 she never had no harm for nobody; never meant for anybody
25 to be harmed.

1 And I don't have a script.
2 I don't sit down and have to write
3 nothing.
4 If my daughter needed money, she
5 would ask me.
6 She wouldn't have went out and got
7 six other people -- five other people to rob somebody for
8 twenty frigging dollars; please.
9 Are you ridiculous?
10 THE COURT:
11 Well --
12 MR. JOYE:
13 Your Honor, I'm -- Your Honor,
14 this is Ms. Doyle.
15 JO TURNER:
16 I've got to calm myself down.
17 DEPUTY:
18 Order, please.
19 THE COURT:
20 Please, thank you.
21 Yes ma'am? Your name, please,
22 ma'am?
23 LOUISE DOYLE:
24 Louise Doyle. I'm Crys's
25 grandmother.

VERDICT, MOTIONS, AND SENTENCING

740

1 THE COURT:

2 Yes ma'am.

3 COURT REPORTER:

4 Louise what? What was the last
5 name?

6 MR. JOYE:

7 Doyle. Doyle, Mr. Court
8 Reporter.

9 LOUISE DOYLE:

10 D-o-y-l-e.

11 THE COURT:

12 Yes ma'am, Ms. Doyle.

13 LOUISE DOYLE:

14 And -- uh -- I know without a
15 doubt that if Crystal had been needing money, she would
16 come to me for money because she knew I could give it to
17 her.

18 I have often done that.

19 She never said a thing about
20 wanting money as far as the light bill there.

21 The light bill was never hers to
22 start with.

23 It was in her mother's name. The
24 house was her mother's.

25 She lived there.

1 Had her own -- Her momma just let
2 her live in the house.

3 She didn't have a way to got those
4 bills.

5 And I know if she had of wanted
6 money, or needed money, she would have come to me.

7 Because I'd let her have money
8 before and helped her to clear off a spot for to put her
9 house.

10 Never charged her anything for
11 that. Helped get her water. And never charged
12 anything for that.

13 And I know she would have come to
14 me if she had of been needing money.

15 And I don't think that -- in -- In
16 my heart, I don't believe she would've ever harmed
17 anyone.

18 I just don't.

19 THE COURT:

20 Thank you, Ms. Doyle.

21 Mr. Joye, anything further?

22 MR. JOYE:

23 Your Honor, obviously, I think
24 everyone's in shock. And I -- I certainly understand --
25 Your Honor's been on the bench a long time. And -- And

VERDICT, MOTIONS, AND SENTENCING

742

1 you understand that -- uh --

2 THE COURT:

3 I understand.

4 MR. JOYE:

5 -- sometimes it takes some time
6 for things to sink in.

7 THE COURT:

8 I understand

9 MR. JOYE:

10 No one was prepared for this.

11 THE COURT:

12 I understand. Thank you.

13 I can appreciate the fact that for
14 Mr. Rabon's family, the loss as a result of these events
15 is the same for an armed robbery as it was for a murder.

16 He's been taken from your midst.
17 And he's not going to come back. And indeed you all are
18 going to be missing the things that Ms. Kite and Ms.
19 Rabon said before me in such a heartfelt way.

20 I understand that. And I am
21 sympathetic to that.

22 The jury has indicated, however,
23 that they do not feel that Ms. Turner had anything to do
24 with the murder of Mr. Rabon.

25 I cannot ignore that.

1 The jury has found that.

2 They have expressed that to me in
3 a very explicit way.

4 Had they felt that Ms. Turner was
5 complicit in the murder of Mr. Rabon, they would've found
6 her not guilty -- found her guilty of the accessory
7 before the fact of murder.

8 They did not.

9 We all know that Mr. Rabon is
10 gone. And the jury knew that he was gone.

11 But I have to treat this for what
12 it is.

13 It is an accessory before the fact
14 to armed robbery.

15 Those who are responsible for
16 taking the life of Mr. Rabon either have pled guilty or
17 they're going to have their day in court.

18 And that terrible crime can be
19 addressed when the people who are properly responsible
20 for it come before a Court.

21 I realize, as I've said to you
22 all, the person whom this jury found identified your
23 loved one as a victim in this case, as far as you're
24 concerned, is equally guilty of his loss.

25 But the jury did not find it that

1 way.

2 And I cannot quarrel with their
3 decision.

4 Their decision was supported by
5 the evidence in this particular case.

6 And so, I treat it for what it is.

7 It is an accessory before the fact
8 to a felony armed robbery.

9 However, I cannot ignore the fact
10 that this armed robbery was not just any armed robbery.

11 It was one that apparently was
12 thought out and planned.

13 However hastily it may have been,
14 thought went into it.

15 And the jury believed that Ms.
16 Turner had an active part in that planning; that she
17 pointed out the victim; that she provided a -- a vehicle;
18 that she gave directions as to how to get to where they
19 needed to get in order to carry out the robbery, which
20 was done by other people.

21 I cannot find that she, under
22 those circumstances and the absence of a record, should
23 receive the maximum sentence.

24 Nor do I find that she should
25 receive the minimum sentence.

1 I take into account the fact that
2 she has no record.

3 I take into account the fact that
4 there has been a loss, a terrible loss. But one for
5 which this jury feels that other people are responsible.

6 And the sentence of The Court, Ms.
7 Turner is:

8 That you be committed to the State
9 Department of Corrections for a period of 16 years.

10 Thank you

11 Folks, in this particular case, we
12 will stand aside. And we'll be in recess for about 15
13 minutes at least.

14 Thank you.

15 (WHEREUPON: The court was
16 declared in recess at 2:32 PM, September 16, 2010.)

17 (WHEREUPON: The court was called
18 to order by the Bailiff at 3:08 PM, September 16, 2010;
19 and all pertinent parties, along with their counsel, were
20 back and present in the courtroom.)

21 DEPUTY:

22 Order in the court. All Rise.

23 THE COURT:

24 Thank you, ladies and gentlemen.

25 Please be seated.

SENTENCING OF CHARLES ANDREW SKIPPER

746

1 MS. WILSON:

2 Your Honor, may we approach,
3 briefly?

4 THE COURT:

5 Yes ma'am, you can.

6 (WHEREUPON: Counsel for each party
7 conferred off the record with The Court at the bench at
8 3:08 PM, September 16, 2010.)

9 THE COURT:

10 All right. Folks, it appears
11 we're not quite ready yet. Have a seat. Y'all call me
12 when everything's in place, please.

13 Thank you.

14 (WHEREUPON: The court was
15 declared in recess at 3:08 PM, September 16, 2010.)

16 (WHEREUPON: The court was called
17 to order by the Bailiff at 3:19 PM, September 16, 2010;
18 and all pertinent parties, along with their counsel, were
19 back and present in the courtroom.)

20 BAILIFF:

21 Order in the court. All Rise.

22 THE COURT:

23 Thank you again, folks. Please
24 be seated.

25 All right.

1 Mr. Filiberto?

2 MR. FILIBERTO:

3 Thank Your Honor.

4 Uh -- Your Honor, at this time we
5 go back on the record, State of South Carolina versus
6 Charles Andrew Skipper.

7 I believe Your Honor already has
8 the sentencing sheet.

9 Your Honor, earlier this week, I
10 think Tuesday morning -- uh -- Mr. Skipper -- uh --
11 entered guilty pleas -- uh -- as charged to murder and
12 armed robbery related to the same case that -- uh -- Your
13 Honor just presided over in trial.

14 And the -- the facts, Your Honor,
15 -- uh -- I believe are -- is well versed in the facts.

16 THE COURT:

17 Right.

18 MR. FILIBERTO:

19 Mr. Skipper -- uh -- did plead
20 guilty without any negotiations or recommendations.

21 I -- I would, in fairness, point
22 to The Court that once he pled guilty, he -- uh -- he did
23 -- uh -- make himself available, and did offer testimony
24 in support of the State's case in the trial that just
25 happened.

SENTENCING OF CHARLES ANDREW SKIPPER

748

1 Uh -- And again, Your Honor, I'm
2 nor sure -- I'll inquire if any of the family members
3 would like to speak to The Court at this time.

4 THE COURT:

5 Surely; please do.

6 MR. FILIBERTO:

7 Your Honor, the -- the family
8 informs me that -- uh -- that they would really be saying
9 basically the same thing they -- they just said.

10 They appreciate the opportunity..

11 And they would ask The Court to just remember the prior
12 comments.

13 THE COURT:

14 I will indeed remember those.

15 Thank you.

16 MR. FILIBERTO:

17 Thank you, sir.

18 THE COURT:

19 All right.

20 I would like to know about his
21 prior record, however -- uh -- please.

22 MR. JOYE:

23 I've got it.

24 MR. FILIBERTO:

25 Your Honor, Just one second.

1 MR. FILIBERTO:

2 Thank you, sir.

3 Your Honor, if it please The
4 Court?

5 THE COURT:

6 Yes sir.

7 MR. FILIBERTO:

8 Your Honor, Mr. Skipper has a 2000
9 conviction, malicious injury to -- uh -- personal
10 property.

11 Uh -- In 2000 a CDV conviction.
12 2000, a simple assault conviction.

13 Uh -- 2001 -- uh -- uh -- uh --
14 entering without breaking.

15 That's probably a burglary. It's
16 all in Dillon County.

17 THE COURT:

18 Right.

19 MR. FILIBERTO:

20 Uh -- A B&E Auto -- uh -- again in
21 2002.

22 Grand larceny under \$5000.00 -- uh
23 -- in 2002.

24 It appears another conviction for
25 entering without breaking. I don't know. Is that a

SENTENCING OF CHARLES ANDREW SKIPPER

750

1 duplication?

2 Yeah, it's a duplication, Your

3 Honor.

4 THE COURT:

5 Okay.

6 MR. FILIBERTO:

7 Uh -- A receiving stolen goods
8 conviction in 2004 for \$5000.00 or greater.

9 Uh -- I believe that is the extent
10 of his record.

11 THE COURT:

12 Okay.

13 And Mr. Anderson I believe it is
14 receiving stolen goods for which you have him?

15 PROBATION OFFICER ANDERSON:

16 Yes, Your Honor.

17 That's the one he's on probation
18 for in Dillon County, Judge.

19 THE COURT:

20 All right. Good.

21 Let me hear from you further
22 before I go to the -- uh --

23 PROBATION OFFICER ANDERSON:

24 Judge, he -- he was placed on
25 probation back in '04. He got five years suspended to

1 three years probation.

2 Uh -- He -- He's had one
3 revocation on this case, Your Honor.

4 That occurred 8/16 of 2005, for
5 which was revoked for three years.

6 I believe he's got two years
7 exposure on this case. And the major violations in the
8 warrant, Judge, that were served upon him are -- are the
9 convictions here today.

10 THE COURT:

11 Good. Thank you, Mr. Anderson.

12 All right.

13 Mr. Skipper, is that your record
14 that -- uh -- has just been read to me?

15 DEFENDANT SKIPPER:

16 Yes sir.

17 THE COURT:

18 All right.

19 I'll be glad now to hear from you,

20 Mr. Skipper.

21 From you, Ms. Wilson; from you or
22 from anybody on his behalf.

23 MS. WILSON:

24 Thank Your Honor.

25 Uh -- Your Honor, I don't -- kind

SENTENCING OF CHARLES ANDREW SKIPPER

752

1 of like Mr. Joye earlier, I don't know quite where to
2 start to ex -- to explain to you how my client came to be
3 here today.

4 Certainly, you heard the record
5 and the evidence in this case.

6 THE COURT:

7 Right.

8 MS. WILSON:

9 And you've heard my client's own
10 admission.

11 THE COURT:

12 Right.

13 MS. WILSON:

14 Uh -- I think that it's very
15 telling that even at this point he has come forward and
16 acknowledged his responsibility.

17 Even more telling, Your Honor,
18 that he chose to testify for the State, knowing that
19 there were no promises, no guarantees to be made to him.

20 Uh -- Ever hopeful; but no
21 promises.

22 THE COURT:

23 Right.

24 MS. WILSON:

25 Nothing -- Nothing for sure.

1 THE COURT:

2 I understand.

3 MS. WILSON:

4 That being said, he got up there
5 and he got on the stand.

6 I think he was a very strong
7 witness for the State.

8 I -- I think he played a crucial
9 role in giving testimony in -- in giving testimony that
10 probably swayed the jury in this matter.

11 My client has a loving family,
12 loving children.

13 His family's here today with him;
14 his mother, and his stepdad, and a -- a close family
15 friend.

16 Uh -- They're going to miss him.

17 He knows that he's accepted his
18 responsibility here and knows that he is actually going
19 to be incarcerated for a lengthy period of time.

20 And there is no question about
21 that.

22 Uh -- Obviously, we're asking This
23 Court not to sentence him to the maximum, which is life
24 without parole.

25 My client is 28 years old.

SENTENCING OF CHARLES ANDREW SKIPPER

754

1 Uh -- He has the possibility of
2 rehabilitation -- of -- of maturity.

3 And I think, Your Honor, a 30 year
4 sentence would definitely serve The Court's purposes here
5 in -- in punishment and in rehabilitation.

6 My client is remorseful for his
7 actions.

8 I think that has played a part in
9 his decision as well to come forward and be honest and
10 forthright with The Court about what he's done here.

11 Uh -- I think that also there is a
12 -- a part of him that feels as if he has performed some
13 sort of penitence or repentance for -- for actually
14 coming out and saying what he's done.

15 THE COURT:

16 Uh-huh.

17 MS. WILSON:

18 There's nothing that can bring Mr.
19 Rabon back.

20 Uh -- I think my client's
21 extremely sorry for his actions. And I think that if he
22 could go back and change those actions, he would.

23 But he cannot.

24 Uh -- And to that end, he has
25 asked me to apologize to the family on his behalf.

1 Because he is extremely sorry for
2 the actions that -- that he caused and brought about --
3 brought about the loss that they've suffered.

4 Uh -- That being said, I think he
5 also -- uh -- wanted me to apologize to his family.
6 Because he has caused them a loss as well.

7 He's put everybody through a lot
8 of emotional turmoil. And he recognizes that.

9 Uh -- That being said, Your Honor,
10 he's always understood exactly what the price of this
11 offense was.

12 Uh -- Certainly, as we informed
13 The Court at the very beginning when this plea was
14 qualified, I came in at a point when there was very
15 little time to help him get ready for what you are about
16 to face.

17 Uh -- Certainly, with the felony
18 murder rule in play here, this wasn't just about:

19 Was he a shooter?

20 This was also about:

21 Did he participate in a crime that
22 -- you know -- a foreseeable act occurred as a result,
23 and that he would be then responsible for.

24 Uh -- And certainly we felt that
25 with the testimony that would be facing him, he very

SENTENCING OF CHARLES ANDREW SKIPPER

756

1 likely would be convicted; almost certainly.

2 THE COURT:

3 Uh-huh.

4 MS. WILSON:

5 Uh -- This was never about not
6 going to prison. This was about hoping not being there
7 for life.

8 We are begging This Court for any
9 mercy.

10 And my father has a saying that I
11 am going to repeat now.

12 He always says that:

13 Mercy isn't deserved. It's not
14 earned. It is given.

15 And we are asking This Court to
16 show some mercy to Mr. Skipper today -- uh -- allow him
17 the minimum sentence.

18 He will be, I believe, 56 years
19 old when he is able to get out.

20 That's 30 years day for day.

21 And certainly, it is not life.

22 But it is going to be for the substantial portion of his
23 life.

24 And we would ask The Court to
25 impose that sentence.

1 Thank you.

2 THE COURT:

3 Thank you.

4 Does any member of Mr. Skipper's
5 family wish to be heard, Ms. Wilson?

6 MS. WILSON:

7 Your Honor, they told me they did
8 not.

9 THE COURT:

10 All right.

11 Mr. Skipper, what can you add to
12 what's been said on your behalf?

13 DEFENDANT SKIPPER:

14 I'd just like to apologize to The
15 Court and the family for my actions and -- uh -- I hope
16 that -- uh -- you know -- with some time they -- they can
17 learn to forgive me.

18 Uh -- With that, I don't have
19 anything else to say, Your Honor.

20 THE COURT:

21 Mr. Skipper, can you give me any
22 help as I struggle with how to address what you've done;
23 the loss that these folks have suffered on the other side
24 of this courtroom?

25 DEFENDANT SKIPPER:

SENTENCING OF CHARLES ANDREW SKIPPER

758

1 I can't.

2 THE COURT:

3 Can -- Can you give me any help in
4 trying to understand how a robbery turned into what was a
5 cold-blooded murder?

6 DEFENDANT SKIPPER:

7 No sir. I was under the
8 influence. I can't tell you that. I'm just sorry it
9 happened.

10 THE COURT:

11 All right.

12 MS. WILSON:

13 Your Honor?

14 THE COURT:

15 Yes ma'am?

16 MS. WILSON:

17 I'm sorry. If I might address on
18 my client's behalf:

19 Uh -- There is no question, I
20 think that the testimony was clear that my client and --
21 uh -- the people he was with that night were smoking
22 marijuana.

23 Uh -- I -- My understanding is
24 that he had some drinks that night as well.

25 And obviously, we know that

1 intoxication of any sort is no defense to any criminal
2 act.

3 But I do believe that -- you know
4 -- that significantly played into my client's impairment
5 in judgment --

6 THE COURT:

7 Right.

8 MS. WILSON:

9 -- and decision-making making.

10 Uh -- If that provides any clarity
11 for The Court?

12 THE COURT:

13 Thank you, ma'am.

14 The struggle, obviously, with --
15 in me as I try to address all of the issues that need to
16 be addressed in any sentencing -- any sentencing
17 proceedings are how to address some how or another the
18 loss of -- of the Rabon family on the one hand, which is
19 a final and irreplaceable loss, and what part of Mr.
20 Skipper's life do I need to take away in order to address
21 that loss.

22 Clearly, Mr. Skipper's actions
23 warrant the maximum the law can give.

24 This murder was planned.

25 It was cold-blooded.

SENTENCING OF CHARLES ANDREW SKIPPER

760

1 It was senseless.

2 And no one disputes that.

3 And on its very face then, those
4 actions could justify life imprisonment without the
5 possibility of parole.

6 To what extent is Mr. Skipper
7 entitled to some consideration for having pled guilty,
8 yes; and having acknowledged his guilt, and having
9 testified against a codefendant in the trial of the case,
10 which may have had some weight in the jury's mind.

11 It may not have. I really don't
12 know.

13 And so, how much consideration are
14 those things entitled to, as I tried to decide what to do
15 in this particular case.

16 The sentence is day for day.
17 You're right, Ms. Wilson; every day, whatever it is.

18 It has to be served. There's no
19 percentage of this sentence reduced for any reason at
20 all.

21 And so, it's a very real sentence
22 in terms of -- of the time that's going to be served.

23 And frankly, I've been struggling
24 within myself since I took this guilty plea earlier in
25 the week as to how that address all this.

1 I've listened to -- to what
2 everybody said here in court.

3 I had hoped perhaps that the
4 testimony some how or another would -- would give me some
5 explanation, however implausible it might be, for a
6 completely senseless act.

7 And I haven't found any.

8 And Mr. Skipper can't offer any
9 today. And I understand that.

10 I understand he can't. Because
11 there is no -- there is no reason for what has been done.

12 Under the best of circumstances,
13 Mr. Skipper will be an old man when he gets out of jail
14 or be older than he is Now.

15 Mr. Rabon was 54 before the last
16 part of his life was taken from him.

17 Mr. Skipper, on the charge of
18 armed robbery, the sentence is:

19 You be committed to the State
20 Department of Corrections for a period of 30 years.

21 You'll get credit for the time
22 that you served.

23 On the probation, I revoke the
24 unserved time left on that, to run concurrent with the
25 armed robbery and with the murder.

SENTENCING OF CHARLES ANDREW SKIPPER

762

1 I had talked with counsel in
2 chambers on both sides before this trial began, and had
3 given some suggestions about sentencing ranges -- or a
4 sentencing range that I thought would be appropriate in
5 the face of a guilty plea. I've heard it all now.

6 And whatever leniency I could give
7 from that suggested sentence or proposed sentence because
8 of Mr. Skipper's testifying in this trial, quite frankly
9 has been outweighed by the facts of this case as they
10 have developed before me.

11 Mr. Skipper, the sentence of The
12 Court is that:

13 You be committed on the charge of
14 murder to the State Department of Corrections for a
15 period of 40 years.

16 I'll give you credit for the time
17 that you served. All of these sentences will run
18 concurrent to each other.

19 MS. WILSON:

20 Thank you very much, Your Honor.

21 THE COURT:

22 Thank you.

23 WHEREUPON: There being nothing
24 further, this matter was concluded at 3:34 PM, September
25 16, 2010.

CERTIFICATE

I, the undersigned, H. Eugene Buckner, CVR, Official Court Reporter at Large in and for the State of South Carolina, do hereby certify that the foregoing proceeding was taken on the 13th, 14th, 15th, and 16th days of September, 2010;

That the within judicial proceedings are, to the best of my ability, an accurate and verbatim transcription of the hearing;

I further certify that I am neither Counsel nor Solicitor to any of the parties in said suit, nor interested in the event of the cause.

IN WITNESS WHEREOF, I have hereunto set my hand and seal this 11th day of March, 2011.

H. Eugene Buckner

H. EUGENE BUCKNER, CVR
OFFICIAL COURT REPORTER AT LARGE
15TH JUDICIAL DISTRICT
STATE OF SOUTH CAROLINA

FORM 5

STATE OF SOUTH CAROLINA)

COUNTY OF HORRY)

CRYSTAL TURNER, # 00342796)

Full name and prison number (if any) of Applicant.)

v.)

State of South Carolina)

IN THE COURT OF COMMON PLEAS

13 4528
APPLICATION FOR

POST-CONVICTION RELIEF

INSTRUCTIONS - READ CAREFULLY

In order for this application to receive consideration by the Court, it shall be in writing (legibly handwritten or typewritten), signed by the applicant and verified (notarized), and it shall set forth in concise form the answers to each applicable question. If necessary, applicant may furnish his answer to a particular question on the reverse side of the page or on an additional page. Applicant shall make clear to which question any such continued answer refers.

Since every application must be sworn under oath, any false statement of a material fact therein may serve as the basis of prosecution and conviction for perjury. Applicants should, therefore, exercise care to assure that all answers are true and correct.

If the application is taken in forma pauperis, it shall include an affidavit (attached at the back of the form) setting forth information which establishes that applicant will be unable to pay the fees and costs of the proceedings. When the application is completed, the original shall be mailed to the Clerk of Court for the County in which the applicant was convicted.

1. Place of detention Graham Correctional Institute
2. Name and location of Court which imposed sentence Horry County Court of General Sessions, Conway, SC
3. Name(s) of co-defendant(s) (if any) _____
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 - (a) 2009-GS-26-2174, Accessory Before the Fact of Armed Robbery
 - (b) _____
 - (c) _____
5. The date upon which sentence was imposed and the terms of the sentence:
 - (a) 03/17/2010; 16 years incarceration

- (b) _____
- (c) _____
6. Check whether a finding of guilty was made:
- (a) after a plea of guilty _____
- (b) after a plea of not guilty X
- (c) after a plea of nolo contendere _____
7. Did you appeal from the judgment of conviction or the imposition of sentence?
Yes
8. If you answered "yes" to (7), list:
- (a) the name of each Court to which you appealed:
- i. South Carolina Court of Appeals
- ii. _____
- iii. _____
- (b) the result in each such Court to which you appealed:
- i. Affirmed
- ii. _____
- iii. _____
- (c) the date of each such result:
- i. 10/24/2012
- ii. _____
- iii. _____
- (d) if known, citations of any written opinion or orders entered pursuant to such results:
- i. State v. Torres, 390 SC 618 (2010); State v. Jarrell, 350 SC 90 (Ct. App. 2002); State v. Weston, 367 SC 279 (2006); State v. Grueling, 257 SC 515 (1972).
- ii. _____
- iii. _____
9. If you answered "no" to (7), state your reasons for not so appealing:
- (a) _____
- (b) _____
- (c) _____
10. State concisely the grounds on which you base your allegation that you are being held in

custody unlawfully:

(a) Ineffective Assistance of Trial Counsel

(b) _____

(c) _____

11. State concisely and in the same order the facts which support each of the grounds set out in (10):

(a) Trial Counsel failed to properly investigate witnesses

(b) Trial Counsel failed to call vital witnesses on behalf of Defendant's case

(c) Trial Counsel failed to object to the Court's refusal to allow the jury's request to

re-hear testimony

12. Prior to this application have you filed with respect to this conviction:

(a) any petition in a State Court under South Carolina Law? No

(b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? No

(c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? No

(d) any other petitions, motions or applications in this or any other Court? No

13. If you answered "yes" to any part of (12), list with respect to each petition, motion or application:

(a) the specific nature thereof:

i. _____

ii. _____

iii. _____

iv. _____

(b) the name and location of the Court in which each was filed:

i. _____

ii. _____

iii. _____

iv. _____

(c) the disposition thereof:

i. _____

ii. _____

iii. _____

iv. _____

(d) the date of each such disposition:

i. _____

ii. _____

iii. _____

iv. _____

(e) if known, citations of any written opinions or orders entered pursuant to each such disposition:

i. _____

ii. _____

iii. _____

iv. _____

14. Has any ground set forth in (10) been previously presented to this or any other Court, State or Federal, in any petition, motion or application which you have filed?

No

15. If you answered "yes" to (14) identify:

(a) which grounds have been presented:

i. _____

ii. _____

iii. _____

(b) the proceedings in which each ground was raised:

i. _____

ii. _____

iii. _____

16. If any ground set forth in (10) has not previously been presented to any Court, State or Federal, set forth the ground and state concisely the reasons why such ground has not previously been presented:

(a) This is Petitioner's first PCR Petition and therefore the first time to present Ineffective Assistance of Counsel; Regarding the issue of the Court's refusal to allow the jury's request to re-hear testimony, the issue was not preserved.

(b) _____

- (c) _____
17. Were you represented by an attorney at any time during the course of:
- (a) your arraignment and plea? Yes
 - (b) your trial, if any? Yes
 - (c) your sentencing? Yes
 - (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? Yes
 - (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? Yes
18. If you answered "yes" to one or more parts of (17), list:
- (a) the name and address of each attorney who represented you:
 - i. R. Scott Joye, 3575 Hwy. 17 Bus., Murrell's Inlet, SC 29576
 - ii. Breen Richard Stevens, 1330 Lady Street, Ste. 401, Columbia, SC 29201
 - iii. T. Kirk Truslow, P.O. Box 238, North Myrtle Beach, SC 29597
 - (b) the proceedings at which each such attorney represented you:
 - i. Trial
 - ii. Appeal
 - iii. This PCR
19. State clearly the relief you seek in filing this application:
New Trial
20. Are you now under sentence from any other court that you have not challenged?
No

Respectfully Submitted,

T. K. Truslow

T. Kirk Truslow

Attorney for Petitioner

PO Box 238

North Myrtle Beach, SC 29597

843-280-9438

Revised 3/2003

06/03/2013

06/24/2013

T.K.T.

13

4528

STATE OF SOUTH CAROLINA)

County of Horry)

VERIFICATION

I, Crystal Turner, being duly sworn upon my oath, depose and say that I have subscribed to the foregoing application; that I know the contents thereof; that it includes every ground known to me for vacating, setting aside or correcting the conviction and sentence attacked in this application; and that the matters and allegations therein set forth are true.

Crystal Turner
342796

SWORN to and subscribed before me this 12th
day of June, 2013.

Hobby R. Barnes (L.S.)
Notary Public

My Commission Expires: My Commission Expires August 12, 2015

FILED
JURY COUNTY
2013 JUN 26 PM 3:05
MELANIE HUGGINS-WARD
CLERK OF COURT

STATE OF SOUTH CAROLINA
COUNTY OF HORRY

) IN THE COURT OF COMMON PLEAS
) FOR THE FIFTEENTH JUDICIAL CIRCUIT

Crystal Turner, #342796

) Case No. 2013-CP-26-04528

Applicant,

v.

) RETURN

State of South Carolina,

Respondent.

The Respondent, making its Return to the Application for Post-Conviction Relief filed June 26, 2013, would respectfully show this Court:

I.

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Horry County Clerk of Court. In May 2009, the Horry County Grand Jury indicted Applicant for Accessory Before the Fact to a Felony (2009-GS-26-2174). R. Scott Joye, Esquire, represented Applicant. On September 16, 2010, a jury found Applicant guilty as indicted. The Honorable Thomas W. Cooper Jr. sentenced Applicant to sixteen (16) years for Accessory Before the Fact to a Felony, Armed Robbery.

Applicant filed a timely notice of appeal. Breen Richard Stevens, Esquire, of the Office of Appellate Defense represented Applicant on appeal. The South Carolina Court of Appeals affirmed Applicant's conviction on October 24, 2012. State v. Turner, Op. No. 2012-UP-562 (S.C. Ct. App. filed October 24, 2012). The remittitur was returned to the circuit court on November 19, 2012.

II.

In her current Application, Applicant alleges she is being held in custody unlawfully for the following reasons:

1. "Ineffective assistance of trial counsel"
 - a. "Trial Counsel failed to properly investigate witnesses"
 - b. "Trial Counsel failed to call vital witnesses on behalf of Defendant's case"
 - c. "Trial Counsel failed to object to the Court's refusal to allow the jury's request to re-hear testimony"

Any claims not specifically enumerated in the Application or amendments thereto will be opposed by Respondent at the evidentiary hearing. All amendments should be made well in advance of hearing and should be filed in compliance with Rule 11, SCRPC.

Attached to this Return and incorporated herein are the records of the Horry County Clerk of Court regarding the subject conviction(s), the Applicant's records from the South Carolina Department of Corrections, the trial transcript, and Applicant's appellate records. Any records not attached will be forwarded upon receipt. Respondent reserves the right to amend this Return upon receipt of any relevant materials.

III.

Respondent submits Applicant's allegation of ineffective assistance of counsel is without merit. In a post-conviction relief action, the applicant bears the burden of proving the allegations in their application. Butler v. State, 286 S.C. 441, 442, 334 S.E.2d 813, 814 (1985) (citing Griffin v. Martin, 278 S.C. 620, 300 S.E.2d 482 (1983)). Where the application alleges ineffective assistance of counsel as a ground for relief, the applicant must prove "counsel's conduct so undermined the

proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result." Id. (citing Strickland v. Washington, 466 U.S. 668, 686 (1984)).

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. Id. (citing Strickland, 466 U.S. at 687; Turner v. Bass, 753 F.2d 342 (4th Cir. 1985); Marzullo v. Maryland, 561 F.2d 540 (4th Cir. 1977)). The court strongly presumes that counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Id. (citing Strickland, 466 U.S. at 690). The applicant must overcome this presumption in order to receive relief. Cherry v. State, 300 S.C. 115, 118, 386 S.E.2d 624, 625 (1989).

The reviewing court applies a two-pronged test in evaluating allegations of ineffective assistance of trial counsel. Id. at 117, 386 S.E.2d at 625. First, the applicant must prove trial counsel's performance was deficient. Id. Under this prong, the court measures an attorney's performance by its "reasonableness under prevailing professional norms." Id. (citing Strickland, 466 U.S. at 688). Second, trial counsel's deficient performance must have prejudiced the applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Id. at 117-18, 386 S.E.2d at 625.

Respondent submits Applicant cannot satisfy either requirement of the Strickland test. However, the allegation of ineffective assistance of counsel probably raises questions of fact that the record does not conclusively refute. Accordingly, Respondent requests an evidentiary hearing to fully resolve this issue. See Sharper v. State, 279 S.C. 264, 305 S.E.2d 247 (1983).

IV.

Each and every allegation contained within the Application not herein before expressly admitted, qualified, or explained is hereby denied.

V.

WHEREFORE, having made its Return, Respondent requests an evidentiary hearing be held.

Respectfully submitted,

ALAN WILSON
Attorney General

JOHN W. McINTOSH
Chief Deputy Attorney General

KAREN C. RATIGAN
Senior Assistant Deputy Attorney General

JOSHUA L. THOMAS
Assistant Attorney General
S.C. Bar No. 100777

By: 
ATTORNEYS FOR RESPONDENT

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

Feb. 27, 2014

STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF HORRY	)	
	)	
	)	2013-CP-26-4528
CRYSTAL TURNER, #342796	)	
	)	
Applicant,	)	
	)	
vs	)	AFFIDAVIT OF SERVICE BY MAIL
	)	
STATE OF SOUTH CAROLINA,	)	
	)	
Respondent.	)	

1. I am an employee of the Respondent in the above-captioned action.
2. Regular communication by mail exists throughout the State of South Carolina and that this is a proper circumstance of service by mail.
3. I have this day served a copy of the **Return** on the above-captioned matter on the following person by depositing same in the United States mail, postage prepaid:

Timothy Kirk Truslow, Esquire
418 B. Main St.
N. Myrtle Beach, SC 29582

DATED this 27th day of February, 2014.


 Norma Bigbee, Legal Assistant
 For Respondent

STATE OF SOUTH CAROLINA) COURT OF COMMON PLEAS
COUNTY OF GEORGETOWN) FIFTEENTH JUDICIAL CIRCUIT
CASE NO.: 2013-CP-26-04528

CRYSTAL TURNER,)

APPLICANT,)

VS.)

STATE OF SOUTH CAROLINA,)

RESPONDENT.)

POST CONVICTION RELIEF HEARING

held before the Honorable Kristi L. Harrington
Mia Perron, Circuit Court Reporter, 9th Judicial Circuit
in the Georgetown County Courthouse
Georgetown, South Carolina
on Thursday, August 28, 2014, Commencing at 10:08 a.m.

SUSAN "MIA" PERRON, CVR-CM-M
Circuit Court Reporter - 9th Judicial Circuit
Post Office Box 31865
Charleston, South Carolina 29417-1865
1-706-231-6028

APPEARANCES OF COUNSEL

FOR THE APPLICANT: Timothy K. Truslow, Esquire
Attorney at Law
Post Office Box 238
N. Myrtle Beach, South Carolina 29597

FOR THE RESPONDENT: Joshua Thomas, Esquire
Office of the Attorney General
Post Office Box 11549
Columbia, South Carolina 29211

INDEX TO PROCEEDINGS

	PAGE
PROCEEDINGS	4
CRYSTAL TURNER	
Direct Examination by Mr. Truslow	8
Cross-Examination by Mr. Thomas	31
Redirect Examination by Mr. Truslow	33
PAIGE FURNISS	
Direct Examination by Mr. Truslow	35
Cross-Examination by Mr. Thomas	44
RICHARD S. JOYE	
Direct Examination by Mr. Thomas	47
Cross-Examination by Mr. Truslow	57
Redirect Examination by Mr. Thomas	67
Recross-Examination by Mr. Truslow	69
ARGUMENT BY MR. TRUSLOW	71
ARGUMENT BY MR. THOMAS	78
CERTIFICATE OF COURT REPORTER	81

EXHIBITS

[None]

Crystal Turner vs. The State of South Carolina
Post Conviction Relief Hearing
August 28, 2014

PROCEEDINGS

THE COURT: Mr. Thomas, call your first case.

MR. THOMAS: Thank you, Your Honor.

The first case this morning is Crystal Turner versus the State of South Carolina. It's 2013-CP-26-4528. This was a May 2009 indictment for accessory before the fact armed robbery and accessory before the fact murder. Ms. Turner was represented on those charges by Scott Joye. Went to trial on September of 2010, convicted only of the accessory before the fact armed robbery. She then filed a PCR, represented by Mr. Kirk Truslow.

The State is ready to proceed.

THE COURT: Mr. Truslow, are you prepared to go forward at this time?

MR. TRUSLOW: Yes, Your Honor, we are.

THE COURT: Are you Crystal Turner?

MS. TURNER: Yes, ma'am.

THE COURT: Please stand.

[Whereupon, Ms. Turner complies]

THE COURT: If you will please swear Ms. Turner.

[Whereupon, Ms. Turner is duly sworn by the clerk of court as follows: do you solemnly swear or affirm that the testimony you're about to give will be the truth, the whole truth, and nothing but the truth,

MIA PERRON, CVR-CM-M

Crystal Turner vs. The State of South Carolina
Post Conviction Relief Hearing
August 28, 2014

1 so help you God]

2 THE WITNESS: I do.

3 THE CLERK OF COURT: State your name, please.

4 THE WITNESS: Crystal Turner.

5 THE CLERK OF COURT: Thank you.

6 THE COURT: Ms. Turner, you are here today
7 represented by Mr. Truslow. Have you been satisfied
8 with his services so far?

9 MS. TURNER: Yes, ma'am.

10 THE COURT: Do you need any additional time to
11 meet with him here today?

12 MS. TURNER: No, ma'am.

13 THE COURT: And we are here to go forward on
14 your application for post conviction relief. You were
15 sentenced, found guilty, of accessory before the fact
16 to armed robbery. Judge Cooper sentenced you to
17 sixteen years in 2010. Is that correct?

18 MS. TURNER: Yes, ma'am.

19 THE COURT: And you understand that this was
20 punishable from ten to thirty?

21 MS. TURNER: Yes, ma'am.

22 THE COURT: And that sixteen is substantially
23 less than the maximum of thirty?

24 MS. TURNER: Yes, ma'am. I understand.

25 THE COURT: And you were also found guilty by --

Crystal Turner vs. The State of South Carolina
Post Conviction Relief Hearing
August 28, 2014

1 or, excuse me -- not guilty to accessory before the
2 fact on the felony murder; is that correct?

3 MS. TURNER: Yes, ma'am.

4 THE COURT: And so, Mr. Thomas, you would agree
5 that she would not be able to be retried on that one?

6 MR. THOMAS: That's correct, Your Honor.

7 THE COURT: So you understand, Ms. Turner, that
8 should I grant your request for post conviction
9 relief, that you will not be walking out of this
10 courtroom today?

11 MS. TURNER: I do understand.

12 THE COURT: That you will go back, facing the
13 potential of thirty years?

14 MS. TURNER: Yes, ma'am.

15 THE COURT: Knowing that, do you still wish to
16 go forward here today?

17 MS. TURNER: Yes, ma'am.

18 THE COURT: Mr. Thomas, are you prepared to go
19 forward?

20 MR. THOMAS: The State is prepared, Your Honor.

21 THE COURT: And what grounds are we going
22 forward here today, Mr. Truslow?

23 MR. TRUSLOW: Your Honor, we're going forward
24 on the grounds of failure to conduct a proper
25 investigation, failure to investigator important

Crystal Turner vs. The State of South Carolina
Post Conviction Relief Hearing
August 28, 2014

1 witnesses, which kind of falls into the same thing,
2 and failure to call important witnesses and failure to
3 object to the Court's what I surmount is a refusal to
4 allow the jury's request to rehear testimony during
5 the course of trial -- after trial during
6 deliberations.

7 THE COURT: And both of these indictments were
8 tried at the same time in front of the same jury; is
9 that correct?

10 MR. TRUSLOW: Yes, ma'am.

11 THE COURT: All right. Call your first witness.

12 MR. TRUSLOW: I call to the stand Crystal
13 Turner.

14 THE COURT: Ms. Turner, you have already been
15 sworn. Please come forward.

16 [Whereupon, Ms. Turner takes the witness stand]

17 MR. TRUSLOW: Good morning, Crystal.

18 THE WITNESS: Good morning.

19 MR. TRUSLOW: Do you want to state your full
20 name for the record.

21 MS. TURNER: Uh-huh. Crystal Turner.

22

23

24

25

- - -

- - -

- - -

Crystal Turner
Direct Examination by Mr. Truslow
August 28, 2014

CRYSTAL TURNER,

Having Been Previously Sworn,
was Examined and Testified as Follows:

DIRECT EXAMINATION

BY MR. TRUSLOW:

Q. And you heard the Court reference your case and why you're incarcerated?

A. Yes, sir.

Q. And what's your understanding of the two charges that you were charged with in this case initially?

A. Accessory before the fact of a felony murder, accessory before the fact of felony armed robbery. My understanding to those were saying that I cooperated, I helped with the robbery and the murder, of Mr. Rabon.

Q. And did you retain an attorney for representation in that case?

A. Yes, sir.

Q. And who was that?

A. Scott Joye.

Q. Now, I just want to get a brief little bit of background. You were not the only defendant in this case; is that correct?

A. No, sir.

Q. So would it be fair to say that the -- there were four other defendants?

MIA PERRON, CVR-CM-M

Crystal Turner
Direct Examination by Mr. Truslow
August 28, 2014

- 1 A. There were five.
- 2 Q. Five other defendants. I'm sorry.
- 3 A. Yes, sir.
- 4 Q. And were they Mr. White? Jamie White.
- 5 A. Yes, sir.
- 6 Q. Mr. Oxedine?
- 7 A. Yes, sir.
- 8 Q. Mr. Skipper?
- 9 A. Yes, sir.
- 10 Q. And Ms. Furniss, female Paige Furniss?
- 11 A. Yes, sir. And there was one more, also.
- 12 Q. And the other female? Crystal?
- 13 A. Stacey.
- 14 Q. I mean Stacey. Do you remember her last name?
- 15 A. Johnson.
- 16 Q. So prior to jury selection in your case, is it
- 17 true that three -- no -- four of these indictments had
- 18 entered a plea of guilty?
- 19 A. Yes, sir.
- 20 Q. And when you went to trial, it was you and
- 21 Mr. Skipper?
- 22 A. Yes, sir.
- 23 Q. Prior to the beginning of the trial, did
- 24 Mr. Skipper decide not to go to trial?
- 25 A. He did.

Crystal Turner
Direct Examination by Mr. Truslow
August 28, 2014

1 Q. And he entered a plea of guilty?

2 A. He did.

3 Q. To murder?

4 A. Murder and armed robbery.

5 Q. In fact, he admitted to being the individual who
6 shot Mr. Rabon?

7 A. Yes, sir.

8 Q. So at this point in time it was your
9 understanding that these codefendants were going to
10 testify against you in your trial; correct?

11 A. Yes, sir.

12 Q. All right. Let me take you back. Do you recall
13 the first time you met with Mr. Joye?

14 A. I do.

15 Q. And I don't need dates or anything, but where
16 was that?

17 A. That was at J. Reuben Long Detention Center.

18 Q. And was that in close proximity to your initial
19 arrest?

20 A. That was like the day after my arrest.

21 Q. The day after your arrest?

22 A. Yes, sir.

23 Q. I don't want to go into, you know, exactly -- I
24 mean, let me ask you this. Did you talk about the facts
25 and the evidence of the case at that point?

Crystal Turner
Direct Examination by Mr. Truslow
August 28, 2014

1 A. No, sir. Not that day.

2 Q. Okay. So the next meeting with Mr. Joye -- do
3 you recall the next meeting?

4 A. Uh-huh. That was at J. Reuben Long, also.

5 Q. Okay. And at that point, did you have access to
6 the evidence in the case and talk about your possible
7 defenses and the evidence against you?

8 A. Not at that time we didn't.

9 Q. Did you subsequently make bond?

10 A. I did.

11 Q. And did you have a bond revocation issue?

12 A. I did.

13 Q. And why was your bond revoked?

14 A. I went out to eat dinner with my mother, for
15 Mother's Day, at Fatz Café and that was not a place that I
16 was allowed to be at.

17 Q. Because it was a bar and restaurant?

18 A. Yes.

19 Q. Okay. So you were incarcerated again for --

20 A. Yes, sir.

21 Q. -- your bond revoking?

22 A. For ninety days.

23 Q. Did Mr. Joye come to see you during that period
24 of time?

25 A. He did. He came to see me at Georgetown County

Crystal Turner
Direct Examination by Mr. Truslow
August 28, 2014

1 Detention Center.

2 Q. And what was the substance or subject matter of
3 that meeting?

4 A. He came to let me know about a plea offer that
5 had been given a while back that I wasn't aware of. He
6 also came and discussed with me that he had letters from
7 my codefendants where they had wrote each other back in
8 court. He introduced me to the woman that helped him out
9 -- I think it was a paralegal -- Alexis. He also let me
10 know that we had a trial coming up, he wasn't sure exactly
11 of the date. And at that time, that was all we discussed.

12 Q. So at that point in time when you're doing the
13 ninety days on the bond revocation, you did not go over
14 what the defense was going to be at trial, the possible
15 defenses or the evidence in the case outside of the fact
16 that he alerted you the codefendants were cooperating?

17 A. No. No, sir.

18 Q. Did you -- let's see. All right. Did you get
19 back out on bond?

20 A. I did.

21 Q. Now, when you got back out on bond, how long --
22 did you have an idea of when your trial was scheduled,
23 about that time, in regards to when you got back out on
24 bond?

25 A. When I got back out on bond, the day that the

Crystal Turner
Direct Examination by Mr. Truslow
August 28, 2014

1 judge actually reinstated my bond, was the date I found
2 out that my trial was in two weeks.

3 Q. So you got back out on bond and you understood
4 that your trial was going to take place in about two
5 weeks?

6 A. Yes, sir.

7 Q. So when is the next time you met with Mr. Joye?

8 A. In that two-week period, I went to his office
9 one time.

10 Q. And how long would you say you were at his
11 office during that meeting?

12 A. I wasn't there not even an hour, I don't think.
13 It was very short, brief.

14 Q. Now, during that time did you go through the
15 evidence, with Mr. Joye, in the case?

16 A. No, sir. The only thing we discussed was the
17 letters that my codefendants had written, and that was it.
18 And then I did ask to hear a statement from one of my
19 codefendants because I didn't know what she had to say.

20 Q. Okay. So, I mean, you did go over some of the
21 evidence in terms of what the codefendants had written?

22 A. I did.

23 Q. Now, what about sitting down and talking about
24 how the trial was going to go, how a criminal trial goes.
25 Did you talk about that?

Crystal Turner
Direct Examination by Mr. Truslow
August 28, 2014

1 A. No, sir. We didn't go through those details.

2 Q. Did you talk about whether or not you would
3 testify or what the issues would be there once you got to
4 trial in two weeks or --

5 A. At that point, we didn't discuss that.

6 Q. Now, at this time when you got out of jail on
7 the bond revocation and knew it was two weeks to the
8 trial, the meeting we're talking about in Mr. Joye's
9 office now -- how much time before trial was that,
10 roughly?

11 A. [No response]

12 Q. I mean, did you go immediately --

13 A. No, sir.

14 Q. -- the next day or --

15 A. No, sir. It was probably -- I think it was near
16 the end of that week that week that I had got out.

17 Q. So maybe nine, ten days before trial?

18 A. I don't even think it was that long. I think it
19 was maybe four or five.

20 Q. Now, I wanted to back up to one thing. He told
21 you in jail of a plea offer that he did not tell you about
22 because he didn't think you would take it?

23 A. Yes, sir.

24 Q. But in all fairness, you probably wouldn't have?

25 A. No, sir, I wouldn't have.

Crystal Turner
Direct Examination by Mr. Truslow
August 28, 2014

1 Q. So is it your testimony that you had four
2 meetings with Mr. Joye, three in jail and one out?

3 A. Yes, sir.

4 Q. And the only meeting that you had where you were
5 not incarcerated was at his office?

6 A. At his office. Yes, sir.

7 Q. And it was for less than an hour?

8 A. Yes, sir.

9 Q. And I asked you -- I already asked you that. I
10 think I -- if I didn't ask you, I want to ask you again.
11 Did you talk about what your defense was going to be?

12 A. No. That was never discussed.

13 Q. Did you talk about if you chose to testify what
14 you would testify to, or how that would go, or have any
15 preparation about your testimony?

16 A. Me testifying never came up at that time. No,
17 sir.

18 Q. So the next time you see Mr. Joye, is that when
19 you appear for trial?

20 A. Yes, sir, it was.

21 Q. So we're back there now. So Mr. Skipper, when
22 you get to trial, he says he's not going to trial and
23 pleads guilty?

24 A. Yes, sir.

25 Q. And at that point, your understanding was then

Crystal Turner
Direct Examination by Mr. Truslow
August 28, 2014

1 he became a State's witness?

2 A. Yes, sir.

3 Q. So it's left just you going to trial?

4 A. Yes, sir.

5 Q. And all of the five codefendants, three males
6 and two females, have pled guilty?

7 A. Yes, sir.

8 Q. And was it your understanding that all five were
9 on the State's witness list?

10 A. Yes, sir.

11 Q. And just to put this in context for the Court,
12 the alleged crime occurred against a victim who you did
13 know?

14 A. I did know, yes, sir.

15 Q. And you knew him from the bar scene?

16 A. Yes, sir, I just knew him from the bar.

17 Q. And what was the name of this bar?

18 A. Aynor's Bar and Grill, but then I think they
19 changed the name to Easy's, I think.

20 Q. So on the night in question, you were present at
21 this bar?

22 A. Yes, I was.

23 Q. And of the co-defendants, the five co-
24 defendants, prior to that night, that very night, how many
25 of them did you know?

Crystal Turner
Direct Examination by Mr. Truslow
August 28, 2014

1 A. Personally know? One.

2 Q. Who was that?

3 A. Paige, Skipper.

4 Q. So Crystal -- I mean, Stacy, Mr. Skipper,
5 Mr. Oxedine and Mr. White, you did not know those
6 individuals?

7 A. I knew of Charlie Skipper because that was
8 Paige's brother, but the rest of them I did not know.

9 Q. So you were already at this establishment?

10 A. They came with me.

11 Q. Who came with you?

12 A. Paige, Charlie, Luke, Jamie, came with me to the
13 establishment. They rode in my vehicle.

14 Q. Just so we can get this out of the way. It's
15 your understanding in this case that the victim left with
16 Stacey; correct?

17 A. Yes, sir. That's what I've been told.

18 Q. And that he was subsequently robbed by -- in
19 other words, you never left the establishment?

20 A. No, sir.

21 Q. He left with Stacey. The others left in another
22 vehicle?

23 A. They left in my vehicle.

24 Q. Right. And let me ask you about that. Did you
25 know what was going on at that time?

Crystal Turner
Direct Examination by Mr. Truslow
August 28, 2014

1 A. No, sir. She just asked to borrow my vehicle.
2 I figured she was going to the store. I didn't know.

3 Q. So in other words, then subsequently your
4 understanding is that they followed the victim and Stacey?

5 A. Uh-huh.

6 Q. This is what you've learned?

7 A. Yes, sir.

8 Q. And that he was robbed?

9 A. Yes, sir.

10 Q. And that Mr. Skipper killed him?

11 A. Yes, sir.

12 Q. All right. Now, with regards to Mr. Skipper,
13 you said -- you were obviously there for your trial;
14 correct?

15 A. Yes, sir.

16 Q. So Mr. Skipper -- your understanding was the
17 robbery was complete prior to his decision to kill anyone?

18 A. [No response]

19 Q. I mean that he had been robbed and then shot.

20 A. Yes, sir.

21 Q. Okay. And you were not convicted of accessory
22 before murder?

23 A. No, sir. I was found not guilty.

24 Q. Now, did it come up during trial that
25 Mr. Skipper and Stacey had a boyfriend-girlfriend

Crystal Turner
Direct Examination by Mr. Truslow
August 28, 2014

1 relationship?

2 A. It came up during the trial, but I didn't know
3 that prior to that.

4 Q. Do you recall any of those questions being asked
5 by your attorney or that being developed in the trial?

6 A. Not to my recollection, no.

7 Q. Because Stacey had left with the victim?

8 A. Yes, sir.

9 Q. Now, you've probably already answered this, but
10 I want to ask. Did you ever discuss with your attorney,
11 prior to trial, any investigation that he had done in this
12 case either with a private investigator or an investigator
13 at his office?

14 A. It wasn't discussed what went on with that, no,
15 sir.

16 Q. Did you ever learn whether he had reached out to
17 any of the other attorneys in terms of the codefendants'
18 testimony?

19 A. I have no knowledge of that, no, sir.

20 Q. So in your trial, Mr. White testified; correct?

21 A. Yes, sir.

22 Q. And Mr. Oxedine testified?

23 A. Yes, sir.

24 Q. And Mr. Skipper testified?

25 A. Yes, sir.

Crystal Turner
Direct Examination by Mr. Truslow
August 28, 2014

1 Q. And then there were a few other witnesses. But
2 in terms of the codefendants, those are the three
3 codefendants that testified?

4 A. Yes, sir.

5 Q. After that, the State rested. Do you remember
6 that?

7 A. Yes.

8 Q. So you remember that they did not call Paige
9 Furniss?

10 A. Yes, sir.

11 Q. And they did not call Stacey Johnson?

12 A. Yes, sir.

13 Q. Now, at that point did you form any opinions of
14 that or relay anything to your attorney about that, or did
15 you have any feelings about that?

16 A. I asked him what was going on. Those were the
17 two who I thought who actually could help me in the
18 situation, because they knew that I wasn't responsible or
19 knew anything about the incident, so I was scared.

20 Q. Did you have any conversations with your
21 attorney in terms of him calling them as witnesses in this
22 case?

23 A. At that time, I did ask about that. And I don't
24 think they were subpoenaed. He couldn't call them as a
25 witness in my case.

Crystal Turner
Direct Examination by Mr. Truslow
August 28, 2014

1 Q. Okay. So he had not subpoenaed either one of
2 those witnesses?

3 A. No, sir. They weren't on my list.

4 Q. Now, you don't -- do you know for a fact the
5 State had not subpoenaed them?

6 A. I don't know.

7 Q. I mean, do you know for a fact that they weren't
8 ready and able to testify, if need be, and just not called
9 by the State?

10 A. I do know that Paige Furniss was outside in her
11 vehicle. She has made that statement to me numerous
12 times.

13 Q. So she was actually present around the
14 courthouse?

15 A. Yes, sir.

16 Q. So, let's see. All right. Now, when the jury
17 began -- and your attorney did call some witnesses; right?

18 A. He did.

19 Q. You did not testify?

20 A. No, sir.

21 Q. And then do you recall the judge talking to you
22 and explaining to you that it's your decision whether you
23 testify or not?

24 A. Yes, sir, I remember.

25 Q. Do you recall responding to him that you and

Crystal Turner
Direct Examination by Mr. Truslow
August 28, 2014

1 your attorney were not sure yet whether you were going to?

2 A. Yes, sir. Because we hadn't discussed it.

3 Q. But then pretty immediately he then told him
4 that you were not?

5 A. Right.

6 Q. Did you have -- did you have a meaningful
7 discussion with your attorney about whether to testify or
8 not?

9 A. No, sir, I did not.

10 Q. And so what was that decision based on?

11 A. That decision was based upon he told me that
12 ultimately it was my decision but in his opinion the State
13 was going to try to confuse my words, but that was up to
14 me.

15 Q. Okay. Confuse your words?

16 A. Right. It was up to the State to prove me
17 guilty.

18 Q. Right.

19 Now, when Detective -- you did make a statement
20 to law enforcement?

21 A. I did.

22 Q. Remember?

23 A. I actually made two.

24 Q. Right. And Detective Trotsal [phonetic] -- do
25 you remember a Jackson v. Denno hearing, in other words,

Crystal Turner
Direct Examination by Mr. Truslow
August 28, 2014

1 to determine whether your statement was voluntary or not
2 prior to Detective Trotsal testifying to it?

3 A. I don't remember that.

4 Q. You remember Detective Trotsal testifying to it?

5 A. I do. I remember that.

6 Q. So in terms of you testifying, Detective Trotsal
7 had already testified as to what you said?

8 A. He did.

9 Q. Do you recall in that exchange his testimony
10 where he says that he can't be inside your mind and that
11 it could be interpreted different ways what you said?

12 A. I do remember that. Yes, sir.

13 Q. So had you testified, could you have testified
14 to what you meant?

15 A. Yes, sir, I could have.

16 Q. Did you discuss that with your attorney?

17 A. No, sir.

18 Q. What was your understanding, then, of him
19 telling you they would twist your words around?

20 A. I figured they would probably take the
21 statements that I did make and try to make it into
22 something else.

23 Q. But those statements were already testified to
24 by --

25 A. Yes, they were.

Crystal Turner
Direct Examination by Mr. Truslow
August 28, 2014

1 Q. -- Detective Trotsal?

2 When the jury was deliberating your case, do you
3 recall that they had a note from the jury?

4 A. They did, because they called us back. They
5 were deliberating and they called us back from lunch.

6 Q. And do you recall that the jury wanted to hear
7 the testimony of the three codefendants that testified
8 against you?

9 A. Yes, sir.

10 Q. They wanted to rehear that?

11 A. I think all together it was five people they
12 wanted to hear from. But three of them were the
13 codefendants, yes, sir.

14 Q. And do you recall what the judge's response to
15 that was?

16 A. He told them that they didn't have everything
17 for them to listen to, it was a lot of testimony, a lot of
18 hours, and he felt sure they heard right what they heard
19 before.

20 To me it was like he talked around the fact
21 that, you know, they don't need it, they did a fine job,
22 they listened.

23 Q. And didn't he, in fact, go through how long each
24 person's testimony was?

25 A. He did. He said it could be a day's worth of

Crystal Turner
Direct Examination by Mr. Truslow
August 28, 2014

1 testimony to hear.

2 Q. Right.

3 And he -- do you recall him basically just
4 saying that that's just not an option?

5 A. Yes, sir, I do.

6 Q. Okay. Now, did your attorney object at that
7 point?

8 A. No, sir. Not that I remember.

9 Q. Did your attorney tell the jury in any way,
10 shape, or form, that they had the right to hear anything
11 that they wanted to hear again?

12 A. I don't remember that being said, no, sir.

13 Q. So you understand, as the judge pointed out to
14 you, that in a PCR case the only relief that you get is
15 that you're back to square one?

16 A. Yes, sir.

17 Q. And a PCR is based upon your allegation that you
18 believe that you had ineffective assistance of counsel?

19 A. Yes, sir.

20 Q. And is that what you're testifying to today to
21 the Court?

22 A. Yes, sir, it is.

23 Q. And that based upon that, you want a new trial?

24 A. Yes, sir.

25 Q. And you understand that that just means that

Crystal Turner
Direct Examination by Mr. Truslow
August 28, 2014

1 you'll be back facing the same charge?

2 A. Yes, sir, I do.

3 Q. And you're willing to do that?

4 A. Yes, sir.

5 MR. TRUSLOW: Your Honor, if I could just have
6 one second.

7 THE COURT: Take all the time you need.

8 [Whereupon, Mr. Truslow reviews documents]

9 Q. [Mr. Truslow] Do you recall at the beginning of
10 your trial that -- your attorney moving for a continuance?

11 A. Yes, sir, I do.

12 Q. And do you remember him telling the judge that
13 he had not been served with the indictments properly --

14 A. Yes, sir.

15 Q. -- and that issue?

16 Do you recall that he told the judge that it
17 would -- he would be deficient in his representation if he
18 did not get a continuance?

19 A. I do remember that.

20 Q. And then actually the judge somewhat gave some
21 relief because he gave him the afternoon and start back in
22 the morning; correct?

23 A. Yes, sir.

24 He compared it to a capital murder case, I
25 think, and just gave the afternoon.

Crystal Turner
Direct Examination by Mr. Truslow
August 28, 2014

1 Q. Okay. So he gave him the afternoon as a
2 continuance --

3 A. Yes, sir.

4 Q. -- but not a continuance to another term?

5 A. Right. No, sir.

6 Q. So just summing up, then. You first met with
7 Mr. Joye, the day after you were arrested, in jail?

8 A. Yes, sir.

9 Q. You met with him again in jail?

10 A. Yes, sir.

11 Q. And then when you were out on bond the first
12 time, you did not meet with him?

13 A. No, sir.

14 Q. And then you were revoked for going to a bar and
15 restaurant?

16 A. Yes, sir.

17 Q. Given ninety days. You met with him the third
18 time while incarcerated there?

19 A. Yes, sir.

20 Q. And in those first three meetings, you did not
21 really discuss -- or you did not discuss the evidence of
22 the case? Possible defenses?

23 A. No, sir.

24 Q. The issue was more along the lines of when the
25 trial would be and the issue of bond?

Crystal Turner
Direct Examination by Mr. Truslow
August 28, 2014

1 A. Yes, sir.

2 Q. So then when you got out on bond again, you
3 learned when you got out on bond that your trial was in
4 two weeks?

5 A. Yes, sir, I did.

6 Q. And somewhere between in -- within that two
7 weeks, you had a fourth meeting with Mr. Joye at his
8 office?

9 A. I did.

10 Q. And you testified that that meeting was for less
11 than one hour?

12 A. Yes, sir.

13 Q. And you want the Court to grant you a new trial
14 based --

15 A. Yes, sir, I do.

16 Q. -- upon what you're testifying to today?

17 A. Yes, sir.

18 Q. There was an issue -- one last thing. There was
19 an issue in the trial where the State was alleging, and
20 every witness seemed to be testifying to the same thing,
21 that you needed money?

22 A. Yes, sir.

23 Q. Correct? Do you remember that?

24 A. Yes, sir.

25 Q. And they were talking about that you needed

Crystal Turner
Direct Examination by Mr. Truslow
August 28, 2014

1 money for a power bill, or something along those lines?

2 A. Yes, sir.

3 Q. Now, after you were convicted -- do you remember
4 that?

5 A. Yes.

6 Q. -- and then it is time for sentencing, right --

7 A. Uh-huh.

8 Q. -- what you were going to be sentenced to;
9 right?

10 A. Yes, sir.

11 Q. At that point in time, did your mother speak on
12 your behalf at sentencing?

13 A. My mother and my grandmother.

14 Q. Do you recall both of them at sentencing making
15 the statement to the judge that the power bill was not
16 really your responsibility --

17 A. Yes, sir, I did --

18 Q. -- that if you needed money for any kind of a
19 bill, they would give it to you any time you asked?

20 A. Yes, sir.

21 The power bill was in my mother's name.

22 Q. Now, did your attorney -- your attorney called
23 about three defense witnesses. Do you recall that?

24 A. Yes.

25 Q. Did your attorney call your mother as a witness?

Crystal Turner
Direct Examination by Mr. Truslow
August 28, 2014

1 A. No, sir.

2 Q. Did your attorney call your grandmother as a
3 witness?

4 A. No, sir.

5 Q. So the only time that they made that statement
6 was after the trial at the sentencing phase?

7 A. Yes, sir, it was.

8 MR. TRUSLOW: That's all I have, Your Honor.

9 THE COURT: Mr. Thomas?

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

- - -

- - -

- - -

Crystal Turner
Cross-Examination by Mr. Thomas
August 28, 2014

CROSS-EXAMINATION

BY MR. THOMAS:

Q. Ms. Turner, during your meetings with Mr. Joye, did you have an opportunity to tell him your -- sort of your version of what happened that night?

A. The second meeting I had with him. Yes, sir.

Q. And there was no doubt in your mind you knew that all the codefendants were going to testify against you at trial except for --

A. Right. Yes, sir.

Q. Did you ever -- did you ever tell Mr. Joye that Ms. Furniss was going to help corroborate your story, that he needed to call her as a witness?

A. I told him that she would be the one to call because she knew that I wasn't involved.

Q. And you said there was some testimony at trial about Mr. Skipper and Ms. Johnson were dating beforehand?

A. Yes, sir.

Q. But you didn't know that before trial?

A. No, sir, I did not.

Q. So you never told Mr. Joye about that because you didn't know?

A. I didn't know.

Q. You discussed with Mr. Joye -- did you get a chance to discuss with him the statement you gave to

MIA PERRON, CVR-CM-M

-31-

Crystal Turner
Cross-Examination by Mr. Thomas
August 28, 2014

1 police --

2 A. Briefly. We didn't cover the whole entire
3 statement. But very briefly.

4 Q. And sort of the substance of that statement --
5 you never -- at any point in that statement, did you deny
6 that you said that the victim would be a good person, he
7 had money? Let me strike that. Let me ask it a little
8 more artfully. You knew the victim in this case?

9 A. I did.

10 Q. And you had -- you had had some interactions
11 with him at the bar before? He had been somebody that had
12 bought you some drinks in the past?

13 A. Yes, sir.

14 Q. And you shared that information with the people
15 that you were with that night?

16 A. I did.

17 Q. And at some point in your statement to Detective
18 Trotsal, you told him that you may have jokingly said that
19 would be a good person to rob?

20 A. I did.

21 Q. And all that came out at trial?

22 A. It did. Yes, sir.

23 MR. THOMAS: Thank you, Ms. Turner.

24 THE COURT: Redirect?

25

- - -

Crystal Turner
Redirect Examination by Mr. Truslow
August 28, 2014

REDIRECT EXAMINATION

BY MR. TRUSLOW:

Q. The statement you made to the detective he just asked you about, you admitted that you made that statement jokingly; correct?

A. Yes, sir, I did.

Q. The people that we talked about before, the codefendants that you knew and did not know --

A. Yes, sir.

Q. -- you did not know of their criminal history?

A. No, sir. I had never met them prior. A discussion wasn't made. It was just in a jokingly manner.

Q. And you didn't know anything about their gang affiliation --

A. No, sir, I didn't --

Q. -- the violent tendency of Mr. Skipper, or any of that?

A. No, sir, I was not aware.

MR. TRUSLOW: All right. Thank you.

THE COURT: Mr. Thomas?

MR. THOMAS: Nothing further, Your Honor.

THE COURT: You may step down. Thank you.

THE WITNESS: Thank you.

[Whereupon, Ms. Turner is excused and exits the witness stand]

MIA PERRON, CVR-CM-M

-33-

Crystal Turner
Redirect Examination by Mr. Truslow
August 28, 2014

1 THE COURT: Call your next witness.

2 MR. TRUSLOW: Call Paige Furniss, Your Honor.

3 THE COURT: Is she in the courtroom?

4 MR. TRUSLOW: She's in lockup.

5 THE COURT: Okay. Thank you.

6 [Off the record momentarily]

7 [Whereupon, Ms. Furniss comes forward]

8 [Whereupon, Ms. Furniss is duly sworn by the
9 clerk of court as follows: do you solemnly swear or
10 affirm that the testimony you're about to give will be
11 the truth, the whole truth, and nothing but the truth,
12 so help you God]

13 THE WITNESS: I do.

14 THE CLERK OF COURT: State your name, please.

15 THE WITNESS: Paige Furniss.

16 THE CLERK OF COURT: You may have a seat.

17 [Whereupon, Ms. Furniss takes the witness stand]

18 MR. TRUSLOW: Good morning, Ms. Furniss.

19 THE WITNESS: Good morning.

20 MR. TRUSLOW: I'm Kirk Truslow. I represent
21 Crystal Turner.

22

23

24

25

- - -

- - -

- - -

Paige Furniss
Direct Examination by Mr. Truslow
August 28, 2014

1 PAIGE FURNISS,

2 Having Been First Duly Sworn,

3 was Examined and Testified as Follows:

4 DIRECT EXAMINATION

5 BY MR. TRUSLOW:

6 Q. Do you recall meeting with an investigator, Bill
7 Beam, from my office?

8 A. I do.

9 Q. And he came to talk to you about Crystal's PCR
10 case?

11 A. Yes, sir.

12 Q. Now, back in 2009 you were charged, with Crystal
13 and four other people, with a murder and robbery that
14 occurred --

15 A. Yes, sir.

16 Q. -- in Horry County?

17 And you entered a plea at some point?

18 A. I did.

19 Q. Do you recall just roughly how long before her
20 trial that was? Just weeks or months?

21 A. I took my plea after her trial.

22 Q. Okay. So you had not yet pled?

23 A. No, sir.

24 Q. What did you plead to?

25 A. I pled to armed robbery.

MIA PERRON, CVR-CM-M

-35-

Paige Furniss
Direct Examination by Mr. Truslow
August 28, 2014

1 Q. And what was your sentence?

2 A. Eleven years.

3 Q. Eleven years. Okay.

4 So were -- you were aware Crystal Turner was
5 going to trial?

6 A. I was.

7 Q. And you're aware that Mr. Oxedine and
8 Mr. Skipper and the other codefendant, male --

9 A. Right.

10 Q. Right.

11 -- that they all three testified?

12 A. Yes, sir.

13 Q. And the State at some point chose not to call
14 you or Stacey as a witness; do you recall that?

15 A. Yes, sir.

16 Q. Now, in this case you initially told law
17 enforcement that Crystal knew something about this?

18 A. I did.

19 Q. And why did you do that?

20 A. Out of anger and the issue that I was involved
21 with the situation. So out of anger, I guess I wanted her
22 -- everyone else to be just as guilty.

23 Q. And when you're being interrogated about the
24 case, did it seem at the time saying that would be
25 beneficial to you with the law enforcement?

Paige Furniss
Direct Examination by Mr. Truslow
August 28, 2014

1 A. It did.

2 Q. In fact, is it fair to say that that's what they
3 were looking for from you?

4 A. It is.

5 Q. Now, in terms of had you been called as a
6 witness either by the State or by her attorney at trial
7 and you -- as opposed to calling law enforcement, if you
8 would have gotten on the stand and had to swear under oath
9 and give testimony, would your testimony have been
10 different?

11 A. My testimony would have been different.

12 And my statement was different before I took my
13 plea with my lawyer.

14 Q. So before -- so after her trial and before your
15 plea, you did a different statement?

16 A. I explained to my lawyer that she wasn't there,
17 long before her trial.

18 Q. Now, do you know whether -- had you ever, prior
19 to her trial, been contacted by her attorney or any
20 investigator on her attorney's behalf?

21 A. No, sir.

22 Q. If we were in the trial today, or if you had
23 been -- let me rephrase that.

24 If you had been called as a witness in that
25 trial, what would have been your testimony as regards

Paige Furniss
Direct Examination by Mr. Truslow
August 28, 2014

1 Crystal Turner?

2 A. That she didn't know, prior to what happened or
3 during or after, what was going to happen or what
4 happened.

5 Q. Now, who was Crystal sitting with at the bar?

6 A. A guy named Jeff.

7 Q. And do you know that to be her boyfriend --

8 A. I didn't --

9 Q. -- her on-and-off boyfriend?

10 A. I knew it to be someone that she interacted with
11 but as far as her boyfriend, I'm not sure.

12 Q. To your knowledge, you were there at the bar;
13 right?

14 A. I was.

15 Q. And you were aware of everything going on and
16 all the talkings?

17 A. I was.

18 Q. Whose idea was it to rob the victim in this
19 case?

20 A. My brother, which is Charles Skipper.

21 Q. Now, did Crystal did -- did she say that he
22 would pay and buy pretty girls drinks?

23 A. She did.

24 Q. And, in fact, because he had done that for her
25 in the past?

Paige Furniss
Direct Examination by Mr. Truslow
August 28, 2014

1 A. Right.

2 Q. And he had even mentioned that he would drive
3 to -- he would give young, pretty girls money to have
4 sexual relations?

5 A. He did. That's how we had a conversation with
6 him.

7 Q. Okay. Now, was it then that information that
8 your brother you think formed an opinion about robbing
9 him?

10 A. Yes, sir.

11 Q. Because he appeared to be somebody who had some
12 money?

13 A. Yes, sir.

14 Q. Did Crystal, at any time to your knowledge, have
15 any idea that that preplanning of robbing this individual
16 was going on?

17 A. No, sir.

18 Q. And do you have any indication to believe that
19 she would have been for that?

20 A. She would a have.

21 Q. Okay. So when everybody left the bar that was
22 charged, the victim left with Crystal; is that correct?

23 A. No, sir. The victim left with Stacey.

24 Q. I mean Stacey. I'm sorry.

25 A. Yes.

Paige Furniss
Direct Examination by Mr. Truslow
August 28, 2014

1 Q. I'm sorry. Stacey.

2 Okay. So Stacey and the victim left in a
3 vehicle?

4 A. Yes, sir.

5 Q. And then Crystal's vehicle was used by you and
6 Mr. Skipper, Mr. Oxedine, and the other fellow?

7 A. Mr. White. Yes, sir.

8 Q. Mr. White.

9 Now, who got the keys from Crystal to use her
10 car?

11 A. Oxedine.

12 Q. And did anybody tell her that they were using
13 her car to be up to no good?

14 A. No, sir.

15 Q. When you-all left in the vehicle was it your
16 brother's intention and then did he follow down to where
17 the victim and Stacey went?

18 A. Yes, sir.

19 Q. And then is that where the robbery and the
20 murder occurred?

21 A. Yes, sir.

22 Q. And, in fact, was the -- let me ask you this.
23 Was the robbery even really connected to the murder, or
24 was that something separate on Mr. Skipper's behalf?

25 A. That, to my knowledge, wasn't part of the

Paige Furniss
Direct Examination by Mr. Truslow
August 28, 2014

1 robbery.

2 Q. Now, when -- who brought Crystal's vehicle
3 back --

4 A. I did --

5 Q. -- to her?

6 A. I did, along with the others.

7 Q. And somebody had said to give her \$20 because
8 her gas was on empty?

9 A. Her gas light was on. Oxedine took her the
10 money and the keys.

11 Q. Now, how much -- do you recall how much money
12 was taken from the victim?

13 A. \$1,040.

14 Q. So of \$1,040, Crystal was brought back \$20?

15 A. Yes, sir.

16 Q. And that was because her gas light was on?

17 A. Yes, sir.

18 Q. And, again, you would have testified to all this
19 at her trial --

20 A. Yes, sir.

21 Q. -- had you been called by the State or the
22 defense attorney?

23 A. Yes.

24 Q. Now, again, if you were testifying at her trial,
25 would you have testified that it was not rare for you to

Paige Furniss
Direct Examination by Mr. Truslow
August 28, 2014

1 borrow her vehicle to run errands?

2 MR. THOMAS: Objection. Leading.

3 Q. [Mr. Truslow] Would you ever -- would you ever
4 borrow her car to run errands?

5 A. I have borrowed her car.

6 Q. To what kind of errands?

7 A. I've borrowed her car to go pay bills, I've
8 borrowed her car to buy groceries, I've -- I mean, we were
9 friends for years.

10 Q. Was it unusual for her to let you use her
11 vehicle?

12 A. No, sir.

13 Q. And, again, she never left that establishment
14 that night; correct?

15 A. No, sir.

16 Q. Do you have anything else to add to this?

17 A. I don't.

18 Q. You were brought to court, right, to testify?

19 A. Yes, sir.

20 Q. And they never -- the State never called you?

21 A. They never let me in, no.

22 Q. And would you have told this truth if they had
23 called you to testify?

24 A. Yes, sir.

25 Q. And do you recall my investigator asking you

Paige Furniss
Direct Examination by Mr. Truslow
August 28, 2014

1 whether you told your lawyer Crystal wasn't involved?

2 A. I do.

3 Q. And did you answer my lawyer [sic], knew she
4 wasn't there?

5 A. I did.

6 Q. And that you did tell your lawyer the truth?

7 A. I did.

8 MR. TRUSLOW: That's all I have, Your Honor.

9 THE COURT: Mr. Thomas?

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

- - -
- - -
- - -

Paige Furniss
Cross-Examination by Mr. Thomas
August 28, 2014

CROSS-EXAMINATION

1
2 BY MR. THOMAS:

3 Q. Ms. Furniss, you say you told all this to your
4 attorney at that time?

5 A. Yes, sir.

6 Q. Who was your attorney?

7 A. William Bert Von Herrmann.

8 Q. And did you ever tell Mr. Von Herrmann that he
9 should get in touch with Mr. Joye about this?

10 A. I did not.

11 Q. Did you ever try to get in touch with Mr. Joye?

12 A. I did not.

13 Q. You said on direct that you -- basically
14 everyone -- well, you didn't say this, but let me ask you
15 this question.

16 Did Ms. Turner know everyone that went with
17 y'all to the bar that night?

18 A. She didn't know Oxedine or White.

19 Q. She didn't know Mr. Oxedine, yet he's the one
20 that she gave her car keys to and they left?

21 A. You're correct. She gave the car keys to him to
22 send to me.

23 Q. Were you with Ms. Turner the entire time y'all
24 were at the bar together?

25 A. No, sir.

MIA PERRON, CVR-CM-M

Paige Furniss
Cross-Examination by Mr. Thomas
August 28, 2014

1 Q. You gave a statement to police that basically
2 said Ms. Turner had said that the victim would be a good
3 person to rob? You gave that statement to the police?

4 A. I did.

5 Q. And you're telling us today that that's not the
6 truth?

7 A. I am.

8 Q. So you lied to the police when they asked you
9 what happened?

10 A. I did.

11 MR. THOMAS: No further questions.

12 MR. TRUSLOW: That would be the petitioner's
13 showing, Your Honor.

14 THE COURT: All right. You may step down.
15 Thank you.

16 [Whereupon, Ms. Furniss is excused and exits the
17 witness stand]

18 THE COURT: Preserving all motions and matters,
19 Mr. Thomas, do you have witnesses?

20 MR. THOMAS: The State would call Mr. Joye to
21 the stand.

22 [Whereupon, Mr. Joye comes forward]

23 [Whereupon, Mr. Joye is duly sworn by the clerk
24 of court as follows: do you solemnly swear or affirm
25 that the testimony you are about to give will be the

Paige Furniss
Cross-Examination by Mr. Thomas
August 28, 2014

1 truth, the whole truth, and nothing but the truth, so
2 help you God]

3 THE WITNESS: I do.

4 THE CLERK OF COURT: State your name, please.

5 THE WITNESS: Richard Scott Joye.

6 THE CLERK OF COURT: Have a seat.

7 [Whereupon, Mr. Joye takes the witness stand]

8 MR. THOMAS: Thanks for being here this morning,
9 Mr. Joye.

Richard Joye
Direct Examination by Mr. Thomas
August 28, 2014

RICHARD JOYE,

Having Been First Duly Sworn,
was Examined and Testified as Follows:

DIRECT EXAMINATION

BY MR. THOMAS:

Q. What is your experience as a criminal lawyer?

A. I had two years as a prosecutor down in the
fourteenth circuit. Entered private practice in November
of 1998, primarily criminal work. I've done a little bit
of a lot of stuff, but the vast majority of what I have
done is criminal work. I've tried everything from noise
ordinances to murder cases.

Q. And how did you become involved in Ms. Turner's
case?

A. Someone referred Ms. Turner to me and I met with
her -- with Crystal's mother and grandmother.

Q. And when was that in relation to her arrest?

A. Immediately. I think after she was arrested, I
immediately went to see her and have a conversation with
her.

Q. And during the course of your representation,
how many meetings would you say you had with her?

A. You know, I'm not sure. It was more than four.

Crystal was probably one of the best clients
I've ever represented, in terms of she listened and we

Richard Joye
Direct Examination by Mr. Thomas
August 28, 2014

1 communicated pretty well. If she had questions, she would
2 call. If I needed to tell her something, we would do
3 that. You know, I'm not one that writes down all my time
4 and does that and so I can't honestly tell you that I have
5 a record of how much time we spent. But it was a
6 considerable amount of time.

7 Q. And during all this time you spent with her,
8 what kind of discussions did you have with her about the
9 State's evidence?

10 A. Well, I told her that primarily that the only
11 thing that they had kind of tying her to it, that I saw,
12 was codefendant testimony.

13 Well, let me retract that by saying that there
14 was a statement I think certainly could be construed as an
15 admission but I saw it more or less as a -- I think
16 Crystal admitted that there were conversations about
17 robbing somebody and she admitted it to law enforcement.

18 I'll be one-hundred percent honest with you. I
19 don't think that she thought for a minute that that was
20 something that was seriously going to happen.

21 Q. And so did you get an opportunity to discuss
22 with her what your trial strategy was going to be in
23 relation to that?

24 A. We talked about it. Quite frankly, I expected
25 -- when I went there, I was prepared that -- and most

Richard Joye
Direct Examination by Mr. Thomas
August 28, 2014

1 worried about Paige Furniss testifying. And there was --
2 the reason for that, and I think I covered it in opening
3 argument or opening statement when I said that there was
4 an issue about an unpaid power bill and she was concerned
5 that it would be turned off. And the only person that
6 could corroborate that would be Paige Furniss, Furniss, or
7 whatever.

8 Q. Let me ask you this, and we'll skip back to
9 that.

10 Why did you -- and I guess maybe you can explain
11 to us a little more about that. But why didn't you call
12 Ms. Furniss as a witness?

13 A. Well, you know, I had had conversations with
14 Bert Von Herrmann. If I remember correctly, I believe
15 Ms. Furniss had pled guilty already and was awaiting
16 sentencing and hoping for -- you know, hoping for some
17 help by the prosecution. I was concerned that her
18 statement was going to go the other way, that it would
19 hurt and not help.

20 Q. So Mr. Von Herrmann never told you that she had
21 decided she was going to retract that statement that she
22 gave police?

23 A. Not a word of that, before or after, and I know
24 Mr. Von Herrmann very well.

25 Q. While we're at it, I guess, why -- so if this

Richard Joye
Direct Examination by Mr. Thomas
August 28, 2014

1 power bill was sort of important, why didn't you call her
2 mother or her grandmother as witnesses?

3 A. You know, I believe that generally juries kind
4 of overlooks parents, grandparents and significant others
5 because, let's face it, I believe most mothers would
6 testify to almost anything to save their children.

7 And so I just don't think that -- and quite --
8 it didn't come up, other than in my opening argument. It
9 never came up in the trial of the case. So whether or not
10 the jury even remembered that I talked about that, I was
11 concerned that that was a door that might get opened and
12 that would give a motive when I thought everything else in
13 her behavior was inconsistent with that motive from day
14 one.

15 But as I think I said in opening statement, you
16 take some truth and wrap lies about it and it becomes a
17 whole lot more palatable. And the truth was that there
18 was a bill, it was outstanding, it was past due, and it
19 was pretty close to getting cut off.

20 Q. And so is it fair to say that you basically
21 argued to the jury that there was no motive for Ms. Turner
22 to want to participate in all this?

23 A. I argued to the jury that Paige Furniss had a
24 vested interest in Ms. Turner's conviction. Yeah, I
25 argued that, no question about it.

Richard Joye
Direct Examination by Mr. Thomas
August 28, 2014

1 Q. And as far as trying to sort of piece together
2 what was going on in Ms. Furniss's mind that night, I
3 believe her -- Mr. James, her boyfriend, testified. Do
4 you recall sort of what your trial strategy was by having
5 him testify?

6 A. You know, there were some questions about guns
7 and seeing guns and whether or not Charlie had showed the
8 gun to Jeff and whether Crystal had seen it.

9 And, you know, the truth was that it didn't make
10 any sense to me that Crystal would be a part of a robbery
11 where she was the only one that anybody knew in that bar
12 and where, quite frankly, all she was interested in was
13 Jeff, her boyfriend, and that they were all into each
14 other. And I believe Crystal told me she really didn't
15 notice anything else that was going on, she was all about
16 Jeff.

17 Q. And so that was consistent with his testimony?

18 A. You know, we had an -- I had an extensive
19 conversation with Jeff before he testified, but his
20 testimony didn't come off as positive as I had hoped. I
21 thought he came off --

22 You know, sometimes you talk to witnesses and
23 you think you understand what they're going to say and how
24 they're going to say it and they get on the stand and it
25 just goes differently than you anticipated.

Richard Joye
Direct Examination by Mr. Thomas
August 28, 2014

1 Q. And let's talk about the other witnesses that
2 testified. What kind of conversations did you have with
3 any of the codefendants? Did you get a chance to talk
4 with any of them?

5 A. No, I didn't.

6 I mean, if I remember correctly, all of them
7 were awaiting sentencing. All of them had been trying to
8 cooperate. Stacey Johnson had changed her story from the
9 fact that she said that Crystal wasn't involved to she was
10 involved. And I think Paige Furniss was pretty
11 immediately pointing at Crystal. I didn't think really
12 Oxedine or White were damaging. But Charlie Skipper, I
13 mean, to stand -- to sit up there and admit you're a
14 stone-cold killer and then point the finger at somebody
15 else was pretty brutal.

16 Q. And as far as everyone's -- all the
17 codefendants' testimony, they all gave statements
18 beforehand to the police?

19 A. Absolutely.

20 Q. And the ones that had pled had given proffers as
21 far as you remember?

22 A. I believe -- I can't honestly answer that with
23 any certainty.

24 Q. Let me ask you this. Were you surprised by
25 anything anybody testified to at trial?

Richard Joye
Direct Examination by Mr. Thomas
August 28, 2014

1 A. No.

2 I was extremely surprised that they didn't call
3 Paige Furniss and Ms. Stacey Johnson. I probably looked
4 forward to crossing those two people more than anybody
5 else.

6 However, Paige was the common thread that really
7 put Crystal in it because Crystal didn't know the rest of
8 these people. The one that she knew was Paige Furniss.
9 And they weren't necessarily that close. I believe Paige
10 and Crystal shared a boyfriend that I believe was
11 Crystal's -- the father of Crystal's child, and had been
12 back and forth several times between the two of them, and
13 that there was not -- they hung out together and they --
14 they had this back-and-forth relationship with one
15 another.

16 Q. Sort of going forward in trial, did you -- what
17 was the substance of your conversations with Ms. Turner
18 about her right to testify and whether she should testify?

19 A. I was concerned. I had had an investigator look
20 at the power bill. And, in fact, it was a power bill,
21 there was a late power bill, and I didn't know whether --

22 Filiberto at the time, I think this was his
23 first trial, maybe his second. He was more or less trying
24 it by himself, which is kind of unusual in our circuit.
25 Generally, somebody else would sit with them that's got

Richard Joye
Direct Examination by Mr. Thomas
August 28, 2014

1 more trial experience. I think -- no matter what my
2 opinion on that is.

3 But I felt that one of the things that Fran
4 Humphries, who was a longtime prosecutor, taught his
5 people and his -- later, Jimbo Richardson behind him,
6 who's now a solicitor, was they would leave those bombs
7 for you to go step on and that -- you know, that Filiberto
8 had a copy of that bill and was waiting on me to step on
9 that bomb. It turned out later he didn't. But I didn't
10 know what he knew.

11 Q. So you had all those conversations with
12 Ms. Turner?

13 A. Yes. Absolutely.

14 And I thought -- I thought they could make some
15 effective use of really -- we had gotten out from one of
16 the detectives that when she made that statement that it
17 really -- the context -- that there was a doubt, in fact,
18 in his own mind whether it was a serious -- you know,
19 whether she was serious or she thought it was a joke.

20 Quite frankly, you know, this is one of those
21 cases that concerns me to this day because I don't believe
22 Crystal participated as an accessory before any crime at
23 all. I think -- I don't think Crystal ever really took
24 the whole thing seriously. And I thought that that came
25 out to the jury, that that was the one fact that we needed

Richard Joye
Direct Examination by Mr. Thomas
August 28, 2014

1 them to know, that she didn't have a requisite intent to
2 kill -- to rob anybody.

3 I felt that Paige Furniss knew that she needed
4 to pay the power bill and she tried to weave that into the
5 story to weave Crystal Turner into the story.

6 Q. Last couple of questions and I'll let you get
7 out of here or turn you over to Mr. Truslow.

8 Did you feel prepared to try this case?

9 A. Absolutely. Absolutely. I mean, I was ready
10 for this case.

11 Now, I've got to tell you that when they didn't
12 call Stacey Johnson and Paige Furniss, I had -- I was
13 relieved, really, I mean, because, again, the one that
14 really bothered me the most was Paige Furniss and what I
15 thought she was going to say. But I didn't -- I never
16 believed, and to be honest with you I still don't believe,
17 that the reason that they didn't call her, I think because
18 I had hammered so hard on them in opening arguments that
19 they were scared to call her. That's my belief, but it
20 may be simply conjectural.

21 Q. So what was that whole thing about the
22 indictments and you needed a continuance and you being
23 inefficient? What was that all about in the beginning?

24 A. Trying to get away from Charlie Skipper. I did
25 not want to be sitting anywhere near Charlie Skipper

Richard Joye
Direct Examination by Mr. Thomas
August 28, 2014

1 trying this case because everybody was going to testify
2 what a stone-cold killer he was.

3 And interestingly enough, he turned and
4 testified against Crystal. Cross-examination, it was all
5 some great altruistic thing that he wanted to make
6 everything right. And yet when he -- I watched his
7 sentencing and when the judge asked him, you know, can you
8 give me anything redeeming about you, tell me something to
9 help me help you, he couldn't come up with anything. And
10 when he got forty years, I heard him screaming in the back
11 at his attorney for getting forty years. So all of his
12 altruistic testimony really didn't mean anything. He had
13 no remorse. He was a stone-cold killer.

14 MR. THOMAS: Thank you, Mr. Joye. I'll let you
15 answer any questions Mr. Truslow has.

16 THE COURT: Mr. Truslow?

17 MR. TRUSLOW: Mr. Joye, how are you doing this
18 morning?

19 THE WITNESS: Doing fine.

20 MR. TRUSLOW: You and I have known each other
21 for a long time, haven't we?

22 THE WITNESS: A long time. Absolutely.

23 MR. TRUSLOW: And you understand my role and --

24 THE WITNESS: Absolutely. And I respect your
25 role in this.

Richard Joye
Cross-Examination by Mr. Truslow
August 28, 2014

CROSS-EXAMINATION

BY MR. TRUSLOW:

Q. Now, you heard Crystal testify as to the meetings she had with you?

A. Yeah.

Q. And you -- and obviously you disagree with that?

A. I do.

You know, we covered all the bases and all of what we anticipated the trial was going to be and the testimony that was going to be. Asked her what she would have to add to that.

Q. And then -- but you -- I mean, she seemed pretty certain that there was four meetings: three in jail and one in your office. I'm not saying that you agree with that, but that's what she said.

A. There were -- it seems to me I remember at least two or three at my office. But, you know, I can't honestly answer. I can tell you that we had gone thoroughly over whatever, you know --

Q. And you did testify that you don't keep records in terms of like either notations or that type stuff of an ongoing case?

A. You know, I worry about trying a case and not necessarily thinking about days like today, and maybe I should.

Richard Joye
Cross-Examination by Mr. Truslow
August 28, 2014

1 Q. Now, when you talked about the power bill and
2 perhaps the State would leave that out there as a bomb to
3 step on: now, so in other words, the State had this power
4 bill?

5 A. No, they didn't. I did.

6 Q. I thought you said Mr. Filiberto had it.

7 A. No. I thought that Mr. Filiberto might, and
8 then Paige testifying, then he would say, well, here it
9 is. In fact, you know, I've had -- I guess we've all had
10 that happen to us at trial at one time or another.

11 Q. Now, can you -- yeah. Sure.

12 Can you state whether or not that power bill was
13 in her name or a family member's name? Do you recall
14 that?

15 A. It seems it was in her mother's name. But it
16 was clearly her responsibility, and she lived with her --
17 with the father of her child and her child at that
18 residence.

19 Q. Now, you heard Paige Furniss testify?

20 A. I did.

21 Q. And the AG asked her if she had tried at all to
22 get in touch with you; right? She said no.

23 A. No. No, never did.

24 Q. But when you said that they didn't call her and
25 Crystal -- I mean, or Stacey --

Richard Joye
Cross-Examination by Mr. Truslow
August 28, 2014

1 A. Stacey.

2 Q. -- and you were surprised and a little relieved,
3 did that not -- at the same time, did you not wonder why
4 they're not calling her? Did that enter your mind?

5 A. No.

6 In fact, I thought that -- you know, sometimes
7 this is a little bit of a game of chicken. And I thought,
8 based on my opening argument, that -- and inconsistent
9 statements and some letters that have been sent back and
10 forth, that Filiberto -- that later Filiberto kind of --

11 Q. Well, he -- okay. He --

12 A. -- that he wanted to stay away from them not
13 because of any statement changes, mind you, but because
14 there was just stuff out there to hurt them and --

15 Q. But initially go into the trial, that's two
16 other people who were there who were codefendants, who you
17 thought at least would say the exact same thing that the
18 first three codefendants said and then --

19 A. Absolutely. I felt --

20 Q. -- but then he chooses not to call them and
21 rests. At that point, did you inquire at all to Bert Von
22 Herrmann, her attorney, or anybody else, as to why that
23 was or attempt to talk to her or her attorney?

24 A. Honestly, no. I didn't. I guess --

25 Q. And so the --

Richard Joye
Cross-Examination by Mr. Truslow
August 28, 2014

1 A. -- perhaps I should have.

2 Q. And so the times when you talked to Bert Von
3 Herrmann, Paige's attorney, in the past, I mean, that
4 wouldn't necessarily have been at that point or even a
5 week before the trial? That would have just been
6 somewhere along the lines, is what you're saying?

7 A. I think Bert was there during most of the trial
8 and we had conversations as the trial went along. Now, I
9 can't tell you that I didn't -- you know, I can't --
10 honestly, I don't remember. I can't tell you that I ever
11 -- that I ever had a conversation with Bert about any and
12 all of that.

13 Q. Now, the AG asked you if you were prepared for
14 this trial and yet you -- I mean, you did tell the judge
15 that you needed a continuance at the outset of the trial
16 and that you talked to the -- and you talked to the judge
17 about the fact of that she was -- never got an indictment
18 served on her?

19 A. Yeah. We knew -- we had a discussion about what
20 she was going to be tried on. I mean, that we knew.

21 The issue that I had specifically was Charlie
22 Skipper, and I was doing everything within my power at
23 that point to try to separate from Charlie Skipper because
24 I -- quite frankly, I never imagined in a million years
25 that he would flip.

Richard Joye
Cross-Examination by Mr. Truslow
August 28, 2014

1 Q. So, but I mean, in other words, he was going to
2 be -- he was going to be at your defense table sitting
3 next to your client or he was going to be a witness
4 testifying against your client? I mean, it was kind of
5 bad either way, wasn't it?

6 A. Well, yeah, you're right, except for the fact
7 that I had moved to sever.

8 Q. Right. And that was denied.

9 A. That was denied.

10 And so my thoughts were that maybe they would go
11 ahead against Charlie and then I would be trying Crystal,
12 hoping upon hope that I could be trying Crystal by
13 herself.

14 Q. Now, in terms of that indictment issue that you
15 wanted a continuance for, the solicitor, Filiberto, showed
16 the judge the paperwork and the judge was satisfied that
17 you-all had known about what the charges were for over two
18 years; is that --

19 A. We did. We did. But it had never been served
20 on my client.

21 Q. Now, you did make the statement, too, on the
22 record, that you would be deficient in your representation
23 if you didn't get a continuance?

24 A. Absolutely, because I would be sitting there
25 with Charlie Skipper.

Richard Joye
Cross-Examination by Mr. Truslow
August 28, 2014

1 Q. And, in fact, he really didn't give you a
2 continuance. He just let you have a little of the
3 afternoon and you had to start right back in the morning?

4 A. And at that point, it was going to start back
5 with us sitting beside Charlie Skipper.

6 Q. Right.

7 Now, do you recall the jury wanting to hear the
8 testimony of the witnesses again?

9 A. I do.

10 Q. They sent in a note about that. And do you
11 recall that the judge seemed to be pretty adamant that
12 he -- let me ask you this. Did the judge mention at all
13 during the course of the trial, on or off the record,
14 about wanting to be somewhere the end of that week or
15 needing to -- not wanting to be there all week long? Do
16 you recall that?

17 A. It seems like he may have had a hearing later in
18 the week on the whole high school education -- it was some
19 big huge case about the quality of education in Clarendon
20 County.

21 Q. And do you remember when he dealt with the
22 jury's issue and talked to the jury, could you
23 characterize that as him dissuading them from doing that?
24 In other words, you don't really need to do that, it would
25 take too long, we don't really have the technology, making

Richard Joye
Cross-Examination by Mr. Truslow
August 28, 2014

1 those statements on the record?

2 A. I characterized it as that he wanted to not -- I
3 mean, those five witnesses were the whole trial. That was
4 trying the whole trial over again. I thought that he was
5 trying to get to, okay, what is it that you really want.

6 Q. But no doubt that the jury wrote a note to him
7 and there was something they were looking for and wanted
8 to hear it --

9 A. Without question. And maybe I wasn't --

10 Q. -- more witnesses --

11 A. -- maybe I was remiss in not objecting to --

12 Q. Okay. Because you could have objected to him on
13 that and said that, you know, Judge, they have the right
14 to hear whatever they want to hear --

15 A. Whatever they wanted to hear.

16 Q. -- and if they want to hear it all, they can
17 hear it all --

18 A. Yeah.

19 Q. -- no matter how long it takes?

20 A. Absolutely.

21 Q. And you can't say that there's something in
22 there they're looking for, or maybe a juror is looking for
23 something to show another juror, see, that's where they
24 said that, they could have changed this. I mean, we don't
25 know; right?

Richard Joye
Cross-Examination by Mr. Truslow
August 28, 2014

1 A. We don't.

2 I do believe I've had it happen before where the
3 judge clarifies exactly what it is you're looking for in
4 terms --

5 Q. He really -- okay.

6 A. -- of testimony.

7 Q. So then -- I'm getting to the end here -- you
8 had Jamie White, Oxedine, and Skipper, the three
9 codefendants who did testify. So on your cross, Jamie
10 White told you that he was basically -- basically, he said
11 he thought the defendant brushed off any robbery talk,
12 like you were saying, she didn't think there was any
13 substance to it all. Oxedine testified in cross-examined
14 -- cross-examination and he told you he's just trying to
15 help himself; right? And then Skipper, who was the
16 killer, had said something along the lines that he would
17 do whatever he had to do to stay out of jail and help
18 himself. I mean, you got him to that point, something
19 along those lines?

20 A. I didn't remember that he went that far, but if
21 you're telling me --

22 THE COURT: Bailiff, you need to -- excuse me.

23 You need to grab his phone. Thank you.

24 Sir, I need you to hand your phone to the
25 bailiff. Make sure it's turned off.

Richard Joye
Cross-Examination by Mr. Truslow
August 28, 2014

1 Q. [Mr. Truslow] And then when Detective --

2 THE COURT: I'm sorry.

3 MR. TRUSLOW: Oh. I'm sorry.

4 THE COURT: Could you wait just a moment. I can
5 only handle one thing at a time. That's why we don't
6 do -- why we make sure our phones are turned off, so
7 it's not distracting to the judge and that I can pay
8 attention to what's happening. All right?

9 [Off the record momentarily]

10 THE COURT: All right. You may continue.

11 MR. TRUSLOW: Yes, ma'am.

12 Q. [Mr. Truslow] And then with Detective Trotsal,
13 he -- the issue there you recall, if I'm not mistaken, was
14 that he asked her a question which was kind of a multiple
15 question and she said, yeah, that's right. And that's
16 what he was --

17 A. That's correct.

18 Q. -- testifying to.

19 But if you look at it, it could be interpreted a
20 lot of different ways what she was saying that's right, in
21 hindsight or the first part you said is right. That was
22 the issue. And that was how that was left with him,
23 saying, yeah, that could be interpreted however many ways;
24 right?

25 A. Exactly. And I felt that's -- that that was

Richard Joye
Cross-Examination by Mr. Truslow
August 28, 2014

1 where we wanted it.

2 Q. Right. So my point is that -- is it a safe
3 assumption to say that you were a bit surprised that she
4 was convicted of anything?

5 A. Oh, absolutely.

6 Q. Okay. And that the evidence was pretty darn
7 scant in her case?

8 A. No question about it. My concern was what I
9 believe happened, is, you know, they split the baby. They
10 found her not guilty on one and guilty on the other.

11 Q. So in a case like that, then, would you agree
12 with me that letting the jury rehear all they needed to
13 hear, because obviously they wanted it, or in the case
14 where somebody would have said why is Paige not
15 testifying, at least made the effort to find out why, and
16 if it was that, if she had testified the way she testified
17 here today, that that would have made a difference in this
18 case?

19 A. Absolutely. It sure could have.

20 MR. TRUSLOW: And, let's see.

21 [Whereupon, Mr. Truslow reviews documents]

22 MR. TRUSLOW: That's all I have, Your Honor.

23 Thanks, Mr. Joye.

24 THE WITNESS: Thank you. Yes, sir.

25 MR. THOMAS: Briefly.

Richard Joye
Redirect Examination by Mr. Thomas
August 28, 2014

REDIRECT EXAMINATION

BY MR. THOMAS:

Q. Mr. Joye, you -- all the other codefendants were represented by attorneys?

A. Absolutely.

Q. And you had an opportunity to talk with all those attorneys?

A. I spoke with all of those attorneys, yes.

Q. And that whole continuance thing at the beginning: you were on notice the entire time of what elements the State was going to try to have to go forward on?

A. Yeah, I was. And we had had -- he had faxed me copies of the -- but he had never -- I think he faxed me copies of accessory indictments but he had never formally -- they had never formally been served on the defendant because that wasn't what she was charged with originally.

MR. THOMAS: And may I approach, Your Honor?

THE COURT: You may.

Q. [Mr. Thomas] Show you the transcript. And we're on page 702, starting on line 24. Could you just review that up to page 703, line 12, what I've underline there?

A. Review it, or publish it?

Q. Review it and I'll ask you some questions based

Richard Joye
Redirect Examination by Mr. Thomas
August 28, 2014

1 on that when you're done.

2 [Whereupon, the witness reviews documents]

3 A. Okay.

4 Q. [Mr. Thomas] What parts of the testimony did
5 the judge offer to let the jury rehear?

6 A. He offered to let them hear the whole thing but
7 he asked them if they -- basically invited them to go
8 narrow it down as to what really was important.

9 MR. THOMAS: That's all I have. Thank you.

10 MR. TRUSLOW: Can you let him hold that, please?

11 MR. THOMAS: Sure.

12

13

14

15

16

17

18

19

20

21

22

23

24

25

- - -

- - -

- - -

Richard Joye
Recross-Examination by Mr. Truslow
August 28, 2014

RECROSS-EXAMINATION

BY MR. TRUSLOW:

Q. What page are you on, Mr. Joye?

A. 702, line 23, and continuing into 703.

Q. So at the bottom he says: now, if you need to hear the whole thing, we can play the whole thing. I don't want you -- I don't want to leave an impression that I'm not going to do it, but I'm confident you-all paid attention.

Skipping down to line 5. At the bottom of that page he says he's hesitant to ask the court reporter to get all that going.

Now, over on page 704, lines 6 and 7, he says, and like I say, I wish we could do that but we can't. He's talking about transcribing it. We just don't have the technology to do it.

A. That's -- I didn't remember that. The question from the jury was not we want to hear it all back, the question was we want a transcript from those witnesses. Then the judge went into the issues about listening to all of it back and then said, look, basically, can you go narrow down what you're really looking for because there weren't any transcripts.

Q. Right.

But when they're asking for that, when they

Richard Joye
Recross-Examination by Mr. Truslow
August 28, 2014

1 asked for the transcript of the witnesses, they wanted
2 everything; right? They wanted to hear everything again?

3 A. No question about that. They wanted a
4 transcript.

5 Q. And his answer was to go focus on the points
6 that you would like to touch -- us to touch on with these
7 individual witnesses. That was the ultimate response?

8 A. That was the -- yes.

9 Q. And he says: if you can do that, it will be
10 helpful in an expeditious manner. Okay.

11 MR. TRUSLOW: All right. That's all I've got.

12 MR. THOMAS: Nothing further, Your Honor.

13 THE COURT: Is he excused?

14 MR. THOMAS: He is excused.

15 THE WITNESS: Thank you, Your Honor.

16 THE COURT: Thank you. You are free to go.

17 Call your next witness.

18 MR. THOMAS: The State would rest at this time,
19 Your Honor.

20 THE COURT: Any rebuttal?

21 MR. TRUSLOW: No, Your Honor.

22 THE COURT: I'll be happy to hear from you
23 regarding argument.

24 - - -

25 - - -

Crystal Turner vs. The State of South Carolina
Argument by Mr. Truslow
August 28, 2014

ARGUMENT

MR. TRUSLOW: Your Honor, we believe that we've made a requisite showing. And I'll be brief --

THE COURT: Take all the time you need.

MR. TRUSLOW: -- I'm not going to -- ma'am?

THE COURT: Take all the time --

MR. TRUSLOW: I'm not going to rehash everything that happened. What I would touch upon is that what my client had to show is that it was ineffective assistance of counsel and but for that, it was something that would have made a difference or likely would have changed the outcome of her trial.

We're all human and we all try cases, but there are some things that need to be done and some things that are not and that could be deemed ineffective.

Certainly, under the law -- not trying a case like Super Man, becoming something -- that's not ineffective. It's got to go below -- at a lower bar than that. However, I think -- and Mr. Joye helped a lot by putting this case into focus. If you look at it in the context of this case, as Mr. Joye explained, this was an extremely weak case all built upon three codefendants testifying who all had something to gain.

And my point is that the weaker the case is, the more something beneficial would have helped. So I

Crystal Turner vs. The State of South Carolina
Argument by Mr. Truslow
August 28, 2014

1 point out the case was very weak. And the defense
2 attorney agrees with that. He was surprised. A lot
3 of people around the courtroom was surprised there was
4 a guilty verdict on even the one charge we're here for
5 today.

6 Now, having said that, the jury then comes back
7 in and wants to hear -- and wants transcripts of
8 everybody that testified. So obviously they're
9 looking for something because they didn't hear what
10 they needed to hear yet, or they needed to see or hear
11 something again, to clarify to whatever. I think the
12 transcript is pretty clear that although they said
13 transcripts, and the judge explained it would be --
14 that they can't do transcripts, if you take that
15 dialog in a whole, it's really dissuading them from
16 what they want even to the point where ultimately he
17 says that you need to narrow it down what it is you
18 want. Well, they were very clear from the beginning
19 they wanted everything. And they have the right to
20 hear everything. And I think that Mr. Joye should
21 have objected and should have told the judge that,
22 particularly in a case that was so close.
23 Particularly in a case Mr. Joye -- obviously, he's not
24 -- he can't express his opinion, as a defense
25 attorney, but that you may have a woman here who is

Crystal Turner vs. The State of South Carolina
Argument by Mr. Truslow
August 28, 2014

1 absolutely not guilty of anything.

2 In terms of Paige Furniss, she was very clear in
3 her testimony of what she testified to. She was not
4 impeached to any degree that I saw. She said that had
5 she been called and put on the stand under oath, she
6 would have told the truth, this would have been her
7 truth. I think that is very important when you look
8 at it in terms of the fact that they brought -- they
9 bring all three co-defendants, had all three of them
10 testify, and then the two female codefendants, the one
11 in particular who showed up today and the one that's
12 closest to her and knows her and has borrowed her car
13 before and whatnot, then all of a sudden they stop the
14 case, they cut it off, they rest their case. At that
15 point they're having the ability to assess their case,
16 as well. They can tell that it is an extremely close
17 call, based on codefendant testimony, for a lesser
18 sentence type stuff.

19 But nonetheless, I would disagree with Mr. Joye
20 that they were not wanting to put more witnesses up
21 there because he would cross-examine them worse. They
22 would need everything they've got in that case.
23 Because they didn't get a conviction on the one, so
24 there must have been a reason. But at least in a
25 trial lawyer's mind, he has to then wonder why one of

Crystal Turner vs. The State of South Carolina
Argument by Mr. Truslow
August 28, 2014

1 the witnesses he was worried about, who my client
2 testified that that would be her best witness, that
3 she told him that. So her testimony has to be taken
4 into account, as well. Why you wouldn't at that point
5 inquire as to whether you would call a witness. He
6 called three witnesses in his defense. He had time to
7 look into consider doing that and calling Paige
8 Furniss. Why in the world is she not testifying?
9 Now, she's here subpoenaed by the State.

10 Then we get back to the issue of whether it
11 would have made a difference, proffer and put up
12 Ms. Furniss's testimony, and what that would have
13 been. I think if those --

14 Oh. I wanted to say this, as well. My client's
15 testimony was very clear as to the amount of
16 preparation that she had in this trial. And the one
17 in-office meeting was less than an hour. Mr. Joye
18 says that he -- that really, honestly, he could not
19 say whether -- he thinks it was more than that but he
20 wouldn't commit to that and that he has no records or
21 file to bring to court today to say that he met with
22 her on this day or that day or whatever. So it's
23 really not anything that conflicts with what she said.
24 So in an accessory murder and robbery, we've got which
25 could amount to less than two, three hours of time

Crystal Turner vs. The State of South Carolina
Argument by Mr. Truslow
August 28, 2014

1 spent together.

2 Bear in mind that she was in jail the bulk of
3 this time and all three of the meetings happened in
4 jail, the first three, which were really geared
5 towards getting a bond, and the one in-office meeting
6 she testified was less than an hour and they didn't
7 talk about defenses or her testimony, if it was going
8 to be any testimony. There's really no reason for her
9 not to testify and --

10 THE COURT: Mr. Truslow, is there a magic number
11 or a standard number that an attorney needs to meet
12 with a client a particular number or times or a
13 particular number of hours?

14 MR. TRUSLOW: I don't think so. I think if you
15 could meet with your client and in forty-five minutes
16 or thirty minutes you could go through all the
17 evidence with them, all the possible defenses, what
18 the plan is going to be, what defense are we going to
19 use, how is the trial going to come down, what
20 testimony are we expecting, should you testify, if you
21 do, how is that going to go, what can you expect from
22 the State when they cross-examine you, an
23 investigation at least into what the other witnesses
24 are up to.

25 And I would say just talking to the defense

Crystal Turner vs. The State of South Carolina
Argument by Mr. Truslow
August 28, 2014

1 attorney now and then and, again, no records to say
2 when that occurred -- you know, specifically she said
3 she told her attorney maybe when they chose not to
4 call her, at that point in time you have to -- you
5 have to, at that point in time, say why should I call
6 her. Because she testified that he did not refute
7 that she told him, that would be my best witness, she
8 knows I didn't know anything about this.

9 So in terms of is there any special amount of
10 time, no. But in having tried a number of murder
11 cases and other type felony cases -- and here the
12 State called I think eight or nine witnesses -- I
13 don't know how it could be done if we assume that's
14 what we're working with is three jail visits and one
15 office visit in less than an hour, all that would need
16 to be done could be done.

17 Now, there is no certain time because you could
18 have a case where all of that could be done in an
19 hour. I would -- you know --

20 THE COURT: But you don't feel it's this case?

21 MR. TRUSLOW: Not this case. I've --

22 THE COURT: All right. Thank you.

23 MR. TRUSLOW: -- had DUI cases I couldn't do
24 that in an hour.

25 So I just think that there's got to be some bar

Crystal Turner vs. The State of South Carolina
Argument by Mr. Truslow
August 28, 2014

1 where if it's a total of three hours and the majority
2 of that was in jail on the bond issue, and you have a
3 murder and armed robbery case with numerous witnesses,
4 two detectives, three codefendants, potentially five
5 codefendants to be ready for, whether to testify, what
6 the defense is going to be, and in a case that could
7 have been won and the defense attorney himself was
8 surprised that she was convicted and still believes it
9 to this day, that that would make a difference.

10 So that's all that we're able to show, Your
11 Honor, and get across to you. And we just really
12 would ask -- and I think it speaks a lot if she's
13 willing to go back and face thirty years, to have this
14 tried again, because she's adamantly claiming her
15 innocence today.

16 THE COURT: Mr. Thomas?

17 MR. THOMAS: Just briefly, Your Honor.
18
19
20
21
22
23 - - -
24 - - -
25 - - -

Crystal Turner vs. The State
Argument by Mr. Thomas
August 28, 2014

ARGUMENT

1
2 MR. THOMAS: You know, as far as Mr. Joye's
3 investigation, I mean, he's testified that all the
4 codefendants were represented at this time and he knew
5 that they were all giving -- given statements. He
6 reviewed those statements. He was prepared for that.
7 He testified there was nothing in trial that he wasn't
8 prepared for in that regard. He spoke to their
9 attorneys beforehand.

10 He gave us a strategic reason why he didn't
11 call Ms. Furniss as a witness. He said from his
12 discussions with her attorney and his preparation,
13 he had no knowledge that her story was going to change
14 and, in fact, he was afraid that her story would
15 not change and if it had not changed it would be
16 equally -- it would be damaging to his client.

17 And, again, basically her testimony here today
18 was that the defendant had nothing to do with the
19 planning of this crime. Well, that was the trial
20 strategy throughout and he got that same testimony in
21 through the witnesses he did call, specifically the
22 boyfriend who testified that he was with her the whole
23 night and did not see her planning this robbery, this
24 murder. And, again, to the fact that she's recanting
25 the statement she gave to police the day -- and that's

Crystal Turner vs. The State
Argument by Mr. Thomas
August 28, 2014

1 after-the-fact Monday-morning quarter-backing.

2 As far as the jury problem, I mean, the judge --
3 the record is clear the judge gave the jury the option
4 to rehear all the testimony, if they wanted it, or
5 they could rehear part of it. The jury didn't even
6 ask to rehear part of it. So there's really no --
7 it's pure speculation at this point about how that
8 would have changed the outcome if he had objected to
9 that statement from the judge.

10 And as far as Mr. Joye's preparation, I mean, he
11 said -- whether we know how many meetings he had
12 exactly, he did testify that he met with her enough to
13 go over the State's evidence, to go over what the
14 State was going to try to prove, to discuss with her
15 the trial strategy, to discuss with her whether she
16 needed to testify and what the witnesses were going to
17 testify to, and he testified that he felt prepared to
18 try this case.

19 And so we would just submit that the applicant
20 has not met the burden and we would ask that the
21 petition be denied.

22 THE COURT: Anything further --

23 MR. TRUSLOW: No, ma'am.

24 THE COURT: -- Mr. Truslow?

25 MR. TRUSLOW: No, Your Honor.

Crystal Turner vs. The State
Argument by Mr. Thomas
August 28, 2014

1 THE COURT: All right. Counsel, I'll give you
2 until September 15th at 9:00 a.m. to submit proposed
3 orders.

4 Good luck to you, Ms. Turner.

5 [HEARING CONCLUDES AT 11:40 A.M.]
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Crystal Turner vs. The State of South Carolina
Certificate of Court Reporter

C E R T I F I C A T E

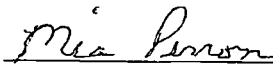
STATE OF SOUTH CAROLINA

COUNTY OF GEORGETOWN

I, the undersigned Mia Perron, Circuit Court Reporter for the 9th Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete transcript of the PCR hearing held before the Honorable Kristi L. Harrington, on Thursday, August 28, 2014.

I do further certify that I am neither kin nor counsel to any of the parties and have no interest in the outcome of this action.

Dated this 19th day of March, 2015.



Mia Perron, CVR-CM-M
Circuit Court Reporter
9th Judicial Circuit

MIA PERRON, CVR-CM-M

-81-

STATE OF SOUTH CAROLINA
COUNTY OF HORRY

IN THE COURT OF COMMON PLEAS
FOR THE FIFTEENTH JUDICIAL CIRCUIT

Crystal Turner, #342796

Case No. 2013-CP-26-04528

Applicant,

v.

ORDER

State of South Carolina,

Respondent.

FILED
HORRY COUNTY
14 NOV 19 AM 9:43
CLERK OF COURT

THIS MATTER COMES BEFORE THE COURT by way of an Application for Post-Conviction Relief filed June 26, 2013. Respondent made a timely Return on or about February 27, 2014. The Court convened an evidentiary hearing into the matter on August 28, 2014, at the Georgetown County Courthouse. Applicant was present at the hearing and represented by T. Kirk Truslow, Esquire. Joshua L. Thomas, Esquire, of the South Carolina Attorney General's Office, represented Respondent.

Applicant testified on her own behalf at the evidentiary hearing. Applicant also called Paige Furness as a witness. Applicant's trial counsel, R. Scott Joye, Esquire, also testified. The Court had before it a copy of the trial transcript, the records of the Horry County Clerk of Court regarding the subject conviction, Applicant's records from the South Carolina Department of Corrections, the records from Applicant's direct appeal, the application for post-conviction relief, and the return.

PROCEDURAL HISTORY

Applicant is presently confined in the South Carolina Department of Corrections. In May 2009, the Horry County Grand Jury indicted Applicant for two counts of accessory before the fact to a felony.

[Handwritten signature]
11/3/14

The predicate felony on one count was armed robbery (2009-GS-26-2174) and the predicate felony on the other count was murder (2009-GS-26-2173). R. Scott Joye, Esquire ("trial counsel"), represented Applicant. On September 13, 2010, Applicant proceeded to a jury trial before the Honorable Thomas W. Cooper, Jr.. On September 16, 2010, the jury found Applicant guilty of accessory before the fact to an armed robbery and not guilty of accessory before the fact to a murder. Judge Cooper sentenced Applicant to sixteen years imprisonment.

Applicant filed a timely notice of appeal, and Breen Richard Stevens, Esquire, of the Office of Appellate Defense, represented Applicant. The South Carolina Court of Appeals affirmed Applicant's conviction on October 24, 2012. *State v. Turner*, Op. No. 2012-UP-562 (S.C. Ct. App. filed October 24, 2012). The remittitur was returned to the circuit court on November 19, 2012.

ALLEGATIONS

In her application, Applicant alleged she is being held in custody unlawfully for the following reasons:

1. "Ineffective assistance of trial counsel"
 - a. "Trial Counsel failed to properly investigate witnesses"
 - b. "Trial Counsel failed to call vital witnesses on behalf of Defendant's case"
 - c. "Trial Counsel failed to object to the Court's refusal to allow the jury's request to re-hear testimony"

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Court has reviewed the record in its entirety and has heard the testimony and arguments presented at the evidentiary hearing, and the Court has weighed the testimony accordingly. Set forth below are the relevant findings of fact and conclusions of law as required by S.C. Code Ann. § 17-27-80 (2003).

Applicant testified she retained trial counsel after being charged along with five other co-

defendants. She testified all but one co-defendant, Charles Skipper, pled guilty prior to her trial. However, Skipper pled guilty the day trial began and testified against her. Applicant testified she met with trial counsel for the first time the day after her arrest, but did not discuss the facts of the case. She further testified they never discussed the evidence or any defenses at their second meeting. Applicant recalled meeting with trial counsel in the Georgetown County jail after her bond was revoked. She testified the only evidence trial counsel discussed with her were the co-defendants' statements. She recalled listening to the recorded statement of one co-defendant and reading letters written by others. Applicant testified trial counsel never discussed her defense, never discussed whether she would testify, and never discussed the details of a trial.

Applicant testified to her version of events the night the victim was murdered, and agreed she explained that same version of events to trial counsel. She also agreed her version of events was presented to the jury through her statements to the investigating officers. Applicant testified she did not discuss an investigation with trial counsel, and was not sure which witnesses he interviewed. She testified she would have wanted Paige Furness to testify as to the relationship between all of the co-defendants. Applicant also testified trial counsel should have called her mother and grandmother to testify based on their comments at the sentencing hearing.

Paige Furness testified her initial statements to law enforcement indicated Applicant was involved in planning the armed robbery of the victim. She averred her testimony at trial would have been different from her statements to police. Furness testified Applicant merely told the co-defendants the victim would have money and pay for drinks, but had no involvement in planning the robbery. Furness testified she told her attorney this second version of events, but admitted she never told her attorney to share it with trial counsel. She also admitted she never contacted Applicant or trial counsel

to tell them she would recant her statement to police.

Trial counsel testified he initially met with Applicant after her arrest. He further testified he had more than four meetings with Applicant, and that she was a good client who was actively involved in her case. Trial counsel testified he explained to Applicant the only evidence the State had against her was the statements of the co-defendants. He also discussed with Applicant her own statement, which he recalled was not an admission, but indicated she had some discussion about robbing the victim. Trial counsel recalled discussing with Applicant whether she would testify at trial.

Trial counsel testified he was most concerned with the statement of Furness. He recalled there was an issue with an unpaid power bill of Applicant's. Trial counsel recalled reviewing the power bill and having concerns the solicitor would use it to show a motive for Applicant to want to rob the victim. Trial counsel testified Furness could corroborate the problem with the power bill, as could Applicant's mother and grandmother. He testified he did not call these witnesses to avoid opening the door for the solicitor to present the unpaid bill. Trial counsel also testified he did not call the mother or grandmother because juries tend to place little weight in the testimony of close relatives. Trial counsel testified he explained the issue of the power bill to Applicant.

Trial counsel further testified Furness was represented by counsel, as were the other co-defendants. Trial counsel recalled regular discussions with Furness' counsel about the case. However, her counsel never indicated Furness would change her story at trial. Accordingly, trial counsel was concerned Furness' trial testimony would further implicate Applicant.

Trial counsel recalled the testimony of the detectives indicated they may not have believed Applicant has any intent to rob the victim. He recalled cross-examining all of the co-defendants on their involvement. He further recalled cross-examining the co-defendants on their plea deals. Trial counsel

also called Applicant's boyfriend as a witness, and he testified he did not overhear Applicant planning a robbery that evening. Trial counsel testified the jury asked for a transcript of the testimony of several witnesses. He testified he did not object to the trial judge instructing the jury to narrow its request because the judge left open the possibility of re-hearing whatever testimony the jury wanted.

In a post-conviction relief action, the applicant bears the burden of proving the allegations in the application. *Butler v. State*, 286 S.C. 441, 442, 334 S.E.2d 813, 814 (1985) (citing *Griffin v. Martin*, 278 S.C. 620, 300 S.E.2d 482 (1983)). Where the application alleges ineffective assistance of counsel as a ground for relief, the applicant must prove "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result." *Id.* at 442, 334 S.E.2d at 814 (citing *Strickland v. Washington*, 466 U.S. 668 (1984)).

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. *Id.* (citing *Strickland*, 466 U.S. at 687; *Turner v. Bass*, 753 F.2d 342 (4th Cir. 1985); *Marzullo v. Maryland*, 561 F.2d 540 (4th Cir. 1977)). Courts presume counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. *Id.* (citing *Strickland*, 466 U.S. at 690). The applicant must overcome this presumption in order to receive relief. *Cherry v. State*, 300 S.C. 115, 118, 386 S.E.2d 624, 625 (1989).

Courts use a two-pronged test in evaluating allegations of ineffective assistance of counsel. *Id.* at 117, 386 S.E.2d at 625. First, the applicant must prove counsel's performance was deficient. *Id.* Under this prong, courts measure an attorney's performance by its "reasonableness under prevailing professional norms." *Id.* (citing *Strickland*, 466 U.S. at 688). Second, any deficient performance must have prejudiced the applicant such that "there is a reasonable probability that, but for counsel's

unprofessional errors, the result of the proceeding would have been different." *Id.* at 117-18, 386 S.E.2d at 625.

The Court finds Applicant failed to meet her burden of proving trial counsel was ineffective for failing to investigate. Failure to conduct an independent investigation is not *per se* ineffective assistance of counsel, especially where an investigation would not have uncovered any helpful information. *Moorehead v. State*, 329 S.C. 329, 334, 496 S.E.2d 415, 417 (1998). Here, trial counsel reviewed all the evidence in the case, which consisted almost entirely of witness statements. He read these statements, reviewed the discovery, and was not surprised by the testimony at trial. Such an investigation was reasonable under the circumstances. *Edwards v. State*, 392 S.C. 449, 457, 710 S.E.2d 60, 65 (2011) (citing *Daniels v. State*, 676 S.E.2d 13 (Ga. 2009)). He also reviewed the State's evidence with Applicant prior to trial. The testimony of the witnesses at trial was consistent with their prior statements. To the extent there were inconsistencies, trial counsel brought those out on cross-examination. The Court finds especially credible trial counsel's testimony he discussed the case with all of the co-defendant's attorneys and was not informed any witness would change their testimony. See *Jackson v. State*, 329 S.C. 345, 350, 495 S.E.2d 768, 770 (1998) (attorney not defective in part because "counsel for the co-defendants [told attorney] any testimony given by them would be the same as their statements given to the police"). Accordingly, the Court finds trial counsel conducted a proper investigation, adequately conferred with Applicant, and was thoroughly competent in his representation.

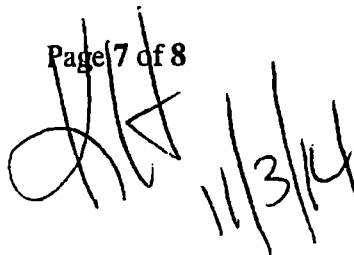
The Court further finds Applicant failed to meet her burden of proving trial counsel ineffective for failing to call witnesses on her behalf. The Court finds credible trial counsel's testimony regarding his reasoning for not calling Furness as a witness. Trial counsel discussed Furness's testimony with her attorney. Neither Furness nor her attorney informed trial counsel she would provide a testimony at trial

that differed from her statement to police. *See id.* Furthermore, trial counsel feared Furness would open the door to the introduction of the power bill, which would strengthen the State's case. Accordingly, the Court finds trial counsel articulated a valid strategy for not calling Furness as a witness. *See Stokes v. State*, 308 S.C. 546, 548, 419 S.E.2d 778, 779 (1992) ("Where, as here, counsel articulates a valid reason for employing certain strategy, such conduct will not be deemed ineffective assistance of counsel." (citing *Whitehead v. State*, 308 S.C. 119, 417 S.E.2d 529 (1992))).

Similarly, the mother and grandmother would have also opened the door to evidence of the power bill. The Court also finds persuasive trial counsel's explanation that the jury would have given less weight to these witnesses' testimony. Therefore, the Court finds trial counsel articulated a valid strategy for not calling Applicant's mother and grandmother to testify. *Id.*

The Court also finds Applicant has not demonstrated she was prejudiced by the failure to call Furness. Trial counsel presented the testimony of Applicant's boyfriend to show she was not involved in planning the robbery the night of the incident. The jury was also able to hear Applicant's version of her involvement that night through the testimony of the investing officers, including one called as a witness by trial counsel. Thus, Applicant failed to show how Furness's testimony, even if it were inconsistent with her statement to police, would have assisted in her defense. *Jackson*, 329 S.C. at 351, 495 S.E.2d at 771. Similarly, the testimony of the mother and grandmother would not have added anything beneficial to the defense. *See Stokes*, 308 S.C. at 548, 419 S.E.2d at 779.

Finally, the Court find Applicant failed to meet her burden of proof on the allegation trial counsel was ineffective in failing to object to the trial judge's response to a jury question. The trial judge did not refuse to allow the jury to re-hear testimony, he simply asked the jury to focus on particular areas of testimony it desired replayed. (Trial Tr. p. 702, lines 11-13). However, he also gave



them the option to hear the entirety of the testimony if they desired. (Trial Tr. p. 702, line 23-p.703, line 4). This request of the jury to focus its inquiry was properly within the scope of the trial judge's discretion. See *State v. Plyler*, 275 S.C. 291, 298, 270 S.E.2d 126, 129 (1980) ("The extent of such review is within the discretion of the trial judge to be exercised in the light of the jury's request."). Because there was no grounds to object to the trial judge's request, trial counsel was not ineffective for failing to object.

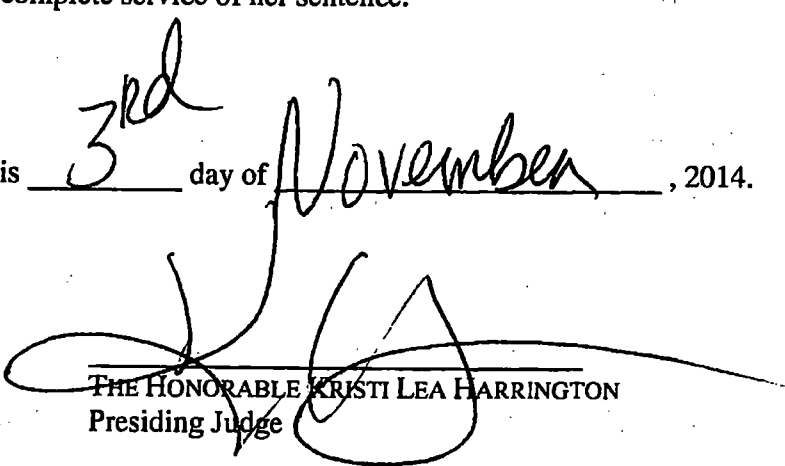
CONCLUSION

Based on the foregoing, the Court finds and concludes Applicant has not established any constitutional violations or deprivations that would require this Court to grant her application. Therefore, this application for post-conviction relief must be denied and dismissed with prejudice.

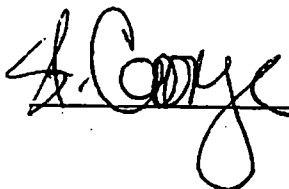
IT IS THEREFORE ORDERED THAT the Application for Post-Conviction Relief is denied and dismissed with prejudice; and

IT IS FURTHER ORDERED THAT the Applicant be remanded to the custody of the Department of Corrections to complete service of her sentence.

AND IT IS SO ORDERED this 3rd day of November, 2014.



THE HONORABLE KRISTI LEA HARRINGTON
Presiding Judge

 , South Carolina

WITNESSES

mothy Troxell Horry County Police Department

DOCKET NO. 2009-GS-26-~~10111~~

2174

The State of South Carolina

County of Horry

Lawrence R. Filiberto
08H03541

COURT OF GENERAL SESSIONS

MAY, 2009 TERM

THE STATE

VS.

CRYSTAL TURNER W/F

Marion, SC 29571
DOB: [REDACTED]
SSN: [REDACTED]

ATTORNEY: Joye, R. Scott

Indictment for

**ACCESSORY BEFORE THE FACT OF A
FELONY**

J. Gregory Hembree, Solicitor

ORIGINAL

REST WARRANT NUMBER

320758

DR: 0002 16-01-0040, 0050

OA: 8/16/2008

RETURN OF GRAND JURY...

TRUE BILL

Foreperson of Grand Jury

MAY 28 2009

VERDICT

Foreperson of Petit Jury

Date:

STATE OF SOUTH CAROLINA)
COUNTY OF HORRY)

INDICTMENT

At a Court of General Sessions, convened on MAY 28, 2009, the Grand Jurors of Horry County present upon their oath:

ACCESSORY BEFORE THE FACT OF A FELONY

CDR: 0002 16-01-0040, 0050

That Crystal Turner did in Horry County on or about August 14, 2008, advised or agreed with or urged or hired or in some way aided, counseled or encouraged the principal felon to commit the felony of armed robbery, but was not present when the crime was committed, in violation of the Common Law and Section 16-01-0040, S. C. Code of Laws, 1976, as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



J. GREGORY HEMBREE
FIFTEENTH CIRCUIT SOLICITOR