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VOLUME ONE OF TWO
ANDERS RESPONSE BRIEF

STATE OF SOUTH CAROLINA

No Respondent's Brief Filed

In The Court of Appeals

JAN 30 2015

APPEAL FROM COLLETON COUNTY

SC Court of Appeals

Perry M. Buckner, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

MACK WASHINGTON, JR.

APPELLANT

APPELLATE CASE NO. 2014-000667

RECORD ON APPEAL

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STATE OF SOUTH CAROLINA) IN THE COURT OF GENERAL SESSIONS
)
 COUNTY OF COLLETON) CASE NO.: 2012-GS-15-416, 2012-GS-15-417,
 2012-GS-15-560, 2013-GS-15-753,
 2013-GS-15-754

THE STATE OF SOUTH CAROLINA,)
)
)
 v.) TRANSCRIPT OF RECORD
)
 MACK WASHINGTON, JR.,)
)
 DEFENDANT.)
)

MARCH 17th - 20th, 2014
 COMMENCING AT COLLETON COUNTY COURTHOUSE
 WALTERBORO, SOUTH CAROLINA
 BEFORE THE HONORABLE PERRY M. BUCKNER, III, JUDGE.

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1 THE COURT: All right. Tameaka, you want to call the
2 case for me, please?

3 ASST. SOL. LEGETTE: Yes, Your Honor. May it please
4 the Court? The State is ready to proceed, Your Honor, in
5 the State v. Mack Washington, indictment number 2012-GS-15-
6 416 for kidnapping; 2012-GS-15-417 for armed robbery; 2012-
7 GS-15-560 for kidnapping; 2013-GS-15-753 for armed robbery;
8 and 2013-GS-15-0754 for possession of weapon during a
9 violent crime. The State is prepared to nol pros indictment
10 number 2012-GS-15-0422 for receiving stolen goods. I
11 believe that's one of the motions Mr. Bennett had here
12 today.

13 THE COURT: Mr. Bennett, it looks like the State
14 perceives that your motion, which I have read, was
15 meritorious and therefore is nol prossing to receiving
16 stolen goods and not proceeding with both armed robbery and
17 receiving stolen goods. I assume you have no objection to
18 that nol pros?

19 MR. BENNETT: No, sir, I do not, Judge

20 THE COURT: Very well.

21 MR. BENNETT: And Judge ---

22 THE COURT: Be seated. I didn't ask for argument. Be
23 seated.

24 MR. BENNETT: Oh, no, I was going to on another issue,
25 Judge.

1 THE COURT: No, sir. Be seated. I'll call on you when
2 it's time. Now, as I understand it, Solicitor, you're only
3 proceeding on two kidnappings, two armed robberies, and a
4 possession of a weapon during the commission of a violent
5 crime; is that correct?

6 ASST. SOL. LEGETTE: That's correct, Your Honor.

7 THE COURT: Now, Mr. Bennett has a number of motions. I
8 assume that since this is my first case for trial that those
9 motions are now -- that you are ready to proceed on those
10 motions; is that correct from the State?

11 ASST. SOL. LEGETTE: That's correct, Your Honor.

12 THE COURT: All right. Now, Mr. Bennett, I'll
13 recognize you because I can assure you one lawyer is going
14 to stand in my courtroom at a time and one lawyer is going
15 to speak. Now, I noticed you have, in addition to Mr.
16 Washington, you have another gentleman at your table.
17 Identify him, Mr. Bennett.

18 MR. BENNETT: Yes, sir. That's our attorney, Laurie
19 Sanders, of the Colleton County Bar.

20 THE COURT: And Mr. Sanders represents who? And why is
21 he here?

22 MR. BENNETT: Yeah, I associated him to assist me in
23 this trial, Judge. I was appointed, but I just hired him to
24 help me with the trial.

1 THE COURT: And that's satisfactory with you, Mr.
2 Washington, for Mr. Sanders to assist Mr. Bennett?

3 MR. WASHINGTON: Yes, Your Honor.

4 THE COURT: Very well. Mr. Sanders, welcome. It
5 appears that Mr. Washington is satisfied with you being
6 here. Now, Mr. Bennett, some of your motions -- I've read
7 every one of them, and some of your motions are actually not
8 in limine, because some of them can be taken up at trial,
9 because I have no idea what the evidence is going to show
10 me. I'm going to need to know that in order to make an
11 intelligent ruling on the motions.

12 But we certainly can take up of your motion to dismiss
13 and/or quash indictments. Actually, they conceded part of
14 your motion, although the other part involves kidnapping, so
15 let's deal with that first.

16 MR. BENNETT: Okay. And can I ask one housekeeping
17 question, Your Honor.

18 THE COURT: About that motion?

19 MR. BENNETT: Well, I have a motion ---

20 THE COURT: Mr. Bennett, let's make sure you and I
21 understand each other.

22 MR. BENNETT: Okay.

23 THE COURT: I'm going to run the courtroom and I'm
24 going to decide what's going to be heard at what time, not
25 you. If it's about this motion, I'll hear you. Otherwise,

1 wait and ask the housekeeping motion later. Now, let's
2 proceed to your motion.

3 MR. BENNETT: Your Honor, the reason I ask that, I have
4 a motion to sequester all witnesses during all pretrial ---

5 THE COURT: I'm aware of that motion. We're not there
6 yet and you're not going to argue that one yet. We're going
7 to first see whether or not we're going to dismiss any of
8 these indictments.

9 Now, for the last time, Mr. Bennett, so that we don't
10 have a problem during this trial, when I ask you to be heard
11 on it, you address what I ask you to address and not
12 something else. Proceed with the motion to dismiss, now.

13 MR. BENNETT: All right. Your Honor, also, to avoid
14 any possible prejudice, I wanted the Court to ensure that
15 there weren't any members of the jury panel in here at this
16 time.

17 THE COURT: (SPEAKS TO THE AUDIENCE.) Are there any
18 members of the jury panel in the courtroom at this time? If
19 so, please stand.

20 (NO RESPONSE).

21 THE COURT: Let the record reflect, Mr. Bennett, no one
22 is standing. Proceed with the motion to dismiss and/or
23 quash the indictments.

24 MR. BENNETT: Okay. Your Honor, as a matter -- I'm not
25 trying to do anything ---

1 THE COURT: Mr. Bennett, proceed with the motion.

2 MR. BENNETT: The defendant has a motion to relieve me
3 as counsel.

4 THE COURT: I'm aware of that, but we're first going to
5 -- the defendant certainly has no objection to my
6 considering the motions to dismiss.

7 MR. BENNETT: Okay.

8 THE COURT: I'm ready to hear from you now.

9 MR. BENNETT: Okay, Judge. The ---

10 THE COURT: Mr. Bennett, we're going to have a
11 serious problem in this trial if you don't learn to listen
12 and proceed in the order I direct. Now, I'm ready to hear
13 from you; no argument.

14 MR. BENNETT: I understand. Your Honor, we have a
15 motion to dismiss or quash the kidnapping indictment, which
16 is 2012-GS-15-560; and that's as to the victim, Frank Klem.

17 THE COURT: What's the basis of the motion on
18 kidnapping?

19 MR. BENNETT: Yeah, the basis, Your Honor ---

20 THE COURT: I've read your motion, and I can't tell
21 your basis from the motion, so I'm asking.

22 MR. BENNETT: There's absolutely no evidence in this
23 case, Your Honor. We've had extensive discovery motions.
24 We've received a bunch of discovery from the State, victim's
25 statements, CD interviews, et cetera. There is absolutely

1 no evidence that I've been given by the State that would
2 indicate that Frank Klem was confined or restricted or
3 assaulted or contacted or inveigled or decoyed or any of
4 those things that is required under 16-3-910.

5 THE COURT: Now, Mr. Bennett, wouldn't I address that
6 after I heard the State's evidence on a motion for directed
7 verdict rather than on your interpretation of what you
8 believe the State will show at trial when I have not heard
9 any evidence?

10 MR. BENNETT: Yeah, you could, Judge. That's up to
11 you, but ---

12 THE COURT: Well, you're asking me to dismiss the
13 indictment pretrial based on your conclusion as insufficient
14 evidence. Don't you think it would be better if the Court
15 had an opportunity to hear that evidence, and if it doesn't
16 exist, grant it at the directed verdict state?

17 MR. BENNETT: Yes, sir, you certainly have the power.

18 THE COURT: I know I have the power, but I'm asking
19 you, Mr. Bennett, because I'm certain I'm going to hear from
20 the State that they believe there is evidence of kidnapping.
21 They've got two different kidnapping indictments. I don't
22 know what it is, but I don't believe they called this case -
23 - what you're asking me to do, because you know I don't know
24 anything about the evidence. I haven't reviewed the

1 discovery, which you and Mr. Sanders apparently have. How
2 would I know anything about that until I've heard it?

3 MR. BENNETT: Yes, sir. And we know what you want us
4 to do at this point, Judge. I understand.

5 THE COURT: All right. Let me ask the State: Mr.
6 Bennett says in his humble opinion that he's reviewed every
7 bit of your discovery. And in his opinion, there is
8 absolutely no evidence whatsoever to support the offenses of
9 kidnapping, and that therefore, I should dismiss the
10 kidnapping indictments pretrial. Be happy to hear from you
11 now, Solicitor.

12 ASST. SOL. LEGETTE: Thank you, Your Honor. Your
13 Honor, we believe the evidence in this matter will show that
14 both Mr. Frank Klem and Ms. Joan Klem were both kidnapped
15 during this actual event of the armed robbery.
16 Additionally, Your Honor, we have prepared some case law,
17 State v. Porter. I have copies here for defense counsel, as
18 well as Your Honor, that I can hand up at the appropriate
19 time, if you'd like, Your Honor.

20 THE COURT: Give him a copy right now and give me one
21 so I can take a look at the case law you're relying on.
22 Just hand it to Pat and she will hand it to me.

23 ASST. SOL. LEGETTE: And Your Honor, State v. Porter is
24 a case that the Supreme Court tells that when a single act
25 combine, the requisite ingredient of two distinct offenses,

1 the defendant may be severally indicted for both and
2 punished for each.

3 Your Honor, I believe that was the basis of Mr.
4 Bennett's motion that he was looking for, as I understood
5 him, I guess, our pretrial meeting to be about, and there
6 was no evidence of this, Your Honor. However, I do believe
7 that the evidence will show in this matter that Mr. Frank
8 Klem and Ms. Joan Klem were both kidnapped, and I think the
9 motion is best heard during your directed verdict motion at
10 the end of the State's case.

11 The case that he is trying to argue that kidnapping is
12 not a part of armed robbery, then he would suggest to the
13 Court and submit this case law that kidnapping and armed
14 robbery are both distinct and separate offenses.

15 THE COURT: Now, Solicitor, what Mr. Bennett says in
16 his written motion, which made it difficult for me to
17 understand the exact grounds, I understand that he doesn't
18 think there's any evidence produced by the State to support
19 it. Of course, I can't rule on that, and he knows that,
20 until I've heard that. But he points out in his written
21 motion, and I assume he's still relying on this for purposes
22 of this motion, that in order for the State to prosecute,
23 whether -- regardless of which victim we're talking about,
24 actually Mr. Bennett talks about the victim, Klem, K-L-E-M,
25 in his written motion, Frank Klem, that the State must be

1 able to prove that there was a confining, inveigling, a
2 decoy, abducting, or a carrying away. I think those are all
3 the verbs in the statute. If not, I'm sure we will find
4 some others, but there is a number of them. I charge every
5 one of them normally in a kidnapping case.

6 What I ask you now, not having heard any evidence, is
7 it your position that the State will introduce evidence to
8 support one of those verbs sufficient enough to submit the
9 case of kidnapping to the jury? Is that what you're telling
10 me?

11 ASST. SOL. LEGETTE: Yes, Your Honor.

12 THE COURT: The case you hand me is Judge Hayes' case,
13 of which I'm familiar, dealing with whether or not the same
14 set of facts could support more than one offense; is that
15 correct?

16 ASST. SOL. LEGETTE: That's correct, Your Honor.

17 THE COURT: But that dealt with conspiracy to commit
18 armed robbery. Now, kidnapping and possession of a firearm
19 during the commission of a violent crime; is that correct?

20 ASST. SOL. LEGETTE: That's correct, Your Honor.

21 THE COURT: Becky, that is 698 S.E. 2nd, 237, and it is
22 State v. Porter, P-O-R-T-E-R. Does the Court address the
23 issue that Mr. Bennett raises now concerning kidnapping in
24 any way where he had also -- where the defendant in Porter
25 had also been indicted for armed robbery and receiving

1 stolen goods or was there a different set of facts? Do you
2 understand my question?

3 ASST. SOL. LEGETTE: Your Honor, if you're asking if
4 Porter addresses armed robbery and receiving stolen goods, I
5 don't believe it does.

6 THE COURT: It does address kidnapping.

7 ASST. SOL. LEGETTE: Yes, it does, Your Honor.

8 THE COURT: And armed robbery.

9 ASST. SOL. LEGETTE: Yes, Your Honor.

10 THE COURT: And you believe it supports the fact that
11 you can, from the same set of facts, have both a kidnapping
12 offense and an armed robbery offense, where the kidnapping
13 occurs during the alleged commission of an armed robbery; is
14 that your argument to hand me the Porter case?

15 ASST. SOL. LEGETTE: Yes, Your Honor, it is.
16 Additionally, there is another case that is quoted within
17 the Porter case, and that is State v. Hall. And State v.
18 Hall is addressing the actual ---

19 THE COURT: Spell the last name.

20 ASST. SOL. LEGETTE: H-A-L-L, State v. Hall ---

21 THE COURT: And the site?

22 ASST. SOL. LEGETTE: Your Honor, I apologize; I don't
23 actually have the site at this time, but I will get it in
24 one moment.

25 THE COURT: It's 310 S.E. 2nd, 429.

1 ASST. SOL. LEGETTE: That is correct, Your Honor. And
2 State v. Hall actually talks about an armed robbery where
3 she was actually seized and the kidnapping continued at
4 various points, and she was continued to be kidnapped even
5 though the kidnapping itself could have been looked at as
6 being a part of the actual criminal sexual conduct in the
7 first degree, but that the actual kidnapping was a separate
8 and distinct offense. Even though, to commit a CSC in the
9 first degree, a person would basically have to kidnap a
10 person. But the Supreme Court in that case indicated that
11 the restraint of the victim constituted kidnapping,
12 regardless of the fact that the purpose of the seizure was
13 to facilitate the commission of a sexual battery.

14 So we believe that both the armed robbery and the
15 kidnapping are separate and distinct offenses, even though
16 that may not be the basis of Mr. Bennett's argument, he did
17 mention to me in pretrial meetings that he was going to
18 argue that issue as well. I may be beyond the scope of the
19 first argument, Your Honor, but I do believe that the
20 evidence will show in this matter that Mr. Klem and Mrs.
21 Klem were both kidnapped as a part of the actual ongoing
22 offenses on January 7th, 2012.

23 THE COURT: Now, Mr. Bennett's written motion,
24 Solicitor, addresses the sufficiency of the indictment. He
25 says that the indictment has to allege the elements of the

1 offense and cannot just be incidental to the armed robbery
2 charge. He cites several cases: State v. East, 578 S.E.
3 2nd, 748. He also cites, interestingly enough, the Porter
4 case, but the Porter case that Mr. Bennett cites to me is
5 not the same Porter case -- well, I think it is, actually.
6 He doesn't give me a page number in his cite, but I assume
7 that it is, because it's 698 S.E. 2nd, and should be 237,
8 Mr. Bennett, but there wasn't anything.

9 MR. BENNETT: I didn't know that was written like that.

10 THE COURT: Now, let me hear from you on the
11 sufficiency of the indictment, Solicitor. He says that the
12 kidnapping indictment as drawn should be quashed and
13 dismissed by the Court and deemed defective and insufficient
14 under the general statutory requirements for indictments as
15 set forth in our code.

16 He also argues that since the crime of armed robbery
17 and kidnapping are considered the most serious offense a
18 person can be charged with that there should somehow be more
19 stringent minimum requirements for the allegations that must
20 be contained in the armed robbery and kidnapping indictment
21 in order to be sufficient and valid.

22 Now, you tell me, Solicitor, what do your
23 indictments -- I haven't seen them, so I assume you're going
24 to need to hand them up to me, and you tell me your response
25 to that argument.

1 ASST.. SOL. LEGETTE: Your Honor, should I hand the
2 indictments up now?

3 THE COURT: You can. I assume you and Mr. Bennett are
4 familiar with them.

5 ASST. SOL. LEGETTE: Yes, we are, Your Honor.

6 THE COURT: All right. Let the record reflect, I'm
7 reviewing the kidnapping indictment, which is 2012 at 416
8 that involves the alleged victim, Frank Klem. I'm reviewing
9 indictment 2012 at 417, which is an armed robbery
10 indictment, which involves also Frank Klem and the location
11 is the Rice Planters Inn in Walterboro. I'm reviewing a
12 kidnapping indictment 2012 at 560 which involves the victim,
13 alleged victim, Joan Klem. I'm reviewing an armed robbery
14 indictment, 2013 at 753, which involves the victim, Joan
15 Klem, at Rice Planters Inn. All of these indictments
16 alleged to have occurred on January 7th, 2012. And then,
17 the possession of a weapon during the commission of a
18 violent crime is 2013 at 754, which I don't think is the
19 subject of this motion. I'll hear from you now, Solicitor,
20 on the sufficiency of the indictments.

21 ASST. SOL. LEGETTE: Thank you, Your Honor. Your
22 Honor, the indictment itself is a notice document. It
23 provides a notice to the defendant of the actual time,
24 place, and the alleged offense which the defendant himself
25 committed. In this particular instance, Your Honor, the

1 indictments each are quoting the actual law of the State of
2 South Carolina wherein they advise the defendant that he is
3 alleged to have committed the offenses of kidnapping against
4 a Frank and/or a Joan Klem. It apprises him of the actual
5 county. It apprises him of the actual date of the offense,
6 Your Honor. We believe, and we submit to the Court, that
7 the indictment itself, the indictments themselves, are
8 sufficient on their face. They are notice documents. They
9 apprise him of the offense ---

10 THE COURT: Does code section 16-3-910 require more
11 stringent requirements for the sufficiency of an indictment
12 where you have offenses such as armed robbery and kidnapping
13 charged which result from the same incident?

14 ASST. SOL. LEGETTE: It does not, Your Honor.

15 THE COURT: I see. You believe, then, that the
16 indictments as drawn for kidnapping are not defective and
17 are not merely incidental to the armed robbery because you
18 believe under the Porter case that you handed to me that
19 there can be separate criminal offenses for the conduct
20 which arose out of the same incident, according to your
21 understanding of what the evidence will show?

22 ASST. SOL. LEGETTE: Yes, Your Honor, that is correct.

23 THE COURT: Is there anything else you want to tell me
24 in opposition to Mr. Bennett's motion to dismiss?

25

1 ASST. SOL. LEGETTE: Your Honor, we believe that the
2 indictments are sufficient, Your Honor. That they are
3 notice documents that provide -- that they provide
4 sufficient notice to the defendant to put him on notice for
5 what he is supposed to -- for what he has alleged to have
6 done and what he is supposed to answer to at the trial, Your
7 Honor. We believe they are sufficient and would ask the
8 Court to deny the motion of the defense to quash the
9 indictment for kidnapping. He isn't asking for both. We
10 ask the Court to deny the motion to quash both the
11 indictments for kidnapping.

12 THE COURT: Mr. Bennett, anything in reply to this
13 motion?

14 MR. BENNETT: Your Honor, the only think I was going to
15 mention, Judge, under State v. East, which was the 2003
16 case.

17 THE COURT: What's the site?

18 MR. BENNETT: It's, Your Honor, 578 S.E. 2d, 748, 353
19 South Carolina State 34. It was a case in Anderson County,
20 Judge. In this case, Your Honor, there is a discussion that
21 when the defendant has been charged with armed robbery and
22 with kidnapping that the State must be able to prove that
23 the defendant had to act on a requisite intent to commit two
24 separate crimes and offenses of armed robbery and kidnapping
25 when it's come out as the same exact instance, the exact

1 same time. Because, I mean, in order to commit armed
2 robbery there has to be some type of confinement to commit
3 armed robbery. And we're basically arguing, you know, this
4 is an armed robbery was the intent in this case.

5 THE COURT: But doesn't that, Mr. Bennett, doesn't that
6 require that I have to listen to the evidence in order to
7 make a determination? You know intent is not normally shown
8 by direct evidence; it's normally shown by circumstantial
9 evidence.

10 MR. BENNETT: Yes.

11 THE COURT: And the same way any other fact can be
12 proven by circumstantial evidence. And wouldn't that
13 require a judge to hear the evidence at this point? I'm
14 being told, Mr. Bennett, the State disagrees with your
15 conclusion that there is no evidence to support the
16 indictment, and therefore, I think it's premature to rule on
17 a motion to quash, but I definitely understand your argument
18 that you think there ought to be criminal intent for both
19 offenses and that the State has the burden to prove criminal
20 intent. I understand that, but it still would require me to
21 listen to the evidence and deal with that at the directed
22 verdict stage rather than pretrial on a motion to quash,
23 unless you have some other law that supports your belief
24 that you can quash an indictment merely on the defense
25 attorney's determination that from reviewing the discovery,

1 you don't think there is sufficient evidence to proceed.
2 I've never seen such as case.

3 MR. BENNETT: Right, and Your Honor, the reason I made
4 the motion, in every document, in every piece of evidence,
5 it never mentioned kidnapping. It's all about robbery. The
6 911 calls, you know, all the statements that were given,
7 nobody ever said they were kidnapped; nobody ever mentioned
8 that. The only time you see kidnapping is in the
9 indictment. That is the reason why I made the motion. So
10 there ---

11 THE COURT: So you think that there has to be some
12 public declaration of the events in order for there to be
13 sufficient indictment?

14 MR. BENNETT: No. Essentially, Judge, we're in a
15 minority in South Carolina, and I understand what the law is
16 now.

17 THE COURT: What do you mean by that?

18 MR. BENNETT: Well, most states have already held, or
19 have legislation, that basically prohibits prosecuting
20 somebody for armed robbery when its incidental for
21 kidnapping. We're in a -- in State v. East, we're in a very
22 slim minority.

23 THE COURT: And doesn't the Porter case address that?

24 MR. BENNETT: Yes, there is some discussion in it,
25 Judge.

1 THE COURT: And I believe Porter actually moved to
2 quash the indictment or dismiss the case. I'm not sure if
3 it was on this ground, was it? I don't believe so in
4 Porter, was it?

5 MR. BENNETT: No.

6 THE COURT: I think it was dealing with North Carolina
7 law.

8 MR. BENNETT: And in this case, Judge, there are no
9 allegations that anybody was moved around, anybody was told
10 to lie down, nobody was tied up, nobody was gagged.

11 THE COURT: But once again, Mr. Bennett, I mean, you
12 and I both know that the kidnapping statute requires that
13 the State have to prove the elements of defense or produce
14 evidence of it of whether or not anybody was seized,
15 confined, inveigled, decoyed, kidnapped, abducted, or
16 carried away.

17 MR. BENNETT: Yes, sir.

18 THE COURT: All right. And until I hear that evidence,
19 Mr. Bennett, I can't rule on that because I haven't heard
20 any evidence in this case.

21 MR. BENNETT: Judge, the reason I made it as to Frank
22 Klem, that the allegations that the State has made in this
23 case is that one of the robbers grabbed Mrs. Klem and held a
24 knife to her throat, but there was no indication, no
25 allegations anywhere to anybody who touched or made any

1 contact or anything with Mr. Klem. That's why we thought it
2 would be a good idea to argue this motion.

3 THE COURT: So you think that at the close of the
4 State's case that you don't think that there is going to be
5 any evidence to support a kidnapping indictment as to Frank
6 Klem?

7 MR. BENNETT: Yes, sir.

8 THE COURT: All right. I'm going to reserve my ruling.
9 I think, Mr. Bennett, I understand the basis of you motion,
10 and Solicitor, I understand your opinion as to what the
11 evidence will show, but clearly, I don't know; I haven't
12 heard it. I'm going to have to hear the evidence in order
13 to rule on Mr. Bennett's motion. I think it's premature.

14 Now, Mr. Bennett, I completely agreed with you, and
15 apparently the Solicitor does, on your motion to dismiss, or
16 quash, the receiving stolen goods indictment, because I
17 actually think you're absolutely right on that.

18 I think that the State has to elect, and apparently
19 they have, and they've nolle prossed the receiving stolen
20 goods. So that takes care of that motion and I'm handing
21 that motion to my law clerk to remind me. I'll deal with
22 that issue at the directed verdict stage as to the
23 defendant, Frank Klem, in light of your argument. You
24 understand, Mr. Bennett?

25 MR. BENNETT: Yes, sir.

1 THE COURT: And had I heard the motion as to the other,
2 I would have granted it, but the State has eliminated that.

3 All right, now Mr. Bennett, you have, I understand, a
4 motion that you served me with over the weekend, or sent a
5 copy to me that you served the Solicitor. It's a motion to
6 relieve you as counsel for Mack Washington, which is dated
7 by you, March 13th, in which the motion states, "That the
8 defendant, feeling he has had ineffective counsel and has
9 not had adequate time to review all his discovery on the
10 charges." Happy to hear from you now on that, Mr. Bennett.

11 MR. BENNETT: Your Honor, this kind of grew out of a
12 connection with the hearing we had over in Hampton County,
13 about the motion for the continuance.

14 THE COURT: Yes, sir. I remember it. I denied your
15 motion for a continuance.

16 MR. BENNETT: Right. And so, he actually sent me a
17 letter saying he wanted this motion to be made. I actually
18 drew it up; he signed it. And he -- and I'm not actually
19 asking. I want to be clear, Judge, I'm not asking to get
20 out of the case or be relieved.

21 THE COURT: I understand that your client asked you to
22 make the motion on the basis that he felt that he had
23 ineffective counsel. Of course that's an issue, Mr.
24 Bennett, that will be determined at a point in time -- but
25 what it basically is, is that your client is saying that he

1 hadn't had what he feels is adequate time to review the
2 discovery. Now, I listened to all of that in the motion for
3 continuance.

4 MR. BENNETT: Yes, sir.

5 THE COURT: And you're ready to go forward, are you
6 not, Mr. Bennett?

7 MR. BENNETT: Yes, Your Honor.

8 THE COURT: Do you know of any conflict as to why you
9 cannot try this case with your client?

10 MR. BENNETT: No, sir.

11 THE COURT: Does your co-counsel have any conflict as
12 to why he cannot assist you? Mr. Sanders?

13 MR. SANDERS: No, Your Honor, I don't.

14 THE COURT: Are you ready to proceed?

15 MR. SANDERS: Yes, Your Honor, I am.

16 THE COURT: Very well. All right. Now, so basically,
17 Mr. Washington is saying because you didn't give him the
18 discovery that you had reviewed, part of which was because
19 of an equipment situation in your reviewing it, as I recall
20 from the motion of continuance, that he feels that
21 constitutes ineffective assistance to counsel.

22 MR. BENNETT: Apparently, that's what he thinks, Judge.

23 THE COURT: Do you know of any reason why you aren't
24 prepared in light of the discovery you've been given by the
25 State, Mr. Bennett?

1 MR. BENNETT: No, sir, I'm well-prepared to proceed,
2 Judge.

3 THE COURT: Although I completely understand Mr.
4 Washington's desire that he's had ineffective counsel
5 because he hasn't had adequate time to review all the
6 discovery, his lawyers both tell me that they are completely
7 prepared. Mr. Washington, has Mr. Bennett covered the
8 grounds for your wanting Mr. Bennett relieved? Stand up and
9 speak up.

10 MR. WASHINGTON: Yes, sir, Your Honor.

11 THE COURT: All right. Anything else you want to tell
12 me, on this motion?

13 MR. WASHINGTON: Yes, sir, Your Honor.

14 THE COURT: What is it? You can't hold your head down,
15 now. You're going to have to come to the microphone if
16 you're going to do that; and speak up for me. Happy to hear
17 from you.

18 MR. WASHINGTON: Your Honor, November 4th, 2013, I
19 filed a motion with the Clerk of Court, and my lawyer
20 requested my Rule 5 for the charges that we're here for
21 today.

22 THE COURT: And let me make sure; you were represented
23 by Mr. Bennett at that time?

24 MR. WASHINGTON: Yes, sir.
25

1 THE COURT: When you say you filed a motion, Mr.
2 Bennett, also, is your lawyer who represents you. So you
3 filed a motion even though you had representation at that
4 time?

5 MR. WASHINGTON: He was appointed, but I hadn't -- I
6 hadn't spoken to him from the time he got appointed. After
7 I got another attorney, I said something to him.

8 THE COURT: Yes, sir, but only one person, you can
9 understand, can represent you at a time and Mr. Bennett is
10 your third lawyer.

11 MR. WASHINGTON: Yes, sir.

12 THE COURT: And my records, and I pointed this out, Mr.
13 Washington, reflected when I ruled on your motion for
14 continuance that you have been in jail now 639 days as of
15 today. And Mr. Bennett, and I assume Mr. Sanders, with your
16 permission, Mr. Bennett is your third appointed counsel.
17 They both tell me they're completely ready. But what you're
18 saying is that you don't feel like you've had enough time to
19 review what they've reviewed in order to prepare the case
20 for trial; is that correct?

21 MR. WASHINGTON: Yes, Your Honor. To my understanding,
22 when I found out when I came ---

23 THE COURT: But the issue is effective assistance of
24 counsel. If your lawyers feel they are ready to go, tell me
25 why I should delay this trial because you feel you want

1 additional time when your lawyers tell me they're perfectly
2 prepared from the discovery they've received.

3 MR. WASHINGTON: Because, Your Honor, after being
4 incarcerated twenty-one months, I just received -- I just
5 found out recently what evidence the State has on me; and I
6 just got that March the 7th. I've been incarcerated twenty-
7 one months and I was requesting it for months and months,
8 and I finally got it. When I finally got it, to my
9 understanding, Mr. Bennett received it from the Solicitor's
10 Office, but I didn't get it until -- I'm supposed to have
11 ten days in advance -- ten days prior to trial.

12 THE COURT: You talking about cite of indictment?

13 MR. WASHINGTON: The motion, I am supposed to at least
14 have at least ten days prior to trial, two weeks in advance,
15 a motion to go over my case. I understand that he's ready,
16 Your Honor, but I haven't -- I didn't have the time to go
17 through to see what witnesses, what evidence, or nothing,
18 Your Honor. I've just seen the video for the first time
19 last week, week before last, Your Honor, I saw it. After
20 all this time being incarcerated, I didn't know until
21 recently what the State had on me, so I could have another
22 time, an actual time, to actually debate on taking the plea
23 or going on a jury trial.

24 THE COURT: Thank you very much. Solicitor, I want you
25 to correct me if I'm wrong, because you were present, along

1 with Mr. Bennett and Mr. Washington, when I heard Mr.
2 Washington's motion for continuance in Hampton. My
3 understanding was that the information for discovery, with
4 the exception of a few enumerated items which you placed on
5 the record in Hampton, were given to Mr. Bennett in
6 December. But because Mr. Bennett didn't have the ability
7 to open the disc completely, he was not able to view it
8 until you gave him assistance with additional equipment
9 until recently, like you gave ---

10 MR. BENNETT: Your Honor ---

11 THE COURT: Mr. Bennett, when I need you to speak, I'll
12 call on you. All right. Don't interrupt, don't offer,
13 unless I call on you. You understand me? The last time I'm
14 going to warn you now; no blurting out.

15 MR. BENNETT: Yes, sir.

16 THE COURT: Now Solicitor, I'm talking to you, not Mr.
17 Bennett. Would you refresh my memory on what those
18 enumerated items were?

19 ASST. SOL. LEGETTE: Yes, Your Honor. Begging the
20 Court's indulgence. Your Honor, the enumerated items that
21 we supplemented Mr. Bennett's discovery with on March 4th
22 was a transcript of the co-defendant, Tyheem Lewis, who pled
23 guilty. There were some pictures that were taken of the
24 Rice Planter's Motel. There was a Druid Hill's work order
25 from the maintenance man, and there was a property receipt

1 that was returned to the victim that we provided to him on
2 March 4th, 2014. He signed for those items. And it was on
3 March 5th, there was -- we gave him the second disk of
4 discovery just to make sure that he could open that one.
5 Investigator Stallings even went over to their office to
6 make sure they were able to open it and download.

7 THE COURT: But my understanding is that the first disc
8 had everything but this transcript of the co-defendant's
9 plea; is that right? What is it a trial or a plea?

10 ASST. SOL. LEGETTE: It was a plea, Your Honor.

11 THE COURT: Transcript of the co-defendant's plea, the
12 pictures of the location, the Rice Planters, the work order,
13 and the property receipt; is that correct?

14 ASST. SOL. LEGETTE: Not quite, there were three other
15 items that we gave him the next day. There was the 911 call
16 that was supposed to be on there, but it didn't download.

17 THE COURT: All right. You're talking about a tape of
18 the 911 call?

19 ASST. SOL. LEGETTE: That's correct, Your Honor.

20 THE COURT: All right. That wasn't on the first disc,
21 but was on the second disc?

22 ASST. SOL. LEGETTE: Yes, Your Honor, that's correct.
23 There was Tyneshia Young, the witness -- the witness, her
24 second interview. She gave two interviews, well, actually
25 three, but the second interview that she gave was not on

1 there. We gave him that as well. And, of course, he knew
2 about the letter he wrote, but we gave him a copy of the
3 letter that was sent to us from Mack Washington.

4 THE COURT: All right. All of which was provided by
5 March 4th?

6 ASST. SOL. LEGETTE: That's correct, Your Honor --
7 March 5th. Well, March 4th and March 5th; we supplemented
8 on March 5th as well.

9 THE COURT: All right. Mr. Washington, I looked at
10 this when I was in Hampton to determine whether or not I
11 thought there was any legal prejudice to Mr. Bennett as your
12 lawyer. Mr. Sanders wasn't present for that hearing. I
13 looked at whether or not these items were such that you
14 would need additional time by delaying the trial.

15 I declined to believe that there is any legal prejudice
16 to you. Your lawyers say that they are ready. I see no
17 basis to hold that you have had ineffective counsel. It
18 appears to me that your lawyers have worked very hard. I
19 have a witness list. I have their voir dire. I have all of
20 their pretrial motions. All of their motions have been
21 placed in writing. I think that they are completely
22 prepared to go forward and I see no basis to grant your
23 motion to relieve Mr. Bennett as your counsel on the basis
24 of ineffective counsel. Your motion is respectfully denied.

25 Now, Mr. Bennett, the jury's coming in at 2:00 p.m.

1 MR. BENNETT: Yes, sir.

2 THE COURT: You have a motion to sequester witnesses.
3 As you know, and I assume you told Mr. Washington, and I'm
4 teaching my new law clerk, who probably hadn't looked at
5 this since he was in law school, a motion to sequester
6 witnesses is governed -- I want to show you how good my
7 lawyers are.

8 Carra, what rule governs sequestration of witnesses in
9 our rule book? That would be Rule 615 of the Rules of
10 Evidence. I hope, Carra, that you won't forget that. I'm
11 sure you'll run into it again in both civil and criminal
12 court.

13 Mr. Bennett, I'm assuming that you've reviewed that.
14 Let's talk about it for a second. I'm inclined to grant
15 your motion. However, Mr. Bennett, I always, if I grant it,
16 make it reciprocal, meaning that your witnesses would also
17 be sequestered.

18 MR. BENNETT: Yes, Your Honor.

19 THE COURT: I also want you to know that if I grant
20 sequestration -- sit down Mr. Bennett. When I'm ready for
21 you to speak, I'll let you know. If I grant sequestration,
22 I'm going to require the State's witnesses to be in one
23 room; I'm going to require that the defendant's witnesses be
24 in another room. We're not going on an Easter egg hunt for

1 witnesses, and delay a jury once I have them in the box, Mr.
2 Bennett.

3 That means you're going to know where your witnesses
4 are, and you're going to be able to send Mr. Sanders, or
5 someone from your office, immediately to a room while we
6 don't go on a courthouse search for your witnesses. Now,
7 the managing case officer for the State will be allowed to
8 stay in the courtroom. Who is that, Solicitor?

9 ASST. SOL. LEGETTE: Well, Your Honor, the managing
10 officer is Mr. Jason Chapman. However, Investigator Angela
11 Stallings is also potentially a witness in this case. I
12 need to tell the Court that, as well, just a possible
13 witness. But I would ---

14 THE COURT: Do you consider them both to be the
15 managing case officers?

16 ASST. SOL. LEGETTE: Yes, Your Honor, I do.

17 THE COURT: Mr. Bennett, do you have any problems that
18 if Ms. Stallings, who is now an Investigator with the
19 Solicitor's office -- was she with the Solicitor's office at
20 the time of this or was she with the City?

21 ASST. SOL. LEGETTE: She was with us, Your Honor, but
22 she had been involved with talking to different witnesses in
23 this matter.

24 THE COURT: All right. Mr. Bennett, you understand
25 that they're asking that, and obviously, the Rule does

1 envision that to some extent, just as it envisions that the
2 victim of a crime can be allowed to stay in under the
3 Victim's Bill of Rights, even if sequestration is granted.

4 The Rule basically says, if I'm quoting it correctly --
5 hold on for one second; let me turn to it for you. The rule
6 does not authorize exclusion of a party. Obviously, Mr.
7 Bennett, your client would remain. "Or an officer or an
8 employee of a party who is not the actual person designated
9 as its representative by its attorney, or a person whose
10 presence is shown by a party to be essential to the
11 presentation of the party's cause."

12 The State believes that because Ms. Stallings and Mr.
13 Chapman are essential to the presentation of their cause,
14 that they should be allowed, along with your client, and if
15 there is any victim, under the Victim's Bill of Rights, they
16 are allowed to remain. You have any objection if all other
17 witnesses are sequestered pursuant to that?

18 MR. BENNETT: No objections to Ms. Stallings or Mr.
19 Chapman.

20 THE COURT: All right. Ms. Stallings will remain; Mr.
21 Chapman will remain. How about the victims to the crime?
22 Do you wish to have them remain? They have to the right to
23 do so, I believe, under the Victim's Bills of Rights.

24 ASST. SOL. LEGETTE: Your Honor, if they can remain, or
25 they can elect not to remain.

1 THE COURT: I understand that. But Mr. Bennett has no
2 objection, so those are the only people. Now, let me
3 explain to you, I'm going to grant Mr. Bennett's motion for
4 sequestration. Is up to Mr. Bennett, who has given me a
5 list of his witnesses, just has you have, each of y'all, to
6 advise your prospective witnesses that they are not to
7 discuss their testimony with anyone, and even after they
8 testify, unless I release them. Okay? They can't go back
9 to the room where they are located and discuss their
10 testimony with any witness because you may call on them in
11 reply in your case. So unless they have been totally
12 released from the trial in this case, they cannot have any
13 conversation. You understand that Solicitor?

14 ASST. SOL. LEGETTE: Yes, Your Honor.

15 THE COURT: And it will be your duty as the attorney
16 for the State to instruct the witnesses and to locate your
17 witnesses in a room. Where do you choose to locate them?

18 ASST. SOL. LEGETTE: We would like to locate them in
19 the conference room on this hall, Your Honor.

20 THE COURT: The solicitor's conference room or is that
21 -- Pat, is that the solicitor's conference room?

22 MADAME CLERK: No, it's not.

23 THE COURT: It's not. The Clerk of Court's conference
24 room; right Pat?

25 MADAME CLERK: That's right.

1 THE COURT: All right. You want to use the Clerk of
2 Court's conference room, which you tried to use as the
3 solicitor's conference room; is that right?

4 ASST. SOL. LEGETTE: That's correct, Your Honor.

5 THE COURT: All right. Now, where will I have a room
6 for Mr. Bennett's witnesses, Patricia?

7 MADAME CLERK: They will be in the defendant's
8 conference -- not conference room, the defendant's room on
9 the first floor.

10 THE COURT: Mr. Bennett, you will have the defendant's
11 room where there is a Family Court defendant's waiting room,
12 is that right, on the first floor for your witnesses. So
13 they have to be there. Nobody releases any witnesses under
14 subpoena, because once we start this trial this train is
15 going right down the track. You understand, Mr. Bennett?

16 MR. BENNETT: Yes, sir.

17 THE COURT: So don't be fudging and saying you can come
18 back tomorrow, because I can promise you we're going to
19 work. Now, both of you know that because of an appointment
20 that we are not going to have court from 11:45 a.m. on
21 Wednesday until the conclusion of Wednesday afternoon.
22 We'll come back on Thursday morning. I have no choice in
23 that matter because I can't be here. I've told the court
24 reporter and I've told Mr. Bennett, you, and I've told -- I
25 didn't actually talk directly to -- did I talk directly to

1 you, Tameaka? I thought I talked to Mr. Knight to tell you,
2 so that you know, so you can plan. We'll work, of course,
3 as hard as we can.

4 All right. Let's go back to sequestration. Mr.
5 Bennett's motion for sequestration is granted, but I'm also
6 sequestering the defense and State witnesses. Both of you
7 are bound by the same rules. Mr. Bennett, you will have to
8 notify the rules to your witnesses; you'll have to see that
9 out of the Courtroom. I'll inquire when I start the trial,
10 otherwise, you're not going to allow any of your witnesses
11 in the courtroom. Your defendant, of course, your client,
12 will be allowed to remain in the courtroom at all times,
13 just as the managing case officers who you've agreed to and
14 the victims will be allowed. Otherwise, all witnesses are
15 sequestered. They are to be located in the designated rooms
16 that we've discussed. Either the Clerk of Court's
17 conference room on this floor, or the defendant's waiting
18 room on the first floor for the defendant. Any questions
19 about my ruling for sequestration or your obligation to
20 inform the witnesses from the State?

21 ASST. SOL. LEGETTE: If I may, Your Honor, there is one
22 other issue that goes along with this one. There's a
23 witness, Ms. Sheniece Green, she received a subpoena by Mr.
24 Bennett, but she is the mother of one of our witnesses. And
25 there has been some level of intimidation in this case, so

1 we would ask that Ms. Sheniece Green be allowed to remain
2 with her daughter in the Clerk of Court's conference room on
3 this floor, and they will be instructed not to discuss their
4 testimony, Your Honor.

5 THE COURT: Mr. Bennett, do you have any objection to
6 that?

7 MR. BENNETT: No, sir, I do not.

8 THE COURT: All right. I'll allow that ---

9 MR. BENNETT: Your Honor ---

10 THE COURT: --- I'm not asking for argument. Sit down,
11 Mr. Bennett. That's your problem. You want to give a
12 speech every time. When I ask you yes or no, sit down.

13 Solicitor, I will allow her to stay with her daughter,
14 without objection, in the conference room. Do you, now,
15 fully understand my ruling on sequestration?

16 ASST. SOL. LEGETTE: Yes, Your Honor.

17 THE COURT: All right. Mr. Bennett, I now ask you, do
18 you understand my ruling on your motion for sequestration?

19 MR. BENNETT: I do, Your Honor.

20 THE COURT: All right. Then I'm going to expect you to
21 advise your witnesses, just as the Solicitor, and I'll
22 inquire when we start. Sit down Mr. Bennett; this is not
23 time for a speech.

24 All right. That takes us now -- I've handled your
25 motion to relieve, Mr. Bennett. I've handled your motion to

1 dismiss. I've handled your motion for sequestration.
2 Solicitor, Mr. Bennett had a motion that you were to
3 disclose the identity of any informant testimony, which is a
4 little unusual in a kidnapping, armed robbery. I usually
5 deal with this in a drug case where there is a confidential,
6 reliable informant.

7 I assume Mr. Bennett has a reason for this motion, but
8 all he says in his written motion is that he directs the
9 State to promptly disclose to the defendant and his lawyer
10 prior to the commencement of the trial in this case, the
11 identity, or identities, of any and all confidential
12 informants utilized and relied upon by the State in
13 conducting its investigation in this case. Does the State
14 intend to use any such information, first, as a witness in
15 the trial of the case?

16 ASST. SOL. LEGETTE: We do not, Your Honor.

17 THE COURT: All right. Is the State relying on any
18 informant information, or confidential informants, in their
19 investigation in this case, in any manner?

20 ASST. SOL. LEGETTE: We have, Your Honor. We received
21 information from them and we have provided the identities of
22 those informers to Mr. Bennett.

23 THE COURT: Is that correct, Mr. Bennett?

24 MR. BENNETT: Your Honor, I've got their witness list,
25 but there was one issue about an informer that was

1 identified as an informer. We're not sure which one is the
2 informer. We have our suspicion, but they have not actually
3 told us that. And ---

4 THE COURT: All right. Hold on a second so you don't
5 have to talk through me. Solicitor, you are telling me that
6 you made the information available to Mr. Bennett and he
7 says he doesn't understand from your list. I've got your
8 list right here. I thought I did; wait a minute, that's
9 another case. Hold on a second; let me take a look at it.

10 All right. You've got on my list twenty-six names; is
11 that correct?

12 ASST. SOL. LEGETTE: That is correct.

13 THE COURT: Mr. Bennett, do you have a list of twenty-
14 six names?

15 MR. BENNETT: Yes, sir, we have that.

16 THE COURT: All right. Solicitor, have you identified
17 from Mr. Bennett who on that list would be an informant?

18 ASST. SOL. LEGETTE: Your Honor, I believe I did inform
19 Mr. Bennett that that the confidential informant ---

20 THE COURT: I'll let you tell Mr. Bennett so that you
21 can -- is there some reason you don't want to disclose that
22 on the record, for any reason? Or it's going to come out
23 during the trial of this case?

24 ASST. SOL. LEGETTE: I can disclose, Your Honor. It's
25 not a problem.

1 THE COURT: All right.

2 ASST. SOL. LEGETTE: His name is Bernard Manigo. He
3 was the person bringing forth information, I think, that Mr.
4 Bennett wanted to know.

5 THE COURT: All right. Mr. Bennett, she tells me it's
6 that witness, Bernard Manigo; do you understand?

7 MR. BENNETT: Yes, sir. That's who we suspected.

8 THE COURT: You satisfied now that we dealt with your
9 motion?

10 MR. BENNETT: Yes, sir

11 THE COURT: Very well. Solicitor, does the State
12 intend to use evidence of other crimes, or wrongful acts,
13 under 404(a), or 404(b), rather, of the rules in this case?

14 ASST. SOL. LEGETTE: No, Your Honor..

15 THE COURT: Mr. Bennett, you're so informed; do you
16 understand?

17 MR. BENNETT: Yes, sir.

18 THE COURT: Pursuant to your motion.

19 MR. BENNETT: May I ask one question about that, Judge?

20 THE COURT: They are not going to use it. What's the
21 question? I think the motion is moot if they don't intend
22 to use prior bad acts or other crimes.

23 MR. BENNETT: Yes, sir. I just want to make sure no --
24 they don't try to use no prior criminal convictions or bad
25 acts.

1 THE COURT: If the defendant -- you're talking about as
2 to your client?

3 MR. BENNETT: Yes, sir.

4 THE COURT: If the defendant takes the witness stand,
5 Solicitor, does the State take the position that the
6 defendant's prior record may be admissible into evidence in
7 the trial of this case?

8 ASST. SOL. LEGETTE: Yes, Your Honor.

9 THE COURT: All right. Have you provided the
10 defendant's prior record to Mr. Bennett?

11 ASST. SOL. LEGETTE: Yes, Your Honor.

12 THE COURT: All right. Mr. Bennett, other than that,
13 and that would be pursuant to the Rule, and I would have to
14 rule on that; do you understand that?

15 MR. BENNETT: Yes, I have a pretrial motion of Rule 609
16 on that issue, Judge.

17 THE COURT: And I'll deal with that during the trial.
18 If we get to that point if your client elects to take the
19 witness stand. But I'm certain you have advised him about
20 that; have you not?

21 MR. BENNETT: Yes, sir.

22 THE COURT: All right. Solicitor, Mr. Bennett has very
23 detailed voir dire questions; there are twenty-five of them.
24 Have you had a chance to review the defendant's request of
25 jury voir dire?

1 ASST. SOL. LEGETTE: Yes, Your Honor, I have.

2 THE COURT: Do you have any objection to any of them?

3 ASST. SOL. LEGETTE: Your Honor, I would prefer the
4 standard voir dire questions that the Court asks. However,
5 I don't see anything that is incendiary in any regard. I
6 would ask that if the Court were so inclined as to ask each
7 and every one of Mr. Bennett's voir dire questions, that if
8 the Court will give consideration to the voir dire questions
9 that the State has provided to the Court.

10 THE COURT: The State has provided me with a list of
11 five voir dire questions; is that correct?

12 ASST. SOL. LEGETTE: That is correct, Your Honor.

13 THE COURT: Mr. Bennett, because her list just happens
14 to be shorter than yours, I hadn't had a chance now to go
15 through all of yours, but I think I have everybody's voir
16 dire. I've just got to go through both lists and decide
17 what I'm going to ask; do you understand?

18 MR. BENNETT: Yes, sir.

19 THE COURT: All right. Now, Mr. Bennett, you've got a
20 long thing that you call a written motion for a pretrial
21 evidentiary hearing. Obviously, Mr. Bennett, I don't want
22 to pave that ground twice. I don't see any reason to have a
23 pretrial evidentiary hearing, because it would require us to
24 have to bring witnesses now; or later on, and have them
25 testify, and testify again. However, that need may arise if

1 you make a contemporaneous objection during trial, do you
2 understand? I'm certainly not foreclosing you from the
3 right to do so; you understand that?

4 MR. BENNETT: Yes, sir.

5 THE COURT: But I'm going to need to hear evidence in
6 order to make a ruling on a number of these matters that
7 you've requested; you understand that?

8 MR. BENNETT: Yes, Your Honor.

9 THE COURT: Including your 609 argument, which we've
10 already covered, which is also in your motion for pretrial
11 evidentiary hearing; you understand?

12 MR. BENNETT: Yes, sir.

13 THE COURT: And in order to determine the admissibility
14 of any evidence or testimony, I've obviously got to hear
15 some. So I don't believe that a motion in limine is the
16 proper way to determine that until I've had a chance to hear
17 the evidence and you've made an objection and stated your
18 grounds.

19 Now, I need to ask a couple of things of both of you.
20 Number one, I've sequestered the witnesses. Is there going
21 to be any confession testimony in this case?

22 ASST. SOL. LEGETTE: Not from the defendant, Your
23 Honor. There is no ---

24 THE COURT: Mr. Bennett, do you believe there is any
25 need for a Jackson v. Denno hearing in this case?

1 MR. BENNETT: Not as to Mack Washington, no.

2 THE COURT: Well, that's a yes or no?

3 MR. BENNETT: No, sir.

4 THE COURT: You do not believe there is any need?

5 MR. BENNETT: There is no need.

6 THE COURT: All right. Is there any need for an
7 identification hearing?

8 ASST. SOL. LEGETTE: No, Your Honor.

9 THE COURT: Mr. Bennett, you asked that. I need to
10 know is there going to be -- does the State intend to rely
11 on -- sit down Eddie, and let me finish with her. Does the
12 State intend to rely on an out-of-court identification of
13 the defendant in the State's case?

14 ASST. SOL. LEGETTE: No, Your Honor.

15 THE COURT: All right. Does the State intend to
16 provide an in-court identification of the defendant during
17 the State's case?

18 ASST. SOL. LEGETTE: Your Honor, only from the co-
19 defendant who knows him personally. But there will be no
20 victim in-court identifications, no.

21 THE COURT: Very well. Mr. Bennett, in light of that
22 fact, do you believe there is any need to have an in camera
23 hearing, pursuant to Neil v. Biggers?

24 MR. BENNETT: No, sir. There won't be ---

25 THE COURT: I can't hear you, now. Speak up.

1 MR. BENNETT: We will not need a Neil v. Biggers
2 hearing, Judge, as long as she agrees the victims are not
3 going to try to make an in-court identification.

4 THE COURT: That's why I made her state her position,
5 Mr. Bennett. I'm asking you, now. Do you feel there is a
6 need for a Neil v. Biggers hearing; just yes or no?

7 MR. BENNETT: No, sir.

8 THE COURT: All right. Now, Mr. Bennett has made a
9 pretrial motion concerning Brady material, Solicitor. Has
10 the State provided to the defendant any Brady material?

11 ASST. SOL. LEGETTE: Yes, Your Honor.

12 THE COURT: Mr. Bennett, do you need to be heard on
13 that, or you satisfied that you been given everything that
14 State has concerning any Brady material?

15 MR. BENNETT: Yeah, I'm satisfied with that, Judge.
16 The only thing that, Judge, I can say is I haven't -- I
17 don't know if they've got it or not -- I haven't seen much
18 on Bernard Manigo, the informant that they used. I haven't
19 seen a whole lot about him giving any statements.

20 THE COURT: What did you expect from him? You can only
21 expect what they have. (TO THE SOLICITOR) Have you given
22 him everything that you have on the witness Bernard Manego
23 as to his role and status in this case?

1 ASST. SOL. LEGETTE: Yes, Your Honor. It was
2 throughout the reports. A confidential informant gave us
3 information about this. And that's ---

4 THE COURT: And you identified him as the informant and
5 given that information to Mr. Bennett?

6 ASST. SOL. LEGETTE: Yes, Your Honor.

7 THE COURT: Mr. Bennett, you've heard what I've been
8 told. Anything else on the Brady material?

9 MR. BENNETT: No, sir, that's all.

10 THE COURT: All right. Then, I believe, I now have a
11 list of witnesses from the defendant totaling seven people.
12 I have a list of witnesses from the State and that list is
13 twenty -- what did I tell you? Twenty-six. Any additional
14 witnesses from the State that are not on the written
15 proposed witness list?

16 ASST. SOL. LEGETTE: Your Honor, there is Investigator
17 Angela Stallings. I left her off, inadvertently, Your
18 Honor; I apologize to the Court.

19 THE COURT: Mr. Bennett, do you understand that Angela
20 Stallings is now a potential witness for the State in the
21 trial of this case?

22 MR. BENNETT: Yes, sir.

23 THE COURT: Are there any additional witnesses for the
24 defendant that are not on the defendant's proposed potential
25 witness list?

1 MR. BENNETT: Your Honor, we do not have any additional
2 witnesses. We do have a couple that we would like to strike
3 and remove from the list.

4 THE COURT: All right, Mr. Bennett. Now, Mr. Bennett
5 if you take them off, in light of sequestration, and in
6 light of my rulings, that means they're gone. It doesn't do
7 you any harm to leave them on; you understand that? Whether
8 you intend to call them or not. You don't have to call them
9 because they are on the witness list. That's entirely up to
10 you and your client.

11 MR. BENNETT: Yes, sir, my client wanted me to take
12 them off.

13 THE COURT: All right. That's up to y'all. You want
14 to tell which ones you're talking about. Let me get your
15 list, now. Yes, sir, I'm with you.

16 MR. BENNETT: Yes, sir, number three, Sharee
17 Washington.

18 THE COURT: All right. Solicitor, number three, Sharee
19 Washington; they want to take off their witness list.

20 MR. BENNETT: And number four, Shekebia Washington.

21 THE COURT: They also want to take off Shekebia, S-H-E-
22 K-E-B-I-A. You got the list down there, Becky?

23 COURT REPORTER: No, sir, but I can get it.

1 THE COURT: All right. Shekebia Washington, number
2 four, they want to take off. That leaves the defendant now
3 with five witnesses. Is that right, Mr. Bennett?

4 MR. BENNETT: That's it, Your Honor.

5 THE COURT: All right. The other witnesses will be
6 downstairs pursuant to your motion for sequestration. All
7 right. Now, let's deal with strikes. Solicitor, you agree
8 the strikes are ten and five?

9 ASST. SOL. LEGETTE: Yes, Your Honor.

10 THE COURT: Mr. Bennett, do you agree the strikes are
11 ten and five?

12 MR. BENNETT: Yes, Your Honor.

13 THE COURT: All right. Now, as to alternate jurors,
14 Solicitor, will you both, if the strikes are ten and five,
15 will you both agree to waive an alternate and proceed with
16 whatever number necessary to complete the trial of the case?
17 I'm obviously not going to excuse anybody unless it's a bona
18 fide reason. What say the State?

19 ASST. SOL. LEGETTE: Your Honor, if the defense is so
20 agreeing, I am agreeing. Otherwise, I would ask for at
21 least one alternate, but I would agree.

22 THE COURT: Well, if the defense won't agree,
23 Solicitor.

24 ASST. SOL. LEGETTE: Yes, Your Honor.

25 THE COURT: There's got to be a least one alternate.

1 ASST. SOL. LEGETTE: Yes, Your Honor.

2 THE COURT: Mr. Bennett, would you agree to strikes are
3 ten and five? Would you agree to waive an alternate juror
4 and proceed with whatever number necessary to complete the
5 trial of the case?

6 MR. BENNETT: Your Honor, let me ask my client real
7 quick.

8 THE COURT: All right.

9 MR. BENNETT: Your Honor, my client would prefer to
10 have one alternate.

11 THE COURT: If I'm going to do an alternate, I'm going
12 to do more than one, because obviously, if we have one, I
13 don't want to be in the position if you're requiring that,
14 Mr. Bennett. Then, you know, that's a very good rule, Mr.
15 Bennett. You realize -- I assume you've explained to your
16 client there is no constitutional right to a twelve-person
17 jury in a criminal court. Why do we have a twelve person
18 jury, Carra, in criminal court?

19 MS. HENDERSON: Your Honor, I don't know, other than
20 just to say that's just ---

21 THE COURT: Mr. Bennett, do you know?

22 MR. BENNETT: Why we have twelve?

23 THE COURT: Yep.

24 MR. BENNETT: It's always been that way, I guess.

25

1 THE COURT: That's what everybody says. Reed, do you
2 know?

3 MR. EVANS: I know you have a Constitutional right to
4 six, Your Honor.

5 THE COURT: You think there is a Constitutional right
6 to six?

7 MR. EVANS: That's what I was educated on; it may be
8 incorrect.

9 THE COURT: All right. Mr. Knight?

10 MR. KNIGHT: No, sir, I have no idea.

11 THE COURT: Well, the reason we have twelve -- and
12 there's a great Supreme Court case on this, Mr. Bennett; the
13 United States Supreme Court. Carra, you need to look at it.
14 I've got it in my notes. I don't have it on the bench with
15 me. It's from 1972 where the United States Supreme Court
16 traced the history of criminal jurisprudence in our country.
17 They couldn't figure out why we had twelve neither. Some
18 say it's because of the twelve disciples. Some say it was
19 just a number picked out of thin air. There is no
20 Constitutional right to a twelve-person jury in criminal
21 court.

22 The matter, according to the United States Supreme
23 Court, is left to the states, and we have a rule in our
24 Rules of Criminal Procedure about the number of jurors in a
25 criminal case. So if you look in the Rules of Criminal

1 Procedure, you will find our rule, which is the reason we
2 use twelve in South Carolina. You know, each state is
3 different. Some states don't even require unanimity on a
4 verdict, particularly in civil court. So, I thought y'all
5 might find that interesting, but that is the case.

6 Since Mr. Bennett wants an alternate, because this case
7 can go over into several days, I'm going to pick three
8 alternates. Madame Clerk, the strikes will be ten and five.
9 Y'all both agreed that the strikes on the alternate would be
10 two and one. Is that correct, Solicitor?

11 ASST. SOL. LEGETTE: Yes, Your Honor.

12 THE COURT: Correct, from the defendant?

13 MR. BENNETT: Yes, sir, Your Honor.

14 THE COURT: All right, we'll draw three alternates. So
15 that the Clerk does not have to redraw again in the event we
16 have to use an alternate, do you both agree to take the
17 alternates in the order in which they are selected from the
18 original random drawing by the computer? Does the State so
19 agree?

20 ASST. SOL. LEGETTE: The State so agrees.

21 THE COURT: Does the defendant so agree?

22 MR. BENNETT: The defendant so agrees, Your Honor.

23 THE COURT: All right. Madame Clerk, we will identify
24 the alternates when we pick them as alternate number one,

1 alternate number two, alternate number three; and should I
2 have to use an alternate in the trial of this case, it will
3 be in the order in which they are selected by agreement of
4 counsel.

5 All right. I now see that it is ten after one, and I
6 know that each of you and your client needs to get some
7 lunch before we start. I'm going to break at this point.
8 I'll expect to see you, since I have your witness list and
9 all of your voir dire, I've got some reading to do. The
10 jury should be here at 2:00, right, Pat, not 2:30?

11 MADAME CLERK: Correct.

12 THE COURT: The jury will be here at 2:00.. We're in
13 recess until then for lunch hour.

14 (WHEREUPON, THE TRIAL IN THIS CASE IS RECESSED UNTIL
15 3:30 P.M.; THEREAFTER, THE FOLLOWING PROCEEDINGS ARE HELD ON
16 THE RECORD.)

17 VOIR DIRE

18 THE COURT: Solicitor, you want to call your case for
19 trial?

20 ASST. SOL. LEGETTE: Yes, Your Honor. May it please the
21 Court?

22 THE COURT: Yes.

23 ASST. SOL. LEGETTE: Your Honor, the State is ready to
24 proceed in the case of State vs. Mack Washington, Jr.
25 Indictment numbers 2012-GS-15-416 for kidnapping; 2012-GS-

1 15-417 for armed robbery; 2012-GS-15-560 for kidnapping;
2 2013-GS-15-753 for armed robbery; and 2013-GS-15-754 for
3 possession of weapons during the commission of a violent
4 crime. Your Honor, this is a trial where the defendant has
5 pled not guilty.

6 THE COURT: Very well. All right. Ladies and
7 gentleman, the State of South Carolina has called for trial
8 a case of the State of South Carolina v. Mack Washington,
9 Jr. Mr. Washington is charged by these pieces of paper in
10 which I hold in my hand, which we call indictments. The
11 indictments are not evidence of any of the allegations
12 contained in the indictments.

13 The defendant is charged in the indictments with the
14 offenses of kidnapping, armed robbery, and possession of a
15 weapon during the commission of a violent crime. To these
16 indictments, the defendant has pled not guilty. That places
17 the burden on the State of South Carolina to prove the
18 elements of these offenses beyond a reasonable doubt. It
19 will be your duty, ladies and gentlemen, to determine from
20 listening to the evidence in this case, which I have not
21 heard, and presumably you have not heard, to decide whether
22 or not the State has met that burden.

23 Now, ladies and gentlemen, I'm going to ask that the
24 lawyers that are going to be trying this case stand and face
25 you, and introduce themselves and tell you who they

1 represent; beginning with counsel for the State of South
2 Carolina.

3 ASST. SOL. LEGETTE: Thank you, Your Honor. Good
4 afternoon, I'm Tameaka Legette, Assistant Solicitor for the
5 14th Circuit. I work in Hampton, Allendale, Jasper,
6 Colleton, and sometimes Beaufort County. Additionally,
7 sitting with me today is Ms. Carra Henderson, along with Ms.
8 Angela Stallings, who is our investigator. Thank you.

9 THE COURT: Counsel for the defendant; and introduce
10 your client.

11 MR. BENNETT: Ladies and gentlemen of the jury, my name
12 is Everett W. Bennett, Jr. Everybody calls me Eddie. I've
13 been practicing law here in Walterboro, Colleton County, for
14 over 30 years. And I represent the defendant in this case
15 (SPEAKS TO HIS CLIENT) Mack, if you would, stand.

16 THE COURT: Stand and face the jury panel, please, sir.

17 (DEFENDANT, MR. MACK WASHINGTON, JR., STANDS.)

18 MR. BENNETT: This is my client, Mr. Mack Washington,
19 Jr. We represent him. This is my associate attorney in
20 this case, Mr. Laurie Sanders.

21 MR. SANDERS: I'm Laurie Sanders. I'm from Edisto
22 Beach. I will be assisting Mr. Bennett on this case.

23 THE COURT: Mr. Sanders, you've got to speak up for my
24 court reporter. She can't hear you and you've got your back
25 to her and you're talking low.

1 MR. SANDERS: I will repeat. My name is Laurie
2 Sanders. I will be assisting Mr. Bennett on this case. I
3 currently reside at Edisto Beach.

4 THE COURT: And Mr. Washington is from Green Pond,
5 South Carolina, Mr. Bennett?

6 MR. BENNETT: He actually lives in Walterboro, Your
7 Honor, but that's where he goes to church, in Green Pond.

8 THE COURT: So he lives in Walterboro and attends
9 church in Green Pond; is that right?

10 MR. BENNETT: Yes, sir.

11 THE COURT: All right. Ladies and gentlemen, you've
12 now met the attorneys for the State of South Carolina.
13 You've also met the attorneys for the defendant, and you've
14 met the defendant, Mack Washington, Jr., of Walterboro,
15 ladies and gentlemen.

16 I'm going to remind you that earlier this afternoon I
17 placed each of you under oath in order to ask you qualifying
18 questions. I'm now going to ask you questions to determine
19 your impartiality to serve as a juror in the trial of the
20 case.

21 I remind you that your answers to any of my questions
22 are also under the oath, which each of you received from the
23 Clerk of Court earlier, ladies and gentlemen. So please
24 remember that you are under oath in answering my questions.
25 Please remember to begin with your name and juror number, so

1 we can move along if you need to respond to me.

2 Now, you've met the defendant, Mack Washington, Jr.

3 Mr. Bennett says he lives in Walterboro. Is any member of
4 my jury panel related by blood, connected by marriage, or a
5 close, personal friend of the defendant, Mack Washington,
6 Jr., who is seated at the defense table with his attorneys,
7 Mr. Sanders and Mr. Bennett? If so, please stand at this
8 time.

9 (NO RESPONSE.)

10 THE COURT: Let the record reflect, no one is standing.
11 You have met the attorneys for both the State of South
12 Carolina, and the defendant. Our attorneys for the State,
13 Tameaka Legette, Carra Henderson. Any member of my jury
14 panel related by blood, connected by marriage, or a close
15 personal friend of either one the attorneys for the State of
16 South Carolina, Tameaka Legette, Carra Henderson? If so
17 please stand at this time.

18 (NO RESPONSE.)

19 THE COURT: Let the record reflect no one is standing.
20 Any member of my jury panel ever been represented in the
21 past by either Tameaka Legette or Carra Henderson, or any
22 member of the 14th Judicial Circuit Solicitors Office? If
23 so, please stand at this time.

24 (NO RESPONSE.)

25 THE COURT: Let the record reflect no one is standing.

1 You have also met counsel for the defendant. The defendant
2 is Mack Washington, Jr. He's represented by Mr. E.W.
3 Bennett and Mr. Laurie Sanders. Both Mr. Bennett and Mr.
4 Sanders are members of the Colleton County Bar. Any member
5 of my jury panel related by blood, connected by marriage, or
6 a close personal friend of either Mr. E.W. Eddie Bennett, or
7 Mr. Laurie Sanders, attorneys for the defendant Mack
8 Washington, Jr.? If so, please stand at this time.

9 (NO RESPONSE.)

10 THE COURT: Let the record reflect, no one is standing.
11 Any member of my jury panel ever been represented in the
12 past either by Mr. E.W. Bennett, Eddie Bennett, or Mr.
13 Laurie Sanders, either currently or in the past? If so,
14 please stand at this time.

15 (NO RESPONSE.)

16 THE COURT: Let the record reflect, no one is standing.
17 All right, ladies and gentlemen, I will tell you a
18 little bit about the allegations in this case. Why? Because
19 this is not evidence; this is just allegations, in order to
20 determine your impartiality to serve as a juror in trial in
21 this case.

22 It is in the armed robbery indictment against the
23 defendant, Mack Washington, it is alleged that occurred on
24 or about January 7th, 2012 at 97 Ladson Lane, Room 130, also
25 known as Rice Planters Inn. It is alleged that the

1 defendant committed the offense of armed robbery. The
2 elements of that offense will be explained to you in my
3 charge on the law at the conclusion of the case.

4 It is alleged that the defendant by use of force,
5 threats or intimidation, and while armed with a deadly
6 weapon, or while alleging either by action or words that he
7 was armed while using a representation of a deadly weapon,
8 or other object which the person present during the
9 commission of the robbery reasonably believed to be a deadly
10 weapon, did take and carry away goods and/or monies from the
11 person or immediate presence of Joan Klem, K-L-E-M, with the
12 intent to permanently deprive the victim of possession
13 thereof.

14 Now, those are allegations in the indictment. In the
15 indictment charging the defendant with the offense of
16 kidnapping, which is indictment number 2012 at 560, it is
17 alleged that this offense also occurred on January 7th,
18 2012, and that the defendant, Mack Washington, unlawfully
19 did seize, confine, inveigle, decoy, kidnap, abduct or carry
20 away the victim Joan Klem without a party of law.

21 The defendant is also charged in indictment for armed
22 robbery. Again, allegedly to have occurred on January 7th,
23 2012, in room 130, Rice Planters Inn, Walterboro. The
24 offense of armed robbery by taking and carrying away goods
25 or monies from the person of immediate presence of Frank

1 Klem, K-L-E-M, with the intent to permanently deprive the
2 victim of possession thereof. And that is by use of force,
3 threats or intimidation, and while armed with a deadly
4 weapon, alleged to be a knife, and while alleging by either
5 action or words he was armed while using a representation of
6 a deadly weapon or other object which the person present
7 during the commission of the robbery reasonably believed to
8 be a deadly weapon, did take and carry away goods or monies
9 from the person of presence of Frank Klem, with the intent
10 to permanently deprive the victim of possession thereof.

11 The defendant is also charged in indictment 2012 at
12 416. It is alleged with the offense of kidnapping. It is
13 alleged that it occurred in Colleton County, on or about
14 January 7th, 2012, that the defendant did unlawfully seize,
15 confine, inveigle, decoy, kidnap, abduct, or carry away, the
16 victim, Frank Klem, without authority of law.

17 Finally, it is alleged in indictment 2013 at 754,
18 possession of a weapon during the commission of a violent
19 crime that in Colleton County on or about January 7th, 2012.
20 It is alleged that the defendant, Mack Washington, Jr., did
21 possess a knife, or visibly displayed what appeared to be a
22 knife, during the commission of or attempting a commission
23 of armed robbery, which is alleged to be a violent crime.

24 Now, those are allegations, ladies and gentlemen, in an
25 indictment. There's not evidence. I'll read you what is

1 in the indictments to ask you this, has any member of my
2 jury panel read about, heard about, or know anything
3 whatsoever about the facts which are alleged in this
4 indictment? If so, please stand at this time.

5 (NO RESPONSE.)

6 THE COURT: Let the record reflect, no one is standing.
7 All right, ladies and gentlemen, I'm advised that the
8 potential witnesses in the trial of this case will be as
9 follows: if you are present in the courtroom, when I call
10 your name, please stand and face my jury panel so they can
11 see you when the name is called. Some of the witnesses may
12 not be present, ladies and gentlemen. The list is fairly
13 long, so I'm going to make sure you listen carefully at the
14 conclusion of my reading the names of witnesses. These are
15 all of the witnesses. Doesn't mean they will all be called,
16 it means they are potential witnesses, but I need to know
17 about your relationship to them. So I'm going to ask you
18 whether you are related by blood, connected by marriage, or
19 a close personal friend of any of the potential witnesses in
20 the trial of this case. Please listen carefully.

21 Officer Stephanie Bridge, Walterboro Police Department.
22 Stephanie, turn so they can see you back there. This is
23 Stephanie Bridge to my right. Thank you, please be seated.

24 Lieutenant Jason Chapman, Colleton County Sheriff's
25 Department. Jason, I almost put you at your last job. You

1 may be seated.

2 Deputy Kevin Kinard, Colleton County Sheriff's Office.

3 Thank you, you may be seated. Monique Boatwright, 9-1-1

4 Dispatch. She's with Colleton County Sheriff's Department?

5 ASST. SOL. LEGETTE: Walterboro Public Safety, Your
6 Honor.

7 THE COURT: Walterboro Police Department, Walterboro
8 Public Safety. Sergeant Chris Warren, Walterboro Public
9 Safety. Officer Craig Stivender, Walterboro Public Safety.
10 Thank you, you may be seated. Deputy Brian Ackerman,
11 Colleton County Sheriff's Office. Standing to my right, your
12 left. Thank you, be seated. Deputy Kirt Wallace, Colleton
13 County Sheriff's Office. Deputy Keith Crosby, Colleton
14 County Sheriff's Office. Deputy Rob Edwards, Colleton
15 County Sheriff's Office. Bobbie Jo, and I hope I'm
16 pronouncing it, Retterer, R-E-T-T-E-R-E-R, Rice Planters
17 Inn, Walterboro. A.R. Hallman, North Charleston Police
18 Department. Kelly Murphy, North Charleston Police
19 Department. Frank Klem, White Lake -- is that -- Mr. Klem
20 is here. Mr. Klem if you will turn. What state, Mr. Klem?

21 ASST. SOL. LEGETTE: Michigan.

22 THE COURT: White Lake, Michigan. Thank you, sir, you
23 may be seated. Joan Klem, White Lake, Michigan. Thank you,
24 ma'am, you may be seated. Tyheem Lewis, Walterboro, South
25 Carolina. Evella Lewis, Walterboro, South Carolina.

1 Tyneshia Young, and that's spelled T-Y-N-E-S-H-I-A.

2 Tyneshia Young, Walterboro, South Carolina. Corey Edwards,
3 Green Pond, South Carolina. Quincy White, Green Pond, South
4 Carolina. Ricky White, Green Pond, South Carolina. Laron
5 Johnson, Varnville, South Carolina. Bernard Manigo. Do I
6 have a town, or just a county?

7 ASST. SOL. LEGETTE: Walterboro, Your Honor.

8 THE COURT: Walterboro, South Carolina. Brandon
9 Manigo.

10 ASST. SOL. LEGETTE: Walterboro.

11 THE COURT: Walterboro, South Carolina. Captain Lesley
12 Jamison, Colleton County Sheriff's Office. Betty Alexander,
13 Walterboro, South Carolina. Angela Stallings, 14th Judicial
14 Circuit Solicitor's Office Investigator. Mack Washington,
15 Jr., Mr. Washington stand up and face my jury panel. Turn
16 around so they can see you; from Walterboro, South Carolina.
17 You may be seated.

18 Earline Washington Smith, Walterboro, South Carolina.
19 Tyneshia Young, Walterboro, South Carolina. Latasha Gabe,
20 G-A-B-E, Walterboro, South Carolina. Shawna Kemp, Beaufort,
21 South Carolina. Any additional witnesses from the State?

22 ASST. SOL. LEGETTE: No, Your Honor.

23 THE COURT: Any additional witnesses from the
24 defendant?

25 MR. BENNETT: No, Your Honor.

1 THE COURT: Any member of my jury panel related by
2 blood, connected by marriage, or a close personal friend of
3 any of the potential witnesses in the trial of this case
4 whose names I have just called. If so, please stand at this
5 time.

6 (JUROR STANDS)

7 THE COURT: Come on up front, Bill. We'll start at the
8 front. Try to stay right there, so I won't have to bring
9 you up here. First give me your name and juror number,
10 please, ma'am.

11 JUROR: Laverne Garrett, number sixty-five.

12 THE COURT: All right, hold on for one second. Let me
13 find my list. Here it is. Counsel this is juror sixty-five,
14 Laverne Garrett. Ms. Garrett, give me a yes or no, so I
15 don't have to bring you up here. Are you related by blood
16 to any of the potential witnesses?

17 JUROR: Yes, I am, sir.

18 THE COURT: All right. Is that the reason you stood?

19 JUROR: Yes, sir.

20 THE COURT: All right. Which potential witnesses are
21 you related by blood to, and how are you related to the
22 witness or witnesses.

23 JUROR: Corey Edwards from Green Pond.

24 THE COURT: Now, hold on a second. Corey Edwards, Green
25 Pond, South Carolina. How are you related to Mr. Edwards?

1 JUROR: His father and my mother are first cousins.

2 THE COURT: His father and your mother are first
3 cousins, which would make him your second cousin.

4 JUROR: Yes, sir.

5 THE COURT: All right. The fact that Mr. Edwards is a
6 potential witness in the trial of this case, and he is your
7 second cousin, is that the reason you stood?

8 JUROR: Yes, sir.

9 THE COURT: Are you related to any other witnesses?

10 JUROR: No, sir.

11 THE COURT: The fact that he is your second cousin,
12 would that in any way affect your ability to give the State
13 of South Carolina or the defendant, Mack Washington, in this
14 case, a fair and an impartial trial?

15 JUROR: No, sir.

16 THE COURT: Thank you, ma'am, you may be seated. Pass
17 the microphone back. Ma'am, your name and juror number.

18 JUROR: Cynthia Roberts, 155.

19 THE COURT: Hold on one second for me; what number?

20 JUROR: 155.

21 THE COURT: 155?

22 JUROR: Yes, sir.

23 THE COURT: Is it Cynthia?

24 JUROR: Yes, sir.

25 THE COURT: Okay. And the middle name is Margaret?

1 JUROR: No, sir, Marie.

2 THE COURT: Marie. All right, Ms. Roberts, I apologize.
3 Are you related by blood to any of the potential witnesses?

4 JUROR: No, sir.

5 THE COURT: Are you connected by marriage to any of the
6 potential witnesses?

7 JUROR: No, sir.

8 THE COURT: Are you a close personal friend of any of
9 the potential witnesses?

10 JUROR: Your friend.

11 THE COURT: Your friend; with who?

12 JUROR: Ms. Angela Stallings.

13 THE COURT: Angela Stallings; who else?

14 JUROR: Jason Chapman. My husband works for the
15 Sheriff's Office.

16 THE COURT: Your husband works -- that will be another
17 question I'm going to ask you. The fact that your husband
18 works for the Sheriff's office, would that in any way affect
19 your ability to give the State or the defendant in the case
20 a fair and an impartial trial.

21 JUROR: No, sir.

22 THE COURT: The fact that Angela Stallings with the
23 Solicitor's Office and Jason Chapman with the Sheriff's
24 Office, and the fact that there are other people who are
25 potential witnesses with the Colleton County Sheriff's

1 Office, would that in any way affect your ability to give
2 the State or the defendant in this case a fair and an
3 impartial trial?

4 JUROR: No, sir.

5 THE COURT: It would not?

6 JUROR: No, sir.

7 THE COURT: Very well. Any other reason you stood?

8 JUROR: No, sir.

9 THE COURT: Do you know anything about this case?

10 JUROR: No, sir.

11 THE COURT: Have you discussed this -- yes or no. Have
12 you discussed this case with your husband?

13 JUROR: No, sir.

14 THE COURT: So you know nothing about it?

15 JUROR: No, sir.

16 THE COURT: Have you discussed this case with any
17 member of the Colleton County Sheriff's Office?

18 JUROR: No, sir.

19 THE COURT: Thank you, ma'am, you may be seated. Yes,
20 sir, name and juror number please.

21 JUROR: Dewayne Brooks, 25.

22 THE COURT: Counsel this is number juror number twenty-
23 five, Dewayne Brooks. Mr. Brooks are related by blood to any
24 of the potential witnesses?

25 JUROR: No.

1 THE COURT: Are you connected by marriage to any ---

2 JUROR: No.

3 THE COURT: --- of the potential witnesses?

4 JUROR: No.

5 THE COURT: Are you a close personal friend of the any
6 of the potential witnesses?

7 JUROR: I just know the family well.

8 THE COURT: You are holding it too close. Back up.

9 JUROR: I said I know the family well.

10 THE COURT: Pardon?

11 JUROR: I know the family well.

12 THE COURT: You know what family well?

13 JUROR: I know the whole family.

14 THE COURT: Come on up here.

15 JUROR: I said I know ---

16 THE COURT: Come on up here. One representative from
17 each party.

18 (MR. BROOKS AND ATTORNEYS APPROACH BENCH)

19 THE COURT: Come right on over here, Mr. Brooks.

20 JUROR: Yes, I know the whole family.

21 THE COURT: You see, we don't know what family you're
22 taking about. Just hold on for one second, now. This is
23 juror number 45, Mr. Brooks.

24 Mr. Brooks, you're saying you know what family?

25 JUROR: I know the Washington family.

1 THE COURT: The Washington family. So you're referring
2 to the defendants?

3 JUROR: Yes, I know them.

4 THE COURT: The fact that you know the defendants, they
5 are personal friends of yours?

6 JUROR: Yes, and I don't ---

7 THE COURT: Okay. You don't want to serve because they
8 are personal friends of yours?

9 JUROR: Yes.

10 THE COURT: So you feel like it would affect your
11 ability ---

12 JUROR: Yeah, because they friends. I ain't gonna sit
13 up here and lie.

14 THE COURT: All right. I appreciate that. I'll excuse
15 you from service in the trial of this case.

16 JUROR: All right. Thank you.

17 THE COURT: Have a seat out in the courtroom. I thought
18 he said -- I'm sorry, it's 25. Juror number 25 is excused
19 from the service in the trial of this case only.

20 All right. I've got another juror standing back there.
21 Yes, sir, your name and juror number please?

22 JUROR: Yes, sir. My name is Brent Dalton, juror
23 number 49.

24 THE COURT: All right. Counsel, this is juror 49,
25 Brent Dalton. Mr. Dalton, are you related by blood to any

1 of the potential witnesses?

2 JUROR: No, sir.

3 THE COURT: You connected by marriage to any of the
4 potential witnesses?

5 JUROR: No, sir.

6 THE COURT: Are you a close personal friend of any of
7 the potential witnesses?

8 JUROR: I wouldn't say close, personal, but in my
9 position with Fire and Rescue, I have had intimate dealings
10 with all of the officers that you've mentioned in various
11 situations.

12 THE COURT: I understand. You work at Colleton County
13 Fire and Rescue, is that right?

14 JUROR: Yes, sir.

15 THE COURT: And you say you're not close personal
16 friends with them, but that you know all of the Colleton
17 County Sheriff's Department officers, as well as the
18 Walterboro Public Safety officers that are potential
19 witnesses in the trial of this case?

20 JUROR: Yes, sir. Including the investigator for the
21 Solicitor's office I work for.

22 THE COURT: Also Ms. Stallings?

23 JUROR: Yes, sir.

24 THE COURT: All right. The fact that you know these
25 officers by virtue of your job, I ask you would the fact

1 that you know any of these people whose names I've called
2 out in here, would that in any way affect your ability to
3 give the State or the defendant in this case a fair and an
4 impartial trial?

5 JUROR: No, sir, I do not believe so.

6 THE COURT: All right. Do you know anything about the
7 facts which are alleged in this case?

8 JUROR: I can't say no with perfect certainty due to
9 the fact ---

10 THE COURT: I don't want you to state anything about
11 it, just yes or no. Do you know anything -- did you, in your
12 capacity in your job, have anything to do with this
13 incident, in your job?

14 JUROR: Not that I can recall. No, sir.

15 THE COURT: Have you discussed this case with anyone
16 prior to coming here today?

17 JUROR: Not that I can remember. No, sir.

18 THE COURT: You told me you might have learned
19 something about it. Would that have been somebody talking
20 to you about it rather than in your job?

21 JUROR: More than likely what would have been discussed
22 is that the event took place and maybe what had happened,
23 but with the age of it, I'm not a hundred percent certain.

24 THE COURT: The fact that you may have learned
25 something about the events, can you put that aside and

1 decide this case solely upon evidence introduced in this
2 courtroom when both sides are present with the right of
3 cross-examination?

4 JUROR: Yes, sir.

5 THE COURT: Thank you. You may be seated. Anyone else
6 related by blood, connected by marriage, or a close personal
7 friend of any of the potential witnesses in the trial of
8 this case whose names I have just called out to you? If so,
9 please stand at this time.

10 (NO RESPONSE.)

11 THE COURT: Let the record reflect, no one is standing.
12 Is any member of my juror panel -- I've already asked that.
13 Counsel approach.

14 (WHEREUPON, A BENCH CONFERENCE IS HELD OFF THE RECORD
15 AND OUT OF THE HEARING OF THE JURY.)

16 THE COURT: Any member of my jury panel ever been
17 employed by any law enforcement agency? If so, please stand
18 at this time. (JUROR STANDS.)

19 THE COURT: Yes, sir. Your name and juror number,
20 please.

21 JUROR: Isaac Levine, 107.

22 THE COURT: Hold on one second; let me check your
23 number. Counsel, this is Isaac Levine, juror 107. Mr.
24 Levine, what agency were you employed with?

25 JUROR: I'm employed with the Deputy Coroner of

1 Colleton County.

2 THE COURT: Very well. The fact that you were Deputy
3 Coroner for Colleton County, would that in anyway prevent
4 you from giving the State or the defendant in the case a
5 fair and an impartial trial?

6 JUROR: No, sir.

7 THE COURT: Thank you, sir. You may be seated. Any
8 member of my jury panel ever been the victim of a violent
9 crime? If so, please stand at this time.

10 (JUROR STANDS.)

11 THE COURT: Yes, ma'am. Your name and juror number,
12 please.

13 JUROR: Candice Hamilton, 74

14 THE COURT: Counsel, this is juror number 74, Candace
15 Hamilton. Ms. Hamilton, you, yourself, were the victim a
16 violent crime?

17 JUROR: Yes, sir.

18 THE COURT: Did it result in a criminal case?

19 JUROR: No, sir.

20 THE COURT: It did not. The fact that you were
21 previously a victim of a violent crime, would that in any
22 way affect your ability to give the State or the defendant
23 in this case a fair and an impartial trial?

24 JUROR: Yes, sir.

25 THE COURT: You think it would. I'll excuse you from

1 service in the trial of this case only. You may be seated.
2 This case only. Anyone else ever been the victim of a
3 violent crime?

4 (NO RESPONSE.)

5 THE COURT: Let the record reflect, no one else is
6 standing. Any member of my jury panel formerly employed by
7 the City of Walterboro or the County of Colleton, if they're
8 not now employed? If so, please stand at this time.

9 (JUROR STANDS.)

10 JUROR: Randy Bishop, juror number 15.

11 THE COURT: What number?

12 JUROR: Fifteen.

13 THE COURT: Counsel, this is Randy Bishop, juror number
14 15. Mr. Bishop were you previously employed by Walterboro
15 or Colleton County?

16 JUROR: Colleton County.

17 THE COURT: In what capacity?

18 JUROR: Mechanic.

19 THE COURT: The fact that you previously had this
20 employment, would that in any way affect your ability to
21 give the State in the case, or the defendant, a fair and an
22 impartial trial?

23 JUROR: No, sir.

24 THE COURT: Thank you, sir. You may be seated. Any
25 member of my jury panel ever been employed or worked in any

1 capacity at the Ricer Planters Inn motel located in
2 Walterboro? If so, please stand at this time.

3 (NO RESPONSE.)

4 THE COURT: Let the record reflect, no one is standing.
5 Any member of my jury panel ever been employed or worked in
6 a motel located at the I-95 intersection in Colleton County?
7 If so, please stand at this time.

8 (NO RESPONSE.)

9 THE COURT: Let the record reflect, no one is standing
10 in response to my last two questions. Any member of my jury
11 panel ever been a member of, or contributor to, any group
12 which has as its primary concern the promotion of law
13 enforcement or victims' rights? These groups would include
14 MADD, SADD, CAVE, CADRE? If so, please stand at this time.

15 (NO RESPONSE.)

16 THE COURT: Let the record reflect, no one is standing.
17 Any member of my jury panel ever contributed money or a
18 member of fraternal order of the police, or the South
19 Carolina Sheriff's Association, or the South Carolina
20 Troopers Association, or the South Carolina Law Enforcement
21 Officers Association, or any other law enforcement
22 organization which supports or assists law enforcement
23 agencies? If so, please stand at this time.

24 (NO RESPONSE.)

25 THE COURT: Let the record reflect, no one is standing.

1 Any member of my jury panel formed any opinion whatsoever
2 about the alleged guilt or innocence of the defendant in the
3 case? If so, please stand at this time.

4 (NO RESPONSE.)

5 THE COURT: Let the record reflect, no one is standing.
6 Any member of my jury panel know of any bias or prejudice
7 they may have about the facts which are alleged in this
8 case? If so, please stand at this time.

9 (NO RESPONSE.)

10 THE COURT: Let the record reflect, no one is standing.
11 Does any member of my jury panel know of any reason why they
12 can't give the State of South Carolina or the defendant in
13 this case a fair and an impartial trial? If so, please
14 stand at this time.

15 (NO RESPONSE.)

16 THE COURT: Let the record reflect, no one is standing.
17 Has any member of my jury panel ever lived in or resided in
18 the Turkey Hill community located in Green Pond, South
19 Carolina? If so, please stand at this time.

20 (NO RESPONSE.)

21 THE COURT: Let the record reflect, no one is standing.
22 Is any member of my jury panel a member of Mount Olive
23 Baptist Church of Green Pond, South Carolina?

24 (NO RESPONSE.)

25 THE COURT: Let the record reflect, no one is standing.

1 Any additional voir dire from the State?

2 ASST. SOL. LEGETTE: Your Honor, the ---

3 THE COURT: Any additional voir dire from the State?

4 ASST. SOL. LEGETTE: Your Honor, the one we talked
5 about at bench. May I approach, Your Honor.

6 THE COURT: You may. Mr. Bennett.

7 (WHEREUPON, A BENCH CONFERENCE WAS HELD OFF THE RECORD
8 AND OUT OF THE HEARING OF THE JURY.).

9 THE COURT: Any member of my jury panel or their spouse
10 or child ever been the victim of a violent crime? If so,
11 please stand at this time.

12 (NO RESPONSE.)

13 THE COURT: Let the record reflect, no one is standing.
14 Any additional voir dire from the State?

15 ASST. SOL. LEGETTE: No, Your Honor.

16 THE COURT: From the defendant?

17 MR. BENNETT: No, Your Honor.

18 THE COURT: All right, counsel, the strikes are ten and
19 five. Ten for the defendant, five for the State. We will
20 be drawing three alternate jurors. The strikes for the
21 alternate jurors are two for the defendant, one for the
22 State. Is that correct from the State?

23 ASST. SOL. LEGETTE: Yes, Your Honor.

24 THE COURT: Correct from the defendant?

25 MR. BENNETT: Correct, Your Honor.

1 THE COURT: You both agreed to take the alternates in
2 the order in which they're chosen by the computer, should I
3 have to use an alternate juror. Is that correct from the
4 State?

5 ASST. SOL. LEGETTE: Yes, Your Honor.

6 THE COURT: Is that correct from the defendant?

7 MR. BENNETT: That's correct, Your Honor.

8 THE COURT: Madame Clerk, if you would, please give us
9 the jury.

10 MADAME CLERK: Yes, sir.

11 THE COURT: Now, ladies and gentlemen, what is
12 happening is now is for those people who I have not excused
13 or disqualified, your names are in the computer. The
14 computer will print out a list. The Clerk will then call
15 the names as the computer chosen at random. We'll ask you
16 to bring your belongings with you. So if you've got a
17 pocketbook or something, a coat, please come down the middle
18 aisle. Come to the Clerk's desk and turn around and face in
19 the direction that I'm facing, right now, back toward the
20 front of the courtroom. Each side will then be asked their
21 position on whether or not you should be seated on the jury
22 when the list is called.

23 No one has seen this list. Neither side, because it
24 hasn't been drawn yet by the computer. No one will know the
25 order in which the names are called except the Clerk, the

1 court reporter and myself, and my law clerk. Counsel will
2 not be shown the list. They will just have to act based on
3 a name calling.

4 THE COURT: All right, ladies and gentlemen, please
5 give the Clerk your attention. We are now going to begin
6 the process of selecting a jury in the trial of the first
7 case.

8 MADAME CLERK: As I call your name please come all the
9 way up to my desk and turn and face the counsel table.
10 Number fifteen, Randy S. Bishop (White male.) Come all the
11 way up. What say ye for the State?

12 ASST. SOL. LEGETTE: Please present the juror.

13 MADAME CLERK: What say ye for the defendant?

14 MR. BENNETT: Please excuse the juror.

15 MADAME CLERK: Please have a seat back with the panel.
16 Number thirty-two, Melissa E. Buckner (Black female.) What
17 say ye for the State?

18 ASST. SOL. LEGETTE: Please present the juror.

19 MADAME CLERK: What say ye before the defendant?

20 MR. BENNETT: Please excuse the juror.

21 MADAME CLERK: Please have seat back with the panel.
22 Number four, Beth A. Araneo (White female.) What say ye for
23 the State?

24 ASST. SOL. LEGETTE: Please present the juror.

25 MADAME CLERK: What say ye for the defendant?

1 MR. BENNETT: Please excuse the juror.

2 MADAME CLERK: Please have a seat back with the panel.

3 Number ninety-nine, Darian R. Kornahrens (White male.) What
4 say ye for the State?

5 ASST. SOL. LEGETTE: Please present the juror.

6 MADAME CLERK: What say ye for the defendant?

7 MR. BENNETT: Please seat this juror.

8 MADAME CLERK: Please have a seat to my right where the
9 bailiff is. Thank you. Two-oh-three, Paul A. Yates (Black
10 male.) What say ye for the State?

11 ASST. SOL. LEGETTE: Please present the juror.

12 MADAME CLERK: What say ye for the defendant?

13 MR. BENNETT: Please seat the juror.

14 MADAME CLERK: Please have a seat in the jury box to my
15 right. Sixty-four, Earnest L. Gant (Black male.) What say
16 ye for the State?

17 ASST. SOL. LEGETTE: Please present the juror.

18 MADAME CLERK: What say ye for the defendant?

19 MR. BENNETT: Please seat the juror.

20 MADAME CLERK: Please have a seat in the jury box to my
21 right. Over here. One-twenty, Jeffrey A. Miller (White
22 male.) What say ye for the State?

23 ASST. SOL. LEGETTE: Please present the juror.

24 MADAME CLERK: What say ye for the defendant?

25 MR. BENNETT: Please seat the juror.

1 MADAME CLERK: Please have a seat in the jury box.

2 Number forty-five, Donald D. Crosby (White male.) What say
3 ye for the State?

4 ASST. SOL. LEGETTE: Please present the juror.

5 MADAME CLERK: What say ye for the defendant?

6 MR. BENNETT: Please excuse the juror.

7 MADAME CLERK: Please have a seat in back with the
8 panel.

9 MADAME CLERK: Eighty-nine, Lila s. Jackson (White
10 female.) What say ye for the State?

11 ASST. SOL. LEGETTE: Please present the juror.

12 MADAME CLERK: What say ye for the defendant?

13 MR. BENNETT: Please excuse this juror.

14 MADAME CLERK: Please have a seat back with the panel.
15 One-oh-eight, John V. Linder (White male.) What say ye for
16 the State?

17 ASST. SOL. LEGETTE: Please present the juror.

18 MADAME CLERK: What say ye for the defendant?

19 MR. BENNETT: Please seat this juror.

20 MADAME CLERK: Please have a seat in the jury box. One
21 thirty-three, Mark H. Odum (White male.) What say ye for
22 the State?

23 ASST. SOL. LEGETTE: Please present the juror.

24 MADAME CLERK: What say ye for the defendant?

25 MR. BENNETT: Please excuse this juror.

1 MADAME CLERK: Please have a seat back with the panel.
2 One-oh-two, Diane C. Langdale (White female.) What say ye
3 for the State?

4 ASST. SOL. LEGETTE: Please present the juror.

5 MADAME CLERK: What say ye for the defendant?

6 MR. BENNETT: Please excuse the juror.

7 MADAME CLERK: Please have a seat back with the panel.
8 Number five, Donald C. Araneo (White male.) What say ye for
9 the State?

10 ASST. SOL. LEGETTE: Please present the juror.

11 MADAME CLERK: What say ye for the defendant?

12 MR. BENNETT: Please excuse the juror.

13 MADAME CLERK: Please have a seat back with the panel.
14 Number forty-two, Hazel F. Chisolm (Black female.) What say
15 ye for the State?

16 ASST. SOL. LEGETTE: Please excuse the juror from the
17 trial of this case.

18 MADAME CLERK: Please have a seat back with the panel.
19 Number seventy-eight, Darrell H. Hershberger (White male.)
20 What say ye for the State?

21 ASST. SOL. LEGETTE: Please excuse the juror from the
22 trial of this case.

23 MADAME CLERK: Please have a seat back with the panel.
24 One seventy-three, Rosa M. Singleton (Black female.) What
25 say ye for the State?

1 ASST. SOL. LEGETTE: Please present the juror.

2 MADAME CLERK: What say ye for the defendant?

3 MR. BENNETT: Please seat the juror.

4 MADAME CLERK: Please have a seat in the jury box. One
5 eighty-three, Charlotte E. Valentine (White female.) What
6 say ye for the State?

7 ASST. SOL. LEGETTE: Please present the juror.

8 MADAME CLERK: What say ye for the defendant?

9 MR. BENNETT: Please excuse the juror.

10 MADAME CLERK: Please have a seat back with the panel.

11 THE COURT: Mr. Bennett, you're at nine.

12 MADAME CLERK: Number ninety, Fay R. James (Black
13 female.) What say ye for the State?

14 ASST. SOL. LEGETTE: Please excuse the juror from the
15 trial of this case.

16 MADAME CLERK: Please have a seat back with the panel.
17 Number one-twelve, Frolindo R. Mariucci, III (White male.)
18 What say ye for the State?

19 ASST. SOL. LEGETTE: Please present the juror.

20 MADAME CLERK: What say ye for the defendant?

21 MR. BENNETT: Please seat the juror.

22 MADAME CLERK: Please have a seat in the jury box.
23 One-oh-seven, Isaac Levine (Black male.) What say ye for
24 the State?

25 ASST. SOL. LEGETTE: Please present the juror.

1 MADAME CLERK: What say ye for the defendant?

2 MR. BENNETT: Please seat the juror.

3 MADAME CLERK: Please have a seat in the jury box.

4 Eighty-six, Joyce B. Humphries (White female.) What say ye
5 for the State?

6 ASST. SOL. LEGETTE: Please present the juror.

7 MADAME CLERK: What say ye for the defendant?

8 MR. BENNETT: Please seat the juror.

9 MADAME CLERK: Please have a seat in the jury box.

10 Number one-eighty, Mary L. Taylor (Black female.) What say
11 ye for the State?

12 ASST. SOL. LEGETTE: Please present the juror.

13 MADAME CLERK: What say ye for the defendant?

14 MR. BENNETT: Please seat the juror.

15 MADAME CLERK: Please have a seat in the jury box. One
16 twenty-two, Martha J. Mitchell (Black Female.) What say ye
17 for the State?

18 ASST. SOL. LEGETTE: Please excuse the juror from the
19 trial of this case.

20 MADAME CLERK: Please have a seat back with the panel.

21 THE COURT: Ms. Legette, you're at four.

22 ASST. SOL. LEGETTE: Thank you, Your Honor.

23 MADAME CLERK: Seventy-three, Caroline Hamilton (Black
24 female.) What say ye for the State?

25 ASST. SOL. LEGETTE: Please present the juror.

1 MADAME CLERK: What say ye for the defendant?

2 MR. BENNETT: Please seat the juror.

3 MADAME CLERK: Please have a seat in the jury box.

4 Number Sixty-five, Lavern D. Garrett (Black female.) What
5 say ye for the State?

6 ASST. SOL. LEGETTE: Please present the juror.

7 MADAME CLERK: What say ye for the defendant?

8 MR. BENNETT: Please seat the juror.

9 MADAME CLERK: Please have a seat in the jury box.

10 That's the twelve, now alternates.

11 THE COURT: Alternate number one, Counsel, two and one
12 on the alternates.

13 MADAME CLERK: Number twenty-six, Barbara J. Brown
14 (Black female). What say ye for the State?

15 ASST. SOL. LEGETTE: Please present the juror.

16 MADAME CLERK: What say ye for the defendant?

17 MR. BENNETT: Please seat this alternative.

18 MADAME CLERK: Please have a seat in the jury box.

19 Number two, Connie P. Alexander (Black female.) What say ye
20 for the State?

21 ASST. SOL. LEGETTE: Please excuse the juror from the
22 trial of this case.

23 MADAME CLERK: Please have seat back with the panel.

24 Two seventy-six, Andrew M. Harvey-Jones (White male.)

25 THE COURT: Any strikes for cause from the State as to

1 this juror.

2 ASST. SOL. LEGETTE: None, Your Honor.

3 MADAME CLERK: What say ye for the defendant?

4 MR. BENNETT: Please excuse this juror.

5 MADAME CLERK: Please have a seat back with the panel.

6 One seventy-six, Robert V. Smoak (White male.) Does the
7 State have any strikes for cause?

8 ASST. SOL. LEGETTE: No, ma'am.

9 MADAME CLERK: What say ye for the defendant?

10 MR. BENNETT: Please excuse this juror.

11 MADAME CLERK: Please have a seat back with the panel.

12 Number ninety-six, Imani A. Kinsey (Black female.) Does the
13 State have any strikes for cause?

14 ASST. SOL. LEGETTE: No, ma'am.

15 MADAME CLERK: Does the defense have any strikes for
16 cause?

17 MR. BENNETT: None.

18 MADAME CLERK: Please have a seat in the jury box.

19 THE COURT: Alternate number two.

20 MADAME CLERK: That was two.

21 THE COURT: That's for me. You're alternate number
22 two, Ms. Kinsey.

23 MADAME CLERK: Okay. A little confusing.

24 THE COURT: Now, alternate number three.

25 MADAME CLERK: One fifty-four, Tiffany M. Risher (Black

1 female.) What say ye for the State?

2 ASST. SOL. LEGETTE: Please present the juror.

3 MADAME CLERK: Please have a seat in the jury. No, I'm
4 sorry. What say ye for the defendant?

5 MR. BENNETT: I don't reckon we got any left.

6 MADAME CLERK: No, this is new. Number three.

7 MR. BENNETT: Please seat the juror.

8 MADAME CLERK: Please have a seat in the jury box.

9 THE COURT: Alternate number three. All right, for my
10 alternate jurors, you're just as important as a member of
11 the jury should a member of the jury become ill or for some
12 reason should not continue serving the trial of the case,
13 you'll take their place. You're going to be with the jury
14 throughout the entire trial. I promise you we will take
15 good care of you. Thank you very much for your service.
16 Just stay right there.

17 Are there any matters of law pertaining to the
18 selection of the jury that need to be decided before the
19 jury is sworn from the State of South Carolina.

20 ASST. SOL. LEGETTE: None, Your Honor.

21 THE COURT: From the defendant?

22 MR. BENNETT: None, Your Honor.

23 THE COURT: Counsel, approach.

24 (WHEREUPON, A BENCH CONFERENCE WAS HELD OFF THE RECORD
25 AND OUT OF THE HEARING OF THE JURY.)

1 THE COURT: All right. Ladies and gentlemen of the
2 jury panel, because I have some work to do tonight, and
3 don't want to keep you, I'm going to talk to the other
4 people on the jury in a minute, but I've got some matters of
5 law I have to take up. Therefore, this is what I want you
6 to do. I want you to go with Bill, and he's my bailiff over
7 here. He's going to show you the jury room, because when
8 you report back tomorrow, I want you to report to your jury
9 room. Don't come to the courtroom. Now we are going to
10 start -- we're going to work late tonight, y'all are not.
11 That way we are going to be ready for you when you come back
12 tomorrow. I can assure you I'm going to keep the train on
13 the track, ladies and gentlemen.

14 Over the overnight recess, please do not discuss this
15 case with anyone.. Not even member of your own family. You
16 haven't heard any evidence in this case. So it would be
17 improper for you to discuss it. I don't know whether there
18 will be anything on radio, television, or in the newspaper
19 about this case, please do not read such, watch such, or
20 listen to such. You must decide the case solely upon the
21 evidence introduced in this courtroom when both sides are
22 present with the right of cross-examination. So please
23 don't watch, read, or listen to any newspaper, television or
24 radio accounts of the case.

25 Please don't try to do any research on your own. I've

1 had some conscientious jurors. Even if you think it would
2 help you. Don't go to your smart phone or your computer,
3 and think that you can research some issue about this case.
4 You must decide the case solely upon evidence introduced in
5 the courtroom. Both sides have absolute right to know what
6 you're basing your decision on. So please don't try to any
7 research on this case. Listen to the evidence. I'll talk
8 to you about that in the morning when we start.

9 Now when you go to your juror room tonight I do want
10 you to do a little work. My alternates have been chosen,
11 but as to the twelve of you on the jury, not my alternates,
12 I want you to select the foreperson. Write the name on a
13 piece of paper. Bill will give you a pad and a pen to write
14 the name on. Knock on your jury room door when you've
15 selected a foreperson.

16 Let me tell you what the duties of the foreperson are.
17 The foreperson presides in the jury room just like the
18 chairperson of a committee resides at a committee meeting.
19 It's the foreperson's job to see that each and every member
20 of the jury has a full and a fair opportunity to voice their
21 opinions in the jury room once the deliberations begin. I
22 don't want you to deliberate until I instruct you to do so,
23 and obviously you shouldn't deliberate until you've heard
24 all the evidence in the case.

25 The foreperson is the jury's spokesperson out here in

1 the courtroom. The foreperson speaks for the jury. Finally
2 the foreperson writes the jury's verdict. I'll give you
3 instructions about how to do that in my charge to you on the
4 law at the conclusion of the case. So the foreperson
5 presides in the jury room; the foreperson writes the jury's
6 verdict when the time comes on a piece of paper, and I'll
7 give you a verdict form and give you instructions, the
8 foreperson will sign it and date it; and the foreperson is
9 the jury's spokesperson out in the courtroom. Any of the
10 twelve of you are eligible to be foreperson. Please elect a
11 foreperson with those responsibilities in mind. Write the
12 name on a piece of paper. Knock on your jury room door.
13 I'm going to bring you back into the courtroom. I'm going
14 to excuse you for the balance of today.

15 When you come back in the morning, please do not come
16 to the courtroom. Report to the jury room, which I'm
17 getting ready to show you. Get here early. They'll take
18 good care of you. They'll have something for you to drink.
19 I'm going to serve you lunch tomorrow. We're going to work
20 tomorrow too. We are going to work while you are gone.
21 Just don't discuss the case with anybody, as I've
22 instructed. Everybody understand my instructions? Any
23 questions from anybody?

24 (NO RESPONSE.)

25 Good. If you'll follow Bill now, retire to the jury

1 room, select a foreperson.

2 (5:00 P.M., MARCH 17, 2014, WHEREUPON THE JURY EXITS
3 THE COURTROOM AND THE FOLLOWING PROCEEDINGS ARE HELD ON THE
4 RECORD.)

5 THE COURT: Ladies and gentlemen, if you do not have a
6 juror information card, I'm holding one up right now, if you
7 don't have this card, please raise your hand for me. It's
8 got a telephone number on it, 5-4-9-1-7-7-5. If you don't
9 have this card, and you're here for jury duty, please raise
10 your hand.

11 (NO RESPONSE.)

12 It appears that everybody has it. I'm going to ask you
13 to call the number on that card at 6:00 tonight. I will
14 have a taped message on that number telling you when, if at
15 all, I might need you to return. If I do ask you to
16 return, please report to the area of the courtroom that
17 you're seated in now. Please be on time if I ask you to
18 return. I don't know whether I'll see you again; I may not
19 need you anymore this week. I can't answer that now. We are
20 going to continue to work long after you're gone. But, if I
21 do ask you to return, be on time. If one of you is late,
22 everybody has to sit and wait including your fellow jurors.
23 So, if you have some problem, you let the Clerk's office
24 know. We expect you to be here on time if I ask you to
25 return. And also to be seated in this side of the courtroom

1 which is reserved only for my jurors.

2 When you call the number tonight, if it's busy, just
3 wait and dial again. It's one message for all jurors. It
4 may tell you to call back tomorrow night; it may tell you to
5 report at a certain time; it may tell you thank you for your
6 service and you are excused for the balance of the week and
7 you're exempt three years. I don't know yet. We'll work all
8 week, and when we finish we will let you know as soon as I
9 know. I promise you that I'll keep you informed as long as
10 you call that number. Any questions about the call back
11 procedure from any of my jurors?

12 (NO RESPONSE.)

13 Everybody understand what to do? Thank you for your
14 patience. You are now excused for the balance of today.
15 You may leave the courtroom at this time. Call the number
16 after 6:00 tonight.

17 (5:03 P.M., MARCH 17, 2014, WHEREUPON, THE REMAINING
18 JURY PANEL EXITS THE COURTROOM AND THE FOLLOWING PROCEEDINGS
19 ARE HELD ON THE RECORD.)

20 THE COURT: All right, hold on for one second, ladies
21 and gentlemen, if you are not a juror. Eddie your
22 responsibility before these people leave, if they're any of
23 your witnesses, you got to instruct them now. Tameaka, you
24 have to instruct yours. Whatever witnesses you are going to
25 call for the purposes of this hearing. The same for you

1 Eddie. Don't let anybody leave until you've talked to them.

2 Mr. and Mrs. Klem, you can remain in the courtroom.

3 Angela, you can remain in the courtroom. Jason, you can

4 remain in the courtroom during this hearing. Everyone else

5 is sequestered at the request of counsel for the defendant.

6 But I'm sequestering both sides. Both the defendant's

7 witnesses and the State's witnesses. We'll take about three

8 minutes, get ready for your first witness. I understand

9 this is your motion to sequester; is that correct, Mr.

10 Bennett?

11 MR. BENNETT: Yes, sir.

12 THE COURT: All right. Now you can take a three minute

13 break so you can use the restroom. We're going to start in

14 about three minutes. Thank you very much

15 (SHORT BREAK)

16 THE COURT: Is the State ready to proceed?

17 ASST. SOL. LEGETTE: Yes, Your Honor.

18 THE COURT: Is the defendant ready to proceed?

19 MR. BENNETT: Yes, Your Honor.

20 THE COURT: All right. Let the record reflect that

21 pursuant to the defense motion who moved for sequestration

22 during this hearing, as well as the trial of the case, that

23 I have instructed them to instruct their witnesses. The

24 defense witnesses are located in the defendant's room

25 downstairs. State's witnesses are located in the Clerk of

1 Court's conference room upstairs, which is attempted to be
2 condemned by the Solicitor, I might add, who lost that case.
3 I'll expect throughout the trial the defendant, of course,
4 gets to be present. So does my two case managers, so does
5 my two victims at all times, even though there was a motion
6 for sequestration.

7 Mr. Bennett, during this break you were supposed to
8 have instructed your witnesses where to go and what to do
9 and what not to do; have you done so?

10 MR. BENNETT: Yes, sir.

11 THE COURT: Ms. Legette, during the break you were to
12 have instructed your witnesses that you are going to call
13 during this hearing where to go, what to do and what not to
14 do; have you done so?

15 ASST. SOL. LEGETTE: Yes, Your Honor.

16 THE COURT: Is the State now ready to proceed?

17 ASST. SOL. LEGETTE: Yes, Your Honor.

18 THE COURT: Let the record reflect that Mr. Bennett
19 handed me -- I'll get to it, I just want to make sure -- Mr.
20 Bennett handed me a very lengthy motion entitled Defendants
21 Notice of Motion, A Motion for Pretrial Evidentiary
22 Hearings. Number eight on that, begins on page -- it doesn't
23 even have page numbers on here. One, two, three, four,
24 begins on page five of his motion, is the motion to suppress
25 and exclude and prohibit the admission into evidence by the

1 State during the trial of this case, any and all tangible
2 object and items of personal property, including but not
3 limited to the victim's riffles and guns and credit cards,
4 and any other items belonging to the victim in this matter
5 that were unlawfully recovered and picked up and collected
6 and seized by law enforcement officers and agents of the
7 Walterboro Police Department on or about January 8th, 2012,
8 from Tyneshia Young's leased apartment [REDACTED] in the Druid
9 Hills apartment complex located at [REDACTED],
10 Walterboro, without the authority of a bench search warrant,
11 and all such property was seized therefrom by the State
12 during a warrantless search that was not incidental to any
13 lawful arrest at that time, and without obtaining the free
14 or knowing or valid or voluntary consent of entry from
15 Tyneshia Young as the tenant, who was the sole and exclusive
16 and in lawful control of possession and occupancy for quiet
17 enjoyment of such premises by obtaining unlawful entry
18 thereto by and through after approximately forty-five
19 minutes worth of coercive, verbal threats and intimidation
20 and acts of fraud and deceit, and trickery, all of which
21 resulted in invasion of such apartment and the State's
22 illegal search and seizure there are of that was conducted
23 in direct violation of the requirements and safeguards of
24 the 4th Amendment of the Constitution, and violation of the
25 safeguard of South Carolina Constitution with respect to

1 searches and seizures conducted by the State of and on
2 private property premises.

3 One sentence, Mr. Bennett. Which I might add is a
4 great example of talkology. However, I believe that is,
5 your motion. I understand from my law clerk that the jury
6 has selected a foreperson, is that correct? Anybody got the
7 note?

8 THE COURT: Marcus, have they selected a foreperson?

9 BALIFF: Yes, sir.

10 THE COURT: Bring me the note, then.

11 MADAME CLERK: Okay.

12 THE COURT: Counsel, I've been handed a note that says
13 the jury has selected Darian Kornahrens. Mr. Kornahrens,
14 according to my notes, is juror number ninety-nine, who was
15 the first juror selected on the jury. Any objections from
16 the State to making the jury's note a court's exhibit?

17 ASST. SOL. LEGETTE: No objections.

18 THE COURT: Any objection from the defendant to make
19 the jury's note a court exhibit?

20 MR. BENNETT: No, sir.

21 THE COURT: Court's Exhibit Number One, Rebecca. Thank
22 you.

23 (WHEREUPON, COURT'S EXHIBIT NUMBER ONE, JURY NOTE
24 NAMING FOREPERSON, IS RECEIVED INTO EVIDENCE.)

25 COURT REPORTER: You're welcome.

1 THE COURT: Court's Exhibit Number One, without
2 objection. Bring me the jury please.

3 Mr. Bennett you're the only lawyer in Colleton County
4 that took one, two, three, four, five, six, seven, eight,
5 nine, ten, eleven, twelve, thirteen, fourteen, fifteen,
6 sixteen, seventeen, eighteen, nineteen, twenty-one lines to
7 write one sentence in your motion.

8 (5:20 P.M., March 17, 2014, WHEREUPON THE JURY ENTERS
9 THE COURTROOM AND THE FOLLOWING PROCEEDINGS ARE HELD ON THE
10 RECORD.)

11 THE COURT: Mr. Foreman, congratulations..

12 MR. FOREPERSON: Thank you, sir.

13 THE COURT: Now, let me help you a little bit with
14 this, because I worry about the jurors in the box. Of
15 course I'm going to send you home, but to my people on the
16 second row, you have to step up back there. I don't want
17 anybody to fall. If you want to sit by somebody, that's
18 fine, line up that way. That's going to be your seat, Mr.
19 Foreman, now that you've been selected, Mr. Kornahrens,
20 throughout the trial. The rest of you can sit anywhere you
21 want to. I want my alternates in the order in which they
22 were selected, one, two, and three. Just like you are
23 there. If any of you want to sit by somebody, just come in,
24 but do not come in and sit down and make people on the back
25 row crawl over you. Because I've had people step off that

1 step that's below you, and fall down there. So go all the
2 way down to the end, if you would please. So nobody's got
3 to crawl over anybody on the back row.

4 Now, over the overnight recess, please, as I instructed
5 you, don't discuss this case. If anybody tries to talk to
6 you, just say, "The Judge asked me not to talk to you about
7 it." If they persist in wanting to talk to you, you get
8 their name and give it to me. I'll handle that problem for
9 you, ladies and gentlemen. I promise you that person won't
10 bother you anymore.

11 Now, I do not want anybody to read the newspaper. I
12 don't know if there will be anything in the newspaper. I
13 don't want anybody to watch television; I don't know if
14 there'll be anything on television. I don't want anybody to
15 check their phone for publicity, their smart phone. I don't
16 want anybody going on Facebook or Twitter to try and figure
17 out anything about this case. Please don't try to do any
18 research. You must decide this case solely and only upon
19 evidence introduced in this courtroom when both sides are
20 present with the right of cross-examination.

21 Now, we are going to start at 9:30 in the morning.
22 Which means I want you hear by 9:15. Believe me, they'll
23 take good care of you. When you come, report to your jury
24 room. We are going to work tonight so we can be ready for
25 you. I want to start as close to 9:30. If one of you is

1 late, everybody has got to sit and wait. So be on time.

2 If you need transportation, you let Bill Polk know.

3 I'll provide it; I'll get you here on time. So we can start

4 on time, I can get you home on time. So please be prompt in

5 the morning, because I can promise you, something is liable

6 to come up. Jurors are always grinning at me saying Judge

7 Buckner you thought you were going to start at 9:30.

8 Because I never know when I'm going to get an objection or

9 ruling on a matter of law. Which is what I'm doing tonight,

10 to try and prevent you from having to go to your jury room

11 and wait while we take up a matter; so we're working

12 tonight. However, I want you to be on time, and I want you

13 to be ready. Because I promise I'll get to you as soon as I

14 possibly can. I told you I would be mindful of the fact

15 that you left your homes, your jobs, and your families in

16 order to serve on the jury, and I appreciate that service

17 very much.

18 Now, with that, you're now excused until 9:30. Please

19 report to your jury room when you get here in the morning,

20 not the courtroom. Thank you very much. You may leave

21 through this door right here. Everyone else remain seated

22 while the jury is leaving.

23 (5:22 P.M., March 17, 2014, WHEREUPON THE JURY EXITS

24 THE COURTROOM AND THE FOLLOWING PROCEEDINGS ARE HELD ON THE

25 RECORD.)

1 THE COURT: All right. Is the State satisfied that all
2 the witnesses who are excluded for the defendant, pursuant
3 to the motion, are out of the courtroom before we begin?

4 ASST. SOL. LEGETTE: Yes, Your Honor.

5 THE COURT: Is the defendant so satisfied?

6 MR. BENNETT: Yes, sir.

7 THE COURT: Very well. Mr. Bennett I think I can sum
8 up this motion. This is an argument under the Fruit of the
9 Poisonous Tree, is that correct?

10 MR. BENNETT: Exactly.

11 THE COURT: Rather than the 21 lines that I just read
12 before which is the first sentence of your motion.

13 MR. BENNETT: Exactly, Your Honor. The warrant wasn't
14 served and we are arguing that there was no valid consent.

15 THE COURT: All right. Solicitor, my understanding is
16 that both of you wish to introduce testimony concerning this
17 motion. I see no reason why the State should not go first
18 in this matter, although Mr. Bennett will have to convince
19 me that there is an improper search in order to exclude it
20 from evidence at this time. So I'm going to need to hear
21 about it in order to understand this motion. Call your
22 first witness.

23 ASST. SOL. LEGETTE: Thank you, Your Honor. The State
24 calls Tyneshia Young.

25 MADAME CLERK: Please come forward to be sworn.

1 THE COURT: Come around to be sworn by the clerk,
2 raise your right hand, left hand on the Bible.

3 (WHEREUPON, THE WITNESS IS DULY SWORN.)

4 MADAME CLERK: Please have a seat on the witness stand
5 up there and turn the mic.

6 THE COURT: Watch your step on these stairs, right
7 here. Pull that chair up, the microphone over; it's going to
8 amplify your voice. Speak into the microphone. Speak up so
9 that everyone in courtroom can hear you. Begin by stating
10 your full name, and spelling your last name for the court
11 reporter.

12 MS. YOUNG: My name is Tyneshia Monique Young, and my
13 last name is Y-O-U-N-G.

14 THE COURT: Now, speak up for me, Ms. Young, okay.

15 MS. YOUNG: Okay.

16 THE COURT: All right. Can you hear her again, Mr.
17 Bennett?

18 MR. BENNETT: Yes, sir.

19 THE COURT: Very good. Your witness, counsel. Direct
20 examination.

21 ASST. SOL. LEGETTE: Thank you, Your Honor.

22 DIRECT EXAMINATION

23 BY ASST. SOL. LEGETTE:

24 Q Ms. Young, where are you from?

25 A Walterboro, South Carolina.

1 Q And do you know Mack Washington?
2 A Yes.
3 Q How long have you known Mack Washington?
4 A For a little while.
5 Q I'm sorry, what's a little while?
6 A Like, since, we was a little younger. Not young, but
7 you know.
8 Q Couple of years?
9 A Yeah.
10 Q Okay. Is he present in court?
11 A Yes.
12 Q Can you point him out?
13 A Right there. (POINTS TO THE DEFENDANT, MACK
14 WASHINGTON)
15 Q Okay. Ms. Young, back in 2012, January, where were you
16 living?
17 A In Druid Hills I.
18 Q And what apartment number where you living in?
19 A In apartment [REDACTED].
20 Q And who lived there with you?
21 A Just me and my son.
22 Q Okay. Did you ever have friends over?
23 A Yes.
24 Q Okay. Who did you ever have over?
25 A It would be Mack.

1 Q Mack Washington?

2 A Uh-huh.

3 Q Okay. All right, now, Ms. Young, I want to turn your
4 attention to January 8, 2012. Do you remember the
5 particular day?

6 A Sort of, kind of, yes.

7 Q Do you remember -- did the police come to your house?

8 A Yes.

9 Q And who was there with you when the police came to your
10 house?

11 A Mack.

12 Q Okay. And you say ---

13 A Yeah, Mack Washington.

14 THE COURT: For purposes of the record, I realize that
15 she calls the person Mack. Is she referring to the
16 defendant?

17 ASST. SOL. LEGETTE: Yes, sir, she is.

18 THE COURT: Then have her make sure that she designates
19 that when she uses the term Mack so that it will be clear on
20 the record.

21 Q I apologize, Ms. Young. When you say Mack, you mean --
22 who do you mean?

23 A Mack Washington.

24 Q What is he considered in this hearing?

25 A The defendant.

1 Q All right. So on this particular evening, January 8th,
2 2012, you remember that day?

3 A Yes, ma'am.

4 Q Who was home with you?

5 A My son, and the defendant, Mack Washington.

6 Q Okay. Now, did something unusual happen?

7 A Yes.

8 Q Tell me about that.

9 A I was at home.

10 Q Okay.

11 A And I was laying down in the bed. My son was on the
12 couch. He was laying down; he was sleeping. And Mack came
13 to the house.

14 Q You said Mack?

15 A Mack is the defendant. He came to the house. He
16 closed the door. So, I heard a knock on the door as soon as
17 he came in. So I was like, "Who is it?" And he was like,
18 "Nobody." So when I heard a knock, it was steady knocking.
19 So when I went to the door and I looked out the peek hole,
20 it was the police. So when I was about to open the door, he
21 grabbed me and he ---

22 Q Who grabbed you?

23 A The defendant grabbed me.

24 Q Okay.

25 A And he told me don't open the door. And I was like why

1 not. He was, the defendant, was like, "Don't open the
2 door." So he pushed me in the room and he was like -- and
3 the lights came in, the police lights came in, or whatever,
4 cause I was trying to use the phone to call my momma.

5 Q Okay.

6 A And he put me to the floor and said, "Do not get up
7 because the lights." So after the lights done ---

8 Q I'm sorry. When you say he put you to the floor, who
9 do you mean?

10 A The defendant.

11 Q Okay. So Mack Washington put you to the floor?

12 A Uh-huh.

13 Q I'm sorry. Don't say "uh-huh," say "yes" or "no,"
14 okay?

15 A Yes, ma'am.

16 Q All right. So Mack Washington puts you to the floor
17 and tells you -- what did he tell you?

18 A Don't show the light.

19 Q Okay.

20 A Yes, ma'am. So he -- after the lights done came from
21 out of the house, he told me to go in the bathroom. He told
22 me I can use the phone then. I called my momma, and I told
23 my momma that the police was, you know, outside my door. So
24 she was like, "Why haven't you opened the door?" So the
25 defendant grabbed the phone and he told my momma, he was

1 like, "What's going on out there," or whatever. So, she must
2 be told him, whatever. He was like, "Tell them to get a
3 warrant," but he would not let me open my door.

4 Q Okay. So how long did this go on, the defendant
5 wouldn't let you open your door?

6 A Probably for about forty-five minutes it took. I did
7 finally open my door.

8 Q Okay. So your intent, originally, was to open the
9 door?

10 A Yes.

11 Q Okay. Now, when you did open the door, what happened?

12 A When I opened the door, the police officer came, he
13 asked you know -- I opened the door and told him to come in.
14 He was like, he heard that the guns were in the house, or
15 whatever. And I told him yes. And he was like, "Where are
16 they?" And I told him they was underneath the bed, which
17 would be my mattress.

18 Q Okay. So how did you know the guns were underneath the
19 bed?

20 A Because I seen him when the police -- when he knew the
21 police was -- when the defendant knew the police was
22 knocking at the door, he took the guns out and put them
23 underneath my mattress.

24 Q So did you see him do this?

25 A Yes.

1 Q Okay. So when the police came in and asked you about
2 the gun you said they're under the bed?

3 A Yes.

4 Q Okay. Did they ask you to go and find them?

5 A No.

6 Q How did that happen?

7 A I told them they could -- they asked could they go in,
8 and I told them they could go in there. They asked me what
9 it was, and I told them what it was. I let them go in there.

10 Q So you gave them consent to go in there and get the
11 guns?

12 A Yes.

13 Q Okay.

14 ASST. SOL. LEGETTE: Beg the Court's indulgence.

15 Q Now, you said Mack Washington was at your house this
16 night?

17 A Yes.

18 Q How often did Mack Washington come over to your house?

19 A Well, he would come over, I'd say, about, almost every
20 day, but he would call me, he would leave.

21 Q Okay.

22 A You know, he would never, like, never, he would always
23 come and leave at night. Come in the daytime and leave at
24 night.

25 Q So he never -- he didn't live with you?

1 A No.

2 Q Okay. So he was a visitor. He would come in during
3 the day ---

4 A Yes.

5 Q --- and leave at night?

6 A Yes, ma'am.

7 Q Okay. Now, who actually -- whose name was on the lease
8 at apartment [REDACTED]?

9 A My name and my -- well, it was my name -- me and my son
10 was on my lease.

11 Q Okay. No one else?

12 A No.

13 Q Okay. Now, so the night that the police came, you gave
14 them permission to get the gun?

15 A Yes.

16 Q And so what happened when they got the gun?

17 A Well, when they got the gun, they told me to come up
18 there, I believe, the next morning to come talk to them.

19 Q Okay.

20 A And when they came, Mack was there, or whatever. They
21 asked why the defendant was there. They asked him.

22 THE COURT: When who was there?

23 MS. YOUNG: The police.

24 THE COURT: Just slow down a little bit ---

25 MS. YOUNG: Okay.

1 THE COURT: I want to make sure I understand what
2 you're telling me.

3 A Okay. The police came while the defendant was there.
4 He was there also, and when they came, he went outside.
5 When he did go outside, they pat him down, or whatever, but
6 one of the officers did tell him if he had something he
7 would -- if they found something, he would get locked up.
8 But he left and got into his girlfriend at the times car,
9 and he left. That was it.

10 Q All right. When you ---

11 THE COURT: Who is "he"?

12 MS. YOUNG: The defendant. I'm sorry.

13 Q I'm sorry. So were you arrested that night?

14 A No.

15 Q Okay. Now, let's go -- let's shift our attention from
16 that particular night with the gun, to January 16th when
17 your toilet began messing up; do you recall that?

18 A Yes.

19 Q Okay. Tell us about the toilet.

20 A Okay. My toilet was acting up. So I sent -- I had
21 went over there and told them that my toilet was acting up,
22 so they ---

23 Q Went over where?

24 A To the office.

25 Q Okay.

1 A Betty Alexander. I told her that my toilet was acting
2 up. So she sent the maintenance man, his name was Ron. She
3 sent him to the house, or whatnot. So when he plunged out
4 the toilet he found a I.D. or something. It was a picture
5 of, you know, a white lady, or whatnot. So he -- I don't
6 know whether he went there or not, but my toilet was still
7 acting up.

8 Q Okay.

9 A My toilet was still acting up after that, still. So
10 when I called the last time, they had to take the toilet or
11 something like that. Well, they broke the toilet. When
12 they broke the toilet, that's when -- I didn't know what
13 was, you know, I didn't know what was in my toilet. But
14 when I came back around, somebody was like, they found
15 credit cards or something like that in your toilet,
16 somewhat, you know. So when I'd seen the defendant, I was
17 like, they found the credit cards that you put down my
18 toilet. And after that, I didn't see him again.

19 Q Okay. Now, Ms. Young, did you put the credit card in
20 the toilet?

21 A No.

22 Q Okay.

23 ASST. SOL. LEGETTE: Beg the Court's indulgence.

24 Q Now, Ms. Young, you said that the maintenance man, Mr.
25 Ron, came out. Do you recall his first and last name?

1 A I can't remember. I don't know whether it's Johnson,
2 I'm not sure.

3 Q Could it be Ron Johnson, Laron Johnson?

4 A Yes, I think so.

5 Q Okay. Now when he came out to your house, your
6 apartment, did you sign a work order for him to actually
7 take the toilet? Do you recall that?

8 A I believe -- I'm not sure.

9 Q Okay. I'm going to hand you in a moment what has been
10 previously marked as Court's Exhibit Number Two. Take a
11 moment and tell me if you recognize this? Your Honor, may I
12 approach the witness?

13 THE COURT: You may approach.

14 A Yes, that's my signature.

15 Q Okay. And, Ms. Young, what is the State's -- I'm
16 sorry, Court's Exhibit Number Two? You want to look at it
17 again?

18 (WITNESS REVIEWS COURT'S EXHIBIT NUMBER TWO)

19 Q You recognize Court's Exhibit Number Two? Do you
20 recognize your signature on Court's Exhibit Number Two?

21 THE COURT: You have to say yes or no.

22 A Yes, ma'am.

23 Q Okay. What is Court's Exhibit Number Two?

24 A Identification of evidence.

25 Q What does it say at the top of Court's Exhibit Number

1 Two? Is it a service request for your toilet to be worked
2 on?

3 A Yes.

4 Q Okay.

5 A Install a new toilet, yes.

6 Q Okay. Now, is that the service request that you signed
7 with Mr. Laron Johnson to have your toilet fixed?

8 A Yes.

9 Q Okay. Has it been changed or altered in any way that
10 you know of?

11 A No.

12 Q Okay. Your Honor, I would offer for admission in this
13 particular evidentiary hearing Court's Exhibit Number Two.

14 THE COURT: For purposes of this hearing only?

15 ASST. SOL. LEGETTE: For purposes of this hearing,
16 Your Honor, yes.

17 THE COURT: For this hearing only, Mr. Bennett. Any
18 objection?

19 MR. BENNETT: No, sir.

20 THE COURT: Court's Exhibit Number Two without
21 objection. Let me see it, please, ma'am. For the purposes
22 of this hearing it's entitled at the top Service Request.
23 It says apartment [REDACTED]. It has a date of January 16, 2012,
24 1:30. It says installed new toilet kit. It has a signature
25 at 2:00 p.m., and it has a residence signature, Tyneshia

1 Young, that she's identified. And the date and time
2 requested and received is 1-16-12, 1:30 p.m., and it has
3 circle for workers signed plumbing. Proceed.

4 (WHEREUPON, COURT EXHIBIT TWO, SERVICE REQUEST, IS
5 RECEIVED INTO EVIDENCE FOR THIS HEARING ONLY.)

6 Q All right. Now, Ms. Young, just so we're clear, at any
7 time whenever the police came to your house to -- well,
8 first of all, with regards to the toilet, did the police
9 ever to come to your house to take anything out of your
10 toilet?

11 A No, ma'am.

12 Q Okay. That was the maintenance man?

13 A Yes, ma'am.

14 Q Okay. Now, let's go back to the guns, themselves, and
15 the night the guns were recovered by the police.

16 A Yes, ma'am.

17 Q Did you ever feel like you had been threatened or
18 forced to open the door, in any way?

19 A No, ma'am.

20 Q Okay. And you gave consent to the police to come in
21 and get the gun.

22 A Yes, ma'am.

23 ASST. SOL. LEGETTE: Beg the Court's indulgence.

24 Your Honor, I have no further questions for this
25 witness. Please answer any questions from the defense.

1 THE COURT: Cross-examination.

2 MR. BENNETT: May it please the Court?

3 CROSS-EXAMINATION

4 BY MR. BENNETT:

5 Q Tyneshia, isn't it true that when this service took
6 place, that Mack Washington was basically living at your
7 apartment and had a key to your apartment?

8 A He had a key, but he was not living there.

9 Q Okay. So why did he have a key to your apartment?

10 A Because he would always come in there.

11 Q Okay. He spent the night there?

12 A Probably once.

13 Q And you have another one of your cousins, Brandon
14 Manigo, is living there, too, and had a key to your
15 apartment ---

16 A Yes.

17 Q Isn't that right?

18 A Yes.

19 Q Isn't it true that when they, when the police showed up
20 at your house, I believe, wasn't it all on Sunday night,
21 January 8, 2012? Is that correct?

22 A Yes.

23 Q Okay. And did this occur about twelve midnight? Is
24 when this attempt to get in your apartment started?

25 A I believe so.

1 Q Okay. I believe the evidence, if you agree or
2 disagree, states that this occurred between twelve midnight
3 and 1:00 a.m. in the morning?

4 A Yes.

5 Q Okay. And isn't it true that whole ordeal lasted for
6 forty-five minutes to an hour of them trying to get into
7 your apartment?

8 A Yes.

9 Q Okay. Now, if you didn't want to let them in right off
10 the bat, you could have opened the door right then, couldn't
11 you?

12 A I could have, but the defendant wouldn't let me.

13 Q He didn't grab you?

14 A Yes, he did.

15 Q So he held you the whole time?

16 A Yes, and told me not to go to the door.

17 Q All right. He was holding on to you?

18 A Yes.

19 Q The whole forty-five minutes? How did you call your
20 mom on the cell?

21 A I called my mom after he put me in the bathroom and
22 wouldn't let me come out.

23 Q Okay. And that's the first time you told this story?

24 A Well ---

25 Q You've given previous ---

1 THE COURT: Hold on a minute, let her finish answering,
2 then ask the question.

3 MR. BENNETT: All right.

4 THE COURT: Ask a question.

5 MR. BENNETT: Okay.

6 Q Have you ever mentioned this to the police that you had
7 two or three ---

8 THE COURT: Hold it. Have you mentioned this to the
9 police?

10 Q Yeah, have you ever mentioned this to the police?

11 A Yes.

12 Q What you just told me?

13 A That he had grabbed me.

14 Q Grabbed you?

15 A Yes.

16 Q Okay.

17 A He had put me -- when the police came to my home, when
18 I went to the door, he grabbed me. He grabbed by my mouth
19 and told me not to say nothing.

20 Q All right.

21 A He told me, "Do not say anything."

22 Q Okay. Now, you also just said that he put you in the
23 bathroom?

24 A He put me in the bathroom, too. When I was in -- when
25 I went to my room, he had me on the floor. He would not let

1 me get up because the light was coming in. He wouldn't even
2 let me show my phone because the light came up on my phone.
3 After my light went off, he told me to go in the bathroom.
4 He was in the bathroom, then he put me in the bathroom. And
5 he told me do not go out. I called my mother ---

6 THE COURT: Hold on. Let her finish, Mr. Bennett,
7 don't interrupt the witness. Let her finish.

8 A I called my mother and that's when my mother got on the
9 phone and she asked what was wrong. And I said the police
10 is to my house. She was like, "Why you did not answer the
11 door?" And I told her because the defendant Mack Washington
12 wouldn't let me. He grabbed the phone and he asked my mother
13 what was going on. After that, he told her to tell them to
14 get a warrant. And he hung up on my mother. My mother kept
15 calling back. He would not let me pick up the phone.

16 Q And you're saying he put you in the bathroom ---

17 A Yes.

18 Q -- or he asked you to go in the bathroom?

19 A Yes, sir, he did.

20 Q Okay. Have you ever gave that information to the
21 police?

22 A Yes.

23 Q You did, who did you give it to?

24 A Ms. Angela Stallings.

25 Q In one of your videotape interviews, or you say you

1 told her that verbally?

2 A I told her that verbally.

3 Q Verbally?

4 A Yes.

5 Q Okay. And does that appear in any written statement,
6 or anything, that you'd seen?

7 A I mean, she should have wrote it down; I'm not sure.

8 Q Okay. Let me ask you this, when the police arrived
9 there, who was there? Do you know which police officers
10 where there?

11 A I know Jason Chapman, and I don't know the rest. I
12 know he was there.

13 Q Okay.

14 A Yes, sir.

15 Q Do you know anybody else that was there?

16 A No.

17 Q Did you talk to police through the door?

18 A No. I opened my door and talked to them.

19 Q I'm talking about when the first go there.

20 A When the first got to my door, I could not say nothing,
21 at all.

22 Q Now, isn't it true that the police officers told you
23 that you had to open your door? They would get a search
24 warrant from a judge and kick your door in. Did they ---

25 A I believe this was on the phone when I talked to my

1 mother.

2 Q That was communicated to you?

3 A Yes.

4 Q Through your mother?

5 A Yes.

6 Q And isn't it true that the police officers, I believe

7 it was Lieutenant Jason Chapman, at the time, and Brian

8 Ackerman, isn't it true they used your mother as an agent of

9 theirs to try and get you to open the door.

10 A I'm not sure what you're trying to say.

11 Q Isn't it true that they were trying to communicate

12 through your mother to tell you that you better open this

13 door?

14 A Yes.

15 Q Or we going to get a search warrant, and kick your door

16 in. We're going to have you evicted from the apartment, and

17 you might lose your child. Wasn't that communicated to you

18 through your mother?

19 A No, sir.

20 Q You sure.

21 A Yes.

22 Q What was communicated to your ---

23 A What was communicated to my mother is I that needed to

24 open the door, or either they would have gotten a search

25 warrant and come in my house.

1 Q So you never had any threats from Jason Chapman?

2 A I mean only ---

3 Q At any point in time?

4 A Only when he -- I don't think it was a threat. I just
5 felt like he was telling me in my own good.

6 Q Had he previously told you before at some point in this
7 investigation that if you did not cooperate fully, in every
8 way, that he can have you evicted from Druid Hills, and he'd
9 already had eleven or twelve people evicted?

10 A No, sir. I don't remember that.

11 Q All right. And did he communicate that you could lose
12 your job if you didn't cooperate with the police and weren't
13 honest ---

14 A That's when I talked to him he said that I could -- my
15 child could go to DSS, or whatnot.

16 Q That was communicated to you, wasn't it?

17 A That was.

18 Q And going to DSS, what does that mean to you?

19 A I mean my child getting taken away from me.

20 Q Okay. And you did not, when the police go there and
21 knocked on the door, you didn't go there and open the door,
22 did you?

23 A No, I was -- when the police came I was going to open
24 my door, but Mack Washington, the defendant, would not let
25 me.

1 Q He didn't hold a gun on you, did he?

2 A He didn't but he grabbed me and told me do not go to
3 the door.

4 Q What's your relationship with Mack Washington?

5 A We have no relationship.

6 Q No relationship?

7 A No.

8 Q Is he related to you?

9 A No.

10 Q Why was he living at your apartment? I mean most
11 people ---

12 A Cause ---

13 THE COURT: Hold on, one question at a time, not a
14 speech.. Go ahead. Why was he living in your apartment, is
15 that the question?

16 MR. BENNETT: Yes, sir

17 THE COURT: Answer that question.

18 A Because I'm a friendly person and he was a friend of --
19 my brother and him are close cousins. I mean at the time, I
20 felt like he was a good person.

21 Q Y'all were close, right?

22 A We wasn't that -- we were close, but we wasn't that
23 close. Me and Brandon were more closer than, you know, me
24 and Mack, the defendant.

25 Q You knew the guns were in there, right?

1 A No.

2 Q In your apartment?

3 A No, I didn't. No, I didn't.

4 Q You did not know the guns were in there?

5 A No, until, when I woke up about three-thirty or four
6 o'clock, I had to use the bathroom. When I came in, it was
7 something on my chair, like a guitar-looking thing.

8 Q That was the day before the search, what you're talking
9 about?

10 A Yes, I believe so.

11 Q Okay.

12 A Yes.

13 Q So you thought there was a guitar in there?

14 A Yeah. I don't mind nobody else's business. After
15 that, I went to my -- I didn't go to my bed because after
16 that, the defendant left out and Ty was sitting on my chair.
17 And I was like, "Who owns that?" And he was like, "Mack,"
18 the defendant.

19 Q Didn't you just testify that on direct examination that
20 you knew the guns were in there?

21 A I knew they were -- I didn't know they were guns at the
22 time. I did not know they were guns.

23 Q All right. So you thought -- you said he hid them
24 under your bed, correct?

25 A That's how I knew the guns was in my house.

1 Q So you thought he was hiding guitars under your bed?

2 A Listen, when it first came in my house, I didn't know
3 there were no guns in there. I thought it was some kind of
4 guitar thing. I didn't see them in my house again. So he
5 would have had to bring them back into my house, because
6 right after the police knocked to my door, that's when he
7 went in the closet and he started putting it under my bed.

8 Q But you knew they were under there?

9 A I knew they was under there after the fact. After I
10 see him, yes, I knew they were under there. That's why I
11 let the police in and went to get them.

12 Q You knew they were guns, right?

13 A I knew he had the gun after he put it underneath my
14 bed.

15 Q But before they came in your door you knew there were
16 guns under your bed?

17 ASST. SOL. LEGETTE: Your Honor, I would object. I
18 think we're exceeding the scope here. We're getting into
19 direct evidentiary testimony regarding the other ---

20 THE COURT: I'll allow her to answer that question.
21 We're going to move along, Mr. Bennett.

22 MR. BENNETT: All right.

23 THE COURT: Rephrase the question.

24 Q Before you opened the door to let the police in, you
25 knew that they -- that Mack Washington, according to your

1 testimony, put guns under your bed?

2 A Before I opened the door, yes, he had already put the
3 guns underneath the bed.

4 Q Okay. You are aware of that?

5 A Yes.

6 Q And your testimony is that you wanted the police to
7 immediately come in ---

8 A Yes.

9 Q And that Mack ---

10 THE COURT: Hold on. One question.

11 Q Go ahead.

12 A When I looked at my door and seen that it was the
13 police, I wanted to open my door because I wanted to know
14 why were they there.

15 Q Okay. And is it your testimony that the whole forty-
16 five minutes to an hour that police were trying to get into
17 your apartment, that you were continuously held hostage by
18 Mack Washington?

19 A Basically, I was.

20 Q Okay. And is it your testimony Mack Washington did not
21 have a gun; is that right? He did not have a gun on you
22 personally when you were saying that he was holding you
23 hostage?

24 A No, he had not.

25 Q And also your testimony he had a key to your apartment

1 ---

2 A Yes.

3 A that you were living in and y'all had a close
4 relationship?

5 A Yes.

6 Q Okay.

7 MR. BENNETT: That's all I have, Your Honor.

8 THE COURT: Re-direct?

9 ASST. SOL. LEGETTE: Just briefly, Your Honor.

10 REDIRECT EXAMINATION

11 BY DEP. SOL. LEGETTE:

12 Q Tyneshia you testified earlier that Mack was not living
13 there?

14 A Yes.

15 Q Tell me about what was happening with Mack in how he
16 would come and go?

17 A Mack, he would come to my house, everybody would come
18 to my house. Everybody would play cards and stuff like that.
19 Sometimes Mack would come to my house and we would leave.
20 He would come in the daytime and leave at nighttime.

21 Q Was he living there?

22 A No.

23 Q He would just come and visit?

24 A Yes. He did not have no clothes in there. He was not
25 living there.

1 Q Okay.

2 ASST. SOL. LEGETTE: I have no further questions, Your
3 Honor.

4 THE COURT: Re-cross, limited to redirect? Limited to
5 redirect.

6 MR. BENNETT: Yes, sir.

7 RECROSS-EXAMINATION

8 BY MR. BENNETT:

9 Q Isn't it true that Mack Washington had a closet that
10 was assigned to him in your house where he kept boxes of
11 clothes and other personal items?

12 A No, sir.

13 Q Okay.

14 MR. BENNETT: That's all I have.

15 THE COURT: Ms. Young, is that right?

16 MS. YOUNG: Yes, sir.

17 THE COURT: Ms. Young, I have one question for you. At
18 any time other than what you testified to, did any police
19 officer attempt to threaten you to open the door that night?

20 MS. YOUNG: No, sir.

21 THE COURT: Did any police officer, regardless of who
22 it was, or law enforcement officer, promise you anything if
23 you would open the door?

24 MS. YOUNG: No, sir.

25 THE COURT: Thank you. Any additional questions about

1 by the State in light of the Court's questions?

2 ASST. SOL. LEGETTE: No, Your Honor.

3 THE COURT: Any additional questions by the defendant
4 in light of the Court's questions?

5 MR. BENNETT: None from the defendant, Your Honor.

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

8 ASST. SOL. LEGETTE: The State calls Lieutenant Jason
9 Chapman. Your Honor, she may be excused for the purpose of
10 this hearing to return tomorrow.

11 THE COURT: Any objection Mr. Bennett? Do you need to
12 call her?

13 MR. BENNETT: According to how Jason Chapman's
14 testified, possibly.

15 THE COURT: She'll need to remain with us, then.
16 Please have a seat in the courtroom, Ms. Young. You're
17 subject to being recalled for the purpose of this hearing.
18 Please swear the witness.

19 (WHEREUPON, THE WITNESS IS DULY SWORN.)

20 MADAME CLERK: Please have a seat on the stand.

21 MR. CHAPMAN: Thank you.

22 THE COURT: Good evening.

23 MR. CHAPMAN: I was going to say good evening, Judge.
24 You know what to do ---

25 MR. CHAPMAN: Yes, sir.

1 THE COURT: When to do it. Adjust the microphone.

2 Give your last name spelled to the court reporter.

3 MR. CHAPMAN: My name is Lieutenant Jason Walker
4 Chapman. The last name is spelled C-H-A-P-M-A-N. I'm
5 currently employed with the Colleton County Sheriff's Office
6 as head of investigation.

7 THE COURT: Your witness, counsel. Direct examination.

8 ASST. SOL. LEGETTE: Thank you, Your Honor.

9 DIRECT EXAMINATION

10 BY DEP. SOL. LEGETTE:

11 Q Lieutenant Chapman, briefly, let's turn your attention
12 to January 8th, 2012.

13 A Yes, ma'am.

14 Q Did you see or did you go to Druid Hills that
15 particular evening?

16 A I did.

17 Q And who did you -- why were you going there and who did
18 you see?

19 A At the time I was working for Walterboro Public Safety.
20 I was a narcotics investigator. I received information that
21 property, specifically, two guns involved or taken during an
22 armed robbery that had occurred the night before were
23 located in a specific apartment at Druid Hills complex. I
24 did not go to the original scene. Again, this was
25 information that I received the following day. I had my

1 partner at the time who was Corporal Kevin Kinard was with
2 me. We used some of the other road patrol officers at the
3 time. Went to apartment [REDACTED], Charlie seven, at Druid Hills
4 number one and attempted to make contact with the resident,
5 leasee, which was listed at the time as Tyneshia Young.

6 Q And so tell us about trying to make contact with Ms.
7 Young.

8 A When we first go there, we went up to the door. We did
9 knock on the door, we knocked repeatedly. We could hear
10 movement inside, which is one of the reason we just knocked
11 on the door, and when nobody came, we left.

12 You know, we did knock, we knocked repeatedly. We
13 tried to shine the flashlight around the corner and into the
14 windows because we wanted them to know that we were law
15 enforcement. We wanted them to know we were there. We did
16 knock for a while. It was not forty-five minutes. I think
17 the -- getting misconstrued that the entire procedure when
18 we were there from start to finish might have taken forty-
19 five minutes. But it was not forty-five minutes of beating
20 on the door.

21 After knocking for a little while, we actually made
22 contact with her mother, who approached us there, at the
23 scene.. She asked why you are at my daughter's apartment.
24 And we were honest. We said, "Look, we've got some
25 information that there's property inside the apartment that

1 might be stolen. Can you talk to your daughter and tell her
2 to come to the door?"

3 Was there a threat of a search warrant? It's not a
4 threat if I am telling you that I intend to seek a search
5 warrant. I told the mother that if Ms. Young came to the
6 door and gave me the opportunity to talk to her and explain
7 what's going on, that it might could have been avoided. Did
8 I threaten her? No, but I did explain to her mother that if
9 we did not get anyone to come to the door that we could make
10 contact with that my intentions were to seek a search
11 warrant. And I actually pulled out of the complex right
12 before Ms. Young opened the door to go seek a search
13 warrant. So it was not a threat, it was an intention.
14 Would the search warrant been assigned? I don't know. I
15 never made it to the point that I got to approach a judge
16 with the evidence I had at hand. But my intentions were, at
17 that particular point when I left, to seek a search warrant.

18 Q Okay. So you said that at a point, Ms. Young did open
19 the door. So what did you do when you learned that she
20 opened the door?

21 A I went back. We made contact with her and the
22 defendant Mack Washington. They were the only people that
23 came out of the apartment. We separated them, immediately.
24 Mr. Washington came down and was outside with several other
25 assisting officers. And Corporal Kinard and I had Ms. Young

1 upstairs. And I told her, it wasn't, again, just like I had
2 told her mother, we weren't hiding the reason we were there.
3 I simply went to her and stated, "Look, I have information
4 that there are two stolen guns inside this apartment. Do you
5 have any knowledge of it, and can I get them?" And she
6 said, "They're underneath the bed. Yes, you may go get
7 them." That was it.

8 It wasn't a "tell me where they are, I'm going to take
9 you to jail." I never even had to get to that point. She
10 asked me why they were there. I told her. She told me where
11 they were. She gave us consent to get them, and that was
12 it. And it's not a search if she tells me, hey, they're
13 underneath the mattress and you have my consent to go get
14 them.

15 We didn't search the house. Never went in the bathroom,
16 never went in the kitchen, never went anywhere, but to the
17 bedroom she described, underneath the mattress, pulled out
18 lever-action 30-30. Looked underneath the bed, pulled out a
19 -- I believe it was a Remington rifle with a ATM scope that
20 was inside a hard plastic case, like a gun case. That was
21 it. We retrieved those two items and went back to the front
22 and talked to her. It's not a search if she tells me, yes,
23 you may go get them, and tells me exactly where they are. I
24 was simply retrieving what she told me was already there.

25 Q Now, Lieutenant Chapman, did you ever threaten or

1 coerce or promise Ms. Young anything in order to get her to
2 give you consent to get the guns?

3 A No, not at all. And all I said, clearing the matter up
4 again, the only thing that was told to the mother that we
5 had intentions to seek a warrant if no one would come to the
6 door.

7 Q Okay. Now, Lieutenant Chapman, I want to turn your
8 attention, shift for a few minutes, to some other evidence
9 that was collected in this case. Are you aware of any other
10 items of evidence, including credit cards, that was
11 collected in this case?

12 A A massive amount of evidence, but, yes, specifically
13 credit cards, yes, ma'am.

14 Q Tell us about -- were you involved in any way in the
15 collection or the, I guess, putting into evidence any credit
16 cards in this matter?

17 A Yes. I believe it was January 16th, the road
18 supervisor, at the time was Sergeant Ackerman, he contacted
19 me, told me he had taken a report from the maintenance man,
20 I believe it's Laron Johnson. He was the maintenance
21 supervisor for Druid Hills apartment complex.

22 Mr. Johnson contacted law enforcement after he received
23 a complaint from [REDACTED] referenced to the toilet being stopped
24 up. When I actually got there, Sergeant Ackerman had
25 already received from Mr. Johnson several credit cards that

1 were in the names of the victims, the Klems, and he had
2 already taken a written statement from Mr. Johnson. He
3 handed those items to me. I did have an opportunity at that
4 point in time to talk to Mr. Johnson, but I didn't initially
5 take the statement or collect the items.

6 Mr. Johnson did relate to me that he had been to [REDACTED] in
7 regards to a clogged toilet; that he plunged the toilet.
8 When he did, a Michigan driver's license had come up out of
9 the toilet. But that he had thrown that item away, unaware
10 of the how valuable it was as far as evidence. He didn't
11 know anything about the robbery. The toilet was then still
12 clogged so he removed the toilet.

13 He explained to me that Druid Hills policy regarding
14 toilets that cannot be unclogged, is that they have to
15 remove the toilet, take it outside and break it apart and
16 find out what's inside that caused the clog. He said they
17 do that for purpose of making the tenants pay for it if it's
18 something that shouldn't have been flushed down the toilet.

19 He said when he took the toilet outside and cracked it
20 open, it had multiple credit cards in it that were in the
21 same name as what he remembered on the Michigan driver's
22 license. Again, that's when Sergeant Ackerman met with him,
23 took the statement, collected the cards, and I when and met
24 with Sergeant Ackerman, and Mr. Johnson.

25 Q And does Mr. Laron Johnson work for the police

1 department or sheriff's department that you know of, or
2 did he then work for these agencies?

3 A No, ma'am. As far as I know what he was doing was
4 working for Druid Hills as a maintenance man.

5 Q Thank you. Lieutenant Chapman I have no further
6 questions for this hearing.

7 A Thank you.

8 ASST. SOL. LEGETTE: Your Honor, answer any questions
9 from the defendant.

10 THE COURT: Cross-examination.

11 MR. SANDERS: Would it please the Court?

12 THE COURT: Mr. Sanders.

13 CROSS-EXAMINATION

14 BY MR. SANDERS:

15 Q Lieutenant Chapman.

16 A Yes, sir.

17 Q Thank you for being here. Let's see, who was it exactly
18 that informed you on the either the Sheriff's Department or
19 the Walterboro Police Department about the guns at the
20 apartment ■■■7 in Druid Hills?

21 A The actual information itself I received directly from
22 Bernard Manigo.

23 Q From Bernard Manigo?

24 A That's correct.

25 Q Okay. Do you recall approximately what time that was

1 when he called and said that there's guns in apartment [REDACTED]?

2 A It was the same evening that we went to Ms. Young's
3 apartment. The exact timeframe, I'm not sure. I actually
4 made multiple calls both to Mr. Manigo and to other people.
5 I'm not just going to go to the apartment based on one
6 phone, one person. I had to do a little shoring up, a
7 little following up on it to make sure. So it wasn't at,
8 you know, "Hey, I know where some guns are," and we went
9 straight to the apartment. It was a couple hours before we
10 went.

11 Q Can you explain a little better what you mean by
12 "following up"? Did you call anyone else, or was this
13 internal?

14 A Well, the first thing, the first phone call I get is,
15 hey, I know where some stolen guns are. Where are they
16 stolen from? How do you know they're stolen? And he stated
17 that he has knowledge of a robbery that had occurred. And,
18 I had to go research the robbery. Again, I wasn't on call
19 that night before. I didn't know anything about the armed
20 robbery involving the victims at the time.

21 The first thing I had to do was go research an armed
22 robbery. Went back to the office, pulled a report that
23 determined there had been an armed robbery. I had to go
24 through the property sections of the report to determine
25 whether or not there were any firearms missing. I actually

1 talked to the witness again, at this point in time, to
2 determine if his description of what he had seen was similar
3 in nature to what was reported inside the Klem's report.
4 I'm not going to go to Ms. Young's apartment if he tells me
5 he knows where two pistols are if, in fact, it was two
6 riffles that was stolen. I can sit up here all day and go
7 through this, but I think you know where I'm going. It just
8 takes a little time to shore it up before we went.

9 Q Okay. When you reviewed the case as you said you had
10 to review the case for armed robbery, was there a suspect at
11 that time?

12 A No, there was not. It was -- the report at that time
13 simply stated two to three, if I'm not mistaken, either two
14 to three unidentified black males, was all it stated.

15 Q When you actually went out to Druid Hills to
16 investigate these guns, did you see the defendant, Mack
17 Washington? Did you see him before, or did you see him go
18 into the apartment?

19 A No.

20 Q You did not see him?

21 A No, sir.

22 Q Okay. We've already covered that you did not have a
23 search warrant, so my question will be, when you said you
24 intended to go get a search warrant, how did you intend to
25 go get a search warrant at 1:00 a.m.?

1 A The same way we do it at one p.m. or one a.m., it
2 doesn't matter. We go to the office, type the information
3 into the computer, do an avadavat, particularly describing
4 the person, places, things to be searched or seized, notify
5 the on call judge, go to that judge's residence wherever I
6 have to go to meet the judge, present the information, and
7 see if I can get a signature.

8 Q Okay. In your experience, does that work?

9 A I have never been turned down for one. It doesn't
10 matter if it's one o'clock or not.

11 Q Ms. Legette covered a lot of these things, but I do
12 want to go back to -- did you ever mention around Ms. Young,
13 or to Ms. Young's mother, who I believe the last name is Ms.
14 Inabinett, that you have evicted people from Druid Hills I
15 before? Did you ever mention that to Ms. Young?

16 A You're talking about that night? Had I ever had a
17 conversation? No.

18 Q That night.

19 A No. Not at any point in time to her or to her mother
20 that night did I ever mention anything about that.

21 Q Okay. Did you mention that night anything about DSS
22 involving Ms. Young's children?

23 A Not that night, no. Have I evicted people from Druid
24 Hills I or II, no. I don't have the power of eviction.
25 Have I sought eviction for reasons? Absolutely. Am I

1 personally responsible for some people getting evicted, I
2 don't know if I'm personally responsible, but I'm sure the
3 agency is. But that particular night, no, sir. Was it
4 explained to Ms. Young in an interview afterwards that if
5 certain things happened, or did not happen, or whatever,
6 again, it may or may not have been; I don't recall. But it
7 would not have been, again, a threat; it would have been an
8 explanation of an intention.

9 Q You had mentioned earlier that you had believed that it
10 was forty-five minutes that you had to wait for the door to
11 be opened?

12 A Yes.

13 Q How long do you think it was?

14 A It probably was a good twenty minutes. Absolutely. It
15 was enough time for what Ms. Tyneshia Young explained to you
16 on the stand. It was enough time for her moma to call her
17 to ask what's going on. For her moma to leave her apartment
18 and come over and talk to us. I don't doubt that it took
19 fifteen or twenty minutes, but I know that we didn't stand
20 at the door at 1:00 in the morning and beat on it for forty-
21 five minutes until someone came to the door.

22 Q When the door was actually opened, who opened it? Who
23 did you see first?

24 A As you recall, I stated that I pulled out of the
25 parking lot and turned south, excuse me, north on Sniders to

1 go get the warrant when I was actually called and they said,
2 "Hey, the door just came open."

3 Q Okay, my apologies.

4 A That's okay.

5 Q So another officer actually ---

6 A Yes, sir.

7 Q --- saw the door open?

8 A Yes, sir.

9 Q Okay. And let's see. When you turned around, did you
10 ever see the defendant, Mack Washington, there on that
11 night?

12 A I probably wasn't three or four hundred yards from the
13 complex on Sniders Highway when they called me. I turned
14 around, went back. At the time I got back there, the
15 officers that I had left there at the scene, should have
16 been Rob Edwards, Brian Ackerman and Kevin Kinard, they
17 already had Mr. Mack Washington outside the apartment.

18 So, was I physically there to see him coming out of the
19 door? No, sir, I wasn't. They had already separated the
20 two. Ms. Young was sitting on her couch with the opened
21 door to the apartment talking to Corporal Kinard. I walked
22 past Mr. Washington up to [REDACTED]. That's when I went in and
23 started talking to Ms. Young.

24 Q When you arrived was the defendant restrained in
25 anyway? Was he in handcuffs?

1 A I believe he was in handcuffs. But I can't say for
2 certain. I do believe he was.

3 Q Did they, either you or any other law enforcement
4 agency, arrest the defendant that night?

5 A I did not.

6 Q So to your knowledge, he was not arrested by either
7 Waltherboro or Colleton County Sheriff's Office?

8 A No, sir.

9 MR. SANDERS: May it please the Court -- pardon me,
10 Your Honor, beg the Court's indulgence.

11 THE COURT: Anything else for this witness?

12 MR. SANDERS: Yes, just two things, Your Honor.

13 Q Is there any reason you didn't try to seek the search
14 warrant before going out to the apartments at Druid Hills,
15 apartment [REDACTED], Ms. Young's apartment?

16 A Any reason? I've been doing this for now seventeen,
17 seventeen and a half years. I get a lot done with my mouth
18 instead of pen and piece of paper. I like to talk to
19 people. People tend to be comfortable when you talk to them
20 as opposed to telling them things. I've always made an
21 attempt, if I felt like the evidence wasn't going to get
22 flushed or destroyed, to talk first.

23 I never met Ms. Young prior to that night that I know
24 of. She -- I mean we may or may not have. It was more or
25 less a contact to see whether or not she was going to

1 cooperate. As you stated before, it's almost 1:00 in the
2 morning and it's a heck of a lot easier to go knock on a
3 door, explain something to someone, let them help you or not
4 help you, and then go get a warrant, than it is to, you
5 know, go ahead and get the warrant prior to that.

6 If I thought that it was something that could have got
7 flushed or destroyed, then, obviously, I wouldn't have
8 knocked. I would have gotten the warrant first. They can't
9 flush a gun, and they can't hide it in a location I don't
10 think I can find it if it came down to getting a warrant.
11 So, that's the reason we didn't get a warrant first.

12 Q Last question, Your Honor. Last question, Lieutenant
13 Chapman. When you arrived, was there any outward sign,
14 noticeable sign, of a struggle going on within? The
15 defendant and Ms. Young were not exactly in agreement. Did
16 you hear any ruffling around, any screams, any pleas for
17 help?

18 A As I've told you before, the one reason we remained
19 there for the twenty minutes or so that we were knocking and
20 trying to find a way to get someone to make contact with was
21 that we could hear stuff inside. Can I remember exactly?
22 No. And I didn't annotate it in the report to the point
23 that I could give you a specific answer. Obviously, we
24 heard something that, movement was what we, I think, we
25 refer to it as. I can't testify to that someone was being

1 beaten or anything like that. I can tell you that there was
2 noise coming from inside the apartment indicative of
3 occupancy, or that it was occupied; that's it.

4 MR. SANDERS: No further questions for this witness,
5 Your Honor.

6 THE COURT: Re-direct?

7 ASST. SOL. LEGETTE: None, Your Honor.

8 THE COURT: Very well.

9 MR. CHAPMAN: Thank you.

10 THE COURT: Yes, sir. Call your next witness.

11 ASST. SOL. LEGETTE: Your Honor, the State has no
12 further witnesses.

13 THE COURT: Mr. Bennett, are you prepared to go
14 forward?

15 MR. BENNETT: Yes, sir. We would like first call
16 Officer Brian Ackerman to the witness stand.

17 THE COURT: All right. You got him here?

18 MR. BENNETT: Yes, Your Honor. He's in the waiting
19 room downstairs.

20 THE COURT: Brian Ackerman, in the defendant's room
21 downstairs. I'm sorry, he's in the Clerk of Court's
22 conference room that the State tried to convert to their
23 conference room. Right, Patricia?

24 MADAME CLERK: Right.

25 (WHEREUON, MR. ACKERMAN ENTERS THE COURTROOM.)

1 THE COURT: Mr. Ackerman, come on in, and be sworn
2 by the Clerk.

3 MADAME CLERK: Please come forward.

4 THE COURT: Left hand on the Bible, raise your right
5 hand.

6 (WHEREUPON, MR. ACKERMAN IS DULY SWORN.)

7 MADAME CLERK: Please have a seat on the witness stand.
8 State your full name for the record.

9 THE COURT: Have a seat. Make yourself comfortable,
10 adjust the microphone. State your full name. Spell your
11 last name for the court reporter.

12 MR. ACKERMAN: Brian Wayne Ackerman. The last name is
13 A-C-K-E-R-M-A-N.

14 THE COURT: Direct examination, Mr. Bennett, this is
15 your witness. Proceed.

16 MR. BENNETT: Thank you, Your Honor.

17 DIRECT EXAMINATION

18 BY MR. BENNETT:

19 Q Officer Ackerman, you call recall being involved in an
20 attempted inquiry and search of an apartment that's leased
21 by Tyneshia Young out at Druid Hills apartments?

22 A Yes, sir.

23 Q Do you recall the date that took place?

24 A I believe it was on January 9th, 2012.

25 Q Okay. It was on January 9th?

1 A Yes, sir.

2 Q Okay. And do you know what time it was approximately
3 when y'all were trying to get into Tyneshia Young's
4 apartment?

5 A I believe it led into, or actually, it was on the 8th,
6 but it ran into the 9th.

7 Q It started right about near midnight, is that correct?

8 A Yes, sir.

9 Q And was this -- Druid Hills was this on the first floor
10 of Druid Hills, or the second floor?

11 A The apartment [REDACTED], I can't remember recalling that.

12 Q That's all right. And did you consult with Lieutenant
13 Jason Chapman before going out there? Can you tell us a
14 little bit about how all this occurred?

15 A It's been two years ago. It's kind of vague in spots
16 to me. I know they got some information about the call,
17 possibly the gun being in the apartment. Basically, I just
18 went out there and assisted with it.

19 Q Okay. Do y'all know who the informant was or anything
20 like that?

21 A No, sir.

22 Q Okay. Were you involved -- did you respond to the scene
23 of the robbery on January 7th at the Rice Planters Inn?

24 A Yes, sir, I did.

25 Q So you knew about that crime?

1 A Yes, sir.

2 Q And at the time you went there, did y'all have any
3 suspects? When y'all went there at midnight -- I think you
4 said on January 8th to 1:00 in the morning on January 9th.

5 A We had some ideas.

6 Q And who was the suspects that y'all had identified?

7 A The defendant.

8 Q Mack Washington?

9 A Yes.

10 Q Any other suspects?

11 A I'm not familiar with anymore, just Mr. Washington.

12 Q Okay. When y'all went there, how many police officers
13 went?

14 A I can't actually recall. I never did -- at least three
15 of us that I can remember.

16 Q You and Lieutenant Chapman?

17 A Chapman.

18 Q And who else?

19 A Deputy -- Officer Kinard at that time.

20 Q Okay. Now, can you tell us what happened when you got
21 to the apartment [REDACTED] that y'all were trying to get entry to?

22 A When we arrived we spoke with the female that actually
23 lived into the apartment. The female denied going into the
24 apartment at that time. She wouldn't accept the search?

25 THE COURT: Speak up just a little bit.

1 A I think they made a few phone calls and whatnot, and
2 the mother that actually, the daughter, come across the road
3 to where we were at, and think she went and told the
4 daughter, which is the apartment renter, and they finally
5 gave consent.

6 Q So, did you know the name of the person that leased the
7 apartment, the female?

8 A I don't recall.

9 Q Okay. Now you said she initially refused to open the
10 door. Can you tell us a little about what she told you when
11 y'all knocked on the door?

12 A I don't recall the exact words.

13 Q She just refused though? She spoke to you through the
14 door, is that correct?

15 A I remember she -- eventually, she came -- I'm not sure
16 on that; I really don't recall that part of it.

17 Q All right. Officer Ackerman, y'all were out there a
18 good while, weren't you?

19 A Yes, sir.

20 Q How long would you say, ballpark, y'all were there
21 before you gained entry to that apartment?

22 A Several hours.

23 Q Okay. Several hours?

24 A I would say at least probably an hour before we
25 actually gained entry.

1 Q Okay.. Were y'all knocking on the door?

2 A Yes, sir.

3 Q Trying to get in?

4 A Yes, sir.

5 Q Did you or any other officer ever speak or communicate
6 through the door to Ms. Tyneshia Young, if you don't open
7 the door we're going to get a search warrant and then we'll
8 kick your door in?

9 A I didn't actually talk to her.

10 Q Okay. Did you overhear any other officer tell her
11 we'll go get a search warrant and kick your door in if we
12 have to?

13 A I don't recall that.

14 Q And do you recall anybody saying or mention the search
15 warrant?

16 A I think Lieutenant Chapman initially left to go get a
17 search warrant.

18 Q Why did y'all not get a -- at that time of night,
19 before you try to enter somebody's apartment and all -- why
20 didn't you try to get a search warrant first?

21 A I was just there to assist. That was the division
22 handling in that case.

23 Q So that wasn't your call?

24 A No, sir. I was just assisting.

25 Q Do you think it would have been a better idea to get a

1 search warrant before you went there?

2 ASST. SOL. LEGETTE: Objection, Your Honor. Calls for
3 an opinion.

4 THE COURT: Sustained.. Calls for legal conclusion, Mr.
5 Bennett, proceed.

6 Q Now, when the door was eventually opened, was
7 Lieutenant Chapman there?

8 A Yes, sir.

9 Q He was there when the door was open?

10 A He came back -- he went to go get a search warrant but
11 ended up coming back. On the initial door open, I don't
12 recall that.

13 Q All right. Didn't y'all, or you or Lieutenant Chapman,
14 between the three officers that were there, didn't y'all try
15 to get Tyneshia's mother to help y'all ---

16 ASST. SOL. LEGETTE: Objection. Leading.

17 THE COURT: Direct examination, Mr. Bennett. The
18 objection is sustained. Ask direct questions. Don't ask
19 questions that suggest yes or no answer on direct
20 examination.

21 Q All right. Did y'all enlist the aid of anybody else to
22 try to help you gain entry to the apartment?

23 A No, not that I recall.

24 Q Okay. Was Tyneshia's mother outside the door?

25 A At which point?

1 Q Before the door was open.

2 A Correct.

3 Q Did y'all know that was Tyneshia's mother?

4 A I don't know, personally.

5 Q Do you know whether there was any communication going
6 on by cell phone?

7 A I have no knowledge.

8 Q You didn't see anybody talking on a cell phone?

9 A I have no knowledge.

10 Q And did you -- did y'all ever hear any signs, any
11 struggle going on inside the apartment?

12 A Not that I can recall. That was two years ago.

13 Q Did you go inside the apartment?

14 A No, sir, I did not.

15 Q What did you do?

16 A I stayed outside. They brought Mr. Washington outside
17 the apartment.

18 Q Okay. Were you the officer that patted him down?

19 A I can't recall.

20 Q Did y'all arrest either Mack Washington or Tyneshia
21 Young that night?

22 A No, sir.

23 Q And why was that?

24 A Had no reason to, I think.

25 Q No reason to?

1 A We didn't have anything on them at that point, to my
2 knowledge. Like I said, I was just assisting.

3 Q Was anything recovered from Tyneshia Young's apartment?

4 A Yes, sir, there was.

5 Q Can you tell us what that was?

6 A Two firearms, but I'm not certain what kind.

7 Q Okay. And who actually recovered them? Was that you
8 or Officer Kinard, or Officer Chapman?

9 A It was one of the two who went inside.

10 Q And did you consider what y'all did was a search and
11 seizure of those guns?

12 ASST. SOL. LEGETTE: Objection, Your Honor. I believe
13 that calls for a legal conclusion. He testified that he had
14 no knowledge of this.

15 THE COURT: Sustained. Rephrase the question.

16 Q Did you know if anything was recovered from the
17 apartment as a result of being out there that night?

18 A There were two weapons recovered.

19 Q Did you know what they were?

20 A Two longs guns is all I can remember.

21 Q And do you know who they belong to?

22 A I am not sure.

23 MR. BENNETT: The Court's indulgence.

24 THE COURT: Let's move along now.

25 MR. BENNETT: That's all I have, Your Honor.

1 THE COURT: Cross-examination?

2 ASST. SOL. LEGETTE: None, Your Honor.

3 THE COURT: You may step down. As to this witness, Mr.
4 Bennett, may he be excused?

5 MR. BENNETT: Yes, sir.

6 THE COURT: Any objection, Solicitor?

7 ASST. SOL. LEGETTE: No, Your Honor.

8 THE COURT: Give him instructions about tomorrow. You
9 are excused. Listen to the Solicitor's instructions. Call
10 your next witness, Mr. Bennett.

11 MR. BENNETT: Your Honor, we would now like to call Ms.
12 Sheniece Inabinett Green and she's in the State's conference
13 room.

14 THE COURT: In the State's conference room. Excuse me,
15 it's not the State's conference room, but y'all are doing
16 y'all's best to make it so. It's the Clerk of Court's
17 conference room. I need Ms. Green.

18 ASST. SOL. LEGETTE: Your Honor, I would have to
19 object. She's not on the witness list.

20 THE COURT: She certainly isn't on your witness list.

21 ASST. SOL. LEGETTE: That person ---

22 THE COURT: Wait a minute. Is she on Mr. Bennett's?

23 ASST. SOL. LEGETTE: No, sir.

24 MR. BENNETT: She is just here for the pretrial, Judge.
25 She's not a trial witness.

1 ASST. SOL. LEGETTE: Your Honor, I'm sorry ---

2 THE COURT: I know she's not a trial witness, Mr.
3 Bennett, because I've already voir dired the jury at your
4 request and you didn't ask me to include her.

5 MR. BENNETT: She was never intended, Judge. I
6 subpoenaed her for only this hearing.

7 THE COURT: I'll allow it for purposes of this motion
8 only. She's not going to testify during the trial of this
9 case. I don't know what she's going to say, but I think he
10 has the right to call a witnesses for this motion that
11 aren't necessarily witnesses for trial.

12 ASST. SOL. LEGETTE: Your Honor, I have to apologize to
13 the Court. Because she was sitting in here with her
14 daughter. But I thought she was no longer -- she was not on
15 the witness list and ---

16 THE COURT: Mr. Bennett said he was satisfied when I
17 asked him that everybody out of the room that should be.
18 Because I asked him to look and he responded to me that he
19 was. So, that's not a problem, Solicitor.

20 ASST. SOL. LEGETTE: Yes, Your Honor. All right.

21 THE COURT: Where is she now?

22 (MS. SHENIECE INABINETT ENTERS THE COURTROOM.)

23 THE COURT: She's coming right now.

24 MADAME CLERK: Please come forward. Place your left
25 hand on the Bible and right hand.

1 (WHEREUPON, MS. INABINETT IS DULY SWORN.)

2 MADAME CLERK: Please have a seat on the witness stand.
3 State your full name for the record.

4 THE COURT: Watch your step, and have a seat. Pull the
5 chair up, adjust the microphone. State your full name.
6 Spell your last name for court reporter.

7 MS. GREEN: Sheniece Lashawn Green, G-R-E-E-N.

8 THE COURT: Okay, Ms. Green, your witness. Direct
9 examination, Mr. Bennett.

10 MR. BENNETT: Thank you, Judge.

11 DIRECT EXAMINATION

12 BY MR. BENNETT:

13 Q What's your relationship to Tyneshia Young?

14 A I'm the mother.

15 Q Okay. Where does Tyneshia live?

16 A She lives at [REDACTED], Walterboro.

17 Q Where did she live in January of 2012?

18 A [REDACTED], [REDACTED].

19 Q At that's at what we call Druid Hills?

20 A Yes, sir.

21 Q Okay. And at that time where were you living?

22 A I was staying with my deceased son, David Myer.

23 Q And where at?

24 A That was Druid Hills II.

25 Q And how close was that to your daughter's apartment,

1 which was in Druid Hills?

2 A I walked right through the back to her apartment.

3 That's how close it is.

4 Q All right. Do you recall back in January of 2012 an
5 incident when the police were gain entry into your
6 daughter's apartment?

7 A Yes.

8 Q And can you basically tell us that -- how did you learn
9 about that?

10 A I got a call from my daughter, Tyneshia Young, saying
11 that the police was outside her door. And I asked her did
12 she open the door. She said no, so I asked her why not.

13 Q Did she tell you who all was in the apartment at the
14 time?

15 A Mack, the defendant, and her son.

16 Q At this time, was Mack Washington living in that
17 apartment?

18 A No.

19 Q Did he stay there a lot?

20 A He visited a lot.

21 Q Is he related to her?

22 A No.

23 Q What was their relationship?

24 A Friendship.

25 Q Friends, like girlfriends?

1 A No, friends like friends.

2 Q Do you know whether or not Mack Washington had a key to
3 her apartment?

4 A Yes, I believe he did.

5 Q And did anybody else have a key to her apartment that
6 you're aware of?

7 A No, not that I'm aware of.

8 Q Okay. On the night that this, the attempted entry by
9 police and the search in her apartment took place, do you
10 know about what time of night it was that you received the
11 call from?

12 A Probably like twelve because I was in my bed at that
13 time. And I had to go to work the next morning and I had to
14 get up and throw on something.

15 Q All right. And did she ask you to come over there?

16 A Yes.

17 Q She did?

18 A Yes.

19 Q And do you know why she wanted you over there?

20 A She said she didn't know why the police were there. So
21 as me being a mother, I wanted to know.

22 Q Do you know whether or not she refused to allow the
23 police to come in her apartment?

24 A Well, when I got over there, I went up to Jason Chapman
25 and I asked what was going on. And he told me. And I

1 called my daughter, Tyneshia, off my cell phone. When she
2 answered, I put Jason on the phone with her and let him talk
3 to her.

4 Q So he talked to her about it using your cell phone?

5 A Yeah, I called her and told her to talk to Jason and
6 open the door.

7 Q And she was inside -- where was she at?

8 A She was inside.

9 Q Okay. And was she talking through the door to you or
10 Jason at that time?

11 A No. We was on the ground. She stayed on the top part.

12 Q All right. Did anybody tell you how long the police
13 had been out there at that point?

14 A It was a couple people said the police was around
15 there, but I didn't know they were actually at her apartment
16 until she called me and told me. So they was there maybe
17 fifteen minutes before I walked over there.

18 Q Okay. And how long were you there before?

19 A I was there from the time I got there, when they first
20 got there, maybe fifteen minutes after they first got there,
21 I was there up until they left.

22 Q Okay. Do you know about how long all this took, this
23 whole process?

24 A Probably about forty-five minutes.

25 Q Okay. And she -- you know whether she just opened the

1 door right up for police?

2 A No, she didn't.

3 Q Okay. Now did you know what was communicated to her by
4 Jason Chapman?

5 A All he did, Mr. Chapman asked her to open the door.

6 Q Okay. Did you ever hear any police officer tell her
7 that if she didn't open the door they would go get a search
8 warrant and kick her door in?

9 A The only thing happened, when that happened, was she
10 took too long to open the door. I kept calling the cell
11 phone. She wouldn't answer. I called her sister, and told
12 her sister to call her and tell her to open the door. She
13 still wouldn't answer. And after that, Jason Chapman got
14 tired, and said, "That's it. I done gave her long enough to
15 open the door, so I'm just going to go and get a warrant."

16 Q Do you know Jason Chapman before this?

17 A No, I just know he was, you know, an officer.

18 Q Did Jason Chapman or Brian Ackerman or Officer Kinard
19 ever ask you to help them get into that apartment?

20 A No. I wanted her to open the door, because I wanted to
21 know what was going on. And she wasn't opening the door.

22 Q Did you know why they were trying to get into her
23 apartment?

24 A Yeah, he told me that he received, you know, a call
25 saying that it was stolen property in her apartment.

1 Q Who informed you of that?

2 A Mr. Chapman. I asked him and he told me.

3 Q Okay. Did he ever ask you for your assistance?

4 A No, he didn't.

5 Q Okay. And why did you want your daughter to open the
6 door?

7 A Because it was late in the night, everybody and their
8 momas was out in Druid Hills I and II, and I was trying to
9 figure out why my own daughter would not open the door, and
10 I kept asking her to.

11 Q Were there a lot of other people out there?

12 A Yes.

13 Q Right outside her door?

14 A It was like people across, you know, from other
15 apartments and stuff.

16 Q All right. Were there police lights flashing and all
17 that there?

18 A There was police lights; you know how they have a
19 spotlight or something, but that was it.

20 MR. BENNETT: That's all I have, Your Honor.

21 THE COURT: Cross-examination?

22 ASST. SOL. LEGETTE: None, Your Honor.

23 THE COURT: As to this witness, Mr. Bennett?

24 MR. BENNETT: She can be excused.

25 THE COURT: Any objection, Solicitor?

1 ASST. SOL. LEGETTE: None, Your Honor

2 THE COURT: She's not on the witness list for either
3 one of you. She's excused from the trial of this case,
4 other than the support of her daughter if she wishes to
5 remain; is that correct?

6 ASST. SOL. LEGETTE: That's correct, Your Honor.

7 THE COURT: Very well. You may step down. Thank you
8 very much. You're excused from the trial. Call your next
9 witness, Mr. Bennett. Call your witness, Mr. Bennett.

10 MR. BENNETT: Your Honor, that's it. That's all ---

11 THE COURT: That's all the witnesses you going to call
12 for the purposes of this hearing?

13 MR. BENNETT: That's it, Your Honor.

14 THE COURT: Does the State have any reply testimony?

15 ASST. SOL. LEGETTE: No, Your Honor.

16 THE COURT: All right. Mr. Bennett, I'll hear you
17 briefly in argument in support of your motion to suppress.

18 MR. BENNETT: Your Honor, just briefly, as the Court is
19 aware, the 4th Amendment of the US Constitution, protects
20 people, gives them a right to be secure in their persons,
21 houses, papers and effects against illegal searches and
22 seizures.

23 In the case of State v. Brown, I cited the motion, Your
24 Honor. We believe this search -- Your Honor, the law of the
25 testimony, it appears the police are out there forty-five

1 minutes to an hour. Even Officer Ackerman said over an
2 hour, maybe a couple of hours. They were out there with at
3 least three officers. I think it is fair to say it was a
4 show of force. There was a whole bunch of people outside her
5 door trying to gain entry.

6 The evidence, there's some conflict in the testimony,
7 Your Honor. But Officer Ackerman said she wouldn't open the
8 door. Tyneshia said that the defendant, Mack Washington,
9 restrained her, but there seems to be no evidence of that.
10 The police didn't arrest anybody. Apparently, Tyneshia
11 didn't tell the police that he was trying to hold her
12 hostage, or whatever. I don't know why she is saying that.

13 Your Honor, they could have -- Jason Chapman testified
14 that he knew about, several hours before he went out there
15 that there were guns there by Brandon Manigo. So it
16 certainly appears he had time to obtain a search warrant if
17 he wanted one. He said he could get one at one in the
18 morning. He certainly could have got one at nine or ten
19 when he found out, but he didn't.

20 Your Honor, I think that you know under the law, it's
21 well established that a warrantless search and seizures by
22 police are unreasonable unless they call it one of these
23 exceptions. And that is under State v. Weaver. There were
24 no arrests, Your Honor. Everyone testified that ----

25 THE COURT: I'm aware of that, Mr. Bennett. Clearly,

1 this falls under whether or not there was a consent to
2 search. You know it, and I know it, so let's get to the
3 point.

4 MR. BENNETT: Your Honor, we believe that a voluntary
5 consent certainly couldn't take an hour. In this situation,
6 at 1:00 a.m. in the morning, that there is really no good
7 evidence that she immediately opened the door and let them
8 in. The police actually obtained the assistance of her
9 mother, and her mother tried to convince her to open the
10 door. That just doesn't look like a free and voluntary
11 consent to do a search, Your Honor. And I believe the
12 evidence shows that they stayed out there knocking on the
13 door, with a bunch of people out there.

14 I believe that she was clearly pressured to open the
15 door against her consent. And of course Mack Washington is
16 in there, they have a close relationship. And of course he
17 probably doesn't want the door open because he knows the
18 guns are there. She knows the guns are there. So they both
19 refuse to open the door, but we believe the evidence does
20 show you, Your Honor, this was not a consent to search
21 freely, knowingly, and voluntarily.

22 Therefore, Your Honor, I don't think the State -- I
23 don't have to prove, Your Honor, that it's an involuntary
24 consent. The State has to prove that it is voluntary, and I
25 don't think they carry the burden of proof. And I believe

1 that this search and seizure should be ruled as an unlawful
2 search and seizure that there was not avail of consent, and
3 that all the evidence obtained as a result would be Fruit of
4 a Poisonous Tree and should not be admissible in this trial,
5 Your Honor, under the exclusionary rules.

6 And, Your Honor, I do want to make it clear; I'm
7 withdrawing my motion as to anything that pertains to credit
8 cards. It's the police that did not seize the credit cards.
9 But I do believe that the guns that were recovered should be
10 excluded under my motion to suppress.

11 THE COURT: Thank you very much. Ms. Legette, I'll be
12 happy to briefly hear from you as well.

13 ASST. SOL. LEGETTE: Thank you, Your Honor. Your
14 Honor, I would ask the Court to deny Mr. Bennett's motion to
15 suppress. This is a question of fact.

16 THE COURT: Do you agree that a law enforcement officer
17 may request permission to search at any time?

18 ASST. SOL. LEGETTE: Yes, Your Honor.

19 THE COURT: Do you also agree that the State bears the
20 burden of proving the voluntariness of any alleged consent
21 to a search?

22 ASST. SOL. LEGETTE: That is correct, Your Honor.

23 THE COURT: All right. You believe there is such
24 evidence in this case from what I've heard in this hearing?

25 ASST. SOL. LEGETTE: Yes, Your Honor. We believe that

1 the time Ms. Tyneshia Young testified specifically that she
2 was not threatened, she was not promised anything and she
3 was not coerced. That her intent was to open the door as
4 soon as she saw the police outside to find out what they
5 wanted. Immediately, when she was able to open the door,
6 she did tell them where the guns were and they could go in
7 and get them. We believe she provided unequivocal consent.

8 She testified here today. She is the best person to be
9 able to tell you in her mind, her intent to give that
10 consent. Mr. Washington and Mr. Bennett don't have a right,
11 they don't have standing to assert with her consent. She
12 gave her consent; she testified here today. We believe that
13 this consent was unequivocal. We would ask the Court to
14 deny the defendant's motion to suppress the evidence that
15 was found and discovered in her home that night of January
16 8, 2012.

17 THE COURT: Thank you very much. First of all, Mr.
18 Bennett, I don't -- I understand there is disparity in the
19 testimony, you are right as to the time. Whether or not
20 it's forty-five minutes or two hours, and although I
21 understand you're using that argument of voluntariness, I
22 don't think that's the issue.

23 The issue is, was there consent or not. Now, Mr.
24 Chapman is wrong. He said it's not a search if he just goes
25 and somebody shows him. That is still a search, Lieutenant

1 Chapman, and if you want me to I will show you a litany of
2 cases that say. But the question is whether or not it was a
3 valid search. Even if somebody tells you where contraband
4 is, wherever there is consent.

5 Obviously, Mr. Bennett argues that there is some
6 discrepancies in the testimony. He thinks it's because of
7 the length of time and the people present that somehow will
8 convince the Court that the State has failed to establish
9 voluntariness of any alleged consent to search. I
10 respectfully and completely disagree, Mr. Bennett.

11 I believe there is clearly evidence that there was
12 consent, and I think that Ms. Young going to be allowed to
13 testify in this case as to why she didn't immediately open
14 the door. She said she was prevented from doing so. I
15 understand there wasn't any weapon involved in that, but
16 that she was prevented from so by your client. And this is
17 why the time that it took for her to do it. Clearly, Ms.
18 Young was the one person who had the authority to do so.
19 Your motion to suppress is respectfully denied.

20 I will expect both of you to be ready first thing in
21 the morning. We're going to start at 9:30 a.m. Both of you
22 are aware that you have no objection to the selection of the
23 jury, and that decision is irrevocable. I will be swearing
24 the jury, hopefully, at 9:30 a.m. in the morning. I expect
25 that you both to instruct your witnesses. I expect you to

1 locate your witnesses in the rooms I've designated for it.

2 Ms. Legette, I hope that you and Ms. Henderson will not
3 continue to use the term "State's conference room" in this
4 trial. My Clerk of Court, who is obviously the best Clerk of
5 Court in the State of South Carolina, has repeatedly pointed
6 out to you that it is the Clerk of Court's conference room;
7 even if y'all insist on calling it your conference room.

8 In fact, the next trial I have, I'm going to let Mr.
9 Bennett and the defendant use that conference room, so that
10 we send a message to the Solicitor's office that you do not
11 own that room. Do you understand that, Madame Clerk? I
12 hope they'll receive that message so that we won't have any
13 more confusion or ambiguity about the ownership of the room.

14 I'll expect both of you to be ready to go promptly at
15 9:30 in the morning. Thank you very much. This court
16 stands adjourned until 9:30 a.m.

17 (WHEREUPON, THE TRIAL IN THIS CASE IS ADJOURNED FOR THE
18 EVENING.)

19 (THEREAFTER, AT 9:40 A.M., TUESDAY, MARCH 18, 2014,
20 WHEREUPON, THE TRIAL IN THIS CASE IS RESUMED AND THE
21 FOLLOWING IS PLACED ON THE RECORD.)

22 THE COURT: Is the State ready to proceed?

23 ASST. SOL. LEGETTE: We are, Your Honor.

24 THE COURT: Is the defendant ready to proceed?

25 MR. BENNETT: Yes, sir, Your Honor.

1 THE COURT: Bring us the jury, Marcus.

2 (9:43 A.M., THE JURY ENTERS THE COURTROOM AND THE
3 FOLLOWING IS HELD ON THE RECORD.)

4 THE COURT: Everybody get comfortable. Thank you for
5 following my instructions. Madame Clerk, would you please
6 swear the jury.

7 MADAME CLERK: I will. Ladies and gentlemen, please
8 stand and raise your right hand.

9 (Whereupon, the jury is duly sworn.)

10 THE COURT: All right. Ladies and gentlemen, I want to
11 go over a couple of housekeeping matters before we start.
12 As I've told you already, please, now that you've been
13 selected to serve on the jury, and until your service is
14 concluded, please don't discuss this case with others,
15 including your fellow jurors. I'll tell you when it's time.

16 It's real important that you not engage in what we call
17 premature deliberations. Now, why are we so serious about
18 that? Because the very last thing you hear in this case
19 might make a difference in how you feel. So please don't
20 try to discuss it with your fellow jurors and don't discuss
21 it with someone else.

22 Please don't read or listen to any news accounts about
23 this case. You must decide this case based on the evidence
24 that is presented. Please don't use a computer or a
25 cellular phone or any other electronic device with

1 communication capability while in attendance of the trial or
2 in your deliberations. We don't allow them in the jury
3 room.

4 I have to tell you a story. Yesterday, I had a phone
5 go off. I keep one in my pocket. And I can honestly say, I
6 don't know what kind any of you have, but this is an iPhone,
7 and I have never turned this phone on ring since I've had
8 it, because I spend my life in a courtroom. You're going to
9 love this story; my law clerk loves for me to tell this
10 story about the phone.

11 I didn't know when I first got my first iPhone that
12 when you plug it in and charge it, it automatically switches
13 to ring, or it did. So I plugged it in the A/C charger and
14 I came out here and, of course, I told you I'm deaf in one
15 ear, got a hearing aid, and I heard a phone go off and I
16 said, "All right, who's phone is that?" And it rang a
17 second time and my law clerk grabbed me on the robe and
18 said, "Judge, that's your phone." It happens to everyone,
19 ladies and gentlemen; I understand that. But we ask that
20 you not use a phone while you're on jury duty.

21 We have some jurors who believe that it's conscientious
22 to use a computer or these smart phones or electronic
23 devices to try to obtain information about a party, a
24 witness, or an attorney, or a news account of the case, or
25 information collected through juror research on any topic

1 raised through testimony that may be offered by any witness.
2 It is improper for you to do that.

3 I understand and I appreciate a juror being
4 conscientious, and I certainly want you to listen; I'll be
5 listening. I haven't heard any of the evidence, nor have
6 you, so we'll be hearing it together. So please do not
7 communicate with anyone about the case on your cell phone,
8 e-mail, Blackberry, iPhone, text messaging, twitter, through
9 any blog, or any website, or any internet chat room, or by
10 way of any other social networking website, which some of
11 the people in my courtroom are very fond of, including
12 Facebook, MySpace, LinkedIn, Youtube. I ask your
13 cooperation on that while you're on the jury, ladies and
14 gentlemen.

15 Now, before we begin this trial, I want each of you to
16 know that this trial will probably be different from what
17 many of you might expect. The truth is, most people simply
18 don't have the chance or the time to attend an actual court
19 session as each of you are doing right now. And
20 unfortunately, many people believe or think from watching
21 television, such programs such as CSI, Cold Case, Law and
22 Order, going to a movie, or reading a book, that trials are
23 always full of high drama or intense action, and riveting
24 and entertaining circumstances. While all of those things
25 may be true at times, ladies and gentlemen, an actual trial

1 is not for entertainment like a television show, a movie, or
2 even a book.

3 An actual trial, unlike a movie or a book or television
4 is a fundamental part of our democracy. It is a search for
5 the truth in an effort to make sure that justice is done
6 between the parties before the Court.

7 Searching for the truth and trying to make sure that
8 justice is done is often slow; it is often deliberate; it is
9 often repetitive. It is the exact opposite of what you may
10 have seen on television or read in a book or seen in a
11 movie. This courtroom, ladies and gentlemen, is 193 years
12 old and is a place of honor. This courtroom is a place of
13 honor. It's filled with history, and it's dedicated to the
14 protection, and it is dedicated to the preservation of
15 citizen's rights, through what many people have called the
16 greatest justice system in the entire world.

17 The attorneys who are going to be appearing before you
18 are advocates for the parties they represent, and by that I
19 mean they're going to advocate for their respective clients,
20 both for the defendant, Mr. Bennett, Mr. Sanders, they're
21 advocates for their client, Mr. Washington. And Ms. Legette
22 and Ms. Henderson are advocates for the State of South
23 Carolina. And although they are advocates, they are also
24 officers of this Court.

25 And as officers of this Court, they took an oath, just

1 like I did. They took an oath to uphold the integrity, they
2 took an oath to uphold the fairness of our judicial system,
3 and they also are here, even though they are advocates, to
4 help you in your search for the truth, based on evidence
5 introduced during the trial of the case.

6 You should expect the attorneys to be professional.
7 You should expect the attorneys to be competent. You should
8 expect the attorneys to be courteous, to each other and to
9 you in the discharge of their duties. Remember, also, that
10 each of you now, just like the attorneys and myself, each of
11 you have now taken an oath from the Clerk of Court; and in
12 that oath, each of you said that you would try this case and
13 that you would, as a juror, reach a fair and a just verdict,
14 so you also are expected to be professional. You, as a
15 juror, are also expected to be reasonable and you are also
16 expected to be ethical, just like the attorneys, in the
17 discharge of your duty as jurors.

18 Before we even start this trial, ladies and gentlemen,
19 I want to thank you for accepting this very important
20 responsibility of jury service. I want to thank you for
21 your contribution today to our justice system. I believe,
22 ladies and gentlemen, that when you're willing to leave your
23 homes and willing to leave your families, and your jobs, to
24 give a little bit of your time, when you vary 12 people from
25 all walks of life and put them together and have them

1 collectively listen to evidence, I believe that juries get
2 it right.

3 They don't get enough credit, ladies and gentlemen, so
4 I thank you before we start for your contribution today to
5 our justice system. Without you, ladies and gentlemen of
6 the jury, justice could not be accomplished in the
7 courtroom, and I thank you for that.

8 Now, ladies and gentlemen, I told you the case we're
9 trying, and I'm holding the indictments up that I talked to
10 you about, is the case of the State of South Carolina v.
11 Mack Washington, Jr. Mr. Washington is seated at the
12 defense table with his attorneys, Mr. Bennett and Mr.
13 Sanders. The State is represented by Ms. Legette and Ms.
14 Henderson.

15 The state has charged the defendant, by these pieces of
16 paper that I hold in my hand, which we call indictments.
17 Each indictment is entitled the State of South Carolina v.
18 Mack Washington, Jr. The indictments charge the defendant
19 with the crimes of armed robbery, kidnapping, another armed
20 robbery, another kidnapping, and possession of a weapon
21 during the commission of a violent crime.

22 Now, the elements of those offense, there are five
23 indictments, but only three offenses, although there are
24 five charges; but the elements of those crimes, I'm going to
25 explain to you at the conclusion of the trial, because I

1 haven't heard the evidence in this case, just as you
2 haven't.

3 Once I hear the evidence, I will explain to you the law
4 that I feel like applies to the evidence that's presented,
5 at the conclusion of the trial, including the elements of
6 the offense for which the defendant is charged, in this case
7 burglary, first degree. Believe me, we are already working
8 on it. Long after you went home last night, here's the
9 first draft right here that we did last night and this
10 morning. We don't know what the evidence is going to show
11 and you don't either.

12 Right now, you should understand that the indictments
13 are simply the charges by which the case is brought into
14 this Court, the Court of General Sessions, and it is not in
15 any sense evidence of any of the allegations named in this
16 indictment. I read you those allegations to determine your
17 impartiality to serve as a juror. To make sure you haven't
18 heard about, read about or knew anything about this case.
19 We don't want jurors that have already made up their mind.
20 We don't want jurors who are influenced by some outside
21 influence. We want jurors who are willing to listen, who
22 are willing to base their decision upon the evidence
23 introduced during the trial of the case when both sides are
24 present with the right of cross-examination.

25 Now, to these five indictments, the defendant, Mack

1 Washington, has pled not guilty. The State, therefore, by
2 that plea has the burden of proving each of the essential
3 elements in the indictment beyond a reasonable doubt. It
4 will be your duty, ladies and gentlemen of the jury, to
5 decide at the end of the case whether or not the State has
6 met that burden.

7 It is your solemn responsibility to determine the guilt
8 of the innocence of the defendant, Mack Washington, Jr., and
9 your verdict must be based solely on the evidence as it is
10 presented to you in this trial when everyone is present and
11 on the law as I instruct it to you to be during the trial
12 and at the close of the trial.

13 Now, in just a minute, the Assistant Solicitor will
14 make what is called an opening statement, in which she will
15 explain to you the issues in this case, while as an advocate
16 for the State of South Carolina what she contends to be the
17 issues in this case. Following that, the attorney for the
18 defendant will also make an opening statement.

19 Now, I told you the attorneys were advocates; they are.
20 And I wish to tell you right now so you will understand
21 their roles, that what the attorneys tell you in opening
22 statement, what the attorneys suggest to you by their
23 questions, what the attorneys argue to you in their closing
24 argument at the conclusion of the trial is not evidence in
25 this case. The attorneys are advocates for the parties that

1 they represent. So when they stand in front of you in
2 opening statement or they stand in front of you in closing
3 argument or they suggest something by a question that they
4 ask, it is only their contention as to what an issue might
5 be, because what the attorneys say as an advocate for their
6 respective parties is not evidence in this case.

7 Now, I've told you that you must decide this case
8 solely upon evidence. What is evidence? Evidence in this
9 case will be presented to you by the testimony of sworn
10 witnesses who are going to take this witness stand. You
11 will notice it's located on the side of the courtroom in the
12 closest proximity to you. That's so you can listen to the
13 witnesses, so each of you can observe the witnesses. What
14 else is evidence? Evidence might be a photograph or a
15 model. But as to any exhibit, the lawyers know, because
16 that's part of my job, is to rule on the admissibility of
17 evidence. You will hear me say, we will mark it with the
18 court reporter so that it has a number, like a photograph,
19 and you will hear me say, "Ladies and gentlemen of the jury,
20 it is in evidence." That means it will be with you in your
21 jury room if it's an exhibit, during your deliberations. So
22 evidence can take the form of an exhibit and evidence can
23 even take the form of what we call a stipulation, an
24 agreement between the parties that a fact is true, and
25 therefore not necessary to be proved. So evidence may be

1 sworn testimony, might be an exhibit, and it can even be a
2 stipulation.

3 Now, for you, the jury, in the consideration of this
4 evidence, you should remember at all times that under the
5 Constitution of the State of South Carolina, you, and you
6 twelve jurors alone, are the sole judges of the facts in
7 this case. The same law that makes you the same judges of
8 the facts, the jury, in this case, makes me the sole judge
9 of the law. I cannot invade your province and tell you what
10 the facts are, how I feel about the evidence, make any
11 comment to you about the evidence that's going to be
12 presented during the trial of this case, and you should not
13 invade my province and differ with me about what the law is.

14 Everything that I say during the course of this trial
15 is being taken down by my court reporter, Becky Hill, and if
16 I make a mistake as to the law to the detriment of either
17 party, they can appeal the case to an appellate court, and
18 if the appellate court feels that I've made a mistake on the
19 law, they will reverse the case and send it back for a new
20 trial.

21 So don't any of you on the jury worry about whether or
22 not I've told you the law correctly, that is somebody else's
23 worry. That is not your concern. Your job is to accept the
24 law and apply the law exactly as I state it to you during
25 the trial and in my charge to you on the law at the

1 conclusion of the trial.

2 If any of you have any preconceived opinions about what
3 you think the law is or what you feel the law ought to be,
4 you need to put that aside, because you just took an oath
5 from the clerk to accept and apply the law exactly as I
6 state it to you during this trial and at the conclusion of
7 this trial. Your job is not only to take the law as I give
8 it to you, but you must apply it to the facts as you find
9 them to be from the witnesses who testify from this witness
10 stand, any exhibits that may be introduced into evidence,
11 and any stipulations that may occur, and after doing that at
12 the conclusion of the trial, you will render your verdict, a
13 true and just verdict, under that solemn oath which each of
14 you just took from the clerk of court.

15 Now, from time to time during the trial of this case,
16 you're going to probably hear one of the lawyers say, ladies
17 and gentlemen of the jury, something like, "Your Honor, I
18 believe we have a question of law," or "Your Honor, we have
19 a matter of law that we'd like to discuss with you," or I,
20 myself, might ask the lawyers to approach the bench. I
21 might ask you to go to your jury room.

22 Sometimes, I find that it is necessary that you be
23 excused from the courtroom for a little while, while the
24 attorneys and I discuss a matter of law. Now, the reason
25 for this is not what you think. We're not trying to hide

1 anything from you. The reason for this is exactly what I've
2 just told you. You, the jury, are the sole judges of the
3 facts; I'm the sole judge of the law. I can't make any
4 comment to you about the facts, and sometimes, when I'm
5 talking to the attorneys about a matter of law, by
6 necessity, I have to make a comment about the facts in order
7 to rule on whether or not a particular piece of law applies
8 to this case.

9 So the custom in this state when such discussions like
10 that take place, now the first place I'll try to do it is
11 here at the bench so that it doesn't delay you. If I can't
12 do it there, I may have to send you to your jury room in
13 order that I can have a discussion with the attorneys about
14 some matter of law so that you will not be influenced by
15 anything that I might say or do in ruling on whether or not
16 a particular piece of law applies to this case.

17 Since I'm not supposed to tell you or suggest to you
18 what I think the facts are, the practice in this state is to
19 try to excuse you from the courtroom when such discussions
20 take place so that in no way will you be influenced by
21 anything that I might say or do in connection with the
22 facts.

23 And in that connection, let me emphasize to each of you
24 before we begin and tell you that you, the twelve of you
25 alone, are the sole judges of the facts in this matter, and

1 if you should gather at any time from anything that I might
2 say or do during the trial of this case that I have any
3 opinion whatsoever as to the facts in this case, I'm going
4 to ask you now, before we start, to erase that from your
5 mind, because as I've said, you and you alone are the sole
6 judges of the facts as a member of the jury.

7 Now, I'm often asked this question by jurors, "How will
8 I know what the true facts are?" Well, ladies and
9 gentlemen, in determining what the true facts are in this
10 case, you will, of necessity, you will have to pass upon the
11 credibility, or the believability, of the witnesses who are
12 going to take this witness stand.

13 It will be my responsibility as the presiding judge to
14 rule as a matter of law as to whether or not certain
15 testimony is admissible or not, but once I've allowed the
16 testimony to be admitted into evidence, whether or not you
17 as a jury believe the testimony is solely a matter for you,
18 the jury, to determine. It will be your job to pass upon
19 the credibility, or the believability, of the witnesses who
20 will testify during the trial of this case.

21 Now, ladies and gentlemen, in passing upon the
22 credibility, or the believability, of the witnesses, you
23 have the right as a jury to take into consideration the
24 interest of any witness, the bias of any witness, you can
25 take into consideration the opportunity that the witness may

1 have had to observe the matters about which he or she might
2 testify. You can take into consideration the prejudice of
3 any of any witness, you may take into consideration, ladies
4 and gentlemen, what we call the demeanor of the witness.
5 The appearance of the witness while the witness is on the
6 witness stand.

7 Anything that is in evidence, ladies and gentlemen of
8 the jury, you as a jury have the right to consider in
9 passing upon the credibility or the believability of the
10 witnesses who will testify during the trial of this case.

11 And that means, Mr. Foreman, and ladies and gentlemen
12 of the jury, and I cannot emphasize this to you enough, that
13 it is your duty under that sworn oath that each of you took
14 to pay close attention to the witnesses; to listen to the
15 witnesses.

16 Don't let your thoughts wander. Give strict attention
17 to the testimony. So that at the conclusion of all the
18 testimony and after the final arguments of the attorneys,
19 and my charge to you on the law at the conclusion of the
20 case, you will have placed yourself as a juror by listening
21 in a position to determine what the true facts are and apply
22 the law as I charge it to you to be to the facts as you find
23 them to be based on evidence introduced during the trial of
24 the case.

25 Now, you must not consider anything that you may have

1 read or heard about this case outside of this courtroom,
2 whether before or during this trial, and until this case is
3 submitted to you, you must not discuss it with anyone, not
4 even a member of your own family or your fellow jurors. And
5 after I submit it to you, you must discuss it only in your
6 jury room with your fellow jurors.

7 As I told you at the outset, it's very important that
8 each of you keep an open mind and not decide the case until
9 the entire matter has been submitted to you under my
10 instructions at the conclusion of the case when I charge you
11 the law that applies to the case.

12 Now, as I told you, Mr. Foreman, it will be your added
13 duty to preside in the jury room and see that each and every
14 member of my jury has a full and fair opportunity to voice
15 their opinions once deliberations begin. It will also be
16 your job to be the jury spokesperson out here in the
17 courtroom and I will give you instructions about the verdict
18 form and how to fill it out on behalf of the jury.

19 You will sign for the entire jury and date the verdict
20 form and then my law clerk, you will see that he has the
21 indictment in his hand, and he has chased some Foremen down
22 on the grounds of the courthouses in South Carolina, and he
23 does not want to have to chase after you, because he will
24 want you to sign the same thing on the indictment that you
25 do on the verdict form that I will prepare for you.

1 A couple of housekeeping matters, if at any time a
2 member of my jury cannot hear, I will be watching all twelve
3 of you throughout the trial, just raise your hand; that's
4 all you have to do. I can turn the volume up. And as you
5 know, you're going to see, I don't allow the lawyers or
6 people in and out. They're not supposed to be letting
7 people in and out of the courtroom. We try not to have any
8 interference. Why? Because the moment someone walks into
9 this courtroom, what do y'all do? You look to see who it is
10 and you're not paying attention to what's being said by the
11 lawyers in court or the witness; that's why we don't allow
12 interference. They know I don't allow but one lawyer to
13 speak and one lawyer stands at a time. So we've got to keep
14 it quiet. Becky has to do her job and we want you to be
15 able to hear just like we want Becky to be able to hear.

16 If you can't see an exhibit that is in evidence, and
17 the lawyers are famous for this, they will go up there and
18 they know they've got to mark it with the court reporter; it
19 has to have a number, because we keep a record. And they
20 will turn around and they will start talking, walking back
21 to their table. Ms. Legette will want to go over there and
22 talk to Mr. Bennett and, of course, when he turns his back
23 to my court reporter, he's also turning his back on you.
24 She's going to look at me and go (shrugs shoulders) because
25 it sounds like this (talking too soft to hear) and she's got

1 to take that down. So if she can't hear or if she can't
2 see, she's going to let me know. And if you can't see or if
3 you can't hear, raise your hand for me. I want my jurors to
4 be able to hear and to see at all times throughout the trial
5 of the case.

6 Now, Mr. Foreman, we do not normally allow jurors to
7 ask questions out here in the courtroom. If at any time a
8 member of the jury has a question, here is the procedure we
9 have to follow. If you're not already in your jury room, the
10 entire jury, all twelve of you, must retire to the jury
11 room. You will write the question on a piece of paper,
12 knock on the jury door, give it to my bailiff. Mr. Grant
13 will bring it straight out to me. I will then have to rule
14 as a matter of law whether or not the question can or cannot
15 be answered, just as I would any question asked by either
16 one of the attorneys during the trial of the case.

17 Now, I've tried it both ways, ladies and gentlemen, I
18 ask that you do not take notes. Now, you see that I've got
19 a pen in my hand and I've got my notebook. I still love
20 books, and you will see that he makes fun of me, when I walk
21 out into Court, there are the Rules of Court. I have them
22 in a book. He has them on the computer. So when I look
23 things up in a book, he just grins and looks at me like,
24 "Boy, you're old," and he's right, but I still like to hold
25 a book in my hand.

1 I ask that you do not take written notes. Now, you're
2 probably wondering why, because I've tried it both ways.
3 I've found that if a member of the jury takes written notes
4 and makes a mistake in the written notes, the notes can be
5 harmful in your jury room, rather than helpful. The time-
6 tested system is for each of you to listen and listen
7 carefully to the evidence that is going to be presented.

8 Now, I want you to listen to the attorneys, but what
9 the attorneys tell you is not evidence in this case.
10 They're advocates; they work hard to prepare for the case
11 and I want you to listen to them, but you must decide the
12 case solely upon evidence, either testimony, the exhibits,
13 or stipulations introduced during the trial of the case.

14 All right. Ladies and gentlemen, I've told you no cell
15 phones or beepers, because I'm required to confiscate them.
16 I'm going to instruct my bailiffs again that no one comes in
17 or out of this courtroom while opening statements are being
18 made, opening remarks by the judge, or closing arguments by
19 the attorneys, or my charge to you on the law.

20 All right. Ladies and gentlemen, I do not intend that
21 you or anyone else should construe what I've just said to
22 you as a charge on the law, because it hasn't been. We have
23 rules about all kinds of things we do. For instance, I've
24 told you that the state's attorney gives the first opening
25 statement; they have the burden of proof, they present the

1 evidence first. That's why they're going to give the
2 opening statement first. We have a rule for that.

3 I'm going to charge you the law that applies to this
4 case at the conclusion of the trial, after you and I have
5 heard the evidence. This has been merely an attempt on my
6 part to explain to you some of the procedure that we follow
7 in the courtroom in the trial of the case so that you may
8 have a better understanding as to what may be happening as a
9 juror from time to time.

10 Nevertheless, in order to preserve everyone's rights,
11 I'll give the parties an opportunity to object to anything
12 I've said if they have any such objections or exceptions.

13 Any objections or exceptions to the Court's comments to
14 the jury, from the State?

15 ASST. SOL. LEGETTE: No, sir.

16 THE COURT: From the defendant?

17 MR. BENNETT: No objection, Your Honor.

18 THE COURT: Ladies and gentlemen of the jury, we will
19 now begin the trial of this case. Please give the attorneys
20 your careful consideration. Ms. Legette.

21 ASST. SOL. LEGETTE: May it please the Court, Your
22 Honor?

23 THE COURT: Yes, ma'am.

24 OPENING STATEMENT

25 BY ASST. SOL. LEGETTE:

1 Behold, he comes like a thief in the night. The
2 element of surprise was his friend. The cloak and cover of
3 darkness were also his friend and his shield. A 16-year-old
4 boy was his accomplice. His weapon of choice, a knife.

5 Good morning, ladies and gentlemen. This is a case by
6 being welcomed by a thief; welcomed by a thief. The night
7 of January 7th, 2012, Frank and Joan Klem, seated here,
8 drove from Michigan on their way to Florida, and they
9 stopped in the City of Walterboro, the front porch of the
10 Lowcountry. They stopped to rest for the evening. But
11 before they could take that rest, they were welcomed by a
12 thief. That thief, Mack Washington, Jr.

13 Now, I understand that Mack Washington, Jr., is no
14 ordinary thief, because he was bold enough to come with a
15 knife. He was savvy enough to beguile a 16-year-old boy as
16 his helper. And oh, yes, he was smart enough to almost get
17 away with it.

18 But ladies and gentlemen, Mack Washington sits here
19 today before you. Mack Washington, Jr., charged with the
20 armed robbery and kidnapping of Frank and Joan Klem, each
21 have their own separate charge of armed robbery and
22 kidnapping, as well as possession of that knife during the
23 commission of the violent crime of armed robbery.

24 Now, ladies and gentlemen, I said he almost got away
25 with it, but he made a few mistakes. His 16-year-old boy

1 accomplice would be brought in and questioned and that
2 accomplice would cooperate, and he would tell the police how
3 he and Mack Washington robbed Frank and Joan Klem the night
4 of January 7th, held them at knifepoint, kidnapping them,
5 and robbing them of all the possessions they had brought
6 with them, including their car. He would tell how they
7 disappeared into the night in their Chevy Impala.

8 Ladies and gentlemen, Tyheem Lewis would also be
9 brought to justice. Now, ladies and gentlemen, Tyheem Lewis
10 will be here today to speak to you about this case. And not
11 only Tyheem Lewis, but other witnesses will also come before
12 you and they will link Mach Washington, Jr., to these
13 crimes. And ladies and gentlemen of the jury, when all is
14 said and done, and when all the evidence is in, I will come
15 back to you and I'll tell you that you only have one choice,
16 one option, and that option will be to find Mack Washington,
17 Jr., guilty of the armed robbery and kidnapping of Frank
18 Klem, the armed robbery and kidnapping of Joan Klem, and the
19 possession of a weapon during the commission of those
20 crimes. Thank you.

21 THE COURT: Mr. Bennett?

22 OPENING STATEMENT

23 BY MR. BENNETT:

24 Ladies and gentlemen of the jury, first of all, I would
25 like to introduce myself. My name is Everett W. Bennett,

1 Jr. Everybody around here calls me Eddie. I'm originally
2 from St. George, but I now call Walterboro my home. I
3 married a Walterboro girl and usually the wife makes the
4 decision of where you end up living; I think everybody knows
5 that.

6 But I've been practicing law here in Walterboro for a
7 little over 30 years. That tells you a little bit of how
8 old I am. I formerly practiced law for about eight years
9 with Senator J. P. "Preacher" Harrelson, who you may have
10 heard of, and T. K. Alexander. I am now a sole practitioner
11 on my own. Our office is located kind of caddy-corner from
12 the courthouse right on Jefferies Blvd.

13 I'd also like to introduce you guys to my co-counsel in
14 this case, Laurie Sanders. He has worked consistently in
15 this trial and we are both representing our client, Mack
16 Washington, Jr., in this case. When you hear the word
17 defendant in this case, or client, we are talking about Mack
18 Washington, Jr.

19 First of all, I want to tell you that Mack Washington,
20 Jr., our client, has pled not guilty to the charges that he
21 has been indicted for by the State. You've heard a little
22 bit about the indictments, the judge has told you about
23 them, and what he's been charged with. He's been charged
24 with armed robbery, kidnapping, and possession of a weapon
25 during the commission of a violent crime.

1 Now, by Mack Washington pleading not guilty in this
2 case to all of those charges, what that means is he is
3 contesting and he is denying that he was present when this
4 crime was committed at the Rice Planters Inn on January 7th,
5 2012. He's also denying that he participated in any crime
6 and denying that he was present at the crime scene.

7 Now, the State wants you to believe that he was, but he
8 has pled not guilty and is denying it. I want to point out
9 to you, and the judge has already given you information that
10 is good information on the law, and I might reiterate some
11 things that the judge has told you. If anything I tell you
12 contradicts with what Judge Buckner told you, his
13 explanation supersedes mine, because he is the trier of the
14 law. He's in charge of the law in this case, and you are
15 what we call the trier of the facts in this case.

16 But what I want you to understand is that Mack
17 Washington, he's over here, he doesn't have to prove
18 anything in this case. He doesn't have to prove his
19 innocence. He doesn't have to disprove the charges that
20 he's been indicted for. He doesn't have to prove that he
21 wasn't there when the crime was committed. He doesn't have
22 to prove that he didn't participate in the crime. The burden
23 of proof is on the State. The State has to prove all
24 elements of all crimes that a defendant has been charged
25 with beyond a reasonable doubt in order to convict the

1 defendant of those crimes. And we're contending that they
2 cannot do that in this case.

3 You know, you're going to hear at the end of this case
4 a bunch of jury charges from Judge Buckner and then you're
5 going to apply that to the facts. You know, your job is to
6 find the facts, based on evidence introduced during the
7 trial of this case, based on your common sense, your
8 experiences. That's why you're here, to determine what the
9 facts are in this case.

10 What we're going to tell you from our side, you know,
11 we do not believe that the State can prove all the necessary
12 elements of the crimes that our client has been charged
13 with.

14 Now, I will tell you this at this point, a defendant in
15 a criminal case -- in any criminal case; not just this one.
16 A defendant doesn't have to take the stand and testify;
17 that's optional. He can if he wants to, but he doesn't have
18 to. Whether or not he does or doesn't, it cannot be held
19 against him.

20 He also has the option, if he wants to, the option to
21 present witnesses, other than himself. That's his option;
22 he doesn't have to. And why is that? Well, I've already
23 told you. He doesn't have to. The burden of proof is on
24 the State.

25 Let me tell you a little bit -- first, I want to thank

1 all of you jurors for being here and taking your valuable
2 time and doing your civil duty and service by serving as
3 jurors, because our legal system of justice couldn't operate
4 without good people like you to be willing to serve as
5 jurors in this case.

6 I want to tell you that you're going to hear a lot of
7 testimony in this case from various witnesses. There will
8 be certain evidence that the State is going to introduce or
9 attempt to introduce. You're going to hear a lot of varying
10 probably -- in any criminal trial, you're generally going to
11 hear varying testimony, sometimes conflicting testimony.

12 One thing I want you to keep in mind is that you have
13 to determine, as jurors, the credibility of these witnesses,
14 which means, credibility, are they telling the truth? You,
15 as jurors, that's your job. Now, one thing I want you to
16 keep in mind as part of that process, you have to consider
17 whether the witness may be possibly biased or prejudiced.
18 Now, what does that mean? Well, does a particular witness
19 who takes the stand in this case, does he have anything to
20 gain by testifying in a particular way? Does he have
21 anything to lose by not testifying in a particular way?

22 Now, I will tell you at this time that the State -- a
23 number of the State's witnesses in this case may have
24 something to gain or lose by their testimony. When we say
25 gain or lose, that can be if the State has promised any type

1 of leniency to a witness. If they have past or pending
2 charges or anything of that nature, that could be a reason
3 why a witness may be biased or prejudice.

4 Also, I will tell you that if any of the witnesses who
5 take the stand, if they've been convicted in the past of
6 certain crimes, then we can certainly introduce that as
7 evidence to impeach that witness's credibility.

8 The one thing I wanted to -- the key issues in this
9 case, which I contend, in my opinion, will be issues of
10 identification and credibility. I want to point out, too,
11 that anything the assistant solicitor told you in her
12 opening statement, or anything that I tell you in my opening
13 statement, it's not evidence. It's just our opinion,
14 sometimes our contention, of what we feel like is the
15 important evidence and key issues in the case, but it's not
16 actually evidence. The evidence has to come from the
17 witness stand here.

18 Now, there are some things in this case that are
19 undisputed. There's no contest about. There is no doubt
20 about. What is undisputed in this case? Well, there is no
21 doubt that the Klems, I think it's Joan Klem and Frank Klem
22 who are the victims in this case, there's no doubt that they
23 were robbed at The Rice Planters Inn on January 7th, 2012,
24 shortly before midnight.

25 There is no doubt they were traveling from Michigan to

1 Florida; they were tourists. There is no doubt that The
2 Rice Planters Inn is located near I-95 in Walterboro, in
3 Colleton County. They were robbed by two black males is
4 what they said in their prior statements.

5 However, what is also uncontested or indisputable, no
6 contest, neither Joan Klem nor Frank Klem could identify who
7 robbed them. They never identified. They didn't know who
8 robbed them. They couldn't identify them. They didn't know
9 them, so all they could say was it was two black males.
10 Automatically, you know, that puts the identity of the two
11 perpetrators at issue. And we contend, and of course, I've
12 already told you my client has pled not guilty. So that is
13 basically saying that he was not one of the two black male
14 robbers. Now, how many potential suspects could there be in
15 Colleton County? Two black male robbers? I would contend
16 numerous.

17 Now, the one thing that the State and I don't think you
18 heard the assistant solicitor talk about it, because she
19 doesn't have it, is there is no forensic evidence
20 whatsoever. When I say forensic evidence, we're talking
21 about fingerprints, DNA evidence, possibly surveillance
22 cameras, which we see a lot of now on TV and in the crime
23 shows that you watch. There is absolutely no forensic
24 evidence in the form of fingerprints, DNA, any kind of
25 cameras or anything that places my client, Mack Washington,

1 at The Rice Planters Inn shortly before midnight on January
2 7th, 2012. The State does not have any of that type of
3 evidence.

4 Now, the other thing that is undisputed, the State
5 contends, they allege that one of the black male robbers had
6 a knife. However, it is interesting to note that no knife
7 has been recovered and no knife will be introduced into
8 evidence because the State does not have a knife. But now,
9 they are going to allege that this happened, but that's
10 something that you need to keep in mind that you're not
11 going to see a knife.

12 One of the things that -- and we're going to talk more
13 about this at the end of the trial, but one of the
14 requirements for someone to be convicted of armed robbery is
15 they either have to possess a knife or some other deadly
16 weapon; it can be a gun or what have you, but in this case
17 they are saying a knife, but they have to be in possession
18 or either represent or indicate in some way that they have a
19 deadly weapon in order for them to be convicted of armed
20 robbery. In this case, if somebody robbed somebody and they
21 don't have a weapon, that's strong armed robbery, which is
22 common law robbery.

23 THE COURT: Counsel approach.

24 (Whereupon, a bench conference is held off the record
25 and out of the hearing of the jury.)

1 THE COURT: Proceed.

2 BY MR. BENNETT:

3 Ladies and gentlemen of the jury, we do not believe in
4 this case that my client -- one of the charges that he's
5 been convicted of is possession of a weapon during the
6 commission of a violent crime.. We certainly contend and do
7 not believe that the State can prove that beyond a
8 reasonable doubt because there has never been a knife
9 recovered in this case.

10 One thing I do want to tell you that the defendant does
11 -- he does admit, and you're going to hear a lot of
12 testimony about it. We're going to tell you what he does
13 admit in this case and what he doesn't deny. He doesn't
14 deny that he received some of the goods and possessions that
15 were stolen on January 7th from Frank and Joan Klem at The
16 Rice Planters Inn.

17 As the jury well knows, and we contend, and from your
18 common sense and general knowledge, if somebody commits a
19 robbery, most of the time they rob somebody of items, they
20 generally do that so they can sell them, trade them, or
21 barter these items so they can get cash or goods or whatever
22 in return. Just because somebody receives stolen goods that
23 were taken from somebody during a robbery doesn't mean that
24 they were guilty of the robbery.

25 And, in fact, in South Carolina, the State cannot

1 attempt to convict somebody of both robbery and of receiving
2 stolen goods, because you can't be convicted of both under
3 South Carolina law; it's clear. The State has to elect.
4 Now, in this particular case, based on some pretrial motions
5 where I made a motion to elect ---

6 ASST. SOL. LEGETTE: Your Honor, may we approach?

7 THE COURT: Counsel approach.

8 (WHEREUPON, A BENCH CONFERENCE IS HELD OFF THE RECORD
9 AND OUT OF THE HEARING OF THE JURY.

10 THE COURT: Objection sustained. Proceed.

11 BY MR. BENNETT:

12 In wrapping up, ladies and gentlemen of the jury,
13 you've already heard Asst. Solicitor Legette talk about
14 Tyheem Lewis, who she intends to present as a witness in
15 this case. I just ask you to pay particular attention to
16 the possible bias or prejudice that may come through this
17 witness through possible promises of leniency from the
18 State, you know, based upon his cooperation, because we
19 certainly believe that, or we contend that his testimony
20 could be tainted by the possible bias and prejudice in this
21 way.

22 In final argument, I would just ask you all to pay
23 close attention to all of the evidence in this case. Use
24 your common sense in the jury room. Use your past
25 experiences. And we believe, once you receive all of the

1 evidence, that it will be clear that the State has not
2 proven, and cannot prove, all the elements of the charges
3 that my client has been indicted for, and we believe that as
4 your ultimate job is in this case is to reach a verdict that
5 speaks the truth. We believe that you will unanimously
6 reach a verdict of acquittal, which we contend would speak
7 the truth in this case. Thank you.

8 THE COURT: Call your first witness.

9 MS. HENDERSON: The State calls Monique Boatwright,
10 Your Honor.

11 THE COURT: Monique Boatwright. Is she in the Clerk's
12 room?

13 ASST. SOL. HENDERSON: She is in the Clerk's conference
14 room, Your Honor.

15 MADAME CLERK: Please come forward and be sworn.

16 (Whereupon, Ms. Monique Boatwright, is duly sworn.)

17 THE COURT: Please make yourself comfortable. Pull
18 that chair up. Adjust that microphone. It's going to
19 amplify your voice. I'd like for you to begin by stating
20 your full name for the record and spelling your last name
21 for the court reporter.

22 MS. BOATWRIGHT: Monique Boatwright, B-O-A-T-W-R-I-G-H-
23 T.

24 THE COURT: Very well. Your witness, counsel, direct
25 examination.

1 ASST. SOL. HENDERSON: Thank you, Your Honor. May
2 it please the Court?

3 DIRECT EXAMINATION

4 BY ASST. SOL. HENDERSON:

5 Q Ms. Boatwright, where do you work?

6 A Walterboro Police Department.

7 Q How long have you worked there?

8 A Seven years.

9 Q And what are some of your duties at the Walterboro
10 Police Department?

11 A 9-1-1 dispatcher, answer phones.

12 Q And were you working there on January 7th, 2012?

13 A Yes.

14 Q And do you remember taking a call regarding an armed
15 robbery that night?

16 A Yes.

17 Q Can you please tell the jury what the call was
18 regarding?

19 A An armed robbery.

20 Q I'm sorry; where was it located?

21 A At Rice Planters.

22 Q And where is Rice Planters now?

23 A On Sniders Highway.

24 Q And what was the call in reference to? I know you said
25 an armed robbery, but what were they requesting?

1 A To send the police.

2 Q Did you do that?

3 A Yes.

4 Q And in making these phone calls, is it proper to make a
5 contemporaneous recording of them?

6 A Yes.

7 Q Was that done in this case?

8 A Yes.

9 ASST. SOL. HENDERSON: Permission to approach the
10 witness, Your Honor?

11 THE COURT: You may.

12 Q Ms. Boatwright, I'm handing you what's been marked as
13 State's Exhibit One for purposes of identification. Do you
14 recognize that?

15 A Yes.

16 Q And how are you able to recognize that?

17 A I signed and dated it.

18 Q And does that mean that you did listen to it?

19 A Yes.

20 Q And what is that?

21 A A recording of the 9-1-1 tape.

22 Q And has it been altered or changed in any way?

23 A No.

24 Q Thank you.

25 ASST. SOL. HENDERSON: Your Honor, at this time, the

1 State would ask to have State's Exhibit One moved in
2 evidence.

3 THE COURT: As to State's One?

4 MR. BENNETT: No objection.

5 THE COURT: Ladies and gentlemen of the jury, State's
6 Exhibit One will be admitted into evidence in the trial of
7 this case without objection.

8 (WHEREUPON, STATE'S EXHIBIT NUMBER ONE, 9-1-1 AUDIO CD,
9 IS RECEIVED INTO EVIDENCE.)

10 THE COURT: State's Exhibit Number One is now in
11 evidence. You may publish to the jury.

12 ASST. SOL. HENDERSON: Thank you, Your Honor.

13 (Whereupon, State's Exhibit Number One, 9-1-1 audio CD
14 is played for the jury. Audio begins at 9:55 a.m.; audio
15 ends at 9:58 a.m.)

16 ASST. SOL. HENDERSON: Nothing further from the State,
17 Your Honor.

18 THE COURT: Cross-Examination.

19 MR. BENNETT: May it please the Court, Your Honor?

20 THE COURT: Mr. Bennett.

21 CROSS-EXAMINATION

22 BY MR. BENNETT:

23 Q How are you doing today?

24 A I'm okay.

25 Q How long have you been a dispatcher?

1 A Seven years.

2 Q All right. And that's all at the Walterboro Police
3 Department?

4 A Yes.

5 Q When this call came in, was there ever any mention of a
6 kidnapping?

7 A I'm not aware.

8 Q Okay. Isn't it true that the only thing that was
9 mentioned was a robbery or an armed robbery when the call
10 came in?

11 A Yes.

12 Q Okay. And did you know the person who called you?

13 A No.

14 Q And did they say that three people had robbed the
15 guests at The Rice Planters Inn?

16 A Yes.

17 Q Okay. But they didn't know who it was, right?

18 A No.

19 Q And nobody told you who was robbed or who robbed them?

20 A No.

21 Q They just told you it was three people?

22 A Yes.

23 Q And did they say two black males, but three people?

24 Was that how it was reported to you?

25 A I'm unsure.

1 Q Okay. That's all I have.

2 THE COURT: Redirect?

3 ASST. SOL. HENDERSON: None, Your Honor.

4 THE COURT: As to this witness?

5 ASST. SOL. HENDERSON: She may be excused.

6 THE COURT: Any objection, Mr. Bennett?

7 MR. BENNETT: No objection, Your Honor.

8 THE COURT: Ms. Boatwright, you may step down from the
9 witness stand and you're excused from the trial of this
10 case. Call your next witness.

11 ASST. SOL. HENDERSON: Your Honor, the State calls Ms.
12 Bobbie Jo Retterer.

13 MADAME CLERK: Please come forward and be sworn. Raise
14 your right hand and place your left hand on the Bible.

15 (Whereupon, Ms. Bobbie Jo Retterer, is duly sworn.)

16 MADAME CLERK: Please have a seat on the witness stand.

17 THE COURT: Good morning. Watch your step. Have a
18 seat. Now, pull that microphone toward you. It's going to
19 amplify your voice. Please state your full name and spell
20 your last name for my court reporter.

21 MS. RITTERER: Bobbie Jo Retterer, R-E-T-T-E-R-E-R.

22 THE COURT: Your witness, counsel.

23 ASST. SOL. HENDERSON: May it please the Court, Your
24 Honor?

25 DIRECT EXAMINATION

1 BY ASST. SOL. HENDERSON:

2

- 1 Q Ms. Retterer, where are you from?
- 2 A Ohio.
- 3 Q How long have you been in Walterboro?
- 4 A Five years.
- 5 Q Where do you work?
- 6 A Rice Planters Inn.
- 7 Q How long have you held that job?
- 8 A Since November of 2010.
- 9 Q And what do you do there?
- 10 A I'm the front desk clerk.
- 11 Q And as the front desk clerk, do you check people into
- 12 the hotel?
- 13 A Yes, ma'am.
- 14 Q And were you working there on January 7th, 2012?
- 15 A Yes, ma'am.
- 16 Q Let me back up real quick.. Where is the Rice Planters
- 17 Inn located?
- 18 A At exit 53, on the other side of Walterboro.
- 19 Q And you said you were working on January 7th, 2012?
- 20 A Yes, I was.
- 21 Q Did you meet Mr. and Mrs. Klem that night?
- 22 A Yes, ma'am.
- 23 Q And can you please tell the jury what room you assigned
- 24 them.
- 25 A Room 130.

1 Q And tell the jury a little bit about room 130. Where
2 is it located at the hotel?

3 A It's at the far end of the main building of the hotel,
4 which is the furthestest away from the office. All the way
5 down there at the end by the -- where they have the trash
6 cans. There's trees and things down there. It's behind a
7 set of stairs.

8 Q Is it a well-lit area?

9 A It's probably the least well lit of all of the areas in
10 the whole place. The parking lot is pretty well lit. We
11 have a lot of lights and there are lights beside every room,
12 but compared to other rooms, it's probably the least well
13 lit.

14 Q Was that your first choice of room for the Klems?

15 A That was the only room I had left on the ground floor,
16 and being as they were elderly, I didn't feel that I should
17 put them upstairs as we didn't have an elevator.

18 Q And do you remember what time they checked in?

19 A It was late, almost time for shift change. Almost
20 midnight, I'm gonna guess, after 11:00.

21 ASST. SOL. HENDERSON: Permission to approach the
22 witness, Your Honor.

23 THE COURT: You may.

24 Q Ms. Retterer, I'm going to hand you what's been marked
25 for identification as State's Exhibit Two. Do you recognize

1 that?

2 A Yes, ma'am.

3 Q And what is it?

4 A It is a copy of the registration card.

5 Q And does it appear to have been altered or changed in
6 any way?

7 A No.

8 ASST. SOL. HENDERSON: Your Honor, at this point, the
9 State would move to have State's Exhibit Number Two entered
10 into evidence.

11 THE COURT: Any objection? Do you want to see it?

12 ASST. SOL. HENDERSON: I apologize, Mr. Bennett.

13 MR. BENNETT: No objection, Your Honor.

14 THE COURT: Ladies and gentlemen of the jury, State's
15 Exhibit Number Two, will be admitted into evidence in the
16 trial of this case.

17 (WHEREUPON, STATE'S EXHIBIT NUMBER TWO, REGISTRATION
18 INFORMATION, IS RECEIVED INTO EVIDENCE.)

19 Without objection, State's Exhibit Number Two is in
20 evidence. You may publish.

21 ASST. SOL. HENDERSON: Thank you, Your Honor.

22 Permission to approach the witness, again, Your Honor?

23 THE COURT: Yes, you may.

24 Q Ms. Retterer, I'm also going to hand you what's been
25 marked for purposes of identification, State's Exhibit

1 Three; do you recognize that?

2 A Yes, ma'am. Credit card receipt.

3 Q And does it appear to have been altered or changed in
4 any way?

5 ASST. SOL. HENDERSON: Let me show it to Mr. Bennett,
6 Your Honor.

7 THE COURT: You're offering it in evidence?

8 ASST. SOL. HENDERSON: Yes, Your Honor.

9 THE COURT: As to State's Exhibit three, Mr. Bennett?

10 MR. BENNETT: No objection, Your Honor.

11 THE COURT: Ladies and gentlemen of the jury, State's
12 Exhibit Three will be admitted in the trial of this case
13 without objection.

14 (WHEREUPON, STATE'S EXHIBIT NUMBER THREE, CREDIT CARD
15 RECEIPT, IS RECEIVED INTO EVIDENCE.)

16 State's Exhibit Three is now in evidence. You may
17 publish..

18 Q Mr. Retterer, can you tell me what name is on that
19 credit card receipt?

20 A Joan Klem.

21 Q Thank you.

22 A You're welcome.

23 Q Can you please tell me the time on that credit card
24 receipt?

25 A The time is 34 minutes after midnight, January 8th,

1 2012.

2 Q Thank you.

3 THE COURT: Counsel, put my exhibit back on my court
4 reporter's; not on your table.

5 Q Ms. Retterer, was the credit card machine running on
6 the proper time that night?

7 A No, ma'am. They don't change the time when the time
8 changes in the Fall, so it's always an hour off.

9 Q Okay. So it was actually 11:34 that night when the
10 credit card was swiped?

11 A Yes.

12 Q And what happened shortly after check-in?

13 A Mr. Klem came back to the office and said they had been
14 robbed at knifepoint, someone had shoved him into his room -
15 - he had gone out to his car to bring something in, and
16 somebody had shoved him into his room and took the phone and
17 threw it out of the room and took their car keys and stole
18 their car.

19 Q And what did he ask you to do?

20 A Call the police.

21 Q And did you do that?

22 A Yes, ma'am. I called 9-1-1.

23 Q And when they arrived, did you speak to the police?

24 A Yes.

25 Q And what was the demeanor of Mr. and Mrs. Klem when you

1 saw them after the robbery?

2 A Agitated.

3 Q And what did you do as a result of the robbery? Did
4 you change their room or anything?

5 A Yes, ma'am. We put them upstairs.

6 Q And did you see them anymore before they left
7 Walterboro?

8 A The next day, they were still there. They were waiting
9 for their son to come and get them and Mr. and Mrs. Klem
10 came down to the office and were talking with me for a
11 little while. She was still very upset, almost accused me
12 of putting them in that room so that they would be robbed.
13 But as we talked and went on a little while longer, she
14 calmed down and they just waited until their son came and
15 got them and took them home.

16 Q And did you have anything to do with this robbery?

17 A No.

18 Q Is there surveillance footage of that room?

19 A No, ma'am.

20 Q Are there surveillance cameras at The Rice Planters
21 Inn?

22 A In front of the office, two in the office, and one in
23 the laundry room.

24 Q Okay. So is there a camera anywhere on the grounds
25 that face that direction?

1 A No, ma'am.

2 ASST. SOL. HENDERSON: Beg the Court's indulgence, Your
3 Honor.

4 THE COURT: Yes, ma'am.

5 Q Ms. Retterer, what county is The Rice Planters Inn
6 located?

7 A Colleton.

8 Q Thank you.

9 ASST. SOL. HENDERSON: No further questions, Your
10 Honor.

11 THE COURT: Cross-examination.

12 MR. BENNETT: May it please the Court?

13 THE COURT: Yes.

14 CROSS-EXAMINATION

15 MR. BENNETT:

16 Q Ms. Retterer, when this robbery was reported to you --
17 was it reported to you as a robbery?

18 A I'm sorry?

19 Q How was it reported to you?

20 A He said that somebody had come into his room and stole
21 his car, held a knife to him.

22 Q Now, did they ever tell you how many people were
23 involved?

24 A I believe he said three.

25 Q Three?

1 A I believe so.

2 Q So when you called the -- you made the call to 9-1-1?

3 A I did.

4 Q All right. So you told them were three subjects
5 involved in the robbery; is that right?

6 A I did.

7 Q And you also said two black males were involved; is
8 that right?

9 A I don't exactly remember all of my words. Whatever he
10 told me is what I told them.

11 Q All right. Did the Klems -- were they able to identify
12 who had robbed them in any way?

13 A I don't know. I think they had masks on.

14 Q That was all they said?

15 A I think so.

16 Q Did you ever fill out any kind of report?

17 A Not that I remember.

18 Q So you -- is The Rice Planters Inn, has it ever been
19 robbed on any other occasion other than on January 7th?

20 A Not when I was working; not to my knowledge.

21 Q So there is no protocol that you're aware of, that you
22 have to fill out a report if someone is robbed?

23 A Since then they have asked us if anything has happened,
24 any sort of incident at all, that we write down everything
25 immediately.

1 Q Now, do you know Mack Washington, my client seated
2 here?

3 A No, I don't.

4 Q Okay. Have you ever seen him at the Rice Planters Inn?

5 A Not that I can remember.

6 Q And on the date -- the evening -- or the date that this
7 robbery occurred on January 7th, 2012, did you see my
8 client, Mack Washington, out there at any time on that day?

9 A No.

10 Q And did -- to your recollection, did the Klems ever
11 tell you they had been kidnapped?

12 A No.

13 Q And isn't it true they just told you that they were
14 robbed?

15 A Yes.

16 MR. BENNETT: That's all I have, Your Honor.

17 THE COURT: Redirect?

18 ASST. SOL. HENDERSON: Briefly, Your Honor.

19 REDIRECT EXAMINATION

20 BY ASST. SOL. HENDERSON:

21 Q Ms. Retterer, can you see the room that you assigned
22 the Klems from your front desk?

23 A No.

24 ASST. SOL. HENDERSON: No further questions, Your
25 Honor.

1 THE COURT: Recross, limited to redirect.

2 MR. BENNETT: I have no further questions, Your Honor.

3 THE COURT: As to this witness?

4 ASST. SOL. HENDERSON: She may be excused from the
5 trial, Your Honor.

6 THE COURT: Any objection, Mr. Bennett?

7 MR. BENNETT: No objection, Your Honor.

8 THE COURT: Very well. Ms. Retterer, you may step down
9 and you are excused from the trial of this case. You may
10 leave the courtroom.

11 (Witness leaves the courtroom.)

12 THE COURT: Call your next witness.

13 ASST. SOL. LEGETTE: The State calls Joan Klem to the
14 stand.

15 MADAME CLERK: Please come forward to be sworn. Place
16 your left hand on the Bible and raise your right.

17 (Whereupon, the witness, Ms. Joan Klem, is duly sworn.)

18 MADAME CLERK: Thank you. Please have a seat on the
19 witness stand.

20 MS. KLEM: Okay.

21 THE COURT: State your full name and spell your last
22 name for the court reporter.

23 MS. KLEM: Joan Klem, K-L-E-M.

24 THE COURT: Thank you. Your witness, counsel.

25 DIRECT EXAMINATION

1 ASST. SOL. LEGETTE:

2 Q Good morning, ma'am.

3 A Good morning.

4 Q Now, Ms. Klem, where are you from?

5 A Michigan.

6 Q And have you ever lived anywhere else besides Michigan?

7 Like, where are you originally from?

8 A Pennsylvania.

9 Q Okay. And what particular county in Michigan do you
10 live in?

11 A Wayne County.

12 Q Okay.

13 MR. KLEM: No, excuse me. It's Fulton County.

14 THE COURT: Sir, hold on one second. I understand that
15 this is your wife, but you can't answer questions for her or
16 blurt out.

17 MR. KLEM: I'm sorry.

18 THE COURT: We have to accept her answers. She is the
19 one under oath.

20 Q I'm sorry. Ms. Klem, what city do you live in, in
21 Michigan?

22 A White Lake, Michigan.

23 Q Okay. Now, Ms. Klem, are you married?

24 A Yes.

25 Q And who are you married to?

1 A Frank.

2 Q Is he present in Court?

3 A Yes.

4 Q Is that him sitting there? (Indicating in the
5 courtroom.)

6 A Yes.

7 Q Okay. Ms. Klem, how long have you and Mr. Klem been
8 married?

9 A For 60 years.

10 Q Okay. And during that period of time, what has been
11 your job? What did you do for a living?

12 A I was, for the most part, just a homemaker, and at the
13 beginning, I did some hairdressing.

14 Q Okay. So you were a hairdresser and you were a
15 homemaker. Do y'all have any kids?

16 A Six.

17 Q Okay. So you took care of the kids?

18 A I did.

19 Q Yes, ma'am.

20 A We did.

21 Q All right. So you had six children. What did Mr. Klem
22 do for a living?

23 A He's a builder.

24 Q Okay. Now, Ms. Klem, I really hate to ask you this,

25 and I've always been told don't ask people their age, but I

1 want to ask you, how old are you?

2 A I'm 80 years old.

3 Q You're 80, okay. Now, you said you had six children.

4 Can you tell us were they girls or boys?

5 A We have four boys and two girls.

6 Q And are they all still alive?

7 A No, our son, Eric, passed away.

8 Q Okay. Now, Ms. Klem, do you have any grandchildren?

9 A Yes, we have grandchildren and great-grandchildren and
10 one great-great granddaughter.

11 Q Okay. Are you all right? Do you need some tissue? I
12 can get you some.

13 A I'm all right.

14 Q All right. So you have some great-grandchildren,
15 grandchildren, and a great-great-grandchild?

16 A Yes.

17 Q All right. I want to make sure I've got it right. Do
18 you have any pets?

19 A We have a dog.

20 Q All right. And what kind of dog is it?

21 A A shih Tzu.

22 Q And what's her name?

23 A Cookie.

24 Q Now, Ms. Klem, let's go back to January of 2012. Do
25 you remember January of 2012?

1 A Yes.

2 Q Okay. Did you come to South Carolina during that period
3 of time?

4 A Yes, we did.

5 Q Okay. And why were you coming to South Carolina?

6 A We were going to Florida.

7 Q And tell us why you were going to Florida.

8 A Pardon me?

9 Q Why were you going to Florida?

10 A We winter in Florida. We had a place in Florida.

11 Q Okay. When you say "winter in Florida," what does that
12 mean?

13 A Well, we would go down for the winter to Florida.

14 Q Okay. Is it cold in Michigan?

15 A Very.

16 Q Okay. And what is the weather like there now?

17 A It's very cold.

18 Q And did you drive from Michigan this week?

19 A Yes.

20 Q Okay. Now, when you say you would winter in Florida,
21 does that mean that you would stay -- how long would you
22 stay in Florida?

23 A Oh, any number. We would go down in January and
24 sometimes we would come back in March or April.

25 Q So you would stay several months?

1 A Yes.

2 Q Okay. Now, January 2012, you were headed to Florida?

3 A Right.

4 Q Okay. So what did you pack? Did you pack any items to
5 sustain you while you were in Florida?

6 A Well, we packed a lot. The car was full, because we're
7 going to be there for so long. So we pack quite a lot of
8 things.

9 Q Okay. What kind of things do you pack, if you don't
10 mind me asking?

11 A Mostly clothes, sometimes golf clubs, and we were
12 bringing down two guns for my son.

13 Q Okay. So what kind of guns were they? Were they short
14 guns or long guns?

15 A They were rifles.

16 Q Okay. Did you pack any food?

17 A We pack some to snack on, on the way down.

18 Q Okay. Did you have Cookie, the Shih Tzu? Did you have
19 her with you, also?

20 A Yes.

21 Q So you left Michigan; you had your car full. What kind
22 of car was it?

23 A An Impala.

24 Q What color was the Impala?

25 A It was like a creamy white.

1 Q Creamy white, okay. So you left Michigan, you headed
2 to Florida. What happened along the way? Did you stop
3 somewhere?

4 A Yes, we stopped at the Rice Planters.

5 Q Okay. And is the Rice Planters in Walterboro, South
6 Carolina?

7 A Yes.

8 Q So did anything -- well, let's talk about the Rice
9 Planters Inn. Do you remember what happened at the Rice
10 Planters?

11 A Yes, I do.

12 Q Can you tell us what happened?

13 A Well, we were robbed.

14 Q Okay. Tell us about that. What did you do, first?
15 Did you check in with the hotel clerk, first?

16 A Yes, we checked in and I was taking the dog out to the
17 side there; there was a little place that I could walk her.
18 And my husband was moving the car, and when we came in,
19 these two men were at the door. They just sort of filled up
20 the doorway. They didn't have masks on at all, but they
21 were making faces, all kinds of faces, so that threw us off
22 guard. We thought it was a joke or something, because of
23 the way they were behaving. The next thing I knew, the one
24 had me around the waist and he had a knife, and the other
25 one was shouting instructions like, "We want your wallet,

1 your purse and your car keys, or we'll kill her," is what he
2 said.

3 Q Okay. Ms. Klem, so when you say he had you around the
4 waist, did he have any weapons?

5 A He had the knife.

6 Q And where was the knife?

7 A He was holding it out where I could see it. It was
8 always in my view. It was a regular kitchen knife.

9 Q When you say "regular kitchen knife" ---

10 A The wide blade -- I don't know.

11 Q Like a butcher knife?

12 A I don't know if it's called a butcher knife, but it's
13 the wide blade when you put your knife in the holder. It's
14 the wide one.

15 Q So was it pretty long from what you could tell?

16 A Yeah.

17 Q The big one?

18 A Yeah, well, it's the big knife in your kitchen.

19 Q Okay. The big knife in that knife box?

20 A Yes.

21 Q Okay. So one of them had you by the waist and he had
22 the knife?

23 A Yes.

24 Q And you said they said, "We'll kill her"?

25 A Yes. If my husband didn't comply, they said they would

1 kill me.

2 Q Okay. Did you believe them?

3 A No, I don't think so. I think I would have fainted if
4 I had believed them, but maybe it was because he didn't hold
5 the knife right to my throat. He held it out in front of me
6 where I could see it.

7 Q Okay. But he held the knife so you could see it?

8 A Yes.

9 Q Okay. Now, Ms. Klem, he had you by the waist, you
10 said?

11 A Yes.

12 Q Were you free to leave?

13 A No.

14 Q Okay. Could you get away?

15 A No.

16 Q All right. So in other words, you were confined, or
17 you were seized by him?

18 MR. BENNETT: Your Honor, I would object. I think this
19 is certainly leading.

20 THE COURT: Sustained. Direct examination. Ask direct
21 questions. Don't suggest an answer.

22 Q Ms. Klem, were you able to get away from him?

23 A No.

24 Q Okay. Now, when the robber told you and Mr. Klem to
25 give him all of your possessions, what did Mr. Klem do?

1 A He put them down on the bed and they took them and
2 left.

3 Q Okay. Did they take anything else while they were in
4 the room, that you recall?

5 A They took his wallet, my purse, and the car keys.

6 Q Okay.

7 A And the phone. They pulled the phone out.

8 Q You mean the phone for the hotel room?

9 A Yeah.

10 Q Okay. So once they took all of these items, your
11 purse, Mr. Klem's wallet, car keys and the phone, what
12 happened next? Did they leave?

13 A Yes. They took off running and immediately got in the
14 car and left.

15 Q Okay. Now, did you know these people? These two men,
16 did you know them?

17 A No.

18 Q Okay. Now, once they left, did either of you go and
19 talk to anyone?

20 A Well, Frank went up to call the police. He ran up to
21 the office, which was quite a distance, and I followed him
22 up there a little later.

23 Q Now, where was Cookie, your dog, during this whole
24 period?

25 A I don't even know. She was just so quiet, but when we

1 went up to the office, I took her with me.

2 Q Okay.

3 A I had a leash.

4 Q Is she always quiet?

5 A No. She's a yappy dog.

6 Q So was it unusual for her to be quiet during this?

7 A Yes, absolutely. I was surprised.

8 Q Okay. So what does that suggest to you?

9 A She was frightened.

10 Q Okay. So you went to the office. I want to ask you,
11 how old is Mr. Klem?

12 A He is 85.

13 Q Okay. And you went up to the office and you talked to
14 -- or Mr. Klem talked to the hotel clerk?

15 A Right.

16 Q Now, when the robbers, after they had taken all the
17 things that you owned -- well, did they leave you with
18 anything? Let me ask you that question.

19 A We had an overnighter.

20 Q Okay. So you did have one thing.

21 A Yeah, we had some clothes in there.

22 Q But everything else was taken?

23 A Yes.

24 Q Okay. So you went and told the hotel clerk what
25 happened and what happened after that?

1 A What did we do after?

2 Q Yes, ma'am. Did you talk to anyone else? Did the
3 police come out?

4 A The police came, yes.

5 Q Did you tell them what happened?

6 A Yes.

7 Q Okay. What did you do next? Did you stay at the hotel
8 that night or did you go anywhere else?

9 A No, no. We waited until my son who lived in Florida
10 came and got us. Took us to our place in Florida.

11 Q So you had to wait for your son to come and get you?

12 A Yes.

13 Q Okay. Ms. Klem ---

14 A (Witness coughing.)

15 Q Do you need some water?

16 A Yes.

17 THE COURT: Here you go.

18 MS. KLEM: Thank you.

19 Q Ms. Klem, did you ever get any of your items back? Was
20 anything ever recovered?

21 A Our clothes.

22 Q Okay. You got your clothes back. Anything else?

23 A The guns.

24 Q Okay. Now, Ms. Klem, during the robbery, did you ever
25 feel like you were not free to leave?

1 A Yes. We were not free to leave.

2 Q So you felt like -- did you feel like Mr. Klem was free
3 to leave?

4 A No.

5 Q Okay. Ms. Klem, just briefly, before you got to The
6 Rice Planters Inn that night, did you stop at any other
7 location prior to going to Rice Planters?

8 A The one before it, and they were filled; just before
9 The Rice Planter. I think there was a little viaduct you
10 come over and then there's The Rice Planter, and they were
11 almost full, too.

12 Q So you did go to another hotel that was full before you
13 went to Rice Planters?

14 A Yes.

15 ASST. SOL. LEGETTE: Beg the Court's indulgence.

16 Q Ms. Klem, thank you. Please answer any questions from
17 Mr. Bennett, please.

18 A Okay.

19 MR. BENNETT: May it please the Court?

20 CROSS-EXAMINATION

21 MR. BENNETT:

22 Q Ms. Klem, you said the robbers were not wearing masks?

23 A No, they didn't.

24 Q Did you report the incident or -- did you talk to the
25 hotel clerk at all or just your husband?

1 A My husband did.

2 Q Just him?

3 A Uh-huh (affirmative).

4 Q Did you know the people that robbed you?

5 A No.

6 Q You did not know them?

7 A No.

8 Q Okay. Did you ever identify, make an identification as
9 to who robbed you, prior to ---

10 A No one asked me to, no.

11 Q Okay. And even if you were asked to, could you?

12 ASST. SOL. LEGETTE: Your Honor, I believe we have a
13 matter.

14 THE COURT: Counsel approach.

15 (WHEREUPON, A BENCH CONFERENCE IS HELD OFF THE RECORD
16 AND OUT OF THE HEARING OF THE JURY.)

17 THE COURT: Objection sustained.

18 Q Ms. Klem, how many robbers were involved in this
19 robbery at The Rice Planters Inn?

20 A Two.

21 Q Two? Okay.

22 A Two came in, anyway. All I saw was two.

23 Q You saw two? All right. And did you or your husband,
24 to your knowledge, tell the hotel clerk that there were
25 three people involved?

1 A I don't think so.

2 Q Okay. And were you injured physically in any way?

3 A Was I injured?

4 Q Yeah, were you physically injured in any way as a
5 result of this robbery?

6 A No.

7 Q Do you have any idea how long this entire incident in
8 regards to this robbery lasted?

9 A Not very long.

10 Q Okay. Now, during this robbery, did anybody ever touch
11 or come into physical contact with your husband, to your
12 knowledge?

13 A No.

14 Q Okay. So he wasn't touched or held at knifepoint or
15 anything like that?

16 A No.

17 Q And do you know what happened to -- you said there was
18 a knife involved; do you know what happened to the knife
19 after the robbery?

20 A No, I don't.

21 Q Okay. Now, were you ever tied up or gagged or anything
22 like that by the robbers?

23 A No.

24 Q Okay. Were you ever asked to lay down on the floor or
25 taken anywhere outside of your hotel room by the robbers?

1 A No.

2 Q Did the robbers ever put you in any kind of room or
3 shut the door or anything like that?

4 A No.

5 Q Okay. Now, did you make -- I know you've already said
6 you couldn't identify who robbed you. All you could say was
7 two black males; is that right?

8 A I know there were two black males, but I was never
9 asked to identify them.

10 Q I understand. But that's all you told me about it was
11 there were two black males?

12 A Right.

13 Q Now, you said that one of the robbers held a knife out
14 in front of you, I believe; is that right?

15 A Right.

16 Q And that the other robber was shouting or calling out
17 instructions; is that right?

18 A Right.

19 Q Okay. And which one of the robbers -- you said one of
20 the robbers said if y'all didn't comply -- if y'all didn't
21 comply, that you would be killed or something?

22 A He said, "We would kill her."

23 Q Now, which robber said that, the one with the knife or
24 the one giving the instructions?

25 A No, not the one with the knife. The one who was

1 shouting out the orders.

2 Q All right. He's the one that said that?

3 A Yeah.

4 Q But you couldn't differentiate between them. You just
5 knew they were two black males; is that right?

6 A Yeah, but I mean, there was -- I could tell one from
7 the other. I mean, if you asked me to pick one out, I could
8 tell you which one was which, I believe.

9 Q I understand. Now, the guns that you were mentioning,
10 you said you were taking to your son?

11 A Right.

12 Q Where were they located?

13 A In Florida.

14 Q Okay. Were they in your room or were they in your car?

15 A They were in the car.

16 Q Okay. And did you ever see any other car out there on
17 the night that this happened?

18 A Did I see any other car?

19 Q Uh-huh (affirmative). I know you testified that they
20 took -- drove away in your car; is that right?

21 A Right.

22 Q Did you see any other car out there in the parking lot?

23 A Well, the parking lot was filled. I mean, it was --
24 the motel was pretty well filled. They only had one more
25 room upstairs, so there were all those cars in the parking

1 lot.

2 Q Okay. But they were all just sitting there parked; is
3 that right?

4 A Right.

5 Q Okay.

6 THE COURT: Anything else?

7 MR. BENNETT: That's all we have, Your Honor.

8 THE COURT: Redirect?

9 ASST. SOL. LEGGETTE: Begging the Court's indulgence.

10 REDIRECT EXAMINATION

11 BY ASST. SOL. LEGGETTE:

12 Q Briefly, Ms. Klem, were you free to leave during this
13 entire robbery?

14 A No.

15 Q Was Mr. Klem free to leave?

16 A No.

17 Q Okay. I have no further questions. Thank you.

18 THE COURT: Recross, limited to redirect.

19 MR. BENNETT: No further questions, Your Honor.

20 THE COURT: Yes, ma'am, you may step down. Be careful.
21 Watch your step. Mr. Foreman, ladies and gentlemen of the
22 jury, I'm going to take my mid-morning break at this time.
23 Please do not discuss the case. I'll be right back with you
24 after you've had a chance to stretch your legs, use the
25 restroom. We will continue to work. I will be back with

1 you as quickly as I can. Please retire to your jury room.
2 Everyone else remain seated while the jury is leaving the
3 courtroom.

4 (11:25 A.M., WHEREUPON, THE JURY EXITS THE COURTROOM
5 AND THE FOLLOWING IS HELD ON THE RECORD.)

6 THE COURT: All right. Is the State ready to proceed?

7 ASST. SOL. HENDERSON: Yes, Your Honor.

8 THE COURT: Is the defendant ready to proceed?

9 MR. BENNETT: Yes, Your Honor.

10 THE COURT: Hold on one second, stop the jury for me.
11 I need to put two things on the record. First of all,
12 Becky, on the record. During Mr. Bennett's opening
13 argument, an objection was made and I sustained the
14 objection made by Ms. Legette. It's not on the record and I
15 want to put my ruling on the objection on the record. The
16 objection was by the State during opening statement. When
17 Mr. Bennett attempted to elicit in his opening statement, a
18 ruling on pre-trial motion and attempted to argue that his
19 pre-trial motion was the reason that the State decided to
20 nol pros a charge against him. Now, Mr. Bennett had earlier
21 admitted to the jury that his client was guilty of the
22 offense of receiving stolen goods, which was his prerogative
23 to do so. However, my rulings on matters of law pre-trial
24 are not admissible into evidence and therefore, I sustained
25 the State's objection when he attempted to use the opening

1 statement as an argument and attempted to elicit that the
2 State could not proceed on that which was a matter of law
3 and not for the jury, and that was the basis for my ruling.
4 In other words, the State couldn't proceed on receiving
5 stolen goods and armed robbery, which was the basis of his
6 motion and was a matter of law.

7 A second objection occurred during the cross-
8 examination of Ms. Klem while she was on the witness stand.
9 Mr. Bennett attempted to get her to speculate as to what she
10 would have done had she been faced with an identification
11 requirement by law enforcement. The State objected to that
12 question on the basis of speculation and I sustained that
13 objection. Now there's a record of both objections that
14 I've sustained on the record so that the Appellate Court
15 knows the basis of the objections and my ruling. With that,
16 we're now ready for the jury. Major, if you will bring them
17 in, please.

18 (WHEREUPON, THE JURY ENTERS THE COURTROOM AND THE
19 FOLLOWING IS HELD ON THE RECORD.)

20 THE COURT: All right. Mr. Foreman, I see that
21 everybody is present. We'll now continue with the testimony
22 in the trial of this case. Solicitor, you may call your
23 next witness.

24 ASST. SOL. HENDERSON: Thank you, Your Honor. The
25 State would call Officer Robert Edwards.

1 THE COURT: Officer Robert Edwards, in the Clerk's
2 conference room?

3 ASST. SOL. HENDERSON: I believe he is in the
4 Solicitor's Office, Your Honor.

5 (OFFICER EDWARDS ENTERS THE COURTROOM.)

6 MADAME CLERK: Officer Edwards, please come forward and
7 be sworn. Place your left hand on the Bible and raise your
8 right.

9 (WHEREUPON, OFFICER ROBERT EDWARDS IS DULY SWORN.)

10 MADAME CLERK: Please have a seat on the witness stand.

11 THE COURT: Make yourself comfortable. Pull that
12 microphone closer. It's going to amplify your voice.
13 Please state your full name and spell your last name for the
14 court reporter.

15 OFFICER EDWARDS: Robert Weldon Edwards, Jr. Last name
16 is spelled E-D-W-A-R-D-S.

17 THE COURT: Very well. Your witness, counsel. Direct
18 examination.

19 ASST. SOL. HENDERSON: Thank you, Your Honor.

20 DIRECT EXAMINATION

21 BY ASST. SOL. HENDERSON:

22 Q Officer Edwards, where do you work?

23 A Currently at the Colleton County Sheriff's Office.

24 Q And what is your rank there?

25 A I'm a Corporal.

1 Q How long have you worked there?

2 A Since February of last year.

3 Q Where did you work before that?

4 A Prior to that, I worked at the Hanahan Police
5 Department for a year and prior to that I worked at
6 Walterboro Public Safety.

7 Q And what are some of your duties involved with your
8 job?

9 A Which one?

10 Q Okay. We'll start with this one.

11 A Okay. I'm currently a road patrol corporal supervisor
12 on the road with Colleton County Sheriff's Office.

13 Q And when you worked with Walterboro Public Safety, what
14 were some of your duties there?

15 A I was actually a sergeant over road patrol at the time
16 of this incident, and I was in charge of basically the road
17 patrol team that was on duty at that point in time; we were
18 working night shift.

19 Q And were you working on January 7th, 2012, in that same
20 capacity?

21 A Yes, ma'am.

22 Q And did you respond to the Rice Planters Inn?

23 A Yes, ma'am.

24 Q What did you respond in reference to?

25 A An armed robbery.

1 Q And do you remember approximately what time you
2 responded?

3 A It was shortly before midnight. I want to say the call
4 came out at 11:53 p.m., somewhere in there, and we got there
5 at approximately 11:59 p.m., just before midnight.

6 Q And is the Rice Planters Inn located in Colleton
7 County?

8 A Yes, ma'am, and in the City of Walterboro.

9 Q Okay. Can you please describe the location of the Rice
10 Planters Inn?

11 A It's located at 97 Ladson Lane. If you're traveling
12 out of town on Sniders Highway, just before you get to the
13 I-95 overpass, Ladson Lane is on your left hand side. You
14 go down Ladson Lane to the left, almost to the end of it is
15 Rice Planters Inn. It backs up to a wooded area and it's
16 actually behind a fireworks station and a gas station, and
17 there's a couple of other businesses in front of it.

18 Q Okay. So is the back of the hotel somewhat secluded?

19 A Yes, ma'am.

20 Q And upon your arrival, what did you do?

21 A Actually, the call -- the victim was at the office of
22 the hotel and we responded there first.

23 Q And so you responded to the office and that was the
24 victim?

25 A Yes, ma'am.

1 Q Do you remember if you met with Mr. or Mrs. Klem?

2 A I met with Mr. Klem. He was the first person I spoke
3 to.

4 Q And in the course of your investigation, were you able
5 to determine what had taken place?

6 A Yes, ma'am.

7 Q And what was that?

8 A That two black males had followed them into their hotel
9 room, held a knife to his wife, and demanded all of their
10 property.

11 Q And so what was your next step to do after you learned
12 what had happened?

13 A We -- he actually -- Mr. Klem advised me that they were
14 checked into room 130. We went to the actual location of
15 the crime as first stated by them. Did a clearance of the
16 room. I put a bolo out of the vehicle because their vehicle
17 was actually stolen.

18 Q And I'm going to stop you right there. In plain
19 English, what is a "bolo"?

20 A A be-on-the-lookout.

21 Q Okay.

22 A We advised both the county and the city units and the
23 highway patrol that are in the area that this vehicle was
24 just stolen and it related to an armed robbery.

25 Q And did other officers arrive to assist you?

1 A Yes. I believe -- I'm trying to remember, because I
2 know the other officers who were on duty that night were
3 Brian Ackerman, Craig Stivender and Brooks Clark.

4 Q But you had people that were helping you?

5 A Yes, ma'am.

6 Q And what did you ask them to do while you were in the
7 room?

8 A Check the area, try and locate the vehicle.

9 Q Was this on foot or by vehicle?

10 A I'm sorry, what was on foot?

11 Q Were they looking on foot? Were they going into the
12 woods? Or were they in vehicles?

13 A They were in vehicles. We did check around the wood
14 line and didn't see anything.

15 Q So you did check the wood line?

16 A Yes, we did.

17 Q And that was my next question. Were they able to find
18 anything?

19 A We weren't able to find anything, ma'am.

20 Q All right. Let's go back to the hotel room. Was the
21 room processed?

22 A No, it was not.

23 Q And why not?

24 A It was based on what we had; they followed him into the
25 room and couldn't determine if any door handles were

1 touched. The door was, I believe, either partially left
2 open at the time. I don't want to -- I'm not a 100 percent
3 sure. The actual phone that was in the room was ripped out.
4 That was what was taken from the room. There wasn't, to my
5 recollection, anything that was actually touched that the
6 victims could recollect to be processed.

7 Q So the only thing they had touched, they had taken with
8 them.

9 A Yes.

10 Q And so explain to the jury, when you process a room,
11 what are you looking for?

12 A Physical evidence that the person was there.

13 Q Okay. And how do you do that?

14 A As far as?

15 Q Fingerprints, swabs.

16 A You're actually doing a check for fingerprints, say a
17 table, a door, window, glass. Anything that you can
18 possibly take a fingerprint off of.

19 Q And we don't have any of that stuff, correct?

20 A Correct.

21 Q And again, the reason why was because?

22 A Based on what the victims were telling me that they had
23 not touched enough stuff or hadn't touched anything that
24 could be processed.

25 Q And was your car equipped with a camera?

1 A Yes, ma'am.

2 Q How does that camera work?

3 A It's activated by either myself with an automatic body
4 mic where you touch a button and activate the camera, or
5 it's activated when you turn on your blue lights.

6 Q And was the camera activated at this scene?

7 A Yes, ma'am. We actually ran a code there so it was
8 activated whenever the call came out; from the time the blue
9 lights were activated on the way to the call.

10 ASST. SOL. HENDERSON: Permission to approach the
11 witness, Your Honor.

12 THE COURT: You may.

13 Q Officer, I'm going to hand you what's been marked for
14 purposes of identification as State's Exhibit 20; do you
15 recognize that?

16 A Yes, ma'am.

17 Q And how are you able to recognize it?

18 A That was -- I actually made this myself. I confirmed
19 that it was video from my vehicle, my issued Walterboro
20 police vehicle at the time.

21 Q And had it appeared to be altered or tampered in any
22 way?

23 A No, ma'am.

24 ASST. SOL. HENDERSON: Your Honor, the State would move
25 to have State's Exhibit 20 entered into evidence.

1 THE COURT: As to State's 20, Mr. Bennett?

2 MR. BENNETT: Your Honor, I would object. (2:00:00)

3 THE COURT: Mr. Bennett, that's obviously not for you
4 to decide. You're objecting on the basis of relevance?

5 MR. BENNETT: Yes, I think

6 THE COURT: Counsel approach.

7 (Whereupon, a bench conference is held off the record
8 and out of the hearing of the jury.)

9 THE COURT: Mr. Bennett, I understand you are
10 withdrawing the objection after a conference at the bench as
11 to the contents of the tape; is that correct?

12 MR. BENNETT: Yes, Your Honor.

13 THE COURT: State's Exhibit Number 20, ladies and
14 gentlemen of the jury, will be admitted into evidence
15 without objection.

16 (STATE'S EXHIBIT NUMBER 20, CD OF POLICE CAR
17 AUDIO/VIDEO, IS RECEIVED INTO EVIDENCE; NOT TRANSCRIBED.)

18 THE COURT: State's Exhibit Number 20 is now in
19 evidence. You may publish to the jury.

20 ASST. SOL. HENDERSON: Thank you, Your Honor.

21 THE COURT: Can everybody see the screen?

22 JURORS: Yes.

23 (WHEREUPON, STATE'S EXHIBIT NUMBER 20, CD, BEGINS
24 PLAYING FOR THE JURY AT 11:59 A.M.; THE CD IS STOPPED AT
25 12:15 P.M.; NOT TRANSCRIBED.)

1 Q Officer Edwards, is this video, can you tell, where is
2 the room located that it happened? Is the area on the
3 screen?

4 A Yes, ma'am. Actually, if you go down and you're
5 looking at it, the hotel is on the right hand side.

6 THE COURT: Does anybody have a laser pointer to give
7 this witness? Pat?

8 CLERK OF COURT:

9 THE COURT: All right. Ladies and gentlemen of the
10 jury, if you can't see, let me know. Carra, I'm going to
11 get you to repeat your question after the laser comes in.

12 (LASER POINTER IS BROUGHT IN BY THE CLERK.)

13 A Right in this general area towards the end of the hotel
14 Is where the rooms are located.

15 THE COURT: Can everyone on the jury see where the
16 witness is indicating?

17 JURY: Yes, sir.

18 THE COURT: Can the defendant see?

19 MR. BENNETT: Yes, Your Honor.

20 A Room 130 is in the general area toward the end of the
21 hotel.

22 Q Okay. Thank you.

23 (CD resumes playing at 12:18 p.m.; CD is stopped at
24 12:25 p.m.)

25 A The reason why it's jumping around is I just wanted to

1 tell the jury is because we had issues with the tracking on
2 the VHS tape; that's why we transferred it a digital disc.
3 I just wanted to explain that and that's why we had to jump
4 around so much.

5 THE COURT: Proceed.

6 Q Are you contacting supervisor at that point?

7 A Yes, ma'am.

8 Q Is there anything else of relevance on this video in
9 regards to the scene and the witnesses?

10 A Not to my recollection.

11 ASST. SOL. HENDERSON: Your Honor, to expedite, we will
12 go ahead and turn it off, then.

13 THE COURT: All right. Turn it off at this point.
14 Give it to the court reporter for me. Direct examination,
15 Ms. Henderson; your witness.

16 ASST. SOL. HENDERSON: Thank you, Your Honor.

17 Q Last question, Officer, what was the

18 A They were shaken up; I guess would be the best way to
19 describe it. Shaken up.

20 ASST. SOL. HENDERSON: No further questions, Your
21 Honor.

22 THE COURT: Cross-examination.

23 MR. SANDERS: May it please the Court?

24 THE COURT: Yes, sir.

25 CROSS-EXAMINATION

1 BY MR. SANDERS:

2 Q Officer Edwards, good day. The first question, when
3 you got the call, did this come from dispatch; is that
4 correct?

5 A Yes, sir.

6 Q How was the crime relayed to you? How was it reported
7 to dispatch?

8 A The parties were robbed at knifepoint at the Rice
9 Planters Inn, the location, and what had occurred.

10 Q Did you say two parties?

11 A Right. It came across that the victims were robbed at
12 knifepoint.

13 Q Did any part of dispatch of the report that came to you
14 on that night did it indicate how many subjects were
15 involved?

16 A To my recollection, there were two; to the best of my
17 recollection.

18 Q Did they say anything about as far as a description?
19 Were they white or black?

20 A Two black males. Both of them had their shirts pulled
21 up over their heads. Actually ---

22 Q --- was there ---

23 A I'm sorry. Go ahead.

24 Q Was there any other description, such as height,
25 weight, or anything else?

1 A I believe, according to Mr. and Mrs. Klem, they stated
2 that they were both at least six feet tall.

3 Q So when it was reported, you responded to a robbery?

4 A Yes, sir.

5 Q There was no mention of kidnapping or any other crime?

6 A No, sir.

7 Q You testified earlier today that you spoke with Mr.
8 Klem?

9 A Yes, sir.

10 Q Did you speak with Mrs. Klem?

11 A I actually talked to both of them at the same time.

12 Q You spoke with Mr. and Mrs. Klem?

13 A Yes, sir.

14 Q And you also stated earlier that you didn't process for
15 fingerprints, because you didn't believe they had touched
16 anything, other than the phone. Was the phone, indeed,
17 missing?

18 A Yes.

19 Q Did anyone look for the phone?

20 A It wasn't located close to the scene, if that's what
21 you're asking me. As far as looking for the phone and
22 scouring the wood line, no, I don't believe anybody did,
23 sir.

24 Q And I just want to clarify from one of the Solicitor's
25 last questions, upon the appearance of the Klem's, you said

1 they seemed a little shaken; what do you mean by "shaken"?

2 A Like they had just been the victims of an armed
3 robbery. I mean, they were a little out of sorts,
4 obviously, because of what just happened.

5 Q Were they crying?

6 A No, they weren't crying. They weren't distraught.
7 They were just visibly out of sorts.

8 Q Okay.

9 MR. SANDERS: Beg the Court's indulgence.

10 Q One last question, Officer Edwards. It was indicated,
11 and I think we can all agree, that there was a white Chevy
12 Impala that was the vehicle that was stolen. When was the
13 vehicle recovered?

14 A I'm not sure. I'm not sure on that. I was not privy
15 to the majority of the investigation that occurred. I was
16 the initial intake officer on this report.

17 MR. BENNETT: I have no further questions, Your Honor.

18 THE COURT: Redirect?

19 ASST. SOL. HENDERSON: Thank you, Your Honor.

20 REDIRECT EXAMINATION

21 BY ASST. SOL. HENDERSON:

22 Q Officer Edwards, when you were dispatched, were you
23 told there was a weapon involved?

24 A Yes.

25 Q And what weapon was that?

1 A A knife.

2 Q And where was it?

3 A During the course of the robbery.

4 Q Was it shown to the victims?

5 A Yes. It was something along those lines. I'm not
6 exactly sure the exact verbiage that was used by the
7 dispatcher that night. But I remember two black males being
8 involved and a weapon being a knife.

9 Q Thank you.

10 ASST. SOL. HENDERSON: No further questions, Your
11 Honor.

12 THE COURT: Recross, limited to redirect.

13 RECROSS-EXAMINATION

14 BY MR. SANDERS:

15 Q Was there any indication that a knife was ever held to
16 Mr. and Mrs. Klem's throat?

17 A I believe --- to the best of my recollection, I believe
18 that Ms. Klem stated that the knife was held to her. I
19 don't know -- cannot recollect if she stated it was to her
20 throat or to her person.

21 Q Okay. Thank you. No further questions.

22 THE COURT: As to this witness, Solicitor.

23 ASST. SOL. HENDERSON: He may be excused from the
24 trial, Your Honor.

25 THE COURT: Any objection, counsel?

1 MR. SANDERS: No.

2 THE COURT: Mr. Edwards, you may step down. You're
3 excused from the trial of the case. You may leave the
4 courtroom at this time.

5 Call your next witness.

6 MS. HENDERSON: The State calls Deputy Kirt Wallace.

7 (BRIEF PAUSE AS THE COURT WAITS FOR WITNESS TO ENTER.)

8 THE COURT: Counsel approach.

9 (WHEREUPON, A BENCH CONFERENCE IS HELD OFF THE RECORD
10 AND OUT OF THE HEARING OF THE JURY.)

11 ASST. SOL. HENDERSON: Your Honor, we're going to stand
12 down on Officer Wallace.

13 ASST. SOL. LEGETTE: The State calls Quincy White.

14 (BRIEF PAUSE AS MR. WHITE ENTERS THE COURTROOM.)

15 MADAME CLERK: Please come forward and be sworn. Place
16 Your left hand on the Bible and raise your right.

17 (Whereupon, Quincy White is duly sworn.)

18 MADAME CLERK: Please have a seat on the witness stand
19 and state your name for the record.

20 THE COURT: Watch your step on those stairs for me, Mr.
21 White. Have a seat and make yourself comfortable. Adjust
22 that microphone. That chair will move up. Use the
23 microphone. It's going to amplify your voice so that
24 everyone can hear you. State your full name and spell your
25 last name for my court reporter.

1 MR. WHITE: It's Quincy Dion White, W-H-I-T-E.

2 THE COURT: Very good. Direct examination. Your
3 witness, Solicitor.

4 ASST. SOL. LEGETTE: Thank you, Your Honor.

5 DIRECT EXAMINATION

6 BY ASST. SOL. LEGETTE:

7 Q Good afternoon, Mr. White. Mr. White, where are you
8 from?

9 A Where I'm originally from?

10 Q Yes.

11 A New York.

12 Q Okay. And where do you live now?

13 A Greenpond.

14 Q Okay. Is that near Turkey Hill?

15 A Yes, ma'am.

16 Q Okay. Now, do you know Mack Washington?

17 A I've seen him a couple of times. I know him for a
18 while.

19 Q Okay. Is he present in Court today?

20 A Yes.

21 Q Can you point him out, please?

22 A Right over there. (Witness indicating.)

23 Q Is he the man with the white shirt on?

24 A Yes, ma'am.

25 Q With the beard?

1 A Yes, ma'am.

2 ASST. SOL. LEGETTE: Let the record reflect that the
3 witness has indicated the defendant, Mack Washington.

4 Q Now, Mr. White, how long have you kind of like, you
5 said, known about Mr. Washington? How long have you known
6 him, about him?

7 A I know very few about him, that's it.

8 Q I'm just saying, how many years would you say you've
9 known him?

10 A About three or four.

11 Q Three of four years?

12 A Yes, somewhere in that range.

13 Q Okay. Mr. White, I'm going to need you -- have you
14 Ever gone to basketball games?

15 A Nah.

16 Q Do you watch football?

17 A A little bit.

18 Q Are you a fan?

19 A Not really.

20 Q Okay. Well, do you ever scream at the TV?

21 A No.

22 Q Well, I'm going to need you to talk up a little bit for
23 the jury, because I talk a little loud; can you talk up
24 some, okay?

25 A Yes, ma'am.

1 Q All right. Now, Mr. White, let's go back to January of
2 2012. Do you remember January of 2012?

3 A I can't remember the date, but ---

4 Q But you remember that year?

5 A I remember something happened that year.

6 Q Something happened that year. Okay, let's talk about
7 what happened in Turkey Hill during that period of time.

8 Did you see Mack Washington in January of 2012?

9 A I don't remember the date, but I remember seeing him
10 That day.

11 Q Well, tell me what you remember seeing him. What was he
12 doing when you saw him?

13 A He was standing by the side of the car out of John
14 Manigo's house.

15 Q Okay. What kind of car was it?

16 A A grey Impala.

17 Q Okay. And when you saw him with this grey Impala, what
18 happened? What did he say? Or did he say anything?

19 A He ain't say nothing to me.

20 Q Okay. Did you hear him say anything to anyone else?

21 A No, because I was busy walking the road.

22 Q Okay. So did you ever see the Impala again?

23 A Yes.

24 Q When did you next see the Impala?

25 A At my abandoned house.

1 Q Okay. And how did you come to see the Impala at your
2 abandoned house?

3 A When I went to park my truck.

4 Q When you went to what now?

5 A When I went to park my truck.

6 Q Park your truck, okay. So what happened when you went
7 to park your truck?

8 A Saw the car behind the house.

9 Q And how did the car get there?

10 A I don't know; Corey Edwards, I guess.

11 Q Okay. When you say "I guess," did you see Corey
12 Edwards bring it there?

13 A He had told me about it.

14 Q Okay. He told you about it. Okay, now, I think
15 perhaps you're not remembering. Let's go back to when you
16 first saw the Impala. Who was with the Impala? Was anybody
17 driving the Impala?

18 A Mack Washington was driving the Impala.

19 Q So Mack Washington was driving the Impala?

20 A Yes.

21 Q Was anyone with Mack Washington in this Impala?

22 A Him and a couple other fellas.

23 Q Do you know who those fellas were?

24 A No.

25 Q So how did you happen to see him drive the Impala?

1 Where were you?

2 A I was coming from one of my friends' house.

3 Q Okay. So did he pass by you or did he park?

4 A He passed by one time.

5 Q Okay. So did you ever pass by him? Were you walking
6 or were you just ---

7 A I was walking one time, and I went up to a road.

8 Q Okay. All right. So did you get near -- did he park
9 anywhere?

10 A He park in front of John Manigo's house in Turkey Hill.

11 Q So he parked in front of John Manigo's house on Turkey
12 Hill?

13 A Yes.

14 Q Okay. So did you pass by John Manigo's house?

15 A Yes.

16 Q All right. Did you happen to hear a conversation?

17 A Not really.

18 Q Did you hear Mack Washington say anything?

19 A Not really.

20 Q Now do you recall talking to the police about this
21 case?

22 A Yes.

23 Q And do you recall telling them, and I believe that was
24 March the 13th you talked to the police about this case?

25 A Yes.

1 Q Do you remember telling them what you heard Mack
2 Washington say?

3 A Yes.

4 MR. BENNETT: Your Honor, I'm going to have to
5 interpose an objection based on hearsay.

6 THE COURT: Counsel approach.

7 (WHEREUPON, A BENCH CONFERENCE IS HELD OFF THE RECORD
8 AND OUT OF THE HEARING OF THE JURORS.)

9 THE COURT: Objection is overruled. I'll put the
10 grounds on the record at the appropriate time. Proceed
11 Solicitor.

12 ASST. SOL. LEGETTE: Thank you, Your Honor.

13 Q Now, Mr. White, do you remember talking to the police -
14 - first of all, let me ask you this question. Were you
15 charged with any crime regarding this matter, like
16 possession of a stolen vehicle?

17 A Yes.

18 Q Okay. All right. Mr. White, and has a deal been
19 struck with you for your testimony about those charges?

20 A Yes.

21 Q Okay. What's going to happen with those charges?

22 A Get dropped.

23 Q Okay. Now, Mr. White, let's go back. I believe you
24 talked to the police on or about -- that was March 3rd,
25 2014; do you remember that?

1 A Yes.

2 Q All right. Do you remember talking to them and telling
3 Them what happened with this car?

4 A Yes.

5 Q Now, I'm going to ask you again, tell me what happened
6 With this car that you saw in Turkey Hill with Mack
7 Washington driving it?

8 A About him passing by?

9 Q Yes, sir. Tell me what happened.

10 A He said it was a stolen car.

11 Q Who said it was a stolen car?

12 A Mack Washington.

13 Q All right. What did he say about the stolen car?

14 A I don't remember what all he say about a stolen car,
15 but he said can he get rid of it.

16 Q Did he say he stole it?

17 A Yeah, he say he stole it.

18 Q And what did he say about -- did he mention any gun?

19 A No, not really.

20 Q You don't remember him saying ---

21 A I don't remember any gun.

22 Q Okay. But you do remember him saying he stole the car?

23 A Yes.

24 Q Okay. And where were you when this all was said to
25 you?

- 1 A I was passing by.
- 2 Q You were passing by? And that man right there, Mack
3 Washington, Jr., said that?
- 4 A Yes.
- 5 Q That he stole the car, the Impala?
- 6 A Yes.
- 7 Q Now, Mr. White, this car -- you told me earlier that
8 you were charged with this stolen car?
- 9 A Yes.
- 10 Q Okay. And the charges are going to be dismissed?
11 That's what you've been told, right?
- 12 A Yes. This would be just ---
- 13 Q Yes, sir. Okay. Does that have anything to do with
14 your testimony here today?
- 15 A No, not really.
- 16 Q Okay. Now, Mr. White, this vehicle, you said that it
17 was behind your house?
- 18 A Yes.
- 19 Q And what happened to that vehicle after or while it was
20 behind your house?
- 21 A It was stripped.
- 22 Q It was stripped? Okay. Did you know about the
23 stripping of it?
- 24 A No.
- 25 Q Okay.

1 A The only thing I know was I was working and when I came
2 home I carried some parts to the junk yard for him.

3 Q So you carried some parts to the junk yard for him?

4 A Yes.

5 Q Okay. All right. So do you remember what this car
6 looked like?

7 A When I first saw it?

8 Q Well, after it was stripped.

9 A No, not the last part of it.

10 Q But you remember how it looked when you first saw it?

11 A Yes.

12 Q Okay. I'm going to hand you now what's been previously
13 marked as State's Exhibit Number Fifteen.

14 MR. BENNETT: No objection, Your Honor.

15 ASST. SOL. LEGETTE: Permission to approach, Your
16 Honor.

17 THE COURT: You may approach.

18 Q Mr. White, I'm going to hand you now what's been
19 previously marked as State's Exhibit Fifteen. Take a moment
20 and tell me if you recognize this particular item.

21 A (Witness retrieves exhibit from Ms. Legette and looks
22 at it.)

23 Q Do you recognize State's Exhibit Fifteen, Mr. White?

24 A No, ma'am.

25 Q You don't? Okay.

1 ASST. SOL. LEGETTE: May I approach, Your Honor?

2 THE COURT: You may.

3 Q Thank you, Mr. White. Now, Mr. White, you did say that
4 there was a vehicle, an Impala, behind your house that was
5 stripped?

6 A Yes.

7 Q And you said the first time you saw that vehicle that
8 Mack Washington was driving it?

9 A Yes.

10 Q And you said that Mr. Washington said to you that he
11 sold the vehicle.

12 A He didn't say it to me, but he said it around the other
13 fellas.

14 Q And you heard him say it?

15 A Yes.

16 MR. BENNETT: Your Honor, I'm going to have to object.

17 THE COURT: On what ground?

18 MR. BENNETT: I don't think it meets the hearsay
19 exception at this point. May we approach, Your Honor?

20 THE COURT: Counsel approach.

21 (WHEREUPON, A BENCH CONFERENCE IS HELD OFF THE RECORD
22 AND OUTSIDE THE HEARING OF THE JURY.)

23 Q Mr. White, I get the distinct feeling that you don't
24 want to be here today; is that correct?

25 A I'm here already.

1 Q What?

2 A I'm here.

3 Q Okay. Very good. Now, Mr. White, let's go back to
4 this vehicle where you first saw it. Do you remember what
5 day of the week that may have been?

6 A When I first saw it?

7 Q Yes, sir.

8 A On a Sunday.

9 Q You don't know the day, do you?

10 A No, I don't remember.

11 Q Could it have been January 8th, 2012?

12 A I don't remember.

13 MR. BENNETT: Your Honor, this is definitely leading
14 here.

15 THE COURT: Sustained. Solicitor, don't suggest
16 answers by your questions. Direct examination. The
17 objection is sustained.

18 ASST. SOL. LEGETTE: Thank you, Your Honor.

19 Q But Mr. White, what day of the week was it?

20 A I remember it was a Sunday. I don't remember what date
21 it was.

22 Q Okay. So let's talk about the stolen vehicle that you
23 helped to take stuff to the strip yard. How long did that
24 vehicle stay behind that abandoned house?

25 A Had to been about two weeks.

1 Q Two weeks?

2 A Two or three weeks.

3 Q Two or three weeks? Okay.

4 ASST. SOL. LEGETTE: Begging the Court's indulgence.

5 (BRIEF PAUSE.)

6 ASST. SOL. LEGETTE: Mr. White, I have no further
7 questions, sir.

8 THE COURT: Cross-examination.

9 CROSS-EXAMINATION

10 BY MR. BENNETT:

11 Q Mr. White, you testified, I believe it is your
12 testimony here today that this is a grey Impala that you
13 saw; is that correct?

14 A Yes.

15 Q Okay. And do you know who this grey Impala belonged
16 to?

17 A No.

18 Q Okay. And you said you knew Mack Washington for three
19 or four years; is that correct?

20 A Yes.

21 Q But you would not consider him a close friend; is that
22 right?

23 A Yes, sir.

24 Q Now, part of the reason you're here today as I
25 understand it is that the State offered to drop your

1 charges; is that right?

2 A Not really.

3 Q Not really? Can you explain that?

4 A I'm here because they find it behind my house.

5 Q But didn't the State agree to drop your charges if you
6 would come here and testify here today?

7 A I had a warrant on me for finding a car behind my
8 house.

9 Q Okay. And you had a warrant for receiving stolen
10 goods; is that right?

11 A Yes.

12 Q And did the State tell you they would drop the charges
13 if you came here to testify here today in this case?

14 A I'm here because I got a warrant on me.

15 Q Okay. And did you want that warrant dropped by the
16 State?

17 A If it pleases you, yes.

18 Q Now, have you ever been convicted of a crime before,
19 Mr. White?

20 ASST. SOL. LEGETTE: Your Honor, I think we have a
21 matter.

22 THE COURT: Counsel approach.

23 (WHEREUPON, A BENCH CONFERENCE IS HELD OFF THE RECORD
24 AND OUT OF THE HEARING OF THE JURY.)

25 THE COURT: Objection is withdrawn. Proceed.

1 Cross-examination.

2 Q Mr. White, did you ever run any kind of a search to see
3 who this grey Impala belonged to or who owned it?

4 A No, sir.

5 MR. BENNETT: That's all I have, Your Honor.

6 THE COURT: Redirect?

7 ASST. SOL. LEGETTE: None, Your Honor.

8 THE COURT: As to this witness?

9 ASST. SOL. LEGETTE: We ask that he be excused, Your
10 Honor. THE COURT: Any objection, Mr. Bennett?

11 MR. BENNETT: No objection, Your Honor.

12 THE COURT: Mr. White, you may step down from the
13 witness stand and you are excused from the trial of this
14 case and you may leave the courtroom at this time.

15 MR. WHITE: All right.

16 THE COURT: Counsel approach.

17 (WHEREUPON, A BENCH CONFERENCE IS HELD OFF THE RECORD
18 AND OUT OF THE HEARING OF THE JURY.)

19 THE COURT: Call your next witness.

20 ASST. SOL. HENDERSON: The State calls Officer Kirt
21 Wallace.

22 (WHEREUPON, OFFICER KIRT WALLACE ENTERS THE COURTROOM.)

23 THE COURT: Please come forward and be sworn.

24 MADAME CLERK: Place your left hand on the Bible and
25 raise your right hand.

1 (WHEREUPON, OFFICER KIRT WALLACE IS DULY SWORN.)

2 MADAME CLERK: Please have a seat on the witness stand.

3 After you're seated, state your name for the record.

4 THE COURT: Watch your step.

5 MR. WALLACE: Thank you, sir.

6 THE COURT: Have a seat. Pull up the chair. Adjust
7 the microphone to your height. It's going to amplify your
8 voice. State your full name and spell your last name for
9 the court reporter.

10 MR. WALLACE: My full name is Kirt Laverne Wallace.

11 Last name is W-A-L-L-A-C-E.

12 THE COURT: Your witness, counsel.

13 ASST. SOL. HENDERSON: Thank you, Your Honor.

14 DIRECT EXAMINATION

15 BY ASST. SOL. HENDERSON:

16 Q Officer Wallace, where do you work?

17 A I work for the Colleton County Sheriff's Office.

18 Q And what is your rank there?

19 A I'm a Sergeant.

20 Q And what do you do for the Sheriff's Department?

21 A Right now I work with the investigative detectives.

22 Q How long have you been in law enforcement, Sgt.

23 Wallace?

24 A I've been in law enforcement all together for 14 and a
25 half years.

1 Q And were you working for the Colleton County Sheriff's
2 Office back in January of 2012?

3 A Yes, ma'am.

4 Q And did you become involved in this case then?

5 A Yes, ma'am.

6 Q And can you please tell the jury how you became
7 involved in this case?

8 A We received a call in reference to some items that were
9 located at a boat landing. I was on road patrol at that
10 time, so I went down to that particular boat landing in
11 question and found some items, suitcases, normally the
12 landings are normally used for dumping grounds, so I went
13 there to investigate the items that were in question.

14 Q And what was the name of that landing?

15 A Cuckolds.

16 Q Cuckolds Landing?

17 A Cuckolds Landing, that's correct, yes.

18 Q And what date was this that you went to Cuckold's
19 Landing?

20 A I can't recall offhand. I don't -- I don't have a
21 date. Anything over a week ago, I don't remember.

22 ASST. SOL. HENDERSON: Beg the Court's indulgence.

23 (BRIEF PAUSE.)

24 ASST. SOL. HENDERSON: Permission to approach the
25 witness, Your Honor.

1 THE COURT: You may.

2 Q Sgt. Wallace, if you could just glance at that real
3 quick and if you figure out what date and time you
4 responded.

5 A Okay. January 8th, 2012, around 16:42 -- 4:42 for the
6 civilians.

7 ASST. SOL. LEGETTE: Permission to approach and take
8 that back, Your Honor.

9 THE COURT: You may.

10 Q And Sgt. Wallace, did you collect any items from the
11 landing?

12 A Yes, ma'am, after going through -- I spotted the
13 luggage. there was a lot of clothing in it and I was trying
14 to match some type of identification with the luggage, the
15 clothing, which I did not. Then, I stumbled across a red in
16 color, fold-up-binder type of items that did have some type
17 of identification name-wise in it.

18 Q And what was that?

19 A The items that were inside the particular binder was a
20 death certificate.

21 Q And what was the name on the death certificate?

22 A I knew you were going to ask me that. Um ---

23 Q You don't recall, Sergeant?

24 A Eric Kly ---

25 Q Klem?

1 A Eric Klem, yeah. That is very good based on memory.

2 Eric Klem. I'm thinking the proper spelling on that is K-L-
3 E-M.

4 Q Now, what did you do with this red folder?

5 A I collected that particular item due to the fact that
6 it had identification type items in it and I brought it back
7 to my headquarters. Then, I turned it over to the
8 Walterboro Police Department.

9 Q Why was it turned over to Walterboro?

10 A It was turned over to that particular department
11 because they were investigating a case that was related to
12 that binder.

13 ASST. SOL. HENDERSON: Beg the Court's indulgence, Your
14 Honor.

15 (BRIEF PAUSE.)

16 ASST. SOL. HENDERSON: Permission to approach the
17 witness, Your Honor?

18 THE COURT: You may.

19 Q Sergeant, do you recognize that?

20 A Yes, ma'am, this is a picture, a photograph of the
21 landing itself.

22 Q And is that a fair and accurate depiction of how you
23 saw it that day?

24 A Yes, ma'am.

25 ASST. SOL. HENDERSON: Your Honor, at this time, the

1 State would like to move State's Exhibit Eleven into
2 evidence.

3 THE COURT: Any objection as to State's Eleven, Mr.
4 Bennett?

5 MR. BENNETT: No objection.

6 THE COURT: Ladies and gentlemen of the jury, State's
7 Exhibit Number Eleven will be admitted into evidence in the
8 trial of this case without objection.

9 (WHEREUPON, STATE'S EXHIBIT NUMBER ELEVEN, PHOTO OF
10 CUCKOLD'S LANDING, IS RECEIVED INTO EVIDENCE.)

11 THE COURT: State's Exhibit Eleven is in evidence; you
12 may publish to the jury.

13 ASST. SOL. HENDERSON: Thank you, Your Honor.

14 THE COURT: Let the record reflect that State's Exhibit
15 Eleven is now on the screen for the jury to view the
16 exhibit. Proceed.

17 Q Sgt. Wallace, where was the red folder located in this
18 picture?

19 A The luggage was located as you see in the picture right
20 there. The red binder was actually located, I'll say,
21 further to the right of that picture.

22 Q And that's a fair depiction of what you saw when you
23 pulled up at the landing that day?

24 A That's correct.

25 ASST. SOL. HENDERSON: Your Honor, no further

1 questions.

2 THE COURT: Cross-examination?

3 MR. SANDERS: May it please the Court?

4 THE COURT: Yes, sir.

5 CROSS-EXAMINATION

6 BY MR. SANDERS:

7 Q Sgt. Wallace, how are you?

8 A Just fine sir. How are you doing?

9 Q Okay. Where are you originally from Sgt. Wallace?

10 A Kingstree, South Carolina, Williamsburg County.

11 Q Kingstree, South Carolina, okay. Have you ever heard
12 of -- as you stated it and I believe the Solicitor stated it
13 as Cuckold's Landing; have you ever heard it called Kirckles
14 Landing, also?

15 A No, I'm not familiar with that terminology.

16 Q Kirckles Creek? Kirckles Landing? It's a
17 mispronunciation sometimes, but thank you. So you responded
18 to this boat landing and what did you see immediately upon
19 arriving at that scene?

20 A Immediately, when I responded to it, I noticed the
21 luggage with clothes thrown all about. That's what I
22 immediately saw upon my arrival.

23 Q So would you say that it appeared that the luggage had
24 been opened and rifled through for lack of a better word?

25 A That's correct, yes, sir.

1 Q Okay. So this red binder, where you found the
2 identification document, the death certificate as you said,
3 it was not inside a piece of luggage?

4 A No, it was not.

5 Q About how far away would you say it was from the other
6 items?

7 A Fifteen to twenty feet.

8 Q Do you know how it got from presumably inside the
9 luggage to outside the luggage?

10 A No, sir. I couldn't tell you that.

11 Q Did anyone fingerprint this red binder?

12 A No, sir, not to my knowledge.

13 Q Do you know why it was never fingerprinted?

14 A Not to my knowledge.

15 Q Did anyone fingerprint any of the luggage?

16 A No, sir, not to my knowledge.

17 Q Did anyone fingerprint anything else that was found
18 there?

19 A Not to my knowledge.

20 Q Do you know why none of those items were fingerprinted?

21 A Not to my knowledge.

22 Q Did you recover a knife at the scene?

23 A No, sir. I did not recover a knife.

24 Q Okay. Was there any phone at the scene?

25 A I'm sorry?

1 Q A phone; a telephone?

2 A A phone? No, sir, I didn't recover a phone.

3 Q Okay. Did you know anything more about this case other
4 than responding to abandoned luggage?

5 A At that time, no, I did not, sir.

6 MR. SANDERS: Beg the Court's indulgence.

7 (BRIEF PAUSE.)

8 MR. SANDERS: I have no further questions, Your Honor.

9 THE COURT: Redirect?

10 ASST. SOL. HENDERSON: Nothing further from the State,
11 Your Honor.

12 THE COURT: As to this witness?

13 ASST. SOL. HENDERSON: He may be excused, Your Honor.

14 THE COURT: Any objection to this witness being
15 excused?

16 MR. BENNETT: No objection, Your Honor.

17 THE COURT: Mr. Wallace, you are now excused from the
18 trial of this case. You may step down.

19 Ladies and gentlemen of the jury, I understand that
20 your delicious lunch is going to arrive in just a couple of
21 moments, so I'm going to stop at this point for my lunch
22 break. Please, do I have any smokers on the jury? Anybody?
23 Got one. I understand that. They will take you outside,
24 but please do not discuss the case if you go outside and
25 smoke. Don't discuss it amongst yourselves or with anybody

1 else. When I know that you've had your lunch, because I'm
2 going to eat lunch right at the same time you do, and as
3 soon as I think everybody has had lunch and stretch their
4 legs, we will start back. Hopefully, I can start back in
5 less than an hour, but at least probably around an hour,
6 because I've got to think about everybody else having to
7 leave and go get lunch. Not everybody is going to be served
8 here as you are. Thank you very much. You may retire to
9 your jury room at this time.

10 (12:55 P.M., WHEREUPON, THE JURY EXITS THE COURTROOM
11 AND THE FOLLOWING IS HELD ON THE RECORD.)

12 THE COURT: All right. First of all, let the record
13 reflect that the jury is outside the courtroom. During the
14 cross-examination or no, during the direct examination of
15 Mr. White, Mr. Bennett objected on the basis of hearsay.
16 Mr. White heard the defendant say specifically, Mr. Bennett
17 already had Mr. White's statement, which was given to him in
18 discovery and knew that the witness White was going to say
19 that the defendant not only said the Impala was a stolen
20 car, but that he stole the car. Mr. Bennett objected on the
21 grounds of hearsay. I overruled that objection as an
22 exception -- it is hearsay. Mr. Bennett is right that it is
23 hearsay. I overruled that objection on the basis that it
24 was an admission against the defendant's interest and
25 therefore, I felt that it fell within the exception of the

1 hearsay rule as to reliability, and therefore, overruled the
2 objection.

3 Mr. Bennett then tried to renew his objection because
4 he learned that the witness White said the defendant was not
5 actually speaking to him, but he was present when the
6 declarant made the comments. That is that Mr. White was
7 present when he heard Mr. Washington say that he stole the
8 car and that it was a stolen car, but that Mr. Washington
9 was not actually speaking to Mr. White. I do not believe
10 that that makes any difference and Mr. Bennett and I
11 discussed that at a sidebar, and after he thought about it,
12 he withdrew that objection. I wanted to have a record of
13 what occurred. Now, it is precisely two minutes before
14 1:00. I realize that all of you need to get lunch. I'm
15 going to try to start back around 2:00 if I can.

16 ASST. SOL. LEGETTE: Your Honor, I have one more
17 matter, if I may?

18 THE COURT: Yes, ma'am.

19 ASST. SOL. LEGETTE: The matter as to the original
20 indictment 2009 at 416.

21 THE COURT: It's indictment 2009-GS-15-416, being the
22 kidnapping indictment, and the kidnapping as to Frank Klem?

23 ASST. SOL. LEGETTE: Yes, sir. Yesterday before we
24 started the trial, we went looking for the original
25 indictment. The original indictment could not be located in

1 the clerk's file although we made a diligent search. The
2 parties have agreed, both Mr. Bennett and I agree to proceed
3 with a copy of the indictment. It was true billed. He had
4 a copy; I had a copy. We've agreed by consent of the
5 parties to proceed with the copy of the true-billed
6 indictment, Your Honor, rather than the original.

7 THE COURT: I thought we put that on the record
8 yesterday. Mr. Bennett told me he had no objection.

9 ASST. SOL. LEGETTE: Okay.

10 THE COURT: That he'd had it all along.

11 ASST. SOL. LEGETTE: I was making sure, Your Honor. I
12 didn't want the record to be devoid of that information.

13 THE COURT: Is that correct, Mr. Bennett?

14 MR. BENNETT: That's correct, Your Honor.

15 THE COURT: Anything on the record outside the presence
16 of the jury from the defendant before we adjourn for lunch?

17 MR. BENNETT: No, sir, Your Honor.

18 THE COURT: Very well. We are now in recess for lunch
19 until at least 2:00.

20 (WHEREUPON, THE TRIAL IN THIS CASE IS RECESSED FOR
21 LUNCH. THEREAFTER, AT 2:10 P.M., THE TRIAL IS RESUMED AND
22 THE FOLLOWING IS PLACED ON THE RECORD.)

23 THE COURT: Solicitor, are you ready to proceed?

24 ASST. SOL. LEGETTE: Yes, Your Honor.

25 THE COURT: Mr. Bennett, are you ready to proceed?

1 MR. BENNETT: Yes, sir.

2 THE COURT: All right. Now, once again, I have people
3 in the courtroom. Is the Solicitor satisfied that the
4 witnesses who are sequestered are in sequestration and that
5 you have none of your witnesses in the courtroom?

6 ASST. SOL. LEGETTE: Yes, Your Honor, we are.

7 THE COURT: Is the defendant so satisfied, Mr. Bennett,
8 because you have a number of people sitting behind you?
9 Turn around and look.

10 MR. BENNETT: Yes, Your Honor, we are satisfied.

11 THE COURT: Coach, bring us the jury.

12 (2:10 P.M., WHEREUPON, THE JURY ENTERS THE COURTROOM
13 AND THE FOLLOWING IS HELD ON THE RECORD.)

14 THE COURT: All right, ladies and gentlemen of the
15 jury, we will now continue with the testimony in the trial
16 of this case. Solicitor, you may call your next witness.

17 ASST. SOL. LEGETTE: Thank you, Your Honor. The State
18 calls Mr. Laron Johnson.

19 (WHEREUPON, THE WITNESS ENTERS THE COURTROOM.)

20 MADAME CLERK: Please come forward and be sworn. Place
21 your left hand on the Bible and raise your right.

22 (WHEREUPON, THE WITNESS, MR. LARON JOHNSON, IS DULY
23 SWORN.)

24 MADAME CLERK: Please have a seat on the witness stand.

25 THE COURT: Watch your step on those stairs for me,

1 Mr. Johnson. Come on up and have a seat. Adjust that
2 chair and that microphone to your height and your comfort.
3 The microphone will amplify your voice so that people can
4 hear you, so speak into it. State your full name and spell
5 your last name for the court reporter, please, sir.

6 MR. JOHNSON: Laron Johnson, Johnson is J-O-H-N-S-O-N.

7 THE COURT: Can everybody hear down there alright?

8 (JURORS NOD.)

9 THE COURT: Your witness, counsel.

10 ASST. SOL. LEGETTE: Thank you, Your Honor.

11 DIRECT EXAMINATION

12 BY ASST. SOL. LEGETTE:

13 Q Mr. Johnson, good afternoon.

14 A Good afternoon.

15 Q Mr. Johnson, I'm going to need you to speak into that
16 microphone if you don't mind so that everybody can hear you,
17 okay. Mr. Johnson, where are you from, sir?

18 A Varnville, South Carolina.

19 Q And Mr. Johnson, where do you work now?

20 A Intermark Management.

21 Q And what do you do for Intermark Management?

22 A I'm one of their supervisors over the maintenance
23 department.

24 Q So you work in maintenance?

25 A Yes, ma'am.

1 Q Okay. You're a supervisor?

2 A Yes, ma'am.

3 Q Okay. Mr. Johnson, where were you working in January
4 of 2012?

5 A Druid Hills I.

6 Q And what were you doing at Druid Hills I?

7 A Maintenance supervisor.

8 Q Okay. So as maintenance supervisor, what were your
9 duties?

10 A Schedule contractors if needed, general maintenance,
11 minor repairs.

12 Q Okay. Did that also include plumbing sometimes?

13 A Yes, ma'am.

14 Q Okay. Now, Mr. Johnson, were you working at Druid
15 Hills like, say, January 16th, 2012?

16 A Yes, ma'am.

17 Q And do you remember getting a call for assistance that
18 day for any plumbing issues?

19 A Yes, ma'am.

20 Q Can you tell us about that, please?

21 A Let me see if I can remember. I don't know what time
22 it was. I think it was like mid-morning or early afternoon.
23 I had a call for a plumbing issue; I can't remember the
24 apartment.

25 Q Do you need me to refresh your memory?

1 A Yes.

2 Q Did you give a statement in this case?

3 A Yes.

4 ASST. SOL. LEGETTE: Begging the Court's indulgence.

5 MR. BENNETT: Your Honor, I don't ---

6 THE COURT: Counsel approach.

7 (WHEREUPON, A BENCH CONFERENCE IS HELD OFF THE RECORD
8 AND OUT OF THE HEARING OF THE JURY.)

9 THE COURT: Objection withdrawn.

10 Q Mr. Johnson, let's go back. You said that you worked
11 for the Druid Hills' Maintenance Department?

12 A Yes, ma'am.

13 Q Okay. And did you give a statement regarding your
14 working at the Druid Hills' Maintenance Department? Did you
15 give a statement in this matter?

16 A Yes, ma'am.

17 Q Would you like to refresh your memory? You said you
18 couldn't remember earlier. Would you like to refresh your
19 memory about your statement?

20 A Yes, ma'am.

21 ASST. SOL. LEGETTE: May I approach the witness, Your
22 Honor? THE COURT: You may.

23 A On Monday, January ---

24 Q Mr. Johnson, please, if you don't mind, don't read your
25 statement; just refresh yourself. Are you refreshed now?

1 A Yeah.

2 Q Okay. Now, if you don't mind ---

3 ASST. SOL. LEGETTE: May I approach, Your Honor?

4 THE COURT: You may.

5 Q I can get it back from you or would you like to hold on
6 to it?

7 A Yes.

8 Q Okay. Mr. Johnson, without reading your statement,
9 tell me what you remember. You said you worked for the
10 Druid Hills' Maintenance Department?

11 A Yes.

12 Q Okay. Now, let's go back to January 16th, 2012.

13 A Yes, ma'am.

14 Q Mr. Johnson, on or about January 16th, 2012, were you
15 working for Druid Hills?

16 A Yes.

17 Q Okay. Did you receive a call from maintenance for an
18 apartment at Druid Hills?

19 A Yes.

20 Q Okay. What apartment was it?

21 A [REDACTED].

22 Q Do you recall who lived at [REDACTED]?

23 A I don't remember her name.

24 Q Okay. Well, did you go to [REDACTED]?

25 A Yes, ma'am.

1 Q Okay. And what happened when you went to [REDACTED]

2 A I went there, there was a plumbing issue that the
3 toilet wouldn't flush. I tried snaking it and plunging it,
4 but I was unsuccessful. So I initially had to take it up
5 and take it down. The young lady was there and I told her
6 that, which made my job easier at the time. I asked her was
7 there anything in the toilet that I needed to know about
8 before I took it down, and she was like, "No." I took it
9 downstairs, took it behind my maintenance shop, and cracked
10 open the back of the first turn of the drain in the toilet,
11 and I busted it open, several credit cards was stuck in
12 there. So when I pulled it out, it bared a couple of the
13 names I have on my report.

14 Q And what's the names on the report?

15 A It was Frank and Joan(ne) Klem, I think.

16 Q How do you spell that Joanne?

17 A I spelled it J-o-a-n-n-e.

18 Q Okay. So you took out -- you found these credit cards?

19 A Yes, ma'am.

20 Q How many credit cards were there?

21 A There was three MasterCard's that was recovered. There
22 was also one out of state driver's license that was
23 accidentally thrown away.

24 Q Now, let me ask you this question, Mr. Johnson. You
25 said you found the credit cards in the turn. When did you

1 find the drivers license?

2 A Had to have been the same time that I can recall.

3 Q Okay. So you found the credit cards in the turn?

4 A Yes, ma'am.

5 Q What did you do after you found -- and let me ask you
6 this question, did the credit cards and the drivers license
7 that you found, what were the names on those particular
8 items?

9 A On the credit cards, it was Joanne and Frank Klem. On
10 the -- I cannot recall whose name was on the drivers
11 license. I didn't write it on here, so obviously, I don't
12 remember that one.

13 Q Okay. Now, Mr. Johnson, once you found the credit
14 cards and the drivers license, what did you do?

15 A I went and got my supervisor.

16 Q Okay. And when you got your supervisor, what happened
17 next?

18 A We took pictures and notified the authorities.

19 Q Okay. And did authorities come out? When you say
20 "authorities," what do you mean by authorities?

21 A The police department.

22 Q Okay. And so did anyone from the police department
23 come out?

24 A Yes, ma'am.

25 Q And you talked to the police department?

1 A Yes, ma'am.

2 Q And what did you tell them?

3 A I told them that, you know, during my time with this
4 plumbing issue, bust open the toilet, and I found some
5 credit cards.

6 Q You told them about the drivers license, too?

7 A Yes, ma'am.

8 Q Okay. And once you told the police officer about the
9 drivers license and credit cards, what did you do with the
10 credit cards?

11 A Like I said, I notified my supervisor first, and after
12 we called them, I think I gave them to her after. You know,
13 we took the pictures and I put them in possession; we called
14 the police department and we gave them to them.

15 Q So you gave the cards to the police officers?

16 A Yes, ma'am.

17 Q Okay. And you spoke to the police officers yourself?

18 A Yes, ma'am.

19 Q Okay. Mr. Johnson, when you do a work order or a
20 service request for maintenance, do you often fill out a
21 service request report?

22 A Yes, ma'am.

23 Q Okay. Did you fill out one in this particular case?

24 A Yes, ma'am. On the replacement of the toilet.

25 ASST. SOL. LEGETTE: Begging the Court's indulgence.

1 (BRIEF PAUSE WHILE SOL. LEGETTE SHOWS MR. BENNETT A
2 DOCUMENT.)

3 MR. BENNETT: No objection, Your Honor.

4 Q Mr. Johnson, in a moment, I will hand you what's been
5 previously marked as State's Exhibit Number Nine for
6 identification. I want you to take a moment and tell me if
7 you can recognize this item.

8 ASST. SOL. LEGETTE: Your Honor, may I approach the
9 witness?

10 THE COURT: You may.

11 Q Mr. Johnson, do you recognize State's Exhibit Number
12 Nine?

13 A I do.

14 Q And Mr. Johnson, what is State's Exhibit Number Nine?

15 A It's a service request, work order, for the plumbing
16 issue.

17 Q Okay. And what apartment is it for?

18 A [REDACTED].

19 Q And Mr. Johnson, is State's Exhibit Nine a fair and
20 accurate representation of the work order that -- first of
21 all, let me ask you this question. Is there a signature on
22 State's Exhibit Number Nine? Your signature?

23 A Yes, ma'am.

24 Q And is State's Exhibit Number Nine a fair and accurate
25 representation of the work order that you completed for

1 apartment [REDACTED]?

2 A Repeat that, please.

3 Q I'm sorry; it was a long sentence. Is State's Exhibit
4 Number Nine a fair and accurate representation of the work
5 order that you completed for apartment number [REDACTED]?

6 A Yes, ma'am.

7 Q Has it been changed or altered in any way?

8 A No, ma'am.

9 ASST. SOL. LEGETTE: At this time, Your Honor, I would
10 offer into evidence State's Exhibit Nine.

11 THE COURT: As to State's Nine?

12 MR. BENNETT: No objection.

13 THE COURT: Ladies and gentlemen of the jury, State's
14 Exhibit Number Nine will be admitted into evidence in the
15 trial of this case without objection.

16 (WHEREUPON, STATE'S EXHIBIT NUMBER NINE, SERVICE
17 REQUEST WORK ORDER, IS RECEIVED INTO EVIDENCE.)

18 THE COURT: State's Nine in evidence. You may publish
19 to the jury, solicitor.

20 ASST. SOL. LEGETTE: Thank you, Your Honor. May I
21 approach the witness?

22 THE COURT: Yes, you may.

23 Q Mr. Johnson, if you don't mind, briefly tell us what we
24 are looking at on this service request.

25 A Looking at a service request for a new install of a new

1 toilet kit.

2 Q Okay. And did you complete this after you had to take
3 out the toilet?

4 A Yes, ma'am.

5 Q Okay. You put a new one in?

6 A Yes, ma'am.

7 Q And what apartment is this?

8 A [REDACTED].

9 Q Okay. And what date did this happen?

10 A January the 16th.

11 Q Okay. And are you able to read the resident's
12 signature on there?

13 A Yes, ma'am.

14 Q And what does that say?

15 A Tyneshia Young.

16 Q And is it customary for you to have the resident sign
17 whenever you complete or install new items into their
18 apartment?

19 A Normally, if they're home.

20 Q Okay. Thank you, Mr. Johnson.

21 ASST. SOL. LEGETTE: Begging the Court's indulgence.

22 (BRIEF PAUSE.)

23 Q Mr. Johnson, thank you. I have no further questions.

24 THE COURT: Give the exhibits to the court reporter.

25 ASST. SOL. LEGETTE: Thank you, Your Honor.

1 THE COURT: Cross-examination.

2 MR. BENNETT: May it please the Court?

3 CROSS-EXAMINATION

4 BY MR. BENNETT:

5 Q Mr. Johnson, the toilet that you took out of apartment
6 [REDACTED] and that you broke up and discovered credit cards, who
7 did that toilet belong to?

8 A Who did the toilet belong to?

9 Q Yes, sir.

10 A The apartment or the company?

11 Q I'm talking about the apartment. Who leased that
12 apartment?

13 A Tyneshia Young.

14 Q Okay.

15 A I guess she was on the lease.

16 Q Okay. And do you need to look at Exhibit Nine to make
17 sure?

18 A No, sir.

19 Q And so that toilet did not belong to Mack Washington,
20 did it?

21 A No, sir.

22 Q Okay. And Tyneshia Young is the person who leased the
23 apartment [REDACTED]?

24 A Correct.

25 Q To your knowledge?

1 A Yes, sir.

2 MR. BENNETT: That's all I have, Your Honor.

3 THE COURT: Redirect?

4 ASST. SOL. LEGETTE: Briefly, Your Honor.

5 REDIRECT EXAMINATION

6 BY ASST. SOL. LEGETTE:

7 Q Mr. Johnson, do you know Mack Washington?

8 A Yes, from Druid Hills.

9 Q Okay. And have you seen him at apartment ■■■ before?

10 A Yeah, a few times off and on.

11 Q Okay.

12 ASST. SOL. LEGETTE: I have no further questions.

13 THE COURT: Recross, limited to redirect.

14 RECROSS-EXAMINATION

15 BY MR. BENNETT:

16 Q The day that you took the toilet out of apartment ■■■, did you see Mack Washington around that day?

18 A No, sir.

19 Q Okay.

20 THE COURT: As to this witness, Solicitor?

21 ASST. SOL. LEGETTE: We ask that he be excused, Your Honor.

23 THE COURT: Any objection, Mr. Bennett?

24 MR. BENNETT: No objection, Your Honor.

25 THE COURT: Mr. Johnson, you are excused from the

1 trial of this case. You may leave the courtroom at this
2 time. Thank you very much. Call your next witness.

3 ASST. SOL. LEGETTE: Thank you, Your Honor. The State
4 calls Tyneshia Young.

5 (WHEREUPON, MS. YOUNG ENTERS THE COURTROOM.)

6 MADAME CLERK: Please come forward to be sworn. Place
7 your left hand on the Bible and raise your right.

8 (WHEREUPON, MS. TYNESHIA YOUNG IS DULY SWORN.)

9 THE COURT: Watch your step for me, please, ma'am.
10 Make yourself comfortable, adjust the chair, pull up the
11 microphone. It's going to amplify your voice. State your
12 name and spell your last name.

13 MS. YOUNG: Tyneshia Monique Young, Y-O-U-N-G.

14 THE COURT: Speak up for me and talk slowly. Your
15 witness, counsel.

16 DIRECT EXAMINATION

17 BY ASST. SOL. LEGETTE:

18 Q Now, Ms. Young, I'm gonna slow down so that you will
19 slow down. I have a tendency to talk really fast.

20 A Yes, ma'am.

21 Q Ms. Young, will you please spell your first name for
22 the court reporter as well?

23 A T-Y-N-E-S-H-I-A.

24 Q Okay. Now, Ms. Young, where are you from?

25 A Walterboro.

- 1 Q And what high school did you go to?
- 2 A Walterboro High at the time.
- 3 O Okay. Now, Ms. Young, do you still live in Walterboro?
- 4 A Yes.
- 5 Q Okay. Now, do you know Mack Washington?
- 6 A Yes.
- 7 Q Is he present in Court today?
- 8 A Yes.
- 9 Q Can you point him out, please?
- 10 A Right there. (INDICATING.)
- 11 Q Is he the man at counsel table with the white shirt on?
- 12 A Yes.
- 13 Q With the beard?
- 14 A Yes.
- 15 Q Thank you. Let the record reflect that the witness has
- 16 indicated the defendant, Mack Washington. Now, Tyneshia,
- 17 how long have you known Mack Washington?
- 18 A For some time now.
- 19 Q Would you say years, months?
- 20 A Probably years.
- 21 Q Years? Okay. Now, when you say you've known him for
- 22 some years, what was y'all's relationship? Were y'all --
- 23 how would you classify your relationship with him?
- 24 A Close friends.
- 25 Q Close friends. Okay. Were you girlfriend and

1 boyfriend?

2 A No.

3 Q Okay. Were you cousins?

4 A No.

5 Q Okay. But close friends?

6 A Yes.

7 Q Okay. Now, y'all were close friends, so let's go back
8 to 2012, January of 2012. Do you remember that particular
9 month?

10 A Yes.

11 Q Now, where were you living in January of 2012?

12 A Druid Hills I, apartment [REDACTED].

13 Q Okay. And who lived there with you at Druid Hills I,
14 apartment [REDACTED]?

15 A Me and my son.

16 Q Okay. Did anyone else live there with you?

17 A No.

18 Q Okay. You said you knew Mack Washington; y'all were
19 close friends. Did he ever hang out at your apartment?

20 A Yes.

21 Q Okay. And how often would he hang out there?

22 A Almost every other day.

23 Q Did he live there with you?

24 A No.

25 Q All right. But he would hang out there with you?

- 1 A Yes.
- 2 Q Okay. Now, when he hung out there, did he have any
3 clothes there?
- 4 A No.
- 5 Q Okay. Now, Ms. Young, let's talk about are you still
6 living at Druid Hills?
- 7 A No.
- 8 Q Okay. You and Mack Washington were close friends, do
9 you know who else Mack Washington hung out with?
- 10 A I mean he hung out with a lot of people.
- 11 Q Okay. Do you remember a young man named Tyheem?
- 12 A Yes.
- 13 Q Did he and Mack Washington hang out together?
- 14 A Sometimes, yes.
- 15 Q Okay. Did you know Tyheem?
- 16 A I didn't know him like that. I just knew where he
17 stayed in Druid Hills.
- 18 Q Okay. Now, let's go back to your apartment at Druid
19 Hills. Whose name was on the lease?
- 20 A Mine and my son's.
- 21 Q And who paid the rent?
- 22 A I did.
- 23 Q Now, Ms. Young, let's go back to January 7th, 2012. Do
24 you remember January 7th, 2012?
- 25 A Yes.

1 Q Okay. Did you see Mack Washington on January 7th,
2 2012?

3 A Yes.

4 Q Okay. Tell us about when you saw Mack Washington on
5 January 7th, 2012. What time of day was it?

6 A I'd say about earlier that day and that night.

7 Q Okay. So let's talk about earlier that day. What
8 capacity did you see Mack Washington in? Was he at your
9 house?

10 A He was back and forth.

11 Q So what happened when you saw Mack Washington?

12 A The last time I seen him when he walked in the door and
13 ---

14 Q Well, let's go back to January 7th. Let's talk about -
15 - did Mack Washington stay at your house sometime?

16 MR. BENNETT: I would object. She didn't let her
17 answer the prior question.

18 THE COURT: Counsel approach.

19 (WHEREUPON, A BENCH CONFERENCE IS HELD OFF THE RECORD
20 AND OUT OF THE HEARING OF THE JURY.)

21 THE COURT: Objection is sustained. Rephrase the
22 question, counsel.

23 ASST. SOL. LEGETTE: Yes, Your Honor.

24 Q Now, Ms. Young, I'm going to slow back down, okay? I
25 really get fast. I have to admit that and I'm sorry. So

1 Ms. Young, let's go back to January -- let's just talk about
2 this. Did the police come to your house in January of 2012?

3 A Yes.

4 Q Okay. What I want to talk about now is right before
5 the police came to your house, like the day prior to that,
6 early in the morning, do you remember that particular time?

7 A Yes.

8 Q Okay. Can you tell us about that particular time,
9 please?

10 A I probably woke up like 3:30, 4:00 in the morning. I
11 had to use the bathroom. When I came out, Ty was sitting on
12 my couch. It was some big thing. It almost looked like a
13 guitar on the couch. And I was like -- because at the time,
14 the defendant, he walked outside.

15 Q Okay.

16 A So I was like, "Ty, who owns that?" And he acted like
17 he didn't want to say anything. So I asked him again, and
18 he was like, "Mack," the defendant.

19 Q All right. So you mean Mack Washington, Jr.?

20 A Yes.

21 Q All right. So when you asked Ty -- you mean Tyheem
22 Lewis?

23 A Yes.

24 Q Okay. When you asked him that question and his
25 response, what did you do after Tyheem Lewis told you the

1 stuff belonged to Mack?

2 A I layed back down.

3 Q Okay. Now, you said you woke up around 3:30, 4:00?

4 A Yes.

5 Q Did anything wake you?

6 A Yeah, the noise from them coming in.

7 Q Okay. So when you say "the noise from them coming in"?

8 A Which would be the defendant and Ty.

9 Q Okay. So before that, you were asleep?

10 A Yes.

11 Q Okay. And where was your son?

12 A He was in his room at that time.

13 Q And he was sleeping, too?

14 A Yes.

15 Q All right. So now, you go back to sleep. Tell us
16 about the rest of the day when you finally woke back up.

17 A Okay. When I waked back up, nobody, nothing was in my
18 home.

19 Q So you're saying that Mack Washington and Tyheem Lewis
20 were both gone?

21 A Yes.

22 Q Okay.

23 A When I left and I came back, probably later on that
24 night, Mackie came back to the house, which is the
25 defendant, and when he came back, he closed the door. I

1 heard a knock at the door, so I was like, "Who is it?" And
2 was like, "Nobody." So I heard the knock again, harder. So
3 I went to the door and looked out the peephole and when I
4 did I was like, "That's the police." So he was like, "Don't
5 open the door." So after that, he wouldn't let me open the
6 door. He grabbed me. He put me in the room and the light
7 came in from on the side and he was like, "Get on the
8 floor." So he put me on the floor because I was trying to
9 call my moma; the light was on on my phone, so he grabbed
10 the phone. He went into the bathroom. I didn't get off the
11 floor until he came back in. He put me in the bathroom and
12 then I called my moma and I asked her, I called her and I
13 was like, "The police are over here." and she was like,
14 "What they over there for?" And I was like, "I don't know."
15 But at that time when I came in the room, he took the guns
16 out the closet and he put it underneath my bed.

17 Q Okay. So now, let's go back a little bit. You said
18 you went to the -- you heard a knocking?

19 A Yes, ma'am.

20 Q You went to the door?

21 A Yes.

22 Q What were you going to do when you went to the door?

23 A Open it.

24 Q Okay. So you intended to open the door for the police?

25 A Yes, ma'am.

1 Q Okay. So why didn't you open the door?

2 A Because the defendant wouldn't let me.

3 Q Now, did the police keep knocking?

4 A Yes. Then, they stopped and I called my mom. I guess
5 my mom walked to where my apartment was and she had talked
6 to someone, and then when I did talk to her, I think I
7 talked to -- I don't know whether it was Jason Chapman or
8 whoever, but I talked to them and they were telling me that
9 I needed to open the door. I wanted to open the door, but I
10 could not at the time.

11 Q And why couldn't you open the door?

12 A Because the defendant would not let me.

13 Q Okay. Now, Ms. Young, you said that during this period
14 of time, you saw the defendant go get some guns?

15 A Out of my closet.

16 Q Okay. And how many were there? Do you remember?

17 A I don't know, because it was in a case.

18 Q Okay. So you said you talked to your mother?

19 A Yes.

20 Q What did your mother -- you say she walked over to your
21 apartment, where did she live?

22 A She stayed in Druid Hills II with my deceased brother
23 and his baby moma.

24 Q Okay. So are those two places close to each other?

25 A Yes.

1 Q Okay. So you can't open the door. The police keep
2 knocking. What did you finally decide to do?

3 A Well, at that time, I called my mom. She was like, you
4 need to open the door. And at the time I was like, I'm
5 about to open this door because I'm not trying to get
6 evicted, you know, or whatever. So when he finally let me
7 open the door that's when, you know, they came in and they
8 asked, you know, where are the guns? I told them they was
9 in the room and they could go get it.

10 Q Okay. Now, you say he wouldn't let you open the door.
11 Who was "he"?

12 A The defendant.

13 Q All right. You said that you opened the door. You let
14 the police come in.

15 MR. BENNETT: Your Honor, I'm going to have to object.
16 I mean, she is literally testifying and leading the witness.

17 THE COURT: Sustained. It's leading, Solicitor. He's
18 correct. The objection is sustained. Ask direct questions.

19 ASST. SOL. LEGETTE: Yes, Your Honor.

20 Q So Ms. Young, when the police came to the door, what
21 did they say to you?

22 A They asked if they could come in. I let them come in.
23 They was like, they knew the guns were in there and I was
24 like, "Yes, it's underneath my bed."

25 Q And how did you know the guns were underneath your bed?

1 A Because when I was in the room, when the police was
2 knocking to the door, he reached in there and got them; the
3 defendant.

4 Q Okay. And who put them under the bed?

5 A The defendant did.

6 Q Okay. So did the police come into your apartment?

7 A Yes.

8 Q And what did they get out of your apartment?

9 A The guns.

10 Q Okay. So you allowed them to come in and get them?

11 A Yes.

12 Q All right. So once they got the guns, what did they
13 say to you next?

14 A They just said thank you and to come talk to them the
15 next day.

16 Q Okay. And so did you go and talk to them the next day?

17 A Yes.

18 Q What did you tell them that next day?

19 A I told them basically a lie.

20 Q All right. And what lie did you tell them?

21 A I told them that somebody else brought the guns in my
22 house.

23 Q And why did you tell the police someone else brought
24 the guns into your house?

25 A Because the defendant told me to.

1 Q And what do you mean "the defendant told me to"?

2 A He told me to tell them somebody else did it.

3 Q And when did he tell you to tell them this?

4 A This was, well, basically when we weren't in the home
5 at the time he was trying to come up with something anyway.

6 Q So he was coming up with a story?

7 A Yes.

8 Q All right. And so why did you tell the police what he
9 told you to tell them?

10 A At the time, I don't know.

11 Q Y'all were friends?

12 A We were friends, yes.

13 Q Okay. So you told the police that story. Did you next
14 -- let's turn your attention now to -- let me ask you this,
15 did you continue living at Druid Hills apartment [REDACTED] after
16 the police got the guns out of your apartment?

17 A No, I got evicted.

18 Q Okay. Well, prior to getting evicted, how much longer
19 did you stay there?

20 A Probably three weeks.

21 Q All right. So at some point, did you have a problem in
22 your apartment?

23 A Yes, my toilet was clogging up.

24 Q Tell us about that toilet clogging up.

25 A When my toilet was clogging up, I had to call over

1 there so the maintenance man could come. When he did come,
2 at one point, he found a credit card -- not a credit card,
3 an ID. And after he found that, my toilet still was acting
4 up, but when he got the toilet, I guess they had to bust it.
5 When they did bust it, I guess that's when they found the
6 credit cards.

7 Q Okay. Now, let's talk about this ID. Did you ever see
8 this ID?

9 A Yes, he showed it to me.

10 Q Okay. And can you describe what the ID looked like?

11 A It was an older white woman.

12 Q All right. Now, Ms. Young, do you recall what date
13 that day was whenever the maintenance man found the credit
14 cards?

15 A No, I really can't remember.

16 Q Now, do you remember there being a sheet that you would
17 have had to sign for the service request?

18 A Yes.

19 Q In a moment, I'm going to hand you what's been
20 previously marked and entered into evidence as State's
21 Exhibit Nine. I want you to take a moment and tell me if
22 you recognize this.

23 ASST. SOL. LEGETTE: Your Honor, may I approach the
24 witness?

25 THE COURT: You may.

1 Q Ms. Young, do you recognize State's Exhibit Nine?

2 A Yes.

3 Q Ms. Young, what is State's Exhibit Nine?

4 A It's the install for a new toilet.

5 Q Okay. And that is -- did you sign State's Exhibit
6 Nine?

7 A Yes, ma'am.

8 Q Ms. Young, the items that were found in your toilet,
9 did you put them in there?

10 A No.

11 Q Do you know how they got in there?

12 A The defendant.

13 Q And why do you say the defendant put them in there?

14 A Because at that time, the next day, my toilet started
15 acting up and he was in the bathroom.

16 Q Now, Ms. Young, did you ever talk to the police again
17 after your initial statement to them and after they found
18 the guns, did you talk to them anymore?

19 A When they locked me up.

20 Q Okay. Let's talk about that. Now, what did you get
21 arrested for?

22 A Receiving stolen goods.

23 Q And what was that charge about?

24 A I assume because they found the guns in my home.

25 Q Okay. And who did you talk with at that time?

1 A Jason Chapman.

2 Q Okay. So at that point, what did you tell Jason
3 Chapman?

4 A I told him -- at first, I did tell him a lie and then I
5 wound up telling him -- I really can't remember everything I
6 told him, but I know I told him at some point.

7 Q Okay. So did you tell him about how the guns got in
8 your apartment?

9 A Yes.

10 Q And that was your second statement?

11 A I believe so.

12 Q Okay. Now, Ms. Young, let's be frank, why did you not
13 tell the police everything? Let's just be real. Keep it
14 real, okay? Why didn't you tell the police everything?

15 A Because at the time, the defendant told me to and I
16 didn't really want to get into it. I was kind of scared.

17 Q Now, you said you got arrested for receiving stolen
18 goods. What happened to that charge?

19 A It was dismissed.

20 Q All right. Did anyone promise you anything for it to
21 be dismissed?

22 A No.

23 Q Now, you said that you have in the past, you weren't
24 truthful with the police about this case. Are you telling
25 the truth here today?

1 A Yes.

2 Q Now, finally, Ms. Young, you said that you were
3 evicted. Tell us what happened to your apartment.

4 A Well, when I did get locked up, the next day I got out,
5 before I could even walk out the car, the lady that was
6 working there, she came and she hand me an eviction notice.

7 Q Okay. And I didn't ask before, but how old is your
8 son?

9 A He's 10 now.

10 Q And how old would he have been in January of 2012?

11 A Seven.

12 Q Okay. Ms. Young, I have no further questions. Please
13 answer any questions from the defense.

14 THE COURT: Cross-examination.

15 MR. BENNETT: Thank you, Your Honor.

16 CROSS-EXAMINATION

17 BY MR. BENNETT:

18 Q Tyneshia, what do you do for a living?

19 A Nothing at this moment.

20 Q Have you ever had a job?

21 A Yes.

22 Q Okay. And what was the last job you had?

23 A I was working doing housekeeping at Edisto Island.

24 Q Okay. And when was that?

25 A Like in 2012.

1 Q So how do you support yourself?

2 A I have family.

3 Q Okay. Now, it sounds like you've admitted to the
4 solicitor you've told a good many lies and a good many
5 stories in this case, haven't you?

6 A I did.

7 Q And you've told the police officers, you've given them
8 false information, hadn't you?

9 A I did.

10 Q And your first interview with Jason Chapman, you
11 admitted that you told him a lie?

12 A Yes.

13 Q Okay. So how is it that we can tell whether you're
14 telling the truth?

15 A I don't know, but I am.

16 Q But you've admitted you've told a whole bunch of
17 different stories in this case, haven't you?

18 A Yes, probably about two.

19 Q All right. You've given three different interviews to
20 try to clear up all the stories and all in this case,
21 haven't you? At least three interviews, two with Jason
22 Chapman and one with the Solicitor's Office; is that right?

23 A Maybe.

24 Q And isn't it true that the reason you were telling
25 stories and telling lies is because you were scared you were

1 going to get charged with receiving stolen goods; is that
2 kind of what it was?

3 A No.

4 Q Isn't it true that at some point, you were either
5 threatened or told that if you didn't fully cooperate and
6 you weren't truthful that you could possibly get evicted
7 from Druid Hills and could possibly lose your child?

8 A No.

9 Q Nobody ever told you that?

10 A No.

11 Q Now, you talked about the toilet being clogged up?

12 A Yes.

13 Q Is that right?

14 A Yes.

15 Q All right. The day that the police came to try and get
16 into your apartment, wasn't that the late evening, near
17 midnight, on January 8th?

18 A Yes, I believe so.

19 Q Or early morning on January 9th?

20 A Yes.

21 Q Isn't it true that your toilet, according to the
22 documents that have been introduced, this toilet was taken
23 out of your apartment on January the 16th?

24 A Yes.

25 Q Okay. So what were you doing, as far as the toilet is

1 concerned, between January the 9th and January the 16th?

2 A I'm not understanding what you're saying.

3 Q Okay. Haven't you said that somebody flushed the
4 credit cards down your toilet?

5 A Yes.

6 Q And it clogged up your toilet?

7 A Yes.

8 Q Okay. What toilet did you use from January 9th until -

9 --

10 A I mean, I was using the toilet, I just had to keep
11 plunging it until it was too bad that I had to report it.

12 Q Okay. But you didn't know what was causing the clog;
13 isn't that right?

14 A No, not at the time.

15 Q And you said you and your son were the only ones living
16 in that apartment?

17 A Yes.

18 Q Now, when the police came there on January the 8th at
19 about, I think, it was around midnight; do you admit that?

20 A Yes.

21 Q And that was on a Sunday; is that right? Late Sunday
22 evening or early Monday morning?

23 A Yes.

24 Q Is that correct?

25 A Yes.

- 1 Q Did the police have a search warrant?
- 2 A No, I don't believe so.
- 3 Q Okay. And did you ask them if they did?
- 4 A No, because I let them in.
- 5 Q So you actually let them in?
- 6 A Yes.
- 7 Q How long -- how long were they out there?
- 8 A Umm ---
- 9 Q About 45 minutes to an hour, wasn't it?
- 10 A Probably 45 minutes.
- 11 Q So it took anywhere from 45 minutes or approximately
- 12 before you let them in your door?
- 13 A Yes.
- 14 Q Okay. When you let them in, who all was at your front
- 15 door?
- 16 A I can't really say; I don't know.
- 17 Q Do you know how many officers were there?
- 18 A I don't know, about three at the time; I don't know. I
- 19 can't remember.
- 20 Q Were there a lot of other people out there also?
- 21 A Yes. Well, there was people outside of their doors.
- 22 Q Okay. And did the police arrest you or Mack Washington
- 23 that evening?
- 24 A No.
- 25 Q And did Lt. Jason Chapman at the time, or any other

1 officer, did they ever tell you if you didn't let them in,
2 they would go get a warrant from a judge and kick your door
3 in?

4 A I was on the phone with Jason Chapman when he said I
5 needed to open the door, or he would go get a search warrant,
6 yes.

7 Q And isn't it true that you talked on your cell phone to
8 your mother several times where she was trying to convince
9 you at the request of police officers to open the door?

10 A Well, she told me to open the door.

11 Q Okay. And she was talking to Jason Chapman while she
12 was talking to you on the cell phone, wasn't she?

13 A She gave the phone to him and I spoke with him.

14 Q Okay. So it was kind of a long ordeal before you
15 opened the door, wasn't it?

16 A It was something like that.

17 Q Okay. And isn't it true that the reason you didn't
18 open the door was because you didn't want to get in any
19 trouble because you knew there were stolen guns in there?

20 A No. I opened my door because that's what I wanted to
21 do when I heard the knock and I looked out there and seen
22 the police.

23 Q Now, today -- are you testifying today what the police
24 told you to testify to?

25 A No.

1 Q Why should we believe that? You already admitted
2 you've told two or three lies and two or three stories?

3 A I don't know. That's up to you to believe what I say,
4 but I know I'm telling the truth.

5 Q And they actually did charge you with receiving stolen
6 goods in this case, didn't they?

7 A They dropped it.

8 Q But did they drop it right off or did they not --
9 actually, let me rephrase that, they didn't drop your
10 charges until you agreed to come in here and testify; isn't
11 that right?

12 A No.

13 Q That's not right?

14 A No.

15 Q Okay. So you didn't agree to come testify?

16 A I mean, I agreed, but my charges been dropped.

17 Q But isn't it true, though, after you told them you
18 would testify, that's when they dropped the charges?

19 A I mean, he said he was going to drop it regardless.

20 Q And who said that?

21 A Jason Chapman.

22 Q Okay. You talked about that when you went to sleep
23 that Mack Washington was at your apartment; isn't that what
24 you said?

25 A Yes.

1 Q Okay. What time did you go to sleep?

2 A I probably went to sleep about around 10, 11.

3 Q And you didn't wake up to around 3:30?

4 A Yeah, I was on and off, yeah.

5 Q Okay. So you don't know whether Mack Washington ever
6 left your apartment that night or not, do you? Because your
7 testimony is that you were sleeping?

8 A I was sleeping, but he left because when he came back
9 in that's how I woke up.

10 Q Okay. But haven't you previously testified in this
11 case and giving statements I believe that you were asleep
12 and you didn't know what was happening.

13 A Yeah, at the time I was asleep. I didn't know what was
14 happening until I heard the noise. Then when I got up, the
15 defendant and Ty was in my house.

16 Q But you said they were in and out your house all day,
17 right?

18 A No. Mack, the defendant, was in and out the house all
19 day.

20 Q Okay. But Mack was in your house when you went to
21 sleep, wasn't he, that night?

22 A Yes, I think so; I believe so.

23 Q So he was in your house when you went to sleep and when
24 you woke up, he was in your house; isn't that right?

25 A He was just coming in the house.

1 Q Okay. How would you know that if you were asleep?

2 A I was just waking up. He was just coming in the door.

3 Q Okay. And was that pretty normal though that he went
4 in and out?

5 A Yes.

6 Q I'm not sure if I asked you this, but during the time
7 that you were being interviewed by Lt. Chapman, I think it
8 was in January or February of 2012, were there a lot of
9 people getting evicted from Druid Hills apartments due to
10 criminal activity?

11 A No, not as I know of.

12 ASST. SOL. LEGETTE: Objection.

13 THE COURT: Is there an objection?

14 ASST. SOL. LEGETTE: I'll withdraw it, Your Honor.

15 Q You said not that you know of?

16 A Not that I know of.

17 Q Isn't it true that Jason Chapman told you that he had
18 asked 11 or 12 people to be evicted from Druid Hills during
19 this time?

20 A No, he never told me that.

21 Q He never did?

22 A No.

23 Q Okay. Now, you testified that Mack Washington was
24 somehow restraining you or told you to get on the floor or
25 go to the bathroom or something like that ---

1 A Yes.

2 Q If all that was true, how did you get on the phone --
3 you said several times with your moma.

4 A That's because when he did let me go, we was in the
5 bathroom; he was in the bathroom with me.

6 Q Okay. And so how did -- if he was trying to prevent
7 you from opening the door, I mean, how was it that you
8 actually ended up opening the door and all that?

9 A Because at the time, he let me after I told him I was
10 not trying to get evicted; and my son was on the couch.

11 Q That you were trying not to get evicted?

12 A Yeah, I was trying not to get evicted, you know,
13 because of what was going on with him and my son was on the
14 couch and they were knocking on the door.

15 Q But you just said you weren't worried about getting
16 evicted or anything.

17 A I wasn't worried about getting evicted at the time, but
18 I wasn't trying to, you know what I'm saying, get myself
19 caught up in whatever he had going on.

20 Q Okay.

21 MR. BENNETT: That's all I have, Your Honor.

22 THE COURT: Redirect?

23 ASST. SOL. LEGETTE: None, Your Honor.

24 THE COURT: As to this witness?

25 ASST. SOL. LEGETTE: We ask that she be excused,

1 Your Honor.

2 THE COURT: Any objection, Mr. Bennett?

3 MR. BENNETT: No objection, Your Honor.

4 THE COURT: Very well. Ms. Young, you may step down.

5 You are excused from the trial of this case. Call your next
6 witness.

7 ASST. SOL. LEGETTE: Thank you, Your Honor. The State
8 calls Lt. Jason Chapman.

9 MADAME CLERK: Please come forward to be sworn.

10 (WHEREUPON, LT. JASON CHAPMAN IS DULY SWORN.)

11 MADAME CLERK: Have a seat on the witness stand.

12 THE COURT: You know what to do. Pull it up, adjust
13 it, state your full name and spell your last for me.

14 LT. CHAPMAN: Good afternoon, ladies and gentlemen. My
15 name is Lt. Jason Walker Chapman. Last name is spelled C-H-
16 A-P-M-A-N. I'm currently employed with the Colleton County
17 Sheriff's Office.

18 THE COURT: Your witness, counsel.

19 ASST. SOL. LEGETTE: Thank you, Your Honor.

20 DIRECT EXAMINATION

21 BY ASST. SOL. LEGETTE:

22 Q Lt. Chapman, what are your duties at the Colleton
23 County Sheriff's Office currently?

24 A I am currently in charge of criminal investigation.

25 Q And Lt. Chapman, where have you worked previously?

1 A Prior to coming to the Sheriff's Office in January of
2 2013, I worked for the Walterboro Police Department for 16
3 and a half years.

4 Q And what were your duties at the Walterboro Police
5 Department?

6 A A little bit of everything. I started off there as a
7 cadet, then a dispatcher, then a reserve officer. Started
8 off as a patrol officer. By 2000, I was a shift supervisor,
9 K-9 handler, firearms instructor, investigator, narcotics
10 detective; pretty much everything.

11 Q Okay... So you're a "jack of all trades"?

12 A Yes, ma'am.

13 Q All right. So now were you working at the Walterboro
14 Police Department in January of 2012?

15 A Yes, ma'am, I was.

16 Q And did you become involved in an investigation of an
17 armed robbery at the Rice Planters Inn?

18 A Yes, ma'am.

19 Q Tell us about your involvement in that investigation,
20 please.

21 A At the time, I was a narcotics investigator, primarily
22 working narcotics. We assisted, because of the structure of
23 the department, with major investigations, i.e. robberies,
24 shootings, things of that nature. I was not privy to the
25 initial call that we've been talking about today, on the 7th

1 of January. I didn't know anything about it. I wasn't on
2 call that night.

3 On the 8th of January, I received a phone call that
4 provided me with some information that two firearms that
5 were allegedly taken during this armed robbery at the Rice
6 Planters may be located at a Druid Hills I apartment [REDACTED]. I
7 received a phone call, like I said, I got that information.
8 It took me a little while to corroborate the information.

9 Again, I didn't know about the initial incident, so I
10 had to go back to the office. It was the weekend, had to go
11 back to the office, look up the report, go through the
12 report itself and determine if there were any firearms
13 actually taken. When I did that, I did determine that there
14 were two reported by the victims; two had been stolen during
15 that robbery.

16 I then had to determine, I actually made a phone call
17 back to the individual that gave me the information to find
18 out if they knew the guns were hand guns or long guns or
19 what. I was advised that the alleged stolen guns were long
20 guns, or rifles, which did in fact match up to what the
21 Klems had reported the night of the 7th to the patrol
22 officers.

23 I went back and verified that [REDACTED] was actually
24 occupied. In our office, we carry an updated list of all of
25 the apartment complexes inside of the city limits at the

1 time, who was the resident of each individual apartment.
2 Went back and verified that [REDACTED], according to our records,
3 was actually occupied, and at that point in time, I notified
4 the shift supervisor of the road patrol that I was going to
5 need a couple units to assist. That I was going to go by
6 and make contact with the residents of [REDACTED] in reference to
7 the information that we had obtained.

8 Q Okay. So now let's talk about, you said January 7th --
9 well, you learned about the actual robbery the next day,
10 January 8th?

11 A That's correct.

12 Q All right. What day is January 8th when you learned
13 about it? What day of the week?

14 A The day of the week should have been a Saturday night.

15 Q All right. What day of the week is January 7th?

16 A Should have been a Friday night, I guess. If that's
17 correct -- no, actually, I think -- I'm sorry, I've got my
18 dates wrong. The incident occurred on a Saturday night.
19 The 8th would have been a Sunday; excuse me.

20 Q All right. So on January 8th, you learned about the
21 actual incident at the Rice Planters Inn?

22 A That's right.

23 Q Can you describe for us where Rice Planters Inn is
24 located?

25 A Sure. If you travel south from the courthouse on

1 Jefferies Blvd, and go approximately three miles, you will
2 come to an intersection of I-95 and Sniders Highway, just
3 before the intersection or before you cross the overpass,
4 you will have to make a left on Ladson Lane. It's a short,
5 little dead-end road. You turn down Ladson and Rice
6 Planters is located behind the initial row of businesses. I
7 believe there are two gas stations, a fireworks stand or
8 something that actually sit on the roadway. Ladson takes
9 you behind those and Rice Planters is located behind those
10 facilities. It's two different structures. The main
11 structure is two stories. The separated structure is single
12 story with a swimming pool.

13 Q Okay. So let's go back to the information that you
14 received. Once you received the information, you said you
15 had to corroborate it.

16 A That's correct.

17 Q What did you next do after you corroborated the
18 information?

19 A I contacted the supervisor on the road patrol at that
20 time and told him I was going to be pulling a couple of his
21 units to assist me. It actually ended up being the
22 supervisor, Sgt. Edwards at the time, the one that testified
23 this morning, was one of the officers that went with us, and
24 myself, and my partner at the time who was Cpl. Kevin
25 Kinard. We went over to Druid Hills and we got out and made

1 our way over to [REDACTED] and started initiating contact with the
2 door.

3 Q And what happened when you got to the door?

4 A We could hear movement inside, moving around, you know,
5 quick, nothing breaking, nothing slamming, nothing like
6 that. But you could hear movement inside the apartment. We
7 knocked on the door for several minutes, calling the name
8 that we had on the registration form of the apartment list.

9 Q And what name was that?

10 A Tyneshia Young.

11 Q Okay.

12 A And we called several times and shined a flashlight
13 through the side window. It's on the second level, but we
14 use a flashlight to shine through the window, trying to make
15 contact. Knocked, and stopped for a little while, and
16 actually went and tried to get a phone number from our
17 computer system at the office to see if we could make
18 contact with a hard line phone. Didn't have a phone listed.
19 We tried to look it up under Ms. Young's name to see if she
20 had maybe called in something to get a phone number;
21 couldn't get a number. Eventually, Ms. Young's mother
22 approached us across the parking lot, came to us, and asked
23 what was going on.

24 Q And did Ms. Young's mother identify herself as being
25 her mother?

1 A Yes.

2 Q Okay. So did you speak with Ms. Young's mother?

3 A I did.

4 Q And what did you tell her?

5 A She asked what we were doing and I told her that we had
6 information there was property inside the apartment that was
7 stolen, and she asked had her daughter come to the door, and
8 I said, "No, ma'am," that we could hear people inside, but
9 no one would open the door. She said, "I've spoke to her on
10 the phone. Let me see if I can get her back on the phone,"
11 and she did.

12 Q And did you try to force Ms. Young's mother to try and
13 get her to open the door?

14 A No, ma'am, she came to us. Ms. Young's mother came to
15 us and actually asked what was going on.

16 Q All right. And you said that her mother got her on the
17 phone?

18 A Yes.

19 Q Did you talk with her?

20 A I did.

21 Q Okay. And what, if anything, did you tell Ms. Young?

22 A She asked me who I was, and I identified myself. I
23 told her that I had information that there was property
24 inside of the apartment that was stolen. I asked her if she
25 would come to the door. She sounded hesitant. She said,

1 "I'll come to the door," but she never came. So at that
2 point in time, I told the mother that I was going to leave
3 and go get a search warrant. I actually got in my vehicle
4 and was departing the location. I made a left, or
5 northbound, turn on Sniders, and made it probably four or
6 five hundred feet when one of the officers called me back on
7 the radio and said that the door had just come open, so I
8 turned around and went back.

9 Q All right. So the door comes open, what did they do
10 next?

11 A I wasn't there when they actually opened the door. By
12 the time I got back to the complex, Mr. Mack Washington was
13 already out of the apartment with two officers at the bottom
14 of the stairs. My partner, Kevin Kinard, had Ms. Tyneshia
15 Young upstairs, the door open, standing at the doorway. I
16 went upstairs, introduced myself to Ms. Young, told her I
17 was the one who had talked to her on the telephone. She
18 asked again what was going on and I told her we had
19 information that there were stolen weapons inside the
20 apartment. I asked her if she had any knowledge of anything
21 being in there. She said, "There's guns that were put
22 underneath my bed." And I said, "Can we have your consent
23 to go get the guns? And she said, "They're in there. One's
24 underneath the mattress; one's underneath the bed. You have
25 my permission to go get them." We entered the apartment,

1 went in and took the guns out from underneath the
2 mattresses. There was a lever action 30/30 underneath the
3 actual mattress and there was a bolt action rifle, I think
4 it was a Remington, or something. It was actually in a hard
5 case, a large, plastic hard case that was underneath the bed
6 itself. I brought the two guns back and showed them to her
7 so she would understand that those were the two items that
8 we picked up and the only two items that we picked up.
9 Never went into any other room in the residence. She could
10 see us the whole time when we went down the hallway, got
11 those guns, came back out, and told her this is what we were
12 taking. I asked her if she would be willing to come in the
13 following day and give me a statement. I realized the
14 following day wasn't going to work for her, so I asked her
15 to come in on the 10th instead and give us a statement, she
16 agreed. And no arrests were made and we departed the
17 apartment with the guns.

18 Q Okay. So now you say that by the time you got back to
19 the location, you said Mack Washington was there?

20 A Yes.

21 Q All right. Are you familiar with Mack Washington?

22 A Yes.

23 Q Okay. Do you know how tall Mack Washington is?

24 A Right offhand, no, but about six foot, six foot one,
25 somewhere around that area.

1 Q Okay. And you said that at this point, you didn't make
2 any arrests?

3 A No, we did not.

4 Q All right. Why didn't you get a search warrant?

5 A I've found over the years, I've been a cop for a long
6 time, my mouth gets me a lot farther, you know, patience and
7 talking to people than it does sometimes flashing a badge
8 and being forceful. I could have gone and at least sought a
9 search warrant. I can't tell you that I would have gotten
10 one, but I could have gone to a judge and sought one. It's
11 not uncommon in the job that I was doing, especially at that
12 point in time with narcotics, to go at 2:00 in the morning
13 and get a search warrant, but if I can try and I can make
14 contact and I can get them to come to the door, A, it keeps
15 me from waking a judge up in the middle of the morning, and
16 then B, it keeps -- it shows us a little better repore with
17 the citizens that I'm willing to come and talk to them first
18 and see if they will do it; so we just try it. Sometimes it
19 works and sometimes it doesn't. You know, honestly
20 speaking, if Ms. Young's mother had not come to us, I would
21 probably have bailed on the attempt to make contact in
22 person and gone and got the search warrant, or at least
23 sought the search warrant.

24 Q Okay. But in this case, Ms. Young gave you consent to
25 get the guns?

1 A She did.

2 Q Did you threaten her in any way?

3 A No. The only thing I told her on the phone, just as
4 she told you earlier, was that if she didn't come to the
5 door that I had intentions of seeking a search warrant, and
6 again, that was a matter of fact, not a threat. It was just
7 that I intended to go get a search warrant if she didn't
8 come to the door and at least talk to me.

9 Q Did you promise her anything?

10 A No.

11 Q Okay. So you said that you asked Ms. Young to come in
12 and talk to you the next day or so. Did she come in?

13 A She did.

14 Q Okay. And did you talk to her?

15 A I did.

16 Q All right. And after talking to her, what decisions
17 did you make after that?

18 A I could tell she wasn't being honest with me; some of
19 the things she said in the statement didn't match up. One
20 thing about being born and raised here and being a cop here
21 for so long is that you know people and a lot of times when
22 somebody tries to throw a name out at you to stump you or a
23 nickname, you know who they are. It makes it a little bit
24 easier for those of us who have been around for a while to
25 follow up on things. It just -- it didn't match up to what

1 we had information that had happened that night. It wasn't
2 anything I could tell right off the bat and it wasn't
3 anything I could arrest her for. It was nothing I could
4 make an immediate decision on. I just felt like she wasn't
5 being honest with me.

6 Q Okay. So you talked to Tyneshia Young. What else
7 happened in your investigation? You said you got those
8 guns.

9 A Right. We recovered the guns. We were able to
10 determine that they were, in fact, the victim's, Frank and
11 Joan Klem's guns. The guns were placed into evidence,
12 obviously, at headquarters. On the 10th, which again was
13 the day after this incident with the apartment, I received
14 information through Chief Rhodes that some property possibly
15 belonging or being involved with the armed robbery had been
16 located at the Cuckold's Landing down in White Hall or
17 Greenpond. So myself and a couple of detectives rode down to
18 the landing, and when we turned off of the pavement and by
19 the church, went down the dirt road to the actual end of the
20 road where the landing is, there was closed suitcases,
21 personal effects, just strewn all over the landing. We got
22 out and kind of thumbed through what we could see after we
23 took a picture, and more or less located an item that had a
24 name or something; I think it was a piece of mail, actually,
25 that had either Mr. and Mrs. Klem's name on it, more or less

1 verifying that the property, at least partially, if not all
2 of it, belonged to the victims. So we collected what we
3 could get. It obviously had been out there for a day or
4 two, was wet from the dew, and packed everything we could up
5 in the bags that were there and put it in the back of the
6 vehicle and took it back to the office.

7 Q Okay. So you said that you collected these clothes and
8 luggage?

9 A That's correct.

10 Q And you also indicated that it had been out in the
11 elements?

12 A Yes.

13 Q Did you attempt to do any fingerprinting or processing
14 of the items you collected?

15 A Everything that we picked up was evaluated for
16 evidentiary value for, in other words, it was evaluated on
17 whether or not it could be processed. Nothing that we
18 retrieved, I felt like, in my experience, we could lift a
19 fingerprint off of.

20 Q Okay. Now, Lt. Chapman, when you located the items,
21 what did you say the landings name was?

22 A It's Cuckold's Landing.

23 Q Okay. So you located the items. Did you take any
24 pictures of the items you found?

25 A I did.

1 Q Lt. Chapman, momentarily I will hand you what's been
2 previously moved into evidence as State's Eleven. Take a
3 moment and tell me if you recognize this item.

4 ASST. SOL. LEGETTE: Your Honor, may I approach the
5 witness?

6 THE COURT: You may.

7 Q (ASST. SOL. LEGETTE HANDS DOCUMENT TO THE WITNESS.)

8 A Yes, ma'am, this is one of the photographs I took on
9 the 10th of January, 2012, the day we went down to the
10 landing depicting some of the luggage and clothing and
11 various personal items that were found at the landing.

12 Q Okay. And those particular items were collected?

13 A That's correct.

14 Q All right. Now, let's go back to the guns that you
15 collected from Ms. Tyneshia Young's apartment on January the
16 8th. A Yes, ma'am.

17 Q What was done with those guns?

18 A They were taken back to the office and entered into
19 evidence. I instructed my partner afterwards to process the
20 guns, which as far as I know, he did as I asked. The guns
21 were subsequently, along with a number of other items,
22 eventually returned back to the Klems.

23 Q Okay. Now, those guns, you said they were processed
24 for print?

25 A Yes, ma'am.

1 Q And to your knowledge, you were the case officer in
2 this case?

3 A That's correct.

4 Q Were there any identifiable prints on those guns?

5 A No, ma'am. We submitted several samples to the AFIS
6 center and we got negative results back.

7 Q Okay. Now, are you also familiar with another item of
8 evidence that was collected at the Cuckold Landing?

9 A The red binder that Sgt. Wallace explained that he
10 collected earlier today was allegedly recovered there. Sgt.
11 Wallace brought the item to us on the 16th of January and
12 stated that he had actually been out, apparently the same
13 day that we had, earlier before us on the 10th, and had
14 located the item. I guess he took it back to his office
15 before they were able to determine that it was associated
16 with our crime. I believe it was on the 16th that he
17 notified that he had the binder and actually returned that
18 binder -- or transferred custody of that binder to us.

19 Q Now, Lt. Chapman, let's talk about the rest of the
20 investigation of this case. By now, you've recovered the
21 clothes, the luggage, the red binder, and the guns. Was any
22 other evidence collected during this period of time?

23 A Yes, ma'am. The same night that I received the initial
24 call about the guns being inside the apartment at [REDACTED] so
25 that would have been the evening of the 8th, I was also told

1 that the vehicle that was taken during the incident, which
2 was I believe a white Chevrolet Impala, I was told that the
3 defendant, Mack Washington, Jr., had the vehicle in the
4 Turkey Hill area and that he had sold the vehicle to two
5 individuals for \$200. Obviously, at that time, I wasn't
6 able to corroborate any of that.

7 I know Mr. Washington is familiar with the Turkey Hill
8 area, I was given the names Coco and Dion were the
9 individuals who had allegedly had purchased the vehicle for
10 \$200 from Mr. Washington. On the 10th, we actually received
11 some information that the vehicle had been racing in the
12 Turkey Hill area over the weekend following the armed
13 robbery, but we were unable to verify that. We did check
14 the Turkey Hill area, the Greenpond area, the White Hall
15 area for the vehicle repeatedly.

16 We tried to initiate the On-star of the vehicle, which
17 how they work if it's not activated at the time, they're not
18 going to do it for you. We put a helicopter in the air on
19 multiple occasions trying to find if the vehicle was hidden
20 in the woods or anything like that. We basically tried
21 everything in the world that we could.

22 It wasn't really until the 27th of January was the next
23 major turn where I got information that golf clubs that were
24 taken during the night of the robbery had been sold to a
25 third party in Charleston County and I never met the person

1 in Charleston County, and I couldn't confirm the name of the
2 person in Charleston County, but the individual that
3 provided the information retrieved the golf clubs from the
4 individual, delivered them to myself and Cpl. Kinard. We
5 then notified the Klems and they confirmed the clubs were,
6 in fact, theirs.

7 Q And what day did you get those clubs back; do you
8 remember?

9 A That was the 27th of January.

10 Q Okay. So you got the clubs back on or about January
11 27th?

12 A That's correct.

13 Q The Klems identified the clubs as being theirs.

14 A That's correct.

15 Q Now, let's talk about this vehicle. Were you ever able
16 to locate the vehicle?

17 A On the following day, after the golf clubs were
18 recovered, which was the 28th, I received information that
19 the remnants of the vehicle were in the Turkey Hill area.
20 It took us two days to verify that. On January 30th, we
21 actually located what was left of the victims vehicle
22 behind, I think it was 703 Turkey Hill. It was a residence
23 down near the end of the dead end road. The vehicle was
24 actually somewhat visible from the roadway. When we got far
25 enough past the residence on Turkey Hill, you could look

1 back over your left shoulder and you could see the remnants
2 of the vehicle. Went up and made contact.

3 Q Did you learn whose house it was that the vehicle was
4 located behind?

5 A I did and it just escaped my mind; sorry.

6 Q While you're thinking about that ---

7 A Yeah, I'm sorry.

8 Q Go ahead, I'm sorry.

9 A Ricky -- I can't remember, I'm sorry.

10 Q Do you need to refresh your memory with your report?

11 A Yes, please.

12 ASST. SOL. LEGETTE: Your Honor, may I approach the
13 witness to refresh his memory?

14 THE COURT: You may approach.

15 A Ricky White. I apologize for not being able to
16 remember.

17 Q That's fine. So you upon receiving the information and
18 locating this vehicle, what did you do next?

19 A I actually notified the Sheriff's Office again, like I
20 told you earlier, at the time, I was a city police officer,
21 so I was outside my jurisdiction. Once I learned that a
22 grey vehicle matching that possibly could have been our
23 vehicle was located behind the residence, we notified Keith
24 Crosby with the Colleton County Sheriff's Office. We had
25 Deputy Crosby come to our location where we spoke with Ricky

1 White together and we went back and were able to get a
2 identifying characteristic off of the vehicle that confirmed
3 that it belonged to the Klems.

4 Q And who are the relatives of Ricky White?

5 A Quincy White.

6 Q Now, in a moment, Lt. Chapman, I'm going to hand you
7 what's been previously marked as State's Exhibit 10, 12, 13,
8 14, 15 and 16. I'm going to ask you to take a moment and
9 tell me if you recognize these items.

10 (ASST. SOL. LEGETTE SHOWS MR. BENNETT THE EXHIBITS.)

11 MR. BENNETT: No objection.

12 THE COURT: How many? Five?

13 ASST. SOL. LEGETTE: It's six, Your Honor.

14 THE COURT: Give me the numbers again.

15 ASST. SOL. LEGETTE: State's Exhibit 10, 12, 13, 14, 15
16 and 16. May I approach, Your Honor?

17 THE COURT: You may.

18 Q Lt. Chapman, please take a moment and tell me if you
19 recognize State Exhibits 10, 12, 13, 14, 15, and 16,
20 previously marked for identification.

21 A Yes, ma'am. (BRIEF PAUSE AS WITNESS REVIEWS THE
22 EXHIBITS.) Yes, ma'am, I do.

23 Q And Lt. Chapman, what are State's 10, 12, 13, 14, 15
24 and 16?

25 A They are printouts of photographs that I took

1 throughout various times of the investigation.

2 Q And what are the printouts of photographs of?

3 A Items number 10, 12 and 13 depict the golf clubs that
4 were recovered on the 27th. Item number 14 depicts the
5 residence of 703 Turkey Hill where we located the victim's
6 car behind the residence. And item numbers 15 and 16 are
7 the remnants of the victims Chevrolet Impala.

8 Q And Lt. Chapman, are State's 10, 12, 13, 14, 15 and 16
9 fair and accurate representations of the items you recovered
10 in this case, including the golf clubs, the Chevy Impala and
11 this house behind which they were located?

12 A Yes, ma'am, they are.

13 ASST. SOL. LEGETTE: Your Honor, at this time, I would
14 ask to offer into evidence State's Exhibits 10, 12, 13, 14,
15 15 and 16.

16 THE COURT: Mr. Bennett, as to 10, 12, 13, 14, 15 and
17 16, what say the defendant?

18 MR. BENNETT: No objection.

19 THE COURT: Ladies and gentlemen of the jury, State's
20 Exhibits 10, 12, 13, 14, 15 and 16 will be admitted into
21 evidence in the trial of this case without objection.

22 (WHEREUPON, STATE'S EXHIBIT NUMBER 10, PHOTO, IS
23 RECEIVED INTO EVIDENCE.)

24 (WHEREUPON, STATE'S EXHIBIT NUMBER 12, PHOTO, IS
25 RECEIVED INTO EVIDENCE.)

1 (WHEREUPON, STATE'S EXHIBIT NUMBER 13, PHOTO, IS
2 RECEIVED INTO EVIDENCE.)

3 (WHEREUPON, STATE'S EXHIBIT NUMBER 14, PHOTO, IS
4 RECEIVED INTO EVIDENCE.)

5 (WHEREUPON, STATE'S EXHIBIT NUMBER 15, PHOTO, IS
6 RECEIVED INTO EVIDENCE.)

7 (WHEREUPON, STATE'S EXHIBIT NUMBER 16, PHOTO, IS
8 RECEIVED INTO EVIDENCE.)

9 THE COURT: They're in evidence. Solicitor, you may
10 publish to the jury.

11 ASST. SOL. LEGETTE: Thank you, Your Honor. May I
12 approach the witness and hand him the laser pointer?

13 THE COURT: Absolutely.

14 Q Lt. Chapman, we're going to start first with State's
15 number 10. What are we looking at in State's 10?

16 A Primarily, the golf clubs is what we're referring to
17 here and the bag.

18 Q Is there anything else in that photograph?

19 A It just so happens that the red binder which Sgt.
20 Wallace is talking about that we spoke so much about is
21 located in the picture also.

22 Q Okay. And in State's Exhibit 12, what is that?

23 A Again, it's a depiction of the golf clubs here and the
24 red binder.

25 Q Okay. And I believe State's 13 is just another picture

1 of ---

2 A Correct, the golf clubs and the red binder.

3 Q All right. Now, in State's Exhibit 14, what are we
4 seeing in State's 14?

5 A This is the residence at 703 Turkey Hill, which we
6 located the victim's car behind the residence.

7 Q Okay. State's Exhibit 15, what is that?

8 A This is the right rear view of the remnants of the
9 Klem's vehicle.

10 Q Okay. Does that car look kind of grayish to you?

11 A It's white, but it depends on if you are looking at it
12 from a shaded location or street lights or whatever, but
13 it's a white creme color.

14 Q And this is the remnant of the victim's vehicle?

15 A Yes, that's the remnants of the victim's vehicle.

16 Q And State's Number 16?

17 A That's the front view -- front driver's side view of
18 what was left of the Klem's vehicle.

19 Q Okay. And you said that you located some identifying
20 information left in the vehicle?

21 A Yes, ma'am. We had our work cut out for us. We had to
22 locate what we call the S-VINS, or secondary VIN locations
23 on these. All motor vehicles have a P-VIN, or a public VIN,
24 that is viewed on the top left-hand dash in front of your
25 steering wheel and then all vehicles what is called S-VIN,

1 or secondary VIN locations and they vary from model and year
2 and make and we had to actually get up underneath that and
3 locate the S-VIN and confirm that the vehicle belonged to
4 the Klems.

5 Q Thank you. Now, Lt. Chapman, I want to make sure that
6 we're clear. The items that you recovered, including the
7 golf clubs, and everything that you recovered and testified
8 to here today, what was done with those items?

9 A What could be placed into evidence was placed into
10 evidence. Obviously, that vehicle can't be put into
11 evidence. It was impounded by, I believe it was Delk's
12 Towing, which at the time was one of our contracted rotation
13 wrecker services. It was actually kept at Delk's until the
14 insurance company came and took care of it for the Klems.
15 Everything else collected was taken to the City and turned
16 into evidence.

17 Q And the Klems identified those items are theirs?

18 A They did. They actually came back down and met with
19 Cpl. Kinard and Cpl. Bridge and retrieved what we had
20 collected at that point in time, minus the vehicle, and all
21 of that was turned over to the Klems. The golf clubs, the
22 red binder, the clothing, the guns, all of that was turned
23 back over to the Klems.

24 Q Were there items that were not returned or not
25 recovered?

1 A Yes, ma'am. There were lots of items that weren't.
2 recovered.

3 Q Now, Lt. Chapman, after you recovered the vehicle on
4 January 30th, 2012, what did you do next?

5 A Tried really hard to process that car. Pulled latent's
6 off of it, unsuccessful. Obviously, we don't know how long
7 it had sat in the element outside. We're talking, roughly,
8 three weeks after the original incident. We didn't get
9 anything back off the guns that Cpl. Kinard processed. We
10 tried everything again looking at phone records, credit card
11 records, everything we could to try to get some other type
12 of lead, and after we felt like we had exhausted everything
13 that we could do at that point in time, we turned our
14 attention back to Mr. Washington and Ms. Young, where the
15 guns were originally located, and we issued a warrant for
16 receiving stolen goods; most people call it possession of
17 stolen property for Ms. Young and Mr. Washington.

18 Q So you issued this warrant for Ms. Young. Did you talk
19 to Ms. Young?

20 A Yes. On the 16th of February, we actually went and
21 picked up Ms. Young on her warrant for receiving stolen
22 goods, brought her back to police headquarters and conducted
23 a second interview on her.

24 Q Okay. And this time, did she give you any names?

25 A This time, she had a different story. She stated that

1 the defendant, Mack Washington, Jr., and a Tyheem Lewis were
2 the ones that initially brought those guns to her apartment.

3 Q Okay. And as a result of her telling you that, did you
4 arrest her or had she already been arrested?

5 A She was arrested. She was arrested and went through the
6 same process as anybody else. Her warrant was executed on
7 her and she was placed in the detention center and had a
8 bond hearing.

9 Q So once you get this information from Tyneisha Young
10 about the guns coming in from Mack Washington, Jr. and
11 Tyheem Lewis, what do you do next?

12 A Well, we determined Tyheem Lewis was actually in
13 school, in high school. We made contact with his mother at
14 Druid Hills and told her that we would like to talk to
15 Tyheem in regards to the incident. We went with her consent
16 to the high school and picked up Mr. Tyheem Lewis, went back
17 to the city police department where Ms. -- I forget her
18 name, I'm sorry, but Tyheem Lewis's mother was present. She
19 signed a consent form allowing us to interview him, because
20 he was a minor. And we conducted a taped interview on
21 Tyheem Lewis.

22 Q Okay. And so you talked to Tyheem Lewis?

23 A Yes.

24 Q And he signed a Miranda form and waived his rights to
25 talk to you, and to a lawyer?

1 A That's right.

2 Q And his mother was there?

3 A That's correct.

4 Q Did you interview Tyheem Lewis?

5 A Yes.

6 Q Who was present during the interview? Was his mom
7 there?

8 A His mom was there. I don't remember who the other
9 officer was at the time, I'm sorry.

10 Q Okay. And so while you talked to Tyheem, did he tell
11 you what happened?

12 A Yes, ma'am, he did.

13 MR. BENNETT: Your Honor, I'm going to have to object.

14 THE COURT: Counsel approach.

15 (WHEREUPON, A BENCH CONFERENCE IS HELD OFF THE RECORD
16 AND OUT OF THE HEARING OF THE JURY.)

17 THE COURT: I understand there is no objection now; is
18 that correct, counsel?

19 MR. BENNETT: Correct, Your Honor.

20 THE COURT: You understand what I've told you at the
21 bench, Solicitor?

22 ASST. SOL. LEGETTE: Yes, Your Honor.

23 THE COURT: Proceed in accordance with our conference.

24 Q So you talked to Tyheem Lewis?

25 A Yes, ma'am.

1 Q As a result of talking to Tyheem, was he arrested?

2 A Yes, he was.

3 Q Okay. And what did you charge him with?

4 A I charged him with armed robbery, kidnapping,
5 possession of a weapon during the commission of a violent
6 crime.

7 Q Okay. And as a result of talking to Tyheem Lewis and
8 arresting him, who else did you arrest? Or did you arrest
9 anyone else?

10 A I issued warrants for Mack Washington, Jr., for again,
11 kidnapping, armed robbery, possession of a weapon during the
12 commission of a violent crime.

13 Q Okay. And why did you issue a kidnapping warrant?

14 A Well, from talking with the Klems and you can only
15 imagine, I didn't get the first night, the night of the 7th,
16 I wasn't there. I didn't speak to either one of them. I
17 had the incident report and Sgt. Edwards's report. But I
18 had been in touch with them numerous times starting with the
19 9th and moving on up, and from talking to them, the way they
20 explained it, the defendant and the co-defendant entered the
21 hotel room behind them, there are no windows, there is no
22 fire escape. There is no other way out of that room except
23 for the front door. When he went in and placed a knife
24 against the victim, Mrs. Joan Klem, he obviously seized her,
25 confined her, and did not allow her to leave.

1 Q And that's why you issued the warrant?

2 A And I issued the warrant because I felt like she wasn't
3 free to leave, and I felt like Mr. Klem wasn't free to leave
4 because he couldn't get past them to get out, nor would he
5 willingly leave his wife there under those circumstances.

6 Q Thank you. And this is off topic for a moment, when a
7 call is dispatched, do all of the charges go out?

8 A No, ma'am, not at all. We may get dispatched to a
9 shooting that ends up being a burglary with a grand larceny,
10 stabbing, and everything else. I mean, the dispatchers are
11 going to give you a primary call, whether it's a noise
12 complaint or whatever, but they're not going to detail a
13 list of every associated crime when it comes out of the
14 radio.

15 Q Okay. So now let's go back to the arrest warrant, that
16 you had gotten an arrest warrant for Tyheem. You said you
17 got an arrest warrant for Mack Washington, Jr.?

18 A Correct.

19 Q Did you go and get Mr. Washington?

20 A We tried. We went to every known location. We tried
21 every family member. We tried to use other family members
22 to get him. I did everything I could. Finally, I made some
23 phone calls to some associates in the Beaufort area with the
24 U.S. Marshal Service and we were able to finally get Mr.
25 Washington in June of that year.

1 Q Okay. So were you familiar with Mr. Washington prior
2 to getting a warrant for him?

3 A Yes.

4 Q Prior to that, how easy was it to find Mr. Washington?

5 A Relatively easy. I could usually -- we could find him
6 in Druid Hills or find him in Greenpond or Turkey Hill. I
7 mean, it wasn't that hard to find him.

8 Q All right. But you say that you -- when did you begin
9 looking for him in earnest?

10 A I signed the warrants on Tyheem Lewis the day of the
11 16th and I believe Mr. Lewis was transported to the
12 Department of Juvenile Justice that day. And I think it
13 took me a day or two to get the paperwork straight and then
14 to speak to the Solicitor's Office and everything and make
15 sure we were doing what we thought correctly. So you might
16 as well say from the 18th or 19th of February until he was
17 taken into custody in June.

18 Q Do you remember what day it was in June that he was
19 actually picked up?

20 A Not right off the top of my head, but I know it was the
21 first or second week in June if I'm not mistaken.

22 Q Okay.

23 A I mean, it took a solid three months -- three and a
24 half months to locate him.

25 Q Was it June 8th that he was arrested?

1 A That's very possible.

2 Q All right. So you said you looked for him. What did
3 you do to look for him?

4 A Like I said before, we went to every known location
5 that he frequented. We leaned on family members of his that
6 we knew. We tried old phone numbers. He was entered into
7 NCIC, so if he was stopped by any other law enforcement
8 agency in the country that he would come up flagged. We did
9 just about everything I could think of normal routes for
10 apprehension and we didn't get anything.

11 Q Did you do surveillance?

12 A We did. On his different -- well, I won't say
13 everywhere, but we did surveillance down in the Turkey Hill
14 area, in Druid Hills, and just came up negative.

15 Q Okay. Lt. Chapman, are you familiar with -- you said
16 you didn't go to the scene at the Rice Planters the night of
17 January 7th.

18 A That's correct.

19 Q But are you familiar with how the scene of the Rice
20 Planters Inn looks at night?

21 A Yes.

22 Q Lt. Chapman, I'm going to hand you in a moment what has
23 been previously marked as State's Exhibit 4, 5, 6, 7, and 8,
24 marked for identification. Please take a moment and tell me
25 if you recognize these.

1 ASST. SOL. LEGETTE: May I approach the witness, Your
2 Honor?

3 A Yes, ma'am. They're all pictures of the Rice Planters
4 Inn and various locations. Exhibit number four, if you're
5 facing the facility ---

6 Q Don't publish it yet. Just tell me ---

7 A --- I'm sorry.

8 Q --- what they are, please.

9 A Exhibit Number Four is the left wing of the Rice
10 Planters Inn. Exhibit Number Five would be a central shot
11 of the main building. Exhibit Number Six is a closer shot
12 of the left wing depicting where Room 30 would be on the
13 bottom floor. It's actually obscured by the stairway.
14 Exhibit Number 7 is a close up shot showing the upper part
15 of Room number 130's door, obscured by the staircase. And
16 Exhibit Number 8 is the very corner of the left wing of the
17 main building showing the wood line on the left where it's
18 dark and the brick retaining wall that obscures Room number
19 130.

20 Q Okay. And Lt. Chapman, are State's Exhibit's 4, 5, 6,
21 7, and 8 fair and accurate representations of how the Rice
22 Planters Inn looks at night?

23 A Yes, ma'am.

24 ASST. SOL. LEGETTE: Your Honor, at this time, I would
25 offer State Exhibit's 4, 5, 6, 7 and 8 for admission into

1 evidence.

2 THE COURT: Mr. Bennett, as to 4, 5, 6, 7 and 8?

3 MR. BENNETT: No objection, Your Honor.

4 THE COURT: Ladies and gentlemen of the jury, State's
5 Exhibits 4, 5, 6, 7 and 8 will be admitted into evidence in
6 the trial of this case without objection.

7 (WHEREUPON, STATE'S EXHIBIT NUMBER 4, PHOTO, IS
8 RECEIVED INTO EVIDENCE.)

9 (WHEREUPON, STATE'S EXHIBIT NUMBER 5, PHOTO, IS
10 RECEIVED INTO EVIDENCE.)

11 (WHEREUPON, STATE'S EXHIBIT NUMBER 6, PHOTO, IS
12 RECEIVED INTO EVIDENCE.)

13 (WHEREUPON, STATE'S EXHIBIT NUMBER 7, PHOTO, IS
14 RECEIVED INTO EVIDENCE.)

15 (WHEREUPON, STATE'S EXHIBIT NUMBER 8, PHOTO, IS
16 RECEIVED INTO EVIDENCE.)

17 THE COURT: They're in evidence. You may publish to
18 the jury.

19 ASST. SOL. LEGETTE: Thank you, Your Honor.

20 (SOLICITOR PLACES EXHIBITS ON SCREEN FOR JURY TO VIEW.)

21 Q Lt. Chapman, you still have that laser pointer, if you
22 don't mind, sir, would you please tell us what we are seeing
23 on the screen?

24 A I do, ma'am.

25 Q Lt. Chapman, would you tell us what we are seeing in

1 State's Exhibit Four, please.

2 A This is the left wing of the main body of Rice Planters
3 Inn. The hotel starts here and travels all the way to the
4 right. Your main office would be all of the way to the far
5 right side. This is the left wing. This area here
6 represents the staircase and brick wall, Room 130 would be
7 obscured behind that.

8 Q And Room 130, what significance does Room 130 have in
9 this case?

10 A That is the room reported by the Klems as the room they
11 rented on the night of the 7th when they were robbed.

12 Q And if you don't mind, what is over to our -- I guess
13 that's the right hand side?

14 A That would be our left.

15 Q Okay.

16 A And that is the wood line. Basically, you have
17 probably 60, 70, 80 feet of woods before you get to the
18 backside of another hotel and if you go from that location
19 to the rear, it actually goes to an old, abandoned
20 ballfield, but that particular area there, there is nothing
21 there. It's dark and it's wooded.

22 Q Okay. Now, we're going to move on to State's Exhibit
23 Number 5. What are we seeing in State's Exhibit Number 5,
24 please?

25 A Just the main body of the hotel, the Rice Planters Inn.

1 The previous picture, number 4, would have been off to the
2 left here. The office building would be off to the right.

3 Q Okay. We're going to move on to State's Exhibit Number
4 6. What are we seeing in State's Exhibit 6?

5 A This is a blown up picture of the first exhibit,
6 Exhibit Number 4. Again, this is the left-most portion of
7 the main building, wood line here to the left. Room 130
8 would be on the bottom floor behind the retaining wall.

9 Q Okay. In State's Exhibit Number 7, what are we seeing
10 in State's Exhibit 7?

11 A State's seven is an even closer picture of the
12 previous, the left-most wing. This right here is kind of
13 hard to see, but this shows the top edge of the door to Room
14 130. The wood line would be off to the left and the main
15 body off to your right.

16 Q Okay. And finally, State's Exhibit Number 8. What are
17 we seeing in State's 8?

18 A This is the left-most corner of the facility. The wood
19 line is here that goes back to the ballpark and Room 130
20 would be on the other side of this staircase and retaining
21 wall.

22 Q Okay. Thank you, Lieutenant. I have no further
23 questions, sir. Please answer any questions from the
24 defense.

25 THE COURT: I need my exhibits back to the court

1 reporter. Make sure you don't have any at counsel table.

2 ASST. SOL. LEGETTE: Yes, sir, Your Honor.

3 THE COURT: Very well. Cross-examination.

4 MR. BENNETT: May I approach, Your Honor?

5 THE COURT: You may. Counsel approach.

6 (WHEREUPON, A BENCH CONFERENCE IS HELD OFF THE RECORD
7 AND OUT OF THE HEARING OF THE JURY.)

8 THE COURT: Mr. Foreman, ladies and gentlemen of the
9 jury, I'm going to take my mid-afternoon at this point so
10 you can stretch your legs and use the restroom. Please do
11 not discuss the case. I'll be right back with you. Please
12 retire to your jury room. Just don't talk about the case.

13 (3:45 P.M., WHEREUPON THE JURY EXITS THE COURTROOM AND
14 THE FOLLOWING IS HELD ON THE RECORD.)

15 THE COURT: Lt. Chapman, you know that you're in the
16 middle of your testimony.

17 LT. CHAPMAN: Yes, sir.

18 THE COURT: Feel free to take a break, use the
19 restroom, but you cannot talk to anybody during this break
20 since you are subject to cross-examination. That's why we
21 normally don't break in the middle of a witness. However,
22 at the request of Mr. Bennett, I'm going to take a break
23 with the understanding that Mr. Bennett tells me his co-
24 counsel won't be that long on cross-examination so we can
25 complete this testimony hopefully today. We will take about

1 10 minutes. Thank you.

2 (WHEREUPON, A BRIEF RECESS IS HELD IN THE TRIAL OF THIS
3 CASE. AT 4:00 P.M., THE TRIAL IN THIS CASE RESUMES.)

4 THE COURT: Is the State ready to proceed?

5 ASST. SOL. LEGETTE: We are, Your Honor.

6 THE COURT: Is the defendant ready to proceed?

7 MR. BENNETT: Yes, Your Honor.

8 THE COURT: Coach, bring us the jury, please. I remind
9 you that this witness is under oath, subject to cross-
10 examination. Mr. Bennett, I understand that Mr. Sanders is
11 going to cross-examine.

12 MR. BENNETT: Yes, sir.

13 (4:00 P.M., WHEREUPON, THE JURY ENTERS THE COURTROOM
14 AND THE FOLLOWING IS HELD ON THE RECORD.)

15 THE COURT: We will now continue. This witness is now
16 on cross-examination. Your witness, counsel. Cross-
17 examination.

18 CROSS-EXAMINATION

19 BY MR. SANDERS:

20 Q Good afternoon, Lt. Chapman.

21 A Good afternoon, sir.

22 Q I'll try to do this as quickly as possible. I'll start
23 with one question, have you ever charged the defendant with
24 an auto theft charge, grand larceny or any of those charges
25 that would be for auto theft?

1 A In regards to this case or?

2 Q In regards to this case, yes, sir.

3 A No, sir.

4 Q Okay. And on the night of the incident, did you
5 respond to the Rice Planters Inn? I believe you said you
6 hadn't, but I'm going to ask you again.

7 A No, sir, I did not.

8 Q Okay. Were you directly involved with any of the
9 initial investigation of this case?

10 A For the first 24 hours, no, sir, I wasn't.

11 Q So when you got from a confidential informant, as I
12 understand it, the information about the guns being in the
13 Druid Hills apartment that belonged to Tyneshia Young, is
14 that correct?

15 A Yes, sir.

16 Q And then after that, I believe you said that you did
17 some background research into the guns to see if there was a
18 robbery, et cetera?

19 A Correct.

20 Q And determined that that could possibly be the case and
21 that's why you responded to Druid Hills; is that correct?

22 A Correct.

23 Q Okay. And so when you arrived at Druid Hills I on the
24 suspicion of stolen property being in Tyneshia Young's
25 apartment, did you initially see the defendant there that

1 night?

2 A No, I did not; not that I recall.

3 Q So no one saw Mack enter into the area and that's why
4 responded?

5 A I did not, no, sir.

6 Q To your knowledge, did any other officer indicate that
7 they had seen Mack around the premises and, oh, here he is?

8 A I can't say with any certainty, but no, not that I
9 recall. I did not see him and I don't remember any of my
10 guys telling me, "Hey, he just went into that apartment."

11 Q So would it be fair to say that a lot of the
12 information you went off of is secondary information?

13 A The information that I went off of initially, yes. I
14 mean, it was provided by a source of information,
15 absolutely.

16 Q And was the confidential informant a man by the name of
17 Bernard Manigo?

18 A Yes.

19 Q That is? Okay. Thank you. All right. You interacted
20 with Tyneshia Young on the night where you were trying to
21 get her to open the door to the apartment complex, correct?

22 A Yes.

23 Q And did you interact with her anymore on this case
24 after that?

25 A Interacted with her starting on the 8th going into the

1 9th, the original incident time that we're talking about. I
2 did her initial interview on the 10th at Walterboro Police
3 Department. I don't recall speaking to her again until she
4 was arrested on the 16th of February for the receiving
5 stolen goods charge and was subsequently interviewed for the
6 second time and I don't think I've spoken with her
7 intentionally. I can't say living here and working here, I
8 don't think I've spoke with her in regards to this incident
9 after the 16th that I recall.

10 Q So what you're telling the Court is that you
11 interviewed her in a facial capacity two times?

12 A That's correct..

13 Q Okay. And the first interview, and then looking at the
14 second interview, were the two interviews consistent in what
15 Ms. Young was telling you?

16 A No.

17 Q They were not? Okay. Have you ever had witnesses to
18 lie to you during these interviews?

19 A Absolutely.

20 Q Is it a common occurrence, even?

21 THE COURT: Restate your question. Over what?

22 MR. SANDERS: I'll withdraw that question, Your Honor.

23 Q When you suspect a witness is not telling you the
24 truth, what resources, what options do you have after that?

25 A Try to corroborate what he or she said. If they

1 provided new names or new locations or new evidence, try to
2 trace those people or things or places to either determine
3 the validity of the statement or otherwise.

4 Q Do you ever try to get people to consent to polygraphs,
5 even though they're not admissible in Court, but do you ever
6 do that?

7 A I have. I prefer to read someone's demeanor myself,
8 but I have in the past used polygraphs.

9 Q Okay. Did you charge Tyneshia with any crime related
10 to this matter?

11 A I did.

12 Q Okay. What was that charge?

13 A Receiving stolen goods.

14 Q And that's directly related to the guns the night of
15 the 7th of January?

16 A That's correct.

17 Q Okay. And so she was arrested, she was placed in the
18 county jail?

19 A That's correct.

20 Q And bond hearing, as you testified earlier.

21 A That's correct.

22 Q What happened with Tyneshia's charges after she talked
23 with you the second time?

24 A Nothing initially; we went through normal proceedings.
25 After we arrested Tyheem Lewis and spoke with Tyheem Lewis

1 adn got his side of the story, which in my opinion,
2 corroborated Ms. Young's second statement. After that, I
3 don't remember how many terms it went before we actually got
4 around to it, but based on what Mr. Lewis had stated, the
5 fact that it had corroborated what Ms. Young stated, I
6 determined that I didn't feel like there was enough there to
7 prosecute Ms. Young, so I recommended to the Solicitor's
8 Office to dismiss the charges.

9 Q Okay. You just mentioned Mr. Lewis. You mean Tyheem
10 Lewis?

11 A That's correct.

12 Q Okay. What led you to Tyheem? I believe you had
13 testified that you actually went and got him out of Colleton
14 County High School?

15 A That's correct.

16 Q What led you to do that initially?

17 A Mr. Lewis was already a suspect, or a person of
18 interest in the case. He had been for several weeks. I
19 really didn't feel like I had enough to draw him in yet
20 until we interviewed Ms. Young the second time where she
21 kind of confirmed our suspicions that he was involved. And
22 after her statement is when we made contact with the mother
23 and brought him in for an interview.

24 Q Okay. When you brought him in for the interview, did
25 he have an attorney present?

1 A No, sir.

2 Q Did you Mirandize -- well, he's actually a minor. How
3 old was he at the time?

4 A I believe he was 16; but he was Mirandized in his
5 mother's presence and she signed off on the waivers as his
6 guardian.

7 Q So it was a valid interview?

8 A Yes, sir.

9 Q Okay. Did you promise Tyheem any sort of help if he
10 would speak with you in that interview?

11 A If he would speak with me? Absolutely not.

12 Q Okay. Did you speak to him about the defendant in that
13 interview?

14 A Yes. The interview was about was he involved, did he
15 do anything. I mean, absolutely, it came up. That was the
16 whole purpose of bringing him in was to interview him in
17 regards to the incident.

18 Q Okay. Did you use any colorful language to refer to
19 Mr. Mack Washington, Jr.?

20 A You're asking me something that I have no idea -- I
21 don't remember using any colorful language. I try to be as
22 professional as possible, but I haven't watched that
23 interview and it was conducted three years ago, so.

24 Q So you wouldn't remember if you said, "Everyone who
25 protects this asshole," in reference to Druid Hills,

1 you wouldn't remember saying something along those lines?

2 A Now, you knew when you asked me the question that I had
3 already stated; I don't remember what I said in the
4 interview.

5 Q And in regards to Tyheem, do you remember saying to
6 Tyheem something along the lines of "You're only 16 years
7 old and everyone deserves a second chance"?

8 A I believe everyone deserves a second chance. Do I
9 remember saying that? No. Is it possible that I did?
10 Sure.

11 Q You probably also don't remember saying that "Mack
12 doesn't deserve a second chance"?

13 A I don't. I'm not saying that I didn't, but I don't.

14 MR. SANDERS: Beg the Court's indulgence. I have no
15 further questions.

16 THE COURT: Redirect?

17 ASST. SOL. LEGETTE: Beg the Court's indulgence.

18 Briefly, Your Honor.

19 REDIRECT EXAMINATION

20 BY ASST. SOL. LEGETTE:

21 Q Lt. Chapman, the night you went to Tyneshia Young's
22 apartment and retrieved the guns, to your knowledge, did any
23 one of your officers see Mack Washington come out of that
24 apartment?

25 A Did they see him come out of it?

1 Q Yes.

2 A Yes, ma'am.

3 Q Okay.

4 ASST. SOL. LEGETTE: I have no further questions.

5 THE COURT: Recross, limited to redirect?

6 MR. SANDERS: Yes, Your Honor.

7 RECROSS-EXAMINATION

8 BY MR. SANDERS:

9 Q Lieutenant, when you saw Mr. Washington come out of the
10 apartment that night, why was he not arrested that night?

11 A I didn't see him come out of the apartment.

12 Q When the other officers saw him come out of there, do
13 you have an opinion as to why he was not arrested?

14 A Because at that point in time, I had not confirmed that
15 the guns were stolen.

16 Q Okay.

17 MR. BENNETT: No further questions.

18 THE COURT: You may step down from the witness stand.

19 Call your next witness.

20 ASST. SOL. LEGETTE: The State calls Tyheem Lewis.

21 THE COURT: Come around and be sworn by the Clerk,
22 please.

23 MADAME CLERK: Mr. Lewis, please come forward and be
24 sworn. If you can, put your left hand on the Bible and
25 raise your right.

1 (WHEREUPON, MR. TYHEEM LEWIS IS DULY SWORN.)

2 THE COURT: State your name for the record, please.

3 MR. LEWIS: Tyheem Lewis.

4 THE COURT: I want you to speak into that microphone so
5 the people on the jury can hear you. Begin by stating your
6 full name and spelling your last name for the court
7 reporter. Can you do that for me?

8 MR. LEWIS: Tyheem Lewis, L-E-W-I-S.

9 THE COURT: Your witness, counsel. Direct examination.

10 ASST. SOL. LEGETTE: Thank you, Your Honor.

11 DIRECT EXAMINATION

12 BY ASST. SOL. LEGETTE:

13 Q Mr. Lewis, are you a fan of basketball or baseball or
14 any of those sports?

15 A No, ma'am.

16 MR. BENNETT: Objection, Your Honor. Relevancy?

17 ASST. SOL. LEGETTE: Your Honor, I'm trying to get him
18 to speak up.

19 THE COURT: Sustained. Move along.

20 Q Mr. Lewis, I need you to speak up, okay?

21 A Yes, ma'am.

22 Q And don't say uh-huh or unh-unh or don't shake your
23 head up and down, okay?

24 A Yes, ma'am.

25 Q Okay. Mr. Lewis, where are you from?

1 A Walterboro, South Carolina.

2 Q And when you were last in school, what school did you
3 go to?

4 A Colleton County High.

5 Q And did you graduate?

6 A No, ma'am.

7 Q Now, Mr. Lewis, I notice that you have on some prison
8 uniform. Where are you currently housed?

9 A Trenton.

10 Q Okay. Are you currently an inmate at SCDC?

11 A Yes, ma'am.

12 Q Okay. Now, why are you currently at SCDC?

13 A Violating parole.

14 Q Violating parole?

15 A (WITNESS NODS HEAD.)

16 Q Don't shake your head. I need you say "yes".

17 A Yes, ma'am.

18 Q All right. So you violated parole. So tell us what
19 kind of sentence did you get. Well, what were you charged
20 with, first of all?

21 A From the beginning?

22 Q Yes. What were you charged with? And why are you even
23 at SCDC?

24 A I'm at SCDC for getting caught with a gun.

25 Q Okay. Now, we're not talking about -- we're talking

1 about why were you originally convicted of any crime.

2 A For strong arm robbery.

3 Q Okay. What were you originally charged with?

4 A Strong arm robbery.

5 Q Any other charge?

6 A No, ma'am.

7 Q Was it a kidnapping charge?

8 A No, ma'am.

9 Q You don't remember having a kidnapping charge, too?

10 A Oh, Yes, ma'am.

11 Q Okay. Now, was that kidnapping charge dismissed, that
12 you remember?

13 A I know it had been dismissed.

14 Q Okay. Now, Mr. Lewis, what happened to your strong arm
15 robbery charge? Did you plead guilty?

16 A Yes, ma'am.

17 Q All right. Now, when you pled guilty, did you make any
18 kind of agreement to testify?

19 A Yes, ma'am.

20 Q And what did you agree to?

21 A To testify.

22 Q Okay. Testify against who?

23 A Mack Washington.

24 Q Okay. And who is Mack Washington? Is he your co-
25 defendant?

1 A Yes, ma'am.

2 Q All right. Mr. Lewis, do you know Mack Washington?

3 A Yes, ma'am.

4 Q And how long have you known Mack Washington?

5 A About a year or two.

6 Q A year or two. How old are you?

7 A Eighteen.

8 Q All right. So how old were you when you met Mack
9 Washington?

10 A Sixteen.

11 Q Okay. You were sixteen. Now, let's go back to January
12 of 2012. Did you know Mack Washington at that time?

13 A Yes, ma'am.

14 Q Okay. Well, first of all, is Mack Washington present
15 in Court today?

16 A Yes, ma'am.

17 Q Can you point him out, please?

18 A (WITNESS POINTS TO DEFENDANT.)

19 Q All right. Which one are you pointing -- are you
20 pointing to the black man in the white shirt?

21 A Yes, ma'am.

22 Q Okay. With the beard?

23 A Yes, ma'am.

24 Q Okay.

25 ASST. SOL. LEGETTE: Let the record reflect that the

1 witness identified the defendant, Mack Washington, Jr.

2 Q Now, Mr. Lewis, let's go back to January the 7th, 2012.

3 Did you know Mack Washington, Jr., during that time?

4 A Yes, ma'am.

5 Q Did anything unusual happen with you and Mack

6 Washington in January of 2012?

7 A Yes, ma'am.

8 Q And specifically, let's talk about January the 7th,

9 2012. Do you remember that day?

10 A Yes, ma'am.

11 Q Can you tell us what you remember about January 7th,

12 2012?

13 A I was walking home one night ---

14 Q And where did you live when you were walking home?

15 A Druid Hills.

16 Q Druid Hills? Okay. So you were walking home.

17 A And I seen him and he asked me if I wanted to go make

18 some money. I said, "Yeah."

19 Q So you said you seen who?

20 A Mack Washington.

21 Q Okay. So you saw Mack. Don't shake your head.

22 A Yes, ma'am.

23 Q So what did he say to you?

24 A He asked me did I want to make some money.

25 Q And what did you say?

- 1 A Yes.
- 2 Q Okay. What did he say next?
- 3 A Meet at his house at 9:00.
- 4 Q And did you go?
- 5 A Yes, ma'am.
- 6 Q And what house did you go to?
- 7 A One of the apartments in Druid Hills I.
- 8 Q All right. Was anyone else there that you -- whose
- 9 apartment was that?
- 10 A One of the girlfriends.
- 11 Q Okay. Do you remember her name?
- 12 A No, ma'am.
- 13 Q Okay. But you went to an apartment in Druid Hills?
- 14 A Yes, ma'am.
- 15 Q So what happened when you got to the apartment in Druid
- 16 Hills?
- 17 A He told me how it was gonna go down, what we was gonna
- 18 do.
- 19 Q What did he say was gonna go down?
- 20 A We was gonna go to the hotel room and wait on somebody
- 21 to come in.
- 22 Q All right. So did you agree to do it?
- 23 A Yes, ma'am.
- 24 Q Okay. What happened next?
- 25 A We wait on the wall for somebody to come.

1 Q Wait now, before we get to -- you're at the apartment
2 now and talking about how it's gonna go down. Does he tell
3 you who's gonna do what?

4 A No, ma'am.

5 Q All right. So how did y'all get to -- y'all are at
6 Druid Hills, y'all -- how did y'all get to where y'all were
7 going?

8 A I paid somebody to take us up there.

9 Q Who called for this person? How did this person know
10 to come and get y'all?

11 A We walked to his house and knocked on the door.

12 Q All right. And so what happened when you knocked on
13 the door?

14 A Asked him could we pay him some gas money to take us up
15 the road.

16 Q Okay. So you got this person to take you up the road?

17 A Yes, ma'am.

18 Q And where did y'all go?

19 A We got dropped off across the bridge.

20 Q Okay. And help me understand, if I'm not from
21 Walterboro, help me understand what you mean "got dropped
22 off across the bridge." Help educate me about -- what hotel
23 did you go to first?

24 A Rice Planters.

25 Q Did you go to another one first?

1 A I don't know the name of it.

2 Q What's the location of the one you went to first?

3 A Across the interstate.

4 Q All right. So it was across the interstate, like
5 you're going toward Hampton?

6 A Yes, ma'am.

7 Q All right. And which side of the road is it on?

8 A The left.

9 Q So if you're going across the bridge like you're going
10 to Hampton, it's on the left hand side?

11 A Yes, ma'am.

12 Q Could that be the Hampton Inn?

13 A Yes, ma'am.

14 Q Okay. So you go to that location, across the bridge on
15 the left hand side. What happens at that location?

16 A We was just sitting there waiting on somebody to come.

17 Q All right. And who's just sitting there?

18 A Me and Mack.

19 Q All right. You're waiting on somebody to come. What
20 happens next?

21 A Ain't nobody come, so we went to Rice Planters.

22 Q Did you see anybody at the first hotel you were at?

23 A No, ma'am.

24 Q Okay. So you go to the next one. How did you get to
25 the next hotel?

1 A Walked.

2 Q And which hotel did you go to?

3 A Rice Planters.

4 Q So tell me about the Rice Planters. What did you do
5 when you got to Rice Planters?

6 A Went on the side of the wall close to the woods.

7 Q Okay. On the side of the wall close to the woods. Are
8 you familiar with that area?

9 A Yes, ma'am.

10 Q Mr. Lewis, I'm going to hand you in a moment what's
11 been entered into evidence as State's Exhibit Number 8.
12 Please take a moment and tell me if you recognize this.

13 ASST. SOL. LEGETTE: Your Honor, may I approach the
14 witness?

15 THE COURT: You may.

16 Q Mr. Lewis, do you recognize State's Exhibit 8?

17 A Yes, ma'am.

18 Q What is State's Exhibit 8?

19 A The side of the Rice Planters.

20 Q Okay. And is State's Exhibit 8 a fair and accurate
21 representation of how the Rice Planters Inn, how you
22 remember it looking?

23 A Yes, ma'am.

24 Q All right.

25 ASST. SOL. LEGETTE: Your Honor, may I publish with the

1 witness and have him tell me about what he sees on the
2 exhibit? May I approach?

3 THE COURT: You may. Get the exhibit back from the
4 witness. Mr. Bennett, can you and Mr. Sanders see alright?

5 MR. BENNETT: Yes, Your Honor.

6 Q Now, Mr. Lewis, I want you to tell me, you said that
7 y'all went to the Rice Planters Inn and y'all waited by the
8 wall?

9 A Yes, ma'am.

10 Q You said you're familiar with this particular
11 photograph. Where in here -- and can I get you to point at
12 it?

13 ASST. SOL. LEGETTE: May I approach the witness, Your
14 Honor?

15 THE COURT: You may.

16 Q Show me.

17 A Right there. (WITNESS INDICATING.)

18 Q So you're standing right there?

19 A Yes, ma'am.

20 Q So how long do y'all stand there?

21 A About 20 minutes.

22 Q Okay. So who is "ya'll"? Who was standing there?

23 A Me and Mack.

24 Q And what are y'all doing during this period of time?

25 A Waiting on somebody to come.

1 Q Okay. So what do y'all have with y'all?

2 A A knife.

3 Q Who has the knife?

4 A Mack.

5 Q So you say that Mack has the knife?

6 A Yes, ma'am.

7 Q And what, if anything, do you have?

8 A I ain't had nothing.

9 Q You didn't have anything?

10 A No, ma'am.

11 Q All right. What kind of clothes do y'all have on?

12 A All black.

13 Q Okay. So you're standing there in the shadows with all

14 black on?

15 A Yes, ma'am.

16 Q And Mack has a knife?

17 A Yes, ma'am.

18 Q Okay. So you wait 20 minutes, waiting on somebody.

19 Who are you waiting on?

20 A Anybody.

21 Q So you're waiting on anybody. So after 20 minutes goes

22 by what do you do?

23 A Somebody came.

24 Q Somebody came. All right. Can you describe these

25 people?

1 A Two white males -- I mean, two -- a white man and a
2 white female.

3 Q Okay. Now, tell me how tall are you?

4 A Ma'am?

5 Q Do you know how tall you are?

6 A About six.

7 Q About six feet tall?

8 A Yes, ma'am.

9 Q Okay. Did you see these people, the white lady and the
10 white man, did you see them when they walked up? What
11 happened? Tell me how you see them.

12 A (NO RESPONSE.)

13 Q Did they pull into the parking lot? Tell me what
14 happened.

15 A Yeah, they pulled into the parking lot.

16 Q Okay.

17 A And then they go inside the room.

18 Q They're going inside the room. So what are y'all
19 talking about, you and Mack Washington, at this point? If
20 anything.

21 A Running in behind them.

22 Q Okay. So whose idea is this?

23 A Mack's.

24 Q Okay. So what does Mack Washington say to you about
25 how y'all are going to take care of this or how y'all are

1 going to get this done?

2 A He just asked me was I ready.

3 Q All right. So what did you say?

4 A Yeah.

5 Q And when you said you were ready, what happened next?

6 A We ran in behind them.

7 Q Okay. Who had the knife at this point?

8 A Mack.

9 Q So you ran in behind them and who does what?

10 A He grabbed the lady and I grabbed the phone and ran out

11 the door.

12 Q Okay. So he grabbed the lady and where is the knife at

13 this point?

14 A In his hand on her throat.

15 Q All right. So he grabs the lady and he's got the knife

16 in his hand?

17 A Yes, ma'am.

18 Q And what are you doing?

19 A Grabbing the phone, and the wallet and the pocketbook.

20 Q All right. Did y'all grab anything else?

21 A No, ma'am.

22 Q Did y'all get any car keys?

23 A Oh, Yes, ma'am.

24 Q All right. So you go in there and get all that stuff

25 and then what do you do when you get all these things? The

1 phone -- why did you grab the phone?

2 A Snatched it out the wall.

3 Q Why did you grab it?

4 A Because he tell me to grab it.

5 Q Did you know why he wanted you to grab the phone?

6 A No, ma'am.

7 Q Okay. So you -- does anybody say anything while this
8 is all going on? Is Mack saying anything? Are you saying
9 anything while y'all were grabbing the stuff and the
10 victims?

11 A No, ma'am.

12 Q Okay. So you grab the phone and the keys and the
13 wallet and the purse, what do you do next?

14 A Run to the car.

15 Q Okay. And what happened?

16 A We hopped in the car and drove down the interstate.

17 Q So who's driving?

18 A Mack.

19 Q And what are you doing?

20 A Sitting in the passenger seat.

21 Q Now, Mr. Lewis, I'm going to be honest with you, it
22 seems like Mack is doing everything. I mean, really? Are
23 you telling us that you were just along for the ride?

24 MR. BENNETT: Your Honor, I'm going to have to object.

25 I think she's leading.

1 THE COURT: Sustained. Direct examination. Repeat
2 your question, Solicitor.

3 Q Mr. Lewis, what, if anything, are you doing?

4 A Say that again.

5 Q What are you doing at this point?

6 A Sitting in the car.

7 Q Okay. So who is driving?

8 A Mack.

9 Q All right. And where do y'all go?

10 A On the interstate.

11 Q All right. Is it 95?

12 A Yes, ma'am.

13 Q 95 South? 95 North?

14 A North.

15 Q All right. And what do you do when you go down 95
16 north?

17 A Exit somewhere on Roadside over there.

18 Q Where?

19 A Roadside.

20 Q Okay. So you go down this road and what are you doing?
21 I mean, you're riding in the passenger seat and Mack
22 Washington is driving. What's happening now?

23 A Just riding.

24 Q Just riding. Where do y'all go?

25 A To Greenpond.

1 Q And what do y'all do at Greenpond?

2 A Throw the clothes and stuff away.

3 Q All right. So you throw the clothes and stuff away.

4 And do you remember where y'all threw the clothes and stuff
5 away at? What it's near? Is it near anything?

6 A Some water.

7 Q Okay. So you throw the clothes and stuff away; are you
8 looking inside the stuff that's inside the car?

9 A No, ma'am.

10 Q All right. How about the phone that you stole out of
11 the wall, what happened to that?

12 A I threw it out the window when we was riding.

13 Q So you threw the phone out the window while y'all are
14 riding. How about the knife that Mack Washington had? Do
15 you remember what happened to that?

16 A No, ma'am.

17 Q Okay. Did you see it again?

18 A No, ma'am.

19 Q So you go to the body of water, throw out the clothes.
20 Is there anything in there that you want to keep?

21 A The guns.

22 Q The guns? Okay. So who is in charge of this
23 operation? Are you in charge?

24 A No.

25 Q So who's in charge?

- 1 A Mack.
- 2 Q All right. So you found the guns in the car?
- 3 A Yes, ma'am.
- 4 Q And what happens when you find the guns in the car?
- 5 Where do y'all go after y'all throw out the clothes?
- 6 A To the village.
- 7 Q All right. So what happens at the village.
- 8 A Take the guns out and call somebody to come pick us up.
- 9 Q All right. So who calls somebody to come pick y'all
- 10 up?
- 11 A Mack.
- 12 Q All right. Who did he call?
- 13 A (NO RESPONSE.)
- 14 Q Do you remember?
- 15 A No. No, ma'am.
- 16 Q Male or female?
- 17 A Female.
- 18 Q All right. So when he calls this female to come pick
- 19 y'all up, do y'all go? Or does he go? Or you stay? What
- 20 happens?
- 21 A Both of us went.
- 22 Q All right. So where did y'all go when this female
- 23 picked y'all up?
- 24 A Back to Druid Hills.
- 25 Q Okay. Where are the guns at this point?

1 A In the trunk.

2 Q Okay. So when y'all get to Druid Hills, what happens
3 to the guns?

4 A Put them in a house.

5 Q All right. What house did y'all put them in, in Druid
6 Hills?

7 A His girlfriend.

8 Q Is it the same girl house y'all were at earlier?

9 A Yes, ma'am.

10 Q All right. So you get the guns out of the car and did
11 you get anything out of this whole deal?

12 A No, ma'am.

13 Q Did you get any money?

14 A No, ma'am.

15 Q You didn't get anything?

16 A Well, \$100.

17 Q So you got \$100?

18 A Yes, ma'am.

19 Q All right. So you parked the car at the village. What
20 was supposed to happen with that car?

21 A He was supposed to come get it the next day.

22 Q Okay. Were you supposed to get any money out of that
23 car, too?

24 A Yes, ma'am.

25 Q How were you going to get the money out of that car?

1 A (NO RESPONSE.)

2 Q What, if anything, did Mack tell you?

3 A We were going to take it to the chop shop.

4 Q So you were going to get more money when the car got
5 chopped up?

6 A Yes, ma'am.

7 Q Did you get anymore money?

8 A No, ma'am.

9 Q Do you ever remember seeing any other items of value in
10 that car?

11 A No, ma'am.

12 Q Okay. Any jewelry?

13 A Yes, ma'am.

14 Q Did you get any of the jewelry?

15 A No, ma'am.

16 Q All right. Now, Mr. Lewis, when y'all were in -- when
17 y'all ran into the motel room with the victims -- no,
18 nevermind.

19 ASST. SOL. LEGETTE: Beg the Court's indulgence.

20 Q Now, Mr. Lewis, this all happened January 7th, 2012,
21 and do you remember talking to the police after this
22 happened?

23 A (NO RESPONSE.)

24 Q Well, sometime not -- well, sometime in perhaps
25 February?

1 A Yes, ma'am.

2 Q And who was present with you when you talked with
3 police?

4 A Nobody.

5 Q Was your moma there?

6 A Well, she came afterwards.

7 Q You don't remember your moma being present when you
8 talked?

9 A Yes, ma'am.

10 Q Okay. So your mom was present when you talked to the
11 police?

12 A Yes, ma'am.

13 Q All right. Did you waive your rights to remain silent?

14 A Yes, ma'am.

15 Q You confessed about what you did?

16 A Yes, ma'am.

17 Q And I just want to make sure that we're clear, so for
18 your charges, what kind of sentence did you get? Did you
19 plead guilty or how did this work out for you?

20 A I pled guilty.

21 Q Okay. And do you remember what kind of sentence you
22 got?

23 A One to six, suspended to a Y something.

24 Q So you got an active YOA?

25 A Yes, ma'am.

1 Q Do you know what YOA stands for?

2 A Youthful Offender Act.

3 Q Okay. And do you know -- who is eligible for youthful
4 offender act; do you know?

5 A No, ma'am.

6 Q Okay. And how old are you today?

7 A Eighteen.

8 Q All right. And when this happened, how old were you?

9 A Sixteen.

10 Q Okay. Now, Mr. Lewis, do you remember sending me a
11 letter?

12 A Yes, ma'am.

13 Q All right. Now, do you remember what that letter said?

14 A No, ma'am.

15 Q Do you want to read the letter?

16 A (NO RESPONSE.)

17 Q Do you want to refresh your memory and read the letter?
18 But do you remember writing me a letter?

19 A Yes, ma'am.

20 Q And, basically, the letter says that Mack Washington
21 didn't do this?

22 A Yes, ma'am.

23 Q Okay. Now, tell me why did you send me that letter?

24 A Because he asked me to do it.

25 Q All right. And was that letter true?

1 A No, ma'am.

2 Q And why did you write it if it wasn't true?

3 A Because he tell me since I done did my sentence, they
4 couldn't do nothing to me.

5 Q Okay. And after I got that letter, did your lawyer
6 come talk to you?

7 A Yes, ma'am.

8 Q Did he explain your plea arrangement or agreement?

9 A Yes, ma'am.

10 Q Okay. Now, my question to you is you wrote that
11 letter. You said it wasn't true. But the question is, is
12 what you've said here today been the truth?

13 A Yes, ma'am.

14 Q Now, Mr. Lewis, one more thing, there was a second
15 letter that you wrote regarding the first letter; do you
16 remember that?

17 A No, ma'am.

18 Q Okay.

19 THE COURT: Counsel approach.

20 (WHEREUPON, A BENCH CONFERENCE IS HELD OFF THE RECORD
21 AND OUT OF THE HEARING OF THE JURY.)

22 THE COURT: Move along.

23 Q Mr. Lewis, I simply want to ask you, sir, do you
24 remember sending me a letter saying that the first letter
25 was true?

1 A Yes, ma'am.

2 Q Where you needed it notarized?

3 A Yes, ma'am.

4 Q Okay. But you testified here today, is what you said
5 here today been the truth?

6 A Yes, ma'am.

7 Q And let me ask you a question, is the letter I just
8 asked you about, did you originally write those letters?

9 A Yes, ma'am.

10 Q Or did someone else write them?

11 A I wrote them.

12 Q You wrote them? Okay. At whose request?

13 A Mack's.

14 ASST. SOL. LEGETTE: I have no further questions for
15 Mr. Lewis.

16 THE COURT: Cross-examination.

17 CROSS-EXAMINATION

18 BY MR. BENNETT:

19 Q Mr. Lewis, when the police officers from Walterboro
20 Police Department came and got you from Colleton County High
21 School on February 16th, I believe it was, 2012, were you
22 scared at that time?

23 A No, sir.

24 Q You were not scared?

25 A No, sir.

1 Q Okay. And who came and got you out of school?

2 A I don't remember what officer it was. I'm here with
3 Chapman, though.

4 Q Lt. Chapman?

5 A Yes, sir.

6 Q So that doesn't surprise you that they came and got you
7 out of school?

8 A No, sir.

9 Q Okay. And so when you went in to be questioned by Lt.
10 Chapman, did you -- did you feel you were under pressure at
11 that time?

12 A No, sir -- yes, sir.

13 Q You did feel like you were under pressure?

14 A Yes, sir.

15 Q Were you nervous?

16 A A little bit.

17 Q Okay. And when Lt. Chapman interviewed you on February
18 16th, 2012, did he ever talk to you and explain to you that
19 you had a right to have a lawyer present during this
20 interview?

21 A Yes, sir.

22 Q Did you understand that?

23 A Yes, sir.

24 Q And was your mother present during that interview also?

25 A Yes, sir.

1 Q And during the interview, isn't it true that you were
2 pressured to give information to the police department to
3 help them try to prosecute Mack Washington?

4 A Yes, sir.

5 Q And didn't they promise you leniency if you would try
6 to help them prosecute Mack Washington?

7 A Yes, sir.

8 Q And didn't they promise that if you were to help them
9 get Mack Washington, so to speak, that they would call the
10 Solicitor's Office for you?

11 A No, sir.

12 Q They never told you that?

13 A I don't remember that.

14 Q All right. And in fact, they actually made a pretty
15 sweet deal with you that if you would come testify against
16 Mack Washington that they would give you a very lenient
17 sentence on your charges, didn't they?

18 A Yes, sir.

19 Q And in fact, you got a lenient sentence on your
20 charges; isn't it true that they reduced your armed robbery
21 charge, which is considered a violent crime, to a strong arm
22 robbery charge that's considered non-violent?

23 A Yes, sir.

24 Q All right. And isn't it true, that the State could not
25 reduce that charge from armed robbery to strong armed

1 robbery, you couldn't have gotten a YOA sentence could you?

2 A No, sir.

3 Q And also, they dropped a kidnapping charge against you,
4 didn't they?

5 A Yes, sir.

6 Q As far as this deal?

7 A Yes, sir.

8 Q And you understood that part of the deal was that you
9 had to come in here and testify against Mack WASHINGTON?

10 A Yes, sir.

11 Q Now, if you had not come in here and testified against
12 -- if you had refused to testify against Mack Washington, do
13 you know what would have happened?

14 A No, sir.

15 Q Do you think it's possible they would have gone ahead
16 and prosecuted you for kidnapping if you hadn't cooperated
17 and come in here and completed your deal with testifying
18 against Mack Washington?

19 A Yes, sir.

20 Q Okay. And is that part of the reason you agreed to
21 come testify?

22 A Yes, sir.

23 Q Is because you got a good deal and you wanted to keep
24 your deal, didn't you?

25 A Yes, sir.

1 Q And you do -- it's true now you have a criminal record.
2 You've been convicted of a strong armed robbery; isn't that
3 right?

4 A Yes, sir.

5 Q Based on your guilty plea?

6 A Yes, sir.

7 Q And that plea was entered back in April 19th, 2012; is
8 that correct?

9 A Say when?

10 Q April 19th, 2012.

11 A Yes, sir.

12 Q Okay. And isn't it true that you've already served --
13 you served approximately 10 months at first on your YOA
14 charge; isn't that correct?

15 A Yes, sir.

16 Q And then, tell us about, you said that you're now in
17 SCDC because you had a YOA violation?

18 A Yes, sir.

19 Q Could you explain to the jury what you did to violate
20 your YOA parole?

21 ASST. SOL. LEGETTE: Your Honor, I have a matter of
22 law, I believe.

23 THE COURT: Counsel approach.

24 (WHEREUPON, A BENCH CONFERENCE IS HELD OFF THE RECORD
25 AND OUT OF THE HEARING OF THE JURY.)

1 THE COURT: All right. It's my understanding that you
2 will ask your questions consistent with the conference at
3 the bench without any objection by either side if asked
4 consistent with the bench conference. You may proceed at
5 this time, Mr. Bennett.

6 MR. BENNETT: Thank you, Your Honor.

7 Q Isn't it true, Mr. Lewis, that your YOA parole was
8 violated because you had a gun?

9 A Yes, sir.

10 Q Now, isn't it true, Mr. Lewis, and I think you've
11 already talked about it a little bit on direct testimony,
12 that you actually did write a letter, signed it dated
13 October 29th, 2013, in which you stated that Mack
14 Washington, my client, had nothing to do with this armed
15 robbery that was committed on 1-7-2012 at the Rice Planters
16 Inn?

17 A Yes, sir.

18 Q Now, I want to show you a copy of a document.

19 MR. BENNETT: May I approach, Your Honor?

20 THE COURT: Show it to the Solicitor before you
21 approach.

22 MR. BENNETT: (SHOWS DOCUMENT TO THE SOLICITOR.)

23 THE COURT: You may approach.

24 Q Mr. Lewis, I just want to hand you this document. I'm
25 going to give you a little time to look at it. Do you

1 recognize it?

2 A Yes, sir.

3 Q Okay. Is that in your handwriting?

4 A Yes, sir.

5 Q Did you sign it?

6 A Yes, sir.

7 Q Okay. Could you at this point read to the jury what
8 you have in that letter? Could you state it for the jury?

9 ASST. SOL. LEGETTE: Your Honor, I have a matter.

10 THE COURT: Counsel approach.

11 (WHEREUPON, A BENCH CONFERENCE IS HELD OFF THE RECORD
12 AND OUT OF THE HEARING OF THE JURY.)

13 Q Mr. Lewis, would you read what's in your letter to the
14 Jury for us?

15 THE COURT: Yes, ma'am?

16 ASST. SOL. LEGETTE: I believe he needs to admit it
17 first, Your Honor.

18 THE COURT: All right. Come mark it.

19 MR. BENNETT: All right. Your Honor, we would like to
20 go ahead and mark Defendant's Exhibit One.

21 (WHEREUPON, DEFENDANT'S EXHIBIT ONE, LETTER, IS
22 RECEIVED INTO EVIDENCE.)

23 THE COURT: Any objection to Defendant's One?

24 ASST. SOL. LEGETTE: No, Your Honor.

25 THE COURT: Ladies and gentlemen of the jury,

1 Defendant's exhibit Number One will be admitted into
2 evidence in the trial of this case without objection. You
3 may now publish to the jury.

4 MR. BENNETT: Thank you, Your Honor.

5 Q I'm going to hand you Defendant's Exhibit Number One.
6 Mr. Lewis, would you please read the contents of this letter
7 to the jury?

8 A "To whom it may concern, I, Tyheem Lewis, would like to
9 admit to my involvement on warrant numbers I-863209, I-
10 863235, I-863236, and state for the record that I implicated
11 that a Mack Washington played a part of the crime during the
12 interrogation. I was under pressure. Never been through
13 anything like this.. Being that Mack was already caught in
14 apartment with receiving stolen goods, I mentioned his name.
15 I plead guilty to the charge and guns and served time for my
16 wrongdoing. I want it to be known that on or around January
17 7, 2012, when I committed an illegal crime, Mack Washington
18 was not with me. I don't want an innocent man charged with
19 something he didn't have anything to do with. I will not
20 testify at court against Mack Washington. I ask that the
21 legal charges be dropped against Mack Washington. I, Tyheem
22 Lewis, did willingly write this on the 29th day of October
23 2013."

24 Q Okay. Thank you, Mr. Lewis.

25 MR. BENNETT: And if I could, Judge, I would like to

1 publish this to the jury.

2 THE COURT: It's in evidence.

3 MR. BENNETT: Can I hand it to them at this time?

4 THE COURT: You can. Proceed.

5 Q Tyheem, where were you at when you wrote this letter?

6 A In the county jail.

7 Q In Colleton County jail?

8 A Yes, sir.

9 Q You weren't serving your YOA sentence at that time?

10 A No, sir.

11 Q Okay. One other thing, Mr. Lewis, prior to you having
12 a record, a criminal conviction record, based on your plea
13 to the strong armed robbery charge on indictment 2012-GS-15-
14 152 in April of 2012, isn't it true that you also had a
15 juvenile record?

16 A Yes, sir.

17 Q Okay. And you were convicted of certain crimes as a
18 juvenile; isn't that correct?

19 A Yes, sir.

20 Q Do you recall what the crimes were you were convicted
21 of while you were in juvenile court?

22 A Say that again.

23 Q Do you recall what crimes you were convicted of in
24 juvenile court?

25 A Vandalism.

1 Q What did you say?

2 A Vandalism.

3 Q Vandalism? Okay. Weren't you also convicted of petty,
4 or simple larceny, \$2000 or less?

5 A Yes, sir.

6 Q And also weren't you convicted of disturbing schools?

7 A Yes, sir.

8 Q And also weren't you also convicted of trespassing
9 entry on other's lands for various purposes without
10 permission?

11 A Yes, sir.

12 Q And it says third or subsequent offense. And I assume,
13 I believe isn't it true you were also convicted of malicious
14 injury to -- it says animals or personal property, Colleton
15 County School District \$1,001 to \$4,999; were you convicted
16 of that?

17 A I don't remember that.

18 Q Is that possibly what you're referring to as vandalism?

19 A I don't remember that at all.

20 Q Okay.

21 MR. BENNETT: That's all I have, Your Honor.

22 THE COURT: Redirect?

23 ASST. SOL. LEGETTE: Thank you, Your Honor.

24 REDIRECT EXAMINATION

25 BY ASST. SOL. LEGETTE:

1 Q Now, Mr. Lewis, you testified a moment ago with Mr.
2 Bennett that you felt like you were under pressure?

3 A Yes.

4 Q Do you remember the interview that Jason Chapman had
5 with you on February 16th, 2012?

6 A No, ma'am.

7 Q You don't remember it?

8 A I remember, but I don't remember it like that.

9 Q You remember being under pressure?

10 A Yes, ma'am.

11 Q Isn't it true that your mother was there the entire
12 time with you during the February 16th, 2012, and she sat
13 there during the interview with you?

14 A Yes, ma'am.

15 Q And you and she talked while the detective went
16 outside?

17 A Yes, ma'am.

18 Q Isn't that true?

19 A Yes, ma'am.

20 Q So at what point were you under pressure, Mr. Lewis?

21 A (NO RESPONSE.)

22 Q At what point were you under pressure to lie on Mack
23 Washington during that interview? Do you want to see the
24 interview, Mr. Lewis?

25 MR. BENNETT: Your Honor, I would object.

1 THE COURT: Yes, sir?

2 MR. BENNETT: Your Honor, she's questioning her own
3 witness. THE COURT: That's redirect. Sustained. Redirect
4 examination, Solicitor.

5 Q Mr. Lewis, so do you want to change anything you've
6 said here today about being under pressure?

7 A No, ma'am.

8 Q So you were under pressure when your moma was in there
9 on February 16th, 2012?

10 A No, ma'am.

11 Q So you were not under pressure?

12 A I mean, I ain't lied about nothing that I told him.

13 Q Oh, so everything you told him on February 16th, 2012,
14 about Mack Washington and you robbing two old people at the
15 Rice Planters Inn is true?

16 A Yes, ma'am.

17 Q Oh, okay. Well, I'm sorry. Forgive me. This letter
18 that you wrote to me, let's talk about the letter. Mr.
19 Bennett asked you where you were when you got it. Where
20 were you when you wrote that letter?

21 A In the county jail.

22 Q Okay. And you testified earlier, why did you write the
23 letter?

24 A Because he asked me to write it.

25 Q Who is "he"?

1 A Mack Washington.

2 Q Okay. So Mack Washington asked you to write it?

3 A Yes, ma'am.

4 Q And how did you feel when he asked you to write it?
5 Under pressure?

6 A Yes, ma'am.

7 Q How else could you feel?

8 A I ain't felt no other way.

9 Q So you felt under pressure at that time?

10 A Yes, ma'am.

11 Q All right. Mr. Lewis, I'm not going to belabor this.
12 Who robbed the victims at the Rice Planters Inn on January
13 7th, 2012?

14 A Me and Mack.

15 Q Okay. And despite everything else that you've done, is
16 that the truth?

17 A Yes, ma'am.

18 ASST. SOL. LEGETTE: I have no further questions.

19 THE COURT: Recross, limited to redirect.

20 RECROSS-EXAMINATION

21 BY MR. BENNETT:

22 Q Mr. Lewis, the letter that you wrote on October 29th,
23 2013, nobody held a gun to your head or knife to your
24 throat, or whatever, to make you write the letter, did they?

25 A He tell me to write the letter.

1 Q But you didn't have to, did you?

2 A No, I ain't had to.

3 Q You don't have to do everything that anybody asks you
4 to, do you?

5 A No.

6 Q And y'all were -- well, you were in the county jail, so
7 there's no way anybody can make you do -- when you're in
8 jail, there's no way anybody can make you do anything, can
9 they, as far as writing a letter or anything like that?

10 ASST. SOL. LEGETTE: Your Honor, I believe we have a
11 matter.

12 THE COURT: Counsel approach.

13 (WHEREUPON, A BENCH CONFERENCE IS HELD OFF THE RECORD
14 AND OUT OF THE HEARING OF THE JURY.)

15 THE COURT: Proceed.

16 Q Mr. Lewis, my question basically was when you wrote
17 this letter on October 29th, 2013, you were in jail; is that
18 right?

19 A Yes, sir.

20 Q And that was at the Colleton County jail?

21 A Yes, sir.

22 Q And what I had previously asked you was if you're in
23 jail, wouldn't it be difficult for anybody to threaten you
24 or make you do something against your will?

25 A Not really.

1 MR. BENNETT: Your Honor, one moment. Court's
2 indulgence. Your Honor, I'm looking for another letter ---

3 THE COURT: Hold on. Don't make a statement. Counsel
4 approach.

5 (WHEREUPON, A BENCH CONFERENCE IS HELD OFF THE RECORD
6 AND OUT OF THE HEARING OF THE JURY.)

7 THE COURT: Ask a question. Recross-examination
8 limited to redirect. Move along, Mr. Bennett.

9 Q Mr. Lewis, isn't it true that you also wrote a second
10 letter subsequent to your letter on October 29th, 2013,
11 where you say that your first letter was true and correct?

12 A Yes, sir.

13 MR. BENNETT: May I approach, Your Honor.

14 THE COURT: You may.

15 Q I'd like to hand you this document. Is that the letter
16 you wrote after October 29th, 2013?

17 A Yes, sir.

18 Q And I'm going to let you look at the letter, but in
19 that letter, isn't it true that you basically confirmed that
20 your first letter dated October 29th, 2013, was true and
21 correct?

22 A Yes, sir.

23 Q And you are also confirming in that letter that Mack
24 Washington did not have anything to do with the robbery at
25 the Rice Planters Inn on 1-7-2012?

1. A Yes, sir.

2. Q And you wrote that letter?

3. A Yeah, but he tell me to write it.

4. Q And isn't it true that you tried to get the letter
5 notarized, but couldn't find a notary or something?

6. A No, that's not.

7. Q Was there something about a notary?

8. A I ain't send it out. I gave it to somebody he tell me
9 to give it to, and they said it.

10. Q Okay.

11. MR. BENNETT: May I approach, Your Honor?

12. THE COURT: You may.

13. (MR. BENNETT RETRIEVES LETTER FROM WITNESS.)

14. THE COURT: Re-redirect.

15. ASST. SOL. LEGETTE: Briefly, Your Honor.

16. FURTHER REDIRECT EXAMINATION

17. BY ASST. SOL. LEGETTE:

18. Q Mr. Lewis, you said that you were in jail when you
19 wrote the letter; is that correct?

20. A Yes, ma'am.

21. Q Okay. And you said you felt pressured?

22. A Yes, ma'am.

23. Q Okay. Where was Mack Washington when you were in jail
24 and wrote that letter?

25. A Max.

1 Q So he was in jail with you?

2 A Yes, ma'am.

3 Q Thank you. I have no further questions.

4 THE COURT: Re recross, subject to re-redirect.

5 MR. BENNETT: I have no further questions, Your Honor.

6 THE COURT: As to this witness, Solicitor?

7 ASST. SOL. LEGETTE: Your Honor, we ask that he be
8 excused and allowed to return to his facility.

9 THE COURT: Any objection to this witness being excused
10 from the trial of this case, Mr. Bennett?

11 MR. BENNETT: No objection.

12 THE COURT: You may step down. How about assist him
13 since he's in chains.

14 THE COURT: You're excused from the trial of this case.
15 Mr. Walker, you are also excused.

16 THE COURT: Call your next witness.

17 ASST. SOL. LEGETTE: The State calls Frank Klem.

18 (WHEREUPON, MR. FRANK KLEM COMES UP TO BE SWORN.)

19 MADAME CLERK: Please raise your right hand.

20 (WHEREUPON, MR. FRANK KLEM IS DULY SWORN.)

21 MADAME CLERK: Please have a seat on the witness stand
22 and state your name for the record.

23 THE COURT: Watch your step on my stairs. Good
24 afternoon. Pull that microphone down. Speak up. Begin for
25 me by stating your name and spelling your last name for

1 the court reporter.

2 MR. KLEM: My name is Frank Klem. The spelling is K-L-
3 E-M.

4 THE COURT: Your witness, Solicitor.

5 DIRECT EXAMINATION

6 BY ASST. SOL. LEGETTE:

7 Q Sir, where are you from, originally?

8 A Pennsylvania.

9 Q Okay, Mr. Klem. Tell us a little bit about yourself.

10 A Well, there's not much to tell. I've spend a life of
11 raising kids, working, being in the service, that's all.

12 Q So you were in the military?

13 A Yes, I was in the Marine Corps.

14 Q Okay. And are you married?

15 A Yes.

16 Q And what's your wife's name?

17 A Joan.

18 Q And she is present here with you?

19 A Yes.

20 Q Okay. And how long have you been married to Joan?

21 A 62 years.

22 Q Okay. And how many children do you have?

23 A Six.

24 Q And you have grandkids and all of that?

25 A Yes. A lot of them.

1 Q Mr. Klem, what did you do for a living?

2 A When I retired, I was a builder. I built homes.

3 Q Okay. So Mr. Klem, about how tall would you say you
4 are?

5 A I was five nine, but probably about five, seven now
6 maybe.

7 Q Okay. And about how tall is your wife, would you say?

8 A She was five foot two, and I think she's about five
9 foot right now. It's funny how you shrink when you get
10 older.

11 Q Yes, sir, it is. Mr. Klem, I hate to ask you this, but
12 sir, how old are you?

13 A I'm sixty-five -- no, I'm sorry. I was going to tell
14 my wife how old she was, and now I don't know how old I am.
15 I'm 85. I'll be 86 on August 9th of this year.

16 Q All right. Mr. Klem, thank you so much. Now, let's
17 turn your attention back to January of 2012. Do you
18 remember January of 2012?

19 A Yes.

20 Q Okay. Tell us about January of 2012. Did anything
21 unusual happen?

22 A That's when we were robbed.

23 Q Okay. Tell me, where do you live?

24 A We live in Michigan.

25 Q Okay.

1 A Great Lake, Michigan.

2 Q Okay. So in January of 2012, why were you traveling?

3 A We were going down to Florida. We have a residence
4 down there in Melbourne Beach.

5 Q Okay. How long do you stay when you go down there?

6 A We've been going down there for 20 years. I mean, in
7 this particular residence. Previously, before that, we
8 would rent places; but I own that place and it's in
9 Melbourne Beach for 20 years.

10 Q Okay. And so when you would go down to Florida, about
11 how long, approximately, would you stay?

12 A Well, sometimes, four months, five months, six months,
13 seven months; just depending on what was happening in that
14 particular year. But mostly five, six, seven months.

15 Q Okay. So when you would go, what all kinds of things
16 would you take?

17 A Just about everything.

18 Q Just about everything?

19 A Yeah.

20 Q Okay. Would you also take personal documents?

21 A Yes. I always took personal documents, right.

22 Q Okay. So Mr. Klem, let's talk about your travel from
23 Michigan to Florida. What date did you start traveling?

24 A I think that particular year -- we went to Pennsylvania
25 and then we come from Pennsylvania down to -- that's why we

1 were coming down this way, but I'm originally from
2 Pennsylvania. I've got family in Pennsylvania.

3 Q Okay. So you went to Pennsylvania to visit your
4 family?

5 A Yes. And then we came down 77 I think it was, hit 26
6 and then down 95.

7 Q Okay. How long is the trip from Michigan to here or
8 Michigan to Pennsylvania then here?

9 A Michigan to Florida?

10 Q Yes, sir.

11 A I think it's 1275; 1275 miles.

12 Q And how do you get here? Do you take a bus?

13 A This time?

14 Q Well, how did you get there then? How do you normally
15 drive to Florida?

16 A How do we generally drive? You've got to clarify that.

17 Q I apologize, Mr. Klem.

18 A Go ahead.

19 Q How do you normally drive to Florida?

20 A Generally, by our car, with our car.

21 Q And who does the driving?

22 A I do most of it; I don't trust my wife.

23 Q Okay. So you drive?

24 A Yes.

25 Q And about how long is the trip from Michigan to South

1 Carolina?

2 A Michigan to South Carolina, we drove the other day
3 about 800-something miles, I don't know. I didn't really
4 know how many hours we drove, but I still drive pretty good
5 for an old guy.

6 Q Okay. So Mr. Klem, on this particular trip, you leave
7 Michigan, or you leave Pennsylvania, and you come to South
8 Carolina?

9 A Yes.

10 Q Did you decide to stop at some point?

11 A Yes. We actually couldn't find any place to stop,
12 because on 26 there's not a lot there, so we just continued
13 on until we got down to the Rice Planters.

14 Q Okay. So how did you make the decision to go to Rice
15 Planters?

16 A Well, my wife was really, you know, "Let's get off the
17 road," and all that. And that was one of the places we saw,
18 so we pulled in. Well, we tried a place across 95 and they
19 were filled up, and then we went to the Rice Planters, and
20 they had, I think, two rooms left.

21 Q Okay.

22 A And we had a dog, so we opted for the lower.

23 Q Okay. So you had a dog and you went to the lower room?

24 A Yes. Yes. Because we generally walk the dog.

25 Q Okay. So tell us what happened when you checked in and

1 were going to your hotel room.

2 A Well, we checked in. We carried one piece of luggage
3 in and I went back to the car to get other stuff; I think we
4 had a bottle of wine, you know, have a little nightcap. So
5 by the time I got in the doorway, these two gentlemen were
6 in front of me and around my wife.

7 Q When you say they were in front of you, can you
8 describe what happened?

9 A Well, I thought first of all that it was some sort of a
10 prank, because it looked like they were haunts, really, to
11 me, and I thought what's the prank? Then, I realized it
12 was more serious than that.

13 Q Okay. What made you realize it was more serious?

14 A Well, the one fellow had a knife to my wife's throat.
15 That got my attention.

16 Q Yes, sir. So when the fellow had the knife to your
17 wife's throat, what, if anything, was said?

18 A Well, the one individual said throw everything on the
19 bed or we will kill her.

20 Q And what did you do?

21 A I had to comply.

22 Q During this period of time, did you feel like you were
23 free to leave?

24 A No.

25 Q So when you complied, you said you complied?

1 A Yes.

2 Q What did you throw on the bed?

3 A I threw my wallet, my keys, that's what I had, and her
4 purse was on the bed.

5 Q Okay.

6 A And it happened in about two minutes and then these
7 guys were gone.

8 Q And can you describe the two fellows that were in your
9 room?

10 A They were about six foot. They're bigger. When they
11 asked me for my wallet, I was thinking that I could give
12 them, like, you know, 50 bucks and they would give me a
13 rest, but yeah, they were sizeable, you know.

14 Q Okay. And would you describe them as -- what race were
15 they?

16 A They were black.

17 Q Okay. So how did you feel? Did you feel -- what was
18 going through your mind when all of this was happening?

19 A I was thinking what can I do? But I couldn't do
20 anything.

21 Q Did you feel threatened?

22 A I don't know if I was threatened; I felt like I was
23 more helpless than threatened.

24 Q Okay. Now, you said he had a knife to your wife's
25 throat. Can you describe the knife?

1 A It was like a butcher knife.

2 Q Okay.

3 A You know, in two minutes there's a lot going on. He
4 flashed something, I saw it.

5 Q Do did you feel intimidated to give the money up?

6 A Excuse me?

7 Q Did you feel intimidated?

8 A Oh, absolutely, yes. Not so much for myself.. I felt
9 for my wife.

10 Q Okay. So Mr. Klem, once you -- all of this was going
11 on, why didn't you just walk out?

12 A Why didn't -- we couldn't. We couldn't.

13 Q Okay. Mr. Klem, once you put the wallet on the bed,
14 and the purse, and the keys, what happened once you did
15 that?

16 A Well, the younger -- well, I shouldn't say that. One
17 individual went over and picked up the stuff and yanked the
18 phone out of the wall and they were out the door.

19 Q Okay.

20 A And of course, after they were out of the door, I ran
21 up -- we don't have a cell phone and I ran up to the office
22 and told them we were robbed.

23 Q So at some point, was your car gone, too?

24 A Oh, absolutely, yeah.

25 Q So what was left in the car?

1 A Well, most all of our luggage. We had an overnight bag
2 and like I say, yeah, I got the bottle of wine, and I think
3 we got the bottle; I'm not sure, but I was thinking we would
4 have a drink before we went to bed.

5 Q Yes, sir. Okay. So everything else was in the car?

6 A Yeah.

7 Q What about any firearms?

8 A There were two rifles.

9 Q Okay. Were they in the car, also?

10 A Yeah, they were in the car. They were left in the car.

11 Q Okay. And why were you bringing the rifles with you?

12 A I was taking -- I have a son in Orlando, Florida.

13 Usually, we will stop by his house, and I wanted to give him
14 the rifle, because I was going to give it to him anyway.

15 It's my rifle. It's a 30/30. I've had it for like 50
16 years.

17 Q All right. So Mr. Klem, you said you went to the front
18 desk.

19 A Yeah, when we checked in.

20 Q Did you tell them what happened?

21 A Went to the front desk, and of course, she gave us a
22 key, and I pulled the car down and we went in. I had to go
23 back to the car to get the overnight bag.

24 Q Yes, sir. I'm sorry, Mr. Klem, I think I confused you.

25 Let's go back to after the robbery.

1 A Oh, after the robbery?

2 Q Yes, sir. You said you went down to the front desk?

3 A Well, after the robbery, these guys ran for the car and
4 the car was across the lot, and as soon as they went there,
5 I went down to the front desk.

6 Q Okay. Did you see the guys going for your car?

7 A Oh, absolutely. They were running. They were really
8 fast. Pretty athletic. In fact, quite athletic.

9 Q Yes, sir. Okay. So you went and reported what
10 happened?

11 A Yes, I went down and told the girl at the desk.

12 Q Okay. Did you talk to the police at some point?

13 A Oh, yes, absolutely. Once they called the police, I
14 talked to them when they got there.

15 Q Okay. And what happened the next day?

16 A Well, we were dead in the water. No identification,
17 no -- everything was gone. So actually I called my son the
18 night before and I told my son we're up here and we've been
19 robbed and he agreed to come up on Sunday; he agreed to come
20 up and get us.

21 Q Okay. Now, you said that your identification was gone?

22 A Everything. Everything. Wallet was gone. Everything
23 in the car was gone. The car was gone. You know,
24 everything was gone.

25 Q Okay. Your credit cards and everything else were gone?

1 A Yes. Yes. Like I say, we were dead in the water.

2 Q Yes, sir.

3 A I don't know if that's the right term.

4 Q Whatever you say. Yes, sir. And so, Mr. Klem, you
5 said your son came and got you the next day?

6 A Yes, he did.

7 Q All right. And what did y'all do after that?

8 A Well, he drove us down to our residence in Melbourne
9 Beach, Florida, and then he went on home to Orlando,
10 Florida.

11 Q So did you ever recover any of the items that were
12 stolen?

13 A Yes, a lot of it.

14 Q Okay. So can you tell me what things you did get back?

15 A Well, we got the rifles back. I got my golf clubs
16 back. Most of the stuff we got back. Of course, there was
17 jewelry missing and a lot of miscellaneous -- I don't have
18 anything right now, but we were insured, so we got
19 reimbursed.

20 Q Okay. Did you make an itemization to the insurance
21 company?

22 A Yes, I did. Also, I had \$400 in my wallet.

23 Q And that was taken also?

24 A Yes, with the wallet. I thought I could give the
25 fellows 100 bucks and let me have the 300, but that didn't

1 happen.

2 Q So did you try to give them the ---

3 A Well, I was gonna try to barter with them, like, hey,
4 here, take some money and you know, but that didn't happen.
5 They were abrupt, just give me your wallet, period. That
6 was it, so I complied.

7 Q So they didn't want to negotiate?

8 A No.

9 Q Okay. Mr. Klem, now you said you got the rifles back?

10 A Yes, we did.

11 Q Do you still have them?

12 A The one rifle, my son sold. The other rifle, I brought
13 down with me and it's in the back of the car.

14 Q Okay. Mr. Klem, I'm going to hand you in a moment
15 what's been previously marked for identification as State's
16 Exhibit Number 21, 22 and 23. Please take a moment and tell
17 me whether you recognize these items.

18 ASST. SOL. LEGETTE: Your Honor, may I approach the
19 witness?

20 THE COURT: You may.

21 A The first item ---

22 THE COURT: You need to identify it by the red number.

23 MR. KLEM: Oh, I'm sorry.

24 A Is it 21?

25 Q 21, yes, sir.

1 A Yes. That's the 30/30. That was my first rifle.

2 Q And you still have it?

3 A Yes, I do have it.

4 Q All right. And what about item 22?

5 A 22, let's see, this was the other rifle that I was
6 bringing down. I'm trying to think what that is. That's
7 not a -- that's a serial number onto the rifle, maybe. This
8 is a 30/30 and that's a 30/30. I don't know what that is.

9 Q Okay. I'll take it back.

10 ASST. SOL. LEGETTE: May I approach the witness, Your
11 Honor?

12 THE COURT: You may.

13 Q Mr. Klem, as to State's Exhibit Number 23, do you
14 recognize that?

15 A Yes, that's the 30/30, my own personal rifle.

16 Q Thank you. Mr. Klem, are State's Exhibits 21 and 23
17 fair and accurate representations of the rifle you still
18 have?

19 A Yes, absolutely, yes. That's the scope and everything.

20 ASST. SOL. LEGETTE: At this time, Your Honor, I would
21 offer into admission into evidence State's 21 and 23.

22 THE COURT: As to State's 21 and 23, Mr. Bennett?

23 MR. BENNETT: No objection, Your Honor.

24 THE COURT: Ladies and gentlemen of the jury, State's
25 Exhibit Numbers 21 and 23 will be admitted into evidence in

1 this trial without objection.

2 (WHEREUPON, STATE'S EXHIBIT NUMBER 21, PHOTO OF RIFLE,
3 IS RECEIVED INTO EVIDENCE.)

4 (WHEREUPON, STATE'S EXHIBIT NUMBER 23, PHOTO OF RIFLE,
5 IS RECEIVED INTO EVIDENCE.)

6 THE COURT: State's Exhibits Number 21 and 23 are now
7 in evidence. You may publish, Solicitor.

8 ASST. SOL. LEGETTE: Thank you, Your Honor. May I
9 approach the witness?

10 THE COURT: You may.

11 Q Now, Mr. Klem, you said that you made an itemization to
12 the insurance company?

13 A Yes, I did.

14 Q Of all of your non-recovered items?

15 A Yes.

16 Q Mr. Klem, I will momentarily hand you what's been
17 marked for identification as State's 19. I want you to take
18 a moment and tell me if you recognize this.

19 ASST. SOL. LEGETTE: Your Honor, may I approach the
20 witness?

21 THE COURT: You may.

22 Q You can open it up, Mr. Klem.

23 A Okay. I was reading the outside of it. It does open
24 up?

25 Q You can pull it out.

1 A Okay. Let's see, this looks like -- I can go through
2 it. It would take me a long time, but this looks like the
3 list I submitted. You want me to go through the whole
4 thing?

5 Q Well, just make sure that you recognize it. If you
6 recognize it, then ---

7 A Yes. All right. This is what I submitted to the
8 insurance company and I was reimbursed.

9 Q Okay. Mr. Klem, is State's 19 a fair and accurate
10 representation of the items you did not recover and
11 submitted to the insurance company?

12 A Yes.

13 ASST. SOL. LEGETTE: At this time, Your Honor, I would
14 offer into admission into evidence State's 19.

15 THE COURT: As to State's 19, Mr. Bennett?

16 MR. BENNETT: No objection, Your Honor.

17 THE COURT: Ladies and gentlemen of the jury, State's
18 Exhibit Number 19 will be admitted into evidence in this
19 trial without objection.

20 (WHEREUPON, STATE'S EXHIBIT NUMBER 19, ITEMIZATION TO
21 INSURANCE COMPANY, IS RECEIVED INTO EVIDENCE.)

22 THE COURT: State's 19 is in evidence. You may
23 publish, Solicitor.

24 ASST. SOL. LEGETTE: Thank you, Your Honor.

25 Q Now, Mr. Klem, approximately how much -- the items

1 that you did not recover, how much were they worth?

2 A I don't -- I don't -- I think we got \$3,000 or
3 something like that, but I don't remember. I'd have to go
4 through the papers, but I think it was more than that.

5 Q I understand.

6 A You know, they reimbursed me for the car.

7 Q Mr. Klem, thank you. I have no further questions. I
8 will take that back from you.

9 A Sure. I'm trying to get it back into the envelope.

10 THE COURT: Solicitor, you approach the witness and you
11 put it back in the envelope for him.

12 ASST. SOL. LEGETTE: Yes, Your Honor.

13 THE COURT: Cross-examination.

14 MR. BENNETT: May it please the Court.

15 CROSS-EXAMINATION

16 BY MR. BENNETT:

17 Q Mr. Klem, first of all, let me ask you were you and
18 your wife, on January 7th, 2012, were y'all robbed?

19 A We were robbed.

20 Q You consider it a robbery; isn't that right?

21 A From my observation, it was a robbery, yeah.

22 Q Is that how you reported it when you talked to ---

23 A Yeah. I didn't say we were kidnapped. I was there.

24 You know, if I was kidnapped, I'd be somewhere else,

25 wouldn't I?

1 Q I would agree. And Mr. Klem, were you ever -- you said
2 there were two black male robbers?

3 A Yes.

4 Q Did either one of the robbers, whoever they are, did
5 either one of them ever touch you in any way or ---

6 A They didn't touch me. I was a little distance away
7 with the individual who had my wife around the -- around the
8 midsection. He touched her, but I never came into physical
9 contact with either one of them.

10 Q Okay. And neither you nor your wife were ever tied up
11 or gagged or made to lie on the floor?

12 A No. We were threatened if I didn't comply, she would
13 be dead; she would be killed.

14 Q And you immediately complied?

15 A Absolutely, yes, I did.

16 Q And do you know about how long this whole ---

17 A I would say like in two minutes they were in there and
18 out of there. That's my estimation; I don't if it's
19 correct.

20 Q And you did not know the robbers, or the identity of
21 the robbers, or whatever you want to call it, that robbed
22 you on that night, did you?

23 A Did I know them?

24 Q Yes.

25 A No. You know, no, I didn't know them personally.

1 Are you asking me that, personally? No.

2 Q Yeah. Or did you know their identities at that time?

3 A No, I didn't know their identity. No.

4 Q All you know is that two black males ---

5 A Two black males, yeah.

6 Q --- about six feet tall robbed you.

7 A Yeah.

8 Q And was it two or three robbers?

9 A No, no, it was two. I don't know where she got her

10 information from. When I say "she" I'm referring to the

11 clerk.

12 Q And were you actually physically injured in any way as

13 a result of this incident?

14 A No. No.

15 Q Okay. And you didn't you or your wife didn't have to

16 go to the hospital or anything?

17 A No. My wife was pretty shook up. I think she was

18 traumatized for a little bit.

19 MR. BENNETT: That's all I have, Your Honor.

20 THE COURT: Redirect?

21 ASST. SOL. LEGETTE: Briefly, Your Honor.

22 REDIRECT EXAMINATION

23 BY ASST. SOL. LEGETTE:

24 Q Mr. Klem, sir, do you know the legal definition of

25 kidnapping?

1 A No, I really don't.

2 Q You don't? Okay. So I'm just going to ask you,
3 briefly. Were you free to go when this happened to you and
4 your wife?

5 A Not for a little while we weren't free to go because
6 they were in front of us and they were at the -- in the --
7 you know, before I got to the door, I'd have to encounter
8 them.

9 Q Okay. So in other words, you were seized?

10 A I was seized, yeah. Okay, go ahead.

11 ASST. SOL. LEGETTE: I have no further questions, Your
12 Honor.

13 THE COURT: Recross, limited to redirect.

14 MR. BENNETT: I have no further questions, Your Honor.

15 THE COURT: Very well. Mr. Klem, you may step down
16 from the witness stand. Watch your step on those stairs.
17 Thank you, sir.

18 Counsel approach.

19 (WHEREUPON, A BENCH CONFERENCE IS HELD OFF THE RECORD
20 AND OUT OF THE HEARING OF THE JURY.)

21 THE COURT: Mr. Foreman, ladies and gentlemen of the
22 jury, I'm going to send you home now. Please, as I've
23 instructed you throughout the trial, please don't discuss
24 the case. If you've still got some exhibits in your hands,
25 I'm going to advise you that anything in evidence will be

1 with you in your jury room during your deliberations. So if
2 you will just leave the exhibits on the railing when you
3 leave, I'll see to it that everybody gets the chance to see
4 one, so don't worry about it now, because I want you home to
5 your families. I made you a promise that I'd get you home
6 in a timely fashion and I intend to keep that promise to
7 you, ladies and gentlemen. Please do not discuss the case
8 with any member of your family or with anyone. You have not
9 heard all of the evidence in this case and it would be
10 improper for you to do so. Thank you for your patience and
11 your time.

12 In the morning, I'm going to ask you to report to your
13 jury room. We're going to start at 9:30. Please be on
14 time. You may leave the courtroom at this time.

15 (5:42 P.M., WHEREUPON, THE JURY EXITS THE COURTROOM AND
16 THE FOLLOWING IS HELD ON THE RECORD.)

17 THE COURT: All right. I ask that Mr. Bennett, you and
18 the solicitor get together because of what we have discussed
19 concerning the defendant testifying, which would include his
20 record, and that y'all agree on what his record is and what
21 standards should be applied if he does testify, and what
22 standard under the rule would apply to impeachment of any
23 prior conviction in the event he elects to testify. I will
24 go over his choices with him, under oath, outside the
25 presence of the jury tomorrow. Mr. Bennett, of course, you

1 will have to make a decision, because you have witnesses
2 sequestered, as to who, if any witnesses, you wish to call.
3 Solicitor, you also will have to make a decision. I remind
4 you that you've released witnesses, and by releasing them,
5 I've reminded you at the first of this trial that, of
6 course, limits your reply, but you will have to, if there is
7 any defense, consider that for reply.

8 I thank you for your patience today. I've tried to
9 move it along. We will start back at 9:30 a.m. in the
10 morning. I will expect any requests to charge from either
11 the State or the defendant, numbered, given to opposing
12 counsel, and given to my law clerk no later than 11:45
13 tomorrow morning. See that that is done tonight and given
14 to my law clerk by 11:45 in the morning.

15 (WHEREUPON, THE TRIAL IN THIS CASE IS IN RECESS.
16 THEREAFTER, ON WEDNESDAY MORNING, THE TRIAL IS RESUMED IN
17 THIS CASE AND THE FOLLOWING IS HELD ON THE RECORD.)

18 THE COURT: Is the State ready to proceed?

19 ASST. SOL. LEGETTE: Yes, Your Honor.

20 THE COURT: Is the defendant ready to proceed?

21 MR. BENNETT: Yes, Your Honor.

22 THE COURT: Bring us the jury, please.

23 (9:35 A.M., WHEREUPON, THE JURY ENTERS THE COURTROOM
24 AND THE FOLLOWING IS HELD ON THE RECORD.)

25 THE COURT: Good morning. Good morning to each of

1 you. I hope everyone had a pleasant evening. Anyone have
2 any problems last night?

3 JURY: No, sir.

4 THE COURT: Good. Now, ladies and gentlemen, as I told
5 you, we're going to work this morning. We are now going to
6 continue with the testimony in the trial of this case.
7 Solicitor, you may call your next witness.

8 ASST. SOL. LEGETTE: Thank you, Your Honor. The State
9 calls Major Leslie Jamison.

10 (MAJOR JAMISON ENTERS THE COURTROOM,)

11 THE COURT: Please come forward to the Clerk to be
12 sworn.

13 MADAME CLERK: Please come forward. Place your left
14 hand on the Bible and raise your right.

15 (WHEREUPON, MAJOR LESLIE JAMISON IS DULY SWORN.)

16 THE COURT: Good morning, Leslie. Watch your step on
17 those stairs for me. Have a seat. Adjust that microphone
18 and make yourself comfortable. State your full name for the
19 record and spell your last name for the court reporter.

20 MAJOR JAMISON: Leslie A. Jamison, J-A-M-I-S-O-N.

21 THE COURT: Your witness, counsel.

22 ASST. SOL. LEGETTE: Thank you, Your Honor.

23 DIRECT EXAMINATION

24 BY ASST. SOL. LEGETTE:

25 Q Good morning, ma'am. Ma'am, where do you work?

1 A Colleton County Sheriff's Office

2 Q And what do you do at the Colleton County Sheriff's
3 Office?

4 A I've recently been promoted to Major.

5 Q And as Major, what do you do?

6 A I am the supervisor over the Operations Divisions of
7 the Sheriff's Office.

8 Q Okay. And congratulations on your promotion. Now,
9 what other jobs have you had? Well, let me ask you this
10 question, how long have you worked for the Colleton County
11 Sheriff's Office?

12 A I became employed in 1995 and I was employed in various
13 capacities until 2008. I went to Orangeburg and Hampton and
14 I came back to Colleton County Sheriff's Office on August
15 6th, 2012.

16 Q Okay. And in August 6th, 2012, what were your duties?

17 A I was an investigator.

18 Q Okay. At this point, did your job title change from
19 August 6th as an investigator to something else?

20 A Yes, it did.

21 Q And what did it change to?

22 A I became the jail administrator in January 2013 under
23 the administration of Sheriff Strickland.

24 Q Okay. And as jail administrator, what were your
25 duties?

1 A I oversaw the daily operations of the Colleton County
2 Detention Center.

3 Q Okay. And about how long did you do that job before
4 your recent promotion?

5 A I did that from January 2013 until March 10th, 2014.

6 Q Okay. So you were working as the jail administrator in
7 October 2013?

8 A Correct.

9 Q Okay. Now, as part of being the jail administrator,
10 are you familiar with the varied persons who are housed in
11 your facility?

12 A By name? Only sometimes; so many come in and out,
13 it's hard to keep up with everybody.

14 Q Okay. Are you familiar with the name, Tyheem Lewis?

15 A I'm familiar with the name.

16 Q Okay. Now, did Tyheem Lewis, was he an inmate in your
17 jail?

18 A Yes, he was at some point.

19 Q Did he ever send you any letters or paperwork?

20 A I believe I received several inmate requests from him
21 from time to time.

22 Q Okay. Did he ever send you a letter to be notarized?

23 A No, he did not.

24 Q Okay. are you familiar with a man named Mack
25 Washington?

1 A Yes, I am.

2 MR. BENNETT: Your Honor, I'm going to object to this.

3 THE COURT: As leading? Is that the grounds?

4 MR. BENNETT: Well ---

5 THE COURT: Just state the grounds. I don't want an
6 argument.

7 MR. BENNETT: Yes, as leading, Judge.

8 THE COURT: Sustained. Rephrase your question.

9 ASST. SOL. LEGETTE: Thank you, Your Honor.

10 Q Is there anyone else here who you are familiar with?

11 A Anyone else?

12 Q Anyone else here in this courtroom who you are familiar
13 with?

14 A I'm familiar with most of the people here, yes.

15 Q Okay. Do you know Mack Washington?

16 A Yes, I do.

17 Q Okay. At some point in the past, say October 2013, was
18 he in your facility?

19 MR. BENNETT: Your Honor?

20 THE COURT: Just a moment. Yes, sir.

21 MR. BENNETT: Yes, I'm going to object and I think I
22 have a matter of law.

23 THE COURT: Counsel approach.

24 (WHEREUPON, A BENCH CONFERENCE IS HELD OFF THE RECORD
25 AND OUT OF THE HEARING OF THE JURY.)

1 THE COURT: The objection is withdrawn at the request
2 of defense counsel. Proceed, Solicitor.

3 Q Major Jamison, in October of 2013, did you get a letter
4 to be notarized from Mack Washington?

5 A Yes, I did.

6 Q And how did that come about?

7 A As a procedure at the jail, inmates have a request if
8 they want to request something from administration or the
9 Captain, they get a form and they write their request out or
10 send whatever it is to me.

11 Q And what happened with this particular letter?

12 A It was a request and a letter and it was from a Mack
13 Washington and he was asking me to notarize a letter in
14 reference to a witness or a victim saying he didn't do the
15 crime.

16 Q And what was going to happen to this letter supp -- or
17 did you know what was supposed to happen to this letter?

18 A He asked that I notarize it so that he could send a
19 copy to his attorney and the Solicitor's Office.

20 Q And based on the request, what did you do?

21 A My response exactly was "No," and not only no, but
22 "Hell, no."

23 Q Okay. At some point after, do you remember what day
24 that was or do you recall what day that was?

25 A I do not recall the date.

1 Q Okay. You said you were familiar with Mack Washington.

2 A Yes, I am.

3 Q Do you see him in Court today?

4 A Yes, I do.

5 Q Can you point him out, please?

6 A Yes. He's the young man, the young black male that is
7 sitting between Mr. Bennett and the other young man with the
8 white shirt, black multi-colored tie.

9 Q Okay. So once you refused to notarize his letter --
10 did you read the letter?

11 A I read partly through it. Once I realized what it was,
12 I discontinued reading the letter.

13 Q Okay. And what did you do with this letter, if
14 anything?

15 A I put it back on a stack of papers, and as procedure,
16 just have them go back to the inmate that sent it to me.

17 Q Okay. Now, once you -- so you refused to notarize the
18 letter?

19 A I did.

20 Q Did anything else happen? Did you ever see Mack
21 Washington again?

22 A Yes. As one of the daily or weekly procedures that I
23 have to do ---

24 MR. BENNETT: Your Honor?

25 THE COURT: Yes, sir?

1 MR. BENNETT: I believe I'm going to have to object on
2 this part, Your Honor.

3 THE COURT: Counsel approach.

4 (WHEREUPON, A BENCH CONFERENCE IS HELD OFF THE RECORD
5 AND OUT OF THE HEARING OF THE JURY.)

6 THE COURT: Objection withdrawn at the request of
7 defense counsel. Solicitor, you may proceed. Direct
8 examination.

9 Q Major Jamison, once you refused to notarize the letter,
10 did you ever talk to Mack Washington about that letter
11 again?

12 A Yes, I did.

13 Q And what happened during that conversation?

14 A During the conversation, I went down in the pod that he
15 was being housed in and he said, "Captain Jamison, can I
16 speak with you?" And I went to his cell to talk to him and
17 this is when he proceeded to tell me that he had a letter
18 from a witness or a victim stating he did not do this and
19 that he needed to get it notarized. And he asked would I
20 notarize it? And I told him, again, no. "I wasn't trying
21 to lose my job" was my words to him and I refused to
22 notarize the letter.

23 Q Now, just briefly, how old is Mack Washington?

24 A He's in his 30's, early 30's, 30, 32.

25 Q Okay.

1 ASST. SOL. LEGETTE: Begging the Court's indulgence.

2 Q Major Jamison, I have no further questions. Please
3 answer any questions from Mr. Bennett.

4 THE COURT: Cross-examination.

5 MR. BENNETT: May it please the Court, Your Honor.

6 CROSS-EXAMINATION

7 BY MR. BENNETT:

8 Q How are you doing, Major Jamison?

9 A I'm fine.

10 Q Yeah, I assume that I don't think you've testified to
11 it, you are a licensed notary?

12 A Yes, I am.

13 Q Okay. And is that your notary is still in effect now?
14 It hasn't ---

15 A Yes, it is. It's just been -- I just sent off for it.
16 It would have expired April 2014 and I now have another
17 date, March 2024.

18 Q Okay.

19 MR. BENNETT: May I approach, Your Honor?

20 THE COURT: You may.

21 MR. BENNETT: I want to show the witness a document. I
22 think it's State's Exhibit 18 -- the second letter. We need
23 to locate that.

24 THE COURT: Mr. Bennett, the document you're holding,
25 according to my court reporter, is not in evidence; do you

1 understand?

2 MR. BENNETT: Oh, yes, sir.

3 THE COURT: Proceed and you may approach.

4 MR. BENNETT: Yes, sir.

5 Q Ms. Jamison, I just want you to look at this letter for
6 me.

7 (HANDS LETTER TO WITNESS.)

8 Q Is that the letter that you were asked to notarize?

9 A I can't say for sure. I never completely read the
10 letter. I know it was a letter in this form. It was in
11 handwriting and it was on lined paper, and that's what I
12 have in front of me.

13 Q Okay. And whose purported signature appears at the
14 bottom?

15 A The signature at the bottom says, "Thank you, Tyheem
16 Lewis."

17 Q Okay. And you know Tyheem Lewis; is that right?

18 A Name only.

19 Q Okay. And was Tyheem an inmate at the time that letter
20 was written?

21 A It doesn't have a date stating when the letter was
22 written.

23 Q Okay. And are you familiar with Tyheem Lewis's
24 signature or handwriting?

25 A I've seen the signature a time or two.

1 Q Okay.

2 MR. BENNETT: May I approach, Your Honor? I want to
3 show her another document to compare.

4 THE COURT: You may.

5 Q Ms. Jamison, this is Defendant's Exhibit One. It
6 actually has been introduced into evidence in this case.

7 A Okay.

8 THE COURT: Hand it to her and step back. Don't block
9 the jury's view while you're questioning her.

10 Q Have you ever seen that letter?

11 A I won't say it's the exact letter. Again, it was a
12 handwritten letter on lined paper, and that's was this one
13 is, and that's what this one is.

14 Q Now, Defendant's Exhibit One, I believe is dated
15 October 2013; is that correct?

16 A It says, "I, Tyheem Lewis, did willingly write this on
17 the 29th day of October, 2013."

18 Q Okay. Now, I will tell you that Tyheem Lewis has
19 already admitted that he wrote that document, Defendant's
20 Exhibit One, and he admitted it was his signature. Now,
21 just in you looking at the two documents, does it appear to
22 you to be the same ---

23 ASST. SOL. LEGETTE: Your Honor, I would object.

24 THE COURT: Sustained. No, sir, Mr. Bennett, not
25 without a qualification. That objection is sustained.

1 MR. BENNETT: Okay.

2 Q Did Tyheem talk with you about the first letter?

3 A I never spoke with Tyheem.

4 Q Okay. About either letter?

5 A About either letter.

6 Q Okay. And now you did know that he was accused of the
7 same crimes that Mack Washington was; is that correct?

8 A I do not know.

9 Q You don't know -- so you don't know anything about this
10 case in general?

11 A No, sir, I don't. I believe this happened in the early
12 part of 2012. I came back to work for Colleton County
13 Sheriff's Office in August of 2012.

14 Q Okay. But are you aware that the nature of the two
15 letters that you're holding in your hand was where Tyheem
16 Lewis was stating that Mack Washington had nothing to do
17 with the crimes that he is accused of here today?

18 A I only know that from Mack Washington saying what he
19 told me in reference to notarizing a letter.

20 Q Okay.

21 MR. BENNETT: If I could approach, Your Honor.

22 THE COURT: You may.

23 MR. BENNETT: Yeah, I have no further questions, Your
24 Honor.

25 THE COURT: Redirect?

1 REDIRECT EXAMINATION

2 BY ASST. SOL. LEGETTE:

3 Q Major Jamison, briefly, can inmates communicate with
4 each other while they're in jail together?

5 A Yes, they can.

6 Q And how easily can they communicate?

7 A They can communicate through air vents; for instance,
8 if someone is in one pod and there is another pod that is
9 adjoining, if there are microphone boxes, they can
10 communicate that way. They can communicate through letters
11 that they pass back and forth through inmates. Sometimes,
12 there is what I call "silent communication". Inmates have
13 their own way of communicating with each other. They can
14 write something on a wall. We would know or call it
15 "graffiti". They could put something on a wall and it could
16 be a symbol telling somebody else what's getting ready to
17 happen or passing a message.

18 Q Okay. And what about intimidation? Can that happen,
19 also?

20 A Exactly. It can happen and it can happen the same way.
21 Through other inmates, other incidents that occur in the
22 facility at the time; letters, pass it on through another
23 inmate, or tell another inmate what's going on and that
24 inmate can carry out what's supposed to be carried out. It
25 happens all the time.

1 ASST. SOL. LEGETTE: I have no further questions, Your
2 Honor.

3 THE COURT: Recross, limited to redirect.

4 RECROSS-EXAMINATION

5 BY MR. BENNETT:

6 Q Ms. Jamison, do you monitor, in any way, communication
7 between the inmates?

8 A Sometimes.

9 Q Personally?

10 A It depends on the situation and what is going on, and
11 if it's caused some problems in the past.

12 Q All right. And from your own knowledge, do you know
13 whether there was any communication ongoing between Tyheem
14 Lewis and Mack Washington?

15 A Only what I was told by him.

16 Q Okay.

17 THE COURT: When you say "him," identify who that is.

18 A I'm sorry. Only what was told to me by Mr. Washington,
19 Mr. Mack Washington.

20 Q Okay. But not personally?

21 A No personal knowledge, no, sir.

22 Q Thank you.

23 THE COURT: As to this witness, Solicitor?

24 ASST. SOL. LEGETTE: Your Honor, we ask that she be
25 excused.

1 THE COURT: Any objection, Mr. Bennett?

2 MR. BENNETT: No objection, Your Honor.

3 THE COURT: Ms. Jamison -- Major Jamison,
4 congratulations. You may step down and you're excused from
5 the trial of this case.

6 MAJOR JAMISON: Thank you.

7 THE COURT: Call your next witness.

8 ASST. SOL. LEGETTE: Your Honor, at this time, the
9 State rests.

10 THE COURT: Are there any matters of law that I need to
11 take up at this time?

12 MR. BENNETT: There is, Your Honor.

13 THE COURT: Very well. Mr. Foreman, ladies and
14 gentlemen of the jury, I have to take up a matter of law.
15 It won't be long. Please retire to your jury room. I'll be
16 back with you just as quick as I can. Please do not discuss
17 the case. Thank you very much.

18 (10:15 A.M., WHEREUPON, THE JURY EXITS THE COURTROOM
19 AND THE FOLLOWING IS HELD ON THE RECORD.)

20 THE COURT: Let the record reflect that the jury is not
21 present in the courtroom. Mr. Bennett, I understand you
22 have a matter of law.

23 MR. BENNETT: Yes, Your Honor. Letting Mr. Laurie
24 Sanders approach, Your Honor, and he is going to present our
25 motion for directed verdict.

1 THE COURT: All right. Mr. Laurie Sanders, Mr. Bennett
2 doesn't have to introduce you every time, Mr. Sanders. You
3 can stand up. I know who you are.

4 MR. SANDERS: I think Mr. Bennett just likes to stand
5 up and talk, so we'll let him do that.

6 THE COURT: It's a shocker to all of us.

7 MR. SANDERS: All right. Your Honor, as you may
8 imagine, I have a few directed verdict motions. I will
9 start with the primary crime of armed robbery as to Mr.
10 Frank Klem first.

11 THE COURT: All right.

12 MR. SANDERS: The statute which is South Carolina Code
13 16-11-330 requires that the subject actually be armed with a
14 deadly weapon or something reasonably believable to be such.

15 THE COURT: What it actually says in the case law
16 interpreting, as well as the statute, that the State must
17 prove that the defendant took personal property from the
18 person or presence of another person, and the State would
19 prove that the defendant carried the property away intending
20 to permanently deprive the owner of the property, and to
21 keep the property for the defendant's own use. The
22 slightest removal, of course, of the property, even for an
23 instant, is sufficient to show a taking and carrying away.
24 The taking and carrying away must have been done with
25 violence or by putting the owner of the property in fear of

1 violence, and the State must prove that the defendant was
2 armed with a deadly weapon during the robbery. A deadly
3 weapon having been defined as any instrument or substance
4 which is likely to cause death or great bodily harm, and
5 whether an instrument is or is not a deadly weapon sometimes
6 can depend on facts and circumstances in evidence in the
7 case. Would you agree that's a definition of armed robbery?

8 MR. SANDERS: Yes, Your Honor, I would.

9 THE COURT: All right.

10 MR. SANDERS: Our contention is that the State has
11 failed to establish proof of a deadly weapon. There was
12 testimony of use of a deadly weapon, but no such deadly
13 weapon was entered into evidence, and presumably no such
14 deadly weapon was ever recovered. So my motion rests on the
15 fact that the evidence does not reflect that a deadly weapon
16 was used to commit this alleged robbery.

17 THE COURT: All right. So you agree that there has
18 been evidence in this trial that a person who is alleged to
19 have committed this offense had a knife?

20 MR. SANDERS: I agree that there has been testimony,
21 yes, Your Honor.

22 THE COURT: And you agree that if a crime is committed
23 by two or more people who are acting together in committing
24 the crime, the act of one is the act of all?

25 MR. SANDERS: I do agree that the act of one is the act

1 of all.

2 THE COURT: So a person who joins with another person
3 to commit an unlawful act can be criminally responsible for
4 everything done by the other person which happens as a
5 probable or natural consequence of the act in carrying out a
6 common plan or purpose; do you agree?

7 MR. SANDERS: That is my understanding, Your Honor.

8 THE COURT: For example, and we use this all the time,
9 and I'll use this in my charge. Two people can be guilty of
10 killing another person, when only one of the two had a gun.
11 And there was only one bullet, and there was only one of the
12 two firing the shot that caused the death. But if two
13 people are acting together, if two people are assisting each
14 other in committing a criminal offense, the law in South
15 Carolina is the act of one is the act of all, or as it is
16 sometimes said, the hand of one is the hand of all; do you
17 agree?

18 MR. SANDERS: Yes, I agree that is the law.

19 THE COURT: All right. Next motion.

20 MR. SANDERS: I would like to renew the motion as to
21 Mrs. Joan Klem, as to the armed robbery charge.

22 THE COURT: On the same grounds?

23 MR. SANDERS: On the exact same grounds, Your Honor.

24 THE COURT: So you want to move for directed verdict as
25 to Frank Klem, armed robbery, and Joan Klem, armed robbery,

1 on the basis you feel there is insufficient evidence to
2 present the case, the standard I'm required to use at this
3 state, the directed verdict stage, of a weapon for armed
4 robbery?

5 MR. SANDERS: that is correct, Your Honor.

6 THE COURT: I think I understand that motion. Anything
7 else?

8 MR. SANDERS: That is all as to both armed robberies.

9 THE COURT: All right. Do you have any other motions?

10 MR. SANDERS: I do, Your Honor. This will be
11 kidnapping as to Mrs. Joan Klem against the defendant Mack
12 Washington, Jr. As the statute -- I won't read the whole
13 statute, but the elements are seize, confine, inveigle,
14 decoy ---

15 THE COURT: It has a number of verbs in it, doesn't it,
16 Mr. Sanders?

17 MR. SANDERS: Correct.

18 THE COURT: In fact, I've counted them for purposes of
19 this trial, since it has been an issue in this case. I
20 think there's seven, would you agree?

21 MR. SANDERS: Yes, Your Honor. There's seven according
22 to my notes.

23 THE COURT: Okay. And they contain seize, confine,
24 inveigle, decoy, kidnap, abduct, or carry away another
25 person without authority of law; do you agree that that is

1 the definition of kidnapping?

2 MR. SANDERS: Yes, I do, Your Honor.

3 THE COURT: All right. Well, what is your motion on
4 kidnapping as to Joan Klem?

5 MR. SANDERS: My motion as to Joan Klem is that in her
6 testimony, she was questioned as to whether she was
7 kidnapped and she never denied it, but she never said that
8 she felt like she was kidnapped either. She simply stated
9 that she was robbed.

10 THE COURT: And you think that a lay person determines
11 what criminal offense a person can be charged with? I
12 recognize there have been points in this trial, Mr. Sanders,
13 where without objection, lay people were asked to give an
14 opinion as to what crime was committed. However, it was
15 done without objection. But as I recall, the testimony that
16 you're referring to as to Joan Klem, she said that she was
17 not free to leave, she felt she was not free to leave. She
18 also said she could not get away. Now, you've just agreed
19 with me that the verbs, seven of them in the kidnapping
20 statute, which is 16-3-910, say unlawfully seize, confine,
21 inveigle, decoy, kidnap, abduct, or carry away another
22 person without authority of law. In fact, Mr. Bennett
23 objected at one point when the solicitor asked Mrs. Klem, if
24 I recall correctly, about whether or not she felt seized on
25 the basis of leading, and I think I sustained that

1 objection, but she clearly testified that she didn't think
2 she was free to leave. And she did testify that she felt
3 they were robbed, she and her husband, and she said that one
4 of the people said, "I will kill you if your husband does
5 not comply with the instructions." Isn't that a fair
6 characterization of the evidence that's been submitted?

7 MR. SANDERS: I would agree, Your Honor.

8 THE COURT: All right. So tell me why you think
9 there's no evidence of seize, confine, inveigle, abduct,
10 under the kidnapping statute.

11 MR. SANDERS: I believe that the incident was designed
12 as a robbery. There was never any intent to kidnap Mrs.
13 Joan Klem.

14 THE COURT: And that brings us back to something we
15 started this case with. The case that we discussed pre-
16 trial when Mr. Bennett went through a number of motions with
17 me, which my law clerk has Shephardized for me now. That's
18 the Porter case. In the Porter case, there was a bank
19 robbery and Porter argued that the trial court made an error
20 because the court refused to instruct the jury that if they
21 found Porter guilty of armed robbery, that in order to find
22 him guilty of kidnapping, they would have to find that
23 Porter did something more than constrained the bank
24 employees and customers for the purpose of robbing them.

25 In other words, the jury could not base a conviction

1 for kidnapping on the restraint of the employees and
2 customers that was incidental to the armed robbery. The
3 court clearly disagreed, and your co-counsel, Mr. Bennett,
4 who you know likes to tell me as much as he possibly can
5 about an issue, recognized interestingly, and when I asked
6 him why he argued that because he wanted me to know that he
7 had read the case very carefully, because the court made a
8 note in Porter that the South Carolina rule appears to be
9 the minority view among other jurisdictions that have
10 considered this issue. Because as you know, the court
11 clearly held that when a single act combines the requisite
12 agreeance of two distinct offenses, the defendant may be
13 severally indicted and punished for each.

14 So the issue which was presented in Porter, in which
15 Mr. Bennett argued to me pre-trial is whether the same act
16 of constraining a person -- in Porter, it's bank employees;
17 here we have guests of a motel. It was necessary to commit
18 the armed robbery, could also be the basis for the
19 kidnapping conviction. And you know what the court held,
20 because you're very familiar with that case now, aren't you,
21 Mr. Sanders?

22 Yes, Your Honor, I am.

23 THE COURT: All right. Anything else you want to tell
24 me?

25 MR. SANDERS: I would just like to put on the record,

1 one issue in Porter that seemed to be important that was
2 slightly different from the present case is that there was a
3 consideration that some of the people inside the bank were
4 not actually being robbed, so it could not be incidental to
5 the robbery, their confining, and it is. ---

6 THE COURT: It is true. You're absolutely right about
7 that, Mr. Sanders. In the Porter case, the State presented
8 voluminous testimony, according to the Appellate Court, from
9 bank employees and customers that were confined while the
10 robbery was taking place. And of course, the Court pointed
11 out that under -- which Mr. Bennett argued also, and the
12 Solicitor did, too, under the Hall case. And for the
13 record, Becky, I want to make sure everybody knows what we
14 are talking about. Porter is 698 S.E. 2d, 237, and it's a
15 2010 case that Judge Hayes was the trial judge in. Hall is
16 310 S.E. 2d, 429, which is a 1983 case.

17 Hall had held prior to Porter that a single act of
18 confinement could support a finding of kidnapping,
19 regardless of whether it was merely incidental to the
20 commission of the armed robbery, but the Court did go on to
21 say, and used the term, Mr. Sanders, "moreover," the
22 testimony established there were people in the bank in
23 Porter who were being confined against their will, but were
24 not being robbed. I understand that, but the Court did not
25 say that that is the only circumstance under which you could

1 have both kidnapping and armed robbery submitted to a jury.

2 But you're correct to point that out, and you're right,
3 I noticed it as well. I actually discussed that with my law
4 clerk. Go ahead, Mr. Sanders.

5 MR. SANDERS: Okay. I would like to renew the motion
6 on the same grounds as to Mr. Klem, with the addition that
7 he admitted in his own testimony that he was not kidnapped.

8 THE COURT: You would also like to make a motion for
9 directed verdict as to each kidnapping indictment, both
10 Frank Klem and Joan Klem, on the basis that you feel there
11 was insufficient evidence to support the offense of
12 kidnapping?

13 MR. SANDERS: that is correct, Your Honor.

14 Very well. Anything else?

15 One last one, and it may be moot; it may not be moot.
16 I make a motion for directed verdict as to the possession of
17 a weapon during the commission of a violent crime charge as
18 to the defendant, Mack Washington, as there has been
19 insufficient evidence been submitted at trial as to the
20 actual possession of a weapon during the commission of this
21 alleged crime.

22 Well, for the same reason we discussed your motions for
23 armed robbery, if the hand of one is the hand of all, does
24 that doctrine not apply equally to armed robbery as well as
25 to the commission of a violent crime while in possession of

1 a weapon?

2 It does, but our contention, Your Honor, is that there
3 was no knife in either of the ---

4 Well, wouldn't that be an issue of fact for the jury
5 since there has been direct testimony that one of the
6 perpetrators of these offenses had a knife? In fact,
7 there's been direct testimony by the co-defendant that your
8 client had the knife. Do you recall that?

9 MR. SANDERS: I do recall that, Your Honor.

10 THE COURT: All right.

11 MR. SANDERS: We dispute that fact, however.

12 THE COURT: I think I understand that motion as well.
13 Anything else, Mr. Sanders?

14 MR. SANDERS: That is all of my motions, Your Honor.

15 THE COURT: Thank you very much. And thank you for
16 being succinct and to the point, Mr. Sanders. I understood
17 each of your motions. All right, Solicitor, I'm happy to
18 hear from you in opposition. There are several motions for
19 directed verdict. The motion as to armed robbery, Frank
20 Klem; motion as to armed robbery, Joan Klem; motion as to
21 kidnapping, Frank Klem; motion as to kidnapping, Joan Klem;
22 and motion as to possession of a weapon during the
23 commission of a violent crime. I'll be happy to hear from
24 you.

25 ASST. SOL. LEGETTE: Thank you, Your Honor. Your

1 Honor, as the Court is well aware, when moving on a motion
2 for directed verdict, the Court is concerned with the
3 existence of evidence ---

4 THE COURT: Or non-existence.

5 ASST. SOL. LEGETTE: Or non-existence of evidence, not
6 its weight. I believe that the motions that Mr. Sanders has
7 made are regarding the actual weight of the evidence, which
8 I think is a factual issue for the jury. With regards to
9 his first motion for armed robbery, if I can combine the
10 two, Your Honor. The armed robbery of Frank and Joan Klem,
11 I believe testimony is that they were robbed. Both testified
12 that they were robbed at knifepoint. That the goods that
13 were taken from them, they were not returned to them. That
14 Mr. Frank Klem even tried to negotiate with the robbers but
15 was not able to negotiate with them and had to give up his
16 entire wallet. The robbers demanded the wallet, the car
17 keys, they took the purse of Mrs. Klem, as well as the
18 vehicle. There was a knife that was involved while they were
19 being so robbed.

20 Additionally, Mrs. Klem testified that the robber had a
21 knife to her. She said he held it out to her and she was
22 able to see the knife. They both considered it to be a
23 large, wide knife, as Mrs. Klem testified, and Mr. Klem said
24 it was a butcher knife. Additionally, the co-defendant,
25 Tyheem Lewis, indicated that there was a knife involved

1 while they were robbing the people that he -- that Mr.
2 Washington was the person who actually had the knife and had
3 Mrs. Klem. That Mr. Lewis, himself, was the person who
4 grabbed up all the things. Under the hand of one, the hand
5 of all theory, as Your Honor has said previously, and as the
6 State also contends that what one person does is considered
7 to be the action of all those who are acting therewith.

8 We would ask the Court to respectfully deny the motion
9 for directed verdict on the armed robbery charge. There was
10 a felonious taking of the goods of Mr. and Mrs. Klem. That
11 those goods were taken by use of force, threat,
12 intimidation. Mr. Klem testified that he was intimidated.
13 He felt that he was forced. That he was not able to
14 negotiate this matter. Mrs. Klem also testified that they
15 were robbed. She considered it as being robbed. That they
16 both were overcome. They were held against this will. They
17 did not want this to happen. They did not want this to
18 happen. They did not consent to their goods being taken and
19 that there was a weapon involved during the actual felonious
20 taking and carrying away of their property, which they did
21 not receive back.

22 With regards to the kidnapping, we would therefore ask
23 the Court to deny the motion for armed robbery, to deny the
24 motion for directed verdict on the armed robbery charges for
25 Frank and Joan Klem.

1 With regards to the kidnapping motion for directed
2 verdict, we would ask the Court to also deny that motion.
3 The facts as testified to at trial were that neither of the
4 Klems, Mr. Frank nor Mrs. Joan, were free to leave. Mrs.
5 Joan Klem testified that the assailant had her by the waist.
6 That he had the knife out to her. That she could not get
7 away. That she could not leave.

8 Additionally, Mr. Frank Klem testified that he felt
9 like he was actually seized. That he was intimidated. He
10 could not get away, nor could he leave his wife. That he
11 felt like he was threatened that the knife was there and
12 that he could not get away.

13 Additionally, there was testimony from Lt. Chapman
14 indicating that the room itself was a confined room with
15 only one way out and that there were no windows in this
16 room. Additionally, Mr. Klem testified that there was a --
17 they filled up the doorway. They were big men. They were
18 six feet tall. They filled up the door and they could not
19 leave and they were not free to leave.

20 We would therefore ask the Court to deny the motion for
21 directed verdict with regards to the kidnapping charge and
22 let it proceed to the jury.

23 With regards to the motion for directed verdict on the
24 weapon charge, possession of a weapon during the commission
25 of a violent crime, the testimony in this matter has been,

1 Your Honor, that both Mr. Frank Klem and Mrs. Joan Klem
2 indicated that there was a knife. They both testified that
3 it was a large kitchen knife; that it was a butcher knife.

4 Additionally, co-defendant, Tyheem Lewis, testified
5 that there was a butcher knife; it was a wide knife. He
6 testified he didn't know what happened to it; I believe his
7 testimony was or that the knife itself was thrown away.
8 Thereby, we would not have a knife to be able to put into
9 evidence. However, the Court is not concerned with the
10 weight of the evidence, simply the existence or non-
11 existence of the evidence. We would, therefore, ask the
12 Court to deny all of the motions for the five charges that
13 were so succinctly mentioned during the motions by Mr.
14 Sanders.

15 THE COURT: Mr. Sanders, on behalf of Mr. Washington, I
16 understand your motions completely. The standard I'm
17 required to use at this stage, at the directed verdict
18 stage, your motions are respectfully denied.

19 Mr. Bennett, you and Mr. Sanders, and Mr. Washington
20 come forward to the microphone and be sworn by the Clerk of
21 Court, your client.

22 (WHEREUPON, MR. MACK WASHINGTON, JR., IS DULY SWORN.)

23 THE COURT: You don't have to lean into it, Mr.
24 Washington; just speak up for me, you understand?

25 MR. WASHINGTON: Yes, sir.

1 THE COURT: All right. State your full name for the
2 record.

3 MR. WASHINGTON: Mack Washington, Jr.

4 THE COURT: Mr. Washington, you understand that you're
5 under oath?

6 MACK WASHINGTON: Yes, sir.

7 THE COURT: All right. At this time, Mr. Washington,
8 I'm going to explain to you certain of your rights. If you
9 do not understand anything that I say, I want you to let me
10 know. If you want me to explain anything in further detail,
11 please let me know. Do you understand?

12 MACK WASHINGTON: Yes, sir, Your Honor.

13 THE COURT: We've now reached the stage of the trial
14 where you may present your defense. You have the right to
15 testify on your own behalf. However, no one -- no one can
16 make you testify. In the event you have a record, Solicitor,
17 I understand you and Mr. Bennett have exchanged the record.

18 ASST. SOL. LEGETTE: Yes, Your Honor, we have.

19 THE COURT: Is that correct, Mr. Bennett?

20 MR. BENNETT: That's correct, Your Honor.

21 THE COURT: What is his record, Solicitor, that you
22 would seek to use if he testified?

23 ASST. SOL. LEGETTE: Your Honor, he has a total of four
24 burglary seconds, non-violent convictions. They were -- he
25 pled in 2006, so I would like to use those.

1 THE COURT: They were all four in 2006?

2 ASST. SOL. LEGETTE: Well, they occurred on different
3 dates, but he pled to each one ---

4 THE COURT: The rule, I believe, is since the
5 conviction or confinement; is that right?

6 ASST. SOL. LEGETTE: That's correct, Your Honor.

7 THE COURT: Am I quoting that correctly, Mr. Bennett?

8 MR. BENNETT: Yes, sir.

9 THE COURT: Hold on and let me give you the rule and
10 then you tell me how the record applies to the rule. The
11 standard changes if the conviction is for a period of more
12 than 10 years since the date of the conviction or the
13 release of the person from the confinement imposed for that
14 conviction, whichever is the later date. Do I have any more
15 than 10 year old convictions for which 609(b) would apply?

16 ASST. SOL. LEGETTE: No, Your Honor.. All of his
17 convictions are within the 10-year time limit.

18 THE COURT: So you both agree, Mr. Bennett, that 609(a)
19 applies and that is if the Court determines that the
20 probative value of admitting the evidence outweighs its
21 prejudicial effect?

22 MR. BENNETT: Yes, sir.

23 THE COURT: Do you agree, Solicitor?

24 ASST. SOL. LEGETTE: Yes, sir.

25 THE COURT: All right. There are four 2006 burglary

1 seconds of Mr. Washington?

2 ASST. SOL. LEGETTE: That's correct, Your Honor. And
3 he additionally has a giving false information conviction
4 from 2008.

5 THE COURT: Well, that's certainly, regardless of
6 punishment, because the Rule says evidence that a person has
7 been convicted of a crime if it involved dishonesty or false
8 statement, regardless of the punishment, may be admissible,
9 subject to 403, and if the Court determines that the
10 probative value of admitting the evidence outweighs its
11 prejudicial effect to the accused.

12 ASST. SOL. LEGETTE: Yes, Your Honor.

13 THE COURT: So you would seek four burglary seconds?

14 ASST. SOL. LEGETTE: Yes, sir.

15 THE COURT: And you would seek giving false
16 information?

17 ASST. SOL. LEGETTE: Yes, sir.

18 THE COURT: So there are five convictions?

19 ASST. SOL. LEGETTE: That is correct, Your Honor.

20 THE COURT: Mr. Bennett, is that your understanding as
21 well?

22 MR. BENNETT: Yes, sir.

23 THE COURT: And that's your understanding of the
24 appropriate standard? First, 403, and then 609(a)?

25 MR. BENNETT: Yes, sir.

1 THE COURT: All right. Back to you now, Mr. Washington,
2 I want to make sure your lawyers -- it appears that you do
3 have a record. They've put it on the record for me where
4 you have convictions for burglary second and you also have
5 convictions for providing false information. If you have a
6 record for any conviction involving dishonesty or false
7 statement or for a crime that's punishable for more than one
8 year, and burglary second is punishable by more than one
9 year, and this Court determines, as a matter of law, that
10 the probative value of admitting this evidence outweighs its
11 prejudicial effect to you, if you testify, the Solicitor may
12 be able to introduce this record or part of this record for
13 impeachment purposes to attack your credibility or your
14 believability.

15 If you elect, however, not to take the witness stand,
16 I'm going to charge the jury that they are not to give the
17 fact that you did not testify any consideration whatsoever.
18 And there is to be absolutely no prejudice to you because
19 you did not testify. The decision as to whether or not you
20 testify in the trial of this case will be left entirely up
21 to you as to whether or not you wish to testify. You
22 certainly can talk to your attorneys, but the ultimate
23 decision -- and they may have a recommendation, but the
24 ultimate decision is not theirs, it's yours. In other
25 words, the matter will be left up to you. It's not your

1 attorney's decision, it's not anyone else's decision, but
2 yours as to whether you wish to testify in the trial of this
3 case. Have you understood what I've just told you?

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

5 THE COURT: All right. Mr. Bennett, do you need a
6 minute to talk to your client in light of the fact that he
7 tells me he understands where we are in the trial and
8 understands what I've advised him concerning his rights to
9 testify?

10 MR. BENNETT: We've already discussed that with him,
11 Your Honor. I feel comfortable that he understands that.
12 We would like the Court to make a determination under the
13 Rule 609 as to admissibility of his burglary conviction. I
14 don't think there's much argument about the false
15 information conviction, Your Honor.

16 THE COURT: And exactly what is your argument, Mr.
17 Bennett?

18 MR. BENNETT: Well, in the burglary charges that he
19 had, Your Honor, he was essentially charged with going on
20 somebody's property without consent and taking, you know,
21 basically stealing items of personal property. In this
22 crime, armed robbery, he's charged with stealing personal
23 property, but in a different setting and in the presence of
24 the victim with a knife, but I think the crime of burglary,
25 you know, where he went onto somebody else's property while

1 the victims weren't there without their consent and with the
2 intent to commit a crime, and he actually stole items of
3 personal property ---

4 THE COURT: But we're not talking about remote
5 convictions, now. We're talking about convictions that are
6 within 10 years. Colf dealt with remote convictions.

7 MR. BENNETT: Right. Right.

8 THE COURT: Because there's a presumption against
9 admissibility of remote convictions.

10 MR. BENNETT: Right, Your Honor. But my argument is
11 based under Rule 609 that the probative value of the
12 burglary charge -- which is very similar in nature to what
13 he is charged with in the robbery charge.

14 THE COURT: Under Colf; and Becky, I don't have a site.
15 I know that Colf is C-O-L-F, State v. Colf. Yes, I do, too;
16 525 S.E. 2d, 246. Well, Mr. Bennett, I understand your
17 concern because the Colf case and the Federal Court cases
18 that Colf cites and require that the Court engage in a test.
19 Solicitor, I'm going to have to hear from you on this. The
20 test is that in determining whether the probative value --
21 first of all, Mr. Bennett, I can tell you right now that the
22 conviction for giving false information, if he testifies,
23 that's coming into evidence.

24 MR. BENNETT: Yes, sir. I don't really have an
25 argument on that.

1 THE COURT: Well, it's coming into evidence. If he
2 gets on the witness stand, she's going to be able to bring
3 that conviction out.

4 MR. BENNETT: That's right, Your Honor.

5 THE COURT: Solicitor, I need to hear from you, because
6 in determining whether the probative value of the prior
7 conviction outweighs its prejudicial effect, there are five
8 factors. Let me give them to you. You should know them.
9 They're listed in Colf. The impeachment value of the prior
10 crime. The point in time of the conviction and the witness
11 or his prior, or subsequent, history. The similarity
12 between the past crime and the charged crime. And that's
13 where the danger of unfair prejudice comes in, which is what
14 he's arguing. The importance of the defendant's testimony,
15 and the centrality of the credibility issue.

16 Now, I realize that any crime involving burglary and
17 armed robbery affects the defendant's credibility and you're
18 going to say well, it's certainly important, credibility, to
19 the jury's decision. And that is a factor, but the
20 similarity between the prior crime and the crime in which
21 the defendant is charged where the Courts have really felt
22 there is unfair prejudice that could result to a defendant
23 if the Court allows him to do it. It inevitably suggests to
24 the jury that the defendant has the propensity to commit the
25 crime with which he is charged. And the Court has even held

1 that the risk is not eliminated by limiting instructions.
2 So evidence of similar offenses should be admitted, the
3 Court says, only rarely. And as you know, the trial judge,
4 even though they are dealing with remote convictions, the
5 trial judge in Colf was found to have committed error -- I
6 can't remember who it was. My good friend, Judge
7 Cottingham, whose book I have here on the bench with me was
8 the trial judge in Colf when he allowed them to enter.

9 The balancing test under 609 whether it be (a) or (b),
10 I believe, has to be conducted by the trial court and the
11 question is whether or not a defendant could be prejudiced
12 by the admission of the prior crimes because of similarity
13 and whether the probative value here outweighs his
14 prejudicial effect. Solicitor, let me hear from you.

15 ASST. SOL. LEGETTE: Thank you, Your Honor. Your Honor,
16 with regards to the motion of 609 to exclude the defendant's
17 prior record, we recognize that the impeachment value, of
18 course, would be significant with regards to the burglary,
19 and as far as the Court is concerned with the similarity of
20 those crimes with this particular crimes, we submit there is
21 no similarity, Your Honor.

22 Those crimes involved burglary of homes where items
23 were stolen; nobody was home when the items were stolen. I
24 don't even believe there were any allegations that the
25 defendant actually had a weapon during those burglaries.

1 Essentially, those burglaries indicated that he and a co-
2 defendant went inside the home and they stole items -- now,
3 some of the items they did steal were guns, however, we
4 don't believe there is any similarity.

5 Additionally, Your Honor, we have to point out to the
6 Court that in taking this test in regards to Mr.
7 Washington's prior record, we are not seeking to bring in
8 his five prior convictions for strong arm robbery that were
9 pled down from armed robbery. I thought that we had dealt
10 with this issue yesterday to agree. Mr. Washington has five
11 prior strong arm robbery convictions.

12 THE COURT: I don't -- Solicitor, we never put anything
13 on the record about dealing with this issue, other than Mr.
14 Bennett telling us that he intended to raise it.

15 ASST. SOL. LEGETTE: No, sir. I meant that Mr. Bennett
16 and I had discussed this.

17 THE COURT: Okay. That's different. Make that clear,
18 because this Court hasn't made any ruling.

19 ASST. SOL. LEGETTE: No, sir, not at all. Mr. Bennett
20 and I discussed this issue yesterday, and I told him that I
21 would not seek to bring in those five prior strong arm
22 robbery convictions that he pled down to armed robbery that
23 were very, very similar in nature under State v. Brognack, I
24 would not seek to do so, Your Honor, because they do show a
25 propensity for Mr. Washington to commit these types of

1 crimes. However, the burglaries, Your Honor, I believe, are
2 crimes of moral turpitude. It goes toward his weight of ---

3 THE COURT: There's no question that burglary affects
4 credibility.

5 ASST. SOL. LEGETTE: Yes, Your Honor.

6 THE COURT: I mean, there's no question about that.

7 The problem is whether or not that similarity is to
8 prejudice as to whether it outweighs the probative value.

9 ASST. SOL. LEGETTE: Yes, sir. And I believe that the
10 similarities -- they are simply he broke into homes and he
11 went in and he stole items. If the Court were so inclined
12 as to limit the State in what they could ask him about those
13 crimes, simply about he has conviction for burglary on this
14 particular date he went into someone's home and nobody was
15 home. Your Honor, there is no allegation in those
16 convictions that there was anyone who was at home or anyone
17 who was robbed at knifepoint or gunpoint, and we would not
18 seek to elicit that and we do not believe there is any
19 similarity with regards to the burglary and the charges for
20 which he here stands today. We would not seek to bring in
21 any of the other charges which he is convicted, except for
22 the giving false information.

23 So Your Honor, we believe that the probative value here
24 with regards to the actual burglaries outweighs his
25 prejudicial effect and Your Honor, just, and the Court

1 understands this, I'm sure, that any evidence the State has,
2 basically, is prejudicial to the defendant. The standard,
3 of course, is does it outweigh the prejudicial effect. We
4 believe the probative value, in this particular matter, is
5 necessary to show that the juvenile who testified here today
6 -- yesterday, his record came out on the witness stand, Your
7 Honor, and all the things that he has done. We gave wide
8 latitude, we believe, to the defense counsel to allow that
9 record in. Your Honor, we believe that this particular part
10 -- at this stage of the case, the burglaries themselves show
11 that Mr. Washington is a person who is not necessarily
12 truthful. He steals, Your Honor, and that goes toward the
13 weight of his credibility, and we would ask the Court to
14 allow us the opportunity to bring in his four prior
15 burglaries that occurred on four separate dates that he pled
16 to all at one time, Your Honor, and giving false
17 information, the State will not seek to elicit any other
18 information regarding his prior record from the defendant.

19 THE COURT: Thank you. Solicitor, I have to
20 respectfully disagree with you. In Colf, if you will
21 recall, we were dealing with a third degree burglary and the
22 trial court's decision to permit the State to impeach the
23 defendant with evidence of crimes. I agree it was more than
24 10 years, in which gave it a tougher standard. But the
25 State was permitted to impeach the respondent with prior

1 convictions for attempted breaking and entering, attempted
2 larceny, breaking and entering, larceny of a vehicle, and
3 although they were different, just as burglary and armed
4 robbery are different, the trial court in Colf did not
5 conduct a balancing test, and even though I agree with you
6 that these convictions do affect his credibility, my concern
7 is the similarity between the past crimes and the charged
8 crime, and I don't want the prejudice here to become a
9 factor that the jury decides that he has a propensity to
10 commit offenses involving either the taking of property,
11 burglary or robbery, and burglary; because I want them to
12 decide this case on the evidence that's been presented and
13 not on the propensity of his prior record.

14 I, therefore, hold that the prejudice without weighing
15 the probative value, I will you to impeach on his record for
16 giving false information, but not on the prior burglaries in
17 light of the Colf decision.

18 Now, Mr. Bennett, I've made my ruling, what is your
19 decision? Does your client wish to take the stand?

20 MR. BENNETT: Your Honor, can I have one moment to
21 confer with him?

22 THE COURT: You can have one moment, Mr. Bennett, but
23 the train is going down the track.

24 (BRIEF PAUSE AS MR. BENNETT AND MR. WASHINGTON CONFER
25 IN SOTTO VOICE DISCUSSION.)

1 MR. BENNETT: Okay, Your Honor. His decision, Your
2 Honor, would be not to take the stand.

3 THE COURT: He's not going to testify. All right. Is
4 that your decision, Mr. Washington?

5 MACK WASHINGTON: Yes, sir, Your Honor.

6 THE COURT: Nobody else made that decision but you?

7 MR. WASHINGTON: Yes, sir.

8 THE COURT: Nobody promised you or threatened you into
9 making that decision?

10 MR. WASHINGTON: No, sir.

11 THE COURT: You did it of your own free will and
12 accord?

13 MR. WASHINGTON: Yes, sir.

14 THE COURT: And that's not your lawyer's decision,
15 that's your decision?

16 MR. WASHINGTON: Yes, sir, Your Honor.

17 THE COURT: Thank you very much. You may return to your
18 seats. Mr. Bennett, does the defendant intend to introduce
19 any evidence?

20 MR. BENNETT: We not plan -- we're not going to present
21 any evidence, Your Honor.

22 THE COURT: All right. So the defendant is going to
23 rest when I bring the jury back?

24 MR. BENNETT: Yes, sir.

25 THE COURT: Solicitor, does the State have any requests

1 to charge?

2 ASST. SOL. LEGETTE: Your Honor, we would ask the Court
3 -- I haven't submitted them in writing yet, but we would ask
4 the Court --

5 THE COURT: You have until 11:45, Solicitor. But I can
6 assure you I told you 11:45 yesterday.

7 ASST. SOL. LEGETTE: Thank you, Your Honor. I will get
8 them to you.

9 THE COURT: Mr. Bennett, does the defendant have any
10 requests to charge?

11 MR. BENNETT: Yes, sir.

12 THE COURT: Have you given them to the Solicitor as I
13 requested yesterday?

14 MR. BENNETT: I got them numbered. I do need to make a
15 copy for her.

16 THE COURT: Hand it to the Clerk. She will run a copy.
17 Give one to the State and one to the Court. Counsel
18 approach.

19 (WHEREUPON, A BENCH CONFERENCE IS HELD OFF THE RECORD.)

20 THE COURT: Is the State ready to proceed?

21 ASST. SOL. LEGETTE: We are, Your Honor.

22 THE COURT: Is the defendant ready to proceed?

23 MR. BENNETT: Yes, Your Honor.

24 THE COURT: Bring us the jury, please.

25 (10:25 A.M., WHEREUPON, THE JURY ENTERS THE COURTROOM

1 AND THE FOLLOWING IS HELD ON THE RECORD.)

2 THE COURT: All right. Ladies and gentlemen of the
3 jury, thank you for your patience. I've finished with
4 matters of law that I had to take up. The State has rested
5 its case; we will now hear from the defendant. Mr. Bennett,
6 you may call your first witness.

7 MR. BENNETT: Your Honor, we, the defendant, does not
8 wish to call any witnesses at this time. We would rest.

9 THE COURT: Very well. All right. Ladies and
10 gentlemen, you have heard all of the evidence in this case.
11 You have not heard the closing arguments of the attorneys
12 and you have not heard my charge on the law. I am going to
13 let you go from the trial at this time. I am going to give
14 you the afternoon off. We will finish this trial at 9:30
15 a.m. in the morning. Please be in your jury room prior to
16 9:30. I want to thank you for your patience. We will
17 conclude the trial first thing in the morning. Over the
18 overnight recess, as I have instructed you throughout this
19 case, please do not discuss this case with anyone, not even
20 a member of your own family. If somebody -- I know people
21 can be curious and I know how that is. I served on a jury.
22 I was the foreperson of the jury. And they will come say,
23 "Are you on the jury? What's the case about? What are you
24 doing?" Just say, the judge asked me not to talk about it.
25 If somebody persists, as I told you, just get their name and

1 give it to me. I'll handle that problem for you. I can
2 promise you they're not going to bother you anymore.

3 I hope everyone has a pleasant evening. I'm glad I can
4 give you an afternoon off. I don't want to work you too
5 hard. But I can promise you we will finish tomorrow. Thank
6 you very much for your service. You are now excused for the
7 balance of today. Everyone else remain seated while the
8 jury is leaving.

9 (10:30 A.M., WHEREUPON, THE JURY EXITS THE COURTROOM
10 AND THE FOLLOWING IS HELD ON THE RECORD.)

11 THE COURT: All right. Solicitor Legette, Mr. Bennett,
12 you will need to come a little early to meet me in my
13 chambers for a charge conference with your requests to
14 charge in the morning.

15 ASST. SOL. LEGETTE: Yes, Your Honor.

16 MR. BENNETT: Yes, sir, Your Honor.

17 THE COURT: All right. With that, this trial is in
18 recess until 9:30 a.m. tomorrow morning.

19 (WHEREUPON, THE TRIAL IN THIS CASE IS IN RECESS.
20 THEREAFTER, ON THURSDAY MORNING, THE TRIAL IS RESUMED IN
21 THIS CASE AND THE FOLLOWING IS HELD ON THE RECORD.)

22 THE COURT: Let the record reflect, I held a charge
23 conference this morning starting at 9:15 with all the
24 attorneys in this case. I went over the verdict form with
25 them. They agreed to the verdict form. Is that correct

1 from the State?

2 ASST. SOL. LEGETTE: Yes, Your Honor.

3 THE COURT: Is that correct from the defendant?

4 MR. BENNETT: That's correct, Your Honor.

5 THE COURT: I also went over every single thing that I
6 intend to charge, considering both the State's request to
7 charge and the defendant's request to charge. I have added
8 two of the defendant's request to charge. I have denied --
9 which was prior record of the witness in prior inconsistent
10 statement. I have denied the defendant's request to charge
11 identification, because I do not believe that is an issue.
12 There was no out-of-court identification here, nor was there
13 any in-court identification.

14 I have denied the defendant's request to charge State v
15 East. Since Mr. Bennett respectfully disagrees with the
16 Appellate Court and has added his own language that the
17 State -- you must find the State has proved beyond a
18 reasonable doubt that the defendant had the requisite intent
19 to commit two separate offenses for robbery and kidnapping,
20 and that kidnapping was not merely incidental to the
21 commission of another crime, which is inconsistent with the
22 Porter case, which Mr. Bennett agrees, and East dealt with
23 other matters, as well; so I've denied that request. All of
24 Mr. Bennett's other requests are covered by my charge. The
25 State had a number of charges. I went through each one of

1 them. They're all covered by my charge.

2 However, Ms. Henderson wants to be heard because I have
3 decided to charge common law robbery. Ms. Henderson, happy
4 to hear from you. The State objects to my charges.

5 MS. HENDERSON: Thank you, Your Honor. Yes, sir, the
6 State does object to the strong-arm being charged. We don't
7 believe there's any evidence on the record to support a
8 strong-arm charge. Both the victim and the defendant -- the
9 co-defendant testified there was a knife used during the
10 commission of this robbery. Your Honor, therefore, it is an
11 armed robbery by all the evidence, even if the jury were to
12 disbelieve the co-defendant actually had the knife and
13 believed that Mr. Washington was not the one with the knife,
14 under the Hand of One, Hand of All, it would still be armed
15 robbery, Your Honor.

16 THE COURT: And the reason I disagree with you, Ms.
17 Henderson, is the jury could choose to disbelieve your
18 evidence and believe that defendant was merely present and
19 not aiding and abetting, in which case, the hand of one is
20 the hand of all would not apply. And that is the reason I
21 believe the defendant has the benefit of that doubt and the
22 reason I've elected to charge it. But I certainly
23 understand your position, respectfully. And your request
24 for me to change my mind is respectfully denied.

25 MS. HENDERSON: Thank you, Your Honor.

1 THE COURT: Now, Mr. Bennett, does anything further on
2 the charges from the defendant? You know everything now
3 that I'm going to do from our lengthy charge conference, and
4 that has put us behind 30 minutes.

5 MR. BENNETT: No objections.

6 THE COURT: Now, we also went over the length of
7 argument. Mr. Bennett put in an exhibit, Defendant's
8 Exhibit Number One. Therefore, Mr. Bennett lost closing
9 argument in this case because he introduced evidence, even
10 though the defendant didn't testify. Therefore, Mr. Bennett
11 will argue first; he's asked for 30 minutes. The State will
12 argue last in this case. The State has the burden of proof
13 and will have final argument. Mr. Bennett's going to argue
14 on behalf of the defendant. Ms. Legette is going to argue
15 on behalf of the State.

16 At 25 minutes, each lawyer for the respective parties
17 will hear the familiar what?

18 (THE COURT DEMONSTRATES TAPPING.)

19 THE COURT: When that happens, that means you have five
20 more minutes, consistent with the time you've requested.
21 And please try to wrap it up once you hear the tap to remind
22 you. Is the State ready now to proceed?

23 ASST. SOL. LEGETTE: Yes, Your Honor.

24 THE COURT: Is the defendant ready to proceed?

25 MR. BENNETT: Yes, Your Honor.

1 THE COURT: Very well. Marcus, we got everybody,
2 right?

3 DEP. MARCUS: Yes, sir.

4 THE COURT: Bring us the jury.

5 (09:55 A.M., 3-20-14, WHEREUPON, THE JURY ENTERS THE
6 COURTROOM AND THE FOLLOWING IS HELD ON THE RECORD:)

7 THE COURT: Now, you are all sitting back there, and,
8 you know, Judge Buckner told us to be here before 9:30 and
9 here it is almost 10:00 and we're just now starting. I know
10 what y'all are doing.

11 Now, let me tell you what's been going on, because I
12 wasn't out here smoking cigarettes and drinking coffee.
13 That's what y'all think, but I wasn't. I have been meeting
14 with the attorneys on a matter of law. And, obviously, I
15 told you that my charge to you is a work in progress. And
16 you look behind me and you will see Wilder is now, because
17 of rulings I've just made over the last 45 minutes, he's
18 making the changes consistent with the rulings to my charge,
19 and then he'll print it out for me. So we've been working
20 on that. And sometimes I have to wait until they submit the
21 request to me. I have to go over them, which I did last
22 night. And then I have to meet with them and discuss what
23 it is that I think applies, and that's what we've been
24 doing. So they've been working. I've been working. And we
25 appreciate your patience.

1 We've now reached a point where, ladies and gentlemen,
2 we're going to hear the closing arguments of the attorneys.
3 Followed, after the arguments, by my charge to you on the
4 law. Now, I'm going to have -- Pat and I have just
5 discussed, we're trying to anticipate time, because I'm
6 going straight into other work when we finish this trial,
7 and I'm having your lunch here about 12:15 today. So has
8 everybody filled out a lunch order?

9 JURY: Yes, sir.

10 THE COURT: And so we're trying to estimate how long.
11 I want you to give the attorneys your careful consideration.
12 First, you're going to hear an argument by Mr. Bennett, on
13 behalf of the defendant, and that will be followed by an
14 argument by Ms. Legette, on behalf of the State of South
15 Carolina. So please give the attorneys your consideration,
16 and I'll take a quick break for you after that, before I
17 start my charge, so you can stretch your legs and use the
18 restroom. Then I'll charge you, and then I'll give you
19 instructions about when you should start your deliberations.
20 Thank you very much. Mr. Bennett.

21 MR. BENNETT: May it please the Court?

22 THE COURT: Yes, sir.

23 CLOSING ARGUMENT

24 BY MR. BENNETT:

25 Ladies and gentlemen of the jury, we've come to the

1 point in the trial, which is generally, I think, most
2 lawyers favorite part of the trial, and possibly jurors, is
3 closing arguments. This is where we, myself and the
4 assistant solicitor, get to talk with you about what we
5 think are the most important issues in this case. We get
6 to, basically, bring it home to you, might be a good
7 terminology.

8 First of all, I do want to thank y'all for serving as
9 our jurors in this case. We certainly appreciate your time
10 and effort being here, to hear all the evidence in this
11 case. It's taken a little while. There were a lot of
12 witnesses. And as the Judge told you, I think in the
13 beginning, you ought to decide this case based on all the
14 evidence you hear in this courtroom from the witness stand,
15 not from anything outside of the courtroom.

16 I want to remind you of something that I talked with
17 you a little bit about when we first started the trial, is
18 that the defendant in this case, my client, Mack Washington,
19 he is presumed innocent; I think we talked about that. And
20 he has what the law calls a cloak of innocence that's
21 attached to him from the beginning of trial through closing
22 argument, and even when you go into the jury room.

23 And what that means, basically, to you as jurors, Mack
24 doesn't have to prove anything. He doesn't have to prove
25 his innocence. He doesn't have to prove he wasn't involved

1 in the crime. He doesn't have to prove he didn't
2 participate in the crime. The State has the burden of
3 proof. And they have to prove all the elements of all the
4 crimes he's charged with beyond a reasonable doubt, in order
5 for you, you know, to convict him. And they have to satisfy
6 you in all elements of the crime.

7 The Judge, you know, once we get through with closing
8 arguments, he's going to charge you with, you know, with all
9 the elements in detail. You know, I'm going to tell you
10 what I think is important, but we contend that the State has
11 not proven all the elements of the crimes that my client is
12 charged with, indicted for, this case, which is armed
13 robbery, kidnapping, and possession of a deadly weapon in
14 the commission of a violent crime.

15 We contend that the State has not met their burden of
16 proof in this case, and we believe that they have not proven
17 all the elements of all these crimes beyond a reasonable
18 doubt. We believe that the evidence that has been coming to
19 the courtroom before you leaves a lot of doubt in this case.
20 Now, as I told you, you know, my client pled not guilty to
21 all these charges, which means he denies -- he's denying
22 that he had, you know, anything to do with these crimes as
23 charged.

24 Now, you know, my client is charged with armed robbery
25 and he's also charged with kidnapping. We contend that this

1 -- and I told you at the beginning of the case, I said there
2 are some things that are undisputed that we're not really
3 arguing about. There's no doubt that Frank Klem and Joan
4 Klem, who are, you know, the victims in this case, there's
5 no doubt that they were robbed on January 7th, 2012.
6 There's no doubt that they were robbed by two black males,
7 because that's all they could say is that there were two
8 black males and it happened at the Rice Planters Inn. So
9 there's not any really argument about that.

10 What the issue in this case is who were the two black
11 males? The other issue in this case is credibility. Now, I
12 want y'all to remember, the victims in this case, Frank Klem
13 and Joan Klem, neither one of them identified my client,
14 Mack Washington, either out of court or in court. They
15 never identified him as being one of the two black male
16 robbers. That's important. And you heard their testimony.
17 They never said that my client, Mack Washington, they never
18 identified him as being one of the two black males that
19 robbed them. I think that's important for you to consider.

20 The other thing, and I want you to recall this, you
21 know, the State is contending that, you know, this is a
22 robbery and a kidnapping case. We contend, even though, you
23 know, my client's been charged with kidnapping, we don't
24 really believe -- we don't think they have proved anything
25 beyond a reasonable doubt as kidnapping. Let me tell you

1 why.

2 If you will remember, I asked Mr. Klem, Frank Klem,
3 "Were you robbed? Were you kidnapped?" He said he was
4 robbed. I also asked him, "Were y'all ever tied up, made to
5 sit, you know, on the floor or put in a room, taken to
6 somewhere, you know, by the two black male robbers or made
7 to do anything else?" And they said, you'll remember, "No."

8 And this case, if you'll remember the 911 dispatch
9 call, it was reported as a robbery. Everybody was treating
10 it as a robbery. So we contend, you know, that this is not
11 really a kidnapping case, and we do not believe that the
12 State has met its burden and proven beyond a reasonable
13 doubt that this is a kidnapping case. So I want y'all to
14 remember, you know, what the witnesses said about that.
15 Neither Mr. Klem or Mrs. Klem ever stated from that witness
16 stand that they were kidnapped. They did say they were
17 robbed by two black males, but they both said they didn't
18 know the identity of the two black males that robbed them.

19 Now, there is a lot of -- one of the key issues -- and
20 I told you -- we talked about it in opening argument, one of
21 the key issues in a case like this is credibility. And I
22 also told you that there's a lot of things that you can
23 determine and take into consideration in determining a
24 witness's credibility. Number one, do they have anything to
25 gain or lose by testifying in a certain way. Another

1 consideration you can make when determining credibility of
2 witnesses is do they have a prior criminal record; that's
3 something you can consider. Another thing you can consider
4 in determining whether a witness is credible -- and I will
5 contend that all credibility means is believability. Do you
6 trust what they say? Do you believe what they're telling
7 you? That's what credibility is.

8 In this case, we contend that the three witness, Quincy
9 White, Tyneshia Young and Tyheem Lewis, we contend that they
10 were not credible. And you heard their testimony. And you
11 can take into consideration what they said, what they didn't
12 say, and prior inconsistent statements.

13 Now I want to start with Quincy White. Y'all remember
14 Quincy; he testified. And what's important about his
15 testimony? He said that he saw a gray Impala, or that he,
16 you know, was involved with a gray Impala. I thought that
17 was interesting because all the evidence in this case that I
18 heard was about a white Impala. There was never any
19 testimony about a gray Chevrolet Impala.

20 Also, I will point out that he said he didn't know who
21 owned the gray Impala he was talking about. He didn't know,
22 you know, who the owners were. All he said is that he
23 overheard that it was a stolen vehicle. But all the
24 evidence in this case -- and you heard it -- was about a
25 white Impala. So we contend, we don't know -- we believe

1 that -- you know, we don't know what vehicle he's talking
2 about when he's talking about the gray Impala. And I think
3 there was actually a picture of the car that the State, you
4 know, contended that belonged -- and stated that belonged to
5 Frank and Joan Klem that was taken. So I ask you to keep
6 that in mind.

7 The other thing that's important about Quincy White, he
8 was actually charged with possession of a stolen vehicle in
9 this case. So he had a charge against him. And when you
10 talk about credibility, you know, this is where you have to
11 consider the deal that he got in return for cooperating and
12 trying to help the State; they dropped the charge on
13 possession of a stolen vehicle. So he had something to gain
14 by trying to testify or trying to say that Mack Washington
15 had something to do with the stolen vehicle, and that
16 certainly goes for credibility. And I would contend that
17 you should take what he said with a grain of salt, because I
18 think that definitely impacts his credibility, and we'd ask
19 you to consider that in your deliberations.

20 The other thing, the other witness that we believe that
21 you should definitely not give her testimony any credibility
22 or any believability or trust what she said is Tyneshia
23 Young. Y'all remember Tyneshia Young. I mean, she got up
24 here right off the bat and told you from the witness stand
25 under oath that she had told several lies to authorities, to

1 law enforcement in this case. And she had told two or three
2 different stories about what she knew about this case. That
3 certainly is inconsistent. That's what you call
4 inconsistent statements.

5 She gave two statements to Lieutenant Jason Chapman.
6 And you heard -- I think even Lieutenant Chapman and
7 Tyneshia Young, she gave two totally different stories to
8 the police officers. And she even had a third interview
9 which took place prior to trial, you know, with the State.
10 I mean, you know, if a witness -- if they had to give two or
11 three different statements to the State, you know, we
12 contend that that's definitely -- I mean, you definitely
13 have to question her credibility or believability.

14 And also, you have to consider not only did she admit
15 lying on the stand, but she admitted telling several
16 different stories about what she knew. She also was charged
17 with what? Possession of stolen goods in regard to the
18 guns. But when she came in, do you remember what happened?
19 They said after the second time she came in and met up with
20 Lieutenant Jason Chapman, then they decided to drop that
21 charge of possession of stolen goods. Why did they do that?
22 Well, you know, she came in and gave a different version,
23 and we contend that she gave a version that the State liked,
24 and so that's why they gave her a deal; they dropped the
25 charges. So she had something to gain.

1 You know, the State, they wanted her to come in and try
2 to implicate Mack Washington. Why? Because the State wants
3 to convict my client. So they got to have witnesses to do
4 that. So we contend that's why they approached her, and
5 that she was charged with possession of stolen goods, so she
6 gained a benefit by cooperating with the State and
7 testifying in a manner that we believe the State wanted her
8 to testify. But we believe that you should not give any of
9 Tyneshia Young's testimony any credibility or believability
10 whatsoever.

11 The other witness -- and before I talk about Tyheem
12 Lewis, I do want to point out -- and you heard this from the
13 stand -- there is no forensic evidence in this case
14 whatsoever; no fingerprints, no DNA evidence. They never
15 recovered a knife; no knife was introduced. You heard them
16 talk about a knife, but I don't think you ever saw a knife
17 here. It was never recovered. But none of these things
18 connected my client in any way with being at the scene of
19 this crime on January 7th, 2012. None of that connected my
20 client in any way with being one of the two black male
21 robbers.

22 The State wants you to believe that my client was one
23 of the two, but we contend that they have not proven it and
24 we don't believe they've proven any of the elements required
25 to prove that my client was at the scene of this crime. And

1 you're going to be charged with this, but one of the things
2 that the State has to prove in order to convict somebody of
3 these type of charges, they have to prove they were there.
4 They have to prove they were -- in this situation, they
5 would have to prove my client was at the Rice Planters Inn
6 on 1/7/2012 when this robbery was committed. And I contend
7 they haven't done that. And they not only have to prove he
8 was there, they have to prove he participated in it. But
9 first of all, they can't even prove he was there, is our
10 contention, and they have not met that burden.

11 Now, the other thing that they -- and I want to remind
12 -- this is important, and the Judge is going to charge you
13 with this, too, the State has to prove beyond a reasonable
14 doubt that there was an intent to commit these crimes.
15 There has to be criminal intent involved. And we would
16 contend that they could not -- the State could not prove
17 beyond a reasonable doubt that there was any intent on
18 behalf of whoever the two black male robbers were, to commit
19 any kind of kidnapping offense.

20 Now, we do know who one of the -- you know, Tyheem
21 Lewis has already confessed and admitted that he was one of
22 the robbers. Tyheem's already pled guilty in April of 2012.
23 Now, Tyheem was originally charged with kidnapping, armed
24 robbery, possession of a deadly weapon while committing a
25 violent crime; same thing my client was charged with. But

1 Tyheem got a deal from the State. Y'all have already heard
2 about the deal. They dropped the kidnapping charge. They
3 dropped the commission of a violent crime while in
4 possession of a deadly weapon, and they reduced the armed
5 robbery charge, which is a violent crime, they reduced it to
6 strong-arm robbery.

7 And what else did Tyheem Lewis gain for agreeing to
8 cooperate when he entered this plea? Well, by reducing that
9 armed robbery charge to the strong-arm robbery, he was able
10 to get a YOA sentence; a Youthful Offender Act. You heard
11 him say that. And he only had to serve about ten months and
12 then got YOA parole; so he has a record because of that.
13 But they reason he got that deal is because he agreed to --
14 the State needed somebody to come here and testify against
15 my client. Why? There's nothing else that connects my
16 client with being involved with this crime or being at the
17 scene of this crime.

18 Now, did he gain a benefit from it? That goes to
19 credibility. Of course, he did. He got a real sweet deal.
20 And then what did he do when he got out on YOA parole? He
21 actually violated that parole, and you heard him testify,
22 because he was in possession of a gun. But even before
23 Tyheem Lewis was charged with these charges, I want y'all to
24 keep in mind that he admitted he had quite an extensive
25 juvenile record: Petty larceny, I think we had vandalism,

1 he'd call it, giving false information. You heard all the
2 information. So, you know, he had a criminal record. He
3 was only 16 when this happened, but he already had an
4 extensive criminal record before then. So we would ask that
5 y'all consider that that certainly impacts his credibility,
6 based on all his criminal record that he admitted to.

7 What else affects Tyheem Lewis' credibility? Because I
8 would contend that what may be possibly the most crucial
9 issue in this case is whether Tyheem Lewis is believable or
10 credible at all. We contend that he's not believable; he's
11 not credible. That you should not believe his testimony,
12 and you certainly shouldn't rely on what we consider his
13 very unbelievable testimony in your jury deliberations, as far
14 as my client is concerned. I contend that you should -- you
15 know, based on that type of what we contend to be very
16 unbelievable testimony, you should never convict anybody based
17 on that.

18 Now, let me tell you what else makes Tyheem Lewis'
19 testimony, implicating my client unbelievable, you know, not
20 believable, not trustworthy. Y'all remember, he admitted to
21 writing two different letters. You saw that. One of the
22 letters was October of 2013, introduced into evidence. What
23 does he say in the letter? He says, you know, "I pled
24 guilty." You know, "I was involved in this robbery at Rice
25 Planters Inn in January 2012." He says, "Mack Washington

1 had nothing to do with it." And he said he wrote that
2 himself and signed it.

3 Well, you know, that's an inconsistent statement. You
4 know, at one point he's saying, you know, when they
5 originally bring him in, that Mack Washington was involved.
6 And he was told -- you know, the State gave him a deal,
7 said, "Hey, if you'll come in and testify that Mack's
8 involved, you know, the State's got to have evidence. We
9 need you to come in to help us out. We want you to tell
10 them that Mack was involved in this crime," and he agreed to
11 do that. And he pled guilty and got a sentence.

12 Well, I will tell you, if he had come in here and told
13 a different story, he still had the kidnapping charge, even
14 though the kidnapping had never been indicted. He's still
15 got that hanging over his head. So he's still got something
16 to gain or benefit from by giving testimony in a certain
17 way, and agreeing to try to cooperate with the State,
18 because Tyheem Lewis knows if he comes in here and says
19 "Mack Washington," from the stand, "had nothing to do with
20 it," he knows that he's probably going to be facing a
21 conviction on the kidnapping charge, which is a very serious
22 charge. So you've definitely got to take all that in
23 consideration.

24 And not only did Tyheem write one letter saying my
25 client has nothing to do with this, that he was -- remember,

1 he said he felt pressured and he said he felt like he was
2 pressured by the State to implicate my client, so he could
3 get his deal. So he wanted a YOA sentence and he wanted to
4 that kidnapping and the armed robbery reduced to a lower
5 charge so he could get that YOA sentence.

6 But he sent a second letter that said -- and it was
7 published -- that said that his first letter was true and
8 correct and he confirmed that it was, you know, and that
9 Mack had nothing to do with it. So not only did he do one
10 letter. He did two letters; saying that Mack Washington had
11 nothing to do with it.

12 So I would ask that you consider all those things, and
13 I would respectfully hope that you would not consider
14 convicting my client, based on Tyheem Lewis' testimony,
15 because we believe there's every reason in the world to
16 discount everything he told you.

17 Now, the last thing I wanted to mention in this case,
18 when you go back into your jury room, I want you to take --
19 you know, don't leave your common sense behind. Use your
20 common sense. Use your past experiences when you
21 deliberate. And I want you to consider all the things, you
22 know, that I've told you here today that I think is
23 important, because I believe it is important. Because if
24 somebody tells you two or three different stories, they
25 admit they were lying, they got a criminal record, they've

1 given all kind of different statements, you really don't
2 know what to believe. And certainly, I don't think in a
3 case like this, we believe that establishes a whole lot of
4 reasonable doubt.

5 And we would ask that at the end of the day, you are
6 the finders of the fact. You have to determine, you know,
7 when you reach your verdict, you're supposed to reach a
8 verdict that speaks the truth. And we believe in this case,
9 the verdict that speaks the truth will be an acquittal of my
10 client on all these charges that he's been tried for before
11 you. And we respectfully request that you will come back
12 with an acquittal on all the charges. Thank you.

13 THE COURT: Ms. Legette.

14 ASST. SOL. LEGETTE: Thank you, Your Honor.

15 (MS. LEGETTE PUTS UP AN EASEL WITH A BOARD IN FRONT OF
16 THE JURY.)

17 THE COURT: Mr. Bennett, if you desire, you may come
18 around and sit on the front row so that you can see the
19 board that's being shown to the jury.

20 MR. BENNETT: Thank you.

21 ASST. SOL. LEGETTE: May it please the Court?

22 THE COURT: Proceed.

23 CLOSING ARGUMENT

24 BY ASST. SOL. LEGETTE:

25 ASST. SOL. LEGETTE: Good morning.

1 (SITS DOWN IN A RED ROCKING CHAIR PLACED IN FRONT OF
2 JURY.)

3 JURY: Good morning.

4 ASST. SOL. LEGETTE: Welcome to Walterboro, to the
5 front porch of the Low Country. Ladies and gentlemen, those
6 are the words Frank and Joan Klem, an 85-year-old, five foot
7 four man, and an 80-year-old, five foot one or five foot
8 tall woman, did not hear. Those are the words they should
9 have heard when they stopped in Walterboro, South Carolina
10 on January 7th, 2012.

11 January 7th, 2012, Frank and Joan Klem were welcomed by
12 a thief. But I told you earlier that Mack Washington, Jr.
13 was no ordinary thief. And the evidence here that you've
14 seen has shown you that Mack Washington, Jr. was no ordinary
15 thief. He was a thief bold enough to wield a knife. A
16 thief cunning enough to beguile a 16-year-old boy. A thief
17 savvy and smart enough to almost manipulate their way out of
18 it. Almost.

19 Ladies and gentlemen, Mack Washington, Jr. has been
20 charged with the armed robbery of Frank and Joan Klem;
21 that's two counts. He's been charged with kidnapping Frank,
22 kidnapping Joan, and, finally, possession of a weapon during
23 those violent crimes.

24 Now, ladies and gentlemen, ultimately the learned trial
25 judge will tell you what the law in this case is. But so

1 that you will understand what lawyers know, and what you
2 need to do in this matter to fulfill your duty, let me help
3 you understand what the law in this matter is. Now, my
4 daddy likes math. I never did. I'll be honest with you.
5 I'm not real good at math. I can add, subtract, multiply
6 and divide. But I have figured out something that as
7 jurors, it may be helpful to do the math to solve what you
8 need to do, like an equation. So we're going to tie the
9 facts to the law in this matter. And let me help you
10 understand what we're going to do.

11 So the first charge, now, here's the thing, Mr. Bennett
12 has made a production of saying that the State wants you to
13 convict my client. Understand, ladies and gentlemen, the
14 State -- the State simply is seeking the truth, a just
15 verdict. The State is seeking justice and justice requires
16 that if it does not fit, then I submit to you today that you
17 must acquit Mack Washington, Jr., and set him free. You
18 shall know the truth and it shall make you free.

19 So if you don't believe that the State has met burden,
20 because we have a heavy burden, beyond a reasonable doubt.
21 It is a burden that I am glad to bear. The challenge is
22 difficult, but I rise to that occasion, to tell you that
23 there is but one option. I shall take off his robe of
24 righteousness and it shall become a filthy rag, and you
25 shall know the truth. So let us decide. Let us apply this

1 math problem. What is armed robbery? Armed robbery -- and
2 if I'm wrong, ladies and gentlemen, listen to the man on the
3 bench, the man in the robe.

4 Armed robbery is the taking and carrying away the
5 property of another with the intent to deprive that other of
6 possession of that property by use of force, threats, or
7 intimidation while armed with a deadly weapon. There's
8 another part that goes with it saying that, "while alleging
9 that you are armed," like you put your hand in your pocket,
10 "I got a knife or a gun in here," but in this case, what we
11 allege is that there was a deadly weapon.

12 So let's see if the facts fit into our equation. Now,
13 what were the facts? We had Frank and Joan Klem, drove down
14 from Michigan, came down 800 miles with all their stuff, all
15 their belongings, including the death certificate of their
16 son who was dead, clothes, food, enough to sustain them for
17 six months.

18 So they get to their hotel room, Room 130, bottom
19 floor. You heard them say they came in, they filled up the
20 door. They took -- what did Tyheem Lewis say? "Give me the
21 keys. Give me your wallet. Put it all on the bed, or we'll
22 kill her." They ran away with all those things. And they
23 got into the car, stealing the car, and taking the items
24 left in the car. So the taking; the taking as to Frank is
25 complete. The taking as to Joan is complete. Don't let

1 nobody fool you, now. - Joan had a purse; Frank had a wallet.
2 They both had keys; they both had car and luggage. The
3 taking.

4 The carrying away, what did Tyheem Lewis say? "We got
5 in the car, Mack drove, we left, we got on 95, we got on the
6 exit, went down Green Pond, threw the stuff out, threw out
7 the phone. Carrying away.

8 Joan and Frank - Frank, especially, said they were
9 athletic. They were running fast. They got in the car.
10 They left. That is carrying away.

11 Now, the recovery; we'll discuss that. All the things
12 that they had. You have the itemized list. It will be in
13 your jury room. It was too much to go into detail about.
14 All their goods. What did Frank say? We were dead in the
15 water; dead in the water. Nothing left but the dog, some of
16 their dignity, and an overnight bag; their property. They
17 already told you, it was their property. Frank said he
18 worked as a builder many years. Joan was home. They had
19 all these things, their property, Frank and Joan.

20 Now, with the intent to deprive him of possession
21 thereof, what did Tyheem Lewis say? He said, "Mack asked me
22 did I want to make some money." He also said, "I got a
23 hundred dollars after it was over." Mr. Klem, Mrs. Klem
24 said they didn't get any of the stuff back, except for the
25 rifles that were in the car. Well, they cut up the car, but

1 it wasn't worth nothing. They got some of their clothes
2 back, their luggage. They didn't get their jewelry back.
3 They didn't get their money back. Intent to deprive them of
4 that stuff. The car was cut up in Turkey Hill. What did
5 Tyheem say? "Mack told me I'll get more money when the car
6 gets chopped up." So they had no intention of giving this
7 stuff back. It wasn't a prank. It wasn't a joke. This is
8 real life. "Give me the stuff or we'll kill her." There
9 was no negotiating. No negotiation is what Mr. Klem said.
10 I thought I could give them some, but he wasn't going to be
11 negotiated with. So that's what's used in depriving them of
12 their property, force, threats, or intimidation. What did
13 Mr. Klem say? "We were intimidated. They filled up the
14 door. It was two black men."

15 Now, Mr. Bennett has made a big production of telling
16 you that two black men. Nobody identified two black men.
17 The victims didn't identify the two black men. Well, I'm
18 sorry, the victims didn't identify his client, Mack
19 Washington, Jr. The victims didn't identify Tyheem Lewis,
20 if you will recall. But what they did say was they were
21 forced to give up what they had. They were threatened.
22 They were intimidated, "Give us the stuff. Put it on the
23 bed or we'll kill her." That is force, threat, or
24 intimidation, while armed with a deadly weapon.

25 Now, ladies and gentlemen, there's been some questions

1 about the knife. Where is the knife? There is no forensic
2 evidence. There is no knife. But we had witnesses tell you
3 time after time, it was a wide-blade knife, is what Mr. Klem
4 said. It was held out here, is what she said. She's about
5 this tall. She's shorter than I am, five feet tall, 80
6 years old. Big, tall man, got her by the waist. It's a
7 knife. Mr. Klem said, "It was a big butcher knife." Tyheem
8 said, "Mack had the knife." I asked Tyheem, "Tyheem, where
9 is the knife?" "I don't know. I never saw it again. I
10 think we got rid of it, but there was a knife."

11 Now, ladies and gentlemen, a butcher knife is a deadly
12 weapon. I don't have a picture to show you. In my mind, I
13 see a butcher knife. It cuts things. It will kill things.
14 "Ms. Klem, give us the stuff or we will kill you." Ladies
15 and gentlemen, it's armed robbery or it's nothing else.
16 Armed with a deadly weapon. A knife is a deadly weapon.

17 Now, let's discuss kidnapping. Oh, there's been lots
18 and lots and lots of discussion about kidnapping. And I
19 want to -- I'm almost insulted, because my mom and dad
20 raised my brother and I -- my father retired from the SCDOT
21 and my mother retired from being a sewing machine operator.
22 And, you know, simple me, I wanted to be a lawyer. And I'll
23 be honest with you, before I became a lawyer, I didn't know
24 what kidnapping was. I had seen it on TV. I had heard
25 about it on TV, but I didn't know what it was. But

1 everybody here wants you to think that kidnapping is simply
2 "Oh, were you gagged? Were you bound?" But, oh, Mr.
3 Bennett didn't tell you what kidnapping really is, so let me
4 help you understand what kidnapping is. He likes to leave
5 things out. He likes to bring some things in, leave others
6 out. You don't understand. Kidnapping is this: To
7 unlawfully seize, confine, inveigle, decoy, kidnap, abduct,
8 or carry away another person without authority of the law.

9 Did Mr. Bennett mention any of those things? Did Mr.
10 Bennett mention that nobody identified Tyheem Lewis? Oh,
11 no. It's all to build reasonable doubt. I could have been
12 offended, but I know it's all to build reasonable doubt.
13 Keep your eye on the ball.

14 Unlawfully. That means you don't have the authority to
15 take this; to do it. The police, they may have the
16 authority to do it. A parent over a child may have the
17 authority, may be lawful for them to take their child and
18 carry them to some other location. But Mack Washington, Jr.
19 and Tyheem Lewis did not have the authority to do what they
20 did. It was unlawful.

21 Then, they seized. Now, what is seize? Seize is to
22 detain, keep from moving, not letting you go. No place to
23 run, no place to hide. I can't get away from you, That is
24 seize, ladies and gentlemen. Mr. Bennett wants you to
25 believe it's just confine. Oh, I'm bound. I can't get out.

1 I'm held up with chains. That I'm somehow put in the trunk
2 of a car and carried away. That's what I thought kidnapping
3 was. Even now, as a lawyer, I have to still go back and
4 read the law, again and again, to gain understanding and
5 wisdom about what these things are. But they would have you
6 not necessarily know. So seized.

7 Mr. Klem said, "I was seized. I couldn't get away."
8 "Mr. Klem, could you get" -- they filled up the door. I'm
9 five feet four or less; I'm shrinking. She is five foot
10 zero, and shrinking, 80 years old, tired, weary, worn,
11 helpless. Two tall black men. Y'all have seen Mack
12 Washington, Jr. You have seen him. He is a six foot or
13 more man. Why? They couldn't get away. He was seized. He
14 could not get away. That is kidnapping. When your freedom
15 has been deprived of you and you cannot move, you cannot get
16 away. Lieutenant Chapman testified that that room had no
17 windows, one door. There was nowhere to go, nowhere. He
18 couldn't get out and he could not leave his wife. And Ms.
19 Klem, oh, 80 years old. Welcome to Walterboro, 80 years
20 old, walk in the room, held at knife point.

21 You heard a video. Mr. Klem said, "I have never seen
22 nothing like this in my life. In my 85 years, I have never
23 seen." Held by the waist with a knife, "Will kill her if
24 you don't give us the stuff."

25 Ladies and gentlemen, they were seized and they were

1 confined and they were kidnapped, and without authority of
2 law.

3 And finally, this charge, possession of weapon during
4 the commission of a violent crime. You can only find Mack
5 Washington, Jr. guilty of this crime if you find him guilty
6 of either the armed robbery of Frank or the armed robbery of
7 Joan or the kidnapping of Frank or the kidnapping of Joan.

8 So if you find through all the evidence that he didn't
9 do any one of those things, you can't even find this right
10 here. The Judge is going to tell you that. But the State
11 submits to you that the evidence is clear that Mack
12 Washington -- Tyheem has testified, Mack Washington had a
13 knife. Leave the purse, visibly displayed.

14 You heard the testimony. I've said it over and over
15 again, he had it here in front of her face, is what Joan
16 said. Ms. Klem said, "He had it to her face, to her
17 throat." She couldn't get away. Tyheem said he had it to
18 her throat, his own co-defendant. He had it to her throat,
19 a knife. We didn't find it, but Tyheem explained to you why
20 we didn't find it. And we're going to get to Mack
21 Washington in just one moment, why we didn't find certain
22 things.

23 A knife is a weapon. While committing a violent crime,
24 the Judge will tell you that for armed robbery and
25 kidnapping are defined by statute as violent crimes. He

1 committed the violent crimes of armed robbery and
2 kidnapping.

3 Now, ladies and gentlemen, that's the law in this case.
4 Those are some of the facts in this case, but I submit to
5 you that there is more than just those facts. There is more
6 than just Mr. Klem. There is more than just Mrs. Klem.
7 There is more than just Tyheem Lewis. And oh, yes, let us
8 talk about Tyheem Lewis.

9 Tyheem Lewis, 16 years old, a boy. Sixteen years old.
10 A boy. He walked in here in chains and shackles. Sixteen
11 years old. So young that his moma -- his moma came and sat
12 with the police while they talked to him. She sat in there
13 with him. He's young in his heart. He's young in his mind.
14 He's young of age. He's 18 years old now. Mack Washington
15 is 32 years old. He is old enough to be his father and he
16 is leading this boy astray. That's what Tyheem Lewis is.
17 You want to say he is inconsistent? You want to say he
18 wrote a letter? Well, let us examine the things that he
19 did. He walking on his way home, y'all, stopped by Mack
20 Washington, Jr. Stopped by that man sitting over there.

21 Now, children led astray. Brings to mind the pied
22 piper who led the children astray, grown man, the crowd. Ho,
23 my moma always told my brother and I, and I never really
24 understood what she meant, because it was harder -- I'm not
25 going to tell you I was the smartest bulb in the bunch; I'm

1 not going to tell you that. But my moma always told us to
2 be with your equals. Be with your equals. I didn't
3 understand at the time. But as I grew and got older and
4 older and older, I began to understand. Be with people your
5 same age. That's not what Tyheem Lewis did.

6 Mack Washington, Jr., led that boy astray. And yes, he
7 had issues beforehand, but he was on his way home. We would
8 not be here today if Mack Washington, Jr., had allowed
9 Tyheem Lewis to go home. And not only that, but Mack
10 Washington, Jr., intimidated Tyheem Lewis while they were
11 near each other in the facility. You know how easy it is.
12 You heard Captain Jamison say how easy it is to intimidate
13 someone. He's already intimidated the boy. He lured him.
14 He led him astray, down the road of destruction. Tyheem
15 Lewis is a gentle soul. I hated to have to jump on him
16 harshly, but he -- I don't know whether he didn't understand
17 or he was easily led astray.

18 Y'all saw him. And this letter that Mr. Bennett wants
19 to remind you of time and time again, that Tyheem supposedly
20 wrote. Did you hear him read it? And he couldn't even read
21 the letter. He couldn't even read the words on the page
22 that he supposedly wrote. He couldn't even read it. Now, I
23 didn't ask him what grade he was in, but he said he didn't
24 graduate. They said he had been in school, and he wrote
25 that letter, he could have read what was on the tapes. And

1 notice, in the letter, he didn't tell us, "I didn't do it,
2 y'all. Let me out." What he said was, what he supposedly
3 said was, "Mack didn't do it. Let him out. Let him go."
4 That's what he said. And why? Because Mack Washington,
5 Jr., intimidated him, pressured him, manipulated him into
6 doing it. And what did Captain Jamison say -- now a Major -
7 - Mack Washington came to me, came to me, and asked me to
8 notarize it. Sent word, notarize this. Did it twice.

9 Now, ladies and gentlemen, there's more evidence in
10 this case; there's more evidence. And I want you to
11 understand what the rest of that evidence is. Up until now
12 we have focused primarily on Tyheem Lewis -- Tyheem Lewis,
13 Tyneshia. We're focusing primarily on Tyheem Lewis. But
14 let's talk about Tyneshia Young. Tyneshia Young let Mack
15 Washington come to her house and stay from time to time.
16 Tyneshia Young tried to open the door to her apartment when
17 the police came to the apartment, but Mack Washington, Jr.
18 would not allow her to do so.

19 So ladies and gentlemen, let us talk about the things
20 that Mack Washington has said in this case. In his own
21 words, Mack Washington, Jr. has said the following things.
22 He has said, "You're going to make the money. Meet me at 9
23 p.m." That's what Tyheem said he said to him. He also said
24 when they got to the Rice Planters Inn, "You ready?" Not
25 only that, he also told him, the victims, "Throw everything

1 on the bed or we'll kill her." That's what Mack Washington,
2 Jr. said. His own words, ladies and gentlemen.

3 Now, let's talk about Quincy -- Quincy White. Quincy
4 did not want to be here. You know it. He knew it. I knew
5 it. Quincy White did not want to be here. Nobody really
6 wants to tell on nobody else; be a snitch. Nobody wants to
7 do that. But what did Quincy White say? He heard Mack
8 Washington say, "I stole it, the Chevy Impala." Why would
9 you say you stole a car that you didn't steal? Why would
10 you say that? And you know when that was, ladies and
11 gentlemen? He said it was on a Sunday; a Sunday. He said
12 the car was behind his house for two to three weeks.

13 If you look, ladies and gentlemen, you look right here.
14 It happened on January 7th. On January 8th, that's a Sunday,
15 the car is behind the house two or three weeks. Could it
16 have been January 8th that Quincy White saw Mack Washington
17 driving the Chevy Impala? And not only driving the Chevy
18 Impala, all bragging to my friends that I stole the Chevy
19 Impala. If I hadn't stole a Chevy Impala, I wouldn't go
20 around telling folk I stole the Chevy Impala.

21 What else did Mack Washington say? Later on, on
22 January 8th, 2012, Mack Washington goes to Tyneshia Young's
23 house. Remember, what did Tyneshia Young tell you? She's
24 in the house, he comes inside, there's a knock at the door.
25 (Demonstrates knock.) "Who is that?" "Nobody." "Nobody?"

1 (Demonstrates knock again.) "It's not nobody." What did he
2 say next? "Don't open the door." Now, why you want to tell
3 somebody not to open the door, unless there's something to
4 hide. And not only did he tell her, "Don't open the door,"
5 but he threw her to the floor and wouldn't let her open the
6 door. "Tell them to get a warrant." "This is my house.
7 You're going to tell me to tell somebody to get a warrant;
8 that I can't let them in?"

9 No, we didn't charge him with kidnapping her. No we
10 did not, no. She admitted she lied. She did. She did.
11 But I never told you there were perfect witnesses in this
12 case. Anytime you're trying a person for armed robbery and
13 kidnapping, who do you really think their friends are? Who
14 do you think they are? Tyneshia Young. She said, "Tell
15 them somebody else brought the guns here." That's what he
16 even told her to tell us. Does it remind you of anything,
17 like how he told Tyheem to write this letter, "Tell them I
18 didn't do it." He's always coming up with something. "Tell
19 them I didn't do it. "Write a letter. Tell them I didn't
20 do this."

21 What else did he do? Captain Jamison, notarize this
22 letter for me." Now, remember Mr. Bennett asked Tyheem
23 Lewis, "Did you try to get the letter notarized?" He said
24 "No." He said, "No." Remember what Major Jamison said?
25 "Tyheem Lewis never asked me to notarize anything for him,

1 but Mack Washington did." Tyheem Lewis couldn't even read
2 the word "notarize." Not only did Mack Washington ask
3 Captain Jamison to notarize the letter, he told her, "A
4 witness is going to come and say I didn't do this." How did
5 he know what the witness was going to say? He was telling
6 him what to say? I'm going to send the letter to the
7 Solicitor's Office and my attorney. And not just one time,
8 but twice. He was trying to manipulate her, too. What's
9 the pattern here, ladies and gentlemen? One last attempt to
10 get it notarized.

11 Now, ladies and gentlemen, let us also consider that
12 Mack Washington had had to leave. He had to leave, ladies
13 and gentlemen. And let us now consider what did Mack
14 Washington do? There were other things that you need to
15 consider in this case. There were other things. The guns
16 that were found in Tyneshia Young's apartment. Those guns
17 were found there the night of January the 8th. Mack
18 Washington, Jr.'s actions, what he himself did; they convict
19 him. He paid Tyheem Lewis a hundred dollars. Tyheem Lewis
20 said he only got one hundred dollars from this whole thing.
21 But he got something else, an adult record, three hots and a
22 cot. Shackles. He got all those things from Mack
23 Washington.

24 Mack Washington took the guns that he stole from the
25 Klems into Tyneshia Young's apartment, took them in there.

1 That was Sunday, January the 8th. Tyneshia told you she got
2 up, saw a guitar-like thing sitting there. Tyheem Lewis was
3 sitting there at 3:30/4 a.m. Tyheem Lewis said, "We brought
4 the guns into her apartment." That's what they did. Now,
5 tells Tyheem Lewis, "There will be more money when the car
6 is chopped up." January 8th, Sunday, after the robbery
7 Saturday night, Sunday, the car is seen driving, him
8 driving, (POINTS TO DEFENDANT.) in Turkey Hill.

9 Now, the night of January 8th, he intimidates Tyneshia
10 into not opening her door. Not only that, he takes the guns
11 out of the closet. She sees him. He goes in her closet,
12 takes the gun and puts them under her mattress in her bed.
13 Now, why would you take some guns out of a closet and hide
14 them under this woman's bed and mattress? She had the
15 knife, let's you stay there, come and go. Her seven-year-
16 old son is there. He threw her to the floor. You hide guns
17 under her bed?

18 He then flushes the credit cards and driver's licenses
19 of the Klems in the toilet. He convinces her to -- he
20 convinces her to lie for him. And then we find the Chevy
21 Impala behind Quincy White's house January 30th, chopped up,
22 just like he promised Tyheem it would be. And then, when
23 Tyheem and Tyneshia both confessed, he gets out of town.
24 He's gets out of town. Three and a half months, he is gone.
25 He pressured Tyheem into writing a statement, recanting that

1 he was involved, and he tried twice to intimidate Captain
2 Jamison.

3 And ladies and gentlemen, those are the things Mack
4 Washington did. His actions, his words, they all convict
5 him. He is guilty, ladies and gentlemen. He is guilty of
6 armed robbery of Frank and Joan Klem. He is guilty of
7 kidnapping of Frank and Joan Klem. And he's also guilty of
8 possession of a weapon during the commission of a violent
9 crime.

10 If you will direct your attention here, ladies and
11 gentlemen, your timeline is this: January 7th, the incident
12 happened. January 8th, he's driving the Chevy Impala.
13 January 8th, the folder is recovered at the boat landing
14 that Tyheem Lewis talked about. January 8th, the firearms
15 are in Tyneshia's house. He won't let her open the door.
16 Clothing is collected January 10th. January 16th, those
17 credit cards, driver's license found in Tyneshia Young's
18 toilet because Mack Washington flushed them in the toilet.
19 January 27th, golf clubs recovered in Charleston. Between
20 January 8th and 30th, Cory Green with the Chevy Impala to
21 Turkey Hill. The Chevy Impala is found on January 30th.
22 Tyneshia Young tells the officers, "Mack Washington and
23 Tyheem Lewis did it." Tyheem Lewis confessed. Mack
24 Washington is arrested on June 8th.

25 Ladies and gentlemen, I told you in the beginning that

1 when it's all over and done, I will come back before you,
2 leaving you with one option. By now, the reasonable doubt
3 has been put aside. There is no reasonable doubt. The robe
4 of righteousness that he wore when he walked in here is
5 gone. It is a filthy rag, ladies and gentlemen. Mack
6 Washington has a -- he has a pattern of manipulating young
7 people and luring them and intimidating them. He has a
8 pattern of violence, throwing Tyneshia Young to the floor
9 and intimidating and manipulating her into lying for him.
10 He has a pattern of robbing old folks, intimidating old
11 folks, kidnapping old folks, holding them up. And also,
12 trying to manipulate Captain Jamison.

13 I ask you, this day, who is safe from the force that is
14 Mack Washington, Jr.? Who among us is safe, ladies and
15 gentlemen? I told you I would ask you. I ask you now, I
16 beseech you now, to find Mack Washington, Jr., guilty of
17 armed robbery of Frank and Joan Klem, of kidnapping of Frank
18 and Joan Klem, of possession of a weapon during the
19 commission of a violent crime, because then and then only,
20 ladies and gentlemen, then and then only will Mack
21 Washington cease from trouble. And the weary traveler can
22 finally be at rest. Thank you.

23 THE WITNESS: Mr. Foreman, ladies and gentlemen of the
24 jury, my charge is going to take about 35 minutes. Would
25 you like to take a break now? Or would you like to

1 continue? Mr. Foreman, you can take a look around at your
2 fellow jurors. Anybody need a break? Or are you ready to
3 go forward?

4 FOREMAN: Does anybody need a break?

5 THE COURT: Just raise your hand and let the foreman
6 know if you need one? All right. We'll take five minutes.
7 Please retire to your jury room. Please do not discuss the
8 case.

9 (WHEREUPON, THE JURY EXITS THE COURTROOM.)

10 THE COURT: Counsel, we're going to take five minutes
11 and then come back for the charge. Thank you very much.

12 (WHEREUPON, A BRIEF RECESS IS TAKEN.)

13 THE COURT: Is the State ready to proceed?

14 ASST. SOL. LEGETTE: Yes, Your Honor.

15 THE COURT: Is the defendant ready to proceed?

16 MR. BENNETT: I just want to make that motion.

17 THE COURT: Go ahead.

18 MR. BENNETT: The defendant at this time, Your Honor,
19 would like to make a motion for a mistrial on the basis that
20 we believe that Assistant Solicitor Legette's closing
21 argument was improper in that she told the jury that my
22 client, Mack Washington, had a pattern for robbing old
23 people. Mack Washington did not take the stand in this
24 case. His past record, of course, was not published to the
25 jury. We believe that by saying that he had a pattern for

1 robbing old people implies that he had a prior record for
2 doing that or prior charges to that. A pattern is not just
3 one time. A pattern is something that is repeated. We
4 think that implies to the jury that he had a prior record of
5 robbing old people. And that certainly is prejudicial to my
6 client. There is no evidence of that in this case. We feel
7 like that would be the basis for a mistrial.

8 THE COURT: Thank you very much, Mr. Bennett.
9 Solicitor?

10 ASST. SOL. LEGETTE: Thank you, Your Honor. The
11 standard for a mistrial --

12 THE COURT: Slow down.

13 ASST. SOL. LEGETTE: The pattern for a mistrial is
14 manifest necessity. We do not believe that the words as
15 uttered by the State would rise to the level of manifest
16 necessity. The words we did use, Your Honor, "by old
17 people," there were two people who were considered to be
18 old, 85 and 80. And what we said, Your Honor, about them
19 was simply the pattern was that those people were together.

20 In addition, we believe that should Court be so
21 inclined to find that the words as uttered were
22 inappropriate, we would ask the Court to give a curative
23 instruction for the jury to disregard any information about
24 the pattern of robbing old people, Your Honor, if the Court
25 is so inclined. We do not believe that the words suggest

1 that Mr. Washington had a prior record. Simply that there
2 were two people involved here and they were both old and
3 they were both robbed. We would ask the Court to deny the
4 motion for a mistrial.

5 THE COURT: Mr. Bennett, I do not believe that the
6 Solicitor mentioned anything about your client having a
7 record in her argument to the jury. It is your contention
8 that the use of the term "pattern" and of course, could be
9 construed to more than one victim in this case, and my
10 verdict form has seven questions on it. That you could
11 consider a pattern to be more than one incident. Here, we
12 have an allegation of more than one armed robbery, more than
13 one kidnapping, which has been vigorously defended. I do
14 not believe that gives rise to a mistrial. On the other
15 side of that fence, would you want the Court to prevent any
16 confusion, which I don't think exists, but would you want a
17 curative instruction from the Court where I instruct them to
18 disregard the use of the term "pattern" from an argument by
19 an attorney?

20 MR. BENNETT: No, Your Honor, I really think -- I
21 wouldn't really want to call attention to it.

22 THE COURT: The answer to that is "yes" or "no," Mr.
23 Bennett.

24 MR. BENNETT: No, sir. I wouldn't want an instruction
25 on that.

1 THE COURT: Very well. Your motion for mistrial is
2 respectfully denied. Bring me the jury.

3 (11:20 A.M., WHEREUPON, THE JURY ENTERS THE COURTROOM
4 AND THE FOLLOWING IS HELD ON THE RECORD.)

5 JURY CHARGE

6 THE COURT: Mr. Foreman, ladies and gentlemen of the
7 jury, thank you for your patience. It is now my duty to
8 charge you on the law of this case. The State of South
9 Carolina, ladies and gentlemen, has charged the defendant,
10 Mack Washington, Jr., with these indictments I hold in my
11 hand. The defendant was charged in the indictments with the
12 offenses of kidnapping, armed robbery, and possession of a
13 weapon during the commission of a violent crime.

14 Now, there are five indictments, because there are two
15 indictments for kidnapping; one as to Frank Klem and one as
16 to Joan Klem. There are two indictments to armed robbery;
17 one is to Frank Klem and one as to Joan Klem. And there is
18 one indictment for possession of a weapon during the
19 commission of a violent crime.

20 Now, each indictment has a number. We number them by
21 the year. 2012-GS -- which means General Sessions Court.
22 15 means Colleton County. There are numbers 416, 417, 516
23 and then there's 2013 at 753 and 2013 at 754. Those are the
24 numbers of the indictments.

25 Now, I remind you, ladies and gentlemen, that the fact