

21858

ORIGINAL

STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM ORANGEBURG COUNTY
Court of General Sessions
The Honorable Edgar J. Dickson, Circuit Court Judge

RECEIVED

MAR 30 2015

SC Court of Appeals

Appellate No.: 2012-212566
Civil Action No. 2012-GS-38-0114; 0124

The State Respondent,

v.

DARIUS RASEAN RANSOM

.....Appellant.

RECORD ON APPEAL
Volume 1

ALAN WILSON
Attorney General
DAVID SPENCER
Senior Assistant Attorney General
Office of the Attorney General
PO BOX 11549
Columbia, SC 29211
(803) 734-3727

DAVID M. PASCOE
Solicitor, First Judicial Circuit
N. Main Street
Summerville, SC 29483
(843) 871-2640

Counsel for Respondent

Sheila M. Bias
RICHARDSON PLOWDEN & ROBINSON, P.A.
1900 Barnwell Street (29201)
P.O. Drawer 7788
Columbia, South Carolina 29202
803-771-4400

Robert M. Dudek
Chief Appellate Defender
South Carolina Commission on Indigent Defense
Appellate Division
1330 Lady Street, Suite 401
PO Box 11589
Columbia, SC 29201-1589
(803) 734-1330 – Telephone
(803) 734-1397 - Fax
Counsel for Appellant Darius Ransom Williams

INDEX

Order of December 11, 2013 Remanding to Circuit Court for Reconstruction of the Record.....	1
Order of January 16, 2014 Including Proceedings of Reconstruction hearing as Part of Transcript.....	2
Order of January 30, 2014 Denying Reconsideration.....	4
Jury Verdict Form.....	6
Indictment Nos. 2012-GS-38-0114, 124.....	8
Appellant's Motion for Reconsideration.....	12
Appellant's Memorandum in Support of his Motion for Reconsideration.....	14
Transcript of Trial on July 16-18, 2012.....	19
Transcript of Reconstruction Hearing on January 3, 2014.....	511
Defendant's Affidavit dated July 25, 2011, State's Trial Exhibit 1.....	573
Defendant's Affidavit dated July 26, 2011, State's Trial Exhibit 2.....	576
Defendant's Affidavit dated July 26, 2011, State's Trial Exhibit 3.....	579
Certificate of Counsel.....	582

The South Carolina Court of Appeals

The State, Respondent,

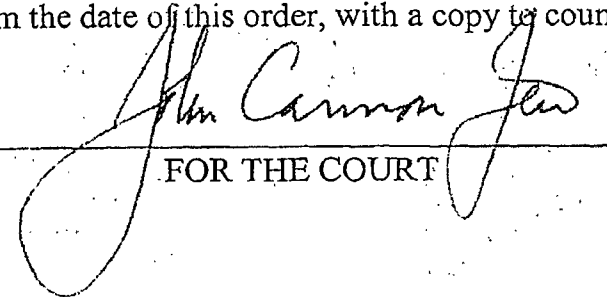
v.

Darius Ransom-Williams, Appellant.

Appellate Case No. 2012-212566

ORDER

Appellant has filed a motion to remand to the circuit court for reconstruction of the record. The motion is granted and this case is remanded to the Orangeburg County Court of General Sessions. Counsel for Appellant is ordered to contact counsel for Respondent and the circuit court judge, the Honorable Edgar W. Dickson, within ten days of this order to schedule such hearings as the circuit court judge deems appropriate. Counsel for Appellant shall provide an update to the clerk of this court no later than fifteen days from the date of this order, with a copy to counsel for Respondent.


FOR THE COURT

Columbia, South Carolina

cc:

Robert Michael Dudek, Esquire
Shelia Marlouvon Bias, Esquire
Salley W. Elliott, Esquire

FILED
12/11/13

STATE OF SOUTH CAROLINA)
COUNTY OF ORANGEBURG)

IN THE COURT OF GENERAL SESSIONS

The State of South Carolina)

ORDER

vs.)

Indictment #: 2012-GS-38-0114 and 0124

Darius Ransom-Williams,
Defendant.)

This matter came before the Court on January 3, 2014 pursuant to an Order from the South Carolina Court of Appeals remanding to the circuit court for the reconstruction of the record pertaining to the Defendant's July 18, 2012 conviction and sentencing for Burglary 1st Degree and Assault and Battery of a High and Aggravated Nature. Present at this hearing were Sr. Assistant Solicitor Donald N. Sorenson; Assistant Public Defender Mark Wise; Shelia Marlouvon Bias, Defendant's appellate counsel and the Defendant.

It appears in reviewing the transcript from Defendant's trial on the above-captioned indictments there were problems in either locating and/or transcribing the portions dealing with a State's Batson motion which the Court had granted and also the closing arguments of both parties.

After due deliberation, review of the memoranda, case law, exhibits and arguments of counsel, the Court has decided that the reconstruction of the trial record which took place at the January 3, 2014 hearing will be incorporated into the record and as such makes the following findings:

The trial court has authority to set the record for appeal. State v. Ladson, 373 S.C. 320, 644 S.E.2d 271 (2007). "[T]he inability to prepare a complete verbatim transcript, in and of itself, does not necessarily prevent a sufficient ground for reversal." *Id.* Case law requires a defendant to identify a "specific appellate claim that the Court would be unable to review effectively using the reconstructed record." Ladson, citing Harris v. Comm'r of Corr., 40 Conn. App. 250, 671 A.2d 359 (1996). A reconstructed record must allow for "meaningful appellate review." Ladson at 325.

The Court believes that this standard has been met. In Ladson, the court was supplied only with "a bare bones summary of the evidence" consisting of "a few gratuitous references to generic motions and objections" to replace the entire record of a three day trial. Here the situation is much different. Only the record of the Batson hearing and the closing arguments were lost. The Court was able to reconstruct the Batson hearing using its own juror strike list, supplemented by counsel's notes. Trial counsel for both Defendant and the State were able to rely on their original trial notes to recreate, as closely as possible, their closing arguments. The

ATTEST: TRUE COPY

Winnys B. Clark
CLERK OF COURT

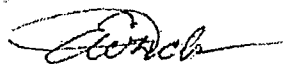
ORANGEBURG COUNTY, SC

1/2-Edw

attorneys were able to express, in significant detail, the substance of their arguments. The Court finds that this was a reliable method of reconstructing the trial record, and has produced the best possible reflection of what happened at trial. None of the three trial attorneys nor this Court has any record or independent memory of an objection being made during the State's closing argument. Only the Defendant claims that such an objection was made. Knowing the two attorneys that argued for State and Defendant, the rarity of objections during closing, and the lack of emotional issues that attorneys could or would object to during closing, this Court does not believe that the failure to recall an objection, if made, would make "meaningful appellate review" impossible in this case.

The Court believes that this reconstructed record does provide an opportunity for meaningful appellate review, and therefore is including the proceedings of the reconstruction hearing as a part of the trial transcript.

IT IS SO ORDERED.



Edgar W. Dickson
Presiding Judge
First Judicial Circuit

This 16th day of January, 2014
Orangeburg, South Carolina

2/2 

STATE OF SOUTH CAROLINA
COUNTY OF ORANGEBURG

CLERK OF COURT
JAN 31 2014



COURT OF GENERAL SESSIONS

2014 JAN 31 A 11:21

The State of South Carolina

vs.

Darius Ransom-Williams,
Defendant.

ORDER

Indictment #s: 2012-GS-38-0114 and 0124

This matter came before the Court upon Defendant's January 27th, 2014 motion to reconsider the Court's prior ruling, in which it ordered that the proceedings of the January 3rd reconstruction hearing be incorporated into the trial record pertaining to the Defendant's July 18, 2012 conviction and sentencing for Burglary 1st Degree and Assault and Battery of a High and Aggravated Nature. The reconstruction hearing was ordered by the South Carolina Court of Appeals on December 11th, 2013 upon learning that portions of the trial record dealing with the State's Batson motion and the closing arguments of both parties were lost. Present at this hearing were Sr. Assistant Solicitor Donald N. Sorenson; Assistant Public Defender Mark Wise; and Shelia Marlouvon Bias, Defendant's appellate counsel, and the Defendant.

On January 22, 2014, the Court decided that the reconstruction of the trial record which took place at the January 3, 2014 hearing would be incorporated into the trial record. On January 27th, Defendant filed a motion to reconsider this ruling. Defendant argues that, absent context and full extent of the parties' closing arguments, including any objections that may have been made, the record does not sufficiently allow for meaningful appellate review. The Court disagrees, and incorporates the following findings of its original order.

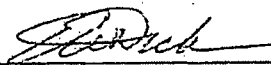
The trial court has authority to set the record for appeal. State v. Ladson, 373 S.C. 320, 644 S.E.2d 271 (2007). "[T]he inability to prepare a complete verbatim transcript, in and of itself, does not necessarily prevent a sufficient ground for reversal." *Id.* Case law requires a defendant to identify a "specific appellate claim that the Court would be unable to review effectively using the reconstructed record." Ladson, citing Harris v. Comm'r of Corr., 40 Conn. App. 250, 671 A.2d 359 (1996). A reconstructed record must allow for "meaningful appellate review." Ladson at 325.

The Court believes that this standard has been met. In Ladson, the court was supplied only with "a bare bones summary of the evidence" consisting of "a few gratuitous references to generic motions and objections" to replace the entire record of a three day trial. Here the situation is much different. Only the record of the Batson hearing and the closing arguments were lost. The Court was able to reconstruct the Batson hearing using its own juror strike list, supplemented by counsel's notes. Trial counsel for both Defendant and the State were able to rely on their original trial notes to recreate, as closely as possible, their closing arguments. The

attorneys were able to express, in significant detail, the substance of their arguments. The Court finds that this was a reliable method of reconstructing the trial record, and has produced the best possible reflection of what happened at trial. None of the three trial attorney nor this Court has any record or independent memory of an objection being made during the State's closing argument. Only the Defendant claims that such an objection was made. Knowing the two attorneys that argued for State and Defendant, the rarity of objections during closing, and the lack of emotional issues that attorneys could or would object to during closing, this Court does not believe that the failure to recall an objection, if made, would make "meaningful appellate review" impossible in this case. The Court further believes that even if it had doubts as to the sufficiency of the reconstruction, it would still be required to submit the record of the reconstruction hearing to the Court of Appeals pursuant to its December 11th order.

For these reasons, Defendant's motion to reconsider is DENIED.

IT IS SO ORDERED.



Edgar W. Dickson
Presiding Judge
First Judicial Circuit

This 30th day of January, 2014
Orangeburg, South Carolina

STATE OF SOUTH CAROLINA)
COUNTY OF ORANGEBURG)
STATE OF SOUTH CAROLINA,)
VS.)
DARIUS RANSOM,)
Defendant.)

IN THE COURT OF GENERAL SESSIONS
OF THE FIRST JUDICIAL CIRCUIT
Indictment No. 12-GS-38-114 and 124

VERDICT FORM

PLEASE CIRCLE THE APPROPRIATE VERDICT BELOW AND FOLLOW THE
ACCOMPANYING INSTRUCTIONS CAREFULLY.

- 1) WE THE JURY UNANIMOUSLY FIND THE DEFENDANT, AS TO THE
CHARGE OF BURGLARY IN THE FIRST DEGREE,

GUILTY

NOT GUILTY

Please continue on to Question 2 and follow the directions.

- 2) WE THE JURY UNANIMOUSLY FIND THE DEFENDANT, AS TO THE
CHARGE OF ATTEMPTED MURDER

GUILTY

NOT GUILTY

If you answer "Not Guilty" for Question 2, please proceed to Question 3. If you answer "Guilty" stop your deliberations and sign the Verdict Form.

- 3) WE THE JURY UNANIMOUSLY FIND THE DEFENDANT, AS TO THE
CHARGE OF ASSAULT AND BATTERY OF A HIGH AND AGGRAVATED
NATURE

GUILTY

NOT GUILTY

ATTEST: TRUE COPY

Winnif B. Clark

CLERK OF COURT
ORANGEBURG COUNTY, SC

If you answer "Not Guilty" for Question 3, please proceed to Question 4. If you answer "Guilty" stop your deliberations and sign the Verdict Form.

- 4) WE THE JURY UNANIMOUSLY FIND THE DEFENDANT, AS TO THE
CHARGE OF ASSAULT AND BATTERY IN THE FIRST DEGREE

GUILTY

NOT GUILTY

If you answer "Not Guilty" for Question 4, please proceed to Question 5. If you answer "Guilty" stop your deliberations and sign the Verdict Form.

- 5) WE THE JURY UNANIMOUSLY FIND THE DEFENDANT, AS TO THE
CHARGE OF ASSAULT AND BATTERY IN THE SECOND DEGREE

GUILTY

NOT GUILTY

STOP AND END YOUR DELIBERATIONS

Please sign and date.

Reese P. Puchard
Presiding Juror

7-18-12
Date

WITNESSES

James Shumpert

Orangeburg County Sheriff

ARREST WARRANT NUMBER
2011ORB78

Arrested July 28, 2011
TRUE BILL
ACTION OF GRAND JURY
DEC 07 2011
<i>Duane Bloome</i>
Date <u>12-7-11</u>

Foreperson of Grand Jury
Date: December 7, 2011

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2012GS38-0114

The State of South Carolina
County of ORANGEBURG

COURT OF GENERAL SESSIONS

December 5, 2011 TERM

THE STATE
vs.

Darius Rasean Ransom

Indictment for
BURGLARY - FIRST DEGREE

SC Code: 16-11-311

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I
hereby appear in my own proper person
and plead guilty to the within indictment
or to

Defendant

Witness:

C.C.C. PLS. AND G.S.

2011 DEC -7 AM 10:41

STATE OF SOUTH CAROLINA)
)
COUNTY OF ORANGEBURG)

INDICTMENT
2012GS38-0114

At a Court of General Sessions, convened on December 5, 2011 the Grand Jurors of Orangeburg County present upon their oath:

BURGLARY - FIRST DEGREE

That in Orangeburg County, South Carolina, on or about July 25, 2011, the Defendant, Darius Rasean Ransom, did willfully and unlawfully enter the dwelling of George Harrison, without consent and with the intent to commit a crime therein and the defendant did enter while armed with a deadly weapon and/or caused physical injury to a non-participant in the crime. This offense being a violation of Section 16-11-311 of the South Carolina Code of Laws, as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


Donald N. Sorenson, Solicitor

WITNESSES

James Shumpert

Orangeburg County Sheriff

ARREST WARRANT NUMBER
2011ORB79

Arrested: July 28, 2011

TRUE BILL
ACTION OF GRAND JURY

DEC 07 2011

Foreperson of Grand Jury
Date: December 7, 2011
Foreperson of Grand Jury
Date: December 7, 2011

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2012GS38-0124

The State of South Carolina
County of ORANGEBURG

COURT OF GENERAL SESSIONS

December 5, 2011 TERM

THE STATE
vs.

Darius Rasean Ransom

Indictment for

ATTEMPTED MURDER

SC Code: 16-3-29

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I hereby appear in my own proper person and plead guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. AND G.S.

FILED
CLERK OF COURT
ORANGEBURG COUNTY
SOUTH CAROLINA

11:41 AM 12-30-11

STATE OF SOUTH CAROLINA)
COUNTY OF ORANGEBURG)

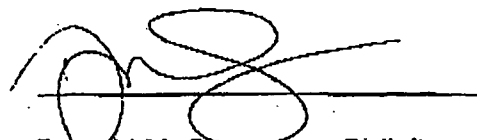
INDICTMENT
2012GS38-0124

At a Court of General Sessions, convened on December 5, 2011 the Grand Jurors of Orangeburg County present upon their oath:

ATTEMPTED MURDER

That in Orangeburg County, South Carolina, on or about July 25, 2011, the Defendant, Darius Rasean Ransom, with malice aforethought and an intent to kill, did attempt to kill the victim George Harrison, and as a result violated Section 16-03-0029 Code of Laws of South Carolina as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


Donald N. Sorenson, Solicitor

STATE OF SOUTH CAROLINA	)	IN THE COURT OF GENERAL SESSIONS
	)	Civil Action No.: 2011-GS-38-00114
COUNTY OF ORANGEBURG	)	2011-GS-38-00124
	)	
The State of South Carolina	)	
	)	Defendant/Appellant Darius Ransom-
v.	)	Williams' Motion for Reconsideration
	)	pursuant to Rule 59(e), SCRCP
Darius Ransom-Williams,	)	
	)	
Defendant.	)	
_____	)	

TO: DONALD SORENSON, ESQUIRE

YOU WILL PLEASE TAKE NOTICE that the Defendant/Appellant Darius Ransom-Williams by and through his undersigned attorney, 10 days hence, or soon thereafter as counsel may be heard, will move before the presiding circuit court judge of the First Judicial Circuit for an Order granting reconsideration of Judge Dickson's finding that the reconstructed record in this matter is sufficient for appellate review pursuant to Rule 59(e), SCRCP. The motion is based on the fact that the reconstructed record is insufficient for appellate review because Defendant/Appellant is prejudiced in that he will not be able to file any argument with the Court of Appeals regarding the propriety of the Solicitor's closing statement. The attached Memorandum in Support of our Motion for Reconsideration is further support for our Motion.

Respectfully submitted this 27th day of January, 2014.

Sheila M. Bias

Sheila M. Bias
Richardson Plowden & Robinson, PA
1900 Barnwell Street
Post Office Drawer 7788
Columbia, South Carolina 29202
803-576-3718
sbias@richardsonplowden.com

Mark Wise, Esquire
327 St. Paul Street
Covington Building, Room 8-9
Orangeburg, South Carolina 29116-1112
803-531-7090
oburgpd@bellsouth.net
ATTORNEYS FOR DEFENDANT/APPELLANT
DARIUS WILLIAMS-RANSOM

STATE OF SOUTH CAROLINA	)	IN THE COURT OF GENERAL SESSIONS
	)	Civil Action No.: 2011-GS-38-00114
COUNTY OF ORANGEBURG	)	2011-GS-38-00124
	)	
The State of South Carolina	)	
	)	
v.	)	Defendant/Appellant Darius Ransom-
	)	Williams' Memorandum in Support of
Darius Ransom-Williams,	)	Motion for Reconsideration pursuant to
	)	Rule 59(e), SCRCP
	)	
Defendant.	)	
_____	)	

Defendant/Appellant Darius Ransom-Williams, by and through his undersigned counsel, moves this court to reconsider its Order filed January 22, 2014 regarding the reconstruction of missing portions of the trial transcript. This Court's Order found the reconstructed portions of the record should be included in the full record and that there exists a sufficient record for meaningful appellate review. Respectfully, Defendant/Appellant asks this Court to reconsider its decision and find that the record is insufficient for meaningful appellate review, entitling Defendant/Appellant to a new trial.

INTRODUCTION AND BACKGROUND

Defendant was indicted under 2011-GS-38-0114 and -0124 for burglary first degree and attempted murder. Defendant was tried July 16-18, 2012, in Orangeburg County. A jury found Defendant guilty of burglary in the first degree and assault and battery of a high and aggravated nature (ABHAN). Defendant was sentenced to an aggregate term of thirty years' imprisonment.

A timely notice of appeal was filed and a transcript ordered. Several months later, through no fault of Defendant, the court reporter still had not produced the transcript. Ultimately, Court Administration retrieved the tape and notes from the court reporter and

transcribed what portions of the transcript it could. Unfortunately, the Batson¹ motion and closing arguments were not transcribed. The Court of Appeals ordered a reconstruction hearing, which this Court held on January 3, 2014. As the Court's Order accurately reflects, the Batson motion was reconstructed from the Court's and counsel's strike lists and notes. The Solicitor and Public Defender attempted to reconstruct their closing arguments by reading their argument outlines into the record. However, it is Defendant/Appellant's position that this attempt does not create a sufficient record for review because it does not reflect any objection(s) made during the closing arguments at trial.

LEGAL STANDARD

"The purpose of Rule 59(e), SCRPC, to alter or amend judgment is to request the trial judge to reconsider matters properly encompassed in a decision on the merits." Pye v. Estate of Fox, 369 S.C. 555, 556, 633 S.F.2d 505, 510, (2010), (quoting Coward Hund Const. Co., Inc. v. Ball Corp., 336 S.C. 14, 518 S.E.2d 56, 58 (Ct. App. 1999)).

A defendant complaining of a defective transcript is entitled to a new trial if the defendant "establishes that the incomplete nature of the transcript prevents the appellate court from conducting meaningful appellate review." See Adams v. H.R. Allen, Inc., 397 S.C. 652, 656-57, 726 S.E. 2d 9, 12 (Ct. App. 2012) ("[T] he reconstructed record must allow for meaningful appellate review.") Therefore, "before a defendant can establish that he is entitled to a new trial on the basis of an inadequate reconstructed record, he must identify a specific appellate claim that [an appellate court] would be unable to review effectively using the reconstructed record." Id. at 325, 644 S.E.2d at 273.

¹ Batson v. Kentucky, 476 U.S. 79 (1986).

ARGUMENT

The reconstructed record is insufficient for appellate review. As argued during the hearing, the reconstruction is woefully deficient in presenting an adequate review of the closing arguments.

On appeal, the appellate court must review the impropriety of a solicitor's closing argument in the context of the entire record. See Simmons v. State, 331 S.C. 333, 338, 503 S.E. 2d 164, 166 (1998). The appellant has the burden of proving he did not receive a fair trial because of an alleged improper argument by the solicitor. See Humphries v. State, 351 S.C. 362, 373, 570 S.E. 2d 160, 166 (2002). Here Defendant/Appellant can never meet this burden because the reconstruction of the closing arguments does not fully demonstrate what transpired during the closing arguments. Merely reading the closing argument outlines, as was done in this case, cannot capture the full extent and context of the closing argument. Furthermore, the reading of the outlines does not reflect any objections or arguments related thereto for appellate review. Accordingly, Defendant will not be able to raise any issues related to the solicitor's closing arguments or whether the trial court correctly ruled on any objections made during closing arguments because the record is incomplete. No reconstruction could sufficiently cure this error and Defendant/Appellant is forever precluded from raising any error related to the solicitor's closing argument at his trial. This is the specific appellate claim –prejudicial statements made by the solicitor – that the Appellate Court will be unable to review.

Respectfully, the fact that neither counsel nor the Court can recall objections made during the closing arguments is not proof that the objections did not occur. Over one year has passed since the trial of this matter. Memories are unreliable. Further, the

EMB
26

purpose of transcribing records is so that appellate courts do not have to rely on memories. Accord Ladson at 326, 644 S.E. 2d at 274 (finding a defendant established prejudice and demonstrated that the reconstructed record did not allow for meaningful appellate review "for a host of reasons" including "[t]he court reporters delay in disclosing the lack of transcript made a bad situation worse as the passage of time clearly dimmed the recall of the participants.")

Because of the deficiencies in the reconstruction, Defendant/Appellant is deprived of the opportunity to present any arguments regarding the propriety of the solicitor's closing arguments on appeal. Therefore, reconstruction of the closing argument is not adequate to provide an appellate court with a record sufficient for appellate review.

CONCLUSION

Based on the foregoing, Defendant/Appellant respectfully requests this Court reconsider its Order, find that the reconstructed record is insufficient for appellate review, and grant Defendant a new trial.

Sheila M. Bias

Sheila M. Bias
Richardson Plowden & Robinson, PA
1900 Barnwell Street
Post Office Drawer 7788
Columbia, South Carolina 29202
803-576-3718
sbias@richardsonplowden.com

Mark Wise, Esquire
327 St. Paul Street
Covington Building, Room 8-9
Orangeburg, South Carolina 29116-1112
803-531-7090
oburgpd@bellsouth.net
ATTORNEYS FOR DEFENDANT/APPELLANT
DARIUS WILLIAMS-RANSOM

CERTIFICATE OF SERVICE

I, the undersigned, an employee of RICHARDSON PLOWDEN & ROBINSON, P. A., attorneys for the Defendant/Appellant Darius Ransom-Williams, do hereby certify that I have this date served the foregoing Notice of Motion and Motion for Reconsideration and Memorandum in Support of the Motion for Reconsideration on the below-listed individual, by personally depositing a copy of the copy of same into the United States Mail, first-class, postage prepaid, addressed to:

Donald N. Sorenson, Esquire
First Circuit Solicitor's Office
Post Office Box 1525
Orangeburg, South Carolina 29116



Daisy F. Bonds, Legal Assistant to
Sheila M. Bias

Columbia, South Carolina
January 27, 2014

1 STATE OF SOUTH CAROLINA)
 2 COUNTY OF ORANGEBURG) COURT OF GENERAL SESSIONS
 3 2012 GS 38 0114; 0124
 4 STATE OF SOUTH CAROLINA)
 5)
 6 versus) TRANSCRIPT OF RECORD
 7)
 8 DARIUS RANSOM, a/k/a)
 9 DARIUS RANSOM WILLIAMS)
 Defendant)
 10 Orangeburg, South Carolina
 11 July 16-18, 2012
 12 B E F O R E :
 13 HONORABLE EDGAR W. DICKSON, Judge, and a Jury
 14
 15 A P P E A R A N C E S :
 16 For the State: DONALD N. SORENSON, Esq.
 Solicitor
 17 For the Defendant: MARK WISE, Esq.
 18 JOHN STROUD, Esq.
 Public Defenders
 19 Reporter Present: HARRY DOT WALKER
 20
 21
 22 HARRIET P. BENNETT
 23 Reporter, S. C. Court Administration
 46 Regency Oaks Drive
 24 Summerville, S.C. 29485
 25

I N D E X

1			
2		Direct-Redirect	Cross-Recross
3	Motion hearing	8	
4	IN CAMERA:		
5	JAMES SHUMPERT		
6	By Solicitor	9	
7	By Mr. Wise		22
8	JANET WILLIAMS		
9	By Mr. Wise	34	
10	By Solicitor		40
11	DEFENDANT		
12	By Mr. Wise	46	
13	By Solicitor		50.
14	Ruling of the Court	71	
15	(NOTE: Tape missing containing jury voir dire)		
16	Jury selection (Second		
17	selection)	75	
18	Preliminary charge		
19	by the Court	81	
20	Opening statements:		
21	By Solicitor	87	
22	By Mr. Stroud	91	
23	GEORGE HARRISON		
24	By Solicitor	93	
25	By Mr. Stroud		107

1 INDEX CONTINUED:

2		Direct-Redirect	Cross-Recross
3	WARREN JENNINGS		
4	By Solicitor	123	
5	By Mr. Stroud		128
6	DR. MARK ZULKEY		
7	By Solicitor	129	
8	By Mr. Wise		135
9	WENDY BRITT		
10	By Solicitor	138	
11	By Mr. Stroud		142
12	DERRELL JENKINS		
13	By Solicitor	143-161	
14	By Mr. Wise		154
15	JAMES THORPE		
16	By Solicitor	162-179	
17	By Mr. Stroud		182
18	WILLIAM KETCHERSIDE		
19	By Solicitor	182	
20	By Mr. Wise		207
21	PAUL MEEH		
22	By Solicitor	214	
23	By Mr. Wise		227
24	Disc. by Court		
25	with Defendant	235	

1 INDEX CONTINUED:

2 Direct-Redirect Cross-Recross

3 JAMES SHUMPERT

4 By Solicitor 241-283

5 By Mr. Wise 265

6 Motions 286

7 (NOTE: Closing statements were not audible on tape)

8 Charge on the Law

9 by the Court 292

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1	EXHIBITS		
2		FOR ID.	IN EV.
3	S-1 (for hearing) Rights form	11	
4	S-2 (for hearing) Rights form and statement	16	
5	S-3 (for hearing) Statement	19	
6	S-4 (for hearing) Hospital discharge form	105	
8	S-5 Photo of residence		95
9	S-6 Photo of residence		95
10	S-7 Photo of residence		95
11	S-8 Photo of residence		186
12	S-9 Photo of patrol car		169
13	S-10 Photo of patrol car		170
14	S-11 Photo of patrol car		170
15	S-13 Photo of residence		98
16	S-14 Photo of residence		98
17	S-15 Photo of residence		98
18	S-16 Photo of axe handle		101
19	S-17-22 Photos of scene		187
20	S-23 Cel phone	106	203
21	S-24 Axe handle		194
22	S-25 Swabs from axe handle		203
23	S-26 Swabs from phone		203
24	S-27 Swabs from Defendant		205
25	S-28 Swabs from Victim		206

1 EXHIBITS CONTINUED:

2 Defense Exhibit 1 (For Identification only)

3 Photo of front of residence p. 111

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

6

1 COURT'S EXHIBITS

2 Notes from jury

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

7

1 (The within matter came before the Court for hearing
2 on July 16, 2012)

3 THE COURT: All right, Solicitor. Mr. Wise, you ready?

4 MR. WISE: Yes, Your Honor.

5 SOLICITOR: Your Honor, this is 2012 GS 38 0114 and
6 0124.

7 THE COURT: And the charge is murder, is that correct?

8 SOLICITOR: He's charged with burglary in the first de-
9 gree and attempted murder.

10 THE COURT: All right, and this offense occurred in
11 July of last year?

12 SOLICITOR: Yes, sir. July 25th of 2011.

13 THE COURT: And are there some questions of law?

14 SOLICITOR: Yes, sir.

15 THE COURT: Okay, what have we got?

16 SOLICITOR: One thing we need to address, Your Honor,
17 I think, is that Mr. Ransom gave a couple of different
18 statements to law enforcement, and we are prepared to go
19 forward at this time with a Jackson v. Denno hearing.

20 One thing before we get started, Your Honor, in talking
21 with Mr. Wise I know there's a chance that Mr. Ransom's
22 mother may be a witness called by the Defense in this hear-
23 ing. I would ask that Your Honor sequester her for this
24 hearing. She can be present after the hearing or at any
25 other time, but just for the purpose of this hearing . .

1 THE COURT: Mr. Wise, is it true that his mother may
2 be called as a witness?

3 MR. WISE: Yes, Your Honor.

4 THE COURT: Okay, we will have her sequestered.

5 MR. WISE: May I explain it to her, Your Honor?

6 (Brief pause in the proceeding)

7 (Hearing continued following sequestration of the po-
8 tential witness)

9 THE COURT: All right, Solicitor.

10 SOLICITOR: Your Honor, the State would call Lieutenant
11 Shumpert.

12 JAMES SHUMPERT, being duly
13 sworn, testified as follows:

14 DIRECT EXAMINATION

15 BY SOLICITOR:

16 Q. Lieutenant Shumpert, will you tell the Court where it is
17 that you're employed?

18 A. Orangeburg County Sheriff's Office.

19 Q. And how long have you been with the Orangeburg County
20 Sheriff's Department?

21 A. Approximately thirteen years.

22 Q. What are your current duties and responsibilities with
23 the Sheriff's Office?

24 A. I'm supervisor with the Criminal Investigations Divis-
25 ion.

LT. SHUMPERT IN CAMERA

- 1 Q. Okay, how long have you been employed in that capacity
2 as supervisor of the Investigative Division?
3 A. For approximately two years.
4 Q. Your rank is Lieutenant, is that correct?
5 A. Yes, sir..
6 Q. And, Lieutenant Shumpert, were you involved in the in-
7 vestigation and ultimately the arrest and charging of the
8 Defendant in this case, Darius Ransom?
9 A. I was.
10 Q. And as a result of that, did you have an opportunity
11 to attempt to interview Mr. Ransom?
12 A. I did.
13 Q. If you would, tell the Court where that -- where your
14 initial conversations with Mr. Ransom occurred?
15 A. The first initial conversation with Mr. Ransom took
16 place at my office at the Sheriff's Department.
17 Q. That's the Criminal Investigations Division at the Sher-
18 iff's Department?
19 A. It is.
20 Q. And in relationship to this incident, when did that
21 occur?
22 A. . .
23 Q. The same date or a later date?
24 A. No, it was the same night.
25 Q. And what was that date?

10

LT. SHUMPERT IN CAMERA

1 A. July 25th of 2011.

2 Q. Of 2011?

3 A. Yes, sir.

4 Q. And at that point in time was Mr. Ransom -- was he in
5 custody?

6 A. Not at first until we found out -- we tried to stop him
7 and detain him until we gathered more information.

8 Q. At the time you interviewed him initially at your of-
9 fice, was he in custody at that time?

10 A. He was.

11 Q. He was not free to go, is that correct?

12 A. No.

13 Q. And did you have an opportunity initially to mirandize
14 Mr. Ransom?

15 A. I did.

16 Q. Okay, and I show you State's Exhibit 1. Is that the
17 document that you used to go over Mr. Ransom's rights with
18 him on the night of July 25th, 2011?

19 A. Yes, sir, it is.

20 Q. And, if you would, describe for the Court how you went
21 about going over those rights with Mr. Ransom that night?

22 A. With this affidavit. The top portion has the date,
23 time, place, his name and address, social security number,
24 date of birth, his phone number.

25 Q. Was that filled out on the 25th of July?

11

LT. SHUMPERT IN CAMERA

1 A. It was.

2 Q. And does it have any kind of rights section after that
3 on that form?

4 A. It does.

5 Q. And did you go over those rights with him on that night?

6 A. I did.

7 Q. Would you tell the Court how you went about going over
8 those rights with him that night?

9 A. The form -- do you want me to read the whole form?

10 Q. If you would.

11 A. Okay, the form in the middle section, says as follows:
12 I have the right to remain silent; anything I say can be
13 used against me in Court.

14 I have a right to talk to a lawyer before I'm asked any
15 questions. If I can't afford a lawyer, one will be appointed
16 for me before any questions if I wish.

17 If I decide to answer questions without a lawyer pre-
18 sent, I will still have a right to stop answering at any
19 time until I talk to a lawyer.

20 Just prior to each section, one, two, three and four,
21 after it's finished being read to a defendant, he has the
22 opportunity to initial, which he did initial, D R.

23 He signed his name at the bottom, and I started the
24 next portion, which says, I understand my rights above and
25 I initialed each. I have been advised of my rights by

12

LT. SHUMPERT IN CAMERA

1 Lieutenant Shumpert of the Orangeburg County Sheriff's Of-
2 fice.

3 Q. So you went over those rights with him, and Mr. Ransom
4 initialed after you went over each of those rights?

5 A. He did.

6 Q. Okay, and did he appear to understand them as you were
7 going over those rights with him?

8 A. He did.

9 Q. And did you at any point in time threaten him, coerce
10 him, force him in any way to get him to give you a statement
11 or talk to you?

12 A. No, I did not.

13 Q. Okay, and I believe you testified a moment ago that he
14 appeared to understand those rights?

15 A. Yes, sir.

16 Q. Did you have any problems communicating with him that
17 night?

18 A. No, sir.

19 Q. Okay, and at that point in time did he provide you with
20 any information about this -- about his involvement or lack
21 of involvement in this incident?

22 A. Yes, he did.

23 Q. What was it that he told you that night?

24 A. In the interview I asked him what happened, and he said
25 he had spoken to the victim earlier and he did not know what

LT. SHUMPERT IN CAMERA

- 1 happened after that. That's basically what he said.
- 2 Q. Okay, and did you attempt then to get him to give you
- 3 any kind of written statement on July 25, 2011?
- 4 A. I did.
- 5 Q. Okay, and what was his response or what did he do at
- 6 that point in time when you attempted to get him to put what-
- 7 ever he wanted to say on paper that night?
- 8 A. He didn't provide a statement at that time. He wanted
- 9 a lawyer and he wanted to speak to his friend, Derrell.
- 10 Q. So he said he wanted a lawyer and he wanted to speak to
- 11 his friend, Derrell?
- 12 A. Yes.
- 13 Q. And was Derrell a witness in this case?
- 14 A. Correct.
- 15 Q. Okay, and did you allow him to talk to Derrell then?
- 16 A. I did.
- 17 Q. And did you -- given the fact that he had told you he
- 18 also wanted to talk to a lawyer, did you talk to Mr. Ransom
- 19 any more that night?
- 20 A. No, we ceased.
- 21 Q. Okay, and what did you do with Mr. Ransom at that point
- 22 in time?
- 23 A. After he talked with Derrell, we took him to jail.
- 24 Q. Okay. To the Orangeburg County Jail?
- 25 A. Correct.

LT. SHUMPERT IN CAMERA

1 Q. And subsequently, based on his mother's employment at
2 the jail, was he ultimately transported that night to
3 another facility that same evening?

4 A. It is my information that the transportation officer
5 transported him to Bamberg.

6 Q. To the Bamberg Detention Center?

7 A. Yes, sir.

8 Q. Okay. Now, tell the Court, when was the next -- the
9 following day what was the next contact you had with either
10 the Defendant or somebody in the Defendant's family?

11 A. His mom had contacted me and said the Defendant wanted
12 to talk with me.

13 Q. And the Defendant we're talking about is the Defendant
14 Darius Ransom?

15 A. Yes, sir.

16 Q. Did he contact you, or did his mother contact you?

17 A. His mother.

18 Q. Okay, and she indicated -- you testified she said her
19 son wished to talk with you?

20 A. Yes.

21 Q. And as a result of that information, what did you then
22 do, Lieutenant Shumpert?

23 A. Myself and Investigator Lakeesha Gillard went to the
24 Bamberg County Jail to speak with him.

25 Q. And did anybody else meet you over there?

15

LT. SHUMPERT IN CAMERA

- 1 A. His mother.
- 2 Q. And did you have an opportunity then to sit down with
- 3 Mr. Ransom that following day, July 26, 2011?
- 4 A. Yes, I did.
- 5 Q. Okay, and did you attempt to take another statement
- 6 from him at that point?
- 7 A. I did.
- 8 Q. Showing you State's Exhibit Number 2, do you recognize
- 9 that document?
- 10 A. Yes, sir. This is the statement I took on that day.
- 11 Q. Okay, and is that the same type form you went over with
- 12 him on the day before, July 25th?
- 13 A. Yes.
- 14 Q. And did you give him his rights again on that day?
- 15 A. We did.
- 16 Q. And did he initial those rights yet again?
- 17 A. He did.
- 18 Q. And the top portion, -- whose handwriting is that at the
- 19 top of the form with the day, time and all of that in-
- 20 formation?
- 21 A. At that time he filled out the form at the top.
- 22 Q. And who initialed the four rights that are on that
- 23 form there?
- 24 A. Mr. Ransom.
- 25 Q. And did he ultimately give you a statement then on that

LT. SHUMPERT IN CAMERA

1 day?

2 A. He did.

3 Q. Okay, and let me ask you, did you ascertain prior to
4 taking that statement from him whether he wished to talk to
5 you?

6 A. I did.

7 Q. And what did he indicate?

8 A. I'm going to read the top portion of my notes that I
9 have here. (brief pause)

10 After he indicated he wished to speak to me after he was
11 put in the Bamberg County Jail -- following that, Investiga-
12 tor Gillard and I went to the Bamberg County Jail and spoke
13 with the Defendant in reference to this incident.

14 He had asked for an attorney, and I asked him was he
15 sure he wanted to speak to me. He stated that he did want
16 to speak to me.

17 Q. So at that point in time, is that when you went about
18 taking that statement in State's Exhibit Number 2?

19 A. Yes.

20 Q. And did he then write a paragraph or so about what he
21 said his involvement was in that incident?

22 A. Yes, sir.

23 Q. And on page two, did you do a kind of -- a couple of
24 questions and answers with him?

25 A. I did.

17

LT. SHUMPERT IN CAMERA

- 1 Q. And, in fact, is one of those, did you ask to speak to me?
- 2 A. That was the last question.
- 3 Q. And what was his response to that, when you asked him
- 4 the question, did you ask to speak to me?
- 5 A. Yes. He wrote yes.
- 6 Q. And when taking that statement, State's Exhibit 2, from
- 7 him, did he appear to understand those rights that you went
- 8 over with him?
- 9 A. He did.
- 10 Q. Okay, and did you force him or threaten him in any way
- 11 to get him to talk to you on July 26, 2011?
- 12 A. No, sir.
- 13 Q. And did he appear to be freely and voluntarily talking
- 14 to you?
- 15 A. Yes, sir.
- 16 Q. At any point in time on July 26, 2011, when taking
- 17 State's Exhibit 2, did Mr. Ransom indicate to you that he
- 18 wanted to stop talking?
- 19 A. No, not at any time.
- 20 Q. Did he indicate that he wanted to stop because he
- 21 wanted to talk to a lawyer as he told you the night before?
- 22 A. No, sir.
- 23 Q. And if he had done that, what would you have done?
- 24 A. The same thing I did the night before, stop talking
- 25 to him.

18

LT. SHUMPERT IN CAMERA

1 Q. Okay. Now, in the statement that he gave you, State's
2 Exhibit Number 2 -- I'm going to hand that up to the Court
3 in a second -- did he admit to you having any involvement in
4 the burglary and assault to the victim, Mr. Harrison, in the
5 statement at one thirty-eight on July 26th?

6 A. In this statement, he didn't admit his involvement.

7 Q. And after you took that statement from him, State's
8 Exhibit 2, what did you then do, Lieutenant Shumpert? After
9 you took that statement from him?

10 A. I told him and his mom that he wasn't being
11 honest. From the evidence we had collected -- actually when
12 we came out, I talked to his mom and told her that he was
13 still refusing to be straight-forward. I told him that he
14 needed to tell the truth.

15 Q. And what was his response to your kind of confronting
16 him with that?

17 A. Well, he gave another story, another statement, and he
18 told him about his involvement in what happened.

19 Q. I show you State's Exhibit Number 3. Is that another
20 statement that Mr. Ransom gave to you on July 26, 2011?

21 A. It is.

22 Q. And what's the time on that?

23 A. This was at two o'clock.

24 Q. So some twenty-two minutes or so after his initial
25 statement that day?

19

LT. SHUMPERT IN CAMERA

- 1 A. Yes, sir.
- 2 Q. And in that statement -- whose handwriting is that state-
3 ment in?
- 4 A. Mr. Ransom's.
- 5 Q. Okay. The two statements that day, did he sign both
6 of those statements?
- 7 A. He did.
- 8 Q. And you signed as witness?
- 9 A. Yes, sir, we both did.
- 10 Q. And when giving statement number 3, at any point in
11 time did you threaten him or coerce him to get him to give
12 you that statement?
- 13 A. I did not.
- 14 Q. And did he at any point in time indicate to you that he
15 wished to stop talking or stop giving that statement?
- 16 A. No, sir.
- 17 Q. At any time did he indicate to you that he wished to
18 talk with a lawyer?
- 19 A. No, sir.
- 20 Q. All right, and after giving that statement, Number 3,
21 did you ultimately end up leaving him after that point in
22 time?
- 23 A. Yes.
- 24 Q. Did you question him any further after that?
- 25 A. No.

20

LT. SHUMPERT IN CAMERA

1 Q. Would you indicate to the Court if the person is here
2 in the Courtroom that you took those statements from?

3 A. Yes, sir. Mr. Ransom, seated there.

4 SOLICITOR: I'll hand these up to you, Your Honor.

5 THE COURT: You have seen these?

6 MR. WISE: I have, Your Honor.

7 BY SOLICITOR:

8 Q. Then as to the statements on July 26, 2011, the inter-
9 view occurred where?

10 A. In Bamberg County.

11 Q. And that was at the Detention Center?

12 A. Yes, sir.

13 Q. And did Mr. Ransom appear to understand what was going
14 on?

15 A. He did.

16 Q. And did he appear to be under the influence of anything?

17 A. No, sir, he did not.

18 Q. Had you had any prior dealings with him prior to this
19 incident?

20 A. No, sir.

21 Q. Did you know who he was?

22 A. No, sir.

23 Q. Let me ask you, did you know who his mother was?

24 A. Not at the time the incident happened.

25 Q. Okay. How do you know his mother?

21

LT. SHUMPERT IN CAMERA

1 A. She works at the County Jail. I had seen her going
2 back and forth in the jail.

3 Q. Does she know who you are?

4 A. She does.

5 Q. Thank you, Lieutenant. I believe that's all I have
6 with regard to the statements.

7 THE COURT: Mr. Wise.

8 MR. WISE: Thank you, your Honor.

9 CROSS EXAMINATION

10 BY MR. WISE:

11 Q. Lieutenant, how are you?

12 A. I'm fine, sir.

13 Q. We'll see in a minute.

14 A. Okay.

15 Q. Lieutenant, let's just start talking about the arrange-
16 ments to get his statement. Let's start with that.

17 A. Yes, sir.

18 Q. Just so we're clear, you arranged with his mother to go
19 and take a statement from Darius?

20 A. Well, I wasn't aware of him being transferred to Bam-
21 berg County. I had left him in Orangeburg, but his mom had
22 called me and told me he wanted to speak to me, so I went
23 back over there to see what he had to say.

24 Q. So it was in your interaction with his mother that sent
25 you to Bamberg?

22

LT. SHUMPERT IN CAMERA

- 1 A. Correct.
- 2 Q. And just so we're clear, Darius never called you and
3 said he wanted to speak with you?
- 4 A. No, sir.
- 5 Q. Darius never wrote you a letter and said, I
6 want to speak to you?
- 7 A. No.
- 8 Q. Okay. Do you remember your initial conversation with
9 his mother?
- 10 A. On the telephone?
- 11 Q. The first time you talked to her about speaking to
12 Darius? You remember that?
- 13 A. I remember talking to her. I remember the basis of the
14 conversation.
- 15 Q. You remember the basics of the conversation?
- 16 A. Uh huh.
- 17 Q. And the basics of the conversation was that you were
18 going to go speak to Darius?
- 19 A. Correct.
- 20 Q. And it's my understanding that you don't remember if
21 Darius' mother told you that Darius wanted to speak to you,
22 or if she told you she wanted you to speak to Darius?
- 23 A. No, on the phone that day she said that Darius wanted
24 to speak to me. So when I got over there -- that's why I
25 asked him was he sure that he wanted to speak to me.

23

LT. SHUMPERT IN CAMERA

- 1 Q. So you have no recollection of her telling you that, in
2 fact, Darius did not want to speak to you?
- 3 A. That's not true.
- 4 Q. Okay, so she never told you that?
- 5 A. No, she never told me that.
- 6 Q. Okay. Okay. Did Darius know you were coming?
- 7 A. I don't know.
- 8 Q. Okay.
- 9 A. I mean, . . .
- 10 Q. Okay.
- 11 A. . . . when we got there they had him in a room but I don't
12 know if he knew we were coming.
- 13 Q. All right, and I think we're pretty clear that when you
14 first met with him he asked for a lawyer?
- 15 A. After we took him to the office, yes.
- 16 Q. It's pretty clear he asked for a lawyer then?
- 17 A. Yes.
- 18 Q. He got a lawyer?
- 19 A. No. I don't know.
- 20 Q. You didn't get him a lawyer?
- 21 A. No, I didn't.
- 22 Q. Very good. You spoke to him again the day after you
23 arrested him at the Bamberg Jail?
- 24 A. Right.
- 25 Q. He was still in custody?

24

LT. SHUMPERT IN CAMERA

- 1 A. He was.
- 2 Q. He had never been released from custody?
- 3 A. No.
- 4 Q. Now, let's talk about how you came to impact with Darius
- 5 on that day.
- 6 Q. Where did you get to talk to Darius in Bamberg?
- 7 A. In the jail.
- 8 Q. Where was he in the Bamberg facility?
- 9 A. At some place in the jail. Like in a room.
- 10 Q. Let's put it this way. You walk in the front of the
- 11 facility and -- when you approach the Bamberg jail, you can
- 12 kind of go to the left and go in or go to the right and go
- 13 in?
- 14 A. . .
- 15 Q. You don't know?
- 16 A. The door that is right there.
- 17 Q. Which door did you go in?
- 18 A. I can't say it's left or right. It's a door to go in
- 19 there. You got to push a button and identify yourself.
- 20 Q. So you went in the entrance that has the window and --
- 21 a type of window they can look through, and you have a lit-
- 22 tle button you push?
- 23 A. Yes, but I'm not aware of a window.
- 24 Q. So when you walked in, what did you see?
- 25 A. . .

25

LT. SHUMPERT IN CAMERA

1 Q. Where were the people?
2 A. Behind the desks.
3 Q. What else did you see?
4 A. . . .
5 Q. I'm trying to figure out where this room is because
6 there are three rooms, from my recollection of the Bam-
7 berg Jail, that you could have interviewed Darius in.
8 That's what I'm trying to get you to talk about.
9 A. When I walked in the entrance, there are three tables,
10 . . .
11 Q. Yes, sir.
12 A. . . and it's a room that is like offset, adjacent to
13 the desks.
14 Q. So he was in that room?
15 A. Yes.
16 Q. Who was in that room with him?
17 A. At first it was me and Investigator Gillard. I believe
18 she did go in and out but I can't remember.
19 Q. You can't remember?
20 A. No.
21 Q. Okay. So when you walked into that room, was Darius
22 sitting in that room by himself?
23 A. Yes, he was there by himself.
24 Q. So you walk in and it was just you and who was the other
25 investigator?

LT. SHUMPERT IN CAMERA

1 A. Investigator Gillard.

2 Q. And his mother, does she walk in with you?

3 A. I believe she did initially.

4 Q. Let's be clear. Did she walk in with you, or was she
5 there before you walked in the door?

6 A. We walked in together.

7 Q. Very good. All right, so the three of you walk in, and
8 who spoke first?

9 A. Who spoke first?

10 Q. You don't remember?

11 A. I don't remember.

12 Q. You don't know?

13 A. No.

14 Q. Okay. Do you remember saying to Darius, your mom says
15 you have something to say, or words to that effect?

16 A. No, I -- I remember asking him the question, was he
17 sure he wanted to speak to me.

18 Q. So you don't remember saying to him, your mom says you
19 have something to say?

20 A. Or your mom stated you wanted to speak with me.

21 Q. Say again?

22 A. Your mom stated you wanted to speak to me.

23 Q. You go in with the Investigator and his mother, and
24 you say, your mom says you want to speak to me?

25 A. That's the contents of the conversation.

27.

LT. SHUMPERT IN CAMERA

- 1 Q. And what did he say?
- 2 A. Yes.
- 3 Q. He said yes?
- 4 A. That's correct.
- 5 Q. Okay. He never said, no, I don't want to speak to you?
- 6 A. No.
- 7 Q. Okay, so he said yes.
- 8 A. Yes.
- 9 Q. And then what happened?
- 10 A. I asked him -- I reminded him he had asked to speak to
- 11 an attorney, and I asked him if he was sure he wanted to
- 12 speak to me, and he again stated he had nothing to do with
- 13 the incident.
- 14 I stated to him that I was sure he was not being honest
- 15 with me.
- 16 Q. One second.
- 17 A. Yes.
- 18 Q. At that -- while all that's taking place, who was in
- 19 that room?
- 20 A. I believe Investigator Gillard. I don't know if his
- 21 mom had went back out or not.
- 22 Q. You don't know?
- 23 A. I think she went back to the front desk by then.
- 24 Q. Do you remember why she left?
- 25 A. No, I have no idea.

28

LT. SHUMPERT IN CAMERA

1 Q. Do you remember when she left?

2 A. No.

3 Q. Do you remember telling her to leave?

4 A. No.

5 Q. She just got up and walked out?

6 A. Yes, she went out. I know she left and went back out

7 to the desk. After he gave the first initial statement, I

8 went back out and told her he still wasn't being honest.

9 Q. So when you went and said he is not being honest, she

10 was no longer in the room? She had left the room?

11 A. She was out at the front desk.

12 Q. Okay, okay, and it's your testimony that he never asked

13 you for a lawyer at the time you went to Bamberg Jail?

14 A. No, he never asked for a lawyer.

15 Q. Do you remember him giving you the second statement and

16 like you said, and I believe it to be true, and at that point

17 asking his mother to leave?

18 Do you remember that?

19 A. No.

20 Q. So by the time he gave you the second statement, you're

21 saying the mother was outside?

22 A. I believe when he gave the first statement she was out-

23 side as well.

24 Q. Okay.

25 A. We spoke -- I wanted to be clear as to whether he did

LT. SHUMPERT IN CAMERA

1 want to speak to me or not. Like I said, I believe she went
2 out -- I believe she went out and was talking to other peo-
3 ple, but at what point I'm really not sure.

4 Q. Okay, and I think this is right. I think Mr. Sorenson
5 asked you this twice. When he wanted to speak with you, did
6 you ask him again if he wanted a lawyer?

7 A. Yes, I did.

8 Q. You did ask him that?

9 A. Yes, and when I advised him of his rights -- read them
10 to him again, so I verbally said it and then went over the
11 contents of his Miranda Rights.

12 Q. Okay. Do you remember testifying at the preliminary
13 hearing, where I think you said you didn't ask him if he
14 wanted a lawyer?

15 A. . . .

16 Q. Do you remember saying that?

17 A. No.

18 Q. Okay, you don't remember me asking you this question
19 and you giving this answer?

20 Question by me, let me ask you this, did you say
21 to him -- he said he would speak to me and you were
22 asked the question, did you say to him you asked for a law-
23 yer; do you want a lawyer right now? You asked him that,
24 and your answer?

25 A. No.

30

LT. SHUMPERT IN CAMERA

1 Q. Okay, so you . .

2 A. You're twisting something I said into -- I made it
3 clear did he want to speak to me, and said that the first
4 time he asked for a lawyer. I asked if he wanted to speak
5 to me, and his reply was, yes, and then I went over the ad-
6 visement of rights and he was asked did he want a lawyer right
7 now, and his reply was no.

8 Q. So . .

9 A. So you were not -- did you ask him that? Do you want
10 a lawyer right now -- did you ask him that?

11 A. No.

12 Q. You didn't ask if he wanted a lawyer?

13 A. No. I asked him did he want to speak to me; did he
14 tell his mother to speak to me.

15 Q. And you didn't make any effort to get a lawyer for him?

16 A. No, I did not.

17 Q. Okay. When he gave you the first statement, obviously
18 -- when he gave you the first statement in Orangeburg, you
19 obviously didn't believe him?

20 A. No, of course I didn't.

21 Q. And you tell him that. Correct?

22 A. . .

23 Q. You told him in effect his words were a lie?

24 A. Say again?

25 Q. You didn't believe him and you told him you didn't .

LT. SHUMPERT IN CAMERA

1 believe him? You told him you thought he was lying to you?
2 A. Correct.
3 Q. Okay, and at that point it's your testimony his mom was
4 already out of the room?
5 A. She was..
6 Q. When you talked to his mother about going there, did
7 she talk about any health issues she was having?
8 A. Oh, yes.
9 Q. She made you aware of that?
10 A. Yes.
11 Q. Okay. You walked into the room and the first thing you
12 say to him is do you want to speak to me?
13 A. I don't know if it was when we first walked in. I
14 don't know how I introduced the conversation, but I wanted
15 to make sure that, you know, it was him who contacted me --
16 what his mom had told me -- asked if he wanted to speak to me
17 and he told me yes.
18 Q. That's what I want to get at. So you weren't sure whe-
19 ther he wanted to speak to you or the mom wanted him to speak
20 to you?
21 A. I wanted to be sure it was him who contacted me through
22 his mom.
23 Q. And he said it?
24 A. He said yes. It was a little different, the question
25 I asked him.
32

LT. SHUMPERT IN CAMERA

1 Q. Okay, and so you started questioning him?

2 A. . .

3 (TRANSCRIPTION NOTE: There was a short break at the
4 end of the cassette tape, after which the matter was then
5 resumed)

6 (The witness, Lieutenant Shumpert, came back to the wit-
7 ness stand)

8 CROSS EXAMINATION CONTINUED

9 BY MR. WISE:

10 Q. I believe at that point you started questioning him?

11 A. Yes.

12 Q. And his mother may or may not have been there? Is that
13 correct?

14 A. Correct. I would say I had gone out to talk to her.

15 Q. Okay, and from the time you walked in until you took
16 the statement, how much time elapsed?

17 A. You are talking about the first statement he gave me?

18 Q. The first statement in Bamberg.

19 A. And your question was what?

20 Q. From the time you walked in the door until the time he
21 gave the first statement, how long was that?

22 A. I can't tell you how much time it was.

23 Q. Okay. Thank you.

24 THE COURT: Anything further from the State?

25 SOLICITOR: No, sir.

1 THE COURT: You can step down.
2 (Witness excused from stand)
3 SOLICITOR: We have nothing more from the State at this
4 time, Your Honor.
5 THE COURT: Mr. Wise?
6 MR. WISE: Yes, Your Honor, we would call Janet Williams
7 to the stand.
8 JANET WILLIAMS, being duly
9 sworn, testified as follows:
10 DIRECT EXAMINATION
11 BY MR. WISE:
12 Q. Ms. Williams, . . .
13 CLERK: Please state your name for the record.
14 WITNESS: Janet Williams.
15 Q. . . you are Darius' mother?
16 A. Yes, I am.
17 Q. What is your occupation?
18 A. Correctional.
19 Q. Where do you work?
20 A. For the Orangeburg County Sheriff.
21 Q. Ms. Williams, I want to call your attention to July 26
22 of last year. You remember that date?
23 A. Yes.
24 Q. Did you speak to your son after he was arrested?
25 A. Yes, sir.

J. WILLIAMS IN CAMERA

1 Q. Did there come a time when you contacted Lieutenant
2 Shumpert . .

3 A. Yes.

4 Q. . . and asked him to speak to your son?

5 A. Yes.

6 Q. Why did you do that?

7 A. Because I wanted Darius to tell Lieutenant Shumpert,
8 you know, about this. His side of this.

9 Q. Okay.

10 A. I told Darius, I said if you talk to Shumpert, that
11 Shumpert would help him.

12 Q. Okay, and did you tell your son that you were going to
13 contact Lieutenant Shumpert?

14 A. I did not.

15 Q. You did not?

16 A. No.

17 Q. And did your son ask you to contact Lieutenant Shumpert
18 on his behalf?

19 A. He did not.

20 Q. You just did it on your own?

21 A. Yes.

22 Q. Okay, and did you go to the Bamberg County Jail on July
23 the 26th?

24 A. Yes, sir.

25 Q. When you met with your son, did you tell him that

J. WILLIAMS IN CAMERA

- 1 Lieutenant Shumpert was coming to interrogate him?
- 2 A. Yes.
- 3 Q. Let's back up. When you got to the Bamberg Jail, who
- 4 was there?
- 5 A. I was the first one there.
- 6 Q. You were the first one at the jail?
- 7 A. Yes.
- 8 Q. And did you go in with Lieutenant Shumpert?
- 9 A. I waited for them, and then they came.
- 10 Q. You got there first and then they came?
- 11 A. Yes.
- 12 Q. And what, if anything, did you do while you were wait-
- 13 ing?
- 14 A. I talked to some of the officers.
- 15 Q. Did you talk to your son?
- 16 A. I talked to Darius earlier that day if I'm not mistaken.
- 17 Q. When you talked to him earlier that day, did you tell
- 18 him you were going to be coming back with Lieutenant
- 19 Shumpert?
- 20 A. Yes, and he asked me why.
- 21 Q. And what did you tell him?
- 22 A. I told him Lieutenant Shumpert was coming, and I wanted
- 23 Lieutenant Shumpert to get the truth out of him.
- 24 Q. Okay. Did you tell Lieutenant Shumpert that Darius had
- 25 wanted to talk to him?

J. WILLIAMS IN CAMERA

1 A. No, I didn't.

2 Q. Did you tell Lieutenant Shumpert that Darius in fact
3 did not want to talk to him?

4 A. I didn't.

5 Q. Okay, and what did you tell him to get him to help him?

6 A. Shumpert?

7 Q. Yes.

8 A. I knew Shumpert, so I just felt like if I could get him
9 to talk to Darius that Darius would tell him the truth, and
10 that's all that was going through my mind; that I wanted
11 Darius to tell him what he saw.

12 Q. Okay, and whether he wanted to tell him or make a state-
13 ment or not, was that important to you?

14 A. Yes, it was important to me, but I wanted Shumpert to
15 know the truth about it.

16 Q. So you were acting on your own and not at Darius' re-
17 quest?

18 A. True.

19 Q. Okay. Why did you think Lieutenant Shumpert could pull
20 the truth out of him?

21 A. I knew Shumpert pretty well, and so I called him.

22 Q. How did you contact him?

23 A. His cell phone.

24 Q. Okay. Now, I want you to describe to the Court the meet-
25 ing between you and your son and Lieutenant Shumpert.

J. WILLIAMS IN CAMERA

- 1 A. We were in the visitation area and he was questioning
2 Darius.
- 3 Q. The three of you walked in together?
- 4 A. The three of us?
- 5 Q. The three of you, the Lieutenant, Investigator Gillard
6 and yourself.
- 7 A. Yes.
- 8 Q. The three of you walked into the room where Darius was?
- 9 A. Yes.
- 10 Q. And the three of you went in that room together?
- 11 A. Yes.
- 12 Q. And Darius was already in that room?
- 13 A. No, Darius came after.
- 14 Q. So you were in the room and somebody brings Darius to
15 you?
- 16 A. Yes.
- 17 Q. Okay, and when Darius walked into that room, what hap-
18 pened? Who spoke first?
- 19 A. I think he said good morning or something.
- 20 Q. He being Darius?
- 21 A. Yes.
- 22 Q. Okay, and then who spoke?
- 23 A. I believe I did.
- 24 Q. What did you say?
- 25 A. I told him to tell Shumpert what he knew.

38

J. WILLIAMS IN CAMERA

1 Q. Okay, and did there come a point when Shumpert spoke?

2 A. Yes.

3 Q. What were the first words that he spoke to Darius?

4 A. I don't recall what Shumpert said.

5 Q. Okay, do you remember the nature of what he said?

6 A. Yes. Do you want to talk to me, I believe.

7 Q. And what did Darius say to that?

8 A. He said no, he didn't.

9 Q. He said no?

10 A. He said no, and I told him, yes, to talk to him. To
11 tell Shumpert the truth. That he was going to talk to him.

12 Q. He said no, and you said, yes, you're going to talk to
13 him?

14 A. Yes..

15 Q. Okay, and what did Darius say in response to that?

16 A. At that time I walked out. (portion not audible)

17 Q. So when you left, you left Shumpert and Darius in he
18 room together?

19 A. Yes.

20 Q. And the other person?

21 A. Yes.

22 Q. As of that point, did Darius ever say to Lieutenant.
23 Shumpert, yes, I do want to speak to you?

24 A. No, and I was outside after that..

25 Q. Just so we're clear, did Darius ever ask you to call

J. WILLIAMS IN CAMERA

1 Lieutenant Shumper in his behalf?

2 A. He did not.

3 Q. Okay, that's all the questions I have for you.

4 THE COURT: Solicitor.

5 SOLICITOR: Just a couple of quick questions.

6 CROSS EXAMINATION

7 BY SOLICITOR:

8 Q. Good afternoon, Ms. Williams. Let me make sure I un-
9 derstand a couple of things.

10 You were aware of the night Darius got arrested, on July
11 25th, 2011?

12 A. Not until after the fact.

13 Q. Okay, and did you see him at the jail here before you
14 went to see him in Bamberg?

15 A. No.

16 Q. Did you see him before he was transported to Bamberg?

17 A. No.

18 Q. So the first time you talked to him was after he had
19 been taken to the Bamberg County Detention Center?

20 A. Yes.

21 Q. Was it that night that he was arrested when you first
22 spoke to him, or was it the following day?

23 A. It was the following morning after Shumpert called me.

24 Q. So Lieutenant Shumpert notified you your son had been
25 arrested?

J. WILLIAMS IN CAMERA

1 A. Yes, he called.

2 Q. So the following morning then after your son was ar-
3 rested, you spoke to him at the Bamberg County Jail?

4 A. I did.

5 Q. Did you go over to see him or talk to him on the tele-
6 phone?

7 A. I went to see him.

8 Q. And as a result of that conversation, you then contacted
9 Lieutenant Shumpert. Is that correct?

10 A. Yes.

11 Q. And your testimony is that you knew him through your
12 employment at the Orangeburg County Jail, is that correct?

13 A. Yes.

14 Q. And what exactly did you tell Lieutenant Shumpert at
15 that point in time?

16 A. That I wanted him to speak to Darius and that Darius
17 would tell him the truth.

18 Q. And did you tell Shumpert that Darius wanted to talk
19 to him?

20 A. No, I didn't.

21 Q. Are you sure about that, or could you have possibly told
22 him that?

23 A. I don't think I told him that. No, sir.

24 Q. Do you remember whether Lieutenant Shumpert told you
25 that your son had requested a lawyer and that they couldn't

J. WILLIAMS IN CAMERA

- 1 talk to him unless he wanted to talk?
- 2 A. Yes.
- 3 Q. All right.
- 4 A. He did tell me that.
- 5 Q. And it's your testimony that you don't recall whether
- 6 you specifically told him that Darius wants to talk to you
- 7 now, so please go back and talk to him?
- 8 A. . . .
- 9 Q. I mean, that could have happened?
- 10 A. It could have.
- 11 Q. All right, but needless to say as a result of that con-
- 12 versation with Lieutenant Shumpert he met
- 13 you at the Bamberg County Jail to talk to your son. Is that
- 14 correct?
- 15 A. Yes.
- 16 Q. All right, and it's your testimony that when you all
- 17 went in that your son told Lieutenant Shumpert that he did
- 18 not want to talk to him. Is that correct?
- 19 A. Darius did tell me he did not want to talk to Shumpert,
- 20 and I believe he did tell Shumpert he did not want to talk
- 21 to him, but in my heart I wanted him to tell Shumpert the
- 22 truth.
- 23 Q. You understand . . .
- 24 A. I told Shumpert I wanted him to talk to him.
- 25 Q. Do you understand that from what happened the night

J. WILLIAMS IN CAMERA

1 before that Lieutenant Shumpert was not allowed to talk to
2 your son unless your son basically . .

3 A. He had said before he didn't want to talk to him and
4 Shumpert had said he couldn't talk to him.

5 Q. So at that point in time you knew that. Right?

6 A. I knew that when I was there at the jail with Shumpert.

7 Q. It's your testimony that your son told Lieutenant
8 Shumpert that he didn't want to talk to him?

9 A. Yes.

10 Q. And are you saying that Lieutenant Shumpert continued
11 to talk to him anyway?

12 A. I'm saying I told Darius to talk to him and I went out
13 of the room. I just wanted him to tell the truth.

14 Q. Have you had an opportunity to see the statement that
15 your son gave that day at the Bamberg County Jail?

16 A. No.

17 Q. All right. July 26th . . .

18 SOLICITOR: Permission to approach the witness, Your
19 Honor.

20 THE COURT: Yes, sir.

21 Q. On July 26, 2011, at the Bamberg County Jail -- does
22 that sound right -- about one thirty? That your son gave a
23 statement, is that correct?

24 A. Yes.

25 Q. Okay, and there were several questions and answers on

J. WILLIAMS IN CAMERA

- 1 the second page with Lieutenant Shumpert's handwriting on
2 the questions and do you recognize your son's handwriting in
3 the answers?
- 4 A. Yes.
- 5 Q. Is that correct?
- 6 A. Yes.
- 7 Q. And the last question was, did you ask to speak to me,
8 and your son answered yes. Is that correct?
- 9 A. . . .
- 10 Q. According to the statement?
- 11 A. Yes, sir.
- 12 Q. That's what he told Lieutenant Shumpert in this state--
13 ment?
- 14 A. I wasn't in there. I don't know.
- 15 Q. But you never told Lieutenant Shumpert when you talked
16 to him on the phone that morning that he didn't want to talk
17 to him but you wanted Lieutenant Shumpert to go and talk to
18 your son? Is that correct?
- 19 A. I told him that I wanted him to go and talk to him.
- 20 Q. But it could have happened that you told him your son
21 wanted to talk to him?
- 22 A. Sir, I don't want to lie but I don't recall telling him
23 that.
- 24 Q. But it could have happened?
- 25 A. It could have.

J. WILLIAMS IN CAMERA

1 Q. At no point in time did Lieutenant Shumpert threaten
2 your son in your presence, did he?

3 A. No.

4 Q. You called him because you trusted him to go and talk
5 with your son?

6 A. Yes.

7 SOLICITOR: Beg the Court's indulgence.

8 (Brief pause in the proceeding)

9 SOLICITOR: That would be all we would have, Your
10 Honor. Thank you.

11 THE COURT: Mr. Wise.

12 MR. WISE: May it please the Court, Your Honor.

13 THE COURT: Yes, sir.

14 MR. WISE: That's fine, Your Honor. Thank you.

15 THE COURT: All right. Ms. Williams, this is unrelated
16 to this, but I want to make sure I have this straight in my
17 mind.

18 Ms. Williams, did you contact my office?

19 A. Yeah, that was me.

20 THE COURT: You called and talked to me a couple of
21 weeks ago?

22 A. Yes, sir.

23 THE COURT: What did you -- what did we talk about?

24 A. I called you -- when I called you I was not calling at
25 that time as an officer. I was calling you as a mother.

J. WILLIAMS IN CAMERA

1 THE COURT: All right.

2 A. Darius had had a bond setting and then he was brought
3 back and that got taken away at that Court.

4 THE COURT: And did we talk about anything else?

5 A. No, sir.

6 THE COURT: Okay, I just wanted to make sure everyone
7 was aware of that.

8 Anything further?

9 MR. WISE: Not for Ms. Williams. I would call Darius
10 Williams.

11 THE COURT: I've got to make a phone call so why don't
12 we take a break. If you all would give me a few minutes,
13 and I'll be right back. I just got a message.

14 (Court took brief recess, and the matter thereafter re-
15 sumed)

16 MR. WISE: We would call Darius Ransom.

17 DARIUS RANSOM WILLIAMS, being
18 duly sworn, testified as follows out of the presence of the
19 jury:

20 DIRECT EXAMINATION

21 BY MR. STROUD:

22 Q. Would you please state your name for the record.

23 A. Darius Ransom Williams.

24 Q. Mr. Ransom, when you first met Lieutenant Shumpert, did
25 you ask for an attorney?

DEFENDANT IN CAMERA

- 1 A. Yes, sir.
- 2 Q. What happened after that?
- 3 A. Basically that was all, that I wanted an attorney.
- 4 Q. Okay, and were you then transferred to Bamberg?
- 5 A. Yes.
- 6 Q. Did you talk to your mom that day?
- 7 A. The next day.
- 8 Q. The next day?
- 9 A. Yes.
- 10 Q. Did you ever ask her to call Lieutenant Shumpert for
- 11 you?
- 12 A. No, sir.
- 13 Q. Did you ever tell her that you wanted to speak to
- 14 Lieutenant Shumpert?
- 15 A. No, sir.
- 16 Q. What did she tell you when she left the visitation that
- 17 morning?
- 18 A. She say I need to tell the truth.
- 19 Q. Okay. What happened when she left after visitation?
- 20 A. They came and got me.
- 21 Q. Were you surprised when someone came and got you?
- 22 A. Yes. I was asleep.
- 23 Q. You were asleep?
- 24 A. Yes.
- 25 Q. So when you walked into the room who was there?

DEFENDANT IN CAMERA

- 1 A. My mother, . . .
- 2 A. Okay.
- 3 Q. . . . and Investigator Shumpert and Investigator Miss
- 4 Gillard, I believe. If that's her name.
- 5 Q. Okay.
- 6 A. That's all, and me.
- 7 Q. And do you remember who spoke first?
- 8 A. My mother -- well, I spoke first. I said, how you doing,
- 9 momma?
- 10 Q. Okay, and then do you remember what Lieutenant Shumpert
- 11 said?
- 12 A. My mom said, tell the truth, and I tell her there's no-
- 13 thing to talk about. She beg me and kept going on, in and
- 14 out, saying, go ahead and talk to him.
- 15 So when he spoke to me, she said, go ahead and tell
- 16 the truth, son, and it went from there. I said the first
- 17 time, I don't know nothing.
- 18 Q. At any point before you said that, did Lieutenant
- 19 Shumpert ever ask you if you wanted to speak to him?
- 20 A. No, sir.
- 21 Q. Did he ever mention the fact that you had previously
- 22 requested a lawyer?
- 23 A. No, sir.
- 24 Q. What happened -- when did you -- so Lieutenant Shumpert
- 25 began questioning you?

DEFENDANT IN CAMERA

- 1 A. Yes, sir.
- 2 Q. How did your mom leave?
- 3 A. I guess she couldn't take the pressure because she had
- 4 just got searched and she was embarrassed. There was only
- 5 a certain amount of pressure she could take.
- 6 Q. And when she left out it was just Investigator Shumpert
- 7 in there with you?
- 8 A. Yes, sir.
- 9 Q. And eventually Investigator Gillard left the room?
- 10 A. Yes, sir.
- 11 Q. Then you were alone with Lieutenant Shumpert?
- 12 A. Yes, sir.
- 13 Q. Darius, why would -- on your statement, the second
- 14 statement you wrote, why would you say that you wanted to
- 15 talk to Lieutenant Shumpert at the end?
- 16 A. To get time for me to discuss my case. He kept asking
- 17 me to repeat and go on and tell the truth, and just argued
- 18 back and forth about am I telling the truth or not.
- 19 Q. Uh hm.
- 20 A. Because if he felt like I did it, why would he be here.
- 21 and why would he have visitation with me. So he go outside
- 22 and I see my mom and my cousins, and I could tell my mom was
- 23 worried. I could see the pain in her face.
- 24 So it make me mad because I could see her and see what
- 25 was going on and he had her here.

DEFENDANT IN CAMERA

1 Q. Okay.

2 A. And I didn't know what the charge was at the particu-
3 lar time. I just tell him, you know -- I didn't want to
4 speak to you really so I basically tell him what he wanted
5 to hear so he would leave me alone. I wanted things to be
6 over with, you know.

7 So when he gave me the paper I'm not paying attention
8 to what I'm doing. I'm just going along so he will leave me
9 alone.

10 That's pretty much what happened.

11 Q. Was it an emotional situation?

12 A. At that particular time because my mom was there and I
13 hadn't been in that predicament.

14 Q. So you weren't really paying attention to what you were
15 doing?

16 A. No. I didn't look at nothing. He said sign, and I
17 signed.

18 MR. STROUD: One minute, Your Honor.

19 THE COURT: Okay.

20 MR. STROUD: No further questions, Your Honor.

21 THE COURT: Your witness, Solicitor.

22 CROSS EXAMINATION

23 BY SOLICITOR:

24 Q. All right, Mr. Williams, let's kind of go back to the
25 night you were arrested.

DEFENDANT IN CAMERA

- 1 A. Yes, sir.
- 2 Q. You remember Lieutenant Shumpert of the Investigation
3 Division over on Chestnut attempted to take a statement from
4 you?
- 5 A. Yes, sir.
- 6 Q. He advised you of your rights that night?
- 7 A. Yes, sir.
- 8 Q. And did you initial before each of those rights?
- 9 A. Yes, sir, I did.
- 10 Q. And did he threaten you at all to get you to talk to
11 him that night?
- 12 A. No, sir.
- 13 Q. Did he force you to talk to him?
- 14 A. No, sir.
- 15 Q. And you told him basically that you didn't have any-
16 thing to do with this, is that correct?
- 17 A. Yes, sir.
- 18 Q. And he got to the point of trying to get you to give a
19 statement, and you told him you wanted a lawyer?
- 20 A. That's right.
- 21 Q. And when you told him that you wanted a lawyer, what
22 did he do?
- 23 A. He walk out the room.
- 24 Q. All right, and where did you go?
- 25 A. I stayed in the room and Jerome came in.

DEFENDANT IN CAMERA

- 1 Q. Jerome came in the room?
- 2 A. Yes.
- 3 Q. Did you talk any more to Lieutenant Shumpert that night?
- 4 A. No.
- 5 Q. And they were taking you off to jail, is that correct?
- 6 A. Yes, sir.
- 7 Q. So he honored your rights that night when you told him
- 8 you wanted a lawyer?
- 9 A. Yes, sir.
- 10 Q. He didn't force you to talk to him, is that correct?
- 11 A. Yes, sir.
- 12 Q. Okay, and the following day you talked to your mom, is
- 13 that correct?
- 14 A. Yes.
- 15 Q. And that was at the jail, the Bamberg County Jail. Is
- 16 that right?
- 17 A. Yes.
- 18 Q. All right. Now, is it your testimony that you did not
- 19 tell your mom that you wanted to talk to Lieutenant Shumpert
- 20 and tell him what happened?
- 21 A. Yeah.
- 22 Q. That is not -- you did not tell her that?
- 23 A. I did not tell her that.
- 24 Q. But you say he showed up that day, is that correct?
- 25 A. Yes, sir.

DEFENDANT IN CAMERA

- 1 Q. And with your mother, is that correct?
- 2 A. Yes, sir.
- 3 Q. And another investigator?
- 4 A. Yes, sir.
- 5 Q. Obviously you trust your mother, is that correct?
- 6 A. Yes.
- 7 Q. And Lieutenant Shumpert came in, or you came into the
- 8 room, or we'll just say you all ended up in the same room.
- 9 Is that correct?
- 10 A. Yes, sir.
- 11 Q. All right, and do you remember Lieutenant Shumpert ask--
- 12 ing you before he got into taking your statement whether you
- 13 wanted to talk to him?
- 14 A. No, sir.
- 15 Q. He never asked you that?
- 16 A. Naw.
- 17 Q. Okay. Do you remember -- showing you statement number
- 18 two -- him going over all those rights with you again?
- 19 A. I saw the paper. If that's the rights. Yeah, I remem-
- 20 ber the paper.
- 21 Q. Are those initials by those rights?
- 22 A. Yes, sir.
- 23 Q. The same -- the exact same form they were on from the
- 24 night before, is that correct?
- 25 A. Yes, sir.

DEFENDANT IN CAMERA

- 1 Q. All right, and obviously the night before you told him
2 you wanted a lawyer and he stopped talking to you. Is that
3 correct?
- 4 A. Yes.
- 5 Q. And on the 26th, that's not what you told him. Is that
6 correct?
- 7 A. . . .
- 8 Q. You never told him you wanted a lawyer on the 26th?
- 9 A. He never asked me . . .
- 10 Q. But he went over the form?
- 11 A. Yeah.
- 12 Q. And you never told him you didn't want to talk to him
13 on the 26th?
- 14 A. Yeah, I tell him I didn't want to talk to him.
- 15 Q. You did tell him that?
- 16 A. I did tell him that.
- 17 Q. Was that before or after you gave him the statement?
- 18 A. When I came in that room it was the first thing I said,
19 was I don't want to talk to him.
- 20 Q. Okay. So your testimony is that he didn't stop talking
21 to you when you said that?
- 22 A. I said I didn't want to talk and my mother had come in.
- 23 Q. Say that again?
- 24 A. My mother come in and say to talk to him.
- 25 Q. Okay. Are you telling this Court that the night before

DEFENDANT IN CAMERA

1 he honored your rights, but the following day with your
2 mother present he didn't honor your rights, is that cor-
3 rect, or he violated your rights?

4 A. He continued to talk, and my mother tell me to talk to
5 him. He go over the paper.

6 Q. State's Exhibit Number 2 -- the front page of State's
7 Exhibit Number 2, is that your handwriting?

8 A. Yes, sir.

9 Q. You wrote that that day?

10 A. Yes, sir.

11 Q. Did he threaten you to get you to write that?

12 A. No, sir.

13 Q. Did he force you to write that?

14 A. No, sir. He just kept saying go ahead and then he said
15 everything I say was a lie, so I just told him what he had
16 wanted to hear to leave me alone.

17 Q. Okay. On page two, there are more questions and answers
18 on there, is that correct?

19 A. Yes, sir.

20 Q. But the questions are in Lieutenant Shumpert's handwrit-
21 ing?

22 A. Yes, sir.

23 Q. And the answer is your handwriting. Right?

24 A. Yes, sir.

25 Q. So when he asked you the question, did you ask to speak

DEFENDANT IN CAMERA

- 1 to me, what was your answer?
- 2 A. I answered yes to all them.
- 3 Q. Okay.
- 4 A. I just did what he wanted to shut him up at that parti-
5 cular time.
- 6 Q. Okay, so the reason you put that is you wanted him to
7 leave you alone?
- 8 A. Yeah, I was frustrated, and my mom was crying and I
9 started crying. That's why I did that.
- 10 Q. And then ultimately he gave you -- you didn't stop talk-
11 ing to him then, is that correct?
- 12 A. We was arguing.
- 13 Q. I show you State's Exhibit Number 3, and that is given
14 twenty or so minutes after this, is that correct?
- 15 A. I don't know how many minutes it was.
- 16 Q. It says two o'clock, and that's your handwriting, is
17 that correct?
- 18 A. Yes, sir.
- 19 Q. And it says one thirty-eight on this one, is that cor-
20 rect?
- 21 A. Yes, sir.
- 22 Q. And yet again, on State's Exhibit Number 3 that is all
23 -- other than Lieutenant Shumpert's signature, the whole
24 length of that is in your handwriting, is that correct?
- 25 A. Yes.

DEFENDANT IN CAMERA

- 1 Q. Did he force you to get you to write this?
- 2 A. Pretty much. He tell me what to write.
- 3 Q. So the rest of that you wrote, is that correct?
- 4 A. Yes.
- 5 Q. So he told you exactly what to say?
- 6 A. Yes. How to write it.
- 7 Q. He told you to put in here that you have high blood pres-
- 8 and an enlarged heart, and . .
- 9 A. Yes. He tell me what to put and I put that in there to
- 10 shut him up.
- 11 Q. Okay, so he told you to put that you have a cyst and
- 12 tumor on your right kidney.
- 13 A. Yes, I told him and he . .
- 14 Q. Lieutenant Shumpert told you to put all that in?
- 15 A. He say it might look good to get a reasonable bond. He
- 16 say the charge is serious but at the same time I could get a
- 17 bond.
- 18 Q. So he told you to say that you hit Mr. Harrison four or
- 19 five times?
- 20 A. Naw, he didn't tell me that. I tell him I didn't have
- 21 nothing to do with it. You know, at that particular time,
- 22 like I said, I told him -- everything I said in there I say,
- 23 you know what -- you say I did it, I did it.
- 24 Q. So that's the only reason you wrote that, because he
- 25 told you to say that?

DEFENDANT IN CAMERA

- 1 A. Yes, sir.
- 2 Q. But all of that is in your handwriting, is that correct?
- 3 A. Yes, sir.
- 4 Q. And, in fact, you never told him I don't want to talk
5 to you; I want a lawyer?
- 6 A. . .
- 7 Q. You never said that to him, did you?
- 8 A. If he ask me -- he never ask me or I would tell him
9 that.
- 10 Q. All these rights . .
- 11 A. I understand my rights like I tell you. He give me the
12 paper and went through it and I did that like he told me to
13 do.
- 14 Q. You admit this is all pretty serious. Right?
- 15 A. I know it's very serious.
- 16 Q. And you initialed all those rights just like you did on
17 the night before?
- 18 A. Yes, sir. When he came into that room, he tell me
19 about the charges. The day before I didn't know that, and
20 it was like I told you before.
- 21 SOLICITOR: That's all I have, Your Honor.
- 22 THE COURT: Anything on Redirect?
- 23 MR. STROUD: No, Your Honor.
- 24 THE COURT: You may step down.
- 25 (Defendant excused from stand)

1 THE COURT: Any further witnesses?

2 MR. WISE: No, Your Honor.

3 THE COURT: All right. May I have the statement?

4 MR. STROUD: Yes, sir.

5 (Brief pause in proceeding)

6 THE COURT: It is my belief that Mr. Ransom did receive
7 his Miranda Rights, and I think he understood those rights.

8 After reviewing the statements and listening to the
9 testimony, the statements were voluntary and they would be
10 admissible.

11 I will make a jury charge as to voluntariness.

12 MR. WISE: There is one other issue I think the Court
13 needs to rule on regarding his statements.

14 The only issue we really have about the statements is
15 whether or not they complied with the mandates of the Edwards
16 case.

17 THE COURT: With what?

18 MR. WISE: The Edwards case. Okay? If I may, Your
19 Honor, very briefly . . .

20 THE COURT: Sure.

21 MR. WISE: Your Honor, the facts as we understand them
22 are that there came a point after he was arrested that he
23 asked for a lawyer.

24 THE COURT: Okay.

25 MR. WISE: And Darius was in custody at the time that

1 he asked for a lawyer, and we all agree that Darius was in
2 fact not given a lawyer.

3 While he was still in custody he was approached by
4 Lieutenant Shumpert. The issue obviously is how that came
5 about, and the testimony from Ms. Williams is that Darius
6 did not ask to speak to Lieutenant Shumpert and he did not
7 want to speak to Lieutenant Shumpert. We know this.

8 The evidence is clear that Darius didn't call Lieutenant
9 Shumpert and Darius did not write Lieutenant Shumpert.

10 Ms. Williams testified that she -- that Darius told her
11 that he did not want to speak to Lieutenant Shumpert. So
12 the issue becomes what was that initial interaction, because
13 according to the evidence once a person asks for a lawyer
14 there isn't supposed to be any more police contact until the
15 person themselves initiates that.

16 Lieutenant Shumpert says that he asked Darius if he
17 wanted to speak to him and Darius said yes. Ms. Williams
18 said Darius said no.

19 Based on the evidence, I think the fact that there is
20 some -- the fact that it's not clear that Darius was the
21 person who initiated that contact, I think the statement
22 should be suppressed.

23 I called the Court's attention to the Edwards case, but
24 . . .

25 THE COURT: Do you happen to have that case with you?

1 MR. WISE: Actually I do have it.

2 (Brief pause in proceeding)

3 MR. WISE: I call the Court's attention to the language
4 where it says that additional safeguards are necessary when
5 an accused asked for counsel. The Court says if the accused
6 -- an accused who has expressed a desire to deal with the
7 police only through counsel is not subject to further inter-
8 rogation by the authorities until counsel has been made
9 available for him.

10 THE COURT: All right.

11 MR. WISE: Unless the accused himself initiates further
12 communication with police.

13 Now, the Court uses that reflected pronoun himself, and
14 what that means is that he has to do that himself, the ac-
15 cused, and somebody can't do it for him. He has to do it.

16 There is no provision in the law for somebody else to
17 do that for him, and I would submit to the Court that the
18 reason the Court ruled that way is that to hold otherwise
19 puts Darius in the position that he's in, and this is what
20 happened.

21 Darius has said, I don't want to talk to the police but
22 his mother wants him to talk to the police. I think that is
23 clear, and so his mother takes it upon herself to bring in
24 Lieutenant Shumpert, knowing that Lieutenant Shumpert will
25 make him talk, which is exactly what the law wants to protect

61

1 against. I submit to the Court that in my opinion that is
2 what this whole hearing has been about.

3 The State cannot do with someone's mother what it can-
4 not do directly. When Darius said --when a defendant says
5 he does not want to speak to the police, the law says that
6 is the end of it. Otherwise, this is what you get.

7 You have someone who goes to the police and says, my
8 son, my nephew, wants to speak, and what he's doing now is
9 he's interacting with the police, having already said I don't
10 want that.

11 That is why we get him a lawyer. He has already said,
12 I can't do it. I don't want to do it.

13 The interrogation is just like the one -- the interro-
14 gation in Edwards is just like this one, and the Court found
15 it improper, saying it was not at his suggestion or request.

16 Indeed, just like in Edwards, Darius said he did not
17 want to deal with the police.

18 The Shackford case -- I have that one also -- that is
19 along the same lines.

20 (Brief pause)

21 The Court says once a suspect indicates that he is not
22 capable of undergoing custodial interrogation without the
23 advice of counsel, any subsequent waiver that comes at the
24 authority's request and not at his -- not at the suspect's
25 instigation -- is itself a product of the inherently compelling

1 pressures that a naturally voluntary choice avoids.

2 The Court says, it is easy to believe a suspect may be
3 coerced or badgered into abandoning his earlier refusal to
4 be questioned without counsel.

5 If you look at the -- a couple of things about the case
6 here, Lieutenant Shumpert did a good job, doing the best he
7 could, but the Court would note that he was equivocal about
8 some things, and that is important in a case like this.

9 Lieutenant Shumpert couldn't say definitively whether
10 when he went to see Darius -- he couldn't say definitively
11 whether Darius wanted to speak to him or that his mother
12 wanted him to speak to him.

13 In other words, Lieutenant Shumpert couldn't say, no
14 doubt about it; I know that Darius -- this was at Darius'
15 request.

16 We know this -- the question I asked Lieutenant Shumpert
17 -- he'd say I misinterpreted it, but I will read the question
18 and the answer that he gave at the preliminary hearing.

19 You said -- did you say to him, you said you would speak
20 -- I asked him at the preliminary hearing, you said you would
21 -- did you say to him, you said you would speak with me, and
22 he answered the question, did you say to him, him being Darius,
23 you know, Darius, you asked for a lawyer so do you want a
24 lawyer right now. Did you ask him that, and he said, no.

25 So I would submit to the Court that in a motion like

1 this, where the issue is how this subsequent communication
2 came about, recognizing that the burden is on the State, if
3 it is not clear that Darius himself initiated the interroga-
4 tion, the Court should rule consistent with these authorities
5 that the statement isn't voluntary and suppress it.

6 That's the issue we have always been concerned about in
7 this case.

8 THE COURT: Anything else?

9 MR. WISE: No, Your Honor, that's it.

10 THE COURT: Yes, sir.

11 SOLICITOR: May it please the Court, Your Honor?

12 THE COURT: Yes, sir.

13 SOLICITOR: The first thing I want to say is that I
14 would agree in this case that in this case Mr. Ransom on Jan-
15 uary 25, 2011, requested a lawyer. At that point in time
16 Lieutenant Shumpert ceased examining him.

17 It would be our position, Your Honor, that the follow-
18 ing day that contact was re-initiated -- he re-initiated
19 contact with law enforcement through his mother, and that
20 there is something I would call Your Honor's attention to,
21 which is 704 Southeastern Second 71, which is In Re Tracy
22 Peak, which is a Family Court case dealing with a juvenile
23 charged with murder in Charleston County.

24 In that case they found where the juvenile had ini-
25 tially spoke to and asked for his lawyer, and then

1 subsequent to that his mother contacted law enforcement, in-
2 dicating that her son wished to speak to them.

3 I submit to you that is what happened in this case, and
4 we have a situation where you heard Lieutenant Shumpert's
5 testimony that Ms. Williams contacted him and told him her
6 son wished to speak to him.

7 He didn't even know where he was at that point in time
8 but for the mother saying he was at the Bamberg County Deten-
9 tion Center.

10 You also heard what I think is significant, that Lieu-
11 tenant Shumpert had indicated to her about her son had asked
12 for a lawyer and that was why he couldn't talk to him unless
13 he wants to talk to me, and she even admitted that he told
14 her that.

15 So you have an officer who has honored this Defendant's
16 rights the night before, and now we're supposed to believe
17 that in front of his mother the following day that he is sud-
18 denly going to start violating the Defendant's rights, which
19 doesn't make sense.

20 What makes sense is that he got over there at the re-
21 quest of his mother, who had said Mr. Williams or Mr. Ransom
22 wished to speak to him, and he then asked him were you in fact
23 the person who wanted to speak to me.

24 That is borne out by the statement that was given when
25 he went back and put that as one of the questions and answers

1 that were given with Mr. Ransom, that he was in fact the one
2 who wanted to speak to him.

3 At that point in time, Lieutenant Shumpert went back
4 over the advice of rights form like the form from the night
5 before, and he initialed those rights just like he did the
6 night before.

7 I think that would bear out the fact that Lieutenant
8 Shumpert was covering his bases and making sure that Mr.
9 Ransom was the person in fact who wanted to talk to him, and
10 he did in fact still understand his rights and did at this
11 point wish to waive those rights.

12 Also he gave two statements which are almost entirely
13 in Mr. Ransom's handwriting, so there is no indication that
14 he was forced or pressured, threatened or intimidated in any
15 way to give those statements subsequent to that.

16 So, Your Honor, that is the State's position, that while
17 Mr. Ransom did initially invoke his right to a lawyer, that
18 contact with law enforcement was re-initiated by Mr. Ransom's
19 mother, we submit, in behalf of him, and that is what was re-
20 lated to Lieutenant Shumpert, which is all he had to basic-
21 cally kind of work on, until he could get over there with
22 her to make contact with Mr. Ransom, and at that point in
23 time he did indicate to Lieutenant Shumpert not only orally
24 but in writing that he did wish to -- that he did ask to
25 speak to him and wished to talk to him.

1 Therefore, that would satisfy his constitutional rights
2 and would satisfy the Edwards case, Your Honor.

3 In this Court of Appeals case from South Carolina, they
4 do indicate in the oral summary that the third party can re-
5 intiate that contact for a Defendant, and that it does not
6 have to specifically come from the Defendant; that it can
7 come from a third party.

8 In that case, just like in this case, it was the Defen-
9 dant's mother that did make the re-initiation of contact with
10 law enforcement.

11 THE COURT: Do you have the South Carolina Opinion?

12 SOLICITOR: I have a copy of it.

13 (Brief pause in proceeding)

14 MR. WISE: Can I speak on the Tracy Beak case, Your Honor,
15 very briefly?

16 THE COURT: Yes.

17 MR. WISE: I think when the Court reads the case closely
18 there are two things that would distinguish it, I think, from
19 Darius' case.

20 The number one thing, and most important thing, is in
21 fact the juvenile in Tracy Beak wanted to speak to the police
22 ...

23 THE COURT: I'm sorry. Say that again.

24 MR. WISE: The juvenile in the Tracy Beak case wanted to
25 speak to the police. There is no indication that what happened

1 in Darius' case happened in that case, but I would tell the
2 Court that that case is going up before the State Supreme
3 Court.

4 That case draws a distinction with the Edwards case, and
5 it is just not borne out. It is correct that Court said it
6 could be re-initiated by a third party, but that is inconsis-
7 tent with how the Supreme Court has ruled in these situations.

8 THE COURT: All right.

9 MR. WISE: So my position is clear, I am not saying that
10 Lieutenant Shumpert when he went out to see Darius acted out
11 of -- you know, that he was trying to do something wrong, but
12 he was responding to Darius' mother.

13 Our position is that Darius' mother can't do that, and
14 when a defendant says I don't want to speak to the police, that
15 should be the end of it. That's why I think the Supreme Court
16 used those reflected pronouns, he's got to -- he's got to call
17 them. He's got the right.

18 THE COURT: It seems to me -- I haven't read these cases
19 and I'm going to, but it seems to me one reason Shumpert went ---
20 out there was because he knows Darius' mother.

21 And in a sense I think he was trying to help her out,
22 okay, and she was trying to get him, Darius, to make a state-
23 ment.

24 SOLICITOR: Yes, sir.

25 MR. WISE: Which is exactly what shouldn't happen. She

1 can't help her son. She can't put her son in the lion's
2 mouth. She can't do it.

3 THE COURT: Well, I understand she can't put her son
4 in the lion's mouth, and that is exactly the case.

5 Here we have a situation where I've got one person
6 essentially in a sense being helpful, and then it comes
7 back and bites him.

8 MR. WISE: Not at all. Here's what happened -- just
9 like I asked Lieutenant Shumpert at the preliminary hearing
10 and he said, you get out of there and get him a lawyer.

11 But we don't have that here. That's the easiest way
12 when he asked for a lawyer, and he didn't get a call from
13 Darius, he didn't get a letter from Darius waiving it, so
14 we don't have this situation.

15 He says he wants to get a lawyer and he can call me
16 on the phone. He knows our office. Call and ask for a
17 lawyer. His mother says he wants to speak to me. Then
18 we go out and we go from there.

19 THE COURT: All right.

20 SOLICITOR: I would call to the Court's attention
21 that Lieutenant Shumpert testified that his first concern
22 was that he make sure he was the one who wanted to talk
23 to him.

24 I mean, if he wasn't then it would have ended.

25 THE COURT: I understand and I've got a statement

1 that's in his handwriting that says did you ask to speak to
2 me, and he answered yes.

3 I understand his testimony was not that that wasn't the
4 truth.

5 MR. WISE: No, but, see, Your Honor, in my opinion it's
6 not so much that I don't think he wrote that. The problem
7 is that what the Courts don't want to do is put the --
8 it is exactly what the Courts say -- we don't want to put
9 Defendants like Darius in the position when being asked by
10 Lieutenant Shumpert do you want to speak with me because
11 he said, I don't want to speak to you.

12 For him to say do you want to speak to me is inconsis-
13 tent with what I think the Supreme Court says should hap-
14 pen. He should not have to say -- when he doesn't call
15 him -- he doesn't do it -- he shouldn't have to say, no,
16 I don't want to speak with you, because that's what happened.

17 If he wanted to speak to him, he would have called
18 him. We need to realize that.

19 THE COURT: Lieutenant Shumpert could have been un-
20 der the misapprehension -- if Lieutenant Shumpert was
21 under the misapprehension that his mother had talked to
22 him and he wanted to speak with him.

23 MR. WISE: Absolutely.

24 THE COURT: Okay, and if he was under that misappre-
25 hension then he would clearly have wanted to ask him to

1 clear up whether or not he wanted to speak to him. Is
2 that is correct?

3 MR. WISE: That is what he -- he should not do that.
4 He should not -- Lieutenant Shumpert shouldn't be the one
5 clearing up the misapprehension.

6 If he doesn't call or doesn't initiate it, I should
7 clear up the misapprehension; the lawyer that he asked
8 for should clear up the misapprehension, not Lieutenant
9 Shumpert.

10 He has already said, I don't want to talk to Lieuten-
11 ant Shumpert; I want a lawyer.

12 THE COURT: All right. All right. Let me read the
13 cases. Do you all want to wait around or do you want to
14 talk to your lawyer? I just want to read them so if you
15 all hang out ten or fifteen minutes, or it may take thirty
16 or forty minutes. We might want to continue in the morning.

17 So why don't we -- let me ask, is there anything else
18 I need to take care of?

19 MR. WISE: I don't have anything else.

20 SOLICITOR: We may have some pre-trial matters but
21 the rest of it is pretty cut and dry.

22 THE COURT: Let me just see you all in the morning.

23 (Court took brief recess, after which the matter was
24 resumed on July 17, 2012)

25 THE COURT: Okay, this is the case of State versus

71

1 Darius Ransom, Indictments 2012 GS 38 014 and 0124.

2 Yesterday evening at the close of the first day back.
3 from my vacation, I was greeted with this case and a
4 couple of motions, and one motion in particular that was
5 well argued by counsel, and I was presented with a number
6 of cases that gave me something to do for the evening.

7 As a result of listening to arguments of counsel and
8 reviewing the case law that was provided to me, I am
9 going to note a couple of things for the record.

10 I had a number of people testify yesterday. Lieuten-
11 ant Shumpert, the mother of the Defendant, and the Defen-
12 dant also testified.

13 As a result of that, I have three exhibits that were
14 statements that were handed up that were issues.

15 One being under Jackson v. Deno, but mostly under the
16 issue of who could initiate further conversations with
17 the Defendant after he had given a statement to the police
18 that he wished to have counsel.

19 Since there was testimony, it involved a certain
20 amount of credibility or believability that was placed in
21 my hands to determine whether or not I could believe some
22 of the testimony. Okay?

23 After listening to the testimony and reviewing the
24 statements, the Court makes the finding that there was no
25 police-initiated interrogation in this matter.

1 The subsequent interrogation on July 26th was ini-
2 tiated by the mother. It was, under the totality of the
3 circumstances, affirmed and voluntarily reopened by dia-
4 logue with the Defendant.

5 The Defendant understood, and freely, knowingly, in-
6 telligently and voluntarily relinquished his right to
7 counsel.

8 This is particularly true in the light of the fact
9 that he knew the day before that he could reaffirm his
10 request for counsel and knew that further interrogation
11 would stop at that time.

12 So I will -- as mentioned yesterday, I find that the
13 statements that he made -- I find that he received his
14 Miranda Rights; that he understood those rights; that he
15 voluntarily made the statements.

16 They are admissible and I will additionally charge
17 the jury that they must consider the issue of voluntari-
18 ness.

19 To preserve the record, I'm going to note your ob-
20 jection, Mr. Wise, so that will be preserved on the record.

21 Thank you very much.

22 MR. WISE: Could I ask for five minutes so I can have
23 a discussion with my client.

24 THE COURT: Sure.

25 (Whereupon, the Court took a brief recess, after which

1 the matter was continued with the jury panel present)

2 THE COURT: Do you swear or affirm that you will pro-
3 vide truthful and complete responses and answers in this
4 jury qualification process?

5 If you accept this oath, please indicated by saying I
6 do.

7 (Answers heard of I do)

8 If you said I do, then you can sit down. Everybody
9 is sitting down. All right.

10 (Whereupon, the general qualification of jurors was
11 conducted by the Court)

12

13 (TRANSCRIPTION NOTE: Tape 3 from July 17, 2012, was
14 not in the record of this case which was packaged by the
15 Court Reporter and sent to Court Administration)

16 (The transcription will pick up from this point to
17 the beginning of tape four)

18

19

20

21

22

23

24

25

74

1 THE COURT: I think the issue is I have to have a
2 race neutral reason.

3 MR. WISE: All right, so if I'm not striking someone
4 because they're a white male or because they're a black
5 male, and none of them are young or old, . . .

6 THE COURT: Okay, I just have to have a race neutral
7 reason. We're going to re-strike the jury, and I don't
8 need to hear any more.

9 You're fine, and we're going to re-strike the jury.

10 All right. We'll resume in twenty minutes.

11 SOLICITOR: Your Honor, I've got one other issue too
12 that I'd like to call to your attention.

13 THE COURT: Okay.

14 SOLICITOR: One of the jurors -- I can't tell you
15 exactly which one it was, but one of the jurors tried to
16 contact -- I'd like Ms. Ravenel to address it. I'd just
17 ask her to relate what she related to us.

18 THE COURT: Lieutenant Ravenel.

19 LT. RAVENEL: Your Honor, I observed one of the jurors
20 try to make contact with the mother back here.

21 THE COURT: Do you know which juror?

22 LT. RAVENEL: Not by name but I can pick her out.

23 THE COURT: Thank you. I need to talk to her, so if
24 you would do that. Okay.

25 (The Court speaking with juror)

1 THE COURT: Do you know Ms. Janet Williams?
2 JUROR: I don't know her.
3 THE COURT: You don't?
4 JUROR: No, sir.
5 THE COURT: The lady in the very back of the room
6 with the rose in her hair. Do you know her?
7 JUROR: I've seen her on the job. I know her to
8 speak to her.
9 THE COURT: Okay. Thank you, ma'am. I appreciate it.
10 What I will do is bring the jury panel back in here
11 which will take about -- how many minutes?
12 (Colloquy at the bench between counsel and the Court
13 off the record.
14 THE COURT: Bring the jury panel in.
15 (Jury panel brought into Courtroom)
16 THE COURT: I need to tell you that we've had what
17 I would refer to as a technical glitch, and so we have to
18 do this all over. This time we're going to do it right.
19 Madam Clerk?
20 (Whereupon, another jury was selected as follows:
21 Juror 14, seated
22 JUROR 164, seated
23 Juror 57, excused by the Defense
24 Juror 106, seated
25 Juror 116, excused by the Defense

1 Juror 47, seated
2 Juror 1, seated
3 Juror 181, excused by Defense
4 Juror 119, excused by Defense
5 Juror 147, seated
6 Juror 24, excused by Defendant
7 Juror 49, excused by the State
8 Juror 63, seated
9 Juror 105, excused by Defense
10 Juror 185, excused by Defense
11 Juror 52, excused by State
12 Juror 61, excused by State
13 Juror 6, excused by the Defense
14 Juror 16, seated
15 Juror 184, excused by Defense
16 Juror 113, seated
17 Juror 97, excused by State
18 Juror 121, excused by State
19 Juror 96, seated
20 Juror 55, seated
21 Juror 3, excused by Defense
22 Juror 111, seated)
23 THE COURT: All right, pick our first alternate.
24 (Alternate juror seated was Juror Number 2)
25 THE COURT: Pick our second alternate.

1 (Alternate juror seated was Juror Number 169)

2 THE COURT: All right. Anything from the State re-
3 garding jury selection?

4 SOLICITOR: Beg the Court's indulgence?

5 THE COURT: Surely.

6 SOLICITOR: Nothing from the State.

7 THE COURT: Anything from Defense regarding jury se-
8 lection?

9 MR. STROUD: No, Your Honor.

10 THE COURT: All right, ladies and gentlemen who didn't
11 get picked, I see the disappointed looks on your faces,
12 and you all are now excused from jury service this week.

13 (Juror panel members not selected excused by the
14 Court)

15 THE COURT: Can I see you all for a moment?

16 (Colloquy at the bench between counsel and the Court off
17 the record)

18 THE COURT: Thank you all for being willing to serve,
19 ladies and gentlemen.

20 Now, my stomach is telling me it's lunch time, so we
21 are going to take a break for lunch. I need to tell you
22 all a couple of things before I let you leave for lunch.

23 The first thing is something I'm going to repeat
24 over and over through the trial, that you do not talk to
25 anyone about this trial. You can't even talk among

78

1 yourselves about the trial at this time.

2 Now, the reason you can't talk to anybody else is
3 because you are the only people who will hear the testi-
4 mony in this case and you are the only ones who will de-
5 termine what the facts are from what you hear in this
6 Courtroom.

7 The reason you can't talk among yourselves is that
8 right now you don't know anything about the case.

9 So when we take breaks after we start hearing testi-
10 mony you are not allowed to start talking about that tes-
11 timony because we don't want you to talk about it until
12 you have heard everything.

13 I don't know that this is going to be a particularly
14 long case, but I'm going to remind you all over and over
15 that you cannot talk even among yourselves about the tes-
16 timony you heard in this case until the end of the case
17 when I tell you to begin your deliberations.

18 Again, everything you are going to need to know about
19 this case you will hear from this witness stand. One
20 of the things people have gotten very comfortable in doing
21 is checking things on the Internet and such as that, doing
22 your own investigation, riding by the scene of wherever
23 this occurred, but you are not to do any of that.

24 You are not to do any investigation, and if there
25 are any articles in the paper about this you do not

1 read them.

2 So that's the basic ground rule. Now, I will let
3 you go for lunch, and when you come back -- and I need
4 you all to be back here at two fifteen -- when you get
5 back go into the jury room, and I'm going to let you pick
6 a Foreperson.

7 The Foreperson will sit right there, and the Foreper-
8 son's job when you begin deliberations is to make sure
9 that everyone has their say in the discussions in the
10 jury room.

11 If there are any questions, and I'm sure there will
12 be none -- if there are questions when you actually begin
13 deliberations, they will write those out and send them
14 out to the Court.

15 Finally, the Foreperson will fill out the verdict
16 form.

17 Now, take a break and go for lunch. I'm giving you
18 a little extra time in case you have to make any phone
19 calls.

20 If you tell anyone you have been picked for jury
21 duty they will want to talk to you about it, but you can-
22 not talk to them about it.

23 Again, go to lunch and come back to the jury room when
24 you get back.

25 Thank you.

1 (Jury excused for the lunch break)

2 THE COURT: We'll be back at two fifteen and be ready
3 to go. Thank you.

4 (The Court stood in recess for the lunch break)

5 THE COURT: State ready to proceed?

6 SOLICITOR: Yes, sir.

7 THE COURT: Defense ready to proceed?

8 MR. STROUD: Yes, sir.

9 THE COURT: Just so you all will know, Ms. Renee
10 Pritchard is the Forelady of this jury. She's Juror Num-
11 ber 147.

12 Please bring the jury on in.

13 (Jury returned to Courtroom)

14 THE COURT: We're getting ready to start the trial,
15 but before we start the trial, since you all are now of-
16 ficially the jury, you have to be sworn in as jurors.

17 So I would ask you all to stand and raise our right
18 hands, please, and be sworn.

19 (Whereupon, the jury was sworn by the Clerk of
20 Court)

21 THE COURT: You all may be seated. I appreciate it,
22 ladies and gentlemen.

23 As I told you when the Solicitor called the case,
24 this is the State of South Carolina versus Darius Ransom.
25 You met Mr. Ransom and his attorneys who represent him a

81

1 little bit earlier.

2 Mr. Ransom has been indicted for the crimes of at-
3 tempted murder and burglary first. He has pled not
4 guilty to those charges, and the elements of these crimes I
5 will explain to you at the conclusion of the case.

6 What I'm going to do now is just tell you some of
7 the things -- if you've never been involved in a criminal
8 trial I want to give you some idea of what will go on.

9 The Indictments are simply the charge by which this
10 case has been brought to Court. It is not in any sense
11 evidence of any of the allegations. The Defendant has pled
12 not guilty, and the State therefore has the burden of
13 proving each of the elements of the Indictments beyond a
14 reasonable doubt.

15 That's a phrase you all are going to hear a good
16 bit, and it will be your job, ladies and gentlemen, to
17 decide whether or not the State has met that burden.

18 Your job is to find and determine the facts. You
19 are the sole judges of the facts. If at any time during
20 this trial I make any comment regarding the facts, I am
21 ordering you now to disregard that comment. You will de-
22 termine the facts from the testimony you will hear in the
23 case and any other evidence that is introduced in the
24 Court.

25 It is up to you to determine the inferences which

1 you feel may properly be drawn from that testimony and
2 evidence.

3 It is especially important that you perform your duty
4 of determining the facts diligently and conscientiously
5 because ordinarily there is no way to correct an errone-
6 ous determination of facts by a jury.

7 The law that makes you the judges of the facts makes
8 me the judge of the law. The law as given to you by me
9 is the only law that you may consider.

10 You must accept and follow that law even though you
11 may disagree with it. I cannot tell you what the facts
12 are, and you cannot disagree with me about what the law
13 is or what it should be.

14 Your job is to take the law as I give it to you and
15 apply it to the facts as you find them from the testimony
16 of the witnesses and any other evidence that is intro-
17 duced. After doing that, you will render your verdict, a
18 true and just verdict under the solemn oath that you just
19 took as jurors.

20 As I told you earlier, until I advise you to begin
21 your deliberations, you cannot discuss this case with
22 anyone, including your fellow jurors. You cannot discuss
23 it with family members when you go home or friends or
24 anyone that is involved in this case, and certainly not
25 anyone who is not involved in this case.

1 After the case is submitted to you, you must discuss
2 it only in the jury room among your fellow jurors.

3 I have advised the attorneys that during this action
4 they are not to talk to you at all, so if you see them in
5 the hallway and they don't speak they are not being un-
6 friendly. Everybody here in the south will speak and
7 say hello, but they can't do that. Okay? They are just
8 following my directions.

9 Also, as I told you, do not read, listen to or watch
10 any news reports about this case. I don't know that --
11 I don't see anybody from the newspaper here, and we don't
12 have any cameras in the Courtroom, so the likelihood of
13 it being on TV is slim, but if there was anything in the
14 paper about this you aren't to read about it or listen to
15 it.

16 Everything that you will need to make your decision
17 about the facts in this case you will hear and see in the
18 Courtroom.

19 And as I told you earlier, you are not to investigate
20 anything about this case. Again, everything you need to
21 know you will get here in the Courtroom.

22 It is important that you keep an open mind and not
23 decide any issue in this case
24 until all the evidence in the case has been presented,
25 the parties have made their closing arguments, and I've

1 instructed you about the law of this case.

2 It is your solemn responsibility as jurors to deter-
3 mine the guilt or innocence of this Defendant, and your
4 verdict must be based solely on the evidence as it is
5 presented to you in this trial and on the law as I in-
6 struct you at the close of the trial.

7 In a moment, the Solicitor is going to make an open-
8 ing statement in which he will explain to you the issues
9 that he believes are going to be proven in this case.
10 The attorney for the Defendant will give an opening state-
11 ment following that statement by the Solicitor.

12 What the attorneys tell you in their opening state-
13 ments are not evidence. It is only their contention of
14 what the issues are.

15 The evidence in this case will be presented to you
16 by the testimony of sworn witnesses who will take the
17 stand right in front of you. The witness stand is closer
18 to you so that you all can watch the witnesses and hear
19 hopefully everything the witnesses say.

20 The evidence will also be presented by any exhibits
21 that may be introduced during the trial.

22 During the trial, we may have times during the trial
23 when the attorneys approach the bench or a matter comes up
24 when I need to excuse you from the Courtroom. The reason
25 for that is because when I discuss a matter of law with

1 the attorneys I have to get into a discussion of the facts,
2 and since my comments about the facts are not to influ-
3 ence you at all, you all will be excused from the Court-
4 room while we have these discussions.

5 As I've told you before, you are the only people
6 who can decide the facts of this case, and I don't want
7 you to be influenced by anyone else, including me, when
8 you make your determination about the facts.

9 In determining what the facts are in this case, you
10 must decide whether the testimony of a witness is believ-
11 able. It is my responsibility to rule as a matter of
12 law as to whether certain testimony is admissible, but
13 once the testimony is admitted, whether or not you believe
14 it is solely for you to determine.

15 In deciding whether to believe a witness, you have a
16 right to consider the interest of any witness, the bias
17 of any witness, the prejudice of any witness, the oppor-
18 tunity for the witness to have seen the matters and the
19 things about which the witness testifies, and the way the
20 witness acts on the witness stand.

21 You have a right to consider anything that is in the
22 record that will help you evaluate the testimony of these
23 witnesses. That means then it is your duty to pay close
24 attention to them, observe them and listen to them.

25 Please give strict attention to the testimony in the

1 case so that at the end of all the testimony, the arguments
2 of counsel, after I have charged you on the law, you will
3 be in a position to determine what the facts are and apply
4 the law to these facts, and thus render a true and a just
5 verdict.

6 Mr. Sorenson, you are recognized.

7 SOLICITOR: Thank you, Your Honor. May it please the
8 Court?

9 THE COURT: Yes, sir.

10 SOLICITOR: Good afternoon, Madam Foreman and ladies
11 and gentlemen of the jury.

12 Back on the evening of July 25th of 2011, last year,
13 sixty-one year old George Harrison, who is seated on the
14 front row here, was returning home that night at seven
15 o'clock in the evening. It was still daylight out, and
16 he came in through his front door on (inaudible) Avenue
17 here in Orangeburg County.

18 He encountered a man with a stick in his hand who de-
19 manded money. When he had taken about twenty Dollars and
20 a cell phone from Mr. Harrison, he proceed to beat him.

21 You will hear how he was able to eventually make it
22 down to a neighbor who went about getting help to transport
23 him to the hospital. You will hear about the injuries
24 that Mr. Harrison suffered. You will hear about more trag-
25 edy. Not only did he have Twenty Dollars and a cell

1 phone taken from him that night, but he took the security
2 each and everyone of us should have within the walls of
3 our own homes. That man is never going to get that back.
4 It's something he's never going to get back.

5 The evidence is going to show you that the person
6 responsible for assaulting George Harrison, for breaking
7 into his home, stealing his security from him, is sitting
8 right there, Darius Ransom. That man right there.

9 This happened right here in Orangeburg County on July
10 25, 2011, and that man is guilty of burglary in the first
11 degree and attempted murder. It is the burden of the
12 State through me to prove to you beyond a reasonable doubt
13 that that man is guilty of those charges before you can
14 find him guilty. That is what we will do over the next
15 couple of days by the testimony and the evidence that we
16 present to you.

17 This is not a particularly complicated matter, and
18 the Judge will tell you about the law that you should apply
19 to the facts as you find them, but I will give you the ele-
20 ments of those charges.

21 Mr. Ransom is charged with burglary in the first de-
22 gree, which is when somebody goes into someone else's
23 home without their consent and with an intent to commit a
24 crime and while armed with a deadly weapon.

25 In this case, we are alleging he was armed with a

1 stick which was an axe handle, and that is what Mr.
2 Harrison was beaten with. Darius Ransom was armed with
3 an axe handle and he assaulted and injured Mr. Harrison
4 when he entered his home without permission and with in-
5 tent to commit a crime therein. That is burglary in the
6 first degree.

7 He is also charged with attempted murder. Attempted
8 murder is when you attempt to kill somebody. When you have
9 malice in your heart when you assault them.

10 You will hear from Mr. Harrison how Mr. Ransom had de-
11 manded money from him and took Twenty Dollars and a cell
12 phone from him; then he began to pound on him with the
13 axe handle. He hit him over and over and over again. He
14 had a fractured jaw in a couple of places, his skull was
15 fractured, causing bleeding on his brain; was caused to
16 be in the hospital for some fifty days before he got out.
17 That's attempted murder.

18 The burden in criminal court is on the State, on the
19 Solicitor, and we will prove to you beyond a reasonable
20 doubt, beyond any doubt in this case, so that when you go
21 back to your jury room you will find him guilty of both
22 charges.

23 When you go back to your jury room, you will have the
24 first opportunity to start talking about the case, and if
25 you find there is a possibility he is not guilty, under

1 your oath you must find him not guilty.

2 Mr. Wise or Mr. Stroud will now have an opportunity
3 to speak to you in their opening statement on behalf of
4 Darius Ransom.

5 When you go back to your jury room and close that
6 door, I ask that you carefully consider the testimony
7 and evidence that has been presented. Mr. Harrison got
8 home that night and walked in through his front door, and
9 this man was there in front of him. Mr. Harrison gave him
10 the Twenty Dollars he had in his pocket and his cell phone,
11 after which the man started hitting him, started hitting
12 him in the head and his face, knocked him to the ground,
13 kept hitting him.

14 After the man was gone, he tried to get out of his
15 front door, and there was blood left out on his front porch
16 as he attempted to go to a neighbor to help him, who got
17 him to the hospital.

18 It was recognized that the man was somebody who had
19 been seen hanging around in the neighborhood. (Portion
20 inaudible on tape)

21 Mr. Harrison was taken to a hospital in Orangeburg
22 I believe initially and then he was taken immediately to
23 Palmetto Richland where he spent a month and a half. He
24 had an operation on his face and treatment for bleeding
25 on his brain, fractures to his head.

1 Mr. Harrison will tell you about it today, and you
2 will also hear from law enforcement who investigated the
3 matter. (Portion inaudible on tape)

4 He was taken to the Sheriff's Office and questioned
5 that night. He told Lieutenant Shumpert that night that
6 he didn't have anything to do with it; he didn't want to
7 talk to him any more.

8 You will hear that the following day Lieutenant
9 Shumpert was contacted by Darius' mother who said her son
10 wanted to talk to him now, and he learned he was now
11 being held at the Bamberg County Jail. Lieutenant Shumpert
12 went over there that next day, July 26, 2011, and Darius
13 gave him a statement that you will hear about.

14 You will hear that the statements are in his hand-
15 writing, Darius Ransom's handwriting, during his interview
16 with Lieutenant Shumpert. He said Mr. Harrison was beaten
17 four or five times.

18 You're also going to hear how the following day, July
19 27, 2011, an officer of the Orangeburg County Sheriff's
20 Office came back on duty and (portion inaudible).

21 THE COURT: All right, Mr. Stroud.

22 MR. STROUD: Thank you, Your Honor. May it please
23 the Court?

24 THE COURT: Yes, sir.

25 MR. STROUD: Ladies and gentlemen of the jury, Madam

1 Forelady, if it were that simple we wouldn't have to be
2 here. Okay?

3 The only thing I'm going to tell you, as the Judge
4 is going to talk about later -- the only thing I am going
5 to tell you at this point is that Darius is presumed in-
6 nocent of the charges against him in this case.

7 What does that mean in real life? What does that
8 mean as we sit here?

9 What it means is this, that what the State has said
10 is not facts. As we sit here, Darius has done nothing.
11 What the State has said is not evidence.

12 When I am done, the State is going to begin to call
13 witnesses, and it will be your job, as the Judge has in-
14 dicated, to listen and to weigh the testimony.

15 At the end of the testimony, the Judge will give you
16 the law that you have to apply, and he is going to tell
17 you that you have to be convinced that the facts -- that
18 the facts have proven each element beyond a reasonable
19 doubt, and that is what is important in this case.

20 The problem in this case is this. The State is going
21 to ask you to assume some things, and we'll deal with what
22 those assumptions are as we go along.

23 But based on those assumptions, the State is going
24 to ask you to convict Darius. I submit that you should
25 not assume any facts. Your decision should be based on

1 facts that are proven in this case from that witness
2 stand.

3 I submit to you that in stripping away the things the
4 State has asked you to assume and focus on the things or
5 facts that are proven, facts that witnesses testify to,
6 you will find that those facts fail to prove that Darius
7 committed these crimes.

8 At that point, having focused on the facts, they
9 will not have proven that he committed the burglary --
10 they're saying he was the guy who went into the house and
11 beat Mr. Harrison and that he was trying to kill him --
12 and if they have not proven that, it will be your duty to
13 find him not guilty of these crimes.

14 Thank you.

15 THE COURT: State may call its first witness.

16 SOLICITOR: Yes, sir. The State calls George
17 Harrison.

18 GEORGE HARRISON, being duly
19 sworn, testified as follows:

20 CLERK: Thank you, sir. Would you state your name
21 for the record?

22 WITNESS: George Harrison.

23 DIRECT EXAMINATION

24 BY SOLICITOR:

25 Q. Good afternoon, Mr. Harrison.

G. HARRISON ON DIRECT

- 1 A. Good afternoon.
- 2 Q. Please be sure to keep your voice up nice and loud
- 3 for us because all fourteen of those jurors need to hear
- 4 you. Okay?
- 5 A. All right.
- 6 Q. Tell the jury, if you would, how old you are, Mr.
- 7 Harrison?
- 8 A. I'm sixty-two now.
- 9 Q. Sixty-two now?
- 10 A. Yes, sir.
- 11 Q. When is your birthday?
- 12 A. May 13th.
- 13 Q. May 13th?
- 14 A. Correct.
- 15 Q. And about how tall are you, Mr. Harrison?
- 16 A. I'm five nine.
- 17 Q. And back last summer, back before this happened, about
- 18 how much did you weigh back then?
- 19 A. One thirty.
- 20 Q. How much?
- 21 A. About one thirty.
- 22 Q. About one thirty. Back in July of last year, where
- 23 were you living at that time?
- 24 A. At 1212 A Golf Avenue.
- 25 Q. Is that in Orangeburg County?

G. HARRISON ON DIRECT

1 A. Right.

2 Q. And how long had you lived at the residence?

3 A. About eight years.

4 Q. Did you live by yourself or with anybody?

5 A. No, I live by myself.

6 Q. Okay. Let me show you State's Exhibits 5, 6 and 7.

7 Do you recognize those photographs, Mr. Harrison?

8 A. Yes.

9 Q. What is that photographs of?

10 A. At 1212 A Golf Avenue.

11 Q. And who was living there back in July of last year?

12 A. I was.

13 SOLICITOR: Your Honor, I would move 5, 6 and 7 in
14 evidence, Your Honor.

15 MR. WISE: No objection.

16 THE COURT: All right, State's 5, 6 and 7 are ad-
17 mitted into evidence.

18 (State's 5, 6 and 7, photographs, admitted without
19 objection in evidence)

20 BY SOLICITOR:

21 Q. That's where you were living last July?

22 A. Right.

23 Q. Showing you State's Exhibit Number 7, what is that
24 a picture of?

25 A. The back of the house.

G. HARRISON ON DIRECT

- 1 Q. The back . . .
- 2 A. The back of the trailer.
- 3 Q. The back of your trailer?
- 4 A. Right.
- 5 Q. Is that the door to walk in the back of the trailer?
- 6 A. Right.
- 7 Q. Is that a door that you use?
- 8 A. No.
- 9 Q. Now, that trailer at 1212 A Golf -- were there any
- 10 other trailers that were kind of next to it at that ad-
- 11 dress?
- 12 A. Two of them.
- 13 Q. So three trailers were there?
- 14 A. Yes, sir.
- 15 Q. All right, Mr. Harrison. I want to turn your atten-
- 16 tion back to the night that you got assaulted. Okay?
- 17 A. Yes.
- 18 Q. Tell the jury on July 25, 2011, what you had gone to
- 19 do that evening?
- 20 A. I went to the neighborhood store and got two beers,
- 21 and I came back and had the door locked, and I opened the
- 22 door and I saw (inaudible).
- 23 And I looked up and saw a stick, and by that time
- 24 I still had my hand on the doorknob, and he grabbed me and
- 25 pulled me, hit me, and then I fell on the floor.

G. HARRISON ON DIRECT

1 Then I give him my money and my wallet -- no, I didn't
2 have my wallet -- I give him my money and my . . .

3 Q. Be sure to keep your voice up. Okay?

4 A. My money and the phone.

5 REPORTER: Excuse me. I'm having trouble hearing
6 you. (Adjusting microphone)

7 BY SOLICITOR:

8 Q. All right.

9 A. I came back to the house and brought two beers, and
10 I turned the doorknob and I saw a person with a small body
11 and I said, I'm not dreaming -- I thought I was dreaming
12 at first.

13 And he started telling me he wanted my money, and I
14 had Twenty Dollars and my phone, and so he took it and I
15 had fall in the floor. I try to get up and I . . .

16 Q. Let me stop you right there, Mr. Harrison, and
17 show you State's Exhibits Number 13, 14 and 15. Is that
18 your living area . . .

19 A. Right.

20 Q. . . . inside your front door?

21 A. Yes.

22 Q. Is that where all of this was taking place?

23 A. Yeah.

24 SOLICITOR: Your Honor, at this time I'd offer State's
25 Exhibits 13, 14 and 15.

G. HARRISON ON DIRECT

1 THE COURT: Any objection?

2 MR. WISE: No objection, Your Honor.

3 THE COURT: Admitted without objection, State's 13,
4 14 and 15.

5 (Photos of Harrison home admitted without objection
6 as State's Exhibits 13, 14 and 15)

7 BY SOLICITOR:

8 Q. You testified that you had fallen to the floor?

9 A. Right.

10 Q. Is that the area where you had fallen?

11 A. Exactly.

12 Q. Did you struggle with the person?

13 A. No, I struggle to get out.

14 Q. Were you able to get out?

15 A. No.

16 Q. Tell the jury what happened then, Mr. Harrison.

17 A. I tell you, I went to my neighbor house and that's
18 about it. After it happened, I didn't know what happened.

19 Q. Let me back up. We'll get to that in a second.

20 Let me take you back to the actual assault that was
21 going on, Mr. Harrison. Could you describe to the jury
22 the person that was assaulting you?

23 A. Yes.

24 Q. Please describe him for us, please.

25 A. Tall, slim, and I had seen him before.

98

G. HARRISON ON DIRECT

1 Q. Okay.

2 A. And after he hit me, the mask slipped and I knew
3 it was him.

4 Q. Where had you seen that person before?

5 A. In the next door neighbor house.

6 Q. And that's one of the trailers that's right there?

7 A. Right.

8 Q. And how often had you seen that person over at that
9 trailer?

10 A. Off and on. I'm not sure about that.

11 Q. All right. Let me ask you, is that person -- you
12 said you recognized his face when the mask fell down, and
13 what color was the mask?

14 A. It was red and white.

15 Q. Red and white?

16 A. Yes. Red with white polka dots.

17 Q. Red with white polka dots?

18 A. Right.

19 Q. The person who you recognized from seeing him at
20 your neighbor's house, did you know his name back in
21 July of last year?

22 A. No, I didn't know his name.

23 Q. Lastly, Mr. Harrison, the person that you recognized,
24 do you see him here in the Courtroom?

25 A. Yes.

G. HARRISON ON DIRECT

- 1 Q. Would you point him out to the jury?
- 2 A. Right there.
- 3 Q. The person in the jacket at the defense table?
- 4 A. Right.
- 5 Q. Is there any doubt in your mind that that's him?
- 6 A. Not a doubt.
- 7 Q. You have any idea, Mr. Harrison, how many times you
- 8 got hit with that stick?
- 9 A. Forty or fifty.
- 10 Q. How much?
- 11 A. Forty to fifty.
- 12 Q. Forty to fifty?
- 13 A. Right.
- 14 Q. And where were you struck?
- 15 A. In the head.
- 16 Q. Do you know what kind of stick it was?
- 17 A. Axe handle.
- 18 Q. Okay, and was that axe handle something that was in
- 19 your house?
- 20 A. . .
- 21 Q. Do you know?
- 22 A. I think so.
- 23 Q. You think it came from your house?
- 24 A. Right.
- 25 Q. Showing you State's Exhibit Number 16, is that a

G. HARRISON ON DIRECT

1 . . .

2 A. That's it.

3 Q. That's it?

4 A. Uh huh.

5 SOLICITOR: At this time, Your Honor, I would move
6 State's Exhibit 16 in evidence.

7 MR. WISE: No objection.

8 THE COURT: State's Exhibit 16 in evidence without
9 objection.

10 (Axe handle/^{photograph}admitted in evidence without objection
11 as State's Exhibit 16)

12 BY SOLICITOR:

13 Q. And that axe handle there, where was it in your
14 house?

15 A. Kept in the bedroom.

16 Q. The bedroom -- is that near the front door?

17 A. No.

18 Q. Do you know how that axe handle got into your living
19 room of your house?

20 A. No.

21 Q. Was it in the living room when you left the house?

22 A. No, it was not in there.

23 Q. Now, the Defendant that you identified as being the
24 person that assaulted you that had been seen in your
25 neighbor's house, had he ever been in your home before?

101

G. HARRISON ON DIRECT

- 1 A. No.
- 2 Q. The night that this happened, did you consent to or
3 did you allow him in your house?
- 4 A. No.
- 5 Q. You testified earlier, Mr. Harrison, that you left
6 your home to go to the neighborhood store to get two
7 beers. Is that correct?
- 8 A. Yes, and I came back.
- 9 Q. When you left your house that night, did you lock the
10 doors?
- 11 A. Right. I had two locks in the back and one in the
12 front.
- 13 Q. Okay, and I show you this photograph that is State's
14 Exhibit 7. Does that photograph show your back door?
- 15 A. Right.
- 16 Q. When you left the house that night, did you leave that
17 door open?
- 18 A. No, it was closed.
- 19 Q. And was it locked?
- 20 A. It was double locked.
- 21 Q. Double locked?
- 22 A. Right.
- 23 Q. You testified a little while ago, Mr. Harrison, and
24 we kind of got away from that, but you went to a neigh-
25 bor's house. Was it a trailer?

G. HARRISON ON DIRECT

- 1 A. Right.
- 2 Q. And who was it that you made contact with?
- 3 A. Warren Jennings.
- 4 Q. Warren Jennings?
- 5 A. Yes.
- 6 Q. And did the police and an ambulance ultimately come
- 7 that night?
- 8 A. I think so.
- 9 Q. What is the next thing you kind of remember?
- 10 A. I remember waking up about twenty days later.
- 11 Q. Do you remember anything in the meantime?
- 12 A. No.
- 13 Q. Do you remember going to the hospital?
- 14 A. No.
- 15 Q. Do you remember going in the ambulance that day?
- 16 A. No.
- 17 Q. How long, Mr. Harrison, were you in the hospital?
- 18 A. Fifty days.
- 19 Q. Fifty days?
- 20 A. Right.
- 21 Q. Do you know what kind of injuries you ended up hav-
- 22 ing?
- 23 A. I had a fractured skull. I had -- my eyes . .
- 24 THE COURT: Don't tell us what anybody else said.
- 25 MR. STROUD: I believe at this point he's going to

G. HARRISON ON DIRECT

1 be testifying to hearsay.

2 THE COURT: Go ahead, Mr. Harrison.

3 A. My eye, my right eye, . .

4 Q. Are you still having trouble with your eye?

5 A. Right.

6 Q. Okay.

7 A. And I needed to find out how to re-talk -- how to
8 talk with my throat -- they had a feeding tube in me.

9 Q. Did you have any issues with your jaws?

10 A. Yeah.

11 Q. Okay, and when you got out of the hospital -- when
12 they let you out on September 12, 2011, fifty days later,
13 what was the condition of your jaw?

14 A. I had the wire and had to go back and have it cut
15 out about a month later.

16 Q. Have what cut out?

17 A. The wire.

18 Q. Your jaw was wired shut?

19 A. Uh huh. Right.

20 Q. In fact, did they give you -- showing you State's
21 Exhibit Number 4 -- did they give you a discharge summary
22 that kind of told you about your injuries?

23 A. Yeah, that's it.

24 Q. And the fact that you need to make sure you carry
25 wire cutters around with you wherever you went?

104

G. HARRISON ON DIRECT

1 A. Right.

2 SOLICITOR: At this time we'd offer State's Exhibit
3 4 into evidence.

4 THE COURT: Any objection?

5 MR. WISE: No objection.

6 THE COURT: All right, without objection, State's 14
7 in evidence.

8 (Hospital discharge summary admitted without objec-
9 tion as State's Exhibit 4 in evidence)

10 BY SOLICITOR:

11 Q. It's been almost a year since this happened, Mr.
12 Harrison?

13 A. Right.

14 Q. Are you still having any issues today with your health?

15 A. I'm light-headed.

16 Q. Light-headed?

17 A. Yes.

18 Q. Okay, how about your hearing? Do you have any issues
19 about your hearing?

20 A. No, not right now. My right eye.

21 Q. I notice a bandaid. Is that . .

22 A. Right.

23 Q. . . still one of the issues you're having from the
24 assault?

25 A. Right.

105

G. HARRISON ON DIRECT

1 Q. Mr. Harrison, you testified earlier that in addition
2 to your money that was taken, you had your cell phone
3 taken also?

4 A. Right.

5 Q. You know your cell phone was taken that night?

6 A. Right.

7 Q. Do you remember what kind of cell phone you had?

8 A. A red one.

9 Q. What kind of phone? Was it a phone like this or one
10 that flipped open or what . .

11 A. Right. It flipped open.

12 Q. Flipped open like that?

13 A. Right.

14 Q. And the phone that was taken that night, did you
15 ever get that phone back?

16 A. No.

17 (Brief pause in the proceeding)

18 BY SOLICITOR:

19 Q. Mr. Harrison, let me show you what's been marked for
20 ID purposes at this time as State's Number 23. Do you
21 recognize that phone?

22 A. Yeah.

23 Q. Whose phone is that?

24 A. Mine. It has a little scratch mark on it.

25 Q. A scratch mark on the screen there?

106

G. HARRISON ON DIRECT

1 A. Right.

2 Q. When you last saw that phone, was it working?

3 A. Yeah.

4 Q. Was it in one piece when you last saw it?

5 A. Right.

6 Q. When you got home that night, Mr. Harrison, was it
7 still daylight out?

8 A. Yes.

9 Q. I believe that's all I have, Mr. Harrison. Please
10 answer any questions Mr. Wise has for you.

11 A. All right.

12 THE COURT: Mr. Wise.

13 MR. WISE: Thank you, Your Honor.

14 CROSS EXAMINATION

15 BY MR. WISE:

16 Q. Mr. Harrison, I don't have a lot of questions for
17 you.

18 Before this incident happened, you said you had seen
19 Darius in the neighborhood?

20 A. Right.

21 Q. About how many times had you seen him?

22 A. I'm not sure about that. Maybe ten, twelve times.

23 Q. Okay. Ten or twelve times. Over how long a period
24 of time?

25 A. I'd say about -- oh, I don't know. Maybe a couple

107

G. HARRISON ON CROSS

- 1 of months. I'm not sure. Maybe six months.
- 2 Q. You're not sure?
- 3 A. No.
- 4 Q. Okay, and when you say you've seen him in the area,
- 5 what area? Where was he?
- 6 A. Next door.
- 7 Q. Next door? You saw him at the next door neighbor's
- 8 house?
- 9 A. Right.
- 10 Q. Who is your next door neighbor?
- 11 A. Travis Smart.
- 12 Q. Okay, so you've seen him ten or twelve times over
- 13 six months at Travis Smart's house?
- 14 A. Yeah, I think so.
- 15 Q. Okay. And you testified that Darius had never been
- 16 in your home?
- 17 A. No.
- 18 Q. And when you left your home, you went out the front
- 19 door?
- 20 A. Right.
- 21 Q. Did you lock the door?
- 22 A. Yeah, I did. I always lock it.
- 23 Q. You always lock your front door?
- 24 A. Yes.
- 25 Q. The back door was closed at the time you left?

G. HARRISON ON CROSS

- 1 A. Double locked.
- 2 Q. Double locked?
- 3 A. Yes.
- 4 Q. Both locks?
- 5 A. Yes.
- 6 Q. Both locks were on?
- 7 A. Right.
- 8 Q. Does your front door have a double lock?
- 9 A. No.
- 10 Q. When you left the house, did you have your phone
- 11 with you?
- 12 A. Yes, right.
- 13 Q. Okay. Have you ever let Darius use your phone?
- 14 A. No.
- 15 Q. Never have?
- 16 A. No.
- 17 Q. All right. The day this incident happened, had you
- 18 seen Darius?
- 19 A. I recall him in front of the house. It might have
- 20 been that day.
- 21 Q. You don't remember seeing him?
- 22 A. I don't know.
- 23 Q. Okay, so that whole day you don't remember seeing
- 24 him?
- 25 A. Right.

G. HARRISON ON CROSS

- 1 Q. Okay.
- 2 A. I could have but I don't remember.
- 3 Q. Okay, and you left your house to go get beer?
- 4 A. Right. Down the block.
- 5 Q. Down the block. Okay. You walked down there?
- 6 A. Right.
- 7 Q. When you -- the store you went to, is that the store
- 8 that is kind of across the street from where it is, where
- 9 your trailer is?
- 10 A. No.
- 11 Q. What store . .
- 12 A. It's a ten minute walk.
- 13 Q. So you left your house and you walked about ten min-
- 14 utes to the store, bought your beer, and then you walked
- 15 about ten minutes back?
- 16 A. Right.
- 17 Q. Okay. The beer that you purchased, do you remember
- 18 what kind of beer it was?
- 19 A. Bud Light. _____
- 20 Q. Bud Light. Okay. Do you drink any other kind of
- 21 beer?
- 22 A. No.
- 23 Q. Okay. Let me show you State's Number 8. Do you re-
- 24 cognize that photograph?
- 25 A. Yes.

G. HARRISON ON CROSS

- 1 Q. Is that the front of your house?
- 2 A. Yes.
- 3 Q. Do you see the beer in that photograph?
- 4 A. The red one is mine.
- 5 Q. The red one looks to be a taller can. Is that . .
- 6 A. Right.
- 7 Q. Okay, very good. Is that (inaudible)?
- 8 A. No, regular.
- 9 Q. Regular Budweiser?
- 10 A. Right.
- 11 Q. Okay. And this was your beer that you put on the
- 12 steps?
- 13 A. The red one.
- 14 Q. The red one?
- 15 A. Yeah.
- 16 Q. Okay, let me show you another photograph.
- 17 MR. WISE: Would you mark this for me?
- 18 REPORTER: Okay. Defense Number 1.
- 19 BY MR. WISE:
- 20 Q. Mr. Harris, let me show you what's been marked as
- 21 Defendant's Exhibit Number 1. Do you recognize what's
- 22 in the photograph?
- 23 A. Not really.
- 24 Q. No? Go ahead and look at it. You can take it.
- 25 A. I don't know -- a Toke can. I don't drink that.

lll

G. HARRISON ON CROSS

- 1 Q. You don't drink Toke at all?
- 2 A. No.
- 3 Q. Why not?
- 4 A. I don't drink it. I drink Budweiser.
- 5 Q. But that is your trailer there?
- 6 A. Right, right.
- 7 Q. Okay.
- 8 A. But I don't drink it.
- 9 Q. I understand you don't drink it, but we are correct
- 10 that that's your trailer?
- 11 A. Right.
- 12 Q. And as I understand it, Toke is some kind of higher alcohol
- 13 content . . .
- 14 A. But I don't drink it. I never have.
- 15 Q. Okay. What time did you leave the house to go to
- 16 the store?
- 17 A. Around seven o'clock.
- 18 Q. And you said you were back by seven thirty?
- 19 A. Yeah, I guess so.
- 20 Q. Okay.
- 21 A. Yeah.
- 22 Q. How do you know you left at seven o'clock?
- 23 A. I had checked my watch.
- 24 Q. You checked your watch before you went to the store?
- 25 A. It was around that time.

G. HARRISON ON CROSS

1 Q. And it's your testimony that this incident happened
2 right as you -- are you okay?

3 A. Yeah.

4 Q. This incident happened just as you walked into your
5 front door?

6 A. Yeah, right.

7 Q. And you testified that you fell down and were on the
8 floor for a while?

9 A. He knocked me down.

10 Q. And you were unconscious for a while, is that right?

11 A. Not as I know. I try to get up and kind of stumbled
12 around.

13 Q. Okay.

14 A. I fell again after he left.

15 Q. So you fell a second time and then you were uncon-
16 scious?

17 A. Yeah.

18 Q. Did you -- you fell two times?

19 A. Yes, as I know of.

20 Q. You fell the first time by the front door?

21 A. Right.

22 Q. Okay, and when you got up you fell again?

23 A. I fell again as I was trying to get up.

24 Q. So you fell the first time by the front door and when
25 you got up he was still there?

113

G. HARRISON ON CROSS

- 1 A. Yes, he was still there and I tried to get out the
2 door because I was scared to stay in that house.
- 3 Q. So you got up the second time and tried to get out
4 of the door?
- 5 A. I got out.
- 6 Q. And where was this person?
- 7 A. Who?
- 8 Q. The person who was hitting you?
- 9 A. Behind me.
- 10 Q. So as you were going out the door he was behind you
11 hitting you?
- 12 A. Hitting me. He hit my arm twice after that.
- 13 Q. So you -- now, are you on your porch?
- 14 A. I walk out on the porch.
- 15 Q. So you walk out on your porch after you left out of
16 the front door?
- 17 A. Right.
- 18 Q. And he was still behind you?
- 19 A. That's right.
- 20 Q. When you walked down the steps was he still behind
21 you?
- 22 A. Right.
- 23 Q. And then you started walking to Mr. Jennings' house?
- 24 A. Right.
- 25 Q. Is that the first place you went to?

G. HARRISON ON CROSS

- 1 A. I don't know. I can't remember.
- 2 Q. But you went to Mr. Jennings' trailer?
- 3 A. Right.
- 4 Q. And was the person still behind you?
- 5 A. Still there.
- 6 Q. How far did he follow you?
- 7 A. Fifty feet.
- 8 Q. Fifty feet?
- 9 A. I guess. I don't really know.
- 10 Q. Now, fifty feet from your trailer going towards Mr.
- 11 Jennings' trailer put him right around where Travis Smart's
- 12 trailer is. Isn't that right?
- 13 A. Half that. He went half that.
- 14 Q. So-- I'm sorry.
- 15 A. He only went half that -- got kinda in the middle.
- 16 Q. Right. So you left your trailer, you walked past
- 17 Travis' trailer knowing that the person was still be-
- 18 hind you?
- 19 A. Right.
- 20 Q. Going to Mr. Jennings' trailer?
- 21 A. Right.
- 22 Q. Hitting you?
- 23 A. Right.
- 24 Q. As you're walking -- okay, and when you got to Travis'
- 25 trailer did you try to get in?

115

G. HARRISON ON CROSS

1 A. No, because I didn't see no car so I didn't think he
2 was there.

3 Q. Okay. When you got to Mr. Jennings' trailer, was the
4 person still behind you?

5 A. Yeah.

6 Q. Okay, and when you went up the steps to Mr. Jennings'
7 trailer, . . .

8 A. I didn't get that far.

9 Q. What happened?

10 A. I fell down.

11 Q. On the ground?

12 A. Yeah.

13 Q. And when you fell down at Mr. Jennings' trailer, the
14 person is still hitting you?

15 A. Yeah.

16 Q. Okay. Obviously Mr. Jennings helped you. Did he
17 come out to you?

18 A. He came out -- Mr. Jennings came out to help me.

19 Q. Okay, because you were laying on the ground in front
20 of his trailer?

21 A. Yeah.

22 Q. Okay. You said you lost consciousness when you fell
23 down the second time, but when you woke up the person was
24 still behind you?

25 A. When the thing happened?

116

G. HARRISON ON CROSS

1 Q. Yes.

2 A. No, I was in the hospital.

3 Q. Okay.

4 A. I was in the hospital.

5 Q. I'm sorry. So you come in the front door and the
6 person hits you; you fall on the ground and you struggle
7 to get back up; he's continuing to hit you.

8 Do you fall down a second time?

9 A. Not then.

10 Q. So after you got up from the fall you started going
11 out of the house?

12 A. Yeah.

13 Q. Okay. Okay. From the time you left your house un-
14 til the time you fell in front of Mr. Jennings' house,
15 did you see anybody?

16 A. Him.

17 Q. You said he was the person who was following you?

18 A. Right.

19 Q. Anybody else?

20 A. No.

21 Q. Okay, and so you didn't ask anybody else for help?

22 A. I didn't see nobody.

23 Q. Okay, and do you know how the person got in your
24 trailer?

25 A. He pry the back door open.

117

G. HARRISON ON CROSS

- 1 Q. He pried the back door open?
- 2 A. Yes.
- 3 Q. The door had a double lock?
- 4 A. Right.
- 5 Q. Do you have any idea what was used to pry your back
- 6 door open?
- 7 A. No.
- 8 Q. Did you see any crow bar?
- 9 A. No.
- 10 Q. Screw drivers?
- 11 A. No.
- 12 Q. And you're sure it was locked?
- 13 A. Right.
- 14 Q. You're sure that back door was locked?
- 15 A. Right.
- 16 Q. Okay, the trailer next to your trailer was owned by
- 17 Travis Smart. Does anybody live there with him?
- 18 A. On occasion.
- 19 Q. Do you know how many people were living there with
- 20 him?
- 21 A. I believe it's one at the time but I'm not sure.
- 22 Q. Do you see people coming and going out of that
- 23 trailer?
- 24 A. Yeah.
- 25 Q. He's pretty good about keeping company or guys kind

G. HARRISON ON CROSS

1 of in and out of there?

2 A. Right.

3 Q. Okay, over this six months that you say you saw Darius
4 at Travis' trailer, how many other guys did you see in
5 and out of there?

6 A. I don't have any way to know that.

7 Q. I understand. One, two, ten . .

8 A. Ten, fifteen.

9 Q. Ten or fifteen? Okay. I want to talk about the axe
10 handle for a minute. Is this your axe handle?

11 A. I think so.

12 Q. You think so?

13 A. Yeah.

14 Q. Okay. Why do you have an axe handle?

15 A. For protection.

16 Q. And where do you keep you axe handle?

17 A. In the bedroom or the living room.

18 Q. You don't know?

19 A. No, I don't know.

20 Q. And the day of this incident where was the axe handle?

21 A. I don't know. Probably in the bedroom.

22 Q. Probably in the bedroom?

23 A. Yeah.

24 Q. If you were going to have it in the bedroom, where
25 in the bedroom would you have it?

119

G. HARRISON ON CROSS

- 1 A. In the floor.
- 2 Q. Just lying in the floor?
- 3 A. Yeah.
- 4 Q. Okay. Let me ask you this, are you friends with
- 5 Travis Smart?
- 6 A. Yeah, we are.
- 7 Q. You are? Okay, have you been in his house?
- 8 A. I've been in the yard.
- 9 Q. Has he been in your house?
- 10 A. Once or twice.
- 11 Q. Once or twice he's been in your house?
- 12 A. Right.
- 13 Q. Okay. When was the last time that Travis was in your
- 14 house before this incident happened?
- 15 A. Three years or so.
- 16 Q. Three years?
- 17 A. Three or four years.
- 18 Q. Okay. When Mr. Sorenson was asking you questions
- 19 you mentioned that at times you still get light-headed?
- 20 A. Yeah.
- 21 Q. What does that mean?
- 22 A. It means I have fallen, feel like I'm gonna fall..
- 23 Q. You get dizzy?
- 24 A. Yeah.
- 25 Q. Get confused?

120

G. HARRISON ON CROSS

1 A. Not confused, no.

2 Q. Just feel dizzy?

3 A. Yeah, right.

4 Q. Okay.

5 MR. WISE: May I have one moment, Your Honor?

6 THE COURT: Yes, sir.

7 (Brief pause in the proceeding)

8 BY MR. WISE:

9 Q. Mr. Harrison, I think I just have one other question
10 to ask you. Your front door -- you said you opened your
11 front door and the person was standing behind the front door?

12 A. No, not behind, you know. On the end of the door.

13 Q. Does your door open inward?

14 A. Right.

15 Q. So when you opened your door, where was this person?

16 A. On the end of the door.

17 Q. He was . .

18 A. Inside on the end of the door.

19 Q. He was inside your house?

20 A. Right.

21 Q. As you entered the door?

22 A. At the end of the door.

23 Q. Okay. So when you opened the door, there he was?

24 A. Right.

25 Q. I got you. Let me ask you, how are you doing? Are

121

G. HARRISON ON CROSS

1 you okay?

2 A. Yeah.

3 Q. Thank you.

4 THE COURT: Anything further?

5 SOLICITOR: No, sir.

6 THE COURT: You may step down. We appreciate it.

7 It's time for our afternoon break. Ladies and gen-
8 tlemen, we're going to take our mid-afternoon break now.

9 I'll repeat what I've told you all along, do not
10 talk about the testimony or the case until you are told
11 to do so by me. Talk about anything else you want to.

12 We'll take about a ten minute break and then come
13 back out here and we'll hear some more testimony.

14 Thank you.

15 (Jury excused from Courtroom)

16 (Whereupon, the Court took a break recess, after
17 which the matter resumed)

18 THE COURT: State ready?

19 SOLICITOR: Yes, sir.

20 THE COURT: Defense ready?

21 MR. WISE: Yes, sir.

22 THE COURT: Bring the jury back in, please.

23 (Jury returned to the Courtroom)

24 THE COURT: All right, ladies and gentlemen. We're
25 ready to continue with the next witness.

122

1 Go ahead and call your witness.

2 SOLICITOR: Thank you, Your Honor. The State calls
3 Warren Jennings.

4 WARREN JENNINGS, being
5 duly sworn, testified as follows:

6 CLERK: Please have a seat and state your name____
7 for the record.

8 WITNESS: My name is Warren Jennings.

9 DIRECT EXAMINATION

10 BY SOLICITOR:

11 Q. Good afternoon, Mr. Jennings. Tell the jury, if
12 you will, how old you are?

13 A. I'm sixty-two years old.

14 Q. And would you speak up nice and loud for me. What
15 do you do for a living, Mr. Jennings?

16 A. I'm retired.

17 Q. What are you retired from?

18 A. Western Auto.

19 Q. How long did you work there at Western Auto?

20 A. Seven years.

21 Q. When did you retire from there?

22 A. In May of this year.

23 Q. May of this year?

24 A. Yes.

25 Q. And back in July of last year, were you working at

123

W. JENNINGS ON DIRECT

1 Western Auto at that time?

2 A. Yes.

3 Q. Do you live here in Orangeburg, Mr. Jennings?

4 A. Yes.

5 Q. And do you know Mr. Harrison?

6 A. Yes, I do.

7 Q. How long have you known Mr. Harrison?

8 A. I have known Mr. Harrison since 1961.

9 Q. You all went to school together?

10 A. Yes.

11 Q. And back in July of last year were you living over on
12 Golf Avenue in the trailers by Mr. Harrison at that point
13 in time?

14 A. No, I wasn't really living there.

15 Q. Was there somebody living in one of those trailers
16 that you were friends with?

17 A. Yes.

18 Q. Which trailer was that?

19 A. That would be C -- 1212 C.

20 Q. Twelve C, and which trailer did Mr. Harrison live
21 in?

22 A. Twelve A.

23 Q. Who lived at 12 C?

24 A. I have a friend of mine, Cathy Brown.

25 Q. Cathy Brown?

124

W. JENNINGS ON DIRECT

- 1 A. Yes.
- 2 Q. Is that your girlfriend?
- 3 A. Yes.
- 4 Q. Back in July of last year, were you living there
- 5 with her?
- 6 A. No, I wasn't living there.
- 7 Q. Did you frequently visit her at her trailer?
- 8 A. Yes.
- 9 Q. Do you know how long Ms. Brown had been living
- 10 in that trailer at that point in time?
- 11 A. She had just moved in there in July.
- 12 Q. Did you know Mr. Harrison lived two trailers over
- 13 from her?
- 14 A. Yes, sir.
- 15 Q. Ms. Brown was living in 12 C and Mr. Harrison lived
- 16 in 12 A. Do you know the person who was living in trailer
- 17 12 B?
- 18 A. I had seen him but I didn't know him personally.
- 19 Q. The Defendant over there is Darius Ransom. Do you
- 20 recognize Mr. Ransom?
- 21 A. I have seen him but that's about it.
- 22 Q. But you don't know him otherwise?
- 23 A. No.
- 24 Q. Where had you seen him?
- 25 A. I had seen him in front of trailer 12 B.

125

W. JENNINGS ON DIRECT

1 Q. I would turn your attention if I could, Mr. Jennings,
2 to July 25th of last year. What were you doing on that
3 evening?

4 A. I had gotten off from work and I stop by my friend's
5 house and I took a nap.

6 Q. Okay. Did there come a time that evening when you
7 woke up?

8 A. Yes.

9 Q. Where did you end up going when you woke up?

10 A. Well, I came to the door and saw George.

11 Q. Where was George when you came to the door?

12 A. In the yard on the steps.

13 Q. Describe for the jury what his condition was when
14 you saw him?

15 A. At first I thought it was somebody threw paint on
16 him or something or a bucket of paint fell on him. He
17 was covered in blood on the top of his head.

18 Q. When you got a little closer and looked at him,
19 could you see that he was injured?

20 A. Yes.

21 Q. What injuries did you observe on him when you got a
22 chance to see what was going on?

23 A. Well, on the top of his head I could see his scalp
24 peeling back. On the side under his eye I could see a
25 big gash and somewhere on his chin line.

W. JENNINGS ON DIRECT

1 You could see through it. It was cut open and you
2 could see his teeth.

3 Q. What did you do then at the time after you took in
4 his condition?

5 A. I didn't have a cell phone and my friend didn't
6 have a phone since she had just moved in. I knew George
7 had a phone but he didn't have it with him.

8 So I got in my car and I drove up to the shopping
9 place and I stopped the first officer I saw. I stopped him
10 and asked him for help.

11 Q. And did the police go back to your trailer with you
12 or to your friend's trailer?

13 A. Yes.

14 Q. And did an ambulance come out there?

15 A. Yes.

16 Q. You have indicated what your friend, Mr. Harrison,
17 looked like. How was he acting otherwise?

18 A. He was acting pretty hurt. He was slow, you know,
19 in movement, and he couldn't hardly stand, you know.

20 Q. Did you ask him what had happened?

21 A. Yes.

22 Q. Did he tell you what had happened?

23 A. He told me -- I asked him what happened and he told
24 me that when he came home someone -- a young man was in
25 his house behind the door.

127

W. JENNINGS ON DIRECT

1 And when he came in the guy told him to give him
2 his money, and he reached his pocket and gave the guy money,
3 and the guy took his cell phone, and he just started in
4 beating him.

5 Q. And did the ambulance end up taking George away that
6 night from Ms. Brown's house?

7 A. Yes.

8 Q. I think that's all I have, Mr. Jennings. Please
9 answer any questions Mr. Wise has.

10 THE COURT: Cross examine.

11 MR. WISE: Thank you, Your Honor.

12 CROSS EXAMINATION

13 BY MR. WISE:

14 Q. When you first saw Mr. Harrison that evening, where
15 was he?

16 A. Where was I?

17 Q. Where was he?

18 A. At the door to the trailer.

19 Q. At your door?

20 A. Yes.

21 Q. And how did you become aware that he was at your
22 door?

23 A. My friend had awakened me and said to come to the
24 door; that George is outside.

25 Q. Okay. Did you hear any knocking or banging on the

128

W. JENNINGS ON CROSS

1 door?

2 A. No, I was asleep.

3 Q. Obviously you spoke to George?

4 A. Yes, I did.

5 Q. How long did you speak with him?

6 A. I just asked him what happened and he told me about
7 being robbed in his house, and I just got in my car and
8 went to the complex and stopped the first officer I saw.

9 Q. So he's still standing outside your door and you
10 asked him what happened and he described what happened?

11 A. No, I sat him down on the stairs and then got a wet
12 towel.

13 Q. You were saying your friend was at the house and you
14 sat him down on the stairs and then what?

15 A. Then I went to the complex to get help.

16 Q. Mr. Harrison, just one last question. No, that's all
17 we have.

18 SOLICITOR: Nothing further, Your Honor. Thank you.

19 THE COURT: You may step down.

20 (Witness excused from stand)

21 THE COURT: You may call your next witness.

22 SOLICITOR: The State would call Wendy Britt, Your
23 Honor. May we have a moment, Your Honor?

24 THE COURT: Yes, sir.

25 (Brief pause)

1 SOLICITOR: Sorry, Your Honor. The State would
2 call Dr. Mark Zulkey.
3 MARK ZULKEY, being duly sworn,
4 testified as follows:
5 CLERK: Please have a seat and state your name for
6 the record.
7 WITNESS: My name is Mark Wesley Zulkey.
8 DIRECT EXAMINATION
9 BY SOLICITOR:
10 Q. Spell your last name, please, Dr. Zulkey.
11 A. Z U L K E Y.
12 Q. Dr. Zulkey, could you tell the jury where it is that
13 you are employed?
14 A. I work at the Regional Medical Center here in
15 Orangeburg.
16 Q. How long have you been employed there?
17 A. I first started work there in May of 2000.
18 Q. And, if you would, Doctor, tell the jury what you
19 do there?
20 A. I'm an emergency room physician. I've been there
21 twelve years now.
22 Q. And would you tell the jury about your educational
23 background?
24 A. Sure. I have a Bachelor's Degree in bio-chemistry
25 from Oklahoma State University, and I went to medical

130

DR. ZULKEY ON DIRECT

1 college in Tulsa, Oklahoma, and graduated there in 1991,
2 and then did a rotating internship at Tulsa Regional Med-
3 ical Center, a three year residency at Tulsa Regional Med-
4 ical, finishing in 1995.

5 Q. Doctor, thank you. If I could I'd take you back to
6 the evening of July 25th, 2011. Were you working in the
7 emergency room that night at the Medical Center?

8 A. Yes, I was.

9 Q. Did you have occasion to come in contact with a gen-
10 tleman by the name of George Harrison on that night?

11 A. Yes, sir.

12 Q. All right. Tell the jury how Mr. Harrison presented
13 to the emergency room that night.

14 A. As I remember, Mr. Harrison came in by ambulance
15 after having been assaulted. He told me he had been a
16 victim of a home invasion and had been beaten by a stick
17 around the head.

18 He was conversant in a way which is not unusual in
19 that type of injury which eventually showed in his exam-
20 ination and evaluation that he was seriously injured.

21 He eventually had a seizure which caused us to have
22 to put him on a breathing tube and also to try to slow
23 his heart rate down.

24 In evaluating him, we found that he had an epidural
25 hematoma which is bleeding between the brain and the

131

DR. ZULKEY ON DIRECT

1 layers of tissue surrounding the brain. The epidural
2 hematoma is very concerning because it tends to surround
3 typically the fracture of a skull which lacerates an artery.
4 tery.

5 In the usual history of someone suffering an epi-
6 dural hematoma, there will be an immediate loss of con-
7 sciousness.

8 I cannot tell you whether he had an immediate loss
9 of consciousness or not. He could be awake and alert
10 and talking, and then as the bleeding progresses and the
11 pressure on the brain gets greater -- because it's an ar-
12 terial bleed there is greater pressure -- and eventually
13 it will bleed so much it will cause the brain to numb,
14 and it can cause death if remedies are not undertaken,
15 which typically requires surgery to remove the blood.

16 Q. Did you find -- you talked about an epidural hema-
17 toma typically being associated with skull fracture.

18 Did you have an opportunity to do scans or something
19 similar?

20 A. Yes, we did. We did a number of CT scans of his
21 head and his face. He had a fracture to this area of his
22 head up here.

23 He also had a very significant fracture on both
24 sides of his jaw bone and mandible, up in this area. He
25 had a fracture here in the -- this is called the zygomatic

132

DR. ZULKEY ON DIRECT

1 arch on the cheek, and this was fractured as well as the
2 underlying bones surrounding the eye.

3 Q. You talked about the epidural hematoma and that he
4 had bleeding around his brain?

5 A. Yes, and he also had evidence of a subarachoid hem-
6 orrhage which is similar to an epidural hemorrhage in
7 that it surrounds the tissues of the brain but it is also
8 between the tissues.

9 It is usually venous in nature, which means it is at
10 lower pressure. Typically it comes not from trauma but -- I
11 believe in this case clearly it was from trauma -- but it
12 also can be life-threatening in and of itself.

13 Of more concern for him was his epidural hematoma.

14 Q. Were all of his injuries consistent with somebody
15 being struck with an object such as an axe handle?

16 A. Yes.

17 Q. And what was ultimately done with Mr. Harris at the
18 Medical Center after the scans and over the course of
19 his treatment at your hospital?

20 A. Like I said before, we put him on a ventilator and
21 gave him medicine because he had a seizure resulting
22 from his injuries, and we contacted Richland Memorial and
23 transported him to their facility because we did not
24 have the neurosurgery that could address the bleeding in
25 his head.

133

DR. ZULKEY ON DIRECT

1 Q. So he was ultimately transported that night to
2 Palmetto Richland?

3 A. Yes.

4 Q. And do you know from his records that he ultimately
5 -- do you know from a review of his records that he ul-
6 timately spent about fifty days at Palmetto Richland?

7 A. Yes. I have briefly reviewed the Richland records,
8 and he was there for an extended period of time.

9 Q. And do they address the injuries that you've talked
10 about to the jury concerning the facial fractures and the
11 skull fractures and also the bleeding in the brain?

12 A. Yes. If they had not addressed the bleeding, he
13 would have died. If he had not been sent to that hospital
14 to get the bleeding under control, he would have died.

15 No question about that, in my mind.

16 Q. All right.

17 A. He also had -- when he originally left the hospital
18 at Richland, he also had his jaw wired shut, and it is
19 very critical that he always carry cutters with him to be
20 able to cut those wires if he needs to get his mouth
21 open in case he started to vomit or something such as
22 that.

23 MR. STROUD: Objection, Your Honor.

24 A. He had extended care for his jaw fracture.

25 MR. STROUD: Object, Your Honor. We would object

134

DR. ZULKEY ON DIRECT

1 at this time to anything that happened at Richland as
2 this Doctor wasn't there.

3 THE COURT: Doctor, you said you review those re-
4 cords?

5 WITNESS: Yes, sir.

6 THE COURT: I'll allow it.

7 BY SOLICITOR:

8 Q. You have testified that if he had not sought treat-
9 ment that night he would have ultimately died from his
10 injuries?

11 A. Yes, sir.

12 Q. In other words, would you tell the jury if those
13 injuries were life-threatening?

14 A. Yes, they were.

15 SOLICITOR: I believe that's all I have for Dr.

16 Zulkey. Thank you, Your Honor.

17 THE COURT: Cross examine.

18 CROSS EXAMINATION

19 BY MR. STROUD:

20 Q. How you doing today, Doctor?

21 A. Okay.

22 Q. When you met Mr. Harrison, was he able to speak?

23 A. Yes, sir.

24 Q. And because he was able to speak, there was no need
25 for such a thing as communication treatment?

135

DR. ZULKEY ON CROSS

1 A. I'm sorry.

2 Q. He wouldn't have to write down sentences to communi-
3 cate with you because he was able to speak. Right?

4 A. Not from what I remember, no.

5 Q. Okay, because he was able to speak. Right?

6 A. Yes, from what I remember he could speak, but from
7 the history he was not -- I mean, his status was such
8 that we did not have long discussions.

9 Q. Okay, but you were able to get some information from
10 him, correct?

11 He communicated to you that he was a victim of a
12 home invasion?

13 A. Correct.

14 Q. Did you -- were you able to get any medical history
15 from him?

16 A. Not as I remember a significant amount of history,
17 no.

18 Q. Okay. Now, these injuries, could they have been
19 caused by something other than being hit by a stick?

20 A. Well, certainly. Bleeding in the head is caused by
21 trauma all the time. It was clearly caused by trauma. I
22 can't say exactly what happened, but I was told that he
23 had -- he told me he was beaten in the head.

24 Q. The injuries he suffered could have been from hit-
25 ting -- I mean, being hit with anything: I mean, could

136

DR. ZULKEY ON CROSS

1 a fist possibly do this?

2 A. Well, I would say it would be possible.

3 Q. Okay.

4 A. But it would take more than one blow.

5 Q. Okay. Did you say he suffered a seizure while he
6 was in the hospital?

7 A. Yes.

8 Q. Is there any way to tell if he had a seizure before
9 he went to the hospital?

10 A. No.

11 Q. So there is no way to tell if he had recently had a
12 seizure? No way to test to see. .

13 A. No, not in that environment, no.

14 Q. Is it possible that these injuries or some of these
15 injuries that were sustained were caused by falling and
16 hitting the head either on the floor or counter top or
17 something?

18 A. I don't believe that would be enough force to do the
19 injuries that he had.

20 Q. Even if he were to have suffered from a seizure be-
21 forehand and lost all control of his body, as I under-
22 stand it, that still would not be enough force?

23 A. No.

24 Q. Could that have caused any of the damage?

25 A. Well, when you say any, I'm not saying he couldn't

137

DR. ZULKEY ON CROSS

1 have gotten some of the cuts on his head. We frequently
2 see some seizure patients that have lacerations, but I
3 have never seen a seizure patient that had a fracture.

4 Q. You mentioned earlier that . .

5 MR. STROUD: May I have a moment, Your Honor?

6 THE COURT: Yes, sir.

7 (Brief pause in the proceeding)

8 MR. STROUD: I have no more questions, Your Honor.

9 THE COURT: Anything on Redirect?

10 SOLICITOR: No, Your Honor.

11 THE COURT: Thank you, Doctor. You may step down.

12 (Witness excused from stand)

13 THE COURT: The State would call Wendy Britt.

14 WENDY BRITT, being duly sworn,
15 testified as follows:

16 CLERK: Please have a seat and state your name for
17 the record.

18 WITNESS: Wendy Britt.

19 DIRECT EXAMINATION

20 BY SOLICITOR:

21 Q. Ms. Britt, tell us where you're employed.

22 A. With the Orangeburg County Emergency Medical Services.

23 Q. And how long have you been employed with the Orange-
24 burg County EMS?

25 A. For thirteen and a half years.

138

W. BRITT ON DIRECT

1 Q. And what are your current duties there?

2 A. I'm an intermediate (inaudible).

3 Q. And were you working on the night of July 25th back
4 last year?

5 A. Yes.

6 Q. Okay, and did you have occasion to get dispatched out
7 to a trailer at 2012 Goff Avenue?

8 A. Yes.

9 Q. Okay, and who did you come in contact with at that
10 location?

11 A. I came in contact with the Sheriff's Office because
12 it had cleared the scene when we got there, and the pa-
13 tient was with some neighbors.

14 Q. And did you find out what the patient's name was?

15 A. George Harrison.

16 Q. Do you know about what time it was that you were
17 dispatched out there?

18 A. Seven o'clock-ish.

19 Q. And do you have paperwork you will have filled out
20 at that time?

21 A. Yes, sir.

22 Q. Do you have a copy of it?

23 A. I do.

24 Q. Can you give us the time on there?

25 A. . .

139

W. BRITT ON DIRECT

- 1 Q. Does that refresh your memory as to the time?
- 2 A. Yes.
- 3 Q. Is this a copy of your report?
- 4 A. Yes.
- 5 Q. Okay, and what time was it that you were dispatched
- 6 out to 1212 Golf Avenue?
- 7 A. Nineteen twenty-five.
- 8 Q. And would that be seven twenty-five in the evening?
- 9 A. Yes, sir.
- 10 Q. Do you know what time you actually arrived on the
- 11 scene where you could start treating Mr. Harrison?
- 12 A. It would be seven forty-three.
- 13 Q. And would you describe for the jury once you got to
- 14 that location what you encountered with regard to Mr.
- 15 Harrison?
- 16 A. We were instructed by the Sheriff's Office to admin-
- 17 ister to the patient who was sitting on his neighbor's
- 18 steps, with a towel wrapped around his head.
- 19 He was dripping blood from head to toe. He was
- 20 conscious, and he was trying to tell us what happened
- 21 when we got to him.
- 22 Q. You said he was covered in blood?
- 23 A. Yes.
- 24 Q. Was he complaining of pain on any part of his body?
- 25 A. He was complaining mostly of pain to his head but

140

W. BRITT ON DIRECT

1 he also complained of pain in his whole body.

2 Q. And did you perform any kind of exam on him at that
3 point in time to try to ascertain what injuries he might
4 have?

5 A. Yes, sir. We removed the towel and then that's when
6 we noticed all the lacerations to his head.

7 Q. How many -- were there multiple lacerations?

8 A. Yes.

9 Q. What did you then do as far as the course of treat-
10 ment you all attempted to perform out there at 1212 Golf
11 Avenue.

12 A. He told us he didn't know what he was struck with
13 other than a blunt object, so we put the patient in what
14 is a procedure that helps to prevent further injury and
15 stabilize them on their back.

16 We did what we could to stop the bleeding as he was
17 placed on the spinal board.

18 Q. And as you're getting him kind of strapped to the
19 board where -- where was he taken at that point in time?

20 A. To Orangeburg Regional ER.

21 Q. Okay, and you indicated that he said he was struck
22 with some sort of blunt object?

23 A. Yes.

24 Q. Did he give you more information on what that was?

25 A. He said it was like a stick and it hurt him.

141

W. BRITT ON DIRECT

1 Q. Some sort of stick?

2 A. Yes.

3 Q. And you said he was transported to the Orangeburg
4 County Regional Emergency Room?

5 A. Yes.

6 Q. And he was turned over to their care and custody
7 then?

8 A. Yes.

9 Q. And when was that done? What time was that that you
10 got there?

11 A. At eight o'clock -- eight O one.

12 Q. Thank you, Ms. Britt. Please answer any questions
13 the Defense may have.

14 THE COURT: Cross examine.

15 CROSS EXAMINATION

16 BY MR. STROUD:

17 Q. Ms. Britt, when you met Mr. Harrison, he was able
18 to speak to you?

19 A. Correct.

20 Q. And he described what happened?

21 A. Correct.

22 Q. He was articulate and conscious?

23 A. At that time he was.

24 Q. Did you administer any pain killers for him at that
25 time?

A. No, sir, we couldn't administer pain killers

142

W. BRITT ON CROSS

1 because he had a head injury. No, sir.

2 Q. And you only saw three people out there, two neigh-
3 bors and him?

4 A. Sheriff's officers, two neighbors and the patient.

5 Q. Okay.

6 MR. STROUD: No more questions, Your Honor.

7 THE COURT: Any Redirect?

8 SOLICITOR: No, sir.

9 (Witness excused from stand)

10 THE COURT: You may call your next witness, Soli-
11 citor.

12 SOLICITOR: Yes, sir. The State calls Derrell
13 Jenkins.

14 DERRELL JENKINS, being
15 duly sworn, testified as follows:

16 CLERK: Please have a seat and state your name for
17 the record.

18 WITNESS: Derrell Jenkins.

19 DIRECT EXAMINATION

20 BY SOLICITOR:

21 Q. Mr. Jenkins, will you please tell us how old you
22 are?

23 A. Thirty-two.

24 Q. And what do you do for a living?

25 A. I'm a hair stylist.

143

D. JENKINS ON DIRECT

1 Q. And how long have you been doing that?

2 A. About ten years.

3 Q. And do you know the Defendant, Darius Ransom?

4 A. Yes, sir.

5 Q. How do you know Mr. Ransom?

6 A. We were introduced through some mutual friends.

7 Q. And who was the mutual friend who introduced the
8 two of you?

9 A. A guy named Travis.

10 Q. Travis?

11 A. Uh hm.

12 Q. Keep your voice up nice and loud for me. All right?

13 A. Yes.

14 Q. And how long have you -- how long do you think prior
15 to July 25th of last year -- how long had you known Mr.
16 Ransom prior to that?

17 A. Maybe a little over a year.

18 Q. Okay, and what did you know him by?

19 A. Dray.

20 Q. Dray?

21 A. Yes, sir.

22 Q. And now Travis -- the individual who introduced the
23 two of you, where did Travis live back in July of last
24 year?

25 A. Right off of Golf.

Q. In a house or a trailer?

D. JENKINS ON DIRECT

- 1 A. A trailer.
- 2 Q. And were any other trailers around his trailer?
- 3 A. If my memory serves me correct, I want to say three
- 4 of them.
- 5 Q. And out of the three of them, which one did Travis
- 6 live in?
- 7 A. The second one, the middle one.
- 8 Q. The middle one?
- 9 A. Yes.
- 10 Q. Back toward the end of July of last year, 2011, do
- 11 you know where the Defendant was staying at?
- 12 A. From what he told me, it looked like he was back
- 13 and forth to St. George. I want to say like St. George
- 14 or something like that.
- 15 Q. Speak up, so everyone can hear you. Okay?
- 16 A. It was like around the St. George area.
- 17 Q. Okay, and was Darius spending any time here in
- 18 Orangeburg back in July?
- 19 A. Yeah, I would like see him once in a while.
- 20 Q. And when he was staying here in Orangeburg, where
- 21 was he staying at?
- 22 A. At Travis' house.
- 23 Q. So was he on Golf?
- 24 A. Uh huh.
- 25 Q. Now, I want to turn your attention, Derrell, back

D. JENKINS ON DIRECT

1 to the evening of July 25th of last year. Do you recall
2 what you were doing that night, kind of near seven
3 o'clock or so?

4 A. I had just pulled up to the church that I was at-
5 tending, and I was about to go in choir rehearsal.

6 Q. Choir rehearsal?

7 A. Yes.

8 Q. And did there come a time around that period of
9 time that you hear from the Defendant, Mr. Ransom?

10 A. Yes, sir.

11 Q. Tell the jury how that came about?

12 A. I had just pulled up and my phone rang, and when I
13 answered it was Dray.

14 Q. And tell the jury, if you would, what that phone
15 call consisted of?

16 A. Um, when I answered, he sounded a little frantic,
17 and he started explaining to me that he had to do a
18 (inaudible).

19 Then he started explaining to me and told me that he
20 had hit somebody across the head and left them leaking,
21 and I kind of got angry because I had spoken to him a
22 little earlier twice, and he had asked me if he could
23 borrow some money for gas to get back home to St. George,
24 and I told him I would give it to him when I got back from
25 Denmark.

146

D. JENKINS ON DIRECT

1 So I kind of yelled at him and told him he was stu-
2 pid for doing that, and told him, you know, he could
3 have waited until I got back because I had told him --
4 at the time I didn't know who it was. I think after that
5 I hung up on him after that.

6 Q. Let me stop you right there. Did you go -- let's
7 go back to that phone call a little bit. Did he tell you
8 he had to do a wake?

9 A. Yes.

10 Q. And he left the person who was leaking?

11 A. Yes, that's what he said.

12 Q. Did he tell you anything else about what he did?

13 A. Excuse my language. He said he had to fuck them
14 up.

15 Q. Okay. What else did he say?

16 A. . . .

17 Q. Let me ask you, do you remember seeing the police
18 that night?

19 A. Later on that evening.

20 Q. Later on that evening?

21 A. Yeah.

22 Q. Is that a copy of your statement?

23 A. Yes, it is.

24 Q. Does that help to kind of refresh your memory as to
25 what Mr. Ransom told you that night?

147

D. JENKINS ON DIRECT

1 A. Um, I mean, is there anything specific that you're
2 asking me?

3 Q. Do you remember him telling you that he busted his
4 head open?

5 A. Yes, sir.

6 Q. Do you remember if he told you why he did all of
7 this?

8 A. He didn't tell me why but I kind of figured it was
9 because he needed money to get home, because he had been
10 trying to get home for a couple of days, to his mama's
11 house.

12 Q. Did he tell you anything about how much money, if
13 any, he got when he was involved in this?

14 A. From what my memory serves, I remember him saying --
15 he said the guy usually had about Two or Three Hundred
16 Dollars on him but then that day he only had like Thirty
17 Bucks or something like that on him.

18 Q. He told you that over the telephone?

19 A. Yes, sir.

20 Q. Let me ask you this, did he -- did Mr. Ransom tell
21 you who it was that he had assaulted and taken this money
22 from?

23 A. No, sir.

24 Q. Okay, and did you ask him?

25 A. No, sir.

D. JENKINS ON DIRECT

1 Q. And I believe I kind of stopped you, but you indi-
2 cated you had gotten kind of upset with him at that point
3 in time?

4 A. Yes, sir.

5 Q. At some point in time did you ultimately find out
6 who it was that had been assaulted?

7 A. Yeah. After he called and told me that when I was
8 about to walk into my rehearsal and I was kind of contem-
9 plating about even going to pick him up because I didn't
10 want to be involved.

11 So I went to my rehearsal, and when I got out of my
12 choir rehearsal I said, well, at least let me go by over
13 at Travis' house and check to see what's going on, and I
14 left there and made a left on Magnolia and then a right
15 onto Golf, and came around through Clampton, and to the
16 corner of Chestnut and Golf and looked straight ahead
17 and saw the Sheriff's Department -- the Sheriff's cars
18 outside.

19 So I kind of took a sigh of relief because I thought
20 at least I wouldn't have to pick him up because they al-
21 ready got him, so I pulled up and pulled on the side of
22 the road.

23 Then I got out and that's when I was alerted that
24 Mr. George had got assaulted.

25 Q. Okay.

D. JENKINS ON DIRECT

- 1 A. So at that time I . . .
- 2 Q. Did you know Mr. Harrison or Mr. George?
- 3 A. When I would go to Travis' house I would see him
- 4 outside sometimes. You know, I would speak to him and
- 5 say, hey, Mr. George, and then I'd go on to Travis'
- 6 house.
- 7 Q. Was he a neighbor of Travis?
- 8 A. Yes, sir.
- 9 Q. Okay. At that point in time, did you ultimately
- 10 learn that Mr. Ransom was not in custody at that time?
- 11 A. When I got out of the car, I then found out he wasn't
- 12 in custody.
- 13 Q. Did you ultimately end up talking to the police that
- 14 night out there?
- 15 A. It wasn't even like an hour before I said anything.
- 16 I just kept contemplating whether I wanted to be involved
- 17 because I had already put two and two together, that it
- 18 was Mr. George that it had been done to.
- 19 Q. Did you ultimately end up telling them about the
- 20 phone call you had had that evening with Mr. Ransom?
- 21 A. Yes, sir.
- 22 Q. And the conversation you had with Mr. Ransom?
- 23 A. Yes, sir.
- 24 Q. And what did you end up doing at that point in time
- 25 after you told the police officers out there about the

D. JENKINS ON DIRECT

1 phone conversation and what Mr. Ransom had told you --
2 what did you or what did they end up doing at that point
3 in time?

4 A. I don't know if I could say he was a friend, but we
5 had gotten cool, so at this present moment now I had
6 some concern because he had shared some things with me.
7 I was afraid if I had told them where he was that some-
8 thing could have happened to him, and I didn't want that
9 to happen.

10 So I . . .

11 Q. Where did he tell you he was at that earlier
12 point?

13 A. He wanted me to pick him up from the Little Cricket,
14 so I didn't know where his exact location was. I know he
15 wanted me to pick him up from the gas station.

16 Q. And where was that? What Little Cricket is that?

17 A. On 601 right off Magnolia.

18 Q. Okay. Did you ultimately that evening after talk-
19 ing to law enforcement or police officers -- did you go
20 over to that Little Cricket?

21 A. I did.

22 Q. And what did you find over at that Little Cricket?

23 A. Well, I didn't find anybody but he walked up to the
24 car.

25 Q. He being . . .

D. JENKINS ON DIRECT

- 1 A. Dray -- Mr. Ransom.
- 2 Q. Did he get in the car at that point in time?
- 3 A. Yes, sir.
- 4 Q. And had the police officers followed you over there
- 5 at that point in time?
- 6 A. I didn't see any of them. After we rode down the
- 7 road a little while, I noticed a lot of blue lights. I
- 8 looked over to the left and then there was an officer in
- 9 a car telling me to pull over.
- 10 Q. Did they take Mr. Ransom into custody at that time?
- 11 A. Yes, they did.
- 12 Q. And I believe the County Sheriff's Officer asked you
- 13 to go down to the Sheriff's Office and give them a state-
- 14 ment at that time?
- 15 A. I did.
- 16 Q. Okay, and was Mr. Ransom at the Sheriff's Office
- 17 at that point in time also?
- 18 A. I believe he was but he wasn't in the same room when
- 19 I got there.
- 20 Q. Did there come a time when he wanted to talk to you
- 21 at the Sheriff's Office?
- 22 A. It was after a little while, but the officer came
- 23 and said that he wanted to see me.
- 24 Q. Did you go in and talk to Mr. Ransom at that time?
- 25 A. I did.

D. JENKINS ON DIRECT

1 Q. And what, if anything, did he tell you there at
2 the Sheriff's Office?

3 A. If I'm not mistaken, I think he said that he told
4 me that because he wanted me to come so he could get
5 home, and he figured if he told me that story then I
6 would come faster to get him.

7 Q. Did he try to kind of backtrack on what he had said
8 to you on the phone?

9 A. I assume --maybe. I don't know.

10 Q. I mean, when you talked to him at the Sheriff's Of-
11 fice, now he's saying the only reason he told you that
12 he had done all those things he told you earlier was be-
13 cause he wanted you to hurry up and come get him?

14 A. Yes, sir.

15 Q. And, lastly, Mr. Jenkins, the person that talked to
16 you on the telephone and that you picked up from near the
17 Little Cricket and talked to at the Sheriff's Office, do
18 you see him here in the Courtroom?

19 A. Yes, sir.

20 Q. Would you point him out?

21 A. . .

22 Q. Mr. Ransom?

23 A. Yes, sir.

24 Q. Any doubt about it that that's who you were talking
25 to that night?

153

D. JENKINS ON DIRECT

1 A. No, sir.

2 SOLICITOR: Beg the Court's indulgence.

3 (Brief pause)

4 BY SOLICITOR:

5 Q. Thank you, Mr. Jenkins. Please answer any ques-
6 tions the Defense has for you.

7 A. Yes, sir.

8 THE COURT: Cross examine.

9 CROSS EXAMINATION

10 BY MR. WISE:

11 Q. Good afternoon, Mr. Jenkins.

12 A. Good afternoon.

13 Q. You say he called you around seven o'clock?

14 A. I believe it was seven O three or something like
15 that.

16 Q. I want to back up a little. When did you speak to
17 Darius earlier in the day?

18 A. I can't remember the exact time but I was on my way
19 to Denmark Tech to handle some business out there, and
20 he was telling me then he was ready to go home to St.
21 George, and I know this because we had hung out a couple
22 of days prior and he was saying that he was ready to go
23 -- he was ready to leave Orangeburg. So ..

24 Q. Did there come a time when he asked you to come get
25 him and take him home?

154

D. JENKINS ON CROSS

1 A. Well, he never asked me to come get him and take
2 him home until that specific day.

3 Q. He asked that day?

4 A. Yes.

5 Q. Before the seven o'clock phone call, had he asked
6 you to come get him -- Derrell, I'm trying to get home;
7 would you come give me a ride?

8 A. Before that, he asked me for gas money so he could
9 get someone to take him. He never asked for a ride before
10 that.

11 Q. He asked you for gas money?

12 A. Uh hm.

13 Q. Did you tell him you would give him gas money?

14 A. I did.

15 Q. Do you remember about what time you had the phone
16 call from him about the gas money?

17 A. It had to be somewhere between twelve noon and seven.

18 Q. When he called the second time?

19 A. Uh hm.

20 Q. Did he call you on more than one occasion about this
21 gas money?

22 A. Twice. He called me twice about it.

23 Q. And the two times that he called about the gas money,
24 was that before the last phone call?

25 A. Yes, sir.

D. JENKINS ON CROSS

1 Q. Okay, and so he called you two times about gas money,
2 and then he called you again and told you what -- the
3 story?

4 A. Yes, sir.

5 Q. Okay, and the two times he called you about the gas
6 money, do you remember about what time of day they were?

7 A. Between twelve and seven P.M.

8 Q. All right. Okay, the two times that he called you
9 about the gas money, what phone did he call from?

10 A. When he called me prior to the incident it was the
11 number I had for him.

12 Q. So when the call came to you it was from a number
13 that you had?

14 A. Uh hm.

15 Q. And the last occasion, that was a number you didn't
16 recognize?

17 A. I didn't recognize that number.

18 Q. The two occasions that he called you, was he calm?

19 A. Yeah, pretty much.

20 Q. And the other two occasions were about getting money
21 to go home?

22 A. Uh hm.

23 Q. When he called you two times about getting as money
24 -- the first of those two times, what did he tell you?

25 A. The first of the two phone calls?

D. JENKINS ON CROSS

1 Q. Right, the first time he called you about the gas
2 money? What did you tell him?

3 A. I was on my way to Denmark, and I told him I would
4 give him the money when I got back home.

5 Q. And the second time what did you tell him?

6 A. I think the only different thing I said was when I
7 get back I will most definitely give you the money.

8 Q. And you don't remember what time they were, but do
9 you remember how much time passed between the first call
10 and the second phone call about gas money?

11 A. I don't remember.

12 Q. Minutes or hours?

13 A. It had to be hours.

14 Q. Hours?

15 A. Yes.

16 Q. But you don't know how many hours?

17 A. No, sir.

18 Q. I want to talk for a minute about meeting Darius at
19 the Little Cricket. Tell me how that meeting had been
20 arranged?

21 A. Are you talking about the time I picked him up near
22 the gas station?

23 Q. Yeah, obviously there had been some . .

24 A. About where he was apprehended?

25 Q. Well, obviously there had been some conversation

157

D. JENKINS ON CROSS

1 about the Little Cricket.

2 A. Well, after I told the officer -- had the conver-
3 sation to let them know what I knew, there was a lot of
4 things that changed the factor on him being picked up be-
5 cause he had shared with me -- he was going through a
6 lot, you know. He was struggling, didn't have a job, he
7 wasn't well and he needed like medical attention and as
8 long as I had known him he hadn't been a violent person,
9 so it kind of threw me for a loop. I had never seen that
10 side of him.

11 So I spoke to the officers and I told them -- I said,
12 well, let me pick him up because I didn't want -- I did-
13 n't know if he had a gun and I didn't know what was going
14 on to be honest with you.

15 So I just didn't want the situation to get any worse
16 than it already was, so I just felt in my heart that the
17 least I could have done was try to keep the situation
18 down without him being hurt. You see?

19 Q. So you wanted to pick him up?

20 A. I wanted to pick him up, and, you know, let them
21 get him like that. I didn't want them to go over there
22 and there be a shoot-out or anybody get hurt.

23 Q. How did you know to pick him up at the Little
24 Cricket?

25 A. I called him back on his phone.

158

D. JENKINS ON CROSS

1 Q. And when did you call him to say you were going to
2 pick him up?

3 A. Some hours had passed so I can't exactly remember,
4 but I want to say it was before twelve.

5 Q. Before twelve midnight?

6 A. Yeah.

7 Q. Was it before or after you spoke to the police?

8 A. It was after that.

9 Q. So you told the police that you were going to call
10 him and . . .

11 A. Have him meet me where he had said to pick him up,
12 and then, you know, just randomly stop us and pick him
13 up.

14 Q. Okay. So about seven o'clock he calls and tells
15 you this story?

16 A. Uh hm.

17 Q. And then you call him back on his cell phone and say
18 I'll pick you up at the Little Cricket?

19 A. This is hours after the phone call.

20 Q. So at seven he calls you, and hours later you call
21 him back?

22 A. Uh hm.

23 Q. On his cell phone that he had used at first?

24 A. Yes.

25 Q. And when you made that phone call to him, you had

D. JENKINS ON CROSS

- 1 already spoken to the police?
- 2 A. Uh hm.
- 3 Q. And called him back, that you were going to pick him
- 4 up?
- 5 A. Uh hm.
- 6 Q. Did you call -- did you at any time call Darius and
- 7 tell him that the police were aware of what happened;
- 8 that the police were looking for him?
- 9 A. No.
- 10 Q. So when you went to meet Darius he did not know any-
- 11 thing about the police?
- 12 A. No, sir.
- 13 Q. He thought when he was by the Little Cricket that
- 14 he was going to get in the car and you were going to take
- 15 him home?
- 16 A. Yes, sir.
- 17 Q. Okay, and just to be clear, Darius didn't know you
- 18 were setting him up to be picked up by the police?
- 19 A. No, sir.
- 20 Q. The only time he sounded frantic was in the last
- 21 phone call?
- 22 A. Yes, sir.
- 23 Q. Was he agitated about trying to get home and not
- 24 being able to get home?
- 25 A. Yes, sir.

160

D. JENKINS ON CROSS

1 Q. Okay, he was upset -- trying to get home?

2 A. Yes.

3 Q. It was a big thing for him?

4 A. Well, he had been trying to get home a couple of
5 days before that, but there was just something different
6 about him. He was -- I guess he was kind of nervous or
7 -- what he was accused of doing I guess could have played
8 a role in it as well.

9 Q. And you say that you spoke to him at the jail and
10 he told you this was a story, about why he told you he
11 had to do a wake?

12 Q. Well, he didn't go back through the whole story, but
13 he did tell me the reason why he told me that, so that I
14 could come faster, so he could get home. I could come
15 faster, pick him up and get him home.

16 Q. When he told you that, what did you do?

17 A. Nothing.

18 MR. WISE: May I have a moment, Your Honor.

19 THE COURT: Yes, sir.

20 (Brief pause)

21 MR. WISE: Thank you. Nothing further.

22 THE COURT: Solicitor?

23 REDIRECT EXAMINATION

24 BY SOLICITOR:

25 Q. Just so I understand, the first two times, Mr. Jenkins,

161

D. JENKINS ON CROSS

1 earlier in the day that Mr. Ransome had called you on his
2 cell phone, he was asking you for gas money?
3 A. Yes, sir.
4 Q. All right, and the frantic call when he told you
5 about hitting a lick and f-ing this guy up, he was call-
6 ing from a different phone?
7 A. Yes, sir.
8 Q. And did you, after talking with law enforcement,
9 call him back on his cell phone?
10 A. Yes, sir.
11 Q. And that's when you went to pick him up at the
12 Little Cricket?
13 A. Yes, sir.
14 SOLICITOR: That's all I have.
15 THE COURT: Anything further, Mr. Wise?
16 MR. WISE: No, sir.
17 THE COURT: Thank you, sir. You can step down.
18 (Witness excused from stand)
19 THE COURT: Can you call your next witness, Solici-
20 tor?
21 SOLICITOR: I think so. State would call Deputy
22 James Thorpe.
23 JAMES THORPE, being duly sworn,
24 testified as follows:
25 CLERK: Please have a seat and state your name for

1 the record.

2 WITNESS: James Thorpe.

3 DIRECT EXAMINATION

4 BY SOLICITOR:

5 Q. Would you please tell the jury where you are em-
6 ployed?

7 A. Orangeburg County Sheriff's Office.

8 Q. And how long have you been with the Sheriff's Of-
9 fice?

10 A. A little over a year.

11 Q. Okay, and what are your duties there?

12 A. Road patrol, to answer calls, help citizens . .

13 Q. I notice you have your foot in a boot?

14 A. Yes, sir.

15 Q. So you are kind of restrained to desk duty at this
16 point in time?

17 A. Yes.

18 Q. Back on July 25th of last year, were you working
19 as a Deputy at that point in time?

20 A. Yes, I was.

21 Q. And were you on the job at that point in time, or
22 newly on the job at that point in time?

23 A. No, sir. Actually I had eight years experience at
24 that point in time.

25 Q. And where did you work prior to coming on?

163

J. THORPE ON DIRECT

- 1 A. I was Chief of Police in Eutawville.
- 2 Q. Eutawville?
- 3 A. Yes, sir.
- 4 Q. So you were fairly new then with Orangeburg County
- 5 at that point in time?
- 6 A. Well, I had worked for Orangeburg County from 2005
- 7 to 2008.
- 8 Q. Okay, and you had come back, I guess, during last
- 9 year?
- 10 A. Yes, sir.
- 11 Q. And did you have an opportunity on that night, the
- 12 evening of July 25, 2011, to respond out to 1212 Golf
- 13 Avenue?
- 14 A. Yes, sir.
- 15 Q. Is that in Orangeburg County?
- 16 A. Yes, sir.
- 17 Q. Tell the jury how it came about that you ended up
- 18 over there on Golf Avenue that night?
- 19 A. That night I was at the Law Complex at 1520 Elks
- 20 Avenue, and as I was coming out of the parking lot the
- 21 victim's neighbor stopped me and said that there was a
- 22 -- that his neighbor had been beaten severely and that
- 23 he needed some help.
- 24 Q. All right.
- 25 Q. So I followed the subject to the residence, and at
- 164

J. THORPE ON DIRECT

1 the time I stopped at the residence the subject -- the
2 victim was not there. He was at the neighbor's residence
3 at the time.

4 I approached him and he had several lacerations to
5 his head, and he was bleeding profusely.

6 Q. Okay, and that was the victim, Mr. Harrison --
7 George Harrison?

8 A. Yes, sir.

9 Q. All right, and did you get EMS to respond there or
10 do anything else?

11 A. Well, after seeing the condition he was in, I called
12 EMS.

13 Q. Okay, and who else did you -- who else was called
14 at that point in time?

15 A. My supervisor which is Sergeant Westberry.

16 Q. Did you have an opportunity while waiting for EMS
17 to talk to Mr. Harrison?

18 A. Yes, I did.

19 Q. And did he indicate to you what had happened to
20 him, or what was taken from him?

21 A. He said approximately Twenty Dollars and his cell
22 phone were taken.

23 Q. And did he say at that time where -- did he say
24 where the incident had occurred?

25 A. He said it had occurred inside his residence.

165

J. THORPE ON DIRECT

1 Q. And did you have an opportunity to go to his resi-
2 dence?

3 A. Yes, I did.

4 Q. I show you State's Exhibit Number 5. Is that the
5 residence that you went to?

6 A. Yes.

7 Q. And showing you State's Exhibit Number 7, was that
8 back door in that condition, open like that, when you
9 arrived at that residence?

10 A. Yes, sir, it was.

11 Q. Now, did you have an opportunity in kind of going
12 through and clearing that residence to observe any kind
13 of potential weapons that may have been inside that res-
14 idence that may have been involved in this incident?

15 A. Yes, sir.

16 Q. And tell the jury what that was that you observed?

17 A. I observed what I believed was an axe handle with
18 blood on it.

19 Q. Showing you State's Exhibit Number 15. Is that a
20 photograph of that axe handle?

21 A. Yes, sir.

22 Q. And did you also point that out to the crime scene
23 persons who came out there?

24 A. Yes, sir.

25 Q. And is that Investigator Ketcherside?

166

J. THORPE ON DIRECT

1 A. Yes, sir.

2 Q. And did Investigator Ketcherside ultimately come
3 out there and kind of take over as far as that house or
4 that crime scene?

5 A. Yes.

6 Q. Let me ask you this, Deputy Thorpe. Later on that
7 evening were you involved in the arrest of the Defen-
8 dant, Darius Ransom?

9 A. Yes, I was.

10 Q. Okay, and specifically who transported -- the jury
11 just heard about him being arrested near the Little
12 Cricket on 1601. Is that correct?

13 A. Yes, sir.

14 Q. Who transported him from that traffic stop back to
15 the Sheriff's Office that evening?

16 A. I did.

17 Q. Okay, and what were you driving at that point in
18 time?

19 A. I was driving my marked Crown Victoria.

20 Q. All right, and where did you end up then taking him
21 that evening?

22 A. We took him to the Investigations Headquarters.

23 Q. That's over on Chestnut, kind of behind Popeye's, is
24 that correct?

25 A. Yes.

167

J. THORPE ON DIRECT

1 Q. Now, let me ask you this. Prior to transporting
2 Mr. Ransom, had you had an opportunity to search your
3 patrol car?

4 A. . .

5 Q. The back seat of your patrol car?

6 A. Yes, sir. Every time I transport somebody after
7 I get them out I always check the back seat.

8 Q. And prior to -- you had at some time prior to this
9 night checked the back seat of your patrol car?

10 A. Yes.

11 Q. Prior to transporting Mr. Ransome that night, had
12 anybody else been in the back seat of your patrol car?

13 A. No.

14 Q. Did you subsequently -- I think it was probably a
15 day or so later, on July 27th, have an opportunity to
16 search your patrol car again, I guess, before you went
17 back on duty?

18 A. Yes.

19 Q. And had anybody been in or transported on the back
20 seat of your car?

21 A. No. He was the last one transported.

22 Q. Tell the jury, upon searching the back seat of your
23 patrol car, what, if anything you found?

24 A. Upon searching the -- I took the back seat out like
25 I always do, and in the back seat I found a cell phone

168

J. THORPE ON DIRECT

1 that was actually broke in half that was laying under-
2 neath the back seat.

3 Q. Let me show you, first of all, State's Exhibit Num-
4 ber 9. Do you recognize that photograph?

5 A. Yes, sir.

6 Q. What is that a photograph of?

7 A. My patrol vehicle.

8 Q. And that's the patrol car that you were driving back
9 on July 25th, 2011?

10 A. Yes, sir.

11 Q. And is that the one you subsequently searched?

12 A. Yes, sir.

13 Q. In the parking lot?

14 A. Yes.

15 SOLICITOR: At this time we'd offer State's 9 into
16 evidence.

17 MR. WISE: No objection.

18 THE COURT: State's 9 in evidence, without objec-
19 tion.

20 (Photograph of patrol car entered in evidence with-
21 out objection as State's Exhibit 9)

22 BY SOLICITOR:

23 Q. You indicated that you actually pulled the back
24 seat out to do the search?

25 A. Yes, sir.

169

J. THORPE ON DIRECT

1 Q. And is this the kind of back seat that actually
2 slides?

3 A. Yes, sir. All I had to do was slide it out and
4 pull it forward.

5 Q. And that's when you found the cell phone?

6 A. Yes, sir.

7 Q. And was the cell phone broken into a couple of
8 pieces?

9 A. Yes, sir.

10 Q. I show you State's Exhibits 10 and 11. Do
11 you recognize them?

12 A. Yes, sir.

13 Q. I think it shows in State's Exhibit 10 kind of
14 where the phone was located?

15 A. Yes.

16 Q. And State's Exhibit 11?

17 A. Yes, sir.

18 SOLICITOR: Your Honor, we would move State's Ex-
19 hibits 10 and 11 in evidence.

20 MR. WISE: Without objection.

21 THE COURT: State's Exhibits 10 and 11 in evidence
22 without objection.

23 (Photos of patrol car and cell phone admitted in
24 evidence without objection as State's Exhibi ts 10 and
25 11)

170

J. THORPE ON DIRECT

1 BY SOLICITOR:

2 Q. When you located that cell phone, who, if anybody,
3 did you notify about that?

4 A. At that point in time, I notified Investigator
5 Shumpert.

6 Q. And this is Investigator Shumpert here?

7 A. Yes, sir.

8 Q. Okay, and as a result of notifying him, did someone
9 end up meeting you out where you were with your vehicle,
10 I guess in the Law Complex?

11 A. Yes, sir.

12 Q. And who met you out there?

13 A. Investigator Ketcherside.

14 Q. And he had responded to the incident located pre-
15 viously?

16 A. Yes, sir.

17 Q. What, if anything, did Investigator Ketcherside do?

18 A. He actually took photographs of everything, where
19 the phones were, and then he collected them.

20 Q. And who actually took these photographs?

21 A. Investigator Ketcherside.

22 Q. Were you present when that was done?

23 A. Yes, sir.

24 Q. And does State's Exhibit 10 kind of show the back
25 seat as it was pulled out?

171

J. THORPE ON DIRECT

1 A. Yes.

2 Q. Prior to transporting Mr. Ransom, had that cell
3 phone been in your back seat?

4 A. No, sir.

5 Q. And State's Exhibit 11, is that the condition of the
6 phone in the back seat?

7 A. Yes, sir.

8 Q. And could you see anything on that cell phone from
9 looking at it?

10 A. There was blood on that cell phone.

11 Q. Thank you, Deputy Thorpe. That would be all the
12 questions that I have.

13 THE COURT: Mr. Stroud, Cross Examination.

14 CROSS EXAMINATION

15 BY MR. STROUD:

16 Q. Deputy Thorpe, you went out to -- when you went out
17 to Golf Avenue, you spoke to Mr. Harrison?

18 A. Yes.

19 Q. And he was able to communicate with you completely?

20 A. Not really completely, no.

21 Q. But you understood what he was saying?

22 A. He told me that he had been hit.

23 Q. Okay.

24 A. With -- in the head.

25 Q. Did he mention who did it?

172

J. THORPE ON CROSS

1 A. He said he was familiar with him, with the fellow.

2 Q. Okay, and you asked him about his name, address,
3 height, weight, telephone number, age -- did you get all
4 of that from him?

5 A. Yeah.

6 Q. And he answered that without a problem?

7 A. Actually, I believe at that time I had a problem in
8 getting information from him. I got it from his ID.

9 Q. How long did it take you to get this information
10 out of him?

11 A. . . .

12 Q. Or what you did get out of him?

13 A. Probably a matter of minutes.

14 Q. Minutes?

15 A. Yeah.

16 Q. Was there anybody else that was with you at the
17 time?

18 A. Not except the neighbor.

19 Q. The neighbor?

20 A. The one who had stopped me.

21 Q. Did you see any other neighbors around there?

22 A. No.

23 Q. You've been a police officer for quite a while, is
24 that correct?

25 A. Yes, sir.

173.

J. THORPE ON CROSS

- 1 Q. You were the Chief of Police in Eutawville?
- 2 A. Yes, sir.
- 3 Q. And you are well aware that people stash things in
- 4 the backs of patrol cars?
- 5 A. Yes.
- 6 Q. Is that correct?
- 7 A. That's correct.
- 8 Q. How often do you search your car?
- 9 A. Every time I transport somebody.
- 10 Q. When they get out of the car, you look to see what
- 11 is in there?
- 12 A. No.
- 13 Q. Okay, so the last time you searched the car pre-
- 14 viously was when you transported someone else?
- 15 A. That's right.
- 16 Q. I'll get back to that later. When you -- when Mr.
- 17 Ransom was arrested, did you search his person?
- 18 A. No.
- 19 Q. You didn't do a frisk?
- 20 A. No, sir, I didn't.
- 21 Q. You didn't?
- 22 A. I believe Sergeant Westberry did.
- 23 Q. Okay. Now, when you went to the scene, did you
- 24 drive it?
- 25 A. Yes.

J. THORPE ON CROSS

1 Q. And while you were there, you performed -- you
2 searched the house?

3 A. Yes, sir.

4 Q. Who was at the scene when you were doing that?

5 A. . .

6 Q. What other officers?

7 A. Myself and Officer Westberry at the time were on the
8 scene.

9 Q. And I know you are satisfied that you hadn't trans-
10 ported anybody between the time Mr. Ransom was arrested
11 and when you found it, but I want to be absolutely clear
12 on this.

13 Was anybody -- did anyone enter the car at all be-
14 tween transportation and when you found it, other than
15 yourself?

16 A. No, sir.

17 Q. Were you working the next day, July 26?

18 A. I believe I was, yes, sir.

19 Q. Did you happen to be driving that car?

20 A. That's the only car I drive, yes, sir.

21 Q. Would it be -- were you most likely driving around
22 that day?

23 A. I was driving around when answering calls.

24 Q. Okay. Do you think you detained anyone that day or
25 transported anyone that day?

175

J. THORPE ON CROSS

1 A. No, sir, not to my knowledge.

2 Q. Not to your knowledge?

3 A. No, sir.

4 Q. Could that have happened?

5 A. It didn't.

6 Q. Could you have transported somebody on July 26th?

7 A. Not to my knowledge.

8 Q. Isn't it true you found the cell phone on July the
9 27th?

10 A. Yes, sir.

11 Q. Two days after the incident?

12 A. I believe so.

13 (Brief pause)

14 MR. STROUD: May I approach the witness?

15 THE COURT: Yes, sir.

16 BY MR. STROUD:

17 Q. This is actually -- do you know what that is?

18 A. Yes, sir.

19 Q. What is it?

20 A. Evidence log sheets.

21 Q. Okay, and can you tell me what the date is that it
22 was introduced or put into evidence?

23 A. The 27th of July, 2011.

24 Q. And that would be two days after the incident?

25 A. Yes.

176

J. THORPE ON CROSS

1 Q. So if you were to believe the allegation, it would
2 have been undetected for two days?

3 A. Yes.

4 Q. Now, you testified that every time you transport
5 a prisoner you pop it open and you look?

6 A. Yes.

7 Q. Did you do it this time?

8 A. Yes.

9 Q. And it wasn't there?

10 A. No.

11 Q. But it appears two days later?

12 A. Yes.

13 MR. STROUD: Just one moment, Your Honor.

14 THE COURT: Yes, sir.

15 (Brief pause in proceeding)

16 MR. STROUD: Thank you, sir.

17 BY MR. STROUD:

18 Q. Earlier you testified that he indicated that he was
19 familiar with the person who had assaulted him, is that
20 correct?

21 A. Yes.

22 Q. Is that the incident report you filled out?

23 A. Yes, sir.

24 Q. And that was filled out on the date of the incident,
25 is that right?

A. Yes.
177

J. THORPE ON CROSS

- 1 A. Right.
- 2 Q. And it has been some time since the incident when
3 you talked to him?
- 4 A. Yes, sir.
- 5 Q. In your incident report while it's fresh in your
6 mind, did you make any note that he was familiar with
7 the subject?
- 8 A. I just put what it states here in the report.
- 9 Q. And does it say anything about he was familiar
10 with the person who assaulted him?
- 11 A. No, sir.
- 12 Q. And the description that you gave --that you wrote
13 that he gave at that point was of a black male with a red
14 bandanna. Correct?
- 15 A. Yes.
- 16 Q. It doesn't say anything about the kid who was
17 across the street or the guy I've seen around or anything
18 like that?
- 19 It's just a black male with a red bandanna?
- 20 A. Yes.
- 21 Q. And he never mentioned any bandanna coming off and
22 he saw his face or anything like that?
- 23 A. No.
- 24 Q. That's pretty much it?
- 25 A. Right.

J. THORPE ON CROSS

1 MR. STROUD: No further questions, Your Honor.

2 THE COURT: Anything further?

3 SOLICITOR: Just a couple of things, Your Honor.

4 REDIRECT EXAMINATION

5 BY SOLICITOR:

6 Q. Deputy Thorpe, you testified in answer to questions
7 on Direct earlier that nobody else was transported from
8 the time you last checked your vehicle until you checked
9 it again after you transported the Defendant. Is that
10 correct?

11 A. Yes.

12 Q. In fact, that's what you told Investigator Shupert?

13 A. Yes.

14 Q. That's what you told Investigator Ketcherside, is
15 that correct?

16 A. Yes.

17 Q. And that was when he responded after the cell phone
18 was found?

19 A. Yes.

20 Q. Do you know for a fact that you worked that day,
21 July 26th, 2011?

22 A. Not really.

23 Q. Until July 27th?

24 A. I don't know really.

25 Q. And nobody asked you to check on that before you

179

J. THORPE ON REDIRECT

1 took the stand?

2 A. No, nobody asked it.

3 Q. And that was a year ago, correct?

4 A. Yes.

5 Q. And it shows on the paperwork that the cell phone
6 was collected on July 27th, 2011, by Investigator
7 Ketcherside, is that correct?

8 A. On seven 27 of 2011 at 3:45 in the afternoon, is
9 that right?

10 A. Yes, sir.

11 Q. Is that typically about when you are reporting for
12 work?

13 A. No. That was taken on that particular day when we
14 had a vehicle inspection.

15 Q. And showing you what I believe was part of Investi-
16 gator Ketcherside's report initially -- is that correct?

17 A. Yes.

18 Q. It actually references the fact that you discovered
19 the phone when you were cleaning your vehicle, is that
20 correct?

21 A. Yes.

22 Q. Had anybody been transported in the interim?

23 A. No, sir.

24 Q. A night and a half before, I guess?

25 A. Yes.

180

J. THORPE ON REDIRECT

1 Q. You were asked about the description the victim
2 had given you of the person who assaulted hi?

3 A. Yes.

4 Q. Did you get a description as far as his height, his
5 weight, age, things like that?

6 A. Yes.

7 Q. What was the approximate age you were given?

8 A. Twenty years old.

9 Q. Height and weight?

10 A. Six foot, about a hundred eighty pounds.

11 Q. You indicated earlier it was a black male and he
12 described a red bandanna?

13 A. Yes, sir.

14 Q. And he never indicated the person's name, is that
15 correct? He told you he had seen the person before but
16 he never told you Darius Ransom?

17 A. No.

18 Q. Thank you. Nothing further.

19 THE COURT: Anything on Recross?

20 ATTORNEY STROUD: No, Your Honor.

21 THE COURT: You can step down. Thank you, sir.

22 (Witness excused from stand)

23 THE COURT: Can I see the attorneys for a second?

24 (Conference at the bench between counsel and the
25 Court off the record)

1 THE COURT: We are going to stop for today with the
2 testimony. You have not heard or seen all of the evidence
3 in the case so you cannot talk about what you have heard
4 between yourselves or with anyone else.

5 Do not do any investigation or listen to any report
6 about this case. Okay?

7 We're going to take a break, and I would ask you to
8 be back in your jury room at nine thirty in the morning.
9 Have a good evening. Thank you.

10 (Jury excused for the evening)

11 THE COURT: All right, I'll see you at nine thirty
12 tomorrow, if there is nothing else.

13 (Court stood in recess until July 18, 2012, when the
14 case resumed)

15 (Jury returned to Courtroom)

16 THE COURT: You all look like you got some rest, so
17 we are ready to proceed with the State's case.

18 Call your next witness.

19 SOLICITOR: Thank you, Your Honor. The State would
20 call Investigator William Ketcherside.

21 WILLIAM KETCHERSIDE, being
22 duly sworn, testified as follows:

23 CLERK: Thank you, sir. Please have a seat on the
24 witness stand.

25 After you have had a seat, state your name for the

182

1 the record.

2 WITNESS: William Ketcherside.

3 DIRECT EXAMINATION

4 BY SOLICITOR:

5 Q. Investigator Ketcherside, if you would, please tell
6 the jury where you are employed?

7 A. The Orangeburg County Sheriff's Department.

8 Q. And how long have you been with the Sheriff's Of-
9 fice?

10 A. Approximately six years.

11 Q. And were you in law enforcement prior to the Sher-
12 iff's Office?

13 A. Yes, sir.

14 Q. Where was that?

15 A. The Santee Police Department.

16 Q. And what are your duties with the Orangeburg County
17 Sheriff's Office?

18 A. Forensic services investigator.

19 Q. And describe for the jury, please, what that entails,
20 Investigator Ketcherside?

21 A. Basically what we do is we respond to scenes. Our
22 duties are to identify, collect, document and collect,
23 any items of evidence that's found at the scene.

24 You know, that includes biological evidence, impres-
25 sion evidence such as footwear and fingerprints.

183

W. KETCHERSIDE ON DIRECT

1 Q. Okay, and how long have you been employed in that
2 capacity?

3 A. Two years.

4 Q. Two years now?

5 A. Yes, sir.

6 Q. Turning your attention specifically, Investigator,
7 back to July 25th of last year, did you have occasion
8 to respond out to 1212 A Golf Avenue, the residence of
9 George Harrison?

10 A. Yes, sir, I did.

11 Q. Describe for the jury the scene that you came upon
12 when you responded out to that call that night?

13 A. When I first arrived at the residence, it was a
14 white single wide mobile home with red trim. The front
15 porch kind of on the southeast end with a concrete wall
16 on the back side of the residence.

17 Q. Showing you State's Exhibit Number 5, 6 and 7, does
18 that show the front of that trailer . .

19 A. Yes, sir.

20 Q. . . that you responded to that night?

21 A. Yes, sir, that's the mobile home, the front of the
22 mobile home.

23 Q. You talked about the back of it had a concrete wall,
24 and I'll show you this picture?

25 A. Yes, sir.

184

W. KETCHERSIDE ON DIRECT

1 Q. That's Number 7, and it shows the concrete wall?

2 A. Yes, sir.

3 Q. Let me ask you if there were any other trailers in
4 proximity to that trailer?

5 A. Yes, on the southeastern end of the home, which
6 would have been on the same end as the porch.

7 Q. On this side?

8 A. Yes, sir. There would have been two mobile homes
9 in the same direction on that end of the mobile home.

10 Yes, sir.

11 Q. All right. Now tell the jury how you went about
12 processing that scene that night?

13 A. Okay.

14 Q. The steps you took in doing that?

15 A. At first I did an initial walk-through of the resi-
16 dence, making note of any observations. After that was
17 done, then I began taking -- documenting the scene by
18 photographs.

19 That was done general, mid-range and close-up in
20 digital type photos.

21 Q. We'll go through some of those photographs that you
22 took that night.

23 First, how did you gain entrance to the residence?

24 A. Through the front door.

25 Q. I show you State's Exhibit Number 8. What does

185

W. KETCHERSIDE ON DIRECT

1 that photograph show?

2 A. That would be the front porch and the steps to the
3 residence.

4 SOLICITOR: The State would offer State's Exhibit 8
5 in evidence.

6 THE COURT: Objection?

7 MR. WISE: No objection.

8 THE COURT: State's Exhibit 8 in evidence without
9 objection.

10 (Photograph of residence admitted without objection
11 as State's Exhibit 8)

12 (Colloquy between counsel and the Court off the re-
13 cord)

14 SOLICITOR: A couple of these are not in evidence.

15 THE COURT: Look at them. Any objection?

16 MR. WISE: No, sir.

17 SOLICITOR: At this time we would offer, as the
18 photographs go, those that are not in evidence although
19 they may be -- Number 5 through 22.

20 THE COURT: Those are of the scene?

21 SOLICITOR: Yes, sir. At this time we would offer
22 State's Exhibits Number 5 through 22, photos of the scene.

23 THE COURT: Without objection?

24 MR. WISE: Yes, sir.

25 THE COURT: So they will be in evidence without any

186

W. KETCHERSIDE ON DIRECT

1 objection.

2 (Photographs of scene, State's Exhibits 5 through 22,
3 some already admitted, allowed in evidence without objec-
4 tion)

5 BY SOLICITOR:

6 Q. I show you State's Exhibit 8, and what does that de-
7 pict?

8 A. The front porch of the residence.

9 Q. And what, if anything, did you notice on the front
10 porch there?

11 A. On the front porch and on the steps, and even on the
12 ground at the bottom of the steps, would have been some
13 ninety degree blood droplets.

14 Q. And explain to us what you mean by ninety degree
15 blood droplets?

16 A. Wherever they were coming from, they were dripping
17 off somebody bleeding or an object that had blood on it,
18 and that object or that person would have been moving
19 slowly or standing still.

20 Q. And are you aware of the history that the victim had
21 -- are you aware of the history that was given that the
22 victim had actually left and gone to a neighbor's resi-
23 dence . . .

24 A. Yes, sir.

25 Q. . . for help?

W. KETCHERSIDE ON DIRECT

1 A. Yes, sir.

2 Q. And would that be consistent with the injuries that
3 he suffered and having gone down those steps?

4 A. It would be consistent.

5 Q. Okay. Now, coming in that front door, where -- when
6 coming in that front door, where does that lead into?

7 A. It leads into the kitchen and living area, which are
8 all one big room.

9 Q. Showing you State's Exhibit Number 12 through 15, do
10 those kind of depict that area of the residence?

11 A. Yes, sir, they do.

12 Q. Okay, and would you step down, if you would?

13 A. Yes, sir. (Stepping down from stand)

14 Q. And if you would come nearer the jury and we'll
15 look at some photographs. State's Exhibit 13 -- please
16 keep your voice up so everybody can hear.

17 That kind of shows what as you look at that photo-
18 graph?

19 A. It shows the floor as you go into the doorway. You
20 can see blood droplets there and on the wall or cabinet
21 right next to the doorway.

22 As you go in through the doorway you can see kind
23 of brownish droplets there on the floor and also on the
24 cabinets.

25 As you go in further, again you can see a large area

W. KETCHERSIDE ON DIRECT

1 of blood five or six foot in. This is kind of a pathway
2 there. Also, in the trash can there turned over which is
3 a sign of a struggle, and it also has blood on one side
4 of it and also on the bottom of it as well.

5 Q. Describe what you detected from the blood pattern
6 you saw?

7 A. If someone is hit and the blood surfaces, there is
8 blood spatters from impact and also from motion, so it
9 is eventually going to impact.

10 Q. So if I was bleeding from being struck and then if
11 someone struck me again, the blood that had begun from
12 being hit would spatter?

13 A. Yes, sir. That is one of the things.

14 Q. Showing you State's Exhibit 12, is that what you
15 have here?

16 A. Yes, sir. You can see some droplets on the refrig-
17 erator as well and also some on projected blood spatters
18 on the wall. Also right here you can see where some-
19 body might have been standing, some stains, here and here,
20 in that area.

21 Q. Showing you State's Exhibits 17, 18 and 19, is that
22 a more close-up photo of that spatter?

23 A. Yes, sir, it is. You can see the spatters here and
24 some on the floor and the bottom edge of the wall. You
25 can see the pattern of these droplets, almost ninety

W. KETCHERSIDE ON DIRECT

1 degrees.

2 Q. And is that all consistent with the history given
3 by the victim?

4 A. Yes, sir.

5 Q. State's Exhibit 14, where is that?

6 A. This is to the right of the front door. (Portion not
7 audible) That would be the front door and to the right.
8 Again, you can see the droplets of blood on the floor,
9 on the cabinet or counter.

10 These pretty much show the same thing on the scene.

11 Q. And is there a closeup which shows the couch?

12 A. Yes, sir. There was a couch on around to the left.
13 You can see the trash can turnover with some blood spat-
14 ter on the trash can and also some of the blood that is
15 on the floor.

16 Q. You can be seated again.

17 A. (Retaking witness stand) Yes, sir.

18 Q. Now, let me ask you, did you have an opportunity to
19 -- you talked about part of your duties would be to look
20 for fingerprints?

21 A. Yes, sir.

22 Q. Things of that nature?

23 A. Yes, sir.

24 Q. Before I move on, in that living room and kitchen
25 area, did you have an opportunity to check the area in

190

W. KETCHERSIDE ON DIRECT

1 that portion of the house or to process that portion of
2 the house?

3 A. Yes, sir.

4 Q. For fingerprints?

5 A. For fingerprints initially. It would have been the
6 fire extinguisher which appeared to be out of place, like
7 it had been moved. So I processed it and had no results.

8 Q. You got no fingerprints off of that?

9 A. No, sir.

10 Q. And were you looking as well for not necessarily
11 fingerprint impressions but footprints as well?

12 A. Yes, sir. That's correct. Footwear impressions.

13 Q. Footwear impressions?

14 A. Yes, sir. In this case, we looked for floating
15 footwear impressions.

16 Q. Did you find any other than in the kitchen area on
17 that linoleum?

18 A. No, sir.

19 Q. No other indication other than in that kitchen area?

20 A. No, sir.

21 Q. No footwear impressions?

22 A. No, sir.

23 Q. Is there any other means other than with the naked
24 eye that you had an opportunity to test for footwear
25 impressions?

191

W. KETCHERSIDE ON DIRECT

1 A. Yes, sir, there is.

2 Q. Tell the jury what that is?

3 A. That would be liquid crystal violet, also known as
4 LCV. It is a peroxide-based reagent that reacts to the
5 presence of blood.

6 Q. And explain how you -- is it something you spray on
7 or a powder?

8 A. Yes, sir. It's a spray with a light mist.

9 Q. Did you attempt to do that in that kitchen area?

10 A. Yes, sir.

11 Q. And did you have an opportunity to process that
12 area for footwear impressions?

13 A. Yes, sir.

14 Q. And you would be looking for footwear impressions
15 that contained blood or had blood in it?

16 A. Yes, sir.

17 Q. And you attempted to do that in the kitchen area?

18 A. Yes, sir.

19 Q. Did you have any blood shown to be present in that
20 kitchen area, or did you have any blood to ultimately
21 show up in any footwear impressions in the kitchen area
22 there?

23 A. No, sir.

24 Q. All right, and other than the blood on the floor and
25 the blood spatters you have testified about, was there

W. KETCHERSIDE ON DIRECT

1 anything else that you found to be present in that living
2 room area?

3 A. No, sir. Not in the living room area.

4 Q. And did you have an opportunity to go and search
5 or kind of go through the other rooms?

6 A. Yes, sir.

7 Q. What other rooms in the trailer there were there
8 that you went into?

9 A. Just past the kitchen down the hall would have been
10 a room on the left hand side. It appeared to be some
11 type of store room.

12 Q. And what, if anything, did you observe in that room
13 that may have had some . .

14 A. In that room, I observed a wooden axe handle that
15 appeared to be stained with blood.

16 Q. Showing you State's Exhibit 16, does that depict the
17 axe handle?

18 A. Yes, sir.

19 Q. You found that there in the residence?

20 A. Yes, sir.

21 Q. Showing you State's Exhibit Number 24, is that the
22 actual item that you found . .

23 A. Yes, sir.

24 Q. . . there that night?

25 A. Yes, sir.

193

W. KETCHERSIDE ON DIRECT

1 Q. And that you photographed there that night?

2 A. Yes, sir, I did.

3 SOLICITOR: Your Honor, at this time the State would
4 offer Exhibit 24 in evidence.

5 THE COURT: Any objection?

6 MR. WISE: No objection.

7 THE COURT: State's Exhibit 24 in evidence without
8 objection.

9 (Axe handle admitted in evidence without objection
10 as State's Exhibit 24)

11 BY SOLICITOR:

12 Q. And this was collected from that storage type room
13 that night?

14 A. Yes, sir.

15 Q. At the Harrison residence?

16 A. Yes, sir.

17 Q. And did it appear to have some blood on it?

18 A. Yes, sir. On the -- what would be the axe head,
19 which would be this end.

20 Q. Would you point out where that was?

21 A. This would be down sort of where your hand is.

22 Q. And was that obvious with the naked eye . .

23 A. Yes, sir.

24 Q. . . when you saw it at the scene?

25 A. Yes, sir.

W. KETCHERSIDE ON DIRECT

1 Q. Okay. Did you check on any of the other rooms?

2 A. Yes, sir. I did a walk-through of the entire resi-
3 dence.

4 Q. Did you see any other blood or any other items that
5 appeared to be or to you could have been used in this
6 assault?

7 A. No other weapons. In the hallway we did have a bit
8 of projected blood spatter on the wall under a window.

9 Q. Okay, and did you have an opportunity in that hall-
10 way to do what you attempted to do in the kitchen area,
11 to see whether there were any footwear impressions in
12 that area?

13 A. Yes, sir.

14 Q. And were you able to find any?

15 A. No, sir. No results.

16 Q. How about the bedroom or where the axe handle was
17 found?

18 A. Just inside the bedroom door. There were no results.

19 Q. That area there -- that has what looks like linoleum
20 there?

21 A. Yes, sir.

22 Q. No footwear impressions?

23 A. No, sir.

24 Q. All right. Now, I show you earlier, Investigator
25 Ketcherside, one of the photographs that is Number 7?

W. KETCHERSIDE ON DIRECT

- 1 A. Yes, sir.
- 2 Q. At the rear of the residence?
- 3 A. Yes, sir.
- 4 Q. And what is the condition of the door in that pic-
5 ture?
- 6 A. The door is open and it also has some damage to the
7 keeper plate as well as to the doorknob itself.
- 8 Q. Is that the condition that it was in when you ar-
9 rived on the scene of the back door of the building?
- 10 A. Yes, sir.
- 11 Q. You indicated there was some damage -- I show you
12 State's Exhibit Number 22. Does that show what you were
13 just talking about?
- 14 A. Yes, sir. That would be . .
- 15 Q. Describe for the jury what you were talking about
16 concerning the condition of the back door?
- 17 A. You can see some rust and there's some -- it looks
18 like some new damage that has kinda got a shiny, clean
19 look to it. It has some scrapes and it's kind of bent
20 as well.
- 21 Q. And you documented that by this photograph?
- 22 A. Yes, sir.
- 23 Q. Did you have an opportunity to do what you did with
24 the fire extinguisher? Did you process any of that rear
25 door area for fingerprints?

W. KETCHERSIDE ON DIRECT

1 A. Yes, I did.

2 Q. Explain to the jury where it was and what your re-
3 sults were?

4 A. I processed the back door, the door knobs interior
5 and exterior. No results.

6 Q. Let me ask you, is that common or uncommon to not
7 find fingerprints when you are looking at a crime scene?

8 A. It's common.

9 Q. And why is that?

10 A. It can depend on the surface or, you know, somebody
11 might not have actually touched that area. They might
12 not have actually grabbed the doorknob to pull it open.
13 They might have just popped -- pried the door and popped
14 it open and never touched the door as they went in.

15 Q. Every time you touch an item does it leave a finger-
16 print on the item?

17 A. Yes, sir.

18 Q. I mean, . .

19 A. Not every time, no.

20 Q. Every time you touch an item does it leave a finger-
21 print on that item?

22 A. Not every time.

23 Q. And in this case, you didn't find any fingerprints,
24 not even from the victim?

25 A. No, sir.

197

W. KETCHERSIDE ON DIRECT

1 Q. Now, in this back area behind the residence back
2 there, what is the surface back behind there?

3 A. It's dirt and also some foliage from the trees with
4 a little bit of grass.

5 Q. Did you have an opportunity to search back in that
6 area back behind the residence?

7 A. Yes.

8 Q. Did you look for evidence back there?

9 A. Yes, sir.

10 Q. What was it you were looking for back there?

11 A. Footwear impressions in the dirt.

12 Q. And were there any footwear impressions that you
13 found?

14 A. No, sir, there were none.

15 Q. As far as -- showing you State's Exhibit 6 again.
16 Did you find any blood outside of the residence that was
17 consistent with the trail of blood you found by the front
18 door?

19 A. Yes, sir, I did.

20 Q. Tell the jury where it was that you found the blood
21 outside the residence?

22 A. It would have been on the -- it's on the top of the
23 tongue of the mobile home.

24 Q. Is that area depicted in State's Exhibit 6?

25 A. Yes, sir. It would have been right in here.

W. KETCHERSIDE ON DIRECT

1 Q. The trailer tongue to the residence?

2 A. Yes, sir.

3 Q. And what did you find in that area?

4 A. In one area I found some tiny blood droplets and
5 then just behind that on the top surface there was also
6 another droplet, but it had a little bit of motion, like
7 first it stopped and then it started movement, and it had
8 some directionality to it.

9 Q. What did you do then with those droplets?

10 A. I documented them with photographs and also I col-
11 lected swabs.

12 Q. Showing you State's Exhibit Number 25, what are
13 those?

14 A. Those are two Q-tip swabs with blood collected from
15 that area.

16 SOLICITOR: Your Honor, at this time I'd offer
17 State's Exhibit 25 in evidence.

18 THE COURT: Any objection?

19 MR. STROUD: No objection.

20 THE COURT: That would be State's Exhibit 25 in evi-
21 dence without objection.

22 (Swabs entered in evidence without objection as
23 State's Exhibit 25)

24 BY SOLICITOR:

25 Q. Let's go back for a minute. On the axe handle you
199

W. KETCHERSIDE ON DIRECT

1 collected, did you have an opportunity to swab the axe
2 handle?

3 A. Yes, sir, I did.

4 Q. And tell the jury about that?

5 A. I swabbed the grip end of the axe handle for touch
6 DNA.

7 Q. And what is touch DNA?

8 A. This is where you touch an object and it leaves
9 skin cells, and your DNA can be extracted from that --
10 your DNA profile can be extracted.

11 Q. From gripping the handle with the hands, holding it,
12 and you can get a DNA profile from that?

13 A. Yes, sir.

14 Q. You swabbed that, and describe for the jury how you
15 go about doing that?

16 A. Initially you take two Q-tip swabs and flush them
17 with sterile water. Then you rub that area and allow it
18 to dry and it's packaged and sealed.

19 Q. I'll get back to that in a minute with the next
20 package I talk to you about.

21 Anything else you processed at the scene?

22 A. No, sir, not at the scene.

23 Q. Let me ask you this. Did there come a time when a
24 day and a half later, on July 27th, that you were con-
25 tacted by Deputy Thorpe of the Sheriff's Office?

200

W. KETCHERSIDE ON DIRECT

1 A. Yes, sir.

2 Q. And tell us about that, please? What was that in
3 relation to?

4 A. Deputy Thorpe advised, according to him he was
5 cleaning out his patrol vehicle and in the rear seat,
6 under the rear seat, he found a Samsung cell phone.

7 It was broken, and it appeared to be stained with
8 blood.

9 Q. Okay, and did you have an opportunity to respond to
10 that and collect that item?

11 A. I did. I had him meet me at the Law Complex. Yes,
12 sir.

13 Q. Okay, and let me show you a photograph that was
14 moved in evidence yesterday, State's Exhibits 9, 10 and
15 11. Is that Deputy Thorpe's patrol car?

16 A. That is.

17 Q. Showing you . . .

18 REPORTER: I don't have 11 in evidence.

19 THE COURT: It really should be in evidence.

20 MR. WISE: No objection.

21 (Photographs of patrol car, State's 9, 10 and 11
22 previously admitted)

23 BY SOLICITOR:

24 Q. Showing you State's Exhibit Number 10, what does
25 that show?

201

W. KETCHERSIDE ON DIRECT

1 A. That's the rear passenger seat, the side seat, and
2 also it is pulled out just a little bit. You can see the
3 call phone underneath it.

4 Q. And is that in the same condition as it was when you
5 arrived to meet Deputy Rhodes?

6 A. Yes, sir. It is pushed in a little further. I
7 pulled the seat out just a little bit to make the phone
8 visible.

9 Q. And showing you State's Exhibit Number 11, what is
10 State's Exhibit Number 11?

11 A. That's the cell phone, both portions, the keypad and
12 the screen, and also the back for the battery compart-
13 ment.

14 Q. Okay, and who took it out from under the back seat?

15 A. I did, yes, sir.

16 Q. Describe for the jury what, if anything, appeared
17 on that cell phone?

18 A. It appeared to be blood on the screen portion and
19 also part of the keypad portion.

20 Q. And as a result of that, what did you do with these
21 objects?

22 A. They were -- of course, that was documented and col-
23 lected there. It was taken into the lab and it was -- I
24 swabbed it for -- the screen portion and the blood for
25 the victim's DNA.

202

W. KETCHERSIDE ON DIRECT

1 Q. Showing you State's Exhibit Number 23 and ask if
2 you recognize that?

3 A. Yes, sir.

4 Q. What is that?

5 A. That's the cell phone.

6 Q. And has it kind of been put back together?

7 A. Yes, sir.

8 SOLICITOR: Your Honor, I would offer State's 23
9 into evidence.

10 THE COURT: Any objection?

11 MR. WISE: No objection.

12 THE COURT: State's 23 in evidence without objec-
13 tion then.

14 (Cell phone admitted in evidence without objection
15 as State's Exhibit 23)

16 BY SOLICITOR:

17 Q. You said you took swabs off the screen and off the
18 keypad?

19 A. Yes, sir.

20 Q. I show you State's Exhibit 26 and ask you if that
21 contains the two swabs from the cell phone and also from
22 the axe handle?

23 A. Yes, sir.

24 Q. And are they swabs you collected?

25 A. Yes, sir.

203

W. KETCHERSIDE ON DIRECT

1 Q. And when you collected them, what did you do with
2 them?

3 A. They are packaged in an envelope and they are
4 sealed.

5 Q. If someone came along later, would you be able to
6 tell if they had opened that or tampered with it?

7 A. Yes, sir.

8 Q. Okay.

9 A. The sealed tape also has my initials on it.

10 THE COURT: Any objection to 26? That's the three
11 swabs.

12 MR. WISE: No objection.

13 THE COURT: Number 26 in evidence without objection
14 then.

15 (Swabs admitted in evidence without objection as
16 State's Exhibit 26)

17 BY SOLICITOR:

18 Q. Just a couple more things, Investigator Ketcherside.
19 Did you have an opportunity to collect any evidence that
20 was sent out for comparison purposes, speaking of the
21 swabs first of all, to the Defendant, Darius Ransom?

22 A. Yes, sir.

23 Q. Explain to the jury what it is that you collected
24 from Mr. Ransom?

25 A. Two standard DNA swabs. That would be Q-tip swabs,

204

W. KETCHERSIDE ON DIRECT

1 and you just gently rub the inside of the cheeks and
2 the gums.

3 Q. Showing you State's Exhibit Number 27, are those
4 the swabs?

5 A. Yes, sir.

6 Q. When were they collected from Mr. Ransom?

7 A. On August 17th of 2011.

8 Q. And were they sealed then?

9 A. Yes, sir.

10 SOLICITOR: Your Honor, we'd offer State's 27 into
11 evidence.

12 THE COURT: Any objection?

13 MR. WISE: One moment, Your Honor.

14 THE COURT: All right.

15 (Brief pause in proceeding)

16 MR. WISE: No objection, Your Honor.

17 THE COURT: Number 27 in evidence without objection.

18 (Swabs from Defendant admitted in evidence without
19 objection as State's Exhibit 27)

20 BY SOLICITOR:

21 Q. Did you have an opportunity also, as you did with
22 Mr. Ransom, to get the same type swabs from the victim
23 in this case, George Harrison?

24 A. Yes.

25 Q. Showing you State's Exhibit 28, do you recognize

205

W. KETCHERSIDE ON DIRECT

1 that item?

2 A. Yes, sir, I do.

3 Q. And what is that?

4 A. Multiple swabs from George Harrison.

5 Q. You recognize those as the Q-tip swabs you took
6 from Mr. Harrison?

7 A. Yes, sir.

8 Q. After you collected them what did you do with those
9 items?

10 A. They were dried and sealed, and then submitted into
11 evidence and transported to SLED.

12 SOLICITOR: Move State's Exhibits 25, 26, 27, 28 in
13 evidence.

14 MR. WISE: No objection.

15 REPORTER: State's 25, 26, 27 are in evidence.

16 THE COURT: State's 28 in evidence without objection.

17 (Swabs from Victim admitted in evidence without ob-
18 jection as State's Exhibit 28)

19 BY SOLICITOR:

20 Q. When those items were dried and packaged as you
21 said, where were they ultimately sent?

22 A. To SLED.

23 Q. State Law Enforcement Division?

24 A. Yes, sir.

25 Q. What were they sent up there for?

206

W. KETCHERSIDE ON DIRECT

1 A. For DNA.

2 Q. I have no further questions. Please answer any
3 questions the Defense might have for you.

4 I appreciate it, Investigator Ketcherside.

5 THE COURT: Any questions?

6 MR. WISE: Yes, sir.

7 CROSS EXAMINATION

8 BY MR. WISE:

9 Q. Investigator Ketcherside, how are you doing today?

10 A. I'm fine.

11 Q. Your job is to collect forensic evidence, correct?

12 A. Yes.

13 Q. And you are able to do that using scientific meth-
14 ods?

15 A. Yes, sir.

16 Q. You collect blood and hair samples and any kind of
17 bodily fluids, fingerprints?

18 A. Yes.

19 Q. Photographs?

20 A. Yes.

21 Q. You use special lights to see things other people
22 can't see?

23 A. When it's appropriate.

24 Q. When it's appropriate?

25 A. Yes, sir.

207

W. KETCHERSIDE ON CROSS

1 Q. And before we get too far in, blood splatter analy-
2 sis basically is seeing how blood hit a surface, . .

3 A. Yes.

4 Q. . . and you can try and project what the blood was
5 doing when it hit the surface, depending on how it is on
6 the surface?

7 A. Yes.

8 Q. So blood splatter, for instance, can come from some-
9 thing other than being struck while you're bleeding?

10 A. . .

11 Q. For instance, is it possible if you had blood on
12 your hand and you went like that, it would show splatter?

13 A. It would have some, yes, sir.

14 Q. So every piece of blood splatter you find doesn't
15 necessarily mean that it came from a strike?

16 A. Not necessarily.

17 Q. Now, you mentioned earlier that you found a trail
18 of blood that was coming out of the door?

19 A. Yes, sir.

20 Q. Where did that trail of blood lead to?

21 A. It led down the steps and across the yard and to
22 the next two houses.

23 Q. Okay, so it went straight from 1212 A Golf to

24 B . .

25 A. I guess it . .

W. KETCHERSIDE ON CROSS

1 Q. . . and then it went on to the next . .

2 A. Yes, sir.

3 Q. Did you have any blood splatter outside of the
4 house?

5 A. Not outside, no, sir.

6 Q. Okay, so the only thing you found outside the house
7 in that trail of blood to the neighbors' houses was
8 ninety degree drops?

9 A. Yes, sir.

10 Q. Meaning it was just dripping?

11 A. Yes, sir, in that trail.

12 Q. So your opinion is while the victim was walking to
13 both houses he was not being attacked at that point?

14 A. Not at that point.

15 Q. Okay. So was there -- the blood when you got there,
16 was it dry or was it still wet?

17 A. Some of it in the heavier areas was still wet, and
18 some of the areas were starting to dry.

19 Q. What was the heaviest area? Where was that found?

20 A. That would have been the ninety degree droplets
21 outside of the residence.

22 Q. They were still wet?

23 A. Yes, as well as a good portion of the large area
24 inside the residence.

25 Q. Okay.

W. KETCHERSIDE ON CROSS

1 A. A good portion of that was still wet.

2 Q. Okay.

3 A. In some of the areas where you see the white pat-
4 terns, the thin portion, that could have been a little
5 bit dry, but for the most part most of it was still
6 wet.

7 Q. Now, you processed basically everywhere you could
8 in the house for fingerprints? The fire hydrant, door
9 knobs . .

10 A. Yes, sir.

11 Q. The stick?

12 A. Yes, sir.

13 Q. And you couldn't find any?

14 A. No, sir.

15 Q. And you couldn't even find Mr. Harrison's?

16 A. There were no fingerprints.

17 Q. And you looked for footprints as well?

18 A. Yes, sir.

19 Q. And you couldn't even find Mr. Harrison's foot-
20 prints?

21 A. Yes, sir, I couldn't find any.

22 Q. Or the assailant's?

23 A. No, sir.

24 Q. Now, you said in your earlier Court visit -- you
25 described a large area of blood on the floor near the

210

W. KETCHESIDE ON CROSS

1 kitchen table. Was it a puddle or just smeared every-
2 where?

3 A. It's an area that was covered with blood and it had
4 several different patterns of stuff that was going on
5 in it.

6 Q. That indicated it had been at that area for a long
7 time?

8 A. Well, not necessarily a long time.

9 Q. Okay.

10 A. He could have been bleeding heavily, moving around
11 and trying to get up, and once he was able to get up the
12 ninety degree droplets in that and going out the door.

13 Q. And you did mention that there were some blood
14 droplets found on the tongue of the trailer?

15 A. Yes, sir.

16 Q. Being consistent with what?

17 A. Coming out the front door and to the next residence.

18 Q. All right. Now, when you got -- let's go to Officer
19 Thorpe's car.

20 A. Yes, sir.

21 Q. When you got there, you testified earlier that the
22 seat -- you had to just move it a little bit?

23 A. Yes, sir. I pulled it towards me . . .

24 Q. Uh huh.

25 A. . . so that it would be completely visible in my

211

W. KETCHERSIDE ON CROSS

1 photographs.

2 Q. Okay.

3 A. I also documented that and pulled it slightly for-
4 ward so you could see the phone.

5 Q. Okay.

6 A. And then I photographed it.

7 Q. Did Deputy Thorpe tell you he moved the phone at
8 all?

9 A. No, sir. He said he did not move it, had not touched
10 it.

11 Q. So it was right under the seat. Correct?

12 A. Yes, sir.

13 Q. So if he had pulled the seat up when he got Mr.
14 Ransom out of the car, would he have -- do you think he
15 would have seen it?

16 A. Yes, sir.

17 Q. Okay. So as far as your immediate test results, you
18 conducted fingerprints and stuff like that?

19 A. Yes.

20 Q. And you basically didn't find anything?

21 A. No, sir. There were no fingerprint or footwear im-
22 pressions found.

23 MR. WISE: Beg the Court's indulgence, Your Honor.

24 THE COURT: Yes, sir.

25 (Brief pause)

W. KETCHERSIDE ON CROSS

1 BY MR. WISE:

2 Q. Investigator Ketcherside, the blood trail that led
3 to the next trailer -- not the far one but the closest
4 one to it, . . .

5 A. Uh hm.

6 Q. . . was there blood on the steps to that trailer?

7 A. I don't recall. I believe there may have been.

8 Q. Okay.

9 A. I don't think I have any photographs to document
10 that area.

11 Q. But you have good reason to think he went to that
12 house to ask for help. Correct?

13 A. Yes, sir.

14 Q. So it probably had blood fairly close to the
15 front door?

16 A. Yes, sir.

17 Q. And one more question. The -- you mentioned the
18 blood earlier on the refrigerator door?

19 A. Yes, sir.

20 Q. So it's your belief that is where the assailant was
21 standing?

22 A. Not the assailant. It would have been that the
23 weapon was swinging or was moving, and therefore it was
24 -- if I was hit on the right side and when the blood
25 surfaces -- if I start bleeding or I'm struck and the

213

W. KETCHERSIDE ON CROSS

1 blood surfaces it would go out and basically go around
2 my head and basically be a pattern there.

3 Q. Okay. No further questions.

4 THE COURT: Anything on Redirect?

5 SOLICITOR: No, sir.

6 THE COURT: Thank you, sir. You may step down.

7 (Witness excused from stand)

8 THE COURT: The State may call its next witness.

9 SOLICITOR: Call Paul Meeh.

10 PAUL MEEH, being duly
11 sworn, testified as follows:

12 CLERK: Please have a seat and state your name for
13 the record.

14 WITNESS: My name is Paul Meeh. The last name is
15 M E E H.

16 DIRECT EXAMINATION

17 BY SOLICITOR:

18 Q. Agent Meeh, tell the jury, if you would, where it
19 is that you're employed?

20 A. I'm currently employed at SLED, the South Carolina
21 Law Enforcement Division, as a DNA analyst there and fo-
22 rensic scientist.

23 Q. Describe for the jury briefly your educational
24 background?

25 A. Well, I got my biology degree from the University

214

P. MEEH ON DIRECT

1 of South Carolina in 2001. I then got a Master's Degree
2 in 2003. Then I did four years of PHD work there but I
3 didn't complete my PHD.

4 I was hired away by SLED and then they gave me a
5 year and a half of training in analysis there. That's
6 pretty much it.

7 Q. And when was that that you were -- when did you be-
8 come employed by SLED?

9 A. That was in April of 2008.

10 Q. Okay, and you spent a year and a half, you said,
11 training under, I guess, other DNA analysts there?

12 A. Yes.

13 Q. And at what point in time did you then be kind of
14 certified to start doing stuff on your own?

15 A. It would be a year and a half after April 2008,
16 approximately. I don't recall exactly when it would have
17 been.

18 Q. About how long have you been employed as an ana-
19 lyst doing exams on your own then?

20 A. I've been doing exams on my own -- it would be three
21 years, three and a half years.

22 Q. And have you had an opportunity to testify before
23 about your exams?

24 A. Yes, I have.

25 Q. And have you been qualified as an expert in DNA

215

P. MEEH ON DIRECT

1 analysis?

2 A. Yes, I have.

3 Q. And about how many times has that been?

4 A. Approximately fifteen or maybe twenty now.

5 Q. Okay.

6 SOLICITOR: Your Honor, at this time we would offer
7 Agent Meeh as an expert in DNA and DNA analysis.

8 THE COURT: Any objection?

9 MR. WISE: No objection.

10 THE COURT: Agent Meeh is so qualified as an expert
11 in DNA analysis.

12 SOLICITOR: Thank you, Your Honor.

13 BY SOLICITOR:

14 Q. Would you tell the jury -- start off by telling the
15 jury in laymen's terms what DNA is?

16 A. Okay, DNA is inside of all your cells except for
17 like ^{red} blood cells. It's in every living cell, and what it
18 does is it passes down information that is required to
19 make you -- to make proteins and to make a you.

20 It is individual. The only people who share the
21 same DNA are twins, but they also have different finger-
22 prints.

23 So it is a way of identifying people, but it is also
24 a way of passing down information from generation to gen-
25 eration.

216

P. MEEH ON DIRECT

1 Q. Okay, and where is your DNA found?

2 A. It's in the nucleus of the cells. If you imagine
3 a cell as this Courtroom, it would be a small area in-
4 side of it maybe the size of that table that would con-
5 tain all of that information -- every bit of the inform-
6 ation about you.

7 Q. Okay, and is there DNA in your blood?

8 A. It is in the white blood cells of the body. Cor-
9 rect.

10 Q. And is there DNA in your saliva?

11 A. In the saliva there is some but mostly in the cells
12 lining the mouth; in the bucca or soft lining of the
13 mouth. Right.

14 Q. And is your DNA the same in both of those?

15 A. Yes, sir.

16 Q. So if you took a sample of my blood and then a sam-
17 ple from my mouth and did a DNA analysis on both of them,
18 they would be the same?

19 A. Right. As long as you haven't had a blood transfus-
20 ion or something really strange like that. That would be
21 a very rare example.

22 Q. Okay. Therefore, then at the State Law Enforcement
23 Division you have the capability then if there is blood
24 evidence found in at crime scene -- you have the ability
25 to compare that to DNA samples from a suspect and victim.

217

P. MEEH ON DIRECT

1 A. Yeah, that's exactly what we do at SLED. We try to
2 identify body fluids there and what those body fluids
3 are, and from whom they came. That is exactly my job
4 there.

5 Q. Now, in this case, Agent Meeh, do you have several
6 items that were submitted for your analysis?

7 A. Yes, there were two standards and some items I was
8 asked to compare those standards to.

9 Q. And the two standards, showing you State's Exhibits
10 27 and 28, . . .

11 A. Right.

12 Q. Who are those two standards -- who did they come
13 from?

14 A. Number one is a bucca swab that comes from Darius
15 Ransom.

16 Q. And that is State's Exhibit Number 27?

17 A. Right, and item number five -- I have my items num-
18 bers listed. I don't have the State's numbers. I'm
19 sorry.

20 Q. That's all right. This is State's Number 28.

21 A. State's Exhibit 28 is my number five, which is a
22 bucca swab from George Harrison.

23 Q. Those were the standards that were submitted from
24 those two individuals?

25 A. Yes.

218

P. MEEH ON DIRECT

1 Q. And what other items did you receive up there to at-
2 tempt to compare to those two standards from Mr. Harrison
3 and Mr. Ransom?

4 A. A sample or swab from the screen portion of a
5 Samsung cell phone, and a swab from a keypad of a Sam-
6 sung cell phone. There was a swab from an axe handle,
7 and a swab from a trailer tong.

8 Q. Showing you State's Exhibits 25, 26, 27 and 28, are
9 those the swabs in those packages there?

10 A. Yes. I see my initials on the items also.

11 Q. Okay. Specifically, if you'd start with the two
12 standards that you received from Mr. Harrison and Mr.
13 Ransom.

14 Were you able to develop a DNA profile from those
15 two standards?

16 A. Yes, I was.

17 Q. And then did you have an opportunity then to attempt
18 to compare that to the DNA that you were able to develop
19 from the swabs?

20 A. Yes, I was able to compare them.

21 Q. Okay, and initially let me turn to the axe handle
22 and the swab. Okay?

23 A. Sure.

24 Q. First let me ask you, when you receive an item of
25 evidence such as that swab from a crime scene, what kind

219

P. MEEH ON DIRECT

1 of steps are taken in analyzing that item at SLED?

2 A. The first thing we have to do is -- when we do
3 serology testing, what we do is cut a little piece of
4 that to see what body fluid might be there, and in this
5 case blood.

6 Sometimes the agency is asked to do a touch sample,
7 which would be if you touched a book or something if
8 there is a book found at the crime scene or a shirt --
9 they ask -- there is no body fluid there but they ask us
10 to test to see if there is any DNA at all.

11 The way you find out if there is any DNA at all is
12 you quantify it. We have an instrument there that mea-
13 sures the amount of DNA on something, and that is what
14 we do before we move on to the identification. We take
15 the steps to just see how much DNA is there.

16 Q. Okay. When you were dealing with the swab from the
17 end of the handle, end of the axe handle, first of all,
18 in the serology portion of that, was there any blood
19 found when you initially kind of look at that swab?

20 Was there any blood present on the swab from the
21 handle portion of the axe handle?

22 A. No, sir, there was not.

23 Q. Did you have an opportunity at any time to attempt
24 to see if there was any blood present on that swab?

25 A. Yes, I did. I quantified the DNA and there wasn't

220

P. MEEH ON DIRECT

1 any blood present.

2 Q. So basically no DNA found on the swab that was taken
3 from the axe handle?

4 A. Right.

5 Q. Was there anything else you could do with that swab
6 at that time?

7 A. No, it was completed at that point.

8 Q. Okay. Next let's turn to the swab from the trailer
9 tongue.

10 A. Okay.

11 Q. Did you have an opportunity initially to look at
12 that and do serology to determine whether there was blood
13 present?

14 A. Yes, I did. I looked at the screen of the cell
15 phone . . .

16 Q. No, the trailer tongue.

17 A. Oh, I apologize. Yes, I tested it for blood, the
18 trailer tongue, and the presumptive test for blood was
19 positive.

20 Q. Okay. Did you then attempt to see if you could get
21 a DNA profile from that blood?

22 A. I did. Usually when blood is present there is going
23 to be enough to identify, and in this case there was.

24 I identified a full profile, a full DNA profile, on
25 the trailer tongue or from the blood on the trailer

221

P MEEH ON DIRECT

1 tongue.

2 Q. Did you have an opportunity then to compare that DNA
3 profile to Mr. Harrison's DNA and to Mr. Ransom's DNA?

4 A. I did.

5 Q. And what, if anything, did you determine in compar-
6 ing that?

7 A. The results of the DNA profile developed from item
8 six matches the DNA profile of George Harrison.

9 The probability of randomly selecting an unrelated
10 individual . . .

11 MR. WISE: Objection, Your Honor. I think the wit-
12 ness is qualified to testify as to the comparison, but
13 the physical part I don't think he's qualified to tes-
14 tify to, and I don't think a foundation has been laid as
15 to that.

16 THE COURT: Well, I'll let him testify as to what
17 his findings were. Okay?

18 SOLICITOR: Okay.

19 BY SOLICITOR:

20 Q. The initial part is that it matched?

21 A. Correct.

22 Q. And then there are some probabilities on that?

23 A. Right.

24 Q. Explain to the jury where those numbers come from?

25 A. Yes, sir. The FBI provides us with a program that

222

P. MEEH ON DIRECT

1 we put these profiles into and it generates a statistic.

2 It's from a data base of people, something the FBI begun
3 years ago, and it's well documented. The . . .

4 MR. WISE: My objection now is hearsay. He's testi-
5 fying to something the FBI does.

6 He's not involved with it, Your Honor.

7 THE COURT: I believe he was testifying to where he
8 gets his statistics from, isn't that right?

9 MR. WISE: He is, but he also said it's statistics
10 the FBI gave that comes on a program he has, and we have
11 no knowledge of it; how it's created; how it's maintained.

12 THE COURT: Okay, I will note your objection and
13 it is overruled.

14 You can go ahead.

15 SOLICITOR: Thank you.

16 A. So this is from a study where they found the data
17 base was sufficient to estimate the probability that you
18 could randomly select somebody else with that -- how rare
19 would this be -- how rare would this exact DNA finger-
20 print be.

21 And it turns out you can do a really job. You can
22 be conservative and estimate very well through statistics
23 and through other means how rare this DNA fingerprint
24 really is.

25 That, again, is provided to us by the FBI. I did

223

P. MEEH ON DIRECT

1 not create the program and I do not maintain the program.

2 BY SOLICITOR:

3 Q. Okay. All right, but in looking at this I believe
4 you indicated that it was basically one in sixteen qua-
5 drillion?

6 I think that was the number that you used?

7 A. Yes.

8 Q. Okay.

9 A. The probability of randomly selecting an unrelated
10 individual having a DNA profile matching this item is
11 approximately one in sixteen quadrillion, which is --
12 that is very rare.

13 Q. Okay, and what you are talking about there is the
14 swabs from the trailer tongue.

15 Correct?

16 A. Yes, correct.

17 Q. Now, let's go to the cell phone, and I believe you
18 indicated you received a swab from the screen portion of
19 the cell phone, and one from the keypad portion of the
20 cell phone?

21 A. That's correct.

22 Q. And in your initial serology analysis, were you
23 able to determine if there was blood present in these
24 two individual swabs?

25 A. Yes. The presumptive test for blood was positive

224

P. MEEH ON DIRECT

1 on these.

2 Q. On both the screen and the keypad?

3 A. Correct.

4 Q. Okay, and were you able then to develop a DNA pro-
5 file on those two items?

6 A. The results of that testing of items three and four,
7 which are the screen portion and the keypad, respectively, showed
8 revealed -- yes, I was.

9 The results of that testing, the DNA profiles devel-
10 oped from items three and four, the screen portion and the
11 keypad, are mixtures of at least two individuals.

12 The DNA profile of the major contributor to these
13 mixtures also matches the DNA profile of George Harrison.

14 The partial DNA profile of the minor contributors
15 are insufficient for comparison.

16 Q. In other words, there was more than one person's
17 DNA present?

18 A. Yes, that's correct.

19 Q. Okay.

20 A. One of those two was a major contributor.

21 Q. And there was a minor contributor?

22 A. That's correct.

23 Q. And was there a significant difference in the major
24 and minor?

25 A. Significant, yes.

225

P. MEEH ON DIRECT

1 Q. And in your opinion that major contributor, whose
2 was that? Who was the major contributor?

3 A. That was a match to George Harrison.

4 Q. On both the keypad and screen of that cell phone?

5 A. Correct, George Harrison.

6 Q. And that was consistent, I guess, with the profile
7 from the trailer tongue?

8 A. Yes, sir.

9 Q. And a match in all these areas that you looked at?

10 A. Yes, sir.

11 Q. And the . .

12 A. I need to rephrase that. The DNA profile developed
13 from the trailer tongue was complete and clean all the
14 way across, at every single lipid.

15 If I could show you this chart of the different
16 areas on the DNA we test, so item six -- it worked all the
17 way across, was perfectly clear, and that is where we
18 generated that statistic. That is so rare.

19 The reason the next results also match is because
20 when you get a mixture of DNA or get a little bit of de-
21 gradation maybe one of these positions didn't do as well
22 and didn't -- wasn't -- I wasn't able to directly compute
23 a stat in that position so I said also matches, but, yes,
24 it matched George Harrison as well.

25 Q. Okay, and the minor contributor, the other person,

226

P. MEEH ON DIRECT

1 that was there, were you able to do anything to say who
2 that minor contributor belonged to?

3 A. No. There were so few positions there with someone
4 else present or with another DNA profile present that you
5 wouldn't be able to compare it.

6 So it would be sort of -- it wouldn't be scientifically
7 valid to try to compare that.

8 Q. But it just shows someone else had touched that cell phone?

9 A. It could have been anyone at any time.

10 Q. Could it have been from a month before?

11 A. From years before.

12 Q. Okay, and I believe that is all I have, Agent Meeh.

13 Thank you, sir.

14 THE COURT: Your witness.

15 MR. WISE: Thank you.

16 CROSS EXAMINATION

17 BY MR. WISE:

18 Q. Mr. Meeh or Agent Meeh, . . .

19 A. That's fine. I'll take Mister or Agent, or just
20 Paul.

21 Q. Okay. Agent, I don't have many questions but I
22 just want to go over a couple of things.

23 Just so we kind of all understand a little more,
24 what is the technology you used to get this analysis?

25 A. Well, it depends on which analysis you're talking

227

P. MEEH ON CROSS

1 about. For qualification, we use a kit that just gives
2 us -- it's a couple of -- it's a PCR reaction, a poly-
3 mase chain reaction.

4 It uses amplification to tell us how much DNA is
5 there. DNA is very small. You can't see it. You can
6 see it somewhat but not very well and we need to tell
7 very specific things.

8 So we use amplification to make more of it so that
9 we can visualize it on instrumentation.

10 So we use a kit for quantification, and we use a
11 kit that amplifies the areas here through the same reac-
12 tion, the same type of reaction.

13 Q. Let me stop you one second.

14 A. Sure.

15 Q. The PCR approach to this, that's state of the art?

16 A. Well, it's funny -- here's a little bit of trivia
17 for you. A guy named Kerry Mullins from a -- what high
18 school did he go to -- Spring Valley High School, I
19 think -- he invented PCR years ago, maybe thirty years
20 ago, and it's very well documented and well thought of
21 in the scientific community. I cannot imagine anything
22 wrong with it.

23 To call it -- to call PCR state of the art would be
24 incorrect. To call the management of the identification
25 art of PCR you might be able to say that's state of the
228.

P. MEEH ON CROSS

1 art.

2 Q. Okay. You use it because it's really, really good?

3 A. Right.

4 Q. It is so good that it allows you to do an analysis
5 just based on a few cells?

6 A. Absolutely. Yes, sir.

7 Q. When you work doing your analysis, do you sit at a
8 desk or at a counter?

9 A. It's in a heart, which is called a PCR heart which
10 is -- it's in a small area in the laboratory that is
11 about maybe this long with a fold-up top. You reach into
12 there and do it.

13 Q. And when you take like the axe handle . .

14 A. Uh hm.

15 Q. . . you set it down on a table?

16 A. Well, in this case and in many cases I don't actu-
17 ally handle any of the items. We have a place called
18 evidence processing, and we have other offices that sub-
19 mit swabs.

20 Anyone can do it. You just take a sterile swab, and
21 you can sometimes use water but you don't have to --
22 and you just swab the area of interest.

23 Q. And when the swab is taken, do they wear gloves?

24 A. Absolutely.

25 A. Why? Why do they wear gloves?

229

P. MEEH ON CROSS

1 A. Because you can easily transfer DNA. The polymase
2 chain reaction, the identification reaction, it's highly
3 sensitive, and there are -- if you get as little as ten
4 cells from someone else in there, as few as ten cells,
5 you're going to get contamination.

6 Q. Do you change your gloves after you handle these
7 things?

8 A. All the time.

9 Q. Because you can get it on the gloves and onto the
10 next . .

11 A. Yes, sir.

12 Q. When you set an axe handle down on that surface,
13 after you put that axe handle up, do you do anything to
14 that surface?

15 A. Oh, definitely. Clean it. You have to clean it
16 between items, such as blood or something like that, and
17 especially with blood. In this case as with all evidence
18 processing -- not that I'm implying our evidence pro-
19 cessing area did this -- in the example of an axe handle
20 or any large item they put down butcher paper or some-
21 thing very clean that they can see there is not going to
22 be any transfer.

23 That's just -- in the polymase reaction technique,
24 you constantly have to maintain that. If there is any-
25 thing you touch -- like you were saying, anything you

230

P. MEEH ON CROSS

1 touch is going to transfer DNA.

2 Q. Just so we're clear, how often do you change gloves
3 when you're doing an analysis?

4 A. Very often. I mean, you know, it depends on how
5 you're handling them. If you're touching them directly
6 or if you're swabbing an item directly, you should change
7 them often.

8 If you're cutting several swabs and you're only
9 going to be handling the end of the swab, onto an aseptic
10 item or tube, you can probably get away with, you know,
11 five cuttings from that without any real harm of trans-
12 ferring, just because it's going directly into a tube
13 which is then sealed.

14 But, yeah, an aseptic technique is very important to
15 us.

16 Q. Aseptic technique?

17 A. Right.

18 Q. What is that?

19 A. It's a misnomer because that actually refers to
20 keeping things safe from bacteria and that's not exactly
21 true.

22 Aseptic technique happens to have the side effect
23 of keeping DNA off of things, but it refers to bacteria
24 in the true sense.

25 So that . . .

231

P. MEEH ON CROSS

1 Q. Okay, so to briefly summarize -- no DNA on the axe
2 handle?

3 A. Right.

4 Q. No DNA from Mr. Ransom on the cell phone screen
5 or keypad?

6 A. No, that came back to Harrison.

7 Q. Yeah. Were you given any clothing of Mr. Ransom
8 to test?

9 A. No.

10 Q. Okay. I want to talk about the trailer tongue for a
11 minute.

12 Did the DNA results indicate when and under what
13 conditions that blood could have gotten on the trailer
14 tongue?

15 A. No, it does not.

16 Q. Nothing about the results of the blood on the trailer
17 tongue would implicate Mr. Ransom in any way?

18 A. No.

19 Q. Previously it was testified that when you are look-
20 ing for DNA on a surface, it's called touch DNA?

21 A. It can be as long as there is no body fluid on that
22 sample.

23 Q. Okay.

24 A. It would be touch, and the only difference between
25 touch and non-touch is if it's a body fluid.

232

P. MEEH ON CROSS

1 Q. So my doing this . . .

2 A. Uh hm.

3 Q. . . is enough to leave my DNA?

4 A. Possibly. If that's porous -- there are a lot of
5 factors that go into it.

6 Q. Okay. Let me ask you this. Going back to this FBI
7 system you use in the statistical analysis, you don't
8 know anything about it?

9 A. We're trained on input and output on the thing but
10 other than that, no.

11 Q. You don't know how it is created?

12 A. I don't.

13 Q. It is a process, a mathematical process, that goes
14 into computing the statistics?

15 A. I understand the formulating, but I don't see that
16 when I'm doing it. It may provide the formula, a single
17 formula usually -- it doesn't in this one.

18 But I have seen them that actually provide the form-
19 ula for calculating. It gives me a real frequency but
20 it doesn't give the formula in this one.

21 That's correct.

22 Q. And when you get your results, you run them through
23 the program and you get the statistical information?

24 A. Yes, sir.

25 Q. That's all my questions.

233

1 THE COURT: Anything on Redirect?
2 SOLICITOR: Nothing further.
3 THE COURT: All right, you may step down. Thank
4 you, sir.
5 (Witness excused from stand)
6 THE COURT: Ladies and gentlemen, we're going to
7 take about a ten or fifteen minute break. You have not
8 heard everything in this case, so you can't talk about
9 it yet.
10 Please go back to your jury room at this time, and
11 thank you.
12 (Jury excused from Courtroom)
13 THE COURT: Anything before we take a break from
14 the State?
15 SOLICITOR: Your Honor, at some point in time -- I
16 think I probably only have one witness left, but if you
17 would want to speak with the Defendant about whether he
18 wishes to testify -- you might want to do that during
19 the break.
20 THE COURT: Do you want me to do that before the
21 State rests?
22 MR. STROUD: Your Honor, I believe we need to talk
23 with him.
24 THE COURT: When do you want me to do it? After he
25 rests?

1 MR. STROUD: After we speak to him, he'll need some
2 time to think about it.

3 SOLICITOR: Whenever the Court would like.

4 THE COURT: All right. Let me know before we go
5 back on the record.

6 MR. STROUD: Yes, sir.

7 (Court took brief recess after which the matter was
8 resumed)

9 THE COURT: Okay, I need to have you placed under
10 oath. Okay?

11 DEFENDANT: Yes, sir.

12 THE COURT: Because I'll be explaining things to you
13 and talking to you about whether you want to testify.

14 Can he come up here? Would that be okay?

15 (Defendant was sworn by the Clerk for purposes of
16 the discussion with the Court)

17 THE COURT: All right. Mr. Ransom, I know your at-
18 torneys have already explained to you your constitutional
19 rights.

20 I know they have gone over a number of things to
21 get you prepared for this trial. Okay?

22 But I'm going to go over one additional right with
23 you, and if I say something that you don't understand
24 stop me and I will explain it. Okay?

25 DEFENDANT: Yes, sir.

1 THE COURT: We have reached the stage of the trial
2 where you may present your defense. Now, the State has
3 said they have one more witness, and after they have put
4 up that witness the State will stand down and it will be
5 up to you and your attorneys to present your case, and
6 that is the way the procedure is.

7 At that stage, you will present your defense. Now,
8 one of the protections given to you by the Fifth Amend-
9 ment of the Constitution of the United States states in
10 part that you cannot be compelled in a criminal case to
11 be a witness against yourself.

12 This means that you cannot be required to testify.
13 You have a right to testify on your own behalf. However,
14 no one can make you testify. This is a personal right,
15 and nobody can waive this right except you.

16 If you decide to testify, you will be subject to
17 the same rules as other witnesses, and you may be examined
18 and cross-examined on any relevant issue in this case.

19 If you have any convictions involving dishonesty or
20 false statements, other crimes punishable by imprison-
21 ment for more than one year and this Court determines
22 that the probable value of admitting this evidence out-
23 weighs the prejudicial effect to you, the Solicitor will
24 be able to introduce your record to attack your credibil-
25 ity.

236

1 If you decide to testify, this decision on your part
2 must be freely and voluntariliy and intelligently made
3 in accordance with the protections given to you by the
4 Fifth Amendment and the consequences of your decision
5 to testify.

6 If you decide not to testify, then I will instruct
7 the jury that they cannot give the fact that you did not
8 testify any consideration whatsoever, and that there is
9 to be absolutely no prejudice to you because you did not
10 testify.

11 It is left entirely up to you whether or not you
12 wish to testify. You may talk with your attorney, your
13 family, your friends, or anyone else, but the final de-
14 cision is left up to you.

15 Do you understand everything that I have said to
16 you?

17 DEFENDANT: Yes, sir.

18 THE COURT: Okay, do you have any questions about
19 what I've said?

20 DEFENDANT: No.

21 THE COURT: Have you discussed this with your law-
22 yer?

23 DEFENDANT: Yes.

24 MR. STROUD: We have discussed it. We haven't made
25 a decision.

1 THE COURT: I understand that. I just wanted to
2 make sure you had discussed it.
3 DEFENDANT: Yes.
4 THE COURT: Okay, you have not made a decision so
5 far?
6 DEFENDANT: No.
7 THE COURT: Okay, but you understand that the time
8 is coming that you're going to have to make that decis-
9 ion?
10 DEFENDANT: Yes.
11 THE COURT: Do you need to talk to anybody other
12 than your attorney?
13 DEFENDANT: Yes.
14 THE COURT: Who is that?
15 DEFENDANT: My mother and my fiance.
16 THE COURT: Are they present?
17 DEFENDANT: Yes.
18 THE COURT: How long will it take for you to talk
19 to them?
20 DEFENDANT: All right, I will allow you to talk to
21 your mother and your fiance. Okay, and you also want
22 your attorneys there to explain anything you need. Is
23 that okay?
24 DEFENDANT: Yes.
25 238

1 THE COURT: Anything else that will help you in mak-
2 ing your decision?

3 DEFENDANT: No, sir.

4 THE COURT: That's all?

5 DEFENDANT: Yes.

6 THE COURT: Then we'll stand down and let you talk
7 to your mother and your fiance. Then we'll come back and
8 I'll let you tell me what you have decided.

9 Now, before we do that I want to make sure that no-
10 body has -- well, I'll let you go ahead and talk to them
11 now. We'll be in recess for a few minutes.

12 (Whereupon, the Court took a brief recess, after
13 which the matter was resumed)

14 THE COURT: Have you made your decision?

15 DEFENDANT: Yes.

16 THE COURT: What is your decision?

17 DEFENDANT: Not to take the stand.

18 THE COURT: You have decided not to testify?

19 DEFENDANT: Yes, sir.

20 THE COURT: I will tell the jury they cannot con-
21 sider -- as I told you, they cannot consider anything
22 about your failure to testify.

23 That will be one of my charges to the jury.

24 MR. WISE: Thank you.

25 THE COURT: Yes, sir. All right, let's . . .

1 MR. WISE: May we approach, Your Honor?

2 THE COURT: Sure.

3 (Conference at the bench between counsel and the
4 Court off the record)

5 THE COURT: All right, before we bring the jury back
6 out, I know -- just for the record, I want to make sure
7 for the sake of simplicity on the record the Defense,
8 Mr. Wise, has an objection to the statements coming in.

9 That is preserved on the record before Lieutenant
10 Shumpert testifies. The prior testimony is on the record.

11 You objected to my ruling after the Jackson v Denno
12 hearing, and we are preserving that objection in the re-
13 cord at this time.

14 MR. WISE: Thank you.

15 THE COURT: All right, bring in our jury.

16 (jury returned to Courtroom)

17 THE COURT: Ladies and gentlemen, we took a little
18 longer. There were some things during the break I had
19 to take care of, and I apologize for that.

20 In return for that, we're buying your lunch and,
21 hopefully, that will be a fair trade off.

22 We're going to continue with the State's case. You
23 may call your next witness.

24 SOLICITOR: State would call Lieutenant James
25 Shumpert.

240

1 JAMES SHUMPERT, being duly
2 sworn, testified as follows:

3 CLERK: Please have a seat and state your name for
4 the record.

5 WITNESS: James Shumpert.

6 DIRECT EXAMINATION

7 BY SOLICITOR:

8 Q. Lieutenant Shumpert, tell the jury where you are
9 employed?

10 A. Orangeburg County Sheriff's Office.

11 Q. And how long have you been with the Orangeburg
12 County Sheriff's Office?

13 A. Around thirteen years.

14 Q. And what are your current duties there?

15 A. I am a supervisor with the Criminal Investigations
16 Division.

17 Q. How long have you been employed with that capacity
18 with the County?

19 A. I believe about two years.

20 Q. How long have you been an investigator with the
21 Sheriff's Office all together?

22 A. Since 05.

23 Q. Since 05?

24 A. Yes, sir, 2005.

25 Q. And currently how many investigators do you supervise

241

J. SHUMPERT ON DIRECT

1 in that Department?

2 A. Six to seven.

3 Q. And I'm going to turn your attention, Lieutenant,
4 if I could, back to July of last year. Were you involved
5 or were you an investigator into the burglary and assault
6 of the victim, George Harrison?

7 A. I was.

8 Q. Tell the jury, did you have an occasion to respond
9 that night out to 1212 Golf Avenue to the Harrison
10 trailer or to where this occurred?

11 A. Yes, I did.

12 Q. And when you got there -- what was kinda going on
13 when you got to the scene?

14 A. Well, when I showed up on the scene a deputy ad-
15 vised me that we had a home invasion and possibly burg-
16 lary. He directed me to the first trailer.

17 Then I went and did a protective sweep on the trailer.
18 I went inside the trailer and looked, and then I came
19 back out and called a forensic team.

20 Q. Let me ask you, was Mr. Harrison still out there
21 at that time?

22 A. I didn't get a chance to talk to Mr. Harrison be-
23 cause it was explained to me that his condition was very
24 serious. I think at that time he was already being
25 transported to the hospital.

242

J. SHUMPERT ON DIRECT

1 Q. Okay, and did you have an opportunity that evening
2 to go and check on his condition at the Medical Center
3 in Orangeburg?

4 A. I did.

5 Q. And did you talk to him that night?

6 A. I did not.

7 Q. Why not?

8 A. His current condition at the time. I believe they
9 had medivaced him out to Columbia, to the hospital up
10 there, or they were getting ready to do that.

11 Q. And are you aware if that is where he ended up ulti-
12 mately?

13 A. It was.

14 Q. And for a period of time?

15 A. It was.

16 Q. Now, that night out there, out at the scene on Golf
17 Avenue, did you come into contact with the gentleman who
18 testified yesterday, Derrell Jenkins?

19 A. Yes. After I left the hospital, I returned back to
20 the crime scene, and one of the deputies came up to me
21 and said that an individual had just gotten a call on
22 his cell phone from someone to come pick him up, which
23 was Mr. Derrell Jenkins.

24 Q. Okay. As a result of getting that information from
25 Mr. Jenkins, what did you ultimately do in order to

J. SHUMPERT ON DIRECT

1 try to apprehend the Defendant that night?

2 A. Well, after getting the information I decided to
3 have everybody meet at the school which was just down
4 from the location where he was supposed to pick the in-
5 dividual up.

6 Q. And where was that location?

7 A. Little Cricket.

8 Q. And is the Little Cricket located near the victim's
9 residence on Golf Avenue?

10 A. Yes.

11 Q. How far is it from the residence to the Little
12 Cricket?

13 A. Probably a mile and half to two miles.

14 Q. In walking distance?

15 A. Yes, it is.

16 Q. And ultimately that night Mr. Jenkins testified he
17 went to get the Defendant, Mr. Ransom, from that Little
18 Cricket. Is that correct?

19 A. Yes.

20 Q. Did he get him in his vehicle?

21 A. Yes. I pulled -- Mr. Derrell pulled out and I pulled
22 down to (inaudible) and sat there near a stop sign where
23 I could keep a visual.

24 Mr. Derrell pulled into the parking lot at Little
25 Cricket, and I saw an individual enter the truck.

244

J. SHUMPERT ON DIRECT

1 Q. And did you know the Defendant prior to that night?

2 Did you know Mr. Ransom?

3 A. No, I did not.

4 Q. And ultimately did you make a traffic stop on Mr.

5 Jenkins, Derrell Jenkins -- on his vehicle?

6 A. We did.

7 Q. And who, if anybody, was taken into custody at that

8 time?

9 A. Mr. Ransom.

10 Q. All right, and was he arrested at that point in

11 time?

12 A. At that point in time with the information we had,

13 he was being detained. The decision to arrest him came

14 later on that night.

15 Q. As a result of detaining him, what, if anything,

16 did you do with him at that point in time at that time

17 after Mr. Jenkins' vehicle was stopped?

18 A. Well, my vehicle -- I don't have a transport vehicle

19 so normally when I get an individual in the car I do a Terry

20 frisk -- just pat the outer portion of a person's cloth-

21 ing, and that is for the officer's safety, to make sure

22 they aren't carrying a weapon.

23 I saw he didn't have no weapons on him, so we put

24 handcuffs on him and placed him in a marked unit.

25 Q. And was that Deputy Thorpe's vehicle, or do you know
that?

J. SHUMPERT ON DIRECT

1 A. I believe it was Deputy Thorpe's vehicle.

2 Q. Where was he then transported at that point in
3 time?

4 A. He was transported back to my office located right
5 there on Chestnut at 1032 Chestnut, the Criminal Inves-
6 tigation office.

7 Q. All right. Let me ask you, did you have an opportun-
8 ity that night to also interview Mr. Jenkins?

9 A. I did.

10 Q. And you heard him testify yesterday about the De-
11 fendant and the phone conversations he had with him when
12 the Defendant made a comment to him that he had to do a
13 lick?

14 A. Correct.

15 Q. And what is that street term, lick -- what does
16 that mean or refer to?

17 A. That is commonly referred to as somebody who is
18 getting ready to perform some type of robbery or some-
19 thing of that nature.

20 Q. Now, did you have an opportunity then when you got
21 Mr. Ransom, the Defendant, into your office on Chestnut --
22 at that point in time, did you attempt to interview him?

23 A. I did.

24 Q. How did you go about doing that with Mr. Ransom on
25 July 25, 2011?

246

J. SHUMPERT ON DIRECT

1 A. I took him to the interview room, what we call our
2 interview room, and I advised him of his Rights, his
3 Miranda Rights, while he was there.

4 I read them to him. . .

5 Q. Did you have a form or something that you used to
6 do that that night?

7 A. Yes, I did.

8 Q. Let me show you State's Exhibit Number 1. Do you
9 recognize that?

10 A. Yes, sir. This is the advisement of rights.

11 Q. Okay, and is that the form that you used with Mr.
12 Ransom that evening, July 25th, 2011?

13 A. It is.

14 SOLICITOR: Your Honor, at this time the State would
15 offer Exhibit 1 into evidence.

16 MR. WISE: Subject to the prior objections we have
17 made.

18 THE COURT: All right. Subject to prior objection,
19 State's 1 is in evidence.

20 (Advisement of rights form admitted in evidence
21 over objection as State's Exhibit 1)

22 BY SOLICITOR:

23 Q. Explain to the jury what that form is and how you
24 went over that with Mr. Ransom that evening?

25 A. Every individual that we suspect of committing a
247

J. SHUMPERT ON DIRECT

1 crime we do this -- at the top it says Orangeburg County
2 Sheriff's Office, Defendant's affidavit.

3 The top portion -- we ask the individual -- for in-
4 stance, individual questions such as the day, the month,
5 the time, the place, the Defendant's name and address,
6 social security, age, date of birth -- you know, a good
7 contact number.

8 The middle portion is the advisement of rights of
9 the individual. We read them to him individually.

10 Q. Did you go over each of these rights with Mr. Ransom
11 that night?

12 A. Yes, sir, I did.

13 Q. Okay.

14 A. Then after I read them to him -- I said, you have --
15 my rights are as follows: I have the right to remain
16 silent; anything I say can be used against me in Court;
17 I have the right to talk to a lawyer for advice before I
18 am asked any questions; if I can't afford a lawyer one
19 will be appointed for me before any questions if I wish;
20 if I decide to answer questions without having a lawyer
21 present I will still have a right to stop answering ques-
22 tions at any time.

23 I also have a right to stop answering at any time
24 until I talk to a lawyer.

25 In front of each advisement of rights there is a

J. SHUMPERT ON DIRECT

1 little section where it's numbered, one, two, three and
2 four, and he has the right to go back and re-read it be-
3 fore he initials.

4 He places his initials and then he signed it.

5 Q. So you went over this advisement of rights form,
6 and he placed his initials there on the form?

7 A. Correct.

8 Q. Did he also sign the form?

9 A. Yes, he signed it, and then I went over to the next
10 section which says, I understand my rights above and ini-
11 tialized each. I have been advised of my rights by LT
12 Shumpert of the Orangeburg County Sheriff's Office and
13 make the following statement, which that's his handwriting.

14 Q. If he gave a statement at that point in time, gave
15 a written statement, that would have been there in writ-
16 ing?

17 A. Yes, sir.

18 Q. Now, in this case after Mr. Ransom was given his
19 rights, did he tell you at that point in time about his
20 involvement or lack of involvement in the case with Mr.
21 Harrison?

22 A. He stated he didn't know what I was talking about,
23 and he had nothing to say.

24 Q. So he told you that night on July 25th -- what time
25 was that?

J. SHUMPERT ON DIRECT

1 A. Nine fifty-two.

2 Q. So that night at nine fifty-two, Mr. Ransom told you
3 he had nothing to do with what you were investigating?

4 A. Yes, sir.

5 Q. And he wanted a lawyer at that point?

6 A. Correct.

7 Q. After that, did you continue to question him that
8 night?

9 A. No, I did not.

10 Q. So did you ask him any more questions that night?

11 A. No, I did not.

12 Q. Let me ask you this, did he request of you anything
13 else at that time?

14 A. He wanted to speak to Derrell.

15 Q. Where was Derrell at at that point in time?

16 A. He was up front in the front portion of the investi-
17 gation division.

18 Q. Did you allow him to speak to Derrell at that point
19 in time?

20 A. I did.

21 Q. Derrell did not relate to you what the Defendant had
22 told him?

23 A. Yes, he did.

24 Q. As he testified yesterday?

25 A. Correct.

250

J. SHUMPERT ON DIRECT

1 Q. At that point in time what was done with Mr. Ransom,
2 after he was given an opportunity to speak with Mr.
3 Jenkins?

4 A. He was taken to the Orangeburg County Detention Cen-
5 ter.

6 Q. Okay. So the rest of that night then until the early
7 morning hours of the next morning, did you have any con-
8 tact with Mr. Ransom?

9 A. No, I did not.

10 Q. Tell the jury what was the next contact you had re-
11 garding Mr. Ransom?

12 A. The next contact I had was from his mom who is Ms.
13 Williams.

14 Q. And was that in person or over the phone?

15 A. By telephone.

16 Q. All right, and let me ask you this, did you know or
17 had you had some professional dealings prior to that time
18 with his mother?

19 A. Yes, I had.

20 Q. And she contacted you by cell phone?

21 A. On her cell phone.

22 Q. And as a result of that, did she indicate to you
23 anything with regards to her son?

24 A. Yes.

25 Q. What was that?

251

J. SHUMPERT ON DIRECT

1 A. She said he wanted to speak to me.

2 Q. And when did you visit him again?

3 A. The next day.

4 Q. The 26th I guess?

5 A. The 26th.

6 Q. And as a result of her telling you that, what did
7 you do at that point in time?

8 A. After the conversation, I got with one of my inves-
9 tigators and we proceeded to go over to Bamberg County
10 where he was transferred to.

11 I didn't know he was transferred from Orangeburg to
12 Bamberg, but we went over to Bamberg and met with his
13 mother in the parking lot at the county jail.

14 Q. The following day was when you found out Mr. Ransom
15 was taken to Bamberg?

16 A. Correct.

17 Q. And after meeting with his mother, did you have an
18 opportunity to further talk with Mr. Ransom the following
19 day?

20 A. I did.

21 Q. Tell the jury when you came in contact with Mr.
22 Ransom how that came about and what, if anything, you
23 inquired of him at that point in time?

24 A. When I arrived at the jail, like I said, I met his
25 mom in the parking lot. Investigator Gillard was with

252

J. SHUMPERT ON DIRECT

1 me. We went inside the building and met with the offi-
2 cers over there, and we stated the purpose of us being
3 there.

4 We went into another room -- I can't remember if
5 he was already in the room or was brought to the room,
6 but I met with him and I asked him, are you sure that you
7 want to speak with me, and at that time he told me yes,
8 and then I did the same process of going through his ad-
9 visement of rights again.

10 Q. Let me ask you, if he had told you he didn't want to
11 talk with you, what would you have done?

12 A. The same thing I did the night before. I would
13 have ceased the interrogation and went back to Orange-
14 burg at that time.

15 Q. If he had told you he wanted a lawyer or I don't
16 want to talk with you, what would you have done?

17 A. Gone back to Orangeburg.

18 Q. But he said at that time that he did wish to speak
19 to you?

20 A. He did.

21 Q. And you indicated that you basically started going
22 over the Miranda form?

23 A. Correct.

24 Q. And I show you State's Exhibit 2. Do you recognize
25 that?

J. SHUMPERT ON DIRECT

1 A. Yes, this is the second statement that he wrote over
2 in Bamberg.

3 Q. Okay. The second . .

4 A. I'm sorry, the first statement. He filled that out
5 and I witnessed it. That's the second advisement of rights.

6 Q. That's when you initially started talking to him?

7 A. Correct.

8 Q. The following day, on the 26th?

9 A. Yes, sir.

10 Q. And what time did that occur?

11 A. At one thirty P.M. One thirty-eight P.M.

12 Q. Okay. So tell the jury what you did with him on
13 that day after that point when he said he wished to talk
14 to you?

15 A. I did the same thing with the form that day as the
16 night before. I went over -- like I said, Orangeburg
17 County Sheriff's Office, and then I filled out the date
18 and time, that information, and went through the rights
19 as I did . .

20 Q. Who filled out the top portion of that form?

21 A. He filled out the top portion this time.

22 Q. So as far as the personal information, date and time,
23 he filled in all that? That's his handwriting?

24 A. Yes. I filled that out the night before but he did
25 fill that out this time.

254

J. SHUMPERT ON DIRECT

1 Q. And did you go over the same rights with him that
2 you had gone over the night before?

3 A. Yes, sir, I did.

4 Q. Did he initial them yet again?

5 A. He did.

6 Q. And at that point in time, did he give you a statement
7 at that point in time?

8 A. He did.

9 Q. And that statement . .

10 SOLICITOR: Your Honor, I would offer State's Ex-
11 hibit 2 in evidence.

12 MR. WISE: Same objection.

13 THE COURT: Subject to the same objection, it's ad-
14 mitted in evidence, State's 2.

15 (Second advisement of rights form with statement en-
16 tered in evidence subject to objection as State's Exhibit
17 2)

18 BY SOLICITOR:

19 Q. Now, this is a three page document, is that correct,
20 Lieutenant?

21 A. It is.

22 Q. All right, and on page one is the advisement of
23 rights and personal information, and who wrote that?

24 A. It's in his handwriting.

25 Q. Mr. Ransom wrote this?

255

J. SHUMPERT ON DIRECT

1 A. Correct.

2 Q. And turning to page two, what is located on page
3 two of the statement?

4 A. Well, after he writes the statement, you go back and
5 read them and then we have what we call questions and
6 answers.

7 You write the questions out and the individual an-
8 swers in his own handwriting.

9 Q. So the portion with the Q, whose handwriting is
10 that?

11 A. The Q is me. That's my handwriting.

12 Q. And where it says, A and yes, whose handwriting is
13 that?

14 A. Mr. Ransom's.

15 Q. All right, and then the initials, who wrote those
16 initials?

17 A. Mr. Ransom.

18 Q. And what is the purpose of doing that?

19 A. To make sure that nobody don't add nothing to the
20 statement he had already written.

21 Q. And then over on the third page, did Mr. Ransom
22 sign the statement?

23 A. He did.

24 Q. And did you sign as a witness?

25 A. I did.

256

LT. SHUMPERT ON DIRECT

1 Q. So those are his initials to make sure nobody can
2 fill in anything on the third page?

3 A. Correct.

4 Q. Now, eleven thirty-eight or shortly thereafter . .

5 SOLICITOR: We would publish this to the jury, and
6 have Lieutenant Shumpert read what Mr. Ransom wrote.

7 BY SOLICITOR:

8 Q. Read what Mr. Ransom wrote on that paper at that
9 point in time?

10 A. He basically wrote that Mr. Harrison come to me af-
11 ter he was bruised and battery -- he asked me to call
12 nine one one. I tried but the phone I had was not work-
13 ing, so tell him to go to the next door neighbor and --
14 and they will assist you.

15 (Witness reading slowly)

16 I was walking out to my aunt and stayed there about
17 two hours. The person who have done it was a guy Tray
18 (inaudible) and another character who they call Scrap.

19 I had nothing to do with it at all. I did try to
20 -- all I been trying to do is get home to my two daughters
21 -- I couldn't even do that.

22 There was no witness, no one around. I just assumed
23 they did it because of how they was acting, and you know
24 the actions speak louder than words.

25 Q. And is that statement -- is that all in Mr. Ransom's

257

LT. SHUMPERT ON DIRECT

1 handwriting?

2 A. It is.

3 Q. Okay, and as you talked about a few minutes ago,
4 you went over a few questions and answers with him?

5 A. I did.

6 Q. And publish those for the jury, if you would?

7 A. The first question I asked him was did you use
8 George Harrison's phone to call Derrell? Answer, yes.

9 I next asked him did you call him at seven O five
10 P.M. and tell him to pick you up from Little Cricker?
11 The answer was yes.

12 Do you own a red bandanna -- the question I asked
13 him, and he answered, yes.

14 Then the last question I asked him, did you ask to
15 speak to me, and the answer was yes.

16 Q. Okay, and the answers to those questions were all
17 in Mr. Ransom's handwriting?

18 A. It was.

19 Q. The questions were in your handwriting?

20 A. It's my handwriting, yes, sir.

21 Q. At that point in time signed the third page?

22 A. He did.

23 Q. And did you witness it?

24 A. I did.

25 Q. And at any point in time did you force him to talk

258

J. SHUMPERT ON DIRECT

1 to you?

2 A. No, I did not.

3 Q. Did you threaten him to talk to you?

4 A. I did not.

5 Q. Make any promises to get him to talk to you?

6 A. No, I did not.

7 Q. Following him giving you that statement, Lieutenant
8 Shumpert, what did you do at that point in time after he
9 finished giving you that statement?

10 A. After he gave the statement and I went over the
11 statement with him, I went out and -- his mom was back
12 up at the front of the detention center.

13 And I went back out there and I told her that he
14 was not telling me the truth.

15 Q. Okay.

16 A. And then I went back and conferred with him and told
17 him that he wasn't telling the truth. Only because of
18 the evidence and what I had learned from Investigator
19 Ketcherside.

20 Q. And at that point in time when you kind of confronted
21 him -- at that point in time, what did Mr. Ransom do, if
22 anything?

23 A. Provided me another statement.

24 Q. And how was he acting at that point in time?

25 A. Kind of emotional.

259

J. SHUMPERT ON DIRECT

1 Q. You said he provided you with another statement?

2 A. He did.

3 Q. And was that in his handwriting?

4 A. It was.

5 Q. Showing you State's Exhibit Number 3, is that a copy
6 of that statement?

7 A. Yes, sir.

8 Q. What is the date and time stamp on that statement?

9 A. Ten thirty eight.

10 Q. Twenty-two minutes to eleven?

11 A. Yes.

12 Q. All right, and, again, who filled out that front
13 page?

14 A. Mr. Ransom did.

15 Q. How many pages is that one?

16 A. It's also three.

17 Q. Is that the standard kind of package, three pages
18 long?

19 A. It is.

20 Q. And whose initials . .

21 A. His initials.

22 Q. And did he sign on the third page?

23 A. Yes, he did.

24 Q. You witnessed it?

25 A. Yes, there's my signature.

260

J. SHUMPERT ON DIRECT

1 Q. And the X has his initials and so on?

2 A. Yes.

3 Q. And showing you State's Exhibit 3, are those the
4 -- whose words were put on this piece of paper about two
5 o'clock that afternoon at the Bamberg County Jail?

6 A. Mr. Ransom's.

7 SOLICITOR: The State would offer Exhibit 3 in
8 evidence.

9 THE COURT: Subject to the same objections as pre-
10 viously.

11 (State's Exhibit 3 admitted over objection in evi-
12 dence)

13 BY SOLICITOR:

14 Q. And would you publish to the jury what was given
15 to you in time after you confronted the Defendant and
16 told him you didn't believe he was telling you the truth
17 or that he wasn't being truthful with you?

18 A. He started off with this statement -- he said, I,
19 Darius Ransom -- he was twenty-one -- I have high blood
20 pressure, an enlarged heart, a cyst and a tumor on my
21 right kidney.

22 I went through a bad situation. I just flipped. I
23 never a day in my life put my hands on anyone. I am
24 truly sorry and I ask for your forgiveness.

25 I went in Mr. George house. I waited for him to

261

J. SHUMPERT ON DIRECT

1 -- waiting for him to use his phone again and all of a
2 sudden I hit him four to five times.

3 ~~times~~ (Witness reading slowly)

4 (Portion inaudible)

5 All I was trying to do was trying to get home to my
6 girls. I went through the back door and that was that.
7 I'm sorry for the pain and suffering I have put Mr.
8 George in -- Mr. George and my family.

9 He stopped right there.

10 Q. And, again, that was all in Mr. Ransom's handwrit-
11 ing?

12 A. Correct.

13 Q. Did you tell him what to write on that piece of
14 paper?

15 A. No, sir.

16 Q. Did you tell him any of the things to write, any
17 words on there?

18 A. Those are his words.

19 Q. And in his second statement that afternoon, did
20 you force him in any way?

21 A. No, I didn't.

22 Q. Did you threaten him in any way?

23 A. No, sir, I didn't.

24 Q. At any point in time that afternoon at the Bamberg
25 County Jail, did he tell you he didn't want to talk to

262

J. SHUMPERT ON DIRECT

1 you any more?

2 A. No, sir, he did not.

3 Q. Like he had the night before, before his mom con-
4 tacted you, did he tell you at any time that he wanted a
5 lawyer that day?

6 A. No, he did not.

7 Q. Did he sign this and did you witness it?

8 A. Yes.

9 Q. Are you aware of about how big Mr. Ransom is?

10 A. About six one, a hundred fifty or sixty pounds --
11 somewhere in there.

12 Q. That was also his physical size at the time he was
13 arrested?

14 A. Yes, it was.

15 Q. How old is Mr. Ransom?

16 A. At the time, he was twenty-one. He's twenty-two
17 now, I believe.

18 Q. Did he put on his statement he was twenty-one years
19 old?

20 A. Yeah, but I don't -- what's his date of birth on
21 there?

22 Q. Eight 31 89. So he turned twenty-two a month or
23 so after this?

24 A. Correct.

25 Q. The address he had given you back when this occurred
263

J. SHUMPERT ON DIRECT

1 on the night of the 25th was a Sunset Drive address in
2 Bamberg. Is that correct?

3 A. Yes, sir. He wrote that. No, that's my handwriting,
4 I believe.

5 Q. Where did you get that address from?

6 A. From Mr. Ransom.

7 Q. And on the 26th he actually put two addresses down
8 there, is that correct?

9 A. Yes, sir.

10 Q. The Bamberg County address and a St. George address,
11 is that correct?

12 A. He did.

13 Q. And the following day after he gave those statements
14 or you took the statements from Mr. Ransom, do you recall
15 being contacted by Deputy Thorpe?

16 A. I do.

17 Q. And did he inform you about something he had found
18 in his vehicle?

19 A. Yes. He told me he had found a cell phone in the
20 back of his car.

21 Q. Did he indicate to you at that point in time whether
22 he had transported anybody else, from the time he had
23 transported Mr. Ransom, up until the time he found the
24 phone?

25 A. He said he did not.

264

J. SHUMPERT ON DIRECT

1 Q. Did he indicate to you . .

2 A. The basic conversation was that he said he was going
3 through some inspection or something, and when he checked
4 the back seat of his car he found the cell phone that he
5 believed belonged to the subject.

6 Q. Did he indicate to you whether he had transported
7 anybody else?

8 A. Since the subject?

9 Q. Yes.

10 A. No, he said he hadn't transported anybody.

11 Q. Thank you, Lieutenant Shumpert. That would be all
12 I'd have.

13 THE COURT: Mr. Wise, your witness.

14 MR. WISE: Thank you, Your Honor.

15 CROSS EXAMINATION

16 BY MR. WISE:

17 Q. Lieutenant Shumpert, how are you?

18 A. Fine, sir.

19 Q. One of the very first preliminary things I want to
20 get out of the way -- you pointed out that on the night
21 of this incident you interacted with Mr. Jenkins, with
22 Derrell Jenkins?

23 A. Yes, sir.

24 Q. Okay, and Derrell Jenkins was arranged to pick up
25 Darius?

265

J. SHUMPERT ON CROSS

1 A. . . .

2 Q. He went to Little Cricket . . .

3 A. Correct. When you say he was arranged . . .

4 Q. Let me rephrase that. There came a time that
5 Derrell spoke to Darius, and they were going to meet at
6 Little Cricket?

7 A. Correct.

8 Q. All right. Okay, and based on your information in
9 your investigation at the time that Darius got in the
10 car with Derrell, he did not know that you were follow=
11 ing them?

12 A. Correct.

13 Q. Okay, and when you arrested Darius, did he have a
14 red bandanna then?

15 A. Not that I saw.

16 Q. You would have seen it if he had it?

17 A. Well, that's fair to say.

18 Q. Okay, okay. Based on your investigation, was there
19 anything distinctive about this red bandanna that you
20 missed seeing?

21 A. No, sir, not that I can recall.

22 Q. You spoke to Mr. Harrison about what happened that
23 evening?

24 A. No, I did not.

25 Q. Did you ever speak to him?

266

J. SHUMPERT ON CROSS

1 A. No.

2 Q. Based on your investigation, did you learn about
3 some red clothing that was worn by the person who did
4 this?

5 A. From what the deputy was told.

6 Q. And when Darius was arrested, did he have any red
7 clothing on him at that time?

8 A. Well, this incident took place about seven o'clock.
9 I spoke to Mr. Ransom several hours later.

10 In my experience, when people commit crimes they
11 change the clothes up. So I only know what he had on
12 after I saw him.

13 Q. Just answer this. When you arrested Darius, did
14 he wear any red clothing on in his possession?

15 A. I don't even remember.

16 Q. Would you like to refer to your notes?

17 A. If I could . .

18 Q. No problem. Sure.

19 A. You want me to look through all this?

20 Q. I want you to look for whether when you arrested
21 Darius he had any red clothing on. That's the question,
22 sir.

23 A. I don't see nothing here that says what he was
24 wearing.

25 Q. When you spoke -- well, as part of your investigation

J. SHUMPERT ON CROSS

1 did you ever learn that Mr. Harrison said he saw the
2 face of the person who did this to him?

3 A. Again, I never spoke to Mr. Harrison because of his
4 condition. It was like some month and a half later that
5 I think he came out of the hospital, but the Defendant
6 was already arrested and charged by then.

7 Q. At any time, did you ever learn that he saw the face
8 of the person who did this?

9 A. From the deputy, he was familiar with the person, but
10 in actually speaking to Mr. Harrison he never told me
11 that, no.

12 Q. Okay. When you arrested Darius, how much money did
13 he have on him?

14 A. Probably -- I can't remember.

15 Q. Is it an accurate statement that based upon your
16 investigation he didn't have any money from the robbery
17 on him?

18 A. I was never told that. I can't tell from my notes
19 whether he had money on him or not.

20 Q. How much money was taken in the robbery from Mr.
21 Harrison?

22 A. I was told -- when I asked the officer there, he
23 said Fifteen to Twenty Dollars and a cell phone was miss-
24 ing.

25 Q. And how much money did Darius have on him?

268

J. SHUMPERT ON CROSS

1 A. I can't remember. I don't know.

2 Q. Let me ask you this, do you remember testifying in
3 a preliminary hearing in this matter?

4 A. Some time ago, yes, sir.

5 Q. Okay, and do you remember being asked this question
6 by me, question, he didn't have any money from the rob-
7 bery in his possession, and your answer, he had money; I
8 just can't tell you how much.

9 Okay, now, I imagine the booking report would tell
10 you how much he had. Your answer, I mean, it was a very
11 minute amount.

12 Question, it was change? He had change on him, did-
13 n't he? Your answer, I'm trying to find it, and you were
14 looking at the paperwork.

15 My question, maybe -- your answer, I know whatever
16 it was, it wasn't close to Twenty-five Dollars.

17 Do you remember that?

18 A. Like I say, I just can't remember how much money
19 he had.

20 Q. And so . . .

21 A. Just like I told you there.

22 Q. Very good. Did you ask Darius for a DNA sample?

23 A. Did I ask Darius -- no, he invoked his -- matter of
24 fact, I stopped talking to him when he wanted to talk
25 to a lawyer.

J. SHUMPERT ON CROSS

1 Q. There came a time when he was provided an attorney?

2 A. Yes.

3 Q. And who would have done that?

4 A. It must be the forensic guys because I didn't talk
5 to him.

6 Q. The forensic guys such as Ketcherside or Westberry?

7 A. Westberry is not in forensics -- Ketcherside.

8 Q. Ketcherside would have asked him?

9 Q. I can't remember who asked him for a DNA sample.

10 It should be shown on there who took it or collected it,
11 so . . .

12 Q. I'm more concerned about when he took it?

13 A. I can't remember.

14 Q. You don't know?

15 A. No.

16 Q. Okay. Did you have to get a Court Order or a
17 search warrant?

18 A. I can't remember.

19 Q. You don't know?

20 A. No.

21 Q. Do you remember us talking about a description of
22 the person who committed this attack?

23 A. I don't . . .

24 Q. At the preliminary hearing.

25 A. To best honest with you, I have hundreds of

270

J. SHUMPERT ON CROSS

1 preliminaries so . .

2 Q. Okay.

3 A. Just to go back to that day, I can't remember every-
4 thing that happened. I mean, . .

5 A. That didn't stand out to you?

6 A. No.

7 Q. Okay, all right. Let's go back. You remember the
8 preliminary hearing and you remember that Mr. Harrison
9 was there, wasn't he?

10 A. He could have been.

11 Q. Okay, okay. You remember my asking these questions
12 and you giving these answers?

13 My question, I want to talk a little bit about any
14 evidence that was recovered. How much did Mr. -- I say
15 George -- say was taken from him, and your answer, I be-
16 lieve Mr. George in a report -- no let me make sure --
17 hold on a second, and then there's a pause.

18 Then I said, Deputy, I have no problem with your
19 asking him. Do you remember that?

20 A. Obviously you have a transcript there and you know
21 it. I can't remember.

22 Q. Okay.

23 A. If you'll let me see it -- I mean, I can't just re-
24 member it all.

25 Q. I'm telling you what it says here.

271

J. SHUMPERT ON CROSS

1 A. That's fine too. If I said it, I said it. I just
2 can't remember.

3 Q. I'll show it to you.

4 A. Yes, you say, Deputy, I have no problem with you
5 asking him.

6 Q. And I said that to you because he was sitting there
7 at the time?

8 A. Could be.

9 Q. Okay, and the point of this is that even at the
10 preliminary hearing he never said to you it was Darius
11 and he saw his face?

12 A. . . .

13 Q. He never said that to you, did he?

14 A. . . .

15 Q. He never said I'm familiar with who it was? He
16 never said that to you?

17 A. No.

18 Q. You have been a sheriff's deputy for thirteen years?

19 A. Correct.

20 Q. And you've had a lot of training in that time,
21 haven't you?

22 A. Correct.

23 Q. And part of your training involves taking state-
24 ments, doesn't it?

25 A. It does.

J. SHUMPERT ON CROSS

1 Q. Over the course of your career, about how many state-
2 ments have you taken?

3 A. Well, I don't know. I have no idea. A lot.

4 Q. A lot?

5 A. Yes, you can say that.

6 Q. Okay. Lieutenant Shumpert, tell the ladies and gen-
7 tlemen of the jury about your educational background?

8 A. Professional or personal?

9 Q. Personal.

10 A. I've got my Master's Degree in Criminal Justice. I
11 am working on a PHD in Criminal Justice right now.

12 Q. You are taking a PHD?

13 A. Right.

14 Q. You don't have it yet?

15 A. No.

16 Q. You're a smart guy?

17 A. I'm not saying that. I'm saying I'm seeking . .

18 Q. Okay. So when you get your PHD you'll be a smart
19 guy?

20 A. I'll be a tired guy.

21 Q. I hear you. It's fair to say though that you are
22 smarter than Darius?

23 A. I wouldn't say that. I mean, that just -- you
24 can't say something like that. Some people might be
25 smarter in this area and some smarter in this area.

J. SHUMPERT ON CROSS

- 1 I mean, I wouldn't get up here and say I'm smarter
2 than him.
- 3 Q. You have more education than him?
- 4 A. Let me look at his educational background. I don't
5 know what he -- I don't know.
- 6 Q. So when you went to interrogate him, you didn't ask
7 him how far he went in school?
- 8 A. He said he wanted a lawyer so I stopped.
- 9 Q. At any point, when you were asking him questions and
10 he gave a statement, did you ask him how far he went in
11 school?
- 12 A. Which time?
- 13 Q. At any time did you ask him?
- 14 A. The first time he asked for a lawyer. The second
15 time I asked him did he want to speak with me, and I al-
16 lowed him to fill out his own statement. So, no, he
17 never articulated that to me at the time.
- 18 Q. Sir, here's the question. At any point in time did
19 you ask him about his education?
- 20 A. Not that I recollect, no.
- 21 Q. Okay. There came a point when his mother called
22 you about taking a statement from Darius?
- 23 A. Correct.
- 24 Q. All right.
- 25 A. Well, not taking a statement -- to speak to him.

J. SHUMPERT ON CROSS

1 Q. Correct, absolutely. She wanted you to speak to
2 him?

3 A. From what she said, he wanted to speak to me.

4 Q. Okay. Now, just so we're clear, he never called
5 you?

6 A. No.

7 Q. He never wrote you a letter?

8 A. No.

9 Q. Okay, and when you went to speak to Darius in Bam-
10 berg after speaking to his mother, . .

11 A. Correct.

12 Q. . . you already knew that fact of what happened in
13 this case? You knew what the allegations were from Mr.
14 Harrison as to what happened?

15 A. Correct.

16 Q. So you knew you were investigating a serious crime?

17 A. Correct.

18 Q. You described the taking of his statement at the
19 jail as an emotional time?

20 A. . .

21 Q. You said Darius was emotional at the time?

22 A. At the end. Not at the beginning.

23 Q. Okay. At the end, was he crying?

24 A. I can't remember.

25 Q. You can't remember. Now, his mother was present

275

J. SHUMPERT ON CROSS

1 obviously at some point, and you knew she had just got-
2 ten out of the hospital?

3 A. . . .

4 Q. You know that?

5 A. Did I know she had just gotten out of the hospital?

6 Let me see. She called me and asked for me and asked
7 did I remember . . .

8 Q. You don't know?

9 A. No, I don't know.

10 Q. When he gave you the first statement up in Bamberg,
11 you didn't believe that it was true?

12 A. From the information that I had. That's correct.

13 Q. Okay, and you challenged him on that?

14 A. After stepping out and seeing the momma, I recall
15 telling the momma about the cell phone. He said he had
16 given the cell phone to a guy named Trey, and I knew that
17 was a lie because Deputy Thorpe had found the cell phone
18 in the back of his car.

19 Q. So you challenged him that you didn't think he was
20 telling you the truth?

21 A. Correct.

22 Q. Called him a liar?

23 A. No, I said you need to tell me the truth.

24 Q. You never used the term liar?

25 A. No.

J. SHUMPERT ON CROSS

1 Q. The statements, the second and third ones you took
2 up in Bamberg, did you videotape it?

3 A. I don't think Bamberg County had the capability of
4 videotaping their own men.

5 Q. Okay, and did you make any arrangement to videotape
6 it?

7 A. Well, like I say, again, his mom called me and said
8 he wanted to speak to me. I had no idea what he wanted
9 to speak to me about. I didn't grab my camera and go
10 over there.

11 I just wanted to see what he wanted to talk to me
12 about.

13 Q. Okay, so there is no videotape of his statements?

14 A. No.

15 Q. Did you record it by audio?

16 A. No.

17 Q. Okay. In this second statement that we heard just
18 a second ago, he says the person who done it was a guy Trey
19 and another character they call Strap?

20 A. No, I mean, I just -- right, the nickname Trey,
21 and he didn't say Trey Drayton or -- I don't know who
22 Trey is.

23 Q. Are you familiar with a person named Travis in this
24 investigation?

25 A. Travis -- is that the next door neighbor? I know

277

J. SHUMPERT ON CROSS

1 the next door neighbor's name is Travis.

2 Q. Okay, all right. When you heard Trey, did you think
3 of Travis, the next door neighbor of Mr. Harris?

4 A. No, because he told me the guy had the cell phone,
5 and I know that had come to be a lie because the cell
6 phone was found in the back of the car he had been trans-
7 ported in..

8 Q. So you never connected somebody named Trey and it
9 possibly being this person Travis?

10 A. Not in connection with the cell phone, from what he
11 told me.

12 Q. So obviously you never looked at Travis' home for
13 any evidence?

14 A. I don't know if I can get into what Mr. Travis told
15 us. I don't know if I can get into that.

16 Q. The question is simple. Did you ever look at Travis'
17 home for evidence?

18 A. Yes. We did go into Mr. Travis' home.

19 Q. And how close does Travis live to Mr. Harrison?

20 A. Between the two trailers, about maybe ten or twenty
21 feet.

22 Q. Okay.

23 A. Just an estimate.

24 Q. Sure. In the course of this investigation, did
25 there come a time when you learned that as a result of

278

J. SHUMPERT ON CROSS

1 these injuries that Mr. Harrison lost consciousness?

2 A. I knew that his condition was serious. I knew it
3 was critical, and I was told he was expected to live.
4 The consciousness part, I don't know.

5 Q. You testified on Direct Examination that you frisked
6 and handcuffed Darius?

7 A. I don't remember the specifics of the take-down. I
8 don't remember who put the handcuffs on him. On 601, I
9 want to say it was in the middle of the road that we got
10 him out of the vehicle.

11 Q. You used the term that you performed a Terry frisk?

12 A. Correct.

13 Q. On Darius?

14 A. Yes.

15 Q. Explain for the jury what that is?

16 A. A Terry frisk is, once again, a patting on the cloth-
17 ing to make sure for officer's safety that somebody does
18 not have a weapon on them.

19 Q. Do you remember what Darius had on that night?

20 A. I can't remember.

21 Q. Do you remember if he had on a jacket?

22 A. I can't remember.

23 MR. WISE: Could I ask the witness to step down?

24 THE COURT: Sure.

25 MR. WISE: Thank you.

J. SHUMPERT ON CROSS

1 BY MR. WISE:

2 Q. Agent Shumpert, I'm going to take my jacket off,
3 and would you show the jury a Terry frisk?

4 A. (Demonstrating) (Inaudible verbal response)

5 Q. Did you handcuff him?

6 A. I put the handcuffs on him.

7 Q. How was he handcuffed?

8 A. Handcuffs on his wrist. (Demonstrating)

9 Q. Something like that?

10 A. Yeah.

11 Q. You may go back to the stand.

12 In Darius' third statement he doesn't say -- I'm
13 sorry -- in Derrell's statement, he doesn't mention that
14 Darius told him he had to do a lick? He never wrote it,
15 did he?

16 A. I'd have to see it.

17 Q. Sure.

18 A. Probably about a third of the page he says, he
19 started telling me he had to rob somebody for some money.

20 Q. But it doesn't say he had to do a lick? That par-
21 ticular phrase is not in there?

22 A. . .

23 Q. Take your time.

24 A. I don't see it.

25 Q. Okay. You testified that Darius asked -- the first

J. SHUMPERT ON CROSS

1 thing when he spoke to you he told you that he wanted
2 a lawyer?

3 A. True.

4 Q. And you stopped questioning him?

5 A. True.

6 Q. Okay, you say you can't remember when you got to
7 Bamberg if Darius was already in the room that you were
8 in or if he was brought into the room. Correct?

9 A. Correct.

10 Q. All right.

11 MR. WISE: If I could have one moment?

12 THE COURT: Yes.

13 (Brief pause in proceeding)

14 BY MR. WISE:

15 Q. Lieutenant Shumpert, I want to go back to something
16 you testified about. You talked to Deputy Thorpe about
17 the phone?

18 A. Which phone?

19 Q. The phone he found in his car?

20 A. Yes.

21 Q. And what day was the phone found in his car?

22 A. Let me see. I knew about it when I went up to
23 Bamberg County.

24 Q. So he called you -- if it happened on the 25th, he
25 would have called you on the 26th?

281

J. SHUMPERT ON CROSS

1 A. I believe -- yes, I believe so.

2 Q. You had a feeling that you knew Darius was lying
3 about that because you knew about Deputy Thorpe finding
4 the phone?

5 A. Well, he told me he gave the phone to someone, and
6 when I responded on the scene that night with information
7 that I had that money was taken off Mr. Harrison and a
8 cell phone was missing -- so . . .

9 Q. So when -- let me be clear about one thing.

10 It's your testimony that when you spoke to Darius
11 the night of -- the day of the 26th . . .

12 A. Yes, sir.

13 Q. . . you already knew the phone had been found?

14 A. Correct.

15 Q. Okay, and so when you read his statement -- when he
16 wrote in his statement that Trey had the phone you knew
17 it was not true?

18 A. Correct.

19 Q. Okay.

20 MR. WISE: If I could have one moment, Your Honor?

21 THE COURT: Yes, sir.

22 (Brief pause)

23 MR. WISE: That's all the questions I have at this
24 time.

25 THE COURT: Anything on Redirect?

J. SHUMPERT ON REDIRECT

1 SOLICITOR: Just a couple of things.

2 REDIRECT EXAMINATION

3 BY SOLICITOR:

4 Q. Let me make sure I understand something.

5 We heard in the testimony from Investigator Ketcherside
6 that the phone wasn't found in the vehicle until the 27th.
7 Could you have spoken with Deputy Thorpe the day before,
8 the 26th?

9 A. I knew about the phone but I just don't know at
10 this time when I spoke to someone about it. I believe
11 the next day although I don't know when Ketcherside had
12 collected it.

13 Q. When he said he wanted a lawyer, it was the night
14 of the incident, the 25th?

15 A. The 25th. Correct.

16 Q. And you went to see Mr. Ransom at the jail on the
17 26th?

18 A. Correct.

19 Q. Could Investigator Ketcherside have collected the
20 phone the following day?

21 A. Correct.

22 Q. And you are pretty sure when you spoke to the Defen-
23 dant in Bamberg you knew about it?

24 A. I did.

25 Q. Let me go back to something I wanted to ask you

J. SHUMPERT ON REDIRECT

1 about. Mr. Wise was asking you about Travis, and the
2 neighbor's name was Travis Smart, is that correct?

3 A. I believe it's Smart, yes.

4 Q. And he resided at the time in the trailer right next
5 to Mr. Harrison?

6 A. Correct. As was testified earlier, there was three
7 trailers. Mr. Smart lived in the trailer right in the
8 middle.

9 Q. Let me ask you, when you were out there on the scene
10 with Mr. Smart, did he say he was out there on the
11 scene?

12 A. He eventually showed up, correct.

13 Q. And you testified on Cross Examination that you all
14 had actually gone and searched his trailer. Right?

15 A. Correct.

16 Q. And who let you in when you went out there to search
17 that trailer?

18 A. Mr. Smart.

19 Q. What was it that you were looking for inside that
20 trailer?

21 A. A red bandanna in the room that Mr. Darius was sup-
22 posedly sleeping in.

23 Q. So you knew Darius was sleeping in that trailer?

24 A. Yes.

25 Q. You got information he was actually staying in that

J. SHUMPERT ON REDIRECT

1 trailer?

2 A. Yes.

3 MR. WISE: Objection, Your Honor.

4 THE COURT: Objection overruled.

5 BY SOLICITOR:

6 Q. You decided to search that trailer because of some
7 information that you had?

8 A. Yes, sir.

9 Q. But he wasn't out there at the scene?

10 A. No, he came up later.

11 Q. Do you know where he lives now?

12 A. No.

13 Q. Mr. Travis Smart actually came in and gave a state-
14 ment that night. Correct?

15 A. He did.

16 Q. Is he not living in Orangeburg at this point in
17 time?

18 A. No, sir.

19 Q. That would be all I have.

20 THE COURT: Anything on Recross?

21 MR. WISE: Nothing further.

22 THE COURT: Thank you, Lieutenant Shumpert. You can
23 step down.

24 (Witness excused from stand)

25 THE COURT: The State may call its next witness.

1 SOLICITOR: Your Honor, at this time the State would
2 rest.
3 THE COURT: Ladies and gentlemen, the State has now
4 rested its case.
5 I've got to take up some matter with the attorneys,
6 and I may bring you back out here in about five minutes.
7 Thank you. Remember that you have heard the State's
8 case but you haven't heard anything else and you cannot
9 discuss the case yet.
10 You may go to your jury room.
11 (Jury excused from Courtroom)
12 THE COURT: Anything from the State?
13 SOLICITOR: No, sir.
14 THE COURT: Anything from the Defense?
15 MR. STROUD: Yes, sir. I would have a motion.
16 THE COURT: Okay.
17 MR. STROUD: I would move for a directed verdict for
18 the Defendant with regard to attempted murder charge.
19 THE COURT: Okay.
20 MR. STROUD: And I have ~~no~~ motion on the burglary
21 charge.
22 THE COURT: Okay.
23 MR. STROUD: Obviously, Your Honor, the attempt part
24 of attempted murder -- one of the requirements of the
25 statute is the intent to kill.

1 I believe the evidence at this point consists of a
2 beating, and I recognize what the allegations are of the
3 State, and I recognize that the injuries were signifi-
4 cant, but I submit that in order for the case to go to
5 the jury there must be some evidence that it was in fact
6 done with the kind of malice that would be consistent
7 with the intent to murder someone.

8 I don't believe the evidence of the State is suf-
9 ficient on that.

10 THE COURT: All right. Just from what I've heard,
11 he was beaten very severely and required significant
12 hospitalization, and the acts themselves could indicate
13 the degree of malice that is in the intent to kill.

14 So I am going to deny your motion.

15 Anything else?

16 MR. STROUD: Can I have one moment?

17 THE COURT: Yes, sir.

18 (Brief pause in proceeding)

19 MR. STROUD: That's all, Your Honor. Thank you.

20 THE COURT: I've been told the food is here for the
21 jury, and it's my understanding the Defense is not put-
22 ting up any testimony at all?

23 MR. WISE: That's correct.

24 THE COURT: Okay. As a result of that, the way I
25 will handle it, unless you all tell me you want to handle

1 it a different way -- I will take a break now and you all
2 can get some lunch.

3 When you all come back, I will let you rest on the
4 record. Then I will let you open and you can close, and
5 then I'll charge the jury.

6 Okay? In the meantime, we have a verdict form.

7 You all can go and eat lunch, then come back and look at
8 that, but I do need your voluntariness charge, and you
9 look at that.

10 Have you seen that?

11 SOLICITOR: I have, Your Honor.

12 THE COURT: Make a copy so we both can look at it,
13 because my charge book does not have one. I will need
14 that charge.

15 Anything else we need to address? If there is no-
16 thing else, we will go get lunch. If you would be back
17 here around one thirty, I'll appreciate it.

18 (The Court stood in recess as to this matter for
19 the lunch period, after which the case was resumed)

20 THE COURT: Is the State ready to proceed?

21 SOLICITOR: Yes, sir.

22 THE COURT: And is the Defense ready?

23 MR. WISE: We are, Your Honor.

24 THE COURT: Before we bring the jury back in, I
25 would state for the record you have seen the verdict form

288

1 and I have gone over my charge with you all.

2 I believe the only thing we need to -- the only is-
3 sues we need to put on the record is a motion you have
4 made to me to have me charge second degree burglary.

5 Is that correct?

6 MR. STROUD: That's correct, Your Honor.

7 THE COURT: And second degree doesn't include cir-
8 cumstances of aggravation. Based on what I've heard in
9 this case, I would not want to charge that.

10 I want to give you an opportunity to preserve your
11 objection to my failure to charge that. State your pos-
12 ition on the record.

13 MR. STROUD: Yes, sir. Our position is that the
14 issue of whether or not there was aggravation is a jury
15 issue, and that the jury should be allowed to consider
16 that.

17 THE COURT: All right, thank you, sir.

18 MR. STROUD: Thank you, Your Honor.

19 THE COURT: All right, is the jury ready?

20 BAILIFF: Yes, sir.

21 THE COURT: Bring them in, please.

22 (Jury returned to Courtroom)

23 THE COURT: Ladies and gentlemen of the jury, as
24 you heard before the recess, the State has rested its
25 Case, so now it is time for the Defense to go forward

1 with its case. Mr. Wise?

2 MR. WISE: Your Honor, we would not be presenting
3 any evidence at this time. We would rest.

4 THE COURT: Okay.

5 MR. WISE: Thank you.

6 THE COURT: Thank you, Mr. Wise.

7 The Defense has now rested, so you have now heard
8 all of the testimony that you are going to hear.

9 What's going to happen next is the attorneys will
10 make closing arguments to you, and then I will charge
11 you the law.

12 All right. Mr. Sorenson?

13 SOLICITOR: Thank you, Your Honor.

14 May it please the Court?

15 THE COURT: Yes, sir.

16 SOLICITOR: Good afternoon, ladies and gentlemen.

17 I would start off by thanking you, not only on behalf
18 of Mr. Harrison and his family, but also in behalf of the
19 Defendant and the attorneys, not only for your time but
20 also for your attention that you've given to us over the
21 course of the trial.

22 (Portion not audible on tape)

23 I want to take a couple of minutes to talk to you
24 since we're at the point in the trial where the lawyers
25 get to come before you and argue to you what we believe

290

1 are the facts that have come from this witness stand from
2 the witnesses who have been presented.

3 Following these arguments by the attorneys, the
4 Judge will charge you on the law that would apply to the
5 case.

6 So this is the opportunity of the attorneys to talk
7 about the case, and that is kind of where we are, but
8 first I would like to talk to you briefly about the two
9 charges that have been made against the Defendant.

10 (Portion not audible)

11 So I'll start off by talking to you about burglary
12 in the first degree and what I believe the State has
13 proven to you.

14 Burglary in the first degree is the unlawful en-
15 tering into a person's home without their consent, with
16 intent to commit a crime therein, accompanied by circum-
17 stances of aggravation.

18 (TRANSCRIPTION NOTE: Closing arguments by both
19 counsel not audible or clear enough on cassette tape to
20 be transcribed.)

21

22

23

24

25

291

1 THE COURT: Ladies and gentlemen, you have been very
2 attentive during the closing arguments, and I will ask
3 for your attention one last time as I go over the law
4 with you.

5 You all have heard all of the evidence in the case,
6 and it is now my duty to charge you on the law of this
7 case.

8 The Indictments charge the Defendant with attempted
9 murder and burglary in the first degree.

10 The fact that the Defendant was arrested, charged
11 and indicted in this case is not evidence and cannot be
12 considered by you as evidence of guilt, nor does it create
13 any presumption or inference of guilt.

14 The Indictments are simply the formal written instru-
15 ment which contain the charges made against the Defendant.
16 It is the formal documents by which the case is brought.

17 The Defendant has pled not guilty to these indict-
18 ments, and that puts the burden on the State to prove
19 the Defendant guilty beyond a reasonable doubt.

20 A person charged with committing a criminal offense
21 in South Carolina is never required to prove themselves
22 innocent.

23 I charge you that it is an important rule of law
24 that a defendant in a criminal trial, no matter how ser-
25 ious the charge, is always presumed to be innocent of

1 the crime for which the Indictment was issued, unless
2 guilt has been proven by evidence that satisfies you,
3 the jury, of guilt beyond a reasonable doubt.

4 This presumption of innocence does not end when you
5 begin your deliberations. It accompanies the Defendant
6 throughout the trial until you reach a verdict of guilt
7 based on evidence satisfying you of that guilt beyond
8 a reasonable doubt.

9 The presumption of innocence is like a robe of
10 righteousness placed about the shoulders of the Defendant
11 which remains with the Defendant until it has been
12 stripped from the Defendant by evidence satisfying you
13 of the Defendant's guilt beyond a reasonable doubt.

14 The presumption of innocence is not just a mere
15 legal theory. It is not just a legal phrase. It is a
16 real and substantial right to which every Defendant is
17 entitled unless you, the jury, are satisfied from the
18 evidence of the Defendant's guilt beyond a reasonable
19 doubt.

20 What is a reasonable doubt in the law? A reason-
21 able doubt is the kind of doubt which would cause a rea-
22 sonable person to hesitate to act.

23 The State has the burden of proving the Defendant
24 guilty beyond a reasonable doubt. Some of you may have
25 served as a juror in civil cases where you were told

1 that it is only necessary to prove that a fact is more
2 likely true than not true, such as by the greater weight
3 or preponderance of the evidence.

4 In criminal cases, the State's proof must be more
5 powerful than that. It must be beyond a reasonable
6 doubt.

7 Proof beyond a reasonable doubt is proof that leaves
8 you firmly convinced of the Defendant's guilt.

9 There are very few things in this world that we know
10 with absolutely certainty. In criminal cases, the law
11 does not require proof that overcomes every possible
12 doubt.

13 If, based on your consideration of the evidence, you
14 are totally convinced that the Defendant is guilty of
15 the crimes charged, you must find the Defendant guilty.

16 On the other hand, if you think there is a real
17 possibility that the Defendant is not guilty, you must
18 give the Defendant the benefit of the doubt and find him
19 not guilty.

20 During the trial, you and I have had certain duties
21 to perform. As the Trial Judge, it is my responsibility
22 to preside over the trial of the case and to rule on the
23 admissibility of the evidence offered during the trial.

24 You are to consider only the evidence before you.
25 You are to consider only the testimony that has been

1 presented from the witness stand and any exhibits which
2 have been made a part of the record in the case.

3 In every case, the jury is the sole and exclusive
4 judge of the facts. A Trial Judge cannot comment on or
5 make any statement about the facts in the case.

6 Since you are the judges of the facts, you are not
7 to take from anything I may have said during the trial
8 that I have an opinion about the case.

9 The law does not allow me to have an opinion and I
10 do not have one.

11 There are two types of evidence that have been pre-
12 sented in this trial, direct evidence and circumstantial
13 evidence.

14 Direct evidence is the testimony of a person who
15 claims to have actual knowledge of a fact, such as an
16 eye-witness. It is evidence which immediately estab-
17 lishes the main facts to be proven.

18 Circumstantial evidence is proof of a chain of facts
19 and circumstances indicating the existence of a fact.
20 It is evidence which immediately establishes collateral
21 facts from which the main fact may be inferred.

22 Circumstantial evidence is based on inference and
23 not on personal knowledge or observation.

24 To determine the facts in this case, you will have
25 to evaluate the credibility, which means the believability,

1 of each witness. - Some of the things you may consider as
2 you decide whether or not to believe a witness' testimony
3 about a particular matter include what was the manner
4 and appearance of a witness who testified.

5 Was he or she straight-forward or hesitant in an-
6 swering?

7 Was the testimony of the witness consistent or in-
8 consistent?

9 How did the witness come to know the facts that he
10 or she testified to?

11 What was his ability to know these facts?

12 Is there some reason a witness would want to give
13 testimony which would help or hurt one side or the other?
14 In other words, was the witness biased or prejudiced?

15 Finally, was the testimony of a witness strength-
16 ened or weakened by other testimony or evidence?

17 Throughout this trial you have but one objective,
18 to speak the truth, regardless of its source.

19 The rules of evidence ordinarily do not permit wit-
20 nesses to testify to opinions or conclusions. An excep-
21 tion to this rule exists for witnesses who are called
22 expert witnesses.

23 A witness who by education and experience has become
24 an expert in some art or profession may give an opinion
25 as to the subject the witness claims to be an expert in.

1 They may also give the reasons for that opinion.

2 You should consider an expert opinion like any other
3 evidence and give it the weight you think it deserves.

4 If you decide that an expert witness' opinion is
5 not based on sufficient education and experience, or if
6 you decide that the reasons given in support of that
7 opinion are not sound, or that the opinion is outweighed
8 by other evidence, you may disregard the opinion in its
9 entirety.

10 An expert witness' testimony is to be given no
11 greater weight than that of any other witness simply
12 because the witness is an expert, and you do not have to
13 accept the witness' opinion, even though it is uncontra-
14 dicted.

15 There has been admitted into evidence in this case
16 a statement or confession alleged to have been made by
17 the Defendant.

18 Before you may consider this confession or state-
19 ment as evidence for any purpose, you must determine two
20 questions.

21 Did the Defendant make the statement, and was the
22 statement freely and voluntarily given?

23 The fact that the Court has admitted a statement
24 into evidence should not be considered by you as any evi-
25 dence whatsoever that the Defendant made such a statement,

1 or that the statement was voluntarily given, because
2 these are issues for you, the jury.

3 The State must prove beyond a reasonable doubt each
4 of the two essential or the two requirements which I
5 have just stated to you before you may consider those
6 statements as evidence for any purpose whatsoever.

7 As to the first requirement, did the Defendant make
8 a statement, if you conclude the Defendant did not make
9 the statement you must then completely and totally dis-
10 regard the statement.

11 If you conclude the Defendant did not make the state-
12 ment, you cannot consider it as evidence in any manner
13 whatsoever, and you should completely disregard the state-
14 ment in its entirety and every part of it.

15 If you find the Defendant did make the statement,
16 you must then consider the second requirement. The
17 second requirement, was the statement given freely and
18 voluntarily?

19 The word voluntarily means the statement was the
20 expression of the Defendant's own free will and was not
21 induced by the pressure, force or fear, or the influence
22 or promise of some benefit or reward, or extracted by
23 threats, coercion or intimidation.

24 Voluntarily means intentionally without coercion.
25 A statement is not freely and voluntarily given and

1 may not be used against the Defendant unless it is the
2 product of an essentially free and uncontrolled choice
3 by the Defendant.

4 If a statement is freely and voluntarily given, if
5 the Defendant has willed to make a statement, it may be
6 used against him.

7 If the statement is not voluntary, it cannot be used
8 against him.

9 The true test to be applied is to whether that
10 statement is freely and voluntarily and unmistakably made
11 without compulsion or inducement.

12 In determining whether the alleged statement of the
13 Defendant was freely and voluntarily given, you must con-
14 sider all of the facts and circumstances surrounding the
15 taking or the making of the statement concerning to the
16 -- concerning and relating to the voluntary or involun-
17 tary character thereof, and you must consider all of the
18 evidence in the case in reaching an ultimate conclusion
19 as to the voluntary or involuntary character of such
20 statement.

21 This is called in the law the totality of the cir-
22 cumstances. The ultimate question to be resolved by you
23 with respect to the alleged statement of the Defendant,
24 in addition to the question of whether the Defendant in
25 fact made the statement, is was the statement the expression

1 of the Defendant's own free will, without compulsion or
2 inducement made, but representing an essentially free
3 and unconstrained choice by the Defendant, was it the
4 product of an overborne will of the Defendant?

5 With regard to any alleged statement of the Defen-
6 dant, I instruct you that the State must prove by evidence
7 each and every requirement about which I have instructed
8 you.

9 The proof must be beyond a reasonable doubt before
10 you may consider the statement as evidence in this case.

11 Absent any one of the requirements about which I
12 have instructed you, the alleged statement must be dis-
13 regarded and you will accord no evidentiary weight what-
14 soever to it or to any part of it.

15 On the other hand, if you find beyond a reasonable
16 doubt that the Defendant made the statement and the
17 statement was voluntary, the statement may be consid-
18 ered by you together with all other evidence in the case
19 and given such weight, value and effect as to the whole
20 or any part thereof to which you conclude that it is
21 entitled.

22 I instruct you and emphasize that the fact that the
23 Defendant did not testify is not a factor to be considered by
24 you in any way in your deliberations and in your consid-
25 eration of the guilt or innocence of the Defendant.

300

1 It must not be considered by you in any manner what-
2 soever. A Defendant has a constitutional right to re-
3 main silent, and the assertion of this right must not be
4 considered by you in your deliberations.

5 I repeat, under your oath as jurors, you are to
6 draw no conclusion whatsoever from the fact that the
7 Defendant in this case did not testify. The fact that
8 this Defendant did not testify should not even be dis-
9 cussed in the jury room.

10 The burden of proof, as I have stated to you, is
11 on the State. The Defendant is not required to prove his
12 innocence.

13 The burden of proof remains on the State to prove
14 guilt beyond a reasonable doubt.

15 In order to establish criminal liability, criminal
16 intent is required. For example, the mental state re-
17 quired to be proven by the State for a particular crime
18 might be purpose, intent, knowledge, recklessness or
19 criminal negligence.

20 Criminal intent must be proven by the State beyond
21 a reasonable doubt. Criminal intent is always a matter
22 that must be determined by the jury from the circumstances
23 surrounding the situation.

24 There is no way to prove intent to a mathematical
25 certainty. There is no way medical science can dissect

301

1 a person's brain and determine what the person had in
2 mind, so the law says that criminal intent may be in-
3 ferred from the circumstances shown to have existed.

4 You must make a determination of whether or not the
5 element requiring intent was present. It is not neces-
6 sary to establish intent by direct and positive evidence,
7 but intent may be established by inference in the same way
8 as any other fact, by taking into consideration the acts
9 of the parties along with all the other facts and cir-
10 cumstances of the case.

11 Criminal intent is a mental state, a conscious wrong-
12 doing. It is up to you to determine what the Defendant
13 intended to do, based on the circumstances shown to have
14 existed.

15 Criminal intent can arise from action or failure to
16 act. It may arise from negligence, recklessness or in-
17 difference to duty or the consequences that are consid-
18 ered by the law to be the equivalent of intent.

19 The Defendant is charged with first degree burglary.
20 The State must prove beyond a reasonable doubt that the
21 Defendant entered a dwelling without consent.

22 A dwelling is any building or portion of a building
23 in which a person ordinarily sleeps. A building constructed
24 as a dwelling that has never been occupied may not be con-
25 sidered a dwelling for purposes of burglary, but a

1 building is a dwelling even if the residents are tempo-
2 rarily absent from the building.

3 In order to prove that the Defendant entered the
4 dwelling, the State does not have to show that the De-
5 fendant's entire body entered the dwelling. The small-
6 est entry is sufficient. It may be that any part of the
7 body, such as a hand or foot or even an instrument is
8 inserted. In addition, the State does not have to prove
9 that force was used to gain entry.

10 Next, the State must prove beyond a reasonable doubt
11 that the Defendant intended to commit a crime, either a
12 felony or a misdemeanor, at the time of the entry.

13 The mere entry into a building without consent is
14 not burglary. If the intent to commit a crime is formed
15 after the entry, then it is not burglary.

16 On the other hand, if the Defendant intended to com-
17 mit a crime at the time of the entry, that is burglary,
18 even if the intent was abandoned after the entering. It
19 does not matter if the intended crime was not completed.

20 Intent may be shown by acts and conduct of the De-
21 fendant and other circumstances from which you may
22 naturally and reasonably infer intent.

23 Finally, the State must prove beyond a reasonable
24 doubt that the entering, while in the dwelling or when
25 fleeing, the Defendant was armed with a deadly weapon

303

1 or an explosive. A deadly weapon is any article, instru-
2 ment or substance which is likely to cause death or great
3 bodily harm.

4 Whether an instrument has been used as a deadly wea-
5 pon is based on the facts and circumstances of each case.
6 The following are examples of instruments which may be
7 deadly weapons: A pistol; a shotgun; a dirk or dagger;
8 a slingshot; metal knuckles; a razor; a firebomb, malotov
9 cocktail; lighter fluid.

10 A gun may be a deadly weapon even if it is not oper-
11 able.

12 The Defendant is also charged with attempted murder.
13 Attempted murder is when a person with intent to kill at-
14 tempts to kill another person with malice aforethought,
15 either express or implied.

16 Malice is hatred, ill will, or hostility toward
17 another person. The intentional doing of a wrongful act
18 without just cause or excuse, and with an intent to in-
19 flict an injury or under circumstances from which you
20 may infer an evil intent.

21 Malice aforethought does not require that malice
22 exist for any particular time before the act is committed.
23 Malice must exist in the mind of the Defendant just
24 before and at the time the act was committed..

25 Therefore, there must be a combination of evil

1 intent -- of previous evil intent and the act. Malice
2 aforethought may be express or inferred. These terms,
3 express and inferred, do not mean different kinds of ma-
4 lice, but merely the manner in which malice may be shown
5 to exist.

6 That is, either by direct evidence or by inference
7 from the facts and circumstances which are proven.

8 Express malice is shown when a person speaks words
9 which express hatred or ill will for another, or when
10 the person prepares beforehand to do the act which was
11 later accomplished.

12 For example, lying in wait for a person or other
13 acts of preparation going to show that the deed was within
14 the Defendant's mind would be express malice.

15 Malice may be inferred from the showing of a total
16 disregard for human life.

17 Inferred malice may also arise when the deed is
18 done with a deadly weapon. A deadly weapon is any arti-
19 cle, instrument or substance which is likely to cause
20 death or great bodily harm.

21 Whether an instrument has been used as a deadly
22 weapon depends on the facts and circumstances of each
23 case, and I have given you examples of deadly weapons.

24 An attempt is an effort to accomplish a crime which
25 does not succeed.

1 An attempt includes a specific intent to do a par-
2 ticular criminal act along with an act falling short of
3 that intended.

4 The State must show more than mere preparation and
5 intent. There must be some overt act committed in the
6 effort to commit the crime.

7 Intent means intending the result which actually
8 occurs, not accidentally or involuntarily. Intent may
9 be shown by acts and conduct of the Defendant and other
10 circumstances from which you may naturally and reasonably
11 infer intent.

12 Once again, ladies and gentlemen, to prove attempted
13 murder, the State must prove beyond a reasonable doubt
14 that the Defendant attempted to kill another person with
15 malice aforethought.

16 If you find that the State has not proven that the
17 Defendant is guilty of attempted murder, you must then
18 determine whether the State has proven the Defendant is
19 guilty of assault and battery of a high and aggravated
20 nature.

21 Assault and battery of a high and aggravated nature
22 is a lesser included offense of attempted murder.

23 A person commits the offense of assault and battery
24 of a high and aggravated nature if the person unlawfully
25 injures another person or causes great bodily injury to

1 another person when the results or the act is accomplished
2 by means likely to produce death or great bodily injury.

3 An assault occurs when a person unlawfully attempts
4 or offers to commit a violent injury upon another person
5 and had the present ability to complete the attempted
6 injury.

7 An assault is the intentional creation of a reason-
8 ble fear of great bodily harm. It is not necessary that
9 the attempted harm actually take place.

10 For example, if I walk up to you and we are within
11 arm's reach and I draw back to hit you, that is an as-
12 sault.

13 A battery is the unlawful touching of another person
14 by the person who has committed the assault. An unlawful
15 touching can be caused by a part of the accused's body
16 or by any object the accused puts in motion.

17 A battery is the completion of the assault by apply-
18 ing force to another person, however slight, in a rude,
19 angry or resentful manner, without legal justification
20 for doing so.

21 Using my earlier example, if I carry through with the
22 assault by hitting you, then that is a battery.

23 If you find the State has not proven that the De-
24 fendant is guilty of assault and battery of a high and aggravated
25 nature, you must then determine whether the State has

1 proven that the Defendant is guilty of assault and bat-
2 tery in the first degree.

3 Assault and battery in the first degree is a les-
4 ser included offense of assault and battery of a high
5 and aggravated nature and attempted murder.

6 A person commits the offense of assault and battery
7 in the first degree if the person unlawfully injures
8 another person and the act occurred during the commission
9 of a robbery, burglary, kidnapping.

10 Great bodily injury is described as bodily injury
11 which causes a substantial risk of death or which causes
12 serious permanent disfigurement or protracted loss or
13 impairment of function of a bodily member or organ.

14 If you find the State has not proven the Defendant
15 guilty of assault and battery in the first degree, you
16 must then determine whether the State has proven the
17 Defendant guilty of assault and battery in the second
18 degree.

19 Assault and battery in the second degree is a lesser
20 includes offense of assault and battery in the first de-
21 gree, assault and battery of a high and aggravated nature
22 and attempted murder.

23 A person commits the offense of assault and battery
24 in the second degree if the person unlawfully injures
25 another person or offers or attempts to injure another

1 person with the present ability to do so, and moderate
2 bodily injury to another person results or moderate bod-
3 ily injury to another person could have resulted.

4 Moderate bodily injury is physical injury requiring
5 treatment to a broken system of the body other than skin,
6 muscles and connected tissue of the body, except where
7 there is a penetration of the skin, muscles and connec-
8 tive tissues which require surgical repair of a complex
9 nature, or when treatment of an injury requires use of
10 regional or general anesthesia.

11 Now, I have declared the law to you through these
12 instructions to guide you to a just and lawful verdict.
13 Whether some of these instructions will apply will depend
14 upon what you find to be the facts.

15 The fact that I have instructed you on various sub-
16 jects in this case should not be taken as indicating any
17 opinion of this Court as to what you should find to be
18 the facts of the case or to what your verdict should be.

19 Your verdict must represent the considered judgment
20 of each juror. In order to return your verdict, it is
21 necessary that each juror agree. Your verdict must be
22 unanimous. All twelve of you must agree on the verdict.

23 Your verdict cannot be based on sympathy, passion,
24 prejudice or emotion, or any other consideration than
25 the evidence in this case.

1 Remember that you are not parisans, favoring one
2 party or the other. You are the judges of the facts and
3 your sole interest is to seek the truth in this case.

4 Now, Madam Forelady, as you can imagine from what I
5 have told you, I have a verdict form, and I will go over
6 this with you. Okay?

7 This is the verdict form. These are the Indictments,
8 and this says please encircle the appropriate verdict
9 form and follow the accompanying instructions carefully.

10 Number one, we, the jury, unanimously find the De-
11 fendant, as to the charge of burglary in the first de-
12 gree, guilty or not guilty.

13 Those are your choices, and after that you are re-
14 quested to go to number two.

15 Number two, we, the jury, unanimously find the De-
16 fendant, as to the charge of attempted murder, guilty or
17 not guilty.

18 If you answer not guilty as to number two, you go
19 to number three.

20 If you answer guilty, stop your deliberations and
21 sign the verdict form.

22 Verdict number three is we, the jury, unanimously
23 find the Defendant, as to the charge of assault and bat-
24 tery of a high and aggravated nature, guilty or not
25 guilty.

310

1 Again, if you answer not guilty to number three, move
2 to question four.

3 If you answer guilty, stop your deliberations and
4 sign and date the form.

5 Question number four, we, the jury, unanimously find
6 the Defendant, as to the charge of assault and battery
7 in the first degree, guilty or not guilty.

8 If you find not guilty to question four, go to ques-
9 tion five.

10 If you find guilty, stop deliberating and sign and
11 date the verdict form.

12 Verdict Number five, we, the jury, unanimously find
13 the Defendant, as to the charge of assault and battery
14 in the second degree, guilty or not guilty.

15 You would put your signature and date.

16 Now, you are not going to be given this verdict form
17 until you begin your deliberations. What's going to hap-
18 pen now is I am going to excuse you to go back to the
19 jury room but you cannot begin discussing the case yet
20 because I've got to go over my charge with these attorneys.

21 If I mis-spoken or left out something or something
22 needs to be clarified, I will bring you back out here
23 and make that addition or correction.

24 If I don't need to bring you back in, what is
25 going to happen is that all of the evidence that has

311

1 been introduced into this case and the verdict form will
2 be brought back into your jury room, and at that time
3 you can begin your deliberations.

4 I'd ask you to go back to your jury room right now
5 but do not begin your deliberations until told to do so.

6 Thank you.

7 (Jury excused from Courtroom)

8 (Cassette tape was changed and a portion of the
9 discussion at this point was not recorded on either tape)

10 THE COURT: All right, bring the jury back.

11 (Jury returned to Courtroom)

12 (Conference was held between counsel and the Court
13 at the bench off the record)

14 THE COURT: Ladies and gentlemen, I'm going to read
15 you the statutory definition of burglary in the first
16 degree.

17 A person is guilty of burglary in the first degree
18 when the person enters the dwelling of another without
19 consent, and with the intent to commit a crime in the
20 dwelling, and when in affecting the entry he or another
21 participant in the crime is armed with a deadly weapon or
22 explosive, or an instrument which is likely to cause
23 injury to a person not a participant in the crime.

24 All right. Now we will be coming back to the jury
25 room with the verdict form and the exhibits when you are

312

1 to begin your deliberations. Thank you.

2 You may retire again to your jury room.

3 (Jury excused from Courtroom)

4 THE COURT: Get the Exhibits together and make sure
5 everything is there. I appreciate it.

6 (Whereupon, jury was instructed to commence delib-
7 erations)

8 (The Court stood in recess for a brief period, and
9 the matter then was resumed)

10 THE COURT: We have a note from the jury. The
11 first question from the jury is, we would like the defin-
12 ition for burglary in the first degree, attempted murder,
13 assault and battery of a high and aggravated nature, and
14 assault and battery in the first degree. All right.

15 Now, how do we respond to them?

16 MR. WISE: One thing I didn't bring up is -- if
17 you are going to recharge them -- I don't know what you
18 are going to do but when you charged them earlier you
19 charged attempted murder, including malice and intent and
20 all of that. You read the assault and battery of a high
21 and aggravated nature.

22 You defined assault and defined battery, and you
23 read the assault and battery, first definition, with --
24 you defined great bodily injury and we believe great bod-
25 ily goes with ABHAN not the assault and battery first.

312

1 THE COURT: Okay.

2 SOLICITOR: If you recharge them, I would ask that you
3 kind of flip-flop that in your charge as it's not part
4 of what you charge on assault and battery.

5 The assault and battery first only dealt with caus-
6 ing physical injury to a person while committing a burg-
7 lary.

8 THE COURT: Okay.

9 SOLICITOR: You could charge the intent part of it
10 which did deal with great bodily injury.

11 I think you charged the definition of great bodily
12 injury kind of after you read the assault and battery
13 first, where it should have been after the ABHAN.

14 THE COURT: Oh, yes. I remember that. You are
15 right about that.

16 Anything, Mr. Wise?

17 MR. WISE: I thought you had charged the great bod-
18 ily injury after the ABHAN. That would be--I would pre-
19 fer how the Court -- that is the right . .

20 THE COURT: Let me look at that.

21 MR. WISE: Certainly ABHAN requires great bodily in-
22 jury, and it is appropriate to give the definition of
23 great bodily injury -- the statute gives the definition
24 so it is appropriate to give them.

25 THE COURT: Thank you. What I would like to do is

1 read them attempted murder which is when a person at-
2 tempts to kill another person with malice aforethought
3 either express or implied.

4 Then the smaller or most basic definition of reason-
5 able doubt.

6 And the definition -- I think I need to give them
7 the definitions of great bodily injury and moderate bod-
8 ily injury, or do I need to read the entire charge to
9 them?

10 SOLICITOR: I think you need to probably define mal-
11 ice also. I'm not sure you need to get into redefining
12 what assault is and what battery is but I don't believe
13 -- I don't think that is essentially what they are
14 asking.

15 THE COURT: Okay. I will define malice. I will
16 leave out the examples.

17 Then I want to give them -- they don't want the
18 second.

19 SOLICITOR: Right.

20 THE COURT: All right. You can bring the jury back
21 in then.

22

23

24

25

314

1 (Jury returned to Courtroom)

2 THE COURT: Okay, bring the jury back in.

3 (Jury returned to Courtroom)

4 THE COURT: All right, Madam Forelady, I'm going to go
5 over these definitions in a somewhat briefer fashion than
6 I did the first time, but I will have to go over some
7 additional things before I do that.

8 First of all, you wanted a definition of burglary
9 in the first degree. A person is guilty of burglary in
10 the first degree if the person enters a dwelling without
11 consent and with the intent to commit a crime in the
12 dwelling and when in affecting entry or while in the
13 dwelling or in immediate flight he or another partici-
14 pant in the crime is armed with a deadly weapon or ex-
15 plosive, or causes physical injury to a person who is
16 not a participant in the crime.

17 That's burglary in the first degree.

18 Before I read you the definition of attempted murder,
19 assault and battery of a high and aggravated nature and
20 assault and battery in the first degree, this is the
21 first of two definitions that I'm going to give you --
22 those are definitions of great bodily injury and moderate
23 bodily injury.

24 Great bodily injury means bodily injury which causes
25 a substantial risk of death or which causes serious

1 permanent disfigurement or protracted loss or impairment
2 of the function of a bodily internal organ.

3 That is great bodily injury.

4 Moderate bodily injury means physical injury requir-
5 ing treatment to an organ system of the body other than
6 the skin, muscles and connective tissues of the body, ex-
7 cept when there is a penetration of the skin, muscles or
8 connective tissue that require surgical repair of a com-
9 plex nature or when treatment to the injuries requires
10 the use of regional or general anesthesia.

11 The definition of attempted murder is when a person
12 who, with the intent to kill, attempts to kill another
13 person, with malice aforethought, either express or im-
14 plied.

15 Now, I will re-read malice to you. Malice is hatred,
16 ill will or hostility towards another person. It is the
17 intentional doing of a wrongful act without just cause
18 or excuse, with an intent to inflict injury or under cir-
19 cumstances that the law will infer an evil intent.

20 Malice aforethought -- it is not required that ma-
21 lice exist for any particular time before the act is com-
22 mitted, but malice must exist in the mind of the Defen-
23 dant just before and at the time the act is committed, or
24 there must be a combination of the previous evil intent
25 and the act.

1 Malice aforethought may be express or inferred, and
2 these terms, express and inferred, do not mean different
3 kinds of malice but the manner in which malice may be
4 shown to exist.

5 That is, either by direct evidence or by inference
6 from the facts and circumstances which are proved.

7 Express malice is shown when a person speaks words
8 which express hatred or ill will for another, or when the
9 person prepared beforehand to do the act which was later
10 accomplished.

11 For example, lying in wait for a person, or any
12 other acts of preparation going to show the deed was
13 within the Defendant's mind, that being express malice.

14 Malice may be inferred from conduct showing a total
15 disregard for human life. Inferred malice may also arise
16 when the deed is done with a deadly weapon.

17 A deadly weapon is any article, instrument that is
18 likely to cause death or great bodily harm, and whether
19 an instrument has been used as a deadly weapon depends
20 on the facts and circumstances in each case.

21 Assault and battery of a high and aggravated nature
22 -- assault and battery of a high and aggravated nature --
23 a person commits the offense of assault and battery of a
24 high and aggravated nature if the person unlawfully in-
25 jures another person and great bodily injury to another

1 person results or the act is accomplished by means likely
2 to produce death or great bodily injury.

3 And assault and battery in the first degree -- a
4 person commits assault and battery in the first degree
5 if a person unlawfully injures another person and the
6 act occurred during the commission of a robbery, burglary,
7 kidnapping, or theft.

8 Okay, you all can go back and continue your deliber-
9 ations.

10 (Jury excused from Courtroom)

11 THE COURT: Any corrections from the State?

12 SOLICITOR: No, sir.

13 THE COURT: Any corrections from the Defendant?

14 MR. WISE: No, sir.

15 THE COURT: Okay, we'll be back in recess.

16 (Court stood in recess for period, after which the
17 matter was resumed)

18 THE COURT: I am informed that the jury has reached
19 a verdict. Please bring in the jury.

20 (Jury returned to Courtroom)

21 THE COURT: Madam Forelady, has the jury reached a
22 verdict?

23 FORELADY: We have, Your Honor.

24 THE COURT: Is it unanimous?

25 FORELADY: Yes, sir.

318 THE COURT: Please give your verdict to the Bailiff.

1 (Verdict form shown to the Court)

2 THE COURT: All right. State of South Carolina ver-
3 sus Darius Ransom, Indictments 2012 GS 38 114 and 124.

4 Regarding question number one, we, the jury, unan-
5 imously find the Defendant, as to the charge of burg-
6 lary in the first degree, guilty.

7 Question number two, we, the jury, unanimously find
8 the Defendant as to the charge of attempted murder not
9 guilty.

10 Question number three, we, the jury, unanimously find
11 the Defendant, as to the charge of assault and battery
12 of a high and aggravated nature, guilty.

13 It's signed by the Forelady, today.

14 Anything from the State?

15 SOLICITOR: No, sir.

16 THE COURT: Anything from the Defendant?

17 MR. WISE: We would ask that the jury be polled.

18 THE COURT: Okay. Ladies and gentlemen of the jury,
19 the Defense has requested that the jury be polled. They
20 are going to ask you questions about the verdict form.
21 Each one of them will be asked individually by the Clerk.

22 Madam Clerk?

23 (Whereupon, the Clerk asked the jurors individually
24 and by name if this was their verdict and if it still
25 is their verdict, to which each juror replied to both

1 questions in the affirmative)

2 THE COURT: Anything else?

3 MR. WISE: No, sir.

4 THE COURT: Ladies and gentlemen, as I told you be-
5 fore you began your deliberations, I appreciate your at-
6 tention during the trial and your time. I appreciate
7 your deliberations.

8 You have now done your duty, and you are now excused
9 from jury service for the remainder of the year and you may
10 be excused for the next two years.

11 (Jurors excused by the Court)

12 THE COURT: All right, sir.

13 MR. WISE: I was going to ask for a few days before
14 coming before the Court asking for a new trial, but I'd
15 like to move now.

16 The initial motion is related to the confession as
17 allowed into evidence. I think the Court has heard the
18 testimony regarding that confession, and I would ask the
19 Court grant the Defendant a new trial and grant the mo-
20 tion to suppress that confession.

21 THE COURT: Okay.

22 MR. WISE: In addition, I would ask the Court to
23 grant the motion respectfully as to the Court's decision
24 on assault and battery of a high and aggravated nature.

25 THE COURT: Okay.

1 MR. WISE: I would ask the Court to grant a new trial.
2 with respect to the jury's decision on assault and bat-
3 tery of a high and aggravated nature.

4 I would ask the Court to grant a new motion. I would
5 say because the Court has heard all the evidence that the
6 jury had a sufficient issue about what happened here from
7 the proof that was brought forth.

8 I would ask the Court to consider allowing Mr. Ransom
9 the opportunity to have another trial, given the state of
10 the evidence produced.

11 THE COURT: All right, sir. Anything from you,
12 Solicitor, in response?

13 SOLICITOR: Just that I think the verdict is supported
14 by the evidence, and I would disagree with him, Your
15 Honor.

16 The jury came back and asked for several definitions
17 under the statutes, and that was presented to them. I
18 believe it was a jury issue, and they have spoken.

19 We would ask that you deny the motions at this time.

20 THE COURT: Okay. All right. Mr. Wise, first of
21 all, with regard to my ruling on admitting the confession,
22 I am going to deny your motion for the same reasons I've
23 set forth earlier on that.

24 With regard to your general motion regarding the
25 evidence that was presented, I am going to deny your

1 motion as to that.

2 I would again note and hopefully preserve for the
3 record the fact that you have maintained your objection
4 to the confession throughout the trial, so that objection
5 has been maintained.

6 I would deny your motion for a new trial as to those
7 grounds, but I will note your objection to my rulings.

8 MR. WISE: Thank you.

9 THE COURT: Let's go ahead and get started with the
10 sentencing.

11 Solicitor, if you would please tell me about Mr.
12 Ransom's prior record.

13 SOLICITOR: Yes, sir. May it please the Court,
14 Your Honor?

15 In regard to Mr. Ransom's prior record, he has a
16 2005 adjudication in the Family Court on a charge of as-
17 sault and battery of a high and aggravated nature.

18 He has -- as far as an adult record, he has a handful
19 of magistrate level offenses, and then he had a petit lar-
20 ceny from 2008. It looks like he might have gotten juve-
21 nile probation revoked at that period of time.

22 He's got a minor possession of beer from 2010, and
23 that is, it as far as a prior record goes.

24 THE COURT: All right.

25 MR. WISE: I would have to double-check that, Your

1 Honor.

2 SOLICITOR: Your Honor, that's the Defendant's
3 prior record. At the time of the incident, he was
4 twenty-one years old. At the time he's twenty-two.

5 Mr. Harrison's family members are here, and I do
6 believe he wishes to address the Court at the appropri-
7 ate time.

8 THE COURT: Okay. Mr. Harrison, stand up here and get
9 close to the microphone for me.

10 MR. HARRISON: All right, I'm kind of disappointed
11 in the verdict because my heart stopped beating and I had
12 a hole in my lung, you know. My stomach bothers me, and
13 I lost my job and everything.

14 That's about it.

15 THE COURT: Okay. Thank you, sir.

16 SOLICITOR: Your Honor, I've been doing this now for
17 over seven years, and I've prosecuted probably seventy-
18 five homicide cases in that period of time.

19 These facts are as serious as probably any of those
20 homicides I've tried.

21 I've met with Mr. Harrison quite a few times in the
22 last months and met with his family members when they
23 came up for the initial bond hearing. He had just gotten
24 out of the hospital at that point in time. Actually,
25 they didn't feel like he was able to kinda get out and
about at that point in time.

1 Talking to them and seeing him, I'm now seeing the
2 effect this injury has had on him. I didn't know what he
3 was like before, but he is very frail at this time.

4 I would note, Your Honor, that his family told me
5 when they came up for the initial bond hearing that Mr.
6 Harrison, as he testified, had lived in his home for eight
7 years prior to this occurring. Since this thing happened
8 to him he has never been back there. He was afraid to
9 go back there after the incident occurred and he got out
10 of the hospital.

11 That is pretty tragic and shameful. Your Honor, I
12 usually don't at this point in time ask Your Honor for a
13 specific sentence. This is one of the rare times that I
14 would do that. These facts are about as brutal and as
15 violent as I can imagine, and I think it justifies a
16 substantial sentence from Your Honor.

17 Obviously, Mr. Ransom has been convicted of burglary
18 first and he can be sentenced to life in prison, and I
19 think this is a situation had Mr. Harrison not lived
20 that that would be an appropriate sentence -- if he had
21 not survived this attack.

22 As I told the jury, I don't think that fact really
23 has anything to do with Mr. Ransom, the fact that he did
24 not die. It has everything to do with Mr. Harrison, Your
25 Honor.

1 I would just ask that he be punished for his actions.

2 Thank you, Your Honor.

3 THE COURT: Thank you, Mr. Sorenson.

4 I'll be happy to hear from the attorneys for the
5 Defendant.

6 MR. WISE: Thank you, Your Honor. Present in the
7 Court is Ms. Williams, the Defendant's mother, and she
8 would like to speak to the Court, and then Darius would
9 like to address the Court, and then after that maybe
10 I would have some comments.

11 THE COURT: All right. State your name for the
12 record, please.

13 MS. WILLIAMS: My name is Janet Williams.

14 I would like to say I'm sorry for what happened to
15 the Harrison Family but in my heart I just know that
16 Darius did not do it. He has not been a violent person.

17 I'm just telling you how I feel. I feel like the
18 Solicitor is over here to paint a bad picture and that
19 is his job. He said Darius was charged with assault and
20 battery of a high and aggravated nature, but he was not
21 ever convicted. It was a thing that come up when they
22 was children.

23 But everything you say is not right and is not fair.
24 Yes, you want Darius to get the maximum sentence but
25 people who commit murder don't get the maximum sentence.

1 I'm asking you to be as lenient as you could. That
2 is all I'd have, sir.

3 THE COURT: Thank you, Ms. Williams.

4 All right. Darius, I'll be glad to hear what you
5 have to say.

6 DEFENDANT: I'm twenty-two, and I've never been in-
7 carcerated my whole life. Never been in any type of
8 trouble my whole life. For the first time, I got a fam-
9 ily and two kids, a mother who loves me, a fiance that I
10 love and kids I want to give a home.

11 Like I said, how I feel right now -- nobody is in-
12 terested in the way I feel, but in my heart I know I
13 did not commit this crime.

14 I never had a father growing up. I haven't seen my
15 father since I was two years old when he abused me and
16 my mother. People are always telling me you're gonna
17 be just like your father, but I don't know my father.
18 My father got life in prison, and now everybody is going
19 to look at me and say, well, you're just like your father.

20 I let myself down, let my family down, and most of all
21 I let my kids down.

22 I know in my heart I did not commit this crime like
23 the jury say. I have not did it, and I know once I get
24 incarcerated and go up the road there's a guarantee that
25 I won't amount to nothing and I will be lost.

1 I'm going to ask you to please look into my heart
2 and listen to my voice. I did not commit this crime,
3 and I'm sorry. I ask you please to not take my life away,
4 please. Please.

5 THE COURT: Anything further?

6 MR. WISE: Just a few other things I want the Court
7 to know about Darius. I don't think they ever came out
8 during the trial.

9 His mother is here, and that reflects the kind of
10 family support that he has. I say this to let the Court
11 know that I think Darius really has the opportunity to
12 do some good in his life. He will have to deal with this,
13 but, as the Court knows, his mother works at the deten-
14 tion center. He was working before he was arrested, was
15 working at (inaudible) for a while. He was taking com-
16 puter engineering classes at Trident Tech.

17 The Court, I think, heard reference to some of the
18 medical issues he has. Some statements about his en-
19 larged heart and a cyst on his kidney. I submit to the
20 Court that certainly punishment is going to be imposed,
21 but he is the kind of guy, I think, that can serve a
22 sentence and come out and be productive. I'm asking the
23 Court on his behalf and on his mother's behalf to give
24 him that opportunity.

25 THE COURT: Thank you, Mr. Wise.

1 Let's stand down for a few minutes.

2 (The Court took a brief recess and the matter was
3 then resumed)

4 THE COURT: All right. I'm ready to do the sentenc-
5 ing in this case. If there is anybody who can't control
6 themselves during this time, I would ask you to leave
7 now.

8 All right, Mr. Ransom, the jury has heard the evi-
9 dence in this case and they have convicted you of burg-
10 lary in the first degree and assault and battery of a high
11 and aggravated nature.

12 There was testimony you broke into Mr. Harrison's
13 house without any provocation and beat him unmercifully.
14 You are asking the Court now for mercy after the convic-
15 tion.

16 The sentence of the Court for assault and battery of
17 a high and aggravated nature is that you be committed to
18 the South Carolina Department of Corrections for a per-
19 iod of twenty years.

20 As to the burglary first, it is the sentence of the
21 Court that you be committed to the State Department of
22 Corrections for a period of thirty years. These sentences
23 are concurrent.

24 You will be given credit for time served.

25 MR. WISE: Your Honor, we have one request.

1 Obviously with a sentence like this, Darius is going
2 to the Department of Corrections. Apparently his sister
3 is here and he has some other family members here. He
4 wanted me to inquire if he would be allowed to remain in
5 Orangeburg until this weekend to possibly arrange some
6 time when they could all get together.

7 THE COURT: Okay.

8 -----END OF REQUESTED TRANSCRIPT-----

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1 CERTIFICATE

2 I, HARRIET P. BENNETT, Official Court Reporter for
3 South Carolina Court Administration, hereby certify that
4 the foregoing Transcript was prepared from the records of
5 Harry Dot Walker to the best of my ability, having been
6 heard in the Court of General Sessions for Orangeburg
7 County on July 16, 17, 18, 2012.

8 FURTHER, I certify that I am neither of kin nor
9 counsel to any party to this action, nor do I have any
10 interest in the matter.

11 April 26, 2013

12 
13
14
15
16
17
18
19
20
21
22
23
24
25

J. THORPE ON DIRECT

1 BY SOLICITOR:

2 Q. When you located that cell phone, who, if anybody,
3 did you notify about that?

4 A. At that point in time, I notified Investigator
5 Shumpert.

6 Q. And this is Investigator Shumpert here?

7 A. Yes, sir.

8 Q. Okay, and as a result of notifying him, did someone
9 end up meeting you out where you were with your vehicle,
10 I guess in the Law Complex?

11 A. Yes, sir.

12 Q. And who met you out there?

13 A. Investigator Ketcherside.

14 Q. And he had responded to the incident located pre-
15 viously?

16 A. Yes, sir.

17 Q. What, if anything, did Investigator Ketcherside do?

18 A. He actually took photographs of everything, where
19 the phones were, and then he collected them.

20 Q. And who actually took these photographs?

21 A. Investigator Ketcherside.

22 Q. Were you present when that was done?

23 A. Yes, sir.

24 Q. And does State's Exhibit 10 kind of show the back
25 seat as it was pulled out?

171

J. THORPE ON DIRECT.

1 A. Yes.

2 Q. Prior to transporting Mr. Ransom, had that cell
3 phone been in your back seat?

4 A. No, sir.

5 Q. And State's Exhibit 11, is that the condition of the
6 phone in the back seat?

7 A. Yes, sir.

8 Q. And could you see anything on that cell phone from
9 looking at it?

10 A. There was blood on that cell phone.

11 Q. Thank you, Deputy Thorpe. That would be all the
12 questions that I have.

13 THE COURT: Mr. Stroud, Cross Examination.

14 CROSS EXAMINATION

15 BY MR. STROUD:

16 Q. Deputy Thorpe, you went out to -- when you went out
17 to Golf Avenue, you spoke to Mr. Harrison?

18 A. Yes.

19 Q. And he was able to communicate with you completely?

20 A. Not really completely, no.

21 Q. But you understood what he was saying?

22 A. He told me that he had been hit.

23 Q. Okay.

24 A. With -- in the head.

25 Q. Did he mention who did it?

172

J. THORPE ON CROSS

- 1 A. He said he was familiar with him, with the fellow.
- 2 Q. Okay, and you asked him about his name, address,
- 3 height, weight, telephone number, age -- did you get all
- 4 of that from him?
- 5 A. Yeah.
- 6 Q. And he answered that without a problem?
- 7 A. Actually, I believe at that time I had a problem in
- 8 getting information from him. I got it from his ID.
- 9 Q. How long did it take you to get this information
- 10 out of him?
- 11 A. . . .
- 12 Q. Or what you did get out of him?
- 13 A. Probably a matter of minutes.
- 14 Q. Minutes?
- 15 A. Yeah.
- 16 Q. Was there anybody else that was with you at the
- 17 time?
- 18 A. Not except the neighbor.
- 19 Q. The neighbor?
- 20 A. The one who had stopped me.
- 21 Q. Did you see any other neighbors around there?
- 22 A. No.
- 23 Q. You've been a police officer for quite a while, is
- 24 that correct?
- 25 A. Yes, sir.

J. THORPE ON CROSS

1 Q. You were the Chief of Police in Eutawville?

2 A. Yes, sir.

3 Q. And you are well aware that people stash things in
4 the backs of patrol cars?

5 A. Yes.

6 Q. Is that correct?

7 A. That's correct.

8 Q. How often do you search your car?

9 A. Every time I transport somebody.

10 Q. When they get out of the car, you look to see what
11 is in there?

12 A. No.

13 Q. Okay, so the last time you searched the car pre-
14 viously was when you transported someone else?

15 A. That's right.

16 Q. I'll get back to that later. When you -- when Mr.
17 Ransom was arrested, did you search his person?

18 A. No.

19 Q. You didn't do a frisk?

20 A. No, sir, I didn't.

21 Q. You didn't?

22 A. I believe Sergeant Westberry did.

23 Q. Okay. Now, when you went to the scene, did you
24 drive it?

25 A. Yes.

174

J. THORPE ON CROSS

1 Q. And while you were there, you performed -- you
2 searched the house?

3 A. Yes, sir.

4 Q. Who was at the scene when you were doing that?

5 A. . . .

6 Q. What other officers?

7 A. Myself and Officer Westberry at the time were on the
8 scene.

9 Q. And I know you are satisfied that you hadn't trans-
10 ported anybody between the time Mr. Ransom was arrested
11 and when you found it, but I want to be absolutely clear
12 on this.

13 Was anybody -- did anyone enter the car at all be-
14 tween transportation and when you found it, other than
15 yourself?

16 A. No, sir.

17 Q. Were you working the next day, July 26?

18 A. I believe I was, yes, sir.

19 Q. Did you happen to be driving that car?

20 A. That's the only car I drive, yes, sir.

21 Q. Would it be -- were you most likely driving around
22 that day?

23 A. I was driving around when answering calls.

24 Q. Okay. Do you think you detained anyone that day or
25 transported anyone that day?

175

J. THORPE ON CROSS

- 1 A. No, sir, not to my knowledge.
- 2 Q. Not to your knowledge?
- 3 A. No, sir.
- 4 Q. Could that have happened?
- 5 A. It didn't.
- 6 Q. Could you have transported somebody on July 26th?
- 7 A. Not to my knowledge.
- 8 Q. Isn't it true you found the cell phone on July the
- 9 27th?
- 10 A. Yes, sir.
- 11 Q. Two days after the incident?
- 12 A. I believe so.
- 13 (Brief pause)
- 14 MR. STROUD: May I approach the witness?
- 15 THE COURT: Yes, sir.
- 16 BY MR. STROUD:
- 17 Q. This is actually -- do you know what that is?
- 18 A. Yes, sir.
- 19 Q. What is it?
- 20 A. Evidence log sheets.
- 21 Q. Okay, and can you tell me what the date is that it
- 22 was introduced or put into evidence?
- 23 A. The 27th of July, 2011.
- 24 Q. And that would be two days after the incident?
- 25 A. Yes.

J. THORPE ON CROSS

1 Q. So if you were to believe the allegation, it would
2 have been undetected for two days?

3 A. Yes.

4 Q. Now, you testified that every time you transport
5 a prisoner you pop it open and you look?

6 A. Yes.

7 Q. Did you do it this time?

8 A. Yes.

9 Q. And it wasn't there?

10 A. No.

11 Q. But it appears two days later?

12 A. Yes.

13 MR. STROUD: Just one moment, Your Honor.

14 THE COURT: Yes, sir.

15 (Brief pause in proceeding)

16 MR. STROUD: Thank you, sir.

17 BY MR. STROUD:

18 Q. Earlier you testified that he indicated that he was
19 familiar with the person who had assaulted him, is that
20 correct?

21 A. Yes.

22 Q. Is that the incident report you filled out?

23 A. Yes, sir.

24 Q. And that was filled out on the date of the incident,
25 is that right?

A. Yes.
177

J. THORPE ON CROSS

1 A. Right.

2 Q. And it has been some time since the incident when
3 you talked to him?

4 A. Yes, sir.

5 Q. In your incident report while it's fresh in your
6 mind, did you make any note that he was familiar with
7 the subject?

8 A. I just put what it states here in the report.

9 Q. And does it say anything about he was familiar
10 with the person who assaulted him?

11 A. No, sir.

12 Q. And the description that you gave --that you wrote
13 that he gave at that point was of a black male with a red
14 bandanna. Correct?

15 A. Yes.

16 Q. It doesn't say anything about the kid who was
17 across the street or the guy I've seen around or anything
18 like that?

19 It's just a black male with a red bandanna?

20 A. Yes.

21 Q. And he never mentioned any bandanna coming off and
22 he saw his face or anything like that?

23 A. No.

24 Q. That's pretty much it?

25 A. Right.

J. THORPE ON CROSS

1 MR. STROUD: No further questions, Your Honor.

2 THE COURT: Anything further?

3 SOLICITOR: Just a couple of things, Your Honor.

4 REDIRECT EXAMINATION

5 BY SOLICITOR:

6 Q. Deputy Thorpe, you testified in answer to questions
7 on Direct earlier that nobody else was transported from
8 the time you last checked your vehicle until you checked
9 it again after you transported the Defendant. Is that
10 correct?

11 A. Yes.

12 Q. In fact, that's what you told Investigator Shupert?

13 A. Yes.

14 Q. That's what you told Investigator Ketcherside, is
15 that correct?

16 A. Yes.

17 Q. And that was when he responded after the cell phone
18 was found?

19 A. Yes.

20 Q. Do you know for a fact that you worked that day,
21 July 26th, 2011?

22 A. Not really.

23 Q. Until July 27th?

24 A. I don't know really.

25 Q. And nobody asked you to check on that before you

179

J. THORPE ON REDIRECT

1 took the stand?

2 A. No, nobody asked it.

3 Q. And that was a year ago, correct?

4 A. Yes.

5 Q. And it shows on the paperwork that the cell phone
6 was collected on July 27th, 2011, by Investigator
7 Ketcherside, is that correct?

8 A. On seven 27 of 2011 at 3:45 in the afternoon, is
9 that right?

10 A. Yes, sir.

11 Q. Is that typically about when you are reporting for
12 work?

13 A. No. That was taken on that particular day when we
14 had a vehicle inspection.

15 Q. And showing you what I believe was part of Investi-
16 gator Ketcherside's report initially -- is that correct?

17 A. Yes.

18 Q. It actually references the fact that you discovered
19 the phone when you were cleaning your vehicle, is that
20 correct?

21 A. Yes.

22 Q. Had anybody been transported in the interim?

23 A. No, sir.

24 Q. A night and a half before, I guess?

25 A. Yes.

180

J. THORPE ON REDIRECT

1 Q. You were asked about the description the victim
2 had given you of the person who assaulted hi?

3 A. Yes.

4 Q. Did you get a description as far as his height, his
5 weight, age, things like that?

6 A. Yes.

7 Q. What was the approximate age you were given?

8 A. Twenty years old.

9 Q. Height and weight?

10 A. Six foot, about a hundred eighty pounds.

11 Q. You indicated earlier it was a black male and he
12 described a red bandanna?

13 A. Yes, sir.

14 Q. And he never indicated the person's name, is that
15 correct? He told you he had seen the person before but
16 he never told you Darius Ransom?

17 A. No.

18 Q. Thank you. Nothing further.

19 THE COURT: Anything on Recross?

20 ATTORNEY STROUD: No, Your Honor.

21 THE COURT: You can step down. Thank you, sir.

22 (Witness excused from stand)

23 THE COURT: Can I see the attorneys for a second?

24 (Conference at the bench between counsel and the
25 Court off the record)

1 THE COURT: We are going to stop for today with the
2 testimony. You have not heard or seen all of the evidence
3 in the case so you cannot talk about what you have heard
4 between yourselves or with anyone else.

5 Do not do any investigation or listen to any report
6 about this case. Okay?

7 We're going to take a break, and I would ask you to
8 be back in your jury room at nine thirty in the morning.
9 Have a good evening. Thank you.

10 (Jury excused for the evening)

11 THE COURT: All right, I'll see you at nine thirty
12 tomorrow, if there is nothing else.

13 (Court stood in recess until July 18, 2012, when the
14 case resumed)

15 (Jury returned to Courtroom)

16 THE COURT: You all look like you got some rest, so
17 we are ready to proceed with the State's case.

18 Call your next witness.

19 SOLICITOR: Thank you, Your Honor. The State would
20 call Investigator William Ketcherside.

21 WILLIAM KETCHERSIDE, being
22 duly sworn, testified as follows:

23 CLERK: Thank you, sir. Please have a seat on the
24 witness stand.

25 After you have had a seat, state your name for the

1 the record.

2 WITNESS: William Ketcherside.

3 DIRECT EXAMINATION

4 BY SOLICITOR:

5 Q. Investigator Ketcherside, if you would, please tell
6 the jury where you are employed?

7 A. The Orangeburg County Sheriff's Department.

8 Q. And how long have you been with the Sheriff's Of-
9 fice?

10 A. Approximately six years.

11 Q. And were you in law enforcement prior to the Sher-
12 iff's Office?

13 A. Yes, sir.

14 Q. Where was that?

15 A. The Santee Police Department.

16 Q. And what are your duties with the Orangeburg County
17 Sheriff's Office?

18 A. Forensic services investigator.

19 Q. And describe for the jury, please, what that entails,
20 Investigator Ketcherside?

21 A. Basically what we do is we respond to scenes. Our
22 duties are to identify, collect, document and collect,
23 any items of evidence that's found at the scene.

24 You know, that includes biological evidence, impres-
25 sion evidence such as footwear and fingerprints.

183

W. KETCHERSIDE ON DIRECT

1 Q. Okay, and how long have you been employed in that
2 capacity?

3 A. Two years.

4 Q. Two years now?

5 A. Yes, sir.

6 Q. Turning your attention specifically, Investigator,
7 back to July 25th of last year, did you have occasion
8 to respond out to 1212 A Golf Avenue, the residence of
9 George Harrison?

10 A. Yes, sir, I did.

11 Q. Describe for the jury the scene that you came upon
12 when you responded out to that call that night?

13 A. When I first arrived at the residence, it was a
14 white single wide mobile home with red trim. The front
15 porch kind of on the southeast end with a concrete wall
16 on the back side of the residence.

17 Q. Showing you State's Exhibit Number 5, 6 and 7, does
18 that show the front of that trailer . .

19 A. Yes, sir.

20 Q. . . that you responded to that night?

21 A. Yes, sir, that's the mobile home, the front of the
22 mobile home.

23 Q. You talked about the back of it had a concrete wall,
24 and I'll show you this picture?

25 A. Yes, sir.

W. KETCHERSIDE ON DIRECT

1 Q. That's Number 7, and it shows the concrete wall?

2 A. Yes, sir.

3 Q. Let me ask you if there were any other trailers in
4 proximity to that trailer?

5 A. Yes, on the southeastern end of the home, which
6 would have been on the same end as the porch.

7 Q. On this side?

8 A. Yes, sir. There would have been two mobile homes
9 in the same direction on that end of the mobile home.

10 Yes, sir.

11 Q. All right. Now tell the jury how you went about
12 processing that scene that night?

13 A. Okay.

14 Q. The steps you took in doing that?

15 A. At first I did an initial walk-through of the resi-
16 dence, making note of any observations. After that was
17 done, then I began taking -- documenting the scene by
18 photographs.

19 That was done general, mid-range and close-up in
20 digital type photos.

21 Q. We'll go through some of those photographs that you
22 took that night.

23 First, how did you gain entrance to the residence?

24 A. Through the front door.

25 Q. I show you State's Exhibit Number 8. What does

185

W. KETCHERSIDE ON DIRECT

1 that photograph show?

2 A. That would be the front porch and the steps to the
3 residence.

4 SOLICITOR: The State would offer State's Exhibit 8
5 in evidence.

6 THE COURT: Objection?

7 MR. WISE: No objection.

8 THE COURT: State's Exhibit 8 in evidence without
9 objection.

10 (Photograph of residence admitted without objection
11 as State's Exhibit 8)

12 (Colloquy between counsel and the Court off the re-
13 cord)

14 SOLICITOR: A couple of these are not in evidence.

15 THE COURT: Look at them. Any objection?

16 MR. WISE: No, sir.

17 SOLICITOR: At this time we would offer, as the
18 photographs go, those that are not in evidence although
19 they may be -- Number 5 through 22.

20 THE COURT: Those are of the scene?

21 SOLICITOR: Yes, sir. At this time we would offer
22 State's Exhibits Number 5 through 22, photos of the scene.

23 THE COURT: Without objection?

24 MR. WISE: Yes, sir.

25 THE COURT: So they will be in evidence without any

W. KETCHERSIDE ON DIRECT

1 objection.

2 (Photographs of scene, State's Exhibits 5 through 22,
3 some already admitted, allowed in evidence without objec-
4 tion)

5 BY SOLICITOR:

6 Q. I show you State's Exhibit 8, and what does that de-
7 pict?

8 A. The front porch of the residence.

9 Q. And what, if anything, did you notice on the front
10 porch there?

11 A. On the front porch and on the steps, and even on the
12 ground at the bottom of the steps, would have been some
13 ninety degree blood droplets.

14 Q. And explain to us what you mean by ninety degree
15 blood droplets?

16 A. Wherever they were coming from, they were dripping
17 off somebody bleeding or an object that had blood on it,
18 and that object or that person would have been moving
19 slowly or standing still.

20 Q. And are you aware of the history that the victim had
21 -- are you aware of the history that was given that the
22 victim had actually left and gone to a neighbor's resi-
23 dence . .

24 A. Yes, sir.

25 Q. . . for help?

W. KETCHERSIDE ON DIRECT

1 A. Yes, sir.

2 Q. And would that be consistent with the injuries that
3 he suffered and having gone down those steps?

4 A. It would be consistent.

5 Q. Okay. Now, coming in that front door, where -- when
6 coming in that front door, where does that lead into?

7 A. It leads into the kitchen and living area, which are
8 all one big room.

9 Q. Showing you State's Exhibit Number 12 through 15, do
10 those kind of depict that area of the residence?

11 A. Yes, sir, they do.

12 Q. Okay, and would you step down, if you would?

13 A. Yes, sir. (Stepping down from stand)

14 Q. And if you would come nearer the jury and we'll
15 look at some photographs. State's Exhibit 13 -- please
16 keep your voice up so everybody can hear.

17 That kind of shows what as you look at that photo-
18 graph?

19 A. It shows the floor as you go into the doorway. You
20 can see blood droplets there and on the wall or cabinet
21 right next to the doorway.

22 As you go in through the doorway you can see kind-
23 of brownish droplets there on the floor and also on the
24 cabinets.

25 As you go in further, again you can see a large area

W. KETCHERSIDE ON DIRECT

1 of blood five or six foot in. This is kind of a pathway
2 there. Also, in the trash can there turned over which is
3 a sign of a struggle, and it also has blood on one side
4 of it and also on the bottom of it as well.

5 Q. Describe what you detected from the blood pattern
6 you saw?

7 A. If someone is hit and the blood surfaces, there is
8 blood spatters from impact and also from motion, so it
9 is eventually going to impact.

10 Q. So if I was bleeding from being struck and then if
11 someone struck me again, the blood that had begun from
12 being hit would spatter?

13 A. Yes, sir. That is one of the things.

14 Q. Showing you State's Exhibit 12, is that what you
15 have here?

16 A. Yes, sir. You can see some droplets on the refrig-
17 erator as well and also some on projected blood spatters
18 on the wall. Also right here you can see where some-
19 body might have been standing, some stains, here and here,
20 in that area.

21 Q. Showing you State's Exhibits 17, 18 and 19, is that
22 a more close-up photo of that spatter?

23 A. Yes, sir, it is. You can see the spatters here and
24 some on the floor and the bottom edge of the wall. You
25 can see the pattern of these droplets, almost ninety

W. KETCHERSIDE ON DIRECT

1 degrees.

2 Q. And is that all consistent with the history given
3 by the victim?

4 A. Yes, sir.

5 Q. State's Exhibit 14, where is that?

6 A. This is to the right of the front door. (Portion not
7 audible) That would be the front door and to the right.

8 Again, you can see the droplets of blood on the floor,
9 on the cabinet or counter.

10 These pretty much show the same thing on the scene.

11 Q. And is there a closeup which shows the couch?

12 A. Yes, sir. There was a couch on around to the left.

13 You can see the trash can turnover with some blood spat-
14 ter on the trash can and also some of the blood that is
15 on the floor.

16 Q. You can be seated again.

17 A. (Retaking witness stand) Yes, sir.

18 Q. Now, let me ask you, did you have an opportunity to
19 -- you talked about part of your duties would be to look
20 for fingerprints?

21 A. Yes, sir.

22 Q. Things of that nature?

23 A. Yes, sir.

24 Q. Before I move on, in that living room and kitchen
25 area, did you have an opportunity to check the area in

190

W. KETCHERSIDE ON DIRECT

1 that portion of the house or to process that portion of
2 the house?

3 A. Yes, sir.

4 Q. For fingerprints?

5 A. For fingerprints initially. It would have been the
6 fire extinguisher which appeared to be out of place, like
7 it had been moved. So I processed it and had no results.

8 Q. You got no fingerprints off of that?

9 A. No, sir.

10 Q. And were you looking as well for not necessarily
11 fingerprint impressions but footprints as well?

12 A. Yes, sir. That's correct. Footwear impressions.

13 Q. Footwear impressions?

14 A. Yes, sir. In this case, we looked for floating
15 footwear impressions.

16 Q. Did you find any other than in the kitchen area on
17 that linoleum?

18 A. No, sir.

19 Q. No other indication other than in that kitchen area?

20 A. No, sir.

21 Q. No footwear impressions?

22 A. No, sir.

23 Q. Is there any other means other than with the naked
24 eye that you had an opportunity to test for footwear
25 impressions?

W. KETCHERSIDE ON DIRECT

1 A. Yes, sir, there is.

2 Q. Tell the jury what that is?

3 A. That would be liquid crystal violet, also known as
4 LCV. It is a peroxide-based reagent that reacts to the
5 presence of blood.

6 Q. And explain how you -- is it something you spray on
7 or a powder?

8 A. Yes, sir. It's a spray with a light mist.

9 Q. Did you attempt to do that in that kitchen area?

10 A. Yes, sir.

11 Q. And did you have an opportunity to process that
12 area for footwear impressions?

13 A. Yes, sir.

14 Q. And you would be looking for footwear impressions
15 that contained blood or had blood in it?

16 A. Yes, sir.

17 Q. And you attempted to do that in the kitchen area?

18 A. Yes, sir.

19 Q. Did you have any blood shown to be present in that
20 kitchen area, or did you have any blood to ultimately
21 show up in any footwear impressions in the kitchen area
22 there?

23 A. No, sir.

24 Q. All right, and other than the blood on the floor and
25 the blood spatters you have testified about, was there

W. KETCHERSIDE ON DIRECT

1 anything else that you found to be present in that living
2 room area?

3 A. No, sir. Not in the living room area.

4 Q. And did you have an opportunity to go and search
5 or kind of go through the other rooms?

6 A. Yes, sir.

7 Q. What other rooms in the trailer there were there
8 that you went into?

9 A. Just past the kitchen down the hall would have been
10 a room on the left hand side. It appeared to be some
11 type of store room.

12 Q. And what, if anything, did you observe in that room
13 that may have had some . .

14 A. In that room, I observed a wooden axe handle that
15 appeared to be stained with blood.

16 Q. Showing you State's Exhibit 16, does that depict the
17 axe handle?

18 A. Yes, sir.

19 Q. You found that there in the residence?

20 A. Yes, sir.

21 Q. Showing you State's Exhibit Number 24, is that the
22 actual item that you found . .

23 A. Yes, sir.

24 Q. . . there that night?

25 A. Yes, sir.

193

W. KETCHERSIDE ON DIRECT

1 Q. And that you photographed there that night?

2 A. Yes, sir, I did.

3 SOLICITOR: Your Honor, at this time the State would
4 offer Exhibit 24 in evidence.

5 THE COURT: Any objection?

6 MR. WISE: No objection.

7 THE COURT: State's Exhibit 24 in evidence without
8 objection.

9 (Axe handle admitted in evidence without objection
10 as State's Exhibit 24)

11 BY SOLICITOR:

12 Q. And this was collected from that storage type room
13 that night?

14 A. Yes, sir.

15 Q. At the Harrison residence?

16 A. Yes, sir.

17 Q. And did it appear to have some blood on it?

18 A. Yes, sir. On the -- what would be the axe head,
19 which would be this end.

20 Q. Would you point out where that was?

21 A. This would be down sort of where your hand is.

22 Q. And was that obvious with the naked eye . .

23 A. Yes, sir.

24 Q. . . when you saw it at the scene?

25 A. Yes, sir.

W.. KETCHERSIDE ON DIRECT

- 1 Q. Okay. Did you check on any of the other rooms?
- 2 A. Yes, sir. I did a walk-through of the entire resi-
- 3 dence.
- 4 Q. Did you see any other blood or any other items that
- 5 appeared to be or to you could have been used in this
- 6 assault?
- 7 A. No other weapons. In the hallway we did have a bit
- 8 of projected blood spatter on the wall under a window.
- 9 Q. Okay, and did you have an opportunity in that hall-
- 10 way to do what you attempted to do in the kitchen area,
- 11 to see whether there were any footwear impressions in
- 12 that area?
- 13 A. Yes, sir.
- 14 Q. And were you able to find any?
- 15 A. No, sir. No results.
- 16 Q. How about the bedroom or where the axe handle was
- 17 found?
- 18 A. Just inside the bedroom door. There were no results.
- 19 Q. That area there -- that has what looks like linoleum
- 20 there?
- 21 A. Yes, sir.
- 22 Q. No footwear impressions?
- 23 A. No, sir.
- 24 Q. All right. Now, I show you earlier, Investigator
- 25 Ketcherside, one of the photographs that is Number 7?

W. KETCHERSIDE ON DIRECT

1 A. Yes, sir.

2 Q. At the rear of the residence?

3 A. Yes, sir.

4 Q. And what is the condition of the door in that pic-
5 ture?

6 A. The door is open and it also has some damage to the
7 keeper plate as well as to the doorknob itself.

8 Q. Is that the condition that it was in when you ar-
9 rived on the scene of the back door of the building?

10 A. Yes, sir.

11 Q. You indicated there was some damage -- I show you
12 State's Exhibit Number 22. Does that show what you were
13 just talking about?

14 A. Yes, sir. That would be . .

15 Q. Describe for the jury what you were talking about
16 concerning the condition of the back door?

17 A. You can see some rust and there's some -- it looks
18 like some new damage that has kinda got a shiny, clean
19 look to it. It has some scrapes and it's kind of bent
20 as well.

21 Q. And you documented that by this photograph?

22 A. Yes, sir.

23 Q. Did you have an opportunity to do what you did with
24 the fire extinguisher? Did you process any of that rear
25 door area for fingerprints?

196

W. KETCHERSIDE ON DIRECT

1 A. Yes, I did.

2 Q. Explain to the jury where it was and what your re-
3 sults were?

4 A. I processed the back door, the door knobs interior
5 and exterior. No results.

6 Q. Let me ask you, is that common or uncommon to not
7 find fingerprints when you are looking at a crime scene?

8 A. It's common.

9 Q. And why is that?

10 A. It can depend on the surface or, you know, somebody
11 might not have actually touched that area. They might
12 not have actually grabbed the doorknob to pull it open.
13 They might have just popped -- pried the door and popped
14 it open and never touched the door as they went in.

15 Q. Every time you touch an item does it leave a finger-
16 print on the item?

17 A. Yes, sir.

18 Q. I mean, . . .

19 A. Not every time, no.

20 Q. Every time you touch an item does it leave a finger-
21 print on that item?

22 A. Not every time.

23 Q. And in this case, you didn't find any fingerprints,
24 not even from the victim?

25 A. No, sir.

W. KETCHERSIDE ON DIRECT

1 Q. Now, in this back area behind the residence back
2 there, what is the surface back behind there?

3 A. It's dirt and also some foliage from the trees with
4 a little bit of grass.

5 Q. Did you have an opportunity to search back in that
6 area back behind the residence?

7 A. Yes.

8 Q. Did you look for evidence back there?

9 A. Yes, sir.

10 Q. What was it you were looking for back there?

11 A. Footwear impressions in the dirt.

12 Q. And were there any footwear impressions that you
13 found?

14 A. No, sir, there were none.

15 Q. As far as -- showing you State's Exhibit 6 again.
16 Did you find any blood outside of the residence that was
17 consistent with the trail of blood you found by the front
18 door?

19 A. Yes, sir, I did.

20 Q. Tell the jury where it was that you found the blood
21 outside the residence?

22 A. It would have been on the -- it's on the top of the
23 tongue of the mobile home.

24 Q. Is that area depicted in State's Exhibit 6?

25 A. Yes, sir. It would have been right in here.

W. KETCHERSIDE ON DIRECT

1 Q. The trailer tongue to the residence?

2 A. Yes, sir.

3 Q. And what did you find in that area?

4 A. In one area I found some tiny blood droplets and
5 then just behind that on the top surface there was also
6 another droplet, but it had a little bit of motion, like
7 first it stopped and then it started movement, and it had
8 some directionality to it.

9 Q. What did you do then with those droplets?

10 A. I documented them with photographs and also I col-
11 lected swabs.

12 Q. Showing you State's Exhibit Number 25, what are
13 those?

14 A. Those are two Q-tip swabs with blood collected from
15 that area.

16 SOLICITOR: Your Honor, at this time I'd offer
17 State's Exhibit 25 in evidence.

18 THE COURT: Any objection?

19 MR. STROUD: No objection.

20 THE COURT: That would be State's Exhibit 25 in evi-
21 dence without objection.

22 (Swabs entered in evidence without objection as
23 State's Exhibit 25)

24 BY SOLICITOR:

25 Q. Let's go back for a minute. On the axe handle you

W. KETCHERSIDE ON DIRECT

1 collected, did you have an opportunity to swab the axe
2 handle?

3 A. Yes, sir, I did.

4 Q. And tell the jury about that?

5 A. I swabbed the grip end of the axe handle for touch
6 DNA.

7 Q. And what is touch DNA?

8 A. This is where you touch an object and it leaves
9 skin cells, and your DNA can be extracted from that --
10 your DNA profile can be extracted.

11 Q. From gripping the handle with the hands, holding it,
12 and you can get a DNA profile from that?

13 A. Yes, sir.

14 Q. You swabbed that, and describe for the jury how you
15 go about doing that?

16 A. Initially you take two Q-tip swabs and flush them
17 with sterile water. Then you rub that area and allow it
18 to dry and it's packaged and sealed.

19 Q. I'll get back to that in a minute with the next
20 package I talk to you about.

21 Anything else you processed at the scene?

22 A. No, sir, not at the scene.

23 Q. Let me ask you this. Did there come a time when a
24 day and a half later, on July 27th, that you were con-
25 tacted by Deputy Thorpe of the Sheriff's Office?

W, KETCHERSIDE ON DIRECT

1 A. Yes, sir.

2 Q. And tell us about that, please? What was that in
3 relation to?

4 A. Deputy Thorpe advised, according to him he was
5 cleaning out his patrol vehicle and in the rear seat,
6 under the rear seat, he found a Samsung cell phone.

7 It was broken, and it appeared to be stained with
8 blood.

9 Q. Okay, and did you have an opportunity to respond to
10 that and collect that item?

11 A. I did. I had him meet me at the Law Complex. Yes,
12 sir.

13 Q. Okay, and let me show you a photograph that was
14 moved in evidence yesterday, State's Exhibits 9, 10 and
15 11. Is that Deputy Thorpe's patrol car?

16 A. That is.

17 Q. Showing you . .

18 REPORTER: I don't have 11 in evidence.

19 THE COURT: It really should be in evidence.

20 MR. WISE: No objection.

21 (Photographs of patrol car, State's 9, 10 and 11
22 previously admitted)

23 BY SOLICITOR:

24 Q. Showing you State's Exhibit Number 10, what does
25 that show?

201

W. KETCHERSIDE ON DIRECT

1 A. That's the rear passenger seat, the side seat, and
2 also it is pulled out just a little bit. You can see the
3 call phone underneath it.

4 Q. And is that in the same condition as it was when you
5 arrived to meet Deputy Rhodes?

6 A. Yes, sir. It is pushed in a little further. I
7 pulled the seat out just a little bit to make the phone
8 visible.

9 Q. And showing you State's Exhibit Number 11, what is
10 State's Exhibit Number 11?

11 A. That's the cell phone, both portions, the keypad and
12 the screen, and also the back for the battery compart-
13 ment.

14 Q. Okay, and who took it out from under the back seat?

15 A. I did, yes, sir.

16 Q. Describe for the jury what, if anything, appeared
17 on that cell phone?

18 A. It appeared to be blood on the screen portion and
19 also part of the keypad portion.

20 Q. And as a result of that, what did you do with these
21 objects?

22 A. They were -- of course, that was documented and col-
23 lected there. It was taken into the lab and it was -- I
24 swabbed it for -- the screen portion and the blood for
25 the victim's DNA.

202

W. KETCHERSIDE ON DIRECT

1 Q. Showing you State's Exhibit Number 23 and ask if
2 you recognize that?

3 A. Yes, sir.

4 Q. What is that?

5 A. That's the cell phone.

6 Q. And has it kind of been put back together?

7 A. Yes, sir.

8 SOLICITOR: Your Honor, I would offer State's 23
9 into evidence.

10 THE COURT: Any objection?

11 MR. WISE: No objection.

12 THE COURT: State's 23 in evidence without objec-
13 tion then.

14 (Cell phone admitted in evidence without objection
15 as State's Exhibit 23)

16 BY SOLICITOR:

17 Q. You said you took swabs off the screen and off the
18 keypad?

19 A. Yes, sir.

20 Q. I show you State's Exhibit 26 and ask you if that
21 contains the two swabs from the cell phone and also from
22 the axe handle?

23 A. Yes, sir.

24 Q. And are they swabs you collected?

25 A. Yes, sir.

203

W. KETCHERSIDE ON DIRECT

1 Q. And when you collected them, what did you do with
2 them?

3 A. They are packaged in an envelope and they are
4 sealed.

5 Q. If someone came along later, would you be able to
6 tell if they had opened that or tampered with it?

7 A. Yes, sir.

8 Q. Okay.

9 A. The sealed tape also has my initials on it.

10 THE COURT: Any objection to 26? That's the three
11 swabs.

12 MR. WISE: No objection.

13 THE COURT: Number 26 in evidence without objection
14 then.

15 (Swabs admitted in evidence without objection as
16 State's Exhibit 26)

17 BY SOLICITOR:

18 Q. Just a couple more things, Investigator Ketcherside.
19 Did you have an opportunity to collect any evidence that
20 was sent out for comparison purposes, speaking of the
21 swabs first of all, to the Defendant, Darius Ransom?

22 A. Yes, sir.

23 Q. Explain to the jury what it is that you collected
24 from Mr. Ransom?

25 A. Two standard DNA swabs. That would be Q-tip swabs,

204

W. KETCHERSIDE ON DIRECT

1 and you just gently rub the inside of the cheeks and
2 the gums.

3 Q. Showing you State's Exhibit Number 27, are those
4 the swabs?

5 A. Yes, sir.

6 Q. When were they collected from Mr. Ransom?

7 A. On August 17th of 2011.

8 Q. And were they sealed then?

9 A. Yes, sir.

10 SOLICITOR: Your Honor, we'd offer State's 27 into
11 evidence.

12 THE COURT: Any objection?

13 MR. WISE: One moment, Your Honor.

14 THE COURT: All right.

15 (Brief pause in proceeding)

16 MR. WISE: No objection, Your Honor.

17 THE COURT: Number 27 in evidence without objection.

18 (Swabs from Defendant admitted in evidence without
19 objection as State's Exhibit 27)

20 BY SOLICITOR:

21 Q. Did you have an opportunity also, as you did with
22 Mr. Ransom, to get the same type swabs from the victim
23 in this case, George Harrison?

24 A. Yes.

25 Q. Showing you State's Exhibit 28, do you recognize

205

W. KETCHERSIDE ON DIRECT

1 that item?

2 A. Yes, sir, I do.

3 Q. And what is that?

4 A. Multiple swabs from George Harrison.

5 Q. You recognize those as the Q-tip swabs you took
6 from Mr. Harrison?

7 A. Yes, sir.

8 Q. After you collected them what did you do with those
9 items?

10 A. They were dried and sealed, and then submitted into
11 evidence and transported to SLED.

12 SOLICITOR: Move State's Exhibits 25, 26, 27, 28 in
13 evidence.

14 MR. WISE: No objection.

15 REPORTER: State's 25, 26, 27 are in evidence.

16 THE COURT: State's 28 in evidence without objection.

17 (Swabs from Victim admitted in evidence without ob-
18 jection as State's Exhibit 28)

19 BY SOLICITOR:

20 Q. When those items were dried and packaged as you
21 said, where were they ultimately sent?

22 A. To SLED.

23 Q. State Law Enforcement Division?

24 A. Yes, sir.

25 Q. What were they sent up there for?

206

W. KETCHERSIDE ON DIRECT

1 A. For DNA.

2 Q. I have no further questions. Please answer any
3 questions the Defense might have for you.

4 I appreciate it, Investigator Ketcherside.

5 THE COURT: Any questions?

6 MR. WISE: Yes, sir.

7 CROSS EXAMINATION

8 BY MR. WISE:

9 Q. Investigator Ketcherside, how are you doing today?

10 A. I'm fine.

11 Q. Your job is to collect forensic evidence, correct?

12 A. Yes.

13 Q. And you are able to do that using scientific meth-
14 ods?

15 A. Yes, sir.

16 Q. You collect blood and hair samples and any kind of
17 bodily fluids, fingerprints?

18 A. Yes.

19 Q. Photographs?

20 A. Yes.

21 Q. You use special lights to see things other people
22 can't see?

23 A. When it's appropriate.

24 Q. When it's appropriate?

25 A. Yes, sir.

207

W. KETCHERSIDE ON CROSS

1 Q. And before we get too far in, blood splatter analy-
2 sis basically is seeing how blood hit a surface, . .

3 A. Yes.

4 Q. . . and you can try and project what the blood was
5 doing when it hit the surface, depending on how it is on
6 the surface?

7 A. Yes.

8 Q. So blood splatter, for instance, can come from some-
9 thing other than being struck while you're bleeding?

10 A. . .

11 Q. For instance, is it possible if you had blood on
12 your hand and you went like that, it would show splatter?

13 A. It would have some, yes, sir.

14 Q. So every piece of blood splatter you find doesn't
15 necessarily mean that it came from a strike?

16 A. Not necessarily.

17 Q. Now, you mentioned earlier that you found a trail
18 of blood that was coming out of the door?

19 A. Yes, sir.

20 Q. Where did that trail of blood lead to?

21 A. It led down the steps and across the yard and to
22 the next two houses.

23 Q. Okay, so it went straight from 1212 A Golf to

24 B . . .

25 A. I guess it . .

W. KETCHERSIDE ON CROSS

- 1 Q. . . and then it went on to the next . . .
- 2 A. Yes, sir.
- 3 Q. Did you have any blood splatter outside of the
- 4 house?
- 5 A. Not outside, no, sir.
- 6 Q. Okay, so the only thing you found outside the house
- 7 in that trail of blood to the neighbors' houses was
- 8 ninety degree drops?
- 9 A. Yes, sir.
- 10 Q. Meaning it was just dripping?
- 11 A. Yes, sir, in that trail.
- 12 Q. So your opinion is while the victim was walking to
- 13 both houses he was not being attacked at that point?
- 14 A. Not at that point.
- 15 Q. Okay. So was there -- the blood when you got there,
- 16 was it dry or was it still wet?
- 17 A. Some of it in the heavier areas was still wet, and
- 18 some of the areas were starting to dry.
- 19 Q. What was the heaviest area? Where was that found?
- 20 A. That would have been the ninety degree droplets
- 21 outside of the residence.
- 22 Q. They were still wet?
- 23 A. Yes, as well as a good portion of the large area
- 24 inside the residence.
- 25 Q. Okay.

W. KETCHERSIDE ON CROSS

1 A. A good portion of that was still wet.

2 Q. Okay.

3 A. In some of the areas where you see the white pat-
4 terns, the thin portion, that could have been a little
5 bit dry, but for the most part most of it was still
6 wet.

7 Q. Now, you processed basically everywhere you could
8 in the house for fingerprints? The fire hydrant, door
9 knobs . . .

10 A. Yes, sir.

11 Q. The stick?

12 A. Yes, sir.

13 Q. And you couldn't find any?

14 A. No, sir.

15 Q. And you couldn't even find Mr. Harrison's?

16 A. There were no fingerprints.

17 Q. And you looked for footprints as well?

18 A. Yes, sir.

19 Q. And you couldn't even find Mr. Harrison's foot-
20 prints?

21 A. Yes, sir, I couldn't find any.

22 Q. Or the assailant's?

23 A. No, sir.

24 Q. Now, you said in your earlier Court visit -- you
25 described a large area of blood on the floor near the

210

W. KETCHESIDE ON CROSS

1 kitchen table. Was it a puddle or just smeared every-
2 where?

3 A. It's an area that was covered with blood and it had
4 several different patterns of stuff that was going on
5 in it.

6 Q. That indicated it had been at that area for a long
7 time?

8 A. Well, not necessarily a long time.

9 Q. Okay.

10 A. He could have been bleeding heavily, moving around
11 and trying to get up, and once he was able to get up the
12 ninety degree droplets in that and going out the door.

13 Q. And you did mention that there were some blood
14 droplets found on the tongue of the trailer?

15 A. Yes, sir.

16 Q. Being consistent with what?

17 A. Coming out the front door and to the next residence.

18 Q. All right. Now, when you got -- let's go to Officer
19 Thorpe's car.

20 A. Yes, sir.

21 Q. When you got there, you testified earlier that the
22 seat -- you had to just move it a little bit?

23 A. Yes, sir. I pulled it towards me . . .

24 Q. Uh huh.

25 A. . . so that it would be completely visible in my

211

W. KETCHERSIDE ON CROSS

1 photographs.

2 Q. Okay.

3 A. I also documented that and pulled it slightly for-
4 ward so you could see the phone.

5 Q. Okay.

6 A. And then I photographed it.

7 Q. Did Deputy Thorpe tell you he moved the phone at
8 all?

9 A. No, sir. He said he did not move it, had not touched
10 it.

11 Q. So it was right under the seat. Correct?

12 A. Yes, sir.

13 Q. So if he had pulled the seat up when he got Mr.
14 Ransom out of the car, would he have -- do you think he
15 would have seen it?

16 A. Yes, sir.

17 Q. Okay. So as far as your immediate test results, you
18 conducted fingerprints and stuff like that?

19 A. Yes.

20 Q. And you basically didn't find anything?

21 A. No, sir. There were no fingerprint or footwear im-
22 pressions found.

23 MR. WISE: Beg the Court's indulgence, Your Honor.

24 THE COURT: Yes, sir.

25 (Brief pause)

W. KETCHERSIDE ON CROSS

1 BY MR. WISE:

2 Q. Investigator Ketcherside, the blood trail that led
3 to the next trailer -- not the far one but the closest
4 one to it, . .

5 A. Uh hm.

6 Q. . . was there blood on the steps to that trailer?

7 A. I don't recall. I believe there may have been.

8 Q. Okay.

9 A. I don't think I have any photographs to document
10 that area.

11 Q. But you have good reason to think he went to that
12 house to ask for help. Correct?

13 A. Yes, sir.

14 Q. So it probably had blood fairly close to the
15 front door?

16 A. Yes, sir.

17 Q. And one more question. The -- you mentioned the
18 blood earlier on the refrigerator door?

19 A. Yes, sir.

20 Q. So it's your belief that is where the assailant was
21 standing?

22 A. Not the assailant. It would have been that the
23 weapon was swinging or was moving, and therefore it was
24 -- if I was hit on the right side and when the blood
25 surfaces -- if I start bleeding or I'm struck and the

W. KETCHERSIDE ON CROSS

1 blood surfaces it would go out and basically go around
2 my head and basically be a pattern there.

3 Q. Okay. No further questions.

4 THE COURT: Anything on Redirect?

5 SOLICITOR: No, sir.

6 THE COURT: Thank you, sir. You may step down.

7 (Witness excused from stand)

8 THE COURT: The State may call its next witness.

9 SOLICITOR: Call Paul Meeh.

10 PAUL MEEH, being duly
11 sworn, testified as follows:

12 CLERK: Please have a seat and state your name for
13 the record.

14 WITNESS: My name is Paul Meeh. The last name is
15 M E E H.

16 DIRECT EXAMINATION

17 BY SOLICITOR:

18 Q. Agent Meeh, tell the jury, if you would, where it
19 is that you're employed?

20 A. I'm currently employed at SLED, the South Carolina
21 Law Enforcement Division, as a DNA analyst there and fo-
22 rensic scientist.

23 Q. Describe for the jury briefly your educational
24 background?

25 A. Well, I got my biology degree from the University

P. MEEH ON DIRECT

1 of South Carolina in 2001. I then got a Master's Degree
2 in 2003. Then I did four years of PHD work there but I
3 didn't complete my PHD.

4 I was hired away by SLED and then they gave me a
5 year and a half of training in analysis there. That's
6 pretty much it.

7 Q. And when was that that you were -- when did you be-
8 come employed by SLED?

9 A. That was in April of 2008.

10 Q. Okay, and you spent a year and a half, you said,
11 training under, I guess, other DNA analysts there?

12 A. Yes.

13 Q. And at what point in time did you then be kind of
14 certified to start doing stuff on your own?

15 A. It would be a year and a half after April 2008,
16 approximately. I don't recall exactly when it would have
17 been.

18 Q. About how long have you been employed as an ana-
19 lyst doing exams on your own then?

20 A. I've been doing exams on my own -- it would be three
21 years, three and a half years.

22 Q. And have you had an opportunity to testify before
23 about your exams?

24 A. Yes, I have.

25 Q. And have you been qualified as an expert in DNA

215

P. MEEH ON DIRECT

1 analysis?

2 A. Yes, I have.

3 Q. And about how many times has that been?

4 A. Approximately fifteen or maybe twenty now.

5 Q. Okay.

6 SOLICITOR: Your Honor, at this time we would offer
7 Agent Meeh as an expert in DNA and DNA analysis.

8 THE COURT: Any objection?

9 MR. WISE: No objection.

10 THE COURT: Agent Meeh is so qualified as an expert
11 in DNA analysis.

12 SOLICITOR: Thank you, Your Honor.

13 BY SOLICITOR:

14 Q. Would you tell the jury -- start off by telling the
15 jury in laymen's terms what DNA is?

16 A. Okay, DNA is inside of all your cells except for
17 like ^{red} blood cells. It's in every living cell, and what it
18 does is it passes down information that is required to
19 make you -- to make proteins and to make a you.

20 It is individual. The only people who share the
21 same DNA are twins, but they also have different finger-
22 prints.

23 So it is a way of identifying people, but it is also
24 a way of passing down information from generation to gen-
25 eration.

216.

P. MEEH ON DIRECT

1 Q. Okay, and where is your DNA found?

2 A. It's in the nucleus of the cells. If you imagine
3 a cell as this Courtroom, it would be a small area in-
4 side of it maybe the size of that table that would con-
5 tain all of that information -- every bit of the inform-
6 ation about you.

7 Q. Okay, and is there DNA in your blood?

8 A. It is in the white blood cells of the body. Cor-
9 rect.

10 Q. And is there DNA in your saliva?

11 A. In the saliva there is some but mostly in the cells
12 lining the mouth; in the bucca or soft lining of the
13 mouth. Right.

14 Q. And is your DNA the same in both of those?

15 A. Yes, sir.

16 Q. So if you took a sample of my blood and then a sam-
17 ple from my mouth and did a DNA analysis on both of them,
18 they would be the same?

19 A. Right. As long as you haven't had a blood transfus-
20 ion or something really strange like that. That would be
21 a very rare example.

22 Q. Okay. Therefore, then at the State Law Enforcement
23 Division you have the capability then if there is blood
24 evidence found in at crime scene -- you have the ability
25 to compare that to DNA samples from a suspect and victim.

217

P. MEEH ON DIRECT

1 A. Yeah, that's exactly what we do at SLED. We try to
2 identify body fluids there and what those body fluids
3 are, and from whom they came. That is exactly my job
4 there.

5 Q. Now, in this case, Agent Meeh, do you have several
6 items that were submitted for your analysis?

7 A. Yes, there were two standards and some items I was
8 asked to compare those standards to.

9 Q. And the two standards, showing you State's Exhibits
10 27 and 28, . . .

11 A. Right.

12 Q. Who are those two standards -- who did they come
13 from?

14 A. Number one is a bucca swab that comes from Darius
15 Ransom.

16 Q. And that is State's Exhibit Number 27?

17 A. Right, and item number five -- I have my items num-
18 bers listed. I don't have the State's numbers. I'm
19 sorry.

20 Q. That's all right. This is State's Number 28.

21 A. State's Exhibit 28 is my number five, which is a
22 bucca swab from George Harrison.

23 Q. Those were the standards that were submitted from
24 those two individuals?

25 A. Yes.

218

P. MEEH ON DIRECT

1 Q. And what other items did you receive up there to at-
2 tempt to compare to those two standards from Mr. Harrison
3 and Mr. Ransom?

4 A. A sample or swab from the screen portion of a
5 Samsung cell phone, and a swab from a keypad of a Sam-
6 sung cell phone. There was a swab from an axe handle,
7 and a swab from a trailer tong.

8 Q. Showing you State's Exhibits 25, 26, 27 and 28, are
9 those the swabs in those packages there?

10 A. Yes. I see my initials on the items also.

11 Q. Okay. Specifically, if you'd start with the two
12 standards that you received from Mr. Harrison and Mr.
13 Ransom.

14 Were you able to develop a DNA profile from those
15 two standards?

16 A. Yes, I was.

17 Q. And then did you have an opportunity then to attempt
18 to compare that to the DNA that you were able to develop
19 from the swabs?

20 A. Yes, I was able to compare them.

21 Q. Okay, and initially let me turn to the axe handle
22 and the swab. Okay?

23 A. Sure.

24 Q. First let me ask you, when you receive an item of
25 evidence such as that swab from a crime scene, what kind

219

P. MEEH ON DIRECT

1 of steps are taken in analyzing that item at SLED?

2 A. The first thing we have to do is -- when we do
3 serology testing, what we do is cut a little piece of
4 that to see what body fluid might be there, and in this
5 case blood.

6 Sometimes the agency is asked to do a touch sample,
7 which would be if you touched a book or something if
8 there is a book found at the crime scene or a shirt --
9 they ask -- there is no body fluid there but they ask us
10 to test to see if there is any DNA at all.

11 The way you find out if there is any DNA at all is
12 you quantify it. We have an instrument there that mea-
13 sures the amount of DNA on something, and that is what
14 we do before we move on to the identification. We take
15 the steps to just see how much DNA is there.

16 Q. Okay. When you were dealing with the swab from the
17 end of the handle, end of the axe handle, first of all,
18 in the serology portion of that, was there any blood
19 found when you initially kind of look at that swab?

20 Was there any blood present on the swab from the
21 handle portion of the axe handle?

22 A. No, sir, there was not.

23 Q. Did you have an opportunity at any time to attempt
24 to see if there was any blood present on that swab?

25 A. Yes, I did. I quantified the DNA and there wasn't

220

P. MEEH ON DIRECT

1 any blood present.

2 Q. So basically no DNA found on the swab that was taken
3 from the axe handle?

4 A. Right..

5 Q. Was there anything else you could do with that swab
6 at that time?

7 A. No, it was completed at that point.

8 Q. Okay. Next let's turn to the swab from the trailer
9 tongue.

10 A. Okay.

11 Q. Did you have an opportunity initially to look at
12 that and do serology to determine whether there was blood
13 present?

14 A. Yes, I did. I looked at the screen of the cell
15 phone . . .

16 Q. No, the trailer tongue.

17 A. Oh, I apologize. Yes, I tested it for blood, the
18 trailer tongue, and the presumptive test for blood was
19 positive.

20 Q. Okay. Did you then attempt to see if you could get
21 a DNA profile from that blood?

22 A. I did. Usually when blood is present there is going
23 to be enough to identify, and in this case there was.

24 I identified a full profile, a full DNA profile, on
25 the trailer tongue or from the blood on the trailer

221

P MEEH ON DIRECT

1 tongue.

2 Q. Did you have an opportunity then to compare that DNA
3 profile to Mr. Harrison's DNA and to Mr. Ransom's DNA?

4 A. I did.

5 Q. And what, if anything, did you determine in compar-
6 ing that?

7 A. The results of the DNA profile developed from item
8 six matches the DNA profile of George Harrison.

9 The probability of randomly selecting an unrelated
10 individual . .

11 MR. WISE: Objection, Your Honor. I think the wit-
12 ness is qualified to testify as to the comparison, but
13 the physical part I don't think he's qualified to tes-
14 tify to, and I don't think a foundation has been laid as
15 to that.

16 THE COURT: Well, I'll let him testify as to what
17 his findings were. Okay?

18 SOLICITOR: Okay.

19 BY SOLICITOR:

20 Q. The initial part is that it matched?

21 A. Correct.

22 Q. And then there are some probabilities on that?

23 A. Right.

24 Q. Explain to the jury where those numbers come from?

25 A. Yes, sir. The FBI provides us with a program that

222

P. MEEH ON DIRECT

1 we put these profiles into and it generates a statistic.
2 It's from a data base of people, something the FBI begun
3 years ago, and it's well documented. The . .

4 MR. WISE: My objection now is hearsay. He's testi-
5 fying to something the FBI does.

6 He's not involved with it, Your Honor.

7 THE COURT: I believe he was testifying to where he
8 gets his statistics from, isn't that right?

9 MR. WISE: He is, but he also said it's statistics
10 the FBI gave that comes on a program he has, and we have
11 no knowledge of it; how it's created; how it's maintained.

12 THE COURT: Okay, I will note your objection and
13 it is overruled.

14 You can go ahead.

15 SOLICITOR: Thank you.

16 A. So this is from a study where they found the data
17 base was sufficient to estimate the probability that you
18 could randomly select somebody else with that -- how rare
19 would this be -- how rare would this exact DNA finger-
20 print be.

21 And it turns out you can do a really job. You can
22 be conservative and estimate very well through statistics
23 and through other means how rare this DNA fingerprint
24 really is.

25 That, again, is provided to us by the FBI. I did

223

P. MEEH ON DIRECT

1 not create the program and I do not maintain the program.

2 BY SOLICITOR:

3 Q. Okay. All right, but in looking at this I believe
4 you indicated that it was basically one in sixteen qua-
5 drillion?

6 I think that was the number that you used?

7 A. Yes.

8 Q. Okay.

9 A. The probability of randomly selecting an unrelated
10 individual having a DNA profile matching this item is
11 approximately one in sixteen quadrillion, which is --
12 that is very rare.

13 Q. Okay, and what you are talking about there is the
14 swabs from the trailer tongue.

15 Correct?

16 A. Yes, correct.

17 Q. Now, let's go to the cell phone, and I believe you
18 indicated you received a swab from the screen portion of
19 the cell phone, and one from the keypad portion of the
20 cell phone?

21 A. That's correct.

22 Q. And in your initial serology analysis, were you
23 able to determine if there was blood present in these
24 two individual swabs?

25 A. Yes. The presumptive test for blood was positive

224

P. MEEH ON DIRECT

1 on these.

2 Q. On both the screen and the keypad?

3 A. Correct.

4 Q. Okay, and were you able then to develop a DNA pro-
5 file on those two items?

6 A. The results of that testing of items three and four,
7 which are the screen portion and the keypad, respectively, showed
8 revealed -- yes, I was.

9 The results of that testing, the DNA profiles devel-
10 oped from items three and four, the screen portion and the
11 keypad, are mixtures of at least two individuals.

12 The DNA profile of the major contributor to these
13 mixtures also matches the DNA profile of George Harrison.

14 The partial DNA profile of the minor contributors
15 are insufficient for comparison.

16 Q. In other words, there was more than one person's
17 DNA present?

18 A. Yes, that's correct.

19 Q. Okay.

20 A. One of those two was a major contributor.

21 Q. And there was a minor contributor?

22 A. That's correct.

23 Q. And was there a significant difference in the major
24 and minor?

25 A. Significant, yes.

225

P. MEEH ON DIRECT

1 Q. And in your opinion that major contributor, whose
2 was that? Who was the major contributor?

3 A. That was a match to George Harrison.

4 Q. On both the keypad and screen of that cell phone?

5 A. Correct, George Harrison.

6 Q. And that was consistent, I guess, with the profile
7 from the trailer tongue?

8 A. Yes, sir.

9 Q. And a match in all these areas that you looked at?

10 A. Yes, sir.

11 Q. And the . . .

12 A. I need to rephrase that. The DNA profile developed
13 from the trailer tongue was complete and clean all the
14 way across, at every single lipid.

15 If I could show you this chart of the different
16 areas on the DNA we test, so item six -- it worked all the
17 way across, was perfectly clear, and that is where we
18 generated that statistic. That is so rare.

19 The reason the next results also match is because
20 when you get a mixture of DNA or get a little bit of de-
21 gradation, maybe one of these positions didn't do as well
22 and didn't -- wasn't -- I wasn't able to directly compute
23 a stat in that position so I said also matches, but, yes,
24 it matched George Harrison as well.

25 Q. Okay, and the minor contributor, the other person,

226

P. MEEH ON DIRECT

1 that was there, were you able to do anything to say who
2 that minor contributor belonged to?

3 A. No. There were so few positions there with someone
4 else present or with another DNA profile present that you
5 wouldn't be able to compare it.

6 So it would be sort of -- it wouldn't be scientifically
7 valid to try to compare that.

8 Q. But it just shows someone else had touched that cell phone?

9 A. It could have been anyone at any time.

10 Q. Could it have been from a month before?

11 A. From years before.

12 Q. Okay, and I believe that is all I have, Agent Meeh.

13 Thank you, sir.

14 THE COURT: Your witness.

15 MR. WISE: Thank you.

16 CROSS EXAMINATION

17 BY MR. WISE:

18 Q. Mr. Meeh or Agent Meeh, . . .

19 A. That's fine. I'll take Mister or Agent, or just
20 Paul.

21 Q. Okay. Agent, I don't have many questions but I
22 just want to go over a couple of things.

23 Just so we kind of all understand a little more,
24 what is the technology you used to get this analysis?

25 A. Well, it depends on which analysis you're talking

227

1 about. For qualification, we use a kit that just gives
2 us -- it's a couple of -- it's a PCR reaction, a poly-
3 mase chain reaction.

4 It uses amplification to tell us how much DNA is
5 there. DNA is very small. You can't see it. You can
6 see it somewhat but not very well and we need to tell
7 very specific things.

8 So we use amplification to make more of it so that
9 we can visualize it on instrumentation.

10 So we use a kit for quantification, and we use a
11 kit that amplifies the areas here through the same reac-
12 tion, the same type of reaction.

13 Q. Let me stop you one second.

14 A. Sure.

15 Q. The PCR approach to this, that's state of the art?

16 A. Well, it's funny -- here's a little bit of trivia
17 for you. A guy named Kerry Mullins from a -- what high
18 school did he go to -- Spring Valley High School, I
19 think -- he invented PCR years ago, maybe thirty years
20 ago, and it's very well documented and well thought of
21 in the scientific community. I cannot imagine anything
22 wrong with it.

23 To call it -- to call PCR state of the art would be
24 incorrect. To call the management of the identification
25 art of PCR you might be able to say that's state of the
228.

P. MEEH ON CROSS

1 art.

2 Q. Okay. You use it because it's really, really good?

3 A. Right.

4 Q. It is so good that it allows you to do an analysis
5 just based on a few cells?

6 A. Absolutely. Yes, sir.

7 Q. When you work doing your analysis, do you sit at a
8 desk or at a counter?

9 A. It's in a heart, which is called a PCR heart which
10 is -- it's in a small area in the laboratory that is
11 about maybe this long with a fold-up top. You reach into
12 there and do it.

13 Q. And when you take like the axe handle . .

14 A. Uh hm.

15 Q. . . you set it down on a table?

16 A. Well, in this case and in many cases I don't actu-
17 ally handle any of the items. We have a place called
18 evidence processing, and we have other offices that sub-
19 mit swabs.

20 Anyone can do it. You just take a sterile swab, and
21 you can sometimes use water but you don't have to --
22 and you just swab the area of interest..

23 Q. And when the swab is taken, do they wear gloves?

24 A. Absolutely.

25 A. Why? Why do they wear gloves?

P. MEEH ON CROSS

1 A. Because you can easily transfer DNA. The polymase
2 chain reaction, the identification reaction, it's highly
3 sensitive, and there are -- if you get as little as ten
4 cells from someone else in there, as few as ten cells,
5 you're going to get contamination.

6 Q. Do you change your gloves after you handle these
7 things?

8 A. All the time.

9 Q. Because you can get it on the gloves and onto the
10 next . .

11 A. Yes, sir.

12 Q. When you set an axe handle down on that surface,
13 after you put that axe handle up, do you do anything to
14 that surface?

15 A. Oh, definitely. Clean it. You have to clean it
16 between items, such as blood or something like that, and
17 especially with blood. In this case as with all evidence
18 processing -- not that I'm implying our evidence pro-
19 cessing area did this -- in the example of an axe handle
20 or any large item they put down butcher paper or some-
21 thing very clean that they can see there is not going to
22 be any transfer.

23 That's just -- in the polymase reaction technique,
24 you constantly have to maintain that. If there is any-
25 thing you touch -- like you were saying, anything you

230

P. MEEH ON CROSS

1 touch is going to transfer DNA.

2 Q. Just so we're clear, how often do you change gloves
3 when you're doing an analysis?

4 A. Very often. I mean, you know, it depends on how
5 you're handling them. If you're touching them directly
6 or if you're swabbing an item directly, you should change
7 them often.

8 If you're cutting several swabs and you're only
9 going to be handling the end of the swab, onto an aseptic
10 item or tube, you can probably get away with, you know,
11 five cuttings from that without any real harm of trans-
12 ferring, just because it's going directly into a tube
13 which is then sealed.

14 But, yeah, an aseptic technique is very important to
15 us.

16 Q. Aseptic technique?

17 A. Right.

18 Q. What is that?

19 A. It's a misnomer because that actually refers to
20 keeping things safe from bacteria and that's not exactly
21 true.

22 Aseptic technique happens to have the side effect
23 of keeping DNA off of things, but it refers to bacteria
24 in the true sense.

25 So that . . .

231

P. MEEH ON CROSS

1 Q. Okay, so to briefly summarize -- no DNA on the axe
2 handle?

3 A. Right.

4 Q. No DNA from Mr. Ransom on the cell phone screen
5 or keypad?

6 A. No, that came back to Harrison.

7 Q. Yeah. Were you given any clothing of Mr. Ransom
8 to test?

9 A. No.

10 Q. Okay. I want to talk about the trailer tongue for a
11 minute.

12 Did the DNA results indicate when and under what
13 conditions that blood could have gotten on the trailer
14 tongue?

15 A. No, it does not.

16 Q. Nothing about the results of the blood on the trailer
17 tongue would implicate Mr. Ransom in any way?

18 A. No.

19 Q. Previously it was testified that when you are look-
20 ing for DNA on a surface, it's called touch DNA?

21 A. It can be as long as there is no body fluid on that
22 sample.

23 Q. Okay.

24 A. It would be touch, and the only difference between
25 touch and non-touch is if it's a body fluid.

232

P. MEEH ON CROSS

1 Q. So my doing this . . .

2 A. Uh hm.

3 Q. . . is enough to leave my DNA?

4 A. Possibly. If that's porous -- there are a lot of
5 factors that go into it.

6 Q. Okay. Let me ask you this. Going back to this FBI
7 system you use in the statistical analysis, you don't
8 know anything about it?

9 A. We're trained on input and output on the thing but
10 other than that, no.

11 Q. You don't know how it is created?

12 A. I don't.

13 Q. It is a process, a mathematical process, that goes
14 into computing the statistics?

15 A. I understand the formulating, but I don't see that
16 when I'm doing it. It may provide the formula, a single
17 formula usually -- it doesn't in this one.

18 But I have seen them that actually provide the form-
19 ula for calculating. It gives me a real frequency but
20 it doesn't give the formula in this one.

21 That's correct.

22 Q. And when you get your results, you run them through
23 the program and you get the statistical information?

24 A. Yes, sir.

25 Q. That's all my questions.

233

1 THE COURT: Anything on Redirect?

2 SOLICITOR: Nothing further.

3 THE COURT: All right, you may step down. Thank
4 you, sir.

5 (Witness excused from stand)

6 THE COURT: Ladies and gentlemen, we're going to
7 take about a ten or fifteen minute break. You have not
8 heard everything in this case, so you can't talk about
9 it yet.

10 Please go back to your jury room at this time, and
11 thank you.

12 (Jury excused from Courtroom)

13 THE COURT: Anything before we take a break from
14 the State?

15 SOLICITOR: Your Honor, at some point in time -- I
16 think I probably only have one witness left, but if you
17 would want to speak with the Defendant about whether he
18 wishes to testify -- you might want to do that during
19 the break.

20 THE COURT: Do you want me to do that before the
21 State rests?

22 MR. STROUD: Your Honor, I believe we need to talk
23 with him.

24 THE COURT: When do you want me to do it? After he
25 rests?

1 MR. STROUD: After we speak to him, he'll need some
2 time to think about it.

3 SOLICITOR: Whenever the Court would like.

4 THE COURT: All right. Let me know before we go
5 back on the record.

6 MR. STROUD: Yes, sir.

7 (Court took brief recess after which the matter was
8 resumed)

9 THE COURT: Okay, I need to have you placed under
10 oath. Okay?

11 DEFENDANT: Yes, sir.

12 THE COURT: Because I'll be explaining things to you
13 and talking to you about whether you want to testify.

14 Can he come up here? Would that be okay?

15 (Defendant was sworn by the Clerk for purposes of
16 the discussion with the Court)

17 THE COURT: All right. Mr. Ransom, I know your at-
18 torneys have already explained to you your constitutional
19 rights.

20 I know they have gone over a number of things to
21 get you prepared for this trial. Okay?

22 But I'm going to go over one additional right with
23 you, and if I say something that you don't understand
24 stop me and I will explain it. Okay?

25 DEFENDANT: Yes, sir.

235

1 THE COURT: We have reached the stage of the trial
2 where you may present your defense. Now, the State has
3 said they have one more witness, and after they have put
4 up that witness the State will stand down and it will be
5 up to you and your attorneys to present your case, and
6 that is the way the procedure is.

7 At that stage, you will present your defense. Now,
8 one of the protections given to you by the Fifth Amend-
9 ment of the Constitution of the United States states in
10 part that you cannot be compelled in a criminal case to
11 be a witness against yourself.

12 This means that you cannot be required to testify.
13 You have a right to testify on your own behalf. However,
14 no one can make you testify. This is a personal right,
15 and nobody can waive this right except you.

16 If you decide to testify, you will be subject to
17 the same rules as other witnesses, and you may be examined
18 and cross-examined on any relevant issue in this case.

19 If you have any convictions involving dishonesty or
20 false statements, other crimes punishable by imprison-
21 ment for more than one year and this Court determines
22 that the probable value of admitting this evidence out-
23 weighs the prejudicial effect to you, the Solicitor will
24 be able to introduce your record to attack your credibil-
25 ity.

1 If you decide to testify, this decision on your part
2 must be freely and voluntariliy and intelligently made
3 in accordance with the protections given to you by the
4 Fifth Amendment and the consequences of your decision
5 to testify.

6 If you decide not to testify, then I will instruct
7 the jury that they cannot give the fact that you did not
8 testify any consideration whatsoever, and that there is
9 to be absolutely no prejudice to you because you did not
10 testify.

11 It is left entirely up to you whether or not you
12 wish to testify. You may talk with your attorney, your
13 family, your friends, or anyone else, but the final de-
14 cision is left up to you.

15 Do you understand everything that I have said to
16 you?

17 DEFENDANT: Yes, sir.

18 THE COURT: Okay, do you have any questions about
19 what I've said?

20 DEFENDANT: No.

21 THE COURT: Have you discussed this with your law-
22 yer?

23 DEFENDANT: Yes.

24 MR. STROUD: We have discussed it. We haven't made
25 a decision.

1 THE COURT: I understand that. I just wanted to
2 make sure you had discussed it.

3 DEFENDANT: Yes.

4 THE COURT: Okay, you have not made a decision so
5 far?

6 DEFENDANT: No.

7 THE COURT: Okay, but you understand that the time
8 is coming that you're going to have to make that decis-
9 ion?

10 DEFENDANT: Yes.

11 THE COURT: Do you need to talk to anybody other
12 than your attorney?

13 DEFENDANT: Yes.

14 THE COURT: Who is that?

15 DEFENDANT: My mother and my fiance.

16 THE COURT: Are they present?

17 DEFENDANT: Yes.

18 THE COURT: How long will it take for you to talk
19 to them?

20 DEFENDANT: All right, I will allow you to talk to
21 your mother and your fiance. Okay, and you also want
22 your attorneys there to explain anything you need. Is
23 that okay?

24 DEFENDANT: Yes.

25 238

1 THE COURT: Anything else that will help you in mak-
2 ing your decision?
3 DEFENDANT: No, sir.
4 THE COURT: That's all?
5 DEFENDANT: Yes.
6 THE COURT: Then we'll stand down and let you talk
7 to your mother and your fiance. Then we'll come back and
8 I'll let you tell me what you have decided.
9 Now, before we do that I want to make sure that no-
10 body has -- well, I'll let you go ahead and talk to them
11 now. We'll be in recess for a few minutes.
12 (Whereupon, the Court took a brief recess, after
13 which the matter was resumed)
14 THE COURT: Have you made your decision?
15 DEFENDANT: Yes.
16 THE COURT: What is your decision?
17 DEFENDANT: Not to take the stand.
18 THE COURT: You have decided not to testify?
19 DEFENDANT: Yes, sir.
20 THE COURT: I will tell the jury they cannot con-
21 sider -- as I told you, they cannot consider anything
22 about your failure to testify.
23 That will be one of my charges to the jury.
24 MR. WISE: Thank you.
25 THE COURT: Yes, sir. All right, let's . . .

1 MR. WISE: May we approach, Your Honor?

2 THE COURT: Sure.

3 (Conference at the bench between counsel and the
4 Court off the record)

5 THE COURT: All right, before we bring the jury back
6 out, I know -- just for the record, I want to make sure
7 for the sake of simplicity on the record the Defense,
8 Mr. Wise, has an objection to the statements coming in.

9 That is preserved on the record before Lieutenant
10 Shumpert testifies. The prior testimony is on the record.

11 You objected to my ruling after the Jackson v Denno
12 hearing, and we are preserving that objection in the re-
13 cord at this time.

14 MR. WISE: Thank you.

15 THE COURT: All right, bring in our jury.

16 (jury returned to Courtroom)

17 THE COURT: Ladies and gentlemen, we took a little
18 longer. There were some things during the break I had
19 to take care of, and I apologize for that.

20 In return for that, we're buying your lunch and,
21 hopefully, that will be a fair trade off.

22 We're going to continue with the State's case. You
23 may call your next witness.

24 SOLICITOR: State would call Lieutenant James
25 Shumpert.

1 JAMES SHUMPERT, being duly
2 sworn, testified as follows:
3 CLERK: Please have a seat and state your name for
4 the record.
5 WITNESS: James Shumpert.
6 DIRECT EXAMINATION
7 BY SOLICITOR:
8 Q. Lieutenant Shumpert, tell the jury where you are
9 employed?
10 A. Orangeburg County Sheriff's Office.
11 Q. And how long have you been with the Orangeburg
12 County Sheriff's Office?
13 A. Around thirteen years.
14 Q. And what are your current duties there?
15 A. I am a supervisor with the Criminal Investigations
16 Division.
17 Q. How long have you been employed with that capacity
18 with the County?
19 A. I believe about two years.
20 Q. How long have you been an investigator with the
21 Sheriff's Office all together?
22 A. Since 05.
23 Q. Since 05?
24 A. Yes, sir, 2005.
25 Q. And currently how many investigators do you supervise
241

J. SHUMPERT ON DIRECT

1 in that Department?

2 A. Six to seven.

3 Q. And I'm going to turn your attention, Lieutenant,
4 if I could, back to July of last year. Were you involved
5 or were you an investigator into the burglary and assault
6 of the victim, George Harrison?

7 A. I was.

8 Q. Tell the jury, did you have an occasion to respond
9 that night out to 1212 Golf Avenue to the Harrison
10 trailer? or to where this occurred?

11 A. Yes, I did.

12 Q. And when you got there -- what was kinda going on
13 when you got to the scene?

14 A. Well, when I showed up on the scene a deputy ad-
15 vised me that we had a home invasion and possibly burg-
16 lary. He directed me to the first trailer.

17 Then I went and did a protective sweep on the trailer.
18 I went inside the trailer and looked, and then I came
19 back out and called a forensic team.

20 Q. Let me ask you, was Mr. Harrison still out there
21 at that time?

22 A. I didn't get a chance to talk to Mr. Harrison be-
23 cause it was explained to me that his condition was very
24 serious. I think at that time he was already being
25 transported to the hospital.

242

J. SHUMPERT ON DIRECT

1 Q. Okay, and did you have an opportunity that evening
2 to go and check on his condition at the Medical Center
3 in Orangeburg?

4 A. I did.

5 Q. And did you talk to him that night?

6 A. I did not.

7 Q. Why not?

8 A. His current condition at the time. I believe they
9 had medivaced him out to Columbia, to the hospital up
10 there, or they were getting ready to do that.

11 Q. And are you aware if that is where he ended up ulti-
12 mately?

13 A. It was.

14 Q. And for a period of time?

15 A. It was.

16 Q. Now, that night out there, out at the scene on Golf
17 Avenue, did you come into contact with the gentleman who
18 testified yesterday, Derrell Jenkins?

19 A. Yes. After I left the hospital, I returned back to
20 the crime scene, and one of the deputies came up to me
21 and said that an individual had just gotten a call on
22 his cell phone from someone to come pick him up, which
23 was Mr. Derrell Jenkins.

24 Q. Okay. As a result of getting that information from
25 Mr. Jenkins, what did you ultimately do in order to

243

J. SHUMPERT ON DIRECT

1 try to apprehend the Defendant that night?

2 A. Well, after getting the information I decided to
3 have everybody meet at the school which was just down
4 from the location where he was supposed to pick the in-
5 dividual up.

6 Q. And where was that location?

7 A. Little Cricket.

8 Q. And is the Little Cricket located near the victim's
9 residence on Golf Avenue?

10 A. Yes.

11 Q. How far is it from the residence to the Little
12 Cricket?

13 A. Probably a mile and half to two miles.

14 Q. In walking distance?

15 A. Yes, it is.

16 Q. And ultimately that night Mr. Jenkins testified he
17 went to get the Defendant, Mr. Ransom, from that Little
18 Cricket. Is that correct?

19 A. Yes.

20 Q. Did he get him in his vehicle?

21 A. Yes. I pulled -- Mr. Derrell pulled out and I pulled
22 down to (inaudible) and sat there near a stop sign where
23 I could keep a visual.

24 Mr. Derrell pulled into the parking lot at Little
25 Cricket, and I saw an individual enter the truck.

244

J. SHUMPERT ON DIRECT

1 Q. And did you know the Defendant prior to that night?

2 Did you know Mr. Ransom?

3 A. No, I did not.

4 Q. And ultimately did you make a traffic stop on Mr.

5 Jenkins, Derrell Jenkins -- on his vehicle?

6 A. We did.

7 Q. And who, if anybody, was taken into custody at that
8 time?

9 A. Mr. Ransom.

10 Q. All right, and was he arrested at that point in
11 time?

12 A. At that point in time with the information we had,
13 he was being detained. The decision to arrest him came
14 later on that night.

15 Q. As a result of detaining him, what, if anything,
16 did you do with him at that point in time at that time
17 after Mr. Jenkins' vehicle was stopped?

18 A. Well, my vehicle -- I don't have a transport vehicle
19 so normally when I get an individual in the car I do a Terry
20 frisk -- just pat the outer portion of a person's cloth-
21 ing, and that is for the officer's safety, to make sure
22 they aren't carrying a weapon.

23 I saw he didn't have no weapons on him, so we put
24 handcuffs on him and placed him in a marked unit.

25 Q. And was that Deputy Thorpe's vehicle, or do you know
that?

J. SHUMPERT ON DIRECT

1 A. I believe it was Deputy Thorpe's vehicle.

2 Q. Where was he then transported at that point in
3 time?

4 A. He was transported back to my office located right
5 there on Chestnut at 1032 Chestnut, the Criminal Inves-
6 tigation office.

7 Q. All right. Let me ask you, did you have an opportun-
8 ity that night to also interview Mr. Jenkins?

9 A. I did.

10 Q. And you heard him testify yesterday about the De-
11 fendant and the phone conversations he had with him when
12 the Defendant made a comment to him that he had to do a
13 lick?

14 A. Correct.

15 Q. And what is that street term, lick -- what does
16 that mean or refer to?

17 A. That is commonly referred to as somebody who is
18 getting ready to perform some type of robbery or some-
19 thing of that nature.

20 Q. Now, did you have an opportunity then when you got
21 Mr. Ransom, the Defendant, into your office on Chestnut --
22 at that point in time, did you attempt to interview him?

23 A. I did.

24 Q. How did you go about doing that with Mr. Ransom on
25 July 25, 2011?

J. SHUMPERT ON DIRECT

1 A. I took him to the interview room, what we call our
2 interview room, and I advised him of his Rights, his
3 Miranda Rights, while he was there.

4 I read them to him . . .

5 Q. Did you have a form or something that you used to
6 do that that night?

7 A. Yes, I did.

8 Q. Let me show you State's Exhibit Number 1. Do you
9 recognize that?

10 A. Yes, sir. This is the advisement of rights.

11 Q. Okay, and is that the form that you used with Mr.
12 Ransom that evening, July 25th, 2011?

13 A. It is.

14 SOLICITOR: Your Honor, at this time the State would
15 offer Exhibit 1 into evidence.

16 MR. WISE: Subject to the prior objections we have
17 made.

18 THE COURT: All right. Subject to prior objection,
19 State's 1 is in evidence.

20 (Advisement of rights form admitted in evidence
21 over objection as State's Exhibit 1)

22 BY SOLICITOR:

23 Q. Explain to the jury what that form is and how you
24 went over that with Mr. Ransom that evening?

25 A. Every individual that we suspect of committing a

247

J. SHUMPERT ON DIRECT

1 crime we do this -- at the top it says Orangeburg County
2 Sheriff's Office, Defendant's affidavit.

3 The top portion -- we ask the individual -- for in-
4 stance, individual questions such as the day, the month,
5 the time, the place, the Defendant's name and address,
6 social security, age, date of birth -- you know, a good
7 contact number.

8 The middle portion is the advisement of rights of
9 the individual. We read them to him individually.

10 Q. Did you go over each of these rights with Mr. Ransom
11 that night?

12 A. Yes, sir, I did.

13 Q. Okay.

14 A. Then after I read them to him -- I said, you have --
15 my rights are as follows: I have the right to remain
16 silent; anything I say can be used against me in Court;
17 I have the right to talk to a lawyer for advice before I
18 am asked any questions; if I can't afford a lawyer one
19 will be appointed for me before any questions if I wish;
20 if I decide to answer questions without having a lawyer
21 present I will still have a right to stop answering ques-
22 tions at any time.

23 I also have a right to stop answering at any time
24 until I talk to a lawyer.

25 In front of each advisement of rights there is a

J. SHUMPERT ON DIRECT

1 little section where it's numbered, one, two, three and
2 four, and he has the right to go back and re-read it be-
3 fore he initials.

4 He places his initials and then he signed it.

5 Q. So you went over this advisement of rights form,
6 and he placed his initials there on the form?

7 A. Correct.

8 Q. Did he also sign the form?

9 A. Yes, he signed it, and then I went over to the next
10 section which says, I understand my rights above and ini-
11 tialized each. I have been advised of my rights by LT
12 Shumpert of the Orangeburg County Sheriff's Office and
13 make the following statement, which that's his handwriting.

14 Q. If he gave a statement at that point in time, gave
15 a written statement, that would have been there in writ-
16 ing?

17 A. Yes, sir.

18 Q. Now, in this case after Mr. Ransom was given his
19 rights, did he tell you at that point in time about his
20 involvement or lack of involvement in the case with Mr.
21 Harrison?

22 A. He stated he didn't know what I was talking about,
23 and he had nothing to say.

24 Q. So he told you that night on July 25th -- what time
25 was that?

249

J. SHUMPERT ON DIRECT

1 A. Nine fifty-two.

2 Q. So that night at nine fifty-two, Mr. Ransom told you
3 he had nothing to do with what you were investigating?

4 A. Yes, sir.

5 Q. And he wanted a lawyer at that point?

6 A. Correct.

7 Q. After that, did you continue to question him that
8 night?

9 A. No, I did not.

10 Q. So did you ask him any more questions that night?

11 A. No, I did not.

12 Q. Let me ask you this, did he request of you anything
13 else at that time?

14 A. He wanted to speak to Derrell.

15 Q. Where was Derrell at at that point in time?

16 A. He was up front in the front portion of the investi-
17 gation division.

18 Q. Did you allow him to speak to Derrell at that point
19 in time?

20 A. I did.

21 Q. Derrell did not relate to you what the Defendant had
22 told him?

23 A. Yes, he did.

24 Q. As he testified yesterday?

25 A. Correct.

250

J. SHUMPERT ON DIRECT

1 Q. At that point in time what was done with Mr. Ransom,
2 after he was given an opportunity to speak with Mr.
3 Jenkins?

4 A. He was taken to the Orangeburg County Detention Cen-
5 ter.

6 Q. Okay. So the rest of that night then until the early
7 morning hours of the next morning, did you have any con-
8 tact with Mr. Ransom?

9 A. No, I did not.

10 Q. Tell the jury what was the next contact you had re-
11 garding Mr. Ransom?

12 A. The next contact I had was from his mom who is Ms.
13 Williams.

14 Q. And was that in person or over the phone?

15 A. By telephone.

16 Q. All right, and let me ask you this, did you know or
17 had you had some professional dealings prior to that time
18 with his mother?

19 A. Yes, I had.

20 Q. And she contacted you by cell phone?

21 A. On her cell phone.

22 Q. And as a result of that, did she indicate to you
23 anything with regards to her son?

24 A. Yes.

25 Q. What was that?

251

J. SHUMPERT ON DIRECT

1 A. She said he wanted to speak to me.

2 Q. And when did you visit him again?

3 A. The next day.

4 Q. The 26th I guess?

5 A. The 26th.

6 Q. And as a result of her telling you that, what did
7 you do at that point in time?

8 A. After the conversation, I got with one of my inves-
9 tigators and we proceeded to go over to Bamberg County
10 where he was transferred to.

11 I didn't know he was transferred from Orangeburg to
12 Bamberg, but we went over to Bamberg and met with his
13 mother in the parking lot at the county jail.

14 Q. The following day was when you found out Mr. Ransom
15 was taken to Bamberg?

16 A. Correct.

17 Q. And after meeting with his mother, did you have an
18 opportunity to further talk with Mr. Ransom the following
19 day?

20 A. I did.

21 Q. Tell the jury when you came in contact with Mr.
22 Ransom how that came about and what, if anything, you
23 inquired of him at that point in time?

24 A. When I arrived at the jail, like I said, I met his
25 mom in the parking lot. Investigator Gillard was with

252

J. SHUMPERT ON DIRECT

1 me. We went inside the building and met with the offi-
2 cers over there, and we stated the purpose of us being
3 there.

4 We went into another room -- I can't remember if
5 he was already in the room or was brought to the room,
6 but I met with him and I asked him, are you sure that you
7 want to speak with me, and at that time he told me yes,
8 and then I did the same process of going through his ad-
9 visement of rights again.

10 Q. Let me ask you, if he had told you he didn't want to
11 talk with you, what would you have done?

12 A. The same thing I did the night before. I would
13 have ceased the interrogation and went back to Orange-
14 burg at that time.

15 Q. If he had told you he wanted a lawyer or I don't
16 want to talk with you, what would you have done?

17 A. Gone back to Orangeburg.

18 Q. But he said at that time that he did wish to speak
19 to you?

20 A. He did.

21 Q. And you indicated that you basically started going
22 over the Miranda form?

23 A. Correct.

24 Q. And I show you State's Exhibit 2. Do you recognize
25 that?

J. SHUMPERT ON DIRECT

1 A. Yes, this is the second statement that he wrote over
2 in Bamberg.

3 Q. Okay. The second . . .

4 A. I'm sorry, the first statement. He filled that out
5 and I witnessed it. That's the second advisement of rights.

6 Q. That's when you initially started talking to him?

7 A. Correct.

8 Q. The following day, on the 26th?

9 A. Yes, sir.

10 Q. And what time did that occur?

11 A. At one thirty P.M. One thirty-eight P.M.

12 Q. Okay. So tell the jury what you did with him on
13 that day after that point when he said he wished to talk
14 to you?

15 A. I did the same thing with the form that day as the
16 night before. I went over -- like I said, Orangeburg
17 County Sheriff's Office, and then I filled out the date
18 and time, that information, and went through the rights
19 as I did . . .

20 Q. Who filled out the top portion of that form?

21 A. He filled out the top portion this time.

22 Q. So as far as the personal information, date and time,
23 he filled in all that? That's his handwriting?

24 A. Yes. I filled that out the night before but he did
25 fill that out this time.

254

J. SHUMPERT ON DIRECT

1 Q. And did you go over the same rights with him that
2 you had gone over the night before?

3 A. Yes, sir, I did.

4 Q. Did he initial them yet again?

5 A. He did.

6 Q. And at that point in time, did he give you a statement
7 at that point in time?

8 A. He did.

9 Q. And that statement . .

10 SOLICITOR: Your Honor, I would offer State's Ex-
11 hibit 2 in evidence.

12 MR. WISE: Same objection.

13 THE COURT: Subject to the same objection, it's ad-
14 mitted in evidence, State's 2.

15 (Second advisement of rights form with statement en-
16 tered in evidence subject to objection as State's Exhibit
17 2)

18 BY SOLICITOR:

19 Q. Now, this is a three page document, is that correct,
20 Lieutenant?

21 A. It is.

22 Q. All right, and on page one is the advisement of
23 rights and personal information, and who wrote that?

24 A. It's in his handwriting.

25 Q. Mr. Ransom wrote this?

255

J. SHUMPERT ON DIRECT

1 A. Correct.

2 Q. And turning to page two, what is located on page
3 two of the statement?

4 A. Well, after he writes the statement, you go back and
5 read them and then we have what we call questions and
6 answers.

7 You write the questions out and the individual an-
8 swers in his own handwriting.

9 Q. So the portion with the Q, whose handwriting is
10 that?

11 A. The Q is me. That's my handwriting.

12 Q. And where it says, A and yes, whose handwriting is
13 that?

14 A. Mr. Ransom's.

15 Q. All right, and then the initials, who wrote those
16 initials?

17 A. Mr. Ransom.

18 Q. And what is the purpose of doing that?

19 A. To make sure that nobody don't add nothing to the
20 statement he had already written.

21 Q. And then over on the third page, did Mr. Ransom
22 sign the statement?

23 A. He did.

24 Q. And did you sign as a witness?

25 A. I did.

LT. SHUMPERT ON DIRECT

1 Q. So those are his initials to make sure nobody can
2 fill in anything on the third page?

3 A. Correct.

4 Q. Now, eleven thirty-eight or shortly thereafter . .

5 SOLICITOR: We would publish this to the jury, and
6 have Lieutenant Shumpert read what Mr. Ransom wrote.

7 BY SOLICITOR:

8 Q. Read what Mr. Ransom wrote on that paper at that
9 point in time?

10 A. He basically wrote that Mr. Harrison come to me af-
11 ter he was bruised and battery -- he asked me to call
12 nine one one. I tried but the phone I had was not work-
13 ing, so tell him to go to the next door neighbor and --
14 and they will assist you.

15 (Witness reading slowly)

16 I was walking out to my aunt and stayed there about
17 two hours. The person who have done it was a guy Tray
18 (inaudible) and another character who they call Scrap.

19 I had nothing to do with it at all. I did try to
20 -- all I been trying to do is get home to my two daughters
21 -- I couldn't even do that.

22 There was no witness, no one around. I just assumed
23 they did it because of how they was acting, and you know
24 the actions speak louder than words.

25 Q. And is that statement -- is that all in Mr. Ransom's

257

LT. SHUMPERT ON DIRECT

1 handwriting?

2 A. It is.

3 Q. Okay, and as you talked about a few minutes ago,
4 you went over a few questions and answers with him?

5 A. I did.

6 Q. And publish those for the jury, if you would?

7 A. The first question I asked him was did you use
8 George Harrison's phone to call Derrell? Answer, yes.

9 I next asked him did you call him at seven O five
10 P.M. and tell him to pick you up from Little Cricker?
11 The answer was yes.

12 Do you own a red bandanna -- the question I asked
13 him, and he answered, yes.

14 Then the last question I asked him, did you ask to
15 speak to me, and the answer was yes.

16 Q. Okay, and the answers to those questions were all
17 in Mr. Ransom's handwriting?

18 A. It was.

19 Q. The questions were in your handwriting?

20 A. It's my handwriting, yes, sir.

21 Q. At that point in time signed the third page?

22 A. He did.

23 Q. And did you witness it?

24 A. I did.

25 Q. And at any point in time did you force him to talk

258

J. SHUMPERT ON DIRECT

1 to you?

2 A. No, I did not.

3 Q. Did you threaten him to talk to you?

4 A. I did not.

5 Q. Make any promises to get him to talk to you?

6 A. No, I did not.

7 Q. Following him giving you that statement, Lieutenant
8 Shumpert, what did you do at that point in time after he
9 finished giving you that statement?

10 A. After he gave the statement and I went over the
11 statement with him, I went out and -- his mom was back
12 up at the front of the detention center.

13 And I went back out there and I told her that he
14 was not telling me the truth.

15 Q. Okay.

16 A. And then I went back and conferred with him and told
17 him that he wasn't telling the truth. Only because of
18 the evidence and what I had learned from Investigator
19 Ketcherside.

20 Q. And at that point in time when you kind of confronted
21 him -- at that point in time, what did Mr. Ransom do, if
22 anything?

23 A. Provided me another statement.

24 Q. And how was he acting at that point in time?

25 A. Kind of emotional.

259

J. SHUMPERT ON DIRECT

1 Q. You said he provided you with another statement?

2 A. He did.

3 Q. And was that in his handwriting?

4 A. It was.

5 Q. Showing you State's Exhibit Number 3, is that a copy
6 of that statement?

7 A. Yes, sir.

8 Q. What is the date and time stamp on that statement?

9 A. Ten thirty eight.

10 Q. Twenty-two minutes to eleven?

11 A. Yes.

12 Q. All right, and, again, who filled out that front
13 page?

14 A. Mr. Ransom did.

15 Q. How many pages is that one?

16 A. It's also three.

17 Q. Is that the standard kind of package, three pages
18 long?

19 A. It is.

20 Q. And whose initials . .

21 A. His initials.

22 Q. And did he sign on the third page?

23 A. Yes, he did.

24 Q. You witnessed it?

25 A. Yes, there's my signature.

260

J. SHUMPERT ON DIRECT

1 Q. And the X has his initials and so on?

2 A. Yes.

3 Q. And showing you State's Exhibit 3, are those the

4 -- whose words were put on this piece of paper about two

5 o'clock that afternoon at the Bamberg County Jail?

6 A. Mr. Ransom's.

7 SOLICITOR: The State would offer Exhibit 3 in

8 evidence.

9 THE COURT: Subject to the same objections as pre-

10 viously.

11 (State's Exhibit 3 admitted over objection in evi-

12 dence)

13 BY SOLICITOR:

14 Q. And would you publish to the jury what was given

15 to you in time after you confronted the Defendant and

16 told him you didn't believe he was telling you the truth

17 or that he wasn't being truthful with you?

18 A. He started off with this statement -- he said, I,

19 Darius Ransom -- he was twenty-one -- I have high blood

20 pressure, an enlarged heart, a cyst and a tumor on my

21 right kidney.

22 I went through a bad situation. I just flipped. I

23 never a day in my life put my hands on anyone. I am

24 truly sorry and I ask for your forgiveness.

25 I went in Mr. George house. I waited for him to

261

J. SHUMPERT, ON DIRECT

1 -- waiting for him to use his phone again and all of a
2 sudden I hit him four to five times.

3 times (Witness reading slowly)

4 (Portion inaudible)

5 All I was trying to do was trying to get home to my
6 girls. I went through the back door and that was that.
7 I'm sorry for the pain and suffering I have put Mr.
8 George in -- Mr. George and my family.

9 He stopped right there.

10 Q. And, again, that was all in Mr. Ransom's handwrit-
11 ing?

12 A. Correct.

13 Q. Did you tell him what to write on that piece of
14 paper?

15 A. No, sir.

16 Q. Did you tell him any of the things to write, any
17 words on there?

18 A. Those are his words.

19 Q. And in his second statement that afternoon, did
20 you force him in any way?

21 A. No, I didn't.

22 Q. Did you threaten him in any way?

23 A. No, sir, I didn't.

24 Q. At any point in time that afternoon at the Bamberg
25 County Jail, did he tell you he didn't want to talk to

J. SHUMPERT ON DIRECT

1 you any more?

2 A. No, sir, he did not.

3 Q. Like he had the night before, before his mom con-
4 tacted you, did he tell you at any time that he wanted a
5 lawyer that day?

6 A. No, he did not.

7 Q. Did he sign this and did you witness it?

8 A. Yes.

9 Q. Are you aware of about how big Mr. Ransom is?

10 A. About six one, a hundred fifty or sixty pounds --
11 somewhere in there.

12 Q. That was also his physical size at the time he was
13 arrested?

14 A. Yes, it was.

15 Q. How old is Mr. Ransom?

16 A. At the time, he was twenty-one. He's twenty-two
17 now, I believe.

18 Q. Did he put on his statement he was twenty-one years
19 old?

20 A. Yeah, but I don't -- what's his date of birth on
21 there?

22 Q. Eight 31 89. So he turned twenty-two a month or
23 so after this?

24 A. Correct.

25 Q. The address he had given you back when this occurred

263

J. SHUMPERT ON DIRECT

1 on the night of the 25th was a Sunset Drive address in
2 Bamberg. Is that correct?

3 A. Yes, sir. He wrote that. No, that's my handwriting,
4 I believe.

5 Q. Where did you get that address from?

6 A. From Mr. Ransom.

7 Q. And on the 26th he actually put two addresses down
8 there, is that correct?

9 A. Yes, sir.

10 Q. The Bamberg County address and a St. George address,
11 is that correct?

12 A. He did.

13 Q. And the following day after he gave those statements
14 or you took the statements from Mr. Ransom, do you recall
15 being contacted by Deputy Thorpe?

16 A. I do.

17 Q. And did he inform you about something he had found
18 in his vehicle?

19 A. Yes. He told me he had found a cell phone in the
20 back of his car.

21 Q. Did he indicate to you at that point in time whether
22 he had transported anybody else, from the time he had
23 transported Mr. Ransom, up until the time he found the
24 phone?

25 A. He said he did not.

264

J. SHUMPERT ON DIRECT

1 Q. Did he indicate to you . .

2 A. The basic conversation was that he said he was going
3 through some inspection or something, and when he checked
4 the back seat of his car he found the cell phone that he
5 believed belonged to the subject.

6 Q. Did he indicate to you whether he had transported
7 anybody else?

8 A. Since the subject?

9 Q. Yes.

10 A. No, he said he hadn't transported anybody.

11 Q. Thank you, Lieutenant Shumpert. That would be all
12 I'd have.

13 THE COURT: Mr. Wise, your witness.

14 MR. WISE: Thank you, Your Honor.

15 CROSS EXAMINATION

16 BY MR. WISE:

17 Q. Lieutenant Shumpert, how are you?

18 A. Fine, sir.

19 Q. One of the very first preliminary things I want to
20 get out of the way -- you pointed out that on the night
21 of this incident you interacted with Mr. Jenkins, with
22 Derrell Jenkins?

23 A. Yes, sir.

24 Q. Okay, and Derrell Jenkins was arranged to pick up
25 Darius?

. 265

J. SHUMPERT ON CROSS

1 A. . .

2 Q. He went to Little Cricket . .

3 A. Correct. When you say he was arranged . .

4 Q. Let me rephrase that. There came a time that

5 Derrell spoke to Darius, and they were going to meet at

6 Little Cricket?

7 A. Correct.

8 Q. All right. Okay, and based on your information in

9 your investigation at the time that Darius got in the

10 car with Derrell, he did not know that you were follow-

11 ing them?

12 A. Correct.

13 Q. Okay, and when you arrested Darius, did he have a

14 red bandanna then?

15 A. Not that I saw.

16 Q. You would have seen it if he had it?

17 A. Well, that's fair to say.

18 Q. Okay, okay. Based on your investigation, was there

19 anything distinctive about this red bandanna that you

20 missed seeing?

21 A. No, sir, not that I can recall.

22 Q. You spoke to Mr. Harrison about what happened that

23 evening?

24 A. No, I did not.

25 Q. Did you ever speak to him?

266

J. SHUMPERT ON CROSS

1 A. No.

2 Q. Based on your investigation, did you learn about
3 some red clothing that was worn by the person who did
4 this?

5 A. From what the deputy was told.

6 Q. And when Darius was arrested, did he have any red
7 clothing on him at that time?

8 A. Well, this incident took place about seven o'clock.
9 I spoke to Mr. Ransom several hours later.

10 In my experience, when people commit crimes they
11 change the clothes up. So I only know what he had on
12 after I saw him.

13 Q. Just answer this. When you arrested Darius, did
14 he wear any red clothing on in his possession?

15 A. I don't even remember.

16 Q. Would you like to refer to your notes?

17 A. If I could . . .

18 Q. No problem. Sure.

19 A. You want me to look through all this?

20 Q. I want you to look for whether when you arrested
21 Darius he had any red clothing on. That's the question,
22 sir.

23 A. I don't see nothing here that says what he was
24 wearing.

25 Q. When you spoke -- well, as part of your investigation

J. SHUMPERT ON CROSS

1 did you ever learn that Mr. Harrison said he saw the
2 face of the person who did this to him?

3 A. Again, I never spoke to Mr. Harrison because of his
4 condition. It was like some month and a half later that
5 I think he came out of the hospital, but the Defendant
6 was already arrested and charged by then.

7 Q. At any time, did you ever learn that he saw the face
8 of the person who did this?

9 A. From the deputy, he was familiar with the person, but
10 in actually speaking to Mr. Harrison he never told me
11 that, no.

12 Q. Okay. When you arrested Darius, how much money did
13 he have on him?

14 A. Probably -- I can't remember.

15 Q. Is it an accurate statement that based upon your
16 investigation he didn't have any money from the robbery
17 on him?

18 A. I was never told that. I can't tell from my notes
19 whether he had money on him or not.

20 Q. How much money was taken in the robbery from Mr.
21 Harrison?

22 A. I was told -- when I asked the officer there, he
23 said Fifteen to Twenty Dollars and a cell phone was miss-
24 ing.

25 Q. And how much money did Darius have on him?

J. SHUMPERT ON CROSS

1 A. I can't remember. I don't know.

2 Q. Let me ask you this, do you remember testifying in
3 a preliminary hearing in this matter?

4 A. Some time ago, yes, sir.

5 Q. Okay, and do you remember being asked this question
6 by me, question, he didn't have any money from the rob-
7 bery in his possession, and your answer, he had money; I
8 just can't tell you how much.

9 Okay, now, I imagine the booking report would tell
10 you how much he had. Your answer, I mean, it was a very
11 minute amount.

12 Question, it was change? He had change on him, did-
13 n't he? Your answer, I'm trying to find it, and you were
14 looking at the paperwork.

15 My question, maybe -- your answer, I know whatever
16 it was, it wasn't close to Twenty-five Dollars.

17 Do you remember that?

18 A. Like I say, I just can't remember how much money
19 he had.

20 Q. And so . . .

21 A. Just like I told you there.

22 Q. Very good. Did you ask Darius for a DNA sample?

23 A. Did I ask Darius -- no, he invoked his -- matter of
24 fact, I stopped talking to him when he wanted to talk
25 to a lawyer.

J. SHUMPERT ON CROSS

1 Q. There came a time when he was provided an attorney?

2 A. Yes.

3 Q. And who would have done that?

4 A. It must be the forensic guys because I didn't talk
5 to him.

6 Q. The forensic guys such as Ketcherside or Westberry?

7 A. Westberry is not in forensics -- Ketcherside.

8 Q. Ketcherside would have asked him?

9 Q. I can't remember who asked him for a DNA sample.

10 It should be shown on there who took it or collected it,
11 so . . .

12 Q. I'm more concerned about when he took it?

13 A. I can't remember.

14 Q. You don't know?

15 A. No.

16 Q. Okay. Did you have to get a Court Order or a
17 search warrant?

18 A. I can't remember.

19 Q. You don't know?

20 A. No.

21 Q. Do you remember us talking about a description of
22 the person who committed this attack?

23 A. I don't . . .

24 Q. At the preliminary hearing.

25 A. To best honest with you, I have hundreds of

J. SHUMPERT ON CROSS

1 preliminaries so . . .

2 Q. Okay.

3 A. Just to go back to that day, I can't remember every-
4 thing that happened. I mean, . . .

5 A. That didn't stand out to you?

6 A. No.

7 Q. Okay, all right. Let's go back. You remember the
8 preliminary hearing and you remember that Mr. Harrison
9 was there, wasn't he?

10 A. He could have been.

11 Q. Okay, okay. You remember my asking these questions
12 and you giving these answers?

13 My question, I want to talk a little bit about any
14 evidence that was recovered. How much did Mr. -- I say
15 George -- say was taken from him, and your answer, I be-
16 lieve Mr. George in a report -- no let me make sure --
17 hold on a second, and then there's a pause.

18 Then I said, Deputy, I have no problem with your
19 asking him. Do you remember that?

20 A. Obviously you have a transcript there and you know
21 it. I can't remember.

22 Q. Okay.

23 A. If you'll let me see it -- I mean, I can't just re-
24 member it all.

25 Q. I'm telling you what it says here.

271

J. SHUMPERT ON CROSS

1 A. That's fine too. If I said it, I said it. I just
2 can't remember.

3 Q. I'll show it to you.

4 A. Yes, you say, Deputy, I have no problem with you
5 asking him.

6 Q. And I said that to you because he was sitting there
7 at the time?

8 A. Could be.

9 Q. Okay, and the point of this is that even at the
10 preliminary hearing he never said to you it was Darius
11 and he saw his face?

12 A. . . .

13 Q. He never said that to you, did he?

14 A. . .

15 Q. He never said I'm familiar with who it was? He
16 never said that to you?

17 A. No.

18 Q. You have been a sheriff's deputy for thirteen years?

19 A. Correct.

20 Q. And you've had a lot of training in that time,
21 haven't you?

22 A. Correct.

23 Q. And part of your training involves taking state-
24 ments, doesn't it?

25 A. It does.

272

J. SHUMPERT ON CROSS

1 Q. Over the course of your career, about how many state-
2 ments have you taken?

3 A. Well, I don't know. I have no idea. A lot.

4 Q. A lot?

5 A. Yes, you can say that.

6 Q. Okay. Lieutenant Shumpert, tell the ladies and gen-
7 tlemen of the jury about your educational background?

8 A. Professional or personal?

9 Q. Personal.

10 A. I've got my Master's Degree in Criminal Justice. I
11 am working on a PHD in Criminal Justice right now.

12 Q. You are taking a PHD?

13 A. Right.

14 Q. You don't have it yet?

15 A. No.

16 Q. You're a smart guy?

17 A. I'm not saying that. I'm saying I'm seeking . .

18 Q. Okay. So when you get your PHD you'll be a smart
19 guy?

20 A. I'll be a tired guy.

21 Q. I hear you. It's fair to say though that you are
22 smarter than Darius?

23 A. I wouldn't say that. I mean, that just -- you
24 can't say something like that. Some people might be
25 smarter in this area and some smarter in this area.

J. SHUMPERT ON CROSS

1 I mean, I wouldn't get up here and say I'm smarter
2 than him.

3 Q. You have more education than him?

4 A. Let me look at his educational background. I don't
5 know what he -- I don't know.

6 Q. So when you went to interrogate him, you didn't ask
7 him how far he went in school?

8 A. He said he wanted a lawyer so I stopped.

9 Q. At any point, when you were asking him questions and
10 he gave a statement, did you ask him how far he went in
11 school?

12 A. Which time?

13 Q. At any time did you ask him?

14 A. The first time he asked for a lawyer. The second
15 time I asked him did he want to speak with me, and I al-
16 lowed him to fill out his own statement. So, no, he
17 never articulated that to me at the time.

18 Q. Sir, here's the question. At any point in time did
19 you ask him about his education?

20 A. Not that I recollect, no.

21 Q. Okay. There came a point when his mother called
22 you about taking a statement from Darius?

23 A. Correct.

24 Q. All right.

25 A. Well, not taking a statement -- to speak to him.

J. SHUMPERT ON CROSS

1 Q. Correct, absolutely. She wanted you to speak to
2 him?

3 A. From what she said, he wanted to speak to me.

4 Q. Okay. Now, just so we're clear, he never called
5 you?

6 A. No.

7 Q. He never wrote you a letter?

8 A. No.

9 Q. Okay, and when you went to speak to Darius in Bam-
10 berg after speaking to his mother, . .

11 A. Correct.

12 Q. . . you already knew that fact of what happened in
13 this case? You knew what the allegations were from Mr.
14 Harrison as to what happened?

15 A. Correct.

16 Q. So you knew you were investigating a serious crime?

17 A. Correct.

18 Q. You described the taking of his statement at the
19 jail as an emotional time?

20 A. . . .

21 Q. You said Darius was emotional at the time?

22 A. At the end. Not at the beginning.

23 Q. Okay. At the end, was he crying?

24 A. I can't remember.

25 Q. You can't remember. Now, his mother was present

J. SHUMPERT ON CROSS

1 obviously at some point, and you knew she had just got-
2 ten out of the hospital?

3 A. . .

4 Q. You know that?

5 A. Did I know she had just gotten out of the hospital?
6 Let me see. She called me and asked for me and asked
7 did I remember . . .

8 Q. You don't know?

9 A. No, I don't know.

10 Q. When he gave you the first statement up in Bamberg,
11 you didn't believe that it was true?

12 A. From the information that I had. That's correct.

13 Q. Okay, and you challenged him on that?

14 A. After stepping out and seeing the momma, I recall
15 telling the momma about the cell phone. He said he had
16 given the cell phone to a guy named Trey, and I knew that
17 was a lie because Deputy Thorpe had found the cell phone
18 in the back of his car.

19 Q. So you challenged him that you didn't think he was
20 telling you the truth?

21 A. Correct.

22 Q. Called him a liar?

23 A. No, I said you need to tell me the truth.

24 Q. You never used the term liar?

25 A. No.

J. SHUMPERT ON CROSS

1 Q. The statements, the second and third ones you took
2 up in Bamberg, did you videotape it?

3 A. I don't think Bamberg County had the capability of
4 videotaping their own men.

5 Q. Okay, and did you make any arrangement to videotape
6 it?

7 A. Well, like I say, again, his mom called me and said
8 he wanted to speak to me. I had no idea what he wanted
9 to speak to me about. I didn't grab my camera and go
10 over there.

11 I just wanted to see what he wanted to talk to me
12 about.

13 Q. Okay, so there is no videotape of his statements?

14 A. No.

15 Q. Did you record it by audio?

16 A. No.

17 Q. Okay. In this second statement that we heard just
18 a second ago, he says the person who done it was a guy Trey
19 and another character they call Strap?

20 A. No, I mean, I just -- right, the nickname Trey,
21 and he didn't say Trey Drayton or -- I don't know who
22 Trey is.

23 Q. Are you familiar with a person named Travis in this
24 investigation?

25 A. Travis -- is that the next door neighbor? I know

J. SHUMPERT ON CROSS

1 the next door neighbor's name is Travis.

2 Q. Okay, all right. When you heard Trey, did you think
3 of Travis, the next door neighbor of Mr. Harris?

4 A. No, because he told me the guy had the cell phone,
5 and I know that had come to be a lie because the cell
6 phone was found in the back of the car he had been trans-
7 ported in.

8 Q. So you never connected somebody named Trey and it
9 possibly being this person Travis?

10 A. Not in connection with the cell phone, from what he
11 told me.

12 Q. So obviously you never looked at Travis' home for
13 any evidence?

14 A. I don't know if I can get into what Mr. Travis told
15 us. I don't know if I can get into that.

16 Q. The question is simple. Did you ever look at Travis'
17 home for evidence?

18 A. Yes. We did go into Mr. Travis' home.

19 Q. And how close does Travis live to Mr. Harrison?

20 A. Between the two trailers, about maybe ten or twenty
21 feet.

22 Q. Okay.

23 A. Just an estimate.

24 Q. Sure. In the course of this investigation, did
25 there come a time when you learned that as a result of

J. SHUMPERT ON CROSS

1 these injuries that Mr. Harrison lost consciousness?

2 A. I knew that his condition was serious. I knew it
3 was critical, and I was told he was expected to live.
4 The consciousness part, I don't know.

5 Q. You testified on Direct Examination that you frisked
6 and handcuffed Darius?

7 A. I don't remember the specifics of the take-down. I
8 don't remember who put the handcuffs on him. On 601, I
9 want to say it was in the middle of the road that we got
10 him out of the vehicle.

11 Q. You used the term that you performed a Terry frisk?

12 A. Correct.

13 Q. On Darius?

14 A. Yes.

15 Q. Explain for the jury what that is?

16 A. A Terry frisk is, once again, a patting on the cloth-
17 ing to make sure for officer's safety that somebody does
18 not have a weapon on them.

19 Q. Do you remember what Darius had on that night?

20 A. I can't remember.

21 Q. Do you remember if he had on a jacket?

22 A. I can't remember.

23 MR. WISE: Could I ask the witness to step down?

24 THE COURT: Sure.

25 MR. WISE: Thank you.

J. SHUMPERT ON CROSS

1 BY MR. WISE:

2 Q. Agent Shumpert, I'm going to take my jacket off,
3 and would you show the jury a Terry frisk?

4 A. (Demonstrating) (Inaudible verbal response)

5 Q. Did you handcuff him?

6 A. I put the handcuffs on him.

7 Q. How was he handcuffed?

8 A. Handcuffs on his wrist. (Demonstrating)

9 Q. Something like that?

10 A. Yeah.

11 Q. You may go back to the stand.

12 In Darius' third statement he doesn't say -- I'm
13 sorry -- in Derrell's statement, he doesn't mention that
14 Darius told him he had to do a lick? He never wrote it,
15 did he?

16 A. I'd have to see it.

17 Q. Sure.

18 A. Probably about a third of the page he says, he
19 started telling me he had to rob somebody for some money.

20 Q. But it doesn't say he had to do a lick? That par-
21 ticular phrase is not in there?

22 A. . .

23 Q. Take your time.

24 A. I don't see it.

25 Q. Okay. You testified that Darius asked -- the first

J. SHUMPERT ON CROSS

1 thing when he spoke to you he told you that he wanted
2 a lawyer?

3 A. True.

4 Q. And you stopped questioning him?

5 A. True.

6 Q. Okay, you say you can't remember when you got to
7 Bamberg if Darius was already in the room that you were
8 in or if he was brought into the room. Correct?

9 A. Correct.

10 Q. All right.

11 MR. WISE: If I could have one moment?

12 THE COURT: Yes.

13 (Brief pause in proceeding)

14 BY MR. WISE:

15 Q. Lieutenant Shumpert, I want to go back to something
16 you testified about. You talked to Deputy Thorpe about
17 the phone?

18 A. Which phone?

19 Q. The phone he found in his car?

20 A. Yes.

21 Q. And what day was the phone found in his car?

22 A. Let me see. I knew about it when I went up to
23 Bamberg County.

24 Q. So he called you -- if it happened on the 25th, he
25 would have called you on the 26th?

J. SHUMPERT ON CROSS

1 A. I believe -- yes, I believe so.

2 Q. You had a feeling that you knew Darius was lying
3 about that because you knew about Deputy Thorpe finding
4 the phone?

5 A. Well, he told me he gave the phone to someone, and
6 when I responded on the scene that night with information
7 that I had that money was taken off Mr. Harrison and a
8 cell phone was missing -- so . . .

9 Q. So when -- let me be clear about one thing.

10 It's your testimony that when you spoke to Darius
11 the night of -- the day of the 26th . . .

12 A. Yes, sir.

13 Q. . . you already knew the phone had been found?

14 A. Correct.

15 Q. Okay, and so when you read his statement -- when he
16 wrote in his statement that Trey had the phone you knew
17 it was not true?

18 A. Correct.

19 Q. Okay.

20 MR. WISE: If I could have one moment, Your Honor?

21 THE COURT: Yes, sir.

22 (Brief pause)

23 MR. WISE: That's all the questions I have at this
24 time.

25 THE COURT: Anything on Redirect?

J. SHUMPERT ON REDIRECT

1 SOLICITOR: Just a couple of things.

2 REDIRECT EXAMINATION

3 BY SOLICITOR:

4 Q. Let me make sure I understand something.

5 We heard in the testimony from Investigator Ketcherside
6 that the phone wasn't found in the vehicle until the 27th.

7 Could you have spoken with Deputy Thorpe the day before,
8 the 26th?

9 A. I knew about the phone but I just don't know at
10 this time when I spoke to someone about it. I believe
11 the next day although I don't know when Ketcherside had
12 collected it.

13 Q. When he said he wanted a lawyer, it was the night
14 of the incident, the 25th?

15 A. The 25th. Correct.

16 Q. And you went to see Mr. Ransom at the jail on the
17 26th?

18 A. Correct.

19 Q. Could Investigator Ketcherside have collected the
20 phone the following day?

21 A. Correct.

22 Q. And you are pretty sure when you spoke to the Defen-
23 dant in Bamberg you knew about it?

24 A. I did.

25 Q. Let me go back to something I wanted to ask you

283

J. SHUMPERT ON REDIRECT

1 about. Mr. Wise was asking you about Travis, and the
2 neighbor's name was Travis Smart, is that correct?

3 A. I believe it's Smart, yes.

4 Q. And he resided at the time in the trailer right next
5 to Mr. Harrison?

6 A. Correct. As was testified earlier, there was three
7 trailers. Mr. Smart lived in the trailer right in the
8 middle.

9 Q. Let me ask you, when you were out there on the scene
10 with Mr. Smart, did he say he was out there on the
11 scene?

12 A. He eventually showed up, correct.

13 Q. And you testified on Cross Examination that you all
14 had actually gone and searched his trailer. Right?

15 A. Correct.

16 Q. And who let you in when you went out there to search
17 that trailer?

18 A. Mr. Smart.

19 Q. What was it that you were looking for inside that
20 trailer?

21 A. A red bandanna in the room that Mr. Darius was sup-
22 posedly sleeping in.

23 Q. So you knew Darius was sleeping in that trailer?

24 A. Yes.

25 Q. You got information he was actually staying in that

J. SHUMPERT ON REDIRECT

1 trailer?

2 A. Yes.

3 MR. WISE: Objection, Your Honor.

4 THE COURT: Objection overruled.

5 BY SOLICITOR:

6 Q. You decided to search that trailer because of some
7 information that you had?

8 A. Yes, sir.

9 Q. But he wasn't out there at the scene?

10 A. No, he came up later.

11 Q. Do you know where he lives now?

12 A. No.

13 Q. Mr. Travis Smart actually came in and gave a state-
14 ment that night. Correct?

15 A. He did.

16 Q. Is he not living in Orangeburg at this point in
17 time?

18 A. No, sir.

19 Q. That would be all I have.

20 THE COURT: Anything on Recross?

21 MR. WISE: Nothing further.

22 THE COURT: Thank you, Lieutenant Shumpert. You can
23 step down.

24 (Witness excused from stand)

25 THE COURT: The State may call its next witness.

1 SOLICITOR: Your Honor, at this time the State would
2 rest.

3 THE COURT: Ladies and gentlemen, the State has now
4 rested its case.

5 I've got to take up some matter with the attorneys,
6 and I may bring you back out here in about five minutes.

7 Thank you. Remember that you have heard the State's
8 case but you haven't heard anything else and you cannot
9 discuss the case yet.

10 You may go to your jury room.

11 (Jury excused from Courtroom)

12 THE COURT: Anything from the State?

13 SOLICITOR: No, sir.

14 THE COURT: Anything from the Defense?

15 MR. STROUD: Yes, sir. I would have a motion.

16 THE COURT: Okay.

17 MR. STROUD: I would move for a directed verdict for
18 the Defendant with regard to attempted murder charge.

19 THE COURT: Okay.

20 MR. STROUD: And I have ~~no~~ motion on the burglary
21 charge.

22 THE COURT: Okay.

23 MR. STROUD: Obviously, Your Honor, the attempt part
24 of attempted murder -- one of the requirements of the
25 statute is the intent to kill.

1 I believe the evidence at this point consists of a
2 beating, and I recognize what the allegations are of the
3 State, and I recognize that the injuries were signifi-
4 cant, but I submit that in order for the case to go to
5 the jury there must be some evidence that it was in fact
6 done with the kind of malice that would be consistent
7 with the intent to murder someone.

8 I don't believe the evidence of the State is suf-
9 ficient on that.

10 THE COURT: All right. Just from what I've heard,
11 he was beaten very severely and required significant
12 hospitalization, and the acts themselves could indicate
13 the degree of malice that is in the intent to kill.

14 So I am going to deny your motion.

15 Anything else?

16 MR. STROUD: Can I have one moment?

17 THE COURT: Yes, sir.

18 (Brief pause in proceeding)

19 MR. STROUD: That's all, Your Honor. Thank you.

20 THE COURT: I've been told the food is here for the
21 jury, and it's my understanding the Defense is not put-
22 ting up any testimony at all?

23 MR. WISE: That's correct.

24 THE COURT: Okay. As a result of that, the way I
25 will handle it, unless you all tell me you want to handle

287

1 it a different way -- I will take a break now and you all
2 can get some lunch.

3 When you all come back, I will let you rest on the
4 record. Then I will let you open and you can close, and
5 then I'll charge the jury.

6 Okay? In the meantime, we have a verdict form.
7 You all can go and eat lunch, then come back and look at
8 that, but I do need your voluntariness charge, and you
9 look at that.

10 Have you seen that?

11 SOLICITOR: I have, Your Honor.

12 THE COURT: Make a copy so we both can look at it,
13 because my charge book does not have one. I will need
14 that charge.

15 Anything else we need to address? If there is no-
16 thing else, we will go get lunch. If you would be back
17 here around one thirty, I'll appreciate it.

18 (The Court stood in recess as to this matter for
19 the lunch period, after which the case was resumed)

20 THE COURT: Is the State ready to proceed?

21 SOLICITOR: Yes, sir.

22 THE COURT: And is the Defense ready?

23 MR. WISE: We are, Your Honor.

24 THE COURT: Before we bring the jury back in, I
25 would state for the record you have seen the verdict form

1 and I have gone over my charge with you all.

2 I believe the only thing we need to -- the only is-
3 sues we need to put on the record is a motion you have
4 made to me to have me charge second degree burglary.

5 Is that correct?

6 MR. STROUD: That's correct, Your Honor.

7 THE COURT: And second degree doesn't include cir-
8 cumstances of aggravation. Based on what I've heard in
9 this case, I would not want to charge that.

10 I want to give you an opportunity to preserve your
11 objection to my failure to charge that. State your pos-
12 ition on the record.

13 MR. STROUD: Yes, sir. Our position is that the
14 issue of whether or not there was aggravation is a jury
15 issue, and that the jury should be allowed to consider
16 that.

17 THE COURT: All right, thank you, sir.

18 MR. STROUD: Thank you, Your Honor.

19 THE COURT: All right, is the jury ready?

20 BAILIFF: Yes, sir.

21 THE COURT: Bring them in, please.

22 (Jury returned to Courtroom)

23 THE COURT: Ladies and gentlemen of the jury, as
24 you heard before the recess, the State has rested its
25 Case, so now it is time for the Defense to go forward

289

1 with its case. Mr. Wise?

2 MR. WISE: Your Honor, we would not be presenting
3 any evidence at this time. We would rest.

4 THE COURT: Okay.

5 MR. WISE: Thank you.

6 THE COURT: Thank you, Mr. Wise.

7 The Defense has now rested, so you have now heard
8 all of the testimony that you are going to hear.

9 What's going to happen next is the attorneys will
10 make closing arguments to you, and then I will charge
11 you the law.

12 All right. Mr. Sorenson?

13 SOLICITOR: Thank you, Your Honor.

14 May it please the Court?

15 THE COURT: Yes, sir.

16 SOLICITOR: Good afternoon, ladies and gentlemen.

17 I would start off by thanking you, not only on behalf
18 of Mr. Harrison and his family, but also in behalf of the
19 Defendant and the attorneys, not only for your time but
20 also for your attention that you've given to us over the
21 course of the trial.

22 (Portion not audible on tape)

23 I want to take a couple of minutes to talk to you
24 since we're at the point in the trial where the lawyers
25 get to come before you and argue to you what we believe

1 are the facts that have come from this witness stand from
2 the witnesses who have been presented.

3 Following these arguments by the attorneys, the
4 Judge will charge you on the law that would apply to the
5 case.

6 So this is the opportunity of the attorneys to talk
7 about the case, and that is kind of where we are, but
8 first I would like to talk to you briefly about the two
9 charges that have been made against the Defendant.

10 (Portion not audible)

11 So I'll start off by talking to you about burglary
12 in the first degree and what I believe the State has
13 proven to you.

14 Burglary in the first degree is the unlawful en-
15 tering into a person's home without their consent, with
16 intent to commit a crime therein, accompanied by circum-
17 stances of aggravation.

18 (TRANSCRIPTION NOTE: Closing arguments by both
19 counsel not audible or clear enough on cassette tape to
20 be transcribed.)

21

22

23

24

25

1 THE COURT: Ladies and gentlemen, you have been very
2 attentive during the closing arguments, and I will ask
3 for your attention one last time as I go over the law
4 with you.

5 You all have heard all of the evidence in the case,
6 and it is now my duty to charge you on the law of this
7 case.

8 The Indictments charge the Defendant with attempted
9 murder and burglary in the first degree.

10 The fact that the Defendant was arrested, charged
11 and indicted in this case is not evidence and cannot be
12 considered by you as evidence of guilt, nor does it create
13 any presumption or inference of guilt.

14 The Indictments are simply the formal written instru-
15 ment which contain the charges made against the Defendant.
16 It is the formal documents by which the case is brought.

17 The Defendant has pled not guilty to these indict-
18 ments, and that puts the burden on the State to prove
19 the Defendant guilty beyond a reasonable doubt.

20 A person charged with committing a criminal offense
21 in South Carolina is never required to prove themselves
22 innocent.

23 I charge you that it is an important rule of law
24 that a defendant in a criminal trial, no matter how ser-
25 ious the charge, is always presumed to be innocent of

1 the crime for which the Indictment was issued, unless
2 guilt has been proven by evidence that satisfies you,
3 the jury, of guilt beyond a reasonable doubt.

4 This presumption of innocence does not end when you
5 begin your deliberations. It accompanies the Defendant
6 throughout the trial until you reach a verdict of guilt
7 based on evidence satisfying you of that guilt beyond
8 a reasonable doubt.

9 The presumption of innocence is like a robe of
10 righteousness placed about the shoulders of the Defendant
11 which remains with the Defendant until it has been
12 stripped from the Defendant by evidence satisfying you
13 of the Defendant's guilt beyond a reasonable doubt.

14 The presumption of innocence is not just a mere
15 legal theory. It is not just a legal phrase. It is a
16 real and substantial right to which every Defendant is
17 entitled unless you, the jury, are satisfied from the
18 evidence of the Defendant's guilt beyond a reasonable
19 doubt.

20 What is a reasonable doubt in the law? A reason-
21 able doubt is the kind of doubt which would cause a rea-
22 sonable person to hesitate to act.

23 The State has the burden of proving the Defendant
24 guilty beyond a reasonable doubt. Some of you may have
25 served as a juror in civil cases where you were told

1 that it is only necessary to prove that a fact is more
2 likely true than not true, such as by the greater weight
3 or preponderance of the evidence.

4 In criminal cases, the State's proof must be more
5 powerful than that. It must be beyond a reasonable
6 doubt.

7 Proof beyond a reasonable doubt is proof that leaves
8 you firmly convinced of the Defendant's guilt.

9 There are very few things in this world that we know
10 with absolutely certainty. In criminal cases, the law
11 does not require proof that overcomes every possible
12 doubt.

13 If, based on your consideration of the evidence, you
14 are totally convinced that the Defendant is guilty of
15 the crimes charged, you must find the Defendant guilty.

16 On the other hand, if you think there is a real
17 possibility that the Defendant is not guilty, you must
18 give the Defendant the benefit of the doubt and find him
19 not guilty.

20 During the trial, you and I have had certain duties
21 to perform. As the Trial Judge, it is my responsibility
22 to preside over the trial of the case and to rule on the
23 admissibility of the evidence offered during the trial.

24 You are to consider only the evidence before you.
25 You are to consider only the testimony that has been

1 presented from the witness stand and any exhibits which
2 have been made a part of the record in the case.

3 In every case, the jury is the sole and exclusive
4 judge of the facts. A Trial Judge cannot comment on or
5 make any statement about the facts in the case.

6 Since you are the judges of the facts, you are not
7 to take from anything I may have said during the trial
8 that I have an opinion about the case.

9 The law does not allow me to have an opinion and I
10 do not have one.

11 There are two types of evidence that have been pre-
12 sented in this trial, direct evidence and circumstantial
13 evidence.

14 Direct evidence is the testimony of a person who
15 claims to have actual knowledge of a fact, such as an
16 eye-witness. It is evidence which immediately estab-
17 lishes the main facts to be proven.

18 Circumstantial evidence is proof of a chain of facts
19 and circumstances indicating the existence of a fact.
20 It is evidence which immediately establishes collateral
21 facts from which the main fact may be inferred.

22 Circumstantial evidence is based on inference and
23 not on personal knowledge or observation.

24 To determine the facts in this case, you will have
25 to evaluate the credibility, which means the believability,

1 of each witness. Some of the things you may consider as
2 you decide whether or not to believe a witness' testimony
3 about a particular matter include what was the manner
4 and appearance of a witness who testified.

5 Was he or she straight-forward or hesitant in an-
6 swering?

7 Was the testimony of the witness consistent or in-
8 consistent?

9 How did the witness come to know the facts that he
10 or she testified to?

11 What was his ability to know these facts?

12 Is there some reason a witness would want to give
13 testimony which would help or hurt one side or the other?

14 In other words, was the witness biased or prejudiced?

15 Finally, was the testimony of a witness strength-
16 ened or weakened by other testimony or evidence?

17 Throughout this trial you have but one objective,
18 to speak the truth, regardless of its source.

19 The rules of evidence ordinarily do not permit wit-
20 nesses to testify to opinions or conclusions. An excep-
21 tion to this rule exists for witnesses who are called
22 expert witnesses.

23 A witness who by education and experience has become
24 an expert in some art or profession may give an opinion
25 as to the subject the witness claims to be an expert in.

1 They may also give the reasons for that opinion.

2 You should consider an expert opinion like any other
3 evidence and give it the weight you think it deserves.

4 If you decide that an expert witness' opinion is
5 not based on sufficient education and experience, or if
6 you decide that the reasons given in support of that
7 opinion are not sound, or that the opinion is outweighed
8 by other evidence, you may disregard the opinion in its
9 entirety.

10 An expert witness' testimony is to be given no
11 greater weight than that of any other witness simply
12 because the witness is an expert, and you do not have to
13 accept the witness' opinion, even though it is uncontra-
14 dicted.

15 There has been admitted into evidence in this case
16 a statement or confession alleged to have been made by
17 the Defendant.

18 Before you may consider this confession or state-
19 ment as evidence for any purpose, you must determine two
20 questions.

21 Did the Defendant make the statement, and was the
22 statement freely and voluntarily given?

23 The fact that the Court has admitted a statement
24 into evidence should not be considered by you as any evi-
25 dence whatsoever that the Defendant made such a statement,

1 or that the statement was voluntarily given, because
2 these are issues for you, the jury.

3 The State must prove beyond a reasonable doubt each
4 of the two essential or the two requirements which I
5 have just stated to you before you may consider those
6 statements as evidence for any purpose whatsoever.

7 As to the first requirement, did the Defendant make
8 a statement, if you conclude the Defendant did not make
9 the statement you must then completely and totally dis-
10 regard the statement.

11 If you conclude the Defendant did not make the state-
12 ment, you cannot consider it as evidence in any manner
13 whatsoever, and you should completely disregard the state-
14 ment in its entirety and every part of it.

15 If you find the Defendant did make the statement,
16 you must then consider the second requirement. The
17 second requirement, was the statement given freely and
18 voluntarily?

19 The word voluntarily means the statement was the
20 expression of the Defendant's own free will and was not
21 induced by the pressure, force or fear, or the influence
22 or promise of some benefit or reward, or extracted by
23 threats, coercion or intimidation.

24 Voluntarily means intentionally without coercion.
25 A statement is not freely and voluntarily given and

1 may not be used against the Defendant unless it is the
2 product of an essentially free and uncontrolled choice
3 by the Defendant.

4 If a statement is freely and voluntarily given, if
5 the Defendant has willed to make a statement, it may be
6 used against him.

7 If the statement is not voluntary, it cannot be used
8 against him.

9 The true test to be applied is to whether that
10 statement is freely and voluntarily and unmistakably made
11 without compulsion or inducement.

12 In determining whether the alleged statement of the
13 Defendant was freely and voluntarily given, you must con-
14 sider all of the facts and circumstances surrounding the
15 taking or the making of the statement concerning to the
16 -- concerning and relating to the voluntary or involun-
17 tary character thereof, and you must consider all of the
18 evidence in the case in reaching an ultimate conclusion
19 as to the voluntary or involuntary character of such
20 statement.

21 This is called in the law the totality of the cir-
22 cumstances. The ultimate question to be resolved by you
23 with respect to the alleged statement of the Defendant,
24 in addition to the question of whether the Defendant in
25 fact made the statement, is was the statement the expression

1 of the Defendant's own free will, without compulsion or
2 inducement made, but representing an essentially free
3 and unconstrained choice by the Defendant, was it the
4 product of an overborne will of the Defendant?

5 With regard to any alleged statement of the Defen-
6 dant, I instruct you that the State must prove by evidence
7 each and every requirement about which I have instructed
8 you.

9 The proof must be beyond a reasonable doubt before
10 you may consider the statement as evidence in this case.

11 Absent any one of the requirements about which I
12 have instructed you, the alleged statement must be dis-
13 regarded and you will accord no evidentiary weight what-
14 soever to it or to any part of it.

15 On the other hand, if you find beyond a reasonable
16 doubt that the Defendant made the statement and the
17 statement was voluntary, the statement may be consid-
18 ered by you together with all other evidence in the case
19 and given such weight, value and effect as to the whole
20 or any part thereof to which you conclude that it is
21 entitled.

22 I instruct you and emphasize that the fact that the
23 Defendant did not testify is not a factor to be considered by
24 you in any way in your deliberations and in your consid-
25 eration of the guilt or innocence of the Defendant.

1 It must not be considered by you in any manner what-
2 soever. A Defendant has a constitutional right to re-
3 main silent, and the assertion of this right must not be
4 considered by you in your deliberations.

5 I repeat, under your oath as jurors, you are to
6 draw no conclusion whatsoever from the fact that the
7 Defendant in this case did not testify. The fact that
8 this Defendant did not testify should not even be dis-
9 cussed in the jury room.

10 The burden of proof, as I have stated to you, is
11 on the State. The Defendant is not required to prove his
12 innocence.

13 The burden of proof remains on the State to prove
14 guilt beyond a reasonable doubt.

15 In order to establish criminal liability, criminal
16 intent is required. For example, the mental state re-
17 quired to be proven by the State for a particular crime
18 might be purpose, intent, knowledge, recklessness or
19 criminal negligence.

20 Criminal intent must be proven by the State beyond
21 a reasonable doubt. Criminal intent is always a matter
22 that must be determined by the jury from the circumstances
23 surrounding the situation.

24 There is no way to prove intent to a mathematical
25 certainty. There is no way medical science can dissect

301

1 a person's brain and determine what the person had in
2 mind, so the law says that criminal intent may be in-
3 ferred from the circumstances shown to have existed.

4 You must make a determination of whether or not the
5 element requiring intent was present. It is not neces-
6 sary to establish intent by direct and positive evidence,
7 but intent may be established by inference in the same way
8 as any other fact, by taking into consideration the acts
9 of the parties along with all the other facts and cir-
10 cumstances of the case.

11 Criminal intent is a mental state, a conscious wrong-
12 doing. It is up to you to determine what the Defendant
13 intended to do, based on the circumstances shown to have
14 existed.

15 Criminal intent can arise from action or failure to
16 act. It may arise from negligence, recklessness or in-
17 difference to duty or the consequences that are consid-
18 ered by the law to be the equivalent of intent.

19 The Defendant is charged with first degree burglary.
20 The State must prove beyond a reasonable doubt that the
21 Defendant entered a dwelling without consent.

22 A dwelling is any building or portion of a building
23 in which a person ordinarily sleeps. A building constructed
24 as a dwelling that has never been occupied may not be con-
25 sidered a dwelling for purposes of burglary, but a

1 building is a dwelling even if the residents are tempo-
2 rarily absent from the building.

3 In order to prove that the Defendant entered the
4 dwelling, the State does not have to show that the De-
5 fendant's entire body entered the dwelling. The small-
6 est entry is sufficient. It may be that any part of the
7 body, such as a hand or foot or even an instrument is
8 inserted. In addition, the State does not have to prove
9 that force was used to gain entry.

10 Next, the State must prove beyond a reasonable doubt
11 that the Defendant intended to commit a crime, either a
12 felony or a misdemeanor, at the time of the entry.

13 The mere entry into a building without consent is
14 not burglary. If the intent to commit a crime is formed
15 after the entry, then it is not burglary.

16 On the other hand, if the Defendant intended to com-
17 mit a crime at the time of the entry, that is burglary,
18 even if the intent was abandoned after the entering. It
19 does not matter if the intended crime was not completed.

20 Intent may be shown by acts and conduct of the De-
21 fendant and other circumstances from which you may
22 naturally and reasonably infer intent.

23 Finally, the State must prove beyond a reasonable
24 doubt that the entering, while in the dwelling or when
25 fleeing, the Defendant was armed with a deadly weapon

1 or an explosive. A deadly weapon is any article, instru-
2 ment or substance which is likely to cause death or great
3 bodily harm.

4 Whether an instrument has been used as a deadly wea-
5 pon is based on the facts and circumstances of each case.
6 The following are examples of instruments which may be
7 deadly weapons: A pistol; a shotgun; a dirk or dagger;
8 a slingshot; metal knuckles; a razor; a firebomb, malotov
9 cocktail; lighter fluid.

10 A gun may be a deadly weapon even if it is not oper-
11 able.

12 The Defendant is also charged with attempted murder.
13 Attempted murder is when a person with intent to kill at-
14 tempts to kill another person with malice aforethought,
15 either express or implied.

16 Malice is hatred, ill will, or hostility toward
17 another person. The intentional doing of a wrongful act
18 without just cause or excuse, and with an intent to in-
19 flict an injury or under circumstances from which you
20 may infer an evil intent.

21 Malice aforethought does not require that malice
22 exist for any particular time before the act is committed.
23 Malice must exist in the mind of the Defendant just
24 before and at the time the act was committed..

25 Therefore, there must be a combination of evil

1 intent -- of previous evil intent and the act. Malice
2 aforethought may be express or inferred. These terms,
3 express and inferred, do not mean different kinds of ma-
4 lice, but merely the manner in which malice may be shown
5 to exist.

6 That is, either by direct evidence or by inference
7 from the facts and circumstances which are proven.

8 Express malice is shown when a person speaks words
9 which express hatred or ill will for another, or when
10 the person prepares beforehand to do the act which was
11 later accomplished.

12 For example, lying in wait for a person or other
13 acts of preparation going to show that the deed was within
14 the Defendant's mind would be express malice.

15 Malice may be inferred from the showing of a total
16 disregard for human life.

17 Inferred malice may also arise when the deed is
18 done with a deadly weapon. A deadly weapon is any arti-
19 cle, instrument or substance which is likely to cause
20 death or great bodily harm.

21 Whether an instrument has been used as a deadly
22 weapon depends on the facts and circumstances of each
23 case, and I have given you examples of deadly weapons.

24 An attempt is an effort to accomplish a crime which
25 does not succeed.

1 An attempt includes a specific intent to do a par-
2 ticular criminal act along with an act falling short of
3 that intended.

4 The State must show more than mere preparation and
5 intent. There must be some overt act committed in the
6 effort to commit the crime.

7 Intent means intending the result which actually
8 occurs, not accidentally or involuntarily. Intent may
9 be shown by acts and conduct of the Defendant and other
10 circumstances from which you may naturally and reasonably
11 infer intent.

12 Once again, ladies and gentlemen, to prove attempted
13 murder, the State must prove beyond a reasonable doubt
14 that the Defendant attempted to kill another person with
15 malice aforethought.

16 If you find that the State has not proven that the
17 Defendant is guilty of attempted murder, you must then
18 determine whether the State has proven the Defendant is
19 guilty of assault and battery of a high and aggravated
20 nature.

21 Assault and battery of a high and aggravated nature
22 is a lesser included offense of attempted murder.

23 A person commits the offense of assault and battery
24 of a high and aggravated nature if the person unlawfully
25 injures another person or causes great bodily injury to

306

1 another person when the results or the act is accomplished
2 by means likely to produce death or great bodily injury.

3 An assault occurs when a person unlawfully attempts
4 or offers to commit a violent injury upon another person
5 and had the present ability to complete the attempted
6 injury.

7 An assault is the intentional creation of a reason-
8 ble fear of great bodily harm. It is not necessary that
9 the attempted harm actually take place.

10 For example, if I walk up to you and we are within
11 arm's reach and I draw back to hit you, that is an as-
12 sault.

13 A battery is the unlawful touching of another person
14 by the person who has committed the assault. An unlawful
15 touching can be caused by a part of the accused's body
16 or by any object the accused puts in motion.

17 A battery is the completion of the assault by apply-
18 ing force to another person, however slight, in a rude,
19 angry or resentful manner, without legal justification
20 for doing so.

21 Using my earlier example, if I carry through with the
22 assault by hitting you, then that is a battery.

23 If you find the State has not proven that the De-
24 fendant is guilty of assault and battery of a high and aggravated
25 nature, you must then determine whether the State has

1 proven that the Defendant is guilty of assault and bat-
2 tery in the first degree.

3 Assault and battery in the first degree is a les-
4 ser included offense of assault and battery of a high
5 and aggravated nature and attempted murder.

6 A person commits the offense of assault and battery
7 in the first degree if the person unlawfully injures
8 another person and the act occurred during the commission
9 of a robbery, burglary, kidnapping.

10 Great bodily injury is described as bodily injury
11 which causes a substantial risk of death or which causes
12 serious permanent disfigurement or protracted loss or
13 impairment of function of a bodily member or organ.

14 If you find the State has not proven the Defendant
15 guilty of assault and battery in the first degree, you
16 must then determine whether the State has proven the
17 Defendant guilty of assault and battery in the second
18 degree.

19 Assault and battery in the second degree is a lesser
20 includes offense of assault and battery in the first de-
21 gree, assault and battery of a high and aggravated nature
22 and attempted murder.

23 A person commits the offense of assault and battery
24 in the second degree if the person unlawfully injures
25 another person or offers or attempts to injure another

308

1 person with the present ability to do so, and moderate
2 bodily injury to another person results or moderate bodily injury to another person could have resulted.

3 Moderate bodily injury is physical injury requiring
4 treatment to a broken system of the body other than skin,
5 muscles and connected tissue of the body, except where
6 there is a penetration of the skin, muscles and connective
7 tissues which require surgical repair of a complex
8 nature, or when treatment of an injury requires use of
9 regional or general anesthesia.

10 Now, I have declared the law to you through these
11 instructions to guide you to a just and lawful verdict.
12 Whether some of these instructions will apply will depend
13 upon what you find to be the facts.

14 The fact that I have instructed you on various subjects in this case should not be taken as indicating any
15 opinion of this Court as to what you should find to be
16 the facts of the case or to what your verdict should be.

17 Your verdict must represent the considered judgment
18 of each juror. In order to return your verdict, it is
19 necessary that each juror agree. Your verdict must be
20 unanimous. All twelve of you must agree on the verdict.

21 Your verdict cannot be based on sympathy, passion,
22 prejudice or emotion, or any other consideration than
23 the evidence in this case.

1 Remember that you are not partisans, favoring one
2 party or the other. You are the judges of the facts and
3 your sole interest is to seek the truth in this case.

4 Now, Madam Forelady, as you can imagine from what I
5 have told you, I have a verdict form, and I will go over
6 this with you. Okay?

7 This is the verdict form. These are the Indictments,
8 and this says please encircle the appropriate verdict
9 form and follow the accompanying instructions carefully.

10 Number one, we, the jury, unanimously find the De-
11 fendant, as to the charge of burglary in the first de-
12 gree, guilty or not guilty.

13 Those are your choices, and after that you are re-
14 quested to go to number two.

15 Number two, we, the jury, unanimously find the De-
16 fendant, as to the charge of attempted murder, guilty or
17 not guilty.

18 If you answer not guilty as to number two, you go
19 to number three.

20 If you answer guilty, stop your deliberations and
21 sign the verdict form.

22 Verdict number three is we, the jury, unanimously
23 find the Defendant, as to the charge of assault and bat-
24 tery of a high and aggravated nature, guilty or not
25 guilty.

1 Again, if you answer not guilty to number three, move
2 to question four.

3 If you answer guilty, stop your deliberations and
4 sign and date the form.

5 Question number four, we, the jury, unanimously find
6 the Defendant, as to the charge of assault and battery
7 in the first degree, guilty or not guilty.

8 If you find not guilty to question four, go to ques-
9 tion five.

10 If you find guilty, stop deliberating and sign and
11 date the verdict form.

12 Verdict Number five, we, the jury, unanimously find
13 the Defendant, as to the charge of assault and battery
14 in the second degree, guilty or not guilty.

15 You would put your signature and date.

16 Now, you are not going to be given this verdict form
17 until you begin your deliberations. What's going to hap-
18 pen now is I am going to excuse you to go back to the
19 jury room but you cannot begin discussing the case yet
20 because I've got to go over my charge with these attorneys.

21 If I mis-spoken or left out something or something
22 needs to be clarified, I will bring you back out here
23 and make that addition or correction.

24 If I don't need to bring you back in, what is
25 going to happen is that all of the evidence that has

311

1 been introduced into this case and the verdict form will
2 be brought back into your jury room; and at that time
3 you can begin your deliberations.

4 I'd ask you to go back to your jury room right now
5 but do not begin your deliberations until told to do so.

6 Thank you.

7 (Jury excused from Courtroom)

8 (Cassette tape was changed and a portion of the
9 discussion at this point was not recorded on either tape)

10 THE COURT: All right, bring the jury back.

11 (Jury returned to Courtroom)

12 (Conference was held between counsel and the Court
13 at the bench off the record)

14 THE COURT: Ladies and gentlemen, I'm going to read
15 you the statutory definition of burglary in the first
16 degree.

17 A person is guilty of burglary in the first degree
18 when the person enters the dwelling of another without
19 consent, and with the intent to commit a crime in the
20 dwelling, and when in affecting the entry he or another
21 participant in the crime is armed with a deadly weapon or
22 explosive, or an instrument which is likely to cause
23 injury to a person not a participant in the crime.

24 All right. Now we will be coming back to the jury
25 room with the verdict form and the exhibits when you are

312

1 to begin your deliberations. Thank you.

2 You may retire again to your jury room.

3 (Jury excused from Courtroom)

4 THE COURT: Get the Exhibits together and make sure
5 everything is there. I appreciate it.

6 (Whereupon, jury was instructed to commence delib-
7 erations)

8 (The Court stood in recess for a brief period, and
9 the matter then was resumed)

10 THE COURT: We have a note from the jury. The
11 first question from the jury is, we would like the defin-
12 ition for burglary in the first degree, attempted murder,
13 assault and battery of a high and aggravated nature, and
14 assault and battery in the first degree. All right.

15 Now, how do we respond to them?

16 MR. WISE: One thing I didn't bring up is -- if
17 you are going to recharge them -- I don't know what you
18 are going to do but when you charged them earlier you
19 charged attempted murder, including malice and intent and
20 all of that. You read the assault and battery of a high
21 and aggravated nature.

22 You defined assault and defined battery, and you
23 read the assault and battery, first definition, with --
24 you defined great bodily injury and we believe great bod-
25 ily goes with ABHAN not the assault and battery first.

312

1 THE COURT: Okay.

2 SOLICITOR: If you recharge them, I would ask that you
3 kind of flip-flop that in your charge as it's not part
4 of what you charge on assault and battery.

5 The assault and battery first only dealt with caus-
6 ing physical injury to a person while committing a burg-
7 lary.

8 THE COURT: Okay.

9 SOLICITOR: You could charge the intent part of it
10 which did deal with great bodily injury.

11 I think you charged the definition of great bodily
12 injury kind of after you read the assault and battery
13 first, where it should have been after the ABHAN.

14 THE COURT: Oh, yes. I remember that. You are
15 right about that.

16 Anything, Mr. Wise?

17 MR. WISE: I thought you had charged the great bod-
18 ily injury after the ABHAN. That would be -- I would pre-
19 fer how the Court -- that is the right...

20 THE COURT: Let me look at that.

21 MR. WISE: Certainly ABHAN requires great bodily in-
22 jury, and it is appropriate to give the definition of
23 great bodily injury -- the statute gives the definition
24 so it is appropriate to give them.

25 THE COURT: Thank you. What I would like to do is

1 read them attempted murder which is when a person at-
2 tempts to kill another person with malice aforethought
3 either express or implied.

4 Then the smaller or most basic definition of reason-
5 able doubt.

6 And the definition -- I think I need to give them
7 the definitions of great bodily injury and moderate bod-
8 ily injury, or do I need to read the entire charge to
9 them?

10 SOLICITOR: I think you need to probably define mal-
11 ice also. I'm not sure you need to get into redefining
12 what assault is and what battery is but I don't believe
13 -- I don't think that is essentially what they are
14 asking.

15 THE COURT: Okay. I will define malice. I will
16 leave out the examples.

17 Then I want to give them -- they don't want the
18 second.

19 SOLICITOR: Right.

20 THE COURT: All right. You can bring the jury back
21 in then.

22

23

24

25

1 (Jury returned to Courtroom)

2 THE COURT: Okay, bring the jury back in.

3 (Jury returned to Courtroom)

4 THE COURT: All right, Madam Forelady, I'm going to go
5 over these definitions in a somewhat briefer fashion than
6 I did the first time, but I will have to go over some
7 additional things before I do that.

8 First of all, you wanted a definition of burglary
9 in the first degree. A person is guilty of burglary in
10 the first degree if the person enters a dwelling without
11 consent and with the intent to commit a crime in the
12 dwelling and when in affecting entry or while in the
13 dwelling or in immediate flight he or another partici-
14 pant in the crime is armed with a deadly weapon or ex-
15 plosive, or causes physical injury to a person who is
16 not a participant in the crime.

17 That's burglary in the first degree.

18 Before I read you the definition of attempted murder,
19 assault and battery of a high and aggravated nature and
20 assault and battery in the first degree, this is the
21 first of two definitions that I'm going to give you --
22 those are definitions of great bodily injury and moderate
23 bodily injury.

24 Great bodily injury means bodily injury which causes
25 a substantial risk of death or which causes serious

1 permanent disfigurement or protracted loss or impairment
2 of the function of a bodily internal organ.

3 That is great bodily injury.

4 Moderate bodily injury means physical injury requir-
5 ing treatment to an organ system of the body other than
6 the skin, muscles and connective tissues of the body, ex-
7 cept when there is a penetration of the skin, muscles or
8 connective tissue that require surgical repair of a com-
9 plex nature or when treatment to the injuries requires
10 the use of regional or general anesthesia.

11 The definition of attempted murder is when a person
12 who, with the intent to kill, attempts to kill another
13 person, with malice aforethought, either express or im-
14 plied.

15 Now, I will re-read malice to you. Malice is hatred,
16 ill will or hostility towards another person. It is the
17 intentional doing of a wrongful act without just cause
18 or excuse, with an intent to inflict injury or under cir-
19 cumstances that the law will infer an evil intent.

20 Malice aforethought -- it is not required that ma-
21 lice exist for any particular time before the act is com-
22 mitted, but malice must exist in the mind of the Defen-
23 dant just before and at the time the act is committed, or
24 there must be a combination of the previous evil intent
25 and the act.

1 Malice aforethought may be express or inferred, and
2 these terms, express and inferred, do not mean different
3 kinds of malice but the manner in which malice may be
4 shown to exist.

5 That is, either by direct evidence or by inference
6 from the facts and circumstances which are proved.

7 Express malice is shown when a person speaks words
8 which express hatred or ill will for another, or when the
9 person prepared beforehand to do the act which was later
10 accomplished.

11 For example, lying in wait for a person, or any
12 other acts of preparation going to show the deed was
13 within the Defendant's mind, that being express malice.

14 Malice may be inferred from conduct showing a total
15 disregard for human life. Inferred malice may also arise
16 when the deed is done with a deadly weapon.

17 A deadly weapon is any article, instrument that is
18 likely to cause death or great bodily harm, and whether
19 an instrument has been used as a deadly weapon depends
20 on the facts and circumstances in each case.

21 Assault and battery of a high and aggravated nature
22 -- assault and battery of a high and aggravated nature --
23 a person commits the offense of assault and battery of a
24 high and aggravated nature if the person unlawfully in-
25 jures another person and great bodily injury to another

1 person results or the act is accomplished by means likely
2 to produce death or great bodily injury.

3 And assault and battery in the first degree -- a
4 person commits assault and battery in the first degree
5 if a person unlawfully injures another person and the
6 act occurred during the commission of a robbery, burglary,
7 kidnapping, or theft.

8 Okay, you all can go back and continue your deliber-
9 ations.

10 (Jury excused from Courtroom)

11 THE COURT: Any corrections from the State?

12 SOLICITOR: No, sir.

13 THE COURT: Any corrections from the Defendant?

14 MR. WISE: No, sir.

15 THE COURT: Okay, we'll be back in recess.

16 (Court stood in recess for period, after which the
17 matter was resumed)

18 THE COURT: I am informed that the jury has reached
19 a verdict. Please bring in the jury.

20 (Jury returned to Courtroom)

21 THE COURT: Madam Forelady, has the jury reached a
22 verdict?

23 FORELADY: We have, Your Honor.

24 THE COURT: Is it unanimous?

25 FORELADY: Yes, sir.

THE COURT: Please give your verdict to the Bailiff.
318

1 (Verdict form shown to the Court)

2 THE COURT: All right. State of South Carolina ver-
3 sus Darius Ransom, Indictments 2012 GS 38 114 and 124.

4 Regarding question number one, we, the jury, unan-
5 imously find the Defendant, as to the charge of burg-
6 lary in the first degree, guilty.

7 Question number two, we, the jury, unanimously find
8 the Defendant as to the charge of attempted murder not
9 guilty.

10 Question number three, we, the jury, unanimously find
11 the Defendant, as to the charge of assault and battery
12 of a high and aggravated nature, guilty.

13 It's signed by the Forelady, today.

14 Anything from the State?

15 SOLICITOR: No, sir.

16 THE COURT: Anything from the Defendant?

17 MR. WISE: We would ask that the jury be polled.

18 THE COURT: Okay. Ladies and gentlemen of the jury,
19 the Defense has requested that the jury be polled. They
20 are going to ask you questions about the verdict form.
21 Each one of them will be asked individually by the Clerk.

22 Madam Clerk?

23 (Whereupon, the Clerk asked the jurors individually
24 and by name if this was their verdict and if it still
25 is their verdict, to which each juror replied to both

1 questions in the affirmative)

2 THE COURT: Anything else?

3 MR. WISE: No, sir.

4 THE COURT: Ladies and gentlemen, as I told you be-
5 fore you began your deliberations, I appreciate your at-
6 tention during the trial and your time. I appreciate
7 your deliberations.

8 You have now done your duty, and you are now excused
9 from jury service for the remainder of the year and you may
10 be excused for the next two years.

11 (Jurors excused by the Court)

12 THE COURT: All right, sir.

13 MR. WISE: I was going to ask for a few days before
14 coming before the Court asking for a new trial, but I'd
15 like to move now.

16 The initial motion is related to the confession as
17 allowed into evidence. I think the Court has heard the
18 testimony regarding that confession, and I would ask the
19 Court grant the Defendant a new trial and grant the mo-
20 tion to suppress that confession.

21 THE COURT: Okay.

22 MR. WISE: In addition, I would ask the Court to
23 grant the motion respectfully as to the Court's decision
24 on assault and battery of a high and aggravated nature.

25 THE COURT: Okay.