

 ORIGINAL

STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM SPARTANBURG COUNTY

G. Thomas Cooper, Circuit Court Judge

THE STATE,

V.

WENDELL BERNARD WILKINS,

APPELLANT

APPELLATE CASE NO. 2014-002276

RECORD ON APPEAL

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RESPONDENT

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**THE FOLLOWING EXHIBITS ARE ON FILE WITH THIS COURT:
STATE'S EXHIBITS NO. 1-13 (PHOTOS); NO. 14 (SPliced VIDEO CD);
AND NO. 16 (RAW FOOTAGE VIDEO CD).**

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

The State,)
-vs-) TRANSCRIPT OF RECORD
Wendell B. Wilkins,) 2013-GS-42-03879
Defendant.) October 13 and 14, 2014
Spartanburg, South Carolina

B E F O R E:

HONORABLE G. THOMAS COOPER, JUDGE; and a jury

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3	S-1	Photograph	37	155
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MOTIONS AND MATTERS

1 (Proceedings October 13, 2014)

2 THE COURT: Alright, Solicitor, call your case.

3 MR. FULMER: The State calls Wendell B. Wilkins
4 Indictment Number 2013-GS-42-3879.

5 THE COURT: Alright. Any matter matter of a pretrial
6 nature that need to be taken up by the Court prior to ha--
7 paneling a jury?

8 MR. HALL: Yes, sir, Your Honor, uh, there is a video the
9 State gave to me, uh, several months ago when this case was up
10 but we didn't get to it. Uh, this is a video we didn't have
11 at the first trial back in April where they had spliced some
12 things together ---

13 THE COURT: You did or did not have?

14 MR. HALL: We did not ha -- we did -- it was not even
15 created until after the first trial, the, uh, mistrial. Uh,
16 it has different views spliced together. Your Honor, we
17 object to it 'cause it is I believe confusing, uh, where the
18 times jump back and forth because you're lookin' at different
19 views and it's more of a compilation of still videos. Uh,
20 they'll have the back a the store on the road then in the
21 store and it jumps back and forth and times aren't consistent,
22 uh, Your Honor, you'll be, you know, a second ahead and then
23 they jump back for a different view and kinda come up and they
24 go further then jump back to another one but, uh, I'm not sure
25 if he's gonna use it or not.

MOTIONS AND MATTERS

1 THE COURT: Any question about the authenticity, uh, ---

2 MR. HALL: Uh, it, uh, it is from the, uh, video
3 surveillance of the, uh, multiple cameras at the store,
4 there's no doubt of that ---

5 THE COURT: You're satisfied with that?

6 MR. HALL: Yes, ---

7 THE COURT: Okay.

8 MR. HALL: --- uh, just that I think it's confusing and
9 as I was, I told the Court and the Court and the solicitor
10 earlier, uh, and my original position was that the better way
11 to do it is show the video in its entirety, we're talkin' just
12 a few minutes, and in that viewing with my client over the
13 weekend, uh, this past weekend over the weekend it looks as
14 though there's something wrong with the video because, uh,
15 just say for the front of the jury box where the, uh,
16 attempted robber is here (indicating) and at the same instant
17 on a do -- different camera he's 10 or 15 feet away at the
18 door, uh, and for that reason we would move to suppress the
19 videos, uh, because, uh, somethin', it's just somethin' has
20 gone wrong with this video, I don't know if it's and if
21 somethin's been intentionally, uh, done or accidentally
22 done ---

23 THE COURT: Manipulated.

24 MR. HALL: --- but but at at the point that's crucial in
25 this trial is a profile of the person trying to rob and it's

MOTIONS AND MATTERS

1 at that point when there's a glitch where right or immediately
2 after that there's a glitch where the perpetrator's at two
3 different places at the same time leading us to speculate
4 there must be something has gone on with this video. I'm not
5 sure if it's, uh, somethin' the store did, somethin' that
6 happened after that with the, uh, police working on it, uh,
7 but it's at that critical point where they ask their
8 witnesses, And is that Wendell Wilkins, and then that's when
9 there's a pro -- that's when there's a problem in the video
10 where the the perpetrator's in two different spots at one time
11 and, Your Honor, ---

12 THE COURT: Sir.

13 MR. HALL: --- I guess what we need to do is for the
14 purpose a this we put the the videos in, uh, the other
15 issue ---

16 THE COURT: Let me hear from solicitor's office. Well
17 now was it a, is it attempt to redact certain portions or .
18 what ---

19 MR. FULMER: Your Honor, this morning was the first time
20 I heard, uh, that Mr. Hall had a problem with the video. I'm
21 not familiar with the image that he's referring to, I have not
22 noticed any anomaly in the video, I've watched it many times.
23 Uh, ---

24 THE COURT: It's -- that's the condensed version?

25 MR. FULMER: No, sir, I think Mr. Hall's referring to the

MOTIONS AND MATTERS

1 raw security ---

2 THE COURT: The raw, ---

3 MR. FULMER: --- footage.

4 MR. HALL: The raw security there's the four minutes of
5 video, uh, there's the two issues, one I -- we need to talk to
6 the store to answer the question but, uh, I guess but for a
7 couple questions but the multi-view until this past week I
8 have never set down, uh, particularly with my client and
9 looked at the multi-view through its entirety where a
10 camera'll pop up, it's filmin' because there's motion. It's
11 set up for 16 cameras and you have 1 through 12 lined up, then
12 you have 13, 14, 16 and a blank and I don't know if there's a
13 working camera number 15 that's been taken out for some reason
14 or what the issue is. There's a couple of, ---

15 THE COURT: So ---

16 (Indiscernible cross-talk.)

17 MR. HALL: --- uh, cameras that never came on during it
18 so it it looks like somethin's gone on with the video, Your
19 Honor.

20 THE COURT: Alright, let me understand. The 4-minute
21 video ---

22 MR. HALL: Yes.

23 THE COURT: --- is the one you are concerned about.

24 MR. HALL: That I'm concerned about -- well the the
25 splice together I think is just confusing but it comes from

MOTIONS AND MATTERS

1 this video that I'm movin' to suppress because it looks as
2 though somethin' has gone on with this. There's a camera
3 missing, it's just a blank spot, it's not a and spot fi --
4 camera 15's the one's that's not accounted for, it's not
5 in -- it is they moved 16 over to 15 and it could just be that
6 there's no camera 15 anymore but we don't know that and, uh,
7 uh, but the other crucial thing is it appears in the video as
8 it's playing the 15 cameras that the perpetrator is in two
9 different spots at the same time which would lead me to
10 conclude somethin' has gone on with the video at some point
11 and I'm not s -- I'm not sayin' that somebody purposely did
12 anything but it it looks like somethin' has happened with this
13 video that, uh, makes it look like it's been tampered with in
14 some way.

15 THE COURT: Mr. Fulmer.

16 MR. FULMER: Judge, I I would have, uh, both the the
17 clerk he has reviewed this video, he would and will testify,
18 uh, that it's an accurate depiction of the store that day,
19 that it is from the security ---

20 THE COURT: How 'bout this camera 15 if if there is such
21 a thing?

22 MR. FULMER: I don't know the answer to that, it's not
23 become an issue until right now, Judge. Uh, ---

24 MR. HALL: If you hit that on multi-view, the -- go up
25 there and multi-view and all the way down to multi-view there

MOTIONS AND MATTERS

1 (indicating) click -- hit 14, 16 play and then at, uh, ---

2 MR. FULMER: Oh, yeah, and the recording that was
3 downloaded from the store just doesn't have a a 15th camera,
4 uh, there's no camera labeled 15, that's just what is.

5 THE COURT: Well ---

6 MR. FULMER: Now this anomaly Mr. Hall had to point that
7 out to me, I I've never notice that ---

8 MR. HALL: At 17:42:48.

9 THE COURT: Alright.

10 MR. HALL: 748 ---

11 (Indiscernible cross-talk.)

12 THE COURT: Uh, is there some definitive way of
13 determining what 15 is or was?

14 MR. FULMER: I can ask the clerk, Judge, he ---

15 THE COURT: He means the clerk know what's what's ---

16 MR. FULMER: He's a long-time employee, he runs this
17 system and he ---

18 THE COURT: Oh, he runs the system.

19 MR. FULMER: --- expect him to have knowledge of it,
20 Judge.

21 THE COURT: Alright, where is he?

22 MR. FULMER: Uh, he should be in our office upstairs.

23 THE COURT: Why don't we just -- is this the only issue?

24 MR. HALL: This is yes, sir, it's just this, uh, ---

25 THE COURT: We don't need a ---

MOTIONS AND MATTERS

1 MR. HALL: --- the ---

2 THE COURT: --- *Jackson v.* ---

3 MR. HALL: --- it is.

4 THE COURT: --- *Denno* or anything else?

5 MR. HALL: No, sir, there's no statements and ---

6 THE COURT: No identification other than this?

7 MR. HALL: There is I think potentially two witnesses
8 that are gonna say, I know him and that's him.

9 THE COURT: Oh, no *Biggers*?

10 MR. HALL: No.

11 THE COURT: Alright. Alright, well why don't we come
12 back at 1:15, you see if you can solve this problem, uh, or at
13 least get an explanation ---

14 MR. FULMER: Yes, sir.

15 THE COURT: --- and, uh, that give you enough time ---

16 MR. FULMER: I'll do my best, sir, yes.

17 THE COURT: --- or 1:30.

18 MR. FULMER: 1:30, okay.

19 THE COURT: 1:30 and then jury doesn't come 'til 2.

20 MR. HALL: Yes, sir, as I say it's just, the video's
21 just, uh, about four minutes in its entirety.

22 THE COURT: Well give you an hour and a half to review a
23 4-minute video.

24 MR. FULMER: Thank you, Judge.

25 MR. HALL: Thank you, Your Honor.

MOTIONS AND MATTERS

1 THE COURT: Alright. Alright, stand at ease 'til 1:30.

2 MR. HALL: Yes, sir.

3 (Whereupon, a recess was taken.)

4 THE COURT: Alright, be seated, thank you. Alright, uh,
5 Counsel, where are we?

6 MR. HALL: Your Honor, I have, uh, the motion about, uh,
7 the video ---

8 THE COURT: Right.

9 MR. HALL: --- uh, from surveillance. Uh, when we
10 finally got it working again, uh, some reason it won't work
11 this morning, at, uh, 17:42, 5:42.47 seconds, 47.55 seconds,
12 it shows the perpetrator at the door and it also shows him
13 back down the aisle struggling with the clerk or just getting
14 finished with the struggle with the clerk and that is
15 precisely the moment of the photograph that there's a profile
16 shot of the suspect in this case, the perpetrator of this
17 attempted robbery and, Your Honor, obviously somethin' has
18 gone on with this video that you have, you know, a person
19 can't be in two places at the same time on surveillance, uh,
20 on cameras and also we, I don't think we know anything more
21 about fi -- camera 15 whether it's a, was a camera taken out,
22 a camera that was or -- taken out of this by somebody or what
23 but, uh, but, Your Honor, we were moving to suppress and I
24 think we both got the, uh, video working on our computers. I
25 assume they'll be, think if they -- if you rule against us,

MOTIONS AND MATTERS

1 they'll be, uh, putting this into evidence and showing it to
2 the jury.

3 THE COURT: Alright, what, how 'bout it, Solicitor,
4 what's ---

5 MR. FULMER: Judge, trus ---

6 THE COURT: I hadn't ---

7 MR. FULMER: --- the sof ---

8 THE COURT: --- seen it so it's kinda hard for me to
9 envision.

10 MR. FULMER: And it might be easier, it may simplify the
11 whole matter if you do watch it, Judge, but the software for
12 the security footage kinda has two modes, it has a
13 multi-screen mode which shows all 16 cameras or in this case
14 15, one stays blank the entire time, you can watch those at
15 one, all at one time or you can tell it to show you just a
16 single camera and each a the cameras are motion-activated.
17 Uh, what it appears to me is when you put it in 16 view mode,
18 the last piece of motion that's recorded by a camera freezes
19 in that camera for a moment and so that camera 7 for instance
20 may show an image, the last image it caught while camera 6
21 activates and sees new image, a new image comin' into that
22 field a view so it may ---

23 THE COURT: Is there more ---

24 MR. FULMER: --- appear ---

25 THE COURT: --- is there more than one actor ---

MOTIONS AND MATTERS

1 MR. FULMER: No, sir.

2 THE COURT: --- in this?

3 MR. FULMER: Well ---

4 THE COURT: So we've ---

5 MR. FULMER: --- there's the victim ---

6 THE COURT: --- got two two or three people where motion
7 activates a camera?

8 MR. FULMER: There are two people in the store yes, sir.

9 MR. HALL: The the clerk and perpetrator.

10 THE COURT: Okay.

11 MR. HALL: And, Your Honor, what I did was ---

12 THE COURT: You know, here's ---

13 MR. HALL: Yes.

14 THE COURT: --- here's the thing, uh, if it's authentic
15 and it shows what it shows, I I have to let it in. If if
16 it's, apparently it's been tampered with now and I understand
17 redaction and splicing and that sorta thing but if it's been
18 tampered with so as to unduly prejudice this defendant then I
19 I have to leave, I have to exclude it, so I'm I'm just
20 strugglin' to find out where where we are. Mr. Hall seems to
21 think it's been tampered with and ---

22 MR. FULMER: Ju ---

23 THE COURT: --- and at -- to his client's detriment. Uh,
24 I don't, I don't know that, that you you you're probly in the
25 best position to know 'cause you talked to the people that run

MOTIONS AND MATTERS

1 the ---

2 MR. FULMER: Yes, sir, Judge, and I'll -- we'll present
3 evidence, uh, through the sheriff's office that, uh, this was
4 recorded directly from the security system in the store, it
5 was not tampered with, it simply been copied for the purposes
6 of today's hearing and providing discovery, uh, you'll also
7 hear testimony from the clerk who has reviewed the footage and
8 he will state to you that ---

9 THE COURT: You have the person that did the ---

10 MR. FULMER: --- that's what ---

11 THE COURT: --- modifications or ---

12 MR. FULMER: I do, ---

13 THE COURT: --- splicing?

14 MR. FULMER: --- yes, sir, Your Honor. And we're talking
15 about two different things: There there's the the second DVD
16 which contains a spliced version ---

17 THE COURT: I understand that.

18 MR. FULMER: --- uh, but af -- what what Mr. Hall's
19 talkin' about right now is he's ---

20 THE COURT: Yeah, ---

21 MR. FULMER: --- objecting ---

22 THE COURT: --- the un ---

23 MR. FULMER: --- to the raw ---

24 THE COURT: --- un ---

25 MR. FULMER: --- footage.

MOTIONS AND MATTERS

1 THE COURT: --- unedited ---

2 MR. FULMER: Yes, sir.

3 THE COURT: --- version.

4 MR. FULMER: Yes, sir.

5 THE COURT: Understand that. Does your officer have any
6 explanation as to why ---

7 MR. FULMER: As ---

8 THE COURT: --- why what Mr. Hall says is ---

9 MR. FULMER: I cou -- I'd be glad to put him on the ---

10 THE COURT: You ---

11 MR. FULMER: --- stand let him explain to you the extent
12 of his knowledge about the system. What he's related to me is
13 that the reason that may appear to have person two places ---

14 THE COURT: Well why don't, why don't -- let's get
15 somebody that maybe knows more than all of us put together to
16 proffer that evidence.

17 MR. FULMER: Okay, thank you, Judge. State calls William
18 Gary.

19 THE COURT: Garrett?

20 MR. FULMER: Gary.

21 THE COURT: Gary.

22 (Whereupon, the witness came forward.)

23 WILLIAM GARY, having been
24 first duly sworn, testified as follows:

25 THE CLERK: Have a seat, please.

WILLIAM GARY - DIRECT EXAMINATION BY MR. FULMER

1 THE WITNESS: Thank you.

2 DIRECT EXAMINATION BY MR. FULMER:

3 Q. Investigator Gary, where do you work?

4 A. With Spartanburg County Sheriff's Office.

5 Q. How long have you worked there?

6 A. Little bit over 19 1/2 years.

7 Q. Were you involved in the investigation of a armed robbery
8 that occurred on April the 4th, 2013 ---

9 A. Yes, I was.

10 Q. --- out at the Fast Fuel station on Cannons Campground
11 Road?

12 A. Yes.

13 Q. Uh, what did you do in relation to that robbery?

14 A. I went out to the store and exported the video off of the
15 computer there where it stores their video data for their
16 surveillance system.

17 Q. This woulda been video that depicted the robbery in
18 progress?

19 A. Yes.

20 Q. Did you do anything to alter or amend the, uh, the video?

21 A. The original export I did not. I exported off to a thumb
22 drive then just copied all those files directly to a CD to
23 place into evidence. Uh, later on I did export times from
24 each camera and then put those together in somewhat of a
25 sequence that overlaps a little bit in time to help it easier

WILLIAM GARY - DIRECT EXAMINATION BY MR. FULMER

1 to view the entire incident on one video screen instead of
2 havin' to switch from camera to camera, uh, it makes it easier
3 if you put it together like that.

4 Q. Did you do anything that would alter the actual images
5 that were recorded by the s -- that was recorded by the
6 security system?

7 A. No, none of the, none of -- nothing was altered at all in
8 this case on -- in this situation.

9 Q. Have you had a chance to review the raw footage from the
10 security system?

11 A. Yes.

12 Q. Have you noticed the anomaly that Mr. Hall was talking
13 about where the perpetrator in this case, uh, might be present
14 in the view of two cameras at the same time or three cameras
15 at the same time?

16 A. I have.

17 Q. And do you have an explanation for that?

18 A. The DVR software obviously it does from the set up to
19 record in motion and this software seems to have, think
20 "glitch" is a good term, but a lagging effect, uh, with some
21 of the cameras where some of them are moving at different
22 speeds. In the time frame where h -- that he's discussing
23 with being at the door if you go to the camera view that shows
24 the door and it shows suspect at the door and you stop it and
25 then you up on the top a the software if you select the other

WILLIAM GARY - DIRECT EXAMINATION BY MR. FULMER

1 camera views, uh, it doesn't change your time at the bottom,
2 just changes what camera you're looking at, it places the the
3 suspect in the exact same position on the three cameras that
4 were in question that I was told about so it's in the
5 multi-view there's some lag in it but in the single camera
6 view you've got the person in exact same position on whichever
7 camera you're looking at, uh, on -- at the same time and I
8 think I printed off some stills that shows that for you, uh, I
9 don't know if you got 'em at the printer or not.

10 Q. Would it be fair to say that the the fact that the
11 perpetrator in this case might appear in two places, not, I I
12 don't wanna say at the same time because there at two
13 different times but they appear on the screen of the software
14 at the same time is that more of an artifact of the, of the
15 software?

16 A. It's an anomal -- ano -- anomaly, a glitch or hang up or
17 something in the software that causes the person to appear to
18 be in two different places at the same time based on the time
19 on the screen, uh, two different and show up in two different
20 cameras where physically would not be possible.

21 Q. And is that only in the 16 view mode?

22 A. That's where I've seen it, yes.

23 Q. Okay. Please answer any questions Mr. Hall might have
24 for ya.

25 CROSS-EXAMINATION BY MR. HALL:

WILLIAM GARY - CROSS-EXAMINATION BY MR. HALL

1 Q. When did you pick up -- download, export the disk?

2 A. I don't remember the date, I'd have to look at the
3 evidence sheet.

4 Q. You have the evidence sheet?

5 A. It was within a day or so of the robbery I think.

6 Q. Let's see. Alright, this robbery was on the 4th?

7 A. Don't remember.

8 Q. That's your supplemental.

9 A. Okay. Um, I got it on April the 12th.

10 Q. Thank you. So if the ro -- this robbery, attempted
11 robbery occurred on the 4th, that be eight days later?

12 A. Yes.

13 Q. Alright. Now may approach the, uh, witness with my
14 computer if it'll still work, the disk is tryin' to pop out,
15 make sure it's not, I'll have to reload it. Okay. Now the
16 door picture we're talking' about you say where the anomaly,
17 remember it's camera 6?

18 A. I think it was 6, 7 and 9 are the three cameras that were
19 pointed out to me.

20 Q. Okay, my computer I think's tryin' to reload everything,
21 apologize. Now are there different segments broken down times
22 on this that, uh, other words, in some kinda different files
23 on the same disk?

24 A. Well there's different files on the same disk and
25 sometimes with this system it does work better if you copy

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1 every file on the disk, ---

2 Q. Um-hum.

3 A. --- copy it to your computer and play it off the hard
4 drive instead of off the disk, sometimes that does affect the
5 play back on it, ---

6 Q. Okay.

7 A. --- uh, ---

8 Q. Uh, ---

9 A. --- but on this one you won't have different times,
10 you'll have, you'll have different times obviously but this is
11 just a complete back up of the system, it's how the system
12 plays it and everything else stored.

13 Q. Alright. This is camera 6, this is the shot we're
14 talking about.

15 A. Yes.

16 Q. Alright. Now goin' to that single view, if I pull it
17 back that's blue screen at 42 se -- uh, 42: ---

18 A. Right.

19 Q. --- 37.109, right? If we pull it over, ---

20 A. If you flip that, it'll go frame to frame.

21 Q. Okay. And just -- that's (indicating) where he
22 appears?

23 A. Yes.

24 Q. Okay. Now leaving it the same time, we go back up to
25 multi-view ---

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1 A. Click on the camera up here (indicating) and go to the
2 other camera, it'll show you that he's in the same place on
3 the other two cameras.

4 Q. Okay, well if we go to the multi-view at the same
5 time, ---

6 A. Okay.

7 Q. --- multi-view 1, we sti -- we have him, the perpetrator
8 back with it, which is pretty much the still photo you have
9 and at the door at the same time.

10 A. Okay, and that's, I'm not gonna dispute that. Doing it
11 that way you're correct but if you just click on camera 7 at
12 the top when you're looking at the single image, it's gonna
13 show him at the door the same place that camera 6 shows him.
14 If you click camera 7 up there (indicating), ---

15 Q. And that's exact same picture ---

16 A. Well, ---.

17 Q. --- where ---

18 A. --- hang on a second. If you go back camera 6, ---

19 Q. And that's ---

20 A. --- let's back it up and let, just let it play. Go
21 back ---

22 Q. 'Cause it ju -- it's jerky right there (indicating).

23 A. That's motion.

24 Q. Yeah, I know but, I mean, it's ---

25 A. Jumpy 'cause a motion. If we go back, go back to him at

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1 the door there (indicating) and then I go up to camera 7
2 without manipulating the time bar, it shows him at the exact
3 same place ---

4 Q. Yes.

5 A. --- at the same time.

6 Q. But do ---

7 A. When you just slide the time bar, you're adjusting the
8 time for the camera that you're looking at. If you've noticed
9 the time, the video that's ---

10 Q. That ---

11 A. --- on the side are not the same for every camera 'cause
12 it's gonna show you video events for the motion.

13 Q. We're back to 47:50.

14 A. Did you do that by slidin' the time bar ---

15 Q. Yeah.

16 A. --- or by letting it play backwards?

17 Q. Well, uh, uh, go back.

18 A. If you let it play, it makes, it let's things catch up.
19 Now if you use the the forward frame or back frame, it does
20 the same thing as play.

21 Q. Well I did it your way, I played up to that, I froze it
22 at 48 seconds point -- 48. ---

23 A. I think, I think ---

24 Q. --- 292.

25 A. --- part a the confusion just comes from manip the the

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1 play bar. If you play it backwards which is what I'm doing
2 here (indicating) then I pause it and if you -- if I pa -- let
3 it play, you tell me when you want it to stop.

4 Q. Well you've already passed the spot.

5 A. Okay.

6 Q. When you're sayin' "tell me when," that -- you're already
7 past it.

8 A. I'll do a frame back. Is that the one you what?

9 Q. Uh, well, let's ---

10 A. 'Cause I can just frame ---

11 Q. (Indiscernible cross-talk.)

12 A. --- to frame right here (indicating).

13 Q. Alright, there was a 47:55 ---

14 A. Well there's a difference in ---

15 Q. --- whatever.

16 A. --- moving the slider bar and letting the the video
17 itself play.

18 Q. Um-hum. And is there ---

19 A. It show's it there 'cause it's frozen in that ---

20 Q. But ---

21 A. --- because that's ---

22 Q. --- you're you're ---

23 A. --- the first data that comes back on that camera.

24 Q. Yeah, but that was at a 50 seconds ---

25 A. Okay, but first ---

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1 Q. --- by the time ya'll ---

2 A. --- let's start from this (indicating) camera, why don't
3 we do that. If I ba -- if I, this camera's not caught up yet,
4 he's still standing still in that, if I play it backwards and
5 that's where you want it there (indicating), correct?

6 Q. Well that's where you're saying but it -- he's
7 showin' -- it's showin' there ---

8 A. Well some a that ---

9 Q. --- before that time.

10 A. --- to there at 7 it shows him at ---

11 Q. Um-hum, ---

12 A. --- the door.

13 Q. --- okay. Okay.

14 A. It depends on which camera you're looking at in the
15 single mode which the time files. The problem you run into
16 there if you look, look at your time, you jump back to 42: ---

17 Q. Yeah.

18 A. --- 27 because there was no motion on the door.

19 Q. But we have a couple a pic -- uh, 47:50, 48 somethin'
20 with him there (indicating) when the person's back on the
21 aisle, from tryin' to view it, just run -- runnin' the cameras
22 and lookin' at it.

23 A. It really, the the system can be good, it can be bad
24 'cause it really depends on the time slots that you're
25 choosing on the side 'cause you're gonna have different time

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1 slots for different cameras because some have time that some
2 don't because they're motion ---

3 Q. Um-hum.

4 A. --- activated.

5 Q. Um-hum.

6 A. If this was recording live time, then all of the time,
7 all the files, all the frames would be on each individual
8 camera where they have separate frames based on the motion.

9 Q. But it's all goin' into the same computer ---

10 A. It is.

11 Q. --- and being recorded with the same timer on that.

12 A. It's it's just part a the play back of this to the where
13 when you look at it that way it shows the -- it it's it's
14 stopping on one camera at a a either a last or a first frame
15 for that motion.

16 Q. But there's struggles back here (indicating). As the
17 perpetrator starts to leave, that same perpetrator appears in
18 camera 6 before that person shoulda been there, I don't, I I
19 don't see how your explanation of its lagging behind ---

20 A. If you go to camera 7, you go in the, this disk catch up,
21 wanna see, let's just go to this one time sequence here 'cause
22 that's the one that you're ---

23 Q. That's ---

24 A. --- covers the par ---

25 Q. --- the one that should ---

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1 A. --- covers the part you're talking about.

2 Q. Unless it ---

3 A. We we can increase the play speed over here (indicating).

4 Q. It's a important part here (indicating), it's ---

5 A. That's why I'm goin' back there. Okay. Now playing it
6 fr -- on camera 7, if I leave it playin' here (indicating), if
7 you'll pause it when you get to the area that you're concerned
8 about then if you switch to camera 6 I doubt it's gonna show
9 anything there 'cause there's no data during that time ---

10 Q. But the same thing ---

11 A. (Indiscernible cross-talk.)

12 Q. --- if you're playing camera 6 and you go the other way
13 which we did earlier, it shows the ---

14 A. Because that's the first frame that that camera records
15 on the motion when the person's leaving.

16 Q. But the the problem being you can't be in two places at
17 once ---

18 A. I don't argue with that at all.

19 Q. --- and I'm not sure how it goes this way.

20 A. See it's showing a blank screen 'cause there's no data
21 for that camera but ---

22 Q. Okay.

23 A. --- the first frame should be him c -- coming into it,
24 then your other screen it's probly not gonna be caught up to
25 it.

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- 1 Q. Well I couldn't pause, it wouldn't pause.
- 2 A. Use the stay, let me see what's wrong, if you unpause it.
- 3 Q. It tries to jump back, ---
- 4 A. Yeah, that's ---
- 5 Q. --- jump back.
- 6 A. --- that's the reason why the splice works better, uh,
- 7 trying to show it.
- 8 Q. Because the splice doesn't have this anomaly in it?
- 9 A. No, because I just exported the video from the player as
- 10 an AVI and just put those together instead of having to go
- 11 from camera to camera. I did that on another computer where
- 12 it will just be blended together as one ---
- 13 Q. But it's --
- 14 A. --- video of of the event changing from camera to
- 15 camera.
- 16 Q. Isn't that more like still shots or very ---
- 17 A. Not, ---
- 18 Q. --- very short ---
- 19 A. --- it's not still shots, they're video clips, some may
- 20 be shorter than others but they're video clips, um, and if you
- 21 notice the time on the splice part some of it have overlaps.
- 22 See, it didn't even catch him walkin' in because the motion
- 23 was so quick comin' in. There's very few frames on that
- 24 camera ---
- 25 Q. Okay, ---

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1 A. --- during that time frame.

2 Q. --- and ---

3 A. Now use that button there (indicating), that'll step it,
4 then that (indicating) one will step it ---

5 Q. Let's just do, it's 20 seconds.

6 A. Oh, it just, that's what I'm saying it, because of the
7 motion it jumped right there from 28 seconds to 50 seconds.
8 Now you're back to 27.

9 Q. Okay. Can't get it to hit it again, I did it before.
10 Yeah, well, Your Honor, I I can't get it to hit again but, uh,
11 Your Honor, uh, step back. It was a long ti -- it was eight
12 days of that video bein' at the store before you picked it up.

13 A. Actually, before I went and actually exported it off the
14 com -- off the system myself because of not being able to get
15 up with the owner that I got it from because he was the only
16 person had access to the room so I had to scheduling problems
17 getting up with that person, they had couple months of storage
18 on there so, I mean, the data was still there luckily.

19 Q. Okay. Alright, I don't have any other, uh, questions of
20 this witness on this issue, Your Honor.

21 THE COURT: On what?

22 MR. HALL: On this issue of this, uh, disk. Uh, we have
23 two disks: this is a ---

24 THE COURT: Alright.

25 MR. HALL: --- the the storage.

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1 THE COURT: What about the other disk?

2 BY MR. HALL:

3 Q. Now on this disk that I got think in June or ---

4 A. Yes.

5 Q. --- whatever, uh, you just pull highlights out? I I I
6 don't know how to ---

7 A. Well I guess in this case the highlights would be when
8 the suspect arrives 'til suspect leaves so yes, sir, that's
9 basically it but it's the camera views actually show the
10 person durin' the act as far as when the car pulls up dropping
11 'em off until they leave in the car and what I did is is under
12 that plate or on the right-hand side you'll see two buttons,
13 one says "AVI", one says "BMP," AVI's where I can export a
14 video image or a sequence or segment of the video from the
15 camera so I can take the time that the camera has at the
16 beginning of the person coming in to the end and export that
17 as its own separate video file that will play when there's
18 media played or other video applications and in the system
19 that we have at our office I can take those, mark certain
20 points of it where the person comes on the camera, goes off
21 the camera and then where they might be picked up on another
22 camera and just put those I guess you could say in order but
23 they're not necessarily in order 'cause there is some overlap
24 a times where the person may step off of a camera at 42 and 38
25 seconds but I have him co -- showing up again at 42 and 30

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1 seconds on another camera which backs it up 6 or 8 seconds
2 just because that's when they came into view a that camera and
3 it just changes to the additional camera, different view of
4 the same event but it's a way to show the entire sequence of
5 events on one view without having to go from camera to camera
6 to camera to camera and 'cause at that point as you can see
7 when operating that system you may have to pause it and go to
8 this camera then you have to hunt for a time and all that so
9 it's easier to do that even though there is some overlap but
10 the time displays on the bottom left a that video so it shows
11 you if you pay attention to it where there's some overlap on
12 the times.

13 A. That's my pro -- that's my problem it's you go to
14 42 seconds in somethin' and you're back at, you know,
15 40 seconds and then that ends at a point then you jump back
16 it's ---

17 A. It's the same video, it's just exported and just placed
18 together so that's as runs as one video instead of having to
19 go from camera to camera.

20 THE COURT: You ever done this before?

21 MR. HALL: No further questions.

22 THE WITNESS: Pardon me, sir?

23 THE COURT: Have you ever done this before ---

24 THE WITNESS: Yeah, I've --- when they ---

25 (Indiscernible cross-talk.)

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1 THE COURT: --- like you just described?

2 THE WITNESS: Yes, I made videos like.

3 THE COURT: Okay.

4 THE WITNESS: As far as testifyin', never testified to
5 it, I'm wantin' to say I've made 'em for the solicitor's
6 office before and for investigators before, yes.

7 MR. FULMER: Yes, sir, Judge, you know, we tried this
8 case once before and Judge Early expressed some
9 dissatisfaction with the way the images were displayed on raw
10 footage. Uh, we was quite bothered by the fact that it took a
11 length of time to go through each camera shot, uh, for the
12 jury and that's why we put together this montage or or spliced
13 film to make it easy for the jury to view the footage that
14 shows the actual motion of the perpetrator inside the store.

15 THE COURT: What I was questioning is his experience and
16 his knowledge and his ability to do this for forensic purposes
17 and if he's done that before. I mean, it -- he he hadn't
18 been -- did Judge Early qualify him as an expert or is he ---

19 MR. FULMER: No, sir.

20 THE COURT: Okay, he just ---

21 MR. HALL: Yeah, the ---

22 THE COURT: --- ha ---

23 MR. HALL: --- the the second disk was done after that
24 trial, uh, ---

25 THE COURT: Well what I'm trying ---

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1 MR. HALL: Yes.

2 THE COURT: --- to make sure is for the record ---

3 MR. HALL: Yes.

4 THE COURT: --- that he has qualifications ---

5 MR. HALL: Yes, I ---

6 THE COURT: --- and expertise to do that.

7 MR. HALL: I believe his is, uh, I don't wanna say just
8 doodlin' around on a computer but just workin' on a computer
9 and, you know, tryin' to learn, I'm not sure, I'm not aware
10 that ---

11 (Indiscernible cross-talk.)

12 THE COURT: You have any training to do this type ---

13 MR. HALL: --- special, uh, ---

14 (Indiscernible cross-talk.)

15 THE WITNESS: Yes, I've been to a coup -- a couple
16 classes on some forensic video systems.

17 THE COURT: From the -- while you're employed by ---

18 THE WITNESS: Yes.

19 THE COURT: --- the sheriff's office?

20 THE WITNESS: Yes.

21 THE COURT: You do all of the forensic video ---

22 THE WITNESS: There's ---

23 THE COURT: --- work for the sheriff's office?

24 THE WITNESS: I do all for -- well there's two of us that
25 do it, I do it for the violent crimes section and for others

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1 when they need help, yes.

2 THE COURT: How long you been doin' it?

3 THE WITNESS: Seven, eight years or so.

4 THE COURT: Okay, alright. Okay. Alright, anything
5 further?

6 MR. HALL: Not from this witness, Your Honor.

7 MR. FULMER: No, sir, Your Honor.

8 THE COURT: Alright, you may come down.

9 (Whereupon, the witness left the stand.)

10 THE COURT: That it?

11 MR. FULMER: That's all from the State, Your Honor, yes,
12 sir.

13 MR. HALL: Alright, Your Honor, uh, we again, uh, move to
14 exclude the video, uh, it was picked up more than a week after
15 the, uh, event, uh, ya know, there's apparently one store
16 owner who has access to this but, uh, he's not here to say
17 he's not done anything or looked at it, tried to move things
18 around, uh, ---

19 THE COURT: Well you know that it's just speculation at
20 this point, uh, that could have occurred, something that could
21 have occurred, uh, there's nothin' in this record that says
22 somethin' did occur. Uh, I think, I mean, just having heard
23 it for the first time there's there there, I can see there's
24 some confusion about the way the cameras show, uh, whoever
25 else is in that room but it doesn't make it, uh, it doesn't

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1 make it inauthentic, it do -- I mean, it is what it is. Uh,
2 if it's confusin' to the jury, the jury doesn't have to
3 believe it, uh, or I'm gonna tell the jury to give your client
4 the benefit of the doubt, uh, and, uh, but I don't see it's
5 rises to the level of tampering or, uh, manipulating the, uh,
6 video to the, to the extent that I should exclude it so I
7 respectfully deny your motion.

8 MR. HALL: Thank, Your Honor, that on both disks is
9 the ---

10 THE COURT: I don't even know what the State's gonna
11 offer but, uh, the answer to your question is yes.

12 MR. HALL: Yes, thank, Your Honor.

13 THE COURT: Alright, anything before we bring the jury?

14 MR. FULMER: No, sir.

15 THE COURT: Ready for the jury?

16 MR. FULMER: Yes, sir.

17 MR. HALL: Your Honor, uh, I did not submit a witness
18 list but if we may have go ahead and put in a reply witness
19 'cause I think we do have some nurses, uh, ---

20 THE COURT: Better give me some names.

21 MR. HALL: Your Honor, I -- it's, uh, be a recordskeeper.
22 There's testimony in the last trial that a witness's mother
23 was in I believe Regional and she she, if she testifies to
24 that, we would bring somebody from the hospital, uh, show that
25 there's no record a that person bein' in the hospital. We've

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1 THE CLERK: Thank you, may be seated.

2 THE COURT: Alright, uh, ladies and gentlemen, I wanna
3 take just a minute and talk to you about what's about to
4 transpire in this courtroom. Uh, wanna tell you that the
5 trial will probly be different from what you might expect.
6 Many people do not have a chance to attend actual court
7 sessions as you're now doing, uh, and think from watching
8 television or movies or readin' books that trials are always
9 full of a lotta passion and drama, things of that nature and
10 while all of these things might be true from time to time, uh,
11 I will caution you this trial's not for entertainment, it is a
12 fundamental part of our democracy, a search for the truth
13 between the parties before the Court and searching for the
14 truth and making sure that justice is done is often a slow,
15 deliberate and repetitive process, the opposite of what you
16 may have seen on television or in the movies. This courtroom
17 is a place of honor dedicated to the protection, preservation
18 of citizen's rights through what many have called the greatest
19 justice system ever created. The attorneys appearing before
20 you are advocates for the parties they, parties they
21 represent but first and foremost they're officers of this
22 court sworn to uphold the integrity and fairness of our
23 judicial system and to help you in a search for the truth.
24 You should expect them to be professional and ethical and
25 competent in representation of their clients, uh, and in

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1 trying this case and remember that you've just taken an oath,
2 uh, to reach a fair and just verdict in this case so you
3 expect to to be professional, reasonable and ethical also.

4 Now as I told you earlier the defendant is charged in
5 this indictment with attempted armed robbery, I'll explain the
6 elements of that to you later. Uh, this indictment is simply
7 the charge by which the defendant is brought into ca -- into
8 court, it's not any -- in any sense evidence of the
9 allegations it contains. The defendant has pled not guilty to
10 this indictment and that means that the State therefore has
11 the burden of proving each of the elements of indictment or
12 the crime beyond a reasonable doubt to you, it'll be your
13 duty, ladies and gentlemen, to decide whether the State has
14 met that burden or has not met that burden, it's especially
15 important that you perform your duty of determining the facts
16 diligently and conscientiously 'cause ordinarily there's no
17 way to correct an erroneous determination of the facts by a
18 jury. You comply with your oath to impartially determine the
19 facts in this case, you will have fulfilled your duty as
20 jurors and no one will have a right to criticize your verdict.
21 On the other hand, with equal emphasis, same law that makes
22 you the judges of the facts makes me the judge of the law, you
23 must except accept and follow the law even though you may
24 disagree with it. I cannot tell you what the facts are, uh,
25 you should not disagree with me about what the law is or what

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1 the law should be. Your job is to take the law as I explain
2 it to you and apply it to the facts as you find 'em from the
3 testimony of the witnesses and any other evidence that may be
4 introduced during the trial, after doing that you will render
5 a verdict, uh, a true and just verdict under the solemn oath
6 you just took as jurors.

7 Now the procedure we'll follow is basically the State
8 will present its evidence first in the form of witness's
9 testimony and/or exhibits that may be part of the record, the
10 defendant will then have the opportunity to present his
11 defense bearing in mind however there's absolutely no burden
12 on the defendant present any evidence at all, following that
13 the attorneys will be allowed to sum up their case and I'll
14 instruct you on the law of State a South Carolina as it
15 applies to this case, after that case will be turned over to
16 you for a decision.

17 Now let me, uh, explain to ya two legal principles that
18 we will use during course of this trial, first is what's a
19 le -- my my term a "legal yardstick" you will use in judging
20 or measuring evidence, that legal yard stick is known as the
21 "burden of proof" or the responsibility for proving the case
22 and in a criminal case burden of proof is on the State to
23 prove guilt beyond a reasonable doubt. Should the State file
24 to meet that burden of proof it would be your duty to find the
25 defendant not guilty. There's absolutely no burden whatsoever

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1 on the defendant to prove or disprove anything, there's no
2 burden on the defendant to testify or to present any evidence
3 because the burden is as I explained on the State to prove
4 guilt beyond a reasonable doubt and; secondly, I ask you to
5 recall my earlier comment to the entire jury panel concerning
6 the presumption of innocence. This is a cardinal and
7 fundamental rule of law that a defendant will always be
8 presumed innocent of the crime or crimes for which he is
9 indicted, the presumption of innocence in other words is not
10 just a simple legal theory or a legal phrase, it is a
11 substantial right to which any defendant, any accused
12 including this defendant is entitled.

13 Now just a moment, uh, the attorney for the State will
14 make what's called an "opening statement," attorneys will
15 explain to you what the issues in the case are, at least what
16 the attorneys thinks the issues are or what the evidence will
17 prove, the attorney for the defendant will also make an
18 opening statement. What the attorneys tell you during their
19 opening statements is not evidence in this case, it's only
20 their contention as what the evidence, uh, will show and what
21 the issues are in the case. The evidence will be presented to
22 you from this witness stand right here (indicating) between
23 you and I from sworn witnesses that may take the stand or any
24 exhibits they, State wishes to offer, uh, during the course of
25 the trial.

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1 Now in determining what the true facts are in this case,
2 you must decide whether or not the testimony of any witness is
3 believable or not believable. In deciding whether to believe
4 a witness, you have a right consider whether the witness has
5 some interest in the outcome of the trial, uh, whether
6 witness is prejudiced towards either the State or the
7 defendant and the opportunity for the witness to have seen the
8 matters and things about which the witness may testify and the
9 way the witness acts on the witness stand. Ladies and
10 gentlemen, you do not and you and I do not ask questions of
11 witnesses, we do not offer any exhibits or any proof, this is
12 not CSI, it's your duty to listen openly and honestly to the
13 evidence, keep an open mind, do not form any conclusions or
14 judgments until you've received and considered all the
15 evidence, the arguments of the attorneys and my final
16 instructions to you on law. You can't hear a particular
17 witness or myself or one a these attorneys, please let us know
18 so we can have 'em speak up more clearly. Uh, you need review
19 of an obs -- a wi -- a exhibit is obstructed in any way, let
20 me know, we can, we can solve that problem. You need to bring
21 somethin' to my attention durin' the course of the trial,
22 please notify one a the bailiffs. If you do need to contact
23 me, it may be necessary for the bailiff to require that you
24 put any question, uh, or concern in writing so we can have a
25 record of it and I'll respond to you as quickly as I can and

OPENING STATEMENTS

1 to the extent the law permits me to do so.

2 Alright, ladies and gentlemen, I wanna thank you for your
3 kind attention, I trust you'll give the same kind and
4 undivided attention to the attorneys, the parties in this
5 case, we'll now begin with the opening statements. Solicitor.

6 MR. FULMER: Thank you, Judge. Ladies and gentlemen, my
7 name's Danny Fulmer, I'm a prosecutor for the State, uh, what
8 I'm gonna do today is present to you the facts that the State
9 has against Wendell Wilkins. This case is an attempted armed
10 robbery case, uh, dates back to April the 4th of last year,
11 took place at a convenience store called Fast Fuel Number 8
12 that's out on Cannons Campground Road, uh, 'bout halfway
13 between Mary Black Hospital and the Hot Spot out in Cowpens if
14 you're familiar with that area, when later in the afternoon
15 the clerk in the store that day was Sal, Sal's here on the
16 front row in the dark hair, uh, he was workin' in the store,
17 uh, Mr. Wendell Wilkins came into that store, uh, he wore
18 orange, uh, ski mask type hat on his head, he wore a hoodie
19 that was zipped up and covered over his face. He came in
20 armed with a handgun, he demanded money from the register from
21 Sal. For whatever reason Sal decided he did not want to give
22 up the money in the till, they struggled, uh, the gun went
23 off, uh, they struggled some more in the store. Ultimately
24 durin' the course a that struggle the hoodie came off of
25 Mr. Wendell Wilkins', uh, body, the hat came off of his head,

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1 uh, and you'll get to see security footage from the store
2 showing the struggle, showing the robbery taking place, uh,
3 and showing some pictures of Mr. Wendell Wilkins. Now those
4 we -- those pictures, uh, are not the best, uh, which is why
5 you're also gonna hear, uh, from some other witnesses in this
6 case, uh, two of Mr. Wilkins' girlfriends at the time, uh, who
7 were familiar with him, had reviewed that video and they're
8 very confident and they're gonna testify to you that they
9 recognize Mr. Wilkins, uh, in that video, you're gonna hear
10 from them, you're also gonna get some information about the
11 car that was used in the robbery as well. Uh, after you've
12 heard all the evidence and you've con -- considered it all I'm
13 gonna come back in front of you and ask you for a jury
14 verdict, uh, for a guilty verdict in this case because that's
15 what I think the evidence in this case demands. Thank you.

16 THE COURT: Mr. Hall.

17 MR. HALL: Please the Court, Solicitor. Ladies and
18 gentlemen of the jury, as I told you before my name's Robert
19 Hall and I represent Mr. Wendell Wilkins, he's been charged
20 with attempted armed robbery, serious crime. It's important
21 that each and every one of you realize that you are now a
22 judge of the facts in this case and it's incumbent upon the
23 State to prove Mr. Wilkins guilty of the crime he's been
24 charged with beyond a reasonable doubt to the satisfaction of
25 each every one of the twelve of you who we voted. Each of you

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1 are a judge of the facts, each of you has an opinion after the
2 case based on what has been presented.

3 Now this mornin' and all I've had to eat today was a
4 biscuit that my wife had made, my wife can make wonderful
5 biscuits, she could start at 12:30 with a warm oven, before
6 1:00 you're sittin in a plate a a food and hot biscuits. My
7 mother was a wonderful cook, she could bake pound cakes but
8 she couldn't make a biscuit to save her life but she could
9 make what she called biscuits but we didn't eat 'em, we did
10 other things with 'em and I I regret that 'cause it humiliated
11 her but a case has to be presented beyond a reasonable doubt.
12 Gonna bake a biscuit it's gonna be big, gonna be right, not
13 gonna be a little hockey puck that chips a wall if it hits it.
14 State in this case must bring through their witnesses the
15 videos, the the, uh, eyewitness of the store clerk, proof that
16 Wendell Wilkins did beyond a reasonable doubt commit this
17 crime. For you to do your job as individual judges of the
18 facts, you have to listen, pay attention, look at the evidence
19 as presented, do that you will give the State and the
20 defendant both a fair trial and be able to reach a true
21 verdict. Obviously Mr. Fulmer and I have different opinions
22 on what the evidence shows but my opinion, his opinion don't
23 matter, it's your opinion at the end a the case. Thank you.

24 THE COURT: Alright, Solicitor, call your first
25 witness.

SALVADOR ARIAS BONIFACIO - DIRECT EXAMINATION BY MR. FULMER

1 MR. FULMER: Thank you, Judge. State calls Salvador
2 Bonifacio.

3 (Whereupon, the witness came forward.)

4 THE CLERK: If you'll place your left hand the Bible,
5 raise your right, please.

6 SALVADOR ARIAS BONIFACIO, having
7 been first duly sworn, testified as follows:

8 THE CLERK: Have a seat here, please.

9 DIRECT EXAMINATION BY MR. FULMER:

10 Q. Will you tell the jury your name and speak up loud enough
11 so everyone can hear you.

12 A. My name is Salvador Arias Bonifacio.

13 Q. Where do ya live, Sal?

14 A. Uh, I live on Idlewood Court like right behind close
15 where I work.

16 Q. Okay, and where is it that you work?

17 A. Uh, Fast Fuel Number 8.

18 Q. How long have you worked there?

19 A. Uh, four years.

20 Q. Were you workin', uh, back on April the 4th of last
21 year?

22 A. Yes.

23 Q. You remember anything in particular standing out to ya
24 that happened that day?

25 A. Uh, it was a, it was a cloudy day just like today, you

SALVADOR ARIAS BONIFACIO - DIRECT EXAMINATION BY MR. FULMER

1 know, it's, uh, rainy and, uh, was really not many people was
2 around because of the rain, uh, and, you know, I have somebody
3 who came inside tried to take money from me.

4 Q. So you were working as a clerk that day?

5 A. Yes.

6 Q. Okay. Uh, can you tell the jury, uh, about the person
7 that came into the store, what happened when he came in.

8 A. Okay. Uh, well it was, uh, it was five o'clock, I was
9 just enjoying some coffee and cake and, uh, I notice there was
10 somebody passin' by the big window and he has a hoodie which,
11 you know, it didn't really say anything, I mean, a lotta
12 people wear hoodies 'cause, you know, the rain and then as
13 soon as he walk in through the door he had a mask and then he
14 pull a gun on me. Uh, he have a small gun, I don't know what
15 kind was it at time, I was told it was a 9 millimeters, uh,
16 and that he demanded the money. I really couldn't understand
17 what he say 'cause the mask and I was a little upset about
18 some other things that time anyways really, uh, then, uh, he
19 since I didn't give him the money he fired a gun and he fired
20 to the cigarette display and then he tried to come across the
21 counter and then I encounter him, encounter him there and we
22 start just fighting and I take off the hoodie, the mask, uh,
23 the gun, bullets, I hit the clip and he dropped the bullets
24 which he didn't know he had a extra bullet in the chamber and,
25 you know, then he just hit me with the gun in my forehead

SALVADOR ARIAS BONIFACIO - DIRECT EXAMINATION BY MR. FULMER

1 right here (indicating), you can see I have, uh, this scar due
2 to that and, uh, and then I kinda, I did chase after him after
3 he ran 'cause I was very upset about the whole fightin' thing.
4 Uh, I notice that enter into a this, uh, gold, uh, Chevrolet,
5 uh, sedan car and he went inside the neighborhood and since I
6 live in the neighborhood I knew he was gonna come out at the
7 other end so I ran up the hill to meet him over there, why, I
8 don't know but I did, uh, and then I just finally went back to
9 the store and, you know, paramedics were there and police and
10 I just told 'em what happened.

11 Q. Was this person known to you?

12 A. No, I I don't know him.

13 Q. Do you remember anything in particular 'bout his
14 appearance, what he was wearing, what he looked like?

15 A. Uh, it was hard to tell any physical appearance because
16 of the fight and, you know, first when I encounter him to
17 fight with him he had the mask and the hoodie and everything,
18 once we was fighting and I took everything off he took off
19 and I really couldn't have a good look on him you know.

20 Q. Do you recall what he said to you before the gun went
21 off?

22 A. He say, you know, he's just, he was just asking, Give me
23 the money, ---

24 Q. Alright.

25 A. --- that's that's it.

SALVADOR ARIAS BONIFACIO - DIRECT EXAMINATION BY MR. FULMER

1 Q. Did you tell him no?

2 A. I tell him no.

3 Q. And that that would be the point when he fired?

4 A. Uh, yeah.

5 Q. Do you think he was shooting at you?

6 A. No, he was just try -- he's trying scare me.

7 Q. How far do you think it is from where you live to the
8 store?

9 A. Honestly twenty steps.

10 Q. Can you explain to jury the lay out of Idlewood Circle in
11 relationship in the store.

12 A. Uh, well, you know, it's just pretty much is one way in
13 and one way out, just it's a big U circles the neighborhood.

14 Q. And the store kinda sits in the U, ---

15 A. Yes, ---

16 Q. (Indiscernible cross-talk.)

17 A. --- the middle of it.

18 Q. Okay. Does your store have a a surveillance system?

19 A. We do.

20 Q. Okay, was it on that day?

21 A. Yes.

22 Q. Uh, let me show ya -- approach the witness, Your Honor?

23 THE COURT: Yeah.

24 BY MR. FULMER:

25 Q. Let me show you what has been marked State's Exhibit 16.

SALVADOR ARIAS BONIFACIO - DIRECT EXAMINATION BY MR. FULMER

1 A. Okay.

2 Q. You see that (indicating)?

3 A. Yeah.

4 Q. Do you recognize that disk?

5 A. Yes.

6 Q. Have you vew -- viewed what's on this disk?

7 A. I have.

8 Q. And what is on here?

9 A. It shows a video where the man, it shows actually the
10 whole beginning where there's somebody who parks in this, uh,
11 duplex which is like right next to my house and that duplex
12 was for rent so it was empty and that person I guess had
13 knowledge that that place was empty so, uh, he park in there
14 or they park in there, there was somebody else in that car,
15 there was a woman that time, uh, was driving the car and she
16 park in there first and then she goes to store, drop him off
17 and then she goes and returns back to the, uh, parking space
18 in the duplex and then he's the one who's walking towards the
19 store and, you know, shows the whole confrence --
20 confrontation and, you know, when he demanded money and the
21 whole fight ---

22 Q. Okay.

23 A. --- and how I chase after him.

24 Q. So this is footage from the video camera at your store.

25 A. That's correct.

SALVADOR ARIAS BONIFACIO - DIRECT EXAMINATION BY MR. FULMER

1 Q. Okay. Having viewed it does it represent a fair and
2 accurate depiction of what happened that day?

3 A. Yes, I mean, yeah, ---

4 Q. It's accurate ---

5 A. --- yes.

6 Q. --- as far as you tell?

7 A. Yes.

8 Q. Okay. Doesn't appear like anything's been changed on
9 this video, does it?

10 A. No.

11 Q. You mentioned, uh, to the jury that you saw the car that
12 he drove away in, uh, ---

13 A. I did.

14 Q. --- were you able to get a license tag off that car?

15 A. I was. I I was calling it out, I was, as I was pursuing,
16 you know, like I say, you know, I went from chasing him to his
17 car, on my way back I call 911 and I was goin' back to the
18 other road to confront the car, I don't know why but I did,
19 and, uh, I had 911 on the phone and I was just, you know, I I
20 I call it out, you know, the the license plate and everything,
21 you know, to the 911 operator.

22 Q. Okay, so you had presence of mind then right after a a
23 fight and a robbery ---

24 A. Um-hum.

25 Q. --- you're chasin' ---

SALVADOR ARIAS BONIFACIO - DIRECT EXAMINATION BY MR. FULMER

- 1 A. Yeah, I'm ---
- 2 Q. --- this person ---
- 3 A. --- still chasin' ---
- 4 Q. --- who just robbed you and on ---
- 5 A. Yeah.
- 6 Q. --- the phone 911 ---
- 7 A. Yes.
- 8 Q. --- givin' the description, ---
- 9 A. That's correct.
- 10 Q. --- is that right?
- 11 A. That's correct.
- 12 Q. Other than the the cut on your forehead were you injured
- 13 durin' the fight?
- 14 A. No, just just that that (indicating) ---
- 15 Q. Did you go ---
- 16 A. --- scar.
- 17 Q. --- to the hospital?
- 18 A. I did.
- 19 Q. So you did get some treatment for your injury?
- 20 A. Yes, it was pretty quick, you know, I didn't stay there
- 21 long.
- 22 Q. Did you talk to police? Did the police come out ---
- 23 A. I ---
- 24 Q. --- and interview you?
- 25 A. --- think I talked to one or two people, uh, at the

SALVADOR ARIAS BONIFACIO - DIRECT EXAMINATION BY MR. FULMER

1 hospital who's, you know, I tell 'em the same story, you know,
2 like just the guy came, you know, demand money, say no, start
3 fighting with him, I set him out, I chase after him, ---

4 Q. But you ---

5 A. --- it's about it.

6 Q. --- you can't say with certainty that it was Mr. Wilkins.

7 A. No, I cannot say that was him.

8 Q. Can you say it was a black male?

9 A. I can say it was a black male.

10 Q. During the course of this investigation, at some point
11 did, uh, were you asked to give a DNA sample?

12 A. I was.

13 Q. And did you give a DNA sample ---

14 A. I did.

15 Q. --- to the sheriff's office? How did they take that
16 sample?

17 A. By swab, you know, my mouth.

18 Q. Q-tip in your mouth?

19 A. Q-tip my mouth.

20 Q. Okay. During the course of the struggle with the, with
21 the robber, uh, you said his hoodie came off and mask came
22 off?

23 A. Uh, it didn't came off, I took it off.

24 Q. Took it off. Uh, what what did you do with it?

25 A. To be honest with you I don't remember.

SALVADOR ARIAS BONIFACIO - CROSS-EXAMINATION BY MR. HALL

1 Q. Okay.

2 A. I mean, I I think that the police got all this evidences
3 and, you know, just leave it to them.

4 Q. It was found later ---

5 A. Yeah, ---

6 Q. --- on the scene?

7 A. --- I'm sure it was found later there.

8 Q. You remember anything about colors?

9 A. Uh, it's been a while after that incident, uh, I think it
10 was a orange hat thing.

11 Q. But you do remember pullin' a hat off?

12 A. Yes, I mean, like I say, I pretty much removed the hoodie
13 and what he was wearing and mask and everything.

14 Q. Okay. Alright, please answer any questions Mr. Hall has.

15 A. Alright.

16 CROSS-EXAMINATION BY MR. HALL:

17 Q. Do you know how many cameras are in your store?

18 A. Uh, no, I mean, like think like 15 I think.

19 Q. Now when you -- we looked at the video this mornin' the
20 cameras are numbered 1 through 14 and 16, ---

21 A. Um-hum.

22 Q. --- that correct, when we did the multi-view?

23 A. I I notice that, yeah.

24 Q. Do you know where camera 15 is?

25 A. I have no idea.

SALVADOR ARIAS BONIFACIO - CROSS-EXAMINATION BY MR. HALL

1 Q. Do you know anything about the system or how it works?

2 A. Uh, no, yeah, 'cause I I don't know anything about his
3 surveillance system, that's no and I don't.

4 Q. Okay. So who's the, that I assume the owner keeps all
5 that.

6 A. He does.

7 Q. Alright, and what's the owner's name?

8 A. Ari Patel.

9 Q. Mr. Patel, ---

10 A. Mr. Patel.

11 Q. --- Ari Patel? Alright. Alright, and I do commend you
12 on your bravery but, uh, you are very excited durin' all this?

13 A. Say that, say that again.

14 Q. You're very excited, worked up durin' all this?

15 A. I was, I was mad that day.

16 Q. You were mad?

17 A. I was mad that day.

18 Q. You were able to get the clip outta the gun I believe you
19 said.

20 A. Yes, I had the clip and control.

21 Q. And you were able to track down the car just tryin' to
22 get away and get the tag number, right?

23 A. That's correct.

24 Q. Alright, but you can't identify Mr. Wilkins.

25 A. I cannot.

SALVADOR ARIAS BONIFACIO - CROSS-EXAMINATION BY MR. HALL

1 Q. Alright. When you, uh, got the tag, could you see the,
2 you're obviously close enough to see the the tag ---

3 A. Um-hum.

4 Q. --- but could you see occupants?

5 A. I noticed that there was, uh, only one person, was only
6 one woman in the car.

7 Q. One woman in the car.

8 A. Yes.

9 Q. But through all investigation, talking to the police you
10 can't say that's the man, just a black male?

11 A. Yes, I cannot ---

12 Q. Alright, ---

13 A. --- say that.

14 Q. --- no further questions.

15 THE COURT: Redirect?

16 MR. FULMER: None, Your Honor.

17 THE COURT: Alright, sir, you may come down. Thank you
18 very much.

19 THE WITNESS: Thanks.

20 (Whereupon, the witness left the stand.)

21 MR. FULMER: Judge, can this witness be excused?

22 MR. HALL: We have no objection, Your Honor.

23 THE COURT: Without objection.

24 MR. FULMER: Your Honor, the State calls Scott Francis.

25 (Whereupon, the witness came forward.)

SCOTT FRANCIS - DIRECT EXAMINATION BY MR. FULMER

1 THE CLERK: If you'll place your left hand the Bible,
2 raise your right, please.

3 SCOTT FRANCIS, having been
4 first duly sworn, testified as follows:

5 THE CLERK: Be seated, please.

6 DIRECT EXAMINATION BY MR. FULMER:

7 Q. Please tell the jury your name.

8 A. My name is Scott Francis.

9 Q. Mr. Francis, where do you work?

10 A. I work for Spartanburg 911 Communications.

11 Q. How long have you worked there?

12 A. Been there 16 years.

13 Q. Can you tell the jury what your duties and
14 responsibilities are.

15 A. At this time I work in the IT Department of 911, we're
16 the custodian of all the data for 911.

17 Q. Do you recall, uh, getting a call from me last week
18 regarding the 911 telephone call that relates to this case?

19 A. I do.

20 Q. And in response to that call did you find that
21 particular phone call and listen to it?

22 A. I did.

23 Q. I'm gonna show you what's been marked as State's Exhibit
24 15 and ask you if you recognize that disk.

25 A. That's the one I signed.

SCOTT FRANCIS - DIRECT EXAMINATION BY MR. FULMER

1 Q. Okay, how do you recognize it?

2 A. I put my initials on it.

3 Q. Does this tape or does this disk contain a recording of a
4 911 call that relates to this robbery that we're talking
5 about?

6 A. It does.

7 MR. FULMER: Judge, like to move this into evidence and
8 publish it to the jury.

9 THE COURT: Any objection?

10 MR. HALL: No objection, Your Honor.

11 THE COURT: Without objection.

12 MR. HALL: What number is it?

13 MR. FULMER: Number 15.

14 (State's Exhibit No. 15, 911 audio, admitted into
15 evidence.)

16 (Whereupon, State's Exhibit No. 15 was played.)

17 BY MR. FULMER:

18 Q. Please answer any questions Mr. Hall may have of you.

19 A. Um-hum.

20 MR. HALL: I have no questions this witness.

21 THE COURT: Alright, you may come down, sir. Thank you
22 very much.

23 THE WITNESS: Thank you.

24 THE COURT: This witness be excused?

25 MR. HALL: No objection.

WILLIAM GARY - DIRECT EXAMINATION BY MR. FULMER

1 THE COURT: Without objection.

2 MR. FULMER: Your Honor, the State calls Investigator
3 William Gary.

4 (Whereupon, the witness came forward.)

5 WILLIAM GARY, having been first
6 duly sworn, testified as follows:

7 DIRECT EXAMINATION BY MR. FULMER:

8 Q. Tell the jury your name.

9 A. My name is William Gary.

10 Q. Investigator Gary, where do you work?

11 A. Spartanburg County Sheriff's Office.

12 Q. And how long have you worked there?

13 A. Little bit over 19 1/2 years.

14 Q. What are your duties and responsibilities at the
15 sheriff's office?

16 A. I'm in the Criminal Investigation Division assigned to
17 violent crimes, homicides, robberies, those crimes, uh, as
18 well as I do cell phone call detail record analysis and, um,
19 I also retrieve and analyze video recordings.

20 Q. Were you re -- uh, involved in the investigation of the
21 robbery that we've been talking about today?

22 A. Yes.

23 Q. And what was your involvement in that one?

24 A. Uh, primary involvement that I had in this was to go to
25 the store and to retrieve the video data off the computer for

WILLIAM GARY - DIRECT EXAMINATION BY MR. FULMER

1 their surveillance system.

2 Q. Do you recall when you did that?

3 A. Think it was April the 12th.

4 Q. So it woulda been a few days after the robbery?

5 A. Yes.

6 Q. And can you explain to the jury the process of extracting
7 or re -- uh, making a recording of the security video.

8 A. On this system here it's a computer contained system,
9 it's called a "GeoVision" system. Uh, to get access to it I
10 had to arrange a time that I could meet with the owner, I
11 mean, with our schedules so that was the, really the reason
12 for the delay for going to get it and you can export the video
13 off this system a couple a different ways: The best way that I
14 found to do it is to do an export on a backup and on the
15 backup system it gives a player as well as the data for the
16 time frame that you specify and the cameras that you specify
17 on it, uh, which is what I did on the system.

18 Q. So you recorded the footage from the time frame a the
19 robbery?

20 A. A little before, uh, to right at the end of it. Um, I
21 recorded to a flash drive, thumb drive and then I transferred
22 it to a CD to place the CD into evidence.

23 Q. In recording that from a security, uh, surveillance
24 system did you alter or amend any of the images in any way?

25 A. No, the system's was -- is pretty good, uh, there was no

WILLIAM GARY - DIRECT EXAMINATION BY MR. FULMER

1 reason in this instance to do anything to it. Actually, the
2 the backup system on it I don't have the knowledge or
3 capabilities of actually altering any of the data, uh, in the
4 backup part of it, uh, so there was, there was nothing done on
5 this footage at all.

6 Q. So you record it to a thumb drive and then make copies to
7 CDs?

8 A. Right, made a copy to CD to put into evidence so I could
9 keep my thumb drive.

10 Q. Okay, let me show you what's been marked State's Exhibit
11 16, that's a CD, have you had a chance to review what's on
12 that CD?

13 A. I have, that's a copy of the one that I made.

14 Q. So it would be a copy of security footage?

15 A. Correct.

16 Q. Okay, and it's not been amended or altered any way?

17 A. No, it's just like it was.

18 MR. FULMER: Your Honor, this time I'd move State's
19 Exhibit 16 into evidence and I'd like to publish it to the
20 jury.

21 MR. HALL: I have no new objection, Your Honor, just ---

22 THE COURT: Subject to the defendant's prior objection
23 which was overruled it's admitted into evidence.

24 MR. FULMER: Thank you, Judge.

25 (State's Exhibit No. 16, CD, admitted into evidence.)

WILLIAM GARY - DIRECT EXAMINATION BY MR. FULMER

1 (Whereupon, State's Exhibit No. 16 was played.)

2 BY MR. FULMER:

3 Q. Having watched that can you explain to the jury why
4 sometimes some the cameras show a blue box?

5 A. The system is set up in this store to record and store on
6 motion. Uh, when a the camera loses motion, it tells itself
7 to stop recording to the computer, that's when the blue box
8 will come up, uh, which does make it kinda odd and hard to
9 watch it with the blue boxes jumping around.

10 Q. Based on this set a data were you able to create another,
11 uh, disk that contained just images that contained what was
12 goin' on in the robbery that would have motion in it?

13 A. I was. There's there's some video on that that we didn't
14 see here because depending on which camera you have selected
15 at the top where this one's selecting camera 1, uh, will give
16 you your video events, the times that has data for so if for
17 some reason or another camera has time outside of that
18 parameter, you may not see it if you select the time frame for
19 this so you -- there there is some other footage at the end of
20 it, uh, that's after this stop because other cameras have
21 picked it up and it was in -- so I was able to export video
22 from the individual cameras and take that video, not zooming
23 in, not doing any color or brightness enhancements or anything
24 like that, take those videos and kinda splice 'em together
25 with a tad bit of overlap in between which basically shows

WILLIAM GARY - DIRECT EXAMINATION BY MR. FULMER

1 movement outside to inside, different cameras inside and then
2 again back outside the store with both, uh, suspect and the
3 victim in this case, their movements and activities.

4 Q. Alright. Let me show you what's been marked State's
5 Exhibit 14 and can you tell the jury what's on that disk.

6 A. This is a disk that I prepared with that on it, it the
7 one thing it's missing that this has this does not have is the
8 audio portion. The video system we use right now doesn't have
9 the capabilities with this, they're working on update but to
10 export the audio portion to go along with it so instead of
11 trying to put the audio file separate and try to time it just
12 right, I just left the audio portion off completely on this
13 'cause the video, the individual cameras which are at a fuller
14 screen than having 15 windows playing it.

15 Q. And in creating what I'm gonna call the "spliced disk,"
16 did you alter or amend any of the images that you took from
17 the security footage?

18 A. No, not at all. I didn't, again, I didn't zoom in, I
19 didn't do anything with the color or the brightness, the
20 con -- the contrast, anything like that and when it exports
21 it, uh, I told it to put the time and date on the bottom left
22 corner where you'll see when it switches from camera to camera
23 the time might back up a few seconds because some of it's a
24 little bit of an overlap in going from camera to camera but
25 that's the only difference really between the two is that it's

WILLIAM GARY - DIRECT EXAMINATION BY MR. FULMER

1 this one continuous video file, uh, with a little bit of
2 overlap in time for different cameras on.

3 MR. FULMER: Judge, at this time I'd like to move
4 State's Exhibit 14 into evidence and publish that to the jury.

5 MR. HALL: I have no new objections, Your Honor.

6 THE COURT: Over the defendant's prior objection
7 admiss -- admit -- admitted.

8 (State's Exhibit No. 14, CD, admitted into evidence.)

9 MR. FULMER: Is ---

10 THE COURT: You may proceed.

11 MR. FULMER: Thank you, Judge.

12 (Whereupon, State's Exhibit No. 14 was played.)

13 BY MR. FULMER:

14 Q. Investigator, I'm gonna show you what's been marked
15 State's Exhibit 10, State's Exhibit 9, State's Exhibit 8,
16 State's Exhibit 7 and ask if you know what these are and where
17 they came from.

18 (Whereupon, the witness examined the exhibits.)

19 A. Yes, sir, these are photographs, they're still images
20 that were taken off the video rather this video we saw.

21 Q. Thank you. Thank you. You didn't change 'em in any way
22 or alter the image?

23 A. Not at all.

24 (Whereupon, defense counsel examined the exhibits.)

25 MR. HALL: We have no objection, Your Honor.

WILLIAM GARY - CROSS-EXAMINATION BY MR. HALL

1 MR. FULMER: Your Honor, the State would move Exhibit 7,
2 8, 9 and 10 into evidence.

3 THE COURT: Without objection.

4 (State's Exhibit Nos. 7, 8, 9 and 10, photographs,
5 admitted into evidence.)

6 MR. FULMER: Thank you, Judge. May I publish that to the
7 jury?

8 THE COURT: Yes.

9 MR. FULMER:

10 Q. State's Exhibit 7 (indicating), State's 8 (indicating),
11 State's 9 (indicating), State's 10 (indicating). Investigator
12 Gary, did you have any further involvement in this case?

13 A. Uh, just an interview with one other person that I think
14 lady's gonna be testifying.

15 Q. Okay. Please answer any questions Mr. Hall may have of
16 ya.

17 (Whereupon, a discussion was held off the record.)

18 CROSS-EXAMINATION BY MR. HALL:

19 Q. Alright, Investigator Gary, (coughs) excuse me,
20 allergies, I apologize. Uh, we discussed earlier this
21 multi-view of the cam, of the cameras has places for 16
22 cameras; in fact, they have 1 through 14, camera 16, ---

23 A. Yes.

24 Q. --- you know anything about that black box where I assume
25 there should be a 15?

WILLIAM GARY - CROSS-EXAMINATION BY MR. HALL

1 A. Actually it probly should be in between, ---

2 Q. Yeah.

3 A. --- uh, or 16 would be slid over, it'd be in there.

4 Obviously I don't, I may have not selected it 'cause it may a
5 been like an office view with no activity on it so, in other
6 words, to save disk space I may have deselected it if 15 even
7 existed. Uh, in this case I don't remember, uh, was a -- if
8 there's a camera say in an office which a lotta convenience
9 stores have it or stores have it, if there's no movement in
10 there at all, if there's any data there just take up wasted
11 space so I may have deselected if it existed for that. It
12 coulda been somethin' with the programming where cameras were
13 placed or whatever and they just didn't renumber it in the
14 program.

15 Q. Would it surprise you that at least two other of the blue
16 boxes for camera number 5 and number 12 never had any data on,
17 they never came up in video I was given?

18 A. Right, they they may not have, I'm not sure.

19 Q. Okay.

20 A. I don't remember what all the views were unless I go
21 through and try to watch it if there's any data on it at
22 all.

23 Q. Alright, but basically the video was your part a this?

24 A. Yes.

25 Q. And you picked the video up on April 12th, you

WILLIAM GARY - CROSS-EXAMINATION BY MR. HALL

1 downloaded ---

2 A. I believe that's, ---

3 Q. --- it.

4 A. --- I believe that's right, yes.

5 Q. Yes, sir, I'm old, I'm used to pickin' up videotapes, I
6 apologize. Uh, and that was eight days after the robbery.

7 A. It was.

8 Q. And Mr. Patel was the one that had I guess control the
9 video or the what was recorded on the computer?

10 A. Right, he's the person, he was the contact person, he's
11 the only re -- owner of the store, he was who I was told I
12 needed to contact in order to have access to the system and
13 just for various reasons, I don't remember days of the week,
14 whatever what was goin' on durin' the vacations there but just
15 to be, to be able to meet up with him explains why it was
16 eight days after the incident but if I'm not mistaken their
17 video system stores a couple a months worth a video so luckily
18 it was still there.

19 Q. And you didn't have any vol -- involvement with
20 fingerprints, DNA, cell phone records, any a that in the case?

21 A. No, sir, not in this.

22 MR. HALL: Beg the Court's indulgence. Have no further
23 questions this witness this time.

24 THE COURT: Redirect?

25 MR. FULMER: No, Your Honor.

BO HUFFLING - DIRECT EXAMINATION BY MR. FULMER

1 THE COURT: Alright, you may come down.

2 (Whereupon, the witness left the stand.)

3 THE COURT: Witness be excused?

4 MR. FULMER: Please, Your Honor.

5 THE COURT: Without obje -- any objection?

6 MR. HALL: Yeah, Your Honor, if we could just keep him
7 here for now, please, uh, ---

8 THE COURT: Alright.

9 MR. FULMER: Your Honor, the State calls Bo Huffling.

10 (Whereupon, the witness came forward)

11 BO HUFFLING, having been first
12 duly sworn, testified as follows:

13 THE CLERK: Thank you, have a seat, please.

14 DIRECT EXAMINATION BY MR. FULMER:

15 Q. Tell the jury your name.

16 A. Uh, Bo Huffling.

17 Q. Where do you work, Mr. Huffling?

18 A. Uh, Enterprise Rent-A-Car.

19 Q. What do ya do there?

20 A. I'm an area manager, I manage several of the locations
21 including the two in Spartanburg.

22 Q. How long have you been doin' that?

23 A. Uh, twelve years.

24 Q. Uh, were you working there, uh, in April of last year?

25 A. Uh, I was over the location but not specifically working

BO HUFFLING - DIRECT EXAMINATION BY MR. FULMER

1 at the location.

2 Q. You you have access to the records, business records of
3 that location, uh, things like who would be renting a car,
4 what kinda car, that sorta thing?

5 A. I do.

6 Q. Okay. Were you able to examine your business records and
7 determine, uh, if you had rented a car during that time frame
8 during the August, I'm sorry, April 4th time frame of last
9 year?

10 A. I was.

11 Q. Okay. Uh, you may have heard the 911 call the victim
12 gave a tag number of IDH739, was that the tag number of a car
13 that you had rented out during that time period?

14 A. It was.

15 Q. Who did you rent that car to?

16 A. Uh, Trishaunda Rookard.

17 Q. She give you an address that you have access to?

18 A. Uh, I do have access to the address, uh, she gave us,
19 you can bear with me for a second I didn't jot that piece
20 down, uh, but we did rent her a, uh, Chevrolet Malibu from
21 3/27 to 4/5/13. Do you want me to pull up her address?

22 Q. Uh, if you could that be, if you have it handy that be
23 great.

24 A. Okay. Give me just one moment here.

25 Q. So the car that she rented woulda been returned to you

BO HUFFLING - CROSS-EXAMINATION BY MR. HALL

1 the, on the 5th, is that right?

2 A. 4/5, correct, at 3:18 p.m. Uh, looked like our records
3 indicate that it had been impounded.

4 Q. Do you have a re -- record of the color of the car?

5 A. Uh, our, uh, system indicated that it was a shade of
6 brown, it's not always necessarily an exact color but. . .

7 Uh, looks like the address that we had on file for Ms. Rookard
8 was a in Spartanburg.

9 Q. Do ya have any record of who returned the car, is that
10 somethin' you would have access ---

11 A. Uh, ---

12 Q. --- to?

13 A. --- we wouldn't have a name of a person that returned it,
14 uh, again, I I believe our records indicated that the car was
15 found in impound.

16 Q. Okay. Alright, please answer any question Mr. Hall may
17 have of you.

18 CROSS-EXAMINATION BY MR. HALL:

19 Q. A shade a brown. Okay, so ya'll dif -- is there, if
20 there's a shade of brown, is there just a plain brown?

21 A. Uh, just just looking at the, uh, document it says, uh,
22 brown ---

23 Q. Brown.

24 A. --- but again, I just just mention that that can
25 sometimes mean a shade of a color, it's not always exact.

BO HUFFLING - CROSS-EXAMINATION BY MR. HALL

1 Q. Alright. And you have nothing in your records indicating
2 Wendell Wilkins having anything to do with this vehicle,
3 renting a car, return, I know you don't have who returned it
4 but nothin' in your records ---

5 A. Uh, our contract was with a Trishaunda Rookard.

6 Q. Okay. And do you know when the car left your possession,
7 went to impound, that I assume you mean sheriff's department
8 took it?

9 A. Uh, let me look back at the notes here at, I apologize, I
10 didn't bring all the notes, I was able to get, uh, just some
11 of them and on 4/5 at 3:18 p.m. we have a note from one of our
12 employees that says the ticket is closed pended which
13 basically means we stop the charges and then it just says the
14 word "impound", it's the only notes, uh, that it has there.

15 Q. Alright, certainly they have record and I have no further
16 question a this witness, Your Honor.

17 THE COURT: Alright, redirect?

18 MR. FULMER: No, sir.

19 THE COURT: Alright, may come down, sir, thank you very
20 much.

21 (Whereupon, the witness left the stand.)

22 MR. FULMER: He be excused, Your Honor?

23 THE COURT: Witness be excused without objection.

24 MR. HALL: No objection.

25 MR. FULMER: Your Honor, the State calls Matt Hutchins.

MATT HUTCHINS - DIRECT EXAMINATION BY MR. FULMER

1 (Whereupon, the witness came forward.)

2 MATT HUTCHINS, having been
3 first duly sworn, testified as follows:

4 THE CLERK: Thank you, be seated, please.

5 DIRECT EXAMINATION BY MR. FULMER:

6 Q. Tell the jury your name.

7 A. Matt Hutchins.

8 Q. Where do you work, Investigator Hutchins?

9 A. Work for the Spartanburg County Sheriff's Office.

10 Q. How long have you worked there?

11 A. I've worked there since 2002.

12 Q. What are your duties and responsibilities there?

13 A. Right now I'm the, uh, one of two sergeants for the
14 Violent Crimes Unit.

15 Q. Okay, back on April the 4th of 2013, what were your
16 duties?

17 A. Uh, sergeant of Violent Crimes Unit.

18 Q. Were you involved in the investigation of the armed
19 robbery that we've been talking about today?

20 A. I was.

21 Q. Uh, can you tell the jury what your involvement was.

22 A. On April the 4th 2013 a call went out of an armed robbery
23 at the, uh, Fast Fuel Number 8 on Cannons Campground Road.

24 Uh, dispatch broadcasted a tag number of IDH739, uh, as a
25 suspect vehicle. The tag when it was ran came back to EAN

MATT HUTCHINS - DIRECT EXAMINATION BY MR. FULMER

1 Holdings which I knew to be Enterprise Rent-A-Car. I
2 contacted the law enforcement line for Enterprise Rent-A-Car
3 and was connected to a guy by the name of David Rizzy
4 (phonetic) out of, uh, he was from out west, this was one of
5 their law enforcement lines that you use connect to someone
6 who has access to records, uh, told him the incident we had
7 had and that the tag number of the vehicle and he confirmed to
8 me that the vehicle was showin' that it was ris, uh, rented to
9 a Trishaunda Rookard and gave me the address of

10

11 Q. Did you go to that location?

12 A. I did. Uh, Sergeant Bryant and I went to that location
13 and met with Ms. Rookard's brother.

14 Q. Okay. Uh, and without goin' into anything that he may
15 have told you did did you do anything after that?

16 A. Uh, after that we were continuin' to search the area, uh,
17 for the vehicle and a little while later located it in the
18 parking lot of Enterprise Rent-A-Car on Asheville Highway.

19 Q. Let me show you what's marked State Exhibit 5 and State
20 Exhibit 6 and ask if you recognize those photographs.

21 (Whereupon, the witness examined the exhibits.)

22 A. This is the photograph of the tan, uh, some call, would
23 call it tan, some would call it gold, some would call it
24 brown, uh, I call it tan, uh, Malibu bearing license plate
25 IDH739 that was located in the Enterprise parkin' lot.

MATT HUTCHINS - DIRECT EXAMINATION BY MR. FULMER

1 Q. And that woulda been as you found it that night?

2 A. Yes.

3 Q. This woulda been the same night the robbery?

4 A. Yes.

5 (Whereupon, a discussion was held off the record.)

6 MR. FULMER: Judge, oh, I think mighta Exhibit 9, I
7 misspoke earlier, it's State Exhibit 9 and State's Exhibit 6,
8 I'd like to move those into evidence, Judge.

9 MR. HALL: No objection.

10 THE COURT: Without objection.

11 (State's Exhibit Nos. 9 and 6, photographs, admitted into
12 evidence.)

13 MR. FULMER: May I publish that to the jury?

14 THE COURT: Absolutely.

15 (Whereupon, State's Exhibit Nos. 9 and 6 were published
16 to the jury.)

17 BY MR. FULMER:

18 Q. Investigator Hutchins, at at some point later on were ya
19 able to make contact, uh, with this Trishaunda Rookard?

20 A. Yes, was.

21 Q. Uh, were you able to take statement from her?

22 A. I was.

23 Q. Is that a written statement?

24 A. It was.

25 Q. At some point later in that written statement did you

MATT HUTCHINS - CROSS-EXAMINATION BY MR. HALL

1 meet with her again and did she give you somethin'?

2 A. She did, she had signed a consent, uh, to search her
3 residence. She advised that she had a phone that belonged to
4 Mr. Wendell Wilkins and, uh, was willing to turn that over to
5 law enforcement. Uh, Investigator Tommy Clark and I met her
6 at her residence and she turned the phone over to him.

7 Q. And what did you do with that phone?

8 A. Uh, that phone was entered into evidence, a search
9 warrant was then obtained and Investigator Lindsey McGraw did
10 a forensic exam on the phone.

11 MR. FULMER: One moment, Your Honor. Please answer any
12 questions Mr. Hall may have.

13 (Whereupon, a discussion was held off the record.)

14 CROSS-EXAMINATION BY MR. HALL:

15 Q. Alright, do you know anything about fingerprints, DNA,
16 those other forensic-type evidence bein' collected?

17 A. Uh, I did not collect 'em, no.

18 Q. Okay. Uh, so did you -- were you involved in as a con --
19 as the last witness said impoundin' the car?

20 A. Yes.

21 Q. Okay, and you remember when that was?

22 A. Uh, there will be a tow sheet that was completed and time
23 of impound should be on that tow sheet.

24 Q. That was on the 5th or ---

25 A. Oh, it -- the -- it was towed the night of the instance

MATT HUTCHINS - CROSS-EXAMINATION BY MR. HALL

1 whi -- uh, the incident which was the 4th.

2 Q. Alright.

3 A. Uh, as far as Enterprise notification, I was talkin' to
4 a, uh, Enterprise rep who was, uh, in Arizona or somewhere out
5 west, uh, who was providing that information, uh, did find out
6 later that day from Enterprise that he had not contacted them
7 to let them know that the car had been impounded by us that
8 night, uh, so that's when notification was made or it was
9 actually the night of the, afternoon of the 5th when the local
10 Enterprise was had found out that their car was in our
11 impound. Uh, there was some, when I was speaking with a
12 gentleman out west due to time variations and whatnot,
13 apparently he was asleep and didn't wake up to call them,
14 notify them that their car had been impounded.

15 Q. So you all actually got it on the 4th ---

16 A. Yes, ---

17 Q. --- that evening for ---

18 (Indiscernible cross-talk.)

19 A. --- and and what it was it was sealed up, uh, taken to
20 our impound lot to which then it would be processed, uh, at a
21 later time.

22 Q. Okay, but their local records didn't catch up with that
23 'til the next afternoon, I assume ---

24 A. That's correct.

25 Q. --- ya'll told him, We got your car.

LINDSEY MCGRAW - DIRECT EXAMINATION BY MR. FULMER

1 A. That's correct that the -- their law enforcement contact
2 out west had failed to let them know where their car was.

3 Q. 'Alright. And other than the car and the cell phone and a
4 statement do you have anything else to do with evidence
5 collection or anything?

6 A. No.

7 Q. Investigator McGraw's the one that did anything on the
8 phone.

9 A. Yes, sir.

10 Q. No further questions.

11 THE COURT: Any redirect?

12 MR. FULMER: No, sir.

13 THE COURT: Alright, may come down.

14 (Whereupon, the witness left the stand.)

15 THE COURT: This witness be excused?

16 MR. HALL: No objection, Your Honor.

17 THE COURT: Without objection.

18 MR. FULMER: Your Honor, the State calls Deputy Lindsey
19 McGraw.

20 (Whereupon, the witness came forward.)

21 LINDSEY MCGRAW, having been
22 first duly sworn, testified as follows:

23 THE CLERK: Have a seat, please.

24 DIRECT EXAMINATION BY MR. FULMER:

25 Q. Please tell the jury your name.

LINDSEY MCGRAW - DIRECT EXAMINATION BY MR. FULMER

1 A. Lindsey McGraw.

2 Q. Where do you work?

3 A. Spartanburg County Sheriff's Office.

4 Q. How long have you worked there?

5 A. Since August 2005.

6 Q. And what are your duties and responsibilities at the
7 sheriff's office?

8 A. I'm the assigned computer forensics investigator,
9 perform, uh, examinations of computers, cell phones, uh,
10 electronic devices in general.

11 Q. Okay, and in the case we're discussing today, did you
12 receive a cell phone from Investigator Matt Hutchins?

13 A. I did.

14 Q. And what did you do to that cell phone?

15 A. I performed a, uh, forensic, foren -- excuse me, forensic
16 examination of the phone using a, uh, device called a
17 "universal forensic extraction device" made by Cellebrite.

18 Q. And were you able to take any data information off the
19 phone?

20 A. I was able to perform what's called a "logical
21 extraction" of data from the phone, yes.

22 Q. Okay. What did you find on the phone?

23 A. Uh, refer to my notes. I was able to recover a, uh, some
24 contact lists, uh, text messages, and, uh, images from the
25 phone.

LINDSEY MCGRAW - CROSS-EXAMINATION BY MR. HALL

1 Q. Do you recall what those images were?

2 A. Uh, just several images, uh, . . .

3 Q. I'm gonna show you what's marked State's Exhibit 12 and
4 13 and ask you to look at that photograph and tell me if you
5 can recognize those photographs.

6 A. Yes, sir, these are two images I pulled from the phone.

7 (Whereupon, defense counsel examined the exhibits.)

8 MR. HALL: Your Honor, we would object on the grounds of
9 relevance, it has nothin' to do with, uh, this robbery. I'm
10 not sure if they're just tryin' to prove it's what phone it is
11 or whatnot.

12 THE COURT: Well I understand. Approach a minute.

13 (Whereupon, a bench conference was held off the record.)

14 THE COURT: Objection's overruled.

15 MR. FULMER: Your Honor, may I publish these to the jury?

16 THE COURT: Yes.

17 (Whereupon, State's Exhibit Nos. 12 and 13 were published
18 to the jury.)

19 BY MR. FULMER:

20 Q. That's all the questions I have, Deputy, please answer
21 any questions Mr. Hall might have for ya.

22 CROSS-EXAMINATION BY MR. HALL:

23 Q. Did you get anything else off the phone o -- you said you
24 got some text messages, contact list and text?

25 A. Yes, sir.

LINDSEY MCGRAW - CROSS-EXAMINATION BY MR. HALL

1 Q. Alright. Anything about, a text about, I'm about to hit
2 Fast Fuel or anything like?

3 A. No.

4 Q. Alright. Any cell phone records that has when calls are
5 made and that type thing? Like if ---

6 A. I'm not sure I understand ---

7 Q. --- if I use my cell phone, somebody can go back in the
8 cell phone and say, On the 11th he called his house at 2:15
9 p.m.

10 A. It depends on the phone, yes. Generally speaking you
11 have some records.

12 Q. Okay, but nothin' else of interest ---

13 A. No.

14 Q. --- on the phone? No other questions.

15 THE COURT: Redirect?

16 MR. FULMER: None, Your Honor.

17 THE COURT: May come down.

18 (Whereupon, the witness left the stand.)

19 THE COURT: Witness be excused?

20 MR. HALL: No no objection, Your Honor.

21 THE COURT: Alright. Counsel approach the bench, please.

22 (Whereupon, a bench conference was held off the record.)

23 THE COURT: Alright, ladies and gentlemen, that'll

24 complete the testimony for today, it's five o'clock so I'm

25 gonna ask you to be back in the jury room tomorrow morning at

MOTIONS AND MATTERS

1 foreperson of jury. Now where do you want the foreperson to
2 sit, where this gentleman with the ---

3 THE BAILIFF: The, uh, ---

4 THE COURT: --- tan coat?

5 THE BAILIFF: --- tan jacket, blue shirt.

6 THE COURT: Tan jacket will take that seat right there
7 (indicating) and, uh, keep that seat throughout the rest a the
8 trial, rest -- seats don't have any names on 'em so just sit
9 where you're most comfortable. Alright, and third thing I'm
10 gonna ask you do is have pleasant evening, we'll see you at
11 nine o'clock in the morning and pleasant evening. Thank you
12 very much.

13 (Whereupon, a discussion was held off the record.)

14 (The following takes place outside the presence of the
15 jury.)

16 THE COURT: Alright, anything bring to Court's attention
17 this time?

18 MR. FULMER: Nothing from the State, Your Honor.

19 THE COURT: Alright, stand at ease 'til nine o'clock in
20 the morning.

21 MR. HALL: Thank Your Honor.

22 THE COURT: Yes.

23 (Proceedings October 14, 2014)

24 THE COURT: Alright, counsel, I don't know how to work
25 the buttons up here. Uh, anything need to be, needs to be

MOTIONS AND MATTERS

1 brought to the Court's attention before we bring the jury?

2 MR. FULMER: No, sir, Judge. I think I have one witness
3 outside if I could just step out and get her in the courtroom.

4 THE COURT: Uh, defendant?

5 MR. HALL: Nothin' from the defense, Your Honor, I ---

6 THE COURT: Alright, thank you.

7 MR. HALL: --- struggling with a little bit of allergy
8 stuff in this courtroom, it's, uh, seems to be the worst of,
9 worst of ferment.

10 THE COURT: Well ---

11 MR. HALL: --- and ---

12 THE COURT: --- well I think that's why they put me in
13 here.

14 (Whereupon, a discussion was held off the record.)

15 THE COURT: Ready for the jury? State ---

16 MR. HALL: Yes.

17 THE COURT: --- ready?

18 MR. FULMER: Yes, sir.

19 THE COURT: Defense ready?

20 MR. HALL: (Nodded in the affirmative.)

21 THE COURT: See if they finished their breakfast.

22 THE BAILIFF: Okay.

23 (Whereupon, a discussion was held off the record.)

24 (Laughter.)

25 (The following takes place in the presence of the jury.)

TRISHAUNDA ROOKARD - DIRECT EXAMINATION BY MR. FULMER

1 THE BAILIFF: All present.

2 THE COURT: Thank you. Morning, ladies and gentlemen.

3 THE JURY: Morning.

4 THE COURT: Hope you had a pleasant evening, we're now
5 ready to continue with the trial. Solicitor, call your next
6 witness.

7 MR. FULMER: Thank you, Judge, the State calls Trishaunda
8 Rookard.

9 (Whereupon, the witness came forward.)

10 THE CLERK: If you'll place your left hand the Bible,
11 raise your right, please.

12 TRISHAUNDA ROOKARD AKA TRISHAUNDA
13 BENNETT, having been first duly sworn, testified as follows:

14 THE CLERK: Be seated.

15 DIRECT EXAMINATION BY MR. FULMER:

16 Q. Good morning, could you tell the jury your name.

17 A. Trishaunda Bennett.

18 Q. Okay. Did you previously go by Trishaunda Rookard?

19 A. I did.

20 Q. How long a -- how long ago was your name changed to
21 Bennett?

22 A. January 2013, well like name change September the 5th. I
23 got divorced January 2013.

24 Q. So back in April of 2013 would you been goin' by
25 Trishaunda Rookard?

TRISHAUNDA ROOKARD - DIRECT EXAMINATION BY MR. FULMER

- 1 A. My ID was still Trishaunda Rookard.
- 2 Q. Okay, and where do you live mis Roo -- Ms. Bennett?
- 3 A.
- 4 Q. How long have you lived there?
- 5 A. Um, 'bout five months.
- 6 Q. Prior to that did you live in Spartanburg?
- 7 A. I did.
- 8 Q. And how long have you lived in Spartanburg?
- 9 A. All my life.
- 10 Q. Do you know the defendant?
- 11 A. I do.
- 12 Q. How do you know him?
- 13 A. He's my child's father.
- 14 Q. You have one one child in common?
- 15 A. Yes.
- 16 Q. Uh, back in April of 2013 and March previous to that were
- 17 you in a relationship with Mr. Wilkins?
- 18 A. Yes.
- 19 Q. Okay, what kinda relationship was that?
- 20 A. Just, you know, average girlfriend/boyfriend
- 21 relationship.
- 22 Q. Romantic ---
- 23 A. Yeah.
- 24 Q. --- relationship?
- 25 A. Yeah.

1 Q. Sexual relationship?

2 A. Yeah.

3 Q. Back durin' that time period March and April did did you
4 have a car?

5 A. Yes.

6 Q. What kinda car did you have?

7 A. I had a blue Pasat but it hit a somethin', my
8 transmission messed up, I had to rent a car.

9 Q. Okay. Where did you rent this car from?

10 A. Enterprise.

11 Q. Okay. Do you recall the dates that you rented the car?

12 A. Uh, that's way -- 2013, beginnin' 2013.

13 Q. Would would you agree that it was around the end of March
14 and beginning of April?

15 A. Yes.

16 Q. Okay. Do you recall what kinda car you rented?

17 A. Uh, gold car, kind of like a Chevy, Ford, sumtin' like
18 that.

19 Q. Sedan?

20 A. Yeah, ---

21 Q. Four doors?

22 A. --- something small, yeah.

23 Q. During the time that you had that car rented, did you
24 allow Mr. Wilkins to use that car?

25 A. We shared it a little.

TRISHAUNDA ROOKARD - DIRECT EXAMINATION BY MR. FULMER

1 Q. So did he drive it sometimes?

2 A. Yeah.

3 Q. Do you recall being questioned by the police about a
4 robbery?

5 A. Um-hum.

6 Q. Okay. On the day a that robbery, uh, can you tell me
7 what you did with that rental car.

8 A. I left it in the parkin' lot for my brother take back to
9 Enterprise for me.

10 Q. Okay. And at some point that day did you get a call from
11 Mr. Wilkins?

12 A. Yes.

13 Q. Okay, and tell the jury 'bout that call.

14 A. He just called, asked could he go around the s -- uh,
15 corner to the Red Diamond store.

16 Q. Okay. Did he have access to the keys to the car?

17 A. The keys was in the car.

18 Q. So he called you and asked to borrow the car?

19 A. Yeah.

20 Q. Did he tell you why he wanted to borrow the car?

21 A. He just needed to go get some cigarettes or somethin'
22 from the store, the store wasn't that far away.

23 Q. Okay. After that point in time ha -- did you ever see
24 the rental car again?

25 A. No.

TRISHAUNDA ROOKARD - DIRECT EXAMINATION BY MR. FULMER

1 Q. What were you doing this day?

2 A. I was on the way to MUSC with my mom.

3 Q. Have you ever talked to Mr. Wilkins after that day?

4 A. Yeah, we've talked.

5 Q. Okay. You've seen a security vid -- video from the
6 robbery that took place at the Fast Fuel ---

7 A. I did.

8 Q. --- on April 4th?

9 A. I did.

10 Q. Okay. And were you able to identify anyone in that
11 security video?

12 A. I wasn't for sure absolutely positive that it was
13 Wendell, it just looked similar to him, I don't, I don't know
14 for sure ---

15 Q. Okay.

16 A. --- I will say again.

17 MR. FULMER: Judge, I'd like to show the the witness
18 State's Exhibit 14 which is the spliced version of the
19 security video.

20 THE COURT: Go ahead.

21 (Whereupon, State's Exhibit No. 14 was played.)

22 BY MR. FULMER:

23 Q. Ms. Bennett, after reviewing the the security footage you
24 saw there, do do you recognize the man ---

25 A. I ---

TRISHAUNDA ROOKARD - DIRECT EXAMINATION BY MR. FULMER

1 Q. --- in that footage?

2 A. It wasn't the best footage but yeah, if you picture
3 Wendell with a bald head maybe, yeah.

4 Q. I'm sorry?

5 A. If you picture him with a bald head then maybe it looks
6 like him.

7 Q. Well do you recall tellin' the police in the past that
8 you did recognize that as him?

9 A. I said that it looked like him.

10 Q. Okay. He's wearing a gray hoodie, do you we -- recognize
11 that gray hoodie?

12 A. When he got outta prison, we went in bought some stuff
13 and he had a gray jacket, I don't know if it was a hoodie or
14 not but he had a gray jacket.

15 Q. Do you recall previously telling the police that the gray
16 hoodie with the stripe on the sleeve was the same gray hoodie
17 the he purchased with you?

18 A. I remember tellin' the police that we went to Wal-Mart
19 and bought some stuff and he bought a gray hood.

20 Q. And is that the truth?

21 A. Yes.

22 Q. Okay. A couple months after this robbery took place do
23 you recall bein' visited by Investigator Hutchins from the
24 sheriff's office?

25 A. I don't who Hutchins was. I don't remember all the names

TRISHAUNDA ROOKARD - CROSS-EXAMINATION BY MR. HALL

1 but I was visited by couple investigators.

2 Q. Okay, and did you give them anything?

3 A. I gave them a cell phone.

4 Q. Okay, who's cell phone was that?

5 A. Wendell's.

6 Q. Okay. Let me show you a picture, I'm gonna show you
7 State's Exhibit 12 and State's Exhibit 13 that were taken off
8 a that phone and ask if you recognize the person in those
9 photographs.

10 A. Wendell.

11 Q. Okay. You mean the defendant?

12 A. Yes.

13 Q. That's all I have for ya, Ms. Bennett, please aser any --
14 answer any questions Mr. Hall may have of you.

15 CROSS-EXAMINATION BY MR. HALL:

16 Q. Let's start with the hoodie, Ms. Ms. Bennett. Uh, when
17 you bought the gray hoodie from Wal-Mart, that's -- were there
18 other gray hoodies there for sale at that Wal-Mart ---

19 A. Yes.

20 Q. --- with the same stripe?

21 A. Yes.

22 Q. So you didn't buy the only one?

23 A. No.

24 Q. Okay. Now did I hear you correct say that he wanted to
25 borrow the car to go to Red Diamond?

TRISHAUNDA ROOKARD - CROSS-EXAMINATION BY MR. HALL

- 1 A. Um-hum.
- 2 Q. Now haven't you said before ---
- 3 A. Not sure ---
- 4 (Indiscernible cross-talk.)
- 5 Q. --- the Detrax?
- 6 A. Um-hum.
- 7 Q. Those aren't the same store, are they?
- 8 A. No, Dee Traxx and Red Diamond are like probly five
- 9 minutes away from each other.
- 10 Q. So you know which one it was?
- 11 A. He went to Dee Traxx.
- 12 Q. Okay, Dee Traxx, not a Red Diamond, alright. Now you
- 13 said somethin' on direct examination, uh, that looks like him
- 14 but you, if you picture him with a bald head, ---
- 15 A. Um-hum.
- 16 Q. --- so person on there, I've got some hair but, uh, I'm
- 17 not bald head ---
- 18 A. Um-hum.
- 19 Q. --- but that person you say ---
- 20 A. Looked bald-headed to me.
- 21 Q. And you were around Mr. Wilkins at the time a this, I
- 22 understand ya'lls relationship broke up but ---
- 23 A. Um-hum.
- 24 Q. --- did he have a bald head?
- 25 A. No.

TRISHAUNDA ROOKARD - CROSS-EXAMINATION BY MR. HALL

1 Q. Alright. And you gave your cell phone or the cell phone
2 that was Mr. Wilkins', I assume you'd gotten it for him, ---

3 A. Um-hum.

4 Q. --- to the sheriff's department.

5 A. Yes.

6 Q. Alright. Did you also give him your cell phone number?

7 A. No.

8 Q. Alright. They didn't have your cell phone number?

9 A. They had my cell phone number, I don't know how they got
10 it.

11 Q. Oh, but they already had your cell phone ---

12 A. Yeah.

13 Q. --- number, okay. Alright, uh, so around this time of
14 this incident the car rental, uh, Wendell Wilkins was not
15 bald-headed.

16 A. Uh, no, wasn't bald-headed.

17 Q. Alright. Do you recall how much hair he had?

18 A. Um, just a little hair on his head, I don't know exactly
19 how much, whatever, I don't know what guys hair cuts look
20 like.

21 Q. But it wasn't slick.

22 A. No.

23 Q. Alright. Beg the Court's indulgence. Now when you left
24 the car, let me put this way, do you remember the day of this
25 alleged incident that you were on your way to Charleston with

TRISHAUNDA ROOKARD - REDIRECT EXAMINATION BY MR. FULMER

1 your mother, ---

2 A. Yes.

3 Q. --- had you left the car that mornin', that afternoon,
4 the prior evening or what?

5 A. That morning.

6 Q. That morning. And you left the keys in.

7 A. Yes, in the dash.

8 Q. In the dash. Do you recall when, you said you got a call
9 from Wendell on the way to Charleston, you know about when
10 that was?

11 A. Uh, it was still daylight is all I can remember, it was
12 on the highway, I don't know exact times.

13 Q. After lunch? before lunch?

14 A. A little after lunch.

15 Q. After lunch, so in the afternoon. I have no further
16 questions.

17 THE COURT: Alright. Redirect?

18 MR. FULMER: Yes, sir, Judge.

19 REDIRECT EXAMINATION BY MR. FULMER:

20 Q. Trishaunda, I'm gonna show you State's Exhibit 4, State's
21 Exhibit 11 and can you tell me if you recognize that
22 (indicating) person.

23 A. Wendell Wilkins.

24 Q. Okay. Would that have been the way he appeared back in
25 April of 2013?

TRISHAUNDA ROOKARD - REDIRECT EXAMINATION BY MR. FULMER

1 A. Yes.

2 Q. That's how he looked?

3 A. Yes.

4 Q. Okay.

5 MR. FULMER: Judge, I'd like to move State's Exhibit 11
6 and State's Exhibit 4 into evidence.

7 MR. HALL: We've already stipulated, Your Honor.

8 THE COURT: Without objection.

9 MR. FULMER: Thank you, Judge.

10 (State's Exhibit Nos. 11 and 4, photographs, admitted
11 into evidence.)

12 MR. FULMER: Um, I think I'll publish those later, Judge,
13 I don't have further questions.

14 THE COURT: Redirect?

15 MR. HALL: Nothin' further.

16 THE COURT: Recross? Alright, you may come down, ma'am.
17 Thank you very much.

18 (Whereupon, the witness left the stand.)

19 THE COURT: Witness be excused?

20 MR. FULMER: Please, Judge.

21 MR. HALL: No objection.

22 THE COURT: Without objection. Free to go, ma'am.

23 THE WITNESS: Thank you.

24 MR. FULMER: State calls Rachel Wells, Judge.

25 (Whereupon, the witness came forward.)

RACHEL WELLS - DIRECT EXAMINATION BY MR. FULMER

1 THE CLERK: Place your left hand the Bible, raise your
2 right.

3 RACHEL WELLS, having been
4 first duly sworn, testified as follows:

5 THE CLERK: Have a seat.

6 DIRECT EXAMINATION BY MR. FULMER:

7 Q. Please tell the jury your name.

8 A. Rachel Wells.

9 Q. Ms. Wells, where do you live?

10 A. Uh,

11 Q. How long have you lived there?

12 A. Four and a half years.

13 Q. How long have you been in Spartanburg?

14 A. All my life.

15 Q. Do you know Wendell Wilkins?

16 A. Yeah.

17 Q. How do you know Mr. Wilkins?

18 A. I used to date him.

19 Q. Okay. Back in April of 2013 were you in a relationship
20 with him?

21 A. Yeah, sumtin' like that.

22 Q. Could you describe your relationship with Mr. Wilkins at
23 that time.

24 A. Um, it was just like a sexual, ---

25 Q. Okay, ---

RACHEL WELLS - DIRECT EXAMINATION BY MR. FULMER

1 A. --- uh, ---

2 Q. --- so you were intimate with Mr. Wilkins.

3 A. Yeah.

4 Q. Okay. Do you remember, uh, when this robbery happened?

5 A. No.

6 Q. Okay. But you do remember bein' with him back at that
7 time period?

8 A. Yeah.

9 Q. Okay. Now you were in the courtroom yesterday, is that
10 right?

11 A. Yeah.

12 Q. Okay, and you've been in the courtroom this morning?

13 A. Yeah.

14 Q. Have you seen the security footage?

15 A. Yeah.

16 Q. Okay, you seen that two or three times now?

17 A. Yeah.

18 Q. Do you recognize the person in that security footage?

19 A. Yeah.

20 Q. Who do you recognize that person as?

21 A. Wendell Wilkins.

22 Q. How do you know that?

23 A. The structure of his face when he took the mask off.

24 When he like slided his face, I could tell it was him.

25 Q. Okay. Are you in a relationship Mr. Wilkins any

RACHEL WELLS - CROSS-EXAMINATION BY MR. HALL

1 longer?

2 A. Uh-uh.

3 Q. I'm gonna show you what I showed Trishaunda earlier,
4 State's Exhibit 4 and 11, let you look at those photos of
5 Mr. Wilkins, is that the way he looked back in April when you
6 were with him?

7 A. Yeah.

8 MR. FULMER: Judge, can I publish these to the jury?

9 THE COURT: Yes, sir.

10 (Whereupon, State's Exhibit Nos. 4 and 11 were published
11 to the jury.)

12 BY MR. FULMER:

13 Q. Thank you, Ms. Wells, please answer any questions that
14 Mr. Hall might have for ya.

15 CROSS-EXAMINATION BY MR. HALL:

16 Q. Now you don't remember dates exactly when you dated
17 him, ---

18 A. Uh-uh, ---

19 Q. --- is that correct?

20 A. --- not not the exact dates.

21 Q. Would he come over to your apartment?

22 A. Yeah.

23 Q. And for what purpose would he come to your apartment?

24 A. Just to chill.

25 Q. Pardon me?

RACHEL WELLS - CROSS-EXAMINATION BY MR. HALL

1 A. Just to chill.

2 Q. Just to chill. So nothin' else was going on, no kind of
3 illicit activity?

4 A. No.

5 Q. Nobody had any drugs or anything?

6 A. No.

7 Q. So he'd just come over there and have sex with ya?

8 A. Yeah.

9 Q. Okay. And at that time you thought you were the only
10 one, didn't ya?

11 A. Yeah.

12 Q. So you thought it was exclusive relationship. Uh, were
13 you involved with anybody else at the time?

14 A. No.

15 Q. This was relatively short period a time a month or so
16 ya'll ---

17 A. Yeah.

18 Q. Yeah. How'd you meet him?

19 A. Um, I was just outside one day, he came up and started
20 talkin' to me.

21 Q. Okay. And at some point you realize the relationship was
22 over?

23 A. Yeah.

24 Q. Did you communicate with him after he got arrested?

25 A. Yeah.

RACHEL WELLS - CROSS-EXAMINATION BY MR. HALL

1 Q. Is that when he told ya?

2 A. Uh-uh, ---

3 Q. Oh, he wro ---

4 A. --- I found out myself.

5 Q. Oh, how'd you -- wha'd you find out?

6 A. Um, a female had emailed me and ---

7 (Whereupon, the Court was interrupted by a fire alert.)

8 POLICE OFFICER: That's fire alert, Your Honor.

9 THE COURT: Hum?

10 POLICE OFFICER: That's a fire alert. Go.

11 THE COURT: Fire alert?

12 POLICE OFFICER: Yes, sir, we need get you out.

13 THE COURT: Alright. Somebody take care a the jury?

14 POLICE OFFICER: Yes.

15 THE COURT: Fire alar -- fire alarm.

16 (Whereupon, the jurors and staff exited the courtroom and
17 a recess was taken.)

18 THE COURT: Thank you, be seated. Alright, Solicitor,
19 you ready proceed?

20 MR. FULMER: Yes, sir.

21 THE COURT: Defense ready proceed?

22 MR. HALL: Yes, sir, Your Honor.

23 THE COURT: Alright, bring the jury, please.

24 MR. FULMER: Your Honor, would you like Ms. Wells ---

25 THE COURT: Hold hold hold hold just a minute. Hold just

RACHEL WELLS - CROSS-EXAMINATION BY MR. HALL

1 a minute.

2 MR. FULMER: Would you like Ms. Ms. Wells to take the
3 stand again, she was in mid-testimony.

4 THE COURT: Yeah, let me talk to ya'll just a minute,
5 scheduling matter.

6 (Whereupon, a bench conference was held off the record.)

7 THE COURT: Alright, now go ahead, bring the jury. Uh,
8 yes, ma'am, you c'mon back.

9 THE BAILIFF: Okay.

10 (Whereupon, the witness returned to the stand.)

11 MR. HALL: For the record, Your Honor, everybody but, she
12 was outside but everybody avoided her like the plague while
13 there was no contact.

14 (Whereupon, a discussion was held off the record.)

15 (The following takes place in the presence of the jury.)

16 THE BAILIFF: All present.

17 THE COURT: Alright, thanks. Alright. Alright, ladies
18 and gentlemen, uh, as I say pardon the interruption and we'll
19 now continue with the trial. Mr. Hall.

20 MR. HALL: Thank Your Honor.

21 BY MR. HALL:

22 Q. Alright, Ms. Wells, uh, I was asking you, uh, before the
23 interruption about your relationship, uh, with Mr. Wilkins,
24 you said March, April, uh, think one time think you said
25 April, May, you recall when that relationship was?

RACHEL WELLS - CROSS-EXAMINATION BY MR. HALL

1 A. Uh-uh, I don't know when it was, like I don't know the
2 exact day or the month.

3 Q. Alright, but it was 2013.

4 A. Yeah.

5 Q. Okay. It be, it, you know, I was asking you about the
6 breakup, you're saying ya'll broke up before he was arrested
7 or after he was arrested?

8 A. I mean, we were still talkin' when he got arrested but, I
9 mean, we wasn't goin' together, it was just sexual.

10 Q. Just sexual. And at some point before or after he was
11 arrested did he say it's over?

12 A. No.

13 Q. Okay, so he never broke up with you.

14 A. I mean, we were never like in a relationship like goin'
15 together like boyfriend/girlfriend, we were just like havin'
16 sex, just ---

17 Q. Just scratchin' an itch type ---

18 A. Yeah.

19 Q. --- relationship, ---

20 A. Yeah.

21 Q. --- okay. You do know this robbery that we've seen,
22 you've seen the video was, uh, at the first of April, April
23 4th, ---

24 A. Yeah.

25 Q. --- okay, and he was arrested that month, wasn't he?

RACHEL WELLS - CROSS-EXAMINATION BY MR. HALL

1 A. I guess, I don't know.

2 Q. Okay. How long before this, best guess, had you been
3 with him, a few weeks or . . .

4 A. For like two or three weeks.

5 Q. Okay. So and this is just come over, have sex, goodbye.

6 A. Um-hum.

7 Q. Alright. Now you looked at the pictures, kinda said
8 yeah, that's the way it's, kinda the way his hair was at the
9 time but it's clearly he's got hair you can see.

10 A. Yeah.

11 Q. Yeah, alright. Did you communicate with him at all after
12 he got arrested ---

13 A. Yeah.

14 Q. --- by phone? Alright, and did he say you were gonna
15 continue the re -- the scratch your itch type relationship ya
16 had if he got out or did he say it's over?

17 A. No, he didn't say nothin' at all.

18 Q. Didn't say nothin' at all, okay. But I believe you said
19 there was no kinda illicit activity goin' on at your apartment
20 other than ya'll were havin' relations.

21 A. Um-hum.

22 Q. And you knew he had a child with Ms., well it's now
23 Mrs. Bennett, it used to be Ms. Rookard or King and ---

24 A. Yeah.

25 Q. --- Shaunda, and think you've said before you didn't know

RACHEL WELLS - REDIRECT EXAMINATION BY MR. FULMER

1 he was havin' a relationship with another girl named ---

2 A. Yeah.

3 Q. --- Brittany ---

4 A. Yeah.

5 Q. --- but you you learned that several months ago, didn't
6 ya?

7 A. Yeah.

8 Q. Okay. So he's kinda havin' exclusive sexual relationship
9 with you but seein' other people too.

10 A. Yeah.

11 Q. Yeah, alright. Just I want for clarification at some
12 point you realized you weren't gonna have any kinda
13 relationship with him anymore, is that correct, or . . .

14 A. I mean, I ain't wanna talk to him no more.

15 Q. Alright, but you you say he never told you it's over ---

16 A. No.

17 Q. --- but you you decide to go on your own.

18 A. Yeah. I mean, we wasn't in no relationship, it wasn't
19 nuttin' like we was like months and months and months, it was
20 just like couple weeks, it was nothin' like ---

21 Q. Couple weeks, alright. No further questions.

22 THE COURT: Redirect?

23 MR. FULMER: Yes, sir, Judge.

24 REDIRECT EXAMINATION BY MR. FULMER:

25 Q. Are you in love with Mr. Wilkins?

RACHEL WELLS - REDIRECT EXAMINATION BY MR. FULMER

1 A. No.

2 Q. Were were you at the time?

3 A. 'lil bit.

4 Q. Okay. Do you have ill feelings for him now?

5 A. I mean, he alright.

6 Q. Okay. You're not tellin' the jury that you recognized
7 him in the video because you have bad feelings towards him,
8 are you?

9 A. Oh, no.

10 Q. Okay. Did you ever see Mr. Wilkins drivin' a car?

11 A. Yeah.

12 Q. Do you recall what that ---

13 MR. HALL: It's improper, Your Honor, redirect.

14 THE COURT: I'll allow it, go ahead.

15 BY MR. FULMER:

16 Q. Do you recall what that car looked like?

17 A. It was like a gold color like a Chev -- it had a Chevy
18 sign in front of it.

19 Q. Gonna show ya State's Exhibit 5 and ask does that look
20 like the car, ---

21 A. Yeah.

22 Q. --- uh, that you saw him drivin'?

23 A. Yeah, that's the car.

24 Q. Okay. And would this have been around the time frame
25 early April, late March ---

MICHAEL SEAN NIX - DIRECT EXAMINATION BY MR. FULMER

1 A. Yeah.

2 Q. --- of 2013?

3 A. Um-hum.

4 Q. Okay.

5 MR. FULMER: That's all I have, Your Honor.

6 THE COURT: Recross?

7 MR. HALL: No, sir, Your Honor.

8 THE COURT: Alright, you may come down, ma'am.

9 (Whereupon, the witness left the stand.)

10 THE COURT: This witness be excused?

11 MR. FULMER: Please, Your Honor.

12 MR. HALL: No objection.

13 THE COURT: Without objection.

14 MR. FULMER: Judge, State calls Sean Nix.

15 (Whereupon, the witness came forward)

16 MICHAEL SEAN NIX, having been
17 first duly sworn, testified as follows:

18 THE CLERK: Thank you, have a seat.

19 DIRECT EXAMINATION BY MR. FULMER:

20 Q. Tell the jury your name.

21 A. Michael Sean Nix.

22 Q. Where do you work?

23 A. Spartanburg County Sheriff's Office.

24 Q. And what what's your position there?

25 A. I'm a crime scene investigator.

MICHAEL SEAN NIX - DIRECT EXAMINATION BY MR. FULMER

1 Q. You, can you explain to the jury what that is and what
2 you, what you do.

3 A. Uh, my task is to document and collect evidence at crime
4 scenes.

5 Q. And were you involved in the investigation of a armed
6 robbery back in April April 4th of 2013?

7 A. Yes, sir.

8 Q. Okay. That's the case where Wendell Wilkins was charged
9 in an armed robbery?

10 A. Yes.

11 Q. Okay, and can you tell the jury, uh, what your
12 involvement in that case was.

13 A. On April 5th I was asked to report to the, uh, county,
14 uh, shop in order to process a vehicle involved in this
15 case.

16 Q. Okay. What kinda vehicle was that?

17 A. It was a gold in color Chevy.

18 Q. Do you have any other information about it like a tag
19 number?

20 A. Yes, the tag on the vehicle was a South Carolina ti --
21 South Carolina tag, uh, that was, uh, India Delta Hotel 739.

22 Q. And what did processing entail?

23 A. Uh, takin' pictures of it and, uh, searching for evidence
24 in order to collect evidence in this tri -- case ---

25 Q. Okay.

MICHAEL SEAN NIX - DIRECT EXAMINATION BY MR. FULMER

1 A. --- as well as some fingerprinting, I'm sorry.

2 Q. Gonna show you State's Exhibit 6 and State's Exhibit 5,
3 would you take a look at those.

4 (Whereupon, the witness examined the exhibits.)

5 Is that a photograph or photographs of the car that you
6 processed?

7 A. Yes, sir.

8 Q. Okay. And the during the course a that processing what
9 did you find?

10 A. Uh, found a number a things, uh, uh, I collected, uh, any
11 anything specific?

12 Q. Uh, well I'm gonna show you what's marked as six pieces
13 of mail collected in evidence in this case, would you take a
14 look at those and ---

15 A. I will.

16 Q. --- and tell the jury whether or not you recognize those
17 items.

18 A. Alright.

19 (Whereupon, the witness examined the mail.)

20 I do. Yes, I do, sir.

21 Q. And where were those items found?

22 A. Let's see, if I may reference my notes here. Uh, I have
23 these particular items from the glove box of the vehicle.

24 Q. And could you take the items out the envelope and tell
25 the jury what they are.

MICHAEL SEAN NIX - DIRECT EXAMINATION BY MR. FULMER

1 A. Yes, sir. These items are paperwork most of which is
2 bank paperwork.

3 Q. Are they addressed to anyone?

4 A. There are two names on this paperwork, one is to
5 Trishaunda, uh, one has Keenan (phonetic) on it or several
6 have Keenans on it and there a couple pieces addressed to a
7 Wendell Wilkins.

8 Q. We have this (indicating) piece of mail addressed to Wil
9 Wilkins ---

10 A. Um-hum.

11 Q. --- it's found in the car?

12 A. Found in the glove box car, yes, sir.

13 Q. And this piece (indicating) a mail addressed to Wendell
14 Wilkins ---

15 A. Yes, sir.

16 Q. --- found inside the car?

17 A. Yes, sir.

18 MR. FULMER: Judge, I'd move these into evidence.

19 MR. HALL: No objection, Your Honor.

20 THE COURT: Without objection.

21 (Mail marked State's Exhibit Nos. 17 and 18 for
22 identification and admitted into evidence.)

23 BY MR. FULMER:

24 Q. Did you have any other involvement in this case?

25 A. Uh, the only other involvement I had in this case was to

MICHAEL SEAN NIX - DIRECT EXAMINATION BY MR. FULMER

1 collect a a DNA sample from the defendant this case.

2 Q. And can you explain to the jury how you do that.

3 A. In this particular instance, uh, we had obtained, uh, we
4 obtained a, uh, order to collect the defendant's DNA. Uh, the
5 way I collect it is is that, uh, we have these long Q-tip
6 like, uh, things that are taken out of a sterile, uh,
7 packaging, uh, we ask the person to open his mouths, we swab
8 the inside their cheeks and then after that we put 'em in a
9 carton and that carton is then put into an evidence envelope
10 then it's sealed, it's turned into evidence.

11 Q. And did you do that in this case?

12 A. Yes, I did.

13 Q. And you turned his DNA sample into evidence?

14 A. Yes, sir, I did.

15 Q. Okay.

16 MR. FULMER: Judge, can I publish these two new pieces of
17 evidence to the jury.

18 THE COURT: Yes, sir?

19 MR. FULMER: It's item 17 and 18.

20 (Whereupon, State's Exhibit 17 and 18 were published to
21 the jury.)

22 BY MR. FULMER:

23 Q. Thank you, Deputy, please answer any questions Mr. Hall
24 may have of ya.

25 A. Yes, sir.

MICHAEL SEAN NIX - CROSS-EXAMINATION BY MR. HALL

1 CROSS-EXAMINATION BY MR. HALL:

2 Q. Did you, uh, do any fingerprinting of him?

3 A. Of the vehicle, sir?

4 Q. Of Mr. Wilkins.

5 A. Did I obtain his fingerprint, sir?

6 Q. Yeah.

7 A. No, sir.

8 Q. Did you try to get any fingerprints off the vehicle?

9 A. Yes, sir, I did.

10 Q. Alright. Did anything come a those fingerprints?

11 A. I lifted a number of fingerprints and turned those over
12 to AFIS for examination.

13 Q. Okay. Uh, item 17 and 18 and the other items found in
14 the car, ---

15 A. Um-hum.

16 Q. --- uh, you have no idea how they got in the car.

17 A. I just know that they're in the car, sir.

18 Q. Alright. Are those items over there opened or sealed up
19 still or ---

20 A. Uh, some of 'em are sealed and some are open, sir.

21 Q. Okay. I may approach the witness, so item -- State 17
22 and 18 are they sealed or ---

23 A. They are sealed, sir.

24 Q. Okay. Excuse me. Alright, uh, so you process the car
25 including fingerprints, you take any swabs for DNA analysis?

MICHAEL SEAN NIX - CROSS-EXAMINATION BY MR. HALL

1 A. Yes, sir.

2 Q. Alright, and assume those are sent off too?

3 A. I assume they were, sir.

4 Q. Okay. So processin' the car was goin' in the glove
5 compartment, lookin' for fingerprints and lookin' for DNA?

6 A. It was processin' the car, is photographin', uh,
7 processin' for fingerprints and lookin' for any evidence that
8 may be related this case yes, sir.

9 Q. Okay. But in this case it included try -- tried to get
10 some DNA, ---

11 A. Yes.

12 Q. --- doin' some swabs ---

13 A. Yes, sir, yes.

14 Q. --- and some things in glove compartment. Was there
15 anything else you found in the car, anything with anybody
16 else's name in the backseat or in ---

17 (Indiscernible cross-talk.)

18 A. Yes, sir, uh, you'll let me refer to my report here.

19 Q. Yes.

20 A. Uh, let's see, I've got it here, just gotta find it.
21 There's a piece of mail addressed to an individual by the name
22 of Stinson Foster located in the rear front passenger seat map
23 holder.

24 Q. Alright. Alright. Can you tell us where you lifted
25 prints from in the car.

MICHAEL SEAN NIX - CROSS-EXAMINATION BY MR. HALL

1 A. Yes, sir. Uh, I was able to lift six prints, two were
2 from the exterior passenger side, uh, of the roof which is
3 passenger side of roof, uh, one was from the exterior rear
4 passenger door, one was from the exterior rear driver door and
5 one was from a CD that was in the car and the other was from
6 an interior rear passendoor -- interior rear passenger door
7 window glass.

8 Q. On inside?

9 A. Inside of the glass, yes, sir.

10 Q. And you sent those on -- you don't do fingerprint
11 analysis, do ya?

12 A. No, I do not.

13 Q. Alright. You sent those on through AFIS?

14 A. I sent them to AFIS yes, sir.

15 Q. Alright, thank you, ---

16 A. Um-hum.

17 Q. --- no further questions.

18 THE COURT: Anything further?

19 MR. FULMER: No, Your Honor.

20 THE COURT: Alright, sir, may come down.

21 THE WITNESS: Thank you.

22 (Whereupon, the witness left the stand.)

23 THE COURT: This witness be excused?

24 MR. FULMER: Please, Judge.

25 MR. HALL: We have no objection.

ROBERT CHARLES TALANGES - DIRECT EXAMINATION BY MR. FULMER

1 THE COURT: Without objection.

2 THE WITNESS: Okay.

3 MR. FULMER: Your Honor, State calls Ro, uh, Robert
4 Talanges.

5 (Whereupon, the witness came forward.)

6 ROBERT CHARLES TALANGES,
7 having been first duly sworn, testified as follows:

8 DIRECT EXAMINATION BY MR. FULMER:

9 Q. Tell the jury your name.

10 A. Uh, Robert Charles Talanges.

11 Q. Where do you work?

12 A. Spartanburg County Sheriff's Office.

13 Q. How long have you worked there?

14 A. Uh, almost ten years.

15 Q. Okay. What are your duties and responsibilities at the
16 sheriff's office?

17 A. Uh, crime scene investigator, same as Officer Nix.

18 Q. So you're -- you would do basically the same job he does.

19 A. That is correct.

20 Q. Were you involved in an armed robbery that happened April
21 4, 2013?

22 A. Uh, yes, I was.

23 Q. Can you tell the jury what your involvement in the case
24 was.

25 A. Uh, I responded to the incident location off Cannons

1 Campfire, yeah, Cannon Campground Road and, uh, processed the
2 incident location.

3 Q. And what did that processing entail?

4 A. Uh, photographing and documenting, uh, the scene,
5 photographing and documenting the victim at the scene and any
6 evidence and all evidence located.

7 Q. Can you describe the scene as you do -- as you documented
8 it.

9 A. Uh, yes, sir. Uh, entering the building, uh, there was a
10 actually exterior-wise there was, uh, drops of, uh, blood
11 outside. Uh, entering the building you had, uh, there was
12 some kind of altercation that took place towards the front of
13 the store that led back toward the coolers, uh, there was
14 blood, uh, droplets on the, on the ground, swipes on the
15 cooler. Uh, victim was sitting on the floor with EMS, uh,
16 giving him medical attention, had a big gash on his forehead,
17 uh, there was a red, uh, orange-ish color ski mask on top the
18 ice cream cooler, spent shell casing at the entrance door and
19 and several cartridges which are unfired bullets, uh, towards
20 the cooler area in the store.

21 Q. You mention an orange mask, gonna show you what's marked
22 as State's Exhibit 1 and ask if you recognize that.

23 A. Uh, yes, it got evidence mark on it as well.

24 Q. Okay, what is that?

25 A. That is an orange, uh, it's like a hunting mask.

ROBERT CHARLES TALANGES - DIRECT EXAMINATION BY MR. FULMER

1 Q. And that was found at the scene?

2 A. Yes, sir, that was at the location.

3 Q. Is that photographed as the way you found it?

4 A. Uh, yes, it was. I have no idea who put it on top, uh,
5 the first aid kit that's there but that's how I found it when
6 I arrived.

7 Q. What did you do with this ph -- with the ski mask?

8 A. I marked it as evidence number 1 and collected it at at
9 some time during, uh, throughout the actually at the incident
10 location throughout the day.

11 Q. So you collect it and put it into evidence.

12 A. Yes, I did.

13 Q. Okay.

14 MR. HALL: No objection.

15 MR. FULMER: Judge, I'd move State's Exhibit 1 into
16 evidence.

17 THE COURT: Any objection?

18 MR. HALL: No objection, Your Honor.

19 THE COURT: Without objection.

20 (State's Exhibit No. 1, photograph, admitted into
21 evidence.)

22 BY MR. FULMER:

23 Q. I'm now gonna show you State's Exhibit 3 and ask if you
24 recognize that photograph.

25 A. Yeah, this is a photo of a Newport cigarette pack in

ROBERT CHARLES TALANGES - CROSS-EXAMINATION BY MR. HALL

1 which it was struck by a projectile.

2 Q. And is that photo taken inside the convenience store?

3 A. Yes, it's behind the counter in the convenience store.

4 Q. Okay.

5 MR. FULMER: Judge, I'd move State's Exhibit 3 into
6 evidence.

7 MR. HALL: No objection.

8 THE COURT: Without objection.

9 (State's Exhibit No. 3, photograph, admitted into
10 evidence.)

11 MR. FULMER: That's all I have, Judge.

12 THE COURT: Cross?

13 CROSS-EXAMINATION BY MR. HALL:

14 Q. Uh, Investigator Talanges, uh, I assume you collected the
15 spent shell casing, ---

16 A. Yes, it's evidence number 2.

17 Q. --- uh, and the unfired bullets?

18 A. Yeah, there were, uh, uh, one, two, three, there were
19 four, it's ---

20 Q. There were four.

21 A. --- .380 caliber.

22 Q. Now you don't do fingerprint analysis or anything, you
23 collect evidence.

24 A. Oh, I I fingerprinted, uh, the front, uh, inside doors of
25 the the business.

ROBERT CHARLES TALANGES - CROSS-EXAMINATION BY MR. HALL

1 Q. Alright. I, well I meant you don't, you might collect
2 fingerprints but you don't compare 'em to any samples or
3 anything, you're ---

4 A. Not not ---

5 Q. --- collecting ---

6 A. --- in this case, did not.

7 Q. Alright, sir. And you got some fingerprints from the
8 door inside or outside?

9 A. Inside.

10 Q. Now, in State's Exhibit 3 took the picture, were you able
11 to recover the bullet itself, the metal projectile?

12 A. It was recovered, uh, went through the cigarette pack,
13 uh, struck the the display case, it struck the wall behind it
14 and when once the display case is moved the bullet was located
15 on the floor.

16 Q. Okay. I assume that was all turned in.

17 A. Yes.

18 MR. HALL: Have no further question of this witness, Your
19 Honor.

20 THE COURT: Alright, any redirect?

21 MR. FULMER: No, Your Honor.

22 THE COURT: Alright, may come down.

23 (Whereupon, the witness left the stand.)

24 THE WITNESS: Thank you very much.

25 THE COURT: Witness be excused?

AMANDA WEBB - DIRECT EXAMINATION BY MR. FULMER

1 MR. HALL: We have no objection, Your Honor.

2 THE COURT: Without objection.

3 MR. FULMER: Your Honor, the State calls Amanda Webb.

4 (Whereupon, the witness came forward.)

5 MR. FULMER: Judge, if I may place on the record the
6 defense and the State have agreed to stipulate to the chain of
7 evidence with regard to the DNA that she's gonna be testifying
8 to.

9 THE COURT: Alright.

10 MR. HALL: That's correct, Your Honor.

11 THE COURT: What about the qualifications?

12 MR. HALL: We'll stipulate to the qualifications also.

13 AMANDA WEBB, having been first
14 duly sworn, testified as follows:

15 THE CLERK: Thank you, have a seat, please.

16 DIRECT EXAMINATION BY MR. FULMER:

17 Q. Tell the jury your name.

18 A. Amanda Webb.

19 Q. Where do you work, Ms. Webb?

20 A. I work at the South Carolina Law Enforcement Division
21 also known as SLED.

22 Q. How long have you worked there?

23 A. It's been about 6 1/2 years.

24 Q. And what do you do for SLED?

25 A. I'm a forensic DNA analyst.

AMANDA WEBB - DIRECT EXAMINATION BY MR. FULMER

1 Q. Do -- tell the jury 'bout your schooling.

2 A. I have a bachelor's in forensic chemistry from Marshall
3 University it's in West Virginia and I have a master's in
4 forensic science from Marshall University as well.

5 Q. Do you have any training or specialized training a --
6 beyond that?

7 A. Uh, yes, uh, directly after getting my degrees I was
8 hired on at SLED and I was in training there for approximately
9 a year and a half before I was declared independent to do my
10 own case work and then, uh, I have many hours of of training
11 each year, uh, I'm required to do at least eight hours of of
12 training every year, I usually get more than that and, uh,
13 there's a a company that sends tests to the DNA analyst, it's
14 a outside company, so, uh, they send samples in, I have to run
15 the tests on the samples to make certain that I get the
16 correct, uh, results in order to maintain my ability to keep
17 testing.

18 Q. Can you explain to the jury, uh, what DNA is.

19 A. Sure. DNA's basically it's like a chemical in the body,
20 uh, it's found in, uh, body fluids, sweat, blood, it's found
21 on skin cells like if you, if you touch something or rub
22 something you're gonna remove skin and, uh, that has DNA in
23 it. Uh, you get half of your DNA from your mom and half from
24 your dad and it's unique to each individual except for
25 identical twins and, uh, in forensics DNA analysis I look at,

AMANDA WEBB - DIRECT EXAMINATION BY MR. FULMER

1 uh, sixteen different locations of the DNA and also a, uh,
2 location to determine sex, whether or not the person's male or
3 female, and, uh, I compare any DNA profiles developed from
4 evidence items to known standards from an individual so a
5 known standard is when DNA's collected from a person so I know
6 that DNA profile came from that person so I can use that to
7 compare to evidence to see if maybe they were at the crime
8 scene.

9 Q. And in this case did you receive known standards from
10 individuals?

11 A. Yes, I did.

12 Q. Who did you receive known standards from?

13 A. I received two. I received, uh, one from the suspect
14 Wendell Wilkins and one from the victim Salvator, uh, forgive
15 me if I mispronounce this, uh, Bonidacio.

16 Q. Okay, and and how were those known sample processed and
17 what did you do to them?

18 A. The, uh, known samples are are, uh, basically it's a like
19 a Q-tip and it has the DNA on it and so I I I cut the Q-tip,
20 uh, and put it in a vial, put some chemicals on it and the
21 chemicals remove the DNA from the Q-tip swab and then I test
22 it to see how much DNA I have so I know what amount I'm
23 working with and then, uh, according to the that amount, uh, I
24 decide my next step of the process and, uh, amplify the DNA
25 and what that does is it takes a small amount and makes

AMANDA WEBB - DIRECT EXAMINATION BY MR. FULMER

1 multiple copies of it to where it's, uh, uh, an amount that's
2 useable for us, it it makes it to where a very small tiny
3 amount can, uh, develop a profile and once that, uh, profile's
4 developed I compare it to any evidence and make a report.

5 Q. Did you receive evidence to compare the standards to in
6 this case?

7 A. Yes, I did.

8 Q. And what kinda evidence was that?

9 A. I received two cuttings from an orange face mask, it was
10 cuttings where, uh, it was tested for, uh, potential blood and
11 that test was positive and so cuttings were made in those
12 areas with, uh, where the blood test was positive and also
13 received a swab from the orange face mask, uh, the swab is
14 more for what we call "ownership" to try to determine who
15 could have been wearing the face, the face mask. Uh, what
16 they do is just swab, uh, all on the inside and the outside of
17 the face mask and then especially if there's any eye holes or,
18 uh, mouth holes, it's it's swabbed around that as well.

19 Q. So in this case did you analyze the cuttings and the
20 swabs?

21 A. Yes, I did.

22 Q. Okay. And based on the known standards that you have
23 were you able to, uh, match the two cuttings, uh, to e -- to
24 either one of those standards?

25 A. Yes, I did.

AMANDA WEBB - DIRECT EXAMINATION BY MR. FULMER

1 Q. And who did they match to?

2 A. The cuttings matched, uh, Salvator Bonidacio, uh, and
3 anytime I say there's a match to someone, uh, I have to do a
4 statistical calculation, uh, to determine the likelih -- well
5 the probability of that match, it's just to determine how rare
6 that profile is in the world population and so, uh, I got a
7 probability of, uh, if you randomly select someone outta the
8 population, the probability of, uh, the DNA profile matching
9 these items is one in six quadrillion. Uh, to put that in
10 perspective it goes, millions, billions, trillions,
11 quadrillions.

12 Q. So there's a pretty high degree of certainty you would
13 say that the items 1.1 and 1.2 which were the cuttings where
14 the mask came from our victim Sal.

15 A. Yes, I I would say based on my experience and and
16 training that it it came from the victim, yes.

17 Q. Did you create a report that reflects your findings with
18 regard, uh, to those items that were submitted to you?

19 A. Yes, I did.

20 Q. You created two reports, is that right?

21 A. Yes, that's correct.

22 Q. Let's talk about the report that you created which is
23 dated March 11th 2014. Can you tell the jury what your
24 findings were, uh, as reflected in that report?

25 A. The the report on March 11th I only had one known

AMANDA WEBB - DIRECT EXAMINATION BY MR. FULMER

1 standard from an individual to compare to the evidence, I only
2 had the standard of the suspect Wendell Wilkins, I have yet to
3 receive the victim's standard at the lab so, uh, I went ahead
4 and did the analysis and made the comparison and and wrote
5 that report and so, uh, the cuttings from the face mask, uh,
6 Wen, uh, since I only had Wendell Wilkins to compare to he was
7 excluded from the cuttings and the swab for ownership of the,
8 of the orange face mask it came back as a mixture of at least
9 four individuals and what that means is, uh, any time there's
10 a mixture of DNA it means that multiple people's DNA is found
11 on that item so, uh, it could be that maybe multiple people
12 have worn this hat, maybe they've touched it, uh, but it's not
13 just one person, there's at least four people found there and
14 when I compared that to the standard from Wendell Wilkins, uh,
15 he could not be excluded as a contributor to the mixture so
16 that means that his DNA was found as a contributor to the
17 mixture, he -- his DNA was present. Uh, again, since I I'm
18 saying there's a match there, uh, I have to do a statistic,
19 uh, and so, uh, the probability of randomly selecting an
20 unrelated individual who could have contributed to the mixture
21 is approximately 1 in 42.

22 Q. Now as part of this report let me show you, ask you this
23 question: Is that a copy of your report from from March?

24 A. Yes, that is.

25 Q. Okay. And does that report include a table ---

AMANDA WEBB - DIRECT EXAMINATION BY MR. FULMER

1 A. Yes, it does.

2 Q. --- page 3? I'd like to put up that report and have you
3 explain what that table is telling you and how you come to
4 your findings.

5 A. Certainly.

6 Q. Now can you tell the jury what they're looking at and and
7 how this relates to your findings.

8 A. Okay. Uh, what happens when I get DNA profiles to
9 compare, what I essentially end up with is a bunch of numbers
10 and, uh, it -- across the top of the table that you see
11 different boxes of and each different box is a different
12 location of where the DNA's found, uh, in the -- on the
13 chromosome in the body. Uh, the left-hand side is my list of
14 items that the top one's Wendell Wilkins', uh, DNA profile,
15 the next one is a cutting from the face mask, the third one is
16 the cutting from a face mask and the fourth one is a swab from
17 the face mask. If you'll notice the top three have fewer
18 numbers, uh, the the bottom one has has lot more numbers,
19 that's where I was talkin' about mixtures, that's how I know
20 that the bottom one is a mixture because, uh, the more numbers
21 you have, the more people are being represented so that's why
22 that bottom one I can see is a mixture of DNA. Uh, if you can
23 see the, uh, middle two, uh, on the numbers if you just start
24 from the very first box, uh, the, uh, Wendell Wilkins has a
25 1013, uh, the one below it is a 1315 so that automatically

AMANDA WEBB - DIRECT EXAMINATION BY MR. FULMER

1 starts to tell me well he's excluded from those items, that
2 that, uh, first item, the cutting. Uh, and that's what I do,
3 I just go all the way across and compare, uh, the person's
4 numbers to what I'm finding from the numbers of the evidence
5 item. So that last item, uh, is the swab from the face mask
6 and so if you look, uh, at Wendell Wilkins' profile, the that
7 first, uh, box column there, he's got a 1013 and if you look
8 down in the mixture, uh, there is also a 10 and a 13 present
9 and so if you keep going across, Wendell Wilkins has a 294,
10 uh, 34.2, uh, the evidence item also has a 29 34.2. Next one
11 Wendell Wilkins has a 1012, the evidence item also has a 1012.
12 The next one is 1012 and the evidence item also has a 1012 and
13 if you can keep going across like that and, uh, there's a 1617
14 that's present in the evidence item, 68 present in the
15 evidence item, 11 is present in the evidence item, 1011 is in
16 the evidence, 1721 is in the evidence, 1015 is in the
17 evidence, 1920 is in the evidence, 811, 1429, 912, 2324, so
18 basically it's a full, it's what we call a "full
19 representation," every piece of Wendell Wilkins' DNA that we
20 do our testing on is present in this mixture item so that
21 let's me know that I cannot exclude him from that item,
22 meaning that his DNA's present on that, uh, mask.

23 Q. If he cannot be excluded at each point, why is your
24 degree of confidence 1 in 42 versus 1 in a quadrillion like it
25 as compared?

AMANDA WEBB - DIRECT EXAMINATION BY MR. FULMER

1 A. Certainly good question. Uh, when you get a mixture of
2 DNA, it's more likely if you pick someone at random that they
3 would be f -- also found in that mixture just because there's
4 more DNA there to compare to, so if you just have a an an item
5 on just one person like the cuttings of the blood, uh, it
6 makes that group of DNA from one person more rare, more, uh,
7 it it make it less likely if you just pick someone at random
8 that would match that but when you have a combination of
9 multiple people's DNA and you pick someone at random it makes
10 it more likely that that they would also, uh, be included in
11 the mixture just simply because there's there's more to
12 compare to.

13 Q. Now you also did a report about a month later, is that
14 right?

15 A. Yes, correct.

16 Q. Okay. And can you tell the jury about that report, why
17 there's a second report and what your results were in that
18 case.

19 A. Yes, I have a second report because, uh, the victim's
20 known DNA standard was submitted to the laboratory and so I
21 did analysis of the victim's DNA to compare to the items and
22 wrote a supplemental second report with that new
23 information.

24 Q. And what were your findings in that case?

25 A. With the, uh, new standard I was able to determine that

AMANDA WEBB - DIRECT EXAMINATION BY MR. FULMER

1 the cuttings of of blood from the mask matched the victim, uh,
2 Salvator and, uh, when I compared him to the swab of the mask
3 as well, uh, the the victim Salvator could not be excluded as
4 a possible contributor to that the mixture either, uh, and
5 then, uh, the probability of randomly selecting an unrelated
6 individual outta the population who could have contributed to
7 the mixture is approximately 1 in 1.

8 Q. What does that mean?

9 A. Uh, that means that, uh, if you were to pick, uh, anyone
10 outta the, randomly outta the population, they might not be
11 excluded from the mixture, uh, when I take also into account
12 Salvator's DNA along with Wendell's.

13 Q. Let me show you copy of your report, well look at that
14 and tell me if that's a copy of your second report.

15 A. Yes, it is.

16 Q. Okay. And you generated a table with this report as
17 well.

18 A. Yes, correct.

19 Q. Okay. I'm gonna put that table up for the jury to see
20 and would you explain that table as it relates to both the
21 victim and suspect in this case.

22 A. The table's essentially the same, well it is the same,
23 uh, from previous except with the addition of Salvator's, uh,
24 DNA profile is now the top of the chart and every other thing
25 is, all the other numbers and everything else is the same

AMANDA WEBB - DIRECT EXAMINATION BY MR. FULMER

1 'cause I I didn't reanalyze it so I have the same results, uh,
2 so then what I would do is compare, uh, Salvator to the
3 evidence item as well and, uh, so I did the same process that
4 I did for Wendell when you start off and there's a a 1315 and
5 that's in the evidence item and, uh, the next one's a 33.2 and
6 it's in the evidence item and so I just keep going across and
7 comparing. Uh, now there are a few locations of DNA where,
8 uh, Salvator's not fully represented, for instance, there's a
9 location D16 I think, uh, a couple to the left, there, that
10 (indicating) way. Salvator's a 1213 but if you look in the
11 evidence item there's only a 12 that could be attributable to
12 him, 13's not present, uh, but what's often found with, uh,
13 ownership DNA where somebody's handled or worn something that
14 maybe, uh, not all the DNA can be recovered, we call that
15 kinda low amounts of DNA. The longer you handle something or
16 wear something, the more DNA you're gonna get on that item,
17 uh, so if you don't handle it very long, you may not transfer
18 all of your DNA, there might not be enough to get everything
19 so we have to account and and think about that, uh, when we're
20 doing our comparisons and analysis so, uh, there was, there
21 was one location that D16 where it's like that, uh, there was,
22 check where it could be in other ones, uh, and and one other
23 location so, uh, I have to take into account that when there's
24 a mixture and it's a low amount of DNA, it just might not have
25 been recovered but since it was only two spots or locations

AMANDA WEBB - DIRECT EXAMINATION BY MR. FULMER

1 where I didn't see full representation from Salvator, I I
2 still need to consider he can't be excluded from the mixture
3 so I I went ahead and included him and did the match and
4 recalculated the statistic, uh, now considering Salvator being
5 a part of the mixture so before I had the statistic when when
6 just considering Wendell the statistic was 1 in 42 but now I
7 have to take into account Salvator as well and it becomes a a
8 a 1 in 1, uh, they they both are are a solid stat stand alone
9 so 1 in 42 for Wendell still still stands but the one when
10 you, uh, compare Salvator it then becomes a 1 in 1.

11 Q. Okay, so is it fair to say that when you analyze the two
12 standards together as well as the the cutting from the face
13 mask that Wendell Wilkins' DNA matches at each point?

14 A. Yes, correct, at each and every point he's fully
15 represented.

16 Q. And Salvador has a couple points where he is not
17 represented.

18 A. Yes, that's correct.

19 Q. Okay. Now let's talk about the statistic of 1 in 42.
20 Would would that mean that if I took a large sample, 1 out of
21 every 42 people could have matched to this DNA?

22 A. Yes, that's exactly what it means, it's it's how rare it
23 it could be found in the, in the population so if you were to
24 pick someone at random outta 42 you would likely find someone
25 who also couldn't be excluded from the mixture.

AMANDA WEBB - DIRECT EXAMINATION BY MR. FULMER

1 Q. And Wendell Wilkins falls into that 1 outta 42.

2 A. Yes, that's correct.

3 Q. Could you also phrase it the other way: If you took a
4 large sample, 41 outta 42 people could be excluded?

5 A. Yes, you could say that, correct.

6 Q. That would be equally valid?

7 A. Um-hum, yes.

8 Q. Just one moment. Think you may have mentioned earlier
9 but I just wanna make it clear for the jury, uh, items 1.1 and
10 1.2 which were the cuttings, uh, those were matched to who?

11 A. Oh, those were matched to the victim, to, uh, Salvator.

12 Q. And was that DNA extracted from blood?

13 A. Yes, that's correct.

14 Q. Okay. So that would have been the victim's blood on the
15 mask.

16 A. Yes, that's correct.

17 Q. Okay. And item 1.3 which is the orange face mask, that
18 was a swab taken from all around the mask?

19 A. Yes, it was, it was all around the mask and trying to
20 avoid actually the areas of blood because, uh, if you were to
21 get in the areas of blood, blood has more DNA in in it
22 actually and so it would have overwhelmed any DNA that that
23 provided any ownership, uh, or somebody could have handled it
24 or worn it and we were trying to find the person wearing the
25 mask, uh, since they were the perpetrator of the crime and so

AMANDA WEBB - CROSS-EXAMINATION BY MR. HALL

1 we avoid, uh, the blood areas when swabbing and just try to
2 get a person who could have worn the mask.

3 Q. And the swab turned out to be a mixture of four
4 individuals.

5 A. Yes, a a mixture of four, that's not uncommon to find on
6 on clothing either. We we, I often see that in the lab that
7 especially coats or outer clothing that people share and so
8 you you, I usually find more than one person on clothing.

9 Q. Have you been qualified as an expert before in court?

10 A. Yes, I have.

11 Q. How many times approximately?

12 A. Uh, over thirty.

13 Q. Please answer any questions Mr. Hall may have for ya.

14 CROSS-EXAMINATION BY MR. HALL:

15 Q. Now you, one a the last things you said people share
16 clothes.

17 A. Yes, they they seem to.

18 Q. It can be, DNA can, I coulda just left it here on the the
19 counter when I put my hands down.

20 A. Uh, yes, it's a possibility. The harder you rub, the
21 longer you have your hands there, the more likely you are to
22 transfer some DNA.

23 Q. Uh, 1 in 1 means you can't exclude anybody once you look
24 at both Salvador and Wendell Wilkins.

25 A. Yes, that's pretty much what that means.

AMANDA WEBB - CROSS-EXAMINATION BY MR. HALL

1 Q. And 1 in 42 when you're just lookin' at Wilkins, that's
2 and what you do you either exclude or you usually have those
3 quadrillion, 6 quadrillion, that type thing, that correct?

4 A. Uh, with single source samples with with DNA from one
5 individual, you can get up into the quadrillions. Now I've
6 never personally had a mixture DNA stat that got up into the
7 quadrillions, I've never seen it in a review, usually the
8 mixture statistics are much lower, uh, just because again
9 there's more DNA to compare to how frequent it can be in the
10 population, so those are usually more around, uh, more around
11 the the the hundreds, they can get up to the thousands, I may
12 have seen them in the tens of thousands.

13 Q. Well let's go back and say the from the swab just lookin'
14 at Mr. Wilkins if say he lives in apartment complex with say a
15 thousand people, half of 'em are male, there could be several
16 people who test DNA would say, Yeah, there's a 1 in 42 chance
17 there.

18 A. Well sure, that's right, it would be the math of 42 into
19 a thousand, I don't have a calculator, not that quick.

20 Q. Alright. Uh, but when you throw in a mixture with we've
21 called him Sal I think or Sal or Salvador 'cause we're not
22 sure about his last name how to say it but when you throw him
23 in, it's you couldn't exclude any of the five hundred males in
24 that, could ya?

25 A. That's correct.

AMANDA WEBB - CROSS-EXAMINATION BY MR. HALL

1 Q. And we don't have anything in your test, the preliminary
2 stuff or second -- first test or second test that have the big
3 numbers, it's just 1 in 42, 1 in 1.

4 A. Uh, not from the swab, no.

5 Q. I mean, it but you tested everything ya had, ---

6 A. Yes, correct.

7 Q. --- that ya could test. Alright. No further questions.

8 THE COURT: Redirect?

9 MR. FULMER: No, Judge.

10 THE COURT: May come down, ma'am.

11 (Whereupon, the witness left the stand.)

12 THE COURT: Witness be excused? excused?

13 MR. HALL: Oh, no objection, Your Honor.

14 THE COURT: Without objection.

15 THE WITNESS: Thank you.

16 THE COURT: Next witness.

17 MR. FULMER: Your Honor, the State rests.

18 THE COURT: Alright. Alright, ladies and gentlemen,
19 that's all the evidence the State's gonna present in this
20 case. Now as I told you earlier the defendant has the
21 opportunity pr -- to, uh, present his defense, uh, there a
22 number of legal matters I need to take up with the attorneys
23 before that happens and I think because we had so much
24 excitement this morning I'm gonna give you a little longer
25 lunch hour. I'm gonna ask you, I'm gonna excuse you now for

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1 it's almost twelve o'clock, ask you to be back in the jury
2 room at two o'clock at which time we will move on and conclude
3 this trial. Alright, have a pleasant lunch, please don't
4 discuss the case among yourselves when you return to the jury
5 room or with anyone else over the lunch hour so lunch two
6 hours. See ya at two o'clock, thank you very much.

7 (The following takes place outside the presence of the
8 jury.)

9 THE COURT: Your motion.

10 MR. HALL: Yes, Your Honor, we make motion, uh, for
11 directed verdict not guilty based on, uh, the evidence that's
12 been presented. Uh, there is some evidence that yeah, that's
13 him, there's a very minute DNA, there's no, absolutely no
14 fingerprint evidence of, uh, the car, the bullets or anything
15 else linking him to it, there's just, uh, a picture that could
16 be, uh, one person that said she'd known him for a few weeks
17 says yeah, that's him but all the other, uh, the other woman
18 been in a much longer relationship says, It looks like him but
19 he's never had that bald head. Uh, Your Honor, we think the
20 State just comes short on their, uh, presentation of evidence,
21 they presented everything they had, it's just not there.

22 THE COURT: State's position?

23 MR. FULMER: Judge, uh, there was ample evidence
24 presented upon which a jury could, uh, make a finding of
25 guilty in this case, there's surveillance video, uh there's

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1 the testimony from his girlfriends, uh, regarding his
2 identity, there's the DNA evidence, uh, which places him in a
3 much smaller category persons who could have committed this
4 crime.

5 THE COURT: You mean the mask?

6 MR. FULMER: He had a mask on yes, sir.

7 THE COURT: Alright.

8 MR. HALL: Your Honor, I don't think he had a mask on,
9 had a, he had a stocking cap on. If you look at the picture,
10 he's got a hoodie on and a stocking cap, it's not goin' over
11 his face, his face is in the picture ---

12 THE COURT: That's, uh, ---

13 MR. HALL: --- of the perpetrator, yeah.

14 THE COURT: --- that's that's not my decision. Uh, I
15 think the, uh, evidence goes beyond that, uh, mere conjecture
16 or suspicion and that there is evidence either direct or
17 circumstantial or combination of both which reasonably tends
18 to prove the guilt of defendant or from which that guilt might
19 be logically or reasonably deduced if that evidence taken in
20 the light most favorable to the State so I must respectfully
21 deny your motion for a directed verdict.

22 Now, uh, is the record settled with regard to the
23 defendant, defendant's record?

24 MR. FULMER: Think so, Judge.

25 MR. HALL: Yes, uh is what?

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1 MR. FULMER: Thank you, Judge.

2 (Whereupon, a recess was taken.)

3 THE COURT: Alright, be seated. Alright, I assume you
4 knew we had a delinquent juror? Didn't know?

5 MR. FULMER: We didn't know, we're making some
6 assumptions, Judge.

7 THE COURT: Well turns out that lady that was calling the
8 jurors, the two o'clock jurors tell 'em not to be here until
9 nine o'clock in the morning called one a these jurors, she
10 told him not to be here 'til nine o'clock in the morning. She
11 realized her mistake, she had to call him back and he was hear
12 hear yellin' and we finally got him.

13 MR. HALL: Oh, okay.

14 THE COURT: We were almost to the point of seating an
15 alternate. Alright, uh, Mr. Hall, do you wish to, uh, uh, let
16 me ask for the record do do you plan to, uh, call any
17 witnesses, present any defense at this time?

18 MR. HALL: No, sir, we are not planning on calling any
19 witnesses and defense rests and ---

20 THE COURT: Do you wish to announce that to the jury
21 yourself?

22 MR. HALL: You can, Your Honor, that's I thi -- I don't
23 think that's that important but I would like to now that we've
24 rested renew my motion for directed verdict, ---

25 THE COURT: Absolutely.

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1 MR. HALL: --- uh, based on now all the evidence for what
2 the jury consideration been presented and there's just not
3 sufficient evidence on which the jury could find Mr. Wilkins
4 guilty beyond a reasonable doubt based on what has been
5 presented.

6 THE COURT: Alright, well, uh, I see no reason to change
7 my earlier ruling, I'll respectfully deny your motion. Uh,
8 have you, uh, the State had an opportunity to review the
9 proposed charges and if so ---

10 MR. HALL: Yes.

11 THE COURT: --- you have any comments? From the State?

12 MR. FULMER: Judge, those charges are fine, Judge.

13 THE COURT: Defense?

14 MR. HALL: No objections or problems from defense, ---

15 THE COURT: Alright.

16 MR. HALL: --- Your Honor.

17 THE COURT: Alright. Alright, then, uh, Mr. Fulmer, you
18 wanna argue first for the State?

19 MR. FULMER: I will, Judge yes, sir.

20 THE COURT: Sure. First and last for the State. Uh, ---

21 MR. HALL: You only argue it.

22 MR. FULMER: Oh, yes, sir, yes, sir.

23 THE COURT: Sir?

24 MR. FULMER: Yes, sir.

25 THE COURT: And, Mr. Hall, you will argue last.

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1 MR. HALL: Yes.

2 THE COURT: Alright. Alright, uh, I'll tell the jury and
3 then we'll proceed with final arguments. Ready for the jury?

4 MR. FULMER: Yes, sir.

5 MR. HALL: Yes, Your Honor.

6 THE COURT: Bring the jury.

7 (The following takes place in the presence of the jury.)

8 THE BAILIFF: All present.

9 THE COURT: Alright, thank you very much. Alright,
10 ladies and gentlemen, hope you had a pleasant lunch, uh, even
11 though it felt like the hurricane hit us but, uh,
12 nevertheless, uh, the defense has chosen to rest at this time;
13 in other words, defense have chosen not to offer any evidence.
14 As I told you at the beginning of this trial, that is his
15 constitutional right, uh, State has the burden of proof in all
16 criminal cases and the defendant, uh, is under no obligation
17 and no burden to, uh, defend himself or put, uh, any evidence
18 in front of you, that's his constitutional right, he's
19 exercised that right and will now, that will conclude the
20 evidence in the case. Uh, the final, uh, portion of the case
21 will consist of the final arguments or summations by the
22 attorneys and my instructions to you on the law of the State a
23 South Carolina as it applies to this case. Uh, Mr. Fulmer,
24 you may proceed.

25 MR. FULMER: Thank you, Judge, may it please the Court.

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1 Ladies and gentlemen, uh, yesterday when Mr. Hall gave ya his
2 opening comments he mentioned his grandmother's or his
3 mother's homemade biscuits, uh, and in a way this case can be
4 related to biscuits but not the homemade kind, it's more like
5 those biscuits that come in a tube that are layers, Pillsbury
6 Biscuits you might be familiar with. There layers of evidence
7 in this case, taken by itself one single layer might not be
8 enough to convince you of the guilt of Mr. Wendell Wilkins in
9 this case but I think when you take the biscuit as a whole,
10 when you take every layer, all the, all the evidence in the
11 case and view it as a whole that you'll be thoroughly and
12 clearly convinced of the guilt of Mr. Wilkins.

13 Kinda wanna work backwards through the evidence with you.
14 The last thing you heard about earlier today, uh, was the DNA
15 evidence in the case. We heard from Ms. Amanda Webb, she
16 examined, uh, the orange mask that was found at the scene and
17 that was taken off of the robber's head during the struggle,
18 uh, in the convenience store. There was a swab taken from
19 that mask to test for DNA, uh, and she told you if you recall
20 that Mr. Wilkins' DNA matched the DNA she found on that hat at
21 every point she tested but I wanna be careful about that
22 testimony, she made clear and I want you to understand that
23 that match does not mean that he is the only person that could
24 have matched the DNA found on that hat. One out of every 42
25 people, uh, in the world would also match that DNA profile but

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1 that also excludes 41 outta 42 people so it certainly shrinks
2 the the number of people who could be considered as having
3 committed this crime and he's in that much smaller group so
4 that's kinda how I want you to take that evidence.

5 Another layer of evidence that links Mr. Wilkins to this
6 crime is the car. You heard the 911 tape of Sal the clerk in
7 this case, uh, you heard him animated, excited, probly in fear
8 for his life or just having had been in fear for his life, he
9 gave the 911 operator the tag number on the car, told her it
10 was IDH739 and he gave her a description: a gold car, he said
11 it might be a Malibu, uh, or a Chrysler he may have said but
12 he gave a pretty good description of the car. Police were
13 able to run that tag, determine where the car came from, it
14 was an Enterprise Rent-A-Car and what do we know about that
15 car? Uh, we know from Ms. Trishaunda Rookard, uh, that she
16 had rented that car durin' that time frame. We heard from the
17 employee of Enterprise Rent-A-Car who confirmed her testimony
18 that that particular car that was used in the robbery was
19 rented to Trishaunda Rookard. Ms. Rookard told you, uh, that
20 on the day of the robbery she had lent that car to Wendell
21 Wilkins. He called her, he had asked her to borrow the car,
22 she said, Sure the keys are in it, pick it up. She told you
23 that she had left it at Prince Hall, that was her testimony.
24 Also in that car were two pieces a mail, those pieces a mail
25 are addressed to Wendell Wilkins which, uh, corroborates what

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1 you heard from Trishaunda, uh, that she had rented the car,
2 they were together at the time, he had access to that car, uh,
3 certainly this corroborates that.

4 The next pieces a -- piece of evidence or the layer in in
5 the biscuit I'd like you consider is Trishaunda's testimony
6 about his identification. She told you, Hey, I'm his baby
7 mama, we were together at the time. Police showed me this
8 video, I've seen the video here today, it looks like him to me
9 and she told ya that she wasn't sure, uh, but then she also
10 told you, I recognize the hoodie, I was with him when he
11 bought that hoodie at Wal-Mart.

12 Uh, another thing I want you to consider about
13 Ms. Rookard's testimony is that to me she seemed hesitant, uh,
14 to wanna testify. I don't think she wanted to to testify
15 against Mr. Wilkins but she'd given a statement previously and
16 she came here, took an oath and told you what she believed
17 about the identity of the person in the video.

18 The next person you heard from was Rachel Wells, uh, she
19 also was in a relationship with Wendell Wilkins at the same
20 time, uh, right around the time a this robbery. She took the
21 stand, she was quite frank about her relationship, Hey, we
22 were having sex, I wasn't really his girlfriend but we were
23 together, I know this man and that's who the man is on the
24 video, Wendell Wilkins. I would submit to you that she probly
25 has the the least bias of anyone you've heard from in terms of

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1 people that are related to this case, uh, and she's somebody
2 that you can rely on her testimony.

3 Uh, next layer in the biscuit are these (indicating)
4 pictures. These pictures if you recall came from the cell
5 phone that Trishaunda Rookard gave to police shortly after
6 the robbery and she said the cell phone was one that Wendell
7 Wilkins was using and she told ya, Hey, that's Wendell. Well
8 here's (indicating) Wendell holding a gun that looks very
9 similar to the gun that you see in the video of the robbery
10 and you'll have these pictures to take back and and look at in
11 your jury room but I think that's also one more piece of
12 corroborating evidence to tie Wendell Wilkins to this crime.

13 And, finally, what I think is the most damning and the
14 mo -- and the strongest evidence in the case is the security
15 video itself. Mr., uh, Gary, William Gary testified he was
16 the the deputy that that took the video from the store and
17 downloaded it. He testified to you that he took some stills
18 from that video as well, you'll have these to examine but when
19 you're in the jury I want you to look carefully at these
20 stills and make some comparisons. Here's (indicating) one for
21 example. Here you get a pretty good shot of his eyes, want
22 you to look at these (indicating) eyes. This is how
23 Mr. Wilkins looked at the time of the robbery, he didn't look
24 like he does today: short hair, short beard like this
25 (indicating) man. Take a look at this (indicating) still when

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1 you're deliberating and compare it to this (indicating) shot,
2 this (indicating) is how he looked at the time of the robbery.
3 Take a look at that (indicating) chin, take a look at his
4 profile, I think you'll be convinced, and you have time to
5 consider it carefully, these are the same man. Women who were
6 intimate with Wendell at this time said that's the same man.
7 Here's (indicating) just one more still to compare as Wendell
8 or as the robber leaves the store, take a look at that
9 (indicating) profile, take a look at this (indicating)
10 profile. I think you'll be convinced when you consider that
11 carefully these are the same people and he fits all the other
12 physical characteristics: same size, he's a black male, in
13 every way he's consistent with the man you see in the video.

14 I appreciate that you've listened carefully, uh,
15 hopefully this hasn't been too long a trial for you. Uh, I
16 don't think there's a single piece that's gonna say, Man,
17 that's it, he's guilty for sure, but I think when you take all
18 the evidence together, when you bring it all together, look at
19 it as a whole it will relieve you of any doubt, you'll be
20 clearly convinced that Mr. Wilkins is guilty of this attempted
21 armed robbery and that because you are convinced beyond a
22 reasonable doubt you'll return a verdict of guilty in this
23 case. Thank you very much.

24 THE COURT: Mr. Hall.

25 MR. HALL: Please the Court, Solicitor. Ladies and

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1 gentlemen of the jury, I wanna thank you for your attention
2 throughout this trial, it's like I told you to start with a
3 jury is made up twelve people ultimately, you're gonna make a
4 decision in the case, twelve individuals who each is a judge
5 of the facts in the case. Each individual will weigh the
6 facts the case to determine whether or not the State has
7 carried the burden of proof the defendant of proving the
8 defendant Wendell Bernard Wilkins guilty beyond a reasonable
9 doubt of each and every element of the offense before you can
10 prove he can be found guilty. Each individual has opinion,
11 each individual weighs the evidence and determines to their
12 satisfaction whether or not that burden a proof has been met
13 in each and every element of the offense and together you
14 vote. Ultimately every jury we hope you will have a unanimous
15 verdict meaning twelve of you agree.

16 We do know there's no doubt that there was a robbery at
17 Fast Fuel, there's no doubt that Salvador Bonaducio or Fucio,
18 I'm not sure which his name was, I I don't mean no disrespect
19 to him but I think we all just called him Sal throughout this
20 trial, is a very brave man. He stood up to a robber, he
21 fought with the robber, in some ways he's very much
22 face-to-face with the robber.. Some people will say it was
23 foolish but at least he was very brave and it kept maybe a
24 situation from bein' worse but he's the only person in that
25 place, in that business with the robber and he sat here and

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1 was honest with ya, I I can't identify, I can't say it's him.
2 We know Ms. Bennett who use, uh, I might slip up call her
3 Rookard or King and she's been married, she -- I I know her
4 from, uh, different points in this as, uh, different names,
5 uh, she rented a car, we know that Wendell Bernard Wilkins was
6 with her at the time she had the car. They we -- had in a
7 long-term relationship and apparently lived together and had
8 maybe some his mail in the car. We also know that Mr. Wilkins
9 was involved with at least two women at the same time, some
10 people might call him a player. There's some men who just
11 think the more conquests we have sexually the more of a man we
12 are and that's just a fact life but people's feelings do get
13 hurt when those type things happen.

14 Now the solicitor, uh, was talkin' about the i -- the two
15 women, Ms. Wells and Ms., Mrs. Bennett, said it was him. Well
16 no, Mrs. Bennett who's been in a long-term relationship with
17 him, with Mr. Wilkins didn't say it's him, she said it looks
18 like him but I've never known him to have a bald head. I
19 don't mean any disrespect to bald, I'm quickly goin' that way
20 myself but it's involuntary, but you'll have this (indicating)
21 picture, you'll have that video if you wanna get out and look
22 at it, he said yeah, it does look like him but I've never
23 known his he -- hair to be like that. The woman who new him
24 best, been in a long-term relationship with he was messin' out
25 on her, he wasn't be faithful, most men don't, looks like him

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1 but that ain't his hair, that aint his head. This
2 (indicating) was a picture taken long about the same time,
3 maybe se -- few weeks later, that's short hair but that's a
4 good bitta hair on that head. Uh, some of us we'd like to
5 have that much on top of our hair n -- head now.

6 Now we've got the two women, one says that's known him
7 for a few weeks almost immediately became intimate with him,
8 come over to my house, have sex, leave, kind of an exclusive
9 relationship but really not, no need to break up 'cause we're
10 really not involved, we're just havin' sex when he comes over
11 to the house. We have these (indicating) photographs, we have
12 this (indicating) stocking cap. This (indicating) is what
13 they got the blood off that was Sal's, this (indicating) is
14 what they got the swab off of that when you just look at
15 Mr. Wilkins 1 in 42 chance but when you look at the whole
16 thing and you know that Sal you add him to the mixture it's
17 not that 1 in 42, it's 1 and 1 can be any male. When you mix
18 everything up, it can be any male. There's four different
19 people in there, you can't exclude anybody. Even if the 1 in
20 42, if you get stuck on the 1 in 42, you got 420 men livin' in
21 an area, you'll have 42 of 'em in there, well you have a lot
22 of 'em. Can't exclude a lot. You can exclude 41 outta 42 but
23 the bigger your population and Spartanburg's not a small
24 place, there's not 200 residents here, there's thousands a
25 people around here, 1 in 42 that's not much. Most a the time

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1 she said you know we're in the quadrillion, more than people
2 in the world, 1 in 6 quadrillin -- drillion, even a million,
3 those are big numbers, we're down to 1 in 42, 1 in 42.

4 We have the video that you saw and you'll have back in
5 the jury I think, we'll provide a computer, you can sit there
6 and look at if you want to and it can, you play a single
7 camera at a time, you can play all 16, uh, excuse me, 15
8 cameras at a time, uh, and look at it and you can pause it,
9 look at things, there's little glitches in the time sometimes
10 in the different cameras but it's the evidence that we got.
11 It was picked up eight days later and well we asked questions
12 of people involved: Investigator Gary and Sal, Do you know why
13 we have that black screen there where camera 16 looks like it
14 should be but it's there where camera 15 is which means probly
15 camera 15's missing what is that showing? Where is that? I
16 don't know, maybe Mr. Patel can answer that question but
17 Mr. Patel is not here to tell us anything. We don't know what
18 camera 15 will show, if camera 15 was ever there, we just
19 don't know so we're stuck with the video we got.

20 We have no doubt based on the testimony that at some
21 point Mr. Wilkins was in the car that was rented by
22 Mrs. Bennett, Ms. Bennett said they were together in the car.
23 Ms. Wells in redirect said, Yeah, I seen him in that car, car
24 like that. They took fingerprints from the car, they took
25 fingerprints from the door of the store, nothin', not one bit

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1 a testimony, Yeah, we analyze that and it comes back to so and
2 so. Certainly didn't have anybody come and say, We took the
3 fingerprints and they're Wendell Bernard Wilkins'
4 fingerprints, not there. We know they got a cell phone, one
5 of these bills is for T-Mobile phone I guess T-Mobile bill
6 Mr. Wilkins had, they can analyze that look at calls, they can
7 subpoena records. They had Ms. Rookard's phone number, her
8 cell phone, said, I didn't give it to 'em, they had it.
9 There's not a bit a evidence sayin' that on the 4th, 4/4/13 in
10 the afternoon, April 4th 2013, Yep, we have a call from
11 Wendell's phone to Trishaunda's phone just like she said, it's
12 not there. We don't know there was that phone call. She said
13 there there was a phone call, there's no evidence other other
14 than what she said. They had the information to get that and
15 present it to ya, they didn't present it to ya. They didn't
16 present it to ya maybe it's not there.

17 Now people look at things differently, yeah, that profile
18 that yeah, kinda could be him. Now you can look at depths of
19 chins, how much there's a chin there or not a, a chin there,
20 not a chin there, you look at the front shot, you look at
21 these (indicating) stills, oh, look at those eyes, that's not
22 all you see there, you see a nose, you see the eyes, if you
23 just look at the eyes, maybe somebody that you've been
24 intimate with, known a long time you can look at 'em, see the
25 eyes. I say look at the whole thing, that a broader nose than

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1 that nose, they really the same eyes? You have to look at
2 those things. If you look at these things and say that's not,
3 it's close but it's not him, that's not enough.

4 The car was left in the parking lot with the keys in it,
5 in the glove box I think she said or yeah, I think she said
6 glove box, anybody coulda taken that car. Somebody lives
7 around there, Hey, key's in this thing, let's go. All we know
8 is a black female drivin' and a black male tryin' to commit
9 the robbery. There's a little bit a evidence that points
10 towards Mr. Wilkins' ex-girlfriend whose he's in exclusive
11 casual relationship with at her house, nowhere else, doesn't
12 doesn't know anything else, That's him, the woman had been in
13 long-term relationship, It looks like him, that does look like
14 him but his hair, his hair's not like that, his head's not
15 like that, I've never never known him to be bald-headed. One
16 in 42.

17 If you remember from my opening yesterday, didn't talk --
18 I did talk about my mother's biscuits, that she could not make
19 biscuits. She could bake a pound cake but she could not make
20 a biscuit, that's why little over twenty-four years ago when I
21 got married to my wife and she said, I'm gonna make biscuits,
22 okay, thought we were eatin' in a little bit. She took flour
23 out, self-risin', self-risin' mind you, she took out Crisco,
24 she took out milk, she got a bowl, she started mixin', she put
25 it out on a board, she got rolled it out, she's experienced in

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1 this and show knows how to make a biscuit and about twenty,
2 twenty-five minutes after she starts she got hot brown
3 biscuits, they're not can biscuits, they're not that flaky
4 processed layered, they're biscuits. She can make little
5 biscuits, she can make big old cat, uh, head biscuits, she can
6 bake biscuits but in twenty-four years to marriage there's
7 been couple a times she's grabbed the flour, she's grabbed her
8 Crisco, she's grabbed milk, she's mixed it up, da, da,
9 po -- put 'em in there, aint like that. She'd rather roll
10 flour. When used to make biscuits you have to use a leather,
11 uh, uh, you have to use basting powder to make it rise,
12 self-risin' flour has that. If you use regular flower, you
13 got some kinda bread but it's not a biscuit, sometimes just
14 turns out a little dough. If you put too much milk, not
15 enough flower, you don't have a biscuit, you got a mess, just
16 doesn't work. Ladies and gentlemen of the jury, when you look
17 at all this, it's just not there, it falls short. They have a
18 lot of the ingredients but just not enough a this, too much a
19 that, just not enough, it falls short, falls short. The
20 biscuit doesn't rise, you don't got a biscuit, you don't have
21 a biscuit, it's not guilty. Thank you.

22 THE COURT: Alright, ladies and gentlemen, uh, you now
23 heard all the testimony in the case, you heard arguments of
24 both the State and the defendant and you can take with you to
25 the jury room all the evidence in this case that's been

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1 introduced but now I must explain to you the law as it applies
2 to this case. I remind you again that during the trial you
3 and I have certain duties to perform. As the trial judge,
4 it's my responsibility to preside over the trial, I also have
5 the duty of ruling on the admissibility of the evidence
6 during, offered during the trial. You are to consider the
7 competent evidence that's been presented to you, I don't think
8 we had any e -- testimony ordered stricken from the record but
9 if we did, I would ask ask you not to, uh, consider that
10 testimony. Uh, I have the additional duty to to charge the
11 law applicable to the case. As the presiding judge, I'm the
12 sole judge of the law but your duty as jurors to accept and
13 apply the law as I state it to you. If you already have any
14 ideas as to what the law is or what the law oughta be and it
15 does not agree with what I now tell you the law is, you must
16 abandon this idea because you're sworn to accept the law and
17 apply the law exactly as I state it to you.

18 In every case tried in this court before a jury as I told
19 you earlier the jury becomes the sole and exclusive judge of
20 the facts in the case. A trial judge cannot intimate, state
21 or comment on or make any statement to a trial jury 'bout the
22 facts in the case. Since you are the jury you, the jury, are
23 the sole judges of the facts of the case, you're not to infer
24 from anything that I might have said or done during the
25 progress of this trial in ruling on the admissibility of

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1 evidence or otherwise or anything I might say now during the
2 course of this instruction that I have any opinion about the
3 facts in the case. The law does not allow me to have opinion
4 about the facts of the case, this is a matter solely for you,
5 the jury, to determine. As jurors it's your duty to determine
6 the effect, value, weight and truth of the evidence presented
7 during the trial.

8 Now the indictment as I told ya earlier charges the
9 de -- the defendant with attempted armed robbery. I mind
10 you -- remind you of the fact the defendant was arrested,
11 charged and indicted in this case is not evidence in this case
12 and cannot be considered by you as evidence of guilt nor does
13 it create any presumption or inference of guilt, this document
14 again is simply the formal written instrument which contains
15 the charges made against the defendant, it's the formal
16 document by which the case is brought into the court.

17 Now the defendant has pled not guilty to this indictment
18 and that plea puts the burden on the State prove the bur -- to
19 prove the defendant guilty. Person charged with committing a
20 criminal offense in South Carolina is never required to prove
21 himself or herself innocent and this again is an important
22 rule of law that the defendant in a criminal trial, no matter
23 what the seriousness of the charge may be will always be
24 presumed innocent of the charges for which the indictment was
25 issued unless guilt has been proven by evidence satisfying you

JURY CHARGE

1 of that guilt beyond a reasonable doubt. Presumpse of --
2 presumption of innocence does not even end when you begin your
3 deliberations but it accompanies defendant throughout the
4 trial until you reach a verdict of guilt based on evidence
5 satisfying you of that guilt beyond a reasonable doubt; in
6 other wor -- it's been said that the robe, the presumption of
7 innocence is like a robe of righteousness placed about the
8 shoulders of the defendant which remains with the defendant
9 until it is stripped from the defendant by evidence satisfying
10 you of the defendant's guilt beyond a reasonable doubt; in
11 other words, presumption of innocence is not a mere legal
12 theory, not just a legal phrase, it's a substantial right to
13 which every defendant is entitled unless you, the jury, are
14 satisfied from the evidence of the guilt of the defendant
15 beyond a reasonable doubt.

16 What is a reasonable doubt in the law? A reasonable
17 doubt is the kinda doubt that would cause a reasonable person
18 to hesitate to do something. I'll repeat that. A reasonable
19 doubt is a kind of doubt that would cause cause a reasonable
20 person to hesitate to act and the State has the burden of
21 proving the defendant guilty beyond a reasonable doubt. Now
22 some of you may have served as jurors in civil cases where you
23 were told it's only necessary to prove that a fact is more
24 likely true than not true such as by the greater weight or
25 presumption -- pre -- preponderance of the evidence, in

JURY CHARGE

1 criminal cases, however, the State's proof must be more
2 powerful than that, it must be beyond a reasonable doubt.
3 Proof beyond a reasonable doubt is proof that leaves you
4 firmly convinced of the defendant's guilt. There very few
5 things in this world we know with absolute certainty and in
6 criminal cases the law does not require proof that overcomes
7 every possible doubt. If based on your consideration of the
8 evidence you're firmly convinced the defendant is guilty of
9 the crime charged, you must find the defendant guilty; on the
10 other hand, you think there's a real possibility the defendant
11 is not guilty, you must give the defendant the benefit of the
12 doubt and find him not guilty.

13 Now generally there two types of evidence which are, uh,
14 presented during a trial they're called "direct evidence" and
15 "circumstantial evidence." Direct evidence is the testimony
16 of a person who claims to have actual knowledge of a fact, uh,
17 such as an eyewitness. Circumstantial we -- evidence on the
18 other hand is proof of a series or chain of facts and
19 circumstances indicating the existence of some fact, the law
20 however makes absolutely no distinction between the weight or
21 value to be given either direct or circumstantial evidence nor
22 is a greater degree of certainty required of circumstantial
23 evidence than of direct evidence. You should weigh all the
24 evidence in this case. After weighing all the evidence you're
25 not convinced of the guilt of the defendant beyond reasonable

JURY CHARGE

1 doubt you must find the defendant not guilty.

2 Now necessarily in any trial you jury must determine the
3 credibility of witnesses who've testified in this case.
4 Credibility simply means believability. Becomes your duty as
5 jurors to analyze and evaluate the evidence, determine which
6 evidence convinces you of its truth. In determining the
7 believability of witnesses who testified in this case, you may
8 believe one witness over several witnesses or several
9 witnesses over one witness. You may believe a part of the
10 testimony of a witness and reject the remaining part of
11 testimony of the same witness. You may believe the testimony
12 of a witness in its entirety or reject the testimony of a
13 witness in its entirety. You may consider whether any witness
14 has exhibited to you any interest or bias or prejudice, any
15 other motive in this case. You may consider the appearance
16 and manner of the witness while on the witness stand.

17 Now with regard to we had an expert witness in this case.
18 Ordinarily the rules, our rules of evidence do not allow
19 witnesses to express an opinion, uh, an exception to this rule
20 exi, uh, exists for witnesses we call "expert witnesses", that
21 was the DNA lady who came and testified. A witness who by
22 education and experience has become an expert in some science,
23 profession or calling may state an opinion as to relevant and
24 material matter in which the witness claims to be an expert
25 and may also state the reasons for that opinion. You should

JURY CHARGE

1 consider any expert opinion received in evidence in this case
2 like any other evidence, give it the weight you think it
3 deserves.

4 Now in order to establish criminal liability, criminal
5 intent is required. For example, the mental state to be
6 proven by the State for some particular crime might be a
7 specific purpose, an intent, knowledge, recklessness or
8 criminal negligence. Criminal intent must be proven by the
9 State beyond a reasonable doubt. Criminal intent is always a
10 matter that must be determined by the jury from the
11 circumstances surrounding the situation. Now there's no way
12 to prove intent to a mathematical certainty and there's no way
13 medical science can dissect a person's brain and determine
14 what the person had in mind so the law says that criminal
15 intent may be inferred from the circumstances shown to have
16 existed at the time and place of the incident, this is how you
17 make a determination of whether or not the element requiring
18 intent was present. It's not necessary to establish intent by
19 direct and positive evidence but intent may be established by
20 inference in the same way as any other fact by taking into
21 consideration the acts of the parties and all the facts and
22 circumstances of the case. Criminal intent is a mental state,
23 a conscience wrongdoing, it's up to you determine that the
24 defendant -- what the defendant intended to do based on the
25 circumstances shown to have existed at the time and place of

JURY CHARGE

1 the incident.

2 Now with regard to the attempted armed robbery charge,
3 that's a violation of our South Carolina Code, uh, 16-11-330,
4 that's the ar -- attempted armed robbery statute. The
5 defendant is charged with attempted armed robbery. In order
6 to prove this offense, the State first must prove beyond a
7 reasonable doubt that the defendant was armed or alleged to be
8 armed with a deadly weapon and that he attempted to take from
9 the person or presence of another by means of force or
10 intimidation goods or monies with intent to deprive the owner
11 permanently of such property. Property is in the presence of
12 a person if it is within the person's reach or inspection or
13 observation or control so that the person could not overcome
14 by violence or prevented by fear keep possession of his own
15 property. An attempt is an effort to accomplish such a crime
16 which does not succeed. An attempt includes a specific intent
17 to do a particular criminal act along with an act falling
18 short of the act intended. The State must prove more than
19 mere preparation or intent, it must be some overt act
20 committed in the effort to commit the crime. Intent may be
21 shown by acts and conduct of the defendant and other
22 circumstances from which you may naturally and reasonably
23 infer intent and a deadly weapon obviously is any article,
24 instrument or substance which is likely to cause death or
25 great bodily harm, the following examples of that might be a

JURY CHARGE

1 pistol or a shotgun or rifle.

2 Now, ladies and gentlemen, this, uh, final point is, uh,
3 important and I wanna emphasize it to you. I instruct you and
4 emphasize the fact that the defendant did not testify is not a
5 factor to be considered by you in any way in your deliberation
6 and in your consideration of the question of guilt or
7 innocence of the defendant, it must not be considered by you
8 in any manner whatsoever. A defendant as I've told ya before
9 has a constitutional right to remain silent and the assertion
10 of this right must not be considered by you in your
11 deliberations. I repeat under your oath you're not to, you
12 are to draw no conclusion whatsoever from the fact that the
13 defendant in this case did not testify, fact that this
14 defendant did not testify should not even be discussed in the
15 jury room. The burden of proof as I stated to you on several
16 occasion is on the State. The defendant is not required to
17 prove his own innocence, the burden of proof remains on the
18 State to prove guilt beyond a reasonable doubt.

19 Now, ladies and gentlemen, there two possible verdicts
20 obviously that you might find in this case guilty or not
21 gui -- guilty or not guilty. There's no significance
22 whatsoever the order in which I state the possible verdicts,
23 it's simply one must be stated first. Your verdict must be
24 unanimous'; other words, all twelve of you must agree on a
25 verdict. When the Mr., uh, Foreman, when the, uh, by the way

JURY CHARGE

1 who's the foreman? Forgot to ask that. Uh, Mr. Foreman, when
2 the, uh, jury agrees on the verdict, you write the verdict on
3 the back a this (indicating) indictment form, uh, and sign
4 your name as foreperson, this little box down here
5 (indicating) on the bottom, all you have to do is write
6 "guilty", "not guilty", sign your name and date it, knock on
7 the jury room door and we will receive your verdict.

8 Alright, uh, I'm gonna ask you to return your, uh, to
9 the jury room now but do not begin your deliberations until
10 you received all the evidence and the indictment form, the
11 verdict form. Uh, if you want the video, uh, I would say we
12 can move it in there but I think probly the best thing to do
13 if you wanna see the video again all you have to do is ask,
14 anything you, uh, the rest of the evidence will be in your
15 possession in the jury room. Alright, ladies and gentlemen,
16 you n -- may now retire to the jury room, don't begin your
17 deliberations just yet, it'll be just a minute before the
18 bailiff brings the, uh, evidence to you. Alright, thank you
19 very much. Now go ahead.

20 (The following takes place outside the presence of the
21 jury.)

22 THE COURT: Any exceptions to the charge from the State?

23 MR. FULMER: No, sir.

24 THE COURT: From the defense?

25 MR. HALL: None from defense, Your Honor.

MOTIONS AND MATTERS

1 THE COURT: Alright, uh, any, I didn't ask you any,
2 objection to sendin' ---

3 MR. HALL: We, typically, uh, uh, it's been my experience
4 in Spartanburg they usually send the, uh, just a verdict form
5 back but, uh, ---

6 THE COURT: If there's so, I've already checked the
7 indictment, I mean, if there's somethin' in there that would
8 prejudice your client; in other words, if it ---

9 MR. HALL: No, I I've seen it, I ---

10 THE COURT: --- multiple offenses or sumtin' like
11 that ---

12 MR. HALL: Yeah, ---

13 THE COURT: --- would do ---

14 MR. HALL: --- there there there's none a, none of that,
15 Your Honor, so, uh, other than it's usually done the other way
16 I have no objection. Uh, ---

17 THE COURT: Well ---

18 MR. HALL: --- it's ---

19 THE COURT: --- I usually do it the other way, saves me
20 the trouble of drawin' up a verdict form ---

21 MR. HALL: Yes.

22 THE COURT: --- but I'll do it if you want me to.

23 MR. FULMER: State's fine with the indictment, Judge.

24 MR. HALL: You want just plain paper says, "We find
25 defendant?"

MOTIONS AND MATTERS

1 (Attorney/client discussion held off the record.)

2 MR. HALL: Defendant requests verdict form.

3 THE COURT: Alright, we'll do it. Uh, any objection to
4 the dismissing the alternates at this time?

5 MR. HALL: Your Honor, we were discussin' that, the way
6 things have been runnin' today I don't know, I ---

7 THE COURT: Alright, just tell me. I can put 'em in
8 another room.

9 MR. HALL: I think that, I just I I'm, I guess I'm a
10 little gun-shy today with everything that's gone on today, if
11 we can keep 'em just in case 'cause I don't wanna, this is the
12 second time around on this, I don't wanna do a third time.

13 THE COURT: Well I've had lawyers ask me to hold 'em 'til
14 the jury begins deliberating, uh, once they begin deliberating
15 it's it's kinda useless to have ---

16 MR. HALL: Yes.

17 THE COURT: --- alternates hang around 'cause ---

18 MR. HALL: Yes, it is.

19 THE COURT: How 'bout that? 'Til they begin
20 deliberating?

21 MR. HALL: Yes.

22 THE COURT: Alright, just set 'em aside in another room.

23 (Whereupon, a discussion was held off the record.)

24 THE COURT: Pack up the evidence anyway. We'll do
25 verdict form soon.

MOTIONS AND MATTERS

1 (Whereupon, a discussion was held off the record.)

2 THE COURT: Ya'll look at this.

3 (Whereupon, a bench conference was held off the record.)

4 THE COURT: Alright, we'll wait 'til they begin their
5 deliberations and then I'll, uh, dismiss the alternates.

6 Stand at ease 'til we hear from the jury.

7 MR. HALL: Thank Your Honor.

8 (Whereupon, the jury began deliberating at 3:24 p.m.)

9 (Whereupon, the Court received a note from the jury at
10 3:36 p.m.)

11 MR. FULMER: Your Honor, we brought a clean computer I
12 can send back to the, uh, jury room where they could play, uh,
13 either one a ---

14 THE COURT: Jury ---

15 MR. FULMER: --- the videos.

16 THE COURT: --- wanna see a video.

17 MR. FULMER: Okay, would you like me to do that?

18 THE COURT: If there's no object ---

19 MR. HALL: The way we typically do that that way the
20 jury, some juries wanna look at it and discuss it while
21 they're lookin' at it and they don't feel like they can do it
22 in the courtroom, I don't have ---

23 THE COURT: You have any objection?

24 MR. HALL: No, sir, that's ---

25 THE COURT: Alright, let's get it up ---

MOTIONS AND MATTERS

1 MR. HALL: --- 'cause it's a, it's a cle -- they can't
2 get on the internet ---

3 (Indiscernible cross-talk.)

4 THE COURT: You may have to show somebody how to operate
5 it.

6 MR. FULMER: Judge, I think all they need to do is turn
7 it on, uh, . . .

8 THE COURT: Give that to -- mark that's Court's 1.

9 (Note from the jury marked Court's Exhibit No. 1 for
10 identification.)

11 THE COURT: Don't you have a teenager or somethin' send
12 in with ya?

13 MR. FULMER: Judge, there ---

14 THE COURT: We've already got ---

15 MR. FULMER: --- instructions how to log in and it's
16 clean. There's nothin' on here that they could use
17 to ---

18 (Whereupon, a discussion was held off the record.)

19 (Whereupon, the video was sent back to the jury.)

20 (Whereupon, the jury continued to deliberate.)

21 (Whereupon, the Court received a note from the jury at
22 3:59 and a bench conference was held off the record.)

23 (Whereupon, a note from the Court was sent back to the
24 jury.)

25 (Whereupon, the alternate jurors were released off the

MOTIONS AND MATTERS

1 record.)

2 (Whereupon, the jury reached a verdict at 4:43 p.m.)

3 THE COURT: Alright, Counsel, uh, where's Mr. Hall?

4 (Pause.)

5 THE COURT: The bailiff informs the court the jury's
6 reached a verdict, you ready to receive the verdict?

7 MR. HALL: If I can get my client in here receive the
8 verdict I ---

9 THE COURT: Well get your client.

10 (Pause.)

11 (Note from the jury marked Court's Exhibit No. 2 for
12 identification.)

13 THE COURT: Ready, Mr. Hall?

14 MR. HALL: We're ready, Your Honor.

15 THE COURT: Alright, bring the jury.

16 (The following takes place in the presence of the jury.)

17 THE COURT: Mr. Foreman, the bailiff informs the Court
18 that you have reached a verdict, is that correct?

19 JURY FOREMAN: Yes, we have.

20 THE COURT: Will you hand the verdict to the bailiff,
21 please.

22 (Whereupon, the jury foreman complied.)

23 THE COURT: Madam clerk, ---

24 THE CLERK: Yes, sir.

25 THE COURT: --- publish the verdict, please.

VERDICT

1 THE CLERK: In the Court of general sessions Case Number
2 2013-GS-42-3879 State of South Carolina vs. Wendell Wilkins,
3 with respect to the charge of attempted armed robbery we the
4 jury unanimously find the defendant guilty, this is signed by
5 the foreperson and dated today's date. Ladies and gentlemen
6 of the jury, if this is your verdict and still your verdict
7 please raise your right hand. So say you all.

8 THE COURT: You desire to poll the jury?

9 MR. HALL: We request poll the jury, Your Honor.

10 THE COURT: Alright. Madam clerk, poll the ---

11 THE CLERK: Yes, sir.

12 THE COURT: --- jury.

13 THE CLERK: Ladies and gentlemen of the jury, I will pose
14 a question to you after which I will call your name
15 individually and ask you to stand and answer my question, the
16 question being is this your verdict and still your verdict.
17 Number 157, Mr. Swift?

18 JUROR NUMBER 157: Yes.

19 THE CLERK: Thank you.

20 THE COURT: Just call the numbers.

21 THE CLERK: 94?

22 JUROR NUMBER 94: Yes.

23 THE CLERK: 70?

24 JUROR NUMBER 70: Yes.

25 THE CLERK: 101?

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1 JUROR NUMBER 101: Yes.

2 THE CLERK: 75?

3 JUROR NUMBER 75: Yes, ma'am.

4 THE CLERK: 52?

5 JUROR NUMBER 52: Yes.

6 THE CLERK: 72?

7 JUROR NUMBER 72: Yes.

8 THE CLERK: 141?

9 JUROR NUMBER 141: Yes.

10 THE CLERK: 89?

11 JUROR NUMBER 89: Yes.

12 THE CLERK: 181?

13 JUROR NUMBER 181: Yes.

14 THE CLERK: 32?

15 JUROR NUMBER 32: Yes.

16 THE CLERK: And 12?

17 JUROR NUMBER 12: Yes.

18 THE CLERK: Your Honor, the jury has been polled.

19 THE COURT: Alright. Alright, ladies and gentlemen,
20 that's, that will conclude your service on this, uh, on this
21 case. Uh, I do wanna thank you for your, uh, service but let
22 me say first, uh, this, uh, way the Court system runs in South
23 Carolina it's not quite like Law & Order, uh, we have to keep
24 moving and it -- but by that I mean the def -- the defendant
25 is going to be sentenced now, uh, in other words, it's not

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1 like when I say Law & Order, you know, that ya always find the
2 defendant guilty or not guilty and then that's the end a the
3 show, you never know what happens, uh, but it it, uh, in South
4 Carolina we find that we just gotta keep movin' and and
5 sentencing, uh, will take place in a few minutes. Now there's
6 some paperwork that needs to be done before that takes place,
7 uh, so I'm gonna excuse you and let you go to the jury room.
8 Let me tell ya this: You're welcome to stay and watch the
9 sentencing. The bailiff will, uh, show you, uh, around and
10 let you sit in the gallery and watch the sentencing procedure,
11 it won't take maybe ten or fifteen minutes but we gotta go
12 through that procedure and then the case will e -- I think
13 sometimes jurors wanna see sort of closure on a case and see
14 what happens with a case so I invite you to stay but by the
15 same token you don't have to stay, you're gonna be free to go.
16 If you do go, I do wanna thank you on behalf of myself and the
17 Court staff and the litigants in this case for your service.
18 Uh, I think I might have told ya before but I'll tell ya
19 again, uh, you're such an important part of the judicial
20 system, uh, this county and this state, that, uh, your role
21 was written into the Constitution of the United States some
22 250 years ago. This this system can do without me, it can do
23 without these lawyers but it can't do without you. You're
24 you're, I want you to understand how important you are to the
25 our judicial system in this county and in this state and in

MOTIONS AND MATTERS

1 this nation, uh, it's been a pleasure working with you and,
2 uh, I'll now excuse you to, uh, uh, go back to jury room but
3 bail -- the clerk may have some final instructions for ya. I
4 don't think we're gonna call you -- well I don't know. Ya'll
5 wanna try another case?

6 (Laughter.)

7 THE COURT: Uh, can we exclude them from the next jury
8 panel, madam clerk?

9 THE CLERK: That's up to you, Judge.

10 THE COURT: Well I'm gonna give 'em -- they they had a
11 hard day with the tornado and everything so I'm gonna, I'm
12 gonna dismiss 'em for the week. I think we had enough members
13 of the, of the jury panel. We're gonna start another case,
14 uh, first thing in the morning, as a matter a fact we've
15 already started a little bit on it this afternoon tryin' to
16 get ready for tomorrow. Uh, the work of the Court I -- is
17 sorta never done up here, it goes on all the time but, you
18 know, it goes on all the time here, it goes on on all the time
19 in Greenville, it goes on all the time in Myrtle Beach, goes
20 on everywhere in this country, this this, it goes on every day
21 in every county in the State a South Carolina and in this
22 United States, jurors are called from the community make these
23 decisions, ya'll did and I thank you for your service.
24 Alright, good luck to all of ya. If you wish to stay, just
25 let the bailiff know and they'll bring you back in the

MOTIONS AND MATTERS

1 courtroom in a few minutes, alright. Thank you very much.

2 (Whereupon, the jury exited the courtroom.)

3 (Whereupon, a discussion was held off the record.)

4 THE COURT: Alright, can, Solicitor, can we stand at
5 ease? Have ya'll -- how soon you you gonna be ready?

6 MR. FULMER: Probly five minutes or so, five or ---

7 THE COURT: Alright, ---

8 MR. FULMER: --- ten minutes.

9 THE COURT: --- let's take a 5-minute break.

10 MR. FULMER: Yes, sir.

11 THE COURT: Uh, I know o -- a lotta solicitors will never
12 do sentencin' sheets 'til after but they just suspi -- you
13 know, superstitious.

14 (Whereupon, a recess was taken.)

15 THE COURT: Alright, be seated.

16 THE BAILIFF: Thank you, you can have a seat.

17 THE COURT: Alright, Solicitor, ready?

18 MR. HALL: I would, I would have a motion, Your Honor.

19 THE COURT: Alright.

20 MR. HALL: Uh, we have a motion for a new trial. This
21 case jury had requested to view at least one if not both the
22 videos, uh, for technical reasons they never got to view that.

23 THE COURT: They never did?

24 MR. HALL: No, they they never did. I think about the
25 time they said they had a verdict they may have gotten things

MOTIONS AND MATTERS

1 workin'. Uh, the ---

2 THE COURT: That's why I told you should send a teenager
3 in but go ahead, I'm I'm ---

4 MR. HALL: I I didn't have a teenager, Your Honor. Uh,
5 they had a, uh, T.K. Davis with the solicitor's office was, I
6 was worried a while 'cause I didn't realize he was still in
7 the custody of this fine deputy here (indicating), uh, that
8 you had assigned to the computer but for I guess an hour or
9 better he's tryin' to get the computer to work, they but they
10 never, they requested to view it, they never got to view it so
11 we'd make a motion for a new trial in that that, uh, jury
12 didn't get to view all the evidence that they, uh,
13 requested.

14 THE COURT: What's State's position?

15 MR. FULMER: Judge, the jury had several chances to view
16 that video durin' the course of the trial and, uh, it be the
17 State's position that, uh, once they had some time to
18 deliberate they were able to determine that they could come to
19 a unanimous decision without, uh, needing to view that video
20 again.

21 THE COURT: Well think, I think if they, I know they
22 expressed the desire to, uh, view it, uh, had they been in --
23 intent on seeing it they would've told the Court that they
24 were havin' problems which they did not do. Uh, I'm afraid I
25 can't grant a new trial on that alone.

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1 MR. HALL: Well I was just concerned that if had they ---

2 THE COURT: I ---

3 MR. HALL: --- viewed it they may have seen somethin' and
4 they may have actually had a different verdict but I I ---

5 THE COURT: --- but ---

6 MR. HALL: --- understand your ruling.

7 THE COURT: --- but they had and they had, as as
8 solicitor said they had ample opportunity to witness it during
9 the, uh, I think they saw it twice, didn't they, the spliced
10 vision?

11 MR. FULMER: Yes, sir.

12 THE COURT: Think they saw it twice, uh, alright, I
13 respectfully deny your motion.

14 MR. HALL: Thank Your Honor.

15 THE COURT: Ready proceed?

16 MR. HALL: Yes.

17 THE COURT: Come around, Solicitor. You have any, uh,
18 victims that wish testify?

19 MR. FULMER: I do not. The victim is back at work today,
20 does not wi -- wish to make a statement, just ---

21 THE COURT: Alright.

22 MR. FULMER: --- put on the record his his prior
23 convictions which would be a armed robbery from 2003, Judge.

24 THE COURT: And what was the, uh, disposition of that?

25 MR. FULMER: That was a 10-year sentence.

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1 THE COURT: Ten? Straight sentence?

2 MR. FULMER: I believe it was, Judge.

3 MR. HALL: Yes, sir, it was, I think that's all they
4 could do was, uh, 10 was the minimum and that's where he got I
5 think 85 or 95 percent of of, it's all saw one thing on the,
6 uh, uh, the, uh, wrap sheet that said he ended up sen -- send
7 the night -- spendin' sounds or servin' 95 percent a that.

8 THE COURT: Ninety-five?

9 MR. HALL: Yes, sir, which ---

10 THE COURT: I mean, it's, I assume it was a no no parole
11 offense ---

12 MR. HALL: Yes, ---

13 THE COURT: --- at that time ---

14 MR. HALL: --- time served, it was.

15 THE COURT: --- so it still is.

16 MR. HALL: It still is, yes, sir.

17 THE COURT: Alright, do you have anything to offer in
18 mitigation?

19 MR. HALL: Your Honor, his his mother I believe wants to
20 speak Electra Wilkins, uh, if when he does get out, uh, I'll
21 go ahead, uh, Ms. Wilkins, you'll come forward but, uh, he
22 would have a job over in Gaffney at Brown's Packing and he is,
23 uh, would be living with his mother, ---

24 THE COURT: Um-hum.

25 MR. HALL: --- uh, when he does finish, uh, the sentence

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1 that's imposed today, Your Honor.

2 THE COURT: Alright. Yes, ma'am, your name, please.

3 MS. WILKINS: Electra Wilkins.

4 THE COURT: Yes, ma'am.

5 MS. WILKINS: Yes, I just want come to speak, Your Honor,
6 on him and he's a nice guy, that my health is not good, just
7 please be lenient on him.

8 THE COURT: Alright. You know he's facin' 20 years,
9 don't ya?

10 MS. WILKINS: No, sir.

11 THE COURT: Well he he is. I mean, now I'm not sayin'
12 I'm gonna sentence him to 20 years but he's he -- I can
13 sentence him to 20 years, ---

14 MS. WILKINS: Yes.

15 THE COURT: --- you understand that?

16 MS. WILKINS: Yes, sir.

17 THE COURT: Alright. Thank you, ma'am.

18 MS. WILKINS: Um-hum.

19 MR. HALL: And, Your Honor, probly know from the
20 testimony he's got one child, uh, with now Ms. Bennett. Uh,
21 Your Honor, just consider, uh, the factors in this. The, uh,
22 uh, it was a close case, we tried it once before and, uh, had
23 a hung jury that was eight, three and oddly enough one and
24 there was one person who, uh, never voted, uh, so I even if
25 the eight had persuaded the three or the three had persuaded

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1 the eight, I believe it was going to be a a hung jury one way
2 or the other but it was eight for not guilty. Uh, Your Honor,
3 there was a lot to work with from our side in this case and,
4 uh, Your Honor, we just ask that you be as lenient as you can,
5 uh, I'm I'm sure he'll wanna address the Court but, ---

6 THE COURT: Alright.

7 MR. HALL: --- uh, he's a, uh, said not always has a
8 weakness for the ladies and unfortunately I think that in the
9 middle a this where we have, uh, testimony we had, uh, today,
10 uh, Your Honor, but, uh, we're asking that you be as lenient
11 as you can, uh, as his mo ---

12 THE COURT: Does he have any pretrial time?

13 MR. HALL: Yes, sir, he's been in jail since the 27th of
14 April two thousa -- 27th think, I think it's 2013 so ---

15 THE COURT: Whatever that works out to be.

16 MR. HALL: But his mother was saying her health's bad,
17 she was gonna depend on him, uh, to help take care of her.

18 THE COURT: How old is he now?

19 THE DEFENDANT: Twenty-six.

20 MR. HALL: He's 27.

21 THE DEFENDANT: Twenty-seven, Your Honor.

22 THE COURT: Twenty-seven. Alright, Mr. Wilkins, you have
23 anything you wanna tell me?

24 MR. HALL: Yes, sir, you'll just bear with me. I mean,
25 that's all I have, you know, I mean, is my mother, my daughter

MOTIONS AND MATTERS

1 and she need me. I mean, I mean, I did wrong in the past, got
2 out, try help my mom but, I mean, nobody's perfect. I only
3 rely on the case because it is what it is right now, they done
4 reached their verdict but my mama need me, Your Honor. I just
5 ask can you be lenient with, my daughter need. I know it
6 might be a few Christmas I don't spent with but I ain't never,
7 I have not spent not one Christmas with my child.

8 THE COURT: How old is she?

9 THE DEFENDANT: Eleven, she just turned 11 September 6th.
10 All she wanted for Christmas me to come home ---

11 (Indiscernible cross-talk.)

12 THE COURT: What kinda work did you do before you got in
13 this trouble?

14 THE DEFENDANT: My uncle he drove trucks and usually
15 help. He drove trucks. He retired drivin' trucks for King's
16 and and he was drivin' around for CarMax loadin' cars back and
17 forth and I usually help him with that. Sometime he might
18 need yard work or he might have a friend someone that needs
19 some yard work, I go help him with yard work, other than that,
20 Your Honor, I was on probation, you know, were weren't too
21 many people tryin' ---

22 THE COURT: You on parole?

23 THE DEFENDANT: --- to hire me at the time ---

24 THE COURT: You mean parole?

25 THE DEFENDANT: Well I think it was just probation.

SENTENCE

1 MR. HALL: It was parole.

2 THE DEFENDANT: Parole. I aint had nuttin' but 7 months
3 a that and then I got locked up. I had about a month left,
4 they just terminated it.

5 THE COURT: Yeah, I understand that but you were out ---

6 THE DEFENDANT: Yes, sir.

7 THE COURT: --- for a while and working before this
8 happened, right?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: Alright. That's his only record?

11 MR. FULMER: Yes, sir.

12 THE COURT: You know anything about that? Was it a ---

13 MR. HALL: No, sir, I don't.

14 THE COURT: --- convenience store or was it a bank or is
15 it ---

16 MR. FULMER: I don't know, Judge.

17 THE COURT: Feels right, okay.

18 (Pause.)

19 THE COURT: Alright, Mr. Wilkins, sentence of the Court
20 you be committed to State Department a Correction for a period
21 12 years. Good luck to ya, sir.

22 THE DEFENDANT: Thank you, sir.

23 MR. HALL: Thank you, Judge.

24 MR. FULMER: Thank you, Judge.

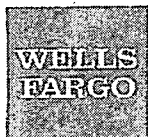
25

86759

We would like to view
the video again up close? Edited

Court exhibit

10-14-14 @



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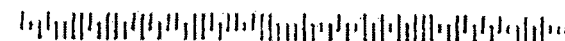
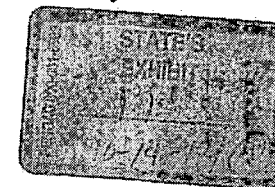
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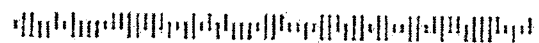
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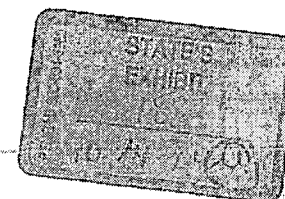
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WITNESSES

Spartanburg County Sheriff's Office

1. SENTENCE MADE ☒2. REPORT MADE ☒3. CARD FILED ☒4. INDEXED ☒5. CHECKED WARRANTS ☒6. CHECKED SIGNATURE ☒7. ASSESSMENT MADE ☒FEE CHARGED MADE ☒

ARREST WARRANT NUMBER

TRAFFIC VIOLATIONS COPY ☒

2013A4210101515

ACTION OF GRAND JURY

AUG 22 2013

True Bill

Foreperson of Grand Jury

Date:

VERDICT

Guilty

Foreperson of Petit Jury

Date:

10/14/2014

DOCKET NO.

13-GS-42-3879

The State of South Carolina

County of Spartanburg

Barry J. Barnette, Solicitor

COURT OF GENERAL SESSIONS

AUG 26 2013

TERM

THE STATE

vs.

Wendell Bernard Wilkins

Indictment for

ATTEMPTED ARMED ROBBERY

SC Code: 16-11-330 (B)

CDR Code: 26

Class FEL/C

RECEIVED

OCT 28 2014

SC Court of Appeals

FILED
CLERK OF COURT
SPARTANBURG COUNTY

2013 AUG 28 AM 11:57

M. HOPE BLACKLEY

STATE OF SOUTH CAROLINA)
COUNTY OF SPARTANBURG)

INDICTMENT

At a Court of General Sessions, convened on AUG 22 2013 the
Grand Jurors of Spartanburg County present upon their oath:

ATTEMPTED ARMED ROBBERY

That Wendell Bernard Wilkins, did in Spartanburg County on or about April 4, 2013, while armed or alleging to be armed ~~with a deadly~~ weapon, feloniously attempt to take from the person or presence of Salvator Bonidacio, by means of force or intimidation, goods or monies of Fast Fuel Convenience Store, to wit: a sum of money, with intent to deprive the owner permanently of such property, in violation of §16-11-330 (B), *CODE OF LAWS OF SOUTH CAROLINA*, (1976), as amended.

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

Dan J. Fiel
ASSISTANT SOLICITOR

STATE OF SOUTH CAROLINA

COUNTY OF SPARTANBURG

STATE VS.

Wendell Bernard Wilkins

AKA:

Race: BLACK Sex: M Age: 26

DOB: SS:

Address:

City, State, Zip:

DL#: SID#:

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was

TO: Attempted armed, robbery

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2013GS4203879

A/W#: 2013A4210101515

Date of Offense: 4/4/2013

S.C. Code §: 16-11-0330(B)

CDR Code #: 0026

SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADS

in violation of § 16-11-0330(B) of the S.C. Code of Laws, bearing CDR Code # 0026

☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45The charge is: ☐ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.ATTORNEY: *Danny N. Wilkins*

15593

Defendant

Attorney for Defendant

2596

WILKINS, DANNY N

SC Bar#

Defendant

Attorney for Defendant

SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,for a determinate term of 12 days/months/years or ☐ under the Youthful Offender Act not to exceed yearsand/or to pay a fine of \$; provided that upon the service of days/months/years and/or paymentof \$; plus costs and assessments as applicable*; the balance is suspended with probation for

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☐ CONCURRENT or ☐ CONSECUTIVE to sentence on:☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections. APRIL 27, 2013☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

PTUP

Total: \$ plus 20% fec: \$ days/hours Public Service Employment

Payment Terms:

☐ Set by SCDPPPS

Recipient:

*Fine:

§ 14-1-206 (Assessments 107.5 %)

§ 14-1-211(A)(1) (Conv. Surcharge)

§ 14-1-211(A)(2) (DUI Surcharge)

§ 56-5-2995 (DUI Assessment)

§ 56-1-286 (DUI Breath Test)

Proviso 47.9 (Public Def/Prob)

§ 14-1-212 (Law Enforce. Funding)

§ 14-1-213 (Drug Court Surcharge)

§ 50-21-114(BUI Breath Test Fee)

§ 56-5-2942(I) (Vehicle Assessment)

Proviso 90.5 (SCCJA Surcharge)

3% to County (if paid in installments)

TOTAL

\$	
\$	
\$100	\$ 100.00
\$100	\$
\$12	\$
\$25	\$
\$500	\$
\$25	\$ 25.00
\$150	\$
\$50	\$
\$40/ea	\$
\$5	\$ 5.00
\$	\$ 3.90
\$	\$ 123.90

Obtain GED ☐Attend Voc. Rehab. or Job Corp. May serve W/E beginning Substance Abuse Counseling ☐Random Drug/Alcohol testing ☐Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ beginning \$ paid to Public Defender FundOther: ☐ Appointed PD or appointed other counsel, § 47.12 requires \$500 be paid to Clerk during probation.

Clerk of Court/ Deputy Clerk

Court Reporter:

SCCA/217 (03/2011)

Presiding Judge

Judge Code: 2126

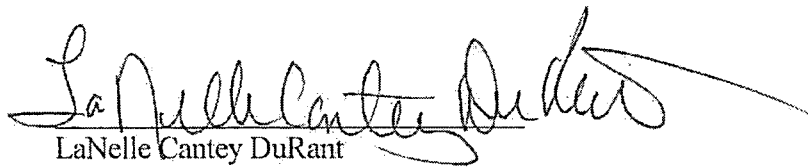
Sentence Date:

10-14-14

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

December 17th, 2015



LaNelle Cantey DuRant
Appellate Defender

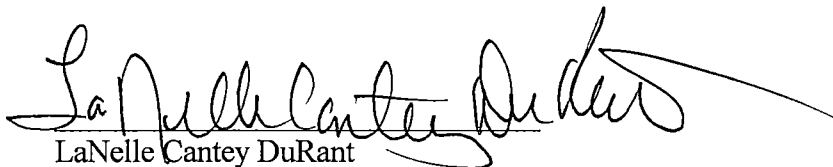
South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S. C. 29211-1589
(803) 734-1330

ATTORNEY FOR APPELLANT

CERTIFICATE OF COUNSEL FOR APPELLANT

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December 17th, 2015


LaNelle Cantey DuRant
Appellate Defender

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ATTORNEY FOR APPELLANT

STATE OF SOUTH CAROLINA

ORIGINAL

IN THE COURT OF APPEALS

Appeal from Spartanburg County

G. Thomas Cooper, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

WENDELL BERNARD WILKINS,

APPELLANT

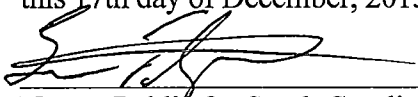
APPELLATE CASE NO. 2014-002276

CERTIFICATE OF SERVICE

I certify that a true copy of the Record on Appeal in the above referenced case has been served upon Megan Harrigan Jameson, Esquire, at the Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201, this 17th day of December, 2015.


Cruise Mitchell
Administrative Specialist

SUBSCRIBED AND SWORN TO before me
this 17th day of December, 2015.


Notary Public for South Carolina

(L.S.)

My Commission Expires: October 30, 2022.

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