

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Appeal from Aiken County

R. Knox McMahon, Circuit Court Judge

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S.C. Supreme Court

DARRIN HOLSTON,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLANT CASE NO. 2015-000666

A P P E N D I X

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THE FOLLOWING EXHIBIT IS ON FILE WITH THIS COURT:

APPLICANT'S EXHIBIT #1 (Photos).

State of South Carolina)
County of Aiken) Court of General Sessions
2010-GS-02-01899
2010-GS-02-01903
2010-GS-02-01905

State of South Carolina)
Plaintiff)
vs.) Transcript of Record
Darrin Darrell Holston)
Defendant)

May 9 - 12, 2011
Aiken, South Carolina

B E F O R E:

The Honorable Doyet A. Early, III, Judge; and a jury.

A P P E A R A N C E S:

John W. Weeks, Assistant Solicitor
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Attorneys for the Plaintiff

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Attorney for the Defendant

Lisa H. Davenport, RPR
Official Court Reporter

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1 (Whereupon, on May 9, 2011 the following proceedings
2 were held:)

3 THE COURT: Okay. We have a qualified jury panel.
4 You may call your first case.

5 MR. WEEKS: Thank you, Your Honor. The state would
6 call State of South Carolina versus Darrin Darrell
7 Holston -- three indictments: One for attempted armed
8 robbery, one for burglary in the first degree, and one for
9 kidnapping.

10 THE COURT: Hand me the indictments.

11 Mr. Holston, have a seat right there for me, please.
12 Good afternoon.

13 THE DEFENDANT: Good evening.

14 THE COURT: Ladies and gentlemen, we're about to
15 begin the trial of the case of the State of South Carolina
16 versus Darrin Darrell Holston; H-O-L-S-T-O-N. Ladies and
17 gentlemen, Mr. Holston has been indicted by the Aiken
18 County Grand Jury for three offenses: Burglary in the
19 first degree, kidnapping, and attempted armed robbery.
20 Now, bear in mind that these indictments -- That is not
21 evidence in the case. That is simply the charging
22 document by means which the court -- the case comes into
23 the courtroom.

24 The defendant has plead not guilty to all three
25 indictments and a plea of not guilty puts, obviously, the

1 burden on the State of South Carolina to prove each and
2 every element of each and every indictment to the jury
3 beyond a reasonable doubt. Please do not draw any
4 inferences from the fact that he has been indicted in this
5 case.

6 I need to ask you a few questions to make sure that
7 we can get a jury that is fair both to the state and to
8 the defendant.

9 Any member of the jury panel related by blood or
10 marriage or does any member of the jury panel now or in
11 the past had a close personal or social relationship with
12 Mr. Darrin Darrell Holston?

13 Mr. Holston, if you would stand and face the jury
14 panel. Thank you. You may be seated.

15 The alleged victim in the case is Willie Walker. Is
16 Mr. Walker in the courtroom? Would you please stand and
17 face the jury panel? Thank you.

18 Any member of the jury panel related by blood or
19 marriage or do you now or have you in the past had a close
20 personal or social relationship with either Mr. Willie
21 Walker or the Defendant Darrin Darrell Holston? Please
22 stand.

23 I am going to ask you the same question. I am going
24 to give you the perspective jury list. That doesn't mean
25 they'll call all of these, but let me give them to you.

1 Investigator J.D. Sanders with the Aiken County Sheriff's
2 Office, if you're in the courtroom please stand.
3 Lieutenant Eric Abdullah, Aiken County Sheriff's Office;
4 Investigator Chris Johnson, Aiken County Sheriff's Office;
5 William Salley; Clinton Vommond, V-O-M-M-O-N-D [sic];
6 Carrie Vommond, V-O-M-M-O-N-D [sic]; Deputy Michael
7 Williams, Aiken County Sheriff's Office; Investigator
8 Molly Hahn, Aiken County Sheriff's Office; Ralph Courtney;
9 Brett Porter; Investigator Clay Adams, Aiken County
10 Sheriff's Office; Rachel Sharp, Tri-County Development;
11 Ralph Courtney, Tri-County Development; Renee Tyler,
12 Tri-County Development or Tri-Development; Investigator
13 Chris Johnson -- I have already called him -- and Bennie
14 Williams, Investigator of the Aiken County Public
15 Defender's office.

16 Any member of the jury panel related by blood or
17 marriage or do you now or have you in the past had a close
18 personal or social relationship with any of the potential
19 witnesses that I have just called? If so, please stand.

20 Sir, your name?

21 THE JUROR: I'm juror number 87, Jeremy Hughes. I am
22 a close friend of Chris Johnson, investigator with the
23 Aiken County Sheriff's Department.

24 THE COURT: Okay. Please remain standing. The fact
25 that you have a personal relationship, friendship with a

1 potential witness, would that in any way, sir, keep or
2 preclude you from being a fair and impartial juror in the
3 trial of this case?

4 THE JUROR: No, sir.

5 THE COURT: Thank you. You may be seated. Ladies
6 and gentlemen, the State of South Carolina will be
7 represented by the members of the solicitor's office
8 Mr. Kevin Molony, Mr. Bill Weeks. The Defendant is
9 represented by Miss Wallis Alves, and the state will also
10 be assisted by Solicitor Strom Thurmond, Jr.

11 First question: Any member of the jury panel now or
12 in the past have had legal services performed by any of
13 the three -- four lawyers? Please stand.

14 Any member of the jury panel related by blood or
15 marriage or do you now or have you in the past had a close
16 personal or social relationship with any of the four
17 lawyers? If so, please stand.

18 Ladies and gentlemen, let me tell you a little bit
19 about what is alleged. Of course, this is not evidence in
20 the case. These are simply allegations, but it is alleged
21 that here in Aiken County on or about July 17, 2010 that
22 the Defendant unlawfully and without permission entered a
23 group home belonging to the Tri-Development Center located
24 on [REDACTED] in Aiken without consent. That's the
25 burglary allegations.

1 It's further alleged that on that same date he
2 allegedly carried away or kidnapped one Willie Walker and
3 it's further alleged on that same date while armed
4 allegedly with a deadly weapon he attempted to take goods
5 or monies or Willie Walker.

6 Those are all allegations -- something that happened
7 on July 17, 2010 at or near a group home belonging to
8 Tri-Development Center of Aiken County, Inc., at [REDACTED]
9 [REDACTED], Aiken, SC.

10 Any member of the jury panel know anything about
11 this, heard anything about it, read anything about it,
12 discussed anything about it, know anything about it, or
13 formed any opinions about any of the facts or allegations,
14 please stand.

15 Your name, please?

16 THE JUROR: J. El Bey, juror number 12.

17 THE COURT: Ma'am, how about walk right up here,
18 please.

19 Miss Alves, Mr. Weeks or someone.

20 (Whereupon, the Court spoke with the juror out of my
21 hearing.)

22 THE COURT: Madam Clerk, number 12 is excused.

23 THE CLERK: Yes, sir.

24 THE COURT: Did you get all that, Lisa?

25 THE COURT REPORTER: No.

1 THE COURT: Stay with us, please, ma'am.

2 Miss Alves, remind me to put that on the record at
3 the appropriate time.

4 MISS ALVES: Yes, sir.

5 THE COURT: Ladies and gentlemen of the jury panel,
6 any member -- you or your family ever been the victim of a
7 home invaded or burglary or robbery? If so, please stand.

8 All right. Once again, sir, your name in the blue.

9 THE JUROR: Jeremy Hughes, juror number 87.

10 THE COURT: And what was your situation?

11 THE JUROR: Both of my vehicles were broken into when
12 I lived in an apartment in Augusta, Georgia, and I had
13 several thousand dollars worth of equipment and damage.

14 THE COURT: The fact that you had to experience that
15 unpleasant situation, would that keep you or preclude you
16 from being fair and impartial in the trial of the case?

17 THE JUROR: No, sir.

18 THE COURT: Thank you. You may be seated.

19 Young man on the front row, your name?

20 THE JUROR: James Shephard, juror 157. I was robbed
21 and shot in front of my house.

22 THE COURT: The fact that you experienced a robbery
23 and a shooting, would that preclude or keep you from being
24 fair and impartial in the trial of this case?

25 THE JUROR: No, sir.

1 THE COURT: Thank you. You may be seated.

2 Sir, in the black and white checked shirt.

3 THE JUROR: Juror number 7, Bennie Bates. My son's
4 house -- it's been broke in twice. They've been taking
5 some jewelry and all that stuff from his house and plus an
6 air conditioning unit.

7 THE COURT: The fact that your family has experienced
8 that very unpleasant situation, would that keep or
9 preclude you from being fair and impartial?

10 THE JUROR: No, sir.

11 THE COURT: You may be seated.

12 Ma'am, my lady who works for Neilson.

13 THE JUROR: Yes. Juror number 43, Lynne Dillin,
14 victim of a house burglary.

15 THE COURT: Ma'am, the fact that you were victim in a
16 house burglary, would that preclude or keep you from being
17 fair and impartial?

18 THE JUROR: No, sir.

19 THE COURT: Thank you, ma'am.

20 Ma'am, in the gray t-shirt or gray golf shirt.

21 THE JUROR: DeLane Maxwell, juror 107. I had my car
22 burglarized twice and also had something stold.

23 THE COURT: Would that, ma'am, preclude or keep you
24 from being fair and impartial?

25 THE JUROR: No.

1 THE COURT: Ma'am?

2 THE JUROR: No.

3 THE COURT: Thank you. You may be seated.

4 Sir, in the sort of yellow-beige colored shirt.

5 THE JUROR: Marc Vines, juror no. 186. I had a
6 couple of house break-ins. I don't think that it would
7 affect anything.

8 THE COURT: I need to know for sure.

9 THE JUROR: No, sir.

10 THE COURT: Thank you. You may be seated.

11 Ma'am, in the gold chain necklace and silver blouse.

12 THE JUROR: Cheryl Olliff, juror 127. My family's
13 home was broken into and I don't think it would prejudice
14 me.

15 THE COURT: You don't think or you know it wouldn't?

16 THE JUROR: I know it wouldn't.

17 THE COURT: Thank you, ma'am.

18 Sir, in the white long-sleeved shirt.

19 THE JUROR: I am Mark Smith, juror number 168. My
20 vehicle was stolen two different occasions. On one of
21 those occasions some articles were taken out of my bedroom
22 as well.

23 THE COURT: Would that preclude you from being fair
24 and impartial?

25 THE JUROR: (Witness shakes head.)

1 THE COURT: Thank you. You may be -- The answer was
2 no.

3 Ma'am, in the white and black dress.

4 THE JUROR: I am juror number 146, Nita Sakievich.
5 When I was in college my family's home got broken into.

6 THE COURT: Would that keep you from being fair and
7 impartial?

8 THE JUROR: No.

9 THE COURT: Thank you. Last but not least in the
10 yellow golf shirt.

11 THE JUROR: Tommie Morrison, 119. Home burglary.

12 THE COURT: The fact that you had a home burglary,
13 sir, would that keep or preclude you from being fair and
14 impartial?

15 THE JUROR: No, sir.

16 THE COURT: Thank you. You may be seated.

17 Any member of the jury panel have you or a family
18 member employed in law enforcement? That would be with
19 the police department, state law enforcement, solicitor's
20 office, attorney general, federal law enforcement office.
21 If so, please stand.

22 All right. Let's start on this side. Ma'am, in the
23 long-sleeved blue jacket. That's you, yes, ma'am. Is it
24 not blue? What color is it?

25 THE JUROR: Black. I am Michane Geter and I was in

1 Aiken County Detention Center. I was a law officer. It
2 was about five years ago, though.

3 THE COURT: Five years ago you worked at the jail?

4 THE JUROR: Yes.

5 THE COURT: I'm sorry. The detention center.

6 THE JUROR: The detention center.

7 THE COURT: Would that preclude or keep you from
8 being fair and impartial?

9 THE JUROR: No.

10 THE COURT: Thank you, ma'am.

11 Ma'am, in the black and white blouse.

12 THE JUROR: As I mentioned before I worked I.T. for
13 the City of Aiken. I worked very closely with law
14 enforcement taking care of all of their computerized
15 equipment. That includes phones, computer equipment,
16 scanner, everything.

17 THE COURT: The fact that you have that employment --
18 your name again, please?

19 THE JUROR: Angela Hales, juror 67.

20 THE COURT: Ms. Hales, would that preclude or keep
21 you from being fair and impartial?

22 THE JUROR: No.

23 THE COURT: Thank you. You may be seated.

24 Ma'am, in the purple blouse.

25 THE JUROR: I'm juror number 58, Jennifer Goodman,

1 and my brother-in-law works for the Aiken County Sheriff's
2 Department. You want his name?

3 THE COURT: Your brother-in-law works for the Aiken
4 County Sheriff's Department?

5 THE JUROR: Kevin Lyles.

6 THE COURT: And that's the investigating office?

7 MR. WEEKS: Not in this case, Your Honor. It's the
8 investigating agency.

9 THE COURT: The fact that your brother-in-law is
10 employed by the Aiken County Sheriff's Office would that
11 in any way preclude you from being fair and impartial?

12 THE JUROR: No, it would not.

13 THE COURT: Thank you. You may be seated.

14 Sir, in the white shirt.

15 THE JUROR: Juror 85, Marcellus Hudson. My brother
16 works with the Wagener Police Department.

17 THE COURT: Would that keep you from being fair and
18 impartial?

19 THE JUROR: No.

20 THE COURT: Last but not least in the green shirt.

21 THE JUROR: I am juror 170, Timothy Smith. My cousin
22 is the Chief of Police in Jackson.

23 THE COURT: Would you preclude or keep you from being
24 fair and impartial?

25 THE JUROR: No, sir.

1 THE COURT: Thank you.

2 Sir, in the green.

3 THE JUROR: I am Matthew Burns, juror number 20. My
4 stepfather is Captain of Investigations in North Augusta.

5 THE COURT: Would that preclude or keep you from
6 being fair and impartial?

7 THE JUROR: No, sir.

8 THE COURT: Thank you. Any member of the jury panel
9 contribute to any organization or citizens group who has
10 as its primary aim the promotion of law enforcement such
11 as SADD, MADD, or CAVE? If so, please stand.

12 Ladies and gentlemen, one of the most important
13 functions that I have as a judge in this state is to
14 ensure people who are tried either in civil court or
15 criminal court that all sides receive a fair trial. The
16 way the system works is this: My job makes me the judge
17 of the law in the case. I tell you what the law is. Then
18 you have to accept that law as I tell it to you because I
19 am the judge of the law in the case.

20 Your function is, obviously, much more important than
21 my function because if you're selected to serve on the
22 jury, twelve of you collectively acting as one, you become
23 the judges of the facts in the case.

24 Now, I practiced law for 30 years and I have been on
25 the bench now seven years. I can promise you I have tried

1 literally thousands of cases or been involved in them and
2 I would be shocked if this case is any different than the
3 rest I've tried because oftentimes you will hear
4 conflicting facts in a case. Sometimes they conflict as
5 much as from A to Z and sometimes maybe from G to R,
6 sometimes closer, but you will hear conflicting facts from
7 different witnesses who testify from the witness stand.

8 Your job is to take what you hear from the witness
9 stand by way of testimony and determine what the true
10 facts are in the case. Hence, you are the finders or the
11 judges of the facts in the case. So, when the twelve of
12 you collectively decide what the true facts are you take
13 those true facts and you apply it to the law as I give it
14 to you at the conclusion of the case. You apply the law
15 to the facts -- you apply the law to the facts as you find
16 them and you're in a position to render a verdict.

17 That is your function. My question is this: Is
18 there any member of the jury panel who cannot perform that
19 function which is simply listening to what you hear from
20 the witness stand, determining the credibility or
21 believability of witnesses? You determine who you
22 believe. So, if you cannot do that, I need to know it now
23 whether it be for a religious reason, political reason,
24 personal reason, any kind of reason. If you cannot
25 perform that duty, I need to know now. Please stand.

1 It's a great system, ladies and gentlemen. When
2 anybody is accused of a crime or you have civil disputes,
3 instead of having a dictator on the street or some of his
4 henchmen or her henchmen to decide the dispute in our
5 system we let twelve citizens from the community listen to
6 the testimony and y'all determine what the true facts are
7 and y'all apply it to the law as I give it to you. I know
8 it's an imposition to be here, but it's the best legal
9 system, the best justice system in the world. So, can
10 anybody not do that? I need to know.

11 MISS ALVES: Your Honor, I do have one more question.

12 THE COURT: I hadn't finished.

13 MISS ALVES: Your Honor, I would ask if anyone has or
14 their family members had now or in the past any personal
15 involvement with a Tri-Development residential home.

16 THE COURT: Any member of the jury panel -- The place
17 that was allegedly burglarized in this case and where a
18 lot of the facts allegedly happened is a place called the
19 Tri-Development Center of Aiken County, Inc. It is out on
20 Wheat Road; [REDACTED].

21 Where is Wheat Road?

22 MR. WEEKS: Your Honor, the address may be a typo.
23 It might be [REDACTED], but the Tri-Development Center
24 owns half a dozen, maybe 10 group homes.

25 THE COURT: This is one of the group homes?

1 MR. WEEKS: This is one of them.

2 THE COURT: [REDACTED] and Wheat Road is where?

3 MR. WEEKS: Wheat Road is on the northeast side of
4 Aiken going out Wire Road in between Wire Road and -- I am
5 drawing a blank.

6 THE POLICE OFFICER: Wrights Mill.

7 MR. WEEKS: Yea, in between Wrights Mill Road and
8 Wire Road.

9 THE COURT: Any member of the jury panel have any
10 special knowledge of this development center or this area
11 on Wheat Road?

12 Any member of the jury panel know of any reason
13 whatsoever why you cannot serve as a juror in this case
14 with particular attention being placed on your ability to
15 be fair both to the defendant and to the state? If so,
16 please stand.

17 Any additional questions by the state?

18 MR. WEEKS: No, Your Honor.

19 THE COURT: By the defendant?

20 MISS ALVES: No, sir.

21 THE COURT: All right. Give me a jury. Ten and
22 five.

23 THE CLERK: Alternates?

24 THE COURT: Two. Ladies and gentlemen, what we will
25 do now is we have a computer program that will randomly

1 put your names in as opposed to us drawing them out of a
2 box. Once she has that sheet of random names we'll call
3 them in the order in which they were drawn.

4 When your name is called if you would please either
5 go out this side or this side and come down to the front
6 and stand right here between Miss Alves and Mr. Weeks.
7 Turn around and face them.

8 The state has five strikes. They can strike you for
9 most any reason within certain bounds. The defendant has
10 10 strikes. In some cases they have five, some they have
11 10. In this particular case they have 10. So, she'll
12 have 10 strikes. We'll go through that process until we
13 have a jury of 12 people and two alternates.

14 We are running -- I say we should be through by
15 3 o'clock. I think that we'll probably make that.
16 Everybody okay? Anybody uncomfortable bathroom-wise? If
17 you get uncomfortable, unbearable, raise your hand and
18 instead of letting everybody go en masse we'll let you
19 step out real quick.

20 All right. Ma'am?

21 THE CLERK: Ladies and gentlemen, as I call your name
22 please come forward to the bench and face the attorneys.
23 Juror number 81, Laura Horsley.

24 THE COURT: Ma'am, you're an athletic director where?

25 THE JUROR: Athletic trainer at Clayton State

1 University.

2 THE COURT: Where is that?

3 THE JUROR: In Morrow, Georgia, about 15 miles south
4 of Atlanta.

5 THE COURT: Good. Turn around and face these people.

6 THE CLERK: What say you for the state?

7 MR. WEEKS: Please present the juror.

8 THE CLERK: Thank you. What say you for defense?

9 MISS ALVES: Please seat the juror.

10 THE CLERK: Please have a seat in the jury box to my
11 left.

12 As you come forward if you have any personal
13 belongings please bring them with you. Juror number 61,
14 Rhonda Green.

15 What say you for the state?

16 MR. WEEKS: Please present Ms. Green.

17 THE CLERK: What say you for the defense?

18 MISS ALVES: Please seat Ms. Green.

19 THE CLERK: Thank you. Please have a seat in the
20 jury box to my left. Juror number 137, Rosa Pope.

21 What say you for the state?

22 MR. WEEKS: Please present Ms. Pope.

23 THE CLERK: Thank you. What say you for the defense?

24 MISS ALVES: Please seat Ms. Pope.

25 THE CLERK: Thank you. Please have a seat in the

1 jury box to my left. Juror number 157, James Shephard.

2 What say you for the state?

3 MR. WEEKS: Please present Mr. Shephard.

4 THE CLERK: What say you for the defense?

5 MISS ALVES: Please excuse Mr. Shephard.

6 THE CLERK: Thank you. Please return to your seat.

7 Juror number 168, Mark Smith.

8 What say you for the state?

9 MR. WEEKS: Please excuse Mr. Smith from this trial.

10 THE CLERK: Thank you. Please return to your seat.

11 Juror number 5, Cynthia Ancrum.

12 What say you for the state?

13 MR. WEEKS: Please present Ms. Ancrum.

14 THE CLERK: Thank you. What say you for the defense?

15 MISS ALVES: Please seat Ms. Ancrum.

16 THE CLERK: Thank you. Please have a seat in the

17 jury box. Juror number 47, David Eubanks.

18 What say you for the state?

19 MR. WEEKS: Please present Mr. Eubanks.

20 THE CLERK: Thank you. What say you for defense?

21 MISS ALVES: Please seat Mr. Eubanks.

22 THE CLERK: Thank you. Please have a seat in the

23 jury box. Juror number 174, Nathanael Stephens.

24 What say you for the state?

25 MR. WEEKS: Please present Mr. Stephens.

1 THE CLERK: Thank you. What say you for defense?

2 MISS ALVES: Please seat Mr. Stephens.

3 THE CLERK: Thank you. Please have a seat in the
4 jury box. Juror number 190, Raymond Wiggins.

5 What say you for the state?

6 MR. WEEKS: Please present Mr. Wiggins.

7 THE CLERK: Thank you. What say you for defense?

8 MISS ALVES: Please seat Mr. Wiggins.

9 THE CLERK: Thank you. Please have a seat in the
10 jury box.

11 THE COURT: Y'all excuse me for two seconds. I got
12 something that I got to take. Two seconds.

13 (Whereupon, a break was taken.)

14 THE COURT: Remain seated. It wasn't quite two
15 seconds. Thank you.

16 THE CLERK: Juror number 6, Steven Arthur.
17 What say you for the state?

18 MR. WEEKS: Please present Mr. Arthur.

19 THE CLERK: What say you for defense?

20 MISS ALVES: Please seat the juror.

21 THE CLERK: Thank you. Please have a seat in the
22 jury box. Juror number 70, Gareth Hegler.

23 What say you for the state?

24 MR. WEEKS: Please present Mr. Hegler.

25 THE CLERK: What say you for defense?

1 MISS ALVES: Please excuse Mr. Hegler.

2 THE CLERK: Thank you. Please return to your seat.

3 Juror number 64, Dawn Grey.

4 What say you for the state?

5 MR. WEEKS: Please present Ms. Grey.

6 THE CLERK: Thank you. What say you for defense?

7 MISS ALVES: Please seat Ms. Grey.

8 THE CLERK: Thank you. Please have a seat in the

9 jury box. Juror number 165, Donald Smalls.

10 What say you for the state?

11 MR. WEEKS: Please present Mr. Smalls.

12 THE CLERK: Thank you. What say you for defense?

13 MISS ALVES: Please seat Mr. Smalls.

14 THE CLERK: If you would please have a seat in the

15 jury box. Juror 176, Brian Stonehill.

16 What say you for the state?

17 MR. WEEKS: Please present Mr. Stonehill.

18 THE CLERK: Thank you. What say you for defense?

19 MISS ALVES: Please seat Mr. Stonehill.

20 THE CLERK: Thank you. Please have a seat in the

21 jury box. Juror number 146, Nita Sakievich.

22 What say you for the state?

23 MR. WEEKS: Please present the juror.

24 THE CLERK: Thank you. What say you for defense?

25 MISS ALVES: Please excuse Ms. Sakievich.

1 THE CLERK: Thank you. Please return to your seat.

2 Juror number 105, Louvenia Mathews.

3 What say you for the state?

4 MR. WEEKS: Please present Ms. Mathews.

5 THE CLERK: What say you for the defense?

6 MISS ALVES: Please seat Ms. Mathews.

7 THE CLERK: You can have a seat in the jury box to my
8 left.

9 THE COURT: All right. Two alternates. Two and one.

10 THE CLERK: Alternate juror number 84, Jonathan
11 Houston.

12 What say you for the state?

13 MR. WEEKS: Please present Mr. Houston.

14 THE CLERK: What say you for defense?

15 MISS ALVES: Please seat Mr. Houston.

16 THE CLERK: Please have a seat in the jury box.

17 Second alternate, juror number 20, Matthew Burns.

18 What say you for the state?

19 MR. WEEKS: Please present Mr. Burns.

20 THE CLERK: What say you for defense?

21 MISS ALVES: Please excuse Mr. Burns.

22 THE CLERK: Please return to your seat. Juror number
23 21, Earlian Cannon.

24 What say you for the state?

25 MR. WEEKS: Please present Ms. Cannon.

1 THE CLERK: What say you for the defense?

2 MISS ALVES: Please excuse Ms. Cannon.

3 THE CLERK: Thank you. Please return to your seat.

4 Juror number 180, Shelia Taylor.

5 What say you for the state?

6 MR. WEEKS: Please present Ms. Taylor.

7 THE CLERK: What say you for the defense?

8 MISS ALVES: Please seat Ms. Taylor..

9 THE CLERK: If you would please have a seat in the
10 jury box to my left.

11 THE COURT: Any motions by the state in connection
12 with the selection of the jury?

13 MR. WEEKS: No, Your Honor.

14 THE COURT: Miss Alves?

15 MISS ALVES: No, Your Honor.

16 THE COURT: Ladies and gentlemen, as promised we
17 finished by three. I am now going to excuse you for the
18 balance of the day. Please call back after six on --
19 after six?

20 MR. WEEKS: Yes, sir.

21 THE COURT: After six on -- Hold on. Mr. Weeks and I
22 are trying to make a decision.

23 MR. WEEKS: Your Honor, this holiday in the middle of
24 the week is throwing me off.

25 THE COURT: Me, too.

1 MR. WEEKS: After six tomorrow would be the
2 appropriate time.

3 THE COURT: Please call back after six tomorrow,
4 Tuesday, notwithstanding it is a holiday, and your
5 instructions will be call back after six on Wednesday or
6 come on back up and see me Wednesday. I don't know which
7 one it is going to be. So, I am going to excuse you now
8 for the balance of the day. Call back after six tomorrow.
9 Thank you.

10 Everyone else remain seated -- except for my jurors.
11 Y'all can go.

12 (Whereupon, the jury pool was dismissed.)

13 THE COURT: We're going to start at 9:30 Wednesday
14 morning -- 9:30. I will have some hot coffee and some
15 sausage biscuits.

16 My trainer, what do you think? Sausage biscuits,
17 fruit, or doughnuts?

18 THE JUROR: I say all three of them. Let's go with
19 sausage biscuits.

20 THE COURT: Ma'am?

21 THE JUROR: Biscuits.

22 THE COURT: Okay. You got a trainer over here so you
23 have to eat good. If you want a sausage biscuit and all
24 be here a little bit before that because we're going to
25 start right at 9:30 unless something happens. When you

1 get back I will give you some announcements. Are y'all
2 okay? Anybody need a ride? Be here 9:30 Wednesday
3 morning. Wednesday, now; not tomorrow.

4 Please don't discuss the case and don't let anybody
5 discuss it with you. I doubt they will. Go with
6 Ms. Barbara right here and she'll show you where to come
7 back.

8 (Whereupon, the jury exited the courtroom at 3:01.)

9 THE COURT: Miss Alves, anything for the record
10 before we break?

11 MISS ALVES: There is one matter. You asked me to
12 remind you to put on the record the matter about the
13 juror.

14 THE COURT: Juror number 12?

15 MR. WEEKS: That's correct, Your Honor.

16 THE COURT: I forget what her name was. Juror number
17 12 -- I called her to the side bar. Present was
18 Miss Alves and Mr. Weeks and the solicitor and she told us
19 that some neighbor or friend had sort of firsthand
20 knowledge of the situation and had discussed it with her
21 at length and she sort of was telling us a little bit
22 about what was going on and she felt she would be unable
23 to be fair and impartial because of her personal
24 involvement in this case.

25 Is that basically correct, Miss Alves?

1 MISS ALVES: Yes, sir.

2 THE COURT: Thank you. Mr. Weeks?

3 MR. WEEKS: Yes, sir.

4 MR. THURMOND: J. El Bey, B-E-Y, is her name.

5 THE COURT: Thank you. Okay. We'll start bright and
6 early Wednesday morning at 9:30.

7 (WHEREUPON, the proceedings were concluded for the
8 day and were reconvened on May 11, 2011 as follows:)

9 (WHEREUPON, State's Exhibit Nos. 1 - 28 were marked
10 for identification only.)

11 THE COURT: Mr. Weeks, anything for the record before
12 we start?

13 MR. WEEKS: Just a couple of housekeeping things,
14 Judge. As I pointed out during the voir dire of the jury
15 yesterday there is a scribner's error on the burglary
16 indictment that lists the address of the Tri-Development
17 group home as [REDACTED]. It is actually [REDACTED]. I move to amend
18 that prior to the beginning the trial.

19 THE COURT: Any opposition, Miss Alves?

20 MISS ALVES: None, Your Honor.

21 MR. WEEKS: Secondly, we withdraw our oral motion in
22 limine that we discussed yesterday in chambers. So, we
23 don't have to deal with that.

24 THE COURT: Are y'all ready to proceed?

25 MR. WEEKS: We are, Your Honor.

1 MISS ALVES: I do have a motion to ask that the
2 witnesses for the case be sequestered.

3 THE COURT: Sequestered?

4 MISS ALVES: Yes, sir.

5 THE COURT: Mr. Weeks?

6 MR. WEEKS: Your Honor, we will voluntarily sequester
7 them after opening statements if that's okay except for
8 the chief investigator in the case Mr. Sanders and the
9 victim who will be the first witness.

10 MISS ALVES: I would ask that my investigator be
11 allowed to stay.

12 MR. WEEKS: No objection.

13 THE COURT: All right. We'll sequester once opening
14 statements have been made. Anything else?

15 MISS ALVES: No, Your Honor.

16 (Whereupon, the jury came into open court at
17 approximately 9:31.)

18 THE COURT: Good morning. The first thing we have to
19 do before we start is you have to be sworn again.

20 (WHEREUPON, the jury was sworn at 9:32.)

21 THE COURT: Ladies and gentlemen of the jury panel,
22 the way we'll run the trial today is we'll start off -- I
23 will make a brief, brief remarks, opening remarks to tell
24 you where we're going, what we're going to be doing, just
25 general statements. Once we conclude that the state will

1 make an opening statement -- the state being the
2 solicitor -- followed by the defendant. The opening
3 statements are basically -- That's not evidence in the
4 case, but it's sort of a road map that they'll present to
5 you as to what they intend to try, what the issues are,
6 what their positions are.

7 Then once we complete the opening statements we'll be
8 in a position to take testimony. The state goes first and
9 after the state has presented its case the defendant has
10 the opportunity to present a case if they choose. Once
11 all of the testimony is in then we'll hear final arguments
12 by the state and by the defendant and then I will charge
13 or instruct you on the law at that time.

14 In this case the Defendant Mr. Holston has been
15 indicted by the Aiken County Grand Jury for three
16 offenses: Burglary in the first degree, kidnapping, and
17 attempted armed robbery. He has plead not guilty to each
18 of those indictments; therefore, the state has the burden
19 of proving his guilt beyond a reasonable doubt as to each
20 and every element of each and every indictment.

21 We have two types of cases that we try here in the
22 courtroom. We have civil cases wherein like next week we
23 got a week of civil court. We've got people who have
24 automobile wrecks, people who claim their doctors were
25 negligent or their lawyers were negligent or a breach of

1 contract. That's where the plaintiff is suing the
2 defendant for monetary damages.

3 In a civil case the parties come into the courtroom
4 on equal footing and for the plaintiff to prevail they
5 have to prove their case by what we call the preponderance
6 or greater weight of the evidence. If these were the
7 scales of justice they have to tip the scales ever so
8 slightly. That's the preponderance or greater weight of
9 the evidence.

10 In a criminal case such as this the constitution says
11 that the defendant is presumed innocent unless the state
12 is able to prove his guilt to you beyond a reasonable
13 doubt. So, when we come into the courtroom if we use the
14 scales of justice as an example the scales are tipped in
15 favor of the defendant because he has the constitutional
16 presumption of innocence. For the state to prove their
17 case they have to prove it to you beyond a reasonable
18 doubt. The burden of proof in a criminal case is greater
19 than that in a civil case and we'll define to you at the
20 conclusion of the case what the burden of proof is and
21 those sorts of things -- reasonable doubt.

22 As I told you yesterday you and I have certain
23 functions to perform. My job is I am the judge of the law
24 in the case -- not Jack Early, but my position makes me
25 the judge of the law. I tell you what the law is. I

1 instruct you what the law is. Therefore, if you come into
2 the courtroom with some preconceived idea about what the
3 law is or should be and it doesn't agree with what I tell
4 you you've taken an oath to set aside any preconceived
5 ideas and accept the law as I charge or give it to you.

6 I also rule on the admissibility of evidence. The
7 lawyers have to play within the rules of evidence and the
8 rules of criminal procedure. Once I admit the testimony
9 into the trial of the case -- and 99 percent of it will be
10 admitted. Y'all will hear it all and you'll probably hear
11 different versions of the facts. Once I admit that
12 testimony in the trial of the case the twelve of you
13 collectively acting as one, you are the judges of the
14 facts in the case.

15 In other words, you judge who you believe. You judge
16 the credibility of the witnesses who testified. You use
17 your ordinary common sense in doing that. You deal with
18 husbands, wives, students, employees, employers, children,
19 whatever. You know how to judge when someone is telling
20 the truth. So it's your job to determine what the true
21 facts are in the case. You're the judges of the facts or
22 sometimes we call you the finders of the facts. You take
23 those true facts as you find them to be and you apply it
24 to the law as I give it to you and you'll be in the
25 position to render a true and just verdict in the case.

1 I like to be efficient, start on time, and keep the
2 lawyers moving. However, I am not trying to run a race up
3 here; so if at any time during trial of the case you
4 become uncomfortable, you need to go to the bathroom, you
5 need to break for something to drink, or you're getting
6 tired, please raise your hand. Do not get uncomfortable.
7 If it's too hot or too cold, let me know. I am always
8 watching you; so, if you need something let me know and
9 I'll take care of it.

10 We'll take breaks from time to time. When we take
11 breaks I'll tell you please do not start any type of
12 deliberating or talking about the case until all the
13 evidence is in, the lawyers have made their final
14 arguments, and I have charged you on the law. You can
15 talk about anything you want to in the jury room except
16 for the case until it's time to start deliberating. I
17 will ask that when we take our first break this morning
18 that among the 12 jurors -- not the two alternates -- that
19 you select a foreperson from the twelve of you. The
20 foreperson is simply someone who acts as a spokesperson
21 for the jury. That's the foreman of the jury panel.

22 In just a minute, as I said, we'll hear the opening
23 statement from the state and the defendant. The opening
24 statements is not evidence in the case. It is simply the
25 lawyers' take on the case. So, we'll get started.

(Opening Statement by Mr. Molony)

35

1 Any objections to my opening remarks by the state?

2 MR. WEEKS: No, Your Honor.

3 THE COURT: Miss Alves?

4 MISS ALVES: No, Your Honor.

5 THE COURT: Please pay close attention. Mr. Molony?

6 MR. MOLONY: Thank you, Your Honor. May it please
7 the court.

8 THE COURT: Yes, sir.

9 OPENING STATEMENT

10 MR. MOLONY: Ladies and gentlemen, this is a case
11 about bravery and about courage. I used to think that I
12 was a brave, courageous guy. I played football at
13 Presbyterian College. As you can tell I am not the
14 biggest guy in the world. I look more like the kicker
15 than the defensive back, but I played defense. I was a
16 smaller guy and thought I was a brave guy when I would go
17 up and try to hit these running backs. I thought I was
18 courageous when I would return these punts and these
19 kickoffs. I am here today to tell you that's not brave
20 and courageous.

21 Brave and courageous is Willie Walker. Willie Walker
22 is the victim in the case that we're here for today. On
23 the early morning hours of July 17, 2010 Willie Walker
24 proved that he owned both of those characteristics. See,
25 Willie was a caretaker for disabled -- mentally disabled

1 individuals at Tri-Development Center here in Aiken. It
2 is a job he had been doing for three years, going on his
3 fourth. It is a job that he liked.

4 He'll tell you here shortly what his job duties
5 entailed. He would make sure that these individuals had
6 what they needed; that they were being fed, that they were
7 being bathed, and anything they needed he would be there
8 for them.

9 Well, around 2:30 in the morning on July 17 Willie
10 Walker put three of them to sleep. He had three consumers
11 at the house that night. There are usually four. There
12 were only three that night. They were all in their rooms
13 asleep. Willie had some down time. He'll tell you he was
14 sitting up watching TV. You will see some paperwork
15 laying around. You'll see some pictures of where he was
16 sitting. The paperwork -- he had just taken his
17 commercial driver's license test and was looking through
18 some of these books and kind of reading up on the
19 profession thinking he may do that in the future, but he
20 was interrupted.

21 He was interrupted by the sound of his front door
22 being busted in by the defendant. Darrin Holston busts in
23 his front door wearing nothing but a latex glove on his
24 left hand, a cotton glove on his right hand, a gun in his
25 right hand, boxer shorts, and dress socks demanding that

(Opening Statement by Mr. Molony)

37

1 Willie Walker give him money. Willie didn't know him. He
2 had never seen him before.

3 Willie will tell you he tried to jump out that chair
4 and tried to run, get away. He wasn't quick enough. The
5 defendant chased him down, guides him throughout the house
6 demanding money. Willie will tell you another guy walks
7 in that night. We don't know who he is. He was with the
8 defendant. We don't know who he is.

9 Willie finally tells him, Look, I don't have any
10 money. He has his ATM card. So, the defendant takes the
11 ATM card. He takes it, but he takes Willie, too. He
12 forces Willie to get into his car -- Willie's car --
13 behind the wheel. The defendant sits in the passenger
14 seat of Willie's car -- gun still there, still wearing his
15 gloves and boxers and socks, and demands Willie drive to
16 the ATM. The unknown male that was with the defendant was
17 behind them.

18 Willie will tell you here shortly he gets out in his
19 car scared to death, obviously, and as he begins to drive
20 he makes a decision -- not on a football field with
21 helmets and shoulder pads, and, you know, knee pads and
22 thigh pads and everything else on grass. He makes a
23 decision in a car traveling at a high rate of speed with
24 very thin clothing on on asphalt, he jumps. He jumps out
25 of the moving vehicle when he sees a light on the side of

1 the road -- sees a shadow -- and he is that desperate and
2 he's that courageous. He is that brave to where he jumps
3 out of his moving vehicle.

4 You'll hear from two witnesses that are standing on
5 that porch where that light was coming from and they'll
6 tell you what they saw. They were smoking a cigarette in
7 the middle of the night. They are just outside smoking a
8 cigarette and they see this happen. They see the car go
9 and crash into the trees with the defendant still in it,
10 and they see Willie Walker come running up to them begging
11 for help.

12 Now, they eventually walk down and check on the car
13 and they see the defendant in the car. One of them will
14 tell you he sees a gun in the defendant's lap. The
15 defendant is out of it -- bleeding, still wearing his
16 glove on his left, his cotton on his right, his boxers and
17 his socks. Eventually he gets out and you'll hear that
18 the victim Willie is staying away from him. Wherever he
19 is, Willie is far away, still frightened, still terrified.

20 Eventually EMS -- throughout this short process EMS
21 is called and they arrive on the scene along with law
22 enforcement and the defendant is arrested and charged with
23 the charges we're here for today: Attempted armed
24 robbery, kidnapping, and burglary in the first degree.

25 Now, as the judge stated as soon as I'm done

(Opening Statement by Miss Alves)

39

1 Miss Alves will have an opportunity to come up and give
2 her opening statement. We'll then do the trial portion.
3 You'll hear what I just told you. You'll see pictures of
4 the gloves. You'll see pictures of the boxer shorts and
5 the socks. You'll see pictures of the wrecked car.
6 You'll see pictures of Willie Walker. You'll see Willie
7 Walker's injuries.

8 At the end of this whole thing the judge will charge
9 you on the law, tell you what the law is. As he told you
10 the state bears the burden of proof in any criminal case
11 and this one is no different. We bear the burden of proof
12 beyond a reasonable doubt and it is a burden that
13 Mr. Weeks and I welcome with open arms in this case. We
14 will prove to you beyond a reasonable doubt that the
15 defendant is guilty of attempted armed robbery, that he is
16 guilty of kidnapping, and that he's guilty of burglary in
17 the first degree. Thank you.

18 THE COURT: Miss Alves?

19 OPENING STATEMENT

20 MISS ALVES: Ladies and gentlemen, you just heard an
21 incredible story from the solicitor. You will be sitting
22 over there saying, Wow, what is she going to do? What is
23 she going to prove? That's where we need to stop because
24 as the judge told you and as the solicitor just told you I
25 don't have to prove anything. Mr. Holston does not have

1 to prove anything. The burden in this case is on the
2 state. It is on the solicitor. They have to prove to you
3 beyond a reasonable doubt that Darrin Holston is guilty of
4 the charges that we're here for today.

5 Now, this is not going to be a long trial. This is
6 not going to be a big fancy TV trial. This is not going
7 to be some incredible sensational trial that people will
8 be interviewing you on Dateline for years to come. It's
9 not going to be happening. Sorry. You won't be writing a
10 book about this, but this case is incredibly important to
11 that man sitting right there because he has been accused
12 of to the crime of attempted robbery, burglary, and
13 kidnapping, and the only thing I am here to tell you is
14 that you're going to hear a lot of evidence in the case,
15 and you need to keep an open mind.

16 The case is not done just because the solicitor gave
17 his opening and told you what he expects the evidence to
18 show. The case won't be done just because the solicitor
19 -- the witnesses get on -- Mr. Walker gets on the stand
20 and tells you his version of what happened that day -- his
21 version that he told the police that night. The case
22 won't be done just because a couple of police officers get
23 on the stand and tell you what -- you know, what they did
24 that day.

25 You have to wait until all the evidence is presented,

(Opening Statement by Miss Alves)

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1 until the solicitor and I get up at the end of this trial
2 and present our closing statements to you, and then after
3 that the judge will tell you what the law in this case is.
4 Only then will twelve of you go back into the jury room
5 and start deliberating, and all that time through all of
6 that process Mr. Holston sits there an innocent man. He
7 is presumed innocent through all of that.

8 It is only if you, the jury, find him guilty after
9 all of that process and after your deliberation if you
10 find him guilty, then he is guilty, but he sits there
11 right now presumed innocent and you have to presume him
12 innocent until such time as the state proves to you beyond
13 a reasonable doubt that he did commit these crimes. So,
14 the only thing I am asking you to do is to keep an open
15 mind. Wait until the end of the trial, until the end of
16 the evidence, until the judge has charged you until you've
17 started deliberating before you make your mind up about
18 what happened because this is not as open and shut as the
19 solicitor seems to think.

20 I'm glad they welcome their burden because I am going
21 to hold them to it and under our law you have to hold them
22 to it, too. The only thing I want is a verdict that
23 speaks the truth and if that truth is -- if you determine
24 the truth is that Mr. Holston is guilty, then that's what
25 the truth is, but I am confident that after you hear all

1 of the evidence, after you've deliberated, after you've
2 heard the judge's charges that you will find that the
3 state has not met their burden and you'll have to find
4 Mr. Holston not guilty. Thank you.

5 THE COURT: You may call your first witness. You can
6 sequester the witnesses.

7 MR. WEEKS: Thank you, Your Honor. I would ask that
8 all the witnesses in the trial leave except for
9 Investigating Officer Sanders.

10 THE COURT: Everybody in agreement that the witnesses
11 are sequestered?

12 MR. WEEKS: That's correct.

13 MISS ALVES: Yes, sir.

14 THE COURT: All right.

15 MR. WEEKS: The state would call Willie Walker, Your
16 Honor.

17 THE COURT: Come around, sir.

18 WILLIE J. WALKER, after being duly sworn,
19 testified as follows:

20 THE CLERK: Have a seat in the witness box stating
21 your name for the court spelling your last, please.

22 THE WITNESS: My name is Willie James Walker.

23 DIRECT EXAMINATION

24 BY MR. WEEKS:

25 Q Mr. Walker, how old are you?

(Willie J. Walker-Direct by Weeks)

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1 A I am 27 now.

2 Q And what are you currently doing for a living?

3 A I am an employee at US Food Service in Columbia,
4 South Carolina.

5 Q What do you do for them?

6 A I am an order selector.

7 Q Are you driving trucks?

8 A No, sir.

9 Q On July 17 of 2010 where were you working?

10 A I was employee at Tri-Development Center of Aiken
11 County.

12 Q Can you tell me what Tri-Development Center is?

13 A It's the place for people with special needs. Yes,
14 sir, disability.

15 Q What do you -- What did you do for them at that time?

16 A I was a residence support provider for
17 Tri-Development.

18 Q What does that mean Willie? What were you doing?

19 A That means I go to work, make sure my guys are in the
20 house. If food needs to be cooked I cook the food for
21 tomorrow, prepare the lunches, wash the clothes, clean the
22 house, wait until it's time for my guys to get up and give
23 them breakfast and give them their meds, take them to
24 work, make sure they they're there by 8:15, come back,
25 drop the van off, and get my car.

1 Q Explain a little more how that whole process works.

2 Is there other people that work in the house besides you?

3 A Yes, sir.

4 Q And did you work a shift there?

5 A Yes, sir. I was working third shift.

6 Q On July 17 what was the hours for third shift?

7 A Well, I was working, I believe, 11 to 8 or 9.

8 Q Okay.

9 A Yes, sir.

10 Q Okay. And had you showed up for work on time?

11 A Oh, yes, sir. I showed up at 10:30.

12 Q And what was your process that night when you showed
13 up for work? What did you do?

14 A Pulled up, came in at 10:30, told the other coworker
15 she could go ahead and leave. She gave me a brief about

16 the guys. One of them had went home. I told her okay.

17 She went on and left, locked all the doors in the house,

18 made sure the house was cleaned up, the guys there --

19 filled out their accountability book out, filled it all of

20 the way out and I just sat down on the couch and looked at

21 TV. I had my truck books out. I had my left leg propped

22 up against the arm of the chair.

23 Q Slow down a little bit. Tell me how long a period of

24 time all of this took before ---

25 A What you mean?

(Willie J. Walker-Direct by Weeks)

45

1 Q When you were sitting on the couch. I know you were
2 going on with the ---

3 A I sat on the couch about 10:45, yes, sir.

4 Q And are you married, Willie?

5 A No, sir. I have a fiance.

6 Q And this particular night July 17 of 2010 prior to
7 that how long had you worked for Tri-Development?

8 A I worked for them for three years.

9 Q In that capacity did you do the same thing you were
10 doing that night?

11 A Yes, sir.

12 Q And I'll probably refer to that rather than use that
13 whole long list of words as house-sitting. You were
14 basically house-sitting special needs people, weren't you?

15 A Yes, sir.

16 Q The ones that you were house-sitting in this
17 particular residence, how long had you been house-sitting
18 those particular people?

19 A Two of them I have been house-sitting them for three
20 years; the other ones for about a year.

21 Q And during that period of time did you get to know
22 what their special needs were?

23 A Yes, sir.

24 Q And did you get to know what kind of demands they
25 would have on you during your third shift?

1 A Yes, sir.

2 Q And were you concerned at all about taking care of
3 those demands?

4 A Yes, sir.

5 Q Now, on this particular night, July 17, was anybody
6 up after you got there?

7 A No, sir.

8 Q Any of the residents?

9 A No, sir.

10 Q I believe you said there were three?

11 A Three in the house.

12 Q Tell me what happened on July 17 that brings us here
13 to court, Willie.

14 A I came to work. I told the other coworker she could
15 go ahead and leave. She left.

16 THE COURT: Slow down a little bit for me.

17 THE WITNESS: Yes, sir. She had left. I locked all
18 three of the doors -- the front door, the back door, and
19 there is a side door at the bottom by the privacy fence.
20 I ran through the house, make sure all of my guys are in a
21 room, came back and ---

22 Q Where is this house located?

23 A [REDACTED] in Aiken, South Carolina.

24 Q Is that in Aiken County?

25 A Yes, sir.

(Willie J. Walker-Direct by Weeks)

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1 Q After you did that what did you do?

2 A I sat down, got my truck books out.

3 Q What are your truck books?

4 A It is like little magazines that have different
5 companies in it to tell you how much they pay and what
6 all -- how much experience you need if you need experience
7 or you don't need any experience.

8 Q Have you just made some sort of plan in your life as
9 to what you were going to do with your work?

10 A I was wanting to be like a truck driver -- a local
11 truck driver, yes, sir.

12 Q Had you taken the CDL truck driving course?

13 A Yes, sir.

14 Q Had you passed that?

15 A Yes, sir.

16 Q So, were you just doing stuff to stay awake? Is what
17 what you were doing?

18 A No. I always bring my truck books with me, yes, sir.

19 Q What else were you doing?

20 A I was looking at TV, MSNBC.

21 Q Tell me what happened while you were doing that,
22 Willie.

23 A I was sitting down on the chair. It was like a
24 single chair just like this but a little bigger. I had my
25 left leg propped up like this and I was looking at TV and

1 around 2:30 the door bust open. The young man over
2 here -- he bust in the door. He had his glove on, the gun
3 in the hand. He had some underwear on.

4 I jump out the couch and try to make it out the side
5 door. I ran in the kitchen and made a right turn so I
6 could run down the steps to try to open up the side door.
7 That's when he caught me, put the gun to my head ---

8 Q The side door -- Slow down, Willie. The side door
9 would have led you where?

10 A Led me right beside the privacy fence.

11 Q It would have led you outside of the house?

12 A Yes, sir.

13 Q Okay. And he was able to catch up with you?

14 A Yes, sir.

15 Q What happened then?

16 A He caught up with me, put the gun to my head. He was
17 like, Where the money at? Where the money at? I am like,
18 I don't have no money. I don't know what you're talking
19 about. He is like, Man, where the money at? I am going
20 to pop you. I was like, I don't know what you're talking
21 about. I don't have no money.

22 Q He said he was going to do what to you?

23 A He was going to pop me.

24 Q What did you take that to mean?

25 A He was going to shoot me in my head. Yes, sir. So,

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1 we had to walk back up the stairs, come in the kitchen,
2 turn in the living room where I was sitting at, walk past
3 the living room. We went down the hallway where my guys
4 were. He took me to the back room part. Like a room was
5 over here on the left, another room on the right. I was
6 just standing just like this and he was on this side. He
7 was like, Empty out your pocket. Where the money at? I
8 was like, I don't have no money. I had my keys ---

9 MISS ALVES: Your Honor, I would ask that he please
10 slow down just ---

11 THE COURT: Slow down a little bit for us, Willie.

12 MR. WEEKS: I know you're excited, Willie. Slow it
13 down for me.

14 THE WITNESS: He came in the hallway in the back of
15 the hallway -- the hallway where my guys are asleep.

16 Q Did you go into any of the guys' rooms?

17 A No, sir.

18 Q Okay.

19 A No, sir. I was standing in the hallway just like
20 this. He was on the left side of me. He had the gun to
21 my head. He was like, Where is the money? I told him I
22 don't have no money. He told me to empty out my pocket.
23 So, I emptied out my pocket. He got my keys and my
24 Chapstick and laid them on the ground. He was like, You
25 got two minutes to get the money or I am going to pop you.

1 I was just praying to the Lord hoping those two
2 minutes take his time, and I was like, Let me check in the
3 office for the money. He was like, All right. I was
4 like, Can I get my stuff?

5 Q Is there an office there in the place?

6 A Yes, sir.

7 Q Did you have any money, Willie?

8 A The guys got paid that day, but I didn't have no
9 money.

10 Q Did you know where that money was?

11 A I knew where it was, but I wasn't giving it up.

12 Q Okay.

13 A Yes, sir. So I picked up my keys and my Chapstick,
14 put it in my pocket. He was walking down the hallway like
15 this -- Don't look at me; don't look at me the whole time.

16 Q How is he dressed? Explain to me how he's dressed.

17 A He had a cotton glove on and some underwear, yes,
18 sir.

19 Q And a pair of socks?

20 A Yes, sir.

21 Q You didn't know that at the time?

22 A No, sir.

23 Q Just underwear. No shirt?

24 A No, sir.

25 Q No hat?

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1 A I thought he had a hat on, yes, sir. So we walked
2 down the hallway. We made a right where he just bust in
3 the front door; so we had to make a left to go through the
4 living room and we came through the kitchen. We came
5 through the kitchen. You had to walk through the kitchen.
6 It is a deep freeze over here, refrigerator, and the
7 office door is like right between both of them.

8 So, I walked in the office. He was sitting on the
9 deep freezer pointing the gun. He kept going like this --
10 Don't look at me. I am like, I'm getting the keys to open
11 up all of the cabinets to see if there is any money in
12 there. So, I looked and I was like, Oh, man, there is no
13 money in here. What I am going to do?

14 Then he just hit the lights off. He said, Get in
15 here. I am going to pop you. I am going to pop you. As
16 I was coming in and went in the living room he was right
17 behind me and kept going like this. That's when I seen
18 the other guy standing under the ceiling fan.

19 Q Standing under the what?

20 A Ceiling fan.

21 Q Ceiling fan?

22 A Yes, sir.

23 Q Did you know that other guy?

24 A No, sir. I didn't know ---.

25 Q Had you ever seen the fellow you're talking about

1 with the gun?

2 A No, sir; never.

3 Q What did the other guy do?

4 A He was like, We want \$400. I was like, I don't have
5 no money. He was like, Man, you got to come up with
6 something. I was just thinking I don't have no money;
7 what I am going to do? I was like, Y'all can have my ATM
8 card. They were like, We don't want the ATM card. We
9 want \$400. I am like, Whoa.

10 After that the young man over there kept going like
11 this. He was like, Don't look at me. I am going to pop
12 you. I was like, Hey, man, let me get my card. My wallet
13 is in my bookbag. I reached in and got my wallet. He is
14 like, How much on the card? I am like, I don't know. He
15 is like, It is your card. You should know. I was like, I
16 don't know. He is like, how much on it? I was like, It
17 is past \$400. He was like, All right. You're going to
18 take us to go get the money.

19 Then after that the tall guy walked out the front
20 door. I was right behind the tall guy. The young man
21 over here was right behind me with the gun. The tall guy
22 was walking across the yard and I was walking to my car
23 facing towards the road. He got in the car with me. I
24 had to unlock ---

25 Q Who is he?

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1 A The young man over here.

2 Q Okay. You keep referring to the young man over
3 there.

4 A Yes, sir.

5 Q Describe him a little bit more. Are you talking
6 about the defendant?

7 A Yes, sir.

8 Q Okay. Tell me what happened then.

9 A When I was opening the door -- my driver door -- he
10 had the gun on top of the roof. He ain't want me to look
11 at him and kept going like this. I was unlocking my door
12 like that. I unlocked my door. He was like, Hurry up and
13 unlock the door. He pointed the gun at the window. I
14 hurried and unlocked the door and crunk up my car. My
15 lights was off -- headlights.

16 Q Which way were you facing, Willie?

17 A I was facing this way. My car was facing the road.

18 Q Okay. Your car was turned towards the road already?

19 A Yes, sir. It was already facing towards the road. I
20 crunk up my car. My headlights were already off and I put
21 it in drive. As I coming up the hill he was like, Make a
22 left. I am like, I got to go to the ATM to get the money.
23 The other guy is walking across the yard. I made a left.
24 He got the gun. He was going to pop me.

25 So, I came down the road a little bit. He told the

1 other guy to follow us. So I backed all the way up to the
2 four-way.

3 Q Why did you back up to the four-way?

4 A Because that's the only way I -- that's the only road
5 I know.

6 Q It is the only road you knew to get to your ATM?

7 A Yes, sir.

8 Q Okay. So, what did you end up doing?

9 A I just kept driving up the road and as I was driving
10 up the road driving with my right hand and my left hand
11 over here I was just looking towards the woods and he was
12 over like there like this and I finally seen some light
13 and I seen a shadow and I was like it's time for me to get
14 out of the car and I jumped out of the car.

15 Q Why did you jump out of your car, Willie?

16 A Because I was thinking about my life. At the time I
17 was 26 years old. I have no kids. I wanted kids. I want
18 to be married. I want to see how that life is. I want to
19 see my brothers and them having kids and everything. I
20 want to see them getting married. I ain't wanted my
21 mother to bury me or nothing.

22 Q Did you know that you didn't have \$400 or any money
23 in your account?

24 A I knew I ain't had the money.

25 Q Were you scared of getting to the ATM machine?

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1 A Yes, sir.

2 Q What about the other man and the other -- What
3 happened with him? What did you see him do?

4 A Well, I done jumped out -- When I jumped out the
5 car -- As I was coming up the road I seen the light
6 looking through the woods and I seen the shadow, jumped
7 out the car. I rolled. Then after that I ran into the
8 yard screaming for help. I was telling them to help me;
9 the dude in the car has got a gun and is trying to rob me.
10 I work at [REDACTED] with Tri-Development. They're
11 like, Calm down, calm down, and finally ---

12 THE COURT: Slow down. Slow down.

13 THE WITNESS: Yes, sir. Then the other guy pulled up
14 in the white Explorer.

15 Q The other guy? Who are you talking about, the other
16 guy?

17 A His partner.

18 Q The guy that was in the house?

19 A Yes, sir, the tall guy.

20 Q Where did the white Explorer -- did you ever see it
21 before it pulled up then?

22 A No, sir.

23 Q The last time you saw him he was walking across the
24 yard?

25 A Yes, sir. He was parked to the side.

1 Q Okay.

2 A Yes, sir.

3 Q What do you mean he was parked to the side?

4 A He was parked like on the side of the road.

5 Q Did you see a car there?

6 A The white Explorer? Yes, sir.

7 Q Okay. And that white Explorer was following you when

8 you turned around?

9 A When I backed up I had left it. Yes, sir.

10 Q And then when you went down the road towards the ATM

11 or in the direction of the ATM did you see that car at any

12 time after that?

13 A After I jumped out, yes, sir.

14 Q Now, Willie, you literally jumped out of your car as

15 it's going down the road?

16 A Yes, sir.

17 Q Do you know how fast you were going?

18 A I don't know how fast I was going. I just jumped

19 out.

20 Q Okay.

21 A Yes, sir.

22 Q And what did the car -- What did you do -- What did

23 your body do when you hit the pavement?

24 A As soon as I jumped out I went just like this and my

25 body -- you know, I rolled, scarred up myself. I think I

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1 lost my left shoe and I ran in the yard yelling for help.
2 It was two guys and two females in the yard. I told the
3 dude, The guy in the car, he got a gun. He was trying to
4 rob me. I work for Tri-Development, [REDACTED].

5 Q Is that what you were telling as you run up?

6 A Yes, sir.

7 Q You're pretty excited in here today. Were you more
8 excited that night?

9 A Oh, yes, sir.

10 Q All right. Were you hurt?

11 A Oh, yes, sir. I was hurt real bad, yes, sir.

12 Q Well, the car that you are describing, that was your
13 car?

14 A Yes, sir.

15 Q Is that what you drove to work every day?

16 A Yes, sir.

17 Q Did you always park right there in front of that
18 house?

19 A Yes, sir.

20 Q Now, after you got to the point where you bailed out
21 of the car what happened?

22 A After I bailed out the car I ran in the yard and was
23 telling the guys about it -- the two guys and the girl.
24 Then the white Explorer pulled up and that's when that guy
25 jumped out of his car and ran and got the gun or whatever.

1 He ran to my car. I know that. He ran to my car. I ran
2 on the porch because I didn't know what he was about to
3 do. I was asking the guy to go in. He told the two girls
4 to go in. He was like, No, calm down.

5 Q This is one of the guys that was in the yard?

6 A Yes, sir. One of the guys I asked to call the
7 police. He was telling me he had a 2-year-old daughter in
8 the house asleep. He was like ---

9 MISS ALVES: Objection, Your Honor. Hearsay.

10 Q Don't tell me what he said. Just tell me what you
11 did at that point. What did you do after you got up there
12 and started talking to the guy?

13 A I went to go in the house because the guy got out of
14 the white Explorer and I ain't know what he was about to
15 do.

16 Q Okay.

17 A He was telling me to calm down.

18 Q He wouldn't let you go in his house right at that
19 point?

20 A He wouldn't let me go in the house.

21 Q What did you do?

22 A I just stayed over there by the porch.

23 Q Okay. The porch -- Was this a mobile home?

24 A Yes, sir, a single-wide trailer.

25 Q All right. Were you staying there by the porch at

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1 that mobile home?

2 A Yes, sir.

3 Q All right. Tell me what happened after the other car
4 pulls up.

5 A After the other car -- He went to my car.

6 Q He went to your car -- This other guy?

7 A Yes, sir, the tall guy. Yes, sir.

8 Q All right. What did he do then?

9 A He just went there and then he went back to his car.

10 MISS ALVES: Objection, Your Honor. Unless this
11 witness has actual personal knowledge of what this person
12 did, I would object.

13 THE COURT: Well, he just asked him what did he do.
14 Do you know what he did?

15 THE WITNESS: No, sir. I know he went to my car.
16 That's it.

17 Q Did you see him go to your car?

18 A Yes, sir.

19 Q All right. What did he do after he went to your car?

20 A He ran back to his SUV.

21 Q And where did he go?

22 A He went up the road.

23 Q Have you ever seen him since?

24 A No, sir.

25 Q You didn't know his name or know any identification

1 on him?

2 A No, sir.

3 Q Didn't have a tag number or nothing?

4 A No, sir.

5 Q Okay. What happened next, Willie?

6 A A few minutes later the guy got out of the car. He
7 was headed towards the trailer where I was at. I went to
8 the road -- to the highway.

9 Q What do you mean he was headed towards the trailer?

10 A He was coming over to the trailer where I was at. I
11 was walking to the road.

12 Q I want to show you some pictures in a little bit. I
13 know you're trying to show us with your hands. I'll get
14 you down in a minute.

15 A Oh, yes, sir.

16 Q Just tell me what he did.

17 A He came in the yard. I walked to the road.

18 Q Was he hurt?

19 A Yes, sir, I believe so.

20 Q And you were hurt?

21 A Yes, sir.

22 Q Did you call the police?

23 A No, sir.

24 Q Who called the police?

25 A One of the guys there.

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1 Q When you first went up?

2 A Yes, sir.

3 Q Now, what happened after the guy comes out of your
4 car?

5 A He came in the yard. I went to the road. I stayed
6 to the road until the police and the paramedics came.

7 Q How long did it take them to get there?

8 A I don't know about the time.

9 Q Okay. Was it fairly soon?

10 A Yes, sir.

11 Q After that what did you do? After the police got
12 there.

13 A I was telling the police what happened and the police
14 was asking me questions and everything and the paramedics
15 and the paramedics was like they arrested him first
16 because his injuries are more serious than yours. I was
17 telling them the person that worked for Tri-Development;
18 that y'all need to help me first.

19 Q Who were you telling all that to?

20 A Paramedics.

21 Q Did you tell the guys that you approached about your
22 job --

23 A Yes, sir.

24 Q -- and they needed to get a hold of somebody?

25 A Yes, sir. I was telling the police I work for

1 Tri-Development Center for Aiken County and I was like, I
2 work at [REDACTED]. It is down there by the four-way
3 crossing. I was like, As soon as you pass the four-way it
4 is right there on the left and I had three guys in the
5 house and the numbers are in the office on the file
6 cabinets. Yes, sir.

7 Q That's what you were telling the police as they were
8 questioning you?

9 A Yes, sir.

10 Q Did you end up going in the ambulance?

11 A Yes, sir.

12 Q Where did you go?

13 A I went to MCG.

14 Q How long did you stay there, Willie?

15 A I believe I got out Saturday or Sunday.

16 Q Can you describe your injuries to us?

17 A Yes, sir. I had injuries right here to my ulnar. I
18 had right here ---

19 Q Come on, Willie. If you don't mind, Your Honor, he
20 can step down.

21 THE WITNESS: I had injuries right here to my arm.
22 Right there.

23 THE COURT REPORTER: He needs to speak up.

24 MR. WEEKS: Speak up, Willie.

25 THE WITNESS: I had this, this little part.

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1 THE COURT: Hold on one second. Miss Alves?

2 MISS ALVES: Yes, sir.

3 THE COURT: If you need to, stand over there. All
4 right.

5 Q Are those scars on your arm, Willie?

6 A Yes, sir. These are scars right there.

7 Q All right. You didn't have those ---

8 THE COURT: Speak up, Willie.

9 A No. I ain't had these before, no, sir.

10 Q I know how they look now, but tell me how they looked
11 that night.

12 A Oh, skinned up, red. You could see the redness and
13 everything and bleeding. That's my leg right here.

14 Q Is that where you took the roll on the asphalt?

15 A Yes, sir.

16 Q Okay.

17 A I have another one.

18 Q The places that you're showing them are healed up
19 scars --

20 A Yes, sir.

21 Q -- that you were left with? Willie, just stay right
22 there for me. We've shown you some photographs and shown
23 you photographs on this big ol' TV here. Are those all
24 photographs of injuries and places that you received?

25 A Yes, sir.

1 Q Or places you were that night?

2 A Yes, sir.

3 MR. WEEKS: Your Honor, it's my understanding all of
4 these photographs which I think are marked 1 through --
5 and the map -- 1 through 28 are in without objection.

6 THE COURT: Is that correct, Miss Alves?

7 MISS ALVES: One through 27. Okay. No objection; 1
8 through 28.

9 THE COURT: One through 28 without objection.

10 (WHEREUPON, State's Exhibit Nos. 1 - 28 were admitted
11 into evidence.)

12 Q Stand over here on that side. Let me ask you a few
13 questions about these pictures.

14 A Yes, sir.

15 Q Who is that?

16 A That's me.

17 MR. WEEKS: For the record that's State's Exhibit
18 No. 1, Your Honor.

19 And what is that a picture of, Willie?

20 THE WITNESS: Me at MCG Hospital and my scars on my
21 body.

22 Q Okay. Are those the bandages that were on you that
23 night?

24 A Yes, sir.

25 Q All right. All of the places that the bandages are

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1 places that what I would call road-rash on you?

2 A Yes, sir.

3 Q Did you break any limbs?

4 A No, sir; no broken bones.

5 Q Okay. State's Exhibit No. 2, what were those?

6 A That was the pants -- windbreakers I had on that
7 night.

8 Q Windbreaker pants?

9 A Yes, sir.

10 Q Were they ripped up, torn up like that when you
11 started work that night?

12 A No, sir.

13 Q State's Exhibit No. 3, what are those?

14 A That was the little t-shirt I had under my regular
15 t-shirt.

16 Q You were wearing both of those t-shirts at the time?

17 A Yes, sir.

18 Q And was there blood on it before you --

19 A No, sir.

20 Q -- started work that night?

21 A No, sir.

22 Q All right. State's Number 3, what are those items?

23 A That's my card right here. That's my wallet. That's
24 my Chapstick.

25 Q This is your ATM card?

- 1 A Yes, sir.
- 2 Q This is the wallet it was in?
- 3 A Yes, sir.
- 4 Q And that's the Chapstick you described?
- 5 A Yes, sir.
- 6 Q Who gave those back to you?
- 7 A The police.
- 8 Q All right. Where at?
- 9 A The hospital.
- 10 Q Where were they when you bailed out of the car?
- 11 A Sitting in my lap.
- 12 Q All right. What is State's Exhibit No. 5?
- 13 A That's the picture of my car.
- 14 Q And where is your car located?
- 15 A At the tree.
- 16 Q What road is that on, Willie?
- 17 A That's Wheat Road; the road I work on.
- 18 Q Slow down. Wheat Road?
- 19 A Yes, sir.
- 20 Q All right. And that mailbox right there, what's that
- 21 mailbox for at the time?
- 22 A The trailer that I ran into; the yard I went into.
- 23 Q Right across the road from that is the yard you ran
- 24 into?
- 25 A Yes, sir.

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1 Q Can you point out about -- Well, let's go to State's
2 Exhibit No. 6. Was your car damaged in any way when you
3 reported to work that night?

4 A No, sir.

5 Q All right. Is that how your car ended up?

6 A Yes, sir.

7 Q Where was the fellow you kept pointing to the
8 defendant in this case?

9 A He was in the passenger side seat.

10 Q Right back here in the corner you can kind of see --
11 I think we have a better picture of is ---

12 A A picture of my hat.

13 Q Whose hat was it?

14 A My hat.

15 Q Okay. State's Exhibit No. 8 -- is that a picture of
16 the front of your car after it hit the tree?

17 A Yes, sir.

18 Q All right. And the damage that's on the left of
19 it -- You didn't hit the windshield, did you?

20 A No, sir. I jumped out of the car.

21 Q Was there any blood in your car when you jumped out?

22 A No, sir.

23 Q That you knew of?

24 A No, sir.

25 Q You weren't bleeding at any point?

1 A No, sir.

2 Q Next picture. State's Number 9, what is that a
3 picture of there?

4 A Damaged car.

5 Q All right. Within the trees?

6 A Yes, sir.

7 Q Is this the passenger side of it where that blood is?

8 A Yes, sir.

9 Q All right. Next picture. Is that the trunk of your
10 car?

11 A Yes, sir.

12 Q Was there any blood on it at all before you bailed
13 out of your car?

14 A No, sir.

15 Q What is that a picture of, Willie -- State's No. 11?

16 A My keys inside of my car.

17 Q And the damage to that was all caused that night?

18 A After I jumped out of the car.

19 Q All right. Was there any blood or anything on the
20 steering wheel from you?

21 A No, sir.

22 Q You weren't bleeding until you hit the pavement, were
23 you?

24 A Right.

25 Q All of the damage that was done inside was done at

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1 the wreck?

2 A Yes, sir.

3 Q This car -- State's No. 12. Was your car -- Did you
4 cut the car off before you ran in the woods?

5 A No. I just jumped out of the car.

6 Q When you jumped out the car was it still in --

7 A Drive.

8 Q -- drive? Was the car still running?

9 A I just jumped out.

10 Q After it hit the tree it wasn't running anymore?

11 A No, sir.

12 Q But you didn't turn the steering wheel. You didn't
13 turn the car off before you jumped out. Those were the
14 keys that you used to drive the car --

15 A Yes, sir.

16 Q -- as indicated in State's No. 12? State's No. 13.

17 As pointed it out what is that a picture of?

18 A My back seat and my hat.

19 Q This is your hat --

20 A Yes, sir.

21 Q -- that's depicted in there? That's the back seat of
22 your car?

23 A Yes, sir.

24 Q State's Exhibit 14 -- What is that a picture of
25 there?

- 1 A The guy that bust in the house.
- 2 Q Where is that picture taken at?
- 3 A On the scene where I jumped out at the trailer.
- 4 Q At the trailer? Is this after EMS had gotten there?
- 5 A Yes, sir.
- 6 Q That's the fellow that ---
- 7 A Put the gun to my head.
- 8 Q All right. What is that a picture of?
- 9 A The underwear and the gloves.
- 10 THE COURT: Speak up for me.
- 11 THE WITNESS: The underwear, the gloves, and the
- 12 socks.
- 13 MISS ALVES: What number is it?
- 14 Q That State's No. 15. Is that the way he was dressed
- 15 when he came in?
- 16 A Yes, sir; the underwear, the cotton gloves.
- 17 Q Up here are the gloves?
- 18 A Yes, sir.
- 19 Q State's 16, what is that a picture of closer?
- 20 A Cotton glove.
- 21 Q That's what you're describing his right hand had a
- 22 cotton glove on it?
- 23 A Yes, sir.
- 24 Q What kind of glove did you notice on his left hand or
- 25 did you notice?

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1 A I didn't notice. I thought he had two cotton gloves
2 on.

3 Q He didn't never change gloves or anything from the
4 time he held the gun?

5 A No, sir.

6 Q And this was on the scene?

7 A Yes, sir.

8 Q State's 17, what is that a picture of?

9 A That's a picture of the yard I ran into that night.

10 Q If I was standing at the car in the trees would I be
11 looking towards that front deck of that trailer?

12 A Yes, sir.

13 Q All right. What is that a picture of?

14 A Porch.

15 Q State's No. 18, is that the porch you went up on?

16 A Yes, sir.

17 Q Are these trees in the front there significant? Did
18 you ever hide behind those trees?

19 A I went up to the porch.

20 Q What direction is this photograph looking?

21 A Where my car wrecked at over here.

22 Q Your car wrecked over here in this tree?

23 A Yes, sir.

24 MISS ALVES: What number is this?

25 Q This is 19. State's 20. What does State's No. 20

1 show, Willie?

2 A That's Tri-Development house; the house I was working
3 at that night.

4 Q Is this where you've indicated the special needs
5 adults were?

6 A Yes, sir.

7 Q And what door is this?

8 A That's my front door.

9 Q And was the numbers on the door that way when you
10 started work that night?

11 A No, sir.

12 Q Is this the front door to it?

13 A Yes, sir.

14 Q State's Exhibit 21, what is that a picture of?

15 A The door.

16 Q A little closer picture of the front door?

17 A Yes, sir.

18 Q Do you know what State's 22 is a picture of?

19 A Front door being busted in.

20 Q All right. Did you have any of that damage to the
21 door when you started work that night?

22 A No, sir.

23 Q Okay. When you started work you said you locked the
24 door?

25 A Yes, sir.

(Willie J. Walker-Direct by Weeks)

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1 Q How did you lock the door?

2 A I turned the bottom knob up and I deadbolted it.

3 Q You deadbolted it?

4 A Yes, sir.

5 Q Did you ever fool with those locks again that night?

6 A No, sir; never.

7 Q State's Exhibit 23. Are those the two locks that
8 were on that door?

9 A Yes, sir.

10 Q Are those the two locks that you locked that night?

11 A Yes, sir.

12 Q Twenty-five. What is that, Willie?

13 A The deadbolt locks.

14 Q Already extended out?

15 A Yes, sir.

16 Q Was the damage to the door facing -- When did you go
17 back to work there?

18 A After I healed up from my scars.

19 Q You went back to work at Tri-Development?

20 A Yes, sir.

21 Q And at this same house?

22 A Yes, sir.

23 Q All right. What is depicted in State's Exhibit 25?

24 A The living room, the pictures of my truck books,
25 magazines, accountability log.

1 Q What is depicted -- What is that chair there?

2 A The chair I was sitting on.

3 Q And I would be standing where the front door is?

4 A Yes, sir.

5 Q Tell me which direction or point out the direction
6 you tried to get away?

7 A I ran in the kitchen. As soon as you come in the
8 kitchen you make a right and the side door is down that
9 way.

10 Q And the residents all stay back here?

11 A Yes, sir.

12 Q State's No. 26.

13 A A picture of my truck books -- my truck books, my
14 accountability log, my cellphone, the remote to the TV, my
15 Nike bag and my gym jug.

16 Q Your what?

17 A My gym jug.

18 Q Your gym jug?

19 A Yes, sir. That's what the solicitor takes to the
20 gym. That's where you have your --

21 A Water in it.

22 Q -- water and Diet Pepsi in?

23 THE COURT: Mr. Weeks, do you take one to the gym?

24 MR. WEEKS: I don't, Judge. It would just be

25 pointless. I would suck it up the minute I got there.

(Willie J. Walker-Direct by Weeks)

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1 All right. So, when you were sitting in that chair
2 you bailed out and went which way?

3 THE WITNESS: I went that way.

4 Q Okay. State's Exhibit 27, what is that a picture of?

5 A My hoodie.

6 Q And is that -- Were you wearing that that night?

7 A I had it in my lap.

8 Q When you had it in your lap how did it end up in the
9 doorway to the kitchen?

10 A Dropped out.

11 Q When you jumped and ran?

12 A Yes, sir.

13 Q You jumped and ran and hit a right right there?

14 A Yes, sir.

15 Q State's Exhibit 28, do you know what that depicts,
16 Willie?

17 A Yes, sir.

18 Q All right. Show me where the Tri-Development house
19 is.

20 A This is a picture of where I was working at right
21 here Tri-Development.

22 Q Describe that location for me in regard to that
23 intersection. Kind of stand to the side so that the jury
24 can see that, but the little arrow there is on the
25 driveway right now?

1 A Yes, sir. That's the driveway to turn in the yard.
2 Right here -- You can't really see, but it's a privacy
3 fence. I had my car parked there facing the driveway
4 coming back out. There is a picture of the trailer that I
5 jumped out at.

6 Q All right. And you indicated when you pulled out of
7 the driveway you took a left?

8 A Yes, sir, pulled out right here. That's where the
9 other car was parked at.

10 Q The other car was parked right in here?

11 A Right here on the right.

12 Q Okay. And you said you ---

13 A I backed up to the four-way right here.

14 Q All right.

15 A I went straight away.

16 Q When you backed up to the four-way did you turn
17 around and reverse directions?

18 A Yes, sir.

19 Q All right. And this is where what happened?

20 A I jumped out of there right here.

21 Q All right. And that's the pictures of the trailer
22 and the porch that we seen?

23 A Yes, sir.

24 Q Now, when you were on that straight-of-way did you do
25 anything in particular with your car?

(Willie J. Walker-Direct by Weeks)

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1 A No, sir.

2 Q Do you know how fast you were going when you bailed
3 out?

4 A No, sir.

5 Q All right. Have a seat. Willie, do you know how
6 long this ordeal took --

7 A No, sir.

8 Q -- time wise? When you were in your house and in
9 your car did you feel like you were free to leave?

10 A No, sir.

11 Q To stop and say I got something else to do; I'll see
12 you later?

13 A No, sir.

14 Q All right. Was the fact that he was holding a gun
15 having any influence on you?

16 A Oh, yes, sir.

17 Q Were you scared, Willie?

18 A Yes, sir.

19 Q And the residents -- At the time he came in you said
20 it was 2:30, but it was clearly dark outside?

21 A Yes, sir.

22 Q And when you first had any physical contact with him
23 he had a gun on him?

24 A Yes, sir.

25 Q Do you know what kind of gun it was?

- 1 A I just know it was a revolver. Yes, sir.
- 2 Q A revolver. One with the cylinder?
- 3 A Yes, sir.
- 4 Q All right. Did you ever see that gun after you
- 5 bailed out of the car?
- 6 A No, sir.
- 7 Q Willie, at some point were you informed or were you
- 8 made aware that somebody reported to the house for your
- 9 guys?
- 10 A Yes, sir; after I told the police.
- 11 Q And this accountability log you mentioned, what is
- 12 that?
- 13 A Where I keep up with the guys. The timelines -- I
- 14 have to check them every two hours or a certain amount of
- 15 hours I have to check each and every one of them. They
- 16 have different times I check them. I just note it and
- 17 fill it out, yes, sir.
- 18 Q And you filled it out is not technically the way
- 19 you're supposed to do it, is it?
- 20 A No, sir.
- 21 Q All right. And so you had filled it out for the
- 22 remainder of your shift when this event happened?
- 23 A Yes, sir.
- 24 Q Okay. Did they write you up for that?
- 25 A Yes, sir.

(Willie J. Walker-Direct by Weeks)

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1 Q All right. Did you get fired?

2 A No, sir.

3 Q Or pay docked or anything?

4 A No, sir.

5 Q When you healed up did you go right back to work?

6 A Yes, sir.

7 Q When you put your guys to bed that night were they

8 having any problems or was there anything that you were

9 aware of that they were going to need?

10 A No, sir.

11 Q And you had been taking care of this particular group

12 for ---

13 A For a long time; three years.

14 Q Now, Tri-Development wrote you up for this?

15 A Yes, sir.

16 Q Did they also commend you?

17 A Yes, sir.

18 MISS ALVES: Objection, relevance. I don't think

19 that's relevant.

20 THE COURT: Overruled.

21 Q You went back to work at the same house as soon as

22 you --

23 A Got healed up.

24 Q -- healed up?

25 A Yes, sir.

1 Q Willie, just to be clear. The fellow that you've
2 been referring to as coming in the door is the defendant
3 over here with the glasses?

4 A Yes, sir.

5 Q Did he look like that that night?

6 A No, sir.

7 Q The other fellow that you've been describing, we have
8 never told you he's been caught. You don't know where
9 he's at to this day, do you?

10 A Right.

11 Q And did you know either one of these guys --

12 A No, sir.

13 Q -- that night?

14 A No, sir.

15 Q Thank you. Answer any questions that Miss Alves has
16 for you.

17 THE COURT: Ladies and gentlemen of the jury, are
18 y'all okay for about 30 more minutes? If you get
19 uncomfortable raise your hand.

20 Miss Alves?

21 CROSS-EXAMINATION

22 BY MISS ALVES:

23 Q Mr. Walker, when you were testifying originally you
24 said that when you got there at 10:30 the guys were
25 asleep.

(Willie J. Walker-Cross by Alves)

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1 A Yes, ma'am.

2 Q Is that correct?

3 A Yes, ma'am.

4 Q But then when one of the last few questions that
5 Mr. Weeks asked you you said that you had put them to bed.
6 Which one is it?

7 A Oh, they was already asleep.

8 Q They were asleep?

9 A Yes, ma'am.

10 Q All three of them? The three that were there?

11 A Yes, ma'am.

12 Q Now, the solicitor showed you the pictures of the
13 room and you were sitting in the chair that was referred
14 to in ---

15 MR. WEEKS: It should be 26.

16 Q I am looking at 25 and 26. I am showing you State's
17 Exhibits 25 and 26.

18 A Yes, ma'am.

19 Q So, when you're saying this door was busted open you
20 were sitting in the chair that is shown in picture 26?

21 A Yes, ma'am.

22 Q And you were -- That was the chair that's also shown
23 your drink next to the chair?

24 A Yes, ma'am.

25 Q And is that the TV remote right there on --

1 A Yes, ma'am.

2 Q -- on the arm of the chair?

3 A Yes, ma'am.

4 Q And is that the accountability log that Mr. Weeks
5 just talked to you about?

6 A Yes, ma'am.

7 Q And is that shown in picture number 26?

8 A The accountability log is right here. Yes, ma'am.

9 Q Okay. And you were sitting there studying those
10 books when they ---

11 A Looking through them, looking at TV.

12 THE COURT: Speak up, please.

13 THE WITNESS: I was looking through them and looking
14 at TV.

15 (WHEREUPON, Defendant's Exhibit Nos. 1 - 3 were
16 marked for identification only.)

17 Q Okay. Mr. Walker, I am showing you what's been
18 marked as Defense Exhibit 1, 2, and 3. Do you recognize
19 those?

20 A Yes, ma'am.

21 THE COURT: Miss Alves, speak up, please.

22 Q Do you recognize Defense Exhibits No. 1, 2, and 3?

23 A Yes, ma'am.

24 Q And do those accurately reflect how the room looked
25 that night --

(Willie J. Walker-Cross by Alves)

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1 A Yes, ma'am.

2 Q -- when you're saying this man busted in on you?

3 A Yes, ma'am.

4 Q Your Honor, I would move to enter Defense Numbers 1,
5 2, 3 into evidence.

6 THE COURT: Any objection?

7 MR. WEEKS: No objection from the state, Your Honor.

8 THE COURT: Defense 1, 2, and 3.

9 (WHEREUPON, Defendant's Exhibit Nos. 1 - 3 were
10 admitted into evidence.)

11 Q And Defense Exhibit nos. 1 and 3 are actual closer
12 pictures of the chair?

13 A Yes, ma'am.

14 Q And they show the -- just a closer picture of the
15 accountability log; is that correct?

16 A Yes, ma'am.

17 Q And Defense No. 2 is just the close-up of the
18 accountability log?

19 A Yes, ma'am.

20 Q Okay. Now, you told the -- You testified that when
21 these men came into the house they were demanding money
22 from you?

23 A Yes, ma'am.

24 Q A specific amount of money?

25 A First he ain't ask for no specific amount. The other

1 guy asked for 400.

2 Q The other guy asked for \$400 specifically?

3 A Yes, ma'am.

4 Q Somebody came to rob you and asked you for an exact
5 amount of money?

6 A Yes, ma'am.

7 Q Okay. Did you ever tell the police the exact amount
8 of money they were asking for?

9 A I believe I did.

10 Q You think you did? Which officer did you tell that
11 to?

12 A I don't remember.

13 Q You don't remember? Okay. And you testified about
14 -- Did you tell them you had a ATM card or did they ask
15 for your ATM card?

16 A I told them.

17 Q You told them. And then did they take your ATM card?

18 A No, I put it inside of my wallet.

19 Q So you put your ATM back inside your wallet?

20 A Yes, sir. As a matter of fact, this is the exact ATM
21 card I had that night. I pulled it out and I put it in my
22 wallet like this, -- just like that. That's how I put it
23 in my wallet.

24 Q Okay. And then you put your wallet where?

25 A I put it in my lap when I got in the car just like

(Willie J. Walker-Cross by Alves)

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1 this.

2 Q So you had your wallet in your lap?

3 A Yes, ma'am.

4 Q When you got out of the car where was your wallet?

5 A I don't know; probably somewhere on the ground.

6 Q Okay. On the ---

7 A I jumped out of the car.

8 Q You jumped out the car; so you don't know what

9 happened to the wallet?

10 A No, ma'am.

11 Q Were you able to hang on to your wallet?

12 A No, ma'am. I just ran in the yard.

13 Q Okay. So, you were running, but you said you stopped
14 to pick up your shoe?

15 A Yes, ma'am.

16 Q And to put your shoe back on?

17 A Yes, ma'am.

18 Q Okay. How far away -- Do you know how far away you
19 drove from the Tri-Development home?

20 A What you mean?

21 Q How far did you drive from the Tri-Development car
22 before you car crashed?

23 A I don't know the distance.

24 Q You don't?

25 A No, ma'am.

1 Q Now, you said you didn't -- You told Solicitor Weeks
2 that you didn't know how long this lasted?

3 A No, ma'am. I didn't.

4 Q How long -- how long were they in the house?

5 A I don't know.

6 Q You don't know?

7 A I wasn't looking at the time.

8 Q Okay. I mean, was it hours?

9 A I don't know.

10 Q You don't know?

11 A No, ma'am. I can't stop and look at the time and
12 tell them to go ahead with what they're doing.

13 Q Okay. It was a short -- Can we agree it was a short
14 period of time or you don't know?

15 A I don't know.

16 Q You don't know? Okay. And you're saying that the
17 person who -- Are you saying that this man when he came in
18 your house or into this Tri-Development house he had a hat
19 on?

20 A I thought he had a hat on.

21 Q You thought he had a hat on?

22 A Yes, ma'am.

23 Q You're saying that he came into your house and tried
24 to rob you with just a pair of boxer shorts and some socks
25 and some gloves?

(Willie J. Walker-Cross by Alves)

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- 1 A Yes, ma'am.
- 2 Q And maybe a hat?
- 3 A Yes, ma'am.
- 4 Q But nothing covering his face?
- 5 A No, ma'am, but his hand.
- 6 Q And the other guy didn't have anything covering his
- 7 face?
- 8 A No, ma'am.
- 9 Q Was he dressed in his underwear, too?
- 10 A No, ma'am. He had some blue jeans on.
- 11 Q And you had injuries -- I believe we saw pictures of
- 12 your injuries; is that correct?
- 13 A Yes, ma'am.
- 14 Q And you were bleeding?
- 15 A Yes, ma'am.
- 16 Q And you said you went to the road and waited there
- 17 for the police?
- 18 A Yes, ma'am; after he walked in the yard.
- 19 Q After -- You're saying that after Mr. Holston walked
- 20 in the yard you went and you waited at the road for the
- 21 police?
- 22 A Yes, ma'am.
- 23 Q What were you doing? Were you trying to flag
- 24 somebody down?
- 25 A I am waiting on the police.

1 Q Just standing there waiting for them. Now, let's --
2 Now, you testified that you have to check on the people in
3 the house at certain intervals?

4 A Yes, ma'am. Each one of them have different times I
5 have to check on them.

6 Q Do some of them have to be checked on maybe every 30
7 minutes?

8 A Well, the one that went home we checked every hour.
9 The first two checked every two hours and the one that was
10 in the last room he checked 7 to 7.

11 Q You said 7 to 7. 7 am to 7 pm?

12 A Yes, ma'am. That's what they pushed the time to.

13 Q But the accountability logs, don't they require you
14 to keep check on all of these people to -- I mean, they
15 require you to log down what's done with all of these
16 people during the evening?

17 A Yes, ma'am; if they're present.

18 Q Excuse me?

19 A Yes, ma'am.

20 Q And you're required to note down whether or not the
21 people are awake or sleeping?

22 A Yes, ma'am.

23 Q For all of them?

24 A That was at the house.

25 Q So, all three men you're required to log down what

(Willie J. Walker-Cross by Alves)

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1 activity they're doing at a particular time?

2 A Yes, ma'am.

3 Q And you're required to do that by your job, aren't
4 you?

5 A Yes, ma'am.

6 Q And, in fact, you supervisors check this
7 accountability log, don't they?

8 A Yes, ma'am.

9 Q I mean, there is no supervisor normally with you at
10 the job, is there?

11 A No, ma'am.

12 Q So, basically, at your job you're on your own. On a
13 nightly basis you would be on your own?

14 A Yes, ma'am.

15 Q But it is possible for a supervisor or a board member
16 or someone to come by and check these records?

17 A It is possible, but none of them checked me within
18 three years that I've been there until after this accident
19 happened.

20 Q Nobody has ever stepped in there to check?

21 A No, ma'am.

22 Q But they could check?

23 A They could.

24 Q And they let you know it's possible there might be a
25 surprise check?

1 A Yes, ma'am.

2 Q But they haven't done it?

3 A Yes, ma'am.

4 Q All right. And do you know what's done with these
5 records? These records are normally kept by your
6 business, aren't they? By Tri-Development?

7 A Yes, ma'am.

8 Q And you have to list when you're working; is that
9 right?

10 A Just write down at the bottom.

11 Q And then there is a log which shows you how you --
12 details like what they're doing, like if they're on leave
13 or if they're sleeping or doing some other activity.

14 A Yes, ma'am.

15 MR. WEEKS: Side bar.

16 (Whereupon, a bench conference was held.)

17 MR. WEEKS: Your Honor, no objection. I believe it
18 would be Defense 4 and 5.

19 MISS ALVES: Yes, sir.

20 (WHEREUPON, Defendant's Exhibit Nos. 4 - 5 were
21 marked for identification and received into
22 evidence.)

23 Q I am going to show you what's been marked as Defense
24 Exhibit No. 4. Do you recognize that?

25 A Accountability book.

(Willie J. Walker-Cross by Alves)

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1 Q That's a close-up of the accountability sheet from
2 July 17 of last year; isn't that right?

3 A Yes, ma'am.

4 Q And is that the accountability log that we've been
5 seeing in all of the pictures that we just talked about?

6 A Yes, ma'am.

7 Q That's actually a close-up of the log?

8 A Yes, ma'am.

9 Q Now, on this log the first client -- Mr. Anderson --
10 What activity do you show him doing at 1 o'clock?

11 A Nothing.

12 Q Is he listed as being asleep?

13 A No, ma'am.

14 Q Now, there are two other people shown being present
15 in the house -- a Mr. Brunson and Mr. Moses; is that
16 correct?

17 A Yes, ma'am.

18 Q They're listed as being asleep, aren't they?

19 A Yes, ma'am.

20 Q And now at 2 o'clock what is Mr. Anderson listed as
21 doing?

22 A Sleep.

23 Q And what about Mr. Brunson?

24 A Sleep.

25 Q And what about Mr. Moses?

- 1 A Nothing.
- 2 Q Nothing. He's not shown as being asleep, is he?
- 3 A No, ma'am.
- 4 Q Now, at 3 o'clock what is Mr. Anderson doing?
- 5 A Sleep.
- 6 Q What is Mr. Moses doing?
- 7 A Nothing.
- 8 Q He's not listed as sleeping, is he?
- 9 A No, ma'am.
- 10 Q Mr. Brunson is listed as sleeping?
- 11 A Yes, ma'am.
- 12 Q Now at 4 o'clock what is Mr. Anderson listed as?
- 13 A Sleep.
- 14 Q And Mr. Brunson?
- 15 A Sleep.
- 16 Q And mr. Moses?
- 17 A Sleep.
- 18 Q Okay. Now, you said this incident occurred around
- 19 2:30?
- 20 A Yes, ma'am.
- 21 Q And it was around 2:30 when you were taken from the
- 22 home? Is that what you said?
- 23 A I didn't leave the house at 2:30. I didn't say that.
- 24 Q Was it around that time?
- 25 A Yea. He bust in around 2:30.

(Willie J. Walker-Cross by Alves)

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1 Q Okay. Well, while they were busting in were you
2 filling out this accountability log ---

3 A As soon as I came to work I filled the book out.
4 That was something I normally did. I knew my guys. So,
5 since I knew them, I knew they weren't going anywhere out
6 the house. I knew what type of needs they needed. So, I
7 just went on ahead and did the book like I normally did
8 it.

9 Q All right. When you came to work -- I want to
10 clarify when you came to work that night which would have
11 been July 16 -- the night before; at 11 o'clock the night
12 before -- you filled out this book all of the way up until
13 4 o'clock in the morning?

14 A Yes, ma'am. I wrote it at 11 o'clock.

15 Q You filled it out all of the way through that day?

16 A Yes, ma'am.

17 Q Are you supposed to do that?

18 A Yes, ma'am. Well, you're not supposed to, but since
19 he is on leave you can put leave all the way out.

20 Q Okay. Well, for the man that was on leave you put
21 the L's all the way?

22 A Yes, ma'am.

23 Q All right. But for the people that were there, you
24 filled it out at 3 o'clock for 3 o'clock and 4 o'clock?

25 A Yes, ma'am.

1 Q And you weren't in the house at 3 o'clock and
2 4 o'clock, were you?

3 A No, ma'am.

4 Q So, you falsified this log?

5 A Yes, ma'am.

6 Q Now, this log is very important to your job, isn't
7 it?

8 A Yes, ma'am.

9 Q And it also details when somebody is present in the
10 house?

11 A Yes, ma'am.

12 Q If somebody is in the bath or the shower?

13 A Yes, ma'am.

14 Q Whether they're eating?

15 A Yes, ma'am.

16 Q Whether they're going to a medical appointment?

17 A Yes, ma'am.

18 Q Whether they're at the hospital?

19 A Yes, ma'am.

20 Q Whether they're at work?

21 A Yes, ma'am.

22 Q Okay. So, this log is to make sure that these people
23 are accounted for at all times?

24 A Yes, ma'am.

25 Q And you accounted for at least -- you accounted for

(Willie J. Walker-Cross by Alves)

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1 these people at times beyond -- you falsified this record
2 and accounted for them when you first got there?

3 A Yes, ma'am.

4 Q But you're supposed to check on them at regular
5 intervals?

6 A Yes, ma'am.

7 Q And log down what they're doing?

8 A Right.

9 Q Now, your job wrote you up for that; is that correct?

10 A Yes, ma'am.

11 Q Do you recognize what I am showing you as Defense
12 Exhibit No. 5?

13 A Yes, ma'am.

14 Q You can take that.

15 A Okay.

16 Q What is that?

17 A A write-up; write-up paper.

18 Q It is a disciplinary action; isn't it?

19 A Yes, ma'am.

20 Q Because you got written up for falsification of
21 documentation; is that correct?

22 A Yes, ma'am.

23 Q And they're saying that the management checked the
24 accountability logs at approximately 3 am in the home
25 where you were working alone on July 17, 2010. Is that

1 what it says?

2 A Where is 3 am at?

3 Q It says right there management checked the logs --

4 A Oh, yes, ma'am.

5 Q -- and found that you had already initialed off the
6 accountability logs?

7 A Yes, ma'am.

8 Q And doesn't this go on further to say that
9 pre-documentation is never ever allowed when it comes to
10 accountability?

11 A Yes, ma'am.

12 Q Yes. You need to talk loud, okay?

13 A Oh, okay.

14 Q Is that what it says?

15 A Yes, ma'am.

16 Q And it says it is imperative the accountability
17 checks are carried out as required in order to ensure the
18 health and safety of the consumers we serve?

19 A Yes, ma'am.

20 Q Isn't that what it says?

21 A Yes, ma'am.

22 Q And you got a copy of that?

23 A Yes, ma'am.

24 Q And you signed a copy of that acknowledging receipt
25 of this disciplinary action?

(Willie J. Walker-Cross by Alves)

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- 1 A Yes, ma'am.
- 2 Q And they wrote you up for this action?
- 3 A Yes, ma'am. And they rewarded me for the action.
- 4 Q Okay. They rewarded you? How did they reward you?
- 5 A They gave me a letter.
- 6 Q A letter?
- 7 A Yes, ma'am.
- 8 Q What did the letter say?
- 9 A I don't remember what the letter said.
- 10 Q It said -- basically, it said, Willie, you did a good
- 11 job?
- 12 A It ain't said I did a good job. It was going on
- 13 about the accident that happened that night.
- 14 Q It went on about the incident?
- 15 A Yes, ma'am.
- 16 Q And what did they commend you for? Being brave?
- 17 A Yes, ma'am.
- 18 Q Okay.
- 19 A None of the guys got hurt that night. All of them
- 20 was in the house. All of them was asleep. None of them
- 21 ran away.
- 22 Q So, you got commended for your actions that night
- 23 when this happened?
- 24 A Yes, ma'am.
- 25 Q Did that letter mention your falsification of agency

1 documentation?

2 A Not to my knowledge.

3 Q No? It is a letter that commended you for being
4 brave, but it didn't talk about the lie that you told?

5 A No, ma'am.

6 Q All right. Now, I want to go back into the details
7 of the incident. You testified that you pulled out and
8 the second guy was pulling out right behind you?

9 A Say that again.

10 Q When you testified that you were pulling out the
11 driveway I believe you said that you came out and then you
12 came up to the four-way stop sign?

13 A I turned left. Then I backed up.

14 Q Excuse me?

15 A I turned left out of the driveway.

16 Q And where was the second car?

17 A Within a distance in front of the house on the right
18 side of the road.

19 Q In front of what house?

20 A It wasn't in front of in our house. It was like down
21 the road from the pole, but you could see the car from the
22 house.

23 Q You could see the second car from what house?

24 A The house I was working at.

25 Q Okay. So, it was down the road?

(Willie J. Walker-Cross by Alves)

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1 A It wasn't too far down the road. It was as soon as
2 you pull out the driveway you make a left and it was like
3 right here on the right.

4 Q So, when you drove away from the house what was the
5 second person doing?

6 A I don't know what he was doing.

7 Q Did he go towards his car?

8 A Yes, ma'am.

9 Q You saw him go towards his car?

10 A No, ma'am. I was backing up.

11 Q You were backing up?

12 A To the four-way.

13 Q Okay. Did they say anything to you when they were
14 taking you out of the house?

15 A Basically, all I recall he didn't say nothing to me.

16 Q He didn't say anything to you?

17 A He was saying he was going to pop me. He wasn't
18 saying nothing like, you know, give me the money or
19 anything now.

20 Q Who -- When you say he who are you referring to?

21 A Him.

22 Q Okay. You said in the house ---

23 THE COURT: What is him now? Which one?

24 THE WITNESS: The guy sitting over there.

25 Q Now, you said when you were in the house the second

1 guy was asking you for money?

2 A Yes, ma'am.

3 Q For \$400?

4 A Yes, ma'am.

5 Q And what else -- I mean, what else did the second
6 person do?

7 A What you mean?

8 Q What did he do? He asked you for money. Then what
9 did he do?

10 A He ain't do nothing. He just asked just me for the
11 money. I told him I would give him my ATM card. He ain't
12 wanted no ATM card.

13 Q So, what happened with the second person after he
14 said -- after he said he didn't want an ATM card?

15 A He wanted me to take him to go get the money.

16 Q Okay. What happened after that? You said -- Was
17 that a conversation that you had in the living room?

18 A You got a gun to your head and somebody is asking you
19 for the money, you offer them your card.

20 Q Okay. I am asking you what happened after you
21 offered the card.

22 A I put the card like I just showed you a few minutes
23 ago in my wallet; had it in my hand. All three of us just
24 walked out the door. The tall guy walked out first. I
25 was second. The guy right beside you -- he was third with

(Willie J. Walker-Cross by Alves)

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1 the gun.

2 Q All right. And where -- and you saw the tall guy
3 walk towards his vehicle?

4 A Yes, ma'am. He was walking towards the field like a
5 big old space over there in the yard. He was walking over
6 there in that direction.

7 Q In the direction of his vehicle?

8 A Yes, ma'am.

9 Q And you said you started to back up?

10 A Back up? I was going forward.

11 Q I'm sorry. You were going forward. So, when you
12 were going forward did you continue to see him?

13 A No, ma'am. I was just driving -- driving forward. I
14 turned left.

15 Q So, you just turned left and left and you don't know
16 what happened to the second guy?

17 A I guess he left.

18 Q Now, what did you do -- When you were leaving did you
19 make an attempt to lock the door?

20 A No, ma'am. I was in the middle.

21 Q Excuse me?

22 A No, ma'am. I was in the middle.

23 Q You were in the ---

24 A Middle. We was walking out the door.

25 Q Okay.

1 A The tall guy went out first. I went out second. The
2 man right beside you came out right behind me.

3 Q So you did not try to lock the door?

4 A If you have a gun to your head, would you try to lock
5 the door?

6 Q Well, I don't know. Did you tell the police that you
7 tried to lock the door?

8 A I don't remember.

9 Q You don't remember?

10 A No, ma'am.

11 Q Did you tell your job that you tried to lock the
12 door?

13 A No. I don't remember.

14 Q You don't remember telling them that you tried to
15 lock the door?

16 A No, ma'am.

17 Q So, you left the door open?

18 A I guess if it was open.

19 Q Okay. So, you're saying you were in between the two
20 of them?

21 A Yes, ma'am.

22 Q And you did not try to lock the door?

23 A No, ma'am.

24 Q And you didn't make any effort to lock it?

25 A If I have a gun at my head, no, ma'am.

(Willie J. Walker-Redirect by Weeks)

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1 Q Okay. I don't have any further questions. Thank
2 you.

3 MR. WEEKS: Redirect briefly, Your Honor.

4 REDIRECT EXAMINATION

5 BY MR. WEEKS:

6 Q Willie, I'm handing you what's marked State's Exhibit
7 26.

8 A Yes, sir.

9 Q There are items in that chair.

10 A Yes, sir.

11 Q Were all of those items in there when he busted in
12 the door?

13 A Yes, sir; my items.

14 Q They were your items --

15 A Yes, sir.

16 Q -- that you had brought to work?

17 A Yes, sir.

18 Q You said something during your direct about getting
19 something out of your gym bag.

20 A My wallet.

21 Q Where was your gym bag?

22 A Right here.

23 Q That's where it is now, but was it there when you got
24 busted in on?

25 A I believe it was on the floor.

1 Q All right. And you indicated that they gave you a
2 commendation or somebody gave you a letter?

3 A Yes, sir.

4 Q They also give you a monetary award?

5 A Yes, sir.

6 Q Do you recall what that was?

7 A A letter and they gave me some money on getting me a
8 car.

9 Q Your car was totaled it looked like.

10 A Yes, sir. It was totaled.

11 Q Thank you.

12 THE COURT: All right. You may step down.

13 Ladies and gentlemen, we're going to take a morning
14 break for about 10 minutes to stretch your legs, use the
15 restroom. If you would give me a foreperson between the
16 12 of you. We'll start back at in about 10 or 15 minutes.
17 That'll put us at 11. We'll probably go until about
18 12:15, 12:30. Then we'll take about an hour for lunch.
19 Fair enough?

20 (Whereupon, the jury exited the courtroom at 10:52.)

21 THE COURT: Anything for the state before we break?

22 MR. WEEKS: No, Your Honor.

23 THE COURT: Miss Alves?

24 MISS ALVES: No, Your Honor.

25 THE COURT: Okay. We'll stand at ease for about 10

(Willie J. Walker-Redirect by Weeks)

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1 minutes.

2 (Whereupon, a break was taken.)

3 THE COURT: Anything for the record, Mr. Weeks?

4 MR. WEEKS: No, Your Honor.

5 THE COURT: Miss Alves?

6 MISS ALVES: No, sir.

7 THE COURT: All right. Bring the jury in.

8 (Whereupon, the jury came into open court at
9 approximately 11:11.)

10 THE COURT: Who won the election? Congratulations.
11 You get to sit in that special seat. It pays an extra
12 hundred a day.

13 THE JUROR: Yea.

14 THE COURT: See, I am testing y'all on judging
15 credibility. That was an untruth. Obviously, we're not
16 getting the proper training. That's the trainer's fault.

17 THE COURT: All right. Mr. Weeks, Mr. Molony, y'all
18 call your next witness.

19 MR. WEEKS: Thank you, Your Honor. The state would
20 call Ralph Courtney.

21 RALPH COURTNEY, after being duly sworn,
22 testified as follows:

23 THE CLERK: State your full name and spell your last
24 for the court, please.

25 THE WITNESS: Ralph Courtney; C-O-U-R-T-N-E-Y.

DIRECT EXAMINATION

1

2 BY MR. WEEKS:

3 Q Mr. Courtney, what do you do for a living?

4 A I'm the Executive Director of the Tri-Development
5 Center and of the Aiken County Board of Disability.6 Q Tell me what Tri-Development Center is and Aiken
7 County Board of Disabilities.8 A We provide a wide array of supports to people with
9 disabilities in Aiken County. The disabilities board
10 serves over 1100 individuals. Tri-Development serves 400.
11 We operate a large number of homes in our county,
12 apartment complexes, and provides day services, vocational
13 options for people with disabilities -- primarily with
14 disabilities of intellectual disabilities, autism,
15 traumatic brain injuries, and spinal cord injuries.

16 Q And that would be children up to --

17 A That is correct.

18 Q -- older people?

19 A That's right.

20 Q And how long have you been doing that, Ralph?

21 A I have been working in the field since 1972. I've
22 been the Executive Director at Tri-Development Center
23 since December 16, 1991.24 Q Do you -- Does your records reflect employment of
25 Willie Walker?

(Ralph Courtney-Direct by Weeks)

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1 A They do.

2 Q Okay. And did y'all have a home located on Wheat
3 Road?

4 A That's correct.

5 Q [REDACTED]?

6 A Yes.

7 Q Is that titled in Tri-Development's name?

8 A The ownership is in Tri-Development Center's name;
9 correct.

10 Q And tell me what the function of that home is at [REDACTED]
11 [REDACTED]?

12 A Okay. That is a home similar to about 23 of our
13 other homes that provides services around the clock to
14 individuals with disabilities and special needs. Those
15 particular individuals have a higher level of disability
16 than those in some of our homes, but lesser disability
17 than others. Again, we have 24-hour staff on duty there.
18 Those people are not home during the day. We try to find
19 other things for them to do during the day such as attend
20 a day program or be engaged in vocational services
21 somewhere within the community.

22 Q Do some of the consumers get paid --

23 A Yes.

24 Q -- a wage or whatever for working during the day?

25 A Certainly.

1 Q Y'all employ people like Willie was employed to
2 house-sit them the entire night?

3 A Exactly. To prepare males, to assist them with
4 bathing needs, any personal needs that they might have to
5 take them shopping. You know, whatever -- It's basically
6 organized kind of like a family unit would be without the
7 primary caregiver being a family member.

8 Q And these -- All of the people -- the 1100 consumers
9 that y'all have -- range from being paraplegics to being
10 able to go out in the community but they have mental
11 illnesses or diseases?

12 A Primarily not with mental illnesses, but cognitive
13 disabilities primarily.

14 Q The ability to understand, the ability to --

15 A Exactly.

16 Q -- communicate?

17 A That's correct.

18 Q And you were obviously the executive director on
19 July 17 of last year, weren't you?

20 A That's correct.

21 Q Did you receive a call about an incident at [REDACTED]
22 [REDACTED] home?

23 A I did.

24 Q Did you respond to that, Ralph?

25 A Yes, I did. When I got the call someone else had

(Ralph Courtney-Direct by Weeks)

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1 said they were on the way to the home to make sure it was
2 secure and the guys were okay -- the four individuals that
3 lived there -- and I said I would go to the hospital and
4 check on the employee to see if any assistance was needed
5 there.

6 Q And did you actually go to the hospital --

7 A I did go to the hospital.

8 Q -- and talk to Willie?

9 A Yes.

10 Q Did you go to the home?

11 A I went to the home later.

12 Q Was everybody okay there?

13 A Yes.

14 Q All of the consumers?

15 A Yes. In fact, it appears they didn't really realize
16 that anything had gone on.

17 Q The accountability log that's been discussed, can you
18 tell me what that is?

19 A We utilize accountability logs so that we know that
20 someone has indeed checked on an individual to make sure
21 that they were safe and healthy at periodic intervals.
22 Different individuals have different periods of
23 accountability. In other words, they have different time
24 periods in which we feel that someone needs to check on
25 them.

1 Some people may be okay all night without having
2 somebody to check on them. Other individuals may be on an
3 hourly accountability. During the day some people may
4 need to be on 15 minute accountability and we have people
5 document that they indeed saw those individuals and that
6 they were okay. The purpose of that is for us to know
7 that somebody did see them. If something ever happens or,
8 say, somebody disappears we would know, you know, when the
9 last time they were seen or if somebody died in the middle
10 of the night we would know when that occurred.

11 Q Do you do like the hospital and go wake them up
12 whether they need waking up or not?

13 A No, we do not wake them up. We're supposed to kind
14 of see if -- check if they're breathing or whatever, but
15 we are not supposed to wake them up.

16 Q That's good. Now, there's been a State's Exhibit or
17 Defense Exhibit No. 5 appears to -- Do you recognize what
18 that is?

19 A Yes.

20 Q What is it?

21 A That's what we call a disciplinary action. And do
22 you want me to explain this particular ---

23 Q This particular one was against Willie?

24 A This particular one was against Willie and it's
25 rather ironic it happened to be for his performance on the

(Ralph Courtney-Direct by Weeks)

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1 same date July 17 as the incident.

2 Q And the reason it was checked on that particular
3 day ---

4 A Somebody went and they decided to check and see when
5 the last check had been done, and, indeed, it had been
6 done in advance. We have periodic checks in which we
7 automatically go out in the middle of the night and do
8 these, and, you know, in looking through our records on
9 other times when people do the surprise visits of the
10 house in the middle of the night his had all been accurate
11 then. This particular one wasn't and even though the
12 incident occurred I was not willing to say, Hey, we're
13 going to overlook it.

14 Q He violated y'all's procedures by doing that?

15 A Yes.

16 Q And he was made aware of it, yes.

17 Q He wasn't fired for it?

18 A No, he was not.

19 Q What did y'all do to commend him?

20 A Our foundation approved -- Well, he lost his car and
21 a lot of people were very concerned with that because he
22 did not have collision. It was an older vehicle. They
23 provided him with \$1,500 to try to assist him in getting
24 another vehicle.

25 Q It wasn't covered by worker's comp or anything like

1 that?

2 A No. Worker's comp does not cover vehicles. We did
3 check on that.

4 Q Did y'all give him any letters or accommodations or
5 anything or any of the organizations that you're
6 affiliated with?

7 A The South Carolina Department of Disabilities and
8 Special Needs -- their commission is also involved with
9 another foundation. That foundation chose to give him an
10 additional \$500, I believe. I am actually pretty sure an
11 additional \$500 to show their appreciation. He was
12 commended at one of their commission meetings. I think
13 that was -- I am not positive of the date, but I think it
14 could have been at the August commission meeting of 2010.

15 Q And did you -- I hand you what's marked State's
16 Exhibit No. 31 for identification and ask if you can
17 identify that document.

18 A Yes. That is an e-mail that I had sent to our
19 personnel director saying to make another e-mail I
20 received from a commission member for the State Department
21 of Disabilities and Special Needs to make that a part of
22 his personnel record and this is, basically, a
23 commendation for -- It's saying how proud we should be,
24 basically, for having him as one of our employees who
25 reacted in the manner in which he did to the incident.

(Ralph Courtney-Cross by Alves)

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1 MR. WEEKS: Your Honor, the state moves to introduce
2 State's No. 31.

3 MISS ALVES: No objection.

4 (WHEREUPON, State's Exhibit No. 31 was admitted into
5 evidence.)

6 Q Willie had the right to have possession of [REDACTED]
7 [REDACTED] on the night of July 17, did he not?

8 A Absolutely.

9 MR. WEEKS: Answer any questions of Miss Alves.

10 CROSS-EXAMINATION

11 BY MISS ALVES:

12 Q Now, Mr. Courtney, you said that there had been other
13 periodic checks in the middle of the night on Mr. Walker?

14 A Yes.

15 Q Can you tell us when those were?

16 A I cannot. I don't have copies of those, but I
17 believe that another person on your list does. We don't
18 make those a part of the regular personnel record because
19 we do them all the time. I mean, you know, personnel
20 records would just get thicker and thicker. When I say
21 all the time -- not each house all the time, but we
22 periodically do surprise checks of the homes.

23 Q Okay. But you don't have any records with you
24 here -- with you personally here right now regarding any
25 surprise checks on Willie?

1 A No, I don't.

2 Q Okay. And what is done with the accountability logs
3 after each night's shift?

4 A They go in a file of the accountability logs.

5 Q You have to keep those?

6 A We -- I don't really know. Our basic policy is that
7 we keep all of those types of records for 10 years. I
8 believe the law may say those kinds of things we should
9 keep for up to seven years.

10 Q There is actually a law saying you have to keep them
11 for a certain period of time?

12 A The accountability logs; not the middle of the night
13 checks and things.

14 Q Okay.

15 A There are two different things.

16 Q I'm talking about the accountability logs -- just the
17 logs.

18 A Right.

19 Q The law says that you actually have to keep those ---

20 A I am positive. I know any records we use for
21 medicaid purposes have to be kept for a period of seven
22 years.

23 Q Are those used for medicaid purposes?

24 A Do I know the answer to that? I would say that we
25 would keep them, yes.

(Ralph Courtney-Cross by Alves)

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1 Q Okay.

2 A I have never had -- All I can say is I have never had
3 medicaid come in and specifically ask for accountability
4 logs, but we would keep them for medicaid purposes in case
5 they did.

6 Q Okay.

7 A They might never as far as I know ever ever and I
8 have been doing this a long time.

9 Q Yes, sir. Now, were you called by the police out to
10 -- this night?

11 A No. I do not believe I received a call from the
12 police. I'm trying to think. They had called down the
13 list. They had difficulty reaching somebody, and, gosh, I
14 talked to the police and I talked to Rachel Sharp about --
15 you know, right about the same time.

16 Q Okay. But someone called you to inform you --

17 A Exactly.

18 Q -- of what had happened? And did you go to the
19 hospital?

20 A Yes, I did.

21 Q And you met with Mr. Willie Walker?

22 A Yes.

23 Q And did you talk to him about what happened?

24 A I did.

25 Q And he told you -- He told you his version of what

1 happened? He told you something about what happened that
2 night?

3 A Yes, he did.

4 Q And did he tell you that someone had busted in the
5 door -- the front door?

6 A He said someone had busted in the front door.

7 Q And he told you that he was taken away from the house
8 at gun point?

9 A Well, he also said someone else entered the home in
10 addition through another door.

11 Q Excuse me?

12 A That another individual entered the home through
13 another door prior to his being taken out.

14 Q Did he say what door the other person entered in
15 through?

16 A It would have been the door that used to be a garage
17 that we converted into a multi-purpose room. It would
18 have been a side -- I guess you would say side door.

19 Q So, someone entered in through the side door?

20 A Yea, I think he was -- I think he was getting ready
21 to go out that door and the guy came in.

22 Q That's what he told you?

23 A (Witness nods head.)

24 Q Yes, sir?

25 A Yes.

(Ralph Courtney-Cross by Alves)

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1 Q Okay. And when he was being -- when he told you he
2 was being taken from the home did he tell you -- did he
3 talk about what he might have done? What actions he might
4 have done?

5 A Yes. He said that he attempted to secure the door
6 because he was worried about the fellows inside. He said
7 that he noticed a car that was in the other direction from
8 the way that he ended up going with the defendant in the
9 car with him. So, he went and got in his car he said at
10 gun point and they went off. The other person did not get
11 in their car. They went and got in the other.

12 He said he did drive at a high rate of speed until he
13 saw some lights where some people were awake and on a
14 porch and that's when he said he decided it was time to
15 get out of the vehicle and he dove from the vehicle hoping
16 to hit the ground and he hit the road instead.

17 Q Okay.

18 A And ---

19 Q But, sir, he told you that before he left he
20 attempted to lock the door?

21 A And that may -- he did -- we did not go into any
22 detail on that. I took that to mean because we did have
23 to repair the doorway later just to try to turn the little
24 thing, you know, as you're going out.

25 Q But you don't know exactly what he tried to do?

1 A Oh, no.

2 Q You just know that he told you that there was some
3 attempt made?

4 A Uh-huh.

5 Q Yes?

6 A (Witness nods head.)

7 Q You need to answer.

8 A Yes.

9 Q And you did actually -- That same day actually you
10 made a request to have the door temporarily fixed so it
11 would lock?

12 A Yes. And then a day or two later I made a request to
13 have it permanently fixed.

14 Q So you actually had the door --

15 A Fixed twice.

16 Q -- fixed twice?

17 A Yes.

18 (WHEREUPON, Defendant's Exhibit No. 6 was marked for
19 identification and received into evidence.)

20 Q Now, Mr. Courtney, I am showing you what's been
21 marked as Defense Exhibit No. 6.

22 It is without objection, Your Honor.

23 Do you recognize that?

24 THE WITNESS: I do recognize that, yes.

25 Q That's the record that's kept -- that's a record that

(Ralph Courtney-Cross by Alves)

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1 you would keep in your business?

2 A That's correct.

3 Q And that is actually a copy of the work requisition
4 for having the door repair -- the initial door repair?

5 A For the initial door repair, yes.

6 Q And you actually had to get somebody out to repair
7 the door basically on an emergency service?

8 A Well, I wanted it fixed like immediately to the best
9 of their ability. I didn't want to have to wait until
10 they could fix it real well. So, I did another
11 requisition which I do have a copy with me.

12 Q Well, I am just asking you about the one that was
13 done that night.

14 A Yea. That was a temporary fix.

15 Q So you could make sure that door could lock?

16 A Yes.

17 Q When you were -- Now I am showing you what's marked
18 as State's Exhibit 31. This is the e-mail that actually
19 you sent to human resource showing the e-mail that was
20 sent to you from another person regarding Mr. Walker's
21 actions on that night were you were ---

22 A A commission member, yes.

23 Q A commission member -- where you were complimenting
24 his actions?

25 A Where she was complimenting the actions and I wanted

1 that made a part of his record.

2 Q Yes, sir. But this e-mail does not show -- this
3 e-mail doesn't detail the fact that he also falsified your
4 records, does it?

5 A No, it does not.

6 MISS ALVES: No further questions.

7 THE COURT: Anything on redirect?

8 MR. WEEKS: No, Your Honor. We ask that he be
9 excused. I think he's been subpoenaed.

10 THE COURT: May he be excused?

11 MISS ALVES: Yes, sir.

12 THE COURT: All right. Have a good day. Next
13 witness.

14 MR. MOLONY: Your Honor, the state calls Bryan
15 Salley.

16 WILLIAM B. SALLEY, after being duly sworn,
17 testified as follows:

18 THE CLERK: Have a seat in the witness box stating
19 your full name and spelling your last for the court,
20 please.

21 THE WITNESS: My name is William Bryan Salley. Last
22 name is spelled S-A-L-L-E-Y.

23 DIRECT EXAMINATION

24 BY MR. MOLONY:

25 Q William, do you go by William or Bryan?

(William B. Salley-Direct by Molony)

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- 1 A I go by Bryan.
- 2 Q How old are you, Bryan?
- 3 A Twenty-five.
- 4 Q Where are you from?
- 5 A Aiken, South Carolina.
- 6 Q You born there?
- 7 A Yes.
- 8 Q Where do you live now?
- 9 A I still live in Aiken.
- 10 Q Do you have a job?
- 11 A Yea. I work at Bridgestone Firestone.
- 12 Q What are your job duties at Bridgestone?
- 13 A Basically work on the machines to help build the
- 14 tires, the axis machines. Just operate that.
- 15 Q Bryan, let me take you back to the early morning
- 16 hours of July 17, 2010. Where were you that night -- the
- 17 night of the 16th and early morning of the 17th of July?
- 18 A I was over at my brother-in-law's house.
- 19 Q What is his name?
- 20 A Jessie Vommond.
- 21 Q Who all was over there that night?
- 22 A It was me, my brother-in-law, my sister, and two of
- 23 her friends.
- 24 Q What were y'all doing?
- 25 A We were just having a little get-together.

1 Q A little party?

2 A Yea, just a little party.

3 Q At some point in those early morning hours did you
4 walk outside to smoke a cigarette?

5 A Yes, I did.

6 Q Where did you stand? Where were you standing?

7 A Well, he has a little porch; so we stood on the
8 porch.

9 Q Was there a light on?

10 A Yes.

11 Q Where was the light?

12 A The light was right above us.

13 Q Was it a porch light?

14 A Yea, a porch light.

15 Q As you were smoking, Bryan, what, if anything, did
16 you hear?

17 A As we smoked you could hear a car coming at a rapid
18 speed. The engine was getting faster. We heard that
19 coming in. I saw it come flying by.

20 Q Was it unusual at 2:30 in the morning -- what would
21 be after 2:30 in the morning to see a car going that fast?

22 A Yea, because it was going pretty fast.

23 Q It caught your attention?

24 A Oh, yea.

25 Q Now after you heard it did you eventually see the

(William B. Salley-Direct by Molony)

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1 car?

2 A Yes.

3 Q What happened next?

4 A I was watching the car fly by and as it got about
5 midway through my vision it hit the ditch and went off
6 into the tree and crashed.

7 Q Hit the ditch, went off into the tree, and crashed?

8 A Yes.

9 Q What did you do?

10 A At that time the man ran up to me. This guy run up
11 to me and he was, you know, screaming.

12 Q What did he -- What did he look like when he came up?
13 Can you tell emotionally what ---

14 A He looked terrified. He looked really scared. His
15 eyes was wide open. He was screaming and yelling and like
16 asking for help.

17 Q What did he say to you?

18 A He was like, Help me. Help me. He is trying to kill
19 me. He is trying to kill me. You got to help me.

20 Q What did you do after that?

21 A At that time we were focused on him because we didn't
22 know what was going on because that was just a big shock.
23 So, we was talking to him and then -- we was talking to
24 him and he said that the guy was in the car. So I went
25 down there to check it out just to see what was going on.

1 Q When you say in the car, in the car that had just
2 wrecked into the trees?

3 A Yes.

4 Q You were still up by the house on the porch area?

5 A Yes.

6 Q And you walked down at that point you said to ---

7 A Yea, I went down there to check it out --

8 Q The guy in the car?

9 A Yea, the guy in the car to see if what he was saying
10 was true.

11 Q What did you see when you got down to the car?

12 A I went in there and I looked through the window and
13 all I saw was the guy was leaned back like this with his
14 head back and he had blood all over him. You could tell
15 he was messed up pretty bad.

16 Q Do you see that guy in the courtroom today?

17 A Yea.

18 Q Where is he?

19 A Sitting right there.

20 THE COURT: What does he got on?

21 THE WITNESS: Glasses.

22 THE COURT: What kind of shirt?

23 THE WITNESS: Blue and white shirt; collar shirt.

24 Q Now, Bryan, did you say anything to him?

25 A I tried to see if he was all right, if he was alive.

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1 I was trying to ask him a few questions like are you all
2 right? Are you okay? He responded just in gibberish
3 because I think he still -- he didn't know what was going
4 on. He was in shock.

5 Q What was he wearing, Bryan?

6 A All he was wearing was boxers and some gloves and he
7 had some socks on.

8 Q What was in his lap?

9 A He had a gun in his lap.

10 Q What color was the gun?

11 A It was silver.

12 Q Do you know what type of gun it was?

13 A It looked like a revolver.

14 Q What did you do after you went down and checked on
15 him and saw that he was in pretty bad shape? What did you
16 do next?

17 A After that I just proceeded to walk back up to where
18 my brother-in-law was to check on them and make sure
19 they're all right and see what's going on with that.

20 Q And then what happened?

21 A As I was walking back I got about half way up another
22 car pulled up.

23 Q What color was this car?

24 A This was -- it was a white SUV. It looked like an
25 Explorer and then another male -- black male got out and

1 me and him talked for a second and then we went around to
2 the car because he wanted to see who was in there.

3 Q Once he got to the car what did he do?

4 A He looked inside to see if he was alive and all
5 right. Then he reached in and grabbed the gun. Then he
6 put it in his waist line and then he went and got in the
7 car and left.

8 Q How long if you had to guess was he there from the
9 time he pulled up to the time he got out, got the gun, and
10 got back in his car and left?

11 A I mean, a minute, two minutes. He was in and out.

12 Q Real quick?

13 A Oh, yea.

14 Q Now, after he leaves what do you do? What did you
15 do -- After the white car pulls off where did you go?

16 A I went back up to my brother-in-law's and to my
17 sister and stuff and to talk -- I wanted to talk to that
18 guy because something was going on. It was crazy.

19 Q Where was the victim during all of this?

20 A He was up there by the porch. He was up there with
21 my sister and them. He was standing right there talking
22 to them.

23 Q At that point what did you see from the car that had
24 wrecked?

25 A When I walked up there I was about getting ready to

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1 talk to him for a little bit and then he started freaking
2 out. He was like, Oh, God, He's getting out. He is
3 getting out. I turned around and I saw him coming
4 around ---

5 Q When you say him, who did you see getting out?

6 A The defendant.

7 Q And continue. What side of the car did he get out
8 on?

9 A He got out on the passenger side and he came
10 stumbling around, you know, because he just got in a
11 really bad wreck. He was just stumbling. He stumbled off
12 the car and was coming towards us.

13 Q As he began walking up towards where y'all were at
14 the house and trailer --

15 A Uh-huh.

16 Q -- where did the victim go?

17 A He shot off. He shot off to the left and went down
18 the side where the woods was and went and hid over there.

19 Q So, the wood line -- following the wood line down to
20 the road?

21 A Uh-huh.

22 Q Now, when the defendant came up what did you do?

23 A Well, he was still pretty out of it, you know, pretty
24 woozy, and so we asked him just to sit down on the steps
25 just to chill out because, you know, he was bleeding

1 really bad and stuff. Then after that we was just trying
2 to see what was going on with him.

3 Q Once he's on the steps what did he say?

4 A The only thing he said was, you know, where is that
5 guy at? Where is that guy at? We're like, He already
6 left. He jetted. He was like, All right. That's cool.
7 Don't call the cops. Don't call the ambulance. I'll be
8 fine. He said, Just let me chill here and then I'll
9 drive. We were like, All right.

10 Q How long was it, Bryan, from when the wreck occurred
11 until EMS or law enforcement arrived?

12 A I would say ---

13 Q If you could guess, you know.

14 A I would say probably 20 or 30 minutes.

15 Q Okay. When the defendant was on the porch did you
16 give him anything?

17 A I gave him a cigarette to smoke and then he wanted to
18 borrow my phone; so I let him use that.

19 Q Was he -- Did he smoke his cigarette?

20 A Yes.

21 Q Did he still have those gloves on?

22 A Yes.

23 Q You said he used your phone?

24 A Yes.

25 Q Do you know who he called?

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1 A Well, the first time nobody answered. Then he left
2 the voicemail the next time you could tell. He was just
3 letting them know he just got in a wreck but he was all
4 right. He wanted to let them know and then the only
5 reason ---

6 Q Before you get into that, while the defendant is on
7 the porch where is the victim?

8 A The victim is still hiding. He is still over there
9 in the corner in the woods by the road.

10 MR. MOLONY: Your Honor, can I get the witness to
11 step down to show him a couple of pictures?

12 THE COURT: You can step down. He is going to show
13 you some pictures.

14 MR. MOLONY: Just stand right here.

15 THE COURT: Hold on just a second so Miss Alves can
16 get situated.

17 Q Bryan, I am going to show you State's Exhibit 17.
18 What is this?

19 A That's my brother-in-law's house that we were having
20 the get-together at.

21 Q Where were you smoking your cigarette outside? Where
22 were you smoking the cigarette at the time the car
23 wrecked?

24 A Right here.

25 Q And where was the light that was on at that time?

- 1 A Right here.
- 2 Q I am going to show you now what's State's Exhibit 1.
- 3 Do you recognize that guy?
- 4 A (Witness nods head.)
- 5 Q Who is that?
- 6 A That's the guy that when the car came flying by he
- 7 was the first one to run up screaming help me.
- 8 Q I show you State's Exhibit 11. Do you recognize
- 9 that?
- 10 A Oh, yea.
- 11 Q What is that?
- 12 A That's the car that wrecked.
- 13 Q Where was the defendant sitting?
- 14 A He was sitting in the passenger side right here.
- 15 Q How was he sitting?
- 16 A He was laid back with his head tilted like that.
- 17 Q So, his head tilted towards the steering wheel side?
- 18 A Yea, like that.
- 19 Q And he was sitting down right here. Where was the
- 20 gun?
- 21 A The gun was still in his lap right there on the left
- 22 side on his left thigh.
- 23 Q Now, when this accomplice comes up and grabs the gun
- 24 was it still sitting in the same spot that you saw it in?
- 25 A Uh-huh.

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1 Q I show you State's Exhibit 14. Who is that?

2 A That's the defendant.

3 Q Is that the guy in the car that night?

4 A Uh-huh.

5 Q Let me show you State's Exhibit 16 lastly. What are
6 those?

7 A Those are the gloves he had on.

8 Q Thank you. You can have a seat, Bryan.

9 THE BAILIFF: Up here.

10 THE WITNESS: Oh, okay.

11 Q Bryan, did you know the defendant?

12 A No.

13 Q Did you know the victim?

14 A No. Never seen them before in my life.

15 Q Did you know the guy that pulled up in the white
16 Explorer?

17 A I didn't know him either. No.

18 Q I have no further questions, Your Honor. Please
19 answer any questions ---

20 THE COURT: Thank you. Miss Alves?

21 No, no. Hang tight for me.

22 THE WITNESS: Okay.

23 THE COURT: I'll tell you when you can go.

24 CROSS-EXAMINATION

25

1 BY MISS ALVES:

2 Q You said you heard the car coming down the road at a
3 high rate of speed?

4 A Yes, ma'am.

5 Q And did you actually see the crash?

6 A Yes, ma'am.

7 Q And did you see Mr. Walker getting out of the car,
8 the first guy?

9 A The first guy?

10 Q Yes.

11 A No. I didn't see him get out. I saw him running
12 towards me because I was following the wreck. When it
13 crashed I was following that and then he was running up.

14 Q Okay. So, you didn't actually see him coming out of
15 the car?

16 A No, ma'am.

17 Q And could you see the car crash -- Could you see
18 where the car crashed from your porch?

19 A Yes, ma'am.

20 Q And after the -- and you said after this white SUV
21 pulled up you said it was after that that Mr. -- that
22 Mr. Holston got out of the vehicle?

23 A Ma'am?

24 Q It was after the white SUV pulled up that Mr. Holston
25 got out of the vehicle?

(William B. Salley-Cross by Alves)

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1 A Yes, after he pulled up.

2 Q Do you remember how long it was after that before he
3 got out of the vehicle?

4 A It was shortly after; probably two or three minutes.

5 Q Okay. Did you see him get out of the car?

6 A I saw him coming around the passenger side, yes,
7 ma'am.

8 Q You saw him get out?

9 A I saw him coming around the passenger side, yes,
10 ma'am.

11 Q Did you have a view of the passenger side?

12 A No. I was on the driver's side.

13 Q So you had a view of the driver's side?

14 A Yes, ma'am.

15 Q Okay. But you didn't see him get out of the driver's
16 side?

17 A No. He didn't get out that side.

18 Q Okay. And you said he was messed up pretty bad?

19 A Yea.

20 Q And then after he got out of the car you said that
21 Mr. Walker -- the first man -- ran to the wood line?

22 A Yes. Yes, ma'am.

23 Q And could you see him during the time when -- while
24 you were waiting for the police?

25 A Could I see?

1 Q Mr. Walker?

2 A He was still standing over there by the woods by the
3 road right over there in the corner.

4 Q You saw him the entire time?

5 A Yes, ma'am.

6 Q Standing in the wood line?

7 A Yes, ma'am.

8 Q Was he standing out visibly at the side of the road.

9 A You could tell he was hiding behind a tree, but you
10 could still see him standing over there.

11 Q But he was in the trees?

12 A Yes, ma'am.

13 Q Not actually standing on the road?

14 A No, ma'am.

15 Q And Mr. Holston was sitting on the porch?

16 A Yes, ma'am.

17 Q And you said that you had from the time -- you said
18 he was about 20 or 30 minutes or so between the time while
19 you were waiting for law enforcement?

20 A Yes, ma'am.

21 Q And that whole time Mr. Holston stayed sitting on
22 your porch?

23 A Yes, ma'am.

24 Q Smoked a cigarette and called somebody? Used your
25 phone to call somebody?

(William B. Salley-Cross by Alves)

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1 A Yes, ma'am.

2 Q And he just stayed sitting there?

3 A (Witness nods head.)

4 Q Yes?

5 A Yes, ma'am.

6 Q How many times did he use your phone?

7 A Just once.

8 Q Just the once?

9 A Yes, ma'am.

10 Q And he called to -- You heard him telling somebody on
11 the voicemail that he had an accident?

12 A Uh-huh.

13 Q And then he stayed there and waited for the police
14 and EMS?

15 A Yes, ma'am.

16 Q Thank you. No further questions.

17 THE COURT: Anything on redirect?

18 MR. MOLONY: No, your Honor.

19 THE COURT: All right, sir. You're free to go now
20 and you're excused from your subpoena; so you can go back
21 to your porch.

22 THE WITNESS: All right, thank you, sir.

23 THE COURT: Or wherever you go to work. Be careful.

24 Thank you for coming. Next witness, please.

25 MR. MOLONY: Thank you, Your Honor. Your Honor, the

1 state calls Clinton Vomund.

2 CLINTON J. VOMUND, after being duly sworn,
3 testified as follows:

4 THE CLERK: Have a seat in the witness box stating
5 your full name and spelling your last for the court,
6 please.

7 THE WITNESS: Clinton Jessie Vomund; V-O-M-U-N-D.

8 THE COURT: Speak up loud so all of those jurors can
9 hear you. Thank you.

10 THE WITNESS: Yes, sir.

11 DIRECT EXAMINATION

12 BY MR. MOLONY:

13 Q Clinton, what name do you go by?

14 A Jessie.

15 Q Jessie, how old are you?

16 A Twenty-six.

17 Q Where are you from?

18 A Aiken County.

19 Q Are you married?

20 A Yes, sir.

21 Q Do you have any children?

22 A Yes, sir.

23 Q Do you work?

24 A Yes, sir.

25 Q Where do you work at?

(Clinton J. Vomund-Direct by Molony)

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1 A Sweetwater BP.

2 Q Where is that at?

3 A North Augusta.

4 Q Jessie, I am going to take you back to July 17, 2010,
5 the early morning hours. Where were you that night?

6 A At my house.

7 Q Where was that at the time?

8 A [REDACTED].

9 Q What were you doing that night?

10 A Just having a get-together with some friends.

11 Q And who all was over there? You said friends. Who
12 was at your house?

13 A Me, my wife, two of her friends, and my
14 brother-in-law Bryan.

15 Q At some point did you and Bryan walk out and smoke a
16 cigarette?

17 A Yes, sir.

18 Q And where did y'all stand when you smoked?

19 A Stood on my front porch.

20 Q Was there a light on?

21 A Yes, sir.

22 Q What light was on?

23 A The front porch light above our heads.

24 Q Right above your head?

25 A Yes, sir.

1 Q Now, as you were smoking what, if anything, did you
2 hear?

3 A You could hear a car traveling down the road at a
4 high rate of speed.

5 Q And as that car got to your viewpoint what did you
6 see?

7 A As it started to come in front of my house the first
8 thing I noticed was you could see something rolling down
9 the road and then the car went off on to the right-hand
10 shoulder and slammed into a tree.

11 Q Now originally what did you think was rolling in the
12 road?

13 A A hub cab, something like that -- anything that could
14 have came off a tire at that speed.

15 Q After a few second what did you decide was rolling in
16 the road?

17 A A person.

18 Q Now, after you saw this person get up what did he do?

19 A He ran towards my front porch screaming.

20 Q What was he -- What was his appearance? What was his
21 emotions? Could you tell?

22 A He was extremely scared. He was very wide eyed and
23 he was shaking.

24 Q What did he say to you?

25 A He was screaming, Please help me. Call 9-1-1.

(Clinton J. Vomund-Direct by Molony)

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1 They're going to kill me.

2 Q After that what did you do?

3 A I told my wife to call 9-1-1 and sent her and her two
4 friends into the house and then I was talking to the young
5 man about what was going on and he kept saying that there
6 is somebody else in the car; so my brother-in-law walked
7 down there and I stayed and talked to him.

8 Q So you stayed back as Bryan walked towards the car?

9 A Yes, sir.

10 Q You never actually leaned in the car at that point?

11 A No, sir.

12 Q Did you see another car pull up?

13 A Yes, sir.

14 Q What color was that car?

15 A White.

16 Q At that time you weren't standing right where Bryan
17 was?

18 A No, sir.

19 Q You were back a little bit with the victim you said?

20 A Yes, sir.

21 Q Back towards the house?

22 A Yes, sir.

23 Q What did you see -- From the distance what did you
24 see this unknown male come out and do?

25 A He got out of his vehicle, spoke to my

1 brother-in-law, leaned in the driver's side of the car
2 that had wrecked, got back out, hopped back in his car and
3 drove off.

4 Q He wasn't there very long?

5 A No.

6 Q What happened next after he pulls off?

7 A After he pulled off I walked down to the car with my
8 brother-in-law to check on the other guy, and, you know,
9 we just told him you were in a bad wreck; just stay calm
10 and we're going to call an ambulance for you and then we
11 walked back up to the house where the other guy was.

12 Q Now, I'll take you back for a second. You said you
13 walked down to the car where Bryan was?

14 A Yes, sir.

15 Q Your brother-in-law?

16 A Yes.

17 Q And there was a guy in the car?

18 A Yes, sir.

19 Q Did you get a good look at that guy at that point?

20 A Yes, sir.

21 Q Do you see that guy in the courtroom today?

22 A Yes, sir.

23 Q What is he wearing?

24 A Plaid shirt, glasses. That night?

25 Q No, now.

(Clinton J. Vomund-Direct by Molony)

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1 A Okay.

2 Q What was he wearing that night?

3 A He was wearing boxers and mismatched gloves.

4 Q So after you and Bryan are down there telling them
5 things, you know, EMS has been called, what did y'all do
6 next?

7 A We went back up to the house. We were sitting there
8 talking to the other guy and we just sat there for a
9 couple of minutes just trying to figure out exactly what
10 was going on.

11 Q When you say the other guy you mean the first guy
12 that jumped out of the car?

13 A Yes, sir; the guy that dived out of the car.

14 Q Who, if anybody, was that guy telling you needed to
15 be called -- needed to be contacted?

16 A He kept saying he needed to call his supervisor.

17 Q At the time you didn't know what that meant?

18 A I had no idea what he was talking about.

19 Q Well, at sometime around then what did you see
20 occurring at the wrecked vehicle?

21 A About that time the guy that was in the passenger
22 seat had gotten out and was walking around the back
23 passenger side of the car and was coming up towards my
24 house.

25 Q That's the defendant?

1 A Yes, sir.

2 Q And he came walking up to the house. What did Willie
3 Walker do?

4 A He ran from my porch. He ran straight left towards
5 the woods and ran all the way down -- followed the wood
6 line all of the way down to the road.

7 Q So he didn't go in the woods, but he was just
8 following just getting as far as possible close to the
9 woods?

10 A Yes. He was putting as much distance between him and
11 the other guy as possible.

12 Q Did you think -- Was that a common scenario
13 throughout this whole deal was the victim staying away
14 from the defendant?

15 A Yes, sir.

16 MISS ALVES: Objection, Your Honor. Leading.

17 MR. MOLONY: I'll move on.

18 Now, Jessie, as the defendant comes walking up to you
19 what did you hear him say?

20 THE WITNESS: The first thing he said was he was
21 asking where the other guy was at and we told him that we
22 had just checked him out and let him leave because we
23 didn't, you know, want no problems and he came and sat
24 down on the porch.

25 Q When you say he was asking, do you remember what he

(Clinton J. Vomund-Direct by MoTomy)

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1 said -- what exactly he said?

2 A Well, the first thing he said was, Where is that MF
3 rat? I am going to kill him.

4 MISS ALVES: Objection, Your Honor. Hearsay.

5 THE COURT: Who is saying it?

6 THE WITNESS: This guy over here. This gentleman
7 right here.

8 THE COURT: Overruled.

9 THE WITNESS: He said, Where is that MF rat? I am
10 going to kill him.

11 Q And after y'all explained where the victim was and he
12 was gone down at the road at this point what -- what
13 happened next? Where did the defendant go next?

14 A He sat down on my steps and he just was, Don't call
15 the cops. Do not call an ambulance. Don't call anybody.
16 To keep him there I told him, Just sit down. We're going
17 to call my buddy. He works EMS. He is going to come
18 check you out and you can leave, too.

19 Q Did you give him a cigarette?

20 A Yes, sir.

21 Q He had the gloves on?

22 A Yes, sir.

23 Q Boxers?

24 A Gloves and boxers.

25 Q How soon did paramedics arrive? If you had the guess

1 at a distance or a time from the original wreck 'til EMS
2 and law enforcement arrived -- this whole scenario -- how
3 long do you think it lasted?

4 A Twenty, 30 minutes.

5 Q Twenty or 30 minutes?

6 A Yes, sir.

7 MR. MOLONY: Judge, I would ask that the witness be
8 allowed to step down for a second to show some pictures.

9 THE COURT: All right. Step down so you can go over
10 some photos, please. Mr. Witness, how about move back a
11 little bit so this lady on the back part -- can you see
12 now, ma'am?

13 THE WITNESS: I'm sorry.

14 Q Jessie, I am showing you State's Exhibit 17. What is
15 that?

16 A That's my house.

17 Q That's the house you lived in on July 17, 2010?

18 A Yes, sir.

19 Q And where were you standing -- you and Bryan -- when
20 you were smoking a cigarette that night?

21 A Just to the left of the door if you're looking at the
22 road.

23 Q And where is the light that was on while y'all were
24 smoking is the cigarette?

25 A Above to the right of the door.

(Clinton J. Vomund-Direct by Molony)

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1 Q I am going to show you State's 19. Do you recognize
2 this?

3 A Yes, sir. That's my driveway.

4 Q And this would be from your?

5 A From my ---

6 Q Porch to -- Where would Willie Walker have been --
7 the victim -- towards the end of this whole scenario?

8 A He would have been hiding on the other side of that
9 bush.

10 Q Over here by the road?

11 A Yes, sir.

12 Q I am going to show you State's Exhibit 1. Do you
13 recognize that guy?

14 A Yes, sir.

15 Q Who is that?

16 A That's the man that dived out of the car and ran up
17 to my house.

18 Q The one that was -- Okay. Now I show you State's
19 Exhibit 11. Is that -- Actually, No. 5. What is that?

20 A That's the car sitting down in the trees across from
21 my house.

22 Q And what is this?

23 A That's my mailbox.

24 Q Is that how you remembered it that night?

25 A Yes, sir.

1 Q I am going to show you State's Exhibit 14. Who is
2 that?

3 A That's this gentleman right here.

4 Q When you say this gentlemen -- the defendant?

5 A Yes, sir.

6 Q And lastly State's Exhibit 16. What are those?

7 A Those are the gloves.

8 Q That he had on that night?

9 A Yes, sir.

10 Q Have a seat back right over there.

11 A Yes, sir.

12 Q Thank you. Answer any questions that Miss-Alves may
13 have for you.

14 CROSS-EXAMINATION

15 BY MISS ALVES:

16 Q Mr. Vomund, did you see Mr. Walker -- Excuse me,
17 Mr. Holston get out of the car?

18 A I never actually seen him exit the vehicle, but I
19 watched him walk around the side of the car.

20 Q Okay. So, you didn't -- You never saw him actually
21 get out of the car?

22 A No, ma'am.

23 Q Where is the first place that you saw him at the car
24 after he was outside of the car?

25 A Walking behind like the passenger door, the back

(Clinton J. Vomund-Cross by Alves)

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1 door, he was coming from that side of the car.

2 Q Coming from that side?

3 A Yes, ma'am.

4 Q Okay. When he was coming from that way -- You saw
5 him coming from that side?

6 A Yes, ma'am.

7 Q But you weren't looking at the car the whole time to
8 see when he got out?

9 A No, ma'am.

10 Q And when he came -- So after he walked around from
11 the passenger side and walked up to you, did he walk up
12 towards you?

13 A Yes, ma'am. He was walking towards my yard.

14 Q So he crossed the road and then walked towards your
15 yard?

16 A Yes, ma'am.

17 Q And you watched him doing that?

18 A Yes, ma'am.

19 Q And then where did Mr. Walker go?

20 A He ran to the left and down the tree line.

21 Q Okay. Were you able to see Mr. Walker the entire
22 time?

23 A Yes, ma'am.

24 Q In the tree line?

25 A Well, he wasn't in the trees. He was like where my

1 yard and the trees meet he was running right beside the
2 trees.

3 Q Okay.

4 A I was standing further back so everything that was
5 going in front of me is wide open.

6 Q Okay. So you said the incident lasted about 20 to 30
7 minutes thereabouts?

8 A Yes, ma'am.

9 Q And for that entire time Mr. Walker stayed in the
10 tree line?

11 A No, ma'am. For the majority of it he stood beside my
12 porch.

13 Q Okay. About how long into this incident did he run
14 into the tree line?

15 A I would say 15 minutes.

16 Q Fifteen minutes. So, are you saying it was about 15
17 minutes after the car crashed before Mr. Holston got out
18 of the car?

19 A Yes, ma'am.

20 Q Okay. And about how long was that after the second
21 car drove up?

22 A About the same time. There was maybe 45 seconds
23 before the other car come sliding up. It was very quick.

24 Q You're saying the other car came up about 45
25 seconds ---

(Clinton J. Vomund-Cross by Alves)

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1 A Yea. I mean, the car hit the tree and then you could
2 hear the other car racing down the road.

3 Q So, the other car pulled up. What happened first?
4 Did you call 9-1-1 first or did the other car pull up
5 first?

6 A As soon as the car hit the tree I told my wife to
7 call 9-1-1.

8 Q Okay.

9 A She went into the house. So, exactly when she called
10 them, whether it was during this car sliding up or not I
11 do not know.

12 Q Okay. But you're saying it was about 45 seconds
13 after the first car crashed into the tree that the second
14 car came up?

15 A Yes, ma'am.

16 Q About. And then it was about 15 minutes or so later
17 before Mr. Holston got out of the vehicle?

18 A Yes, ma'am.

19 Q But all together it was about -- and I am not holding
20 you to an exact, but it's about 20 or 30 minutes --

21 A Yes, ma'am.

22 Q -- for this entire incident? Yes?

23 A Yes, ma'am.

24 Q And you're saying that Mr. Walker never actually went
25 into the woods. He just stayed at the wood line by the

1 road?

2 A Yes, ma'am.

3 Q Was he visibly standing out in the road in front of
4 your house or was he like in the tree line?

5 A No. There's a ditch and when he went down towards
6 the road I just kind of watched him go down. When he hit
7 the ditch -- There was a bush on the edge. He just kind
8 of hung out right there behind the bush and hid.

9 Q Hiding behind a bush that was down by the road?

10 A Ma'am?

11 Q Hiding behind a bush down by the road?

12 A Yes, ma'am.

13 Q And you remembered -- You talked to the investigators
14 that night about this? You talked to the police that
15 night?

16 A Yes, ma'am.

17 Q Do you remember talking to my Investigator Bennie
18 Williams? The man sitting back there in the suit and
19 checkered tie?

20 A Yes, sir. I don't remember talking to him that
21 night.

22 Q No, no; not that night.

23 A Okay. Yea.

24 Q At some point before today?

25 A Yes, ma'am.

(Clinton J. Vomund-Cross by Alves)

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1 Q And didn't you, in fact, tell him -- Investigator
2 Williams -- that Mr. Walker was actually hiding in the
3 woods -- like he was in the woods?

4 A I don't remember saying that.

5 Q You don't remember? Okay. And you're saying that --
6 and you had a view of the car the entire time -- the
7 crashed car?

8 A Yes, ma'am.

9 Q I mean, were you paying attention to the car the
10 entire time or were you ---

11 A Well, I was watching this guy and watching the car
12 because there is two different people and I have my wife
13 and two other women and my one-year-old daughter in the
14 house. I am trying to keep an eye on everybody.

15 Q So, you're making sure you're keeping an eye on
16 everything?

17 A Yes, ma'am.

18 Q But there was nobody else in the car itself?

19 A Just this gentle man.

20 Q I mean, after he got out.

21 A No. There was nobody else in the vehicle.

22 Q So after he was out of the vehicle what was your
23 focus on?

24 A Pretty much watching him at that point.

25 Q So you were watching him at that point?

1 A Yes, ma'am.

2 THE COURT: For the record, him is the defendant?

3 THE WITNESS: Yes, sir; the defendant.

4 Q You're talking about Mr. Holston?

5 A Yes, ma'am.

6 Q And you said you could see Mr. Walker down at the
7 tree line?

8 A Yes, ma'am.

9 Q But your focus was on Mr. Holston?

10 A Yes, ma'am.

11 Q And so were you really looking at the car that much
12 at that point once Mr. Holston was sitting on the porch?

13 A No, ma'am.

14 Q Thank you. No further questions.

15 THE COURT: Anything else on redirect?

16 MR. MOLONY: Yes, Your Honor; very briefly.

17 REDIRECT EXAMINATION

18 BY MR. MOLONY:

19 Q Jessie, did you know any of these guys?

20 A No, sir.

21 Q Now, when the victim Willie jumped out of the car did
22 he have anything in his hands?

23 MISS ALVES: Objection, Your Honor. It goes beyond
24 the scope of cross.

25 THE WITNESS: No, sir.

(Eric Abdullah-Direct by Weeks)

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1 THE COURT: Hold on. Disregard that. Did he have
2 anything in his hands? I'll sustain that objection. That
3 was not brought out on cross.

4 MR. MOLONY: Thank you, Your Honor.

5 THE COURT: You may step down. May he be released
6 from his subpoena? Thank you for coming, Jessie.

7 THE WITNESS: Yes, sir. Thank you.

8 THE COURT: Any objection?

9 MISS ALVES: No, Your Honor.

10 THE COURT: All right. Next witness.

11 MR. WEEKS: Lieutenant Abdullah.

12 ERIC ABDULLAH, after being duly sworn, testified
13 as follows:

14 THE CLERK: Have a seat in the witness box stating
15 your full name and spelling your last for the court,
16 please.

17 THE WITNESS: Eric Abdullah; A-B-D-U-L-L-A-H.

18 DIRECT EXAMINATION

19 BY MR. WEEKS:

20 Q Are you okay, Eric?

21 A Yes, sir.

22 Q You had a little surgery yesterday?

23 A I did, sir.

24 Q Tell us what you do for a living.

25 A I'm the shift lieutenant at the Aiken County

1 Sheriff's Office.

2 Q How long have you been at the Aiken County Sheriff's
3 Office?

4 A Eight years.

5 Q All right. And before that were you in law
6 enforcement in any capacity?

7 A I was a military policeman with the US Army.

8 Q During the time that you've been at the Sheriff's
9 Department have you received various trainings and courses
10 and that sort of stuff?

11 A Yes, sir. I attended the basic academy as well as I
12 am a graduate of the FBI National Academy.

13 Q Were you working in the same capacity you are now on
14 July 17, 2010?

15 A Yes, sir.

16 Q Were you on the road that night?

17 A Yes, sir, I was. I was the supervisor on duty.

18 Q And being on the road you're in a marked patrol car?

19 A Yes, sir.

20 Q Did you receive a dispatch to go to a location?

21 A Yes, sir. Dispatch toned us out which is an audible
22 tone across the radio to alert us to a high priority call.
23 I responded to Wheat Road along with my other officers.

24 Q Who are the other officers that responded that night?

25 A Deputy Michael Williams and Molly Hahn.

(Eric Abdullah-Direct by Weeks)

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1 Q And do you know whether EMS was there or did you get
2 there before EMS or did you get there about the same?

3 A EMS was on the scene staged down the road from a
4 single-vehicle accident location on Wheat Road.

5 Q What did you do when you got there, Eric?

6 A What I normally do especially in this incident is
7 being the supervisor I start managing the agency's
8 resources for the call and directing my deputies on what
9 actions that they needed to take.

10 Q Okay. Did you secure the crime scene?

11 A Yes, sir. That's the initial thing to find out what
12 was going on. There was a young man that was with EMS at
13 the time. He ran to them. There was also a gentleman
14 that was pointed out that was sitting on the porch at a
15 residence that was on Wheat Road. I believe it was a
16 single-wide trailer. I started directing my deputies to
17 start securing the scene and trying to find out what we
18 had going on.

19 Q What did you do in that regard?

20 A Once we had a small amount of information that a
21 kidnapping and armed robbery had occurred I had my
22 deputies to start photographing the scene as soon as
23 possible because we knew we had people injured and we had
24 other -- EMS was going to be coming into our scene; so we
25 needed to photograph everything and start separating

1 witnesses as well as I started telling my deputies exactly
2 what they needed to do so we could maintain some type of
3 control over the incident.

4 Q Did y'all place the defendant under arrest?

5 A When we saw him on the porch we asked, you know -- Of
6 course, we asked what happened. He was -- He said he
7 didn't know. After we ascertained what happened from the
8 witnesses there as well as the victim in the case, when he
9 was on the backboard we placed him in handcuffs.

10 Q Did you direct that the photographs be taken of him?

11 A I did.

12 Q Do you recall what he was wearing?

13 A He was wearing boxer shorts. He had some gloves on
14 his hand. One of them was latex and the other one was
15 cotton and he had on some black dress socks.

16 Q Was he pretty injured?

17 A Yes, sir, he was.

18 Q And you directed your officers or somebody to take
19 photographs of him there?

20 A I did. I had Deputy Hahn to take photographs of him
21 while he was on the backboard because I knew that portion
22 of the incident was going to be chained being that he was
23 going to be transported by EMS.

24 Q When he was transported by EMS who went with him?

25 A Deputy Molly Hahn did.

(Eric Abdullah-Direct by Weeks)

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1 Q At that point was he in custody?

2 A Yes, sir.

3 Q And he remained in custody the rest of that evening?

4 A Yes, sir.

5 Q Now, were you in communication during this period of
6 time with investigators with the Sheriff's Department?

7 A Yes, sir. As my responsibility to notify other
8 resources of the agency that were going to be needed; so I
9 notified the on-duty investigator which was Investigator
10 Sanders as well as call for the on-duty forensic
11 investigator which is Investigator Chris Johnson.

12 Q And did you relocate or go to any other location
13 after getting there and kind of sizing the thing up?

14 A I did. Once he figured out where my victim was taken
15 from we responded to [REDACTED].

16 Q What did you do there, Eric?

17 A We knocked on the door trying to make contact with
18 someone, but the door was -- The front door was closed and
19 then as we saw there was evidence that the door had been
20 damaged or forced open. We did make entry to the house
21 just to make sure everything was okay inside.

22 Q Through the front door?

23 A Yes, sir.

24 Q Was everything okay? The residents okay?

25 A The residents were okay. They were all in their own

1 individuals rooms. We tried not to disturb them. I did
2 make my way into the office area there trying to locate
3 someone to respond out there so that those folks out there
4 could be taken care of.

5 Q And had the victim told you where to find the
6 numbers?

7 A Yes. He said it would be in the office and there was
8 a list of on-call numbers.

9 Q You started trying calling people for
10 Tri-Development?

11 A Yes, sir. I called every number that was on the
12 list.

13 Q Did you finally get somebody?

14 A Yes. Someone finally called me back.

15 Q What did you do then, Eric?

16 A I had notified investigations that we did find that
17 the front door was damaged. I needed forensics to respond
18 to the incident location.

19 Q After that did you have any involvement?

20 A No, sir. I released the scene over to Investigator
21 Johnson, informed Investigator Sanders what we found, and
22 I left the incident location.

23 Q At some point did you take keys down to this location
24 or did you get -- Did you ever have possession of any
25 keys?

(Eric Abdullah-Cross by Alves)

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1 A Not that I recall.

2 Q Okay. I might be getting it confused, but did you
3 look in the car?

4 A I did look in the car.

5 Q Did you change anything, alter anything after you got
6 there?

7 A No, sir.

8 MR. WEEKS: Answer any questions that Miss-Alves has
9 for you.

10 CROSS-EXAMINATION

11 BY MISS ALVES:

12 Q You said you reported to the actual car accident
13 scene; is that right?

14 A Yes, ma'am.

15 Q And you got there you said with two other deputies,
16 Deputy Williams and Deputy Hahn?

17 A Yes, ma'am.

18 Q And then while you were there did other police
19 officers come on the scene?

20 A No, ma'am; not that I'm aware of other than the ones
21 that I called out.

22 Q The investigators?

23 A Yes, ma'am.

24 Q So the investigators came to the accident scene?

25 A Yes, ma'am.

1 Q Okay. And you met with them there?

2 A Yes, ma'am, I did.

3 Q Did you meet with the investigators there before or
4 after you went to the house?

5 A Before.

6 Q Before. And the other two officers were still there?

7 A I believe they were. Deputy Williams was still at
8 the accident location with me. Deputy Hahn rode in the
9 ambulance with Mr. Holston.

10 Q Okay. So she went to the hospital with Mr. Holston?

11 A That's correct.

12 Q Did anybody ride with Mr. Walker?

13 A No, ma'am; not that I'm aware of.

14 Q Did you talk to Mr. Walker at the scene to find out
15 his version of the story?

16 A I did briefly.

17 Q Tell us what he told you.

18 A I'm not able to recall every word that he told me,
19 but he said that he did get -- He was the day worker or
20 night time worker at the Tri-Development Center and that
21 he was taken out of the residence by force and was going
22 -- They was going to the ambulance -- I'm sorry. He was
23 going to the ATM and the defendant was in the car with him
24 and he pointed him out to us that he had been kidnapped
25 and he said that he did jump out of his vehicle while it

(Eric Abdullah-Cross by Alves)

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1 was traveling.

2 Q Did he tell you there were two people?

3 A Yes, ma'am. He said there was another person that
4 came into the residence.

5 Q What did he tell you the second person was doing
6 after he got in the car with Mr. Holston?

7 A I don't recall that.

8 Q You don't recall? Now, at some point you said you
9 went to the house and got into the house?

10 A Yes, ma'am.

11 Q And who were you with when you got into the house?

12 A Deputy Michael Williams.

13 Q All right. Do you know -- Was that the first attempt
14 to get into the house?

15 A I don't believe so, ma'am. No.

16 Q No? So someone else had -- Another police officer
17 had tried to get into the house before you got there?

18 A I believe so. I'm not sure who went down there.

19 Q Okay. Now, how were you able to get into the house?

20 A The front door was open.

21 Q You said the front door was open?

22 A I mean it was -- It was not locked, you know. It was
23 open from the damage. I was able to open the door.

24 Q Okay. At any point did anybody ask you about the
25 keys to the home?

- 1 A Not that I can recall at this time.
- 2 Q You don't recall anybody asking you about the keys?
- 3 A No, ma'am, I don't.
- 4 Q Okay. But at some point you and Officer Williams
- 5 went back to the house and were able to get in through the
- 6 front door?
- 7 A Yes, ma'am.
- 8 Q Now, when you -- and you said when you came the EMS
- 9 was already examining Mr. Walker?
- 10 A They were at a staging point down from the accident
- 11 location and we went beyond EMS when we responded to the
- 12 accident, got out of the vehicle and then that's where we
- 13 saw our victim and he was being seen by EMS, also.
- 14 Q So, he was already being -- in the process of being
- 15 treated when you came to the scene?
- 16 A He wasn't being treated yet. He ran towards them --
- 17 their direction.
- 18 Q Okay. You saw him running towards EMS?
- 19 A Well, he was in the roadway going towards their
- 20 direction.
- 21 Q Okay. Did you see where he was coming from?
- 22 A No, ma'am.
- 23 Q Do you recall what time you got this call?
- 24 A If I could refer to the incident report.
- 25 Q Do you have your incident report?

(Eric Abdullah-Cross by Alves)

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1 A Yes, ma'am.

2 Q May I see it?

3 THE COURT: And you may refer to it and you may
4 answer the question.

5 THE WITNESS: We were dispatched at 2:37 hours on the
6 17th of July.

7 Q So the call came in at 2:30? I'm sorry.

8 A The dispatch time was at 2:37 hours.

9 Q Okay. So that would be when the call came in to the
10 9-1-1 and then they notified you?

11 A That's the time they put the call out to us.

12 Q Okay. At 2:37?

13 A Yes, ma'am.

14 Q And you arrived at the accident scene at 2:48?

15 A Yes, ma'am.

16 Q Okay. Thank you. Now, did you see the car --

17 A Yes, ma'am.

18 Q -- that was crashed in the tree?

19 A Yes, ma'am.

20 (WHEREUPON, Defendant's Exhibit Nos. 7 - 9 were
21 marked for identification only.)

22 Q I am showing you what's been marked as
23 Defense Nos. 7, 8 and 9. Do you recognize those?

24 A Yes, ma'am. That is the car that was involved in the
25 collision in the tree line.

1 Q Those accurately show how the car looked that day in
2 the tree line?

3 A Yes, ma'am.

4 Q At least from that view?

5 A Yes, ma'am.

6 Q Okay.

7 Your Honor, I'd move numbers 7, 8 and 9 in.

8 MR. WEEKS: No objection.

9 (WHEREUPON, Defendant's Exhibit Nos. 7 - 9 were
10 admitted into evidence.)

11 Q Now, did you -- you said you looked inside the car?

12 A Yes, ma'am. I looked in it.

13 Q Did you do anything else to look around the area?

14 A No, ma'am. I looked into the car just to make sure
15 no one else was on my initial responders course is to make
16 sure no one else is in the vehicle and then look around
17 the outside of the car.

18 Q Okay. So you looked around the outside of the car?

19 A Yes, ma'am.

20 Q Okay. But did you look around in the woods or in the
21 wood line or any place like that?

22 A No, ma'am; just around the immediate area of the
23 vehicle.

24 Q Okay. Thank you. I don't have any further
25 questions.

(Eric Abdullah-Cross by Alves)

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1 THE COURT: Redirect, if any?

2 MR. WEEKS: None from this witness, Your Honor.

3 THE COURT: All right. You may step down.

4 MR. WEEKS: Your Honor, he's got three nurses with
5 him. I don't know if they're all his nurses, but I would
6 ask that he be excused to go back home with them. That's
7 what he said they were. I don't know.

8 THE COURT: I believe you, sir.

9 THE WITNESS: Thank you.

10 THE COURT: I hope your shoulder is better or your
11 arm. All right.

12 MR. WEEKS: It would be a good stopping time.

13 THE COURT: Mr. Foreman, ladies and gentlemen, we're
14 going to break for lunch. We'll start back at 2:15.
15 That's an hour and however long that is. I won't be
16 sitting here twiddling my thumbs. I got some motions
17 starting at 12:30. I don't want y'all sitting in there
18 waiting on me. Then I got a conference call at about a
19 quarter 'til 2. I don't want y'all sitting and waiting.
20 We'll start right back at 2:15. We'll see how we go this
21 afternoon. We'll probably go until about five-something
22 if anybody needs to make arrangements.

23 Please don't discuss the case. Don't start
24 deliberating. Don't let anybody discuss it with you.
25 Have a pleasant lunch and I'll see you back. We'll start

1 right at 2:15. Please be on time.

2 (Whereupon, the jury exited the courtroom at 12:27.)

3 THE COURT: Mr. Weeks, anything for the record before
4 we break?

5 MR. WEEKS: I don't believe so, Your Honor.

6 THE COURT: Miss~Alves?

7 MISS ALVES: Your Honor, I just have one thing I want
8 to make sure before I forget. I think on Defense Exhibit
9 No. 6 that was ---

10 THE COURT: Close that door.

11 MISS ALVES: The solicitor did not have any objection
12 to it. Your Honor didn't make a comment and I just wanted
13 to make sure that was in evidence.

14 THE COURT: Didn't make any comments on it?

15 MISS ALVES: You didn't make any comment when I said
16 the solicitor had no objection. I just wanted to make
17 sure that I did actually put no. 6 into evidence.

18 THE COURT REPORTER: I did.

19 THE COURT: You're covered.

20 (Whereupon, a lunch break was taken.)

21 THE COURT: Mr. Molony, anything for the record
22 before we start back?

23 MR. MOLONY: No, sir, Your Honor.

24 THE COURT: Do you need to ask Mr. Weeks?

25 MR. MOLONY: I'm sorry.

1 MR. WEEKS: Your Honor, outside the presence of the
2 jury we had two stipulated exhibits. One is a South
3 Carolina Law Enforcement Division Forensic Service
4 Laboratory Report -- a DNA report, State's Exhibit No.29.
5 It is a three-page exhibit that it's my understanding is
6 consented to.

7 THE COURT: What does it say?

8 MR. WEEKS: They took some swabs from the automobile
9 in question from areas where there was blood and they took
10 some swabs from a hat that was inside the vehicle;
11 compared the buccal swabs of the defendant. The swabs
12 from the car -- the blood areas or the front seat of the
13 car steering wheel and the passenger side of the trunk lid
14 all came back to be the defendant's DNA one in
15 18 quadrillion chances. The hat was a mixture of three
16 individuals, none of which was the defendant.

17 THE COURT: Okay. Miss-Alves, is that correct?

18 MISS ALVES: Yes, sir. I am not objecting to the
19 report.

20 THE COURT: Ma'am?

21 MISS ALVES: I am not objecting to the report, Your
22 Honor.

23 THE COURT: Well, it'll be a stipulation that you
24 both agree to it so we're not going to have to bring in
25 the witnesses and you agree the report says what it says.

1 MR. WEEKS: That's correct.

2 MISS ALVES: Yes, sir.

3 MR. WEEKS: And, Your Honor, State's Exhibit No. 32
4 is a stipulated exhibit from the Aiken County Sheriff's
5 Office where the investigators lifted five latent --
6 potential latent fingerprints off the door frame to the --
7 or the door area of the Tri-Development house, none of
8 which were a match to the defendant and none of which were
9 sufficient quality to go in their AFIS system and that
10 would be in lieu of calling the fingerprint examiner from
11 the Sheriff's Department, also.

12 THE COURT: Miss-Alves, is that correct?

13 MISS ALVES: It am stipulating to the report. It
14 doesn't say the door frame, but it just says the
15 fingerprints that he tested.

16 MR. WEEKS: That's correct. It does not say the door
17 frame, Judge.

18 THE COURT: Anything else?

19 MR. WEEKS: That's all, Your Honor.

20 THE COURT: Miss-Alves, anything?

21 MISS ALVES: No, sir, but I do want to make it clear,
22 Judge, I am not stipulating where the fingerprints came
23 from. I just don't have any problem with the report.

24 THE COURT: You're stipulating to the report?

25 MISS ALVES: Yes, sir.

1 (WHEREUPON, State's Exhibit Nos. 29 & 32 were
2 admitted into evidence.)

3 (Whereupon, the jury came into open court at
4 approximately 2:20.)

5 THE COURT: Mr. Weeks, you may call your next
6 witness.

7 MR. WEEKS: Thank you, Your Honor. The state and
8 defense have reached a consent on two issues or two
9 exhibits: State's Exhibit No. 32 and State's Exhibit 29
10 that will be entered into evidence rather than calling the
11 person that prepared the report. State's Exhibit 32 is a
12 report from Lieutenant Clay Adams of the forensic division
13 concerning some fingerprint lifts that were found and
14 State's 29 is a report from South Carolina Law Enforcement
15 Division concerning some DNA or some swabs that were
16 tested and compared to known swabs and the report that was
17 issued from the DNA expert in Columbia, and rather than
18 call those the state and the defense agree that these
19 reports can come in.

20 THE COURT: All right. Mr. Foreman, ladies and
21 gentlemen, that eliminates two witnesses. They'll use the
22 report. Both of them agree as to the findings in the
23 report. They can argue in whatever manner they deem fit,
24 and, obviously, you'll have the reports in the jury room
25 for your deliberations. Sometimes you can eliminate the

1 necessity of bringing the witnesses down from everywhere
2 else and it's a more efficient use of our time.

3 Next witness, please.

4 MR. WEEKS: Your Honor, the state would call
5 Investigator J. D. Sanders.

6 JAMES D. SANDERS, after being duly sworn,
7 testified as follows:

8 THE CLERK: Have a seat in the witness box stating
9 your full name spelling your last for the court, please.

10 THE WITNESS: It's Jack Donald Sanders;
11 S-A-N-D-E-R-S.

12 DIRECT EXAMINATION

13 BY MR. WEEKS:

14 Q Where are you employed, J.D.?

15 A Aiken County Sheriff's Office.

16 Q And what is your job over there currently?

17 A Currently I am the lieutenant or the training manager
18 for the Sheriff's Office.

19 Q And prior to that what were you doing?

20 A Investigator in adult investigations.

21 Q How long had you been doing that?

22 A Over my career for years, but quite a few years I was
23 employed at the Sheriff's Office in 2000. So, quite a bit
24 of the time during that time in investigations.

25 Q In investigations?

(James D. Sanders-Direct by Weeks)

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1 A Yes, sir.

2 Q And prior to that where were you?

3 A Were at a couple of different agencies. May 12 of
4 this year, 31 years total.

5 Q In law enforcement?

6 A Yes, sir.

7 Q And during that time you have been trained in a
8 variety of different things. Would that be a correct
9 assessment?

10 A Yes, sir. That's correct.

11 Q Were you working for the Sheriff's Department as an
12 investigator on July 17 of last year?

13 A Yes, sir. I was the on-call duty investigator for
14 that night.

15 Q What does the on-call duty investigator get the
16 opportunity to do?

17 A Basically, we work day shift and we go home usually
18 around 5 o'clock if nothing is going on and until
19 8 o'clock the next morning if any major crime that they
20 need an investigator on they'll call us out and we'll come
21 out and do the investigation work on that night.

22 Q And what happened on July 17 of 2010 that brings us
23 here today?

24 A I was at home and got paged out to respond to the
25 Wheat Road address.

1 Q Okay. And at the Wheat Road address as been
2 discussed where the car was?

3 A Yes, sir.

4 Q And what did you do?

5 A On the way down there it is my normal practice -- I
6 live kind of far out. I live out in the country and what
7 I'll normally do I'll call and try to find who is on the
8 scene and get some idea of that person on the scene before
9 I travel 20 or 30 minutes someplace if I need some
10 resources I need. I try to get that done. So, on that
11 particular day I spoke with Lieutenant Abdullah by
12 telephone and he started briefing me of what was going on.

13 Q As a result of that telephone conversation when you
14 were in route where did you go first?

15 A At the scene of the wreck on Wheat Road. I met with
16 Lieutenant Abdullah at the wreck scene.

17 Q And as a result of conversations with him, what did
18 you do?

19 A At that particular time when I got there Investigator
20 Johnson was there processing the scene.

21 Q Is that Chris Johnson?

22 A Yes, Lieutenant Abdullah gave me a little more
23 up-to-date briefing from what they had the last time I
24 spoke with him on the telephone. After briefly speaking
25 with him I went over as Investigator Johnson was

(James D. Sanders-Direct by Weeks)

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1 photographing the vehicle and I went over there and
2 examined the vehicle, the inside of the vehicle, looked
3 around in the immediate area surrounding the vehicle.

4 Q All right. What did you do from there?

5 A At -- When I got finished with the vehicle looking at
6 the vehicle and trying to get kind of a feel for there and
7 what was going on and look at what's set up I went over
8 and spoke to the two witnesses on the front porch.

9 Q And that would be Jessie and Bryan that testified
10 today?

11 A Yes, sir, that's correct.

12 Q After speaking with them what did you do?

13 A After speaking with them I believe the next thing I
14 did, I went down to [REDACTED] -- the incident location -- [REDACTED]
15 [REDACTED], Tri-Development house.

16 Q Were you given information or as a result of
17 information you were given did you know that there may be
18 people in that house?

19 A Yes, sir.

20 Q What did you do when you approached that house, J.D.?

21 A I went down there. deputy was on the scene there.
22 We went around and checked a couple of the door knobs. I
23 looked around and tried to get a feel for it. I know when
24 I looked at the house I was trying to see what was out of
25 place, what would be done, looking for any evidence of

1 anything that had been thrown on the ground or dropped.

2 So, I was there for just a few minutes. I saw the
3 [REDACTED] was written on the door and the seven was upside down
4 on the door and the screw that apparently held that number
5 in was laying in the front of it. So, I was there with
6 him for just a few minutes trying to get a feel for the
7 scene.

8 Q Was the door that held the [REDACTED], was it closed?

9 A Yes, sir.

10 Q And did you try to open it? Did you try to push it
11 in any fashion?

12 A I know I went to -- I particularly went to the side
13 door where the vehicle was parked at. I turned the
14 doorknob. I didn't shove the door in. I simply grabbed
15 the doorknob. The doorknob was locked and at the front
16 door we checked the front door. The door was shut. Other
17 than the seven being down from the outside there wasn't
18 really any apparent of any other damage there. The
19 doorknob was locked. I didn't attempt to push in the door
20 to try to open it. The door was locked.

21 Q What did you do from there, J. D.?

22 A I left there and went back up and spoke with
23 Abdullah -- Lieutenant Abdullah -- briefly. It was my
24 understanding from the briefing and information I had
25 there that there were people inside the house there. We

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1 knocked on the door. I think Deputy Williams had been
2 knocking on the door. No responses. So I went back up to
3 Abdullah and I needed to go over to the hospital to try to
4 talk to the witnesses. I understood that both of them
5 were injured. They were transported to the hospital. So
6 I told Lieutenant Abdullah when I was there that he needed
7 to send somebody down with Deputy Williams. Entry needed
8 to be made in that house to check on the residents inside
9 there.

10 Q Were you aware that entry was made through the front
11 door?

12 A Yes, sir.

13 Q What did you do? You said you -- Did you relocate to
14 the hospital?

15 A Yes, sir. After going back up Lieutenant Abdullah
16 was standing by the wreck scene. After I left Lieutenant
17 Abdullah I then went over to the hospital and when I got
18 to the hospital I spoke to Mr. Walker first.

19 Q Okay. What did he -- Was anything about his
20 appearance unusual?

21 A When I first saw him it was pretty identical to the
22 picture that was taken in there. He had already been
23 bandaged up. I could see where his injuries were at.
24 They had the machines hooked up to him and all that stuff
25 and I began to ask him to tell me what happened there.

1 Q And did you at some point deploy back to Aiken? What
2 did you do at that point?

3 A After I spoke to him I then went over and attempted
4 to speak with Mr. Holston.

5 Q Mr. Holston was injured more severely than
6 Mr. Walker?

7 A Yes, sir, and I had been informed that he was under
8 medication.

9 Q All right. So you didn't talk to him at that point?

10 A No, sir.

11 Q Was Mr. Holston under arrest at that time?

12 A Yes, sir.

13 Q Now, as part of being the investigator in the case do
14 you keep up with the reports that are generated from
15 expert witnesses and that sort of stuff?

16 A Yes, sir.

17 Q And you request -- Do you request reports to be done
18 or evidence to be submitted to other agencies if
19 necessary?

20 A Yes, sir. A lot of times the forensics guy sometimes
21 will automatically do it. Other times we oversee it. If
22 we see it hadn't been done we request that it be done.

23 Q Were you aware that some swabs had been taken from
24 some of the areas around the car?

25 A Yes, sir.

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1 Q And maybe a hat that was in the car?

2 A Yes, sir.

3 Q Were you aware that those were sent to SLED for DNA
4 analysis?

5 A Yes, sir.

6 Q And you are aware of the results of that?

7 A Yes, sir.

8 Q Were you aware that some fingerprint cards were -- or
9 some fingerprints lifts were taken from some area in the
10 crime scene?

11 A Yes, sir.

12 Q And were you aware that none of those came back to
13 match the defendant?

14 A Yes, sir.

15 Q Okay. What's AFIS?

16 A Automated Fingerprint Identification System.

17 Q And am I in AFIS? Or if I don't have a -- Is
18 everybody in AFIS?

19 A If you've been arrested before and your fingerprints
20 are on file then you're entered into the national database
21 of AFIS.

22 Q Even when I was like 15? Oh, we won't go there. But
23 that's a computer system that they like run fingerprints
24 and compare them to it if the fingerprints lifts are
25 sufficient enough quality?

1 A Yes, sir. That's correct.

2 Q And as part of your training and part of your
3 experience with law enforcement you have lifted latent
4 lifts and taken latent lifts? Those are fingerprints that
5 are retained on a surface and you can physically put tape
6 over them, lift them, and send them to somebody for
7 analysis. You have been trained to do all of that, hadn't
8 you?

9 A Yes, sir. I lifted prints at times and submit them
10 for checking against AFIS

11 Q When you're working a crime scene or you're doing
12 anything like lifting latent lifts do you wear gloves?

13 A Yes, sir.

14 Q And why?

15 A So you don't contaminate the scene.

16 Q Contaminate it how?

17 A Put your fingerprints on there or smudges.

18 Q Do glove keep fingerprints from being deposited?

19 A Yes, sir.

20 Q Investigator Sanders, you said you looked around the
21 car?

22 A Yes, sir.

23 Q And what condition was the car in at that time?

24 A It was consistent with what I had been advised on.
25 The front end of the car was rested against a tree. It

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1 was extensive damage to the vehicle. My first
2 recollection is the driver's side door was open. I
3 noticed blood on the steering wheel, blood on the seat.
4 Most of it other than the steering wheel seemed to be at
5 least from the center of the car over to the passenger
6 side. I walked around the side. There were several trees
7 that had been -- smaller trees that had been struck and
8 apparently scraped down the side of the vehicle.

9 I remember seeing blood on the passenger side of the
10 vehicle -- my recollection on the door area. There was
11 somewhere on the roof of the car, down the -- some on the
12 rear quarter panel and on the trunk lid going around.

13 Q Okay.

14 A It appeared to me that someone had gotten out of the
15 passenger side and gone around that way.

16 Q As a result of the story that you had been given from
17 the witnesses and the victim and the police officer who
18 was on the scene, was there -- were you looking for
19 anybody else in the car?

20 A No, sir.

21 Q By the time you got there?

22 A No, sir.

23 Q Had you been informed or as a result of your
24 conversation did you have any indication that anybody else
25 had been in the car?

1 A No, sir.

2 Q Okay. And are you aware or were you part of calling
3 Tri-Development supervisors to come down to the house
4 after y'all had cleared it?

5 A No, sir. That was done while I was at MCG.

6 Q Okay. No further questions of Mr. Sanders at this
7 time, Your Honor.

8 THE COURT: Miss-Alves?

9 CROSS-EXAMINATION

10 BY MISS ALVES:

11 Q Investigator Sanders, you testified that you wanted
12 to check to see who was on the scene and find out what was
13 going on before you got down there because it was a long
14 way and you wanted to make sure that the proper people
15 were on the scene?

16 A It's -- I don't do it in every case. It just depends
17 on what knowledge I have to leave the house, but it
18 wouldn't be unusual for me to call who is on scene there.
19 Sometimes in some cases forensics aren't called out and if
20 I feel like forensics needs to get there rather than wait
21 30 minutes to get to the crime scene then call forensics
22 from the home at that time to get them out there quite
23 often I'll call down there and try to ascertain what's
24 going on, are there any other resources do I need, do I
25 need to call anybody, who do I need to notify -- just get

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1 a little more basics of what's going on while I am en
2 route.

3 Q Okay. And in this particular case you spoke with
4 Lieutenant Abdullah while you were en route?

5 A Yes, ma'am.

6 Q And he was telling you what was going on at the scene
7 and what the situation was?

8 A Yes, ma'am.

9 Q And he told you what Mr. Walker had told him?

10 A I believe he advised me what he had found out at the
11 scene.

12 Q Okay.

13 A My recollection would be that he got it from
14 Mr. Walker and from the witnesses there.

15 Q Okay. And you documented all of this in an actual
16 investigative report?

17 A Yes, ma'am.

18 Q And you went into great detail about what everyone
19 told you and what you observed in your report; is that
20 correct?

21 A Yes, ma'am.

22 Q And the report is very important, would you agree?

23 A Yes, ma'am.

24 Q Because how many cases do you work a year? A lot?

25 A Yes, ma'am.

1 Q Okay. I can agree with a lot. And you can't
2 remember every single detail off the top of your head
3 about every single case; isn't that right?

4 A That's correct.

5 Q So it's very important that you document as much as
6 you can as soon as you can so that you have it all
7 organized while it's still fresh in your mind?

8 A You try to, yes, ma'am.

9 Q And you were the lead investigator on this case?

10 A That's correct.

11 Q And so you were the person responsible for gathering
12 the information from the officers and the other people who
13 were at the scene to have the official case file?

14 A Yes, ma'am.

15 Q Okay. And do you have your report with you?

16 A No, ma'am.

17 Q You don't have a copy of it at all?

18 A I got a copy on my chair over there, at least part of
19 my investigative report. I am not sure if it's the
20 complete report.

21 Q Do you have your four-page supplemental in your
22 paperwork?

23 A I am not sure without looking at it.

24 Q Would showing it to you help you refresh your memory
25 about what's in the report?

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1 MR. WEEKS: I have no objection to her showing it to
2 the witness, but a foundation is at issue right at this
3 point.

4 MISS ALVES: Judge, he stated that this is his report
5 and ---

6 THE COURT: He can refresh his memory with the
7 report. Show it to him and let him refresh his memory and
8 ask the question. What was the question?

9 Q I asked did you talk to Lieutenant Abdullah about
10 what Mr. Walker had told him at the scene?

11 MR. WEEKS: I think he just testified that he did.

12 MISS ALVES: Well, Your Honor, what he testified to
13 was that Lieutenant Abdullah told him what he had gotten
14 from Mr. Walker and from the other witnesses. I
15 specifically asked about what Mr. Walker told him.

16 THE COURT: Point to him where you're trying to go
17 to.

18 MISS ALVES: Yes, sir.

19 THE WITNESS: The particular sentence you asked about
20 says "Lieutenant Abdullah stated that one of the black
21 male suspects was in the victim's vehicle with the victim
22 driving and the suspect followed him in a white in color
23 Explorer. He stated while going down Wheat Road the
24 victim had jumped out." That didn't specifically tell me
25 that he got that directly from Mr. Walker or that he got

1 that based on talking to Mr. Walker and the witnesses
2 there.

3 Q Okay.

4 A My recollection was that he had talked to all three
5 of them and what he had given me was a combination from
6 what he had learned from speaking with everybody on the
7 scene.

8 Q Okay. But Lieutenant Abdullah talked to you about
9 the second person following Mr. Walker's vehicle?

10 A Yes, ma'am.

11 Q Okay. And you also talked to Mr. Walker when you
12 went to the hospital; isn't that right?

13 A That's correct.

14 Q And did he also tell you that the second vehicle was
15 following his vehicle?

16 A Yes, ma'am.

17 Q And he told you that when the people came into the
18 house they -- Did he specify what doors they came in?

19 A I don't recall him specifying where the second black
20 male came in. I remember him stating that Mr. Holston
21 kicked in the front door. Mr. Holston confronted him with
22 the gun. Mr. Holston led him around the house and at some
23 particular point during that juncture that I recall he
24 said was the first time he saw the second black male and I
25 don't recall him telling me how he got in the house or

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1 where he came from, but I recall him telling me at some
2 point he saw him there.

3 Q Okay. Now, did he tell you that Mr. Holston led him
4 around the house?

5 A He said they went through the -- My recollection is
6 he said they went through the house. He kept asking where
7 the money was at, threatened to kill him. They went
8 around the house and looked and at some juncture they
9 wound up in the office there looking and, you know, there
10 was no money there.

11 Q Okay. Can you tell me in your report where it says
12 that they went through the house? You have a lot of
13 details in here about what Mr. Walker told you, but I'm
14 afraid I don't see it where it says they went through the
15 house. It says they went through the office. On page
16 three it refers to the office.

17 A Yes, ma'am. This report isn't an exact word-by-word
18 narrative. When I talked to Mr. Walker I can talk to
19 Mr. Walker five minutes and it would probably take 10
20 pages of report filled all out. So, I can tell you on the
21 stand today that that's what he told me. Now, whether I
22 documented every single thing that he told in the report,
23 I may not have done that, but that's, in fact, what he
24 told me that night.

25 Q Okay. But you did document that he said he was

1 sitting on the couch watching TV?

2 A Yes, ma'am.

3 Q And that the front door was kicked open?

4 A Yes, ma'am.

5 Q You did document that he said he tried to run and go
6 out the side door?

7 A Yes, ma'am.

8 Q Specifically you wrote side door in your report?

9 A Yes, ma'am.

10 Q And you wrote that he did say that the suspect had a
11 gun?

12 A Yes, ma'am.

13 Q And that he had cotton-type gloves on each hand and
14 boxer shorts on?

15 A That's correct.

16 Q That's specified in your report?

17 A Yes, ma'am.

18 Q And it says that he kept demanding money and
19 threatened to shoot him?

20 A Yes, ma'am.

21 Q And you did document that a second person entered the
22 residence and was also demanding money?

23 A Yes, ma'am.

24 Q But do you recall where he told you the second person
25 came from?

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1 A No, ma'am. As I told you he was in the house with
2 the first -- with Mr. Holston. Mr. Holston had the gun
3 repeatedly asking him for money threatening to kill him
4 and all I know is he said at some particular point when he
5 looked up the second suspect was in the residence.

6 Q Okay. So, he didn't tell you that the second suspect
7 came in the side door when he was running to the side
8 door?

9 A I don't recall.

10 Q Okay. And you wrote down that Mr. Walker said that
11 he looked through the office area?

12 A Repeat your question, please.

13 Q You did document that Mr. Walker told you that he
14 looked through the office area?

15 A I'm not sure if it's documented there or not. I know
16 he told me there. If you want to show me what page on the
17 report, I'll be glad to ---

18 Q Page three. I'm sorry.

19 A Yes, ma'am. The victim stated the victim -- that he
20 looked through the office area and there was no money
21 there. The victim stated he kept threatening to shoot
22 him. He feared for his life and told him he only had an
23 ATM card.

24 Q Okay. And they asked him how much money he could
25 access?

1 A Yes, ma'am.

2 Q And he said he didn't know?

3 A Yes, ma'am.

4 Q Okay. And then he said he didn't want to die over
5 money and he wanted to give them money to make them go
6 away?

7 A Yes, ma'am.

8 Q All right. And then your report goes into the
9 details he gave you about leaving the residence; is that
10 right?

11 A Yes, ma'am.

12 Q All right. But you're saying that he told you about
13 walking through the residence but you don't have that
14 documented in your report?

15 A No, ma'am; other than going to the office.

16 Q Okay. When did he tell you how much money they were
17 looking for?

18 A You know, I kind of recall him saying the second
19 suspect -- what he told me that I recollect during the
20 whole time Mr. Holston never asked him for a particular
21 amount. He just kept telling him he wanted money, wanted
22 money, wanted money or he was going to kill him and
23 holding the gun on him. I do recall at one point him
24 saying when the second suspect came in there the second
25 suspect asked him for a specific amount, but to be totally

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1 honest I don't recall today what amount he told me that
2 the second guy was actually asking for.

3 Q Okay. And your report doesn't document that he was
4 asked for a specific amount?

5 A No, ma'am. I did not put that in the report.

6 Q Okay. And this is the information that you got from
7 Mr. Walker that night?

8 A Yes, ma'am.

9 Q And how long after this do you recall when you did
10 your report?

11 A I'm sorry?

12 Q Do you recall when you did your report?

13 A I'm not sure. The date I have on the front of it is
14 7/22/2010.

15 Q So that would have been about five days after this
16 incident had occurred?

17 A Yes, ma'am.

18 Q About five days after your conversation with him?

19 A Yes, ma'am.

20 Q And your report is four pages?

21 A Yes, ma'am.

22 Q All right, now. You said that -- You testified that
23 you did go -- After you went to the scene where the car
24 was you then went to the house?

25 A Yes, ma'am.

1 Q And when you went to the house you met Deputy
2 Williams there?

3 A Yes, ma'am.

4 Q He was already present at the house?

5 A That's my recollection.

6 Q All right. Do you know how long he had been there?

7 A No, ma'am, I don't.

8 Q Did you ever see Deputy Williams at the scene where
9 the car was?

10 A I don't recall if he was there or not. I was
11 speaking with Lieutenant Abdullah.

12 Q Okay. Now, you said you and Deputy Williams knocked
13 on the doors?

14 A Yes, ma'am.

15 Q And that the doors to the residence were locked?

16 A Yes, ma'am. I know I tried the doorknob on the front
17 door and I tried the doorknob on the side door where the
18 vehicles. I didn't push in on the door to see if it was
19 open but I know the doorknob was locked.

20 Q Y'all were knocking on the door?

21 A Deputy Williams was knocking on the door that I
22 recall.

23 Q You were with him while he was doing that?

24 A Yes, ma'am.

25 Q And then you -- According to your report you advised

(James D. Sanders-Cross by Alves)

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1 that entry needed to be made to the residence to check on
2 the residents there?

3 A That's correct.

4 Q Who did you advise that to?

5 A Lieutenant Abdullah.

6 Q And Lieutenant Abdullah gave you information that
7 Mr. Walker had told you where the -- had told him where
8 the keys were? Front of page two.

9 A Yes, ma'am. I was trying to -- Yes, ma'am. In my
10 report it documents Lieutenant Abdullah stated prior to
11 being transported to MCG the victim stated the key to the
12 door was on a key ring in his vehicle. He stated that and
13 Williams would check the residence and notify me of their
14 findings.

15 Q And then you were later notified that they had
16 obtained entry into the house?

17 A Yes, ma'am, while at MCG

18 Q So you weren't there when they got in. You were
19 already at the hospital?

20 A That's correct.

21 Q Did they call you right away after they got into the
22 house?

23 A I'm not sure. I was there talking to -- My
24 recollection is I was talking to Mr. Walker at the time
25 and I'm not sure if it was while I was still talking to

1 him or just gotten finished talking with him Deputy Hahn
2 who had a radio -- she was there at MCG. She came over
3 and advised me that Lieutenant Abdullah had been trying to
4 call me on the radio and get in touch with me and I
5 believe I called Lieutenant Abdullah then and spoke with
6 him. He confirmed what Deputy Hahn had told me.

7 Q That they had gotten into the house?

8 A Yes, ma'am, and found evidence where the door had
9 been forced open.

10 Q But when you were there you didn't see any evidence
11 of that because the door was shut?

12 A The door was shut. The only thing I saw was the
13 letter seven on the front door with the screw missing and
14 the seven was hanging upside down.

15 Q Okay. I beg the Court's indulgence for one moment.

16 Now, when you were talking to Mr. Walker -- When you
17 were talking to Mr. Walker at the hospital he told you --
18 He told you he locked the door on the way out, didn't he?

19 A Yes, ma'am.

20 Q And there was some testimony about the fingerprints
21 and the fingerprint report -- that the fingerprints did
22 not come become to Mr. Holston; is that correct?

23 A My recollection of the fingerprint report was it was
24 of insufficient quality, I believe, to be entered into
25 AFIS to be able to match it.

(James D. Sanders-Redirect by Weeks)

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1 Q Okay. You weren't there when the fingerprints were
2 taken?

3 A Pardon me?

4 Q You weren't there when the fingerprints were taken?

5 A No, ma'am.

6 Q Do you know where they came from? Where exactly the
7 fingerprints came from?

8 A Investigator Johnson had advised me of the processing
9 the vehicle and the processing the residence. I'm aware
10 of where the fingerprints came from; yes, ma'am.

11 Q You weren't the one who took them?

12 A No, ma'am.

13 Q I don't have any further questions. Thank you.

14 THE COURT: Redirect?

15 REDIRECT EXAMINATION

16 BY MR. WEEKS:

17 Q None of the fingerprints matched the defendant that
18 were lifted. Is that what I hear you saying?

19 A Yes, sir.

20 Q But an attempt was made to get fingerprints from
21 wherever?

22 A Yes, sir.

23 Q No further questions.

24 THE COURT: All right. You may step down.

25 MR. WEEKS: Your Honor, I just want to doublecheck

1 the record here. The only one I am a little blank on is
2 the actual CD. I believe the CD for the pictures is in
3 without objection.

4 MISS ALVES: It is. It hasn't been moved in yet, but
5 it is without objection.

6 THE COURT: All right. Put it in.

7 THE COURT REPORTER: That's 30.

8 (WHEREUPON, State's Exhibit No. 30 was admitted into
9 evidence.)

10 MR. WEEKS: Your Honor, the state rests.

11 THE COURT: All right. Mr. Foreman, ladies and
12 gentlemen, that concludes all of the testimony on behalf
13 of the state. I need to take up a couple of matters of
14 law with the parties. I'll spend a few minutes with them
15 and then I'll get you back out here in just a second.
16 Don't deliberate. Don't start talking about the case.

17 (Whereupon, the jury exited the courtroom at 2:50.)

18 THE COURT: Any motions by the state?

19 MR. WEEKS: None by the state, Your Honor.

20 THE COURT: Miss Alves?

21 MISS ALVES: Yes, Your Honor. Your Honor, taking the
22 evidence in the light most favorable to the state I would
23 move for a directed verdict on behalf of Mr. Holston for
24 all charges of attempted armed robbery, kidnapping, and
25 burglary first degree.

1 THE COURT: Well, there is ample evidence in the
2 record if the jury believes it to convict your client. I
3 am concerned right now with the existence of the evidence
4 and not the weight; so I therefore respectfully deny it.

5 MISS ALVES: Yes, sir, Your Honor.

6 THE COURT: Anything else?

7 MISS ALVES: Not from me, Your Honor. Oh, Your
8 Honor, I do have one matter. I do believe that I may be
9 putting up Mr. Holston to testify.

10 THE COURT: Okay.

11 MISS ALVES: I'm aware of what his record ---

12 THE COURT: What is his record, if any? How do you
13 spell his last name?

14 MISS ALVES: H-O-L-S-T-O-N.

15 THE COURT: Holston?

16 MISS ALVES: H-O-L-S-T-O-N.

17 MR. WEEKS: What is his record?

18 MR. WEEKS: Your Honor, the impeachable record he
19 would have would be burglary second conviction -- Well,
20 that's beyond the time. That was in 1993. That would not
21 be impeachable except I would not go into that. He's
22 got ---

23 THE COURT: What does he have in the last 10 years?

24 MR. WEEKS: I am kind of starting at the wrong end of
25 this rap sheet, Judge. He's got a conviction for first

1 degree criminal sexual conduct.

2 THE COURT: When?

3 MR. WEEKS: The rap sheet shows the conviction was
4 July 26 of 2006. I'm sorry. June 26, 2006 is the date I
5 show.

6 THE COURT: Anything else?

7 MR. WEEKS: That's the only impeachable offense that
8 I'm aware of.

9 THE COURT: Do you agree with that Miss Alves?

10 MISS ALVES: I do agree that that would be an
11 impeachable offense, but I would ask that you not allow
12 the state to use that offense of criminal sexual conduct
13 first degree. I think that the prejudice would
14 substantially outweigh the probative value to the state.
15 I don't believe that that particular offense is indicative
16 of credibility and I would ask you to not allow the state
17 to use that particular charge for impeachment purposes
18 against my client.

19 THE COURT: Do you have any caselaw to support that
20 position?

21 MISS ALVES: No, sir. I do not.

22 THE COURT: Mr. Holston, if you would stand, please.

23 MISS ALVES: Your Honor, if I may, if you do allow
24 the state to use that charge against my client I would ask
25 that you limit it to the fact that he had a felony charge

(Darrin D. Holston-Questions by the Court)

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1 rather than the specific nature of the charge.

2 THE COURT: I don't think that the rule allows that.

3 MR. WEEKS: I don't believe that's in the rule
4 either, Your Honor, and just for the record this was a
5 most serious offense that he plead guilty to and as part
6 of the life without parole notice that we have served on
7 him and his attorney before you question him I do notice
8 that he has a 1999 conviction for use of vehicle without
9 permission and the reason that's relevant is he received a
10 three-year suspended upon probation for three years
11 sentence and at the same disposition a false information
12 charge.

13 You know, just to be on the safe side the only thing
14 the state intends to ask him assuming the proper
15 foundation is maintained is about the criminal sexual
16 conduct first degree charge.

17 THE COURT: All right.

18 DARRIN D. HOLSTON, after being duly sworn,
19 testified as follows:

20 THE COURT: Mr. Holston, we're at the stage of the
21 trial where you're now able to present your own defense.
22 What that means is you have the right to call witnesses,
23 to testify in your own defense. You can introduce
24 relevant exhibits and you also have the right to testify,
25 but you also have the constitutional safeguards provided

1 in the Constitution which says that you cannot be
2 compelled to give testimony in a criminal case against
3 you. If you decide to testify, then you will be subjected
4 to cross examination like everybody else is under the
5 rules, and you have a record in the past 10 years of
6 criminal sexual conduct first degree with a minor which
7 under our statute would allow the state to introduce that
8 for purposes of attacking your credibility if I determine
9 that the probative value outweighs the prejudicial.

10 MR. WEEKS: It's not a minor, Judge. It is just
11 criminal sexual conduct first degree.

12 THE COURT: Criminal sexual conduct first degree. If
13 you decide not to testify -- First of all, let me go back.
14 If I allow the state to impeach you by the introduction of
15 that record I will tell the jury they can only use it for
16 impeachment purposes and it couldn't be used to determine
17 guilt or innocence in this trial. It is for impeachment
18 purposes.

19 If you decide not to not to testify and you exercise
20 your constitutional right to remain silent then I will
21 instruct the jury that the fact you did not testify cannot
22 be held against you in any manner whatsoever. I will
23 further instruct them that the fact you did not testify
24 cannot be considered by them when they deliberated your
25 guilt or innocence.

(Darrin D. Holston-Questions by the Court)

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1 I would instruct the foreperson that that is a
2 constitutional right that you have and if anybody tried to
3 discuss it they would be given instructions to stop that
4 immediately and not to discuss it, nor draw any inferences
5 whatsoever from the fact that you don't testify.

6 Now, my question to you is do you understand your
7 constitutional right to remain silent?

8 THE DEFENDANT: Yes, sir.

9 THE COURT: You understand, obviously, your right to
10 take the stand, but if you do you'll be subjected to cross
11 examination and perhaps the introduction of your prior
12 record. Do you understand all of that?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: Do you understand the decision whether
15 you testify or not is yours and yours alone. Obviously,
16 you can talk to your lawyer or anyone else you want to
17 before you make the decision, but we're getting ready to
18 move forward and you have to make that decision here
19 shortly.

20 THE DEFENDANT: Yes, sir.

21 THE COURT: Any questions you want to ask me?

22 THE DEFENDANT: No, sir.

23 THE COURT: You understood what I have told you?

24 THE DEFENDANT: Yes, sir.

25 THE COURT: You need time to talk to your lawyer or

1 ready to make a decision?

2 THE DEFENDANT: No, sir. Yes, sir.

3 THE COURT: You need time to talk to Miss-Alves
4 before you make your decision?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: You do need to talk to her?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: All right, sir.

9 (Whereupon, the attorney conferred with the client.)

10 MISS ALVES: Judge, his decision is made.

11 THE COURT: All right, sir. What is that decision?

12 THE DEFENDANT: I choose to testify.

13 THE COURT: All right. Let's take about five
14 minutes. Everybody stretch their legs.

15 (Whereupon, a break was taken.)

16 THE COURT: All right. Miss-Alves, are you ready?

17 MISS ALVES: Yes, sir.

18 (Whereupon, the jury came into open court at
19 approximately 3:11.)

20 THE COURT: Miss-Alves, you may call your first
21 witness.

22 MISS ALVES: I'll call Deputy Mike Williams.

23 MICHAEL S. WILLIAMS, after being duly sworn,
24 testified as follows:

25 THE CLERK: Have a seat in the witness box stating

(Michael S. Williams-Direct by Alves)

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1 your full name spelling your last for the court, please.

2 THE WITNESS: My name is Michael Scott Williams. I
3 am a deputy with the Aiken County Sheriff's Office.

4 DIRECT EXAMINATION

5 BY MISS ALVES:

6 Q And Deputy Williams were you working on July 17 of
7 2010?

8 A Yes, ma'am.

9 Q And do you recall reporting to the scene on Wheat
10 Road to the scene of a car accident?

11 A Yes, ma'am.

12 Q And can you tell us what you did when you got there?

13 A On my arrival it was a brief summary from Lieutenant
14 Abdullah about what had taken [sic] place. I believe he
15 advised us that Mr. Holston was the suspect in an armed
16 robbery that just occurred which was the reason why we
17 responded to that address. At that time I then made
18 contact with Mr. Holston and detained him.

19 Q Did you also make contact with Mr. Willie Walker?

20 A Yes, ma'am.

21 Q And you did a report about this?

22 A Yes, ma'am.

23 Q And do you recall what Mr. Walker told you about what
24 happened that night?

25 A I believe he told me that Mr. Holston and an unknown

1 black male also came through the front door and attempted
2 to rob him. I believe he stated that Mr. Holston placed a
3 gun to his head and told him that he wanted money.
4 Mr. Walker stated that he didn't have money but he did
5 have money in the ATM. He stated that Mr. Holston then
6 told him to get into the vehicle and they would proceed on
7 to the ATM.

8 Q Okay. Did he say who got into the vehicle?

9 A I believe he said Mr. Holston got into the vehicle
10 with him.

11 Q And what did he say happened to the second guy?

12 A He said that the second guy followed behind him in a
13 white Explorer.

14 Q Okay. Now, when you talked to him about what
15 happened at the house he told you that they both came in
16 the front door?

17 A Yes, ma'am.

18 Q And that he saw the second guy following him?

19 A Yes, ma'am.

20 Q And did he tell you how much money they were asking
21 for?

22 A No, ma'am.

23 Q So, did you talk to anyone else at the scene?

24 A No, ma'am.

25 Q Okay. What did you do after you talked to Mr. Walker

(Michael S. Williams-Direct by Alves)

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1 at the scene where the car accident was?

2 A I believe at that time EMS was loading him up in the
3 back of the ambulance and I then advised -- spoke to
4 Lieutenant Abdullah a little bit more.

5 Q Then what happened?

6 A At that time I believe investigations had arrived on
7 the scene and myself and Investigator Sanders went to the
8 house.

9 Q Why did you go to the house?

10 A From what we were told that there was still some
11 people inside of the residence -- I believe three other
12 individuals that Mr. Walker was caring for.

13 Q Okay. So you went with Investigator Sanders to the
14 house?

15 A Yes, ma'am.

16 Q And then what happened when you got to the house?

17 A We knocked on the door. There was -- Nobody came to
18 the door. We did observe that I believe that the seven on
19 the door was kind of knocked down or something. One of
20 the screws had been knocked out of the seven that was on
21 the door.

22 Q Yes, sir. What else did you observe?

23 A That's about it.

24 Q Did you -- what did you do to try to gain entry?

25 A We checked the doorknobs. The doorknobs was locked.

1 Q Then what happened?

2 A Then we went back up to the accident scene.

3 Q You went also?

4 A Yes, ma'am.

5 Q And what happened at the accident scene?

6 A I advised Lieutenant Abdullah about what we had
7 observed at the house and I believe by that time they had
8 made it I think to MCG or half way there and I think that
9 somebody called and said that the keys for the residence
10 was on Mr. Walker's key chain. I think -- Yes, ma'am.
11 They said that the keys was on the key chain. At that
12 time I went back down to the residence with Lieutenant
13 Abdullah.

14 Q What happened when you got back down to the
15 residence?

16 A We tried the keys for the door at that time. We
17 found one key that opened the door and that's when we
18 observed that the door frame was busted.

19 Q So you said you had the keys?

20 A Yes, ma'am.

21 Q Who gave you the keys?

22 A I believe it was still in the ignition.

23 Q Okay. So, you were able to enter the home -- You had
24 to unlock the door with the key?

25 A Yes, ma'am.

(Michael S. Williams-Direct by Alves)

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1 Q And then you and Abdullah -- Lieutenant Abdullah --
2 went into the house?

3 A Yes, ma'am.

4 Q I beg the court's indulgence one moment.

5 Now, when you were talking to Mr. Walker did he tell
6 you -- Did he describe the two people who came into the
7 house?

8 A I don't believe I asked him to describe them or
9 anything.

10 Q Did he volunteer a description?

11 A I don't believe I asked him any of those questions.

12 Q Now, your report reflects a second subject as a black
13 male; is that correct?

14 A Yes, ma'am.

15 Q Who gave you that information?

16 A I believe that was information that I received from
17 one of the other witnesses.

18 Q There was a witness to the house?

19 A No, ma'am; a witness that observed the car accident
20 and then that observed the black male go over to the
21 vehicle and take some type of object from Mr. Holston.

22 Q Okay. So, Mr. Walker didn't tell you about another
23 person -- give you a description of the second person?

24 A No, ma'am.

25 Q All right. Did he tell you what Mr. Holston was

1 wearing when he came into the house?

2 A Yes, ma'am.

3 Q What was he wearing?

4 A I believe a glove, brown -- brown glove on one hand
5 and another white on the other, some boxers, and some
6 black dress socks.

7 Q Mr. Walker told you that?

8 A Yes, ma'am. He stated specifically about the boxers.

9 Q What did he say the second person had on?

10 A I don't believe that we asked him anything about the
11 second person. Well, I didn't ask him anything about the
12 second person.

13 Q Did you talk to any of the residents at the house?

14 A No, ma'am.

15 Q Thank you. No further questions. Please answer any
16 that the solicitor may have.

17 THE COURT: Cross, if any?

18 CROSS-EXAMINATION

19 BY MR. WEEKS:

20 Q Deputy Williams, you and Deputy Hahn and Deputy
21 Abdullah were all there working at the location of the car
22 wreck; that's correct?

23 A Yes, sir.

24 Q And at the location of the car wreck were some
25 witnesses that weren't involved in the thing?

(Michael S. Williams-Cross by Weeks)

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1 A Yes, sir.

2 Q And were y'all just going around getting little
3 pieces of information at the time?

4 A Yes, sir.

5 Q Did you observe or did you put the cuffs on
6 Mr. Holston?

7 A Yes, sir.

8 Q Who did?

9 A I placed the handcuffs on him.

10 Q That's after doing your investigation -- your initial
11 investigation about what had happened?

12 A Yes, sir.

13 Q Okay. Now when you went to the house the second
14 time --

15 A Yes, sir.

16 Q -- with Lieutenant Abdullah, y'all had the keys that
17 were taken out of the ignition of the car?

18 A Yes, sir.

19 Q And the doors or the locks on the doors were locked;
20 weren't they?

21 A Yes, sir.

22 Q The deadbolt was out, wasn't it?

23 A Yes, sir.

24 Q And the doorknob would not turn because it was
25 locked, wasn't it?

1 A Yes, sir.

2 Q But if you threw your shoulder into it or pushed into
3 it you could have opened it. You just didn't know that
4 the first time you were down there; is that right?

5 A Yes, sir.

6 Q All right. When y'all opened it and went inside do
7 you know when forensics and Sanders got back down there or
8 forensics got down there?

9 A I believe I stayed on the scene until forensics
10 arrived.

11 Q Okay. And so did you see forensics taking pictures?

12 A Yes, sir.

13 Q Did you see them taking pictures of the door jam
14 that's busted all -- busted?

15 A Yes, sir.

16 Q And where the deadbolt was there wasn't anything
17 behind the deadbolt?

18 A No, sir. There wasn't no wood or anything.

19 Q Okay. So, the whole back side of the door frame had
20 been splintered off?

21 A Yes, sir.

22 Q But the actual doorknob -- the normal door lock knob;
23 not the deadbolt -- it was locked. It wouldn't turn?

24 A Yes, sir.

25 Q All right. Did y'all try to shoulder that in or did

(Christopher L. Johnson-Direct by Alves)

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1 y'all just unlock it and go in?

2 A We just unlocked it.

3 Q Okay. And because the dead bolt didn't have any wood
4 behind it, it opened?

5 A Yes, sir.

6 Q All right. And you were on the scene and saw -- You
7 put the cuffs on the defendant?

8 A Yes, sir.

9 Q When you put the cuffs on the defendant did he have
10 gloves on?

11 A Yes, sir.

12 Q And was he in boxer shorts?

13 A Yes, sir.

14 Q And did he have this church socks or thin socks or
15 whatever they were?

16 A Yes, sir.

17 Q Thank you. No further questions.

18 THE COURT: Redirect.

19 MISS ALVES: None, Your Honor.

20 THE COURT: You may step down. Next witness.

21 MISS ALVES: I call Investigator Chris Johnson.

22 CHRISTOPHER L. JOHNSON, after being duly sworn,
23 testified as follows:

24 THE CLERK: Have a seat in the witness box stating
25 your full name spelling your last for the court, please.

1 THE WITNESS: Christopher Lyn Johnson; J-O-H-N-S-O-N.

2 DIRECT EXAMINATION

3 BY MISS ALVES:

4 Q Investigator Johnson, can you tell us where you're
5 currently employed?

6 A The Aiken County Sheriff's Office.

7 Q And what is your position there?

8 A I am a forensic investigator.

9 Q Can you tell us what you do as a forensic
10 investigator?

11 A As a forensic investigator it is my duty to respond
12 to crime scenes and process crime scenes for physical
13 evidence to document and collect.

14 Q You just collect evidence?

15 A Document and collect, yes, ma'am, and process
16 evidence. Yes, ma'am.

17 Q And it is it also part of your duty that you collect
18 swabs if there is potential DNA?

19 A Yes.

20 Q And you collect -- and you dust for fingerprints and
21 collect potential -- You check for fingerprints?

22 A Yes, ma'am.

23 Q And you also take pictures of alleged crime scenes?

24 A Yes, ma'am.

25 Q Do you recall working a case on July 17, 2010?

(Christopher L. Johnson-Direct by Alves)

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1 A Yes, ma'am.

2 Q And do you recall reporting to a scene of a car
3 accident on Wheat Road on that date?

4 A Yes, ma'am.

5 Q Okay. Can you tell us -- you did -- Do you recall --
6 Where did you report to first?

7 A I'll have to look real quick. First place I went was
8 [REDACTED] at the scene where the vehicle was at.

9 Q And what did you do when you got there?

10 A Basically, took photographs and processed that scene
11 for any evidence.

12 Q What did you do to process the scene for evidence?

13 A As I stated I photographed the area. I photographed
14 the vehicle, photographed inside of the vehicle, outside
15 of the vehicle, collected any evidence that could prove to
16 be pertinent to the case, swabs for blood. There was a
17 hat inside of the vehicle that I collected.

18 Q Were there other items inside of the vehicle?

19 A Yes. There's items inside of the vehicle, yes,
20 ma'am.

21 Q So were those collected as well?

22 A No, ma'am. Not everything inside of the vehicle was
23 collected, no, ma'am.

24 Q What items were collected?

25 A From the vehicle I collected three swabs from the

1 vehicle as well as a hat that was inside of the vehicle
2 between the front bench seat. The vehicle had a bench
3 seat in the front. It wasn't two bucket seats. It was
4 one long bench seat. This hat was between the bench seat
5 on the front passenger side and the door jam.

6 Q So you took that item?

7 A Yes, ma'am.

8 Q Was there anything else found inside of the vehicle
9 besides the hat?

10 A There was blood inside of the vehicle, yes, ma'am.

11 Q Other than the hat and the blood, anything else?

12 A Not to my knowledge as far as anything collected, no,
13 ma'am.

14 Q Do you know if it was collected would you have had --
15 Would you have been informed about it?

16 A Can you repeat?

17 Q If there was something collected from inside of the
18 vehicle would you have been informed about it?

19 A Not necessarily.

20 Q Who would have had that information?

21 A If anything else was collected from inside of the
22 vehicle?

23 Q Yes.

24 A The person that collected it.

25 Q Well, where would that information be found?

(Christopher L. Johnson-Direct by Alves)

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1 A It would probably be in their report.

2 Q Do you know if anybody else collected anything out of
3 the vehicle?

4 A Not to my knowledge.

5 Q Okay. And did you take any other items out of the
6 car?

7 A I took the three swabs of blood from the vehicle and
8 the hat from the vehicle.

9 Q Did you also find keys inside the vehicle?

10 A Yes, ma'am. The keys were in the ignition.

11 Q What did you do with the keys?

12 A I photographed them.

13 Q And then what?

14 A I left them in the vehicle.

15 Q You left the keys in the vehicle?

16 A Yes, ma'am.

17 Q Okay. Do you know what happened -- ultimately
18 happened to the vehicle?

19 A The vehicle was towed.

20 Q It was towed?

21 A Yes, ma'am.

22 Q And when -- When the vehicle was towed did you do any
23 paperwork regarding this?

24 A No, ma'am, I did not.

25 Q You didn't do any paperwork?

1 A No, ma'am.

2 Q Let me ask you this. When you collect evidence what

3 -- How do you log it in? What do you log it in on?

4 A If I collect a piece of evidence I list that evidence

5 on a property and evidence sheet for receipt from the

6 Aiken County Sheriff's Office as part of our forms we fill

7 out.

8 Q Okay. And did you log the evidence that you

9 collected in on these property sheets?

10 A Yes, ma'am.

11 Q And did you log in the vehicle on the property sheet?

12 A No, ma'am. I did not collect the vehicle.

13 Q You did not? Did you sign the vehicle over to

14 anybody else?

15 A Not to my recognition, no, ma'am.

16 Q Okay. What did you do -- Did you do anything with

17 with the keys?

18 A No, ma'am.

19 Q Do you know what happened to the keys?

20 A Ultimately, no, ma'am.

21 Q Ultimately?

22 A I don't know what happened to the keys after I

23 finished processing the vehicle as a crime scene.

24 Q So you left the keys in the car and you don't know

25 what happened to them after that?

(Christopher L. Johnson-Direct by Alves)

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1 A Yes, ma'am.

2 Q Investigator Johnson, would it be usual for an
3 officer to just take a piece of evidence and leave a crime
4 scene? An officer other than yourself.

5 A Would it be unusual?

6 Q Yes.

7 A I'm -- Yea, it would be unusual. I wouldn't think an
8 officer would take a piece of evidence and not put it on
9 an evidence sheet. Would evidence be collected other than
10 me collecting it? Yes, ma'am. It is entirely possible.

11 Q Evidence that you have processed or taken pictures
12 of, would it be unusual for someone else to just take it
13 away from a crime scene without notifying you?

14 A You're asking if it would be unusual?

15 Q Would that ---

16 A I'm trying to understand what you're asking.

17 Q What I am asking you is would that be within
18 appropriate Sheriff's Department procedures and policy for
19 someone to take evidence away from a crime scene that you
20 have processed without informing you?

21 A Okay. Are you asking if someone removed evidence and
22 not just notify me of it? Yes, it is entirely possible.
23 If somebody sees something that I do not see I would
24 expect them to pick it up and collect it.

25 Q What I am asking you specifically is you said you

- 1 processed the keys to vehicle?
- 2 A No, I did not. I said I processed the vehicle.
- 3 Q You took a picture?
- 4 A Yes.
- 5 Q And you processed the vehicle?
- 6 A Yes.
- 7 Q You took the keys out of the vehicle?
- 8 A I took the keys from the ignition to photograph the
- 9 keys, yes.
- 10 Q And then you put them back in the ignition?
- 11 A I do not know if I put them back in the ignition or
- 12 set them back in the vehicle. The vehicle was going to be
- 13 towed. Nine times out of ten the keys need to be with the
- 14 vehicle so that they can tow the vehicle.
- 15 Q So, as far as you know the last you saw the keys you
- 16 put them somewhere back in the vehicle?
- 17 A Yes, ma'am.
- 18 Q And you don't know who took them or what happened to
- 19 them after you put them down?
- 20 A No, ma'am.
- 21 Q Now, you also reported to [REDACTED], the house
- 22 where this is alleged to have occurred?
- 23 A Yes, ma'am.
- 24 Q And what did you do at the house?
- 25 A I photographed and then processed it for evidence.

(Christopher L. Johnson-Cross by Weeks)

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1 Q What did you do to process it for evidence?

2 A I processed for fingerprints and also looked inside
3 the residence for any physical evidence that might have
4 been left behind.

5 Q I show you what's been marked as Defense Exhibits
6 nos. 10, 11, and 12. Do you recognize those pictures?

7 A Yes, ma'am.

8 Q Do those picture accurately reflect how the doorway
9 at [REDACTED] looked on that night?

10 A Yes, ma'am.

11 MISS ALVES: Your Honor, I would move Defense Nos.
12 10, 11, and 12 into evidence.

13 MR. WEEKS: No objection, Your Honor.

14 (WHEREUPON, Defendant's Exhibit Nos. 10 - 12 were
15 marked for identification and received into
16 evidence.)

17 MISS ALVES: Nothing further.

18 THE COURT: Cross.

19 CROSS-EXAMINATION

20 BY MR. WEEKS:

21 Q Chris, the car that night wasn't driveable, was it?

22 A No, sir, it hit a tree.

23 Q It would have driven off with a tree attached to it,
24 wouldn't it?

25 A Yes, sir.

1 Q The keys to the car based on what you had been told
2 were they something you needed to collect?

3 A No, sir. It was the victim's vehicle.

4 Q It was the victim's vehicle.

5 A Yes, sir.

6 Q And the picture you took of the keys in the ignition
7 and the ignition on and the car in drive, that's to show
8 what?

9 A To show that the vehicle -- that the vehicle wasn't
10 stolen. The keys were in it. The vehicle as far as all
11 that aspect of it goes it doesn't seem like the vehicle
12 was stolen. There wasn't anything suspicious about the
13 vehicle.

14 Q And it was probably running when it hit the tree?

15 A Yes, sir.

16 Q Okay. And the hat that was found in the vehicle, you
17 didn't know who that belonged to at the time; so you took
18 it?

19 A Yes, sir. I was told that there was two people in
20 the vehicle. Any normal person would -- If there's two
21 people in the vehicle and they're in the front and one is
22 driving and one is up in the front and in an accident you
23 don't know where stuff is going to wind up and for a hat
24 to be between the seat and door jam it was kind of obvious
25 that it probably...

1 Q Didn't find any guns?

2 A No, sir.

3 Q Didn't find anything illegal in Willie's vehicle, did
4 you?

5 A No, sir, I did not.

6 Q You found a lot of blood?

7 A Yes, sir.

8 Q You didn't mop up every drop of that blood and do
9 4000 swabs, did you?

10 A No, sir.

11 Q How many swabs did you do of the blood spots?

12 A I took three swabs.

13 Q You took one off the steering wheel?

14 A If I am not mistaken.

15 Q One off the seat?

16 A Yes, sir.

17 Q And one off the trunk?

18 A Yes, sir.

19 Q Three locations?

20 A Yes, sir.

21 Q Did you know whose blood it was at the time or have
22 an idea whose blood it was?

23 A I had an idea of whose blood it was, but, no, I did
24 not know for sure whose blood it was.

25 Q And the photographs that we've all seen in

1 evidence -- You've, unfortunately, have been outside. You
2 took most of the photographs that we've showed you in
3 preparation for trial, haven't you?

4 A Yes, sir.

5 Q That's part of you -- You took a lot more photographs
6 than we have here today, don't you?

7 A Yes, sir.

8 Q I mean, you'd try to get my good side if you were
9 taking a photograph of me; so you would kind of go all the
10 way around me, wouldn't you?

11 A Yes, sir.

12 Q So, a lot of these photographs you were taking were
13 from different angles, but they were of the same thing?

14 A Yes, sir.

15 Q Okay. And you went to the house -- to the
16 Tri-Development house where this was alleged to have
17 started?

18 A Yes, sir.

19 Q And when you got there you started taking pictures as
20 you approached the door, didn't you?

21 A Yes, sir.

22 Q Did you take pictures of the number that was
23 dislocated?

24 A Yes, sir.

25 Q Did you take pictures of the door frame?

(Christopher L. Johnson-Cross by Weeks)

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1 A Yes, sir.

2 Q Okay. And the purpose of all of that was to
3 document --

4 A Forced entry.

5 Q -- the forced entry to the house?

6 A Yes, sir.

7 Q Did you know at the time that the allegation was that
8 the defendant had gloves on?

9 A Yes. I was made aware of that at the scene of the
10 vehicle, yes, sir.

11 Q Okay. But you still took some latent lifts from
12 around the door frame, didn't you?

13 A Yes, sir.

14 Q And what was the purpose of that?

15 A Was he alone?

16 Q Okay.

17 A My understanding was that he was not alone at that
18 time.

19 Q So you might have gotten fingerprints from some other
20 bad guy?

21 A Yes, sir.

22 Q And you lifted what you could lift?

23 A Yes, sir.

24 Q And you sent them to Clay -- Lieutenant Adams for --

25 A Yes, sir.

1 Q -- identification and you are aware that he wasn't
2 able to identify them with anybody else?

3 A Yes, sir.

4 Q And he didn't say that they were the defendant's
5 fingerprints?

6 A Correct.

7 Q Okay. You didn't fingerprint the residents' rooms
8 and you didn't go into the office and fingerprint all of
9 that. Why not?

10 A It was my understanding that the majority of -- or
11 the area where most of the incident took place was going
12 through the door in that front room and then might have
13 spilled over towards the kitchen area, but that was the
14 main area where everything took place; so why go back to
15 where the residents were all sleeping and ---

16 Q Okay. Well, I mean, the point I'm making is there is
17 some judgment call that comes with forensics investigator
18 as to where you need to go look for potential evidence?

19 A Yes, sir.

20 Q And that's what you tried to do in this case?

21 A Yes, sir.

22 Q And that's what you try to do in every case, isn't
23 it?

24 A Yes, sir.

25 Q Now, this wasn't called to the scene of a crime and

(Christopher L. Johnson-Cross by Weeks)

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1 nobody is there and you're trying to figure out what
2 happened so you're taking fingerprints off of everything.
3 Y'all kind of had an idea as to what all the witnesses
4 were saying by the time you got there?

5 A Yes, sir.

6 Q So you channeled or you narrow your focus to areas
7 that may produce something? Corroboration?

8 A Yes, sir.

9 Q Or exclusive or evidence that excludes people?

10 A Yes, sir.

11 Q Okay. Now, there weren't any clothes that didn't
12 belong to -- Well, there weren't any clothes in the car
13 when you got to it, were there?

14 A No, sir. I did not observe.

15 Q Some people might call a hat ---

16 A Yes, sir.

17 Q But other than that hat there weren't any clothes in
18 there?

19 A Not that I can recall, no, sir.

20 Q There weren't any shoes in there?

21 A No, sir.

22 Q There weren't a shirt?

23 A No, sir.

24 Q No jacket?

25 A Not that I recall, no, sir.

1 Q Okay. And when you went to the residence you did the
2 photographs showing the trail that Mr. Walker said he
3 took; is that correct?

4 A Yes, sir.

5 Q And there was a sweatshirt or something on the floor?

6 A Yes, sir, at the doorway I guess going into the
7 kitchen from the den or living room area.

8 Q You took photographs of that?

9 A Yes, sir.

10 Q But Willie Walker says that was his. You didn't see
11 any need of doing DNA and tying up 14 people in Columbia
12 to say that was Willie Walker's sweatshirt?

13 A No, sir. It was the victim's.

14 Q And the victim was supposed to be there, wasn't he?

15 A Yes, sir.

16 Q So finding his DNA or his fingerprint or whatever
17 where he was supposed to be wasn't important to you?

18 A No, sir. It wouldn't have proved anything.

19 Q Okay. When you do the swabs and put them into
20 evidence y'all don't do DNA testing at the Sheriff's
21 Department, do you?

22 A No, sir. We don't have the capability of doing DNA
23 testing.

24 Q So y'all send it to SLED?

25 A Yes, sir.

(Christopher L. Johnson-Cross by Weeks)

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1 Q Are you aware of the SLED results in this case?

2 A No, sir.

3 Q Okay. Well, I am going to hand you what's marked
4 State's Exhibit No. 29 and if you would look at the
5 results and tell me what they say.

6 A You want me to read it out loud?

7 Q Let me ask you after you've read that the results,
8 basically, say that there is a one in 18 quadrillion
9 chance that somebody else's blood was on those swabs other
10 than the defendant's?

11 A Yes, sir. That's what it states.

12 Q Okay. And you took swabs of blood from the front
13 seat, from the --

14 A Steering column.

15 Q -- steering column and from the back quarter panel
16 of --

17 A The trunk lid.

18 Q -- the trunk of the car. And those came back to be
19 the defendant's blood --

20 A Yes, sir.

21 Q -- based on that report?

22 A Based on this report, yes. Swab from steering wheel
23 which is item one and it says item one. Item four is swab
24 from middle of front bench seat. It says item four and
25 then item five also from that items analyzed from swabs

1 from passenger side of the trunk lid, yes, sir.

2 Q And the hat -- The swabs you took from the hat -- --
3 the DNA concluded that the defendant's DNA wasn't in
4 Mr. Walker's hat?

5 A Yes. It says that Darrin Holston is excluded as a
6 possible contributor. Yes, sir.

7 Q Thank you. The latent lifts that you got off the
8 door frame, where did you actually lift the potential
9 fingerprints from?

10 A The -- Most of the majority of the fingerprints I
11 lifted came from the storm door or the glass door that was
12 -- You have to open it to get to the front door.

13 Q And whatever you were able to lift you sent in to ---

14 A I forwarded it to AFIS for comparison, yes, sir, with
15 SLED -- or excuse me, Lieutenant Adams. He looks at them.

16 Q He examines them to see the quality and whether they
17 could be compared to anybody?

18 A Yes, sir.

19 Q You didn't take any out of the car, did you?

20 A No, sir.

21 Q Was there a reason you didn't take fingerprints out
22 of the car?

23 A It was ---

24 Q Or try to take fingerprints out the car?

25 A He was wearing -- The suspect at the time was wearing

(Christopher L. Johnson-Redirect by Alves)

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1 gloves. I mean, I wouldn't get fingerprints.

2 Q And whose car was it?

3 A The victim's vehicle.

4 Q So you weren't trying to prove ownership of the car,
5 were you?

6 A No, sir..

7 Q Thank you. No further questions.

8 THE COURT: Redirect?

9 REDIRECT EXAMINATION

10 BY MISS ALVES:

11 Q Investigator Johnson, you said the only item that you
12 collected out of the vehicle that night was the hat other
13 than the swabs?

14 A Yes, ma'am.

15 Q You don't know -- I believe you also testified on
16 direct that you didn't know what anybody else might have
17 gotten?

18 A As far as taking out of the vehicle?

19 Q Yes.

20 A No, ma'am.

21 Q You don't know what anybody else might have taken out
22 of the car?

23 A No, ma'am. It's -- no, ma'am.

24 Q Okay. And can you tell us how far around the car did
25 you search? How far around the surrounding area did you

1 search?

2 A As far as I could. It was in the wood line.

3 Q The car was in the wood line?

4 A Yes, ma'am. It was in the wood line off the roadway.

5 I mean, it was very difficult to get around to take decent
6 photographs of it.

7 Q Because the fact the passenger side -- It was very
8 hard to get around to the passenger side, wasn't it?

9 A Yes, ma'am.

10 Q Because the passenger side was actually up against a
11 tree?

12 A I don't know that it was up against the tree. I know
13 that it was a bunch of shrubs and, you know, scrub oaks is
14 what I call them, you know. Small things.

15 Q So it was difficult the go all the way around?

16 A Yes.

17 Q All right. Now, do you know in the area -- Did
18 anybody point out to you the area where Mr. Walker had
19 been waiting before the police came?

20 A Mr. Walker is --

21 Q The victim.

22 A -- the victim? To my knowledge he was inside of the
23 house at the Tri-Development Center.

24 Q No. I mean while he was waiting for the police to
25 come to the accident scene.

(Christopher L. Johnson-Redirect by Alves)

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1 A No, ma'am.

2 Q Nobody pointed out to you the area where he was?

3 A No, ma'am, not to my knowledge.

4 Q And you don't know where he might have gone after the
5 accident?

6 A No, ma'am.

7 Q Nobody advised you of any locations to look at where
8 he might have gone?

9 A No, ma'am.

10 Q And you didn't -- Can you tell us whether you
11 searched the complete area where he might have gone to?

12 A Where the victim might have gone to?

13 Q Yes, sir.

14 A No, ma'am. I did not search any area where the
15 victim might have gone.

16 Q Okay.

17 A Besides the vehicle that he was driving.

18 Q Most of your focus was on the vehicle?

19 A The vehicle, the area around the vehicle, and the
20 residence where the incident started.

21 Q Okay. Thank you. No further questions.

22 THE COURT: All right. You may step down. Next
23 witness.

24 MISS ALVES: Darrin Holston.

25 THE COURT: Hold on a second. Everybody okay?

1 DARRIN D. HOLSTON, after being duly sworn,
2 testified as follows:

3 THE CLERK: Have a seat in the witness box stating
4 your full name spelling your last for the court, please.

5 THE WITNESS: My name is Darrin Holston. Last name
6 is H-O-L-S-T-O-N.

7 THE COURT: Before we start with this witness -- jury
8 information. I need to call downstairs.

9 (Whereupon, an off-the-record discussion was held.)

10 DIRECT EXAMINATION

11 BY MISS ALVES:

12 Q Mr. Holston how old are you?

13 A Thirty-five.

14 Q Where do you live?

15 A Aiken, South Carolina.

16 Q And you've been sitting here listening to this case
17 this entire day?

18 A Yes, ma'am, I have.

19 Q And let me ask you this. Do you know Willie Walker?

20 A No, I don't.

21 Q Have you ever met him before?

22 A No, I haven't.

23 Q I mean, before today.

24 A No.

25 Q Have you ever had any kind of contact with Mr. Walker

(Darrin D. Holston-Direct by Alves)

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1 before today?

2 A Yes.

3 Q Okay. And what contact have you had with Mr. Walker
4 before today?

5 A I went to Wheat Road to serve Mr. Walker some
6 marijuana.

7 Q What do you mean serve Mr. Walker some marijuana?

8 A Mr. Walker was purchasing marijuana.

9 Q And what role were you taking in Mr. Walker's
10 purchase of the marijuana?

11 A I was the middle man.

12 Q So what does that mean?

13 A I went to deliver, pick up money, and leave.

14 Q Do you recall around what time you got to the house?

15 A No. According to the testimony I guess it was around
16 2:30.

17 THE COURT: No, sir. Don't guess up there. Just
18 tell us what you know.

19 THE WITNESS: Yes, sir.

20 Q Do you remember -- Do you personally know what time
21 it was?

22 A No.

23 Q Okay. And was anybody with you?

24 A Yes, there was.

25 Q Who was with you?

- 1 A A friend.
- 2 Q What was this -- What was the friend's -- What was
- 3 your friend's role in your serving the marijuana to
- 4 Mr. Walker?
- 5 A He was just taking me.
- 6 Q What do you mean taking you?
- 7 A He was just taking me over there for a ride.
- 8 Q So he was your ride?
- 9 A Yes, yes.
- 10 Q Okay. And what was your intention on going to this
- 11 house?
- 12 A My intention on going to the house was to drop the
- 13 marijuana off, receive the money, and leave.
- 14 Q How much money were you supposed to get from
- 15 Mr. Walker?
- 16 A \$400.
- 17 Q Now did you actually go to the house?
- 18 A Yes.
- 19 Q And what happened when you got to the house? Tell us
- 20 what did you do first.
- 21 A I knocked on the door.
- 22 Q What happened?
- 23 A Willie came to the door.
- 24 Q And what did he do?
- 25 A He said come on in.

(Darrin D. Holston-Direct by Alves)

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- 1 Q And what did you do?
- 2 A I went and sat on the single seat.
- 3 Q You sat on where?
- 4 A The single seat. He said, Hold on for a minute.
- 5 Q Do you know what room you went in? Did you go into
- 6 the house?
- 7 A Yes.
- 8 Q Do you know what room you entered?
- 9 A When I went in there?
- 10 Q Yes.
- 11 A Yes; the living room.
- 12 Q I am showing you what's been marked as State's
- 13 Exhibit No. 25. Do you recognize that?
- 14 A Yes.
- 15 Q And what is that a picture of?
- 16 A This is a picture of the living area.
- 17 Q And when did you see this room?
- 18 A That night.
- 19 Q All right. And you said you were sitting on the
- 20 single seat?
- 21 A Yes, ma'am.
- 22 Q All right. Can you hold up the picture and point out
- 23 what you're talking about?
- 24 A Right here.
- 25 Q You're talking about this chair that's over here by

- 1 the doorway?
- 2 A Yes, this chair.
- 3 Q Okay. What was Willie doing?
- 4 A Willie -- he left the area. He walked downstairs. I
- 5 heard the door open; so he had to look out. He left that
- 6 area, walked back behind -- not behind, but walked to
- 7 where the guys were. At that time he was coming back
- 8 through. He said, I don't have any money on me. We got
- 9 to go to the ATM. I said, Fine. That's cool with me. He
- 10 left there and went in the office.
- 11 Q Who went in the office?
- 12 A Willie.
- 13 Q Where were you?
- 14 A I was still on the seat.
- 15 Q And where was your friend?
- 16 A Outside.
- 17 Q That was your ride?
- 18 A Yes.
- 19 Q Okay. When did he ever come into the house?
- 20 A He never did.
- 21 Q And what did Willie do after you went to the office?
- 22 Or what happened after Willie went to the office?
- 23 A When Willie went to the office -- What happened --
- 24 What did I do?
- 25 Q Yes.

(Darrin D. Holston-Direct by Alves)

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1 A I was bagging up some cocaine.

2 Q Let me ask you this. What were you wearing during
3 this time?

4 A I had on some green slacks, a white, green, and black
5 polo and some brown soft sandal shoes.

6 Q And you said you were bagging up cocaine?

7 A Yes, ma'am.

8 Q Were you wearing anything else?

9 A Yes, some gloves.

10 Q You had gloves on?

11 A Yes, ma'am, I did.

12 Q We've heard a lot of testimony in this courtroom
13 today about you wearing two different kind of gloves.

14 A Yes, ma'am.

15 Q Is that what you had on that night?

16 A I had the gloves. I had the gloves in my pocket when
17 I came in the house. I put them on when I sat down.

18 Q And why did you put the gloves on?

19 A Because if anyone know anything about cocaine if you
20 sweat it'll seep into your skin. It will seep into your
21 pores. I didn't want that to happen. I had the gloves on
22 and that's what I was bagging up the cocaine with my
23 gloves on.

24 Q Why were you just sitting there bagging up cocaine in
25 front of somebody you -- at someplace that you didn't even

1 know the people?

2 A Well, if you are purchasing marijuana, then I'm
3 pretty sure that wouldn't have been no secret to them.

4 THE COURT: Pretty sure what?

5 THE WITNESS: That wouldn't have been any secret to
6 him.

7 THE COURT: I see.

8 Q So, what happened -- So, you're sitting there bagging
9 up your cocaine?

10 A Yes, ma'am.

11 Q And he's -- he was in the office?

12 A Yes, ma'am.

13 Q And what happened after -- What happened next?

14 A Okay. He came out. I put it up. He said, Let's go.
15 So we walked out the door. He did lock the door. He did
16 lock the door. I was at his car. The car that I was in
17 was in the driveway as well. I asked him, Are you going
18 to go with us or are you going to drive? He said, I'll
19 drive.

20 Q So then what did you do?

21 A I got in with him, and the vehicle that I was in, it
22 pulled out. It took a right. He took a right. No; a
23 left. I'm sorry. A left. Took a left. He took a left.
24 The truck stopped at the stop sign and took a right. He
25 stopped in the middle of the street, acted like he was

(Darrin D. Holston-Direct by Alves)

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1 going to adjust his seat and pulled out the pistol, told
2 me to put the money -- take my clothes off and put the
3 money and everything else on my clothes.

4 Q So what did you do?

5 A I did as instructed. I did what he asked me to do.
6 He backed the car up. At this time the truck is -- You
7 can't see the truck because it's gone. It's done turned
8 the corner. So he backed up to the four-way, turns
9 around. I feel him driving and I feel a sharp jerk. I
10 look up. He's not in the car; so I try to grab the
11 steering wheel and I wreck it.

12 Q So during all this where is the person -- Where is
13 the second car?

14 A It's out of sight, apparently. As a matter of fact,
15 I seen it turn the corner; so it had to be out of sight.

16 Q Well, when you and Willie came out of the house did
17 you talk to your friend?

18 A Uh-huh.

19 Q Yes?

20 A Yes.

21 Q And what did you tell your friend?

22 A I told him we were going to SRP. Willie informed me
23 that he didn't have any money on him; that we had to go to
24 the credit union.

25 Q And ---

- 1 A Excuse me?
- 2 Q Why did you agree to go to the credit union?
- 3 A For the purpose of the money.
- 4 Q All right. Now, you just testified that Willie
- 5 pulled out a gun and pointed it at you?
- 6 A Yes.
- 7 Q When did this happen?
- 8 A Right after we came out of the driveway right I'll
- 9 say about 10 feet from the entrance of the driveway.
- 10 Q Okay. And where was -- Where was your friend when
- 11 this happened?
- 12 A Okay. He was already gone. We was behind him and he
- 13 had already done turned left on whatever road that is at
- 14 the stop sign.
- 15 Q And how long is it from the time that you're saying
- 16 that Mr. Walker pulled the gun on you to the time that the
- 17 car crashed? Do you know?
- 18 A No, I don't.
- 19 Q Do you remember -- Do you remember the car crash?
- 20 A Just vaguely.
- 21 Q Do you know if you lost consciousness?
- 22 A I think I did. I think I did.
- 23 Q Do you remember the two gentlemen Mr. Vomund and
- 24 Mr. Salley coming to the car? Do you remember seeing them
- 25 at the car?

(Darrin D. Holston-Direct by Alves)

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- 1 A No.
- 2 Q Do you remember seeing them at all that night?
- 3 A Yes..
- 4 Q Where did you see them?
- 5 A On the porch. I remember one of them I think either
6 took off their shirt or gave me a shirt and wrapped it
7 around my head.
- 8 Q Do you know why they did that?
- 9 A I guess to stop the bleeding.
- 10 Q You were bleeding from your head?
- 11 A Yes.
- 12 Q You were pretty banged up, weren't you?
- 13 A Yes.
- 14 Q You actually -- You don't remember the accident?
- 15 A No.
- 16 Q You were sitting on the passenger side of the
17 vehicle?
- 18 A Yes, ma'am.
- 19 Q Okay. Well, do you remember how you got out of the
20 car?
- 21 A No, ma'am. I don't remember.
- 22 Q Do you remember getting out of the car?
- 23 A Not exactly.
- 24 Q Do you remember walking around the car?
- 25 A No.

1 Q What is the first thing you do remember?

2 A No, I do. I do. When I got out the car I walked
3 around. I did. I walked around and I was looking for my
4 clothes. I was looking for my clothes because I started
5 to pull on the passenger side door and it was wedged
6 between the tree.

7 Q What happened to your clothes?

8 A Willie had them. I don't know exactly what he did
9 with them, but I did have clothes on.

10 Q And where were your clothes the last time you saw
11 them?

12 A Between me and Willie.

13 Q How did the gun get on your lap?

14 A I don't know.

15 Q And when you got out of the car and when you left the
16 car where did you go?

17 A I went towards the light and the guys -- I think I
18 recall one of them grabbed me by my arm and I sat down and
19 I asked could I use the phone.

20 Q Do you know what happened to your shoes?

21 A No.

22 Q When you used the phone what -- Do you remember
23 having any conversation with these guys?

24 A No.

25 Q Well, what threats did you make against Willie?

(Darrin D. Holston-Direct by Alves)

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1 A None.

2 Q And now, Mr. Holston, let me ask you this. In 2006
3 you were convicted of criminal sexual conduct; isn't that
4 correct?

5 A Yes, ma'am, I was.

6 Q Now, are you -- Now, that night -- And that night you
7 admit that you were acting as the middle man in a drug
8 transaction?

9 A Yes, ma'am.

10 Q And you were bringing drugs -- You were bringing
11 marijuana to Willie Walker?

12 A Yes, ma'am.

13 Q And you were supposed to collect \$400?

14 A Yes, ma'am.

15 Q Well, when did you kick in the door of this
16 Tri-Development home?

17 A I didn't.

18 Q When did you hold a gun on Mr. Walker and attempt to
19 rob him?

20 A I didn't.

21 Q And when did you kidnap him?

22 A I didn't.

23 Q And can you tell us were you sitting in the
24 Tri-Development home in your underwear?

25 A No, I wasn't.

1 Q Why were you in your underwear when the police came?

2 A Because my clothes was gone.

3 Q Excuse me?

4 A My clothes was gone.

5 Q And why were your clothes gone?

6 A Because Willie robbed me for the money.

7 THE COURT: Willie did what?

8 THE WITNESS: Robbed me. Willie robbed me.

9 Q You're saying that Willie robbed you?

10 A For the weed.

11 Q For the weed.

12 A Weed, money, and the coke that I had in my pocket.

13 Q Do you know what happened to the weed and the coke?

14 A No.

15 Q Thank you. No further questions. Please answer any
16 that the solicitor might have.

17 THE COURT: Mr. Weeks, Mr. Molony, whoever.

18 CROSS-EXAMINATION

19 BY MR. WEEKS:

20 Q Good afternoon, Mr. Holston.

21 A Good afternoon.

22 Q How are you?

23 A Under the circumstances.

24 THE COURT: You're what?

25 THE WITNESS: Under the circumstances, I am okay.

(Darrin D. Holston-Cross by Weeks)

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1 Q You weren't wearing glasses that night?

2 A No.

3 Q Okay. Do you wear glasses all the time?

4 A Sometimes.

5 Q Sometimes. And you didn't have a cellphone that
6 night?

7 A Did I have a cellphone that night?

8 Q Yea.

9 A No.

10 Q Okay. And you didn't have a wallet that night, did
11 you?

12 A I don't carry a wallet.

13 Q How much money did you have on you?

14 A Probably about 100 -- between \$100 and \$150.

15 Q Where were you carrying that?

16 A In my pocket.

17 Q And how much cocaine did you have?

18 A About an ounce.

19 Q How much cocaine is that for people that don't really
20 know a whole lot about cocaine?

21 A 28 grams.

22 Q How big is it?

23 A It's not big.

24 Q How much is it worth?

25 A Around 1200.

- 1 Q \$1,200 worth of cocaine?
- 2 A Yea.
- 3 Q How much marijuana did you have on you?
- 4 A 4 ounces.
- 5 Q Four ounces. And an ounce is 28 grams; so you had
- 6 four baggies or did you have one big bag -- a quarter
- 7 pound?
- 8 A I had a big bag.
- 9 Q It's a quarter pound, wasn't it?
- 10 A Yea.
- 11 Q How much is that worth?
- 12 A On the market around about six.
- 13 THE COURT: Six what?
- 14 THE DEFENDANT: About \$600 street value if you break
- 15 it all down.
- 16 Q That's a pretty good sized bag, too, isn't it?
- 17 A No, not compressed.
- 18 Q Oh, so this is professional dope. It is compressed;
- 19 right? You buy it in bigger quantities, cut it up, sell
- 20 it to your customers?
- 21 A If that's what they prefer.
- 22 Q How else would you prefer it? Some of them will buy
- 23 the bricks, won't they?
- 24 A Yes, sir.
- 25 Q Okay. Now, you had all of this in your pockets of

1 your pants?

2 A Yes, sir.

3 Q You didn't have a knapsack, you didn't have a bag,
4 you just had all of this stuffed in your pockets?

5 A Uh-huh.

6 Q Okay. And you knocked on the door?

7 A Yes, sir.

8 Q Mr. Walker -- When you knocked on the door how long
9 did it take him to get to the door?

10 A Not long.

11 Q Let me just ask you this, Mr. Holston. You knew all
12 about this house, didn't you? You knew who lived there?

13 A Yea.

14 Q You knew the residents were special needs kids,
15 adults?

16 A I knew that.

17 Q And you knew that because you had been sleeping with
18 or seeing the woman that Willie replaced that night,
19 didn't you?

20 A Me and her been long gone.

21 Q Long gone, but you had been to the house before,
22 hadn't you?

23 A Yes.

24 Q You knew all about the residents and who was at the
25 house and what their conditions were, didn't you?

- 1 A No. I didn't as far as that is concerned, no.
- 2 Q How do you know he went in the office? You had been
- 3 in the office before, hadn't you?
- 4 A I have been there, yes.
- 5 Q You go over and visit your lady there?
- 6 A No. She wasn't my lady, but, yes, I had been to the
- 7 office.
- 8 Q Let me get that straight. I want to go back she
- 9 wasn't my lady. You got anything tattooed on your chest?
- 10 A Uh-huh.
- 11 Q What is on your chest?
- 12 A My name.
- 13 Q What is it?
- 14 A Duke.
- 15 Q Duke. What's she got tattooed on her chest?
- 16 A Duke.
- 17 Q And she ain't your lady?
- 18 A No. Twelve years.
- 19 Q Twelve years and she ain't your lady?
- 20 A No.
- 21 Q You think she would disagree with that?
- 22 A I know she would.
- 23 Q Yea. All right. And this friend that you were with
- 24 that you were dealing dope with, he don't have a name?
- 25 Give me his name.

(Darrin D. Holston-Cross by Weeks)

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1 A Why the attitude?

2 THE COURT: Sir?

3 Q Give me his name.

4 A Jeffrey Brown.

5 Q Jeffrey Brown. Where does he live?

6 A In the Montmorenci area.

7 Q The Montmorenci area. That's a pretty big place?

8 A I don't know exactly.

9 Q You don't know exactly. Well, how about describe his
10 home for me.

11 A I haven't been.

12 Q This friend that's driving you around to deal dope
13 with you, you hadn't never been to his home?

14 A This friend was an individual that had a vehicle I
15 knew was acquaintance with that just happened to be at the
16 house I was at.

17 Q Where were you living?

18 A Where I was living at the time?

19 Q Yes.

20 A In North Carolina.

21 Q So he was in North Carolina with you?

22 A Oh, no, no, no. He wasn't in North Carolina with me.
23 You asked me where I was living at the time that this
24 particular incident took place.

25 Q Where were you living at the time this particular

1 incident took place?

2 A I was living in North Carolina. I was in Aiken.

3 Q In Aiken to rob people or deal dope?

4 A No. I had no intentions on robbing anyone.

5 Q I see. All right. Jeffrey Brown -- How old is he?

6 A I have no idea.

7 Q Well, describe what he looks like.

8 A Brown skin, around about 6, 6'1".

9 Q Thinner than you?

10 A No. No. About the same.

11 Q Drives a white SUV?

12 A Yea.

13 Q And Jeffrey Brown is his name. How did you pay him
14 for dealing dope with you?

15 A He wasn't dealing dope with me and I didn't have to
16 pay him. I asked him for a ride.

17 Q To take you where?

18 A To go handle some business.

19 Q Handle some business. And you carried around --
20 You're a dope dealer, drug dealer?

21 A I wouldn't say that.

22 Q I thought you said you were the middle man?

23 A Yes, I was.

24 Q Well, how are you the middle man if he is driving and
25 don't know nothing about it?

(Darrin D. Holston-Cross by Weeks)

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1 A He is not supposed to know my business. Am I
2 supposed to tell him my business?

3 Q No. I wouldn't do that if I were you. Now, also,
4 between the bag of dope, the 4 ounces of marijuana, and
5 the ounce of cocaine and your money, what else did you
6 have on you?

7 A I had on some green slacks, black, white, green polo
8 shirt with a white shirt underneath and some brown shoes,
9 soft bottom.

10 Q Had you had that on all night?

11 A Yes.

12 Q Okay. And you had gloves on?

13 A Not all night.

14 Q You had gloves on you when you say you went in to
15 Mr. Walker's?

16 A No. I had gloves on after I went in.

17 Q Okay. So you put your gloves on while you're in
18 there?

19 A Yes.

20 Q And started cutting up some cocaine?

21 A I didn't cut it up. I bagged it up.

22 Q Bagged it up?

23 A Yes.

24 Q You just reach in and grab some? Is that the way you
25 bag it up?

- 1 A I didn't have anything to measure it with.
- 2 Q Didn't have any scales?
- 3 A No.
- 4 Q Didn't have any baggies?
- 5 A Yea, I had baggies.
- 6 Q You had baggies. Where were they?
- 7 A In my pocket.
- 8 Q In your pocket. All right. You didn't have a gun?
- 9 You don't carry a gun when you're dealing dope?
- 10 A No.
- 11 Q Okay. And LaTasha -- That was your girlfriend for 13
- 12 years, wasn't she?
- 13 A Twelve.
- 14 Q Twelve; excuse me. And this is the guy right here
- 15 who you had been talking about as Willie, the one that you
- 16 say called you up on a phone that you don't have at a
- 17 house that you don't even know where it's at. How did he
- 18 get in touch with you?
- 19 A I never told you anything that you just mentioned.
- 20 Q I know I am adding a little detail to it.
- 21 A Exactly.
- 22 Q Yes.
- 23 A I was informed to go to the house.
- 24 Q You were informed?
- 25 A I had the address and when I got to the house I

(Darrin D. Holston-Cross by Weeks)

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1 recognized it was the house that Tasha worked at.

2 Q And you knew LaTasha's car?

3 A Of course.

4 Q Okay. And you knew she wasn't going to be there?

5 A No, I did not.

6 Q Well, you knew it wasn't her car out front?

7 A Yea, I knew that.

8 Q Okay. And why didn't your friend park in the
9 driveway like everybody else would have?

10 A He did.

11 Q Okay.

12 A He did.

13 Q So, it's your testimony that he parked in the
14 driveway?

15 A Yes.

16 Q LaTasha, your friend for 12 years, works there
17 house-sitting just like Willie does?

18 A Uh-huh.

19 Q You didn't know Willie Walker, did you?

20 A No, I didn't.

21 Q And you got informed that that is where you were
22 supposed to go to deliver some marijuana?

23 A Yea. It just so happened that that was the house.

24 Q It just so happened it was the house?

25 A Yes.

1 Q Okay. And it just so happened you knew what kind of
2 house it was and who owned it?

3 A I knew what kind of house it was, yes, I did.

4 Q And didn't know who was supposed to be buying dope
5 from you in that house?

6 A Huh-uh.

7 Q Okay. Now, you would admit that you were in the car
8 being driven by Mr. Walker, wouldn't you?

9 A Yes.

10 Q And you would admit that Mr. Walker jumped out of the
11 car?

12 A Yes.

13 Q And it's your testimony -- Well, I guess it's not
14 your testimony. You don't know what happened to your
15 clothes, do you?

16 A No.

17 Q So, Mr. Walker jumps out of the car, takes your
18 clothes, takes the marijuana, takes the dope, takes the
19 money, and jumps in the middle of a perfectly good road
20 while a car is speeding down the road to get away from
21 robbing you?

22 A It's possible he was getting away from the guy that
23 was following us. I don't know.

24 THE COURT: It's possible what?

25 THE WITNESS: He was trying to get away from the guy

(Darrin D. Holston-Cross by Weeks)

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1 that was following us.

2 Q Wait a minute. What guy that was following you? I
3 thought that the guy you were with turned off and you
4 didn't know where he was.

5 A Okay. He had to turn back around because earlier the
6 conversation went he pulled up. I heard testimony that he
7 pulled up afterwards.

8 THE COURT: All right, sir. I want you to testify
9 about what you know of your own knowledge. Don't be
10 speculating.

11 THE WITNESS: Okay. Yes, sir.

12 THE COURT: The rules don't allow any witness to
13 speculate.

14 THE WITNESS: Yes, sir.

15 THE COURT: Just tell us what you know.

16 THE WITNESS: Yes, sir.

17 Q So the gun -- I forgot about the gun. Mr. Walker
18 supposedly jumped out of his car onto the asphalt with a
19 gun, also.

20 A Did he jump on the asphalt with the gun? I have no
21 knowledge of that.

22 Q One minute he is driving and the next minute he ain't
23 and you're running into a tree?

24 A Yes.

25 Q There was nobody else in the car --

- 1 A No, sir.
- 2 Q -- when you ran into the tree?
- 3 A No, there wasn't.
- 4 Q And the first person you see are the people that's
- 5 testified here in court today at the trailer?
- 6 A Yes.
- 7 Q And when you see them you don't tell them, Hey, that
- 8 boy over there has got my clothes. He's got my dope.
- 9 He's got my money. You don't tell them anything about
- 10 that, do you?
- 11 A No, I don't.
- 12 Q You bum a cigarette from them?
- 13 A No, I didn't, actually.
- 14 Q And you call a girl, don't you?
- 15 A Yes, I do.
- 16 Q Which girl was this you called?
- 17 A I called my girlfriend.
- 18 Q Not the one you've been dating for 12 years --
- 19 another girlfriend?
- 20 A Yes.
- 21 Q You didn't call your partner who just left you?
- 22 A No.
- 23 Q You didn't call the police?
- 24 A No.
- 25 Q In fact, you told them don't call the police, didn't

(Darrin D. Holston-Cross by Weeks)

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1 you?

2 A I don't recall that.

3 Q You don't recall that?

4 A No, sir, I don't.

5 Q You recall Willie jumping out of the car and leaving
6 you to drive a car and sell dope at the same time but you
7 don't recall telling them not to call the police?

8 A I don't recall telling them not to call the police.

9 Q Now, Mr. Holston, you were in your youth a pretty
10 good athlete, weren't you?

11 A Wrong Holston.

12 Q Wrong one? You have lived in North Carolina all your
13 life?

14 A No.

15 Q How long had you lived up there before you came down
16 here dealing dope?

17 A Not long.

18 Q How long is not long?

19 A Not long.

20 THE COURT: All right, sir. Be specific.

21 THE WITNESS: A couple of months.

22 Q Who informed you to go to this house?

23 A (No response.)

24 Q Do you think that's a trick question?

25 A No.

1 Q Then why don't you answer it?

2 A I plead the Fifth.

3 THE COURT: Wait. Whoa. That's not incriminating
4 you. Answer the question.

5 THE WITNESS: A friend.

6 THE COURT: What is the friend's name?

7 THE WITNESS: (No response.)

8 Q I'm sorry. I didn't hear your answer.

9 A I didn't answer.

10 Q Are you gonna?

11 A (No response.)

12 Q Would that be a no, Mr. Holston?

13 A Yes.

14 Q Yes, you're going to answer it, or, no, you're not?

15 A I'm not.

16 Q Where did he make this transfer of information to
17 you?

18 A Excuse me?

19 Q Where did he tell you to go deliver some dope to the
20 person at [REDACTED]?

21 A Where did he tell me?

22 Q Yea. Where were y'all at?

23 A We was at a house.

24 Q So, a house?

25 A Yes.

(Darrin D. Holston-Redirect by Alves)

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1 Q Is that a house where you were staying?

2 A No, at the house that I was at.

3 Q The house that you were at. Is this the dope
4 dealer's house?

5 A No. This is the house that I was at when I got the
6 ride.

7 Q All right. Whose house was it at when you got the
8 ride?

9 A A friend of mines.

10 Q Pretty tough guy, aren't you, Mr. Holston?

11 A No, sir, not at all.

12 Q So, you're not going to tell us the friend that you
13 say you were getting dope orders from to go rob somebody
14 in a special needs house? You're going to stand tough by
15 constitutional rights?

16 A I didn't rob anyone at the special needs house.

17 Q Okay. And just to be clear, your lawyer asked you
18 about the CSC conviction.

19 A Yes, sir.

20 Q It was a CSC first degree, wasn't it?

21 A Yes, sir, it was.

22 MR. WEEKS: Please answer any questions that your
23 lawyer wants to ask you.

24 THE COURT: Miss Alves, anything you want to ask him?

25 MISS ALVES: Very briefly, Your Honor.

1 THE COURT: Ma'am?

2 MISS ALVES: Very briefly.

3 REDIRECT EXAMINATION

4 BY MISS ALVES:

5 Q Mr. Holston, we've heard a lot about this woman named
6 LaTasha.

7 A Yes.

8 Q Who exactly is LaTasha?

9 A LaTasha Corley was an old girlfriend of mine.

10 Q Are you still dating her?

11 A No, ma'am. We departed ways.

12 Q And on July 17, 2010 what was your relationship with
13 her?

14 A Friends.

15 Q Were you still dating?

16 A No.

17 Q And were you aware -- When you went to the house --

18 When you were en route to the location where you were

19 delivering the marijuana did you know that that was the

20 Tri-Development house?

21 A No; until I got there.

22 Q When you got there you recognized it?

23 A Yes.

24 Q And you had been there previously?

25 A Yes.

(Darrin D. Holston-Redirect by Alves)

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1 Q And when had you been there? Why had you been there?

2 A To pick LaTasha up and to drop her off from work.

3 Q And what was your intention on going to the house
4 that night?

5 A To sell marijuana.

6 Q Thank you. No further questions.

7 THE COURT: All right. You may step down. Next
8 witness.

9 MISS ALVES: I call Renee Tyler.

10 THE COURT: How many more witnesses you got?

11 MISS ALVES: Two more short witnesses.

12 THE COURT: Two more short witnesses. Are y'all
13 okay? All right. Let's take a quick break. Don't
14 discuss or deliberate. I understand. Did you see me get
15 up yesterday like I had to take a phonecall? Y'all are
16 right.

17 Sir, on the end -- Mr. Juror on the end, when y'all
18 get through with your bathroom break, just knock on the
19 door and we'll start right back up.

20 (Whereupon, the jury exited the courtroom at 4:21.)

21 THE COURT: Anything for the record, Miss~Alves,
22 before we take a very quick break?

23 MISS ALVES: No, sir.

24 (Whereupon, a break was taken.)

25 THE COURT: Is the state ready?

1 MR. WEEKS: Yes, sir.

2 THE COURT: Is the defendant ready?

3 MISS ALVES: Yes, sir.

4 THE COURT: Bring the jury in.

5 (Whereupon, the jury came into open court at
6 approximately 4:31.)

7 THE COURT: Call your next witness.

8 MISS ALVES: Renee Tyler.

9 THE COURT: Ma'am, come up here, please, and place
10 your left hand on the Bible and raise your right so the
11 clerk can swear you in.

12 RENEE L. TYLER, after being duly sworn,
13 testified as follows:

14 THE CLERK: Have a seat in the witness box stating
15 your full name spelling your last for the court, please.

16 THE WITNESS: Renee Louise Tyler; T-Y-L-E-R.

17 DIRECT EXAMINATION

18 BY MISS ALVES:

19 Q Miss Tyler, where do you work?

20 A Tri-Development Center of Aiken County.

21 Q And what is your position there?

22 A Community Training Home Two Coordinator.

23 Q What do you do in that position?

24 A Basically, my responsibilities are to assess, train
25 individuals with disabilities, higher and train the

(Renee L. Tyler-Direct by Alves)

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1 employees for the position as a residential support
2 provider.

3 Q A residential support provider?

4 A Yes, which is the direct care.

5 Q What involvement do you have with the residential
6 homes such as the one at [REDACTED]?

7 A Basically, I am responsible for the overall
8 responsibility of the home making sure supplies are there,
9 the house is fully staffed, the consumer's needs are met,
10 be sure no abuse or neglect occurs.

11 Q Are you familiar with Mr. Willie Walker?

12 A Yes.

13 Q And how do you know him?

14 A He's a previous employee.

15 Q And what was your position in regards to his
16 employment?

17 A My position? Excuse me.

18 Q Yes, ma'am. You were the supervisor?

19 A Yes.

20 Q So, you were the person he reported to directly?

21 A Correct.

22 Q And are you aware of the incident that occurred at
23 the home according to Mr. Walker on July 17 of 2010?

24 A Yes.

25 Q And how did you find out about the incident? Who

1 told you? I am not asking you what they told you. I am
2 asking who told you.

3 A My immediate supervisor Rachel Sharp.

4 Q And at any point did you talk to Mr. Walker about
5 what he says happened?

6 A I got -- yes. Yes.

7 Q And you actually did a statement regarding what
8 Mr. Walker told you about this incident?

9 A Yes.

10 Q Why did you have to do a statement?

11 A For workman's comp purposes.

12 Q Because he was claiming workman's comp? He was
13 claiming worker compensation?

14 A Yes. It's automatically workman's comp because it
15 happened during the shift. So, whether he wanted to
16 report it or not I would still have to report it.

17 Q And you talked to Mr. Walker about what he said
18 happened?

19 A I briefly spoke to him via telephone.

20 Q And you documented what he told you?

21 A Correct.

22 Q And do you recall what he told you?

23 A Briefly.

24 Q All right. Would it help for you to look at the
25 statement that you wrote?

(Renee L. Tyler-Direct by Alves)

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1 A Uh-huh.

2 Q It would?

3 A Yes.

4 Q Did you leave it back here?

5 A Oh, yea, I did. I looked at it already.

6 Q Was that sufficient to refresh your memory about what
7 it says.

8 A Uh-huh, yes.

9 Q Okay. So, can you tell us what Mr. Walker told you?

10 A What I can remember we had the phone conversation.
11 It wasn't immediately after the incident occurred. He
12 heard a bang or a loud burst noise at the front door. A
13 guy came in. He ran out the back.

14 Q Who ran?

15 A Mr. Walker. But he asked him for money. He made the
16 statement that he didn't have any. He informed the
17 intruders that he didn't have any money. They asked him
18 to take -- They asked him to take them to the ATM.

19 Q Let me ask you this. When he talked about the person
20 who did this, he told you there were two people?

21 A From what I can recall ---

22 THE COURT: Ma'am, why don't you get your statement
23 and let's quit trying to recall and see exactly what you
24 wrote down.

25 MISS ALVES: I'll get it.

1 THE COURT: This is a statement that you fill out
2 because of worker's comp?

3 THE WITNESS: Yes, sir.

4 THE COURT: For a worker's compensation claim?

5 THE WITNESS: Yes.

6 THE COURT: When is it dated?

7 THE WITNESS: 7/22.

8 THE COURT: What year?

9 THE WITNESS: 7/22/2010.

10 THE COURT: Ma'am, she's asking specific questions.
11 Why don't you refer to that so you can give a specific
12 answer.

13 Q How many people did Mr. Walker tell you came into the
14 house?

15 A One person entered the home.

16 Q And where did he tell you he ran to?

17 A The side door.

18 Q And what does he say happened at the side door?

19 A Well...

20 THE COURT: Ma'am, just look at your statement.
21 That's perfectly permissible.

22 THE WITNESS: It was a guy; another guy at the side
23 door..

24 Q So Mr. Walker told you that he ran to the side
25 entrance and that when he arrived at the side door there

(Renee L. Tyler-Direct by Alves)

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1 was a second person standing at the door with a gun?

2 A From what I recall, yes.

3 Q But you wrote this down after he told you what his
4 version of the story is; is that right?

5 A Correct.

6 Q And you submitted this as your answer to his worker's
7 compensation claim; is that correct?

8 A Correct.

9 Q And this was done -- and you just told the judge on
10 July 22, 2010?

11 A Yes.

12 Q And you signed it saying that you had talked to him
13 about it and that's what he told you?

14 A Yes.

15 Q And you certified that the information was true to
16 the best of your knowledge and belief; is that right?

17 A Right.

18 Q Okay. And this is the information that he told you?

19 A Yea, from what I recall in ---

20 Q Okay.

21 THE COURT: Hold on. And what?

22 THE WITNESS: Yes.

23 THE COURT: Ma'am?

24 THE WITNESS: Yes.

25 Q You're saying yes, this is the information he told

1 you?

2 A Right. One sentence in here that I know that is not
3 me say that -- about the ATM. I do remember clearly
4 speaking to another staff about the ATM situation.

5 Q Okay.

6 A So...

7 Q I am just asking you about the part he told you
8 about.

9 A Right. Okay.

10 Q Thank you. No further questions.

11 THE COURT: Cross, if any?

12 THE WITNESS: I'm sorry?

13 THE COURT: He gets to ask you some questions.

14 CROSS-EXAMINATION

15 BY MR. WEEKS:

16 Q Renee, how long have you been with Tri-Development?

17 A Since November of 2009, but I previously hired in
18 June of June 28, 2002, and I moved away due to family
19 relations in Chesapeake, Virginia. So, I was rehired back
20 in November of 2009.

21 Q All right. And when you got rehired back in '09 were
22 you Willie's supervisor?

23 A Correct.

24 Q All right. And how many homes do you have under your
25 control?

(Renee L. Tyler-Cross by Weeks)

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1 A Five.

2 Q And I heard what you say your duties were at the
3 time. Are you doing something else now?

4 A Same thing.

5 Q Okay. I notice that the statement is not signed by
6 Willie.

7 A No, it's not.

8 Q That was something you paraphrased and put together
9 for worker's comp?

10 A Yes.

11 Q Did you go to the scene that night?

12 A No, sir. I was out of town in Atlanta, Georgia.

13 Q Okay. Did you go at some point later?

14 A Yes.

15 Q In fact, you know that Willie was drug tested right
16 after this, don't you?

17 A Correct.

18 Q And did he test positive for anything?

19 MISS ALVES: Objection, Your Honor.

20 THE COURT: What is the objection?

21 MISS ALVES: Your Honor, I don't think there's been
22 any type of proper basis leading to the question.

23 THE COURT: Well, overruled.

24 Q Are y'all all subject to random drug tests?

25 A Every employee.

1 Q And did Willie have to take a drug test after this
2 worker's comp incident?

3 A Correct.

4 Q And did he show anything? As his supervisor, did
5 anything show up?

6 A No, sir.

7 Q And are y'all given a complete drug screen?

8 A Yes.

9 Q All right. And when an employee gets hired you're
10 given a complete drug screen, aren't you?

11 A Yes.

12 Q Okay. And at various times during employment if your
13 social security number comes up random y'all are given a
14 drug screen, aren't you?

15 A Yes.

16 Q Was Willie a good employee?

17 A Very good employee.

18 Q Did you ever have any problems with Willie?

19 A No problems. He would report to work on time, very
20 seldom call. I can't remember a time he ever called out.
21 Very responsible individual.

22 Q And you train your employees?

23 A Yes.

24 Q And they are supposed to keep up with that
25 accountability log thing, aren't they?

(Renee L. Tyler-Redirect by Alves)

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1 A Yes.

2 Q Okay. Do you train them to jump out of cars?

3 A No, sir.

4 Q Okay.

5 THE COURT: Anything on redirect?

6 MISS ALVES: Yes, sir.

7 REDIRECT EXAMINATION

8 BY MISS ALVES:

9 Q Miss Tyler, you wrote Mr. Walker up for falsification
10 of documentation, didn't you?

11 A I was ordered to write. It was informed by my
12 immediate supervisor to give him that disciplinary action.

13 Q You were told by your supervisor to write Mr. Walker
14 up? Is that right?

15 A No. The write-up was already in place. I was
16 informed to give it to him.

17 Q Okay. So, somebody else had already prepared the
18 write-up?

19 A Correct.

20 Q But as his supervisor you were required to give it to
21 him?

22 A Correct, as his immediate supervisor.

23 Q And you signed it?

24 A Correct.

25 Q I am showing you what's been marked as Defense

1 Exhibit No. 5. Is that the write-up that you gave to
2 Mr. Walker?

3 A Correct.

4 Q And you signed it? Is that your signature right
5 there on the line?

6 A Yes.

7 Q Where it says signature of supervisor?

8 A Yes.

9 Q And so you gave him this write-up because he
10 falsified the accountability logs; is that correct?

11 A Correct.

12 Q And you signed this paperwork saying that it is
13 imperative that the accountability checks are carried out
14 as required in order to ensure the health and safety of
15 the consumers we serve. Did you sign that?

16 A Correct.

17 Q So, this good employee was lying on the
18 accountability records. Is that what this tells us?

19 A It's not correct. The documentation was improper.

20 Q What documentation was improper?

21 A Of the accountability.

22 Q Willie's documentation on the accountability logs was
23 improper?

24 A Correct.

25 Q Actually, it was faked, wasn't it?

(Renee L. Tyler-Redirect by Alves)

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1 A It wasn't correct.

2 Q Actually, it was done two hours ahead of time, wasn't
3 it?

4 A Right.

5 Q What's the policy on the accountability logs?

6 A Real time. It should be kept real time.

7 Q What does that mean, real time?

8 A At that specific time you mark it.

9 Q So, at 1 o'clock pm I'm supposed to -- An employee in
10 the home in Willie's former position would have to see
11 what a consumer was doing? One of the clients?

12 A Have visual contact.

13 Q And then they would have to log down what that person
14 is doing?

15 A Correct.

16 Q At 1 o'clock?

17 A Right.

18 Q And then at 2 o'clock they would have to have visual
19 contact again?

20 A If that person's accountability is at 2 o'clock;
21 correct.

22 Q If that person's accountability is at 2 o'clock
23 they'll have to log it down again?

24 A Yes.

25 Q And they'll have to log down what that person is

1 doing at 2 o'clock?

2 A Correct.

3 Q So, by real time you mean you have to fill out the
4 log at the exact time you're having the visual contact?

5 A Correct.

6 Q And according to the write-up that you signed that
7 you provided to Mr. Walker as his supervisor ---

8 MR. WEEKS: Your Honor, we've kind of beat this horse
9 and she's leading her own witness.

10 THE COURT: That's correct.

11 MISS ALVES: Yes, sir.

12 THE COURT: Restate the question. It has been asked
13 and answered.

14 MISS ALVES: Yes, sir.

15 As a result of his falsifying the logs what were you
16 told to do?

17 THE WITNESS: Give him a disciplinary action.

18 MISS ALVES: Okay. Thank you. No further questions.

19 THE COURT: You may step down.

20 MISS ALVES: I call Rachel Sharp.

21 THE COURT: May she be excused?

22 MISS ALVES: Yes, sir. Ma'am, you can be excused.

23 THE COURT: Be careful stepping down, please. Thank
24 you.

25 MARY R. SHARP, after being duly sworn, testified

(Mary R. Sharp-Direct by Alves)

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1 as follows:

2 THE CLERK: Have a seat in the witness box stating
3 your full name and spelling your last for the court,
4 please.

5 THE COURT: Good afternoon.

6 THE WITNESS: I'm Mary Rachel Sharp; S-H-A-R-P, no E.

7 DIRECT EXAMINATION

8 BY MISS ALVES:

9 Q Ms. Sharp, where do you work?

10 A Tri-Development Center of Aiken County.

11 Q And what is your position there?

12 A I'm the Director of Supervised Living Supports.

13 Q What do you do specifically in that position as it
14 relates to the homes such as the one at [REDACTED]?

15 A Manage all of the CTH2 homes and then three other
16 programs that are similar residential programs.

17 Q So are you a supervisor over the homes?

18 A Yes.

19 Q By the homes we're talking about the homes similar to
20 [REDACTED]?

21 A Right. Yes.

22 Q Were you aware of this incident on July 17, 2010?

23 A I became aware of it when I received a phonecall from
24 Aiken County Sheriff's Office.

25 Q Do you know which officer contacted you?

1 A I don't recall.

2 Q Okay. What did you do as a result of this phonecall?

3 A Once I got the basic information from the officer I
4 went to the home at Wheat Road.

5 Q Okay. And do you recall around what time you got
6 there?

7 A It was after four but it was before five; so I don't
8 know -- maybe about 4:30, 4:45, something like that.

9 Q Okay. And when you got there who was there?

10 A There was an officer there and there was a crime
11 scene forensic person there processing the crime scene.

12 Q Okay. So there were two police officers there?

13 A Right. And then the three -- three of the four
14 gentlemen who live in the home were present.

15 Q Okay.

16 A One was with his family.

17 Q Okay. So of the three residents, what were they
18 doing?

19 A Thankfully they were asleep.

20 Q And did you notice anything unusual when you got to
21 the house?

22 A The front door was busted. There were a couple of
23 like mops and brooms that were in disarray.

24 Q Mops and brooms?

25 A Yea.

(Mary R. Sharp-Direct by Alves)

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1 Q Where were they?

2 A They were in the kitchen area. There's a couple of
3 doorways; so they were kind of in the kitchen area.

4 Q Okay. Was there anything else that you noticed that
5 was unusual about this home?

6 A Not immediately. I mean, as I was, you know, going
7 through the house mainly just making sure that the guys
8 were safe, looking to see if anything obvious was missing.
9 That's pretty much it. After I was there for a little bit
10 of time the -- I noticed that the medication cabinet was
11 unlocked. It is something that's usually locked.

12 Q Is that required to be locked?

13 A Yes.

14 Q And that was sitting unlocked?

15 A At that time.

16 Q Do you know how long it had been like that?

17 A I don't. I mean, our staff frequently will count
18 medications at night; so I don't know whether he was
19 getting ready to count medications or just if he forgot to
20 lock it back or what. I mean, because I really didn't
21 have any information at that point. I'm walking in pretty
22 cold.

23 Q Okay. So the things that you noticed when you got
24 there that night and you were checking the house is that
25 the doors were -- the door was broken, that there was some

1 mops and brooms in some slight disarray, and that the
2 medicine cabinet was unlocked?

3 A Correct.

4 Q And that's supposed to be locked?

5 A Right.

6 Q Did you notice that the log was falsified at that
7 time?

8 A I did not realize that at that time. It was later in
9 the morning whenever I really found out the time that the
10 incident actually took place because when I came in I
11 thought it had just occurred; so I didn't know that there
12 was, you know, a couple of hour timeframe difference in
13 what I was thinking and when I arrived.

14 Q But the next morning you realized that the log had
15 been falsified?

16 A Right. Once I realized what time the kidnapping
17 occurred, then I recalled that the log was up to date
18 until 4 o'clock when I arrived; so when I arrived after
19 4 o'clock I thought everything was up to date the way it
20 should have been.

21 Q Okay. But it really wasn't?

22 A Correct.

23 Q I don't have any more questions, Ms. Sharp. Please
24 answer any that the solicitor might have.

25 THE COURT: Any questions?

(Mary R. Sharp-Cross by Weeks)

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CROSS-EXAMINATION

1

2 BY MR. WEEKS:

3 Q Rachel, you were kind of embarrassed the have to
4 write up Willie?5 A Yes. He is a wonderful employee. He is welcome to
6 come back anytime he wants to.

7 Q Thank you. No further ---

8 A It was very difficult.

9 Q And y'all didn't find any medicines missing or
10 anything like that?11 A No, no. And like I said, I don't know what he was
12 doing at that particular time that he was kidnapped.

13 MR. WEEKS: Thank you.

14 THE COURT: Thank you, ma'am. You have a wonderful
15 evening and you're released from your subpoena.

16 THE WITNESS: Thank you.

17 THE COURT: Thank you. Next witness.

18 MISS ALVES: The defense rests, Your Honor.

19 THE COURT: Anything in reply by the state?

20 MR. WEEKS: No, Your Honor.

21 THE COURT: Let me see y'all over here.

22 (Whereupon, a bench conference was held.)

23 THE COURT: All right. Mr. Foreman, we're complete
24 with all of the testimony. What we have left are the
25 closing arguments by the lawyers and then I have to give

1 you the law. There are three indictments; so I have to
2 give you the law on three cases plus some general law.

3 Here's the options. We can keep on going. You
4 probably would not receive the case and start deliberating
5 until 6:15 or 6:30. That's 30 minutes a side and then me
6 another 20 minutes. Or we can come back in the morning
7 and y'all can start fresh right in the morning and after
8 they argue and charge if you see we're going to go -- In
9 the morning if we see we're going to go into the lunch
10 hour what I would do is order lunch in and you could eat
11 right through lunch so you wouldn't have to go out and
12 wouldn't be disturbed.

13 I'll do what y'all want to do. Some of them may have
14 children and families. I've already made the decision. I
15 see some mamas.

16 Young man, you could stay late, though, couldn't you?
17 All right. We're going to break. We'll start at 9:45 in
18 the morning. That's 15 minutes later.

19 Mr. Whittle, sausage biscuits? Or would y'all rather
20 have fruit?

21 THE FOREPERSON: Whatever they want.

22 THE JUROR: Biscuits is fine.

23 THE COURT: All right. Another biscuit. Now, please
24 don't discuss the case tonight. Don't start any
25 deliberating amongst yourselves. Don't go home and do any

1 internet research or what else? Facebook or Twitter.
2 We're going to try this case based on what we hear. Y'all
3 have been great and paid close attention.

4 We'll start right on time in the morning at 9:45.
5 The state will argue or they'll however they're going to
6 argue it and then I'll charge you and we'll give you the
7 case and if we see we're going to go through lunch I'll
8 send out for sandwiches from the Bowery or something.
9 Have a pleasant evening.

10 Everyone else remain seated.

11 (Whereupon, the jury exited the courtroom at 4:56.)

12 THE COURT: All right. We'll start at 9:45 in the
13 morning. As far as charge goes I don't know of any
14 specific charge other than my normal charge which y'all
15 are all very familiar with. It will be a burglary first,
16 kidnapping, and armed robbery and the attempt or regular
17 credibility of witnesses, burden of proof, reasonable
18 doubt, prior record of the defendant for impeachment
19 purposes only, duties of judge and jury, credibility of
20 witnesses. I have said that. Anything else? Anything
21 specific? And if you got something specific I'll be here
22 about 9:30 and just bring them in here. We'll look at it.

23 Three verdict forms -- very simple. We find -- As to
24 each indictment we find the defendant not guilty, we find
25 the defendant guilty as to three respective indictments.

1 Anything you can think of, Miss~Alves, that we're
2 missing?

3 MISS ALVES: No, Your Honor, but I know I probably
4 should know this as many trials as I've had in front of
5 you, but what do you charge for reasonable doubt?

6 THE COURT: The kind of doubt that would cause a
7 reasonable person to hesitate to doubt and then I go
8 further than that which is ---

9 MISS ALVES: And do you go to firmly convinced?

10 THE COURT: Yes, ma'am, firmly convinced and you can
11 read it if you want to. Anything else?

12 MISS ALVES: No, sir.

13 THE COURT: If you see that we need something in the
14 morning, let me know.

15 Miss~Alves, do you have any motions you need to make
16 at the conclusion of the case?

17 MISS ALVES: Yes, sir. Your Honor, at this time I
18 move for a directed verdict on behalf of Mr. Holston.
19 Taking the evidence in the light most favorable to the
20 state I would move for a directed verdict on behalf of
21 Mr. Holston in regards to all three of this charges.

22 THE COURT: Well, respectfully denied. Obviously,
23 we've got the victim saying one thing and the defendant
24 saying something else. It's for the jury to determine who
25 they believe and whether or not the state has proven their

1 case beyond a reasonable doubt, but it is certainly a jury
2 question. I will respectfully deny the same.

3 MISS ALVES: Yes, sir.

4 THE COURT: Anything else?

5 MISS ALVES: No, sir.

6 THE COURT: I assume he is in custody and will remain
7 in custody. I'll see y'all bright and early in the
8 morning.

9 (WHEREUPON, the proceedings were concluded for the
10 day and were reconvened on May 12, 2011 as follows:)

11 THE COURT: Is the state ready to proceed?

12 MR. WEEKS: The state is ready. We waive opening
13 argument.

14 THE COURT: Miss-Alves, are you ready?

15 MISS ALVES: Yes, sir.

16 THE COURT: All right. Who is making the argument?
17 Mr. Molony or Mr. Weeks?

18 MR. MOLONY: I am, Your Honor.

19 (Whereupon, the jury came into open court at
20 approximately 9:47.)

21 THE COURT: Did everybody get a sausage biscuit?

22 What we have left is the final argument. The defendant
23 will go first followed by the state. Please bear in mind
24 once again that final arguments are like opening
25 statements -- it's not evidence in the case. It is

1 obvious the lawyers -- They're advocates for their
2 clients. They're going to argue it towards their client's
3 benefit. You've heard all of the evidence and you'll be
4 able to make your decisions from that.

5 Once they have completed their arguments I'll charge
6 or instruct you on the law and then you'll be able to
7 start deliberating. Please pay close attention. Thank
8 you.

9 Miss-Alves?

10 MISS ALVES: May it please the court, Mr. Molony.

11 CLOSING STATEMENT

12 MISS ALVES: Good morning. Like I told you yesterday
13 it is not going to be a long trial, but it is an important
14 one, and I asked you to wait until you heard all of the
15 evidence and to, you know, not just rushing to judgment
16 right away. If you heard the state's case you could say,
17 wow, case closed, end of story. Then you heard from
18 Mr. Holston and now you're hearing my arguments -- my
19 closing argument on what I think the evidence showed and
20 then you'll hear from Mr. Molony and then the judge will
21 tell you what the law is.

22 Like I told you yesterday and like the judge told
23 you, Mr. Holston sits over there presumed innocent. He is
24 an innocent man until the 12 of you jurors decide whether
25 or not the state has proven beyond a reasonable doubt that

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1 he did commit these offenses on July 17, 2010. One thing
2 I want to tell you is something that, you know, you've
3 heard time and again when you're a little kid is if you
4 lie about the little things you lie about the big things.

5 Well, we heard Mr. Willie Walker called a lot of
6 things in here. We heard him called, oh, he is a
7 wonderful employee and I'm sure he was because you know
8 what? He got to work on time and he showed up and he
9 didn't complain and he didn't call in sick a lot or hardly
10 ever as one of the supervisors said. That's a wonderful
11 employee. I'll tell you what -- That's a great employee,
12 but was he really that wonderful an employee?

13 You heard some testimony about that. You heard a lot
14 of accolades about him. You heard Mr. Molony in his
15 opening statement call him a hero. There is a letter here
16 that's in this file talking about how wonderful his
17 actions were on that day, but they don't tell the whole
18 story about Mr. Molony's [sic] character because he wasn't
19 that wonderful an employee. He falsified documents. He
20 didn't do exactly what he was supposed to do. He had just
21 never gotten caught before. We'll talk more about that.

22 Now, here we have two separate stories. You have --
23 It is going to be up to you the jurors to decide whether
24 or not this was a burglary, armed robbery, or kidnapping
25 or whether this was a drug deal that just went bad. Now

1 you heard from Mr. Holston. He told you what -- He told
2 you what happened on that day. He told you that he was
3 asked by a friend to go and deliver drugs to Mr. Walker at
4 an address: [REDACTED]. He didn't recognize the
5 address even though he had been to that address before
6 because he was -- He had been there before when he was
7 picking up his former girlfriend.

8 What did he say? Mr. Holston could have got up
9 there and said, oh, no, we were friends, this was a
10 misunderstanding. He could have got up there and told you
11 any story. What did he do? No, he admits to a crime. He
12 sits up there and not only admits to one crime, admits to
13 two crimes. Not only was he selling marijuana, he was
14 also divvying up and cutting up cocaine and separating it
15 into bags for sale.

16 He told you what he was doing. He could have got in
17 here and not said he was doing any crime; that Mr. Walker
18 just was -- that he and Mr. Walker were hanging out and
19 doing whatever they were doing, but, no, he told you what
20 he was doing on that day. This was a drug deal.

21 And Mr. Weeks when he was questioning him asked him,
22 well, did he tell anybody that night, Hey, this was a drug
23 deal gone bad and he held a gun on me. Where did he have
24 opportunity to do that? Okay, yes, there were those two
25 gentlemen the good samaritans who were at the house across

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1 from the accident. These are two young guys who he had
2 never seen before. He is out of it from an accident. He
3 is bleeding badly. What is he going to do? Sit down and
4 tell them, Oh, I was in a drug deal with this guy and he
5 held a gun on me? This guy is already hollering running
6 around and telling his side of the story. All he could do
7 is sit and be cool.

8 Who is he going to tell? The police? What did the
9 police do? The minute they get there they talk to
10 Mr. Walker and Lieutenant Abdullah told you. He was the
11 first person on the scene. What did he do? He walks over
12 to Mr. Holston who is on the body board from EMS and what
13 is the first thing he does? He puts handcuffs on that
14 man -- a man who was bleeding badly, laying on a board
15 with EMS. The first thing he does after hearing
16 Mr. Walker's story is immediately puts handcuffs on
17 Mr. Holston -- doesn't ask any questions.

18 Investigator Sanders goes to the hospital to talk to
19 Mr. Holston. At that point he is sedated because he said
20 he was on medication and he couldn't talk to him. What
21 else is he? He is under arrest because they immediately
22 believe Mr. Walker's story and not Mr. Holston. When did
23 he have opportunity to come and tell his story to anybody?

24 It was too late at that point. So, should he have
25 been like, Police, Police, wait a minute; this is what

1 really happened? You see how the solicitor reacted and
2 you see the testimony yesterday from Mr. Holston. He
3 asked the solicitor, Why so hostile? Why so hostile? He
4 is just telling his story. That was the reaction we got
5 in the courtroom. What would he have gotten on the
6 street? Nobody wanted to hear from him. Immediately they
7 just jumped to Mr. Walker's defense and immediately
8 arrested Mr. Holston. That was it.

9 So, when did he have time -- When did he have
10 opportunity to tell history in this courtroom yesterday?
11 And we have lots of questions and there were lots of
12 questions in the courtroom about where did he get the
13 drugs from. Who cares? We're not here prosecuting that
14 drug dealer. I'm not saying my client had clean hands in
15 this because he was dealing drugs, too. He was the middle
16 man in a drug deal. However, that doesn't mean he was the
17 perpetrator of this burglary, armed robbery that
18 Mr. Walker is accusing him of.

19 And why does it matter who the person was where he
20 got the drugs from? He doesn't want to rat out his
21 friend. I understand that. He's in trouble here dealing
22 with this allegation. He doesn't want to have somebody
23 else in trouble, too, just because of this. He doesn't
24 want to give up another person's name. He could have just
25 made up a name, but he didn't. He wanted to be honest and

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1 he didn't tell.

2 Now he told about who was driving the car that day --
3 Jeffrey Brown -- but he doesn't know Mr. Jeffrey Brown
4 well. He just knows him from around. He was just there
5 and had a car and he needed a ride to a drug deal. And
6 now we heard about something about what another black male
7 might have done and that could have been Jeffrey Brown.
8 Mr. Holston can't say because, remember, he wasn't really
9 conscious when they're saying this person came up and
10 grabbed the gun off of the seat or off of his lap.

11 Could it have been Mr. Brown? Well, if I was
12 Mr. Brown and I was in a drug deal gone wrong and the
13 police were coming and my friend -- or rather the person I
14 was driving was out of it and unwell and I know that EMS
15 and the police are going to be asking questions, I
16 wouldn't have stuck around either -- not if I am Mr.
17 Brown. I'm out.

18 Would I have grabbed the gun? Mr. Brown is involved
19 in a drug deal. I don't know what he would have done.
20 Obviously, that's what he did.

21 And the solicitor also asked Mr. Holston a lot of
22 questions about LaTasha Corley, his ex-girlfriend. Now,
23 yes, he did date a woman who worked at that home and he
24 told you that when he went to the house he recognized, Oh,
25 that's the place. That's the Tri-Development home.

1 That's where LaTasha worked. Okay, fine. A lot of times
2 you know where something is. You may not know the exact
3 address of the location. And he told you and the
4 solicitor made a point of mentioning the tattoo -- that
5 she has his tattoo on her shoulder and that they were
6 together a long time.

7 You know, if you're dealing -- If I am going by my
8 friends and family members, then tattooing a man's name on
9 your body is a guaranteed way to break up with him. And,
10 you know, I started thinking about that yesterday when the
11 solicitor was asking him about this LaTasha and those 12
12 years, I started thinking -- I'm like all of those
13 celebrities every time you turn around they're getting
14 their names tattooed or somebody's name tattooed on them
15 and they're breaking up, and I go on the internet and I
16 pulled this picture. Angelina Jolie. I remember when she
17 was all in love with Billy Bob Thornton and she had his
18 name tattooed big as day on her arm. I remember that. I
19 had a laugh about that and I was thinking, Well, gosh, the
20 solicitor is making a big deal about that, but Angelina
21 Jolie is now with another guy named Brad Pitt and you see
22 her every day in the supermarket on those tabloids. Every
23 day. A guaranteed way to break up with him is tattoo his
24 name on it. I guess my family and friends are not the
25 only ones who do fool things.

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1 Now, we can't say -- I want to talk about the guys at
2 the scene. They didn't -- They weren't watching the car
3 100 percent. Those are just some good guys who, you know,
4 saw an accident and went to help -- I mean, good
5 samaritans, but they weren't exactly accurate on the
6 times. And who would be? I mean, they said 20 to 30
7 minutes. It might have seemed like 20 or 30 minutes. It
8 might have seemed like hours because, you know, when
9 you're waiting for, you know, the police to show up or
10 ambulance when high drama happens around your house, but
11 according to the police officers it was only maybe about
12 13, 14 minutes before they came and when they got the call
13 at 2:37 to when they arrived at the scene and those guys
14 weren't watching the car the entire time.

15 Nobody testified about what Mr. Walker had in his
16 hands when he got out. Nobody testified about whether or
17 not they saw Mr. Walker putting anything in the woods.
18 They don't know. Even the police officer who was
19 processing the scene didn't check the woods because nobody
20 told him to check the woods. He didn't know there might
21 be evidence out there, but we don't know what Mr. Walker
22 could have done.

23 Is it possible that Mr. Holston's story is true that
24 Mr. Walker did hold him at gun point, force him to take
25 his clothes and his shoes off, and told him to put

1 everything on top of the console in between -- on the seat
2 between them? And is it possible that Mr. Walker got the
3 stuff out of the car? It's possible. And he told you why
4 he had a gloves on. Again, he told you because he was
5 committing a crime, but he told you that.

6 Now, the question you have to ask is what supports
7 Mr. Holston's story here? Well, number one, he stayed
8 right there and waited. Now, one of the -- One of the
9 guys said that they told -- that they kind of faked him
10 out that they weren't really calling the police. The
11 other one didn't say anything about that. He just said
12 that they called the police.

13 Mr. Holston is sitting right there. He's not trying
14 to leave the scene. He is not trying to go anywhere. He
15 is not trying to walk away. He is just sitting there
16 waiting on the stairs, waiting for EMS and the police. He
17 had his gloves on. He told you why -- because he was
18 handling drugs. He admitted to other crimes.

19 Most importantly, he was in his underwear. Who robs
20 somebody in their underwear? Who would go up to a
21 location where they don't know a person, bust in a door
22 first off having to kick it in? They're saying he did all
23 of this damage kicking this door in in his bare feet --
24 or, excuse me; he had dress socks on. Who would go to rob
25 somebody wearing boxer shorts, two mismatched gloves, and

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1 two black socks with their name tattooed on their chest?

2 Now, according to Mr. Walker, Oh, he was holding the
3 gun up to his head and he was hiding his face. He wasn't
4 hiding his name. You could see that clear as day. Duke.
5 He told you that was his nickname and that was on his
6 chest. Don't you think that would have been a great way
7 to identify him with that name? Possible.

8 And the guys at the house, they can't tell you
9 exactly what Mr. Walker was doing because you remember
10 where their focus was after Mr. Walker's story. They were
11 focused on Mr. Holston -- the man that Mr. Walker was
12 saying had threatened him, and according to them he wasn't
13 saying that -- Mr. Walker didn't tell them, Oh, he was
14 trying to rob me. No. Mr. Walker said he was trying to
15 kill me. One of them said Mr. Holston said, Oh, I am
16 going to kill him, but the other one didn't say that.

17 So we can't exactly be sure exactly what. Now, these
18 are good samaritans. I am not saying they lied about this
19 at all, but their memory is a little faulty, their times
20 are off, and they weren't watching the car, so they can't
21 say exactly what Mr. Walker might have been doing.

22 Now we have to talk about Mr. Walker. Now, you heard
23 from his supervisors and, yea, I'm sure he was -- Like I
24 said, he was a good employee. I can't deny that. He
25 showed up, but in this situation they have rules at that

1 center. One of the rules is that the drug locker should
2 be kept locked at all times. Yet, on this night the drug
3 locker was left open. There was no testimony whatsoever
4 that -- from Mr. Walker that Mr. Holston or that this
5 alleged second guy took him to the drug locker, forced him
6 to open the drug locker, or anything like that.

7 In fact, there were several different people who
8 testified and they all told you what Mr. Walker said and
9 at no point did anybody ever say anything about a drug
10 locker except Ms. Sharp who testified that when she got
11 there she found it unlocked and it's not supposed to be;
12 so she figured maybe Willie was in the drug locker or
13 doing something right before, but, no, Willie told you
14 what he was doing right before. He was sitting in this
15 chair reading these books and watching television -- not
16 working on the drug locker.

17 They have another rule. You have to keep the
18 accountability logs accurate. They must be kept in real
19 time according to Ms. Tyler. That means you have to check
20 on each person at the time you're supposed to check on
21 them and document it. Well, we have his documentation.
22 He's documented all of the way up to 4 o'clock. The
23 police were called at 2:37. That means he was not in this
24 house at 3 o'clock or at 4 o'clock when he listed that
25 people were sleeping and he accounted for their actions.

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1 Now, Mr. Ralph Courtney who was the director of the
2 Tri-Development told you why those records are important.
3 He wasn't really exactly sure about the law on it, but he
4 thought he had to keep them and they keep them for a
5 period of 10 years. He wasn't really sure, but he thought
6 they were required for medicaid. That means they're
7 required by the federal government. They are required to
8 keep these logs for the safety and health of these people.
9 It even says so on the write-up he got for falsifying
10 them.

11 So, he didn't do that. He didn't keep the drug
12 locker closed locked like he was supposed to for whatever
13 reason. He falsified the logs. Another rule they have is
14 you're not supposed to leave. I don't know if they're
15 allowed to have people in or out, but they're not supposed
16 to leave and here he is according to Mr. Holston in a drug
17 deal and isn't it funny that they both say the same amount
18 of money? And all of a sudden Mr. Walker on the stand
19 says, Oh, yea, they asked me for \$400, held a gun to me,
20 demanded money, and then the second person comes in and
21 asks for \$400.

22 What robber whose partner is in his underwear is
23 going to be standing there demanding a specific amount of
24 money? You're going to ask for whatever you can get and
25 if any believe the state at least through their

1 questioning Mr. Holston knew what this house was about.
2 He would have known that they didn't have money just in
3 the house like that. If he planned this -- If I planned a
4 robbery why would he rob there? Especially since he knows
5 what type of house it is, but this robber is demanding
6 \$400 which is the exact amount of money that Mr. Holston
7 tells you he owed for these drugs.

8 Now, you've heard from his job that, oh, well, they
9 drug tested him right after. Of course they did. You're
10 asking for worker's comp money. Of course they drug
11 tested him. We didn't hear about any drug tests that
12 Mr. Walker took before. We don't even know if he ever
13 took any drug tests.

14 Now, there were some questions about how your social
15 security number can come up and then you have to take a
16 random drug test, but there was no testimony that his
17 social security number had ever come up or that he had
18 ever been asked to take a drug test. Also, I want to
19 point out that Mr. Courtney talked about how they -- how
20 the supervisors will come around and check at night and
21 that he had never been in violation of the accountability
22 log policy. Well, Mr. Walker was adamant, Oh, no, none of
23 them ever checked on him. Nobody in three years ever came
24 over there -- Probably one of the few things I believe
25 because everybody else seemed to be talking a little fast.

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1 to try to cover themselves here in the agency, but he --
2 Mr. Walker -- but they told you nobody goes there at night
3 to check on them.

4 How do we know that this is the first time he would
5 have deserved one of these write-ups? How do we know this
6 is the first time he falsified his documentation? Seems
7 to me when he was sitting down there pretty comfortable
8 that was the usual thing. This just happens to be the
9 misfortunate day he got caught. And why did he get
10 caught? Because the car crashed.

11 It is entirely possible that this was a drug deal
12 like Mr. Holston says; that Mr. Walker needed to go to the
13 teller to get the \$400 that he owed for the drugs; that he
14 lost control of the car and then he did really jump out
15 because he lost control of the car which then hit the
16 tree, and at that point you realize, Oh, my goodness, I
17 have left these men alone in this house when I wasn't
18 supposed to. I have violated every policy there could be
19 in a car with a bunch of drugs. Got a problem; better
20 think fast. He wasn't that hurt. He was able to think
21 fast.

22 There is also some discrepancies in his story. Now,
23 he did tell, basically, the same story to everybody -- to
24 Mr. Courtney, to Ms. Tyler, to Investigator Sanders, to
25 the officers; however, there were difference, and like I

1 say if they lie about the little, you're going to lie
2 about the big. First, two guys bust in the front door
3 according to what he told Deputy Williams. Two guys bust
4 in the front door. He told his supervisor Ms. Tyler one
5 guy came to the front door, he ran to the side door and
6 then a second guy was at the door with a gun.

7 He told us on the stand that the first guy came in
8 the front door, he runs to the side door, they take him
9 into the kitchen, they have him sit -- the guy sitting on
10 the freezer walking up and down the hallways and then he
11 sees the second guy just standing in the room -- doesn't
12 know where he came from. He told Investigator Sanders
13 something different as well.

14 He says he was marched through the house all up and
15 down where the clients live all through the kitchen. Yet,
16 Investigator Sanders did an incredibly detailed report.
17 He talked to you about his 20-plus years of experience,
18 about how very critically important the report is, and
19 about how he wanted to detail it with as much information
20 as possible. He put minute details in that report that he
21 even read us some of yesterday. Yet, no mention of going
22 down the hall, going to where the clients are. That's
23 just something that he came up with today.

24 Now, Investigator Sanders said, well, he remembers
25 him telling him that, but he didn't tell him that in the

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1 initial statement when it was fresh in everybody's mind,
2 and, of course, he -- discrepancies on whether he saw the
3 second person following him.

4 Now, yesterday -- Oh, no, I never saw the second
5 person; never saw him following me. I don't know what
6 happened to him. Yet, he told Mr. Courtney that the
7 second guy followed him in the car. He told Investigator
8 Sanders the second guy followed him in the car. He told
9 Lieutenant Abdullah the second guy followed. Oh, Deputy
10 Williams, the second guy followed him and he got away from
11 the second guy.

12 Now, also, when did he lock the door? He is adamant
13 on the stand no, no, no, I never attempted to lock the
14 door. I didn't try to lock the door. Yet, all of these
15 different stories we have about who he told, yea, well, he
16 did try to lock the door. The door lock is important, and
17 I'll get to that.

18 Now, like I said, it's wonderful that his employers
19 are fond of him. Everybody needs to have somebody fond of
20 them. It is wonderful that they gave him accolades and
21 all this, but he can't now and come and tell the truth.
22 They gave him a \$2,000 reward. They put an e-mail in his
23 records. They said all wonderful things about him. Yet,
24 at the same time then they realized a month after this
25 happens, Oh, wow, we gave this guy \$2,000 and we said all

1 of these wonderful things, but he falsified our documents
2 that are required for us to keep; so then they have to run
3 and hurry and write -- and according to Ms. Tyler her
4 supervisor told her to write him up for falsifying
5 documentations.

6 Mr. Courtney told you that's critical. Critical. I
7 know I keep harping on that, but, like I said, if you tell
8 one lie, you'll tell more and I know I'm picking on a lot
9 of small details -- whether or not he locked the door,
10 whether or not they ran to the side, how they came in the
11 house, whether or not he was marched through the house. I
12 know they're small details, but they're important details
13 because, yea, you can tell the same big story over and
14 over again, but you can't get the details right if it's
15 not the truth.

16 Now, going to the lock. Why is it so important?
17 Because first according to Mr. Walker's statement this
18 door was kicked in, like I said, by a man wearing socks
19 only, no shoes, and the police say this is how it looked
20 when they got into the house and you see the metal portion
21 of the lower lock there and you see the higher portion --
22 the upper portion where the deadbolt would go in clearly
23 seen in the pictures and there is pictures that blow it up
24 a lot better than what you see right there, but the one
25 thing I want to show you is this -- that Investigator

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1 Sanders testified that when they went to the house they
2 were not able to open the door. Now, he didn't remember
3 trying the door, but Deputy Williams testified that he did
4 try the door and he was unable to open the door.

5 If this lock was like this when the deputies came,
6 how on earth could that door have been locked at all?
7 Look at it. There is no metal portion -- Excuse me. I
8 have it upside down. I'm sorry. There is no metal
9 portion here to hold the bottom portion of the door -- the
10 door lock. There is nothing here to hold the deadbolt.
11 How could that door have been locked where the deputies
12 couldn't get in?

13 Now, the deputies were concerned and justifiably so
14 because we heard a lot about these people. These people
15 are all vulnerable adults, people with mental handicaps
16 who need to be monitored. The deputies had a need to get
17 in the house.

18 Now, we don't know exactly how they got in the house
19 because there are some different stories about that, too.
20 Lieutenant Abdullah -- He said he doesn't know how they
21 got in the house. He is not really sure. Deputy Williams
22 tells you, Oh, yea, we had the keys. Investigator Johnson
23 told you that he took pictures of the accident scene in
24 the car and he took pictures of the keys and he put the
25 keys in the car. It's not a typical standard procedure

1 for somebody to just come up and take something from what
2 they are processing as a crime scene.

3 So, is it possible that these deputies just came up
4 and got the keys without telling Investigator Johnson?
5 Doubt it. They know procedure, and they also know that
6 when you have people in danger like they believed these
7 people to be it would have been okay for them to break the
8 door. Is that possible that's what happened? I wasn't
9 there, but it's possible.

10 This door is not -- This scene does not look like
11 somebody kicked it in. There is not stuff scattered all
12 the way down the hallway. You can look at the pictures
13 and see there is no way that door could have been locked
14 at all and there was a work -- there was a work
15 requisition done by Mr. Courtney to ask that the door be
16 fixed and it specifically says temporarily fix door casing
17 so the door can be locked. There is no sheetrock. There
18 is nothing to hold this lock in.

19 If the police had the keys then why is the deadbolt
20 still sticking out? You can see it. There's two separate
21 pictures of this. You can see the deadbolt clearly
22 sticking out. If the police needed to use the key, then
23 why didn't they open the deadbolt? Maybe they didn't
24 think they would do that much damage. Maybe they just
25 assumed that there was gonna be -- that the damage was

(Closing Statement by Miss Alves)

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1 caused already because the number was off on the door.
2 Maybe they had to get in the house to check on those
3 people. And you know what? That's perfectly
4 understandable. Maybe they were concerned because they
5 damaged the crime scene or they assumed they didn't do the
6 damage. We don't know. We know we have two different
7 stories about how they got in the house, though. Excuse
8 me. One different story and one person who says he
9 doesn't know. He is the lieutenant. He is in charge. He
10 coordinates. Yet, he doesn't know how they got in the
11 house.

12 Now, there's a lot -- I mean, there is a lot to look
13 at this case, and, like I said, there are two different
14 stories, and the biggest thing is how can you say that
15 somebody would rob a house in their underwear? But one of
16 the things I do want to point -- and then there is the
17 matter of the gun that was in the car. I want to point
18 out to you at the scene of the accident. There is a lot
19 of pictures of the accident and let's look at the scene.

20 This is the passenger side of the car where
21 Mr. Holston was sitting. If you look at Mr. Holston's
22 injuries and you look at the pictures you clearly see
23 there is blood on that side. Clearly there is blood all
24 over the passenger side of the car. There is no question
25 -- and the driver's side because that's, obviously, where

1 Mr. Holston would have had to get out because -- He would
2 have had to go across the passenger side to the driver's
3 side to get out of this car.

4 If you look at the pictures of this accident scene
5 you'll see that it was -- and even Investigator Johnson
6 told you very hard to get on to the passenger side. So,
7 the two guys who were saying, Oh, yea, he climbed out the
8 passenger side, that's not true. He couldn't have gotten
9 out of the passenger side. Look at the pictures. This is
10 the passenger side of the car. There is no way anybody
11 could have gotten out of this side of this vehicle. It is
12 up against a tree.

13 Now, why was Mr. Holston or whoever on that side of
14 the car? Who knows. Mr. Holston stumbled out of a car
15 bleeding badly. You can see his injuries. You can see
16 the amount of blood he lost on the pictures and perhaps he
17 walked around the car disoriented. Maybe he was looking
18 for his clothes. Maybe he was looking for the drugs he
19 had. Who knows. But the state would have you believe
20 that somebody was able to hit this tree -- these trees --
21 have their head hit this windshield at this rate of speed
22 and still keep a gun on their lap. Stuff would have been
23 all over that car and it is very unlikely he would have
24 been able to hang on to a gun that's laying on his lap.

25 Now, how did it get there? I don't know. I can't

(Closing Statement by Miss Alves)

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1 even say there was a gun. I am just going by what those
2 other people said, but how did that gun get there? I
3 don't know. Maybe it flipped around the car and got from
4 Willie's hand; but Mr. Holston wasn't even conscience.
5 Remember? He was out of it laying back and bleeding.
6 Holding a gun on Willie? I don't think so.

7 Let's look at the crime scene itself if you can call
8 it -- the scene of the Tri-Development house. This is the
9 living room where Mr. Walker said this happened. Now,
10 Mr. Holston told you that he did come into this room and
11 that he sat in this chair right here -- the one by the
12 door -- and that's where he was cutting this cocaine or
13 doing whatever he was doing with his gloves on with his
14 cocaine while he was waiting for Mr. Walker to come back
15 while Mr. Walker was doing his walking around. This is
16 the scene.

17 Mr. Walker told you that somebody kicked a door in,
18 came into this room and he jumped up and ran, and while
19 they were kicking this door in coming into this room he
20 told you that he was sitting in this chair reading these
21 books, watching TV. Now, we can see his drink is right
22 there and there is the remote. There is the falsified
23 accountability log. There are the books he was reading.
24 Does this look like a scene of somebody getting their door
25 kicked in, jumping up and running for their life?

1 Now, at the end of all of the questioning Mr. Weeks
2 asked Mr. Walker, Oh, didn't you pick up your gym bag when
3 they -- when you were getting your wallet out and put it
4 on the chair? Oh, yea, yea, yea; that's what I did.
5 Well, let let's look at the scene. Look at it a little
6 closer.

7 In this picture it shows the gym bag on top of the
8 books, on the CDL books. It shows it. Look. There is
9 more than one of these. It shows the gym bag on top of
10 the CDL books. He was reading the CDL books when this
11 happened. Okay, fine. According to history he had to get
12 his gym bag because according to Mr. Holston he had to get
13 his bag to get it out the ATM because he needed it to pay
14 for the drugs, but according to Mr. Walker's story he
15 needed the gym bag to get his stuff out. Okay, but that
16 still doesn't make any sense. This is still not the scene
17 of an armed robbery, burglary where you jumped up and ran
18 for your life.

19 If I jump out of a chair and run for my life there is
20 going to be stuff flying everywhere. I am not going to be
21 worried about that. Two little books on the floor? Those
22 are the books you are finished looking at that you put
23 down there. The remote would be knocked over. The
24 accountability log would be askew. The drink might be
25 knocked over, but I'll be running for my life. I won't be

(Closing Statement by Miss Alves)

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1 worried about stacking the stuff nice and neat.

2 You know what this scene looks like? Somebody who
3 was expecting somebody. They got a knock on the door from
4 somebody they were expecting and put their stuff in their
5 chair and went to answer the door. Look at the pictures.
6 Pictures are worth a thousand words. This is not the
7 scene of what Mr. Walker said.

8 Now, ladies and gentlemen, the judge is going to tell
9 you that, once again, like I told you previously and like
10 he's told you previously that in this case the state has
11 the burden of proof. They have to prove to you beyond a
12 reasonable doubt that Mr. Holston is guilty of all of
13 these charges. Now, the judge is going to define to you
14 reasonable doubt, and that's, basically, a doubt that
15 would cause a reasonable person to hesitate before taking
16 action. What that means -- He'll go into more detail
17 about it, but what that means is that you must be firmly
18 convinced of the guilt of Mr. Holston before you can find
19 him guilty.

20 All we want here is a verdict that speaks the truth
21 and if you're satisfied that Willie's story is the truth
22 about what happened here and that his story has left you
23 firmly convinced that the state has met their burden, then
24 it's going to be your job to find him guilty. However,
25 you must be firmly convinced that this was not a drug

1 deal. You must be firmly convinced that a man who robbed
2 this -- busts into a house and robs somebody in his
3 underwear kicking in a door with his bare feet with his
4 name tattooed on his chest. You must be firmly convinced
5 that he is the one that kicked the door in and busted in
6 with the gun and that this wasn't a drug deal.

7 There's a lot of questions here. What happened to
8 the clothes? Nobody found them anywhere? What really
9 happened here? What was going on? Were any of the
10 residents awake? Willie still had the logs from the times
11 before -- the hours before -- showing that some of them
12 were actually awake. Were any of them awake? Nobody even
13 bothered to question them. Some of them might have been
14 able to give us some answers. We'll never know.

15 Have you been firmly convinced beyond a reasonable
16 doubt that Mr. Holston is guilty? Ladies and gentlemen,
17 if you are not sure, you must resolve any doubt about
18 whether the state has proven their case in favor of
19 Mr. Holston. That's not my wishful thinking. That's what
20 the law says, and all I'm asking you to do is when you go
21 back to deliberate look at all of the evidence, weigh both
22 of the stories, and make your decision because I don't
23 believe that you would be able to find that the state has
24 proven beyond a reasonable doubt that Mr. Holston is
25 guilty of burglary, kidnapping, and arm robbery. Thank

(Closing Statement by Mr. Molony)

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1 you.

2 THE COURT: Everybody okay?

3 CLOSING STATEMENT

4 MR. MOLONY: Thank you, Your Honor. May it please
5 the court.

6 THE COURT: Yes, sir.

7 MR. MOLONY: Mr. Foreman, ladies and gentlemen of the
8 jury, good morning. Credibility. That's what this comes
9 down to. Who do you believe and who don't you believe?
10 That story is almost offensive. It's almost offensive.
11 Who do you believe and who don't you believe? When you
12 ask yourself that think of what these people have to lose
13 that sit on this stand.

14 Willie Walker isn't charged with anything. He
15 shouldn't have been. He didn't have anything to lose. He
16 gets up here and tells you an emotional and powerful and
17 terrifying story of exactly what happened that night
18 without hesitation. The two eye witnesses -- They didn't
19 know anybody involved in this case. They had no reason to
20 get up here and falsify anything. They told you what they
21 heard and what they saw. I'll get into it, but nothing to
22 lose. And you hear that. Then you hear that.

23 What was his story? That he was at a house he didn't
24 know where the house was. He got directions and orders
25 from a guy he didn't know to go to a house that he had

1 been to before but just didn't recognize an address to
2 deliver 4 ounces of marijuana to Willie Walker. When he
3 gets to that house he's got all of his clothes on he said.
4 Did you hear what was in his pockets? Everything was in
5 his pockets at that time -- both of his gloves, his latex,
6 his cotton gloves, 4-ounces of marijuana, the ounce of
7 cocaine. He even said he had some baggies. Big pockets,
8 I guess.

9 He walks in that house after knocking on the door at
10 2:30 in the morning and Willie just walks up, opens the
11 door to a stranger -- Willie, who's got special needs
12 individuals in his home and cares about them and has done
13 that job for almost four years -- opens the door for him.
14 Come on in. And I am going to go run around and do
15 something. I'm not really sure what Willie was doing, but
16 in the meantime the defendant thinks, Oh, this is the
17 perfect time for me to pull out my gloves and start
18 bagging cocaine naturally when you got a second.

19 So, he pulls out his gloves and he is bagging his
20 cocaine because he said anybody that knows anything about
21 cocaine knows that it can seep through your pores. So,
22 then Willie comes back after doing whatever Willie was
23 doing according to the defendant and says, We need to go
24 to the ATM. Come on, let's go.

25 So, he offers to drive. I'll drive. Come on, guy I

(Closing Statement by Mr. Molony)

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1 don't know. Hop in. And a little while later Willie
2 decides to reach under the car seat and grab a pistol and
3 make him take his clothes off. And he did. He said he
4 took all of his clothes off, took his shoes off, his shirt
5 off, his pants off. He did all of that with his gloves
6 on. He didn't take those off. You have seen that and
7 you'll see that when you go back there.

8 Then Willie decide as he's going with the gun in his
9 hand with a half naked guy sitting beside him that I am
10 going to jump out of my speeding car, a \$2000 car for \$400
11 worth of marijuana in the middle of the road in the middle
12 of nowhere. Offensive. It's offensive. And then once
13 the car hits the defendant states that I'm not sure what
14 Willie did. All of this stuff that was supposedly in his
15 pockets -- all of his clothes -- Law enforcement and
16 Willie must have had some elaborate plan that they're
17 going to hide his undershirt -- the defendant's
18 undershirt, his over shirt, his pants, his left shoe, his
19 right shoe, the marijuana, the baggies, the cocaine, and I
20 guess even the cocaine that he put into the little baggies
21 while he was waiting. Did you hear either one of the eye
22 witnesses say anything about seeing any of that?

23 Now, the defendant also states that he gets out of
24 the car and doesn't remember much, but he does remember he
25 never said, Where is that MF? They're talking about

1 Willie Walker. Never said that. He never said, Don't
2 call the cops. Don't call the cops. He never smoked a
3 cigarette like our witnesses said he did. All he did was
4 call his girlfriend and sat quietly waiting on the EMS to
5 arrive. That's his story, ladies and gentlemen. That's
6 what he sat there and he said.

7 Now, what did I tell you yesterday morning when I got
8 up in the opening statement? What did I tell you the
9 evidence was going to prove? First of all, that he comes
10 into the house that night -- the Tri-Development Center --
11 wearing nothing but his boxers and his socks and his
12 gloves. Why? Miss-Alves want to know why? Because he
13 doesn't want anybody to know who he is. His name isn't
14 Duke. His name is Darrell. He's got Duke tattooed across
15 his chest. That's it. He goes in with gloves and socks
16 and boxers because there is no way to identify him at that
17 point covering his face. That's why. Because he is
18 robbing the place.

19 Then Willie Walker at the crime scene -- Go look at
20 it. It is exactly like he said it looks. He is sitting
21 there watching TV at 2:30 in the morning. He jumps up and
22 tries to run. The defendant catches him at the back door
23 with a gun. At some point Willie see he sees this other
24 guy in the house. If Willie missed a detail or two, I'm
25 pretty sure that everything that Willie said throughout

(Closing Statement by Mr. Molony)

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1 the whole thing was consistent. The people who wrote it
2 down may have had a miss here or there, but for the most
3 part everything is right on point. You think he would
4 forget that night?

5 Then he gets in the car after being forced to with a
6 gun to his head to go to the ATM and Willie makes that
7 decision -- makes that decision to jump. For \$400 of
8 marijuana? No. Because he's absolutely terrified. He
9 has no other choice. All he sees is a shadow and a light
10 and thinks that's his best option. That's how scared he
11 was at that time and he jumps out and you hear those
12 witnesses that saw it and they tell you exactly what
13 happened and it fits exactly what the evidence says and
14 the evidence at Tri-Development Center fit exactly to what
15 he says.

16 They tell you that when he comes running eyes wide
17 open full of fear -- never heard anything about pants and
18 shoes. I won't go through it again. You didn't hear
19 anything about that. You would think it would be
20 somewhere. If it was anywhere, it would be somewhere
21 around that scene. He said they -- Miss-Alves said that
22 the witnesses never took their eyes off of Willie Walker
23 and they weren't really worried about the defendant. Do
24 you think they were worried about the guy that had the gun
25 in his lap? Why would they lie about it? Why would these

1 two eye witnesses with nothing -- no statements. They
2 didn't know anybody. They have no reason to. Why would
3 they lie about the gun in his lap?

4 Credibility. Credibility. Jessie Vomund and Bryan
5 Salley told you exactly what the defendant said when he
6 came up -- not to call the police and where is that MF'er?
7 I am going to kill that MF'er. Don't call the police.
8 Don't call the police. They gave him a cigarette to keep
9 him there.

10 Then you got Willie Walker. First of all, I've got
11 to get this out. The accountability sheets -- You heard
12 one witness -- one of his supervisors said she was
13 embarrassed to even give it to him. He had been working
14 there for four years -- almost four years. Think he
15 didn't care about these people? Because he filled out the
16 paperwork, was he wrong in doing that? Yea. You don't
17 think he actually got up and still checked on them? Just
18 because he filled them out. Was it right technically?
19 Probably not, but they wrote him up. It would have been
20 like the Sheriff's Office writing him up for jumping out
21 of that speeding vehicle for no seatbelt that night.
22 Technically, would it have been right? Maybe. She even
23 said she was embarrassed about what happened about writing
24 him up.

25 It's the little things that they are trying to make

(Closing Statement by Mr. Molony)

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1 big things. Just look at the evidence. Look exactly at
2 the evidence and the worst thing about this whole trial
3 and everything we're here for is that they take the
4 reputation of this hard-working man who has been employed
5 since then, who stayed employed with Tri-Development since
6 then, who has a fiance, who did pass his drug test, and
7 who you did hear from his supervisor had never failed a
8 drug test with them because he doesn't do drugs.

9 Now, the biggest thing at this point for you guys and
10 gals is to go back and look at the evidence. I can keep
11 going and going and going with the defendant's story. I
12 can keep going with how credible Willie is. One thing I
13 did want to go over real quick was this door. I never
14 really understood what she was getting at with the door.

15 Law enforcement did that? So they're on Willie's
16 side. Bryan and Jessie are lying; so they're on Willie's
17 side. The supervisors are on Willie's side. So you
18 either believe him or you believe all of them. Look at
19 this door. Look at the door.

20 The defendant states yesterday that when Willie is
21 leaving to go to get the ATM that Willie does lock the
22 door. You remember that? Willie closes it behind him.
23 Why is the door locked when law enforcement get there?
24 Deputy William never said he tried to forcefully open that
25 door when he got there. He grabbed the door handle and

1 it's locked because it's still locked from when Willie had
2 locked it when he got to work that night. When it busted
3 open it didn't unlock. It did this. The whole frame is
4 out of it. That's why it's unlocked.

5 I'm not -- I could stand up here all night and I am
6 not going to. The whole thing is almost offensive. They
7 made you check a lot of things in when you walked through
8 the metal detector -- your pocket knives, your keys, your
9 purses. They didn't make you check your common sense.

10 Now, the judge is going to tell you what the law is.
11 He'll tell you about kidnapping and it's not some movie
12 version of kidnapping where it has to be some
13 weird-looking man in a white van that snatches a kid off
14 the corner of the road and throws a bag on his head and
15 leaves. It is being held against your will for only a
16 moment. Willie is held against his will for a lot longer
17 than that, unfortunately.

18 Attempted armed robbery. He attempted to go in and
19 rob Willie Walker of his money with a gun. And the
20 burglary -- He broke in that house. It is a dwelling
21 place. There are three individuals that sleep there.
22 There is no doubt about that. At 2:30 in the morning at
23 night -- The defendant admitted it was from other people's
24 testimony. I guess they said it was 2:30; so I guess it
25 was 2:30 -- with the intent to rob Willie Walker. Check.

(Jury Charge)

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1 That's all you got to do.

2 Firmly convinced. Go back and look at this stuff.

3 Talk about it. Talk about it. Use your common sense.

4 Come back with the only verdict that the evidence and the

5 testimony from this witness stand proved and the only

6 evidence that justice in this case requires and that's a

7 verdict of guilty on all three counts. Thank y'all.

8 THE COURT: I got about 10 or 15 minutes. Everybody

9 okay? Bathroom?

10 JURY CHARGE

11 THE COURT: Mr. Foreman, ladies and gentlemen of the

12 jury, let me, first of all, start off with some general

13 propositions of criminal law that deal with all cases that

14 we try in general sessions court. These are, basically,

15 some constitutional issues and some other general

16 propositions that we charge in all criminal cases. Once

17 we conclude that or once I conclude that, then I'll go to

18 the specific indictments in this case, i.e., the burglary

19 first, attempted armed robbery, and the kidnapping.

20 Let me remind you, once again, the fact that the

21 defendant was arrested, charged, and indicted in the case

22 on these three indictments is not evidence in the case and

23 cannot be considered by you as evidence of guilt in the

24 case, nor does it create any presumptions or inferences of

25 guilt. These indictments are simply the formal written

1 documents which contain the charges against the defendant.
2 It's the formal documents by way the case is brought into
3 the court.

4 In this case we have three separate indictments -- as
5 I said, burglary first, kidnapping, and attempted armed
6 robbery. Obviously, each indictment contains a separate
7 and distinct offense and you must decide each indictment
8 separately on the evidence and the law applicable to each
9 indictment not being influenced by your decision as to any
10 other indictment.

11 He may be convicted or found not guilty on any or all
12 of the offenses charged. In other words, you'll have to
13 write a separate verdict as to each indictment and
14 consider each indictment separately. I'll have three
15 separate verdict forms which I'll explain to you in just a
16 minute as to each indictment. So, consider the burglary
17 separate and apart from that; the attempted armed robbery
18 separate and apart from that; and the kidnapping. So you
19 have three separate indictments to deal with. Make sense?

20 THE FOREPERSON: Yes, sir.

21 THE COURT: In this case, Mr. Holston has plead not
22 guilty to all three indictments and a plea of not guilty
23 puts the burden on the State of South Carolina to prove
24 the defendant guilty. The person charged with committing
25 a criminal offense in our state is never required to prove

(Jury Charge)

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1 himself innocent. I charge and instruct you that it is an
2 important constitutional law that a defendant in a
3 criminal trial no matter how serious the crime may be will
4 always be presumed to be innocent of the crimes for which
5 the indictments were issued unless guilt has been proven
6 by evidence satisfying you of that guilt beyond a
7 reasonable doubt.

8 The presumption of innocence does not end when you
9 begin your deliberations, but it stays with the defendant
10 throughout the trial until you reach a verdict of guilt
11 based on evidence satisfying you of that guilt beyond a
12 reasonable doubt. The presumption of innocence is not a
13 mere legal phrase. it's not a theory. It is a substantial
14 constitutional right to which every defendant is entitled
15 unless you, the jury, are satisfied from the evidence of
16 the defendant's guilt beyond a reasonable doubt.

17 Now, what is a reasonable doubt? We have, basically,
18 two definitions that our Supreme Court has given us. One
19 is a very short definition. It simply says a reasonable
20 doubt is the kind of doubt that would cause a reasonable
21 person to hesitate to act. A reasonable doubt is the kind
22 of doubt that would cause a reasonable person to hesitate
23 to act. The state has the burden of proving the defendant
24 on all three indictments guilty beyond a reasonable doubt.
25 That is the kind of doubt that leaves you firmly convinced

1 of the defendant's guilt.

2 Obviously, there are very few things in this world
3 that we know with absolute certainty and in criminal cases
4 the law does not require proof that overcomes every
5 possible doubt. If based on your consideration of the
6 evidence you're firmly convinced that the defendant is
7 guilty of the crimes charged, then you must find him
8 guilty. If, on the other hand, there is a real
9 possibility that he is not guilty, you must give him the
10 benefit of the doubt and find him not guilty.

11 Ladies and gentlemen, let me remind you once again
12 that during the trial of this case you and I have had
13 certain duties to perform as I told you earlier in my
14 opening statement. As the trial judge my duty is to --
15 basically in a trial is to rule on the admissibility of
16 evidence. I don't think we had many objections on
17 anything that didn't come in; so all the evidence came in.

18 My other responsibility is to instruct or inform you
19 on the law which I am doing now; so I ask you to accept
20 the law as I give it to you. My job is pretty easy. I
21 just sit here and read this law and I rule on the
22 admissibility of evidence. Your job is, obviously, much
23 more difficult because you are the judges of the facts in
24 the case.

25 Now, because I am the judge of the law in the case,

(Jury Charge)

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1 please, if I did anything during this trial by way of
2 things I may have said or rolled my eyes or stretched or
3 took my glasses off or looked disgusted or looked happy or
4 whatever, don't infer anything from what I did up here. I
5 try to sort of maintain a poker face, but sometimes my law
6 clerk will tell me something and I'll giggle or something.
7 Just don't -- I can't have any say-so about the facts. I
8 don't have any opinion about the facts. The law doesn't
9 allow me. If I done anything to suggest I did, please set
10 that aside.

11 You are the sole finders of the facts. You are the
12 judges of the facts, and as I told you when we started
13 this case this case is like all of the rest of them I try.
14 You will hear different versions of the facts and I think
15 my suggestion was true in this case. I don't think you
16 could have heard a different diversion of the facts. You
17 have heard different versions of the facts in this matter.

18 Now, as the finders or the judges of the facts in
19 this case, obviously, what you have to do is determine the
20 credibility of the witnesses who have testified in this
21 case. That is your job to determine credibility.
22 Credibility simply means believability. It becomes your
23 duty as jurors to analyze and evaluate the evidence and
24 determine which evidence convinces you of its truth. As I
25 told you earlier use your ordinary life experiences in

1 deciding who is telling the truth dealing with wives,
2 husbands, children, employees, friends. You know how to
3 judge who is telling the truth.

4 In determining the credibility or believability of
5 witnesses who have testified in the case you can believe
6 one witness over several, several over one. You can
7 disregard everything a witness says. You can believe a
8 little bit of what he says or he or she and disregard the
9 rest. So, you have the right to believe any and all or
10 none of what somebody says.

11 You have the right to consider whether the witness
12 has exhibited to you any interest, bias, prejudice, or
13 other motive in this case, and you may also consider the
14 appearance and the manner of the witness and how he or she
15 acted on the witness stand. So, it's a task that we
16 perform every day when we're dealing with people. You
17 have to deal with this particular case and decide who you
18 believe, determine what the true facts are, and apply it
19 to the law as I give it to you.

20 One other general rule before we get to the three
21 main indictments. You have heard evidence that the
22 defendant in the past was convicted of a crime other than
23 the one for which he is now on trial. This evidence may
24 be considered by you if you conclude it is true only in
25 deciding whether the defendant's testimony is credible or

(Jury Charge)

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1 believable and for no other purpose. You must not
2 consider the defendant's prior record as any evidence of
3 the defendant's guilt of the charge we're trying here
4 today. So, his prior record, if you believe it to be
5 true, can only be used to judge his believability or
6 credibility and it has no bearing on the facts in this
7 case.

8 All right. Let's turn to the three charges outlined
9 in the indictment. The first is the indictment for
10 burglary in the first degree. That is codified in our
11 laws under section 16-11-0311. The defendant is charged
12 with first degree burglary. The first thing the state
13 must prove to you beyond a reasonable doubt is that the
14 defendant entered a dwelling without consent or
15 permission. Without consent. Entered without consent.

16 A dwelling is defined under our law as any building
17 or a portion of the building in which a person ordinarily
18 sleeps. In order to prove the defendant entered the
19 dwelling the state does not have to show that he -- his
20 whole body entered it, but any small entry is sufficient.

21 Next the state must prove beyond a reasonable doubt
22 that the defendant intended to commit a crime at the time
23 of the entry. Mere entry into the dwelling without
24 consent is not burglary. There must be an intent to
25 commit a crime after entering. If the intent to commit a

1 crime is formed after the entry, it's not burglary. On
2 the other hand, if the defendant intended to commit a
3 crime at the time of entry, it is burglary even if the
4 intent was abandoned after entry. It does not matter that
5 the intended crime was not completed.

6 Then the third thing the state must prove to you
7 beyond a reasonable doubt is that while entering the
8 dwelling or while fleeing in this case that the defendant
9 was armed with a deadly weapon.

10 So, three things they have to prove: They have to
11 prove to you beyond a reasonable doubt that the defendant
12 entered a dwelling without consent and the dwelling is any
13 type of building in which a person ordinarily sleeps, and
14 that when entering he intended to commit a crime, and that
15 in this case he was armed with a deadly weapon. So,
16 that's burglary in the first degree.

17 As to the armed robbery -- attempted armed robbery
18 charge, let me do this. Let me tell you how the law
19 defines attempt. It is just like any other definition of
20 attempt. An attempt is an effort to accomplish a crime
21 which does not succeed. An attempt includes a specific
22 intent to do a particular criminal act along with an act
23 failing short of the act intended. The state must show
24 more than mere preparation.

25 So, intent is like -- I'm sorry. Attempt is like

(Jury Charge)

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1 anything else. It is an effort to do something which does
2 not succeed. In attempted armed robbery they must show
3 that he attempted to commit armed robbery but it did not
4 succeed.

5 Armed robbery is defined or -- as such: In this case
6 the defendant is charged with attempted armed robbery. In
7 order to prove this offense the state must first prove
8 beyond a reasonable doubt that the defendant attempted to
9 take personal property from the person or presence of
10 another person. Property, obviously, is in the presence
11 of a person if it is within that person's reach, control.
12 The state must also prove beyond a reasonable doubt that
13 the defendant attempted to carry the property away
14 intending to permanently deprive the owner of the property
15 and to keep the property for his own personal use, and,
16 finally, the state must prove beyond a reasonable doubt
17 that at the time of the attempted taking of the property
18 the defendant was armed with a deadly weapon.

19 So, that's the law on armed robbery and in this case
20 it was an attempt; so he attempted to commit the crime of
21 armed robbery.

22 And the last indictment is kidnapping. In this case
23 is defendant is charged with kidnapping. The state must
24 prove beyond a reasonable doubt that the defendant
25 knowingly and unlawfully seized, confined, kidnapped, or

1 abducted or carried away another person without authority
2 of law. To do something unlawfully is to do it
3 willfully against the law. Knowingly means with
4 knowledge, consciously, not accidentally. Seized means to
5 take hold of suddenly or forcibly. Confine means to
6 limit, restrict, or enclose within bounds, imprison or
7 shut or keep in. Kidnap is to remove a person against his
8 will by unlawful force or by fraud. Abduct means to carry
9 off secretly or by force for an illegal purpose. Carry
10 away means simply to remove.

11 The state does not have to prove the defendant did
12 all of these things. Instead, if you find beyond a
13 reasonable doubt that the defendant did any of these
14 things, you may find the defendant guilty of kidnapping.
15 The kidnapping does not have to be for any personal or
16 monetary gain or for any illegal purpose, but it may be
17 for any reason whatsoever. So, to prove kidnapping the
18 state must prove beyond a reasonable doubt that the
19 defendant knowingly and unlawfully seized, confined,
20 kidnapped, abducted or carried away another person without
21 authority of law.

22 Mr. Foreman, ladies and gentlemen of the jury, as I
23 told you you must consider each indictment separate and
24 apart from the other; so there are three indictments in
25 this case. I have a verdict form for each indictment. It

(Jury Charge)

325

1 is pretty simple. It says we find the defendant not
2 guilty or we find him guilty. Check whichever one is
3 applicable as to each indictment: Attempted armed
4 robbery, kidnapping, and burglary first.

5 Please don't infer anything by me putting not guilty
6 before guilty. Obviously, one has got to come before the
7 other.

8 Your verdict has to be unanimous. All 12 of you must
9 unanimously agree as to the verdict. The verdict can't be
10 based on anything except what you heard in this courtroom,
11 the evidence that you've heard, what you determine the
12 true facts to be, and applying it to the law as I have
13 given it to you. You have no friends to reward, no
14 enemies to punish. It is simply based on sound
15 deliberation of the facts and applying those facts to the
16 law.

17 If at any time during your deliberation you have a
18 question that you think you need to address with me,
19 please write it out on a piece of paper, knock on the
20 door, hand it to Ms. Barbara or one of the bailiffs and
21 they'll present it to me. Sometimes I can answer it.
22 Sometimes I can't depending on what particular question
23 is. Once you have reached a verdict on all three
24 indictments, once again, let us know and we'll receive
25 your verdict back in the courtroom.

1 It is 11 o'clock. I don't know how long you're going
2 to deliberate. If it gets to be 12:30 or so and you start
3 getting hungry and you need lunch, I'll probably send for
4 you and see what you want to do.

5 THE FOREPERSON: Okay.

6 THE COURT: I am going to ask you now to return to
7 your jury room. Please put the two alternates separately.
8 Don't start deliberating quite yet. I have to ask the
9 lawyers if I left anything out, need to add anything, or
10 take anything out of my charge. Then we have to gather
11 the evidence. It's right here. It won't take but two
12 seconds. I'll send the verdict form back with the
13 evidence. Then you'll be in a position to start.

14 THE FOREPERSON: Yes, sir.

15 THE COURT: It won't be but two or three minutes
16 before we do that.

17 (Whereupon, the jury exited the courtroom at 10:56.)

18 THE COURT: Any additions to the charge, deletions
19 requested, changes, exceptions, objections, et cetera?
20 Mr. Molony? Mr. Weeks?

21 MR. MOLONY: None from the state, Your Honor.

22 THE COURT: Miss-Alves?

23 MISS ALVES: No, Your Honor.

24 THE COURT: Thank you. Would you please come review
25 the verdict form? Make sure we have all of the evidence

1 so we can send it back to the jury.

2 (Whereupon, the Attorneys conferred with the Court
3 Reporter concerning the evidence.)

4 THE COURT: Let the record reflect both the state and
5 the defense have reviewed all the exhibits and are in
6 agreement. They are accounted for. The verdict form has
7 been reviewed without objection and they go to the jury at
8 11:02.

9 (Whereupon, the jury began deliberations at 11:02.)

10 (Whereupon, a break was taken.)

11 THE COURT: Let the record reflect back on the case
12 we were trying this morning -- Holston. The note from the
13 jury at 11:55 says, Can we have a copy of the three laws?
14 My response is, I cannot give you a copy, but I can
15 recharge it to you. Please advise.

16 Anyone have a problem with that or any other
17 suggestions by the state ?

18 MR. WEEKS: No, Your Honor.

19 THE COURT: By Miss~Alves?

20 MISS ALVES: No, Your Honor.

21 THE COURT: All right.

22 (WHEREUPON, Court's Exhibit No. 1 was marked for
23 identification only.)

24 (Whereupon, a break was taken.)

25 THE COURT: I simply got a note, Please reread the

1 law on kidnapping.

2 Bring them in please.

3 (WHEREUPON, Court's Exhibit No. 2 was marked for
4 identification only.)

5 (Whereupon, the jury came into open court at
6 approximately 12:31.)

7 THE COURT: All right. Mr. Foreman, I got a note
8 that you wanted me to recharge the statute on kidnapping.

9 THE FOREPERSON: Yes, sir.

10 THE COURT: All right. It is codified or in our code
11 of laws section 16-3-910. He is charged with kidnapping.
12 In order to prove that the state must prove beyond a
13 reasonable doubt that the defendant knowingly and
14 unlawfully -- To do a thing unlawfully is to do it
15 willfully against the law. Knowingly means knowledge,
16 consciously, not accidentally. The state must prove
17 beyond a reasonable doubt that the defendant knowingly and
18 unlawfully seized -- and that means to take hold of
19 suddenly or forcefully or confine which means to limit,
20 restrict, or enclose within bounds, imprison or shut or
21 keep in -- kidnapped which means -- Well, I am going to
22 have to shoot my law clerk. She run off and left me.

23 Kidnapped means to remove a person against his will
24 by unlawful force or by fraud. Abducted means to carry
25 off secretly or by force for an illegal purpose or carry

(Jury Re-charge)

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1 away. Carried away means to remove.

2 Now, the state does not have to prove that the
3 defendant did all of these things, i.e., seize, confine,
4 kidnapped, abducted, or carried away. Instead, if you
5 find beyond a reasonable doubt that the defendant did any
6 one of these things; i.e., seize, confine, kidnap or
7 abducted or carried away, then you may find the defendant
8 guilty of kidnapping. Kidnapping does not have to be for
9 any personal or monetary gain or for any illegal purpose,
10 but it may be for any reason whatsoever.

11 Need it any more? You want me to re-read it? Do it
12 again?

13 THE FOREPERSON: No, sir.

14 THE COURT: All right. Y'all step out.

15 Make I speak with the foreman about lunch?

16 MR. WEEKS: Sure.

17 THE COURT: Miss~Alves?

18 MISS ALVES: Yes, sir.

19 THE COURT: Y'all step back there in the jury room.

20 Mr. Foreman, wait right out there in the hall for me.

21 THE FOREPERSON: Yes, sir.

22 (Whereupon, the jury exited the courtroom at 12:34.)

23 THE COURT: Any objection to the recharge by the
24 state?

25 MR. WEEKS: No, Your Honor.

1 THE COURT: By the defendant?

2 MISS ALVES: No, Your Honor.

3 (Whereupon, a break was taken.)

4 THE COURT: Is the state ready to receive the
5 verdict?

6 MR. WEEKS: Yes, Your Honor.

7 MISS ALVES: Yes, Your Honor.

8 THE COURT: Ladies, I assume you are here for the
9 defendant. Y'all have been nothing but excellent
10 behavior. I give this warning to everyone. I don't know
11 what the verdict is. Please do not show any emotions. If
12 you cannot control yourself or if you think you may have a
13 problem, I would ask that you leave now. I would give
14 that warning to everybody. I am not picking on you. I
15 just do that on all major trials. Y'all have been great.
16 I don't have to worry about you.

17 (Whereupon, the jury came into open court at
18 approximately 12:45.)

19 THE COURT: Mr. Foreman, have y'all reached a
20 verdict?

21 THE FOREPERSON: Yes, sir, we have.

22 THE COURT: Please hand it to the bailiff.

23 THE CLERK: Your Honor, we have the State of South
24 Carolina, County of Aiken, State of South Carolina versus
25 Darrin Darrell Holston in the Court of General Sessions

(Verdict)

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1 for the Second Judicial Circuit, indictment number
2 2010-GS-02-01899. As to the offense of burglary in the
3 first degree we, the jury, find the defendant guilty. We
4 unanimously agree dated May 12, 2011 signed by jury
5 foreperson Stephen Arthur.

6 THE FOREPERSON: Yes, ma'am.

7 THE CLERK: State of South Carolina, County of Aiken,
8 State of South Carolina versus Darrin Darrell Holston in
9 the Court of General Sessions for the Second Judicial
10 Circuit, indictment number 2010-GS-02-01905. As to the
11 offense of attempted armed robbery we, the jury, find the
12 defendant guilty. We unanimously agree dated May 12,
13 2011, signed by jury foreperson Stephen Arthur. State of
14 South Carolina, County of Aiken, the State of South
15 Carolina versus Darrin Darrell Holston in the Court of
16 General Sessions for the Second Judicial Circuit,
17 indictment number 2010-GS-02-01903. As to the offense of
18 kidnapping we, the jury, find the defendant guilty. We
19 unanimously agree, dated May 12, 2011 signed by jury
20 foreperson Stephen Arthur.

21 Ladies and gentlemen of the petit jury, if this is
22 your verdict please indicate so by the raising of your
23 right hand. All hands are raised.

24 THE COURT: Let the record reflect all jurors have
25 raised the right hand. Thank you.

1 Anything from the state?

2 MR. WEEKS: No, Your Honor.

3 THE COURT: By the state for the jury?

4 MR. WEEKS: No, Your Honor.

5 THE COURT: Miss-Alves?

6 MISS ALVES: No, Your Honor.

7 THE COURT: Mr. Foreman, ladies and gentlemen, I
8 can't thank you enough. Y'all have paid wonderful
9 attention. As I said, you know, you have to decide what
10 you believe in the case. You're the finders of the fact,
11 and I certainly agree with your decision.

12 This will complete your term. We have no more court
13 this week even though we got into Thursday. I want to
14 thank you. We just have -- How many pending indictments
15 we got, Mr. Weeks?

16 MR. WEEKS: Conservatively 1500.

17 THE COURT: I can -- While y'all have been out there
18 deliberating we've been doing pleas all morning. So we
19 move, move, move, but, unfortunately, the more we move,
20 the more that comes in on the other side. We couldn't
21 move cases if we didn't have jurors ready, willing, and
22 able because without you we just wouldn't get anything
23 done.

24 I thank you. I'm sorry that we can't pay you any
25 more than we do, but y'all have been wonderful. I have

(Sentencing)

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1 enjoyed working with you. I hope you have a wonderful
2 weekend. If you need a work excuse -- ladies, girls?
3 Ladies -- I'm sorry. Work excuse? Whose got it? Where
4 can they go?

5 THE CLERK: In the Civil Department.

6 THE COURT: Can't they just go in the jury room and
7 y'all run them up here?

8 THE CLERK: I'll tell her.

9 THE COURT: If anybody needs a work excuse, they'll
10 be up here in about five minutes. Your checks will be
11 mailed to you hopefully by the first of the week. So,
12 thank you. On behalf of the judiciary and the citizens of
13 Aiken I thank you. Unless you want to stick around,
14 you're free to go. Thank you. I'm sorry I didn't get
15 your lunch.

16 (Whereupon, the jury exited the courtroom at 12:49.)

17 (Whereupon, a break was taken.)

18 (WHEREUPON, Court's Exhibit Nos. 3 - 5 were marked
19 for identification only.)

20 THE COURT: All right. Miss-Alves, are you ready to
21 proceed with the sentencing?

22 MISS ALVES: Yes, sir.

23 THE COURT: As I understand -- What is section
24 17-25-45 on the sentence sheet?

25 MR. WEEKS: Intent to seek life without parole if

1 convicted.

2 THE COURT: All right. As I understand that prior to
3 the calling of the case and under the statutory scheme of
4 17-25-45 that the state because Mr. Holston had a previous
5 most serious conviction, i.e., criminal sexual conduct in
6 the first degree, that they had served the defendant with
7 notice that they intended to seek life without the
8 possibility of parole under the section 17-25-45.

9 Mr. Weeks, is that correct?

10 MR. WEEKS: That is correct, Your Honor, and in
11 regard to the statutory plan we served him more than 10
12 days prior to trial specifically on April 11, 2011 with
13 our written notice of intent to seek life imprisonment
14 without parole based upon if he is convicted of one of the
15 indictments listed on the notice which are the three
16 indictments he was found guilty of by the Aiken County
17 Jury and we alleged as a basis for it his criminal sexual
18 conduct first degree conviction on June 26, 2006. Based
19 on the statute and the caselaw we have served personally
20 Mr. Holston with that notice on April 11, 2006 and
21 Miss Alves as attorney of record on April 11, 2006.

22 We have attached for purposes of this record Court's
23 Exhibit No. 3 and No. 4 which are the certified copies of
24 the file notice and the signed affidavits indicating that
25 both of them were served.

(Sentencing)

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1 THE COURT: Miss Alves, is there any questions that
2 you were served as well as your client?

3 MISS ALVES: No, Your Honor.

4 THE COURT: Any question that he has a prior most
5 serious conviction and or plea, i.e., criminal sexual
6 conduct in the first degree as we stated during the trial
7 when we talked about him testifying and at the sentencing
8 stage?

9 MISS ALVES: No, Your Honor.

10 THE COURT: My reading of section 17-25-45 the
11 statute says that if all the conditions are met, which
12 they are in this situation, that he must be sentenced to a
13 term of imprisonment for life without the possibility of
14 parole. Do you have anything contrary to that?

15 MISS ALVES: No, Your Honor.

16 MR. WEEKS: Your Honor, I also have as Court's
17 Exhibit No. 4 a certified copy of the sentence sheet --
18 Court's Exhibit No. 5 a certified copy of the sentence
19 sheet from the criminal sexual conduct first degree
20 sentence that was imposed upon him in 2006.

21 THE COURT: Miss-Alves, do you have anything to
22 contradict that?

23 MISS ALVES: No, sir.

24 THE COURT: Mr. Weeks, anything else you want to put
25 on the record on behalf of the state?

1 MR. WEEKS: There is not, Your Honor. I don't know
2 if Willie wants to speak. I think he's had his say,
3 Judge.

4 THE COURT: Miss-Alves, anything you want to tell me?

5 MISS ALVES: Judge, this would be the point at which
6 I would mitigate in attempt to get my client a sentence
7 less than the maximum. At this point I don't really have
8 much of anything to say.

9 I can tell you about Mr. Holston. He is 35 years old
10 at this time. He does have five children.

11 THE COURT: Five?

12 MISS ALVES: Five, Your Honor, yes, sir. He did
13 attend Aiken High School. He did get his GED while he was
14 incarcerated and he actually had signed up to start at
15 Aiken Technical College prior to his arrest on this. His
16 most recent job was at Aiken Custom Builders.

17 He was on probation for the criminal sexual conduct
18 first degree charge. That probation was ended as of
19 September of last year.

20 THE COURT: He was on probation or parole?

21 MISS ALVES: I'm sorry. Excuse me. Community
22 supervision, yes, sir. And he does have four members of
23 his family and friends who are sitting in the courtroom
24 who have supported them throughout this trial.

25 THE COURT: I have seen them here.

(Sentencing)

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1 THE COURT: Mr. Holston, anything you want to tell
2 me?

3 THE DEFENDANT: No, sir.

4 MR. WEEKS: I would like the record to reflect also,
5 Your Honor, we submitted or showed Miss~Alves the sentence
6 sheets that we had prepared after the verdict, but I don't
7 believe she signed them, but she has seen them and I just
8 wanted the record to reflect that.

9 THE COURT: Miss~Alves, do you need to sign them?
10 Will you sign them?

11 MISS ALVES: I'll sign them indicating that he was
12 convicted, Judge. I don't know that you normally require
13 us to do so after a conviction -- after a jury conviction.

14 THE COURT: Well, the sentence sheet is notice that
15 they are convicted. You can sign them or not.

16 MR. WEEKS: You have covered the applicable stuff on
17 the record as to why the state's seeking...

18 THE COURT: Well, I would note for the record that on
19 each of the sentence sheets for each indictment is section
20 17-25-45 which is the life without parole statutory scheme
21 is checked on all of the indictments and sentence sheets
22 and I further have reviewed the Court's Exhibits 4 and 3
23 and find that proper service was given to Miss~Alves as
24 well as the defendant and I have looked at the previous
25 record and find that he did have a conviction for a most

1 serious offense, i.e., criminal sexual conduct in the
2 first degree, and all the appropriate conditions are met
3 under the statute and I find everything to be in order.

4 MISS ALVES: Judge, I would just ask that -- I know
5 that he does have a record for criminal sexual conduct
6 first and he does register for that charge and under the
7 statute there is some very limited provision for someday
8 getting out, and I have gone over that with Mr. Holston,
9 but under the kidnapping statute it is a mandatory
10 registration offense. I am just asking that the sentence
11 sheet reflect that this is not a mandatory registerable
12 offense for this kidnapping since it clearly did not
13 involved a sexual offense.

14 THE COURT: Any objection to that?

15 MR. WEEKS: No objection.

16 THE COURT: All right. So the appropriate language
17 would be did not involve any sexual -- Just get me the
18 appropriate language.

19 MISS ALVES: Yes, sir.

20 THE COURT: Mr. Weeks, as far as running them
21 concurrent or consecutive, I didn't see anything in that
22 statute how to handle that.

23 MR. WEEKS: The sentence for all three indictments is
24 life without parole. I don't know how many of them you
25 can have.

(Sentencing)

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1 MISS ALVES: Judge, I would ask that you put them as
2 concurrent.

3 THE COURT: On the kidnapping is there any
4 appropriate language?

5 MISS ALVES: Yes, sir. I am looking it up.

6 THE COURT: I am going to put no registration
7 required.

8 MISS ALVES: That would probably be sufficient,
9 Judge. That would probably be sufficient. Thank you.
10 I'm sorry. I need to look it up under the registration.

11 THE COURT: No sex offender registration.

12 All right. Mr. Holston, as to all three indictments
13 pursuant to the provisions of law as outlined in section
14 17-25-45 and on the fact that the jury found you guilty as
15 to the charges of kidnapping, attempted armed robbery, and
16 burglary first degree the sentence of this court is that
17 you be committed to the State Department of Corrections
18 for the balance of your natural life. Good luck to you.

19 Miss-Alves, I ran them concurrent.

20 MISS ALVES: Judge, it does say that there has to be
21 a finding on the record that the offense did not include a
22 criminal sexual offense or an attempted criminal sexual
23 offense.

24 THE COURT: And I so find.

25 MISS ALVES: I do need to make one last motion on his

1 behalf. Your Honor, at this time I make a motion for a
2 new trial on Mr. Holston's behalf. Taking the evidence in
3 the light most favorable to the state I would move Your
4 Honor to grant him a new trial on the charges of
5 kidnapping, attempted armed robbery, and burglary first
6 degree.

7 THE COURT: Thank you. As I stated in the other two
8 motions it was obviously a question of fact for the jury
9 to determine and they found that your client was not
10 credible and they found him guilty on all three charges.
11 I respectfully deny the motion.

12 MISS ALVES: Yes, sir. Your Honor, I have one last
13 matter I need to put on the record. I forgot about it
14 yesterday and I do apologize, but we had a side bar
15 conversation after my motion to require the state -- to
16 ask that the state not be allowed to bring up
17 Mr. Holston's record that we did have a side bar
18 conversation where I asked you for clarification on your
19 ruling and you did advise the solicitor and myself that
20 you were allowing them to bring in that -- to bring in
21 that charge.

22 THE COURT: And I did and I found -- I made an
23 analysis under 403. I found it to be more probative than
24 prejudicial. I found it to be a proper matter for the
25 jury to have for them to determine the credibility of the

(Sentencing)

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1 witnesses and they were charged that it could only be used
2 for credibility purposes.

3 MISS ALVES: Yes, sir.

4 THE COURT: So I stand by my ruling.

5 MISS ALVES: Thank you, Your Honor.

6 THE COURT: Thank you.

7 (End of Transcript of Record.)

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CERTIFICATE OF REPORTER

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State of South Carolina)

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County of Aiken)

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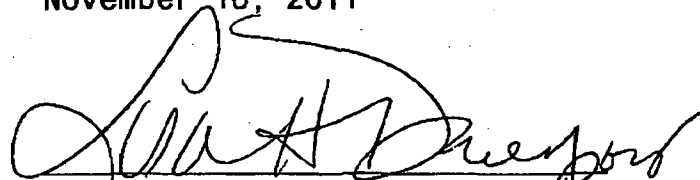
24

25

I, Lisa H. Davenport, Official Court Reporter for the Second Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Court of General Sessions for Aiken County, South Carolina, on the 9th -12th days of May, 2011.

I do further certify that I am neither of kin, counsel nor interest to any party hereto.

November 16, 2011



Lisa H. Davenport, Court Reporter

WITNESSES

Aiken County Sheriff

J Sanders

Law Enforcement Case #: 10-043544

JWW

ARREST WARRANT NUMBER

M007164

ACTION OF GRAND JURY

The Bill

Forperson of Grand Jury
Date: December 9, 2010

VERDICT

DOCKET NO. 2010GS0201899

The State of South Carolina

County of Aiken

COURT OF GENERAL SESSIONS

DECEMBER TERM 2010

THE STATE
vs.

DARRIN DARRELL HOLSTON

CDR #: 0079

Indictment for

BURGLARY IN THE FIRST DEGREE

§ 16-11-0311

J. STROM THURMOND, SOLICITOR

Forperson of Petit Jury
Date:

Dec 9, 2010
J. Thurmond
J.C.P.A.G.S.
J. Thurmond
Jury Clerk

STATE OF SOUTH CAROLINA)
)
COUNTY OF AIKEN)
)

INDICTMENT FOR
BURGLARY IN THE FIRST DEGREE
§ 16-11-0311

At a Court of General Sessions, convened on December 13, 2010, the Grand Jurors of Aiken County present upon their oath:

That DARRIN DARRELL HOLSTON did in Aiken County on or about July 17, 2010, wilfully and unlawfully enter the dwelling, a group home, belonging Tri-Development Center of Aiken County Inc., located at [REDACTED], Aiken, South Carolina without consent and with the intent to commit a crime therein and the defendant was armed with a deadly weapon, all in violation of §16-11-311, 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.


J. STROM THURMOND, SOLICITOR

STATE OF SOUTH CAROLINA
COUNTY OF Aiken
STATE

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2010GS0201899

vs.
Darrin Darrell Holston

AM#: M007184

AKA:
Race: 2 Sex M Age: 35
DOB: [REDACTED]

Date of Offense: 7/17/2010S.C. Code §: 16-11-0311CDR Code #: 0078Address: [REDACTED]City, State, Zip: Aiken, SC 29801DL#: [REDACTED] SID# SC00906892CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was

☒ CONVICTED OF or ☐ PLEADSTO: Burglary / Burglary (After June 20, 1985) - First degreeIn violation of § 16-11-0311 of the S.C. Code of Laws, bearing CDR Code # 0079☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS ☒ §17-25-45The charge is: ☒ As indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (def.'s initials)The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

K. May 80679
Solicitor 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 Life days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years
and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment
of \$ _____; 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.☐ The Defendant is to be placed on 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 16-26-65 (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% fee: \$ _____

_____ days/hours Public Service Employment

Payment Terms: _____

Obtain GED ☐☐ Set by SCDPPPS _____

Attend Voc. Rehab. Or Job Corp. _____

Recipient: _____

May serve W/E beginning _____

*Fine: _____

Substance Abuse Counseling ☐

\$14-1-208 (Assessments 107.5%) \$ _____

Random Drug/Alcohol Testing ☐\$14-1-211 (A)(1)(Conv. Surcharge) \$100 \$ 100.00

Fine may be pd. in equal consecutive weekly/monthly

\$14-1-211 (A)(2)(DUI Surcharge) \$100 \$ _____

prts. of \$ _____ Beginning

\$58-5-2985 (DUI Assessment) \$12 \$ _____

\$ _____ Paid to Public Defender Fund

\$58-1-288 (DUI Breath Test) \$25 \$ _____

Other: _____

Proviso 47.9 (Public Def/Prob) \$500 \$ _____

\$14-1-212 (Law Enforce. Funding) \$25 \$ 25.00

\$14-1-213 (Drug Court Surcharge) \$150 \$ _____

\$50-21-114 (BUI Breath Test Fee) \$80 \$ _____

\$58-5-2942(J) (Vehicle Assessment) \$40/fee \$ _____

Proviso 90.5 (SCCJA Surcharge) \$5 \$ 5.003% to County (if paid in installments) \$ 3.90TOTAL \$ 133.90
☐ Appointed PD or appointed other counsel,
\$47.12 requires \$500 be paid to Clerk
during probation.
Clerk of Court/Deputy Clerk Sharon D. RagunkeviciusPresiding Judge Mr. CantrellCourt Reporter: Lisa H. DavenportJudge Code: 0136

SCCA217 (03/2011)

Sentence Date May 12, 2011

WITNESSES

Aiken County Sheriff

J Sanders

Law Enforcement Case #: 10-043544

JWW

ARREST WARRANT NUMBER

M035239

DOCKET NO. 2010GS0201905

The State of South Carolina

County of Aiken

COURT OF GENERAL SESSIONS

DECEMBER TERM 2010

THE STATE
vs.

DARRIN DARRELL HOLSTON

ACTION OF GRAND JURY

*True Bill**J. St. J. R.*
Foreperson of Grand Jury
Date: December 9, 2010

VERDICT

CDR #: 0026

Indictment for

ATTEMPTED ARMED ROBBERY

§ 16-11-0330

J. STROM THURMOND, SOLICITOR

Foreperson of Petit Jury

Date:

FILED *Dec 9 2010*
J. St. J. R.
 DEPUTY CLERK
J. St. J. R.
 DEPUTY CLERK

STATE OF SOUTH CAROLINA)
COUNTY OF AIKEN)

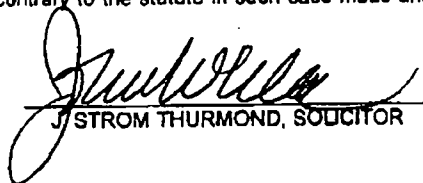
INDICTMENT FOR
ATTEMPTED ARMED ROBBERY

§ 16-11-0330

At a Court of General Sessions, convened on December 13, 2010, the Grand Jurors of Aiken County present upon their oath:

That DARRIN DARRELL HOLSTON did in Aiken County on or about July 17, 2010, while armed with a deadly weapon, attempt to feloniously take from the person or presence of [REDACTED] by means of force or intimidation goods or monies of [REDACTED] all in violation of §16-11-330 of the 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.


J. STROM THURMOND, SOLICITOR

STATE OF SOUTH CAROLINA
COUNTY OF Aiken
STATE

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2010GS0201905

VS.
Darrin Darrell Holston

A/V#: M035239

AKA: _____

Date of Offense: 7/17/2010

Race: 2 Sex: M Age: 35

S.C. Code §: 16-11-0330(B)

DOB: _____ SS#: _____

CDR Code #: 0026

Address: _____

City, State, Zip: Aiken, SC 29801

DL#: _____ SID# SC00906892

SENTENCE SHEET

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was

☒ CONVICTED OF or ☐ PLEADS

TO: Robbery / Attempted armed, or allegedly armed, robbery

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 ☒ \$17-25-45

The charge is: ☒ As indicted, ☐ Lesser included Offense, ☐ Defendant Waives Presentment to Grand Jury. (def.'s initials)

The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

K. May 80679
Solicitor 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 Life days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and or payment of \$ _____; 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: 10-65-02-1899

☐ 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.

☐ The Defendant is to be placed on 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% fee: \$ _____

_____ days/hours Public Service Employment

Payment Terms: _____

Obtain GED ☐

☐ Set by SCDPPPS _____

Attend Voc. Rehab. Or Job Corp. _____

Recipient: _____

May serve W/E beginning _____

*Fine: _____

Substance Abuse Counseling ☐

§14-1-208 (Assessments 107.5%) \$ _____

Random Drug/Alcohol Testing ☐

§14-1-211 (A)(1)(Conv. Surcharge) \$100 \$ 100.00

Fine may be pd. in equal consecutive weekly/monthly

§14-1-211 (A)(2)(DUI Surcharge) \$100 \$ _____

mts. of \$ _____ Beginning

§56-5-2995 (DUI Assessment) \$12 \$ _____

\$ _____ Paid to Public Defender Fund

§56-1-288 (DUI Breath Test) \$25 \$ _____

Other: _____

Proviso 47.9 (Public Def/Prob) \$500 \$ _____

§14-1-212 (Law Enforce. Funding) \$25 \$ 25.00

§14-1-213 (Drug Court Surcharge) \$150 \$ _____

§60-21-114 (BUI Breath Test Fee) \$50 \$ _____

§56-5-2942(J) (Vehicle Assessment) \$40/ea \$ _____

Proviso 90.6 (SCCJA Surcharge) \$5 \$ 5.00

3% to County (if paid in installments) \$ 3.00

TOTAL \$ 133.10

☐ Appointed PD or appointed other counsel, \$47.12 requires \$500 be paid to Clerk during probation.

Clerk of Court/Deputy Clerk Deborah Bell

Presiding Judge 7708 E. E. E.

Court Reporter: Gina Davenport

Judge Code: 0136

SCCA/217 (03/2011)

Sentence Date May 12, 2011

WITNESSES

Aiken County Sheriff

J Sanders

Law Enforcement Case #: 10-043544

JWW

ARREST WARRANT NUMBER

M025799

ACTION OF GRAND JURY

True Bill

Foreperson of Grand Jury

Date: December 9, 2010

VERDICT

CDR #: 0095

Indictment for

KIDNAPPING

§ 16-03-0910

Foreperson of Petit Jury

Date:

DOCKET NO. 2010GS0201903

The State of South Carolina

County of Aiken

COURT OF GENERAL SESSIONS

DECEMBER TERM 2010

THE STATE
vs.

DARRIN DARRELL HOLSTON

FILED Dec 9, 2010
L. J. Holston
 C.C.P. & U.S. ys
L. J. Holston
 Deputy Clerk

STATE OF SOUTH CAROLINA)
)
COUNTY OF AIKEN)
)

INDICTMENT FOR
KIDNAPPING
§ 16-03-0910

At a Court of General Sessions, convened on December 13, 2010, the Grand Jurors of Aiken County present upon their oath:

That DARRIN DARRELL HOLSTON did in Aiken County on or about July 17, 2010, unlawfully seize, confine, inveigle, decoy, kidnap, abduct or carry away [REDACTED] without authority of law, all in violation of §16-3-910 of the 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.


J. STROM THURMOND, SOLICITOR

STATE OF SOUTH CAROLINA
COUNTY OF Aiken
STATE

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2010GS0201903

VS.
Darrin Darrell Holston

AW#: M026789

AKA:
Race: M Age: 35

Date of Offense: 7/17/2010

DOB: [REDACTED]

S.C. Code §: 16-03-0910

Address: [REDACTED]

CDR Code #: 0095

City, State, Zip: Aiken, SC 29801

SENTENCE SHEET

DL#: SC00908892

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was

☒ CONVICTED OF or ☐ PLEADS

TO: Kidnapping / Kidnapping

In violation of § 16-03-0910 of the S.C. Code of Laws, bearing CDR Code # 0095

☐ NON-VOLUNT ☒ VOLUNT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS ☒ §17-25-45

The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (def.'s Initials)

The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

K. M. J. 80679
Solicitor 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 10-65-07-1899 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and or payment of \$ _____; 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: 10-65-07-1899

☐ 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.

☐ The Defendant is to be placed on 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 16-25-55 (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% fee: \$ _____

_____ days/hours Public Service Employment

Payment Terms: _____

Obtain GED ☐

☐ Set by SCDPPPS _____

Attend Voc. Rehab. Or Job Corp. _____

Recipient: _____

May serve WE beginning _____

*Fine: _____

Substance Abuse Counseling ☐

§14-1-208 (Assessments 107.5%) _____

Random Drug/Alcohol Testing ☐

§14-1-211 (A)(1)(Conv. Surcharge) \$100 \$ 100.00

Fine may be pd. in equal consecutive weekly/monthly

§14-1-211 (A)(2)(DUI Surcharge) \$100 \$ _____

prts. of \$ _____ Beginning

§56-5-2995 (DUI Assessment) \$12 \$ _____

\$ _____ Paid to Public Defender Fund

§56-1-286 (DUI Breath Test) \$25 \$ _____

Other: _____

Proviso 47.9 (Public Def/Prob) \$500 \$ _____

§14-1-212 (Law Enforce. Funding) \$25 \$ 25.00

§14-1-213 (Drug Court Surcharge) \$150 \$ _____

§50-21-114 (BUI Breath Test Fee) \$50 \$ _____

§56-5-2842 (J) (Vehicle Assessment) \$40/ea \$ _____

Proviso 90.5 (SCCJA Surcharge) \$5 \$ 5.00

3% to County (if paid in installments) \$ 3.90

TOTAL \$ 133.90

☐ Appointed PD or appointed other counsel, \$47.12 requires \$500 be paid to Clerk during probation.

Clerk of Court/Deputy Clerk Ann Sanders

Presiding Judge W. B. E. Jr.

Court Reporter: Lisa Davenport

Judge Code: 0136

SCCA217 (9/3/2011)

Sentence Date Aug 12, 2011

no sex offender registration required

0136

M007164
025799
035239 FORM 5

2013 CP-02-00856
2010 GS-02-1899, 1903, 1905

Filed 4-15-2013
CC, CP & GS Aiken County
Deputy Clerk [Signature]
Trial Judge D. A. [Signature]
Trial Atty. Walls, [Signature]
Court Reporter Lisa [Signature]
Sec. PCR Petitioner [Signature]
General Sessions Atty. Gen.
Appointed Atty. [Signature]

STATE OF SOUTH CAROLINA)

COUNTY OF Aiken)

DARRIN DARRELL HOUSTON # 288828)

Full name and prison number (if any) of Applicant.)

v.)

State of South Carolina)

IN THE COURT OF)

APPLICATION FOR)

POST-CONVICTION RELIEF)

INSTRUCTIONS - READ CAREFULLY

In order for this application to receive consideration by the Court, it shall be in writing (legibly handwritten or typewritten), signed by the applicant and verified (notarized), and it shall set forth in concise form the answers to each applicable question. If necessary, applicant may furnish his answer to a particular question on the reverse side of the page or on an additional page. Applicant shall make clear to which question any such continued answer refers.

Since every application must be sworn under oath, any false statement of a material fact therein may serve as the basis of prosecution and conviction for perjury. Applicants should, therefore, exercise care to assure that all answers are true and correct.

If the application is taken in forma pauperis, it shall include an affidavit (attached at the back of the form) setting forth information which establishes that applicant will be unable to pay fees and costs of the proceedings. When the application is completed the original shall be mailed to the Clerk of Court for the County in which the applicant was convicted.

1. Place of detention PERRY CORRECTIONAL FACILITY 430 OAKLAWN RD PELZER SC 29669
2. Name and location of Court which imposed sentence COURT OF GENERAL SESSIONS Aiken, SC 29801
3. Name(s) of co-defendant(s) (if any) _____
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 - (a) 2010-GS-020-1899 BURGLARY
 - (b) 2010-GS-020-1903 KIDNAPPING
 - (c) 2010-GS-020-1905 ATTEMPT ARMED ROBBERY
5. The date upon which sentence was imposed and the terms of the sentence:
 - (a) MAY 12, 2011 LIFE w/o PAROLE
 - (b) MAY 12, 2011 LIFE w/o PAROLE

- (c) MAY 12, 2011 Life w/o PAROLE
6. Check whether a finding of guilty was made:
- (a) after a plea of guilty _____
- (b) after a plea of not guilty X
- (c) after a plea of nolo contendere _____
7. Did you appeal from the judgment of conviction or the imposition of sentence?
YES
8. If you answered "yes" to (7), list:
- (a) the name of each Court to which you appealed:
- i. SOUTH CAROLINA COURT OF APPEALS
- ii. _____
- iii. _____
- (b) the result in each such Court to which you appealed:
- i. AFFIRMED
- ii. _____
- iii. _____
- (c) the date of each such result:
- i. DECEMBER 28, 2012
- ii. _____
- iii. _____
- (d) if known, citations of any written opinion or orders entered pursuant to such results:
- i. _____
- ii. _____
- iii. _____
9. If you answered "no" to (7), state your reasons for not so appealing:
- (a) _____
- (b) _____
- (c) _____
10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:

Police Misconduct

INEFFECTIVE ASSISTANCE OF APPELLATE COUNSEL.(a) INEFFECTIVE ASSISTANCE OF TRIAL COUNSEL(b) PROSECUTORIAL MISCONDUCT(c) ABUSE OF DISCRETION (TRIAL COURT ERR)

11. State concisely and in the same order the facts which support each of the grounds set out in (10):

(a) SEE ATTACHED MEMORANDUM(b) "(c) "

12. Prior to this application have you filed with respect to this conviction:

(a) any petition in a State Court under South Carolina Law? _____

(b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? _____

(c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? _____

(d) any other petitions, motions or applications in this or any other Court? _____

13. If you answered "yes" to any part of (12), list with respect to each petition, motion or application:

(a) the specific nature thereof:

i. _____

ii. _____

iii. _____

iv. _____

(b) the name and location of the Court in which each was filed:

i. _____

ii. _____

iii. _____

iv. _____

(c) the disposition thereof:

i. _____

ii. _____

iii. _____

- iv. _____
- (d) the date of each such disposition:
- i. _____
- ii. _____
- iii. _____
- iv. _____
- (e) if known, citations of any written opinions or orders entered pursuant to each such disposition:
- i. _____
- ii. _____
- iii. _____
- iv. _____
14. Has any ground set forth in (10) been previously presented to this or any other Court, State or Federal, in any petition, motion or application which you have filed?
- _____
15. If you answered "yes" to (14) identify:
- (a) which grounds have been presented:
- i. _____
- ii. _____
- iii. _____
- (b) the proceedings in which each ground was raised:
- i. _____
- ii. _____
- iii. _____
16. If any ground set forth in (10) has not previously been presented to any Court, State or Federal, set forth the ground and state concisely the reasons why such ground has not previously been presented:
- (a) _____
- (b) _____
- (c) _____
17. Were you represented by an attorney at any time during the course of:

- (a) your arraignment and plea? YES
- (b) your trial, if any? YES
- (c) your sentencing? YES
- (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? YES
- (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? _____

18. If you answered "yes" to one or more parts of (17), list:

- (a) the name and address of each attorney who represented you:
- i. WALLIS APRIL ALVES 420 BARNWELL AVE AIKEN SOUTH CAROLINA 29801
- ii. ROBERT M. PACHAK PO BOX 11589 COLUMBIA SOUTH CAROLINA 29211
- iii. _____
- (b) the proceedings at which each such attorney represented you:
- i. _____
- ii. _____
- iii. _____

19. State clearly the relief you seek in filing this application:

NEW TRIAL, Sentence Vacated, Conviction Vacated.

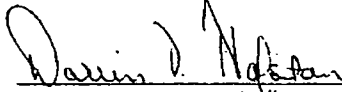
20. Are you now under sentence from any other court that you have not challenged?

No

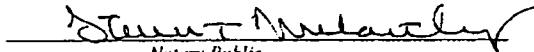
**APPLICATION TO PROCEED WITHOUT PAYMENT
OF COSTS AND AFFIDAVIT
IN SUPPORT THEREOF**

I, , hereby apply for leave to proceed in this action without prepayment of fees or costs or security therefor. In support of my application I declare under penalty of perjury that the following facts are true:

- (1) I am the applicant in this action and I believe I am entitled to redress.
- (2) Because of my poverty I am unable to pay the costs of said proceeding or give security thereof.


Applicant

SWORN or affirmed to and subscribed before me this
1st day of March, 2013.


Notary Public

My Commission Expires: January 7, 2016

State of South Carolina	)	State of South Carolina
County of Aiken	)	Second Judicial Circuit
	)	2013CP0200856
Darrin Darrell . Holston	)	
Applicant	)	
v	)	MEMORANDUM OF LAW
State of South Carolina	)	IN SUPPORT OF
Respondent	)	POST-CONVICTION RELIEF
		APPLICATION

The applicant in the above captioned case respectfully submits this MEMORANDUM OF LAW in support of sections 10(A) and 11(A) of applicants Post-Conviction Relief Application

4-9-13

Darrin D. Holston

Darrin D. Holston #228828

430 Oaklawn Road

Pelzer, South Carolina 29669

Q4A-101

4-15-13
 FILED
 L. J. Gadsden
 Clerk
 Anita Knoepfle
 Deputy Clerk

Applicant contends that he was denied effective assistance of trial counsel in violation of the South Carolina Constitution article one sections three and fourteen and the United States Constitution's sixth and fourteenth Amendments.

Counsel rendered ineffective in the following manners:

- A. Counsel elicited corroborative hearsay testimony from prosecution witnesses and defense witnesses as to what the victim said that bolstered alleged victims credibility.
 - B. Counsel failed to interview defense witnesses to ascertain whether they would support defendant's theory of the case.
 - C. Counsel failed to motion the courts for a Rule 403 analysis on evidence that prosecution and trial counsel submitted that had the propensity to mislead and confuse the jury.
 - D. Counsel denied the applicant the opportunity to confront witnesses against him by stipulating forensic Inv. Clay Adams and forensic examiner Cathey Lelsy reports instead of calling them as witnesses.
 - E. Counsel failed to object to the trial courts admitting a CD into evidence without a proper foundation for that evidence being laid.
 - F. Counsel failed to motion the courts for RULE 609 balancing analysis.
 - G. Counsel failed to object to misstatements made by alleged victim Willie Walker.
 - H. Cumulative prejudice
 - I. Conspiracy
 - J. Police misconduct
- Applicant has alleged in his Post-Conviction Relief application he received ineffective assistance of trial counsel. First the applicant must prove that counsel's performance was deficient. Under this prong, attorney's performance is measured by its "reasonableness under professional norms" Cherry V. State 300 S.C. 115, 386 SE 2d 624 (1989). Strickland v. Washington, 466 U.S. 668, 104 S. Ct. 2052, 80 L. Ed. 2d 674 (1984).

Second, counsel's deficient performance must have been prejudicial such that "there is a reasonable probability that, but for counsel's unprofessional errors the result of the proceedings would have been different" Cherry 300 SC at 117-18, 386 SE 2d at 625. A reasonable probability is a probability sufficient to undermine confidence in the outcome of the trial" Johnson V. State 325 S.C. 182, 186, 480 SE 2d 733, 735 (1997) (citing Strickland)

ISSUE ONE

TRIAL COUNSEL DENIED APPLICANT EFFECTIVE ASSISTANCE IN VIOLATION OF THE SOUTH CAROLINA CONSTITUTION ARTICLE ONE SECTIONS THREE AND FOURTEEN AND THE UNITED STATES CONSTITUTION'S SIXTH AND FOURTEENTH AMENDMENTS.

The record reflects that defense counsel cross-examined three (3) prosecution witnesses; Ralph Courtney (Tr. p.115L.21-p.118L.4); Lt. Eric Abdullah (Tr. p.160 L.14-p.161 L.7); and Lt. James d. Sanders (Tr. p.183 L.14-p.192L.19) and three (3) defense witnesses Michael S. Williams (Tr. p.201 L.23-p.202 L.24); Renee Tyler (Tr. p.263 L.9 - P.266 L.7); and Mary R. Sharp (Tr. P.274 L.22 - p.276 L.24) whose testimony enhanced the credibility of the alleged victim thus failing to resist the presentation of inadmissible corroborative hearsay testimony. Courtney, Abdullah, Sanders, Williams, and Tyler's Testimony was improperly admitted and bolstered alleged victim's testimony. Dawkins V. State 551 SE 2d 260 (2001). "The rule against hearsay prohibits the admission of out of court statements to prove the truth of the matter asserted unless an exception to the rule applies."

Alleged victim Willie Walker testified in relevant part as follows:

Q. When you were leaving did you make an attempt to lock the door?

A. No Ma'am. I was in the middle.

Q. Excuse me?

A. No Ma'am. I was in the middle.

Q. You were in the -----

A. Middle. We was walking out the door.

Q. Okay

A. The tall guy went out first, I went out second the man beside you came out right behind me.

Q. So you did not try to lock the door?

A. If you had a gun to your head would you try to lock the door?

Q. Did you tell the police that you tried to lock the door?

A. I don't remember.

Q. You don't remember?

A. No Ma'am.

Q. Did you tell your job that you tried to lock the door?

A. No Ma'am.

Q. You don't remember telling them that you tried to lock the door?

A. No Ma'am.

(Tr.p 101 L18- p 102 L 25)

Applicant did not suggest that alleged victim had recently fabricated his testimony or was acting under improper influence or motive. On the contrary, applicant asserts that his cross-examination was very carefully restricted to whether or not alleged victims trial testimony was consistent with statements he made to the above mentioned witnesses before trial. Applicant's cross-examination of Willie Walker placed his credibility before the jury.

The plain language of Rule 801(d) (1) (B) only permits evidence of a prior consistent statement when the witness has been charged with recent fabrication, motive, or improper influence. Although questioning a witness about a prior inconsistent statement does call the witness's credibility into question, that is not the same as charging the witness with "recent fabrication", "improper influence" or "motive". See State V. Saltz 551 SE 2d 240 citing Tome V. United States 513 U.S. 150, 157, 115 Sct 696, 130 L.Ed.2d (1995) ("Prior consistent statements may not be admitted to counter all forms of impeachment or to bolster the witness merely because he has been discredited The rule speaks of rebutting an alleged fabrication, not bolstering the veracity of the story told").

Applicant questioned the accuracy of the alleged victim's memory; he did not charge him with fabrication improper influence or motive. Thus defense counsel should not have elicited this corroborative hearsay testimony from witnesses Ralph Courtney, Lt. Eric Abdullah, Inv. James D. Sanders, Dep. Michael S. Williams, Renee Tyler, and Rachael Sharp of alleged victims prior statements to them because applicants cross-examination of alleged victim did not imply "recent fabrication", "improper influence", "motive". Defenses counsels elicitation of testimony in support of prosecution theory of the case was so serious that counsel was not functioning as the counsel guaranteed applicant by the sixth amendment where counsels duty to effectively cross-examine Ralph Courtney, Lt. Eric Abdullah Inv. James D. Sanders, and effectively examine Dep. Michael S. Williams, Renee Tyler, and Rachael Sharp were unfavorable to the defendant.

Moreover, this error was not harmless. Erroneously admitted corroboration testimony is not harmless merely because it is cumulative. On the contrary, "It is precisely this cumulative effect which enhances the devastating impact of improper corroboration" Jolly V. State 314 S.C. 17, 443 S E 2d 566, 569 (1994). This trial hinged on alleged victims credibility, and the testimony of the witnesses as noted above were cumulative to the alleged victim's testimony. The testimony of the witnesses relating to what the alleged victim told them served only to bolster the alleged victim's credibility.

In a usual case however, the courts would not expect a defense attorney to give such supportive testimony to prosecutions alleged victim, thereby impugning her professional efforts of loyalty to the applicant in this case. Counsel's deficient conduct at trial was a breakdown in the adversarial process that would justify that applicants conviction, and but for counsel's unprofessional errors the results of the proceeding would have been different. No specific showing of prejudice is required in the instant case because the applicant had been denied the right of effective cross-examination which was a constitutional error of the first magnitude and no amount of prejudice would cure it. (f. Davis V. Alaska 415 U.S. 308, 94 S.Ct.1105, 39 LEd 2d 347 (1974); State v Starnes 340 S.C. 312, 531 S.E. 2d 907 (2000)

ISSUE TWO

TRIAL COUNSEL DENIED APPLICANT EFFECTIVE ASSISTANCE IN VIOLATION OF THE SOUTH CAROLINA CONSTITUTION ARTICLE ONE SECTIONS THREE AND FOURTEEN AND THE UNITED STATES CONSTITUTION'S SIXTH AND FOURTEENTH AMENDMENTS.

Trial counsel was deficient in presenting Dep. Michael S. Williams (Tr.p 210 L.6-p, 209 L.20); forensics Inv. Christopher L. Johnson (Tr.p. 201 L. 4-p, 229L. 20); Renee Tyler (Tr.p. 260L.19-p.272L.17); and Rachael Sharp (Tr.p.273 L.9-p.277L.13) as defense witnesses without first interviewing them to ascertain whether they would support applicants theory of his defense. Counsel's assumption that their testimony would be favorable did not amount to reasonable professional judgment where counsel elicited hearsay testimony from these witnesses as to what the alleged victim told them. It was objectively unreasonable for the counsel to ask such crucial questions without ascertaining their response. In this instance, trial counsel provided deficient representation. Moreover, the state was able to capitalize on trial counsel's error and elicit additional damaging testimony on cross-examination

The effect of the above listed witnesses testimony which totally contradicted applicant's defense was heightened by the fact these witnesses were called as defense witnesses. Therefore, the fact that the state may have called these witnesses in reply does not diminish the prejudicial impact of trial counsel's error. It simply cannot be overstated how damaging these witness testimony was since 1. Their testimony was corroborative with the prosecutions alleged victim. 2. Their testimony supported prosecution's theory of the case. 3. The state was able to capitalize and elicit additional damaging testimony and 4. These testimonies come in as part of the defense. (Tr.p.292L.7-8)

Counsels two-fold error in calling witnesses whose testimony was known to have been used to bolster the state's case, while neglecting to elicit favorable testimony represents counsel's inadequate preparation for trial. A reasonable attorney would not call witnesses without first finding out the substance of their testimony through interviews or otherwise. Applicants claim that the testimony of these witnesses damaged his defense suggests that he was prejudiced by trial counsel's failure to discover before trial what the witnesses testimony would be. See Ingle V. State 560 S E 2d 401; (f McKnight v. State 661 S E 2d 354; Wiggins V. Smith 539 U.S>S>510,533,123 S.ct 2527.)

Counsels conduct at trial was a breakdown in the adversarial process that would justify that applicants conviction was insufficiently reliable to satisfy the constitution and but for counsels unprofessional errors the result of the proceeding would have been different.

ISSUE THREE

TRIAL COUNSEL DENIED APPLICANT EFFECTIVE ASSISTANCE IN VIOLATION OF THE SOUTH CAROLINA CONSTITUTION ARTICLE ONE SECTIONS THREE AND FOURTEEN AND THE UNITED STATES CONSTITUTION'S SIXTH AND FOURTEENTH AMENDMENTS.

Counsel was deficient in failing to request a Rule 403 analysis on pictures of a damaged door that misled the jury. The record reflects that on July 17, 2010 lead investigator James D. Sanders responded to a call indicating that a burglary 1st, kidnap, and Armed Robbery had been committed. Upon arrival at [REDACTED], the incident location, Inv. Sanders met with Dep. Michael Williams, Inv. Sanders observation of [REDACTED] was as follows:

1. Inv. Sanders observed the number seven was upside down and the screw that held the seven in place was just beneath the door and the doors to the residence were locked.
2. Sanders observed Dep. Williams knock on the door repeatedly with no response.
3. Inv. Sanders advised Lt. Abdullah that no one had responded to the knocks and that entry needed to be made to check on the residents there.
4. Inv. Sanders indicated that Lt. Abdullah stated to him that prior to being transported to the hospital the alleged victim Willie Walker stated that the key to the doors were on the key ring in his vehicle and that he and Dep. Williams would check on the residence and notify Inv. Sanders.
5. Inv. Sanders left Lt. Abdullah and Dep. Williams and traveled to the hospital wherein he spoke with alleged victim Willie Walker.
6. Inv. Sanders indicated that Walker stated he locked the door on the way out hopefully to deter suspects from going in. (Inv. James D. Sanders supplemental report p. 2 para 5 and p. 3 para 3. 68).
7. Inv. Sanders trial testimony revealed that the door that held the [REDACTED] was closed. The door was locked and at the front door he and Dep. Williams checked and the door was shut.
8. The door was locked and he didn't try to push it open. (Tr.p174L.12-20 direct examination by Weeks)
9. On cross-examination by trial counsel further testimony revealed that Sanders and Williams knocked on the doors to [REDACTED] and that the doors to the residence were locked.
10. Inv. Sanders stated that he didn't try pushing in on the door to see if it was open but he knew the door was locked and that he was with Dep. Williams while he was knocking on the door.
11. He indicated that while at the hospital with Walker Dep. Hahn came over and advised him that Lt. Abdullah had been trying to call him on the radio.
12. Inv. Sanders called Lt. Abdullah and Lt. Abdullah indicted that they had gotten into the house and found evidence where the door had been forced open.
13. Again, Inv. Sanders indicated that when he was there he didn't see any evidence of that because the door was locked.
14. And the only thing he saw was the seven hanging upside down with the screw missing and when he was talking to Mr. Walker at the hospital, Walker told him he locked the door behind him. (Tr.p190.L.12-p.192L.19)

Contrary to Inv. Sanders observations and testimony as noted above, Lt. Eric Abdullah testifies to the following:

1. At some point Lt. Abdullah and Dep. Williams got into the house but that was not the first attempt to get into the house.
2. He believed another police officer tried to get into the house before he got down there but he was not sure who.
3. Lt. Abdullah stated that he was able to get into the house because the front door was open from the damage (Tr.p161L.11-23)

Despite the substantial discrepancy inside the investigative branch of the prosecutor's office, trial counsel left applicant to defend what she knew to be false (States exhibits 20-23 Tr.p72-p.73L.17);and (Defense exhibits 10-12 Tr.p217L.5-17).

States exhibits 20-23 and Defense exhibits 10-12 were photographs of forceful entry of a damaged door that was entered into evidence to show the condition of the door and to prove the burglary 1st. This introduction not only by the state but by trial counsel was unfairly prejudicial, confusing and misleading and led to a trial in which applicant and the state characterized each incident differently. The photos inaccurately portray pertinent facts at issue. Trial counsel was given ample opportunity to draw the perspective problem to the attention of the trial courts as well as the jury. There was sufficient evidence as noted above in paragraphs 1-14 to render those photographs unfairly prejudicial, confusing and misleading under rule 403.

A close examination of the photographs themselves and a complete review of Inv. James D. Sanders supplemental report in conjunction with the trial transcript fully support the applicant's contention and would have supported the court's decision to exclude those photographs. Counsel's deficient conduct in admitting these photographs and also failing to request a 403 analysis on misleading photographs of a forcefully entered damaged door was a breakdown in the adversarial process that would justify the applicant's conviction was insufficiently reliable to satisfy the constitution, and but for counsel's unprofessional errors the result of the proceeding would have been different. Cf. RULE 403

ISSUE FOUR

Trial counsel denied applicant effective assistance in violation of the South Carolina Article one sections three and fourteen and the United States Constitution sixth and fourteenth Amendments.

The Confrontation Clause guarantees only an opportunity for effective cross-examination not cross-examination that is effective in whatever way and to whatever extent the defense may wish. Applicant contends that the stipulated reports of forensic investigator Clay Dams of the Aiken County Sheriff Office and forensic scientist Cathey Leisy of South Carolina Law Enforcement Division Forensic Service laboratory were made to the Aiken County Prosecutors office in response to request by prosecutions investigative branch with the expectation to later be used at trial. The admission of these forensic reports violated the applicant's right to confront his accusers because neither investigator was not available to testify at trial nor did the applicant have prior opportunity to effectively cross-examine these individuals.

Thus, it is the opportunity to effectively cross-examine that is constitutionally protected and applicant did not have that opportunity because trial counsel stipulated to the reports so the state did not have to bring those witnesses in. It is undisputed and the transcript of record reflects that forensic Inv. Clay Adams and forensic scientist Cathey Leisy did not appear at trial, was not available for cross-examination, and could not have been recalled after the reports were admitted. Trial counsel deficient performance in admitting those witnesses forensic reports would violate applicants right to confrontation because he had an inadequate opportunity to effectively cross-examine the witnesses at trial is supported by the evidence.

Counsel's deficient conduct in denying the applicant the opportunity to confront Inv. Clay Adams and forensic scientist Cathey Leisy was a breakdown in the adversarial process that would justify that applicants conviction was insufficiently reliable to satisfy the constitution, and but for counsel's unprofessional error the result of the proceeding would have been different. Cf State V Stokes 381 S.C. 390, 673, SE 2d 434; Bullcoming V New Mexico 131 Sct 587, 178 L. Ed2d 412.

ISSUE FIVE

Trial counsel denied applicant effective assistance in violation of the South Carolina Constitution Article one sections three and fourteen and the United States Constitution sixth and fourteenth Amendments.

Trial counsel was deficient in failing to object to the trial courts admitting a CD containing unknown photographs into evidence without a proper foundation for that evidence being laid. The record reflects that this evidence was never published in open court (Tr. p 193 (25-p 194 L9). The record also reflects that no one with knowledge of the contents testified concerning the admitted CD neither did anyone describe the process used to produce nor show that the process used produced an accurate result. This evidence was admitted in violation of South Carolina's Rules of Evidence 104 (B), 401, and 901 (A), (B)m (1), (9).

The requirement that evidence be authenticated represents a special aspect of relevancy, in that the CD could not have had a tendency to make the existence of a disputed fact more or less likely if it is not what the state claimed. The record is silent as to any prima facie showing that the evidence should be admitted nor has the stat offered any satisfactory foundation from which the jury could have reasonably found that the evidence is authentic. It is unknown as to who produced these photographs or what these photographs depict. Therefore, this evidence may have only been admitted at trial if the individual who took these photographs would have offered foundational testimony to establish relevance. The prejudicial effect of admitting the CD substantially outweighed any probative value to the applicant when trial counsel failed to put the state's case through adversarial testing.

Counsels deficient conduct in failing to object to improperly admitted evidence by the trial courts resulted in an actual and substantial disadvantage to the course of applicants defense and was a breakdown in the adversarial process that would justify that applicants conviction was insufficiently reliable to satisfy the constitution, and but for counsels unprofessional errors the result of the

proceeding would have been different. Cf. South Carolina Rules of Evidence: 104(B), 401, 402, 901(A), (B) (1), (9).

ISSUE SIX

Trial counsel denied applicant effective assistance in violation of the South Carolina Constitution Article one sections three and fourteen and the United States Constitution Sixth and Fourteenth Amendments.

The admission of evidence concerning past convictions for impeachment purpose remains within the trial judge's discretion providing the judge conducts the analysis mandated by the evidence rules and case law.

Trial counsel was deficient in allowing the trial courts to admit applicants prior criminal sexual conduct conviction to impeach applicant without moving the courts to conduct a balancing analysis and articulate on the record specific facts and circumstance to overcome Rule 609's admissibility. Trial counsel acknowledged in argument that the prejudicial effect of admitting the criminal sexual conduct would substantially outweigh the probative value to the applicant and that that particular offence was not indicative of credibility. Nevertheless, trial counsel was deficient in failing to request a balancing analysis that she knew was mandated by the rules of evidence and case law of South Carolina, and the courts articulated no specific facts or circumstances to support his ruling admitting the conviction. Whether the probative value of the criminal sexual conduct substantially outweighed the prejudice was a determination the trial courts should have made after careful balancing. Applicant was unquestionably prejudiced by the admission of the prior offence because it allowed his character to be placed at issue for determination of the jury. (Tr.p195 L7-p.82 L17); (Tr.p241 L2-5)

Counsel's deficient conduct in failing to motion the courts for a Rule 609 (SCRE) balancing analysis resulted in an actual and substantial disadvantage to the course of applicants defense in that applicant was unfairly prejudiced, and that counsel's conduct was a breakdown in the adversarial process that would justify that applicants conviction was insufficiently reliable to satisfy the constitution and but for counsels unprofessional errors the result of the proceeding would have been different. Cf. State V Martin 347 SC. 522, 56 SE 2d 706; State V Black 732 SE 2d 880, SEE ALSO State V. Scriven 339 S.C. 333, 529, SE 2d 71

ISSUE SEVEN

Trial counsel denied applicant effective assistance in violation of the South Carolina Constitution Article one sections three and fourteen and the United States Constitutions sixth and fourteenth Amendments.

Where there are numerous violations of fundamental rights and rules that, if considered individually, would probably have no measurable effect on the court but, in cumulative effect, are unfairly prejudicial the cumulative error doctrine permits courts to reverse.

Applicant contends that the cumulative impact of Trial counsel's deficient conduct unfairly prejudiced applicant's defense. Counsel's deficiencies in the guilt phase of the applicant's trial were numerous. They included:

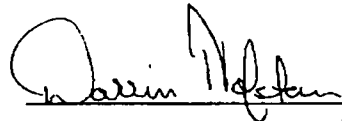
- A. Eliciting corroborative hearsay testimony
- B. Bolstering alleged victims credibility
- C. Failed to interview defense witnesses to ascertain whether they would support applicant's defense
- D. Failed to motion the courts for RULE 403 analysis
- E. Denied the applicant the opportunity to confront witness
- F. Failed to object to trial courts admitting evidence without a proper foundation being laid
- G. Failed to motion the courts for a RULE 609 balancing analysis.

These are serious deficiencies that applicant does not hesitate to iterate that there is a reasonable probability that absent these deficiencies the outcome of the trial would have been different. The plethora and gravity of trial counsel's deficient performance coupled with the above unprofessional errors produced a cumulative effect of prejudice, where individually, the prejudice may be insufficient, but in their totality, the cumulative effect of counsel's deficient unprofessional conduct unfairly prejudiced applicants defense to the extent that counsels conduct so undermined the proper functioning of the adversarial process the applicants trial cannot be relied upon as having produced a just result. CF State V. Freeman 319 S.C. 110, 459 SE 2d 867 (1995); See also Frett V. State 298 S.C. 54, 378 S.E.2d 249.

Conclusion

Applicant contends that he foregoing issue and facts as set forth in the memorandum of law is sufficient to constitute a claim of ineffective assistance of trial counsel and as such deny the applicant his guaranteed right to a fair trial by the south Carolina Constitution Article one section three and fourteen and the Fourteenth Amendment of the United States Constitution. Applicant moves this honorable court to set aside conviction and sentence and remand for a new trial.

Date 4-9-13



Applicant contends that he was denied effective assistance of trial counsel in violation of South Carolina Constitution Article one sections three and fourteen and the Federal Constitution sixth and fourteenth Amendments.

Counsel rendered ineffective in the following manner:

Violated applicants civil rights by conspiring with the state and its agents in securing applicants conviction.

Applicant was denied effective assistance of trial counsel in violation of South Carolina Constitution Article one section three and fourteen and the Federal Constitution sixth and fourteenth Amendments.

To establish the common plan element of a conspiracy, it is not necessary for the applicant to prove an expressed agreement between trial counsel and prosecution to violate the law. The common purpose and plan may be inferred from a development of circumstances properly placed together.

When the applicant, in his criminal trial, was placed under the guidance of trial counsel and counsel was charged with a duty to secure the applicants rights under the South Carolina Constitution Article one section three

and fourteen and the Federal Constitution sixth and fourteenth Amendments, and to provide the applicant a protection of those rights counsel breached specific duties that the law imposed on her and acted "under color of law" when she willfully participated in conspiratorial acts that aided the state and its agents secure applicants conviction on the charges of Burglary^{1st}, Kidnap, and Attempt Armed Robbery. The failure of trial counsel to undertake reasonable action to protect the applicant from obvious dangers constitutes a breach of duty and a violation of constitutional rights. In this case, the due process clauses of the South Carolina Constitution and the Federal Constitution constitutes an appropriate state and federal basis for this claim.

Under the due process clauses, a defendant in a criminal trial is legally entrusted to the guidance of a lawyer that will bring to bear such skill and knowledge as will render the trial a reliable adversarial testing process and has a right to not suffer a deprivation of liberty nor mental and emotional distress as a proximate result of the failure of trial counsel to render effective assistance. Trial counsels conspiratorial actions are held to have aided the prosecution secure the applicants conviction. Counsel prevented and obstructed the applicant in the free exercise and enjoyment of

rights secured to him by the Constitution and laws of this state and Constitution and laws of the United States. Counsel's violation of reasonable standards of conduct as set forth in our governing legal authorities involves a lack of legal guidance, regard, and concern for applicants constitutional right to a fair trial. Counsel cannot in good faith maintain that she was not aware of the dangers in failing to provide reasonable protection of applicants rights.

Although counsel's deficient conduct may not have involved any particular mental state or actual state of conscious awareness, it does involve a breach of duties that the law imposed on counsel at that time, and constitutional violations that exposed the applicant to a deprivation of liberty, mental, and emotional stress that was an approximate cause of a violation of applicants guaranteed due process right to a fair trial. Therefore, when trial counsel through conspiratorial acts constituting deficient and unprofessional conduct, exposed the applicant which was under her guidance to the consequences of those acts it may be established that she did so intentionally or deliberately. Deliberate indifference may be inferred from the failure of trial counsel to perform specific duties required under state and federal law. This inference arises from the fact that the duties of trial counsel

are defined at least in part by state and federal law. Consequently, it would be natural to presume that trial counsel was at the time of applicants trial familiar with those laws which should have had a direct bearing on her official conduct as a trial lawyer.

However, it is very important in the instant case to distinguish between vaguely defined duties and those which mandate specific conduct. As stated by the United States Supreme Court in Strickland v. Washington 466 U.S. 688, 104 S.Ct 2052 "The Constitution guarantees a fair trial through the due process clause, but it defines the elements of a fair trial largely through the several provisions of the sixth amendment including the Counsel Clause: In all criminal prosecutions the accused shall enjoy the right to be informed of nature and cause of accusation, be confronted with witnesses against him, to obtain witnesses in his favor, and to have the assistance of counsel for his defense. In addition to securing the applicants right to a fair trial through the above noted elements counsels representation entail certain basic duties. Counsels function is to assist the defendant, hence counsel owed the applicant a duty of loyalty Advocate the defendants cause consult with the applicant on important decisions, and to keep him

informed on important decisions and developments in the course of the prosecution.

These rights of the applicant and the basic duties of trial counsel as defined by the courts mandate specific conduct. The more the law clearly mandates a specific course of conduct the more it furnishes a plausible basis for inferring deliberate indifference from a failure to act, even without any specific knowledge of harm or risk. This is because the failure to undertake a specific course of action in defense of specific rights and duties can reasonably be attributed to a bona fide difference of opinion as to how those rights and duties should be performed. Clearly it can be established that trial counsel through her unprofessional and deficient performance deprived the applicant of his guaranteed due process right to a fair trial and that those actions were in conformity with the states case.

- 1) In addressing issue one of applicants complaint counsel violated applicants right to have the (effective) assistance of counsel for his defense and breached her basic duties to assist the applicant and advocate the applicants cause

- 2) In addressing issue two of applicants complaint counsel violated applicants right to obtain witnesses in his favor and to have the (effective) assistance of counsel for his defense. Counsel breached basic duties to assist the applicant, advocate the defendants cause, and consult with the applicant on important decisions
- 3) In addressing issue three of applicants complaint counsel violated applicants right to have the (effective) assistance of counsel for his defense. Counsel breached her basic duties in assisting the applicant, advocating the applicants cause, and consult with the applicant on important decisions.
- 4) In addressing issue four of applicants complaint counsel violated applicants right to confront witnesses against him, to have the (effective) assistance of counsel for his defense and breached her basic duties in assisting the applicant, advocate the applicants cause, and consult with the applicant on important decisions.
- 5) In addressing issue five of applicants complaint counsel violated applicants right to be confronted with witnesses against him and to have the (effective) assistance of counsel for his defense. Counsel breached her basic

duties of assisting the defendant and advocate the defendants cause.

- 6) In addressing issue six of applicants complaint counsel violated applicants right to have the (effective) assistance of counsel for his defense and violated her basic duties of assisting the applicant, and advocate the defendants cause.
- 7) In addressing issue seven of applicants complaint counsel and 10(b), 11(b) and 10(c), 11(c) of applicants Post-Conviction Relief Application counsel conspired against applicants civil rights by hindering, preventing, and obstructing the applicant in the free exercise and enjoyment of his state and federal rights secured to him by the Constitution and laws of South Carolina and the Constitution and laws of the United States.

The obligations of trial counsel are specifically defined in Strickland v. Washington 466 U.S. 688, 104 S.Ct 2052 and adopted in this state in Cherry v. State 300 S.C. 115, 119 386 SE 2d 624. These requirements which must be satisfied are clearly established, thereby providing trial counsel with the proper notice of reasonable professional performance. Therefore, trial counsel whose actions were in violation of these basic duties and constitutional

provisions cannot be reasonably held to have acted in good faith.

When trial counsel acted in violation of well established governing legal principles that had a direct bearing on her official duty and conduct and of which it is reasonable to expect a lawyer of over 20 years as herself to be knowledgeable of a resulting lawsuit against counsel for conspiracy against applicants civil rights cannot be reasonably noted as unsubstantial. Prosecutions plan was to gain a conviction based on the testimony of the alleged victim and in support of that testimony submit pictorial evidence to the jury. Trial counsel upon presenting a defense elicited testimony in support of the alleged victim while submitting the same pictorial evidence to the jury that the state had presented. Counsel was well aware of the applicants denial of the allegations that was presented to the jury prior to trial and during trial (TRP, 241 L. 15-22). Thus, the common purpose and plan of trial counsel in conspiring with the state and its agents to secure applicants conviction may be inferred from the development and presentation of these circumstances properly placed together for the determination of the jury. In noting trial counsels experience as a trial lawyer the applicant must construe this as being intentional or deliberate.

cf. S.C. Const. Art. one sections three and fourteen;
Federal Const. sixth and fourteenth Amendments; Cherry V.
State 300 S.C. 115, 119, 386 S.E. 2d 624; Strickland V. Washington
 466 U.S. 688, 104 S.Ct 2052; S.C. Rules of Professional Conduct
 1.1-1.4, 8.4(A); A.B.A Standards for Crim. Justice 4-1.1 to 4-8.6;
South Carolina Code of Laws § 16-5-10; 42 U.S.C.A § 1983;
 and Lawyers Oath

Conclusion

Applicant moves this honorable court to:

- a) Set aside conviction and sentence and remand for a new trial;
- b) Order compensatory damages in the amount of 600,000.00 (six hundred thousand dollars);
- c) Order punitive damages in the amount of 5,000,000.00 (five million dollars).
- d) Exemplary damages in the amount of 5,000,000.00 (five million dollars).

date 4-9-13

s/ Hassan Nafsan

Applicant contends that he was denied effective assistance of trial counsel in violation of South Carolina Constitution Article one sections three and fourteen and the federal Constitution sixth and fourteenth Amendments.

Counsel rendered ineffective in the following manner:

failed to object to police misconduct

Applicant was denied effective assistance of trial counsel in violation of South Carolina Constitution Article one sections three and fourteen and the federal Constitution sixth and fourteenth Amendments.

See Issue three.

Date _____

J. Darin Hagan

APPLICANT NOTE

ANY ALLEGATION NOT EXPRESSLY DENIED HERewith IN THIS COMPLAINT SHALL BE DEEMED ADMITTED AND ALL DENIALS SET FORTH IN THE FOREGOING ALLEGATIONS SHALL FAIRLY MEET THE SUBSTANCE OF THE AVERMENTS DENIED.

- EXHIBIT A

FILED 4.15.13

AGENCY I. D.
SC0020000

SUPPLEMENTARY REPORT

CASE NUMBER

NCIC

10-043544

☐ ORIGINAL REPORT	☒ SUPPLEMENTAL REPORT	☐ ADDITIONAL VICTIMS	☐ ADDITIONAL STOLEN PROPERTY
☐ MODIFIES ORIGINAL	☒ CASE STATUS CHANGE	☐ ADDITIONAL OFFENDERS	☐ ADDITIONAL RECOVERED PROPERTY

Page 1 Of 4 Pages

Incident Type	Burglary / Home Invasion	Date	07-17-10	Time	0237
Victim's Name	Walker, Willie	Subject Name	Holston, Darrin Darrell		

Investigation disclosed that on 07-17-10 at approximately 0230hrs Darrin Darrell Holston kicked open the front door to a residence located at [REDACTED] belonging to Tri Development Center. That residence was housing 4 handicapped / disabled people. Three of them were in the residence at the time of the incident. Victim Willie Walker was on staff in the residence at the time of the burglary. Holston held Walker at gunpoint and demanded money. A few minutes later a second unidentified BM entered the residence and also demanded money from Walker. Holston then forced Walker into Walker's vehicle with the intention for Walker to go to the bank and use his ATM card to withdraw money from his account. Holston continually threatened to shoot / kill Walker. While on Wheat Road enroute to the bank Walker sped up in his vehicle. Walker's vehicle was being followed by the second subject. Walker fearing for his life jumped from his moving vehicle. The vehicle crashed into a tree causing injury to Holston. The victim was also injured as a result of jumping from the vehicle. Witnesses Salley and Vommond observed Walker jumping from the vehicle and the vehicle crashing and Walker requesting they call 911 for help that he was being robbed. Both witnesses provided statements. Holston was arrested and transported by ambulance to MCG for treatment. R/O obtained the following warrants; M-025799 Kidnapping, M-007164 Burglary 1st, M-035239 Attempted Armed Robbery, M-007166 Possession of a Firearm during the Commission of a Violent Crime and M-007167 for Possession of a Firearm by a Violent Felon. Holston was convicted on 06-26-06 for Criminal Sexual Conduct 1st degree which is classified as a violent crime. R/O cleared the case by arrest.

07-17-10, R/O received a call from Lt. Abdullah and he requested that R/O respond to the I/L. Lt. Abdullah briefed R/O on the incident. He stated that the victim works for Tri-County Development and was house sitting for several disabled individuals. He stated that a BM kicked in the front door and held the victim at gun point demanding money. A second BM suspect had then entered the residence also demanding money. He stated that they forced the victim into the victim's vehicle to go to the teller machine for the victim to withdraw money.

Lt. Abdullah stated that one of the BM suspects was in the victim's vehicle with the victim driving and the second suspect followed them in a white in color Explorer. He stated that while going down Wheat Road the victim had jumped out of his vehicle and the vehicle had wrecked into a tree. Lt. Abdullah stated that the victim and suspect were injured and were about to be transported to MCG. Lt. Abdullah stated that after wrecking the victim walked across the street to the witness's residence and had requested that they call 911.

Lt. Abdullah stated that according to the witnesses the second suspect had pulled up to the wreck and took the gun that the other suspect had and had then fled the scene. Lt. Abdullah stated that the suspect in the vehicle with the victim had a gun. He stated that suspect was wearing gloves and was only wearing boxer shorts.

SUBJECT IDENTIFIED	SUBJECT LOCATED	☐ ACTIVE	☐ ADM CLOSED	☐ ARRESTED UNDER 18	☐ EX-CLEARED UNDER 18
YES ☒ NO ☐	YES ☒ NO ☐	☐ UNFOUNDED	☐	☐ ARRESTED 18 & OVER	☐ EX-CLEARED 18 & OVER

Reason For Exceptional Clearance ☐ Offender Death ☐ No Prosecution ☐ Exoneration Desired ☐ Victim Declines Cooperation ☐ Juvenile No Custody

REPORTING OFFICER	DATE	UNIT #	APPROVING OFFICER	DATE	UNIT #
Inv. J.D. Sanders	07-22-10	4681			
Inv. J.D. Sanders	08-25-10	4681			

Follow up Investigation ☐ Yes ☐ No ☐ Officer

07-17-10, Continued, R/O arrived on scene and met with Lt. Abdullah and forensics Investigator Chris Johnson. Johnson was in the process of taking photographs. R/O examined the vehicle. The vehicle had a significant amount of damage to it. The vehicle was just off the roadway and lodged into a large tree. There was a good deal of blood in the vehicle. There was blood also on the passenger side outside the door, on the roof and down the side and trunk area. R/O observed a black baseball type hat wedged between the seat and door frame between the back of the passenger side front seat and the rear door area.

R/O walked across the street and spoke with the two witnesses William Salley and Clinton Vommond. They stated that they along with several other people observed sitting in the residence had been sitting on the front porch and had heard a vehicle coming down the road at a high rate of speed. Salley and Vommond stated that when the vehicle got in front of the house that the victim had jumped out and the vehicle had crashed into the tree. They stated that the victim got up and walked into the yard yelling that they were trying to rob him call 911. Salley stated he walked across the road and observed a BM in the passenger side. Salley stated that the BM was bleeding badly and appeared out of it. He stated he observed a pistol on the BM's lap. He stated he backed off and walked back across the street. Salley and Vommond stated that they then heard another vehicle and the white vehicle believed to be a 90's model Explorer or possibly Expedition pulled up rapidly. They stated that BM got out repeatedly saying "where's my motherfucking partner"

They stated they asked that BM who was talking out and they pointed to the victim standing in the yard and pointed that someone was still in the car. They stated that BM stated he was talking about his partner, "The motherfucker that was in the passenger seat". They stated they told him the guy was still in the passenger seat injured and out of it. Salley stated that the BM walked over to the car and he also walked over to the car. Salley stated the BM reached in and got the gun and put the gun in his waist band. Salley stated that BM told the injured guy that he (non injured guy) was getting out of there and for him (injured guy) to keep his mouth shut and not tell anyone anything. They stated that the BM then sped off in the Explorer.

They stated that the injured guy got out of the vehicle and walked into the yard asking to use the telephone. They stated that when the injured guy started walking into the yard that the victim ran off away from the guy. They stated that the victim was obviously scared of the guy and would run away any time he stated getting near the victim. They stated the injured subject kept asking to use their phone saying he needed to call his partner. They stated the subject kept telling them not to call an ambulance or the police. Salley stated the subject used his phone and called the same number twice. Salley stated it did not appear that anyone answered as the subject never said anything and each call was just a couple of seconds. Salley provided that the subject had dialed # 803-280-3801. They both stated that the subject in the car only had boxer shorts on. Salley stated the only thing the second subject took from the subject in the car was the gun.

R/O then went to [REDACTED] and met with Deputy Williams. R/O observed that the front door contained the address numbers of [REDACTED]. The number seven was hanging upside down the top screw that held the number in place was on the floor of the porch just beneath the door. The doors to the residence were locked. R/O did not observe anything else that was readily appearing out of place. There was a white van in the driveway on the right side of the residence. Deputy Williams stated that several residents were supposed to be in the residence. Williams knocked on the doors repeatedly with no response. R/O met back with Lt. Abdullah who was standing by at the wreck scene and advised him about the residence and that no one had responded to the knocks. R/O advised that entry needed to be made to the residence to check on the residents there. Lt. Abdullah stated that prior to being transported to MCG that the victim had stated the key to the doors were on the key ring in his vehicle. Lt. Abdullah stated that he and Williams would check the residence and notify R/O.

R/O then left and travelled to MCG. R/O requested from dispatch that they run the victim and the injured subject through our system and to run criminal histories on each of them. Dispatch advised R/O the victim had a clear criminal history and that our system records indicated that the victim was a victim of an assault in 2001, stopped on a traffic stop in 2005 and a witness to a case in 2007. Dispatch advised R/O that the suspect had an extensive criminal history with numerous arrests for violent crimes. R/O met with Deputy Hahn at MCG She pointed out that the victim was in ER room C-1 and the suspect was in C-8 just across from the nurse's station. R/O then spoke with the victim. The victim stated he has worked for Tri County for approximately 3 years. He stated he takes care of 4 disabled residents at the I/L. He stated one of the residents was not there tonight because he had been transported some where else and only 3 patients had been there. He stated he was scheduled to work from 2300hrs tonight until 0900hrs in the morning.

07-17-10, Continued, The victim stated that he had been sitting on the couch watching TV when the front door was suddenly kicked. He stated he tried to run and go out the side door but the suspect caught him and the suspect was armed with a gun. He stated the suspect had cotton type gloves on each hand and only had boxer shorts on. He stated that suspect kept demanding money and kept threatening to shoot him if he did not give him money. The victim stated a second suspect entered the residence and was also demanding money. The victim stated he looked through the office area and there was no money there. The victim stated they kept threatening to shoot him. He stated he feared for his life and told them he only had an ATM card. He stated they asked him how much could he access and he told them he did not know. The victim stated he did not want to die over money and hoped that if he gave them money they would not harm him.

The victim stated the second BM walked out of the residence. He stated the first one kept the gun to his head and demanded that he get in the car (victims) and get the money. He stated they walked outside and the victim kept the gun on him and told him to drive. He stated the suspect got in the passenger side. He stated when he had come to work tonight and parked his car it was pointed so all he had to do was crank it up and drive up the driveway that his vehicle was already facing toward Wheat Road. The victim stated he started to turn right on Wheat Road to go to his ATM when the suspect told him to go left. He stated he turned left and discovered that the second suspect was in the white Explorer parked just a short ways down the road. He stated that it was dark but it appeared the suspect's vehicle was pulled just off the road. He stated it was possible that it was in some type of cut or driveway but he wasn't sure. He stated that the vehicle was pulled in and the suspect would have to back out into the roadway.

The victim stated that he backed his vehicle up to the 4 way and then headed down Wheat Road towards his ATM. The victim stated that he had gotten a little bit ahead of the Explorer. The victim stated the suspect kept threatening to shoot him and kill him if they did not get money. The victim stated that because the suspect kept threatening to kill him or shoot him that he started thinking about the situation and believed that they would probably kill him even if he gave them money. The victim stated that he sped up and then when they got closer to where some houses were at he jumped from the car. He stated he went over to the witnesses and told them he was being robbed call 911. He stated he does not know the suspects and has never seen them before. He stated he has no idea why anyone would pick that house or him to rob. He stated that he feared for the residents at the house and had locked the door on the way out hopefully to deter the suspects from going back in.

Deputy Hahn advised R/O that Lt. Abdullah was trying to reach me. She stated that Lt. Abdullah told her that he and Deputy Williams had entered the residence and everyone was Ok. She stated that Lt. Abdullah told her to notify me that there was evidence that the front door had been kicked in. R/O called and spoke with Lt. Abdullah he confirmed what Deputy Hahn had told R/O. Lt. Abdullah stated that it appeared that just the bottom lock on the front door had been locked and the door frame had been kicked out. He stated that the TV was on as the victim had described. He stated that there was CDL literature all around the couch as if someone had been studying it. He stated that Inv. Johnson would photograph and process that scene. R/O spoke with the victim again. He stated he had just gotten his CDL and was going to get married. He stated he had gotten his CDL so he could drive a truck. He stated was going to work for US Express trucking in their Atlanta hub.

R/O attempted to speak with suspect Holston. He had been given pain medication and was in the process of being treated for his injuries. He appeared extremely groggy and was sleeping. The nurse stated he was "out of it" at that time. R/O spoke with Deputy Hahn again. She stated she had collected a latex type glove and a cotton type glove from Holston at the accident scene. She stated Holston had the latex type glove on his left hand and the cotton one on his right hand. She stated she would photograph both the victim and the suspect to document their injuries. She had already collected their clothing. She advised she would place the photos and all collected evidence onto an evidence sheet and submit them into the evidence locker.

R/O spoke with Lt. Abdullah and advised that the suspect was being admitted and ACSO would have to arrange security for him. R/O spoke with the on duty supervisor for the Richmond County Sheriff's Office and they sent a Deputy to assist with Holston's security. R/O spoke with Judge Insley and met with him at his office. R/O obtained warrant # M-025799 for Kidnapping for Holston from him. R/O had dispatch enter him into NCIC and had an administrative message sent to the Richmond County SO in reference to Holston. Later when bond court opened R/O obtained the following warrants for Holston; M-007164 for Burglary 1st, M-007166 for Possession of a Weapon during the Commission of a Violent Crime and M-007167 for Possession of a gun by a Violent Felon. The warrants were turned into dispatch.

07-19-10, R/O spoke with Lt. Clough about the security status of Holston. He advised that Holston had been discharged from MCG and was in the Richmond County Detention Center. R/O spoke with Mrs. Goodman in the ACSO warrants division. She stated that they had already sent a hit conformation to Richmond County and were in the process of sending a formal detainer request to them. R/O obtained warrant # M-035239 for Attempted Armed Robbery for Holston from Judge Sullivan.

07-20-10, R/O received a call from the victim. He stated he had been doing some checking and had spoken with some of his co-workers about his case. He stated that he discovered that Holston's ex-girlfriend works for Tri County Development. He stated that her name is Latasha Corley. He stated that Corley works at the same home as he does at: [REDACTED]. He stated there may be some connection with how Holston picked the house for the robbery.

07-21-10, R/O received a VM message dated 07-20-10 from Rachel of Tri County Development. She left a message advising that pursuant to their policy against work place violence they were investigating the information that Corley has worked at the incident location and she had been dating Holston. She wanted to let R/O know that they were interviewing her at 1330hrs on the 20th. R/O attempted to return her call. R/O left a message on her VM. R/O received a VM msg back. She advised that Corley has not been dating in awhile and do not believe she was connected in any way to what happened.

07-22-10, Holston was returned from Georgia and taken to the ACDC. The outstanding warrants were served on him by Deputy F. Craig. He was removed from NCIC. R/O closed the case by arrest.

EXHIBIT B

State of South Carolina
County of Aiken

FILED
J. H. [Signature]
J. C. [Signature]
A. [Signature]
Deputy Clerk

Court of General Sessions
2010-GS-02-01899
2010-GS-02-01903
2010-GS-02-01905

State of South Carolina
Plaintiff
vs.
Darrin Darrell Holston
Defendant

Transcript of Record

May 9 - 12, 2011
Aiken, South Carolina

B E F O R E:

The Honorable Doyet A. Early, III, Judge; and a jury.

A P P E A R A N C E S:

John W. Weeks, Assistant Solicitor
Kevin N. Molony, Assistant Solicitor
Attorneys for the Plaintiff

Wallis A. Alves, Esq.
Attorney for the Defendant

Lisa H. Davenport, RPR
Official Court Reporter

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Attorney for the Defendant

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- 1 show, Willie?
- 2 A That's Tri-Development house; the house I was working
3 at that night.
- 4 Q Is this where you've indicated the special needs
5 adults were?
- 6 A Yes, sir.
- 7 Q And what door is this?
- 8 A That's my front door.
- 9 Q And was the numbers on the door that way when you
10 started work that night?
- 11 A No, sir.
- 12 Q Is this the front door to it?
- 13 A Yes, sir.
- 14 Q State's Exhibit 21, what is that a picture of?
- 15 A The door.
- 16 Q A little closer picture of the front door?
- 17 A Yes, sir.
- 18 Q Do you know what State's 22 is a picture of?
- 19 A Front door being busted in.
- 20 Q All right. Did you have any of that damage to the
21 door when you started work that night?
- 22 A No, sir.
- 23 Q Okay. When you started work you said you locked the
24 door?
- 25 A Yes, sir.

(Willie J. Walker-Direct by Weeks)

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- 1 Q How did you lock the door?
- 2 A I turned the bottom knob up and I deadbolted it.
- 3 Q You deadbolted it?
- 4 A Yes, sir.
- 5 Q Did you ever fool with those locks again that night?
- 6 A No, sir; never.
- 7 Q State's Exhibit 23. Are those the two locks that
- 8 were on that door?
- 9 A Yes, sir.
- 10 Q Are those the two locks that you locked that night?
- 11 A Yes, sir.
- 12 Q Twenty-five. What is that, Willie?
- 13 A The deadbolt locks.
- 14 Q Already extended out?
- 15 A Yes, sir.
- 16 Q Was the damage to the door facing -- When did you go
- 17 back to work there?
- 18 A After I healed up from my scars.
- 19 Q You went back to work at Tri-Development?
- 20 A Yes, sir.
- 21 Q And at this same house?
- 22 A Yes, sir.
- 23 Q All right. What is depicted in State's Exhibit 25?
- 24 A The living room, the pictures of my truck books,
- 25 magazines, accountability log.

1 guy was asking you for money?

2 A Yes, ma'am.

3 Q For \$400?

4 A Yes, ma'am.

5 Q And what else -- I mean, what else did the second
6 person do?

7 A What you mean?

8 Q What did he do? He asked you for money. Then what
9 did he do?

10 A He ain't do nothing. He just asked just me for the
11 money. I told him I would give him my ATM card. He ain't
12 wanted no ATM card.

13 Q So, what happened with the second person after he
14 said -- after he said he didn't want an ATM card?

15 A He wanted me to take him to go get the money.

16 Q Okay. What happened after that? You said -- Was
17 that a conversation that you had in the living room?

18 A You got a gun to your head and somebody is asking you
19 for the money, you offer them your card.

20 Q Okay. I am asking you what happened after you
21 offered the card.

22 A I put the card like I just showed you a few minutes
23 ago in my wallet; had it in my hand. All three of us just
24 walked out the door. The tall guy walked out first. I
25 was second. The guy right beside you -- he was third with

(Willie J. Walker-Cross by Alves)

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(1 the gun.

2 Q All right. And where -- and you saw the tall guy
3 walk towards his vehicle?

4 A Yes, ma'am. He was walking towards the field like a
5 big old space over there in the yard. He was walking over
6 there in that direction.

7 Q In the direction of his vehicle?

8 A Yes, ma'am.

9 Q And you said you started to back up?

10 A Back up? I was going forward.

11 Q I'm sorry. You were going forward. So, when you
12 were going forward did you continue to see him?

(13 A No, ma'am. I was just driving -- driving forward. I
14 turned left.

15 Q So, you just turned left and left and you don't know
16 what happened to the second guy?

17 A I guess he left.

18 Q Now, what did you do -- When you were leaving did you
19 make an attempt to lock the door?

20 A No, ma'am. I was in the middle.

21 Q Excuse me?

22 A No, ma'am. I was in the middle.

23 Q You were in the ---

24 A Middle. We was walking out the door.

(25 Q Okay.

(Willie J. Walker-Cross by Alves)

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1 A The tall guy went out first. I went out second. The
2 man right beside you came out right behind me.

3 Q So you did not try to lock the door?

4 A If you have a gun to your head, would you try to lock
5 the door?

6 Q Well, I don't know. Did you tell the police that you
7 tried to lock the door?

8 A I don't remember.

9 Q You don't remember?

10 A No, ma'am.

11 Q Did you tell your job that you tried to lock the
12 door?

13 A No. I don't remember.

14 Q You don't remember telling them that you tried to
15 lock the door?

16 A No, ma'am.

17 Q So, you left the door open?

18 A I guess if it was open.

19 Q Okay. So, you're saying you were in between the two
20 of them?

21 A Yes, ma'am.

22 Q And you did not try to lock the door?

23 A No, ma'am.

24 Q And you didn't make any effort to lock it?

25 A If I have a gun at my head, no, ma'am.

(Willie J. Walker-Redirect by Weeks)

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1 Q Okay. I don't have any further questions. Thank
2 you.

3 MR. WEEKS: Redirect briefly, Your Honor.

4 REDIRECT EXAMINATION

5 BY MR. WEEKS:

6 Q Willie, I'm handing you what's marked State's Exhibit
7 26.

8 A Yes, sir.

9 Q There are items in that chair.

10 A Yes, sir.

11 Q Were all of those items in there when he busted in
12 the door?

13 A Yes, sir; my items.

14 Q They were your items --

15 A Yes, sir.

16 Q -- that you had brought to work?

17 A Yes, sir.

18 Q You said something during your direct about getting
19 something out of your gym bag.

20 A My wallet.

21 Q Where was your gym bag?

22 A Right here.

23 Q That's where it is now, but was it there when you got
24 busted in on?

25 A I believe it was on the floor.

1 A No, I don't.

2 Q Okay. And what is done with the accountability logs
3 after each night's shift?

4 A They go in a file of the accountability logs.

5 Q You have to keep those?

6 A We -- I don't really know. Our basic policy is that
7 we keep all of those types of records for 10 years. I
8 believe the law may say those kinds of things we should
9 keep for up to seven years.

10 Q There is actually a law saying you have to keep them
11 for a certain period of time?

12 A The accountability logs; not the middle of the night
13 checks and things.

14 Q Okay.

15 A There are two different things.

16 Q I'm talking about the accountability logs -- just the
17 logs.

18 A Right.

19 Q The law says that you actually have to keep those ---

20 A I am positive. I know any records we use for
21 medicaid purposes have to be kept for a period of seven
22 years.

23 Q Are those used for medicaid purposes?

24 A Do I know the answer to that? I would say that we
25 would keep them, yes.

(Ralph Courtney-Cross by Alves)

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1 Q Okay.

2 A I have never had -- All I can say is I have never had
3 medicaid come in and specifically ask for accountability
4 logs, but we would keep them for medicaid purposes in case
5 they did.

6 Q Okay.

7 A They might never as far as I know ever ever and I
8 have been doing this a long time.

9 Q Yes, sir. Now, were you called by the police out to
10 -- this night?

11 A No. I do not believe I received a call from the
12 police. I'm trying to think. They had called down the
13 list. They had difficulty reaching somebody, and, gosh, I
14 talked to the police and I talked to Rachel Sharp about --
15 you know, right about the same time.

16 Q Okay. But someone called you to inform you --

17 A Exactly.

18 Q -- of what had happened? And did you go to the
19 hospital?

20 A Yes, I did.

21 Q And you met with Mr. Willie Walker?

22 A Yes.

23 Q And did you talk to him about what happened?

24 A I did.

25 Q And he told you -- He told you his version of what

(Ralph Courtney-Cross by Alves)

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1 happened? He told you something about what happened that
2 night?

3 A Yes, he did.

4 Q And did he tell you that someone had busted in the
5 door -- the front door?

6 A He said someone had busted in the front door.

7 Q And he told you that he was taken away from the house
8 at gun point?

9 A Well, he also said someone else entered the home in
10 addition through another door.

11 Q Excuse me?

12 A That another individual entered the home through
13 another door prior to his being taken out.

14 Q Did he say what door the other person entered in
15 through?

16 A It would have been the door that used to be a garage
17 that we converted into a multi-purpose room. It would
18 have been a side -- I guess you would say side door.

19 Q So, someone entered in through the side door?

20 A Yea, I think he was -- I think he was getting ready
21 to go out that door and the guy came in.

22 Q That's what he told you?

23 A (Witness nods head.)

24 Q Yes, sir?

25 A Yes.

(Ralph Courtney-Cross by Alves)

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1 Q Okay. And when he was being -- when he told you he
2 was being taken from the home did he tell you -- did he
3 talk about what he might have done? What actions he might
4 have done?

5 A Yes. He said that he attempted to secure the door
6 because he was worried about the fellows inside. He said
7 that he noticed a car that was in the other direction from
8 the way that he ended up going with the defendant in the
9 car with him. So, he went and got in his car he said at
10 gun point and they went off. The other person did not get
11 in their car. They went and got in the other.

12 He said he did drive at a high rate of speed until he
13 saw some lights where some people were awake and on a
14 porch and that's when he said he decided it was time to
15 get out of the vehicle and he dove from the vehicle hoping
16 to hit the ground and he hit the road instead.

17 Q Okay.

18 A And ---

19 Q But, sir, he told you that before he left he
20 attempted to lock the door?

21 A And that may -- he did -- we did not go into any
22 detail on that. I took that to mean because we did have
23 to repair the doorway later just to try to turn the little
24 thing, you know, as you're going out.

25 Q But you don't know exactly what he tried to do?

1 A Oh, no.

2 Q You just know that he told you that there was some
3 attempt made?

4 A Uh-huh.

5 Q Yes?

6 A (Witness nods head.)

7 Q You need to answer.

8 A Yes.

9 Q And you did actually -- That same day actually you
10 made a request to have the door temporarily fixed so it
11 would lock?

12 A Yes. And then a day or two later I made a request to
13 have it permanently fixed.

14 Q So you actually had the door --

15 A Fixed twice.

16 Q -- fixed twice?

17 A Yes.

18 (WHEREUPON, Defendant's Exhibit No. 6 was marked for
19 identification and received into evidence.)

20 Q Now, Mr. Courtney, I am showing you what's been
21 marked as Defense Exhibit No. 6.

22 It is without objection, Your Honor.

23 Do you recognize that?

24 THE WITNESS: I do recognize that, yes.

25 Q That's the record that's kept -- that's a record that

(Ralph Courtney-Cross by Alves)

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1 you would keep in your business?

2 A That's correct.

3 Q And that is actually a copy of the work requisition
4 for having the door repair -- the initial door repair?

5 A For the initial door repair, yes.

6 Q And you actually had to get somebody out to repair
7 the door basically on an emergency service?

8 A Well, I wanted it fixed like immediately to the best
9 of their ability. I didn't want to have to wait until
10 they could fix it real well. So, I did another
11 requisition which I do have a copy with me.

12 Q Well, I am just asking you about the one that was
13 done that night.

14 A Yea. That was a temporary fix.

15 Q So you could make sure that door could lock?

16 A Yes.

17 Q When you were -- Now I am showing you what's marked
18 as State's Exhibit 31. This is the e-mail that actually
19 you sent to human resource showing the e-mail that was
20 sent to you from another person regarding Mr. Walker's
21 actions on that night were you were ---

22 A A commission member, yes.

23 Q A commission member -- where you were complimenting
24 his actions?

25 A Where she was complimenting the actions and I wanted

(Eric Abdullah-Cross by Alves)

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1 Q Okay. And you met with them there?

2 A Yes, ma'am, I did.

3 Q Did you meet with the investigators there before or
4 after you went to the house?

5 A Before.

6 Q Before. And the other two officers were still there?

7 A I believe they were. Deputy Williams was still at
8 the accident location with me. Deputy Hahn rode in the
9 ambulance with Mr. Holston.

10 Q Okay. So she went to the hospital with Mr. Holston?

11 A That's correct.

12 Q Did anybody ride with Mr. Walker?

13 A No, ma'am; not that I'm aware of.

14 Q Did you talk to Mr. Walker at the scene to find out
15 his version of the story?

16 A I did briefly.

17 Q Tell us what he told you.

18 A I'm not able to recall every word that he told me,
19 but he said that he did get -- He was the day worker or
20 night time worker at the Tri-Development Center and that
21 he was taken out of the residence by force and was going
22 -- They was going to the ambulance -- I'm sorry. He was
23 going to the ATN and the defendant was in the car with him
24 and he pointed him out to us that he had been kidnapped
25 and he said that he did jump out of his vehicle while it

(Eric Abdullah-Cross by Alves)

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1 was traveling.

2 Q Did he tell you there were two people?

3 A Yes, ma'am. He said there was another person that
4 came into the residence.

5 Q What did he tell you the second person was doing
6 after he got in the car with Mr. Holston?

7 A I don't recall that.

8 Q You don't recall? Now, at some point you said you
9 went to the house and got into the house?

10 A Yes, ma'am.

11 Q And who were you with when you got into the house?

12 A Deputy Michael Williams.

13 Q All right. Do you know -- Was that the first attempt
14 to get into the house?

15 A I don't believe so, ma'am. No.

16 Q No? So someone else had -- Another police officer
17 had tried to get into the house before you got there?

18 A I believe so. I'm not sure who went down there.

19 Q Okay. Now, how were you able to get into the house?

20 A The front door was open.

21 Q You said the front door was open?

22 A I mean it was -- It was not locked, you know. It was
23 open from the damage. I was able to open the door.

24 Q Okay. At any point did anybody ask you about the
25 keys to the home?

1 anything that had been thrown on the ground or dropped.

2 So, I was there for just a few minutes. I saw the
3 [REDACTED] was written on the door and the seven was upside down
4 on the door and the screw that apparently held that number
5 in was laying in the front of it. So, I was there with
6 him for just a few minutes trying to get a feel for the
7 scene.

8 Q Was the door that held the [REDACTED], was it closed?

9 A Yes, sir.

10 Q And did you try to open it? Did you try to push it
11 in any fashion?

12 A I know I went to -- I particularly went to the side
13 door where the vehicle was parked at. I turned the
14 doorknob. I didn't shove the door in. I simply grabbed
15 the doorknob. The doorknob was locked and at the front
16 door we checked the front door. The door was shut. Other
17 than the seven being down from the outside there wasn't
18 really any apparent of any other damage there. The
19 doorknob was locked. I didn't attempt to push in the door
20 to try to open it. The door was locked.

21 Q What did you do from there, J. D.?

22 A I left there and went back up and spoke with
23 Abdullah -- Lieutenant Abdullah -- briefly. It was my
24 understanding from the briefing and information I had
25 there that there were people inside the house there. We

(James D. Sanders-Direct by Weeks)

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1 knocked on the door. I think Deputy Williams had been
2 knocking on the door. No responses. So I went back up to
3 Abdullah and I needed to go over to the hospital to try to
4 talk to the witnesses. I understood that both of them
5 were injured. They were transported to the hospital. So
6 I told Lieutenant Abdullah when I was there that he needed
7 to send somebody down with Deputy Williams. Entry needed
8 to be made in that house to check on the residents inside
9 there.

10 Q Were you aware that entry was made through the front
11 door?

12 A Yes, sir.

13 Q What did you do? You said you -- Did you relocate to
14 the hospital?

15 A Yes, sir. After going back up Lieutenant Abdullah
16 was standing by the wreck scene. After I left Lieutenant
17 Abdullah I then went over to the hospital and when I got
18 to the hospital I spoke to Mr. Walker first.

19 Q Okay. What did he -- Was anything about his
20 appearance unusual?

21 A When I first saw him it was pretty identical to the
22 picture that was taken in there. He had already been
23 bandaged up. I could see where his injuries were at.
24 They had the machines hooked up to him and all that stuff
25 and I began to ask him to tell me what happened there.

1 Q Okay. I can agree with a lot. And you can't
2 remember every single detail off the top of your head
3 about every single case; isn't that right?

4 A That's correct.

5 Q So it's very important that you document as much as
6 you can as soon as you can so that you have it all
7 organized while it's still fresh in your mind?

8 A You try to, yes, ma'am.

9 Q And you were the lead investigator on this case?

10 A That's correct.

11 Q And so you were the person responsible for gathering
12 the information from the officers and the other people who
13 were at the scene to have the official case file?

14 A Yes, ma'am.

15 Q Okay. And do you have your report with you?

16 A No, ma'am.

17 Q You don't have a copy of it at all?

18 A I got a copy on my chair over there, at least part of
19 my investigative report. I am not sure if it's the
20 complete report.

21 Q Do you have your four-page supplemental in your
22 paperwork?

23 A I am not sure without looking at it.

24 Q Would showing it to you help you refresh your memory
25 about what's in the report?

(James D. Sanders-Cross by Alves)

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1 MR. WEEKS: I have no objection to her showing it to
2 the witness, but a foundation is at issue right at this
3 point.

4 MISS ALVES: Judge, he stated that this is his report
5 and ---

6 THE COURT: He can refresh his memory with the
7 report. Show it to him and let him refresh his memory and
8 ask the question. What was the question?

9 Q I asked did you talk to Lieutenant Abdullah about
10 what Mr. Walker had told him at the scene?

11 MR. WEEKS: I think he just testified that he did.

12 MISS ALVES: Well, Your Honor, what he testified to
13 was that Lieutenant Abdullah told him what he had gotten
14 from Mr. Walker and from the other witnesses. I
15 specifically asked about what Mr. Walker told him.

16 THE COURT: Point to him where you're trying to go
17 to.

18 MISS ALVES: Yes, sir.

19 THE WITNESS: The particular sentence you asked about
20 says "Lieutenant Abdullah stated that one of the black
21 male suspects was in the victim's vehicle with the victim
22 driving and the suspect followed him in a white in color
23 Explorer. He stated while going down Wheat Road the
24 victim had jumped out." That didn't specifically tell me
25 that he got that directly from Mr. Walker or that he got

1 that based on talking to Mr. Walker and the witnesses
2 there.

3 Q Okay.

4 A My recollection was that he had talked to all three
5 of them and what he had given me was a combination from
6 what he had learned from speaking with everybody on the
7 scene.

8 Q Okay. But Lieutenant Abdullah talked to you about
9 the second person following Mr. Walker's vehicle?

10 A Yes, ma'am.

11 Q Okay. And you also talked to Mr. Walker when you
12 went to the hospital; isn't that right?

13 A That's correct.

14 Q And did he also tell you that the second vehicle was
15 following his vehicle?

16 A Yes, ma'am.

17 Q And he told you that when the people came into the
18 house they -- Did he specify what doors they came in?

19 A I don't recall him specifying where the second black
20 male came in. I remember him stating that Mr. Holston
21 kicked in the front door. Mr. Holston confronted him with
22 the gun. Mr. Holston led him around the house and at some
23 particular point during that juncture that I recall he
24 said was the first time he saw the second black male and I
25 don't recall him telling me how he got in the house or

(James D. Sanders-Cross by Alves)

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1 where he came from, but I recall him telling me at some
2 point he saw him there.

3 Q Okay. Now, did he tell you that Mr. Holston led him
4 around the house?

5 A He said they went through the -- My recollection is
6 he said they went through the house. He kept asking where
7 the money was at, threatened to kill him. They went
8 around the house and looked and at some juncture they
9 wound up in the office there looking and, you know, there
10 was no money there.

11 Q Okay. Can you tell me in your report where it says
12 that they went through the house? You have a lot of
13 details in here about what Mr. Walker told you, but I'm
14 afraid I don't see it where it says they went through the
15 house. It says they went through the office. On page
16 three it refers to the office.

17 A Yes, ma'am. This report isn't an exact word-by-word
18 narrative. When I talked to Mr. Walker I can talk to
19 Mr. Walker five minutes and it would probably take 10
20 pages of report filled all out. So, I can tell you on the
21 stand today that that's what he told me. Now, whether I
22 documented every single thing that he told in the report,
23 I may not have done that, but that's, in fact, what he
24 told me that night.

25 Q Okay. But you did document that he said he was

1 sitting on the couch watching TV?

2 A Yes, ma'am.

3 Q And that the front door was kicked open?

4 A Yes, ma'am.

5 Q You did document that he said he tried to run and go
6 out the side door?

7 A Yes, ma'am.

8 Q Specifically you wrote side door in your report?

9 A Yes, ma'am.

10 Q And you wrote that he did say that the suspect had a
11 gun?

12 A Yes, ma'am.

13 Q And that he had cotton-type gloves on each hand and
14 boxer shorts on?

15 A That's correct.

16 Q That's specified in your report?

17 A Yes, ma'am.

18 Q And it says that he kept demanding money and
19 threatened to shoot him?

20 A Yes, ma'am.

21 Q And you did document that a second person entered the
22 residence and was also demanding money?

23 A Yes, ma'am.

24 Q But do you recall where he told you the second person
25 came from?

(James D. Sanders-Cross by Alves)

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1 A No, ma'am. As I told you he was in the house with
2 the first -- with Mr. Holston. Mr. Holston had the gun
3 repeatedly asking him for money threatening to kill him
4 and all I know is he said at some particular point when he
5 looked up the second suspect was in the residence.

6 Q Okay. So, he didn't tell you that the second suspect
7 came in the side door when he was running to the side
8 door?

9 A I don't recall.

10 Q Okay. And you wrote down that Mr. Walker said that
11 he looked through the office area?

12 A Repeat your question, please.

13 Q You did document that Mr. Walker told you that he
14 looked through the office area?

15 A I'm not sure if it's documented there or not. I know
16 he told me there. If you want to show me what page on the
17 report, I'll be glad to ---

18 Q Page three. I'm sorry.

19 A Yes, ma'am. The victim stated the victim -- that he
20 looked through the office area and there was no money
21 there. The victim stated he kept threatening to shoot
22 him. He feared for his life and told him he only had an
23 ATM card.

24 Q Okay. And they asked him how much money he could
25 access?

1 A Yes, ma'am.

2 Q And he said he didn't know?

3 A Yes, ma'am.

4 Q Okay. And then he said he didn't want to die over
5 money and he wanted to give them money to make them go
6 away?

7 A Yes, ma'am.

8 Q All right. And then your report goes into the
9 details he gave you about leaving the residence; is that
10 right?

11 A Yes, ma'am.

12 Q All right. But you're saying that he told you about
13 walking through the residence but you don't have that
14 documented in your report?

15 A No, ma'am; other than going to the office.

16 Q Okay. When did he tell you how much money they were
17 looking for?

18 A You know, I kind of recall him saying the second
19 suspect -- what he told me that I recollect during the
20 whole time Mr. Holston never asked him for a particular
21 amount. He just kept telling him he wanted money, wanted
22 money, wanted money or he was going to kill him and
23 holding the gun on him. I do recall at one point him
24 saying when the second suspect came in there the second
25 suspect asked him for a specific amount, but to be totally

(James D. Sanders-Cross by Alves)

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1 honest I don't recall today what amount he told me that
2 the second guy was actually asking for.

3 Q Okay. And your report doesn't document that he was
4 asked for a specific amount?

5 A No, ma'am. I did not put that in the report.

6 Q Okay. And this is the information that you got from
7 Mr. Walker that night?

8 A Yes, ma'am.

9 Q And how long after this do you recall when you did
10 your report?

11 A I'm sorry?

12 Q Do you recall when you did your report?

13 A I'm not sure. The date I have on the front of it is
14 7/22/2010.

15 Q So that would have been about five days after this
16 incident had occurred?

17 A Yes, ma'am.

18 Q About five days after your conversation with him?

19 A Yes, ma'am.

20 Q And your report is four pages?

21 A Yes, ma'am.

22 Q All right, now. You said that -- You testified that
23 you did go -- After you went to the scene where the car
24 was you then went to the house?

25 A Yes, ma'am.

1 Q And when you went to the house you met Deputy
2 Williams there?

3 A Yes, ma'am.

4 Q He was already present at the house?

5 A That's my recollection.

6 Q All right. Do you know how long he had been there?

7 A No, ma'am, I don't.

8 Q Did you ever see Deputy Williams at the scene where
9 the car was?

10 A I don't recall if he was there or not. I was
11 speaking with Lieutenant Abdullah.

12 Q Okay. Now, you said you and Deputy Williams knocked
13 on the doors?

14 A Yes, ma'am.

15 Q And that the doors to the residence were locked?

16 A Yes, ma'am. I know I tried the doorknob on the front
17 door and I tried the doorknob on the side door where the
18 vehicles. I didn't push in on the door to see if it was
19 open but I know the doorknob was locked.

20 Q Y'all were knocking on the door?

21 A Deputy Williams was knocking on the door that I
22 recall.

23 Q You were with him while he was doing that?

24 A Yes, ma'am.

25 Q And then you -- According to your report you advised

(James D. Sanders-Cross by Alves)

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1 that entry needed to be made to the residence to check on
2 the residents there?

3 A That's correct.

4 Q Who did you advise that to?

5 A Lieutenant Abdullah.

6 Q And Lieutenant Abdullah gave you information that
7 Mr. Walker had told you where the -- had told him where
8 the keys were? Front of page two.

9 A Yes, ma'am. I was trying to -- Yes, ma'am. In my
10 report it documents Lieutenant Abdullah stated prior to
11 being transported to MCG the victim stated the key to the
12 door was on a key ring in his vehicle. He stated that and
13 Williams would check the residence and notify me of their
14 findings.

15 Q And then you were later notified that they had
16 obtained entry into the house?

17 A Yes, ma'am, while at MCG

18 Q So you weren't there when they got in. You were
19 already at the hospital?

20 A That's correct.

21 Q Did they call you right away after they got into the
22 house?

23 A I'm not sure. I was there talking to -- My
24 recollection is I was talking to Mr. Walker at the time
25 and I'm not sure if it was while I was still talking to

1 him or just gotten finished talking with him Deputy Hahn
2 who had a radio -- she was there at MCG. She came over
3 and advised me that Lieutenant Abdullah had been trying to
4 call me on the radio and get in touch with me and I
5 believe I called Lieutenant Abdullah then and spoke with
6 him. He confirmed what Deputy Hahn had told me.

7 Q That they had gotten into the house?

8 A Yes, ma'am, and found evidence where the door had
9 been forced open.

10 Q But when you were there you didn't see any evidence
11 of that because the door was shut?

12 A The door was shut. The only thing I saw was the
13 letter seven on the front door with the screw missing and
14 the seven was hanging upside down.

15 Q Okay. I beg the Court's indulgence for one moment.

16 Now, when you were talking to Mr. Walker -- When you
17 were talking to Mr. Walker at the hospital he told you --
18 He told you he locked the door on the way out, didn't he?

19 A Yes, ma'am.

20 Q And there was some testimony about the fingerprints
21 and the fingerprint report -- that the fingerprints did
22 not come become to Mr. Holston; is that correct?

23 A My recollection of the fingerprint report was it was
24 of insufficient quality, I believe, to be entered into
25 AFIS to be able to match it.

(James D. Sanders-Redirect by Weeks)

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1 Q Okay. You weren't there when the fingerprints were
2 taken?

3 A Pardon me?

4 Q You weren't there when the fingerprints were taken?

5 A No, ma'am.

6 Q Do you know where they came from? Where exactly the
7 fingerprints came from?

8 A Investigator Johnson had advised me of the processing
9 the vehicle and the processing the residence. I'm aware
10 of where the fingerprints came from; yes, ma'am.

11 Q You weren't the one who took them?

12 A No, ma'am.

13 Q I don't have any further questions. Thank you.

14 THE COURT: Redirect?

15 REDIRECT EXAMINATION

16 BY MR. WEEKS:

17 Q None of the fingerprints matched the defendant that
18 were lifted. Is that what I hear you saying?

19 A Yes, sir.

20 Q But an attempt was made to get fingerprints from
21 wherever?

22 A Yes, sir.

23 Q No further questions.

24 THE COURT: All right. You may step down.

25 MR. WEEKS: Your Honor, I just want to doublecheck

1 the record here. The only one I am a little blank on is
2 the actual CD. I believe the CD for the pictures is in
3 without objection.

4 MISS ALVES: It is. It hasn't been moved in yet, but
5 it is without objection.

6 THE COURT: All right. Put it in.

7 THE COURT REPORTER: That's 30.

8 (WHEREUPON, State's Exhibit No. 30 was admitted into
9 evidence.)

10 MR. WEEKS: Your Honor, the state rests.

11 THE COURT: All right. Mr. Foreman, ladies and
12 gentlemen, that concludes all of the testimony on behalf
13 of the state. I need to take up a couple of matters of
14 law with the parties. I'll spend a few minutes with them
15 and then I'll get you back out here in just a second.
16 Don't deliberate. Don't start talking about the case.

17 (Whereupon, the jury exited the courtroom at 2:50.)

18 THE COURT: Any motions by the state?

19 MR. WEEKS: None by the state, Your Honor.

20 THE COURT: Miss Alves?

21 MISS ALVES: Yes, Your Honor. Your Honor, taking the
22 evidence in the light most favorable to the state I would
23 move for a directed verdict on behalf of Mr. Holston for
24 all charges of attempted armed robbery, kidnapping, and
25 burglary first degree.

1 THE COURT: Well, there is ample evidence in the
2 record if the jury believes it to convict your client. I
3 am concerned right now with the existence of the evidence
4 and not the weight; so I therefore respectfully deny it.

5 MISS ALVES: Yes, sir, Your Honor.

6 THE COURT: Anything else?

7 MISS ALVES: Not from me, Your Honor. Oh, Your
8 Honor, I do have one matter. I do believe that I may be
9 putting up Mr. Holston to testify.

10 THE COURT: Okay.

11 MISS ALVES: I'm aware of what his record ---

12 THE COURT: What is his record, if any? How do you
13 spell his last name?

14 MISS ALVES: H-O-L-S-T-O-N.

15 THE COURT: Holston?

16 MISS ALVES: H-O-L-S-T-O-N.

17 MR. WEEKS: What is his record?

18 MR. WEEKS: Your Honor, the impeachable record he
19 would have would be burglary second conviction -- Well,
20 that's beyond the time. That was in 1993. That would not
21 be impeachable except I would not go into that. He's
22 got ---

23 THE COURT: What does he have in the last 10 years?

24 MR. WEEKS: I am kind of starting at the wrong end of
25 this rap sheet, Judge. He's got a conviction for first

1 degree criminal sexual conduct.

2 THE COURT: When?

3 MR. WEEKS: The rap sheet shows the conviction was
4 July 26 of 2006. I'm sorry. June 26, 2006 is the date I
5 show.

6 THE COURT: Anything else?

7 MR. WEEKS: That's the only impeachable offense that
8 I'm aware of.

9 THE COURT: Do you agree with that Miss Alves?

10 MISS ALVES: I do agree that that would be an
11 impeachable offense, but I would ask that you not allow
12 the state to use that offense of criminal sexual conduct
13 first degree. I think that the prejudice would
14 substantially outweigh the probative value to the state.
15 I don't believe that that particular offense is indicative
16 of credibility and I would ask you to not allow the state
17 to use that particular charge for impeachment purposes
18 against my client.

19 THE COURT: Do you have any caselaw to support that
20 position?

21 MISS ALVES: No, sir. I do not.

22 THE COURT: Mr. Holston, if you would stand, please.

23 MISS ALVES: Your Honor, if I may, if you do allow
24 the state to use that charge against my client I would ask
25 that you limit it to the fact that he had a felony charge

(Darrin D. Holston-Questions by the Court)

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1 rather than the specific nature of the charge.

2 THE COURT: I don't think that the rule allows that.

3 MR. WEEKS: I don't believe that's in the rule

4 either, Your Honor, and just for the record this was a

5 most serious offense that he plead guilty to and as part

6 of the life without parole notice that we have served on

7 him and his attorney before you question him I do notice

8 that he has a 1999 conviction for use of vehicle without

9 permission and the reason that's relevant is he received a

10 three-year suspended upon probation for three years

11 sentence and at the same disposition a false information

12 charge.

13 You know, just to be on the safe side the only thing

14 the state intends to ask him assuming the proper

15 foundation is maintained is about the criminal sexual

16 conduct first degree charge.

17 THE COURT: All right.

18 DARRIN D. HOLSTON, after being duly sworn,

19 testified as follows:

20 THE COURT: Mr. Holston, we're at the stage of the

21 trial where you're now able to present your own defense.

22 What that means is you have the right to call witnesses;

23 to testify in your own defense. You can introduce

24 relevant exhibits and you also have the right to testify,

25 but you also have the constitutional safeguards provided

1 in the Constitution which says that you cannot be
2 compelled to give testimony in a criminal case against
3 you. If you decide to testify, then you will be subjected
4 to cross examination like everybody else is under the
5 rules, and you have a record in the past 10 years of
6 criminal sexual conduct first degree with a minor which
7 under our statute would allow the state to introduce that
8 for purposes of attacking your credibility if I determine
9 that the probative value outweighs the prejudicial.

10 MR. WEEKS: It's not a minor, Judge. It is just
11 criminal sexual conduct first degree.

12 THE COURT: Criminal sexual conduct first degree. If
13 you decide not to testify -- First of all, let me go back.
14 If I allow the state to impeach you by the introduction of
15 that record I will tell the jury they can only use it for
16 impeachment purposes and it couldn't be used to determine
17 guilt or innocence in this trial. It is for impeachment
18 purposes.

19 If you decide not to not to testify and you exercise
20 your constitutional right to remain silent then I will
21 instruct the jury that the fact you did not testify cannot
22 be held against you in any manner whatsoever. I will
23 further instruct them that the fact you did not testify
24 cannot be considered by them when they deliberated your
25 guilt or innocence.

(Darrin D. Holston-Questions by the Court)

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1 I would instruct the foreperson that that is a
2 constitutional right that you have and if anybody tried to
3 discuss it they would be given instructions to stop that
4 immediately and not to discuss it, nor draw any inferences
5 whatsoever from the fact that you don't testify.

6 Now, my question to you is do you understand your
7 constitutional right to remain silent?

8 THE DEFENDANT: Yes, sir.

9 THE COURT: You understand, obviously, your right to
10 take the stand, but if you do you'll be subjected to cross
11 examination and perhaps the introduction of your prior
12 record. Do you understand all of that?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: Do you understand the decision whether
15 you testify or not is yours and yours alone. Obviously,
16 you can talk to your lawyer or anyone else you want to
17 before you make the decision, but we're getting ready to
18 move forward and you have to make that decision here
19 shortly.

20 THE DEFENDANT: Yes, sir.

21 THE COURT: Any questions you want to ask me?

22 THE DEFENDANT: No, sir.

23 THE COURT: You understood what I have told you?

24 THE DEFENDANT: Yes, sir.

25 THE COURT: You need time to talk to your lawyer or

1 ready to make a decision?

2 THE DEFENDANT: No, sir. Yes, sir.

3 THE COURT: You need time to talk to Miss-Alves
4 before you make your decision?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: You do need to talk to her?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: All right, sir.

9 (Whereupon, the attorney conferred with the client.)

10 MISS ALVES: Judge, his decision is made.

11 THE COURT: All right, sir. What is that decision?

12 THE DEFENDANT: I choose to testify.

13 THE COURT: All right. Let's take about five
14 minutes. Everybody stretch their legs.

15 (Whereupon, a break was taken.)

16 THE COURT: All right. Miss-Alves, are you ready?

17 MISS ALVES: Yes, sir.

18 (Whereupon, the jury came into open court at
19 approximately 3:11.)

20 THE COURT: Miss-Alves, you may call your first
21 witness.

22 MISS ALVES: I'll call Deputy Mike Williams.

23 MICHAEL S. WILLIAMS, after being duly sworn,
24 testified as follows:

25 THE CLERK: Have a seat in the witness box stating

(Michael S. Williams-Direct by Alves)

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1 your full name spelling your last for the court, please.

2 THE WITNESS: My name is Michael Scott Williams. I
3 am a deputy with the Aiken County Sheriff's Office.

4 DIRECT EXAMINATION

5 BY MISS ALVES:

6 Q And Deputy Williams were you working on July 17 of
7 2010?

8 A Yes, ma'am.

9 Q And do you recall reporting to the scene on Wheat
10 Road to the scene of a car accident?

11 A Yes, ma'am.

12 Q And can you tell us what you did when you got there?

13 A On my arrival it was a brief summary from Lieutenant
14 Abdullah about what had taken [sic] place. I believe he
15 advised us that Mr. Holston was the suspect in an armed
16 robbery that just occurred which was the reason why we
17 responded to that address. At that time I then made
18 contact with Mr. Holston and detained him.

19 Q Did you also make contact with Mr. Willie Walker?

20 A Yes, ma'am.

21 Q And you did a report about this?

22 A Yes, ma'am.

23 Q And do you recall what Mr. Walker told you about what
24 happened that night?

25 A I believe he told me that Mr. Holston and an unknown

1 black male also came through the front door and attempted
2 to rob him. I believe he stated that Mr. Holston placed a
3 gun to his head and told him that he wanted money.
4 Mr. Walker stated that he didn't have money but he did
5 have money in the ATM. He stated that Mr. Holston then
6 told him to get into the vehicle and they would proceed on
7 to the ATM.

8 Q Okay. Did he say who got into the vehicle?

9 A I believe he said Mr. Holston got into the vehicle
10 with him.

11 Q And what did he say happened to the second guy?

12 A He said that the second guy followed behind him in a
13 white Explorer.

14 Q Okay. Now, when you talked to him about what
15 happened at the house he told you that they both came in
16 the front door?

17 A Yes, ma'am.

18 Q And that he saw the second guy following him?

19 A Yes, ma'am.

20 Q And did he tell you how much money they were asking
21 for?

22 A No, ma'am.

23 Q So, did you talk to anyone else at the scene?

24 A No, ma'am.

25 Q Okay. What did you do after you talked to Mr. Walker

(Michael S. Williams-Direct by Alves)

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1 at the scene where the car accident was?

2 A I believe at that time EMS was loading him up in the
3 back of the ambulance and I then advised -- spoke to
4 Lieutenant Abdullah a little bit more.

5 Q Then what happened?

6 A At that time I believe investigations had arrived on
7 the scene and myself and Investigator Sanders went to the
8 house.

9 Q Why did you go to the house?

10 A From what we were told that there was still some
11 people inside of the residence -- I believe three other
12 individuals that Mr. Walker was caring for.

13 Q Okay. So you went with Investigator Sanders to the
14 house?

15 A Yes, ma'am.

16 Q And then what happened when you got to the house?

17 A We knocked on the door. There was -- Nobody came to
18 the door. We did observe that I believe that the seven on
19 the door was kind of knocked down or something. One of
20 the screws had been knocked out of the seven that was on
21 the door.

22 Q Yes, sir. What else did you observe?

23 A That's about it.

24 Q Did you -- what did you do to try to gain entry?

25 A We checked the doorknobs. The doorknobs was locked.

1 processed the keys to vehicle?

2 A No, I did not. I said I processed the vehicle.

3 Q You took a picture?

4 A Yes.

5 Q And you processed the vehicle?

6 A Yes.

7 Q You took the keys out of the vehicle?

8 A I took the keys from the ignition to photograph the
9 keys, yes.

10 Q And then you put them back in the ignition?

11 A I do not know if I put them back in the ignition or
12 set them back in the vehicle. The vehicle was going to be
13 towed. Nine times out of ten the keys need to be with the
14 vehicle so that they can tow the vehicle.

15 Q So, as far as you know the last you saw the keys you
16 put them somewhere back in the vehicle?

17 A Yes, ma'am.

18 Q And you don't know who took them or what happened to
19 them after you put them down?

20 A No, ma'am.

21 Q Now, you also reported to [REDACTED], the house
22 where this is alleged to have occurred?

23 A Yes, ma'am.

24 Q And what did you do at the house?

25 A I photographed and then processed it for evidence.

(Christopher L. Johnson-Cross by Weeks)

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1 Q What did you do to process it for evidence?

2 A I processed for fingerprints and also looked inside
3 the residence for any physical evidence that might have
4 been left behind.

5 Q I show you what's been marked as Defense Exhibits
6 nos. 10, 11, and 12. Do you recognize those pictures?

7 A Yes, ma'am.

8 Q Do those picture accurately reflect how the doorway
9 at [REDACTED] looked on that night?

10 A Yes, ma'am.

11 MISS ALVES: Your Honor, I would move Defense Nos.
12 10, 11, and 12 into evidence.

13 MR. WEEKS: No objection, Your Honor.

14 (WHEREUPON, Defendant's Exhibit Nos. 10 - 12 were
15 marked for identification and received into
16 evidence.)

17 MISS ALVES: Nothing further.

18 THE COURT: Cross.

19 CROSS-EXAMINATION

20 BY MR. WEEKS:

21 Q Chris, the car that night wasn't driveable, was it?

22 A No, sir, it hit a tree.

23 Q It would have driven off with a tree attached to it,
24 wouldn't it?

25 A Yes, sir.

1 Q What is the first thing you do remember?

2 A No, I do. I do. When I got out the car I walked
3 around. I did. I walked around and I was looking for my
4 clothes. I was looking for my clothes because I started
5 to pull on the passenger side door and it was wedged
6 between the tree.

7 Q What happened to your clothes?

8 A Willie had them. I don't know exactly what he did
9 with them, but I did have clothes on.

10 Q And where were your clothes the last time you saw
11 them?

12 A Between me and Willie.

13 Q How did the gun get on your lap?

14 A I don't know.

15 Q And when you got out of the car and when you left the
16 car where did you go?

17 A I went towards the light and the guys -- I think I
18 recall one of them grabbed me by my arm and I sat down and
19 I asked could I use the phone.

20 Q Do you know what happened to your shoes?

21 A No.

22 Q When you used the phone what -- Do you remember
23 having any conversation with these guys?

24 A No.

25 Q Well, what threats did you make against Willie?

(Darrin D. Holston-Direct by Alves)

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1 A None.

2 Q And now, Mr. Holston, let me ask you this. In 2006
3 you were convicted of criminal sexual conduct; isn't that
4 correct?

5 A Yes, ma'am, I was.

6 Q Now, are you -- Now, that night -- And that night you
7 admit that you were acting as the middle man in a drug
8 transaction?

9 A Yes, ma'am.

10 Q And you were bringing drugs -- You were bringing
11 marijuana to Willie Walker?

12 A Yes, ma'am.

13 Q And you were supposed to collect \$400?

14 A Yes, ma'am.

15 Q Well, when did you kick in the door of this
16 Tri-Development home?

17 A I didn't.

18 Q When did you hold a gun on Mr. Walker and attempt to
19 rob him?

20 A I didn't.

21 Q And when did you kidnap him?

22 A I didn't.

23 Q And can you tell us were you sitting in the
24 Tri-Development home in your underwear?

25 A No, I wasn't.

1 told you? I am not asking you what they told you. I am
2 asking who told you.

3 A My immediate supervisor Rachel Sharp.

4 Q And at any point did you talk to Mr. Walker about
5 what he says happened?

6 A I got -- yes. Yes.

7 Q And you actually did a statement regarding what
8 Mr. Walker told you about this incident?

9 A Yes.

10 Q Why did you have to do a statement?

11 A For workman's comp purposes.

12 Q Because he was claiming workman's comp? He was
13 claiming worker compensation?

14 A Yes. It's automatically workman's comp because it
15 happened during the shift. So, whether he wanted to
16 report it or not I would still have to report it.

17 Q And you talked to Mr. Walker about what he said
18 happened?

19 A I briefly spoke to him via telephone.

20 Q And you documented what he told you?

21 A Correct.

22 Q And do you recall what he told you?

23 A Briefly.

24 Q All right. Would it help for you to look at the
25 statement that you wrote?

(Renee L. Tyler-Direct by Alves)

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1 A Uh-huh.

2 Q It would?

3 A Yes.

4 Q Did you leave it back here?

5 A Oh, yea, I did. I looked at it already.

6 Q Was that sufficient to refresh your memory about what
7 it says.

8 A Uh-huh, yes.

9 Q Okay. So, can you tell us what Mr. Walker told you?

10 A What I can remember we had the phone conversation.

11 It wasn't immediately after the incident occurred. He
12 heard a bang or a loud burst noise at the front door. A
13 guy came in. He ran out the back.

14 Q Who ran?

15 A Mr. Walker. But he asked him for money. He made the
16 statement that he didn't have any. He informed the
17 intruders that he didn't have any money. They asked him
18 to take -- They asked him to take them to the ATM.

19 Q Let me ask you this. When he talked about the person
20 who did this, he told you there were two people?

21 A From what I can recall ---

22 THE COURT: Ma'am, why don't you get your statement
23 and let's quit trying to recall and see exactly what you
24 wrote down.

25 MISS ALVES: I'll get it.

1 THE COURT: This is a statement that you fill out
2 because of worker's comp?

3 THE WITNESS: Yes, sir.

4 THE COURT: For a worker's compensation claim?

5 THE WITNESS: Yes.

6 THE COURT: When is it dated?

7 THE WITNESS: 7/22.

8 THE COURT: What year?

9 THE WITNESS: 7/22/2010.

10 THE COURT: Ma'am, she's asking specific questions.
11 Why don't you refer to that so you can give a specific
12 answer.

13 Q How many people did Mr. Walker tell you came into the
14 house?

15 A One person entered the home.

16 Q And where did he tell you he ran to?

17 A The side door.

18 Q And what does he say happened at the side door?

19 A Well...

20 THE COURT: Ma'am, just look at your statement.
21 That's perfectly permissible.

22 THE WITNESS: It was a guy; another guy at the side
23 door.

24 Q So Mr. Walker told you that he ran to the side
25 entrance and that when he arrived at the side door there

(Renee L. Tyler-Direct by Alves)

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1 was a second person standing at the door with a gun?

2 A From what I recall, yes.

3 Q But you wrote this down after he told you what his
4 version of the story is; is that right?

5 A Correct.

6 Q And you submitted this as your answer to his worker's
7 compensation claim; is that correct?

8 A Correct.

9 Q And this was done -- and you just told the judge on
10 July 22, 2010?

11 A Yes.

12 Q And you signed it saying that you had talked to him
13 about it and that's what he told you?

14 A Yes.

15 Q And you certified that the information was true to
16 the best of your knowledge and belief; is that right?

17 A Right.

18 Q Okay. And this is the information that he told you?

19 A Yea, from what I recall in ---

20 Q Okay.

21 THE COURT: Hold on. And what?

22 THE WITNESS: Yes.

23 THE COURT: Ma'am?

24 THE WITNESS: Yes.

25 Q You're saying yes, this is the information he told

1 you?

2 A Right. One sentence in here that I know that is not
3 me say that -- about the ATM. I do remember clearly
4 speaking to another staff about the ATM situation.

5 Q Okay.

6 A So...

7 Q I am just asking you about the part he told you
8 about.

9 A Right. Okay.

10 Q Thank you. No further questions.

11 THE COURT: Cross, if any?

12 THE WITNESS: I'm sorry?

13 THE COURT: He gets to ask you some questions.

14 CROSS-EXAMINATION

15 BY MR. WEEKS:

16 Q Renee, how long have you been with Tri-Development?

17 A Since November of 2009, but I previously hired in
18 June of June 28, 2002, and I moved away due to family
19 relations in Chesapeake, Virginia. So, I was rehired back
20 in November of 2009.

21 Q All right. And when you got rehired back in '09 were
22 you Willie's supervisor?

23 A Correct.

24 Q All right. And how many homes do you have under your
25 control?

(Renee L. Tyler-Cross by Weeks)

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1 A Five.

2 Q And I heard what you say your duties were at the
3 time. Are you doing something else now?

4 A Same thing.

5 Q Okay. I notice that the statement is not signed by
6 Willie.

7 A No, it's not.

8 Q That was something you paraphrased and put together
9 for worker's comp?

10 A Yes.

11 Q Did you go to the scene that night?

12 A No, sir. I was out of town in Atlanta, Georgia.

13 Q Okay. Did you go at some point later?

14 A Yes.

15 Q In fact, you know that Willie was drug tested right
16 after this, don't you?

17 A Correct.

18 Q And did he test positive for anything?

19 MISS ALVES: Objection, Your Honor.

20 THE COURT: What is the objection?

21 MISS ALVES: Your Honor, I don't think there's been
22 any type of proper basis leading to the question.

23 THE COURT: Well, overruled.

24 Q Are y'all all subject to random drug tests?

25 A Every employee.

1 A I don't recall.

2 Q Okay. What did you do as a result of this phonecall?

3 A Once I got the basic information from the officer I
4 went to the home at Wheat Road.

5 Q Okay. And do you recall around what time you got
6 there?

7 A It was after four but it was before five; so I don't
8 know -- maybe about 4:30, 4:45, something like that.

9 Q Okay. And when you got there who was there?

10 A There was an officer there and there was a crime
11 scene forensic person there processing the crime scene.

12 Q Okay. So there were two police officers there?

13 A Right. And then the three -- three of the four
14 gentlemen who live in the home were present.

15 Q Okay.

16 A One was with his family.

17 Q Okay. So of the three residents, what were they
18 doing?

19 A Thankfully they were asleep.

20 Q And did you notice anything unusual when you got to
21 the house?

22 A The front door was busted. There were a couple of
23 like mops and brooms that were in disarray.

24 Q Mops and brooms?

25 A Yea.

(Mary R. Sharp-Direct by Alves)

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1 Q Where were they?

2 A They were in the kitchen area. There's a couple of
3 doorways; so they were kind of in the kitchen area.

4 Q Okay. Was there anything else that you noticed that
5 was unusual about this home?

6 A Not immediately. I mean, as I was, you know, going
7 through the house mainly just making sure that the guys
8 were safe, looking to see if anything obvious was missing.
9 That's pretty much it. After I was there for a little bit
10 of time the -- I noticed that the medication cabinet was
11 unlocked. It is something that's usually locked.

12 Q Is that required to be locked?

13 A Yes.

14 Q And that was sitting unlocked?

15 A At that time.

16 Q Do you know how long it had been like that?

17 A I don't. I mean, our staff frequently will count
18 medications at night; so I don't know whether he was
19 getting ready to count medications or just if he forgot to
20 lock it back or what. I mean, because I really didn't
21 have any information at that point. I'm walking in pretty
22 cold.

23 Q Okay. So the things that you noticed when you got
24 there that night and you were checking the house is that
25 the doors were -- the door was broken, that there was some

1 mops and brooms in some slight disarray, and that the
2 medicine cabinet was unlocked?

3 A Correct.

4 Q And that's supposed to be locked?

5 A Right.

6 Q Did you notice that the log was falsified at that
7 time?

8 A I did not realize that at that time. It was later in
9 the morning whenever I really found out the time that the
10 incident actually took place because when I came in I
11 thought it had just occurred; so I didn't know that there
12 was, you know, a couple of hour timeframe difference in
13 what I was thinking and when I arrived.

14 Q But the next morning you realized that the log had
15 been falsified?

16 A Right. Once I realized what time the kidnapping
17 occurred, then I recalled that the log was up to date
18 until 4 o'clock when I arrived; so when I arrived after
19 4 o'clock I thought everything was up to date the way it
20 should have been.

21 Q Okay. But it really wasn't?

22 A Correct.

23 Q I don't have any more questions, Ms. Sharp. Please
24 answer any that the solicitor might have.

25 THE COURT: Any questions?

(Mary R. Sharp-Cross by Weeks)

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1 CROSS-EXAMINATION

2 BY MR. WEEKS:

3 Q Rachel, you were kind of embarrassed the have to
4 write up Willie?

5 A Yes. He is a wonderful employee. He is welcome to
6 come back anytime he wants to.

7 Q Thank you. No further ---

8 A It was very difficult.

9 Q And y'all didn't find any medicines missing or
10 anything like that?

11 A No, no. And like I said, I don't know what he was
12 doing at that particular time that he was kidnapped.

13 MR. WEEKS: Thank you.

14 THE COURT: Thank you, ma'am. You have a wonderful
15 evening and you're released from your subpoena.

16 THE WITNESS: Thank you.

17 THE COURT: Thank you. Next witness.

18 MISS ALVES: The defense rests, Your Honor.

19 THE COURT: Anything in reply by the state?

20 MR. WEEKS: No, Your Honor.

21 THE COURT: Let me see y'all over here.

22 (Whereupon, a bench conference was held.)

23 THE COURT: All right. Mr. Foreman, we're complete
24 with all of the testimony. What we have left are the
25 closing arguments by the lawyers and then I have to give

1 behalf. Your Honor, at this time I make a motion for a
2 new trial on Mr. Holston's behalf. Taking the evidence in
3 the light most favorable to the state I would move Your
4 Honor to grant him a new trial on the charges of
5 kidnapping, attempted armed robbery, and burglary first
6 degree.

7 THE COURT: Thank you. As I stated in the other two
8 motions it was obviously a question of fact for the jury
9 to determine and they found that your client was not
10 credible and they found him guilty on all three charges.
11 I respectfully deny the motion.

12 MISS ALVES: Yes, sir. Your Honor, I have one last
13 matter I need to put on the record. I forgot about it
14 yesterday and I do apologize, but we had a side bar
15 conversation after my motion to require the state -- to
16 ask that the state not be allowed to bring up
17 Mr. Holston's record that we did have a side bar
18 conversation where I asked you for clarification on your
19 ruling and you did advise the solicitor and myself that
20 you were allowing them to bring in that -- to bring in
21 that charge.

22 THE COURT: And I did and I found -- I made an
23 analysis under 403. I found it to be more probative than
24 prejudicial. I found it to be a proper matter for the
25 jury to have for them to determine the credibility of the

(Sentencing)

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1 witnesses and they were charged that it could only be used
2 for credibility purposes.

3 MISS ALVES: Yes, sir.

4 THE COURT: So I stand by my ruling.

5 MISS ALVES: Thank you, Your Honor.

6 THE COURT: Thank you.

7 (End of Transcript of Record.)

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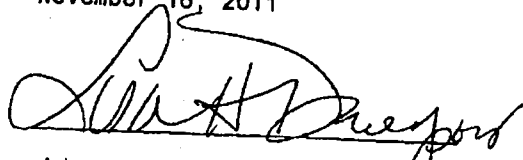
CERTIFICATE OF REPORTER

State of South Carolina
County of Aiken }

I, Lisa H. Davenport, Official Court Reporter for the
Second Judicial Circuit of the State of South Carolina, do
hereby certify that the foregoing is a true, accurate and
complete Transcript of Record of the proceedings had and
evidence introduced in the trial of the captioned case,
relative to appeal, in the Court of General Sessions for
Aiken County, South Carolina, on the 9th -12th days of
May, 2011.

I do further certify that I am neither of kin,
counsel nor interest to any party hereto.

November 16, 2011



Lisa H. Davenport, Court Reporter

EXHIBIT C

FILED 7-15-2003
 J. J. Anderson
 J.C.P. & G.S.
 Anita Knoebl
 Deputy Clerk

STATE OF SOUTH CAROLINA
 COUNTY OF,
 Aiken

IN THE STATE OF SOUTH CAROLINA
 COURT OF APPEALS

DARRIN D. HOLSTON
 APPELLANT

INDICTMENT No: 2010GS0201899

2010GS0201903

2010GS0201905

V.
 STATE OF SOUTH CAROLINA
 RESPONDANT

MOTION TO RELIEVE COUNSEL
 AND PROCEED PRO SE.

NOW COMES THE ABOVE APPELLANT (DARRIN D. HOLSTON)
 MOVING THIS HONORABLE COURT TO RELIEVE APPELLATE
 COUNSEL ROBERT M. PACHAK AND PROCEED PRO SE FOR THE
 FOLLOWING REASONS:

DENYING THE APPELLANT THE RIGHT TO EFFECTIVE
 APPELLATE REVIEW,

IN THE INITIAL BRIEF OF APPELLANT DATED FEBRUARY
 27, 2010 APPELLATE COUNSEL ROBERT M. PACHAK FAILED TO
 EFFECTIVELY ARGUE COGNIZABLE ISSUES

(1) A

WHETHER TRIAL COURT ERRED IN ALLOWING APPELLANT TO
 BE IMPEACHED WITH A PRIOR CONVICTION OF CRIMINAL SEXUAL
 CONDUCT WHEN THE CONVICTION WAS NOT INDICATIVE OF

CREDIBILITY.

(2) A

TRIAL COURTS FAILURE TO PLACE A RULE 403 (SCRE)
ANALYSIS ON THE RECORD.

(1) B

- 1) TRIAL COUNSEL FAILED TO EFFECTIVELY PROVIDE AUTHORITIES WITH SUPPORTING FACTS THAT WOULD SUPPORT REASONS AS TO WHY TRIAL COURT ERRED IN ALLOWING THE CRIMINAL SEXUAL CONDUCT IN.
- 2) COUNSEL'S ARGUMENT IS BASED ON IMPEACHMENT RATHER THAN TRIAL COUNSEL'S 403 OBJECTION DUE TO THE UNFAIR PREJUDICIAL EFFECT AND THAT CHARGE NOT BEING INDICATIVE OF CREDIBILITY
- 3) COUNSEL HAS FAILED TO ARGUE OR MAKE ANY REFERENCE TO THE PREJUDICIAL EFFECT OF THE C.S.C. OR HOW THAT CHARGE WAS NOT INDICATIVE OF CREDIBILITY IN ORDER TO ESTABLISH AN EFFECTIVE CLAIM OF TRIAL COURT ERROR.

(2) B

- 1) APPELLATE COUNSEL'S FAILURE TO REQUEST THAT THE TRIAL COURT'S PROBATIVE VALUE OF THE C.S.C BE MEASURED

IN TERMS FOR WHICH THE C.S.C WAS INTRODUCED WOULD DENY APPELLANT A FUNDAMENTAL RIGHT TO AN EFFECTIVE REVIEW ON APPEAL.

- 2) COUNSEL'S GENERAL REQUEST LACKS SPECIFIC REQUIREMENT.

CONCLUSION

WHEREFORE, THE APPELLANT RESPECTFULLY MOVES THIS HONORABLE COURT TO GRANT THIS MOTION TO PROCEED PRO SE AND PRESENT A NEW APPELLATE BRIEF THAT INCLUDES AND PRESENTS THE MERITORIOUS ISSUES PRESERVED ON THE RECORD.

THE APPELLANT ALSO REQUESTS THAT THE APPELLATE DEFENSE OFFICE BE ORDERED TO REMAIN ASSOCIATED WITH THE APPELLANT FOR THE SOLE PURPOSE OF COPYING, BINDING, FILING, AND SERVING THE NEW BRIEF DEVELOPED BY THE APPELLANT. THE BRIEF COMPILED BY COUNSEL PACHAK MAY BE SUPPLEMENTED AS NECESSARY TO SUPPORT THE APPELLANT'S ARGUMENTS AFTER THIS MOTION TO RELIEVE COUNSEL IS GRANTED.

DATE 12-31-12

31 Darrin Holston
DARRIN HOLSTON

STATE OF SOUTH CAROLINA
COUNTY OF,
AIKEN

IN THE STATE OF SOUTH CAROLINA
COURT OF APPEALS

DARRIN D. HOLSTON
APPELLANT
V.

INDICTMENT No:

2010GS0201899

2010GS0201903

2010GS0201905

STATE OF SOUTH CAROLINA
RESPONDANT

RECEIVED

NOV 01 2012

PROOF OF SERVICE **P.C.I. MAILROOM**

I DARRIN HOLSTON (APPELLANT) CERTIFY THAT I HAVE THIS DAY SERVED APPELLANTS NOTICE OF MOTION TO RELIEVE COUNSEL AND PROCEED PRO SE; UPON THE SOUTH CAROLINA COURT OF APPEALS BY DEPOSITING ONE(1) ORIGINAL AND ONE(1) COPY OF THE SAME IN THE UNITED STATES MAIL BY AND THROUGH THE PERRY CORRECTIONAL INSTITUTION'S LEGAL MAIL SYSTEM.

THE FOLLOWING PARTIES WERE SERVED AT THE BELOW ADDRESSES.

ROBERT M. PACHAK
DIVISION OF APPELLATE DEFENSE
P.O. Box 11589
COLUMBIA, SOUTH CAROLINA, 29211

CHRISTINA J CATOE
OFFICE OF THE ATTORNEY GENERAL
P.O. Box 11549
COLUMBIA, SOUTH CAROLINA 29211

SOUTH CAROLINA COURT OF APPEALS

HON. JEANETTE BARBER CLERK

PO Box 11629

COLUMBIA S.C. 29211

I DARRIN HOLSTON CERTIFY AND VERIFY THAT
UNDER PENALTY OF PERJURY THAT THE FOREGOING IS
TRUE AND CORRECT PURSUANT TO USCA 28 § 1746

DATE 10-31-12

s/ Darrin Holston
DARRIN HOLSTON

- 4-15-83
Liz Hedden
U.C.P. & S. 830
Anita Knoepfle
Deputy Clerk

MR DUDEK,

MY NAME IS DARRIN D. HOLSTON AND I AM CURRENTLY BEING REPRESENTED BY ROBERT M. PACHAK. AS THE CHIEF APPELLANT DEFENDER AND HIS SUPERVISOR I MUST BRING TO YOUR ATTENTION THE FACT THAT MR. PACHAK'S BRIEF THAT WAS SUBMITTED ON MY BEHALF IS DENYING ME EFFECTIVE APPELLATE REVIEW. I'VE SPOKEN WITH MR PACHAK ON SEVERAL OCCASIONS AND LEFT MESSAGES ON HIS ANSWERING SERVICE EXPRESSING MY DISSATISFACTION WITH HIS ARGUMENTS AND THE FACT THAT HIS ARGUMENTS ARE INCONSISTANT WITH HIS ISSUE STATEMENT AND TRIAL COUNSEL'S OBJECTION MADE AT TRIAL. MR DUDEK WE CAN BOTH AGREE THAT MY LIBERTY DEPENDS ON HOW EFFECTIVE MR. PACHAK ARGUES THE ISSUES PRESERVED FOR APPELLATE REVIEW AND RESPECTFULLY SIR HIS ARGUMENT WAS NEITHER RAISED TO NOR RULED UPON BY THE TRIAL COURT AND HE WAS ADEQUATELY INFORMED OF THIS FACT. PLEASE TAKE NOTICE OF THE FOLLOWING FACTS:

- 1) AT THE CLOSE OF THE STATES CASE DEFENSE COUNSEL OBJECTED TO A PRIOR CRIMINAL SEXUAL CONDUCT BEING USED FOR IMPEACHMENT.
- 2) ARGUING THE LANGUAGE OF RULE 403 COUNSEL ARGUED THAT THE PREJUDICIAL EFFECT WOULD SUBSTANTIALLY OUTWEIGH THE PROBATING VALUE AND THAT THAT PARTICULAR OFFENSE WAS NOT INDICATIVE OF CREDIBILITY.
- 3) MR. PACHAK'S ARGUMENT IS REplete WITH REFERENCES TO RULE 609 IMPEACHMENT INSTEAD OF RULE 403 EXCLUSION BASED ON THE CRIMINAL SEXUAL CONDUCT NOT BEING INDICATIVE OF

CREDIBILITY AND THE UNFAIR PREJUDICE TRIAL COURT CREATED IN ADMITTING IT.

- 4) SPECIFICALLY, HE'S ARGUING RULE 403 IN REFERENCE TO RULE 609 WHICH IS IMPEACHMENT OF AN INDIVIDUAL WHO'S NOT THE DEFENDANT CITING STATE V. COLF AND STATE V. AL-AMIN.
- 5) MR. PACHAK INDICATES IN HIS BRIEF THAT DEFENSE COUNSEL REQUESTS A RULING TO HER OBJECTION AT THE SENTENCING PHASE OF THE TRIAL, THIS ALSO IS EMPHATICALLY INCORRECT.
- 6) FINALLY, HE'S REQUESTING A RULE 403 ANALYSIS UNDER THE FACTORS AS OUTLINED IN STATE V. COLF. COLF ADDRESSES 609 NOT 403.

CONCERNING THESE ISSUES, I HAVE MOVED THE APPELLATE COURT TO TAKE JUDICIAL NOTICE OF THE FACTS AS OUTLINED ABOVE ALONG WITH OTHER FACTS, MOVED THE COURTS TO RELIEVE COUNSEL AND PROCEED PRO'SE, AND LASTLY MOVED THE COURTS TO HOLD APPEAL IN ABEYANCE PENDING RULING ON AFOREMENTIONED MOTIONS, IN AN ATTEMPT TO STOP MR. PACHAK'S ARGUMENTS FROM BEING HEARD AND MY CONVICTION BEING AFFIRMED AND ALSO SUBMIT AN BRIEF THAT WOULD ALLOW ME EFFECTIVE DUE PROCESS.

MR. DUDEK, IN THE INTEREST OF JUSTICE, AT THIS TIME I AM SINCERLY REQUESTING THAT AS HIS SUPERVISOR YOU INTERVENE IN THIS MATTER AND COMPEL MR. PACHAK PURSUANT TO RULE 212 TO SUPPLEMENT THE RECORD TO INCLUDE THE FACTS AND AUTHORITIES AS OUTLINED IN THE FOLLOWING BRIEF. THIS BRIEF CONTAINS HIS ISSUES WITH THE CORRECT FACTS AND AUTHORITIES TO SUPPORT

- EXHIBIT E.

4.15.13
L. H. H. H.
 S.C.P. & O.B.
Anita Knoepfle
 Deputy Clerk

DARRIN DARRELL HOLSTON #288828
 PERRY CORR. INST.

04A-101

430 OAKLAWN RD

PELZER, SOUTH CAROLINA 29669

SOUTH CAROLINA COURT OF APPEALS

HONORABLE TONYA GEE, CLERK

PO Box 11629

COLUMBIA, SOUTH CAROLINA 29211

RE: DARRIN DARRELL HOLSTON V. THE STATE

DEAR HONORABLE GEE,

ENCLOSED PLEASE FIND APPELLANTS PETITION FOR REHEARING WITH
 SUPPORTING CITATIONS OF AUTHORITY, CONSENT AND ENDORSEMENT OF COUNSEL,
 AND A PROOF OF SERVICE.

ALSO, I WOULD REQUEST THAT YOU RETURN TO ME A CLOCK-STAMPED
 COPY OF THE ENCLOSED DOCUMENTS. I HAVE ENCLOSED A SELF-ADDRESSED
 PRE PAID ENVELOPE FOR THAT PURPOSE.

PLEASE TAKE NOTICE OF SCAR 224(D), THAT A FILING FEE WILL NOT BE
 REQUIRED FOR MOTIONS OR PETITIONS IN CRIMINAL APPEALS.

RECEIVED

JAN 7 13

JAN 08 2013

SC. ATTORNEY GENERAL

P.C.I. MAILROOM

DARRIN D. HOUSTON #288828
PERRY CORR. INST.
Q4A-101
430 OAKLAWN RD
PELZER, S.C. 29669

ROBERT M. PACHAK
PO Box 11589
COLUMBIA SOUTH CAROLINA 29211

RE: DARRIN D. HOUSTON V. THE STATE

DEAR MR PACHAK,

ENCLOSED IS MY PETITION FOR ~~REHEARING~~ REHEARING WITH SUPPORTING
FACTS AND CITATIONS OF AUTHORITY, AND CONSENT AND ENDORSEMENT FORM
FOR YOU TO SIGN. PLEASE SIGN IT AND FORWARD IT TO THE COURT AND RETURN
A COPY TO ME.

DATE 1-7-13

/s/ Darrin D. Houston

cc: SC COURT OF APPEALS
SC ATTORNEY GENERAL
SC SUPREME COURT

STATE OF SOUTH CAROLINA	)	IN THE STATE OF SOUTH CAROLINA
COUNTY OF AIKEN		COURT OF APPEALS
DARRIN DARRELL HOLSTON	)	CONSENT AND ENDORSEMENT OF COUNSEL.
APPELLANT		
V.		
STATE OF SOUTH CAROLINA	)	
RESPONDANT		

I ROBERT M. PACHAK, ATTORNEY AT LAW, AM THE ATTORNEY
OF RECORD FOR APPELLANT, DARRIN DARRELL HOLSTON, AND I CONSENT
TO MY CLIENT'S PETITION FOR REHEARING, WITH SUPPORTING CITATIONS OF
AUTHORITY BEING FILED.

DATED _____, 2013

S/

ROBERT M. PACHAK

PO Box 11589

COLUMBIA, SOUTH CAROLINA 29211

STATE OF SOUTH CAROLINA	)	IN THE STATE OF SOUTH CAROLINA
COUNTY OF AIKEN		COURT OF APPEALS
DARRIN DARRELL HOLSTON	)	INDICTMENT No. 2010-GS-02-01899, 2010-GS-02-01903, 2010-GS-02-01905.
APPELLANT		
V.	)	PETITION FOR REHEARING
STATE OF SOUTH CAROLINA		
RESPONDANT		

THE APPELLANT IN THE ABOVE CAPTIONED CASE RESPECTFULLY PETITIONS THIS COURT FOR A REHEARING PERTAINING TO THE ORDER THAT THIS COURT ISSUED ON DECEMBER 28, 2012.

A MEMORANDUM WITH CITATIONS OF AUTHORITY IN SUPPORT OF THIS PETITION WILL STATE WITH PARTICULARITY THE POINTS AND FACTS THAT WERE OVERLOOKED AND MISAPPREHENDED BY THE COURTS.

DATE 1-7-13

S/ Darrin D. Holston

AN EFFECTIVE APPELLATE REVIEW,

MR. DUDEK I LOOK FORWARD TO HEARING FROM YOU CONCERNING
THIS MATTER. THANK YOU FOR YOUR TIME IN THIS MATTER AND I'M
LOOKING FORWARD TO AN AGREEABLE RESOLUTION.

DATE 12-10-12

S/ Darrin D. Holston
DARRIN D. HOLSTON

PROOF OF SERVICE

RECEIVED

DEC 11 2012

P.C.I. MAILROOM

STATE OF SOUTH CAROLINA COUNTY OF AIKEN, DARRIN DARRELL HOLSTON APPELLANT V. STATE OF SOUTH CAROLINA RESPONDENT	} IN THE STATE OF SOUTH CAROLINA COURT OF APPEALS } MEMORANDUM IN SUPPORT OF PETITION FOR REHEARING

THE FOLLOWING POINTS AND FACTS WERE OVERLOOKED AND MISAPPREHENDED BY THE COURTS IN DETERMINING THAT APPELLANT'S MOTION TO EXCLUDE THE CRIMINAL SEXUAL CONDUCT AT THE CLOSE OF THE STATES CASE WAS AN IN LIMINE MOTION CITING STATE V. FORRESTER 541 SE 2d 837.

A (1)

DID TRIAL COURT ABUSE ITS DISCRETION WHEN IT FAILED TO EXCLUDE THE CRIMINAL SEXUAL CONDUCT FOR IMPEACHMENT WHEN THAT OFFENSE WAS NOT INDICATIVE OF CREDIBILITY, AND THE PREJUDICIAL EFFECT WOULD SUBSTANTIALLY OUTWEIGH THE PROBATIVE VALUE TO APPELLANT'S TESTIMONY?

B (1)

DID TRIAL COURT FAIL TO PUT A SCORE 403 ANALYSIS ON THE RECORD?

1) AT THE [C]LOSE OF THE STATES CASE DEFENSE COUNSEL ADVISED THE COURT THAT SHE WOULD BE PUTTING UP APPELLANT TO TESTIFY¹

2) TRIAL COURT INQUIRED AS TO THE RECORD OF THE APPELLANT IN THE LAST 10 YEARS.

3) PROSECUTION INDICATED THAT APPELLANT HAD A CRIMINAL SEXUAL CONDUCT CONVICTION
JUNE 26, 2006

4) DEFENSE COUNSEL ASKED THE COURTS NOT TO ALLOW THE STATE TO USE THAT
OFFENSE AND ARGUED THAT THE PREJUDICIAL EFFECT WOULD SUBSTANTIALLY OUTWEIGH
THE PROBATIVE VALUE.

5) AND THAT THAT PARTICULAR OFFENSE WAS NOT INDICATIVE OF CREDIBILITY,

6) DEFENSE COUNSEL ARGUED THAT IF THE COURTS ALLOWED THAT CHARGE AGAINST
APPELLANT THAT IT BE LIMITED TO THE FACT THAT IT WAS A FELONY RATHER THE
SPECIFIC NATURE OF THE CHARGE,²

7) TRIAL COURT INDICATED THAT THE RULES DID NOT ALLOW THAT,³

8) PROSECUTION AGREED WITH THE TRIAL COURT AND THAT HE WANTED TO MAKE IT
CLEAR FOR THE RECORD THAT APPELLANT HAD A 1999 CONVICTION FOR USE OF
A VEHICLE WITHOUT PERMISSION AND FALSE INFORMATION IN THE SAME DISPOSITION,

9) PROSECUTION INDICATED THAT THE FALSE INFORMATION WAS RELEVANT BECAUSE
APPELLANT RECEIVED A THREE (3) YEAR PROBATION SENTENCE.⁴

10) PROSECUTION THEN INDICATED TO BE ON THE SAFE SIDE THE STATE INTENDED
TO USE THE CRIMINAL SEXUAL CONDUCT.⁵ (TR.P.195 LINE 1 - P.198 LINE 11).

11) IMMEDIATELY PRIOR TO APPELLANT TESTIFYING IN HIS DEFENSE, AN OFF THE RECORD
DISCUSSION WAS HELD BETWEEN THE TRIAL COURT, DEFENSE COUNSEL, AND PROSECUTION,
(TR.P.230 LINE 9)

- 12) AT THE SENTENCING PHASE OF TRIAL DEFENSE COUNSEL INDICATED THAT SHE NEEDED TO PUT THAT OFF THE RECORD DISCUSSION ON THE RECORD.⁶
- 13) DEFENSE COUNSEL INDICATED THAT AT THAT SIDE BAR CONVERSATION SHE ASKED THE TRIAL JUDGE FOR CLARIFICATION ON HIS RULING.⁷
- 14) DEFENSE COUNSEL INDICATED THAT THE JUDGE ADVISED THE SOLICITOR AND HERSELF IN THAT OFF THE RECORD DISCUSSION AS NOTED IN PARAGRAPH 11 THAT HE WAS ALLOWING THE STATE TO BRING THAT CHARGE IN.⁸
- 15) TRIAL COURT AGREED WITH DEFENSE COUNSEL AS TO THE OFF THE RECORD DISCUSSION AS INDICATED IN PARAGRAPHS 11-14, AND INDICATED THAT HE MADE HIS ANALYSIS UNDER RULE 403 AND FOUND THE EVIDENCE TO BE MORE PROBATIVE THAN PREJUDICIAL FOR THE JURY TO DETERMINE CREDIBILITY. (TR. P.340 LINE 12 - P.341 LINE 2)

A (2)

IN ADDRESSING WHETHER TRIAL COURT'S FAILURE TO EXCLUDE APPELLANT'S PRIOR CRIMINAL SEXUAL CONDUCT FOR IMPEACHMENT WAS AN ABUSE OF DISCRETION APPELLANT NOW TURNS TO THE LEGITIMATE PURPOSE OF IMPEACHMENT WHICH IS NOT TO SHOW THE ACCUSED WHO TAKES THE STAND IS A BAD PERSON BUT TO SHOW BACKGROUND FACTS WHICH BEAR DIRECTLY ON WHETHER JURORS OUGHT TO BELIEVE HIM. SEE CAVENDER AT 518 F.2d 534. MOREOVER, THE IDEA THAT A PRIOR CONVICTION PROVIDES A MOTIVE FOR IMPEACHMENT IN ALL CASES MISCONSTRUES THE THEORY OF IMPEACHMENT. ACCORDINGLY, WHEN THE DEFENDANT TAKES THE STAND THE IMPEACHABLE OFFENSES ARE THOSE THAT "REST ON DISHONORABLE CONDUCT" GORDON V. UNITED STATES 383 F.2d 436, "CARRY A TINGE OF FALSIFICATION" UNITED STATES V. ORTEGA 561 F.2d 203, OR "INVOLVE SOME ELEMENT OF DECEIT, UNTRUTHFULNESS OR FRAUDULENCE" UNITED STATES V. FLORES 501 F.2d 1002.

CASE HOWEVER, CRIMINAL SEXUAL CONDUCT IN FACT WOULD NOT BE INDICATIVE OF CREDIBILITY BASED ON THE LEGITIMATE PURPOSE OF IMPEDIMENT AND THE ASSAULTIVE NATURE OF THE OFFENSE NOT BEARING DIRECTLY ON DISHONEST CONDUCT.

WHILE THE APPELLANT'S TESTIMONY WAS OBVIOUSLY IMPORTANT TO HIS DEFENSE, AND HIS CREDIBILITY WOULD HAVE HELPED TO ESTABLISH HIS VERSION OF EVENTS, HIS VERSION OF EVENTS WERE REFUTED BY THE TESTIMONY OF HIS OWN WITNESSES. [SEE TR. P.201 LINE 19 - P.202 LINE 24; P.263 LINE 9 - P.266 LINE 7; P.273 LINE 19 - P.276 LINE 15]. ABSENT HELPFUL TESTIMONY FROM DEFENSE WITNESSES, AND APPELLANT'S CHARACTER BEING PLACED AT ISSUE WITH THE CRIMINAL SEXUAL CONDUCT, THE PREJUDICIAL EFFECT OF THE CRIMINAL SEXUAL CONDUCT SUBSTANTIALLY OUTWEIGHED THE PROBATIVE VALUE TO APPELLANT'S TESTIMONY. THE APPLICANT WAS THE SOLE WITNESS TO REFUTE THE STATES CASE, THEREFORE HIS CREDIBILITY WAS KEY. OUR SUPREME COURT HAS INDICATED "IN THE ABSENCE OF A PRIOR CONVICTION FOR A CRIME OF DISHONESTY, WHEN A DEFENDANT'S CREDIBILITY IS KEY, ITS THE PREJUDICE FROM THAT CONVICTION THAT IS HEIGHTENED NOT ITS PROBATIVE VALUE" GREEN V. STATE 527 SE2d 98 AT 101; SEE ALSO OLD CHIEF V. UNITED STATES 519 U.S. 172, 117 S.Ct. 644 CITING MICHELSON V. UNITED STATES 335 U.S. 469, 69 S.Ct. 213. "THE INTRODUCTION OF EVIDENCE THAT REVEALS THE NAME AND BASIC NATURE OF DEFENDANT'S PRIOR FELONY CONVICTION IN A PROSECUTION UNFAIRLY PREJUDICES THE DEFENDANT WITHIN THE MEANING OF RULE 403. THE STATE MAY NOT SHOW DEFENDANT'S PRIOR TROUBLE WITH THE LAW, [SPECIFIC CRIMINAL ACTS], OR FULL NAME AMONG HIS NEIGHBORS. IT IS SAID TO WEIGH TOO MUCH WITH THE JURY AND TO SO OVERPERSUADE THEM AS TO PREJUDGE ONE WITH A BAD GENERAL RECORD AND DENY HIM A FAIR OPPORTUNITY TO DEFEND AGAINST A PARTICULAR CHARGE."

WHEN THE STATE DOES NOT PROVE THE CHARGE BEYOND A REASONABLE DOUBT

**SCCID**

SOUTH CAROLINA COMMISSION ON INTERGOVERNMENT DEFENSE

Division of Appellate Defense
1330 Lady Street, Suite 401
Columbia, South Carolina 29201-3332
Post Office Box 11589
Columbia, South Carolina 29211-1589
Telephone: (803) 734-1330
Facsimile: (803) 734-1397

Robert M. Dudek, Chief Appellate Defender
Wanda H. Carter, Deputy Chief Appellate Defender

January 11, 2013

Mr. Darrin D. Holston, #288828
Perry Correctional Institution
430 Oaklawn Road
Pelzer, SC 29669

Re: Your case

Dear Mr. Holston:

I am returning your petition for rehearing with supporting facts and citations of authority to you. Your best bet now is to go into post-conviction relief.

Sincerely,

Robert M. Pachak
Appellate Defender

RMP/pcm

Enclosure

EXHIBIT F

FILED 4 15 13

STATE OF SOUTH CAROLINA
COUNTY OF AIKEN,J. J. Anderson, Jr.
Clerk of Court
STATE OF SOUTH CAROLINA
COURT OF APPEALS.DARRIN D. HOLSTON
APPELLANT

INDICTMENT No.: 2010GS0201899

2010GS0201903

2010GS0201905

V
STATE OF SOUTH CAROLINA
RESPONDANTMOTION TO STAY
DIRECT APPEAL.

PURSUANT TO RULE 240 (SCACR) THE APPELLANT IN THE ABOVE CAPTIONED CASE RESPECTFULLY MOVES THIS HONORABLE COURT TO HOLD HIS DIRECT APPEAL IN ABEYANCE PENDING THE OUTCOME OF HIS MOTION TO RELIEVE APPELLATE COUNSEL AND PROCEED PRO SE BASED ON THE FOLLOWING:

- 1) MOTION TO RELIEVE APPELLATE COUNSEL AND PROCEED PRO SE WAS FILED ON OR ABOUT NOV 1, 2012 IN THE SOUTH CAROLINA COURT OF APPEALS.
- 2) THIS MOTION IS BEING FILED BECAUSE APPELLATE COUNSEL PACHAK HAS FAILED TO EFFECTIVELY RAISE AND ARGUE THE ISSUES OUTLINED IN THE MOTION NOTED ABOVE AND REASONABLY CONSULT WITH THE APPELLANT PRIOR TO TAKING ACTION AFTER APPELLANT COMPLAINED OF BRIEFS CONTENTS AND LACK THEREOF.
- 3) THE APPELLANT HAS THE ULTIMATE AUTHORITY TO MAKE FUNDAMENTAL DECISIONS WHETHER TO EFFECTIVELY ARGUE A PRESERVED ISSUE AS OPPOSED TO AN UNPRESERVED ISSUE THAT APPELLATE COUNSEL PACHAK HAS ARGUED.

WHEREFORE BASED ON THE FACTS AS NOTED ABOVE THE
APPELLANT RESPECTFULLY MOVES THIS HONORABLE COURT TO GRANT
THIS MOTION PURSUANT TO RULE 240 (SCACR),

DATE: 11-15-12

St. Louis
RECEIVED

NOV 15 2012

P.C.I. MAILROOM

STATE OF SOUTH CAROLINA) IN THE STATE OF SOUTH CAROLINA
 COUNTY OF AIKEN) COURT OF APPEALS

DARRIN D. HOLSTON
 APPELLANT

INDICTMENT No: 2010GS0201899

2010GS0201903

2010GS0201905

V
 STATE OF SOUTH CAROLINA
 RESPONDANT

PROOF OF SERVICE

I DARRIN D. HOLSTON (APPELLANT) CERTIFY THAT I HAVE
 THIS DAY SERVED APPELLANT'S NOTICE OF MOTION TO STAY DIRECT
 APPEAL UPON THE SOUTH CAROLINA COURT OF APPEALS BY
 DEPOSITING ONE (1) COPY IN THE UNITED STATES MAIL BY AND
 THROUGH THE PERRY CORRECTIONAL INSTITUTION'S LEGAL MAIL
 SYSTEM.

THE FOLLOWING PARTIES WERE SERVED AT THE BELOW ADDRESSES

SOUTH CAROLINA COURT OF APPEALS
 HON. JEANETTE BARBER (CLERK)
 PO Box 11629
 COLUMBIA, SOUTH CAROLINA 29211

OFFICE OF THE ATTORNEY GENERAL
 CHRISTINA J. CATGE
 PO Box 11549
 COLUMBIA, SOUTH CAROLINA
 29211

DIVISION OF THE APPELLATE DEFENSE

ROBERT M. PACHAK

PO Box 11589

COLUMBIA, SOUTH CAROLINA 29211

RECEIVED

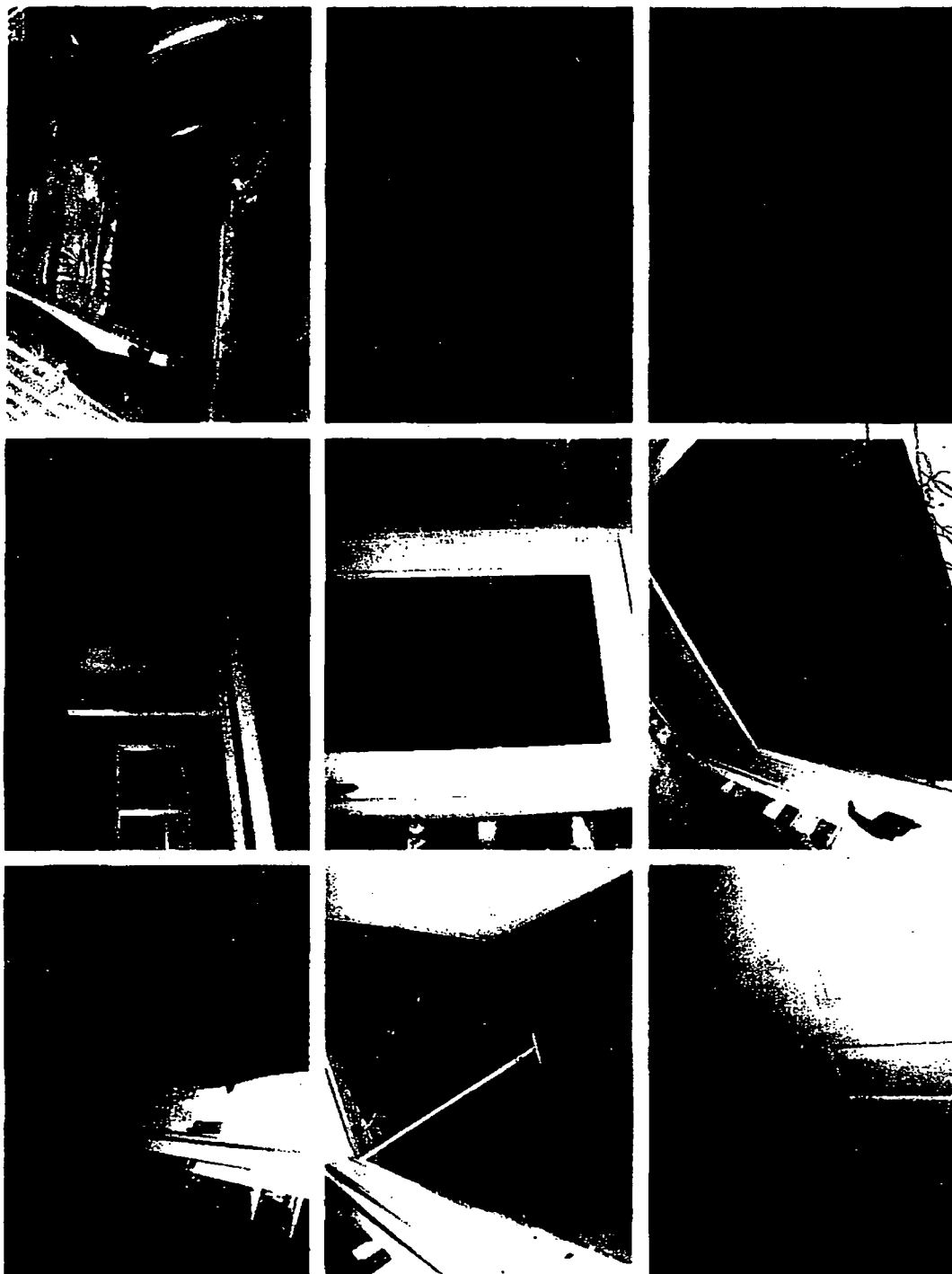
NOV 15 2012

P.C.I. MAILROOM

DATE: 11-15-12

[Signature]

EXHIBIT. 6



STATE OF SOUTH CAROLINA
 ISSUED BY THE Common Plea COURT IN THE COUNTY OF Aiken
DARRIN DARRELL HOLSTON, Plaintiff

SUBPOENA IN A CIVIL CASE
State of South Carolina, Defendant. Case Number: _____
 Pending in Aiken County

TO: WALLIS APRIL ALVES 410 BARNWELL AVENUE N.W. AIKEN SOUTH CAROLINA 29802
☒ YOU ARE COMMANDED to appear in the above named court at the place, and time specified below to testify in the above case.

PLACE OF TESTIMONY <u>Aiken County Judicial Center, 109 Park Avenue</u>	COURTROOM _____
<u>Aiken, South Carolina</u>	DATE AND TIME _____

☐ YOU ARE COMMANDED to appear at the place, date, and time specified below to testify at the taking of a deposition in the above case.

PLACE OF DEPOSITION _____	DATE AND TIME _____

☒ YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects in your possession, custody or control at the place, date and time specified below (list documents or objects):

COPY OF ALL DOCUMENTS AND THINGS IN THE POSSESSION OR CONTROL OF WALLIS A. ALVES THAT MAY BE USED TO SUPPORT HER DEFENSE.

PLACE _____	DATE AND TIME _____

☐ YOU ARE COMMANDED to permit inspection of the following premises at the date and time specified below.

PREMISES _____	DATE AND TIME _____

ANY SUBPOENAED ORGANIZATION NOT A PARTY TO THIS IS HEREBY DIRECTED TO RULE 30(b)(6), SOUTH CAROLINA RULES OF CIVIL PROCEDURE, TO FILE A DESIGNATION WITH THE COURT SPECIFYING ONE OR MORE OFFICERS, DIRECTORS, OR MANAGING AGENTS, OR OTHER PERSONS WHO CONSENT TO TESTIFY ON ITS BEHALF, SHALL SET FORTH, FOR EACH PERSON DESIGNATED, THE MATTERS ON WHICH HE WILL TESTIFY OR PRODUCE DOCUMENTS OR THINGS. THE PERSON SO DESIGNATED TESTIFY AS TO MATTERS KNOWN OR REASONABLY AVAILABLE TO THE ORGANIZATION

I CERTIFY THAT THE SUBPOENA IS ISSUED IN COMPLIANCE WITH RULE 45(c)(1), AND THAT NOTICE AS REQUIRED BY RULE 45(b)(1) HAS BEEN GIVEN TO ALL PARTIES.

Attorney/Issuing Officer's Signature
 Indicate if Attorney for Plaintiff or Defendant
 Attorney's Address and Telephone Number:

Date

Print Name

Clerk of Court/Issuing Officer's Signature
 Pro Se Litigant's Name, Address and Telephone Number:

Date

Print Name

DARRIN DARRELL HOLSTON

PROOF OF SERVICE

SERVED	DATE	FEES AND MILEAGE TENDERED TO WITNESS ☐ YES ☐ NO AMOUNT \$
	PLACE	
SERVED ON		MANNER OF SERVICE
SERVED BY		TITLE

DECLARATION OF SERVER

I certify that the foregoing information contained in the Proof of Service is true and correct.

Executed on _____

SIGNATURE OF SERVER

ADDRESS OF SERVER

Rule 45, South Carolina Rules of Civil Procedures, Parts (c) and (d):

(c) Protection of Persons Subject to Subpoenas.

(1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court on behalf of which the subpoena was issued shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction, which may include, but is not limited to, lost earnings and a reasonable attorney's fee.

(2) (A) A person commanded to produce and permit inspection and copying of designated books, papers, documents or tangible things, or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial. A party or an attorney responsible for the issuance and service of a subpoena for production of books, papers and documents without a deposition shall provide to another party copies of documents so produced upon written request. The party requesting copies shall pay the reasonable costs of reproduction.

(B) Subject to paragraph (d)(2) of this rule, a person commanded to produce and permit inspection and copying may, within 14 days after service of the subpoena or before the time specified for compliance if such time is less than 14 days after service, serve upon the party or attorney designated in the subpoena written objection to inspection or copying of any or all of the designated materials or of the premises. If objection is made, the party serving the subpoena shall not be entitled to inspect and copy the materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time in the court that issued the subpoena for an order to compel the production. Such an order to compel production shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection and copying commanded.

(3) (A) On timely motion, the court by which a subpoena was issued, or regarding a subpoena commanding appearance at a deposition, or production or inspection directed to a non-party, the court in the county where the non-party resides, is employed or regularly transacts business in person, shall quash or modify the subpoena if it:

- i. fails to allow reasonable time for compliance; or
- ii. requires a person who is not a party nor an officer, director or managing agent of a party, nor a general partner of a partnership that is a party, to travel more than 50 miles from the county where that person resides, is employed or regularly transacts business in person, except that, subject to the provisions of clause (c)(3)(B)(ii) of this rule, such a person may in order to attend trial be commanded to travel from any such place within the state in which the trial is held; or
- iii. requires disclosure of privileged or otherwise protected matter and no exception or waiver applies; or
- iv. subjects a person to undue burden.

(B) If a subpoena:

- i. requires disclosure of a trade secret or other confidential research, development, or commercial information, or
- ii. requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party, or
- iii. requires a person who is not a party nor an officer, director or managing agent of a party, nor a general partner of a partnership that is a party, to incur substantial expense to travel from the county where that person resides, is employed or regularly transacts business in person,

the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena or, if the party in whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

(d) Duties in Responding to Subpoena.

(1) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.

(2) When information subject to a subpoena is withheld on a claim that it is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

STATE OF SOUTH CAROLINA
 ISSUED BY THE Common Pleas COURT IN THE COUNTY OF Aiken
Darrin Darrell Holston, Plaintiff

v.
South State of South Carolina Defendant
 SUBPOENA IN A CIVIL CASE
 Case Number: _____
 Pending in Aiken County

TO: JAMES D. SANDERS 420 HAMPTON AVE AIKEN South Carolina 29801

☐ YOU ARE COMMANDED to appear in the above named court at the place, and time specified below to testify in the above case.

PLACE OF TESTIMONY Aiken County Judicial
Center, 109 park ave
Aiken South Carolina 29801

COURTROOM _____

DATE AND TIME _____

☐ YOU ARE COMMANDED to appear at the place, date, and time specified below to testify at the taking of a deposition in the above case.

PLACE OF DEPOSITION _____

DATE AND TIME _____

☐ YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects in your possession, custody or control at the place, date and time specified below (list documents or objects):

PLACE _____

DATE AND TIME _____

☐ YOU ARE COMMANDED to permit inspection of the following premises at the date and time specified below.

PREMISES _____

DATE AND TIME _____

ANY SUBPOENAED ORGANIZATION NOT A PARTY TO THIS IS HEREBY DIRECTED TO RULE 30(b)(6), SOUTH CAROLINA RULES OF CIVIL PROCEDURE, TO FILE A DESIGNATION WITH THE COURT SPECIFYING ONE OR MORE OFFICERS, DIRECTORS, OR MANAGING AGENTS, OR OTHER PERSONS WHO CONSENT TO TESTIFY ON ITS BEHALF, SHALL SET FORTH, FOR EACH PERSON DESIGNATED, THE MATTERS ON WHICH HE WILL TESTIFY OR PRODUCE DOCUMENTS OR THINGS. THE PERSON SO DESIGNATED TESTIFY AS TO MATTERS KNOWN OR REASONABLY AVAILABLE TO THE ORGANIZATION

I CERTIFY THAT THE SUBPOENA IS ISSUED IN COMPLIANCE WITH RULE 45(c)(1), AND THAT NOTICE AS REQUIRED BY RULE 45(c)(1) HAS BEEN GIVEN TO ALL PARTIES

Attorney/Issuing Officer's Signature
 Indicate if Attorney for Plaintiff or Defendant
 Attorney's Address and Telephone Number

Date

Print Name

Print Name of Court Issuing Officer's Signature
 Print Name, Address and Telephone Number

Date

Print Name

Darrin Darrell Holston 430 Oaklawn rd, pelzer South Carolina 29669

PROOF OF SERVICE

SERVED	DATE	FEES AND MILEAGE TENDERED TO WITNESS ☐ YES ☐ NO AMOUNT \$
	PLACE	
SERVED ON		MANNER OF SERVICE
SERVED BY		TITLE

DECLARATION OF SERVER

I certify that the foregoing information contained in the Proof of Service is true and correct.

Executed on _____

SIGNATURE OF SERVER

ADDRESS OF SERVER

Rule 45, South Carolina Rules of Civil Procedures, Parts (c) and (d):

(c) Protection of Persons Subject to Subpoenas.

(1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court on behalf of which the subpoena was issued shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction, which may include, but is not limited to, lost earnings and a reasonable attorney's fee.

(2) (A) A person commanded to produce and permit inspection and copying of designated books, papers, documents or tangible things, or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial. A party or an attorney responsible for the issuance and service of a subpoena for production of books, papers and documents without a deposition shall provide to another party copies of documents so produced upon written request. The party requesting copies shall pay the reasonable costs of reproduction.

(B) Subject to paragraph (d)(2) of this rule, a person commanded to produce and permit inspection and copying may, within 14 days after service of the subpoena or before the time specified for compliance if such time is less than 14 days after service, serve upon the party or attorney designated in the subpoena written objection to inspection or copying of any or all of the designated materials or of the premises. If objection is made, the party serving the subpoena shall not be entitled to inspect and copy the materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time in the court that issued the subpoena for an order to compel the production. Such an order to compel production shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection and copying commanded.

(3) (A) On timely motion, the court by which a subpoena was issued, or regarding a subpoena commanding appearance at a deposition, or production or inspection directed to a non-party, the court in the county where the non-party resides, is employed or regularly transacts business in person, shall quash or modify the subpoena if it:

- i. fails to allow reasonable time for compliance; or
- ii. requires a person who is not a party nor an officer, director or managing agent of a party, nor a general partner of a partnership that is a party, to travel more than 60 miles from the county where that person resides, is employed or regularly transacts business in person, except that, subject to the provisions of clause (c)(3)(B)(ii) of this rule, such a person may in order to attend trial be commanded to travel from any such place within the state in which the trial is held; or
- iii. requires disclosure of privileged or otherwise protected matter and no exception or waiver applies; or
- iv. subjects a person to undue burden.

(B) If a subpoena:

- i. requires disclosure of a trade secret or other confidential research, development, or commercial information, or
- ii. requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party, or
- iii. requires a person who is not a party nor an officer, director or managing agent of a party, nor a general partner of a partnership that is a party, to incur substantial expense to travel from the county where that person resides, is employed or regularly transacts business in person,

the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena or, if the party in whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

(d) Duties in Responding to Subpoena.

(1) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.

(2) When information subject to a subpoena is withheld on a claim that it is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

STATE OF SOUTH CAROLINA
 ISSUED BY THE Common Plea COURT IN THE COUNTY OF Aiken
DARRIN DARRELL Holston, Plaintiff

v.
 SUBPOENA IN A CIVIL CASE
State of South Carolina, Defendant Case Number: _____
 Pending in Aiken County

TO: KEVIN MOLONY 109 PARK AVE Aiken South Carolina

☐ YOU ARE COMMANDED to appear in the above named court at the place, and time specified below to testify in the above case.

PLACE OF TESTIMONY Aiken County Judicial Center, 109 park ave Aiken, South Carolina

COURTROOM _____

29801

DATE AND TIME _____

☐ YOU ARE COMMANDED to appear at the place, date, and time specified below to testify at the taking of a deposition in the above case.

PLACE OF DEPOSITION _____

DATE AND TIME _____

☐ YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects in your possession, custody or control at the place, date and time specified below (list documents or objects):

PLACE _____

DATE AND TIME _____

☐ YOU ARE COMMANDED to permit inspection of the following premises at the date and time specified below.

PREMISES _____

DATE AND TIME _____

ANY SUBPOENAED ORGANIZATION NOT A PARTY TO THIS IS HEREBY DIRECTED TO RULE 30(b)(6), SOUTH CAROLINA RULES OF CIVIL PROCEDURE, TO FILE A DESIGNATION WITH THE COURT SPECIFYING ONE OR MORE OFFICERS, DIRECTORS, OR MANAGING AGENTS, OR OTHER PERSONS WHO CONSENT TO TESTIFY ON ITS BEHALF, SHALL SET FORTH, FOR EACH PERSON DESIGNATED, THE MATTERS ON WHICH HE WILL TESTIFY OR PRODUCE DOCUMENTS OR THINGS. THE PERSON SO DESIGNATED TESTIFY AS TO MATTERS KNOWN OR REASONABLY AVAILABLE TO THE ORGANIZATION

I CERTIFY THAT THE SUBPOENA IS ISSUED IN COMPLIANCE WITH RULE 45(c)(1), AND THAT NOTICE AS REQUIRED BY RULE 45(b)(1) HAS BEEN GIVEN TO ALL PARTIES

Attorney/Issuing Officer's Signature
 Indicate if Attorney for Plaintiff or Defendant
 Attorney's Address and Telephone Number

Date

Print Name

Print of Court Issuing Officer's Signature
 Print of Litiqant's Name, Address and Telephone Number

Date

Print Name

Darrin Darrell Holston 430 Oaklawn rd Pelzer, South Carolina 29669

PROOF OF SERVICE

SERVED	DATE	FEES AND MILEAGE TENDERED TO WITNESS ☐ YES ☐ NO AMOUNT \$
	PLACE	
SERVED ON		MANNER OF SERVICE
SERVED BY		TITLE

DECLARATION OF SERVER

I certify that the foregoing information contained in the Proof of Service is true and correct.

Executed on _____

SIGNATURE OF SERVER

ADDRESS OF SERVER

Rule 45, South Carolina Rules of Civil Procedures, Parts (c) and (d):

(c) Protection of Persons Subject to Subpoenas.

(1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court on behalf of which the subpoena was issued shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction, which may include, but is not limited to, lost earnings and a reasonable attorney's fee.

(2) (A) A person commanded to produce and permit inspection and copying of designated books, papers, documents or tangible things, or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial. A party or an attorney responsible for the issuance and service of a subpoena for production of books, papers and documents without a deposition shall provide to another party copies of documents so produced upon written request. The party requesting copies shall pay the reasonable costs of reproduction.

(B) Subject to paragraph (d)(2) of this rule, a person commanded to produce and permit inspection and copying may, within 14 days after service of the subpoena or before the time specified for compliance if such time is less than 14 days after service, serve upon the party or attorney designated in the subpoena written objection to inspection or copying of any or all of the designated materials or of the premises. If objection is made, the party serving the subpoena shall not be entitled to inspect and copy the materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time in the court that issued the subpoena for an order to compel the production. Such an order to compel production shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection and copying commanded.

(3) (A) On timely motion, the court by which a subpoena was issued, or regarding a subpoena commanding appearance at a deposition, or production or inspection directed to a non-party, the court in the county where the non-party resides, is employed or regularly transacts business in person, shall quash or modify the subpoena if it:

- i. fails to allow reasonable time for compliance; or
- ii. requires a person who is not a party nor an officer, director or managing agent of a party, nor a general partner of a partnership that is a party, to travel more than 60 miles from the county where that person resides, is employed or regularly transacts business in person, except that, subject to the provisions of clause (c)(3)(B)(iii) of this rule, such a person may in order to attend trial be commanded to travel from any such place within the state in which the trial is held; or
- iii. requires disclosure of privileged or otherwise protected matter and no exception or waiver applies; or
- iv. subjects a person to undue burden.

(B) If a subpoena:

- i. requires disclosure of a trade secret or other confidential research, development, or commercial information; or
- ii. requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party; or
- iii. requires a person who is not a party nor an officer, director or managing agent of a party, nor a general partner of a partnership that is a party, to incur substantial expense to travel from the county where that person resides, is employed or regularly transacts business in person.

the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena or, if the party in whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

(d) Duties in Responding to Subpoena.

(1) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.

(2) When information subject to a subpoena is withheld on a claim that it is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

STATE OF SOUTH CAROLINA
 ISSUED BY THE Common Plea COURT IN THE COUNTY OF Aiken
DARRIN DARRELL HOLSTON, Plaintiff

v.
 SUBPOENA IN A CIVIL CASE
STATE OF SOUTH CAROLINA, Defendant Case Number: _____
 Pending in Aiken County

TO: RACHEL SHARP TRI-DEVELOPMENT CENTER for AIKEN COUNTY, INC.

☒ YOU ARE COMMANDED to appear in the above named court at the place, and time specified below to testify in the above case.

PLACE OF TESTIMONY <u>Aiken County Judicial Center, 109 PARK AVENUE</u>	COURTROOM _____
<u>Aiken, South Carolina</u>	DATE AND TIME _____

☐ YOU ARE COMMANDED to appear at the place, date, and time specified below to testify at the taking of a deposition in the above case.

PLACE OF DEPOSITION _____	DATE AND TIME _____

☐ YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects in your possession, custody or control at the place, date and time specified below (list documents or objects):

PLACE _____	DATE AND TIME _____

☐ YOU ARE COMMANDED to permit inspection of the following premises at the date and time specified below.

PREMISES _____	DATE AND TIME _____

ANY SUBPOENAED ORGANIZATION NOT A PARTY TO THIS IS HEREBY DIRECTED TO RULE 30(b)(6), SOUTH CAROLINA RULES OF CIVIL PROCEDURE, TO FILE A DESIGNATION WITH THE COURT SPECIFYING ONE OR MORE OFFICERS, DIRECTORS, OR MANAGING AGENTS, OR OTHER PERSONS WHO CONSENT TO TESTIFY ON ITS BEHALF, SHALL SET FORTH, FOR EACH PERSON DESIGNATED, THE MATTERS ON WHICH HE WILL TESTIFY OR PRODUCE DOCUMENTS OR THINGS. THE PERSON SO DESIGNATED TESTIFY AS TO MATTERS KNOWN OR REASONABLY AVAILABLE TO THE ORGANIZATION

I CERTIFY THAT THE SUBPOENA IS ISSUED IN COMPLIANCE WITH RULE 45(c)(1), AND THAT NOTICE AS REQUIRED BY RULE 45(b)(1) HAS BEEN GIVEN TO ALL PARTIES

Attorney/Issuing Officer's Signature
 Indicate if Attorney for Plaintiff or Defendant
 Attorney's Address and Telephone Number

Date

Print Name

Clerk of Court/Issuing Officer's Signature
 Print Litrant's Name, Address and Telephone Number

Date

Print Name

430 OAKLAWN RD PELZER, SOUTH CAROLINA, 29669, DARRIN DARRELL HOLSTON

PROOF OF SERVICE

SERVED	DATE	FEES AND MILEAGE TENDERED TO WITNESS ☐ YES ☐ NO AMOUNT \$
	PLACE	
SERVED ON		MANNER OF SERVICE
SERVED BY		TITLE

DECLARATION OF SERVER

I certify that the foregoing information contained in the Proof of Service is true and correct.

Executed on _____

SIGNATURE OF SERVER

ADDRESS OF SERVER

Rule 45, South Carolina Rules of Civil Procedures, Parts (c) and (d):

(c) Protection of Persons Subject to Subpoenas.

(1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court on behalf of which the subpoena was issued shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction, which may include, but is not limited to, lost earnings and a reasonable attorney's fee.

(2) (A) A person commanded to produce and permit inspection and copying of designated books, papers, documents or tangible things, or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial. A party or an attorney responsible for the issuance and service of a subpoena for production of books, papers and documents without a deposition shall provide to another party copies of documents so produced upon written request. The party requesting copies shall pay the reasonable costs of reproduction.

(B) Subject to paragraph (d)(2) of this rule, a person commanded to produce and permit inspection and copying may, within 14 days after service of the subpoena or before the time specified for compliance if such time is less than 14 days after service, serve upon the party or attorney designated in the subpoena written objection to inspection or copying of any or all of the designated materials or of the premises. If objection is made, the party serving the subpoena shall not be entitled to inspect and copy the materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time in the court that issued the subpoena for an order to compel the production. Such an order to compel production shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection and copying commanded.

(3) (A) On timely motion, the court by which a subpoena was issued, or regarding a subpoena commanding appearance at a deposition, or production or inspection directed to a non-party, the court in the county where the non-party resides, is employed or regularly transacts business in person, shall quash or modify the subpoena if it:

- i. fails to allow reasonable time for compliance; or
- ii. requires a person who is not a party nor an officer, director or managing agent of a party, nor a general partner of a partnership that is a party, to travel more than 50 miles from the county where that person resides, is employed or regularly transacts business in person, except that, subject to the provisions of clause (c)(3)(B)(ii) of this rule, such a person may in order to attend trial be commanded to travel from any such place within the state in which the trial is held; or
- iii. requires disclosure of privileged or otherwise protected matter and no exception or waiver applies; or
- iv. subjects a person to undue burden.

(B) If a subpoena:

- i. requires disclosure of a trade secret or other confidential research, development, or commercial information, or
- ii. requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party, or
- iii. requires a person who is not a party nor an officer, director or managing agent of a party, nor a general partner of a partnership that is a party, to incur substantial expense to travel from the county where that person resides, is employed or regularly transacts business in person,

the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena or, if the party in whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

(d) Duties in Responding to Subpoena.

(1) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.

(2) When information subject to a subpoena is withheld on a claim that it is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

STATE OF SOUTH CAROLINA
 ISSUED BY THE Common Plea COURT IN THE COUNTY OF Aiken
DARRIN DARRELL HOLSTON, Plaintiff

v. SUBPOENA IN A CIVIL CASE
STATE OF SOUTH CAROLINA, Defendant Case Number: _____
 Pending in Aiken County

TO: RENEE TYLER TRI-DEVELOPMENT FOR AIKEN COUNTY, INC.

☐ YOU ARE COMMANDED to appear in the above named court at the place, and time specified below to testify in the above case.

PLACE OF TESTIMONY Aiken County Judicial
Center, 109 Park Avenue
Aiken, South Carolina 29801

COURTROOM _____

DATE AND TIME _____

☐ YOU ARE COMMANDED to appear at the place, date, and time specified below to testify at the taking of a deposition in the above case.

PLACE OF DEPOSITION _____

DATE AND TIME _____

☐ YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects in your possession, custody or control at the place, date and time specified below (list documents or objects):

PLACE _____

DATE AND TIME _____

☐ YOU ARE COMMANDED to permit inspection of the following premises at the date and time specified below.

PREMISES _____

DATE AND TIME _____

ANY SUBPOENAED ORGANIZATION NOT A PARTY TO THIS IS HEREBY DIRECTED TO RULE 30(b)(6), SOUTH CAROLINA RULES OF CIVIL PROCEDURE, TO FILE A DESIGNATION WITH THE COURT SPECIFYING ONE OR MORE OFFICERS, DIRECTORS, OR MANAGING AGENTS, OR OTHER PERSONS WHO CONSENT TO TESTIFY ON ITS BEHALF, SHALL SET FORTH, FOR EACH PERSON DESIGNATED, THE MATTERS ON WHICH HE WILL TESTIFY OR PRODUCE DOCUMENTS OR THINGS. THE PERSON SO DESIGNATED TESTIFY AS TO MATTERS KNOWN OR REASONABLY AVAILABLE TO THE ORGANIZATION

I CERTIFY THAT THE SUBPOENA IS ISSUED IN COMPLIANCE WITH RULE 35(c)(1), AND THAT NOTICE AS REQUIRED BY RULE 35(b)(1) HAS BEEN GIVEN TO ALL PARTIES

Attorney/Issuing Officer's Signature
 Indicate if Attorney for Plaintiff or Defendant
 Attorney's Address and Telephone Number

Date

Print Name

Let of Court-Issuing Officer's Signature
 Pro Se Litigant's Name, Address and Telephone Number

Date

Print Name

BARRIN DARRELL HOLSTON 430 OAKLAWN RD PELZER, SOUTH CAROLINA 29669

PROOF OF SERVICE

SERVED	DATE	FEES AND MILEAGE TENDERED TO WITNESS ☐ YES ☐ NO AMOUNT \$
	PLACE	
SERVED ON		MANNER OF SERVICE
SERVED BY		TITLE

DECLARATION OF SERVER

I certify that the foregoing information contained in the Proof of Service is true and correct.

Executed on _____

SIGNATURE OF SERVER

ADDRESS OF SERVER

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(c) Protection of Persons Subject to Subpoenas.

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(2) (A) A person commanded to produce and permit inspection and copying of designated books, papers, documents or tangible things, or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial. A party or an attorney responsible for the issuance and service of a subpoena for production of books, papers and documents without a deposition shall provide to another party copies of documents so produced upon written request. The party requesting copies shall pay the reasonable costs of reproduction.

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- i. fails to allow reasonable time for compliance; or
- ii. requires a person who is not a party nor an officer, director or managing agent of a party, nor a general partner of a partnership that is a party, to travel more than 50 miles from the county where that person resides, is employed or regularly transacts business in person, except that, subject to the provisions of clause (c)(3)(B)(iii) of this rule, such a person may in order to attend trial be commanded to travel from any such place within the state in which the trial is held; or
- iii. requires disclosure of privileged or otherwise protected matter and no exception or waiver applies; or
- iv. subjects a person to undue burden.

(B) If a subpoena:

- i. requires disclosure of a trade secret or other confidential research, development, or commercial information, or
- ii. requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party, or
- iii. requires a person who is not a party nor an officer, director or managing agent of a party, nor a general partner of a partnership that is a party, to incur substantial expense to travel from the county where that person resides, is employed or regularly transacts business in person,

the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena or, if the party in whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

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(2) When information subject to a subpoena is withheld on a claim that it is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

Honorable Shannon Thompson
Aiken County Clerk of Court
PO Box 583
Aiken South Carolina, 29802

Megan E. Harrington
Office of the Attorney General
PO Box 11549
Columbia, South Carolina 29211

Public Defender for the 2nd Judicial Circuit
Wallis April Alves
410 Barnwell Ave
Aiken, South Carolina, 29802

Kevin Molony
Asst. Solicitor Second Judicial Circuit
PO Box 3368
Aiken, South Carolina, 29802

Appellate Defense
Robert M. Pachak
P.O. Box 11589
Columbia, South Carolina 29211

Date 4-9-13

S/ Darren N. [Signature]

Darrin Darrell Holston
430 Oaklawn rd
Pelzer, South Carolina 29669

Aiken County Clerk of Court
Hon. Shannon Thompson
PO Box 583
Aiken, South Carolina 29802-0583

Honorable Thompson,

Please find enclosed applicants
summons, application for post-conviction relief, memorandums
of law in support of application, motion to subpoena,
and other attachments.

At this time im requesting a copy of filed application
and summons so that I may personally serve the
Attorney General's office. Your help in this matter would
be greatly appreciated.

Very Truly Yours,
Darrin D. Holston

State of South Carolina } COURT OF COMMON PLEAS
County of Aiken }

Darrin Darrell Holston
Applicant
V.

State of South Carolina
Respondant

SWORN AFFIDAVIT
OF

DARRIN DARRELL HOLSTON

I, Darrin Darrell Holston, the applicant in the above captioned case do solemnly swear that the facts submitted in applicants Post-Conviction Application and his Memorandums of Law in support are within the personal knowledge of the applicant and are true and correct.

Applicant also swears that all documents and exhibits included with the application, to include but not limited to:

- 1) Supplementary Report of Inv. James D. Sanders dated 7-22-10;
- 2) Transcript of Record;
- 3) Applicants Motion to relieve counsel and proceed pro se;

4 15 13
L. J. Godard
C.C.P. & G.S.
Arita Knoepfer
Deputy Clerk

- 4) Applicants Motion to Stay Direct Appeal;
- 5) letter to chief appellate defender Robert Dudek dated 12-11-12;
and
- 6) Applicants petition for rehearing with supporting citations
of authority, consent and endorsement of counsel; and proof
of service sent to appellate counsel on 1-8-13 to be filed
with the clerk of court are true and correct pursuant to
28 U.S.C. § 1746.

Date 4-9-13

S/ Darin Hoffman

State of South Carolina	)	Court of Common Plea
County of Aiken	)	Second Judicial Circuit
	)	
Darrin D. Holston	)	
Applicant	)	
V	)	MOTION OF DISCLOSURE
State of South Carolina	)	
<u>Defendant</u>	)	

I Darrin D. Holston in the above titled caption moves this Honorable Court pursuant to rule 26(B)(1)(SCRCP) to require the Defendants to provide the following information:

- (1) The names, addresses and telephone numbers of each person likely to have discoverable information that the disclosing party may use to support its claims or defenses, identifying the subjects of the information;
- (2) Copy of all document and things in the possession or control of the disclosing party that may be used to support their claims or defenses.

4-9-13

Darrin D. Holston
Darrin D. Holston

4.15 13
Liz Holston
C.C.P. & G.S.
Arita Knoepke 830
Deputy Clerk

State of South Carolina

Court of Common Plea

County of Aiken)

Second Judicial Circuit

Darrin Darrell . Holston)

#288828)

Applicant)

V)

State of South Carolina)

Respondant)

FILED 4-15-13
[Signature]
 C.C.P. & G.S.
Anita Knoepfle
 Deputy Clerk

MOTION FOR EXECUTION OF

SUBPEONA/MOTION TO SUBPEONA

WITNESSES

Comes one Darrin Darrell Holston #288828 moving this Honorable Court pursuant to rule 45 S.C. Civil Proc to execute subpoenas. Said Names were witnesses and parties to applicant's jury trial on May 9-12 of 2011. Applicant is entitled to examine said witnesses in his upcoming P.C.R. hearing, because the burden of proof is on the applicant.

The list of witnesses and addresses are as follows:

1. Wallis April Alves, 410 Barnwell Ave., Aiken, South Carolina 29802
2. James D. Sander, 420 Hampton Ave., Aiken, South Carolina 29801
3. Kevin Malony, 109 Park Ave., Aiken, South Carolina 29801
4. Rachael Sharp, Tri-Development Center for Aiken County, INC. 29801
5. Renee Tyler, Tri-Development Center for Aiken County, INC 29801

4-9-13

[Signature]

Darrin D. Holston

State of South Carolina

County of AikenDARRIN D. HOLSTON,
Petitioner,

v.

State of South Carolina,
Respondent.

Court of Common Pleas

2ND Judicial CircuitNOTION FOR APPOINTMENT
OF COUNSELApplicant DARRIN D. HOLSTON, hereby

respectfully request this Honorable Court to appoint counsel
to represent him in this Post-Conviction relief hearing
for the following reasons:

- 1) The applicant is unable to afford counsel.
- 2) The issues in this case are complex.
- 3) The applicant does not have an attorney of record in this court of common pleas.
- 4) The applicant has a limited knowledge of the law.

Relief-Request for Appointment of Counsel.

I, DARRIN D. HOLSTON, certify and verify
under the penalty of perjury that the foregoing is true
and correct. 28 U.S.C.A. § 1746.

Darrin D. Holston

4 15 13
Liz Gaddard
C.C.P. & C.S.
Anita Knoepfer
Deputy Clerk

State of South Carolina

County of AikenDARRIN D. HOLSTON
Petitioner,

v.

State of South Carolina,
Respondent.

Court of Common Pleas

2ND Judicial CircuitAFFIDAVIT IN SUPPORT
OF APPLICANT'S MOTION
FOR THE APPOINTMENT
OF COUNSELDARRIN D. HOLSTON, being duly sworn deposes and
says:

- 1) I am the applicant in the above entitled case. I make this affidavit in support of my motion for appointment of counsel.
- 2) This is a complex case because it contains several legal claims that have merit.
- 3) The facts in this PCR proceeding along with the legal merit of the applicant's claims support the appointment of counsel to represent the applicant.
- 4) Wherefore, the applicant's motion for the appointment of counsel should be granted.

I, DARRIN D. HOLSTON, certify and verify under the penalty of perjury that the foregoing is true and correct. 28 U.S.C.A. § 1746.

Darrin D. Holston

415 13
Lisa Goddard
 C.C.P. & G.S.
Anita Knoepfle
 Deputy Clerk

STATE OF SOUTH CAROLINA,

COUNTY OF AIKEN

DARRIN D. HOUSTON

Plaintiff,

vs.

STATE OF SOUTH CAROLINA Defendant.

IN THE COURT OF COMMON PLEAS

SUMMONS

2013CP02668 56

FILE NO.

TO THE DEFENDANT ABOVE-NAMED:

YOU ARE HEREBY SUMMONED and required to answer the complaint herein, a copy of which is herewith served upon you, and to serve a copy of your answer to this complaint upon the subscriber, at the address shown below, within thirty (30) days after service hereof, exclusive of the day of such service, and if you fail to answer the complaint, judgment by default will be rendered against you for the relief demanded in the complaint.

AIKEN, South Carolina

Darrin D. Houston
Plaintiff/Attorney for Plaintiff

Dated:

Address: 430 OAKLAWN RD, PELZER SOUTH CAROLINA 29669

4.15.13
L. J. Anderson
J.C.C.P. & G.S.
Anita Knoepfle
Deputy Clerk

SCCA 401 (5/02)

STATE OF SOUTH CAROLINA
COUNTY OF AIKEN

) IN THE COURT OF COMMON PLEAS
) FOR THE SECOND JUDICIAL CIRCUIT

) 2013-CP-02-00856.
)

) Darrin Darrell Holston, #288828,
)

) Applicant,
)

) v.
)

) **RETURN**
)

) State of South Carolina,
)

) Respondent.
)
_____)

Respondent, making its Return to the Application for post-conviction relief filed April 15, 2013 and amended on July 24, 2013 would respectfully show this Court:

I.

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Aiken County Clerk of Court. Applicant was true bill indicted during the December 2010 term of the Aiken County Grand Jury for Burglary in the First Degree (2010-GS-02-1899), Kidnapping (2010-GS-02-1903), and Attempted Armed Robbery (2010-GS-02-1905). Wallis Alves, Esquire, represented Applicant. On May 9-12, 2011, a jury trial was held before the Honorable Doyet A. Early, III. The jury convicted Applicant as indicted. On May 12, 2011, Judge Early sentenced Applicant to life imprisonment for each offense, with all three sentences to run concurrently.

A Notice of Appeal was filed with the South Carolina Court of Appeals and Robert M. Pachak, Esquire, perfected an appeal on Applicant's behalf. The Court of Appeals affirmed Applicant's sentences and convictions on December 28, 2012. State v. Holston, No. 2012-UP-678 (Ct. App. December 28, 2012). The Remittitur was issued on January 23, 2013.

Attached herewith and incorporated herein are the records of the Aiken County Clerk of Court regarding the subject convictions, the Applicant's records from the South Carolina Department of Corrections, the appellate records, and the trial transcript. Respondent reserves the right to amend this Return upon receipt of any relevant materials

II.

In his current Application, Applicant alleges that he is being held in custody unlawfully for the following reasons:

1. Trial counsel denied Applicant effective assistance in violation of the South Carolina Constitution Article One Section Three and Fourteen and the United States Constitution Sixth and Fourteenth Amendments.
 - a. Counsel elicited corroborative hearsay testimony from prosecution witnesses and defense witnesses as to what the victim said that bolstered alleged victim's credibility.
 - b. Counsel failed to interview defense witnesses to ascertain whether they would support defendant's theory of the case.
 - c. Counsel failed to motion the courts for a Rule 403 analysis on evidence that prosecution and trial counsel submitted that had the propensity to mislead and confuse the jury.
 - d. Counsel denied the Applicant the opportunity to confront witnesses against him by stipulated forensic Inv. Clay Adams and forensic examiner Cathey Leisy reports instead of calling them as witnesses.
 - e. Counsel failed to object to the trial courts admitting a CD into evidence without a proper foundation for that evidence being laid.
 - f. Counsel failed to motion the courts for Rule 609 balancing analysis.
 - g. Counsel failed to object to misstatements made by alleged victim Willie Walker.
2. Cumulative prejudice.
3. Conspiracy.
4. Police misconduct.

Any claims not specifically enumerated in the post-conviction Application or amendments will be opposed by the State at an evidentiary hearing, and the State will seek summary dismissal of vague or general claims at an evidentiary hearing. S.C. Code §17-27-50. All amendments should be made well in advance of an evidentiary hearing by counsel of record. Rule 11, SCRPC.

III.

In a post-conviction relief action, the Applicant bears the burden of proving the allegations in his application. Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). Where the application alleges ineffective assistance of counsel as a ground for relief, the Applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result." Strickland v. Washington, 466 U.S. 668 (1984); Butler, 334 S.E.2d 813.

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. The courts presume that counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Strickland, 466 U.S. 668. The Applicant must overcome this presumption in order to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989).

The reviewing court applies a two-pronged test in evaluating allegations of ineffective assistance of plea counsel. First, the Applicant must prove that counsel's performance was deficient. Under this prong, the court measures an attorney's performance by its "reasonableness under professional norms." Id. at 117, 386 S.E.2d at 625, citing Strickland. Second, counsel's deficient performance must have prejudiced the Applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Id. at 117-18, 386 S.E.2d at 625.

Respondent submits that Applicant cannot satisfy either requirement of the Strickland test. However, the allegation of ineffective assistance of counsel probably raises questions of fact that the record does not conclusively refute. Accordingly, Respondent requests an

evidentiary hearing to fully resolve this issue. See Sharper v. State, 279 S.C. 264, 305 S.E.2d 247 (1983).

IV.

Respondent submits that the second, third, and fourth allegations should be summarily dismissed for failure to state a claim cognizable under the Post-Conviction Procedure Act, S.C. Code Ann. § 17-27-10 to -160. An Applicant may commence a post-conviction relief action on the following grounds:

1. That the conviction or the sentence was in violation of the Constitution of the United States or the Constitution or laws of this State;
2. That the court was without jurisdiction to impose sentence;
3. That the sentence exceeds the maximum authorized by law;
4. That there exists evidence of material facts, not previously presented and heard, that requires vacation of the conviction or sentence in the interest of justice;
5. That his sentence has expired, his probation, parole or conditional release [was] unlawfully revoked, or he is otherwise unlawfully held in custody or other restraint; or
6. That the conviction or sentence is otherwise subject to collateral attack upon any ground of alleged error heretofore available under any common law, statutory or other writ, motion, petition, proceeding or remedy....

S.C. Code Ann. § 17-27-20 (1976).

Even if the facts alleged by Applicant are true, these facts do not support a cognizable claim for post-conviction relief under any of the statutory grounds. The allegations presented by Applicant raises direct appeal issues that are procedurally barred by S.C. Code Ann. § 17-27-20(b) (1985). Post-conviction relief is not a substitute for a direct appeal. Simmons v. State, 264 S.C. 417, 215 S.E.2d 883 (1974). A post-conviction relief application cannot assert any issues

that could have been raised at trial or on direct appeal. Ashley v. State, 260 S.C. 436, 196 S.E.2d 501 (1973). Therefore, the Court should summarily dismiss these allegations as they are not proper in a post-conviction relief action.

V.

Respondent denies each allegation that is not expressly admitted, qualified or explained.

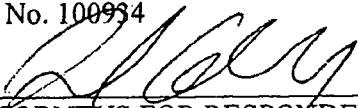
VI.

WHEREFORE, having made its Return, the State requests that an evidentiary hearing be held solely on the issue of ineffective assistance of counsel.

Respectfully submitted,

ALAN WILSON
Attorney General

DANIEL GOURLEY
Assistant Attorney General
Bar No. 100934

By: 

ATTORNEYS FOR RESPONDENT

Office of the Attorney General
P.O. Box 11549
Columbia, SC 29211
Telephone: (803) 734-3737

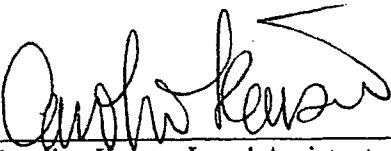
September 5, 2013.

STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF AIKEN	)	
	)	
	)	2013-CP-02-00856
	)	
DARRIN DARRELL HOLSTON, #288828,	)	
Applicant,	)	
vs	)	AFFIDAVIT OF SERVICE BY MAIL
	)	
STATE OF SOUTH CAROLINA,	)	
	)	
Respondent.	)	

1. I am an employee of the Respondent in the above-captioned action.
2. Regular communication by mail exists throughout the State of South Carolina and that this is a proper circumstance of service by mail.
3. I have this day served a copy of the **Return** in the above-captioned matter on the following person by depositing same in the United States mail, postage prepaid:

Lance S. Boozer, Esquire
The Boozer Law Firm, LLC
602 Meeting Street, Suite A
West Columbia, SC 29169

DATED this the 5th day of September, 2013.


 Caroline Kaiser, Legal Assistant
 For Respondent

STATE OF SOUTH CAROLINA

COUNTY OF AIKEN

Darrin Darrell Holston, #288828,

Applicant,

v.

State of South Carolina,

Respondent.

IN THE COURT OF COMMON PLEAS

SECOND JUDICIAL CIRCUIT

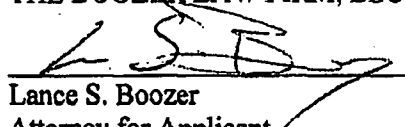
C/A NO: 2013-CP-02-0856

**AMENDMENT TO PRIOR
APPLICATION FOR PCR**

The Applicant, through appointed counsel below, makes the following additional claim and amendment to his prior application for post-conviction relief filed April 15, 2013:

10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:
- (a) Trial counsel was ineffective for laboring under a conflict of interest.
 - (b) Failing to make a contemporaneous objection in order to preserve Applicant's 403 objection for direct review.
 - (c) Failure to object to prosecutorial misconduct.

THE BOOZER LAW FIRM, LLC



Lance S. Boozer
Attorney for Applicant
1331 Park Street
Columbia, SC 29201
Phone: (803) 608-5543
Fax: (803) 926-3463

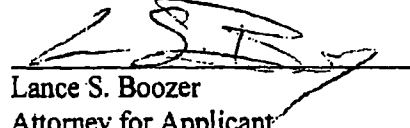
Columbia, South Carolina
April 21, 2014

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	SECOND JUDICIAL CIRCUIT
COUNTY OF AIKEN	)	C/A NO: 2013-CP-02-0856
	)	
Darrin Darrell Holston, #288828,	)	
	)	
Applicant,	)	
	)	AFFIDAVIT OF SERVICE BY MAIL
v.	)	
	)	
State of South Carolina,	)	
	)	
<u>Respondent.</u>	)	

I, the undersigned, of the Boozer Law Firm, LLC, Attorney for Applicant, do hereby certify that I served the foregoing Amendment to Prior Application for PCR upon the persons below-listed by placing a copy, postage prepaid, in the United States Mail, addressed as follows:

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Columbia, South Carolina
 April 21, 2014

1 State of South Carolina) In the Court
2 County of Aiken) Of Common Pleas
3
4 Docket No. 2013-C_-02-0856
5
6 Darrin Darrell Holston,)
7 Applicant,)
8 vs.) Transcript of Record
9)
10 State of South Carolina,)
Respondent.)
11
12 August 1, 2014
13 Aiken, South Carolina
14
15 B E F O R E:
16 The Honorable R. Knox McMahon, Judge.
17
18 A P P E A R A N C E S:
19 Lance Boozer, Esquire
20 Attorney for the Applicant
21 Daniel Gourley, Assistant Attorney General
22 Attorney for the Respondent
23
24 Brenda J. Sigwald, Circuit Court Reporter
25 To The Honorable R. Knox McMahon
P.O. Box 206, Jackson, South Carolina 29831

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1 POST-CONVICTION HEARING

2 THE COURT: All right. Mr. Gourley.

3 MR. GOURLEY: Yes, Your Honor. This is Darrin
4 Holston vs. The State of South Carolina, Docket No.
5 2013-CP-02-856. He's presently confined to the South
6 Carolina Department of Corrections pursuant to orders of
7 commitment of the Aiken County Clerk of Court. He was
8 true-bill indicted during the Summer 2010 term of the Aiken
9 County Grand Jury for burglary in the first degree,
10 kidnapping, and attempted armed robbery.

11 Ms. Alves represented him on May 9th through the
12 12th, 2011 when he proceeded to a jury trial, held by the
13 Honorable Doyet A. Early III. He was convicted as
14 indicted. On May 12th, 2011, Judge Early sentenced him to
15 life in prison for each offense with all three offenses
16 running concurrently.

17 A notice of appeal was filed with the South
18 Carolina Court of Appeals. The Court of Appeals affirmed
19 the applicant's sentences and conviction on December 28th,
20 2012. Remittitur was issued on January 23rd, 2013. He
21 filed a timely application for post-conviction relief on
22 April 15th, 2013; and an amended application on July 24th,
23 2013, alleging that he's been held in custody unlawfully
24 based on ineffective assistance of counsel, cumulative
25 error analysis, conspiracy, and police misconduct.

Darrin Holston - Direct Examination by Mr. Boozer

1 The State filed its return on September 5th, 2013,
2 and he's represented at this time by Mr. Lance Boozer.

3 THE COURT: All right. Thank you.

4 Mr. Boozer.

5 MR. BOOZER: Thank you, Your Honor. We call the
6 first witness, Mr. Holston, to the stand.

7 THE COURT: All right. If you'll come around and
8 be sworn for us, please sir.

9 DARRIN HOLSTON,
10 having bee duly sworn, testified as follows:

11 THE CLERK: Have a seat, and state your name for
12 the record, please.

13 THE WITNESS: My name is Darrin Holston.

14 **DIRECT EXAMINATION**

15 BY MR. BOOZER:

16 Q Mr. Holston, do you know why you're here today?

17 A Yes, sir, I do.

18 Q Okay. Why is that?

19 A I'm alleging ineffective assistance of counsel with
20 trial counsel, Ms. Wallis Alves.

21 Q All right. And you know what this hearing is
22 today? You know this is a PCR hearing?

23 A Yes, sir.

24 Q Okay. You understand that you're asking for a new
25 trial on the charges that you were convicted of?

Darrin Holston - Direct Examination by Mr. Boozer

1 A Yes, sir. I do.

2 Q Okay. And currently, what type of sentence are you
3 serving?

4 A Life sentence.

5 Q Okay. And that's for burglary first, kidnapping,
6 also attempted armed robbery?

7 A Yes, sir. It is.

8 Q And you did go previously to trial on those
9 charges?

10 A Yes, sir. I did.

11 Q All right. Now, you filed an application for
12 Post-Conviction Relief back on April 15th, 2013.

13 A Yes, sir, I did.

14 Q Okay. Let me get the question out, and then you
15 can give the answer so we won't confuse Madam Court
16 Reporter down here. She's typing everything out that we
17 say.

18 A Yes, sir.

19 Q All right. So let's go through your allegations.
20 You've got ineffective assistance of counsel claim. Let's
21 make sure we've got them all here. You've got A. That
22 counsel elicited corroborative hearsay testimony from some
23 prosecution witnesses and defense witnesses as to what the
24 victim said that you feel bolstered the victim's
25 credibility.

Darrin Holston - Direct Examination by Mr. Boozer

1 A Yes.

2 Q Okay. You've also got, Counsel failed to interview
3 defense witnesses that would support -- to determine
4 whether they would support you through your case.

5 A Yes, sir.

6 Q You've also got, Counsel failed to motion the Court
7 for a 403 analysis on evidence that was -- that the
8 prosecution and trial counsel submitted that had the
9 propensity to mislead and confuse the jury.

10 A Yes.

11 Q You also have an allegation that Counsel denied you
12 the opportunity to confront witnesses against you by
13 stipulating to some reports, those being a forensic report
14 by Investigator Adams and one by Cathy Lacy, instead of
15 calling them as witnesses to testify to those reports.

16 A Yes.

17 Q You also have that Counsel failed to object to
18 Trial Court's admitting a cd into evidence without a proper
19 foundation being laid.

20 A Yes.

21 Q You also have that counsel failed to motion the
22 Court for what is a Rule 609 analysis.

23 A Yes.

24 Q And you also maintain that Counsel failed to object
25 to, what you characterize as, misstatements made by the

Darrin Holston - Direct Examination by Mr. Boozer

- 1 victim in this case?
- 2 A Yes.
- 3 Q All right. You also have claims of cumulative
- 4 prejudice.
- 5 A Yes.
- 6 Q Conspiracy.
- 7 A Yes.
- 8 Q And you've also made a claim of police conduct.
- 9 A Yes, sir.
- 10 Q Misconduct. Excuse me.
- 11 A Yes, sir.
- 12 Q Now, you also amended your application, and that's
- 13 Trial Counsel was ineffective for laboring under a conflict
- 14 of interest.
- 15 A Yes, sir.
- 16 Q You also have that failing to make a
- 17 contemporaneous objection to preserve 403 argument for
- 18 appellate review.
- 19 A Yes, sir.
- 20 Q You also have, failing to object to prosecutorial
- 21 misconduct.
- 22 A Yes.
- 23 Q Okay. Are those your allegations?
- 24 A Yes, sir. Those are my allegations.
- 25 Q Do you recall when you first met with your

Darrin Holston - Direct Examination by Mr. Boozer

1 attorney?

2 A Yes, sir. I do.

3 Q And who was your attorney?

4 A Ms. Wallis Alves.

5 Q Okay. Do you recall when you first met with her
6 and how many times you met with her prior to going to
7 trial?

8 A I recall the day I met with her was on August 18th,
9 2010. The number of times I met with her were numerous.

10 Q Did you first meet with her at a preliminary
11 hearing?

12 A No, sir.

13 Q Before that?

14 A Yes, sir.

15 Q Okay. During that initial meeting, what was your
16 position with regard to these charges?

17 A Well, I informed Ms. Alves that I never took place
18 in these charges and that those were -- the allegations
19 were incorrect. At that time, she didn't have the motion
20 of discovery, so she couldn't go in depth or in detail with
21 me. She couldn't follow me as far as the facts are
22 concerned, but I did indicate my version of the facts to
23 her.

24 Q Okay.

25 MR. BOOZER: And, Your Honor, I respectfully ask a

Darrin Holston - Direct Examination by Mr. Boozer

1 request of the Court, that I be allowed a little bit of
2 leeway into these next two questions. I'm certainly not
3 testifying, but I think this will speed up the process as
4 far as what the background is of the facts because I think
5 they're very relevant to his PCR, if I may.

6 THE COURT: Yes, sir.

7 MR. BOOZER: Thank you, Your Honor.

8 BY MR. BOOZER:

9 Q Now, before we get to your allegations, because as
10 I said, I think it's important in the context of your
11 PCR --

12 A Yes.

13 Q -- that the victim in this case alleged that you
14 had broken in to a group home where he worked.

15 A Yes, sir.

16 Q Okay. And that you were wearing only a cotton
17 glove, a latex glove on the other hand, and socks, and
18 boxers.

19 A Yes, sir. That's correct.

20 Q Okay. And that you demanded money with a gun.

21 A That's correct.

22 Q All right. Now, getting into it a little bit
23 further because it's very important to your allegations --

24 A Yes, sir.

25 Q -- the victim alleged that because that you --

Darrin Holston - Direct Examination by Mr. Boozer

1 excuse me. Correction -- The victim alleged that you
2 robbed him, or you were robbing him?

3 A That's correct.

4 Q He didn't have any money, so you were going to get
5 into the car with him, and he was going to drive you to the
6 ATM, and you were going to rob him of money at the ATM.

7 A That's correct.

8 Q Okay. And then the victim's version, what was said
9 at trial court, and it's all in the record, is that during
10 the course of him driving you to the ATM, you're in the
11 passenger seat, he jumps out of the moving car. The car
12 crashes with you in it.

13 A Yes.

14 Q Is that right?

15 A That's correct.

16 Q Okay. And now let's move to what your defense was
17 at trial because, again, it's important to your case. Your
18 defense was that you actually went there fully clothed.

19 A Exactly.

20 Q And you were there to sell the victim marijuana.

21 A Yes. That's exactly what happened.

22 Q And the victim was supposed to pay for it, but he
23 didn't have any money.

24 A He didn't have any money.

25 Q All right. And then, you all allege that he

Darrin Holston - Direct Examination by Mr. Boozer

1 offered to drive you to the ATM.

2 A Yes, sir.

3 Q And while you two were in the car together, it's
4 the opposite of what -- you allege the opposite of what
5 he's saying. You say that he then robbed you and stole
6 from you drugs and money and jumped out of the car, and it
7 wrecked.

8 A Yes, sir.

9 Q Okay. And you were injured when the car crashed.
10 Correct?

11 A Yes, sir. I was.

12 Q Okay. So basically, your defense was, you've got a
13 version of the facts, and the victim had a version of the
14 facts?

15 A Yes, sir.

16 Q And that was basically your defense was that, just
17 a swearing contest between two folks.

18 A Exactly. His version against my version.

19 Q Now, let's go through the allegations that I've
20 already discussed, but we're going to go through them in
21 detail so you can explain to the Court your allegations.

22 A Yes, sir.

23 Q All right. You say that Counsel elicited
24 corroborative hearsay testimony from witnesses as to what
25 the victim said, that bolstered his credibility.