

VOLUME ONE OF TWO

STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM AIKEN COUNTY

Doyet A. Early, III, Circuit Court Judge

**RECEIVED**

APR 16 2015

**SC Court of Appeals**

THE STATE,

RESPONDENT,

V.

EDDIE MACK STEWART,

APPELLANT

APPELLATE CASE NO. 2014-001324

RECORD ON APPEAL

**BENJAMIN JOHN TRIPP**  
Appellate Defender

South Carolina Commission on Indigent Defense  
Division of Appellate Defense  
PO Box 11589  
Columbia, SC 29211-1589  
(803) 734-1330

Attorney for Appellant

**ALAN WILSON**  
Attorney General

**JOHN W. MCINTOSH**  
Chief Deputy Attorney General

**SALLEY W. ELLIOTT**  
Senior Assistant Deputy Attorney General

**MEGAN HARRIGAN JAMESON**  
Assistant Attorney General  
Office of the Attorney General  
PO Box 11549  
Columbia, SC 29211

**J. STROM THURMOND, JR.**  
Solicitor, Second Judicial Circuit  
Post Office Box 3368  
Aiken, SC 29802-3368  
(803) 642-1557

Attorneys for Respondent

INDEX

INDEX .....i

TRIAL TRANSCRIPT ..... 1

OPENING STATEMENTS .....73

TESTIMONY

    STEPHEN BAYZES .....88

    DAVID GRUBBS..... 169

    BRANDON EGAN.....185

    JEREMY FRANK ..... 195

    MARY FRANCIS O’GRADY-WATTS .....202

    ANTHONY FLORSCHUTZ.....211

    CAROLINE WOODALL .....219

    ROBIN STEWART .....224

    GILBERT JEFFERSON .....239

    CHAD SMITH.....242

    MARTIN CLAY ADAMS .....277

    BRIAN MCDIARDMID .....322

    CHUCK CAIN.....326

    FRANKLIN ROBINSON .....426

CLOSING ARGUMENT .....472

SENTENCING .....519

INDICTMENT .....523



State of South Carolina  
County of Aiken

Court of General Sessions

State )  
 )  
 )  
 v. ) Transcript of Record  
 ) 2013-GS-02-0230; 0231  
 )  
 Eddie Mack Stewart )  
 )  
 )  
 Defendant. )

June 10-12, 2014  
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:  
  
Bill Weeks, Deputy Solicitor  
Attorney for the State  
  
Bethann Young, Deputy Solicitor  
Attorney for the State  
  
Michael Chesser, Assist. Public Defender  
Attorney for Defendant Eddie Stewart  
  
Michael Routzong, Assist. Public Defender  
Attorney for Defendant Franklin Robinson

Bethanie K. Creppon  
Circuit Court Reporter

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

I N D E X

WITNESS PAGE

**STEPHEN BAYZES**

Direct Examination by Mr. Weeks.....88  
In-Camera Examination By the Court.....132  
Cont'd Direct Examination by Mr. Weeks.....137  
Cross-Examination by Mr. Chesser.....140  
In-Camera Examination by Mr. Chesser.....156  
Cont'd Cross-Examination by Mr. Chesser.....158  
Cross-Examination by Mr. Routzong.....159  
Redirect Examination by Mr. Weeks.....166

**DAVID GRUBBS**

Direct Examination by Ms. Young.....169  
Cross-Examination by Mr. Routzong.....181

**BRANDON EGAN**

Direct Examination by Mr. Weeks.....185  
Cross-Examination by Mr. Routzong.....194

**JEREMY FRANK**

Direct Examination by Ms. Young.....195  
Cross-Examination by Mr. Chesser.....201

**MARY FRANCIS O'GRADY-WATTS**

Direct Examination by Mr. Weeks.....202

**ANTHONY FLORSCHUTZ**

Direct Examination by Ms. Young.....211  
Cross-Examination by Mr. Chesser.....217

1	<b><u>CAROLINE WOODALL</u></b>	
2	Direct Examination by Ms. Young.....	219
3	<b><u>ROBIN STEWART</u></b>	
4	Direct Examination by Mr. Weeks.....	224
5	<b><u>GILBERT JEFFERSON</u></b>	
6	Direct Examination by Mr. Weeks.....	239
7	<b><u>CHAD SMITH</u></b>	
8	Direct Examination by Ms. Young.....	242
9	Cross-Examination by Mr. Chesser.....	272
10	Cross-Examination by Mr. Routzong.....	275
11	Redirect Examination by Ms. Young.....	276
12	<b><u>MARTIN CLAY ADAMS</u></b>	
13	Direct Examination by Ms. Young.....	277
14	Cont'd Dirext Examination by Ms. Young.....	305
15	Cross-Examination by Ms. Chesser.....	318
16	Cross-Examination by Mr. Routzong.....	321
17	<b><u>BRIAN MCDIARMID</u></b>	
18	Direct Examination by Mr. Weeks.....	322
19	<b><u>CHUCK CAIN</u></b>	
20	Direct Examination by Ms. Young.....	326
21	Cross-Examination by Ms. Chesser.....	354
22	Cross-Examination by Mr. Routzong.....	355
23	Redirect Examination by Ms. Young.....	356
24	<b><u>FRANKLIN ROBINSON</u></b>	
25	Direct Examination by Mr. Routzong.....	426

1 Cross-Examination by Mr. Weeks.....441

2

**EDDIE STEWART**

3

Guilty Plea.....412

4

Sentencing.....519

5

6

**OPENING STATEMENTS**

7

By Ms. Young.....73

8

By Mr. Chesser.....82

9

By Mr. Routzong.....85

10

**CLOSING ARGUMENTS**

11

By Mr. Routzong.....472

12

By Ms. Young.....482

13

Jury Charge.....497

14

15

16

17

18

19

20

21

22

23

24

25

	E X H I B I T S			
	<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID.</u>	<u>EVD.</u>
1				
2				
3	STATE EXH. 1	Photo	104	104
4	STATE EXH. 2	Photo	104	104
5	STATE EXH. 3	Photo	104	104
6	STATE EXH. 4	Photo	104	104
7	STATE EXH. 5	Photo	104	104
8	STATE EXH. 6	Photo	104	104
9	STATE EXH. 7	Photo	104	104
10	STATE EXH. 8	Photo	104	104
11	STATE EXH. 9	Photo	104	104
12	STATE EXH. 10	(Misnumbered - No Exhibit 10.)		
13	STATE EXH. 11	Photo	106	106
14	STATE EXH. 12	Photo	106	106
15	STATE EXH. 13	Photo	106	106
16	STATE EXH. 14	Photo	106	106
17	STATE EXH. 15	Photo	106	106
18	STATE EXH. 16	Photo	106	106
19	STATE EXH. 17	Photo	106	106
20	STATE EXH. 18	Photo	106	106
21	STATE EXH. 19	Photo	106	106
22	STATE EXH. 20	Photo	106	106
23	STATE EXH. 21	Photo	106	106
24	STATE EXH. 22	Photo	106	106
25	STATE EXH. 23	Photo	106	106

1	STATE EXH. 24	Photo	106	106
2	STATE EXH. 25	Photo	106	106
3	STATE EXH. 26	Photo	106	106
4	STATE EXH. 27	Photo	106	106
5	STATE EXH. 28	Photo	106	106
6	STATE EXH. 29	Photo	106	106
7	STATE EXH. 30	Photo	106	106
8	STATE EXH. 31	Photo	106	106
9	STATE EXH. 32	Photo	106	106
10	STATE EXH. 33	Photo	106	106
11	STATE EXH. 34	Photo	106	106
12	STATE EXH. 35	Photo	106	106
13	STATE EXH. 36	Photo	106	106
14	STATE EXH. 37	Photo	106	106
15	STATE EXH. 38	Photo	106	106
16	STATE EXH. 39	Photo	106	106
17	STATE EXH. 40	Photo	106	106
18	STATE EXH. 41	Photo	106	178
19	STATE EXH. 42	Photo	106	176
20	STATE EXH. 43	Hammer	176	176
21	STATE EXH. 44	Waffle House CD		324
22	STATE EXH. 45	CD - Photos	138	138
23	STATE EXH. 46	Poster - Photo		193
24	STATE EXH. 47	Poster - Photo	313	313
25	STATE EXH. 48	Poster - Photo	313	313

1	STATE EXH. 49	Inventory List	124	124
2	STATE EXH. 50	911 Call Audio CD	128	128
3	STATE EXH. 51	Voluntary Statement	166	168
4	STATE EXH. 52	Bullet Fragments	191	259
5	STATE EXH. 53	Bullet - Robinson	204	261
6	STATE EXH. 54	Bullet Fragments	204	261
7	STATE EXH. 55	Rifle	206	
8	STATE EXH. 56	Waff. Hs. Crime Scene	207	261
9	STATE EXH. 57	Bullet		261
10	STATE EXH. 58	Photo	254	255
11	STATE EXH. 59	Photo	254	255
12	STATE EXH. 60	Photo	254	255
13	STATE EXH. 61	Photo	254	255
14	STATE EXH. 62	Photo	254	255
15	STATE EXH. 63	Photo		283
16	STATE EXH. 64	Photo		283
17	STATE EXH. 65	Photo		283
18	STATE EXH. 66	Photo		283
19	STATE EXH. 67	Photo		283
20	STATE EXH. 68	Photo		283
21	STATE EXH. 69	Photo		283
22	STATE EXH. 70	Photo		283
23	STATE EXH. 71	Photo		283
24	STATE EXH. 72	Photo		283
25	STATE EXH. 73	Photo		283

1	STATE EXH. 74	Photo		283
2	STATE EXH. 75	Photo		283
3	STATE EXH. 76	Photo		283
4	STATE EXH. 77	Photo		283
5	STATE EXH. 78	Photo		283
6	STATE EXH. 79	Photo		283
7	STATE EXH. 80	Photo		283
8	STATE EXH. 81	Photo		283
9	STATE EXH. 82	CD	282	282
10	STATE EXH. 83	Photo	294	295
11	STATE EXH. 84	Evidence Bag	333	334
12	STATE EXH. 85	Evidence Bag	338	339
13	STATE EXH. 86	Evidence Bag	338	339
14	DFT. STEWART 1	Photo	146	147
15	DFT. STEWART 2	Photo	158	
16	COURT EXH. 1	Incident Report	134	134
17	COURT EXH. 2	Jury Question 1	514	514
18	COURT EXH. 3	Jury Question 2	516	516
19				
20				
21				
22				
23				
24				
25				

1           (The following proceedings were held June  
2 10-12, 2014.)

3           THE COURT: You may call your case.

4           MS. YOUNG: State of South Carolina vs.  
5 Franklin Jerome Robinson, Indictment 2013-GS-02-256,  
6 burglary in the first degree as well as indictment  
7 2013-GS-02-257, grand larceny; and codefendant,  
8 State of South Carolina vs. Eddie Mack Stewart,  
9 Indictment 2013-GS-02-230, burglary in the first  
10 degree and Indictment 2013-GS-02-231, grand larceny.

11           THE COURT: I've got two additional --

12           MS. YOUNG: No, sir.

13           THE COURT: Four indictments, is that correct;  
14 two for each?

15           MS. YOUNG: Yes, sir.

16           THE COURT: All right. Let's bring out  
17 Mr. Stewart and Mr. Robinson.

18           MR. CHESSER: Your Honor, I would like a  
19 bathroom break, just real quick.

20           THE COURT: Ladies and gentlemen, while  
21 Mr. Chesser has stepped out for a second, to qualify  
22 you for this particular case, I'll be asking a  
23 series of questions dealing with this case in  
24 particular. And once we go through these questions,  
25 then, if you're not disqualified, your names will be

1 put in the computer and you will be selected  
2 randomly. I don't know who will be called first.  
3 But as your name is called, you'll come forward.  
4 And in this particular case, each defendant has ten  
5 strikes, and under the law the State has ten  
6 strikes, so 30 strikes in all. But they can strike  
7 you for most any reason or no reason at all within  
8 certain bounds. They know what the rules are. And  
9 we'll go through that process until we have 12  
10 jurors and two alternates, and then we'll be in a  
11 position to start the trial of the case.

12 If we were trying a civil case such as a wreck  
13 case or a medical malpractice or a breach of  
14 contract, any type of civil case, this stage at the  
15 game, the clerk would randomly select 20 names and  
16 place those on what we call a strike sheet and the  
17 plaintiff who is bringing the lawsuit would have  
18 four strikes and the defendant would have four  
19 strikes, so you'd have 12.

20 MS. YOUNG: Your Honor, may we approach for  
21 just a minute with the attorneys?

22 (Sidebar conference.)

23 THE COURT: Okay. As your name is called --  
24 strike that: I'm getting ahead of myself.

25 Ladies and gentlemen, as the State has said,

1 they've called for trial the case -- there are two  
2 defendants, Mr. Eddie Mack Stewart -- Mr. Stewart,  
3 would you please stand for me and face the jury  
4 panel. Thank you. Good morning. He's represented  
5 by Mr. Chesser, Mr. Michael Chesser. The second  
6 defendant is Franklin Jerome Robinson.

7 Mr. Robinson, good morning. If you'd stand and face  
8 the jury panel. Thank you. He's represented by  
9 Mr. Michael Routzong.

10 Ladies and gentlemen, the State has called for  
11 trial cases against these two gentlemen. They're  
12 both charged with grand larceny, which is basically  
13 taking property away that belongs to somebody else,  
14 and burglary, which I will explain to you what the  
15 elements of that crime or that offense is as we  
16 progress during the trial of the case.

17 Both Mr. Stewart and Mr. Robinson has pled not  
18 guilty to all the indictments. And, obviously, when  
19 someone who is indicted for a crime and pleads not  
20 guilty, they have the protection of being presumed  
21 to be innocent under the state and federal  
22 constitution unless the State of South Carolina is  
23 able to prove to a jury beyond a reasonable doubt  
24 each element of each offense. So they've pled not  
25 guilty, they're presumed to be innocent unless the

1 State can prove their guilt beyond a reasonable  
2 doubt. Please bear in mind that the fact that they  
3 have been charged, arrested and indicted, that is  
4 not evidence in the case; that is simply the formal  
5 document by way this case comes into the courtroom.  
6 So do not infer or have any inference from anything  
7 in the indictment. That's simply the charging  
8 document. As I've said, they've pled not guilty to  
9 each of these indictments.

10 Now I need to ask you some questions about this  
11 particular case. If any of the questions apply to  
12 you, once again, please stand. Please, once again,  
13 identify yourself by name and number, and we'll talk  
14 about your response.

15 First question I have is, any member of the  
16 jury panel, have you ever been related by blood or  
17 marriage or do you now or have you in the past had a  
18 close personal or social relationship with either  
19 Mr. Franklin Jerome Robinson or Eddie Mack Stewart,  
20 the defendants?

21 I'm going to ask you the same question after I  
22 read a list of potential witnesses in the trial of  
23 the case. And the fact that I read all of these,  
24 that doesn't mean they're all going to be called.  
25 But I have to read them out of an abundance of

1           caution that they may be called. So please listen  
2           to the witness list and then I'll ask that same  
3           question. You can stand at the end. The potential  
4           witnesses in the trial of the case are as follows.  
5           And if any of the witnesses are in the courtroom,  
6           I'll ask that you please stand. I'll need some help  
7           with this first name. I'm not sure how to pronounce  
8           it. Stephen Bayzes. Mr. Bayzes, good morning.  
9           Please stand and face the jury panel. Thank you,  
10          Mr. Bayzes.

11                 David Grubbs who is with the Aiken County  
12          Sheriff's Office; Deputy Brendan Egan with the  
13          sheriff's office; Judge Fry; Brian McDiarmid; Mary  
14          Frances O'Grady-Watts, she's with the sheriff's  
15          office; Deputy J. A. Frank with the sheriff's  
16          office; Dr. Anthony Florschutz, he was formerly with  
17          the Medical College of Georgia which is now GRU,  
18          Georgia Regents; Caroline Woodall, she's an RN with  
19          GRU; Robin Stewart with GRU, that's Georgia Regents,  
20          that's a hospital over in Augusta; Gilbert  
21          Jefferson, also with GRU; Deputy Justin Goodwin with  
22          the Aiken County Sheriff's Office; Deputy Michael  
23          Williams with the Aiken County Sheriff's Office;  
24          Sergeant John Downs with the Aiken County Sheriff's  
25          Office; Lieutenant Clay Adams with the Aiken County

1 Sheriff's Office; Investigator Chuck Cain with the  
2 Aiken County Sheriff's Office; Investigator Molly  
3 Hahn with the Aiken County Sheriff's Office;  
4 Lieutenant Billy Fleury with the Aiken County  
5 Sheriff's Office; Gerald Turner with the Aiken  
6 County Sheriff's Office; Chad Smith with SLED and  
7 Investigator Steve Miano with the solicitor's  
8 office.

9 Now, I don't see any additional witnesses.  
10 Mr. Routzong and Mr. Chesser, that covers all?

11 MR. CHESSER: Yes, Your Honor.

12 MR. ROUTZONG: Appears to be, Your Honor.

13 THE COURT: Anyone related by blood or marriage  
14 now or in the past or do you now or have you in the  
15 past had a close personal or social relationship  
16 with any of the potential witnesses of the trial of  
17 the case? Please stand.

18 Yes, sir, my DSS worker. Your name and number,  
19 please.

20 POTENTIAL JUROR: Number 182. Clade Tuttle. I  
21 was a neighbor of Investigator Molly Hahn.

22 THE COURT: The fact that you were at one time  
23 a neighbor of one of the potential witnesses in the  
24 trial of the case, would that in any way preclude or  
25 keep you from being able to sit and listen carefully

1 to the testimony and decide what testimony is true  
2 and apply those true facts to the law as I present  
3 it to you? In other words, can you be fair and  
4 impartial?

5 POTENTIAL JUROR: I believe.

6 THE COURT: I need to know for sure.

7 THE WITNESS: Yes, sir.

8 THE COURT: Thank you. You may stay with us.

9 Ladies and gentlemen, the lawyers who are  
10 involved in this case, the State, who has the burden  
11 of proof, will be represented by attorneys from the  
12 solicitors office in the second circuit, which is  
13 here in Aiken as well as Bamberg and Barnwell, and  
14 they'll be represented by Bill Weeks, our Deputy  
15 Solicitor, and Bethann Young, Deputy Solicitor as  
16 well. Mr. Weeks is Chief Deputy.

17 Mr. Robinson will be represented by  
18 Mr. Routzong. Is that right? Michael Routzong.  
19 And Mr. Stewart will be represented by Mr. Michael  
20 Chesser. Mr. Chesser practices law here in Aiken,  
21 Mr. Routzong as well. Question: Any member of the  
22 jury panel now or in the past had legal services  
23 performed by any of the lawyers? If so, please  
24 stand.

25 Do I have any member of the jury panel who is

1 related by -- are we okay?

2 MR. WEEKS: It's my understanding that  
3 Mr. David Hayes will also be participating.

4 THE COURT: Is that correct?

5 MR. HAYES: I will do it as an abundance of  
6 cation, but I wasn't --

7 THE COURT: Mr. David Hayes also may be  
8 participating in the trial of the case. Any member  
9 of the jury panel had legal services performed by  
10 Mr. Hayes?

11 Next question: Any member of the jury panel  
12 related by blood or marriage now or in the past or  
13 do you now or have you in the past had a close  
14 personal or social relationship with any of the  
15 lawyers involved? If so, please stand.

16 Ladies and gentlemen, let me explain to you a  
17 little bit about how the system works. In the trial  
18 of a case such as this, we have two judges who  
19 participate in the process. The law makes me, in my  
20 position, the judge of the law. In other words, I  
21 instruct you and charge you and tell you what the  
22 law is dealing with general principles of criminal  
23 law, such reasonable doubt and presumption of  
24 innocence and burden of proof and those things; I  
25 also charge you on the specific elements of the

1 specific elements in this case, i.e., burglary in  
2 the first degree and grand larceny. So you have to  
3 accept the law as I it give to you and what it means  
4 in our state.

5 My other function during the trial of the case  
6 is to rule on the admissibility of evidence. The  
7 lawyers have to ask questions that comply with our  
8 rules of evidence and our rules of criminal  
9 procedure. Now -- and if they do that, then the  
10 testimony comes into the trial of the case. And it  
11 could very well be -- and I've been doing this now  
12 41 years and I've tried literally thousands of  
13 cases. And it's not unusual, in fact, it is the  
14 norm that we may have testimony that is admissible  
15 but it's just as different as night and day; one  
16 witness may say daytime, one witness may say  
17 nighttime, one may say Monday and one may say  
18 Friday. It's admissible, but then I have to have a  
19 judge to determine which one is the truth. And  
20 that's where the jurors come in. You're the second  
21 judge in the trial of the case, you're the judges of  
22 the facts. And what that means is you have to judge  
23 the credibility or the believability of the  
24 witnesses who testify. One's saying night and one's  
25 saying day, who do you believe? So the 12 of you

1 collectively acting as one, you are the judge of the  
2 facts in the case.

3 And the way the system works is, once all this  
4 testimony is admitted, and some of it contradicts  
5 the other, you sit there and you decide what the  
6 true facts are, the 12 of you acting as one judge,  
7 the judge of the facts. You take those true facts  
8 as you find them to be, you apply it to the law as I  
9 give to you, and then you are in a position to  
10 render the verdict. You're the judges of the facts.

11 So having said that and explaining the process,  
12 here's my question: Do I have any member of the  
13 jury panel who for whatever reason whatsoever, any  
14 reason, personal beliefs, political beliefs,  
15 religious beliefs, any kind of belief, that you  
16 cannot perform this civic duty of sitting on the  
17 jury and determining what the true facts are and  
18 applying those true facts to the law and render a  
19 verdict? Do I have anyone who cannot perform that  
20 specific duty for any reason whatsoever?

21 Ladies and gentlemen, this trial involves  
22 allegations involving an incident that occurred on  
23 August the 9th of 2012. These are simply  
24 allegations. The State has to prove these  
25 allegations. But it's alleged that on that

1 particular day that these two defendants, along with  
2 others, unlawfully entered the dwelling of  
3 Mr. Bayzes -- and his dwelling was located on Minor  
4 in North Augusta -- obviously,  
5 they're alleging, without his consent and with  
6 intent to commit a crime therein, and while entered,  
7 either they or the other participants in the  
8 burglary became armed with a deadly weapon or  
9 displayed what appeared to be a firearm, which  
10 allegedly causes this to be a burglary in the first  
11 degree.

12 It's further alleged that while performing the  
13 burglary or during the alleged burglary in the first  
14 degree that they took away property valued at more  
15 than \$10,000 belonging to Mr. Bayzes with intent to  
16 deprive that owner of that property. This was at a  
17 location located at Minor in North  
18 Augusta which is in Aiken County.

19 My question to you: Does any member of the  
20 jury panel know anything about what happened out at  
21 Minor in North Augusta on August 9th,  
22 2012, involving the alleged burglary of Mr. Bayzes'  
23 home and the alleged taking of the items from his  
24 house? Anybody read about it, heard about it, seen  
25 anything on TV, any internet research on it, Googled

1 it, anything?

2 Yes, ma'am. Your name?

3 POTENTIAL JUROR: Stella Lazar, Juror 107.

4 THE COURT: Ma'am, would you walk up here for  
5 me, please.

6 Let me see the lawyers up here, please.

7 107?

8 POTENTIAL JUROR: Yes.

9 (Sidebar conference.)

10 THE COURT: Your name?

11 POTENTIAL JUROR: Stella Lazar.

12 THE COURT: Tell me what you know, Ms. Lazar,  
13 very quietly.

14 POTENTIAL JUROR: My husband owns a trailer and  
15 hitch store, and immediately after the incident he  
16 came into our store and described exactly what  
17 happened and it was -- his opinion, what happened.

18 THE COURT: All right.

19 I'm going to release her, 107.

20 Just go back and have a seat. 107 is  
21 disqualified. I'm going to excuse 107.

22 (Sidebar conference.)

23 THE COURT: Yes, ma'am. Come forward.

24 THE WITNESS: Juror No. 21. I live in North  
25 Augusta and I'm sure I seen that on TV.

1 THE COURT: What did you see?

2 THE WITNESS: Just about a break-in. Because I  
3 live in the Summit, which is now part of --

4 THE COURT: Okay.

5 POTENTIAL JUROR: And it's --

6 THE COURT: Well, it's hard not to see things  
7 on TV. But the fact that you saw it on TV, would  
8 that keep you from being able to listen to the  
9 evidence and decide this case based solely on what  
10 you hear in the courtroom? You can do that; right?

11 THE WITNESS: Yeah, I can do that.

12 THE COURT: All right.

13 Ladies and gentlemen of the jury panel, let me  
14 try to be a little more descriptive. It's alleged  
15 that on this date, August 9, 2012, at **Minor**

16 in North Augusta, it's alleged that this is  
17 where Mr. Bayzes had his dwelling, where he  
18 allegedly lived. Also in the front of that place  
19 that he lived was a retail establishment called The  
20 Gun Store where he had a retail establishment, where  
21 he sold guns; shotguns, rifles, pistols, those sorts  
22 of things. So -- and it's alleged that that was the  
23 place that was allegedly burglarized and allegedly  
24 things were stolen from it. I think there was  
25 something perhaps on the news around that time that

1       happened.

2               So does that in any way -- I ask that same  
3 question: Does anyone know anything about it, read  
4 anything about it, having made that further --

5               Okay. Please stand. Please remain standing  
6 and I'm going to ask you to walk up one at a time.  
7 I'll start over here. Sir, please come forward.

8               POTENTIAL JUROR: Juror 69, Dyron Glover.

9               THE COURT: What do you know, Mr. Glover?

10              THE WITNESS: One of the defendant is friends  
11 with my first cousin. And he was talking about it  
12 on the news and stuff. That's the one where they  
13 were shooting and --

14              THE COURT: So you've been discussing with a  
15 first cousin?

16              POTENTIAL JUROR: Yes.

17              THE COURT: All right. I'm going to excuse  
18 you.

19              Juror 69 is excused.

20              All right. Right here on the front row in the  
21 blue shirt.

22              POTENTIAL JUROR: Juror 25, Antonio Bush.

23              THE COURT: Good morning. What do you know,  
24 Mr. Bush?

25              THE WITNESS: I heard it on the news that they

1           drove the car through the front of the store and the  
2           guy got his weapon and fired back at him.

3           THE COURT:   Okay.  That's what you heard on the  
4           news?

5           POTENTIAL JUROR:  Yes.

6           THE COURT:  Nobody discussed it with you or --

7           POTENTIAL JUROR:  No.

8           THE COURT:  The fact that you saw that on the  
9           news, can you set that aside and decide this case  
10          solely based on what you hear in the courtroom?

11          THE WITNESS:  I think so.

12          THE COURT:  Okay.  I'll let you stay with us.

13          All right.  Sir in the blue shirt.

14          POTENTIAL JUROR:  Preston Lee, 109.

15          THE COURT:  Mr. Lee, tell me what you know.

16          POTENTIAL JUROR:  Just from the news and  
17          Facebook and Twitter that they took a van from a  
18          church, I think it was, and shot and killed the  
19          other two.

20          THE COURT:  The fact that you saw that on some  
21          social media or the news, can you set that aside and  
22          decide this case based solely on what's presented in  
23          this courtroom?

24          POTENTIAL JUROR:  Yes, sir.

25          THE COURT:  Thank you.

1            .All right. Good morning, ma'am. How are you  
2 doing?

3            POTENTIAL JUROR: Good.

4            THE COURT: And your name, please, ma'am?

5            POTENTIAL JUROR: Cynthia Stokes, 174.

6            THE COURT: Tell us what you know.

7            POTENTIAL JUROR: I heard it on the media that  
8 it was a robbery and that someone got shot. That's  
9 all I heard.

10           THE COURT: That's all you heard? Is that the  
11 extent of it?

12           POTENTIAL JUROR: Yeah.

13           THE COURT: Can set that aside and decide it  
14 based solely on what's presented here in the  
15 courtroom?

16           POTENTIAL JUROR: Yes, sir.

17           THE COURT: All right. Thank you. Stay with  
18 us.

19           Good morning. Your name, sir?

20           POTENTIAL JUROR: Good morning. Bernard Dicks,  
21 number 50.

22           THE COURT: Tell us what you know, please, sir.

23           POTENTIAL JUROR: Well, I just saw it in the  
24 paper and at the time that it happened, I saw it on  
25 the news. I read the article in the paper. But, I

1 mean, I don't have any other details.

2 THE COURT: In other words, you just do like  
3 the rest of us and read the paper in the morning  
4 and --

5 POTENTIAL JUROR: Yeah, just reading the paper.  
6 I read the paper every day.

7 THE COURT: And the fact that you saw that in  
8 the paper, can you set whatever you saw aside and  
9 decide this case solely based on what we present in  
10 the courtroom?

11 POTENTIAL JUROR: Yes. It's already set aside.  
12 I don't remember nothing about it.

13 THE COURT: You're like me. Thank you. I'm  
14 going to let you stay with me.

15 POTENTIAL JUROR: All right.

16 THE COURT: Good morning.

17 THE WITNESS: Good morning. Number 7, Robert  
18 Bales. I just heard about it on the news, if it's  
19 the same one. The guys came up and drove a -- is  
20 that the same one?

21 THE COURT: I suppose they drove a van into a  
22 place and --

23 POTENTIAL JUROR: Right. And done some  
24 shooting. I'm from down that way, so it just caught  
25 my attention.

1 THE COURT: The fact that you read about it in  
2 the news or heard about it, can you set that aside  
3 and decide the case based solely on what you hear in  
4 the courtroom?

5 POTENTIAL JUROR: Yes, sir.

6 THE COURT: I'm going to let you stay with us.  
7 Good morning.

8 POTENTIAL JUROR: Good morning.

9 THE COURT: Your name and number, please?

10 POTENTIAL JUROR: Marcus Wise, 195.

11 THE COURT: What do you know?

12 POTENTIAL JUROR: I live in the area and I was  
13 also out that morning when they had the accident.  
14 So I seen the accident when it actually happened and  
15 I seen the accident on the escape route.

16 THE COURT: You did what now?

17 POTENTIAL JUROR: I was out in the area when  
18 this happened. I live in North Augusta, so I  
19 actually seen --

20 THE COURT: Did you see anything?

21 POTENTIAL JUROR: I seen when they were leaving  
22 down the road.

23 THE COURT: So you saw them leaving down the  
24 road?

25 POTENTIAL JUROR: Right. I didn't know what

1 was going on until later in the day.

2 THE COURT: I see. I'm going to disqualify  
3 you. What number are you?

4 POTENTIAL JUROR: 195.

5 THE COURT: All right. You're excused. Just  
6 go back to your seat.

7 Good morning. How are you?

8 POTENTIAL JUROR: Pretty good.

9 THE COURT: Your name and number, please?

10 POTENTIAL JUROR: Terry McDonald, 118.

11 THE COURT: Yes, sir.

12 POTENTIAL JUROR: I read the article in the  
13 Aiken Standard yesterday that outlines the case.  
14 You said anything, and that's about it.

15 THE COURT: All right. And the fact that you  
16 saw something in the paper about it, can you set  
17 that aside and decide this case based solely on  
18 what's presented in the courtroom?

19 POTENTIAL JUROR: Yes.

20 THE COURT: Thank you very much. You may have  
21 a seat.

22 Do I have any member of the jury panel who is a  
23 member of or a contributor to organizations that are  
24 normally affiliated with police organizations or  
25 citizens groups whose primary aim is the prosecution

1 of individuals, such as CAV, I think that's Citizens  
2 Against Violence; MADD, Mothers Against Drunk  
3 Drivers; SADD, those types of organizations? If so,  
4 please stand.

5 Yes, ma'am. Your name?

6 POTENTIAL JUROR: Juror 171, Joanne Stanford.  
7 I'm a member of MADD, Mothers Against Drunk Drivers.  
8 I have been for 15 years.

9 THE COURT: Thank you, ma'am. You may be  
10 seated.

11 Yes, sir?

12 POTENTIAL JUROR: I'm a little confused about  
13 that. Our company is very proactive in the police  
14 community in Richmond County, Columbia County, as  
15 far as supporting them and their programs. I don't  
16 know if that's what you're talking about.

17 THE COURT: It is, sort of. And I thank you  
18 for telling us. Your name and number, please?

19 POTENTIAL JUROR: I'm William Polonus, 146, I  
20 think.

21 THE COURT: Thank you, Mr. Polonus.

22 Do I have any member of the jury panel who you  
23 or your immediate family have ever been the victim  
24 of a burglary or other violent crime? Please stand.

25 Name and number?

1 POTENTIAL JUROR: Juror No. 159, Eric Rutland.

2 THE COURT: What happened, Mr. Rutland?

3 POTENTIAL JUROR: I was living with my  
4 grandmother in North Augusta and our house got  
5 broken into twice in two weeks.

6 THE COURT: How long ago was that?

7 POTENTIAL JUROR: It was probably eight years  
8 ago.

9 THE COURT: All right. The fact that that  
10 happened to you and your family eight years ago, can  
11 you set that aside and decide this case based solely  
12 on what you hear in the courtroom?

13 POTENTIAL JUROR: Yes, sir.

14 THE COURT: Thank you. You may be seated.  
15 Mr. Polonus?

16 POTENTIAL JUROR: I've had my house broken into  
17 twice in North Augusta and about a year and a half  
18 ago, I had a home invasion. I caught the man and a  
19 fight ensued and he still got away from me. I had  
20 some of my SLED friends show up, but they never did  
21 catch him.

22 THE COURT: The fact that you experienced that,  
23 sir, can you set that personal experience aside and  
24 decide this case solely based on the evidence  
25 presented in this case not influenced by personal --

1 THE WITNESS: I believe I can.

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

3 Yes, ma'am?

4 THE WITNESS: Juror 73, Daphne Granade. I had  
5 a four-wheeler stolen from my house about 12 years  
6 ago.

7 THE COURT: And the fact that you had that  
8 experience, ma'am, can you set that aside and decide  
9 this case based solely on what we hear in the  
10 courtroom?

11 THE WITNESS: I can.

12 THE COURT: Thank you, ma'am. You may be  
13 seated.

14 Yes, ma'am?

15 POTENTIAL JUROR: Juror 87. My daughter and  
16 her husband's family were robbed last year over  
17 30,000 in North Augusta.

18 THE COURT: And the fact that your immediate  
19 family experienced that, ma'am, can you set that  
20 aside and decide this case based solely on what  
21 evidence is presented in the courtroom and on the  
22 law as I charge it to you?

23 POTENTIAL JUROR: Yes, sir.

24 THE COURT: Thank you, ma'am. You may be  
25 seated.

1           Yes, ma'am, with the pretty -- husband just  
2 retired? Name and number?

3           POTENTIAL JUROR: 101, June Kellems. My  
4 daughter, in the last four months, her car was  
5 broken into and almost \$20,000 worth of her personal  
6 belongings was stolen in Athens, Georgia. Nothing  
7 was ever recovered, nobody was caught.

8           THE COURT: Having experienced that with your  
9 daughter, can you set that personal experience  
10 aside --

11          POTENTIAL WITNESS: Yes, sir.

12          THE COURT: -- and decide this case here?

13          POTENTIAL JUROR: Yes, sir.

14          THE COURT: Thank you, ma'am. You may be  
15 seated.

16          Yes, sir?

17          POTENTIAL JUROR: Richard Ward, 186. In '95, a  
18 couple kids broke into the house, no big deal. But  
19 they were caught.

20          THE COURT: I understand. Can you set that  
21 personal experience aside and decide this case on  
22 what we hear in the courtroom?

23          POTENTIAL JUROR: Oh, yes. No problem.

24          THE COURT: Thank you, sir.

25          Ma'am, you're the masseuse?

1           POTENTIAL JUROR: Yes. Medical massage  
2 therapist.

3           THE COURT: Yes, ma'am. Your name and number?

4           POTENTIAL JUROR: Nancy Schneider, 162. We had  
5 a car stolen about six weeks ago out of our  
6 driveway.

7           THE COURT: The fact that you experienced that,  
8 can you set that aside and decide the case based  
9 solely on what we present in the courtroom?

10          POTENTIAL JUROR: Absolutely. Yes, sir.

11          THE COURT: Thank you, ma'am.

12          Yes, sir, in the Gamecock red in the back?

13          POTENTIAL JUROR: 118, Terry McDonald. I had  
14 some break-ins and property stolen several months  
15 ago.

16          THE COURT: Can you set that experience aside  
17 and decide the case based solely on what you hear in  
18 the courtroom?

19          POTENTIAL JUROR: Yes, I can.

20          THE COURT: Thank you.

21          Ma'am in the sort of gold, striped blouse?

22          POTENTIAL JUROR: 174, Cynthia Stokes. About  
23 two years ago I had a car stolen. He pled guilty.

24          THE COURT: Can you set that aside and decide  
25 the case on the facts presented in the courtroom?

1 POTENTIAL JUROR: Yes, sir.

2 THE COURT: Thank you. Once again, sir, your  
3 name and number?

4 POTENTIAL JUROR: Number 20, Brandon Bridges.  
5 I grew up in a bad neighborhood, vehicles stolen,  
6 motorcycles, whatever, you know, we had. And my  
7 parents still live there now and it seems to happen  
8 pretty regular still.

9 THE COURT: I understand. Can you set all that  
10 aside and perform your civic duty and decide this  
11 case based solely on what is presented in the  
12 courtroom?

13 POTENTIAL JUROR: Yes, Your Honor.

14 THE COURT: Thank you. You may be seated.  
15 Yes, ma'am, in the black blouse?

16 POTENTIAL JUROR: Yes, Your Honor. I'm 92,  
17 Catherine Jackson. I've not been a victim of a  
18 burglary, but both of my sons have. The older one's  
19 truck was parked and the lock was broken into and  
20 the sound system was stolen. Never found out the  
21 perpetrator, never recovered the items. My younger  
22 son, after working very hard to save up, he had a  
23 dirt bike that was in the backyard, he was just  
24 working on it, it was stolen when he was away from  
25 the house. Never recovered. Pretty upset for both

1 of them.

2 THE COURT: I understand. Not withstanding  
3 that, can you perform your civic duty and decide  
4 this case based solely on what is presented in the  
5 courtroom?

6 POTENTIAL JUROR: I can't say that I would,  
7 Your Honor.

8 THE COURT: What's your number, please?

9 POTENTIAL JUROR: 92.

10 THE COURT: All right.

11 Transfer her to another term, please.

12 Thank you. You may be seated.

13 Yes, ma'am, in the purple blouse?

14 POTENTIAL JUROR: 106, Lisa Lader. My family's  
15 house was burglarized and guns were taken.

16 THE COURT: Can you set that aside and decide  
17 this case based solely on what's presented here?

18 POTENTIAL JUROR: Yes.

19 THE COURT: Thank you, ma'am.

20 Ma'am in the rust colored blouse?

21 POTENTIAL JUROR: Juror 1, Quantasia Ables. I  
22 was involved in an attempted armed robbery about a  
23 month and a half ago.

24 THE COURT: Can you set that experience aside  
25 and perform your civic duty of deciding the case on

1 the evidence presented?

2 POTENTIAL JUROR: Yes, sir.

3 THE COURT: Thank you, ma'am.

4 Ma'am in the white?

5 POTENTIAL JUROR: Juror No. 16, Mary Boswell.

6 About 16 years ago, my home was burglarized; jewelry  
7 and guns were stolen.

8 THE COURT: Can you set that experience aside  
9 and decide the case based solely on the evidence?

10 POTENTIAL JUROR: Yes, sir.

11 THE COURT: Thank you, ma'am.

12 Ma'am in the blue on my far right?

13 POTENTIAL JUROR: Juror No. 180, Karen Trotter.

14 We've had several violations upon our personal  
15 property, home and car.

16 THE COURT: Can you set that experience aside  
17 and decide the case based solely on what we hear in  
18 the courtroom?

19 POTENTIAL JUROR: Yes, sir.

20 THE COURT: Thank you, ma'am. You may be  
21 seated.

22 Ma'am in the white and brown?

23 POTENTIAL JUROR: Number 62, June Furtick. My  
24 father had a truck stolen from a high school parking  
25 lot about 30 years ago and my husband and I have had

1           motorcycles stolen about 36 years ago from our  
2           driveway.

3           THE COURT: Can you set that experience aside,  
4           ma'am, and decide this case based on what we hear in  
5           the courtroom?

6           POTENTIAL JUROR: Yes, sir.

7           THE COURT: Thank you, ma'am.

8           Ma'am, you're the trailer and hitch lady? I've  
9           already excused you.

10          Yes, ma'am, in the blue?

11          POTENTIAL JUROR: Yes, sir. My oldest daughter  
12          was burglarized last year.

13          THE COURT: Your name and number, please?

14          POTENTIAL JUROR: 134, Alice Nelson.

15          THE COURT: And, ma'am, can you set that  
16          experience aside and decide this case based solely  
17          on what we hear in the courtroom?

18          POTENTIAL JUROR: Yes.

19          THE COURT: Thank you.

20          Any member of the jury panel involved with the  
21          NRA?

22          Yes, sir, in the black?

23          POTENTIAL JUROR: 71, John Goodin. I'm a  
24          member.

25          THE COURT: Thank you.

1           Any member of the jury panel have -- you or  
2 your family close family employed by law enforcement  
3 or the solicitor's office or SLED?

4           Yes, ma'am?

5           POTENTIAL JUROR: Elizabeth Jennings, number  
6 96. My son is a deputy with Columbia County  
7 Sheriff's Department and a couple of years he was  
8 employed in Aiken County.

9           THE COURT: Was that before 2012? He wasn't  
10 employed there in 2012, was he?

11          POTENTIAL JUROR: I think so, yes.

12          THE COURT: What did he do for the sheriff's  
13 department?

14          POTENTIAL JUROR: He worked at the detention  
15 center.

16          THE COURT: Okay. Well, they wouldn't have  
17 anything to do with the investigation of this.  
18 Ma'am, would the fact that your son at one time  
19 worked in the detention center and still is in law  
20 enforcement, can you set all that aside and be fair  
21 and impartial in the trial of this case?

22          POTENTIAL JUROR: Yes.

23          THE COURT: Thank you.

24          Yes, sir?

25          POTENTIAL JUROR: It was my granddaddy. He was

1 a sergeant in Richland County. He's retired now.

2 THE COURT: Your name and number?

3 POTENTIAL JUROR: Eric Rutledge; Juror 159.

4 THE COURT: The fact that your granddaddy was  
5 employed, would that preclude you from being fair  
6 and impartial?

7 POTENTIAL JUROR: It would be okay.

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

9 Ladies and gentlemen, last question: Does  
10 anyone know of any reason whatsoever, any reason  
11 under the sun, that you cannot be fair and impartial  
12 both to the State and to the defendants in this  
13 case, listen to the facts, decide what the true  
14 facts are, apply it to the law as I give it to you  
15 and be in a position to render a true and just  
16 verdict which speaks the truth? If you cannot do  
17 that, please tell me.

18 Any additional questions by the State?

19 MS. YOUNG: None by the State, Your Honor.

20 THE COURT: Mr. Chesser?

21 MR. CHESSER: None for Mr. Stewart, Your Honor.

22 THE COURT: Mr. Routzong?

23 MR. ROUTZONG: Your Honor, we'd ask the Court  
24 to ask the jury venire about number 4 on  
25 Mr. Robinson's request for voir dire.

1 THE COURT: I will respectfully deny it. It's  
2 covered. I cannot cover it any clearer than I've  
3 covered it. I've asked --

4 Any member of the jury panel have a concealed  
5 weapons permit? If so, please stand.

6 Yes, sir?

7 POTENTIAL JUROR: Yes, sir. Juror No. 36  
8 Walter Clark.

9 THE COURT: Thank you, sir. You may be seated.  
10 Sir in the blue?

11 POTENTIAL JUROR: Juror 25, Antonio Bush.

12 THE COURT: Thank you, sir. You may be seated.  
13 Ma'am in the yellow?

14 POTENTIAL JUROR: Juror 102, Wendy Kelly.

15 THE COURT: Thank you, Ms. Kelly. You may be  
16 seated.

17 Ma'am?

18 POTENTIAL JUROR: Juror 136, Karen Norris.

19 THE COURT: Thank you, ma'am.

20 Ma'am in the striped blouse?

21 POTENTIAL JUROR: Juror No. 16, Mary Boswell.

22 THE COURT: Thank you, ma'am.

23 Ma'am in the white?

24 POTENTIAL JUROR: Juror No. 17, Michelle  
25 Bourdua.

1 THE COURT: All right. Let's hold on a minute.

2 We messed up.

3 Your name on the far right?

4 POTENTIAL JUROR: Number 17, Michelle Bourdua.

5 THE COURT: Thank you, ma'am.

6 One lady just sat down. Your name?

7 POTENTIAL JUROR: Number 16, Mary Boswell.

8 THE COURT: Thank you, ma'am.

9 Sir?

10 POTENTIAL JUROR: 71, John Goodin.

11 THE COURT: Thank you.

12 Ma'am in the white?

13 POTENTIAL JUROR: 148, Tammy Pruitt.

14 THE COURT: Thank you, Ms. Pruitt.

15 And the last --

16 POTENTIAL JUROR: 62, June Furtick.

17 THE COURT: Thank you, ma'am.

18 Any additional questions, Mr. Routzong?

19 MR. ROUTZONG: No, Your Honor.

20 THE COURT: Thank you.

21 All right. Randomly, you got what's left.

22 THE CLERK: Yes, sir. Ten, ten and shared  
23 strikes, with two alternates.

24 THE COURT: No, ma'am. Ten, ten, and ten; two  
25 alternates, with two and one each.

1           Okay. As your name is called, please come  
2 forward. Walk right here in front of the bench,  
3 turn around and face the lawyers. If you have a  
4 pocketbook or any personal belongings, please bring  
5 it with you in the event that you're selected.

6           Okay. First -- for the record, the State has  
7 ten strikes; Mr. Chesser, your client has ten  
8 strikes, you will strike first; Mr. Routzong, your  
9 client has ten strikes and you will strike second.

10          THE CLERK: As I call your name, please come  
11 forward to the bar, turn and face the rear.

12          Juror No. 170, Roger Stancel.

13          (Mr. Stancel comes forward.)

14          THE CLERK: What say ye for the State?

15          MS. YOUNG: Please present Mr. Stancel.

16          THE CLERK: What say ye for Defendant 1,  
17 Mr. Chesser?

18          MR. CHESSER: Please strike the juror.

19          THE COURT: You may have a seat, Mr. Stancel.

20          THE CLERK: Juror No. 86, Barney Holloman.

21          (Mr. Holloman comes forward.)

22          THE CLERK: What say ye for the State?

23          MS. YOUNG: Please present Mr. Holloman.

24          THE CLERK: What say ye for Defense --

25          THE COURT: All right. Let's say Mr. Chesser

1 and then Mr. Routzong.

2 Mr. Chesser, on behalf of your client?

3 MR. CHESSER: Please seat Mr. Holloman.

4 THE CLERK: What say ye for Defendant 2?

5 MR. ROUTZONG: Please seat Mr. Holloman.

6 THE CLERK: Thank you.

7 Please have a seat in the jury box.

8 Juror No. 2, Bennie Altizer.

9 (Mr. Altizer comes forward.)

10 THE CLERK: What say ye for the State?

11 MS. YOUNG: Please excuse Mr. Altizer.

12 THE CLERK: Return to your seat, please, sir.

13 Juror No. 48, Alex Demedicis.

14 (Mr. Demedicis comes forward.)

15 THE CLERK: What say ye for the State?

16 MS. YOUNG: Please present this juror.

17 THE CLERK: What say ye for Defendant 1?

18 MR. CHESSER: Please seat Mr. Demedicis.

19 THE CLERK: What say ye for Defendant 2?

20 MR. ROUTZONG: Please strike Mr. Demedicis.

21 THE CLERK: Return to your seat, please, sir.

22 Juror No. 7, Robert Bales.

23 (Mr. Bales comes forward.)

24 THE CLERK: What say ye for the State?

25 MS. YOUNG: Please present Mr. Bales.

1 THE CLERK: What say ye for Defendant 1?

2 MR. CHESSER: Please strike the juror.

3 THE CLERK: Return to your seat, please, sir.

4 Juror No. 17, Michelle Bourdua.

5 (Ms. Bourdua comes forward.)

6 THE CLERK: What say ye for the State?

7 MS. YOUNG: Please present Ms. Bourdua.

8 THE CLERK: What say ye for Defendant 1?

9 MR. CHESSER: Please seat this juror.

10 THE CLERK: What say ye for Defendant 2?

11 MR. ROUTZONG: Please strike Ms. Bourdua.

12 THE CLERK: Return to your seat, please, ma'am.

13 Juror No. 4, Khushbuben Amin.

14 (Ms. Amin comes forward.)

15 THE CLERK: What say ye for the State?

16 MS. YOUNG: Please present Ms. Amin.

17 THE CLERK: What say ye for Defendant 1?

18 MR. CHESSER: Please seat Ms. Amin.

19 THE CLERK: What say ye for Defendant 2?

20 MR. ROUTZONG: Please seat Ms. Amin.

21 THE CLERK: Have a seat in the jury box to my  
22 left, please.

23 Juror 21, Crystal Broadwater.

24 (Ms. Broadwater comes forward.)

25 THE CLERK: What say ye for the State?

1 MS. YOUNG: Please present Ms. Broadwater.

2 THE CLERK: What say ye for Defendant 1?

3 MR. CHESSER: Please seat Ms. Broadwater.

4 THE CLERK: What say ye for Defendant 2?

5 MR. ROUTZONG: Please seat Ms. Broadwater.

6 THE CLERK: Have a seat in the jury box, ma'am.

7 Juror No. 148, Tammy Pruitt.

8 (Ms. Pruitt comes forward.)

9 THE CLERK: What say ye for the State?

10 MS. YOUNG: Please present Ms. Pruitt.

11 THE CLERK: What say ye for Defendant 1?

12 MR. CHESSER: Please strike Ms. Pruitt?

13 THE CLERK: Return to your seat, please, ma'am.

14 Juror No. 26, Nadia Butler.

15 (Ms. Butler comes forward.)

16 THE CLERK: What say ye for the State?

17 MS. YOUNG: Please present Ms. Butler.

18 THE CLERK: What say ye for Defendant 1?

19 MR. CHESSER: Please seat Ms. Butler.

20 THE CLERK: What say ye for Defendant 2?

21 MR. ROUTZONG: Please seat Ms. Butler.

22 THE CLERK: Have a seat in the jury box,  
23 please, ma'am.

24 Juror No. 35, Ashley Clark.

25 (Ms. Clark comes forward.)

1 THE CLERK: What say ye for the State?

2 MS. YOUNG: Please present Ms. Clark.

3 THE CLERK: What say ye for Defendant 1?

4 MR. CHESSER: Please seat Ms. Clark.

5 THE CLERK: What say ye for Defendant 2?

6 MR. ROUTZONG: Please excuse Ms. Clark.

7 THE CLERK: Return to your seat, please, ma'am.

8 Defense has one strike, Defendant 1 has three,

9 Defendant 2 has three.

10 Juror No. 16, Mary Boswell.

11 (Ms. Boswell comes forward.)

12 THE CLERK: What say ye for the State?

13 MS. YOUNG: Please present Ms. Boswell.

14 MR. CHESSER: Please excuse Ms. Boswell.

15 THE CLERK: Return to your seat, please.

16 Juror 157, Robert Royal.

17 (Mr. Royal comes forward.)

18 THE CLERK: What say ye for the State?

19 MS. YOUNG: Please present Mr. Royal.

20 THE CLERK: What say ye for Defendant 1?

21 MR. CHESSER: Please seat Mr. Royal.

22 THE CLERK: What say ye for Defendant 2?

23 MR. ROUTZONG: Please seat Mr. Royal.

24 THE CLERK: Have a seat in the jury box,

25 please, sir.

1 Juror 77, Dana Hamilton.

2 (Ms. Hamilton comes forward.)

3 THE CLERK: What say ye for the State?

4 MS. YOUNG: Please present Ms. Hamilton.

5 THE CLERK: What say ye for Defendant 1?

6 MR. CHESSER: Please seat Ms. Hamilton.

7 THE CLERK: What say ye for Defendant 2?

8 MR. ROUTZONG: Please seat Ms. Hamilton.

9 THE CLERK: Have a seat in the jury box,  
10 please, ma'am.

11 Juror No. 32, Wayne Carter.

12 (Mr. Carter comes forward.)

13 THE CLERK: What say ye for the State?

14 MS. YOUNG: Please excuse Mr. Carter from this  
15 trial.

16 THE CLERK: Return to your seat, please, sir.

17 Juror No. 51, Nikita Dicks.

18 (Ms. Dicks comes forward.)

19 THE CLERK: What say ye for the State?

20 MS. YOUNG: Please present Ms. Dicks.

21 THE CLERK: What say ye for Defendant 1?

22 MR. CHESSER: Please seat Ms. Dicks.

23 THE CLERK: What say ye for Defendant 2?

24 MR. ROUTZONG: Please seat Ms. Dicks.

25 THE CLERK: Thank you. Have a seat in the jury

1 box, please.

2 Juror No. 11, Lindsey Bimrose.

3 (Ms. Bimrose comes forward.)

4 THE CLERK: What say ye for the State?

5 MS. YOUNG: Please present Ms. Bimrose.

6 THE CLERK: What say ye for Defendant 1?

7 MR. CHESSER: Please seat Ms. Bimrose.

8 THE CLERK: What say ye for Defendant 2?

9 MR. ROUTZONG: Please seat Ms. Bimrose.

10 THE CLERK: Have a seat in the jury box, ma'am.

11 Juror No. 151, Tatiana Rice.

12 (Ms. Rice comes forward.)

13 THE CLERK: What say ye for the State?

14 MS. YOUNG: Please present Ms. Rice.

15 THE CLERK: What say ye for Defendant 1?

16 MR. CHESSER: Please seat Ms. Rice.

17 THE CLERK: What say ye for Defendant 2?

18 MR. ROUTZONG: Please seat Ms. Rice.

19 THE CLERK: Have a seat in the jury box,  
20 please, ma'am.

21 Juror No. 134, Alice Nelson.

22 (Ms. Nelson comes forward.)

23 THE CLERK: What say ye for the State?

24 MS. YOUNG: Please present Ms. Nelson.

25 THE CLERK: What say ye for Defendant 1?

1 MR. CHESSER: Please excuse Ms. Nelson.

2 THE CLERK: Return to your seat, please, ma'am.

3 Juror 138, Ronald Ornosky.

4 (Mr. Ornosky comes forward.)

5 THE CLERK: What say ye for the State?

6 MS. YOUNG: Please excuse Mr. Ornosky from this  
7 trial.

8 THE CLERK: Return to your seat, please, sir.

9 Juror No. 144, Daniel Phillips.

10 (Mr. Phillips comes forward.)

11 THE CLERK: What say ye for the State?

12 MS. YOUNG: Please present Mr. Phillips.

13 THE CLERK: What say ye for Defendant 1?

14 MR. CHESSER: Please seat Mr. Phillips.

15 THE CLERK: What say ye for Defendant 2?

16 MR. ROUTZONG: Please excuse Mr. Phillips.

17 THE CLERK: Return to your seat, please, sir.

18 Juror No. 61, Ashley Fortson.

19 (Ms. Fortson comes forward.)

20 THE CLERK: What say ye for the State?

21 MS. YOUNG: Please present Ms. Fortson.

22 THE CLERK: What say ye for Defendant 1?

23 MR. CHESSER: Please seat Ms. Fortson.

24 THE CLERK: What say ye for Defendant 2?

25 MR. ROUTZONG: Please seat Ms. Fortson.

1 THE CLERK: Have a seat in the jury box,  
2 please, ma'am.

3 Juror No. 180, Karen Trotter.

4 (Ms. Trotter comes forward.)

5 THE CLERK: What say ye for the State?

6 MS. YOUNG: Please present Ms. Trotter.

7 THE CLERK: What say ye for Defendant 1?

8 MR. CHESSER: Please excuse Ms. Trotter.

9 THE CLERK: Return to your seat, please, ma'am.  
10 Juror No. 36, Walter Clark.

11 (Mr. Clark comes forward.)

12 THE CLERK: What say ye for the State?

13 MS. YOUNG: Please present Mr. Clark.

14 THE CLERK: What say ye for Defense 1?

15 MR. CHESSER: Please seat Mr. Clark.

16 THE CLERK: What say ye for Defendant 2?

17 MR. ROUTZONG: Please excuse Mr. Clark.

18 THE CLERK: Return to your seat, please, sir.

19 Juror No. 74, Suzanne Gratop.

20 (Ms. Gratop comes forward.)

21 THE CLERK: What say ye for the State?

22 MS. YOUNG: Please present Ms. Gratop.

23 THE CLERK: What say ye for Defendant 1?

24 MR. CHESSER: Please seat Ms. Gratop.

25 THE CLERK: What say ye for Defendant 2?

1 MR. ROUTZONG: Please seat Ms. Gratop.

2 THE CLERK: Have a seat in the jury box,  
3 please, ma'am.

4 Juror 118, Terry McDonald.

5 (Mr. McDonald comes forward.)

6 THE CLERK: The State has exhausted three  
7 strikes, Defendant 1, six; Defendant 2, five.

8 What say ye for the State?

9 MS. YOUNG: Please present Mr. McDonald.

10 THE CLERK: What say ye for Defendant 1?

11 MR. CHESSER: Please excuse Mr. McDonald.

12 THE CLERK: Return to your seat, please, sir.

13 Juror No. 101, June Kellems.

14 (Ms. Kellems comes forward.)

15 THE CLERK: What say ye for the State?

16 MS. YOUNG: Please present Ms. Kellems.

17 THE CLERK: What say ye for Defendant 1?

18 MR. CHESSER: Please excuse Ms. Kellems.

19 THE CLERK: Return to your seat, please, ma'am.

20 Juror No. 190, Alyssa White.

21 (Ms. White comes forward.)

22 THE CLERK: What say ye for the State?

23 MS. YOUNG: Please present Ms. White.

24 THE CLERK: What say ye for Defendant 1?

25 MR. CHESSER: Please seat Ms. White.

1 THE CLERK: What say ye for Defendant 2?

2 MR. ROUTZONG: Please excuse Ms. White.

3 THE CLERK: Return to your seat, please, ma'am.  
4 Juror No. 186, Richard Ward.

5 (Mr. Ward comes forward.)

6 THE CLERK: What say ye for the State?

7 MS. YOUNG: Please present Mr. Ward.

8 THE CLERK: What say ye for Defendant 1?

9 MR. CHESSER: Please excuse Mr. Ward.

10 THE CLERK: Return to your seat, please, sir.  
11 Juror No. 156, Margaret Rollins.

12 (Ms. Rollins comes forward.)

13 THE CLERK: What say ye for the State?

14 MS. YOUNG: Please present Ms. Rollins.

15 THE CLERK: What say ye for Defendant 1?

16 MR. CHESSER: Please seat Ms. Rollins.

17 THE CLERK: What say ye for Defendant 2?

18 MR. ROUTZONG: Please seat Ms. Rollins.

19 THE CLERK: Have a seat in the jury box,  
20 please, ma'am.

21 THE COURT: All right. Let me have two  
22 alternates; one for the State, two for the  
23 defendants, one and one.

24 THE CLERK: Yes, sir.

25 For Alternate 1 --

1 THE COURT: Hold on a second.  
2 Any objection to that selection?  
3 MR. CHESSER: No, Your Honor.  
4 MR. ROUTZONG: No, sir.  
5 THE COURT: Very well.  
6 THE CLERK: Juror No. 43, Michael Craig, Sr.  
7 (Mr. Craig comes forward.)  
8 THE CLERK: What say ye for the State?  
9 MS. YOUNG: Please excuse Mr. Craig from this  
10 trial.  
11 THE CLERK: Thank you. Return to your seat,  
12 please, sir.  
13 Juror No. 9, Chad Bell.  
14 (Mr. Bell comes forward.)  
15 THE CLERK: What say ye for the State?  
16 MS. YOUNG: Please present Mr. Bell.  
17 THE CLERK: What say ye for Defendant 1?  
18 MR. CHESSER: Please seat Mr. Bell.  
19 THE CLERK: What say ye for Defendant 2?  
20 MR. ROUTZONG: Please excuse Mr. Bell.  
21 THE CLERK: Return to your seat, please, sir.  
22 Juror No. 83, Brian Hennessey.  
23 (Mr. Hennessey comes forward.)  
24 THE CLERK: What say ye for the State?  
25 MS. YOUNG: Please present Mr. Hennessey.

1 THE CLERK: What say ye for Defendant 1?  
2 MR. CHESSER: Please excuse Mr. Hennessey.  
3 THE CLERK: Return to your seat, please, sir.  
4 Juror No. 136, Karen Norris.  
5 (Ms. Norris comes forward.)  
6 THE CLERK: What say ye for the State?  
7 MS. YOUNG: Please present Ms. Norris.  
8 THE CLERK: What say ye for Defendant 1?  
9 MR. CHESSER: Please excuse Ms. Norris.  
10 THE COURT: You already used your strike.  
11 MR. CHESSER: Please seat the juror.  
12 THE CLERK: What say ye for Defendant 2?  
13 MR. ROUTZONG: Please strike the juror.  
14 THE COURT: You've already used your strike.  
15 MR. ROUTZONG: Please seat the juror.  
16 THE CLERK: Have a seat in the jury box to my  
17 left, please, ma'am.  
18 For Alternate 2, strikes are one each.  
19 Juror No. 102, Wendy Kelly.  
20 (Ms. Kelly comes forward.)  
21 THE CLERK: What say ye for the State?  
22 MS. YOUNG: Please present Ms. Kelly.  
23 THE CLERK: What say ye for Defendant 1?  
24 MR. CHESSER: Please seat Ms. Kelly.  
25 THE CLERK: What say ye for Defendant 2?

1 MR. ROUTZONG: I'm sorry. What number?

2 THE CLERK: 102.

3 MR. ROUTZONG: Thank you. Please excuse  
4 Ms. Kelly.

5 THE CLERK: Return to your seat, please, ma'am.

6 Juror No. 50, Bernard Dicks.

7 (Mr. Dicks comes forward.)

8 THE CLERK: What say ye for the State?

9 MS. YOUNG: Please present Mr. Dicks.

10 THE CLERK: What say ye for Defendant 1?

11 MR. CHESSER: Please seat Mr. Dicks.

12 THE CLERK: What say ye for Defendant 2?

13 MR. ROUTZONG: Please seat Mr. Dicks.

14 THE CLERK: Thank you. Have a seat in the jury  
15 box, please.

16 Alternate 2.

17 THE COURT: Any motions by the State in  
18 connection with the selection of the jury?

19 MS. YOUNG: Your Honor, may we have just a  
20 moment, please?

21 THE COURT: Sure.

22 MS. YOUNG: Nothing from the State, Your Honor.

23 THE COURT: Mr. Chesser, on behalf of your  
24 client?

25 MR. CHESSER: No, Your Honor.

1 THE COURT: Mr. Routzong, on behalf of your  
2 client, Mr. Robinson?

3 MR. ROUTZONG: No, sir.

4 THE COURT: All right. Ladies and gentlemen,  
5 those of you who were not drawn or selected, as  
6 promised and represented, I'm now going to release  
7 you for the balance of the week. If any of you need  
8 a work excuse, go back to the jury assembly room and  
9 someone will come over to take care of that. A  
10 check will be mailed to for your service today; they  
11 should go out this week. I thank you for coming and  
12 performing your civic duty. With having said that,  
13 I'm going to release you. Everyone else remain  
14 seated. My jurors are free to leave the courtroom.  
15 Thank you.

16 (Jury pool excused.)

17 THE COURT: All right. Ladies and gentlemen,  
18 we're going to start the trial of the case at 1:30.  
19 So you'll go back with Mr. Mert and he will show you  
20 where to return. We'll start right at 1:30.

21 For planning purposes, we will more than likely  
22 go til about 5:00 this afternoon. We'll take a  
23 break here. Unless that's an imposition on anybody,  
24 we'll plan to go til 5:00. I will between now and  
25 1:30 handle any type of pretrial matters that may

1 still be on the table so you don't have to wait when  
2 you get back. So go with Mert and he'll show you  
3 where to go and how to get back up here.

4 (The jury exits the courtroom at 11:53 AM.)

5 THE COURT: Anything from the State before we  
6 break for lunch?

7 MS. YOUNG: No, sir, Your Honor.

8 THE COURT: Mr. Chesser?

9 MR. CHESSER: No, Your Honor.

10 THE COURT: Mr. Routzong?

11 MR. ROUTZONG: Not at this time, Your Honor.

12 THE COURT: All right. We'll start right on  
13 time at 1:30. We'll stand at ease until 1:30.

14 (A luncheon recess transpired.)

15 THE COURT: Is the State ready to proceed?

16 MS. YOUNG: Your Honor, briefly, before we  
17 begin, I have a Motion in Limine regarding the first  
18 witness, because I know we're going to start with  
19 openings and, I assume, go right into it. The first  
20 witness is the victim, Mr. Steven Bayzes. This is  
21 in regard to his criminal history. He has a  
22 conviction. His only conviction is for unlawful use  
23 of the telephone in December of 2013. I've provided  
24 this to both defense counsel.

25 Your Honor, it's the State's opinion that

1 doesn't fall within the rule of 609, and I just  
2 wanted to address that before we got started.

3 THE COURT: Any response, Mr. Chesser?

4 MR. CHESSER: I would agree that conviction  
5 doesn't apply -- doesn't qualify under 609.

6 THE COURT: Mr. Routzong, you agree?

7 MR. ROUTZONG: Under 609, yes, sir.

8 THE COURT: Under any other reasons?

9 Mr. Chesser?

10 MR. CHESSER: Let me just clarify. I beg the  
11 Court's indulgence.

12 What was the conviction you referred to?

13 THE COURT: Unlawful use of a telephone.

14 MR. CHESSER: Your Honor, on that, what happens  
15 is that Mr. Bayzes called the sheriff's office in an  
16 attempt to reach Investigator Cain. And the person  
17 who answers the phone is not quick enough or can't  
18 locate Mr. Cain, and so Mr. Bayzes calls her --  
19 pardon me -- a stupid motherfucker and he hoped they  
20 fire her goddamn ass. Now, this is when he's trying  
21 to reach Investigator Cain.

22 And what we would submit is that this -- in  
23 this case, in addition, it pled end of December  
24 2013. What we would submit is that the fact that he  
25 feels that he can take this kind of vice, it

1 indicates that he has a special relationship with  
2 the Aiken County Sheriff's Office. Furthermore, he  
3 got a sentence, he got no time on this. And we  
4 would submit that it does come in. It shows his  
5 state of mind. And we certainly intend to go into  
6 that.

7 THE COURT: Did it have to do with this  
8 incident, this event that we're here on the trial  
9 for?

10 MR. CHESSER: He was attempting to reach  
11 Investigator Cain --

12 THE COURT: For what reason? Anything to do  
13 with this trial?

14 MR. CHESSER: That would be my assumption, Your  
15 Honor. I don't know anything beyond that.

16 THE COURT: Well, it might be some type of  
17 fertile ground for cross-examination; not that the  
18 fact that he was convicted of it, but that he had  
19 this kind of special relationship with the sheriff's  
20 office. If you deem it necessary to get into it,  
21 let me know, we'll do a proffer --

22 MR. CHESSER: Yes, sir.

23 THE COURT: -- and then we'll make a decision.  
24 But don't do it in front of the jury until we decide  
25 and don't mention it in opening statements.

1 MR. CHESSER: Thank you, Your Honor.

2 THE COURT: Fair enough?

3 MS. YOUNG: That's fair.

4 It's my understanding it doesn't have anything  
5 to do with this trial.

6 THE COURT: Well, if doesn't have anything to  
7 do with this trial, then it's not relevant to this  
8 trial.

9 MS. YOUNG: And I think the State's position --  
10 I mean, the fact that he got arrested because he  
11 wrongfully called this lady names would indicate  
12 that he doesn't have any kind of special  
13 relationship with the sheriff's office.

14 THE COURT: Obviously. But anyway, we'll deal  
15 with it. Just don't bring it up until you think  
16 it's relevant.

17 MR. CHESSER: Thank you, Your Honor.

18 THE COURT: Mr. Routzong, any other reason?

19 MR. ROUTZONG: Your Honor, at the appropriate  
20 time, Mr. Robinson would like to address the Court.

21 THE COURT: What does he want to tell me?

22 MR. ROUTZONG: I don't have any idea, Your  
23 Honor. Mr. Robinson can --

24 THE COURT: What do you want to tell me,  
25 Mr. Robinson?

1           DEFENDANT ROBINSON: I been trying to get  
2 witnesses for my case.

3           THE COURT: Yes, sir.

4           DEFENDANT ROBINSON: Mr. Routzong, he's failing  
5 to contact my witnesses or even get a statement from  
6 my witnesses. It's witnesses that wrote statements  
7 that I want at my trial present. And Mr. Routzong,  
8 he doesn't want them present.

9           THE COURT: Who are the witnesses?

10          DEFENDANT ROBINSON: One of the witnesses is  
11 the victim's wife.

12          THE COURT: What's the name?

13          MR. ROUTZONG: Barbara Bayzes, I believe.

14          DEFENDANT ROBINSON: Barbara Bayzes.

15          THE COURT: Why do you want Mrs. Bayzes here?

16          DEFENDANT ROBINSON: Because he -- Mr.  
17 Routzong, he was supposed to submit grounds that  
18 this was a second-degree burglary, that they stayed  
19 in an apartment that was attached to the store, to  
20 the business. And she wrote a statement as well as  
21 gave an audio statement, claimed that -- confirming  
22 what I'm saying now, that this was an apartment,  
23 this wasn't a business. But Mr. Routzong, he feels  
24 that it's irrelevant that she testifies. But I want  
25 her here.

1           And also, I told him to contact Ms. Juanita  
2           Higgins. She wants to testify as well. She doesn't  
3           even know about the trial date. He has contact --

4           THE COURT: What does Ms. Higgins know about  
5           it?

6           DEFENDANT ROBINSON: Ms. Higgins, she witnessed  
7           the -- the individual that coerced us, she witnessed  
8           the individual come pick me up and --

9           THE COURT: Coerces?

10          DEFENDANT ROBINSON: Coerced.

11          THE COURT: Coerced you. Okay.

12          DEFENDANT ROBINSON: Yes, sir. But she  
13          witnessed it and she knew -- well, she witnessed --

14          THE COURT: Where is she?

15          DEFENDANT ROBINSON: Right now she's in  
16          Columbia. He hasn't contact her or made an attempt  
17          to contact her for --

18          THE COURT: When did you tell him about it?

19          DEFENDANT ROBINSON: Sir?

20          THE COURT: When did you tell him about her?

21          DEFENDANT ROBINSON: Every time I meet him.  
22          From the first time I met him, he asked me who are  
23          my witnesses. I gave him a list and that I wanted  
24          an expert witness also present at the case. He  
25          hasn't talked to the expert witness.

1 THE COURT: What kind of expert?

2 DEFENDANT ROBINSON: A mechanic. Because the  
3 whole --

4 THE COURT: I'm sorry. An expert for what?

5 DEFENDANT ROBINSON: A mechanic. Because the  
6 whole --

7 THE COURT: A mechanic?

8 DEFENDANT ROBINSON: Yes, sir, because the  
9 whole matter of me coming down here was to do a  
10 repair for him. And the Tuesday that I had to do  
11 the repair for him, I didn't have a whole tool -- a  
12 lot of tools. I just had one specific tool. I  
13 wanted him to confirm that this tool is for this --  
14 is exactly for this specific purpose right here.  
15 Yes, that can happen, that he can use that tool.  
16 That's -- the tool is in evidence as well. I just  
17 want him to confirm the tool that need -- that's  
18 needed for this specific job of maintainenceing a  
19 vehicle.

20 But Mr. Routzong, he hasn't made any attempts  
21 to get in contact with the expert witness. As well,  
22 I wanted him to put in a direct verdict -- direct  
23 verdict for an acquittal based on several grounds,  
24 case laws that I presented to --

25 THE COURT: Well, sir, you don't make a

1 directed verdict until the end of the State's case.

2 DEFENDANT ROBINSON: Yeah. He told me that  
3 too. But I wanted him to some type of grounds, some  
4 type of motion for dismissal because on this case  
5 because the evidence that I want to present at my  
6 case isn't in evidence no more.

7 THE COURT: I think you better let Mr. Routzong  
8 run this train. You don't even know what you're  
9 talking about.

10 Mr. Routzong, how about the witnesses? Number  
11 one, there's no such thing as a tool expert that I  
12 know of. I've never heard of it, and --

13 DEFENDANT ROBINSON: It's a mechanic.

14 MR. ROUTZONG: Starting out with the --

15 THE COURT: Sit down.

16 MR. ROUTZONG: Starting out with the expert  
17 witness --

18 THE COURT: Did you hear me? I said sit down.

19 MR. ROUTZONG: -- it would be apropos to  
20 nothing without any story from the defendant  
21 testifying. He's repeatedly told me, since day one,  
22 he refuses to testify. So it would be apropos to  
23 nothing.

24 I spoke to Ms. Higgins -- I believe that's his  
25 mother -- one time, and based on my conversation

1 with her, I concluded that she didn't really have  
2 anything to offer him in his own defense. And to  
3 get a directed verdict, you've already addressed  
4 that. What was the other one?

5 THE COURT: The victim's wife.

6 MR. ROUTZONG: I can't imagine any context  
7 where she is going to say anything favorable to the  
8 defendant, Your Honor. We have her statement. She  
9 was not really a witness, she's kind of a collateral  
10 witness. There's nothing really to benefit the  
11 defendant from that, in my opinion. At least I'm  
12 not aware of any.

13 THE COURT: Thank you.

14 All right. Is the State ready?

15 MS. YOUNG: We are, Your Honor.

16 THE COURT: Mr. Chesser?

17 MR. CHESSER: Yes, Your Honor.

18 MR. ROUTZONG: Yes, sir.

19 THE COURT: All right. Bring the jury in,  
20 please.

21 (The jury enters the courtroom at 1:42 PM.)

22 THE COURT: First thing we have to do to get  
23 ready to start this trial is you have to take  
24 another oath. So please stand and raise your right  
25 hand, listen to the oath administered by the clerk

1 and respond I do, if you're so inclined.

2 THE CLERK: You shall well and truly try in a  
3 true deliverance make between the State of South  
4 Carolina and the defendant at the bar and in a true  
5 verdict render according to the law and the evidence  
6 in this case so help you God. Please respond by  
7 saying, I will.

8 THE JURY (collectively): I will.

9 (Jury sworn.)

10 THE CLERK: Thank you.

11 THE COURT: Thank you. I misspoke; it was I  
12 will instead of I do.

13 Ladies and gentlemen, let me remind you once  
14 again that the fact that Eddie Mack Stewart and  
15 Franklin Jerome Robinson have been indicted by the  
16 Aiken County Grand Jury for the offenses of grand  
17 larceny and burglary in the first degree, these  
18 indictments are not evidence in the case; it's  
19 simply the charging documents which informs the  
20 defendants of what they're charged with, and that's  
21 how it comes into the courtroom.

22 They've both pled got guilty to each  
23 indictment. And, obviously, anyone who lives in our  
24 country who pleads not guilty, they're presumed,  
25 under the Constitution, to be innocent of the crimes

1 for which they are charged, unless the State is able  
2 to prove their guilt to you beyond a reasonable  
3 doubt. So please do not infer anything from the  
4 fact that they've been charged and arrested and  
5 indicted. That's simply how we get here.

6 Let me tell you a little bit about where we're  
7 going. In this criminal case, as I told you, the  
8 State has the burden of proof; they have to prove  
9 their case to you beyond a reasonable doubt. And  
10 I'll explain that to you as go through the trial of  
11 the case or at the end. But basically, if we were  
12 trying a wreck case or a civil case where someone is  
13 seeking monetary damages for injuries, that's a  
14 civil case.

15 In a civil case, the parties come in on equal  
16 footing. If these were the Scales of Justice, they  
17 come in equally to each other. For the plaintiff to  
18 win or prevail, he or she has to prove their case by  
19 what we call the preponderance of the evidence or  
20 greater weight of the evidence. They have to tip  
21 the scales ever so slightly in their favor to  
22 prevail. Not so in a criminal case.

23 In a criminal case, the defendants come in with  
24 the presumption of innocence, so the scales are  
25 tipped in their favor. And for the State to prove

1        their case, they have to prove it beyond a  
2        reasonable doubt. So the burden of proof in a  
3        criminal case is greater than that in a civil case.  
4        And I'll define to you what burden of proof is at  
5        the conclusion of the case.

6        .        Because State has the burden of proof, they  
7        present their evidence first. And here's how the  
8        trial will run: My little opening remarks won't  
9        last but about five minutes. Then we'll have  
10       opening statements by the State, followed by each  
11       defendant. Please bear in mind that the opening  
12       statements, that is not evidence in the case; that  
13       is simply what both sides will inform you as to what  
14       to look out for, what the roadmap to the case is,  
15       what the issues are, what you should be looking for  
16       as we go along with the case. They'll sort of  
17       educate you as to what happened, what they intend to  
18       prove and where they intend to take the case or what  
19       their defenses may be. But that is not evidence in  
20       the case; that's simply the opening statements that  
21       the solicitor and the two lawyers for the two  
22       defendants will make.

23       .        Once we conclude that, because the State has  
24       the burden of proof, they present their witnesses  
25       first. And they'll call witnesses in an attempt to

1           prove to you, beyond a reasonable doubt, the  
2           elements of the crime. Once the State has completed  
3           their evidence, then defendants, if they choose,  
4           have the right to put up witnesses and/or testify if  
5           they choose or, if they exercise their  
6           Constitutional right to remain silent, they don't  
7           have testify. And if they don't, you cannot infer  
8           or use that against them in any manner whatsoever  
9           when you deliberate their guilt or innocence.

10           Sometimes at the conclusion of the defendants'  
11           case, the State has the right to reply to anything  
12           they may have put up, so that will take care of the  
13           testimony. The State goes first, followed by the  
14           defendants, and then if there's any reply testimony,  
15           then they put up reply.

16           Once the testimony has been completed, once  
17           again the parties have the right to make their  
18           defendants have final or closing arguments, which is  
19           not evidence in the case, but arguing the evidence  
20           in the light most favorable to each side. Once the  
21           final arguments are made, then I will instruct or  
22           charge you on the law. And then once I do that,  
23           you'll be in a position to start your deliberation.  
24           So that's how it will go.

25           Now, a few general rules: I will instruct you

1 each time that we take a break, please do not start  
2 deliberating or talking about the case. It is not  
3 proper to do that until all the evidence has been  
4 presented, the final arguments have been made and I  
5 have instructed you on the law. Once that is done,  
6 then I'll turn it over to you for your  
7 deliberations. So when you go to the jury room,  
8 obviously you can talk about whatever you want to,  
9 but please don't talk about the case because that's  
10 just -- it's not fair to start talking when you just  
11 heard one or two witnesses when there's ten more to  
12 go. So do not do that.

13 Number two, I will ask that when take our first  
14 break this afternoon, I need a foreperson. That's  
15 someone who acts as the spokesperson of the jury.  
16 So select a foreperson out of the 12 regular jurors,  
17 not the two alternates. If you can't do it, I'll  
18 just have to pick somebody because I don't know any  
19 of you. So try to do that amongst yourselves.

20 Third, I try to be efficient with your time and  
21 with the court time and the lawyers' and the  
22 parties' and everybody in the courtroom. I try to  
23 run an efficient courtroom; meaning, I start on time  
24 and I make lawyers keep putting witnesses up, I  
25 don't have a lot of downtime. But that doesn't mean

1 to say that I'm trying to run a race up here. So if  
2 at any time during the trial of the case you become  
3 uncomfortable, you need to use the restroom, you  
4 need to just stretch, take a break, get tired of  
5 listening to me, whatever, do not get uncomfortable,  
6 raise your hand and I'll make sure any needs that  
7 you have are met.

8 Normally during the course of a trial we start  
9 about 9:30 in the mornings, depending on where we  
10 are, and I'll get your input on that according to  
11 the other things I have to do. We normally run til  
12 about 12:30, start back up at 2:00 and go to 5:00.  
13 I'll normally have you some refreshments for  
14 breakfast and if things are going well, we'll  
15 probably send out for lunch or send you to lunch  
16 tomorrow so you don't have to go out on the street  
17 and find something. We'll take care of you on that.

18 As I told you when we started, your job is to  
19 determine what the true facts are in the case. I  
20 will rule on the admissibility of the evidence and  
21 the admissibility of what comes in. But there's a  
22 good possibility that different versions of the  
23 facts or different versions of the event will come  
24 into the trial of this case. It's up to you to  
25 determine what those true facts are. And to do

1 that, you simply have to judge the credibility of  
2 the witnesses who testify. Credibility simply means  
3 believability. Who do you believe? So y'all all  
4 work with husbands, wives, children, employees,  
5 employers, friends; you know how to judge when  
6 someone is telling the truth. Use that same  
7 ordinary common sense that you use on an everyday  
8 basis when you're dealing with people and  
9 determining whether or not they're telling you the  
10 truth. Once you determine what the true facts are,  
11 as I told you earlier, you take those facts and  
12 apply it to the law as I give it to you, and you'll  
13 be in a position to render a true and just verdict.

14 This is not TV; this is the real world. You're  
15 performing a most important civic duty. We live in  
16 a wonderful country. If someone is accused of an  
17 offense, such as these men are, and they plead not  
18 guilty, they have a right to have 12 citizens  
19 determine what the true facts are. They don't go  
20 before some dictator or some street mob like they do  
21 in other countries; we have citizens to determine  
22 the outcome of cases in our country. So you're  
23 performing a most important civic duty. It's an  
24 important case, it's a pretty major case, so I'm  
25 going to ask that you're pay close attention.

1           Someone asked for notes. Obviously you can  
2           take whatever notes you deem appropriate. We'll ask  
3           that you put your name on the notepad. Each time we  
4           take a break, turn them over, put them in your seat,  
5           pick them back up when you come out and continue  
6           your notes. At the end of the day we will collect  
7           the notes. We'll put them under lock and key  
8           tonight or however many nights we're here. When we  
9           start deliberating, obviously you can take your  
10          notes back into the jury room and refer to them.  
11          Just bear in mind, you know, some people take better  
12          notes than others. I remember when I was in school,  
13          my notes weren't the best, but perhaps the girl next  
14          to me had a lot better notes. But just respect  
15          everybody's view on everything when you're  
16          deliberating.

17                 So we're going to start the trial now. The  
18          State will make their opening statements, followed  
19          by the defendants, and then we'll get into the  
20          testimony.

21                 Any objection to my opening remarks by the  
22          State?

23                 MR. WEEKS: None by the State, Your Honor.

24                 THE COURT: Mr. Chesser?

25                 MR. CHESSER: None for Mr. Stewart.

1 THE COURT: Mr. Routzong?

2 MR. ROUTZONG: None, Your Honor.

3 THE COURT: Thank you.

4 Okay. Mr. Weeks.

5 MR. WEEKS: May it please the Court.

6 THE COURT: Yes, sir.

7 MR. WEEKS: Good afternoon. I know it seems  
8 like this whole process works at a snail's pace, and  
9 sometimes it does, I promise you. We're here today  
10 maybe and tomorrow and maybe the next day to talk  
11 about the events that transpired August 9th, 2012 at  
12 the residence or the dwelling of Mr. Stephen Bayzes  
13 and his wife, Barbara.

14 You're going to hear testimony of three men --  
15 about three men who crashed into the wall of the gun  
16 store portion of Mr. Bayzes' dwelling; not just  
17 crashed, that would be underdescribing what they  
18 did. They backed a freshly stolen 2001 van -- I  
19 forget what they call those vans with kind of a  
20 pop-up top to them -- that had been stolen recently,  
21 they backed it -- had to be tremendous force --  
22 through the wall of Mr. Bayzes' dwelling, his  
23 business and his house and commenced to try to steal  
24 firearms.

25 And firearms is an understatement. They stole

1 serious firearms; semiautomatic weapons, nice  
2 handguns and, really, any kind of gun that they  
3 could grab their hands on and load back into this  
4 van in a short amount of time.

5 Now, I said three men went in there. Two of  
6 them are sitting right over there, right over there.  
7 The third one didn't make it out. Mr. Bayzes is  
8 going to testify that in his dwelling he had a  
9 silent alarm set up so that it would tell him  
10 somebody was trying to break into the business,  
11 which you'll see pictures and it's going to be  
12 obvious it was all about being attached to his  
13 house. He heard the silent alarm go off in the  
14 middle of the night and, you know, waking out of a  
15 sound sleep -- he heard a crash too, but the silent  
16 alarm was making a racket. So Mr. Bayzes gets up,  
17 he goes out the door to the living area of his flat,  
18 picks up a gun.

19 Now, you're going to see pictures of guns that  
20 probably you don't ever see in your life, there's  
21 going to be pictures of guns that you see on TV,  
22 there will be pictures of guns that our military  
23 uses. There are a lot of nice guns in his store.  
24 This man collects guns, he sells guns. That's why  
25 these people, I suggest to you, were there. But he

1 takes a gun, he goes through his little garage area  
2 into the store portion of his dwelling, and in that  
3 store portion, he's got what I call freezer flaps.  
4 You know the big, wide flaps to keep the air  
5 conditioning from going out or cool air from going  
6 out? It's separating his garage area from the  
7 business area of his building. And he peers through  
8 this freezer curtain, pulls it back, and he's  
9 well-armed. He's got a -- what I would call an  
10 AR-15, it's probably made by someone else, but 30  
11 rounds of it, 30 rounds that are designed to kill  
12 people. He's got it in his home for his  
13 self-defense. Our military uses it, our civilian  
14 police uses it. He peers through this thing and  
15 hears somebody say, there's a man, kill the  
16 motherfucker.

17 Well, when he hears that, he also hears what he  
18 will describe to y'all as the distinct sound of the  
19 cocking of the AR rifle. AR rifle, AR-15, AK-47.  
20 I'm saying AR, I think he's going to say AK-47. I  
21 don't know the difference, but a man who builds  
22 rifles, sells rifles, owns rifles, says he knew the  
23 difference. But kill the motherfucker is not even  
24 translatable. And he starts shooting. He sees  
25 three shadows. They've crashed into the guts of his

1 store where all of his unloaded rifles are. But  
2 guess what he's going to talk about. It's dark.  
3 And his testimony is going to be, like a lot of shop  
4 owners, it's not rocket science -- suggest that if  
5 you went around and used your common sense, a lot of  
6 business owners, store owners, residences, keep  
7 loaded guns in their residence. After all, if you  
8 have a gun for defense, it ain't much good unless  
9 it's loaded. Well, he had a bunch of them. And  
10 they were strategically placed around his counters  
11 which had just been crashed into and shattered, and  
12 the gun's being offloaded into this van, so he  
13 didn't know how many guns there were that was in the  
14 hands of these people that could shoot him. He  
15 commenced to shooting. And we'll talk about all  
16 that when he gets on the stand.

17 He shot til his clip was empty. And then the  
18 van pulls out of the store. Literally, the van is  
19 sitting in the middle of the store. They've driven  
20 it through the wall at what he's going to testify to  
21 as the most vulnerable part of the store. And the  
22 van is sitting in the middle of the store. You  
23 haven't seen all the pictures, but you're going to  
24 find it pretty amazing, but it's also pretty  
25 ingenious, if you're going to rob a gun store of all

1 the weapons it contains.

2 Mr. Bayzes and his wife, after the van pulls  
3 out, one of the guys that's not here today didn't  
4 make it, he's in the parking lot right at the edge  
5 of his building, what used to be the wall to his  
6 building, and he's wounded, morbidly wounded.

7 Mr. Bayzes picks up the phone. As I said, he  
8 shot 30 times, but that emptied his rifle, so he  
9 went back and got another clip out of his living  
10 area, came back out, had this clip. Man is on the  
11 ground making a lot of noise. Mr. Bayzes on the way  
12 back out picks up the phone and is calling 911.

13 Police, to the incredible amazement of lots of  
14 folks, sometimes are just on top of a crime. And  
15 the Aiken County Sheriff's Department and the North  
16 Augusta Police Department, in this case, were on top  
17 of it. They arrive there -- this business is  
18 located right on Highway 25, a short distance from  
19 the interstate. This van takes off leaving one of  
20 their buddies rolling on the ground, dragging  
21 insulation down the road, goes down -- hits the  
22 interstate, goes down towards Augusta, towards the  
23 other side of the river, and gets off on the Waffle  
24 House at Highway 1.

25 You're going to hear testimony about one of

1           them that staggers into the Waffle House, one of  
2           these two guys; Mr. Robinson, I believe. He  
3           staggers in there, he's wounded, rolls around on the  
4           floor. The people in the Waffle House -- you're  
5           going to hear from the cook at the Waffle House  
6           about the guy saying he'd been shot. They're on the  
7           phone, called 911, get the sheriff's department  
8           who's frantically trying to set up a perimeter, and  
9           are there within seconds, really amazing, minutes,  
10          both North Augusta Police and Aiken County Sheriff's  
11          Department. They contain the van, the same 2001 van  
12          that is obviously the one that crashed into  
13          Mr. Bayzes' wall. And lo and behold, the van is  
14          loaded with semiautomatic handguns, semiautomatic  
15          weapons, and two very wounded defendants, those two  
16          men right there.

17                 Now, the story could have been over.  
18          Mr. Bayzes could have left three of them laying on  
19          the ground. But they didn't. They ran, leaving  
20          their buddy behind. They are taken to the trauma  
21          unit at MCG, GRU. I don't know if -- they changed  
22          the name, so I'll never get used to it. I still  
23          call it the bomb plant, so it's hard to change. But  
24          they take them over there and they're shot up. I  
25          mean, they've got some bullet holes in them. And

1           they take the bullet fragments from them. These  
2           rounds, like military rounds or household defense  
3           rounds, are designed to really splinter into  
4           numerous pits. But that's a good thing if you're  
5           trying to ID the cartridges in the bullet fragments  
6           that come from a gun; it's a bad thing if you get  
7           hit by one of them, it ain't a good day.

8                     Well, the surgeons, the doctors over there  
9           remove the bullet fragments. They're catalogued,  
10          secured, taken to the South Carolina Law Enforcement  
11          Division. You're going to hear testimony from an  
12          expert in weapons identification that fragments of  
13          the bullets that came from the bodies of those two  
14          men over there and the one they left behind matched  
15          the rifle that was used by Mr. Bayzes on that night  
16          to defend his home.

17                    I don't think that the testimony in this case  
18          is going to wow you. I don't believe that you're  
19          going to think, oh, my goodness, I can't believe  
20          this happens in Aiken County. Well, we all see the  
21          news, we all know what goes on around the world, and  
22          this, any day, can happen to anybody here. But  
23          Mr. Bayzes was prepared, and that's what you're  
24          going to hear. He was prepared for -- he had been  
25          broken into before, I guess. But, you know, the gun

1 shop is kind of like owning an ice cream store; it's  
2 kind of an attractive nuisance to some people and  
3 kids. Well, to these men, it was more than an  
4 attractive nuisance; it was worth giving their life  
5 for. That's exactly what it was worth to them to  
6 steal a pile of guns.

7 You're going to see the pictures. We're not  
8 bringing in all the guns because they were given  
9 back to Mr. Bayzes so he could sell them in his  
10 business. But I think it's like 28, 30 guns. The  
11 value of grand larceny is based upon value. It's  
12 petit larceny to steal my pocket knife, but it's  
13 grand larceny to steal my high-dollar rifle if it's  
14 valued over 10,000, if the total value is over  
15 10,000. That's what the State is going to be  
16 presenting in some of the testimony, and you're  
17 going to be wondering, well, why do we care how much  
18 it costs? Well, because that's an element of grand  
19 larceny. It's an element of the burglary that we  
20 put in pictures of Mr. Bayzes' living room, put in  
21 pictures of the gun store, put in pictures of the  
22 weapons with blood on them from the defendants that  
23 were laying on the floor in the process of being  
24 loaded into the van.

25 The case is simple. The evidence that is going

1 to be presented by the State will be boiled down as  
2 simply as we can make it. You know, you just -- we  
3 bring you the pertinent stuff. This case was  
4 quickly solved, quickly -- the remaining alive bad  
5 guys were arrested, and here we are today. The  
6 case, I believe, will be interesting to you because  
7 I believe, you know, it's kind of -- you're going to  
8 be asked to kind of work on the assumption. We all  
9 work on the assumption that we can protect our  
10 homes, we can protect our families, we can protect  
11 our property. And in America, thank God, that is  
12 still your Constitutional right to do so.

13 Mr. Bayzes acted on it; he's truly a hero. The  
14 weapons that were taken from him that he sells were  
15 what I would call high-dollar assault rifles,  
16 high-dollar pistols. But as you will see in the  
17 pictures, his silent alarm, his living in his  
18 property, him getting there and not being afraid to  
19 defend it, kept them from taking a ton of more  
20 weapons that were on the walls, that were displayed  
21 for sale. All of these weapons had ammunition there  
22 too, and that was all available. But they didn't  
23 have time to get the ammunition as much as they had  
24 the time to get the weapons.

25 But keep in mind the one thing I told you

1 earlier: Mr. Bayzes knew that he had half a dozen  
2 loaded, cocked, ready weapons in the store where  
3 this van had driven into the middle of. So it's  
4 perfectly logical that when he hears a weapon  
5 cocked -- and if the Judge will let me, I'll show  
6 you how a weapon sounds when it's cocked in the  
7 quiet recesses of your dwelling with no noise. It's  
8 really a distinctive sound. But the most  
9 distinctive sound is somebody yelling, kill the  
10 motherfucker. That's why we're here.

11 THE COURT: Mr. Chesser.

12 MR. CHESSER: May it please the Court.

13 Good afternoon. I'm happy to be here with  
14 y'all. I represent Eddie Stewart. This case is not  
15 as simple as the prosecution may make it out. I'm  
16 really not longwinded, so it's not going to take  
17 long. A lot of times I don't take a lot of extra  
18 time to say things. There's a couple of important  
19 points that I want to talk about.

20 One of them is that, ultimately, you're going  
21 to be asked to decide if this business was a  
22 business or if it was a dwelling. This is something  
23 the State has to prove beyond a reasonable doubt.  
24 What -- the proof will be introduced, it will tell  
25 you about the structure of it and so on.

1           Essentially, there was a large gun store on  
2           Edgefield Highway, and next to that was a very large  
3           unheated area, no air condition or anything, where  
4           you could park a boat or put anything. Back behind  
5           that, there is, on the second floor, a living area.  
6           And there will be some pictures introduced and you  
7           can look at those.

8                     Well, I would submit to you that that is not  
9           anybody's principal residence. It may be a place  
10          where somebody stays at some times. So what the  
11          State is going to try to say is that this -- in  
12          essence, this man cave -- that on this night, it was  
13          occupied by Steve and Barbara Bayzes, but that that  
14          somehow transforms this area on the other side of  
15          this unheated mass garage -- it's really just an  
16          open space with a top on it. Then you get to a  
17          business and they're going to say, oh, well, that  
18          business, that's a house, that's a home. Now, I  
19          submit to you that's not the case. They're going to  
20          try to prove this beyond a reasonable doubt. We're  
21          going to show you there's plenty of doubt, that, in  
22          fact, what that was is exactly what it looks like,  
23          it's a business.

24                    Talked a little bit, I suppose, about technical  
25          law. Burglary first, which is what Mr. Stewart is

1 charged with, is entry without consent into a  
2 dwelling with aggravating factors. So whether or  
3 not it is a dwelling versus a business, which it  
4 obviously is, that's going to be a key question for  
5 you in this case.

6 Now, this type of case or what sometimes we  
7 hear in court is sometimes just things that you  
8 don't even -- you've never heard and sometimes you  
9 don't even imagine. There's going to be some  
10 testimony, some evidence introduced, that's going to  
11 be difficult for you to hear and process. So I'll  
12 just tell you that this is a very important case,  
13 it's a difficult case. It's going to be a case, I  
14 think, that you're going to -- your interest is not  
15 going to flag from the beginning to the end.

16 I want to talk about what Mr. Bayzes did that  
17 night. He heard a noise in his business on the  
18 other side of this really very large mast area. He  
19 starts down, he hears glass, he goes back, gets -- I  
20 suppose they call it an AR-15 -- some type of  
21 assault rifle, and he goes down. Everything is  
22 dark, it's 4:00 in the morning. And there are these  
23 refrigerator straps -- I'm not sure what to call  
24 them, these dark plastic things. There's no light  
25 or nothing.

1           And what I submit to you is he stepped in there  
2           and he could see some shadows, and he executed -- he  
3           shot each of these guys more than five times apiece.  
4           He had 30 rounds in a magazine. He executed Craven  
5           Goodwin. What I'm saying is that he had a hit with  
6           at least half of the bullets fired out of his  
7           30-round magazine out of this AR-15. He does it at  
8           close range. And what I submit to you, you'll hear  
9           the evidence and to some extent you'll be called  
10          upon to decide it or at least to ponder it, there  
11          was no shout, shoot that so-and-so, no clicking of  
12          rounds. Nobody saw Mr. Bayzes. Mr. Bayzes  
13          administered his execution right there, right in the  
14          middle of those refrigerator straps.

15                 This massacre, the State is attempting to mask  
16                 it with this argument that this business was a home.  
17                 There was such ample opportunity when Mr. Bayzes  
18                 heard glass breaking to call the law who was there  
19                 in a minute. And yet to protect his things, he  
20                 stood there in the dark and executed Craven Goodwin.

21                 I know you'll listen to the evidence very  
22                 carefully, I know you'll follow the Judge's  
23                 instructions. Thank you.

24                 MR. ROUTZONG: May it please the Court, Your  
25                 Honor.

1 THE COURT: Yes, sir.

2 MR. ROUTZONG: Ladies and gentlemen, what are  
3 any of us going to know about this case? We're only  
4 going to know anything at all about it from the  
5 witnesses and whether or not the witnesses are  
6 believable. Whether or not this was a dwelling, as  
7 Mr. Weeks alleges it is, only reason he knows  
8 anything about it is because Mr. Bayzes told him and  
9 from what law enforcement observed. What does that  
10 mean? That means credibility is at issue here. If  
11 they're not telling the truth or they're not telling  
12 the complete truth, then the State is wrong,  
13 potentially.

14 I concur with what Mr. Chesser said about this  
15 case; it was a massacre, and that's all it was.  
16 This was not a dwelling. It was some man protecting  
17 his stuff and very carefully and intentionally shot  
18 three people. And that's an important question  
19 because it goes to who he is and what he did and his  
20 believability and what he told the solicitor and  
21 what he told law enforcement.

22 Ladies and gentlemen, I'm going to talk to you  
23 a little bit about what does it mean to presume  
24 somebody innocent, because just a minute ago, you  
25 took an oath to presume both of these men are

1       innocent. I like to look at it like this sometimes:  
2       In my case I think about if somebody told my mom --  
3       told me that my mother robbed a bank, I would say,  
4       no way, my mother would never do that. Each and  
5       every one of you probably has someone that you could  
6       say the same thing about if someone told you that  
7       they did something wrong or illegal. Each and every  
8       one of you has somebody like that, and you would  
9       just stop and say, that person is crazy, that person  
10      would never do it. That's what it means to presume  
11      somebody innocent, you stop and say no way. All the  
12      evidence you view in this case has to be viewed from  
13      that standpoint.

14             Another way of looking at it is that the  
15      State's case is wrong, the witnesses are mistaken,  
16      they're not being truthful. Everything -- all the  
17      evidence that's presented, you have to view it as  
18      you're sitting right there as if it's wrong,  
19      untruthful, because you -- what does it mean to  
20      presume somebody innocent? They can't be right if  
21      you presume they're innocent. And that's the lens  
22      you have to look at all this evidence through until  
23      you go back there and you collectively make a  
24      decision about what really happen ed.

25             And we really don't know what happened. What

1 Mr. Weeks said and Mr. Chesser or I say is not  
2 evidence in this case. Please listen to the  
3 evidence through the lens, viewing it through the  
4 lens and looking at it through the lens of a  
5 presumption of innocence. And I'd very much  
6 appreciate your attention. Thank you.

7 THE COURT: You may call your first witness.

8 MR. WEEKS: Thank you, Your Honor. The State  
9 calls Stephen Bayzes.

10 THE COURT: Mr. Bayzes, please come around here  
11 and place your left hand on the Bible and raise your  
12 right hand and accept the oath.

13 STEPHEN BAYZES

14 being first duly sworn, testified as follows:

15 THE WITNESS: I will.

16 THE CLERK: Have a seat in the witness box.  
17 State your full name for the Court, spelling your  
18 last.

19 THE BAILIFF: My name is Stephen Bayzes,  
20 B-A-Y-Z-E-S.

21 DIRECT EXAMINATION

22 BY MR. WEEKS:

23 Q. Stephen, where do you live?

24 A. At **Minor**

25 Q. And where is that at?

1 A. It is in Builder, South Carolina.

2 Q. And is it right there on Highway 25?

3 A. It is.

4 Q. Okay. How long have you lived there?

5 A. Since 2010.

6 Q. And before that, who was living there?

7 A. My son.

8 Q. And anybody else with your son?

9 A. His fiancée.

10 Q. Does anybody live with you at that address?

11 A. My wife, Barbara.

12 Q. Barbara?

13 A. Barbara Bayzes.

14 Q. What also is located at that address?

15 A. We have a gun store in the front of our  
16 building.

17 Q. Okay. Do you have other businesses located on  
18 that particular lot?

19 A. I own three and three-quarter acres of Minor

20 At the far right-hand side of the  
21 property, I have a 3,600 square foot business called  
22 The Yard Shop. It's located on one side of the  
23 property. And then the building that my wife and I  
24 live in is 7,200 square foot and 4,400 square foot  
25 is donated straight to our personal dwellings that

1 we actually live in, got boats and things like that  
2 in.

3 Q. Two-story?

4 A. It's two-story.

5 Q. And you have a garage located in that also?

6 A. Yes, sir.

7 Q. What do you keep in your garage?

8 A. Got two four-wheelers, two boats.

9 Q. Cars?

10 A. One BMW and one MINI Cooper.

11 Q. And back in August of 2012, what did you have  
12 there?

13 A. I had one Bullet bass boat and two  
14 four-wheelers.

15 Q. Okay. Did you have a vehicle, a personal  
16 vehicle?

17 A. Had a Z4 BMW and my wife's -- no, that was --  
18 didn't have those, just had the Z4 in there and a  
19 Toyota pickup truck.

20 Q. All right. Did you reside there then too?

21 A. Yes, I did.

22 Q. Did you have an alarm system located in your  
23 residence?

24 A. ADT.

25 Q. And how did you have that thing rigged up?

1 A. It's rigged up in three individual zones; Zone  
2 1 is just isolated to a portion of the firearms in  
3 the very front of the store; Zone 2 is on the  
4 personal safe that we have in the store, and Zone 3  
5 is our immediate living quarters that we actually  
6 live in.

7 Q. These would be like motion detectors?

8 A. Motion detectors.

9 Q. Okay. And so the zones set up three different  
10 motion areas?

11 A. That's correct.

12 Q. And did you have that alarm set up at that time  
13 to send a beacon or send anything to anybody?

14 A. No. It was actually monitored by ADT Security  
15 Systems.

16 Q. Okay. And on the night of August 9th, 2012,  
17 were you asleep or were you at the residence?

18 A. Yes, sir.

19 Q. And where were you in the residence?

20 A. I sleep downstairs. I snore so loud, so I  
21 sleep downstairs. My wife sleeps upstairs.

22 Q. Okay. And downstairs would be on the same  
23 level that everything is in the gun store?

24 A. That's correct.

25 Q. And everything is in the little garage area

1 between them?

2 A. Yes, sir.

3 Q. How do you enter your apartment?

4 A. You walk through a steel door coming from  
5 the -- you want me to go from the store all the way  
6 in?

7 Q. Let me ask you this: Do you have an outside  
8 door that just goes right into your living area?

9 A. No.

10 Q. Okay. So you go through the store to enter  
11 your living area?

12 A. You have to --

13 MR. CHESSER: Objection; leading question, Your  
14 Honor.

15 THE COURT: Sustained.

16 BY MR. WEEKS:

17 Q. Tell me how you get into your living area.

18 A. You -- the only way that you can actually  
19 access our living dwelling is through an automatic  
20 garage door opener, and that's it. There's no  
21 way --

22 Q. Is that the garage you've described?

23 A. That is correct.

24 Q. That you keep your boats and your cars in?

25 A. That's correct.

1 Q. Okay. And do you and your wife sleep in beds?

2 A. Yes, we do.

3 Q. Do you eat in the residence?

4 A. We do.

5 Q. Did you live anywhere else on August 9th, 2012?

6 A. No, we did not.

7 Q. And how long had you lived there exclusively  
8 before that?

9 A. Since the Fall of 2010.

10 Q. And your son and daughter-in-law-to-be --

11 A. Lived there prior to that.

12 Q. Okay. Well, his girlfriend. I don't know if  
13 he married her or not.

14 A. He didn't.

15 Q. All right. And that had been since when?

16 A. My son and -- my son had lived there since  
17 2004.

18 Q. Okay.

19 A. And he moved out in 2009.

20 Q. All right. And I might have asked you this,  
21 but that location is in Aiken County, isn't it?

22 A. That's correct.

23 Q. Okay. August the 9th of 2012, can you tell me  
24 what you were doing that night in the  
25 2:00-or-3:00-in-the-morning range?

1 A. I was sound asleep.

2 Q. Tell me what happened, Steve.

3 A. Approximately 3:45 AM in the morning, I was  
4 awakened by an enclosure, just like the loudest  
5 crash that you've ever heard in your life. And I  
6 immediately sprung up. The silent alarm went off in  
7 the back, and I ran to the door, which is 15 foot  
8 away, opened the door up and I heard loud voices  
9 coming from inside the business and I heard glass  
10 breaking.

11 I shut the door, I grabbed an LMT AR-15 rifle,  
12 and I walked past the one garage, opened up the  
13 door, went into the other garage. And as I  
14 approached the freezer curtains, I kept hearing  
15 voices getting louder. And I peered through the  
16 door, the freezer curtains, and I heard the voices,  
17 there's the man, there's the man. Then I heard,  
18 kill motherfucker, and I opened up fire.

19 Q. What was the significance of hearing glass  
20 break when you were headed that way?

21 A. They were breaking the showcases and stealing  
22 the pistols out of the showcases.

23 Q. Did you also have ammunition in the business?

24 A. There were five loaded firearms behind the  
25 counter.

1 Q. Now, what was the purpose of those being loaded  
2 and being behind the counter?

3 A. There was a 12-gauge shotgun sitting in a gun  
4 cabinet behind the cash register and there was two  
5 more pistols up underneath the cash register and  
6 there was a Para Ordnance .45 laying up underneath a  
7 Vietnamese-style hat and a Jack Daniels whiskey  
8 barrel, and there was another pistol laid up on the  
9 side.

10 Q. And what was the purpose of having those  
11 weapons in your store loaded?

12 A. That you never have to possess a firearm on  
13 you, period. If there's ever trouble, a robbery or  
14 anything like that, you don't ever have to -- the  
15 guns are there.

16 Q. And that was for the defense of yourself or  
17 your business?

18 A. Self-protection of the business while you're in  
19 there.

20 Q. And those stayed in there all the time?

21 A. Yes, sir.

22 Q. Okay. So when you went to that curtain, you  
23 were armed?

24 A. Yes, sir.

25 Q. What was the lighting arrangements?

1 A. There was none, no lighting, just an exterior  
2 street lighting coming through a metal curtain  
3 pull-down door in front of the building. There was  
4 just very low light coming through that area. The  
5 rest of -- couldn't see nothing else on the  
6 right-hand side of it at all, it was completely  
7 black, pitch black.

8 Q. Now, why do you think that was?

9 A. Well, there was -- we never leave the lights on  
10 in the building.

11 Q. Okay. Did you ultimately see a van or a car or  
12 some sort of vehicle there?

13 A. I'd never seen the automobile until it left the  
14 building -- drove out of the building.

15 Q. Tell me what you did when you started shooting,  
16 Steve.

17 A. The only thing I did when I -- I fired three  
18 rounds. There was three men standing in front; one  
19 man directly in front of the double glass doors, I  
20 fired three rounds at him. And there were two men  
21 behind the cash registers on the left-hand side of  
22 the store, and I fired three rounds. The first  
23 gentleman disappeared and the other two men started  
24 moving real fast towards the right-hand side of the  
25 store, and they disappeared.

1 Q. All right. When you say they disappeared, you  
2 couldn't see them anymore?

3 A. No, I could not.

4 Q. All right. What happened next?

5 A. I spent all 30 rounds out of the firearm and I  
6 turned around and I retreated behind me -- went back  
7 inside and picked another magazine up, and my wife  
8 gave me a pair of pants to put on.

9 Q. All this time you were buck naked, as they say?

10 A. I was naked as the day I was born.

11 Q. You normally stay that way in your business?

12 A. Yes, sir.

13 Q. You stay that way in your residence too?

14 A. Well --

15 Q. You slept buck naked, didn't you?

16 A. Yes, sir.

17 Q. All right. You responded to this buck naked?

18 A. Yes, sir.

19 Q. Okay. When you're selling guns in your  
20 business, you don't walk around in there buck naked,  
21 do you?

22 A. No, sir.

23 Q. Okay. That's my point.

24 When you retreated back, Stephen, you got  
25 another clip. Did you see anything before you

1 started retreating back to get another clip?

2 A. No, sir.

3 Q. Okay. When, if any, did you hear a vehicle  
4 leave?

5 A. The vehicle left prior to me retreating from  
6 the building.

7 Q. Okay. And where did it go?

8 A. It made a left-hand turn onto U.S. 25. It  
9 exited the parking lot and made a left-hand turn on  
10 25, insulation and everything just falling off the  
11 top of it.

12 Q. And that was insulation from the walls in your  
13 building?

14 A. Yes, sir.

15 Q. At that point, did you retreat?

16 A. Yes, sir.

17 Q. And you got what?

18 A. I went back, picked up another magazine and  
19 recocked the gun and put on a pair of pants and  
20 started going through the building 'cause the -- I  
21 thought I seen someone drop in faint light on the  
22 right-hand side in the opening that was now  
23 apparent.

24 Q. The opening was now apparent?

25 A. In the right-hand side of the building.

1 Q. Okay. And what did you -- did you call anybody  
2 or do anything?

3 A. I picked the cell -- well, I picked a wireless  
4 telephone up and I dialed 911.

5 Q. All right. And did you reach the 911 operator?

6 A. I did.

7 Q. Did you talk to her?

8 A. I did.

9 Q. Were you talking to her as you went outside?

10 A. I was talking to her as I was walking through  
11 the -- I was barefooted and walking very gently  
12 through the building.

13 Q. What did you see when you got to the edge of  
14 your building --

15 A. I seen --

16 Q. -- or what used to be the edge of your  
17 building?

18 A. There was a person laying on the ground rolling  
19 back and forth. You couldn't see his hands at that  
20 time. He was laying on top of his hands.

21 Q. Were you excited?

22 A. Very.

23 Q. Were you scared?

24 A. Very.

25 Q. Did your voice or your language reflect that

1 with the 911 operator?

2 A. Yes, it did.

3 Q. Okay. Did you see anybody else at that point?

4 A. No, sir.

5 Q. All right. How long did it take the police to  
6 get to your place?

7 A. They were there very fast. I was asking the  
8 young man on the ground where was he meeting his  
9 buddies at and where were my guns. And I turned  
10 around and appeared -- there was an Aiken County  
11 deputy coming towards the business. And I set the  
12 firearm against the wall -- put it on safety and put  
13 it on the wall. Didn't know if the young man laying  
14 on the ground at that time was even armed or not.  
15 And I told the police officer, I said, I don't know  
16 if he's armed, and I got away from the scene.

17 Q. Did your wife come out and join you?

18 A. I started looking for her then.

19 Q. Okay. And where was she?

20 A. She was approximately 45 yards behind me. She  
21 was coming through the building.

22 Q. Okay. To the best of your knowledge, when you  
23 confronted these people, were there any flashlights  
24 or anything? Did they have anything like that?

25 A. There were no flashlights at all. When I first

1           seen them, period, they seen me before I seen them.  
2           When I seen them, there were no lights; I mean,  
3           black, just black, just silhouettes. That's all you  
4           could see.

5           Q.     And describe for me any noises you heard when  
6           you saw them.

7           A.     The only thing I heard after they said kill the  
8           motherfucker was an AK-47 cock.

9           Q.     And how do you know it was an AK-47?

10          A.     I built many of them.

11          Q.     Did you have any in the shop?

12          A.     I had several of them in the shop.

13          Q.     Was there ammunition for them in your shop?

14          A.     Yes, sir, there was, thousands of rounds.

15          Q.     Could you tell the difference between the  
16          rifle, for example, you were carrying and the one  
17          that you heard cocked?

18          A.     Yes, sir.

19          Q.     Okay. Were they the same?

20          A.     No, sir.

21          Q.     Okay. Now, when the police arrived, were you  
22          upset?

23          A.     Oh, very upset.

24          Q.     Okay. Did you stay right there while they  
25          loaded up the fellow that was on the ground?

1 A. No, sir.

2 Q. What did you do?

3 A. I retreated to my flat -- well, where I  
4 actually sleep at.

5 Q. To your flat?

6 A. Yes, sir.

7 Q. Did the police come back there and talk to you?

8 A. The coroner come back and the detective come  
9 back to where I was at back there and they told me  
10 that the young man passed away.

11 Q. Did that upset you?

12 A. I started crying.

13 Q. It was -- did it appear that the young man was  
14 alive when you got out there with your newly loaded  
15 weapon?

16 A. He was alive out there on the ground. We were  
17 waiting for the ambulance to come.

18 Q. You didn't shoot him again?

19 A. No, sir, did not.

20 Q. Stephen, describe for the jury the damage to  
21 your building.

22 A. The hole is a 20-foot-wide hole, 10 foot high.  
23 They took out the whole side of it, run up to the  
24 first steel beam. They took it out.

25 Q. You said 20 foot wide?

1 A. Twenty foot wide.

2 Q. Ten foot high?

3 A. Ten foot high.

4 Q. And it was no longer there or was it pushed in?

5 A. It was -- the steel beams where they come to  
6 the building, they took all of the steel and  
7 completely collapsed the steel in the ceiling.  
8 Everything was just hanging down, all the -- what  
9 you call it, up in that part of it. All of the  
10 ceiling grids, everything was just hanging down  
11 inside of it, the mangled steel, everything, it was  
12 down inside the building, just crunched up inside of  
13 it.

14 Q. Stephen, you've seen the photographs from all  
15 the damage that was done inside your building that  
16 the police took?

17 A. Yes, sir.

18 Q. And you've reviewed them in our office and at  
19 the times we've talked at your place?

20 A. Yes, sir.

21 Q. And have you reviewed what I would call a CD --  
22 I don't know what they call them -- with those  
23 pictures on it?

24 A. Yes, sir.

25 Q. Okay. I'm going to hand you what's marked

1 State's Exhibits 1 through 9.

2 MR. WEEKS: Your Honor, I've previously shown  
3 these to defense counsel. I don't believe there's  
4 any objection to them.

5 THE COURT: Any objection, Mr. Chesser?

6 MR. CHESSER: No, sir.

7 THE COURT: Mr. Routzong?

8 MR. ROUTZONG: No, sir.

9 THE COURT: All right. Without objection, they  
10 come into evidence.

11 (State's Exhibit Nos. 1-9 marked for  
12 identification and admitted into evidence.)

13 BY MR. WEEKS:

14 Q. Mr. Bayzes, for the record, can you identify  
15 what's depicted in State's Exhibits 1 through 9.

16 Just flip through them and make sure I --

17 A. That's the garage door that my wife and I, we  
18 come through.

19 Q. I'm going to get you, in a second, to come down  
20 and narrate this. I just need, for the record, for  
21 you to see whether or not --

22 A. That's the door from my flat into the garage  
23 where that's at. That's the kitchen of our flat.

24 THE COURT: Have him identify the number.

25 MR. WEEKS: These are 1 through 9, Your Honor.

1 He's gone to -- State's Exhibit 1 is the door.

2 BY MR. WEEKS:

3 Q. State's Exhibit No. 2 is the reverse side of  
4 the door?

5 A. That's correct.

6 Q. Number 3 is the kitchen area?

7 A. Kitchen area.

8 Q. Number 4 is another photograph of the kitchen  
9 and sleeping area?

10 A. Yeah, that's where I sleep at.

11 Q. Okay.

12 A. This is a picture where the AR-15 hangs up  
13 against the wall.

14 Q. State's Exhibit No. 5.

15 A. That's a picture of my bed with the Chihuahuas  
16 on it.

17 Q. You've got a mess of Chihuahuas, don't you?

18 A. I got three Chihuahuas.

19 Q. Well, there's four there. Did you know you had  
20 four?

21 A. Well, my son had his two of them over there.

22 Q. Okay.

23 A. We got five total.

24 Q. State's Exhibit No. 7 is --

25 A. That's where my wife sleeps and that's our

1 bathroom and laundry room combination.

2 Q. On State's Exhibit No. 8.

3 MR. WEEKS: Your Honor, for the record, the  
4 Defense and Prosecution have stipulated to State's  
5 Exhibits 9 through 42, which are photographs.

6 THE COURT: Y'all have stipulated or y'all have  
7 agreed to enter these into evidence?

8 MR. CHESSER: I believe that's what -- that  
9 would be correct. We have no objection.

10 THE COURT: No objection to the introduction of  
11 9 through 42.

12 MR. CHESSER: Correct, Your Honor.

13 THE COURT: All right, 9 through 42 is entered  
14 into the record.

15 (State's Exhibit Nos. 9-42 marked for  
16 identification and admitted into evidence.)

17 BY MR. WEEKS:

18 Q. Stephen, all of the photographs that I have  
19 right here you've observed on the computer disc?

20 A. Yes, sir.

21 Q. And are they all true and accurate  
22 representations?

23 A. Yes, sir.

24 Q. Okay.

25 MR. WEEKS: Your Honor, the State would request

1 to publish 1 through 42.

2 (State's Exhibit Nos. 1-42 published to the  
3 jury.)

4 MR. WEEKS: Your Honor, may the witness step  
5 down?

6 THE COURT: He may.

7 BY MR. WEEKS:

8 Q. Stephen, the pictures that have been introduced  
9 into evidence -- who's the handsome fellow in that  
10 one?

11 A. That's me.

12 Q. State's Exhibit No. 1, what is that a picture  
13 of?

14 A. This is the door leading into our sleeping  
15 area.

16 Q. Okay. And there's a car right there. Is that  
17 all enclosed?

18 A. It was enclosed.

19 Q. State's Exhibit No. 2?

20 A. That's the inside door looking back into the  
21 garage.

22 Q. Is that the door you exited to go after the  
23 crash?

24 A. That's correct.

25 Q. What are those hooks there?

1 A. This is where I hang the AR-15 rifle on, for  
2 this exact reason.

3 Q. For security?

4 A. For security.

5 Q. Those hooks are empty. Were those taken -- is  
6 that the way they look? Did you have anything else  
7 hanging there that night besides the weapon?

8 A. That's all I had.

9 Q. And the police took the weapon. The police  
10 took it that night, didn't they?

11 A. They did.

12 Q. Does it have hooks on it specially put on there  
13 to hang on your thing there?

14 A. It does. It has a metal Caribbean hook that  
15 hangs -- sort of hangs straight down.

16 Q. All right. You walk through that door and what  
17 do you go to? If you're going into it, where you're  
18 living?

19 A. If you're going in to where I'm living at,  
20 you're going -- this is going into the kitchen area.

21 Q. All right. That's another view. I see kitchen  
22 stuff, but what is that also down in here?

23 A. Chihuahuas. That's the bed where I sleep at.

24 Q. They're photogenic, aren't they?

25 A. They like to sit there.

1 THE COURT: Mr. Weeks, how about identify the  
2 numbers for me, please.

3 MR. WEEKS: Yes, sir. That would be State's 6,  
4 I believe, Your Honor.

5 BY MR. WEEKS:

6 Q. State's 7 is more Chihuahuas.

7 A. More. There's five of them.

8 Q. Is that the bed you slept in?

9 A. Uh-huh. Yes, sir.

10 Q. Is that your recliner and the remote there?

11 A. Yes, sir.

12 Q. Your wife's bed is depicted in State's 7. The  
13 previous photo was 6. That's 7.

14 And State's 8?

15 A. Washing machine, dryer, bathtub. That's the  
16 laundry room.

17 Q. Laundry room and bathroom?

18 A. Yes, sir.

19 Q. Okay. Those pictures that are depicted there,  
20 they were taken later. They weren't taken that  
21 night, were they?

22 A. No.

23 Q. Was it same conditions, same living  
24 arrangements that night?

25 A. Nothing's changed.

1 Q. Okay. Were you doing a lot of work on the  
2 inside yourself?

3 A. All the work inside, I've done all that.

4 Q. Okay. Now, going through State's No. 9, what  
5 does that depict, Steve?

6 A. This is a steel roll-down door that is on the  
7 front porch of the building.

8 Q. Was that there that night?

9 A. Yes, sir, it was.

10 Q. And the warning that's on there?

11 A. It was installed by Moonshining Company in  
12 2010.

13 Q. Okay. State's 11?

14 A. This is the front of the store, this is the  
15 hole that they made driving the van through it.

16 Q. State's 12?

17 A. Another picture of the front of the store with  
18 the gaping hole where the van went through.

19 Q. 13?

20 A. This is another view of the hole in the front  
21 of the store.

22 Q. All of these photographs were taken in the  
23 early morning hours on August 9th, those anyway?

24 A. Before 6:00 in the morning -- 6:00 a.m. that  
25 morning.

1 Q. Number 14?

2 A. This is the side entrance to the shop, the  
3 drop-down door to it with the 20-foot hole.

4 Q. And was that truck parked there that night?

5 A. Yes, sir.

6 Q. Okay. State's 15?

7 A. This is the damage, the hole. It's a close-up  
8 view of what it done.

9 Q. All right. What's this item right here in the  
10 photograph? Can you see that?

11 A. That's the skid marks when they left the  
12 building. That's the -- one of the steel beams  
13 coming down. They were actually three of these  
14 beams laid up in here going across there. The  
15 weather strip leaning up on top of it is above  
16 there, insulation everywhere.

17 Q. Inside -- I'll get to that question in a  
18 minute.

19 That's State's 15. State's 16?

20 A. That's the outside wall right there. That was  
21 outside the wall they pushed in.

22 Q. Pushed in?

23 A. Yeah. That was pushed in. This is actually  
24 the outside wall, bait and tackle up on it, a  
25 picture of the steel beam and all the wire and

1 everything coming up over the insulation. It shows  
2 this showcase coming down the side of it, it was on  
3 the left-hand side. This was on the right-hand  
4 side. This was in the middle, the centerpiece.

5 Q. State's 17?

6 A. Another view of the damage done by the hole.

7 Q. 18?

8 A. This is the tire track when they left the  
9 building right here.

10 Q. 19?

11 A. This is inside the building. This is the  
12 concrete block wall up against the face of the  
13 building. Three steel beams were running across  
14 this side of the wall. This is fishing lures that I  
15 got hanging up on the wall right there.

16 Q. So the car came in this way?

17 A. It come in this way. They bypassed that wall  
18 right there.

19 Q. That brick wall --

20 A. That brick wall right there. They missed that  
21 brick wall and the steel beams to support the roof.

22 Q. State's 20, what's that depicting?

23 A. This is actually when you -- towards the --  
24 this is actually what looked like material hanging  
25 outside the building.

1 Q. All right. This door here, what does that lead  
2 to?

3 A. This is the exit door on -- on the other side  
4 of it, it has Armed Door 24 Hours a Day on it.  
5 That's where the person -- the gentleman was  
6 standing.

7 Q. Okay. And was it -- it looks like a little  
8 glow coming around the edge of that building. Is  
9 that some of the lighting that you --

10 A. No, because this light's not on.

11 Q. Okay.

12 A. There's this light shining up over here --

13 Q. That's here.

14 A. Yeah. These are shadowboxes in here with  
15 lights. Those lights were not on.

16 Q. State's 21? What's -- these photographs are  
17 going to be showing some damage, Stephen. What --  
18 describe what's depicted in them and what you have  
19 in your shop there.

20 A. This right here is a laptop computer sitting  
21 right here. And this is one of the cabinets they  
22 broke the front glass out of it, removed the pistols  
23 out of it, here, here, and they didn't get to this  
24 one right here. This is all firearms still inside  
25 the store. And right behind, this is all

1 ammunition, everything behind here on this wall is  
2 ammunition. So that's what that is.

3 Q. Okay. And --

4 A. There's a pistol, one of the pistols we were  
5 talking about, sitting right there.

6 Q. So call that a Vietnamese hat?

7 A. That's a Vietnamese hat on a Jack Daniels  
8 Whiskey barrel they give me for Father's Day and  
9 that is a 13-round Para Ordnance .45 ACP right  
10 there.

11 Q. That's a machine pistol -- or that's a pistol  
12 that shoots a lot of bullets?

13 A. This pistol shoots a lot of bullets.

14 Q. And it was loaded?

15 A. It was loaded.

16 Q. Okay. And you keep it hid up under there?

17 A. Yes, I do.

18 Q. All right. 22?

19 A. This is a Socom Mini-14 rifle right here that's  
20 laying on top of the tire track that they dropped  
21 getting into the vehicle. This debris come out of  
22 the van.

23 Q. All of those little books and everything came  
24 out of the van?

25 A. Yes, sir.

1 Q. All right. Did that weapon have anything on  
2 it?

3 A. It's just covered in blood.

4 THE COURT: Mr. Weeks, have him speak up,  
5 please.

6 Q. What was the answer to that?

7 A. It's covered in blood. It's a 308-caliber  
8 Springfield Army M-14 tanker rifle.

9 Q. 23, closer up?

10 A. This right here, this violin case has a loaded  
11 Thompson machine gun in it right here with a  
12 50-round magazine in it. These cabinets right here  
13 were knocked out. The pistol's been removed out of  
14 it, the laptop sitting on top of it, more ammunition  
15 all over the front of it. And here you can see the  
16 boxes of ammunition everywhere. All this is  
17 ammunition.

18 Q. 24?

19 A. Knives, another picture of the counters that  
20 were knocked out, glass is knocked out of them.

21 Q. Okay. 25?

22 A. It's the same thing, showing three counters  
23 right there with glass out of it with the laptop on  
24 top of them, picture of the ammunition laid up there  
25 and the Thompson.

1 Q. 26?

2 A. This is the dining table that we actually eat  
3 inside the shop. We have a lot of meals in there.  
4 It's a family-owned business. We eat there all the  
5 time. And we sit around there, got the couch and TV  
6 sitting up here on the side.

7 This counter depicts that it had two upper  
8 receivers in it right here, AR-15 receivers made  
9 by --

10 Q. Tell me the significance of those two upper  
11 receivers for those guns?

12 A. They're the top mechanism for M-16 rifles.

13 Q. All right. So the two -- they're literally  
14 half a gun?

15 A. They're half the gun. They're the part that  
16 fires.

17 Q. Okay.

18 A. The bullet goes out the barrel.

19 Q. Okay. And they were in that particular case?

20 A. Yes, sir.

21 Q. Along with what?

22 A. There was a thousand more parts, the firearms  
23 in here, but the only thing missing out of this was  
24 those two upper receivers.

25 Q. And that case was in the same spot when they

1 crashed through it on the other side?

2 A. They come in between the front of the store  
3 right here and they missed this case right here and  
4 come through that space.

5 Q. 27?

6 A. It's showing six showcases and AR-15 rifle  
7 right here, a Russian Dragunov firearm right here,  
8 the Mini-14 rifles in here, shotguns, Thompson  
9 machine guns and just --

10 Q. And this is your little Chinese hat hiding?

11 A. My hat, right.

12 Q. They didn't make it this far back?

13 A. No. When I first seen them, two -- one was  
14 right here, one was right here and one was in front  
15 of the glass door to the shop.

16 Q. 28?

17 A. Just from the opening that they created. In  
18 this picture it's showing back to the back of it.  
19 This is the freezer doors right here that I actually  
20 come through the little plastic slats.

21 Q. 29?

22 A. Just another picture of the showcase that with  
23 the broken-out glass into them with all the  
24 ammunition and the hats and -- this magazine right  
25 here is a 60-round magazine, and it's loaded.

1 Q. 30?

2 A. Again, that's another picture of the top side  
3 going back to the firearms with all -- there's  
4 another 55 firearms in that store right there.

5 Q. But you were standing right here?

6 A. I was right here when I discharged the firearm.

7 Q. That would be State's 30.

8 State's 31?

9 A. This is the big safe that's in the store coming  
10 up on the -- this is the -- if you inside the store,  
11 this is the right-hand side of the store. The safe,  
12 fishing lures, this part with the upper receivers  
13 counters with all the small accessory parts inside  
14 of it.

15 Q. Now, if they had crashed five foot over to the  
16 right --

17 A. They would have took the steel beams out. This  
18 is a solid steel beam right here.

19 Q. Okay. If they came in this section between  
20 this steel beam and this one, what would they have  
21 found?

22 A. They would have broke out those counters right  
23 there. The way this building is built, the  
24 construction, this is probably 18 foot in between  
25 steel beam to steel beam, going from the front to

1 the rear.

2 Q. And there wasn't anything up against that wall?

3 A. Nothing. That was just a void area.

4 Q. 32?

5 A. This is the picture going back to the back.

6 This is the wood-burning fireplace we have with some  
7 antiques hanging up in the top of it, two 150-gallon  
8 fish aquariums and a little table we enjoy.

9 Q. 33?

10 A. This is the Dell computer where we do the  
11 background checks. This is another picture of the  
12 firearms in here, the pistol in here, 60-round  
13 magazine here, this is a AR-15 rifle sitting right  
14 there.

15 Q. 34?

16 A. That's the door -- the freezer flaps. They're  
17 actually ten-inch wide flaps, seven-foot tall, and  
18 you just move them out of the way walking out of  
19 them. They keep the cold air in and out, moving in  
20 and out. My boat is right behind there.

21 Q. State's Exhibit 36?

22 A. This is my -- the inside looking out to the  
23 other side. This is fishing rods sitting in here  
24 and just gun parts sitting right there.

25 Q. That's actually State's Exhibit 35, for the

1 record.

2 36, what's that showing?

3 A. This is showing the spent rifle cases that I  
4 discharged inside the premises.

5 Q. There were 30 of them right there?

6 A. To my knowledge.

7 Q. Okay. That was State's 36.

8 Number 37, is that just a closer-up?

9 A. Closer-up picture.

10 Q. Does a rifle like that throw the casing down at  
11 the same spot if you don't move it?

12 A. That's correct.

13 Q. All right. So you didn't move from right there  
14 where you --

15 A. No, sir, I did not move at all. I discharged  
16 all 30 rounds right there in that one spot.

17 Q. State's Exhibit 38, what is that?

18 A. This is a picture of some of the firearms that  
19 were moved into the -- these are the two uppers that  
20 come off the far right-hand counter --

21 Q. You said the two uppers. Those are the two  
22 half of machine guns that --

23 A. Half machine guns. This is an SLR 40-round  
24 magazine Bayonet, this is Russian Mosin-Nagant  
25 AK-47s.

1 Q. How many AK-47s are in there?

2 A. One, two, three, four, five, six -- six of  
3 them.

4 Q. All right. And that's the one that made that  
5 sound that you heard?

6 A. Yes, sir.

7 Q. Those handguns up there, describe the handguns.

8 A. Para Ordnance handguns, there's six-hole  
9 handguns, there's --

10 Q. What do you mean by Para Ordnance?

11 A. That's the manufacturer for the firearm itself.  
12 This is a Springfield-manufactured handgun. This  
13 right here is just a menagerie. This is a  
14 short-barrel rifle, this is a military rifle with a  
15 silencer on it, a 9-millimeter.

16 Q. The guns all returned to you, did you review a  
17 list of those guns?

18 A. Yes, sir, I did.

19 Q. And is that accurate values of what you might  
20 could get for them if you had sold them that day?

21 A. Yes, sir.

22 Q. Okay. Now, those pistols up there in the  
23 corner, that's three, six, nine, 12 of these  
24 pistols. They're not what you'd call Saturday-night  
25 specials, are they?

1 A. No, sir.

2 Q. Are they --

3 A. They're all upper-end firearms. Every one of  
4 these are upper-end firearms.

5 Q. Okay. And you had those inside the showcases?

6 A. They were all inside the showcases.

7 Q. And the long rifles were --

8 A. Hanging up on the wall. They were all up on  
9 one section of the wall.

10 Q. Except for these two upper receivers right  
11 there, they were in that glass case?

12 A. These receivers were in the glass case.

13 Q. And that's all described in State's Exhibit  
14 No. 38.

15 39?

16 A. These are the upper receivers that were removed  
17 out of the case on the far side, and this is an  
18 AK-47. This is a Mosin-Nagant. That's an AK-47  
19 magazine. This is a Springfield Army pistol right  
20 here.

21 Q. Those are parts that were returned to you from  
22 the sheriff's department?

23 A. Right. These are machine gun parts. You put  
24 this on a regular standard AR-15 and turn it into a  
25 machine gun.

1 Q. I'm going to hand you a photograph marked  
2 State's Exhibit No. 40 or show you a photograph,  
3 State's Exhibit No. 40. What is that?

4 A. This is an AK-47.

5 Q. And do you know where that AK-47 was located?

6 A. It was inside the store inside the showcase.

7 Q. All right. And that's not a picture of it  
8 inside the store inside a showcase, is it?

9 A. I don't know where this picture is from.

10 Q. Okay. But you recognize that weapon as an  
11 AK-47?

12 A. I recognize that weapon as an AK-47.

13 Q. Okay. State's Exhibit No. 41?

14 I take that back. All right. If you would,  
15 Stephen, have a seat.

16 Stephen, you didn't give anybody consent to  
17 drive into your gun store that night, did you?

18 A. No, sir.

19 Q. And the list that I referred to of firearms  
20 recovered from the 2001 van, is that just the items  
21 that were in the van?

22 A. Yes, sir.

23 Q. All right. Have you reviewed this list?

24 A. Yes, sir.

25 MR. WEEKS: And, Your Honor, I'm going to mark

1 State's Exhibit No. 49.

2 (State's Exhibit No. 49 marked for  
3 identification.)

4 BY MR. WEEKS:

5 Q. Have you reviewed the values and the items  
6 listed there?

7 A. Yes, sir.

8 Q. And the total value of the items that were  
9 removed from the shop?

10 A. \$37,250.

11 Q. And the sheriff's department returned a number  
12 of those weapons to you, didn't they?

13 A. Yes, sir.

14 Q. And you sold the weapons in your business?

15 A. Yes, sir.

16 Q. Okay.

17 MR. WEEKS: Your Honor, I'm told -- on State's  
18 Exhibit No. 49, the State would move to introduce  
19 with no objection.

20 MR. CHESSER: No objection, Your Honor.

21 MR. ROUTZONG: No objection.

22 (State's Exhibit No. 49 admitted into  
23 evidence.)

24 BY MR. WEEKS:

25 Q. Stephen, have you compared these with the

1 picture I put up where they were all laying flat on  
2 the ground?

3 A. Yes, sir.

4 Q. And they're all contained in there?

5 A. Yes, sir.

6 Q. Okay. And the total amount was 37,250?

7 A. Yes, sir.

8 Q. Okay. Where there also some other firearms  
9 that were moved, didn't make it to the van?

10 A. The Socom M-14, the little Springfield Army  
11 firearm never made it to the van; it's at the foot  
12 of the van.

13 Q. The blue one with the blood on it?

14 A. Yes, sir.

15 Q. Okay. And was there any other type of rifles  
16 or firearms that didn't make it into the van?

17 A. I believe there was a Black Powder firearm  
18 also.

19 Q. Okay. Steve, I asked you about how long you or  
20 your son had been living there at that building.  
21 How long have you been in the gun business?

22 A. Thirty-nine years.

23 Q. Okay. And I know you've been teaching me while  
24 we've been going through all of this stuff. But all  
25 of the expertise you have in the guns you use in

1 conducting and making a living?

2 A. Yes, sir.

3 Q. Could you describe the kind of license you have  
4 to --

5 A. I'm a Class-VII power manufacturer. I can  
6 build any firearm in the United States other than  
7 destructive devices.

8 Q. And can you sell them also to the appropriate  
9 people?

10 A. I have a federal license to sell firearms to  
11 the public and people who are qualified to buy them.

12 Q. Part of your life you did something in addition  
13 to firearms. What was that?

14 A. I'm a Class-II nonrestrictive master plumber in  
15 the state of Georgia.

16 Q. All right. And did you retire from being a  
17 plumber?

18 A. I retired in 1995, January the 1st, 1995.

19 Q. And so all of the upper receivers, lower  
20 receivers, types of triggers, types of AR-15s, types  
21 of AK-47s, you intimately knew all of those that  
22 were in your shop that night?

23 A. Yes, sir.

24 Q. Okay. Now I want to go back a little bit to  
25 your wife. She was upstairs when you heard all of

1 that?

2 A. When the alarm went off, when I went to the  
3 door, she was tailing behind me. And she stopped  
4 short of me going inside the -- through the freezer  
5 curtains. And she -- I didn't see her at all or  
6 hear from her at all until after I discharged the  
7 firearm 30 times. And I turned around and retreated  
8 back, and that's when she turned around and handed  
9 me some clothes to put on.

10 Q. Okay. And did she come out? Did she see the  
11 police and --

12 A. She didn't come out until after I told her it  
13 was safe to come out.

14 Q. Okay. But she was there when the police were  
15 there working on him and the EMT and all of that?

16 A. Yes, sir.

17 Q. Stephen, did you see any other -- or did you  
18 hear any other gunshots besides the ones you --

19 A. No, sir.

20 Q. I know in preparation of this we -- did you  
21 listen to a 911 call?

22 A. Yes, sir.

23 Q. And is it you on that 911 call?

24 A. Yes, sir.

25 Q. And the call you listened to, was an accurate

1 reproduction of the call you made to the police?

2 A. I was so excited, I really don't know.

3 Q. Okay. The one you listened to, the voice that  
4 was on it, was that your voice?

5 A. Yes, sir.

6 Q. And the call was made, like you described, as  
7 you're walking back out through your building?

8 A. By the time I had the loaded the firearm,  
9 picked the phone up next to that Dell computer, I  
10 walked in the door, dialed 911. I had to sort of  
11 ease my way through all of the debris in the store.

12 Q. And the voice you listened to the tape  
13 recording that's contained on here was your voice?

14 A. Yes, sir, it is.

15 MR. WEEKS: Your Honor, I'm going to move to  
16 introduce State's Exhibit No. 50.

17 MR. CHESSER: No objection.

18 MR. ROUTZONG: No objection.

19 (State's Exhibit No. 50 marked for  
20 identification and admitted into evidence.)

21 MR. WEEKS: Your Honor, we're going to publish  
22 this, but it's -- I don't have to publish the whole  
23 thing because, you know, they kept him on for a long  
24 time. And I know the Defense has been furnished  
25 copies of it. So I'm trying to get an idea as to

1           whether or not you want to break before I start  
2           playing it or --

3           THE COURT: How long is what you're going to  
4           play?

5           MR. WEEKS: I only need to play about 20  
6           minutes of it.

7           THE COURT: Well, I suspect the jurors need a  
8           break.

9           Bathroom break or 20 more minutes? It's  
10          y'all's choice. Everybody okay?

11          THE JURY: We're okay.

12          THE COURT: If you get in need, raise your  
13          hand. Don't get uncomfortable, please.

14          (911 call played for his Honor and the jury.)

15          MR. WEEKS: The tape is about an hour and 20  
16          minutes, and I didn't plan on playing all that for  
17          them. He needs to find a part that he wanted to  
18          play, and it's about 15 minutes before we get to  
19          that. So I think we can skip ahead, but we need to  
20          find it. If you could, take a break.

21          THE COURT: All right. Are you about through  
22          other than that?

23          MR. WEEKS: Yes, sir.

24          THE COURT: All right. Ladies and gentlemen,  
25          let's take our afternoon break. Let's take a

1 ten-minute break for everybody to stretch their  
2 legs, go to the bathroom. Please leave your notes  
3 in the chair. Do not discuss the case, do not start  
4 deliberating. Please, the 12 jurors, vote for a  
5 foreperson. Everybody else remain seated, please.

6 (The jury exits the courtroom at 3:24 PM.)

7 THE COURT: Okay. We're going to stand at ease  
8 now for about 10 or 15 minutes.

9 Sir, please do not discuss your testimony with  
10 anyone.

11 (Brief recess.)

12 THE COURT: Is the State ready to proceed?

13 MR. WEEKS: The State is ready, Your Honor.

14 THE COURT: Mr. Chesser?

15 MR. CHESSER: One thing: We had talked before  
16 trial about the Motion in Limine that the prosecutor  
17 made. And I know -- what I anticipate is that  
18 Mr. Weeks is not going to have many more questions  
19 for Mr. Bayzes, and then I'm going to cross. I  
20 can't think of anything additional to add with  
21 respect to that issue. In other, words it's been  
22 presented to the Court what he said.

23 I believe that it should come in under 608 (b);  
24 that it's probative of his mental state, of his  
25 state of mind, of his thinking, of his bias. And so

1           what I would ask is that I be allowed to ask him  
2           about this conversation that he had with the  
3           individual answering the phone for the sheriff's  
4           office where --

5           THE COURT: Well, what was that conversation in  
6           regards to?

7           MR. CHESSER: Your Honor, the only --

8           THE COURT: Let's say it's about a whole  
9           different subject and different matter --

10          MR. WEEKS: It was. It was about a whole  
11          different matter; about a trailer. He wanted to be  
12          transferred to Chuck Cain's voicemail and the  
13          dispatcher just wasn't having a good day and he  
14          finally lost it and cussed her out and got arrested  
15          for it. It didn't have anything to do with this  
16          case.

17          MS. YOUNG: I think it had to do with a stolen  
18          trailer or something. It didn't have anything to do  
19          with this case, is my understanding.

20          MR. WEEKS: But he knew Chuck Cain from this  
21          case, so he was just trying to get transferred to  
22          his voicemail.

23          THE COURT: Well, if that's correct,  
24          Mr. Chesser, how in the world is that relevant to  
25          this case? Let me do this.

1 MR. CHESSER: Yes, sir.

2 IN-CAMERA EXAMINATION

3 BY THE COURT:

4 Q. Sir, did, after all of this happened, you have  
5 a telephone conversation with the sheriff's  
6 department wherein you were trying to reach Officer  
7 Chuck Cain? You, sir, did you?

8 A. Pertaining to this case, Your Honor?

9 Q. No, sir. Did you have a conversation trying to  
10 reach him?

11 A. Yes, I did.

12 Q. And were you able to reach him?

13 A. No, I did not.

14 Q. Did you get upset with the dispatcher?

15 A. Yes, sir, I did.

16 Q. Did you cuss her?

17 A. Yes, sir.

18 Q. And did you -- were you arrested and charged  
19 with unlawful use of a telephone?

20 A. Yes, sir.

21 Q. And pled guilty or paid a fine or something?

22 A. I pled guilty to the charge.

23 Q. All right. Now, what was the purpose of that  
24 phone call trying to reach Officer Cain?

25 A. Thereabout Thanksgiving of 2013, they stole a

1           \$15,000 trailer off my property.

2           Q.     Who is they?

3           A.     We don't know, Your Honor.

4           Q.     Had nothing to do with these defendants?

5           A.     No, sir. We had them recover the videotape  
6           from The Yard Shop and I wanted to call Chuck Cain  
7           to, well, tell him I had the videotape of the theft.

8           Q.     And when you couldn't get him immediately or in  
9           timeliness -- or you were upset with the time of  
10          reaching Chuck Cain, that's when you lost your cool,  
11          so to speak, with the dispatcher?

12          A.     Yes, sir, on the second phone call to her.

13                 THE COURT: Now, Mr. Chesser, how does that  
14          have anything to do with this case?

15                 MR. CHESSER: I would submit it illustrates his  
16          volatility, his state of mind, the way he reacts to  
17          things. He flies off the handle, not rational. And  
18          other than that, it just reflects on the special  
19          relationship that he has with Investigator Cain.  
20          That's all I have, Your Honor.

21                 THE COURT: Mr. Weeks?

22                 MR. WEEKS: I've listened to that tape. And,  
23          quite honestly, he didn't act inappropriately. He  
24          shouldn't have cursed, but he had every right to get  
25          pissed, you know, with the dispatcher. And --

1 THE COURT: Well, how is that relevant to this  
2 case?

3 MR. WEEKS: It's not relevant at all. It  
4 happened a year after this event.

5 THE COURT: I'm not going to allow that.

6 MR. CHESSER: Can we put it in as a Court  
7 exhibit, Your Honor?

8 THE COURT: Put it in as a Court exhibit.  
9 That's the incident report?

10 MR. CHESSER: Yes, Your Honor.

11 (Court's Exhibit No. 1 marked and admitted into  
12 evidence.)

13 THE COURT: And we'll stipulate, as a result of  
14 that phone call, he was arrested, charged and pled  
15 guilty to unlawful use of a telephone. And my  
16 ruling is that it's totally irrelevant, has no  
17 relevance to this case.

18 Anything else you need to protect yourself on  
19 the record, Mr. Chesser, as to that particular  
20 issue?

21 MR. CHESSER: No, sir.

22 THE COURT: Thank you.

23 All right. Other than that, are you ready to  
24 proceed?

25 MR. CHESSER: I'd take this time, Your Honor,

1 just to -- I have two pictures that I move to  
2 introduce. I just want the solicitor to be ready on  
3 cross.

4 MR. WEEKS: I have no objection.

5 THE COURT: Now, Mr. Chesser, you know if you  
6 introduce exhibits, that may jeopardize your right  
7 to argument in the certain sequence.

8 MR. CHESSER: Yes, Your Honor, I understand  
9 that. I'll ponder that. I've been pondering it.  
10 But thank you, Your Honor.

11 THE COURT: Mr. Routzong, are you ready?

12 MR. ROUTZONG: Yes, sir.

13 MR. WEEKS: I think we have this thing pushed  
14 forward to where Mr. Routzong wanted to go. I don't  
15 know that --

16 THE COURT: We'll see. If he wants to put  
17 something else when he gets on cross, he can.

18 All right. Bring the jury in, please.

19 (The jury enters the courtroom at 3:56 PM.)

20 THE COURT: Who won the election?

21 THE FORELADY: Juror No. 21, Crystal  
22 Broadwater.

23 THE COURT: Ms. Broadwater. Okay. I tell this  
24 story to a lot of jurors. We were sitting here, I  
25 don't know, about a year ago, a lady came out and

1 told us she was the forelady, all frowned up. I  
2 said, what's wrong? She said, I went to the  
3 bathroom and when I came out, they had elected me.  
4 I hope they were more considerate of you.

5 THE FORELADY: I think I just spoke up first.  
6 I said, we got to select someone. They were like,  
7 you're it.

8 THE COURT: I thank you for doing it.

9 Okay. We're going to get back and we're going  
10 to go til about 5:00.

11 Mr. Weeks.

12 MS. YOUNG: Your Honor, we were in the process  
13 of publishing the 911 tape. And just to cut to the  
14 chase, we decided to move it up a little bit, and I  
15 think it will be another short segment.

16 THE COURT: Okay. And, of course, if anyone  
17 wants to hear the whole thing, it's available. And,  
18 likewise, Mr. Routzong, Mr. Chesser, if y'all need  
19 to play the whole thing, you have that right. Fair  
20 enough?

21 MR. CHESSER: Yes, sir.

22 THE COURT: Mr. Routzong?

23 MR. ROUTZONG: Yes, sir.

24 (911 tape resumes playing.)

25

1 DIRECT EXAMINATION

2 (Continued) ,

3 BY MR. WEEKS:

4 Q. Mr. Bayzes, the 911 tape, you've been listening  
5 to it like all of us, was that you on that tape?

6 A. Yes, sir.

7 Q. Were you upset?

8 A. Yes, sir.

9 Q. Used some ugly words?

10 A. Yes, sir.

11 Q. Do you change any of your testimony that you've  
12 given earlier?

13 A. No, sir.

14 Q. Okay. Now, I've shown you a number of pictures  
15 both on back of the board and on the thing here.

16 Did you review them all on this disc --

17 A. Yes, sir.

18 Q. -- which is marked State's Exhibit No. 45?

19 A. Yes, sir. That's where I signed it.

20 Q. You signed it.

21 MR. WEEKS: Your Honor, the State would move to  
22 introduce 45, which is a CD of all of the  
23 photographs we've been publishing.

24 THE COURT: Any objection, gentlemen?

25 MR. CHESSER: No, Your Honor.

1 MR. ROUTZONG: No, sir.

2 THE COURT: Thank you.

3 (State's Exhibit No. 45 admitted into  
4 evidence.)

5 MR. WEEKS: Your Honor, I want to have sort a  
6 demonstration with a weapon that I've checked and  
7 cleared and that sort of stuff. It's a  
8 demonstration as to the noise a weapon makes when  
9 it's being cocked.

10 THE COURT: Okay. Make double sure, check it  
11 again.

12 BY MR. WEEKS:

13 Q. Mr. Bayzes, I'm holding an AR-15.

14 A. Yes, sir.

15 Q. Is this your weapon?

16 A. Yes, sir.

17 Q. Is it the weapon you used that night, August  
18 the 9th?

19 A. Yes, sir.

20 MR. ROUTZONG: Objection, Your Honor. This is  
21 not the weapon that he testified that he heard the  
22 noise from.

23 THE COURT: Well, he hadn't gotten to where  
24 he's going with it. You can make the objection if  
25 he asks that question. But he didn't ask him yet.

1 BY MR. WEEKS:

2 Q. What is the little loop you have right here?

3 A. That's a Caribbean that hangs on -- allows it  
4 to hang up perpendicular to the wall.

5 Q. Okay. And that's what you had on -- you had it  
6 on the rack that's identified there?

7 A. Yes, sir.

8 Q. And this weapon would have a clip in it; is  
9 that correct?

10 A. 30-round magazine.

11 Q. And to load your magazine, you have to pull  
12 this back and make noise like that? . (Demonstrating)

13 A. Yes, sir.

14 Q. Are the distinctions between this noise and  
15 this weapon and an AK-47?

16 A. Yes, sir.

17 Q. And can you hear that sound a long ways?  
18 (Demonstrating)

19 A. Yes, sir.

20 Q. And could you estimate the distance you were  
21 from the people that broke into your dwelling?

22 A. Yes, sir; it was about 40 foot.

23 MR. WEEKS: Thank you, Mr. Bayzes. Please  
24 answer any questions the Defense has for you.

25 THE COURT: Mr. Chesser.

1

2

## CROSS-EXAMINATION

3

BY MR. CHESSER:

4

Q. Mr. Bayzes, prior to 2010 you lived on Crawford Avenue in Augusta?

5

6

A. Yes, sir.

7

Q. Okay. Now, is it your testimony that you sold that house?

8

9

A. I gave that house to my son.

10

Q. Looking at this, Exhibit No. 7, this is where your wife sleeps?

11

12

A. Yes, sir.

13

Q. May I ask how old your wife is?

14

A. 48 -- no, 58.

15

THE COURT: She probably likes the first answer.

16

17

Q. Now, this exhibit, State's Exhibit 14, that's a picture of the building on **Minor**

18

19

A. Yes, sir.

20

Q. Okay. Now, I'm going to show this to the jury in a second. The part back here, this second-story part, that's where you had your flat; right?

22

23

A. Yes, sir.

24

Q. Okay. And then you had an area to sleep which was below this second-story portion; correct?

25

1 A. That's correct.

2 Q. Okay. Now, between your business and your  
3 flat, you had an area where you kept your boats and  
4 other things; right?

5 A. Correct.

6 Q. Okay. And that area was not air-conditioned,  
7 right, not heated?

8 A. It is heated.

9 Q. So it's -- you heat and air-condition that  
10 area where you have your boats?

11 A. I heat it.

12 Q. Okay. You don't have any air conditioning.  
13 Okay.

14 A. (Shakes head.)

15 THE COURT: That's a no; is that correct?

16 THE WITNESS: Correct.

17 BY MR. CHESSER:

18 Q. Okay. Now, you testified that you heard a  
19 noise and you came out -- tell me if this is right:  
20 You came out to the stairs that lead down from the  
21 flat; is that right?

22 A. No, sir.

23 Q. Okay. Where did you go to before you turned  
24 around and got your AK-47?

25 A. I immediately got up out of the bed, walked

1 through a doorway into the little foyer, opened the  
2 door up. It's from here to that doorknob.

3 Q. In other words, and that -- where you walked,  
4 say, from here to that doorknob, 15 feet or so,  
5 that's the door that leads into your garage; right?

6 A. That's correct.

7 Q. Okay. And then you walked -- well, at that  
8 point you turned around and you went and you got  
9 your AK-47; right?

10 A. No.

11 Q. Okay. You tell me then.

12 A. From opening the garage door up, I heard the  
13 glass break, I shut the door, picked the AK -- I  
14 picked the AR-15 up, opened the door up, cocked it,  
15 and advanced.

16 Q. Okay. So the weapon you used was an AR-15?

17 A. That's correct.

18 Q. Okay. And you had it hanging from that door  
19 which led from your sleeping area to the garage;  
20 right?

21 A. Correct.

22 Q. Okay. Now, in your garage -- are there  
23 subdivisions in your garage or is it one large open  
24 area from the door you referenced to the  
25 refrigerator strips?

1 A. From the exterior door to the flat, there's an  
2 18-foot garage which houses my wife's MINI Cooper  
3 and my BMW, and it's a firewall. Open that door up,  
4 which is not locked, then walk 40 more feet to the  
5 other part.

6 Q. So in other words, there's a dividing wall  
7 inside your garage; right?

8 A. That's correct.

9 Q. And it's a firewall?

10 A. It is a firewall.

11 Q. And can you tell the jury what a firewall is.

12 A. It's to stop flash fires from getting in there,  
13 welding. It doesn't go all the way to the ceiling;  
14 it contains a fire up to eight-foot high.

15 Q. But the purpose of a firewall is to be durable  
16 so that it takes a certain period of time for a fire  
17 to burn through it; right?

18 A. That's correct.

19 Q. Okay. You talked about your silent alarm  
20 system; is that right?

21 A. (Nods head.)

22 Q. When did you put it in?

23 A. I believe 2010.

24 Q. Okay. And then you had three zones. You had a  
25 zone for your business; right?

1 A. For the guns, firearms, correct.

2 Q. And then you had a zone for your safe; is that  
3 what you said?

4 A. Correct.

5 Q. Okay. And then you had a zone for the flat?

6 A. That's correct.

7 Q. Okay. Now -- and you said that that silent  
8 alarm was serviced by a cable company. What was the  
9 name of it?

10 A. ADT.

11 Q. ADT. And what does ADT stand for?

12 A. I don't know.

13 Q. It's the name of a company that provides you  
14 with service with respect to your alarm; right?

15 A. That's correct.

16 Q. And what is the service they provide you?

17 A. They're the ones that installed it.

18 Q. Okay. I understood when you said that they  
19 were somehow -- well, I understood from your  
20 testimony that they were somehow notified when your  
21 alarm went off.

22 A. They were.

23 Q. So they provide a service. They are notified,  
24 they respond when you have an alarm; right?

25 A. Correct.

1 Q. And their response is that they notify law  
2 enforcement; right?

3 A. Correct.

4 Q. Okay. You -- when you walked to that door  
5 leading to the entrance to your garage, you could  
6 have turned around and called the law at that point;  
7 right?

8 A. No.

9 Q. Why not?

10 A. Didn't have a telephone.

11 Q. So in your flat, you don't have a telephone?

12 A. That's correct.

13 Q. Okay. And you don't have a mobile phone?

14 A. I do.

15 Q. Does your wife have a mobile phone?

16 A. She does.

17 Q. Okay. And you couldn't call on that mobile  
18 phone?

19 A. Correct.

20 Q. Why not?

21 A. I charge my mobile phones up inside the gun  
22 shop.

23 Q. Okay. But you understood then, the purpose of  
24 this silent alarm system is so that they  
25 automatically notify law enforcement; right?

1 A. Correct.

2 Q. Okay. Now, you took your gun and -- pardon me  
3 again. Is it an AR-15?

4 A. Yes.

5 Q. Okay. You take your AR-15 there and you go to  
6 the refrigerator strips and you discharge the entire  
7 magazine; is that right?

8 A. Correct.

9 Q. Okay. And then you testified that you went  
10 back to your flat to get another 30-cartridge  
11 magazine?

12 A. Correct.

13 MR. CHESSER: I beg the Court's indulgence.

14 I'd like to get this marked as Defendant  
15 Stewart's 1.

16 (Defendant Stewart's Exhibit No. 1 marked for  
17 identification.)

18 BY MR. CHESSER:

19 Q. Okay. I'll show you what's been marked as  
20 Defendant Stewart's No. 1 and ask if you recognize  
21 that.

22 A. Looks like the freezer flaps.

23 Q. Okay.

24 THE COURT: Looks like what?

25 THE WITNESS: It looks like the freezer flaps

1 on the doorway.

2 MR. CHESSER: I'd ask to move Defendant  
3 Stewart's No. 1 into evidence.

4 THE COURT: Any objection?

5 MR. WEEKS: No, sir.

6 (Defendant Stewart's Exhibit No. 1 admitted  
7 into evidence.)

8 BY MR. CHESSER:

9 Q. Now, this vantage point on the freezer flaps is  
10 from your garage, is it not?

11 A. I don't know. I can't tell.

12 Q. In the right of this picture there's unfinished  
13 plywood; right?

14 A. There's a piece of plywood there.

15 Q. Okay. And that would be in the inside -- that  
16 would be on the -- you have your business on one  
17 side and you have an unfinished garage on the other  
18 side; right?

19 A. If this picture is -- well, it's not showing  
20 the rest of it. In other words, you really can't  
21 tell if it's on the inside of the building or the  
22 outside, I can't.

23 Q. Let me ask you this: Do you recognize this  
24 cartridge on -- about one foot on this side of the  
25 refrigerator strips?

1 A. It looks like there is a cartridge there.

2 Q. Okay. And we've got a picture of the side  
3 of -- of the refrigerator strips on the side of your  
4 business that shows about 25 cartridge shells;  
5 right?

6 A. Right.

7 Q. My point is this: Some of your cartridge  
8 shells went on the side of your unfinished garage  
9 from the refrigerator strips; right?

10 A. I don't know.

11 Q. Okay. You don't know.

12 If this picture shows a cartridge on the  
13 inside, on the other side of your refrigerator  
14 strips, you would admit that, wouldn't you?

15 A. Yeah.

16 Q. Okay. In order for a shell, a cartridge, to  
17 get on the inside of these refrigerator strips, you  
18 have to be standing either in -- in the middle of  
19 those refrigerator strips when you're firing; right?

20 A. I was in the middle of them.

21 Q. And you testified that there's no light,  
22 Mr. Bayzes; right?

23 A. Correct.

24 Q. You didn't make any -- you didn't try to make  
25 any noise when you were going there to the

1 refrigerator strips, did you, Mr. Bayzes?

2 A. There's no light in the gun shop. Behind me  
3 there is a motion detector light that comes on; that  
4 when you walk in where my boat is, when you walk  
5 into the firewall, there's a light that comes on  
6 from a motion detector.

7 Q. The fact is that you stood there without going  
8 fully into the business and you discharged the 30  
9 cartridges in your clip; right?

10 A. I was in the doorway.

11 MR. CHESSER: Can we cue up the 911 tape,  
12 please?

13 BY MR. CHESSER:

14 Q. Mr. Bayzes, I'm going to go over with you some  
15 of your 911 tape. I'm going to stop this at various  
16 times and just ask you tell me exactly what's  
17 happening.

18 (911 tape played.)

19 BY MR. CHESSER:

20 Q. Now, at that point, Mr. Bayzes, that's you  
21 saying, are you hurt, are you hurt; right?

22 A. That's correct.

23 Q. And who were you talking to?

24 A. I was talking to the gentleman on the ground.

25 Q. All right. Craven Goodwin?

1 A. I don't know his name.

2 Q. And do you know how many times you hit him when  
3 you fired at him?

4 A. No, sir, couldn't tell.

5 Q. Okay. Would you disagree that you hit him with  
6 five or six rounds, Mr. Bayzes?

7 A. I personally don't know. You cannot tell.

8 Q. What you did know though, Mr. Bayzes, was --  
9 you knew he was dying right there on your shop  
10 floor, didn't you?

11 A. Not really.

12 Q. Mr. Bayzes, when you're sitting there saying,  
13 are you hurt, are you hurt, isn't it true you were  
14 making fun of Craven Goodwin dying on your shop  
15 floor?

16 A. You're wrong.

17 Q. You listen to it, Mr. Bayzes.

18 (911 tape played.)

19 THE COURT: Just a second, Mr. Chesser.

20 You need something, sir?

21 JUROR: I need a pencil.

22 THE COURT: All right. Hold on just a moment  
23 and we'll get that for you.

24 All right. Mr. Chesser, you may proceed.

25 (911 tape resumed.)

1

2 BY MR. CHESSER:

3 Q. So your testimony is that you're asking him how  
4 he's doing?

5 A. That's correct.

6 (911 tape resumed.)

7 Q. Now, this part that comes up where you scream  
8 and there's a beep, I want you to listen as well as  
9 you can and tell the jury what it is you say.

10 (911 tape resumed.)

11 Did you hear that, Mr. Bayzes?

12 A. I just heard are you hurt.

13 Q. Okay.

14 MR. CHESSER: May I ask that this witness step  
15 down, Your Honor, so he can hear better?

16 THE COURT: Can you hear it all right?

17 THE WITNESS: Yes, sir. I can hear it good.

18 THE COURT: He can hear it.

19 BY MR. CHESSER:

20 Q. Mr. Bayzes, isn't what you asked there is,  
21 where are the rest of them niggers? Isn't that what  
22 you asked?

23 A. I don't think so.

24 (911 tape resumed.)

25 Q. Now, that was you saying Goddamn, shoot him;

1 right, Mr. Bayzes?

2 A. That's correct.

3 Q. Now, Mr. Bayzes, back in 2006, you had some  
4 people leasing some space from you out there on Minor  
5 and they had a business called North  
6 Augusta Rock and Turf. Do you remember that?

7 A. I've never had nobody leasing nothing from me  
8 at Minor

9 Q. You know the name Stephen Taylor and Tony  
10 Mercer and Greg Kelly?

11 A. Yes, sir. I'm aware of them.

12 Q. Okay. And they had a business there at your --  
13 at that location where you currently occupy at Minor  
14 right?

15 A. That's correct.

16 Q. Okay. And, in fact, they had a pine straw  
17 business; right?

18 A. That's correct.

19 Q. And in September -- middle of September of  
20 2006, they photograph you stealing pine straw from  
21 their business, didn't they?

22 A. No, they did not.

23 Q. Let me show you this picture and --

24 A. I've seen the picture.

25 MR. WEEKS: Judge, can we have a sidebar?

1 THE COURT: Yeah.

2 (Sidebar conference.)

3 THE COURT: All right. Madam Forelady, ladies  
4 and gentlemen, y'all step out just a second, please.  
5 I need to take up something with the lawyers. Don't  
6 discuss the case. Leave your notes right there.

7 (The jury exits the courtroom at 4:26 PM.)

8 THE COURT: All right. Mr. Chessser, tell me  
9 what your -- what were you going to ask him, that he  
10 was stealing pine straw?

11 MR. CHESSER: Yes, sir, exactly.

12 THE COURT: Hold on. Was he convicted of it?

13 MR. CHESSER: No, sir.

14 THE COURT: And how do you think that is  
15 relevant to this trial?

16 MR. CHESSER: Relevant because it reflects on  
17 his credibility, Your Honor.

18 THE COURT: Well, give me the -- give me case  
19 law, rules, whatever you need to --

20 MR. CHESSER: All right. 608 (b): Specific  
21 instances of --

22 THE COURT: 608 (b)?

23 MR. CHESSER: Yes, Your Honor. It's right --  
24 609 deals with convictions and --

25 THE COURT: I know what 609 is.

1 MR. CHESSER: Yes, sir.

2 THE COURT: All right. 608 (b): Specific  
3 instances of the conduct of a witness for the  
4 purpose of attacking or supporting his credibility  
5 other than the conviction as supported in Rule 609  
6 may not be proved by extrinsic evidence. They may,  
7 however, in the discretion of the Court, if  
8 probative of truthfulness or untruthfulness, be  
9 inquired to on cross-examination of the witness  
10 concerning the witness' character, truthfulness or  
11 untruthfulness or, two, concerning the character of  
12 truthfulness or untruthfulness of another witness as  
13 to such character of the witness being  
14 cross-examined of his testimony. .

15 Well, how is -- what he did to these people who  
16 allegedly broke into his house, how is that relevant  
17 to whether or not they have burglarized his house?

18 MR. CHESSER: He testified, so his credibility  
19 is at issue. This material, under 608 (b), would be  
20 introduced because it goes to his credibility. And,  
21 Your Honor, this idea here is that -- he can deny it  
22 and --

23 THE COURT: Idea of what?

24 MR. CHESSER: Of other acts that are not the  
25 subject of a conviction. I mean, it's really the

1 same principle as what we talked about earlier with  
2 respect to this incident in December of 2013,  
3 something that, in that case, the Court ruled it  
4 didn't have an effect on his credibility. In this  
5 case, it's stealing. And I submit that I should be  
6 able to inquire him about it.

7 THE COURT: Stealing?

8 MR. CHESSER: Yes, sir; stealing pine straw.  
9 That's what I'm asking him about.

10 THE COURT: But he's not on trial for killing  
11 anybody or attempted murder or doing anything.

12 MR. CHESSER: But his credibility is an issue.

13 THE COURT: As to what?

14 MR. CHESSER: As to everything he's testified  
15 about since he took the stand up to this point.

16 THE COURT: Well, where is the fact that the  
17 vehicle was -- busted down the walls and the stuff  
18 was taken out and these people were in there? How  
19 is that being proven by his stealing pine straw and  
20 not proven by his stealing pine straw? I --

21 MR. CHESSER: I'd just say this: Any time a  
22 witness takes the stand, their credibility is  
23 relevant in evidence. And 608 (b) provides that  
24 they can be impeached by asking about other conduct,  
25 not the subject of a conviction, that is relevant to

1 their credibility. It reflects on it. And stealing  
2 reflects on his credibility.

3 THE COURT: . Mr. Weeks?

4 MR. WEEKS: He's not entitled -- I understand  
5 what the rule says. He's not entitled to a fishing  
6 expedition. If he's got some proof or some  
7 knowledge of some allegation that Mr. Bayzes stole  
8 some pine straw off his own property, I'd like to  
9 see it. But just a fishing expedition or some  
10 affidavit or something from somebody that's not  
11 here, I don't know what to say to the objection.  
12 The Edgefield Daily, is that a witness?

13 THE COURT: All right. Mr. Chesser, ask the  
14 question, proffer.

15 EXAMINATION

16 BY MR. CHESSER:

17 Q. Mr. Bayzes, isn't it true that in September of  
18 2006 that you stole bales of bine straw from Stephen  
19 Taylor, Tony Mercer and Greg Kelly?

20 A. I did not.

21 THE COURT: Can you disprove that?

22 MR. CHESSER: I would ask him --

23 BY MR. CHESSER:

24 Q. Isn't this a photo of you stealing that pine  
25 straw that they took with their camera?

1 A. I never stole the pine straw.

2 Q. What did you do with the pine straw?

3 A. I picked up two bales of pine straw, they took  
4 a picture.

5 Q. And you were on their property? ,

6 A. No.

7 Q. You were leasing the property to them?

8 A. I was not leasing the property to them.

9 Q. It was their pine straw; right?

10 A. It was their pine straw.

11 Q. And what are you doing picking up their pine  
12 straw at night?

13 A. We had a sign made. My son leased the -- my  
14 son leased the property to North Augusta Rock and  
15 Turf, my son and wife. We had a sign made: North  
16 Augusta Rock and Turf pine straw \$3.25, The Yard,  
17 Shop pine straw, \$3. I had eight bales of my pine  
18 straw up on their side of it. I was going to take  
19 their pine straw on their property and put it on  
20 their side of the sign. It wasn't stealing.

21 MR. CHESSER: That's the extent of my proffer,  
22 Your Honor.

23 THE COURT: All right. Mr. Weeks, anything you  
24 want to add?

25 MR. WEEKS: Your Honor, he denied it. He

1 doesn't have any way of proving that he stole  
2 something. Just leveling the accusation that he  
3 stole pine straw based on some newspaper article  
4 is --

5 THE COURT: And the rule says you can't prove  
6 it by extrinsic evidence. I'm going to sustain the  
7 objection.

8 Anything else to protect you on the record,  
9 Mr. Chesser?

10 MR. CHESSER: No, sir.

11 THE COURT: All right. Let's bring the jury  
12 back in.

13 (Defendant Stewart's Exhibit No. 2 marked for  
14 identification.)

15 (The jury enters the courtroom at 4:34 PM.)

16 CROSS-EXAMINATION

17 (Continued)

18 BY MR. CHESSER:

19 Q. Let me show you what's been marked as Defendant  
20 Stewart's No. 2, Mr. Bayzes. Do you recognize that?

21 A. It's the front of our store.

22 Q. Okay. And again, this shows, at the back, this  
23 two-story -- that's where your flat is; right?

24 A. That's part of the flat.

25 Q. And the other part is directly underneath it;

1 right?

2 A. It's as long as the other side too.

3 Q. Okay. And finally, Mr. Bayzes, let me ask you  
4 again, the voice on the 911 tape, that's your voice;  
5 right?

6 A. Yes, sir.

7 Q. All right.

8 MR. CHESSER: That's all I have. Thank you.

9 THE COURT: Mr. Routzong?

10 CROSS-EXAMINATION

11 BY MR. ROUTZONG:

12 Q. Good afternoon, sir. It was your testimony  
13 today that at the time of this incident, you were  
14 asleep.

15 A. That's correct.

16 Q. And your testimony today was -- I believe you  
17 said that you were awakened by the building  
18 imploding.

19 A. That's correct.

20 Q. And you know that you're under oath today?

21 A. That's correct.

22 Q. And you're being as accurate as you can?

23 A. Yes, sir.

24 Q. And you did the same thing when you talked to  
25 the police?

1 A. Yes, sir.

2 Q. Everything you told them was as accurate as you  
3 could make it?

4 A. Yes, sir.

5 Q. Mr. Bayzes, I'm kind of wondering why it is  
6 that you told the police in your statement to them,  
7 your written statement, that you were awoken by the  
8 alarm.

9 A. Confused.

10 Q. You'd agree with me that that statement is  
11 closer in terms of time than your testimony today?

12 A. Sir?

13 Q. You wrote this statement within hours of this  
14 event?

15 A. Since five minutes of the event.

16 Q. This statement you wrote?

17 A. Yes, sir.

18 Q. So you would say that's the most accurate  
19 account?

20 A. No, sir.

21 Q. Your testimony is that when you were awakened,  
22 you came down and you heard noises, you grabbed your  
23 gun, and you peered through those plastic flaps.  
24 What do you call them; freezer flaps?

25 A. Freezer flaps.

1 Q. And you remember when you gave this account to  
2 the police, on your audiotape you said you couldn't  
3 see anything because it was all dark?

4 A. The only thing that you could see was just  
5 silhouettes, dark silhouettes.

6 Q. And that's what you said on your audiotape,  
7 silhouettes. But your testimony today is that there  
8 was light in there because of a motion detector.

9 A. No.

10 Q. There wasn't any light?

11 A. The light behind me.

12 Q. The light behind you?

13 A. Behind that lit me up. There was no light  
14 inside of the gun store part of the business at all,  
15 my home at all. No light.

16 Q. Well, when you came through those freezer  
17 flaps, your testimony today is that you heard him  
18 say or someone say, kill that motherfucker.

19 A. That's correct.

20 Q. And you told the police the same thing.

21 A. That's correct.

22 Q. And it's on the 911 call.

23 A. Correct.

24 Q. But you told the police -- well, let me back up  
25 a little bit. This is something -- this is

1 something very traumatic. I mean, you're coming  
2 into your place of business and you're looking  
3 through there and you hear somebody say, kill that  
4 motherfucker. That's burned into your brain, isn't  
5 it?

6 A. Yes, sir.

7 Q. There's no mistake that's what you said?

8 A. Yes, sir.

9 Q. You'll never forget it?

10 A. Never will.

11 Q. Why did you tell the police that he said, shoot  
12 the motherfucker?

13 A. Confused.

14 Q. But you don't deny that you told the police you  
15 said shoot the motherfucker, that's what you heard?

16 A. I mean, I was confused. I mean, it's just like  
17 dazed and confused. You play it over and over and  
18 over in your head. It's just like I recall when I  
19 walked through the panels, they said, there's a man,  
20 there's a man, there's a man. Then I heard, kill  
21 the motherfucker, and heard that gun cock.

22 Q. You didn't put any of that in your statement.

23 A. No, sir, I didn't. It happened so fast.

24 Q. Well, there was only one -- your testimony is  
25 you heard only one sound of a -- and your testimony

1 was an AK-47, maybe the bolt going -- or was it  
2 being pulled back? You can't tell the difference or  
3 what's your testimony on that?

4 A. That gun was charged, pulled back and released.

5 Q. So the bolt's forward?

6 A. Yes, sir. Somebody cocked it, bolt it back and  
7 released that bolt.

8 Q. Was there a lot of noise?

9 A. No, sir.

10 Q. It's possible though what you really heard or  
11 the part that you didn't hear was, I'm going to  
12 shoot that motherfucker?

13 A. No, sir.

14 Q. There's only one charging handle being pulled  
15 back, the bolt is being pulled back and sent forward  
16 on one gun; that's all you heard?

17 A. In that room, yes, sir.

18 Q. And you shot the person that you heard say,  
19 shoot the motherfucker?

20 A. I don't know.

21 Q. Did you shoot in that direction?

22 A. I shot in that direction.

23 Q. And there was only one person standing over  
24 there?

25 A. There were three.

1 Q. There were three people altogether standing  
2 over there?

3 A. There were three people in that room.

4 Q. I didn't ask that question. I said -- my  
5 specific question is: You shot -- the first person  
6 that you shot was the one you're saying said, kill  
7 that motherfucker or shoot that motherfucker?

8 A. I don't know.

9 Q. You could see silhouettes?

10 A. Correct.

11 Q. So the first shots you fired, you saw the  
12 person go down on the ground?

13 A. No, sir.

14 Q. The first direction you fired is consistent  
15 with where Mr. Craven Goodwin, the man who's  
16 deceased, was found?

17 A. No, sir.

18 Q. Just to clear up something, you were talking  
19 about a couple other receiver groups; right?

20 A. There were two upper receivers stolen.

21 Q. And that means there's a barrel and there's a  
22 bolt and a bolt housing group and a charging handle  
23 in there; right?

24 A. Yes, sir.

25 Q. And your testimony was you take that and you

1 put it on an AR-15 lower and that makes it a machine  
2 gun. That was your testimony?

3 A. Those uppers are machine gun uppers. If you  
4 put it to the AR-15 machine gun receiver, you have a  
5 machine gun.

6 Q. That's not what you testified to. What you  
7 testified to was that if you take that and put it on  
8 an AR-15, you have a machine gun. That's not true?

9 A. That's not true. It would work on an AR-15,  
10 but it would shoot in a semiautomatic mode only.

11 Q. Bu that's not what makes it a machine gun. In  
12 fact, what makes it a machine gun is the lower  
13 receiver.

14 A. The lower and the bottom have to match. You  
15 have to have a trigger group -- a machine gun  
16 trigger group, but you also have to have a machine  
17 gun bolt and machine gun slides to make it a machine  
18 gun. It's a different bolt assembly.

19 MR. ROUTZONG: I beg your indulgence, Your  
20 Honor.

21 BY MR. ROUTZONG:

22 Q. How did you make that phone call? That was on  
23 a mobile phone?

24 A. No, sir; hard line.

25 Q. Your mobile phone is with you all the time?

1 A. No, sir.

2 Q. It was back in your sleeping area?

3 A. No, sir.

4 Q. Just one more question, Mr. Bayzes. In your  
5 written statement, you didn't put anything in there  
6 about there's a man.

7 A. That's correct.

8 MR. ROUTZONG: I don't have anything else, Your  
9 Honor.

10 THE COURT: Mr. Weeks, anything on redirect?

11 MS. YOUNG: Just briefly, Your Honor.

12 THE COURT: Yes, sir.

13 (State's Exhibit No. 51 marked for  
14 identification.)

15 REDIRECT EXAMINATION

16 BY MR. WEEKS:

17 Q. Stephen, this written statement they keep  
18 talking about, have you reviewed it?

19 A. Yes, sir.

20 Q. I'll hand you what's marked State's Exhibit 51.  
21 Is this the statement you filled out for them that  
22 night?

23 A. Yes, sir.

24 Q. At 4:20 a.m.?

25 A. Yes, sir.

1 Q. And other than the date being wrong -- it says  
2 4/8 and down at the bottom it says 4/8. It wasn't  
3 on 4/8 or 8/8.

4 A. It was 9/8.

5 Q. Okay. And the statement is five sentences.

6 A. Yes, sir.

7 Q. Is that everything that happened that morning?

8 A. No, sir.

9 Q. Okay. And at this time, were you composed?  
10 Were you --

11 A. I mean, just the recollection of it coming  
12 back, you know, it's like little parts of the memory  
13 keeps coming back to you.

14 Q. Okay. This part at the top is written by a  
15 deputy somebody? It doesn't look like the same  
16 handwriting, so I'm asking.

17 A. Yes, sir. That's not my writing.

18 Q. Okay. And the signature is yours; right?

19 A. Yes, sir.

20 Q. And the five little lines there --

21 A. Mine.

22 Q. -- is your written statement they keep beating  
23 you up with?

24 A. Yes, sir.

25 MS. YOUNG: Your Honor, we move to introduce

1 this, State's Exhibit No. 51.

2 THE COURT: Any objection?

3 MR. CHESSER: I object, Your Honor.

4 THE COURT: And the reason?

5 MR. CHESSER: What I would submit, Your Honor,  
6 is that this constitutes a written form of oral  
7 testimony. He's testified to the substance of it  
8 and it cannot come in to go back to the jury under  
9 the continuing witness rule.

10 THE COURT: Well, statement wasn't even hardly  
11 mentioned in direct and Mr. Routzong went all over  
12 it, so it's proffered on redirect and I'm going to  
13 allow it. Y'all opened the door for it.

14 MR. ROUTZONG: Your Honor, I join that  
15 objection.

16 THE COURT: You're the one who opened the door  
17 for it, Mr. Routzong. Overruled.

18 (State's Exhibit No. 51 admitted into  
19 evidence.)

20 BY MR. WEEKS:

21 Q. And I believe you said earlier on direct that  
22 you made that -- you filled that out back in your  
23 kitchen area or living room?

24 A. No, sir. I filled it out on the hood of the  
25 policeman's automobile.

1 Q. Thank you. Answer any questions --

2 THE COURT: Nope. That's it.

3 All right. You may step down.

4 THE WITNESS: Thank you, Your Honor.

5 THE COURT: You got a 12-minute witness --

6 MS. YOUNG: I'll do my best, Your Honor.

7 THE COURT: -- or do y'all want to stop for the  
8 day?

9 Madam Forelady, what's your pleasure? You want  
10 to go 12 more minutes or do you want to stop?

11 THE FOREWOMAN: Twelve more minutes.

12 THE COURT: All right.

13 Call your next witness.

14 MS. YOUNG: State calls David Grubbs.

15 DAVID GRUBBS

16 being first duly sworn, testified as follows:

17 THE WITNESS: I do.

18 THE CLERK: Have a seat in the witness box.

19 State your full name for the Court, spelling your  
20 last.

21 THE WITNESS: My name is David William Grubbs,  
22 G-R-U-B-B-S.

23 DIRECT EXAMINATION

24 BY MS. YOUNG:

25 Q. Mr. Grubbs, where are you employed currently?

1 A. I work for the State Law Enforcement Division  
2 SLED.

3 Q. All right. And were you previously employed at  
4 one time with Aiken County Sheriff's Department?

5 A. Yes, ma'am.

6 Q. And when was that?

7 A. From 2008 until November of last year, 2013.

8 Q. So you were employed during the time the  
9 incident at The Gun Store happened?

10 A. Yes, ma'am.

11 Q. Okay. And at the time you were employed with  
12 Aiken County Sheriff's Office, what was your  
13 position there?

14 A. I was the deputy in the jail, the detention  
15 center, for a year, from 2008 to 2009, and I was a  
16 deputy on uniform road patrol from 2009 to 2013.

17 Q. So what are some of the duties of a road patrol  
18 deputy, generally?

19 A. Calls for service is our major one, respond to  
20 the public's needs, we also do patrol checks on  
21 properties when we're not tied up for calls for  
22 service, things of that nature, handling domestics,  
23 disturbances, burglaries, assaults.

24 Q. Let me draw your attention to the morning hours  
25 of August 9th, 2012. At that time were you assigned

1 to patrol in a specific area of the county?

2 A. Yes. It's referred to as Zone 1 when we're  
3 working, it's the North Augusta area down to  
4 Jefferson Davis Highway, is about the cutoff, and  
5 then Ascauga Lake Road down towards Graniteville.

6 Q. So you were on patrol that night?

7 A. Yes, ma'am.

8 Q. Tell us how you got involved in this particular  
9 case.

10 A. I was on Belvedere-Clearwater Road finishing up  
11 stuff for the night. It was late. We worked from  
12 6:00 p.m. to 6:00 a.m. There's a little gravel road  
13 that goes down towards 520, and I was parked right  
14 back there, just finishing up my paperwork and stuff  
15 for the shift. We got what we refer to as a tone  
16 call on the radio. Four loud tones will go out, and  
17 it's a sign that a big call is going to go, s all  
18 available units need to respond to it.

19 It went out for **Minor** which was  
20 less than a mile from where I was sitting. I  
21 immediately put my car in drive. I didn't need to  
22 turn my lights and my siren off because I didn't  
23 want to scare off any potential subjects as I was  
24 approaching the scene. I got on the radio and  
25 called to try to see where my next closest unit was,

1           which was several minutes out. So I knew I couldn't  
2           wait for backup, I had to go on scene. As I rounded  
3           the corner, taking a right from Belvedere-Clearwater  
4           Road onto Highway 25, I could see the structure from  
5           there, and there was a gaping hole in the side of  
6           the structure, there was insulation all over the  
7           road. And I saw an elderly individual with no shirt  
8           on, just pants, holding an AR-15-style assault rifle  
9           out near the road.

10                   I pulled my car in sideways, kind of blocking  
11           the street to give me some sort of cover, and I  
12           ordered him to put the weapon down at my own  
13           gunpoint. He was shouting, he's over there, he's  
14           over there, pointing towards the hole. I kind of  
15           said, you know, I don't care who's over there, put  
16           the gun down. He put the gun down. Then I looked  
17           and I saw a younger black male kind of rolling back  
18           and forth on the ground outside of the structure.

19           Q.    Let me just stop you for just a second. Okay?

20           A.    Yes, ma'am.

21                   MS. YOUNG: Your Honor, may I approach him?

22                   THE COURT: Yes, ma'am.

23           BY MS. YOUNG:

24           Q.    Okay. Mr. Grubbs, I'm going show you what's  
25           already been entered into evidence as State's

1 Exhibit 11, 12 and 13, and ask if you can identify  
2 those.

3 A. Yes, ma'am. That's Minor That's  
4 the hole I observed when I pulled up towards the  
5 scene.

6 Q. That you testified was a huge gaping hole?

7 A. Yes, ma'am.

8 Q. And that's several shots of that hole?

9 A. Yes, ma'am.

10 Q. Tell us what you did when you think you got up  
11 to where you observed an individual lying on the  
12 ground.

13 A. Yes. Once my initial contact had put the  
14 weapon down, I made contact with my subject. He was  
15 lying on his side with his hands stuck between his  
16 legs, kind of rolling back and forth, which was a  
17 major concern for me, because when the call went out  
18 on the radio, it state that shots were fired.

19 I ordered him numerous times to show me his  
20 hands. At that point he took one arm -- I can't  
21 remember if it was the right or the left -- stuck it  
22 up in the air and then put it back down.

23 Around this time, a North Augusta public safety  
24 officer, which this was right outside their city  
25 limits jurisdiction, arrived to help me. He came

1 up, covered the individual where I got on top of him  
2 and secured him with handcuffs.

3 Q. Mr. Grubbs --

4 A. Yes?

5 Q. -- just to clarify for those of us who don't  
6 always speak law enforcement --

7 A. Yes.

8 Q. -- when you say you covered the individual,  
9 what does that mean?

10 A. Yes, ma'am. He pulled out his issued sidearm  
11 and held it on the individual where I could put my  
12 weapon away so I could go hands-on safely.

13 Q. And that's a safety procedure; correct?

14 A. Yes.

15 Q. And then what happened?

16 A. I secured the individual. I noticed that he  
17 had, what appeared to me, multiple gunshot wounds.  
18 I jumped on the radio and called for EMS to be sent  
19 on scene. The ambulance station is almost across  
20 the street from the location, so they were there in  
21 what felt like seconds.

22 Q. Did you observe -- you said that you observed  
23 several gunshot wounds.

24 A. Yes.

25 Q. Was he visibly bleeding at the time?

1 A. Yes.

2 Q. Do you recall anything specific about his  
3 clothing or appearance?

4 A. It was dark. He had a hoodie on, he had gloves  
5 on, dark pants, I believe he had a dark kind of  
6 beanie cap that was on.

7 Q. At the time you secured him, you said he had on  
8 a dark hoodie. Was there anything else that  
9 happened? When you secured him, does that mean you  
10 put him in handcuffs?

11 A. Yes. And I searched him as well.

12 Q. Let me ask you this: Does that procedure, even  
13 if somebody has an injury --

14 A. Yes.

15 Q. -- you put them in handcuffs?

16 A. Absolutely.

17 Q. You said you searched him.

18 A. I searched him and I found a small sledgehammer  
19 about this big that was tucked into the front hoodie  
20 compartment of his [demonstrating] --

21 Q. Pocket?

22 A. Yes, ma'am.

23 Q. Mr. Grubbs, I'm showing you what's been marked  
24 for identification purposes as State's Exhibit  
25 No. 42 and ask if you can identify that.

1 A. Yes, ma'am. That's the hammer I removed from  
2 his person.

3 Q. And that picture fairly and accurately depicts  
4 it?

5 A. Yes, ma'am.

6 MS. YOUNG: Your Honor, at this time we'd move  
7 State's 42 into evidence.

8 THE COURT: Any objections?

9 MR. CHESSER: No, sir.

10 MR. ROUTZONG: No, sir.

11 (State's Exhibit No. 42 admitted into  
12 evidence.)

13 (State's Exhibit No. 43 marked for  
14 identification.)

15 BY MS. YOUNG:

16 Q. Mr. Grubbs, I'm approaching you with a bag.  
17 Inside is an item that's been marked for  
18 identification purposes as State's Exhibit No. 43.  
19 I'm asking you to look and, without taking it out,  
20 can you recognize that?

21 A. Yes, ma'am. That's the hammer.

22 Q. That's the same hammer you saw that night?

23 A. Yes, ma'am.

24 MS. YOUNG: Your Honor, at this time, we'd move  
25 State's Exhibit No. 43 into evidence.

1 THE COURT: Any objection?

2 MR. CHESSER: No, sir.

3 MR. ROUTZONG: No, sir.

4 (State's Exhibit No. 43 admitted into  
5 evidence.)

6 BY MS. YOUNG:

7 Q. Could you fairly describe that as a  
8 sledgehammer-type hammer?

9 A. Yes, ma'am.

10 Q. Other than the big gaping hole in the side of  
11 the building, what other observations did you make  
12 about the scene itself?

13 A. It was just such a mess.

14 Q. Let me be just a little more direct: Were  
15 there various items, building materials and such as  
16 that, that were in disarray because of this?

17 A. Yes, absolutely.

18 Q. All right. Did you see any of those outside  
19 anywhere?

20 A. Yes. There was insulation in the roadway,  
21 there was, you know, pieces of the walls, what  
22 looked like to be parts of the interior strewn about  
23 outside.

24 Q. Mr. Grubbs, this is State's Exhibit No. 41.  
25 I'm going to ask if you recognize that.

1 A. Yes, ma'am. That's insulation in the roadway.

2 Q. Is that a fair and accurate picture of that?

3 A. Yes, ma'am.

4 MS. YOUNG: Your Honor, at this time we move  
5 State's 41 into evidence.

6 MR. CHESSER: No objection.

7 MR. ROUTZONG: No objection.

8 THE COURT: Without objection.

9 (State's Exhibit No. 41 admitted into  
10 evidence.)

11 BY MS. YOUNG:

12 Q. Mr. Grubbs, are you able to describe where that  
13 insulation is in relation to the gun store?

14 A. Yes. If you pulled out from where the gun  
15 store was facing the roadway and took a left, it's  
16 in the lane that they would turn into, that  
17 left-hand lane going towards I-20.

18 Q. So it is going towards the interstate?

19 A. Yes.

20 Q. I think you referred earlier -- and I hope you  
21 didn't get offended because he's in here. But you  
22 described an elderly man on the scene.

23 A. Yes, ma'am.

24 Q. Are you referring to Mr. Bayzes?

25 A. I am.

1 Q. Okay. This gentleman right here [indicating]?

2 A. Yes, ma'am.

3 Q. And that's the one that had the AR-15?

4 A. Yes, ma'am.

5 Q. Did you ever see any other individuals besides  
6 law enforcement, besides Mr. Bayzes, and the man on  
7 the ground?

8 A. No, ma'am.

9 Q. Did you ever see Mr. Bayzes' wife?

10 A. Oh, yes, I did. She -- I believe I saw her  
11 after I secured the individual and EMS started  
12 packaging him up for transport.

13 Q. And this would be shortly after you responded?

14 A. Yes.

15 Q. Mr. Grubbs, what sort of -- I think you  
16 described it earlier. But just in case I missed it,  
17 what sort of weapon did you pull out in terms of  
18 when you approached the scene?

19 A. I pulled out my AR-15.

20 Q. Same type of weapon that Mr. Bayzes had?

21 A. Yes. It looks a little different, but it's the  
22 same style weapon.

23 Q. And at some point did you do anything with  
24 Mr. Bayzes' gun?

25 A. Yes. I secured his weapon; I removed the round

1 from the chamber and stuck it in the trunk of my  
2 patrol car.

3 Q. Then you closed that?

4 A. Yes.

5 Q. And that was for safety or evidence?

6 A. Yes, ma'am.

7 Q. One more question: Did you observe EMS working  
8 on the individual on the ground?

9 A. I did.

10 Q. And what does EMS do in terms of -- generally  
11 describe what you observed them doing to work on an  
12 individual.

13 A. They began checking on his wounds, they began  
14 to cut off his clothing to see the extent as they  
15 were loading him into the back of the ambulance,  
16 initiating an IV of some type of fluid, checking his  
17 pulse, respiration.

18 Q. You said they were cutting off his clothing?

19 A. Yes.

20 Q. Other than the hammer, did you observe any  
21 weapons or implements on that individual?

22 A. No.

23 Q. Let me ask you this: Did you observe -- you  
24 were the first responding officer. Did have an  
25 opportunity to speak with Mr. Bayzes?

1 A. Yes.

2 Q. Describe his condition at the time.

3 A. Overwhelmed.

4 Q. Emotional?

5 A. Yes.

6 Q. Upset?

7 A. Yes.

8 Q. Did you ever see him interacting with the  
9 individual on the ground?

10 A. No.

11 Q. Did you see him making fun of the individual as  
12 he was lying there on the ground?

13 A. No, ma'am.

14 MS. YOUNG: No further questions.

15 THE COURT: Mr. Chesser?

16 MR. CHESSER: No questions, Your Honor.

17 THE COURT: Mr. Routzong?

18 CROSS-EXAMINATION

19 BY MR. ROUTZONG:

20 Q. Mr. Grubbs, that hole that was in the side of  
21 the building, that just pretty much corresponded to  
22 the width of the van?

23 A. I'm sorry?

24 Q. The hole that was in the side of that  
25 building --

1 A. Yes, sir.

2 Q. -- it corresponded to the width of that van?

3 A. I did not see the van.

4 Q. Was it about -- do you know how big a van is?

5 A. Yes, sir.

6 Q. Was it about that same size?

7 A. I -- I guess.

8 THE COURT: You don't have -- if you know, you  
9 know; if you don't, you don't. Do you know?

10 THE WITNESS: No, sir.

11 MR. ROUTZONG: That's it, Your Honor.

12 MS. YOUNG: May he be released, Your Honor?

13 THE COURT: Yes, he may.

14 THE WITNESS: Thank you, sir.

15 THE COURT: All right. Madam forelady, ladies  
16 and gentlemen, a couple of things: I have two  
17 matters at 9:30 in the morning; a bond hearing and  
18 something else. So I don't want y'all sitting there  
19 waiting on me. Normally we start at 9:30, but I'll  
20 be working. I don't want you waiting on me.

21 So 10:00, is that fair enough? I can have you  
22 some refreshments in the morning. Choices are  
23 sausage biscuits and coffee or fruit or donuts. You  
24 get three choices, but not all three, just one of  
25 the three. Madam forelady?

1 MADAM FORELADY: I say fruit.

2 THE COURT: Fruit it is. Y'all have been  
3 wonderful. Y'all have paid great attention this  
4 afternoon. We'll have you some fruit here in the  
5 morning and some coffee. If you want to eat that,  
6 please get here early because you can't bring it  
7 into the courtroom. We'll start right at 10:00.  
8 We'll try to provide lunch for you tomorrow. I ask  
9 you please don't discuss the case with anyone, don't  
10 let anyone discuss it with you. Please don't go  
11 back and try to research what happened in the  
12 newspaper or the Internet or Google or Twitter or  
13 Facebook or whatever else.

14 So anyway, we just want to try this case based  
15 on what we hear in the courtroom, so don't do any  
16 independent research. I look forward to seeing you  
17 in the morning. Everyone else, please remain  
18 seated. Y'all are free to go. Leave your notepads  
19 in your chair. We will collect them for the evening  
20 and put them out in the morning.

21 (The jury exits the courtroom at 5:05 PM.)

22 THE COURT: Mr. Weeks, anything for the record  
23 before we break for the evening?

24 MR. WEEKS: No, Your Honor.

25 THE COURT: Mr. Chesser?

1 MR. CHESSER: No, Your Honor.

2 THE COURT: Mr. Routzong?

3 MR. ROUTZONG: No, Your Honor.

4 THE COURT: All right. We'll stand at ease.

5 We'll start right at 10:00 in the morning.

6 Mr. Routzong, Mr. Chesser, may I see you both  
7 in chambers?

8 (Court in recess for the evening.)

9 THE COURT: All right. Is the State ready to  
10 proceed?

11 MS. YOUNG: Yes, Your Honor.

12 THE COURT: Anything we need to put on the  
13 record before we proceed?

14 MS. YOUNG: Nothing from the State.

15 THE COURT: Mr. Chesser, are you ready to  
16 proceed?

17 MR. CHESSER: Yes, Your Honor.

18 THE COURT: Mr. Routzong, are you ready to  
19 proceed?

20 MR. ROUTZONG: Yes, Your Honor.

21 THE COURT: Bring the jury in, please.

22 (The jury enters the courtroom at 10:19 AM.)

23 THE COURT: Madam forelady, ladies and  
24 gentlemen, good morning. I apologize that we're  
25 running just a few minutes late. I thought I had

1 two things scheduled at 9:30, we came up with four,  
2 so I'm sorry. One of them was with the Attorney  
3 General and we had a number of victims in that case,  
4 so we had to hustle along.

5 I hope you enjoyed your fruit. We'll talk  
6 about lunch at the first break. We'll try to move  
7 along all day. So we're going to start right up.  
8 You may call your first witness.

9 MR. WEEKS: Thank you, Your Honor. The State  
10 would call Detective Brendan Egan.

11 BRANDON EGAN

12 being first duly sworn, testified as follows:

13 THE WITNESS: I do.

14 THE CLERK: Please have a seat in the witness  
15 box. State your full name for the Court and spell  
16 your last.

17 THE WITNESS: Brandon Patrick Egan, E-G-A-N.

18 DIRECT EXAMINATION

19 BY MR. WEEKS:

20 Q. I have the same trouble with those chairs.

21 THE COURT: I thought we got all new chairs.

22 MR. WEEKS: We did, but those are still the  
23 skinny chairs. I just wanted to point that out. Of  
24 course, I don't have to sit up there very much.

25 THE WITNESS: Is that a hint?

1 MR. WEEKS: No, no.

2 THE COURT: I apologize for the Solicitor  
3 embarrassing you already.

4 MR. WEEKS: I don't wear a bullet-proof vest  
5 either, so --

6 THE COURT: You need one.

7 All right. Let's move along.

8 BY MR. WEEKS:

9 Q. Deputy Egan, who are you employed by?

10 A. Aiken County Sheriff's Office.

11 Q. And how long have you been employed with them?

12 A. Six years.

13 Q. In what capacity do you work for the sheriff's  
14 office?

15 A. Currently, uniform patrol.

16 Q. And have you been in that capacity at  
17 least five or six of the --

18 A. Five years.

19 Q. Five years. Prior to that, where did you work?

20 A. At the jail.

21 Q. And that's also under the --

22 A. The sheriff's office.

23 Q. Sheriff Mike Hunt.

24 Now, before that, what was your background?

25 Did you have any background in law enforcement?

1 A. No, sir.

2 Q. What did you do?

3 A. Before that, for three years I had my own  
4 motorcycle repair and fabrication shop. And then  
5 before that, I was in the Marines for five years.

6 Q. What did you do in the Marines?

7 A. I was an Arabic cryptologic linguist.

8 Q. Say that slower.

9 A. Sorry. I was Arabic cryptologic linguist.

10 Q. Okay. And in August 2012, were you working for  
11 Sheriff Hunt?

12 A. Yes, sir.

13 Q. What were you doing that night?

14 A. I was on uniform patrol. I was working Zone 1,  
15 which is North Augusta area.

16 Q. Can you tell us what, if anything, happened  
17 that night to get you involved in this case.

18 A. Yes, sir. I was just leaving the welcome  
19 center on I-20, doing a patrol check there. And  
20 emergency tones went out for an incident on  
21 Edgefield Road, so I proceeded there, lights and  
22 sirens.

23 Q. How far would that have been, roughly?

24 A. Maybe about three miles.

25 Q. When you arrived, where did you arrive to?

1 A. I arrived and parked in the median center of  
2 the road and walked over to where the incident  
3 occurred.

4 Q. Were other police officers already there?

5 A. There were several North Augusta officers, and  
6 Deputy Grubbs was on scene already.

7 Q. Okay. Did you see Mr. Bayzes? And his wife?

8 A. I saw the victim, yes, sir.

9 Q. Okay. Now, what did you do when you got to the  
10 scene, Deputy?

11 A. I helped Deputy Grubbs secure the scene and  
12 remained there with the defendant that had died,  
13 until EMS loaded him up, and then I escorted that  
14 defendant to MCG in the ambulance.

15 Q. Did he actually die on the scene?

16 A. No, sir. He lived about a minute down the  
17 road.

18 Q. And were you riding in the ambulance?

19 A. Yes, sir. I was helping them perform emergency  
20 operations on him.

21 Q. Literally doing chest compressions on him?

22 A. Yes, sir.

23 Q. Did you stay with that defendant -- or that  
24 deceased person until he reached the hospital?

25 A. I did, all the way to the emergency room.

1 Q. Tell us what you did when you got to the  
2 hospital.

3 A. I escorted that defendant into the emergency  
4 room. He was seen by the emergency doctor and the  
5 staff there. They pronounced him dead in the  
6 emergency room. And then I escorted that defendant,  
7 the deceased, to a separate room and maintained  
8 custody on that body until all of the units arrived.

9 Q. Okay. And you said other units arrived. What  
10 happened then?

11 A. Deputy Goodwin arrived with two other  
12 defendants, two black males, that had been injured  
13 in the incident as well.

14 Q. And what did you do then?

15 A. Then I exchanged custody with Deputy Goodwin  
16 and I escorted Mr. Stewart up to the operating room.

17 Q. What was the purpose of staying with the dead  
18 person?

19 A. This way we could make sure the body is not  
20 tampered with in any way, no evidence is corrupted  
21 or anything like that.

22 Q. Okay. And likewise with Stewart --

23 A. Yes, sir.

24 Q. -- and Robinson?

25 A. Yes, sir.

1 Q. What did you do with those individuals?

2 A. I just escorted Mr. Stewart. Deputy Goodwin  
3 remained in the emergency room with the deceased  
4 defendant and the other subjects.

5 Q. Okay. What did you do with regard to  
6 Mr. Stewart or what happened next?

7 A. We went up to the emergency room which, I  
8 believe, is upstairs, I'm not sure which floor, and  
9 dressed up in a gown. I actually escorted him into  
10 the operating room and stayed with him for the  
11 duration of the surgery, up until they finished his  
12 chest surgery.

13 Q. What was wrong with Mr. Stewart?

14 A. He had received gunshot wounds to the chest,  
15 among other areas.

16 Q. Multiple gunshot wounds?

17 A. Yes, sir.

18 Q. All right. Did you observe the doctor do  
19 anything with regards to Mr. Stewart's wounds?

20 A. Yes, sir.

21 Q. Tell us what you saw.

22 A. I stayed for the whole chest surgery; them  
23 opening up the chest, removing fragments and then  
24 sealing the chest cavity.

25 Q. After you did that, did you have any contact

1 with the fragments?

2 A. Yes, sir.

3 Q. What did you do?

4 A. I expressed to the doctor and to the nurse that  
5 was assisting the doctor that I would need to take  
6 custody of those fragments. And once the chest  
7 surgery was finished, I took custody of those  
8 fragments from the nurse.

9 Q. And once you took custody of the fragments, did  
10 you do anything with those?

11 A. Yes, sir; I gave them to Investigator Cain.

12 Q. And that would be Investigator Chuck Cain with  
13 the Aiken County Sheriff's Department?

14 A. Yes, sir.

15 Q. Did you keep them in your possession the entire  
16 time?

17 A. Yes, sir.

18 Q. Did you alter or tamper or do anything with  
19 them?

20 A. No, sir.

21 Q. And the purpose of obtaining those fragments  
22 was for evidentiary purposes, if any, later?

23 A. Yes, sir.

24 Q. I'm going to hand you what's marked State's  
25 No. 52, as soon as I get a sticker.

1                   (State's Exhibit No. 52 marked for  
2                   identification.)

3                   BY MR. WEEKS:

4                   Q.     Deputy, the items contained in State's 52, are  
5                   those the fragments you were referring to?

6                   A.     It does look like it.

7                   Q.     Were they turned over to Investigator Chuck  
8                   Cain?

9                   A.     Yes, sir.

10                  Q.     And they left your hands in the same condition  
11                  that they left the body of Mr. Stewart?

12                  A.     Yes, sir.

13                  Q.     Okay.

14                  A.     I did have visible observation of those  
15                  fragments from the chest cavity to the actual tool  
16                  cart where they were stored until I took possession  
17                  of them.

18                  Q.     Deputy Egan, you were located to 522 Edgefield  
19                  Highway?

20                  A.     Edgefield Road, yes, sir.

21                  Q.     And when you arrived there, there were other  
22                  officers there, but did you see any damage to the  
23                  building there?

24                  A.     Yes, sir; there was a hole in the building.

25                  Q.     I'm going to hand you what's marked as State's

1 Exhibit No. 46. Can you identify this blown-up  
2 photograph?

3 A. Yes, sir. That's the incident location prior  
4 to -- you know, prior to the way it is now -- at the  
5 time.

6 Q. Okay. Does this photograph look like it's a  
7 true and accurate copy of the original photograph?

8 A. Yes, sir.

9 MR. WEEKS: Your Honor, the State moves to  
10 introduce State's Exhibit 46.

11 THE COURT: Any objection to 46?

12 MR. CHESSER: No objection, Your Honor.

13 MR. ROUTZONG: No objection.

14 (State's Exhibit No. 46 admitted into  
15 evidence.)

16 BY MR. WEEKS:

17 Q. Deputy Egan, did you assist in any way of  
18 removing any items from the individual at the  
19 location that we're talking about? Did he have any  
20 items on him?

21 A. Which individual?

22 Q. The individual you accompanied in the  
23 ambulance.

24 A. I didn't take any personal effects from him.

25 Q. Okay. Did you notice whether or not he was

1 wearing gloves?

2 A. I don't recall, sir.

3 Q. Okay. And you rode with him in the ambulance  
4 all the way to the hospital?

5 A. Yes, sir.

6 MR. WEEKS: Answer any questions the defense  
7 may have for you.

8 THE COURT: Mr. Chesser?

9 MR. CHESSER: I have no questions.

10 THE COURT: Mr. Routzong?

11 MR. ROUTZONG: Yes, sir.

12 CROSS-EXAMINATION

13 BY MR. ROUTZONG:

14 Q. Deputy Egan, are you aware of any steps taken  
15 to check to see if there was any gunshot residue on  
16 any of the -- Mr. Stewart, Mr. Goodwin or  
17 Mr. Robinson?

18 A. I'm not aware of any, sir.

19 MR. ROUTZONG: Thank you.

20 THE COURT: Redirect?

21 MR. WEEKS: No, Your Honor.

22 THE COURT: All right. You may step down.  
23 May he be excused?

24 MS. YOUNG: From the State, yes, sir.

25 MR. CHESSER: I have a matter for the Court at

1 this time, Your Honor.

2 THE COURT: All right. You're excused. Thank  
3 you.

4 With the jury or outside the presence of the  
5 jury?

6 MR. CHESSER: Outside, Your Honor.

7 THE COURT: Come tell me what it is because we  
8 just got started.

9 (Sidebar conference.)

10 THE COURT: Next witness.

11 MS. YOUNG: The State calls Deputy Jeremy  
12 Frank.

13 JEREMY FRANK

14 being first duly sworn, testified as follows:

15 THE WITNESS: I do.

16 THE CLERK: State your full name for the Court  
17 and spell your last.

18 THE WITNESS: Jeremy Alan Frank, F-R-A-N-K.

19 DIRECT EXAMINATION

20 BY MS. YOUNG:

21 Q. And I apologize, I should have called you  
22 Sergeant Frank instead of Deputy Frank; correct?

23 A. That's fine.

24 Q. Obviously you're employed with Aiken County  
25 Sheriff's Office?

1 A. Yes, sir.

2 Q. And you're a sergeant there?

3 A. Yes, ma'am.

4 Q. How long have you been with Aiken County?

5 A. Almost eight years now.

6 Q. And were you working on the early morning hours  
7 of August 9th, 2012?

8 A. Yes, ma'am.

9 Q. Did you become involved with the case with  
10 these two codefendants?

11 A. Yes, ma'am. . .

12 Q. Tell the jury how you first became involved  
13 with this case.

14 A. We were working the nightshift on that day. I  
15 was, I believe, assigned to Zone 2, which is the  
16 Warrentville-Gloverville area, and we had a call  
17 for -- I believe they called a break-in in progress  
18 at the incident location. I went en route, lights  
19 and sirens. And by the time -- as I got probably a  
20 block away, I got redirected from the incident.

21 Q. Okay. And you're talking about at the gun shop  
22 or Minor

23 A. Yes, ma'am.

24 Q. You were about a block away from there?

25 A. Yes, ma'am.

1 Q. And why did you get redirected?

2 A. We got -- actually, North Augusta got word that  
3 the van that was used was at the Waffle House on, I  
4 believe, Martin Town Road at Exit 1 near the  
5 interstate.

6 Q. And for purposes of reference, what exit is Minor  
7 located off of, if you know? Is it  
8 the next exit down from Exit 1?

9 A. Yes. It should be Exit 5, I believe.

10 Q. So it's not Exit 1. These are two separate  
11 interstate exits?

12 A. Right.

13 Q. Okay. And were there already other deputies  
14 that had responded to the gun store?

15 A. Yes, ma'am.

16 Q. Okay. So what did you do once you got  
17 redirected?

18 A. Me and a North Augusta officer responded, of  
19 course lights and sirens, to that Waffle House.  
20 When we got there, we seen a van matching the  
21 description from the incident location facing  
22 outward towards the road with two black males  
23 occupying that van.

24 Q. Sergeant Frank, were you and this North Augusta  
25 officer the first-responding officers to the Waffle

1 House?

2 A. Yes, ma'am.

3 Q. What did you do once you got to the Waffle  
4 House?

5 A. We basically did a felony car stop, even though  
6 the car was already stopped, and we got the subjects  
7 out at gunpoint.

8 Q. Let me ask you this, just so the jury knows:  
9 What is a felony car stop?

10 A. Felony car stop is basically when a high crime  
11 has been committed. Several officers get cover  
12 behind their vehicle with our weapons drawn and we  
13 order the subjects out of the said vehicle.

14 Q. And how many suspects did you say were in the  
15 van when you saw it?

16 A. Two.

17 Q. And what was the next thing that happened,  
18 Sergeant?

19 A. We approached the vehicle and we got both  
20 subjects out. We got the driver out first -- or the  
21 person that was in the driver's seat out first, and  
22 then we got the passenger out second. And then we  
23 detained them.

24 Q. And what does that mean that you detained them?

25 A. Basically we put them in handcuffs. And

1 they're not under arrest, but they're for trying to  
2 figure out what's going to happen from there.

3 Q. Sergeant Frank, describe the condition of the  
4 suspects once you detained them.

5 A. The one that I come in contact with was the one  
6 that was behind the wheel of the van. He had  
7 numerous gunshot wounds and he had a -- I don't know  
8 how else to describe it, but his elbow was missing.

9 Q. An injury, a gunshot wound?

10 A. Yes.

11 Q. And what did you do after you got the suspects  
12 in detention?

13 A. Other officers started arriving on scene. And,  
14 basically, I secured the scene, taping it off with,  
15 you know, police tape and all that.

16 Q. And did you stay there for some length of time?

17 A. Yes, ma'am.

18 Q. At some point in time did an ambulance arrive?

19 A. Yes.

20 Q. What did you observe with regard to that?

21 A. EMS crew was, you know, doing what they can to  
22 stop the bleeding; you know, if they had to cut some  
23 clothing off, they cut the clothing off. And that's  
24 pretty much what I seen.

25 Q. And so you saw them cut the clothing off the

1 defendants?

2 A. Yes.

3 Q. Did you observe any weapons in the  
4 possession -- on the defendant's person?

5 A. Not on their person.

6 Q. Okay. And did you observe any weapons anywhere  
7 else?

8 A. Yes.

9 Q. Where?

10 A. In the van that was -- that we got the two  
11 black males out of.

12 Q. You stated you were at the scene for some  
13 period of time.

14 A. Yes.

15 Q. Did you have an occasion to observe the van  
16 itself?

17 A. Yes.

18 Q. Did you make any observations about the  
19 condition of the van?

20 A. It had been involved in some kind of wreck  
21 or it -- it had some damage done to it.

22 Q. Damage to the body of the van?

23 A. Yes.

24 MS. YOUNG: No further questions, Your Honor.

25 THE COURT: Mr. Chesser?

1

2

3

## CROSS-EXAMINATION

4

BY MR. CHESSER:

5

Q. Deputy Frank, when you arrived at the scene of

6

the Waffle House, you stated there was two people

7

inside the van; is that right?

8

A. Yes, sir; two black males.

9

Q. Isn't it true that you observed one of the

10

individuals to actually fall out of the van onto the

11

parking lot at Waffle House?

12

A. That -- I don't recall if he actually fell out.

13

But I know we got him out of the vehicle.

14

Q. Okay. But you don't recall him just falling

15

and collapsing out in the parking lot?

16

A. No, sir, I do not.

17

Q. They were both very shot up; is that right?

18

A. Yes, sir.

19

MR. ROUTZONG: All right. No further

20

questions, Your Honor.

21

THE COURT: Mr. Routzong?

22

MR. ROUTZONG: No questions, Your Honor.

23

THE COURT: Redirect?

24

MS. YOUNG: No redirect, Your Honor.

25

THE COURT: May Sergeant Frank be excused?

1 MS. YOUNG: Certainly.

2 THE COURT: Mr. Chesser, may he be excused?

3 MR. CHESSER: Certainly, Your Honor.

4 THE COURT: Mr. Routzong?

5 MR. ROUTZONG: Yes, sir.

6 THE COURT: All right. You're excused.

7 Next witness, please.

8 MR. WEEKS: Your Honor, may I check outside?

9 THE COURT: Certainly.

10 MR. WEEKS: The State calls Mary Francis  
11 O'Grady Watts.

12 THE COURT: Come around, ma'am.

13 MARY FRANCIS O'GRADY-WATTS

14 being first duly sworn, testified as follows:

15 THE WITNESS: I do.

16 THE CLERK: Have a seat in the witness box.

17 State your full name for the Court and spell your  
18 last.

19 THE WITNESS: Mary Francis O'Grady-Watts. It's  
20 O-'-G-R-A-D-Y-W-A-T-T-S.

21 DIRECT EXAMINATION

22 BY MR. WEEKS:

23 Q. Officer Watts, where do you work?

24 A. Aiken County Sheriff's Office.

25 Q. And what's your job there?

1 A. I am a member of the forensics unit. I'm an  
2 investigator.

3 Q. The forensics unit?

4 A. Yes.

5 Q. Okay. Were you called out on August the 9th of  
6 2012 to perform any services that night?

7 A. No.

8 Q. Your duties as investigator or as a member of  
9 the forensic team at the sheriff's department  
10 involve a lot of things. Could you just kind of  
11 give me an overview of what all y'all do.

12 A. We basically are the crime scene unit. We will  
13 go out and process a number of different types of  
14 scenes; everything from property crimes, burglaries,  
15 to violent crimes such as shootings, rapes and  
16 stabbings.

17 We will collect evidence. We are primarily  
18 there for documentation and collection of evidence  
19 for the primary investigator who will be the person  
20 that's actually in charge of the case.

21 Q. Okay. More specifically in this case, did you  
22 transfer some items to South Carolina Law  
23 Enforcement Division's laboratory?

24 A. I did.

25 Q. Okay. And do you know the date you transported

1           those items? Did you take them all at the same time  
2           or at various times?

3           A.     At various times.

4           Q.     Okay. I'm going to hand you what's been marked  
5           State's Exhibit 52, 53, and 54.

6                     (State's Exhibit Nos. 53 and 54 marked for  
7           identification.)

8           BY MR. WEEKS:

9           Q.     With regards to State's Exhibit No. 53, can you  
10          identify that?

11          A.     It's the remainder of a bullet, basically the  
12          casing.

13          Q.     All right. And what did you do with that?

14          A.     Transported it to South Carolina Law  
15          Enforcement Division to be analyzed by the  
16          ballistics section.

17          Q.     And who did you get it from?

18          A.     From our evidence room.

19          Q.     Okay. Describe your evidence room and what  
20          y'all do there.

21          A.     The evidence room houses a variety of evidence.  
22          It can be anything from a toothbrush to a car, it  
23          depends on what the case entails. And we will hold  
24          it until disposition, basically until the case is  
25          actually done.

1 Q. And is it under lock and key?

2 A. Always.

3 Q. And who runs it? Who is technically in  
4 possession of all that evidence right there?

5 A. We have an evidence custodian who is constantly  
6 in charge of everything. But we actually have a  
7 lieutenant over the unit who is in charge of us.

8 Q. All right. And Gerald Turner, does he work  
9 there?

10 A. Yes. He's the evidence custodian.

11 Q. And when you take something to SLED, you check  
12 it out of Gerald's presence?

13 A. I will sign it out, I will transfer it to Law  
14 Enforcement Division who will then in turn take it  
15 from me -- well, there's documentation further --  
16 and then I will bring the receipt back.

17 Q. Okay. And did you do that with State's Exhibit  
18 No. 53?

19 A. Yes.

20 Q. And State's 52?

21 A. Yes, I did.

22 Q. And 54?

23 A. Yes.

24 Q. While those items were in your possession, did  
25 you alter, amend or change them in any way?

1 A. No.

2 Q. And did anybody in your presence alter, amend  
3 or change them in any way?

4 A. No.

5 Q. Did you receive all three of those items from  
6 Gerald Turner at the evidence room at the sheriff's  
7 department?

8 A. Yes.

9 Q. Okay. Did you also take anything else in this  
10 case to South Carolina Law Enforcement Division for  
11 further testing in the form of a weapon?

12 A. That rifle that's in that box.

13 Q. And you know the rifle you took is in this box?

14 A. Yes.

15 Q. Did you take pictures of the rifle that was in  
16 this box?

17 A. I did.

18 Q. And you've examined those pictures and they're  
19 true and accurate copies of the rifle that's in this  
20 box?

21 A. It is.

22 MR. WEEKS: And just for the record, Your  
23 Honor, we'll call this, for exhibit purposes,  
24 State's Exhibit 55.

25 (State's Exhibit No. 55 marked for

1 identification purposes.)

2 BY MR. WEEKS:

3 Q. Those photographs which were taken as a result  
4 of our request to you, are they true and accurate  
5 copies of this rifle?

6 A. Yes, they are.

7 Q. All right. You took this rifle where?

8 A. To the South Carolina Law Enforcement Division.

9 Q. And where did you obtain the rifle from?

10 A. Our evidence room.

11 Q. And who?

12 A. Gerald's.

13 Q. Gerald Turner?

14 A. Yes, Gerald Turner.

15 (State's Exhibit No. 56 marked for  
16 identification.)

17 Q. Investigator Watts, do you recognize State's  
18 56?

19 A. It's part of a projectile.

20 Q. And did you also transport that item to SLED?

21 A. Yes.

22 Q. And did you alter, tamper, destroy it or do  
23 anything to it?

24 A. No, sir.

25 Q. Did you see anybody do anything to it to alter

1 or change it in any way?

2 A. No.

3 Q. And where did you receive that item from?

4 A. From the evidence room and Gerald Turner.

5 Q. Okay. And you took -- you've been saying SLED.

6 That's the South Carolina Law Enforcement Division?

7 A. Yes.

8 Q. And when you take these items up there, what

9 sort of procedure do you go through to leave it

10 with --

11 A. We will actually pre-log every piece of

12 evidence. There's actually a program --- we do this

13 electronically -- it gives us an automatic receipt.

14 We take all the evidence with us. The receipt

15 accompanies each piece of evidence, we will hand the

16 evidence and the receipt over to the custodian with

17 a copy of report.

18 And what they'll do is they will scan all the

19 documentation in, they'll scan each piece of

20 evidence, and then they will create another receipt

21 for us where they have then logged it into their

22 lab. A lot of times they'll over-package or package

23 again a lot of these items to go to the

24 corresponding departments where they're going to be

25 housed.

1 Q. Okay. Then when they're done doing their  
2 stuff, you go up there and pick it up or somebody  
3 from your agency goes up there and picks it up,  
4 generally?

5 A. Yes.

6 Q. Okay. And you indicated something about the  
7 paperwork when you get it from Mr. Turner.

8 A. Yes.

9 Q. And when you bring it back to Mr. Turner, do  
10 you fill out paperwork?

11 A. I will sign them back into our custody. But we  
12 have a chain that also comes from SLED where I've  
13 signed it out from them.

14 Q. And do you date that report?

15 A. There's a date on everything.

16 Q. Sometimes it's wrong, isn't it? I'm just  
17 teasing.

18 A. Definitely not.

19 Q. Okay. Item No. 52, can you tell me when you  
20 received that item and what you did with it -- the  
21 date you received it. I'm sorry.

22 A. I took it to SLED on 11/16 of '12 and then it  
23 returned 11/18 of '13.

24 Q. Okay. Item 53, can you tell me --

25 A. It went to SLED on 11/16 of '12 and returned

1 from SLED 11/18 of '13.

2 Q. Item 54, can you tell me when you received that  
3 one in your possession?

4 A. Item 15 left per SLED on 11/16 of '12 and then  
5 returned 11/18 of '13.

6 Q. Okay. And item 56?

7 A. This also went up on the same day, 11/16 of  
8 '12, and returned on 11/18 of '13.

9 MR. WEEKS: Okay. Investigator Watts, please  
10 answer any questions the Defense may have.

11 MR. CHESSER: Your Honor, I have no questions.

12 THE COURT: Mr. Routzong?

13 MR. ROUTZONG: No questions, Your Honor.

14 THE COURT: You may step down.

15 May she be excused?

16 MS. YOUNG: Yes, sir, Your Honor.

17 MR. CHESSER: Yes, Your Honor.

18 MR. ROUTZONG: Yes, sir.

19 THE COURT: Next witness, please.

20 MS. YOUNG: The State calls Dr. Anthony  
21 Florschutz.

22 ANTHONY FLORSCHUTZ

23 being first duly sworn, testified as follows:

24 THE WITNESS: Yes.

25 THE CLERK: Have a seat in the witness box.

1 State your full name for the Court and spell your  
2 last.

3 THE WITNESS: Anthony Florschutz,  
4 F-L-O-R-S-C-H-U-T-Z.

5 DIRECT EXAMINATION

6 BY MS. YOUNG:

7 Q. You're a doctor; is that correct?

8 A. Yes.

9 Q. And where are you employed?

10 A. At Georgia Regents University.

11 Q. Georgia Regents University?

12 A. Formerly Medical College of Georgia.

13 Q. Just make sure you speak up. You have kind of  
14 a low voice.

15 A. Okay.

16 Q. Okay. How long have you been a doctor at --  
17 I'm just going to call it MCG because that's how I  
18 know it.

19 A. Okay. I've been there for seven years. I've  
20 been in residency training. I'm just completing my  
21 fifth year at this point.

22 Q. And can you give us, just briefly, a general  
23 background description about your education and  
24 things of that nature.

25 A. So I finished my medical doctorate at Plotsky

1 [phonetic] University in 2004 and with the Mayo  
2 Clinic subsequently for -- in Rochester, Minnesota,  
3 as a research fellow for three years; subsequently  
4 completed my Ph.D. in molecular medicine, and then  
5 subsequently entered my residency training.

6 Q. You have a lot of education.

7 Were you employed at MCG on August 9th of 2012?

8 A. Yes.

9 Q. And in what capacity were you employed on that  
10 particular date?

11 A. Chief resident on the orthopedic trauma  
12 service.

13 Q. Okay. And did you have an opportunity to come  
14 into contact with one of these defendants,  
15 specifically Franklin Robinson?

16 A. Yes.

17 Q. How did you become involved with Defendant  
18 Robinson?

19 A. So I came to work in the morning and was  
20 informed that there was a gentleman with a gunshot  
21 wound, high-velocity gunshot wound, posted for the  
22 operating room. I came to the operating room and  
23 proceeded to treat him accordingly.

24 Q. Okay. And that -- I'm assuming treat him  
25 accordingly means you performed some sort of surgery

1 on him.

2 A. Yes.

3 Q. Do you recall specifically what type of  
4 injuries Defendant Robinson had?

5 A. He had a -- an open Monteggia-type fracture --

6 THE COURT: An open what?

7 THE WITNESS: An open Monteggia-type fracture,  
8 which is fracture of the proximal third of the ulna  
9 and radial head dislocation --

10 BY MS. YOUNG:

11 Q. Let me do this, because you're getting way  
12 ahead of my scientific knowledge: You're talking  
13 about a fracture. You said his ulna. You're  
14 referring to what's commonly known as --

15 A. The -- one of the forearm bones.

16 Q. Okay.

17 A. And then he also had a severely culminated  
18 distal humerus fracture, which is the upper-arm  
19 bone.

20 Q. Any other injuries that you recall  
21 specifically?

22 A. He also had a gunshot wound, I believe, to his  
23 right thigh, as I recall.

24 Q. Okay. And what did you do in terms of treating  
25 him?

1       A.     So we proceeded to perform an irrigation and  
2       debridement, clean out any devitalized tissue; also  
3       we removed -- I believe it was on the medial side of  
4       his elbow, there was a -- there was a bullet and --  
5       just under the skin that we removed, and then --  
6       subsequent. And then subsequently performed a --  
7       put an external fixator on the right upper  
8       extremity -- it was a hinged external fixator -- and  
9       then also performed the irrigation and debridement  
10      as well as removed some bullet fragments from his  
11      right thigh.

12     Q.     Specifically what locations did you retrieve  
13      bullet fragments from, from this defendant?

14     A.     From the upper right arm and the right thigh.

15     Q.     Okay. And once you retrieved these bullet  
16      fragments during your surgery, what did you do with  
17      them?

18     A.     They were placed in a specimen cup. I dropped  
19      them in a specimen cup that the circulating nurse  
20      had opened.

21           MS. YOUNG: Okay. May I approach the witness,  
22      Your Honor?

23           THE COURT: You may.

24     BY MS. YOUNG:

25     Q.     Doctor, I'm going to show you what's been

1 marked for identification purposes as State's 53 and  
2 ask if you can look at it and recognize it in any  
3 way.

4 A. I recognize the label. And this is the type of  
5 specimen cup that we use to put missile objects in  
6 after we remove them. So that's how I recognize it.

7 As far as the bullet fragments, I do not recall  
8 the exact shape or color, but it would go along with  
9 what -- what I removed.

10 Q. We're talking about bullet fragments that you  
11 removed two years ago --

12 A. Yes.

13 Q. -- correct?

14 A. Yes.

15 Q. But you did remove some fragments from  
16 Defendant Robinson?

17 A. Correct.

18 Q. And is there a particular name on that specimen  
19 cup?

20 A. Yes, and that name is Franklin Robinson.

21 Q. And did the bullet -- there are bullet  
22 fragments in there also?

23 A. Yes.

24 Q. And do they appear consistent or similar to the  
25 fragments that you removed from this defendant?

1 A. Yes.

2 Q. And at the time that you removed them and had  
3 them in your possession, did they ever go anywhere  
4 else other than to the charge nurse or the nurse  
5 that you spoke of?

6 A. No.

7 Q. And did you personally do anything to alter  
8 them, tamper with them, or change them in any way,  
9 shape, or form?

10 A. I did not.

11 Q. And you passed them directly to the nurse?

12 A. Yes.

13 Q. And you saw her put them in the cup or you  
14 put -- who put them in the cup?

15 A. I put them in the cup. Usually what we do,  
16 because the circulating nurse is nonsterile and I'm  
17 scrubbed in, so she'll open the cup up and I'll drop  
18 the bullet fragments into the cup.

19 Q. And then you gave it to her and she went  
20 somewhere with them?

21 A. Yes.

22 Q. And that was the extent of your involvement  
23 with this particular case?

24 A. Yes.

25 Q. And you didn't have any involvement with

1 Defendant Stewart?

2 A. No.

3 MS. YOUNG: No further questions for the  
4 doctor, Your Honor.

5 THE COURT: Mr. Chesser?

6 MR. CHESSER: May it please the Court.

7 CROSS-EXAMINATION

8 BY MR. CHESSER:

9 Q. Doctor, you indicated that you removed  
10 fragments from the upper arm and thigh.

11 A. Yes.

12 Q. Okay. There were also -- did you observe exit  
13 wounds to Mr. Robinson?

14 A. The bullet fragments were -- as I recall  
15 correctly, were -- had not exited, at least the ones  
16 I removed. They were underneath the skin and we had  
17 to make a small incision in order to remove those.

18 Q. Right. I understand that. But were there --  
19 in his injuries, were there evidence of exit wounds  
20 where a cartridge or bullet had entered and exited?

21 A. Yes, there was. As far as the elbow, there was  
22 a -- it's an open fracture, so -- and with the  
23 high-velocity gunshot wound like he had, you know,  
24 there's a lot of tissue destruction. So as far as  
25 seeing a specific hole or exit wound, sometimes that

1 is not as evident as you would like.

2 Q. Right. You used some technical terms when you  
3 were talking about, you know, his injuries. I want  
4 to ask you just sort of in simpler terms, is it  
5 correct to say he had injuries to his right elbow?

6 A. Correct.

7 Q. Okay. Injuries to his right buttocks?

8 A. It was buttock-thigh region.

9 Q. Buttock-thigh region?

10 A. Yes.

11 Q. Okay. To his right inner thigh?

12 A. Yes.

13 Q. Okay. To his right hip?

14 A. As far as the hip, we did examine that and we  
15 did not find a specific injury to his hip at that  
16 point. And there was just bullet fragments; there  
17 was no bone injury in that area.

18 Q. Well, would you say that he was shot four or  
19 five times?

20 A. I -- I --

21 Q. You can't say?

22 A. I can't -- I mean --

23 Q. Right.

24 A. -- I'm not an investigator in that manner.

25 Q. Yes, sir. Thank you.

1 THE COURT: Mr. Routzong?

2 MR. ROUTZONG: I don't have any questions.

3 THE COURT: Redirect?

4 MS. YOUNG: No redirect, Your Honor. May he be  
5 excused?

6 THE COURT: He certainly may.

7 All right, Doctor, you're excused, released  
8 from your subpoena. Thank you.

9 Next witness, please.

10 MS. YOUNG: State calls Caroline Woodall.

11 CAROLINE WOODALL

12 being first duly sworn, testified as follows:

13 THE WITNESS: Yes.

14 THE CLERK: Please have a seat in the witness  
15 box. State your name for the Court and spell your  
16 last.

17 THE WITNESS: My name is Caroline Woodall,  
18 W-O-O-D-A-L-L.

19 DIRECT EXAMINATION

20 BY MS. YOUNG:

21 Q. All right, Ms. Woodall. If you don't mind,  
22 please speak up because we all have to hear you.

23 A. Okay.

24 Q. Good morning.

25 A. Good morning.

1 Q. Ms. Woodall, where are you employed?

2 A. Georgia Regents University Medical Center.

3 Q. And what do you do at GRU?

4 A. I'm the circulating nurse in the operating  
5 room.

6 Q. How long have you been a nurse at GRU?

7 A. About four years.

8 Q. And were you working on the night or morning  
9 hours of August the 9th, 2012?

10 A. Yes, I was.

11 Q. And did you have some involvement with this  
12 particular case, specifically Defendant Franklin  
13 Robinson?

14 A. I did.

15 Q. Please describe to the jury how you became  
16 involved with this defendant.

17 A. He was scheduled for surgery, to come back to  
18 the operating room I was working in, the orthopedic  
19 trauma room. So I checked him in in our holding  
20 area and was in the room during surgery.

21 Q. And who performed the surgery on Defendant  
22 Robinson?

23 A. Dr. Florschütz.

24 Q. The one who was just in here?

25 A. Uh-huh.

1 Q. And what were your specific duties during this  
2 surgery?

3 A. I assist various members of the surgical team;  
4 I help anesthesia and assist the doctors with the  
5 equipment; I'm in charge of positioning the patient  
6 and providing for their safety and comfort during  
7 the procedure.

8 Q. Did you have an opportunity to see  
9 Dr. Florschutz remove anything from Defendant  
10 Robinson's person?

11 A. I did.

12 Q. What was that?

13 A. Bullet fragments.

14 Q. And do you recall where on his body these  
15 bullet fragments were located?

16 A. Right thigh.

17 Q. What did the doctor do with those bullet  
18 fragments?

19 A. Dropped them into the specimen cup that I  
20 provided.

21 Q. And at that point in time, what happened to the  
22 cup?

23 A. I put the top on it, put a label on it, and  
24 took it to the front desk for the security officer.

25 MS. YOUNG: May I approach the witness, Your

1 Honor?

2 THE COURT: You may.

3 BY MS. YOUNG:

4 Q. Ms. Woodall, I'm showing you what's been marked  
5 for identification purposes as State's Exhibit  
6 No. 53. Take a look at it and tell me if you  
7 recognize it.

8 A. It appears to be the bullets that were put in  
9 the specimen cup from Franklin Robinson.

10 Q. Is there anything in particular that enables  
11 you to make that identification?

12 A. It's the type of specimen cup that we use to  
13 put all those type of things in, and his patient  
14 sticker is on the outside of the cup.

15 Q. And that has his information on it including  
16 his name?

17 A. Yes.

18 Q. And where did you say you took the fragments  
19 once you received them from the doctor?

20 A. To the front desk of the main operating room,  
21 and I signed them over to the security officer.

22 Q. And from the time that you observed  
23 Dr. Florschutz operating on Mr. Robinson, did those  
24 fragments leave the room until you took them out?

25 A. No. They were in my possession until I took

1           them out.

2           Q.    Did you do anything to alter, change, or tamper  
3           with them?

4           A.    No.

5           Q.    And you gave them directly to -- you called it  
6           security officer?

7           A.    Yes, ma'am.

8           Q.    And is there some sort of -- you signed it over  
9           to that officer?

10          A.    Yes.  There's paperwork we fill out too, but I  
11          took it up there and told her where they came from,  
12          gave her the patient's information, and then signed  
13          over that I was giving them to her.

14          Q.    Would it be fair to say that they went from  
15          your hand to the officer's hand?

16          A.    Yes.  I handed them directly to her.

17                MS. YOUNG:  No further questions.

18                THE COURT:  Mr. Chesser?

19                MR. CHESSER:  No questions, Your Honor.

20                MR. ROUTZONG:  None, Your Honor.

21                THE COURT:  You may step down.  She's excused  
22          from her subpoena.

23                Any objections?

24                MS. YOUNG:  No, sir.

25                MR. CHESSER:  No, sir.

1 MR. ROUTZONG: No, sir.

2 THE COURT: Next witness, please.

3 MR. WEEKS: Your Honor, the State would call  
4 Robin Stewart.

5 ROBIN STEWART

6 being first duly sworn, testified as follows:

7 THE WITNESS: Yes.

8 THE CLERK: Have a seat in the witness box.  
9 State your full name for the Court and spell your  
10 last.

11 THE WITNESS: My name is Robin Stewart,  
12 S-T-E-W-A-R-T.

13 DIRECT EXAMINATION

14 BY MR. WEEKS:

15 Q. Ms. Stewart, where were you employed in August  
16 of 2012?

17 A. At -- I think at the time it was Georgia --  
18 well, it wasn't Georgia Regents, it was Georgia  
19 Health Sciences University.

20 Q. Okay. And it's what people locally would call  
21 MCG?

22 A. MCG, Georgia Regents University, whatever  
23 they're called.

24 Q. They've changed names a bunch here recently,  
25 haven't they?

1 A. Uh-huh.

2 Q. What was your job there?

3 A. I was a police officer.

4 Q. And as a police officer at MCG, what were your  
5 responsibilities? What would you do there?

6 A. Enforce the laws, maintain public safety.

7 Q. Okay. Did y'all take possession of any  
8 evidence? Did you do anything like that as a  
9 police --

10 A. When we worked in the emergency room, we would  
11 maintain the safety in the emergency room, but we  
12 would also take custody of any evidence that would  
13 come in from either South Carolina or Georgia. We  
14 would take the evidence and secure it.

15 Q. Okay. And what types of evidence would y'all  
16 end up getting?

17 A. Different types; sometimes it would be sexual  
18 assault kits, sometimes it would be blood-alcohol  
19 kits, but a lot of times it would be bullet  
20 fragments.

21 Q. Bullet fragments, how did they appear?

22 A. They would come in inside of people and they  
23 would be removed and we would have to take custody  
24 of them.

25 Q. Okay. And when you took custody of it, did you

1 keep a chain of custody?

2 A. Uh-huh. We'd do chain of custody. We'd go  
3 over to the operating room and it would come over in  
4 a container like that. We'd seal it, and once it  
5 was sealed, we would have a nurse sign a chain of  
6 custody and we'd place it in a locker, lock it up,  
7 and wait until Aiken or whatever authority would  
8 come over and they would take it and have it  
9 processed.

10 Q. And when you put it in that locker, what was  
11 the purpose of doing that?

12 A. To safe-keep it so no one else could get it.  
13 There's only one key and that -- the trauma officer,  
14 whoever was on duty that day, had that key. No one  
15 else had a key to it.

16 Q. So if you took in a piece of evidence and you  
17 were the trauma officer, you would keep it and pass  
18 it off to the next trauma officer?

19 A. That key went from trauma officer to trauma  
20 officer. No one else has access to the key.

21 Q. Did you take possession of certain items on the  
22 early hours, I guess, of August the 9th, 2012,  
23 involving this case?

24 A. I did. I think it was that afternoon when I  
25 took those in --

1 Q. Okay. I'm going to hand you what's marked as  
2 State's 52 and ask if you have any way of  
3 identifying those.

4 A. Yeah. That's mine. That would be the sticker  
5 that they would have put on it, and I would have  
6 sealed it with that tape.

7 Q. Did you receive those items?

8 A. I did, from the nurse that was in here.

9 Q. The nurse that just testified?

10 A. Uh-huh.

11 Q. Nurse Woodall?

12 A. Uh-huh.

13 Q. And what did you do with those items when you  
14 received them?

15 A. I would have gotten her to fill out the  
16 property receipt and then I would have taken it from  
17 there and put it in the locker, locked it up.

18 Q. Did you do that with those items?

19 A. I did.

20 Q. And did, the next day or at some point in time,  
21 you turn them over to another officer?

22 A. No. I would have put it in the locker and then  
23 that officer -- well, I would have called Aiken  
24 County and told them that it was ready. And then  
25 that officer would have gotten -- Aiken County would

1 have come in and they would have picked it up from  
2 that officer.

3 Q. From that officer. Do you know who that  
4 officer was in this case?

5 A. It was Jefferson, Officer Gilbert Jefferson.

6 Q. Okay. While those items were in your  
7 possession, did you alter, amend, or change them in  
8 any way?

9 A. Absolutely not.

10 Q. Did you see anybody alter, amend, or change  
11 them in any way?

12 A. Absolutely not.

13 MR. WEEKS: Answer any questions the Defense  
14 has.

15 THE COURT: Mr. Chesser?

16 MR. CHESSER: No questions, Your Honor.

17 THE COURT: Mr. Routzong?

18 MR. ROUTZONG: Nothing.

19 THE COURT: All right. You may step down. And  
20 she's released from her subpoena.

21 Next witness, please.

22 MS. YOUNG: May we approach, Your Honor?

23 THE COURT: Absolutely.

24 (Sidebar conference.)

25 THE COURT: Madam forelady, ladies and

1 gentlemen, we're out-efficienting ourselves, if  
2 that's such a word. We're moving a little quicker  
3 than we thought. We have a witness who is en route,  
4 should be here within the next ten minutes. We're  
5 going to go ahead and take our morning break.  
6 Please do not discuss the case, don't deliberate.  
7 Leave your notepads here.

8 Mr. Whittle, what are our options?

9 We'll probably order sandwiches today from the  
10 Stoplight Deli, so he'll have a menu back there for  
11 you. So while we take this morning break, let's go  
12 ahead and fill out a menu. When lunch comes, we'll  
13 take our break and then we'll continue on. Don't  
14 discuss the case and don't deliberate.

15 (The jury exits the courtroom at 11:10 AM.)

16 THE COURT: Anything for the record by the  
17 State?

18 MS. YOUNG: Nothing from the State, Your Honor.

19 THE COURT: Mr. Chessser. Let the record  
20 reflect, I think after the first witness testified  
21 this morning --

22 MR. CHESSER: Egan, Your Honor.

23 THE COURT: Mr. Egan. Mr. Chessser approached  
24 me at the sidebar and said he had a motion for  
25 mistrial based on my comments to Mr. Weeks about the

1 bulletproof vest because he was teasing one officer  
2 about being overweight: If you're going to tease  
3 somebody about being overweight, perhaps you do need  
4 some protection.

5 But anyway, go ahead.

6 MR. CHESSER: May it please the Court. May I  
7 ask first, was the conversation with the deputy on  
8 the record?

9 THE COURT REPORTER: It was not.

10 MR. CHESSER: All right. Let me recap it then,  
11 what -- sort of, my take on it.

12 As Deputy Egan took the stand, there was just  
13 banter about the chair and sort of whether it fit  
14 him and so forth between Mr. Weeks and Deputy Egan.  
15 And then there was a comment, deputy -- Bill --  
16 prosecutor Weeks, he indicated that he didn't wear a  
17 bulletproof vest. And then the Court indicated that  
18 he should wear a bulletproof vest, and then the  
19 Court had some further interchange with Deputy Egan,  
20 which was --

21 THE COURT: Which was: Mr. Egan, I'm sorry  
22 Mr. Weeks kidded you about your weight.

23 MR. CHESSER: Right.

24 The objection I have is based on two aspects of  
25 this; one of them is the affinity that is manifested

1           between the Court and both Deputy Egan and  
2           prosecutor Weeks which, in effect, and this may be  
3           overstating it, what it comes out to is, the  
4           Prosecution manifests a friendship, an affinity, for  
5           law enforcement, per se. And that's both with  
6           Deputy Egan and with prosecutor Weeks. And of  
7           course this interchange occurred in front of the  
8           jury. So I object to the affinity which is  
9           manifested between the Court and law enforcement  
10          which constitutes, in effect, vouching for law  
11          enforcement.

12                 In addition, secondly, the specific  
13          conversation about where the prosecutor, Mr. Weeks,  
14          indicates that he didn't wear a bulletproof vest,  
15          and then Court indicates that he should -- and I  
16          will say, I know the Court didn't mean anything by  
17          that, I know that. But the perception of the jury  
18          is this friendship, this affinity, what I would  
19          submit constitutes -- rises to the level of vouching  
20          for law enforcement. And in addition, in this  
21          particular case, the -- references the jovial  
22          references to wearing or needing to wear a  
23          bulletproof vest in the context of this case, I  
24          submit, taken in by these 12 jurors constitutes a  
25          prejudicial vouching for law enforcement, per se,

1 and for law enforcement, under the circumstances of  
2 this case, such as we cannot get a fair trial. And  
3 we would move for a mistrial.

4 THE COURT: Thank you.

5 Mr. Routzong, do you join in?

6 MR. ROUTZONG: I do, Your Honor.

7 THE COURT: Thank you.

8 Mr. Weeks?

9 MR. WEEKS: Your Honor, if he's going to put  
10 the whole thing in context, we were talking about  
11 how narrow the chair was, not about whether or not  
12 somebody needed a bulletproof vest.

13 THE COURT: Absolutely.

14 MR. WEEKS: He was having to wedge himself into  
15 the chair because he wears a sidearm. And I made a  
16 comment about the chair being narrow and that I have  
17 to wedge myself into them, essentially, when I sit  
18 in those types of chairs. This whole motion for a  
19 mistrial is incredulous, that they would make it  
20 upon that banter between me and the officer that I'm  
21 fixing to call.

22 So in the State's position, nothing rose to the  
23 level of granting a mistrial or even an objection.  
24 Also, we talked about the new chairs in the  
25 courthouse and how they are larger than the old

1 chairs that used to -- you know, that you had to  
2 wedge yourself into. But that's what the banter was  
3 about. And your comment about me wearing the  
4 bulletproof vest -- the whole reason I said  
5 bulletproof vest was, it adds girth to you,  
6 obviously; it's thick. Mr. Egan doesn't have a  
7 weight problem; he was having to stuff a gun and a  
8 bulletproof vest down in that chair. So that was  
9 the whole context of this ridiculous motion that is  
10 made. But that's the State's position on it.

11 THE COURT: Thank you.

12 Well, I bend over backwards up here to be fair  
13 to everybody. And I think anybody who has ever  
14 tried a case before me knows that. There are times  
15 during the trial that we have a little levity  
16 because these things are so tense and so  
17 high-pressured, and that was simply an attempt at a  
18 little levity this morning. It certainly does not  
19 rise to the level that I'm vouching for anyone. All  
20 of you know me better than that. I wouldn't vouch  
21 for any -- I'm not a factfinder.

22 Y'all are the presenters of the evidence and  
23 the jury determines the credibility of the  
24 witnesses. And when the jury comes back out, I will  
25 give a curative instruction that a mistrial was with

1           made because of that, if you want me to. You want  
2           me to, Mr. Chesser?

3           MR. CHESSER: Give a curative instruction?

4           THE COURT: Yeah. I'll tell them you made a  
5           mistrial based on my talking with Mr. Weeks and the  
6           officer.

7           MR. CHESSER: Your Honor, we would ask -- ,

8           THE COURT: Or I can simply say this: Ladies  
9           and gentlemen, this morning before the evidence  
10          started, there was some conversation between Officer  
11          Egan and Mr. Weeks, and I commented on it. And  
12          please do not derive any inferences from what I did  
13          or said. I have no right to have any opinion about  
14          the facts or the believability or credibility of  
15          witnesses. That's your duty.

16          I'll give that curative instruction and will  
17          not mention the fact that you made a motion for  
18          mistrial. Is that more palatable?

19          MR. CHESSER: Yes, sir. What we would ask for  
20          that curative instruction, what I would do is at the  
21          end of that just say -- I would either do it -- just  
22          say, renew my objection or just say, objection to  
23          sufficiency of it, or else I can just do that now  
24          and have it understood that I would object to the  
25          sufficiency of the curative instruction; in other

1 words, I would maintain my motion.

2 THE COURT: Well, how do you know it's going to  
3 be sufficient or in sufficient until I do it?

4 MR. CHESSER: Well, the alternative would be  
5 wait and having to do it and then I could make the  
6 motion and just put it on the record then and just  
7 say, the defense submits that the curative  
8 instruction is insufficient and we renew our  
9 objection.

10 THE COURT: Tell me what you want me to say,  
11 Mr. Chesser, if you're objecting that my curative  
12 instruction would be insufficient. How do I make it  
13 more sufficient to suit you? Tell me what you want  
14 me to say, more than what I just suggested.

15 MR. CHESSER: I don't think you can say  
16 anything more than what you suggested. I think what  
17 you suggested is a common sense and appropriate  
18 curative instruction. What I'm taking the  
19 position -- what I would say is that I don't think  
20 it can be cured.

21 THE COURT: I see. No matter what I say, it's  
22 not going to cure it and then you'll be protected  
23 saying -- notwithstanding that I'm giving a  
24 curative instruction, you still think that's -- it  
25 doesn't remedy the situation.

1           MR. CHESSER: Yes, sir. I want to be protected  
2 on that.

3           THE COURT: You are. I understand that. And I  
4 tell you what, once I make it and we have another  
5 break, if you need to put more on the record, you  
6 certainly can.

7           MR. CHESSER: Thank you, Your Honor.

8           THE COURT: All right. Anything else before we  
9 take a break?

10          MR. ROUTZONG: Your Honor, I also would like to  
11 join in on that. I agree with Mr. Chesser.

12          THE COURT: Certainly. You're both protected.  
13 Anything else?

14          MS. YOUNG: No, Your Honor.

15          THE COURT: All right. Let's everybody stretch  
16 their legs and have a bathroom break, and we'll  
17 start back in about ten minutes.

18                   (Short break.)

19          THE COURT: Anything from the State before we  
20 proceed?

21          MR. WEEKS: No, Your Honor.

22          THE COURT: Mr. Chesser?

23          MR. CHESSER: No, Your Honor.

24          THE COURT: Mr. Routzong?

25          MR. ROUTZONG: No, Your Honor.

1           THE COURT: All right. Bring the jury in,  
2 please.

3           (The jury enters the courtroom at 11:36 AM.)

4           THE COURT: Madam forelady, ladies and  
5 gentlemen, we're going to continue on with the  
6 trial. But before we do so, let me just -- once  
7 again, please, please, let me reiterate to you that  
8 you and I have two separate jobs to perform. I'll  
9 tell you or instruct you on what the law is. I'm  
10 the judge of the law, you have to accept the law as  
11 I give it to you. I rule on the admissibility of  
12 evidence.

13           Your job is much, much, much, much more  
14 important than mine. You are the judges of the  
15 facts. You determine credibility or believability  
16 of the witnesses who testify in the case. So if I  
17 do anything up here on this bench that you think  
18 I've got some opinion about the facts, I do not, I  
19 cannot. That's not my job. I hear cases day in and  
20 day out, and I don't have any opinion whatsoever  
21 about the facts. So please don't infer from  
22 anything I've done in the trial of the case that I  
23 have an opinion about the facts.

24           This morning before we started, Mr. Weeks and  
25 Officer Egan were cutting up a little bit about the

1 size of this chair. They didn't get the new chairs  
2 up here. These are narrow and Officer Egan had to  
3 wear a -- I guess he wears a bulletproof vest and  
4 had his gun on him, and he might have a little  
5 trouble squeezing into the chair. And Mr. Weeks was  
6 talking about, I assume, his size and how it's hard  
7 for him to get in the chair. And I perhaps  
8 participated in that a little bit and told the  
9 officer I apologize for Mr. Weeks fussing at him.  
10 Please don't infer anything from that. You know, I  
11 was just commenting on it. So don't think by me  
12 participating in whatever little jovial, light bound  
13 they had back and forth. We had a little levity,  
14 and maybe when I said something to the officer --  
15 don't infer that I was vouching for his credibility  
16 or his believability or I take sides with anybody.  
17 I was just, I guess, trying to participate in a  
18 little levity. So don't infer anything from that  
19 participation by the Court that I have anything to  
20 do with the facts or I have any opinion about the  
21 facts. That's your job and your job solely. And I  
22 wouldn't interfere with that for anything in the  
23 world. That's not for me to do. You're the most  
24 important judge in this courtroom, remember that.  
25 Thank you.

1           Next witness, please.

2           MR. WEEKS: Thank you, Your Honor. The State  
3 calls Officer Gilbert Jefferson.

4                           GILBERT JEFFERSON

5 being first duly sworn, testified as follows:

6           THE WITNESS: Yes, ma'am.

7           THE CLERK: Have a seat in the witness box.  
8 State your full name for the Court and spell your  
9 last.

10          THE WITNESS: My name is Gilbert Jefferson.

11                           DIRECT EXAMINATION

12 BY MR. WEEKS:

13 Q. You okay in that chair?

14 A. Somewhat, yes, sir.

15 Q. Officer Jefferson, where are you employed?

16 A. Georgia Regents University Police Department.

17 Q. And how long have you been employed there?

18 A. Been there going on 19 years.

19 Q. And in August of -- more specifically, on  
20 August the 9th of 2012, were you working there?

21 A. Yes, sir.

22 Q. And what were you doing that night or that day?

23 A. I was working in the trauma unit.

24 Q. Okay. When you say working in the trauma unit,  
25 what's a police officer doing working in the trauma

1 unit?

2 A. When we work in the trauma unit, our main  
3 objective is -- the different agencies come in to  
4 collect evidence for crimes and do reports.

5 Q. Okay. Do y'all have an evidence locker?

6 A. Yes, sir.

7 Q. And how is that maintained?

8 A. In a substation.

9 Q. Okay. How do the items get into the evidence  
10 locker and removed from the evidence locker?

11 A. Well, the trauma officer have to go in and  
12 remove them because they're the only one who has the  
13 key.

14 Q. Somebody like you or somebody like Ms. Robin  
15 Stewart?

16 A. Yes, sir.

17 Q. Okay. When she was working there --

18 A. Police officer. Yes.

19 Q. Now, did you have the opportunity to take into  
20 your possession or take from the evidence locker any  
21 items regarding this case?

22 A. Yes, sir.

23 Q. And I hand you what's marked State's Exhibit  
24 No. 53 and ask you if you can identify that item.

25 A. Yes, sir. These are the fragment projectile

1 that I released to Investigator Cain on the 9th.

2 Q. Investigator Cain with Aiken County?

3 A. Yes, sir.

4 Q. And you did that on August 9th, 2012?

5 A. Yes, sir.

6 Q. Okay. While they were in your possession, did  
7 you alter, amend, or change them in any way?

8 A. No, sir.

9 Q. Did you see Investigator Cain alter, amend, or  
10 change them in any way?

11 A. No, sir.

12 Q. Okay. And I'm -- tell me how many keys there  
13 are to the evidence locker.

14 A. One.

15 Q. Does the officer changing shifts have to pass  
16 it to the next officer?

17 A. Yes, sir.

18 Q. And did Officer Stewart at the time,  
19 Ms. Stewart, did she pass it to you?

20 A. Yes, sir.

21 Q. Okay. Thank you.

22 THE COURT: Cross?

23 MR. CHESSER: No questions, Your Honor.

24 THE COURT: Mr. Routzong?

25 MR. ROUTZONG: No, sir.

1 THE COURT: You may step down and be released  
2 from your subpoena.

3 Any objections?

4 MR. CHESSER: No objection.

5 MR. ROUTZONG: No, sir.

6 THE COURT: All right. Next witness.

7 MS. YOUNG: State calls Chad Smith.

8 CHAD SMITH

9 being first duly sworn, testified as follows:

10 THE WITNESS: I do.

11 THE CLERK: Have a seat in the witness box.  
12 State your full name for the Court and spell your  
13 last.

14 THE WITNESS: Chad Morgan Smith, S-M-I-T-H.

15 DIRECT EXAMINATION

16 BY MS. YOUNG:

17 Q. Good afternoon, Mr. Smith.

18 A. Hello.

19 Q. Where are you employed?

20 A. I'm employed at South Carolina Law Enforcement  
21 Division which is commonly known as SLED.

22 Q. And what do you do at SLED?

23 A. Specifically I work in the firearms department  
24 at the forensic services laboratory in Columbia.

25 Q. Please describe your educational background for

1 the members of the jury.

2 A. I have a Bachelors of Science degree in  
3 biological sciences from Clemson University. I came  
4 onboard with SLED in 2007 -- I'm sorry, 2008,  
5 November of 2008. And since then I've been working  
6 as a firearms examiner in the firearms department.  
7 I started my training when I came onboard with SLED;  
8 it lasts between three to five years. Specifically,  
9 my training program, I spent three and a half years  
10 in training.

11 It's an inhouse training program where we learn  
12 firearms identification, tool mark identification;  
13 we also do serial number restorations, things of  
14 that nature. During this training program -- it's  
15 taught by the court-qualifying examiners of the  
16 firearms department. There's numerous tests and  
17 practical examines given. It takes a lot of  
18 studying and reading. And then later in the  
19 training, we're actually able to help other firearms  
20 examiners with their own casework.

21 Then after I completed my training program with  
22 a comprehensive examination, which I passed  
23 successfully, then I was able to begin my own  
24 casework.

25 Q. So basically you have to work hands-on under

1 other qualifying instructors for some period of time  
2 before you're able to do your own casework?

3 A. That's right.

4 Q. When did you begin doing your own casework?

5 A. In July of 2012 is when I got signed off from  
6 my training and started receiving my own casework.

7 Q. And is the SLED forensics lab accredited in  
8 some manner?

9 A. Yes, ma'am. The forensics lab is accredited by  
10 an agency called the American Society of Crime  
11 Laboratory Directors. It's a laboratory  
12 accreditation board. Basically what accreditation  
13 does is, it makes sure all of the labs and  
14 everything that govern the same accreditation are  
15 doing the same thing; doing things properly,  
16 following procedures correctly, that sort of thing.

17 Q. And during your career so far, have you had an  
18 opportunity to conduct numerous comparisons and  
19 examinations?

20 A. Yes, ma'am. During -- throughout my training  
21 program and since I started doing my own individual  
22 casework, I've done thousands of individual  
23 comparisons in firearms identification.

24 Q. Mr. Smith, have you ever testified as an expert  
25 witness in the state's -- courts of South Carolina

1 before?

2 A. Yes, ma'am. I've testified four times; three  
3 times in general sessions court and once in a  
4 coroner's inquest.

5 MS. YOUNG: Your Honor, at this point in time,  
6 we'd offer Chad Smith as an expert witness in  
7 firearms identification.

8 THE COURT: Any examination as to his  
9 qualifications by Mr. Chesser?

10 MR. CHESSER: No, Your Honor.

11 THE COURT: Mr. Routzong?

12 MR. ROUTZONG: No, sir.

13 THE COURT: All right.

14 Madam forelady, ladies and gentlemen of the  
15 jury, I would qualify Mr. Chad Smith as an expert in  
16 the area of firearm identification dealing with  
17 comparisons and IDs. What that simply means is,  
18 normally under our rules of evidence, an ordinary  
19 witness is unable to render opinions; they can only  
20 testify about what they see or observe, first-hand  
21 information. They can't opine or give opinions  
22 about certain things. We have a rule or an  
23 exception to that rule under our rules of evidence  
24 which someone who by way of training, education, and  
25 experience and background has obtained more

1 knowledge or expertise in a certain area that's  
2 outside of the scope of normal lay people's  
3 knowledge, such as firearm identification and  
4 comparisons. They're allowed to give opinion  
5 testimony.

6 And I will tell you at the conclusion of the  
7 case when I charge or instruct you on how you can --  
8 or what you can do with opinion testimony. So he'll  
9 be allowed to give opinions whereas the normal  
10 witness would not be able to.

11 MS. YOUNG: Thank you, Your Honor.

12 BY MS. YOUNG:

13 Q. Mr. Smith, would you please explain to the  
14 jury, how does firearms identification work?

15 A. Firearms identification, basically what we're  
16 trying to do is identify an ammunition component  
17 such as a cartridge case or a bullet that's been  
18 fired by a firearm back to that firearm that  
19 actually fired it.

20 How we're able to do this is, during the  
21 firearm manufacturing process, there are numerous  
22 microscopic defects that are placed just  
23 incidentally, it's totally random, during the  
24 manufacturing process of that firearm. These are  
25 microscopic, random imperfections. And what happens

1 is, when a firearm is completed and then when you go  
2 to fire the actual firearm using a cartridge, marks  
3 are placed on those ammunition components, the  
4 cartridge case or the bullet. And what we're doing  
5 is -- there's microscopic marks. We can look at  
6 those microscopic marks, compare them to test-fires  
7 from firearms, and try to compare if they are a  
8 match or not.

9 Q. What happens if you have two guns of the same  
10 type, make and model from the same manufacturer?  
11 How can you tell those two apart?

12 A. Right. Again, it's just -- every gun is unique  
13 in their manufacture as far as how the machinery  
14 interacts with the firearm parts during  
15 manufacturing.

16 An instance would be like if a tool that's  
17 making the firearm part -- you know, as it's wearing  
18 down, it's placing marks on these components.  
19 Again, these are totally unique microscopic marks  
20 that we're looking at. So, in essence, each  
21 firearm, regardless of make or model, is  
22 individually marked.

23 Q. So when you're doing your examination, are you  
24 looking at the firearm itself or firearm ammunition?  
25 Explain how that works.

1       A.    Well, what we do is, when we get a firearm and  
2       we get fired ammunition components, like a cartridge  
3       case or a bullet, first thing we do is check out  
4       everything, make sure the firearm is working  
5       properly, any imperfections such as safety defects,  
6       that sort of thing, we test-fire that firearm, able  
7       to get test-fires for our own purpose.  We know that  
8       it's been test-fired from that gun because we  
9       actually shot it from that firearm.  We can compare  
10      the tests together to see what kind of marks may  
11      replicate on those test-fires.

12                We compare those with the actual evidence  
13      components.  The way we do this is, there's a device  
14      called a comparison microscope.  It's basically two  
15      microscopes that are connected by optical bridge  
16      unit, so we're able to look at two specimens  
17      simultaneously to line -- to align it together to be  
18      able to --

19      Q.    When you're talking about doing this  
20      examination, you're doing it on the cartridge that  
21      was fired from the gun, not the gun itself; correct?

22      A.    Right.  We do it on the test-fires compared to  
23      the evidence that is submitted; not the actual  
24      firearm, we're actually looking at test fires  
25      against evidence components.

1 Q. And how does the test-firing process work?

2 A. We have two ways of test-firing in our  
3 laboratory. In our department we've got a vertical  
4 tank -- we're located on the second floor and we've  
5 got a tank that goes all the way down to the first  
6 floor, it's filled with water. And what we do is --  
7 it's a really low-tech approach, but it works  
8 perfectly.

9 But we shoot down into the tank and the bullets  
10 collect down at the bottom. We've got a little  
11 metal cup that's attached to a chain that the  
12 bullets collect down into so we're able to retrieve  
13 those test-fired bullets. The cartridge cases -- we  
14 set up a little box. The cartridge cases eject into  
15 the actual box, so we're able to collect those  
16 test-fires.

17 Another way we're able to do it, we have a  
18 section that has a little box that we're able to  
19 shoot horizontally into that's filled with cotton  
20 scraps, that sort of thing, to collect test-fired  
21 bullets as well. We don't use that technique that  
22 much though.

23 Q. When you're talking about numerous bullets, do  
24 you just test one gun at a time?

25 A. That's correct, yes, ma'am, unless they're

1 different calibers and that sort of thing, then we  
2 know that the test-fire is going to be different  
3 after you compare and that sort of thing.

4 But if we're shooting multiple firearms that  
5 are different caliber -- or same caliber, rather,  
6 we'd shoot them one at a time, retrieve those  
7 test-fires, and then we mark them as such as being  
8 test fires with our SLED lab item number and then  
9 our initials as well. So everything is kept  
10 individually.

11 Q. So does that mean, just to make sure I'm clear,  
12 if you were test-firing a shotgun and then you also  
13 had a .22 pistol, you could test-fire those at the  
14 same time because they're going to be completely  
15 different?

16 A. Right. Now, shotguns we do test differently in  
17 a different area. But it is correct, yes.

18 Q. Okay. Before we get to the specific evidence  
19 in this case, can you just explain to the jury how  
20 evidence is handled at SLED itself, just kind of  
21 general procedures.

22 A. Okay. When an agency brings in evidence for  
23 examination, they come into our laboratory. We've  
24 got an evidence control department which is on the  
25 first floor. All the evidence that shows up at SLED

1 goes through that department. What they do is, they  
2 log it into the computer system, it's called  
3 Laboratory Information Management System, so it's  
4 all logged in, what the evidence is or what they're  
5 saying the evidence is, it's given an individual  
6 barcode or tracking number, so we're able to track  
7 all that evidence throughout the different  
8 departments. It has to go to different departments.

9 So they'll store that evidence until it's  
10 assigned to an analyst, we're able to come down to  
11 the evidence control department, take custody of  
12 that evidence, take it into our possession, to our  
13 laboratory, and then it stays in our evidence  
14 locker -- each examiner has their own evidence  
15 locker storage area -- until we're ready to work  
16 that actual evidence.

17 Q. And did you receive evidence in a case  
18 involving Defendants Franklin Robinson and Eddie  
19 Stewart?

20 A. Yes, ma'am.

21 Q. And which -- from where did you get this  
22 evidence? Who gave it to you?

23 A. This evidence was submitted by Aiken County  
24 Sheriff's Office.

25 Q. And does it all come under one lab number or do

1 they have different lab numbers; how does that work?

2 A. This is actually submitted under one lab  
3 number. All of the evidence is submitted under one  
4 lab number.

5 MS. YOUNG: May I approach the witness, Your  
6 Honor?

7 THE COURT: Certainly.

8 BY MS. YOUNG:

9 Q. Mr. Smith, I'm going to show you what's been  
10 marked for identification purposes as State's 55 and  
11 ask you to take a look at it. If you need something  
12 to open the box, let me know.

13 A. Yeah, scissors or anything.

14 Ladies and gentlemen, I have inspected this  
15 firearm. It is safe to handle.

16 Q. And you recognize it specifically with regards  
17 to this case?

18 A. Yes, ma'am. This is my SLED lab item number,  
19 Item 11. And I can plainly see the markings that I  
20 placed on the item itself. I've marked it in three  
21 different spots; here, inside the receiver here, and  
22 actually on the bolt itself.

23 Q. And when you talk about making marks on that,  
24 why don't you tell the jury exactly what you mean by  
25 that?

1 A. Every item of evidence that we receive, we mark  
2 it with a SLED lab item number, the SLED lab case  
3 number, and our initials, that way everything is  
4 marked as to what it is and there's no confusing  
5 other items with it. So...

6 Q. And you did that in this case?

7 A. Yes, ma'am.

8 Q. And that's how you know that's the gun that you  
9 examined in this particular case?

10 A. Correct.

11 Q. If you would, very briefly, for those of us who  
12 might not be as knowledgeable about guns, can you  
13 tell us a little bit about that gun compared to  
14 other guns?

15 A. Okay. This particular firearm, it's a  
16 semiautomatic rifle, just the basic. Semiautomatic  
17 means for every pull of the trigger, you're going to  
18 fire a cartridge as opposed to a full automatic  
19 machine gun or as -- every time you hold down the  
20 trigger, it's going to keep firing on its own until  
21 you let off the trigger or it runs out of  
22 ammunition.

23 But for this particular rifle, one pull of the  
24 trigger, one fire of the cartridge. It's a  
25 gas-operated system which means that gas is --

1           there's a hole in the barrel inside the bore. Gas  
2           goes up through there when a cartridge is fired. It  
3           actuates on a little piston here, which actually  
4           activates the bolt carrier group, which is this unit  
5           here.

6                     And basically what happens is, it just extracts  
7           the cartridge case, it ejects the cartridge case,  
8           and then there's a spring in here which slams the  
9           bolt-carrier group forward, and the magazine, which  
10          is in the box as well, is where the cartridges are  
11          stored. So on a return trip forward, it takes  
12          another cartridge from the magazine and chambers the  
13          round into the barrel, so then you have to pull the  
14          trigger again to repeat the cycle.

15          Q.    Mr. Smith, does that gun appear to be in  
16          substantially the same condition as it was when you  
17          examined it and did your testing procedures on it?

18          A.    Yes, ma'am.

19                     (State's Exhibit Nos. 58-62 marked for  
20          identification.)

21          BY MS. YOUNG:

22          Q.    Mr. Smith, I'm going to show you what's marked  
23          as State's Exhibits 58 through 62 and ask you to  
24          take a look at each one of those individually and  
25          tell me whether or not you can identify those.

1 A. Yes, ma'am. These appear to be photographs of  
2 this actual firearm.

3 Q. And do the photographs accurately and correctly  
4 depict the firearm as it appeared when you examined  
5 it and as it appears now?

6 A. Yes, ma'am.

7 Q. If you would, please, Mr. Smith, take each  
8 individual photo and --

9 MS. YOUNG: Well, Your Honor, at this point in  
10 time, we'd move State's Exhibits 58 through 62 into  
11 evidence.

12 THE COURT: Any objection?

13 MR. CHESSER: No objection.

14 MR. ROUTZONG: No objection.

15 (State's Exhibit Nos. 58-62 admitted into  
16 evidence.)

17 BY MS. YOUNG:

18 Q. Mr. Smith, please take each picture one at a  
19 time and just describe what's in it for the jury.

20 A. Okay. This is a photograph here just  
21 representing the right side of the firearm itself.  
22 Everything seems to be intact as the way I received  
23 it.

24 This photograph here, which is State's Exhibit  
25 59, shows the left side of the firearm.

1           State's Exhibit 60 is a close-up of the left  
2 side of the receiver where it has the manufacturer's  
3 information, make, model, caliber, serial number.

4           Q.    Can you read the serial number on the weapon  
5 from that picture?

6           A.    Yes, ma'am.  It is LMT-60113.

7           Q.    And that would be the same serial number from  
8 the gun you tested?

9           A.    Yes, ma'am.

10          Q.    What does LMT stand for?

11          A.    That's Lewis Machine & Tool.  That's the actual  
12 manufacturer of the firearm.

13          Q.    Kind of like the brand name?

14          A.    Yes, ma'am.

15          Q.    All right.

16          A.    State's Exhibit 61 is a picture of the magazine  
17 well.  The magazine would actually fit up into this  
18 part of the receiver, lock into it.  This is one of  
19 the areas that we mark the firearm itself.  There's  
20 my SLED lab case number, the item number, Item 11,  
21 and then my initials.

22          Q.    How do you make those markings?

23          A.    We use an engraving tool -- it's a laboratory  
24 Dremel engraving tool -- that way it can't be  
25 simply just -- some agencies use marker, that sort

1 of thing, but those can wear off; this is more of a  
2 permanent solution.

3 State's Exhibit 62 is just a close-up shot of  
4 that magazine well, previous photographs of my  
5 markings.

6 Q. You also received some fragments and un-fire --  
7 did you keep received unfired ammunition in this  
8 case?

9 A. I did not receive unfired ammunition, but I  
10 received numerous fragments and I received a fired  
11 cartridge case.

12 Q. Before we get to the specifics of this case,  
13 explain to the jury the -- you know, what does it  
14 mean if you receive unfired ammunition in terms of  
15 how you do the testing at SLED?

16 A. Okay.

17 Q. Why is that significant?

18 A. Sometimes we'll receive unfired ammunition; you  
19 know, the bullet is still intact inside the  
20 cartridge case. Ever time that we test-fire a  
21 firearm, we try to use laboratory-supplied  
22 ammunition as opposed to submitted ammunition. The  
23 main reason is, submitted ammunition is considered  
24 evidence and we don't want to change that evidence  
25 in any way. So if we test-fire it, of course it's

1 changing.

2           There are certain times where we don't have the  
3 specific brand of ammunition, perhaps, or we tried  
4 different brands of ammunition and we're not getting  
5 the marks on the test-fires that we need so, in  
6 other words, we would have to use submitted  
7 ammunition for test-fires. But we try to -- that's  
8 our last resort.

9 Q.    So basically you have a big stockpile of  
10 various types of ammunition, and that's your  
11 lab-supplied ammunition and that's your preferred  
12 method for testing?

13 A.    That's correct.

14 Q.    Is that -- I'm sorry. I just asked a bunch of  
15 questions at one time.

16 A.    That's --

17 Q.    That's correct --

18 A.    -- correct.

19 Q.    -- to each one of those?

20 A.    Yes, ma'am.

21 Q.    Okay. I'm going to show you what's been marked  
22 for identification purposes as State's Exhibit  
23 No. 52 and ask you if you can identify that and tell  
24 us what it.

25 A.    Yes, ma'am. This is my -- Item No. 16 is a

1 bullet jacket fragment. It has been sealed by me.  
2 When I'm done with my analysis, we repackage it, we  
3 heat-seal the bags, we initial and put the date that  
4 it's been sealed. Everything is intact, all my  
5 seals are intact.

6 Q. And everything has your initials?

7 A. That's correct.

8 Q. And that is an item that you tested at SLED for  
9 this case?

10 A. Yes, ma'am.

11 MS. YOUNG: Your Honor, at this time we'd offer  
12 State's Exhibit 52 into evidence.

13 THE COURT: Any objection?

14 MR. CHESSER: No objection.

15 MR. ROUTZONG: None.

16 (State's Exhibit No. 52 admitted into  
17 evidence.)

18 BY MS. YOUNG:

19 Q. Now I'm going to show you State's 53 and ask  
20 you to do the same thing, if you can.

21 A. This is my Item No. 15 that I received in this  
22 case. It is numerous fragments; I've got lead  
23 fragments and bullet jacket fragments. When I say  
24 jacket fragments, that's the outer coating, if you  
25 will, of a bullet that's made out of a different

1 material. The core is usually a lead-type material.  
2 And I've got both of those here. So -- but yes,  
3 everything seems to be intact.

4 Q. And you recognize it from your initials in the  
5 same manner?

6 A. Yes, ma'am.

7 Q. Let me show you State's Exhibit 54. Do you  
8 recognize those?

9 A. Yes, ma'am. This is my Item No. 12. It was  
10 submitted as Item 12. When I opened up the  
11 container, I found that there were actually two  
12 separate items in here; one was submitted as --  
13 well, they were both submitted as from Craven at  
14 autopsy. But when I opened it up, I saw that there  
15 were two actual -- two different types of packaging  
16 here. So what I did was, in order to separate the  
17 two for identification purposes, I made the other  
18 package that was with it a separate item number in  
19 our system so I could keep track of everything.

20 And the other item says it's from the body bag.  
21 But they were all submitted under the same item  
22 number. And all of my seals and everything, my  
23 initials, are on these containers and are intact.

24 Q. How about State's Exhibit 56?

25 A. Yes, this is my Item No. 20. It is a lead

1 fragment. All the packaging, seals and everything  
2 are intact.

3 Q. Mr. Smith, I'm now going to show you State's  
4 Exhibit 57 and ask if you recognize it.

5 A. Yes. This is my Item No. 19. It's a fired  
6 cartridge case that I received in this case. And  
7 also my lab number, my initials, the item number,  
8 everything is marked on here and the seal is intact  
9 as well.

10 MS. YOUNG: Your Honor, at this time, if I may  
11 approach, because I can't remember in my head, we'd  
12 move to enter State's Exhibits 53, 54, 56 and 57  
13 into evidence at this time.

14 THE COURT: Any objection?

15 MR. CHESSER: No objection.

16 MR. ROUTZONG: No, sir.

17 (State's Exhibit Nos. 53, 54, 56 and 57  
18 admitted into evidence.)

19 BY MS. YOUNG:

20 Q. Now, Chad, after your examination of each of  
21 these items, to a reasonable degree of scientific  
22 certainty, do you have an opinion regarding each one  
23 of those separate items that you testified about and  
24 that you tested and reviewed?

25 A. Yes, ma'am.

1 Q. All right. And you prepared some sort of a  
2 report to memorialize the testing and your results?

3 A. That's correct.

4 Q. All right. If you would, please, go down one  
5 at a time and tell us what your opinion was as to  
6 each item, identify it by both the State's Exhibit  
7 number and your SLED number.

8 A. Okay. I'll start with the firearm. It's my  
9 Item No. 11 and I can't remember what the --

10 Q. It's 55.

11 A. And 55 is the State's Exhibit. I examined it,  
12 it worked fine; no issues at all. The only -- it's  
13 not an issue, but one thing that might confuse some  
14 people, the caliber of this rifle is marked 5.56  
15 millimeter and the cartridge case that I received,  
16 the fire cartridge case, my Item No. 19, which is  
17 State's Exhibit 57, is marked 223 Remington. So at  
18 first you'd think it would be two separate calibers.  
19 Actually, 223 Remington and 5.56 millimeter is  
20 basically the same thing. The 5.56 is the military  
21 designation, whereas 233 is the commercial  
22 designation. They're basically identical, except  
23 the 5.56 is loaded to a higher pressure.

24 So some firearms you might see the caliber  
25 written 223, which means that you're not really

1       supposed to shoot the 5.56 because of the higher  
2       pressure which could cause damage to the firearm and  
3       also to the person shooting it.  But this firearm,  
4       since it is marked 5.56, it can shoot both cartridge  
5       designations, so there's no issue there.  So the  
6       firearm worked properly.

7                Would you like me to start with -- just go down  
8       straight with item numbers or as to the -- my -- the  
9       way I worded my conclusions or...

10      Q.     Whatever suits you.

11      A.     Okay.  My item number is 12 and 21.  Again,  
12       these are separated out by me.  They're State's  
13       Exhibit 54.  I found that the lead fragments that I  
14       received contained no marks of value, which means  
15       they were unsuitable for identification with a  
16       specific firearm.  Really nothing we could match it  
17       up with because there's no marks on it.

18               I received three bullet jacket fragments in  
19       Item 12.  The -- one of the bullet jacket fragments  
20       had no marks of value, so it was unsuitable for  
21       identification; however, the other two bullet jacket  
22       fragments I was able to match to test-fires by the  
23       firearm, concluding that those were fired by the  
24       actual item, the firearm.

25      Q.     Chad, how were those labeled with regard to

1 location where those items came from?

2 A. Item 12, the description: One lead fragment  
3 and three fired bullet jacket fragments from Craven  
4 at autopsy. The other one, Item 21, again, which is  
5 the one I separated out, was a bullet jacket  
6 fragment which contained no marks of value, so it  
7 was unsuitable for identification. And it was  
8 labeled as -- by me, one fired bullet jacket  
9 fragment labeled on packaging as from body bag.

10 Okay. My Item 15, which is State's Exhibit 53,  
11 are two lead fragments and four fired bullet jacket  
12 fragments from Robinson. Again, the lead fragments  
13 that I received bore no marks of value and were  
14 unsuitable for identification; however, the four  
15 fired bullet jacket fragments that I received I was  
16 able to match to test-fires from the firearm,  
17 including that they were fired by the Item 11 rifle.

18 Item 16, which is the State's Exhibit 52, one  
19 fired bullet jacket fragment from Stewart. This  
20 jacket fragment was compared to test-fires from the  
21 Item 11 rifle, and I was able to determine that it  
22 was fired by the Item 11 rifle.

23 And finally, I have Item 20, which is State's  
24 Exhibit 56. It's a lead fragment. Again, with the  
25 lead fragment, I'm unable to determine -- there's no

1 marks of value on it, so it's unsuitable for  
2 identification. That's it.

3 Q. Can you explain for the jury -- you've talked  
4 about those lead fragments and I believe you  
5 described them as bullet jacket fragments. What's  
6 the difference between those two?

7 A. Right. Going back to the way a cartridge is  
8 put together, you've got a cartridge -- I'll just go  
9 through the whole thing. The cartridge case  
10 itself -- sometimes people call it a shell or a  
11 spent casing, that sort of thing. The cartridge  
12 case is basically a container for all of the other  
13 components; it holds the gunpowder, has a primer,  
14 and it holds the bullet. The bullet is the actual  
15 projectile.

16 Often some people just call the whole cartridge  
17 a bullet, which is technically incorrect. But the  
18 way a bullet is designed, most of the times it has a  
19 jacket around it, has a covering of some sort of  
20 metal. The interior would be a softer, cheaper  
21 material such as lead, that's very common. And as  
22 we've got here, these are lead fragments. The  
23 covering or the jacket around the core itself is  
24 what comes in contact with the rifling of the  
25 barrel.

1           The rifling is what's putting the marks on the  
2 actual bullet as it's being fired, and it's the  
3 marks that the rifle puts on the bullet that we look  
4 at for making identification purposes. So the  
5 jacket actually comes in contact with the rifling,  
6 the bore of the barrel, whereas the core does not.  
7 So it's not unusual to find, you know, the jacket  
8 fragments have rifling marks, whereas the core does  
9 not.

10       Q.    You're talking about rifling marks. Do they  
11 have any other name like grooves, lands?

12       A.    Oh, yes, ma'am. The rifling is made up of what  
13 we call lands and grooves. It's basically a spiral  
14 or twisting pattern that's put inside the barrel by  
15 the manufacturer in order to give that bullet a spin  
16 as it's traveling down the barrel. And what that  
17 spin does is it gives it more accuracy and makes it  
18 more velocity as well, makes it more accurate too.

19           So the rifling is what puts the marks on the  
20 bullet, those lands and grooves. And it's the lands  
21 and grooves that are impressions, is what we're  
22 looking at on the actual bullet to do our  
23 comparisons.

24       Q.    What's a land and what's a groove?

25       A.    It's simple: The land is -- or let me start

1 with this: The groove are the cutaway portions of  
2 the bore creating that spiral portion. So you've  
3 got raised portions, which is a land, and then you  
4 have a lower portion, which is the groove, which is  
5 the cut part. So that's what imparts the spin on  
6 the bullet.

7 Q. And everything that you're talking about is  
8 inside the barrel of the gun itself?

9 A. That's correct.

10 Q. And all this lands and grooves is the details  
11 of what you call the rifling of the firearm?

12 A. Yes, ma'am.

13 Q. I'm just trying to make sure I understand you.

14 A. Uh-huh.

15 Q. And the rifling of the firearm inside makes the  
16 marks?

17 A. That's correct. Right.

18 Q. Okay. And when you're talking about cartridge  
19 casings -- I'm showing you State's 57 -- that's what  
20 you're referring to?

21 A. Right. That would be an actual cartridge case,  
22 a fired cartridge case, which is actually a  
23 container for the others components.

24 Q. So that is kind of like the thing that holds it  
25 all together?

1 A. Right.

2 Q. And because it comes in contact with the gun,  
3 that's the reason it has -- it's more likely to have  
4 value in your analysis?

5 A. Right, right. And I didn't talk about this,  
6 but the cartridge case, when it's actually inserted  
7 into the firearm, chambered into the barrel, you've  
8 got the bolt of the firearm which goes against the  
9 rear portion of the cartridge case, gives it support  
10 as it's being fired.

11 What happens is, when it's fired, the cartridge  
12 case slams back into the rear of the bolt face, and  
13 that's what's picking up marks, as well as the  
14 firing pin itself hitting the primer portion of the  
15 cartridge case. That gives it marks too, which are  
16 unique.

17 Q. So you can get -- when you -- let me make sure  
18 I understand. Science isn't my forte.

19 So you're talking about when you do the test,  
20 you can look at the end portion of the cartridge  
21 case?

22 A. Right; the breech face portion.

23 Q. When you're talking about the breech face when  
24 I'm looking at this, what do you mean?

25 A. Well, the breech face is actually part of the

1 bolt that's supported or the -- the cartridge case  
2 is supported by the bolt. That rear part of the  
3 bolt is called the breech face; that's what's going  
4 up against the cartridge case itself. So when it's  
5 fired, it slams back up against the breech face,  
6 imparting marks onto the actual cartridge case.

7 But there are other areas too that we can look  
8 at the cartridge case for identification purposes;  
9 the firing pin impression can be unique, and also  
10 too, any mechanism marks, the ejection, extraction,  
11 marks that are placed on the cartridge case by the  
12 firearm can be unique as well.

13 Q. So when I'm looking at State's Exhibit No. 57,  
14 the breech face of the gun, that comes in contact  
15 with this whole round portion; is that correct?

16 A. Right, right.

17 Q. And then the firing pin, is that what makes  
18 that little divot in the middle?

19 A. Right. You've got -- at the rear of the  
20 cartridge case is a little thing called primer. The  
21 firing pin hits the primer which causes a small  
22 explosion that travels into the actual cartridge  
23 case itself which ignites the gun powder. That's  
24 how the actual cartridge is ignited. So when a  
25 firing pin hits that primer, it makes a mark;

1 usually a divot sort of thing. But different firing  
2 pins can make different marks. So we can use that  
3 under microscopic analysis for little tiny defects  
4 that can be used for identification.

5 Q. So just to summarize, in your testing you found  
6 items that were fired by State's 55, which is that  
7 firearm in front of you?

8 A. Yes, ma'am.

9 Q. And which ones were those?

10 A. Item 12, which was, again, separated out by me,  
11 Item 12 and 21. Item 12, the -- two of the jacket  
12 fragments that were submitted as Item 12, I was able  
13 to match to the firearm.

14 Item 15, which contain, again, lead fragments,  
15 which didn't have any marks of value, but the jacket  
16 fragments, which you can see here, I was able to  
17 match to the firearm.

18 Item 16, which is State's Exhibit 52, it's a  
19 jacket fragment, I was able to match to the firearm.

20 Q. So, Chad, Item 12 corresponded to Craven?

21 A. Correct.

22 Q. Item 15 corresponded to Robinson?

23 A. Yes, ma'am.

24 Q. And Item 16 corresponded to Stewart?

25 A. Yes, ma'am.

1 MS. YOUNG: Your Honor, at this time, the State  
2 would seek to substitute the pictures that we  
3 already have in evidence in lieu of entering the  
4 actual firearm into evidence of this case.

5 THE COURT: Any objection by Mr. Chesser?

6 MR. CHESSER: No, Your Honor.

7 MR. ROUTZONG: No, sir.

8 THE COURT: You may do so.

9 BY MS. YOUNG:

10 Q. Chad, we talked a lot about these fragments  
11 that you examined. Is it fair to say that's really  
12 what you examined in this case to give you your  
13 results?

14 A. Correct, yes, ma'am.

15 Q. What causes these fragments? What causes the  
16 whole cartridge to come into fragment like that?

17 A. This particular caliber, 223 Remington, the 556  
18 millimeter, is -- that particular bullet is designed  
19 to fragment upon impact. So it's not uncommon to  
20 see bullets of this caliber received as fragments.  
21 That's just the way it's designed. It's a  
22 high-velocity small caliber, but it's extremely  
23 high-velocity, traveling around 3,000 feet per  
24 second, roughly. So it's not unusual to see those  
25 sorts of fragments received of them.

1 Q. And it would be because the bullet hit  
2 something?

3 A. Right; hitting the target, it would fragment.

4 MS. YOUNG: No further questions. Please  
5 answer any questions the Defense has for you.

6 THE COURT: Mr. Chesser?

7 MR. CHESSER: May it please the Court.

8 CROSS-EXAMINATION

9 BY MR. CHESSER:

10 Q. Just a couple questions. These were  
11 223-caliber rounds in this weapon or that were fired  
12 from it?

13 A. The cartridge case I received was 223 Remington  
14 caliber.

15 Q. Okay. And you mentioned that inside the  
16 cartridge is the lead or the actual bullet; isn't  
17 that correct?

18 A. Inside the cartridge you would have your  
19 projectile which is made of lead or -- and/or some  
20 sort of jacket material.

21 Q. Okay. So when you were talking about it  
22 fragmenting, is it the lead, the projectile that  
23 fragments, is it the cartridge, or both?

24 A. Oh, it's the projectile. That's what's  
25 actually going down the barrel towards its target.

1 So that's what's actually hitting the target and  
2 fragmenting.

3 Q. Okay. And this fragmentation renders it more  
4 lethal; correct?

5 A. That's an area of ballistics which is beyond my  
6 training. So I can't really get into as far as  
7 lethality of a specific projectile, because that's  
8 not what we study. But I do know that 223-round 556  
9 is designed to fragment upon impact.

10 Q. Well, it's true it's designed as an  
11 antipersonnel cartridge or projectile; isn't that  
12 correct?

13 A. As far as I know, yes.

14 Q. Okay. The weapon itself you identified as an  
15 LMT Model Defender 2000?

16 A. Correct.

17 Q. Okay. Is that -- can you just say that's an  
18 AR-15 or are there differences in these types of  
19 weapons?

20 A. It's an AR-15 platform. The difference between  
21 this particular rifle and the standard AR-15 is the  
22 way the gas system operates. This has a  
23 piston-driven operation, whereas a standard AR-15 is  
24 called direct impingement, which does not have a  
25 piston, per se. So there are differences, but it is

1 an AR-15-type weapon.

2 Q. Okay. And I'm going to ask you this: The  
3 armed forces, their standard weapon, isn't it like  
4 an M-16 or some derivation of that?

5 A. I believe so. Yes.

6 Q. And where does an AR-15 -- where did that line  
7 of weaponry come from or -- is it military?

8 A. It was started back in the '60s, as far as I  
9 know the history of -- the AR-15 was developed I,  
10 think, for military purposes.

11 Q. Okay. Is it supposed to be similar to an AK-47  
12 that was used by other forces?

13 A. The AK-47 has a different operating system. It  
14 is gas operated, but it uses a different sort of  
15 piston system. But the original AK-47 is a military  
16 weapon, yes.

17 Q. Okay. Well, one thing I heard you say and I  
18 want to try to clarify for me is, this is a -- you  
19 have it listed as a semiautomatic weapon; right?

20 A. Yes, sir.

21 Q. Okay. And what does semiautomatic mean?

22 A. For every pull of the trigger, a cartridge is  
23 fired. So it has to reset itself, pull the trigger  
24 again before a cartridge is fired, as compared to,  
25 like, a fully automatic weapon where you just pull

1 down the trigger and the action basically does all  
2 the operations including firing, so you get many,  
3 many shots per -- as you're holding down the  
4 trigger, as opposed to semiautomatic where you have  
5 to pull the trigger every time for just one round  
6 fired.

7 Q. But in other words, the weapon automatically  
8 resets itself between trigger pulls?

9 A. That's correct. Yes.

10 Q. Okay. So to fire 30 rounds, you have to pull  
11 the trigger 30 times?

12 A. Correct. If it's in working order, yes.

13 MR. CHESSER: That's all the questions I have.

14 THE COURT: Mr. Routzong?

15 CROSS-EXAMINATION

16 BY MR. ROUTZONG:

17 Q. Mr. Smith, you define that an assault weapon is  
18 one that is fully automatic; isn't that correct?

19 A. I don't believe I used the term assault. An  
20 assault weapon is actually a select-fire weapon  
21 which can be used fully automatic or multiple rounds  
22 per trigger pull or semiautomatic mode, is the  
23 original definition of an assault weapon. This is  
24 not an assault weapon.

25 Q. If it's not capable of fully auto-fire, it's

1 not assault weapon?

2 A. That's correct. Yes. It's a semiautomatic  
3 rifle.

4 MR. ROUTZONG: That's all.

5 THE COURT: Redirect, if any.

6 REDIRECT EXAMINATION

7 BY MS. YOUNG:

8 Q. Mr. Chesser asked you some questions about  
9 semiautomatic and pulling the trigger 30 times.

10 A. Yes.

11 Q. With that particular gun, would you be able to  
12 do that pretty quickly?

13 A. I would assume so. I guess it's dependent upon  
14 the individual operator, how fast they could pull  
15 the trigger. But you'd have to pull the trigger 30  
16 times to shoot 30 rounds.

17 Q. Thank you very much.

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

19 You're released from your subpoena.

20 Any objections?

21 MR. CHESSER: No, sir.

22 MR. ROUTZONG: No, sir.

23 THE COURT: Next witness, please.

24 MS. YOUNG: Thank you, Your Honor. The State  
25 calls Lieutenant Clay Adams.

1 THE COURT: Mr. Weeks, y'all come up and put  
2 this rifle back. Agent Smith, make sure it's  
3 completely unloaded.

4 MARTIN CLAY ADAMS

5 being first duly sworn, testified as follows:

6 THE WITNESS: I do.

7 THE CLERK: Please have a seat in the witness  
8 box. State your name for the Court and spell your  
9 last.

10 THE WITNESS: Martin Clay Adams, A-D-A-M-S.

11 DIRECT EXAMINATION

12 BY MS. YOUNG:

13 Q. Lieutenant Adams, where are you employed?

14 A. Aiken County Sheriff's Office.

15 Q. In what capacity?

16 A. I'm the lieutenant of the forensic  
17 investigation section.

18 Q. Does that mean you're the supervisor for  
19 Ms. O'Grady-Watts who testified earlier?

20 A. I am, yes.

21 Q. Okay. Tell the jury what all aspects and  
22 things that your forensic division is in charge of.

23 A. The forensic section is tasked by the Sheriff  
24 to respond to all crime scenes, major calls for  
25 crime scene response. We oversee the processing

1 laboratories for either fingerprints or trace  
2 evidence. We also have the drug identification  
3 laboratory and we have the evidence facility.

4 Q. So the evidence facility falls within your  
5 supervision as well?

6 A. Yes, ma'am.

7 Q. So it would be -- you'd be in charge of making  
8 sure all of those security and procedures and all  
9 that are followed?

10 A. Yes, ma'am.

11 Q. And did you have some involvement in this case  
12 involving the gun store and Defendants Robinson and  
13 Stewart?

14 A. I did.

15 Q. How did you become involved in this case?

16 A. I had the -- what we call the off-duty call,  
17 which is your after-hours call. We do man our  
18 laboratories and our facility during the daytime,  
19 Monday through Friday, 8:00 to 5:00, but there's  
20 always one of us on call from 5:00 to 8:00 in the  
21 morning. In this instance, I was the on-call crime  
22 scene investigator.

23 Q. That means after-hours; right? You might have  
24 already said that.

25 A. Yes, ma'am.

1 Q. That means not from 9:00 to 5:00?

2 A. Correct.

3 Q. And how did you get notified that some crime  
4 had happened?

5 A. Sheriff's office dispatch notifies us.

6 Q. And you responded to **Minor**

7 A. Yes, ma'am.

8 Q. And what did you observe when you first got  
9 there?

10 A. When I first arrived, I observed a fairly large  
11 debris field of items out in the middle of Edgefield  
12 Road into the parking lot of this store and then a  
13 very large hole in the left-hand side.

14 Q. What sort of debris did you see on the road  
15 itself?

16 A. Mainly insulation. I believe there was some  
17 sheetrock or maybe some metal sections.

18 Q. Not items that you normally find in the  
19 roadway?

20 A. No, ma'am.

21 Q. Okay. Bear with me just a minute. Let me ask  
22 you this: All these pictures I'm about to show you,  
23 did you take these?

24 A. Yes, ma'am.

25 Q. Okay. Lieutenant Adams, what's shown in

1 State's Exhibit 41, already in evidence?

2 A. It's a photograph of Edgefield Road with the  
3 insulation and debris.

4 Q. Let me ask you this: What do you do -- what's  
5 the first thing you do when you get to this  
6 particular crime scene? How do you approach it? Do  
7 you have a protocol or somehow that you do it each  
8 time?

9 A. The first thing we do when we arrive on a crime  
10 scene is meet with the officers that are already  
11 there just so we can get a general briefing on  
12 what's happened so that we have a better idea of  
13 what we need to look for, what's out of place,  
14 what's possibly in place.

15 And once we have that brief briefing, we try to  
16 capture the scene with photography, the way that we  
17 found it. And then we'll proceed into the scene,  
18 documenting with photographs, and then going from  
19 kind of a large scale down to a smaller scale.

20 Q. So you kind of start bird's eye view, so to  
21 speak, then go in?

22 A. Outside in, yes, ma'am.

23 MS. YOUNG: I apologize, Your Honor. I haven't  
24 had a chance to get these numbered, so I'm going to  
25 ask her to do that really quick.

1 BY MS. YOUNG:

2 Q. Lieutenant Adams, I'm going to do this as  
3 painlessly as I know how. I'm going to show you  
4 what's been entered into evidence already as State's  
5 Exhibits 11 through 38 -- excuse me, 11 through 40  
6 and 41. Without -- just look at them all, each one  
7 at a time, just make sure you recognize them. You  
8 don't have to talk about what's in them yet, just  
9 whether or not you can recognize them.

10 A. Yes, ma'am, I recognize these.

11 Q. Did you take those pictures?

12 A. I did, yes, ma'am.

13 Q. So they're fair and accurate representations of  
14 what you saw that night?

15 A. Yes, ma'am.

16 Q. Okay. These are not entered yet, but do the  
17 same thing with State's 63 through 81.

18 A. Yes, ma'am, I recognize them.

19 Q. Okay. And did you also take all of those  
20 pictures?

21 A. I did yes, ma'am.

22 Q. And do the pictures fairly and accurately  
23 depict the things you observed in the early morning  
24 hours of August 9th, 2012?

25 A. Yes, ma'am.

1 Q. Are they all at **Minor**

2 A. No, ma'am.

3 Q. Okay. Where are the other locations that are  
4 shown in those pictures?

5 A. There's two other locations; one being the  
6 Waffle House on Martin Town Road in North Augusta  
7 and the third location is the Aiken County Sheriff's  
8 Office forensic laboratory that we use to process  
9 our evidence.

10 (State's Exhibit No. 82 marked for  
11 identification.)

12 Q. I'm showing you what's been marked for  
13 identification purposes as State's Exhibit 82 and  
14 ask if you recognize that.

15 A. I do, yes, ma'am.

16 Q. What is it?

17 A. This is a CD, reportedly has photographs taken  
18 by me and my initials are on it.

19 Q. So you've reviewed this?

20 A. Yes, ma'am.

21 MS. YOUNG: Your Honor, at this time, we'd  
22 offer 82 into evidence.

23 THE COURT: Any objection?

24 MR. CHESSER: No objection.

25 MR. ROUTZONG: No objection.

1           (State's Exhibit No. 82 admitted into  
2 evidence.)

3           MS. YOUNG: Your Honor, is it okay for me to  
4 have him come down and look at these on the screen  
5 while he testifies?

6           THE COURT: He may.

7           MS. YOUNG: And, Your Honor, just in case I  
8 forgot to do it, I would offer State's Exhibits 63  
9 through 81.

10          THE COURT: 63 through 81?

11          MR. CHESSER: No objection.

12          MR. ROUTZONG: No, sir.

13                 (State's Exhibit Nos. 63-81 admitted into  
14 evidence.)

15 BY MS. YOUNG:

16 Q. All right, Lieutenant. I'm going to ask you  
17 the same question for each picture shown. Describe  
18 to the jury what's shown.

19 A. This photograph --

20           THE COURT: Please, identify the photo for the  
21 record.

22           MS. YOUNG: Thank you, Your Honor. We're  
23 starting with State's Exhibit 11.

24 A. This is a photograph that I took. I'm standing  
25 at the front left corner of the building, Edgefield

1 Road. And to this way is this is the front of the  
2 building, this is the left of the building with a  
3 very visible opening.

4 Q. Let's back up. I think it would be easier for  
5 Investigator Miano. That's State's 11. Let's go  
6 ahead and move to State's 12. Some of these are  
7 different angles.

8 A. This is a picture of the same hole; I've just  
9 kind of shifted a little to the left to get a more  
10 direct shot.

11 MS. YOUNG: I apologize, Your Honor. That's  
12 actually state's 13.

13 A. I have stood in the same place and just panned  
14 my camera more to the left.

15 Q. And State's 15?

16 A. This is a more close-up photograph of the  
17 impacted hole.

18 Q. And the way it's shown in that picture with all  
19 that stuff hanging down, is that how you found it?

20 A. Yes, ma'am.

21 Q. Okay. How about State's 16?

22 A. This is looking from the exterior through the  
23 hole, panning into the gun store.

24 Q. And State's No. 17?

25 A. This is a photograph of the exterior ground

1 outside the hole depicting some debris.

2 Q. And what's shown in State's 18?

3 A. This is a close-up photograph of the interior  
4 looking exterior of the hole, the outside to the  
5 inside, and the tile work. Most specifically, the  
6 tire impressions.

7 Q. And that's what you were trying to take a  
8 picture of is the tire marks on the floor?

9 A. Yes, ma'am.

10 Q. I mean, you're trying to take a picture of  
11 everything, but that's the focus of the picture?

12 A. Yes, ma'am.

13 Q. How about State's 19?

14 A. 19, I'm actually standing inside the gun store  
15 looking out, this being the front wall facing  
16 towards Edgefield Road.

17 Q. And how about number 20?

18 A. Number 20, I'm standing in the exact same  
19 place, however I've panned my camera to the left and  
20 looking at the front doors of the business looking  
21 from inside towards the out.

22 Q. All right. How about State's 21?

23 A. 21, I've -- basically, I've turned myself  
24 around and now I'm starting to photograph to my left  
25 inside the gun store, panning to the left, going

1 towards the rear of the gun store.

2 Q. And how about State's Exhibit 22?

3 A. 22 is a photograph of an assault-style rifle.

4 Q. And where is that located in the store?

5 A. This one is located near the hole in this,  
6 trying to capture the weapon along with the tire.

7 Q. And all that other debris in the picture?

8 A. The glass, yes, ma'am, and the other barrel of  
9 the other weapon.

10 Q. And --

11 A. Yes. And in this, I concentrated mainly on the  
12 gun, the tire wear, the glass, and the blood on the  
13 butt of the weapon.

14 Q. State's 23?

15 A. 23 is looking directly across from the hole on  
16 the interior. I have a hole to my back and this is  
17 looking forward.

18 Q. State's 24?

19 A. 24 is a picture of one of the gun display cases  
20 with broken glass.

21 Q. 25?

22 A. I've pulled back from that photograph also  
23 showing three display cases with broken glass.

24 Q. And all of that is how it looks when you got  
25 there to do this documentation?

1 A. Yes, ma'am.

2 Q. And to the extent that you know -- what's the  
3 policy about who's supposed to be on the crime scene  
4 once the officers secure it initially?

5 A. Say that again. I'm sorry.

6 Q. Once the initial officers -- you're not initial  
7 officer?

8 A. No, ma'am.

9 Q. You're there to do further investigation;  
10 right?

11 A. Yes, ma'am.

12 Q. Is there any policy about who is supposed to go  
13 in the crime scene or is it supposed to be preserved  
14 in some way to the extent possible?

15 A. Our officers are charged by the Sheriff to  
16 secure the crime scene to the best of their ability  
17 to allow for emergency responders to come in and do  
18 any type of job they need to, but to insure the  
19 physical evidence is secured until somebody like  
20 myself or another investigator is on the scene.

21 Q. So it would be limiting to the extent possible?

22 A. Yes, ma'am.

23 Q. How about 26?

24 A. 26 is a photograph that I took. I've got my  
25 back to the doorway that would lead to the apartment

1 and I'm looking towards the front of the building,  
2 this being the front door, and the impact opening to  
3 the left.

4 Q. Lieutenant Adams, that front door you're  
5 referring to, was that steel down over the door when  
6 you arrived?

7 A. Yes, ma'am.

8 Q. What about State's 27?

9 A. 27, I've just panned a little to the left  
10 showing the display cases with five broken out --  
11 broken glass display cases.

12 Q. If you're standing in the store facing  
13 Edgefield Road, which side of the store is shown in  
14 this picture?

15 A. The left side.

16 Q. Is it fair to say that the counters that are  
17 shown here pretty much go from the front of the  
18 store to the back of the store?

19 A. Yes, ma'am.

20 Q. There's a counter the whole way?

21 A. Yes, ma'am.

22 Q. Okay. How about 28?

23 A. 28, I am standing closer to the impact hole. I  
24 have the impact hole to this side of me. I'm  
25 looking back down along -- towards the back to the

1 doorway that's got some plastic strips, kind of like  
2 you would find at a warehouse or a grocery store.

3 Q. And 29?

4 A. I just panned to my right showing the display  
5 cases.

6 Q. And how about 30?

7 A. 30, I've reversed and now I'm shooting the  
8 camera back towards the plastic sheeting along with  
9 the display cases.

10 Q. 31?

11 A. 31, I'm standing with my back to the plastic  
12 doorway, looking towards the impact hole.

13 Q. Would it be fair to say that's the right side  
14 of the store?

15 A. Interior right.

16 Q. If you're facing Edgefield Road?

17 A. If you're facing Edgefield Road, interior  
18 right.

19 Q. And how about 32?

20 A. 32, I am shooting the camera back towards the  
21 other way with showing the plastic curtain-style  
22 door along with the safe so that I can give a point  
23 of reference because the last photograph showed the  
24 safe. So this is just a reverse shot.

25 Q. And that's located on the right interior wall,

1 the safe is?

2 A. Yes.

3 Q. And how about 33?

4 A. Again, a photograph looking, with my back  
5 towards the plastic doorway, towards the glass  
6 display cases.

7 Q. This would be the rear of the store?

8 A. Yes, ma'am.

9 Q. Is that case there on the end, is that the only  
10 one that was not broken, the glass broken out?

11 A. Yes. I believe so.

12 Q. State's 34?

13 A. 34 is a photograph of the plastic-stripped  
14 divider doorway.

15 Q. And 35?

16 A. This is looking from the other side of the  
17 plastic looking towards the gun shop. This is  
18 interior, looking towards the front of the building.

19 Q. So that would be more like the garage area?

20 A. Yes, ma'am.

21 Q. How about State's 36?

22 A. State's 36 is standing inside the gun store  
23 with the plastic sheeting to the back. There's a  
24 fish tank to my right and a group of spent shell  
25 casings.

1 Q. We've gone back, am I correct, to the other  
2 side of the curtain, so we're back inside the store  
3 area?

4 A. Back inside the gun store.

5 Q. 37?

6 A. Another photograph of the shell casings.

7 Q. We're skipping ahead. What's shown in State's  
8 63?

9 A. 63 is a photograph outside the hole, directly  
10 outside the hole, the hole to the building being  
11 right here. It's a photograph of a blue stocking  
12 cap, and where the red stain is blood, and then the  
13 material used by EMS.

14 Q. And how about State's Exhibit 64?

15 A. This is a close-up photograph, my Marker Item  
16 No. 4, of a blue cap.

17 Q. How do you decide what you're going to put your  
18 markers on?

19 A. Based on the direction I'm heading, if I look  
20 and I see a piece of evidence, I'll go ahead and  
21 assign it a number.

22 Q. So you make some kind of decision that you want  
23 to preserve that number 4; is that right?

24 A. Number 4 was -- yes, it was in numerical order  
25 as I was deciding what physical evidence to mark.

1 Q. How about State's 65?

2 A. This is like a black cloth, kind of like a  
3 bandanna. This is located near Item No. 4, which is  
4 the blue cap, kind of below this photograph.

5 Q. And how about 66?

6 A. 66 is a photograph that I took. This is --  
7 there's a blood trail that I was trying to capture,  
8 there's also some tire wear. This is the route  
9 taken towards the debris field out into Edgefield  
10 Road. This direction is heading down Edgefield Road  
11 towards I-20.

12 Q. And before we go further, for simplicity's  
13 sake, do you do the same thing at each crime scene  
14 in terms of your procedures?

15 A. Yes, sir.

16 Q. And the first thing you do is what?

17 A. We photograph the scene as it was found.

18 Q. Then after you take the pictures, what's the  
19 next thing you do?

20 A. After we take the photographs, then we start  
21 assigning numerical value to certain pieces of  
22 evidence.

23 Q. Then you collect the evidence?

24 A. Yes, ma'am.

25 Q. And that just means you put it in a bag or do

1 something like that with it?

2 A. We collect the evidence -- depending on what  
3 type of evidence it is dictates what type of bag to  
4 use. But, yes, it's put in a package.

5 Q. You said three different things in the pictures  
6 you previously testified about, three different  
7 locations?

8 A. Yes.

9 Q. And did you finish up here at **Minor**  
10 before you went anywhere else?

11 A. Yes, ma'am.

12 Q. Okay. So jumping ahead with the pictures,  
13 what's the next place you went on the morning of  
14 August 9th, 2012?

15 A. After I secured the evidence at this scene, I  
16 was told the respond to the Waffle House on Martin  
17 Town Road, which is right off of I-20, which is Exit  
18 1, I believe.

19 Q. And State's Exhibit 67, tell us what's  
20 significant about this picture?

21 A. In this photograph, I am looking at a green  
22 van. I've got the Waffle House behind the green  
23 van. This is Martin Town Road, and behind me would  
24 be I-20. So the green van was parked facing out  
25 towards Martin Town.

1 Q. Is this how it looked when you got there?

2 A. Yes.

3 Q. How about State's Exhibit 68?

4 A. 68 is a photograph I took depicting clothing  
5 which had been cut, along with blood and shoes.

6 Q. State's 69?

7 A. This is looking at the driver's side of the  
8 van. I've got my back to the Waffle House, taking  
9 the pictures towards the driver's door. In this  
10 picture are clothes, shoes and blood, as well as  
11 debris left by EMS.

12 (State's Exhibit No. 83 marked for  
13 identification.)

14 Q. All right. We're going to jump ahead here to  
15 State's 83.

16 A. This is a photograph I took of the rear of the  
17 van back towards the Waffle House parking lot.  
18 That's Martin Town Road.

19 Q. Was there anything between -- tell the jury  
20 what the observations you made regarding the van  
21 were at that point in time.

22 A. Typically in this type of photograph, I'll take  
23 a photograph of the back of the vehicle so to  
24 display the license plate on the back. But it's  
25 special in this case because it had visible damage

1 to the rear of the vehicle.

2 Q. Any damage to the front of the vehicle?

3 A. To the front of the vehicle, no; however, there  
4 was debris still --

5 MR. ROUTZONG: Objection, Your Honor --

6 THE COURT: Is that one in evidence?

7 MS. YOUNG: I apologize, Your Honor.

8 BY MS. YOUNG:

9 Q. This is State's 83. Lieutenant Adams, you took  
10 this picture?

11 A. I did.

12 Q. This is what you saw on the night in question?

13 A. Yes, ma'am.

14 Q. And it fairly and accurately depicts it?

15 A. Yes, ma'am.

16 MS. YOUNG: Your Honor, at this time we'd offer  
17 State's 83 into evidence.

18 THE COURT: Any objection, gentlemen?

19 MR. CHESSER: No, sir.

20 MR. ROUTZONG: No, sir.

21 (State's Exhibit No. 83 admitted into  
22 evidence.)

23 BY MS. YOUNG:

24 Q. Describe for the jury, if you would, when you  
25 were at the Waffle House and you were taking these

1 pictures, did you make any observations about the  
2 condition of the van?

3 A. The van did have physical damage both to the  
4 body as well as to items inside of it, had debris on  
5 the outside front, as well as blood and clothing  
6 surrounding it.

7 Q. After you took the pictures, what did you do  
8 further at this particular crime location?

9 A. Inside the Waffle House, right inside the  
10 doorway, there's two -- two doors that you go  
11 through to get into the Waffle House. And inside  
12 the Waffle House was tissue fragments, blood and  
13 tissue, and a projectile lying on the floor.

14 Q. And what did you do with regard to what you  
15 just described?

16 A. I photographed and collected it for further  
17 examination.

18 Q. Did you also collect items from the outside of  
19 the Waffle House?

20 A. Yes.

21 Q. Specifically what?

22 A. Clothing, shoes, the blood, the projectile from  
23 inside, and the vehicle.

24 Q. And when you say you collected the vehicle, how  
25 do you do that?

1 A. We took custody of the vehicle. We have a  
2 contract with Wayne's Automotive, which is a local  
3 tow company. They respond to wherever we are per  
4 our request, they will load up the vehicle, and then  
5 we escort the vehicle to the sheriff's office to our  
6 processing.

7 Q. So that way it stays in your sight the whole  
8 time?

9 A. It does.

10 Q. And then what do you do in terms of searching  
11 it once you get to the sheriff's office?

12 A. Typically, depending on the situation -- each  
13 crime scene is different, obviously. In this case,  
14 we took it to our facility, locked it into our  
15 processing unit and waited for investigations to  
16 obtain a search warrant.

17 Q. Did they do that?

18 A. Yes.

19 Q. Once the search warrant was obtained, what did  
20 you do?

21 A. I executed the search warrant and searched the  
22 vehicle and processed the vehicle for evidence.

23 Q. Number 70, describe what's shown, please.

24 A. In State's No. 70, this is inside our  
25 processing building. The green van is here and I am

1           documenting the physical damage to this van which  
2           has been equipped or handicap accessible, but has a  
3           ramp on the inside. So this is a modification to  
4           this van.

5           Q.    You make it taller like that?

6           A.    Yes, ma'am.

7           Q.    Putting that ramp in there?

8           A.    Yes, ma'am.

9           Q.    How about State's 71?

10          A.    Again, the van inside our building, looking at  
11          the other passenger's side rear corner of the  
12          vehicle.

13          Q.    And what's shown in State's 72?

14          A.    State's 72 is an interior photograph of the  
15          vehicle. I'm looking from the passenger's side  
16          front seat looking towards the driver's front seat.  
17          In this case, most specifically, I'm depicting the  
18          ignition switch to the vehicle to be damaged, as  
19          well as the blood in the seat.

20          Q.    73?

21          A.    Is a close-up photograph of the ignition  
22          switch.

23          Q.    And what would be the significance, if you  
24          could explain it, of this damage?

25          A.    This type of damage would have been utilized to

1 start a vehicle without a key.

2 Q. Like hot-wire? Is that the old-fashioned term  
3 for it?

4 A. Column busting, hot-wiring.

5 Q. And this is the condition the van was in at the  
6 Waffle House and once you got it back to the --

7 A. Yes.

8 Q. How about 74?

9 A. 74 is a pair of pliers in the center console  
10 cup area that we felt -- that I believe was used to  
11 turn the switch.

12 Q. To inflict that damage that you previously  
13 testified about?

14 A. Yes, ma'am.

15 Q. 75?

16 A. 75 is a photograph on the passenger's side of  
17 the vehicle. This is the sliding door behind the  
18 front passenger. This is the step-ups and this is  
19 the front, the first-row seating in the van. This  
20 picture was taken to show the blood and the gun.

21 Q. What's that brown thing on the seat?

22 A. This right here?

23 Q. Yes.

24 A. This is a bookshelf, I believe, if I remember  
25 correctly.

1 Q. Was it in that position, looking like that,  
2 when you got the van?

3 A. Yes.

4 Q. Going back in numerical order, but this is  
5 number 40.

6 A. Again, I'm standing in the passenger --  
7 exterior passenger's side where the sliding door is.  
8 This is the first-row seat with the bookcase and a  
9 long gun sticking out from underneath, as well as  
10 blood.

11 Q. Was there any other thing of evidentiary value  
12 shown in that picture, damage of some sort?

13 A. Well, there's broken glass, there's also a  
14 bullet strike right here going into the seat. I  
15 believe the bullet strike is right there.

16 Q. All right. How about State's Exhibit 76?

17 A. 76, I'm standing in the same place. This is  
18 the seatbelt to the front first-row seat. I'm  
19 looking behind it, I'm looking towards the cargo  
20 area, and there's a large pile of guns and a glove  
21 and blood.

22 Q. How about State's 77?

23 A. Same, I've just kind of panned a little bit to  
24 the left.

25 Q. Lieutenant Adams, you testified about first-row

1 seats. Is it, in fact, the only row of seats after  
2 the captains chairs?

3 A. I believe so.

4 Q. And how about State's 78?

5 A. 78 is still looking in the same way, just  
6 looking down a little more, documenting the  
7 different firearms and glove that I can see, along  
8 with the blood.

9 Q. And State's 79?

10 A. Again, I'm trying to document the weapons and  
11 blood. This would be the seatbelt and that would be  
12 the first row that you see looking into the car.

13 Q. And how about State's 80?

14 A. Still standing in the same place, we've got a  
15 cardboard box here, TV, a fairly large TV tipped  
16 over right here, the guns. And most of the blood is  
17 down to the bottom of this photograph.

18 Q. And can you also see a lift to some extent?

19 A. Yes, the rear door and the wheelchair lift.

20 Q. State's 81?

21 A. Just panned a little bit more to the left  
22 depicting the wheelchair.

23 Q. Lieutenant Adams, after you took all these  
24 pictures in regards to processing this van at the  
25 sheriff's office, what's the next thing you would

1 have done?

2 A. After I photographed it, that's when I removed  
3 all the weapons that I could find inside the  
4 vehicle.

5 Q. And please describe the process that you used  
6 in removing the weapons. How did you do it?

7 A. I took several large pieces of our butcher  
8 paper and laid it down. And as I removed a weapon,  
9 I was able to read the serial number, document the  
10 serial number, and photograph it.

11 Q. And did you do any precautionary -- I mean, did  
12 you do them one at a time? How did that work?

13 A. Yes, we do them one at a time; A, to make sure  
14 that the weapon is safe and, B, to insure that  
15 everything is documented.

16 Q. When you talk about making the weapon safe,  
17 what are you referring to?

18 A. We just make sure there's no round in the  
19 breech, that the weapon is not going to discharge  
20 while we're handling it.

21 Q. And if you would, please tell the jury what  
22 types of procedures or protocol you use in terms of  
23 handling each piece of evidence.

24 THE COURT: Ms. Young, are you at a stopping  
25 point?

1 MS. YOUNG: I can be, Your Honor.

2 THE COURT: Well, I know you can be. But  
3 you've got a ways to go?

4 MS. YOUNG: I've got a ways to go, so we can  
5 stop now, if that suits you.

6 THE COURT: The jury's food is here and we've  
7 got another hearing at 1:30. So let's take a break  
8 for lunch.

9 Madam forelady, ladies and gentlemen, your  
10 lunch is here. You're welcome to eat it in the jury  
11 room, you can take it outside. We're going to start  
12 back at about 2:15. Is that sufficient? You can  
13 eat here, go outside, whatever. Let's start back at  
14 2:15. Don't discuss the case, don't start any  
15 deliberations. Leave your notepads turned facedown  
16 in your chair. Everyone else, please remain seated.

17 (The jury exits the courtroom at 1:12 PM.)

18 THE COURT: Sir, you're right in the middle of  
19 your testimony; don't discuss it.

20 Anything from the State before we break for  
21 lunch?

22 MS. YOUNG: No, sir, Your Honor.

23 THE COURT: Mr. Chesser?

24 MR. CHESSER: Your Honor, just on the record, I  
25 renew my motion for a mistrial on the grounds

1           previously stated and submit the curative  
2           instruction was insufficient.

3           THE COURT: Thank you.

4           Mr. Routzong, you join in?

5           MR. ROUTZONG: I join in, Your Honor.

6           THE COURT: Thank you.

7           Anything else?

8           MR. CHESSER: Your Honor, I would

9           just anticipate -- at this point, Mr. Stewart  
10          indicates he intends to testify.

11          THE COURT: That's fine. He certainly has that  
12          right. We'll go over his right to testify, right to  
13          remain silent, all of the plusses pros and answer  
14          any questions he may have at the appropriate time.  
15          All right. We'll stand at ease till 1:30.

16          (Luncheon recess.)

17          THE COURT: Anything for the record before we  
18          start, Mr. Weeks, Ms. Young?

19          MS. YOUNG: No, sir, Your Honor.

20          THE COURT: Mr. Chesser? Mr. Routzong?

21          MR. CHESSER: No, sir.

22          MR. ROUTZONG: No, sir.

23          THE COURT: Nothing fluid?

24          MR. ROUTZONG: No, sir.

25          THE COURT: You've got how many more,

1 Ms. Young?

2 MS. YOUNG: Your Honor, we're finishing up with  
3 Lieutenant Adams, we have a witness from Waffle  
4 House -- that was our hiccup this morning was his  
5 schedule, so that's why we're a little out of  
6 order -- and then Investigator Cain. That would all  
7 for us.

8 THE COURT: Okay. Bring the jury in, please.

9 (The jury enters the courtroom at 2:19 PM.)

10 THE COURT: Okay. You may continue.

11 MS. YOUNG: Thank you, Your Honor. May  
12 Lieutenant Adams come back down here briefly?

13 THE COURT: He certainly may.

14 DIRECT EXAMINATION

15 (Cont'd)

16 BY MS. YOUNG:

17 Q. Lieutenant Adams, we were to the point where  
18 you were describing the procedures you used to  
19 recover the guns from the van. I believe you said  
20 you put a piece of butcher paper down and...

21 A. Okay. Typically what we'll put down in  
22 instances like this where we probably have a large  
23 number of physical evidence we're going to be  
24 pulling out -- in this case it was guns -- we'd lay  
25 down a large piece of butcher paper and would

1 individually retrieve items out of the van, document  
2 what it is, and place it.

3 Q. And, let's see, what is State's Exhibit 38?

4 A. It's an overall photograph of the weapons and  
5 the physical evidence that we removed from inside  
6 the van.

7 Q. What did you do regarding potential  
8 contamination of this evidence and how did you  
9 handle that?

10 A. Each individual piece of evidence, depending on  
11 what type of evidence it is, we take precautions to  
12 minimize any type of cross-contamination we can.

13 Q. What is cross-contamination?

14 A. It's when items of evidence -- and I'll use, in  
15 this case, DNA evidence -- could be transferred from  
16 one item that might have DNA evidence and then  
17 handling another piece of evidence that might have  
18 DNA evidence.

19 So in instances like this where we've got  
20 multiple pieces of evidence like this, we take  
21 precautions as best we can; we switch out our  
22 gloves, we individually bag them, we individually  
23 box them, whatever that it requires to minimize  
24 that impact.

25 Q. And to some extent, these guns were kind of in

1 a pile?

2 A. Yes.

3 Q. Go ahead and take the witness stand.

4 All those guns shown in State's 38, all of  
5 those came from inside the van; correct?

6 A. Yes.

7 Q. And you said you changed gloves every time you  
8 touched something?

9 A. Yes.

10 Q. Use a lot of gloves?

11 A. We go through a lot of gloves.

12 Q. Do you recall how many guns were taken from the  
13 van? Do you want State's 38?

14 A. Yes, ma'am, please.

15 I believe it's right at 26 firearms and two  
16 barrels or components of a firearm.

17 Q. And then I'm showing you what's been marked for  
18 identification as State's 39 and ask you, can you  
19 testify about that?

20 A. Yes, ma'am.

21 Q. And what's shown in State's 39?

22 A. This is a photograph of two of the firearm  
23 components that were removed.

24 Q. Would those be the two that you were just  
25 testifying about?

1 A. Yes, ma'am.

2 Q. Would those possibly be known as upper  
3 receivers?

4 A. Yes, ma'am.

5 Q. Okay. You also recovered a pair of gloves  
6 inside the van?

7 A. Yes, ma'am.

8 Q. And they were back there in the cargo area?

9 A. Yes, ma'am.

10 Q. Let's go back for a minute to **Minor**

11 I'm going to ask you some questions about  
12 your evidence collection at that scene. Is part of  
13 your duties to do stuff like find fingerprints and  
14 stuff like that?

15 A. Yes, ma'am.

16 Q. Did you do that in this case?

17 A. We did examine several of the surfaces that  
18 would be conducive to holding fingerprints. Yes,  
19 ma'am.

20 Q. All right. What did you find, if anything?

21 A. We were not able to locate any identifiable  
22 fingerprints in the items that we examined.

23 Q. And what would be the reason for that?

24 A. Environmental reasons, impact reasons such as  
25 wearing gloves or cloth or anything that would

1 obstruct the actual friction ridge of the hand to  
2 make contact with an item.

3 Q. But you did try?

4 A. Yes, ma'am.

5 Q. And does part of your training have to do with  
6 determining what locations might yield the best  
7 evidence?

8 A. Yes, ma'am.

9 Q. Lieutenant Adams, you've already testified  
10 about 36 and 37.

11 A. Yes, ma'am.

12 Q. What did you do, if anything, in regard to the  
13 shell casings?

14 A. Where we were able to view those shell casings,  
15 it lead me to believe that the person that fired  
16 that weapon was in fact standing in one location.  
17 In this case, having a very reasonable certainty  
18 that it came from the same weapon, all of those were  
19 collected as one item.

20 Q. And when you say you collected them, you picked  
21 them up and put them in the bags, something like  
22 that?

23 A. Yes, ma'am.

24 Q. And looking at the pictures or using your  
25 memory, do you recall where inside they were

1 collected?

2 A. Yes, ma'am. That's right inside the gun store  
3 where the plastic sheeting divider was.

4 Q. Lieutenant Adams, I'm going to show you State's  
5 Exhibit No. 57 and ask if you recognize that.

6 A. Yes, ma'am.

7 Q. What is that?

8 A. This is one of the spent shell casings from the  
9 floor.

10 Q. That you collected?

11 A. Yes, ma'am.

12 Q. Why is it separated out?

13 A. Due to protocol with the State Law Enforcement  
14 Division, they require individual items to be  
15 individually packaged, and in this instance we  
16 separated that one from the group of the other shell  
17 casings to match up or be examined by SLED to see if  
18 it was fired from the weapon that we had in our  
19 custody.

20 Q. So that one shell casing came from that group  
21 that you collected?

22 A. Yes, ma'am.

23 Q. And it was all in that same area?

24 A. Yes, ma'am.

25 Q. Did you find any other shell casings inside the

1 gun store or at any other location?

2 A. One shell casing made it into the fish tank`  
3 which was located right next to the shell casing.

4 Q. Just to be clear, I'm showing you State's 37.  
5 Shell casings on the floor?

6 A. Yes, ma'am.

7 Q. And where would the fish tank have been in  
8 relation to those shell casings?

9 A. Those are two cylinders, I believe they're air  
10 cylinders, that the shell casings are at the base  
11 of. Directly on the other side of the cylinders is  
12 the fish tank.

13 Q. Lieutenant Adams, I'm showing you State's 28.

14 A. Yes, ma'am.

15 Q. So the fish tank is next to the curtain?

16 A. Yes, ma'am. In that photograph it's  
17 illuminated in yellow, I believe from the fish tank  
18 light.

19 Q. Did it have any fish in it?

20 A. No, ma'am.

21 Q. Okay. So all of those shell casings were in  
22 that one location?

23 A. Yes, ma'am.

24 Q. How about in the van? Did you discover any  
25 spent shell casings in the van?

1 A. No, ma'am.

2 Q. Would you look for something like that?

3 A. Yes, ma'am.

4 Q. Lieutenant Adams, I'm going to show you State's  
5 56, which is already in evidence. Do you recognize  
6 that?

7 A. Yes, ma'am.

8 Q. What is it?

9 A. This is an item that I suspected to be a  
10 projectile that I recovered from the floor of the  
11 Waffle House.

12 Q. That you previously testified about?

13 A. Yes, ma'am.

14 Q. And how do you know you collected it?

15 A. Because it's got my name and sticker.

16 Q. Kind of like your little signature for it?

17 A. Yes, ma'am.

18 Q. And, collectively, I'm going to ask you, with  
19 regards to State's 56 and 57, when those were in  
20 your custody, did you change or tamper with them in  
21 any way or alter them?

22 A. No, ma'am.

23 Q. What did you do with them once you collected  
24 them?

25 A. They were packaged and then I submitted it into

1           our evidence facility.

2           Q.    Your storage room that's been testified about?

3           A.    Yes, ma'am.

4                   (State's Exhibit Nos. 47 and 48 marked for  
5           identification.)

6           Q.    Lieutenant Adams, I'm going to show you State's  
7           47 and 48. Take a look at those and tell me if you  
8           recognize those.

9           A.    Yes, ma'am.

10          Q.    Did you take those pictures?

11          A.    No, I did not.

12          Q.    But you do recognize them?

13          A.    Yes, ma'am.

14          Q.    Do they fairly and accurately depict what you  
15          observed during your investigation in this case?

16          A.    Yes, ma'am.

17                   MS. YOUNG: Your Honor, at this time we'd offer  
18          47 and 48 into evidence.

19                   THE COURT: Any objection?

20                   MR. CHESSER: No objection.

21                   MR. ROUTZONG: No, sir.

22                           (State's Exhibit Nos. 47 and 48 admitted into  
23          evidence.)

24                   MS. YOUNG: Your Honor, may Lieutenant Adams  
25          just stand up in the witness stand and show it to

1 the jury or come down and describe what's shown in  
2 each picture?

3 THE COURT: Yes, ma'am.

4 THE WITNESS: In State's Exhibit 47, this is  
5 looking into the gun store from the exterior after  
6 the roof and debris -- the wall and debris had been  
7 removed, showing the tire marks and the blood that I  
8 had observed when I was at the scene.

9 State's Exhibit 48 is a similar picture but  
10 it's back just a little bit where you can see the  
11 foundation of the concrete where the wall would have  
12 come down.

13 BY MS. YOUNG:

14 Q. And that would just be, basically, the same  
15 thing you took a picture of the night before, but  
16 with all of the debris and things cleaned up?

17 A. That's correct.

18 Q. Okay. Thank you.

19 Lieutenant Adams, while you were at the  
20 location **Minor** did you see the victim?

21 A. Yes, ma'am, I did.

22 Q. And did you see his wife?

23 A. Yes, ma'am.

24 Q. And did you have an occasion to walk all the  
25 way throughout the building?

1 A. Yes, ma'am.

2 Q. Did you go into the living quarters of the  
3 building?

4 A. Yes, ma'am.

5 Q. And describe to the jury, if you would, please,  
6 what you observed in the living quarters.

7 A. It was kind of a small, little living area; it  
8 had a bed, a couch. On that couch was an empty  
9 magazine for the weapon.

10 Q. Did you take some photographs?

11 A. Yes, ma'am.

12 Q. I'm going to show you State's 5 and 2, both of  
13 which are in evidence. Do you recognize those?

14 A. Yes, ma'am.

15 Q. What's shown in State's Exhibit No. 5?

16 A. State's Exhibit 5 is a coat rack -- or coat  
17 hooks which were mounted on the wall directly to the  
18 left of the door. This is the interior of the  
19 apartment, facing towards the gun store.

20 Q. So kind of behind the door?

21 A. Yes, ma'am. It would be behind the doorjamb as  
22 the would door open.

23 Q. And this would be the picture you took that  
24 night?

25 A. Yes, ma'am.

1 Q. And what's shown in State's Exhibit No. 2?

2 A. State's Exhibit 2 is the same door, just in the  
3 more open position, concealing the coat hangers.

4 Q. Lieutenant Adams, what else did you do in  
5 regards to this case, if anything, in regards to  
6 forensic investigation?

7 A. Only other than identifying the deceased by  
8 fingerprints, nothing else.

9 Q. And if you would, please, briefly describe how  
10 you do that.

11 A. Inked fingerprints were obtained from the  
12 deceased at autopsy. We entered those fingerprints  
13 into the South Carolina Automated Fingerprint  
14 Identification System, commonly known as AFIS, where  
15 it was potentially matched to a person, at which  
16 time I was able to obtain a fingerprint card, also  
17 known as a ten-print card, from a previous arrest  
18 and identify the person.

19 Q. And who was it? Do you recall the name?

20 A. Craven. I don't recall the last name.

21 Q. And do you recall when it was that you made  
22 that identification?

23 A. That would be the morning -- later on in the  
24 morning after the shooting.

25 MS. YOUNG: Your Honor, if you would bear with

1 me just a moment.

2 I apologize. May he step down one more time?

3 THE COURT: That's fine.

4 BY MS. YOUNG:

5 Q. Is this photograph also on this CD, State's 82?

6 A. Yes, ma'am.

7 Q. And if you would, please, tell the jury what's  
8 shown in this picture.

9 A. This is an overhead photograph that was part of  
10 our Aiken County GIS mapping system used to show  
11 property.

12 Q. So is that a fancy way of saying this is used  
13 by the tax office?

14 A. Yes, ma'am.

15 Q. And what's depicted in this picture?

16 A. In this picture is an overhead view of the  
17 Edgefield Road gun store, the incident location.

18 Q. Thank you very much. You may take your seat.

19 That picture we looked at, that is in Aiken  
20 County; right?

21 A. Yes.

22 Q. That's why it's on the Aiken County tax maps?

23 A. Yes, ma'am.

24 MS. YOUNG: Your Honor, I don't have any  
25 further questions for Lieutenant Adams.

1 THE COURT: Mr. Chesser?

2 CROSS-EXAMINATION

3 BY MR. CHESSER:

4 Q. Lieutenant, let me show you what's been marked  
5 as Defendant Stewart's Exhibit No. 1. Did you take  
6 that picture?

7 A. I'm not quite sure.

8 Q. You don't know?

9 By reference to your other photos and by  
10 reference to your memory, can you identify that as  
11 being the area -- the garage-side area of the  
12 freezer straps?

13 A. Based off this picture, I'm really not quite  
14 sure. But the straps do look consistent with the  
15 ones that were in the door.

16 Q. Okay. Well, let me show you State's 34 and 35  
17 and ask you by reference to them again, if you could  
18 identify Stewart's No. 1 as being the garage side of  
19 the freezer straps.

20 A. Yes, sir. Based on items in State's Exhibit  
21 35, at the bottom of the photograph, are consistent  
22 with items that I see in Defense No. 1.

23 Q. Thank you. This Defense No. 1 shows a  
24 cartridge, again, on the garage side of the freezer  
25 straps. Would you agree with that?

1 A. Yes, sir.

2 Q. Is that -- does that cartridge show up in the  
3 photo that you took on the garage side of the  
4 freezer straps?

5 A. Yes, sir. It appears that way.

6 Q. Okay. All right. So you would agree that at  
7 least one or more of the cartridges that were  
8 ejected out of the weapon actually ended up in the  
9 garage side of the freezer straps?

10 A. Can you ask that question again?

11 Q. All right. The weapon that Mr. Bayzes  
12 utilized, that was an AR-15-type weapon?

13 A. Yes, sir.

14 Q. Okay. And it ejects shells when it shoots?

15 A. Yes, sir.

16 Q. Okay. What is a technical name for those  
17 shells that ejects? Cartridges or --

18 A. Cartridges, yes.

19 Q. Okay. One or more of those cartridges landed  
20 on the garage -- the inside side of the freezer  
21 straps, wouldn't you agree with that, based on your  
22 photos?

23 A. Based on the photos, there are projectiles on  
24 the garage side; however, if it's from when the  
25 actual ejection occurred or as to whether or not the

1 sweeping of the plastics moved them when people were  
2 going in and out, I can't say.

3 Q. You don't know. But you collected that  
4 cartridge, didn't you, that ejected cartridge?

5 A. Yes, sir.

6 Q. And you collected it from inside the freezer  
7 straps; right?

8 A. Yes, sir.

9 Q. All right. You talked about your procedures  
10 with respect to the weapons that you found inside  
11 the van. You have a procedure for that, right, for  
12 taking them out?

13 A. We have a common practice, yes, sir.

14 Q. All right. You indicated that you check them  
15 to see if they're loaded; right?

16 A. Yes, sir.

17 Q. None of those weapons had any shells in them,  
18 did they?

19 A. No, sir.

20 Q. Okay. Now, the business at **Minor**  
21 you took any number of photos of that business for  
22 evidentiary purposes, did you not?

23 A. Yes, sir.

24 Q. Do you know how many in total you took of that  
25 **Minor** business?

1 A. No, sir.

2 Q. Okay. Do you have any that show cell phones  
3 being charged in that business area?

4 A. I don't know.

5 Q. Okay.

6 MR. CHESSER: All right. Nothing further.

7 THE COURT: Mr. Routzong?

8 CROSS-EXAMINATION

9 BY MR. ROUTZONG:

10 Q. You took charge of the guns that were in the  
11 gun shop or you left them there?

12 A. Sir?

13 Q. Some guns were in the van.

14 A. Yes, sir.

15 Q. And some guns were in the gun shop.

16 A. Yes, sir.

17 Q. You didn't collect all the ones that were in  
18 the gun shop?

19 A. I did not collect all the weapons that were in  
20 the gun shop, no, sir; only the ones that were near  
21 where the impact site was.

22 Q. And why did you collect those?

23 A. Because they had blood on them.

24 Q. The guns that you collected from both the van  
25 and the gun shop, there was only one that had a

1 fully loaded magazine?

2 A. I'm sorry?

3 Q. Of all the guns you collected, there was only  
4 one that had a fully loaded magazine?

5 A. Yes, sir.

6 Q. And that was the one that belonged to  
7 Mr. Bayzes, the one that's in evidence?

8 A. Yes, sir.

9 MR. ROUTZONG: I don't have anything else, Your  
10 Honor.

11 MS. YOUNG: No redirect, Your Honor.

12 THE COURT: You may step down. Thank you.  
13 You're excused from your subpoena.

14 Next witness, please.

15 MR. WEEKS: Brian McDiarmid.

16 BRIAN MCDIARMID

17 being first duly sworn, testified as follows:

18 THE WITNESS: I swear.

19 THE CLERK: Have a seat in the witness box.  
20 State your full name for the Court and spell your  
21 last.

22 THE WITNESS: Brian Charles McDiarmid,  
23 M-C-D-I-A-R-M-I-D.

24 DIRECT EXAMINATION

25 BY MR. WEEKS:

1 Q. Brian, where do you live?

2 A. I live in North Augusta.

3 Q. And on August 9th, 2012, were you in the Waffle  
4 House at the intersection of I-20 and Martin Town  
5 Road?

6 A. Yes, sir.

7 Q. In the middle of the night, I assume, you got  
8 off work?

9 A. Yes.

10 Q. Where do you work?

11 A. I work at U.S. Battery in Evans.

12 Q. Did you go to the Waffle House after you got  
13 off work?

14 A. Yes, sir. On my way home, I stopped in for  
15 something to eat.

16 Q. All right. What happened while you were in the  
17 Waffle House?

18 A. Shortly after I had started eating my meal, a  
19 gentleman entered and hollered, call an ambulance,  
20 I've been shot, and fell on the floor, and then  
21 proceeded to moan and wiggle around. Shortly after  
22 we dialed 911, he got up and left and got into a  
23 green van and was trying to leave.

24 Q. And how -- where did he get into the van at?

25 A. He had the van parked in the main entryway of

1 the Waffle House.

2 Q. And what side or seat did he get into?

3 A. He got in the driver's seat.

4 Q. Okay. Brian, have you watched a video that was  
5 running at the Waffle House of the interior of the  
6 store?

7 A. Yes, sir, I have.

8 Q. And is it a true and accurate copy of what  
9 happened that night?

10 A. Yes, it is.

11 MR. WEEKS: Your Honor, we'd move to introduce  
12 State's No. 44.

13 MR. CHESSER: No objection.

14 MR. ROUTZONG: No objection.

15 THE COURT: All right. Without objection.

16 (State's Exhibit No. 44 admitted into  
17 evidence.)

18 MR. WEEKS: Your Honor, just for the record,  
19 State's 44 is a CD with a copy of the Waffle House  
20 video on it.

21 (Video played for his Honor and jury.)

22 BY MR. WEEKS:

23 Q. Brian, you're not the guy sitting at the  
24 counter?

25 A. No, I'm not. I'm a little bit off the side of

1 the screen.

2 Q. And when you walked to the door there, what was  
3 your purpose of walking to the door?

4 A. I was trying to see where he was going because  
5 we had called 911, they were on the way, he was  
6 bleeding all over the floor. He got up and left and  
7 I wanted to see where he was going.

8 Q. Where did he go to?

9 A. He went outside, got into a green van, and  
10 started to leave.

11 Q. And at that point, did the world turn into blue  
12 lights?

13 A. Yes.

14 Q. And how long were you there after that?

15 A. I was trapped there til about 10:00 a.m.

16 Q. And the drive going to the Waffle House, was it  
17 blocked off by police?

18 A. No. The green van was blocking the driveway to  
19 the Waffle House.

20 Q. And the police were there for some time after  
21 that?

22 A. Yes, sir.

23 Q. I know the video kind of speaks for itself, but  
24 can you describe what the guy was wearing that came  
25 in?

1 A. He was wearing very dark clothing, he had a  
2 bandanna wrapped around the lower half of his face.  
3 He was just very dark.

4 Q. Okay. Answer any questions from the Defense.

5 MR. CHESSER: No questions.

6 THE COURT: Mr. Routzong?

7 MR. ROUTZONG: No questions.

8 THE COURT: You may step down. You're excused  
9 from your subpoena. Thank you for coming.

10 Next witness.

11 MS. YOUNG: Your Honor, the State calls  
12 Investigator Chuck Cain.

13 CHUCK CAIN

14 being first duly sworn, testified as follows:

15 THE WITNESS: Yes, ma'am.

16 THE CLERK: Please have a seat in the witness  
17 box. State your full name for the Court and spell  
18 your last.

19 THE WITNESS: Investigator Chuck Cain, C-A-I-N.

20 DIRECT EXAMINATION

21 BY MS. YOUNG:

22 Q. Investigator Cain, you work for the Aiken  
23 County Sheriff's Office?

24 A. Yes, ma'am.

25 Q. How long have you been employed in law

1 enforcement?

2 A. Twenty-four years.

3 Q. And what position do you hold currently?

4 A. Investigator.

5 Q. How long have you been doing that?

6 A. Eleven years.

7 Q. And did you investigate the case involving  
8 these two defendants?

9 A. Yes, ma'am.

10 Q. How did you become involved in the case?

11 A. Shortly after 4:00 a.m. on the incident date, I  
12 received a telephone call telling me to respond to  
13 **Minor** to the Guns & Ammo, that there  
14 was a burglary and a shooting and that one suspect  
15 was dead.

16 So I drove up to the incident location, and as  
17 soon as I got there, I met with my supervisor,  
18 Lieutenant Adams and -- well, my supervisor,  
19 Lieutenant Fleury, Lieutenant Adams and Investigator  
20 Molly Hahn.

21 Q. And do you know when in time that would have  
22 been to when the initial call went out?

23 A. The initial call went around 0350 in the  
24 morning.

25 Q. And when did you get there?

1 A. I got there probably around quarter to 5:00,  
2 4:45, somewhere around there.

3 Q. And what did you do when you got to Minor  
4

5 A. As soon as I arrived, I immediately received a  
6 briefing from Lieutenant Fleury, Lieutenant Adams  
7 and Investigator Hahn. They told me what had  
8 happened, I spoke with the victim, Mr. Bayzes, very  
9 briefly, I spoke with his wife, Barbara Bayzes, just  
10 for a few moments. I walked side the building  
11 itself briefly and observed what had happened.

12 I remember -- I recall seeing the pink  
13 insulation strung down Highway 25 northbound, and,  
14 of course, the very large gaping hole in the south  
15 side of the building.

16 Q. And once you made all those observations,  
17 you're not the person who collects stuff at a crime  
18 scene; right?

19 A. No, ma'am.

20 Q. That's why you spoke with Lieutenant Adams?

21 A. That's correct.

22 Q. Who was the next -- you said you said you saw  
23 Mr. and Mrs. Bayzes there?

24 A. Very briefly. I spoke with them very briefly.

25 Q. What's the next thing you did?

1           A.    I was notified that two black males driving a  
2           van had arrived -- had previously -- had just  
3           momentarily, moments ago, had arrived at the Waffle  
4           House on Martin Town Road in North Augusta,  
5           apparently suffering from multiple gunshot wounds.  
6           Myself and Investigator Hahn left **Minor**  
7           and immediately relocated to the Waffle House.

8           Q.    And what did you observe at the Waffle House?

9           A.    Upon arrival, of course, I saw a North Augusta  
10          Public Safety Officer car and an Aiken County  
11          Sheriff's Office car pretty much pointing towards a  
12          van that was in the middle of the driveway in and  
13          out of the Waffle House.

14                When we arrived, I was notified that both black  
15          male suspects had already been transported to the  
16          Medical College of Georgia for treatment. I looked  
17          at the van and saw what appeared to be multiple  
18          entry and exit bullet holes in and out of the van.  
19          I looked inside the van, not entering the van, but  
20          the door -- where the side slide door was open. I  
21          saw a large quantity of semiautomatic rifles and  
22          pistols, and that's when I walked inside the Waffle  
23          House to speak to witnesses.

24          Q.    What did you observe inside the Waffle House?

25          A.    As soon as I walked in the Waffle House, right

1           inside the doorway as you walk into the main  
2           eating -- dining area, I saw what appeared to me to  
3           be a bone fragment and a piece of a bullet  
4           projectile and, of course, blood on the floor right  
5           there at the -- inside of the doorway.

6           Q.    So you were -- you kind of beat Lieutenant  
7           Adams to the Waffle House, so to speak?

8           A.    Yes.  He was still at Guns & Ammo.  I had  
9           arrived there well before he did.

10          Q.    And once you saw those items on the floor, what  
11          did you do inside the Waffle House?

12          A.    I located and identified the witnesses being  
13          the cashier, a cook and, of course, Mr. McDiarmid,  
14          made sure they stayed separated, and made contact  
15          with management of the Waffle House to secure the  
16          video you saw.

17          Q.    When you say you made sure they stayed  
18          separated, what do you mean by that?

19          A.    Well, they were witnesses to an evolving event,  
20          and I did not want them speaking to each other about  
21          what they saw; I wanted them to be independent in  
22          speaking with me and giving me their statements as  
23          to what they individually saw.

24          Q.    And did they, in fact, do that?

25          A.    Yes, they did.  They were very cooperative.

1 Q. What's the next thing you did?

2 A. After collecting the statements, making sure  
3 that there would be video for me to recover at a  
4 later time that day, we stayed there. Lieutenant  
5 Adams arrived, we gave him a briefing of what  
6 happened, and then myself and Investigator Hahn  
7 relocated to the Medical College of Georgia.

8 Q. Was it your understanding, speaking to Waffle  
9 House management, that that camera angle was the  
10 only one available for your review?

11 A. Yes, ma'am.

12 Q. What did you do at MCG?

13 A. As soon as we arrived at MCG, we made contact  
14 with Aiken County Deputy Coroner Darryl Ables. He  
15 gave me the identities of the two defendants that  
16 were inside the van at the Waffle House, gave me  
17 their full names, dates of birth and so forth.

18 Q. They were still alive; right?

19 A. Yes, ma'am. They were being treated at that  
20 time.

21 Q. Why would he have been there, if you know?

22 A. Well, the first person transported was from the  
23 Guns & Ammo, and he had already been pronounced  
24 dead. So, naturally, they're going to notify the  
25 Aiken County Coroner that a death occurred in Aiken

1 County. So Deputy Coroner Ables, I'm under the  
2 impression he left his home and went straight to  
3 MCG, so he would have ben there well before me.

4 Q. What were the identities you were provided  
5 regarding the living defendants?

6 A. Franklin Robinson and Eddie Stewart.

7 Q. What is the next thing you did to investigate?

8 A. We walked inside -- I met Deputy Coroner Ables  
9 outside the hospital. The next step was to go  
10 inside, and that's when I learned that Franklin  
11 Robinson and Eddie Stewart were still being treated  
12 at that moment for their injuries. So I relocated  
13 to the room where an unidentified black male was,  
14 the deceased, and I began to collect evidence there.

15 Q. And when you say you began to collect evidence,  
16 what were you doing?

17 A. Collecting clothing, photographing, and just  
18 whatever items that were there.

19 Q. Had somebody been maintaining that for you?

20 A. Yes. There was a deputy sheriff inside that  
21 room when I arrived, an Aiken County deputy.

22 Q. Briefly describe for the jury, if you don't  
23 mind, what items you collected from the deceased.

24 A. I recall collecting dark-colored clothing. I  
25 did obtain a set of fingerprints. I fing erprinted

1 the deceased because we had no idea who he was, and  
2 I eventually turned those over to Lieutenant Adams  
3 for AFIS identification. I collected money out of  
4 the pockets of the deceased, and, of course,  
5 photographs.

6 Q. And did -- you stated you didn't know who he  
7 was. He didn't have any identification on him?

8 A. No, ma'am.

9 Q. That's why you took fingerprints?

10 A. Yes, ma'am.

11 Q. Investigator Cain, briefly describe what the  
12 clothes of the deceased looked like.

13 A. They very dark, drab, dark-colored, and very  
14 bloody.

15 Q. And did he have a pair of gloves in his  
16 possession?

17 A. Yes, ma'am, he did. They were gray in color,  
18 if I recall.

19 (State's Exhibit No. 84 marked for  
20 identification.)

21 Q. Investigator Cain, I'm showing you what's been  
22 marked for identification purposes as State's  
23 Exhibit 84 and ask you to look in there and tell me  
24 if you recognize what's in there.

25 A. Yes, ma'am. Those are the gray-in-color gloves

1 that I recovered from the body of the deceased.

2 Q. They were with his personal clothing and  
3 effects?

4 A. Yes, ma'am. Yes, ma'am.

5 Q. And you took those into evidence. What did you  
6 do with them?

7 A. Excuse me?

8 Q. Let me do this first.

9 MS. YOUNG: Your Honor, at this time, we'd  
10 offer State's Exhibit 84 into evidence.

11 THE COURT: Any objection?

12 MR. CHESSER: No objection.

13 MR. ROUTZONG: No, sir.

14 (State's Exhibit No. 84 admitted into  
15 evidence.)

16 BY MS. YOUNG:

17 Q. You say you collected the clothing.

18 A. Yes, ma'am.

19 Q. And that means what?

20 A. Place it into an evidence bag, put it on an  
21 evidence receipt chain of custody, and it doesn't  
22 leave my possession until I physically put it into  
23 the evidence locker at the sheriff's office.

24 Q. I know it seems self-explanatory, but --

25 A. No. I understand.

1 Q. And did you collect any other evidence when you  
2 were there that morning?

3 A. From the deceased?

4 Q. From anywhere.

5 A. Yes, ma'am. Once we -- once I completed my  
6 duties in the room where the deceased was, I  
7 relocated across the hallway to where Franklin  
8 Robinson had already been treated for his injuries.  
9 He had been placed in that room, and I performed the  
10 same duties over there; I collected his clothing, we  
11 knew who he was, so I didn't take fingerprints, I  
12 took photographs of him. I attempted to speak with  
13 him, but he stated he did not want to talk to me  
14 at --

15 MR. ROUTZONG: Objection, Your Honor.

16 THE COURT: What's your objection?

17 MR. ROUTZONG: Maybe something we need to take  
18 up out of the presence of the jury, Your Honor.

19 THE COURT: All right.

20 Madam forelady, y'all step out just a second.

21 (The jury exits the courtroom at 3:04 PM.)

22 THE COURT: All right. Mr. Routzong, your --  
23 before you do that, Madam Court Reporter, please  
24 replay the question and the response.

25 (The last question and answer were read back by

1 the court reporter.)

2 THE COURT: What's your objection,  
3 Mr. Routzong?

4 MR. ROUTZONG: Your Honor, they're eliciting  
5 testimony that the defendant is exercising his Fifth  
6 Amendment right not to speak to law enforcement. In  
7 other words, Your Honor, they're commenting on his  
8 right to remain silent. I'd move at this time for  
9 mistrial.

10 THE COURT: You got any law on that?

11 MR. ROUTZONG: I can find it, Your Honor, but I  
12 don't have it here with me. In other words, I can  
13 look it up on the computer.

14 THE COURT: Look it up.

15 MR. ROUTZONG: Let me ask you this, Your Honor:  
16 If we continue and you give me some time to look it  
17 up, I can probably get it tonight, we can continue  
18 to address it at a later time.

19 THE COURT: No, sir. You have to make your  
20 objection. If you've got anything to support it,  
21 that's fine; if you don't -- how long do you need to  
22 look it up?

23 MR. ROUTZONG: I really don't know the answer  
24 to that question, Your Honor.

25 THE COURT: What's your response to that,

1 Ms. Young?

2 MS. YOUNG: Your Honor, I was asking him  
3 specifically about collecting evidence and I --

4 THE COURT: You're right.

5 MS. YOUNG: I didn't refer to it. I was  
6 referring to physical evidence. He was kind of  
7 answering my question and extemporaneously went off  
8 down that path. It wasn't exactly -- it wasn't  
9 responsive to my question, Your Honor, but I believe  
10 a curative instruction would take care of any  
11 potential issues at this point in time.

12 THE COURT: Thank you.

13 Mr. Routzong, he has an absolute right to  
14 remain silent, you're right. I will tell the jury  
15 that and I will instruct the jury to disregard what  
16 he said. I will give a curative instruction.  
17 Request for mistrial is denied.

18 MR. ROUTZONG: Thank you, Your Honor.

19 THE COURT: Bring the jury back in. And,  
20 Mr. Routzong, I will allow you to supplement that  
21 objection, if you need to, down the road, the  
22 objection.

23 MR. ROUTZONG: Yes, sir.

24 MR. WEEKS: May we also, Your Honor?

25 THE COURT: Absolutely.

1 MS. YOUNG: Thank you.

2 (The jury enters the courtroom at 3:08 PM.)

3 THE COURT: Madam forelady, ladies and  
4 gentlemen of the jury, a person charged with a crime  
5 in our state, no matter how serious the crime may  
6 be, has the absolute right under the Fifth Amendment  
7 to remain silent; doesn't have to answer to anybody,  
8 has the right to remain silent.

9 And even though Ms. Young didn't ask him if  
10 he -- she was just asking what kind of evidence he  
11 was collecting. It came out that he asked the young  
12 man and he said he didn't want to speak. Well, he  
13 has the absolute right not to speak. He has the  
14 Constitutional right not to speak.

15 So please, I'm charging you as a matter of law,  
16 do not infer anything from the fact that he chose  
17 not to answer this police officer; he has that  
18 right. Just disregard that statement from the  
19 trial. I'm going to strike it from the trial. Fair  
20 enough? Everybody understand? Thank you.

21 MS. YOUNG: Thank you, Your Honor.

22 (State's Exhibit Nos. 85 and 86 marked for  
23 identification.)

24 BY MS. YOUNG:

25 Q. Investigator Cain, I'm showing you what's been

1 marked for identification purposes as State's  
2 Exhibit 85 and ask if you recognize it.

3 A. Yes, ma'am.

4 Q. And is that something that you collected?

5 A. Yes, ma'am. I collected these gloves. They  
6 were in the same room as Franklin Robinson at MCG.

7 MS. YOUNG: Your Honor, at this time we'd move  
8 State's Exhibit 85 into evidence, please.

9 THE COURT: Any objection?

10 MR. CHESSER: No objection.

11 MR. ROUTZONG: No, sir.

12 (State's Exhibit No. 85 admitted into  
13 evidence.)

14 BY MS. YOUNG:

15 Q. That's what you were doing, was collecting his  
16 personal or physical items; correct?

17 A. Collecting physical evidence and taking  
18 photographs, yes, ma'am.

19 Q. Okay. Let me show you State's Exhibit 86 and  
20 ask you the same question, if you recognize it.

21 A. Yes, ma'am, I recognize this.

22 Q. Okay. Pretty much in the same condition it was  
23 when you collected it?

24 A. Yes; ma'am.

25 MS. YOUNG: Your Honor, at this time we'd offer

1 State's Exhibit 86 into evidence.

2 THE COURT: Any objections?

3 MR. CHESSER: No objection.

4 MR. ROUTZONG: No, sir.

5 (State's Exhibit No. 86 admitted into  
6 evidence.)

7 BY MS. YOUNG:

8 Q. What is it?

9 A. This is a black bandana that was part of the  
10 clothing that I collected from the same clothing of  
11 Franklin Robinson inside that same room.

12 Q. That was all in his room?

13 A. Yes, ma'am.

14 Q. After you collected that physical evidence --  
15 let me ask you this: Did you see Deputy Egan?

16 A. Yes, ma'am. But before I met with him, I  
17 collected more evidence from the deceased and from  
18 Franklin Robinson, aside from their clothing.

19 Q. Like what?

20 A. Gunshot residue kits.

21 Q. And how do you do that?

22 A. There's a kit. You perform -- I really don't  
23 know the scientific terms, but you take the little  
24 round, I guess, magnetic items and you apply them to  
25 the hands, front and back, hands of suspects, and

1           then you seal them up, place them in an evidence bag  
2           and you send them to -- put them in the evidence  
3           locker before they're sent to the laboratory for  
4           testing.

5           Q.     And both Mr. Stewart and Robinson had suffered  
6           gunshot wounds; correct?

7           A.     Yes, ma'am. But I only collected from the  
8           deceased and from Mr. Robinson.

9           Q.     Okay. And then you said you saw Deputy Egan  
10          somewhere.

11          A.     Yes, ma'am. After completing the duties with  
12          Mr. Robinson, I relocated back to where the deceased  
13          was, and that's when Deputy Egan came to me.

14          Q.     What did he do?

15          A.     He provided me with bullet projectile fragments  
16          that he said had been given to him because he had  
17          been in the operating room with Stewart.

18          Q.     All right. Investigator Cain, this is State's  
19          Exhibits 52, it's already in evidence. Do you  
20          recognize it?

21          A.     Yes, ma'am. It looks like the projectile that  
22          Deputy Egan transferred to me.

23          Q.     And has it been -- what did you do with it?

24          A.     As soon as I received it, I placed it inside a  
25          bag, I secured it, put it on an evidence receipt and

1           kept it in my possession until I took it to the  
2           sheriff's office, to the evidence locker.

3           Q.    Let me ask you this:  During the time that it  
4           was in your possession, did you change it, tamper or  
5           alter it in any way?

6           A.    No, ma'am.

7           Q.    And did you say that each item had its own bag?  
8           Is that correct?

9           A.    Yes, ma'am.

10          Q.    And what did you do with regard to additional  
11          followup after you collected all of that physical  
12          evidence?

13                 Let me be more direct.  Had you had further  
14          communication with Lieutenant Adams?

15          A.    Yes, ma'am.  After I left MCG after  
16          photographing and collecting evidence, I went  
17          straight to the sheriff's office where I turned over  
18          to Lieutenant Adams the fingerprint card of the  
19          deceased.  I turned those over to him for  
20          identification, and he gave me the identity of the  
21          deceased person.

22          Q.    Okay.  And what was that person's identity?

23          A.    Craven Goodwin.

24          Q.    How about regarding the green van that had been  
25          taken into the Aiken County Sheriff's Office

1 custody? Did you have anything to do with that?

2 A. Yes, ma'am. I secured a search warrant  
3 authorizing Lieutenant Adams to search the entire  
4 interior and exterior of the van for physical  
5 evidence.

6 Q. You had that prepared and then delivered that  
7 to him?

8 A. Yes, ma'am. I had signed and delivered. I  
9 gave it to him myself.

10 Q. And he had that and then he did his  
11 investigation?

12 A. He did the forensic examination of the van,  
13 yes, ma'am.

14 Q. And did you find out from him at some point in  
15 time the things he had discovered in the van?

16 A. Yes, ma'am. He provided me with a report of  
17 what discovered inside the van and what he had  
18 collected. And, of course, he photographed it.

19 Q. And do you recall what it was he collected from  
20 the van?

21 A. I recall there were 12 rifles and 16 handguns,  
22 two upper receivers. There was amounts of blood,  
23 there was clothing, a pair of pliers. Without my  
24 report in front of me, that's what I recall at this  
25 time.

1 Q. Okay. Investigator Cain, I'm showing you  
2 State's Exhibit 38 that's already in evidence. Do  
3 you recognize that?

4 A. Yes, ma'am. Those were the items that  
5 Lieutenant Adams displayed to me that he recovered  
6 from the van.

7 Q. And you stated that was how many handguns?

8 A. That was 16 handguns and 12 rifles and two  
9 upper receivers of rifles.

10 Q. And what else besides the guns?

11 A. There was a large amount of blood and clothing,  
12 and I remember a pair of pliers. And I would have  
13 to see the list for anything else.

14 Q. Specifically drawing your attention to that  
15 picture, there are gloves in that picture?

16 A. Yes, ma'am; black gloves with yellow trim.

17 Q. Once you had the information about the guns  
18 that had been recovered and the two gun components,  
19 the upper receivers, what was the next thing you did  
20 to investigate that, if anything?

21 A. Well, I wanted to make sure that those were the  
22 guns that came from the Edgefield Road business. So  
23 I got with -- I did get back with Mr. Bayzes and I  
24 wanted a serialized inventory of the weapons from  
25 his business, and he said he would provide me with

1           them as soon as he could.

2           Q.    All right.  And at some point in time, did he  
3           do that?

4           A.    Yes, ma'am, he did.

5           Q.    And what did your investigation reveal?

6           A.    We determined that all of the weapons recovered  
7           from inside the van did originate from inside his  
8           business.

9           Q.    Were they all on an inventory of some type?

10          A.    Yes, ma'am.  They were on serialized inventory  
11          that Mr. Bayzes was required to maintain inside his  
12          business.  And once he cross-referenced his list  
13          with what he had on hand, then he provided me with  
14          what he could not locate in his business.  And when  
15          I took that back to the office, we were able to  
16          locate each one of those, as you see her.

17          Q.    So he gave you a list of what he didn't have --

18          A.    Of what he did not have in his business that  
19          was on his business manifest.

20          Q.    And you did what with it?

21          A.    He provided it to me and I took it back to the  
22          office, and myself and Lieutenant Adams compared it  
23          to what you see here.  And we were able to locate  
24          all of the weapons and return them to the owner.

25          Q.    And all of them belonged to whom?

1 A. They belonged to Mr. Bayzes.

2 Q. Was there anything else other than the list  
3 that identified those as belonging to him?

4 A. Yes, ma'am. I do recall on several of the  
5 firearms there were the tags on them. They were all  
6 consistent, same type of tags, that had the marking  
7 price on them and -- but Mr. Bayzes maintained those  
8 same sales tags on weapons that remained inside his  
9 store. So that also told us they come from inside  
10 the crime scene.

11 Q. You're referring to tags with the price and  
12 name of the gun?

13 A. Yes, ma'am, name of the gun, price, tied to the  
14 guns with a small string.

15 Q. Can you see those in that picture?

16 A. Yes, ma'am, such as the green tag here, the  
17 green tag here. There were several guns that -- the  
18 orange tag here, the orange tag here. As you went  
19 through the victim's business after the incident,  
20 you saw other guns with the same colored tags.

21 Q. Let me ask you this: The tags that are shown  
22 in that photo, Lieutenant Adams didn't put those on  
23 there?

24 A. No, ma'am. This is the way Lieutenant Adams  
25 recovered them.

1 Q. Investigator Cain, I want to direct your  
2 attention back to the green van and ask you if you  
3 did some investigation regarding that?

4 A. Yes, ma'am. Of course we checked the VIN  
5 number on the van, and we learned through North  
6 Augusta Public Safety --

7 MR. CHESSER: Objection. Sounds like he's  
8 testifying to hearsay, Your Honor.

9 THE COURT: Well, are you making a hearsay  
10 objection or not?

11 MR. CHESSER: Yes, sir.

12 THE COURT: Rephrase the question, please.

13 MS. YOUNG: I'll do it this way, Your Honor.

14 BY MS. YOUNG:

15 Q. Investigator Cain, as part of your duties, do  
16 you have access to information regarding vehicles  
17 that have been reported to law enforcement for some  
18 reason?

19 MR. CHESSER: Objection, Your Honor; hearsay.

20 THE COURT: Well, she's asking him does he have  
21 access to it. That's not -- you know, it's a yes or  
22 no.

23 Do you have access to it?

24 THE WITNESS: Yes, sir.

25 Yes, ma'am.

1 BY MS. YOUNG:

2 Q. And what were you able to find out regarding  
3 who owned the van?

4 MR. CHESSER: Objection; hearsay.

5 THE COURT: All right. What's your response to  
6 that?

7 MS. YOUNG: Well, Your Honor, as part of his  
8 law enforcement investigation, he gets to describe  
9 the things he did under the hearsay exception. And  
10 this is the res gestae of his investigation for --  
11 it's just part of his investigation; he can share  
12 that information.

13 THE COURT: I'll sustain it.

14 BY MS. YOUNG:

15 Q. Let me ask you this: Did you find out some  
16 other investigation -- did you do further  
17 investigation about this particular case?

18 A. Yes, ma'am.

19 Q. What did you do?

20 A. The vehicle that I gave the search warrant to  
21 Lieutenant Adams to search, I searched the VIN on  
22 that vehicle through South Carolina --

23 MR. CHESSER: Objection --

24 THE COURT: What's your objection now?

25 MR. CHESSER: Hearsay, Your Honor.

1 THE COURT: He's is searching a VIN. He can  
2 testify about searching the VIN.

3 MR. CHESSER: What he's saying is that he  
4 obtained information from some other source. And I  
5 submit that whatever source it is that he's  
6 saying he obtained it from, unless it's somebody,  
7 you know, from that office, unless it's somebody who  
8 says, I got certified records, unless there is  
9 something of that nature, then it constitutes  
10 hearsay. Whether he read a document and said, I  
11 learned such-and-such from a document or whether he  
12 says, so-and-so told me such-and-such, it's all the  
13 same; it's all hearsay. The idea that the  
14 prosecutor says he can come in and just testify, I  
15 investigated stuff and I learned stuff, I would beg  
16 to differ.

17 THE COURT: Ms. Young, please lay the  
18 foundation as to what that information is, where it  
19 comes from, is it used in the ordinary course of  
20 business. Establish an exception to the hearsay  
21 rule.

22 MS. YOUNG: Yes, sir, Your Honor.

23 BY MS. YOUNG:

24 Q. Investigator Cain, do you have access to the  
25 NCIC record system?

1 A. Full access to NCIC, yes, ma'am.

2 Q. And if you would, please, explain to the jury  
3 what the NCIC record system is.

4 A. The NCIC record system is a nationwide database  
5 which allows us to search individual persons,  
6 vehicles, weapons, items with serial numbers on  
7 them, to check and see if they are reported stolen  
8 anywhere in the United States.

9 MR. CHESSER: I object, Your Honor, again on  
10 the basis of hearsay.

11 THE COURT: Overruled.

12 BY MS. YOUNG:

13 Q. And, Investigator Cain, do you utilize the NCIC  
14 as a regular course of your duties?

15 A. Yes, ma'am, daily.

16 Q. Do you use that every day as part of being an  
17 investigator?

18 A. And I'm certified in NCIC, yes, ma'am.

19 Q. And for the record, please describe what kind  
20 of certification you have to have.

21 A. You have to go through an eight-hour training  
22 course with a recertification annually. To maintain  
23 that certification, you are not allowed to expose or  
24 display your findings to the general public. It --  
25 and the log that we keep each time we enter NCIC is

1 audited annually by SLED. .So if you're not NCIC  
2 certified, you do not have access to enter into NCIC  
3 or even stand there and observe someone actually  
4 entering because the information is of a  
5 confidential nature.

6 Q. All right. And did you follow these procedures  
7 and policies? Do you follow them every day --

8 A. Yes, ma'am.

9 Q. -- when you use NCIC?

10 A. At my desk, yes, ma'am.

11 Q. And did you utilize NCIC in this case?

12 A. Yes, ma'am.

13 Q. And did you follow those same procedures?

14 A. They were followed, yes, ma'am.

15 Q. And that's a business record you use every day?

16 A. Every day, yes, ma'am.

17 THE COURT: Go ahead. Keep on.

18 Q. And what did you find, if anything, regarding  
19 this van?

20 MR. CHESSER: Again, Your Honor, I renew my  
21 objection under hearsay and also 404 (b), Your  
22 Honor, and Lyle.

23 THE COURT: How is it a Lyle objection?

24 MR. CHESSER: 404 (B) and Lyle are basically  
25 the same thing. But they refer to --

1 THE COURT: Evidence of other crimes.

2 MR. CHESSER: Yes.

3 THE COURT: He's just -- I assume he's going to  
4 testify as to the result of what he found on the  
5 NCIC.

6 MS. YOUNG: I'll just ask one more question and  
7 then --

8 BY MS. YOUNG:

9 Q. Don't answer it until it's allowed. Okay?

10 A. Yes, ma'am.

11 Q. Who was the owner of the van?

12 THE COURT: I will allow that.

13 Who was the owner of the van?

14 THE WITNESS: New Life Ministry, sir.

15 BY MS. YOUNG:

16 Q. And where is that located?

17 A. That is collected right -- just off of Georgia  
18 Avenue in North Augusta, South Carolina.

19 Q. In Aiken County?

20 A. Yes, ma'am.

21 Q. And do you know where that is in relation to  
22 the gun store?

23 A. Approximately three miles south on Georgia  
24 Avenue which leads into Edgefield Road.

25 Q. Investigator Cain, is Franklin Robinson present

1 in the courtroom?

2 A. Yes, ma'am.

3 Q. Please identify him and describe what he's  
4 wearing for the record.

5 A. Blue blazer, white shirt, appears to be a blue  
6 and white tie, and appears to be gray slacks.

7 MS. YOUNG: Your Honor, at this time we'd ask  
8 the record to reflect he's identified Franklin  
9 Robinson.

10 THE COURT: Yes, ma'am.

11 BY MS. YOUNG:

12 Q. Investigator Cain, do you recognize -- is Eddie  
13 Stewart in the courtroom?

14 A. Yes, ma'am.

15 Q. Can you identify him, please.

16 A. Yes, ma'am. He appears to be a black male,  
17 appears to be wearing a tan/beige shirt with a  
18 same-colored tie.

19 MS. YOUNG: Your Honor, we'd ask the record to  
20 reflect he's also identified Defendant Eddie  
21 Stewart.

22 THE COURT: Yes, ma'am.

23 MS. YOUNG: Just a moment, Your Honor.

24 BY MS. YOUNG:

25 Q. Investigator Cain, you performed this

1 investigation; correct?

2 A. Yes, ma'am.

3 Q. And did you seek warrants?

4 A. Yes, ma'am.

5 Q. And to charge somebody with burglary first, do  
6 you make a determination about dwelling?

7 A. Yes, ma'am, I --

8 MR. CHESSER: Objection.

9 THE COURT: Objection is what?

10 MR. CHESSER: His opinion or his legal  
11 conclusions. I don't think it's proper for him to  
12 offer an opinion.

13 THE COURT: Sustained.

14 MR. CHESSER: Thank you.

15 MS. YOUNG: No further questions for him, Your  
16 Honor. Thank you.

17 THE COURT: Cross?

18 MR. CHESSER: May it please the Court.

19 CROSS-EXAMINATION

20 BY MR. CHESSER:

21 Q. Investigator Cain, just to go over some of your  
22 testimony, all of the weapons that you found, that  
23 were recovered, you or Investigator Adams, they all  
24 belong to Mr. Bayzes; correct?

25 A. Yes, sir, that's correct.

1 Q. Okay. And that includes weapons that were in  
2 the van and the ones that were in the business;  
3 right?

4 A. Yes, sir.

5 Q. Okay. In other words, there's no evidence that  
6 there was any other weapon in connection with this  
7 incident other than Mr. Bayzes' weapons?

8 A. All weapons accounted for were owned by the  
9 victim, yes, sir.

10 Q. Okay. Do you have knowledge about the weapons  
11 in the van? They were not loaded; is that correct?

12 A. I'm not aware of any loaded weapon in the van,  
13 sir.

14 Q. All right. And then would you agree then that  
15 the evidence is that one person fired a shot on the  
16 morning of August 9th and that was Mr. Bayzes?

17 A. To my knowledge, yes, sir.

18 Q. Thank you.

19 THE COURT: Mr. Routzong?

20 CROSS-EXAMINATION

21 BY MR. ROUTZONG:

22 Q. Investigator Cain, you testified you were  
23 called out to the Guns & Ammo store; is that  
24 correct?

25 A. Yes, sir.

1 Q. I'm kind of curious, was any gunshot residue  
2 test performed on Mr. Goodwin?

3 A. Yes, sir.

4 Q. How did that come out?

5 A. Positive, sir.

6 Q. Was that because -- where was that residue  
7 found at?

8 A. I collected it from his hands.

9 Q. All of the evidence about the guns' serial  
10 numbers you got from Mr. Bayzes?

11 A. From the manifest, yes, sir.

12 Q. And that was from Mr. Bayzes?

13 A. Yes, sir.

14 MR. ROUTZONG: No further questions, Your  
15 Honor.

16 MR. CHESSER: I have a --

17 THE COURT: Well, no, sir. Redirect?

18 MR. CHESSER: I have an objection, Your Honor.

19 THE COURT: What's the objection?

20 MR. CHESSER: It would be based on Rule 5, Your  
21 Honor.

22 THE COURT: Let's do that in a little bit.

23 Any redirect?

24 MS. YOUNG: Just a moment, Your Honor.

25 THE COURT: Yes, ma'am.

1 REDIRECT EXAMINATION

2 BY MS. YOUNG:

3 Q. Investigator Cain, Mr. Routzong asked you about  
4 GSR.

5 A. Yes, ma'am.

6 Q. What is that?

7 A. Gunshot residue examination kit.

8 Q. And you stated you performed that on  
9 Mr. Goodwin and Mr. Robinson?

10 A. Yes, ma'am.

11 Q. And what were the results regarding  
12 Mr. Robinson?

13 A. They were positive.

14 MS. YOUNG: No further questions.

15 THE COURT: All right. Y'all know my practice  
16 about recross.

17 MR. CHESSER: Well, Your Honor, again, I just  
18 want to assert my objection under Rule 5.

19 THE COURT: We're going -- you want to do it in  
20 front of the jury or outside the presence?

21 MR. CHESSER: Outside the presence, Your Honor.

22 MR. ROUTZONG: I'm joining that objection.

23 THE COURT: Do you know what it is?

24 MR. ROUTZONG: I'm pretty sure, Your Honor.

25 THE COURT: Okay.

1 Any additional witnesses?

2 MS. YOUNG: None from the State, Your Honor.

3 The State would rest.

4 THE COURT: Madam forelady, ladies and  
5 gentlemen that, concludes the evidence on behalf of  
6 the State. If y'all will step out for just a short  
7 period of time, I'm going to talk with the lawyers,  
8 sort of get an idea of what else we've got to do.  
9 Once I get that idea, I will bring y'all back to see  
10 if you want to keep on going or if you want to come  
11 back in the morning. So don't talk about the case  
12 and don't discuss it. Let me sort of get a handle  
13 on how much more we got and if y'all want to work  
14 late tonight or go home early, what y'all want to  
15 do.

16 (The jury exits the courtroom at 3:32 PM.)

17 THE COURT: Mr. Chesser, you say you have an  
18 objection you want to make outside the presence of  
19 the jury. Go ahead and make that for me, please.

20 MR. CHESSER: Thank you, Your Honor. We were  
21 not provided any evidence of a positive -- that is  
22 to say, a GSR test that indicated that someone had  
23 shot a weapon. So this is something that they were  
24 obligated to provide to us and didn't. We had no  
25 knowledge of that, Your Honor.

1           THE COURT: Well, it sounds like to me -- and  
2 I'm going to let them respond to it -- that they  
3 weren't even going to use the gunshot residue  
4 evidence until Mr. Routzong brought it up. And --

5           MS. YOUNG: Your Honor, if I may, I have in my  
6 file a SLED report -- South Carolina Law Enforcement  
7 Division -- regarding trace evidence, specifically  
8 gunshot residue. It was Rule 5 to Barry Thompson on  
9 September 3rd, 2013. He previously represented  
10 Mr. Stewart and he would have provided the whole  
11 file at that point in time. We were not going to go  
12 into it, but the door was opened by Mr. Routzong.

13           THE COURT: And how about to Mr. Routzong? Was  
14 it provided to him?

15           MS. YOUNG: It was, Your Honor. I don't know  
16 why this one doesn't say it, but I feel certain that  
17 it was. And if you would give me a minute, I can go  
18 back and find my letters and everything where I  
19 detail that.

20           THE COURT: All right. Let's put into -- make  
21 part of the Court record that you provide it. And I  
22 assume Mr. Barry Thompson was Mr. Stewart's prior  
23 lawyer. Why did he switch lawyers? He was not  
24 satisfied with Mr. Thompson?

25           MS. YOUNG: Mr. Stewart actively grieved on

1 Mr. Thompson during the course of his  
2 representation.

3 THE COURT: That's right. I remember.

4 MS. YOUNG: He requested --

5 THE COURT: Mr. Chesser, when you took over the  
6 case, were you given the entire file that was --

7 MR. CHESSER: Yes, sir.

8 THE COURT: Does it indicate that you were  
9 given that SLED trace report?

10 MR. CHESSER: My impression was that I did not  
11 have it. But I'm not -- you know, I --

12 THE COURT: I understand. Well, it appears  
13 that it was provided and -- but it wasn't testified  
14 to on direct examination. And obviously on  
15 cross-examination by Mr. Routzong that opened --

16 Anything else, gentlemen, on that point,  
17 Mr. Chesser, Mr. Routzong?

18 MR. ROUTZONG: Your Honor, the State hasn't  
19 offered any evidence about the fact that I received  
20 it. I'm not aware of receiving it. Of course a lot  
21 of things come by e-mail. I've gone through the  
22 things in my file, the hard copies. I don't have it  
23 in there. Now, if it was sent to my e-mail, if they  
24 have that, that might be a different story. But  
25 I --

1 THE COURT: I understand that, but you're the  
2 one who opened the gate on it, Mr. Routzong.

3 So tell me when you sent it to him.

4 MS. YOUNG: Your Honor, I apologize. This is a  
5 very voluminous file. I didn't bring all that  
6 paperwork up here with me. I know exactly where it  
7 is. If you give me ten minutes or -- I can find  
8 that.

9 THE COURT: We'll supplement the record.

10 MS. YOUNG: All right. Thank you.

11 THE COURT: Now you may step down.

12 THE WITNESS: Thank you, sir.

13 THE COURT: Mr. Chesser and Mr. Routzong,  
14 obviously y'all have some motions to make; correct?

15 MR. CHESSER: Yes, Your Honor.

16 THE COURT: That shouldn't take that long. And  
17 other than Mr. Stewart -- and I don't know whether  
18 he'll testify or not -- do you have any more  
19 witnesses, Mr. Chesser?

20 MR. CHESSER: Other than Mr. Stewart, no, sir.

21 THE COURT: Mr. Routzong?

22 MR. ROUTZONG: Not other than Mr. Robinson.

23 THE COURT: Is he going to testify?

24 MR. ROUTZONG: That's not been decided as of  
25 yet, Your Honor.

1           THE COURT: All right. Mr. Chesser, without  
2 holding your feet to the fire, how long do you think  
3 your with Mr. Stewart would be?

4           MR. CHESSER: Well, on direct and cross, I  
5 would expect about an hour, Your Honor.

6           THE COURT: Mr. Routzong, how long is his?

7           MR. ROUTZONG: Your Honor, as we discussed in  
8 chambers, he wants -- we all want to kind of get  
9 together and talk about these matters. I really  
10 won't know the answer to that until I talk to him.

11          THE COURT: I understand that.

12          MR. ROUTZONG: He's just now making me aware  
13 that there's a possibility. He's always been  
14 steadfast in saying he does not want to testify.

15          THE COURT: I can -- also for the record,  
16 Mrs. Bayzes is in the courtroom. I'm going to ask  
17 her to remain in the courtroom today and tomorrow.  
18 Y'all wanted her as a potential witness; she's here  
19 for you. So you can't complain about her not being  
20 here.

21          Fair enough, Mr. Routzong?

22          MR. ROUTZONG: Yes, sir.

23          THE COURT: Do y'all mind if I bring the  
24 forelady back out and tell her where we are sort of  
25 timewise and let her go back in and see if the jury

1           wants to go late or bring them all in and tell them  
2           or -- I suspect we've got a few minutes to ask -- 10  
3           or 15 minutes on the directed verdict motions, if  
4           any are made. That takes us to 4:00. Talking to  
5           the two defendants on their right to testify takes  
6           us to 4:15, so we can at least get 45 minutes of  
7           testimony in, if they decide to testify; stop at  
8           that point in time, come back in the morning and  
9           finish up testimony, argue and charge, or we can  
10          break for the day and we can go over the --  
11          everything as well as charges and start in the  
12          morning.

13                    What's the pleasure of the State?

14           MS. YOUNG: Your Honor, we don't really have a  
15           preference either way. But I'd like to say this to  
16           the Court: I do have a doctors appointment in the  
17           morning, so I would ask that we start no earlier  
18           than 10:00, if you would consider that. And I  
19           apologize, I could not change it.

20                    THE COURT: Mr. Chesser?

21           MR. CHESSER: Your Honor, my preference and  
22           what I would request of the Court is to break such  
23           that I can meet with Mr. Stewart tonight and talk  
24           about the possibility of his testifying in more  
25           detail. Obviously we've been over that, but I would

1 request that procedure, Your Honor.

2 THE COURT: Mr. Routzong?

3 MR. ROUTZONG: I need time, Your Honor, to talk  
4 to Mr. Robinson.

5 THE COURT: Well, y'all have had a year.

6 Bring the jury in for me, please.

7 Ms. Bethann Young, can you have someone bring  
8 whatever records you got down on that GSR?

9 MS. YOUNG: Yes, sir, Your Honor.

10 (The jury enters the courtroom at 3:40 PM.)

11 THE COURT: Madam forelady, ladies and  
12 gentlemen, it is 20 til 4:00. The State has  
13 completed all of their testimony. I have about --  
14 we have to do some motions at the conclusion of the  
15 State's case, and I figure that will take me about  
16 20 minutes. And then I have to ask some questions  
17 and do about 15 or 20 more minutes worth of stuff  
18 after those motions are decided. That takes us to  
19 about 4:20. And then by the time I give everybody a  
20 bathroom break and stretch, that's 4:30. Not sure  
21 if we're going to have any more testimony or not.  
22 If we do, it's probably going to be about another  
23 hour or so.

24 What I -- I can go as late as y'all want to  
25 tonight. Y'all want to keep on plugging? We can go

1           til midnight, but I don't think anyone wants to do  
2           that.

3           THE FORELADY: Are you providing dinner?

4           THE COURT: We could do that, some judges do  
5           that, but I like -- I suspect y'all have got  
6           families and have to cook supper for your husbands,  
7           got to cook supper for your wives.

8           If it suits, I think what we'll do is start at  
9           10:00 in the morning. And what we'll have left is  
10          either the final arguments and the charge or just a  
11          little bit of testimony and then the final arguments  
12          and charge. So I'll have you some snacks in the  
13          morning, we'll order lunch and go straight through  
14          tomorrow; in other words, if we get through and  
15          y'all are deliberating, y'all can eat your lunch  
16          while deliberating so we won't have to break for  
17          anything tomorrow, if that's okay with everybody.

18          All right. Once again, what do you want in the  
19          morning?

20          THE FORELADY: Sausage biscuits this time.

21          THE COURT: Okay. We'll start at 10:00 in the  
22          morning. I'll have refreshments for you in the  
23          morning. Please do not do any independent research  
24          tonight, do not talk with anyone about the case or  
25          let anyone talk to you about it. Do not start any

1 type of deliberations.

2 We had some newspaper people here yesterday. I  
3 hadn't seen them today. I don't if there is  
4 anything in the newspaper or not, but if there is, I  
5 ask you not to read it. We're trying to try this  
6 case based solely on what we hear in the courtroom.  
7 And then I think tomorrow we -- obviously we'll  
8 finish up tomorrow. Tomorrow is Thursday. So  
9 that's not a real long week for you.

10 Y'all have a very pleasant evening. I think it  
11 may be raining or storming outside. If anyone needs  
12 assistant getting to your car, I have a number of  
13 deputies that would be more than happy to keep you  
14 from getting wet. Y'all have a very pleasant  
15 evening. I've enjoyed y'all today. Y'all have paid  
16 great attention and I appreciate it.

17 We'll start right at 10:00 in the morning. And  
18 the reason we are starting at 10:00 is we've got  
19 some other matters and I don't want you sitting back  
20 there waiting. But I think I've got tomorrow under  
21 control, so we will start right at 10:00. Thank  
22 y'all.

23 Mr. Whittle, please gather up all of the  
24 notepads and make sure they're secured for the  
25 evening.

1 All right. Gentlemen, let's take a bathroom  
2 break and when we come back, we'll do motions at the  
3 end of the State's case and we'll talk about  
4 testifying and perhaps jury charges and get all of  
5 that out of the way so in the morning we'll be ready  
6 to hit the road. Fair enough?

7 MR. CHESSER: Yes, sir.

8 THE COURT: And verdict forms as well.

9 (Short break.)

10 THE COURT: Is somebody getting the defendants?

11 MR. CHESSER: Yes, sir.

12 THE COURT: All right. Both defendants are  
13 here.

14 Ms. Bethann Young, please tell me what you have  
15 found and make a record of when the gunshot residue  
16 results were given to Mr. Routzong.

17 MS. YOUNG: Certainly, Your Honor. I found in  
18 my file a copy of the Gunshot Residue Report that  
19 was sent to me by Investigator Cain and SLED. It  
20 has a -- received it on August 29th, 2013 --

21 THE COURT: As to which individual or  
22 individuals?

23 MS. YOUNG: Actually, we received a report as  
24 to both individuals -- well, it involves --  
25 Mr. Stewart wasn't tested because he was in surgery.

1 It involves Mr. Robinson and Mr. Goodwin. And it  
2 was Rule-5'd to Mr. Routzong on September 3rd, 2013,  
3 as well as Mr. Thompson on the same date.

4 THE COURT: And was that done by e-mail or done  
5 by mail, if you know?

6 MS. YOUNG: I know it was --

7 THE COURT: You did it by your normal course of  
8 business?

9 MS. YOUNG: We did it by our normal course and  
10 the procedures we use to send them everything in  
11 discovery.

12 THE COURT: Thank you.

13 Mr. Routzong, do you have any reason not to  
14 agree with that?

15 MR. ROUTZONG: I'm sorry, Your Honor. I  
16 thought the whole time that was my copy that was  
17 sitting in her file that she just gave to me.  
18 That's why -- that was my understanding. When she  
19 gave it to me, I said, that's my copy, said, it's  
20 got your name on it. So I thought -- I was under a  
21 completely different impression of what was going on  
22 here.

23 What was the date again?

24 MS. YOUNG: September 3rd.

25 THE COURT: Of 2013; right?

1 MS. YOUNG: Yes, sir.

2 THE COURT: Okay. That settles that.

3 Now, anything else by the State before --

4 MS. YOUNG: No, sir, Your Honor.

5 THE COURT: Okay. Mr. Chesser?

6 MR. CHESSER: Well, just one more comment on  
7 that. I've been over what I got, which I was -- you  
8 know I got everything -- I got a big file,  
9 obviously, from the prior attorney. And I'll just  
10 say I don't have this. So --

11 THE COURT: Given that the prior attorney who  
12 was grieved gave you the entire file. So --

13 MR. CHESSER: Yes, sir.

14 THE COURT: If I need to get Mr. Thompson up  
15 here, I will.

16 MR. CHESSER: The other thing I would do is  
17 this: I will move -- at this time I would object to  
18 and strike his testimony about the positive GSR,  
19 because the GSR is a -- is an expert type of test,  
20 and the interpretation of it is the field of an  
21 expert, 'is subject to any number of different  
22 interpretations. The presentation to the jury of a  
23 positive GSR, which was presented, is -- has -- and  
24 there's no explanation of it, no elaboration or what  
25 have you, that is far more prejudicial than

1 probative to have no meaning and not helpful to the  
2 jury, and I would move that it be excluded under  
3 403.

4 In addition, I would object at this time in  
5 terms of the interpretation of what's positive,  
6 Investigator Cain is not competent to testify to  
7 that. I would submit that it doesn't come in under  
8 the provisions for expert testimony under 703, I  
9 think it is.

10 THE COURT: I assume that's -- the solicitor  
11 didn't try to put it in. Y'all are the ones who put  
12 it in. Mr. Routzong asked the question about it and  
13 no objection was made.

14 MR. ROUTZONG: Your Honor, if I could put  
15 something on the record. Notwithstanding the  
16 State's position on this, I don't have a hard copy  
17 in my file. I've gone through -- prior to the  
18 trial, of course, I went through all the pieces of  
19 hard copy that I have. I have nothing by e-mail  
20 with that date on it, September of 2013.

21 MS. YOUNG: May I address that, Your Honor?

22 THE COURT: Yes, ma'am.

23 MS. YOUNG: First of all, I have to trust my  
24 stamp that's put on there by my legal assistant.  
25 But I can further follow that up that both attorneys

1           were provided within the last week at least the  
2           internal SLED chain which contains a reference to  
3           every single item of evidence that was tested for  
4           both defendants, including the GSR. So it's not  
5           like -- even assuming that they claim they don't  
6           have it, they had notice of it last week.

7           THE COURT: All right. What's your position on  
8           striking from the record because we had a nonexpert  
9           witness testify about the results, even though the  
10          defendants put it in?

11          MS. YOUNG: Your Honor, I do believe that  
12          Investigator Cain stated that he collected them in  
13          response to my question about collecting physical  
14          evidence. However, knowing that he's not an expert,  
15          I did not ask him what the results were. I did not  
16          follow up on that. And Mr. Routzong opened that  
17          door. I really don't think he can't object to his  
18          own question.

19          THE COURT: He didn't; Mr. Chesser did.

20          MS. YOUNG: I think he joined the objection,  
21          Your Honor.

22          THE COURT: I know he did.

23          MR. CHESSER: Well, just as an additional  
24          grounds to the extent the Court is entertaining  
25          this, which I appreciate, but just additional

1 grounds, it's obviously a hearsay statement  
2 Investigator Cain saying, I got this piece of paper  
3 that was conducted by an expert and so forth.

4 THE COURT: Well, that's not, that he got the  
5 report. But giving the results it might be. But  
6 once again, the State didn't ask the question. All  
7 right.

8 MS. YOUNG: May I make something else for the  
9 record, Your Honor? There are no tests taken or  
10 results pertaining to Mr. Chesser's client.

11 THE COURT: Absolutely.

12 So how do you have standing to even make the  
13 objection?

14 MR. CHESSER: Well, certainly the State's  
15 position and -- and in fact, the only way the jury  
16 can really evaluate this is by  
17 hands-of-one-hands-of-all type situation. I mean,  
18 it -- at least based on the evidence at this point.  
19 So the fact that if they were to conclude that even  
20 Craven Goodwin or Franklin Robinson had fired a  
21 weapon in the -- then it would certainly be  
22 tremendously impactful on the case of Eddie Stewart.

23 THE COURT: So what you're asking me to do is  
24 to strike the testimony about the results that  
25 Mr. Routzong asked about, the results of the gunshot

1 residue, which he opened the door and then the State  
2 asked -- you want me to have that stricken from the  
3 record and give a curative instruction? Is that  
4 what you're asking me?

5 MR. CHESSER: Yes, Your Honor.

6 THE COURT: I'll grant your motion.

7 MR. CHESSER: Thank you.

8 THE COURT: But it hasn't got anything to do  
9 with them not providing it under Rule 5.

10 MR. CHESSER: Yes, sir. I understand.

11 THE COURT: All right. Any other motions,  
12 Mr. Chesser?

13 MR. CHESSER: Your Honor, I just wanted to --  
14 the State has rested, so we would have a motion for  
15 a directed verdict.

16 THE COURT: Make your motion.

17 MR. CHESSER: Your Honor, the three charges,  
18 burglary first, grand larceny over 10,000,  
19 possession of a weapon during the commission of a  
20 violent crime --

21 THE COURT: Possession of a weapon is not in.  
22 That is not a charge.

23 Is that correct?

24 MS. YOUNG: The Your Honor, the State chose not  
25 to proceed on that. We're just proceeding on

1 burglary first and grand larceny.

2 MR. CHESSER: Thank you, Your Honor.

3 The burglary first, we would submit -- the  
4 elements of that being the entry without consent  
5 into a dwelling with the intent to commit a crime  
6 with aggravated circumstance, we would submit there  
7 is no direct evidence, no substantial circumstantial  
8 evidence that this is, in fact, a dwelling.

9 THE COURT: Well, there's no question whatever  
10 they entered, whether it's a dwelling, a building or  
11 a store or what, it was without consent, if they  
12 entered it. That's not the point.

13 MR. CHESSER: Right.

14 THE COURT: The point is, you're saying,  
15 this -- Judge, this is not a dwelling, so it  
16 shouldn't be burglary first.

17 MR. CHESSER: Yes, Your Honor.

18 THE COURT: Give me some case law to support  
19 that.

20 MR. CHESSER: I don't have any case law on  
21 that, Your Honor.

22 THE COURT: Give me some Michael Chesser on  
23 dwelling, please.

24 MR. CHESSER: Yes, sir. Well, the pictures and  
25 so forth show that you have a business dedicated to

1 the selling of these weapons and high-powered  
2 weapons. And again, the pictures illustrate that  
3 this area is separate --

4 THE COURT: Is what?

5 MR. CHESSER: Separate, Your Honor, from --  
6 that is, there's a division from this area and the  
7 rest of the building. There is this -- of course  
8 you heard testimony about the -- I believe they're  
9 called freezer strips. And that is the pathway from  
10 the business of selling guns into a garage area.

11 From the testimony of Mr. Bayzes, what the --  
12 it seems to be what happens here is you have, I  
13 believe his testimony was, 40 or 50 feet of garage  
14 where he may keep some items like boats and things  
15 of that nature -- he indicated it was heated, but  
16 not air conditioned -- then you have a firewall.  
17 And again, this is a wall designed to be sturdier  
18 than a standard wall. You have a doorway in this  
19 firewall, and then you have another area of garage  
20 and, I would say, approximately 20 feet or 30 feet  
21 of that, then you get to what I understand to be a  
22 doorway at that point, a wall with a door with a  
23 lock. And then going through that, you have sort of  
24 a walkway, some area of, say, 15 or 20 feet, and  
25 then you get to the actual ground-floor living area

1 where Mr. Bayzes was sleeping on this August 9th.  
2 And then above that, there is -- up some stairs is  
3 an area where Mrs. Bayzes was sleeping on the night  
4 of August 9th, 2012.

5 Your Honor, given these divisions, any number  
6 of these divisions the evidence shows exists, and we  
7 would submit that these divisions show that you  
8 have -- the only area -- the testimony, of course,  
9 is clear, the only area that was entered by --  
10 according to the evidence, by the defendants, was  
11 the business -- the gun selling business.

12 We'd submit that it's clear from the evidence,  
13 the only reasonable inference is that you have a  
14 separate gun selling business and that there was no  
15 entry of a dwelling, Your Honor.

16 THE COURT: Mr. Routzong?

17 MR. ROUTZONG: Your Honor, at this time I also  
18 move for a directed verdict. I agree with  
19 Mr. Chesser's analysis and presentation to the  
20 Court. I won't reiterate it.

21 I would also include, Your Honor, that the  
22 testimony that was given both from Mr. Bayzes and  
23 from Investigator Cain was they were called to a gun  
24 store. And one man -- and Mr. Bayzes said on the  
25 911 call that my gun shop was broken into.

1 THE COURT: Ms. Bethann Young?

2 MS. YOUNG: Thank you, Your Honor. May it  
3 please the Court. Your Honor, dwelling house,  
4 regarding the burglary statute and other property  
5 crimes, is defined by Statute Section --

6 THE COURT: 16-11-10.

7 MS. YOUNG: -- 16-11-10. Yes, sir. It's a  
8 very broad statute: Any dwelling house, any house,  
9 outhouse, apartment, building, erection, shed, or  
10 box, in which there sleeps a proprietor, tenant  
11 watchman, clerk, laborer, or person who lodges there  
12 with a view to protection of property shall be  
13 deemed a dwelling house.

14 Your Honor, I think this is exactly the  
15 situation we have here. It's a building that  
16 contains a store, a residence, it's all contained in  
17 one building. It falls within the definition of the  
18 statute. I believe there's some case law that would  
19 support our position, and I would ask for some time  
20 to supplement on that. But I know we have *State vs.*  
21 *White* --

22 THE COURT: *State vs. White* is where? What  
23 does it say?

24 MS. YOUNG: 349 SC 33.

25 THE COURT: Hold on one second. All right. We

1 have it.

2 MS. YOUNG: Yes, sir.

3 THE COURT: That's where the motel room was a  
4 dwelling.

5 MS. YOUNG: Yes, sir.

6 Also, *State vs. Stedman*.

7 THE COURT: Surely there's case law out there  
8 where a man -- you know, a lot of people live and  
9 work out of the same physical facility. That's what  
10 we have here. I mean, there's no question that this  
11 was one structure; part of it was dedicated for  
12 business and part of it dedicated for living. It  
13 was all together.

14 MS. YOUNG: If I may, Your Honor, I believe  
15 *State vs. Stedman* would be directly on point.

16 257 --

17 THE COURT: Hold on. Where that was used for  
18 apartment and office?

19 MS. YOUNG: A dwelling included a building  
20 where a portion was used for business.

21 THE COURT: Well, in *Stedman*, did they break  
22 into the business portion or the sleeping portion?  
23 Does it make any difference?

24 MS. YOUNG: I don't think it mattered, Your  
25 Honor.

1           THE COURT: Well, the case law, *State vs.*  
2     *Ferebee* -- F-E-R-E-B-E-E -- 1979, says in that case:  
3     The rationale for requiring that someone resides,  
4     sleeps within a developing, rests upon the  
5     development of burglary as an offense against  
6     habitation rather than against property.

7           It's no question that if nobody lived in  
8     that -- nobody lived there, that it would not be a  
9     dwelling. It would be a business. But the facts  
10    are undisputed that the victims lived there; his  
11    wife lives there, he lived there, they slept there,  
12    they ate there, they even ate in the business part  
13    of it.

14           So how do we say it's not a dwelling,  
15    Mr. Chesser? I mean, we've got a -- we've got this  
16    building divided into actually three parts; one part  
17    where he runs the business, one part where he parks  
18    the cars in the garage, one part where he and his  
19    wife live. But they're all connected.

20           We found one case where the screen porch is a  
21    dwelling, where they didn't go into the sleeping  
22    part, only the screen porch. And the statute is  
23    most broad, and I think at the very minimum that  
24    this is not something that is decided as a matter of  
25    law, but a factual issue for the jury to determine

1 as to whether or not it's a dwelling or whether or  
2 not it's a building perhaps.

3 But the statute is clear. It says: Property  
4 shall be deemed a dwelling house and of such a  
5 dwelling house or of any other dwelling house or  
6 houses, outhouses, buildings, sheds, and erections  
7 which are within 200 feet of it and are appurtenant  
8 to it or to the same establishment of which it is  
9 an appurtenance shall be deemed parcels.

10 You think it's a matter of law, State, or a  
11 matter of factual issue for the jury?

12 MS. YOUNG: I think it's a matter of law, Your  
13 Honor. I mean, dwelling house is defined. I  
14 believe the evidence fits.

15 THE COURT: Well then --

16 MS. YOUNG: It's uncontradicted evidence that  
17 he lived there.

18 THE COURT: So you would suggest just a  
19 burglary first and I would charge the jury has to  
20 find it to be a dwelling. I'm not going to find it  
21 as a matter of law it's a dwelling. And then what  
22 if they find it's not a dwelling then you -- you  
23 going to provide a lesser included for breaking into  
24 a building?

25 MS. YOUNG: No, sir. I'd ask for time to

1           finalize our research on that. But it's the State's  
2           position it is a dwelling. I think there's case law  
3           that if you prove it's a dwelling that it would  
4           be -- we would not ask for a lesser included because  
5           we feel it's burglary first.

6           THE COURT: I understand that. But when I  
7           charge the jury, I have to find that they have --  
8           the elements are that it's guilty of burglary in the  
9           first degree when a person enters a dwelling and a  
10          dwelling is defined as such. So to find him guilty,  
11          you must find that the State has proven beyond a  
12          reasonable doubt that he entered a dwelling and  
13          while entering, armed with a deadly weapon with  
14          aggravating circumstances. So --

15          MS. YOUNG: Your Honor, I do --

16          THE COURT: -- what if they found that it  
17          wasn't a dwelling?

18          MS. YOUNG: Well, I mean, that's just a -- it's  
19          a jury trial, Your Honor.

20          THE COURT: I understand.

21          MS. YOUNG: I do have a case that Mr. Grimes  
22          brought me at my request, *State vs. Alton Wesley*  
23          *Gore*, it was decided April 2nd, 2014.

24          THE COURT: Gore, G-O-R-E?

25          MS. YOUNG: G-O-R-E. And in that, the Court

1 states that due process requires a lesser-included  
2 offense to be given only where the evidence warrants  
3 it. And it also has to do with dwelling homes,  
4 burglaries and such.

5 THE COURT: Let me see that one. I think we've  
6 got that one on -- well, why don't we do this: It's  
7 sort of an interesting question where you've got  
8 a -- the facts are undisputed that we have a  
9 building that, obviously, people sleep there and,  
10 obviously, they conduct business there. The fact  
11 that they sleep there, does that mean the whole  
12 building is a dwelling or something else?

13 So I'm going to reserve ruling on that specific  
14 issue until tomorrow morning. I will welcome any  
15 supplementation of the law that you can find over  
16 the evening. Is that fair enough?

17 MS. YOUNG: Yes, sir, Your Honor.

18 MR. CHESSER: Yes, sir.

19 MR. ROUTZONG: Yes, sir.

20 THE COURT: That would be your main issue for  
21 directed verdict; right?

22 MR. CHESSER: Yes, sir.

23 THE COURT: Okay. What else do we have?

24 MR. CHESSER: Your Honor, it's possible  
25 Mr. Stewart will testify. He indicates to me he

1           might.

2           THE COURT: All right. Let me talk to them  
3 about that.

4           MR. CHESSER: Sir?

5           THE COURT: You want me to talk with them about  
6 that?

7           MR. CHESSER: Yes, sir.

8           THE COURT: All right.

9           Mr. Stewart, how are you?

10          DEFENDANT STEWART: All right.

11          THE COURT: Mr. Robinson, how are you?

12          DEFENDANT ROBINSON: All right, Your Honor.

13          THE COURT: All right. In these jury trials,  
14 obviously the State has the burden of proof, so they  
15 go first with their evidence, and they've presented  
16 all of their evidence. We're now at the stage of  
17 the trial where you have the right to present your  
18 side of the story, your defense. In doing that,  
19 obviously, you can call witnesses to support your  
20 position, you can introduce relevant exhibits such  
21 as pictures and things that the State hadn't  
22 introduced, as long as they're relevant, and both of  
23 you have the right to testify, get up and tell your  
24 side of the story. Okay?

25          Now, if you choose to do that, both of you will

1 be subjected to cross-examination and you'll be  
2 required to answer any questions asked by the State,  
3 as long as it's relevant, and that can include  
4 questions about how do you explain bullet fragments  
5 in you, how do you explain getting shot, how do you  
6 explain being in that car, how do you explain all  
7 kinds of stuff. You're going to be asked pointed  
8 questions about your alleged involvement in the  
9 backing this vehicle into this man's business and  
10 how do you explain being at the Waffle House with a  
11 van full of guns. I mean, you'll be asked pointed  
12 questions.

13 Now, on the other side -- and if you decide to  
14 testify -- do they have prior records that could be  
15 used for impeachment purposes?

16 MS. YOUNG: Yes, sir, Your Honor.

17 THE COURT: Mr. Stewart?

18 MS. YOUNG: Mr. Stewart has a conviction for  
19 strong-armed robbery, two counts in 2000; possession  
20 of cocaine first in 2002; burglary second, I believe  
21 it's three separate counts, in 2010; driving under  
22 suspension and another drug charge.

23 THE COURT: Some of those are outside of the  
24 ten years, are they not?

25 MS. YOUNG: Yes, sir. But the burglary second

1 in 2010, that's within.

2 Your Honor, I have to look at that strong-armed  
3 robbery because I believe the date is from the end  
4 of his incarceration or probation. I would just  
5 have to take a look at that --

6 THE COURT: Sure.

7 MS. YOUNG: -- to be able to argue that.

8 With regard to Mr. Robinson, 2003, entering  
9 premises after warning; 2005, possession, selling  
10 disposing of stolen vehicle, four counts of petit  
11 larceny, two counts of grand larceny 1,000 to 5,000,  
12 five counts of breaking and entering auto; 2009,  
13 breaking and entering auto; 2009, burglary second  
14 non-violent; 2011, possession of a stolen vehicle,  
15 possession of burglary tools.

16 THE COURT: Gentlemen, the rules provide  
17 this -- our rules of evidence in criminal procedure  
18 say that prior records, if they fall within the  
19 rule, and some of these do, can be used and  
20 introduced to the jury for the sole purpose of  
21 attacking your truthfulness or your believability,  
22 what we call impeaching you, provided I make a  
23 balance between whether or not it's more probative  
24 than prejudicial to you.

25 So it's a good chance your prior records will

1 be read to the jury. Of course I will instruct them  
2 at the close of the case that they can only be used  
3 for impeachment purposes and not for finding you  
4 guilty in this particular trial or when they decide  
5 your guilt or innocence -- or deliberate on your  
6 guilt or innocence. It would not be for the facts  
7 involved in the case, but they can simply -- they  
8 can use as a tool, if they desire, to judge your  
9 credibility. Now that is if you testify.

10 On the other side of the coin is that both of  
11 you are protected by the United States' Constitution  
12 and the Constitution of the state of South Carolina,  
13 which both say that no matter what you're charged  
14 with in any criminal proceeding, no one can make you  
15 testify. You have the absolute right to remain  
16 silent.

17 Now, if you exercise your Constitutional right  
18 to remain silent, I will instruct the jury at the  
19 close of the case that both of you had the absolute  
20 right to remain silent. You both have the absolute  
21 right to invoke your right to remain silent under  
22 the Constitution, and by doing so the jury is to  
23 absolutely not consider that when they deliberate  
24 your guilt or innocence. They can't infer anything  
25 from it, they can't gather anything from it. I'll

1           instruct them that one of the duties of the  
2           foreperson is to say, if anybody brings it up, we  
3           can't talk about that, we can't consider it. It  
4           can't be used against you in any manner whatsoever.  
5           It's not to be discussed. They have that right, the  
6           State has the burden of proof, they don't have to  
7           prove a thing. They have the right to remain silent  
8           and that can't be used. I will tell them that in as  
9           strong of language as I know how.

10                  Now, raise your right hand, Mr. Stewart and  
11           Mr. Robinson. Do you both swear to tell the truth  
12           in this matter?

13                  DEFENDANT STEWART: Yes, sir.

14                  DEFENDANT ROBINSON: Yes, sir.

15                  THE COURT: Mr. Stewart, do you understand your  
16           right to remain silent.

17                  DEFENDANT STEWART: Yes, sir.

18                  THE COURT: Mr. Robinson?

19                  DEFENDANT ROBINSON: Yes, sir.

20                  THE COURT: Do either one of you need to ask me  
21           anything about that? Mr. Stewart?

22                  DEFENDANT STEWART: No, sir.

23                  THE COURT: Mr. Robinson?

24                  DEFENDANT ROBINSON: It's not pertaining to  
25           that, but another issue.

1           THE COURT: All right. Hold on. We'll get to  
2 that in a minute. Obviously you can talk to your  
3 lawyers, you can talk to whoever you have available.  
4 But the end result, it would be your decision as to  
5 whether or not you take the witness stand, as well  
6 as your decision. You both understand that?

7           DEFENDANT STEWART: Yes, sir.

8           DEFENDANT ROBINSON: Yes, sir.

9           THE COURT: All right. Well, when we come back  
10 in the morning, obviously you'll have to make that  
11 decision. Mr. Chesser wants some time tonight to go  
12 over some things with you, as well as Mr. Routzong  
13 with you. But I'll need to know -- you know, that's  
14 the next thing out the chute in the morning at  
15 10:00. So --

16           DEFENDANT STEWART: Can I ask you a question,  
17 Judge?

18           THE COURT: Absolutely. Yes, sir.

19           DEFENDANT STEWART: Okay. Say a person is  
20 arrested, right? The arresting officer, if you  
21 choose not to talk to the officer, right, okay, an  
22 investigator come in, you choose not to talk to that  
23 investigator, that's your right?

24           THE COURT: That's right.

25           DEFENDANT STEWART: Okay. So if you don't talk

1 to that investigator, you don't give that  
2 investigator no statement, what's the next step when  
3 you get to your lawyer? You're supposed to give  
4 your lawyer a statement; right?

5 THE COURT: For your lawyer to represent you,  
6 you got to talk to him.

7 DEFENDANT STEWART: That's what I'm saying. So  
8 you're supposed to give your lawyer a statement;  
9 right? So once you give your lawyer a statement,  
10 what does he do with your statement?

11 THE COURT: I assume he uses it to prepare your  
12 case.

13 DEFENDANT STEWART: So if you go to trial and  
14 your lawyer has your statement at trial, he presents  
15 your statement?

16 THE COURT: What you say to your lawyer about  
17 this is strictly lawyer-client privilege.

18 DEFENDANT STEWART: So lawyer-client privilege,  
19 if a person wanted his lawyer to use his statement  
20 at the trial, can his lawyer use it if his client  
21 tells him he can?

22 THE COURT: That's strategy between you and  
23 your lawyer.

24 DEFENDANT STEWART: All I'm asking, is it  
25 legal?

1 THE COURT: For what?

2 DEFENDANT STEWART: Court.

3 THE COURT: To do what?

4 DEFENDANT STEWART: For my lawyer to say my --  
5 my -- my statement.

6 THE COURT: In other words, you gave your  
7 lawyer a statement --

8 DEFENDANT STEWART: I didn't talk to the  
9 investigator, I didn't talk to the arresting  
10 officers. I gave my -- my lawyer instructed me.  
11 I'm not talking -- he -- Barry Thompson instructed  
12 me --

13 THE COURT: Not to talk to anybody?

14 DEFENDANT STEWART: No. He instructed me over  
15 and over to give him my statement. At the time he  
16 was asking for a statement, I couldn't even walk,  
17 you know what I'm saying? But --

18 THE COURT: Give who the statement?

19 DEFENDANT STEWART: Barry Thompson. He  
20 instructed -- he was my lawyer. He instructed me  
21 that I needed to give him my statement, so I gave  
22 him my statement.

23 THE COURT: Okay.

24 DEFENDANT STEWART: So I'm asking you -- I'm  
25 just asking a question, you know, if I had to go to

1 trial and I gave my lawyer my statement, if I wanted  
2 my lawyer to present that, can he present that?

3 THE COURT: He can present the statement or you  
4 can testify to what's in the statement.

5 DEFENDANT STEWART: But you said the lawyer  
6 could do it too.

7 THE COURT: Well, there wouldn't be any need  
8 for your lawyer to do it; you'll be on the stand and  
9 the lawyer will ask you --

10 DEFENDANT STEWART: I'm saying, but see, the  
11 lawyer is my voice. I'm just asking because I was  
12 told that it would -- it's not -- you can't do it.  
13 But --

14 THE COURT: No, sir. You --

15 DEFENDANT STEWART: -- it's not -- it's not no  
16 case law. He gave me case law, but the case law is  
17 totally, totally different. From my -- from my  
18 understanding, your lawyer is your voice, unless  
19 you --

20 THE COURT: Mr. Thompson is not your lawyer  
21 anymore, by the way. But you can testify to  
22 anything you want to testify to, as long as it's  
23 relevant.

24 DEFENDANT STEWART: Yeah. But I'm saying, I'm  
25 not saying about me testifying, I'm asking a

1 question as far as investigators versus your lawyer.  
2 If I write the investigator a statement, the State  
3 can use that statement.

4 THE COURT: Correct, sometimes.

5 DEFENDANT STEWART: Okay.

6 THE COURT: The State can't use your lawyer's  
7 statement -- the statement you gave to your lawyer.

8 DEFENDANT STEWART: But my lawyer can use it?

9 THE COURT: I've never had that come up. I  
10 assume you can testify to what you want to testify  
11 to.

12 DEFENDANT STEWART: But I -- I'm not trying to  
13 be smart with you or anything like that. But --

14 THE COURT: You're not.

15 DEFENDANT STEWART: -- it's my first time being  
16 in a situation like this.

17 THE COURT: I understand.

18 DEFENDANT STEWART: I'm asking because I don't  
19 know.

20 THE COURT: You don't want to testify, you just  
21 want your statement read?

22 DEFENDANT STEWART: I'm not saying I'm not  
23 going to testify, I'm just asking a question. I'm  
24 saying, if I wrote a statement to Detective Cain,  
25 the State would have used that against me.

1 THE COURT: That's correct.

2 DEFENDANT STEWART: Okay. I didn't give him no  
3 statement; I gave it to my lawyer.

4 THE COURT: Okay.

5 DEFENDANT STEWART: So if I wrote one to  
6 Detective Cain and he can use it against me, if I  
7 wrote one to my lawyer, he can use it to help me.

8 THE COURT: If you chose not to testify, your  
9 lawyer can't stand up and read your statement  
10 because the State can't cross-examine him.

11 DEFENDANT STEWART: All right.

12 THE COURT: Okay?

13 DEFENDANT STEWART: Thank you.

14 THE COURT: You have a question?

15 DEFENDANT ROBINSON: Yeah. I still want my  
16 witness present, Juanita Higgins. I want to know --

17 THE COURT: Who is -- that's your mom?

18 DEFENDANT ROBINSON: Yes, sir.

19 THE COURT: Well, why don't you call her and  
20 tell her to come?

21 DEFENDANT ROBINSON: I don't like -- I can't  
22 call her. I can't use the phone. I can write her.

23 THE COURT: You got a telephone number for her?

24 DEFENDANT ROBINSON: Yes, sir.

25 THE COURT: All right. Mr. Routzong, call her

1 and tell her to be here in the morning at 9:00.

2 DEFENDANT ROBINSON: And it's some more  
3 evidence that I want present at my trial and some  
4 more witnesses.

5 THE COURT: Well, you have to discuss that with  
6 your lawyer, sir.

7 DEFENDANT ROBINSON: He's saying it's not  
8 possible for -- for -- for my witnesses to come. He  
9 says he doesn't want them here.

10 THE COURT: Well, I think your lawyer has tried  
11 more cases than you have and he knows what's best  
12 for you. I can't interfere with y'all's  
13 relationship.

14 DEFENDANT ROBINSON: I understand. But --

15 THE COURT: I can have your mama -- he can call  
16 your mama and ask her to come.

17 DEFENDANT ROBINSON: I understand that. I  
18 respect that, Your Honor, but at the same time, I  
19 feel that my witnesses, they're relevant to my case  
20 because they can testify and -- to -- to me being  
21 picked up from Mr. Craven and to -- they witnessed  
22 Mr. Craven -- Mr. Craven had picked me up for --  
23 Mr. Craven told me he wanted me to come down here to  
24 do a job for him. They witnessed the whole  
25 conversation between me and Mr. Craven.

1 THE COURT: I'll have him call your mama.  
2 Mrs. Bayzes is here, that was the other witness.  
3 Who is the other one you want?

4 DEFENDANT ROBINSON: Sharonda Goodwin.

5 THE COURT: Where is Ms. Goodwin?

6 DEFENDANT ROBINSON: She's in Columbia as well.

7 THE COURT: You got her number?

8 DEFENDANT ROBINSON: Yes, sir.

9 THE COURT: Give it to Mr. Routzong. He'll  
10 call tonight and ask her to come.

11 DEFENDANT ROBINSON: Yes, sir.

12 THE COURT: That's all I can do. Anything  
13 else, Mr. Robinson? Any questions about testifying?

14 DEFENDANT ROBINSON: If I have anything else to  
15 ask you, can I ask you tomorrow?

16 THE COURT: You certainly may.

17 DEFENDANT ROBINSON: Thank you.

18 THE COURT: Fair enough?

19 DEFENDANT ROBINSON: Yes, sir.

20 THE COURT: Anything else, Mr. Chesser?

21 MR. CHESSER: Your Honor, in terms of ruling on  
22 the admissibility of the convictions, that's  
23 something you're going to do tomorrow?

24 THE COURT: Yes, sir.

25 MR. CHESSER: Thank you, Your Honor.

1           THE COURT: All right. So in the morning we'll  
2 revisit the directed verdict, I'll instruct the jury  
3 to disregard the gunshot residue testimony, and  
4 we'll make a decision on whether or not these  
5 gentlemen are going to testify after I decide the  
6 records versus -- probative versus prejudicial on  
7 the prior records under the rules.

8           Anything else?

9           MR. CHESSER: Your Honor, I would ask you --  
10 again, I appreciate the -- it seems to me that  
11 Investigator Cain referred to the GSR test, and I  
12 would ask -- respectfully request the Court just to  
13 refer to it as GSR, just to disregard any testimony,  
14 strike any testimony about a GSR.

15          THE COURT: Don't say gun shot residue?

16          MR. CHESSER: That's my request, Your Honor.

17          THE COURT: I'll be glad to honor your request.

18          Anything else, Mr. Weeks?

19          MR. WEEKS: No, sir. But I don't think that's  
20 proper, and the State objects to that. They call it  
21 a GSR and we asked them to -- what is a GSR? It's a  
22 gunshot residue. If you're going to dismiss it or  
23 strike it from the record, strike it all.

24          Now, I don't think it's proper to strike it and  
25 we're not conceding that issue, but we understand

1 your ruling.

2 THE COURT: I will cross that bridge in the  
3 morning.

4 Anything else?

5 MR. CHESSER: No, Your Honor.

6 THE COURT: Mr. Chesser, Mr. Routzong, did  
7 y'all discuss with your clients yesterday our  
8 conversation in chambers?

9 MR. ROUTZONG: I did, Your Honor.

10 MR. CHESSER: Yes, sir.

11 THE COURT: Thank you.

12 All right. Verdict form. Assuming I don't  
13 grant the motion for directed verdict, burglary one  
14 and grand larceny, is that the State's position?

15 MS. YOUNG: Yes, sir.

16 THE COURT: Mr. Chesser, verdict form?

17 MR. CHESSER: We would ask for a charge on  
18 burglary second violent.

19 THE COURT: As a lesser-included?

20 MR. CHESSER: Yes, sir.

21 THE COURT: Mr. Routzong, you join in on that?

22 MR. ROUTZONG: Yes, sir.

23 THE COURT: All right.

24 MR. CHESSER: Actually, Your Honor, I think  
25 burglary second violent is entry into a building

1 with aggravating circumstance. If we were to get  
2 that charge, it may have to be burglary second  
3 violent and then also burglary second nonviolent,  
4 because if the jury found that they were not --  
5 well, they have the -- I beg the Court's indulgence.

6 But in any event, they may have to include a  
7 charge on burglary second of a building, it would  
8 have to be nonviolent, I guess, and then burglary  
9 second with an aggravating circumstance, which, as I  
10 understand, could be either nighttime or with a  
11 weapon, and then burglary first, Your Honor.

12 THE COURT: We'll cover that in the morning.

13 Anything else?

14 MS. YOUNG: Nothing from the State, Your Honor.  
15 Thank you.

16 THE COURT: Why did you hand me this Gore case?

17 MS. YOUNG: Your Honor, that has to do with  
18 whether or not it's appropriate to charge to the  
19 lesser-included offense in this case or any case.

20 THE COURT: Well, what if the jury found it was  
21 not a dwelling but a building? Can they do that?

22 MS. YOUNG: Your Honor, Mr. Grimes graciously  
23 brought me that case and I haven't had a chance to  
24 read it. I don't really feel prepared to completely  
25 formulate my argument. I'd ask for an opportunity

1 to do that in the morning. But, I mean, I think  
2 it's clear that it's a dwelling. Case law says --  
3 but I'll follow up on that issue as well.

4 THE COURT: Okay. Thank you.

5 Y'all try to find some tonight. We'll look  
6 too. When you got physical facilities you do both  
7 in, does that mean it precludes it from being a  
8 building and makes it solely a dwelling or can you  
9 have part of it a building and part of it a dwelling  
10 or is it all a building or is it simply a dwelling  
11 because people live there? That's what I --

12 MR. WEEKS: The Legislators could have called  
13 it a spaceship.

14 THE COURT: It could have.

15 MR. WEEKS: But they named it a dwelling.

16 THE COURT: It did. And they make a  
17 distinction between a dwelling and a building; a  
18 dwelling is where -- someplace somebody sleeps.

19 MR. WEEKS: Somebody lives in a building or a  
20 box or a garage that's 199 feet separate from it.  
21 This is clearly in the same building,  
22 uncontradicted.

23 THE COURT: It is uncontradicted if they're all  
24 under the same roof, business and the place where  
25 they sleep. There's no evidence to dispute that and

1 I think we'll all agree to that, under the same  
2 roof.

3 All right. We'll make a decision in the  
4 morning. Thank you.

5 MS. YOUNG: Thank you, Your Honor.

6 (Court in recess for the evening.)

7 THE COURT: When we broke yesterday I had  
8 advised -- I had sort of taken under advisement the  
9 issue we were discussing as to whether or not we  
10 were going to charge anything other than burglary  
11 first. Y'all were offering me the burglary first  
12 statute which says: A person is guilty of burglary  
13 in the first degree if a person enters a dwelling.  
14 And then we had a long discussion on dwelling.

15 Well, there's been absolutely no evidence  
16 presented in this case other than the fact that the  
17 victims lived in the building in which the offense  
18 occurred. And I have gone back and reviewed the  
19 evidence and discussed it with my law clerk, and if  
20 anybody knows of any evidence other than the fact  
21 that these -- the victim and his wife, that's  
22 uncontradicted, lived in this particular building.  
23 So with that uncontradicted evidence, I have once  
24 again reviewed 16-11-10, which talks about crimes of  
25 burglary and arson which are aggravated by being

1 committed in a dwelling house.

2           They defined a dwelling house as any house,  
3 among other things, as well as a building in which  
4 there sleeps a proprietor, tenant, watchman, clerk,  
5 laborer -- so, obviously, the proprietor slept in  
6 this building -- likewise, or a person who lodges  
7 there with a view to the protection of property.  
8 And obviously he stayed there with a -- or lodged  
9 there with a view to the protection of his property.  
10 Then it says: When that happens, it shall be deemed  
11 a dwelling house.

12           So I don't know of any evidence whatsoever in  
13 the record that contradicts the fact that the  
14 proprietor slept there and lodged there with a view  
15 to the protection of the property; therefore, I will  
16 charge simply burglary in the first degree.

17           I'm cognizant of the latest case out of the  
18 Court of Appeals, *State vs. Gore*, which says that a  
19 lesser-included offense instruction should only be  
20 given when there's evidence that warrants the  
21 instruction. And there's no evidence in this case  
22 that this building was a dwelling. There's evidence  
23 totally undisputed that Mr. Bayzes and his wife  
24 slept there, he was a proprietor. He is also  
25 someone who lodged there with a view to the

1 protection of his property.

2 I think both sides had well-reasoned arguments  
3 yesterday. Mr. Chesser and Mr. Routzong, I think  
4 you're well protected on the record for any appeal  
5 on that particular issue. If you want to supplement  
6 your arguments, I'll give you a brief moment right  
7 now, if you so desire.

8 MR. CHESSER: May it please the Court.

9 THE COURT: Yes, sir.

10 MR. CHESSER: Just a couple of items of  
11 evidence that we didn't emphasize: One of them is  
12 there's a couple of photos of this edifice and the  
13 back part -- the very back part is actually sort of  
14 two-story.

15 THE COURT: It is.

16 MR. CHESSER: And what -- we would just point  
17 out that rather -- there was some discussion  
18 yesterday about one roof. We think, literally, it's  
19 two roofs. But these are some points, and we made  
20 the other points yesterday.

21 The other thing I want to mention is just that  
22 the furniture that was actually there, like the bed,  
23 for example, that Mrs. Bayzes is supposed to have  
24 slept in, it's not on a frame; it's just lying on  
25 the floor. It gives me the impression that -- you

1 know, it seems to me the jury has to weigh whether  
2 any -- whether it's really credible that anybody  
3 actually lived there. But they just -- that's what  
4 I would point out for the record.

5 THE COURT: Thank you. Well, the evidence is  
6 uncontradicted. There's been no evidence to the  
7 contrary that they did anything but reside, sleep,  
8 eat there and that was their home. And under the  
9 definition that building constitutes a dwelling.

10 Mr. Routzong? I didn't mean to cut you off.

11 MR. ROUTZONG: Your Honor, from the research  
12 I've done, you have to give us a lesser-included.  
13 This is -- I can cite this case. If there's any  
14 evidence -- any evidence, not how much weight to  
15 give to it or anything like that -- this comes down,  
16 really, to the veracity of Mr. Bayzes.

17 If we are successful in making his testimony  
18 appear to be less than credible all the time, then  
19 it's a jury question as to whether or not this is  
20 actually a place that he dwelled in. I don't think  
21 you ought to just rule that based on everything that  
22 you've heard, that this is just a dwelling when the  
23 fact is the pictures we have of the inside of this  
24 dwelling came much later, probably six months later.  
25 So we're still depending on what he said was in

1           there. We have three alarm systems, Your Honor.  
2           The jury can conclude from that that it's three  
3           separate --

4           THE COURT: Three separate what?

5           MR. ROUTZONG: Three separate houses -- not  
6           houses, but just rooms. For example --

7           THE COURT: Have you read the definition?

8           MR. ROUTZONG: I have.

9           THE COURT: And it says it includes a building.  
10          And this is a building at -- you know, and it's the  
11          building where he slept in. You tell me any  
12          evidence in the case that doesn't lead to that.

13          MR. ROUTZONG: Well, I would say, Your Honor,  
14          it is much like the motel room. The -- I think it  
15          was the White case that the State offered up. You  
16          have individual apartments, each of which -- if you  
17          broke into two of them, it would be two different  
18          burglaries. The question is, is this a business and  
19          a dwelling?

20          For example, Your Honor, if someone broke into  
21          a store in downtown Aiken where there was a flat on  
22          top of it, is that a burglary first? The answer to  
23          that question, I would argue, is no.

24          THE COURT: But in this case there's no  
25          evidence of the contrary in the record to support

1           that it's anything other than a dwelling. So I  
2           stand by my ruling and the case law -- ample case  
3           law that the lesser-included charges are not to be  
4           given unless the evidence warrants the instruction.  
5           And in Gore, the circuit Court properly charged the  
6           jury the overwhelming and undisputed evidence in the  
7           case otherwise that it was a nonresidential house,  
8           and that fit the case. So --

9           MR. ROUTZONG: Can I say, just to protect  
10          myself on the record, Your Honor --

11          THE COURT: Sure.

12          MR. ROUTZONG: I don't mean to -- I know you've  
13          ruled. But I just want to put this out there: In  
14          16-11- -- I think it's --

15          THE COURT: 10.

16          MR. ROUTZONG: Well, I'm looking at 310,  
17          actually.

18          THE COURT: All right. Dwelling means -- its  
19          definition found in 16-11-10 and also means the  
20          living quarters of a building which is normally --  
21          used or normally used for sleeping, living, or  
22          lodging by a person.

23          MR. ROUTZONG: But it also says, Your Honor,  
24          16-11-3101, building means any structure --

25          THE COURT: That's correct.

1           MR. ROUTZONG: -- wherein a person lodges or  
2 lives.

3           The court: That's correct.

4           MR. ROUTZONG: My argument, Your Honor: We  
5 have two different definitions of a building and a  
6 dwelling. It's a -- at the same time saying that a  
7 dwelling is where people live, under 16-11-10, and  
8 it's also saying a building is where somebody lives.

9           THE COURT: And in 16-11-310 it refers to the  
10 definition, dwelling means its definition is found  
11 in 16-11-10. Mr. Routzong, I didn't write it. But  
12 it says that a dwelling house is any house or  
13 building, among other things, in which there sleeps  
14 a proprietor, tenant, watchman, clerk, laborer or  
15 where a person lodges there with a view for  
16 protection of property. That's my ruling.

17           Anything else to protect the record?

18           MR. ROUTZONG: Yes, Your Honor. Just by your  
19 comment that you didn't write it, that tells me it's  
20 ambiguous. If there's ambiguity, Your Honor, the  
21 Court knows that should be construed against the  
22 statute and the State.

23           THE COURT: You show me any case that holds  
24 that 16-11-10 is ambiguous. And the fact that I  
25 didn't write it doesn't mean it's ambiguous to me.

1 I mean, I didn't write any of these laws. It's not  
2 my job to write them, it's my job to make sure that  
3 they're followed. I don't think it's ambiguous. It  
4 says what it says. It says it shall be dwelling.

5 MR. ROUTZONG: I just believe based on these  
6 arguments, Your Honor, we should be entitled to a  
7 lesser-included.

8 THE COURT: Thank you.

9 All right. The next issue I had was whether or  
10 not I am going to allow both Mr. Robinson and/or  
11 Mr. Stewart to be impeached on their prior records  
12 under the appropriate rules. And, obviously, under  
13 609, I have to make a balance and test as to whether  
14 or not these prior convictions -- if it's more  
15 probative to allow them in or whether it's more  
16 prejudicial. And, obviously, we just had this  
17 matter come up in another case. I'm familiar that  
18 it's set out in the case of *State vs. Colf*.

19 And, obviously, these young men have prior  
20 burglary convictions, housebreaking, et cetera, et  
21 cetera, which I deem to be awfully similar and  
22 closely related to what they're currently charged  
23 with. Looking at the factors under the various  
24 cases, I am going to find, after my analysis of it,  
25 that it's more prejudicial than probative and I will

1 not allow the prior convictions to be used for  
2 impeachment for this case.

3 Anything for the record by the State?

4 MS. YOUNG: Your Honor, I'm a little bit  
5 confused. Are you just talking about the burglary  
6 convictions or are you referring also to petit  
7 larceny, grand larceny, breaking into automobiles?

8 THE COURT: That goes to Mr. Robinson; right?

9 MR. WEEKS: That's correct. If we're just  
10 talking about Mr. Stewart, he has a prior conviction  
11 for possession of cocaine first offense that the  
12 State alleges is impeachable, it was from 12/16  
13 of '02, just within the ten years. But he received  
14 18 months and a \$400 fine.

15 THE COURT: Okay. I'm going to stick with my  
16 ruling. I think particularly the grand larceny and  
17 the housebreaking as to Mr. Stewart is closely  
18 related to this. And just as an overall balancing  
19 of it, I'm going to find they're more prejudicial  
20 than probative.

21 MR. WEEKS: Your Honor, I just want to point  
22 out for the -- I'm not arguing with your ruling, but  
23 a crime involving theft, larceny being one of those,  
24 is not subject to the probative-versus-prejudicial  
25 analysis under 609.

1 THE COURT: I'm going to stick to my ruling.

2 All right. The other thing we had was y'all  
3 had objected after the fact and after the Defense  
4 had raised the issue dealing with the gunshot  
5 residue, and I made a ruling yesterday afternoon  
6 that I was going to instruct the jury to disregard  
7 that, I was going to strike it from the record.  
8 Mr. Chesser went further and wanted to just use the  
9 word GSR, but when testified to, it was the gunshot  
10 residue. So I'm going to strike it from the record,  
11 but I'm going to tell the jury GSR, gunshot residue  
12 test.

13 Anything else before we move forward?

14 MS. YOUNG: Your Honor, just for purposes of  
15 the record continuing forward, the case law allows  
16 the State to have the last argument, if either  
17 defendant enters evidence in this case.

18 THE COURT: That is correct.

19 Now, where we left off yesterday was whether or  
20 not Mr. Robinson and Mr. Stewart were going to  
21 testify. I gave you over the evening to discuss it  
22 with your lawyers and to make a decision.

23 We've been going in this order so, Mr. Stewart,  
24 what is your decision? I'm asking you a question.

25 DEFENDANT STEWART: I discussed it with my

1 lawyer and he's supposed to talk to you. So...

2 THE COURT: He can talk to me.

3 DEFENDANT STEWART: Sir?

4 THE COURT: He can talk to me. It's your  
5 decision though, not his.

6 DEFENDANT STEWART: I know. But I -- what I  
7 told him, he hadn't -- he haven't come and talked to  
8 you what I -- the offer that you had gave him for  
9 me.

10 THE COURT: I need to know, is he going to  
11 testify? Mr. Chesser, do you need to speak with me  
12 at the sidebar?

13 MR. CHESSER: Yes, Your Honor.

14 THE COURT: That's certainly fine.

15 (Sidebar conference.)

16 THE COURT: All right. Mr. Stewart, I need to  
17 know if you're going to testify.

18 DEFENDANT STEWART: No, sir.

19 THE COURT: Thank you.

20 Mr. Robinson?

21 DEFENDANT ROBINSON: Yes, sir.

22 THE COURT: You are?

23 DEFENDANT ROBINSON: Yes, sir.

24 THE COURT: All right. Do you understand all  
25 of the rules?

1           DEFENDANT ROBINSON: Me and my lawyer, we got  
2 to discuss it a little more.

3           THE COURT: Well, you had all night. We're  
4 going to crank up here in 12 minutes. I can give  
5 you 12 more minutes.

6           DEFENDANT ROBINSON: He was kind of in a  
7 rush --

8           THE COURT: Sir?

9           DEFENDANT ROBINSON: He was kind of in rush  
10 when he came to see me.

11          MR. ROUTZONG: We talked about -- I think it  
12 was about -- I want to say it was about an hour last  
13 night, Your Honor.

14          THE COURT: That's absolutely long enough.

15          MR. ROUTZONG: But I would enjoy to have 12  
16 more minutes.

17          THE COURT: All right. I'll give you 12 more  
18 minutes.

19          MR. ROUTZONG: May we go --

20          THE COURT: You may go back there and have your  
21 time.

22          (Brief pause in the proceedings.)

23          THE COURT: It's 10:00. Where are we,  
24 gentlemen?

25          Mr. Chesser, where are we? Are we close or --

1 we need to move.

2 MR. CHESSER: Your Honor, I just need less than  
3 five minutes to talk to my client.

4 MR. ROUTZONG: Likewise, Your Honor.

5 (Brief pause in the proceedings.)

6 THE COURT: All right. Is the State ready to  
7 proceed?

8 MS. YOUNG: Yes, Your Honor.

9 THE COURT: All right. Bring the clients out,  
10 please.

11 Mr. Stewart, please come up here.

12 EDDIE STEWART

13 being first duly sworn, testified as follows:

14 DEFENDANT STEWART: Yes, ma'am.

15 THE COURT: All right. Mr. Stewart, we've had  
16 a lot of discussions this morning and we've gone  
17 through the trial. No more testimony is going to be  
18 offered unless Mr. Robinson testifies. And your  
19 lawyer has told me that you have decided to admit  
20 your guilt in this matter and to plead guilty. Is  
21 that correct?

22 DEFENDANT STEWART: Yes, sir.

23 THE COURT: Now, you got two charges. Let me  
24 go over them with you a little bit. Grand larceny,  
25 that carries up to ten years. Okay?

1           DEFENDANT STEWART: Yes, sir.

2           THE COURT: And the burglary, that's the more  
3 serious charge, it carries a minimum of 15 to life.  
4 So if you had gotten convicted, you were looking at  
5 anywhere from life plus ten -- and I don't know what  
6 I would have done until I hear everything -- and  
7 they'd run one after the other, consecutive as  
8 opposed to on top of each other which is concurrent.  
9 And also on that burglary charge, it is classified  
10 as serious crime, which means you now have one  
11 strike under our three-strike law. So when you get  
12 out, if you got involved in violations again, they  
13 were classified as serious two more times or most  
14 serious, you'd be subjecting yourself to the  
15 possibility of life in prison without parole. Do  
16 you understand that?

17           DEFENDANT STEWART: Yes, sir.

18           MS. YOUNG: Your Honor, I think I mistakenly  
19 checked serious. Mr. Chesser and I think it's a  
20 most serious.

21           THE COURT: Most serious. So one more most  
22 serious and -- or two more serious, you'd be  
23 subjecting yourself to that situation. Do you  
24 understand that?

25           DEFENDANT STEWART: Yes, sir.

1           THE COURT: It is a, what we call, no-parole  
2 sentence, so whatever sentence I give you, you'll  
3 have to serve 85 percent of it and you'll be  
4 released to a community supervision program at the  
5 conclusion. Do you understand all of that?

6           DEFENDANT STEWART: Yes, sir.

7           THE COURT: Understanding all of that, do you  
8 wish to change your plea of not guilty to guilty?

9           DEFENDANT STEWART: Yes, sir.

10          THE COURT: When you do that, Mr. Stewart,  
11 obviously, your case will not go to the jury. You  
12 will have made that decision yourself and I will  
13 sentence you accordingly. Do you understand that?

14          DEFENDANT STEWART: Yes, sir.

15          THE COURT: And you'll give up your right to  
16 remain silent; you'll have to admit to me your  
17 involvement in the backing the van into the store  
18 owned by the victim in this case, Mr. Bayzes, and  
19 stealing the guns. Do you understand that?

20          DEFENDANT STEWART: Yes, sir.

21          THE COURT: Now, other than -- is there a  
22 recommendation, as I understand it, to Mr. Stewart?

23          MS. YOUNG: There is, Your Honor.

24          THE COURT: It's a 25 years sentence on the  
25 burglary and ten years on the grand larceny. They

1 will run at the same time, concurrent, and you'll be  
2 given credit for all the time you've done to date.  
3 Is that your understanding of the recommendation?

4 DEFENDANT STEWART: Yes, sir.

5 THE COURT: Now, other than that, has anybody  
6 promised you anything or held out any hope of reward  
7 or threatened you --

8 DEFENDANT STEWART: No, sir.

9 THE COURT: -- in any manner to make you plead  
10 guilty?

11 DEFENDANT STEWART: No, sir.

12 THE COURT: I know there's been some conflict  
13 between you and Mr. Chesser, but everybody has a  
14 little conflict with people. But have you gotten  
15 over that and you're satisfied with his  
16 representation and that he's done all he can to get  
17 you to this point?

18 DEFENDANT STEWART: Yes, sir.

19 THE COURT: Are you today, sir, under the  
20 influence of alcohol or drugs or any kind of  
21 prescription medication?

22 DEFENDANT STEWART: No, sir.

23 THE COURT: I have to ask that.

24 DEFENDANT STEWART: I need a drink.

25 THE COURT: Well, I can appreciate that. I

1 understand.

2 Are you today aware of any mental, nervous, or  
3 emotional conditions that would keep you from  
4 understanding these proceedings?

5 DEFENDANT STEWART: No, sir.

6 THE COURT: Have you understood all of my  
7 questions?

8 DEFENDANT STEWART: Yes, sir.

9 THE COURT: Understood your conversations with  
10 your lawyer this morning and all of what's gone on  
11 for the last two days?

12 DEFENDANT STEWART: Yes, sir.

13 THE COURT: Any questions you want to ask me?

14 DEFENDANT STEWART: No, sir.

15 THE COURT: Now, are you pleading guilty of  
16 your own free will? Nobody is making you do this;  
17 is that correct?

18 DEFENDANT STEWART: Yes, sir.

19 THE COURT: And did you, as we've developed in  
20 the trial of this case, did you participate in the  
21 robbery of the store located at **Minor**  
22 owned by Mr. Bayzes on August 9, 2012, when you,  
23 along with your codefendants, backed a van into the  
24 dwelling there and obviously broke into it, from  
25 what the pictures show, and while there,

1 participated in that crime, had in your possession  
2 guns, deadly weapons that were stolen or taken from  
3 the place and ultimately carried those away in the  
4 van until you were apprehended at the Waffle House  
5 there on the exit going into Georgia?

6 DEFENDANT STEWART: Yes, sir.

7 THE COURT: You freely admit your participation  
8 in the event --

9 DEFENDANT STEWART: Yes, sir.

10 THE COURT: -- classified as burglary first and  
11 grand larceny?

12 DEFENDANT STEWART: Yes, sir.

13 THE COURT: Last question: Are you pleading  
14 guilty because you are guilty?

15 DEFENDANT STEWART: Yes, sir.

16 THE COURT: All right. I find your decision to  
17 plead guilty to be freely, voluntarily and  
18 intelligently made. You've had the representation  
19 of an excellent lawyer, Mr. Chesser, with whom you  
20 say you're satisfied, and I will accept your plea.  
21 If you disagree with these proceedings, you have ten  
22 days to file a notice of intent to appeal. Do you  
23 understand that?

24 DEFENDANT STEWART: Yes, sir.

25 THE COURT: All right. Why don't we just

1 withhold sentencing until we finish up? But the  
2 sentence will be as -- if I go back on anything, he  
3 can withdraw.

4 MR. CHESSER: Thank you, Your Honor.

5 MS. YOUNG: Thank you, Your Honor.

6 THE COURT: All right. Bring Mr. Routzong out,  
7 please.

8 All right. Mr. Routzong, are you ready to  
9 proceed with Mr. Robinson?

10 MR. ROUTZONG: I am, Your Honor, after one --  
11 Mr. Robinson wanted you to reiterate about his  
12 record and what will come in. It's my understanding  
13 that none of his record will come in.

14 THE COURT: That is correct.

15 MR. ROUTZONG: Can we have a sidebar, Your  
16 Honor?

17 THE COURT: Yes, sir.

18 (Sidebar conference.)

19 THE COURT: All right. Mr. Robinson, I need to  
20 know whether or not you're going to testify in your  
21 trial.

22 DEFENDANT ROBINSON: Yes, sir.

23 THE COURT: You know you'll be subjected to  
24 cross-examination on all relevant issues; do you  
25 understand that?

1           DEFENDANT ROBINSON: Yes, sir.

2           THE COURT: You understand that your  
3 codefendant has pled guilty?

4           DEFENDANT ROBINSON: Yes, sir.

5           THE COURT: Admitted his guilt.

6           DEFENDANT ROBINSON: Yes, sir.

7           THE COURT: All right.

8           DEFENDANT ROBINSON: It's one more thing that I  
9 can discuss with my lawyer?

10          THE COURT: Do what?

11          DEFENDANT ROBINSON: I wasn't notified that my  
12 codefendant had pleaded guilty.

13          THE COURT: Well, I'm notifying you right now.

14          DEFENDANT ROBINSON: Yeah, but it's a issue I  
15 need to address with my attorney.

16          THE COURT: What?

17          DEFENDANT ROBINSON: It's -- it's -- it'll be  
18 quick.

19          THE COURT: Go ahead. Let me tell Mr. Robinson  
20 one more thing. Your codefendant will receive a  
21 sentence of 25 years on the burglary and ten years  
22 on the grand larceny; they will run concurrent, they  
23 will run together.

24                 If you are found got guilty, you will walk out  
25 of the courthouse. If you are found guilty, then

1           you're looking at 15 years minimum on the burglary  
2           to the balance of your life, somewhere in between,  
3           and up to ten years on the grand larceny. And you  
4           may not receive the same sentence as your  
5           codefendant because he's admitted his guilt and  
6           taken responsibility. So he'll get some credit for  
7           that. So you understand all of that?

8           DEFENDANT ROBINSON: Yes, sir.

9           THE COURT: If you wish to admit your  
10          involvement like he did, I will give you the exact  
11          same sentence.

12          DEFENDANT ROBINSON: Yes, sir.

13          THE COURT: Ready to proceed?

14          DEFENDANT ROBINSON: Yes, sir.

15          THE COURT: Okay.

16          Mr. Routzong, any motions?

17          MR. ROUTZONG: At this time, Your Honor, the  
18          Defense moves for a mistrial. Your Honor, there's  
19          no way that the jury will not construe from  
20          Mr. Stewart's absence that since he was with  
21          Mr. Robinson, there's no -- all the evidence says  
22          that. He's been sitting here, they've been  
23          communicating during the trial. The jury has  
24          observed that, no doubt. There's no way that they  
25          won't construe that Mr. Stewart has admitted his

1           guilt and, of course, from that they're going to  
2           infer that Mr. Robinson is guilty, Your Honor.  
3           There is no way that that is not a prejudice to  
4           Mr. Robinson. It cannot be construed by the jury  
5           any other way.

6           THE COURT: Do you have any case law that says  
7           when a codefendant pleads in the middle of the trial  
8           that I have to declare a mistrial for the remaining  
9           defendants?

10          MR. ROUTZONG: I do not at this point, Your  
11          Honor. If we carry on and you give me the  
12          opportunity, I'll see if I can locate some. I doubt  
13          that there's a situation -- as the Court said in  
14          sidebar, it's not been in your experience that this  
15          has happened before.

16          THE COURT: Well, I'm just one judge out of  
17          many. I'm sure it's happened.

18          State's position?

19          MS. YOUNG: Your Honor, it's the State's  
20          position that either defendant has a right at any  
21          point in time to admit their guilt. It's my  
22          understanding that you're not going to tell the jury  
23          that he pled guilty, but rather that his case was  
24          resolved. Your Honor, we're ready to proceed and we  
25          think that's the proper course of action.

1           THE COURT: Thank you. Motion is respectfully  
2 denied. I will instruct the jury that we have --  
3 what their duty now is to resolve the case against  
4 Mr. Robinson, that the matter of Mr. Stewart is no  
5 longer an issue for them.

6           MR. ROUTZONG: Your Honor, this is a -- just so  
7 that it's not overemphasizing, will this objection  
8 right now apply so I won't have to emphasize when  
9 you're doing this in front of the jury? If I object  
10 then, it's just going to emphasize it even more. Is  
11 this going to count as a contemporaneous objection?

12           THE COURT: I will allow it to do so. You're  
13 protected throughout the remaining of the trial. I  
14 will give you permission not to have to stand up and  
15 object if you think that will prejudice your client.  
16 You are protected moving forward. And you made your  
17 motion for mistrial, I assume that's what it was,  
18 and we'll move forward.

19           MR. ROUTZONG: I'm sorry, Your Honor. You said  
20 you're assuming what?

21           THE COURT: We will move forward. I said you  
22 made a motion for mistrial, I said I assume that's  
23 what it was, what you said.

24           MR. ROUTZONG: Yes, sir. I just didn't want  
25 there to be any ambiguity.

1 THE COURT: It's not. You made a motion for  
2 mistrial.

3 MR. ROUTZONG: Yes, sir.

4 THE COURT: You mentioned at sidebar you were  
5 going to make a motion for new trial. But it's a  
6 motion for mistrial, that's what it was. Thank you.  
7 You ready?

8 MR. ROUTZONG: Yes, sir.

9 THE COURT: All right, Mr. Robinson, last  
10 chance. You understand what you're facing if you're  
11 convicted? You may end up in the department of  
12 corrections for the balance of your. Life that's a  
13 possibility.

14 DEFENDANT ROBINSON: ' Yes, sir.

15 THE COURT: Thank you.

16 All right. Let me -- my wonderful law clerk  
17 has found the case of *State vs. Moore*, South  
18 Carolina Court of Appeals case, August 30, 1999,  
19 337 SC 104 522 SE 2d 354, where in that case there  
20 were codefendants being tried jointly. And the  
21 Court cited to several federal cases and to a case  
22 entitled *Murphy* -- I don't have the cite on that,  
23 I'll get it for you in just a second -- that is  
24 244 SC 2d 36 (1978) case.

25 But in *State vs. Moore*, a codefendant pled

1 guilty during the trial and they held that when a  
2 codefendant pleads guilty either during the trial or  
3 just before, it is not err for the Court to inform  
4 the jury of the codefendant's guilty plea, provided  
5 that the jury was properly instructed not to  
6 consider the guilty plea as evidence of guilt of the  
7 remaining defendants. It's long been the law in  
8 this -- our circuit, the 4th Circuit, and other  
9 circuits that the trial Court may inform the jury  
10 that the codefendant has entered a plea of guilty,  
11 provided that the jury is clearly instructed that  
12 such a plea cannot be used or considered as evidence  
13 of guilt of the remaining defendant. That's *Fahning*  
14 *vs. United States*, that's a federal case.

15 It goes on to say: The rule is well-settled by  
16 the entry of a guilty plea by one defendant in the  
17 presence of jurors who are to try other defendants  
18 is not error where the jurors are admonished that  
19 the plea of guilt should have no effect upon the  
20 determination of the guilt or innocence of the  
21 others. It goes on to cite a number of cases. So I  
22 rely on *State vs. Moore* and the cases cited therein.

23 So I will instruct the jury of the  
24 codefendant's guilty plea with the admonition that  
25 they are not to infer anything from that plea of

1           guilt in determining whether or not this defendant  
2           is guilty or innocent.

3                     Anything else, Mr. Routzong?

4                     MR. ROUTZONG: No, sir.

5                     THE COURT: Any questions, Mr. Robinson?

6           You're a young man.

7                     DEFENDANT ROBINSON: No, sir.

8                     THE COURT: Bring the jury in, please.

9                     (The jury enters the courtroom at 10:26 AM.)

10                    THE COURT: Good mornning, madam forelady,  
11           ladies and gentlemen. I apologize for being tardy.  
12           Let me tell you where we stand. There will be no --  
13           I'm sorry.

14                    You've got one witness; is that correct?

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

16                    THE COURT: We have one witness left to  
17           testify. When that witness testifies, then we will  
18           go right into the final arguments and then I'll  
19           charge you on the law, instruct you, and then we'll  
20           be in a position to start deliberating.

21                    The defendant Mr. Stewart, his case has been  
22           resolved; he's entered a plea of guilty to both  
23           charges. Now, the fact that he has pled guilty,  
24           please do not infer anything at all as to the guilt  
25           or innocence of Mr. Robinson. You're still to

1 determine whether or not the State has proved his  
2 case to you beyond a reasonable doubt. And do not  
3 use the fact that the codefendant's case has been  
4 resolved in deciding Mr. Robinson's. Please do not  
5 prejudice him in any manner whatsoever, do not infer  
6 anything from the fact that the codefendant pled  
7 guilty. Fair? Understand?

8 All right. Mr. Routzong, you may call your  
9 first witness.

10 MR. ROUTZONG: Defense calls Mr. Franklin  
11 Robinson, Your Honor.

12 THE COURT: Come around, Mr. Robinson.

13 FRANKLIN ROBINSON

14 being first duly sworn, testified as follows:

15 DEFENDANT ROBINSON: Yes.

16 THE CLERK: Have a seat in the witness box.  
17 State your full name for the Court and spell your  
18 last.

19 THE WITNESS: Franklin Robinson. Last name is  
20 spelled R-O-B-I-N-S-O-N.

21 DIRECT EXAMINATION

22 BY MR. ROUTZONG:

23 Q. Good morning, Mr. Robinson.

24 A. Good morning, sir.

25 Q. How old are you?

1 A. Twenty-eight.

2 Q. I'm sorry?

3 A. Twenty-eight.

4 Q. Where did you grow up?

5 A. Gaston, part of Richland County, which is  
6 Columbia, South Carolina.

7 Q. Before this charge?

8 A. Yes, sir.

9 Q. Mr. Robinson, I'll get right to the point. Why  
10 were you in North Augusta August 9th, 2012?

11 A. It was -- I don't know an exact time. If you  
12 ask me the exact time, I'll be -- if I say a exact  
13 time, I'd be lying because I don't know. But --

14 THE COURT: He didn't ask for the time.

15 A. -- Mr. Craven and Mr. Stewart, they came to my  
16 mother's house and picked me up. Well, I been to  
17 Aiken County once before with them before for a  
18 poker game. They played poker. It's a poker  
19 house -- I don't know if it's illegal or legal.

20 But I rode down here with them. We went to the  
21 game, we stayed there for a while. Me and  
22 Mr. Craven -- well, Mr. Stewart, he was still  
23 gambling. But Mr. Craven and I, we went to Walmart  
24 because Mr. Craven said he wanted some cigarettes.  
25 Well, I rode with him to Walmart. I was just

1           observing. I was just -- I wasn't playing poker, I  
2           was just observing the whole game the whole time.

3                   But Mr. Craven went to Walmart, walked around  
4           Walmart. I just went there to look, see if any  
5           females were in Walmart. I didn't go there to  
6           purchase anything. Well, we came out of Walmart,  
7           went back to the game. Mr. Stewart was still  
8           gambling. Mr. Craven, he stays down here, he has a  
9           girlfriend that stays down here. He stays -- I know  
10          he stays down here. But he's from -- well, close to  
11          where I'm from, that's how I know him.

12                   But we came back to the poker game.  
13          Mr. Stewart was still gambling. I don't know how  
14          long he stayed on the poker table, but eventually he  
15          stopped gambling. Once he stopped gambling,  
16          we walked -- the poker house is in the same  
17          neighborhood as -- I guess the exact name is  
18          Brianville, Brandonville, something like that, but  
19          it's in the same neighborhood as him.

20                   But we parked in Mr. -- not Mr. Stewart, but  
21          Mr. Craven's yard. Mr. Craven stayed like three or  
22          four houses down from the poker house. But the  
23          poker house -- the reason why he doesn't park at the  
24          poker house was because -- he didn't park at the  
25          poker house because it was cars already in the

1 driveway. He doesn't park there anyway because it's  
2 so close. So we walked back to the poker house.  
3 Mr. Stewart was gambling.

4 We came back -- we came back, Mr. Stewart was  
5 gambling, and then -- then what happened? Oh,  
6 yeah -- dang, I forgot the guy's name. It was  
7 another guy. He gave -- he asked Mr. Stewart for  
8 some cigarettes so he could smoke. That's who  
9 Craven gave the cigarettes to, Mr. Stewart. He gave  
10 him a couple cigarettes. Well, anyway, while we  
11 was -- when Mr. Stewart finished, we walked back to  
12 Mr. Craven's house. Went inside Mr. Craven's house,  
13 sat there for a little while.

14 Mr. Craven -- that van, the big blue van, was  
15 already on the side of Mr. Craven's house. I didn't  
16 see it. I seen the front of it when we pulled up.  
17 It's right there on the nose. I don't know -- he  
18 couldn't have stole it that night while I was with  
19 him because when he came, we didn't go steal no van  
20 or nothing like that. We left Columbia, came --  
21 went straight to the neighborhood. But the van was  
22 right there. We was in the house. Mr. Craven, he  
23 loaded up -- he -- it's a bag -- he had a bag and he  
24 loaded the bag up with something. I couldn't see, I  
25 wasn't paying attention.

1           Mr. Stewart -- me and Mr. Stewart was talking.  
2           He said, y'all ready to go? I said, yeah. I was  
3           thinking he was going to take me back to Columbia --  
4           take me back to Columbia. He said, are you ready to  
5           go? I said, yeah. When I walked outside, the Honda  
6           that was parked outside -- he didn't go to the  
7           Honda, they went to the van. I asked them, why are  
8           we driving this big, ugly van? That's not the word,  
9           I used profanity. I said, why we driving this big  
10          ugly van, is basically what I said, but I said a  
11          cuss word. He said, because this Honda don't have  
12          any gas, the van has more gas than the Honda, just  
13          get in anyway. So I got in the back. Mr. Stewart,  
14          he got in the front of the van -- well, the  
15          passenger's seat. Mr. Craven was driving. We leave  
16          out the yard and drive -- I don't know because I'm  
17          not familiar with Aiken; I can't tell you what roads  
18          or nothing about Aiken. I only been to Aiken on one  
19          occasion and that was at the first poker game that  
20          we attended. But I don't know the direction.

21                 But we're driving and then Mr. Craven, he says,  
22                 man, look, you want to go on this lick with me, make  
23                 some money? I said, hell -- I said no. I cursed, I  
24                 used profanity. But it's a lot of profanity that's  
25                 being used while we all together. So -- but for me

1 to reiterate it for you, I'll be lying because I  
2 don't know what exact -- what exact position we were  
3 cursing in. I didn't know what -- but I know we was  
4 using a lot of profanity. I said hell no -- I said  
5 no.

6 Then Mr. Craven said, well, you don't got no  
7 choice, you riding. I said, why I don't? I said,  
8 man, what you about to do? He said, man, I'm about  
9 to hit this lick. Mr. Stewart was in the  
10 passenger's seat, but he was just laughing the whole  
11 time like, man, don't act like a P-U-S-S-Y, don't  
12 act like that. Like, man, you going to ride with us  
13 or not? He said, we just need you just to look out.  
14 I said, man, I'm not looking out. I said, man, just  
15 take me back to Columbia, man. I said, or pull over  
16 and let me out.

17 Mr. Stewart, he said, you must be going to jump  
18 out while the van driving -- or the van riding. I  
19 said, heck no. That's not the word I used; I used  
20 profanity. But I said, heck no. So he continued to  
21 drive. Mr. Craven, he was driving, he ran a red  
22 light. He said, you think you're going to jump out  
23 at this light? Because I was about to grab the  
24 door. I said, I'm about to get out right here,  
25 because the light was red. He said, man, you think

1           you about to jump out? Then he mashed the gas and  
2           continued to go through the red light.

3                   Then once we got to -- close to where the -- I  
4           think, the gun shop -- we was close to the gun shop,  
5           he made a U-turn and he turned into the parking lot.  
6           I'm thinking he's stopping to let me out because  
7           it's dark and it's a business. I didn't know it was  
8           a gun shop. I wasn't paying attention to the sign,  
9           I was trying to get out the van. But he pulled  
10          over, I made an attempt to open the door to the van.  
11          Then Mr. Craven said close the -- it was profanity.  
12          But, like I said, to tell you the exact context of  
13          the language of the profanity, I can't, because all  
14          of us was cursing. But he said, man, close the  
15          mother -- M-F door. I said, I'm about to call me a  
16          ride to come pick me up. That's when he reached in  
17          his waistline. And I was under the impression that  
18          he had a firearm on him when he reached in his  
19          waistline.

20                   He reached in his waistline and then  
21          Mr. Stewart said, man, stop acting like -- stop  
22          acting so scary, all you got to do is sit in here  
23          and watch out, man. I said, man, I'm not sitting in  
24          this van, man. I said, man, I'm about to go; I  
25          don't know what y'all about to do, but I'm about to

1 get out. But Mr. Stewart tossed me a black -- a  
2 black bandanna and a pair of gloves. He said, man,  
3 put this shit on, because you're about to ride with  
4 us, you about to do it. I said, man -- it was  
5 profanity. We was cussing back and forth. I said,  
6 nah, man, just let me out, man.

7 Then after that, Mr. Craven -- Mr. Craven --  
8 Mr. Craven just went blank. He started cursing,  
9 telling me, you not fixing to get out, you about to  
10 ride with us. So I'm thinking they going -- ride  
11 with you. Do what? That's what I asked them: Do  
12 what? He said, man, go'on this lick. He said, you  
13 about to go, you about to do it with us, like, we  
14 need you just to watch out. I said, man -- well, it  
15 was profanity. I said, no, I'm not fixing to watch  
16 out, I'm not fixing to be nobody's spotter, I'm not  
17 fixing to get in trouble messing with y'all dudes.

18 Then Mr. Craven, he threatened me again. He  
19 said, what you going to do? He said, open the door  
20 and jump out, I'm going to blow your M-F brains out.  
21 But anyway, he said, man, just put this on and don't  
22 worry about -- all you going to do -- you're going  
23 to be good. He said, I'm going to pay you and all.

24 Well, Mr. Craven, once he said that -- once he  
25 made the threat towards me, I placed the bandanna on

1 and I placed the gloves on my hands. And I said,  
2 man, what y'all about to do, rob a convenience store  
3 or something? He said, nah, just chill, relax. I  
4 said, relax? Then Mr. Craven, he through the van  
5 reverse and went inside the building. I didn't know  
6 it was a gun shop, I didn't know what it was. I  
7 knew he just backed into the building. So here I  
8 am, I'm looking shocked like, what's going on?

9 Him and Mr. Stewart jumped out of the van and  
10 went inside the gun shop. Well, they was -- we was  
11 already inside. We jumped out the van, went --  
12 started grabbing firearms. It was dark in the gun  
13 shop. I didn't know what they had in their hands.  
14 I know they came back with a bundle of something.  
15 Once they got in the van and I realized what it was,  
16 I knew it was guns, he was like, man, get the hell  
17 out. They were like, get the hell out the van, blow  
18 some of this shit up. I'm like, man, I'm not  
19 blowing up nothing. He was like, stop acting like a  
20 pussy, load it up.

21 That's when Mr. Craven pointed -- I don't  
22 know -- I don't know guns too well. But he pointed  
23 at something that looked like -- long, one of those  
24 rifles. He pointed that at me, told me to get the  
25 fuck out the van and help us load the shit up so we

1 can get the fuck out of here. I jumped out. I  
2 jumped out of the van.

3 And the front, you can see where the van came  
4 in, it was concealed, so there was no running out.  
5 The van had blocked out -- blocked -- the van had  
6 that whole hole blocked in. It's no way possible  
7 that I could have got around, got out of that hole,  
8 got out of that gun store, without the van being  
9 removed. So by then, we're back and forth. They're  
10 yelling, I'm yelling, it was just a bunch of cuss  
11 words. It was M-F you, all of the above. So Mr.  
12 Stewart said, man, grab some of the motherfucking --  
13 well, grab some of the M-F guns before you get left  
14 here. I said, man, I'm not grabbing nothing. But  
15 shortly after he made that comment, that's when  
16 gunfire erupted.

17 I was under the impression that it was  
18 Mr. Craven that was shooting. I didn't know that  
19 Mr. Bayzes, the gun store owner, I didn't know that  
20 it was him shooting at the time because it was so  
21 dark in there. And it was so much tension between  
22 all of us in the van, I didn't know it was him that  
23 was shooting at the time.

24 So what I did -- my survival instincts kicked  
25 in -- I jumped in the van, I dived in the van, and I

1           crawled to the driver's seat and put the van in  
2           drive and drove out of the business, turned left. I  
3           didn't know where I was going. I turned left,  
4           proceeded to -- I tried to get far away as possible  
5           from the location. I drove, I got on the highway,  
6           then that's when -- I didn't know I was shot. My  
7           adrenaline was pumping so much, I didn't know I was  
8           shot.

9                     Mr. Stewart, he was in the back, he was  
10           moaning, I'm shot, get me some help, get me some  
11           help, I'm shot. So I continued to drive and I seen  
12           a sign that said Waffle House. And if I'm not  
13           mistaken, 3.0 miles to the nearest Waffle House,  
14           next exit. I got off because I know Waffle House  
15           open 24 hours. I got off and went to the Waffle  
16           House, pulled in the parking lot of the Waffle  
17           House. I didn't know I was shot in my leg. When I  
18           got on the interstate, that's when I realized I was  
19           shot in the arm, started feeling the pain. I didn't  
20           know I was shot in my leg until after I pulled in  
21           the Waffle House. I tried to get out of the van; I  
22           couldn't. My leg was like it wanted to give out.  
23           My leg was aching like it wanted to give out.

24                     So what I did was, I turned the van around  
25           and -- because Waffle House parking lot was no --

1           there was basically no cars. It was, like, one car  
2           in there. I turned around and brought it closer to  
3           the door, put the driver's side closest to the door  
4           where I could've got out and went inside to get some  
5           help. I got out of the van, went inside the Waffle  
6           House and I asked -- I asked somebody, I said, call  
7           the police, call 911, we've been shot, we've been  
8           shot.

9           The Waffle House employee, he wasn't here  
10          testifying, so I don't know where he is. But it's  
11          the Waffle House employee and another male in there  
12          as well. So I told them, I been shot. I said, can  
13          I have some water, because I was starting to feel  
14          dehydrated. I said, may I have some water, please?  
15          The guy, he brought me some water. I can't remember  
16          if I drunk the water or not. But I ran out of there  
17          because a guy told me to get the fuck out the way  
18          and stepped on me and left out the Waffle House. So  
19          I figured nobody was calling 911, nobody was getting  
20          us any assistance.

21          So before I bled to death, I got up and went  
22          back to the van. I don't know what's the name of  
23          the gas station, but I knew there was a gas station  
24          across the street that was open. So I was going to  
25          drive across the street to see if somebody would

1 assist me or call the police. But before I had a  
2 chance to leave out of the parking lot, the police  
3 had pulled up and blocked us off.

4 Then the guy -- I don't know the -- the tall  
5 officer, he came in -- he came in -- he -- well, he  
6 pointed the gun, told us, well, get out of the  
7 truck, get out of the truck, get out of the truck.  
8 So he drug me out of the truck first and I think  
9 he -- secondly, he drug Mr. Stewart out of the --  
10 out of the -- not the truck, but out of the van, and  
11 ordered us on the ground. He said, where you shot  
12 at, where you shot at? I said, I'm shot in my arm.  
13 He looked, he said, you stupid nigger, that's what  
14 you get for breaking in stores. I said, I didn't  
15 break in nothing. I don't know why he didn't  
16 testify to what I said about my comments I made.  
17 But I said, I didn't break into nothing. I said,  
18 man, I didn't break into nothing. I kept repeating  
19 it, but he didn't care.

20 Then the other officer that testified, he came  
21 and he placed the cuffs on me. Then a couple  
22 minutes later, they -- the ambulance came and  
23 escorted us to the hospital. After the hospital, I  
24 was booked in Rich- -- in Aiken County Detention  
25 Center.

1 Q. Is there anything else you'd like to tell the  
2 Court and the jury?

3 A. Yes, sir.

4 Ladies and gentlemen, honest to God, I'm over  
5 here nervous. So everything that's come out of my  
6 mouth is just out of the intensity of the moment.  
7 The situation is above my -- above my head. My  
8 codefendant, he was supposed to come here and  
9 testify to the incidents that happened, that  
10 occurred at the Waffle House; he didn't. He's not  
11 here testifying. I'm here solely on myself  
12 testifying from what happened. Everything that --  
13 the accounts that I'm giving you are nothing but the  
14 truth. The officers -- it's a couple officers that  
15 came here and lied, that sat on the stand and lied  
16 on me. But I'm going to get into that because I'm  
17 not allowed to.

18 But nobody wanted to know what happened.  
19 Everybody assumed, because we was shot up and we had  
20 the truck full of guns, that that's exactly what  
21 took place. That's not how it -- that's not the way  
22 it -- not how it took place. How they're trying to  
23 depict it, I'm not disclaiming that I wasn't there,  
24 I'm not saying the guns wasn't in the truck. All of  
25 that is true, but nobody wanted to hear my side of

1 the story on what occurred, no one. No one wanted  
2 to hear anything.

3 The officer that came and talked to me, he was  
4 like, you shouldn't have been so stupid. I'm trying  
5 to give him a statement and he said, you shouldn't  
6 have been so stupid as to go in the gun store. So  
7 I'm telling him, I didn't go in the gun store on my  
8 own will, I had people that actually forced me to  
9 go. I never been in a situation where somebody  
10 forced me to do anything. So that whole situation  
11 was new to me. It was something that I never  
12 experienced. I'm shot up, nobody is trying to help  
13 me. I left the Waffle House, I got in the van to  
14 try to get help somewhere else.

15 They're making it seem like, I don't know, I  
16 tried to flee the scene and I tried to leave. No.  
17 If you look at the video, the video shows -- it  
18 shows the guy that told me to get the fuck out the  
19 way and stepped on me to get out of the Waffle  
20 House. Nobody tried to help me. They was just  
21 looking at me like I was just a piece of trash on  
22 the floor. So, yeah, I got up and left and tried to  
23 go across the street to the convenience store.

24 But that's all I got to say. But as now, like  
25 I say, I can't be coherent because I'm nervous on

1 the stand talking in front of you juries. You got  
2 to judge me. But I'm asking, just don't take my  
3 life for something that I didn't want to be involved  
4 in. I didn't want to be in. I didn't ask to be  
5 involved in none of this. I would be home with my  
6 kids right now if it wasn't for the individuals  
7 coming and getting me. Of course I might have been  
8 wrong for being at a poker game, but if it wasn't  
9 for the individuals that came and got me and asked  
10 me to come with them, I would never be here, I would  
11 be home with my kids right now. I would be home  
12 with my kids, I wouldn't be on this jury stand  
13 asking y'all to please find me not guilty for  
14 something that I had nothing to do with, nothing at  
15 all. I did not want to be at no gun store. I did  
16 not come to Aiken to commit any kind of crime  
17 dealing with burglarizing anything or robbing  
18 anybody. That's all I wanted to say.

19 Q. Please answer any questions the State has for  
20 you.

21 THE COURT: Cross?

22 CROSS-EXAMINATION

23 BY MR. WEEKS:

24 Q. Mr. Robinson, how old are you?

25 A. Twenty-eight.

1 Q. And the guy you're trying to blame everything  
2 on was 20?

3 A. No.

4 Q. Mr. Craven Goodwin was 20?

5 A. No. Mr. Stewart and Mr. Craven -- I don't know  
6 how old Mr. Stewart is, but I know Mr. Craven, he's  
7 somewhere near that age.

8 Q. He's a lot younger than you, wasn't he?

9 A. Yes, sir.

10 Q. Okay. And he drove all the way to Gaston,  
11 South Carolina -- you say Gaston or Gastonia?

12 A. Gaston, South Carolina, sir.

13 Q. Drove all the way up there to get you and he  
14 already had Mr. Stewart with him?

15 A. Yes. I don't know where he drove from. He  
16 stays in Aiken as well. He stays in Aiken with one  
17 of his relatives or his girlfriend. But I'm  
18 thinking it's his girlfriend because when we went to  
19 the house, there was a young female that was in the  
20 kitchen. But I'm thinking it was either his cousin  
21 or his girlfriend. I don't know who she is exactly  
22 to him.

23 Q. So --

24 A. Mr. Stewart, I don't know if they came down  
25 there or if they was already down there. But

1 Mr. Craven, he has family also in my neighborhood  
2 that stays in my neighborhood, so I don't know where  
3 they drove from.

4 Q. You've apparently known him a long time. You  
5 know about his whole family.

6 A. I know his family.

7 Q. You know where he lives?

8 A. Yeah.

9 Q. You know he has a girlfriend down here?

10 A. I don't know if -- I don't know if that's his  
11 girlfriend or not. So by me saying that's his  
12 girlfriend, I'd be lying because I don't know what  
13 relationship -- where she plays the part at with  
14 him.

15 Q. So what time did he pick you up in Gaston?

16 A. Sir --

17 Q. Was it dark?

18 A. -- if I got to get -- yes, sir.

19 Q. Okay. So it was dark. Same night we're  
20 talking about?

21 A. Yes, sir.

22 Q. All this happened in the same night?

23 A. Yes, sir.

24 Q. So immediately takes off and comes back to  
25 Aiken County --

- 1 A. I don't know if --
- 2 Q. -- to the poker house?
- 3 A. I don't know if he ever was in Aiken before he
- 4 came to get me, sir. I don't know where he came
- 5 from before --
- 6 Q. But that's where y'all went to. Y'all --
- 7 A. Yes, sir.
- 8 Q. -- met at your house and went directly to
- 9 Aiken?
- 10 A. Yes, sir.
- 11 Q. Didn't switch cars anywhere?
- 12 A. Switch cars?
- 13 Q. Yeah.
- 14 A. Yeah; at his house.
- 15 Q. At his house, you switched cars?
- 16 A. Yes, sir.
- 17 Q. And that's when y'all got in the stolen van,
- 18 didn't you?
- 19 A. At his house, yeah. At that house in that
- 20 neighborhood, yes, sir.
- 21 Q. And you knew it was a stolen van?
- 22 A. I didn't know it was a stolen van at all.
- 23 Q. Not at all? Not ever?
- 24 A. Not ever.
- 25 Q. How were you driving it? How were you cranking

1 it?

2 A. I didn't crank the van.

3 Q. It was just running?

4 A. When I drove the van, I drove it out of the  
5 building. I didn't drive the van -- I didn't  
6 know -- I didn't see the ignition or none of that.  
7 The van didn't have any lights on the interior.  
8 When I got in that van, it was completely dark. And  
9 it -- where his house was at, it didn't have any  
10 street lights, nothing. I couldn't see nothing in  
11 the van. So it was no way possible for me to see  
12 him that the ignition was broke in the van. Only --  
13 I didn't know the van was stolen at the time. I  
14 didn't crank the van, I didn't even witness him  
15 crank the van. All I did was get in the van.

16 I'm thinking the guy is fixing to take me back  
17 to Columbia. So that's all I thought; he was going  
18 to take me back to Columbia where they got me from.  
19 I came up here once before with them to a poker  
20 game.

21 Q. Yeah. Well, you thought he was going to take  
22 you back to Columbia by going out the road and  
23 getting on I-20 and going to Columbia, didn't you?  
24 That's what you're saying?

25 A. I thought he was taking me to Columbia. I

1 didn't say that. I didn't say I thought -- I said  
2 once he came out of the neighborhood, that's when he  
3 started talking about going on a lick, he need me  
4 for something, he need me to go -- they need me to  
5 go look out, need me to do this, need me to do that.  
6 That's what a lot of the -- that's when everything  
7 erupted in the van, once he started that.

8 We never came to no interstate. When we came  
9 out the neighborhood, it was the right, then I know  
10 he kept driving. He made a couple more turns and  
11 then it was a street light, it was a red light. He  
12 ran the red light. He said, you think you're fixing  
13 to get out here? And he hit the gas and ran the red  
14 light and kept proceeding to drive. Next thing I  
15 know, the shop that I'm being accused of being in,  
16 that's when he turned around and went into the  
17 parking lot of that shop.

18 Q. So this boy that's substantially younger than  
19 you is making you commit a burglary and grand  
20 larceny; that's your testimony?

21 A. I'm not saying him alone.

22 Q. So you're blaming it on Stewart too?

23 A. Yes, sir.

24 Q. Didn't you say Stewart was -- or Craven was the  
25 one that had something in his pocket that you didn't

1 know what it was?

2 A. Yes, sir. It wasn't in his pocket, it was --  
3 he was reaching in his waistline.

4 Q. Yeah. And you didn't know what that was?

5 A. No, sir.

6 Q. But you thought it was a gun?

7 A. That's what I thought it was.

8 Q. So that made you put on a mask and put on  
9 gloves --

10 A. When he threatened me. When he --

11 Q. -- and go into this building?

12 A. When he threatened me, that's when I put the  
13 gloves and the mask on. When he tossed them to me  
14 and threatened my life, threatened to blow out my  
15 brains if I didn't comply with him -- but it wasn't  
16 in those contexts. How I'm telling you he said it  
17 is not how he said it. It was a lot of profanity.  
18 I can't remember. I can't tell you the exact  
19 profanity, but I know it was a lot of M-Fs, a lot of  
20 this, a lot of S's, a lot of shits, a lot of  
21 profanity that was said when he was making these  
22 threats.

23 But basically, to sum it all up, he said, I'm  
24 going to blow your brains out if you don't put this  
25 shit on. I put it on, asked them, man, what y'all

1 fixing to do? What you want me to do? What you got  
2 going on, man?

3 Q. And just so we can translate to the jury, hit a  
4 lick means you were going to rob somewhere or they  
5 wanted to rob somewhere?

6 A. That's exactly what hit a lick means.

7 Q. Did they put on masks and gloves also?

8 A. Sir, you ask me that, I can't give you an  
9 honest answer on that.

10 Q. Why can't you?

11 A. Because I wasn't really paying attention to  
12 them. I was trying to de-escalate the situation to  
13 get myself out of the van. I was feeling like he  
14 was going to shoot me in the back if I opened the  
15 door or tried to jump out. But that's all I was  
16 trying to do, de-escalate the situation. If you ask  
17 me, did he put on a mask or did he put on this, I  
18 wasn't paying attention, sir.

19 Q. Did you help put the guns in the car?

20 A. No, sir.

21 Q. The van?

22 A. No, sir. That's why --

23 Q. Did they just dump them on top of you?

24 A. Dump them on top of me?

25 Q. Well, where were you sitting?

1 A. What do you mean? I was sitting in the van on  
2 the seat.

3 Q. You're sure about that?

4 A. Yeah. That big whatever it is -- that big -- I  
5 don't know what it is, the bookshelf-looking thing.

6 Q. Yeah. The bookshelf-looking thing that's  
7 laying all over the seat, you sitting on top of it?

8 A. No. It was not at that angle when all the  
9 incident -- it must have fell to that angle when I  
10 was driving the van, because I was driving the van  
11 furiously. But that thing, it was not at that angle  
12 when I was driving the van. I know I was sitting  
13 properly -- I was sitting properly in the seat,  
14 that's when he opened the door and directed me to  
15 get the hell out and they started loading the guns  
16 up. He was furious because I wouldn't help him.

17 Q. And all of this conversation before they rammed  
18 the van into the building was in the parking lot of  
19 the store?

20 A. Not all of it. But the part where put the --  
21 the part about me putting the thing on my face and  
22 the gloves on, they occurred while I was in the  
23 parking lot. And I was also still trying to make  
24 attempts to get out the van to call somebody to pick  
25 me up.

1 Q. And you say you couldn't get out of that van?

2 A. No, sir.

3 Q. But yet you could get out of that van by  
4 driving it away --

5 A. Yeah.

6 Q. -- when Mr. Bayzes started shooting?

7 A. Of course I did.

8 Q. Okay. Well, when they peel out the car and get  
9 out and started loading guns, what the hell kept  
10 you --

11 A. It wasn't --

12 Q. -- from getting in the van --

13 A. It wasn't --

14 THE COURT: All right. Hold on. Let him  
15 finish his question.

16 THE WITNESS: All right.

17 BY MR. WEEKS:

18 Q. What kept you from getting in the driver's seat  
19 and leaving them?

20 A. It was a split second. I didn't have a chance  
21 to react on nothing. When they backed into that  
22 building, sir, I was shocked. I didn't think about  
23 jumping in the driver's seat. I'm thinking about  
24 what's going on -- what the hell is going on.  
25 Before I had a chance to --

1 THE COURT: Watch your language, please.

2 THE WITNESS: Excuse me, sir.

3 A. Before I had a chance to react, the doors swung  
4 open and they started loading the guns up in the  
5 van. So by the time I had a chance to even think of  
6 a plan to get out, drive the van off, the guns were  
7 already being loaded, they was already telling me,  
8 man, get out the van and help us load this -- well,  
9 not in those languages, but help me load this up. I  
10 got in the van and I looked to the front because I  
11 was making a plan to run out of the front, but I  
12 couldn't. The van had the hole, that little hole  
13 they made, concealed. There was no way possible I  
14 could get out without moving the van.

15 Q. That little hole they made?

16 A. Big hole, little hole, yes, sir.

17 Q. Well, apparently they had room to open the  
18 doors and get out the driver and get out the  
19 passenger's side and go around to the back of the  
20 van, didn't they?

21 A. Yes, sir.

22 Q. But you didn't have room to go out and leave?

23 A. Sir, the nose of the van was still in the  
24 building. The doors -- the nose of the van was out  
25 of the building, the doors were in the building.

1 Q. Well, let's talk about the cell phone that you  
2 had.

3 A. Yes, sir.

4 Q. Why didn't you call somebody?

5 A. Cell phone was dead.

6 Q. So --

7 A. And at the time -- honestly, at the time, I  
8 wasn't this thinking. When we left out of that  
9 building, I wasn't thinking about that cell phone.  
10 I was thinking about help, that's all.

11 Q. So you're sitting in the back seat of this car  
12 and they're having a conversation in the parking lot  
13 of the place y'all robbed?

14 A. Yes, sir.

15 Q. All right. You're sitting there and you got  
16 wide-open access to the door of that vehicle, based  
17 on your testimony?

18 A. I reached for the door.

19 Q. You reached for the door?

20 A. Yes, sir. That's when Craven threatened me. I  
21 opened the door, that's when he threatened me and  
22 exposed what I thought was a gun butt and told me to  
23 close the -- well, not in those languages -- close  
24 the door back.

25 Q. So at what point did they stick this chest of

1 drawers in the seat you're supposedly sitting in?

2 A. It was not in that angle, sir. When I got in  
3 that van, I sat in that seat. That piece right  
4 there, I don't know how it got in there. But it was  
5 not in that seat right there.

6 Q. In State's Exhibit 75?

7 A. Yeah. I seen that in the van, but it wasn't in  
8 that seat.

9 Q. Well, how about the gun that was underneath  
10 that seat? Were you sitting in the seat when that  
11 was stuffed up under there?

12 A. No, sir.

13 Q. Now, this whole time you're talking about  
14 Craven is driving this stolen van.

15 A. Yes, sir.

16 Q. And it came from his house; is that your  
17 testimony?

18 A. Yeah. That's -- he stays there.

19 Q. How about the other car, the Mazda or whatever,  
20 that was parked down the road? Did y'all go to it  
21 at any point?

22 A. What Mazda?

23 Q. The white one.

24 A. I don't know anything about the Mazda, sir.

25 Q. Okay.

1 A. I don't know Craven owned a Honda.

2 Q. Was there any talk with Craven about stealing  
3 some cars that night?

4 A. No.

5 Q. No talk at all about stealing cars?

6 A. No talk at all about stealing cars no cars,  
7 sir.

8 Q. Okay. Now, what did you do with your gloves  
9 and your bandanna after you decided to run?

10 A. I didn't do nothing with them. I didn't take  
11 them off, I didn't try to hide them or nothing. I  
12 left everything that was on me. I went in the  
13 Waffle House and tried to get help. I didn't -- why  
14 would I take it off?

15 Q. Well, when you went in the Waffle House, did  
16 you say, these bad guys are making me do bad things,  
17 please get me some help?

18 A. No. I'm in pain. I told them to call 911 for  
19 me to get some help. They acted like I was a pice  
20 of trash on the floor. They wouldn't even call  
21 the -- I don't know if they called 911, but the guy  
22 said they called 911. But the guy stepped -- I left  
23 out of Waffle House because the guy stepped on me  
24 and told me to get the F out the way and stepped  
25 over me, stepped over me, getting out of the Waffle

1 House. So I'm thinking nobody cared about what's  
2 happening to me right now.

3 I got up off the floor and I went back into the  
4 van and I was going to drive cross the street. But  
5 before I had a chance to drive across the street,  
6 the police had blocked us off.

7 Q. Well, you drove by that same service station  
8 going to the Waffle House, didn't you?

9 A. That was -- my whole purpose was to go to the  
10 Waffle House. I know the Waffle House is open 24  
11 hours. I wasn't thinking in my mind, go to the  
12 service -- I was thinking about the place that open  
13 where I could get some help. I didn't know where  
14 I'm at. I didn't know nothing about Aiken.

15 Q. Well, if you would have gone right on I-20, you  
16 knew where you were at, didn't you; you knew you'd  
17 be going home.

18 A. I wasn't trying to go home. I was trying to  
19 get help. If I was trying to go home, I would have  
20 went left. But I wasn't trying to go home, sir.

21 Q. Okay. When you got on I-20, what about the  
22 Waffle House that was right there in front of you?  
23 Why didn't you go to that Waffle House?

24 A. What Waffle House?

25 Q. On Highway 25?

1 A. I don't know. I don't know any --

2 Q. You didn't see that Waffle House?

3 A. No, sir.

4 Q. You didn't see that shopping center right in  
5 front of you and the service station?

6 A. No, sir.

7 Q. How did you get on I-20?

8 A. Sir, when the gunfire erupted, I was trying to  
9 get as far away as possible. I mashed the gas. And  
10 by the time I knew it, I was to the interstate.

11 Q. And you know the interstate takes you home too  
12 though?

13 A. I wasn't going towards home. I didn't know  
14 where I was going, sir. I was in a state of shock  
15 about the whole incident, sir.

16 Q. In that state of shock, you still got  
17 Mr. Stewart who's been threatening you and making  
18 you do bad things --

19 A. Yeah. He was in the --

20 Q. -- he was in the back seat?

21 A. Yeah. He was in the back moaning and groaning,  
22 get me help, I'm shot.

23 Q. He wasn't threatened you with a gun or shooting  
24 you or nothing, was he?

25 A. No. He was laughing along, calling me --

1 asking me to stop -- telling me to stop being a  
2 P-U-S-S-Y. He was just going along with Craven, but  
3 wasn't really making no threats. The person who was  
4 really making the threats was Craven. He was in  
5 cahoots -- by the looks of it, he was in cahoots  
6 with what Mr. Craven had going on, because he wasn't  
7 objecting to it.

8 Q. The dead guy was the one threatening you?

9 A. He was the one threatening me.

10 Q. Yeah. Now, what kind of car did y'all ride  
11 down to Aiken in?

12 A. Craven's Honda.

13 Q. All right. And that Honda, where was that at?

14 A. What do you mean? It was at his house.

15 Q. Okay. Was it a white car?

16 A. No, sir.

17 Q. What color was it?

18 A. It was white and gray, it was two-tone.

19 Q. Did you ride in the back seat all the way down  
20 here to there?

21 A. Yes, sir.

22 Q. Now, you would agree with me that inside  
23 Mr. Bayzes' building was dark?

24 A. Yes, sir.

25 Q. But you could see your other guys in the

1 building, couldn't you? It was a little light?

2 A. I could see their silhouettes. Yes, sir.

3 Q. You could see their silhouettes?

4 A. Yes, sir.

5 Q. And all three of you were out of the van,  
6 weren't you, at one point?

7 A. Yes, sir. When they directed me out of the  
8 van -- when they came back and directed me out of  
9 the van, I did get out of the van, sir.

10 Q. And by your testimony, there was a lot of  
11 motherfuckers going on, weren't there?

12 A. It was a lot of cursing, yes. It was a lot of  
13 profanity going on. But --

14 Q. How about kill the motherfucker? Did you ever  
15 hear that?

16 A. No. I know he threatened my life at one point  
17 in time in there. But as far as the threat being  
18 made towards him, I didn't hear it. I don't know --  
19 I didn't know he was in there. I didn't know he was  
20 shooting. I'm thinking one of them was shooting.  
21 Craven -- at first I'm thinking, I don't know which  
22 one is shooting. I'm thinking either Craven or  
23 Mr. Stewart is shooting. But being that  
24 Mr. Stewart -- I didn't know he was in the back when  
25 I pulled out of the building.

1           When I got down the road and I heard him in the  
2 back moaning, I looked back and I seen him in the  
3 back. So in my mind I'm thinking, well, it had to  
4 be Craven shooting. But I didn't even see  
5 Mr. Bayzes. I didn't know I was shot, because I was  
6 shot from behind. I was shot in the elbow and I was  
7 shot in the butt. Not in the thigh; I was shot in  
8 the butt. So I didn't know Mr. Bayzes was in there  
9 to begin with.

10       Q.   Well, Mr. Stewart didn't shoot you and  
11 Mr. Craven Goodwin didn't shoot you.

12       A.   Yes, sir.

13       Q.   He shot you?

14       A.   No. I'm saying I'm agreeing with you.

15       Q.   The only person you got shot by is Mr. Bayzes;  
16 right?

17       A.   I know that now. Yes, sir.

18       Q.   And the only person who shot weapons at all in  
19 that building that night was Mr. Bayzes?

20       A.   Yes, sir, that's my understanding of it.

21       Q.   And you left. Where was Mr. Goodwin when you  
22 left?

23       A.   Mr. Goodwin, he had to be in the store.

24       Q.   He wasn't trying to get in the van and you just  
25 pulled off and left him?

1 A. If he was, I wouldn't know. I wasn't paying no  
2 attention. I was just thinking about getting me out  
3 of there. I wasn't thinking about getting no one  
4 else out of there. I was thinking about me because  
5 I didn't know who was shooting. I didn't know if it  
6 was him shooting or Mr. Stewart shooting. All I was  
7 thinking about was getting myself out of the  
8 building.

9 Q. And you were thinking that so hard, you didn't  
10 even know you were shot?

11 A. No, sir. My adrenaline was pumping so fast, I  
12 didn't know I was shot. I didn't know I was shot,  
13 sir, honestly.

14 Q. Sometime earlier that night, you and Mr. Craven  
15 had gone cruising around Walmart?

16 A. No, we didn't go cruising around Walmart.  
17 Mr. Craven left the poker game and said he was about  
18 to go to the store to get some cigarettes. I told  
19 him I would ride with him. So we went to Walmart.  
20 I went to Walmart just to see if any females were in  
21 Walmart. I didn't purchase anything. I came -- he  
22 went and purchased, I came back out.

23 Q. What time were you looking for females in  
24 Walmart?

25 A. If you ask me time, my phone was dead, so I

1           couldn't tell you what time I was in Walmart.  If  
2           you ask me that, I'd be lying if I told you a time.

3           Q.     It was obviously shortly before you went in the  
4           gun store.

5           A.     I can't tell you that, sir, to be honest with  
6           you.

7           Q.     Now, this bag you're talking about Craven  
8           having, where was it in the van?

9           A.     The bag he had, in the middle.

10          Q.     In the middle on the seat you were sitting on  
11          or --

12          A.     Not in the middle of the seat that I was  
13          sitting on, sir.  He had it in the middle of the  
14          front.

15          Q.     What was in the bag?

16          A.     When he reached in it, he pulled out -- he  
17          produced what he asked me to put on my face and what  
18          he asked me to put on my hands, the gloves and --

19          Q.     Did he reach in and produce any for anybody  
20          else?

21          A.     If you ask me that, I can't recall, sir.  I was  
22          in so much of a state of confusion about the whole  
23          situation and thinking about me, I can't tell you if  
24          he gave Mr. Stewart something to put on or he put  
25          something on.  I just was thinking about me at the

1 time, to be honest with you, sir.

2 Q. How many times were you shot?

3 A. From the report, three times.

4 Q. What's the report got to do with it? You don't  
5 know how many times you were shot?

6 A. No, sir, because I had patches -- they said it  
7 was -- I had tape from a wound that I endured on my  
8 butt and I had a patch on my thigh and on my elbow.  
9 And in the doctors report, they said I was shot two  
10 times, but I had another hole in my thigh right  
11 here. So they said -- but it was an enter-and-exit  
12 wound. It was some misunderstandings about how many  
13 times I was shot. So I say three. Nobody really  
14 told me exactly how many times I was shot. I know I  
15 was shot in my butt for a fact because I couldn't  
16 even walk. And I know I was shot in my elbow. But  
17 I had a wound in my thigh.

18 Q. And you know they took bullet fragments out of  
19 you?

20 A. Yes, sir.

21 Q. And you know those bullet fragments came from  
22 bullets --

23 A. Yes, sir.

24 Q. -- that were shot into you?

25 A. Yes, sir.

1 Q. And those bullets were shot into you by  
2 Mr. Bayzes?

3 A. Yes, sir.

4 Q. And that's because you were out of the van in  
5 his store, weren't you?

6 A. Yes, sir. I'm not denying that. I'm not  
7 denying that I wasn't in the store. I didn't ask to  
8 be in the store, I didn't want to be in the store.  
9 I was trying to get out of the van. They wouldn't  
10 let me out of the van.

11 Q. And all of these bad guys that were in that van  
12 with you managed to get all of those guns in a very  
13 short period of time, didn't they?

14 A. Yes, sir.

15 Q. You didn't touch anything?

16 A. No, sir.

17 Q. And they all put them right there in the seat  
18 where you had been sitting?

19 A. I was out of the van. That's when they -- they  
20 put them in there after he asked me to get out of  
21 the van. It wasn't like he put them on my lap or  
22 put them right there on me. He asked me out off the  
23 van.

24 Q. Who asked you to get out of the van?

25 A. Mr. Craven.

1 Q. And he was having all this conversation with  
2 you because you were whining about helping?

3 A. Yes, sir -- no --

4 Q. This was after you put on gloves and after you  
5 put on a mask?

6 A. No, sir. I was complaining about helping after  
7 they started loading -- he started complaining about  
8 helping after I got out of the van. And I was  
9 cursing, we was cursing back and forth, back and  
10 forth. I'm telling them, man, look, brother, we're  
11 going to get in trouble, let me go, let me get out  
12 of here, man, let's go, let's get out of here.  
13 That's when he started, stop acting like -- that's  
14 when Mr. Stewart told me to stop acting like a  
15 P-U-S-S-Y.

16 Q. Y'all were having all this conversation while  
17 this van has been backed into the middle of the  
18 guy's store?

19 A. Yeah. It wasn't like we were sitting there  
20 casually talking. It was a big commotion going on.  
21 Everybody was cursing, including me.

22 Q. And before -- I'm trying to get square in my  
23 mind when you put on the mask and the gloves?

24 A. Before he entered the building.

25 Q. So you were talking this whole time and cursing

1 this whole time with a mask and gloves on?

2 A. Yes, sir.

3 Q. Mr. Robinson, you didn't have any money on you,  
4 did you?

5 A. No, sir.

6 Q. You didn't even have a wallet or an ID on you,  
7 did you?

8 A. No, sir.

9 Q. And you had a dead cell phone?

10 A. Yes, sir.

11 Q. And when the police came up to you at the  
12 Waffle House, you had a van full of stolen weapons,  
13 didn't you?

14 A. Yes, sir.

15 Q. And did you happen to notice at any point when  
16 you were backing that van up or turning that van  
17 around that the only way you could crank that van up  
18 was a screwdriver or with a --

19 A. If so, I wasn't paying no attention. To be  
20 honest, I was not paying attention to that steering  
21 wheel or how the van was crunken [sic] up. I was  
22 trying to get help, sir. To be honest, I didn't  
23 look and say, oh, you got crank this van up with a  
24 screwdriver or something. No, I didn't observe  
25 that. I was too busy in a frantic mode to even

1 think about that, sir.

2 Q. And it's true that the van was running the  
3 whole time y'all were in the building, wasn't it?

4 A. It had to be. How could I drive it out if it  
5 wasn't? Yes.

6 Q. Was it running or was it not running?

7 A. It was running, sir. I didn't crank it up. I  
8 didn't crank it back up and drove it out. It was  
9 running the entire time, sir.

10 Q. So all these -- these other two dudes get out  
11 of the car -- get out the van, start loading pile  
12 after pile of long guns and rifles --

13 A. Yes, sir.

14 Q. -- and the van is running and you're right  
15 there by the seat and you don't leave?

16 A. It's not like you think. You're thinking I had  
17 time to -- I wasn't thinking about that. We backed  
18 into a building. I didn't know what was going on.  
19 I was shocked by the whole incident, sir. So I  
20 didn't have time to think in my head, well, let me  
21 go ahead and get in the driver's seat and get out of  
22 here. No. I'm looking like what the heck is going  
23 on? But it was a second later, the door opened, he  
24 was asking me -- before I had a chance to react, to  
25 think of any kind of a plan, the door swung open

1 with him asking me to get out of the van.

2 MR. WEEKS: Thank you, Your Honor.

3 THE COURT: Mr. Routzong, anything else?

4 MR. ROUTZONG: No redirect.

5 THE COURT: Any additional witnesses,

6 Mr. Routzong?

7 MR. ROUTZONG: No, sir.

8 THE COURT: Anything in reply by the State?

9 MS. YOUNG: Just a moment, Your Honor.

10 No reply.

11 THE COURT: All right. Madam forelady, ladies  
12 and gentlemen, we've concluded all of the testimony  
13 in the case. We're now at the point of the trial  
14 where we have closing arguments. Let me spend just  
15 a few minutes with the lawyers and let everybody  
16 take a break. Likewise, y'all leave your notes in  
17 the chair. Don't discuss or deliberate. We'll be  
18 right back in to listen to final arguments and I'll  
19 instruct you on the law. That shouldn't take very  
20 long. Thank you.

21 (The jury exits the courtroom at 11:14 AM.)

22 THE COURT: Anything from the State before we  
23 proceed for final argument?

24 MS. YOUNG: No, sir, Your Honor.

25 THE COURT: Mr. Routzong?

1           MR. ROUTZONG: No, sir -- well, give me just a  
2 second.

3           THE COURT: All right, Mr. Robinson, look  
4 forward. Don't be -- Mr. Robinson, look this way.  
5 Don't be interacting with people in the audience.

6           MR. ROUTZONG: Just to make sure -- I wasn't --  
7 I didn't really hear your question, Your Honor. I'm  
8 sorry.

9           THE COURT: I said do you have anything for the  
10 record before we do final arguments?

11          MR. ROUTZONG: I don't think so, Your Honor.

12          THE COURT: All right. The State will --  
13 Mr. Routzong, you go first, followed by the State.  
14 All right. Two forms of verdict: We find the  
15 defendant guilty or not guilty for both grand  
16 larceny -- Mr. Routzong, please pay attention so  
17 you'll understand my questions.

18          MR. ROUTZONG: Yes, sir.

19          THE COURT: Not guilty, guilty; burglary one,  
20 grand larceny; correct?

21          MR. ROUTZONG: I believe that's correct, Your  
22 Honor.

23          THE COURT: Any particular charges you want?

24          MR. ROUTZONG: On duress, Your Honor.

25          THE COURT: Anything else?

1 MR. ROUTZONG: I don't think so, Your Honor.

2 THE COURT: Anything by the State, chargewise?

3 MS. YOUNG: Your Honor, we'd ask for  
4 hand-of-one-is-the-hand-of-all charge.

5 THE COURT: All right.

6 MR. ROUTZONG: Just one thing, Your Honor. I  
7 neglected the burglary second charge we had already  
8 discussed. And I know I'm protected on the record  
9 and that's a continuing objection.

10 THE COURT: Thank you. I failed to tell the  
11 jury that the gunshot residue evidence was out, so  
12 I'll tell them that before the final arguments are  
13 made.

14 Any objection by the State?

15 MS. YOUNG: No, sir, Your Honor.

16 THE COURT: Mr. Routzong?

17 MR. ROUTZONG: Just based on the objection I  
18 joined Mr. Chesser, Your Honor.

19 THE COURT: Thank you. We'll take a break and  
20 then go straight into the arguments when we get  
21 back. Ten minutes.

22 (Short break.)

23 THE COURT: All right. Bring the defendant  
24 out, please. Y'all ready to proceed?

25 MS. YOUNG: Yes, sir, Your Honor.

1 MR. ROUTZONG: You know, Your Honor, I  
2 neglected before the jury came out last time to --

3 THE COURT: You did. Hand it up here.

4 MR. ROUTZONG: Ms. Young is already aware of  
5 that. Do you --

6 THE COURT: You're talking about the e-mail  
7 that you received last night?

8 MR. ROUTZONG: That's correct, Your Honor.

9 THE COURT: All right. Hand it up here,  
10 please.

11 All right. It appears last night that about  
12 Wednesday, June 11, at 4:50 p.m. last night,  
13 Mr. Routzong received an e-mail from someone  
14 named -- or her e-mail address is  
15 Doris.Grossmann@yahoo.com, and she had an address of  
16 262 East Gate, Aiken.

17 And the message was: Watching coverage of  
18 trial where a gunshot robbery. That's capital one,  
19 O-N-E, jury I wish I were on. I'd like to give that  
20 shop owner a medal for taking out the trash. Any  
21 juror would agree with me.

22 So I'm going to ask the jury if any of them  
23 know Doris Grossmann, and if they do, I'll have to  
24 make inquiry. Fair enough by the State?

25 MS. YOUNG: Yes, sir.

1 THE COURT: Anything else?

2 MR. WEEKS: Yes, sir, just one more thing  
3 before the jury comes back in. Your Honor, I do not  
4 know or have any inclination that Mr. Routzong  
5 doesn't know this, but the State would move in  
6 limine of any reference in his closing argument to  
7 another crime, burglary second. He's entitled to  
8 argue that we didn't prove burglary first, but he's  
9 not allowed to argue that it's a lesser-included or  
10 it's some other crime. And I just want to make that  
11 clear before we get down the road a little bit.

12 THE COURT: That's the rule. We understand  
13 that.

14 All right. Thank you, Mr. Routzong.  
15 Mr. Routzong, at some time, can you please print  
16 that out and let's just make that a Court exhibit.

17 Any objection by the State?

18 MR. WEEKS: No, Your Honor.

19 THE COURT: All right. Bring the jury in,  
20 please.

21 MR. ROUTZONG: Your Honor, just one thing:  
22 Renewing the directed verdict motion.

23 THE COURT: All right. And for the same  
24 reasons as I -- obviously, there's ample evidence in  
25 the record that if the jury believes it, would

1 support a conviction. I'm not concerned about the  
2 weight of the evidence, only the existence. And  
3 there's sufficient evidence in the record to support  
4 a verdict for either or of the indicted offenses;  
5 i.e., grand larceny and/or burglary first. Thank  
6 you.

7 MR. ROUTZONG: Thank you, Your Honor.

8 (The jury enters the courtroom at 11:31 AM.)

9 THE COURT: Madam forelady, ladies and  
10 gentlemen, let me go over a couple things before we  
11 start the final arguments. First question is, does  
12 anyone know a person names Doris -- D-O-R-I-S --  
13 Grossmann -- G-R-O-S-S-M-A-N-N?

14 THE JURY: (Shakes heads).

15 THE COURT: The response is no from all of the  
16 jurors. I'll tell you about that when it's all  
17 over, said and done. It hasn't got anything to do  
18 with the trial. It was an inquiry that we received  
19 from a Ms. Doris Grossmann, so I just needed to know  
20 if anybody knew her.

21 Yesterday there was some testimony dealing with  
22 a GSR or gunshot residue result. After y'all left  
23 last night and pursuant to some motions, I have  
24 found that should not have been admitted into the  
25 trial of the case. Please disregard that. That was

1 found to be inadmissible dealing with GSR.

2 We're now in a position to hear the final  
3 arguments by the lawyers. Like I said earlier, the  
4 final arguments, that is not evidence in the case.  
5 You've already heard all of the evidence. Obviously  
6 they represent their respective sides and they'll be  
7 arguing what they deem the evidence to be in the  
8 light most favorable to their positions. But you've  
9 heard all of the evidence, there will be no more  
10 evidence. So you are the finders of the facts, as I  
11 told you. There will be, obviously, different  
12 versions of the facts and you have to determine what  
13 the credibility or the believability of the  
14 witnesses were. So this is final argument, this is  
15 not evidence. But please listen closely as they  
16 argue their respective positions.

17 Once they conclude that, then I will instruct  
18 or charge you on the law, and then you'll be able to  
19 start talking about the case and deliberating the  
20 case. Thank you.

21 Any objections to those remarks by the State?

22 MS. YOUNG: No, sir, Your Honor.

23 THE COURT: Mr. Routzong?

24 MR. ROUTZONG: No, sir.

25 THE COURT: Thank you.

1           Mr. Routzong.

2           MR. ROUTZONG: May it please the Court, Your  
3 Honor.

4           Ladies and gentlemen, I'll be as brief as I can  
5 be. It won't take very long because it really only  
6 boils down to a couple issues in this case. You  
7 heard the testimony from Mr. Robinson. Basically  
8 what he told you is he was forced into a situation  
9 where a crime was committed. And he's asking you to  
10 find that he's excused from guilt of that crime  
11 based on the fact that he believed his life was in  
12 danger; that he was forced into being there on  
13 August 9th in those early morning hours, not of his  
14 own free will, but by the will of Eddie Stewart and  
15 by the will of Craven Goodwin. He testified as best  
16 as he could of what his story is.

17           Ladies and gentlemen, I'm here to tell you that  
18 if you believe his story, you must find him not  
19 guilty. And remember, this is all evidence that you  
20 took an oath that you would consider Mr. Robinson  
21 innocent until the State proves beyond a reasonable  
22 doubt, after your deliberations back there, after  
23 you -- if you concluded beyond a reasonable doubt  
24 and not until that time, you have to consider this  
25 through the lens of a presumption of innocence.

1 That's the first issue.

2 Then it comes down to the second issue: Was  
3 this a dwelling? That's an element you have to find  
4 for this to be a burglary fist. The judge will  
5 instruct you on what the law is. You have to take  
6 these facts with the presumption of innocence, and  
7 that means that the State has their case wrong.  
8 Looking at the facts, comparing the law that Judge  
9 Early gives to you, comparing those two things, you  
10 have to find that they've proven that this is a  
11 dwelling beyond a reasonable doubt.

12 Why do I think that may be a little hard for  
13 them to do? That's why I'm up here; to tell you the  
14 other side of the story so that you can consider  
15 that, not as evidence, but as a means of  
16 interpreting the evidence, if you so choose to do.  
17 What do we really know about whether or not this is  
18 a dwelling? We know because Mr. Bayzes says it's a  
19 dwelling. So the question becomes, is he credible?  
20 Is he believable when he tells you this is his  
21 dwelling? His Honor will tell you the definition of  
22 a dwelling. But when you compare that definition,  
23 can you believe Mr. Bayzes?

24 The thing that strikes me about his testimony  
25 is a couple things. First thing, let's face it, he

1 admitted up there to being untruthful under oath.  
2 It seemed kind of small at the time, perhaps, but  
3 I'll explain to you why I think it's important. The  
4 State put into evidence this picture of -- this is  
5 State's Exhibit No. 39. Those are called upper  
6 receivers on rifles. And what Mr. Bayzes testified  
7 to was that you take those two things and put it  
8 with a lower receiver and that makes it a machine  
9 gun. Why is that important? You begin to see kind  
10 of a pattern with Mr. Bayzes' testimony. He tries  
11 to make things sound as bad as they can. But what I  
12 talked to him about and what he admitted was  
13 actually true and what he said about this was not  
14 true under oath was that you can put this on a --  
15 what's called a lower receiver, that's the part they  
16 hold with trigger, that doesn't make a machine gun,  
17 necessarily, it all depends. But a machine gun  
18 sounds a lot worse to you than it's just another  
19 semiautomatic rifle. That's one inconsistency.

20 You remember I asked him about -- I was so  
21 confused. I said, you mean you testified that the  
22 building imploded and that's what woke you up? He  
23 said, yeah. And I said, I was wondering why did you  
24 put in your statement, which is in evidence, that  
25 the alarm woke you up? Because he's trying to

1 convey to you the horror and how frightened he was  
2 at all of this so it sounds a little bit worse.  
3 He's fudging the facts so that he can make his case,  
4 so that the State can make their case.

5 Ladies and gentlemen, his statement was close  
6 in terms of time. It wasn't something he had to sit  
7 there and think about for the last several months so  
8 he could come in here and try to convey to you that  
9 he was so frightened about what was going on.

10 And the alarm is important for another reason  
11 in the context of whether or not this is a dwelling.  
12 He has three alarms. That wall was driven into in  
13 the gun shop, and that's not what woke him up; it  
14 was the alarm. How connected can they really be?  
15 You saw the picture. That had to make a heck of a  
16 racket. And that's not what woke him up, according  
17 to his written statement which was, you know,  
18 contemporaneous with the event. He's got three  
19 alarms, there's locked doors, there's a large garage  
20 area that you can park a boat in, I believe the  
21 testimony was, between what he alleges is a place  
22 where he was sleeping and what this really is, his  
23 place of business.

24 So the alarm wakes him up, he sneaks quietly,  
25 he says -- and I think if you listen to the audio

1 the whole way through, the 911 call, you'll hear in  
2 there he says, I didn't make a sound. So he's  
3 sneaking, he walks, he looks, he says he sees  
4 silhouettes of people, he opens fire. Now, he  
5 testified that he was all confused, things happen --  
6 I'm sure it did happen quickly. There's no -- it  
7 would be wrong for me to say this probably didn't  
8 happen quickly and everything was kind of jumbled  
9 together. But the thing that's important about that  
10 is, if you listen to that tape, about three minutes  
11 in -- and Mr. Chesser played it for you -- he says  
12 to this guy -- he says to Mr. Goodwin on the ground,  
13 where are those other two niggers at? That's what  
14 it sounds to me like he says it. That's for you to  
15 judge. But all he's saying there, what he's telling  
16 you is, he's seeing stuff pretty good. But he comes  
17 to you and says, I didn't see anything, pretty much.  
18 It's another way of him just fudging the facts of  
19 what's going on here.

20 Now, you know, they introduced some pictures  
21 that will be -- they're in evidence. It shows the  
22 living quarters. And you remember, Mr. Weeks was  
23 enthralled by the Chihuahuas on the bed. The  
24 testimony is, those were taken much after this  
25 event. They weren't contemporaneous to the event.

1 Did law enforcement go up there and try to  
2 substantiate that this was a burglary first? Well,  
3 let's be fair to them. You know, that's probably  
4 not the most important thing on their mind at the  
5 time. You know, they're trying to sort stuff out.  
6 But none of the investigators went contemporaneous  
7 with this event to try to substantiate that this was  
8 a dwelling. The pictures you're seeing there, we  
9 don't know except for what Mr. Bayzes says, whether  
10 that actually reflects what the situation was at  
11 that time. And even if it is, you have testimony  
12 from Mr. Bayzes that he does own another residence  
13 in Augusta, but he says his son lives there.

14 Everything you're relying on to try to make a  
15 decision about whether this was a dwelling is not  
16 from the State, arguably; it's from him, and he's  
17 fudging the facts all the way through. He gets on  
18 the 911 call. Does he say to the 911 operator,  
19 somebody broke into my house? No. He says,  
20 somebody broke into my gun shop. He tells law  
21 enforcement, on the 911 call, he says -- I mean, he  
22 tells it several times. He says he hears -- and I  
23 won't repeat it exactly -- but, he says, kill the  
24 M-F'r. He says he heard somebody say that. Then  
25 later on, if you listen to the 911 -- I've never

1 heard a 911 call like this. It just keeps going.

2 And you hear people talking in the background.

3 If you listen to the whole thing, you'll find  
4 out some things about this case. One of the things  
5 is -- and it's in the -- you know, the -- I think  
6 Mr. Bayzes testified to it. He agreed that he  
7 actually also told the police, shoot the M-F'r. And  
8 you'll remember, when I talked to him on the stand,  
9 I said, wow, I bet that was really burned in your  
10 brain if that happened and somebody, you know, made  
11 a threat like that, that was just burned into your  
12 brain. He said yes. Why is it changing? See the  
13 whole thing is, you have to look at this as to  
14 whether or not you believe him. And he's fudging  
15 the facts on this case.

16 There's really just a couple other things just  
17 kind of curious to me. He says he comes out there  
18 buck naked, I think was his testimony. I just find  
19 that to be implausible. I'm at least arguing that  
20 it is. If you hear all this racket and you decide  
21 not to put your trousers and your boots on, your  
22 shoes, you're just going to go out there stark naked  
23 and see what's going on? He's telling you that  
24 because he wants you to think this is his dwelling  
25 and this is the way people -- you know, people walk

1 around their house naked sometimes. That's what  
2 he's trying to get across to you. But is that  
3 plausible? Really?

4 And the cell phones are also a curiosity to me.  
5 There's no phones in this residence, quote, unquote,  
6 this dwelling, for him to call 911 from. Guess  
7 what, it's a business. The business is over there  
8 in the front. That's where his phone's, that's  
9 where he said he called 911 from.

10 Ladies and gentlemen, in closing, you've got to  
11 wonder about his testimony. And that's all you got  
12 to substantiate that this is a dwelling. The  
13 police -- like I said, I'm not trying to pick on  
14 them, but they didn't investigate it. You've got  
15 pictures after the fact. They relied on what he  
16 said. And one last thing that may, in fact, put all  
17 of this in context as to why he's doing this, how  
18 he's trying to make his story sound as good as it  
19 can, if you listen to that 911 call, you'll hear him  
20 say in there to law enforcement -- I can't see, but  
21 I'm assuming it's a law enforcement person, that's  
22 for you to decide -- am I in trouble, do I need a  
23 lawyer?

24 And in the end, that's probably why all of this  
25 kind of fudging the facts and saying the things he

1           said. Listen to that call and you're going to find  
2           out, I believe, considering all of the evidence in  
3           the light of the fact that right now he's presumed  
4           innocent, and we ask you to come back with a  
5           not-guilty verdict. Thank you.

6                     THE COURT: Ms. Young.

7                     MS. YOUNG: Thank you, Your Honor. May it  
8           please the Court, Mr. Routzong.

9                     Good afternoon, ladies and gentlemen. To start  
10          off, I'm going to have to respectfully disagree with  
11          Mr. Routzong. There's one reason that we're here  
12          today. And the reason that we're here is his  
13          client, the defendant, on August 9th, 2012, along  
14          with several other people, got in that van -- got in  
15          that stolen van, backed it into the side of  
16          Mr. Bayzes' home and business, causing that huge  
17          hole, going in there with the intent to steal those  
18          guns. That is why we're here. We're here because  
19          of the defendant's actions and the defendant's  
20          choices.

21                    Now, ladies and gentlemen, the State has the  
22          burden of proof, so I'll have to go through -- I'll  
23          try to keep it brief. But I do need to go through  
24          and somewhat summarize to you what we believe that  
25          our evidence has shown and also explain somewhat of

1 the law so you can understand how the evidence  
2 you've heard from the witness stand, from the  
3 witnesses, the pictures you're going to see, and  
4 everything else, how that all shows you that  
5 Mr. Robinson is guilty. Okay?

6 The first question is, does Mr. Bayzes live in  
7 the residence? Is it his dwelling? Now, he told  
8 you it was his dwelling. Okay? He told you it was  
9 his dwelling, he explained to you how this door  
10 right here in inside the garage where he parks his  
11 cars every day is the only way to get inside, that's  
12 contained in the building. He testified this is his  
13 kitchen area, there's all of those condiments and  
14 food. You know, that's not just a few snacks;  
15 that's his cupboard right there. That's the door,  
16 the entry door, there's his sofa, there's his bed  
17 with his Chihuahua pack on there. He told you he  
18 lived there. And how do you know he lived there?  
19 There's his wife's bed, he explained that. He  
20 explained why she doesn't sleep in the same bed,  
21 because he snores really badly. This is his home.  
22 These are his washer and dryer. This is where he  
23 lives. This is where he does his laundry. So he  
24 told you that and there are pictures that show that.

25 And I submit to you that Mr. Bayzes is not the

1           only person who told you he lived there. I think  
2           you also heard testimony from Lieutenant Adams. He  
3           told you the night this happened, that he did have  
4           occasion to go back there and he did see the things  
5           that you see in these pictures and that Mr. Bayzes  
6           described. I believe he said he saw sofa, he saw  
7           his a bed, he saw those things. Those things didn't  
8           appear out of whole cloth or made up later in time.  
9           But think about it on a more basic level: When the  
10          defendant crashed that van into Mr. Bayzes' home, he  
11          immediately responded because he was there; he was  
12          sleeping there, he lives there. He does have a  
13          business in there, we're not going to try to pretend  
14          that he doesn't. We -- you know, you're reasonable  
15          people. Why did Mr. Robinson choose to break into  
16          Mr. Bayzes' home? Well, he knew that that gun store  
17          was there. Okay? That's the reason.  
18          Unfortunately, he didn't heed the sign on the front  
19          of the store, he didn't realize that Mr. Bayzes did  
20          live there.

21                 Let's talk a little about the elements.  
22          Burglary in the first degree: A person is guilty if  
23          they enter the dwelling without consent with intent  
24          to commit a crime and while inside they become armed  
25          or it happened at night. So clearly, ladies and

1 gentlemen, the home was entered into. You've seen  
2 the huge hole, you've seen those pictures.  
3 Mr. Bayzes told you that nobody had consent, but  
4 common sense tells you nobody is going to give  
5 consent for somebody to drive a  
6 several-thousand-pound van through their home in the  
7 middle of the night while they're sleeping with the  
8 intent to commit a crime therein.

9 Well, the evidence shows you that the van that  
10 Mr. Robinson admitted he was in both before and  
11 after and during this crime, was later found with  
12 over \$10,000 worth of the guns that Mr. Bayzes had  
13 for sale in his business. There are pictures that  
14 show you that this happened at night. You can look  
15 at those. The testimony showed you that, 911  
16 reflects the time that it happened. And they became  
17 armed while they were in there, and that's the  
18 important thing to consider. Okay? You don't have  
19 to go in with a gun, because I submit to you that  
20 that did not, but you have to become armed while  
21 you're in there. And the term armed means taking a  
22 gun, putting it in your hand. You're armed at that  
23 point in time.

24 Let's go back for just a minute to that  
25 dwelling question. The definition of dwelling --

1 and the Judge is going to give you the law. But I  
2 just want to put this out there for you to consider:  
3 Any house or building where a person sleeps with a  
4 view to protection of property shall be deemed a  
5 dwelling. Now, that's the statute. I believe Judge  
6 Early is going to tell you that's the law in South  
7 Carolina.

8 The statute also includes houses, outhouses,  
9 although that seems unlikely nowadays, buildings,  
10 sheds, erections, things that are within 200 yards  
11 of it and are appurtenant, which is a big word that  
12 just means attached. So the law considers that you  
13 can have part of your dwelling something that isn't  
14 even attached to it. Well, that's not the situation  
15 here. You heard a lot of testimony and you're going  
16 to see pictures about this building. It contained a  
17 garage, it contained his living quarters, and it  
18 contained his place of business. And, ladies and  
19 gentlemen, I submit to you that that's not that  
20 unusual. There are a lot of people who have that  
21 business and work out of their home. Just because  
22 they have that business in their home, that doesn't  
23 make that any less their home.

24 Just to give you an example, my dad is a  
25 lawyer. I call him an old school lawyer because he

1 does all different kinds of law. And in my parents'  
2 house, he has a nice big office in their basement  
3 where he does his business, his law business. And  
4 he does not sleep down there although I think my mom  
5 might tell you differently because he spends so much  
6 time down there being a night owl. But that is his  
7 business where he conducts his living. Now, if  
8 somebody broke into his office and stole his laptop  
9 or his printer or, Heaven forbid, his typewriter --  
10 some of you younger people might not even have seen  
11 one of those -- they committed a burglary. It  
12 doesn't matter that my dad doesn't sleep in his  
13 office. Okay? It's his office where he conducts  
14 his business that is attached to his home. That's  
15 exactly the situation that we have here.

16 Now, I want to point out to you that the law  
17 does not require that you knowingly enter a  
18 dwelling. It just states that you enter a  
19 dwelling -- intentionally enter. I don't know how  
20 much more intentional you can get than backing a van  
21 into it -- without consent and with intent to commit  
22 a crime therein. So maybe it wasn't obvious to them  
23 it was a dwelling, but it should have been obvious,  
24 going back to that picture, that there was somebody  
25 there: 24-hour armed guard, do not enter after

1 hours. What did I tell you earlier? The law  
2 includes that a dwelling is a place where a person  
3 stays with a view to protect their property. That's  
4 exactly what Mr. Bayzes was trying to do, however he  
5 probably didn't anticipate somebody driving a van --  
6 backing that van into his building. So we have the  
7 elements of entering the building -- or dwelling,  
8 excuse me, without consent and becoming armed while  
9 therein.

10 Now, you've heard lots of testimony about the  
11 van, it was found at Waffle House, all of these  
12 items were found inside. Mr. Bayzes owns this gun  
13 store, he does business there. He testified to you  
14 that the value of them was somewhere around \$30,000.  
15 Well, this particular case involves grand larceny  
16 over \$10,000, so he's clearly met the threshold.  
17 They've gone in there and stolen all these expensive  
18 guns, and I don't even know anything about them. I  
19 mean, those are kind of out of my understanding.

20 But I'd submit to you that when Mr. Routzong  
21 was trying to tell you that Mr. Bayzes got up on the  
22 stand and lied, he's talking about something that  
23 sounded more to me -- you heard it and you're the  
24 ones who determine it -- like a misunderstanding.  
25 And I believe when he was -- followed up questions,

1 he just further explained it. That's not a lie.  
2 You know what else isn't a lie? This statement that  
3 you're going to have in evidence and that you're  
4 going to be able to look at where Mr. Bayzes lists  
5 his home address as **Minor** He put that  
6 on there because that's where he lives. That's the  
7 reasonable explanation, ladies and gentlemen.

8 Now, let's talk about what happened once  
9 inside. And I think it's important for you, ladies  
10 and gentlemen, to consider the time element and the  
11 time factor. Mr. Bayzes told you that he was  
12 awakened by this horrible noise and his alarm.  
13 Whether or not he wrote down it was one thing, he  
14 was awakened by both of them. Okay? He told you  
15 that he immediately got up and went buck naked, got  
16 his gun, walked through his garage through this  
17 plastic flap. And I want to point something out to  
18 you. If you consider that this is a dwelling, which  
19 it is, and his garage is right there, which it is,  
20 the only thing that was protecting Mr. Bayzes from  
21 the defendant was a few strips of plastic, because  
22 he was already in his home and that was the one part  
23 that somewhat separated where he did -- his place of  
24 business.

25 But in any event, he goes out there naked.

1           Maybe that's not the best idea, but don't penalize  
2           the man because he wanted to hear what was happening  
3           before he put on pants. And he hears all of this  
4           glass breaking, these horrendous noises, hears some  
5           voices, and he goes out there. He told you what  
6           happened; he saw these shadowy figures and he heard  
7           one of them say, kill the motherfucker, along with  
8           the sound of a gun being cocked, which he knows what  
9           that sounds like because he's heard it before  
10          because that's his business. So he immediately  
11          began to defend himself. And the unfortunate result  
12          was that one of the criminals ended up dying because  
13          of his decision to enter Mr. Bayzes' home and  
14          Mr. Bayzes chose to protect himself. But I want you  
15          to think about the time it may have taken  
16          Mr. Bayzes.

17                 I would submit to you that you're talking a few  
18          minutes, two minutes at the most, possibly, because  
19          he told you he went straight out there to see what  
20          was happening. He just responded directly. And  
21          during that period of time, these three men had  
22          already gone through -- and I'm just trying to give  
23          you one example. But they had taken that  
24          sledgehammer that Mr. Goodwin had on his body, and  
25          they smashed pretty much every counter except for

1           one at the very end and another one at the other  
2           side of the store. They had smashed all of those  
3           and they already had at least 28 guns in the van, or  
4           close to it, because Mr. Bayzes told you as soon as  
5           he heard somebody threaten his life by saying kill  
6           the motherfucker, that he immediately defended  
7           himself. So think about the times, it's very  
8           important, that all of those things happened in that  
9           store. And I want you to compare the time that you  
10          think it took for all of those things to happen to  
11          what Mr. Robinson testified about. Okay?

12                 He testified about a lot of things, and I'm  
13          going to go into it. But I want to focus on what he  
14          said happened in the store. He told you he was  
15          already outside the store with gloves and a mask on  
16          before they even went in, that he went in and that  
17          Craven and Mr. Stewart got out and they were yelling  
18          at him, and at least one of them was telling him,  
19          you know, you need to get out and help us and  
20          there's some extended back-and-forth about him  
21          getting out til at one point he says he was  
22          threatened. So Mr. Robinson wants you to believe  
23          that all of these counters were smashed, all of  
24          those guns were put in that van, at the same time  
25          they had time to have an argument where then he got

1 out of the van but couldn't get out any other way  
2 and, unfortunately, he was caught in the crossfire.  
3 Ladies and gentlemen, I submit to you that you have  
4 common sense, you can look at the pictures, you can  
5 think about the time, and you'll realize that's not  
6 reasonable. That's not reasonable because that's  
7 not what happened. All three of the defendants had  
8 on dark clothing, it was testified to by law  
9 enforcement. All three of the defendants had on  
10 gloves. They all went there to rob the gun store.  
11 Now, the fact that Mr. Bayzes lives there, which  
12 there's uncontradicted testimony, makes this a  
13 burglary first. But he knew what they were doing.  
14 He was part of it all along.

15 In South Carolina, the Judge is going to charge  
16 you that we have something called the hand of one is  
17 the hand of all. And that means that if one person  
18 goes in and has a gun and commits some crime with  
19 it -- and this is just an example: Let's say two  
20 people go in a bank; one of them has a gun, one of  
21 them hold the bag or looks out or does something.  
22 The person who was involved in the crime but not  
23 necessarily doing all the actions is just as guilty.  
24 Each party is as guilty. The hand of one is the  
25 hand of all.

1           Ladies and gentlemen, Mr. Robinson is guilty.  
2           He was there, he was involved in it, he's guilty.  
3           The Judge is going to tell you that you can consider  
4           the bias and the interest and the motive that people  
5           have when they're testifying. And Mr. Routzong has  
6           already alluded to the fact that he thinks  
7           Mr. Bayzes was up there lying. Please listen to the  
8           911 call because he called 911 immediately and what  
9           he tells him -- the 911 lady is that somebody broke  
10          into his home and said, kill the motherfucker. He  
11          says this numerous times immediately after it  
12          happened. He didn't have time to construct this  
13          long, drawn out thing. He called 911, Craven  
14          Goodwin is still alive at that point. That happened  
15          immediately. And what he's telling the 911 operator  
16          is what happened. Clearly he's upset and clearly he  
17          uses bad language. I disagree that I heard him use  
18          a bad term on there, but you can listen to that.  
19          That's up for you to decide. And you might -- if  
20          it's true, I didn't hear it, you might not like  
21          that. And I understand that, but that doesn't make  
22          Mr. Robinson any less guilty of breaking into his  
23          home. Okay. So think about Mr. Robinson's bias or  
24          motive, because he got up there and testified.

25                 Mr. Robinson must have been having the worst

1 day ever, y'all, if you choose to believe all his  
2 testimony that he got picked up at his home in  
3 Gaston, which is near Columbia, to come down here  
4 for this poker game. And he came down without any  
5 wallet or money to this poker game, and a dead cell  
6 phone, and did all of these comings and goings and,  
7 oddly enough, outside of Mr. Craven Goodwin's home  
8 where the stolen van was, he didn't have any lights,  
9 there's no street lights, there's no way he knew  
10 this van was stolen. He seems to have been having a  
11 bad day. So he gets in this van to get this ride  
12 and says that he was threatened. Threatened to the  
13 point where he couldn't get out, threatened by a  
14 20-year-old man, and that that man forced him to put  
15 on this bandanna and gloves, which he still had on  
16 when he went to the Waffle House. He didn't have  
17 that on because he was threatened; he had that on to  
18 disguise his face, to protect his hands when the  
19 glass was being broken out with a sledgehammer  
20 that's in evidence, to steal Mr. Bayzes' property  
21 from his home.

22 What's reasonable, ladies and gentlemen? Is it  
23 reasonable to consider that he came down here  
24 without money to go to a poker game with a dead cell  
25 phone? He could never get out -- he could never get

1 out of the van, it was completely blocked, they  
2 threatened him. Ladies and gentlemen, that's just  
3 trying to explain the evidence that's clearly before  
4 you, which is that he's guilty. He's part of it.  
5 He came down here -- he did come down here from  
6 Columbia, he did come down here with Craven Goodwin.  
7 He came down here to break into Mr. Bayzes' home and  
8 steal his guns. All 28 of those guns gone like that  
9 in this van. They would have gotten more, but  
10 Mr. Bayzes stopped them because he was protecting  
11 himself.

12 I want to focus on one more thing Mr. Routzong  
13 brought up. Y'all heard the testimony. I heard  
14 Mr. Bayzes say he had three zones, not three  
15 separate alarms. So if you have a home residence,  
16 you know what zones are. There's the place where  
17 your cameras -- I mean, not camera, censor,  
18 motion-detector's pointed. So just because he had  
19 three different zones on his alarm doesn't make that  
20 any less of his home. He might have an upstairs  
21 alarm and a downstairs alarm, different zones,  
22 protected, your house is still connected, just like  
23 his house is connected, all one building. He lives  
24 there, he eats dinner there, his wife lives there,  
25 he conducts his business there, it's his home.

1           And he's a victim. He's the victim in this  
2 case because the defendant broke the law, violated  
3 the sanctity of his home, the one place where  
4 Mr. Bayzes should feel the most safe and have the  
5 most security, gone like that with this van being  
6 backed in there. And, you know, you'll have a  
7 chance to look at all the pictures and you can look  
8 at the skid marks on the floor and you can think  
9 about whether that van was really half in and half  
10 out, like Mr. Robinson says, or, if you think those  
11 skid marks go way back because the entire van was in  
12 there so they could have the door open and load up  
13 those guns as quickly as possible.

14           Y'all were chosen for your common sense to  
15 listen to the evidence and to determine what  
16 happened in this case. The State has to prove this  
17 to you beyond a reasonable doubt. Judge Early is  
18 going to tell you that a reasonable doubt is a doubt  
19 that would cause a reasonable person to hesitate to  
20 act.

21           Ladies and gentlemen, you've heard all the  
22 evidence, you're going to have it back there. He'll  
23 also tell you that you do not have a reasonable  
24 doubt if you're firmly convinced -- if you're firmly  
25 convinced that Mr. Robinson is guilty. And I'd ask

1           you to take all these things, consider them, look at  
2           the evidence, review it, deliberate, and find him  
3           guilty.

4           THE COURT: Madam forelady, ladies and  
5           gentlemen of the jury, my charge is about 10 or 15  
6           minutes. Everybody okay? Need a bathroom break  
7           before we start? No? Okay.

8           MR. ROUTZONG: Your Honor, may I approach for a  
9           second? It will just take a second.

10          (Sidebar conference.)

11          THE COURT: Ladies and gentlemen, the charge is  
12          sort of broken into two areas. The first part of  
13          the charge deals with general propositions of  
14          criminal law that I charge in all criminal cases.  
15          And then once we finish that, we'll go into the  
16          second part which deals with these two particular  
17          offenses for which this defendant is charged with;  
18          i.e., burglary in the first degree and grand  
19          larceny. So that's the way we're going to do it.

20          Let me remind you once again that the fact that  
21          the defendant was arrested and charged and indicted  
22          in this case for the offenses of grand larceny and  
23          burglary in the first degree, that is not evidence  
24          in the case and cannot be considered by you as  
25          evidence of guilt in the case, nor does it create

1 any presumption or inference of guilt. The  
2 indictment is simply the formal document by way this  
3 case comes into the courtroom to be tried.

4 Now, as I told you, he's charged with two  
5 separate offenses; grand larceny and burglary in the  
6 first degree. You will be asked to decide each  
7 indictment separately and apart from the other and  
8 on the evidence and the law applicable to it  
9 uninfluenced by your decision as to the other  
10 indictment. Obviously, he can be convicted of one  
11 or both or acquitted on both or acquitted on one,  
12 convicted on the other. Y'all have to write a  
13 separate verdict. You'll be given a verdict form as  
14 to both of the indictments as to whether he's guilty  
15 of burglary in the first degree or not guilty, and  
16 then you decide the grand larceny. So you have to  
17 decide each one of them separate and apart from the  
18 other.

19 Now, as to these two charges, the defendant has  
20 pled not guilty to the indictments, and that plea of  
21 not guilty puts the burden on the State of South  
22 Carolina to prove the defendant guilty beyond a  
23 reasonable doubt. The person charged with  
24 committing a criminal offense is never required to  
25 prove himself innocent. I charge and instruct you

1           that it is an important Constitutional rule of law  
2           that a defendant in a criminal trial, no matter how  
3           serious the charges may be, will always be presumed  
4           innocent of the crimes for which the indictments  
5           were issued, unless guilt has been proven by  
6           evidence satisfying you of that guilt beyond a  
7           reasonable doubt. The presumption of innocence does  
8           not end when you start your deliberations, but it  
9           stays with the defendant throughout the trial until  
10          you reach a verdict of guilt based on evidence  
11          satisfying you of that guilt beyond a reasonable  
12          doubt.

13                 The presumption of innocence is not a mere  
14          legal theory, it's not just a legal phrase; it's a  
15          substantial Constitutional right to which every  
16          defendant is entitled unless you, the jury, are  
17          satisfied from the evidence that it proves to you  
18          guilt beyond a reasonable doubt.

19                 Now, what is a reasonable doubt? Our law or  
20          Supreme Court and our appellate courts have defined  
21          a reasonable doubt basically in two ways. The very  
22          short way is that a reasonable doubt is the kind of  
23          doubt that would cause a reasonable person to  
24          hesitate to act. The kind of doubt that would cause  
25          a reasonable person to hesitate to act. Proof

1           beyond a reasonable doubt is also said to be proof  
2           that leaves you firmly convinced of the defendant's  
3           guilt. Obviously, there are very few things in the  
4           world that we know with absolute certainty, and in  
5           criminal cases, the law does not require proof that  
6           overcomes every possible doubt. If, based on your  
7           consideration of the evidence, you are firmly  
8           convinced that the defendant is guilty of the crimes  
9           charged, then you must find him guilty; however, on  
10          the other hand, if you think there's a real  
11          possibility that he is not guilty, you must give him  
12          the benefit of the doubt and find him not guilty.

13                 Let me remind you once again, as I have several  
14          times during the trial of the case, that you and I  
15          have two different duties to perform. Obviously, my  
16          duty is to instruct you or charge you on the law and  
17          rule on the admissibility of evidence. I'm the  
18          judge of the law, so you must accept the law as I  
19          give it to you. If you have some preconceived idea  
20          about what the law is or what it should be that does  
21          not agree with what I tell you, please set that  
22          aside and accept the law as I give it to you.

23                 On the other side of the coin, you are the  
24          judges of the facts. You determine what the true  
25          facts are in this case and you apply those true

ORIGINAL

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

\_\_\_\_\_  
Appeal from Aiken County

Doyet A. Early, III, Circuit Court Judge  
\_\_\_\_\_

RECEIVED

APR 16 2015

SC Court of Appeals

THE STATE,

RESPONDENT,

V.

EDDIE MACK STEWART,

APPELLANT

APPELLATE CASE NO. 2014-001324  
\_\_\_\_\_

CERTIFICATE OF SERVICE  
\_\_\_\_\_

I certify that a true copy of the Record on Appeal in the above referenced case has been served upon Megan Harrigan Jameson, Esquire, at Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201 this 16th day of April, 2015.

Brandon Hall  
Brandon Hall  
Administrative Specialist

SUBSCRIBED AND SWORN TO before me  
this 15th day of April, 2015.

Barley Reed (L.S)  
Notary Public for South Carolina

My Commission Expires: October 24, 2021.