

Volume II of II

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Appeal from York County

Paul M. Burch, Circuit Court Judge

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OCT 31 2012

S.C. Supreme Court

KENNETH L. YOUNG,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

Appellate Case No. 2004-030594

APPENDIX

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- 1 A CHARLOTTE, NORTH CAROLINA.
- 2 Q AND DO YOU KNOW ANGELA LAWS?
- 3 A YES, SIR.
- 4 Q HOW DO YOU KNOW MS. LAWS?
- 5 A WE HAD A RELATIONSHIP ONCE.
- 6 Q AND HAS THAT RELATIONSHIP BEEN A DIFFICULT ONE?
- 7 A YES, SIR.
- 8 Q Y'ALL BEEN OFF AND ON WITH EACH OTHER?
- 9 A YES, SIR.
- 10 Q AND WHAT WAS THE MAIN CAUSE OF DIFFICULTY
- 11 BETWEEN YOU AND MS. LAWS?
- 12 A I'M WAS, I'M A MARRIED MAN AND YOU KNOW.
- 13 Q WAS SHE RESENTFUL OF THAT FACT?
- 14 A YES, SIR.
- 15 Q DO YOU KNOW MR. JONES?
- 16 A YES, SIR.
- 17 Q HOW DO YOU KNOW MR. JONES?
- 18 A I MET JONES THROUGH HIS GRANDFATHER.
- 19 Q ALL RIGHT. AND DOES MR. JONES HAVE A CHILD WITH
- 20 THE, A RELATION OF YOURS?
- 21 A WELL, YEAH, A NEPHEW, IT'S HIS COUSIN.
- 22 Q ALL RIGHT. AND HAS THERE BEEN SOME TENSION
- 23 ABOUT THAT?
- 24 A YES, SIR.
- 25 Q AND YOU SAID YOU KNOW MS. LAWS. ON THE DAY OF

1 DECEMBER 22, 2006, DID YOU HAVE OCCASION TO SEE MS.

2 LAWS THAT DAY?

3 A YES, SIR.

4 Q AND WHEN IS THE FIRST TIME YOU SAW HER THAT DAY?

5 A WELL, I STAY WITH HER FOR A COUPLE NIGHTS AND

6 SHE -- WELL, THE DAY BEFORE SHE HAD RENTED A CAR FOR

7 MR. JONES AND THE REASON SHE TOOK THE CAR HOME

8 BECAUSE THE BABY GOT SICK AND I HAD TO TAKE JONES

9 HOME AND THAT MORNING SHE HAD TO GO PICK MR. JONES UP

10 AT HIS HOUSE BECAUSE MR. JONES DIDN'T WANT HER TO

11 COME TO HIS MOTHER HOUSE BECAUSE HE SAID HIS MOTHER

12 MIGHT NOT GO TO WORK BECAUSE TODAY WAS HER BIRTHDAY,

13 SO WENT AND PICKED UP MR. PORTER AND WENT BY AND

14 PICKED UP MR. JONES.

15 Q OKAY. AND WERE YOU IN THE CAR AT THAT TIME?

16 A YES, SIR.

17 Q AND ABOUT WHAT TIME OF THE MORNING WAS THAT?

18 A IT WAS ABOUT 7:30.

19 Q WERE YOU, WERE YOU PRESENT WHEN MS. LAWS RENTED

20 THAT CAR?

21 A YES.

22 Q THE DAY BEFORE?

23 A YES, SIR.

24 Q ALL RIGHT. AND WHAT REASON DID SHE GIVE YOU FOR

25 RENTING THE CAR?

1 A SHE SAID SHE WAS GOING TO -- WELL, I HAD TOOK
2 MR. PORTER TO HIS DAUGHTER'S HOUSE AND THAT'S WHERE I
3 TALKED WITH HIS GRANDSON. I KNOW HIS GRANDSON
4 PROBABLY A YEAR AND I HADN'T SEEN HIM PROBABLY ABOUT
5 NINE MONTHS, BUT HE SAID HE WANTED MS. LAWS TO RENT
6 HIM A CAR AND SO I CALLED HIM AND TOLD HER AND SO WE
7 DROVE, SHE DROVE BACK TO THE JONES HOUSE, PICKED HIM
8 UP AND WENT AND RENTED THE CAR, AND SHE DROVE THE CAR
9 HOME BECAUSE THE BABY GOT SICK, SO THEREFORE I HAD TO
10 TAKE MR. JONES HOME. AND SO THAT MORNING SHE WENT
11 AND PICKED UP THE GRANDFATHER AND MR. JONES.

12 Q OKAY. SO AS FAR AS YOU KNEW, SHE WAS RENTING A
13 CAR ON MR. JONES' REQUEST?

14 A YES, SIR. HE THE ONE THAT GAVE HER THE MONEY.

15 Q I BEG YOUR PARDON?

16 A HE GAVE HER, I THINK HE GAVE HER \$35 TOWARD THE
17 CAR.

18 Q THAT WAS GOING TO BE MY NEXT QUESTION WAS, DO
19 YOU KNOW WHO PROVIDED THE MONEY FOR THE CAR?

20 A MR. JONES GAVE HER THE MONEY.

21 Q SO ABOUT WHAT TIME WERE YOU IN THE CAR THAT
22 MORNING, DO YOU KNOW, WHEN YOU FIRST GOT IN?

23 A IT'S PROBABLY ABOUT 7:30.

24 Q AND WAS IT, WHAT WAS YOUR INTENTIONS TO DO THAT
25 DAY?

1 A I HAD TO PICK UP A CHECK. I WAS DOING SOME WORK
2 AT SUN CITY CAROLINA LAKE, BUILDING A LOT OF HOMES
3 FOR THE ELDERLY PEOPLE, AND I HAD PICK UP A CHECK UP.
4 I USE IT, I COULD WORK BUT IT WAS RAINING SO BAD, YOU
5 KNOW, I DIDN'T GET TO WORK.

6 Q AND WHAT KIND OF WORK DO YOU DO?

7 A CARPENTER.

8 Q AND THIS PLACE YOU ARE DESCRIBING, YOU WERE
9 BUILDING SOMETHING THERE?

10 A YES, SIR.

11 Q WHAT WERE YOU BUILDING?

12 A WE WAS BUILDING HOME FOR THE ELDERS.

13 Q UH-UH.

14 A YEAH, I HELP TO FRAME HOUSES AND STUFF LIKE
15 THAT.

16 Q AND WERE YOU SUPPOSED TO GET PAID THAT DAY ON A
17 FRIDAY?

18 A YEAH, I SUPPOSED TO PICKED UP A CHECK THAT
19 FRIDAY.

20 Q AND WHERE WERE YOU SUPPOSED TO DO THAT?

21 A SIR?

22 Q WHERE WERE YOU GOING TO PICK UP THAT CHECK?

23 A AT THE BOJANGLES. HE WAS COMING OUT OF
24 GASTONIA, NORTH CAROLINA, AND SUPPOSED TO HAVE MET
25 HIM AT BOJANGLES ON 49.

1 Q ALL RIGHT. AND DID YOU GO TO THE BOJANGLES ON
2 HIGHWAY 49?

3 A YES, SIR.

4 Q AND HOW DID YOU GET THERE?

5 A ANGELA LAWS TOOK ME THERE.

6 Q ALL RIGHT. AND ABOUT WHAT TIME WAS THAT, DO YOU
7 THINK?

8 A IT WAS ABOUT 9:30. WE GOT THERE ABOUT 9:30.

9 Q ALL RIGHT. AND ONCE YOU GOT TO THE BOJANGLES
10 WHAT HAPPENED THEN?

11 A WELL, BEFORE WE WENT TO THE BOJANGLES WE STOP AT
12 ON THE RUN. ANOTHER CAR PULLED UP, MR. PORTER AND
13 HIS GRANDSON JUMPED IN THAT CAR, AND ANGELA, SHE WAS
14 TAKING ME TO THE BOJANGLES. AND AT THAT TIME THEY
15 PULLED UP, WHEN THEY PULLED UP, I WENT IN THE
16 BOJANGLES AND ORDERED SOMETHING TO EAT AND MR. JONES
17 WENT BEHIND THE CAR AND THEY ALL JUMPED IN THE CAR.

18 Q ALL RIGHT. WELL, LET ME BACK UP JUST A LITTLE
19 BIT. SO Y'ALL STOPPED, YOU AGREE YOU STOPPED AT ON
20 THE RUN?

21 A YES, SIR, WE STOPPED AT ON THE RUN.

22 Q AND WHAT IS THAT?

23 A THAT'S A SERVICE STATION. I USED TO GO THERE
24 AND PLAY LOTTERY AND STUFF LIKE THAT.

-25 Q IS THAT WHEN THE LOTTERY WASN'T LEGAL IN NORTH

1 CAROLINA?

2 A YES, SIR.

3 Q ALL RIGHT. SO YOU GOT OUT OF THE CAR AT THAT
4 TIME AT THE ON THE RUN?

5 A I GOT OUT OF THE CAR AND GOT IN THE FRONT SEAT.

6 Q OKAY. WHO ELSE GOT OUT?

7 A PORTER AND HIS GRANDSON.

8 Q AND WHERE DID THEY GO?

9 A THEY GOT IN ANOTHER CAR.

10 Q OKAY. AND WHAT TYPE OF CAR WAS THAT?

11 A IT WAS A WHITE, I THOUGHT IT WAS SOMETHING LIKE
12 T-BIRD, THUNDERBIRD, IT'S A OLD CAR.

13 Q OKAY. AND WERE THERE ANY OTHER PEOPLE IN THAT
14 THUNDERBIRD?

15 A YES, SIR.

16 Q HOW MANY OTHER PEOPLE WERE THERE?

17 A JUST A DRIVER.

18 Q ALL RIGHT. AND DO YOU KNOW WHERE THAT CAR WENT?

19 A NO, SIR.

20 Q ALL RIGHT. SO YOU LEFT THE ON THE RUN, YOU WENT
21 TO THE BOJANGLES, AND YOU GOT THERE 9:30?

22 A ABOUT 9:30, YES, SIR.

23 Q DID YOU EVER SEE THAT THUNDERBIRD AGAIN AT THAT
24 TIME?

25 A YES, SIR. IT PULLED UP PROBABLY ABOUT 25

1 MINUTES AFTER WE GOT THERE.

2 Q ALL RIGHT. AND --

3 A 25 OR 30 MINUTES.

4 Q ---WHAT WERE YOU DOING AT THAT TIME?

5 A WELL, I WAS SITTING IN THE CAR TALKING TO

6 ANGELA. I WAS WAITING ON THE MAN WHO I WORK FOR TO

7 BRING ME A CHECK.

8 Q UH-HUH.

9 A SO ABOUT THAT TIME THEY PULLED UP, I WENT ON IN

10 BOJANGLES.

11 Q ALL RIGHT. AND WHAT HAPPENED AT THAT POINT?

12 WHERE DID THE FORD THUNDERBIRD GO AT THAT POINT?

13 A OH, IT STAYED THERE.

14 Q ALL RIGHT. AND MS. LAWS' CAR, THE GRAY FORD

15 TAURUS, WHERE DID IT GO?

16 A IT LEFT OUT, IT PULLED OUT.

17 Q OKAY. DO YOU KNOW WHO WAS IN THAT CAR?

18 A MS. LAWS, SHE WAS DRIVING. IT WAS MR. JONES AND

19 MR. PORTER. I DIDN'T KNOW THE OTHER GUY.

20 Q OKAY. SO WHERE DID THIS OTHER PERSON COME FROM?

21 A HE WAS DRIVING THE OTHER CAR.

22 Q THE FORD THUNDERBIRD?

23 A YEAH. I THINK IT WAS A FORD THUNDERBIRD IF I'M

24 NOT MISTAKEN.

25 Q SO HE GOT OUT OF HIS CAR AND GOT IN WITH

1 MS. LAWS?

2 A YES, SIR.

3 Q AND DID THEY LEAVE THE BOJANGLES AT THAT TIME?

4 A YEAH, THEY LEFT THE BOJANGLES.

5 Q AND DO YOU KNOW ABOUT WHAT TIME THAT WAS?

6 A PROBABLY WAS ABOUT TEN, ABOUT TEN AFTER TEN OR
7 SOMETHING LIKE THAT, TEN O'CLOCK, TEN AFTER TEN. WE
8 GOT AT BOJANGLES ABOUT 9:30. WE SIT THERE PROBABLY
9 ABOUT 30 MINUTES.

10 Q AND DID MS. LAWS UNDERSTAND THAT YOU WERE GOING
11 TO STAY AT THE BOJANGLES?

12 A YEAH, SEE, SEE I WAS SUPPOSED TO BEEN GOING TO
13 WORK, BUT WHEN I GOT THE PHONE CALL, HE SAID THAT IT
14 WAS RAINING TOO BAD IN SOUTH CAROLINA AND TOLD ME
15 THAT HE PROBABLY BRING THE CHECK BY ABOUT THREE
16 O'CLOCK TO SPEEDY, IT'S A SPEEDY TEMP SERVICE IN
17 CHARLOTTE, NORTH CAROLINA, THAT'S WHERE I SUPPOSED TO
18 HAVE MET HIM AT AT THREE O'CLOCK, SO AT THAT TIME I
19 CALLED ANGELA ON THE CELL AND SEE WAS SHE CLOSE BY
20 BECAUSE MY IMPRESSION SHE WAS GOING TO TAKE SOME GUYS
21 TO CASH SOME CHECKS, AND WHEN I CALLED HER I ASKED
22 HER WAS SHE CLOSE BY, SHE SAID YEAH, SHE'D DOWN
23 THROUGH THERE IN ABOUT TWO MINUTES. YOU KNOW, SHE
24 WAS ON THE WAY.

25 Q OKAY. SO AS FAR AS YOU KNEW WHEN SHE LEFT THE

1 BOJANGLES SHE WAS GOING TO TAKE SOMEBODY TO CATCH
2 CHECKS?

3 A YEAH, THAT WAS MY IMPRESSION.

4 Q ALL RIGHT. HOW LONG WAS SHE GONE BETWEEN THE
5 TIME SHE LEFT AND THE TIME YOU CALLED HER ON THE CELL
6 PHONE?

7 A OH, SHE WAS GONE PROBABLY ABOUT 25 MINUTES. 30
8 MINUTES AT THE MOST.

9 Q AND THE PERSON THAT GOT IN THE CAR WITH MS. LAWS
10 AT THE BOJANGLES, CAN YOU DESCRIBE HIM?

11 A HE WAS A SORT OF BROWN SKINNED GUY, SORT OF BIG
12 GUY. HE WAS PROBABLY ABOUT FIVE, ABOUT 5' 10" -
13 5' 11".

14 Q MUSCULAR BUILD IS THAT WHAT YOU MEAN BY BIG?

15 A YES, SIR, SORT OF MUSCULAR BUILD. I NEVER SEEN
16 HIM BEFORE.

17 Q OKAY. YOUNG OR OLD?

18 A HE WAS A YOUNG GUY.

19 Q ALL RIGHT. YOU DIDN'T, DID YOU KNOW THIS
20 INDIVIDUAL?

21 A NO, SIR.

22 Q DID THE OTHER PEOPLE IN THE CAR SEEM TO KNOW
23 HIM?

24 A I THINK MR. JONES KNEW HIM.

25 Q OKAY. SO YOU PLACED A CALL TO MS. LAWS AND SHE

1 SAID SHE WAS COMING BACK TO THE BOJANGLES?

2 A YEAH, SHE SAID SHE WAS ON THE WAY AND SHE TOLD
3 ME TO STAY AT THE ENTRANCE, THAT SHE WOULD PICK ME
4 UP, SAID SHE WASN'T GOING TO PULL IN, SO AT THAT TIME
5 I WENT, I WAITED ON HER, I WAS GETTING WET A LITTLE
6 BIT, SO WHEN SHE PULLED OUT, THE GUY JUMPED OUT, I
7 JUMPED IN.

8 Q AND THE PERSON THAT GOT OUT, WHERE DID HE GO?

9 A HE WENT BACK TOWARDS HIS CAR AT BOJANGLES.

10 Q AT THE PARKING LOT?

11 A YES.

12 Q YOU GOT IN THE CAR, WHERE DID YOU GET IN AT?

13 A I GOT ON ON THE PASSENGER SIDE, BACK REAR
14 PASSENGER.

15 Q AND WHO WAS IN THE CAR AT THAT POINT?

16 A MR. JONES WAS IN THE BACK AND MR. PORTER WAS IN
17 THE FRONT SEAT.

18 Q AND WHO WAS DRIVING?

19 A MS. LAWS.

20 Q ALL RIGHT. AND DID SHE PULL OFF?

21 A YES, SIR.

22 Q WHICH DIRECTION WAS SHE GOING?

23 A SHE WAS GOING TOWARDS, ACROSS BUSTER BOYD BRIDGE
24 BLIND.

25 Q I'M SORRY?

1 A SHE WAS DRIVING FAST.

2 Q WHEN YOU GOT IN THE CAR, DID YOU DO ANYTHING

3 ELSE?

4 A WE WAS, THERE WAS A HOODIE ON THE SEAT. I PUT

5 IT ON.

6 Q AND WHAT IS A HOODIE?

7 A IT WAS LIKE A LITTLE LIGHT BLUE JACKET.

8 Q UH-HUH.

9 A YEAH, I PUT IT ON BECAUSE I HAD GOT WET WAITING

10 ON HER TO COME AND PICK ME UP.

11 Q IT WAS RAINING THAT DAY?

12 A YES, SIR.

13 Q SO ONCE YOU PUT THAT JACKET ON, WHAT HAPPENED

14 NEXT?

15 A WE WAS RIDING, WE GOT, WENT ACROSS THE BRIDGE,

16 AND WE, SHE ENTERED INTO LIKE GOING TOWARDS CAROWINDS

17 BOULEVARD AND A COP GOT BEHIND HER AND I NOTICED

18 JONES KEPT STUFFING SOMETHING IN THE PILLOWCASE AND

19 SO.

20 Q WHERE WAS THAT PILLOWCASE THE FIRST TIME YOU SAW

21 IT?

22 A IT WAS LIKE BETWEEN HIS LEGS. I NEVER KNOW WHAT

23 IT WAS UNTIL LIKE THE POLICE GOT BEHIND US AND THEN I

24 SEEN HIM START STUFFING STUFF IN THERE.

25 Q OKAY. AND WHAT WAS HE PUTTING IN THAT

1 PILLOWCASE?

2 A I THINK HE THREW A PISTOL IN THERE AND WAS
3 TRYING TO PUT SOME, I THINK HE HAD A PAIR OF SNEAKERS
4 OR SOMETHING HE PUT IN THERE.

5 Q OKAY. DID YOU SEE HIM PUT ANYTHING ELSE IN IT?

6 A NO, SIR.

7 Q FROM WHERE YOU WERE SITTING COULD YOU SEE WHAT
8 WAS IN THE BAG?

9 A NO, SIR.

10 Q ALL RIGHT. AFTER MR. JONES STARTED PUTTING
11 STUFF IN THE BAG, WHAT HAPPENED NEXT?

12 A THE POLICE GOT BEHIND US THEN THEY WAS TELLING
13 HER DRIVE, HIT '77, AND MS. LAWS SNATCHED A WIG OFF
14 HER HEAD AND HANDED IT TO JONES BUT HE WAS PUTTING
15 STUFF IN THE BAG, AND SO HE DIDN'T NEVER GET THE WIG
16 FROM HER. I GUESS SHE THREW IT DOWN IN THE FRONT
17 SEAT OR SOMETHING. SO AT THAT TIME, YOU KNOW, I WAS
18 SHOCKED. I DIDN'T KNOW WHAT WAS GOING ON.

19 Q OKAY. LET ME ASK YOU ABOUT THE WIG. HAD MS.
20 LAWS HAD THE WIG ON WHEN SHE DROPPED YOU OFF?

21 A YES, SIR.

22 Q DOES SHE WEAR A WIG SOMETIMES?

23 A YES, SIR.

24 Q ALL RIGHT. DID SHE HAVE ANYTHING ELSE ON HER
25 HEAD?

1 A I THINK SHE HAD ON A CAP.

2 Q ALL RIGHT. DO YOU KNOW WHERE THE WIG WENT ONCE

3 SHE TOOK IT OFF?

4 A NO, SIR.

5 Q AT THE TIME THAT SHE WAS TAKING THE WIG OFF HER

6 HEAD, WERE THE POLICE ALREADY HAVING THEIR BLUE

7 LIGHTS AND SIREN ACTIVATED?

8 A YES, SIR.

9 Q AND WHAT DID MS. LAWS DO THEN?

10 A SHE WAS JUST DRIVING.

11 Q AND DID YOU KNOW WHERE SHE WAS GOING?

12 A SHE WAS HEADED TOWARDS CHARLOTTE.

13 Q DID ANYBODY IN THE CAR SAY ANYTHING TO YOU ABOUT

14 WHAT HAD HAPPENED?

15 A NO, SIR.

16 Q SO DID YOU KNOW WHY THE POLICE WERE PURSUING

17 YOU?

18 A NO, I DIDN'T KNOW..

19 Q DID MS. LAWS EVER STOP OR PULL OVER OR ANYTHING

20 DURING THE COURSE OF THE TIME THE POLICE WERE BEHIND

21 HER?

22 A NO, SIR. I THINK SHE WENT INTO A MCDONALD AND

23 SORT OF SKIDDED, THE CAR SORT OF SKIDDED, AND SHE

24 PULLED BACK OUT.

25 Q ALL RIGHT. AND WHERE DID THE CAR GO THEN?

1 A WENT BACK DOWN I THINK IT WAS ARROWOOD

2 BOULEVARD, ARROWOOD.

3 Q ARE YOU FAMILIAR WITH THAT AREA?

4 A NO, SIR.

5 Q ALL RIGHT. DID, WHAT HAPPENED AS FAR AS THE CAR
6 GOES AT THAT POINT?

7 A SHE HEADED TOWARDS SOME APARTMENTS AND AT A DEAD
8 END.

9 Q DO YOU KNOW THOSE APARTMENTS, ARE YOU FAMILIAR
10 WITH THEM?

11 A NO, SIR.

12 Q WHEN SHE GOT TO THE DEAD END, WHAT HAPPENED?

13 A THEN ONE OF THE PATROL CARS RAN INTO THE DOOR AS
14 JONES WAS TRYING TO FLEE, RAN INTO THE DOOR, AND
15 KNOCKING JONES BACK INTO THE CAR. WELL, HE FELL BACK
16 INTO THE CAR.

17 Q ALL RIGHT. DID MR. JONES TRY TO GET OUT?

18 A YES, SIR.

19 Q DID HE MAKE IT MOST OF THE WAY OUT?

20 A WELL, HE WAS, HAD ONE OF HIS LEGS OUT AND WHEN
21 THE CAR HIT HIM THREW HIM BACK IN THE CAR. THAT'S
22 HOW.

23 Q WHAT DID MR. JONES HAVE IN HIS HANDS WOULD HE
24 TRIED TO GET OUT?

25 A HE HAD A PILLOWCASE.

1 Q WAS IT THE SAME ONE YOU HAD SEEN HIM STUFFING
2 THINGS INTO PREVIOUSLY?

3 A YES, SIR.

4 Q ONCE THE PATROL CAR HIT AND MR. JONES FELL BACK
5 INTO THE CAR, WHAT HAPPENED TO THE PILLOW CASE?

6 A OH, THE PILLOWCASE. WHEN IT HIT, HE FELL BACK
7 IN THE CAR, THE PILLOWCASE AT THAT TIME I WAS WAITING
8 ON THE OFFICERS BECAUSE WHEN HE, WHEN I OPENED MY
9 DOOR I WAITING ON THE OFFICER TO COME IN BACK TO THE
10 CAR, SO I DON'T KNOW WHAT HAPPENED TO THE PILLOWCASE
11 AFTER THAT.

12 Q OKAY.

13 A I DIDN'T SEE IT.

14 Q DID, YOU WERE SITTING IN THE, ON THE PASSENGER
15 SIDE IN THE REAR, IS THAT CORRECT?

16 A YES, SIR.

17 Q AND THE CAR HIT ON THE OTHER SIDE, WHERE
18 MR. JONES WAS?

19 A YES, SIR.

20 Q WAS THERE ANYTHING OBSTRUCTING YOUR DOOR?

21 A NO, SIR.

22 Q DID YOU TRY TO RUN?

23 A NO, SIR.

24 Q DID YOU HAVE ANY THOUGHTS OF GETTING AWAY?

25 A HAVE ANY THOUGHTS OF GETTING AWAY?

1 Q YES, SIR.

2 A I DIDN'T, LIKE I SAY, I DIDN'T KNOW WHAT WAS
3 GOING ON.

4 Q DID YOU HAVE ANY REASON TO RUN?

5 A NO, I DIDN'T HAVE NO REASON TO RUN AT ALL.

6 Q OKAY. SO YOU WEREN'T DRIVING THE CAR, RIGHT?

7 A NO, SIR.

8 Q SO YOU COULDN'T HAVE BEEN RESPONSIBLE FOR ANY
9 TRAFFIC VIOLATION, RIGHT?

10 A RIGHT. YES, SIR.

11 Q DID YOU, UP UNTIL THE TIME THE POLICE PULLED YOU
12 OUT OF THE CAR, PUT HANDCUFFS ON YOU AND ARRESTED
13 YOU, DID YOU KNOW WHAT MS. LAWS AND MR. JONES HAD
14 BEEN UP TO PRIOR TO THAT TIME?

15 A NO, SIR. I WAS UNDER THE IMPRESSION THEY WAS,
16 THEY WAS GOING TO CASH CHECKS.

17 Q OKAY.

18 A YEAH.

19 Q AND BY CASHING CHECKS DO YOU MEAN LITERALLY THEY
20 WERE CASHING A CHECK THAT BELONGED TO THEM OR DO YOU
21 MEAN THEY WERE FORGING A CHECK?

22 A I DON'T KNOW. SHE JUST TOLD ME SHE WAS GOING TO
23 TAKE JONES AND YOU KNOW CASH A CHECK OR SOMETHING.

24 Q ALL RIGHT. SO WHEN THE POLICE WALKED UP TO YOUR
25 DOOR, DID YOU RESIST ARREST?

1 A NO, SIR.

2 Q DID YOU COOPERATE WITH THE POLICE?

3 A YES, SIR.

4 Q WHEN THEY GOT YOU OUT OF THE CAR AND FOUND, AND

5 SEARCHED YOU, DID THEY FIND ANYTHING ON YOUR PERSON?

6 A THEY WENT AND TOOK SOME, SOME KIND OF SPRAY OUT

7 OF THE HOODIE, IT WAS A POCKET AND THEY WENT INSIDE

8 THERE AND SAID SOMETHING, THEY SAID, HERE GO THE

9 MACE. YOU KNOW, I DON'T KNOW WHAT HE TALKING ABOUT,

10 HERE GO THE MACE.

11 Q UH-HUH.

12 A SO THEY THREW ME ON THE GROUND AND PUT

13 HANDCUFFS, PICK ME UP, PUT HANDCUFFS ON ME, AND PUT

14 ME IN THE CAR.

15 Q OKAY. WHEN IS THE FIRST TIME YOU SAW THE MACE?

16 A WHEN HE PULLED IT OUT OF MY POCKET.

17 Q AND WAS THAT, THE POCKET THEY GOT IT OUT OF, WAS

18 THAT THE SAME SHIRT YOU HAD PUT ON WHEN YOU GOT IN

19 THE CAR?

20 A YEAH. THE HOODIE THAT I SKIPPED OVER, YES, SIR.

21 Q WHAT HAPPENED AFTER THAT?

22 A I THINK OFFICER STRAIT CAME AND WAS AT THE CAR

23 AND ASKED FOR MY DRIVING LICENSE AND READ ME MY

24 RIGHTS AND THEY TOOK ME OUT TO THE SOUTH CAROLINA CAR

25 AND PUT ME IN NORTH CAROLINA CAR.

1 Q AND DID THEY TRANSPORT YOU TO CHARLOTTE
2 MECKLENBURG POLICE DEPARTMENT?

3 A YES, SIR.

4 Q AND DID YOU STAY IN CUSTODY THERE AWHILE?

5 A YES, SIR.

6 Q AND THEN DID YOU FINALLY WIND UP BACK DOWN HERE?

7 A YES, SIR.

8 Q AND THEY SERVED WARRANTS ON YOU WHEN YOU GOT
9 HERE?

10 A YES, SIR.

11 Q AND WERE THOSE WARRANTS FOR BANK ROBBERY AND
12 SOME OTHER THINGS?

13 A YES, SIR.

14 Q WELL, I'M GOING TO ASK YOU THE OBVIOUS QUESTION,
15 MR. YOUNG, DID YOU COMMIT A BANK ROBBERY?

16 A NO, SIR.

17 Q DID YOU COMMIT A KIDNAPPING?

18 A NO, SIR.

19 Q DID YOU CONSPIRE WITH MR. JONES AND MS. LAWS TO
20 ROB A BANK OR GIVE THEM ANY INFORMATION ABOUT ROBBING
21 A BANK?

22 A NO, SIR.

23 Q DO YOU KNOW ANYTHING ABOUT WHAT HAPPENED AT THE
24 BANK OF YORK ON THE 22 OF DECEMBER 2006?

25 A NO, SIR.

1 MR. JAMIESON: NO FURTHER QUESTIONS, YOUR
2 HONOR.

3 MR. BRACKETT: WHO GOES?

4 THE COURT: I BELIEVE ACTUALLY I'LL LET
5 THE STATE GO AND THEN MR. PORTER.

6 MR. BRACKETT: VERY GOOD.

7 CROSS EXAMINATION BY MR. BRACKETT:

8 Q GOOD AFTERNOON, MR. YOUNG. HOW ARE YOU?

9 A ALL RIGHT.

10 Q SO THIS IS JUST A BIG MISTAKE, IS THAT WHAT
11 ESSENTIALLY?

12 A I MEAN, I HAVEN'T COMMITTED NO CRIME.

13 Q A HORRIBLE MISUNDERSTANDING?

14 A I SAY I HAVEN'T COMMITTED ANY CRIME.

15 Q THIS BLUE HOODIE?

16 A YEAH.

17 Q THAT'S THE ONE YOU WERE WEARING?

18 A YES, SIR, THAT'S THE ONE.

19 Q IN THE CAR?

20 A YES, SIR.

21 Q AND YOU GOT WET SO YOU DECIDED TO PUT THIS ON?

22 A I HAD ANOTHER SHIRT ON AND I JUST PUT THAT OVER
23 ME.

24 Q YEAH, AFTER YOU GOT WET?

25 A I WASN'T WET. I WAS, IT WAS DAMP.

1 Q I SEE. BECAUSE YOU WERE STANDING OUT IN THE
2 RAIN?

3 A WELL, NO, I WASN'T STANDING OUT THERE. SHE TOLD
4 ME SHE'D BE UP THERE IN TWO MINUTES SO I WAS COMING
5 OUT THE BOJANGLES AND GOT IT THERE.

6 Q YOU MET HER ON THE SIDEWALK RIGHT THERE?

7 A AT THE ENTRANCE.

8 Q OF 49. DID SHE PULL IN?

9 A NO, SHE DIDN'T PULL IN.

10 Q SHE STOPPED ON 49?

11 A SHE STOPPED AT THE ENTRANCE OF BOJANGLES AS,
12 WHEN YOU TURN TO COME IN.

13 Q OFF OF 49?

14 A YES, SIR.

15 Q OKAY. SO YOU DRIVING DOWN 49, BOJANGLES IS ON,
16 WELL, BANK OF YORK IS FIRST AND THEN THERE IS A
17 LITTLE OFFICE BUILDING AND THEN FIFTY YARDS PAST THE
18 BANK OF YORK THERE IS THE BOJANGLES?

19 A I DON'T KNOW. I CAN'T, I DON'T KNOW WHERE THE
20 BANK AT.

21 Q OKAY. BUT AS YOU ARE COMING DOWN 49 ON THE
22 RIGHT, THERE IS A TURN IN WHERE YOU TURN OFF OF 49 TO
23 GO TO THE BOJANGLES, RIGHT, INTO THE PARKING LOT?

24 A YES, SIR, THE ENTRANCE.

25 Q SO YOU WERE STANDING BASICALLY ON THE SIDE OF

1 THE ROAD AND SHE PULLED UP?

2 A NO, SIR.

3 Q I GUESS I'M TRYING TO FIND OUT, DID SHE PULL IN
4 OFF OF 49?

5 A NO, SIR.

6 Q OR DID SHE STOP IN THE LANE?

7 A SHE, SHE DIDN'T STOP IN THE LANE. SHE PULLED
8 OVER AS YOU COME IN AT THE ENTRANCE AND TOLD ME SHE
9 WAS GOING TO MEET ME, TOLD ME TO MEET HER AT THE
10 ENTRANCE, SHE WASN'T GOING TO PULL IN, SO WHEN SHE
11 WAS COMING UP BEFORE THE CAR EVEN STOPPED, THE DOOR
12 OPENED AND A GUY JUMPED OUT AND I JUMPED IN.

13 Q WHILE THE CAR WAS STILL MOVING?

14 A YEAH, BEFORE IT EVEN CAME TO A COMPLETE STOP.

15 Q DID IT EVER COME TO A COMPLETE STOP?

16 A YEAH.

17 Q OR DID IT KEEP ROLLING?

18 A YEAH, IT CAME TO A COMPLETE STOP.

19 Q SO SHE BASICALLY PULLED IN AND THEN JUST BLOCKED
20 THE ENTRANCE BRIEFLY WHILE YOU GUYS WERE, HE WAS
21 GETTING OUT AND YOU WERE GETTING IN?

22 A BASIC, YEAH.

23 Q SO SHE WAS A LITTLE BIT OUT OF THE ROADWAY BUT
24 STILL PARALLEL WITH THE ROAD?

25 A BASICALLY, YEAH.

- 1 Q AND THEN THE BACK PASSENGER DOOR OPENS AND
2 MYSTERY MAN JUMPS OUT?
- 3 A RIGHT.
- 4 Q AND KENNETH YOUNG JUMPS IN?
- 5 A RIGHT.
- 6 Q CLOSES THE DOOR AND OFF SHE GOES?
- 7 A YES, SIR.
- 8 Q AND YOU PUT ON THIS HOODIE?
- 9 A YES, SIR.
- 10 Q I SEE. NOW THESE ARE YOUR PANTS?
- 11 A YES, SIR.
- 12 Q YOU WERE WEARING THOSE?
- 13 A YES, SIR.
- 14 Q MYSTERY MAN DIDN'T LEAVE THESE BEHIND?
- 15 A THEM ARE MY PANTS.
- 16 Q THOSE ARE YOUR PANTS, ALL RIGHT. THE MACE WAS
17 IN THERE?
- 18 A YES, SIR.
- 19 Q AND YOU SAW THEM PULL IT OUT?
- 20 A WELL, HE PULLED IT OUT AND HE SAID HERE GO THE
21 MACE.
- 22 Q OKAY. HOW WAS ANGELA LAWS DRIVING ON THE WAY
23 FROM THE BOJANGLES AFTER YOU GOT IN THE CAR?
- 24 A SHE WAS SPEEDING. SHE WAS DRIVING FAST.
- 25 Q OKAY. DID THAT CONCERN YOU?

1 A I MEAN I WAS WONDERING, YOU KNOW, WHY SHE WAS
2 DRIVING THAT FAST, YEAH. IT CONCERNED ME, YEAH.

3 Q DID YOU ASK HER?

4 A NO, I DIDN'T ASK HER.

5 Q WHAT WAS THE OTHER PEOPLE IN THE CAR SAYING?

6 A WASN'T NOBODY SAYING ANYTHING.

7 Q OKAY. DID YOU SEE ANY GUNS INSIDE THE CAR?

8 A NOT RIGHT THEN.

9 Q WHEN DID YOU FIRST SEE A GUN?

10 A WHEN THE POLICE GOT BEHIND THE CAR AND JONES WAS
11 STUFFING IN THE BAG.

12 Q I SEE. WHERE DID HE GET THE GUNS?

13 A I DON'T KNOW WHERE HE GOT IT FROM.

14 Q PORTER WAS IN THE CAR WHEN YOU GOT IN THE CAR
15 AND TRADED PLACES WITH THE MYSTERY MAN, IS THAT
16 RIGHT?

17 A YES, SIR.

18 Q OKAY. DID YOU SEE WHICH CAR THE MYSTERY MAN RAN
19 TO IN THE BOJANGLES PARKING LOT?

20 A NO, SIR.

21 Q OKAY. HOW LONG WERE YOU AT THE BOJANGLES?

22 A PROBABLY ABOUT 30 MINUTES.

23 Q ALL TOGETHER 30 MINUTES?

24 A NO, IT WASN'T ALL TOGETHER. WE GOT THERE ABOUT
25 9:30. I WENT INSIDE BOJANGLES PROBABLY ABOUT TEN. I

1 PROBABLY STAYED IN PROBABLY ABOUT 30 MINUTES INSIDE
2 THE BOJANGLES.

3 Q YOU GOT THERE AT 9:30 AND THEN YOU WENT IN AT
4 TEN. WHERE WERE YOU FROM 9:30 OR TEN?

5 A I WAS SITTING IN THE CAR WITH MS. LAWS.

6 Q SO YOU SAT IN THE CAR WITH MS. LAWS AND
7 MR. PORTER?

8 A NO, SIR. MR. PORTER HAD GOT INTO ANOTHER CAR.
9 AS SOON AS THEY PULLED UP, I WENT INTO THE BOJANGLES.

10 Q OKAY. WHEN THEY GOT INTO THE OTHER CAR AT ON
11 THE RUN?

12 A NO, SIR. WHEN THEY GOT IN ANOTHER CAR AT ON THE
13 RUN WHEN MS. LAWS LEFT, WENT TO THE BOJANGLES, 30
14 MINUTES LATER THEY PULLED UP.

15 Q WHO GOT IN THE CAR AT ON THE RUN?

16 A IT WAS MR. JONES AND MR. PORTER.

17 Q INTO THE OLDER MODEL T-BIRD?

18 A YES, SIR.

19 Q WITH THE MYSTERY MAN DRIVING?

20 A YES, SIR.

21 Q AND YOU STAYED IN THE CAR WITH MS. LAWS?

22 A YES, SIR.

23 Q AND THEN WENT TO THE BOJANGLES?

24 A YES, SIR.

25 Q AND SAT IN THE PARKING LOT FOR 30 MINUTES?

- 1 A YEAH, WAITING ON MY BOSSMAN TO COME TO.
- 2 Q AND THEN THE T-BIRD PULLS UP?
- 3 A IT PULLED UP.
- 4 Q AND PARKED?
- 5 A IT PARKED RIGHT BESIDE HER CAR, THE CAR SHE WAS
- 6 DRIVING, THE RENT A CAR.
- 7 Q WAS SHE PARKED ON THE SIDE CLOSEST TO BANK OF
- 8 YORK OR FURTHEST AWAY FROM BANK OF YORK?
- 9 A I DON'T KNOW WHERE THE BANK OF YORK AT. I CAN'T
- 10 SPEAK ON THAT. I DON'T KNOW WHERE BANK OF YORK, I
- 11 DON'T KNOW WHICH LOCATION BANK OF YORK AT.
- 12 Q YOU HAVEN'T FIGURED IT OUT FROM ALL THE
- 13 TESTIMONY THAT'S BEEN GOING ON IN THE COURTROOM?
- 14 A LIKE I SAY I'M -- I DON'T KNOW. I DON'T KNOW.
- 15 Q OKAY. AND AT THAT POINT THE MYSTERY MAN,
- 16 JOHNNELL PORTER, AND DONSHAVIS JONES GET OUT OF THE
- 17 OLDER MODEL T-BIRD?
- 18 A YES, SIR.
- 19 Q AND THEY WALK OVER TO THE CHARCOAL GRAY FORD
- 20 TAURUS THAT ANGELA LAWS RENTED?
- 21 A YES, SIR.
- 22 Q AND THEY GET IN?
- 23 A YES, SIR.
- 24 Q AND YOU GET OUT?
- 25 A NO, I WAS ALREADY HEADED ON IN BOJANGLES WHEN

1 THE CAR PULLED UP. AT THAT TIME JONES WENT IN THE
2 BACK OF THE CAR AND THEY GOT IN THE CAR AND LEFT.

3 Q OKAY. AND THEN YOU ARE WAITING AT THE BOJANGLES
4 FOR WHO?

5 A I WAS WAITING THERE FOR A GUY I WORK WITH.

6 Q WHAT'S HIS NAME?

7 A HE'S A MEXICAN GUY.

8 Q A MEXICAN GUY?

9 A YEAH.

10 Q WHAT'S HIS NAME?

11 A CARLOS MINTE.

12 Q CARLOS MINTE?

13 A YES, SIR.

14 Q AND WHAT COMPANY IS THAT?

15 A HE WAS, HE GOT HIS OWN BUSINESS. I WAS HELPING
16 HIM OUT.

17 Q AND THE COMPANY DOESN'T HAVE A NAME?

18 A HE'S, THAT'S ALL WORK DOWN THERE. IT'S A LOT OF
19 MEXICANS I WAS WORKING WITH.

20 Q I SEE, HOW DID YOU MEET THIS FELLOW?

21 A I MET HIM THROUGH TEMP SERVICE, SPEEDY TEMP. I
22 WAS GOING OUT THERE TO DO SOME CONSTRUCTION, CLEANING
23 UP BACK THERE, AND I HELP HIM BACK THERE.

24 Q AT SUN CITY?

25 A YES, SIR. HE'S GOT HIS OWN CREW, SUN CITY.

1 Q IN LANCASTER?
2 A YES, SIR.
3 Q SOUTH CAROLINA?
4 A YES, SIR.
5 Q CARLOS MINTE?
6 A YES, SIR.
7 Q HOW LONG DID YOU KNOW CARLOS?
8 A PROBABLY ABOUT SEVEN MONTHS.
9 Q WHAT CARLOS' PHONE NUMBER?
10 A IT'S BEEN AWHILE.
11 Q CARLOS MINTE WAS SUPPOSED TO GIVE YOU A CHECK?
12 A YES, SIR.
13 Q WHERE IS CARLOS NOW?
14 A I DON'T KNOW. I'VE BEEN LOCKED UP FOR THE PAST
15 SEVERAL MONTHS.
16 Q BUT CARLOS WAS SUPPOSED TO MEET YOU AT THE
17 BOJANGLES?
18 A YES, SIR.
19 Q AND CARLOS CALLED YOU AT THE BOJANGLES?
20 A NO, SIR. WELL, I HAD CALLED HIM. HE SUPPOSED
21 TO HAVE BEEN MEETING ME THERE TO BRING ME THE CHECK.
22 Q UH-HUH.
23 A AND HE CALLED ME BACK AND SAID THAT IT WAS
24 RAINING SO HE'D BRING IT BY SPEEDY TEMP IN CHARLOTTE
25 SO I DIDN'T HAVE NO PROBLEM.

- 1 Q SPEEDY TEMP IN CHARLOTTE?
- 2 A IT'S A TEMP SERVICE IN CHARLOTTE.
- 3 Q WHERE IS THAT LOCATED?
- 4 A IT'S ON ROSLYN FERRY ROAD.
- 5 Q ROZ?
- 6 A ROSLYN FERRY ROAD.
- 7 Q ROSLYN FERRY?
- 8 A OFF OF BEATTYS FORD ROAD.
- 9 Q R-O-S-L-Y-N?
- 10 A YES, SIR.
- 11 Q FERRY, F-E-R-R-Y?
- 12 A YES, SIR.
- 13 Q AND THAT IS, WHO DO YOU KNOW OVER AT SPEEDY
- 14 TEMP?
- 15 A WELL, THE PEOPLE THAT RUN IT.
- 16 Q UH-HUH. AND THEY'RE THE ONES THAT HOOKED YOU UP
- 17 WITH CARLOS?
- 18 A NO, SIR. I WAS DOING WORK FOR SPEEDY TEMP GOING
- 19 TO SUN CITY CAROLINA LAKES TO WORK AND I MET CARLOS
- 20 THROUGH THERE, AT THE PLACE, AND I GOT ON WITH HIM.
- 21 Q OKAY. SO YOU MET HIM INDEPENDENT, SO SPEEDY
- 22 TEMP WOULDN'T KNOW ANYTHING ABOUT CARLOS EITHER?
- 23 A NO, SIR.
- 24 Q ALL RIGHT. DOES ANYBODY KNOW ANYTHING ABOUT
- 25 CARLOS BESIDES YOU?

1 A I MEAN ANYBODY LIKE WHO?

2 Q LIKE YOUR FAMILY, ANYBODY, HOW DID HE GET YOU
3 THAT CHECK?

4 A YEAH, ANGELA, ANGELA KNOW HIM. ANGELA MET HIM
5 BEFORE. AS A MATTER OF FACT, SHE TOOK ME, SHE TOOK
6 ME TO BOJANGLES ONE TIME. HE BROUGHT ME A CHECK AND
7 TOOK ME TO CASH A CHECK.

8 Q ANGELA DID?

9 A YES, SIR.

10 Q HOW DID YOU GET-- DID YOU EVER GET THE CHECK?

11 A YES, SIR.

12 Q HOW MUCH WAS IT FOR?

13 A IT WAS \$1800 CHECK.

14 Q \$1800 CHECK?

15 A UH-HUH.

16 Q WHEN DID YOU GET THE CHECK?

17 A IT WAS -- NOT SINCE I'VE BEEN LOCKED UP. I
18 NEVER DID PICK THAT CHECK UP.

19 Q OH.

20 A IT WAS A CHECK THAT I PICKED UP PRIOR TO THAT
21 WAS \$1800.

22 Q CARLOS IS OUT THERE, STILL OUT THERE, WITH YOUR
23 \$1800?

24 A NO, SIR. I HAD PICKED ONE CHECK FROM HIM FOR
25 \$1800.

1 Q AND YOU CALLED CARLOS FROM THE BOJANGLES BECAUSE
2 HE WAS LATE?

3 A SAY WHAT?

4 Q YOU CALLED CARLOS FROM THE BOJANGLES BECAUSE
5 YOU'D BEEN SITTING THERE FOR 30 MINUTES NOW AND HE'S
6 LATE?

7 A NO, HE'S SUPPOSED TO MEET, HE SUPPOSED TO BEEN
8 UP THERE ABOUT TEN O'CLOCK, SO WHEN HE CALLED BACK HE
9 TOLD ME HE WASN'T GOING TO BE ABLE TO MAKE IT.

10 Q SO HE CALLED YOU?

11 A YES, SIR.

12 Q AND HOW DID HE CALL ME?

13 A HOW DID HE CALL ME, I HAD A CELL PHONE.

14 Q WHAT WAS YOUR CELL PHONE NUMBER?

15 A IT WAS [REDACTED].

16 Q THAT'S A [REDACTED]?

17 A [REDACTED].

18 Q SO YOU KNEW YOUR CELL PHONE NUMBER?

19 A YES, SIR.

20 Q AND CARLOS CALLED ON YOUR CELL PHONE THAT
21 MORNING?

22 A YES, SIR.

23 Q AND YOU TOLD ALL THIS TO YOUR ATTORNEY?

24 A YEAH, HE KNOW ABOUT IT.

25 Q OKAY. DID YOU TELL HIM CARLOS' PHONE NUMBER

- 1 TOO?
- 2 A NO, SIR.
- 3 Q YOU DIDN'T? HAVE YOU SPOKEN TO CARLOS ABOUT
- 4 THIS SITUATION?
- 5 A I HAVEN'T EVEN GOT IN TOUCH WITH HIM SINCE I'VE
- 6 BEEN LOCKED UP OR ANYTHING.
- 7 Q OKAY. AND YOU WERE CONVICTED OF (A) CLASS A
- 8 FELONY IN 1986, WEREN'T YOU?
- 9 A YES, SIR.
- 10 Q WHEN DID YOU GET MARRIED?
- 11 A I GOT MARRIED IN '83.
- 12 Q OKAY. YOU STILL MARRIED TO HER?
- 13 A YES, SIR.
- 14 Q WHAT'S HER NAME?
- 15 A ANGELA YOUNG.
- 16 Q AND YOU HAD A PROBLEM WITH MS. LAWS BECAUSE YOU
- 17 WERE HAVING A RELATIONSHIP WITH HER BUT SHE DIDN'T
- 18 APPRECIATE THE FACT THAT YOU WERE MARRIED?
- 19 A BASICALLY.
- 20 Q DID YOUR WIFE APPRECIATE THE FACT THAT YOU HAD A
- 21 RELATIONSHIP WITH MS. LAWS?
- 22 A NO, SIR.
- 23 Q SHE DIDN'T. IT WAS CAUSING YOU ALL KINDS OF
- 24 TROUBLE?
- 25 A ALL KINDS. YOU RIGHT ABOUT THAT.

1 Q WHAT WAS ANYBODY SAYING IN THE CAR WHILE YOU
2 WERE DRIVING?

3 A I NEVER, I WASN'T DRIVING. I NEVER DROVE.

4 Q WELL, WHILE ANGELA LAWS WAS DRIVING, WHAT WERE
5 THEY TALKING ABOUT IN THE CAR?

6 A THEY WASN'T TALKING ABOUT ANYTHING UNTIL THE
7 BLUE LIGHT CAME ON THEN THEY WAS TELLING HER TO
8 DRIVE, KEEP DRIVING, YOU KNOW.

9 Q WHAT WERE YOU TAKING ABOUT?

10 A I MEAN I DIDN'T KNOW WHAT WAS GOING ON.

11 Q YOU WERE JUST SITTING BACK THERE IN SHOCK?

12 A BASICALLY.

13 Q DIDN'T SAY ANYTHING TO ANYBODY?

14 A I MEAN, WHAT COULD I SAY?

15 Q DID YOU HAVE YOUR SEAT BELT ON?

16 A NO, SIR.

17 Q WHAT DID YOU SAY YOUR PHONE NUMBER WAS?

18 A [REDACTED]

19 Q AND CARLOS CALLED YOU ON THAT, HUH?

20 A YES, SIR.

21 Q AND THEN YOU CALLED ANGELA AFTER THAT?

22 A I CALLED HER RIGHT AFTER THAT ON HER CELL PHONE.

23 Q ON HER CELL PHONE?

24 A YES, SIR.

25 Q WHAT WAS HER CELL PHONE NUMBER?

1 A WELL, I GOT IT DIALED INTO MY NUMBER. I JUST
2 STICK IT IN, JUST REDIAL IT.

3 Q SPEED DIAL.

4 A YES, SIR.

5 Q OKAY.

6 A I CAN'T REMEMBER WHAT IT IS OFF THE TOP.

7 Q WAS IT THE NUMBER ONE SLOT OR WAS THAT YOUR
8 WIFE?

9 A MY WIFE WAS IN THE NUMBER ONE SLOT.

10 Q OKAY.

11 A SHE WAS RIGHT BEHIND MY WIFE.

12 MR. BRACKETT: NOTHING FURTHER.

13 MR. JAMIESON: NOTHING FURTHER.

14 THE COURT: MR. PORTER.

15 CROSS EXAMINATION BY MR. PORTER:

16 Q MR. YOUNG, FROM THE BOJANGLES, WHEN YOU WAS
17 DROPPED OFF AT THE BOJANGLES, THE IMPRESSION THAT WE
18 WAS UNDER WAS WE WAS GOING TO CASH CHECKS?

19 A YEAH.

20 Q THE PEOPLE WAS GOING TO CASH CHECKS, IS THAT NOT
21 CORRECT. THAT'S CORRECT?

22 A YES, SIR.

23 Q ALL RIGHT. THE T-BIRD THAT WAS PARKED, AS YOU
24 RECALL, WAS IT, ARE YOU SURE IT WAS A T-BIRD?

25 A I'M NOT SURE. I ASSUME BECAUSE IT'S A OLDER

1 MODEL CAR. IT COULD HAVE BEEN SOMETHING ELSE, BUT IT
2 WAS A WHITE. I'D SAY IT WAS T-BIRD.

3 Q PROBABLY GRAYISH CAR?

4 A IT COULD HAVE BEEN GRAY.

5 Q WELL, WHATEVER INDICATED THAT IT WAS MERCURY
6 SABLE?

7 A IT COULD HAVE BEEN. IT COULD HAVE BEEN.

8 Q FROM THAT POINT ON, WHEN THE CAR PROCEEDED DOWN,
9 YOU WOULDN'T HAVE NO WAY OF KNOWING ANY OTHER
10 INDIVIDUALS GOT IN THAT CAR?

11 A CAN YOU REPEAT THAT AGAIN.

12 Q FROM THE BOJANGLES, WHEN WE LEFT THE BOJANGLES,
13 DID YOU HAVE ANY KNOWLEDGE WHATSOEVER THAT ANYBODY
14 ELSE GOT IN THE CAR OR ANYBODY ELSE GOT OUT OF THE
15 CAR?

16 A NO.

17 Q ARE YOU AWARE OF ANY TENSION BETWEEN PEOPLE IN
18 THE CAR AND, MYSELF INCLUDED, AND ANYBODY ELSE IN THE
19 CAR?

20 A NO, NOT RIGHT, NOT RIGHT THEN.

21 Q SO WHEN THE CAR LEFT YOU, ABOUT HOW LONG WAS IT
22 GONE?

23 A PROBABLY ABOUT 30-35 MINUTES.

24 Q TO CASH CHECKS, IS THAT CORRECT?

25 A YEAH.

1 Q I HAD INDICATED IN CROSS EXAMINING MS. LAWS THAT
2 IT WAS KENTUCKY FRIED CHICKEN, BUT YOU ARE RIGHT, IT
3 WAS BOJANGLES BUT FOR THE RECORD IT WAS BOJANGLES,
4 BUT YOU DID NOT HEAR THE OR YOU DID NOT HAVE NO
5 KNOWLEDGE THAT WHAT HAPPENED THAT I WAS ANY PART OF
6 THAT?

7 A NO, I DIDN'T HAVE NO KNOWLEDGE OF IT.

8 Q OKAY. SO YOU WOULD NOT KNOW THAT I HAD GOT OUT
9 OF THE CAR DOWN THE STREET?

10 A NO.

11 Q ONCE THE CAR CAME BACK AND THE BACK DOOR OPENED,
12 THERE WAS JUST ONLY TWO PEOPLE IN IT? I MEAN THREE
13 PEOPLE?

14 A YEAH.

15 Q THAT'S CORRECT?

16 A YEAH.

17 Q YOU DID NOT HEAR ANY ARGUMENTS BETWEEN MYSELF
18 AND THEM AS THEY ARE SAYING THAT Y'ALL SHOULD HAVE
19 TOLD ME, Y'ALL SHOULD HAVE TOLD ME, YOU DIDN'T HEAR
20 THAT?

21 A I MEAN, WHEN I GOT, WHEN I GOT IN THE CAR SHE
22 WAS SPEEDING LIKE THAT. I MEAN, I WAS TRYING TO
23 WONDER WHAT WAS GOING ON, YOU KNOW.

24 Q RIGHT. BUT YOU DID NOT HEAR ME MAKE A
25 STATEMENT, CURSING THAT YOU SHOULD HAVE TOLD ME WHAT

1 Y'ALL HAD UP?

2 MR. BRACKETT: OBJECTION, IT CALLS FOR
3 HEARSAY AND SELF-SERVING HEARSAY AT THAT.

4 THE COURT: WELL, WHAT ABOUT, WHAT'S THE
5 QUESTION AGAIN?

6 MR. PORTER: I HAD ASK HIM DID HE HEAR ME
7 CURSING TO OCCUPANTS AS HE GETTING IN THE CAR.

8 THE COURT: I'M GOING TO ALLOW THE
9 QUESTION. GO AHEAD.

10 Q DID YOU HEAR?

11 A I CAN'T SAY I HEARD IT, YOU KNOW. ONCE I GOT
12 BACK IN THE CAR I WAS TRYING TO FIGURE OUT WHAT WAS
13 GOING ON BECAUSE THE WAY SHE WAS DRIVING AND I KNEW
14 SOMETHING WASN'T RIGHT.

15 Q HOW LONG AFTER YOU GOT IN THE CAR DID THE BLUE
16 LIGHTS COME UP BEHIND?

17 A ANYWHERE FROM 12 TO 15 MINUTES, I GUESS. ABOUT,
18 IT'S ABOUT TEN MINUTES.

19 Q I REMEMBER, I REMEMBER YOU CHANGING YOUR COAT.

20 MR. BRACKETT: OBJECTION.

21 THE COURT: YOU CAN'T TESTIFY.

22 MR. PORTER: OKAY.

23 THE COURT: YOU GOT TO --

24 Q WHEN YOU GOT, WHEN YOU GOT IN IN THAT PARTICULAR
25 MOMENT I WAS IN THE FRONT SEAT AND I TURNED AROUND

1 YOU DIDN'T HEAR ME ASK SOMEBODY A QUESTION PERTAINING
2 TO STILL WHY YOU DIDN'T TELL ME, WHY YOU DIDN'T TELL
3 ME?

4 A I CAN'T SAY I DID, MR. PORTER. I MEAN LIKE I
5 SAID WHEN I GOT BACK IN THE CAR, THE WAY SHE WAS
6 DRIVING, SHE WAS DRIVING LIKE, YOU KNOW, I WASN'T, I
7 WAS TRYING TO FIGURE OUT WHAT WAS GOING ON.

8 MR. PORTER: NO FURTHER QUESTIONS.

9 THE COURT: ALL RIGHT. MR. JAMIESON.

10 MR. JAMIESON: NOTHING ON REDIRECT.

11 THE COURT: YOU CAN STEP DOWN. HAVE A
12 SEAT AT THE TABLE. CALL YOUR NEXT WITNESS.

13 MR. JAMIESON: THAT WOULD BE OUR CASE,
14 YOUR HONOR.

15 THE COURT: MR. PORTER.

16 MR. D'AGOSTINO: THE DEFENDANT PORTER
17 RESTS, YOUR HONOR.

18 THE COURT: ANYTHING IN REPLY?

19 MR. BRACKETT: YES, YOUR HONOR, I JUST
20 NEED ONE MINUTE TO HAVE THAT READY.

21 THE COURT: ALL RIGHT. WE'LL WAIT ON YOU.

22 MR. BRACKETT: YOUR HONOR, IN REPLY THE
23 STATE WOULD CALL MRS. JANIE KENNEDY.

24 THE COURT: PLEASE COME FORWARD.

25 JANIE KENDRICK, BEING FIRST DULY

1 SWORN WAS EXAMINED AND TESTIFIED AS FOLLOWS:

2 DIRECT EXAMINATION BY MR. BRACKETT:

3 Q MA'AM, WOULD YOU PLEASE STATE YOUR FULL NAME AND
4 SPELL YOUR LAST FOR THE COURT REPORTER?

5 A JANIE KENDRICK. K-E-N-D-R-I-C-K.

6 Q AND WHERE DO YOU LIVE, MRS. KENDRICK, JUST WHAT
7 AREA OF YORK COUNTY, NOT PHYSICAL ADDRESS BUT?

8 A RIVER HILLS.

9 Q OKAY. AND HOW LONG HAVE YOU LIVED AT RIVER
10 HILLS?

11 A ABOUT FIVE YEARS.

12 Q ALL RIGHT. AND CAN YOU TELL THE JURY WHERE YOU
13 BANK?

14 A BANK OF YORK.

15 Q HOW LONG HAVE YOU BANKED THERE?

16 A PROBABLY FOUR OR FIVE YEARS.

17 Q DID YOU HAPPEN TO BE AT THE BANK OF YORK ON
18 DECEMBER 22, 2006, AROUND 10:25-10:30 IN THE MORNING?

19 A YES, SIR.

20 Q A FEW DAYS BEFORE CHRISTMAS?

21 A YES, SIR.

22 Q AND DID YOU, HOW DID YOU GET TO THE BANK?

23 A I DROVE.

24 Q YOU DROVE YOURSELF. NOBODY DROVE YOU?

25 A I DROVE MYSELF.

1 Q WHAT COLOR CAR DO YOU DRIVE; WHAT KIND OF CAR?
2 A WHITE.
3 Q AND WHAT KIND OF CAR?
4 A NISSAN.
5 Q ALL RIGHT. NOW WHEN YOU WENT TO THE BANK OF
6 YORK, DID YOU GO INTO THE BANK OF YORK?
7 A I WENT TO THE DRIVE-THRU WINDOW.
8 Q WAS ANYBODY ELSE AT THE DRIVE-THRU WINDOW?
9 A THERE WAS ANOTHER LADY.
10 Q OKAY.
11 A AT THE DRIVE-THRU.
12 Q AND WHEN YOU PULLED UP, WAS SHE ALREADY THERE OR
13 DID SHE PULL UP AFTER YOU?
14 A SHE WAS ALREADY THERE.
15 Q ALL RIGHT. AND WHAT DID YOU OBSERVE AS YOU
16 PULLED INTO THE DRIVE-THRU LANE?
17 A WHEN I PULLED UP TO THE DRIVE-THRU LANE THE LADY
18 ROLLED HER WINDOW DOWN AND SAID I'VE BEEN SITTING
19 HERE QUITE AWHILE AND SHE SAID NOBODY HAS COME TO
20 WAIT ON ME WHICH IS UNLIKE THE TELLERS THERE. AND
21 SHE SAID I THINK MAYBE THE BANK MIGHT BE GETTING
22 ROBBED AND I WAS LIKE, NO, NOT REALLY. AND THEN I
23 DROVE AROUND, I JUST DROVE THE BANK AND BACK INTO THE
24 TELLER LINE, THERE WAS NO ACTIVITY IN FRONT OF THE
25 BANK AT THAT TIME.

1 Q WAS THE OTHER LADY STILL THERE?

2 A SHE WAS STILL SITTING THERE.

3 Q OKAY.

4 A AND NO ONE HAD COME TO THE TELLER WINDOW.

5 Q COULD YOU SEE ANYTHING INSIDE THE BANK?

6 A NO.

7 Q WERE THERE ANY PEOPLE INSIDE ON THE OTHER SIDE
8 OF THE GLASS INSIDE WHERE THE TELLERS NORMALLY ARE.

9 A I GOT OUT OF MY CAR AT ONE TIME AND LOOKED INTO
10 THE TELLER WINDOW, NOT REALLY CLOSE, BUT I DID LOOK
11 IN THERE AND I DIDN'T SEE ANYBODY.

12 Q OKAY. TELL US WHAT HAPPENED NEXT?

13 A I GOT BACK IN MY CAR AND SAT THERE FOR A COUPLE,
14 ABOUT A MINUTE I GUESS AND THEN A CAR PULLED OUT, A
15 GRAY FORD PULLED OUT, AND WE FIGURED IF THAT WAS
16 SOMEBODY ROBBING THE BANK THEN THAT WAS THEIR CAR.

17 Q ALL RIGHT.

18 A AND SO WHEN THEY GOT UP TO GET ON 49 I PULLED UP
19 BEHIND THEM.

20 Q OKAY. AND COULD YOU SEE THE CAR VERY WELL?

21 A I SAW THE CAR REALLY WELL. I DIDN'T SEE WHO WAS
22 INSIDE BUT I DID SEE THE CAR. IT WAS A GRAY FORD.

23 Q ALL RIGHT. AND DID YOU OBSERVE WHICH WAY DID
24 THE CAR GO?

25 A THE CAR TURNED RIGHT.

1 Q ONTO --

2 A ONTO HIGHWAY 49.

3 Q ALL RIGHT. AND FROM WHERE YOU WERE COULD YOU

4 SEE THE CAR MOVING DOWN HIGHWAY 49?

5 A YES, I COULD.

6 Q ALL RIGHT. TELL US WHAT YOU SAW THE CAR DO?

7 A THE CAR TURNED RIGHT GOING DOWN HIGHWAY 49

8 TOWARD RIVER HILLS.

9 Q BUSTER BOYD BRIDGE?

10 Q ALL RIGHT.

11 A I DID SEE THE CAR PASS BOJANGLES.

12 Q OKAY.

13 A YOU CAN SEE BOJANGLES FROM 49 FROM THE BANK.

14 Q HOW CLOSE IS THE BOJANGLES TO THE BANK?

15 A I REALLY DON'T KNOW. YOU CAN JUST WALK THERE IN

16 A MINUTE. I MEAN IT'S JUST THAT CLOSE. I MEAN YOU

17 CAN JUST, THE EXIT TO THE BANK AND THE ENTRANCE AND

18 THE EXIT TO BOJANGLES, BOJANGLES ENTRANCE AND THE

19 EXITS BOTH THE SAME AND I MEAN YOU CAN SEE VERY

20 CLEARLY.

21 Q ALL RIGHT. IS THERE ANY, ANY, DID THE CAR SLOW

22 DOWN OR COME TO ANY KIND OF STOP --

23 A NO, SIR.

24 Q ---AT ALL NEAR THE BOJANGLES?

25 A NO, SIR.

1 Q DID YOU SEE ANY PEOPLE STANDING OUT IN FRONT OF
2 THE BOJANGLES APPROACH THE CAR AS IT DROVE PAST?

3 A NO, SIR.

4 Q WAVING?

5 A NO, SIR.

6 Q WHAT DID YOU DO AFTER THAT?

7 A I WENT BACK TO THE TELLER LINE, BACK TO THE
8 DRIVE-THRU WINDOW.

9 Q OKAY. AND WHAT DID YOU, DID YOU SEE ANYBODY IN
10 THE TELLER WINDOW AT THIS TIME?

11 A YES, ONE OF THE TELLERS CAME TO THE WINDOW.

12 Q AND WHAT WAS HER EMOTIONAL STATE?

13 A THE LADY JUST SAID, HAVE Y'ALL BEEN ROBBED AND
14 SHE SAID YES, WE HAVE. YES, WE HAVE.

15 Q OKAY.

16 A AND THEN THE MANAGER, I BELIEVE, CAME TO THE
17 WINDOW RIGHT AFTER SHE DID AND I TOLD THEM THAT IT
18 WAS A GRAY FORD HAD JUST PULLED OUT WITH A TAG ON IT
19 THAT LOOKED LIKE A, IT WASN'T A REGULAR SOUTH
20 CAROLINA TAG. IT LOOKED LIKE A DEALER TAG OR SOME
21 KIND OF OUT OF STATE TAG BECAUSE IT HAD A LOT OF
22 NUMBERS ON IT.

23 Q ALL RIGHT.

24 A INSTEAD OF LIKE 317 PRJ. IT WAS JUST NUMBERS.

25 Q I SEE. AND SO AS THE FORD PULLED OUT OF THE

- 1 BANK PARKING LOT ONTO HIGHWAY 49?
- 2 A UH-HUH.
- 3 Q YOUR WHITE CAR APPROACHED IT?
- 4 A UH-HUH.
- 5 Q AND THEN BACKED UP?
- 6 A UH-HUH.
- 7 Q AFTER A FEW SECONDS AND YOU WERE, WERE YOU ABLE
- 8 TO SEE IT CLEARLY HEADING DOWN HIGHWAY 49?
- 9 A YES.
- 10 Q ANY QUESTION IN YOUR MIND ABOUT WHETHER IT
- 11 STOPPED AT THE BOJANGLES?
- 12 A NO, SIR.
- 13 Q THANK YOU VERY MUCH. PLEASE ANSWER ANY
- 14 QUESTIONS THAT MR. JAMIESON HAS.
- 15 CROSS EXAMINATION BY MR. JAMIESON:
- 16 Q MY NAME IS PHILLIP JAMIESON AND I REPRESENT
- 17 MR. YOUNG. THE BOJANGLES IS THAT CLOSE TO THE BANK
- 18 OF YORK?
- 19 A YES, SIR.
- 20 Q ARE YOU FAMILIAR WITH THAT?
- 21 A YES, SIR.
- 22 Q IS THERE ANY OTHER BOJANGLES ON HIGHWAY 49?
- 23 A NOT CLOSE TO THE BANK OF YORK.
- 24 Q BUT DO YOU KNOW IF THERE ARE OTHER BOJANGLES?
- 25 A ON HIGHWAY 49, I DON'T KNOW. I KNOW THERE IS

1 NONE LIKE RIGHT THERE WHERE I BANK AND WHERE THE
2 BOJANGLES IS, THE BANK THAT WAS ACTUALLY ROBBED AND
3 THAT BOJANGLES. I MEAN, THERE IS ANYTHING ELSE CLOSE
4 THERE.

5 Q OKAY. THANK YOU, MA'AM.

6 THE COURT: MR. PORTER.

7 MR. PORTER: YES.

8 CROSS EXAMINATION BY MR. PORTER:

9 Q EXCUSE ME. YOUR CAR IS THE WHITE CAR THAT, HAVE
10 YOU HAD A CHANCE TO SEE THE SURVEILLANCE CAMERA OF
11 THE BANK?

12 A HAPPEN TO SEE WHAT, SIR? I'M SORRY.

13 Q THE SURVEILLANCE CAMERA OF THE BANK?

14 A NO, SIR.

15 Q WELL, THEY HAVE A PICTURE OF THE WHITE CAR THAT
16 PULLED OUT OF THE DRIVE-THRU WINDOW.

17 A UH-HUH.

18 Q AS THE CAR WAS LEAVING THE BANK, WAS THAT YOUR
19 CAR?

20 A I'M SURE IT PROBABLY WAS.

21 Q ALL RIGHT. AND YOU SAY THAT YOU OBSERVED A CAR
22 GOING BUT IT DID NOT STOP AT BOJANGLES?

23 A NO, SIR.

24 Q ON THE VIDEO, I MEAN FROM THE BANK DRIVE-THRU TO
25 BOJANGLES, IS IT A CLEAR SHOT FROM THE BANK?

1 A YES, SIR.

2 Q FROM THE DRIVE-THRU WINDOW IT IS A CLEAR SHOT?

3 A I WAS AT THE EXIT OF THE BANK PARKING LOT LIKE
4 WHERE YOU TURN RIGHT, WHEN I SAW THE CAR GOING DOWN
5 THE ROAD AND I COULD SEE BOJANGLES VERY CLEARLY FROM
6 THAT EXIT.

7 Q OKAY. WERE YOU THAT CAR THAT PULLED UP BEHIND
8 US; OKAY, YOU ALL READY INDICATED THAT YOU PULLED UP,
9 BUT FROM THE VIDEO IT LOOKED LIKE THE CAR PULLED UP
10 TO TRY TO GET THE LICENSE TAG NUMBER?

11 A YES, SIR.

12 Q AND BACKED BACK?

13 A YES, SIR.

14 Q AS YOU WAS BACKING BACK, YOU WERE LOOKING AT THE
15 BOJANGLES OR YOU WASN'T LOOKING WHERE YOU WAS GOING?

16 A WELL, I WAS BEHIND THE GRAY FORD. THE FORD
17 TURNED RIGHT. I WAS TRYING TO GET THE LICENSE NUMBER
18 BUT I WAS SITTING, I SAT THERE FOR A FEW SECONDS AND
19 IT DOESN'T A CAR JUST A FEW SECONDS TO GET TO
20 BOJANGLES AND THE CAR KEPT GOING THERE.

21 Q AND DID NOT YOU SEE THE CAR STOP?

22 A I DID NOT SEE WHAT?

23 Q YOU DID NOT SEE THAT CAR STOP?

24 A NO, SIR.

25 Q I DON'T RECALL BUT THAT MAY HAVE BEEN WHAT

1 HAPPENED, BUT FROM THE WAY IT LOOKED THAT YOU RAN OUT
2 AND LOOKED AT THE CAR AND YOU IMMEDIATELY BACK. BACK
3 UP, YOU IMMEDIATELY BACK BACK UP, BECAUSE BY THEN YOU
4 HAD DETERMINED WHAT?

5 A I HAD THE TURN ON BUTTON?

6 Q YEAH, YOU SAID THAT YOU HAD SUSPECTED THAT THE
7 BANK WAS BEING ROBBED?

8 A YES, SIR.

9 Q WHEN DID YOU GET OUT OF THE CAR?

10 A WHEN DID I GET OUT OF THE CAR?

11 Q YEAH, TO SEE, TO LOOK IN THE BANK WINDOW, BEFORE
12 YOU PULLED OFF OR AFTER?

13 A WHEN I FIRST PULLED UP THE LADY SAID NO ONE HAD
14 COME TO THE WINDOW.

15 Q YES, MA'AM.

16 A I GOT OUT OF THE CAR THEN AND I SAID I DON'T SEE
17 ANYBODY AND THEN I GOT BACK IN MY CAR.

18 Q SO YOUR PURPOSE FOR DOING THAT WAS TO IDENTIFY
19 THAT THE CAR DID NOT STOP AT BOJANGLES, IS THAT
20 CORRECT?

21 A NO, THAT HAD NOTHING TO DO WITH THE BOJANGLES
22 STOP. WHEN I GOT OUT OF THE CAR AND LOOKED IN THE
23 TELLER WINDOW, THE FORD HAD NOT PULLED OUT OF THE
24 FRONT PARKING LOT.

25 MR. PORTER: NO FURTHER QUESTIONS.

1 THE COURT: ALL RIGHT.

2 MR. BRACKETT: ONE BRIEF QUESTION ON
3 REDIRECT.

4 REDIRECT EXAMINATION BY MR. BRACKETT:

5 Q ARE YOU, YOU ARE VERY FAMILIAR WITH THE AREA
6 AROUND RIVER HILLS AND LAKE WYLIE?

7 A YES, SIR.

8 Q IS THERE ANOTHER BOJANGLES WITHIN THREE MINUTES
9 OF THE BANK OF YORK?

10 A NO, SIR.

11 Q THANK YOU.

12 THE COURT: MR. JAMIESON.

13 MR. JAMIESON: BEG THE COURT'S INDULGENCE.

14 THE COURT: CERTAINLY.

15 MR. JAMIESON: YOUR HONOR, WE ASK THAT THE
16 PORTION OF THE VIDEO THAT RELATES TO THE INCIDENT
17 THIS LADY JUST TESTIFIED BE SHOWN.

18 (COMPLIES.)

19 THE COURT: ANYTHING ELSE? DO YOU HAVE
20 ANY QUESTIONS OF THE WITNESS?

21 MR. JAMIESON: YES, I DO, YOUR HONOR.

22 RE CROSS EXAMINATION BY MR. JAMIESON:

23 Q WERE YOU ABLE TO SEE THAT, MA'AM?

24 A NOT VERY CLEAR.

25 Q OKAY. NO QUESTIONS.

1 THE COURT: MR. PORTER:

2 MR. PORTER: NO QUESTIONS.

3 THE COURT: ALL RIGHT. YOU CAN STEP DOWN
4 AND BE EXCUSED. WE APPRECIATE YOUR TIME.

5 A ALL RIGHT. THANK YOU.

6 MR. BRACKETT: THAT'S THE REPLY CASE, YOUR
7 HONOR.

8 THE COURT: MEMBERS OF THE JURY PANEL, YOU
9 HAVE NOW RECEIVED ALL THE EVIDENCE, LET'S GET THIS
10 TURNED OFF, THROUGH TESTIMONY AND EXHIBITS. WE ARE
11 GOING TO BREAK FOR LUNCH UNTIL 2:30 AND WHEN WE COME
12 BACK YOU'LL HEAR THE ATTORNEYS SUMMATION AND
13 MR. PORTER'S SUMMATION, THAT IS CLOSING ARGUMENTS,
14 AND THEN I WILL CHARGE YOU ON THE LAW WHICH YOU ARE
15 TO APPLY TO THE FACTS IN THIS CASE. YOU ARE NOT YET
16 IN A POSITION TO MAKE UP YOUR MIND. YOU HAVEN'T
17 HEARD THOSE THINGS. YOU ARE NOT YET IN THE POSITION
18 TO DISCUSS THE CASE AMONG YOURSELVES FOR THE SAME
19 REASON. AGAIN YOU ARE NOT TO ALLOW YOURSELF TO BE
20 EXPOSED TO ANYTHING ABOUT THE CASE WHILE YOU ARE
21 OUTSIDE OF THE COURT. WE'LL BE BACK AT 2:30. WE'VE
22 GOT SOME MATTERS TO TAKE UP OUTSIDE YOUR PRESENCE BUT
23 I THINK WE'LL BE IN POSITION TO MOVE FORWARD AT 2:30
24 PRETTY PROMPTLY AT THAT TIME, SO HAVE A PLEASANT
25 LUNCH AND WE'LL SEE YOU BACK AT 2:30.

1 (THE JURY EXITS THE COURTROOM AT 01:18
2 PM.)

3 THE COURT: ALL RIGHT. ANYTHING FROM THE
4 STATE?

5 MR. BRACKETT: NO, YOUR HONOR.

6 THE COURT: MR. JAMIESON, ON BEHALF OF MR.
7 YOUNG.

8 MR. JAMIESON: I RENEW MY EARLIER MOTIONS,
9 YOUR HONOR.

10 THE COURT: THE MOTIONS ARE DENIED FOR THE
11 SAME REASONS. THE POSTURE OF THE EVIDENCE HAS NOT
12 CHANGED SINCE THE MOTION WAS MADE.

13 MR. D'AGOSTINO: MR. PORTER JOINS IN THE
14 SAME MOTIONS.

15 MR. PORTER: NO, I HAD A QUESTION.

16 THE COURT: FIRST THE MOTION IS DENIED FOR
17 THE SAME REASONS AS IT WAS DENIED AT THE EARLIER
18 STAGE. ALL RIGHT, MR. PORTER.

19 MR. PORTER: YES, I HAD SOME KIND OF
20 MISUNDERSTANDING WITH MR. BRACKETT JUST NOW ON THE
21 VIDEO. WHEN HE ASKED THE LADY ON THE TESTIMONY AS
22 THE CAR WAS GOING UP AND PULLING BACK, HE HIT THE
23 PAUSE BUTTON TO STOP IT AND INDICATED TO THE JURY
24 THAT SHE HAD A CHANCE TO LOOK DOWN.

25 THE COURT: WELL, ACTUALLY I WAS WATCHING

1 IT AND FOR THE RECORD IT SHOWED HER BACKING UP AND
2 ACTUALLY TURNING LEFT BACK AROUND BEFORE IT WAS
3 PAUSED. I MEAN DOES ANYBODY ELSE DISPUTE THAT,
4 MR. JAMIESON?

5 MR. BRACKETT: I THOUGHT I PAUSED IT JUST
6 TO MAKE SURE THIS WAS THE SPOT THEY WANTED AND THEN I
7 HIT PLAY, IT PLAYED ON THROUGH UNTIL IT ENDED.

8 THE COURT: WELL, HE'S TALKING ABOUT AT
9 THE END. YOU PLAYED IT THROUGH THE END.

10 MR. BRACKETT: YES, SIR, THEN IT ROLLED
11 OVER THE SCREEN WHERE THE MENU POPPED BACK UP AND THE
12 TWO CHOICES CLIP ONE AND CLIP TWO.

13 THE COURT: YOU ARE OBJECTING TO HIM
14 PAUSING IT BEFORE OR AFTER?

15 MR. PORTER: AT THE END OF THAT VIDEO THAT
16 CAR IS SEEN GOING ALL THE WAY BACK TO THE DRIVE-THRU
17 WINDOW WHERE SHE GOT OUT OF THE CAR TO THE TALK TO
18 THE TELLER.

19 THE COURT: WAIT JUST A MINUTE NOW. I
20 CAN'T GET IN THE MIDDLE OF THIS, BUT WHAT I SAW WAS
21 THAT AND THIS WILL BE PART OF THE RECORD IF IT GOES
22 UP ON APPEAL THAT IT LASTED UNTIL SHE, THE WHITE CAR,
23 SAY SHE, WHOEVER IS IN THE WHITE CAR BACK UP AND IT
24 STARTED INTO THE LEFT TURN AND THEN STOPPED. I
25 DIDN'T SEE IT BACK ALL THE WAY TO THE TELLER BUT

1 THAT'S UP TO YOU TO ARGUE TO THE JURY. I'M JUST
2 TELLING YOU I DON'T, I'M NOT SURE WHAT YOUR OBJECTION
3 IS BECAUSE THAT WAS THE END OF THE FILM. THAT'S THE
4 END OF THE TAPE.

5 LET ME ASK YOU THIS, WHILE WE'RE AT
6 LUNCH IF YOU THINK THAT THEY DID NOT PLAY IT TO THE
7 END, I'LL HAVE THEM SHOW IT FOR YOU AND YOU CAN SEE
8 AND IF YOU WANT ANYTHING ELSE PLAYED, IN FAIRNESS, IF
9 IT WAS STOPPED PREMATURELY WE'LL MAKE SURE THAT'S
10 DONE.

11 MR. PORTER: YES.

12 THE COURT: OVER THE LUNCH BREAK IF YOU
13 WOULD RUN IT AGAIN FOR MR. PORTER AND MR. YOUNG AND
14 SEE IF THERE IS ANYTHING ELSE YOU WANT TO SHOW. ALL
15 RIGHT. ANYTHING ELSE, MR. PORTER?

16 MR. PORTER: NO, SIR.

17 THE COURT: ALL RIGHT. ANY REQUEST OF
18 CHARGE FROM THE STATE?

19 MR. BRACKETT: NOTHING SPECIAL, YOUR
20 HONOR. THE STANDARD, OBVIOUSLY THE CRIMES, YOU DO
21 THE VICTOR, MANNING.

22 MR. JAMIESON: I DO HAVE REQUESTS.

23 THE COURT: I'LL LOOK AT THESE OVER LUNCH.
24 WHY DON'T WE RECONVENE ABOUT 2:15 AND THAT WILL GIVE
25 US 15 MINUTES TO LOOK AT THEM. I WILL GO AHEAD AND

1 ASK YOU FIRST AND THEN I'LL COME TO YOU, MR. PORTER.
2 MR. JAMIESON, DO YOU HAVE ANY THOUGHT THAT THERE ARE
3 ANY LESSER INCLUDED OF ANY OF THESE? I CAN'T THINK
4 OF ANY LESSER INCLUDED FOR ANY OF THESE OFFENSES BUT
5 I CERTAINLY WANT TO HEAR FROM YOU.

6 MR. JAMIESON: NO, SIR, I DON'T THINK SO.

7 THE COURT: MR. PORTER, DO YOU HAVE ANY
8 REQUEST ON THE LAW YOU WANT ME TO CHARGE? I'LL LET
9 YOU GO OVER THAT OVER LUNCH. I KNOW WE'RE SAYING
10 WE'LL DO A LOT OVER LUNCH, BUT WE'RE AT THE STAGE
11 WHERE WE KIND OF NEED TO.

12 MR. D'AGOSTINO: WE DO NOT HAVE ANY
13 ADDITIONAL, OTHER THAN THE STANDARD REQUEST OF CHARGE
14 AND BE SURE THE COURT CHARGES RIGHT TO REMAIN SILENT.

15 THE COURT: ALL THOSE STANDARD BOILERPLATE
16 MATERIAL WILL BE CHARGED, ALONG WITH THE CHARGES ON
17 THE PARTICULAR OFFENSES, AND THEN WE'LL LOOK AT
18 MR. YOUNG, MR. JAMIESON'S OVER THE BREAK. SO LET'S
19 RECONVENE AT 2:15. I KNOW THAT'S NOT QUITE AN HOUR.
20 IT MIGHT BE A FEW CRACKERS BUT I THINK WE CAN GET
21 THIS TO THE JURY BY LATE THIS AFTERNOON.

22 (COURT'S IN RECESS AT 01:23 PM.)

23 (COURT RESUMES AT 02:23 PM.)

24 THE COURT: IS THE STATE READY TO DISCUSS
25 THE CHARGES?

1 MR. BRACKETT: YES, SIR. OUT OF THE TEN
2 CHARGES, AND THEN I HAVE SOME CASE LAW THAT DOESN'T
3 APPEAR TO BE RELATED TO THE CHARGES, AND I DON'T KNOW
4 WHETHER OR NOT THERE'S SOME ADDITIONAL CASE LAW THAT
5 I WAS SUPPOSED TO GET AND IT'S AN ERROR OR.

6 MR. JAMIESON: NO, IT WAS JUST A PACKAGE
7 OF EVERYTHING THAT I INTENDED TO USE.

8 THE COURT: MR. JAMIESON, BEFORE WE GO TO
9 THE CHARGES, ANYTHING ON BEHALF OF MR. YOUNG?

10 MR. JAMIESON: NO, YOUR HONOR.

11 THE COURT: MR. PORTER, DO YOU HAVE
12 ANYTHING BEFORE WE GO OVER THE REQUEST OF CHARGE?
13 LET'S PUT ON THE RECORD, OVER LUNCH DID YOU HAVE A
14 CHANCE TO LOOK AT THE TAPE THAT WE TALKED ABOUT.

15 MR. PORTER: YES, SIR.

16 MR. BRACKETT: YES, SIR.

17 THE COURT: ANYTHING YOU WANT TO DO
18 ABOUT -- I MEAN, DO YOU HAVE ANY COMMENT ABOUT THAT
19 OR ARE YOU JUST READY.

20 MR. PORTER: I HAVE A COMMENT. I WANT TO
21 ASK YOU A QUESTION ABOUT THE LAST REQUEST, BUT NO,
22 NOTHING.

23 THE COURT: OKAY. THANK YOU. ALL RIGHT.
24 THE DEFENDANT REQUEST OF CHARGE NUMBER ONE, I HAVE MY
25 OWN ARMED ROBBERY SO I WILL CHARGE IT.

1 NUMBER TWO, I DIDN'T SEE ANY CASE LAW
2 ON THIS. QUITE FRANKLY, I HAVE NOT HAD THIS
3 SITUATION COME UP SO WHAT IS THIS BASED ON?

4 MR. JAMIESON: IT'S BASED ON THE IDEA,
5 YOUR HONOR, THAT IN ORDER TO COMMIT AN ARMED ROBBERY
6 YOU NECESSARILY HAVE TO CONSTRAIN THE ACTIVITIES OF
7 THE PERSON THAT YOU ARE ROBBING OTHERWISE THEY COULD
8 WALK AWAY AND NO ROBBERY WOULD OCCUR AND WHAT I'M
9 ASKING THE COURT TO CHARGE IS THAT IF THEY ARE GOING
10 TO FIND MY CLIENT GUILTY OF KIDNAPPING THEY WOULD
11 HAVE TO FIND THAT HE DID SOMETHING MORE THAN
12 CONSTRAIN THEM FOR THE PURPOSE OF ROBBING THEM, THAT
13 HE CONSTRAINED THEM BEYOND THE NECESSARY CONSTRAINT
14 THAT WOULD NORMALLY FLOW FROM AN ARMED ROBBERY.

15 THE COURT: WELL, FIRST, OF COURSE, I
16 DON'T SEE ANY AUTHORITY FOR IT. IN THEORY IT SOUNDS
17 LOGICAL, BUT YOU'VE GOT SOME PEOPLE IN HERE THAT THEY
18 WEREN'T ROBBING, LIKE PAUL BAYER AND I DON'T SEE THE
19 OLDER MAN'S NAME ACTUALLY IN HERE, I DON'T KNOW
20 WHETHER HE WAS ONE OF THE ONES CHARGED IN THE
21 KIDNAPPING, BUT THERE WERE PEOPLE INVOLVED THAT HE
22 WASN'T ROBBING, THEY WERE JUST, SO WHAT'S THE STATE
23 POSITION ON THAT?

24 MR. BRACKETT: WE WOULD OPPOSE THAT. I
25 DON'T THINK THAT'S A CORRECT STATEMENT OF THE LAW.

1 THE COURT: I'M NOT GOING TO CHARGE THAT.
2 I WILL MAKE IT A COURT'S EXHIBIT. DO YOU HAVE
3 ANYTHING ON THAT?

4 MR. D'AGOSTINO: WE WERE JUST GOING TO
5 JOIN IN THAT REQUEST OF CHARGE AS WELL, YOUR HONOR.

6 THE COURT: DO YOU HAVE ANY LAW ON IT?

7 MR. D'AGOSTINO: NO, SIR, YOUR HONOR, I
8 DON'T. IT'S THE SAME ARGUMENT AS THE OTHER
9 CO-DEFENDANT.

10 THE COURT: NUMBER THREE, WHAT DOES THE
11 STATE HAVE TO SAY ABOUT THAT?

12 MR. BRACKETT: IT APPEARS TO BE THE
13 STANDARD CHARGE ON ALIBI. IT'S PROBABLY THE EXACT
14 SAME AS YOURS.

15 THE COURT: YES, IT LOOKED FINE TO ME.
16 GENERAL CHARGE ON PROOF BASICALLY I HAVE.

17 MR. BRACKETT: YES, SIR.

18 THE COURT: ACQUITTAL, REASONABLE DOUBT,
19 AND FAILURE OF THE DEFENDANT I HAVE.

20 MR. BRACKETT: YES, SIR.

21 THE COURT: THE BIAS WITH POSSIBLE GAIN
22 APPEARS TO BE ALL RIGHT DOWN TO WHERE IT SAYS, "THUS
23 YOU MAY CONSIDER WHETHER A PARTICULAR WITNESS WAS"
24 AND THEN IT LISTS A BUNCH OF STUFF, BUT THE ONLY ONE
25 I'M GOING TO CHANGE THAT TO SAY MAY CONSIDER WHETHER

1 A PARTICULAR WITNESS HAS ENTERED A PLEA AFTER A
2 BARGAIN WITH THE STATE BECAUSE THAT'S REALLY THE
3 ONLY.

4 MR. BRACKETT: I THINK YOUR GENERAL
5 COMMENT ON BIAS, A GENERAL CHARGE ON BIAS, I'M AFRAID
6 THIS COMES TOO CLOSE TO A COMMENT ON THE FACTS.
7 OBVIOUSLY, THEY CAN ARGUE THAT AND THAT IS A CLASSIC
8 EXAMPLE OF POTENTIAL BIAS, BUT FOR YOU TO
9 SPECIFICALLY SINGLE THAT OUT IN YOUR CHARGE AND SAY
10 AND HERE'S SOMETHING I WANT YOU TO THINK ABOUT I
11 THINK SKIRTS TOO CLOSE TO A JUDICIAL COMMENT ON THE
12 FACTS.

13 THE COURT: LET ME SEE WHAT--DO YOU HAVE
14 ANY AUTHORITY FOR CHARGING IT WITH THAT PRECISION. I
15 SAY THAT THEY CAN CONSIDER BIAS, INTEREST, PREJUDICE,
16 OR MOTIVE AND YOU CAN CERTAINLY ARGUE THAT THESE ARE
17 THINGS THAT.

18 MR. JAMIESON: YOUR HONOR, I THINK IN THIS
19 CASE THERE IS SOME VERY SPECIFIC EVIDENCE, IN FACT
20 THERE IS PLEA BARGAINS IN EVIDENCE, THAT THESE
21 INDIVIDUALS ENTERED INTO AN AGREEMENT WITH THE STATE,
22 PARTICULARLY MS. LAWS, AT THE 11TH HOUR AND THAT SHE
23 GOT A SIGNIFICANT ADVANTAGE AS A RESULT OF THAT.

24 THE COURT: I KNOW THAT. THAT'S A FACT.

25 MR. JAMIESON: YES, SIR.

1 THE COURT: BUT THIS IS THE LAW I'M
2 LOOKING AT.

3 MR. JAMIESON: YES, SIR. I DON'T HAVE A
4 CASE ON POINT FOR CHARGING THIS PARTICULAR WORDING,
5 NO, SIR.

6 THE COURT: HOW ABOUT MR. D'AGOSTINO ON
7 BEHALF OF MR. PORTER.

8 MR. D'AGOSTINO: I DON'T HAVE ANY CASE LAW
9 ON THAT. I DO THINK IT'S APPROPRIATE.

10 THE COURT: I'M NOT GOING TO CHARGE THAT.
11 NOW THE NEXT ONE, EYE WITNESS, NOBODY ID THESE
12 INDIVIDUALS AT THE BANK.

13 MR. JAMIESON: I'LL WITHDRAW THAT, YOUR
14 HONOR. AND THE NEXT ONE WHICH IS ACCURACY FACTORS,
15 I'LL WITHDRAW. I ASSUME YOU DO YOUR NORMAL CHARGE
16 ABOUT WHEN YOU LISTEN TO WITNESSES CONSIDER WHAT
17 OPPORTUNITY THEY HAD TO OBSERVE WHAT THEY SAY THEY
18 OBSERVE.

19 THE COURT: OH, YEAH.

20 MR. JAMIESON: I'LL WITHDRAW THAT.

21 THE COURT: NINE AND TEN I THINK I COVER
22 IN MY USUAL, BUT I'LL MAKE SURE THAT I DO COVER THOSE
23 BECAUSE THOSE ARE PROPER APPLICABLE STATEMENTS OF
24 LAW. WE GOT THEM ALL?

25 MR. IVEY: NO, SIR, STILL TWO SHORT.

1 THE COURT: HOW LONG DOES THE STATE
2 ANTICIPATE?

3 MR. BRACKETT: 30 MINUTES.

4 THE COURT: MR. JAMIESON, YOU KNOW ABOUT
5 HOW LONG YOU'LL TAKE?

6 MR. JAMIESON: LESS THAN THAT, PROBABLY 20.

7 THE COURT: MR. PORTER, DO YOU HAVE ANY
8 IDEA HOW LONG YOU'LL TAKE? I'M NOT GOING TO HOLD YOU
9 TO IT. I'M NOT MAKING YOU BE BOUND BY THAT.

10 MR. PORTER: CLOSER TO 20 OR 30 MINUTES.

11 THE COURT: OKAY. WHAT I'LL PROBABLY DO
12 IS AFTER WE GET THROUGH WITH THE ARGUMENTS I'LL
13 PROBABLY TAKE A SHORT BREAK BECAUSE THAT'S RUNNING
14 CLOSE TO AN HOUR AND A HALF. MY CHARGE IS NOT THAT
15 LONG BUT WITH THIS MANY CHARGES IT WILL BE, IT WON'T
16 BE A 20 MINUTES CHARGE, SO WE'LL TAKE A BREAK AFTER
17 WE GET THROUGH CLOSINGS. ALL RIGHT. BRING THEM IN.
18 MR. PORTER, ARE YOU GOING WANT TO SHOW ANYTHING ON
19 THESE DVDS IN YOUR CLOSING?

20 MR. PORTER: NO, I THINK THEY'VE SEEN THEM
21 PROBABLY AS BEST THEY CAN.

22 THE COURT: ALL RIGHT. WHY DON'T YOU GO
23 AHEAD AND SET IT UP.

24 MR. BRACKETT: IT WON'T TAKE BUT A MINUTE.

25 THE COURT: OKAY.

1 MR. JAMIESON: AS I UNDERSTAND IT WE WOULD
2 PRESENT CLOSING ARGUMENTS FIRST. WE'D ASK THAT THE
3 STATE OPEN ON THE LAW.

4 (THE JURY RETURNS TO THE COURTROOM AT
5 02:37 PM.)

6 THE COURT: THE STATE WILL MAKE OPENING
7 CLOSINGS AND THEN THE DEFENSE, THE DEFENDANTS,
8 MR. JAMIESON AND MR. PORTER ON HIS OWN BEHALF HAVE A
9 RIGHT TO MAKE THEIR CLOSING ARGUMENTS AND THEN THE
10 STATE WILL HAVE THE RIGHT TO FINAL ARGUMENT.

11 MR. BRACKETT: MAY IT PLEASE THE COURT,
12 YOUR HONOR.

13 OPENING STATEMENT ON THE LAW BY MR. BRACKETT:

14 GOOD AFTERNOON. I'M GOING TO ADDRESS YOU
15 BRIEFLY ON THE LAW AND THEN I'M GOING TO SIT DOWN AND
16 THEN MR. JAMIESON AND MR. PORTER WILL HAVE AN
17 OPPORTUNITY TO COME AND ADDRESS YOU IN GENERAL AND
18 THEN I'LL GET BACK UP HERE AND I'LL MAKE MY FINAL
19 ARGUMENT.

20 RIGHT NOW THOUGH I'M GOING TO CONFINE
21 MY COMMENTS TO WHAT THE LAW IS IN THIS CASE, THE
22 SPECIFIC ISSUE OF LAW THAT I THINK YOU NEED TO BE
23 CONCERNED ABOUT, AND BEFORE I LAUNCH INTO IT, I JUST
24 WANT TO TELL YOU THAT JUST AS THE JUDGE HAS
25 INSTRUCTED YOU, YOU ARE THE FINDERS OF THE FACT, LIKE

1 Y'ALL ARE JUDGES, THE 12 JURORS WHO DECIDE THIS CASE
2 COLLECTIVELY ARE THE JUDGES OF WHAT HAPPENED. YOU
3 DECIDE THE TRUTH OF WHAT HAPPENED ON DECEMBER 22,
4 2006, AT THE BANK OF YORK IN LAKE WYLIE. JUST AS YOU
5 ARE THE JUDGES OF THE FACTS AND NO ONE CAN INVADE
6 YOUR PROVENCE, NOBODY CAN COME IN AND TELL YOU HOW TO
7 FIND THE FACTS IN THIS CASE AND TO SAY WHAT REALLY
8 HAPPENED AND WHAT THIS EVIDENCE ALL MEANS; LIKEWISE,
9 THIS GENTLEMAN HERE, JUDGE HAYES, IS THE JUDGE OF THE
10 LAW. HE WILL INSTRUCT YOU ON WHAT THE LAW IS AT THE
11 END OF THE CASE. AFTER THE CLOSING ARGUMENTS ARE
12 SAID AND DONE, THE LAWYERS HAVE SAT DOWN AND FINALLY
13 SHUT UP, YOU WILL HAVE AN OPPORTUNITY TO HEAR FROM
14 HIS HONOR ON WHAT THE ACTUAL LAW IS IN THIS STATE.
15 HE WILL INSTRUCT YOU AS TO WHAT THE LAW IS SO THAT
16 YOU CAN APPLY THE LAW TO THE FACTS AS YOU FIND THEM
17 AND DECIDE WHAT THE TRUE VERDICT WOULD BE.

18 NOW WHAT ARE THE CHARGES IN THIS CASE?
19 ALL, BOTH OF THE DEFENDANTS ARE CHARGED WITH THE SAME
20 THING WITH ONE EXCEPTION AND THAT IS MR. YOUNG HAS AN
21 ADDITIONAL CHARGE OF ASSAULT AND BATTERY OF A HIGH
22 AND AGGRAVATED NATURE SO I'M GOING TO PUT THAT RIGHT
23 THERE FOR NOW AND I WANT TO DISCUSS THE OTHER CHARGES
24 THAT THEY HAVE BECAUSE THIS APPLIES TO BOTH OF THEM.
25 THEY ARE BOTH CHARGED WITH ENTERING A BANK WITH

1 INTENT TO STEAL. YOU'LL HAVE THE ORIGINAL
2 INDICTMENTS WITH YOU BACK THERE IN THE JURY ROOM AND
3 BASICALLY ENTERING A BANK WITH INTENT TO STEAL, THE
4 LAW ON THAT IS PRETTY MUCH THE SAME AS THE TITLE OF
5 THE CRIME. THEY WENT INTO A BANKING INSTITUTION WITH
6 THE INTENT TO STEAL MONEY BY FORCE OR INTIMIDATION
7 UNLAWFULLY TAKING IT FROM THE BANK. VERY STRAIGHT
8 FORWARD. MOST OF THESE ARE.

9 KIDNAPPING. THIS IS THE ONLY ONE I
10 WANT TO SPEND A COUPLE OF EXTRA MINUTES ON BECAUSE
11 THIS IS THE ONLY ONE YOU MIGHT BE CONFUSED ABOUT.
12 MOST PEOPLE THINK KIDNAPPING INVOLVES STEALING A
13 CHILD AWAY FROM HIS PARENTS AND HOLDING THEM FOR
14 RANSOM AND THAT'S THE TYPICAL DEFINITION OF
15 KIDNAPPING THAT MOST PEOPLE HAVE. BUT IN SOUTH
16 CAROLINA, IN MOST STATES, KIDNAPPING IS REALLY JUST
17 FORCIBLY CONFINING SOMEBODY, FORCING THEM TO GO
18 SOMEWHERE, STAY SOMEWHERE, RESTRICTING THEIR
19 MOVEMENT, PREVENTING THEM FROM DOING WHAT THEY WANT
20 TO DO, AND GO WHERE THEY WANT TO GO BY FORCE
21 TRIGGERING, TRICKERY, THERE IS A BUNCH OF DIFFERENT
22 WORDS YOU'LL HEAR, CONFINING, SEIZING, INVEIGLING,
23 DECOYING, THE JUDGE WILL GIVE YOU A LENGTHY
24 DEFINITION; BUT WHAT WE'RE TALKING ABOUT HERE ARE
25 THESE TWO GUYS WENT BANK OF YORK AND AT GUN POINT

1 FORCED ALL OF THE PEOPLE INSIDE OF THE BANK INTO THE
2 VAULT AND TWO CUSTOMERS THAT WERE IN THERE AS WELL.
3 IN THE COURSE OF DOING THAT, ALL SEVEN OF THE
4 EMPLOYEES AND BOTH CUSTOMERS WERE KIDNAPPED. THEY
5 WERE FORCED TO GO WHERE THEY DIDN'T WANT TO GO UNDER
6 CIRCUMSTANCES THEY DIDN'T WANT TO GO THERE. WHILE IN
7 THE VAULT, THEY ACTUALLY WENT ONE STEP FURTHER
8 SEALING THE DEAL, IF THERE IS ANY QUESTION IN
9 ANYBODY'S MIND BY SHOVING MR. MORGAN DOWN, AND
10 FORCING THE OTHER PEOPLE IN THERE SO THAT THEY COULD
11 PULL THE GATE CLOSED AND LOCK THEM INSIDE, THEY
12 DIDN'T REALIZE THEY HAD A KEY IN THERE, THAT DOESN'T
13 MATTER, THEIR INTENTION WAS TO LOCK THEM INSIDE THE
14 VAULT, SO THAT THEY COULD, SO THERE WOULD BE SOME
15 TIME BEFORE THEY COULD CALL FOR HELP.

16 KIDNAPPING AND ARMED ROBBERY ARE BOTH
17 VIOLENT CRIMES. BOTH OF THE DEFENDANTS ARE CHARGED
18 WITH POSSESSION OF A FIREARM DURING THE COMMISSION OF
19 A VIOLENT CRIME. IN SOUTH CAROLINA IT'S UNLAWFUL TO
20 COMMIT A VIOLENT CRIME WHILE ARMED WITH A FIREARM AND
21 IT'S A SEPARATE CRIMINAL OFFENSE SO THEY'VE BEEN
22 INDICTED FOR THAT. YOU HAVE THE FIREARMS ACTUALLY IN
23 EVIDENCE, YOU'LL HAVE THEM BACK IN THE JURY ROOM WITH
24 YOU, THE NINE MILLIMETER SMITH AND WESSON AND THE .38
25 CALIBER REVOLVER.

1 ARMED ROBBERY, TAKING THE PROPERTY OF
2 ANOTHER PERSON WHILE ARMED WITH A DEADLY WEAPON.
3 PRETTY STRAIGHT FORWARD. IF YOU TAKE SOMEBODY ELSE'S
4 PROPERTY AT GUN POINT OR KNIFE POINT OR A PIPE, ANY
5 KIND OF DEADLY WEAPON, THERE ARE A VARIETY OF
6 DEFINITIONS BUT THE ONLY ONE THAT MATTERS FOR OUR
7 CASE IS A PISTOL AND YOU'LL HEAR THE JUDGE TELL YOU
8 THAT A PISTOL IS A DEADLY WEAPON. YOU TAKE THEIR
9 PROPERTY WHILE ARMED WITH A PISTOL YOU ARE GUILTY OF
10 ARMED ROBBERY.

11 AND FINALLY THE ONE INDICTMENT THEY
12 HAVEN'T COMMENTED ON, CONSPIRACY TO COMMIT ARMED
13 ROBBERY. IT SOUNDS THE SAME AS ARMED ROBBERY EXCEPT
14 IT'S DIFFERENT. THE CONSPIRACY PART IS THE DIFFERENT
15 THING. CONSPIRACY IS JUST AN AGREEMENT TO DO A
16 CRIMINAL ACT. I WANT TO MENTION AT THE VERY
17 BEGINNING OF THE CASE, A CONSPIRACY IS AN AGREEMENT
18 AND THE AGREEMENT ITSELF IS THE CRIME. WHEN TWO OR
19 MORE PEOPLE GATHER TOGETHER TO ACCOMPLISH A CRIMINAL
20 ACT IT MAKES IT MORE LIKELY THEY ARE GOING TO
21 SUCCEED, THUS HUNDREDS OF YEARS AGO THE CRIME OF
22 CONSPIRACY WAS BORN AND THE CHARGE OF CONSPIRACY WAS
23 BORN AND PEOPLE REALIZED WHEN YOU HAVE A GROUP OF
24 PEOPLE WORKING TOWARDS A CRIMINAL PURPOSE, IT MAKES
25 IT MORE LIKELY THEY ARE GOING TO SUCCEED AT IT, SO

1 WE'RE GOING TO CRIMINALIZE THAT CONDUCT. YOU CAN'T
2 GET TOGETHER WITH A BUNCH OF PEOPLE AND AGREE TO DO A
3 CRIME. THAT'S WHAT HAPPENED HERE. THEY CONSPIRED
4 AMONG THEMSELVES, MR. YOUNG AND MR. PORTER, BUT THE
5 CONSPIRACY EXTENDS TO MR. JONES AND TO MS. LAWS, THEY
6 WERE MEMBERS OF THE CONSPIRACY AS WELL AND, YOU HEARD
7 THEM COME INTO THIS COURT AND TELL YOU THAT THEY WERE
8 PART OF THIS CONSPIRACY, THAT THEY WERE PART OF THE
9 PLAN, AND THEY KNEW WHAT WAS GOING TO HAPPENED AND
10 THEY ACTIVELY PARTICIPATED IN IT. CRIMINAL
11 CONSPIRACY TO COMMIT ARMED ROBBERY.

12 A FINAL ONE CHARGE THAT'S DIFFERENT IS
13 ASSAULT AND BATTERY OF A HIGH AND AGGRAVATED NATURE
14 CHARGING KENNETH YOUNG WITH THAT OFFENSE AND THAT IS
15 SIMPLY FOR THE FACT THAT HE CARRIED THE MACE AND
16 MACED THESE PEOPLE AS THEY WERE CRAWLING ON THEIR
17 HANDS AND KNEES BACK TO THE VAULT. YOU HEARD
18 MULTIPLE WITNESSES TESTIFY FOR NO APPROPRIATE REASON
19 MR. YOUNG WAS STANDING THERE SHAKING THE CAN OF MACE
20 AND SPRAYING THEM. YOU HEARD MR. BAYER TESTIFY HE
21 GOT SPRAYED BY THE MACE IN THE EYES, THAT'S AN
22 AGGRAVATED ASSAULT AND BATTERY, AND THAT'S WHY WE
23 HAVE THE SEPARATE INDICTMENT FOR MR. YOUNG THAT IS
24 NOT THERE FOR MR. PORTER.

25 NOW YOU ARE GOING HEAR IN THE JUDGE'S

1 CHARGE THE WORDS REASONABLE DOUBT. YOU ARE GOING
2 HEAR THEM A BUNCH OF TIMES. I JUST WANT TO COMMENT
3 VERY BRIEFLY. A REASONABLE DOUBT IS THE KIND OF
4 DOUBT FOR WHICH YOU CAN GIVE A REASON, A GOOD REASON,
5 NOT A FANCIFUL REASON, NOT A WHIMSICAL REASON, A REAL
6 SOLID REASON. A REASONABLE DOUBT IS THE KIND OF
7 DOUBT THAT WOULD CAUSE A PERSON TO HESITATE TO ACT TO
8 MAKE AN IMPORTANT DECISION. YOU ARE GOING TO HEAR ME
9 SUM UP THE EVIDENCE HERE IN A FEW MINUTES AND I
10 SUBMIT THERE IS NO REASONABLE DOUBT IN THIS CASE.
11 THERE IS NONE, ABSOLUTELY NONE, BUT I DON'T WANT YOU
12 TO THINK THAT A REASONABLE DOUBT IS JUST ANY OLD
13 FLIMSY DOUBT THAT YOU CAN SAY, WELL, MAYBE MARTIANS
14 LANDED -- THAT WOULD BE AN UNREASONABLE DOUBT
15 OBVIOUSLY. IT HAS TO BE SOMETHING SOLID THAT MAKES
16 YOU GO, WELL, THAT REALLY COULD HAVE HAPPENED. IF
17 THAT HAPPENED, THEY MIGHT NOT BE GUILTY. THERE IS
18 NONE OF THAT HERE, BUT THAT IS THE CONCEPT THAT THE
19 JUDGE IS GOING DEFINE. THAT'S THE STANDARD BY WHICH
20 YOU HAVE TO DECIDE THE GUILT OF THESE DEFENDANTS IS
21 REASONABLE DOUBT. AND THE JUDGE WILL CHARGE YOU
22 EXTENSIVELY ON THAT AND YOU WILL HEAR THE WORDS
23 REASONABLE DOUBT EXTENSIVELY THROUGHOUT HIS CHARGE.
24 NOW THAT IS MY OPENING SALVO ON THE
25 LAW. PLEASE PAY ATTENTION AS MR. JAMIESON AND

1 MR. PORTER MAKE ANY REMARKS THEY MAY CARE TO MAKE TO
2 YOU AND I'LL BE BACK IN JUST A FEW MINUTES TO SUM UP
3 THE STATE'S CASE. THANK YOU.

4 CLOSING STATEMENT BY MR. JAMIESON:

5 LADIES AND GENTLEMEN, AS YOU KNOW BY NOW
6 MY NAME IS PHILLIP JAMIESON AND I REPRESENT
7 MR. YOUNG. I WANT TO THANK YOU FOR BEING HERE. I
8 KNOW THIS HAS BEEN A LONG TRIAL AND THERE HAS BEEN A
9 LOT OF TESTIMONY PROVIDED AND I APPRECIATE YOUR
10 ATTENTION AND MY CLIENT DOES. THIS IS AN IMPORTANT
11 CASE. IT'S IMPORTANT FOR THE STATE AND IMPORTANT FOR
12 MY CLIENT AND I APPRECIATE YOUR ATTENTION HERE.

13 WHAT I'D LIKE FOR YOU TO DO, I'M GOING
14 TO TRY NOT TO IMPOSE TOO MUCH LONGER ON YOUR
15 PATIENCE, BUT I DO WANT TO GO OVER SOME OF THE
16 TESTIMONY THAT'S PROVIDED AND SOME OF THE EVIDENCE
17 THAT'S PROVIDED AND WHAT I ASK YOU TO DO WHILE I'M
18 DOING THAT IS EXAMINE THE STATE'S EVIDENCE, BECAUSE
19 IT'S THE STATE'S RESPONSIBILITY TO PROVE MY CLIENT'S
20 GUILTY OF A CRIME, EXAMINE THE STATE'S EVIDENCE
21 THROUGH THE LENS OF REASONABLE DOUBT.

22 AND THE FIRST EVIDENCE THAT YOU SAW
23 AND THE FIRST EVIDENCE THAT YOU HEARD IN THE COURSE
24 OF THIS TRIAL WAS FROM THE PEOPLE IN THE BANK AND YOU
25 MAY RECALL THERE WERE NINE OF THOSE PEOPLE, SOME OF

1 THEM WERE EMPLOYEES, AND A COUPLE OF THEM WERE PEOPLE
2 WHO WERE DOING BUSINESS AT THE BANK AND ALL NINE OF
3 THOSE PEOPLE GOT ON THE STAND AND TESTIFIED TO YOU
4 ABOUT WHAT THEY SAW. ALL OF THOSE PEOPLE TESTIFIED
5 THAT THERE WERE MORE THAN THREE SUSPECTS. ALL THOSE
6 PEOPLE TESTIFIED THAT EVERY ONE THAT CAME IN THE BANK
7 HAD A GUN. AND THEY ALL TESTIFIED THAT THEY COULD
8 NOT IDENTIFY THE PEOPLE THAT ROBBED THEM. NOW THERE
9 WAS ONE WITNESS WHO GAVE YOU SOME PARTICULARS THAT I
10 ASK YOU TO CONSIDER AND THAT WAS MRS. WINE. AND AS
11 YOU REMEMBER THE PARTICULARS SHE GAVE YOU, I ASK YOU
12 TO COMPARE THOSE NOT ONLY TO MY CLIENT MR. YOUNG, BUT
13 TO ANYBODY ELSE THAT YOU'VE SEEN APPEAR IN THIS CASE.
14 MRS. WINE TOLD YOU THAT SHE SAW A ROBBER WITH
15 BLEACHED HANDS. SHE TOLD YOU THAT SHE SAW A ROBBER
16 WITH CIRRHOSIS AROUND HIS MOUTH, BUMPS, REAL OBVIOUS
17 OUTBREAK AROUND HIS MOUTH AND I'LL ASK YOU TO COMPARE
18 THAT DESCRIPTION TO MY CLIENT MR. YOUNG AND SEE IF HE
19 HAS ANY OF THOSE CHARACTERISTICS. BUT I ALSO ASK YOU
20 TO THINK ABOUT EVERYTHING YOU SAW, MR. LAWS I MEAN
21 MS. LAWS, MR. JONES, MR. PORTER, AND MY CLIENT
22 KENNETH YOUNG AND ASK YOU IF ANY OF THOSE PEOPLE HAVE
23 THOSE KINDS OF CHARACTERISTICS, THEY ARE VERY
24 DISTINCTIVE CHARACTERISTICS, AND I ASK YOU TO THINK
25 ABOUT THAT AS YOU ARE DELIBERATING.

1 AT THIS TIME I'M GOING TO ASK
2 MR. YOUNG TO STAND UP AND SHOW YOU HIS HAIR. I'M
3 SURE YOU HAD AN OPPORTUNITY TO SEE THAT BUT I WANTED
4 TO MAKE SURE THAT YOU HAD. MR. YOUNG HAS VERY
5 DISTINCTIVE HAIR. THERE AREN'T VERY MANY PEOPLE THAT
6 HAVE HAIR LIKE HE HAS. WHAT I WOULD ASK YOU TO
7 CONSIDER WHEN YOU ARE THINKING ABOUT WHAT YOU SAW ON
8 THE VIDEO, AND I SHOULD MENTION AT THIS POINT THAT
9 YOU WILL HAVE ANY VIDEOS THAT WERE SHOWN TO YOU BACK
10 IN THE JURY ROOM, YOU CAN LOOK AT THEM AT YOUR
11 LEISURE, EXAMINE THEM AS MUCH AS YOU WANT TO, LOOK AT
12 THE BANK VIDEO AND SEE IF YOU SEE ANYBODY THAT HAS
13 HAIR LIKE THAT. THE OTHER THING I WOULD MENTION TO
14 YOU IS THAT NONE OF THE WITNESSES, ALTHOUGH MR. YOUNG
15 HAS VERY, A VERY DISTINCTIVE APPEARANCE, NONE OF
16 THOSE WITNESSES REMARK THAT ANYBODY CAME INTO THAT
17 BANK WITH HAIR DOWN TO HIS WAIST.

18 THE OTHER THING THAT I WANT TO POINT
19 OUT TO YOU ABOUT THAT AND AGAIN YOU'LL HAVE THE VIDEO
20 BACK THERE AND YOU WILL HAVE THE OPPORTUNITY TO LOOK
21 AT IT, WHEN MR. YOUNG WAS PULLED OUT OF THAT CAR, AS
22 SOON AS HE STEPPED OUT THE DOOR, HIS BRAIDS WERE
23 HANGING DOWN AROUND HIS WAIST. THEY WEREN'T STUFFED
24 IN A JACKET. THEY WEREN'T CONCEALED. THEY WERE
25 READY FOR ANYBODY TO SEE THEM THAT WANTED TO SEE THEM

1 AND THE OFFICERS TESTIFIED THAT, YEAH, AS SOON AS HE
2 STEPPED OUT I SAW THEM. NOW I ASK THE QUESTION DOES
3 IT MAKE SENSE TO YOU SOMEBODY COMMITS AN ARMED
4 ROBBERY THEY HIDE BRAIDS AND THEN IN THE COURSE OF A
5 GETAWAY THEY TAKE THE OPPORTUNITY TO LOOSEN UP THEIR
6 HAIR AND FIX THEIR HAIR. THAT DOESN'T MAKE ANY
7 SENSE, LADIES AND GENTLEMEN. MR. YOUNG STEPPED OUT
8 OF THAT CAR, HIS HAIR WAS CLEARLY VISIBLE, AND NOBODY
9 IN THAT BANK SAW ANYBODY WITH HAIR LIKE THAT. AGAIN
10 THE VIDEO IS THERE, YOU DON'T HAVE TO TAKE MY WORD
11 FOR IT, TAKE A LOOK AT IT AND COMPARE THE BANK VIDEO,
12 COMPARE THE VIDEO WHEN MR. YOUNG GOT OUT OF THE CAR,
13 YOU'LL SEE FOR YOURSELF. THAT'S NOT ANYTHING THAT
14 YOU HAVE TO RELY ON ME FOR.

15 THE NEXT PEOPLE THAT YOU SAW IN THE
16 COURSE OF THIS TESTIMONY WAS THE OFFICERS AND THAT
17 WAS OFFICER VINESETT AND OFFICER GIBSON AND THEY WERE
18 THE PEOPLE THAT CHASED THE VEHICLE AND THE FIRST
19 THING THAT I WOULD ASK YOU TO REMEMBER IS NONE OF
20 THOSE OFFICERS SAW THIS VEHICLE FROM THE TIME IT LEFT
21 THE BANK UNTIL IT GOT TO CAROWINDS BOULEVARD AND
22 NOBODY ELSE DID EITHER. NOBODY CAN TESTIFY TO THAT
23 FACT. WHAT THE OFFICERS COULD TESTIFY TO IS THAT
24 MR. YOUNG WAS IN THE CAR AND NOBODY DISPUTES THAT.
25 AGAIN YOU GOT THE VIDEO, YOU'LL SEE MR. YOUNG STEP

1 OUT, WE DON'T DISPUTE FOR A SECOND THAT MR. YOUNG WAS
2 THE BACK SEAT PASSENGER ON THE PASSENGER SIDE OF THAT
3 VEHICLE, BUT BEING IN THAT VEHICLE IS NOT A CRIME.
4 THE STATE HAS TO PROVE TO YOU BEYOND A REASONABLE
5 DOUBT THAT MR. YOUNG WAS ONE OF THE PEOPLE IN THAT
6 BANK AND MR. YOUNG WAS ONE OF THE PEOPLE ARMED WITH A
7 GUN COMMITTING THE ROBBERY.

8 OFFICER GIBSON AND OFFICER VINESETT BOTH
9 HAD TO TESTIFY TRUTHFULLY THAT THEY NEVER SAW
10 MR. YOUNG IN POSSESSION OF ANYTHING IN THAT VEHICLE.
11 THEY NEVER SAW HIM IN POSSESSION OF A MASK, THEY
12 NEVER SAW HIM IN POSSESSION OF GUNS, THEY NEVER SAW
13 HIM IN POSSESSION OF MONEY, BUT THEY DID TELL YOU
14 SOMEBODY WAS IN POSSESSION OF ALL THAT STUFF AND WHO
15 WAS THAT PERSON? THE STATE'S WITNESS. THE ONLY
16 PERSON THAT ANYBODY CAN IDENTIFY POSSESSING ANY OF
17 THESE ITEMS OTHER THAN THE CLOTHES THAT THEY TOOK OFF
18 OF MR. YOUNG IS THE STATE'S WITNESS, THE PERSON THAT
19 CUT A DEAL WITH THE STATE; HE'S THE ONE THAT HAD THE
20 PILLOWCASE, HE'S THE ONE THAT HAD THE GUN, HE'S THE
21 ONE THAT HAD THE MONEY, AND HE'S THE ONE THAT HAD
22 DISGUISED SO THAT WHEN HE RAN FROM THE POLICE HE'D BE
23 ABLE TO CHANGE CLOTHES AND EVADE CAPTURE.

24 THE OTHER THING I THINK IS IMPORTANT
25 FOR YOU TO UNDERSTAND AND REMEMBER WAS THE TESTIMONY

1 ABOUT MY CLIENT'S DEMEANOR WHEN THE POLICE
2 APPROACHED. THE POLICE CAR HIT MS. LAWS' VEHICLE ON
3 THE DRIVER'S SIDE REAR. THE DOOR ON THE OTHER SIDE,
4 BOTH DOORS FRONT AND BACK, WERE UNOBSTRUCTED, MY
5 CLIENT DIDN'T FLEE. HE DIDN'T ATTEMPT TO FLEE. HE
6 DIDN'T RESIST THESE OFFICERS. HE DIDN'T DO ANYTHING
7 LIKE THAT. AND THERE IS SIMPLE REASON FOR THAT, MY
8 CLIENT WAS NOT INVOLVED IN A BANK ROBBERY. MY CLIENT
9 WASN'T INVOLVED IN A CRIME. HE WAS CAUGHT UP IN A
10 CAR THAT HE COULDN'T GET OUT OF. HE DIDN'T HAVE ANY
11 REASON TO FLEE FROM THE POLICE. HE SAT RIGHT THERE
12 WHILE THE POLICE WALKED UP TO THE CAR BECAUSE HE KNEW
13 HE HADN'T DONE ANYTHING AND HE KNEW THAT HE WAS NOT
14 IN ANY DIFFICULTIES.

15 THE ID OFFICERS CAME AND TESTIFIED.
16 THERE WERE THREE OF THOSE. TOLSON WAS THE INDIVIDUAL
17 THAT'S IN CHARGE OF THE ID BUREAU AND DETECTIVE
18 TOLSON TOLD YOU WHAT KIND OF CAPABILITIES HIS
19 DEPARTMENT HAD AND THAT HE WAS THERE ON THE SCENE
20 MAKING SURE HIS OFFICERS DID A GOOD JOB. AND I ASKED
21 HIM IF YOU PULL OUT RUBBER GLOVES AND YOU TURN THEM
22 INSIDE OUT, CAN YOU GET FINGERPRINTS? YES, YOU CAN.
23 DID YOU TRY TO DO THAT? NO. DID YOU FINGERPRINT THE
24 BANK? NO, I MADE AN ASSUMPTION THAT THEY HAD ON
25 GLOVES SO I DIDN'T BOTHER TO DO THAT.

1 THE NEXT PERSON YOU HEARD FROM WAS
2 OFFICER EDDIE AND SHE'S ALSO WITH THE ID BUREAU AND I
3 ASKED HER ABOUT FINGERPRINTS INSIDE GLOVES. NO, WE
4 DIDN'T, WE DIDN'T DECIDE TO DO THAT. AND I ASKED
5 OFFICER EDDIE AND OFFICER BAGWELL BOTH A DIFFERENT
6 QUESTION THAN I DID OFFICER TOLSON BECAUSE THEY WERE
7 PEOPLE DIRECTLY PROCESSING THIS EVIDENCE AND WHAT I
8 ASKED THEM WAS: WHEN SOMEBODY HAS CLOTHING IN CLOSE
9 PROXIMITY TO THEIR FACE OR THEIR HANDS, DOES THAT
10 TRANSFER DNA ON TO THAT CLOTHING. THEY SAID, YES,
11 VERY OFTEN IT DOES. THEY HAD AN OPPORTUNITY TO FIND
12 OUT WHO WAS WEARING THE MASK, WHO WAS WEARING THE
13 GLOVES; THEY HAD AN OPPORTUNITY TO HAVE DNA EVIDENCE
14 HERE IN FRONT OF YOU TODAY THAT WOULD BE CONCLUSIVE.
15 THERE WOULDN'T BE ANY QUESTION ABOUT WHO DID WHAT,
16 WHO WORE WHAT, IF THEY HAD DONE IT. THEY DIDN'T DO
17 THAT. THEY DIDN'T DO THAT. THEY CHOSE NOT TO DO
18 THAT. HAD THEY DONE THAT, YOU WOULD HAVE HAD
19 DIFFERENT EVIDENCE IN FRONT OF YOU. NOW MR. SPRINGS
20 TRIED TO SUGGEST THAT DNA TAKES A LONG TIME AND I
21 DON'T DOUBT IT DOES, BUT THAT DOESN'T MEAN THEY
22 COULDN'T HAVE DONE IT. IT DOESN'T MEAN THEY
23 SHOULDN'T HAVE DONE IT. IT JUST MEANS THEY DID NOT.
24 AND AFTER THOSE PEOPLE TESTIFIED, OF COURSE
25 DETECTIVE STRAIT TESTIFIED, BUT HE TESTIFIED HE WAS

1 THE LEAD OFFICER AND HE WAS COORDINATING THINGS AND
2 THE TRUTH IS, NO DISRESPECT TO OFFICER STRAIT AT ALL,
3 BUT HE WASN'T AT THE BANK, HE DON'T KNOW WHAT
4 HAPPENED THERE, AND HE WASN'T AT THE CAR UNTIL AFTER
5 THE FACT, SO HE DOESN'T KNOW HAPPENED THERE, SO I'M
6 NOT GOING TO BELABOR HIS TESTIMONY.

7 THE NEXT PERSON YOU HEARD FROM OR THE
8 NEXT TWO PEOPLE YOU HEARD FROM ARE MR. JONES AND
9 MS. LAWS. NOW MR. JONES GOT ON THE STAND AND
10 TESTIFIED THAT HE WAS A WILLING PARTICIPATE IN THIS
11 CRIME, HE WAS THERE, AND AGAIN HE'S THE ONLY PERSON
12 THAT HAD A GUN, MONEY, DISGUISE TO ESCAPE WITH, ALL
13 THOSE ITEMS IN HIS POSSESSION, AND HE'S THE PERSON
14 THAT THE STATE'S OFFERED YOU TO PROVE THEIR CASE.
15 THE ONLY PERSON THAT HAD ANY OF THE ITEMS THAT CAME
16 FROM THIS ROBBERY.

17 NOW MR. JONES TESTIFIED, OH, NO, I
18 DIDN'T HAVE A GUN. I CONTRAST THAT TO WHAT THE BANK
19 EMPLOYEES SAID. THEY SAID VERY CLEARLY AND I ASKED
20 EVERY ONE OF THEM DID EVERYBODY HAVE A GUN?
21 EVERYBODY HAD A GUN. SO MR. JONES, OH, NO. NO, I
22 DIDN'T HAVE A GUN. I WAS JUST THE BAG MAN. CONTRAST
23 HIS TESTIMONY WITH THE TESTIMONY OF THE BANK
24 EMPLOYEES AND YOU JUST DETERMINE WHETHER YOU THINK
25 WHO IS MORE CREDIBLE IN THAT SITUATION. WHAT DID HE

1 HAVE TO ADMIT BECAUSE AGAIN IT'S ON THE VIDEO AND THE
2 OFFICERS TESTIFIED TO IT THAT WHEN THAT CAR STOPPED
3 THERE WAS ONE PERSON RUNNING AND THAT WAS MR. JONES.
4 THERE WAS ONE PERSON THAT HAD THE GUILT ON HIS
5 CONSCIOUS TO MAKE HIM FLEE FROM THAT SCENE AND THAT
6 WAS MR. JONES.

7 NOW MR. JONES, AS YOU HEARD HIM IN
8 TESTIMONY, IS THE GRANDSON OF MR. PORTER AND YOU
9 MIGHT BE THINKING TO YOURSELF AND IT'S A REASONABLE
10 QUESTION TO ASK, WELL, WHY WOULD MR. JONES LIE ABOUT
11 THIS SITUATION? WELL, YOU MIGHT HAVE HEARD THAT OLD
12 EXPRESSION ABOUT BLOOD IS THICKER THAN WATER. WHAT
13 BLOOD IS NOT THICKER THAN IS 90 YEARS. MR. JONES
14 TESTIFIED TO YOU THAT IF HE HAD NOT CUT A DEAL WITH
15 THE STATE HE WAS LOOKING AT THE POSSIBILITY OF BEING
16 SENTENCED TO 90 YEARS OR MORE, HE WASN'T EXACTLY
17 SURE, BUT HE KNEW HE WAS FACING AT LEAST 90 YEARS.
18 THAT CUTS RIGHT THROUGH BLOOD. THAT CUTS RIGHT
19 THROUGH EVERYTHING ELSE. MR. JONES IS A PERSON WHO
20 HAD ALL THE EVIDENCE IN THIS CASE THAT CAME FROM THAT
21 PILLOWCASE IS THE PERSON THAT CUT A DEAL TO SAVE
22 HIMSELF AND PUT SOMEBODY ELSE IN HIS PLACE.
23 MR. JONES KNEW THAT HE HAD TO TESTIFY TO THE FACTS
24 THAT IMPLICATE MY CLIENT IN ORDER TO GET HIS DEAL.
25 HE'S ALREADY PLEAD GUILTY BUT HE'S GOT A SENTENCE

1 HANGING OVER HIS HEAD AND HIS CHOICES WERE TESTIFY
2 CONSISTENT WITH THE STATE'S CASE OR FACE HIS ORIGINAL
3 TIME AND HIS ORIGINAL CHARGES.

4 NOW MS. LAWS HAS ALSO TESTIFIED AND
5 MS. LAWS MADE A DEAL WITH THE STATE AT THE LAST
6 MINUTE, AND WHEN I WAS THINKING ABOUT MY CLOSING
7 ARGUMENT I THOUGHT WHAT I WOULD DO IS GO THROUGH HER
8 ORIGINAL STATEMENT AND HER DEAL STATEMENT AND POINT
9 OUT THE INCONSISTENCIES TO YOU. FRANKLY, IN THE
10 INTEREST OF TIME, IT'S A WHOLE LOT EASIER TO POINT
11 OUT THE CONSISTENCIES BECAUSE THERE ARE A LOT MORE
12 CONSISTENCIES THAN THERE ARE INCONSISTENCIES. WELL,
13 COME TO THINK OF IT, THERE AREN'T ANY CONSISTENCIES.
14 YOU'LL HAVE THAT BACK THERE, YOU LOOK AT IT YOURSELF.
15 THIS IS THE STATEMENT THAT SHE GAVE THE DAY OF THE
16 ROBBERY. THIS IS STATEMENT SHE GAVE PREPARED BY THE
17 STATE IN ORDER TO GET THIS DEAL. AND SHE WAS LOOKING
18 AT 90 YEARS JUST LIKE EVERYBODY ELSE, MR. JONES WAS
19 LOOKING AT, AND SHE KNOWS THAT SHE'S GOT TO TESTIFY
20 CONSISTENT WITH THIS STATEMENT IN ORDER TO GET THAT
21 DEAL. TAKE THESE TWO THINGS AND LOOK AT THEM
22 YOURSELF. WELL, I GUESS THERE ARE SOME
23 CONSISTENCIES, SHE DID GET HER NAME RIGHT, BUT OTHER
24 THAN THAT THERE IS NOT A WHOLE LOT OF CONSISTENT
25 STATEMENTS GOING ON IN THERE. MS. LAWS WAS COVERING

1 HER BASES FROM THE MINUTE SHE STEPPED OUT OF THAT
2 CAR. SHE WAS MAKING EXCUSES FROM THE MINUTE SHE
3 STEPPED OUT OF THE CAR, IF YOU WILL LISTEN TO THE
4 VIDEO YOU'LL HEAR HER DOING IT. MS. LAWS WAS GOING
5 TO SAVE HERSELF NO MATTER WHO GOT THROWN UNDER THE
6 BUS. THAT'S WHAT THIS STATEMENT IS ABOUT. I DIDN'T
7 KNOW A THING ABOUT THIS. THIS WAS ALL A BIG SURPRISE
8 TO ME. I THOUGHT WE WERE GOING DOWN THERE FOR
9 SOMEBODY TO CASH THEIR CHECK AND LOW AND BEHOLD THEY
10 ARE ROBBING SOMEBODY. THEN, OF COURSE, IT CHANGES TO
11 I KNEW ALL ABOUT IT. I WAS IN ON THE PLANNING FROM
12 THE VERY BEGINNING. I RENTED A CAR JUST TO COMMIT
13 THIS ROBBERY. MS. LAWS IS TAKING CARE OF MS. LAWS.
14 THAT'S WHAT SHE WAS DOING WHEN THEY GOT STOPPED,
15 THAT'S WHAT SHE WAS DOING WHEN SHE GAVE THIS
16 STATEMENT, AND THEN WHEN SHE SAW IT WAS IN HER BEST
17 INTEREST TO GIVE A DIFFERENT STATEMENT, SHE WAS ALL
18 ABOUT THAT TOO. READ BOTH OF THESE STATEMENTS.
19 SATISFY YOURSELF ABOUT THAT.

20 NOW YOU HEARD MR. YOUNG TESTIFY THAT
21 HE AND MS. LAWS HAVE HAD DIFFICULTIES IN THE PAST.
22 AGAIN THAT OLD EXPRESSION ABOUT HELL HAVE NO FURY
23 LIKE A WOMAN SCORNE -- WELL, THERE WAS SOME OF THAT
24 GOING ON HERE TOO. MR. YOUNG WAS MARRIED MAN; MS.
25 LAWS WAS IN A RELATIONSHIP WITH HIM; SHE WASN'T HAPPY

1 ABOUT THE FACT THAT HE WAS A MARRIED MAN. THAT'S
2 CLEAR FROM THE TESTIMONY.

3 NOW MR. BRACKETT HAD ALREADY SPOKEN
4 WITH YOU ABOUT REASONABLE DOUBT. I'M GOING TO TALK
5 TO YOU ABOUT THAT TOO. WHEN THIS COUNTRY WAS
6 FOUNDED, OUR FOUNDING FATHERS HELD A VERY SACRED
7 BELIEF, IT'S A BELIEF WE STILL HOLD TODAY, AND THAT
8 BELIEF IS THAT IT'S BETTER IN THE WORST CASE SCENARIO
9 FOR GUILTY MEN TO GO FREE THAN FOR AN INNOCENT MAN TO
10 BE CONVICTED AND THAT'S THE REASON WE HAVE THE SYSTEM
11 THAT WE HAVE TODAY, THE SYSTEM WE ALL LOVE, AND WE
12 ALL CHERISH. THAT'S WHY WE HAVE A SYSTEM THAT PUTS
13 THE BURDEN ON THE STATE TO PROVE BEYOND A REASONABLE
14 DOUBT THAT SOMEBODY DOES SOMETHING THAT'S ILLEGAL.
15 AND THAT SYSTEM ALSO SPECIFIES AND THE JUDGE WILL
16 TELL YOU THIS, THAT IF THERE IS ANY REASONABLE DOUBT
17 ABOUT MR. YOUNG'S GUILT, HE'S ENTITLED TO THE BENEFIT
18 OF THAT DOUBT. HE'S ENTITLED TO THE BENEFIT OF THAT
19 DOUBT UNDER THE SYSTEM OF JUSTICE THAT WE ALL LIVE
20 UNDER BECAUSE IT'S A STATE'S BURDEN, THAT'S THE LAW
21 OF THE LAND, AND THE JUDGE WILL INSTRUCT YOU ABOUT
22 THAT.

23 NOW WHAT IS REASONABLE DOUBT?
24 REASONABLE DOUBT IT'S DEFINED BY THE JUDGE AND IT'S
25 BEEN DEFINED IN CASE LAW AND ONE OF THE DEFINITIONS

1 IS IT'S THE KIND OF DOUBT THAT WOULD CAUSE A
2 REASONABLE PERSON TO HESITATE TO ACT. . THE KIND OF
3 DOUBT THAT WOULD CAUSE A REASONABLE PERSON TO
4 HESITATE TO ACT. IN OTHER WORDS, IN ORDER TO CONVICT
5 MR. YOUNG OF THESE CRIMES YOU HAVE TO BE FIRMLY
6 CONVINCED OF HIS GUILT BEYOND A REASONABLE DOUBT, NOT
7 UP TO REASONABLE DOUBT, BUT BEYOND A REASONABLE
8 DOUBT. IF THAT'S NOT THE CASE, THEN MY CLIENT'S
9 INTENT, ENTITLED TO THE BENEFIT OF THAT REASONABLE
10 DOUBT AND YOU HAVE TO FIND HIM NOT GUILTY.

11 AS YOU ARE DELIBERATING YOU KNOW THERE
12 IS GOING TO BE A LOT OF STUFF BACK THERE WITH YOU AND
13 YOU ARE ENTITLED TO CONSIDER ANY OF IT OR ALL OF IT.
14 DON'T HOWEVER BE CONFUSED ABOUT THE FACT THAT, THE
15 FACT THAT THERE IS A LOT OF EVIDENCE, THAT THAT
16 EVIDENCE PROVES ANYTHING. THINK ABOUT WHAT THAT
17 EVIDENCE PROVES. THERE IS CLOTHING HERE. THERE IS
18 GLOVES HERE. THERE IS ALL KINDS OF ITEMS HERE FOR
19 YOU TO CONSIDER, BUT THE UNDISPUTED TESTIMONY IS THAT
20 NOT ONLY ONE PERSON CAN PLACE THAT IN THAT, ANY OF
21 THOSE ITEMS EXCEPT FOR THE CLOTHES HE WAS WEARING AT
22 THE TIME HE WAS ARRESTED IN MY CLIENT'S POSSESSION.
23 NO DNA EVIDENCE CAN DO THAT. NO FINGERPRINTS CAN DO
24 THAT. NO WITNESS CAN DO THAT. DON'T BE CONFUSED
25 ABOUT THE QUANTITY OF EVIDENCE. YOUR JOB IS TO

1 DECIDE THE QUALITY OF THE EVIDENCE.

2 I WANT TO ASK YOU AGAIN TO THINK ABOUT
3 HOW THE DISTINCTIVE MY CLIENT IS IN HIS APPEARANCE.
4 DOES MY CLIENT'S APPEARANCE MATCH WHAT YOU SAW ON
5 THOSE VIDEOS IN THE BANK? DOES MY CLIENT'S
6 APPEARANCE MATCH THE DISTINCTIVE CHARACTERISTICS THAT
7 MRS. WINE GAVE YOU, CIRRHOSIS AROUND HIS MOUTH,
8 BLEACHED HANDS. TAKE A LOOK AT THAT CHASE VIDEO, I
9 KNOW YOU'VE SEEN IT A COUPLE TIMES, BUT I ENCOURAGE
10 YOU TO AT LEAST LOOK AT THE LAST SEGMENT OF THAT
11 CHASE VIDEO AND SEE MY CLIENT STEP OUT OF THAT CAR
12 WITH HIS BRAIDS HANGING DOWN AROUND HIS WAIST AND
13 THINK ABOUT WHETHER THAT IT IS REASONABLE DOUBT THAT
14 IN THE MIDST OF A HIGH SPEED CHASE HE TAKES THE
15 OPPORTUNITY TO ARRANGE HIS HAIR. DOES THAT SEEM LIKE
16 A REASONABLE THING TO YOU? DOES ANYBODY YOU'VE SEEN,
17 MR. JONES, MS. LAWS, MR. PORTER, AND PARTICULARLY MY
18 CLIENT MR. YOUNG, DO ANY OF THOSE PEOPLE HAVE
19 BLEACHED HANDS? DO ANY OF THOSE PEOPLE HAVE
20 CIRRHOSIS AROUND THEIR MOUTH, AND IF THEY DON'T,
21 WHERE IS THAT INDIVIDUAL? WHERE IS THAT PERSON?
22 MRS. WINE IS WRONG ABOUT THAT. SHE JUST MAKE THAT
23 UP? SHE SEEMED LIKE A PRETTY OBSERVANT PERSON. SHE
24 SEEMED LIKE SHE WAS FRANKLY IN A VERY TRYING
25 SITUATION BEING PRETTY OBSERVANT. AND IF THAT PERSON

1 HADN'T COME INTO COURT IN FRONT OF YOU WHERE IS THAT
2 PERSON AND HOW DOES THE STATE EXPLAIN THAT.

3 WHEN I BEGAN THIS CASE I TOLD YOU THAT
4 I FELT THIS CASE WOULD COME DOWN TO TWO WITNESSES,
5 TWO PAID INFORMANTS PAID WITH TIME, AND I DO BELIEVE
6 THAT'S WHAT THIS CASE HAS COME DOWN TO. EXCEPT FOR
7 THE CLOTHES THAT MR. YOUNG WAS WEARING NOT ONE PERSON
8 HAS THE STATE OFFERED YOU CAN PUT ANY OF THOSE ITEMS
9 IN HIS POSSESSION. EXCEPT FOR TWO PEOPLE THAT WENT
10 FROM 90 YEARS TO SIX YEARS OR EIGHT YEARS DEPENDING
11 ON THE DEAL. I'LL LEAVE IT TO YOUR JUDGMENT WHETHER
12 THAT'S A GOOD REASON TO LIE OR NOT. I'LL LEAVE IT TO
13 YOUR JUDGMENT WHAT KIND OF INCENTIVE THAT IS AND WHAT
14 KIND OF PRESSURE THAT IS TO IMPLICATE PEOPLE THAT THE
15 STATE HAS ON TRIAL HERE TODAY AND I WANT TO REITERATE
16 TO YOU THAT MR. YOUNG'S PRESENCE IN THAT CAR IS NOT A
17 CRIME. MR. YOUNG TESTIFIED ON THE STAND TODAY,
18 ALTHOUGH HE DID NOT HAVE TO DO THAT, HE TESTIFIED AND
19 HE SUBJECTED HIMSELF TO CROSS EXAMINATION BY THE
20 STATE BECAUSE HE WANTED YOU TO HEAR HIS SIDE OF THE
21 STORY. HE WANTED YOU TO HEAR WHAT HAPPENED THAT DAY.
22 HE WANTED YOU TO HEAR THE TRUTH. AND I SUBMIT TO YOU
23 THAT WHAT MR. YOUNG SAID IS PLAUSIBLE, VERY
24 PLAUSIBLE.

25 NOW THE STATE'S MADE MUCH OF THE FACT

1 THAT THERE IS A BOJANGLES RIGHT DOWN THE STREET FROM
2 THE BANK OF YORK. MY CLIENT'S NEVER TESTIFIED THAT
3 THAT'S THE BOJANGLES HE WENT TO. I DIDN'T HEAR
4 ANYBODY ELSE TESTIFY. WHAT MY CLIENT SAID WAS HE
5 WENT TO AND WAS DROPPED OFF AT A BOJANGLES. I REMIND
6 YOU THAT IF THERE IS ANY REASONABLE DOUBT IN THIS
7 CASE, MY CLIENT IS ENTITLED TO THE BENEFIT OF THAT.
8 I ASK YOU TO CONSIDER ALL THAT. I ASK YOU TO
9 CONSIDER THE MOTIVES OF THE PEOPLE THAT GOT UP HERE
10 AND TESTIFIED. I ASK YOU TO CONSIDER ALL OF THE
11 EVIDENCE, CONSIDER MY CLIENT'S APPEARANCE, CONSIDER
12 THE FEW DETAILS THE BANK EMPLOYEES WERE ABLE TO GIVE
13 YOU AND COMPARE THAT TO THE STATEMENTS MS. LAWS AND
14 MR. JONES MADE AND I'M CONFIDENT THAT AFTER HAVING
15 DONE THAT YOU'LL FIND THERE IS A REASONABLE DOUBT IN
16 MY CLIENT'S FAVOR. THANK YOU VERY MUCH.
17 CLOSING STATEMENT BY MR. PORTER.

18 GOOD AFTERNOON. I'M CERTAIN THAT THIS
19 WILL IS PROBABLY THE FIRST TIME THAT YOU WILL HEAR
20 THAT WHAT HAPPENED ON 12-22-06 COMING DIRECTLY FROM
21 ME. THERE IS NO QUESTION FROM THE VIDEO, FROM THE
22 BANK EMPLOYEES' STATEMENTS, WITNESSES, ESPECIALLY
23 VIDEO CAMERA, THAT SOMEONE ENTERED THE BANK OF YORK
24 AT APPROXIMATELY 10:30. NO ONE IN THE BANK
25 IDENTIFIED WHO THAT PERSON WAS OR THOSE PARTICULAR

1 PERSONS WAS. YOU'LL HEAR TESTIMONY FROM A DONSHAVIS
2 JONES AND MS. ANGELA LAWS WHO ARE READILY ADMITTED TO
3 THEIR PART IN THIS PARTICULAR CRIME. BUT AS
4 TESTIMONY SHOW THERE WERE OTHER PEOPLE INVOLVED. BY
5 CIRCUMSTANCES AND REASONS, YES, WHEN THE CAR STOPPED
6 I WAS IN THE CAR, I'M NOT GOING TO DENY THAT, I WAS
7 IN THE FRONT SEAT, BUT I WAS NOT IN THAT BANK.

8 THE STATE, MYSELF, EVERYONE, YOU
9 LISTEN PARTICULARLY OF THE DESCRIPTION THEY GAVE OF
10 THE ROBBERS. NO ONE INDICATED THAT IT WAS TALL OR
11 SHORT, WHAT THEY WEIGH, OR ANY OF THE DESCRIPTIVE
12 FEATURES OTHER THAN THE FACT THAT THE TELLER
13 INDICATED THAT SOMEONE HAD CIRRHOSIS. THEY ALL
14 STATED THAT EVERYBODY HAD ON MASKS AND EVERYBODY HAD
15 ON GLOVES AND WE SAW THAT AND WE SEEN THAT AND IT WAS
16 REPEATEDLY ASKED, BUT IN THOSE MASKS THAT THOSE
17 ROBBERS WORE, IN THOSE GLOVES, HAD FORENSIC OR THE
18 STATE, MAYBE THE OFFICERS INVOLVED IN THE CHASE, HAD
19 NOT JUMPED THE GUN AND ASSUMED THAT THE OCCUPANTS OF
20 THE CAR WAS ACTUALLY GUILTY SOMEONE COULD HAVE DONE
21 THEIR JOB AND FOUND OUT FROM THE DNA OR FINGERPRINTS
22 WHO THOSE PARTICULAR PERSONS WAS. I'M VERY HAIRY,
23 VERY HAIRY. (SHOWING ARMS TO THE JURY.) DNA COMES
24 OFF OF HAIR PARTICLES. IN FACT, HOW MANY OF YOU,
25 SOME OF YOU PROBABLY REMEMBER THIS, THEY GET HAIR

1 FIBERS, THEY CAN ACTUALLY TAKE CARPET PAD AND CONNECT
2 IT, THAT'S HOW THEY CONVICTED WAYNE WILLIAMS BACK
3 THEN IN 1980 FOR AT A LOT OF MURDERS ON THOSE KIDS
4 THAT WERE GETTING KILLED BECAUSE THEY FOUND THE
5 FIBERS THROUGH DNA IN LABORATORY TECHNOLOGY TO
6 CONNECT THE FIBERS WITH THE PANTS, THE CLOTHES,
7 ANYTHING, AND ALL TO HIS CAR, TO THE CARPET IN HIS
8 CAR. BUT THESE FORENSIC PEOPLE FOR THE CITY OF YORK
9 THEY DIDN'T DO THAT. THEY DIDN'T WANT TO. THEY
10 DIDN'T WANT TO DO THAT. BECAUSE I MEAN, LET ME BACK
11 UP. THEY MAY HAVE DONE THAT BUT IT DIDN'T MATCH ME.
12 IT DIDN'T MATCH MR. YOUNG. SO THE LOGICAL
13 EXPLANATION WOULD BE WE DID NOT DO THAT. IF YOU WAS
14 NOT GOING TO DO THAT, WHY WAS THE EVIDENCE STAYING IN
15 A DYER FOR A LATER DAY? BECAUSE AS WE RECALL, IT WAS
16 RAINING AND WHAT THEY DO? THEY SAVE THIS. THEY
17 DRIED IT. THEY COULD HAVE GOTTEN DNA. THEY COULD
18 HAVE GOTTEN HAIR PARTICLES. THEY COULD GOT SWEAT
19 FROM THE PLASTIC LATEX GLOVES. AND STANDING HERE
20 BEFORE YOU THEY PROBABLY DID. BUT NONE OF IT MATCHED
21 ME OR MR. YOUNG. WHY? BECAUSE I WAS NOT IN THAT
22 BANK. I WAS IN THE CAR. I WAS NOT IN THE BANK.
23 YES, I WAS TOLD THAT THEY WAS GOING TO ROB -- I
24 MEAN NOT TO ROB THE BANK, TO BUST CHECKS FOR ONE OF
25 THE GUYS, BUT, YOU KNOW, THERE IS NO CHECK OR EXCUSE

1 FOR PULLING OUT THE GLOVES, SO THAT CAR WAS STOPPED
2 ON THE WAY TO THE BANK AND I GOT OUT. BUT I'M FROM
3 CHARLOTTE, ONE OF THE ADMITTED ROBBER'S GRANDFATHER,
4 THAT REFUSED TO GO IN THE BANK WITH HIM AND IT WAS
5 ALREADY TENSION THERE, SO EVEN IF I DIDN'T GO INTO
6 THAT BANK WHEN THE CAR GOT STOPPED AND I WAS IN THE
7 CAR, I WAS GOING TO BE A PART OF THAT ROBBERY BECAUSE
8 HE HAD NO CONVICTIONS AND HE WAS GOING TO SAVE
9 HIMSELF.

10 BUT YOU ALSO SEEN ON THE VIDEO THE
11 IMPACT OF THE TRAILING VEHICLE THAT HIT HIM. AT THE
12 TIME THE CAR HIT HIM IT NEARLY KILLED HIM FROM THE
13 IMPACT. THEY DID NOT SHOW THAT PARTICULAR VIDEO BUT
14 I HAD A GRANDSON THAT GOT HIT. I RAISED UP, COULD
15 HAVE GOT SHOT, BUT THAT VIDEO DON'T SHOW THAT. I
16 DON'T EVEN SEE THAT CAR. I WAS TOLD TO GET BACK
17 DOWN. OUT OF CONCERN I LOOKED UP. I'M SAYING GET
18 INTO IT BETTER, GET INTO IT BETTER, BUT I DIDN'T SEE
19 THAT PART OF THE VIDEO. MY REASON FOR SAYING THAT IS
20 THAT I KNOW HE WAS HURT BUT THEY LATER FOUND OUT THAT
21 THERE IS A LOT OF INJURY TO HIS FOOT BUT AT THAT TIME
22 HE WAS SHAKEN AND THE KID WAS GIVEN TWO LORTABS THAT
23 YOU WILL SEE IN THE EVIDENCE FOR PAIN. TWO LORTABS.
24 I TAKE LORTABS AND I TAKE LORTABS AND I KNOW WHAT IT
25 DO FOR ME AND I KNOW WHAT IT DID FOR HIM. BUT THIS

1 IS THE PART THAT YOU DON'T KNOW: ON THE WAY IN THE
2 EMERGENCY, IN THE HOSPITAL, THIS KID WAS SO CONFUSED,
3 SO IN PAIN, SO DISSOLUTIONAL, AND HE WAS BEING
4 INTERROGATED. THE PLOT WAS CREATED THEN FOR HIM TO
5 SAVE HIS SELF AND ONCE THEY FOUND OUT THROUGH THE
6 COMPUTER WHO CERTAIN PEOPLE WAS, THEY DIDN'T EVEN
7 HAVE TO DO NO WORK. THEY WANTED WHO THEY HAD POP UP
8 IN THE COMPUTER. THIS IS JOHNNELL PORTER. THIS IS
9 KENNY YOUNG. BAM. OPEN AND SHUT. IRREGARDLESS OF
10 WHAT COULD HAVE TAKEN PLACE, WHAT HAPPENED, THEY
11 DIDN'T, THEY DIDN'T FIGURE THEY HAD TO LOOK NO
12 FURTHER. THEIR CASE WAS CLOSED.

13 IN THE BACK OF THE AMBULANCE, HE DID
14 NOT ADMIT IT ON THE STAND, BUT HE GOT, HE TOLD ME
15 WHAT WAS HAPPENING TO HIM ON THE RIDE TO CAROLINA
16 MEDICAL. HE WAS BEING INTERROGATED BY COPS,
17 HARASSED, HARASSED. HE CONFUSED. HE WAS SCARED. HE
18 KNEW HE HAD HURT SOME PEOPLE. HE KNEW HE HAD HURT ME
19 WHEN I FIND OUT EXACTLY WHAT THEY WAS UP TO IN
20 ANOTHER STATE. I DIDN'T HAVE TO COMMIT, I WORKED AT
21 THE BAR CASTLE INC. AND THEN IN THERE, I DON'T KNOW
22 WHY I'M NOT INCLUDED, SECURITY AT THE CAROLINA
23 MEDICAL HAD TO TELL WHOEVER THE OFFICERS WAS, YOU
24 CAN'T INTERROGATE A PERSON RECEIVING MEDICAL
25 TREATMENT. HE STAYED THERE. HE WAS DISCHARGED AT

1 1405 AND HE WAS INTERVIEWED AT 15 SOMETHING, MAYBE
2 3:15. I THINK THAT'S WHAT THE TIME WAS, BUT YOU'LL
3 SEE THIS. THERE IS NO WAY, THAT IN SPITE OF WHAT HE
4 TESTIFIED ON THAT STAND, THERE IS NO WAY THAT HE WAS
5 IN HIS RIGHT FRAME OF MIND WITH TWO LORTABS AND HE
6 DON'T EVEN DO DRUGS. HE DON'T EVEN GET HIGH. HE
7 DON'T SMOKE OR DRINK. HE NEVER SMOKED. HE NEVER
8 DRINK. HE NEVER GOT HIGH. HE DON'T EVEN DO
9 MARIJUANA. AND HE GAVE A STATEMENT. LOOK AT HER
10 STATEMENT. BECAUSE WHEN I SEEN HIM AT CAROLINA
11 MEDICAL BEFORE WE WENT TO THE MAGISTRATE HE SAID,
12 GRANDDADDY, THEY MADE ME DO THAT. THEY KNOW WHO YOU
13 ARE. THEY MADE ME SAY THAT.

14 NOW WAIT A MINUTE, ARE WE GOING TO GO
15 BACK AND SHOW YOU THAT A LOT OF THINGS THAT YOU WILL
16 SEE AND LOT OF THINGS THAT YOU SAW WAS FABRICATED.
17 IT'S NOT THE ORIGINAL. YOU HEARD TESTIMONY THAT THE
18 BANK WAS ROBBED AT 10:30. EVEN THE TELLER STATED
19 THEY WAS CONFUSED. THEY WAS MOVING AROUND. THEY WAS
20 TOLD TO DO THIS. THEY WAS TOLD TO DO THAT. THEY
21 DIDN'T KNOW WHETHER THEY WANTED THEM TO CRAWL, DIDN'T
22 WANT THEM TO GET UP, DIDN'T KNOW WHETHER TO SIT DOWN,
23 OR WHATEVER. AND IT TOOK A LOT TIME. YOU KNOW, THE
24 WOMAN COULDN'T OPEN HER SAFE. THE MANAGER HAD TO
25 COME AND OPEN, ASSIST HER, BUT AT THE SAME TIME

1 SOMEBODY IS SPRAYING PEPPER SPRAY. IT'S CONFUSION IN
2 THERE. BUT THE CLOCK IS TICKING, IT'S TICKING, AND
3 THEN THEY SAY SOMEBODY IS TELLING THEM, COME ON,
4 HURRY UP, HURRY UP, TAKING TOO MUCH TIME. PEOPLE WAS
5 IN THERE OVER FOUR MINUTES BEFORE THEY CAME OUT. AND
6 THE PEOPLE THAT WAS LOCKED IN THAT VAULT WITH
7 MR. MORGAN, GOD FORBID, WAS PUSHED TO THE FLOOR, THEY
8 DIDN'T JUST RUN RIGHT, THEY DIDN'T CARE PEOPLE, THEM
9 HARD WORKING PEOPLE EVERYDAY. THEY HELPED THAT MAN.
10 THEY PICKED UP THAT MAN. THEY SEEING WAS EACH OTHER
11 WAS ALL RIGHT THEN THEY CAME OUT. THAT'S ANOTHER TWO
12 MINUTES. BUT I STOPPED THE VIDEO, TO SHOW YOU THAT
13 FROM 10:30 AT THE BANK, VINESETT PATROL CAR WAS
14 ALREADY BEHIND THE CLOCK AT 10:34. IT'S IMPOSSIBLE.
15 THAT'S IMPOSSIBLE. BUT THEY WANT YOU TO BELIEVE THAT
16 THIS ACTUALLY TOOK PLACE. THERE'S NO VIDEO CAMERA IN
17 THE WORLD IN THE BANK. THEY SMART. THEY SMART.
18 THEY CHANGED THAT VIDEO. WHY? BECAUSE THE DATE AND
19 THE TIME THAT THE PEOPLES LEFT THE BANK DID NOT
20 CORRESPOND TO THE VIDEO YOU WOULD HAVE SEEN IN
21 OFFICER VINESETT PATROL CAR. YOU COULDN'T EVEN
22 SUBMIT THAT BANK IF IT WAS FEDERALLY INSURED THAT
23 CAMERA, THAT SECURITY CAMERA. THAT'S WHY THEY PUT
24 THE DATES UP THERE. WHATEVER ANYBODY, ANY THREAT TO
25 THE UNITED STATES OR YOUR GOVERNMENT OR ANYBODY

1 AROUND HERE IS BEING SEEN IN THERE, THAT'S WHY THEY
2 DO THAT BECAUSE TO IDENTIFY THE DATE AND TIME.
3 THAT'S THE ONLY BANK I KNOW IN THE WORLD AIN'T HAD NO
4 SECURITY CAMERA WITH THE DATE AND THE TIME ON IT.
5 WHY? BECAUSE IT DID NOT FIT OFFICER VINESETT PATROL
6 CAR CLOCK.

7 AND THEN THE OTHER DAY WE SEEN A
8 VIDEO, YOU SEEN IT, WHERE A LADY PULLED UP, FOLLOWED
9 THE CAR, AND BACKED BACK AND WAS TALKING TO THE
10 WINDOW. BUT ALL OF A SUDDEN TODAY WE SEE A VIDEO
11 THAT GOES UP, COMES BACK, STOP, SEE ANOTHER VIDEO.
12 THEY THINK I WAS STUPID? YOU DON'T SEE IT GO BACK TO
13 THE DRIVE-THRU WINDOW AND TELL THEM WHAT COLOR THE
14 CAR, A GRAY SEDAN, YOU DON'T SEE THAT. THIS IS THAT
15 SAME WHITE CAR. THAT VIDEO IS STOPPED AND EDITED
16 TODAY. WHY? BECAUSE MR. YOUNG SAY HE GOT OUT OF THE
17 CAR. SOMEBODY KNEW MR. YOUNG WAS GOING TO SAY THAT.
18 BUT ALL OF A SUDDEN THEY POPS UP WITH ANOTHER WITNESS
19 AFTER MR. YOUNG TESTIMONY THAT HE WAS AT THE
20 BOJANGLES. NO, I CANNOT SEE. DID YOU SEE THE CAR
21 STOPPED AT THE BOJANGLES? NO, I COULD NOT. IF THAT
22 WOULD HAVE BEEN THE VIDEO THAT YOU SAW YESTERDAY OR
23 MAYBE THE DAY BEFORE THAT FIRST INFORMATION THAT
24 MRS. MARTHA HARRIS SAY SHE WAS TALKING TO THROUGH THE
25 WINDOW, THE GRAY SEDAN, THAT BACKED BACK, THAT CAR

1 DON'T BACK BACK TODAY, IT STOPPED RIGHT THERE IN THE
2 MIDDLE WHERE SHE COULD LOOK THROUGH THE RAIN.
3 SOMETHING DON'T FIT HERE. THEY HAVEN'T PROVEN THEIR
4 CASE BEYOND A REASONABLE DOUBT, BUT THEY WANT YOU TO
5 THINK THAT YOU ALL LOOKING PEOPLE ARE STUPID TOO.
6 THEY HADN'T PROVED THEIR CASE. THEY EDITED. THEY
7 DOCTORED. I GOT A 12 YEAR OLD NIECE THAT CAN TAKE A
8 COMPUTER AND DO WHATEVER SHE WANT TO DO WITH IT. YOU
9 TELL ME SOME PROFESSIONAL PEOPLE CAN'T DO THAT. I
10 GOT A 12 YEARS OLD NIECE THAT'S A COMPUTER GENIUS,
11 ALL READY GUARANTEED SCHOLARSHIP BY MICROSOFT, AND
12 YOU TELL ME THAT PEOPLE THAT WENT TO SCHOOL, THAT
13 FINISH SCHOOL, TRAINED FOR THIS, CAN'T EDIT AND
14 DOCTOR A COMPUTER TO FIT WHAT THEY WERE TRYING TO
15 PROJECT, THE IMAGE OR WHATEVER THEY TRYING TO
16 PROJECT. I DON'T DENY PEOPLE AND I'M SORRY FOR THAT.
17 I APOLOGIZE NOW AND IF I WOULD HAVE BEEN IN THAT CAR
18 I WOULD HAVE SAVED YOU MONEY. I WOULD HAVE SAVED
19 YOUR TIME. IF I HAD BEEN IN THAT BANK, EXCUSE ME,
20 EXCUSE ME, I DID SAY CAR. I WOULDN'T EVEN TOOK UP
21 YOUR TIME BECAUSE I'M MAN ENOUGH TO SAY I'M GUILTY.
22 TODAY, HAVE DONE IT BEFORE, AND WILL DO IT AGAIN IF
23 I'M GUILTY OF ANYTHING. BUT ACCORDING TO THE
24 EVIDENCE BEYOND A REASONABLE DOUBT AS YOU WILL BE
25 TOLD BY JUDGE HAYES IT'S NO REASONABLE DOUBT. THEY

1 COULD HAVE REMOVED ALL DOUBT AND I PROBABLY WOULD
2 HAVE TOOK A PLEA BUT THEY DIDN'T DO THAT. . THEY CAME
3 WITH THE LAST 11 O'CLOCK HOUR ON ONE OF THOSE DIE
4 HARDS AND ALL OF A SUDDEN THE DAY BEFORE TRIAL
5 STARTED THEY GO UP AND TELL THE TRUTH OR SO THEY WANT
6 YOU TO BELIEVE THAT THEY ARE TELLING THE TRUTH.
7 EVERYTHING THEY SAYING AIN'T GOLD AND EVERYTHING THAT
8 LOOK LIKE GOLD AIN'T NECESSARILY HOW IT HAPPENED.
9 THE STATE HASN'T PROVED THEIR CASE. THEY PROVED
10 SOMETHING, THAT A ROBBERY WAS COMMITTED, THAT SOMEONE
11 ROBBED THE CAR, YEAH, AND THEY WILL SHOW IT THAT THEY
12 GOT ME OUT OF THE CAR, BUT THEY HAVEN'T PROVEN THE
13 ROBBERY. THEY DON'T HAVE ANYTHING ON JOHNNELL PORTER
14 BUT WHAT TWO PEOPLE SAY. THEY DIDN'T OFFER TO ME 6
15 VERSUS 90. YEAH, I'D SELL YOU THE TRUTH. YOU WOULD
16 HAVE TOO. DON'T NOBODY WANT TO DO NO TIME IF THEY
17 DON'T WANT TO BUT THEY HAD TO. BUT THEY DIDN'T WANT
18 TO RISK, THEY DIDN'T WANT TO TAKE THE CHANCE, BECAUSE
19 IF WHATEVER THEY SAY OR WHATEVER THEIR REASON THEY
20 TOOK THAT PLEA AGREEMENT OR WAS GUILTY OR WHATEVER
21 THAT'S ONLY, BUT I DIDN'T TAKE THAT TO SHOW FOLK TO
22 COME IN HERE. I CAME IN HERE BECAUSE I'M NOT GUILTY.
23 THE STATE HASN'T PROVED ME GUILTY. BUT THEY LEFT IT
24 TO YOU PEOPLE, THEY LEFT IT TO YOU, INNOCENT OF
25 SITUATIONS; YOU GOING TO ROB A BANK; NO, I AIN'T, GET

1 ME OUT OF THE CAR, PICK ME UP WHEN YOU COME BACK.
2 DID THEY SAY ACCESSORY AFTER? I THREW UP MY HANDS.
3 BUT, NO, THAT'S ONE OF THE CHARGES.

4 ANGELA LAWS AND DONSHAVIS JONES, THEY
5 HAD A REASON TO BE HERE, BOTH WAS CONVICTED, BOTH HAD
6 COMMUNICATED LONGER THAN WHAT THEY WANTED YOU TO
7 BELIEVE, BOTH WAS UNDER PRESSURE. BECAUSE ONE CAR
8 WAS SUPPOSED TO SEEN AT A PARTICULAR ONE, THAT'S WHAT
9 I WAS TRYING TO GET TO A MINUTE AGO BUT NO, IT WASN'T
10 GOING TO DO THAT BECAUSE HAD THE TATE TESTIFIED
11 TRUTHFULLY WHAT THEY BELIEVE, THEY WASN'T GOING TO
12 GIVE YOU THAT. I CAN'T PROTECT THEM AND I CAN'T
13 BLAME THEM BUT I TRIED, THEY WOULDN'T DO IT, YOU SEEN
14 THE TENSION. THERE IS TENSION THERE. THERE IS
15 TENSION WITH LAWS. THERE IS TENSION WITH YOUNG. YOU
16 DON'T WANT TO DO ANYTHING WITH ME, I'M GOING TO PUT
17 YOU THERE. YOU SHOULDN'T HAVE BEEN MESSING WITH ME.
18 BUT ON THE OTHER HAND, LIKE THEY SAID, BLOOD
19 SUPPOSEDLY THICKER THAN WATER. WHEN YOU ARE FACING
20 90 YEARS BLOOD CAN TURN TO KOOL AID, VINEGAR,
21 ANYTHING. THAT'S BEEN DONE BEFORE, IT WILL BE DONE
22 AGAIN, AND I'M TELLING YOU IT'S BEEN DONE NOW.

23 THE JUDGE WILL INSTRUCT YOU ON
24 REASONABLE DOUBT. GUILTY BEYOND A REASONABLE DOUBT.
25 THAT'S THE WHOLE CASE, GUILTY BEYOND A REASONABLE

1 DOUBT. THE STATE BLEW THEIR CASE. THEY COULD HAVE
2 ELIMINATED THAT DOUBT. THEY COULD HAVE SENT
3 EVERYTHING TO SLED, EVEN WITH A BACK LOG, A CASE AS
4 SERIOUS AS A BANK, 83 YEAR OLD MAN PUSHED IN, YOU
5 HEARD HIM, COULDN'T EVEN TESTIFY. I DON'T EVEN GOT
6 THAT KIND OF HEART. I DIDN'T EVEN TESTIFY. I DIDN'T
7 EVEN CROSS EXAMINE NONE OF THE FEMALES OR NONE OF
8 EMPLOYEES THAT WAS SHAKEN UP, THAT WAS CRYING,
9 BECAUSE THEY ALREADY BEEN TORTURED AND WENT THROUGH
10 ORDEAL. THAT COULD HAVE BEEN MY MOMMA. THAT COULD
11 HAVE BEEN MY DAUGHTER. THAT COULD HAVE BEEN MY,
12 ANYBODY WENT THROUGH THAT. I DON'T WISH THAT ON
13 NOBODY. GUILTY BEYOND A REASONABLE DOUBT, THE STATE
14 HASN'T PROVEN THEIR CASE. THANK YOU.

15 CLOSING STATEMENT BY MR. BRACKETT:

16 OKAY, LET'S GET ONE THING STRAIGHT, IF
17 I WAS GOING TO DUMMY UP A BUNCH OF EVIDENCE YOU'D
18 HAVE SOME DNA REPORTS. ME AND OLD EDDIE OVER THERE,
19 MAYBE RUSS IN THE BACK AND A COUPLE OF OTHER FORENSIC
20 GUYS, WE'D GO OUT TO LUNCH WITH A CORONA ELECTRIC
21 TYPEWRITER AND I'D CRANKED OUT SOME DNA REPORTS FOR
22 YOU. IF I AM GOING TO GO TO THE TROUBLE TO DOCTOR
23 ALL THIS VIDEO UP, THE LEAST I CAN DO IS TYPE UP A
24 PHONY DNA REPORT. BUT YOU DON'T HAVE ANY DNA REPORT.
25 YOU KNOW WHY? BECAUSE THE EVIDENCE IS SO

1 OVERWHELMING, THE EVIDENCE IS SO ABSOLUTELY
2 IRONCLAD, THERE IS NO NEED FOR A DNA REPORT BECAUSE
3 OUR JOB IS NOT JUST TO PROSECUTE BUT TO SHEPHERD YOUR
4 TAX DOLLARS IN A WISE FASHION. INSTEAD OF SPENDING
5 MONEY TO DO EVERY CONCEIVABLE TEST UNDER THE SUN, WE
6 TAKE A LOOK AT THE EVIDENCE THAT WE ACTUALLY HAVE, WE
7 TAKE A LOOK AT THE VIDEO, WE TALK TO THE BANK PEOPLE
8 OVER HERE, WE TALK TO THE POLICE OFFICERS WHO PULLED
9 ALL FOUR OF THOSE CLOWNS OUT OF THE BACK OF THAT FORD
10 TAURUS WITH THE BIG PILLOWCASE WITH \$18,000 OF THE
11 BANK'S MONEY, INCLUDING \$500 IN MARKED BAIT MONEY,
12 TWO GUNS, THREE SKI MASKS, A CAN OF MACE, AND WE SAY,
13 YOU KNOW WHAT, I THINK WE GOT ENOUGH. I THINK THAT
14 WILL DO IT, BOYS. LIKE NO TO THE DNA LAB, WE DON'T
15 NEED TO SEND ANYTHING DOWN THERE. I THINK WE GOT OUR
16 CASE.

17 OH, I DIDN'T EVEN MENTION THE FACT
18 THAT THE TWO OTHER CLOWNS FROM THE CAR CAME IN HERE
19 AND TOLD THAT YOU THEY WERE GUILTY AND THAT THEY DID
20 IN FACT GO INTO THE BANK, MR. JONES DID AND THAT MS.
21 LAWS DROVE THEM THERE, AND THAT THEY CONSPIRED AND
22 THEY PLANNED AND HE WORE A SKI MASK AND HE CARRIED
23 THE BAG IN AND HE'S GUILTY AND HE SAID HE WAS GUILTY
24 AND HE'S GOING TO PRISON AND HE KNOWS HE'S GOING
25 PRISON AND SO DOES MS. LAWS AND THEY DID IT TOO THEY

1 SAID.

2 I DIDN'T MENTION THAT THAT WAS ANOTHER
3 GOOD LITTLE PIECE OF EVIDENCE THAT WE HAD, AND
4 MR. JONES, HE SAID THAT FROM THE BEGINNING BEFORE
5 THERE WAS ANY HEAT. HE DIDN'T EVEN KNOW WHAT HIS
6 CHARGES WERE GOING TO BE. HE DIDN'T KNOW WHETHER HE
7 WOULD HAVE A LAWYER OR WHEN HE WOULD GET TO SOUTH
8 CAROLINA, WHAT WOULD HAPPEN WHEN HE GOT THERE, HOW
9 MUCH TIME HE WAS LOOKING AT, WHO THE PROSECUTORS WERE
10 GOING TO BE OR WHAT KIND OF OFFER THEY WERE GOING TO
11 MAKE, HE JUST SAID, I WENT IN THERE AND I TOLD THEM
12 THE TRUTH AND NO MATTER HOW MUCH MR. PORTER TRIED TO
13 MAKE HIM SAY, NOW YOU WERE HIGH ON LORTAB, YOU DIDN'T
14 REALLY KNOW WHAT YOU WERE DOING, NO, GRANDPA I REALLY
15 DID. I DID. I KNEW WHAT I WAS DOING. HE KNEW WHAT
16 HE WAS DOING THE WHOLE TIME. I JUST WANTED TO GET
17 THAT LITTLE THING OUT OF THE WAY BEFORE I LAUNCHED
18 INTO MY CLOSING ARGUMENT.

19 NOW DISPUTE ALL OF OUR TECHNICAL
20 GLITCHES AND SNAFUS THAT WE HAVE HAD THROUGHOUT THIS
21 TRIAL, I IN AN ACT OF PURE OPTIMISM HAVE CREATED A
22 POWER TO SHOW YOU SOME OF THE EVIDENCE THAT I THINK
23 THAT YOU NEED TO CONSIDER WHEN YOU COME BACK THERE
24 BECAUSE I HAVE FAITH THAT THIS IS GOING TO WORK SO
25 BEAR WITH ME AND CROSS YOUR FINGERS. HERE WE GO.

1 ALL RIGHT.

2 FIRST, I TOLD YOU AT THE BEGINNING
3 THAT THERE ARE MANY KINDS OF EVIDENCE. MOST OF THE
4 EVIDENCE THAT YOU HEAR IS TESTIMONIAL. TESTIMONIAL
5 EVIDENCE COMES IN THE FORM OF TESTIMONY FROM THE
6 WITNESS STAND, PEOPLE WHO SAW, HEARD, SMELLED, SAW
7 SOMETHING RELEVANT TO THIS CASE, HAVE A SEAT AND TELL
8 YOU WHAT IT IS THAT THEY SAW OR HEARD. SO YOU'VE GOT
9 TESTIMONY. BUT IN THIS CASE WE'RE DON'T HAVE JUST
10 TESTIFY, WE'VE GOT VIDEO AND WE HAVE PHOTOGRAPHS AND
11 SOME OF THAT IT'S IN TO. AND THEN LASTLY PHYSICAL
12 EVIDENCE, PHYSICAL EVIDENCE IS STUFF THAT YOU CAN
13 HOLD IN YOUR HANDS LIKE DUCK TAPE, NINE MILLIMETER
14 HAND GUNS, SKI MASKS, MACE, BULLETS, THAT KIND OF
15 STUFF. ALTHOUGH I DON'T THINK YOU WILL HAVE THE
16 BULLETS BACK THERE. IF YOU WANT TO SEE THEM WE
17 TYPICALLY DON'T SEND THE BULLETS BACK TO THE JURY
18 ROOM. I THINK YOU'LL ALL GET ALONG BUT AS A GENERAL
19 RULE WE HAVE HAD PEOPLE TRY TO LOAD GUNS IN THE PAST
20 IN THERE, JUST TO SEE, AND IT'S NOT A GOOD IDEA, BUT
21 IF YOU WANT TO SEE THE BULLETS THEY'RE IN HERE AND
22 WE'LL LAY THEM OUT ON THE RAIL AND YOU CAN FILE BY
23 THEM AND LOOK AT THEM TO YOUR HEART'S CONTENT, BUT
24 THE BULLETS WILL BE IN HERE, THE GUNS WILL BE IN
25 THERE WITH YOU, YOU'LL SEE THAT, SO YOU'LL HAVE ALL

1 THAT STUFF. YOU ARE GOING TO HAVE THE BOXES WITH THE
2 BAGS AND BAGS WILL TELL YOU WHAT'S IN THE BOXES, WHO
3 SEIZED IT, WHEN THEY SEIZED IT, WHERE IT WAS SEIZED
4 FROM, AND WHAT HAPPENED TO IT AFTER IT WAS SEIZED AND
5 ALL THAT'S GOING TO BE BACK THERE WITH YOU TOO.
6 THAT'S THE PHYSICAL EVIDENCE. SO LET'S GO THROUGH
7 IT.

8 THE TESTIMONY. THE BANK EMPLOYEES AND
9 THE CUSTOMERS. NOBODY DISPUTES THAT THE BANK WAS
10 ROBBED. NOBODY. IT'S JUST A QUESTION OF WHO DID IT.
11 MR. JONES AND MS. LAWS WILL TELL YOU THAT THEY DID
12 IT. AND THEY ALSO TELL YOU THAT THEY DID IT. THEY,
13 ON THE OTHER HAND, ADMIT THAT THEY WERE IN THE AREA
14 BUT GOT OUT OF THE CAR CONVENIENTLY IMMEDIATELY PRIOR
15 TO THE BANK BEING ROBBED. THEY DIDN'T DO IT, SOME
16 OTHER DUDE DID IT, SOME OTHER DUDES ACTUALLY. ALL
17 RIGHT.

18 THE POLICE TESTIFIED. NOW THE POLICE
19 WEREN'T THERE. THEY DON'T KNOW WHAT HAPPENED IN THE
20 BANK AND NOBODY IN THE BANK CAN TELL YOU THAT THESE
21 TWO GUYS DID IT BECAUSE THEY WORE MASKS. THAT'S WHY
22 ROBBERS WEAR MASKS SO THAT PEOPLE CAN'T LATER COME
23 INTO COURT AND GO, YES, THAT'S THE GUY WHO DID IT.
24 THAT'S THE WHOLE POINT OF A MASK IS TO PREVENT THAT
25 FROM HAPPENING. NOW THE POLICE DIDN'T ACTUALLY SEE

1 WHO DID IT EITHER, BUT THEY FOUND SOME INTERESTING
2 STUFF THAT WHEN YOU CONSIDER IT LEADS YOU TO CONCLUDE
3 THEY DID IT TOO.

4 WE GOT TESTIMONY FROM CODEFENDANTS:
5 ANGELA LAWS TESTIFIED. NOW MR. SMITH -- OH, SORRY --
6 MR. JAMIESON MADE A BIG TO DO SAYING THAT THERE WAS
7 NOTHING CONSISTENT BETWEEN THE STATEMENT THAT SHE
8 GAVE WHEN SHE WAS ARRESTED WHICH IS STATE'S EXHIBIT
9 76, AND THIS TOO WILL BE BACK THERE WITH YOU, AND THE
10 STATEMENT THAT SHE AGREED WAS TRUE AND TESTIFIED TO
11 HERE IN COURT THAT YOU HEARD. NOW I DON'T AGREE WITH
12 MR. JAMIESON'S ASSESSMENT OF THESE TWO STATEMENTS.
13 THE DIFFERENCE BETWEEN THE TWO STATEMENTS, BECAUSE
14 THERE IS A DIFFERENCE, IS WHEN ANGELA LAWS WAS
15 ARRESTED SHE GAVE A STATEMENT THAT IMPLICATED
16 EVERYBODY ELSE BUT HERSELF. SHE KEPT HERSELF OUT OF
17 IT. SHE WAS ASLEEP FOR A LITTLE WHILE, THEY WERE
18 PICKING PEOPLE UP, SHE DIDN'T KNOW WHERE THEY GO;
19 THEY WENT TO THE BANK. THEY GOT OUT TO CASH SOME
20 CHECKS SHE THOUGHT BUT THEN ALL OF A SUDDEN SHE
21 REALIZED THAT THEY HAD GUNS AND SKI MASKS ON AND
22 SAID, OH, WAIT A MINUTE, I DON'T THINK THEY ARE
23 ACTUALLY GOING TO CASH CHECKS, UH. MAYBE THEY ARE
24 GOING IN TO ROB THE BANK AND SHE SAYS IN HER
25 STATEMENT TO THE POLICE ON THE DAY OF THE ROBBERY

1 THAT'S WHEN SHE FIRST REALIZED SOMETHING WAS AMISS
2 AND SHE GOT SUSPICIOUS AND SHE REALIZED THEY WERE
3 GOING TO ROB THE BANK BUT SHE DECIDED SHE WAS GOING
4 TO STAY THERE IN THE CAR ANYWAY BECAUSE SHE LOVED
5 KENNETH YOUNG, SHE LOVED HIM, AND SHE DIDN'T WANT TO
6 JUST LEAVE HIM THERE AT THE BANK. SO HER STATEMENT
7 THAT DAY IS KIND OF RIDICULOUS WHEN YOU THINK ABOUT
8 IT BECAUSE IT DOES PUT IT ALL ON THEM SO THEY ARE
9 STILL GUILTY BY THIS STATEMENT, IT'S JUST SHE'S NOT.
10 WHAT CHANGED WAS: I'M GUILTY TOO. THEY ARE GUILTY
11 LIKE I TOLD YOU BEFORE AND I'M REALLY GUILTY TOO AND
12 I'M GOING TO CONFESS AND PLEAD GUILTY AND ADMIT WHAT
13 I DID IN OPEN COURT TO THIS JUDGE AND DO MY TIME AND
14 I'LL TESTIFY AGAINST THEM. THAT'S WHAT CHANGED.

15 BUT READ THEM YOURSELF. SHE PUTS IT
16 ON THEM. THEY STOPPED AT ON THE RUN. THEY WENT BACK
17 BEHIND THE CAR, HAD TO GO TO THE BATHROOM. YOUNG
18 SAID ONE OF THE GUYS NEEDED TO CASH A CHECK AND GAVE
19 HER DIRECTIONS TO A BANK ACROSS THE WATER. LAWS
20 STATED THAT SHE PULLED UP RIGHT IN FRONT OF THE BANK
21 AND THEY ALL GOT OUT WITH MASKS ON. SHE KNEW WHAT
22 THEY WERE GOING TO DO. SAW THE YOUNG GUY IN THE BACK
23 WITH A BAG. I MEAN, SHE GAVE A PRETTY COMPLETE
24 STATEMENT EXCEPT FOR HER PART; THAT'S WHAT SHE OWNED
25 UP TO LATER AND THAT'S NOT UNREASONABLE. THAT'S WHAT

1 A LOT PEOPLE DO. SHE WAS SCARED. SHE HAS A CRIMINAL
2 HISTORY BUT SHE HAD NEVER DONE ANY TIME IN JAIL.
3 SHE'S GOT MINOR STUFF AND SHE KNEW THAT SHE HAD MOVED
4 FROM, YOU KNOW, MINOR LEAGUE BASEBALL TO THE MAJOR
5 LEAGUES. BANK ROBBERY IS SERIOUS CRIME. FORGERY
6 CHECK, STEALING MONEY FROM YOUR EMPLOYER, MINOR.
7 GOING INTO A BANK WITH SKI MASKS AND GUNS AND MACING
8 PEOPLE AND LOADING UP \$18,000 WORTH OF CASH, STUFFING
9 THEM INTO THE VAULT AND CLOSING THE DOOR -- MAJOR.
10 SHE SAID, I'M IN REAL TROUBLE NOW, SO HER STATEMENT
11 WAS VERY SELF-PROTECTIVE. JUDGE HER TESTIMONY BASED
12 ON HOW SHE WAS ON THE STAND THOUGH, CONSIDER THAT
13 TOO. SHE WAS PRETTY FORTHRIGHT. SHE WASN'T HAPPY TO
14 BE HERE, WHO CAN BLAME HER, HER POSITION RIGHT NOW IS
15 PRETTY BAD. SHE'S GOING TO PRISON. SHE KNOWS IT.
16 SHE'S NOT HAPPY ABOUT BEING HERE, BUT SHE TOLD THE
17 TRUTH AND IT DIDN'T REALLY CHANGE A WHOLE LOT OVER
18 TIME.

19 DONSHAVIS JONES, HIS TESTIMONY, I
20 SUBMIT, IS EVEN BETTER IN ONE RESPECT. HE ADMITTED
21 FROM THE VERY BEGINNING THAT HE WAS IN THE BANK.
22 THEY CAN'T A REALLY TOUCH HIM WITH THAT WHOLE "HE'S
23 JUST SELLING OUT FOR THE DEAL." NO, ACTUALLY, THIS
24 IS DEFENSE EXHIBIT NUMBER TWO, HIS STATEMENT IS
25 ATTACHED AS A PART OF THAT, ACTUALLY DONSHAVIS, HE

1 SOLD OUT BEFORE THERE WAS A DEAL, SO HE DIDN'T REALLY
2 BUY ANYTHING AND WE DIDN'T-- I MEAN WE DIDN'T BUY
3 ANYTHING. HE DIDN'T SELL US ANYTHING WE DIDN'T
4 ALREADY HAVE. HE GAVE US THIS THE DAY OF THE ROBBERY
5 AND HE PUT IT RIGHT ON THEM. PORTER IS HIS
6 GRANDFATHER, HE KNOWS KY, AND LAWS IS YOUNG'S
7 GIRLFRIEND. KY IS KENNETH YOUNG. THEY MET ABOUT A
8 MONTH AGO. WENT TO THE BANK. WENT INSIDE TO CHECK
9 IT OUT. FRIDAY 7:30 OR 8 O'CLOCK PORTER CALLED, TOLD
10 THEM THEY WERE ON THE WAY TO PICK HIM UP AND HE
11 UNDERSTOOD THAT PORTER WAS IN THE CAR WITH YOUNG AND
12 LAWS. JONES STATED HE WAS SUPPOSED TO BRING A BAG TO
13 PUT THE MONEY IN. YOUNG BROUGHT A SKI MASK FOR EACH
14 OF THEM. THEY STOPPED AT ON THE RUN -- HOW IRONIC IS
15 THAT? A LITTLE BIT OF FORESHADOWING FOR YOU THERE,
16 ON THE RUN, PRETTY GOO. YOUNG STOPPED AT ON THE RUN
17 SO YOUNG COULD STICK THE PAPER TAG ON THE CAR. THEN
18 THEY WENT ON TO THE BANK, WENT IN, SHE PULLED UP,
19 THEY ALL GOT OUT WITH THEIR MASKS ON AND WENT INSIDE.
20 PORTER HAD A .9 MILLIMETER, YOUNG HAD .38 PISTOL
21 ALONG WITH SOME MACE. WENT INSIDE, HE DOES NOT KNOW
22 WHAT PORTER AND YOUNG DID BUT JONES SAID HE RAN AND
23 STARTED GETTING THE MONEY.

24 THE COURT: MR. BRACKETT, I'M GOING TO ASK
25 YOU SLOW DOWN A LITTLE BIT. I'M SURE SHE'S HAVING

1 TROUBLE KEEPING UP WITH YOU.

2 MR. BRACKETT: I'M SORRY.

3 THE PLAN WAS TO GO BACK TO LAWS' HOUSE
4 AND SPLIT THE MONEY UP. THE POLICE GOT BEHIND THEM,
5 THE BIG CHASE, DEAD END. HE HAD THE SHIRT AND PAIR
6 OF SHOES IN THE PILLOW IN CASE HE HAD TO CHANCE, IF
7 HE HAD TO RUN. DEAL WHEN HE MADE THAT STATEMENT?
8 NO, HE HAD NO DEAL. HE GAVE THIS STATEMENT BEFORE HE
9 KNEW KEVIN BRACKETT OR E. B. SPRINGS EVEN EXISTED AND
10 WE'RE THE ONES THAT NEGOTIATE THE DEALS. NO DEAL.
11 THIS IS JUST THE TRUTH. SO TRYING TO HIT HIM WITH
12 THE WHOLE HE SOLD OUT, DONSHAVIS SOLD HIS GRANDFATHER
13 OUT, DOESN'T HOLD ANY WATER. THEY CAN'T HIT HIM WITH
14 THAT.

15 DIDN'T IMPEACH HIM WITH ANY
16 CONVICTIONS. 22 YEARS OLD, HE'S 22 YEARS OLD, HIS
17 GRANDFATHER IS 56, AND SAYS HIS GRANDFATHER GOT HIM
18 INTO THIS, 22 YEARS OLD, THEY DIDN'T HAVE ANY
19 CONVICTIONS TO IMPEACH HIM WITH. HIS GRANDFATHER
20 ASKED HIM, HE SAID, ISN'T IT TRUE YOU HAVE SOME
21 FAMILY PROBLEMS? THIS IS THE ONE QUESTION HE MESSED
22 UP ON. HE MESSED UP ON THIS QUESTION, MR. PORTER, HE
23 MESSED UP BECAUSE THE ANSWER HE GAVE WAS NO, BUT THE
24 ANSWER, THE TRUE ANSWER, IS YES. MR. DONSHAVIS
25 JONES, HE'S GOT FAMILY PROBLEMS AND HIS FAMILY

1 PROBLEM IS HIS GRANDFATHER JOHNNELL PORTER, JOHNNELL
2 PORTER THE MAN WHO DRAGGED HIM ALONG INTO THIS MESS,
3 AND AN OTHERWISE STRAIGHT, CLEAN KID, WHO HAD NO
4 PROBLEMS, IS NOW GOING TO PRISON FOR 6 TO 8 YEARS AND
5 THAT'S A SHAME. THAT'S A DARN SHAME. THAT'S JUST A
6 TRAVESTY AND HE SITS OVER THERE TRYING TO PAINT THIS
7 GUY AS THE BAD GUY. PLEASE.

8 HERE'S WHERE WE'RE GOING TO TEST MY
9 TECHNOLOGICAL PROWESS. THIS IS A VIDEO CLIP, JUST
10 ONE CLIP, THE WHOLE VIDEO WHICH IS RIGHT HERE FROM
11 THE BANK OF YORK IS STATE'S EXHIBIT ONE. THE ENTIRE
12 VIDEO THAT WAS PLAYED ON TUESDAY IN THE COURTROOM
13 HERE, THIS IS STATE'S EXHIBIT ONE AND WAS PUT INTO
14 EVIDENCE ON TUESDAY AND HAS REMAINED IN EVIDENCE
15 SINCE TUESDAY, THE SAME CD WITH THIS MARK ON IT STAYS
16 IN THE CUSTODY OF THE COURT, SO DESPITE MR. PORTER'S
17 COMPLAINTS NOBODY CHANGED THIS VIDEO AND ADDED IN
18 SOME CAR DRIVING UP AND PULLING BEHIND. THAT LITTLE
19 WHITE CAR THAT PULLED UP BEHIND HIM, IT WAS THERE ON
20 TUESDAY TOO. THE ONLY THING THAT WASN'T THERE WAS
21 THIS RIDICULOUS BOJANGLES STORY. BUT MRS. JANIE
22 KENDRICK, SHE'S A REAL PERSON, SHE REALLY DOES LIVE
23 IN RIVER HILLS; SHE'S NOT AN ACTRESS THAT WE HIRED TO
24 COME IN HERE AND SAY SHE WAS DRIVING THAT WHITE CAR
25 AND SAY THAT THE OTHER CAR DIDN'T STOP AT THE

1 BOJANGLES. SHE'S A REAL PERSON AND SHE WAS REALLY AT
2 THE BANK OF YORK AND SHE WAS REALLY DRIVING THAT
3 LITTLE WHITE CAR. NOBODY TAMPERED WITH THIS.

4 THIS IS A LITTLE VIDEO CLIP, LET'S SEE
5 IF I CAN GET IT TO WORK, AND OF COURSE. THIS IS FROM
6 A SECTION OF THE VIDEO, THIS VIDEO DOESN'T WORK ON
7 THIS, YOU'LL HAVE THE VIDEO BACK THERE AND A TV WITH
8 A DVD PLAYER IN THE BACK, GO THROUGH, THERE IS A
9 PAUSE BUTTON, PLAY AROUND WITH IT A LITTLE BIT, AND
10 GET IT TO PAUSE AND STOP. RIGHT, THERE IS ONE ANGLE
11 FROM HERE, RIGHT OVER THE DOOR, AS THE THREE OF THEM
12 COME IN, STOP AND YOU'LL SEE THAT MR. JONES, THE
13 THIRD GUY COMING IN WITH THE BAG, HE'S GOT SOMETHING
14 IN HIS HANDS, AND IF YOU PAUSE IT, IT IS A STOP
15 PLAYING FILM, THIS ISN'T LIKE FLUID FULL MOTION 35
16 MILLIMETER LIKE GOING TO THE CINEMA MOVIE, THIS IS A
17 SECURITY VIDEO, BUT YOU CAN PAUSE IT AT ONE STOP AND
18 YOU'LL SEE DONSHAVIS IS HOLDING A BAG IN HIS HAND,
19 HE'S GOT BOTH HANDS THERE.

20 THERE IS ANOTHER CLIP WHERE THE THREE
21 OF THEM ARE WALKING IN THE FRONT DOOR, THE CAMERA IS
22 ON THE FRONT DOOR AND IT'S WHEN THEY FIRST COME IN.
23 YOU'LL ALSO SEE IF YOU GO THROUGH STOP MOTION BIT BY
24 BIT YOU'LL SEE THE FIRST GUY COMING IN WHOSE WEARING
25 ALL DARK, DARK HOODIE OVER THE TOP, SKI MASK, AND

1 DARK PANTS. AS HE WALKS IN YOU CAN STOP IT AT ONE
2 POINT AND YOU'LL SEE THE .9 MILLIMETER IN HIS HANDS.
3 IT'S CLEARLY THE FRAME OF THE SEMIAUTOMATIC PISTOL
4 WHICH YOU'LL HAVE BACK THERE TO COMPARE IT TO. THE
5 NEXT PERSON THAT COMES IN HOLDING IT AT ABOUT THIS
6 POINT WITH A WHITE RUBBER GLOVE, WHICH ARE ALSO IN
7 EVIDENCE, THE BLEACHED HANDS. WHO BLEACHES THEIR
8 HANDS? I MEAN PLEASE. THEY WERE WHITE BECAUSE HE
9 WAS WEARING WHITE SURGICAL GLOVES. THAT'S WHAT SHE
10 MEANT. YOU'LL SEE ONE HAND LIKE THIS AND YOU'LL SEE
11 A .38. THAT FELLOW IS WEARING A GRAY SKI MASK AND A
12 BLUE JACKET ABOUT LIKE THAT AND LIGHT BLUE JEANS.
13 THE THIRD PERSON COMING IN IS HOLDING SOMETHING IN
14 THEIR HANDS THAT LOOKS KIND OF LIKE A FOLDED UP
15 PILLOWCASE AND AT ONE POINT YOU'LL SEE HIS HAND COME
16 UP LIKE THIS AND THERE IS NOTHING IN IT. SO THEY
17 FOUND TWO GUNS. I DON'T KNOW IN THE CONFUSION DID
18 THEY THINK THAT EVERYBODY HAD A GUN? DID THEY DITCH
19 A GUN? BECAUSE IT REALLY DOESN'T MATTER WHETHER
20 DONSHAVIS HAD A GUN OR NOT, BUT I SUBMIT WHEN YOU
21 LOOK AT THE VIDEO YOU'LL SEE AND THAT WAS THE POINT
22 OF THIS VIDEO IS TO SHOW YOU THAT IT APPEARS AS
23 DONSHAVIS IS ENTERING THE BANK HE IS ONLY HOLDING THE
24 PILLOWCASE IN HIS HAND, HERE THERE IS, THAT'S IT.
25 THIS ONE WORKED. HALLELUJAH. HE UNFURLS IT. IT

1 SORT OF FALLS DOWN BESIDE HIM. IT APPEARS THAT
2 DONSHAVIS JONES IS ONLY HOLDING THE PILLOWCASE. BUT
3 YOU'LL HAVE IT BACK THERE AND IT LOOKS BETTER, IT'S
4 CLEAR AND SHARPER ON THAT THAN IT IS THROUGH THIS
5 PROJECTOR AND THIS COMPUTER. YOU'LL HAVE IT BACK
6 THERE AND YOU CAN STOP IT AND TAKE A LOOK AT IT
7 YOURSELF.

8 THE NEXT PIECE OF EVIDENCE I WANT YOU
9 TO CONSIDER IS THE VIDEOS IN GENERAL AND WHEN YOU
10 LOOK AT THE VIDEOS, I WANT YOU TO REMEMBER THERE IS
11 TWO DIFFERENT, THERE IS ONE FROM THE CARS AND THE ONE
12 FROM THE BANK, OKAY. THE CAR CHASE VIDEOS FROM THE
13 TWO POLICE OFFICERS WHO CHASED THEM UP INTO
14 CHARLOTTE, THE ONE IS THE CAR THAT WAS RIGHT BEHIND
15 HIM, VINESETT'S VIDEO, AND THEN GIBSON'S VIDEO.
16 VINESETT'S IS THE ONE THAT HITS THE CAR DOOR. GIBSON
17 IS THE ONE THAT PULLS OFF TO THE RIGHT OF THE CAR
18 DOOR. WHEN YOU SEE THEM YOU'LL KNOW WHICH ONE IS
19 WHICH.

20 GIBSON'S VIDEO IS REALLY IMPORTANT
21 BECAUSE IT SHOWS MR. YOUNG AND MR. PORTER BEING
22 PULLED OUT OF THE CAR. VINESETT'S VIDEO SHOWS THE
23 MONEY BAG COMING OUT ON THE HOOD OF THE CAR AND HIM
24 PULLING DONSHAVIS JONES OUT AND IT'S RATHER ABRUPT,
25 BUT THIS HAS BEEN A 80 MILE AN HOUR - 90 MILE AN HOUR

1 CHASE THROUGH THE RAIN DOWN I-77, I'M SURE THAT
2 EVERYBODY'S ADRENALINE WAS PUMPING, AND EVERYBODY WAS
3 SCARED CHASING. YOU ARE CHASING A CAR THAT'S
4 SUPPOSED TO BE FILLED OF ARMED MEN. YOU DON'T KNOW
5 HOW DESPERATE THEY ARE OR WHAT THEY ARE GOING TO DO.
6 IT WAS A SCARY TIME. BUT TAKE A GOOD LOOK AT THE
7 VIDEO FROM THE RIGHT SIDE OF THE CAR AND COMPARE THE
8 TWO. THERE'S A COUPLE OF THINGS THAT I'LL POINT OUT
9 AND Y'ALL CAN GO BACK THERE AND LOOK AT THEM UNTIL
10 YOUR HEART'S CONTENT AND COMPARE THEM YOURSELF, BUT
11 THERE IS A COUPLE OF THINGS THAT I WANTED TO POINT
12 OUT TO YOU THAT I THINK WERE IMPORTANT. OKAY.

13 TAKE A LOOK AT THIS ONE. ALL RIGHT.
14 THIS IS THE GUY WITH THE BLUE JACKET AND THE GRAY,
15 AGAIN IT'S FUZZY, LOOK AT IT BACK THERE, YOU'LL SEE,
16 YOU SEE THIS, RIGHT HERE, THERE. LET'S TAKE A LOOK
17 AT THE NEXT CLIP. THIS IS THE CLIP FROM, THAT WAS
18 MR. YOUNG BEING PULLED OUT OF THE CAR. I SUBMIT TO
19 YOU THIS IS MR. YOUNG'S JACKET THAT WAS TAKEN OFF HIS
20 BACK, STATE'S EXHIBIT FIVE. (DISPLAYS THE JACKET.)
21 THIS IS THE JACKET THAT WAS THE ROBBER WAS WEARING.
22 THERE WAS ANOTHER CLIP, THE SAME ONE WHERE THEY ARE
23 COMING IN THE BANK AT THE VERY BEGINNING, ALL THREE
24 OF THEM WALK IN THE BANK, FIRST PORTER, THEN YOUNG,
25 THEN DONSHAVIS JONES, YOUNG IS SECOND, AND YOU CAN

1 CLEARLY SEE THIS ON THERE AS WELL. MR. YOUNG'S
2 JACKET.

3 NOW WE DIDN'T SEE ANY DREAD LOCKS IN
4 THE VIDEO, IT'S TRUE, BUT THEN AGAIN, WHEN YOU LOOK
5 AT THOSE VIDEOS YOU WILL SEE THAT THEY ALL HAVE
6 HOODIES THAT ARE UP OVER THEIR SKI MASKS AND PUT YOUR
7 SKI MASK ON, YOU PULL YOUR HOODIE UP, AND YOU HAVE
8 YOUR DREAD LOCKS GOING DOWN THE BACK OF YOUR JACKET.
9 WHAT ARE YOU GOING TO SEE? IF THEY WERE EVEN A
10 LITTLE BIT LONGER YOU CAN TUCK THEM DOWN BACK OF YOUR
11 PANTS AND THEN WHEN YOU GO TO SIT DOWN IN THE CAR,
12 YOU GOING TO DRIVE AROUND WITH YOUR SKI MASK ON?
13 PROBABLY NOT, ESPECIALLY IF YOU JUST ROBBED A BANK.
14 YOU ARE GOING TO TAKE YOUR SKI MASK OFF AND IT'S
15 PROBABLY NOT GOING TO BE TOO COMFORTABLE TO SIT ON
16 YOUR HAIR SO YOU MIGHT PULL YOUR HAIR UP AND OUT OF
17 THE BACK OF YOUR JACKET, AND ZIP IT DOWN AND MAKE
18 YOURSELF A LITTLE MORE COMFORTABLE. MR. YOUNG.

19 HERE'S THE VIDEO FROM THE FRONT DOOR
20 THAT I WAS TELLING YOU ABOUT, IF I CAN GET IT TO
21 WORK. THERE AGAIN IS MR. YOUNG GOING IN THE DOOR,
22 WHITE GLOVES WITH A SKI MASK, AND A LITTLE WHITE
23 EMBLEM ON THE FRONT. THE FIRST MAN THROUGH ALL DARK.
24 ALL DARK, ALL DARK SWEAT SHIRT, DARK HOODIE, DARK
25 PANTS. AND THERE WAS DONSHAVIS. I'M GOING TO TRY TO

1 PLAY THAT ONE AGAIN AND SEE IF I CAN STOP IT WHEN
2 DONSHAVIS'S HANDS AS HE COMES THROUGH. THERE WE GO.
3 I SUBMIT TO YOU, LADIES AND GENTLEMEN, THAT IS THE
4 PILLOWCASE AND THAT IS AN EMPTY HAND. LOOK AT IT ON
5 THE BETTER TV. HIS HAND WILL BE EMPTY. I BELIEVE
6 HIS HAND WAS EMPTY. NOW WHETHER HE HAD A GUN, MAYBE
7 HE PULLED IT OUT LATER, AGAIN IT'S NOT IMPORTANT THAT
8 HE DID OR HE DIDN'T. I JUST THINK IT'S IMPORTANT
9 NECESSARILY FOR HIS TESTIMONY, FOR THE CREDIBILITY OF
10 MR. JONES BECAUSE HE SAYS HE DIDN'T HAVE A GUN.

11 THE FOLKS IN THE BANK ALSO THOUGHT
12 THAT THERE WAS AS MANY AS FOUR OR POSSIBLY FIVE
13 PEOPLE IN THE BANK. I THINK FEAR HAS A LOT TO DO
14 WITH YOUR PERCEPTION.

15 THIS IS THEM LEAVING THE BANK. LET'S
16 LOOK AT THAT AGAIN. THAT IS MR. PORTER THE LAST MAN
17 OUT. LOOK AT IT AGAIN. LOOK AT ALL THE VIDEO OF
18 MR. PORTER IN PARTICULAR, THE FELLOW IN THE DARK,
19 HE'S WEARING THE DARK HOODIE, THE DARK PANTS. AND
20 NOW THIS IS FROM MR. GIBSON, OFFICER GIBSON'S CAR,
21 COME A LITTLE BIT CLOSER, WHAT ARE THE ODDS OF THAT?
22 POOR MR. PORTER, NOT ONLY DID HE GET LET OUT BEFORE
23 THE ROBBERY, PICKED UP AFTER THE ROBBERY, BUT HE
24 HAPPENED TO BE BEARING DARK PANTS AND A DARK HOODIE
25 JUST LIKE THE ROBBER. WHAT A HORRIBLE COINCIDENCE

1 FOR POOR MR. PORTER TO BE CAUGHT IN THIS SITUATION
2 LIKE THIS. IT'S RIDICULOUS.

3 LET'S TALK QUICKLY ABOUT THE PHYSICAL
4 EVIDENCE. \$18,000 IN CASH. THE MONEY RETURNED TO
5 THE BANK INCLUDING THE \$500 IN BAIT MONEY, MARKED
6 MONEY, SO THERE IS NO QUESTION THAT IS THE SAME MONEY
7 THAT WAS PREVIOUSLY LOCATED IN THE VAULT OF THE BANK
8 OF YORK IMMEDIATELY PRIOR TO THE ARRIVAL OF MISTERS'
9 PORTER, LAWS, YOUNG, AND JONES.

10 THREE SKI MASKS. YOU'LL HAVE THEM
11 BACK THERE. I'M NOT GOING TO DRAG THEM OUT. YOU CAN
12 LOOK AT THEM IF YOU WANT. COINCIDENTALLY TWO DARK
13 SKI MASKS, ONE LIGHT GRAY SKI MASK, JUST LIKE THE
14 VIDEO SHOWS. TWO GUNS: A .9 MILLIMETER
15 SEMIAUTOMATIC HANDGUN, THE KIND THAT HAS A CLIP AT
16 THE BOTTOM OF IT, AND .38 CALIBER REVOLVER THE KIND
17 THAT HAS A LITTLE CYLINDER THAT SPINS, IT'S THE
18 REVOLVER. LOOK AT THE VIDEO IN THERE, YOU'LL SEE IT
19 APPEARS TO BE A REVOLVED AND A .9 MILLIMETER.
20 AGAIN, A HECK OF A COINCIDENCE.

21 THE CLOTHING MATCHES. THERE IS ONE
22 OTHER PIECE OF CLOTHING THAT I WANT YOU TO TAKE A
23 LOOK AT BECAUSE I THINK IF YOU REALLY LOOK HARD
24 ENOUGH AT IT, I THINK YOU WILL SEE THIS IS THE PANTS
25 THAT MR. YOUNG ACKNOWLEDGED HE WAS WEARING. NOW I

1 DIDN'T PULL THE CLIP BECAUSE IT JUST DOES IT SO FAINT
2 IT DOESN'T LOOK GOOD ON THIS, BUT GO BACK AND LOOK AT
3 THE PICTURES, THE VIDEO CLIPS OF THE ROBBER IN THE
4 STORE, THE ONE WITH THE LIGHT GRAY MASK, AND LOOK
5 CAREFULLY I BELIEVE YOU WILL SEE A LITTLE POOFED OUT
6 PORTION FROM THE CARGO PANTS ON THE SIDE OF HIS
7 PANTS. THEY WILL ALSO BE MORE OR LESS THE SAME COLOR
8 AS MR. YOUNG'S PANTS. AGAIN ANOTHER HORRIBLE
9 COINCIDENCE? OR HAVE WE GOT THE RIGHT GUYS.

10 THIS ONE IS A NO BRAINER. THE DUCK
11 TAPE IN THE CAR, SAME COLOR AS THE DUCK TAPE THAT HAD
12 THE DEALER TAG TAPED ON THE BACK OF IT, THE DEALER
13 TAG IS IN AND THE MACE FOUND ON YOUNG. OF COURSE,
14 HE'S GOING TO SAY THAT THE MACE WAS THE MYSTERY GUY'S
15 MACE THAT WAS IN THERE WHEN HE GOT OUT WITHIN A
16 COUPLE OF MINUTES FROM THE BARK ROBBERY BECAUSE
17 REMEMBER HE SAID AT ABOUT 10:25, I'VE BEEN THERE
18 ABOUT HALF AN HOUR, WAITING FOR CARLOS OR WHOEVER
19 THIS DUDE IS THAT IS GOING TO PAY HIM \$1800 TO SHOW
20 UP AND THEN FOUND OUT HE WASN'T COMING, SO I CALLED
21 ANGELA AND SHE SAID I'LL BE THERE IN TWO MINUTES AND
22 THAT'S APPROXIMATELY THE TIME OF WHEN THE BANK
23 ROBBERY WENT DOWN, SO WE KNOW ANGELA WAS THERE
24 BECAUSE SHE SAID SHE WAS THERE AND THE CAR IS ON THE
25 VIDEO THERE AND THERE IS NO DOUBT HE EVEN ADMITS THAT

1 HE WAS LATER IN THAT CAR WHEN IT WAS STOPPED, SO
2 THAT'S WHY THE FINAL QUESTION I ASKED MRS. KENDRICK
3 IS THERE ANOTHER BOJANGLES WITHIN THREE MINUTES OF
4 THAT BANK? AND SHE SAID NO, I'M FAMILIAR WITH THAT
5 AREA. THERE IS NO WAY SHE COULD HAVE BEEN AT THE
6 BANK AND THEN PICKED HIM UP AT ANY OTHER BOJANGLES ON
7 49 BECAUSE THERE IS NO OTHER BOJANGLES ANYWHERE CLOSE
8 TO THAT BANK ON 49. SO IF THE ROBBERY HAPPENED AT
9 AROUND 10:30-10:25 AND CLOCKS ARE OFF, YOU HEARD FROM
10 VINESETT THE TIMING IS NEVER GOING TO BE EXACTLY ON;
11 MAYBE IF WE WERE REALLY MAKING ALL THIS STUFF UP WE
12 WOULD PUT IT DEAD ON SO IT WENT RIGHT BY THE MINUTE,
13 BUT SINCE WE'RE NOT, WE ARE GOING TO DEAL WITH
14 REALITY WHICH MEANS CLOCKS ARE GOING TO BE OFF. WHEN
15 WAS THE LAST TIME YOU CHANGED YOUR CLOCK ON YOUR FAX
16 MACHINE AT THE OFFICE OR CHECKED IT TO FIND OUT
17 WHETHER IT WAS ON OR NOT. IT'S PROBABLY OFF BY 5,
18 10, 15 MINUTES; IT MAY BE OFF BY 3 DAYS. IT MAY SAY
19 2:30 IN THE MORNING WHEN YOU FAX SOMETHING AT FOUR IN
20 THE AFTERNOON. IT COULD BE COMPLETELY OFF. BUT WE
21 DO KNOW BY HIS OWN TESTIMONY AT ABOUT 10:25 HE WAS AT
22 THE BOJANGLES AND HE CALLS ANGELA LAWS ON HIS CELL
23 PHONE AND SAYS WHEN YOU COMING TO PICK ME UP AND SHE
24 SAYS IN ABOUT TWO MINUTES, SO THE ONLY WAY SHE COULD
25 HAVE BEEN AT THE BANK ROBBING IT, WHICH EVEN HE

1 ADMITS SHE WAS THERE DOING THAT, AND THEN TWO MINUTES
2 LATER AT THAT BOJANGLES UNLESS HE WAS AT THE
3 BOJANGLES ON 49 IN LAKE WYLIE, BUT WE KNOW THAT
4 DIDN'T HAPPEN BECAUSE MRS. JANIE KENDRICK CAME HERE
5 AND TOLD YOU IT DIDN'T HAPPEN. HIS WHOLE DEFENSE IS
6 AMAZING AND INCREDIBLE AND FANTASTIC AND THAT'S
7 BECAUSE HE'S REALLY GOT NO CHOICE. THERE IS NOTHING
8 ELSE TO SAY. HE'S LEFT WITH NO OPTION BUT TO MAKE UP
9 SOME INCREDIBLE OUTRAGEOUS STORY THAT CAN'T POSSIBLY
10 HOLD WATER.

11 A PAYCHECK. THESE ARE THINGS THAT
12 WOULD BE VERIFIABLE. WE DON'T HAVE A PAYCHECK.
13 WHERE IS CARLOS MINTEZ.

14 PORTER, THIS IS INTERESTING THOUGH
15 BECAUSE HE DID THROW HIS BUDDY UNDER THE BUS, PORTER
16 LEFT WITH THE MYSTERY DUDE FROM THE T-BIRD. HE
17 DIDN'T TRY TO PUT PORTER AT THE BOJANGLES WITH HIM.
18 HE WASN'T GOING TO THROW HIM A LIFE VEST. POOR
19 PORTER HAD TO GET IN THE CAR -- ACCORDING TO YOUNG,
20 HE HAD TO GET IN THE CAR WITH THE ROBBERS AND HEAD
21 OFF DOWN THE ROAD, EVEN THOUGH MR. PORTER DESPERATELY
22 TRIED TO GET HIM TO SAY, DIDN'T YOU HEAR ME CUSSING
23 AND YELLING? I SAW YOU CHANGING THE JACKET OUT, GIVE
24 ME SOME LOVE, BABY. YOUNG SAID -- NO, I DON'T
25 ACTUALLY REMEMBER YOU SAYING THAT: RIGHT UNDER THE

1 BUS. POOR MR. PORTER. PICKED UP ON THE SIDE OF THE
2 ROAD; NO, DIDN'T HAPPEN. CELL PHONE CALLS,
3 TRACEABLE, IDENTIFIABLE, VERIFIABLE, DIDN'T HAPPEN.
4 DIDN'T HAPPEN.

5 LADIES AND GENTLEMEN, THEY PUT CHAIRS
6 BACK IN YOUR JURY ROOM, THEY PUT THEM BACK THERE SO
7 THAT YOU CAN SIT DOWN CAREFULLY, THOUGHTFULLY
8 CONSIDER THE EVIDENCE AND DISCUSS IMPORTANT WEIGHTY
9 QUESTIONS ABOUT IT, DECIDE ISSUES THAT ARE IMPORTANT
10 TO THE CASES THAT JURIES HAVE TO DECIDE, BUT JUST
11 BECAUSE THEY PUT THE CHAIRS BACK THERE, ONE THING YOU
12 WILL HEAR AND ONE THING YOU WILL NOT HEAR THE JUDGE
13 NOT DO IS CHARGE THAT YOU HAVE TO ACTUALLY USE THE
14 CHAIRS. YOU DO NOT. YOU CAN CHOSE TO STAND AND
15 CONVICT WITHIN MOMENTS AND THIS, LADIES AND
16 GENTLEMEN, IS A CASE THAT SHOULD NOT MERIT ANY MORE
17 OF YOUR TIME THAN IT ALREADY HAS. THESE ARE THE TWO
18 MEN, THESE ARE THE TWO MEN, MR. JOHNNELL PORTER RIGHT
19 HERE AND MR. KENNETH YOUNG RIGHT HERE, THAT ENTERED
20 THE BANK OF YORK ON HIGHWAY 49 ARMED WITH GUNS AND
21 MACE, WEARING SKI MASKS, AND YELLING AND SCREAMING AT
22 THESE POOR PEOPLE HERE. THESE ARE THE TWO MEN HERE
23 THAT MADE THESE GOOD PEOPLE WHO WERE TRYING TO GET
24 THROUGH THEIR LAST WORK DAY BEFORE CHRISTMAS GET DOWN
25 ON THEIR HANDS AND KNEES AND CRAWL LIKE ANIMALS WHILE

1 THIS MAN HERE SAT THERE, STOOD THERE, MACING THEM AND
2 POINTING HIS GUN AT THEM, DON'T LOOK AT ME, KEEP
3 CRAWLING.

4 THESE ARE THE TWO MEN RIGHT HERE THAT
5 PUT POOR ROBERT MORGAN, THAT POOR SHUFFLING 82 YEAR
6 OLD MAN WHO JUST SHOWED UP TO DO A LITTLE BIT OF
7 BUSINESS BEFORE CHRISTMAS AND SHOVED HIM BACK IN SO
8 HE COULDN'T STAND UP AND FELL DOWN AND SCARED HIM SO
9 BAD THAT SIX MONTHS AFTER THIS HAPPENED TO HIM HE SAT
10 HERE AND COULDN'T TELL YOU EVERYTHING THAT HAPPENED
11 TO HIM AND HOW SCARED HE WAS.

12 AND THESE POOR PEOPLE FIGHTING BACK
13 THE TEARS AND THE ANGER AND THE SHAME AND THE FEAR,
14 RECALLING THESE EVENTS THAT HAPPENED TO THEM SIX
15 MONTHS AGO AS THEY THOUGHT ABOUT THEIR CHILDREN AND
16 HOW THEIR PLANS FOR CHRISTMAS NOT COME THROUGH
17 BECAUSE THEY MIGHT NOT MAKE IT OUT OF THE BANK.

18 THESE TWO MEN ORDERED UP A MIGHTY MEAL
19 ON DECEMBER 22, 2006, AND NOW THE CHECK HAS COME TO
20 THE TABLE AND Y'ALL GOT TO COLLECT AND THEY HAVE TO
21 PAY, MAKE SURE THEY DO. COME BACK IN THIS JURY ROOM
22 AND TELL THEM YOU DON'T BELIEVE THEM. TELL THEM THEY
23 ARE NOT FOOLING ANYBODY. TELL THEM YOU KNOW THEY
24 WENT IN THAT BANK, THAT THEY POINTED THOSE GUNS, THEY
25 SCREAMED AND YELLED AND SCARED THOSE PEOPLE AND HOSED

1 THEM DOWN WITH MACE AND KIDNAPPED THEM LOCKING THEM
2 IN THE VAULT, TELL THEM THEY ARE GUILTY. THANK YOU.

3 THE COURT: MEMBERS OF THE JURY PANEL,
4 BEFORE I CHARGE YOU ON THE LAW WE'RE GOING TO TAKE A
5 SHORT REFRESHER BREAK BECAUSE MY CHARGE WILL TAKE A
6 LITTLE BIT OF TIME. IT WON'T BE A LONG BREAK. MR.
7 FOREMAN, IF YOU WILL JUST TELL US WHEN YOU ARE READY
8 TO RETURN.

9 MR. FOREMAN: YES, SIR.

10 THE COURT: ALL RIGHT.

11 (THE JURY EXITS THE COURTROOM AT 04:15
12 PM.)

13 THE COURT: WE'LL TAKE A REAL SHORT BREAK.

14 (COURT'S IN RECESS AT 04:15 PM.)

15 (COURT RESUMES AT 04:28 PM.)

16 THE COURT: BRING IN THE JURY.

17 (THE JURY RETURNS TO THE COURTROOM AT
18 04:28 PM.)

19 CHARGE BY THE COURT:

20 MEMBERS OF THE JURY PANEL, I
21 APPRECIATE THE ATTENTION THAT YOU'VE GIVEN ME AND THE
22 ATTORNEYS AND MR. PORTER AND THE WITNESSES IN THIS
23 CASE. I'M NOW GOING TO CHARGE YOU THE LAW THAT YOU
24 APPLY TO THE FACTS. I'M GOING TO QUICKLY GO OVER THE
25 CHARGES AGAIN. LATER IN MY CHARGE I WILL TELL YOU

1 THE ELEMENTS. THAT IS THE THINGS THE STATE MUST
2 PROVE BEYOND A REASONABLE DOUBT BEFORE YOU COULD
3 CONVICT EITHER OR BOTH OF THESE INDIVIDUALS FOR THE
4 OFFENSES.

5 BUT FIRST JUST TO CATALOG WHAT THE
6 CHARGES ARE, THESE ALL OF COURSE ARE ALLEGED TO HAVE
7 OCCURRED ON DECEMBER 22 OF LAST YEAR HERE IN YORK
8 COUNTY ALL DEALING WITH THE BANK OF YORK. EACH OF
9 THESE GENTLEMEN ARE CHARGED WITH ALL OF THESE, EXCEPT
10 FOR ASSAULT AND BATTERY OF A HIGH AND AGGRAVATED
11 NATURE WHICH WILL BE THE LAST ONE I MENTION AND THAT
12 CHARGE IS ONLY AS TO MR. YOUNG, BUT EACH OF THESE
13 INDIVIDUALS IS CHARGED WITH CONSPIRING. CONSPIRACY
14 TO COMMIT ARMED ROBBERY IS ALLEGED THEY CONSPIRED
15 WITH EACH OTHER AND WITH MR. JONES AND MS. LAWS FOR
16 PURPOSES OF COMMITTING ARMED ROBBERY.

17 THE NEXT INDICTMENT IS THAT OF ARMED
18 ROBBERY AND EACH OF THESE INDIVIDUALS IS CHARGED,
19 BOTH OF THESE INDIVIDUALS ARE CHARGED WITH USING A
20 DEADLY WEAPON TO EFFECT AN ARMED ROBBERY ON THAT DATE
21 AT THAT TIME AND AT THAT PLACE; THAT IS, THEY USED
22 FORCE OR INTIMIDATION TO PUT EMPLOYEES OF THE BANK OF
23 YORK IN FEAR BY POINTING A PISTOL AT THEM AND TAKING
24 MONEY BELONGING TO THE BANK OF YORK.

25 IT'S ALLEGED IN THE NEXT INDICTMENT AS

1 TO BOTH OF THEM THAT AT THAT TIME THEY EACH WERE IN
2 POSSESSION OF A HAND GUN IN VIOLATION OF THE LAWS OF
3 THIS STATE.

4 THE NEXT INDICTMENT ALLEGES THAT AT
5 THAT TIME AND THAT DATE EACH OF THESE INDIVIDUALS
6 WERE INVOLVED IN THE KIDNAPPING OF MR. LUBIATO,
7 MRS. WINE, MRS. NEELANDS, MR. BAYER, MRS. THOMAS,
8 MRS. HARRIS, AND MRS. LYLES IN THE VIOLATION OF THE
9 LAWS OF THIS STATE.

10 EACH OF THESE INDIVIDUALS IS CHARGED
11 WITH ENTERING A BANK WITH INTENT TO STEAL AND IT'S
12 ALLEGED AT THE BANK OF YORK ON THAT DATE THEY ENTERED
13 THE BANK WITH INTENT TO STEAL MONEY OR SECURITIES
14 EITHER BY FORCE OR INTIMIDATION OR THREATS.

15 FINALLY MR. YOUNG AND MR. YOUNG ONLY
16 IS CHARGED WITH COMMITTING ASSAULT AND BATTERY UPON
17 PATRICK BAYER, THE AGGRAVATING CIRCUMSTANCES WERE BY
18 SPRAYING A CHEMICAL AGENT ON HIM WHILE HE WAS HELD AT
19 GUN POINT AND HELPLESS AND THE INFLECTION OF SERIOUS
20 BODILY INJURY AND THE PURPOSEFUL INFLECTION OF SHAME
21 OR DISGRACE.

22 NOW THESE INDICTMENTS WHICH YOU WILL
23 HAVE WITH YOU IN THE JURY ROOM ARE NOT EVIDENCE.
24 THEY ARE THE CHARGING PAPERS. THEY ARE THE PAPERS BY
25 WAY OF WHICH THIS CASE HAS BEEN AND WILL CONTINUED BE

1 PROCESSED THROUGH OUR COURT SYSTEM. AGAIN THEY JUST
2 CONTAIN THE CHARGES. THEY ALSO ARE THE PAPER WORK,
3 MR. FOREMAN, WHERE YOU WILL ENROLL THE UNANIMOUS
4 VERDICTS OF THE JURY AND I WILL TELL YOU MORE ABOUT
5 THAT AT THE END OF THE CHARGE. NOW AS I TOLD YOU
6 THESE ARE SIMPLY THE FORMAL WRITTEN DOCUMENTS THAT
7 ARE USED IN A CASE SUCH AS THIS TYPE.

8 NOW IN THESE INDICTMENTS THERE ARE
9 ALLEGATIONS OF DIFFERENT OFFENSES AGAINST EACH
10 DEFENDANT. EACH INDICTMENT CHARGES A SEPARATE AND
11 DISTINCT OFFENSE. YOU MUST DECIDE AS TO EACH
12 INDICTMENT SEPARATELY BASED ON THE EVIDENCE AND THE
13 LAW UNINFLUENCED BY YOUR DECISION ON THE OTHER
14 INDICTMENTS, WHETHER OR NOT THE STATE HAS PROVEN AS
15 TO A PARTICULAR CHARGE A PARTICULAR DEFENDANT GUILTY
16 BEYOND A REASONABLE DOUBT.

17 THE DEFENDANTS MAY BE CONVICTED OR
18 ACQUITTED ON ANY OR ALL OF THE CHARGES AND I WILL ASK
19 YOU TO WRITE SEPARATE VERDICTS, WITH ONE EXCEPTION TO
20 THAT, IF THEY ARE FOUND NOT GUILTY OF ARMED ROBBERY,
21 THEN THEY CANNOT BE FOUND GUILTY OF POSSESSION OF A
22 FIREARM DURING THE COMMISSION OF A VIOLENT CRIME
23 BECAUSE THE VIOLENT CRIME THEY ARE ALLEGED TO HAVE
24 BEEN IN THE COMMISSION OF WAS ARMED ROBBERY AND IF
25 THEY ARE NOT GUILTY OF THE ARMED ROBBERY THEN THEY

1 CAN'T BE GUILTY OF HAVING A PISTOL WHEN THEY DID IT.
2 OTHER THAN THAT YOU WILL LOOK AT THE INDICTMENTS
3 SEPARATELY.

4 I CHARGE YOU THAT THE FACT THAT THERE
5 ARE TWO INDIVIDUALS, MR. YOUNG AND MR. PORTER,
6 CHARGED WITH THESE OFFENSES, THE CASE OF EACH
7 DEFENDANT AND THE EVIDENCE AND LAW CONCERNING EACH
8 SHOULD BE SEPARATELY AND INDIVIDUALLY CONSIDERED.
9 YOUR VERDICTS DO NOT HAVE TO BE THE SAME FOR BOTH
10 DEFENDANTS. THE FACT THAT YOU FIND ONE DEFENDANT
11 GUILTY OR NOT GUILTY DOES NOT AND SHOULD NOT AND
12 CANNOT CONTROL YOUR VERDICT AS TO THE OTHER DEFENDANT
13 AS TO A PARTICULAR CHARGE.

14 WHEN MORE THAN ONE PERSON HAS BEEN
15 CHARGED WITH THE CRIME AND THE EVIDENCE WARRANTS IT
16 YOU MAY CONVICT ONE OR BOTH OR ACQUIT ONE OR BOTH.
17 IT WOULD DEPEND ON YOUR VIEW OF THE TESTIMONY AND THE
18 EVIDENCE. YOU MUST TAKE EACH DEFENDANT AND CONSIDER
19 THE EVIDENCE AS IT PERTAINS TO THAT PARTICULAR
20 DEFENDANT, APPLY THE LAW AS I CHARGE IT, AND WRITE A
21 SEPARATE VERDICT OF GUILTY OR NOT GUILTY AS TO EACH
22 DEFENDANT AS TO EACH CHARGE.

23 BOTH OF THESE DEFENDANTS HAVE PLEAD
24 NOT GUILTY TO ALL OF THE CHARGES AGAINST THEM. THIS
25 PLEA PUTS THE BURDEN ON THE STATE TO PROVE EACH ONE'S

1 GUILT AS TO A PARTICULAR OFFENSE BEYOND A REASONABLE
2 DOUBT. A DEFENDANT IN OUR SYSTEM IS PRESUMED
3 INNOCENT OF ANY CHARGE AGAINST THEM. THIS
4 PRESUMPTION OF INNOCENCE IS A SUBSTANTIAL RIGHT.
5 THEY DO NOT HAVE TO PROVE THEIR INNOCENCE. THIS IS
6 NOT A MERE LEGAL THEORY OR A MERE LEGAL PHRASE. AS I
7 SAID IT'S A SUBSTANTIAL RIGHT WHICH INURES TO THE
8 BENEFIT OF THE DEFENDANT AT THE TIME THEY ARE
9 ARRESTED FOR THE CHARGE. THE PRESUMPTION OF
10 INNOCENCE IN MR. YOUNG AND MR. PORTER'S FAVOR EXISTS
11 RIGHT AT THIS MOMENT AS I SPEAK. THE PRESUMPTION OF
12 INNOCENCE IN THEIR FAVOR REMAINS AS YOU DELIBERATE.
13 THE PRESUMPTION OF INNOCENCE IN THEIR FAVOR IS
14 REMOVED IF AND WHEN AS TO A PARTICULAR OFFENSE YOU AS
15 THE TRIAL JURY HAS DETERMINED THAT THE STATE HAS
16 PROVEN ONE'S GUILT BEYOND A REASONABLE DOUBT TO THAT
17 OFFENSE.

18 NOW THE STATE IS NOT REQUIRED TO PROVE
19 ALL -- I'M SORRY. IS NOT REQUIRED TO PROVE AN
20 INDIVIDUAL'S GUILT BEYOND ALL OR BEYOND EVERY DOUBT,
21 BUT BEYOND A REASONABLE DOUBT.

22 NOW THE DEFENDANTS ARE EACH ENTITLED
23 TO ANY REASONABLE DOUBTS THAT YOU HAVE AS TO ANY
24 ISSUE. THAT IF YOU HAVE A REASONABLE DOUBT AS TO ANY
25 ISSUE IN THIS CASE YOU MUST RESOLVE THAT REASONABLE

1 DOUBT IN THE DEFENDANT'S FAVOR.

2 A REASONABLE DOUBT HAS BEEN DESCRIBED
3 BY OUR COURTS AS THE KIND OF DOUBT THAT WOULD CAUSE A
4 REASONABLE PERSON TO HESITATE TO ACT. PROOF BEYOND A
5 REASONABLE DOUBT IS PROOF THAT LEAVES YOU FIRMLY
6 CONVINCED OF AN INDIVIDUAL'S GUILT. THERE ARE VERY
7 FEW THINGS IN OUR WORLD THAT WE KNOW WITH ABSOLUTE
8 CERTAINTY AND IN CRIMINAL CASES THE LAW DOES NOT
9 REQUIRE PROOF THAT OVERCOMES EVERY DOUBT. IF BASED
10 ON YOUR CONSIDERATION OF THE EVIDENCE YOU ARE FIRMLY
11 CONVINCED THAT A DEFENDANT IS GUILTY OF ONE OF THE
12 CRIMES OR MORE OF THE CRIMES WITH WHICH THEY ARE
13 CHARGED YOU MUST FIND THEM GUILTY AS TO THAT CHARGE.

14 ON THE OTHER HAND, IF YOU THINK THERE
15 IS A REAL POSSIBILITY THAT A DEFENDANT IS NOT GUILTY
16 AS TO A CHARGE, YOU MUST GIVE HIM THE BENEFIT OF THE
17 DOUBT AND FIND HIM NOT GUILTY AS TO THAT CHARGE.

18 I REMIND YOU, AS I TOLD YOU AT FIRST,
19 YOU ARE THE SOLE JUDGES OF THE FACTS IN THIS CASE AND
20 I AM THE SOLE JUDGE OF THE LAW. YOU ARE TO CONSIDER
21 THE TESTIMONY WHICH WAS PRESENTED FROM THE WITNESS
22 STAND AND ANY EXHIBITS. YOU ARE NOT TO GO OUTSIDE
23 THE RECORD AND CONSIDER ANYTHING THAT IS NOT IN THE
24 RECORD. YOU ARE NOT TO INFER FROM ANYTHING THAT I
25 SAY OR DO AS BEING AN OPINION OF MINE ON THE FACTS.

1 A TRIAL JUDGE IN THIS STATE IS NOT ALLOWED TO
2 FORMULATE OR EXPRESS TO A JURY ANY OPINION ON THE
3 FACTS, SO IF YOU INFER FROM ANYTHING I SAY OR DO OR
4 HAVE SAID OR DONE OR NOW SAY OR DO AS BEING AN
5 INDICATION OF AN OPINION OF MINE ON THE FACTS YOU
6 WOULD BE WRONG IN MAKING SUCH INFERENCE. SO DON'T
7 MAKE ANY INFERENCE OF ANY OPINION OF MINE ON THE
8 FACTS. YOU MUST TAKE, ACCEPT, AND APPLY THE LAW AS I
9 CHARGE IT. THIS IS TRUE EVEN IF YOU THINK I CHARGE
10 THE LAW IN ERROR OR EVEN IF YOU THINK THE LAW SHOULD
11 BE DIFFERENT. YOUR OATH REQUIRES YOU TO TAKE,
12 ACCEPT, AND APPLY THE LAW AS I CHARGE IT.

13 IT IS UP TO YOU TO EXAMINE THE
14 EVIDENCE, GIVE TO THE EVIDENCE THE EFFECT, THE VALUE,
15 THE WEIGHT, AND THE TRUTH YOU BELIEVE IT SHOULD HAVE.
16 IN DOING THIS YOU MAY BELIEVE ONE WITNESS AS OPPOSED
17 TO SEVERAL, SEVERAL WITNESSES AS OPPOSED TO ONE; YOU
18 MAY BELIEVE ALL, PART, OR NONE OF A WITNESS'
19 TESTIMONY. USE YOUR COMMON SENSE, YOUR SENSE OF
20 LOGIC, YOUR SENSE OF REASON, USE YOUR EXPERIENCES IN
21 LIFE AS YOU ANALYZE THE EVIDENCE. OF NECESSITY IN
22 DETERMINING THE TRUE FACTS YOU MUST JUDGE THE
23 CREDIBILITY, THAT IS, THE BELIEVABILITY OF THE
24 WITNESSES WHO HAD TESTIFIED. IN ASSESSING
25 BELIEVABILITY YOU CAN USE THOSE THINGS THAT I HAVE

1 JUST MENTIONED; YOU CAN USE THOSE THINGS THAT YOU IN
2 YOUR DAY-TO-DAY LIFE FIND AS BEING INDICATIVE OF
3 TRUTHFULNESS. YOU CAN USE CERTAIN WHAT I CALL
4 EVALUATORS, A WITNESS' DEemeanOR, HOW THEY ACT ON THE
5 STAND, ARE THEY HESITANT OR STRAIGHT FORWARD. YOU
6 CAN CONSIDER A WITNESS'S OPPORTUNITY TO ACTUALLY HAVE
7 OBSERVED THOSE THINGS TO WHICH THE WITNESS TESTIFIED.
8 YOU CAN CONSIDER ANY BIAS OR PREJUDICE OR MOTIVE AN
9 INDIVIDUAL MAY HAVE FOR TESTIFYING.

10 WHERE A PERSON TESTIFIES AND THEY HAVE
11 A PAST CRIMINAL RECORD, THEY ARE COMPETENT TO
12 TESTIFY. HOWEVER, A PAST RECORD DOES NOT AFFECT
13 THEIR ABILITY, THAT IS, THEY CAN TESTIFY. BUT YOU
14 CAN CONSIDER ANY PAST CRIMINAL RECORD OF A WITNESS IN
15 DETERMINING THE CREDIBILITY OF THAT WITNESS. THAT
16 IS, THE BELIEVABILITY. YOU'VE HEARD EVIDENCE THAT AT
17 LEAST ONE OF THE WITNESSES, MS. LAWS I BELIEVE, HAD A
18 PRIOR CONVICTION AND MR. YOUNG, THERE WAS SOME
19 TESTIMONY THAT HE HAD BEEN CONVICTED OF AN OFFENSE.
20 NOW THAT EVIDENCE AS TO MR. YOUNG, LIKE THE EVIDENCE
21 AS TO MS. LAWS, CAN ONLY BE USED IN JUDGING
22 BELIEVABILITY OF MR. YOUNG AND FOR NO OTHER PURPOSES.
23 THAT IS, YOU CANNOT USE HIS PAST RECORD AS ANY
24 EVIDENCE THAT HE WAS INVOLVED IN THIS IN ANY DEGREE
25 WHATSOEVER. IT IS NOT EVIDENCE AS TO THE CHARGES

1 TODAY. IT IS ONLY ALLOWED INTO EVIDENCE FOR YOUR
2 CONSIDERATION IN REGARDING WHAT DEGREE OF
3 BELIEVABILITY TO GIVE TO A WITNESS.

4 NOW IN CASES SUCH AS THIS THERE ARE
5 TWO TYPES OF EVIDENCE THAT ARE GENERALLY INTRODUCED,
6 DIRECT AND CIRCUMSTANTIAL EVIDENCE. DIRECT EVIDENCE
7 IS THE TESTIMONY OF A PERSON WHO CLAIMS TO HAVE
8 ACTUAL KNOWLEDGE OF A FACT SUCH AS AN EYE WITNESS.
9 IT IS EVIDENCE WHICH IMMEDIATELY ESTABLISHES THE MAIN
10 FACT SOUGHT TO BE PROVEN.

11 CIRCUMSTANTIAL EVIDENCE IS PROOF OF A
12 CHAIN OF FACTS AND CIRCUMSTANCES INDICATING THE
13 EXISTENCE OF A FACT. IT IS EVIDENCE WHICH
14 IMMEDIATELY ESTABLISHES COLLATERAL FACTS FROM WHICH
15 THE MAIN FACT MAY BE INFERRED.

16 CIRCUMSTANTIAL EVIDENCE IS BASED ON
17 INFERENCE AND NOT ON PERSONAL KNOWLEDGE OR PERSON
18 OBSERVATION. OUR LAWS MAKES ABSOLUTELY NO
19 DISTINCTION BETWEEN THE WEIGHT OR VALUE TO BE GIVEN
20 DIRECT OR CIRCUMSTANTIAL EVIDENCE. NOR IS A GREATER
21 DEGREE OF CERTAINTY REQUIRED OF CIRCUMSTANTIAL
22 EVIDENCE THAN OF DIRECT EVIDENCE. YOU SHOULD WEIGH
23 ALL OF THE EVIDENCE IN THIS CASE. AFTER WEIGHING ALL
24 THE EVIDENCE, IF YOU ARE NOT CONVINCED OF THE GUILT
25 OF A DEFENDANT AS TO A PARTICULAR CHARGE BEYOND A

1 REASONABLE DOUBT, YOU MUST ACQUIT HIM AND FIND HIM
2 NOT GUILTY.

3 I INSTRUCT AND EMPHASIZE TO YOU THAT
4 THE FACT THAT MR. PORTER DID NOT TESTIFY IS NOT A
5 FACTOR TO BE CONSIDERED BY YOU IN ANY WAY WHATSOEVER
6 IN YOUR DELIBERATION NOR ON YOUR CONSIDERATION OF HIS
7 GUILT OR INNOCENCE. IT MUST NOT BE CONSIDERED BY YOU
8 IN ANY MANNER WHATSOEVER, MUST NOT BE DISCUSSED, IT
9 MUST NOT BE FACTORED INTO YOUR OWN CONSIDERATION.
10 UNDER OUR CONSTITUTION, BOTH THE STATE AND FEDERAL, A
11 DEFENDANT HAS A RIGHT TO REMAIN SILENT AND THE
12 ASSERTION OF THIS RIGHT CANNOT AND MUST NOT AND WILL
13 NOT BE USED BY YOU IN YOUR DELIBERATIONS. UNDER YOUR
14 OATH YOU ARE TO DRAW NO CONCLUSION WHATSOEVER FROM
15 THE FACT MR. PORTER CHOSE TO EXERCISE HIS RIGHT NOT
16 TO TESTIFY. AS I SAID THAT CANNOT EVEN BE DISCUSSED
17 BY YOU AND FACTORED INTO YOUR CONSIDERATION. THE
18 BURDEN IS ON THE STATE TO PROVE AN INDIVIDUAL'S GUILT
19 BEYOND A REASONABLE DOUBT.

20 NOW THE DEFENDANT YOUNG CLAIMS THAT HE
21 WAS NOT AT THE SCENE OF THE CRIME AT THE TIME THE
22 CRIME WAS COMMITTED. THIS CLAIM IS THAT HE WAS
23 ELSEWHERE AND HAD NOTHING TO DO WITH THE CRIME. THIS
24 IS SOMETIMES CALLED ALIBI. A DEFENDANT DOES NOT HAVE
25 TO PROVE, THAT IS MR. YOUNG, DOES NOT HAVE TO PROVE

1 THIS DEFENSE. THE STATE HAS THE BURDEN OF PROVING
2 THE IDENTITY OF THE PEOPLE THAT COMMITTED THIS
3 ALLEGED CRIME AND THE BURDEN IS UPON THE STATE TO
4 PROVE THAT MR. YOUNG WAS ACTUALLY PRESENT AT THE
5 SCENE OF THE CRIME AND THAT HE PARTICIPATED IN IT AND
6 THAT HE WAS NOT ELSEWHERE AT THE TIME AND THEY MUST
7 PROVE THAT BEYOND A REASONABLE DOUBT.

8 NOW DEFENDANT'S FIRST CHARGE I'M GOING
9 TO GO OVER IS CONSPIRACY. EACH IS CHARGED WITH
10 CONSPIRING AND THE STATE MUST PROVE BEYOND A
11 REASONABLE DOUBT THAT ONE OR BOTH OF THE DEFENDANTS
12 COMBINED WITH ONE OR MORE PERSONS FOR THE PURPOSE OF
13 COMMITTING AN UNLAWFUL ACT.

14 THERE MUST BE A MUTUAL UNDERSTANDING,
15 AGREEMENT, OR COMMON INTENT AND PLAN. MERE PASSIVE
16 KNOWLEDGE OF OR CONSENT TO THE CRIMINAL CONDUCT OF
17 ANOTHER IS NOT ENOUGH TO MAKE A PERSON A CONSPIRATOR.
18 THERE MUST BE GUILTY KNOWLEDGE AND PARTICIPATION.

19 IT IS NOT NECESSARY THAT THERE BE ANY
20 FORMAL AGREEMENT. THERE NEED NOT BE A WRITING, NEED
21 NOT BE PROVEN THAT INDIVIDUALS HELD A MEETING AND
22 EXPRESSLY STATED THE TERMS OF THEIR PLAN. THE
23 AGREEMENT OF CRIMINAL CONSPIRACY MAY COME INTO BEING
24 THROUGH AN IMPLIED MUTUAL UNDERSTANDING.

25 THE WILFUL, INTENTIONAL, AND KNOWING

1 ADOPTION BY TWO OR MORE PERSONS OF A COMMON PLAN IS
2 SUFFICIENT. NO OVERT ACTS NEED TO BE SHOWN TO
3 ESTABLISH A CONSPIRACY. A CONSPIRACY MAY BE SHOWN BY
4 CIRCUMSTANTIAL EVIDENCE AND BY THE CONDUCT OF THE
5 PARTIES ALLEGED TO HAVE PARTICIPATED IN THE
6 CONSPIRACY.

7 IN ORDER TO CONVICT ONE OR MORE OF THE
8 DEFENDANTS OF CONSPIRACY, THE STATE MUST PROVE BEYOND
9 A REASONABLE DOUBT NOT ONLY THAT HE KNEW OF THE
10 UNLAWFUL CONDUCT BUT THAT HE AGREED TO COMBINE WITH
11 THE OTHERS FOR THE PURPOSE OF ACCOMPLISHING THE
12 UNLAWFUL CONDUCT.

13 EACH DEFENDANT IS CHARGED WITH ARMED
14 ROBBERY. IN ORDER TO PROVE ARMED ROBBERY, THE STATE
15 MUST PROVE BEYOND A REASONABLE DOUBT THAT A
16 DEFENDANT, ONE OR BOTH, TOOK PERSONAL PROPERTY FROM
17 THE PERSON OR PRESENCE OF OTHERS. PROPERTY IS IN THE
18 PRESENCE OF ANOTHER WHEN IT IS WITHIN THAT PERSON'S
19 REACH, INSPECTION, OBSERVATION, OR CONTROL SO THAT
20 THE PERSON COULD IF NOT OVERCOME WITH VIOLENCE OR
21 PREVENTED BY FEAR RETAIN OR KEEP POSSESSION OF THAT
22 PROPERTY.

23 THE STATE MUST PROVE BEYOND A
24 REASONABLE DOUBT THAT A DEFENDANT CARRIED THE
25 PROPERTY AWAY INTENDING TO PERMANENTLY DEPRIVE THE

1 OWNER OF THAT PROPERTY AND TO KEEP THE PROPERTY FOR
2 THEIR OWN USE. THE TAKING AND CARRYING AWAY OF THE
3 PROPERTY MUST HAVE BEEN DONE WITH VIOLENCE OR BY
4 PUTTING THE OWNER OF THE PROPERTY IN FEAR OF
5 VIOLENCE.

6 THE STATE MUST PROVE FINALLY AS TO
7 THIS OFFENSE, THAT IS ARMED ROBBERY, THAT A DEFENDANT
8 WAS ARMED WITH A DEADLY WEAPON DURING THE ROBBERY. A
9 DEADLY WEAPON IS ANY ARTICLE, INSTRUMENT, OR
10 SUBSTANCE WHICH IS LIKELY TO CAUSE DEATH OR GREAT
11 BODILY HARM. AN EXAMPLE OF THIS IS A PISTOL, A
12 PISTOL AND A REVOLVER ARE DEADLY WEAPONS. THE STATE
13 MUST PROVE THOSE ELEMENTS BEYOND A REASONABLE DOUBT
14 BEFORE YOU COULD CONVICT A DEFENDANT OF ARMED
15 ROBBERY.

16 NOW AS I SAID EACH IS CHARGED ALSO
17 WITH POSSESSION OF A FIREARM DURING THE COMMISSION OF
18 AN ARMED ROBBERY. BY OUR CODE OF LAWS THIS IS CALLED
19 POSSESSION OF A WEAPON DURING THE COMMISSION OF A
20 VIOLENT CRIME AND I CHARGE YOU THAT ARMED ROBBERY IS
21 BY DEFINITION UNDER THE LAWS OF OUR STATE AS ENACTED
22 BY OUR LEGISLATURE A VIOLENT CRIME.

23 THE STATE MUST PROVE BEYOND A
24 REASONABLE DOUBT THAT ONE OR BOTH OF THE DEFENDANTS
25 WAS IN POSSESSION OF A FIREARM OR VISIBLY DISPLAYED

1 WHAT APPEARED TO BE A FIREARM DURING THE COMMISSION
2 OF A VIOLENT CRIME. A REVOLVER AND A PISTOL, AS I
3 SAID A MOMENT AGO, ARE BOTH CONSIDERED FIREARMS BY
4 THE LAW. IN ORDER TO FIND A DEFENDANT GUILTY OF
5 POSSESSION OF A WEAPON DURING THE COMMISSION OF A
6 VIOLENT CRIME, YOU MUST FIRST FIND THAT THEY WERE
7 GUILTY OF COMMITTING THE VIOLENT CRIME OR ATTEMPTING
8 TO COMMIT A VIOLENT CRIME AND I JUST MENTIONED THAT
9 ARMED ROBBERY IS BY LAW A VIOLENT CRIME. THE STATE
10 MUST PROVE THAT BEYOND A REASONABLE DOUBT.

11 THE NEXT CHARGE IS ENTERING A BANK
12 WITH INTENT TO STEAL AND THAT IS THE SHORTEST CHARGE
13 OF ALL BECAUSE IT SAYS, IT IS A STATUTORY CHARGE
14 ENACTED BY OUR LEGISLATURE AND IT SIMPLY SAYS IT IS
15 UNLAWFUL FOR A PERSON TO ENTER A BUILDING OR PART OF
16 A BUILDING OCCUPIED AS A BANK, DEPOSITORY, OR
17 BUILDING AND LOAN ASSOCIATION WITH INTENT TO STEAL
18 MONEY OR SECURITIES, MONEY OR SECURITIES EITHER BY
19 FORCE, INTIMIDATION, OR THREATS. SO IT MAKES IT
20 ILLEGAL TO ENTER A BANK WITH INTENT TO COMMIT A
21 THEFT, INTENT TO STEAL. NOW THE STATE MUST PROVE
22 THAT ONE OR BOTH OF THE DEFENDANTS DID THAT AND THEY
23 MUST PROVE IT BEYOND A REASONABLE DOUBT.

24 THE DEFENDANTS EACH ARE CHARGED WITH
25 KIDNAPPING. THE STATE MUST PROVE BEYOND A REASONABLE

1 DOUBT AS TO THIS CHARGE THAT A DEFENDANT KNOWINGLY
2 AND UNLAWFULLY SEIZED, CONFINED, INVEIGLED, DECOYED,
3 KIDNAP, ABDUCTED, OR CARRIED AWAY ANOTHER PERSON
4 WITHOUT THE AUTHORITY OF LAW.

5 TO DO A THING UNLAWFULLY IS TO DO IT
6 WILLFULLY, THAT IS, AGAINST THE LAW.

7 KNOWINGLY MEANS WITH KNOWLEDGE, THAT
8 IS, CONSCIOUSLY NOT ACCIDENTALLY.

9 THE WORD SEIZE MEANS TO TAKE HOLD OF
10 SUDDENLY OR FORCIBLY.

11 THE WORD CONFINED MEANS TO LIMIT,
12 RESTRICT, ENCLOSE WITHIN BOUNDS, IN PRISON, OR SHUT
13 OR KEEP IN..

14 THE WORD KIDNAP MEANS TO REMOVE A
15 PERSON AGAINST THEIR WILL BY UNLAWFUL FORCE OR BY
16 FRAUD. THE STATE DOES NOT HAVE TO PROVE THAT A
17 DEFENDANT DID ALL OF THOSE THINGS; THAT IS, THEY
18 DON'T HAVE TO PROVE THAT THEY SEIZED, CONFINED, OR
19 KIDNAPPED, THEY MUST ONLY PROVE BEYOND A REASONABLE
20 DOUBT ONE OF THOSE THINGS, BUT THEY MUST PROVE AT
21 LEAST THAT A DEFENDANT DID ONE OF THOSE, MUST BE
22 PROVEN BEYOND A REASONABLE DOUBT, BEFORE YOU COULD
23 CONVICT AN INDIVIDUAL OF KIDNAPPING.

24 I USED THE TERM THAT IT HAD TO BE THE
25 COMBINING, SEIZING, COMBINING, SEIZING, OR KIDNAPPING

1 HAD TO BE DONE WITHOUT AUTHORITY OF LAW AND THAT IS
2 SOMETHING WITHOUT THE AUTHORITY OF LAW IS SOMETHING
3 THE LAW DOES NOT SANCTION, PERMIT, ALLOW, CONDONE, OR
4 PROVIDE JUSTIFICATION FOR.

5 KIDNAPPING DOES NOT HAVE TO BE FOR ANY
6 PERSONAL OR MONETARY GAIN OR FOR ANY ILLEGAL PURPOSE.
7 IT MAY NOT BE FOR ANY REASON WHATSOEVER; THAT IS, ONE
8 CANNOT CONFINE, SEIZE, OR KIDNAP SOMEONE FOR ANY
9 REASON WHATSOEVER. IF THE STATE HAS PROVEN THAT
10 BEYOND A REASONABLE DOUBT THEN YOU WOULD CONVICT HIM.

11 AS TO THAT OFFENSE, IF THE STATE HAS
12 FAILED TO PROVE THAT BEYOND A REASONABLE DOUBT, YOU
13 WOULD FIND THE DEFENDANT NOT GUILTY.

14 NOW MR. YOUNG AND MR. YOUNG ONLY IS
15 CHARGED WITH ASSAULT AND BATTERY OF A HIGH AND
16 AGGRAVATED NATURE AND THIS HAS TO DO, IT'S ALLEGED
17 AND YOU'LL HAVE THE INDICTMENT, SPRAYING MACE ON --
18 WELL, IT SAYS PAINFUL CHEMICAL AGENT, MACE, OR PEPPER
19 SPRAY. I BELIEVE BOTH OF THOSE WERE MENTIONED IN THE
20 TRIAL. ASSAULT AND BATTERY OF A HIGH AND AGGRAVATED
21 NATURE IS AN UNLAWFUL ACT OF VIOLENT INJURY TO THE
22 PERSON OF ANOTHER ACCOMPANIED BY CIRCUMSTANCES OF
23 AGGRAVATION. AN ASSAULT OCCURS WHEN A PERSON
24 UNLAWFULLY ATTEMPTS OR OFFERS TO COMMIT A VIOLENT
25 INJURY UPON ANOTHER PERSON AND HAD THE PRESENT

1 ABILITY TO COMPLETE THE ATTEMPTED INJURY.

2 AN ASSAULT IS THE INTENTIONAL CREATION
3 OF REASONABLE FEAR OF IMMEDIATE BODILY HARM TO
4 ANOTHER. IT IS NOT NECESSARY THAT THE ATTEMPTED
5 INJURY OR HARM ACTUALLY TAKE PLACE FOR THERE TO BE AN
6 ASSAULT. FOR EXAMPLE, IF I COME WITHIN STRIKING
7 DISTANCE OF YOU AND I RAISE BACK MY HAND AND GO TO
8 STRIKE YOU AND PUT YOU IN FEAR AND YOU ARE, I HAVE
9 COMMITTED AN ASSAULT IF I'M CLOSE ENOUGH TO STRIKE
10 YOU. A BATTERY IS THE UNLAWFUL TOUCHING OF ANOTHER
11 PERSON BY A PERSON WHO HAS COMMITTED THE ASSAULT. AN
12 UNLAWFUL TOUCHING CAN BE CAUSED BY PART OF THE
13 ACCUSED BODY OR BY ANY OBJECT THE ACCUSED HAS PUT IN
14 MOTION.

15 A BATTERY IS THE COMPLETION OF THE
16 ASSAULT BY USING OR APPLYING FORCE TO ANOTHER PERSON
17 HOWEVER SLIGHT IN A RUDE, ANGRY, OR RESENTFUL MANNER
18 WITHOUT LEGAL JUSTIFICATION FOR SO DOING. USING BY
19 EARLIER EXAMPLE, IF I PULL MY FIST BACK AND THEN I
20 FOLLOW THROUGH AND HIT YOU, I'VE COMMITTED A BATTERY.
21 AN ASSAULT IS AN ATTEMPT AND A BATTERY IS WHEN I
22 CARRY THROUGH AND ACTUALLY MAKE CONTACT.

23 THE STATE MUST PROVE ALSO NOT ONLY
24 THAT AN ASSAULT AND BATTERY TOOK PLACE, THEY MUST
25 PROVE A CIRCUMSTANCE OF AGGRAVATION OR CIRCUMSTANCES

1 OF AGGRAVATION. CIRCUMSTANCES OF AGGRAVATION WOULD
2 INCLUDE THE USE OF DEADLY FORCE, THE INFLECTION OF
3 SERIOUS BODILY INJURY, OR THE PURPOSEFUL INFLECTION
4 OF SHAME OR DISGRACE. AND THOSE ARE JUST EXAMPLES OF
5 WHAT CAN BE CONSIDERED AGGRAVATING CIRCUMSTANCES.
6 YOU MAY CONSIDER WHAT MAY OR MAY NOT BE AN AGGRAVATED
7 CIRCUMSTANCE IN YOUR CONSIDERATION. THOSE AGAIN ARE
8 JUST EXAMPLES.

9 NOW THERE ARE TWO POSSIBLE VERDICTS AS
10 TO EACH OF THESE INDICTMENTS. I'VE ALREADY TOLD YOU
11 THAT AS TO THE POSSESSION OF A FIREARM DURING THE
12 COMMISSION OF A VIOLENT OFFENSE THAT IF YOU FIND ONE
13 OR BOTH NOT GUILTY OF THAT ARMED ROBBERY YOU WOULD
14 OBVIOUSLY FIND THEM NOT GUILTY OF POSSESSION OFFENSE
15 BECAUSE YOU SAID THEY DIDN'T DO IT SO THEY COULDN'T
16 HAVE POSSESSED SOMETHING WHILE THEY DIDN'T DO IT.

17 YOUR VERDICTS MUST BE UNANIMOUS; ALL
18 12 JURORS MUST AGREE. YOUR VERDICTS CANNOT BE BASED
19 ON PREJUDICE, PASSION, PUBLIC OPINION, OR SYMPATHY.

20 IF DURING YOUR DELIBERATIONS YOU HAVE
21 A QUESTION, PLEASE WRITE IT DOWN, MR. FOREMAN, SEND
22 IT OUT BY WAY OF THE BAILIFF AND I WILL CONFER WITH
23 THE ATTORNEYS AND WE'LL RESPOND TO THE QUESTION. IT
24 MAY BE THAT I CAN WRITE -- AND MR. PORTER. WHEN I
25 SAY THE ATTORNEYS I INCLUDE MR. PORTER. I MAY BE

1 ABLE TO WRITE AN ANSWER TO THE QUESTION ON THE NOTE
2 OR IT MAY BE THAT I'LL HAVE TO BRING YOU BACK HERE IN
3 THE COURTROOM AND DISCUSS YOUR QUESTION WITH YOU. AS
4 I SAID I WILL CONFER WITH COUNSEL AND MR. PORTER
5 BEFORE I DO THAT. WE DO NOT IN SOUTH CAROLINA SEND
6 IN A WRITTEN CHARGE BUT IF YOU WANT ME TO GO OVER ANY
7 PART OR ALL OF THE LAW I WILL BRING YOU BACK HERE IN
8 THE COURTROOM AND GO OVER ANY PART OR ALL OF THE LAW
9 YOU NEED TO BE CHARGED.

10 IF YOU NEED TO HAVE ANY TESTIMONY
11 REPLAYED LET US KNOW AND WE WILL BRING YOU BACK IN
12 AND DO THAT. YOU WILL HAVE THE EXHIBITS, YOU WILL
13 HAVE THE ABILITY TO PLAY THE VARIOUS VIDEOS. IF YOU
14 HAVE ANY PROBLEM WITH THAT LET US KNOW AND WE'LL MAKE
15 ARRANGEMENTS TO SECURE WHATEVER THE PROBLEM IS.

16 THE TWO ALTERNATES WILL REMAIN IN HERE
17 IN JUST A MOMENT WHEN YOU GO TO JURY ROOM. WHEN THE
18 REST OF THE JURY GOES TO THE JURY ROOM DO NOT START
19 DELIBERATING YET BECAUSE I MUST GO OVER MY CHARGE
20 WITH THE ATTORNEYS. IF I HAVE MADE AN ERROR I'LL
21 HAVE TO BRING YOU BACK IN AND CORRECT IT. IF I'VE
22 NOT MADE ANY ERROR I WILL SEND IN TO YOU THE
23 INDICTMENTS AND ALL THE EXHIBITS EXCEPT FOR THE
24 BULLETS AND THE BAILIFF WILL TELL YOU TO START
25 DELIBERATING AT THAT TIME.

1 ALL OF THESE INDICTMENTS HAVE ON
2 THEIR, I NEVER HAVE BEEN ABLE TO FIGURE OUT IF IT'S
3 BACK OR FRONT, BUT ON ONE SIDE THEY HAVE THE WORD
4 VERDICT AND UNDER IT FOUR LINES. THE BOTTOM LINE,
5 MR. FOREMAN, IS A PLACE FOR YOU TO SIGN AND A PLACE
6 FOR THE DATE, TODAY IS THE 26 OF COURSE OF JULY.

7 ON ONE OF THE OTHER LINES YOU WILL
8 WRITE THE JURY'S UNANIMOUS VERDICT. OF COURSE, YOU
9 WILL PRESIDE OVER THE DELIBERATIONS. IF AS TO A
10 PARTICULAR INDICTMENT THE STATE HAS FAILED TO PROVE A
11 DEFENDANT'S GUILT AS TO THAT PARTICULAR INDICTMENT
12 BEYOND A REASONABLE DOUBT THEN YOUR VERDICT WOULD BE
13 AS TO THAT INDICTMENT TWO WORDS NOT GUILTY AND YOU
14 WOULD SIMPLY WRITE THOSE TWO WORDS ON ONE OF THOSE
15 LINES.

16 IF ON THE OTHER HAND THE STATE HAS
17 CONVINCED YOU BEYOND A REASONABLE DOUBT UNANIMOUSLY
18 OF AN INDIVIDUAL'S GUILT AS TO A PARTICULAR CHARGE
19 YOU WILL WRITE THE ONE WORD GUILTY AND THEN OF COURSE
20 SIGN IT.

21 NOW WHEN YOU GO, DO NOT START
22 DELIBERATING, AS I SAID I HAVE TO GO OVER WITH THE
23 ATTORNEYS MY CHARGE AND I'LL LET YOU GO TO THE JURY
24 ROOM NOW AND DON'T GET TOO COMFORTABLE OR DON'T START
25 DELIBERATING BECAUSE IF I HAVE TO SEND FOR YOU IT

1 WILL BE VERY PROMPTLY.

2 (THE JURY EXITS THE COURTROOM AT 04:55
3 PM.)

4 THE COURT: ANY EXCEPTIONS FROM THE STATE?

5 MR. BRACKETT: NONE FROM THE STATE.

6 THE COURT: MR. JAMIESON?

7 MR. JAMIESON: I DON'T THINK SO, YOUR
8 HONOR, BUT LET ME JUST FINISH GLANCING OVER MY NOTES.

9 THE COURT: SURE. TAKE YOUR TIME.

10 MR. JAMIESON: NO, YOUR HONOR.

11 THE COURT: MR. PORTER?

12 MR. D'AGOSTINO: HE HAS NO EXCEPTIONS. WE
13 DO WISH FOR THAT REQUEST OF CHARGE MR. JAMIESON
14 SUBMITTED BE PART OF THE RECORD.

15 THE COURT: OKAY.

16 MR. D'AGOSTINO: THAT ONE ABOUT
17 KIDNAPPING.

18 THE COURT: ALL RIGHT.

19 MR. D'AGOSTINO: I UNDERSTAND THE COURT'S
20 RULING ON THAT.

21 THE COURT: OKAY. WE'LL MAKE SURE, I
22 THINK I SET IT ASIDE. I HAVE A STACK OF STUFF AND
23 I'LL FIND IT UNLESS YOU HAPPEN TO HAVE A COPY.

24 MR. D'AGOSTINO: I HAVE A COPY.

25 THE COURT: IF YOU HAVE A COPY, IF YOU'LL

1 HAND IT UP TO THE COURT REPORTER, MAKE SURE IT GETS
2 MARKED AS A COURT'S EXHIBIT. NOW FOR ALL OF THOSE
3 WHO NEED TO, CHECK THE EXHIBITS WITH THE COURT
4 REPORTER, MAKE SURE THEY ARE IN ORDER, AND WE'LL SEND
5 THEM BACK ALONG WITH THE INDICTMENTS AND THE BAILIFF
6 TELL THEM TO START DELIBERATING.

7 (THE ALTERNATE JURORS ARE EXCUSED.)

8 (THE JURY BEGINS DELIBERATION AT 05:12
9 PM.)

10 (COURT RESUMES AT 6:14.)

11 THE COURT: I UNDERSTAND WE HAVE A
12 VERDICT. ANYTHING BEFORE THE JURY COMES IN FROM THE
13 STATE?

14 MR. BRACKETT: NOTHING FROM THE STATE.

15 THE COURT: MR. JAMIESON.

16 MR. JAMIESON: RENEW OUR EARLIER MOTIONS,
17 THAT'S ALL.

18 THE COURT: MR. PORTER.

19 MR. PORTER: NO, SIR.

20 THE COURT: BRING IN THE JURY.

21 (THE JURY RETURNS TO THE COURTROOM AT
22 06:17 PM.)

23 THE COURT: MR. FOREMAN, I UNDERSTAND THE
24 JURY HAS REACHED VERDICTS.

25 THE FOREMAN: YES, YOUR HONOR.

1 THE COURT: IF YOU'LL HAND THEM TO THE
2 BAILIFF, HE'LL HAND THEM UP TO ME.

3 THE FOREMAN: YES, SIR.

4 THE COURT: MADAM CLERK.

5 THE CLERK: INDICTMENT 2006-1695 THE STATE
6 VERSUS KENNETH YOUNG INDICTMENT FOR ARMED ROBBERY THE
7 VERDICT GUILTY SIGNED BY THE FOREMAN DATED TODAY'S
8 DATE.

9 2007-1699 THE STATE VERSUS KENNETH
10 YOUNG POSSESSION OF, INDICTMENT FOR POSSESSION OF
11 FIREARM DURING THE COMMISSION OF A VIOLENT CRIME
12 VERDICT GUILTY SIGNED BY THE FOREMAN DATED TODAY'S
13 DATE.

14 2007-1697 THE STATE VERSUS KENNETH
15 YOUNG INDICTMENT FOR KIDNAPPING VERDICT GUILTY SIGNED
16 BY THE FOREMAN DATED TODAY'S DATE.

17 07-1696 THE STATE VERSUS KENNETH YOUNG
18 INDICTMENT FOR ENTERING A BANK WITH INTENT TO STEAL
19 VERDICT SIGNED BY THE FOREMAN DATED TODAY'S DATE.

20 2007-1700 THE STATE VERSUS KENNETH
21 YOUNG INDICTMENT FOR CONSPIRACY TO COMMIT ARMED
22 ROBBERY THE VERDICT GUILTY SIGNED BY THE FOREMAN
23 DATED TODAY'S DATE.

24 2007-1698 THE STATE VERSUS KENNETH
25 YOUNG INDICTMENT FOR ASSAULT AND BATTERY OF A HIGH

1 AND AGGRAVATED NATURE VERDICT GUILTY SIGNED BY THE
2 FOREMAN DATED TODAY'S DATE.

3 2007-1687 THE STATE VERSUS JOHNNELL
4 PORTER INDICTMENT FOR ARMED ROBBERY VERDICT IS
5 GUILTY.

6 2007-1688 THE STATE VERSUS JOHNNELL
7 PORTER INDICTMENT FOR ENTERING A BANK WITH INTENT TO
8 STEAL VERDICT GUILTY.

9 2007-1689 THE STATE VERSUS JOHNNELL
10 PORTER INDICTMENT FOR KIDNAPPING VERDICT GUILTY.

11 2007-1690 THE STATE VERSUS JOHNNELL
12 PORTER INDICTMENT FOR POSSESSION OF A FIREARM DURING
13 THE COMMISSION OF A VIOLENT CRIME VERDICT GUILTY.

14 2007-1691 THE STATE VERSUS JOHNNELL
15 PORTER INDICTMENT FOR CONSPIRACY TO COMMIT ARMED
16 ROBBERY THE VERDICT GUILTY.

17 LADIES AND GENTLEMEN OF THE JURY, IF
18 THIS BE YOUR VERDICT PLEASE SO SAY YOU ALL BY RAISING
19 YOUR RIGHT HAND. LET THE RECORD REFLECT ALL JURORS
20 AFFIRM THIS VERDICT.

21 THE COURT: ANYTHING FROM THE STATE BEFORE
22 THE JURY IS DISMISSED?

23 MR. BRACKETT: NOTHING FROM THE STATE,
24 YOUR HONOR.

25 THE COURT: MR. JAMIESON?

1 MR. JAMIESON: NO, YOUR HONOR.

2 THE COURT: MR. PORTER, ANYTHING BEFORE
3 THE JURY IS DISMISSED?

4 MR. PORTER: NO, SIR.

5 (THE JURY EXITS THE COURTROOM AT 06:21
6 PM.)

7 THE COURT: MR. JAMIESON, ANYTHING ON
8 BEHALF OF MR. YOUNG?

9 MR. JAMIESON: I WOULD RENEW MY EARLIER
10 MOTIONS FOR DIRECTED VERDICT, YOUR HONOR, JUST ON THE
11 SAME GROUNDS.

12 THE COURT: MOTION IS DENIED.

13 MR. D'AGOSTINO: YOUR HONOR, MR. PORTER
14 WOULD RENEW HIS MOTION FOR DIRECT VERDICT, ALSO MOVE
15 FOR A NEW TRIAL, SET ASIDE THE VERDICT AND A NEW
16 TRIAL.

17 THE COURT: I'M GOING TO TAKE THESE
18 MOTIONS FOR NEW MOTION AND MOTION TO ARREST THE
19 JUDGMENT SINCE THOSE ARE THE TWO CRIMINAL MOTIONS AND
20 BOTH WILL BE DENIED. AS I SAID BEFORE, THE EVIDENCE
21 WAS SUFFICIENT BOTH SUBSTANTIAL CIRCUMSTANTIAL
22 EVIDENCE AND CERTAINLY WAS AN AWFUL LOT OF DIRECT
23 EVIDENCE INCLUDING CO-CONSPIRATOR'S TESTIMONY. ALL
24 RIGHT. WE'LL TAKE A MINUTE TO GET THE SENTENCING
25 SHEETS I BELIEVE ARE READY AND THEN IF WE'LL WAIT

1 JUST ONE MINUTE AND THEN WHEN THAT IS READY THE
2 CLERKS WILL LET ME KNOW AND HAVE YOU COME AROUND AND
3 GO THROUGH THE SENTENCING.

4 MR. YOUNG AND MR. PORTER, EACH OF YOU
5 HAVE A RIGHT TO TALK TO ME BEFORE THE SENTENCING.
6 WHEN YOU COME AROUND YOU'LL BE ABLE TO TELL ME
7 ANYTHING YOU WANT TO TELL ME SO. ALSO I WILL GIVE
8 THE VICTIMS ANY OPPORTUNITY IF ANY OF THEM WISH TO
9 SPEAK ALSO.

10 MR. BRACKETT: WE HAVE THE SENTENCING
11 SHEETS, THEY ARE READY, YOUR HONOR, WE'RE JUST
12 WAITING FOR ANY OF JURY MEMBERS THAT CARE TO HEAR THE
13 SENTENCING.

14 (THE JURY RETURNS TO THE BACK OF THE
15 COURTROOM AT 06:23 PM.)

16 THE COURT: BRING THE DEFENDANTS AROUND.

17 (THE DEFENDANTS APPROACH THE BAR.)

18 THE COURT: ALL RIGHT. MR. SPRINGS, LET'S
19 DEAL WITH MR. YOUNG FIRST AND LET'S DO THIS SINCE WE
20 GOT TWO DEFENDANTS. DO ANY OF THE VICTIMS WANT TO
21 SAY ANYTHING?

22 MR. SPRINGS: YES, YOUR HONOR, AT THE
23 APPROPRIATE TIME.

24 THE COURT: I THINK NOW WOULD BE THE
25 APPROPRIATE TIME.

1 MR. SPRINGS: ALL RIGHT. ANYONE WHO WOULD
2 LIKE TO SPEAK, YOU CAN STAND AND SPEAK FROM THERE OR
3 YOU CAN COME STAND HERE.

4 THE COURT: I'D RATHER THEY COME UP HERE
5 BECAUSE WE HAVE GOT A LOT PEOPLE AND I CAN'T SEE THEM
6 BACK HERE.

7 MR. SPRINGS: WOULD ANYONE LIKE TO COME
8 SPEAK, ANY OF THE VICTIMS, AT THIS TIME? THE TELL
9 THE COURT REPORTER YOUR NAME.

10 MRS. COLIN: MY NAME IS CHRISTA BOLIN.

11 THE COURT: YES, MA'AM. OF COURSE, YOU
12 TESTIFIED, SO I'LL BE GLAD TO HEAR FROM YOU.

13 MRS. BOLIN: YES, SIR. YOU HAVE NO CLUE
14 WHAT THESE TWO GENTLEMEN HAVE TAKEN FROM ME. YOU
15 HAVE NO CLUE WHAT THEY HAVE TAKEN FROM THE OTHER
16 PEOPLE THAT I SIT WITH. THEY HAVE TAKEN MY SENSE OF
17 SECURITY. THEY HAVE -- MY CHILDREN HAVE NOT SLEPT
18 BECAUSE OF WHAT I'VE BEEN THROUGH. THAT'S VERY
19 DISTURBING. AND I PERSONALLY THINK THAT THEY SHOULD
20 RECEIVE THE MOST TIME THAT THEY CAN POSSIBLY RECEIVE
21 BECAUSE THIS WILL NEVER BE OUT OF MY HEART AND OUT OF
22 MY MIND, NEVER, NEVER.

23 THE COURT: OF COURSE, OBVIOUSLY I
24 UNDERSTAND. I CAN'T PUT MYSELF IN YOUR SHOES BUT I
25 UNDERSTAND AND I APPRECIATE YOUR BRAVERY IN COMING

1 FORWARD AND TESTIFYING AND COMING FORWARD AND
2 SPEAKING.

3 MR. SPRINGS: DOES ANYONE ELSE WANT TO
4 SPEAK?

5 MR. BRACKETT: I BELIEVE THAT WOULD BE IT,
6 YOUR HONOR.

7 THE COURT: ALL RIGHT. DISCUSS MR. YOUNG
8 FIRST. IF YOU WOULD TELL ME MR. YOUNG'S PRIOR
9 RECORD.

10 MR. SPRINGS: YES, YOUR HONOR. I'M GOING
11 TO GO THROUGH A NUMBER OF PAGES HERE, YOUR HONOR.
12 THE DATES MAY SKIP AROUND. WE HAVE ASSAULT ON A
13 FEMALE IN THE STATE OF NORTH CAROLINA. WE HAVE
14 BURGLARY -- I'M SORRY. THE ASSAULT ON FEMALE IN
15 NORTH CAROLINA THAT WAS BACK IN 2006 NOT LONG BEFORE
16 THIS CASE.

17 BURGLARY IN 1975 IN NORTH CAROLINA.
18 ARMED ROBBERY IN NORTH CAROLINA IN 1976. LARCENY IN
19 NORTH CAROLINA IN '85. ANOTHER ARMED ROBBERY IN
20 NORTH CAROLINA IN 1986. ANOTHER LARCENY IN '85.
21 POSSESSION OF STOLEN GOODS IN '85. ASSAULT WITH A
22 DEADLY WEAPON INFLECTING SERIOUS INJURY 1988.
23 FORGERY IN 1985. THAT'S HIS RECORD AS I UNDERSTOOD
24 IT.

25 GIVEN HIS RECORD THE STATE HAS FILED

1 NOTICE, SERVED NOTICE UPON BEHALF MR. YOUNG
2 PERSONALLY, PUT THE PAPER IN HIS HAND MYSELF AND UPON
3 HIS ATTORNEY, OUR INTENTION TO SEEK LIFE BECAUSE OF
4 HIS PRIOR RECORD. I WOULD LIKE TO MAKE ANOTHER COPY
5 OF THAT NOTICE A PART OF THE RECORD HERE, YOUR HONOR,
6 AS A COURT OR STATE'S EXHIBIT WHICH EITHER THE COURT
7 THINKS IS MORE APPROPRIATE.

8 THE COURT: MAKE IT COURT EXHIBITS.

9 MR. SPRINGS: YES, SIR. AND I WOULD ALSO
10 LIKE TO MAKE A COURT'S EXHIBIT CERTIFIED TRUE COPIES
11 OF HIS TWO PRIOR ARMED ROBBERY CONVICTIONS. I HAVE
12 THOSE CERTIFIED RAISED SEAL CONVICTIONS HERE IN MY
13 HAND AND I WOULD LIKE TO MAKE THEM A PART OF THE
14 RECORD AS WELL.

15 THE COURT: MR. JAMIESON, I'LL BE GLAD TO
16 HEAR FROM YOU AND THEN MR. YOUNG.

17 MR. JAMIESON: YOUR HONOR, MR. YOUNG
18 STANDS BEFORE YOU CONVICTED BY A JURY. HE, I'M NOT
19 GOING TO MAKE ANY EXCUSES FOR HIS ACTIONS. YOUR
20 HONOR HEARD THE TESTIMONY. THIS CRIME WAS OBVIOUSLY
21 A VERY SERIOUS ONE. WHAT I WOULD POINT OUT IS
22 MR. YOUNG IS 51 YEARS OLD, YOUR HONOR. IF HE
23 RECEIVED THE MAXIMUM SENTENCE ON ANY ONE OF THESE
24 CRIMES HE WOULD BE A VERY OLD MAN INDEED IF HE EVER
25 GOT OUT OF PRISON WHICH IS UNLIKELY. I'D ASK THE

1 COURT TO CONSIDER THAT IN SENTENCING MR. YOUNG AND
2 ASK THE COURT TO CONSIDER THAT WHEN IT CONSIDERS
3 WHETHER OR NOT TO GIVE HIM LIFE, THE 30 YEAR SENTENCE
4 OR EVEN A 20 YEAR SENTENCE TO MR. YOUNG WOULD
5 CERTAINLY BE A VERY LONG TIME, HE'D BE A MAN IN HIS
6 70 OR 80'S WHEN HE GOT OUT. I ASK THE COURT TO
7 SENTENCE HIM TO A SENTENCE LIKE THAT TO GIVE HIM SOME
8 OPPORTUNITY TO COME OUT AND REDEEM HIMSELF. HE'S 51
9 YEARS OLD. HE'S MARRIED. HE HAS THREE CHILDREN, ALL
10 OF WHOM ARE GROWN. HE WENT THROUGH THE 12TH GRADE AT
11 SCHOOL AND HE IS EMPLOYED OR WAS EMPLOYED AS A
12 CARPENTER, YOUR HONOR.

13 MR. BRACKETT: MAY IT PLEASE THE COURT, I
14 BELIEVE IT'S MANDATORY AND EVEN IF IT WASN'T, OUR
15 POSITION WOULD BE THESE MEN, AND THIS WOULD APPLY TO
16 BOTH OF THEM ARE ARMED CAREER CRIMINALS, ARMED CAREER
17 FELONS, AND THE WORLD IS A SAFER PLACE WITH THEM IN
18 JAIL.

19 THE COURT: SECTION 17-25-45 DOES SAY THAT
20 A PERSON MUST BE SENTENCED TO A TERM OF LIFE IN
21 IMPRISONMENT WITHOUT THE POSSIBILITY OF PAROLE IF
22 THEY HAVE ONE OR MORE PRIOR CONVICTIONS FOR A SERIOUS
23 OFFENSE OR TWO MOST SERIOUS, MOST SERIOUS OFFENSE --
24 I'M SORRY. ONE OR MORE PRIOR CONVICTIONS FOR A MOST
25 SERIOUS OFFENSE OR THREE SERIOUS OR A COMBINATION OF

1 THREE AND THEY CERTAINLY MEET THAT QUALIFICATION OR
2 MR.. YOUNG, I HADN'T GOTTEN TO MR. PORTER YET, BUT
3 MR. YOUNG CERTAINLY FALLS INTO THAT CATEGORY.
4 MR. YOUNG, ANYTHING YOU WANT TO SAY?

5 MR. YOUNG: NO, SIR.

6 THE COURT: ALL RIGHT. THE SENTENCE ON
7 THE KIDNAPPING IS LIFE WITHOUT PAROLE UNDER SECTION
8 17-25-45.

9 ON ARMED ROBBERY LIFE WITHOUT PAROLE
10 UNDER SECTION 17-25-45.

11 ENTERING A BANK WITH INTENT TO STEAL
12 LIFE WITHOUT PAROLE UNDER SECTION 17-25-45.

13 ASSAULT AND BATTERY OF A HIGH AND
14 AGGRAVATED NATURE IS TEN YEARS.

15 CONSPIRACY TO COMMIT ARMED ROBBERY
16 FIVE YEARS.

17 POSSESSION OF FIREARM DURING A VIOLENT
18 CRIME FIVE YEARS.

19 THESE ARE ALL TO RUN CONCURRENT.

20 MR. YOUNG, YOU UNDERSTAND THESE ARE TRUE LIFE
21 SENTENCES; THAT IS, THERE IS NO ELIGIBILITY FOR
22 PAROLE WHATSOEVER.

23 MR. YOUNG: YES, SIR.

24 THE COURT: YOU UNDERSTAND THAT?

25 MR. YOUNG: YES, SIR.

1 THE COURT: ALL RIGHT. YOU HAVE TEN DAYS
2 TO FILE ANY APPEAL IF YOU WISH TO IN THE TRIAL OF
3 THIS CASE. YOU CAN STEP OUT.

4 MR. SPRINGS: YOUR HONOR, BEFORE I TURN TO
5 MR. PORTER LET ALSO ADD IN MR. YOUNG'S CASE.

6 THE COURT: WAIT, WAIT, BEFORE HE LEAVES.

7 MR. SPRINGS: WE PUT THAT PAPER IN HIS AND
8 HIS ATTORNEY'S HAND ON MAY 24, 2007, THE NOTICE OF
9 OUR INTENTION TO SEEK LIFE.

10 THE COURT: WAIT JUST ONE SECOND. ALL
11 RIGHT. THAT'S FINE. I JUST WANTED TO MAKE SURE. I
12 COULDN'T REMEMBER THE CONSPIRACY BUT GO AHEAD.

13 MR. SPRINGS: YES, YOUR HONOR. TURNING TO
14 MR. JOHNNELL PORTER. AND AGAIN AS I READ HIS RECORD
15 AS I UNDERSTAND IT I'M GOING TO SKIP AROUND A BIT
16 WITH THE DATES. WE HAVE LARCENY IN 1967. WE HAVE
17 BANK ROBBERY IN 1972. I'M SORRY. WE HAVE ARMED
18 ROBBERY IN 1980. AND AN ARMED ROBBERY IN 1995. YES,
19 IN 1995.

20 YOUR HONOR, WE HAVE GIVEN MR. PORTER'S
21 PRIOR RECORD, SERVED NOTICES FROM THE STATE THAT
22 GIVEN HIS PRIOR RECORD WE INTENDED TO SEEK LIFE
23 WITHOUT PAROLE IN THIS MATTER, FILED THAT NOTICE WITH
24 THE CLERK, AND I MYSELF PUT THAT PAPER, A COPY OF
25 THAT PAPER IN HIS HAND AND IN HIS PRIOR ATTORNEY'S

1 HAND MR. MATTHEW NIEMIEC WHEN MR. NIEMIEC WAS ON THE
2 CASE. I ACTUALLY PUT THAT IN THEIR HANDS ON THE SAME
3 DAY, MAY 24, 2007. I BELIEVE THAT WAS THE SAME DAY
4 AS MR. YOUNG. I WOULD LIKE TO MAKE A COPY OF THAT
5 NOTICE OF OUR INTENTION TO SEEK LIFE AS COURT'S
6 EXHIBIT, I HAVE THAT PAPER HERE, AND I WOULD ALSO
7 LIKE TO MAKE A COURT'S EXHIBIT TWO CERTIFIED
8 CONVICTIONS THAT I HAVE HERE ON TWO OF HIS ARMED
9 ROBBERIES. I'M SORRY, THREE. THREE OF HIS FOUR
10 PRIOR ARMED ROBBERIES, I'D LIKE TO MAKE THESE
11 CERTIFIED CONVICTIONS THREE OF THE FOUR ARMED
12 ROBBERIES A PART OF THE RECORD HERE.

13 THE COURT: MR. PORTER, OF COURSE
14 MR. D'AGOSTINO IS HERE TO, AS STANDBY COUNSEL ON
15 PROCEDURAL MATTERS SINCE YOU APPEAR PRO SE, I'M
16 CERTAINLY GOING TO GIVE HIM AN OPPORTUNITY TO SPEAK
17 IF HE WISHES, BUT HE'S HERE ONLY IN A STANDBY
18 CAPACITY, BUT I'LL BE GLAD TO LET HIM SPEAK FOR YOU.

19 MR. PORTER: HE'LL SPEAK.

20 THE COURT: YOU WANT HIM TO SPEAK FOR YOU.

21 MR. D'AGOSTINO: YOUR HONOR, I'VE LOOKED
22 AT THE PRIOR CONVICTIONS PROCEDURALLY THEY DO HAVE
23 THE THREE PRIOR CERTIFIED COPIES OF HIS PRIOR
24 CONVICTIONS. THIS IS AN LWOP CASE, LIFE WITHOUT
25 PAROLE. THE COURT AS I UNDERSTAND HAS NO DISCRETION.

1 HE IS 56 YEARS OF AGE AND HE DOES HAVE CHILDREN AND
2 GRANDCHILDREN BUT THE COURT HAS HEARD THE TESTIMONY
3 AND I WASN'T HERE FOR THE WHOLE TRIAL. IF MR. PORTER
4 HAS SOMETHING THAT HE'D LIKE TO INFORM THE COURT, BUT
5 I UNDERSTAND THE COURT HAS NO DISCRETION IN THE
6 SENTENCING AND IT IS LIFE WITHOUT PAROLE.

7 THE COURT: THE COURT HAS NO DISCRETION.
8 I DIDN'T SAY THIS IN FRONT OF MR. YOUNG, BUT EVEN IF
9 I HAD DISCRETION I THINK I WOULD -- I KNOW I WOULD
10 IMPOSE LIFE WITHOUT PAROLE IF THAT WAS AN OPTION
11 WHICH IT IS. MR. PORTER, ANYTHING YOU WANT TO SAY?

12 MR. PORTER: NO.

13 THE COURT: HE INDICATED NO. SENTENCE ON
14 THE KIDNAPPING IS LIFE UNDER SECTION 17-25-45.

15 THE ARMED ROBBERY SECTION UNDER
16 SECTION 17-25-45 IS LIFE.

17 ENTERING BANK WITH INTENT TO STEAL IS
18 LIFE UNDER SECTION 17-25-45.

19 POSSESSION OF A FIREARM DURING THE
20 COMMISSION OF A VIOLENT CRIME IS FIVE YEARS.

21 CONSPIRACY IS FIVE YEARS AND THESE ARE
22 TO RUN CONCURRENT. THESE ARE TRUE LIFE SENTENCES.

23 MR. PORTER, YOU HAVE TEN DAYS TO FILE AN APPEAL FROM
24 THE TRIAL OF THIS CASE IF YOU WISH. DO YOU
25 UNDERSTAND?

1 MR. PORTER: CAN I GET A ORDER SO.

2 THE COURT: NO, YOU HAVE TO GIVE WRITTEN
3 NOTICE AND MR. D'AGOSTINO ISN'T REQUIRED TO BUT.

4 MR. D'AGOSTINO: I'LL PREPARE NOTICE.

5 THE COURT: BUT HE'S BEEN GENEROUS WITH
6 HIS TIME AND SKILLS AND IF HE WEREN'T ALL READY AN
7 EAGLE SCOUT, I'D PROBABLY MAKE HIM ONE FOR COMING IN
8 AND HELPING, BUT HE'LL TELL YOU ABOUT THAT.

9 MR. D'AGOSTINO: OKAY.

10 THE COURT: THANK YOU.

11 MR. D'AGOSTINO: ALL RIGHT.

12 THE COURT: ALL RIGHT. I APPRECIATE
13 EVERYBODY'S HELP AND I BELIEVE THAT WE'LL BE BACK IN
14 SESSION AT 9:30 IN THE MORNING. THANK YOU.

15 (COURT'S IN RECESS AT 6:36 PM.)

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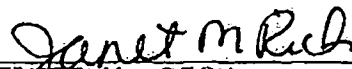
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1 I, JANET RICH, OFFICIAL COURT REPORTER FOR
2 THE SIXTEENTH CIRCUIT OF THE STATE OF SOUTH CAROLINA,
3 DO HEREBY CERTIFY THAT THE FORGOING IS A TRUE,
4 ACCURATE, AND COMPLETE TRANSCRIPT OF RECORD OF ALL
5 THE PROCEEDINGS HAD AND EVIDENCE INTRODUCED IN THE
6 TRIAL OF THE CAPTIONED CASE, RELATIVE TO APPEAL, IN
7 THE CIRCUIT COURT FOR YORK COUNTY, SOUTH CAROLINA, ON
8 THE 23-26 OF JULY 2007.

9 I DO FURTHER CERTIFY THAT I AM NEITHER KIN,
10 COUNSEL, NOR INTEREST TO ANY PARTY HERETO.
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JANET M. RICH

STATE OF SOUTH CAROLINA

County of YorkCERTIFIED TRUE COPY OF THE COURT OF COMMON PLEAS
16th Judicial Circuit

2010 AUG 17 AM 10:08

Kenneth Lovette Young

Full name and prison number (if any) of Applicant

DAVID HAMILTON
CLERK OF COURT
YORK COUNTY, SC

v.

Case No.: 2010-CP-46-3470

APPLICATION FOR

State of South Carolina

POST-CONVICTION RELIEF

INSTRUCTIONS B READ CAREFULLY

In order for this application to receive consideration by the Court, it shall be in writing (legibly handwritten or typewritten), signed by the applicant and verified (notarized), and it shall set forth in concise form the answers to each applicable question. If necessary, applicant may furnish his answer to a particular question on the reverse side of the page or on an additional page. Applicant shall make clear to which question any such continued answer refers.

Since every application must be sworn under oath, any false statement of a material fact therein may serve as the basis of prosecution and conviction for perjury. Applicants should, therefore, exercise care to assure that all answers are true and correct.

If the application is taken in forma pauperis, it shall include an affidavit (attached at the back of the form) setting forth information which establishes that applicant will be unable to pay the fees and costs of the proceedings. When the application is completed, the original shall be mailed to the Clerk of Court for the County in which the applicant was convicted.

1. Place of detention McCormick Correctional Institution, 386 Redemption Way, McCormick, South Carolina 29899
2. Name and location of Court which imposed sentence York County Court of General Sessions, York, South Carolina 29745
3. Name(s) of co-defendant(s) (if any) Johnell Porter, Donshavis Jones and Angela Laws
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 - (a) Armed Robbery. - 2007-GS-46-1695 - Conspiracy to commit same Armed

- (b) Robbery - 2007-GS-46-1700 - Poss. of Firearm During Comm. of a
 (c) Violet Crime - 2007-GS-46-1699 - See Attachment - A
5. The date upon which sentence was imposed and the terms of the sentence:
 (a) July 26, 2007 - Life - Life - Life - 10-years - 5-years - 5-years
 (b) _____
 (c) _____
6. Check whether a finding of guilty was made:
 (a) after a plea of guilty _____
 (b) after a plea of not guilty XXXXXXXXXXXX
 (c) after a plea of nolo contendere _____
7. Did you appeal from the judgment of conviction or the imposition of sentence?
 Yes

8. If you answered Ayes@ to (7), list:
 (a) the name of each Court to which you appealed:
 i. South Carolina Court of Appeals
 ii. _____
 iii. _____
 (b) the result in each such Court to which you appealed:
 i. AFFIRMED
 ii. _____
 iii. _____
 (c) the date of each such result:
 i. November 5, 2009
 ii. _____
 iii. _____
 (d) if known, citations of any written opinion or orders entered pursuant to such results:
 i. Unknown
 ii. _____
 iii. _____
9. If you answered Ano@ to (7), state your reasons for not so appealing:
 (a) N/A

- (b) _____
- (c) _____
10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:
- (a) See Attached Memorandum _____
- (b) _____
- (c) _____
11. State concisely and in the same order the facts which support each of the grounds set out in (10):
- (a) See Attached Memorandum _____
- (b) _____
- (c) _____
12. Prior to this application have you filed with respect to this conviction:
- (a) any petition in a State Court under South Carolina Law? No
- (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? No
- (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? No
- (d) any other petitions, motions or applications in this or any other Court? No
13. If you answered Ayes@ to any part of (12), list with respect to each petition, motion or application:
- (a) the specific nature thereof:
- i. N/A
- ii. _____
- iii. _____
- iv. _____
- (b) the name and location of the Court in which each was filed:
- i. N/A
- ii. _____
- iii. _____

iv. _____

(c) the disposition thereof:

i. _____ N/A

ii. _____

iii. _____

iv. _____

(d) the date of each such disposition:

i. _____ N/A

ii. _____

iii. _____

iv. _____

(e) if known, citations of any written opinions or orders entered pursuant to each such disposition:

i. _____ N/A

ii. _____

iii. _____

iv. _____

14. Has any ground set forth in (10) been previously presented to this or any other Court, State or Federal, in any petition, motion or application which you have filed?

No

15. If you answered "yes" to (14) identify:

(a) which grounds have been presented:

i. _____ N/A

ii. _____

iii. _____

(b) the proceedings in which each ground was raised:

i. _____ N/A

ii. _____

iii. _____

16. If any ground set forth in (10) has not previously been presented to any Court, State or Federal, set forth the ground and state concisely the reasons why such ground has not previously been presented:
- (a) PCR is the proper proceeding in South Carolina to argue issues
- (b) related to ineffective assistance of counsel.
- (c) _____
17. Were you represented by an attorney at any time during the course of:
- (a) your arraignment and plea? Yes
- (b) your trial, if any? Yes
- (c) your sentencing? Yes
- (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? Yes
- (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? N/A
18. If you answered Ayes@ to one or more parts of (17), list:
- (a) the name and address of each attorney who represented you:
- i. Phillip Jamieson, Esq.,
address - 141 Oakland Avenue, Rock Hill, SC 29730
- ii. Lanelle C. Durant, Esq.,
address - PO Box 11589, Columbia, SC 29211-1589
- iii. _____
- (b) the proceedings at which each such attorney represented you:
- i. 18(a)(i) represented me at 17(a)(b)(c)
- ii. 18(a)(ii) represented me on 17(d)
- iii. _____

19. State clearly the relief you seek in filing this application:

Reverse all sentences and convictions in this matter and

remand this case back to the Court of General Sessions for

a new trial, or any other relief that this Court deems just and proper.

20. Are you now under sentence from any other court that you have not challenged?

No

Revised 3/2003

STATE OF SOUTH CAROLINA)

County of McCormick)

VERIFICATION /

I, Kenneth Lovette Young, being duly sworn upon my oath, depose and say that I have subscribed to the foregoing application; that I know the contents thereof; that it includes every ground known to me for vacating, setting aside or correcting the conviction and sentence attacked in this application; and that the matters and allegations therein set forth are true.

Kenneth L. Young

SWORN to and subscribed before me this 13
day of August, 2010

John L. Young (L.S.)
Notary Public

My Commission Expires: 8-28-2011

**APPLICATION TO PROCEED WITHOUT PAYMENT
OF COSTS AND AFFIDAVIT
IN SUPPORT THEREOF**

I, Kenneth Lovette Young, hereby apply for leave to proceed in this action without prepayment of fees or costs or security therefor. In support of my application I declare under penalty of perjury that the following facts are true:

- (1) I am the applicant in this action and I believe I am entitled to redress.
- (2) Because of my poverty I am unable to pay the costs of said proceeding or give security thereof.

Kenneth L. Young
Applicant

SWORN or affirmed to and subscribed before me this
13 day of August, 2010.

Joe L. Young
Notary Public

My Commission Expires: 8-28-2011

ATTACHMENT - A

Answer to question 4(c) of the application:

Assault and Battery of a High and Aggravated Nature - 2007-
GS-46-1698 - Kidnapping - 2007-GS-46-1694 - and Entering a Bank
with Intent to Steal - 2007-GS-46-1696

STATE OF SOUTH CAROLINA)
County of York

FILED-RECEIVED
2008 AUG 16 PM 3:07

IN THE COURT OF COMMON PLEAS
16th Judicial Circuit

Kenneth Lovette Young, #323182,)

Applicant) Case No.: _____

vs.)

State of South Carolina,)
Respondent.)

Memorandum of Law To Support
Application for Post-
Conviction Relief

This Memorandum is to support the allegations of ineffective assistance of counsel and denial of due process raised in question 10 (a) & (b) of the application, along with supporting facts raised in 11 (a) & (b). The Applicant's right to due process of law was violated before, during and after trial in this matter because he was denied the effective assistance of counsel.

Because of the Applicants denial of the right to a fair trial because he received ineffective assistance of counsel, the Applicant asserts that his arguments, supporting facts and citation to appropriate case laws will justify this Court in granting post-conviction relief.

Ineffective Assistance of Counsel

The Sixth Amendment of the United States Constitution guarantees the right to effective assistance of counsel in a criminal prosecution. In Strickland v. Washington 466 U.S. 668 (1984), the United States Supreme Court established a two-prong

test to evaluate ineffective assistance claims. To obtain reversal of a conviction under the Strickland standard, the defendant must prove that counsel's performance fell below the objective standard of reasonableness and that counsel's deficient performance prejudice the defendant, resulting in an unreliable or fundamentally unfair outcome in the proceeding.

"[T]he purpose of the effective assistance guarantee of the Sixth Amendment is ... to ensure that criminal defendants receive a fair trial". Id. at 689.

TRIAL COUNSEL WAS INEFFECTIVE DURING TRIAL WHEN HE FAILED TO LODGE A PROPER OBJECTION TO PRESERVED THE ISSUE OF SEVERANCE FOR APPELLATE REVIEW, WHICH DENIED THE APPLICANT DUE PROCESS OF LAW.

The general rule of issue of preservation states that if an issue was not raised and ruled upon below, it will not be considered for the first time on appeal. State v. Dunbar, 356 S.C. 138, 587 S.E.2d 691 (2003). Imposing this preservation requirement on the Applicant is meant to enable the lower court to rule properly after it has considered all relevant facts, law and arguments. I'On v Town of Mount Pleasant, 338 S.C. 406, 422, 526 S.E.2d 716, 724 (2000); see also Ellie, Inc. v. Miccichi, 358 S.C. 78, 103, 594 S.E.2d 485, 498 (Ct. App. 2004) ("Without an initial ruling by the trial court, a reviewing court simply would not be able to evaluate whether the trial court committed error."). It is well settled that a party cannot raise a different issue on appeal than at trial. See e.g., State v. Richardson, 358 S.C. 586, 595 S.E.2d 858 (Ct. App, 2004) (because objection at trial based on different ground than that raised on appeal, issue not preserved for review); State v. Byram, 326 S.C. 107, 485 S.E.2d 360 (1997) (party cannot argue one ground below and different ground on appeal); State v. Nichols, 325 S.C. 111, 481 S.E.2d 118 (1997) (general objection is insufficient to preserve issue for appellate review).

During pre-trial motions, the following colloquy occurred between trial counsel and the court:

Mr. Jamieson: Your Honor, Mr. Chiarenza (Angela Laws' counsel) is going to make a motion to sever and we'd be joining that motion, so that would be the motion at the moment as to Mr. Chiarenza's motion.

The Court: All right. Now you are asking to sever from who, everybody or from Mr. Young or Ms. Laws?

Mr. Jamieson: I think if your Honor is inclined to sever, I think it's appropriate to sever from all defendants.

The Court: All right. Well, let me hear what Mr. Chiarenza has to say.
(Tr, Trans. p. 21 line 20 - p. 22, line 10).

Mr. Chiarenza argued that Laws' defense was going to be one of duress, in that the other co-defendants coerced her into participating in the bank robbery, and that there was a history of violence between her and the Applicant. The motion was argued for several pages in the trial transcript and the only input by trial counsel with regard to the motion to sever on behalf of the Applicant was that Ms. Laws' defense would be prejudicial to his client and that he could not get a fair trial. (Tr. trans. pp. 22-39). The trial judge granted the motion to sever Laws' trial from the other two co-defendants¹ (Tr. trans. p. 38, line 20 - p. 39, line 19). He did not address at all whether the Applicant's trial should be severed from Porter's. Trial counsel did not argue that the Applicant's trial should be severed from Porter's. In fact, when he was asked for his remarks on the motion, trial counsel addressed only the propriety of severing Laws' trial from the Applicant's trial. Trial counsel did not object to the trial

1. Once Laws' trial was severed from Applicant and Porter's trial, she elected to enter a plea. She then testified against Young and Porter and admitted to her knowing participation in the bank robbery. (Tr. trans. pp. 312-323).

court's ruling or even point out that they had not discussed whether the Applicant and Porter should be trial separately.

While initially trial counsel stated that he wished for the Applicant's trial to be severed from all the others, this was neither argued to the judge, nor ruled upon by him. Trial counsel did not give any reasons why the Applicant's trial should be severed from Porter's. The reasons put forth by the Applicant's appellate counsel were not argued before the trial judge and could not presented for the first time on appeal. Therefore, the issue of severance was not properly preserved for appellate review.

There were substantial reasons to sever the trial and for the Applicant to be treated as an individual. There was no forensic evidence to connect the Applicant to the crimes; there was no DNA and no fingerprints. The people in the bank could not identify the robbers. The co-defendants who testified against the Applicant made plea bargains where they got only 6-8 years instead of a possible ninety years for Jones and a possible twenty-five for Laws.

The Applicant testified at his trial and also he was cross-examined by his co-defendant Porter who represented himself at trial. The Applicant was not able to subpoena Porter because he was on trial as well. The Applicant could not call Porter to the stand as a witness in order to cross-examine Porter. The South Carolina Supreme Court ruled in State v. Allen, 269 S.C. 233, 237 S.E.2d 64 (1977), that a co-defendant was not entitled, as a matter of right, to separate trial in order to make a

co-defendant available to testify ... and in order to justify a reversal on the foregoing ground, some prejudice arising out of the joint trial must be shown. However, in Allen the court ruled that there was nothing to show that the defense of the co-defendants were antagonistic.

It is clear from the record that the Applicant and Porter had antagonistic defenses. Each accused the other of committing the crime as seen through Porter's cross examination of the Applicant. Porter asked the Applicant if he did not hear Porter tell the other people in the car that they should have told him what they were going to do. The Applicant said no. The Applicant denied going to the bank. Tr. trans. p. 535, lines 17-25; p. 536, lines 1-25; p. 537, lines 1-7; p. 500, lines 19-25; p. 501; p. 502; p. 503; p. 504; p. 506; p. 507; p. 508; p. 509; p. 510; p. 511; p. 512; p. 513; p. 514; p. 515; p. 516; p. 517; p. 518.

For the foregoing reasons trial counsel was ineffective for failing to lodge a proper objection to properly preserve the issue of severance for appellate review.

The Applicant believes that he has established he received ineffective assistance of counsel at his trial. The Applicant has shown that counsel's performance fell below an objective standard of reasonableness and, but for counsel's errors, there is a reasonable probability the result at trial would have been different. Strickland v. Washington, 104 S.Ct. 2052 (1984); Jackson v. State, 480 S.E.2d 733 (1997). A reasonable probability is a probability sufficient to undermine confidence in the outcome of the trial. Johnson, supra.

TRIAL COUNSEL WAS INEFFECTIVE FOR FAILING TO OBJECT TO THE TRIAL JUDGE'S JURY INSTRUCTIONS THAT ALLOWED THE JURY TO DISREGARD THE PRIOR CONVICTIONS OF A PROSECUTION WITNESS IN ASSESSING HER CREDIBILITY, WHICH DENIED THE APPLICANT DUE PROCESS OF LAW.

The trial judge's jury instructions in the instant case permitted the jury to consider State's witness Angela Laws credibility without considering that she had prior convictions. The judge instructed the jury as follows: Tr. trans. p. 623, lines 10-25 - p. 624, lines 1-3:

Where a person testifies and they have a past criminal record, they are competent to testify. However, a past record does not affect their ability, that is, they can testify. But you can consider any past criminal record of a witness in determining the credibility of that witness. That is, the believability. You've heard evidence that at least one of the witnesses, Ms. Laws I believe, had a prior conviction and Mr. Young, there was some testimony that he had been convicted of an offense. Now that evidence as to Mr. Young, like the evidence as to Ms. Laws, can only be used in judging believability of Mr. Young and for no other purposes. That is, you cannot use his past record as any evidence that he was involved in this in any degree whatsoever. It is not evidence as to the charges today. It is only allowed into evidence for your consideration in regarding what degree of believability to give a witness.

The South Carolina Supreme Court has held that "the resolution of the credibility of the witness is within the province of the jury". See State v. Needs, (S.C. 1998) 333 S.C. 134, 508 S.E.2d 857, rehearing denied.

The trial judge's instructions denied the jury the opportunity to exercise its duty by considering the prior convictions of Ms. Laws to determine whether her testimony was

worthy of the jury's belief.

Pursuant to Rule 609 (a)(1), of the South Carolina Rules of Evidence, it states in part that "evidence that a witness other than the accused has been convicted of a crime shall be admitted, subject to Rule 403, if the crime was punishable by death or imprisonment in excess of one year under the law under which the witness was convicted"; "(2) evidence that any witness has been convicted of a crime shall be admitted if it involved dishonesty or false statement, regardless of the punishment".

The crimes for which Ms. Laws testified that she was convicted of, possession of stolen property, utter, forgery and embezzlement, tr. trans. p. 339, lines 3-7, all involves crimes of dishonesty. The convictions were admitted but the jury were instructed that that type of evidence can only be "used in judging the believability of Mr. Young". The jury instructions allowed the jury to consider Ms. Laws testimony without considering whether she was credible or not.

The conviction that Ms. Laws testified to should have been allowed to be considered by the jury in reference to Ms. Laws' credibility, but because of the faulty jury charge by the trial judge, the jury did not have the ability to consider these prior convictions.

The trial judge's faulty jury instructions was especially prejudicial in taking in consideration the fact that during closing argument the Solicitor was driving home the issue that

Ms. Laws was a very credible witness. Trial counsel should have objected and ask the judge to instruct the jury that they could have consider Ms. Laws' prior convictions to determine her credibility, because the law to be charged is determined from evidence presented at trial. A trial court commits reversible error when it fails to give a requested charge on an issue raised by the evidence. State v. Lee, 298 S.C. 362, 380 S.E.2d 834 (1989).

Trial counsel was ineffective for failing to object to the improper jury instructions by the trial judge. The Applicant was prejudiced in that the jury was only allowed to consider the Applicant's prior convictions and not the prior convictions of one of only two people who allegedly placed the Applicant at the scene of an alleged bank robbery, where this witness testified she was the driver of the getaway car.

Counsel's performance was deficient and there is a reasonable probability that, but for counsel's errors, the results of the trial would have been different. Strickland v. Washington, 104 S.Ct. 2052 (1984); Rhodes v. State, 349 S.C. 25, 561 S.E.2d 606 (2002).

COUNSEL WAS INEFFECTIVE DURING TRIAL FOR FAILING TO OBJECT TO THE IMPROPER CONDUCT OF THE SOLICITOR WHICH CONSISTED OF POISONING THE MINDS OF THE JURORS IN HIS OPENING STATEMENTS, BOLSTERING OF STATE'S WITNESSES AND MAKING IMPROPER REMARKS ABOUT THE APPLICANT AND HIS CO-DEFENDANTS IN HIS CLOSING ARGUMENT, COUNSEL WAS ALSO INEFFECTIVE FOR FAILING TO MOVE FOR CURATIVE INSTRUCTIONS OR A MISTRIAL, WHICH DENIED THE APPLICANT DUE PROCESS OF LAW.

The most significant and disturbing factor involved in this matter is the solicitor's conduct during trial of this case. The South Carolina Supreme Court noted in the case of State v. Quattlebaum, Op. No. 25051, filed January 24, 2000, that the Court "will not tolerate deliberate prosecutorial misconduct which threatens rights fundamental to liberty and justice".

In the instant case, the solicitor made allegations during his opening statement that he did not present any evidence during trial of this case to prove.

The solicitor made the following comment during opening statement: Tr. Trans. p. 104, lines 15-25 - p. 105, lines 1-5;

"Meanwhile up in Charlotte, miles away,
'Mr. Kenneth Young' and Johnell Porter, these two guys
right here, this is Mr. Porter and this is Mr. Young,
they were getting ready to go to work too, they were
getting dressed, getting their clothes ready, getting
their things together for their job. Oddly enough
 that day they were going to work at the Bank of
 York too, but the Bank of York didn't hire Mr. Young
 and Mr. Porter. They hired Mrs. Harris, but they
 didn't hire them. They were free lancing. They
 decided they were going to volunteer there to come
 and make a withdrawal and the clothes they were
 getting ready were dark jeans, a dark sweat shirt
 with a hoodie, ski mask, and things that they were
 getting to take with them: gloves, a .38 pistol, and
 a Smith and Wesson semi-automatic handgun.
 (emphasis added).

The Fourth Circuit Court of Appeals has found that a prosecutor should confine his opening statement to evidence that he intends to offer and believes will be admissible. In this case, the solicitor did not present any evidence that "while Mrs. Harris was preparing to go to work that, at the same time, the Applicant was up in Charlotte gathering clothing and other items to go commit a bank robbery". This was evidence known only to the solicitor and not presented to the jury. In U.S. v. Breckington 849 F.2d 872, 875 (4th Cir. 1988), the Court stated that "the prosecutor's opening statement should be an objective summary of the evidence reasonably expected to be produced, and the prosecutor should not use the opening statement as an opportunity to "poison the jury's mind against the defendant or recite items of highly questionable evidence."

The solicitor's opening statement poisoned the minds of the jurors against the Applicant because none of the incriminating items recited by the prosecutor, dark jeans, a dark sweat shirt with a hoodie, ski masks, gloves, a .38 pistol, and a Smith and Wesson semi-automatic handgun were linked to the Applicant, other than through the self-serving testimony made by two of the Applicant's co-defendants. There were no fingerprints or any other type of physical or forensic evidence linking the Applicant to the aforementioned items, or the crimes charged in this matter.

The solicitor opening statement was calculated to appeal to the jury's passions and prejudices by playing on the jury's, all

of whom are law abiding citizens, disgust for crime in the community and armed criminals putting innocent citizens lives in jeopardy.

The solicitor also "bolstered" the credibility of state's witnesses in the following manner:

On direct examination of of state's witness "Angela Laws" the following conversation occurred: Tr. trans. p. 312, lines 20-25 - p. 313, lines 1-8;

Q. And have you plead guilty to Bank Robbery?

A. Yes, sir.

Q. Ms. Laws, when you plead guilty did you agree to testify against some folks?

A. Yes, sir.

Q. Who did you agree to testify against?

A. Kenneth Young and Johnell Porter.

Q. And will you testify truthfully?

A. Yes, sir.

Q. If you testify truthfully against them, what reward do you get, what deal do you get?

A. (No response.)

Q. What sentence will you get?

A. 6 to 8 years prison time.

Also, in responding to a question from the solicitor, Ms. Laws testified as follows: Tr. trans. p. 323, lines 23-23:

Q. All right. Ms. Laws, have you told the truth?

A. Yes, sir.

Another of the state's witnesses, Donshavis Jones, while responding to a question from the solicitor, testified as follows:

Tr. trans. p. 375, lines 1-2:

Q. Mr. Jones, have you told the truth today?

A. Yes, sir.

Just prior to the solicitor beginning his closing argument, in an effort to further bolster the credibility of Donshavis Jones, the solicitor made the following comment to the jury:

Tr. trans. p. 549, lines 2-16;

I didn't mention that that was another good little piece of evidence that we had, and Mr. Jones, he said that from the beginning before there was any heat. He didn't even know what his charges were going to be. He didn't know whether he would have a lawyer or when he would get to South Carolina, what would happen when he got there, how much time he was looking at, who the prosecutors were going to be or what kind of offer they were going to make, he just said, I went in there and I told them the truth and no matter how much Mr. Porter tried to make him say, now you were high on Lortab, you didn't really know what you were doing, no grandpa I really did. I did. I knew what I was doing. He knew what he was doing the whole time. (emphasis added).

The solicitor never stopped making comments that the witnesses were truthful in their testimony, for instant the solicitor made the following remarks in reference to Ms. Laws:

Tr. trans. p. 599, lines 1-18:

She was scared. She has a criminal history but she had never done any time in jail. She's got minor stuff and she knew that she had moved from, you know, minor league baseball to the major leagues. Bank robbery is a serious crime. Forgery check, stealing money from your employer, minor. Going into a bank with ski masks and guns and macing people and loading up \$18,000 worth of cash, stuffing them into the vault and closing the door ---major.

She said, I'm in real trouble now, so her statement was very self-protective. Judge her testimony based on how she was on the stand though, consider that too. She was pretty forthright. She wasn't happy to be here, who can blame her, her position right now is pretty bad. She's going to prison, she knows it. She's not happy about being here, but she told the truth and it didn't really change a whole lot over time. (emphasis added).

The solicitor engaged in the aforementioned misconduct in an effort to "bolster" the credibility of state's witnesses Ms. Laws and Mr. Jones. The solicitor expressed to the jury that these two witnesses should be believed because they were allegedly at this incident location at the time in question and they implicated the Applicant, trial counsel never objected to the improper conduct by the solicitor.

The solicitor improperly vouched for the credibility of the witnesses both in the manner in which he questioned them and in his closing argument.

When the solicitor asked Ms. Laws, "will you testify truthfully?" Tr. trans. p. 313, line 2, and also, "Ms. Laws, have you told the truth?" Tr. trans. p. 323, line 23, the solicitor impermissibly bolstered Ms. Laws's credibility by this line of questioning.

The solicitor also impermissibly bolstered the credibility of Donshavis Jones when he asked, "Mr. Jones, have you told the truth today?" Tr. trans. p. 375, lines 1-2.

The instant case is similar to that of State v. Kelly, 540 S.E.2d 851, 859-861 (S.C. 2001), in which the assistant solicitor in that case bolstered the witness's testimony in the manner in

which he questioned the witness on the witness stand. The South Carolina Supreme Court found that it was impermissible vouching when the assistant solicitor questioned the witness in the following manner:

[Assistant Solicitor]: What did I tell you that I absolutely required regarding your testimony to this jury today?

[McCormack]: Uh - excuse me?

[Assistant Solicitor]: Did I tell you to tell the truth to this jury-

[McCormack]: Of course.

At that point, Kelly objected on the grounds that the assistant solicitor was bolstering the witness's testimony, and was making himself a witness. After the Court overruled the objection, the assistant solicitor continued:

[Assistant Solicitor]: What did I tell you regarding your testimony today? The only thing the State wanted from your testimony was what?

[McCormack] The truth.

The South Carolina Supreme Court found that the jury in the Kelly case could have perceived that the assistant solicitor held the opinion that McCormack was, in fact, telling the truth. Thus, McCormack's testimony carried with it the imprimatur of the government, and this bolstering may have induced the jury to trust the State's judgment about McCormack. Because a jury must make its own assessment on the credibility of witnesses, it is inappropriate for the State to assure the jury of the government witness's credibility.

Here, the same set of principles applies, the solicitor in the instant case believed that Ms. Laws and Mr. Jones were telling the truth, therefore, their testimonies, which were shown by the solicitor's line of questioning, carried with them the imprimatur of the government and this bolstering may have induced the jury to trust the State's judgment about Ms. Laws and Mr. Jones.

The Court in Kelly found that the assistant solicitor's bolstering was improper, however, the Court ruled that the error was harmless because of the overwhelming evidence of aggravation. In the instant case, the solicitor's bolstering of its witnesses cannot be deemed harmless error, the only evidence placing the Applicant at the scene of this incident are the testimonies of the two co-defendants, there shouldn't have been any help from the solicitor in determining whether the witnesses were worthy of the jury's belief, both of whom had made statements prior to trial that were inconsistent with their trial testimonies, which made the solicitor's actions more so prejudicial.

In his closing argument, the solicitor continued on with his bolstering of the witnesses.

In Matthews v. State, 565 S.E.2d 769 (S.C. 2002), the South Carolina Supreme Court found that the solicitor's summation led the jury to believe the government had corroborated the witness's testimony before trial and found it credible.

The solicitor's statements in the instant case during his

closing argument, as shown supra, may have led the jury to believe that the solicitor had corroborated Ms. Laws's and Mr. Jones's testimony prior to trial and found the testimonies to be truthful.

Matthews held that vouching for a witness based on outside material conveys the impression to the jury that the solicitor has evidence not presented to the jury but known by the prosecutor which supports a conviction. See also U.S. v. Young, 470 U.S. 1, 18-19 (1985), where the United States Supreme Court states that "the prosecutor's vouching for the credibility of witnesses ... carries with it the imprimatur of the Government and may induce the jury to trust the Government's judgment rather than its own view of the evidence".

The solicitor misconduct did not stop with the impermissible bolstering of prosecution witness, the solicitor resorted to making improper remarks about the Applicant and his co-defendants in this case.

The solicitor made the following comments during his closing arguments to portray the Applicant and his co-defendants a "dumb criminals" to the jury when he stated the following: Tr. trans. p. 593, lines 8-13:

--we talk to the police officers who pulled all four of those "clowns" out of the back of that Ford Taurus with the big pillow case with 18,000 of the bank's money, including \$500 in marked bait money, two guns, three masks, a can of mace, and we say, you know what, I think we got enough. (emphasis added).

Also, Tr. trans. p. 593, 17-20:

Oh, I didn't even mention the fact that the two other "clowns" from the car came in here and told that they were guilty and that they did in fact go into the bank. (emphasis added).

The solicitor's reference to the Applicant and his co-defendants as "clowns" had no evidentiary purpose. Calling the Applicant and his co-defendants "clowns" exposed to the jury that the solicitor had no respect for the Applicant's defense, which is, he is actually innocent of these charges and did not participate in whatever occurred at the Bank of York on the day in question. That disrespect for the Applicant's defense was evident when the solicitor, using sarcasm, stated, "they didn't do it, some other dudes did it, some other dudes actually." Tr. trans. p. 506, lines 15-16.

A prosecutor acts improperly when he makes unfair or improper remarks about the defendant. The Eight Circuit Court of Appeal found that a prosecutor acted improperly by repeatedly referring to the defendant's status as foreigner though that fact had no evidentiary purpose. See U.S. v. Cruz-Padilla, 227 F.3d 1064, 1069 (8th Cir. 2000).

Because of the solicitor's misconduct in this case, trial counsel should have made an objection, or move for curative instructions or a mistrial.

Counsel cannot assert trial strategy as a defense for failure to object to comments which constitutes an error of law and are inherently prejudicial. See Dawkins v. State, 346 S.C. 151, 551 S.E.2d 260 (2001); Gallman v. State, 307 S.C. 273, 414

S.E,2d 780 (1992); and also Strickland v. Washington, 104 S.Ct. 2052 (1984).

Trial counsel's performance was deficient, if not for counsel's deficient performance, the outcome of the trial would have been different.

CONCLUSION

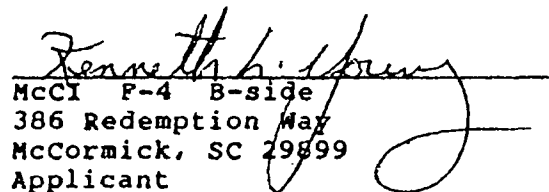
The Applicant was denied his Sixth Amendment right to the effective assistance of counsel because of trial counsel's actions/inactions in this matter. The Applicant believes that a evidentiary hearing is necessary to fully develop his claims of ineffective assistance of counsel. See Sharper v. State, 279 S.C. 264, 305 S.E.2d 247 (1983).

The Applicant ask that this Court appoint counsel to represent him in this matter. See Rule 71.1 (d) of the South Carolina Rules of Civil Procedure.

Date: 8-13-10

Respectfully submitted,

Kenneth Lovette Young #323182


McCI F-4 B-side
386 Redemption Way
McCormick, SC 29899
Applicant

KENNETH YOUNG #323182

McCI F-4 B-side
386 Redemption Way
McCormick, South Carolina 29899C

Date: 8-13-10

York County
Clerk of Court's Office
P.O. Box 649
York, S.C. 29745-0649

RE: Kenneth Young v. State of South Carolina
Application for Post-Conviction Relief

Dear Clerk:

Enclosed for filing is the original application for post-conviction relief in reference to the above entitled matter.

Please return to me a clock-stamped copy of the enclosed application at your earliest convenience.

Thank you for your attention and assistance in this matter.

Kind regards,

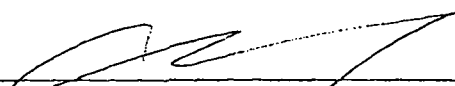
Kenneth H. Young
#323182 

STATE OF SOUTH CAROLINA	)	IN THE COMMON PLEAS COURT
	)	
COUNTY OF YORK	)	
	)	DOCKET NO.: 2010-CP-46-3470
Kenneth Young, 323182	)	
	)	
Applicant	)	AMENDED APPLICATION FOR POST
	)	CONVICTION RELIEF
	)	
State of South Carolina	)	
	)	
Respondent,	)	
_____	)	

The Applicant through undersigned Counsel states that the Application for Post Conviction Relief was filed on August 17, 2010, and wishes to add the following to that application:

SEE ATTACHED PAGES 1-6

RESPECTFULLY SUBMITTED ON BEHALF OF
APPLICANT, Kenneth Young



Charles T. Brooks, III
Attorney for Applicant
309 Broad Street
Post office Box 3512
Sumter, South Carolina, 29150
(803) 418-5708

May 19, 2011

FILED-RECEIVED
2011 MAY 23 PM 2:32
DAVID HAMILTON
C.C.P. & G.S.
YORK COUNTY, SC

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
 County of York)

Kenneth Young, #323182,)
 Applicant,)

Case No.: 2010-CP-46-3470

vs.)

State of South Carolina,)
 Respondent.)

AMENDMENT TO APPLICATION FOR
 POST CONVICTION RELIEF

Comes Now, Kenneth Young, the Applicant, who ask this Honorable Court to amend his original Application for Post Conviction Relief to include the issue contained in the attached brief. Opposing counsel has been duly served. See "Certificate of Service", also attached.

Date: 5-18-11

Kenneth Young, #323182
 MCI F-4 225-B
 386 Redemption Way
 McCormick, SC 29899
 Applicant

DAVID HAMILSON
 C.C.P. & C.S.
 YORK COUNTY, SC

2011 MAY 23 PM 2:32

FILED-RECEIVED

TRIAL COUNSEL WAS INEFFECTIVE FOR FAILING TO REQUEST A CHARGE ON THIRD PARTY GUILT AFTER DIRECT AND CIRCUMSTANTIAL EVIDENCE HAD BEEN GIVEN ON THAT ISSUE DURING THE TRIAL, WHICH WAS PREJUDICIAL TO APPLICANT AND DENIED HIM DUE PROCESS OF LAW.

Applicant's entire defense rested on this crime being committed by someone else, third party guilt. See tr. pages 504-511 and p. 516.

Applicant testified that his girlfriend, Angela Laws, who is also one of the co-defendants in this case, picked him up on the morning of the incident, then proceeded to pick up Porter, the other co-defendant in this case. At that time they went to a service station to meet a third party, a Black male who was unknown to Applicant, who was in a white Thunderbird. Porter and Jones got out of Ms. Laws' vehicle and got into the Thunderbird. Applicant remained in vehicle with Ms. Laws and they rode to a Bojangles restaurant. Afterwards, maybe fifteen to twenty minutes later, the Thunderbird driven by the unknown Black male with Porter and Jones inside came into the Bojangles parking lot. The occupants of the Thunderbird, Porter, Jones and the unknown Black male got out of the Thunderbird and got into Ms. Laws' vehicle, she was the driver, and left the Bojangles parking lot. Applicant remained inside the Bojangles waiting for his boss man to bring his pay check, after a short wait, his boss man called and said he couldn't meet Applicant as planned at Bojangles and scheduled a meeting later that day at Speedy Temp Service in Charlotte, North Carolina later that day.

After receiving the call from his boss man Applicant called

Ms. Laws to come back to the Bojangles to pick him up, upon her arrival, the trio of men were still in her car, the unknown Black male exit Ms. Laws' vehicle, got in the Thunderbird and drove off. Applicant got in the back seat of the car with Ms. Laws, Porter and Jones and the four headed back towards Charlotte on Highway 49 North, they rode for about fifteen to twenty minutes when suddenly Ms. Laws was signaled by the police with blue lights flashing to pull over, Ms. Laws attempted to elude the police by speeding up, but eventually crashed the car. All occupants were arrested, the police recovered guns and a bag of money, along with other incriminating evidence of a bank robbery.

Employees of the bank allegedly robbed described one of the robbers hands as being bleached, tr. p. 202, and psoriasis around his mouth, tr. p. 198.

None of the defendants had theses characteristics. Also, none of the bank employees testified that any of the alleged bank robbers had long dreadlocks at the time of the alleged robbery, the hair style of the Applicant at the time he was arrested.

Taken in totality, this is substantial evidence of third-party guilt. In fact, the entire theory of Applicant's defense was third-party guilt. Applicant's three co-defendants along with the unidentified Black man in the Thunderbird left Bojangles, robbed the bank and returned to pick up Applicant, who was waiting at the Bojangles to pick up his pay check. The only reason the Applicant was arrested is because he was in the car when it attempted to elude police.

In Holmes v. South Carolina, 126 S.Ct. 1727 (2006), established that a defendant may present evidence of third-party guilt. In this case, that evidence was presented through Applicant's and the bank employees testimonies.

This case is easily distinguished from State v. Tindall, Op. No. 4402 (6/5/08 S.C. Court of Appeals), "where trial court stated it had not heard any testimony in particular blaming a third-party."

In the case sub judice, direct and circumstantial evidence was presented to establish third-party guilt.

The trial court is required to charged the law on the evidence presented at trial. State v. Gates, 238 S.E.2d 600, 681 (1977); see State v. Burris, 513 S.E.2d 104, 108 (1999); and State v. Lee, 300 S.E.2d 834 (1989). A trial court has a duty to give a requested jury instruction that correctly states the applicable law to the issues and which is supported by the evidence.

In this case, the third-party guilt instruction was not given due to trial counsel being ineffective pursuant to Strickland v. Washington, 104 S.Ct. 2052 (1984), since he failed to request the jury be instructed on third-party guilt, because this was the entire basis of the defense's theory of the case. ("that the unidentified black man in the Thunderbird left with co-defendants to rob the bank). Applicant was prejudiced thereby as the jury was not instructed on the law of third-party guilt based on evidence presented at trial on third-party guilt).

CONCLUSION

The Applicant ask for an evidentiary hearing on this issue along with the other issues presented in his original post-conviction relief application.

Date: 5-18-11

Respectfully,
Sincerely,

Kenneth L. Young
Kenneth Young, #323132
MCCI F-4 225-D
386 Redemption Way
McCormick, SC 29899
Applicant

The Brooks Law Offices, LLC

Charles T. Brooks, III
Attorney

309 Broad Street
Sumter, South Carolina 29150
Post Office Box 3512, Sumter, SC 29151
Post Office Box 291226, Columbia, SC 29229
OFFICE: (803) 418-5708
FAX: (803) 934-9618 TOLL FREE: (877) 770-8792
Email: cbrooks@ctbrooks.com

Irma R. Brooks
Attorney

February 13, 2012

South Carolina Supreme Court
PO Box 11330
Columbia, SC 29211

RE: Kenneth L. Young v State of South Carolina
Case No. 2010-CP-46-3470

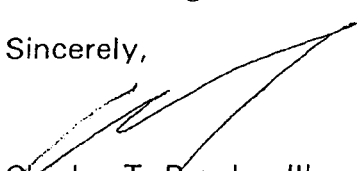
Dear Sir or Madam:

Enclosed herewith you will find the **Notice of Appeal, Order of Dismissal**, along with a **Proof of Service** in reference to the above named Applicant.

If you have any questions or concerns, please contact my office at the number stated above.

With kind regards, I am

Sincerely,



Charles T. Brooks, III
CTB/jlb

Enclosed as stated

Cc: Matthew J. Friedman, Office of Attorney's General
South Carolina Office of Appellate Defense
Kenneth L. Young, 323182

RECEIVED

FEB 15 2012

SC OFFICE OF
APPELLATE DEFENSE

THE STATE OF SOUTH CAROLINA
In the Supreme Court

APPEAL FROM YORK COUNTY
Court of Common Pleas
Honorable Paul M. Burch, Circuit Court Judge

Case No: 2010-CP-46-3470

Kenneth L. Young.....Appellant
S.C.D.C. No.: 323182

v.

The State.....Respondent

PROOF OF SERVICE

I, the undersigned, do hereby certify that on this 13th day of February, 2012, I served the foregoing Notice of Appeal, Order of Dismissal, as well as Proof of Service in this matter by depositing a true copy of it in the United States Mail, postage prepaid, on February 13, 2012 addressed to the following as indicated below:

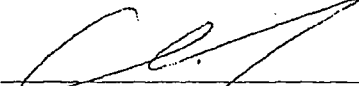
South Carolina Supreme Court
Post Office Box 11330
Columbia, South Carolina 29211

Office of Attorney's General
Attn: Matthew J. Friedman, Esquire
Post Office Box 11549
Columbia, South Carolina 29211-1549

South Carolina Office of Appellate Defense
1330 Lady Street, Suite 401
PO Box 11589
Columbia, SC 29211-1589

Kenneth L. Young, 323182
McCormick Correctional Institution
386 Redemption Way
McCormick, South Carolina, 29899

Dated: February 13, 2012


Charles T. Brooks, III
Attorney for the Appellant
309 Broad Street
Sumter, South Carolina 29150
(803) 418-5708

STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF YORK	)	
	)	
	)	2010-CP-46-3470
	)	
Kenneth Lovette Young, #323182	)	
	)	
Applicant,	)	
	)	
v.	)	RETURN
	)	
State of South Carolina,	)	
	)	
Respondent.	)	
	)	

The Respondent, making its Return to the Application for Post-Conviction Relief filed August 16, 2010, would respectfully show this Court:

I.

The Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Clerk of Court for York County. The Applicant was indicted by the June 2007 York County Grand Jury for one count of armed robbery (2007-GS-46-1695), one count of entering a bank with intent to steal (2007-GS-46-1696), one count of kidnapping (2007-GS-46-1697), one count of assault and battery of a high and aggravated nature (2007-GS-46-1698), one count of possession of a firearm during the commission of a violent crime (2007-GS-46-1699), and one count of conspiracy to commit armed robbery (2007-GS-46-1700). The Applicant was represented by Phillip Jamieson, Esquire. On July 23-26, 2007, the Applicant proceeded to a jury trial and was found guilty as indicted. Pursuant to S.C. Code Ann. §17-25-45, the Honorable John C. Hayes sentenced Applicant to life without parole for each of the following charges: kidnapping, armed robbery, and entering a bank with intent to steal. Applicant was further sentenced to ten (10) years for assault and battery of a high and aggravated

nature, five (5) years for conspiracy to commit armed robbery, and five (5) years for possession of a firearm during the commission of a violent crime, all concurrent to his life without parole sentence.

A timely Notice of Appeal was filed. The South Carolina Court of Appeals affirmed the Applicant's convictions. State v. Young, Op. No. 2009-UP-505 (S.C. Ct. App. filed November 5, 2009). The remittitur was issued on November 23, 2009.

Attached herewith and incorporated herein by reference are the records of the York County Clerk of Court regarding the subject convictions, the Applicant's records from the Department of Corrections, the Applicant's trial transcript, and the Applicant's appellate records. The Respondent reserves the right to amend this Return upon receipt of any relevant materials.

II.

In his current Application, the Applicant alleges he is being held unlawfully for the following reasons:

- 1) Ineffective assistance of counsel;
 - a. Failure "to lodge a proper objection to preserved [sic] the issue of severance for appellate review";
 - b. Failure "to object to trial judge's jury instructions that allowed the jury to disregard the prior convictions of a prosecution witness in assessing her credibility";
 - c. Failure to object, request curative instruction, or request mistrial based on the solicitor's opening and closing arguments that bolstered State witness testimony and made improper remarks about Applicant and co-defendants.

III.

The Applicant alleges he received ineffective assistance of counsel. In a post-conviction relief action, the Applicant bears the burden of proving the allegations in their application. Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). Where the application alleges ineffective assistance of counsel as a ground for relief, the Applicant must prove that "counsel's conduct so

undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result." Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2052, 2064, 80 L.Ed.2d 674, 692 (1984); Butler, 334 S.E.2d 813.

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. The courts presume that counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Strickland, 466 U.S. 668. The Applicant must overcome this presumption in order to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989).

The reviewing court applies a two-pronged test in evaluating allegations of ineffective assistance of plea counsel. First, the Applicant must prove that counsel's performance was deficient. Under this prong, the court measures an attorney's performance by its "reasonableness under professional norms." Cherry, 300 S.C. at 117, 386 S.E.2d at 625, citing Strickland. Second, counsel's deficient performance must have prejudiced the Applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625.

The Respondent submits the Applicant cannot satisfy either requirement of the Strickland test. However, the allegation of ineffective assistance of counsel probably raises questions of fact that the record does not conclusively refute. Accordingly, the Respondent requests an evidentiary hearing.

IV.

The Respondent denies each allegation that is not expressly admitted, qualified or explained.

V.

WHEREFORE, having made its Return, the State requests that an evidentiary hearing be held.

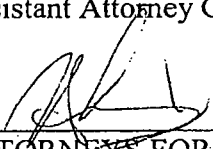
Respectfully submitted,

ALAN WILSON
Attorney General

JOHN W. MCINTOSH
Chief Deputy Attorney General

SALLEY W. ELLIOTT
Assistant Deputy Attorney General

HARRISON D. BRANT
Assistant Attorney General

By: 
ATTORNEYS FOR RESPONDENT

Office of the Attorney General
P.O. Box 11549
Columbia, SC 29211
Telephone: (803) 734-3737

February 16, 2011.

State of South Carolina) In the Common Pleas Court
) of York
)
County of York) Case No.: 2010-CP-46003470

Kenneth L. Young.,)
)
Plaintiff.,)
)
-vs-) Transcript of Record
)
State of South Carolina.,)
)
Defendant.)

October 11, 2011
York, South Carolina

B E F O R E:

Honorable Paul M. Burch, Judge.

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

Mr. Charles T. Brooks, III
Attorney at Law
309 Broad Street
Sumter, South Carolina 29150
803-418-5708
Cbrooks@ctbrooks.com
For the Plaintiff

Mr. Matthew J. Friedman
Assistant Attorney General
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State of South Carolina
P.O. Box 11549
Columbia, South Carolina 29211-1549
803-734-3737
Mfriedman@ag.state.sc.us
For the Defendant

Wanda Nelson, CVR-M
Circuit Court Reporter
Sixteenth Judicial Circuit

I-N-D-E-XE-X-A-M-I-N-A-T-I-O-NWITNESSBY:PAGE NO.

Kenneth Young

Mr. Brooks

4-

Mr. Friedman

Philip Jamieson

Mr. Brooks

Mr. Friedman

1 (ON THE RECORD TUESDAY, OCTOBER 11, 2011 AT 10:22
2 A.M..)

3 (APPLICANT KENNETH YOUNG, BLACK MALE, ENTERING
4 COURTROOM.)

5 THE COURT: All right, who we got?

6 MR. FRIEDMAN: Your Honor, this is Kenneth Young,
7 Docket No. 2010-CP-46-3-4-7-0. Mr. Young was indicted in
8 June 2007 for armed robbery, entering a bank with intent to
9 steal, kidnapping, assault and battery of a high and
10 aggravated nature, possession of a firearm during the
11 commission of a violent crime and conspiracy to commit
12 armed robbery. He proceeded to trial on July 23 through
13 26, 2007, he was convicted sentenced to life without parole
14 for armed robbery, entering a bank with intent to steal and
15 kidnapping. He was sentenced to ten years for assault and
16 battery of a high and aggravated nature and five years for
17 the other charges.

18 He did file a Notice of Appeal, the Court of Appeals
19 affirmed the conviction and sentence on November 5th 2009.
20 He filed this PCR on July 16th 2010.

21 THE COURT: Anything for the record at this time?

22 MR. BROOKS: No, sir, Judge. Ready to proceed.

23 THE COURT: Okay.

24 MR. BROOKS: We call Mr. Ken Young to the stand.

25 (WHEREUPON: KENNETH YOUNG, BEING

1 FIRST CALLED AND DULY SWORN, TESTIFIED AS FOLLOWS:

2 MR. BROOKS: Ready, Judge?

3 THE COURT: You may proceed. Thank you.

4 DIRECT EXAMINATION

5 KENNETH YOUNG BY MR. BROOKS:

6 Q. Mr. Young, how are you today?

7 A. I'm all right, sir.

8 Q. Okay. We're here for this Post Conviction Relief,
9 we're asking for a new trial; is that correct?

10 A. Yes, sir.

11 Q. You had Mr. Jamieson as your attorney?

12 A. Yes, sir.

13 Q. Was he court appointed or retained?

14 A. He was court appointed.

15 Q. Okay. Now you have -- you serve a life sentence, you
16 raise certain issues in your Post Conviction Relief; is
17 that correct?

18 A. Yes, sir.

19 Q. And one of those issues is dealing with what happened
20 in your case and the fact that you said you were in a
21 different place when these events took place; is that
22 correct?

23 A. Yes, sir.

24 Q. Can you tell us about that, what exactly do you mean
25 by it?

KENNETH YOUNG: BY MR. BROOKS

-5-

1 A. I was at the Bojangles waiting on my boss man to pay
2 me my check and doing some work at Sunset - Sun City of
3 Carolina Lake in Lancaster, South Carolina. I was framing
4 some homes and...

5 Q. You were framing homes for - who is it again?

6 A. It's some Mexican that gave me a job.

7 Q. So -

8 A. Dealing with Speedy Temp Service out of Charlotte,
9 North Carolina.

10 Q. Okay. And you were doing your job framing a home?

11 A. Yes, sir.

12 Q. And you said that you were waiting at Bojangles?

13 A. Yes, sir.

14 Q. You had your check or you were waiting on your check?

15 A. I was waiting on my check. Prior to that six months
16 before I had received a Eighteen Hundred Dollar check from
17 him and I had got it cashed. I didn't realize it until
18 later on that I had cashed the check at that Bank of York.
19 That's in July the 18th 2006 and I had a warrant, they gave
20 me a warrant for that, said the check was no good. I got
21 the warrant in here where they dismissed it.

22 Q. Okay.

23 A. For Eighteen Hundred Dollars.

24 Q. Okay. Now what happened while you were at Bojangles?
25 How did you get involved in this situation?

1 A. Well the morning supposed to had been a robbery Angela
2 Loss, that's my fiancé, two other co-defendants she had
3 dropped me off and she was supposed to be going to take the
4 other two guys to cash the checks. I was at -- She stopped
5 at On the Run on Carrowinds Boulevard and the other two
6 guys, Mr. Porter and Mr. Jones, had got out of Ms. Laws car
7 and jumped in the Thunderbird with this unknown guy.

8 Q. Okay.

9 A. By the time the laws got to the Bojangles they had
10 pulled up and I went in to wait on them. The boss man come
11 and during that time they had jumped in her car and the
12 T-bird was still there, they left the T-bird at the
13 Bojangles and they had jumped in her car and left. By that
14 time it was raining and it was pouring down and the boss
15 man called me and told me to meet him at Speedy Temp
16 Service in Charlotte at Three o'clock because it was
17 raining too bad. So by that time I had called Ms. Law and
18 told her to come back and pick me up and she said she was
19 on her way back down that way, you know, to stand at the
20 entrance.

21 Q. Okay.

22 A. And so I seen her pull up, a unknown guy jumped out
23 the car and went toward the T-bird and I jumped in the car.
24 We left in a - and had got pulled over. But one of the
25 bank teller's did identify one of the guys as having -

KENNETH YOUNG: BY MR. BROOKS

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1 Q. Hold on, we're gonna come to that next. Are you
2 basically saying that you were not present when this bank
3 robbery took place?

4 A. Right. Right.

5 Q. And it was a bank robbery of York Bank, is that
6 correct?

7 A. Yes, sir. Yes, sir.

8 Q. And your position is you didn't - you were not even
9 present?

10 A. I wasn't even present in the car. I wasn't even
11 identified. I had dred's all the way down to here and when
12 they stopped the car my dred was out, you know, I didn't
13 know. I wasn't in the Bank of York.

14 Q. Okay. Now you told all this to Mr. Jamieson?

15 A. Yes, sir. Yes, sir. And he was supposed to had this
16 investigator to run a - on the video but he said it was
17 outdated, said it was ninety days. They don't keep no more
18 than ninety days and they dispose it.

19 Q. Okay. Now you were ready to say something about the
20 bank teller making an identification.

21 A. Yeah. One of the bank teller's she identified one of
22 the robbers as having like bleached hands and psoriasis
23 around the mouth. And when they stopped us nobody in the
24 car had fit that characteristic, you know, bleached hands
25 and the like psoriasis around the lips.

1 Q. Uh-huh. Okay. So you felt like you were not
2 identified by any of the victims?

3 A. No, sir. I think it was like seven employees and I
4 think two customers they said was in the bank at the time.

5 Q. Okay. What other issues you wanted to raise besides
6 those?

7 A. I'd like to raise this issue on trial counsel was
8 ineffective for not - for failing to request a charge on
9 third party guilt.

10 Q. All right. Now explain that? Two of the co-
11 defendant's ended up testifying against you; is that
12 correct?

13 A. Yes, sir.

14 Q. Okay. Now explain what you mean by that issue?

15 A. He didn't have - He didn't request a charge on that to
16 the jury on a third party guilt. I admitted, you know,
17 that I wasn't in the bank at all and he didn't raise that
18 issue.

19 Q. Okay. And what other issues do you have to raise?

20 A. I had a issue on trial counsel ineffective during
21 trial when he failed to look at proper objection to
22 preserve the issue for severage.

23 Q. Did you ask for a severage?

24 A. Severage. Yeah for appellate review.

25 Q. Okay.

KENNETH YOUNG: BY MR. BROOKS

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1 A. It wasn't preserved.

2 Q. It was preserved?

3 A. Right for appellate review.

4 Q. All right. Next.

5 A. Trial counsel was ineffective for failing to object to
6 trial judge jury instructed that allowed the jury to
7 disregard the prior conviction or prosecution a witness in
8 assessing her credibility which did not allow the due
9 process of law.

10 Q. Now what do you mean by that?

11 A. Trial - Angela Laws had charges so she was convicted
12 of a few charges like possession of stolen property,
13 forgery and embezzlement and they was allowed to disregard
14 her convictions, you know, and it was for the purpose, you
15 know, for me to -

16 Q. The jury was allowed to disregard that?

17 A. Yes, sir.

18 Q. Okay.

19 A. Like it said that she was convicted of possession of
20 stolen property, forgery and embezzlement. The applicant
21 was prejudiced in that the jury was only to allow to
22 consider the applicant prior conviction and was not by
23 convictions of one the only two peoples was allegedly at
24 the scene of the crime. And she admitted that she was the
25 driver of the get away car.

1 Q. Okay. All right, we got that on the record. Any
2 other issues?

3 A. Yes, sir. Trial counsel was ineffective during trial
4 for failing to object to the improper conduct of the
5 solicitor which consisted of poisoning the minds of the jury
6 in his open statement bolstering a state witness and making
7 improper remarks about the applicant and his codefendant in
8 his closing argument.

9 Q. Okay. All right. The way I hear you explain that is
10 your trial counsel should have raised those objections to
11 that; is that correct?

12 A. Yes, sir, he should have objected to the solicitor for
13 vouching for the witness, you know, and making improper
14 remarks about the codefendant.

15 Q. All right. Are there any other issues after that?

16 A. No. There's just four issues I wanted to raise on
17 that.

18 Q. All right. So that's all -

19 A. That's all the issues yes, sir.

20 Q. And all the issues put together you feel like it
21 prejudiced you in your case; is that correct?

22 A. Yes, sir.

23 Q. Okay. And that's why you feel like you should be
24 granted a new trial; is that correct?

25 A. Yes, sir.

KENNETH YOUNG: CROSS BY MR. FRIEDMAN

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1 Q. Okay. Answer any questions of the Attorney General.

2 A. Yes, sir.

3 CROSS EXAMINATION

4 KENNETH YOUNG BY MR. FRIEDMAN:

5 Q. Good morning, Mr. Young.

6 A. Good morning.

7 Q. You testified at trial, is that correct?

8 A. Yes, sir.

9 Q. And did you have the same story then about the
10 Bojangles; that you went to Bojangles to get a check?

11 A. Yes, sir.

12 Q. Did you discuss that testimony with counsel prior to
13 the trial?

14 A. Yes, sir.

15 Q. Did you tell counsel about the unknown man in the
16 Thunderbird?

17 A. Yes, sir.

18 Q. And is it your testimony that you did not know who
19 that person was?

20 A. Yes, sir.

21 Q. Did you describe him to counsel?

22 A. Yes, sir.

23 Q. Did you give counsel the names and contact information
24 of any witnesses that could help you?

25 A. No, sir. He's supposed to been going to the Bojangles

KENNETH YOUNG: CROSS BY MR. FRIEDMAN
PHILIP JAMIESON: DIRECT BY MR. BROOKS

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1 and seeing can he get the video that when I was in
2 Bojangles. He said he sent his investigator to investigate
3 that and it was ninety days, they say they don't hold it no
4 more than ninety days and they dispose of it.

5 Q. I have nothing further, Your Honor.

6 MR. BROOKS: Nothing further, Judge.

7 THE COURT: You may step down.

8 MR. YOUNG: Yes, sir.

9 MR. BROOKS: We call Mr. Jamieson to the stand.

10 THE COURT: Come around and be sworn please.

11 (WHEREUPON: PHILIP JAMIESON

12 BEING FIRST CALLED AND DULY SWORN, TESTIFIED AS FOLLOWS:)

13 MR. BROOKS: You ready, Judge?

14 THE COURT: Yes, sir.

15 DIRECT EXAMINATION

16 PHILIP JAMIESON BY MR. BROOKS:

17 Q. Mr. Jamieson.

18 A. Yes, sir.

19 Q. How are you today?

20 A. Fine. And you?

21 Q. Wonderful. You were representing Mr. Young in this
22 matter?

23 A. I did yes.

24 Q. Court appointed?

25 A. Yes.

PHILIP JAMIESON: DIRECT BY MR. BROOKS

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1 Q. And did you check out -- well let me regress. Can
2 you tell us what the State's evidence was against Mr. Young
3 briefly?

4 A. Yes, sir. Mr. Young, the evidence against Mr. Young
5 was they had a witness who followed him who was in the
6 drive through at the bank who followed the car from the
7 bank to Carrowinds Boulevard. That person was on the phone
8 with the police. The police were heading in that direction
9 and got to that location when the car turned onto
10 Carrowinds Boulevard so the police picked up the chase at
11 that point.

12 They chased the car into North Carolina, the car went
13 into a cul-de-sac that they could not get out of. It was
14 blocked in by the police and when the police got the
15 occupants out of the car Mr. Young was one of the
16 occupants. They found money from the bank, guns, mask,
17 wigs, and clothing that had been used in the bank in the
18 automobile that they stopped.

19 In addition, immediately one of the codefendant's, Mr.
20 Jones, gave a statement to the police about who was there
21 and who was involved. And then later at the trial Ms. Laws
22 became a state's witness and she testified that Mr. Young
23 was involved in the robbery and Ms. Laws and Mr. Young were
24 romantically involved.

25 Q. You -- He told you about being at Bojangles?

1 A. He did yes, sir.

2 Q. And did you try to check that out?

3 A. I sent a private investigator to Bojangles to
4 interview the people who worked there. None of them
5 remembered Mr. Young which of course was no unusual, they
6 had lots of customers that day. We checked about a video
7 tape and their surveillance system did not have a tape for
8 that day. It had been disposed of prior to us going there.

9 Q. They only kept it from maybe to ninety to eighty some
10 --

11 A. They kept it for a period of time and I honestly don't
12 remember whether it was ninety days or sixty days but it
13 had been disposed of before the investigator got there.

14 Q. Okay. Did you object to any improper closing remarks
15 that the solicitor made?

16 A. No I didn't. I don't believe he made any. He did
17 refer to Mr. Young and his cohorts as clowns on one
18 occasion but I didn't think that, that rose to the level
19 that merited an objection and I did not object to it.

20 Q. Did you object to any improper remarks in opening by
21 the solicitor?

22 A. No. I don't believe he made any. He did state a
23 scenario where he stated that at the same time bank
24 employees were getting dressed and getting ready to go to
25 work that Mr. Young and his cohorts were getting dressed

PHILIP JAMIESON: DIRECT BY MR. BROOKS
CROSS BY MR. FRIEDMAN

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1 and getting ready to go to work and he kind of drew a
2 comparison between the two but I did not feel that was an
3 improper remark and I did not object to it.

4 Q. Did you ask for any type of jury charge in reference
5 to third party guilt?

6 A. I did not. No I did not. I ask for a jury charge on
7 alibi and that was charged because Mr. Young stated he was
8 someplace else at the time that the crime occurred. But I
9 did not request a charge on third party guilt.

10 Q. Beg the Court's indulgence.

11 (PAUSE.)

12 MR. BROOKS: No other questions, Judge.

13 THE COURT: Counsel.

14 MR. FRIEDMAN: Thank you.

15 CROSS EXAMINATION

16 PHILIP JAMIESON BY MR. FRIEDMAN:

17 Q. Good morning, Mr. Jamieson.

18 A. Good morning.

19 Q. How long have you been practicing law?

20 A. Ten years.

21 Q. Were you appointed or retained in this case?

22 A. Appointed.

23 Q. Do you recall about how many times you met with the
24 Applicant?

25 A. Six or seven times. I can tell you exactly if I refer

1 to my notes.

2 Q. That's okay. During those meetings do you recall if
3 you discussed the elements of the charges and what the
4 State was required to prove?

5 A. Yeah we went over that in great detail.

6 Q. And did you discuss potential defenses with him?

7 A. I did. I talked to Mr. Young extensively about the
8 trip to Bojangles, about anybody he could identify that
9 might be able to confirm that. He was not able to give me
10 the name of his employer, a telephone number to reach him
11 or anyway to contact him. As I recall in our initial
12 meeting, he did not even know the individuals name but I
13 think he did testify to a name at trial.

14 Q. Did he tell you anything about the Thunderbird, a
15 person in a Thunderbird?

16 A. He did tell me that story yes, sir.

17 Q. Did he give you any description of the man, the
18 unknown man in the Thunderbird?

19 A. He did. Said he was somewhat tall, muscular build,
20 black man, and that was the extent of his description.

21 Q. Were there any plea offers in this case?

22 A. Yes, sir, there were.

23 Q. Do you recall what those were?

24 A. He was offered thirty years.

25 Q. Did you communicate that offer to him?

PHILIP JAMIESON: CROSS BY MR. FRIEDMAN

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1 A. I did.

2 Q. Whose decision was it to decline that offer?

3 A. His.

4 Q. Did you discuss the life without parole notice with
5 him?

6 A. I did. And I did that also in conjunction with the
7 offer. I told him that while thirty years was certainly a
8 long time it was better than life but Mr. Young felt that
9 at his age it was the equivalent of a life sentence and he
10 was not willing to take it.

11 Q. Was the applicant aware of the customer in the drive
12 through that drove by the Bojangles after the bank robbery?

13 A. Yes, sir.

14 Q. Do you recall if you made a Motion to Sever, sever the
15 trial from the codefendants?

16 A. I did.

17 Q. What was the result of that motion?

18 A. It was denied.

19 Q. Did the applicant and Mr. Porter, who was his
20 codefendant, did they have opposing defenses?

21 A. Not really. Mr. Young's defense was that he got out
22 at Bojangles and that he was not involved in the robbery.
23 Mr. Porter essentially his defense was that he also got out
24 at a different location after Mr. Young did and that he was
25 also not present at the robbery. The only thing that was

PHILIP JAMIESON: CROSS BY MR. FRIEDMAN
REDIRECT BY MR. BROOKS

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1 antagonistic about their defense was Mr. Porter cross
2 examined Mr. Young and ask him to affirm a conversation
3 that was reported to have occurred in the car and Mr. Young
4 stated that he did not hear that conversation. But it
5 certainly wasn't a situation where Mr. Young was saying
6 that Mr. Porter did it nor was it a situation where Mr.
7 Porter was saying Mr. Young did it.

8 In fact they were friends and had been for quite some
9 time prior to this crime.

10 Q. Do you recall if you were able to cross examine the
11 two codefendants who testified at trial?

12 A. Yes. I cross examined Ms. Laws and Mr. Jones both.

13 Q. I have nothing further, Your Honor.

14 THE COURT: Mr. Brooks.

15 MR. BROOKS: Just briefly, Judge.

16 REDIRECT EXAMINATION .

17 PHILIP JAMIESON BY MR. BROOKS:

18 Q. Mr. Jamieson, do you recall saying to Mr. Young at the
19 end of the trial something about he would get a new trial?

20 A. I'm sorry. Did I say to Mr. Young he would get a new
21 trial?

22 Q. Right.

23 A. No, sir, I don't recall having that conversation. I
24 did tell him of his right to appeal and I did file a Notice
25 of Appeal on his behalf but I don't recall telling him he

1 would get a new trial.

2 Q. Okay. No other questions.

3 MR. FRIEDMAN: Nothing further, Your Honor.

4 THE COURT: You may step down.

5 (WITNESS LEAVING WITNESS STAND.)

6 MR. BROOKS: That's the Applicant's case, Judge.

7 MR. FRIEDMAN: No witnesses for the State, Your Honor.

8 THE COURT: Anything for the record?

9 MR. BROOKS: Briefly, Judge.

10 Based upon the evidence and my client's testifying, we
11 respectfully ask the Court to grant his Post Conviction
12 Relief and give him a new trial.

13 MR. FRIEDMAN: Just briefly, Your Honor.

14 The State would submit that the Applicant's failed to
15 meet his burden. There's nothing to suggest that Mr.
16 Jamieson was ineffective and for those reasons we would ask
17 the Court to deny this application.

18 THE COURT: Okay. Thank you all for your respective
19 representation. It's quite a thick file, let me look
20 through this transcript before I make a final decision.

21 MR. FRIEDMAN: Thank you, Judge.

22 (END OF TRANSCRIPT OF RECORD IN THE MATTER OF KENNETH
23 YOUNG VERSUS STATE OF SOUTH CAROLINA CASE NO. 2010-CP-46-
24 03470.)

25

CERTIFICATE OF REPORTER

State of South Carolina)
)
County of York)

I, Wanda Nelson, Official Court Reporter for the Sixteenth Judicial Circuit for the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Court of Common Pleas for York County, South Carolina, on the 11th day of October 2011.

I do further certify that I am neither of kin, counsel, nor interest to any party hereto.

Wanda Nelson

Wanda Nelson, CVR
Certified Verbatim Reporter,
Official Court Reporter,
Notary Public, in and for
The State of South Carolina.

My Commission Expires: 1/21/2021

DATE: 5-25 / 2012

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF YORK	)	2010-CP-46-3470
	)	
Kenneth L. Young, #323182,	)	
	)	
Applicant,	)	
	)	
v.	)	ORDER OF DISMISSAL
	)	
State of South Carolina,	)	
	)	
Respondent.	)	

DAVID HAMILTON
C.C.P. & G.S.
YORK COUNTY, SC

FILED-RECEIVED
2012 FEB -9 AM 8:07

This matter comes before the Court by way of an application for post-conviction relief (PCR) filed August 16, 2010. The Respondent made its Return on February 16, 2011. An evidentiary hearing into the matter was convened on October 11, 2011 at the York County Courthouse. The Applicant was present at the hearing and represented by Charles T. Brooks, III, Esquire. Matthew J. Friedman, Esquire, of the South Carolina Attorney General's Office represented the Respondent.

The Applicant testified on his own behalf at the PCR hearing. Applicant's trial counsel, Philip W. Jamieson, Esquire, also testified at the hearing. This Court had before it the records of the York County Clerk of Court regarding the subject convictions, the Applicant's records from the Department of Corrections, the Record on Appeal, the Final Brief of Appellant, the Final Brief of Respondent, the Court of Appeals' opinion affirming the conviction and sentence, the Remittitur dated November 23, 2009, the PCR application, and the State's Return thereto.

PROCEDURAL HISTORY

The Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Clerk of Court for York County. The Applicant was indicted at the June 2007 term of the York County Grand Jury for one count of armed robbery

(2007-GS-46-1695), one count of entering a bank with intent to steal (2007-GS-46-1696), one count of kidnapping (2007-GS-46-1697), one count of assault and battery of a high and aggravated nature (2007-GS-46-1698), one count of possession of a firearm during the commission of a violent crime (2007-GS-46-1699), and one count of conspiracy to commit armed robbery (2007-GS-46-1700). Phillip Jamieson, Esquire, represented the Applicant. On July 23-26, 2007, the Applicant proceeded to a jury trial and was found guilty as indicted. Pursuant to S.C. Code Ann. §17-25-45, the Honorable John C. Hayes sentenced Applicant to life without parole for each of the following charges: kidnapping, armed robbery, and entering a bank with intent to steal. Applicant was further sentenced to ten (10) years for assault and battery of a high and aggravated nature, five (5) years for conspiracy to commit armed robbery, and five (5) years for possession of a firearm during the commission of a violent crime, all of which were to run concurrently to his life without parole sentence.

A timely Notice of Appeal was filed. The South Carolina Court of Appeals affirmed the Applicant's conviction and sentence. State v. Young, Op. No. 2009-UP-505 (S.C. Ct. App. filed November 5, 2009). The Remittitur was issued on November 23, 2009.

ALLEGATIONS

The Applicant alleges he is being held in custody unlawfully for the following reasons:

1. Ineffective assistance of counsel for
 - a. Failure "to lodge a proper objection to preserved [sic] the issue of severance for appellate review."
 - b. Failure "to object to trial judge's jury instructions that allowed the jury to disregard the prior convictions of a prosecution witness in assessing her credibility."
 - c. Failure to object, request curative instruction, or request mistrial based on the solicitor's opening and closing arguments that bolstered State witness testimony and made improper remarks about Applicant and co-defendants.
 - d. At the hearing, Applicant alleged ineffective assistance of counsel for failure to request a jury charge on third party guilt.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court has had the opportunity to review the record in its entirety and has heard the testimony and arguments presented at the hearing. This Court has further had the opportunity to observe each witness who testified at the hearing, and to closely pass upon his or her credibility. This Court has weighed the testimony accordingly. Set forth below are the relevant findings of fact and conclusions of law as required by S.C. Code Ann. § 17-27-80 (2003).

The Applicant testified that he was at Bojangles waiting on a check from his employer at the time of the robbery. He testified that co-defendant Laws dropped him off at Bojangles and the two other co-defendants drove up in a Thunderbird with an unknown male and got into the car with Ms. Laws. He asserted that he got back into the car with the three co-defendants after they came back, but he was not present for the bank robbery. Applicant testified that he told this information to counsel. Applicant acknowledged that he testified at trial and was able to tell his version of the facts at that time. He testified that he described the unknown man in the Thunderbird to counsel. Applicant testified that counsel sent his investigator to get the videotape from Bojangles, but the tapes are destroyed after 90 days. He asserted that counsel failed to request a charge on third party guilt, failed to preserve the issue of severance for appeal, and failed to object to the State's closing argument.

Trial counsel testified that he met with Applicant six or seven times and discussed the elements of the offenses with him in great detail. Counsel testified that he and Applicant discussed the defense that Applicant was at Bojangles during the robbery, but Applicant could not give counsel the name of the employer that Applicant was allegedly meeting at Bojangles. He testified that Applicant described the man in the Thunderbird as a muscular, tall, black male.

Counsel asserted that Applicant and co-defendant Porter did not have opposing defenses or accuse one another of committing the crime. Applicant claimed that he was not there and Mr. Porter claimed that he got out of the car at a different location and was not present for the robbery. Counsel testified that he was able to cross-examine the two co-defendants who testified against Applicant at trial.

Counsel testified that the State made a plea offer for thirty (30) years. He contended that he communicated the offer to Applicant, and it was Applicant's decision to reject the offer. Counsel testified that he and Applicant discussed the LWOP notice prior to trial. He testified that he sent his investigator to Bojangles, and the surveillance tape had been disposed of and none of the employees remembered Applicant. He testified that a witness from the bank drive-thru followed the robbers' car from the bank to Carowinds Boulevard and then the police picked up the chase and followed the car into North Carolina, and the witness indicated that the car never stopped at Bojangles. Counsel testified that the solicitor referred to the defendants as clowns in his closing argument, and counsel did not see the comment as objectionable or improper. He testified that he did not request a charge on third party guilt, but he did request a charge on alibi. Counsel asserted that he made a motion for severance, which was denied.

Ineffective Assistance of Counsel

The Applicant alleges that he received ineffective assistance of counsel. In a post-conviction relief action, the applicant has the burden of proving the allegations in the application. Rule 71.1(e), SCRCP; Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). Where ineffective assistance of counsel is alleged as a ground for relief, the applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be

relied upon as having produced a just result.” Strickland v. Washington, 466 U.S. 668 (1984); Butler, 334 S.E.2d 813.

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. The courts presume that counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Strickland, 466 U.S. 668. The applicant must overcome this presumption in order to receive relief. Cherry, 386 S.E.2d 624.

Courts use a two-pronged test to evaluate allegations of ineffective assistance of counsel. First, the applicant must prove that counsel’s performance was deficient. Under this prong, attorney performance is measured by its “reasonableness under professional norms.” Id. at 625 (citing Strickland, 466 U.S. 668). Second, counsel’s deficient performance must have prejudiced the applicant such that “there is a reasonable probability that, but for counsel’s unprofessional errors, the result of the proceeding would have been different.” Id. at 625. A reasonable probability is a probability sufficient to undermine confidence in the outcome of the trial. Johnson v. State, 325 S.C. 182, 480 S.E.2d 733 (1997).

This Court finds that Applicant’s testimony is not credible while also finding that trial counsel’s testimony is credible. This Court finds that counsel is a trial practitioner who has extensive experience in the trial of serious offenses. Counsel conferred with the Applicant on several occasions. During conferences with the Applicant, counsel discussed the pending charges, the elements of the charges and what the State was required to prove, Applicant’s constitutional rights, and possible defenses or lack thereof.

Regarding Applicant’s claims of ineffective assistance of counsel, this Court finds Applicant has failed to meet his burden of proof. This Court finds that counsel demonstrated the

normal degree of skill, knowledge, professional judgment, and representation that are expected of an attorney who practices criminal law in South Carolina. State v. Pendergrass, 270 S.C. 1, 239 S.E.2d 750 (1977); Strickland, 466 U.S. at 668; Butler, 286 S.C. 441, 334 S.E.2d 813. This Court further finds counsel adequately conferred with Applicant, conducted a proper investigation, and was thoroughly competent in his representation. This Court finds that counsel's representation did not fall below an objective standard of reasonableness.

This Court finds that counsel made a motion for a severance, which was denied, and properly preserved the record for appeal. Criminal defendants who are jointly tried are not entitled to separate trials as a matter of right. Hughes v. State, 346 S.C. 554, 552 S.E.2d 315 (2001) (citing State v. Dennis, 337 S.C. 275, 523 S.E.2d 173 (1999)). In this case, Applicant and co-defendant Porter did not present mutually antagonistic defenses and did not accuse each other of committing the crime. Nonetheless, counsel made the motion of Applicant's behalf.

This Court finds that counsel was not ineffective for failing to request a charge on third party guilt. In State v. Gregory, 198 S.C. 98, 16 S.E.2d 532 (1941), the Supreme Court of South Carolina set the standard for issues of third party guilt in South Carolina. The Court in Gregory found that "evidence offered by the accused as to the commission of the crime by another person must be limited to such facts that are inconsistent with his own guilt, and to such facts as raise a reasonable inference or presumption as to his own innocence; evidence which can have (no) other effect than to cast a bare suspicion upon another, or to raise a conjectural inference as to the commission of the crime by another, is not admissible. Gregory, 16 S.E.2d at 534. Here, counsel had no basis to request to charge on third party guilt. Counsel did request a charge on alibi, and Applicant testified that he was at Bojangles during the robbery, but Applicant was unable to produce any witnesses who could verify his alibi.

This Court finds that counsel was not ineffective for failing to object to the State's closing argument. This Court agrees with trial counsel that the comments were not improper or objectionable. Counsel had no basis to object to the State's closing argument.

Accordingly, this Court finds the Applicant has failed to prove the first prong of the Strickland test, specifically that counsel failed to render reasonably effective assistance under prevailing professional norms. The Applicant failed to present specific and compelling evidence that counsel committed either errors or omissions in his representation of the Applicant. The Applicant failed to show that counsel's performance was deficient. This Court also finds the Applicant has failed to prove the second prong of Strickland, specifically that he was prejudiced by counsel's performance. Applicant's complaints concerning counsel's performance are without merit and are denied and dismissed.

All Other Allegations

As to any and all allegations that were raised in the application or at the hearing in this matter and not specifically addressed in this Order, this Court finds the Applicant failed to present any evidence regarding such allegations. Accordingly, this Court finds the Applicant waived such allegations and failed to meet his burden of proof regarding them. Therefore, they are hereby denied and dismissed.

CONCLUSION

Based on all the foregoing, this Court finds and concludes the Applicant has not established any constitutional violations or deprivations before or during his trial or sentencing proceedings. Counsel was not deficient in any manner, nor was the Applicant prejudiced by counsel's representation. Therefore, this PCR application must be denied and dismissed with prejudice.

THE STATE OF SOUTH CAROLINA
In the Supreme Court

APPEAL FROM YORK COUNTY
Court of Common Pleas
Honorable Paul M. Burch, Circuit Court Judge

Case No: 2010-CP-46-3470

Kenneth L. Young.....Appellant
S.C.D.C. No.: 323182

v.

The State.....Respondent

PROOF OF SERVICE

I, the undersigned, do hereby certify that on this 13th day of February, 2012, I served the foregoing Notice of Appeal, Order of Dismissal, as well as Proof of Service in this matter by depositing a true copy of it in the United States Mail, postage prepaid, on February 13, 2012 addressed to the following as indicated below:

South Carolina Supreme Court
Post Office Box 11330
Columbia, South Carolina 29211

Office of Attorney's General
Attn: Matthew J. Friedman, Esquire
Post Office Box 11549
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South Carolina Office of Appellate Defense
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Dated: February 13, 2012



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STATE OF SOUTH CAROLINA)

INDICTMENT

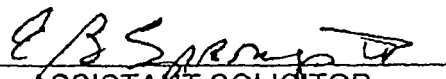
COUNTY OF YORK)

At a Court of General Sessions, convened on June 14, 2007, the Grand Jurors of York County present upon their oath:

POSSESSION OF A FIREARM DURING THE COMMISSION OF A VIOLENT CRIME

The Defendant, Kenneth Lovette Young, did in York County on or about December 22, 2006, while committing the crime of Armed Robbery, a crime of violence, have in his possession a handgun, all in violation of Section 16-23-490, Code of Laws of South Carolina, (1976, as amended).

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


ASSISTANT SOLICITOR

DOCKET NO. 2007-GS-46- 01699

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

WITNESSES

YCS-DI Yeager

The State of South Carolina

County of York

Defendant

COURT OF GENERAL SESSIONS

June 14, Term 2007

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

jm

ARREST WARRANT NUMBER

J-162472

Defendant

THE STATE

vs.

Witness:

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

ACTION OF GRAND JURY

TRUE BILL

KENNETH LOVETTE YOUNG

DM Hampshire

Foreperson of Grand Jury

Date: 6-14-07

CERTIFIED TRUE COPY
2010 AUG 20 AM 10:13
DAVID HAMILTON
CLERK OF COURT
YORK COUNTY, SC

VERDICT

Guilty

Indictment for

POSSESSION OF A FIREARM DURING THE
COMMISSION OF A VIOLENT CRIME

Larry D. Wilson

Foreperson of Petit Jury

Date: 7/26/2007

SC Code: 16-23-490

CDR Code: 549

STATE OF SOUTH CAROLINA)
)
COUNTY OF YORK)

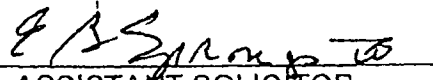
INDICTMENT

At a Court of General Sessions, convened on June 14, 2007, the Grand Jurors of York County present upon their oath:

CONSPIRACY TO COMMIT ARMED ROBBERY

The Defendant, Kenneth Lovette Young, did in York County, South Carolina, on or about December 22, 2006, willfully, knowingly, and feloniously unite, combine, conspire, confederate, agree or have tacit understanding with Angela Renee Laws, and/or Johnell Porter, and/or Donshavis Enchantace Jones for the purpose of committing the crime of Armed Robbery. All in violation of Section 16-17-410, Code of Laws of South Carolina, (1976, as amended).

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


ASSISTANT SOLICITOR

DOCKET NO. 2007-GS-46-01700

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

WITNESSES

YCSD\Yeager

The State of South Carolina

County of York

Defendant

COURT OF GENERAL SESSIONS

June 14, Term 2007

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

jm

ARREST WARRANT NUMBER

J-162473

Defendant

THE STATE

vs.

Witness:

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

ACTION OF GRAND JURY

KENNETH LOVETTE YOUNG

TRUE BILL

DM Hampch
Foreperson of Grand Jury
Date: 6-14-07

VERDICT

Guilty

Indictment for

CONSPIRACY TO COMMIT ARMED ROBBERY

Larry D. Smith
Foreperson of Petit Jury
Date: 7/26/2007

SC Code: 16-17-410
CDR Code: 049

CERTIFIED TRUE COPY
2010 AUG 20 AM 10:13
DAVID HAMILTON
CLERK OF COURT
YORK COUNTY, SC

STATE OF SOUTH CAROLINA)

INDICTMENT

COUNTY OF YORK)

At a Court of General Sessions, convened on June 14, 2007, the Grand Jurors of York County present upon their oath:

ASSAULT AND BATTERY OF A HIGH AND AGGRAVATED NATURE

The Defendant, Kenneth Lovette Young, did in York County, South Carolina, on or about December 22, 2006, commit an assault and battery upon the victim, Patrick Bayer, constituting an unlawful act of violent injury to the person of the said victim, accompanied by the following circumstances of aggravation, to wit:

The Defendant did assault the victim by spraying a painful chemical agent into the face of the victim while the victim was being held at gunpoint in a state of helplessness, and there was the infliction of serious bodily injury and/or the purposeful infliction of shame and disgrace, all in violation of the Common Law and Section 17-25-30 of the Code of Laws of South Carolina, (1976, as amended).

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



ASSISTANT SOLICITOR

DOCKET NO. 2007-GS-46-01698

The State of South Carolina

County of York

COURT OF GENERAL SESSIONS

June 14, Term 2007

THE STATE

VS.

KENNETH LOVETTE YOUNG

Indictment for

ASSAULT AND BATTERY OF A HIGH
AND AGGRAVATED NATURE

SC Code: 17-25-30
CDR Code: 013

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

Defendant

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

Defendant

Witness:

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

CERTIFIED TRUE COPY
2010 AUG 28 AM 10:12
DAVID HAMILTON
CLERK OF COURT
YORK COUNTY, SC

WITNESSES

YCSDV, eager

jm

ARREST WARRANT NUMBER

J-162471

ACTION OF GRAND JURY

TRUE BILL

DM Hampton
Foreperson of Grand Jury
Date: 6-14-07

VERDICT

Guilty

Larry D. Smith
Foreperson of Petit Jury
Date: 7/26/07

STATE OF SOUTH CAROLINA)
COUNTY OF YORK)

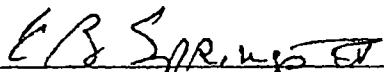
INDICTMENT

At a Court of General Sessions, convened on June 14, 2007, the Grand Jurors of York County present upon their oath:

ENTERING A BANK WITH INTENT TO STEAL

The Defendant, Kenneth Lovette Young, did in York County, South Carolina, on or about December 22, 2006, did unlawfully enter a building occupied as a bank, with the intent to steal money or securities for money, either by force, intimidation, or threats, in that he did enter the Bank of York's Lake Wylie branch intending to steal money. All in violation of Section 16-11-380, Code of Laws of South Carolina, (1976, as amended).

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


ASSISTANT SOLICITOR

DOCKET NO. 2007-GS-46-01694

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

WITNESSES

YCSD\Hager

The State of South Carolina

County of York

Defendant

COURT OF GENERAL SESSIONS

June 14, Term 2007

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

jm

ARREST WARRANT NUMBER

J162455

Defendant

THE STATE

vs.

Witness:

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

ACTION OF GRAND JURY

KENNETH LOVETTE YOUNG

TRUE BILL

DM Hampton
Foreperson of Grand Jury
Date: 6-14-07

VERDICT

Guilty

Larry D. Smith
Foreperson of Petit Jury
Date: 7/26/2007

Indictment for

ENTERING A BANK WITH INTENT TO STEAL

SC Code: 16-11-380
CDR Code: 0257

CERTIFIED TRUE COPY
2010 AUG 20 AM 10:12
DAVID HAMILTON
CLERK OF COURT
YORK COUNTY, SC

STATE OF SOUTH CAROLINA)
)
COUNTY OF YORK. . . .)

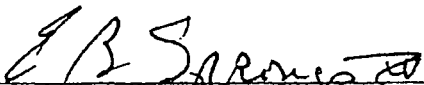
INDICTMENT

At a Court of General Sessions, convened on June 14, 2007, the Grand Jurors of York County present upon their oath:

ARMED ROBBERY

The Defendant, Kenneth Lovette Young, did in York County, South Carolina, on or about December 22, 2006, while armed with a deadly weapon, to wit: a hand gun, or while alleging, either by action or words, he was armed while using a representation of a deadly weapon or any object which a person present during the commission of the robbery reasonably believed to be a deadly weapon, feloniously take and carry away personal property belonging to the Bank of York, from the person of or in the presence of employees of the Bank of York's Lake Wylie branch, including Cassie Wine, and/or Christa Thomas, and/or Debbie Alexander, and/or Angel Neelands, and/or Monica Harris, and/or Marc Lubiato. The Defendant by means of force or intimidation put the employees of said Bank of York in fear by pointing a pistol at them and took goods or monies of said Bank of York, such goods or monies being described as follows: US Currency. All in violation of §16-11-330(A), Code of Laws of South Carolina, (1976, as amended).

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


ASSISTANT SOLICITOR

DOCKET NO. 2007-GS-46-01695

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

WITNESSES

YCSG/Strait

The State of South Carolina

County of York

Defendant

COURT OF GENERAL SESSIONS

June 14, Term 2007

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

jm

ARREST WARRANT NUMBER

J-151346

Defendant

THE STATE

vs.

Witness:

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

ACTION OF GRAND JURY

KENNETH LOVETTE YOUNG

TRUE BILL

David Hamilton
Foreperson of Grand Jury

Date: 6-14-07

VERDICT

Guilty

Larry D. Withers
Foreperson of Petit Jury

Date: 7/26/2007

Indictment for

ARMED ROBBERY

SC Code: 16-11-330(A)
CDR Code: 0139

CERTIFIED TRUE COPY
2010 AUG 20 AM 10:11
DAVID HAMILTON
CLERK OF COURT
YORK COUNTY, SC

STATE OF SOUTH CAROLINA)
COUNTY OF YORK)

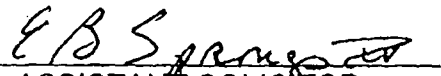
INDICTMENT

At a Court of General Sessions, convened on June 14, 2007, the Grand Jurors of York County present upon their oath:

KIDNAPPING

The Defendant, Kenneth Lovette Young, did in York County, South Carolina, on or about December 22, 2006, unlawfully seize and/or confine employees and customers of the Bank of York, those people including Marc Lubiato, and/or Cassie Wine, and/or Angel Neelands, and/or Paul Bayer, and/or Christine Thomas, and/or Monica Harris, and/or Cecelia Lyles, without authority of law, all in violation of Section 16-3-910 of the Code of Laws of South Carolina, (1976, as amended).

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


ASSISTANT SOLICITOR

WITNESSES

YGSD\Strait

jm

ARREST WARRANT NUMBER

J-162470

ACTION OF GRAND JURY

TRUE BILL

DM Hampshire
Foreperson of Grand Jury
Date: 6-14-07

VERDICT

Guilty

Larry D. Smith
Foreperson of Petit Jury
Date: 7/26/07

DOCKET NO. 2007-GS-46-01697

The State of South Carolina

County of York

COURT OF GENERAL SESSIONS

June 14, Term 2007

THE STATE

vs.

KENNETH LOVETTE YOUNG

Indictment for

KIDNAPPING

SC Code: 16-03-910
CDR Code: 0095

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

Defendant

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

Defendant

Witness:

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