

ORIGINAL

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Spartanburg County

Honorable J. Derham Cole, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

RANDY GLENN,

APPELLANT

APPELLATE CASE NO 2016-000083

RECORD ON APPEAL

KATHRINE H. HUDGINS
Appellate Defender

ALAN WILSON
Attorney General

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

J. BENJAMIN APLIN
Senior Assistant Deputy Attorney General
Rembert Dennis Building
1000 Assembly Street
Room 519
Columbia, SC 29201

ATTORNEY FOR APPELLANT

ATTORNEYS FOR RESPONDENT

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**THE FOLLOWING EXHIBIT IS ON FILE WITH THIS COURT:
STATE'S EXHIBIT NO. 1 – CD OF 911 AND DISPATCH CALLS**

1 STATE OF SOUTH CAROLINA)
2 COUNTY OF SPARTANBURG) IN THE COURT OF GENERAL SESSIONS
3
4 The State,)
5 -vs-) TRANSCRIPT OF RECORD
6 Randy Glenn,) 2015-GS-42-3366
7 Defendant.) January 11 - 13, 2016
8) Spartanburg, South Carolina
9

10 B E F O R E :
11 HONORABLE J. DERHAM COLE, JUDGE; and a jury
12

13
14 A P P E A R A N C E S :
15 TIMI POULOS, ESQUIRE
16 Attorney for the State
17 MATTHEW WILLIAM SHEALY, ESQUIRE
18 Attorney for the Defendant
19

20
21 Linda D. Moffitt
22 Circuit Court Reporter
23
24
25

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19	Exhibit previously marked State's Exhibit No. 1 marked		
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1 (Proceedings January 11, 2016)

2 MR. SHEALY: We'd like to know if his family could
3 come in here. Are we going to go directly into picking a
4 jury, or can I go get them?

5 THE COURT: You can go get them.

6 (Pause.)

7 THE COURT: First case up for trial is State vs. Randy
8 Glenn.

9 This is Mr. Glenn.

10 Mr. Shealy, you represent him?

11 MR. SHEALY: I do, Your Honor.

12 THE COURT: Ms. Poulos is here on behalf of the state.
13 Do we have any matters to address prior to jury
14 selection?

15 MR. SHEALY: Your Honor, primarily, I believe my
16 client would like to put some things on the record
17 regarding my representation of him. I believe that's what
18 he would like to do.

19 THE COURT: Okay. Mr. Glenn.

20 THE DEFENDANT: Yes, Your Honor.

21 THE COURT: Are you making a motion to fire your
22 lawyer?

23 THE DEFENDANT: Exactly, Your Honor.

24 THE COURT: Okay.

25 THE DEFENDANT: In fact, you know, we've had some

1 differences -- me and Mr. Shealy. And one of the things
2 that he said to me is that you can tell the judge if you
3 want to, and he said it in a very disrespectful and nasty
4 way.

5 And I'd like to go over a few of those things if you
6 would allow me to, Your Honor.

7 THE COURT: Okay.

8 THE DEFENDANT: Your Honor, while I was parked on side
9 of the road using my cell phone near where this robbery
10 took place --

11 MR. SHEALY: If I may, he's -- let me just explain to
12 him.

13 THE DEFENDANT: I am just trying to lay the foundation
14 of what I'm --

15 (Pause for Mr. Shealey and the defendant to consult.)

16 MR. SHEALY: Judge, I believe he's going to go into
17 the facts of this case. I have just advised him that
18 that's -- anything he says --

19 THE COURT: Well, I'm not going into the facts.

20 Here -- let me -- let me -- let me put it this way,
21 Mr. Glenn.

22 You're in custody, are you not?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: When you were arrested on this charge did
25 somebody from the public defender's office come by the jail

1 to see if you wanted representation by them?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: Did you make an application?

4 THE DEFENDANT: Yes, sir.

5 THE COURT: And someone was appointed to represent
6 you?

7 THE DEFENDANT: Yes. Mr. Shealy was appointed to
8 represent me.

9 THE COURT: And when was he appointed to represent
10 you?

11 THE DEFENDANT: I believe it was during the month of
12 April of 2015.

13 It took a few weeks for him to actually take the case,
14 because they told me he was on vacation or something like
15 that and wouldn't be back for approximately two, maybe
16 three, weeks last April and --

17 THE COURT: So he's been representing you for seven or
18 eight months?

19 THE DEFENDANT: He has, Your Honor, but it's these
20 last -- because I was told that I was supposed to go to
21 trial on November the 4th, a few months ago, and that did
22 not take place.

23 I believe it was around October 15th when Mr. Shealy
24 came to allow me to view the -- the surveillance videos on
25 October 25th. It was around that time that Mr. Shealy just

1 changed. He did a Jekyll and Hyde. And I wrote some of
2 the stuff down, Your Honor.

3 It's as if once he was -- he was one person during the
4 time while we was waiting, you know, for the -- for the
5 trial to, you know, to get here. He was one person then.
6 But as the trial got closer all of a sudden he just started
7 changing.

8 For example, yesterday he came to visit me at the
9 Spartanburg County Jail and he told me that he --

10 THE COURT: On Sunday?

11 THE DEFENDANT: Yes.

12 THE COURT: He came to see you on Sunday about your
13 case?

14 THE DEFENDANT: Yes, he did, Your Honor.

15 THE COURT: Yeah.

16 THE DEFENDANT: He came to see me on Sunday. But when
17 he came he told me that he had subpoenaed the victim in
18 this case.

19 I told him. I said, "Mr. Shealy, I didn't ask you to
20 subpoena the victim in this case."

21 He looked at me and he told me, he said, "Yes, you
22 did." I said, "No, sir, Mr. Shealy, I did not ask you to
23 do that." I said why would you subpoena the victim in this
24 case.

25 Your Honor, he's cursed at me. He's cursed at me,

1 Your Honor. He's very intimidating. He's very
2 disrespectful.

3 THE COURT: He's very intimidating?

4 THE DEFENDANT: Yes, very intimidating. He curses at
5 me, and, you know, he -- he yells at me.

6 I mean, he just does -- he does -- in other words, the
7 person that you see sitting here, this is not the same
8 person behind closed doors when he comes to visit me. This
9 is not the same person.

10 THE COURT: All right. well, Mr. Glenn, here's the
11 situation.

12 Mr. Shealy has been in the public defender's office
13 for a pretty good while.

14 How many years now, Mr. Shealy?

15 MR. SHEALY: Seven, Your Honor.

16 THE COURT: Seven years he's been there, and he's
17 still there, and he's an experienced trial lawyer. That's
18 why he was appointed to assist you in your case.

19 You have three choices when you're charged with a
20 crime.

21 THE DEFENDANT: Right.

22 THE COURT: Especially one that's as serious as this.

23 You can hire anybody you want to. You can hire
24 anybody in the phone book or anybody in the country that
25 can practice law in South Carolina to represent you. As

1 long as you've got the money and they've got the time, you
2 can hire them and bring them in here. They'll try your
3 case.

4 If you can't afford to hire anybody, then you've
5 got -- you only have two other choices. You either ask to
6 have a court-appointed lawyer, which you apparently have
7 asked to have, and you've been provided one.

8 If you don't want a court-appointed lawyer, then the
9 only other option you have is to represent yourself. And,
10 you know, if you don't have the education and training or
11 experience to do that, that's always a bad idea.

12 Even lawyers who get in situations, whether it be
13 civil or criminal, hire lawyers to represent them. That's
14 just the way it works. Doctors have other doctors treat
15 them. You don't treat yourself and you don't represent
16 yourself. But it's up to you because it's your case.

17 So you can hire somebody; you can have Mr. Shealy; or
18 you can represent yourself. Which is it you want to do?

19 THE DEFENDANT: I can hire somebody; I can have
20 Mr. Shealy; or I can represent myself.

21 THE COURT: Right. Well, those are the only options.
22 Those are the three options in every case.

23 THE DEFENDANT: Will -- will I be -- I can't be
24 appointed another attorney from the public defender's
25 office? I would have to hire my own attorney?

1 THE COURT: If you want a different lawyer, you would,
2 unless you give me a reason why Mr. Shealy shouldn't
3 continue.

4 THE DEFENDANT: Your Honor, another --

5 THE COURT: Just the fact that y'all don't get along
6 or you don't agree on things is not a good reason.

7 THE DEFENDANT: Well, I was hoping that I could read
8 this, Your Honor, because I --

9 THE COURT: Well, do you want me to read it? Because
10 I don't need you to read me something. I can read myself.
11 I've been -- been to school.

12 THE DEFENDANT: Right. Well, I had to write this
13 pretty fast, but I don't have anything on here that the
14 prosecutor doesn't already know about, Your Honor. I
15 don't -- you know, if you will allow me to, I would like to
16 read it.

17 THE COURT: How many pages is that?

18 THE DEFENDANT: It's one, two, three, four pages.

19 THE COURT: Just let me read it.

20 THE DEFENDANT: Okay.

21 (Pause.)

22 THE DEFENDANT: I had to make some corrections on
23 there, Your Honor.

24 THE COURT: I understand. I can't read it while
25 you're talking to me.

1 (Pause.)

2 THE COURT: All right. Mr. Glenn, it appears that you
3 and Mr. Shealy just have a disagreement as to how the case
4 ought to proceed or what strategy you ought to employ and
5 how it ought to be handled.

6 That's the purpose of -- what's this?

7 THE DEFENDANT: That's some more -- some more
8 information, Your Honor, concerning --

9 THE COURT: I thought you just told me it was four
10 pages.

11 THE DEFENDANT: That was just for -- for that issue
12 right there. That's a whole different -- different issue
13 right there. I didn't want to put it all --

14 THE COURT: Well, it looks like the first paragraph is
15 the same as the last one.

16 THE DEFENDANT: Well, that's just the first paragraph.

17 THE COURT: I see.

18 THE DEFENDANT: That's just the first paragraph.
19 That's just laying the foundation for what -- what I'm
20 about to say in -- in the letter.

21 THE COURT: Well, you understand that's another thing.
22 See, you can't lay foundations. You can't lay the same
23 foundation more than once. That's the point. That's one
24 of the rules too. You just don't keep repeating the same
25 thing over and over in court. Once you've made the point,

1 the point's been made.

2 (Pause.)

3 THE COURT: Well, again, as I say, all right, I've
4 read those five pages.

5 As I say, you and Mr. Shealy are in disagreement as to
6 the strategy and how your case ought to be tried. But
7 that's what you have a lawyer for, you see. If you don't
8 have the education and training and experience, then you
9 don't know how to present the case in court.

10 THE DEFENDANT: That's true, Your Honor.

11 THE COURT: That's why you have a lawyer.

12 THE DEFENDANT: That's true. But I'll give you
13 another example.

14 The police dressed me in the robber's clothes, Your
15 Honor, on the side of the road where they crashed into my
16 car after --

17 THE COURT: I read that.

18 THE DEFENDANT: Okay. Now, they put the clothes on me
19 on the side of the road.

20 Mr. Shealy -- he wants to tell the jury and tell the
21 Court that the clothes was put on me at the Spartanburg
22 County Detention Center once I got there.

23 He wants to tell -- he wants to tell the Court and the
24 jury that once I got to the Spartanburg County Detention
25 Center the police asked me to try the clothes on that they

1 had picked up from on the side of the road and that I
2 voluntarily tried the clothes on to see if they would fit
3 me.

4 I told Mr. Shealy that's not true and we will not come
5 in here lying about it. I told them that they put the
6 clothes on me on the side of the road at the scene.

7 THE COURT: All right. I understand that.

8 well, the thing you're not understanding, I guess,
9 Mr. Shealy doesn't get to tell the jury or the Court
10 anything of his own knowledge because he's not a witness.
11 He can only tell what a witness would testify to. And
12 during the trial of this case you've got every right to
13 testify and tell anything you want to.

14 THE DEFENDANT: Yes. But I've decided not to testify,
15 Your Honor.

16 THE COURT: well, you can't make that decision yet. I
17 mean, in actuality you can, but I'm going to give you until
18 the case is over to provide that or to make that
19 determination.

20 THE DEFENDANT: Right.

21 THE COURT: But -- or after the state's presented
22 their case. Then you'll decide whether or not you want to
23 testify. But the point being Mr. Shealy can't tell anybody
24 anything because he doesn't know anything about this case
25 except what somebody else has told him. If he were a

1 witness he wouldn't be the lawyer in the case.

2 THE DEFENDANT: I understand that, Your Honor, but
3 what he would do is he would direct the case in that
4 direction to imply through implication. You know, he would
5 direct the case in that direction that police put the --
6 asked me to put, to try, the clothes on at the Spartanburg
7 County Detention Center.

8 THE COURT: All right. Well, if -- and you say that's
9 not so. And who could testify to the contrary?

10 THE DEFENDANT: Well, I mean, the police would have to
11 testify to it.

12 THE COURT: Who could testify? You say that's not
13 true. So who could testify to the contrary?

14 THE DEFENDANT: I mean.

15 THE COURT: You.

16 THE DEFENDANT: Well.

17 THE COURT: See, you and the police would be the only
18 people that know the answer to that question.

19 THE DEFENDANT: That's true.

20 THE COURT: And Mr. Shealy says they'd testify one
21 way. Well, you can testify too.

22 THE DEFENDANT: Well, this is what's coming from Mr.
23 Shealy's mouth. He's the one who told me that -- that he
24 would -- that he -- that he wanted to go in that direction
25 of telling through -- he's told me through implication,

1 telling, implying that the clothes was put on me at the --
2 at the Spartanburg County Detention Center.

3 THE COURT: Well, I'm guessing that's what somebody
4 told him -- a police officer or somebody.

5 Is that true Mr. Shealy, or not?

6 THE DEFENDANT: I've given him --

7 MR. SHEALY: Your Honor, I'm not asking to support
8 perjury. What I am asking to be able to do is to argue any
9 reasonable conclusions from the evidence that is in and the
10 facts that are in evidence. I'm not going to be telling a
11 jury anything, as you pointed out. I can just argue what
12 people testify to and --

13 THE COURT: That's what I'm asking. Is somebody going
14 to -- I mean, do you know there's a witness who is going to
15 testify as to when clothes were put on the defendant?

16 MR. SHEALY: I know that there will be some witnesses
17 who testify as to what clothes were found on him and things
18 of that nature.

19 THE COURT: Okay. Okay.

20 THE DEFENDANT: And, Your Honor, I told him in the
21 beginning -- I mean, this has been for months. I told him
22 that -- that the police took -- took my work, because I had
23 worked all day. I told him that the police took my work
24 boots off at the scene while I was face down on the ground
25 slowly regaining consciousness. The police took my work

1 boots off, put them in the trunk of my car and then put
2 tennis shoes on me that the robber had discarded along with
3 other clothes and possibly jumped in front of the car that
4 was in front of me.

5 Now, I told Mr. Shealy for months to get his
6 investigator to go to the county impound and take pictures
7 of the boots that was inside of my trunk. I told him for
8 months to do this, to please do this, over and over and
9 over and over again.

10 And he told me at one point that his -- well, at first
11 he told me that he had actually taken -- that his
12 investigator had actually went and taken the pictures.

13 And then when I spoke to him again about it he told me
14 that his investigator went there to the county impound but
15 could not get the trunk open, had trouble getting the trunk
16 open.

17 And then he told me -- he told me here recently that
18 his investigator did get the trunk open and the boots was
19 not in the trunk.

20 However, when my family went and got the car from --
21 from impound the boots was still in the trunk. And as I
22 speak right now, Your Honor, the boots are still in the
23 trunk of my car.

24 He lost that -- he sabotaged this case deliberately on
25 purpose because I told him over and over and over again.

1 He came to see me on a Wednesday one week, and this was
2 probably about -- probably about four or five months ago.

3 He came to see me on a Wednesday, and I told him. I
4 said, "Mr. Shealy." I asked him. I said, "Mr. Shealy,
5 have you had your investigator take pictures of these
6 boots?" He said, "My investigator went and took some
7 pictures. I don't know if he took pictures of those boots
8 or not."

9 And I said, "Well, Mr. Shealy, the county impound,
10 they're pressuring my family to come and get the car." He
11 said, "I tell you what." He said, "Today is Wednesday."
12 He said, "If my investigator have not taken pictures of
13 those boots in your trunk, I'm going to have them do it
14 between now and Friday." He said, "So tell your family to
15 go to the county impound and pick up the car on Friday
16 because I'll have it done by then." I said, "All right,
17 then, Mr. Shealy."

18 My family went and picked up the car. They went and
19 got the car. And they told me that the boots was still in
20 the trunk when they received the car.

21 But we assumed that the pictures had been taken. Come
22 to find out the pictures had never been taken. I wanted
23 the pictures taken of the -- pictures of the boots taken
24 while the car was still in custody of the sheriff's office
25 at the county impound. Now we've lost that.

1 One of the things that Mr. Shealy doesn't want to do
2 is have to point out these police officers' criminal
3 misconduct and their -- their unprofessionalism and their
4 corruption. He doesn't want to do that.

5 That's why he made sure that he never took pictures of
6 those boots inside of my trunk, because he don't want to
7 have to confront these police officers on the witness stand
8 and accuse them of being corrupt and engaging in criminal
9 misconduct.

10 I've lost that opportunity now, Your Honor, concerning
11 those boots. He did this on purpose. He deliberately did
12 this.

13 And, like I said yesterday, he came and told me that
14 he had subpoenaed with a smirk on his face, because, like I
15 said, he's a different person behind closed doors. With a
16 smirk on his face yesterday he walked into the interview
17 room at the Spartanburg County Detention Center and looked
18 at me, and he said, "I subpoenaed Tiffany Jolly." I said,
19 "Tiffany Jolly." I said, "That's the -- that's the store
20 clerk in this case that you, you know, that we went over
21 several times."

22 I said, "Why would you subpoena her?" He said,
23 "Because you told me to." I said, "Mr. Shealy, I did not."
24 And he yelled at me, "Yes, you did. You told me to
25 subpoena her, and I did." Like that.

1 And, Your Honor, the reason why we're discussing this
2 now is because after he yells at me like this every time,
3 he grabs all of his paperwork and he abruptly storms outta
4 that interview room at the Spartanburg County Jail.

5 So that's why I'm in this situation right now, because
6 whenever I disagree with him, he grabs everything and just
7 takes off running. He's did it numerous times. And I told
8 him.

9 I said, "Mr. Shealy, let's not wait until the last
10 minute." And excuse me if I'm talking kinda loud, Your
11 Honor. I told him. I said, "Mr. Shealy, let's not wait
12 until the last minute to try to resolve this." And now
13 here we are at the last minute trying to resolve it.

14 He had told me around October 25th that he would get
15 his -- his boss to -- to get involved and see what his boss
16 had to say concerning my not being satisfied with his
17 representation. All right. He never got back with me
18 after that.

19 When I saw him again he was -- when I saw him again
20 this week -- well, last week actually. When I saw him
21 again he was supposed to tell me what his boss said,
22 because the last time I had saw him prior to that was, like
23 I said, around October 25th. But he haven't told me what
24 his boss had to say concerning -- concerning me and him
25 being in disagreement over -- over his trial, over his

1 defense strategy and -- and legal advice, etc.

2 His -- all of his legal advice, Your Honor, and all of
3 his trial strategy if I -- when you examine it, it's all
4 centered around trying to protect these police officers,
5 not wanting to accuse them of being corrupt, not wanting to
6 accuse them of engaging in criminal misconduct.

7 Your Honor, that's why he never took pictures of the
8 boots in the trunk, because now he don't have to confront
9 the police officers about those boots being put in my
10 trunk.

11 They took those boots off me, Your Honor, put them in
12 my trunk at the scene, closed my trunk. Again, put shoes
13 on me, and other items that belonged to the robber. This
14 is after they crashed into my vehicle, knocked me off the
15 road into the grass. And here I am laying in my car
16 unconscious. And when I woke up they was doing this to me
17 and he --

18 THE COURT: All right. Well, Mr. Glenn, you've had
19 plenty of time to hire you a lawyer if you wanted to hire
20 one. So I assume that means you don't have the funds to
21 hire a lawyer with. Is that true?

22 THE DEFENDANT: Well, Your Honor, like I said, he --

23 THE COURT: Is that true?

24 THE DEFENDANT: I can -- I can -- I can talk to my
25 family and --

1 THE COURT: Well, can you get one hired today, I mean?

2 THE DEFENDANT: No, I can't get one hired today.

3 THE COURT: Well, that's what I'm saying. You've
4 had -- you've had at least eight months to get that done,
5 but you've not done anything about it.

6 THE DEFENDANT: That's true. And I'm not trying to
7 delay anything or anything like that, Your Honor.

8 THE COURT: I understand.

9 THE DEFENDANT: But -- but what -- what it is, he,
10 like I said, early on he was one person. As the -- as the
11 trial got closer, that's when he started doing all of these
12 things.

13 Early on I was in disagreement with him on -- on some
14 issues, but he was telling me about how, well, when trial
15 time get here we're going to do this and we're going to do
16 that. But that was to kind of pacify me at that time.

17 Then when this time got here all of a sudden he
18 changed, Your Honor. And I feel like if I proceed with him
19 that I'm going to be convicted, because he even told me one
20 time that he doesn't believe me, Your Honor. He doesn't
21 believe that I'm innocent, you know.

22 And he even -- like I said, he's cursed me, and he's
23 just very, very disrespectful, very intimidating. And he
24 has an alterial -- ulterior motive, Your Honor, and I'm
25 just scared to be represented by him. I truly am.

1 THE COURT: Okay. Are you going to represent
2 yourself?

3 THE DEFENDANT: I -- I -- I'm not capable of
4 representing myself.

5 THE COURT: I don't think you are either.

6 THE DEFENDANT: Right, right. And I wouldn't want to
7 try that but what I -- what I would --

8 THE COURT: That's the only choice we have.

9 THE DEFENDANT: The only choice I have is to represent
10 myself?

11 THE COURT: Yes, sir. Or have Mr. Shealy or hire that
12 lawyer who is not here.

13 THE DEFENDANT: Well, Your Honor, I would have to get
14 with my family on hiring that lawyer but --

15 THE COURT: Well, why haven't you gotten with your
16 family before now to hire a lawyer?

17 THE DEFENDANT: Your Honor, one of the things that I
18 wanted to do was present this to someone like you, because
19 he told me you can tell the judge if you want to, and that
20 was one of the things that I --

21 THE COURT: And you can. You can. But you've known
22 all along, I assume, that if you weren't satisfied with
23 Mr. Shealy that you needed to see about getting some other
24 lawyer.

25 THE DEFENDANT: Right. And -- and, like I said, he

1 was supposed to get with his -- with his boss man. And his
2 boss man was supposed to decide what we're going to do
3 after that, you know, after he go and talk to him.

4 But Mr. Shealy never got back with me. He never got
5 back with me on this. And, like I said, whenever we
6 tried -- whenever we try to have this same conversation
7 here, that's when he jumps up and grabs everything, and
8 he's gone. He just grabs everything, and he runs outta the
9 room and --

10 THE COURT: Well, he won't be able to do that now.

11 All right. So you don't want to represent yourself;
12 you don't have another lawyer hired. So your motion to
13 fire Mr. Shealy is denied.

14 All right. What other matters do we need to address
15 before we pick the jury?

16 MS. POULOS: Your Honor, I just wanted to put on the
17 record about the third-party guilt motion and the
18 life-without-parole.

19 THE COURT: All right. Mr. Glenn, have a seat right
20 there. Your lawyer will take over now.

21 MS. POULOS: Your Honor, would now be the appropriate
22 time, or after?

23 THE COURT: Well, we can do it now.

24 MS. POULOS: Okay. Your Honor, just wanted to put on
25 the record that the state has filed a motion to exclude

1 third-party guilt or limit any reference to it by the
2 defense during trial.

3 Your Honor, we believe that the defendant may try to
4 introduce evidence or make reference to the third-party
5 guilt of somebody else committing this crime that
6 potentially went running through the woods while stripping
7 his clothes off. And obviously he just made statements to
8 that effect.

9 So our position, Your Honor, is that there's no
10 evidence of that whatsoever. There are no officers or
11 witnesses that have brought forth any information.

12 So we would ask in our motions that any reference to
13 that be excluded, or if Mr. Glenn has a witness that we be
14 allowed to question him or her.

15 MR. SHEALY: Your Honor, we don't have a witness other
16 than Mr. Glenn to testify as to that information.

17 I believe he's just as qualified as evidenced if he
18 were to testify. So, I mean, to say that there is no
19 evidence at all is to overstate the case.

20 He's -- if he testifies -- which it sounds like he
21 might not now -- but that would be evidence. I believe
22 he's allowed to testify that he saw someone else commit the
23 crime.

24 THE COURT: I don't disagree with that.

25 MR. SHEALY: Thank you, Judge.

1 THE COURT: All right. So denied to that extent.

2 MS. POULOS: Yes, sir.

3 THE COURT: All right. What else?

4 MS. POULOS: Thank you, Your Honor.

5 And -- and lastly, Your Honor, we would just like to
6 put on the record that the state is intending to seek a
7 life sentence without the possibility of parole pursuant to
8 Section 17-25-45(A), Your Honor.

9 If I may pass up a copy of the state's notice along
10 with the supporting documentation and the affidavits of
11 service, if I may, Your Honor, just have these made a part
12 of the record for the trial of this case.

13 And just by procedural background, Your Honor, one of
14 the things I'd like to put on the record on behalf of --
15 for the state and -- and Mr. Glenn and Mr. Shealy, on
16 August the 12th of 2015, Your Honor, a plea offer was made
17 via e-mail to Mr. Shealy for the defendant to plead
18 straight up to all of the robberies in this case.

19 There are -- there's this one that's before the Court
20 and/or total of four armed robberies and one attempted
21 armed robbery.

22 That plea offer included dismissal of six kidnapping
23 charges and three weapons charges. And if he did plead
24 straight up to the robberies we would have taken the
25 life-without-parole off the table and we would not seek it.

1 On August the 12th of 2015, that same day, Your Honor,
2 the -- we filed the state's notice of -- to -- to seek life
3 without the possibility of parole. He was served with
4 that. We filed it with the clerk's office.

5 Your Honor, a couple of weeks after that on
6 August 31st of 2015 we re-extended our prior plea offer
7 with a new expiration date of September 24th of 2015. On
8 September 24th of 2015, Your Honor, he had his second
9 appearance. That plea offer was rejected.

10 There have been a lot of back-and-forth with both
11 Mr. Shealy, Mr. -- Mr. Cheek in an effort to -- to see if
12 he would plead guilty before the case was placed on the
13 trial docket.

14 On October -- excuse me -- November the 3rd of 2015
15 the case was, in fact, on the trial docket, Your Honor. It
16 was scheduled first up that -- actually, we were scheduled
17 to go, Your Honor.

18 The case was continued. There was a conflict that
19 Mr. Shealy had on that Tuesday, and Judge Couch signed an
20 order to have the case tried within 90 days.

21 And now, Your Honor, I placed the case first up on
22 this week's trial docket. That's the procedural history.

23 Your Honor, just a little bit more of the detail,
24 Mr. Glenn has a 2004 conviction for armed bank robbery.
25 It's a federal conviction. And pursuant to the statute,

1 17-25-48, as a most serious offense, and we believe if he's
2 convicted for this armed robbery that that would be an
3 automatic life-without-parole sentence. Thank you, Your
4 Honor.

5 THE COURT: All right. Mr. Shealy.

6 MR. SHEALY: Your Honor, they have so filed. It's my
7 understanding it's -- I looked over the indictment for
8 armed bank robbery. Unfortunately, its elements appear to
9 coincide with our statute, armed robbery. We believe
10 they're following that.

11 So I've explained that to my client. I explained that
12 to him. He has rejected several plea offers. Mr. Cheek
13 has, I know, talked with him several times. He does a lot
14 of our jail pleas. He's rejected those offers with both me
15 and Mr. Cheek.

16 So we would like to have -- apparently he would like
17 to say something.

18 (Pause.)

19 THE DEFENDANT: Your Honor --

20 (Pause.)

21 THE COURT: Mr. Glenn, do you understand what the
22 solicitor said about the plea negotiations?

23 THE DEFENDANT: Pretty much, Your Honor, yes.

24 THE COURT: Are you in agreement with that as far as
25 the offer was concerned and as far as your rejection of it

1 was concerned?

2 THE DEFENDANT: The only thing that Mr. Shealy, he
3 never came to me with any type of -- any type of numbers.
4 And Mr. Cheek, he did come to me.

5 THE COURT: They haven't --

6 THE DEFENDANT: Excuse me.

7 THE COURT: Well, as I understand it, they didn't
8 offer any number. They just agreed to dismiss some charges
9 in return for your pleading guilty to the robbery charges,
10 and they agreed not to seek a life-without-parole, which
11 they're authorized to do by statute.

12 THE DEFENDANT: Yes, sir.

13 THE COURT: So what they agreed, if you plead to the
14 robberies they'd dismiss the other charges and they won't
15 seek the life-without-parole sentence.

16 THE DEFENDANT: Mr. Shealy never discussed that with
17 me. He never discussed that with me.

18 MR. SHEALY: I did talk about it. I know Mr. --

19 THE COURT: Okay. Well, now you know what it is. Do
20 you want to do that?

21 THE DEFENDANT: No, Your Honor.

22 THE COURT: Okay.

23 THE DEFENDANT: But I wish that he had come to me in
24 advance and talked to me about that in more detail and it
25 not be in, you know --

1 MR. SHEALY: Your Honor, Mr. Cheek and I have both
2 discussed that offer with him.

3 He rejected that offer, at least in part, because
4 several of those kidnapping charges were dismissed at a
5 preliminary hearing.

6 THE DEFENDANT: All of them.

7 MR. SHEALY: We've spoken about those offers. He has
8 rejected those offers. Now, if he would like to take them,
9 I can attempt to reopen negotiations but he -- we talked
10 about them.

11 THE DEFENDANT: Your Honor, all of the kidnapping
12 charges was dismissed months ago in the beginning of this
13 case. All of them was dismissed and -- and some armed --
14 two armed robbery charges as well was dismissed.

15 THE COURT: Well, you understand that if you were a
16 lawyer you would know that that does not preclude the state
17 from seeking indictments, even though they've been
18 dismissed at a preliminary hearing. The state still can go
19 before the grand jury and present evidence to seek an
20 indictment.

21 THE DEFENDANT: That's what -- that's what Judge Wall
22 had told me after he dismissed all of those charges.

23 THE COURT: All right.

24 THE DEFENDANT: But my point is that with all of those
25 kidnappings being dismissed, how could they have made that

1 as part of a deal when they was already dismissed in the --
2 in the beginning?

3 THE COURT: Because they agreed not to seek
4 indictments for kidnapping.

5 THE DEFENDANT: Okay. But I -- I can understand. I
6 can understand that, Your Honor.

7 THE COURT: Well, there it is. Well, so you
8 understand they offered you -- the primary thing they've
9 offered you is if you plead guilty to the robberies they're
10 not going to seek a life sentence. That's the primary
11 benefit to you.

12 The other charges being dismissed are benefits but --
13 but they won't -- the life sentence is the -- is the most
14 serious consequence, obviously --

15 THE DEFENDANT: Right.

16 THE COURT: -- to a -- to a conviction for robbery.
17 And the solicitor says that's been offered. And you have
18 declined it?

19 THE DEFENDANT: I've declined it, Your Honor.

20 THE COURT: Okay. So then that's done. You still
21 reject the offer?

22 THE DEFENDANT: I still reject the offer, Your Honor.

23 THE COURT: All right. That's the end of the offer.
24 Then we don't need to go any further with that.

25 All right. What's next?

1 MS. POULOS: Your Honor, that's all.

2 Just to make the record a little bit more clear,
3 Mr. Glenn and Mr. Shealy obviously are right.

4 There were a couple of robberies and the kidnappings
5 that were dismissed. But we have pending four armed
6 robberies and attempted robbery and two possessions of
7 weapon during a violent crime that had nothing to do with
8 the cases that were dismissed. So there are several
9 pending charges. And the offer was made with regard to
10 everything, so.

11 THE COURT: And the only -- the only case we're
12 proceeding on with today is Indictment 2015-3366 which is
13 alleged to be the armed robbery at the Family Dollar
14 Store --

15 MS. POULOS: Yes, Your Honor.

16 THE COURT: -- where Tiffany Lee Jolly was the victim?

17 MS. POULOS: Yes, sir.

18 THE COURT: Okay. Are y'all ready to proceed with
19 jury selection in that case?

20 MS. POULOS: Yes, Your Honor.

21 MR. SHEALY: I believe so, Your Honor.

22 THE DEFENDANT: Your Honor, may I say one other thing?

23 THE COURT: Yes, sir.

24 THE DEFENDANT: I haven't been able to shave nor get a
25 haircut at the Spartanburg County Detention Center.

1 And I spoke to Mr. Shealy about it and I asked him if
2 he could help me with that, and he said that there was
3 nothing that he can do. And I spoke to him about it. I
4 think it was, what, Sunday, Wednesday? I think it was
5 Wednesday of last week.

6 And is there anything that this Court can do, I mean,
7 as far as helping me get a haircut and a shave at the
8 county jail, especially a haircut?

9 And they bring razors around every night, but it's
10 just that these last few nights they haven't done so.

11 And the person that comes to cut hair, their contract
12 had ended. And I was hoping I wouldn't have to come here
13 in front of this jury today, you know, unshaven and not
14 having had a haircut. Could this Court help me at all?

15 THE COURT: I can't help you with that, but Mr. Shealy
16 can talk with the major at the jail, and they'll see if
17 they can help you with that.

18 MR. SHEALY: They -- they've been unable to help with
19 it. I'll ask them --

20 THE COURT: They don't have any razors at the jail?

21 MR. SHEALY: They don't have any way of cutting his
22 hair, is my understanding. They don't have somebody
23 cutting hair.

24 THE COURT: I'll be happy to look into it, Mr. Glenn.
25 I don't know if I can do anything about it, but I'm happy

Jury qualification

1 to look into it and see what's going on.

2 THE DEFENDANT: And I was hoping that the jury, you
3 know, would see me looking better than this today, I mean.

4 THE COURT: Well, of course the record needs to
5 reflect that your hair is very short to start with.

6 THE DEFENDANT: Well.

7 THE COURT: So it's not like you have some odd looking
8 hairdo. It's a closely cropped haircut.

9 I mean, you might need a trim or something. I
10 don't -- can't really tell it from here, but it doesn't --
11 nothing about it from here that appears to be odd or
12 unusual, and certainly not this day and time. But it's
13 simply a very neat, closely cropped haircut.

14 All right. We're ready for the jury?

15 MS. POULOS: Yes, Your Honor.

16 THE COURT: All right. Bring them in, please.

17 (The following takes place in the presence of the jury
18 venire.)

19 THE COURT: Thank you for your patience, ladies and
20 gentlemen.

21 We are ready to begin the jury selection in the first
22 case that's going to require some of your participation,
23 and the title of that case is the State vs. Randy Glenn.

24 Mr. Glenn has been accused by the prosecutor by way of
25 an indictment -- and an indictment is simply a charging

Jury qualification

1 paper. It's like a warrant. It sets forth the charge made
2 against some other person.

3 In this case the defendant, the person accused of a
4 crime, is Randy Glenn. And it charges Mr. Glenn with
5 having committed the crime of armed robbery.

6 The indictment alleges that on or about April the
7 11th of 2015 Mr. Glenn did while armed with a deadly weapon
8 or while alleging -- while using a representation of a
9 deadly weapon or some object which a person present would
10 have reasonably believed was a deadly weapon, did take,
11 steal and carry away from the person or presence of the
12 Family Dollar store and Tiffany Lee Jolley by the use of
13 force or intimidation certain goods and/or monies, being
14 described as currency and cigarettes, with the intent to
15 steal those items.

16 As to the charge of armed robbery Mr. Glenn has
17 entered a plea of not guilty. A plea of not guilty places
18 upon the state because they've made the accusation the
19 burden of proving the allegations that they have made
20 against the defendant, the burden of proving each of the
21 essential elements of the crime charged -- in this case
22 armed robbery -- and therefore the burden is upon the state
23 to establish the defendant's guilt to the satisfaction of
24 12 jurors beyond a reasonable doubt before any verdict of
25 guilty could be returned.

Jury qualification

1 So we're going to be selecting 12 of you. There'll be
2 12 primary jurors. We'll also select one additional juror
3 to serve as an alternate.

4 And by way of your participation you're simply going
5 to be called upon to listen to testimony, to consider
6 evidence introduced during the trial. From that evidence
7 you'll decide what you believe to be the facts as they
8 relate to these allegations. And once you decide the
9 facts, you apply the law, and you determine whether or not
10 the defendant has been proven guilty of armed robbery
11 beyond a reasonable doubt.

12 If he has been so proven, then your verdict would be
13 guilty. If he has not been so proven, then your verdict
14 would be not guilty.

15 Now, before we begin with the actual selection of
16 those jurors to participate in the case I've got some
17 questions to ask you. The purpose of the questions is to
18 find out if there's some reason why any one of you jurors
19 should not be selected to participate in the trial of this
20 particular case. In other words, do you have some reason
21 why you could not be fair and impartial if called upon to
22 participate in this particular case.

23 I'll introduce some people to you. I'll be
24 introducing the defendant, the person alleged to be the
25 victim. I'll introduce all potential witnesses to be

Jury qualification

1 called during the trial. I'll introduce the lawyers
2 involved in the trial of the case.

3 The purpose of introducing all of these people is to
4 find out if you have any connection with any of these
5 people. In other words, are you related by blood or by
6 marriage to any person or some member of their family. Do
7 you work with any of these people? Do you go to school
8 with any of these people? Do you attend church with any of
9 these people? Do you socialize with any of these folks in
10 any way, or any members of their respective families?

11 And, simply put, do you know anybody involved in the
12 trial of the case. If you do when that name is recited,
13 I'll ask that you please stand, and I'll address that
14 connection and whether or not it would have any bearing
15 upon your decision in the case.

16 Once I conclude with the introductions of the folks
17 involved in the case and determine if you have a
18 connection, I'll have some additional other questions to
19 ask you in order to determine whether or not you could be
20 fair and impartial if selected to participate.

21 Now, first of all, as I told you, in this case the
22 defendant is Randy Glenn. He's charged with armed robbery.

23 The state alleges that occurred on April the 7th of
24 2015. They allege the person that was robbed was Tiffany
25 Lee Jolley who was working at a Family Dollar store located

Jury qualification

1 here in Spartanburg County on the Asheville Highway.

2 So Randy Glenn is the defendant. He's the person
3 charged.

4 Mr. Glenn, if you will, please stand and face the jury
5 panel so that they may see who you are.

6 (Whereupon, the defendant stood.)

7 THE COURT: Thank you. Be seated.

8 Mr. Glenn is represented by Matt Shealy. He's a
9 lawyer employed in the Spartanburg County Public Defender's
10 office, the Seventh Judicial Circuit Public defender's
11 office.

12 The person who is alleged to have been the victim of
13 the armed robbery is Tiffany Lee Jolley. She's not present
14 in court, but her name is Tiffany Lee Jolley.

15 If you know anybody by that name, or you think you do,
16 simply raise your hand or stand, and we'll try to narrow
17 down that identification for your benefit.

18 (No response.)

19 THE COURT: Presenting the case on behalf of the state
20 is Timi Poulos. She's an assistant circuit solicitor for
21 the Seventh Judicial Circuit.

22 Other persons that may be called to testify during the
23 course of this trial include William Gary of the
24 Spartanburg County Sheriff's Department; Mark Gaddy with
25 the Spartanburg County Sheriff's Department; Tony Brown

Jury qualification

1 with the Spartanburg County Sheriff's Department; John Nix,
2 Spartanburg County Sheriff's Department; Anthony Knighten,
3 Spartanburg County Sheriff's Department; Paul Norris,
4 Spartanburg County Sheriff's Department; David Hogsed,
5 Spartanburg County Sheriff's Department; B.J. Shaw, South
6 Carolina Highway Patrol; Scott Francis, Spartanburg
7 Communications; Robin Hennington-Hollis, a resident of
8 Spartanburg; Pamela Watts, a resident of Spartanburg; James
9 Lattimore, a resident of Spartanburg; Dale Conyers, a
10 resident of Spartanburg; Lewis Nelson employed by the
11 Spartanburg Public Safety office; and Jeff Kirby,
12 Spartanburg County Sheriff's Department.

13 Now, I need to find out if any juror knows any of
14 those people, are you connected by blood or marriage,
15 socially, church attendance, school, employment. Or do you
16 know any members of their respective families?

17 And also as that question is asked, because Ms. Poulos
18 and Mr. Shealy are employed in governmental agencies, the
19 circuit solicitor's office and the circuit public
20 defender's office, I need to find out if any juror has any
21 connection or knows anybody employed also in the Seventh
22 Judicial Circuit Solicitor's Office or the Seventh Judicial
23 Circuit Public Defender's Office. Do you have additional?

24 MR. SHEALY: Judge, I made a mistake. I called him
25 Dale Conyers. I just call him Mr. Conyers. His name is

Jury qualification

1 actually David Conyers.

2 THE COURT: All right. Instead of Dale Conyers, the
3 gentleman's name is David --

4 MR. SHEALY: Yes, sir.

5 THE COURT: -- Conyers.

6 MR. SHEALY: I apologize.

7 THE COURT: All right. Does any juror know anybody
8 that I've just identified for your benefit or anybody in
9 the solicitor's office or the public defender's office? If
10 so, please stand.

11 (No response.)

12 THE COURT: All right. None responding.

13 Does anybody think you might have heard, seen or read
14 something that relates to this particular case? Do you
15 think you've been exposed to any type of information from
16 any source that relates to this particular case pending
17 here now? If so, please stand.

18 (No response.)

19 THE COURT: Has any member of the jury panel ever been
20 employed by any law enforcement agency, and/or are you
21 related to any person employed by any law enforcement
22 agency now or in the past? If so, please stand.

23 When you respond to a question -- I'll start to my
24 right. I'll work to my left. I'll start on the front row
25 and work my way back. Then I'll jump the aisle and start

Jury qualification

1 on the front row and work my way back.

2 If you will, give me your name and your juror number,
3 and then tell me how the question relates to you.

4 JUROR NO. 8: Tessa Black, No. 8. My husband. He's a
5 reserve officer in Inman, South Carolina.

6 THE COURT: Would that have any bearing in your
7 decision?

8 JUROR NO. 8: No.

9 THE COURT: Thank you. Be seated.

10 Yes, ma'am.

11 JUROR NO. 152: Lori Taylor, 152. My exhusband works
12 for the department of corrections, and I have a cousin that
13 works for the F.B.I.

14 THE COURT: Would that have any bearing in your
15 decision?

16 JUROR NO. 152: No, sir.

17 THE COURT: Thank you. Be seated.

18 Yes, ma'am.

19 JUROR NO. 141: 141. My name is Gail Simuel. I live
20 behind a Hardin that's on the police force, and I have a
21 cousin, Dodd, that's on the police force.

22 THE COURT: And would either of those connections have
23 any bearing in your decision?

24 JUROR NO. 141: No, sir.

25 THE COURT: Thank you. Be seated.

Jury qualification

1 All right. I guess I'm on the second row. Yes, sir.

2 JUROR NO. 41: John Dowis, Juror No. 41. I have a
3 first cousin who is a highway patrolman.

4 THE COURT: Would that have any bearing in your
5 decision?

6 JUROR NO. 41: No, sir.

7 THE COURT: Thank you. Be seated.
8 Yes, sir.

9 JUROR NO. 151: Robert Tapp, 151. My son. He works
10 for the city.

11 THE COURT: And would that have any bearing in your
12 decision in this case?

13 JUROR NO. 151: No, sir.

14 THE COURT: Thank you. Be seated.
15 Yes, ma'am.

16 JUROR NO. 65: Roberta Hardin, Juror No. 65. I have a
17 first cousin that works for the Spartanburg County police.

18 THE COURT: And would that have any bearing in your
19 decision?

20 JUROR NO. 65: No, sir.

21 THE COURT: Thank you. Be seated.
22 Yes, ma'am.

23 JUROR NO. 90: Juror 90. My name is Rhonda Manly.
24 And I have four cousins who work in Spartanburg County,
25 sheriff's system.

Jury qualification

1 THE COURT: Are any of them witnesses in this case?

2 JUROR NO. 90: No, sir.

3 THE COURT: No. Would that have any bearing in your
4 decision?

5 JUROR NO. 90: No, sir.

6 THE COURT: Thank you. Be seated.

7 Yes, ma'am.

8 JUROR NO. 84: Katherine Konopka, No. 84. I worked
9 for the state board of pardons and parole in Georgia.

10 THE COURT: And would that have any bearing in your
11 decision?

12 JUROR NO. 84: No, sir.

13 THE COURT: Thank you. Be seated.

14 Does any member of the jury panel belong or contribute
15 time or money to any organizations that might be classified
16 as law enforcement support or victims advocacy type groups?

17 And some of those might include Mothers Against Drunk
18 Drivers, Citizens Against Violent Crime, rape crisis,
19 Children's Advocacy Center, Fraternal Order of Police, the
20 honorary sheriff's association, the troopers' association,
21 neighborhood watch, any type of similar program or
22 organization. If so, please stand.

23 Your name and number please, sir?

24 JUROR NO. 49: Jonathan Fowler, Juror 49.

25 THE COURT: How does that question relate to you?

Jury qualification

1 JUROR NO. 49: I donate food to the safe home, rape
2 crisis.

3 THE COURT: Okay. Thank you, sir. You may be seated.
4 Anybody else?

5 (No response.)

6 THE COURT: Has any member of the jury panel or any
7 members of your immediate family -- and let me define an
8 immediate family member as a parent, a spouse, a child or a
9 sibling -- a parent, a spouse, a child or a sibling.

10 Have you or any members of your immediate family as I
11 just defined it ever been the victim of any type of
12 robbery, theft or burglary or any other similar type of an
13 offense, or have you or that family member ever been
14 accused of having committed any similar type of an
15 offense -- a burglary, a robbery, a larceny, anything
16 similar to that. Have you or a family member ever been the
17 victim of such or ever been accused of having committed
18 such? If so, please stand.

19 Now, I've got a number standing. And, as I indicated
20 earlier, if -- if you don't feel comfortable answering the
21 question standing where you are, feel free to step down
22 here, and I'll be happy to discuss it with you privately.

23 So if you want to come down here, please do. If you
24 don't, I will just start here and work my way back. I'll
25 let you respond to the question where you are.

Jury qualification

1 I'll begin with you.

2 JUROR NO. 150: I am Jean Tangeman, No. 150. My
3 daughter was robbed when she worked at a bank.

4 THE COURT: And would that have any bearing in your
5 decision?

6 JUROR NO. 150: No.

7 THE COURT: Thank you. Be seated.

8 Next.

9 JUROR NO. 18: Joy Cannon, No. 18. And our house was
10 broken into.

11 THE COURT: Would that affect your decision?

12 JUROR NO. 18: No.

13 THE COURT: Thank you. Be seated.

14 Yes, sir.

15 JUROR NO. 49: Jonathan Fowler, Juror 49. I was
16 robbed with a shotgun at Fatz Cafe.

17 THE COURT: Would that have any bearing on your
18 decision?

19 JUROR NO. 49: No, sir.

20 THE COURT: Thank you. Be seated.

21 Next row.

22 JUROR NO. 2: Lorraine Allinger, Juror 2. My purse
23 was stolen.

24 THE COURT: Would that affect your decision in this
25 case?

Jury qualification

1 JUROR NO. 2: No.

2 THE COURT: Thank you. Be seated.

3 Yes, ma'am.

4 JUROR NO. 48: Tonya Foster, Juror 48. I had -- my
5 vehicle was broken into and items stolen.

6 THE COURT: Would that have any bearing on your
7 decision?

8 JUROR NO. 48: No.

9 THE COURT: Thank you. Be seated.

10 Yes, ma'am.

11 JUROR NO. 141: Juror 141, Gail Simuel. I worked at
12 Revco, and we were robbed at gunpoint.

13 THE COURT: Would that have any bearing on your
14 decision in this case?

15 JUROR NO. 141: No, sir.

16 THE COURT: Thank you. Be seated.

17 Yes, ma'am.

18 JUROR NO. 16: Juror No. 16. May I approach?

19 THE COURT: Yes, ma'am.

20 (Bench conference held off the record with Juror No.
21 16.)

22 THE COURT: Next.

23 JUROR NO. 131: Dennis Roos, Juror 131. My father's
24 vehicle was stolen out of our driveway.

25 THE COURT: Would that have any bearing in your

Jury qualification

1 decision?

2 JUROR NO. 131: No.

3 THE COURT: Thank you. Be seated.

4 Next row.

5 JUROR NO. 91: James Manning, Juror 91. I had some
6 things stolen out of my home while I was there.

7 THE COURT: Would that have any bearing in your
8 decision?

9 JUROR NO. 91: No, sir.

10 THE COURT: Thank you. Be seated.

11 Yes, sir.

12 JUROR NO. 146: Michael Smith, Juror 146. Our family
13 had a home broke-in and theft, and I've had break-ins with
14 my business.

15 THE COURT: And would any of those experiences have
16 any bearing upon your decision?

17 JUROR NO. 146: No, sir.

18 THE COURT: Thank you. Be seated.

19 Yes, ma'am.

20 JUROR NO. 1: Tasha Allen, Juror No. 1. May I
21 approach the bench?

22 THE COURT: Yes, ma'am.

23 (Bench conference held off the record with Juror No.
24 1.)

25 THE COURT: Anyone else need to respond to that

Jury qualification

1 question? If so, please stand.

2 (No response.)

3 THE COURT: Is there any member of the jury panel who
4 is opposed to the use or possession of firearms in any
5 form, under any circumstances? If so, please stand.

6 (No response.)

7 THE COURT: Does any juror know of any reason
8 whatsoever why you think you could not be fair and
9 impartial if you were called upon to serve as a juror in
10 this particular case? If you have any reason whatsoever
11 why you think you could not be fair and impartial, I would
12 ask that you please stand.

13 (No response.)

14 THE COURT: None responding.

15 Any other questions requested by the state?

16 MS. POULOS: No, sir, Your Honor.

17 THE COURT: By the defendant?

18 MR. SHEALY: None, Your Honor.

19 THE COURT: All right. Now, the way juries are
20 selected in the criminal court is the computer is going to
21 select a list of your names.

22 Once that's selected you'll -- we'll call the names
23 out as they appeared on the list. You'll be asked to come
24 forward.

25 Just come towards me. Take about two steps past where

Jury qualification

1 the desks are where the lawyers are seated just in the
2 middle of the room here. Turn and face your fellow jurors.

3 Each side has an opportunity to have you excused from
4 serving in the case or to have you seated for service in
5 the case.

6 If either side asks that you be excused from service,
7 just go back and have a seat where you are now.

8 If both agree to have you seated for service in the
9 case, you'll be having a seat in that jury box to your
10 right and to my left.

11 So please come forward as your name is called, and
12 you'll be instructed if you are to be excused or seated for
13 service in the case.

14 THE CLERK: As I call your name, please come forward
15 and stand facing the attorneys' tables.

16 No. 131, Dennis Rose -- Ross.

17 What says the state?

18 MS. POULOS: Please present the juror.

19 THE CLERK: What says the defense?

20 MR. SHEALY: Please seat this juror.

21 THE CLERK: Have a seat in the jury box, sir. Have a
22 seat in the jury box.

23 No. 11, Willie Booker.

24 What says the state?

25 MS. POULOS: Please excuse this juror.

Jury qualification

1 THE CLERK: No. 12, Anna Boyd.
2 what says the state?
3 MS. POULOS: Please present the juror.
4 THE CLERK: What says the defense?
5 MR. SHEALY: Please excuse this juror.
6 THE CLERK: No. 146, Michael Smith.
7 what says the state?
8 MS. POULOS: Please present the juror.
9 THE CLERK: What says the defense?
10 MR. SHEALY: Please excuse this juror.
11 THE CLERK: No. 163, Ashley Williams.
12 what says the state?
13 MS. POULOS: Please present the juror.
14 THE CLERK: What says the defense?
15 MR. SHEALY: Please seat this juror.
16 THE CLERK: No. 90, Rhonda Manly.
17 what says the state?
18 MS. POULOS: Please present the juror.
19 THE CLERK: What says defense?
20 MR. SHEALY: Please excuse this juror.
21 THE CLERK: No. 25, Kristen Childers.
22 what says the state?
23 MS. POULOS: Please present the juror.
24 THE CLERK: What says defense?
25 MR. SHEALY: Please excuse this juror.

Jury qualification

1 THE CLERK: No. 126, Barbara Pruitt.

2 what says the state?

3 MS. POULOS: Please present the juror.

4 THE CLERK: what says the defense?

5 MR. SHEALY: Please seat this juror. Seat the juror.

6 Present this juror. Sorry.

7 THE CLERK: No. 133, Tonja Ross.

8 what says the state?

9 MS. POULOS: Please present the juror.

10 THE CLERK: what says the defense?

11 MR. SHEALY: Please seat this juror.

12 THE CLERK: No. 69, James Hartzoe.

13 what says the state?

14 MS. POULOS: Please present the juror.

15 THE CLERK: what says the defense?

16 MR. SHEALY: Please seat this juror.

17 THE CLERK: No. 116, Larry Parham.

18 what says the state?

19 MS. POULOS: Please present the juror.

20 THE CLERK: what says the defense?

21 MR. SHEALY: Please seat this juror.

22 THE CLERK: No. 92, Judy Marshall.

23 what says the state?

24 MS. POULOS: Please present the juror.

25 THE CLERK: what says the defense?

Jury qualification

1 MR. SHEALY: Please excuse this juror.
2 THE CLERK: No. 155, Jordan Vinson.
3 What says the state?
4 MS. POULOS: Please present the juror.
5 THE CLERK: What says the defense?
6 MR. SHEALY: Please excuse this juror.
7 THE CLERK: No. 56, Nicholas Ginocchio.
8 What says the state?
9 MS. POULOS: Please excuse this juror.
10 THE CLERK: No. 148, Michael Steele.
11 What says the state?
12 MS. POULOS: Please present the juror.
13 THE CLERK: What says the defense?
14 MR. SHEALY: Please seat this juror.
15 THE CLERK: No. 49, Jonathan Fowler.
16 What says the state?
17 MS. POULOS: Please present the juror.
18 THE CLERK: What says the defense?
19 MR. SHEALY: Please excuse this juror.
20 THE CLERK: No. 2, Lorraine Allinger.
21 What says the state?
22 MS. POULOS: Please present the juror.
23 THE CLERK: What says the defense?
24 MR. SHEALY: Please excuse this juror.
25 THE CLERK: No. 132, Lawrence Rosman.

Jury qualification

1 what says the state?
2 MS. POULOS: Please present the juror.
3 THE CLERK: What says the defense?
4 MR. SHEALY: Please seat this juror.
5 THE CLERK: No. 88, Charlotte Lindsey.
6 what says the state?
7 MS. POULOS: Please present the juror.
8 THE CLERK: What says the defense?
9 MR. SHEALY: Please seat this juror.
10 THE CLERK: No. 76, Randall Hudak.
11 what says the state?
12 MS. POULOS: Please excuse this juror.
13 THE CLERK: No. 150, Jean Tangeman.
14 what says the state?
15 MS. POULOS: Please present the juror.
16 THE CLERK: What says the defense?
17 MR. SHEALY: Please excuse this juror.
18 THE CLERK: No. 48, Tonya Foster.
19 what says the state?
20 MS. POULOS: Please present the juror.
21 THE CLERK: What says the defense?
22 MR. SHEALY: Please seat this juror.
23 THE CLERK: No. 151, Robert Tapp.
24 what says the state?
25 MS. POULOS: Please present the juror.

Jury qualification

1 THE CLERK: What says the defense?

2 MR. SHEALY: Please excuse this juror.

3 THE CLERK: No. 41, John Dowis.

4 What says the state?

5 MS. POULOS: Please present the juror.

6 THE CLERK: What says the defense?

7 MR. SHEALY: Please seat this juror.

8 THE CLERK: No. 152, Lori Taylor.

9 What says the state?

10 MS. POULOS: What number is that, Madam Clerk?

11 THE CLERK: 152.

12 MS. POULOS: Please present the juror.

13 THE CLERK: What says the defense?

14 MR. SHEALY: Please seat this juror.

15 THE CLERK: No. 115, Janell Obrien.

16 What says the state?

17 MS. POULOS: Please present the juror.

18 THE CLERK: What says the defense?

19 MR. SHEALY: We're picking for the alternate. Please
20 excuse the juror.

21 THE CLERK: No. 21, Christopher Chandler.

22 MS. POULOS: Please present the juror.

23 THE CLERK: What says the defense?

24 MR. SHEALY: Please seat this juror.

25 (Whereupon, a jury was impaneled.)

Jury qualification

1 THE COURT: Those who have been selected, please go
2 with the bailiff to a jury room, and I'll bring you back in
3 just a few minutes.

4 (The following takes place outside the presence of the
5 jury.)

6 THE COURT: Are there any matters that need to be
7 addressed regarding jury selection by the state?

8 MS. POULOS: No, sir, Your Honor.

9 THE COURT: The defendant?

10 MR. SHEALY: No, Your Honor.

11 (Whereupon, the remaining members of the jury venire
12 were excused.)

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

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

16 THE COURT: Ladies and gentlemen, we're going to break
17 for lunch. We'll resume and begin the trial this afternoon
18 at 2:30.

19 Keep in mind you can't discuss the case. I know you
20 know very little about it, but you still can't discuss it
21 with anybody in any fashion whatsoever.

22 You can't even discuss it among your fellow jurors
23 until you're involved in jury deliberations, and that's not
24 until the end of the trial after all of the evidence has
25 been received and I've instructed you on the law that's

Jury qualification

1 applicable in the case. So no discussions about the case.

2 Also, don't allow anyone to try to discuss it with
3 you. Don't permit yourselves to be exposed to any type of
4 media coverage that might relate to the case, and don't
5 conduct any research or do your own investigation into any
6 issue that might arise.

7 You have to base your decision upon what's presented
8 during the trial. You can't supplement your wealth of
9 knowledge by conducting outside research, whether it be
10 internet or otherwise.

11 Do have a good lunch. Please report to your jury room
12 that you've just been shown to at 2:30, 2:30 this
13 afternoon.

14 Talk to the bailiff if you're not sure how to get back
15 there.

16 (The following takes place outside the presence of the
17 jury.)

18 THE COURT: All right. Court is in recess until 2:30.

19 (Whereupon, a recess was taken.)

20 THE COURT: All right. Any matters to address before
21 the jury is brought in?

22 MR. SHEALY: Judge, we would just ask that the
23 witnesses be sequestered.

24 I understand the state would like their chief
25 investigator and the victim to be present. We would ask

Jury qualification

1 the rest of them be sequestered.

2 THE COURT: What's the state's position?

3 MS. POULOS: Your Honor, we don't -- we don't oppose
4 that. Again, we would like our lead investigator and the
5 victim to remain throughout the trial of this case.

6 THE COURT: Okay. Have you got any defense witnesses
7 in the courtroom? Because they can't stay either.

8 MR. SHEALY: No, Your Honor, we don't have any defense
9 witnesses.

10 THE COURT: All right. Those persons who have been
11 identified as potential witnesses in the case, you'll be
12 sequestered with the exception of Mr. Gary and Ms. Jolley.
13 The remainder will have to remove yourselves from the
14 courtroom.

15 You can talk to the solicitor. They may can tell you
16 where you can go. There's a conference room across the
17 hall. They may have another place for you.

18 (Pause.)

19 THE CLERK: Are all of the witnesses out of the
20 courtroom now?

21 MS. POULOS: Yes, Your Honor.

22 THE COURT: All right. Anything else?

23 MR. SHEALY: No, Your Honor.

24 THE COURT: All right. Bring the jury in, and ask
25 Mr. Hartsoe -- Mr. Hartsoe -- to take the foreperson's

1 seat.

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

4 THE COURT: Good afternoon, ladies and gentlemen.

5 We are ready to begin with the trial of the case for
6 which each of you have been selected.

7 Ms. Hartsoe, I'm going to ask you to serve as the
8 foreperson of the jury. As the foreperson you'll have
9 three duties that none of the other jurors have.

10 First of all, you're asked to serve as the
11 spokesperson for the jury. And that just means if
12 something arises during the trial that needs to be brought
13 to my attention -- you or a fellow juror has some
14 difficulty or problem or question -- you are the person who
15 will direct those comments to me either directly if you're
16 in the courtroom or through the bailiff if you're outside
17 the courtroom.

18 Secondly, you will preside over jury deliberations
19 when that time comes. That of course won't be until the
20 end of the trial after all of the evidence has been
21 received and I've instructed you on the law that's
22 applicable in this case and have instructed you to begin
23 jury deliberations.

24 When that time comes you will preside over that
25 process in the jury room simply to ensure that those

1 deliberations are carried out in some orderly fashion.

2 And, thirdly, you'll actually write the verdict or the
3 decision of the jury. You'll do that on a verdict form
4 that I'll provide you at the trial's conclusion when you go
5 back to begin deliberations on which you will indicate the
6 jury's unanimous decision.

7 The foreperson has those specific duties that I have
8 just indicated. That does not however mean that he is any
9 more important than any of you other jurors, and that's
10 because the decision of the jury is the unanimous consensus
11 opinion of all 12 of you jurors. And so each of you will
12 have an equal say and an equal vote in what the ultimate
13 decision will be in this case.

14 Someone simply has to be delegated those
15 responsibilities that I've just indicated, and I have
16 delegated those to Mr. Hartsoe in appointing him as the
17 foreperson. But all of you jurors are equally important so
18 far as the ultimate decision is concerned, because, as I've
19 stated, the verdict has to be unanimous. All of you must
20 in agreement.

21 Now, Mr. Chandler, you've been selected as an
22 alternate juror. The function of an alternate is to take
23 the place of one of the original 12 if during the trial one
24 of these 12 cannot continue to serve for some reason. If
25 that's the case, then you would take that person's place.

Jury sworn

1 You would become the twelfth juror.

2 If that occurs, then you participate in jury
3 deliberations at the trial's conclusion. If however when
4 the time comes for jury deliberations, if the original 12
5 are able to participate your service ends, and you don't
6 participate any further, and that's because the decision of
7 a jury is that of 12. No more than 12 can participate in
8 that deliberation process.

9 But it is important that you pay just as careful
10 attention as we ask of all of the jurors in this case
11 because it does occur from time to time for one reason or
12 another one of these 12 may be unable to continue. In that
13 event you become the twelfth.

14 So we do appreciate your participation as an alternate
15 juror, just as we appreciate the participation of each of
16 you jurors who have been selected for the purpose of
17 deciding the verdict in this particular case.

18 You may swear the panel.

19 (Whereupon, the jury was duly sworn.)

20 THE COURT: As each of you know by now, you have been
21 selected to decide the verdict in the case of the State vs.
22 Randy Glenn.

23 As you also know, Mr. Glenn has been accused by the
24 prosecutor by way of the indictment with having committed
25 the crime of armed robbery.

1 The state alleges that that offense occurred back on
2 April the 7th of 2015. The indictment alleges that
3 Mr. Glenn did, while armed with a deadly weapon or while
4 alleging either by actions or words that he was armed,
5 while using a representation of a deadly weapon, or some
6 object which a person present during the commission of the
7 robbery reasonably believed to be a deadly weapon, and that
8 he did take, steal and carry away from the person or
9 presence of Tiffany Lee Jolley while employed at the Family
10 Dollar store by the use of force or intimidation certain
11 goods or monies being currency and cigarettes with the
12 intent to steal those items.

13 Those are the allegations in the indictment. The
14 indictment is not evidence in the case; it doesn't prove
15 anything; it doesn't establish anything. It's simply the
16 means by which any person who is accused of a crime is
17 brought into this court. And the indictment serves to put
18 them on notice as to what crime the state claims they
19 committed so that they will have notification of what the
20 state claims.

21 The indictment will be in the jury room at the trial's
22 conclusion because the indictment will serve as the verdict
23 form. But other than serving as the verdict form the
24 indictment serves no purpose so far as you jurors are
25 concerned.

1 As to the allegations in the indictment and as to the
2 charge the defendant has entered a plea of not guilty.
3 And, as I told you, that plea of not guilty places upon the
4 state the burden of proving the allegations that they have
5 made by way of this indictment, the burden of proving each
6 of the essential elements of the crime charged -- in this
7 case armed robbery -- and therefore the burden is upon the
8 state to establish the defendant's guilt to the
9 satisfaction of each of you 12 jurors beyond a reasonable
10 doubt before any verdict of guilty could be returned.

11 Under the Constitution of the United States and this
12 state every person who is accused of a crime is always
13 presumed innocent of that charge. That presumption of
14 innocence remains with any defendant, as it does with this
15 defendant, from the time that he is placed under arrest and
16 throughout the course of the criminal process and even
17 throughout the course of the actual trial in the case.

18 That presumption of innocence will be with Mr. Glenn
19 even at the trial's conclusion when you go back to begin
20 with your deliberations, and that presumption of innocence
21 will be with him in that jury room, and it'll be with him
22 forever unless you 12 jurors determine that he's no longer
23 entitled to that presumption of innocence.

24 In other words, after you've carefully considered all
25 the evidence, after you determine what you believe to be

1 the facts as they relate to these allegations, and after
2 deciding those facts you apply the law that I will have
3 provided you, if you 12 jurors unanimously determine that
4 his guilt has been proven beyond a reasonable doubt, then
5 he would no longer be entitled to that presumption of
6 innocence, because his guilt would have been proven. But
7 it is only if, unless and until you are satisfied of his
8 guilt beyond a reasonable doubt that the presumption of
9 innocence would no longer be applicable.

10 Now, the way the trial will proceed is that in a
11 moment the lawyers are going to address you in what are
12 called opening statements.

13 There are two occasions in the trial of a case where
14 lawyers are permitted to address the jury, and that is at
15 the beginning of the trial before any evidence has been
16 introduced and then again at the conclusion of the trial
17 after all of the evidence has been received.

18 But please keep in mind, as I've just indicated, the
19 lawyers' statements are not evidence, and that's because
20 the lawyers don't know anything about this case of their
21 own personal knowledge, perception or experience like
22 witnesses will be testifying to when they take the witness
23 stand.

24 The lawyers aren't going to take the witness stand.
25 They're not going to be placed under oath. They're not

1 going to be subjected to direct and cross-examination like
2 each witness will be that comes to court to provide
3 evidence.

4 And therefore what the lawyers tell you in their
5 statements should not be construed by you as any evidence
6 upon which you will base your decision. But you should
7 listen to what the lawyers have to say because those
8 statements do serve a purpose.

9 The opening statements serve to provide you with a
10 basic understanding as what this case is about from both
11 the perspective of the state and of the defense so that
12 you'll have some context in which to place the evidence
13 that we will be receiving shortly thereafter.

14 The closing statements occur after all of the evidence
15 has been received. And, again, while those statements are
16 not evidence, it does afford the lawyers an opportunity to
17 discuss with you the evidence that you have seen and heard
18 during the course of the trial. And through that
19 discussion each will have an opportunity to try to persuade
20 you or to convince you that the evidence in the case does
21 or does not support a particular decision.

22 And it's in between those opening and closing
23 statements that we actually receive the evidence upon which
24 you'll base your decision.

25 The state has the burden of proof. They've made the

1 charge. They make the accusation. They have the burden of
2 establishing the defendant's guilt to your satisfaction
3 beyond a reasonable doubt. And so they will go forward
4 first in their presentation of evidence.

5 Once they have concluded with that presentation a
6 defendant in a criminal trial has an opportunity to testify
7 or call witnesses or introduce evidence, but understand
8 that a defendant is never under any obligation to testify
9 or to call a witness or produce any evidence.

10 The burden is not on a person charged with a crime to
11 prove that they are not guilty or to prove that they are
12 innocent because in many cases that might not be possible.

13 The burden is on the state because they've made the
14 accusation to prove the defendant's guilt beyond a
15 reasonable doubt.

16 So during the trial while the state does have to
17 present evidence because they have the burden of proof, a
18 defendant in a given case may not testify or call any
19 witnesses, and they have no burden or obligation to do
20 that.

21 And where a defendant does not take the witness stand
22 and testify a jury may not consider that in the slightest
23 degree against the defendant. You can't consider it in any
24 way in your deliberations or in your determination as to
25 whether or not his guilt has been proven beyond a

1 reasonable doubt.

2 But every defendant is afforded an opportunity to
3 testify or to call witnesses or introduce evidence in the
4 event the defendant wishes to do so.

5 So after all of the evidence is received and after you
6 hear the final summations of the lawyers, I will then
7 instruct you fully on the law as it relates to the criminal
8 law generally and as it relates to this particular crime
9 specifically, after which you'll be asked to go back and
10 begin with your deliberations. And through that process
11 you're simply going to be called upon through the exercise
12 of good judgment and common sense conscientiously applied
13 to the testimony and evidence in the case to decide the
14 facts, apply the law and arrive at a fair and just
15 decision, whatever that decision may be.

16 Now, it's important to keep an open mind throughout
17 the course of the trial. Give every witness the same
18 degree of attention as they testify so that at the trial's
19 conclusion when you go back to begin deliberations you'll
20 be in a proper position to be able to fairly and accurately
21 evaluate each witness' believability and credibility in
22 light of not just that witness' testimony but in light of
23 all of the testimony and all of the evidence received
24 during the course of the trial.

25 And, as I say, you have to keep an open mind

Opening statements

1 throughout the trial. Don't begin making up your minds or
2 formulating your opinions as to what you think the ultimate
3 decision ought to be in the case until all of the evidence
4 has been received, until I have instructed you on the law
5 that's applicable in the case and until you've been asked
6 to go back to begin with your deliberations.

7 That is the process that has been designed over the
8 last 238 years, I think it is now, in order to ensure that
9 you can render a fair and impartial decision.

10 So I do want to thank you in advance for your
11 participation, as well for your careful attention. Please
12 give the lawyers your attention now as they give you their
13 opening statements.

14 Ms. Poulos.

15 MS. POULOS: Thank you, Your Honor.

16 It was the night of April the 7th of 2015 about
17 8:45 p.m. Tiffany Jolley, mother of two, was working at
18 the Family Dollar, the late shift, closing, on Asheville
19 Highway up near Hearon Circle.

20 It was sort of a slow night that night. There weren't
21 a lot of customers. It was a stormy night. But that night
22 she was working behind the register when a man walked in
23 wearing blue jeans, a black hoodie over his head, green
24 mask over his face, his hands covered with black gloves
25 carrying a big canvas bag. walked up to the register,

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1 pulled out a black and silver gun, pointed it in her face
2 and demanded for all the money and the cigarettes to be put
3 in his bag.

4 well, Tiffany was obviously nervous. She was shaking.
5 She was freaking out as anybody would be. But she had no
6 choice but to comply.

7 So she started. Open up the register. She took the
8 cash. She started putting it in his bag. She was dropping
9 things as this process is going on.

10 He's yelling at her this whole time. He wants the
11 money. He sees a safe. She can't get into that safe, and
12 he grows angrier and angrier, and he's threatening to kill
13 her if she does something wrong.

14 So he then asked for the cigarettes. The cigarettes
15 were on the back shelf behind her. And so she starts
16 loading cigarettes, armfuls at a time into his bag, more
17 and more and more. And he's still yelling at her at this
18 point.

19 A little while later, a few seconds later, a customer
20 walks in -- Mr. James Lattimore. And Mr. Lattimore walks
21 in, and he looks over at the register and he sees what's
22 going on. And he knew that a robbery was taking place.

23 But rather than walk out as probably anybody would
24 have done, he walked towards the back of the store to warn
25 all of the other customers that were there, to tell them to

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1 be quiet, there was a robbery going up front and not to
2 walk up to the front of the store.

3 One of those customers, he warned, was a lady by the
4 name of Ms. Robin Hollis. And she was shopping with her
5 little girl on that night. And she got so scared that she
6 locked herself up in the bathroom and called 9-1-1 and
7 wouldn't walk out until the police got there.

8 Meanwhile, Tiffany is still up at the front and she's
9 still putting cigarettes into the bag that he had.

10 Finally, another customer walks in -- Ms. Pamela
11 Watts. And Ms. Watts walks in. She knows Tiffany. She
12 looked at her, and she could tell from one look in her eyes
13 that something was wrong. So she starts walking over to
14 the register.

15 And he at that point had his bag already full. And he
16 passes her, and he yells at her not to look at him before
17 he flees out the door and into the parking lot.

18 And from there he runs toward the back of the store
19 over to his car, which he had parked out behind the store
20 in sort of an alleyway, the dark area.

21 Blue lights come on almost immediately. He tries to
22 get away. But, unfortunately for him, it was all over.

23 You see, what he didn't know that night before we
24 decided to rob a Family Dollar was that the Spartanburg
25 County Sheriff's Office was conducting a stakeout.

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1 And Lieutenant Mike Gaddy was -- had been assigned to
2 that particular location, and he was there night monitoring
3 that store, and he saw the defendant pull up and park out
4 behind the store. He saw him turn his car around and
5 position it away from the store.

6 He saw him get out of his car, and he saw him walk
7 over to the corner of the store. He saw him peeping around
8 the corner. He was nervous. He was rubbing his hands
9 together. He was scoping out the scene. He was looking
10 around. He saw that.

11 Then he saw him go back to his car and a few minutes
12 later come back up to the store. But this time he was
13 wearing the same jeans and the hoodie, but the hoodie was
14 over his head, and he had a mask on, and he had a bag
15 hanging out of his pocket. And he saw him walk into the
16 store.

17 At that point Lieutenant Gaddy knew that there was a
18 robbery about to take place, so he kept his eyes on that
19 store, on the front to wait for him to walk out. And a
20 couple of minutes later when he came out he saw him running
21 towards the back of the store over to his car.

22 He instantly puts on his blue lights and tries to
23 conduct a traffic stop. Lieutenant Gaddy will testify that
24 he never let his eyes off of him the whole entire time. It
25 was an immediate.

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1 He tried to stop him, but, unfortunately, he
2 wouldn't -- he wouldn't stop. He tried to block his car.
3 He still wouldn't stop. And that left Lieutenant Gaddy no
4 other choice but to wreck his car to avoid a high-speed
5 chase, a pursuit, perhaps other people getting killed or
6 hurt in the process and to stop him going away.

7 And even he'll testify that as their cars were stuck
8 together he was still revving up the engine, still trying
9 to get away. You'll hear about all of that.

10 And shortly thereafter other officers began arriving
11 on the scene, and inside the car they found no one other
12 than the defendant in this case, Randy Glenn, all alone.
13 He still had on the same jeans, same hoodie that Lieutenant
14 Gaddy saw him just walking in the store with a couple of
15 minutes earlier. He still had the gloves on his hands. He
16 still had the gun in the waistband of his jeans.

17 At this point also in the car was the mask, which he
18 had taken off at that point. The stolen money was in his
19 car. And 187 packs of cigarettes that he had just stolen
20 from Family Dollar were also in his car. And so he was
21 immediately arrested and taken into custody.

22 Why are we all here? We're here because the state has
23 brought a charge against the defendant for armed robbery.
24 And because he has asked for a trial by jury, we are before
25 you all. And we have the burden of proving his guilt to

Opening statements

1 y'all beyond a reasonable doubt.

2 Ladies and gentlemen, we believe in this case the
3 evidence will show beyond a shadow of a doubt that Randy
4 Glenn committed this crime and that no one other than Randy
5 Glenn committed this crime, because, you see, he was seen
6 by police that night. The evidence will show that.

7 Lieutenant Gaddy will testify that he saw him park his
8 car around back. He saw him walk up to the store and scope
9 out the scene and acting nervous. He saw him go back to
10 his car and then come back a couple of minutes later, a few
11 minutes later, and -- and this is the same guy walking in,
12 back into the store, with a mask on with a hoodie over his
13 head with a bag hanging out of his pocket and then after
14 the robbery run out to his car.

15 Lieutenant Gaddy had it. He was right there watching,
16 right there the whole time.

17 So we submit to you that the evidence in this case
18 will show that nobody else other than Randy Glenn committed
19 this crime, because he was caught in the act, and that's
20 what we will prove to you.

21 Now, during the course of this trial you're going to
22 hear a lot of information. In just a few minutes you're
23 going to get to see the video. The robbery was on video,
24 so you'll get to actually see that take place.

25 You're going to get to see several photographs from

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1 inside the store, as well as outside when they -- when they
2 caught him. You'll get to see those pictures.

3 You'll get to hear the 9-1-1 call that was made from
4 the customer that had locked herself up in the bathroom.
5 You'll get to hear other calls that were over dispatch and
6 calls that were radioed in by police. You'll get to hear
7 from the witnesses, the customers, that were in the Family
8 Dollar that night.

9 You will hear from Lieutenant Mark Gaddy, and he's the
10 one that saw basically all of this unfold and that this
11 crime was taking place. And you'll hear testimony from
12 other officers as well.

13 And finally, or most importantly, I should say, you'll
14 get to hear from Tiffany Jolley in just a few minutes.
15 She's the victim and the clerk in this case. And she'll
16 tell you in her own words about what happened to her on
17 that really, really scary night for her, the other
18 customers, for really everyone involved and how that night
19 will be etched in her memory forever.

20 Ladies and gentlemen, thank you all for your service
21 on behalf of the state.

22 During the course of this trial all we can ask of you
23 all is just pay attention to the testimony. And most
24 important thing for y'all to do is use your good old common
25 sense. Thank you.

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1 THE COURT: Mr. Shealy.

2 MR. SHEALY: Thank you, Judge.

3 Ladies and gentlemen, my name is Matthew Shealy. I'm
4 with the public defender's office here in Spartanburg. And
5 I represent Mr. Glenn. I've been a criminal defense
6 attorney now for some years.

7 And I want to begin by apologizing if y'all don't like
8 the facial hair. I'm sorry. My wife likes it. I don't
9 particularly care for it. But if y'all have any problems
10 with it, hold that against me and not my client. Well,
11 hold it against my wife.

12 I've learned -- and my dad was a criminal defense
13 attorney, and he taught me not to make promises in the
14 opening because you never know what the testimony is going
15 to show.

16 I don't know exactly how all of these people are going
17 to testify, and you just don't know. They write
18 statements, but you hear things come out of that chair.
19 And there are going to be some weird things come out in
20 this particular case. I -- it's just going to be a strange
21 case. You are going to hear some strange facts, I expect.

22 You're going to hear things that the police did do
23 that were odd; you're going to hear things that the police
24 didn't do that they should have done.

25 I understand that the state thinks that they can prove

Opening statements

1 this beyond a shadow of a doubt. They don't have to do
2 that though. All they have to do is prove it beyond a
3 reasonable doubt. But they seem to think their case is so
4 very strong they can prove it beyond a shadow of a doubt.

5 Now, as I said, I don't believe that that's going to
6 happen. I believe at the end of this case you're going to
7 find my client not guilty and you're going to find that you
8 have a reasonable doubt.

9 A reasonable doubt is that doubt which would cause a
10 reasonable person to hesitate to act. Okay. It's not that
11 doubt which stops you from acting. In other words, it's
12 not whenever you're stopped trying to turn left, you see a
13 car, you're not sure if you can make it and you don't go.
14 Okay. Maybe you do go. Maybe you have a -- you pause.
15 You thought about that, and then you went.

16 So maybe you will ultimately believe the state's
17 version of events, but if you have a reasonable doubt as to
18 whether that's what happened you have to find my client not
19 guilty. Okay. Even if you think that they're more likely
20 right that's not sufficient.

21 We're here because my client has a constitutional
22 right to be here. He has a constitutional right to have
23 you make the determination as to whether he committed this
24 crime or not. And it's an absolute constitutional right.

25 So I understand the state believes in their case.

Tiffany Jolley
Direct examination by Ms. Poulos

1 Otherwise, we wouldn't be here. But I think they're going
2 to have some problems.

3 Now, again, I don't make promises in my opening
4 arguments because I've seen crazy things come out of that
5 chair. But I believe at the end of this case you're going
6 to find my client not guilty. And I'll tell you that right
7 now, that I believe that you will have at least a
8 reasonable doubt as to what happened that night and you
9 will find him not guilty. Thank you.

10 THE COURT: Ms. Poulos.

11 MS. POULOS: Thank you, Your Honor. The state calls
12 Tiffany Jolley.

13 TIFFANY JOLLEY, having been
14 first duly sworn, testified as follows:

15 DIRECT EXAMINATION BY MR. POULOS

16 Q If you would, ma'am, please introduce yourself to the
17 jury.

18 A My name is Tiffany Jolley.

19 Q And, Ms. Jolley, do you live in Spartanburg?

20 A I do.

21 Q Do you have children?

22 A I do.

23 Q How many children do you have?

24 A I have two.

25 Q Where do you work now?

Tiffany Jolley
Direct examination by Ms. Poulos

1 A ~~Bi-Lo on Asheville Highway.~~

2 Q Back on April the 7th of 2015 did you work at the
3 Family Dollar on 1480 Asheville Highway here in
4 Spartanburg?

5 A I did.

6 Q And on that night, or actually I should say what --
7 what time did the store normally close?

8 A At 10:00.

9 Q At 10:00.

10 A Uh-huh.

11 Q Okay. And on that particular night, April 7th, would
12 you say that there were steady customers in and out? Was
13 it slow? What was going on?

14 A It was -- it was a slow night because it was stormy.

15 Q It was what?

16 A Stormy.

17 Q Stormy.

18 A Uh-huh.

19 Q Okay. And just before closing time where you behind
20 the register? Were you working as a cashier?

21 A Yes, ma'am.

22 Q And what do you recall happening that night?

23 A I had just got through waiting on one customer, and I
24 was behind the register. And I heard the door open. And
25 when I looked I -- he moved so fast I didn't really, you

Tiffany Jolley
Direct examination by Ms. Poulos

1 know, see what was going on. And then before I knew it he
2 had came around the counter and had a gun in my face
3 telling me to open the register and he wanted the money in
4 the register.

5 Q Do you recall what he was wearing?

6 A I do. He had on blue jeans and a dark hoodie with a
7 hunter green like homemade mask out of a toboggan that he
8 cut the eyes out of, and the mouth -- and gloves.

9 Q Were you able to see his face?

10 A I seen his -- under his eyes, the skin under his eyes,
11 from the holes in the mask.

12 Q And what color of skin did you -- did you recall him
13 having?

14 A Brown.

15 Q Okay. And you stated that -- was he wearing gloves as
16 well?

17 A Yes, ma'am.

18 Q Okay. And so he told you. He demanded from you the
19 money and the cigarettes?

20 A Well, he demanded the money out of the register, and
21 it wasn't very much because we have to make drops because
22 of this kind of thing.

23 And so he got aggravated, and then he wanted me to open
24 the safe, and I can't get into the safe. Only managers can
25 get into the safe.

Tiffany Jolley
Direct examination by Ms. Poulos

1 And that's when I started getting upset, and I was like
2 I can't get into the safe, only managers can. And he
3 started telling me to calm down. And, well, I couldn't get
4 the register open at first. I was fumbling because I was
5 nervous. And he told me to calm down and do it right or he
6 would shoot me. He was calling me a bitch. He would tell
7 me he would hurt me.

8 And then when I told him I couldn't get in the safe he
9 start -- he told me to lie to him. I said I wasn't lying.
10 And then he was like, well -- then he just said, "Bitch,
11 cigarettes." And then he was yelling at me the whole time
12 to go faster and faster and calm down and do it right or
13 he'd shoot me or --

14 Q And I'm going to back you up just a little bit.

15 When he first walked in was he pointing a gun at you?

16 A Yes.

17 Q Okay. Do you remember what color gun that was?

18 A It was black and silver.

19 Q Did you believe that gun to be real?

20 A Yes, ma'am.

21 Q So did you, in fact, end up giving him money from the
22 register?

23 A I gave him everything I had in the register.

24 Q And with regard to the cigarettes, did he ask you for
25 a particular type of cigarettes?

Tiffany Jolley
Direct examination by Ms. Poulos

1 A He did. He wanted Newports.

2 Q And were there any other customers in the store at
3 that time?

4 A There was two females that had came in. And at the
5 time I didn't know that they were deaf. And it was a woman
6 and her daughter, I believe. And then Robin and her
7 daughter, I believe --

8 Q And Ms. Pamela Watts. Did she also walk in the store?

9 A Yeah.

10 Q You know her.

11 A I do. She was a regular customer.

12 Q Okay. What happened when she walked in?

13 A It startled him, and when she walked up she didn't
14 know what was going on. I tried to look at her, but I was
15 scared to say anything because I thought he might shoot me
16 or something. So I tried to look at her. And she walked
17 up, and he said, "Bitch, don't look at me." And then he
18 took off.

19 Q So he left the store after that?

20 A Yes.

21 Q Was he running?

22 A Yes, ma'am.

23 Q All right. What did you do then?

24 A From what I remember I told her. I just started
25 screaming I had been robbed. And then I can see the front

Tiffany Jolley
Direct examination by Ms. Poulos

1 window from where I was standing. And he did like a
2 turnaround, and it scared me. So I ran to the back of the
3 store because I thought he was going to come back.

4 Q Now, Ms. Jolley, the Family Dollar store had security
5 cameras throughout the store, is that -- is that correct?

6 A Yes, ma'am.

7 Q And to your knowledge were they recording at all
8 times?

9 A Yes, ma'am.

10 Q And was there a video of this incident from that
11 night?

12 A Yes, ma'am.

13 Q Was that provided to police?

14 A Yes.

15 Q Ms. Jolley, I'm going to hand you State's Exhibit 4
16 for Identification purposes and ask is that the video from
17 the Family Dollar.

18 A Yes, ma'am.

19 Q Have you had the opportunity to view that video?

20 A I have.

21 Q And does it fairly reflect the incident as it happened
22 that night?

23 A Yes, ma'am.

24 Q You are on that video, correct?

25 A Yes, ma'am.

Tiffany Jolley
Direct examination by Ms. Poulos

1 Q Okay.

2 MS. POULOS: Your Honor, at this time we'd ask that
3 State's Exhibit 4 be admitted into evidence.

4 MR. SHEALY: No objection.

5 THE COURT: It's admitted.

6 (Video from Family Dollar marked State's Exhibit No.
7 4.)

8 MS. POULOS: Thank you, Your Honor. May I publish the
9 video?

10 THE COURT: You may.

11 Mr. Alford, would you move that rail, whatever it is,
12 so the jury can move down?

13 Y'all move down one seat. You can see that screen a
14 little better.

15 (Pause.)

16 Q Ms. Jolley, I'm going to play this video. And is that
17 you behind the counter?

18 A Yes, ma'am.

19 Q Is that just another customer --

20 A Yes, ma'am.

21 Q -- that you were checking out?

22 A Yes.

23 Q Okay.

24 THE COURT: Ms. Jolley, let me -- I know -- you've got
25 your back to the court reporter. She's over here.

Tiffany Jolley
Direct examination by Ms. Poulos

1 When the solicitor or defense lawyer asks you a
2 question, you need to use that microphone. So you can look
3 at the screen, but turn back and speak into that
4 microphone.

5 THE WITNESS: Okay.

6 Q All right. Ms. Jolley, I've got this paused now.
7 But, if you could, explain to the jury where the front door
8 was to the store.

9 A It's to the left of the counter.

10 Q All right. Use this. Can you see it okay?

11 A Is it on?

12 Q Can you point to where the door was?

13 A It's right there.

14 Q Okay.

15 (Whereupon, the C.D. was played for the jury.)

16 Q This is another customer we see on the video, is that
17 correct?

18 A Yes, ma'am.

19 Q Okay. And just to clarify, Ms. Jolley, there is no
20 sound on this video, is that -- is that correct?

21 A Right.

22 Q Okay. If you would, just sort of set up for the jury.
23 He comes in the door. What's the path that he took?

24 A He came in the door right here real fast and then came
25 around the counter to me.

Tiffany Jolley
Direct examination by Ms. Poulos

1 Q Okay.

2 THE COURT: Don't forget about the microphone,
3 Ms. Jolley.

4 THE WITNESS: I'm sorry.

5 Q Ms. Jolley, if I could get you to look at the screen,
6 is that him walking in?

7 A Yes, ma'am.

8 Q What's in his right hand?

9 A A gun.

10 Q What's in -- what is he opening up?

11 A The bag for the -- he wanted the cigarettes put in.

12 Q All right. What is he telling you?

13 A He's telling me to -- I'm fumbling, and I couldn't get
14 in on the first try or the second try. And he's telling me
15 to come down and do it right or he'd hurt me, he'd shoot
16 me.

17 He was getting aggravated. He was calling me names,
18 calling me a bitch. And I was giving him all the money in
19 the register, and he's steadily talking to me and yelling at
20 me the whole time.

21 I told him I was going as fast as I could. I was
22 telling him I had kids, just, you know, don't hurt me, I'd
23 give him anything he wanted in the store. And then he
24 started demanding cigarettes when he found out I couldn't
25 get the safe open.

Tiffany Jolley
Direct examination by Ms. Poulos

1 Q Where is the safe?

2 A Right there. And he kept telling me to hurry up,
3 faster, faster.

4 I had cuts on my fingers because I was moving -- I was
5 going as fast as I could, and I was cutting my fingers up on
6 the plastic that held the cigarettes. And he was getting
7 aggravated because I was dropping them.

8 Q So he's -- is he still talking to you?

9 A Oh, he talks, yes, the whole time, yes, just telling
10 me to, you know, do it right, faster, bitch, and more and
11 more.

12 When I ran out of Newports, then he wanted the
13 Marlboros. And I was steady talking the whole time too,
14 telling him don't hurt me.

15 Q Who is that walking in?

16 A That's Pam, my regular -- the regular customer I know.
17 And then she's like what's going on. And as he ran out I
18 was telling her I had been robbed. And then I -- I could
19 see. There's a window, a big window, right there. And I
20 seen him do -- he turned around. I didn't know what he was
21 going to do, and I was afraid he was going to come back, so
22 I took off. And she followed. I ran to the back of the
23 store.

24 Q I'm going to play another angle, and this is the angle
25 from the entrance.

Tiffany Jolley
Direct examination by Ms. Poulos

1 MR. SHEALY: Judge, while she's cuing that up, is
2 there something we can do about this light?

3 THE COURT: There's nothing I can do about it. I
4 mean, I'm not tall enough to reach up there. Maybe when
5 you turn the lights back on it will stop. Not sure.

6 (Whereupon, light in courtroom was blinking.)

7 Q Okay. Ms. Jolley, is that the front of the store?

8 A Yes, ma'am.

9 Q This is just another camera angle, correct?

10 A Yes, ma'am.

11 Q Same night.

12 A Yes.

13 Q Okay. That's just another customer, just to clarify
14 for the jury, correct?

15 A Yes, ma'am.

16 Q That's not the robber.

17 A No.

18 Q Okay.

19 A That's him.

20 Q Who is that, do you know?

21 A That's Mr. Lattimore, the peacherman.

22 Q And who is that walking in?

23 A That's Pam.

24 Q Ms. Watts?

25 A Yes.

Tiffany Jolley
Direct examination by Ms. Poulos

1 Q Is he about to come out now?

2 A Yeah, yeah.

3 Q Ms. Watts, I am going to hand you now -- I'm going to
4 hand you States Exhibits 5 through 13 for identification
5 purposes and ask if you will take a look at those pictures.
6 And do those pictures fairly reflect the store?

7 A Yes, ma'am.

8 Q The location and the scene of the crime.

9 A Yes, ma'am.

10 MS. POULOS: Your Honor, at this time we'd ask that
11 State's Exhibits -- I believe it's 5 through 13 -- be
12 admitted into evidence.

13 MR. SHEALY: No objection.

14 THE COURT: They are admitted.

15 (Photographs marked State's Exhibits Nos. 5 through
16 13.)

17 MS. POULOS: Permission to publish, Your Honor.

18 Q Okay. Ms. Jolley, I'm going to show you State's
19 Exhibit 5 and ask that you -- let's see. Is that the front
20 of the store?

21 A It is.

22 Q This is State's Exhibit 6. Is that the front
23 register?

24 A Yes. That's where I was.

25 Q You were behind the register.

Tiffany Jolley
Direct examination by Ms. Poulos

- 1 A Right.
- 2 Q As we saw on the video.
- 3 A Right.
- 4 Q State's Exhibit 7. What's on the counter?
- 5 A Cigarettes I had dropped giving him the cigarettes.
- 6 Q This is State's Exhibit 8. Now, what is this view?
- 7 A That's where I was going back and forth from the
- 8 cigarettes to his bag giving him cigarettes, and those are
- 9 the cigarettes I dropped.
- 10 Q You dropped those?
- 11 A Yes.
- 12 Q Okay. This is State's Exhibit 9. Where is the front
- 13 door in relation to this picture?
- 14 A To the left.
- 15 Q Could you -- could you use the pointer and just show
- 16 the jury? See it a little more clear on the picture.
- 17 A Right here.
- 18 Q Okay.
- 19 A On the other side of this.
- 20 Q Okay. State's Exhibit 10. Is that also behind the
- 21 register?
- 22 A Yes, ma'am.
- 23 Q Okay. This is State's Exhibit 11. And what angle is
- 24 that?
- 25 A That is from the first register like looking at my

Tiffany Jolley
Direct examination by Ms. Poulos

1 register.

2 Q And where would -- where would the front door be in
3 relation to this?

4 A Behind it. I can't point to it. It's like on the
5 other side.

6 Q Okay.

7 A It's not in the picture.

8 Q So more towards the --

9 A Right.

10 Q This is State's Exhibit 12. Is that the front door?

11 A Yes, ma'am.

12 Q And is that the height ruler that you all had posted
13 on the front door?

14 A Yes, ma'am.

15 Q Okay. And this is State's Exhibit 13. Is that just
16 another angle of the front, of the area?

17 A It is.

18 Q And who is that gentleman there?

19 A That's Mr. Lattimore.

20 Q Mr. Lattimore.

21 A Uh-huh.

22 Q Okay. Was he one of the customers that you saw walk
23 in?

24 A Yes.

25 Q Okay. Now, Ms. Jolley, on that night -- you don't

Tiffany Jolley
Cross-examination by Mr. Shealy

1 know who robbed this store that night, correct?

2 A No, ma'am.

3 Q And that was because he had a mask on.

4 A Yes, ma'am.

5 Q Is that correct? But when did they catch him in the
6 parking lot, or behind the store I should say?

7 A Right after.

8 Q Right after.

9 A Right after.

10 Q Okay. Thank you, Ms. Jolley. Please answer any
11 questions that Mr. Shealy may have for you.

12 CROSS-EXAMINATION

13 BY MR. SHEALY

14 Q All right. Ms. Jolley, how long had you been working
15 at that Family Dollar?

16 A Six months.

17 Q And how long did you work there after the incident?

18 A I didn't.

19 Q You left at this incident. And when did you get the
20 job at Bi-Lo?

21 A About three months ago.

22 Q Okay. So you've been at Bi-Lo for about three months.

23 A Uh-huh.

24 Q And is that in same general area?

25 A It's on down, yes.

Tiffany Jolley
Cross-examination by Mr. Shealy

1 Q I mean, it's on Asheville Highway.

2 A Yes.

3 Q Like you say, it's a little ways down next to that
4 apartment complex, right?

5 A Yes, sir.

6 Q All right. Had you ever been robbed at that Family
7 Dollar before?

8 A No, sir.

9 Q And you're familiar now having worked at two different
10 places on Asheville Highway with the way Asheville Highway
11 is, is that true?

12 A Uh-huh.

13 Q How wide is it?

14 A It's four lanes.

15 Q It's four lanes. Is it four lanes with a turn lane,
16 or is it just four lanes, or do you know?

17 A It's -- I don't know what you mean.

18 Q Is there a left turn lane in the middle of those two
19 lanes? It's two lanes going one way and two lanes coming
20 back.

21 A And two lanes coming back, yes.

22 Q Right. Is there a median lane, in other words? Is
23 there a double yellow, do you know?

24 A There's a median, yeah.

25 Q There is a median.

Tiffany Jolley
Cross-examination by Mr. Shealy

1 A Right.

2 Q So it's actually about -- it's five lanes deep, just
3 two lanes going one way and two lanes going the other.

4 A Yes, sir.

5 Q And then a middle turning lane, right?

6 A Yes, sir.

7 Q Okay. And what was directly across from the Family
8 Dollar?

9 A A bar and grill.

10 Q Okay. Is that Rascals?

11 A Yes.

12 Q Rascals Bar and Grill?

13 A Yes, yes, sir.

14 Q How well could you see Rascals?

15 A You look out the window, and you see it well.

16 Q You could see the building, right?

17 A Uh-huh.

18 Q Okay. Now, the two videos that we have seen were both
19 from inside the store. Are you aware of any cameras on the
20 outside of the store?

21 A I have no idea.

22 Q You don't. Okay. And you're not in charge of
23 sighting those video cameras, are you?

24 A No, sir.

25 Q And so you can't really answer why that camera on the

Tiffany Jolley
Cross-examination by Mr. Shealy

1 front door did not particularly clearly show the height.

2 A It was clear to me.

3 Q So you could tell where it was?

4 A I mean, you could tell around where -- how tall he is
5 if you look.

6 Q And how tall was he?

7 A At a guess I'd say about 5'7".

8 Q Okay. I thought that you could tell clearly.

9 A I said about, around about.

10 THE COURT: Let me ask you to pull that microphone up
11 there and use that black microphone.

12 Q All right. You wrote a statement for the police
13 officer, is that correct?

14 A Yes, sir.

15 Q To begin did they -- we've heard tell in openings that
16 they may have been staking out this store. Were you aware
17 of that that night?

18 A No, sir.

19 Q So nobody told you anything about that.

20 A No, sir.

21 Q All right. But you did write a statement for the
22 police, correct?

23 A I did.

24 Q Okay. And do you remember that statement?

25 A Most of it, I do.

Tiffany Jolley
Cross-examination by Mr. Shealy

1 Q It might be best if I just hand it up to you real
2 quick if I may approach the witness.

3 I'm going to ask you just to read over it just to make
4 sure.

5 A Okay.

6 (Pause.)

7 A Okay.

8 Q Okay. Can you show me where in that statement you say
9 that it was a black fellow?

10 A No. I don't.

11 Q You don't.

12 A Uh-uh.

13 Q You wanted this statement to be helpful to the police
14 though, right?

15 A Right.

16 Q Wanted it to be full and complete.

17 A Right.

18 Q And the police officers gave you as much paper as you
19 needed, because you wrote two pages.

20 A Uh-huh.

21 Q In fact, I guess it was closer to a page and a half.

22 A Right.

23 Q But nowhere in here do you mention that it was a black
24 guy who robbed you, is that right?

25 A Okay.

Pamela Watts
Direct examination by Ms. Poulos

1 Q That's a yes, right?

2 A Yes, sir.

3 Q And what was your description of the gun?

4 A Black and silver.

5 Q And how long did all of this take, do you remember?

6 A Oh, it seemed like forever, but I'm sure just a few
7 minutes if that.

8 Q Yeah. It seemed like forever, just running through
9 it. But so you're thinking it was probably three or four
10 minutes, two or three minutes?

11 A If that, yeah.

12 MR. SHEALY: If I may approach the witness.

13 (Pause.)

14 MR. SHEALY: That's all I have for this witness.

15 MS. POULOS: Nothing further, Your Honor.

16 THE COURT: You may step down.

17 MS. POULOS: Your Honor, the state calls Pamela Watts.

18 PAMELA WATTS, having been
19 first duly sworn, testified as follows:

20 DIRECT EXAMINATION BY MS. POULOS

21 Q Ms. Watts, if you would, introduce yourself to the
22 jury.

23 A My name is Pamela Watts.

24 Q And back on April the 7th of 2015 were you at the
25 Family Dollar store on Asheville Highway?

Pamela Watts
Direct examination by Ms. Poulos

- 1 A Yes, yes, ma'am.
- 2 Q And were you with anybody or by yourself?
- 3 A By myself.
- 4 Q when you walked in did you see Tiffany?
- 5 A Yes, ma'am.
- 6 Q Do you know Tiffany?
- 7 A Yes, ma'am.
- 8 Q How do you know her?
- 9 A I come in the store a lot, and we talk.
- 10 Q And what was she doing behind the register?
- 11 A well, at the time she was behind the register, and she
- 12 was dumping all the cigarettes into the bag.
- 13 Q what was her demeanor like? How did she seem to you?
- 14 A well, when I first walked up to the door she was
- 15 trying to get me to not come in. She kept looking real
- 16 weird. And I was like what's wrong. And I walked on in,
- 17 and she was real nervous. And I could tell something was
- 18 wrong.
- 19 Q You could tell something was wrong?
- 20 A Yes, ma'am.
- 21 Q what happened next?
- 22 A I walked up, and the gentleman was standing up near
- 23 the counter. And I noticed she was just throwing stuff in
- 24 the bag -- cigarettes and stuff. And then he had turned
- 25 around and was coming out, leaving.

Pamela Watts
Direct examination by Ms. Poulos

- 1 Q When he turned -- did you pass him --
- 2 A Yes, ma'am.
- 3 Q -- as he was leaving?
- 4 A Yes.
- 5 Q And did he say anything to you?
- 6 A Yes. He just told me not to look at him.
- 7 Q And did he go on out the door --
- 8 A Yes.
- 9 Q -- after that? Now, could you see his face, or was it
- 10 covered with a mask?
- 11 A It was covered with a mask.
- 12 Q So you don't -- at this point you didn't know who it
- 13 was.
- 14 A No.
- 15 Q Okay. Now, Ms. Watts, you gave a statement to police
- 16 obviously. You gave a written statement, correct?
- 17 A Yes, ma'am.
- 18 Q And in that statement you stated that the person that
- 19 did this was a tall man, is that correct?
- 20 A Yes, ma'am.
- 21 Q Okay. And how tall are you, ma'am?
- 22 A I'm about 5'2 -- 5'3".
- 23 Q Okay. Is it fair to say that he was taller than you?
- 24 A Yes.
- 25 Q Okay. Why did you use the word tall?

Pamela Watts
Cross-examination by Mr. Shealy

- 1 A Because he was taller than me.
2 Q Okay. Fair enough, right?
3 Okay. And do you know about how long after he -- you
4 saw him running out of the store he was arrested?
5 A Oh, it was probably seconds later. It was very fast.
6 Q Very fast.
7 A Yes, ma'am.
8 Q Okay. Thank you. Please answer any questions
9 Mr. Shealy may have for you.

10 CROSS-EXAMINATION

11 BY MR. SHEALY

- 12 Q But you didn't actually see anybody get arrested.
13 A No, sir.
14 Q So you can't really say when someone got arrested
15 since you didn't see it.
16 A No, sir. But the cop had come in and told us that
17 they had gotten him.
18 Q Okay. So the police officer comes in and tells you
19 that they got somebody.
20 A Yes.
21 Q But you didn't see anybody get arrested.
22 A No. I didn't.
23 Q All right. And you said that you're 5'2" or 5'3". Do
24 you describe yourself as being regular size? I mean, no
25 offense -- I'm short too -- but -- and I've always been

Pamela Watts
Cross-examination by Mr. Shealy

1 short, but I mean --

2 A No. I consider myself short.

3 Q Short.

4 A Right.

5 Q Okay. So simply because someone's taller than you
6 doesn't mean that they are tall.

7 A Yeah. They're tall, taller than me.

8 Q So taller than you. I mean, that's pretty much
9 everybody. I mean not everybody. But a great percentage
10 of people are tall people.

11 A Taller than me.

12 Q Well, I understand that they're taller than you. But
13 when you're giving information to the police you want it to
14 be helpful, right?

15 A Uh-huh.

16 Q And you want it to be complete. You want it to be
17 accurate.

18 A Right.

19 Q And you want them to be able to -- to find the guy who
20 did this, right?

21 A Right.

22 Q So, I mean, it doesn't seem particularly helpful
23 whenever the entire universe of people are tall. Do you
24 see what I'm saying?

25 A Right.

Pamela Watts
Cross-examination by Mr. Shealy

1 Q I'm trying to understand what you -- why you called
2 him tall if he was actually my height.

3 A I don't know. I can't explain that. It is just
4 taller than me. That's all I could say. I mean, he was
5 just tall.

6 Q So you would call me tall?

7 A Yeah.

8 Q Okay.

9 MR. SHEALY: Bear with me, Judge.

10 (Pause.)

11 Q And do you remember what color you thought the bag
12 was? I can hand you your statement.

13 MR. SHEALY: If I may approach the witness, Judge?

14 THE COURT: You may.

15 Q If you'll just read over the whole thing, and I'll ask
16 you some questions about it.

17 (Pause.)

18 A Okay.

19 Q Back to the question, was do you remember what color
20 bag you thought he had.

21 A The white bag.

22 Q Okay. A white bag?

23 A White or cream.

24 Q White or cream. And what kind of bag was it?

25 A It was the -- it wasn't the plastic bag. It was the

Pamela Watts
Redirect examination by Ms. Poulos

1 reusable bags like you get at the Bi-Lo or something. But
2 it was white or cream.

3 Q You call it -- no. Okay. That wasn't.

4 MR. SHEALY: That's all I have for this witness,
5 Judge.

6 MS. POULOS: Just a couple, Your Honor.

7 REDIRECT EXAMINATION

8 BY MS. POULOS

9 Q Ms. Watts, you testified about his height. But could
10 you see also the color of his skin?

11 MR. SHEALY: Objection, Your Honor. I don't believe
12 that they can go into that on redirect.

13 MS. POULOS: I'll move on, Your Honor.

14 Q Your Honor -- I mean, Ms. Watts, that, in fact, the
15 written statement you gave, was your statement, correct?

16 A Yes. It was.

17 Q Okay. And you were free to use whatever words that
18 you wanted to use, correct?

19 A Yes.

20 Q Nobody told you what words to use.

21 A No.

22 Q Thank you.

23 THE COURT: You may step down.

24 MS. POULOS: Your Honor, the state calls James
25 Lattimore.

James Lattimore, Jr.
Direct examination by Ms. Poulos

1 JAMES LATTIMORE, JR., having
2 been first duly sworn, testified as follows:

3 DIRECT EXAMINATION BY MS. POULOS

4 Q If you would, sir, please introduce yourself to the
5 jury.

6 A My name is James Lattimore, Jr.

7 Q You're related to Marcus?

8 A Marcus is my nephew.

9 Q Where do you work, sir?

10 A D.A.V., military, disabled through the military.

11 Q Do you also do work for the church?

12 A I do lots of missionary, and also volunteering.

13 Q Back on the night of April the 7th of 2015 did you go
14 to the store, Family Dollar, on Asheville Highway?

15 A I did.

16 Q And what were you going to buy there, sir?

17 A I was going to buy a composition book, which it could
18 have waited till Saturday. But I purchased that.

19 Q Was anybody with you, or were you alone?

20 A I was alone.

21 Q And when you walked in what did you see?

22 A As I entered the building I -- I glanced over to my
23 right -- my right side. And I saw someone with -- with the
24 cover on their head or face covered up. I didn't know who
25 it was. But immediately I knew that the store -- we in

James Lattimore, Jr.
Direct examination by Ms. Poulos

1 danger here, the store is being robbed.

2 Q Did you see Ms. Jolley behind the register?

3 A I did.

4 Q And what was she like?

5 A She was hysterical. She was -- had her hands just
6 shaking and all of that. So when I saw that, so I -- I --
7 it put in my heart that I was -- it was the truth.

8 So as I was walking down the aisle I saw two ladies,
9 and I went over to them, and I told them, shoo, shoo, I
10 think we're being robbed.

11 So by then they started making, you know, like
12 hollering, and I kept on saying shoo, shoo.

13 So as I got them I continued to walk down the aisle,
14 and it was two more ladies. So I told them the same thing.
15 So they was hysterical. And as I -- they were doing the
16 same thing.

17 So when I went down again there was this lady and her
18 daughter. And I told her, and she got hysterical. And I
19 said -- and she went in the bathroom in the back back there.
20 And that's when she called 9-1-1.

21 Q Did she lock herself up in the bathroom?

22 A She looked herself up in a bathroom door. And as I
23 came from the back the cashier came running down the aisle
24 with her hands up saying that he had a pistol to my head,
25 he had a pistol to my head. And by then -- I can continue?

James Lattimore, Jr.
Cross-examination by Mr. Shealy

1 Q Yes, sir.

2 A And by then everyone else -- we came into a circle.
3 Everybody was hysterical. And I think to myself these
4 ladies, all these ladies. I was in here. I was the only
5 man in here. And I said, Lord, give me the words to say.
6 So we -- I prayed for them all. And then, you know, it
7 could have been worse. And so I was happy to be there to
8 comfort them.

9 Q Mr. Lattimore, do you know how long after the robbery
10 that he was arrested?

11 A Well, after being in the back the officers -- they
12 came in and was questioning, you know -- you know, all of
13 us. And then, by then, the officers came in. And they --
14 yeah. They came in there.

15 Q Okay. So would it -- would it be fair to say that it
16 was pretty immediate?

17 A It was, it was, the force, show of force, that night.

18 Q Thank you. Please answer any questions Mr. Shealy may
19 have for you.

20 CROSS-EXAMINATION

21 BY MR. SHEALY

22 Q All right. Mr. Lattimore, I don't have too many
23 questions for you. But when you came in, what kind of
24 weather was going on outside?

25 A Excuse me?

James Lattimore, Jr.
Cross-examination by Mr. Shealy

1 Q Tell me about the weather that day.

2 A The weather. I -- I really don't remember was it
3 raining or whatever.

4 Q Okay. So you don't remember if it was raining or not?

5 A I don't.

6 Q Okay. Do you remember how many cars were in the
7 parking lot?

8 A It was about two.

9 Q Two cars.

10 A When I drove up. I was the third car, and I parked
11 right in front of the door.

12 Q Okay. And how many people were in there?

13 A It had to be about close to ten. It was about ten,
14 nine or ten. All of them ladies.

15 Q Okay. And there were -- so you had three cars in the
16 parking lot that you can recall, and ten people, is that
17 accurate, in the store?

18 A Approximately ten.

19 Q Somewhere around ten.

20 A Somewhere. Maybe eight, nine or ten.

21 Q Okay. When you came in, you got any idea -- when you
22 wrote the statement you didn't mention any description. Do
23 you have -- I mean, did you get a look at the size of the
24 fellow?

25 A I know what I saw.

James Lattimore, Jr.
Cross-examination by Mr. Shealy

- 1 Q Okay.
- 2 A I came in the building, and I didn't know the size.
- 3 He had on a hood -- buggy suit. Okay. I don't know his
- 4 size or whatever. But my eyes didn't fool me.
- 5 Q I didn't say they did.
- 6 A Okay.
- 7 Q What do you mean by a buggy suit?
- 8 A Like a parker or maybe something like that with hooded
- 9 -- hooded.
- 10 Q It was puffy?
- 11 A Kind of, yes.
- 12 Q Like a big jacket type thing?
- 13 A Yeah. About the size he is now, yeah.
- 14 Q About the size he is now?
- 15 A He came up to about like that, yeah.
- 16 Q About like that?
- 17 A Yeah, no, no, no, no, no.
- 18 Q How big?
- 19 A About like -- about like that, yeah.
- 20 Q Okay. And what kind of -- did you see the face at
- 21 all?
- 22 A The face was covered up. All of this was covered up.
- 23 Q All right. Because looking at your statement it
- 24 doesn't look like you gave any description. Isn't that
- 25 right?

James Lattimore, Jr.
Redirect examination by Ms. Poulos

1 A Well, I said that he was -- a person was in there, had
2 a -- had a mask or something on his face. That's the
3 description that I gave. I didn't know who it was. I
4 didn't know what color it was, or it was a lady or a man.
5 Only thing I knew, that this guy had this cashier
6 hysterical.

7 Q Sure, sure. So you -- like you say, you don't know
8 anything about the fellow or the girl. Could have been
9 lady or man, you just said.

10 A Well, just like I said, I didn't know, you know, who
11 it was. It -- it was covered up.

12 Q Okay.

13 A That's --

14 MR. SHEALY: That's all I have of this witness.

15 MS. POULOS: Just one, Your Honor.

16 REDIRECT EXAMINATION

17 BY MS. POULOS

18 Q Mr. Lattimore, you couldn't give a detailed
19 description because you didn't come that close to him,
20 correct?

21 A I wasn't close to him at all. The cash register was
22 all way to the end almost of the store, whereas before the
23 one, two, three other cash registers, they was closed. No.
24 I didn't see no description. Again, I don't know who it
25 was, but I know they got -- he -- who -- they got these

Robin Hennington-Hollis
Direct examination by Ms. Poulos

1 ladies upset.

2 Q Thank you, Mr. Lattimore.

3 MR. SHEALY: Nothing further, Your Honor.

4 THE COURT: You may step down.

5 MS. POULOS: Your Honor the state calls Robin
6 Hennington-Hollis.

7 ROBIN HENNINGTON-HOLLIS,
8 Having been first duly sworn, testified as follows:

9 DIRECT EXAMINATION BY MS. POULOS

10 Q Ms. Hollis, if you would, introduce yourself to the
11 jury.

12 A My name is Robin Hennington-Hollis.

13 Q Back on the night of April 7th of 2015 were you at the
14 Family Dollar on Asheville Highway?

15 A Yes.

16 Q And who were you there with, ma'am?

17 A My six-year-old daughter, Sabrea.

18 Q Okay. And were y'all shopping that night?

19 A Yes. I had to pick up a few household items.

20 Q Did you go to the back of the store at some point?

21 A Yes. That's where the household items are located, in
22 the back of the store.

23 Q And at some point when you were in the back with your
24 little girl did you learn that the store had been robbed?

25 A Yes. Mr. Lattimore came to the back. He walked to

Robin Hennington-Hollis
Direct examination by Ms. Poulos

1 the back, and he told us to be quiet, the store was being
2 robbed, to stay put.

3 I just got -- I got really scared and I just -- my
4 heart started racing. My daughter was there. And I seen an
5 employee bathroom, and I just slid into the bathroom and
6 locked the door and called 9-1-1.

7 Q Did you tell the 9-1-1 operator that the Family Dollar
8 was being robbed?

9 MR. SHEALY: Objection, Your Honor. I believe that
10 would be hearsay.

11 THE COURT: Overruled.

12 MS. POULOS: Your Honor, I think she can testify as to
13 what she said.

14 THE COURT: All right. Go ahead. Overruled.

15 MS. POULOS: Thank you.

16 Q Did you tell the 9-1-1 operator that the store was
17 being robbed?

18 A Yes, ma'am.

19 Q Did you stay locked in the bathroom with your little
20 girl until the police got there?

21 A Yes.

22 Q It's fair to say it was pretty scary for you?

23 A Yes.

24 Q Okay. Thank you. Please answer any questions the
25 defense may have.

Robin Hennington-Hollis
Cross-examination by Mr. Shealy

1 CROSS-EXAMINATION

2 BY MR. SHEALY

3 Q Only one. My understanding is that you didn't
4 actually see anything. You were just told by
5 Mr. Lattimore. Is that accurate?

6 A Correct.

7 MR. SHEALY: That's all I have.

8 THE COURT: You may step down.

9 MS. POULOS: Your Honor, state calls Investigator Mark
10 Gaddy.

11 MARK GADDY, having been first
12 duly sworn, testified as follows:

13 DIRECT EXAMINATION BY MR. POULOS

14 Q If you would, sir, please introduce yourself to the
15 jury.

16 A My name is Mark Gaddy. I'm an investigator with the
17 Spartanburg County Sheriff's Office.

18 Q And how long have you been with the sheriff's office?

19 A Since 1993. About 22 years.

20 Q And what sort of background do you have with law
21 enforcement?

22 A Since I've been at the sheriff's office I was -- I was
23 in the R -- in the resident deputy program. I was a
24 third-shift supervisor. I was a lieutenant of training for
25 16 years, and I was lieutenant in training at the time of

Mark Gaddy
Direct examination by Ms. Poulos

1 the -- the incident that we're discussing here before the
2 Court.

3 Q Do you also have SWAT experience?

4 A Yes, ma'am. I'm also the SWAT team commander and was
5 over the dogs for a number of years.

6 Q And at the time of this incident you were -- you
7 stated you were a lieutenant.

8 A Yes, ma'am.

9 Q And at some point did you go back to investigations?

10 A Yes, ma'am.

11 Q Okay. Back on April the 7th of 2015 were you involved
12 in the investigation of a robbery at the Family Dollar
13 located at 1480 Asheville Highway?

14 A Yes, ma'am.

15 Q Is that in Spartanburg County, sir?

16 A Yes, ma'am.

17 Q And on that night was a stakeout operation being
18 conducted by the sheriff's office?

19 A Yes, ma'am.

20 Q Okay. And were there several other stores that were
21 being monitored that night?

22 A Yes, ma'am.

23 Q Were you assigned to that particular location, that
24 Family Dollar?

25 A Yes, ma'am, the Family Dollar at 1480 Asheville

Mark Gaddy
Direct examination by Ms. Poulos

1 Highway.

2 Q Do you recall what the weather was like?

3 A It was raining kind of off and on. It would spit a
4 little bit and then go back and not for a while. But it
5 was cloudy and damp.

6 Q And where were you positioned in relation to the
7 Family Dollar?

8 A Directly across the Asheville Highway.

9 Q Did you have a clear view of the store?

10 A Yes, ma'am, and the parking lots to the left and the
11 right of the store.

12 Q Did you also have a clear view behind the store as
13 well?

14 A When you say behind the store, yes, to the left and
15 the right, but of course not directly behind the store.

16 Q Okay. Obviously. I'll rephrase my question.

17 Could you see the alleyway behind the store?

18 A Yes, ma'am.

19 Q Okay. Now, as you were sitting there parked in your
20 car did you observe anything suspicious?

21 A About 8:40, 8:45, somewhere in there, I observed a car
22 come in.

23 There's a little access road that comes from White
24 Avenue into the Family Dollar parking lot. And I observed a
25 dark-colored car come in just to the edge of the parking lot

Mark Gaddy
Direct examination by Ms. Poulos

1 and then turn around and go back out. And about five
2 minutes after that I observed somebody walking across the
3 parking lot.

4 Q Okay. And when you saw that person walk in the
5 parking lot, could you tell that they had come from that
6 vehicle that you had just seen?

7 A They -- they came from that direction. I couldn't
8 tell it was from that vehicle, but they came from the same
9 direction that the vehicle turned and went back.

10 Q Okay. Did you see any other vehicles back in that
11 alleyway behind -- behind the store?

12 A No, ma'am.

13 Q Okay. And when you saw that person walk up, what did
14 they do?

15 A When the person came they came to the -- through the
16 parking lot.

17 He had on a dark-colored hoodie, and he came to the
18 corner of the building. And when he got to the corner he
19 actually turned and looked down the front of the building
20 like that.

21 And then after he did that he -- you know, you could
22 see him kind of wrenching his hands. And he walked back,
23 all the way back, to the back of the parking lot to the
24 fence down toward -- back where he had come from.

25 And then he turned and came back up again. And when he

Mark Gaddy
Direct examination by Ms. Poulos

1 got to the corner he -- his face at that time appeared to be
2 covered, and he give another one of these and then turned
3 and went down the front of the building and into --

4 Q Did you see anything hanging out of his pocket?

5 A Yes, ma'am. There was a light-colored object hanging
6 out of his front pocket, front left pocket.

7 Q But you stated you could tell his face was covered?

8 A Yes, ma'am.

9 Q And about what time was that that you saw him go to
10 the store, do you recall?

11 A I -- I don't recall exactly. It was probably
12 somewhere around 8:50, somewhere in there maybe.

13 Q And did you radio out the information over dispatch?

14 A Yes, ma'am. As this was happening I started calling
15 Officer Gary who was in charge of the detail that night
16 telling him what was going on and that we had activity at
17 that store and that they should start heading that way.

18 Q Okay. So did -- you said you saw him go into the
19 store.

20 A Yes, ma'am.

21 Q All right. What did you do then?

22 A At that point we were told not to -- you know, do
23 everything we could to keep it from going to a hostage
24 situation. So I just sat there and observed and kept
25 everybody updated on -- to as much -- to the point as I

Mark Gaddy
Direct examination by Ms. Poulos

1 could as to what was going on inside the store.

2 I couldn't -- couldn't see anything, but I could
3 certainly tell if somebody else came in and something, you
4 know, any of -- anything like that.

5 And then after he -- after a number of minutes -- and
6 it probably seemed like it was longer than it actually
7 was -- but after a number of minutes -- when he went in it
8 was probably a couple of minutes later that another man went
9 in, and you could see the man go in and go down the center
10 main aisle of the store.

11 Q Was that a customer?

12 A Yes, another customer, a customer at that point. And
13 -- and he looked down to where they were at. He probably
14 stood there for what seemed like 30 seconds. And then he
15 just kind of went on and started -- you know, went back,
16 looked like he was shopping to me. But then it was a
17 couple of minutes after that that somebody broke, you know,
18 busted out of the store and took off back through the
19 parking lot.

20 Q when he took off back in the parking lot was he
21 running?

22 A Yes.

23 Q what did you do then?

24 A At that point I could hear on the radio that nobody
25 was really closer than I was. So at that point I decided

Mark Gaddy
Direct examination by Ms. Poulos

1 that -- that something -- you know, I had to come out of
2 position. And when I did, you know, looking down Asheville
3 Highway toward the city, there was nothing coming. But
4 coming from the Hearon Circle there was a white Dodge
5 pickup truck that I had to wait and see where they were
6 going to go.

7 I'd turned my blue lights and siren switches on. But
8 to activate my siren I had to hit my -- my horn, and I was
9 not able to do that. But after I was able to see that the
10 white Dodge was giving me the right-of-way I went into the
11 parking lot, started down back towards him and --

12 Q Had he gotten into his car at that point?

13 A I lost sight of him for probably two seconds when he
14 turned the corner. And as I come around the corner down
15 there at the alley -- what I call the ally -- a
16 dark-colored car was starting to pull out of being right on
17 the side of the road, which was something that we had been
18 told in the briefing that was possible that the person had
19 parked close and walked in. But I was trying.

20 I had made up my mind that I was going to try to keep
21 him from going because it was damp. We didn't need a
22 pursuit happening or anything that night.

23 Q So did you try to block his car?

24 A I -- I was going to try, but he was coming out of
25 position and there was no way I could. So I made the

Mark Gaddy
Direct examination by Ms. Poulos

1 conscious decision at that time to make contact with his
2 vehicle with mine to keep him from --

3 Q Was -- did -- did -- was it obvious that he was trying
4 to -- to get away?

5 A Yes, ma'am.

6 Q Is that why that you decided to collide with his car?

7 A Yes, ma'am.

8 Q And, sir, after -- after you had collided with his car
9 did -- did he -- did he stop, or did he still continue to
10 try to get away?

11 A Once I made contact with his vehicle I took my
12 seatbelt off and got out and challenged him at gunpoint and
13 told him that he needed to stop.

14 And at that point our vehicles had -- had hooked
15 together. And he was still -- you could hear the -- the
16 engine racing where he was trying to go either forward or
17 backwards, just trying to get -- get out. But, like I say,
18 our vehicles were connected together where he couldn't. He
19 couldn't move.

20 Q Could you describe how they were -- they were
21 connected?

22 A The front passenger quarter panel of my Suburban had
23 made contact with the driver's door, just behind the front
24 quarter panel on the driver's side of the suspect vehicle.

25 Q And did you call out to -- did you radio out that you

Mark Gaddy
Direct examination by Ms. Poulos

- 1 had been involved in -- in an accident --
- 2 A Yes, ma'am.
- 3 Q -- with the suspect?
- 4 A Yes, ma'am.
- 5 Q Okay. And you held him until other officers arrived?
- 6 A Yes, ma'am.
- 7 Q Did he appear to be unconscious at this time?
- 8 A No, ma'am.
- 9 Q Did he appear to be injured at this time?
- 10 A No, ma'am.
- 11 Q Okay. And was he arrested after the other officers --
- 12 A Yes, ma'am.
- 13 Q Sergeant William Gary and others arrived on the scene?
- 14 Did you know the defendant prior to his arrest?
- 15 A No, ma'am.
- 16 Q All right. Lieutenant Gaddy, I'm going to -- I'm
- 17 going to show you State's Exhibit 3 for identification
- 18 purposes and ask does that photo fairly reflect sort of the
- 19 aerial map of the area.
- 20 A Yes, ma'am.
- 21 Q Okay.
- 22 MS. POULOS: Your Honor, at this time we'd ask that
- 23 State's Exhibit 3 be admitted into evidence.
- 24 MR. SHEALY: No objection, Your Honor.
- 25 THE COURT: It's admitted.

Mark Gaddy
Direct examination by Ms. Poulos

1 (Aerial map marked State's Exhibit No. 3.)

2 MS. POULOS: Permission to publish, Your Honor.

3 THE COURT: You may.

4 Q Lieutenant Gaddy, I'm going to show you State's
5 Exhibit 3 if I can zoom in just a little bit here. And I'm
6 going to hand you this pointer and just ask that you sort
7 of help us set up the scene as to what's going on. If you
8 could point to --

9 THE COURT: Please adjust that microphone so we can
10 hear you.

11 Q If you could, point to the Family Dollar store, sir.

12 A Right here.

13 Q Where was that?

14 A Right here.

15 Q Okay. Is that where it says Liberty Leasing and Auto
16 Rentals?

17 A Yes, ma'am.

18 Q But that's actually the Family Dollar.

19 A Yes, ma'am.

20 Q Correct?

21 A Yes, ma'am.

22 Q Okay. If I could, sir, I'll -- mark on the exhibit
23 the Family Dollar so that we're a little more accurate.

24 A Just put an X on it?

25 Q Yes, sir.

Mark Gaddy
Direct examination by Ms. Poulos

1 (Whereupon, the witness complied.)

2 Q All right. Where is Asheville Highway?

3 A This -- this is Asheville Highway right here.

4 Q Okay. Where is Hearon Circle?

5 A Hearon Circle is up this way.

6 Q So the Family Dollar is where you have the X.

7 A Yes, ma'am.

8 Q Can you point to where the front parking lot is?

9 A Right here.

10 Q Okay. Where were you positioned?

11 A Right here.

12 Q Where was the alleyway where you caught the defendant?

13 A Right here. This is -- this is White Avenue and this
14 is the little alleyway that I was talking about.

15 Q Okay. Where did you see his car first pull up and
16 turn around and park before the robbery?

17 A Right in -- right in here at the end of the parking
18 lot. It came and turned and then went back this way.

19 Q And where did you see him when he walked to the corner
20 of the store and look around?

21 A He came from this direction to here. That's -- the
22 first time is when he peered around the corner. And then
23 from there he walked all the way back down here. And then
24 he came back. And at that point he looked around again and
25 went around the front and into the store.

Mark Gaddy
Direct examination by Ms. Poulos

1 Q And just so we're extra clear, where is the front
2 doors to the store? Can you point to those?

3 A I would say that they're approximately close to the
4 midline that you can see right here on the roof.

5 Q Okay. And when you saw him running out of the store,
6 can you just show us with your vehicle where you were and
7 where you ended up and where you wrecked him?

8 A I started. I was in my vehicle right here. And as he
9 came out and started back down this way I cleared traffic
10 toward the city, came across, had encountered the white
11 Dodge pickup truck about where the 56 is and came straight
12 into the parking lot, came down, turned, saw the car coming
13 out of position, made the conscious decision to make
14 contact with the vehicle right here. And I would say right
15 in here is where the -- the incident took place.

16 Q Is there a fence in that -- in that area that you
17 recall?

18 A Yes, ma'am, on -- right -- right in here.

19 Q Lieutenant Gaddy, I'm going to ask you to take a look
20 at State's Exhibits 14 through 17 for -- that are marked
21 for identification purposes.

22 A Yes, ma'am.

23 Q And ask if you recognize what's in -- in the photos.
24 Is -- is that your vehicle depicted in the photo, and the
25 defendant's vehicle?

Mark Gaddy
Direct examination by Ms. Poulos

1 A Yes, ma'am.

2 Q Do they fairly reflect the scene, how it was when --
3 when you, in fact, collided with him?

4 A Yes, ma'am.

5 MS. POULOS: Your Honor, at this time we'd ask that
6 State's Exhibits 14 through 17 be admitted into evidence.

7 MR. SHEALY: No objection.

8 THE COURT: They're admitted.

9 MS. POULOS: Thank you, Your Honor.

10 (Photographs marked State's Exhibits Nos. 14 through
11 17.)

12 Q Lieutenant Gaddy, this is State's Exhibit 14. If you
13 would, describe what is in that photo.

14 A This is -- this is my vehicle right here, and it's,
15 like I said, where the front quarter panel on the passenger
16 side has made contact with the suspect vehicle just at the
17 door on the driver's side of the suspect vehicle.

18 Q So just to be clear, your vehicle is on the left, is
19 that correct?

20 A Yes, ma'am. This one.

21 Q And the suspect's vehicle is -- is on the right.

22 A Yes, ma'am.

23 Q Okay. This is State's Exhibit 15. What is in that
24 photo?

25 A That would be the suspect vehicle, and some of my

Mark Gaddy
Direct examination by Ms. Poulos

1 vehicle is right here. Most of it is the suspect vehicle.

2 Q This is State's Exhibit 16. This is just a front
3 angle. And, again, where is the suspect's vehicle?

4 A This is the suspect vehicle, and mine's on this side
5 right here. You can just see where the light's on.

6 Q And this is State's Exhibit 17. Is that just another
7 angle?

8 A Yes, ma'am. And you can see where contact was made
9 right here. And where he was driving off is what caused
10 the scratch marks on the side.

11 Q Now, Lieutenant Gaddy, I was going to ask you a little
12 bit about the stakeout. You were involved in this stakeout
13 operation that night. Is it Spartanburg County Sheriff's
14 office policy to video a stakeout?

15 A No, ma'am.

16 Q Are you typically equipped with a body camera?

17 A No, ma'am.

18 Q And why not, sir?

19 A I wasn't issued one.

20 Q Who are they usually issued to?

21 A Uniform patrol primarily.

22 Q But you're not a uniform patrol.

23 A No, ma'am.

24 Q Are investigators equipped body cams?

25 A No.

Mark Gaddy
Direct examination by Ms. Poulos

- 1 Q All right. What about dash cams? Was your vehicle
2 equipped with a dash camera that night?
- 3 A No, ma'am.
- 4 Q And why not?
- 5 A Because I'm not issued one.
- 6 Q Is that standard?
- 7 A It's -- yes, ma'am.
- 8 Q Okay. So it's not unusual for you as an
9 investigator -- or lieutenant at the time actually -- to
10 have neither a body camera or a dash camera in your
11 vehicle.
- 12 A Correct.
- 13 Q That's just policy.
- 14 A Correct.
- 15 Q Okay. Now, at any point from the time that you
16 watched him walk up to the store with his face covered with
17 a mask and a hoodie over his head and go into the store, is
18 there any point that you lost sight of him?
- 19 A Yes, ma'am, when he was in -- when he went around the
20 corner as he was running back.
- 21 Q You're talking about after the robbery?
- 22 A That was after.
- 23 Q Okay.
- 24 A And then when he cut in and cut a hard right inside
25 the store I couldn't see him when he was down with -- at

Mark Gaddy
Direct examination by Ms. Poulos

1 the clerk's island or whatever it was there during that
2 time.

3 Q Sure. And that was because he was inside the store.

4 A Yes, ma'am.

5 Q Okay. Now, when he came running out you just stated
6 that you lost sight of him. But how -- how long would you
7 say you lost sight of him?

8 A A couple of seconds.

9 Q A couple of seconds. That's it.

10 A That's it.

11 Q Okay. Was there anybody else running from the store
12 at the time?

13 A No, ma'am.

14 Q Was there anybody else even walking out towards the
15 back of the parking lot, or behind?

16 A Not that I recall.

17 Q Did you see anybody else going in the direction that
18 he was going?

19 A No, ma'am.

20 Q Was the defendant wearing the same clothes when he
21 came out of the store as you saw him go in the store?

22 A Yes, ma'am.

23 Q And was he, sir, in fact, wearing the same clothes
24 when you had caught him as we see in that picture?

25 A Yes, ma'am.

Mark Gaddy
Cross-examination by Mr. Shealy

1 Q So it's fair to say that your traffic stop -- was it
2 pretty instantaneous, pretty immediate?

3 A Yes, ma'am.

4 Q Okay. Thank you please answer any questions the
5 defense may have.

6 CROSS-EXAMINATION

7 BY MR. SHEALY

8 Q Okay. Officer Gaddy, you testified it's not policy
9 when y'all are on a stakeout to issue dash cams.

10 A Yes, sir.

11 Q Do you have a cell phone?

12 A I do.

13 Q Okay. That's got a camera, right? So cameras are
14 pretty -- I mean, most people have cell phones.

15 A Yes, sir.

16 Q And most of those cell phones have cameras in them.

17 A Yes, sir.

18 Q So cameras aren't that difficult to come by.

19 A No, sir.

20 Q Now, if you -- it didn't sound like it, but have you
21 ever worked narcotics?

22 A No, sir.

23 Q Have you trained people who work in narcotics?

24 A Yes, sir. I trained a lot of people at the sheriff's
25 office.

Mark Gaddy
Cross-examination by Mr. Shealy

1 Q Right. Because you've been a lieutenant in training,
2 you said?

3 A For 16 years.

4 Q And that means in the training part, that you've not
5 been a lieutenant who is being trained.

6 A No. I was the training lieutenant for 16 years.

7 Q Okay. So you've been a lieutenant for a good long
8 while.

9 A Yes, sir.

10 Q You got a lot of time and grade.

11 A Yes, sir.

12 Q Okay. And time and grade is a way of determining
13 seniority, right? So you're kind of a pretty senior
14 fellow.

15 A Yes, sir.

16 Q So if you had asked for a camera you don't think they
17 would have given you one?

18 A Perhaps if they had one.

19 Q If they had one? I mean, most -- well, again, you
20 testified that you generally -- you've trained a number of
21 people in narcotics. Generally, they video tape their
22 narcotics sales, right?

23 A I'm not aware of that because I've not worked in
24 narcotics.

25 Q So you've worked in the sheriff's department for how

Mark Gaddy
Cross-examination by Mr. Shealy

1 long?

2 A Twenty-two years.

3 Q Twenty-two years. And you don't know if they video
4 tape their narcotics -- sales and purchases?

5 A Sir, I've never worked in narcotics.

6 Q Well, I understand that. But y'all talk, don't you?

7 A If they're in class I talk to them. I mean, that's
8 kind of the way it is.

9 Q You've trained a lot of them. What do you train them
10 in?

11 A Sir, we train them in everything they need to do to
12 stay certified with the state of South Carolina to remain a
13 class one law enforcement officer.

14 Q Okay. So you don't train them how to work their
15 narcotics cases?

16 A I don't.

17 Q You don't.

18 Okay. You also at this point weren't issued, you
19 testified, a body-worn camera, right?

20 A Negative.

21 Q I guess that's not policy either.

22 A No.

23 Q And investigators don't get cameras?

24 A No.

25 Q Do you interview suspects --

Mark Gaddy
Cross-examination by Mr. Shealy

- 1 A Yes, sir.
- 2 Q -- as an investigator?
- 3 A Yes, sir.
- 4 Q Interview witnesses?
- 5 A Yes, sir.
- 6 Q Take statements?
- 7 A Yes, sir.
- 8 Q Talk to informants, things of that nature?
- 9 A Yes, sir.
- 10 Q Gather evidence? And none of that seems important to
- 11 video?
- 12 A I mean, if you don't have it, it's hard to do with it,
- 13 if you don't have it.
- 14 Q Well, you do have it. You just testified you have a
- 15 cell phone. So, I mean, you could do it if you wanted to.
- 16 A If it was policy, I would do it.
- 17 Q So because it's not policy you didn't do it.
- 18 A That's right.
- 19 Q Now, how many people were taking part in this
- 20 stakeout, do you know?
- 21 A I don't know the exact number.
- 22 Q Okay. Just bear with me.
- 23 (Pause.)
- 24 Q Does nine sound right, nine different officers?
- 25 A Sounds reasonable.

Mark Gaddy
Cross-examination by Mr. Shealy

1 Q Somewhere close. And do you know if y'all had other
2 people around just in case something did happen?

3 A There were other -- there were multiple locations
4 being watched, and there were a couple of guys that were
5 driving around trying to keep -- you know, trying to keep
6 somebody close to everybody but --

7 Q Backup, in other words, right?

8 A Yes, sir.

9 Q Okay. And that backup -- do you have any idea how
10 many people pulled up when this all happened?

11 A It's two or three. I mean, it just -- you know,
12 when -- when it happened, and, you know, I get out and I
13 challenge the suspect, and then I know a couple of other
14 officers came up, but I really --

15 Q So you don't know how many immediately responded out
16 there.

17 A Right. I have no -- I don't -- I just know that at a
18 certain point a lot of officers were there. Now, what
19 order they got there, I couldn't tell you that.

20 Q So, ultimately, there were a lot of officers there.

21 A There were multiple officers there.

22 Q Again, I understand you don't know the exact number,
23 but, ballparking, how many do you think total were there at
24 the end of it?

25 A Six or seven maybe.

Mark Gaddy
Cross-examination by Mr. Shealy

1 Q Okay.

2 A I mean, plus then you had -- you know, you had I.D.
3 You had other road people coming. So, I mean, it was -- it
4 was multiple officers. I just can't give you an idea. I
5 can't give you an answer.

6 Q Sure, but a lot, sounds like, given all of the number
7 of people. Did a canine unit respond out there at all, do
8 you know?

9 A Not that I recall but --

10 Q Not that you recall. Because there are certainly no
11 canine tracking unit, right?

12 A Negative.

13 Q That you are aware of.

14 A Not that I'm aware of.

15 Q All right. We can go back to State's Exhibit 3.

16 All right. Now, you testified that it was damp that
17 day, is that right?

18 A Yes. It had been raining.

19 Q Okay. Was it still raining or whenever -- at 8:40?

20 A Like I -- like I said, it was intermittent. I mean,
21 it would rain a little bit, and then not. And, like I say,
22 it was damp. It was -- the roadways were damp and
23 everything.

24 Q Okay. And you testified that you were about here,
25 right?

Mark Gaddy
Cross-examination by Mr. Shealy

1 A Yes, sir.

2 Q Were you up against the building or were you closer to
3 the --

4 A Backed into a parking place near the corner of that
5 building.

6 Q Near the corner of the building.

7 A Right.

8 Q Okay. And, obviously, these cars weren't there,
9 because it was 8:40, is that right, or were they there, or
10 do you know? You don't know if there were cars there?

11 A I mean, I think if I'm not mistaken that's a car lot
12 now, so there were cars there.

13 Q So there were cars all in this area, you believe.

14 A Yes.

15 Q Was there a lot of traffic in the parking lot in that
16 area?

17 A In and out.

18 Q Okay. So, but at 8:40 do you think there was --
19 again, ballpark the number of cars you believe there were?

20 A Maybe two or three.

21 Q Two or three.

22 Okay. And you testified that you saw somebody, and you
23 couldn't make a positive identification from there to here,
24 right? And that's a pretty far distance. You saw somebody
25 walk here once, go back, and then come back around, is that

Mark Gaddy
Cross-examination by Mr. Shealy

1 accurate?

2 A Yes, sir.

3 Q Okay. And then you saw him run, or you saw a person
4 who matched that same description of the person that you
5 saw take off running, is that accurate?

6 A Yes.

7 Q And then you took off across Asheville Highway, now,
8 is that correct?

9 A Yes, in my vehicle.

10 Q All right. And Asheville Highway, it drains, right?

11 A Say that again.

12 Q Does Asheville Highway when it rains, it drains,
13 right? The water runs off of it, correct?

14 A Okay. I assume so, yes, sir.

15 Q In other words, it doesn't become a river during rain
16 storms, right?

17 A No, sir.

18 Q Which means this bit is higher than the end. Isn't
19 it?

20 A Okay. I guess so.

21 Q Okay. You testified you came across here and you ran
22 in -- or you didn't run into. But there was a car coming
23 towards the city, I believe you testified, a white Dodge,
24 right?

25 A Yes, sir.

Mark Gaddy
Cross-examination by Mr. Shealy

1 Q And you saw him, right? And he was over here. Is
2 that accurate?

3 A Yes, sir.

4 Q So when you were looking over here how could you
5 possibly have seen this person?

6 A It's not like I was looking up the Asheville Highway.
7 He was about where the 56 was. You can -- with that field
8 of vision you can -- you can keep everything in view
9 without being concentrated on one thing.

10 Q So the white Dodge truck that was bearing down on your
11 vehicle --

12 A It wasn't bearing down.

13 Q It wasn't bearing down. Then why did you have to hit
14 your blue lights?

15 A Because I was coming out of position to apprehend an
16 armed robbery suspect.

17 Q Okay. But you saw him, is that accurate?

18 A Yes, sir.

19 Q You said you cleared the traffic. You drove to the
20 median area.

21 A Yes, sir.

22 Q And you stopped in order -- because of that guy -- or
23 you slowed down because of that guy, right?

24 A To make sure that he had given me the right of way
25 that I had requested.

Mark Gaddy
Cross-examination by Mr. Shealy

1 Q Okay. And then you continued on down. Once he had
2 given you the right of way you continued down this road
3 right here, is that right?

4 A Yes, sir. The parking lot.

5 Q I'm going to show you. I've been out there, but I've
6 been out there recently, and so it may be that things have
7 changed. I'm going to actually hand you State's Exhibit
8 No. 6. And as you face it over here on the right, what is
9 that? Can you tell me?

10 A Not by this photograph, but I know that that's a hill
11 right -- well, right there where you're talking about is a
12 hill beside the vehicle, that patch of green between the
13 alleyway. It doesn't -- it's not flat. It's an upward
14 angle.

15 Q There's a hill right here?

16 A Yeah. There's an upward angle right there.

17 Q About how far does it go? You can just tell me where,
18 I mean, roughly. I understand this isn't perfect because
19 I --

20 A You're talking about how high is the bank? Maybe --

21 Q Like where does -- yeah. Where does the hills begin,
22 I guess is my question.

23 A The hill starts -- I would say the hill starts just
24 past where the pavement and the grass come together if that
25 makes sense.

Mark Gaddy
Cross-examination by Mr. Shealy

1 Q About right here?

2 A No.

3 Q No. Oh, oh, I see what you're saying. From about
4 here up.

5 A Right.

6 Q Okay. And right in this area, isn't it true, there
7 are some kind of scrub brush or some kind of thickety
8 thing?

9 A I remember there being high grass, higher grass.

10 Q Because what it looks like in that picture, what it
11 looks like in this picture, and what it looked like when I
12 went out there was that it was all -- there was a bush
13 right in this area. Do you remember that, or not?

14 A I remember thick grass. And, I mean, it was
15 getting -- it was -- from what I remember it was -- it
16 wasn't well -- it wasn't well maintained. It wasn't like
17 it was maintained by the state or anything, if that's what
18 you're asking me.

19 Q Well, I'm just asking if it was a bush or not. Do you
20 know?

21 A I don't know if it was. I don't know if it was a
22 bush.

23 MR. SHEALY: Bear with me, Judge.

24 (Pause.)

25 Q You testified that you held the person there until

Mark Gaddy
Cross-examination by Mr. Shealy

1 other officers got there. You also testified you weren't
2 sure how many actually showed up at the same time, is that
3 right?

4 A Right.

5 Q who actually apprehended the suspect?

6 A I --

7 Q I mean --

8 A When -- when I made contact with his vehicle and I got
9 out and challenged him at gunpoint --

10 Q Okay.

11 A -- I wasn't going to approach until there was another
12 officer there. And, as I recall, the two officers that I
13 can -- that -- that I know got there -- but in what order,
14 I don't know -- was Sergeant Tony Brown and Investigator
15 John Nix. And they're actually the ones that took him
16 outta the vehicle.

17 Q Okay. And you testified that he did not appear to be
18 injured at all. How fast did you hit the car, or how fast
19 were you going when you hit the car?

20 A I don't know.

21 Q You don't know. Any idea? Was your vehicle
22 completely under control?

23 A I would say so.

24 Q Was his vehicle completely under control?

25 A I have no way to know that.

Mark Gaddy
Cross-examination by Mr. Shealy

1 Q well, I mean, did it appear to be.

2 A Okay. Yeah.

3 Q No. I'm just asking.

4 A I have no idea if his vehicle was under control. I
5 wasn't in it.

6 Q well, and I understand that. But you've been a
7 training officer for 16 years.

8 A Yes, sir.

9 Q You know what a vehicle looks like when it's under
10 control presumably.

11 A Okay.

12 Q Okay. And how did you get him out of the vehicle?

13 A As I recall, they took him out the passenger side.

14 Q Because your car was obviously on the driver's side,
15 is that accurate?

16 A Right.

17 Q But you didn't -- you just held him at gunpoint. You
18 didn't -- you weren't involved in taking him out and
19 arresting him. So you wouldn't have heard any statements
20 that he made.

21 A No, sir.

22 Q If any statements were made.

23 A No, sir.

24 Q Did you -- were you involved at all in the search of
25 the vehicle?

Mark Gaddy
Cross-examination by Mr. Shealy

1 A No, sir.

2 Q Were you involved at all in the -- in taking any of
3 the items, the evidentiary items, into --

4 A No, sir.

5 Q Did you secure the scene? Did you put up any tape or
6 anything?

7 A I was busy writing statements at that time pretty
8 much.

9 Q You also wrote some statements.

10 A Yeah, about the vehicle accident and that kind of
11 stuff.

12 Q Oh, you were writing our own statements for the road.

13 A Well, I mean, the highway patrol had to come too to
14 work the -- the vehicle making contact with another
15 vehicle.

16 Q All right. So once you kinda handed it off to
17 officers Nix and Brown, and you went --

18 A And Investigator Gary and all of them, yeah.

19 Q I do need to ask you a couple of more questions.

20 Do you recall my client being on his cell phone
21 whenever you hit his car?

22 A No.

23 Q Do you recall a cell phone being recovered at all?

24 A No.

25 Q Or -- no. Okay. And when you apprehended or when you

Mark Gaddy
Redirect examination by Ms. Poulos

1 arrested my client or held him at gunpoint, it's my
2 understanding your testimony is that he was wearing the
3 same clothes that he ultimately was booked in the jail
4 with.

5 A Yes.

6 Q Is that your understanding?

7 A Yes.

8 Q You sure?

9 A It's the same clothes I saw. I mean, I didn't see him
10 at the jail, but it was the same clothes that he came out
11 or that the person came outta the store with wearing.

12 MR. SHEALY: Apologize, Your Honor.

13 (Pause.)

14 MR. SHEALY: Thank you, Your Honor. Nothing further.

15 MS. POULOS: Just briefly, Your Honor.

16 REDIRECT EXAMINATION

17 BY MS. POULOS

18 Q Lieutenant Gaddy, you just testified that the
19 defendant was wearing the same clothes as he was when he
20 was taken to the detention center. Was he also wearing the
21 same clothes as when you saw him go into the store?

22 A Yes. That's more accurate, I think, because I didn't
23 see him at the detention center. I saw him when he came
24 out, when he went in, when he came out and when he was
25 taken outta the vehicle. Those were all the same clothes.

Mark Gaddy
Redirect examination by Ms. Poulos

1 I -- I -- I didn't see him at the detention center.

2 Q All the same clothes.

3 A Yes, ma'am.

4 Q Okay. And you were asked earlier about cell phone.

5 Is it fair to say you typically hold a cell phone in your
6 hand?

7 A Yes, ma'am.

8 Q Is that how you use -- most people use a cell phone?

9 A Yes, ma'am.

10 Q All right. Would you say that it's pretty hard to
11 hold a gun in one hand and a cell phone in the other? It'd
12 be pretty -- would you say that that'd be pretty difficult
13 to do at the same time?

14 A I wouldn't. I mean, if you hold a -- a gun in one
15 hand and a phone in the other that -- but you couldn't do
16 anything else. Now, to hold them in the same hand would be
17 difficult.

18 Q Right. But you're not trained to video crimes taking
19 place with your cell phone, are you?

20 A No, ma'am.

21 Q You're not trained to do that, are you?

22 A No, ma'am.

23 Q And you don't -- you've never even videoed your SWAT
24 operations before with a cell phone, have you?

25 A No, ma'am.

Mark Gaddy
Recross-examination by Mr. Shealy

1 Q Or any video at all, have you?

2 A No, ma'am.

3 Q Okay. You don't make camera policies, do you,

4 Lieutenant Gaddy?

5 A No, ma'am.

6 Q Okay. Is that something the legislature does?

7 A Not necessarily the legislature. They -- they would
8 probably have some that they could do too. But it's mainly
9 a function of the -- the command structure at the sheriff's
10 office that does that.

11 Q But you were just obeying the policy that was in
12 effect.

13 A Yes.

14 Q Okay. Thank you.

15 RECROSS-EXAMINATION

16 BY MR. SHEALY

17 Q You ever heard of GoPro?

18 A Sure.

19 Q It's a thing that you can just clip to yourself,
20 right?

21 So you would haven't to do this and this, right?

22 A If you had one that clipped to yourself, I guess not.

23 Q Okay.

24 MR. SHEALY: That's all I have for this witness.

25 MS. POULOS: Just one more, Your Honor.

Mark Gaddy
Redirect examination by Ms. Poulos

1 REDIRECT EXAMINATION

2 BY MS. POULOS

3 Q Are GoPros issued to the sheriff's office?

4 A No, ma'am.

5 Q Does anybody in the sheriff's office have a GoPro to
6 your knowledge?

7 A No, not to my knowledge. I -- I don't know.

8 Q Thank you.

9 THE COURT: You may step down.

10 Can I see y'all just a minute, please?

11 (Bench conference held off the record in the presence
12 of the jury but out of the hearing of the jury.)

13 THE COURT: All right. Ladies and gentlemen, we are
14 going to recess for the afternoon.

15 Let me caution you again that during the overnight
16 recess you're not to talk about the case with anybody --
17 not husbands, wives, children, friends. You can't discuss
18 it.

19 It's perfectly understandable that you might have
20 somebody that knows you're serving on jury duty this week,
21 and they may want to know what you're doing. You just
22 simply tell them you can't talk about it.

23 when the case is over you can talk about it as much or
24 as little as you'd like to as many or as few as you'd like.
25 But until you have reached a decision in this case you're

Mark Gaddy
Redirect examination by Ms. Poulos

1 not permitted to discuss it in any fashion whatsoever with
2 any person whatsoever.

3 That also includes no discussions with your fellow
4 jurors. You may only discuss it with your fellow jurors
5 when the time comes for your deliberations at the trial's
6 conclusion. So no discussions about the case with anybody.

7 Also, don't permit yourselves to be exposed to any
8 type of media coverage that might relate to the case --
9 television, radio or newspaper. Don't conduct any research
10 or do your own investigation into the case of any issue
11 relating to it.

12 You have to base your decision upon what you see and
13 hear in the courtroom. You can't supplement that knowledge
14 by conducting outside research.

15 With that in mind, have a good evening. Please report
16 directly to your jury room at 9:30 in the morning, 9:30 in
17 the morning. Have a good evening.

18 (The following takes place outside the presence of the
19 jury.)

20 THE COURT: Court is in recess until 9:30 in the
21 morning.

22 END OF PROCEEDINGS JANUARY 11, 2016
23
24
25

1 (Proceedings January 12, 2016)

2 (The following takes place outside the presence of the
3 jury.)

4 THE COURT: Are we ready for the jury?

5 MS. POULOS: Yes, Your Honor.

6 MR. SHEALY: Yes, Your Honor.

7 Judge, I believe the state is going to start offering
8 some 9-1-1 calls or a 9-1-1 call.

9 It would be the defense's position that that 9-1-1
10 call is irrelevant. It's my understanding that it'll be a
11 9-1-1 call by Robin Hennington-Hollis who testified
12 yesterday that she saw nothing and heard nothing.

13 All of that's going to be hearsay, or anything that
14 she can say on that is hearsay. It's offered simply to
15 have a woman who has a six-year-old child to inflame the
16 passions of the jury in our opinion. So we would ask to
17 exclude that.

18 THE COURT: Ms. Poulos.

19 MS. POULOS: Your Honor, our position is just simply
20 that she made a call. She testified yesterday that she, in
21 fact, did call 9-1-1.

22 She doesn't say on the call that she saw the robbery,
23 just that a robbery was -- was taking place. And that
24 happens often where somebody, for example, may tell -- may
25 tell somebody else to call 9-1-1.

1 we believe it's admissible. She stayed with the
2 victim, if you will, of the crime because the store was
3 robbed. So ultimately, Your Honor, we do believe that it
4 is relevant.

5 Again, she doesn't state anything on the call. And
6 it's also furthermore relevant to show the timeframe in
7 that we -- we are going to try to show -- to prove that the
8 defendant was caught in the parking lot and arrested before
9 the call even came out.

10 I think it's important for us to be able to show the
11 timeframe, that all of this happened within seconds if not
12 a minute or two. That would be our position.

13 It's certainly not to inflame the jury. And, again,
14 the jury heard from her, Your Honor. We believe it's
15 something that's -- happens a lot in -- in cases and don't
16 see any reason why that it should be excluded in this case.

17 MR. SHEALY: Simply because it happens a lot, Judge,
18 doesn't mean that it should, one; and, two, she's not a
19 victim in this case; and, three, it's a whole -- it's much
20 different for her to get up and testify I didn't see
21 anything than what it sounds like on the 9-1-1 call.

22 The 9-1-1 call, quite frankly, sounds pretty bad.
23 She's very scared. She's shaking and telling -- talking
24 about her child and she needs E.M.S. and things like that,
25 things that just aren't relevant, because, again, it

Scott Francis
Direct examination by Ms. Poulos

1 doesn't make any fact more or less likely in this case.

2 So, Judge, we would ask to exclude that.

3 THE COURT: All right. Note your exception.

4 Overruled.

5 MS. POULOS: Thank you, Your Honor.

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

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

9 THE COURT: Good morning, ladies and gentlemen.

10 As you know, when we recessed yesterday the state was
11 in the midst of their presentation of evidence, so we will
12 continue with that presentation this morning.

13 Ms. Poulos.

14 MS. POULOS: Thank you, Your Honor. The state calls
15 Scott Francis.

16 SCOTT FRANCIS, having been
17 first duly sworn, testified as follows:

18 DIRECT EXAMINATION BY MS. POULOS

19 Q If you would, sir, please, introduce yourself to the
20 jury and where you're employed.

21 A My name is Scott Francis. I work at Spartanburg
22 9-1-1, communications department for Spartanburg County.

23 Q And how long have you been working with
24 communications?

25 A I've been working at communications for 17 years.

Scott Francis
Direct examination by Ms. Poulos

1 Q And are you the custodian of records for the 9-1-1 and
2 dispatch calls for Spartanburg County?

3 A We are the custodian of records for police, fire and
4 E.M.S. and 9-1-1 calls for Spartanburg County.

5 Q Where are those records kept?

6 A The records are kept in the 9-1-1 center in a secure
7 room and on a server. They're -- they're no longer taped.
8 It's a computerized system that records each phone line and
9 radio channel that we use.

10 Q About how many calls do you get every day?

11 A Roughly 1,500 calls a day total, about half 9-1-1 and
12 the other half's administration lines.

13 Q Now, are you in any way affiliated with the sheriff's
14 office or the jail?

15 A No, ma'am. The 9-1-1 center is the primary answering
16 point for Spartanburg County, and we handle Spartanburg
17 County Sheriff's Office, all the municipal police,
18 Spartanburg city and then all 39 fire departments in
19 Spartanburg County. We're the primary answering point for
20 Spartanburg.

21 Q Now, Mr. Francis, was your office asked to retrieve
22 9-1-1 calls and other dispatch calls that were made with
23 regard to this incident on April the 7th of 2015 at 1480
24 Asheville Highway?

25 A Yes, ma'am. We received requests from in this case

Scott Francis
Direct examination by Ms. Poulos

1 the solicitor's office, or it could be the defense that
2 requests information. And we put these, this information,
3 on a C.D. We retrieve it off of a -- with a computer
4 program, and it records on -- we record it onto a C.D.

5 Q And is that something that you do for either the
6 prosecution or the defense as a regular part of -- of your
7 job?

8 A We do that for prosecution, defense or freedom of
9 information act.

10 Q And did you supply us with the calls?

11 A We did supply the solicitor's office with the calls.

12 Q And have you had a chance to listen to all of those
13 calls?

14 A I have had a chance to listen to the calls.

15 Q Okay. And, specifically, were you asked to listen to
16 calls made on seven different channels from that day?

17 A We -- we work. We listen to and record each one in a
18 group. So, if it was the sheriff's office, then we would
19 pull all of the -- the calls, all of the information from
20 the sheriff's office radios.

21 Q And are those files listed by timestamp?

22 A Yeah. The computer automatically stamps at the
23 beginning of each call with the time that the call comes
24 in. So we don't -- it creates a file name on your computer
25 for each individual segment of that call. So if it was ten

Scott Francis
Direct examination by Ms. Poulos

1 seconds, then it would record a 10-second and record it
2 with the -- with the time that it started.

3 Q And are those timestamps usually in military time?

4 A Yes, ma'am.

5 Q Okay. Now, specifically, were you asked to make -- to
6 listen to the following seven calls -- 2025, which would be
7 8:25 p.m., correct, sir?

8 A Right, yes, ma'am.

9 Q 204612 which would be 8:46 p.m.

10 A Yes, ma'am.

11 Q And 2048 which would be 8:48 p.m.; 204825 which is
12 8:48:27, is that correct, sir?

13 A Yes, ma'am.

14 Q Just trying to translate for the jury the military
15 times. 4937, which is 8:49:37 p.m.

16 A Yes, ma'am.

17 Q 204955 which is 8:49:55 p.m.

18 A Yes, ma'am.

19 Q And, finally, 205040 which is 8:50 and 40 seconds p.m.

20 A Yes, ma'am.

21 Q Okay.

22 MS. POULOS: Your Honor, may we approach, please?

23 THE COURT: Yes, ma'am.

24 (Bench conference held off the record in the presence
25 of the jury but out of the hearing of the jury.)

Scott Francis
Direct examination by Ms. Poulos

1 Q All right. Mr. Francis, I'm going to hand you State's
2 Exhibit 1 and ask if you can identify that.

3 A Yeah. This -- it's normally how -- how we -- we
4 usually just --

5 Q Are the calls on that, sir?

6 A Yeah, the calls would be on the -- on the C.D., and we
7 normally just use a Sharpie and write what it is.

8 THE COURT: Excuse me just a minute.

9 I'm going to have to ask you to speak up. You can
10 move that microphone around, but I can't hear you over
11 here.

12 A I said we -- we record it on a C.D. And we usually
13 use a Sharpie to write down what it is for.

14 Q And on this C.D. are all of the calls -- you had a
15 chance to review this C.D. obviously --

16 A Yes.

17 Q -- with all seven of the calls. And the seven that
18 I -- that I just asked you about a little while ago stating
19 seven different timestamps, those are all on this C.D.,
20 correct?

21 A Those are all on that C.D.

22 Q And have they been altered or changed in any way?

23 A No. We -- the computer records it, and we just copy
24 it right off the machine. And it puts its own timestamps
25 on it. We don't have anything to do with -- with that.

Scott Francis
Direct examination by Ms. Poulos

1 Q Okay.

2 MS. POULOS: Your Honor, at this time we'd ask that
3 State's Exhibit 1 be admitted into evidence.

4 MR. SHEALY: Your Honor, subject to our agreement at
5 the bench.

6 THE COURT: All right. It's admitted.

7 MS. POULOS: Thank you, Your Honor.

8 (C.D. marked State's Exhibit No. 1.)

9 MS. POULOS: Your Honor, permission to publish?

10 THE COURT: You may.

11 Q Mr. Francis, I'm going to play these calls and just
12 hand you a document to refresh your recollection of these
13 calls.

14 The first call I'm going to play is 202514.

15 Approximately what time is that in regular time?

16 A Twenty is 8:00. So if it's 2025, it would about 8:25.

17 Q Okay.

18 A And so many seconds.

19 THE COURT: Let me remind you that when you -- when
20 you speak -- I know you have to look at the screen perhaps,
21 but when you respond you have to use that black microphone.

22 THE WITNESS: Okay.

23 A Twenty is in military time, is 8:00 p.m. And then it
24 would be minutes and seconds. So 2025, 8:00 p.m., 8:25,
25 and so many seconds.

Scott Francis
Direct examination by Ms. Poulos

1 Q Okay. And you had a chance to listen to that call,
2 sir. And approximately how many minutes into that segment
3 of the audio does Lieutenant Gaddy come on the tape? You
4 can use that document to refresh your memory.

5 A It -- according to the document it's 19 minutes and 30
6 seconds. And this would be recorded radio traffic.

7 (Whereupon, the C.D. was played for the jury.)

8 Q Okay. So, Mr. Francis, based on that particular
9 segment, if you could, tell the jury again approximately
10 what time was the suspect seen with the bag in the pocket
11 walking by and doing a couple of walk-bys in the parking
12 lot.

13 MR. SHEALY: Objection, Your Honor. He can't testify
14 to that. He's just here to testify as to the information
15 that's played in order to testify as to the business record
16 that's played. He can't testify to all of the stuff --

17 THE WITNESS: It's on that.

18 MR. SHEALY: -- on what he just heard. That's up to
19 the jury.

20 THE COURT: Overruled.

21 Go ahead.

22 MS. POULOS: Thank you.

23 Q Mr. Francis, again, we just heard what time. He
24 verified the time that Lieutenant Gaddy stated that he saw
25 the suspect doing a couple of walk-bys with the bag in the

Scott Francis
Direct examination by Ms. Poulos

1 pocket and the dark-colored hoodie and the blue jeans.

2 A As the -- the file up there is timestamped, it shows
3 20:25:14, which is 8:25 and 14 seconds.

4 Q Okay. And as I cued it up to 19 minutes and 30
5 seconds into that, what time -- what time would that be?

6 A That would put it at 8:44:44.

7 Q Okay. And approximately what time, according to --
8 according to the call and the way that it was cued up --
9 what time was the suspect seen entering the store?

10 A At 8:45 and seven seconds.

11 Q So a minute later, is that correct?

12 A That would be correct.

13 Q Approximately a minute later.

14 Okay. I'm going to play the next segment that's
15 20:46:12. And, if you could, tell the jury what time in
16 regular time did that call start out.

17 A So that would be 8:46 and 12 seconds.

18 (Whereupon, the C.D. was played for the jury.)

19 Q Okay. Mr. Francis, if you could, confirm that the
20 time in regular time where the customer was seen or
21 where -- where the audio states that the customer was seen
22 walking into the store.

23 A Customer was seen walking into the store at 204646,
24 which is 8:46 and 46 seconds.

25 Q And approximately what time -- if you could, verify

Scott Francis
Direct examination by Ms. Poulos

1 when -- on this audio it was stated that the suspect was
2 seen coming outta the store with the bag in the hand and
3 running around the corner.

4 A So the time would be 2047 and 44 seconds or 8:47 and
5 44 seconds.

6 Q Next I'm going to play the segment that starts 204825.
7 And approximately what -- what time in regular time is
8 that?

9 A 8:00. Here 204825 is 8:48:25.

10 (Whereupon, the C.D. was played for the jury.)

11 Q Okay. What is -- what is a 1050?

12 A 1050 is an accident with a vehicle.

13 THE COURT: Please be certain to use that microphone.

14 A 1050 is an accident with a vehicle.

15 Q Next I'll play segment entitled 2048. What time would
16 that be in regular time, sir?

17 A 2048 is 8:48.

18 Q And could this be that 9-1-1 call that was made from
19 inside the store?

20 A It will be the -- the person calling from inside the
21 store.

22 Q And was that call -- did that call come out after the
23 motor vehicle accident was reported by Lieutenant Gaddy?

24 A It would have came out 204827. It shows two seconds
25 after the call on the radio for the accident.

Scott Francis
Direct examination by Ms. Poulos

1 Q Okay. So the accident was called in. And after that
2 the witness called 9-1-1 from inside?

3 A That is correct.

4 (Whereupon, the C.D. was played for the jury.)

5 MR. SHEALY: Your Honor, I object to this.

6 THE COURT: Note your exception. Overruled.

7 MR. SHEALY: Thank you.

8 THE COURT: We've already addressed it, have we not?

9 MR. SHEALY: We have, Your Honor.

10 MS. POULOS: Thank you, Your Honor.

11 (Whereupon, the C.D. was played for the jury.)

12 Q Okay. The next call I'm going play is 204937. And
13 what time would that translate to in regular time?

14 A 8:49 and 37 seconds.

15 (Whereupon, the video was played for the jury.)

16 Q What is M.V.A., sir?

17 A Motor vehicle accident.

18 Q And next I'm going to play the call 204955. And
19 approximately what time is that? What time is that?

20 A 8:49 and 55 seconds.

21 Q Finally, I'm going to play the call at 205040. And
22 approximately what time would that be?

23 A That would be 8:50 and 40 seconds.

24 (Whereupon, the C.D. was played for the jury.)

25 Q And that's the last call, sir, is that correct?

Scott Francis
Direct examination by Ms. Poulos

1 A Yes, ma'am, from these.

2 Q And just to sort of reiterate for -- for the jury --
3 and, again, you can use the -- the documents here to
4 refresh your memory on the calls -- and you -- you've had a
5 chance to obviously review the documents, correct, sir?

6 A Yes, ma'am.

7 Q Okay. If you could just in simple terms for the jury,
8 approximately what time according to these calls was it
9 reported the suspect was first seen in the area in the
10 parking lot?

11 A At 8:44 p.m. or 2044.

12 Q And what time was suspect seen entering the store?

13 A At 8:45 or 2045 p.m.

14 Q Okay. How long was that after he was first seen in
15 the area according to the call?

16 A Approximately two minutes, 34 seconds.

17 Q Approximately what time was the suspect reported to
18 have seen -- been seen leaving the store?

19 A Approximately two minutes later at 8:47 or 2047 p.m.

20 Q Approximately what time was the suspect seen according
21 to the call drive away and the officer hit his vehicle?

22 A 2048 or 8:48 p.m.

23 Q And you stated earlier that the witness called 9-1-1
24 from inside the store at approximately what time?

25 A Approximately 2048 as well, within a couple of seconds

Scott Francis
Direct examination by Ms. Poulos

1 of the previous radio traffic.

2 Q But the 9-1-1 call, again, sir, was made after?

3 A After.

4 Q The motor vehicle accident.

5 A Yes, ma'am.

6 Q And dispatch called out to other accidents or other
7 units to this scene approximately how long after that?

8 A Approximately one minute they were calling the traffic
9 units to -- to work the wreck.

10 Q And was there another dispatch call radioed out for
11 additional units a minute later, sir?

12 A They were confirming that the -- the traffic units
13 were already en route to -- for the request for the motor
14 vehicle accident.

15 Q So -- so based on your review of the times -- and you
16 have confirmed the times for -- for the jury -- is it --
17 it's fair to say that approximately this all took place in
18 a matter of about four or five seconds from start to
19 finish? Oh, I'm sorry. Four or five minutes.

20 A Four or five minutes, correct.

21 Q Yeah. I'm sorry.

22 Okay. Thank you. Please answer any questions the
23 defense may have for you.

24

25

Scott Francis
Cross-examination by Mr. Shealy

1 CROSS-EXAMINATION

2 BY MR. SHEALY

3 Q It was Mr. Francis?

4 A That's correct.

5 Q You weren't on scene or anything like that.

6 A No, no, sir. We are -- we keep the records. We -- we
7 record everything and relay information, and we receive
8 calls, relay information and record.

9 Q So you just record whatever is recorded.

10 A Right. We -- all -- every phone conversation that
11 comes into the communication center and every radio
12 communication that comes in.

13 Q So you don't vouch for truthfulness of what's in the
14 recording, just that the recording is accurate.

15 A We have -- yeah. We have -- we have no interest one
16 way or the other whether what you say when you call to
17 9-1-1 is valid or not. We send a responder out, and they
18 make judgment.

19 Q Right. And you -- I mean, there's no way you would
20 have any idea as to whether the --

21 A No. We just take things at face value, and we send a
22 responder to -- to -- to confirm that.

23 Q Whether the facts within the recordings are accurate
24 or not. That's just not your -- you just record.

25 A We record.

Scott Francis
Cross-examination by Mr. Shealy

1 Q Do you have any idea as to how many units were
2 dispatched out there?

3 A Without looking at -- since I was not working that --
4 a radio or phone, I could not tell you without looking at a
5 printout of -- of -- of the call, because every call is
6 entered into the -- or every unit that goes would be
7 entered into the computer and every -- and it would show a
8 record of who responded.

9 Q Okay. And when you say it's entered into the record,
10 what kind of record is that?

11 A We use a computer-aided dispatch to dispatch every
12 call that we take.

13 Q Okay. And that -- that would -- that record would be
14 a CAD sheet, is that right?

15 A We -- we call it a CAD sheet.

16 MR. SHEALY: Bear with me, Judge.

17 (Pause.)

18 Q I'm going to hand you what's been provided to me. And
19 I believe these are the CAD sheets. But could you review
20 this and tell me if you -- I don't know if it's the right
21 thing or not. Tell me if you can determine how many cars
22 got dispatched.

23 A From this sheet I can tell you that this is the 9-1-1
24 call that came in and then would be added to -- the
25 information would be added to -- if they were already on a

Scott Francis
Cross-examination by Mr. Shealy

1 call, it would be added to that. So this -- this starts
2 with --

3 Q And you can review that entire packet of information
4 just to come up with how --

5 A Right. But I couldn't tell you if there a pre --
6 other -- other units on this because this is a 9-1-1 call.
7 And this would be associated with any other calls that were
8 already there.

9 Q Okay.

10 A Does that make sense to you, do you understand?

11 Q It does.

12 A So if you look at -- on this sheet here if you looked
13 at 8:51 and one -- or/and nine seconds it would show that
14 you have M.C.A. So on its -- and the numbers after it
15 shows that E.M.S. was sent. And it shows incident
16 associated. So this would be associated to any other calls
17 that were --

18 Q Okay. And throughout is that whole packet just that
19 one 9-1-1 call, or could you tell me if that will give you
20 the information that you're looking for or that I'm asking
21 about?

22 A There was a -- there is a -- this is an -- this starts
23 here with an associated incident.

24 Q Okay.

25 A And the associated incident would be incident 1112

Scott Francis
Cross-examination by Mr. Shealy

1 according to our CAD, and it would have the -- the
2 sheriff's office would have a case number that may be
3 different.

4 Q Okay. So --

5 A Let me see -- let me see if that's there. I see how
6 they did it.

7 Q And that's fine if that's just not what the
8 information that you have got --

9 A If -- it has -- it shows -- like I said, it shows from
10 the 9-1-1 call and it shows all the incidents that were put
11 on it. So they could -- they could have been out and then
12 associated into that call.

13 Q Okay. So this does not tell you how many folks or how
14 many officers were sent out there, is that accurate? Is
15 that --

16 A Well, if they were on a -- if they were on a different
17 call for a different reason, then they might not be on the
18 record -- in a wrecker that would be called and so on and
19 so forth -- ambulances that would be called from putting
20 those.

21 It's -- it's hard to explain because you have -- they
22 could be assigned to do something and be on separate, or
23 they could be on a status. But when that call came in and
24 we added those people into this call that was made, because
25 the 9-1-1 caller called, then they'd be transferred over to

Scott Francis
Cross-examination by Mr. Shealy

1 that call.

2 Q But to answer my questions, you don't know how many
3 people were responding -- were dispatched out to that call
4 today.

5 A I couldn't tell you exactly how many people, but the
6 majority of them are going to be on there.

7 Q Oh, so did you -- all right. If you could, look at
8 this and tell me how many people were sent out to this
9 Family Dollar. Okay. If you can -- now, I understand it's
10 not going to be exact.

11 A It's not going to be exact.

12 Q But how many units?

13 A Each unit here on the side, like x-ray, 01, and kilo,
14 four, I59, delta, two, kilo, one, again, any time there
15 are --

16 Q Okay.

17 A So any time they're on one --

18 Q I will give you a pen. If you will, count them, and
19 testify as how many people were dispatched out there. If
20 you need a pen to add them up --

21 A They -- they wouldn't necessarily be dispatched out
22 there.

23 Q Okay.

24 (Pause.)

25 A Including investigators and not including E.M.S. looks

Scott Francis
Cross-examination by Mr. Shealy

1 like approximately 11.

2 Q Eleven. And that'd be 11 vehicles or 11 call signs?

3 A I see 11 call -- 11 different call signs.

4 Q Okay. So there were 11 different call signs at least
5 associated with this call.

6 A That's -- that's what it appears.

7 Q Okay. According to the computer-assisted dispatch.

8 A Dispatch, right. They could have -- they could have
9 called each other and -- and/or called their office and had
10 somebody come out, and when they go on en route they'll
11 call us, or go on scene they'll call us.

12 Q And I think you testified to this, but what's a 10-50
13 again?

14 A 10-50 is an accident involving a vehicle.

15 Q It's an accident. Okay.

16 A The same as an M.V.A.

17 MR. SHEALY: That's all I have for this witness.

18 MS. POULOS: Nothing further, Your Honor.

19 THE COURT: You may step down.

20 MS. POULOS: Your Honor, the state next calls
21 Investigator Nix.

22 JOHN NIX, having been first
23 duly sworn, testified as follows:

24 DIRECT EXAMINATION BY MS. POULOS

25 Q If you would, sir, please introduce yourself and where

John Nix
Direct examination by Ms. Poulos

1 you're employed.

2 A I'm sorry?

3 Q If you could, please introduce yourself and where
4 you're employed.

5 A My name is John Nix, and I'm an investigator for the
6 Spartanburg County Sheriff's Office. I'm presently
7 assigned to the white-collar crime group.

8 Q And back on April the 7th of 2015 were you involved in
9 the investigation of a robbery at the Family Dollar at 1480
10 Asheville Highway?

11 A I was.

12 Q Is that in Spartanburg County?

13 A It is.

14 Q And on that night was a stakeout operation being
15 conducted?

16 A Yes. I was on designated patrol that night in the
17 area of the business district down the Asheville Highway.

18 Q Okay. And how -- how did you -- how did you become
19 involved in -- in this particular Family Dollar incident?

20 A Well, I started monitoring radio traffic due to a
21 suspicious person that was down in front of the Family
22 Dollar store being observed by another officer, Deputy
23 Gaddy.

24 I was approximately a mile, a little over a mile, away
25 sitting stationary in the Pizza Inn parking lot. And as

John Nix
Direct examination by Ms. Poulos

1 soon as the traffic started up we started what we call
2 easing that way, which means we just started down towards
3 the area in case Deputy Gaddy needed -- needed us at that
4 time.

5 Q And did you go immediately to the scene and assist
6 Lieutenant Gaddy?

7 A I did. I proceeded straight to the scene. Just prior
8 to my getting there Deputy Gaddy called out that he was
9 10-50, which is code for a wreck, in a back alley behind
10 the Family Dollar.

11 Q And when you got there where did you position your
12 vehicle?

13 A I actually noted the back alley at -- exited out onto
14 White Avenue. So I went on down to the intersection of
15 Asheville Highway and White Avenue, turned to the left.
16 And the alleyway is immediately to the left. And I kept --
17 proceeded down the alley and pulled in front of the
18 dark-colored smaller car where Deputy Gaddy's car was up
19 against the driver's-side door. I placed my truck directly
20 in front of the car, opened the door and stepped out.

21 Q Okay. And I'm going to show you the map -- this has
22 already been admitted as State's Exhibit 3 -- just to give
23 the jury a little bit better idea of where the -- the
24 vehicles were positioned and where you came from.

25 Okay. Let's see. I'm going to hand you this pointer.

John Nix
Direct examination by Ms. Poulos

1 And, if you could, just explain to the jury. Where did you
2 come from?

3 A I was proceeding down Asheville Highway in this
4 direction from the intersection of California Avenue and
5 Asheville Highway.

6 When Deputy Gaddy called that he had been involved in
7 the wreck and the back -- on the back alley coming out of
8 Family Dollar, which is this alleyway right here, I actually
9 proceeded down to this intersection, which is White Avenue,
10 and came up and made this left into it and pulled up
11 approximately right about here.

12 Q And when you got to the scene what did you observe?

13 A I observed this dark-colored smaller car sitting there
14 facing me as I pulled in.

15 THE COURT: Please -- please be mindful of that
16 microphone there. That's what you're supposed to be
17 talking into.

18 THE WITNESS: Sorry.

19 A When I -- when I pulled into the alleyway off of White
20 Avenue I observed the -- the smaller 4-door car sitting in
21 the alleyway with Deputy -- Deputy Gaddy's car wedged up
22 against the driver's door. And immediately when I stepped
23 out I could see a black male driver sitting behind the --
24 the steering wheel with his hands in the air. And Deputy
25 Gaddy had him at gunpoint.

John Nix
Direct examination by Ms. Poulos

1 Q What did you do then?

2 A I also pulled my weapon and kept him at gunpoint
3 because I knew other units were coming back around and
4 traffic was -- several other units were close by. They
5 were coming in. I just decided to hold my position because
6 I had a good sight on all of the front of the car.

7 Q Was he unconscious?

8 A He was not. He was -- he was looking straight at me
9 the biggest part of the time with his hands up.

10 Q And did Sergeant Tony Brown and Sergeant William Gary
11 arrive shortly thereafter?

12 A Just -- just in a few seconds. It wasn't long after I
13 got there I -- I saw Sergeant Brown run past me on the
14 right. I was on the opposite side of the truck.

15 I don't really think he knew I was there because he ran
16 right by me and never looked at me. He proceeded around the
17 back side of the car. And then sergeant -- sergeant came
18 right in behind him and came in behind the car as well.

19 Q Now, was the defendant searched?

20 A I searched him at the back of the car after he was
21 taken out of the vehicle.

22 Q And did you retrieve a gun?

23 A I did. I pulled a -- a weapon that looked, appeared
24 to be a weapon from the waistband of his pants. Just as
25 soon as I pulled the gun out I realized it was very light,

John Nix
Direct examination by Ms. Poulos

1 and I looked, just glanced at it and all -- by glancing at
2 it I knew enough about the weight of it and what it
3 appeared to be. I knew it wasn't a real weapon, but it was
4 a close facsimile. It looked like a real revolver. Up
5 close you would have been able to tell the difference on
6 them.

7 Q Have you ever seen a weapon or a -- it's a --

8 A It's -- it's basically like an aerosol gun.

9 Q Have you ever seen anything like that before?

10 A I have seen them before, yes.

11 Q But -- but you ultimately determined that it was not
12 real.

13 A I'm sorry?

14 Q You ultimately determined that it -- that it was not
15 real, sir?

16 A That's correct.

17 Q Okay. Now, did you have a body camera on that night?

18 A I did not.

19 Q And why not, sir?

20 A We're -- the plain-clothes division is not issued by
21 policy or procedure from the sheriff's office a body cam.
22 We don't normally wear them at all. I've never had one
23 since I've been there.

24 Q So it's not policy for you to even have one?

25 A No, ma'am.

John Nix
Cross-examination by Mr. Shealy

1 Q Or have to wear one, correct?

2 A That's correct.

3 Q Now, what about a dash cam in your vehicle? Did you
4 have that?

5 A I -- my vehicle was not established with a dash cam,
6 no, ma'am.

7 Q And as an investigator is that a common thing?

8 A I don't know of any investigator car that has a dash
9 cam in it.

10 Q Which type of officers are typically equipped with
11 dash cams?

12 A Generally a patrol officer would be, or somebody faced
13 with the public directly as part of their job every day,
14 day in and day, out would have one.

15 Q Did you know the defendant prior to his arrest?

16 A I did not.

17 Q Thank you. Please answer any questions the defense
18 may have.

19 CROSS-EXAMINATION

20 BY MR. SHEALY

21 Q Investigator Nix, how long have you been with the
22 sheriff's office?

23 A Approximately seven years, going on seven years.

24 Q Seven years. What did you do before that?

25 A Before that I was a forensics officer assigned to them

John Nix
Cross-examination by Mr. Shealy

1 as a liaison at a Greer police department.

2 Q Okay. So how long have you been with law enforcement
3 together?

4 A Total time before and after, or just this last time?

5 Q Yeah. Total time.

6 A I started law enforcement in '75, left in '89, and
7 came back in 2002.

8 Q Okay. Why did you leave in '89, just other
9 opportunities?

10 A No. Went to work making more money.

11 Q All right. You testified that you were on a stakeout.
12 So this was -- this was -- this was preplanned.

13 A I didn't say I was on a stakeout. I said I was on
14 designated patrol.

15 Q Okay. So you weren't part of the -- the stakeout.

16 A I wasn't what? I'm sorry?

17 Q You weren't part of the stakeout.

18 A I was on an assigned position of a group of guys that
19 night that were on designated patrol in the business area.

20 Q Okay. I guess you need to explain to me. What does
21 designated patrol mean?

22 A We're asked to be in a certain area to look for any
23 suspicious activity that might arise from people that might
24 be involved in a crime.

25 Q Okay. I'm going to hand you a document, I suppose,

John Nix
Cross-examination by Mr. Shealy

1 that's been provided to me in discovery. If you would,
2 read that whole thing.

3 (Pause.)

4 A Okay.

5 Q Does that not list you as being part of the stakeout?
6 Are you not Nix? You're supposed to be in a Dollar
7 General?

8 A I don't observe in this document anywhere where the
9 word stakeout appears, no, sir. It just says that we're on
10 surveillance in the area, proximity of stores.

11 Q So you're not sitting on a Dollar General store.

12 A I'm sitting across the street in P.C. and across from
13 Dollar General, yes, sir.

14 Q Okay. So that's not a stakeout?

15 A I -- I don't use the term stakeout. That's a civilian
16 term mostly.

17 Q I'm sorry. That's what Officer Gaddy called it, what
18 everybody else has called it.

19 A I have -- I have no knowledge of what Officer Gaddy
20 called it.

21 Q So -- so you don't want to call it a stakeout, but you
22 were -- you were out in this area with a plan of observing
23 suspicious activity.

24 A Businesses in that area, yes, sir.

25 Q All right. And you were assigned a particular

John Nix
Cross-examination by Mr. Shealy

1 business at 1091 Asheville Highway at the Dollar General.

2 A That's correct.

3 Q Okay.

4 A That was my area.

5 Q And you knew that that's what you were going to be
6 doing on this -- the date in question.

7 A That's correct.

8 Q Right? I guess it started on April the 6th according
9 to this document. Okay. So this didn't come as a surprise
10 to anybody. This was a preplanned, we're all going to go
11 and be on the lookout for suspicious behavior.

12 A We were all going to be out patrolling the business
13 areas looking for somebody that might match that suspicious
14 behavior, that's correct.

15 Q Okay. But nobody gave you a camera.

16 A No, sir.

17 Q Nobody thought, you know, we might want to record this
18 stuff so that when we're testifying it can be played for
19 people.

20 A Well, I don't even know where we would have got a
21 camera from that would have been able to do that recording.
22 We're not -- we don't have any available to us in C.I.D.

23 Q So tell me. What kind of car are you driving right
24 now with the sheriff's department?

25 A At this moment I'm driving a Tahoe.

John Nix
Cross-examination by Mr. Shealy

1 Q Okay. And is that a 2014, '15, '16?

2 A It's a '16.

3 Q You've got a '16 Tahoe.

4 A Uh-huh.

5 Q So the sheriff's department can't buy you a camera but
6 they can buy you a new Tahoe.

7 A Sir, I have no knowledge of the sheriff's department
8 budget and how they spend it other than the fact that they
9 replenish cars and that happened to be a car that was
10 replaced.

11 Q Okay. Have you ever worked in the narcotics?

12 A I'm sorry?

13 Q Have you ever worked narcotics?

14 A No, sir.

15 Q No. Okay. Are you aware if they have cameras over in
16 narcotics?

17 A I'm unaware of that.

18 Q You don't know, because, again --

19 A No, sir. I've never operated with the narcotics unit
20 since I've been with the sheriff's office.

21 Q You don't have any friends who work narcotics?

22 A I do not see those gentlemen. They're not in my
23 location.

24 Q No.

25 A I know them when I see them. If they come to the

John Nix
Cross-examination by Mr. Shealy

1 office for some reason I recognize who they are, but I
2 don't know anything about their operations.

3 Q The narcs don't mix with everybody else, or what?

4 A They're located in our -- in our area, no, sir.

5 Q Okay. All right. Now, when you responded out to this
6 location, how long did it take you to get there?

7 A I was approximately a mile away. I was less than two
8 minutes, I would think. The traffic was light. It'd just
9 rained and there was -- the roads were damp, and it was hot
10 and muggy, but there wasn't any traffic to speak of.

11 Q Okay. You testified that Detective or Lieutenant
12 Gaddy was wedged into the driver's-side door?

13 A That's correct. His vehicle was up against the
14 vehicle that this gentleman was sitting in right at the
15 driver's door.

16 Q In the driver's door. Okay. And I'll be honest. I
17 just didn't hear you when you testified. Whenever you
18 rolled up and you got here, did you shine your headlights
19 in?

20 A My headlights were shining on that suspect's car, yes,
21 sir.

22 Q Okay. And what was his position inside of that car?

23 A He was sitting directly behind the driver's seat
24 facing me. When I pulled up as soon as I pulled in, he was
25 facing straight at me. As far as I can remember, he never

John Nix
Cross-examination by Mr. Shealy

1 looked away from me, and he had his hands up on -- I
2 couldn't see the ends of his hands. Probably up on the
3 headliner.

4 Q Okay. I think I may have missed just now. What seat
5 was he in?

6 A He was in the driver's seat.

7 Q He was in the driver's seat.

8 A Yes, sir.

9 Q I thought you said he was behind the driver's seat,
10 and I wanted to correct my -- my hearing.

11 All right. Now, who actually took this fellow out of
12 the car?

13 A Sergeants Brown and Gary was the first two there.

14 Q Were they -- they were the first two there after you
15 and Gaddy.

16 A After myself.

17 Q So you didn't -- you weren't involved in pulling
18 Mr. Glenn out of the car.

19 A When they -- when they went to the passenger-side
20 front door and opened the front door and leaned in to
21 extricate this gentleman I started around between my car
22 and his car, around the back side of Deputy Gaddy's truck
23 or SUV, and then around to the back of the car. By the
24 time I got to the back of the car they were bringing this
25 gentleman around to the back of the car.

John Nix
Cross-examination by Mr. Shealy

1 Q And when you did all of this what kind of clothing was
2 he wearing?

3 A He was -- it was dark, after dark. I could tell he
4 had on dark clothing, but I couldn't tell you if there was
5 a pattern or any kind of a symbol or anything like that.
6 It was just all dark clothing.

7 Q Okay. And y'all -- did you have any reason -- you
8 testified that you're the one who searched him, right?

9 A Yes, sir.

10 Q Okay. And that's when you found this like fake gun.

11 A Yes, sir.

12 Q And where did you search him in this area?

13 A Where did I search him?

14 Q Yeah. Where did -- did you search behind the car, in
15 your car?

16 A At the very back of the car, just slightly off the
17 back of the deck lid.

18 Q And was there a bush of any kind on the other side?

19 Hang on. Let me find State's Exhibit -- State's
20 Exhibit 16. I'm going to hand it to you, and then we'll
21 put it up there. What is this thing right in this area?

22 A It's an embankment with a scrub brush on it. The
23 whole length of the alleyway has -- an embankment goes up
24 to a higher-level car lot. And it's all grewed up with
25 scrub and brush.

John Nix
Cross-examination by Mr. Shealy

1 Q So on State's Exhibit No. 3 you're saying there's an
2 embankment all here.

3 A Yeah, there's a -- there's a slight embankment there
4 up to that parking area.

5 Q Okay. And this right here is -- there is scrub brush
6 all up and down.

7 A Yeah, it's scrub, just un -- unmanicured bank.

8 MR. SHEALY: If I may approach.

9 Q All right. And you -- when you searched him you
10 searched behind. You searched in behind the car.

11 A Yes, sir.

12 Q And did you find anything other than this gun or this
13 fake gun on him?

14 A Not that I recall. I just -- basically he -- he was
15 already in handcuffs about the time I started searching
16 him. I just felt around his waistband, up under his arms,
17 down his back and in his pants leg and only found that
18 weapon. That's what I was looking for, was a weapon.

19 Q Okay. And when you -- all right. And then when you
20 ultimately arrested him -- or were you the one who arrested
21 him, or somebody else?

22 A No, sir. He was already under -- in custody and had
23 cuffs on him by the time I -- I got around to the back.

24 Q Okay. And did you close this scene?

25 A Sir?

John Nix
Cross-examination by Mr. Shealy

1 Q Did you close the scene in any way?

2 A Close it?

3 Q Yeah. Put tape up around it or --

4 A I stood with this gentleman for a short period of
5 time. Like I say, it was very hot and humid, and he was --
6 he was just drenching in sweat.

7 I asked him if he wanted me to wipe his face. He
8 stated he did. I pulled the front of his shirt up and wiped
9 his face and his neck down good for him and talked to him a
10 minute or two. And that was just be calm, everything is
11 going to be okay. I talked to him a minute or two.

12 And after the scene became -- started becoming, I guess
13 you'd say, more congested with more officers there I was
14 asked to go back to the Family Dollar and help to do the --
15 do this crime scene at the Family Dollar. And so I left
16 that area and went to Family Dollar.

17 Q Okay. But you didn't start a crime scene log, for
18 instance.

19 A No, sir.

20 Q Or have anybody start a crime scene log.

21 A No, sir. I did not.

22 Q Again, stop people from -- I mean, there was no
23 physical barrier put up to stop people from coming.

24 A No, sir, not at that time. There was not.

25 Q Okay. And then you've testified that you went back to

John Nix
Cross-examination by Mr. Shealy

1 the Family Dollar. Did you take statements over there?

2 A I went over there, and Investigator Paul Norris
3 happened to be there inside the store. He was talking to
4 witnesses. I went in and asked him if there was anything I
5 could do. He told me, said, "well, I think I've got it
6 pretty much covered. I have got people doing statements."

7 I walked down to the cash-register area just to
8 observe, to look. Saw cigarettes on the floor and on the
9 counter. They were spilled out behind the cash register. I
10 just kinda observed the scene, stayed there a few minutes.

11 When it was obvious there wasn't nothing for me to do I
12 left back out and stood in front of the store and waited.
13 And -- and after a short period of time I went back to where
14 the cars were parked.

15 Q And was it raining that day?

16 A It had been raining earlier.

17 Q Earlier. I mean, so it wasn't raining at the time of
18 all of this?

19 A It may have been just lightly sprinkling off and on,
20 but the biggest part of the rain had come through kind of
21 like a thunder storm, had already come through. And it was
22 just -- the roads were pretty -- pretty damp, and steam
23 coming from the road caused the temperature.

24 Q So the roads were damp, but there would have been no
25 reason for -- I mean, it wasn't actually raining. It

John Nix
Cross-examination by Mr. Shealy

1 wasn't present -- actively raining at the time.

2 A No, sir. I don't remember that being such.

3 Q Okay. And you've testified that when you got him out
4 of the car he was dressed in the same clothing.

5 A I didn't -- I didn't take him out of the car.

6 Q Well, I mean, when he was taken out of the car.

7 A When he was taken out the car when I got to him he was
8 dressed in dark clothing, that's correct.

9 Q And nobody put any other clothes on him or anything
10 like that.

11 A Not to my knowledge, sir.

12 Q Okay. Anybody take his boots off?

13 A At that time, not to my knowledge.

14 Q No. You weren't there when deputy -- obviously, you
15 weren't there when Deputy Gaddy came across and around this
16 area. So you don't know if his car was under control or
17 not.

18 A I have no idea.

19 Q Do you know how many cars ultimately got there?

20 A Well, I know that my vehicle and Sergeant Tony Brown's
21 vehicle and Sergeant Gary's vehicle was there. Seems to me
22 somebody else pulled in shortly behind those vehicles, but
23 I can't remember who it was.

24 Q Okay. But you don't remember exactly how
25 many vehicles responded out there.

John Nix
Cross-examination by Mr. Shealy

1 A I do not.

2 Q But it sounds like, and we've had testimony, that --
3 would 11 be an observed number at the height of this?

4 A A general response would have all vehicles probably
5 proceeding to that area. So however many cars were
6 assigned probably eventually ended up getting there unless
7 they were called off.

8 Q And did you search the scene at all, the scene around
9 the car?

10 A No, sir, I did not.

11 Q Okay. So you didn't find any clothes on the side of
12 the road or anything like that.

13 A I did not look, did not see any, wasn't known to look
14 for any.

15 Q Did Gaddy talk to you at all about the number of
16 vehicles on Asheville Highway?

17 A In what manner?

18 Q Did he -- he's testified --

19 MS. POULOS: Your Honor, that's getting -- getting
20 into hearsay.

21 MR. SHEALY: Your Honor, I believe it's a part of the
22 investigation.

23 THE COURT: Well, let me hear the question.

24 Just because it's in the investigation doesn't mean it
25 comes in necessarily.

John Nix
Cross-examination by Mr. Shealy

1 MR. SHEALY: Okay.

2 THE COURT: But go ahead and ask your question.

3 Q Was there any discussion about the number of cars on
4 Asheville Highway when Investigator Gaddy was coming into
5 the parking lot?

6 A I don't recall any. I don't recall any talk about any
7 vehicles at the time.

8 Q Okay. So you don't --

9 A Subject vehicles. Are you -- I don't know if you're
10 asking about specific cars.

11 Q I'm -- yeah. Cars on Asheville Highway.

12 A There would have been -- it would have been general
13 traffic. It would have been on -- to my observation when I
14 left where I was sitting at proceeding there traffic was
15 light.

16 I caught the light at California Avenue and Asheville
17 Highway. It was green on my end of it. So I didn't have to
18 hesitate at the light. I came on down. My speed was
19 probably 50 to 60 miles an hour. I didn't encounter any
20 cars in front of me that were a problem.

21 Q Okay.

22 MR. SHEALY: I have nothing further for this witness.

23 MS. POULOS: Just one, Your Honor.

24

25

John Nix
Redirect examination by Ms. Poulos

1 REDIRECT EXAMINATION

2 BY MS. POULOS

3 Q Lieutenant Gaddy, I mean -- I'm sorry -- Investigator
4 Nix, you may have testified about this. What did you do
5 with the gun after you retrieved it from the defendant's
6 waistband?

7 A It was placed in an evidence bag for -- the evidence,
8 to go into evidence.

9 Q Thank you, sir.

10 MS. POULOS: Nothing further, Your Honor.

11 THE COURT: You may step down.

12 MR. SHEALY: Judge, may we approach?

13 THE COURT: Yes.

14 (Bench conference held off the record in the presence
15 of the jury but out of the hearing of the jury.)

16 THE COURT: All right. We're going to take a short
17 break, and then we'll continue.

18 Please go to your jury room. Don't talk about the
19 case. I'll bring you back after that break.

20 (The following takes place outside the presence of the
21 jury.)

22 THE COURT: We will be at ease for 15 minutes.

23 MR. SHEALY: Thank you, Judge.

24 (Whereupon, a recess was taken.)

25 MR. SHEALY: Judge, I'm supposed to bring up or I need

1 to bring up the State's Exhibit -- I believe it's No. 1.

2 We are not entirely sure how they're going to redact
3 it. I just wanted to make sure and put on the record that
4 the first part of that or the first file in that C.D. is a
5 20 -- I believe it's 20 minutes, 33-second long file.

6 The only part that was published and the only part
7 that's relevant to this case begins at, I believe, 19
8 minutes and 30 seconds. I believe.

9 MS. POULOS: That's -- that's correct, Your Honor.

10 MR. SHEALY: Nineteen minutes and 30 seconds. And
11 they're -- so they need to redact, or we agreed to redact
12 out that large part that was irrelevant, confusing and has
13 to do with the -- apparently it's called the designated
14 patrol as opposed to a stakeout. But the designated patrol
15 radio.

16 THE COURT: Stakeout. That's television speaking.

17 MR. SHEALY: Apparently, yes, sir. That's my
18 understanding. And so they've got to redact all of that
19 out.

20 THE COURT: I understand.

21 MS. POULOS: Yes, Your Honor. We don't have a problem
22 with that, and we're discussing a way that we can try to
23 have -- have that done.

24 THE COURT: Okay.

25 MS. POULOS: The best way with taking the exhibit out

1 of the courtroom and trying to do that, Your Honor. So
2 we're -- we're discussing that right now. But we don't
3 have a problem with that.

4 THE COURT: Well, you have a copy of that exhibit, do
5 you not? I'm certain the defense does.

6 MR. SHEALY: I do. Well, I don't know that I have it
7 in the exact form they have it.

8 MS. POULOS: Yes, yes, sir.

9 MR. SHEALY: But I have a copy of that file.

10 MS. POULOS: We had -- we had -- we had taken all of
11 the calls, Your Honor, and we had just put on what we --

12 THE COURT: This is the original disc?

13 MS. POULOS: It's -- it's the original, I guess,
14 revised disc, Judge. That's -- that's our only con --
15 concern is that --

16 THE COURT: What do you mean, revised?

17 MS. POULOS: Revised meaning that there were
18 multiple -- more than just the seven segments, Judge, and
19 what we wanted to do was just to take those and we --

20 THE COURT: Oh, these are just the seven.

21 MS. POULOS: Yes, sir. That's just seven.

22 THE COURT: But they still include things that are not
23 relevant to this case.

24 MS. POULOS: Just the 19 minutes of that very, very
25 first segment, Judge.

1 THE COURT: Nineteen minutes is a lot of stuff.

2 MS. POULOS: Most of it's -- most blank anyway, but I
3 understand.

4 THE COURT: All right. Well, anyway, y'all have a
5 copy of it I'm sure you can experiment with to see if you
6 can get it redacted. I don't want you to take this one
7 unless there's not going to be any chance of it being
8 offered.

9 MS. POULOS: We can -- we can burn a C.D., Your Honor,
10 with exactly those same segments and then have that
11 redacted if that's what Your Honor wants, yes, sir.

12 THE COURT: That's good. All right. Anything else?

13 MR. SHEALY: No, Your Honor.

14 THE COURT: All right. Bring the jury in.
15 Who's the next witness?

16 MS. POULOS: Your Honor, that would be Deputy Anthony
17 Knighten.

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

20 THE COURT: The jury is present. You may proceed.

21 MS. POULOS: Thank you, Your Honor. The state calls
22 Deputy Anthony Knighten.

23
24
25

Anthony Knighten
Direct examination by Ms. Poulos

1 ANTHONY KNIGHTEN, having been
2 first duly sworn, testified as follows:

3 DIRECT EXAMINATION BY MS. POULOS

4 Q If you would, sir, please introduce yourself to the
5 jury and where you are employed.

6 A Anthony Knighten, Spartanburg County Sheriff's Office
7 Crime Scene Unit.

8 Q Back on April the 7th of 2015 were you called out to
9 the Family Dollar location to process the scene?

10 A Yes, ma'am.

11 Q And did you first go out behind the store to where the
12 defendant had -- was caught or arrested?

13 A Yes, ma'am.

14 Q Okay. And did you take pictures while you were out
15 there?

16 A Yes, ma'am.

17 Q Did you take pictures of Lieutenant Gaddy's vehicle as
18 it had collided with the defendant's vehicle?

19 A Yes, ma'am.

20 Q Okay. I'm going to show you State's Exhibits 14
21 through 17 -- they've already been admitted into
22 evidence -- and ask did you take these photographs. This
23 is State's Exhibit 14. Did you take that photograph, sir?

24 A Yes, ma'am, I did.

25 Q And this is State's Exhibit 15. Did you also take

Anthony Knighten
Direct examination by Ms. Poulos

1 that photograph?

2 A Yes, ma'am.

3 Q And State's Exhibit 16.

4 A Yes, ma'am.

5 Q Where is Lieutenant Gaddy's vehicle?

6 A It's to the right of the Toyota -- I mean, sorry --
7 left of the Toyota in the picture.

8 Q Looking at the picture can you point to it?

9 A The driver's door.

10 Q And the defendant's vehicle would have been which one?

11 A The Toyota.

12 Q And finally this is State's Exhibit 17. Did you also
13 take that picture as well?

14 A Yes, ma'am.

15 Q Now, did you also take some pictures of inside the
16 vehicle, and at the scene, in addition to those?

17 A Yes, ma'am, I did.

18 Q Okay. I'm going to show you what's been marked for
19 identification purposes as State's Exhibits 18, 19, 20, 21
20 and 22 and ask are those the photographs that you took of
21 the scene.

22 A Yes, ma'am. They are.

23 MS. POULOS: Your Honor, at this time we would ask
24 that State's Exhibits 18 through 22 be admitted into
25 evidence.

Anthony Knighten
Direct examination by Ms. Poulos

1 MR. SHEALY: No objection.

2 THE COURT: They are admitted.

3 MS. POULOS: Thank you, Your Honor.

4 (Photographs marked State's Exhibits Nos. 18 through
5 22.)

6 Q Deputy Knighten, I'm going to show you State's
7 Exhibit 18 and ask you what is in that photo.

8 A Plastic revolver and a pair of gloves.

9 Q And did you take that photograph?

10 A Yes, ma'am, I did.

11 Q Did you collect those items as well?

12 A Yes, ma'am, I did.

13 Q State's Exhibit 19. Did you also take this
14 photograph, sir?

15 A Yes, ma'am, I did.

16 Q And what are we looking at in that picture?

17 A The same plastic revolver and gloves.

18 Q Did you collect it and put it in that box?

19 A Yes, ma'am, I did.

20 Q This is State's Exhibit 20 -- this is State's
21 Exhibit 20. Did you take that photograph as well?

22 A Yes, I did.

23 Q And what are we looking at in that picture?

24 A That is the interior of the car with the bag full of
25 cigarettes, and cigarettes on the seat.

Anthony Knighten
Direct examination by Ms. Poulos

1 Q And it appears that -- would that appear to be a
2 steering wheel?

3 A Yes, ma'am, it is.

4 Q And this is a little hard to see on this picture, but
5 is that the passenger seat?

6 A Be the passenger seat, yes.

7 Q And this would be the driver's seat?

8 A Yes, ma'am.

9 Q And State's Exhibit 21. Is this just another picture
10 of the -- the bag and the cigarettes?

11 A Yes, ma'am. Different angle.

12 Q And State's Exhibit 22.

13 A That's from the passenger side.

14 Q And were all of the cigarettes that way when -- when
15 you got to the scene? Or did you open that door? I
16 probably should ask it that way. Did you open the door?

17 A No, ma'am. It was already opened.

18 Q It was already opened. Okay. Now, all of these
19 items, sir, were they taken to the sheriff's office? Did
20 you collect them and put them into evidence?

21 A Yes, ma'am, I did.

22 Q And, specifically, did you take and put into evidence
23 the plastic revolver, which we just showed you on the
24 photograph? Is that correct?

25 A Yes, yes, ma'am.

Anthony Knighten
Direct examination by Ms. Poulos

- 1 Q And along with that there are two plastic shell
2 casings, is that correct?
- 3 A Yes, ma'am.
- 4 Q And did you take into custody the brown gloves?
- 5 A Yes, ma'am.
- 6 Q How about the -- did you take into custody a mask, a
7 green mask, or toboggan?
- 8 A Yes, ma'am.
- 9 Q And the campus bag? Did you take this in, sir?
- 10 A Yes, ma'am.
- 11 Q And such -- how many cigarettes did you determine
12 there to be, or packs of cigarettes?
- 13 A I checked them out. I have them on my property sheet.
14 187 packs.
- 15 Q 187 packs?
- 16 A Yes, ma'am.
- 17 Q Okay. Deputy Knighten, I'm going to and you what's
18 been premarked as State's Exhibit 27 and ask -- actually
19 I'll hand you State's Exhibit 28 as well, state's
20 Exhibit 30 and State's Exhibit 29, and ask you are those
21 four items of evidence that you collected. What is in --
22 what is in State's Exhibit 27?
- 23 A Twenty-seven will be the plastic revolver and two
24 plastic shell casings.
- 25 Q And does your name appear on -- on that box?

Anthony Knighten
Direct examination by Ms. Poulos

1 A Yes, ma'am.

2 Q And was that secured and taken to the evidence
3 department?

4 A Yes, ma'am.

5 Q All right. State's Exhibit 28. What would State's
6 Exhibit 28 be?

7 A Be the green toboggan or mask.

8 Q Did you collect that and take that into evidence?

9 A Yes, ma'am.

10 Q Are your -- is your name or initials on that bag?

11 A Yes, it is.

12 Q Was that put in a secure location?

13 A Yes, ma'am.

14 Q All right. State's Exhibit 29. If you could
15 identify, what is that, sir?

16 A The pair of brown gloves.

17 Q Which you also collected from the scene?

18 A Yes, ma'am.

19 Q And your name appears on -- on that?

20 A Yes, ma'am.

21 Q And that was also taken and put in a secure location
22 at the sheriff's department?

23 A Yes, ma'am.

24 Q And State's Exhibit 30. What would that be?

25 A It is the canvas bag and one pack of the Newport

Anthony Knighten
Direct examination by Ms. Poulos

1 cigarettes.

2 Q Okay.

3 MS. POULOS: Your Honor, at this time we'd ask that
4 State's Exhibits 27 through 30 be admitted into evidence.

5 MR. SHEALY: No objection, Your Honor.

6 THE COURT: They're admitted.

7 (Plastic revolver with shell casings marked State's
8 Exhibit No. 27; green mask/toboggan marked State's Exhibit
9 No. 28; pair of brown gloves marked State's Exhibit No. 29;
10 canvas bag marked State's Exhibit No. 30.)

11 Q If you could, sir, with State's Exhibit 27, if you
12 could, open this up and show -- show the jury what is
13 contained in that box.

14 A It is the plastic revolver and two plastic shell
15 casings.

16 Q And if you could, State's Exhibit 28, I believe, which
17 you have labeled the green mask, if you could open that for
18 the jury to see.

19 A That'd be the green toboggan.

20 Q Are there holes in the front, sir?

21 A Yes, ma'am, two eyeholes in the front.

22 Q Thank you, sir.

23 If you could, this would be State's Exhibit 29 you have
24 labeled as the brown gloves. If you could, open that as
25 well.

Anthony Knighten
Direct examination by Ms. Poulos

1 A Two pair of gloves.

2 Q And all of those items that you have just spoken
3 about, you collected those from the vehicle, is that
4 correct?

5 A Yes, ma'am.

6 Q Now, did you then go inside the store to take some
7 pictures?

8 A Yes, ma'am, I did.

9 Q I'm going to show you what's already been admitted as
10 State's Exhibits 5 through 13. Are these the pictures you
11 took inside the store?

12 A Yes, ma'am, they are.

13 Q Now, did you take any fingerprints in this case?

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

15 Q And why did you not do that?

16 A Because it was relayed to me by -- that the suspect
17 was wearing gloves.

18 Q Was it also raining that night?

19 A Yes, ma'am. It was misty rain.

20 Q So, obviously, if you were told that the suspect was
21 wearing gloves you -- would it be pointless to you to take
22 fingerprints?

23 A Yes, ma'am.

24 Q Okay. Now, did you also take pictures of the -- the
25 defendant when he was arrested?

Anthony Knighten
Direct examination by Ms. Poulos

1 A Yes, ma'am.

2 Q Okay. I'm going to hand you what's been premarked as
3 State's Exhibits 23, 24, 25 and 26 and ask you are those
4 the pictures that you took of the defendant when he was
5 arrested, sir.

6 A Yes, ma'am, they are.

7 Q Do they fairly reflect the way the defendant looked?

8 A Yes, ma'am.

9 Q Thank you.

10 MS. POULOS: Your Honor, at this time we would ask
11 that State's Exhibits 26 -- I'm sorry -- 23, 24, 25 and 26
12 be admitted into evidence.

13 MR. SHEALY: No objection.

14 THE COURT: They're admitted.

15 (Photographs marked State's Exhibits Nos. 23 through
16 26.)

17 Q Deputy Knighten, this is State's Exhibit 23. Is that
18 the defendant in this case, sir?

19 A Yes, ma'am.

20 Q And are those the clothes that he was wearing when he
21 was arrested?

22 A Yes, ma'am.

23 Q Where was that photograph taken?

24 A Taken at the Spartanburg County Jail.

25 Q This is State's Exhibit 24. What are we looking at

Anthony Knighten
Direct examination by Ms. Poulos

1 there?

2 A The suspect's pants and shoes.

3 Q This is State's Exhibit 25.

4 A The suspect's shirt and hoodie.

5 Q This is State's Exhibit 26. Is that also the
6 defendant?

7 A Yes, ma'am.

8 Q Is him from behind?

9 A Rear view.

10 Q And did you also collect the defendant's clothing and
11 shoes as well --

12 A Yes, ma'am.

13 Q -- while you were at the jail?

14 A Yes, ma'am, I did.

15 Q Now, did you collect any cell phone from the scene?

16 A No, ma'am.

17 Q Did you collect any cell phone from the defendant at
18 the jail?

19 A No, ma'am.

20 Q If there had been one would you have obviously
21 collected it?

22 A Yes, ma'am, I would.

23 Q Thank you. Please answer any questions the defense
24 may have for you.

25

Anthony Knighten
Cross-examination by Mr. Shealy

1 CROSS-EXAMINATION

2 BY MR. SHEALY

3 Q Officer Knighten, did he say anything to you while you
4 were taking these pictures?

5 A That he didn't want his face photographed.

6 Q That he didn't want his face photographed?

7 A Yes, sir.

8 Q Didn't he tell you those weren't his clothes?

9 A I don't recall that, sir.

10 Q You don't recall that, or he didn't say it?

11 A I don't recall.

12 Q When did you get out to this scene?

13 A Approximately 2100.

14 Q All right. And what's that in regular time?

15 A 9:00 p.m. Sorry.

16 Q All right. So it'd be about 9:00 o'clock in the
17 evening.

18 A Yes, sir.

19 Q And you testified it was misty raining whenever you
20 got there?

21 A Yes, sir.

22 Q All right. Would it surprise you that other people
23 would testify that it was, in fact, not raining, that it'd
24 been raining earlier and that it'd spit every once in a
25 while but that that was the extent of the rain?

Anthony Knighten
Cross-examination by Mr. Shealy

1 A I can't testify to what they say.

2 Q Okay. Now, did you close this scene with any physical
3 barriers or anything?

4 A I'm sorry?

5 Q Did you close this scene with any physical barriers?

6 A Block off the scene?

7 Q Yeah.

8 A Crime scene tape or something, no, sir.

9 Q No. So did you start a crime scene log to keep track
10 of all of the people who were coming in and out of the
11 crime scene?

12 A No, sir. Crime scene wouldn't do that.

13 Q Crime scene wouldn't do that. That's somebody else's
14 job?

15 A That's uniform patrol would usually do that.

16 Q Okay. And that's policy.

17 A Yes, sir.

18 Q Y'all have got a lot of policies at the sheriff's
19 office. We've heard a lot about those.

20 Now, when you first arrived on scene I guess you got a
21 briefing, I assume. And you were told where to go and find,
22 what to go collect, is that right?

23 A Yes.

24 Q Do you do your own searching?

25 A Yes, sir.

Anthony Knighten
Cross-examination by Mr. Shealy

1 Q Okay. So you independently of the other investigators
2 on scene, you go and you do your own search to see if
3 there's anything of evidentiary value.

4 A Yes, sir.

5 Q And did you see anything alongside of the side of the
6 road, alongside this? I'm going to show you State's
7 Exhibit 3. So when I say stuff like that, did you see
8 anything along the sides of the side of the road there?

9 A Just dirt, grass and anthills.

10 Q Okay. And use that microphone whenever you speak.

11 A Sorry.

12 Q I'm sorry. So you saw dirt and grass over here?

13 A Yes.

14 Q Did you see any extra cigarette packet, packages?

15 A Just what was on the ground outside of the car that I
16 collected.

17 Q Okay. So those were the only cigarette packet or
18 boxes or bits that's you found.

19 A Yes, beside the car.

20 Q I don't know. Cigarette packs.

21 A Packs.

22 Q So you didn't find any cigarette packs anywhere other
23 than in the car.

24 A In the car and on the ground outside of the car --
25 passenger door.

Anthony Knighten
Cross-examination by Mr. Shealy

1 Q Okay. And let me understand about, again, the time,
2 the timing, of all of these things. It looks like you
3 went, you took some item, you took the gun into evidence,
4 you took the gloves into evidence, and then you went to the
5 jail, is that accurate?

6 A Yes.

7 Q So you left the cigarettes, the canvas bag and the
8 rest of the scene at about what time?

9 A At approximately 2200.

10 Q Okay. And that would be --

11 A 10:00 o'clock. Sorry. 10:00 p.m.

12 Q And that's when you went and you took some other
13 evidence into -- or you took those pictures that we've
14 seen, that sort of thing.

15 A At the jail.

16 Q The pictures at the jail.

17 A Yes, sir.

18 Q That would be State's Exhibits 26, 25, 24 and 23,
19 right?

20 A Yes.

21 Q How long did that take?

22 A Let's see. Approximately 30 minutes.

23 Q Okay. And then you went back to the Family Dollar,
24 right?

25 A Yes, sir.

Anthony Knighten
Cross-examination by Mr. Shealy

1 Q And you took these other photographs that we've seen
2 at the Family Dollar.

3 A Yes, sir.

4 Q Right? And you also took the packs of cigarettes into
5 evidence, the toboggan into evidence, and I guess also the
6 canvas bag, right?

7 A Yes, sir.

8 Q Why did you wait until -- why did you wait so long to
9 take those things into evidence?

10 A On the -- I believe the cigarettes and cash, didn't
11 know if they were going to be turned back over to Family
12 Dollar or taken into evidence.

13 Q Okay.

14 A And I wanted to photograph the suspect before he was
15 booked in.

16 Q All right. But you -- those -- that the cigarettes
17 and the cash were laying there for some time. The motor
18 vehicle accident appears to have happened about 8:45. But
19 you saw it at 9:00, or saw the scene at 9:00.

20 A Yes.

21 Q All the way until, what, 10:30 or 11:00 o'clock?

22 A Yes, sir.

23 Q And how long did it take you to finish taking pictures
24 of the scene?

25 A Probably about 30 minutes.

Anthony Knighten
Cross-examination by Mr. Shealy

1 Q Okay. Now, as for these gloves, the things you've
2 taken into evidence, where did you find those gloves?

3 A At the scene on a -- where the accident was.

4 Q Whereabouts in the car?

5 A The gloves, the mask, the bag? What are you asking
6 about?

7 Q Just the -- just the gloves.

8 A The gloves were on the rear bumper, I mean, the rear
9 trunk, on top of the trunk.

10 Q They were on the top of the trunk?

11 A Yes.

12 Q Okay. And where was the gun?

13 A The same place.

14 Q The gun was on the top of the trunk?

15 A Yes.

16 Q And then where was the toboggan?

17 A The passenger seat.

18 MR. SHEALY: If I may if you will bear with me, Judge.

19 (Pause.)

20 Q So that's what this shows, right, that that's on top
21 of the trunk?

22 A Yes, sir.

23 Q It's difficult for me. And you testified you didn't
24 take any fingerprints.

25 A No, sir.

Anthony Knighten
Cross-examination by Mr. Shealy

1 Q You've also -- you didn't swab that toboggan for any
2 D.N.A.?

3 A No, sir.

4 Q You also didn't take any D.N.A. out of the gloves?

5 A No, sir.

6 Q Officer Knighten, my understanding of your testimony
7 is you got all 187 packs of cigarettes at the same area,
8 right?

9 A Yes, sir.

10 Q And there was an extra property and evidence sheet
11 that was done that appears to show a canvas bag and one --
12 and one pack of cigarettes. Is that because of what you --
13 the way you packaged it there?

14 A Oh, yes, sir. The rest of them were returned to
15 Family Dollar.

16 Q Okay. Did you do anything to -- did you check serial
17 numbers for Family Dollar?

18 A No, sir, I didn't.

19 Q No. So y'all didn't go back and make sure that those
20 cigarettes went to the Family Dollar.

21 A I didn't, sir.

22 Q I don't even know. Is there a way of doing that?

23 A I'm not sure.

24 MR. SHEALY: That's all I have of this witness.

25 MS. POULOS: Just -- just one.

Anthony Knighten
Redirect examination by Ms. Poulos

1 REDIRECT EXAMINATION

2 BY MS. POULOS

3 Q Since they had caught the defendant in the act did you
4 see any reason to swab the toboggan or the gloves?

5 A No, sir, I mean, no, ma'am.

6 Q Thank you.

7 THE COURT: You may step down.

8 THE WITNESS: Thank you, sir.

9 MS. POULOS: Your Honor, the state calls Sergeant
10 David Hogsed.

11 DAVID HOGSED, having been
12 first duly sworn, testified as follows:

13 MR. SHEALY: Judge, if we can approach.

14 (Bench conference held off the record in the presence
15 of the jury but out of the hearing of the jury.)

16 DIRECT EXAMINATION BY MS. POULOS

17 Q If you would, introduce yourself to the jury and tell
18 the jury where you are employed.

19 A David Hogsed. I'm with the Spartanburg County
20 Sheriff's Office Crime Scene Unit.

21 Q And back in April of 2015 were you asked to retrieve
22 the cigarettes and cash that had been taken into evidence
23 in this case?

24 A I was.

25 Q Were you asked to photograph them?

David Hogsed
Direct examination by Ms. Poulos

1 A I was.

2 Q And why were you asked to do that?

3 A Sergeant Gary came to me. Basically, these items had
4 already been submitted into evidence by Deputy Knighten.
5 Came to me, and undoubtedly they -- a decision was made
6 that some of the items be returned to the owner or -- of
7 this incident. And it was asked that I photograph these
8 items. And then -- basically, it was a hundred seven
9 eighty -- 187 packs of cigarettes in a canvas bag that I
10 photographed them and repackaged them keeping one pack of
11 cigarettes in the canvas bag and then so that the 186 packs
12 could be turned back over to the owner.

13 Q And why did you keep just one pack of cigarettes?

14 A That was a decision that was made between the
15 investigators and the solicitor's office.

16 Q And you being asked to photograph these -- these items
17 and the cash as well, is that something common or unusual
18 in a case like this?

19 A It's actually -- it's not unusual and it's not common.
20 It just depends on the investigator, the reason being is
21 the photos taken at the crime scene itself. And then --
22 and then of course with these we'll photograph and then
23 rephotograph them again to show this is what we had, this
24 is what we're returning, this is what we're keeping.

25 Q All right. All right. I'm going to show you State's

David Hogsed

Direct examination by Ms. Poulos

1 Exhibits 35, 36 and 37 for identification purposes and ask
2 you are those the photographs that you took of the
3 cigarettes and the cash that were taken into evidence in
4 this case.

5 A Yes.

6 MS. POULOS: Your Honor, we would ask at this time
7 that State's Exhibit 35, 36 and 37 be admitted.

8 MR. SHEALY: No objection.

9 THE COURT: They are.

10 (Photographs marked State's Exhibits Nos. 35 through
11 37.)

12 Q And, Sergeant Hogsed, this is State's Exhibit 35. Did
13 you place those cigarettes out like that?

14 A I did.

15 Q And what is this?

16 A That's a canvas bag. And if I'm not mistaken it's
17 from ALDI.

18 Q From where?

19 A ALDI.

20 Q Oh, from ALDI. Okay.

21 A And it's like one of the --

22 Q Recyclable?

23 A Recyclable bags that people carry to grocery stores,
24 yes.

25 Q And this is State's Exhibit 36.

David Hogsed
Direct examination by Ms. Poulos

1 A The cash that was submitted into evidence and laid out
2 on the table as well.

3 Q Associated with this -- this robbery?

4 A Yes.

5 Q And this is State's Exhibit's Exhibit 37. Is that
6 just a -- just a close-up picture?

7 A Yes, it's closer up, yes, ma'am.

8 Q Now, after taking these photographs, you stated that
9 you repackaged the canvas bag and kept one -- one pack of
10 cigarettes.

11 A Yes.

12 Q I am going to show you State's Exhibit 30 which --
13 State's Exhibit 30. I believe that's already been admitted
14 into evidence. Is that -- is that the package that you
15 made?

16 A Yes.

17 Q Okay. And if I could ask for you to open that and
18 show the jury.

19 (Whereupon, the witness complied.)

20 Q If you could, just hold the bag up so the jury can
21 see. And, again, out of 187 total cigarettes one pack was
22 kept just for reference, correct?

23 A Yes.

24 Q And the 187 were returned to the store at their
25 request.

David Hogsed
Cross-examination by Mr. Shealy

1 A It's my understanding that, yes, the rest were
2 returned.

3 Q Thank you. Please answer any questions the defense
4 may have.

5 CROSS-EXAMINATION

6 BY MR. SHEALY

7 Q Officer Hogsed, that was, I guess, \$232, right? I
8 mean, it's laid out like it's a large haul, but it was
9 \$232.

10 A I don't remember the amount.

11 Q So do you have any of the -- did you create any
12 incident report in this case?

13 A No. I just photographed them and created a property
14 sheet.

15 Q All right. And did you count that money or did you
16 just -- you just laid it out?

17 A I signed for it and laid it out and photographed it
18 and packaged it back up and sent it back to the evidence
19 room.

20 MR. SHEALY: That's all I have.

21 MS. POULOS: That's all I have, Your Honor.

22 THE COURT: Step down.

23 MS. POULOS: Your Honor, the state calls Sergeant Tony
24 Brown.

25

Tony Brown
Direct examination by Ms. Poulos

1 TONY BROWN, having been first
2 duly sworn, testified as follows:

3 DIRECT EXAMINATION BY MS. POULOS

4 Q Okay. If you would, please introduce yourself to the
5 jury.

6 A My name is Tony Brown. I'm a sergeant at the
7 Spartanburg County Sheriff's Office.

8 Q How long have you been with the sheriff's office?

9 A About 20 years.

10 Q Back on April 7th of 2015 were you involved in the
11 investigation of the armed robbery at the Family Dollar?

12 A Yes, ma'am, I was.

13 Q That was in Spartanburg County?

14 A Yes, ma'am, it was.

15 Q At 1408 Asheville Highway.

16 A Yes, ma'am.

17 Q And during that time were you assisting with -- with
18 surveillance of several -- several different locations?

19 A Yes, ma'am, I was.

20 Q Did you hear Lieutenant Gaddy over the radio that
21 night?

22 A Yes, ma'am, I did.

23 Q And based on what he was saying did you then go to
24 the -- the crime scene?

25 A Yes, ma'am, I did.

Tony Brown
Direct examination by Ms. Poulos

1 Q Okay. When you arrived on scene which other officers
2 were there?

3 A I know William Gary was there and Mark Gaddy was
4 there.

5 Q Was Investigator John Nix there as well?

6 A He was.

7 Q Where was the defendant?

8 A I'm sorry?

9 Q Where was the defendant in this case?

10 A When I first arrived on scene he was still sitting in
11 the front seat of the driver's seat of the car.

12 Q Could I ask that you -- is the defendant in the room
13 today?

14 A Yes, he is.

15 Q Could I ask that you point to him?

16 A The gentleman sitting right there.

17 MS. POULOS: Your Honor, if the record will reflect
18 that the witness has pointed to the defendant.

19 THE COURT: It shall.

20 Q What was the defendant doing at the time?

21 A When I first arrived on scene Lieutenant Gaddy had him
22 at gunpoint, and he was still sitting in the driver's seat
23 of the car.

24 Q And did you and Sergeant Gaddy search the defendant?

25 A Yes, me and John Nix did, I believe it was.

Tony Brown
Direct examination by Ms. Poulos

1 Q what did you find on him?

2 A He had a fake -- it was fake, but it was a silver
3 handgun stuck down in the front of his pants, but it was a
4 very rugged looking one.

5 Q Actually, I'm going to show you State's Exhibit 27
6 that's already been into evidence and ask that you show
7 that to the -- to the jury and ask if that be the gun that
8 you found in his waistband.

9 A Yes. That was it.

10 (Whereupon, the witness complied.)

11 Q Have you ever seen anything like that before in your
12 20 years of law enforcement experience?

13 A No. That's actually a very, very good fake gun. Very
14 good.

15 Q what did you all do with the gun?

16 A It was placed on the rear of the car and then placed
17 into evidence.

18 Q Did you arrest or help Sergeant Gary?

19 A Yes.

20 Q Did you Mirandize the defendant?

21 A Yes, we did. We got him out of the car and handcuffed
22 him.

23 Q Did you know the defendant prior to this?

24 A No, ma'am.

25 Q Thank you. Please answer any questions the defense

Tony Brown
Cross-examination by Mr. Shealy

1 has.

2 CROSS-EXAMINATION

3 BY MR. SHEALY

4 Q Officer Brown, can you tell me what kind of condition,
5 weather conditions, there were out there?

6 A I do not remember that night.

7 Q You don't remember. So you don't know if it was
8 raining or not?

9 A No, sir. I don't remember.

10 Q Don't remember if it was hot and humid out there?

11 A No, sir.

12 Q Don't -- do you remember what the road was like?

13 A Explain what you're asking. I'm sorry.

14 Q Was it wet? Was the road wet?

15 A I don't -- I don't remember.

16 Q Okay. And you don't remember if there were any
17 puddles or not?

18 A I don't remember.

19 Q Anything like that?

20 A No, sir.

21 Q How long do you think it took you to respond to
22 Investigator Gaddy or Lieutenant Gaddy?

23 A I was probably on scene within a couple of minutes,
24 three or four or five minutes at the most.

25 Q Okay. And when you arrived, is it your testimony that

Tony Brown
Cross-examination by Mr. Shealy

1 you didn't see any clothes on the side of the road?

2 A I did not see any clothes or the side of the road
3 whatsoever.

4 Q You didn't see any in the grassy area next to where
5 this motor vehicle accident had occurred?

6 A No. I did not. I seen no clothes whatsoever on the
7 road anywhere.

8 Q would it surprise you if people have already testified
9 that it was wet that way?

10 A It would not surprise me at all.

11 Q Okay. Because it's April. April has a lot of
12 showers, right? It's -- it's wet. It's a wet season.

13 A Are you asking the question? I'm sorry.

14 Q Yes.

15 A I don't know. I'm not a weatherman. I cannot explain
16 how -- how wet it is in April. I don't know.

17 Q Okay. You've been a sheriff's office deputy for 20
18 years.

19 A About 20 years, yes, sir.

20 Q How old are you total?

21 A I'm 49.

22 Q Forty-nine. So you've seen 49 springs.

23 A Yes, sir.

24 Q But you don't know what they're like.

25 A I don't understand what you're asking me.

Tony Brown
Cross-examination by Mr. Shealy

1 Q I'm just asking if you know what a spring is like.

2 A I reckon, yes, sir, just like anyone else.

3 Q All right. So when you pulled up onto this scene it's
4 your testimony that you didn't see any clothing, right?

5 A Yes.

6 Q And that you when you pulled up, despite there having
7 been a motor vehicle accident, that my client was allegedly
8 conscious in this car, is that correct?

9 A I'm sorry. I didn't hear your question.

10 Q I asked if my client was conscious in this car.

11 A Yes, sir. He was.

12 Q I'm sorry. I am going to put up Exhibit 17 which is
13 already in evidence. Is that a fair and accurate depiction
14 of what it looked like, the wreck looked like?

15 THE WITNESS: May I step out and step down?

16 (Whereupon, the witness left the stand.)

17 A I'm getting a little blind in my old age.

18 Q I understand. If you need to just look at it, right
19 there.

20 A That's looks correct, yes.

21 Q All right. So despite that motor vehicle accident my
22 client was completely conscious.

23 A Yes, sir. He was.

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

25 Q Okay. And you were there with Investigator Gary or at

Tony Brown
Cross-examination by Mr. Shealy

1 roughly the same time as Investigator Gary, is that right?

2 A Yes, sir. I was.

3 Q Y'all got there at about the same time?

4 A Yes, sir. We did.

5 Q And how did you get him out of the car?

6 A He slid out the driver -- I mean, excuse me -- the
7 passenger-side car, and he come out of the passenger side
8 of the car.

9 Q And who all had him at gunpoint and who was helping
10 you?

11 A Lieutenant Gaddy was still holding him at gunpoint
12 when we arrived. And when we pulled him out we also had
13 him at gunpoint holding the gunpoint as he was pulling out
14 or coming out on the driver's side -- excuse me -- the
15 passenger side.

16 Q And did you have occasion to take off his boots?

17 A No, sir, I did not.

18 Q You didn't have occasion to dress him in those clothes
19 you found?

20 A No, sir. We did not.

21 Q Again, your testimony is you did not find any clothes
22 on this side of the road.

23 A Yes, sir. That is correct.

24 Q Excuse me. I'm going to see if I can't find State's
25 Exhibit No. 3, that you found no clothes on this part of

Tony Brown
Cross-examination by Mr. Shealy

1 the roadway. And, again, if you need to come down, you
2 can.

3 A I can see from there. No, sir. My testimony is that
4 I saw no clothes and that I did not recover any clothes
5 from the side of the road.

6 Q It's also your testimony that you didn't get the
7 cigarettes and put them into his car, correct?

8 A No, sir. I did not.

9 Q And to your knowledge nobody did.

10 A That is correct, yes, sir. No police officers did.

11 Q Did you close this scene?

12 A I'm sorry?

13 Q Did you mark this? Did you physically close off the
14 scene with any caution tape, police tape, any moveable
15 barriers, anything like that?

16 A I did not personally.

17 Q Okay. Are you aware of anybody having done that?

18 A Well, I left the scene fairly early that night. So
19 what happened afterwards, I don't know.

20 Q You didn't institute a crime log or a --

21 A I did not.

22 Q -- crime scene log?

23 A I did not.

24 Q And, again, to your knowledge one was not, but you
25 left early.

William Gary
Direct examination by Ms. Poulos

1 A I -- I left early, and I don't know.

2 Q And do you remember my client making any statements to
3 you?

4 A No, sir. I do not.

5 Q You don't recall him telling you that he had seen
6 somebody running past --

7 MS. POULOS: Your Honor --

8 THE COURT: Sustained.

9 MS. POULOS: It's self-serving hearsay. Thank you.

10 MR. SHEALY: That's all I have of this witness.

11 MS. POULOS: Thank you, Your Honor. That's all I
12 have.

13 THE COURT: You may step down.

14 MS. POULOS: Your Honor, the state calls Sergeant
15 William Gary.

16 WILLIAM GARY, having been
17 first duly sworn, testified as follows:

18 DIRECT EXAMINATION BY MS. POULOS

19 Q If you would, introduce yourself to the jury.

20 A My name is William Gary.

21 Q Where are you employed?

22 A I'm employed at the Spartanburg County Sheriff's
23 Office currently as the sergeant over the homicide, violent
24 crimes unit.

25 Q How long have you been in investigations?

William Gary
Direct examination by Ms. Poulos

1 A I've been at the sheriff's office almost 21 years.

2 Almost 16 and a half of that has been in investigation.

3 Q And were you recently promoted?

4 A Yes, in September.

5 Q Back on April 7th of 2015 were you involved in the
6 investigation of this robbery?

7 A I was.

8 Q And were you assisting with the stakeout of several
9 different locations on that night?

10 A I was in charge of it. I coordinated it.

11 Q You coordinated it?

12 A Yes.

13 Q Are these -- these stakeout situations, are they
14 typically videoed?

15 A No. They're not.

16 Q So it's not even sheriff's-office policy to video
17 situations like this.

18 A No.

19 Q So if they weren't videoed, that wouldn't be -- be a
20 violation, would it?

21 A No.

22 Q Now, there's been a lot of talk about cameras. Are
23 investigators equipped with cameras?

24 A No, we're not.

25 Q Body cameras?

William Gary
Direct examination by Ms. Poulos

1 A No.

2 Q How about dash cameras?

3 A No.

4 Q And is that standard?

5 A That's the standard that we're not issued. It's just
6 with -- what we do with our job just trying to spend money
7 wisely, it doesn't make sense to equip our vehicles with
8 in-car cameras or give us a camera to wear all of the time
9 while we're working. It's better money spent with uniform
10 patrol, traffic, warrant division, places like that, is
11 where they -- the money is spent for that.

12 Q And on this night -- there was testimony that you had
13 assigned Lieutenant Gaddy to this particular location.

14 A Yes.

15 Q And did you hear Lieutenant Gaddy over the -- over the
16 radio that night?

17 A I did. I did assign myself to the -- I believe it's
18 Family Dollar in Whitney on Chesnee Highway right by where
19 DSS office is now.

20 I was observing that store when he called on the radio
21 that he saw someone approach the store acting in a
22 suspicious manner.

23 At the time, as you heard on the -- the call -- my call
24 sign at the time was I-15. So that was me that communicated
25 with the dispatch to have units get in the area, not knowing

William Gary
Direct examination by Ms. Poulos

1 exactly what was going on, but it sounded like it could be
2 someone going to do something. So I was getting uniform
3 units with black and whites in the area.

4 Q Did you immediately go to the scene?

5 A I did.

6 Q Who else was present when you arrived?

7 A Actually, when I came -- when I left I went to
8 California Avenue to Asheville Highway, right on Asheville
9 Highway. And I ended up behind Investigator Nix in his
10 truck. At the time he was driving a pickup truck. I was
11 behind him in the truck and actually turned behind him onto
12 White Avenue.

13 When -- at the time Lieutenant Gaddy was on the radio.
14 We weren't a hundred percent sure exactly where he was
15 talking, making access road and all of that. But he
16 mentioned White Avenue. So we turned on White Avenue and
17 saw his blue lights to the left on the alleyway cut-through
18 road that led beside the Family Dollar.

19 So I traveled down there behind Investigator Nix. As
20 he pulled in front of the car I angled my car off to the
21 right a little bit. Then that's where we encountered
22 Lieutenant Gaddy and the suspect in view.

23 Q Did -- do you know or did you know the defendant
24 before this -- this arrest?

25 A No.

William Gary
Direct examination by Ms. Poulos

1 Q Now, did you search the defendant on the scene?

2 A Yes.

3 Q What did you find on him?

4 A Well, I was present as Investigator Nix pulled the
5 pistol out of the front of his waistband.

6 Q Okay. And that's State's Exhibit 27?

7 A Yes.

8 Q Is that correct?

9 A Yes, ma'am.

10 Q And if you could, just let the jury see that again,
11 sir. That's the gun that you saw in the defendant's
12 waistband?

13 A Yes.

14 Q And also the same gun that Investigator Nix was taking
15 out and putting in the trunk of his car.

16 A Yes, ma'am.

17 Q And -- and did he do that for safety reasons?

18 A Of course.

19 Q At that time did -- did you -- did you know that it
20 was a -- a real gun or fake gun, or is that something that
21 you would standardly do?

22 A When I first saw it coming out I thought it was a real
23 gun because it wasn't in my hand. Obviously, when you hold
24 it, it's very light, and it's obvious it's not a real gun.
25 But when it came out it appeared to be a real gun.

William Gary
Direct examination by Ms. Poulos

1 Q Is it light or is it -- is it -- or heavy?

2 A To me compared to a real gun it's pretty light,
3 especially for the size. A real gun this size would be
4 substantial to hold.

5 Q And it doesn't have -- did it have an orange plastic
6 tip on the end?

7 A No, it doesn't. I don't want to point it right at
8 anybody, but it's not real. But, no, it does not.

9 Q So there's no orange plastic tip that would -- that
10 would indicate to the average person that it was not real,
11 correct?

12 A Correct.

13 Q Now, did the defendant have on gloves when you -- when
14 you first saw him?

15 A Yes. When -- when I was approaching the vehicle I had
16 my weapon out. And when I approached it was obvious we
17 were not going to be able to get him out of the driver's
18 side of the vehicle because Lieutenant Gaddy's -- I don't
19 remember if he's got an Excursion or Suburban, but it's
20 huge. With the brush guard on the front and he has just --
21 you're not going open that driver's door.

22 So I confirmed with Lieutenant Gaddy that he had him
23 covered, so I moved around to the passenger side of the
24 vehicle. And he's sitting in the driver's seat with his
25 hands up.

William Gary
Direct examination by Ms. Poulos

1 I made eye contact with him, and then I went around to
2 the passenger side of the vehicle, opened the door,
3 holstered my weapon and had him come out giving his hands.

4 I maintained control of his -- as he's coming out --
5 his right arm and kept a visual on his left arm and assisted
6 him out across the passenger seat, got him out onto the
7 ground outside of the vehicle, got his hands behind his
8 back.

9 And I went to put handcuffs on him. When I did he had
10 gloves on. Gloves are in the way. So I had to slip the
11 gloves up to be able to get the handcuffs on him.

12 Then once we got him secured with the handcuffs we
13 stood him up, got him to the back of the vehicle. At that
14 point is when Investigator Nix was there.

15 He reaches around and pulls the gun out. Once the gun
16 is pulled out we pat the rest of him down. He has no
17 weapons on him. At that point we removed the gloves off of
18 his hand and sat them on the trunk of the car as well.

19 Q Okay. And this happened in April, I think.

20 A Yes.

21 Q Is that correct?

22 A Yes.

23 Q Would there have been any reason for him to have
24 gloves on?

25 A No. It was -- it was a pretty warm, warm day, warm

William Gary
Direct examination by Ms. Poulos

1 night.

2 Q Now, inside the car what all did y'all see or what did
3 you observe inside the car?

4 A In the vehicle the -- well, as he's coming out there's
5 this bag is in the passenger seat. It's full of
6 cigarettes, and cigarettes just start piling out of the
7 car, because I'm pulling him across the bag with the
8 cigarettes. It's pulling all of this stuff outta the car.
9 You could see the -- a green toboggan. It looks like it's
10 laying in the floorboard of the car.

11 Q That's State's Exhibit 22. Is that fairly --

12 A Yes. And the green toboggan looks like right in front
13 of the -- well, I've got the pointer. Right here. And
14 that's -- all of these came out as I -- as the door opened
15 some started falling out. And as I pulled him across a lot
16 of them started coming out of the car.

17 Q Can you tell on this picture where the mask was, or do
18 you remember?

19 A Right there.

20 Q Is that the mask?

21 A Yes.

22 Q I know it's hard to see on --

23 A Looks like it from here. You can see it.

24 Q Can you point to it just -- just one more time?

25 A It's hard to see without lights on, but right there,

William Gary
Direct examination by Ms. Poulos

1 what appears to me. That was the area where it was. On
2 this picture that's where it appears that it's showing.

3 Q And where was the cash? Do you recall where the cash
4 was?

5 A In the bag.

6 Q Oh, in the bag.

7 A Yes.

8 Q Now, at some point later on did you authorize 186
9 packs of cigarettes to be returned to the -- to the Family
10 Dollar?

11 A Yes. Considering that their cigarettes are a
12 perishable item we decided not to have the -- you know, the
13 store's out enough as it is if we had -- but return it so
14 they could sell the items, put them back on the shelf to
15 sell.

16 Q So would that be something common in a situation like
17 that?

18 A It's not uncommon at all. If you have something
19 perishable like that you can return it to a victim, you do
20 that.

21 Q And is that why you asked Sergeant David Hogsted to --
22 to photograph the cigarettes and all -- and all the cash?

23 A Yes, so that we can have them laid out a little bit
24 better, just individual picture to show the total amount
25 separate. And that way we got it documented of what we

William Gary
Direct examination by Ms. Poulos

1 returned.

2 Q When you arrived on the scene and arrested the
3 defendant what clothes did he have on? What was he
4 wearing, I should say.

5 A Dark hoodie, jeans, tennis shoes, the gloves, black
6 shirt.

7 Q Did you see any boots lying around?

8 A No.

9 Q This is State's Exhibit 23. Is that how the defendant
10 looked when you arrested him?

11 A Minus the gloves, yes, exactly. That's every --
12 that's exactly what he had on when he came out of the car
13 minus the gloves.

14 Q And where was the gun when you saw him?

15 A In the front waistband of his jeans.

16 Q Did you have the opportunity to review the video in
17 this -- in this incident?

18 A Yes, I did.

19 Q And based on your review of the video did the clothes
20 in the video match the clothes that he was wearing when he
21 was arrested?

22 A Yes, and the shoes match. Build matches.

23 Q So the physical description matched as well?

24 A Absolutely.

25 Q Thank you. Please answer any questions the defense

William Gary
Cross-examination by Mr. Shealy

1 may have.

2 CROSS-EXAMINATION

3 BY MR. SHEALY

4 Q Okay. Officer, you testified that the toboggan was in
5 the floor?

6 A I believe so.

7 Q And you pointed to it.

8 A I didn't physically go in the car -- that's my
9 observation from the outside -- other than reaching in to
10 grab his hand.

11 Q Okay. And you -- it's my understanding that you and
12 officer Brown pulled him.

13 A Well, with the door open there's really not room for
14 both of us to be right there. But Sergeant Brown was
15 standing essentially right beside me.

16 As he's coming out, once he got out of the vehicle
17 enough, Sergeant Brown could get ahold of him as well to
18 control his other arm, then, because at this point we still
19 have an armed suspect. So we're going to make sure we
20 maintain control of his arms because that's what -- his
21 hands. That's what you use when you grab a gun. So we
22 maintained control, got him out of the car, got him
23 handcuffed and stood him up and got him to the back of the
24 car.

25 Q Okay. And so you were -- you testified that you

William Gary
Cross-examination by Mr. Shealy

1 assigned yourself to this -- were you in charge of this
2 designated patrol operation?

3 A It was a stakeout. But, yes, I'm the one that
4 coordinated it. And to say I'm in control of it, it was --
5 I was working robberies at the time. It was my
6 investigation. So I coordinated it.

7 However, I assigned myself to a store to watch it,
8 because normally with supervisors you might put them as a
9 roaming unit where they still stay in the general area if
10 you -- and in this situation we had units down on the south
11 end of the county a little bit up -- up close to where we
12 were.

13 So there were two supervisors that were assigned to --
14 that were my direct supervisors to go kind of from area to
15 area. That way if something happened we'd have a roving
16 unit if something happened very quickly. Odds are they
17 would be somewhat close.

18 Q After my conversation with Officer Nix, I don't call
19 it a stakeout. So -- so you were the one that was actually
20 in charge of these particular robberies, but you did have
21 some supervisors riding around.

22 A Correct, correct.

23 Q All right. And you've testified that you got there
24 roughly at the same time as officer -- as Sergeant Brown.

25 A Sergeant Brown arrived behind me. I don't know what

William Gary
Cross-examination by Mr. Shealy

1 time or if he pulled up as I was getting out, because my
2 focus was on the armed person at that time -- considered
3 armed -- sitting in the vehicle. That is where my focus,
4 not what was coming up behind me.

5 When I got around to the passenger side of the car,
6 that's the person that showed up right there, was Sergeant
7 Brown.

8 Q Okay. And it's your testimony this is what Mr. Glenn
9 looked like whenever you pulled him out of the car?

10 A Absolutely. You could even see when we got him down.
11 You could see the wet spot on the knees in some of those
12 photographs.

13 Q You certainly could see some wet spots.

14 A Yes.

15 Q What was the weather like that day?

16 A It's definitely not ideal for a stakeout. When you're
17 sitting in a vehicle you're trying not to be noticed, and
18 so you're having to occasionally use windshield wipers
19 because it'd been raining.

20 This happened -- it probably hadn't stopped raining
21 more than 20, maybe 30, minutes as far as the harder rain.
22 But it was a rainy day. The day before was even worse. So
23 doing these operations was tough that day because it was
24 wet, and it's not a whole lot of fun.

25 Q Okay. So this -- the hard rain had stopped at this

William Gary
Cross-examination by Mr. Shealy

1 point, but it had only been stopped for maybe 30 minutes or
2 so.

3 A Probably somewhere like that. It was --

4 Q Spitting at that point.

5 A Pardon me?

6 Q It was spitting at that point.

7 A Yeah.

8 Q It was raining a little bit, rain a little, stop and
9 that kind of thing?

10 A Yes. The hard rain had stopped. It was kind of a --
11 not really mist, but it wasn't constant. You know,
12 maybe -- maybe a little bit comes up. Then it'd go away.
13 But it wasn't ever -- it never really got hard again.

14 Q Okay. And when you pulled up on this scene you didn't
15 see any clothes in that embankment?

16 A No. There were no -- no clothes there because,
17 obviously, if you put the map back up where the -- the --
18 not an accident. It was an intentional act to hit the
19 vehicle. It wasn't an accident.

20 So where the car was stopped it was maybe -- maybe not
21 even a third of the way up. It was some -- it was right not
22 far around the corner, somewhere in here.

23 And so there was -- once he was taken into custody and
24 several officers arrived on the scene, there was several
25 occasions to walk back and forth, because the entrance to

William Gary
Cross-examination by Mr. Shealy

1 the Family Dollar's here. And actually once he was
2 transported I walked with the officer transporting him. His
3 car was parked all the way over here.

4 There were no clothes on the side of the road anywhere
5 there because there's a fence line through here. My car was
6 actually stopped somewhere up in here. At some point I had
7 to move it. I ended up moving it back a little bit over
8 here. And so I walked back and forth several times. There
9 were no clothes on the side of the road.

10 Q And so you didn't put any clothes on my client. You
11 had no occasion to put any clothes on my client?

12 A I don't dress other people before they leave their
13 house. No, I did not.

14 MR. SHEALY: That's all I have of this witness.

15 MS. POULOS: Nothing further from the state, Your
16 Honor.

17 THE COURT: You may step down.

18 Let me see y'all just a minute, please.

19 (Bench conference held off the record in the presence
20 of the jury but out of the hearing of the jury.)

21 MS. POULOS: Your Honor, at this time the state rests.

22 THE COURT: All right. Ladies and gentlemen, that is
23 all of the testimony or other evidence to be offered by the
24 state, at least in their case in chief.

25 Before we go further we're going to break for lunch.

1 we'll resume this afternoon with the balance of the trial.

2 So keep in mind that you're not to discuss the case.

3 Don't conduct any research; don't do any investigation;
4 don't allow yourselves to be exposed to any type of media
5 coverage.

6 Please report to your jury room at 2:15, at 2:15 this
7 afternoon. Have a good lunch.

8 (The following takes place outside the presence of the
9 jury.)

10 THE COURT: All right. Any motions or other matters
11 to address?

12 MR. SHEALY: Judge, I would like to go ahead and do
13 our motion to settle the record of my client.

14 THE COURT: Okay.

15 MR. SHEALY: So I would ask as to what convictions the
16 state believes they can use against my client.

17 MS. POULOS: Your Honor, the only conviction that we
18 believe would be relevant subject to the Broadnax case is a
19 conviction for armed bank robbery. It's a federal
20 conviction from 2014. Your Honor, that is the basis for
21 our intent to seek life without parole.

22 Understand the Broadnax case that was recently handed
23 down prevents the state from using an armed robbery
24 conviction for impeachment purposes when a defendant is on
25 trial for armed robbery, Your Honor.

1 But subject to whether the defendant testifies, how
2 much he goes into, what he testifies to, that's something
3 that if -- if the door is opened that we -- we potentially
4 could go into. That is the only conviction that -- that we
5 see that could potentially come out.

6 THE COURT: All right.

7 MR. SHEALY: Judge, again, so long as the state is
8 agreeing that they can't just ask him about it unless he
9 opens the door -- I've explained that to my client. He
10 can't open the door, can't talk about character or anything
11 like that or deny having been convicted of something in the
12 past. But, again, so long as they understand they can't
13 use it unless that happens, I think that I'm fine with
14 that.

15 THE COURT: Have you talked with Mr. Glenn about his
16 right to testify, or not?

17 MR. SHEALY: We -- we've talked about it a number of
18 times.

19 Judge, it's my advice to him that he do testify.
20 Obviously, he has a story to tell that would cast all of
21 this differently from the way the police -- I have done the
22 best that I can with questions, but, obviously, all of
23 those questions have been denied. So those facts are not
24 in evidence. But he may choose not to, so.

25 THE COURT: All right. Mr. Glenn, have you discussed

1 with Mr. Shealy your right to testify, as well as not
2 testify, during the course of this trial?

3 THE DEFENDANT: Yes.

4 THE COURT: And do you understand that you have an
5 absolute right to remain silent?

6 When you're charged with a crime nobody can ever
7 require that you take the witness stand or answer questions
8 or make statements regarding the charge that's been brought
9 against you.

10 In other words, you never can be compelled to provide
11 evidence that might tend to prove your own guilt. So you
12 have an absolute right to remain silent. Nobody can make
13 you take the witness stand and testify. But you also have
14 the right to testify if you want to. It's simply your
15 choice. It's your decision. Only you can make it.

16 If you choose to take the witness stand and testify
17 you have to answer not just your lawyer's questions, but
18 you'll have to answer the questions of the prosecutor to
19 the extent that they're relevant even if the responses to
20 those questions might tend to prove you guilty of the crime
21 they claim you committed.

22 Do you understand you have a right to remain silent?

23 THE DEFENDANT: Yes.

24 THE COURT: Do you understand you have a right to
25 testify?

1 THE DEFENDANT: Yes.

2 THE COURT: Do you understand that it's your decision
3 as to whether or not you will testify in this case?

4 THE DEFENDANT: Yes.

5 THE COURT: Have you and Mr. Shealy discussed the
6 advantages and disadvantages of your testifying and of your
7 not testifying?

8 THE DEFENDANT: Yes. And in particular when -- when
9 the assistant solicitor will be able to bring up my past,
10 although I would ask that you clarify that for me as to
11 when -- whatever I may say would allow the solicitor, the
12 assistant solicitor, to bring up my past.

13 In other words, what -- what is it that I could --
14 could say that would allow her to do that? What do I have
15 to stay away from?

16 THE COURT: Well, I can't answer that question.
17 That -- but the short response, I guess, to that is if
18 you -- if you say anything during your testimony that would
19 make the admission of that conviction relevant, then it
20 would be permitted.

21 But they can't ask you. They can't ask of you just
22 because you have been previously convicted, they can't ask
23 you just because of that have you been previously
24 convicted. But if you provide some testimony that might
25 tend to make that relevant, then it would be or could

1 become admissible. It can't simply be used solely for
2 impeachment purposes because you testify, so they ask you
3 about it. That can't be done.

4 But by your testimony -- and I don't know what that's
5 going to be. I don't know what questions are going to be
6 asked or what answers are going to be given. So I can't
7 answer your question specifically. But it could
8 conceivably, depending upon your testimony, that could
9 become relevant in some respect. But since I don't know
10 what the questions are going to be and I don't know what
11 you're going to testify to, I can't really answer your
12 question.

13 THE DEFENDANT: So the assistant --

14 THE COURT: But Mr -- Mr. Shealy ought to be able to
15 answer that question, at least much better than I can
16 simply because he knows basically what the prosecutor is
17 going to ask and he knows what he's going to ask if you
18 testify and he understands what the case is about and he
19 understands what all the evidence is and what the strategy
20 is, so.

21 THE DEFENDANT: Well, I'm concerned that the assistant
22 solicitor may attempt to open the door, in other words.

23 THE COURT: Well, I can't -- I can't comment upon
24 that.

25 THE DEFENDANT: Okay. Thank you.

1 THE COURT: Well, now, do you understand, as I've
2 said, if you take the witness stand and testify you've got
3 to answer her questions to the extent they're relevant even
4 if the responses might tend to prove you guilty? But, at
5 the same time, if you don't take the witness and you don't
6 testify -- you can still call other witnesses if you want
7 to. But you don't have to testify. And if you don't I'm
8 going to instruct the jury, as I already have, that they
9 can't hold that against you and they can't consider it in
10 any way.

11 THE DEFENDANT: Well, I'll go ahead and testify, and
12 I'll try to stay away from anything that may allow the
13 assistant solicitor to open the door concerning my -- my --
14 my past. And I place emphasis on my past. So I'll just --
15 I'll testify and try to stay away from anything that will
16 allow the assistant solicitor to open that door.

17 THE COURT: Okay. Well, you don't have to tell me
18 right this minute.

19 We're going to break for lunch, and you can talk with
20 Mr. Shealy about it some more. And when y'all come back
21 after lunch I'll ask you if you want to testify or not. So
22 you make that decision then. Okay. All right.

23 MS. POULOS: Your Honor, the only other thing we
24 wanted to put on the record, and I believe we discussed a
25 little bit of this at the bench, is they -- the defense has

1 put two officers on their witness list -- Investigator
2 Lewis Nelson and Investigator Jeff Kirby. One is a city
3 officer and one is -- actually, they're both city officers.
4 I'm not sure why that states that here.

5 But -- but, Your Honor, we believe that those
6 officers, they have nothing to do with this case. They are
7 unrelated cases. We believe that such situation would be
8 highly prejudicial. It'd confuse the jury. It would open
9 the door to a lot of other interesting things that would
10 come out, Your Honor.

11 Also, believe that it could potentially be
12 self-serving hearsay. There are several cases -- State vs.
13 Terry, State vs. Caberrapenia [sic], State vs.
14 Cheesborough. Those cases state that testimony cannot be
15 elicited from officers in situations like that.

16 Your Honor, I don't -- I don't believe the defense
17 will call them, but I just wanted to put that on the record
18 so that we're clear as to those two officers, Your Honor,
19 and our position on that.

20 THE COURT: Lewis Nelson and Jeff Kirby?

21 MS. POULOS: Yes, sir.

22 THE COURT: Do you propose to call them?

23 MR. SHEALY: Well, I -- I propose to call them, Judge,
24 because we believe that their testimony would be relevant
25 as to the two prior armed -- or two armed robberies my

1 client was arrested for. Both of those armed robberies
2 were dismissed at a preliminary hearing based on the
3 witnesses' descriptions and things of that nature and the
4 way that -- in fact, one of them -- it was a white guy, and
5 they ultimately arrested my client for it.

6 Judge, so it would have been -- it would have been our
7 position that as to the investigation of all these armed
8 robberies those would have been relevant. But we
9 understand the state's argument, so.

10 THE COURT: So are you intending to call them as
11 witnesses?

12 MR. SHEALY: Well, it's my understanding, Your Honor,
13 that they've made a motion to exclude that language, I
14 expect.

15 THE COURT: Well, I don't know what they're going -- I
16 mean, I don't know what the testimony is going to be. I
17 mean, it could be relevant and it may not be relevant. I
18 don't know right now.

19 But -- but unless you can show me some relevance those
20 other charges have nothing to do with this charge. Now,
21 you may be able to convince me that they're relevant in
22 some fashion, but the fact that the defendant had other
23 charges that were dismissed has nothing to do with this
24 charge, as you might imagine.

25 MR. SHEALY: Yes, sir, yes, sir.

1 THE COURT: Are these charges that were supposed to
2 have happened the same day, same night, same time, same
3 location?

4 MR. SHEALY: No, sir. These happened long -- long
5 prior.

6 MS. POULOS: This was over a period of several --
7 several months, Your Honor.

8 He has additional pending charges as -- as well. So
9 our position is they -- he can't pick and choose which
10 charges to talk about, so.

11 THE COURT: Okay. Well, Mr. Shealy, as you know --
12 you know what the limitations are. If there's some
13 relevance to it, you can tell me what it is, and I'll be
14 happy to consider it. But otherwise other charges are not
15 relevant in this proceeding.

16 All right. Court is in recess until 2:15.

17 MS. POULOS: Thank you, Your Honor.

18 (Whereupon, a recess was taken.)

19 THE COURT: Mr. Shealy, have you discussed with
20 Mr. Glenn his right to testify or not?

21 MR. SHEALY: I have, Your Honor, and it's my
22 understanding that he would like to testify.

23 I do have one other witness -- Mr. Conyers. He isn't
24 going to be able to get here for another -- he was supposed
25 to be here at 2:30. He's not going to be able to get here

1 until 2:30, which is just a few minutes -- who will take
2 about ten minutes to testify.

3 My client, obviously, would be potentially more
4 lengthy than that. So I would prefer to call him first.
5 But since he's not here, and I've been looking around --

6 THE COURT: If he's not here, then Mr. Glenn is going
7 to have to testify first.

8 THE DEFENDANT: May I say something?

9 MR. SHEALY: He was here this morning, and I sent him
10 home until 2:30 this afternoon, and I thought we would be
11 done.

12 THE DEFENDANT: Yes. He definitely wants to be here.
13 It's just --

14 THE COURT: Well, he can be here. He's going to
15 testify. He's just not here yet. But he can testify after
16 you.

17 THE DEFENDANT: Thank you.

18 THE COURT: All right. Are we ready?

19 MR. SHEALY: If I can just stick my head out and make
20 sure he hasn't shown up. Again, he was -- right about now
21 he was supposed to be here. And I have told him, Judge, he
22 wasn't allowed to come into the courtroom because he was
23 sequestered. But we're ready, Judge.

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

25 Mr. Shealy, now, you've expressed to Mr. Glenn about

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Direct examination by Mr. Shealy

1 the fact that -- things he cannot testify to?

2 MR. SHEALY: I have, Your Honor.

3 THE COURT: We've already discussed.

4 MR. SHEALY: Yes, sir. I mean, I --

5 THE COURT: Do you understand it? Do you understand
6 it, Mr. Glenn?

7 THE DEFENDANT: Yes. I can't mention --

8 THE COURT: Well, you can't talk about it now. But do
9 you understand your conversations with your lawyer?

10 THE DEFENDANT: Yes, sir.

11 THE COURT: Okay.

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

14 THE COURT: Good afternoon, ladies and gentlemen.

15 As you know, when we recessed for lunch the state had
16 concluded with their presentation. So we're now going to
17 proceed with any to be offered by the defense.

18 Mr. Shealy.

19 MR. SHEALY: Your Honor, the defense would call Randy
20 Glenn.

21 RANDY GLENN, having been first
22 duly sworn, testified as follows:

23 DIRECT EXAMINATION BY MR. SHEALY

24 Q Would you please state your name for the record?

25 A My name is Randy Glenn.

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Direct examination by Mr. Shealy

1 Q Okay. How old are you, Mr. Glenn?

2 A I'm 51.

3 Q And how far did you go in school?

4 A I have a diploma, high school diploma.

5 Q Now, do you remember the day of April the 7th of last
6 year?

7 A Yes, sir.

8 Q Okay. Where were you early that day, earlier that
9 day?

10 A Earlier that day I was at a job site. I was working
11 for my employer's daughter. I was doing renovations on her
12 garage. I had to insulate her garage, and I went there I
13 think around about -- you have to excuse me. I'm a
14 little -- little nervous here. But I went there around
15 8:30 that morning of April the 7th, and I stayed at her
16 house working, because she was trying to save some money,
17 so she was helping me as well. I stayed at her
18 house working until approximately, I think, around about
19 2:30 p.m. if I'm not mistaken.

20 Q Okay. Who is your employer?

21 A My employer is David Conyers, yes.

22 Q And I guess you had worked for him. And what kind
23 of -- you had worked for him for some little bit here?

24 A Yes. I went to work for him after I left the Lear
25 Corporation where we made the seats for B.M.W. and --

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Direct examination by Mr. Shealy

1 Q And what kind of jobs did you do for him?

2 A He owns some rental properties, and I would go to the
3 rental properties and make minor repairs, and I would clean
4 them up and get them ready for someone to move in. And I
5 also did a lot of work at his house and --

6 Q And for his family?

7 A And for his family. But the majority, a lot, of the
8 work was done at his house. But I also worked at his
9 daughter's house, whose house I was working -- working at
10 on the day of the robbery. And I also did work at his
11 mother's house on that same day.

12 Q Okay. And about -- you said you left his daughter's
13 house at 2:30 that afternoon.

14 A Yes. That's because she had to leave, and plus
15 Mr. Conyers. He had other work waiting on me to do. So,
16 you know, she -- she really wanted me there. He wanted me
17 there.

18 Q So where did you go after 2:30?

19 A I went to his mother's house. Actually, we went to
20 buy supplies first. We went to -- I think it was Home
21 Depot, because I'm always going to Home Depot and Lowe's
22 and places like that.

23 Q Okay.

24 A But I think it was Home Depot if I'm not mistaken
25 where we went to buy the supplies to replace the fence

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Direct examination by Mr. Shealy

1 around his mother's house.

2 Q So you were going to his mother's house to replace the
3 fence.

4 A Yes.

5 Q How long did you work at his mother's house?

6 A We stayed there until approximately 5:00 o'clock. And
7 that was -- that included going to buy supplies. And we
8 got back at his mother's house, I guess, around about
9 5:00 p.m. And we stood in the yard debating whether or not
10 to start replacing the fence right then or come back the
11 next morning, so.

12 Q What did y'all decide to do?

13 A We decided that we would -- we would get started --
14 get started the next morning.

15 Q Okay.

16 A That's what we decided to do.

17 Q So at 5:00 o'clock y'all -- you went. What happened?
18 Where did you go then?

19 A Well, I have an apartment, so I went home.

20 Q Okay.

21 A And once I got home I fixed me a quick meal like I
22 normally do.

23 Q And where is that apartment?

24 A It's in the Camp Croft area. It's not far from the
25 South Carolina School for the Deaf and Blind. It's not far

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Direct examination by Mr. Shealy

1 from that school.

2 Q Okay. So you fixed yourself a meal.

3 A Yes, a quick meal.

4 Q All right. And then what happened?

5 A Well, I always -- I call my dad and my fiancée every
6 day. I don't miss a day. So I sat down and I called them.
7 And I called a friend of mine as well. And I decided to
8 head over to his house.

9 Q Okay. And who is that friend?

10 A His name is Jonathan Parker.

11 Q All right. So you were going to go over to his house.
12 And where is his house?

13 A His house is in the Una area and --

14 Q All right. And about what time is all of this
15 happening?

16 A This was, I guess, around about 8:00 o'clock when I --
17 when I left.

18 Q Okay. So you were at home for about three hours.

19 A Yes, approximately three hours.

20 Q And what's -- what was the weather like outside that
21 day?

22 A I've described that weather to -- to some people since
23 this incident. And the weather --

24 Q That's not what I've asked you. I've asked you what
25 kind of weather was it.

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1 A Okay. It was -- it was raining and kind of hazy like.
2 You know, there was a -- like a mist in the air. But it
3 was -- it was -- and/but it was raining very, very hard as
4 well. Very hard.

5 Q When was it raining very hard?

6 A As I was leaving my apartment.

7 Q So about 8:00 o'clock it was raining very hard?

8 A Yes. It was raining very hard. And as I was driving
9 it was raining very hard, very hard.

10 Q And so you were -- where -- what streets were you
11 driving on, or do you remember?

12 A Excuse me?

13 Q What streets were you driving on, or do you remember?

14 A Yes. I remember after leaving the Camp Croft area I
15 went down Union Street, and I think I turned near Ricky's
16 restaurant to get up on Church Street, and then I -- I got
17 on Asheville Highway --

18 Q Okay.

19 A -- headed towards Una, getting ready to make a turn to
20 Una.

21 Q Okay.

22 A Yes.

23 Q And do you recall a Family Dollar?

24 A I do now.

25 Q Okay. So you were driving on these streets. And then

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Direct examination by Mr. Shealy

1 what happened, I guess?

2 A Well, I decided to -- after I had turned onto White
3 Road -- what I now know as White Road -- I decided to call
4 my friend to get directions because I had never been to
5 that location before where he -- where he was living at. I
6 had never been there before. So I called to get further
7 directions and --

8 Q When you say you called, you called from the road
9 or --

10 A Yes. I pulled over to use my cell phone, and that's
11 something that my dad always do and it's something that
12 kind of -- you know, that I picked up just from seeing him
13 do it so much.

14 Q So you pull over to use the cell phone.

15 A Yes.

16 Q Where did you pull over?

17 A Well, I started to pull over at a business -- well,
18 there was -- there was this road, and I don't know the name
19 of the road. This is after I turn off of Asheville
20 Highway. There was this little side road, and there was a
21 business right beside the side road. And the business was
22 closed. I think it is called C.C. Dickerson or something
23 like that that's on the aerial photograph that you -- that
24 you have that's looking from a bird's-eye view.

25 Q Let me go see. You're talking about State's Exhibit

Randy Glenn
Direct examination by Mr. Shealy

1 No. 3, correct?

2 A That's it.

3 Q That's it?

4 A That's it.

5 Q Let me put it on. Okay. That's where the laser comes
6 out. Be careful with it.

7 All right. So you started to pull over at a different
8 business.

9 A Yes.

10 Q Well, where did you pull over?

11 A I pulled over onto this -- I did a three -- I was
12 coming down -- up Asheville Highway.

13 Q Okay.

14 A And excuse me. I'm a little nervous here. I turned
15 onto this road here, White Road. And keep in mind it was
16 pouring down the rain. I mean, it was raining so hard that
17 my windshield wipers, it really wasn't helping a whole lot.
18 I had to lean forward as I was driving. And as I was
19 coming down this road -- this is a parking lot right here.

20 Q Right.

21 A And when I got about in this area I could see that it
22 was very dark over here in this parking lot. And this is
23 the business right here.

24 And I did not want to go into this parking lot because
25 of the fact that it was too dark. I didn't want to be

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1 sitting over there.

2 So in order to make my phone call, what I did was I
3 came down this road here. And I came down this road, this
4 road here. And I did a 3-point -- 3-point turn right in
5 this area.

6 Q All right. How far did -- so how far did you go down
7 White or that access road?

8 A I just -- just far enough where my car can get onto
9 the road. And I did the 3-point turn. And instead of
10 coming all the way up to the stop sign, because I figured
11 if another car was coming down from here, I didn't want to
12 really be in their way since I'm kinda like sitting right
13 there on the telephone. So after I did the 3-point turn I
14 just, I guess, maybe about -- I don't know. Maybe about a
15 car length.

16 Q Not very far down the road.

17 A Not very far down the road. I did the 3-point turn
18 and then pulled right back up, right back up into this area
19 right in here.

20 Q And that was to make a phone call.

21 A That was just to make a phone call.

22 Q Okay. What happened right after you made your 3-point
23 turn and you've stopped? What happened then?

24 A After I did the 3-point turn, pulled the phone out and
25 started dialing my number all of a sudden -- this is a

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1 grassy -- a grassy area right in here.

2 So after I pulled the phone out to make the 3-point --
3 I mean, pulled the phone out to make a phone call someone
4 came running past me in this grassy area right along here.
5 And after they ran past me I could see -- I couldn't see
6 that well because of these tall bushes right here, but I
7 could hear what sounded like tires screeching from a car.
8 And I've now learned that it probably come from --

9 Q Okay. I'm not asking you what you've learned now.
10 I'm just asking you what you saw that night.

11 A Okay. While I'm sitting on the side -- on the side of
12 the road up in here I can -- I can see some headlights
13 coming down through this area right in here. And I can't
14 see that well, but keep in mind it's dark outside. So even
15 though I can't really see that well I know that it's -- you
16 know, I could see where the lights have the area kind of
17 lit up. So after that person ran past me --

18 Q Did you see any blue lights at that point?

19 A I didn't see any blue lights. It just looked like
20 headlights.

21 Q All right. So somebody ran past you.

22 A Yeah, somebody ran past me. And right after they ran
23 past me I'm looking -- I'm looking through my rear-view
24 mirror now. And as I'm looking through my rear-view mirror
25 I see where a car, or a SUV rather, comes around this

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1 corner at a high rate of speed. I'm looking through my
2 rear-view mirror watching this. And as they're approaching
3 my vehicle, then I turn to my left to try, you know to try,
4 to -- because I'm thinking that they're going to go past
5 me. But as I turned to my left to look that vehicle
6 crashed into my vehicle and --

7 Q Okay. And was it under control or was it out of
8 control?

9 A That vehicle, it was out of control. It was totally
10 out of control.

11 It was wet outside. I mean, that's why I pulled over,
12 because I did not want to have an accident while I was using
13 my cell phone. And this vehicle that came up behind me, it
14 was going pretty fast. And I -- I realized why they was
15 going that fast. They was chasing someone and --

16 Q And then so your vehicle has now been hit.

17 A My --

18 Q What happened to you at that -- in that motor vehicle
19 accident?

20 A When my vehicle was hit, like I said, I turned to my
21 left, because keep in mind I'm on -- on this side of the
22 road right here.

23 So he got -- you got the SUV coming up on this side.
24 So as it's about to pass my car I turn to my left. But my
25 head is right up -- up against the glass and the little

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1 metal piece that separates the two doors, the little
2 petition area. And the police then crash into my car --

3 Q Okay.

4 A -- and which knocks my car off the road.

5 Q And what happened to you during the motor vehicle
6 accident?

7 A I was -- I was knocked unconscious.

8 Q Okay. Now, prior to that was there anything odd about
9 this person that you saw running away?

10 A I told the police --

11 Q I'm not asking you what you told the police. I'm
12 asking you what was -- if there was anything strange about
13 the person running away.

14 A Well, the person that was running, they was discarding
15 items, clothing items, that they had on them. They was
16 taking items off and just -- just throwing them down as
17 they was running and --

18 Q Okay. Did they have clothes on underneath?

19 A Yes, they had clothes on underneath. They was
20 discarding the outer -- outer layer of clothes.

21 Q Okay. And did they discard anything else?

22 A I later found out that, yes, it turned out to be some
23 property from the store that they had stolen.

24 Q And where did they discard that, those items, on the
25 overhead view?

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1 A It turned -- I saw officers down in this area and I
2 saw officers up here near my car.

3 Q Okay. So you were knocked unconscious.

4 A Picking up items from in that area.

5 Q You were knocked unconscious during a motor vehicle
6 accident with -- I guess we found out later -- Lieutenant
7 Gaddy.

8 A Yes.

9 Q Is that correct? After you've seen this individual
10 shedding clothes as he ran away.

11 A Right.

12 Q Is that accurate?

13 A Right.

14 Q He also was discarding other items?

15 A Yes, he was. He was taking off the outer layer of
16 clothes. And it turns out that the other items that he --
17 that he had dropped -- it was -- it was the items from the
18 store and --

19 Q Okay. What happened with the lieutenant next?

20 A After I was knocked unconscious apparently they pulled
21 me outta the car at some point, and I was face down on the
22 ground.

23 Q Okay. Do you have any idea as to how they got out of
24 the car?

25 A I can only assume that they dragged me outta the car.

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1 I -- like I said --

2 Q Do you know what door they used?

3 A It appeared to be the passenger-side door because his
4 SUV was crashed into my car. Like I said, they knocked my
5 car off the road and into the grass. They actually
6 moved -- it moved my car and so I was --

7 Q So you were pulled out of the vehicle.

8 A Yes.

9 Q And placed face down.

10 A I was placed face down.

11 Q What were you wearing at that time?

12 A I had on a -- a black shirt and I had khaki pants on.
13 And I had, still had, my work boots on. And that's all
14 that I had on.

15 Q All right. And so you had no hoodie on?

16 A I had absolutely no hoodie on.

17 Q Did you have a parka of any kind?

18 A I didn't have anything like that.

19 Q Despite it being raining?

20 A Right.

21 Q Even though it was raining really hard you didn't have
22 a coat.

23 A I still didn't have a coat.

24 Q Why not?

25 A Well, it wasn't cold. I mean, and I just -- I just

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1 didn't have a coat. I don't -- I don't carry a coat like
2 that.

3 Q Okay. How close do you live to your parking lot in
4 your apartments?

5 A How close do I live to my parking lot? I guess around
6 40 or 50 feet, something like that.

7 Q Okay. Pretty close.

8 A Pretty close. I -- you know, sometimes if it's not --
9 if it's raining kind of hard I may use my umbrella, and I
10 may not. Sometimes I'll just run -- run to the car, you
11 know.

12 Q All right. You are -- you're at this point face down.
13 Would you point to the area that you're face down?

14 A I'm face down in the grass, because keep in mind my
15 car has been pushed off the road into the grass. So I'm
16 deeper -- I'm deeper into this grassy, bushy type area than
17 I originally was, because he has actually pushed my car off
18 the road.

19 Q So what happened? So you're uncon -- or you're slowly
20 coming to --

21 A Right.

22 Q -- on your face.

23 A Right.

24 Q What happened next?

25 A I'm slowly regaining consciousness and disoriented and

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1 a little confused. And I -- and, well, at one point they
2 had already -- they had already put the handcuffs. They
3 already had handcuffs on me. And one of the officers --

4 Q This is -- I'm asking you chronologically.

5 A Okay.

6 Q You were face down in the grass.

7 A Right.

8 Q What happened next?

9 A I was face down in the grass, and the officers that I
10 assume pulled me outta the car, they was picking up the
11 items from on the side of the road that the -- that the
12 robber had -- had discarded. And they was bringing the
13 items over to me as I was face down on the ground.

14 Q All right. Did you have handcuffs on at this point,
15 or not?

16 A I did have handcuffs on.

17 Q Okay.

18 A I had handcuffs on. And they -- when they brought the
19 items over there where I was face down on the ground at
20 they laid the items next to me at first, and then they
21 started putting these items on me.

22 And at one point I noticed that the bag that they had
23 that turns out to have cigarettes in it, that bag was placed
24 right beside me as I was face down on the ground. And I
25 remember -- and it was to my left. And I remember turning

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1 to my right looking in that direction. And then when I
2 looked back to my left again the bag was now sitting on my
3 passenger seat, because my door was open at the same time.

4 Q Okay.

5 A My passenger-side door.

6 Q So just to recap that, they have put some pants on you
7 at this point.

8 A They put -- they put some pants on me over the pants
9 that I had on.

10 Q And put the cigarettes into the passenger-side door,
11 on the seat?

12 A On the passenger side, on the passenger-side seat.

13 Q Okay. Was that upright or was it down?

14 A When they --

15 Q Was -- there. Was that bag of cigarettes -- I'm going
16 to show you State's Exhibit No. 22. Is that how the bag
17 was?

18 A When they pulled me outta the car?

19 Q No, not when they pulled you out of the car. When
20 they put it in there.

21 A No. It wasn't -- it wasn't like that when they put it
22 in there.

23 Q Okay.

24 A It wasn't like that. The bag was standing up when
25 they put it in there.

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1 Q Okay. So they have you in handcuffs. They've got new
2 pants on you.

3 A Yes.

4 Q What happened next?

5 A As they was putting the pants on me I was kind of
6 struggling with them, you know, not a major struggle but
7 just trying to make it difficult for them to put the
8 clothes on me. And I was telling them that -- that those
9 are not my clothes.

10 And I remember one of the officers, and I don't know
11 which one it was, but it was -- it was the two first
12 on-the-scene officers. I remember one of them saying,
13 "Hell. He took the clothes off, let's put them back -- back
14 on him." I remember one of the officers saying that.

15 And I also remember while I was face down on the ground
16 one of them picked up a toboggan and kind of forced it down
17 on my head.

18 Q Okay.

19 A And I -- I -- I remember Lieutenant Gaddy, because at
20 the point when I was kind of making it difficult for them,
21 I remember Lieutenant Gaddy telling the other officer. He
22 said, "If he moves again I'm going to shoot him." That's
23 what Lieutenant Gaddy said to the -- to the other officer.

24 Q So you're now face down. You've got the toboggan
25 shoved on your head and the new pants on.

Randy Glenn
Direct examination by Mr. Shealy

1 A Yes.

2 Q What happened next regarding the clothes?

3 A Okay. I remember I was already handcuffed, and they
4 took one of the handcuffs off in order to put the -- the
5 hoodie on me.

6 And when I heard Lieutenant Gaddy tell the other
7 officer, "If he moves again I'm going to shoot him," even
8 though I was shaking and nervous, I pretty much just let
9 them go ahead and do whatever it is that they wanted to do
10 because at that point I thought that I was going to be one
11 of those stories in the newspaper or on the news.

12 Q Okay. So they -- they took one of your handcuffs off.
13 And did they put the entire hoodie on, or did they just put
14 it half on you, or how about that?

15 A No, they -- they put it -- they put both of my arms
16 through. They put both of my arms through. Only -- only
17 they didn't zip it up though. It wasn't zipped up.

18 Q Okay. And then did they rehandcuff you?

19 A Yes. They handcuffed me from behind.

20 Q Okay. And how long did all of this take? Your
21 description seems to have taken a while, but was it a
22 fairly quick process?

23 A It was a -- it was a quick process. Like I said, it
24 was two of them. And, yes, it was. It was pretty quick.

25 Q And you were still out of it at this point.

Randy Glenn
Direct examination by Mr. Shealy

1 A I was -- I was still -- still out of it. I mean, I
2 was coming to. And, like I said, I was disoriented, a
3 little confused, but I realized that I had been hit, you
4 know, as I was coming to. And I was -- I was traumatized.
5 I really was and --

6 Q So your testimony is that these clothes -- this is
7 going to be State's Exhibit No. 23 -- that these clothes
8 were and these shoes were placed on you -- were placed on
9 you, correct?

10 A Yes, and one of the things --

11 Q And that it was done my Lieutenant Gaddy and another
12 officer. You think it's Officer Brown, but you're not
13 sure.

14 A Yes, yes. It was definitely Lieutenant Gaddy. And
15 I -- I think it was Officer Brown, Officer Tony Brown.

16 Q Right.

17 A But I'm holding my head here because I hit my head
18 when they -- when they knocked me out.

19 Q Okay.

20 A And, as you can see right here, one of the things
21 about the pants is that the pants were too big. And
22 they're actually -- they're actually over the pants that I
23 already have on. Not only are they too big. But can you
24 show the bottom down here? But they're too -- too --
25 they're too long for me as well. But you can see right

Randy Glenn
Direct examination by Mr. Shealy

1 there where the pants are all bunched up.

2 Q This is State's Exhibit No. 25.

3 A You can see it even better right there.

4 Q Okay.

5 A Those pants -- those pants were too -- too big for me.

6 And that's something that I stressed throughout.

7 Q All right. Thank you. Thank you, Mr. Glenn. Thank
8 you.

9 Now, after they placed the clothes on you, what
10 happened next?

11 A After they placed the clothes -- the clothes on me, I
12 remember they lifted me up off the ground, and they brought
13 me to the back of the -- of the car.

14 Q And were there a lot of police officers at this point
15 or not very many police officers?

16 A I've never seen so many police in my entire life.

17 Q But this was after they lifted you up.

18 A This was after they lifted me up.

19 Q And so they've already outfitted you with the pants
20 and the hoodie and the shirt and the shoes and all of that,
21 correct?

22 A Yes.

23 Q Okay. Tell me about the gun, this gun that we have
24 seen so much of. What -- what happened with that?

25 A At some point -- and I don't know exactly when -- when

Randy Glenn
Direct examination by Mr. Shealy

1 they did it, but at some point, because I was disoriented,
2 and/but at some point they had put -- they had put a -- a
3 gun down in my waist and I -- I overheard another officer
4 that arrived on the scene later who said that -- that it
5 was a -- a fake gun, a toy gun. And -- and I didn't even
6 realize that anything was down in my waist to be honest
7 with you. I didn't even really, because they had me --
8 they had me face down on the ground. And, like I said, I
9 was disoriented and I was injured, and they wouldn't even
10 take me to the emergency room.

11 Q Right. So whenever -- after they -- they got you up
12 did you explain to the officers why you were there?

13 A Yes, yes. I told them that I was -- that I was --
14 that I had parked right there to -- to use my cell phone.
15 And I also tried to tell them about an individual that I
16 saw run past my car, but it's as if they wasn't trying to
17 hear that.

18 And as I thought with my -- you know, after they
19 crashed into my car and saw me lying in my car unconscious,
20 they probably thought they had killed me, I would imagine.
21 But he -- he crashed into my car.

22 And at one point after I was thinking a little clear,
23 more clearer, I -- I was thinking that maybe they did what
24 they did because of the fact that they had crashed into my
25 car and knocked me out and injured me and I just, you

Randy Glenn
Direct examination by Mr. Shealy

1 know --

2 Q Okay. All right. And did you ever talk to
3 the highway -- was there -- were there traffic units there,
4 do you recall?

5 A Because the officer ran into me, crashed into my
6 vehicle and I was injured, there was a highway patrol
7 officer that showed up and --

8 Q And did you talk to him at all?

9 A Yes. I think the only question he asked me was did I
10 want an ambulance, and I told him yes. But they never --
11 they never brought an ambulance to the scene.

12 Q So you never have seen or you've never seen these
13 cigarettes with the exception of when they put them in your
14 car?

15 A I've never -- I had -- I don't even smoke cigarettes,
16 sir.

17 Q These clothes that they have you in?

18 A I've never seen those clothes before in my life.

19 Q You didn't put those on?

20 A No, no, sir. I -- I had on my work clothes where I
21 had worked all day long carrying 75-pound bags of cement
22 poles and --

23 Q I was going to ask you about that because it was
24 raining that day. It was misty that day.

25 A Yes.

Randy Glenn
Direct examination by Mr. Shealy

1 Q I mean, how could you work outside?

2 A Because it wasn't raining in the early part of the
3 day. It just started raining, I guess, around about
4 8:00 o'clock, around the time that I was about to leave my
5 apartment. That's when it started raining. But it was --
6 it was a fairly nice day prior to that.

7 Q Okay. And you never were allowed to go to the
8 emergency room after this accident?

9 A No, sir. I kept requesting to go to the emergency
10 room, but no one would take me. And once I arrived at the
11 jail after I was arrested and taken to the jail and I was
12 at booking and standing at the desk at booking, and they
13 asked me if I was injured, and I told them how a police
14 officer just crashed into my vehicle while they was
15 pursuing someone, and I told them that I was injured, I
16 told the booking officer at the jail.

17 So she called the nurse over to the desk and told the
18 nurse that I was just in an accident and that I was injured.

19 Those two people looked at each other, the nurse and
20 the booking officer. And then the nurse just walked off.

21 It was approximately one week later while I was at the
22 jail that I ended up falling because my -- it turns out that
23 I had injuries to my back and injuries to my neck. So I
24 ended up falling down the steps at the jail. And an
25 ambulance had to come and take me to the emergency room

Randy Glenn
Direct examination by Mr. Shealy

1 where they did x-ray me.

2 Q But, again, we're talking about this evening in
3 particular.

4 A Right.

5 Q You have no idea who that individual was that you saw
6 running away.

7 A I don't have any idea -- idea who it was but/and --

8 Q And you didn't have anything to do with that person.

9 A No. And one of the things that one of the officers
10 asked me was who was the other person. That's what they
11 asked me. They said who was the other person, like that.

12 And the only thing I could tell them was -- I gave them
13 a description of what I saw. And that's the only thing I
14 could tell them about who the other person -- you know, what
15 the other person looked like. And I had told them that it
16 looked -- it looked like a white male. And I told them that
17 they was -- that it was a tall person pretty much like
18 Pamela Watts testified to yesterday.

19 Q All right. So have I missed anything?

20 A I'd like to look over my notes, and I might can answer
21 that question a little better.

22 (Pause.)

23 A There was a house and a car parked directly across the
24 street from where I was parked at, and I brought that to
25 the attention of the officers as well. And they had a

Randy Glenn
Cross-examination by Ms. Poulos

1 canine unit that was on the scene and --

2 Q And do you recall that canine unit tracing anything?

3 A No. Even though I told them what I saw all of their
4 attention was focused on me.

5 Q On you.

6 A After they crashed into my car and knocked me out like
7 that I don't --

8 Q Yes, sir. We --

9 A Okay. Let me look over these notes again but -- but
10 no one went across the street over to that house. No one
11 checked that vehicle which was parked in front of that
12 house that was directly across the street from where I was
13 parked at. No one went over there to my knowledge.

14 Q All right, Mr. Glenn.

15 A Let me look over these notes again, finish looking
16 over them.

17 THE COURT: Answer any questions the prosecutor has.

18 Q Mr. Glenn, that's all the questions that I have.

19 A Okay. All right.

20 CROSS-EXAMINATION

21 BY MS. POULOS

22 Q Mr. Glenn --

23 A Yes, ma'am.

24 Q -- just so I understand and so this jury can
25 understand, it's your testimony that you were parked behind

Randy Glenn
Cross-examination by Ms. Poulos

- 1 the Family Dollar, correct?
- 2 A No, ma'am.
- 3 Q You were -- you were in that alleyway.
- 4 A I was parked up here not -- this is behind the Family
- 5 Dollar --
- 6 Q Okay.
- 7 A -- right here.
- 8 Q Okay.
- 9 A I would assume.
- 10 Q And you were parked way over there near White Avenue?
- 11 A I was parked up in this area right in here.
- 12 Q Okay. And you were just minding your own business,
- 13 making your phone call.
- 14 A Yes, ma'am, yes, ma'am.
- 15 Q Okay. You didn't have a phone though, did you?
- 16 A Yes, ma'am. I think practically everyone has a phone.
- 17 Q Okay. But nothing was recovered from you. Would you
- 18 agree with me? Nothing was recovered from the scene,
- 19 correct?
- 20 A Well, I had a phone. I don't know. It was up to them
- 21 to take stuff into evidence. I -- I had the phone. I
- 22 don't know what they did.
- 23 Q You don't know what they did?
- 24 A No, ma'am.
- 25 Q What do you think they did?

Randy Glenn
Cross-examination by Ms. Poulos

1 A I mean, whatever they do, however they process a scene
2 like that, it was up to them.

3 Q Okay.

4 A I mean, I -- I had no control over my phone after they
5 arrested me. So I can't tell you what -- what they did
6 with it.

7 Q Okay. You think they did something to your phone?

8 A I don't know what they did with -- with the telephone.
9 I have absolutely no idea, but I've been asking my
10 attorney. I've been asking --

11 Q But you think, sir, that they did obviously something
12 with your phone, right? Because it's not in evidence. Do
13 you think they did something to your phone?

14 A Apparently.

15 MR. SHEALY: Objection. That's been asked and
16 answered.

17 A Apparently, I mean.

18 MS. POULOS: I'll move on.

19 A There was nothing that I could do about it. I was
20 in -- I was arrested. There was nothing I could do.

21 Q Okay. So, Mr. Glenn, you were in your car, and it's
22 your testimony that Lieutenant Gaddy just ran into you for
23 no reason whatsoever.

24 A Well, he was pursuing. He almost had an accident.
25 Like he testified to yesterday, he almost had an accident

Randy Glenn
Cross-examination by Ms. Poulos

1 in the middle of Asheville Highway.

2 Q Well, now, how would you know that? It was pouring
3 down rain, right?

4 A That's what he testified to yesterday. And, like I
5 mentioned a few minutes ago, I could see the headlights of
6 a vehicle coming up behind my vehicle. But -- but he
7 testified yesterday that he almost had an accident trying
8 to cross.

9 Q Mr. Glenn, but you don't know that, right? You
10 couldn't see anything because you just testified that it
11 was pouring down rain. So how could you see headlights?
12 How could you see anything out of your rear-view mirror?

13 A It wasn't the rear-view mirror. I was looking --
14 excuse me. I was looking to my right side at that time.
15 At that time when I was -- at that time while I was sitting
16 off in this area I could see diagonally in this direction.

17 Q How could you see diagonally if that green area is a
18 growed up area?

19 A It's like I said earlier, it's not that my view --
20 it's not that I had a very good view but I could -- it was
21 nighttime, and you could see the headlights illuminating
22 the darkness.

23 Q Okay. So at night, you're testifying it was pouring
24 down rain --

25 A Yes.

Randy Glenn
Cross-examination by Ms. Poulos

1 Q -- and there was some high growed-up area. And you
2 could see diagonally from that corner all the way over
3 across. That's your testimony?

4 A I could see. I could see diagonally, yes, ma'am,
5 because it's nighttime. And you can't see that well. But
6 keep in mind I also heard some screeching, the sound of
7 tires screeching.

8 And when I looked -- that's what first got my attention
9 before I saw the headlights. I heard the screeching. And
10 when I looked in that direction I could see that -- that
11 some headlights was illuminating the darkness. And that's
12 when I figured out that someone was coming at a high rate of
13 speed.

14 Q Now, you testified a little while ago that you saw
15 somebody running through that -- that brush.

16 A Yes, ma'am.

17 Q And I'm going to ask you the same question, Mr. Glenn.
18 If it's pouring down rain and you're supposedly on a
19 cell phone, how in the world could you see anything?

20 A Well, ma'am, my car was up in -- up in this area right
21 here.

22 Keep in mind that there's -- even though my car was on
23 the side of the road, there's a grassy area right here
24 that's just normal grass, regular grass.

25 Then it gets a little higher over in this area. The

Randy Glenn
Cross-examination by Ms. Poulos

1 person that was running, they ran right past my car coming
2 up through here -- right past my car. They're in the grassy
3 area. They pass right by my car.

4 Q Okay.

5 A And I'm -- I'm sitting in this area right here. I
6 could've opened -- I could've opened my passenger-side door
7 and they would have ran right into the door had I opened
8 the door.

9 Q Okay. And so it's your testimony that that person who
10 we don't know who it is -- but it's your testimony that
11 that was what you think was the real robber in this case?

12 A Based on what I saw with him discarding the outer, his
13 outer, layer of clothes and him running the way that he
14 was --

15 Q Okay.

16 A -- and the police chasing him like that, you could
17 only conclude that they was chasing him for some reason.

18 Q Yes, sir. And I understand that. But it's your
19 testimony that the police just let him go. They just said
20 heck with him, we're going to get Randy Glenn. Is that
21 your testimony?

22 A I don't know if they let him go or not. I don't -- I
23 can't say.

24 Q Well, they didn't arrest him, did they?

25 A He probably got away. I mean, I was -- I was the one

Randy Glenn
Cross-examination by Ms. Poulos

- 1 that was arrested. But as far as them pursuing him, I
2 don't know what they did after that. They could've
3 arrested me and still tried to pursue him.
- 4 Q But you just testified --
- 5 A I don't know.
- 6 Q -- that at least two officers took clothes that was
7 lying on the ground, right?
- 8 A Yes, ma'am.
- 9 Q And basically put them on you.
- 10 A Yes, ma'am. They did.
- 11 Q And also planted evidence in your car.
- 12 A Yes, ma'am. They did.
- 13 Q You're accusing, I guess, the sheriff's office, these
14 two officers, of singling you out, trying to frame you. Is
15 that your testimony, Mr. Glenn?
- 16 A That's exactly what they did.
- 17 Q They tried to frame you?
- 18 A I don't know. I can only tell you what they did. I
19 can't -- I can't read their mind as to --
- 20 Q Well --
- 21 A As to what --
- 22 Q Sir, if they're planting evidence in your car, you
23 say, and they're putting clothes on your body against your
24 will, then you're saying that they framed you, right?
- 25 A If that's the -- if that's the definition of framing

Randy Glenn
Cross-examination by Ms. Poulos

1 someone, then that's exactly what they did. That's what
2 I'm telling you. They -- they put the clothes on me.

3 Q Uh-huh.

4 A And for what reason they did it, I don't know. Maybe
5 it was because, like I said earlier, they -- I was knocked
6 out and unconscious and they knew that I was injured and --

7 Q And so because you were injured and you were knocked
8 unconscious you -- you think that all of these officers
9 would just plant evidence on your body and on -- in -- in
10 your car and try to stage a crime scene? You -- you -- do
11 you think that these officers would do that, sir?

12 A I can only tell you what they did.

13 Q But that's -- but that's what you're saying that they
14 did, right?

15 A They put those -- they put those clothes -- they put
16 those pants on me that's too big for me. Those pants
17 swallowed me. I could not -- those -- those were not my
18 pants. They -- they did not fit me, and that's something
19 that they did not anticipate.

20 Q Which -- which officer put the pants on you, sir? Do
21 you remember?

22 A Yes.

23 Q Which one?

24 A It was Lieutenant Gaddy, but he had the assistance of
25 who I assume was -- was Tony Brown that -- that I've been

Randy Glenn
Cross-examination by Ms. Poulos

1 told was -- was Tony Brown. It was the two
2 first-on-the-scene officers because no one was there with
3 them at that time. Other officers arrived on the scene
4 shortly after that.

5 Q All right. I'm going to show you State's Exhibit 25.
6 who put this hoodie on you, sir, that you're wearing, which
7 one of these officers? There are a couple of them in here.
8 Can you point to them? Which one? Which one put the
9 hoodie on you?

10 A Uh.

11 Q Do you see him?

12 A My eyes are not that good. Looking for -- I'm looking
13 for Gaddy, Lieutenant Gaddy.

14 Q Okay. Well -- well, he's not in here, but you're
15 saying Gaddy put the sweatshirt on you, I mean, the hoodie
16 on you?

17 A Yes, yes. That was -- that would -- that would be
18 Gaddy.

19 Q Okay. All right. Well, which officer then put the
20 pants on you?

21 A They were -- they were both --

22 Q Jeans.

23 A They were both working together.

24 Q Who? Which officers were working together putting
25 those pants on you?

Randy Glenn
Cross-examination by Ms. Poulos

1 A It was Gaddy and Sergeant Brown. I later found out
2 Sergeant Brown.

3 Q Which one? Do you see Sergeant Brown in the -- in the
4 courtroom? Which one did that to you?

5 A Those were the -- based on my reading the reports they
6 were saying that --

7 Q I'm not asking you, sir, the reports. I'm asking you
8 they put -- you're alleging that they put clothes on your
9 body. And I'm asking for you to tell the jury in addition
10 to Lieutenant Gaddy who's not here which other officer.
11 Was that Sergeant Tony Brown?

12 A Sergeant Tony Brown.

13 Q All right. Where? Is he in the courtroom?

14 A Keep in mind I was -- I was dis -- I was -- I was in
15 pretty bad shape --

16 Q Right.

17 A -- after they -- after they did what --

18 Q Is -- is the man who helped Lieutenant Gaddy put the
19 pants on you, sir, is he in the courtroom? You were there,
20 right?

21 A Right.

22 Q Okay. Somebody's putting clothes on your body, right?

23 A Uh-huh.

24 Q Which other officer did that? Do you see him in this
25 courtroom?

Randy Glenn
Cross-examination by Ms. Poulos

1 A Well, all -- all I know is that it was Tony Brown.

2 I -- I don't know Tony Brown when I see him. I think Tony
3 Brown did -- did testify.

4 Q You don't know -- you don't know who put the pants on
5 you?

6 A They were -- they were both working together. Keep in
7 mind I was handcuffed face down on the ground. I was
8 injured, disoriented, I've hit my head. I was in bad
9 shape, I mean, bad shape.

10 Q Who put -- who put the shoes on you then? Those
11 aren't your shoes. You're saying that somebody else's
12 shoes.

13 A Those are not my shoes.

14 Q They fit you pretty well, don't they?

15 A No.

16 Q No?

17 A I was told -- I was told that those shoes are a size
18 11. I wear a size ten and a half.

19 Q That's pretty close, isn't it? Ten and a half to 11,
20 is what you're saying?

21 A I'm just telling you what -- what I wear.

22 Q I say they look like they fit. Would you agree with
23 me in that picture that they look like they fit you pretty
24 well?

25 A Can you show the rest? Is that all of the

Randy Glenn
Cross-examination by Ms. Poulos

1 photographs?

2 Q Let's see. I got -- I got a -- this one looks like
3 it's cutting it off too. But I got a back view. This is
4 State's Exhibit 26.

5 A Well, if you had a --

6 Q Which officer -- which officer put the shoes on you?

7 A It was -- all I know is that it was -- I know that
8 Lieutenant Gaddy was there.

9 Q Right.

10 A And --

11 Q But which officer put the shoes on you, sir?

12 A It was between Lieutenant Gaddy and -- and Tony Brown.
13 I was face down.

14 Q Okay. You were face down?

15 A I was face down on the ground handcuffed behind my
16 back with both of them working together. They was working
17 simultaneously.

18 Q They wanted to make sure they were going to get those
19 clothes on you, Mr. Glenn. Is that what you're testifying
20 to?

21 A Ma'am, that's exactly what happened.

22 Q Exactly what happened.

23 A Exactly.

24 Q All right. How about -- how about the belt, sir?

25 This is State's Exhibit 25. They put the belt on you too.

Randy Glenn
Cross-examination by Ms. Poulos

1 Is that -- is that what you're saying? They put the belt
2 on you too?

3 A Those pants -- those pants came -- came with a belt.
4 I already -- I already had a belt on my pants that I had
5 under these pants.

6 Q Okay. And you're saying that all of these clothes
7 came from the side of the -- in the grass.

8 A They picked up everything -- everything from -- from
9 in -- from in the grass.

10 Q From in the grass.

11 A Prior -- in the grassy area prior to my car and the
12 grassy area just past my car.

13 Q Okay. So there -- it's your testimony that these
14 officers came on scene and they're picking up clothes off
15 the ground and they decide they're going to put them on
16 you.

17 A Yes.

18 Q I just want to make sure this jury understands that's
19 your testimony.

20 A That's exactly -- that's exactly what they did. As to
21 why they did it, you know, talking to my family and talking
22 to my attorney, like I said, I'm sure after they crashed
23 into my vehicle like that, because it appeared to be an
24 accident in the beginning because I could -- when I was
25 looking through my rear-view mirror I could see the lights

Randy Glenn
Cross-examination by Ms. Poulos

1 weaving back and forth, fishtailing.

2 And then the next thing you know they crashed into my
3 vehicle. And I would assume that after crashing into my
4 vehicle at some point they came over and looked in my
5 vehicle, saw me laying -- lying in my vehicle unconscious.
6 And, like I told my family and others, there's no telling
7 what was going through their mind.

8 Q Mr. Glenn, I'm going to show you again State's Exhibit
9 22. And you testified earlier that one of the officers or
10 -- or two or can -- can you clarify who put the cigarettes
11 in your car?

12 A If I -- let's see. It was either -- it was either
13 Lieutenant Gaddy or Tony Brown.

14 Q Either one of them?

15 A Because I was -- keep in mind I was face down on the
16 ground handcuffed behind my back. I was injured. I was in
17 bad shape. And, like I mentioned earlier, at one point
18 that bag was in the grass next to me. Actually --
19 actually, they got it from on side the road away from my
20 car. They brought it back to my car --

21 Q Okay.

22 A -- and then put it -- put it on the ground.

23 Q And then --

24 A No. Put on the grass right next to me at first. And
25 then I remember, because there was activity to my right --

Randy Glenn
Cross-examination by Ms. Poulos

1 and there was activity to my right -- so I remember being
2 face down and looking to my right. And when I turned back
3 to my left one of them had put that bag on the passenger --
4 on my passenger seat.

5 Q And, Mr. Glenn, you testified earlier that -- that
6 they also forced the -- the mask on your head.

7 A Well, at that time I just thought it was a toboggan
8 but --

9 Q Why did they do that?

10 A One -- one of them -- and they -- and they did it
11 pretty -- pretty hard.

12 Q Why -- why did they do that?

13 A I have no idea, probably for the same reason that
14 they -- that they put the other -- the other clothing items
15 on me.

16 Q You're claiming --

17 A But I'd also like to say that I -- I was injured
18 when -- when they did that. They knew I had just been in
19 an accident. And for them to force that onto my head and
20 to put that type of pressure on my neck like that, you
21 know --

22 Q All right. Mr. Glenn, I'm going to show you this map
23 again, State's Exhibit 3. And I'm going to ask you
24 again -- do you have a pointer, sir?

25 A Yes, ma'am.

Randy Glenn
Cross-examination by Ms. Poulos

1 Q Okay. I'm going to ask you again where -- where were
2 you parked when all of this happened?

3 A I was parked -- I just needed enough room to do a
4 3-point turn and not get all the way up on the stop sign
5 just in case there was another car trying to come down
6 through here.

7 Q Okay.

8 A So I just -- when I did the 3-point turn I stayed
9 probably a car length back, something like that, and
10 approximately right in this -- this area right in here.

11 Q Okay. So you were coming from Asheville Highway and
12 you turned down White Avenue, correct?

13 A I was coming in this direction here.

14 Q Okay.

15 A And then I made a left onto White Avenue. And my
16 intention was to continue.

17 Q Uh-huh.

18 A Was to continue going to the Una area but --

19 Q But you were trying to be safe, right? And you pulled
20 over to make a supposed phone call, correct? Is that --
21 that what you're saying?

22 A Yes. It was -- it was -- it was raining very, very
23 hard, I mean very hard.

24 Q Okay.

25 A And so I had to pull over to -- to use my cell phone.

Randy Glenn
Cross-examination by Ms. Poulos

1 Q You heard all of the witnesses testify, all of the
2 officers testify, Mr. Glenn, correct?

3 A Yes, ma'am.

4 Q You've been here and paying attention throughout the
5 trial of this case?

6 A Yes, ma'am.

7 Q Basically, what you're saying is Lieutenant Gaddy is
8 lying, correct?

9 A Yes, ma'am.

10 MR. SHEALY: Objection, Your Honor. Pitting
11 witnesses.

12 THE COURT: Sustained.

13 Q Basically, Mr. Glenn, you're testifying that
14 everybody's out to get you, right?

15 A I don't think everybody is out to get me.

16 Q You don't? At least two officers were out to get you,
17 right?

18 A Yeah, but that's not everybody.

19 Q Okay. Well, two of them were, right?

20 A They definitely were. They -- they did what they did,
21 and I -- you know, I have ideas as to why they did what
22 they did.

23 He -- he ran into my vehicle, and what I thought at
24 that time was an accident, and they didn't have to --

25 Q So --

Randy Glenn
Cross-examination by Ms. Poulos

1 A They didn't have to do what they did after running
2 into my vehicle. They didn't have to do that but --

3 Q So they're going to run into your vehicle and then
4 basically try to stage a robbery. Is that what you're
5 testifying to? They ran into your vehicle and then tried
6 to stage a robbery.

7 A No. I think the robbery took place before they ran
8 into my vehicle.

9 Q Right, sir. But if you -- you're continuing to
10 testify that they put clothes on you and planted evidence
11 from the crime.

12 A Right.

13 Q Right?

14 A Right.

15 Q So it's your testimony that they staged the scene, the
16 robbery, correct?

17 A Can you repeat that?

18 Q It's your testimony that they staged this robbery,
19 correct?

20 A They staged the scene, but I can't say that they
21 staged the robbery.

22 Q Okay.

23 A But they staged the scene around my -- around my
24 vehicle.

25 Q To get you of all people, right?

Randy Glenn

Redirect examination by Mr. Shealy

1 A well, they -- they -- what had happened -- and I've
2 talked to my lawyer about this -- they lost sight of the
3 person that was -- can you put that -- that aerial view
4 back up there?

5 Q They -- they lost sight of him, sir, but -- but they
6 decided to frame you?

7 A well, they was chasing someone whom because he --
8 Lieutenant Gaddy -- he almost had an accident in the middle
9 of Asheville Highway.

10 Q Right.

11 A That gave the person that ran past my vehicle even
12 more time to get away.

13 Q In addition to that though, Mr. Glenn, they framed
14 you, right? That's what you're saying.

15 A well, they --

16 Q Right?

17 A That's what they did. I mean, that's -- they put --
18 they put the clothes on -- the clothes on me and
19 everything. They put the other items inside my car.

20 Q Thank you.

21 MS. POULOS: That's all I have.

22 REDIRECT EXAMINATION

23 BY MR. SHEALY

24 Q Mr. Glenn, it's not your testimony today that they
25 were out to get you at the end of the day, is it?

Randy Glenn
Redirect examination by Mr. Shealy

1 A I don't think they was out to get me, not like that.

2 Q You were -- you just happened to be right there when
3 officer Gaddy came flying around that --

4 A when he came flying around he didn't --

5 Q And --

6 A He -- can you?

7 Q Just -- just answer my questions.

8 when he came flying around that corner you just
9 happened to be there.

10 A when he came flying around that corner he didn't -- I
11 happened to be there, and he didn't know that I was there,
12 and he hit me. He --

13 Q So they didn't wake up that morning or go to lunch
14 that day or even eat supper that day thinking we're going
15 to get us a Randy Glenn. That's not your testimony.

16 A That's not my testimony.

17 Q Okay.

18 A He didn't know -- he didn't know that I was parked
19 around that corner. He had -- this -- keep in mind all of
20 this stuff is grown up. All of that is --

21 Q Just -- just remember to answer my questions. I have
22 not asked a question.

23 A Okay.

24 Q You've testified that you were in this area. Were you
25 on the pavement or were you off the pavement?

King David Conyers
Direct examination by Mr. Shealy

1 A I was on the pavement.

2 Q And then Officer Gaddy hit your car.

3 A He hit my car.

4 Q And that knocked you off the pavement.

5 A That knocked me off the pavement.

6 Q Answer the question.

7 A Yes. My car actually had to go sideways because it
8 was kind of like -- it was like being hit. It was like
9 being t-boned, but there was a diagonal type of direction
10 to it at the same time. And he clearly lost control of
11 his -- of his vehicle.

12 MR. SHEALY: And that's all I have.

13 MS. POULOS: Nothing further, Your Honor.

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

15 MR. SHEALY: Judge, I believe Mr. Conyers is out there
16 if I may go get him.

17 THE COURT: Okay. Sure.

18 (Pause.)

19 MR. SHEALY: Your Honor, the defense would call David
20 Conyers.

21 KING DAVID CONYERS, having
22 been first duly sworn, testified as follows:

23 DIRECT EXAMINATION BY MR. SHEALY

24 Q All right. Mr. Conyers, I'm going to need you to
25 speak up. Okay?

King David Conyers
Direct examination by Mr. Shealy

1 A Okay.

2 Q Would you speak -- would you say your name for the
3 record, please?

4 A My name is, full name is, King David Conyers.

5 Q Okay. And do you know Randy Glenn?

6 A I do.

7 Q Does he work for you?

8 A He has.

9 Q For some -- for a little period of time?

10 A For a season, yeah.

11 Q Okay. And do you remember April the 7th of 2015?

12 A Yes.

13 Q Okay. And do you remember Mr. Glenn helping you?

14 A Yeah. He helped me part of the day. He helped me at
15 my daughter's house. They were doing some work on the
16 garage.

17 Q Okay.

18 A In the afternoon we went to my mother's house. Well,
19 my uncle's house. She's deceased. We worked -- we were
20 going to build a fence.

21 Q Okay. Did you ultimately build the fence that day or
22 did you --

23 A No, no.

24 Q You knocked off. Do you remember when you stopped
25 working?

King David Conyers
Direct examination by Mr. Shealy

1 A well, we -- it was, you know, in the afternoon.

2 Q Okay.

3 A You know, evening, early evening.

4 MR. SHEALY: That's all I have for this witness.

5 MS. POULOS: I have no questions.

6 THE COURT: You may step down.

7 MR. SHEALY: Your Honor, if Ms. Poulos and I may
8 approach.

9 THE COURT: Okay.

10 (Bench conference held off the record in the presence
11 of the jury but out of the hearing of the jury.)

12 THE COURT: All right. Anything further on behalf of
13 the defendant?

14 MR. SHEALY: There is not, Your Honor.

15 THE COURT: Any reply by the state?

16 MS. POULOS: Yes, yes, Your Honor.

17 THE COURT: Okay.

18 MS. POULOS: Your Honor, the state would call --

19 MR. SHEALY: Your Honor, one second.

20 (Bench conference held off the record in the presence
21 of the jury but out of the hearing of the jury.)

22 THE COURT: All right. Reply?

23 MS. POULOS: Yes, Your Honor. The state would call
24 Corporal Bradley Shaw.

25

Bradley Shaw
Direct examination by Ms. Poulos

1 BRADLEY SHAW, having been
2 first duly sworn, testified as follows:

3 DIRECT EXAMINATION BY MS. POULOS

4 Q Corporal Shaw, if you would, introduce yourself to the
5 jury.

6 A I'm actually a sergeant now. Sergeant Bradley Shaw.
7 I was a corporal at the time. I've been employed with the
8 South Carolina Highway Patrol since July of 1998.

9 Q Back on April the 7th of 2015 were you called out to
10 the scene at 1480 Asheville Highway with regard to taking a
11 report for a motor vehicle accident?

12 A Yes, ma'am.

13 Q And about what time did you get there?

14 A I don't know the exact time that I arrived. I don't
15 -- I don't recall that.

16 Q If -- if I showed you your report would that refresh
17 your -- your memory?

18 A Yes.

19 (Pause.)

20 A Thank you, ma'am.

21 Q If you could, just take a moment to look at your
22 report. And does it -- can you testify as to about what
23 time you arrived on the scene?

24 A Yes, 8:50, 2050 hours, 8:50 p.m.

25 Q 8:50 p.m. Okay. And when you got there what -- what

Bradley Shaw
Direct examination by Ms. Poulos

1 did you see?

2 A There were several police cars, and so I had to park
3 and walk around the police cars before I could even see any
4 type of accident scene. But once I got there I noticed two
5 vehicles, one vehicle belonging -- or Mr. Glenn was in, was
6 stopped partially in, the road and partially off the side
7 of the road. And then the vehicle Lieutenant Gaddy was in
8 was up against Mr. Glenn's vehicle.

9 Q Okay. I'm going to show you State's Exhibit 14 and
10 ask you does that fairly reflect what you saw when you
11 arrived on the scene.

12 A Yes. As far as I recall that -- yeah. That's exactly
13 what I saw.

14 Q And were there several other officers on the scene at
15 that time?

16 A Yes, ma'am.

17 Q Where was the defendant when you got there?

18 A When I got there the defendant was standing behind his
19 vehicle. He was already in handcuffs. And there was a
20 deputy standing there with him.

21 Q Was he conscious at the time?

22 A Yes, ma'am.

23 Q Did you ask him if he was hurt in the wreck?

24 A Yes, ma'am. Actually, when I first got there I spoke
25 with Lieutenant Gaddy and Officer Gary. And they explained

Bradley Shaw
Direct examination by Ms. Poulos

1 to me their side of what happened.

2 And then I went and approached Mr. Glenn and attempted
3 to ask him his side of the story of what happened, and I
4 couldn't get much of a response out of him, but I did ask
5 him was he hurt or was he injured. And -- and the reason I
6 asked that is I knew I had to call my lieutenant to let him
7 know what I had. And that was the first thing my lieutenant
8 was going to ask, was he hurt or was he injured or was
9 anybody hurt or anybody injured. And his, Mr. Glenn's,
10 response to me was, no, he was not hurt.

11 Q Did he ever request an ambulance?

12 A No.

13 Q Now, based on the positioning of the vehicles -- and
14 let me back up. You have been a traffic officer and had
15 responded to several motor vehicle accidents.

16 A Yes, ma'am.

17 Q Is that fair to say?

18 A Yes, ma'am.

19 Q Okay. And based on the position of the vehicle did it
20 appear to you that Lieutenant Gaddy's vehicle was
21 positioned in a way as to prevent the suspect's vehicle
22 from getting away? Did it appear that way, or not?

23 A Yes, ma'am. There was -- I mean, it was -- it was
24 obvious it was a -- some sort of forcible stop, not
25 necessarily a pit maneuver but a forcible stop, yes.

Bradley Shaw
Direct examination by Ms. Poulos

1 Q Now, while you were on the scene did you see anything
2 suspicious?

3 A No, ma'am.

4 Q Did you see any officers picking up clothes from the
5 -- the bushes or the grass or the side of the road?

6 A No, ma'am.

7 Q Did you see any officers trying to put clothes on
8 Mr. Glenn?

9 A Absolutely not.

10 Q Did you see any officers trying to put shoes on
11 Mr. Glenn?

12 A No, ma'am. He was -- he was fully clothed when I --
13 you know, when I got there standing behind his vehicle.

14 Q Okay. Did you see the officers putting a gun in his
15 waistband?

16 A No, ma'am.

17 Q And did you see any officers trying to put a green
18 mask or a hoodie or forcing it over his head --

19 A No.

20 Q -- while you were there?

21 A No, ma'am. And -- and this is the first I've -- I've
22 heard of this. He -- he made no statement to me about any
23 of that.

24 Q Okay.

25 MS. POULOS: One moment.

Bradley Shaw
Direct examination by Ms. Poulos

1 (Pause.)

2 Q One other thing. I'm going to show you a map, which
3 is State's Exhibit 13. Could you tell, sir, or can you
4 tell the jury where the cars were positioned? Do you -- do
5 you recall using this -- this map? Could you -- could you
6 point to it?

7 A Well, I can -- I can say we -- we -- South Carolina
8 Department of Public Safety and the South Carolina Highway
9 Patrol does an incident report when it's not an accident.

10 Since this was intentional, Lieutenant Gaddy
11 intentionally stopped Mr. Glenn's vehicle, we did not do an
12 accident report, and therefore it doesn't have a diagram and
13 a lot of stuff.

14 It doesn't -- the incident report does not have a lot
15 of stuff an accident report would have.

16 Q Okay.

17 A Okay. So I used no map in my report. But as far as I
18 recall -- is this the -- what is this right here?

19 Q That -- that'd be the Family Dollar.

20 A Okay, so, okay. So I had to initially park my vehicle
21 about right here because there were so many other patrol
22 cars there. But I recall it being closer. I -- I know
23 there was some mention of him being up here. But I recall
24 it being closer to here. I know I did not walk all the way
25 closer to White Avenue.

Bradley Shaw
Cross-examination by Mr. Shealy

1 Q You didn't walk over to White Avenue.

2 A No. Absolutely not. It would have been closer to
3 this -- this area right here.

4 Q And when you pulled into -- to this scene, did you
5 pull in from the Family Dollar entrance?

6 A Yes, ma'am, because I was --

7 Q which would be this, this entrance?

8 A Yes, yes, ma'am.

9 Q Did you pull in this far?

10 A I -- I come down this way from the Hearon Traffic --
11 the Hearon Traffic circle is up here, correct?

12 Q Yes.

13 A Yeah. I come in from the Hearon Traffic Circle
14 because I was told it was -- that this occurred at the
15 Family Dollar. So I come in this way and turned in right
16 here and parked about right here.

17 Q Okay. Thank you, sir. Please answer any questions
18 that the defense may have.

19 A Yes, ma'am.

20 CROSS-EXAMINATION

21 BY MR. SHEALY

22 Q Thank you, sir.

23 Mr. Shaw, just a couple. You -- you've testified that
24 there were a lot of police cars there. Do you recall how
25 many roughly?

Bradley Shaw
Cross-examination by Mr. Shealy

1 A I could -- I could estimate. I'll say maybe six or
2 seven.

3 Q Six or seven. Okay. And was there a canine unit
4 there? Do you have any idea?

5 A I don't recall seeing a canine unit. If there were,
6 there was -- I -- I do not -- I don't recall, but I didn't
7 see one out there.

8 Q I understand. But/and you weren't looking for it.

9 A That's right. I mean, it was -- the situation was
10 under control when I got there.

11 Q Right. And how long did it take for you to get off of
12 that scene?

13 A I spoke -- I spoke with Lieutenant Gaddy. I attempted
14 to speak with Mr. Glenn to get his side of the story. And
15 then I contacted my lieutenant. And, as you can tell by
16 the report, it probably took me ten minutes to type it up.
17 I took some pictures and/but to answer your question, 20
18 minutes.

19 Q Okay. And you've also testified it was all under
20 control by the time you got there. All of the people --
21 there had been a number of police cars already gotten
22 there. The scene was under control.

23 A Right. I said that to say that if there were a canine
24 there, it was no longer necessary.

25 Q Right, because, again, the scene was, like I said,

William Gary
Direct examination by Ms. Poulos

1 under control at that point.

2 A Yes.

3 Q I also wanted to ask you about his physical condition.
4 You testified that you didn't get much out of him. What do
5 you mean by that?

6 A He didn't want to talk to me. I -- I don't know if
7 the deputies had Mirandized him at the time. He was
8 obviously under arrest. He was in handcuffs standing
9 there. So, you know, I -- I -- I just questioned him about
10 what happened and I --

11 Q He just didn't give you one.

12 A Correct, correct.

13 MR. SHEALY: I have nothing else for this witness.

14 MS. POULOS: Nothing further, Your Honor.

15 THE COURT: You may step down.

16 THE WITNESS: Thank you, Judge.

17 MS. POULOS: Your Honor, the state would call Sergeant
18 William Gary.

19 THE COURT: You've previously been placed under oath.
20 You're still under oath for the purpose of these questions.

21 THE WITNESS: Yes, sir.

22 WILLIAM GARY, having been
23 previously duly sworn, testified as follows:

24 DIRECT EXAMINATION BY MS. POULOS

25 Q Sergeant Gary, when you arrived on the scene was it

William Gary
Direct examination by Ms. Poulos

1 pouring down rain?

2 A No, it was not.

3 Q When you arrived on the scene and saw the defendant
4 was he unconscious?

5 A No, he was not.

6 Q Did he appear to be injured in any way?

7 A No, he did not. He was sitting behind the steering
8 wheel of the car, hands in the air. I made eye contact
9 with him as I went in front of his vehicle around to the
10 passenger side.

11 Q When you got there did you see any clothes lying on
12 the side of the road or around the grass or in any area on
13 the ground?

14 A No, I did not.

15 Q And you didn't see anybody running in any direction,
16 any other person.

17 A No.

18 Q You've worked with law enforcement most of your
19 career, correct? Been in law enforcement.

20 A Most of my adult life I've been in law enforcement.
21 March the 6th will be 21 years.

22 Q Have you ever tried to put clothes on a suspect in a
23 case?

24 A No, I have not.

25 Q Have you ever seen anybody do such a thing?

William Gary
Direct examination by Ms. Poulos

1 A No, I have not.

2 Q Would that be something that you would be willing to
3 risk your career for?

4 A Not at all.

5 Q Do you all have a set number of quotas or arrests that
6 you must meet every month?

7 A No. We're assigned cases to investigate. We follow
8 the leads that we can. We don't get paid commission or
9 anything extra -- bonuses or anything -- based on the
10 number of arrests or case clearance.

11 Our office focuses primarily on making quality cases
12 versus the quantity of cases that we can make, and that's
13 really where the focus is.

14 We don't get berated about not clearing cases. As long
15 as we're doing everything we can on a case, we don't get
16 backlash from not being able to clear a case.

17 Q Thank you.

18 MS. POULOS: That's all I have.

19 MR. SHEALY: I've got no questions.

20 THE COURT: You may step down.

21 MS. POULOS: Your Honor, that would be all the reply
22 that we have.

23 THE COURT: All right. Ladies and gentlemen, that is
24 all of the testimony or evidence to be offered in the trial
25 of the case.

1 what remains to be done are the lawyers' final
2 summations, after which I'll instruct you on the law, and
3 then you'll begin with your deliberations.

4 Because of the hour we can't get all of that done this
5 afternoon. So we'll resume in the morning at 9:30 at which
6 time we'll conclude.

7 So keep in mind as you are excused for the evening.
8 Do not discuss the case with anybody; don't conduct any
9 research; don't do any investigation. Do not permit anyone
10 to discuss it with you, and don't allow yourselves to be
11 exposed to any type of media coverage that might relate to
12 the case, whether it be television, radio or newspaper.

13 Have a good afternoon. Please report to your jury
14 room at 9:30 in the morning, 9:30 in the morning.

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

17 THE COURT: Let the record reflect that I agreed with
18 Mr. Shealy to allow him to make appropriate motions later
19 than they ordinarily would have been made. So now is the
20 time for that, Mr. Shealy.

21 MR. SHEALY: Your Honor, based on the evidence that's
22 been presented, Judge, we would move for a directed verdict
23 in this case.

24 It would be our position that the state's failed to
25 prove beyond a reasonable doubt that my client -- or they

1 have failed to prove when the evidence is viewed most
2 favorably in the light of the state that this was, in fact,
3 an armed robbery, that this weapon was actually allegedly a
4 real -- that my client would have presented it as real.

5 It'd be our position that they have failed again even
6 when viewed in the light -- viewing the evidence in the
7 light most favorable to the state that it was, in fact, my
8 client who committed these. There's been no identification
9 at all in this case.

10 So, Judge, we would move for directed verdicts based
11 on those. Thank you.

12 THE COURT: Ms. Poulos, would you like to be heard?

13 MS. POULOS: Your Honor, just -- just briefly. I
14 believe that we have presented significant testimony that
15 would be sufficient to go to the jury through all the
16 officers that testified. This is a case where he was
17 caught in the act, Your Honor.

18 As far as the gun is concerned, I believe that state
19 law states that it's the belief of the victim. We don't
20 have to prove that it was a real gun. We just have to
21 prove that the victim believed it were to be a real -- real
22 gun. And I think we have had more than enough testimony
23 about that, Your Honor. So I just wanted to address that
24 specific issue.

25 Other than that, Your Honor, he -- he's caught wearing

1 the same clothes that was -- that matched with what he is
2 shown on the video.

3 Again, he's caught seconds later before he tried to
4 leave the parking lot. I do believe we have evidence of
5 flight, Your Honor, which is a -- another issue I want to
6 talk about after. But -- but as far as going to a jury,
7 Your Honor, it's -- it's more than enough in this case.
8 Thank you.

9 THE COURT: All right. well, in considering the
10 motion for a directed verdict, as you know, I have to
11 consider the evidence in the light most favorable to the
12 state. And considering that evidence it does appear that
13 there's more than sufficient direct evidence, as well as
14 substantial circumstantial evidence, tending to prove each
15 of the essential elements of the crime of armed robbery as
16 to this defendant; and therefore your motion for a directed
17 verdict is denied.

18 MR. SHEALY: Thank you, Your Honor.

19 THE COURT: Anything else we need to address?

20 MS. POULOS: Just would be jury charges, Your Honor.

21 THE COURT: Yes. Do you have jury requests?

22 MS. POULOS: Yes, sir, I do if I may approach.

23 Your Honor, we have two requests to charge that we'd
24 like the Court to consider. The first is just the statute
25 of itself of armed -- armed robbery and that use of a

1 deadly weapon may constitute armed robbery when -- while
2 alleging either by words or actions the defendant was armed
3 while using a representation of a deadly weapon or any
4 object which a person present during the commission of a
5 robbery reasonably believed to be a deadly weapon.

6 I'm not sure that specific wording is -- is used in
7 Your Honor's standard charge, but I do believe in this case
8 it's -- it's very important since as -- as Mr. Shealy just
9 brought up.

10 It -- our -- our position would be obviously according
11 to this, according to state law, it is what the victim
12 believed in this case, Your Honor. We don't have to prove
13 that it was a real gun. So we would ask that you charge
14 that with regard to the armed robbery statute.

15 And finally, Your Honor, the second request that we
16 have is basically according to the State vs. Paggon case,
17 is basically his -- I think there was testimony several
18 different ways by Lieutenant Gaddy that when he attempted
19 to stop him, to block his car, he attempted to flee.

20 There's also testimony that he saw him running from
21 the store. That's evidence of flight. And, basically,
22 we -- we would like for the jury to be charged that
23 basically attempts to run away can -- can be argued that --
24 that equates with evidence of -- of guilt and one who is
25 not guilty would not attempt to flee the scene, Your Honor.

1 So we believe that the -- the record has established
2 sufficient evidence of that, and we -- we'd simply ask that
3 the jury charges reflect this language in the State vs.
4 Pimken, Your Honor.

5 MR. SHEALY: Judge, as to the first charge we fall
6 back on the standard charge. It's a standard charge for a
7 reason.

8 I don't necessarily object to this formulation, but, I
9 mean, we -- we have standard charges for -- because those
10 are the standard charges. So I don't see any reason to
11 alter the standard charge.

12 As for the attempting to flee, Judge, again, like went
13 unexplained. Judge, my client has explained it, one. Two,
14 it would be our position that if you believe the state's
15 case the crime was never actually completed because the
16 completion of it is the getting away part.

17 I mean, if this -- if the state's interpretation of
18 this case and evidence of flight is taken seriously in the
19 light of their -- the presentation of their case, then
20 everybody has flee-ed, because you have to leave at some
21 point. And simply the leaving is then flight and can be
22 used to prove consciousness of guilt and that sort of
23 thing.

24 So, Judge, I don't believe that in this case there is
25 evidence of flight. And, two, again, that it just would

1 swallow the rule. Everything would be flight if you go
2 along with the state's position.

3 THE COURT: I'm not sure what the context of this
4 quote is from that case. Is this an instruction that was
5 given?

6 MS. POULOS: Your Honor, no. It's just taken -- and I
7 have the Padden case if Your Honor would like to -- to
8 review it. It's just language taken directly from the
9 case. And our position wouldn't be that the defendant
10 fled, that he attempted to flee, Your Honor. And the
11 attempt itself can be used against him.

12 THE COURT: Well, I think it was clearly appropriate
13 argument. I'm not satisfied that it's appropriate for the
14 instruction. It's a -- I guess at worst it'd be a comment
15 on the facts.

16 I think this -- you know, Padden assumes -- appears
17 that it was a discussion about the judge inappropriately
18 allowing someone to testify about flight and that the Court
19 was simply explaining why that is permitted to be
20 introduced. But it's not a -- it's not a jury instruction.

21 In other words, evidence is admissible on that point,
22 and it's perfectly appropriate for the prosecution to argue
23 that point, as it's appropriate to argue anything that's
24 reasonably inferred from the evidence. But I don't think
25 it's an appropriate jury instruction.

1 I think it's a comment on the facts, so I'm going to
2 decline the -- I'm going to decline the instruction
3 request, the second of the Paggan instruction requests.
4 But you can certainly argue that to the jury.

5 MS. POULOS: Yes, sir. Thank you, Your Honor.

6 THE COURT: Do you have any requests?

7 MR. SHEALY: No, Your Honor, just the standard
8 charges.

9 THE COURT: All right. Anything else?

10 MS. POULOS: Your Honor, one other thing. We have --
11 I believe it was State's Exhibit --

12 THE COURT: One.

13 MS. POULOS: -- No. 1, yes, sir. We have redacted the
14 version or redacted the portion that Mr. Shealy had had an
15 issue about. He -- we played that, and he has -- he has
16 agreed that that's appropriate now.

17 Everything else is like it is but just that 19-minute
18 portion has been redacted. So it -- so it would start
19 playing at Lieutenant Gaddy's -- when you can hear his
20 voice.

21 THE COURT: All right. You -- you've listened to the
22 exhibit she's holding in her hand?

23 MR. SHEALY: I have, Your Honor.

24 THE COURT: You have no objection to that?

25 MR. SHEALY: I have no objection.

1 THE COURT: Okay. Let's mark the other one.

2 (Exhibit previously marked State's Exhibit No. 1 marked
3 Court's Exhibit No. 1; replacement exhibit marked State's
4 Exhibit No. 1; State's Exhibit No. 2 marked Court's Exhibit
5 No. 2.)

6 THE COURT: Anything else we need to address?

7 MR. SHEALY: No, Your Honor. I don't think we have
8 anything else.

9 MS. POULOS: No, sir, Your Honor.

10 THE COURT: Court is in recess until 9:30 in the
11 morning.

12 END OF PROCEEDINGS JANUARY 12, 2016
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closing arguments

1 (Proceedings January 13, 2016)

2 (The following takes place outside the presence of the
3 jury.)

4 THE COURT: Any matters to address before the jury is
5 brought in?

6 MS. POULOS: Nothing from the state, Your Honor.

7 MR. SHEALY: No, Your Honor.

8 THE COURT: Okay. Bring them in, please.

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

11 THE COURT: Good morning, ladies and gentlemen.

12 As you know, when we recessed yesterday all of the
13 evidence had been received, and so now what remains to be
14 done are the lawyers' final summations, after which I'll
15 instruct you on the law. And then you can begin with your
16 deliberations in the case.

17 So please give the lawyers your attention now as they
18 give you their final summations.

19 Mr. Shealy.

20 MR. SHEALY: Thank you, Your Honor.

21 All right. Ladies and gentlemen, as I explained to
22 you at the very beginning on Monday as to what our
23 respective duties are here, you have to find beyond a
24 reasonable doubt that Randy Glenn committed this crime.

25 I gave you the explanation of a left-hand turn, maybe

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1 you go, maybe you don't. When that car's coming, maybe you
2 turn, maybe you don't. But you have a reasonable doubt as
3 to whether you should or not.

4 Okay. The other example I used I stole from my father
5 many years ago. It's basically when you go to the Food
6 Lion and you go to the meat counter and at the meat counter
7 there's a package of steak, and you want steak that
8 evening. But it's also -- says reduced for quick sale.

9 Now, you look at it, and it looks okay. But you know
10 it's old because it's reduced for quick sale. It's got
11 sale-by date of that day. And maybe they've done something
12 with that. So maybe you buy it, maybe you don't. But
13 ultimately whether you buy it or not, you had a reasonable
14 doubt. It is a doubt that causes you to hesitate.

15 In this case I believe we presented plenty of
16 reasonable doubt. To begin, while I was watching
17 Ms. Poulos cross-examine Mr. Glenn yesterday it struck me
18 as the double standards that she has for witnesses.

19 I understand Mr. Glenn couldn't say who put what piece
20 of clothing on him. He had just been in a motor vehicle
21 accident. You've seen that motor vehicle accident. You've
22 seen pictures of him thereafter. He's holding his head.
23 He's disoriented. He can't make that identification.

24 And she punished him for it. She yelled at him; she
25 grilled him; she screamed at him. But, ladies and

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1 gentlemen, not a single one of her witnesses identified
2 Randy Glenn. Not a single one of them said that's the man
3 who robbed us. Not a single one of them did that. But
4 that's okay, because that's her reason. That's the double
5 standard I'm talking about.

6 Also, it struck me that my client says he saw
7 headlights behind him. He says that he saw those
8 headlights as Officer Gaddy comes shooting across Asheville
9 Highway.

10 She says it couldn't happen. She yelled at him; she
11 grilled him; she screamed at him. But if you heard
12 Investigator Gaddy, says I saw the whole thing.

13 She's going to tell you that Investigator Gaddy saw
14 the whole thing. May have lost sight of him. I believe
15 the testimony was for two seconds. My client doesn't claim
16 to have seen a person from all the way across Asheville
17 Highway, all the way across the parking lot, through a car
18 lot. But, again, that's fine because it's her.

19 Ladies and gentlemen, either they both could have seen
20 everything or they both couldn't have seen everything,
21 because if they're both in this, those positions, so either
22 they both could see it or they both couldn't. You can't
23 have it both ways. The prosecution would like to though.
24 So keep that in mind.

25 I understand that the state doesn't like my client's

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1 story, and so they have erected these double standards.

2 But you don't have to agree with them.

3 We heard a lot about cameras and how it's not
4 sheriff's office policy to have cameras at stakeouts or
5 designated patrols or whatever this thing is called
6 depending on which officer is testifying. And that may be
7 true. It may be policy not to do that, but that's a bad
8 policy.

9 They knew they were going to be doing surveillance.
10 All they had to do was get a cell phone and tape it to
11 their front end or go get one of the narc's cameras and
12 tape it up there or do something.

13 You heard all about how there are body-ordered cameras
14 and that traffic units use them. You've heard that there
15 were at least six. There were -- I think six was the low
16 number. There were 11 call signs. Mr. Francis testified
17 to that. There's as many as 12 or 13 cars there. Not a
18 single one of them had a camera or apparently had a camera.
19 You didn't see any video at least. I didn't see any video.
20 Didn't see anybody on camera video.

21 They all said traffic units were there. They also all
22 testified traffic units have dash cameras, have body-worn
23 cameras. But there isn't any here. Not a single camera.

24 They do have brand new Tahoes though. So this
25 sheriff's office budgetary concern, I'm not convinced that

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1 that's why it's policy not to have a body-worn camera. I'm
2 not convinced that that's why it's office policy for
3 investigators not to have a dash camera.

4 There's also, ladies and gentlemen, no outside cameras
5 at this Family Dollar. Had the police gone and talked to
6 them, they could have erected one.

7 They were on a stakeout. They were there to catch a
8 perpetrator. Don't you want better evidence than some
9 pictures and a 9-1-1 call?

10 They knew or they had suspected that something was
11 going to happen here, but they didn't set it up at all to
12 record them, to get pictures of them, to do anything like
13 that. Why?

14 The other thing you don't have are any clothes.
15 Whenever you go back to your jury room you're not going to
16 have any stitch of clothing to look at. Not a -- not a
17 stitch.

18 You're going to be able to see a picture. I'm going
19 to put State's Exhibit 23 up there. And you're actually
20 going to have these pictures with you so that you can get a
21 good look at what was presented.

22 And those pants, they don't fit. They just don't.
23 I'm sorry. But you can't manufacture a pant that's too
24 big. They just -- they just don't fit. And you're going
25 to be able to see that in those pictures. There are three

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1 separate pictures.

2 You're also going to see that those clothes are wet.
3 They appear wet in the pictures to me. But it wasn't
4 raining according to them. According to my client it was.
5 But it wasn't raining according to them.

6 Roads were wet; the embankment was wet; but it wasn't
7 raining, so he couldn't have gotten wet if you believed
8 that he just couldn't have gotten wet.

9 The only way those clothes can get wet is if they're
10 on ground, or if my client's story is correct if it's
11 pouring down rain and that robber runs through rain.
12 That's it.

13 Further, as I've already explained to you, there was
14 no identification, nobody in this case, no lay witness.
15 When I say lay witness I mean a person who's not a police
16 officer. Looked at this picture and said that guy, that
17 guy is the one who robbed me.

18 Indeed, Mr. Lattimore said I can't tell you if it was
19 a man or woman. A guy or a gal is what he said actually.
20 Man or lady, big or small, I can't tell. I couldn't tell
21 you who it was. He also said he had kind of a bigger coat
22 on.

23 So the whole -- there just is no identification. They
24 got a toboggan; they got gloves, but they didn't do any
25 D.N.A. on those. They didn't do any fingerprints on those.

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1 They got that gun, which if you believe them is my
2 client's gun. He would have handled it prior to the
3 robbery too. But they didn't check it for fingerprints.
4 why, why?

5 The main victim was here for the vast majority of this
6 case. There were other lay witnesses here.

7 My client testified. Nobody said that was his voice.
8 They could call witnesses. You saw them call witnesses
9 after we got done. They didn't call any of those people to
10 say that was the man who was yelling at me, "Bitch, get me
11 those cigarettes." Didn't have that happen. why?

12 Ladies and gentlemen, I submit to you that they didn't
13 do all of those things, they don't have all of those
14 things, because they know what they did.

15 I have no doubt that all of those lay witnesses are at
16 this moment convinced my client committed this crime.
17 They're convinced of it not because of any evidence but
18 because the police told them he did. The police told them
19 he did. And as Ms. Poulos is going to tell you, trust your
20 police officers. And that's it.

21 Randy Glenn was not sitting there and he did not -- he
22 does not say that they were there to get -- that they woke
23 up and decided he is our guy. He just had the misfortune
24 on a rainy night to be in an odd place, because he pulled
25 over to use his cell phone which is what we're all told

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1 we're supposed to do. I think state law says or at least
2 the county says that you're supposed to do that. You're
3 not supposed to be dialing your cell phone. That's -- and,
4 like I said, he was in an odd place. And, unfortunately,
5 the robbery happened.

6 Officer Gaddy, who I'm sure is a very good driver,
7 unfortunately lost control of his car and hit him. That's
8 what you heard my client testify to, and that's why this
9 has happened.

10 And you heard him say over and over again as she
11 screamed at him whether they framed you, I don't know what
12 they did, I don't know why they did it, I just know they
13 put the clothes on me. I can't give you an explanation. I
14 know what they did -- I know what they did.

15 There'd been some robberies apparently. That's why
16 they were on this designated patrol or stakeout or whatever
17 it's called. They need to close this case or these cases,
18 and that's what they did. They used their good fortune in
19 getting my client, hitting his car, and they closed these
20 cases presumably.

21 Now, you also heard, you know, in reply Officer Gary
22 get up and testify that, oh, I've never put clothes on
23 anybody in my life, I've never framed anybody in my life.
24 well, of course that's what he's going to testify to. I
25 mean, you don't expect a police officer who had been

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1 trained for as long as he's been trained to get up and
2 testify, yeah, I frame people all of the time, sprinkle a
3 little crack on them and be done. That's not what they're
4 going to do. It's just not what they are going to do.

5 But it happened. There's an entire mini series on
6 Netflix about it. There are documentaries. There are
7 D.N.A. exonerations. We see in the world police officers
8 saying things happen when cameras show that that's not what
9 happened.

10 That's why it's kind of important to video tape
11 things. And maybe that's why we don't have cameras in all
12 of our cars. Maybe that's why we don't have body-worn
13 cameras on our investigators, because, you know, what?
14 They generally show inconvenient truths.

15 In this case you had a bunch of scared people. They
16 had some guy that they grabbed, and they made lemonade out
17 of him.

18 So, ladies and gentlemen, I believe there's reasonable
19 doubt here. I expect that you will find my client not
20 guilty because there is reasonable doubt here.

21 These clothes did not fit him. They did not video
22 tape any of these things despite the ease with which -- I
23 saw the YouTube video of an attack with a camera on it.
24 It's called a cat cafe. We video tape those kinds of
25 things, but we didn't video tape this.

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1 It is non-sensible. So I expect you'll find my client
2 not guilty. Thank you.

3 THE COURT: Ms. Poulos.

4 MS. POULOS: Thank you, Your Honor.

5 Ladies and gentlemen, what matters in this case at the
6 end of all of this is that you are able to decide the truth
7 from fiction, the truth from a bunch of lies, the truth
8 from just a made-up story. Twelve of you are tasked with
9 doing that today.

10 I want to thank you all for being here with us this
11 week. We are finally now at the end of -- of the trial.
12 Mr. Shealy has spoken with you about the defense in this
13 case, and I want to talk to you a little more specifically
14 about the evidence in this case.

15 Ms. Jolley, the clerk, told you that she was working
16 that night. It was close to closing time. It was kind of
17 an interesting timeframe. And she saw a man come in. You
18 can go back and play the video. You'll have that back --
19 back with you. And she saw him come up dressed in exactly
20 like that, blue jeans, a dark hoddie, mask over his face.

21 And he pulled out a gun. He pulled out this gun, and
22 he pointed it in her face, and he wanted the money. He
23 wanted the cigarettes. He actually first wanted to get in
24 the safe, but she couldn't open it. So that made him real
25 angry.

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1 And, as we all know, he likes to talk. We heard that
2 yesterday. So he was talking. He was calling her bitch.
3 More. He wanted more cigarettes. He wanted a certain kind
4 of cigarettes. He wanted everything that he could get. He
5 wanted that big old bag full, and he got it full. He
6 wasn't leaving until he got that full.

7 In South Carolina -- and the judge will instruct
8 you -- that in order to prove an armed robbery we must
9 prove that a deadly weapon was used. Well, a deadly weapon
10 wasn't used, but the law further states that it is the
11 belief of the victim. If a victim believes or reasonably
12 believes it was a real gun, then that's sufficient in South
13 Carolina.

14 I submit to you that we've met that element of the
15 crime. We know now it's fake, but she said it looked real,
16 and all of you can look at it and you can hold it. It
17 certainly looks real to me.

18 She's or he's talking to her the whole time. All
19 she's trying to do is stay alive for her kid, all she's
20 trying to do. She's got two kids. She testified about
21 that.

22 You heard from Mr. Lattimore, the preacher. He walked
23 in, and he saw the robbery. And he didn't get up close to
24 the defendant. He couldn't tell you details. All he knew
25 was something was going down. And he saw Tiffany, and she

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1 was freaking out. She's putting all the -- everything into
2 the bag. That's what he saw. And he did the right thing.
3 He did a honorable thing. He went. Instead of turning and
4 leaving, he went to go warn all the other customers.

5 You heard Ms. -- Ms. Robin Hennington-Hollis. She's
6 the lady that called 9-1-1. She was there with her little
7 girl. She called 9-1-1. And she didn't see the robbery,
8 but she called 9-1-1. That's how scared all of these
9 people were. That's how scared this man made Tiffany
10 Jolley and -- and about everybody else in the store who was
11 told that there was a robbery. This man did that.

12 You heard from Ms. Watts too. Ms. Watts came face to
13 face with him. Well, actually couldn't see his face
14 because of the mask. And he looked at her and said don't
15 look at me, and then he ran out.

16 When he left the store he went running. And you could
17 even see that in the video as he's turning the corner. You
18 can see him running. It was interesting that he had parked
19 his car not in the front parking lot where it was well-lit.
20 But he parked it strategically behind in an -- in an
21 alleyway so that he could make a quick escape.

22 He parked it. He was seen coming up to the store, and
23 he knew exactly that that was going to be his -- his -- his
24 getaway. Not in front. People can make some sort of a
25 phone call. Why wouldn't he pull up in the front of the

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1 store where it's -- where it's well-lit?

2 But that was all his plan, his strategy, to be in a --
3 in a conspicuous location out snuck in the back so that he
4 could walk up, look around and turn around and run out
5 after all of this and make a quick exit.

6 He didn't want to be on the business well-lit
7 Asheville Highway. He didn't want to be anywhere close to
8 there but he would -- he positioned himself on white
9 Avenue. Think about that.

10 Unfortunately for him that night and what he can't get
11 past is that Lieutenant Gaddy -- and you heard him testify
12 -- was part of this -- of this stakeout operation. And he
13 was monitoring the store. And -- and, obviously, he -- he
14 got lucky. I mean, he saw. He saw -- you heard him say --
15 that he saw the defendant or didn't know it was the
16 defendant at the time but he -- he saw the suspect pulling
17 up, positioning his car in the back.

18 He saw him walking up to the front of the corner of
19 the store. He saw him peeking around. He saw him doing
20 this with his hands, acting all nervous. He saw him
21 wearing those clothes.

22 At the time his face wasn't covered. Well, that's
23 suspicious right there. So of course he's going to keep
24 his eyes on him.

25 He saw him go back to the car, and then he saw him a

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1 few minutes later coming back. But this time he had a mask
2 on and he had the bag coming out of his pocket and he went
3 into the store.

4 well, I don't think there's any question that
5 Lieutenant Gaddy knew that there was going to be a robbery.
6 No question at -- at all at that point.

7 And then a couple of minutes later he saw the exact
8 same man running out. And you heard him testify that he
9 was on top of it that -- that quick. He never lost sight
10 of him.

11 Yeah. It was a couple of seconds, but a couple of
12 seconds wasn't -- wasn't enough for -- for what Mr. Glenn
13 wants you to believe happened. It was only a -- a couple
14 of seconds. I mean, he was right on him.

15 There wasn't a matter of getting the wrong guy or some
16 guy who really did this put on his clothes and running into
17 the bushes naked and leaving his clothes down on the
18 ground. Does that make sense? Does that make sense that?
19 That's what he wants you to believe. It's a pretty
20 ridiculous story, is what we believe.

21 But -- but let's talk about that -- that when
22 Lieutenant Gaddy got to him the blue lights were on. There
23 was testimony about that. But he wasn't stopping. He
24 wasn't going to stop. He wasn't going to stop because he
25 was trying to get away.

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1 And then Lieutenant Gaddy purposefully -- he didn't
2 accidentally wreck into him. He purposefully wrecked into
3 him to prevent him from leaving and to start some
4 high-speed chase all the way through Spartanburg maybe
5 hurting and killing somebody in the process and him still
6 possibly getting away. He -- he purposefully wrecked him.

7 There was no accident. There was no, oh, I think -- I
8 think I might have killed him, so let's try to stage this
9 robbery scene or -- or -- or a crime scene. Let's try to
10 stage it because I think I accidently might have killed
11 him. Does that -- that's what he wants you to believe.
12 Does that make sense?

13 Just -- just -- just think about that for a minute, is
14 what he is asking you all to -- to believe. I mean, could
15 you imagine if he had gotten away? But, thankfully,
16 Lieutenant Gaddy did not give him a chance to get away.

17 But -- but -- but Mr. Glenn just has a -- has a
18 problem with the fact that he was -- he was being -- being
19 watched. And we all know now time is -- is a really
20 important thing in this case to explain to you all.

21 And I made up a little -- a little chart based off
22 some of the times that we heard in the testimony yesterday
23 for -- to help you understand.

24 Now, the suspect was first seen walking in the area in
25 the parking lot wearing blue jeans and a dark hoodie at

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1 8:44 p.m. About a minute later he's seen entering the
2 store with a mask over his face and a bag hanging out of
3 his pocket.

4 Two minutes and 44 seconds later at 8:47:44 he's seen
5 leaving the store.

6 At 8:48:25 he's seen trying to drive away. And
7 Lieutenant Gaddy reported that he has wrecked -- had
8 wrecked with his vehicle. That's 45 seconds later. It
9 only took 45 seconds. That's how quick all of this
10 happened.

11 The customer, Ms. -- Ms. Robin called 9-1-1 inside the
12 store after, two seconds after, Lieutenant Gaddy had
13 wrecked him. He was so quick that she didn't get a chance
14 to call 9-1-1. I mean, she barely -- barely got the call
15 out.

16 And then Corporal Shaw with the highway patrol
17 testified that he arrived on the scene at 8:50. So if you
18 look at that 45 seconds passed from the time suspect was
19 seen running from the store to when Lieutenant Gaddy
20 racked -- wrecked with the defendant's vehicle. And one
21 minute and 25 seconds after the wreck the highway patrol
22 was on the scene. One minute and 25 seconds.

23 And he testified yesterday that when he got there
24 Randy Glenn wasn't unconscious and Randy Glenn had on the
25 jeans and the dark hoodie one minute and 25 seconds later.

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1 That's not even enough time to wreck with the suspect's
2 vehicle, get him out of the car, handcuff him -- well, no.
3 Unhandcuff him so they could take his clothes off, put all
4 of these clothes on him and then have a wreck.

5 Does that make sense? None of that makes sense
6 because it could not have happened, ladies and gentlemen,
7 and that's because it didn't happen -- it didn't happen.
8 Randy Glenn's story didn't happen.

9 He was caught in the act. Plain and simple, ladies
10 and gentlemen. This isn't a complicated case. This isn't
11 some conspiracy. This isn't some big ultimate vendetta to
12 get Mr. Glenn. It's just a explain and simple he was
13 caught. That's it. He was caught.

14 He was wearing the same clothes and he still had the
15 fake gun in the waistband in pants, in the jeans.
16 Investigator John Nix testified that he had to get that out
17 of him, out of his waistband, and put it on the -- on the
18 hood of the car to -- to secure that. He still had the
19 gun. He even still had on the gloves at that time. He had
20 the mask in the car, and he had the stolen cash. He had
21 187 packs of cigarettes all in his car, all from the
22 robbery that had just happened just moments before.

23 When -- go back to Lieutenant Gaddy stopping him and
24 the fact that he wouldn't stop. An innocent person, ladies
25 and gentlemen, doesn't try to flee. They don't try to flee

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1 because they have nothing to run from. They don't try to
2 drive off when blue lights come from behind them. They
3 don't try to drive after police had wrecked him.

4 Lieutenant Gaddy testified that their car -- when
5 their cars were stuck together he was still revving up the
6 engine trying to get away. Would an innocent person do
7 that? But he didn't want to get caught, and of course when
8 he got caught.

9 Now, the defendant's made a big deal about a couple of
10 things that -- that I wanted to address. They -- they said
11 that the police did his D.N.A., take a swab, D.N.A. of the
12 hoodie or they didn't take fingerprints of the gun or -- or
13 whatever.

14 There was no reason to do that. There wasn't a
15 question of who did this. You do that when you don't know
16 who did the crime -- did the crime. But -- but they knew
17 exactly who -- who did it. He was seen going in; he was
18 seen coming out. There wasn't a question. He's wearing
19 the same -- he's -- he's wearing it. So that's why, ladies
20 and gentlemen, that wasn't done. There was no point in
21 doing all of that.

22 That was a big deal about the cameras, these cameras.
23 They -- they -- they want you to believe that these
24 officers had some sort of duty to pull out some kind of
25 cell phone and -- and tape it somewhere. I don't know.

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1 Tape it to the, what, the front of the car? Tape it to
2 their body? I don't know. Tape it.

3 They don't have a duty to do that. They weren't
4 issued cameras. That's not their -- their fault. They're
5 not in any violation of any policy. If they were in a
6 violation of a policy, I can understand, that being a
7 little bit -- a little bit shady. But they -- they did
8 nothing wrong. They didn't violate any policies. They're
9 not issued them.

10 They're not issued cameras, and they certainly don't
11 have any type of duty to go get a GoPro. I'm sure -- I'm
12 not sure if all of you know what that is. But it's like a
13 type of a -- usually used in what, in sporting events or
14 sports. They don't have a duty to go get GoPros and pull
15 out cell phones and start taping them. It's kind of
16 ridiculous.

17 So, so Mr. Glenn -- and there was no punishing
18 yesterday and there was no yelling and there was no
19 screaming.

20 Mr. Glenn has come up with a ridiculous story that
21 this wasn't him, that somebody else did it, it couldn't
22 have been him because as he's sitting there in the pouring
23 down rain -- nobody testified that it was pouring down rain
24 but him.

25 And, again, we're talking about double standards.

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1 It's funny that he could see everything crystal clear --
2 crystal clear the headlights, the man that was supposed to
3 have stricken off his clothes who's running in the bushes
4 and this mystery person. He could see everything crystal
5 clear in the pouring rain.

6 To talk about double standards, either he can see
7 everything or you can't. He's making a call supposedly,
8 but there was no cell phone. The police didn't recover a
9 cell phone on the scene, and they didn't certainly recover
10 it on him at the jail when the pictures were taken.

11 That's pretty important. They didn't recover that
12 because there was no cell phone because there was no call.
13 He wasn't make a call. He was robbing the store that
14 night. He wasn't making any phone calls.

15 Now, he also testified yesterday that he was knocked
16 unconscious. He was knocked unconscious in this motor
17 vehicle accident. But nobody testified that he was
18 unconscious.

19 The highway parole that came or that testified before
20 yesterday said when he arrived on the scene, again, a
21 minute and 25 seconds later he was fine. Didn't ask for an
22 ambulance, didn't say he was hurt. That's because he
23 wasn't hurt. He wasn't hurt.

24 But he sat up here and he said, well, well, I was
25 unconscious but -- but two officers were trying to put

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1 clothes on me but that he couldn't even -- he couldn't even
2 tell me who it was. He couldn't point to -- one of the
3 officers was in this courtroom -- Sergeant Tony Brown. And
4 he couldn't even -- he couldn't even get to that point. He
5 got all confused and got all -- all looped up and stuff,
6 you know.

7 And what about the other officers, because there were
8 a whole lot of other officers on the scene. Was everybody
9 in on this? Everybody's in on it? But he singled out two,
10 and one of them he could even point to.

11 So he was -- he knew -- he knew the names, but he was
12 unconscious, but he was coming out of consciousness and,
13 well, I don't know. Does that make sense? Does that make
14 sense to y'all?

15 well, he -- you know, he just says these officers said
16 heck with the real robber, heck with him, just let him go,
17 we're going to get this guy because this guy just -- he
18 just seems like somebody that we just -- we're gonna --
19 we're just gonna -- we're just gonna put clothes on him and
20 we're going to plant all of this evidence in his car and we
21 want to -- we're going to stage the scene just because,
22 well, just because. And who cares about the real guy?
23 Just let him go because we want to make an arrest. That's
24 what he wants you to believe.

25 Sergeant William Gary testified they -- they -- they

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1 don't have any quotes to meet every month. They don't have
2 any requirements to make. There's no pressure to make an
3 arrest. There's no pressure for anybody.

4 And what would they have to gain by arresting him when
5 supposedly they got a real robber on the loose? Does that
6 make sense?

7 Again, just it's not complicated, ladies and
8 gentlemen. Just -- just think about it. Just think about
9 what he's asking you to -- to believe, what he's asking
10 you to -- to -- to want to consider. Does it -- does it
11 make sense?

12 Now, about the clothes. This is Mr. Glenn. You've
13 seen this picture a lot, and we've got a couple more.
14 State's 26. This is Mr. Glenn. Now, he's saying that's
15 not me and that's not my clothes.

16 But, ladies and gentlemen, you're going to look at the
17 video. Again, you'll have that back there if you wish, and
18 you can look at him and you can tell it's the exact same
19 clothes, it's the exact same person, it's exact same body,
20 same build. You can see it, and you'll have time. You can
21 pause and rewind and go back through. It's the same person
22 wearing the same clothes, and looked like they fit pretty
23 good -- pretty good to me.

24 When I asked him about shoe size he said that somehow
25 he found out -- and I don't know how -- he found out that

Closing arguments

1 those shoes were size 11 but -- but he wears a ten and a
2 half and that didn't fit. Well, a half a size? I get
3 shoes half a half a size too -- bigger than what I normally
4 wear. That's not a big deal. But they didn't fit.

5 And so I guess he's saying that these officers tied up
6 and laced up his shoes and just, you know, everything.
7 They just -- they put all of that on him.

8 For what reason? What reason did they have to put all
9 of that on him? But those are not his clothes. They're
10 somebody else's. The real robber went running through the
11 woods naked, or the bushes, and left his clothes and, well,
12 they just put them on him.

13 That's what Randy Glenn wants y'all to believe. And,
14 yeah, he wants you to believe that he was frightened. He
15 wouldn't use those words. But when you are accusing two
16 officers, or basically all of them, because they were all
17 out there, and I guess they're all in on it. We don't
18 know. When you're accusing them of putting clothes on you
19 and planting evidence in your car that's what you're
20 saying, is that you were framed. You wouldn't admit that,
21 but that's exactly what he was saying.

22 What he wants to believe is some -- some -- some
23 big -- big conspiracy. We gotta make an arrest and we're
24 going to get him. We're going to get him. I mean, he --
25 he didn't do it. He was just minding his own business, but

Closing arguments

1 we're just going to -- we're going to get him.

2 The officers didn't even know him before this
3 happened. They had no reason. They had nothing to gain by
4 that.

5 All this is, ladies and gentlemen, is -- is a story.
6 It's a made-up, desperate story. He's rattling for straws.
7 I give him an A for creativity, but that doesn't fly, and
8 it shouldn't fly. It shouldn't fly.

9 Use your common sense and take a step back and just
10 separate the truth from -- from fiction. Separate the
11 truth, what really happened.

12 If you believe the defendant that means everybody is
13 lying. That means everybody that testified in this trial
14 is lying. Lieutenant Gaddy is lying; Investigator John Nix
15 is lying; William Gary is lying; Sergeant Tony Brown is
16 lying; Deputy Knighten is lying; even the trooper who is
17 from a completely different agency not associated with the
18 sheriff's office, he's lying too. Everybody is lying and
19 out to get Randy Glenn. Everybody is out to get him?
20 Everybody's -- everybody's crooked? Everybody's in on
21 this, because they were all out there.

22 Can you look at all of these officers and say that
23 they're all liars? Because if you believe his story, then
24 you're calling each and every one of them liars. That's
25 what he wants you to do.

Closing arguments

1 They had no ulterior motive, ladies and gentlemen.
2 They didn't have any quotas and they were just doing their
3 job. There's no double standards. It's all it is, is a
4 plain and simple case of a person that was caught or seen
5 going to commit a robbery, coming out from the robbery and
6 was caught in the act. That's it. That's what we have.

7 No one else did this but Randy Glenn. There wasn't
8 anybody running in the woods or the bushes naked. There
9 wasn't anybody else. There wasn't anybody stripping it
10 down. There wasn't anybody putting clothes on him. There
11 wasn't anybody planting any evidence on him at all. That
12 didn't happen. Nobody else did this but Randy Glenn.
13 There shouldn't be any doubt, any doubt, in your minds
14 whatsoever.

15 Finally, ladies and gentlemen, justice is about doing
16 the right thing. And sometimes you -- you might think it's
17 impossible for -- for somebody to do -- to do something
18 like this. But the evidence here speaks for itself. And,
19 again, just separate the truth from fiction.

20 I hope that when you go back to the jury deliberation
21 room in just a few minutes and delib -- begin your
22 deliberations, I hope that you'll remember what I told you
23 in the beginning of this case. And just remember to use
24 your good old common sense and let justice be done. Thank
25 you all.

Jury charge

1 THE COURT: Mr. Foreman and ladies and gentlemen of
2 the jury, you of course have now heard and seen and all of
3 the evidence, as well as the final summations of the
4 lawyers; and therefore it now becomes my duty and
5 obligation to instruct you on the law that's applicable in
6 the case.

7 Then you'll go back and begin your deliberations. And
8 through that process you'll examine all of the evidence,
9 you'll decide the facts, apply the law and arrive at a fair
10 and just decision, whatever that decision may be.

11 As you all know, the defendant in this case has been
12 charged with the crime of armed robbery. The allegations
13 setting forth that crime are in the indictment which I
14 referred to prior to and after your selection as jurors.

15 The indictment, as I told you, will be in the jury
16 room, because, Mr. Foreman, you'll see on the back of the
17 indictment in the lower left-hand corner there's a word
18 verdict. And it's beneath that word that you will indicate
19 the jury's unanimous decision.

20 Other than serving as the verdict form, the indictment
21 serves no purpose so far as you jurors are concerned. As I
22 told you, it's not proof of anything; it's not evidence.
23 It doesn't establish anything. It simply will be used as
24 the verdict form.

25 But the defendant is charged with the crime of armed

Jury charge

1 robbery. The state alleges that occurred back on April the
2 7th of 2015. They allege the defendant was armed with a
3 deadly weapon or he did allege either by actions and/or
4 words that he was armed while using a representation of a
5 deadly weapon or any object which a person present during
6 the commission of a robbery reasonably believed to be a
7 deadly weapon.

8 And then they specifically allege that he took items
9 from the Family Dollar store from the person or presence of
10 Tiffany Lee Jolley.

11 Now, as to that charge and as to those allegations
12 he's entered a plea of not guilty. As you've been told,
13 that plea of not guilty has placed upon the state the
14 burden of proving the allegations that they've made, the
15 burden of proving each of the essential elements of the
16 crime charged -- in this case robbery -- and therefore the
17 burden is upon the state to establish the defendant's guilt
18 to the satisfaction of you 12 jurors beyond a reasonable
19 doubt before any verdict of guilty could be returned.

20 Every person who is charged with a crime is presumed
21 to be innocent of that charge. That presumption of
22 innocence remains with any defendant, as it does with this
23 defendant, from the time that he is placed under arrest and
24 throughout the course of the criminal process and even
25 throughout the course of the trial.

Jury charge

1 And, as I told you, that presumption of innocence will
2 be with Mr. Glenn even as you go back into your jury room
3 to begin with your deliberations in this case.

4 That presumption of innocence will be with him in that
5 jury room, and it'll be with him forever unless you 12
6 jurors determine that he's no longer entitled to that
7 presumption of innocence.

8 In other words, after you've considered all of the
9 evidence, and from that evidence you've determined what you
10 believe to be the facts as they relate to these
11 allegations, and after deciding those facts you apply the
12 law that I will have provided you, if you 12 jurors
13 unanimously determine that the defendant's guilt has been
14 proven beyond a reasonable doubt, then the defendant would
15 no longer be entitled to that presumption of innocence.
16 But it is only if, unless and until you are satisfied of
17 his guilt beyond a reasonable doubt that the presumption of
18 innocence would no longer be applicable.

19 Now, as you know, the state has to prove the defendant
20 is guilty beyond a reasonable doubt. The state however is
21 not required to prove a defendant's guilt beyond all doubt
22 or beyond any possible doubt. But it does require the
23 state to prove his guilt to your satisfaction beyond a
24 reasonable doubt.

25 The term reasonable doubt should be given its plain

Jury charge

1 and ordinary meaning. A reasonable doubt is the kind of
2 doubt that would cause a reasonable person to hesitate to
3 act upon the information provided.

4 A defendant is entitled to any reasonable doubt that
5 arises from the evidence or lack of evidence in a case.
6 And if upon any factual issue essential to a finding of a
7 verdict of guilty you have some reasonable doubt as to how
8 that issue should be resolved, it would be your duty to
9 resolve that reasonable doubt in favor of the defendant.

10 while there are various forms of evidence such as
11 photographs, documents, charts and other types of physical
12 exhibits, there are really only two types of evidence.
13 Either or both of those types of evidence may be used to
14 prove any fact in issue. But the two types of evidence are
15 direct evidence and circumstantial evidence.

16 Direct evidence is the testimony of a person who
17 testifies from actual knowledge of the fact. It is
18 testimony by a person who has perceived the existence of
19 some fact by means of his or her senses, and then they come
20 into court and they testify as to what they have previously
21 perceived.

22 Circumstantial evidence, on the other hand, is the
23 proof of some other facts or set of facts which taken
24 either singly or collectively may prove the existence of a
25 fact in question as a necessary consequence. That is

Jury charge

1 through an inference.

2 An inference is simply a deduction of fact that may
3 logically and reasonably be drawn from the proof of some
4 other fact or set of facts. In other words, it's not a
5 fact proven by the direct testimony of a witness based upon
6 their personal perception, but it is a conclusion which
7 might reasonably be drawn from the proof of other facts.

8 In other words, you may infer that a particular event
9 occurred or that a particular fact exists based upon proof
10 of sufficient factual circumstances which would reasonably
11 warrant your arriving at a particular conclusion.

12 The commission of a crime and any particular element
13 necessary to prove a crime may be proven by direct evidence
14 or by circumstantial evidence or by a combination of both
15 direct and circumstantial evidence.

16 The law makes no distinction between the weight or
17 value to be given to direct evidence or circumstantial
18 evidence, nor is a greater degree of certainty required of
19 circumstantial evidence as opposed to direct evidence.

20 However, to the extent that the state relies upon
21 circumstantial evidence in order to establish the
22 commission of a crime, all of the circumstances proven must
23 be consistent with each other and when taken together point
24 conclusively to the guilt of the accused beyond a
25 reasonable doubt.

Jury charge

1 If the circumstances proven merely portray the
2 defendant's behavior as suspicious the proof is
3 insufficient and it fails.

4 This burden rests with the state, regardless of
5 whether the state relies upon direct evidence or
6 circumstantial evidence or a combination of both of those
7 two types of evidence in order to prove the defendant
8 guilty of the crime they allege that he committed.

9 The same law that provides that you are the judges of
10 the facts also provides that I am the judge of the law.
11 And that simply means that nobody's going to tell you how
12 to arrive at your determination of fact in this case and
13 ultimately your decision. That's simply your prerogative
14 as to how you do that.

15 You must however accept the law as I provide it to you
16 as being the law that you are to apply in the case. In
17 other words, you're not to concern yourself with what you
18 thought the law was before you came to serve as a juror
19 this week or what you think the law ought to be.

20 Under your oath as a juror you must accept the law as
21 I provide it to you as being the law that you are to apply
22 in the case. And then you simply take that law and you
23 apply it to the facts as you 12 jurors determine those
24 facts to be based upon your own common sense examination
25 and evaluation of all of the testimony and evidence

Jury charge

1 received during the course of this trial.

2 Now, because you are the sole judges of the facts in
3 this case you are therefore necessarily the sole judges of
4 the credibility, that is the believability, of each witness
5 that has testified during the course of this trial.

6 You 12 jurors alone will decide what weight, value and
7 effect to give to any particular witness' testimony, or
8 even any portions of that testimony. There are however a
9 number of factors which you should take into consideration
10 in arriving at your determination as to a particular
11 witness' credibility or believability, and I'm going to
12 list those factors for you.

13 You should consider the demeanor of the witness, that
14 is how the witness testified or appeared to you when the
15 witness did testify from the witness stand.

16 In other words, was the witness straightforward in
17 responding to questions, or was the witness hesitant or
18 evasive in responding to the questions that were put to
19 that witness. Simply put, did the witness appear to you to
20 be telling the truth and to have knowledge of the facts to
21 which that witness has testified.

22 You should also consider whether or not the testimony
23 of a witness is consistent, or is it inconsistent with that
24 witness' own testimony or with other testimony or other
25 evidence received during the course of the trial.

Jury charge

1 You should also consider the opportunity that a
2 witness had to perceive the existence of some fact to which
3 they've come to court and testified to. In other words,
4 what was their opportunity and ability to perceive the
5 facts to which they've testified, and what is their ability
6 to be able to come into court and to accurately recollect
7 to you as to what they have previously perceived.

8 You should also consider any bias or prejudice or
9 interest that a witness might have with regard to the
10 outcome of the case. In other words, do you find some
11 particular reason why a particular witness would come into
12 court and would testify one way or another to help or to
13 hurt one side or the other.

14 And you may consider any interest that a witness might
15 have in the outcome of the case if you determine that the
16 witness does have such an interest and you find that that
17 interest would bear upon that particular witness'
18 credibility.

19 You should also consider whether or not the testimony
20 of a witness is strengthened, or is it weakened by other
21 testimony or other evidence received during the course of
22 the trial.

23 Now, you as the finders of the fact and you as the
24 judges of the credibility of each witness that has
25 testified are permitted to believe as much or as little of

Jury charge

1 what a witness has testified to as you deem is appropriate;
2 and therefore you may believe everything that a witness
3 testified to. You may choose to believe none of it. You
4 may believe one portion of a witness' testimony and reject
5 some other portion of that same witness' testimony.

6 You could believe one witness as opposed to several,
7 or several as opposed to one. So whatever your good
8 judgment and common sense tells you is the most believable
9 testimony and evidence is the testimony and evidence you
10 should accept.

11 You should reject any testimony or other evidence that
12 you find not to be credible or believable. Again, your
13 sole objective is to simply render a fair and impartial
14 decision based upon your consideration of the evidence and
15 then your application of the law to the facts as you
16 determine those facts to be.

17 In this case, as you know, the defendant is charged
18 with the crime of armed robbery. The crime of armed
19 robbery is a statutory offense. That offense is set forth
20 in Section 16-11-330 of the Code of Laws. The Code of Laws
21 are those blue volumes you see behind me.

22 Every year the legislature meets in session. In fact,
23 they began their session on Tuesday of this week, and
24 they'll conclude the last Thursday or the first Thursday --
25 the Thursday of the first week in June of this year.

Jury charge

1 During the course of that session they pass a number
2 of laws and rules and regulations that govern our conduct
3 in a variety of ways, but some of the laws they pass are
4 criminal penalty statutes, and that just means that they
5 define a crime, they prohibit us from engaging in that
6 conduct in violation of that statute.

7 Where it is proven beyond a reasonable doubt that we
8 violated the statute, then it subjects us to some form of
9 punishment or penalty as a result. But please understand
10 that you are never to be concerned with punishment or
11 penalty. That's not something that you are to consider in
12 your determination as to whether or not someone has been
13 proven guilty of a crime.

14 Your sole obligation and duty is to determine, based
15 upon the evidence and the law, whether or not the defendant
16 has been proven guilty beyond a reasonable doubt, and you
17 do that without any consideration as to any consequence of
18 that decision.

19 But in this case, as I told you, the statute is
20 16-11-330. And that statute provides as follows: A person
21 who commits the crime of robbery while armed with a pistol,
22 dirk, slingshot, metal knuckles, razor or other deadly
23 weapon, or while alleging either by action or words that he
24 is armed while using a representation of a deadly weapon or
25 any object which a person present during the commission of

Jury charge

1 the robbery reasonably believed to be a deadly weapon is
2 guilty of the crime of armed robbery.

3 The crime of robbery is a larceny by force or the
4 threat of the use of force. Robbery is defined in the law
5 as the taking of another person's property with the intent
6 to steal it from the person or presence of that person by
7 the use of force or violence or by the threat of the use of
8 force or violence, that is through intimidation, in order
9 to accomplish the theft.

10 A robbery is the forcing of a person to surrender
11 property with the intent to steal it by the use of force or
12 violence or by threatening a person with the use of force or
13 violence in order to accomplish the theft.

14 Taking property of another with an intent to steal it
15 by forcing a person to surrender possession of the property
16 or by causing a person to surrender possession of the
17 property by putting them in fear through intimidation is a
18 robbery under the law.

19 A robbery becomes an armed robbery when the robbery is
20 accomplished through the use of a pistol or other deadly
21 weapon or while the person committing the robbery alleges
22 either by actions or words or both that he is armed while
23 using a representation of a pistol or other deadly weapon
24 or any object which a person present during the commission
25 of the robbery reasonably believed to be a pistol or other

Jury charge

1 deadly weapon.

2 And therefore before the defendant in this case could
3 be found guilty of armed robbery it is necessary that the
4 evidence in this case establish to your satisfaction beyond
5 a reasonable doubt that the defendant, Randy Glenn, did
6 commit the crime of robbery which was accomplished by the
7 use of a pistol or while he was alleging in some manner
8 that he was armed while using a representation of a pistol
9 or some object which a person present reasonably believed
10 to be a pistol.

11 Now, Mr. Foreman and ladies and gentlemen of the jury,
12 I am not in any way concerned with what your decision is,
13 but you are instructed that the verdict of the jury must be
14 unanimous. All 12 of you must be in agreement before any
15 verdict can be returned.

16 Mr. Foreman, as you know, you're going to be presiding
17 over jury deliberations. You are going to be presiding
18 over the jury deliberations in the jury room simply to
19 ensure that those deliberations are carried out in some
20 orderly fashion. But all jurors are expected to
21 participate in the deliberations, because, as I've stated,
22 the verdict of the jury is the unanimous consensus opinion
23 of all 12 jurors, and so all of you must agree as to what
24 the decision is.

25 Mr. Foreman, once you and your fellow jurors have

Jury charge

1 sufficiently deliberated the case and once you have decided
2 your verdict, I'm simply going to ask that you indicate
3 that decision, as I previously stated. Indicate it on the
4 back of the indictment in the lower left-hand corner.
5 You'll see the word verdict. It's beneath that word that
6 you'll indicate the jury's unanimous decision.

7 There's also a line there for you to sign your name as
8 the foreperson. You're the only juror that needs to sign
9 the verdict form.

10 There's also a place for the appropriate date.

11 In this case you have two potential verdict forms.
12 Those two potential verdict forms are guilty and not
13 guilty.

14 So whatever that decision is of the jury, indicate it
15 in that space provided, sign your name as the foreperson,
16 date, notify the bailiff by knocking on the jury room door.
17 Let him know or she know that you have reached a decision.
18 And we'll bring you back to receive the verdict.

19 while -- after you make your decision and you reach a
20 verdict and you notify the bailiff of your decision or the
21 fact that you've reached a decision -- you don't tell him
22 what the verdict is -- the bailiff may take possession of
23 the evidence.

24 But, Mr. Foreman, you'll maintain possession of the
25 verdict form. I'll receive that from you after the jury

Jury charge

1 returns to the courtroom.

2 Now, during deliberations there may come a time where
3 you have some question about the facts or evidence in the
4 case. You may even ask or think there's something else out
5 there that might help you decide the case.

6 Please understand that now that the case is closed no
7 additional evidence may be received. So even if there is
8 something out there that exists and you think it might help
9 you, you can't have it because it was not introduced during
10 the course of the trial.

11 All of the exhibits which have been introduced during
12 the trial will be sent back to the jury room for your
13 consideration. No other evidence may be received. So
14 don't inquire about it should you think of something that
15 you'd like to have because you simply can't have it.

16 If you have a question about a witness' testimony and
17 you think rehearing that testimony will help you resolve
18 that question, we can bring you back into the courtroom to
19 have a testimony -- a witness' testimony replayed in whole
20 or in part.

21 I don't have transcripts of the testimony, so I cannot
22 send a transcript back. However, if you wish to have a
23 witness' testimony replayed in whole or in part let the
24 bailiff know by sending me a note. I'll tell you about
25 that in just a minute. Let them know you need to have

Jury charge

1 testimony replayed. We'll bring you back and replay it as
2 needed.

3 If at any time, Mr. Foreman, you need to direct some
4 comment to me, if you'll write it on a piece of paper, give
5 it to the bailiff, the bailiff will provide that to me, and
6 I will respond as necessary.

7 During deliberations -- I don't know if anybody on the
8 jury panel smokes, but if you do you can smoke during
9 deliberations, but you can't smoke in the jury room. You
10 have to go outside to accomplish that purpose. Fewer and
11 fewer people smoke any more. It's a good thing, but,
12 nevertheless, some people do.

13 So if you want to, you have to go outside to do that.
14 Just let the bailiff know, and he'll take anybody who needs
15 to smoke outside to smoke.

16 You are instructed however that if any juror is absent
17 from the jury room for some authorized purpose the
18 deliberations have to stop, and they may only resume when
19 all 12 jurors are present so that all can participate.

20 During deliberations if there ever comes a time where
21 you have a question about the law that's applicable, I am
22 permitted to answer those questions. And so if you need to
23 be reinstructed on the law or you need for me to clarify
24 some point of law or you need for me to give you some
25 explanation of the law different than I've already

Jury charge

1 provided, I'll be happy to provide that reinstruction,
2 clarification or explanation. Again, just let me know
3 through the bailiff, and I'll bring you back in order to
4 accomplish that.

5 It's not lunchtime yet, but I don't know how long your
6 deliberations are going to take, and so I simply will let
7 you know that if you get to a point in your deliberations
8 where you think it's necessary or appropriate to order
9 lunch -- it usually takes about an hour for lunch to be
10 ordered, the order placed and then prepared and brought
11 back to the courthouse for your benefit.

12 So I'll just tell you as you go back to deliberate, as
13 you begin deliberations, if you foresee, you know, that you
14 want to have lunch, just let the bailiff know, and the
15 clerk will come in and take your lunch orders. As I say,
16 it takes about an hour for that to be accomplished. But
17 I'll leave it up to you as to when you think that might be
18 necessary.

19 I think that covers everything, but in the event it
20 does not I'm sure one of these lawyers will remind me that
21 I have neglected to provide you with some information that
22 I should have. And if that's the case, I'll bring you back
23 in order to provide you with that information.

24 If I don't need to do that I'll simply send word by
25 way of the bailiff that you may begin with your

Jury charge

1 deliberations. And in that event the bailiff will bring to
2 the jury room all of the exhibits which have been
3 introduced.

4 And to you, Mr. Foreman, he'll also bring the
5 indictment which serves as the verdict form.

6 Now, there is a disc, a D.V.D., or whatever you call
7 it, that's been introduced. And so if you want to see
8 that, listen to that, hear that, a computer will be
9 provided with the disc as you go back so that you can look
10 at that evidence that was also introduced.

11 If you can't get it to work let the bailiff know.
12 We'll get somebody to help you with it. My granddaughter's
13 not here, so she won't be able to do it. But I'm sure one
14 of y'all ought to be able to do that. But if not, we'll
15 get somebody who can.

16 All right. Please, with the exception of Mr. Chandler
17 who is the alternate juror. I would ask the 12 primary
18 jurors, please go to the jury room with the bailiff, but do
19 not begin your deliberations until I send you word to do
20 so.

21 (Whereupon, the jury retired to deliberate at
22 10:45 a.m.)

23 (Whereupon, the alternate juror was excused.)

24 THE COURT: Are there any exceptions taken or requests
25 for additions to the instruction by the state?

Verdict

1 MS. POULOS: No, sir, Your Honor.

2 THE COURT: By the defendant?

3 MR. SHEALY: No, Your Honor.

4 THE COURT: All right. All of the exhibits have
5 previously been verified, and we've got two on the --

6 MS. POULOS: Your Honor, does -- does this get to go
7 back for demo or is that just for -- this is the chart that
8 I --

9 THE COURT: No. That doesn't go back.

10 MS. POULOS: Okay. That's doesn't go back.

11 THE COURT: And you've got the computer for them?

12 MS. POULOS: Yes, sir, I do.

13 (Pause.)

14 THE COURT: All of the exhibits are accounted for?

15 MS. POULOS: Yes, Your Honor.

16 MR. SHEALY: Yes, sir.

17 THE COURT: All right. Tell the jury to begin
18 deliberations and notify us when they've concluded.

19 (Whereupon, a recess was taken.)

20 THE COURT: I am told the jury has reached a decision.
21 Are we ready to receive it?

22 MS. POULOS: Yes, Your Honor.

23 MR. SHEALY: Yes, Your Honor.

24 THE COURT: Okay. Bring them in.

25 (Whereupon, the jury returned to the courtroom at

Verdict

1 11:23 a.m. to report its verdict.)

2 THE COURT: Mr. Foreman, have you and your fellow
3 jurors reached a unanimous decision?

4 THE FOREMAN: Yes, Your Honor.

5 THE COURT: And have you reflected that decision on
6 the verdict form as requested?

7 THE FOREMAN: Yes, Your Honor.

8 THE COURT: Did you sign it and date it?

9 THE FOREMAN: Yes, sir.

10 THE COURT: If you will, please hand that up by way of
11 the bailiff.

12 You may publish the verdict.

13 THE CLERK: In the General Sessions Court, Case
14 No. 2015-GS-42-3366, the State vs. Randy Glenn, indictment
15 for armed robbery, the verdict is guilty. This is signed
16 by the foreperson and dated today's date.

17 Ladies and gentlemen of the jury, if this is your
18 verdict and still your verdict, please raise your right
19 hand.

20 (Whereupon, all responded in the affirmative.)

21 THE CLERK: So say you all.

22 THE COURT: Does the defendant wish to have the jury
23 polled?

24 MR. SHEALY: No, Your Honor.

25 THE COURT: All right. Thank you, ladies and

Verdict

1 gentlemen, for your participation in the trial of this
2 case.

3 That's going to conclude your service for today. But
4 it might be that you'll need to come back in the morning.
5 So I would ask that you please call back tonight after
6 6:00 to the number that you have on your juror information
7 pamphlet to receive that further reporting information.
8 Thank you again for your participation.

9 (Whereupon, the trial jury was excused.)

10 THE COURT: All right. Any matters to be addressed
11 prior to the imposition of sentence?

12 MS. POULOS: Nothing from the state, Your Honor.

13 MR. SHEALY: Your Honor, I'd make a motion for a new
14 trial based my prior objections and motions.

15 THE COURT: All right. That motion is denied.
16 Anything further on behalf of the state?

17 MS. POULOS: No, sir, Your Honor.

18 (Pause.)

19 THE COURT: How about unhooking his hands so he can
20 sign that sheet?

21 (Whereupon, the officers complied.)

22 MS. POULOS: May I approach, Your Honor?

23 THE COURT: All right. Mr. Shealy, you and your
24 client, you agree that you were each served with a notice
25 of the state's intent to seek a life imprisonment sentence

Sentence

1 pursuant to 17-25-45(A).

2 MR. SHEALY: We were, Your Honor.

3 THE COURT: And you're both in agreement that he has a
4 prior conviction which subjects him to that mandatory life
5 sentence pursuant to the same statute?

6 MR. SHEALY: Yes, Your Honor.

7 THE COURT: All right. Anything else you'd like to
8 tell me?

9 MR. SHEALY: No, Judge, just that he's 51 years old.
10 He has a G.E.D. I believe he may wish to address the Court,
11 but that's all that I have.

12 THE COURT: All right. Mr. Glenn, would you like to
13 tell me something?

14 THE DEFENDANT: I don't -- I don't -- I don't have
15 anything, Your Honor.

16 THE COURT: Okay. On Indictment 2015-3366, the
17 defendant having been found guilty by a jury of the crime
18 of armed robbery, sentence is you, Randy Glenn, be confined
19 to the South Carolina Department of Corrections for the
20 balance of your natural life pursuant to 17-25-45.

21 Mr. Glenn, you have a right to appeal the decision of
22 the jury and the sentence of the Court. You must file any
23 notice of your intent to appeal those decisions within ten
24 days of today's date.

25 END OF REQUESTED TRANSCRIPT OF RECORD

Certificate

CERTIFICATE

I, the undersigned Linda D. Moffitt, Official Court Reporter for the Seventh Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of all the proceedings had and evidence introduced in the trial of the captioned cause, relative to appeal, in the Court of General Sessions for Spartanburg County, South Carolina, on the 11th, 12th and 13th days of January 2016.

I do further certify that I am neither of kin, counsel nor interest to any party hereto.

March 25, 2016

A handwritten signature in cursive script, appearing to read "Linda D. Moffitt", is written over a horizontal line.

Linda D. Moffitt
Circuit Court Reporter

WITNESSES

SCSO

RECEIVED
JAN 19 2016
SC Court of Appeals

ARREST WARRANT NUMBER

2015A4210201122

ACTION OF GRAND JURY

True Bill

JUL 29 2015

Foreperson of Grand Jury
Date:

VERDICT

Guilty

Foreperson of Petit Jury
Date:

1/13/16

DOCKET NO.

15-GS-42-336.6

The State of South Carolina

County of Spartanburg

Barry Barnette, Solicitor

COURT OF GENERAL SESSIONS

AUG 03 2015

TERM

THE STATE
vs.

Randy Glenn

Indictment for

ARMED ROBBERY

SC Code: 16-11-330 (A)

CDR Code: 139

Class FEL/A

2015 JUL 31 AM 9:48

H. R. FE SLACKLEY

STATE OF SOUTH CAROLINA }
COUNTY OF SPARTANBURG }

INDICTMENT

JUL 29 2015

At a Court of General Sessions, convened on _____, the Grand
Jurors of Spartanburg County present upon their oath:

ARMED ROBBERY

That the Defendant, Randy Glenn, did in Spartanburg County, on or about April 7, 2015, while armed with a pistol, dirk, slingshot, metal knuckles, razor, knife or other deadly weapon or while alleging, either by actions or word, 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 from the person or presence of Family Dollar and/or Tiffany Lee Jolley, by means of force or intimidation goods or monies of Family Dollar and/or Tiffany Lee Jolley, described as follows: US currency and/or cigarettes, with intent to deprive the owner permanently of such property, in violation of Section 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

STATE OF SOUTH CAROLINA

COUNTY OF SPARTANBURG
STATE VS.

Randy Glenn

AKA:

Race: BLACK Sex: M Age: 51

DOB: [REDACTED]

Address:

City, State Zip: Spartanburg, SC 29302-4818

DL#: [REDACTED] SID#: [REDACTED]

*CDL Yes ☐ No ☒ CMV Yes ☐ No ☒ Hazmat Yes ☐ No ☒

In disposition of the said indictment comes now the Defendant who was

☒ CONVICTED OF or ☐ PLEADS

TO: Robbery / Armed Robbery, robbery while armed or allegedly armed with a deadly weapon

in violation of § 16-11-0330(A)

of the S.C. Code of Laws, bearing CDR Code #

0139

Life without parole

☐ NON-VIOLENT☒ VIOLENT☐ SERIOUS☒ MOST SERIOUS☐ Mandatory GPS(CSC
w/minor 1st or Lewd Act)☒ §17-25-45The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☒ Without Negotiations or Recommendation ☐ Negotiated Sentence, ☐ Recommendation by the State,

ATTEST:

POULOS, TIMI

SC Bar#

Defendant

Attorney for Defendant

SC Bar#

WHEREFORE, the Defendant is committed to the

☒ State Department of Corrections,☐ County Detention Center,for a determinate term of Life days/months/years or☐ under the Youthful Offender Act not to exceed yearsand/or to pay a fine of \$; provided that upon the service of days/months/years and/or paymentof \$; plus costs and assessments as applicable*; the balance is suspended with probation for

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☐ CONCURRENT or ☐ CONSECUTIVE to sentence on:☐ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections.☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Del. Waives Hearing ☐ Ordered

PTUP

Total: \$ plus 20% fee: \$ days/hours Public Service Employment

Payment Terms:

Obtain GED ☐Attend Voc. Rehab. or Job Corp. May serve W/B beginning Substance Abuse Counseling ☐Random Drug/Alcohol testing ☐Fine may be pd. in equal, consecutive weekly/monthly
pmts. of \$ beginning \$ paid to Public Defender FundOther: Recipient:

*Fine:

§ 14-1-206 (Assessments 107.5 %)

\$

§ 14-1-211(A)(1) (Conv. Surcharge)

\$100

\$

§ 14-1-211(A)(2) (DUI Surcharge)

\$100

\$

§ 56-5-2995 (DUI Assessment)

\$12

\$

§ 56-1-286 (DUI Breath Test)

\$25

\$

Proviso 47.9 (Public Def/Prob)

\$500

\$

§ 14-1-212 (Law Enforce. Funding)

\$25

\$

§ 14-1-213 (Drug Court Surcharge)

\$150

\$

§ 50-21-114 (BUI Breath Test Fee)

\$50

\$

§ 56-5-2942(J) (Vehicle Assessment)

\$40/ea

\$

Proviso 90.5 (SCJA Surcharge)

\$5

\$

3% to County (if paid in installments)

\$

TOTAL

\$

Clerk of Court/ Deputy Clerk

Court Reporter:

SCCA/217 (03/2011)

Presiding Judge

Judge Code:

Sentence Date:

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2015GS4203366

A/W#: 2015A4210201122

Date of Offense: 4/7/2015

S.C. Code § : 16-11-0330(A)

CDR Code #: 0139

SENTENCE SHEET

Presiding Judge

Judge Code:

Sentence Date:

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

Respectfully Submitted,

RECEIVED

SFP 28 2016

SC Court of Appeals


Kathrine H. Hudgins
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S.C. 29211-1589

ATTORNEY FOR APPELLANT

This 28th day of September, 2016.

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

ORIGINAL

Appeal from Spartanburg County
Honorable J. Derham Cole, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

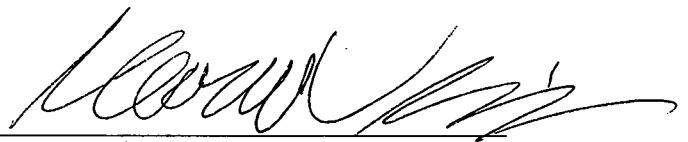
RANDY GLENN,

APPELLANT

APPELLATE CASE NO. 2016-000083

CERTIFICATE OF SERVICE

I certify that a copy of the Record on Appeal in the above-referenced case has been served upon J. Benjamin Aplin, Esquire, at the Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201, and Mr. Randy Glenn, # 140243 at Lee Correctional Institution 990 Wisacky Highway, Bishopville, SC 29010, this 28th day of September, 2016.



George Vlasis
Administrative Specialist

SUBSCRIBED AND SWORN TO before me
this 28th day of September, 2016.

Christian Ford (L.S.)
Notary Public for South Carolina
My Commission Expires March 1, 2026