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STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Lexington County

Thomas A. Russo, Circuit Court Judge

APPELLATE CASE NO. 2014-002206

RECEIVED

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SC Court of Appeals

THE STATE,

RESPONDENT,

V.

KEITH CHRISTOPHER OSBORNE,

APPELLANT

RECORD ON APPEAL

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INDEX

Transcript of Record October 8 and 9, 2014	1
True Billed Indictments and Sentencing Sheets	222
Exhibit 3	228
Exhibit 7	229
Exhibit 8	230
Exhibit 9	231
Exhibit 11	232
Exhibit 12	233
Exhibit 13	234

1 STATE OF SOUTH CAROLINA)

2 COUNTY OF LEXINGTON)

COURT OF GENERAL SESSIONS

2013-GS-32-01289

2013-GS-32-01290

6 STATE OF SOUTH CAROLINA)

7 vs.)

TRANSCRIPT OF RECORD

8 KEITH CHRISTOPHER OSBORNE)
9 DEFENDANT)

11 October 8 and 9, 2014

12 Lexington, South Carolina

14 B E F O R E:

15 THE HONORABLE THOMAS A. RUSSO, JUDGE; and a jury.

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

18 KATE W. USRY, ASSISTANT SOLICITOR
19 ROBERT McNAIR, ASSISTANT SOLICITOR
20 Attorneys for the State

21 DAVID MAULDIN, ASSISTANT PUBLIC DEFENDER
22 Attorney for the Defendant

24 CAROL M. THUEME, RPR
25 Official Court Reporter

I N D E X

OPENING STATEMENTS:	PAGE
Mr. McNair	57
Mr. Mauldin	61
WITNESSES:	
HELEN LANG:	
Direct Exam by Ms. Usry	62
Cross-Exam by Mr. Mauldin	80
Redirect Exam by Ms. Usry	81
HEATHER MOON-HICKS	
Direct Exam by Ms. Usry	82
SHELDON TAYLOR:	
Direct Exam by Mr. McNair	86
JOSHUA SHEUMPERT:	
Direct Exam by Ms. Usry	91
Cross-Exam by Mr. Mauldin	106
Redirect Exam by Ms. Usry	108
JOSEPH CLARKE:	
Direct Exam by Mr. McNair	112
DEBORAH GOFF:	
Direct Exam by Ms. Usry	115
Cross-Exam by Mr. Mauldin	124
SHEILA DERRICK:	
Direct Exam by Mr. McNair	126
Cross-Exam by Mr. Mauldin	128
JOSHUA HILTON:	
Direct Exam by Mr. McNair	142
Cross-Exam by Mr. Mauldin	161
Redirect Exam by Mr. McNair	167

WITNESSES:	PAGE
JOSEPHINE HILTON	
Direct Exam by Mr. McNair	169
Cross-Exam by Mr. Mauldin	171
CLOSING ARGUMENTS:	
Ms. Usry	186
Mr. Mauldin	193
CHARGE OF THE COURT	197
VERDICT OF THE JURY	210
SENTENCE OF THE COURT	219
CERTIFICATE OF REPORTER	221

State's Exhibits

		ID	EVD
Exh. #-1	Photo	46	70
Exh. #-2	Photo	46	70
Exh. #-3	Photo	46	98
Exh. #-4	Photo	46	70
Exh. #-5	Photo	46	70
Exh. #-6	Photo	46	70
Exh. #-7	AT&T Universal bill	46	76
Exh. #-8	Photo	46	157
Exh. #-9	Photo	46	157
Exh. #-10	Photo (withdrawn by State)	46	
Exh. #-11	Photo	46	158
Exh. #-12	Composite sketch	78	122
Exh. #-13	Composite sketch	78	122

1 THE COURT: Go ahead, Madame Solicitor, and call
2 the case.

3 MS. USRY: Yes, Your Honor. Thank you.

4 The State calls the case against Keith
5 Christopher Osborne, Indictment 2013-GS-32-01289, for
6 strong arm robbery and Indictment 2013-GS-32-01290 for
7 assault and battery first degree.

8 THE COURT: Ladies and gentlemen, you heard the
9 Solicitor call the case of the State of South Carolina
10 versus Keith Christopher Osborne and the Solicitor told
11 you what the charges are in the indictments. Just as I
12 told you on Monday when we selected that jury, these
13 indictments, ladies and gentlemen, are simply the formal
14 documents that bring this case into court. Mr. Osborne
15 has pled not guilty to these allegations and that plea of
16 not guilty places the burden of proof on the State to
17 prove the allegations that are contained in these
18 indictments.

19 As these indictments are going to be read to you
20 in just a moment, they are merely allegations, they are
21 not evidence in the case. They do not purport to be
22 evidence in the case. They are simply the allegations the
23 State has made.

24 I am going to, if you would listen carefully,
25 read to you these allegations and then I'll have questions

1 to ask.

2 Indictment 2013-GS-32-1289, charges Mr. Osborne
3 with the offense of ~~strong arm robbery~~ and the allegations
4 are that Keith Christopher Osborne did in ~~Lexington~~
5 ~~County~~, South Carolina, on or about June 12 of 2012,
6 knowingly and willfully by means of force, intimidation,
7 violence, or by threat of force, intimidation, violence,
8 by actions or words, feloniously take and carry away from
9 the person or presence of ~~Helen Lang~~ personal property
10 described as follows, her purse and its contents, with the
11 intent to deprive the owner of such property in violation
12 of the common laws of South Carolina, State of South
13 Carolina, and codified under Section 16-11-325 of the
14 South Carolina Code of Laws, 1976, as amended.

15 Indictment 2013-GS-32-1290 charges Mr. Osborne
16 with the offense of ~~assault and battery in the first~~
17 ~~degree~~, and the allegations are that Keith Christopher
18 Osborne did in Lexington County on or about June 12, 2012,
19 unlawfully injure another person which occurred during the
20 commission of a robbery, burglary, or theft; to wit,
21 ~~dragging Helen Lang along a moving vehicle while stealing~~
22 ~~her purse causing injury~~, in violation of Section
23 16-3-600(c) of the South Carolina Code of Laws, 1976, as
24 amended.

25 Ladies and gentlemen, is there any member of the

1 jury panel who knows anything about this case based on
2 what I've shared with you? If so, please stand.

3 (No response.)

4 THE COURT: Thank you. There are none.

5 I'm going to have the attorneys stand and
6 introduce themselves. If you'd please listen carefully.

7 MS. USRY: Thank you, Your Honor.

8 My name is Kate Usry. I'm assistant solicitor
9 with the Lexington County Solicitor's Office. I work for
10 Solicitor Donny Myers. Working with me during this trial
11 is Robert McNair who's also an assistant solicitor with
12 our office. In addition in the courtroom you'll see Kevin
13 Wilkes who's an investigator with our office.

14 THE COURT: Thank you, ma'am.

15 Ladies and gentlemen, is there any member of the
16 jury panel who is related by blood, connected by marriage,
17 or who has any close business or personal relationship
18 with or who has either been represented by or prosecuted
19 by either Ms. Usry or Mr. McNair? If so, please stand.

20 (No response.)

21 THE COURT: Thank you. There are none.

22 Mr. Mauldin.

23 MR. MAULDIN: My name is David Mauldin. I'm
24 with the Lexington County Public Defender's Office. This
25 is my client Keith Osborne. I have a paralegal, Tamika

1 Wilson, who will be in court with us.

2 THE COURT: Thank you.

3 Ladies and gentlemen, is there any member of the
4 jury panel related by blood, connected by marriage, or who
5 has any close business or personal relationship with or
6 who has been represented in the past by Mr. Mauldin? If
7 so, please stand.

8 (No response.)

9 THE COURT: Thank you. There are none.

10 You've met Mr. Osborne. Is there any member of
11 the panel who's related by blood, connected by marriage,
12 or who has any close business or personal relationship
13 with Mr. Osborne? If so, please stand.

14 (No response.)

15 THE COURT: Thank you. There are none.

16 Now that question that I just asked you about
17 Mr. Osborne, that is if you're related by blood or
18 connected by marriage or have any close business or
19 personal relationship, that's the question that I'm going
20 to ask as it relates to the folks whose names I'm about to
21 call. These are potential witnesses or possible witnesses
22 that may appear during the course of this trial. If that
23 question applies to you with regard to any of these names,
24 please stand, and if you do stand, if you'd please
25 continue to listen because, as I said earlier, it may be

1 that you know one or more of these folks.

2 The following are possible or potential
3 witnesses who may testify during the course of this case.
4 If any of these witnesses are in court, I would ask that
5 you stand and face the jury panel for a few moments and
6 then have a seat.

7 Helen B. Lang, Josephine Grubb Hilton, Joshua
8 Hilton, Heather Moon, Sheldon T. Taylor, Joshua Sheumpert,
9 Deborah Goff, Joe Clarke, Lachella Brown, Sheila Derrick,
10 James Sullivan.

11 Any member of the panel related by blood,
12 connected by marriage, or have any close business or
13 personal relationship with any of those folks? If so,
14 please stand.

15 (No response.)

16 THE COURT: Thank you. There are none.

17 Ladies and gentlemen, is there any member of the
18 jury panel or a member of your family who has ever been
19 the victim of or convicted or accused of committing a
20 criminal offense? If so, please stand.

21 Folks, I'm going to get you to come over and
22 I'll take you one at a time as you come up, please.

23 THE BAILIFF: Juror 171, Your Honor.

24 THE COURT: All right. Come on up, sir.

25 THE JUROR: This is the third time I've seen

1 you.

2 THE COURT: Yes, sir. All right. Let me get my
3 ducks lined up here.

4 All right. Mr. Sandoval, now you and several
5 other folks here, I heard your responses on the earlier
6 case --

7 THE JUROR: Yes, sir.

8 THE COURT: -- but these are different lawyers
9 and a different case, so if you would, just share with me
10 your situation.

11 THE JUROR: Yes. Just family in California, a
12 cousin convicted in the state of California.

13 THE COURT: The fact that you've had that
14 experience in your life, would that in any way affect your
15 ability to be fair and impartial, sir?

16 THE JUROR: No, sir.

17 THE COURT: Thank you, sir. You can have a
18 seat.

19 THE BAILIFF: Juror 111, Your Honor.

20 THE COURT: All right, Ms. Lipp.

21 THE JUROR: My daughter was arrested for strong
22 arm robbery.

23 THE COURT: And do you recall when that was?

24 THE JUROR: Around two years ago.

25 THE COURT: Was it here in Lexington County?

1 Was it prosecuted in this jurisdiction?

2 THE JUROR: It never went that far.

3 THE COURT: The fact that you had that
4 experience with your daughter, would that in any way
5 affect your ability to be fair and impartial?

6 THE JUROR: No, sir.

7 THE COURT: Thank you, ma'am. You may have a
8 seat.

9 THE BAILIFF: Juror No. 95, Your Honor.

10 THE JUROR: I had a cousin that was arrested for
11 a large amount of marijuana.

12 THE COURT: I'm sorry?

13 THE CLERK: Ninety-five.

14 THE BAILIFF: Juror No. 95.

15 THE COURT: I apologize. Thank you.

16 Mr. Johnson.

17 THE JUROR: Yes. I had a cousin that was
18 arrested for a large amount of marijuana.

19 THE COURT: All right. Mr. Johnson, would that
20 in any way affect your ability to be fair and impartial,
21 sir?

22 THE JUROR: No, sir.

23 THE COURT: Thank you, sir. You may have a
24 seat.

25 And let me make an announcement.

1 Folks, I know when you come up, I know I've
2 heard from all of you on Monday when you responded to a
3 similar question, but the reason I need to have you
4 brought back up and ask you again about it is because this
5 is a different case, these are different attorneys, and so
6 we're just going through the same process.

7 THE BAILIFF: Juror No. 91, Your Honor.

8 THE COURT: All right. This is Ms. Hutto.

9 THE JUROR: I was charged one time for breach of
10 trust.

11 THE COURT: Okay. Ms. Hutto, the fact that
12 you've had that experience in your life, would that in any
13 way affect your ability to be fair and impartial?

14 THE JUROR: No, sir.

15 THE COURT: Thank you, ma'am. You may have a
16 seat.

17 THE BAILIFF: Juror No. 170.

18 THE COURT: Yes, ma'am. Ms. Sanders, yes,
19 ma'am.

20 THE JUROR: I had a brother that's been in
21 trouble before. I have no problem with it.

22 THE COURT: Do you recall what it was for?

23 THE JUROR: Oh, gosh, it's been so long. I
24 don't know. I don't remember.

25 THE COURT: But you've had that experience?

1 THE JUROR: It's DUI and stuff like that.

2 THE COURT: DUI and things of that nature, okay.

3 Would that in any way affect your ability to
4 give both the State and the Defense a fair trial in this
5 case?

6 THE JUROR: No.

7 THE COURT: Thank you, ma'am. You may have a
8 seat.

9 THE BAILIFF: Juror No. 214, Your Honor.

10 THE COURT: Ms. Williams, if you would give that
11 information, what member of the family.

12 THE JUROR: My cousin by marriage.

13 THE COURT: And do you recall what the offense
14 was?

15 THE JUROR: I don't recall that.

16 THE COURT: Okay. But the fact that you've had
17 that experience in your family, would that in any way
18 affect your ability to be fair and impartial?

19 THE JUROR: No, Your Honor, it would not.

20 THE COURT: Thank you very much, ma'am.

21 THE BAILIFF: Juror No. 69, Your Honor.

22 THE COURT: Yes, ma'am.

23 THE JUROR: Yes. My brother, he was drunk with
24 a DUI and reckless driving and the cop, Josh Sheumpert, he
25 worked for the town and I think -- like I'm on the board

1 of directors in my neighborhood association and I think he
2 may be the cop that we talk to when there's questions on
3 things that happen in our neighborhood.

4 THE COURT: Okay.

5 THE JUROR: I think he might be the one.

6 THE COURT: Let me back up and first address the
7 fact that you have the relative that's had some criminal
8 matters. Would that in any way affect your ability to be
9 fair and impartial?

10 THE JUROR: No.

11 THE COURT: And with regards to Officer
12 Sheumpert, you're on the board for --

13 THE JUROR: For my neighborhood, yes.

14 THE COURT: Neighborhood watch?

15 THE JUROR: Well, not -- like the homeowners
16 association, yes, sir.

17 THE COURT: Okay. And you think that as a board
18 you all have dealt with Officer Sheumpert?

19 THE JUROR: I think he's the one that my
20 president calls with questions about, like, things that
21 have gone wrong in the neighborhood.

22 THE COURT: Okay. The fact that -- and I'm not
23 sure whether or not he would appear, but if he does, would
24 that in any way affect your ability to be fair and
25 impartial?

1 THE JUROR: I don't -- no, I don't think so.

2 THE COURT: All right. Thank you, ma'am. You
3 may have a seat.

4 THE BAILIFF: Juror No. 225, Your Honor.

5 THE COURT: Yes, ma'am.

6 THE JUROR: Here a while back I was mugged. A
7 man came to me, he struck me down in the parking lot and
8 took my purse and then kicked me and then they never found
9 who it was.

10 THE COURT: Okay. Ma'am, the fact that you've
11 had that experience, would that affect your ability to be
12 fair and impartial?

13 THE JUROR: I've been thinking about that. I'm
14 just really glad this guy got caught and I wished they
15 would --

16 THE COURT: Let me do this, if I may. It's not
17 the same thing but it's very similar to what you've
18 experienced. I'm going to excuse you from serving on this
19 case.

20 THE JUROR: I'm sorry.

21 THE COURT: No, you haven't done anything wrong.
22 You're fine. No, ma'am, you're good.

23 THE JUROR: Okay.

24 THE COURT: You're good, but I just think it
25 might be a little close and might be better for you --

1 THE JUROR: I'm sorry.

2 THE COURT: No, you're good. You haven't done a
3 thing wrong, but I thank you for coming up. I'm going to
4 get you to have a seat, but I'm going to have them just
5 not draw your name if it comes up on this case.

6 THE JUROR: Okay.

7 THE COURT: Thank you, ma'am.

8 THE BAILIFF: Juror No. 94, Your Honor.

9 THE COURT: Mr. James.

10 THE JUROR: Yes, sir.

11 THE COURT: What was the situation?

12 THE JUROR: It was a drug charge for my wife.

13 THE COURT: Okay.

14 THE JUROR: Ten years ago or something like
15 that.

16 THE COURT: Would that in any way affect your
17 ability to be fair and impartial?

18 THE JUROR: No, sir.

19 THE COURT: And give both the State and Defense
20 a fair trial?

21 THE JUROR: No problem.

22 THE COURT: Thank you, sir. Appreciate it.

23 THE BAILIFF: Juror No. 185, Your Honor.

24 THE COURT: Mr. Sligh. Yes, sir. What was the
25 situation?

1 THE JUROR: My father was accused of DUI, but it
2 was dismissed. And I've got a cousin that goes to jail
3 all the time, but I never really know for what.

4 THE COURT: Okay. But the fact that you've had
5 these experiences, would that in any way affect your
6 ability to be fair and impartial, sir?

7 THE JUROR: No, sir.

8 THE COURT: Thank you, sir.

9 THE BAILIFF: Juror No. 215, Your Honor.

10 THE COURT: Ms. Wilson. Yes, Ms. Wilson.

11 THE JUROR: Well, actually my son had a drug
12 situation back years ago.

13 THE COURT: Sure. Ma'am, the fact that you've
14 had that in your family, would that in any way affect your
15 ability to be fair and impartial?

16 THE JUROR: No, it wouldn't have any effect.

17 THE COURT: Thank you, ma'am. I appreciate it,
18 ma'am.

19 THE BAILIFF: Juror No. 15, Your Honor.

20 THE COURT: Ms. Bennett, yes, ma'am.

21 THE JUROR: My stepfather was convicted.

22 THE COURT: Yes, I remember that.

23 Ms. Bennett, the fact that you've had that
24 experience, would that in any way affect your ability to
25 be fair and impartial?

1 THE JUROR: No, sir.

2 THE COURT: Thank you, ma'am. I appreciate
3 that. You can have a seat.

4 THE BAILIFF: Juror No. 110, Your Honor.

5 THE COURT: Mr. Lindquist, yes, sir. If you'd
6 let them know what that situation was.

7 THE JUROR: It was a DUI.

8 THE COURT: Would that in any way affect your
9 ability to be fair and impartial, sir?

10 THE JUROR: No.

11 THE COURT: Thank you, sir. You may have a
12 seat.

13 THE CLERK: Juror No. 210, Your Honor.

14 THE COURT: Mr. Whatley, if you'd then know what
15 that situation was.

16 THE JUROR: Okay. Yes. My brother had a drug
17 case 15 years ago.

18 THE COURT: Would that in any way affect your
19 ability to be fair and impartial?

20 THE JUROR: No, sir. Have a seat.

21 THE BAILIFF: Juror No. 12, Your Honor.

22 THE COURT: Ms. Beckford. Yes, ma'am.

23 THE JUROR: Again, my cousin was a heroin addict
24 and he did an armed robbery. Also, he shot the person.

25 My husband also was a victim of armed robbery

1 with our car. I think it probably would affect me because
2 the person said they didn't do it. I saw that -- he
3 denied it and my husband's sunglasses was on the top of
4 his head, so we knew he did it. He was convicted here.

5 THE COURT: I'm going to excuse Ms. Beckford
6 from participating in this case.

7 So if you'll go have a seat, I'm going to have
8 them pull your name.

9 THE JUROR: Thank you.

10 THE BAILIFF: Juror No. 162, Your Honor.

11 THE COURT: Ms. Rodgers, yes, ma'am.

12 THE JUROR: I have a question. One of the
13 witnesses is Joe Clarke. Is he an investigator with
14 Richland County?

15 THE COURT: Yes, ma'am.

16 THE JUROR: I think I used to date him.

17 THE COURT: All right. We won't go into any
18 details. Let me simply ask this: Would that have any
19 effect on your ability to be fair and impartial?

20 THE JUROR: No, not at all. I just wanted to
21 make sure.

22 THE COURT: Thank you, Ms. Rodgers. That's
23 Juror 161 (sic).

24 THE BAILIFF: Juror No. 50, Your Honor.

25 THE COURT: All right. Ms. Decker, yes, ma'am.

1 THE JUROR: Like I told you before, my husband
2 had DUIs before we got married and my teenage daughter got
3 in a little trouble when she was younger for trespassing.

4 THE COURT: Would any of that have any effect on
5 your ability to be fair and impartial, ma'am?

6 THE JUROR: No, sir.

7 THE COURT: Thank you, ma'am. You may have a
8 seat.

9 THE BAILIFF: Juror No. 32, Your Honor.

10 THE COURT: Mr. Carter. Yes, sir.

11 THE JUROR: I had a stepfather that was
12 convicted of armed robbery and his brother-in-law was
13 convicted of murder.

14 THE COURT: Okay. Mr. Carter, would any of
15 those situations have any effect on your ability to be
16 fair and impartial if you were selected on this panel?

17 THE JUROR: Not at all, sir.

18 THE COURT: Thank you, sir. You can have a
19 seat.

20 THE BAILIFF: Juror 149, Your Honor.

21 THE COURT: Ms. Powell. Would you just repeat
22 what you shared with me before.

23 THE JUROR: I just -- I knew someone that was
24 convicted of a crime.

25 THE COURT: Thank you very much.

1 THE CLERK: Juror No. 212, Your Honor.

2 THE COURT: All right. Ms. Wiggins. Yes,
3 ma'am.

4 THE JUROR: My only conflict is I can't stay,
5 I've got to pick my daughter-in-law up at the airport at
6 1:51 and I've got the e-mail that says -- I told the
7 ladies when I got here that it might be a problem. What
8 do you think?

9 THE COURT: I'm just going to excuse you and let
10 you go do that.

11 THE JUROR: Okay.

12 (A bench conference was held with the judge and
13 attorneys in the presence of the jury panel but out
14 of the hearing of the jury panel.)

15 THE COURT: Ladies and gentlemen, is there any
16 member of the jury panel or member of your immediate
17 family who's a close friend or companion to either anyone
18 who is currently in law enforcement or who has in the past
19 been involved in law enforcement and had the power of
20 arrest? If so, please stand.

21 All right. I'm going to start over here.

22 Ma'am, your name, please.

23 THE JUROR: Patricia Amick, No. 2.

24 THE COURT: And, ma'am, was it a member of your
25 family or someone you know?

1 THE JUROR: My husband.

2 THE COURT: Your husband is a current law
3 enforcement officer?

4 THE JUROR: Lexington County Sheriff's
5 Department.

6 THE COURT: All right. And the fact that you
7 have that in your family, would that in any way affect
8 your ability to be fair and impartial?

9 THE JUROR: No.

10 THE COURT: Thank you, ma'am. You may have a
11 seat.

12 Yes, ma'am, Ms. Williams, I think.

13 THE JUROR: Yes, sir.

14 THE COURT: All right. And, Ms. Williams, a
15 member of your family or someone you know?

16 THE JUROR: Well, it's my father-in-law with
17 Richland County.

18 THE COURT: Ma'am, the fact that you have that
19 relationship, would that in any way affect your ability to
20 be fair and impartial, giving both the State and the
21 Defense a fair trial?

22 THE JUROR: I don't have a problem with it, Your
23 Honor.

24 THE COURT: Thank you, ma'am.

25 Ma'am, your name, please.

1 THE JUROR: Dianne Lloyd, No. 112.

2 THE COURT: Ms. Lloyd, a member of your family
3 or someone you know?

4 THE JUROR: I have one brother-in-law that's a
5 state trooper and one brother-in-law with Lexington County
6 and a nephew.

7 THE COURT: And, ma'am, the fact that you have
8 those relationships in your family who are either current
9 or former law enforcement agents, would that in anyway
10 affect your ability to be fair and impartial?

11 THE JUROR: No.

12 THE COURT: Thank you very much, Ms. Lloyd. You
13 may have a seat.

14 Mr. Sandoval.

15 THE JUROR: Yes, sir.

16 THE COURT: Go ahead, sir.

17 THE JUROR: My cousin's a detective in
18 California.

19 THE COURT: All right. And the fact that you
20 have a cousin who's a detective out in California, would
21 that, Mr. Sandoval, in any way affect your ability to be
22 fair and impartial if you were selected in this matter?

23 THE JUROR: No, sir.

24 THE COURT: Thank you very much, sir.

25 Yes, sir.

1 THE JUROR: I had an uncle that was an officer
2 in Columbia and a deputy in Lexington County. He's
3 deceased.

4 THE COURT: All right, sir. And, I'm sorry,
5 your name, please?

6 THE JUROR: Bill Rivers.

7 THE COURT: All right. Mr. Rivers, would that
8 in any way affect your ability to be fair and impartial,
9 sir?

10 THE JUROR: No, sir.

11 THE COURT: Thank you, sir. You may have a
12 seat.

13 THE CLERK: He's No. 159.

14 THE COURT: Yes, sir.

15 THE JUROR: Shane Whatley.

16 THE COURT: Mr. Whatley, 210, yes, sir. Go
17 ahead, sir.

18 THE JUROR: A couple of my co-workers are
19 retired military police.

20 THE COURT: All right. And, Mr. Whatley, would
21 those relationships in any way affect your ability to be
22 fair and impartial, sir?

23 THE JUROR: No, sir.

24 THE COURT: Thank you very much, sir.

25 Sir, your name, please?

1 THE JUROR: Michael Woodward.

2 THE CLERK: 221.

3 THE COURT: Mr. Woodward's 221. Yes, sir, Mr.
4 Woodward.

5 THE JUROR: Yes, sir. I was with the New York
6 City Police Department. My partner was shot to death in
7 1968.

8 THE COURT: All right, sir. Now the fact that
9 you yourself are a former law enforcement officer and the
10 experiences that you've had, would that in any way affect
11 your ability to be fair and impartial, sir?

12 THE JUROR: Yes.

13 THE COURT: Mr. Woodward, I'm going to go ahead
14 and let you have a seat, but I'm going to have them pull
15 your number from this list for the purposes of this case.
16 Okay?

17 THE JUROR: Thank you.

18 THE COURT: Thank you, sir.

19 Anyone else?

20 All right. Ladies and gentlemen, is there any
21 member of the jury panel who is a contributor either by
22 way of financial means, money, or by way of contributing
23 of your time and volunteering of your time, a contributor
24 to any type of law enforcement organization, any type of
25 organization that has as its primary concern victims or

1 victim rights, or any type of organization that promotes
2 law enforcement or things of that nature?

3 Let me give you some examples of organizations
4 that I'm referring to. And this isn't all inclusive, but
5 some of those agencies or organizations are like MADD,
6 Mothers Against Drunk Drivers, SADD, Students Against
7 Drunk Drivers, CAVE, Citizens Against Violence, the
8 Fraternal Order of Police, the South Carolina Troopers
9 Association, South Carolina Sheriff's Association, those
10 types of organization.

11 Is there any member of the panel who is a
12 contributor either by financial means or by volunteering
13 of your time? If so, please stand.

14 All right. And, Mr. Woodward, I appreciate you,
15 but I've already excused you, so let me start with the
16 folks who are still in the panel.

17 Yes, ma'am, your name?

18 THE JUROR: Kimberly Fender, No. 63.

19 THE COURT: And, ma'am, the fact that you are a
20 contributor to agencies of that type, would that in any
21 way affect your ability to be fair and impartial?

22 THE JUROR: I'm a licensed professional
23 counselor and it would not affect it.

24 THE COURT: Thank you very much, ma'am.

25 Ms. Bennett?

1 THE JUROR: Mothers Against Drunk Drivers.

2 THE COURT: And, ma'am, would that in any way
3 affect your ability to be fair and impartial?

4 THE JUROR: No, sir.

5 THE COURT: Thank you, Ms. Bennett. You may
6 have a seat.

7 And I think Mr. Rivers, correct?

8 THE JUROR: Yes, sir. South Carolina Troopers
9 Association. I donate to them every year.

10 THE COURT: Mr. Rivers, would that in any way
11 affect your ability to be fair and impartial?

12 THE JUROR: No, sir.

13 THE COURT: Thank you, sir. You may have a
14 seat.

15 Folks, as I did on Monday, I'm going to ask this
16 final question which I want to make sure that I don't miss
17 something; in other words, I could ask questions to

18 determine if anyone has a situation that would affect

19 their ability, so to avoid that situation and me not

20 asking the right question, let me simply ask it this way:

21 Is there anyone in the jury panel who knows of any reason
22 why you would not be able to be fair and impartial, giving
23 both the State and the Defense a fair and impartial trial?

24 If so, please stand.

25 (No response.)

1 THE COURT: Thank you. There are none.

2 Are from any further questions or voir dire from
3 the State?

4 MS. USRY: Nothing further, Your Honor.

5 THE COURT: Anything further from the Defense?

6 MR. MAULDIN: No, Your Honor.

7 THE COURT: All right. Folks, just as we did on
8 Monday, Madame Clerk is doing her computer program and
9 she's going to kick out that list. If your name is
10 called, please bring with you any of the items that you
11 may have brought to court today and come through the
12 swinging doors and stand up here by the podium and face
13 the back of the courtroom and then we'll go through the
14 process as we did on Monday.

15 (Pause.)

16 THE COURT: All right. We're ready to proceed?

17 MS. USRY: State's ready, Your Honor.

18 THE COURT: Defense ready?

19 MR. MAULDIN: Yes, sir.

20 THE COURT: All right. Five and five?

21 MS. USRY: Yes, sir.

22 THE CLERK: As I call your names, bring all your
23 personal effects and come forward.

24 151, Jennifer Rauch, (white female).

25 What say you for the State?

1 MS. USRY: Please present the juror.

2 THE CLERK: What say you for the Defense?

3 MR. MAULDIN: Please seat Ms. Rauch.

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

5 166, Ray Rowe, (white male).

6 What say you for the State?

7 MS. USRY: Please present the juror.

8 THE CLERK: What say you for the Defense?

9 MR. MAULDIN: Please excuse the juror.

10 THE COURT: Return to your seat, please, sir.

11 33, Jennifer Carter, (white female).

12 What say you for the State?

13 MS. USRY: Please present the juror.

14 THE CLERK: What say you for the defense?

15 MR. MAULDIN: Please seat Ms. Carter.

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

17 No. 107, Scott Lang, (white male).

18 What say you for the State?

19 MS. USRY: Please excuse the juror.

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

21 No. 65, John Fezio, (white male).

22 What say you for the State?

23 MS. USRY: Please present the juror.

24 THE CLERK: What say you for the Defense?

25 MR. MAULDIN: Please seat Mr. Fezio.

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

2 No. 185, Christopher Sligh, (white male).

3 What say you for the State?

4 MS. USRY: Please present the juror.

5 THE CLERK: What say you for the Defense?

6 MR. MAULDIN: Please seat Mr. Sligh.

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

8 149, Alicia Powell, (white female).

9 What say you for the State?

10 MS. USRY: Please excuse the juror.

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

12 No. 110, Mitchell Lindquist, (white male).

13 What say you for the State?

14 MS. USRY: Please present the juror.

15 THE CLERK: What say you for the Defense?

16 MR. MAULDIN: Please excuse Mr. Lindquist.

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

18 111, Debra Lipp, (white female).

19 What say you for the State?

20 MS. USRY: Please present the juror.

21 THE CLERK: What say you for the Defense?

22 MR. MAULDIN: Please seat Ms. Lipp.

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

24 No. 104, Alicia Koon, (white female).

25 What say you for the State?

1 MS. USRY: Please present the juror.

2 THE CLERK: What say you for the Defense?

3 MR. MAULDIN: Please excuse Ms. Koon.

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

5 No. 32, Carlton Carter, (white male).

6 What say you for the State?

7 MS. USRY: Please present the juror.

8 MR. MAULDIN: Please seat Mr. Carter.

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

10 No. 50, Laura Decker, (white female).

11 What say you for the State?

12 MS. USRY: Please present the juror.

13 THE CLERK: What say you for the Defense?

14 MR. MAULDIN: Please seat Ms. Decker.

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

16 133, Carol Oconnor, (white female).

17 What say you for the State?

18 MS. USRY: Please present the juror.

19 THE CLERK: What say you for the Defense?

20 MR. MAULDIN: Please seat Ms. Oconnor.

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

22 No. 14, Cale Benner, (white male).

23 What say you for the State?

24 MS. USRY: Please present the juror.

25 THE CLERK: What say you for the Defense?

1. MR. MAULDIN: Please seat Mr. Benner.

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

3. No. 69, Ana-Christina Gadsden, (black female).

4. What say you for the State?

5. MS. USRY: Please present the juror.

6. THE CLERK: What say you for the Defense?

7. MR. MAULDIN: Please excuse Ms. Gadsden.

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

9. No. 66, Michael Fink, (white male).

10. What say you for the State?

11. MS. USRY: Please present the juror.

12. THE CLERK: What say you for the Defense?

13. MR. MAULDIN: Please seat Mr. Fink.

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

15. No. 43, Steven Crosby, (white male).

16. What say you for the State?

17. MS. USRY: Please present the juror.

18. THE CLERK: What say you for the Defense?

19. MR. MAULDIN: Please seat Mr. Crosby.

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

21. No. 164, Mary Rogers, (black female).

22. What say you for the State?

23. MS. USRY: Please present the juror.

24. THE CLERK: What say you for the Defense?

25. MR. MAULDIN: Please seat Ms. Crosby.

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

3 THE COURT: One. It will be one and two.

4 THE CLERK: Thank you, sir.

5 21, Thomas Brabham, (white male).

6 What say you for the State?

7 MS. USRY: Please present the juror.

8 THE CLERK: What say you for the Defense?

9 MR. MAULDIN: Please excuse Mr. Brabham.

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

11 85, Edward Holliman, (white male).

12 What say you for the State?

13 MS. USRY: Please present the juror.

14 THE CLERK: What say you for the defense?

15 MR. MAULDIN: Please seat Mr. Holliman.

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

17 Alternate, Your Honor.

18 THE COURT: Are there any motions regarding jury
19 selection from the State?

20 MS. USRY: No, sir, Your Honor.

21 THE COURT: Anything from the Defense?

22 MR. MAULDIN: No, Your Honor.

23 THE COURT: All right. Ladies and gentlemen,

24 for those of you who remain in the panel, I want to thank

25 you for your service. I'm going to excuse you now for the

1 balance of the week and just want to send you off telling
2 you how much I appreciate your service and your patience.

3 I really do respect your time, and I know
4 sometimes it doesn't appear that way, and I hate that.
5 It's just court is a -- I always like to say it's a
6 living, breathing thing. Things occur, things come up
7 while you're in the middle of something and you have to
8 put this thing over here to deal with this thing -- it's
9 just like life -- and this happens often, but all of you
10 have seemed to be good sports about it. You've been
11 patient. I'm going to thank you. I'm not going to hold
12 you up any longer.

13 You've earned an exemption now, so that if you
14 get called for jury duty here in circuit court for the
15 balance of this year or the next two years and you wish to
16 be excused from that service, you have that exemption.
17 But I do tell people all the time that it's just that, it
18 doesn't mean that you're not qualified to serve. So if
19 you would like to serve, I would encourage you to do so.

20 But thank you again. And if everyone else will
21 remain seated, ladies and gentlemen, you're excused for
22 the week.

23 (The jury venire left open court at
24 approximately 1:42 p.m.)

25 THE COURT: And, folks, while they're filing

1 out, I'm going to excuse you in just a moment. What I'm
2 going to do, though, is I'm going to send you out with a
3 few instructions.

4 The first thing is, when you do leave, you're
5 going to go out this door. Now, the jury room that you're
6 going to be returning to is currently occupied, so they'll
7 show you where it is, and then when you come back
8 tomorrow, you'll come back to that jury room. But I'm
9 about to excuse you for the balance of the day. I have
10 other matters not associated with this case that I have to
11 deal with this afternoon, and I know those are going to
12 take some time, so I'm not going to waste with your day
13 sitting around here. I'm going to ask if you would be
14 back here tomorrow at 9:30 and we'll get started once you
15 return.

16 Now, when you leave here today, your family,
17 friends and loved ones will probably be curious as to
18 whether or not you were selected to be on the jury. You
19 can inform them that you have been selected to be on a
20 case and that you have to be back in the morning. They'll
21 probably be curious as to what kind of case it is, but
22 really, letting them know that you're on a panel is as far
23 as you really can go. Saying something as innocent as,
24 well, it involves a robbery or it involves an assault or
25 it involves a fellow by the name of Mr. Osborne, saying

1 those things, even though they're innocent, could possibly
2 elicit a response that may somewhat compromise your
3 ability to be fair and impartial. So I would ask you
4 please to just let them -- let anyone know who's curious
5 that you are on a jury, you have to be back tomorrow. And
6 I will tell you, I've talked with the attorneys, and this
7 case will not take you beyond this week. I mean, we're
8 going to resolve the case, the trial shouldn't go beyond
9 the next day or two, so ask them to be patient. Once the
10 trial is over, you can speak about the case to anybody
11 and you can say all the things you might want to say. But
12 until that time, it's important that you do everything
13 within your power to protect your ability to be fair and
14 impartial.

15 You're going to take an oath to try this case
16 and to reach a fair and a just verdict based on the
17 evidence that is presented during the course of this case.
18 So having said that, we live in a day and age now where
19 these -- we call them cell phones, but they're much more
20 than that, they're pocket computers. There's a wealth of
21 information in here about things all over the world, about
22 things you might be interested in and probably a lot of
23 stuff you have no interest in. What I tell juries all the
24 time is this: You are to do no independent investigation.
25 Your job is to try this case and to decide this case based

1 on the evidence that's brought to you during the course of
2 this trial. And so please don't try to go on and Google
3 anything or do any independent investigation. That would
4 be highly improper.

5 If you would, try to get a good night's rest
6 tonight so when you come in in the morning, you're well
7 rested. Jury service is not necessarily physically taxing
8 from a muscular standpoint, but it can be from a mental
9 standpoint, so please try to come well rested and ready to
10 go to work in the morning.

11 So we'll start at 9:30. So if you would, please
12 allow time to get here and park and get back up to the
13 jury room and then we'll get started once everybody's
14 reconvened. Okay?

15 So everyone again please remain seated while the
16 members of the jury are excused. We'll see you back at
17 9:30 in the morning.

18 (The jury left open court at approximately 1:44
19 p.m.)

20 THE COURT: All right. Now, we had talked -- I
21 think I talked to Chris, but I haven't talked to the
22 lawyers, but there's some pretrial matters that we need to
23 take up; is that correct?

24 MS. USRY: Your Honor, I think they're very
25 brief pretrial matters that the Defense may have and we

1 can quickly put them on the record.

2 THE COURT: How brief? Because none of these
3 staff folks have had lunch. It doesn't matter to me, I
4 have plenty of reserve, but these folks don't. And I've
5 got a jury that I understand has a verdict, so I need to
6 bring them in.

7 You all want to come back in about 45 minutes?

8 MS. USRY: Yes, sir.

9 THE COURT: That's 2:30. Will that work? I
10 mean, I don't know how long you think it might take. I
11 mean, that's all relative. It may take an hour, it may
12 take two hours, I don't know. I just want to give these
13 folks an opportunity to get something to eat.

14 (A discussion was held off the record.)

15 THE COURT: Let's reconvene at 3:00 and we'll
16 take care of whatever you've got. This case will be in
17 recess until that time.

18 (A break in proceedings was had while other
19 proceedings were taken.)

20 THE COURT: All right. We're back on the record
21 with State versus Mr. Osborne to deal with some pretrial
22 matters. We pulled the jury earlier this afternoon and
23 sent them home. They're going to be back at 9:30 in the
24 morning. And so we're ready to proceed with whatever
25 pretrial issues we may have.

1 Who wants to go first? Mr. Mauldin.

2 MR. MAULDIN: Yes, Your Honor. The first issue
3 is regarding a potential 404(b) situation. I think the
4 solicitor and I have discussed it and we may have come to
5 a resolution on it, but I do want to make Your Honor aware
6 of the potential for it.

7 The incident Mr. Osborne is on trial for
8 happened on June 12, 2012, around 6:30 p.m. There is a
9 codefendant involved, Mr. Hilton, who's on the witness
10 list there.

11 THE COURT: Okay.

12 MR. MAULDIN: There are allegations that --
13 well, Mr. Hilton has pled, but Mr. Osborne has not.
14 There's a separate robbery case in Richland County that
15 occurred the same day but earlier in the day. And it's my
16 understanding that the State does not intend to elicit any
17 testimony from the witnesses regarding that prior robbery
18 at all. There is an investigator from the Richland County
19 Sheriff's Department that talked to a witness that is also
20 going to testify in the case, but it's my understanding
21 they're just putting him up to say that during the course
22 of his duties he managed to talk to this witness that had
23 information about this case, with no mention of the other
24 robbery.

25 THE COURT: The prior robbery.

1 MR. MAULDIN: And I think we've kind of gotten
2 it hashed out unless --

3 THE COURT: Does that sound right, Ms. Usry?

4 MS. USRY: Yes, sir, Your Honor. I've advised
5 both Chief Sheumpert with South Congaree because as part
6 of his investigation, he saw this armed robbery happen in
7 Richland County, but just to discuss it in the sense that
8 he saw that there was a truck, including the individuals
9 in this case, seen in Richland County, nothing about
10 crimes observed in Richland County, and that he contacted
11 Richland County about that.

12 THE COURT: Okay. So they were seen in Richland
13 County but not seen in reference to any criminal
14 investigation?

15 MS. USRY: Yes, sir, Your Honor. And just for
16 Your Honor's information just so you understand, a few
17 hours before this incident happened, there was an armed
18 robbery in Richland County involving these same two
19 individuals.

20 This is a codefendant case that will be -- the
21 codefendant has given a complete confession and will be
22 testifying in our trial, and Mr. Osborne is the other
23 person involved in that case. But as part of that, these
24 incidents happened close together so there is overlap in
25 the investigation, but I've advised all the officers that

1 if they mention it, they were seen in Richland County and
2 nothing about the prior.

3 THE COURT: All right.

4 MR. MAULDIN: If something untoward happens, I
5 have to object.

6 THE COURT: Sure.

7 And, Kate, I don't know if you were involved in
8 the case we had last year, whatever, but I would just
9 encourage you to again prior to them taking the stand,
10 reiterate that because we had one about a year or so ago
11 where, you know, the solicitors were adamant that they
12 instructed them not to go into it and he just went right
13 into it. And so I called them out in the hallway, we went
14 out there to talk, and right there -- it was the last case
15 Dayton tried.

16 MS. USRY: Yes, sir, Your Honor. I'm very aware
17 of what you're talking about.

18 THE COURT: Okay. And right there in front of
19 Dayton he said that he was not informed of that. Anyway,
20 just -- you're well aware, so that's fine.

21 All right. What else we got?

22 MR. MAULDIN: Your Honor, at the end of the
23 witness list, there are two witnesses, number nine and
24 ten, Lachella Brown and Sheila Derrick listed.

25 THE COURT: All right, Ms. Brown and

1 Ms. Derrick.

2 MR. MAULDIN: Yes, Your Honor.

3 In the discovery, there is some mention that a
4 credit card that was obtained from this robbery was used
5 subsequent to the incident, and in the discovery I was
6 provided with an AT&T Universal card, I guess it's a bill
7 or a statement with some charges on it that are checked.
8 I also received a photo that looks like it's from a
9 McDonald's of a white truck at a drive-thru, and there's
10 part of an incident report where Ms. Lang, the victim in
11 this case, had called the officer and said, My credit card
12 company told me that it had been used at a couple of
13 places and he was going to go check it out. That's all
14 the information I have on that.

15 I've talked with Ms. Usry, she says that neither
16 Ms. Brown nor Ms. Derrick have provided any type of
17 written statements, but I think under Brady and Kyles V.
18 Whitley that I should be aware of what the substance of
19 those statements are in case they testify differently,
20 then I may be able to cross-examine them regarding that.

21 MS. USRY: Your Honor, they're records
22 custodians, they're not anything -- they don't have any
23 facts as far as the actual case is concerned, so...

24 THE COURT: They're just going to testify --

25 MS. USRY: I plan to talk about that information

1 through the officer. I mean, I may not call them, but I
2 just put them on the witness list as records custodians,
3 so that's it.

4 MR. MAULDIN: I don't have any records from
5 McDonald's or the Marathon gas station.

6 MS. USRY: That was a video that we provided
7 them.

8 MR. MAULDIN: I just have this one photo.

9 THE COURT: So it's actually a video?

10 MS. USRY: I have in my records that it was
11 provided, but I'll give it to you again. There's a video.
12 And it's not -- we have still shots from the video that we
13 plan to use at trial, but I'll show it to him. I have in
14 my records that he was provided with the video, but I'll
15 provide it to him again.

16 THE COURT: So both Ms. Brown and Ms. Derrick,
17 now there's also the Kangaroo/Marathon Gas. Is there
18 records from that?

19 MS. USRY: That's the video information, Your
20 Honor. That's their records -- they're custodians for
21 those videos.

22 THE COURT: Is this one of those situations
23 where the McDonald's is in the gas station?

24 MS. USRY: No, sir, they're right next to each
25 other on Elmwood Avenue in downtown Columbia.

1 THE COURT: All right.

2 MR. MAULDIN: Your Honor, I will say that I have
3 not been provided with these. There is a codefendant in
4 this case, and she may have provided them to the
5 codefendant, but I have not received anything.

6 MS. USRY: Well, I will give them to him today.
7 If he has any issues, we can address them in the morning.
8 They're straightforward and I will be happy to provide
9 them. I have in my records they were provided. I wasn't
10 attempting to not provide them.

11 THE COURT: Let's do this: Provide them to him
12 this afternoon. David, after you've reviewed them and
13 everything, if there's anything that we need to address
14 we'll do that, but we'll start a little bit early tomorrow
15 and if there's anything we need to address regarding,
16 we'll take it up at that point.

17 MR. MAULDIN: Yes, sir. It's the video and the
18 stills?

19 THE COURT: Yes, whatever you've got.

20 MS. USRY: Yes, sir. Absolutely.

21 THE COURT: All right.

22 MR. MAULDIN: And I think finally, Your Honor,
23 we'd request -- the State has yet to provide us with the
24 prior record of any of the witnesses who are testifying.
25 We request we be provided that.

1 THE COURT: Okay. Now, you've got Josephine and
2 Joshua Hilton, Heather Moon, Sheldon Taylor. I'm assuming
3 you don't need any prior history on officers?

4 MR. MAULDIN: If they have one.

5 THE COURT: If they have one.

6 MR. MAULDIN: If anybody has one.

7 THE COURT: Yeah, if anybody has one, okay.

8 Have you all run those? Have you got that
9 information?

10 MS. USRY: Yes, Your Honor. We ran them this
11 morning. I can provide them today if you want. I just
12 normally provide them if they testify, I provide them to
13 defense counsel, but I'm happy to give them to him today
14 if you want me to.

15 THE COURT: I don't know that you're required
16 to, but I guess if you have anyone that you know you're
17 going to call, I don't think there's any reason to hold
18 them.

19 MS. USRY: I will email that information to
20 defense counsel this afternoon.

21 THE COURT: But I do understand what you're
22 saying, if you're not going to call somebody, you're
23 really not at liberty to just disseminate their prior
24 record. But if you know you're going to call them, it's a
25 good possibility then you should do it. I don't know.

1 MS. USRY: Yes, sir.

2 THE COURT: Anything further, Mr. Mauldin?

3 MR. MAULDIN: I believe that's it.

4 THE COURT: Anything from the State pretrial?

5 MS. USRY: Nothing from the State, Your Honor.

6 THE COURT: I got the jury coming in at 9:30.

7 Why don't we plan to be here at 9:00. If we need to take
8 up anything then we'll have that 30 minutes to do it; if
9 we don't, then we'll just be ready to go when the jury's
10 assembled.

11 MR. MAULDIN: Yes, sir.

12 MS. USRY: Yes, sir, Your Honor.

13 THE COURT: If you have any specific requests to
14 charge because I don't think the case is going to be
15 lengthy and you guys know unfortunately with me that I do
16 up my charge and have it in written form, so I need to
17 have it in a final form. If there is any specific
18 requests that you are going to have, if you would get your
19 folks to email that to us I'd appreciate it sometime
20 tomorrow; if not today, then sometime tomorrow.

21 All right. Then we'll reconvene then at 9:00
22 o'clock.

23 MS. USRY: Thank you, Your Honor.

24 (The proceedings were concluded for the day and
25 reconvened on October 9, 2014.)

1 (WHEREUPON, State's Exhibits Nos. 1-11 were
2 marked for identification only.)

3 THE COURT: Anything we need to take up?

4 MS. USRY: Nothing from the State, Your Honor.

5 THE COURT: From Defense?

6 MR. MAULDIN: Your Honor, I was provided with
7 the video and stills at five o'clock yesterday; I don't
8 think there's anything further regarding those.

9 THE COURT: All right.

10 MR. MAULDIN: However, reviewing that and
11 thinking about it, these bank records that the victim was
12 told by her credit card company that the card was used and
13 they've got a copy of her statement from the credit card
14 company, I would object to any testimony as hearsay from
15 the credit card company that the card was used and without
16 the custodian to lay the foundation for a business record,
17 I don't think they can admit that or have her testimony.
18 That would be hearsay.

19 MS. USRY: Your Honor, as far as her credit card
20 statement, she's going to talk about the information she
21 received on it and what she did with that and confirm
22 whether or not it had been used. (It's within her
23 knowledge of what happened with her property, I think she
24 can talk about it. It's her statement she received in the
25 mail, she can talk about it.)

1 THE COURT: Right. But you intend to admit that
2 into evidence?

3 MS. USRY: I was going to attempt to try to lay
4 the foundation to admit it into evidence through this
5 witness, yes, through Ms. Lang.

6 THE COURT: All right. We'll deal with that at
7 that time and you can pose your objection. I think it's
8 just depending on the foundation that's laid.

9 MR. MAULDIN: Your Honor, when I object, I would
10 object because it is hearsay and violates due process and
11 cross-examination confrontation under the Sixth Amendment
12 of the U.S. Constitution and Article 1, Section 14 of the
13 state, and when I do object, I'll reference my prior
14 motion.

15 THE COURT: All right.

16 (A discussion was held off the record.)

17 MR. MAULDIN: Your Honor, I didn't want to
18 interrupt, but I did have one other thing.

19 THE COURT: I'm sorry. Go ahead.

20 MR. MAULDIN: The State has a Josephine Grubb
21 Hilton on the list. And I don't know what manner or mode
22 they're going to present the witnesses in, but she's a
23 paramour of Joshua Hilton. And given the fact that Joshua
24 Hilton may have made some statements to her in 2012
25 regarding the case, we would object to any statement. And

1 like I say, I don't know what manner or mode, if they're
2 just going to put her up and talk about these prior
3 consistent statements without the proper foundation being
4 laid by the State to admit those under 801(d) (b), then I
5 would object to that.

6 MS. USRY: Your Honor, I can assure Mr. Mauldin
7 I'm aware of the rules of evidence and I will lay the
8 proper foundation for calling that witness to the stand.
9 So we can deal with that as the trial progresses.

10 THE COURT: I don't know what the use is of that
11 witness.

12 MR. MAULDIN: I mean, I asking that the proper
13 foundation be laid, especially if it involves Mr. Osborne.

14 THE COURT: We'll deal with that.

15 Anything else before we get started?

16 MS. USRY: Nothing from the State, Your Honor.

17 THE COURT: Anything else?

18 MR. MAULDIN: No, Your Honor.

19 THE COURT: All right. Dee, if you'd ask the
20 members of the jury to join us, please.

21 (The jury came into open court at approximately
22 9:40 a.m.)

23 THE COURT: Good morning, ladies and gentlemen.
24 I hope everyone had a good night's rest and you're ready
25 to get started and go to work here today.

1 Before I begin with some opening remarks, I'm
2 going to ask you to give Madame Clerk your attention as
3 she places you under your oath for your role as jurors in
4 this case.

5 THE CLERK: Please stand and raise your right
6 hand.

7 (WHEREUPON, the jury was sworn at 9:41 a.m.)

8 THE COURT: Ladies and gentlemen, as you're
9 aware from yesterday, this is the case of the State of
10 South Carolina versus Keith Christopher Osborne. What I
11 want to share with you in these opening remarks, I don't
12 know how many of you have ever had an opportunity to sit
13 in on an actual jury trial, but if you have not had that
14 opportunity, then this case might be very different from
15 what you might expect.

16 Most folks don't have the opportunity to do what
17 you're doing, and that is to sit in on an actual trial.
18 Most people's exposure to jury trials is what they've
19 watched on television or read in books, or what they've
20 seen on television or in the movies, excuse me. And, of
21 course, in the movies and T.V. and books, those trials are
22 always full of drama, intense action, and rivetting
23 circumstances. And there's a reason for that, it's
24 Hollywood, because they're trying to entertain you and
25 keep you watching.

1 Now, during the course of this trial, while any
2 number of those things may or could possibly occur, what
3 is important for you to understand and to keep in mind, is
4 that this trial is not for your entertainment. This trial
5 is a fundamental part of our democracy. It is a search
6 for the truth, and often times in searching for the truth,
7 it's a slow process at times. Sometimes it can be
8 repetitive, deliberate; in other words, very different
9 from Hollywood and what you'll see on television and in
10 the movies.

11 This courtroom is a place of honor that is
12 dedicated to the protection and to the preservation of
13 citizens' rights through what many folks have called the
14 greatest justice system ever created.

15 The attorneys that appear before you are
16 advocates for the parties that they represent, but first
17 and foremost, they are officers of the court, sworn to
18 uphold the integrity and the fairness of our judicial
19 system and to help you in your search for the truth. You
20 should expect them to be professional, competent and
21 ethical in the representation of their client's interest.

22 Now, you've just taken an oath to try this case
23 and to reach a just verdict, so, therefore, you are also
24 expected to be professional and ethical in the performance
25 of your duties, and I have absolutely no doubt you'll do

1 that, and I want to thank you for your contribution to our
2 system of justice here in Lexington County this week.

3 Now, I'm going to basically kind of give you an
4 overview of the procedures that we're going to follow as
5 we go through the case so that you can better follow along
6 with what's going on. This is not a charge on the law. I
7 will give you a charge on the law at the close of the
8 trial, but I just want to share some things with you so
9 you'll understand as we go through the course of the trial
10 what's happening.

11 Mr. Osborne's been charged by these indictments
12 that were filed with the court, and as you recall, he's
13 charged with the offense of strong arm robbery and assault
14 and battery in the first degree. The elements of these
15 charges I will go over with you when I give you the charge
16 on the law.

17 As I said to you yesterday, the indictments are
18 simply the charges which brings this case into court, and
19 these indictments are in no way evidence nor are they
20 any -- nor do they have any evidentiary value as to the
21 allegations they contain.

22 Mr. Osborne has pled not guilty to these charges
23 and that plea of not guilty places the burden of proving
24 the elements, each and every element of the crimes
25 charged, that is the burden on the State to prove those

1 elements to you beyond a reasonable doubt. And it's going
2 to be your duty, ladies and gentlemen, to decide whether
3 or not the State has met that burden.

4 Your purpose as jurors is to find and to
5 determine the facts of the case. You are the sole judges
6 of the facts in this case. If at any time I make any
7 comment or any comment's made about the facts, you must
8 disregard those comments because only you, the jury, can
9 determine the facts in this case. You determine the facts
10 from the testimony that you hear from the witnesses who
11 will testify as well as any other evidence that may come
12 in during the course of the trial. It is up to you to
13 determine what inferences you feel are appropriate or may
14 be properly drawn from that evidence. It is especially
15 important that you perform your task of determining the
16 facts diligently and conscientiously, because ordinarily
17 there is no way that we can go back and correct an
18 erroneous determination of facts by a jury.

19 Now, on the other hand, but with equal emphasis,
20 the same law that makes you the judges of the facts makes
21 ~~me the judge of the law.~~ The law as given by the Court is
22 the only law that you may consider. You must accept and
23 follow it even though you may disagree with it. I'm not
24 allowed to tell you what I think about the facts in the
25 case and you're not allowed to disagree with me about what

1 the law is or what you think the law should be. Your job
2 is to take the law as I give it to you and apply it to the
3 facts as you find the facts from the testimony of
4 witnesses and exhibits that may come in during the course
5 of the trial in reaching your verdict.

6 Now until I advise you that it's appropriate to
7 begin your deliberations, you're not to have any
8 conversation with anybody about this case, and that
9 includes amongst yourselves and your fellow jurors. We'll
10 take some breaks during the course of the trial, and
11 during those times when you're back in the jury room you
12 can talk about anything in the world other than this case.
13 It would be inappropriate to have any deliberations prior
14 to the appropriate time that deliberations can commence.

15 It is important, ladies and gentlemen, that
16 throughout this trial you keep an open mind and that you
17 do not decide any issue in this case until all of the
18 evidence has been presented, the parties have had an
19 opportunity to address you with their closing arguments,
20 and then I've instructed you on the law. It is your
21 solemn responsibility to determine the guilt or innocence
22 of the defendant and your verdict must be based solely on
23 the evidence as it is presented to you during this trial
24 and on the law as it is instructed to you at the close of
25 the case.

1 Now, in just a moment I'm going to recognize the
2 Solicitor, and I don't know which one may address you, but
3 he or she will have an opportunity to discuss with you
4 what we call an opening statement, or to make an opening
5 statement. Typically what occurs during that statement is
6 the Solicitor will share with you what they believe the
7 facts are in this case or what the evidence will show.

8 Once they've concluded their opening remarks,
9 then Mr. Mauldin will have an opportunity to address you
10 on behalf of his client if he chooses to do so. He's not
11 required to do that.

12 But what is important for you to understand is
13 this: ~~That anything that the attorneys share with you in~~
14 ~~their opening statements is not evidence. They are not~~
15 ~~under oath, they're not testifying. This is merely their~~
16 ~~contention as to what they believe the evidence in this~~
17 ~~case will show.~~

18 The evidence in this case is going to be
19 presented to you through the testimony of witnesses who
20 are placed under oath and testify from the witness stand
21 as well as any exhibits which may come in during the
22 course of the trial.

23 Now during the trial, ladies and gentlemen, you
24 may hear one of the attorneys say something along these
25 lines: Judge, we have a matter of law we need to take up

1 with the Court, or, Your Honor, may we approach the bench.
2 If I can resolve any of those issues up here at the bench,
3 I'll do that. But sometimes there needs to be a more
4 extensive discussion and I will then ask you to step back
5 into your jury room. And if I do that, the reason is
6 simply this: As I told you, I'm not to have any influence
7 over you about the facts in this case. Sometimes when I'm
8 discussing a matter of law with the attorneys, I'm
9 required to make a comment about either the testimony or
10 evidence that's been presented in connection with a ruling
11 that I'm required to make. In an effort to protect you
12 from those comments, I may ask you to step back into the
13 jury room so that I can freely discuss the matter of law
14 with the attorneys, resolve that issue of law and then
15 bring you back out and continue with the trial.

16 Now, in determining what the true facts are in
17 this case, ladies and gentlemen, you're going to have to
18 decide whether or not the testimony of a witness is
19 believable. It's going to be my responsibility to rule as
20 a matter of law as to whether certain testimony is
21 admissible at all or not. But once testimony is admitted,
22 whether or not you believe it is solely up for you to
23 decide.

24 In deciding whether to believe a witness, you
25 have the right to consider the interest of a witness, the

1 bias of any witness, the opportunity for the witness to
2 have seen the matters and the things about which that
3 witness testifies, and the way the witness acts on the
4 witness stand. You have the right, ladies and gentlemen,
5 to consider anything in this record that will help you to
6 evaluate the testimony of the witnesses. That means that
7 it is very important that you pay close attention to the
8 witnesses, listen carefully, observe them, pay close
9 attention to the attorneys and to the Court. Don't let
10 your thoughts wander, but pay strict attention to all of
11 the testimony and the evidence that is presented, so that
12 at the end of the trial the lawyers will have an
13 opportunity to address you with their closing arguments
14 and then I'll give you the charge on the law, at that
15 point then you'll then be in a position to go back into
16 your jury room and deliberate and decide this case.

17 Now, before I turn it over to the attorneys, let
18 me first inquire of the State, are there any objections or
19 exceptions to the Court's opening remarks?

20 MS. USRY: No, sir, Your Honor.

21 THE COURT: Anything from the Defense?

22 MR. MAULDIN: No, Your Honor.

23 THE COURT: Thank you.

24 Ladies and gentlemen, if you would please now
25 give the attorneys your strict and undivided attention as

1 they address you with their opening remarks.

2 MR. MCNAIR: Thank you, Your Honor.

3 THE COURT: Mr. McNair.

4 MR. MCNAIR: May it please the Court.

5 THE COURT: Yes, sir.

6 MR. MCNAIR: Ladies and gentlemen, there's a old
7 saying that no good deed goes unpunished. That's probably
8 a saying that Ms. Lang can't forget these days. That
9 means more to her now than ever.

10 On June 12, 2012, all she was trying to do was
11 help the defendant. All she was trying to do was give the
12 defendant and his buddy directions. She had no idea if
13 she walked up to their truck, she was about to drug to the
14 ground by the strap of her purse and nearly run over.

15 She was 74 years old at the time. She was on
16 her way to vote that day. She had her nephew with her,
17 she stopped by the Food Lion in South Congaree to pick up
18 a few items. When she left the store she was putting up
19 her buggy, the defendant was in his truck with his
20 passenger Joshua Hilton, they pulled up beside her.

21 Mr. Hilton motioned for her to come over to the passenger
22 window. She went over there. They asked for directions
23 to Red Bank. She gave them directions. Next thing she
24 knows Mr. Hilton reached out the window, grabbed her
25 purse, Mr. Osborne hits the gas, pulls her down to the

1 ground, she's drug alongside the vehicle for a short
2 distance, finally is able to let go of her purse, then
3 comes inches from running over her with the tire. As a
4 result, she broke her finger, she had multiple abrasions,
5 she fractured her pelvic bone. As a result of that,
6 Mr. Hilton and Mr. Osborne are charged with strong arm
7 robbery and assault and battery first degree.

8 You will hear from Mr. Hilton in this case. He
9 decided to confess and he's going to testify and he's
10 going to talk about what he and Mr. Osborne did that day.
11 As you can imagine, he's not -- he's no angel. He's got a
12 checkered past, he's got a lengthy criminal record.
13 Unfortunately in these criminal cases, we don't get to
14 pick our witnesses; we take them as they come.
15 Mr. Osborne picked our witnesses when we decided to commit
16 that crime that day.

17 The judge at the end of this trial will instruct
18 you on the detail on the law. He'll tell you about the
19 elements of strong arm robbery and assault and battery
20 first degree. I'll give you a brief little synopsis now.
21 Assault and battery first degree is essentially you cause
22 injury to another person during the commission of a
23 robbery or theft. It doesn't matter the extent of the
24 injury, it just that you caused an injury. Like I said,
25 she broke her finger, she had abrasions, she broke her

1 pelvic bone.

2 Strong arm robbery is the use of force or
3 threats of force to take somebody's personal property.
4 They grabbed her purse, Mr. Osborne took off, they used
5 force to take it.

6 The judge is also going to instruct you on
7 reasonable doubt. Everybody knows that's the standard in
8 criminal cases, beyond a reasonable doubt. I want to talk
9 about it now because a lot of people have misconceptions
10 about what that really means. It does not mean beyond any
11 doubt at all. It does not mean beyond a doubt somebody
12 can think up or imagine. It's a real doubt based upon the
13 evidence. What it means is that you're firmly convinced.
14 At the end of this trial after all the evidence if you're
15 firmly convinced that Mr. Osborne did what he's accused
16 of, you don't have a reasonable doubt, you took an oath to
17 find him guilty.

18 Now, in reaching your decision of whether we
19 have proven our case, you can use your common sense,
20 ladies and gentlemen. Your common sense belongs in this
21 courtroom. I know court is unfamiliar to many of you,
22 it's very formal, I'm up here wearing a suit and lecturing
23 to you. It's different than probably most other things
24 you do, but your common sense belongs in this courtroom,
25 and use it to determine what you think is reasonable and

1 what you think is not reasonable.

2 You alone are the judges of the credibility of
3 the witnesses. You can choose to believe everything they
4 say or part of what they say. That's your prerogative.
5 But use your common sense. This isn't a laboratory
6 experiment or a science experiment where we have to prove
7 or disprove every potential variability or every
8 imaginable possibility. You can use your common sense
9 just like you do in everyday life, to sort through the
10 clutter, to determine what's fact and what's fiction. You
11 connect the dots in this case and reach a verdict to find
12 the truth.

13 You may have heard a jury trial referred to as a
14 defendant's day in court. And this is Mr. Osborne's day
15 in court. And I'm sure it's important to him. But this
16 is also the day in court for the State of South Carolina
17 and it's the day in court for Ms. Lang, and this is
18 definitely important to her.

19 I'm Robby McNair and this is Ms. Usry, we
20 represent the State in this case. At the end of this
21 trial we'll come back before you and we're going to ask
22 you to return the only reasonable verdict, the only
23 verdict that will speak the truth in this case, and that's
24 to find Mr. Osborne guilty.

25 Thank you.

1 THE COURT: Thank you, Mr. McNair.

2 Mr. Mauldin.

3 MR. MAULDIN: Thank you, Your Honor.

4 You say the word justice, it's a concept, kind
5 of abstract, kind of dry, but sometimes because of history
6 and the artists, you think of lady justice, it's a
7 concrete thing, it's an idea, a concept represented in the
8 form of lady justice, a woman wearing robes with scales
9 and a blindfold, and often you see these statues around
10 government buildings, courthouses, and that kind of thing.
11 Well, the government, the State, the prosecution, they're
12 not justice, they're part of the system, which includes
13 us, the defense, the judge, and you here, the jury. And
14 as part of our justice system, these concepts are very
15 important: Innocent until proven guilty, proof beyond a
16 reasonable doubt. These aren't lip-service words, they're
17 just not said, they're very important, they're very
18 important to Mr. Osborne.

19 Proof beyond a reasonable doubt is not met when
20 there's a real possibility that the defendant may not be
21 guilty. And the State conceded that Mr. Hilton is the
22 crux of their case, and he's no angel. He is the
23 substantial evidence here in this case. And the State is
24 linked up with him like the character from the Wizard of
25 Oz, no heart, no brains, no courage, and lady justice is

1 like Dorothy, instead of leading Dorothy down the golden
2 brick road to the truth, the Emerald City, they're going
3 to lead her off the edge of the road.

4 Mr. Hilton's not credible, the witnesses they
5 have to say that Mr. Osborne did this is not credible.

6 You should find Mr. Osborne not guilty.

7 THE COURT: Thank you, Mr. Mauldin.

8 You may call your first witness.

9 MS. USRY: Thank you, Your Honor.

10 The State calls Helen Lang.

11 THE COURT: Ms. Lang, please come around and be
12 sworn.

13 THE CLERK: If would you, please place your left
14 hand on the Bible and raise your right.

15 HELEN LANG, after being duly sworn, testified as
16 follows:

17 THE CLERK: Have a seat right up there, please.

18 Ma'am, once you're seated, speak up loud and
19 clear, stating your full name on the record, spelling your
20 last, please.

21 THE WITNESS: My name is Helen B. Lang, L-A-N-G.

22 DIRECT EXAMINATION

23 BY MS. USRY:

24 Q Thank you, Ms. Lang. Ms. Lang, where do you
25 currently live?

1 A I live at [REDACTED] Columbia.

2 Q We're going to pull the microphone a little bit
3 closer to you. Just keep your voice up so everybody can
4 hear you in the courtroom, okay?

5 A Okay.

6 Q You live -- what did you say again?

7 A [REDACTED] South Carolina.

8 Q How long have you lived there?

9 A About 30-some years.

10 Q And do you live alone or with someone else?

11 A I'm a widow.

12 Q And do you currently work?

13 A No.

14 Q Have you worked in the past?

15 A Yes, I have.

16 Q Can you tell me a little bit about that?

17 A I worked for Capitol Electric Supply and then I
18 retired from there and I went to work for a doctor for
19 almost two years, and he retired.

20 Q And then you're currently retired?

21 A Yes.

22 Q And, Ms. Lang, I hate to do this to you, but can you
23 tell people how old you are?

24 A I'm 76.

25 Q And on June 12, 2012, do you recall how old you were

1 at that time?

2 A Seventy-four.

3 Q And I just mentioned June 12, 2012. Do you remember
4 that date?

5 A Oh, yes, I remember that date.

6 Q Tell me -- tell me what you were doing that day.

7 A My nephew and I had been out shopping and we stopped
8 by Food Lion in South Congaree to pick up a couple of
9 items and then we were going to vote.

10 Q And when you say your nephew, what were you all doing
11 together that day?

12 A We had been shopping. I don't remember where, but we
13 had stopped by Food Lion to pick up some items and then I
14 was going to vote.

15 Q Did you go into the Food Lion?

16 A Yes, I went into Food Lion, bought some stuff, and I
17 pushed it out in a buggy and I put stuff in the car. And
18 I took the buggy -- my purse was with me, I always take it
19 in the buggy -- and I was going back to the car when this
20 white truck pulled up. It parked at an angle.

21 Q So after you had dropped your buggy off, you put it
22 in the buggy cart section of the grocery store parking
23 lot?

24 A Yes, uh-huh.

25 Q And then you were walking back to your car at this

1 point?

2 A Yes.

3 Q And you saw a white truck?

4 A Yes.

5 Q How was it parked?

6 A It was parked this way (indicating) instead of this
7 way in the parking lot.

8 Q And when you saw that white truck, what happened?

9 A The guy that was the passenger asked me the way to
10 Red Bank.

11 Q And when he asked you that, did you have to walk over
12 to the truck?

13 A I think I stood closer to it, but when I got to
14 giving them directions I started stepping back and that's
15 when he grabbed my purse.

16 Q And what happened next?

17 A I started screaming "my purse" and I was holding on
18 and then I just let it go because I figured I was going to
19 get hurt if I didn't.

20 Q So you were trying to hold on at first?

21 A Yes.

22 Q Was it on your arm?

23 A Yes.

24 Q All right. Because I know sometimes people hold
25 their purse in their hand and sometimes they have it on

1 their shoulder.

2 A I had on my shoulder.

3 MS. USRY: Your Honor, can the witness step down
4 from the stand a few seconds to demonstrate?

5 THE COURT: Sure.

6 MS. USRY: Thank you.

7 THE COURT: Ma'am, I'm just going to ask you
8 when you step down, if you would, please keep your voice
9 up so the court reporter can hear what you're saying.

10 THE WITNESS: Okay.

11 BY MS. USRY:

12 Q Can you come right here? Stand right here and face
13 me so you can talk towards the court reporter.

14 So show us how you had your purse.

15 A I -- I had it like this.

16 Q On top of your arm?

17 A Yes.

18 Q Now, is this the same purse that you had at that
19 time?

20 A No.

21 Q Did you ever get that purse back?

22 A No.

23 Q So you had that on your arm and then you went over to
24 the truck?

25 A Yes.

1 Q And tell me what happened.

2 A I was talking to him and I stepped back and he
3 reached up and grabbed it and I was holding on and I got
4 drug, and next thing I knew, I was on the ground.

5 Q You can go back to the stand. Thank you.

6 Did you know the person in the truck?

7 A No, I never seen them before.

8 Q And when you walked up, do you know how many people
9 were in the truck?

10 A The two, the driver and passenger.

11 Q The driver and passenger. And were they white,
12 black, Hispanic?

13 A White.

14 Q And were they male or female?

15 A Male.

16 Q And I believe you said this, but what side of the
17 truck did you walk up to?

18 A It was on the right side.

19 Q The driver's side or passenger side?

20 A Passenger.

21 Q And do you remember anything else about the
22 appearance of the passenger in the truck?

23 A He had painted on his arm flames like.

24 Q You remember seeing that. And what else do you
25 remember, if anything?

1 A I just remember looking at both of them and somehow I
2 wanted to imprint their images on my mind, I don't know
3 why, but it was very important for me to do it that day.

4 Q Were you able to determine their hair color?

5 A Yes.

6 Q And what was that?

7 A Both of them had brown hair.

8 Q Did they have long hair, short hair, medium hair,
9 something else?

10 A No, it was short.

11 Q Short hair. Did they both have short hair?

12 A Yes.

13 Q And then you mentioned earlier that you let go and
14 were drug and fell to the ground. What happened when you
15 hit the ground?

16 A I said, I broke my finger, my finger is broken.

17 Q When you fell?

18 A Yes, sir.

19 Q Could you feel that immediately?

20 A Yes, I felt it immediately.

21 Q Did you have any other injuries?

22 A I had a -- my arm was scraped and bruised and I had a
23 fractured pelvic bone.

24 Q Did you feel pain immediately when you hit the
25 ground?

1 A Yes.

2 Q Do you recall what happened next once you were on the
3 ground?

4 A People came to me and somebody said, I will call an
5 ambulance. And my nephew got out of the car and he came
6 over there and he says, I'm going to call Denise, which is
7 my niece, and she went to the hospital with me also.

8 Q Did you go to the hospital in an ambulance?

9 A Yes, I did.

10 Q You mentioned your nephew. Is he around today?

11 A He passed away the 28th of August this year.

12 Q Of this year?

13 A Yes.

14 Q But he was also present that day?

15 A Yes.

16 Q And so you went by ambulance. Do you recall what
17 hospital you went to?

18 A Lexington.

19 Q Lexington Medical Center?

20 A Yes.

21 Q And did they perform tests and check you out?

22 A Yes.

23 Q And did you meet with a doctor there?

24 A Yes, I met with a doctor, but I don't remember his
25 name.

1 Q That's okay. But you do recall meeting with a
2 doctor?

3 A I do.

4 Q Now, Ms. Lang, I'm going to show you some
5 photographs, State's 1, 2, State's 4, 5 and 6, okay? Tell
6 me if you recognize what is in these photographs. You can
7 look through them.

8 A This is my knees.

9 Q Before you talk, just look through it first if you
10 don't mind and look through all of them tell me if you
11 recognize them.

12 A Yes.

13 Q What do those pictures represent?

14 A Injuries that happened when I hit the ground.

15 Q And do those pictures fairly and accurately represent
16 the injuries on the outside of your body from when you hit
17 the ground?

18 A Yes.

19 MS. USRY: Your Honor, at this time we'd move
20 State's 1, 2, 4, 5, and 6 into evidence.

21 MR. MAULDIN: No objection, Your Honor.

22 THE COURT: Without objection the documents are
23 in evidence.

24 (WHEREUPON, State's Exhibits Nos. 1, 2, 4, 5, 6
25 were admitted into evidence.)

1 MS. USRY: Your Honor, permission for the
2 witness to step down briefly.

3 THE COURT: Sure. Remember to keep your voice
4 up.

5 BY MS. USRY:

6 Q If you'll stand right here again.

7 Ms. Lang, I'm showing you State's 1. What does
8 that represent?

9 A This is my knee.

10 Q Your knee? And did that happen as part of this?

11 A Yes, it did.

12 Q And then State's 2, why was this picture taken?

13 A Because I had hurt and was bruised on my rib cage.

14 Q And you had pain in this area?

15 A Yes.

16 Q Okay. And that looks like the left side?

17 A Uh-huh.

18 Q Did you continue to have pain on the left side of
19 your body after this incident?

20 A Yes, I did.

21 Q Can you tell me a little bit about that?

22 A I didn't know at the time, but I felt pain in my
23 pelvic bone and went back to another doctor who took an
24 x-ray and said I had a fractured pelvic bone.

25 Q What kind of treatment did you have to undergo for

1 that?

2 A Pain pills and rest because it hurt to move.

3 Q They couldn't do anything else besides that?

4 A No.

5 Q Could you walk on your own after that?

6 A I was on a walker for three weeks.

7 Q And State's 4, what does that represent?

8 A It's my left arm.

9 Q And, in fact, State's 5, does that represent the same
10 area?

11 A Yes.

12 Q It's a different angle.

13 And then finally State's 6, what does that show?

14 A A broken finger.

15 Q Is that your right or left hand?

16 A Right.

17 Q It's the right arm and that finger was broken?

18 A Yes, it was.

19 Q Did you have any of those injuries prior to hitting
20 the ground on June 12, 2012?

21 A No.

22 Q You can go back to your seat. Thank you.

23 And, Ms. Lang, do you recall writing a statement
24 for officers in this case?

25 A Yes.

1 Q Did that happen at the Food Lion in South Congaree or
2 did it happen at the hospital?

3 A It happened at the hospital.

4 Q And did you tell the officer what happened and what
5 you could remember at that time?

6 A Yes, I did.

7 Q And after you left the hospital that day, did you
8 speak with law enforcement again?

9 A Yes, I think I did.

10 Q Do you recall who it was at South Congaree you spoke
11 to?

12 A It was Lieutenant Sheumpert then.

13 Q Lieutenant Sheumpert, now Chief Sheumpert, but
14 Lieutenant Sheumpert at the time?

15 A Yes.

16 Q And he's who would call you and talk to you about the
17 case?

18 A Yes, he did.

19 Q He was your contact?

20 A Yes.

21 Q And did you ever have any information? Did you ever
22 learn what happened to some of your property after this?

23 A Yes, I received a bill from --

24 MR. MAULDIN: Your Honor, I object based on my
25 prior objection.

1 THE COURT: All right. I'm going to overrule it
2 and allow her to testify as to what she received once you
3 lay that foundation.

4 BY MS. USRY:

5 Q You said -- Ms. Lang, I will ask you the question
6 again. You were saying you received a bill. Can you tell
7 me what kind of bill you received?

8 A It was a bill from AT&T Universal card.

9 Q Was it a credit card in your name?

10 A It was a credit card in my name that I had not used
11 in a couple of years.

12 Q Was it in your purse the day it was stolen?

13 A Yes, it was.

14 Q And had you used it any time around June 12, 2012?

15 A No.

16 Q And were these charges on that credit card statement?

17 A Yes.

18 MR. MAULDIN: Objection again, Your Honor.

19 BY MS. USRY:

20 Q Were they charges that you made?

21 A No.

22 Q I'm going to show you State's 7.

23 Before I do that, do you regularly receive
24 statements from your credit card company?

25 A Yes.

1 Q And when you receive them, are they accurate?

2 A Yes.

3 Q And I'm going to show you State's 7. Just tell me,
4 do you recognize that?

5 A I did not buy this.

6 Q But do you recognize the document?

7 A I recognize the document.

8 Q What is that document?

9 A It's an AT&T Universal card bill.

10 Q And it's a copy of your statement?

11 A Yes.

12 Q And is that the statement that you received after
13 June 12 of 2012?

14 A Yes, it is.

15 Q And the charges on that statement you did not make?

16 A I did not make.

17 Q Did you contact you credit card company after this to
18 confirm --

19 A I called them as soon as I opened the bill and
20 realized it was not my bill, I did not purchase this.

21 Q Okay.

22 MS. USRY: Your Honor, at this point the State
23 moves State's 7 into evidence.

24 THE COURT: And I note your objection. I'm
25 going to allow it in.

1 (WHEREUPON, State's Exhibit No. 7 was admitted
2 into evidence.)

3 BY MS. USRY:

4 Q Ms. Lang, did you report your credit card stolen or
5 this information to Chief Sheumpert?

6 A I did.

7 Q Did you ultimately provide him with the bill in this
8 case?

9 A I did.

10 Q And can you read that if I show it to you?

11 A I will have to have my reading glasses.

12 Q Do you mind? Are they in your purse?

13 A Yes.

14 Q And the charges, you can see them to the right of
15 that?

16 A Yes, I can.

17 Q What date were the charges made on?

18 A 6-12.

19 Q June 12?

20 A June 12.

21 Q And then the date that you received this statement,
22 does it show that on there?

23 A No, it doesn't.

24 Q Does it show the range of account activity?

25 A May 19 through June 19.

1 Q Of 2012? It was the statement for that range?

2 A Yes, uh-huh.

3 Q And where were the charges made on June 12?

4 A McDonald's, 1422 McDonald's for \$33.95, Marathon for
5 \$65.25, and Marathon \$100.

6 Q And you did not make any of those charges?

7 A No, I did not.

8 Q And, Ms. Lang, did you ever have the opportunity to
9 meet with Chief Sheumpert at South Congaree Police
10 Department?

11 A Yes, I did.

12 Q Can you tell me why you met with him?

13 A I met with him to have a sketch.

14 Q You met with him to create a sketch?

15 A Yes.

16 Q A sketch of who?

17 A The driver and the passenger of the car, the truck.

18 Q And did you actually meet with Chief Sheumpert or
19 someone else to do that?

20 A I met with someone else to do that.

21 Q And did they ask you a bunch of questions about what
22 you saw?

23 A Yes.

24 Q And were you able to give them some details about the
25 people that you saw that day?

1 A Yes.

2 Q And was it a sketch ultimately created from the
3 information you provided?

4 A Yes.

5 (WHEREUPON, State's Exhibits Nos. 12, 13 were
6 marked for identification only.)

7 BY MS. USRY:

8 Q Ms. Lang, I'm going to show you what's been marked
9 State's 12, 13. Do you recognize State's 12, 13?

10 A Yes, I do.

11 Q Are those sketches that resulted from the information
12 you gave the person you talked to?

13 A Yes.

14 Q And on the back of State's 12 and 13, is that your
15 signature?

16 A Yes, it is.

17 Q Did you sign those sketches once they were completed?

18 A Yes.

19 Q Did you sign them the day they were completed?

20 A Yes.

21 MS. USRY: Beg the Court's indulgence.

22 (Pause.)

23 BY MS. USRY:

24 Q Ms. Lang, do you see in this courtroom today -- if
25 you saw the -- excuse me. Do you see in this courtroom

1 today the driver of the car?

2 A Yes, I do.

3 Q You do? Can you point that person out to me?

4 A Yes. Right over there.

5 Q What is he wearing?

6 A He's wearing a suit and a tie and white shirt.

7 Q And he's at the table to your left?

8 A Yes, he's sitting with the defense attorney.

9 Q With the defense counsel?

10 A Yes.

11 Q And that's the person that you saw in the truck that
12 day driving the truck the day your purse was stolen?

13 A Yes.

14 Q And, Ms. Lang, how has this incident affected you?

15 MR. MAULDIN: Objection, Your Honor.

16 BY MS. USRY:

17 Q Physically.

18 THE COURT: Overruled.

19 BY MS. USRY:

20 Q How has this incident affected you physically?

21 A It has caused me a lot of pain and I really don't
22 know how all to describe how it was affected me.

23 MS. USRY: Nothing further for this witness at
24 this time, Your Honor.

25 THE COURT: Mr. Mauldin.

1 MR. MAULDIN: Thank you, Your Honor.

2 CROSS-EXAMINATION

3 BY MR. MAULDIN:

4 Q Ms. Lang, this incident happened June 12, 2012; is
5 that correct?

6 A Yes.

7 Q And you're here today, October 9, 2014; is that
8 right?

9 A I'm sorry, I didn't hear you. What?

10 Q Today would be a little over two years and a couple
11 of months later; is that right?

12 A A few months, yes.

13 Q Now, at any time were you presented any kind of photo
14 lineup that had multiple pictures of people where you
15 could pick out somebody that was the driver of the car?

16 A A lineup?

17 Q Yes, ma'am.

18 A In a police station?

19 Q Yes, ma'am.

20 A No, they didn't do that.

21 Q And you were here yesterday; is that correct?

22 A I was.

23 Q And you had an opportunity to meet Mr. Osborne
24 yesterday?

25 A I did.

1 Q And he's the only person sitting at the defense table
2 with me?

3 A Yes.

4 Q And so today is the first time that you have
5 identified Mr. Osborne as the driver of the vehicle?

6 A In court, yes.

7 MR. MAULDIN: No further questions, Your Honor.

8 MS. USRY: Your Honor, just very briefly.

9 REDIRECT EXAMINATION

10 BY MS. USRY:

11 Q Ms. Lang, yesterday when you saw the defendant in
12 court, did you recognize him at that point?

13 A Yes.

14 Q Are you one hundred percent sure he was the driver on
15 the day this happened?

16 A Yes.

17 MS. USRY: No further questions, Your Honor.

18 THE COURT: Thank you, ma'am. You may step
19 down.

20 THE CLERK: If would you, please place your left
21 hand on the Bible and raise your right.

22 HEATHER MOON-HICKS, after being duly sworn,
23 testified as follows:

24 THE CLERK: Have a seat right up there, please.

25 Ma'am, once you're seated, speak up loud and

1 clear, stating your full name on the record, spelling your
2 last, please.

3 THE WITNESS: My name is Heather Moon-Hicks.
4 M-O-O-N hyphenated H-I-C-K-S.

5 DIRECT EXAMINATION

6 BY MS. USRY:

7 Q Thank you. Do you mind if I call you Heather?

8 A That's perfect.

9 Q Heather, where do you currently live?

10 A I currently live in Havelock, North Carolina, right
11 next to the Cherry Point Marine base where my husband is
12 stationed.

13 Q And how long have you lived there?

14 A I have lived there for two years this month.

15 Q And you traveled down here to testify today?

16 A I did.

17 Q Did you ever live in this location?

18 A I did briefly and it -- from June 7 until it was in
19 August I moved back to Texas.

20 Q Is that during the year of 2012?

21 A It was, yes, ma'am.

22 Q So on June 12 of 2012, you were pretty new to the
23 area?

24 A Yes, very new.

25 Q And on June 12, 2012, did you have the opportunity to

1 travel to the Food Lion in South Congaree?

2 A Yes, ma'am.

3 Q And tell me what you saw when you drove in the
4 parking lot there.

5 A I was just looking for a parking spot. Like I said,
6 I wasn't too familiar with the area so I kind of drove up
7 and I took a left-hand turn to go into the lane for the
8 parking and kind of slowed down just because I heard some
9 scuffling going on, some noise.

10 Q You heard some voices?

11 A Yes, ma'am. So I just slowed down to make that turn
12 and everything.

13 Q Did you see where the voices were coming from?

14 A Yes, ma'am.

15 Q And tell me, you were pulling in the parking lot?

16 A Uh-huh.

17 Q Did you make it to the parking spot.

18 A No, ma'am.

19 Q What happened prior to you making it to the parking
20 spot?

21 A I witnessed a purse being -- being taken and a white
22 truck speeding off and I did witness Ms. Lang, which at
23 this point I did not know her, but she fell to the ground
24 as the truck was pulling off to the left at a pretty high
25 rate of speed and she hit the ground and I stopped the car

1 because I thought that she was going to get hit by the
2 back tires.

3 Q You stopped the car in the middle of the parking lot?

4 A I did, yes, ma'am.

5 Q Did you get out of the car at that point?

6 A Yes, ma'am.

7 Q What did you do?

8 A I quickly grabbed my cell phone, went over to Ms.

9 Lang and asked if she was okay. In the meantime I had

10 dialed 911. I did ask Ms. Lang if she needed an ambulance

11 because I was on the phone with 911 and she said yes, so I

12 went ahead and told them that we do need an ambulance.

13 They did ask me where I was and I told them I wasn't sure

14 except for at Food Lion, that there was a Burger King.

15 Q You were new to the area?

16 A Yeah. I had no clue what roads there were or

17 anything. So I -- I was pretty -- probably talking really

18 fast and really loud and need them to hurry up.

19 Q After you saw Ms. Lang, was she walking around?

20 A No, no, she was on the ground.

21 Q Did she get up before the ambulance came?

22 A No. We had her go ahead and wait or sit still

23 because she was kind of on her side is what I would say.

24 Q I'm going to show you State's 4 and 5.

25 A Yes, ma'am.

1 Q Do you recognize those pictures?

2 A Absolutely.

3 Q And do you recognize those as injuries that Ms. Lang
4 had in the parking lot that day?

5 A Yes, ma'am.

6 Q Did they start bleeding while you were in the parking
7 lot?

8 A Yes, ma'am.

9 Q And you said you saw a white truck?

10 A Yes.

11 Q Did you see, if at all, the individuals in the truck?

12 A I saw two young white males is what I saw, and I do
13 not remember them having a whole lot of hair.

14 Q Could you identify them today?

15 A I would not be able to identify their face.

16 Q But so what you saw was just two young white males in
17 a white truck?

18 A Yes. And I remember tattoos on the arm.

19 Q That you saw?

20 A Yes, ma'am. And so I -- because it all happened so
21 fast, I did see an arm out from the truck and then I did
22 see them pull around. My -- I was trying to do the
23 license plate, but it was -- my brain just was going a
24 hundred miles an hour so I did not -- wasn't able to
25 really -- like, oh, my goodness, we need an ambulance.

1 Q So you attended to the needs of Ms. Lang?

2 A Yes, ma'am, because that was the first concern I saw
3 because the truck was gone. It pulled off pretty fast.

4 Q And have you seen Ms. Lang since June 12 of 2012?

5 A No, ma'am.

6 Q Until today?

7 A No, ma'am.

8 MS. USRY: No further questions, Your Honor.

9 THE COURT: Cross?

10 MR. MAULDIN: I have no questions for this
11 witness.

12 THE COURT: All right. Thank you very much.

13 THE WITNESS: Thank you.

14 THE CLERK: If would you, please place your left
15 hand on the Bible and raise your right.

16 SHELDON TAYLOR, after being duly sworn,
17 testified as follows:

18 THE CLERK: Have a seat right up there, please.

19 Sir, once you're seated, speak up loud and
20 clear, stating your full name on the record, spelling your
21 last, please.

22 THE WITNESS: Sheldon Taylor. Last name
23 T-A-Y-L-O-R.

24 DIRECT EXAMINATION

25 BY MR. MCNAIR:

1 Q Mr. Taylor, you were the first responding officer on
2 this case, is that correct?

3 A Yes, sir.

4 Q And where did you work at that time?

5 A At South Congaree Police Department.

6 Q Do you still work there?

7 A No, sir.

8 Q Why did you leave?

9 A I left there just to pursue my education more and
10 then ended up getting sick, so...

11 Q Okay. How long were you with South Congaree?

12 A Five years.

13 Q You have any law enforcement experience other than
14 that?

15 A Yes, sir.

16 Q Where did you work prior to that?

17 A At Norway Police Department and West Columbia Police
18 Department as well.

19 Q Okay. Now, were you on duty on June 12, 2012?

20 A Yes, sir.

21 Q And you responded to the Food Lion in South Congaree
22 that day?

23 A Yes, sir, I was the first responding officer.

24 Q What was that call in reference to?

25 A That was for a purse snatching.

1 Q What time were you dispatched?

2 A Right at 1633, at 6:33.

3 Q 6:33 p.m.?

4 A P.M.

5 Q What time did you arrive there?

6 A Right at 1635.

7 Q So a few minutes to get there?

8 A Yes. I was already rolling around town.

9 Q Please tell the jury when you got on the scene what
10 you saw.

11 A The first thing when I got on the scene I immediately
12 went to the victim, Mrs. Lang, to check on her, just to
13 see if she needed medical attention, which she did. And I
14 went ahead and requested EMS, got them rolling out and
15 just assisted Mrs. Lang until EMS got there, then started
16 talking to the witnesses and trying to gather information
17 to see what had happened and get as much information out
18 on the radio as possible.

19 Q Did you get a description of the vehicle from Ms.
20 Lang?

21 A Not from Mrs. Lang so much as the witnesses at first.

22 Q Who else did you speak to?

23 A It was Heather Moon and Michael Rogers.

24 Q After talking to them, what type of vehicle were you
25 looking for?

1 A Either it was a larger vehicle, white, possibly Chevy
2 or Ford pickup truck with a lift kit and chrome wheels.

3 Q Did you take statements from witnesses at that time?

4 A Yes.

5 Q And you said Ms. Lang needed medical treatment?

6 A That's correct.

7 Q Did EMS respond?

8 A Yes, they did.

9 Q Did they take her to the hospital?

10 A They did.

11 Q Did you go to the hospital as well?

12 A Yes.

13 Q What did you do at the hospital?

14 A I took photos of Mrs. Lang with her injuries at the
15 hospital.

16 Q Okay. These are Exhibits 5-1 through 5-5. Just take
17 a look at those. Do you recognize those?

18 A Yes, sir, those are the injuries on Mrs. Lang.

19 Q Are those the pictures you took at the hospital that
20 day?

21 A Yes, sir, that's correct.

22 Q Other than being at the scene and talking to
23 witnesses and taking pictures at the hospital, did you
24 have any other involvement in that case?

25 A No, that was my only involvement at this point.

1 Q At that point was this case turned over to
2 investigation, somebody else?

3 A Yes, sir, it was.

4 Q Who was it turned over to?

5 A It was turned over to Investigator Sheumpert who was
6 the victim's advocate.

7 MR. MCNAIR: Beg the Court's indulgence.

8 (Pause.)

9 BY MR. MCNAIR:

10 Q Michael Rogers, did he have any affiliation with the
11 victim, MS. Lang?

12 A I do believe that he was her brother or whatnot. He
13 was in the vehicle with Mrs. Lang.

14 Q He was with her that day?

15 A Yes.

16 MR. MCNAIR: Nothing further, Your Honor.

17 THE COURT: Mr. Mauldin.

18 MR. MAULDIN: I have no questions.

19 THE COURT: Thank you very much, sir. You may
20 step down.

21 Call your next witness.

22 MS. USRY: Thank you, Your Honor. The State
23 calls Chief Sheumpert.

24 THE CLERK: If would you, please place your left
25 hand on the Bible and raise your right.

1 JOSHUA SHEUMPERT, after being duly sworn,
2 testified as follows:

3 THE CLERK: Have a seat right up there, please.

4 Sir, once you're seated, speak up loud and
5 clear, stating your full name on the record, spelling your
6 last, please.

7 THE WITNESS: Joshua Carl Sheumpert. Last name
8 spelling, S-H-E-U-M-P-E-R-T.

9 DIRECT EXAMINATION

10 BY MS. USRY:

11 Q Chief Sheumpert, where do you currently work?

12 A South Congaree Police Department.

13 Q And you're currently the chief at that location?

14 A Yes, ma'am, that's correct.

15 Q How long have you been the chief at South Congaree?

16 A I have been the chief for about a year and a half,
17 been employed with their agency approximately ten years.

18 Q Ten years with the agency. What positions have you
19 held at the agency during that time?

20 A From patrolman to corporal, sergeant, lieutenant, now
21 chief.

22 Q So you have kind of climbed the ranks in that police
23 department?

24 A Yes, ma'am.

25 Q Did you work in law enforcement prior to working with

1 South Congaree?

2 A I did. I was reserve at South Congaree, but I have
3 been on full time, and I began my career at Cayce Public
4 Safety.

5 Q And on June 12, 2012, what was your position at that
6 time?

7 A I was a lieutenant.

8 Q And did you have the opportunity to respond to a
9 robbery at Food Lion in South Congaree?

10 A I did.

11 Q Is that Food Lion within your jurisdiction?

12 A It is.

13 Q Is that Food Lion within Lexington County?

14 A That is correct.

15 Q And what did you do or what was your purpose in
16 responding to the scene?

17 A More of a kind of lookout for the vehicle that was
18 described, trying to find the vehicle, patrol the roads,
19 assist with the other officers trying to locate the
20 vehicle while we had Officer Taylor on the scene with the
21 victim.

22 Q So were you the first person to arrive on scene for
23 your department?

24 A I was not.

25 Q Who was?

1 A Officer Taylor.

2 Q And did he or did you talk to most of the witnesses
3 at the scene that day?

4 A Officer Taylor spoke to most of the witnesses that
5 day.

6 Q And he's what you would call the responding officer?

7 A That's correct.

8 Q And you said you attempted to locate the vehicle that
9 day. Did you have a description of the vehicle you were
10 looking for?

11 A We did, a white truck, two white males, unknown
12 direction of travel.

13 Q And did you have an opportunity to open -- do you
14 know who the suspects were on that day?

15 A No, I did not.

16 Q And were you able to locate the suspects on June 12,
17 2012?

18 A No, I was not.

19 Q Did you open an investigation into this case?

20 A Yes, I did.

21 Q Were you the investigating officer on this matter?

22 A Yes.

23 Q And did you have an opportunity to get in contact
24 with Richland County about this case?

25 A I did.

1 Q Did they give you any information, if at all, about a
2 truck matching the description that you were looking for?

3 A We sent out a BOLO throughout several counties in
4 reference to a white truck, two males and did receive
5 information on a similar vehicle in Richland County that
6 was seen.

7 Q And did you reach out to them?

8 A I did.

9 Q Provided information about your case to them?

10 A That's correct.

11 Q What other followup in the meantime did you do after
12 reaching out to Richland County as part of this case?

13 A There was several followup steps. Of course speaking
14 to Ms. Lang, she brought me the -- she came in and gave me
15 her credit card statement or bill.

16 Q I'm going to show you State's 7. Is that the bill
17 she showed you?

18 A That's correct.

19 Q And when you got that bill, what did you do?

20 A When I received this and Ms. Lang advised me this is
21 part of her property that was stolen that day and she did
22 not spend the money on this bill as far as McDonald's or
23 the Marathon gas station, I was then able to contact the
24 corporate officers of the McDonald's with the numbers to
25 try to locate where these locations were.

1 Q Did you locate where the locations were?

2 A I did.

3 Q Where was the McDonald's and Marathon -- is that a
4 store?

5 A It's a gas station.

6 Q Where were those two businesses located?

7 A Elmwood Avenue.

8 Q Elmwood Avenue in Columbia?

9 A Columbia jurisdiction.

10 Q At the six-lane road right there? I think there's a
11 Lizard's Thicket?

12 A That's correct, yes.

13 Q So you determined that location. And based on the
14 report in front of you, did you determine the date the
15 cards were used?

16 A I did.

17 Q Did you go to those locations?

18 A I did.

19 Q What did you do or which location did you go to
20 first?

21 A I went to the McDonald's on Elmwood Avenue first.

22 Q What did you do at this location?

23 A I spoke with I believe it was a manager or supervisor
24 there, told them that this was a location where a card was
25 used and gave them the amounts that were used at their

1 location, and given those amounts that they were able to
2 narrow down a time frame because we know what time it
3 occurred in our jurisdiction, that the purse was stolen,
4 knew a time after that that the card was used, so we took
5 that into consideration and gave the amounts to the
6 McDonald's. They were able to go through the receipts on
7 their system on their cards and see exact times and what
8 vehicle and who used the card.

9 Q And so did they have surveillance cameras at this
10 location?

11 A They did.

12 Q Were you able to review the surveillance footage at
13 the McDonald's?

14 A I was.

15 Q And you were able to narrow down the time frame and
16 when exactly the card was used and what vehicles were in
17 the parking lot at that time?

18 A I was.

19 Q Was the card used inside the store or do you know?
20 Did the individuals that used the card come into the store
21 or go through the drive-thru?

22 A The drive-thru.

23 Q And did you see a truck matching the description of
24 the one you were looking for in the drive-thru that day?

25 A Yes, I did.

1 Q At the time the card was used?

2 A Yes.

3 Q Based on your investigation?

4 A Yes.

5 Q And were you able to obtain the video from

6 McDonald's?

7 A I was... But I had to use my duty cell phone and the
8 reason for that is --

9 Q And the video there at the McDonald's --

10 A No, it would take still shots.

11 Q You took still shots at McDonald's?

12 A Still shots at the McDonald's.

13 Q Why?

14 A The person who was working, and I don't know who that

15 was at McDonald's at the time, they didn't understand how

16 to get the video to me, and they also advised me that in a

17 certain time frame that video would be lost and the only

18 way to be able to do videoing is from my phone to what

19 they're showing me in the store.

20 Q At the McDonald's did you take video or still shots?

21 A Still shots.

22 Q You didn't take video at McDonald's?

23 A Not at McDonald's.

24 Q I will show you State's 3. Is that the still shot

25 you took?

1 A It is.

2 Q Is that based on your investigation of the truck that
3 was out the window when the card was used?

4 A That's correct.

5 Q And in this picture it's actually moving away from
6 the window, but is this part of the still shots that you
7 took?

8 A That's correct.

9 MS. USRY: Your Honor, the State moves State's 3
10 into evidence.

11 THE COURT: Any objection?

12 MR. MAULDIN: It's the same as stated on the
13 record.

14 THE COURT: Overruled. I will allow it.

15 (WHEREUPON, State's Exhibit No. 3 was admitted
16 into evidence.)

17 BY MS. USRY:

18 Q And so State's 3 is a truck that you determined based
19 on your investigation used the card?

20 A That's correct.

21 Q And after you left the McDonald's, what did you do
22 next?

23 A I then, of course, going back to her credit card
24 receipt or the statement, it stated that the Marathon was
25 used after McDonald's, which the Marathon gas station is

1 right across the street. I then went to their location.

2 Q And what did you do at this location?

3 A I got in touch with -- similar as what I did at
4 McDonald's, got in touch with their management or
5 supervisor there at the time. She brought me in a back
6 room and she was able to do the same with the amount and
7 the time that I had already had for the McDonald's
8 research and pulled the cameras back to around that time.
9 We looked for the white truck and the amount that was used
10 on Ms. Lang's card and she was able to pull video from
11 that.

12 Q So you obtained video in this case?

13 A I did obtain video and some still shots; however, the
14 same occurred at the Marathon with the tape system, you
15 know, they give a DVD, which I did receive then, of the
16 whole thing, but when I get to the office, they apparently
17 didn't know how to put it right on the DVD so it didn't
18 work. I'm in panic mode at the time not wanting to lose
19 this video because it does erase off their server after a
20 certain period of time, so dealing with a time frame
21 there, I go back to the Marathon and use my phone again to
22 at least have something.

23 Q So you used your phone to get video at the Marathon
24 gas station?

25 A Yes, I did.

1 Q Did you video the video?

2 A I did.

3 Q Was it clear when you videoed it?

4 A It wasn't as clear as it was when it's on the screen.

5 Q So the video of the video was more fuzzy or not as
6 crisp?

7 A That's correct.

8 Q And, Chief, I'm going to show you what's been marked
9 as State's 8, 9, and 11.

10 A Okay.

11 Q What do these photographs represent to you?

12 A These are photographs from what I took from the video
13 surveillance from Marathon.

14 Q So these are still shots of your video of the video
15 at the gas station?

16 A That's correct.

17 Q And are they as clear as when you actually watched
18 the video the day this happened?

19 A No, they're not.

20 Q This was your best attempt to document the evidence
21 at that time?

22 A At that time, that is correct.

23 Q So tell me, in State's 11, does that picture fairly
24 and accurately represent what you saw on the video that
25 day?

1 A That's correct.

2 Q And tell me, why did you decide to video this
3 particular State's 11?

4 A It was the time -- it was the amount that was used on
5 the gas pump was the same amount that that vehicle in that
6 video used, the amount that was on Ms. Lang's card as well
7 as the McDonald's picture is a white truck, tailgate down,
8 and that's the same description that picture shows.

9 Q And so that picture indicated a white truck at that
10 time at the gas pump at the time the card was used? Yes?

11 A Yes.

12 Q State's 8 and 9, why did you document that particular
13 instance?

14 A On No. 8, that was the individual using the card for
15 the amount again.

16 Q In the store or outside the store?

17 A Inside the store.

18 Q And what does -- so that's 8. And does 9 show the
19 same individual?

20 A It does.

21 Q And can you tell me, was the card at the Marathon gas
22 station used once or twice based on the credit card
23 statements?

24 A It was used twice.

25 Q And, Chief, did you ever recover any of the victim's

1 purse or personal items?

2 A I did.

3 Q Tell me about that.

4 A I received information right outside of town that
5 some personal property was seen scattered throughout on

6 Manor Drive, which was right outside our jurisdiction,

7 from unknown individuals. I recovered that -- went out to

8 that location and recovered several cards and different

9 miscellaneous items that were in Ms. Lang's purse at the

10 time.

11 Q And did you show those items to Ms. Lang?

12 A I did.

13 Q Did she confirm they were her property?

14 A She did.

15 Q What location was it that you found them?

16 A Manor Drive in Gaston.

17 Q Did you have Ms. Lang come to South Congaree at that
18 point in time?

19 A I did. She came down and retrieved those items, her
20 personal items there. She had come down several times, of
21 course, when she was called down for the sketch and things
22 like that.

23 Q So did you set up the appointment with the sketch
24 artist?

25 A I did.

1 Q Tell me how you did that.

2 A I contacted SLED and they put me in touch with
3 individuals that do that for their agency and they sent me
4 an agent out to do that, to meet with Ms. Lang.

5 Q And SLED is South Carolina Law Enforcement Division?

6 A That's correct.

7 Q And they sent an agent with skills in that area to
8 assist your agency?

9 A Yes, ma'am.

10 Q Is that common practice for SLED, they assist local
11 police departments?

12 A They do.

13 Q And during that meeting with the sketch artist and
14 Ms. Lang, were you present for that?

15 A I was not.

16 Q You set it up but you did not sit in for it?

17 A That's correct.

18 Q Who was the victim advocate at your department during
19 that time?

20 A Myself.

21 Q You wear both hats, investigator and victim advocate?

22 A Yes.

23 Q And so you had been in contact with Ms. Lang as part
24 of the investigation and in addition to giving her updates
25 on the case?

1 A That's correct.

2 Q When you were in your meeting with her afterwards,
3 you said you met with her a couple of times after
4 June 12th, did you observe any injuries on Ms. Lang?

5 A I observed her come in several times to meet with her
6 and she was on a walker. She was using a walker to get
7 around.

8 Q And in October of 2012, Chief, did you receive
9 further information from Richland County about the two
10 white males?

11 A I did.

12 Q That were suspects in your case?

13 A I did.

14 Q Were you able to, based on that information, identify
15 the suspects in your case?

16 A I was.

17 Q And based on that information, were you able to get
18 the names of the suspects in your case?

19 A I was.

20 Q What were the names that you determined?

21 A Keith Osborne and Joshua Hilton.

22 Q And based on all your information that you obtained,
23 were you able to determine probable cause existed to get
24 arrest warrants in this case?

25 A I was.

1 Q Can you tell me what you based your probable cause
2 on?

3 MR. MAULDIN: Objection, Your Honor. This is a
4 legal matter. Obviously warrants were obtained for his
5 arrest, so we're dealing with proof beyond a reasonable
6 doubt here today.

7 MS. USRY: I will move on, Your Honor. That's
8 fine.

9 THE COURT: I will sustain his objection.

10 MS. USRY: Yes, sir.

11 BY MS. USRY:

12 Q Did you obtain arrest warrants in this case?

13 A I did.

14 Q On what date did you obtain arrest warrants in this
15 case?

16 A October 23, 2012.

17 Q And is that the date you obtained all the arrest
18 warrants in this case?

19 A On both individuals, that's correct.

20 Q And when were those warrants served?

21 A These warrants were served on August 1, 2013.

22 Q For who? Which individual?

23 A That would be for Joshua Hilton.

24 Q And when were the warrants served for Keith Osborne?

25 A It may take me a second to find that. February 19,

1 2013.

2 MS. USRY: No further questions for this
3 witness, Your Honor.

4 THE COURT: Cross?

5 CROSS-EXAMINATION

6 BY MR. MAULDIN:

7 Q Good morning, Chief Sheumpert.

8 A Good morning, sir. How are you?

9 Q Fine. Now, you obtained the warrants for these
10 individuals on October 23, 2012?

11 A That's when they were signed by a judge, yes.

12 Q The warrant for Keith Osborne, warrants for Keith
13 Osborne and Joshua Hilton?

14 A That's correct.

15 Q After you had developed them as suspects and got
16 arrest warrants for them, did you try to put their
17 pictures in a photo lineup to see if Ms. Lang would be
18 able to pick those out?

19 A No.

20 Q You did not. Now, you're saying you found some of
21 Ms. Lang's personal property?

22 A Sir, repeat that.

23 Q You said you found some of Ms. Lang's personal
24 property a little while later after the incident?

25 A That's correct.

1 Q And you found items located on the property belonging
2 to a fellow named Ronald Plummer or something along those
3 lines?

4 A Yes, that seems familiar.

5 Q Did you ever talk to him about how the items got on
6 his property?

7 A I did. And he didn't know.

8 Q Did you try to have those items tested for any kind
9 of fingerprint evidence, DNA?

10 A They had been in the elements and the weather. I did
11 not.

12 Q You don't -- you personally don't testify to
13 fingerprints?

14 A No, I don't.

15 Q You're not an expert?

16 A No.

17 Q And the lady who you testified that worked at SLED,
18 they have people there that do that?

19 A That's correct.

20 Q And you didn't send those in to SLED?

21 A No.

22 Q And did you ever go to the Department of Motor
23 Vehicles and check to see if Keith Osborne owned a white
24 truck?

25 A We did some research ourselves through DMV in looking

1 up the information, a customer at the same address and
2 different things of that nature.

3 Q But there was no information that Keith Osborne was
4 the owner of a white truck?

5 A No, it was not. However -- you want me to continue?

6 Q No, no.

7 A Okay.

8 MR. MAULDIN: Nothing further, Your Honor.

9 (REDIRECT EXAMINATION)

10 BY MS. USRY:

11 Q And, Chief, just very briefly, the items that you
12 recovered of Ms. Lang's property, you said they were out
13 in the elements?

14 A They were.

15 Q Does that affect any information that you could
16 obtain from them?

17 MR. MAULDIN: Objection, Your Honor.

18 THE WITNESS: It does.

19 MR. MAULDIN: Objection, Your Honor, it's not in
20 evidence.

21 THE COURT: Sustained.

22 BY MS. USRY:

23 Q Chief, have you had training within your law
24 enforcement experience dealing with fingerprint
25 collection?

1 A I have.

2 Q Are you trained to collect fingerprints?

3 A I can.

4 Q Have you taken classes on that information?

5 A At the academy.

6 Q Are you up-to-date in obtaining fingerprints?

7 A Yes.

8 Q Have you done it in the past?

9 A In the past, yes.

10 Q And you're aware of the conditions necessary to
11 obtain fingerprints?

12 A That's correct.

13 Q And based on your experience, the items as they were
14 found, would they have been ineffective as you found the
15 items?

16 A In my opinion, yes, they would.

17 Q And --

18 MR. MAULDIN: Continuing objection.

19 THE COURT: Overruled. I think the foundation
20 was laid.

21 BY MS. USRY:

22 Q My final question, Your Honor, would be, Chief, did
23 you find these items or did someone outside of law
24 enforcement originally find those items?

25 A Someone outside of law enforcement.

1 Q And were any of the items handled by someone outside
2 of law enforcement before they were obtained?

3 A That's correct.

4 MS. USRY: No further questions, Your Honor.

5 THE COURT: Anything further?

6 MR. MAULDIN: No, Your Honor.

7 THE COURT: Thank you, sir. You may step down.

8 THE WITNESS: Yes, sir.

9 MS. USRY: May we approach, Your Honor?

10 THE COURT: Yes.

11 (A bench conference was held with the judge and
12 attorneys in the presence of the jury but out of the
13 hearing of the jury.)

14 THE COURT: Ladies and gentlemen, I'm going to
15 get you to step back to your jury room. Please have no
16 conversation about the case and I will bring you back out
17 shortly.

18 (The jury left open court at approximately 11:04
19 a.m.)

20 MS. USRY: Your Honor, I just want to make the
21 Court aware that we have three witnesses we can do before
22 lunch. If they move quickly like they have been, we may
23 have to take an early lunch, but we would be prepared to
24 start a little earlier if that happens.

25 THE COURT: Okay. Do you have folks after

1 lunch?

2 MS. USRY: We will have at least one, maybe two
3 after lunch, yes, sir.

4 THE COURT: Okay. Okay. Well, we'll see how it
5 goes and we'll break whenever we need to.

6 (A recess was taken.)

7 THE COURT: Let's bring the jury out, please.

8 (The jury came into open court at approximately
9 11:31 a.m.)

10 THE COURT: All right. Ladies and gentlemen,
11 we're ready to start back. And if you recall when we took
12 a break we were on the State's case, and we'll continue
13 now.

14 You may call your next witness, Mr. McNair.

15 MR. MCNAIR: Thank you, Your Honor. The State
16 calls Investigator Joe Clarke.

17 THE COURT: Investigator Clarke, would you
18 please come around, sir.

19 THE CLERK: If would you, please place your left
20 hand on the Bible and raise your right.

21 JOSEPH CLARKE, after being duly sworn, testified
22 as follows:

23 THE CLERK: Have a seat right up there, please.

24 Sir, once you're seated, speak up loud and
25 clear, stating your full name on the record, spelling your

1 last, please.

2 THE WITNESS: Joseph Clarke, Richland County
3 Sheriff's Department. That's Clarke, C-L-A-R-K-E.

4 DIRECT EXAMINATION:

5 BY MR. MCNAIR:

6 Q Investigator Clarke, you work for the Richland County
7 Sheriff's Department?

8 A That's correct.

9 Q How long have you worked there?

10 A I have worked at the sheriff's department for 12
11 years.

12 Q Is that your only law enforcement experience?

13 A No, sir. I worked at the University of South
14 Carolina Police Department for about three years before
15 that.

16 Q Your current position with Richland County is
17 investigator?

18 A That's correct.

19 Q Now, you weren't directly involved in an
20 investigation of this case, correct?

21 A That's correct.

22 Q During the course of another investigation you were
23 conducting, did you learn information relevant to this
24 case?

25 A I did.

1 Q Who did you learn that information from?

2 A At the time Lieutenant Sheumpert of South Congaree
3 Police Department.

4 Q Okay. Did you then meet with somebody during the
5 course of your investigation that had information about
6 this case?

7 A I did.

8 Q Who was that?

9 A Lieutenant Sheumpert of South Congaree Police
10 Department.

11 Q Other than Lieutenant Sheumpert, did you meet with
12 any other potential witnesses?

13 A I met with Detective Ostein of Sumter PD, Sumter
14 Police Department, and I also met with a representative
15 from the Lexington County Sheriff's Department.

16 Q Did you ever meet with anybody by the name of
17 Josephine Hilton?

18 A I knew her as Grubb, Josephine Grubb.

19 Q I apologize.

20 A That's okay.

21 Q Formerly Josephine Grubb?

22 A That's correct.

23 Q And you met with her?

24 A I did.

25 Q Did she provide a written statement?

1 A She did.

2 Q Did she provide you with information pertaining to
3 this case?

4 A She did.

5 Q Okay. Did she provide you with the name of potential
6 suspects?

7 A She did.

8 MR. MAULDIN: Objection, Your Honor, hearsay.

9 THE COURT: Sustained as to any hearsay.

10 BY MR. MCNAIR:

11 Q Okay. So she had information pertaining to a robbery
12 in South Congaree; is that correct?

13 A That's correct.

14 Q What did you do with the information that she
15 provided to you?

16 A Took a written statement, recorded a statement in
17 writing and then provided that information to Lieutenant
18 Sheumpert of South Congaree Police Department.

19 Q Are you aware if the individuals -- did you provide
20 Chief Sheumpert with names?

21 A I did.

22 Q Are you aware if those individuals were ultimately
23 arrested by Chief Sheumpert?

24 A I am aware they were arrested.

25 MR. MCNAIR: Thank you.

1 MR. MAULDIN: No questions for witness.

2 THE COURT: Thank you very much, sir.

3 THE WITNESS: Thank you, sir.

4 THE COURT: Call your next witness.

5 MS. USRY: Thank you, Your Honor. The State
6 calls Deborah Goff.

7 THE COURT: Ms. Goff, please come around, ma'am.

8 THE CLERK: If would you, please place your left
9 hand on the Bible and raise your right.

10 DEBORAH GOFF, after being duly sworn, testified
11 as follows:

12 THE CLERK: Have a seat right up there, please.

13 Ma'am, once you're seated, speak up loud and
14 clear, stating your full name on the record, spelling your
15 last, please.

16 THE WITNESS: My name is Deborah Goff,

17 D-E-B-O-R-A-H, G-O-F-F, and I work with the South Carolina
18 Law Enforcement Division.

19 DIRECT EXAMINATION

20 BY MS. USRY:

21 Q Agent Goff, what is your current position with the
22 South Carolina Law Enforcement Division?

23 A I'm a senior agent currently assigned to the forensic
24 art unit.

25 Q And how long have you been assigned to the forensic

1 art unit?

2 A I have been there eight years.

3 Q And have you always been a senior agent there?

4 A I became a senior agent approximately two years ago.

5 Q Do you have any other law enforcement background?

6 A My previous law enforcement background, I was in the
7 crime lab up in North Carolina, the State Bureau of
8 Investigation.

9 Q And can you tell me your educational background.

10 A My educational background, I have a bachelor of fine
11 arts degree from Georgia State University majoring in
12 illustration in 1995. In 2003 I began taking courses in
13 comprehensive composite sketch drawing with Karen Taylor.
14 In 2006 I attended the Federal Bureau of Investigations
15 forensic facial imaging course in Quantico, Virginia, and
16 throughout the years I have taken numerous composite
17 sketch courses and interviews and courses as well as I
18 have been a member of the International Association for
19 Identification Forensic Art Discipline since 2003. I have
20 become certified in forensic art with the International
21 Association for Identification. In 2008 I became
22 certified and then in 2012 to '13, I was actually on the
23 certification board for forensic art with the
24 International Association for Identification.

25 Q And you say forensic art. Can you tell me what a

1 forensic artist does?

2 A A forensic artist is somebody who's especially
3 trained to use their artistic skills and knowledge to aid
4 in criminal investigations and court proceedings.

5 Q And all the educational background you just gave
6 included your professional training as well as your
7 educational general training in art; is that correct?

8 A For the most part. I have a curriculum vitae that is
9 more extensive if you would like to see that.

10 Q You have had hours of training in your particular
11 field?

12 A Yes.

13 Q How many sketches as a forensic artist have you
14 completed?

15 A In the nine years I have been doing composite
16 sketches, I have completed approximately 900 composite
17 sketches.

18 Q And have you ever testified as an expert before in
19 court?

20 A Yes, I have.

21 Q How many times have you testified as an expert as a
22 forensic artist?

23 A An expert witness for forensic art, three times.

24 MS. USRY: At this time the State would offer
25 Ms. Goff as an expert in forensic composite sketches.

1 MR. MAULDIN: No objection.

2 THE COURT: Without objection.

3 BY MS. USRY:

4 Q And you told me what a forensic artist does, Agent
5 Goff. What's the purpose of a composite sketch?

6 A The purpose of a composite sketch is to help identify
7 an unknown suspect.

8 Q And tell me a little bit, what is a composite sketch
9 what does that mean?

10 A A composite sketch is an image made up to have
11 component parts that represents the witness's memory of
12 what the person looked like at the time of the crime.

13 Q And can you explain to me the process that you use in
14 creating a composite sketch?

15 A We first will do a preliminary interview with the
16 witness to determine whether or not they had a good enough
17 look at the person and have enough information to complete
18 a composite sketch, then I will sit down with them
19 one-on-one in an interview room with just me and the
20 witness and I will ask very open-ended questions of what
21 happened and what the person looked like, and as we -- I
22 will be sketching and taking notes. And as I start to
23 progress in a composite sketch, I will introduce some
24 photo reference material to help get more specific about
25 individual features.

1 The composite sketch is -- the witness has the
2 information, they're the source of information so they
3 direct the drawing throughout the process. And then when
4 we come to a point where the sketch is as good a likeness
5 as we can get to what they remember the person looks like,
6 then we'll complete the sketch and at the end I will ask
7 the witness to rate the drawing on a scale to one to ten
8 on how much it looks like the person.

9 Q And when you're doing this you said you met with the
10 witness alone. Is that a yes?

11 A Yes.

12 Q Do you have any information about the identity of the
13 suspects that you're attempting to create a composite
14 sketch for prior to meeting with the witness?

15 A No. The only -- we interview the witness very early
16 on in the investigation. This is before they have any
17 idea who the suspect is; that's why they call us. The
18 only information I might be given is that it's a white
19 male or black female or whatever the suspect might be, but
20 any further than that the information that I get is from
21 the witness during my interview.

22 Q I think you kind of touched on this, but can you tell
23 me what role the witness plays for you when you're
24 creating a composite sketch?

25 A The witness is very -- plays a very important role

1 because they're the source of information. They know what
2 the person looked like, I don't. So the sketch is
3 directed by the witness throughout the entire process.
4 They make changes and I do as they direct me to do, so
5 they play a very important role in a sketch.

6 Q So creating a sketch is not an instantaneous event,
7 you may make edits, go back and change things as you try
8 to narrow down a composite sketch?

9 A Correct. It's a continual process of making changes.

10 Q Is that sketch meant to be an exact representation of
11 the person depicted in a composite sketch?

12 A ~~It's not expected to be an exact portrait of the~~
13 ~~person~~ because we know we're working from somebody's
14 memory and memory isn't one hundred percent to start with.
15 And we're often interviewing somebody who's been through a
16 difficult situation. So we're not expecting it to be an
17 exact portrait, but we hope that it's a good enough
18 resemblance or likeness of the person to help generate
19 leads.

20 Q And did you have an opportunity to draw a composite
21 sketch in a case involving Ms. Helen Lang?

22 A Yes, I did.

23 Q When and where did you complete that sketch?

24 A I interviewed Ms. Lang at the South Congaree Police
25 Department.

1 Q When did you do that?

2 A The date was June 18, 2012.

3 Q June 18. Did you indicate when the incident date
4 occurred?

5 A The incident date was June 12, 2012.

6 Q And in this case did you draw one, two or more
7 suspects?

8 A In this case I drew two composite sketches. There
9 were two suspects.

10 Q And how did you determine which suspect to draw
11 first?

12 A When interviewing the witness, I will talk to them
13 and determine if there are multiple suspects and try to
14 determine which suspect they got the best look at and they
15 have the best memory of that they can describe, and I will
16 do that sketch first, just focusing on that suspect. And
17 then after we have completed the first sketch, then I will
18 talk to the witness again and ask them about the second
19 suspect and see if they have enough information to
20 complete a composite sketch for that. And in this case
21 she was able to complete two composite sketches.

22 Q Are you always able after meeting with a witness to
23 complete a composite sketch?

24 A No, not always. Sometimes I do meet with them and
25 they don't have a good enough memory or some people just

1 aren't able to do the composite interview. It can be a
2 very difficult process.

3 Q But you indicated Ms. Lang was able to complete the
4 process with you?

5 A Yes.

6 Q And I'm showing you State's 12 and 13. Let's talk
7 about State's -- well, do you recognize those?

8 A Yes, I do.

9 Q Are they the composite sketches that you completed on
10 June 18 of 2012?

11 A Yes.

12 Q And how do you know that?

13 A Because they're the original drawings and they have
14 my initials and date at the bottom of the sketch and Ms.
15 Lang's signature on the back of the sketch.

16 Q Is that common for you to have the witness sign the
17 back of the sketch?

18 A Yes, we do that with every composite sketch.

19 MS. USRY: Your Honor, at this time the State
20 moves State's 12 and 13 into evidence.

21 MR. MAULDIN: No objection, Your Honor.

22 THE COURT: Without objection they're in
23 evidence.

24 (WHEREUPON, State's Exhibits Nos. 12-13 were
25 admitted into evidence.)

1 BY MS. USRY:

2 Q And you said that you -- which person -- State's 12
3 or 13, which one did you draw first?

4 A The first sketch was State's 12.

5 Q So you drew State's 12 first. On the sheet -- or do
6 you know, you said this is the first person, the best look
7 she would have gotten?

8 A Yes.

9 Q Do you know which area of the car this person was
10 located in?

11 A Let me refer to my notes.

12 In my notes I have that he's the one that she
13 spoke to.

14 Q That's the first person?

15 A Yes.

16 Q And what about State's 13, that's the second
17 composite sketch that you did?

18 A The second composite sketch, yes.

19 Q And did she indicate what location of the car this
20 individual was in?

21 A She indicated he was the driver.

22 MS. USRY: Your Honor, at this time the State
23 would ask the defendant to stand and come stand beside the
24 composite sketch.

25 MR. MAULDIN: Your Honor, I would just object.

1 under the Sixth Amendment, Article 1, Section 14.

2 MS. USRY: Your Honor, the State would reply
3 under a Supreme Court case, South Carolina versus Hart,
4 412 SE2d 380, and we will provide a copy.

5 THE COURT: Overruled.

6 Sir, if you would please come around.

7 MS. USRY: Stand and come around.

8 Thank you, Your Honor.

9 THE COURT: Thank you, sir. You may have a
10 seat.

11 MS. USRY: Your Honor, at this time we have no
12 further questions for this witness.

13 CROSS-EXAMINATION

14 BY MR. MAULDIN:

15 Q Is it Investigator Goff or Ms. Goff?

16 A Special Agent Goff.

17 Q You say that when you're talking to a witness they're
18 the source of information or the primary source of
19 information for use in making the sketch; is that correct?

20 A Yes, that's correct.

21 Q You have them tell you to describe what they saw so
22 you can accurately reflect it in a sketch?

23 A Yes.

24 Q The features of an individual, and because it's very
25 important at least that you try to get it as accurate as

1 possible so future identification can be made; is that
2 right?

3 A That's correct.

4 Q And on State's 13, I believe you indicated that he
5 was the driver of the vehicle; is that correct?

6 A Yes, that's what my notes say.

7 Q And so you drew a profile that included the left
8 portion of the face; is that correct?

9 A Correct.

10 Q And if somebody's driving a vehicle, you would have
11 to be viewing it from the driver's side of the vehicle?

12 A I -- I don't -- I have to look at my notes.

13 I have she saw his left side.

14 MR. MAULDIN: No further questions.

15 THE COURT: Anything further of this witness?

16 MS. USRY: Nothing further, Your Honor.

17 THE COURT: Thank you very much, ma'am.

18 Any objection to this witness being excused?

19 MS. USRY: No, Your Honor.

20 MR. MAULDIN: No, Your Honor.

21 THE COURT: All right. Thank you very much.

22 You may call your next witness.

23 MR. MCNAIR: Your Honor, the State calls Sheila
24 Derrick.

25

1 THE CLERK: If would you, please place your left
2 hand on the Bible and raise your right.

3 SHEILA DERRICK, after being duly sworn,
4 testified as follows:

5 THE CLERK: Have a seat right up there, please.

6 Ma'am, once you're seated, speak up loud and
7 clear, stating your full name on the record, spelling your
8 last, please.

9 THE WITNESS: Sheila Derrick. D-E-R-R-I-C-K.

10 DIRECT EXAMINATION

11 BY MR. MCNAIR:

12 Q Ms. Derrick, where would you work?

13 A For Kangaroo, The Pantry.

14 Q Which one?

15 A Elmwood 927, Elmwood.

16 Q Okay. How long have you worked there?

17 A I have been at that particular store not quite a
18 year.

19 Q What is your position over there?

20 A I'm store manager.

21 Q As store manager are you familiar with how the video
22 surveillance system there works?

23 A Yes, sir, I am.

24 Q How many cameras do you all have?

25 A We have a total of 14.

1 Q Some outside, some inside?

2 A Yes, sir.

3 Q Do you have knowledge if that surveillance system was
4 in place on June 12, 2014 [sic]?

5 A Yes, sir.

6 Q It was?

7 A Yes.

8 Q It was? Okay. Does that system stay on at all
9 times?

10 A Yes, it does.

11 Q Twenty-four hours a day?

12 A Yes, sir.

13 Q How long does footage stay on that system after it
14 records something?

15 A Anywhere from 30 to 45 days.

16 Q Who has access to that system?

17 A Only management and upper management.

18 Q And have you seen things that were later viewed on
19 the video system?

20 A Yes, sir.

21 Q And were they accurate depictions of whatever it
22 recorded?

23 A Yes, sir.

24 Q Was that system properly working on June 12, 2012?

25 A Yes, sir.

1 Q And are the dates and times on that system accurate
2 as far as you know?

3 A They're kept accurate.

4 Q I'm going to show you what has been marked for
5 identification as State's 8, 9, and 11. Just take a
6 minute and look at those. Do those appear to be pictures
7 from your surveillance system?

8 A These are my store, yes.

9 MR. MCNAIR: Your Honor, at this time we'd move
10 State's 8, 9, and 11 into evidence.

11 MR. MAULDIN: Your Honor, I would like an
12 opportunity to briefly cross her regarding foundation.

13 THE COURT: All right.

14 CROSS-EXAMINATION

15 BY MR. MAULDIN:

16 Q Ms. Derrick, you said that you have been at the gas
17 station how long?

18 A For approximately a year.

19 Q One year. And it's 2014 now, so that would have been
20 2013 that you were the manager?

21 A Not quite a year.

22 Q So you weren't there June 12, 2012?

23 A No, I was not.

24 Q Did you pull up any footage and show it to
25 Investigator Sheumpert?

1 A No, I have not.

2 Q Have you reviewed any of the video footage?

3 A From that particular day, no, I don't. Can't.

4 Q So you're just seeing the pictures that they showed
5 you; is that correct?

6 A Yes.

7 Q You haven't pulled up that footage yourself?

8 A No, sir, I have not.

9 MR. MAULDIN: Your Honor, I object. I don't
10 think a proper foundation has been laid.

11 THE COURT: Would you all step up here one
12 minute.

13 (A bench conference was held with the judge and
14 attorneys in the presence of the jury but out of the
15 hearing of the jury.)

16 THE COURT: Ladies and gentlemen, I'm going to
17 get you to step back to your jury room. Please have no
18 conversation about the case and I will bring you back out
19 shortly.

20 (The jury left open court at approximately 11:56
21 a.m.)

22 THE COURT: Mr. Mauldin, you wanted -- I think
23 you were about to say something when you were up here?
24 Did I cut you off?

25 MR. MAULDIN: No, Your Honor.

1 THE COURT: Okay. Here's the concern I've got
2 over what your position is in reading this. I'm just
3 going to read it verbatim.

4 It says, "Rule 803(6) does not require the
5 testifying witness to have personally participated in the
6 creation of the document or to know who actually recorded
7 the information." It says, "Obviously such a requirement
8 would eviscerate the business records exception, since no
9 document could be admitted unless the preparer personally
10 testified to its creation. Rather, the business records
11 exception requires the witness to be familiar with the
12 recordkeeping system."

13 Here's the concern I've got with regards to this
14 witness. She didn't work there in 2012. I don't know
15 that she's prepared to testify that this system that I'm
16 working under is the system that was in place in 2012 when
17 this video was taken. I don't know.

18 So I understand what you're saying regarding
19 this case, that the records keeper doesn't have to be the
20 one who created the -- in this case the video, but they've
21 got to be able to testify that the system that is in place
22 that I'm testifying to was in place in 2012.

23 MR. MCNAIR: Judge?

24 THE COURT: Yes, sir.

25 MR. MCNAIR: Judge, when I think of business

1 records, I always think of bank records. That's why that
2 wasn't asked. But, you know, when you're given records
3 seven years old from the bank, you're not necessarily
4 getting a custodian who worked for that bank at that time,
5 it's somebody that's familiarized themselves with the
6 process who can just come to court and say yes, these are
7 our bank's records.

8 Even though she didn't work there in 2012, she's
9 familiarized herself with their video surveillance system
10 and with the process. Furthermore, I think that she
11 confirmed this, that she can look at this picture and say,
12 yeah, that's my store, I recognize those as being from my
13 store.

14 I think this is just a weight issue, if he wants
15 to make a big deal about that, I don't think it's an
16 admissibility issue.

17 MR. MAULDIN: Well, I would respond, Your Honor,
18 that there's testimony before -- he's talking about bank
19 records, those are records that are kept over a period of
20 time on file that they can pull and have in a day. The
21 testimony is that these records are destroyed at one
22 period in time. She wasn't there when the record was
23 there or when it's destroyed and there's been no testimony
24 about what kind of system they may have had before then,
25 in addition to Your Honor's concern. But what he's

1 talking about, those are records that are kept. This
2 record wasn't kept or preserved in any way. I mean,
3 she -- she didn't keep this record. She's not -- the
4 record's been destroyed. It's been preserved by an
5 officer in a photograph, but it's not a record that she's
6 kept and can testify to.

7 THE COURT: Let me ask -- it's Ms. Derrick; is
8 that right?

9 THE WITNESS: Yes, Your Honor.

10 THE COURT: Ms. Derrick, do you have any
11 knowledge through your work there whether or not this was
12 the same system in place back in 2012 that you currently
13 were working under? Do you have any information regarding
14 that?

15 THE WITNESS: I don't have definite information,
16 but I can tell you from the camera shots themselves, those
17 were the same identical camera shots that I have now at my
18 store. So I -- and usually when things change they do
19 different direction camera shots, but these are the same
20 identical camera shots that I have at my store now.

21 THE COURT: I'm looking at Twelfth RMA Partners
22 LP versus National Safe Corporation, which is 335 SC 635,
23 and there the court holds that -- and I will just read it,
24 "The Smiths argued, however, that she was not the
25 custodian at or near the time the records were made.

1 Here, Ms. Every's testimony merely conveyed information
2 from a person with knowledge at the time the records were
3 created, a situation expressly allowed under the rules."
4 And it cites 803(6).

5 You don't have that here, and that's the reason
6 I asked Ms. Derrick the question I asked, if she even knew
7 from her work there if this procedure was the same
8 procedure in place at the time that this occurred.

9 MR. MCNAIR: We're in an unfortunate position
10 that the actual custodian, we don't have their name, we
11 don't know where they are. However, Chief Sheumpert, I
12 think, was the other side of that foundation.

13 THE COURT: Well, I think it might be fine with
14 regards to that.

15 MR. MCNAIR: But he went there that day and he
16 said the system was working properly and these were
17 obtained from that system. So I think that's kind of the
18 other half of the missing foundation we don't have with
19 her.

20 THE COURT: The case states that it's the
21 custodian or other qualified witness.

22 Now, my understanding is that Officer Sheumpert
23 went to the facility and asked for the video from the
24 storekeeper and was shown this video and these shots were
25 taken from that video that Officer Sheumpert was shown

1 that day; is that correct?

2 MR. MCNAIR: Yes, sir, that's the testimony.

3 THE COURT: Here's the concern that I've got is,
4 you know, the reason for the exception to the rule is
5 because if you have a reliable witness that can testify as
6 to the recordkeeping and that it was done pursuant to
7 that, that gives you that indicia of liability that you're
8 looking for. Without that person and to simply say, well,
9 the officer asked for a video and they gave him a video
10 and he took shots off of it, that issue of reliability is
11 left in question without having someone to say that the
12 video I gave the officer was kept in the normal course of
13 our business, this is what we do, this is how we do it.
14 And although I appreciate Ms. Derrick being here and her
15 testimony, unfortunately she didn't work there back in
16 2012, and I don't know that you have met the exception to
17 the hearsay rule with her testimony.

18 So I'm going to sustain the objection to those
19 photographs unless you get someone in that can give us
20 that level of reliability that the exception calls for.

21 And it may very well be -- and here's the thing,
22 it may very well be that not one thing has changed from
23 the time Ms. Derrick came on board to two years prior, but
24 we don't have anybody who can say that. And I don't know
25 anything about store, this location. I can't imagine

1 that -- I don't know, maybe they go through managers that
2 quickly and there's no manager available that worked there
3 during that time frame, I don't know, but I think it's a
4 valid objection and I don't think that there's been any
5 testimony to overcome that or to meet the exception and so
6 I'm going to sustain your objection as to those
7 photographs.

8 Anything else before we bring them back in?

9 MR. MCNAIR: No, sir.

10 MR. MAULDIN: No, sir.

11 THE COURT: Let's bring the jury back in.

12 (The jury came into open court at approximately
13 12:15 p.m.)

14 THE COURT: All right. Mr. McNair, you may
15 continue.

16 MR. MCNAIR: Thank you, Your Honor.

17 Ms. Derrick, thank you for being here today. We
18 have no further questions.

19 THE COURT: Thank you, ma'am. You may step
20 down.

21 MS. USRY: Your Honor, if we can approach.

22 (A bench conference was held with the judge and
23 attorneys in the presence of the jury but out of the
24 hearing of the jury.)

25 THE COURT: All right. Ladies and gentlemen,

1 we're gong to break for lunch at this time. I'm going to
2 ask you to be back here at 1:45.

3 Please have no conversation about the case.
4 Enjoy your lunch. Don't allow anyone to talk with you
5 about the case.

6 (The jury left open court at approximately 12:17
7 p.m.)

8 (A lunch break was taken.)

9 THE COURT: Anything we need to take up before
10 we get started?

11 MR. MCNAIR: Yes, Your Honor. We just spoke to
12 Mr. Hilton over the lunch break, and I think part of his
13 testimony is that prior to this robbery, Mr. Osborne
14 essentially fed him crack in order to get him to go along.
15 I think it's probative in the sense that it shows he was
16 kind of the follower, going along with what Mr. Osborne
17 wanted to do. I have no idea what Mr. Mauldin's defense
18 is going to be, but if it was, hey, this guy was in Mr.
19 Osborne's truck and he had no idea he was going to grab
20 the purse, I think it's probative to show that he was just
21 along for the ride with Mr. Osborne.

22 THE COURT: Mr. Mauldin.

23 MR. MAULDIN: ~~Your Honor, I would just object~~
24 ~~under 404(b), prior bad act.~~

25 THE COURT: I wouldn't allow that kind of

1 testimony. I think that the prejudicial effect outweighs
2 any probative value. I think he can testify that he
3 was -- that he was the passenger, that Mr. Osborne was the
4 ring leader, I mean he can testify to all those things,
5 and I don't think giving somebody crack is necessarily
6 indicative that -- of what you're trying to show. I think
7 he can testify that, if this is his testimony, that Mr.
8 Osborne was the ring leader, was the one who coerced him
9 into doing it.

10 MR. MCNAIR: I guess his testimony is that drugs
11 were a big part of this whole thing.

12 THE COURT: I don't doubt it, but I think that
13 its prejudicial effect outweighs any probative value.

14 MR. MCNAIR: I would ask for a minute to go talk
15 to him and tell him. I already told him not to bring up
16 anything about the Richland County robbery --

17 THE COURT: Right.

18 MR. MCNAIR: -- repeatedly.

19 THE COURT: And it doesn't -- again, it doesn't
20 preclude him from -- if his testimony is that this was Mr.
21 Osborne's idea, that he was the one who pushed it, that's
22 all well and good, but going into other illegal activity
23 would be a no-go.

24 MR. MCNAIR: Understood.

25 Second issue, I don't know whether we will need

1 Josephine Hilton or not. I guess it depends on what Mr.
2 Mauldin does with Mr. Hilton, but she has a pending
3 contraband charge from a few months ago, trying to take
4 spice or something to Mr. Hilton while he was
5 incarcerated. I don't think that's relevant to anything.
6 They're married. She hasn't even had a first appearance
7 on that. I have no idea who her solicitor is. We have
8 had no discussions about a plea offer on that. I just --
9 I don't -- I think it just confuses things more than it
10 adds anything.

11 THE COURT: Mr. Mauldin, what, if any, relevance
12 would there be to going into that?

13 MR. MAULDIN: Well, under Rule 608(C), the
14 evidence of bias, she has these pending charges and she
15 wishes to ingratiate herself with the State, I would cite
16 the case of State v. Simms, 348 SC 16. In that case the
17 defense talked to the future witness about pending
18 charges, the solicitor said we haven't made a deal or
19 anything at all regarding --

20 THE COURT: Let me ask -- I mean, I think you
21 can go into whether or not she had any pending charges,
22 but I don't think going into the details of those charges
23 and what they are.

24 MR. MAULDIN: Well, I think I can ask what the
25 charges are and how much time they carry according to

1 Simms.

2 THE COURT: And so what's the charge?

3 MR. MAULDIN: She's charged with two counts of
4 contraband.

5 THE COURT: Two counts of contraband, that would
6 be it?

7 MR. MAULDIN: [Furnishing contraband to
8 prisoners.]

9 THE COURT: Not furnishing contraband to the
10 witness who just testified --

11 MR. MCNAIR: That doesn't bear on her
12 truthfulness. I just see it as being objectionable under
13 403.

14 THE COURT: Well, where it becomes relevant is
15 that she's testifying for the State and it may be that --
16 I mean, that's how you impeach her, the State's witness is
17 that you cut a deal and your deal involves the fact that
18 you've got pending charges and they're going to go away
19 after your testimony; isn't that right? That's where I
20 think it's relevant. But I don't -- would not allow
21 anything beyond the charge and not the fact that the
22 charge has her supplying contraband to her husband. I
23 think now you're going into the details of the charge that
24 I think is inappropriate.

25 MR. MCNAIR: May I have a minute?

1 THE COURT: Take whatever time you need to do
2 that so that you make that understanding clear.

3 (Pause.)

4 (The jury came into open court at approximately
5 1:55 p.m.)

6 THE COURT: Folks, before we get started back,
7 is it Ms. Oconnor? Perfect. You're sitting right where I
8 need to you sit. If you would be so kind if I ask you to
9 serve as the forelady of the jury.

10 THE JUROR: Okay.

11 THE COURT: So that's the seat you'll need to
12 occupy.

13 THE JUROR: Okay.

14 THE COURT: Let me talk about that just briefly,
15 ladies and gentlemen. The Court always appoints a
16 foreperson for a jury, the main reason being that any time
17 you deal with a group of folks, it is easier to deal with
18 one person on behalf of the group rather than deal with
19 everyone individually. And so the foreperson's main role
20 is to basically be the liaison between the jury panel and
21 the Court. If anyone has a question during deliberations
22 about anything, then the foreperson simply writes that
23 question out on a piece of paper and passes that out to
24 the Court, and depending on the question, I may respond
25 back in writing or bring you out as a panel and respond

1 back. But that's really the main role of the foreperson
2 is to be a communicator between the panel and the Court.

3 The other role would be when you begin your
4 deliberations, I will tell you that everyone must be
5 present during deliberations, so that if anyone were to
6 excuse themselves to use the restroom or something of that
7 nature, then the foreperson would then ask that the
8 deliberations stop until that person returns and then
9 start back so that everyone has the benefit of the
10 deliberations.

11 I talked with jurors over the years and most of
12 the time they say that once the case is turned over to
13 them for their consideration, that conversation just
14 begins and the deliberations start, but sometimes they
15 have said everybody gets in the room and everybody just
16 starts staring at each other. So if that occurs, it
17 would be incumbent upon the foreperson to start the
18 deliberations.

19 What is important for to you understand is this:
20 In all cases tried in this court, the jury's verdict must
21 be unanimous, you must all agree on the verdict. So
22 having said that, the foreperson's vote or opinion carries
23 no more weight than anyone else's in the jury. You're all
24 equal members of the jury. So I tell jurors all the time
25 that when you deliberate, you should speak your position

1 and be open and receive the positions of others, talk
2 about your feelings and where they're at, be receptive to
3 others' opinions as well as re-evaluating your own
4 opinions. The bottom line is, your vote must be unanimous
5 and so the foreperson's thoughts or opinions are no better
6 and have no better weight than anybody else on the jury.
7 But I appreciate your willingness to serve and have you
8 do that in there for us.

9 When we rested for lunch the State was still on
10 their case, so we'll pick up there.

11 Mr. McNair.

12 MR. MCNAIR: Thank you, Your Honor. The State
13 calls Joshua Hilton.

14 THE COURT: Bring Mr. Hilton in, please.

15 THE CLERK: If would you, please place your left
16 hand on the Bible and raise your right.

17 JOSHUA HILTON, after being duly sworn, testified
18 as follows:

19 THE CLERK: Have a seat right up there, please.

20 Sir, once you're seated, speak up loud and
21 clear, stating your full name on the record, spelling your
22 last, please.

23 THE WITNESS: Joshua Hilton. H-I-L-T-O-N.

24 DIRECT EXAMINATION

25 BY MR. MCNAIR:

1 Q Mr. Hilton, you're obviously not living at home right
2 now. Where are you living?

3 A Lexington County Detention Center.

4 Q What are you in jail for?

5 A I'm in jail for strong arm robbery and assault and
6 battery first.

7 Q That was pertaining to this incident we're here for
8 today?

9 A Yes, sir, it is.

10 Q Now, this isn't your first brush with the law, is it?

11 A No, sir.

12 Q You have also been convicted of burglary second
13 degree in 2003, correct?

14 A Yes, sir.

15 Q Receiving stolen goods, 2005?

16 A Yes, sir.

17 Q Breach of trust, 2006?

18 A Yes, sir.

19 Q Resisting arrest in 2007?

20 A Yes, sir.

21 Q You have a financial transaction card fraud in 2012?

22 A I do.

23 Q And then another strong arm robbery in 2013, correct?

24 A Yes, sir.

25 Q Okay. Mr. Hilton, where are you from originally?

1 A Sumter, South Carolina.

2 Q Is that where you were living prior to this incident?

3 A Yes, sir.

4 Q Are you married?

5 A I am.

6 Q What is your wife's name?

7 A Josephine Hilton.

8 Q What was her maiden name?

9 A Josephine Grubb.

10 Q Do you have kids?

11 A I do.

12 Q How many?

13 A Three.

14 Q How old are they?

15 A Nine, six, and five.

16 Q How long have you known Mr. Osborne?

17 A I have known him since I was 11. Maybe --

18 Q How old are you now?

19 A -- 13, 14 years. I'm 29.

20 Q Okay. Do you consider Mr. Osborne a friend of yours?

21 A Yes.

22 Q Did you all hang out prior to being incarcerated?

23 A Yes, sir.

24 Q Now, in every group of friends there seems to be a
25 leader and there is a follower. What would you consider

1 yourself in your group with Mr. Osborne?

2 A I'm a follower.

3 Q You consider him more of a leader?

4 A Yes, sir.

5 Q You consider him more of the decision maker?

6 A Yes, sir.

7 Q Let's talk about June 12, 2012. Do you recall that
8 day?

9 A Yes, sir.

10 Q At some point that day did Mr. Osborne go to the Food
11 Lion in South Congaree?

12 A Yes, sir.

13 Q Whose idea was that?

14 A It was Keith Osborne's.

15 Q Why did you all decide to go there?

16 A We were looking for a person to get, to steal a purse
17 from, a victim to steal money from.

18 Q Is that the first place you looked that day?

19 A No, sir.

20 Q Did you go other places?

21 A We scoped out other places.

22 Q How did you all choose this particular Food Lion?

23 A It was -- I remember it was closest to the

24 interstate, it was a little closer to the interstate and

25 seemed to be a substantial amount of people in the parking

1 lots.

2 Q Who decided on this Food Lion?

3 A Keith Osborne.

4 Q Did he say why he wanted to go to this particular
5 Food Lion?

6 A He just said that the interstate wasn't too far from
7 it and that was the initial -- it was what initially led
8 to it.

9 Q Why is it important to be closer to the interstate?

10 A It's quicker to get away.

11 Q Well, tell the jury what happened when you got to the
12 Food Lion.

13 A When we went -- when we went to the Food Lion parking
14 lot we seen a woman coming out, which is Ms. Lang now,
15 that's the victim we seen coming out with a kind of larger
16 purse and Keith, Mr. Osborne, said that he knew she must
17 have had an a lot of money, made a statement about her
18 purse being, you know, big. And we was driving through
19 the parking lot at a slow rate of speed and seen her
20 approach a nicer, you know, SUV. He said, Oh, yeah,
21 that's the one. And he said just call her -- just call
22 her and ask for directions he said and then you grab the
23 purse and I'm going to haul -- excuse my language, haul
24 ass. And, you know, after that, you know, I said all
25 right.

1 And we pulled up, I called her over and I began
2 asking her directions, asking directions to a place that
3 probably didn't even exist, I was asking directions, and
4 as she began telling us, I turned all the way around and I
5 reached out and grabbed her purse and he took off and she
6 fell.

7 Q Okay. Do you know Mr. Osborne by a different name
8 than Keith?

9 A Yes, sir.

10 Q What do you call him?

11 A KC.

12 Q Okay. Do you see Ms. Lang in the courtroom today?

13 A Yes, sir.

14 Q Is that the lady you all robbed at Food Lion?

15 A Yes, sir.

16 Q What were you wearing that day?

17 A I don't know. I was -- I changed a couple of times
18 that day, actually, but I know I was in a tank top and --

19 Q A sleeveless tank top?

20 A Yes. It's a siesta sleeveless, there's no sleeves on
21 it, and it was white and I was in some shorts and some
22 flip-flops.

23 Q Do you have tattoos on your arms?

24 A I do.

25 Q Could you pull up your sleeves and show the jury?

1 A (Witness complies.)

2 Q Now, has this tattoo changed since June of 2012?

3 A It has.

4 Q What was it back in June of 2012?

5 A It was travel flame.

6 Q There was a flame tattoo?

7 A Yes, sir.

8 Q And you have gotten new ink over that?

9 A Yes, sir.

10 Q And when you all -- when Ms. Lang approached your
11 vehicle, you said you turned your body?

12 A So speak directly to her, have better access to her
13 purse.

14 Q To grab the purse. So that arm would have been
15 facing Ms. Lang out the passenger window?

16 A Yes, sir.

17 Q And Mr. Osborne was driving?

18 A Yes, sir.

19 Q And you said he told you, you grab the purse and he's
20 going to haul ass?

21 A Yes, sir.

22 Q Let's talk about that vehicle. What type of vehicle
23 was it that Mr. Osborne had?

24 A It was a white truck. I believe it was a GMC, kind
25 of a -- it was a single door.

1 Q The cab --

2 A It only had two doors.

3 Q Okay.

4 A I don't know what you call that, it only had two
5 doors and a very small space in the back, but the truck
6 bed, I remember it being kind of long.

7 Q A long bed?

8 A Yes, sir.

9 Q Did he own that vehicle, to your knowledge?

10 A To my knowledge he did.

11 Q Do you have any idea how long he had that vehicle
12 prior to June 12?

13 A I just remember seeing him in maybe -- the end of --
14 maybe the end of March, around April, at that time. I
15 remember when I first came back in contact with him, I
16 remember seeing him in that truck.

17 Q So you knew him to have it for a least a couple of
18 months?

19 A Yes, sir.

20 Q Did that vehicle have South Carolina tags on it?

21 A I didn't.

22 Q What did it have on it?

23 A It had some -- what you call paper tags.

24 Q Okay.

25 A Plastic tags maybe you get from a used car lot or

1 something. They give that to you before you get your
2 original, your regular tags.

3 Q Right. Did it have a date on the paper tags?

4 A Had several, actually.

5 Q Why did it have several?

6 A Just changed it periodically.

7 Q Who changed the dates?

8 A It was probably -- I may have changed it once, he may
9 have changed it once.

10 Q He had paper plates and you all would change the date
11 on the tags?

12 A Yes, sir.

13 Q So you have no idea if that vehicle was ever
14 registered in his name?

15 A I don't -- I recall him saying that that's one thing
16 we didn't have to worry about.

17 Q Okay. He told you you wouldn't have to worry about
18 the vehicle?

19 A This was later on. I don't want to jump ahead of
20 myself or jump the gun.

21 Q Just answer the question.

22 A He told me yes, we wouldn't have to worry about it
23 coming back in his name.

24 Q Do you know why he said that, what he meant by that?

25 A I don't, but -- I can't quote the exact words, but I

1 know it related to pretty much not being registered, stuff
2 like that.

3 Q Okay. So obviously you got Ms. Lang's purse. What
4 did you do after you took the purse?

5 A We left from there and we went to Manor Drive.
6 That's --

7 Q What's the relationship of Manor Drive, why you all
8 are on Manor Drive?

9 A It's closer to the area and I have a cousin who lives
10 on Manor Drive, used to live on Manor Drive.

11 Q Has Mr. Osborne been to your cousin's house before?

12 A Yes, the night before.

13 Q You all go there the night before?

14 A Yes.

15 Q All right. What was in Ms. Lang's purse?

16 A Well, there was a cell phone, I believe some -- I
17 remember throwing -- I know there was some shades,
18 glasses, some glasses, and I believe there was a wallet
19 because I remember specifically going in that wallet and
20 looking at the ID. And some cash, there was cash in
21 there. I can't say exactly how much. I would say maybe
22 \$40 at the most.

23 Q Do you recall credit cards being in there?

24 A There was credit cards being in there. We kept
25 those.

1 Q So what did you do with the other items?

2 A Flung them out the window.

3 Q On Manor Drive?

4 A On Manor Drive. And initially the phone was going to
5 be kept; however, he told me that it was probably --
6 phones nowadays can be -- there's like a -- might can be
7 found with a GPS or something, so we got rid of that, too,
8 separated the battery from the phone.

9 Q What, if anything, did you do with the clothes you
10 were wearing?

11 A At that time the clothes that we were wearing at the
12 incident at this moment -- I know we changed. I know I
13 changed, I know he changed later on. And as far as the
14 clothes we're wearing, I really can't say. I know we
15 changed them.

16 Q Okay. Well, you said you kept Ms. Lang's credit
17 cards?

18 A Yes.

19 Q What, if anything, did you do with those cards?

20 A We drove around. We decided not to spend any more
21 time in a hotel because the -- because the -- it can be
22 traced, so we drove around trying them at gas stations,
23 couldn't get them to work, and then we finally decided to
24 go to Elmwood just over the bridge and kind of -- like the
25 downtown area, and we went into the McDonald's and gas

1 station there. There were a lot of -- you want me to get
2 into detail?

3 Q Let's back up just a little bit. You said you tried
4 to use the card and it wasn't working?

5 A It wasn't -- you have to -- some of them that you put
6 certain things, makes you put sometimes date of birth,
7 sometimes ZIP codes, stuff like that. I guess the ones we
8 was using required date of birth. I don't recall. I know
9 it didn't work at some of the gas stations, so...

10 Q Did you have Ms. Lang's ZIP code?

11 A I did. I specifically -- he said look at the ID
12 because I remember it being a problem at some point in
13 time, and so I looked at ID and then got rid of it, got
14 the ZIP code and then got rid of it.

15 Q You got the ZIP code and threw it out on Manor Drive?

16 A Yes.

17 Q So then we're back to Elmwood Avenue where you all go
18 on Elmwood.

19 A We go into the McDonald's parking lot. There is a
20 gas station right beside that. We were going to try and
21 get gas, but I think we decided to go to McDonald's first.
22 There were a lot of homeless people, they're everywhere
23 and they ask for money, so Keith, Mr. Osborne, said we
24 were going to do a good deed for the day and buy those
25 homeless people food and went through the window and we

1 must have bought five or six different people out there
2 food as well as the girl, told the girl inside the window
3 to get her something, laughing, and she laughed, too, Are
4 you serious? And he said, Yeah, why not.

5 Q Is that where you all spent about fifty bucks at
6 McDonald's, you bought so much food?

7 A At least, yes, sir. And we left from there, passed
8 some of that food out. Some people didn't really want it.
9 We went to the gas station right next door and the card
10 didn't work at that point either. We went across the
11 street and got gas. And not sure, I can't say the name of
12 the gas station, but it's pretty much directly across the
13 street, and I pulled up and he -- I went inside. He put
14 on a hat -- he went inside, excuse me.

15 Q KC, Mr. Osborne put on a hat?

16 A Yeah.

17 Q What kind of hat?

18 A It was a straw hat that had later been burned.

19 Q Okay. He was not wearing that hat at the time when
20 you all robbed Ms. Lang?

21 A I don't recall. I don't believe so.

22 Q Okay.

23 A He got out and went inside. I remember buying --
24 bought some beer, we bought some cartons of Newports --
25 one carton, maybe two -- maybe one or two. I remember

1 those were the main things that were taken or we got.

2 Q And gas as well?

3 A Yeah. When he was getting the gas, I actually jumped
4 out the vehicle just to stand, you know, just talk like
5 this, and he said, man, you really shouldn't be outside
6 the vehicle, get back in, so I got back in.

7 Q Why did he not want you to be outside the vehicle?

8 A Because of, you know, it would be different if you
9 see one tall person by hisself {sic} that you really can't
10 identify, but if you see a tall person that's normally
11 associated with a short male like me and it kind of puts
12 it together and he didn't want that to happen.

13 Q You felt like there was a description out there and
14 people were looking for you after this robbery?

15 A I know if there wasn't at the time, I knew there
16 would be.

17 Q How much gas did Mr. Osborne get?

18 A I remember it was hundred dollars because I made a
19 comment -- excuse my language -- I said, damn, hundred
20 dollars for this and we're on empty, you know, about a
21 hundred dollars worth of gas.

22 Q So Mr. Osborne used her card outside at a gas pump,
23 then you went in and purchased some things?

24 A If not, maybe reverse, but I believe we went in and
25 purchased, yes, sir.

1 Q All right. I'm going to show you State's 8, 9, and
2 11.

3 MR. MAULDIN: Your Honor, can we approach?

4 THE COURT: Yes.

5 (A bench conference was held with the judge and
6 attorneys in the presence of the jury but out of the
7 hearing of the jury.)

8 BY MR. MCNAIR:

9 Q All right. State's 8, do you recognize that photo?

10 A Yes.

11 Q Do you recognize the individual in that photo?

12 A Yes.

13 Q Who is that individual?

14 A Keith Osborne.

15 Q Where is that?

16 A That's the gas station that's on Elmwood.

17 Q So that's your description where you all got gas and
18 he went inside and bought some items?

19 A Yes, sir.

20 Q And is this a fair and accurate --

21 A I know --

22 Q -- depiction of the way he looked that day?

23 A Yes.

24 MR. MCNAIR: Your Honor, we'd offer State's 8
25 into evidence.

1 MR. MAULDIN: No objection, Your Honor.

2 THE COURT: Without objection it's in evidence.

3 (WHEREUPON, State's Exhibit No. 8 was admitted
4 into evidence.)

5 BY MR. MCNAIR:

6 Q State's 9, do you recognize this photo?

7 A That's -- I wasn't in there at the time, but I
8 recognize it's the same person as Keith Osborne.

9 Q Is that the same store you just mentioned?

10 A Yes, because that's the Bud Light I see. Yeah,
11 that's the same store.

12 MR. MCNAIR: Your Honor, we'd offer State's 9
13 into evidence.

14 MR. MAULDIN: He said he wasn't in the store,
15 foundation.

16 THE COURT: I'm going to overrule. He says he
17 knows the store, that's the store.

18 (WHEREUPON, State's Exhibit No. 9 was admitted
19 into evidence.)

20 BY MR. MCNAIR:

21 Q And State's 11, do you recognize that photo?

22 A Yes. That's me. I'm shorter. I was kind of large
23 at the time.

24 Q Do you recognize the two individuals in that photo?

25 A Yes.

1 Q Do you recognize the truck in that photo?

2 A Yes.

3 Q Is that the same station you just referenced?

4 A Yes, sir.

5 MR. MCNAIR: Your Honor, we offer State's 11
6 into evidence.

7 MR. MAULDIN: No objection.

8 THE COURT: Without objection.

9 (WHEREUPON, State's Exhibit No. 11 was admitted
10 into evidence.)

11 BY MR. MCNAIR:

12 Q So on State's 8, whose shirt is that Mr. Osborne is
13 wearing?

14 A You're asking me, sir?

15 Q Yes.

16 A That is my shirt, my shirt that he actually had on.

17 Q And that's the straw hat that he put on after you all
18 robbed Ms. Lang?

19 A Maybe not right after, but that's the one he wore
20 when he went inside of the gas station.

21 Q Okay. And I guess I didn't ask you this, but this is
22 the same day as the robbery?

23 A Yes, sir.

24 Q How much longer after do you think?

25 A Maybe three or four hours at most.

1 Q Okay. Now, State's 11 you said -- is that Mr.
2 Osborne's truck?

3 A Yes.

4 Q Who is that standing outside of the truck?

5 A That's him and me.

6 Q Okay. What -- do you know what, if anything,
7 happened to that truck?

8 A Yes.

9 Q What happened to it?

10 A It was -- I guess as we described it, it was hot, it
11 was being sought after we were pretty positive, so we
12 decided to -- there was no air-conditioning in it either,
13 it was very hot, and we decided to trade it off and that's
14 what we did.

15 Q How long after the incident did you all sell it or
16 trade it?

17 A I want to say no longer than a week, no longer than a
18 week later.

19 Q Do you know where you traded it?

20 A Yes, sir.

21 Q Where?

22 A Not specifically. I know the location and I can't
23 tell you the name. It was a used car dealership and they
24 are on No. 1.

25 Q Okay.

1 A And we traded it in for a burgundy Nissan Sentra plus
2 some cash.

3 Q Okay. And you said the reason you all did that is
4 you felt like that truck was hot?

5 A That truck was, yes.

6 Q By that you mean people were looking for it?

7 A Yes, sir.

8 Q Well, at some point after this did you actually see
9 sketches of suspects?

10 A After that, yes. It was a while after.

11 Q A while after?

12 A Yes.

13 Q I'm going to show you State's 12, 13. Are those the
14 sketches you saw?

15 A Yes.

16 Q Where did you see them?

17 A I seen them on a printout from the Internet.

18 Q What did you think when you saw those sketches?

19 A My exact words were "we're through."

20 Q Look pretty similar?

21 A Yes.

22 Q Mr. Hilton, you have pending charges, you're charged
23 with the exact same thing as Mr. Osborne. You sent
24 letters to Ms. Usry while you've been incarcerated and you
25 have mentioned potential deals in exchange for you

1 testifying. Have we promised you anything to testify
2 today?

3 A Definitely not, no, sir.

4 Q You mentioned in one letter that you wanted a cap on
5 a potential sentence that you would be facing. But that
6 was never promised to you, was it?

7 A No.

8 Q What did we ask you for?

9 A Truth.

10 Q That's it, isn't it?

11 A Yes.

12 Q Now, do you see Mr. Osborne in the courtroom today?

13 A Yes, sir.

14 Q The gentleman that committed the crime with you?

15 A Yes.

16 Q Will you point him out?

17 A (Witness complies.)

18 Q The defendant sitting beside Mr. Mauldin?

19 A Yes, sir.

20 MR. MCNAIR: I don't have any further questions
21 at this time.

22 THE COURT: Cross-examination.

23 MR. MAULDIN: Thank you, Your Honor.

24 (CROSS-EXAMINATION)

25 BY MR. MAULDIN:

1 Q Mr. Hilton, you have these pending charges of strong
2 arm robbery and assault and battery first degree; is that
3 correct?

4 A Yes, sir.

5 Q How much time are you facing on those charges?

6 A Facing 25 years.

7 Q And you're afraid of that 25 years, aren't you?

8 A Yeah.

9 Q You would like some kind of deal to avoid those 25
10 years?

11 A I would like, yes --- yes, sir, I would.

12 Q That's why you're here today telling the State your
13 story and telling your story to the jury; is that correct?

14 A No, sir.

15 Q Now, these charges have been pending for a year's
16 time, haven't they?

17 A Yes, sir.

18 Q Little over a year; maybe close to two?

19 A Yes.

20 Q During that period of time you have been writing the
21 solicitor letters; is that correct?

22 A Yes, sir.

23 Q And one of those letters from February 7 of this year
24 you were saying that you didn't do this; is that correct?

25 A Yes, sir.

1 Q And you tried time and time again to tell them who
2 the real guy with the tattoos is?

3 A I did say that.

4 Q Who is that supposed to be?

5 A It was a fictitious person in my mind that I
6 didn't -- I just wanted to lie. It was a lie.

7 Q And in that letter you also said you wanted to give
8 them whatever they wanted and then some; is that correct?

9 A I don't recall that.

10 Q Well, you said in that letter you wanted a deal as
11 well; is that correct?

12 A I mean, I definitely would like a deal.

13 Q And though you said you didn't do it, you still
14 wanted a deal?

15 A Right, because I knew I was guilty.

16 Q In another letter, August 19 of this year, you had
17 written Ms. Usry, the solicitor here, and said that you
18 had an alibi; is that correct?

19 A Right.

20 Q And that you weren't anywhere near the Food Lion in
21 South Congaree at all, you were with your cousin,
22 Valentine Delgado; is that correct?

23 A It's Valentine Rigalotto. And I did say that, yes,
24 sir.

25 Q And that you all had visited a cousin of yours,

1 Angela Riles?

2 A It was another lie.

3 Q And that you all went to eat at Outback Steakhouse in
4 Sumter?

5 A Which is another lie.

6 Q And also you had listed Nina Warrens down?

7 A Right.

8 Q And then sometime you were noticed that you might be
9 up for trial soon; is that correct?

10 A Right.

11 Q And it wasn't until September 18 of this year, two or
12 three weeks ago that you decided you wanted to cop to this
13 thing?

14 A That's right. I wanted to tell the truth. I just
15 wanted to get it -- I was wanting to do the right thing.

16 Q Well, were you doing the right thing when you wrote a
17 letter saying you didn't do this?

18 A No, but I -- no, but I'm also the same guy who
19 snatched a purse from a helpless woman.

20 Q Were you doing the right thing when you told them you
21 had an alibi?

22 A No.

23 Q That you were in Sumter?

24 A No.

25 Q And after you had met with the solicitor

1 September 18, that's the first time you met with them to
2 tell them what you're telling us here today; is that
3 correct?

4 A First time that I spoke about this?

5 Q With the Solicitor's office?

6 A Yes.

7 Q You wrote some letters after that; is that correct?

8 A Yes, sir.

9 Q In fact, the day after you sent a letter in the jail
10 mail and you wrote, "I really hope that you stick to your
11 end of the deal with the eight-year cap recommendation. I
12 hope that you don't go back on your word."

13 A Could you read what is above that, sir?

14 Q Did you put in that a letter?

15 A I said -- I did put that. Above that I said, "even
16 though you didn't promise me anything."

17 Q And that's written in tiny letters above the writing
18 of that sentence?

19 A Right.

20 Q "I really hope that you stick to your end of the deal
21 with the eight-year cap recommendation. I hope you don't
22 go back on your word," implying that there was some kind
23 of word, but then you said they didn't promise you
24 anything?

25 A Right.

1 Q There wasn't any kind of wink wink, nudge, nudge
2 about what's going on?

3 A In fact, she wasn't even in the room, Kate Usry, Ms.
4 Usry.

5 Q And you met with them again last Friday; is that
6 correct?

7 A At the jailhouse, yes, sir.

8 Q And you met with Mr. McNair again today at lunchtime;
9 is that correct?

10 A And I'm not sure, who is that?

11 Q The fellow that was asking you questions.

12 A Yes. Sorry.

13 Q Now, when you met with him on Friday you told him
14 that the car place where you traded at was called Credit
15 Cars?

16 A I told them the exact location of it and they asked
17 if that was the name and I remember thinking that on
18 the--- that it was C and C on the tag, actually, so maybe
19 that's it.

20 Q And then you said that you all had gotten a hotel in
21 Mr. Osborne's name?

22 A We had.

23 Q And you received what we call I guess discovery in
24 this case; is that correct?

25 A I have.

1 Q And you've got copies of all the police reports and
2 the witness statements, photos and things of that nature,
3 and you've had them for some period of time before today;
4 is that correct?

5 A Yes, sir.

6 Q And even before September 18 when you met with the
7 solicitors?

8 A Yes.

9 Q And you had time to read over that and look at all of
10 it; is that correct?

11 A Yes, sir.

12 MR. MAULDIN: Beg the Court's indulgence.

13 THE COURT: Yes, sir.

14 (Pause.)

15 MR. MAULDIN: ~~No further~~ questions, Your Honor.

16 ~~REDIRECT EXAMINATION~~

17 BY MR. MCNAIR:

18 Q Mr. Hilton, when you came to our office the first
19 time and you finally told the truth, you had your attorney
20 present, right, or your standby attorney?

21 A Ashley Earhart, yes, sir.

22 Q There was an investigator present?

23 A Yes.

24 Q And Ms. Usry and I weren't in the room when you wrote
25 that statement, were we?

1 A No, she wouldn't come into the room.

2 Q And every time we met with you, what had we told you
3 we wanted from you?

4 A Truth.

5 Q And I told you that when I met with you today, didn't
6 I?

7 A Yes, sir.

8 Q And you didn't tell the truth initially, did you?

9 A No.

10 Q You were trying to protect yourself?

11 A Being a coward.

12 Q But you never said Mr. Osborne wasn't involved, did
13 you?

14 A No, sir.

15 THE COURT: Thank you very much, sir. You may
16 step down.

17 Call your next witness.

18 MR. MCNAIR: Josephine Hilton, Your Honor.

19 THE CLERK: If would you, please place your left
20 hand on the Bible and raise your right.

21 JOSEPHINE HILTON, after being duly sworn,
22 testified as follows:

23 THE CLERK: Have a seat right up there, please.

24 Ma'am, once you're seated, speak up loud and
25 clear, stating your full name on the record, spelling your

1 last, please.

2 THE WITNESS: My name is Josephine Hilton. It's
3 H-I-L-T-O-N.

4 DIRECT EXAMINATION

5 BY MR. MCNAIR:

6 Q Ms. Hilton, you're Mr. Hilton's wife, correct?

7 A Yes, I am.

8 Q How long have you all been married?

9 A Two years, almost three.

10 Q Okay. Now, did Mr. Hilton ever say anything to you
11 regarding a robbery at Food Lion?

12 A Yeah. He called me.

13 Q When was that?

14 A That was when he was detained at Sumter Regional and
15 I was at a McDonald's doing homework.

16 Q Approximately what date was that? Was that back in
17 2012?

18 A Yes, it was. I can't give you an exact month. I can
19 tell you that I was sitting there doing my homework and he
20 called and asked me to Google a case where a 74-year-old
21 woman had been dragged through a parking lot.

22 Q Okay. What did he say about that incident?

23 A He asked me to read to him what was there and asked
24 me about some pictures that were on the page. I told him
25 that it was talking about a lady who had been dragged

1 through a parking lot after they grabbed her purse and
2 drove off, and he asked me about the pictures and I says
3 the two drawings look like you and KC.

4 Q Okay. And you say "pictures." Are you referring to
5 these sketches?

6 A Yes, I am.

7 Q What did you think when you saw the sketches?

8 A I thought it as KC and Josh.

9 Q And what did Joshua Hilton say about the Food Lion
10 robbery? Did he say he was involved?

11 A Yeah. He told me that it was him and KC who did it.

12 Q He told you that back in 2012?

13 A Yes.

14 MR. MCNAIR: No further questions.

15 CROSS-EXAMINATION

16 BY MR. MAULDIN:

17 Q Ms. Hilton, you have two counts of contraband pending
18 against you?

19 A I do.

20 Q Is that correct?

21 A Yes, I do.

22 Q And you hope that those charges go well for you,
23 don't you?

24 A They have no bearing on this case because I was
25 offered nothing. I came out by myself to see the

1 solicitor. I called them, I didn't ask for anything.

2 Q So you -- you hope that your performance today will
3 have an impact on that?

4 A No, no, I do not. This has no reflection on what's
5 going on with me. It does not.

6 MR. MAULDIN: No further questions, Your Honor.

7 MR. MCNAIR: No questions, Your Honor.

8 THE COURT: Thank you very much, ma'am. You may
9 have a seat.

10 MS. USRY: Your Honor, at this time the State
11 rests.

12 THE COURT: All right. Ladies and gentlemen,
13 the State has rested its case and I'm going to have to
14 take up some matters of law for a little bit. I don't
15 think it will take terribly long. I will get you to step
16 back into your jury room while I do that. Please have no
17 conversation about the case and I will bring you back out
18 shortly.

19 (The jury left open court at approximately 2:36
20 p.m.)

21 THE COURT: All right. At this point I'll take
22 up any motions at the close of the State's case.

23 MR. MAULDIN: Thank you, Your Honor. At this
24 time on behalf of Mr. Osborne as to those charges I make a
25 motion for directed verdict, that the State hasn't

1 presented sufficient evidence to send the case to the
2 trier of fact.

3 THE COURT: I'm going to respectfully deny that
4 request for motion, Mr. Mauldin. I think it's a factual
5 issue, and of course that's the jury's province. I think
6 the evidence that's been presented, depending on how the
7 jury views, it is a question that they need to determine
8 and there is evidence in the record that, depending on how
9 they view it, whereby they could arrive at a verdict, so
10 at this time I respectfully deny that motion.

11 Anything else, any other motions at this time?

12 MS. USRY: Nothing from the State, Your Honor.

13 THE COURT: Mr. Mauldin, have you talked with
14 Mr. Osborne about his Constitutional rights and his right
15 to testify, his right to remain silent?

16 MR. MAULDIN: Yes, Your Honor.

17 THE COURT: What have you decided on that?

18 MR. MAULDIN: He's decided he's not going to
19 testify.

20 THE COURT: Mr. Osborne, if you don't mind, let
21 me ask you some questions regarding that, sir.

22 THE DEFENDANT: Yes, sir.

23 THE COURT: Anytime anybody is charged with a
24 criminal offense they have a Constitutional right to
25 remain silent, but there's also a right to testify. You

1 have both of those rights. Do you understand?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: Now, if you were to testify, I would
4 tell you that obviously you would have to answer any
5 questions posed by your attorney, but then you'd also be
6 required to answer questions posed by the State. Do you
7 understand that?

8 THE DEFENDANT: Yes, sir.

9 THE COURT: I don't know whether or not you have
10 any criminal history which would be subject to
11 impeachment, but if you did, you understand that the
12 attorneys would have the right to ask you about those
13 items? I wouldn't allow them to go into any details, but
14 they would be able to ask whether or not you have been
15 convicted of certain offenses. Do you understand?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: Now, with regards to the right to
18 remain silent, that's a very important Constitutional
19 right that you have. I'm going to instruct the jury that
20 the State has the burden of proof and that you don't have
21 to prove anything. And if you exercise your
22 Constitutional right to remain silent, I will actually
23 instruct the jury in that fashion. I will tell them that
24 the State has the burden of proof and you don't have to
25 prove anything and the fact that you chose to exercise

1 your Constitutional right to remain silent cannot be
2 considered by them in any way in their deliberations. As
3 a matter of fact, I would take it a step further and I
4 would instruct them that the fact that you chose to remain
5 silent and exercise that right could not even be discussed
6 in the jury room. Do you understand?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: Okay. Now, anytime a person either
9 waives a Constitutional right or exercises a
10 Constitutional right, that has to be the decision of the
11 individual that has the right and your lawyer -- you have
12 an outstanding attorney in Mr. Mauldin.

13 THE DEFENDANT: Yes, sir.

14 THE COURT: And he's there for the purpose of
15 you asking him questions, asking his opinion, getting his
16 advice. We oftentimes will refer to lawyers as
17 counselors, people ask them for their counsel, and they
18 will give you their best counsel, but the bottom line is
19 this: Whether or not you testify has to be your decision,
20 can't be Mr. Mauldin's, can't be someone else. You
21 indicated you wish to exercise your right to remain silent
22 and has that been your decision, Mr. Osborne?

23 THE DEFENDANT: Yes, sir, it has.

24 THE COURT: Has anybody threatened you or
25 promised you anything or in any way forced you to make

1 that decision, sir?

2 THE DEFENDANT: No, Your Honor.

3 THE COURT: All right, sir. That's your
4 decision of your own free will?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: Thank you, sir. You may have a
7 seat.

8 Mr. Mauldin, do you have any other witnesses?

9 MR. MAULDIN: No, Your Honor.

10 THE COURT: All right.

11 MR. MAULDIN: At this time I'd renew my motion
12 for directed verdict.

13 THE COURT: Thank you, sir. And again, I'm
14 respectfully going to deny that. I think it's a jury
15 issue, I think it's a jury question, but I appreciate you
16 going ahead and taking care of that.

17 So that puts us at the point that when the jury
18 comes back out, I would for purposes of the record and
19 before the jury I would recognize the defense and then,
20 Mr. Mauldin, I will allow you to rest on the record before
21 the jury and then we'll move into closing arguments.

22 Let me just -- Lauryn has been working on a
23 charge and I'm going to give you a copy of this. Let me
24 run through and give you the areas that I've got here that
25 we have covered, then you can let me know if there is

1 anything beyond this that either side would want.

2 I have just an introductory paragraph, then I
3 talk about the presumption of innocence, I talk about the
4 standard being reasonable doubt and what that is, and then
5 the duties of the jury as the fact finders, then the judge
6 as the judge of the law. Then that the jury decides or
7 it's up to the jury to determine the credibility and
8 believability of witness that have testified during the
9 course of the trial. We did have an expert witness, I
10 have a charge on expert witness testimony. I have a
11 charge where Mr. Osborne has exercised his Constitutional
12 right to remain silent, I have a charge with regards to
13 that.

14 Now, let me -- on the assault and battery in the
15 first degree charge, the charge as I have it in my charge
16 book I think is redundant; I think it says the same thing
17 twice. You know, it basically states that a person who is
18 charged with the offense of assault and battery in the
19 first degree and states a person commits this offense if a
20 person unlawfully injures another person and the act
21 occurred during the commission of a robbery, burglary,
22 kidnapping, or theft. But then it goes further and it
23 says that a person may also commit the offense of assault
24 and battery in the first degree if the person unlawfully
25 offers or attempts to injure another person with the

1 present ability to do so and the act occurs during the
2 commission of a burglary.

3 I would propose to not -- I mean, this basically
4 is the intent portion of that statute. I just don't think
5 under our facts here that applies. If they don't find
6 that Mr. Osborne was involved, then they will find him not
7 guilty. ~~If they find he was involved, then it's not~~
8 attempt. Would you agree with that?

9 MS. USRY: Yes, sir, Your Honor.

10 THE COURT: Mr. Mauldin?

11 MR. MAULDIN: Yes, sir.

12 THE COURT: So the charge with regards to the
13 assault will simply be that where the person unlawfully
14 injures another person and the act occurred during the
15 commission of a robbery, burglary, kidnapping, theft.

16 Now, I have the common law robbery or strong arm
17 robbery charge which is my standard charge and I will give
18 it to you in just a moment. You can look at it and let me
19 know if there's anything that needs to be altered with
20 that.

21 Then, Ms. Usry, you indicated -- you passed up a
22 request for a charge on possession of recently stolen
23 property, that there is an inference there, not a
24 presumption but an inference, and I've charged that
25 language that you provided. It's not word for word what

1 you provided, but it's essentially the charge.

2 MS. USRY: Yes, sir, Your Honor.

3 THE COURT: I have all respect for Judge
4 Anderson, but sometimes I take his charges and take out
5 some of the wording.

6 Now, Mr. Mauldin, I'm just saying it's in here,
7 I'll let you all read it and then let you give your
8 thoughts on that in a minute. And I'm just letting you
9 know what the State has requested I put in here.

10 Then you requested a charge on the hand of one
11 being the hand of all and I have a charge that deals with
12 that as well.

13 ~~There's no charge of conspiracy here, is there?~~

14 MS. USRY: No, sir, Your Honor.

15 THE COURT: Anyway, that's essentially what I
16 have here as a draft. I'm going to tweak a little bit of
17 things on it, then I'm going to print it out for you and
18 let you all look it over, then we'll talk in a little more
19 detail once you have that. So while I'm doing this we'll
20 just remain at ease and start back in a little bit.

21 (A recess was taken.)

22 THE COURT: Have you got something, a case you
23 can show me? This is the charge right out of our charge
24 book.

25 MR. MCNAIR: I can go print this case.

1 THE COURT: Just give me the cite, I can look it
2 up.

3 MR. MCNAIR: It's Dukes v State. It's 149 SE2
4 598. That's just a case that Ferguson cites.

5 THE COURT: Looking at Dukes v State, it does
6 state that robbery is a larceny from the person or
7 immediate presence of another by violence or intimidation.

8 MR. MCNAIR: A lot of these cases I'm looking at
9 now, the cites are saying actual force and physical
10 violence, constructive force, includes all demonstrations
11 of force, but they do talk about violence.

12 THE COURT: And I think it covers -- I mean, I
13 know what you're saying, but rather than use the term
14 intimidation, which I don't mind using, it just says "must
15 have been done with violence or by putting the owner of
16 the property in fear of violence." And I can substitute
17 with violence or by intimidation.

18 MR. MCNAIR: Violence just seems like a hard
19 word to define to me. It just seems harder than force.

20 THE COURT: I think dragging somebody down the
21 street behind a car is violent. I know what you're
22 saying, I know exactly what you're saying, but, you know,
23 that's -- I mean, that's what the law says.

24 MR. MCNAIR: I agree, Judge. The only other
25 thing, Judge, under the assault and battery charge?

1 THE COURT: Yes, sir.

2 MR. MCNAIR: Page 8.

3 THE COURT: Now, I don't know if you heard me
4 when I told you, I took -- the only thing I've left in
5 here is the first paragraph.

6 MR. MCNAIR: So you're taking out the great body
7 injury?

8 THE COURT: All that other stuff is out.

9 MR. MCNAIR: Okay.

10 THE COURT: Yeah.

11 MR. MCNAIR: Thanks.

12 THE COURT: Do you agree with that, Mr. Mauldin,
13 the first paragraph of the assault and battery covers the
14 elements of that charge?

15 MR. MAULDIN: That's an either/or proposition
16 and that's the charge that they state in the indictment.

17 THE COURT: Yeah. And obviously, if we had a
18 different fact -- I think this fact scenario meets that
19 first paragraph that I've got in there and I think it does
20 provide for other fact scenarios that would make it a
21 first degree. But for purposes of this case, it's just
22 injures another and the act occurred during the commission
23 of a robbery, burglary, kidnapping, or theft.

24 MR. MCNAIR: Okay.

25 THE COURT: I meant to take that out before I

1 gave you all your copies, but it got left in, but I did
2 take it out of this one.

3 Is there anything else from the State on the
4 charge?

5 MR. MCNAIR: That's all we have, Your Honor.

6 THE COURT: All right. David, are you ready to
7 talk about it?

8 MR. MAULDIN: Kind of revisiting the common law
9 robbery but in a different way, I think that mentally or
10 being able to relay the concept of robbery a little better
11 than taking and carrying away the property must be done
12 with violence, is that first paragraph is kind of tied in.

13 THE COURT: What did you say?

14 MR. MAULDIN: Do you understand what I'm saying?
15 I mean, the language is there in its entirety.

16 THE COURT: Yes.

17 MR. MAULDIN: But the violence and/or the force
18 or intimidation, whatever you want to call it, it's tied
19 in with the proof of robbery and it just seems to flow
20 better.

21 THE COURT: I see what you're saying.

22 MR. MAULDIN: The first paragraph doesn't have
23 it in it at all. I mean, the language is there, but it
24 might --

25 THE COURT: I got you. And I think you're

1 right. This will basically -- then what I'm going to do
2 is make that last paragraph you're talking about, I'm
3 going to make it the second paragraph in this definition.

4 MR. MAULDIN: Like I said, the language is --
5 you've got it there.

6 THE COURT: It reads better.

7 MR. MAULDIN: It relates the concept better.

8 And on the possession of the recently stolen
9 property, I understand that's a proper charge, but I think
10 the jury would have to find beyond a reasonable doubt that
11 the Defendant in fact possessed the stolen property before
12 they can come to that -- have an inference.

13 THE COURT: Right. What's the evidence here in
14 this case, the use of the credit card?

15 MR. MCNAIR: Yes, Your Honor, and the fact -- I
16 guess the testimony about they had the purse and dumped
17 the items on Manor Drive.

18 THE COURT: Right, but then they wouldn't be in
19 possession.

20 MR. MCNAIR: Well, I guess there's testimony
21 they had possession of it, they dumped some items and then
22 retained the credit card and used that on two occasions.

23 MR. MAULDIN: It seems to me the State's case is
24 that he was there and participated in this, not that he
25 was somehow walking down the street later and had

1 something on him.

2 THE COURT: Well, let me tell you, this is my
3 understanding of the possession of recently stolen
4 property. If there's proof in a case that subsequent to a
5 robbery there's evidence that a defendant was in
6 possession of the property from that robbery, that's what
7 this is referring to. I mean, obviously if -- obviously,
8 there has to be a taking of property, so on the robbery
9 charge, you've got to have that -- I mean, the defendant
10 has to have been in possession of the property.

11 MR. MCNAIR: Right.

12 THE COURT: And I think this refers to any
13 evidence in the case that shows that subsequent to the
14 robbery there was evidence that he was in possession of
15 the property. For example -- well, using the credit card
16 in this case. That would be evidence of the defendant
17 being in possession of recently stolen property. So I
18 think it's an appropriate charge. But, David, what I
19 think you're asking is that that possession must be proven
20 beyond a reasonable doubt.

21 MR. MAULDIN: Yes.

22 THE COURT: And that absolutely makes sense. I
23 mean, if it's one of the elements, it's got to be proven
24 beyond a reasonable doubt. You can't consider -- let me
25 go back up here. You can't consider that inference unless

1 it's been proven that he was in possession of it.

2 MR. MCNAIR: Correct.

3 THE COURT: So I think that's reasonable.

4 What I've done there, David, is on page nine as
5 you get down near the end, there is a sentence that says,
6 "The defendant does not have to present any evidence
7 whatsoever explaining how he came into possession of this
8 recently stolen property. The State must prove the
9 possession beyond a reasonable doubt. The burden of proof
10 remains on the State to prove the defendant guilty beyond
11 a reasonable doubt."

12 MR. MAULDIN: That sounds fine.

13 THE COURT: Anything else?

14 MR. MAULDIN: I don't believe so.

15 THE COURT: All right. I'm going to send this
16 one to you, Hope.

17 THE CLERK: Yes.

18 THE COURT: And if you would print this one.

19 All right. If anyone wants to use the restroom
20 or get a drink of water or something before we get
21 started, go ahead and do that and then we'll bring the
22 jury out.

23 (Recess.)

24 (The jury came into open court at approximately

25 3:30 p.m.)

1 THE COURT: All right. Ladies and gentlemen,
2 thank you for your patience. I've taken up those matters
3 of law and at this time will recognize Mr. Mauldin.

4 MR. MAULDIN: Your Honor, the defense would
5 rest.

6 THE COURT: All right. Thank you, sir.

7 Folks, the way the procedure works is that at
8 the close of the State's case, I have to take up the
9 matters of law that I told you about, which we did. Once
10 we did that, Mr. Mauldin was kind enough to inform the
11 Court that the defense would be resting upon us
12 reconvening and then procedure would require for me to
13 send you back out so I could take up those matters of law
14 at the close of all the evidence, but it appears he was
15 kind enough to inform the Court that he would be resting
16 upon your return so we went ahead and did that while you
17 were out so you don't have go back out.

18 So having said that, we're now to the part of
19 this case where the attorneys are going to have an
20 opportunity to argue to you what they believe the evidence
21 in this case has shown.

22 What I told you about their opening statements,
23 in other words, that that is not evidence, that also
24 applies to their closing arguments. The evidence in this
25 case is closed. Okay? What they're going to share with

1 you -- again, they're not under oath, they're not
2 testifying, but it's their opportunity to argue to you
3 what they believe the evidence in this case has shown, so
4 it's important that you give them your close and undivided
5 attention as they do that. Once they have concluded their
6 closing arguments, I will then give you the charge on the
7 law and you will have the case for your consideration.

8 So if you'll please listen carefully as the
9 attorney address you with closing arguments.

10 Ms. Usry.

11 MS. USRY: Thank you, Your Honor. May it please
12 the Court.

13 THE COURT: Yes, ma'am.

14 MS. USRY: No good deed goes unpunished. No
15 good deed goes unpunished. June 12, 2012, Ms. Lang is
16 buying groceries, it's primary day in South Carolina and
17 she's planning to vote, she goes to the Food Lion in South
18 Congaree, she buys her groceries, she's putting her cart
19 up and she sees a truck, two young men in a truck, two
20 white young men. They motion her over to the truck and
21 they ask her directions. She helps them, she answers
22 their questions. She's got her purse on her arm, she's
23 just been by her nice car, and she's 74 years old. She is
24 an easy target.

25 No good deed goes unpunished. Ms. Lang is

1 trying to help them and they take advantage of her. They
2 knock her down by grabbing the purse and taking off with
3 it. Mr. Osborne's putting his foot on the gas pedal. She
4 is drug by the car, she falls to the ground, and she is
5 injured. She goes to the hospital, she has to go to
6 doctors' appointments, she has to use a walker, and she
7 has to live with the fact that someone when she was trying
8 to help them took advantage of her for the rest of her
9 life.

10 Now, ladies and gentlemen, the State has the
11 burden of proof, and we welcome that burden. The burden
12 is beyond a reasonable doubt. The burden is not absolute
13 certainty. We do not have that burden, we have beyond a
14 reasonable doubt. Because our supreme court recognizes
15 that there is nothing in life that we can prove with
16 absolute certainty.

17 Now, the Judge is the judge of the law and
18 you're the judge of the facts. And you've had one day, so
19 you can clearly remember everything that you've seen today
20 from this morning, but you get to judge all those
21 witnesses that we put on the stand. You get to judge
22 their credibility. You can believe all of what they say
23 or you can believe part of what they say. That's your
24 prerogative. The Judge is the judge of the law and the
25 judge deals with sentencing. That's not your prerogative.

1 Your prerogative is finding the truth, guilt or innocence.

2 Now, the charge in this case as you've heard,
3 strong arm robbery, the Judge is going to define them in
4 his charges at the end of the case to you. I'm going to
5 talk about them a little bit. If I say anything that
6 doesn't jibe with what the Judge says, you go with what he
7 says because he is the judge of the law.

8 Strong arm robbery is the use of force,
9 intimidation, or violence to take personal property from
10 the person of another. To reach out your window when
11 you're in a vehicle, a large truck, grab onto someone's
12 purse, person, their purse, and hit the gas. Force,
13 violence, taking of personal property, her purse with the
14 intent to carry away that property and deprive the owner
15 of that property, and they took that property.

16 The defendant's also charged with assault and
17 battery first degree and that's defined as when someone is
18 unlawfully injured during the course of a robbery or
19 theft. And the statute doesn't say the level of injury,
20 it says unlawfully injured. You'll have back in your jury
21 room all the evidence we entered into court today and
22 you'll have time to review it if you didn't get to while
23 you were sitting in here today. But look at these
24 pictures of Ms. Lang's injuries that she identifies, that
25 she has abrasions on her knees, a broken finger, abrasions

1 on her elbow. Ladies and gentlemen, this abrasion on her
2 elbow is enough, an injury, this is enough. But we have
3 more than that because she broke her finger and fractured
4 her pelvic bone. But this right here is enough. And pain
5 in her side from falling on the ground, hitting the
6 ground. During a theft or a robbery, taking of a purse, a
7 theft, that is elements for assault and battery first
8 degree.

9 Now, ladies and gentlemen, I don't have the
10 luxury of responding after Mr. Mauldin's arguments to you.
11 That's the way our rules of court work. I don't have the
12 luxury of knowing what he's going to say to you. But he's
13 a good lawyer, and he's going to attack Joshua Hilton, and
14 he's going to tell you that he is lying on the stand or
15 something to that effect, insinuating that he's lying on
16 the stand because he wants a deal.

17 Ladies and gentlemen, of course he wants a deal.
18 Of course he does. He has not been offered one, but of
19 course he wants that. Any human being in his position
20 would want that. That is human nature. But let me tell
21 you that based on his testimony on that stand, he is
22 telling the truth. He is implicating himself fully in a
23 strong arm robbery and assault and battery in the first
24 degree, fully. The same evidence in this case that we
25 presented today would be the evidence that we presented

1 against him at a trial. But he saw the light and he
2 admitted his guilt and he testified to that. He gave you
3 intimate details to the crime that someone else that was
4 not involved would not know. That can go to the
5 credibility of his testimony.

6 And what's more is that he knows the defendant.
7 And there is no evidence in the record of any ill will
8 between them. He has no motive to lie on his friend or
9 take him down with him. There is no motive for that. He
10 is telling the truth. He's known that guy, he's grown up
11 with him for years. He's not making this up. And once
12 more, he recently a few weeks ago gave the State a full
13 confession.

14 But way back in October of 2012, investigators
15 from the Richland County Sheriff's Office went and talked
16 to Josephine Hilton and she gave them the information that
17 she testified to on the stand. Way back in 2012, she gave
18 them that KC and Joshua were involved in a robbery. But
19 despite that, Joshua attempted to maintain his innocence
20 until a few weeks ago. He's not making this up; way back
21 in 2012, he told someone else he did it and then attempted
22 to give the State multiple different stories during the
23 last few years.

24 Ladies and gentlemen, Joshua Hilton's testimony
25 isn't the only evidence we have. We have Ms. Lang's

1 credit card statement and we have pictures, and you'll
2 have all this in your jury room. They're pictures of the
3 white truck that was used in the robbery at the
4 McDonald's. And we have pictures. And these are grainy
5 pictures. It's established through testimony that this is
6 a video of a video and a picture of that, so they're
7 grainy, but you have individuals, the same white truck at
8 the Marathon gas station, two individuals in the truck
9 that goes back to what witnesses at the scene said, two
10 white individuals involved in this crime in a white truck.
11 It's the same day that the credit card is stolen. There's
12 an inference. White truck, few hours earlier at the Food
13 Lion in South Congaree; white truck a few hours later used
14 with the credit cards. So you can look at these in your
15 jury room, and you'll have them. And then you have an
16 individual going into the gas station who Mr. Hilton
17 identifies as Mr. Osborne. And you heard from the Chief
18 that he viewed this video at the scene, at the gas station
19 and saw the same individual. That's another picture of
20 that.

21 And in addition to that information, you have
22 Ms. Lang's testimony and you have composite sketches that
23 were created six days after this happened. June 12, 2012
24 this happened; June 18, 2012, the composite sketches were
25 created. And you'll have these back in your jury room and

1 you determine if these are the likeness of the two
2 individuals of Mr. Hilton and Mr. Osborne. Because they
3 looked enough like them for when Joshua Hilton viewed them
4 online, he said "we're done," that's us, there's no way
5 around these.

6 And you heard from the expert witness, the
7 forensic sketch artist that these are not to be exact
8 replications, these are based on her memory. They're to
9 generate leads for law enforcement. Josh Hilton, Keith
10 Osborne.

11 On top of all that, ladies and gentlemen, Ms.
12 Lang said on stand that's the guy. I'm a hundred percent
13 certain. She remembers what happened to her. And I
14 submit to you she's relived it at night when she's trying
15 to go to sleep. Because this wasn't an instantaneous
16 thing for her. She's living with it every day.

17 Ladies and gentlemen, Ms. Lang should be able to
18 in Lexington County tell another person and give them
19 directions without fear of being assaulted and being
20 robbed. And I ask that you back in the jury room evaluate
21 the evidence before you, look at everything, review it,
22 because when you do, you will find that the defendant,
23 Keith Osborne, is guilty of assault and battery in the
24 first degree and strong arm robbery, and I ask at that
25 time that you bring back a guilty verdict on both counts.

1 Thank you.

2 THE COURT: Thank you, ma'am.

3 Mr. Mauldin.

4 MR. MAULDIN: The State wants to diminish or
5 lessen the importance of Mr. Hilton in this case, but
6 let's take a look at the time line. This incident
7 occurred June 2012, warrants were obtained a little later,
8 arrests were made in February of 2013 for Mr. Osborne, a
9 little later for Mr. Hilton. Three weeks ago Mr. Hilton
10 meets with the State and decides to break down and give a
11 confession. And here we are for trial three weeks later.
12 You think if they thought they had a case otherwise
13 besides Mr. Hilton that they wouldn't have tried it by now
14 if they're able to try it three weeks later after he meets
15 with them? They knew that these composite sketches and
16 these photos that they have were not proof at all. They
17 were waiting for something to happen, and that something
18 was Mr. Hilton.

19 Ms. Lang did identify Keith on the stand. She's
20 had that opportunity to view anybody from the robbery for
21 two years. They had an opportunity to give her a photo
22 lineup to make somebody more firmly convinced that she was
23 able to identify the person. But two years later pointing
24 out the only person sitting at the defense table that's
25 not a lawyer, that's a defendant, doesn't leave anybody

1 firmly convinced.

2 The sketch, it's kind of odd that it would be
3 his left side she saw if she was on the passenger side of
4 the car. And dealing with that, she would see the left
5 side of his face because the driver, you would you see the
6 right side of his face if she was on the passenger side of
7 the car. She couldn't remember what side of whoever's
8 face that she saw that day.

9 I mean, obviously, there's no other kind of
10 evidence like forensic evidence, so basically they're
11 dealing with Mr. Hilton on his wife. And what do we have
12 to determine Mr. Hilton's credibility? A 2003 burglary
13 second degree, 2005 receiving stolen goods, 2006 breach of
14 trust, 2007 resisting arrest, 2012 financial transaction
15 card fraud, and 2013 strong arm robbery.

16 He is not a credible individual. He's admitted
17 to you on the stand that he's a liar. He could have made
18 up everything that he said here today. You've only met
19 him and heard him talk for less than half an hour. And
20 during that half an hour he's admitted that he's scared of
21 looking at 25 years, he's admitted that he's written the
22 solicitor and said he'll gives them anything if he wants a
23 deal, and he's admitted that he's lied in the past about
24 saying that he didn't do it or giving an alibi with his
25 cousins. And the whole time that he's in the jail, he

1 told you that he's had the discovery, he's had all the
2 police reports and he's had all the information. So he's
3 read that they found property out on Manor Drive. He's
4 seen those pictures. Anybody that had any of those
5 reports could have seen that and made that up.

6 And if you don't think that if they think
7 Mr. Hilton did a good job they're going to go cozy up to
8 him and if or when he goes to court that they're going to
9 try to be nice-nice with him, you've got another think
10 coming. And that's what he really wants. He's not a
11 credible person, you can't judge his credibility.

12 When you're back in the jury room and you're
13 deliberating and filling out your ballots or however
14 you're going to do it, think about Mr. Hilton and his
15 wife, who also has some contraband charges pending, and
16 how trustworthy would they be. If you gave them money to
17 go get you food, would you trust them to bring you back
18 the right change? Would you trust them to even bring you
19 the food back? If you can't trust them to do that, then
20 how can you trust their word beyond a reasonable doubt
21 that Mr. Osborne's guilty of this crime? You can't.

22 Now, the Judge is going to charge you on
23 reasonable doubt. Basically it boils down to if you're
24 firmly convinced of the guilt, there's no real possibility
25 that the defendant is innocent. Well, I would say the

1 real possibility is there. I will tell you a little
2 story.

3 There's a family: Father, mother, son. They
4 live in a two-story house. It's getting towards the late
5 part of spring, starting to get a little warm, not warm
6 enough to cut the air on. They've left the windows open
7 and the wind's blowing real hard. The dad's listening to
8 Eric Clapton, Eric Clapton's Layla is playing throughout
9 the house, the mother's baking cookies. And the son is
10 there, too.

11 Now, the father and son have had some issues,
12 the son's not very well behaved, he has a lot of problems
13 with school, not well behaved. One particular thing the
14 father doesn't like is whenever he has to send the son to
15 his room, the son slams his door. That really gets his
16 goat.

17 During that day the wind's blowing, the music's
18 playing, the smell of cookies wafts through the house.
19 They ask the son to take out the trash and he refuses to
20 do that. The father gets angry and tells him go to your
21 room, so he goes upstairs and some time later you hear
22 "wham" and the father is angry because he knows that he's
23 told the son time and again not to do that. The father
24 goes up the steps and he gets to the son's room, he opens
25 the door, and he is raising his hand to hit him and he

1 feels a strong breeze through the window to the hallway
2 and decides there's a real possibility that the wind might
3 have blown that door shut, so he hesitates.

4 Ladies and gentlemen, the State hasn't put up
5 enough evidence for to you even raise your hand up, much
6 less to bring it down. There is a real possibility that
7 Mr. Osborne is not guilty of this crime. Mr. Hilton and
8 his wife are not credible. You should find Mr. Osborne
9 not guilty.

10 THE COURT: Thank you, Mr. Mauldin.

11 Folks, during the time that the lawyers have
12 been presenting the evidence to you it's been appropriate
13 for me to be up here on the bench and out of the way
14 because they're presenting to you the facts and the
15 evidence, and as I told you when we started, that's your
16 job. I'm not to have any influence over with you regards
17 to that.

18 But we've now reached the portion in this trial
19 where you and I are in this together, me as the judge of
20 the facts -- excuse me, as the judge of the law and you as
21 the judge of the facts. So I come down here with you to
22 give you the charge on the law. I'm going to read this
23 verbatim so that I don't misquote anything or leave
24 anything out.

25 Madame Forelady and members of the jury, you

1 have heard the evidence and arguments of both parties. I
2 will now explain to you the law which applies to this
3 action.

4 The indictments charge the defendant, Keith
5 Christopher Osborne, with the offenses of common law
6 robbery and assault and battery in the first degree. I
7 remind you that the fact that the defendant was arrested,
8 charged and indicted in this case, is not evidence and it
9 cannot be considered by you as evidence of guilt in this
10 case, nor does it create any presumption or inference of
11 guilt.

12 The indictments, as I said, are simply the
13 formal written instruments which contain the charges made
14 against the defendant. They are the formal documents by
15 which the case is brought into this court.

16 Now, I'm going to give you a copy of these
17 instructions to have with you in the jury room. During
18 deliberations, you may refer to these instructions to
19 guide you in your decision-making. However, you must
20 consider these instructions as a whole and not follow some
21 parts and ignore others.

22 Now, the defendant has pled not guilty to these
23 indictments and that plea puts the burden on the State to
24 prove the defendant guilty. A person charged with
25 committing a criminal offense in South Carolina is never

1 required to prove him or herself innocent.

2 I charge you that it is an important rule of law
3 that the defendant in a criminal trial, no matter what the
4 seriousness of the charge may be, will always be presumed
5 to be innocent of the crime for which the indictment was
6 issued unless guilt has been proven by evidence satisfying
7 you of that guilt beyond a reasonable doubt. This
8 presumption of innocence does not end when you begin your
9 deliberations, but it accompanies the defendant throughout
10 the trial until you reach a verdict of guilt based on
11 evidence satisfying you of that guilt beyond a reasonable
12 doubt.

13 The presumption of innocence is not a mere legal
14 theory, it's not just a legal phrase, but it is a
15 substantial right to which every defendant is entitled
16 unless you, the jury, are satisfied from the evidence of
17 the defendant's guilt beyond a reasonable doubt.

18 So what is a reasonable doubt in the law? Some
19 of you may have served as jurors in civil cases where you
20 were told that it's only necessary to prove that a fact is
21 more likely true than not true, such as by the greater
22 weight or the preponderance of the evidence. In criminal
23 cases, the State's proof must be more powerful than that,
24 it must be beyond a reasonable doubt.

25 Proof beyond a reasonable doubt is proof that

1 leaves you firmly convinced of the defendant's guilt.

2 Now, there are very few things in this world that we know
3 with absolute certainty, and in criminal cases the law
4 does not require proof that overcomes every possible
5 doubt. If, based on your consideration of the evidence,
6 you are firmly convinced that the defendant is guilty of
7 the crimes charged, you must find him guilty. If on the
8 other hand, you think there is a real possibility that the
9 defendant is not guilty, then you must give the defendant
10 the benefit of that doubt and find him not guilty.

11 I remind you that during this trial, you and I
12 have certain duties to perform. As the trial judge, it is
13 my responsibility to preside over the trial of this case,
14 and I also have the duty to rule on admissibility of the
15 evidence offered during the course of the trial. You are
16 to consider only the competent evidence that's before you.
17 You are to consider only the testimony which has been
18 presented from the witness stand and any exhibits which
19 have been made a part of the record in this case.

20 I have the additional duty to charge you the law
21 applicable to this case. As the presiding judge, I am the
22 sole judge of the law, and it is your duty as jurors to
23 accept and apply the law as I now state it to you. If you
24 already have any idea as to what the law is or what the
25 law ought to be and it does not agree with what I now tell

1 you the law is, you must abandon your idea because you are
2 sworn to accept the law and apply the law exactly as I
3 state it to you.

4 Now, in every case tried in this court before a
5 jury, the jury is the sole and exclusive judge of the
6 facts of a case. The trial judge cannot intimate, state,
7 comment on, or make any statement to a trial jury about
8 the facts of a case. Since you, the jury, are the sole
9 judge of the facts in this case, you are not to infer from
10 what I have said during the progress of this trial in
11 ruling upon the admissibility of evidence, or otherwise,
12 or anything that I say now during the course of this
13 instruction to you, that I have any opinion about the
14 facts of this case. The law does not allow me to have an
15 opinion about the facts, this is a matter solely for you,
16 the jury, to determine. As jurors, it is your duty to
17 determine the effect, value, weight and truth of the
18 evidence presented during the trial.

19 Now under our Constitution and Code of Laws,
20 only you, the jury, can make the findings of fact in this
21 case. To determine the facts in this case, you're going
22 to have to evaluate the credibility, or the believability,
23 of the witnesses. And credibility, ladies and gentlemen,
24 simply means that, believability. It becomes your duty as
25 jurors to analyze and to evaluate the evidence and to

1 determine which evidence convinces you of its truth.

2 I've already discussed with you at the beginning
3 of the trial some of the things you may consider as you
4 decide whether or not to believe a witness's testimony.

5 You can believe as much or as little of each
6 witness's testimony as you think is proper. You may
7 believe the testimony of a single witness against that of
8 many or just the opposite. You may believe a part of a
9 witness's testimony and disbelieve the rest. The mere
10 fact that a witness's testimony, even an expert witness's
11 testimony, is uncontradicted, does not render it
12 undisputed.

13 You, the jury, should assess the credibility of
14 each of the witnesses. You may consider whether any
15 witness has exhibited to you any interest, bias, prejudice
16 or other motive in this case. You may also consider the
17 appearance and manner of a witness while on the witness
18 stand. You do not determine the truth merely by counting
19 the number of witnesses presented. Throughout this
20 process, you have but one objective and that is to seek
21 the truth regardless of its source.

22 Now, the Rules of Evidence ordinarily do not
23 allow witnesses to testify to opinions or conclusions.
24 There is an exception to this rule which exists for
25 witnesses that we call expert witnesses, a witness who, by

1 education and experience, has become an expert in some
2 art, science, or profession may -- excuse me. All right.
3 A witness who, by education or experience, has become an
4 expert in some art, science, or profession, or calling may
5 state an opinion as to the relevant and the material
6 matter in which that witness claims to be an expert, and
7 may also state the reasons for that opinion.

8 You should give and consider any expert opinion
9 received in evidence and give it whatever weight you think
10 it deserves. An expert witness's testimony is to be given
11 no greater weight than that of any other witness simply
12 because the witness is an expert. Further, you're not
13 required to accept an expert's opinion, even though it's
14 not contradicted.

15 Now, I instruct you and I emphasize that the
16 fact that the defendant, Keith Christopher Osborne, did
17 not testify in this case is not a factor to be considered
18 by you in any way in your deliberations and in your
19 consideration on the question of guilt or innocence of Mr.
20 Osborne. It may not and must not be considered by you in
21 any manner whatsoever. A defendant has the Constitutional
22 right to remain silent, and the assertion of this right
23 must not be considered by you in your deliberations. I
24 repeat, under your oath, you are to draw no conclusions
25 whatsoever from the fact that Mr. Osborne did not testify.

1 The fact that Mr. Osborne did not testify should not even
2 be discussed in the jury room. The burden of proof, as I
3 have stated to you, is on the State. A defendant is not
4 required to prove his or her innocence. The burden of
5 proof remains on the State to prove guilt beyond a
6 reasonable doubt.

7 Now, in order to prove robbery, the State must
8 prove beyond a reasonable doubt that the defendant took
9 the personal property from the person or presence of
10 another person, without that present person's consent, and
11 carried it away.

12 The taking and the carrying away of the property
13 must have been done with violence or by putting the owner
14 of the property in fear of violence.

15 Property is in the presence of a person if it is
16 within the person's reach, inspection, observation, or
17 control, so that the person could, if not overcome with
18 violence or prevented by fear, retain possession of that
19 property.

20 The State must show that the defendant carried
21 the property away with the intent to permanently deprive
22 the owner of the property and to convert the property to
23 the defendant's own use. The slightest removal of the
24 property or the complete possession of the property, even
25 for an instant, by the defendant is sufficient to show

1 that a taking and carrying away of the property exists.

2 Now, Mr. Osborne is also charged with assault
3 and battery in the first degree. A person commits the
4 offense of assault and battery in the first degree if the
5 person unlawfully injures another person, and the act
6 occurred during the commission of a robbery, burglary,
7 kidnapping, or theft.

8 Now, if you -- if the defendant is in possession
9 of recently stolen property, there may be a permissive
10 inference of guilt from that possession. This permissive
11 inference is of an evidentiary nature. The permissive
12 inference only permits, rather than requires, you to infer
13 guilt. This inference is only an evidentiary fact to be
14 taken into account by you, along with all the other
15 evidence in this case, and is to be given such weight as
16 you deem proper.

17 Any inference of guilt from possession is only
18 permissive; that is, you are free to accept or reject that
19 inference regardless of whether the defendant presents any
20 evidence. The inference is merely one more fact for you
21 to consider. Hence, it may be accepted or rejected
22 without regard to whether the defendant presents any
23 evidence on this point. The defendant does not have to
24 present any evidence whatsoever explaining how he came
25 into possession of this recently stolen property. The

1 State must prove the possession beyond a reasonable doubt.
2 The burden of proof remains on the State to prove guilt
3 beyond a reasonable doubt.

4 Now, under South Carolina law, if a crime is
5 committed by two or more people, who are acting together
6 in committing the crime, the act of one is the act of all.
7 A person who joins with another to commit an unlawful act
8 is criminally responsible for everything done by the other
9 person which happens as a probable or natural consequence
10 of the acts done in carrying out the common plan and
11 purpose. For example, two people can be guilty of killing
12 another person when only one of the two had a gun, there
13 was only one bullet, and only one of the two fired the
14 shot that caused the death.

15 If two or more people are together, acting
16 together, assisting each other in committing an offense,
17 the act of one is the act of all, or, as it is sometimes
18 said, the hand of one is the hand of all. The State must
19 prove beyond a reasonable doubt by competent evidence the
20 theory of the hand of one is the hand of all.

21 A principal in a crime is one who either
22 actually commits the crime or who is present aiding,
23 abetting, or assisting in committing of the crime. When a
24 person does an act in the presence and with the assistance
25 of another, the act is done by both.

1 Present at the commission of a crime means to be
2 sufficiently near to aid and to abet and to assist in the
3 commission of the crime. However, mere presence at the
4 scene of a crime is not sufficient to convict someone as a
5 principal on the theory of aiding and abetting. Intent is
6 also a necessary element, for there must have been a
7 common design or intent to commit a crime and a crime must
8 have been committed pursuant thereto with the person
9 aiding and abetting by some overt act. Intent means
10 intending the result which actually occurs; not
11 accidentally or involuntary, intent maybe shown by acts in
12 and conduct of the defendant and other circumstances from
13 which you may naturally and reasonably infer intent. The
14 State must prove these elements beyond a reasonable doubt.

15 Now, Madame Forelady and ladies and gentlemen of
16 jury, as you retire to begin your deliberations, I want to
17 express to you the hope that each of you will be mindful
18 of the importance of your responsibility. You're not
19 called to serve as jurors very often, and the proper
20 performance of the duty requires each of you to reach the
21 height of freeing your minds of all improper influences.

22 As the presiding officer of this court, I'm
23 vitally concerned that whatever verdict you find will be
24 the result of your going into the jury room, confining
25 your considerations to the evidence and to the law that

1 you have heard in this courtroom, weighing it fairly and
2 impartially, as I have every confidence you will do.

3 Your verdict in this case cannot be based on
4 sympathy, compassion, prejudice, or emotion or some other
5 consideration that's not found in the evidence. Remember
6 that your verdict must be unanimous.

7 Now, Mrs. Oconnor, the notebook, which will be
8 in the jury room with you, in the front cover will have
9 the verdict form. And the verdict form is simple. The
10 top of it is simply the caption of the case, and you will
11 reflect whatever the verdict is of the jury in each one of
12 these. It has each charge listed, and whatever order you
13 want to consider them, you'll then write that in. With
14 regards to common law robbery as well as the assault and
15 battery in the first degree, on each of those you'll have
16 one of two options: Either guilty or not guilty. And
17 you'll reflect that on the sentencing sheet, whatever
18 verdict the jury reaches.

19 Once you've reached a unanimous verdict on both
20 charges, you'll then sign as the forelady and then knock
21 on the door and let the bailiffs know that you have a
22 verdict.

23 Now, folks, I'm going to get you to step into
24 the jury room, but before you begin deliberations, I want
25 you to hold off on starting. I'm going to very briefly

1 discuss with the attorneys if there's anything I need to
2 amend, change, or add to the instructions. If there is, I
3 will bring you out and do that. But if the instructions
4 are fine as given, I will then collect all these exhibits
5 and this notebook. When you receive those, that's your
6 cue to begin your deliberations. Okay?

7 So if you will return to your jury room and
8 await these items, please.

9 (The jury left open court at approximately 4:11
10 p.m.) 4:11 p.m.

11 THE COURT: All right. Are there any objections
12 or exceptions from the State regarding the charge?

13 MS. USRY: No, sir, Your Honor.

14 THE COURT: Anything from the defense?

15 MR. MAULDIN: No, Your Honor.

16 THE COURT: Folks, if you all will get with
17 Carol and go over the exhibits to make sure that
18 everything that's supposed to be there is there and that
19 if there's anything that wasn't moved into evidence,
20 that's not in there.

21 (The alternate juror was excused at 4:14 p.m.)

22 (WHEREUPON, the jury began deliberations at
23 approximately 4:14 p.m.)

24 THE COURT: We'll be at ease while the juror is
25 deliberating.

1 (A recess was taken.)

2 (The jury came into open court at approximately
3 5:18 p.m.)

4 THE COURT: Folks, let me apologize.

5 First, Madame Forelady, it's my understanding
6 that the jury has reached a verdict?

7 THE FORELADY: Yes, sir.

8 THE COURT: Let me apologize to you. It's my
9 fault that you all have been sitting back there. Someone
10 apparently -- I have been working on these matters I have
11 tomorrow morning and apparently they told me that you all
12 had a verdict and I didn't get it, so I'm just sitting up
13 here working and finally Hope, I think, said, Judge, you
14 know the jury has a verdict, right? I had no idea. But I
15 was told, it's my fault, so I apologize.

16 If you'd please pass that up.

17 THE FORELADY: Okay.

18 THE COURT: Thank you.

19 All right. Madame Clerk, if you'd publish the
20 jury's verdict, please.

21 (Whereupon the verdict of the jury is published
22 as follows:)

23 VERDICT

24 THE CLERK: Indictment 2013-GS-32-01289 and
25 1290, the State of South Carolina versus Keith Christopher

1 Osborne: As to Indictment 2013-GS-32-01289, common law
2 robbery, We, the jury, find the defendant, Keith
3 Christopher Osborne, guilty of common law robbery.

4 Indictment 2013-GP-32-01290, charged assault and
5 battery in the first degree, We, the jury, find the
6 defendant, Keith Christopher Osborne, guilty of assault
7 and battery in the first degree.

8 And it is so signed by the Forelady dated
9 October 9th.

10 Madame Forelady, ladies and gentlemen of the
11 jury, if this is your verdicts, please indicate each of
12 you by raising your right hand.

13 All hands raised, Your Honor.

14 THE COURT: Thank you.

15 Any request for polling?

16 MS. USRY: Nothing from the State, Your Honor.

17 MR. MAULDIN: No, Your Honor.

18 THE COURT: All right. Ladies and gentlemen, I
19 want to thank you for your service this week. And again,
20 I apologize to you for any delays I may have caused.

21 You have reached now the end of our trial and
22 I'm going to release you in just a moment, and when I do,
23 you're free to talk about the case with anyone you would
24 like to talk with. However, you also do not have to talk
25 about it. So if anyone does wish to talk to you or ask

1 you about anything, you either can talk with them or not
2 talk with them, it's your prerogative. Okay? You can
3 share anything you wish to share with your family, friends
4 and loved ones because you have concluded your service.

5 It also concludes your service for this week.
6 If you'll turn your buttons back into the bailiff as you
7 leave.

8 And I want to thank you for your service this
9 week. Jury service is, and I said it earlier on Monday,
10 it's not convenient for anyone, but it's just so necessary
11 and it is the lifeblood of our system of justice in this
12 country and it just doesn't work without people like
13 yourselves willing to give up your time and I'm going to
14 say for no pay, because you're going to get a little bit
15 of money for your week here, but it's certainly no
16 reflection of the value of your time. But I do thank you
17 again for your service, and as you leave out of here, put
18 those buttons in the bucket there.

19 Now, I tell folks this all the time, they have
20 concluded their jury service. I usually will excuse the
21 members of the panel. You have done all the work on this
22 case. If you have any thoughts or desires to remain for
23 any sentencing that we're going to do in a moment, you're
24 welcome to stay for that. That's up to you, but you are
25 free to go. So it's up to you whether you would like to

1 stay or leave. Okay?

2 So if everyone else will remain seated, ladies
3 and gentlemen. We'll need you to sign the indictment,
4 Madame Forelady.

5 (The jury was excused from open court at
6 approximately 5:26 p.m.)

7 THE COURT: All right. At this time I will take
8 up any motions at the reading of the verdict.

9 MS. USRY: Nothing from the State, Your Honor.

10 MR. MAULDIN: Thank you, Your Honor. At this
11 time on behalf Mr. Osborne I would ask for a new trial and
12 base that on all my prior motions and objections, and that
13 a reasonable jury could not have come to a verdict of
14 guilty beyond a reasonable doubt.

15 THE COURT: All right. Thank you, Mr. Mauldin.

16 I'm going to respectfully deny that motion. I
17 said earlier I think it was a jury issue. I think there
18 was evidence whereby a jury could find and I think the
19 jury has spoken and I don't see anything in the record
20 that warrant overturning that.

21 You have sentencing sheets?

22 MS. USRY: Yes, sir, Your Honor.

23 THE COURT: Thank you, ma'am.

24 Now, I will be happy to hear from the State with
25 regards to sentencing.

1 MS. USRY: Yes, sir, Your Honor.

2 Your Honor has some idea of this, but this
3 strong arm robbery that happened on June 12, 2012, was not
4 the only robbery that these two were involved in, that
5 Hilton and Osborne were involved in on June 12th, 2012.
6 Hours before this there was an armed robbery at a Papa
7 John's in Richland County. Both individuals were involved
8 in that armed robbery. This is a day of a crime spree
9 essentially, Your Honor. They did an armed robbery. And
10 while Mr. Osborne has not pled to that charge in Richland
11 County, Mr. Hilton has pled to that charge in Richland
12 County, and in the preparations for this case he's
13 discussed that charge with us and gave us information
14 about that case as well in regards to additional -- well,
15 not even additional information, but just discussed that
16 case.

17 They then went to South Congaree, targeted an
18 elderly lady, took her purse as you heard from the
19 testimony, and then used her credit cards that day and
20 then tried to hide the fact by getting rid of the truck
21 they used during that crime.

22 He does have a prior record and at this time I
23 would like to put it on the record, Your Honor.

24 THE COURT: Yes, ma'am.

25 MS. USRY: Mr. Osborne has a 1999 possession of

1 drug paraphernalia, a 2004 possession of cocaine. In
2 2005, he has a common law strong arm robbery charge, Your
3 Honor. He received six years suspended to time served and
4 three years probation on that charge. In 2007, he has an
5 attempted possession of controlled substance. Excuse me,
6 that conviction was actually 2009. In 2014, there's a
7 shoplifting charge. I'm just making sure I don't repeat.
8 And I believe that is the extent.

9 He still has that pending armed robbery out of
10 Richland County involving the Papa John's on June 12,
11 2012, that has not been resolved.

12 This trial will resolve all pending cases in
13 Lexington County.

14 THE COURT: All right. Thank you very much, Ms.
15 Usry.

16 Mr. Mauldin, I'll be happy to hear from you and
17 although he's not required to, if Mr. Osborne would like
18 to address the Court, I'll hear from him or anyone on his
19 behalf.

20 MR. MAULDIN: Thank you, Your Honor.

21 (Pause.)

22 MR. MAULDIN: Your Honor, I have advised Mr.
23 Osborne not to make any statements at this point in time.

24 THE COURT: All right.

25 MR. MAULDIN: Thank you, Your Honor. He's 35

1 years old. He's from the Sumter area. He did graduate
2 high school. He went to the Citadel for two years. He
3 ended up having a child, and then due to that
4 responsibility he had to leave his education.

5 He has three children: One who is 13, one who
6 is seven, and one who's four. The seven- and
7 four-year-old are with an ex-wife of his, they're
8 divorced, and the 13-year-old is from a prior
9 relationship.

10 In the courtroom today with him is his
11 grandmother Shirley Roberson, his girlfriend Brooke
12 Winkler, and his cousin Teresa. He has had family support
13 during this.

14 He was in jail for 212 days prior to posting
15 bond, and I spoke a lot with his grandmother during that
16 period of time.

17 He is employed, Your Honor. He works for
18 Flowers Painting. He had worked for that company for
19 quite a period of time before his arrest and then after he
20 was released from jail on these charges. He's been a
21 jack-of-all-trades but mostly done painting work, Your
22 Honor.

23 The Solicitor -- he's been out since 2013, Your
24 Honor.

25 The Solicitor mentioned the matters pending in

1 Richland County. We hope Your Honor will not consider
2 that since it has not resulted in a conviction at this
3 point in time and we would hope that you would not
4 consider that.

5 He does have a little bit of a prior record,
6 Your Honor, but we would hope that you would extend to Mr.
7 Osborne whatever leniency that Your Honor could see fit.

8 THE COURT: Thank you very, Mr. Mauldin.

9 Is there anyone else that wants to speak on his
10 behalf?

11 MS. ROBERSON: Yes, I'd like to say -- I'm his
12 grandmother.

13 THE COURT: Yes, ma'am. Let me just, if I may,
14 I just need your name for the record.

15 MS. ROBERSON: Shirley Roberson.

16 THE COURT: All right. Thank you. I'm sorry.
17 Go ahead.

18 MS. ROBERSON: That's okay.

19 Okay. That's my grandson.

20 THE COURT: Yes, ma'am.

21 MS. ROBERSON: And he wouldn't -- he loves his
22 mama, he wouldn't never hurt her. I don't know how y'all
23 can say -- it wasn't him. I know he wouldn't talk for
24 himself, but he would never do anything to her or anybody.
25 And I just can't understand how these people could listen

1 to him when there's really no proof that he was with him
2 and everything that was said here today was they saw
3 things, and he didn't do it. I don't know. I still have
4 to say what I have to say. I'm his grandmother.

5 THE COURT: Well, ma'am, here's the thing. And
6 I appreciate that very much, and I will hear from you, but
7 even as his grandmother, I think you need to look honestly
8 at your grandson. Now, for you to sit here and say he
9 would never hurt anybody, he has a prior conviction for
10 this very crime. He has hurt someone in the past. He's
11 been convicted of strong arm robbery in the past.

12 MS. ROBERSON: I know. I know.

13 THE COURT: So apparently he will hurt people.

14 MS. ROBERSON: That's what y'all's opinion is.
15 I have my own.

16 THE COURT: Sure. Yes, ma'am, and you're
17 certainly entitled to that. But I absolutely understand
18 and I hope my grandmother would come to my defense as
19 well. So I certainly understand and receive that. Fine.

20 All right. Ms. Lang, I'm very sorry for what
21 you had to go through, and for that experience, but I
22 appreciate your seeing this through and doing the right
23 thing. And I know she was here earlier, but I don't see
24 her now, the young lady that came back from North
25 Carolina.

1 MS. USRY: Your Honor, she had to drive back to
2 North Carolina tonight, so she hit the road.

3 THE COURT: I would like to have thanked her for
4 her being such a good citizen to come with no benefit to
5 her, but to come and to be supportive and tell what she
6 saw.

7 MS. USRY: Yes, sir. We'll relay that to her,
8 Your Honor.

9 THE COURT: But -- and I appreciate -- I mean, I
10 don't say this -- I hope this isn't -- I don't say this to
11 be critical, it was appropriate, Ms. Usry, for you to
12 bring to the Court's attention the current situation, the
13 prior unresolved charges in Richland and everything, but
14 just so you'll understand, Mr. Mauldin, I agree with you,
15 I'm not going to consider that because it's an unresolved
16 case and it doesn't bear any reflection on this unless
17 somebody is adjudicated guilty. But I am going to
18 consider the prior record, which I don't think is minor
19 and it causes me some concern that this is a course of
20 conduct when you start and involving drugs and stealing.
21 And there is no allegation of drugs in this case other
22 than the history of the drug convictions that are present.
23 But on Indictment 2013-GS-32-1289, the sentence
24 of the Court is that you be committed to the State
25 Department of Corrections for a period of 15 years.

1 On 2013-GS-32-1290, the sentence of the Court is
2 that you be committed to the State Department of
3 Corrections for a period of ten years.

4 Those sentences are to run concurrent with each
5 other and you're to be given credit for the 212 days that
6 you have served.

7 Good luck to you, sir.

8 (The proceedings were concluded.)

9 *** END OF REQUESTED TRANSCRIPT OF RECORD ***
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CERTIFICATE OF REPORTER

STATE OF SOUTH CAROLINA)
)
COUNTY OF LEXINGTON)

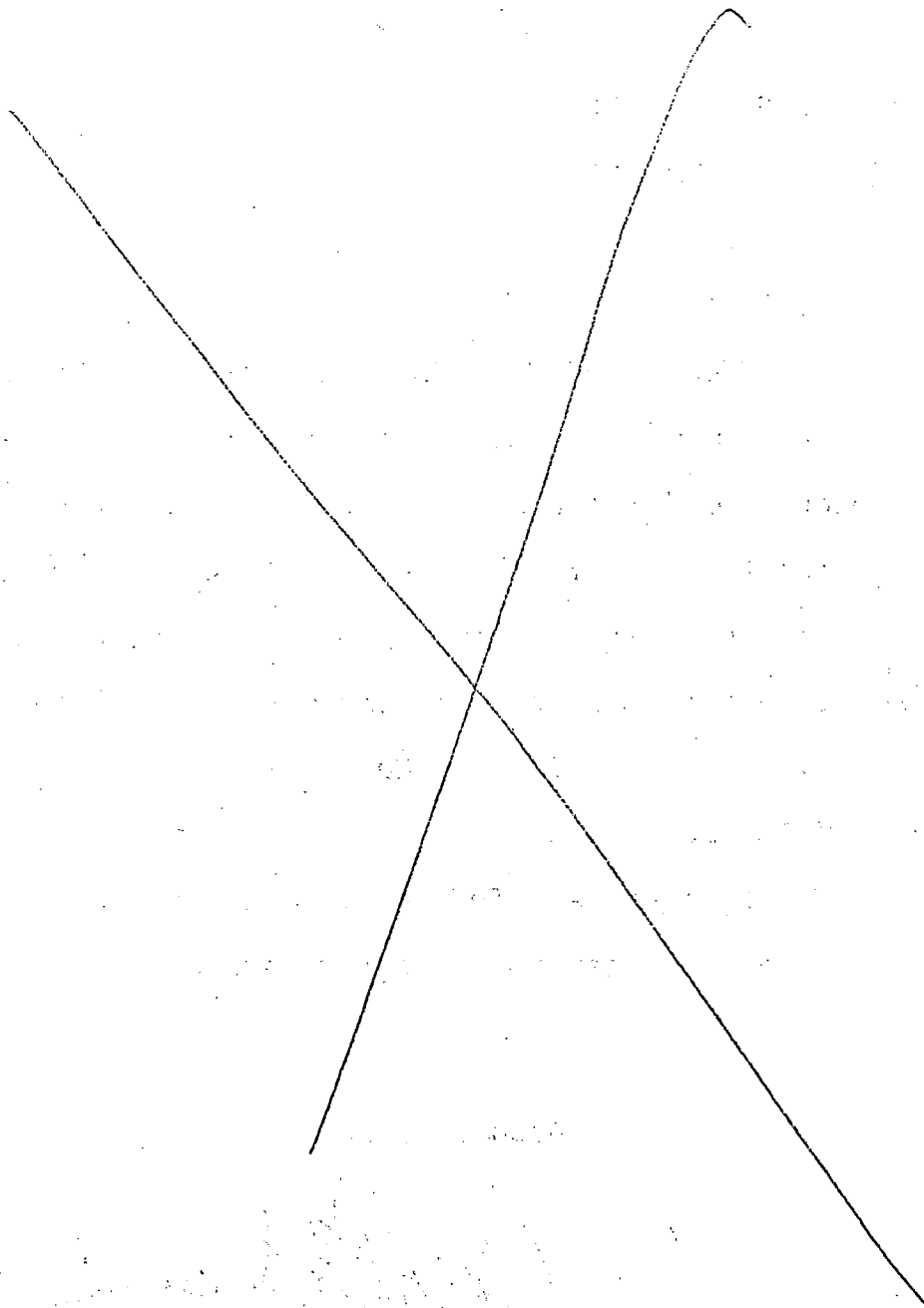
I, CAROL M. THUEME, RPR, Official Court Reporter for the 11th Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Court of General Sessions for Lexington County, South Carolina, on the 8th and 9th days of October, 2014.

I do further certify that I am neither of kin, counsel nor interest to any party hereto.

August 1, 2015

A handwritten signature in cursive script, reading "Carol M. Thueme", is written over a horizontal line.

CAROL M. THUEME, RPR
Circuit Court Reporter



WITNESSES

South Congaree Police Department

Josh D. Shumpert

Law Enforcement Case #: 126028

KWJ

ARREST WARRANT NUMBER

2012A3220800057

ACTION OF GRAND JURY

TRUE BILL

Ron Brasington
Foreperson of Grand Jury

Date: 5-6-13

VERDICT

Guilty

Carol W. O'Connor
Foreperson of Petit Jury

Date: 10-9-14

DOCKET NO. 2013-GS-32-01289

The State of South Carolina

County of Lexington

COURT OF GENERAL SESSIONS

MAY TERM 2013

THE STATE

vs.

Keith Christopher Osborne

CDR #: 0137

Indictment for

Strong Armed Robbery

§ 16-11-0325

DONALD V. MYERS, SOLICITOR

A TRUE COPY

[Signature]
Lex. Co. C.C.P., C.S., & F.C.

000222

0321040
STATE OF SOUTH CAROLINA)
COUNTY OF LEXINGTON)

INDICTMENT FOR
Strong Armed Robbery

§ 16-11-0325

At a Court of General Sessions, convened on May 2013, the Grand Jurors of Lexington County present upon their oath:

That **Keith Christopher Osborne** did in Lexington County, South Carolina on or about June 12, 2012, knowingly and willfully by means of force, intimidation, violence or by threat of force, intimidation, violence, by actions or words, feloniously take and carry away from the person or presence of Helen Lang personal property described as follows: her purse and its contents with intent to deprive the owner of such property, in violation of the Common Laws of the State of South Carolina and punished under section 16-11-325 of the Code of Laws for the State 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 Lexington
 STATE VS.
Keith Christopher Osborne

AKA:

Race: White Sex: M Age: 35DOB: [REDACTED] SS#: [REDACTED]Address: 40 Glen Abbey CtCity, State, Zip: Sumter, SC 29150-7048DL#: 007439486 SID#: [REDACTED]*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was
 TO: Strong arm robbery

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2013GS3201289A/W#: 2012A3220800057Date of Offense: 6/12/2012S.C. Code § : 16-11-0325CDR Code #: 0137

SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADSin violation of § 16-11-0325 of the S.C. Code of Laws, bearing CDR Code # 0137

☐ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC ☐ §17-25-45
 w/minor 1st or Lewd Act)

The 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:

[Signature] Solicitor SC Bar# 76118 Defendant Attorney for Defendant SC Bar# [REDACTED]

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
 for a determinate term of 15 days/months/years or ☐ under the Youthful Offender Act not to exceed years
 and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment
 of \$; plus costs and assessments as applicable*; the balance is suspended with probation for

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of
 probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: 2013-GS-32-1289

☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and RECEIVED
 by the State Department of Corrections. Credit for 202 days

☐ 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:

SC Court of Appeal

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ OrderedTotal: \$ plus 20% fee: \$ Payment Terms: ☐ Set by SCDPPPS Recipient:

*Fine:

§ 14-1-206 (Assessments 107.5%)		\$
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$100.00
§ 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	\$25.00
§ 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 (SCCJA Surcharge)	\$5	\$5.00
3% to County (if paid in installments)		\$
TOTAL		\$130.00

Clerk of Court/ Deputy Clerk [Signature]Court Reporter: [Signature]

SCCA/217 (03/2011)

 days/hours Public Service EmploymentObtain GED ☐Attend Voc. Rehab. or Job Corp. May serve W/E beginning Substance Abuse Counseling Random Drug/Alcohol testing

Fine may be pd. in equal, consecutive weekly/monthly
 pmts. of \$ Lex. Co. beginning: G.S. & P.O.

\$ paid to Public Defender FundOther:

☐ Appointed PD or appointed other counsel,
 § 47.12 requires \$500 be paid to Clerk
 during probation.

Presiding Judge [Signature]Judge Code: 2141Sentence Date: 10-9-2014

WITNESSES

South Congaree Police Department

Josh D. Shumpert

Law Enforcement Case #: 126028

KWU

ARREST WARRANT NUMBER

2012A3220800058

ACTION OF GRAND JURY

TRUE BILL

Ron Bessington

Foreperson of Grand Jury

Date: 5-6-13

VERDICT

Guilty

Carol W. O'Connor

Foreperson of Petit Jury

Date: 10-9-14

DOCKET NO. 2013-GS-32-01290

The State of South Carolina

County of Lexington

COURT OF GENERAL SESSIONS

MAY TERM 2013

THE STATE

vs.

Keith Christopher Osborne

CDR #: 3412

Indictment for

Assault and Battery 1st Degree

§ 16-03-0600(C)(1)

DONALD V. MYERS, SOLICITOR

A TRUE COPY
RCJ
Lex. Co. C.C.C.P., G.S. & F.C.

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050720

STATE OF SOUTH CAROLINA)
)
COUNTY OF LEXINGTON)
)

INDICTMENT FOR
Assault and Battery 1st Degree
§ 16-03-0600(C)(1)

At a Court of General Sessions, convened on May 2013, the Grand Jurors of Lexington County present upon their oath:

That Keith Christopher Osborne did in Lexington County, South Carolina, on or about June 12, 2012, unlawfully injure another person, which occurred during the commission of a robbery, burglary, or theft, to wit: dragging Helen Lang along a moving vehicle while stealing her purse causing injury, in violation of §16-03-600(C) of the South Carolina Code of Laws of 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 Lexington
 STATE VS.
Keith Christopher Osborne

AKA:

Race: White Sex: M Age: 35DOB: [REDACTED] SS#: [REDACTED]Address: 40 Glen Abbey CtCity, State, Zip: Sumter, SC 29150-7048DL#: 007439486 SID#: [REDACTED]*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the said indictment comes now the Defendant who was
 TO: Assault 1st degree

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2013GS3201290A/W#: 2012A3220800058Date of Offense: 6/12/2012S.C. Code § : 16-03-0600(C)(1)CDR Code #: 3412

SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADSin violation of § 16-03-0600(C)(1) of the S.C. Code of Laws, bearing CDR Code # 3412☒ 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:

[Signature] Solicitor 7/11/13 SC Bar# [REDACTED] Defendant [REDACTED] Attorney for Defendant [REDACTED] SC Bar# [REDACTED]

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,

for a determinate term of 10 days/months/years or ☐ under the Youthful Offender Act not to exceed years
 and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment
 of \$; plus costs and assessments as applicable*; the balance is suspended with probation for

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: 2013-GS-32-1289
☒ 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. Credit for 212 days

☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 26-29-20
 Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUPTotal: \$ plus 20% fee: \$ Payment Terms: ☐ Set by SCDPPPS Recipient:

*Fine:

§ 14-1-206 (Assessments 107.5 %)	\$	\$
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$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	\$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 (SCCJA Surcharge)	\$5	\$5
3% to County (if paid in installments)	\$	\$
TOTAL	\$130	\$130

Clerk of Court/ Deputy Clerk: [Signature]Court Reporter: [Signature]

SCCA/217 (03/2011)

days/hours Public Safety SC Court of AppealsObtain GED ☐Attend Voc. Rehab. or Job Corp. ☐May serve V.E. beginning Substance Abuse Counseling ☐Random Drug/Alcohol Testing ☐Fine may be pd. in equal consecutive weekly/monthly pmts. of \$ beginning \$ paid to Public Defender FundOther:

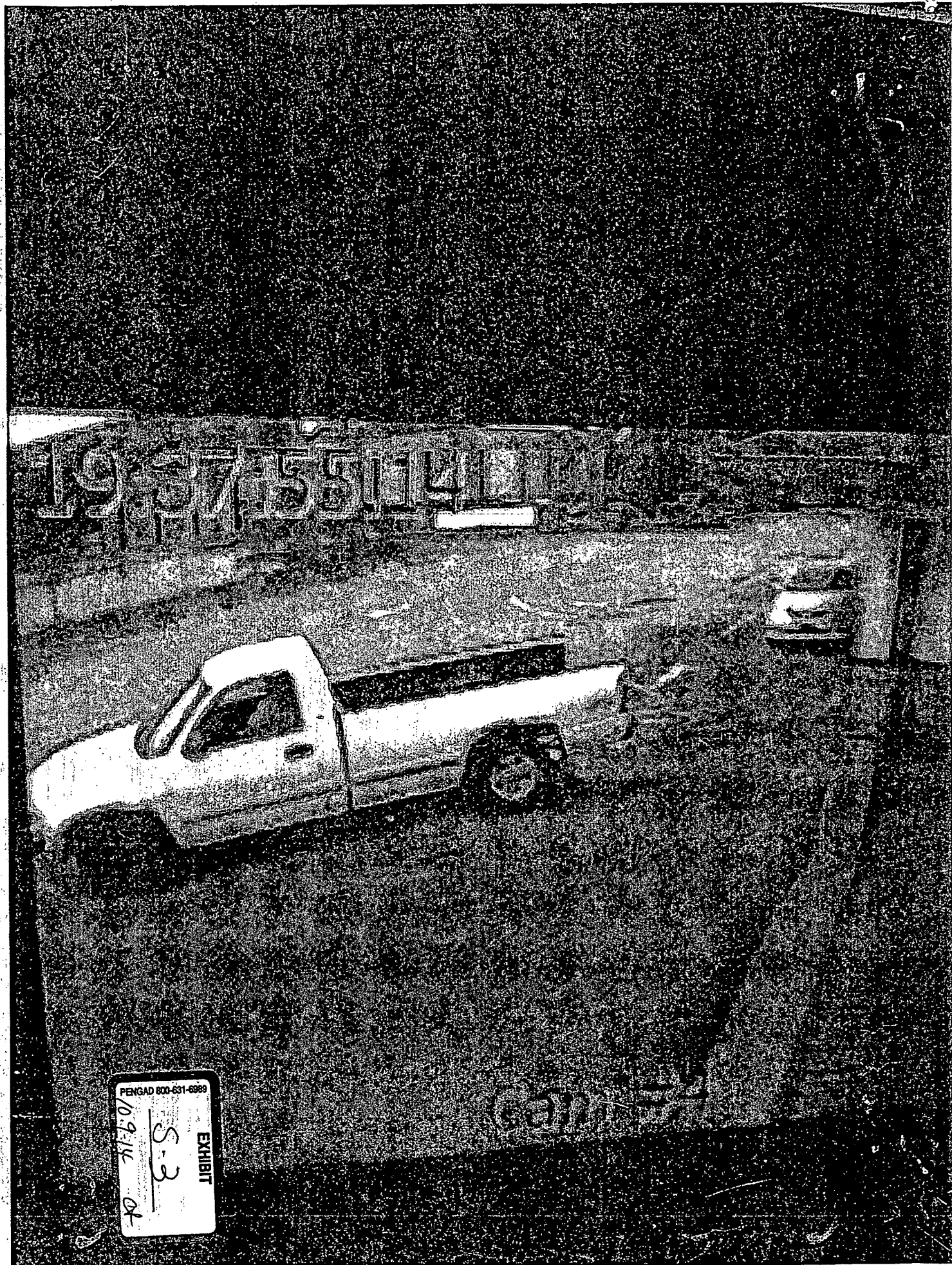
☐ Appointed PD or appointed other counsel,
 § 47.12 requires \$500 be paid to Clerk during probation.

Presiding Judge [Signature]Judge Code: 2141Sentence Date: 10-9-2014

OCT 16 2014

SC Court of Appeals

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PENGAD 800-631-6989
10-9-14
S-3
EXHIBIT
at

000229



AT&T Universal Platinum Card

Member

Minimum Payment Due: **20.00**
New Balance: **\$213.42**

Payment Due Date:
7/15/2012

late Payment Warning: If we do not receive your minimum payment by the date listed above, you may have to pay a late fee of up to \$35 and your APRs may increase up to the variable Penalty APR of 29.99%.

* Information about credit counseling services, call 1-877-337-8187.

NNNN-NNNN-NNNN-NNNY

220121710023630001

How to Reach Us
1-800-423-4343

Customer Service
PO BOX 6500
SIOUX FALLS, SD 57117-6500

www.universalcard.com

Account Member Member Since 1996
HELEN B LANG



citi

Account Activity
May 19-Jun 19, 2012

Summary of Account Activity

Previous Balance	\$0.00
Payments	-\$0.00
Other Credits	-\$0.00
Purchases	+\$213.42
Cash Advances	+\$0.00
Fees Charged	+\$0.00
Interest Charged	+\$0.00
New Balance	\$213.42
Past Due Amount	\$0.00
Amt. Over Credit Limit	\$0.00
Credit Limit	\$4,100
Available Credit	\$3,886
Cash Advance Limit	\$2,000
Available Cash Limit	\$2,000
Statement Closing Date	06/19/2012
Days in Billing Cycle	32

Extra Cash from Citi

extracash.universalcard.com

Extra Cash from Citi Member ID 0649-34644721
Extra Cash transferred to your Extra Cash from Citi Account: **21.34**

Full details can be found in the Extra Cash from Citi Summary section of this statement.

Standard Purchases

Post	Description	Amount
06/12	MCDONALD'S F6962 COLUMBIA SC	14.22
06/12	MCDONALD'S F6962 COLUMBIA SC	33.95
06/12	MARATHON PETRO 127829 COLUMBIA SC	65.25
06/12	MARATHON PETRO 127829 COLUMBIA SC	100.00

Fees

Post	Description	Amount
	TOTAL FEES FOR THIS PERIOD	0.00

Interest Charged

Post	Description	Amount
	TOTAL INTEREST FOR THIS PERIOD	0.00

2012 Totals Year-to-Date

Total Fees charged in 2012	\$0.00
Total Interest charged in 2012	\$0.00

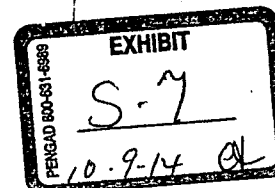
Card Facts

Your AT&T Universal Card offers outstanding value and exceptional benefits, including:

- \$0 Liability on unauthorized purchases
- Citi Identity Theft Solutions
- Fraud Early Warning
- Online services—manage your account, pay your bill, set alerts and more
- Worldwide acceptance and cash access

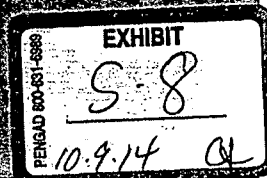
Learn more at universalcard.com

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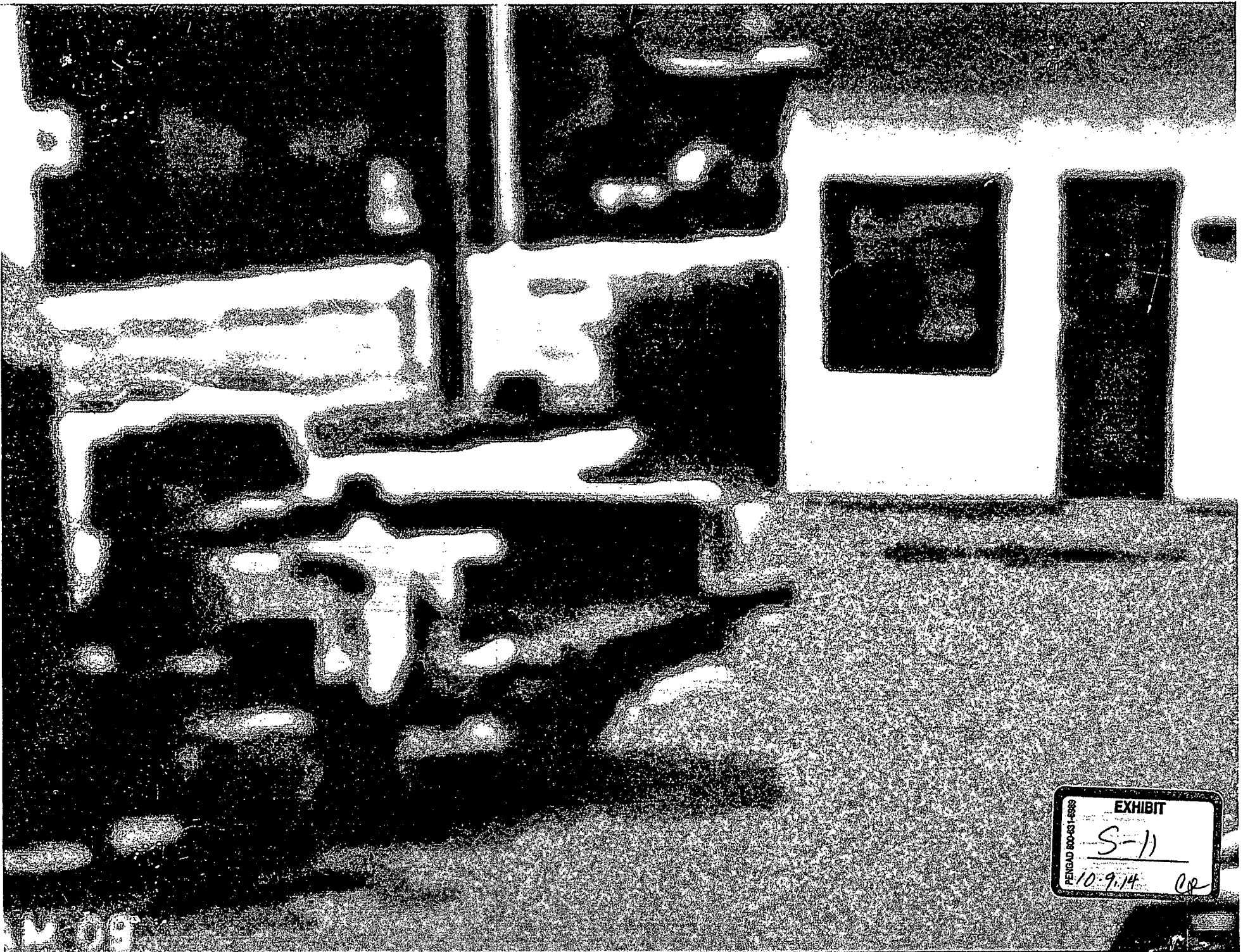
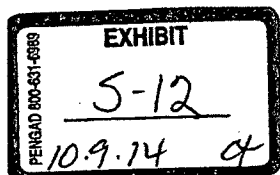
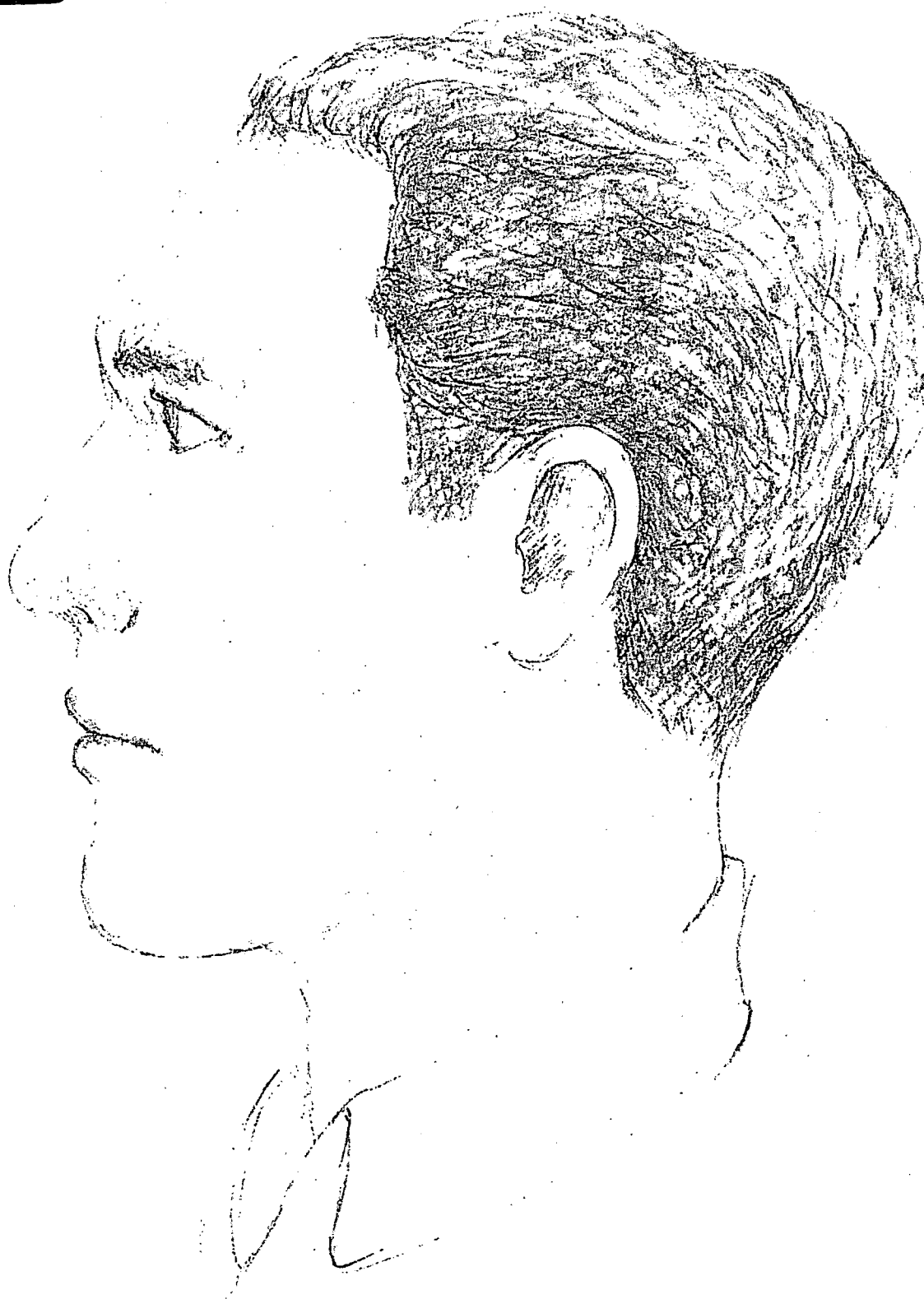
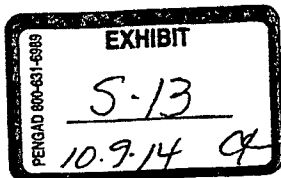


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SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Lexington County
Thomas A. Russo, Circuit Court Judge

APPELLATE CASE NO. 2014-002206

THE STATE,

RESPONDENT,

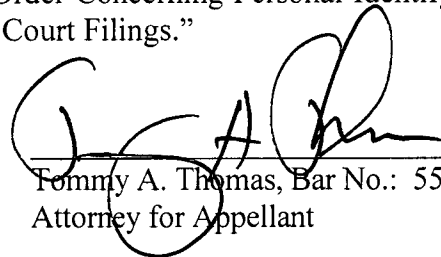
V.

KEITH CHRISTOPHER OSBORNE,

APPELLANT

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."


Tommy A. Thomas, Bar No.: 5536
Attorney for Appellant

PO Box 88
Irmo, SC 29063
(803) 732-5507

ATTORNEY FOR APPELLANT

October 5, 2016

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Lexington County

Thomas A. Russo, Circuit Court Judge

APPELLATE CASE NO. 2014-002206

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SC Court of Appeals

THE STATE,

RESPONDENT,

V.

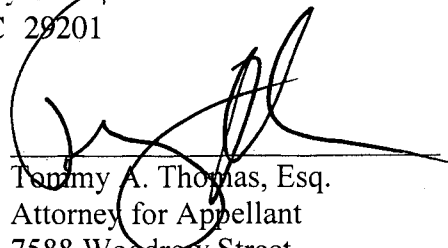
KEITH CHRISTOPHER OSBORNE,

APPELLANT

CERTIFICATE OF SERVICE BY MAIL

I, Tommy A. Thomas, Attorney for Appellant certify that I have served the Record on Appeal on the Office of the Attorney General, by hand delivering same to:

Megan H. Jameson, Esq.
Office of the Attorney General
Rembert Dennis Building
1000 Assembly Street
Columbia, SC 29201



Tommy A. Thomas, Esq.
Attorney for Appellant
7588 Woodrow Street
P.O. Box 88
Irmo, S.C. 29063
(803) 732-5507

October 10, 2016