

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Appeal from Spartanburg County

Honorable Roger L. Couch, Circuit Court Judge

RECEIVED

MAR 30 2016

SC SUPREME COURT

JASON WILLIAMS,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2015-001963

APPENDIX

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1 STATE OF SOUTH CAROLINA)
2 COUNTY OF SPARTANBURG) IN THE COURT OF GENERAL SESSIONS

3 The State,)
4 -vs-) TRANSCRIPT OF RECORD
5 Jason Will Williams,) 2010-GS-42-2109;2110;2113;2114
6 Defendant.) February 1 - 2, 2011
7 Spartanburg, South Carolina
8
9

10 B E F O R E:

11 HONORABLE J. DERHAM COLE, JUDGE; and a jury
12
13

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

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16 Attorney for the State

17 J. ROGER POOLE, ESQUIRE
18 Attorney for the Defendant
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23 Circuit Court Reporter
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1 (Proceedings February 1, 2011)

2 THE COURT: Any matters we need to address before the
3 jury is brought in?

4 MR. BARNETTE: None from the state, Your Honor. I
5 think there's pretrial motions. We'll deal with those
6 after the jury is picked.

7 MR. POOLE: None here, Your Honor.

8 THE COURT: Okay. Bring the panel around, please.
9 Where is this incident alleged to have occurred?

10 MR. BARNETTE: Your Honor, this is near Exit 78.
11 There's two different instances occurred the same day
12 within an hour of each other.

13 One is the Smile Makers which is off Frontage Road.
14 It's Sha Na Lane, which is right there at Exit 78. And
15 then you go two miles from there up to Cherokee Springs
16 Baptist Church up on Highway 221, is where the second
17 incident occurred.

18 The victim in the first case is Anita Smith. That's
19 the armed robbery and possession of a weapon during a
20 violent crime. And the other one is an ABHAN and
21 common-law robbery, which is Mr. Seay that is the victim on
22 it.

23 There is also a failure to stop.

24 Your Honor, the defendant was -- tried to stop by
25 police officers. He ran, Your Honor, and below the

Jury qualification

1 Converse area -- down through there.

2 THE COURT: All right. Where is the event in Cherokee

3 Springs -- Cherokee Springs Baptist Church?

4 MR. BARNETTE: Yes, sir. It was in the church.

5 THE COURT: The Baptist church?

6 MR. BARNETTE: Yes, sir.

7 THE COURT: What street is that on?

8 MR. BARNETTE: It's on Chesnee Highway.

9 THE COURT: It's on 221?

10 MR. BARNETTE: Yes, sir.

11 THE COURT: Okay. What was the Smile Makers location?

12 That was actually at Smile Makers, or just in that

13 vicinity?

14 MR. BARNETTE: No, sir. It was at Smile Makers right

15 at the road, beside the building there in a break area.

16 THE COURT: Okay. Smile Makers on 85?

17 MR. BARNETTE: Yes, sir. It's a shop. It's a

18 frontage road actually there at Exit 78 off the right side,

19 Sha Na Lane is actually -- Sha Lane, excuse me, is how.

20 THE COURT: What's the name of the lane?

21 MR. BARNETTE: S-H-A Lane.

22 (The following takes place in the presence of the jury

23 venire.)

24 THE COURT: Good morning, ladies and gentlemen of the

25 jury panel.

Jury qualification

1 My name is Derham Cole. I'm a resident circuit judge
2 here in the 7th Judicial Circuit. That's made up of
3 Spartanburg and Cherokee counties.

4 You meet Judge Hayes yesterday. I am presiding over a
5 term of general sessions court, which is the criminal side
6 of the circuit court. And so every case that's going to be
7 tried in this courtroom will be one of a criminal nature.
8 Judge Hayes -- I don't know if y'all have already been
9 through jury selection or not, but he was presiding over
10 some civil court, as well as criminal court. And you may
11 be called upon to participate in jury selection in his
12 courtroom next door after you are exposed to potential jury
13 selection in this courtroom now.

14 But any case that's tried in this courtroom, as I say,
15 will be one of a criminal nature. Someone will be accused
16 of having committed some type of criminal offense. And
17 where that person enters a plea of not guilty the jury is
18 selected for the purpose of deciding the facts and applying
19 the law and determining whether or not that person has been
20 proven guilty of the crime that the state claims they
21 committed.

22 The first case that we have that's going to require
23 some of your participation here in this courtroom is
24 entitled the State vs. Jason Will Williams.

25 Mr. Williams has been accused of having committed four

1
Jury qualification

1 or five separate criminal offenses, although they are
2 alleged to have arisen out of a course of events which the
3 state alleges occurred back on March the 8th of 2010. But
4 there are five separate and distinct criminal offenses that
5 the jury is going to be called upon to consider and to
6 render verdicts as to.

7 When a person is accused of a crime and brought into
8 this court they are brought here by way of a document
9 called an indictment. And the indictment sets forth the
10 charge that's been brought against a defendant.

11 In this case the defendant, Mr. Williams, is charged
12 in several indictments, first with the crimes of armed
13 robbery and possession of a firearm during the commission
14 of a violent crime.

15 He's also charged in a separate indictment with the
16 crime of common-law robbery.

17 He's also charged in a separate indictment with
18 assault and battery of a high and aggravated nature.

19 And he's also charged in a separate indictment with
20 the crime of failing to stop when signaled to -- excuse
21 me -- failing to stop when signaled to do so by a law
22 enforcement officer using a blue light or siren, or both
23 for that matter.

24 The state is alleging that back on March the 8th of
25 2010 the defendant, Jason Will Williams, did while armed

Jury qualification

1 with a deadly weapon commit the crime of robbery in that he
2 did take, steal and carry away from the person or presence
3 of Anita Smith by the use of force or intimidation her
4 purse and other personal belongings, including currency,
5 and that he took those items with the intention of
6 depriving her permanently of use and possession of her
7 property.

8 He's also charged at the same time with possessing a
9 firearm during the commission of a violent crime, that
10 violent crime alleged to be the armed robbery which I just
11 referred to in count one of the indictment.

12 Mr. Williams is also charged with having committed the
13 crime of common-law robbery on March the 8th of 2010. And
14 that indictment alleges that Mr. Williams did take, steal
15 and carry away from the person or presence of Randall Seay
16 by the use of force or violence or intimidation, and that
17 he took a wallet and some money that belonged to Mr. Seay
18 and he intended to deprive him of the use and possession of
19 his property permanently.

20 Mr. Williams is also charged with having committed the
21 crime of assault and battery of a high and aggravated
22 nature on or about March the 8th of 2010. The state
23 alleges by way of the indictment that he did commit the
24 crime of assault and battery upon Randall Seay and that
25 that assault and battery was accompanied by some

Jury qualification

1 circumstance of aggravation. And they allege that
2 circumstance of aggravation to have been the use of a
3 deadly weapon, or the intent to commit some felony offense,
4 or the infliction of serious bodily injury, or there being
5 a great disparity in the physical conditions of the
6 parties, and/or the defendant did beat the victim.

7 And the remaining indictment charges the defendant,
8 Mr. Williams, with failing to stop. And they allege on
9 March the 8th of 2010 that Mr. Williams did fail to stop a
10 motor vehicle that he was driving on a highway here in
11 Spartanburg County after he was signaled to do so by a law
12 enforcement vehicle by the use of a siren or flashing
13 light.

14 Now, as to each of those indictments and as to the
15 allegations contained therein the defendant, Mr. Williams,
16 has entered a plea of not guilty. And a plea of not guilty
17 therefore places upon the state the burden of proving the
18 allegations that they have set forth in each of those
19 indictments, the burden of proving each of the essential
20 elements of each crime that is alleged against the
21 defendant; and therefore the burden is upon the state to
22 establish the defendant's guilt to the satisfaction of 12
23 jurors beyond a reasonable doubt before a verdict of guilty
24 could be returned as to any of the separate charges.

25 And that's why you're here. We're going to be

Jury qualification

1 selecting 13 of you. There'll be 12 primary jurors and one
2 additional juror to serve as an alternate juror. And by
3 way of your participation you're simply going to be called
4 upon to listen to the testimony that will be elicited
5 during the trial of the case, to consider any other
6 evidence that might be introduced during the trial.

7 And at the trial's conclusion you'll be instructed to
8 go back and to deliberate the case. And in your
9 deliberations you will carefully evaluate and examine all
10 of that evidence. From that evidence you will decide the
11 facts. In other words, you'll determine what you believe
12 to be the true facts as they relate to these allegations,
13 in other words, what, if anything, occurred back on March
14 the 8th of 2010 that relates to this case.

15 Then once you decide those facts you will apply the
16 law that I will have provided you as it relates to each of
17 the separate charges. And you will determine whether or
18 not the defendant has been proven guilty of any crime
19 beyond a reasonable doubt.

20 If he has, then your verdict would be guilty as to
21 that particular charge, and if he has not, then your
22 verdict would be not guilty as to that particular charge.

23 Now, before we actually begin with jury selection in
24 the case I've got some questions that I'm going to be
25 asking you as a group.

Jury qualification

1 The purpose of the questions is to determine whether
2 or not there is some reason why any one of you jurors
3 should not be selected to participate in the trial of this
4 particular case. In other words, do you have some reason
5 why you could not be fair and impartial in making a
6 decision in this particular case.

7 I'll also be introducing you to some people. Those
8 are participants in the trial, as well as potential
9 witnesses that might be called during the trial of the
10 case.

11 So as these persons are introduced to you and as these
12 questions are asked of you should you need to respond or
13 you know a particular individual, I'll ask that you please
14 stand. And I will address that connection or your
15 responses to the questions in order to determine whether or
16 not your responses or your connection with a particular
17 person would have any bearing upon your decision in the
18 case.

19 So as persons are introduced I'm going to -- some of
20 them are present in the courtroom and some of them are not
21 present in the courtroom. But I'm going to identify them
22 by name.

23 If the name is a common name and you happen to know
24 somebody by that name but you're not sure if it's the same
25 person, you just simply stand and let me know of that fact.

Jury qualification

1 And we'll try to narrow down the identification of that
2 individual, because I need to know when these people are
3 introduced to you if you have any connection with them. In
4 other words, are you related to them by blood or marriage,
5 do you go to church with them, do you go to work with them,
6 do you socialize with them, do you have any connection with
7 them whatsoever, have you met them somewhere, you just
8 simply know them in some fashion. So if you do, I'll
9 simply ask that you stand so that we can determine that
10 connection.

11 Now, in the case, as I have already told you, the
12 defendant, that is the person who is accused of having
13 committed these separate criminal offenses, is Jason Will
14 Williams.

15 Mr. Williams, if you will, please stand and turn and
16 face the jury panel so that they may see who you are.

17 (Whereupon, the defendant stood.)

18 THE COURT: Mr. Williams is the white shirt. The
19 other gentleman standing is Mr. Poole, Roger Poole, and he
20 is Mr. Williams' lawyer. He'll be assisting him in the
21 trial of the case. And he is a lawyer employed by the 7th
22 Judicial Circuit Public Defender's Office.

23 All right. Thank you. You may be seated.

24 The persons who are alleged to have been the victims
25 of the armed robbery and of the common law robbery and of

Jury qualification

1 the assault and battery of a high and aggravated nature
2 include Anita Williams.

3 MR. BARNETTE: Anita Smith, I think, Your Honor.

4 THE COURT: Excuse me. I'm sorry. Anita Smith --
5 Anita Smith.

6 Thank you, ma'am. If you will, stand and face the
7 jury panel.

8 (Whereupon, the victim stood.)

9 THE COURT: Okay. Randall Seay.

10 You can sit down.

11 Randall Seay.

12 (Whereupon, the victim stood.)

13 THE COURT: Thank you. Be seated.

14 And who is the officer making the failing to stop
15 charge?

16 MR. BARNETTE: I think Officer Kish is the one. And
17 Officer William Gary was involved in that, Your Honor.

18 THE COURT: Okay. You can stand too and face the jury
19 panel.

20 (Whereupon, the witnesses stood.)

21 THE COURT: And presenting the case on behalf of the
22 state is Barry Barnette who is the solicitor for the
23 7th Judicial Circuit.

24 (Whereupon, Mr. Barnette stood.)

25 THE COURT: In addition to those who have been

Jury qualification

1 introduced the following persons are potential witnesses,
2 and they may be called during the trial of the case.

3 Now, I'm going to recite a list. All of these people
4 may not be called during the trial, but they all have some
5 information, and so potentially they will be called during
6 the trial.

7 And I've got to recite the comprehensive list in the
8 event that all of them were called. But perhaps all of
9 them will not be.

10 But potential witnesses in the case include Sean Nix
11 with the Spartanburg County Sheriff's Department, Barry
12 Pridgeon with the Spartanburg County Sheriff's Department,
13 Bill Meyers with the Spartanburg County Sheriff's
14 Department, John Nix with the Spartanburg County Sheriff's
15 Department, Jason Watson with the Spartanburg County
16 Sheriff's Department, Dommick Baird with the Spartanburg
17 County Sheriff's Department, Jeremy Watson with the
18 Spartanburg County Sheriff's Department, Ted Saar with the
19 Spartanburg County Sheriff's Department, Robert Rosenberg
20 with the sheriff's department, Hugh Murphy with the
21 sheriff's department, William Gary who has been introduced
22 to you with the sheriff's department, Deputy Kish with the
23 sheriff's department, Lorin Williams with the sheriff's
24 department, Richard Foster with the sheriff's department,
25 Mike Lynia with the state law enforcement division,

Jury qualification

1 Jonathan Carlson with WSPA TV, Debra Seay. If you're
2 present, please stand, ma'am.

3 (Whereupon, the witness stood.)

4 THE COURT: And you are connected with Randall Seay?

5 THE WITNESS: Yes, sir.

6 THE COURT: How are you connected?

7 THE WITNESS: Wife.

8 THE COURT: Okay. This is Randall Seay's wife.

9 Tommy Wood who is a resident of Cowpens, Kayla Covil
10 who is a resident of Inman, Robin Peeler who is a resident
11 of Spartanburg, Tammy Forrest who is a resident of
12 Spartanburg, Crystal Hensley, Michael Womack, Michael
13 Finchum, Delores Spurling, Alisa Gregory, Ricardo Hernandez
14 and Phillip Young.

15 Are there any other potential witnesses on behalf of
16 the state?

17 MR. BARNETTE: No, sir.

18 THE COURT: The defendant?

19 MR. POOLE: No, sir.

20 THE COURT: All right. Now, those are all the persons
21 involved in the case either as lawyers or as the defendant
22 or as an alleged victim or as a potential witness.

23 Does any member of the jury panel know any of these
24 people who have been introduced? If so, please stand.

25 All right. And as you stand -- I'm going to start

Jury qualification

1 with you, sir, on the right. If you will, give me your
2 name and your juror number, please, sir.

3 JUROR NO. 139: Anthony Ravan, No. 139.

4 THE COURT: And tell me who it is that you know.

5 JUROR NO. 139: Randy. I worked with Randy briefly at
6 Copac.

7 THE COURT: Randall Seay?

8 JUROR NO. 139: Yes, sir.

9 THE COURT: Okay. And is there anything about that
10 connection that would have any bearing upon your decision
11 in this case if you were selected juror?

12 JUROR NO. 139: I don't believe.

13 THE COURT: And your juror number was 139.

14 JUROR NO. 139: 139.

15 THE COURT: Okay. Thank you. You may be seated.

16 Yes, ma'am.

17 JUROR NO. 175: I'm Judy Yost, 175. I have an
18 acquaintance with Robin Peeler. He is a friend of my
19 daughter's.

20 THE COURT: Okay. And would that fact have any
21 bearing upon your decision in this case?

22 JUROR NO. 175: No.

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

24 That's 175?

25 JUROR NO. 175: Yes.

Jury qualification

1 THE COURT: Thank you.

2 Yes, ma'am.

3 JUROR NO. 8: I'm Juror No. 8. My name is Leslie
4 Belsick. I know Barry Pridgeon from church -- with the
5 sheriff's department.

6 THE COURT: All right. And would that have any
7 bearing upon your decision in the case?

8 JUROR NO. 8: No.

9 THE COURT: You are Juror No. 8?

10 JUROR NO. 8: Yes, sir.

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

13 JUROR NO. 125: I'm Juror 125, Shari Newman. I also
14 know Robin Peeler.

15 THE COURT: And how do you know Robin Peeler?

16 JUROR NO. 125: Through our children.

17 THE COURT: All right. And would that have any
18 bearing upon your decision in the case?

19 JUROR NO. 125: No, sir.

20 THE COURT: Thank you. You may be seated. You are
21 125?

22 JUROR NO. 125: Yes, sir.

23 THE COURT: Thank you.

24 Yes, sir.

25 JUROR NO. 129: Victor Page, Juror 129. I worked with

Jury qualification

1 a gentleman by the name of Robert Rosenberg some years ago
2 in Georgia. I doubt that it's the same person but --

3 THE COURT: Well, this Robert Rosenberg as far as --
4 as long as I've known him, which is probably 30 something
5 years, he's worked at the Spartanburg County Sheriff's
6 Department.

7 JUROR NO. 129: A totally different one, sir.

8 THE COURT: Okay. Thank you.

9 Anyone else need to respond to that question?

10 (No response.)

11 THE COURT: All right. Now, this is an event or a
12 course of events which the state alleges occurred back on
13 March the 8th of 2010.

14 The crimes alleged in one indictment -- which do
15 allege armed robbery and possession of a firearm during the
16 commission of a violent crime, those are the crimes
17 involving Anita Smith as the purported victim -- is alleged
18 to have occurred at Smile Makers which is on Sha Lane,
19 frontage road I think, right off I-85 here in Spartanburg
20 County.

21 The offense involving Randall Seay as the alleged
22 victim, which involves a common-law robbery and assault and
23 battery of a high and aggravated nature, is alleged to have
24 occurred at the Cherokee Springs Baptist Church, which is
25 located on Highway 221 here in Spartanburg County going

Jury qualification

1 north.

2 And the failing to stop is also alleged to have
3 occurred here in Spartanburg County.

4 Is there any member of the jury panel who thinks that
5 you may have seen, heard or read something that relates to
6 this particular case? Do you think you've seen something
7 on the television or you heard something on the radio or
8 you read something in the newspaper that relates to this
9 particular case? If so please, I would ask that you -- or
10 have you heard anything about the case from any other
11 source, whether it just be an individual at work or church
12 or somewhere talking about the case. Do you believe that
13 you have been exposed to any type of information from any
14 source that relates to this case? If so, please stand.

15 (No response.)

16 THE COURT: Is there anything about the nature of the
17 case itself, that is the type of case that it is or the
18 allegations that have been made against the defendant -- is
19 there anything about the nature of the case itself that
20 would preclude any juror or prevent a juror from being able
21 to be fair and impartial if you were selected to serve in
22 the case? If so, please stand.

23 (No response.)

24 THE COURT: Is there any member of the jury panel --
25 and I want to include any members of your immediate family

Jury qualification

1 in this question. And let me define an immediate family
2 member as a parent, a spouse, a child or sibling -- a
3 parent, a spouse, a child or a sibling. I want to know if
4 you or any members of your immediate family as I have just
5 defined it have ever been the victim of any type of crime
6 that might be described or characterized as violent. And
7 I'll define some of those for you too.

8 But I also need to know if you or any members of your
9 immediate family have been accused of having committed any
10 type of crime that might be described or characterized as
11 violent.

12 And I'm going to include in that definition of violent
13 crimes the crimes of murder, manslaughter, criminal sexual
14 conduct, criminal domestic violence of a high and
15 aggravated nature, assault and battery with intent to kill,
16 armed robbery, common-law robbery, burglary, aggravated
17 assault and battery or any other similar type of an
18 offense.

19 I need to know if you or an immediate family member
20 has ever been the victim of such or you or a family member
21 has ever been accused of having committed such an offense.
22 If so, please stand.

23 All right. I've got several jurors standing. Now, as
24 I did before, I'll go around the room. And I will ask you
25 your name and juror number. And then you can respond to

Jury qualification

1 the question.

2 If you don't want to respond to the question where
3 you're standing, in other words you feel like it's just too
4 personal to relate in front of the audience, feel free to
5 step down here, and I'll discuss it with you privately.
6 But I need for you to provide me with the information
7 whether you do it from where you are or whether you come
8 down here and provide it.

9 Okay. All right. Ma'am, I'll start with you on the
10 front row there if you'll give me your name and number.
11 Then tell me how the question relates to you.

12 JUROR NO. 151: Kathy Smith, 151. My daughter was a
13 victim of domestic violence, high and aggravated nature.

14 THE COURT: And is there anything about that
15 experience that would have any bearing upon your decision
16 in this case?

17 JUROR NO. 151: No.

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

19 Yes, sir.

20 JUROR NO. 90: Johnny Keadle, Juror No. 90.
21 Approximately 20 years ago I was robbed and assaulted in
22 Spartanburg County by two individuals and was put in the
23 hospital for a few days.

24 THE COURT: And that case was resolved, somebody was
25 charged?

Jury qualification

1 JUROR NO. 90: No, never.

2 THE COURT: Somebody was not charged.

3 JUROR NO. 90: That's right. They never could find
4 them.

5 THE COURT: The persons were not identified.

6 Okay. Is there anything about that experience that
7 would have any bearing upon your decision in this case?

8 JUROR NO. 90: No, sir.

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

11 JUROR NO. 49: Denise Francis, No. 49. I have a son
12 that was charged with C.D.V.

13 THE COURT: And would that have any bearing upon your
14 decision in this case?

15 JUROR NO. 49: No, sir.

16 THE COURT: Thank you. Be seated.

17 Yes, ma'am.

18 JUROR NO. 175: Last year my son, I mean, my brother's
19 son attacked him with a knife, and he's in prison.

20 THE COURT: And were you Juror 175?

21 JUROR NO. 175: Yes. I'm sorry.

22 THE COURT: All right. And would that fact have any
23 bearing upon your decision in the case?

24 JUROR NO. 175: No, sir.

25 THE COURT: Thank you. Be seated.

Jury qualification

1 Yes, ma'am.

2 JUROR NO. 5: May I come up there?

3 THE COURT: You may, sure.

4 (Bench conference held off the record with Juror No. 5
5 and counsel.)

6 THE COURT: Juror 5, No. 5, responded to the question.

7 Yes, ma'am.

8 JUROR NO. 71: May I come up?

9 THE COURT: Yes, ma'am. Tell me what your number is,
10 please.

11 JUROR NO. 71: 71.

12 THE COURT: Thank you.

13 (Bench conference held off the record with Juror No.
14 71 and counsel.)

15 THE COURT: All right. Yes, ma'am.

16 JUROR NO. 16: Kathleen Briles, Juror No. 16. May I
17 come up?

18 THE COURT: Yes, ma'am.

19 (Bench conference held off the record with Juror No.
20 16 and counsel.)

21 THE BAILIFF: Juror No. 156.

22 (Bench conference held off the record with Juror No.
23 156 and counsel.)

24 THE BAILIFF: Juror No. 63.

25 (Bench conference held off the record with Juror No.

Jury qualification

1 63 and counsel.)

2 THE BAILIFF: Juror No. 163.

3 (Bench conference held off the record with Juror No.
4 163 and counsel.)

5 THE BAILIFF: Juror No. 55.

6 (Bench conference held off the record with Juror No.
7 55 and counsel.)

8 THE COURT: All right. I'll start on the next row
9 with you, ma'am.

10 JUROR NO. 65: I'm Ruby Hawkins, Juror 65. Victim of
11 common-law robbery.

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

14 JUROR NO. 65: No, sir.

15 THE COURT: How long ago has that been?

16 JUROR NO. 65: It's been about eight years ago.

17 THE COURT: Was somebody found guilty of that or
18 charged with that?

19 JUROR NO. 65: Yes, sir.

20 THE COURT: They were. So the case is resolved.

21 JUROR NO. 65: Yes, sir.

22 THE COURT: It would not have any bearing upon your
23 decision in this one?

24 JUROR NO. 65: No, sir.

25 THE COURT: Okay. Thank you. Be seated.

Jury qualification

1 Yes, ma'am.

2 JUROR NO. 159: Ruby Timmons, 159. About 1981 or '82
3 our home was broken into, and we were robbed of guns and
4 jewelry, and he was never identified, the person was never
5 identified.

6 THE COURT: And would that have any bearing upon your
7 decision in this case?

8 JUROR NO. 159: No, sir.

9 THE COURT: Thank you. Be seated.

10 Yes, ma'am.

11 JUROR NO. 115: Juror 115. My son for burglary and
12 grand larceny.

13 THE COURT: Was charged with it?

14 JUROR NO. 115: Yes.

15 THE COURT: Would that have any bearing upon your
16 decision in this case?

17 JUROR NO. 115: No.

18 THE COURT: Thank you. Be seated.

19 Yes, sir.

20 JUROR NO. 48: Ronald Fowler, Juror No. 48. Victim of
21 armed robbery about six years ago.

22 THE COURT: And was that -- someone charged?

23 JUROR NO. 48: Yes.

24 THE COURT: The case has been resolved?

25 JUROR NO. 48: Yes.

Jury qualification

1 THE COURT: Would that have any bearing upon your
2 decision in this case?

3 JUROR NO. 48: No.

4 THE COURT: Thank you. Be seated.

5 Anyone else need to respond to that question, you or
6 an immediate family member has ever been the victim or been
7 accused of having committed any type of violent crime? If
8 so, please stand.

9 Yes, ma'am.

10 JUROR NO. 151: I'm sorry. I forgot one. We were
11 robbed at our house. Our vehicle was stolen, and gun and
12 money.

13 THE COURT: All right. And your number again?

14 JUROR NO. 151: 151.

15 THE COURT: 151. Okay. Thank you. Be seated.
16 Would it have any bearing upon your decision?

17 JUROR NO. 151: No, sir.

18 THE COURT: Thank you. Be seated.

19 Yes, sir.

20 JUROR NO. 99: Juror No. 99. In 1975 my family's home
21 was broken into. Several weapons were stolen.

22 THE COURT: And was anyone charged with it?

23 JUROR NO. 99: No, sir.

24 THE COURT: All right. Would that experience have any
25 bearing upon your decision in this case?

Jury qualification

1 JUROR NO. 99: No, sir.

2 THE COURT: All right. Thank you. Be seated.

3 MR. POOLE: Your Honor, what number was that, please?

4 THE COURT: Ninety-nine.

5 MR. POOLE: Thank you.

6 THE COURT: Anyone else need to respond to that
7 question?

8 JUROR NO. 4: I'm Juror No. 4. Some years ago my wife
9 was robbed at the place of business where she worked.

10 THE COURT: Would that have any bearing upon your
11 decision?

12 JUROR NO. 4: No, sir.

13 THE COURT: I hesitate to ask because I know people
14 think I -- think jurors don't have any sense, but people
15 keep asking. So I'm going to ask it once more.

16 Does anybody else need to respond to that question?

17 (No response.)

18 THE COURT: Okay. Has any member of the jury panel or
19 any members of your immediate family as I have previously
20 defined it ever been employed as a law enforcement officer
21 presently or in the past -- you or an immediate family
22 member ever been employed as a law enforcement officer?

23 That includes deputy sheriffs; that includes city,
24 towns or municipal law enforcement officers; that includes
25 detention facility or jail officers; that includes the

Jury qualification

1 department of corrections; that includes the state law
2 enforcement division; that includes the F.B.I.

3 That would also include whether you or a family member
4 was employed as a law enforcement officer in a civilian
5 capacity or while in the military. I need to know if you
6 or any immediate family member has ever been employed as a
7 law enforcement officer. If so, please stand.

8 All right. I'll start with Juror No. 5.

9 JUROR NO. 5: My father was in the U.S. Army and my
10 big brother's in the U.S. Army. And my other big brother
11 is a police officer.

12 THE COURT: And where?

13 JUROR NO. 5: Now he is --

14 THE COURT: I mean, is it in Spartanburg or South
15 Carolina.

16 JUROR NO. 5: Not currently. He was in Anderson
17 previously.

18 THE COURT: Okay. And do you think that that fact
19 would have any bearing upon your decision in the case?

20 JUROR NO. 5: I don't think so, sir.

21 THE COURT: Okay. Thank you. Be seated.

22 Yes, ma'am.

23 JUROR NO. 102: Ylana Lindsey, Juror 102. My mom was
24 a public safety officer for Spartanburg.

25 THE COURT: In Spartanburg. But she's not now. And

Jury qualification

1 would that have any bearing upon your decision in the case?

2 JUROR NO. 102: No.

3 THE COURT: Thank you. Be seated.

4 Next row, Mr. Fowler.

5 JUROR NO. 48: Yes, sir. I worked in military police

6 work for the department of corrections in North Carolina.

7 THE COURT: Tell me what your number is again, please.

8 JUROR NO. 48: Forty-eight.

9 THE COURT: Forty-eight. All right.

10 JUROR NO. 48: Yes, sir.

11 THE COURT: All right. Would it have any bearing upon
12 your decision?

13 JUROR NO. 48: No.

14 THE COURT: Thank you. Be seated.

15 Yes, sir.

16 JUROR NO. 39: Juror 39. My brother is an M.P. in the
17 U.S. Army.

18 THE COURT: Would it have any bearing upon your
19 decision?

20 JUROR NO. 39: No, sir.

21 THE COURT: Thank you. Be seated.

22 Yes, sir.

23 JUROR NO. 15: Juror No. 15. My brother is in the
24 National Guard.

25 THE COURT: Okay. Thank you. You may be seated.

Jury qualification

1 Does any member of the jury panel or any member of
2 your family attend the Cherokee Springs Baptist Church or
3 ever been employed at Smile Makers or know anybody that is?
4 If so, please stand.

5 (No response.)

6 THE COURT: Does any member of the jury panel know
7 anyone who is employed in the 7th Judicial Circuit
8 Solicitor's Office or the 7th Judicial Circuit Public
9 Defender's Office? Do you know anyone employed in either
10 of those offices? If so, please stand.

11 Yes, sir.

12 JUROR NO. 129: Your Honor, I am Victor Page, No. 129.
13 I have met with the public defender for the circuit. It's
14 not a long-term knowledge, but I have met with him in the
15 past.

16 THE COURT: Mr. Allen?

17 JUROR NO. 129: Again I am lost. I'm sorry.

18 THE COURT: You met with the public defender.

19 JUROR NO. 129: The public defender, yes, sir.

20 THE COURT: Clay Allen.

21 JUROR NO. 129: Clay Allen, yes, sir.

22 THE COURT: Okay. And would that have any bearing
23 upon your decision?

24 JUROR NO. 129: Definitely not, no.

25 THE COURT: Thank you. Be seated.

Jury qualification

1 Yes, sir.

2 JUROR NO. 99: Juror No. 99. I know Mr. Gregory, his
3 wife. I go to church with them.

4 THE COURT: Okay. And would that have any bearing
5 upon your decision?

6 JUROR NO. 99: No, sir.

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

8 Yes, ma'am.

9 JUROR NO. 37: Donna Depaol, Juror No. 37. Danny
10 Fulmer is a neighbor of mine.

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

13 JUROR NO. 37: No, sir.

14 THE COURT: All right. Thank you. You may be seated.

15 Anyone else?

16 (No response.)

17 THE COURT: Does any member of the jury panel know of
18 any reason whatsoever why you believe you would not be able
19 to be fair and impartial as a juror if selected to
20 participate in this case? If you have any reason
21 whatsoever why you think you could not be fair in this
22 particular case, I would ask that you please stand.

23 (No response.)

24 THE COURT: All right. None responding.

25 Any other questions requested by the state?

Jury qualification

1 MR. BARNETTE: None from the state, Your Honor.

2 THE COURT: By the defendant?

3 MR. POOLE: No questions, Your Honor. But may we
4 approach for a moment?

5 THE COURT: You may.

6 (Bench conference held off the record.)

7 THE COURT: All right. We're going to begin with jury
8 selection.

9 Now, the way that works is you are going to be
10 selected randomly. When your name is called you'll be
11 asked to come forward.

12 And you see the desks where the lawyers are seated.
13 If you'll just take two steps or so towards me from the
14 center of that aisle, each side has an opportunity to have
15 you excused from serving in the case or to have you seated
16 for service in the case.

17 If either side asks that you be excused you can simply
18 go back and have a seat where you are now. If both agree
19 to have you seated for service in the case you'll be having
20 a seat in the jury box on my left and to your right.

21 So please simply come forward as your name is called.
22 And you'll be instructed if you're to be seated for serving
23 in the case or excused from serving.

24 THE CLERK: Juror No. 156, Tricia Tankersley.

25 What say the state?

Jury qualification

1 MR. BARNETTE: Please excuse the juror from service.
2 THE CLERK: Juror No. 55, Carlos Goodman.
3 MR. BARNETTE: No. 55?
4 THE CLERK: Yes, sir.
5 What say the state?
6 MR. BARNETTE: Please excuse this juror from service.
7 THE CLERK: Juror No. 48, Ronald Fowler.
8 What say the state?
9 MR. BARNETTE: Please present the juror.
10 THE CLERK: What say the defense?
11 MR. POOLE: Please excuse this juror.
12 THE CLERK: Juror No. 47, Jimmy Fowler.
13 What say the state?
14 MR. BARNETTE: Please excuse this juror from service.
15 THE CLERK: Juror No. 8, Leslie Belsick.
16 What say the state?
17 MR. BARNETTE: Please present the juror.
18 THE CLERK: What say the defense?
19 MR. POOLE: Please seat the juror.
20 THE CLERK: Juror No. 114, Richard McC Carson.
21 What say the state?
22 MR. BARNETTE: Please present the juror.
23 THE CLERK: What say the defense?
24 MR. POOLE: Please seat the juror.
25 THE CLERK: Juror No. 76, Edward Hockenberry.

Jury qualification

1 What say the state?
2 MR. BARNETTE: Please present the juror.
3 THE CLERK: What say the defense?
4 MR. POOLE: Please seat the juror.
5 THE CLERK: Juror No. 160, Anthony Towe.
6 What say the state?
7 MR. BARNETTE: Please present the juror.
8 THE CLERK: What say the defense?
9 MR. POOLE: Please seat the juror.
10 THE CLERK: Juror No. 139, Anthony Ravan.
11 What say the state?
12 MR. BARNETTE: Please present the juror.
13 THE CLERK: What say the defense?
14 MR. POOLE: Please excuse the juror.
15 THE CLERK: Juror No. 94, Keith Kolodziejczyk.
16 What say the state?
17 MR. BARNETTE: Please present the juror.
18 THE CLERK: What say the defense?
19 MR. POOLE: Please seat the juror.
20 THE CLERK: Juror No. 72, Theodore Hemenway.
21 What say the state?
22 MR. BARNETTE: Please present the juror.
23 THE CLERK: What say the defense?
24 MR. POOLE: Please excuse the juror.
25 THE CLERK: Juror No. 45, Paul Fousek.

Jury qualification

1 What say the state?

2 MR. BARNETTE: Please present the juror.

3 THE CLERK: What say the defense?

4 MR. POOLE: Please seat the juror.

5 THE CLERK: Juror No. 62, Kimberlie Hammond.

6 What say the state?

7 THE COURT: Let's move that box, please, so the jurors

8 won't trip over it.

9 THE CLERK: What say the state?

10 MR. BARNETTE: Please present the juror.

11 THE CLERK: What say the defense?

12 MR. POOLE: Please seat the juror.

13 THE CLERK: Juror No. 15, Eric Bright.

14 What say the state?

15 MR. BARNETTE: Please present the juror.

16 THE CLERK: What say the defense?

17 MR. POOLE: Please seat the juror.

18 THE CLERK: Juror No. 115, Betty McDowell.

19 What say the state?

20 MR. BARNETTE: Please excuse this juror from service.

21 THE CLERK: Juror No. 63, Charles Hardwick.

22 What say the state?

23 MR. BARNETTE: Please present the juror.

24 THE CLERK: What say the defense?

25 MR. POOLE: Please excuse the juror.

Jury qualification

1 THE CLERK: Juror No. 49, Denise Francis.

2 What say the state?

3 MR. BARNETTE: Please excuse the juror from service in
4 this case.

5 THE CLERK: Juror No. 125, Shari Newman.

6 What say the state?

7 MR. BARNETTE: Please present the juror.

8 THE CLERK: What say the defense?

9 MR. POOLE: Please seat the juror.

10 THE COURT: What was your answer?

11 MR. POOLE: Seat the juror.

12 THE CLERK: Juror No. 71, Susie Hembree.

13 MR. POOLE: What number, please?

14 THE CLERK: Seventy-one.

15 What say the state?

16 MR. BARNETTE: Please present the juror.

17 THE CLERK: What say the defense?

18 MR. POOLE: Please seat the juror.

19 THE CLERK: Juror No. 58, Jeremy Greenway.

20 What say the state?

21 MR. BARNETTE: Please present the juror.

22 THE CLERK: What say the defense?

23 MR. POOLE: Please seat the juror.

24 THE CLERK: Juror No. 3, Peter Anderson.

25 What say the state?

Jury qualification

1 MR. BARNETTE: Please present the juror.

2 THE CLERK: What say the defense?

3 MR. POOLE: Please seat the juror.

4 THE COURT: Have a seat in the jury box.

5 THE BAILIFF: He's going to get his jacket, Your
6 Honor.

7 THE COURT: This will be for the alternate.

8 THE CLERK: Juror No. 101, Markus Lee.

9 What say the state?

10 MR. BARNETTE: Please excuse the juror from service in
11 this case.

12 THE CLERK: Juror No. 149, Scott Schroeder.

13 What say the state?

14 MR. BARNETTE: Please present the juror.

15 THE CLERK: What say the defense?

16 MR. POOLE: Please seat the juror.

17 (Whereupon, a jury was impaneled.)

18 THE COURT: All right. Those -- those who have been
19 selected, I'll ask you to please go with the bailiff to a
20 jury room. And I'll bring you back in just a few minutes.

21 (The following takes place outside the presence of the
22 jury.)

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

25 MR. BARNETTE: None from the state, Your Honor.

Jury qualification

1 THE COURT: The defendant?

2 MR. POOLE: No, sir.

3 (Whereupon, the remaining members of the jury venire
4 were excused.)

5 THE COURT: Let me see the lawyers just a minute,
6 please.

7 (Bench conference held off the record.)

8 THE COURT: All right. Bring the jury back, please.

9 (The following takes place in the presence of the
10 jury.)

11 THE COURT: All right. Ladies and gentlemen, I have
12 got some matters I'll need to address before we can
13 actually start with the trial of the case, so we're going
14 to excuse you right now for lunch.

15 And I'll ask you to report back to your jury room,
16 that being the room that you've just been shown to, if
17 you'll report to that room at 2:00 o'clock, at 2:00 o'clock
18 this afternoon.

19 In the meantime during the course of the trial you're
20 never permitted to talk about the case. You can't discuss
21 it among yourselves; you can't discuss it with anyone
22 outside of the courthouse either. That includes relatives,
23 spouses, children, whoever. No discussions about the case.

24 You've got to base your decision upon what you see and
25 hear during the trial and then after engaging in

Jury qualification

1 deliberations at the trial's conclusion. But no
2 discussions about the case can take place until the trial
3 has been concluded and you have been asked to begin
4 deliberations.

5 Also, because you have to base your decision upon what
6 you see and hear during the trial you're not permitted to
7 allow yourselves to be influenced by any outside
8 consideration.

9 So in addition to not having any discussions with
10 anyone, you also are not permitted to allow yourselves to
11 be exposed to any type of media coverage that might relate
12 to the case, whether it be television, radio or newspaper.
13 So avoid any such exposure.

14 And if some question should arise during the trial and
15 you think doing some independent research would help you
16 with it, you can't do that either. You cannot conduct any
17 research or do your own independent investigation into any
18 issue.

19 Again, as I say, you have to base your decision upon
20 what's presented during the trial. You can't supplement
21 that knowledge by conducting outside research or asking
22 other people what they think about things. So no
23 discussions, no media exposure, no investigation, no
24 research.

25 With that caution in mind, you are excused for lunch.

Jury qualification

1 Have a good lunch. Please report to your jury room at
2 2:00 o'clock, at 2:00 o'clock this afternoon.

3 If you're not sure how to get back to that jury room,
4 ask the bailiff. They'll provide you with those
5 instructions.

6 Okay. Have a good lunch. We'll see you at
7 2:00 o'clock this afternoon.

8 (The following takes place outside the presence of the
9 jury.)

10 THE COURT: All right. Now, as I understand it, the
11 state proposes to introduce a statement made by the
12 defendant subsequent to his arrest.

13 MR. BARNETTE: Yes, sir, we do.

14 THE COURT: And, Mr. Poole, you wish to have the Court
15 conduct a hearing in order to determine the voluntariness
16 of that statement?

17 MR. POOLE: Yes, sir.

18 THE COURT: All right. Mr. Barnette.

19 MR. BARNETTE: Your Honor, would you like me to move
20 to mark these as court's exhibits or as state's exhibits at
21 the point?

22 THE COURT: Well, might as well do state's exhibits
23 right now.

24 MR. BARNETTE: Okay. Thank you, sir.

25 (Waiver of defendant marked State's Exhibit No. 3 for

William Richard Foster (In-camera)
Direct examination by Mr. Barnette

1 Identification; written statement of defendant marked
2 State's Suppression Exhibit No. 4 for Identification.)

3 MR. BARNETTE: Your Honor, we would like to call
4 Investigator Foster to the stand.

5 THE COURT: Okay.

6 WILLIAM RICHARD FOSTER, having
7 been first duly sworn, testified as follows:

8 DIRECT EXAMINATION BY MR. BARNETTE

9 Q If you would, sir, state your full name for the
10 record, please.

11 A William Richard Foster.

12 Q Where do you work at, sir?

13 A Spartanburg County Sheriff's Office.

14 Q And how long have you worked for that department, sir?

15 A Twenty years.

16 Q And what's your present position there, sir?

17 A Investigator.

18 Q And on March 8th of 2010 was you and other
19 investigators called to investigate two robberies that
20 occurred that day?

21 A Yes, sir.

22 Q And during that did you interview the defendant, Jason
23 Williams, sir?

24 A We did.

25 Q Let me show you what's been marked as State's Exhibit

William Richard Foster (In-camera)
Direct examination by Mr. Barnette

1 No. 3. Is that a copy of the waiver form, of his rights
2 that you gave to him, sir, or was given to him by Lorin
3 Williams?

4 A Yes, sir, it is.

5 Q And did you witness those rights being given to him,
6 sir?

7 A I did.

8 Q Did he -- was those rights read to him?

9 A Yes, sir.

10 Q And was those rights also -- was he also shown that
11 sheet of paper?

12 A Yes, sir.

13 Q Did he appear to understand those rights?

14 A He admitted that he did.

15 Q And did he sign that form?

16 A Yes, he did.

17 Q And then after that did he understand that about
18 crimes in Spartanburg County that y'all asked him about?

19 A Yes, sir. He didn't offer any questions.

20 Q Okay. And did he indicate how many years of school he
21 had had?

22 A Twelve years.

23 Q Okay. And did he sign also under that too?

24 A Yes, sir, he did.

25 Q So he understood -- he understood all of his rights

1 and understood what he was being asked about and told y'all
2 what grade he had went to.

3 A Yes, sir.

4 MR. BARNETTE: Your Honor, just for purposes of this
5 hearing I would like to enter State's Exhibit No. 3 into
6 the record.

7 THE COURT: It's admitted.

8 (Waiver of defendant marked State's Suppression
9 Exhibit No. 3.)

10 Q During that time was he promised anything for his
11 statement?

12 A No, sir.

13 Q Was he threatened in any way?

14 A No, sir.

15 Q Did he freely and voluntarily talk to y'all about this
16 case?

17 A Yes, sir.

18 Q And did he later sign a written statement?

19 A He did.

20 Q Let me show you what's been marked as State's
21 Exhibit 4, sir. Is this a copy of his written statement?

22 A Yes, sir.

23 Q And in that statement, who gave that information, sir,
24 for that statement?

25 A Mr. Williams told that story to us.

William Richard Foster (In-camera)
Direct examination by Mr. Barnette

- 1 Q Okay. And who wrote the statement out for him?
- 2 A I wrote it for him at his request.
- 3 Q Okay. And did you write down everything he told you
- 4 or basically what he told you, sir?
- 5 A Yes.
- 6 Q And did he get a chance to read it?
- 7 A He did.
- 8 Q Did he sign at the bottom? I guess this is two pages,
- 9 is that correct?
- 10 A Yes, sir.
- 11 Q And did he sign on both, the bottom of both of those?
- 12 A He did.
- 13 Q Did he say this is what happened and this was his
- 14 statement?
- 15 A Yes, sir.
- 16 Q And was he given a copy of it?
- 17 A Yes, sir.
- 18 Q Did he freely and voluntarily give you this statement?
- 19 A Yes, sir.
- 20 Q Was he threatened in any way for it?
- 21 A No, sir.
- 22 Q Was he promised anything?
- 23 A No, sir.
- 24 Q And did he understand all of his rights prior to
- 25 giving this statement?

William Richard Foster (In-camera).
Cross-examination by Mr. Poole

1 A Yes, sir.

2 MR. BARNETTE: Your Honor, I'd like to enter State's
3 Exhibit No. 4 into evidence at this time for purposes of
4 this hearing.

5 THE COURT: It's admitted.

6 (Written statement of defendant marked State's
7 Suppression Exhibit No. 4.)

8 Q If you would, please answer any questions Mr. Poole
9 or -- just one other thing. Lorin Williams was also
10 present for the statement as well, is that right?

11 A Yes, sir.

12 Q And did he also indicate -- that's his signature at
13 the bottom of the statements where he notarized it?

14 A Yes, sir.

15 Q And you witnessed both of these pages of the
16 statement, is that right?

17 A Yes, sir.

18 Q And you witnessed Lorin Williams giving him his rights
19 in State's Exhibit No. 3.

20 A I did.

21 Q Okay. If you would, please answer any questions
22 Mr. Poole or the judge may have for you, sir.

23 CROSS-EXAMINATION

24 BY MR. POOLE

25 Q Detective Foster, you were involved in the entire

William Richard Foster (In-camera)
Cross-examination by Mr. Poole

1 investigation in these cases?

2 A Yes, sir.

3 Q Okay. And what time -- what was the first incident?

4 Was it the Cherokee Springs or the Smile Makers incident?

5 A I think the Smile Makers came in first.

6 Q And about what time did that allegedly occur?

7 A After lunch sometime. I can't remember the exact

8 times -- maybe 1:00, after 1:00.

9 Q Okay. After the Smile Makers and the church incident

10 there was a failure-to-stop charge. Were you -- were you

11 involved in that one?

12 A We didn't quite make it. We were trying to get there,

13 yes, sir, but we didn't quite make it before the accident.

14 Q And there was an accident.

15 A Yes, sir.

16 Q Okay. And was the defendant taken to the hospital?

17 A Yes, sir.

18 Q And do you know what kind of treatment he was given?

19 A No, not exactly. They didn't keep him long, I know.

20 And I didn't read his -- all of his medical records of what

21 they did do to him.

22 Q Okay. When was the first time you talked to him

23 personally then?

24 A Talked with him at the accident scene.

25 Q Okay. Was he injured?

William Richard Foster (In-camera)
Cross-examination by Mr. Poole

- 1 A Bruised up and beat up. I don't know that -- I don't
2 remember any major damage.
- 3 Q Was he taken away by ambulance?
- 4 A I think he rode in one of our cars if I remember
5 right.
- 6 Q Okay. And did you take him from the hospital over to
7 the sheriff's office?
- 8 A Someone did, yes, sir.
- 9 Q Okay. And did he have a brace on?
- 10 A That I can't remember.
- 11 Q Did he have a shirt on?
- 12 A No, sir.
- 13 Q Okay. Did he ever ask for a lawyer?
- 14 A No, sir.
- 15 Q But he -- did you answer he did not have a shirt on?
- 16 A Not when we -- I don't remember if we took it there or
17 we took it at the hospital. I, I didn't take it
18 personally. I just remember that he didn't have one on
19 then, and I don't remember if he arrived with one on or
20 not.
- 21 Q Do you know who took his shirt?
- 22 A It would have been one of the I.D. officers if it was
23 taken.
- 24 Q Okay. And so he was shirtless at the sheriff's
25 department.. Is that a fair statement?

William Richard Foster (In-camera)
Cross-examination by Mr. Poole

1 A When he left, yes, sir.

2 Q All right. And did you ask him what kind of treatment
3 that he had received at the hospital?

4 A I don't recall if I did, per se. I just made sure,
5 general talk that everything was all right with him at the
6 time.

7 Q You and Lorin Williams were the only ones present?

8 A Yes, sir.

9 Q And I may have asked you this, but had you ever spoken
10 to him before him giving this statement?

11 A At the scene I might have asked him some general
12 question about if he was all right there or what he needed
13 or if he wanted to talk to us.

14 Q Okay. Did you get any information from him at the
15 scene of the accident --

16 A No, sir.

17 Q -- regarding these offenses?

18 A No, sir.

19 Q Okay. The statement was given around 8:26 p.m.

20 A Yes, sir.

21 Q How long had he been in the sheriff's department prior
22 to his signature on the document?

23 A We read him his rights at 7:10 p.m., so he -- I would
24 guesstimate that he probably got to the office about
25 7:00 o'clock or a little after.

William Richard Foster (In-camera)
Cross-examination by Mr. Poole

- 1 Q Okay. So it was about an hour and 26 minutes, an hour
2 and a half?
- 3 A Yes, sir.
- 4 Q What kind of discussion was going on for that period
5 of time?
- 6 A Well, we just talked about what's been going on, what
7 had caused all of this. He was very free in wanting to
8 explain to us what had happened and why things had
9 happened. And he talked about other cases that he had been
10 involved in.
- 11 Q He does have a 12th grade education.
- 12 A I'm sorry?
- 13 Q He does have a 12th grade education.
- 14 A That's what he told us, yes, sir.
- 15 Q And you wrote the statement.
- 16 A Yes, sir.
- 17 Q What was the reason for your writing the statement?
- 18 A He asked me to.
- 19 Q He asked you to write it?
- 20 A Yes, sir.
- 21 Q Okay. Anybody else present for that hour and a half
22 period?
- 23 A Not sure if anyone else -- not in the room with us,
24 no, sir.
- 25 Q Thank you.

William Richard Foster (In-camera)
Redirect examination by Mr. Barnette

1 MR. BARNETTE: Just one on followup, Your Honor.

2 REDIRECT EXAMINATION

3 BY MR. BARNETTE

4 Q He was talking to you about other cases also, is that
5 right?

6 A Yes, sir.

7 Q And they're not being tried here today.

8 A No, sir.

9 Q But did he give a statement concerning a home invasion
10 in late December (sic)?

11 A He did.

12 Q And that was a burglary first, attempted armed robbery
13 and ABHAN, kidnapping.

14 A Yes, sir.

15 Q So he also gave you another statement and talked to
16 you about that case also in that period of time.

17 A Exactly. That one was given first before this one.

18 Q Okay. So you actually got two statements. Like we
19 say, we're only dealing with the one because we're dealing
20 with these cases today.

21 A Yes, sir.

22 Q But you actually talked to him about other cases.

23 A Correct.

24 MR. POOLE: No other questions.

25 THE COURT: Okay. You may step down.

Jason Will Williams (In-camera)
Direct examination by Mr. Poole

1 MR. BARNETTE: Your Honor, that will be the state's
2 showing right now.

3 Investigator Williams -- like I said, his condition
4 was possibly having the flu or whatever, we feel like that
5 this is enough shown for this hearing at this point unless
6 additional evidence is needed.

7 THE COURT: Mr. Poole, do you wish to present any
8 testimony or other evidence?

9 MR. POOLE: Your Honor, we'd like to call Mr. Williams
10 to the stand for the limited purpose of this hearing.

11 THE COURT: Okay.

12 JASON WILL WILLIAMS, having
13 been first duly sworn, testified as follows:

14 DIRECT EXAMINATION BY MR. POOLE

15 Q You're Jason Williams.

16 A Yes, sir.

17 Q You're the defendant in these cases, aren't you?

18 A Yes, sir.

19 Q And you know why you're up there right now.

20 A Yes, sir.

21 Q You know you're to answer questions by me and Mr.
22 Barnette concerning voluntariness of the statements --

23 A Yes, sir.

24 Q -- that you gave.

25 A Yes, sir.

Jason Will Williams (In-camera)
Direct examination by Mr. Poole

1 Q Do you understand that?

2 A Yes, sir.

3 Q Okay. Were you involved in an accident on March 8th?

4 A Yes, sir.

5 Q And as a result of that accident were you taken to the
6 hospital?

7 A Yes, sir.

8 Q What was your condition?

9 A When I got my paperwork back they said -- well, the
10 condition is I was all beat up and banged up and I was
11 in -- all I remember is being back in the back of the
12 police car before they took me to the hospital and --

13 Q Do you remember your treatment at the hospital?

14 A Yeah. They, they put me in some kind of CAT scan or
15 something to scan my head and my back and stuff. And I got
16 my paperwork back and they said I had a head contusion
17 (sic), a blow to the head, said it's -- when I read it it
18 said something about damage to the soft tissue and the,
19 the -- your skull or whatever it is, the brain, stuff like
20 that.

21 MR. BARNETTE: Your Honor, I'm going to object at this
22 point. This is hearsay concerning that point, the medical
23 records and so forth.

24 THE COURT: Sustained.

25 Q Speaking from your own experience --

Jason Will Williams (In-camera)
Direct examination by Mr. Poole

- 1 A Yes, sir.
- 2 Q -- and how you felt.
- 3 A Oh, how I felt?
- 4 Q Uh-huh.
- 5 A From the wreck, I don't hardly remember anything from
6 the wreck other than I remember them getting me out of the
7 police car because I done passed out, I mean, blacked out
8 in the car. And I remember going down in the ambulance,
9 going to the hospital. They kept waking me up to ask me a
10 million different questions. And I kept going to sleep.
- 11 Q You kept going to sleep?
- 12 A Yeah.
- 13 Q Okay. And do you remember what -- do you remember
14 being discharged from the hospital?
- 15 A I remember the taking me out of there. They had to
16 help me. One officer had me like this helping me go to the
17 police car.
- 18 Q Okay. Do you remember arriving at the sheriff's
19 department?
- 20 A A lot of it's fuzzy. It's like I been -- like I been
21 asked, like a lot of it don't make sense. I don't remember
22 a lot of stuff what happened. I remember being there. I
23 remember them taking me out of there, because when they
24 took me out of there I was in the floor asleep and stuff.
25 So, I mean, a lot of it don't make sense.

Jason Will Williams (In-camera)
Direct examination by Mr. Poole

1 Q Well, do you remember being there?

2 A Yes. I remember being taken out of there --

3 Q Okay.

4 A -- because they got me up.

5 Q Do you remember signing these?

6 A No, I don't remember signing those statements.

7 Q Do you remember signing what's called a
8 preinterrogation waiver form where you were read your
9 rights?

10 A Uh-uh.

11 Q Do you remember signing a statement --

12 A Uh-uh, I don't remember signing no statement or giving
13 no statement.

14 Q -- where allegedly you admitted involvement in the
15 crimes that occurred earlier in the day?

16 A No.

17 Q Do you remember leaving the sheriff's department?

18 A Yeah, because when we's leaving they got me up out of
19 the floor and they was talking about they had -- the media
20 was out there and stuff.

21 Q Do you remember being taken out?

22 A Say that again:

23 Q Taken -- do you remember -- let me ask you this. Did
24 you have a shirt on?

25 A No, I didn't have no shirt on.

Jason Will Williams (In-camera)
Direct examination by Mr. Poole

1 Q How did you lose your shirt?

2 A They took it before I went to the hospital.

3 Q Okay. And when you left the sheriff's department was
4 the media there?

5 A Yeah.

6 Q Do you remember talking to the media?

7 A Uh-uh.

8 Q Do you remember --

9 A I remember telling them something about I'm sorry.
10 That was it.

11 Q Okay. What were you referring to?

12 A I remember when we's -- when -- when they got me up
13 out of the floor and told me something about the media
14 being out there, and I told him, I said what's the media
15 out there for. And he said where you was -- you done ran
16 and you done had the hel -- he was talking about the
17 helicopter stuff, just talking about something like that,
18 running people off the road and stuff.

19 And when I come out the people asked something about,
20 saying something about, why'd you do this or do that, and
21 I told them I was sorry telling, I guess telling, the
22 people I was sorry that I run off the road and stuff. I
23 wasn't saying as far as the victims, because I didn't do
24 that.

25 Q Answer any questions Mr. Barnette may have for you.

Jason Will Williams (In-camera)
Cross-examination by Mr. Barnette

1 MR. BARNETTE: May it please the Court, Your Honor.

2 THE COURT: Yes, sir.

3 CROSS-EXAMINATION

4 BY MR. BARNETTE

5 Q You can remember them taking your shirt off, can't
6 you?

7 A Huh?

8 Q You remember taking shirt off, don't you?

9 A I remember 'em taking that shirt off of me because
10 they was holding me up taking it off.

11 Q But you remember that. You can't remember writing
12 your signature on statements but you remember taking your
13 shirt off of you?

14 A No.

15 Q So you're saying you, this -- is this your signature
16 on these papers?

17 A Yes.

18 Q That's your signature on State's Exhibit No. 3?

19 A Yes, sir.

20 Q Is that your signature on State's Exhibit No. 4?

21 A Yes, sir.

22 Q On both pages.

23 A Yes, sir.

24 (DVD from WSPA Channel 7 marked State's Suppression
25 Exhibit No. 5 for Identification.)

Jason Will Williams (In-camera)
Cross-examination by Mr. Barnette

1 Q Have you viewed this Channel 7 tape with your lawyer?

2 A No, I ain't viewed it. I've heard it on the T.V.

3 Q Okay.

4 MR. BARNETTE: It's marked as State's Exhibit No. 5,
5 Your Honor, DVD.

6 Q So you've seen this on T.V.

7 A Uh-huh.

8 Q That was you on that T.V., right?

9 A Yeah..

10 Q You talked to the reporter.

11 A But I don't remember what she asked me. It was
12 something about -- she asked me something about people, and
13 I just told them I was sorry, because before I walked out
14 of there they was telling me why I was out there, because
15 I'd almost run somebody off the road and stuff.

16 Q Well, that's amazing. You remember certain things
17 that you want to remember like running off the road and
18 things like that but you can't remember this stuff?

19 A But, see, I had my people call the doctor's office and
20 ask them about that stuff, why can't I remember everything
21 going on. And they told my family with the head contusion
22 (sic), the blow to the head, that you wouldn't get back all
23 of your memory. And then if you did you only going to get
24 gradually and you still wouldn't probably remember all of
25 it.

Jason Will Williams (In-camera)
Cross-examination by Mr. Barnette

1 Q Do you remember anything from that day?

2 A Bits and pieces.

3 Q What do you remember from that day?

4 A I remember. I remember getting up out of the back of
5 a police car because they hauled me out of there and took
6 my shirt, and I remember it being in the interview room,
7 and I remember leaving. I was in the floor when they got
8 me up.

9 Q No. What about the rest of the day? Do you remember
10 any of that?

11 A What, before, earlier that day?

12 Q Yes.

13 A Oh, earlier that day I remember some of the stuff
14 going on through the period of day, yes.

15 Q What do you remember the rest --

16 A I mean before the --

17 Q What do you remember from that day? That's what we
18 want to know. That's what the judge needs to know.

19 A I remember right before I got pulled over from there
20 from -- I remember being pulled over. I remember leaving
21 from the house. I remember being at the house all day that
22 day, earlier that day.

23 Q Well, do you remember where you went, what you did?
24 Did you go to work? What did you do?

25 A I was going to my mama's.

Jason Will Williams (In-camera)
Cross-examination by Mr. Barnette

- 1 Q What else did you do that day?
- 2 A I was at the house most of the day.
- 3 Q You was at the house most of the day. Where was that
- 4 house at?
- 5 A [REDACTED] Rock Bottom.
- 6 Q Well, how long -- where else did you go other than the
- 7 house?
- 8 A Oh, I went -- I went by my mom's. I don't know if I'm
- 9 supposed to be giving the rest of the incident from --
- 10 Q Well, you're talking about your memory here. You say
- 11 you can't remember anything. We want to know what you
- 12 remember.
- 13 A I don't remember what happened in the, the thing
- 14 because I didn't -- my memory wasn't messed up before I had
- 15 that wreck.
- 16 Q Well, okay. How was your memory for the rest of the
- 17 day?
- 18 A Rest of the day?
- 19 Q Yes, sir.
- 20 A The rest of the day I was mainly asleep.
- 21 Q You was asleep most of the day.
- 22 A Yeah, after the wreck because I kept -- couldn't stay
- 23 awake.
- 24 Q Well, when did you pick -- whose truck was you driving
- 25 that day?

Jason Will Williams (In-camera)
Cross-examination by Mr. Barnette

1 A My old lady's.

2 Q Your old lady's truck.

3 A Uh-huh.

4 Q Your girlfriend's?

5 A Yes.

6 Q And that was your truck. That was the truck that you
7 wrecked.

8 A Yes, sir.

9 Q And that was the truck you were in.

10 A Yes, sir.

11 Q And you remember pulling off from the police, is that
12 right?

13 A Yeah.

14 Q Then you kept on going after that, right?

15 A Yes.

16 Q You remember everything till the wreck?

17 A Uh-huh. I mean, I only remember bits and pieces after
18 the wreck.

19 Q Do you remember this officer, Richie Foster?

20 A No.

21 Q Do you remember talking to the doctors?

22 A Uh-uh.

23 Q You're claiming you don't remember anything that
24 happened after the wreck other than bits and pieces.

25 A Only just bits and pieces.

Jason Will Williams (In-camera)
Cross-examination by Mr. Barnette

1 Q Well, tell us what you remember then.

2 A I remember -- I remember I don't know how I got out
3 the truck. The only thing I know, I remember they was
4 taking me out of the police car because the ambulance was
5 there. And I remember they took my shirt because they was
6 cutting it off of me. And I remember going down the -- in
7 the ambulance. And a person kept asking me a bunch of
8 questions trying to wake me up.

9 And then when we got -- I remember leaving the
10 hospital and I remember going through a -- they taking me
11 to the police department. Talked to me there. And, I
12 mean, I don't remember a lot of stuff that went on in the
13 interview room.

14 I remember when I was leaving they took, woke me up
15 and took me out and took me to the sheriff's department.
16 When I got to the sheriff's department I remember I kept
17 falling asleep right there in the, the seat, falling outta
18 the seat, and the bab -- the little officer kept going,
19 saying you gotta sit up, you gotta sit up. And they put
20 me in one of the little rooms and left me there. I went
21 to sleep. I was asleep for about -- whenever they took me
22 to the courtroom.

23 Q To the courtroom?

24 A Well, to what --

25 Q Interview room?

Jason Will Williams (In-camera)
Cross-examination by Mr. Barnette

1 A Yeah, whatever, not the interview. The -- give the
2 warrants.

3 Q Okay. But you claim you don't remember giving these
4 statements, you don't remember --

5 A I don't remember giving them statements. I remember
6 giving no statements.

7 Q So your testimony is to this Court you don't remember
8 any of that.

9 A I don't remember giving none of them statements.

10 Q But you remember stopping the truck you keep -- why
11 didn't you keep the truck going that day? Why did you run
12 from that police officer right there?

13 A Because I done been up for a week and a half.

14 Q Been up for a week and a half?

15 A Uh-uh.

16 Q Do you mean you hadn't slept for a week?

17 A I ain't slept in a week.

18 Q So you hadn't slept for a week. Why is that?

19 A Up on methamphetamine.

20 Q So you were taking meth?

21 A Uh-huh. I was on Oxycontin that day.

22 Q So you had been up for a week and a half.

23 Let me ask you a question. How was you asleep at your
24 mom's house then if you was up for a week and a half on
25 meth?

Jason Will Williams (In-camera)
Cross-examination by Mr. Barnette

- 1 A Say what, now, asleep at my mom's?
- 2 Q You just said a little bit ago you was sleeping at
- 3 your mom's most of the day.
- 4 A I didn't say my mom's. I said I went to my mom's.
- 5 Q Okay. Well, do you want us to play -- do you want to
- 6 play the testimony back?
- 7 A Yeah.
- 8 Q You just said that a little bit ago, sir.
- 9 A I didn't say my mom's. I said at my -- I had went to
- 10 my mom's.
- 11 Q So now you're telling this Court you was up for a week
- 12 and a half on meth.
- 13 A Yes, sir.
- 14 Q Well, how did you remember anything if you was up for
- 15 a week and a half?
- 16 A That meth makes you just out there.
- 17 Q Makes you do crazy things, doesn't it?
- 18 A No, I mean, just that's why I ran. You asked me why I
- 19 ran. That's why. So, I mean, you think the law is after
- 20 you just -- plus I had that 16 on me.
- 21 Q Sixteen what?
- 22 A Ice.
- 23 Q What's that again?
- 24 A Ice, well, meth. Same thing, same thing, just
- 25 different name for it, I guess.

Jason Will Williams (In-camera)
Cross-examination by Mr. Barnette

1 Q Well, you remember having a hammer in your truck,
2 don't you?

3 A Uh-uh.

4 Q Do you remember having Ms. Smith's driver's license
5 and her purse and everything?

6 A No, sir.

7 MR. POOLE: Your Honor, I'm going to object at this
8 point. I think we're getting a little way from what should
9 be in the context of Jackson vs. Denno.

10 THE COURT: Sustained.

11 Q So your testimony is you don't remember what the
12 officer said to you or anything like that.

13 A Na-uh.

14 Q That you was totally incoherent.

15 A Yeah.

16 Q That you don't know what happened.

17 A Yeah.

18 MR. BARNETTE: Thank you, Your Honor.

19 THE COURT: Anything else?

20 MR. POOLE: No, sir.

21 THE COURT: All right. Step down.

22 Anything else on behalf of the defendant?

23 MR. POOLE: No, sir.

24 THE COURT: Any reply?

25 MR. BARNETTE: Yes, sir. I'd like to call Richie

William Richard Foster (In-camera)
Direct examination by Mr. Barnette

1 Foster back to the stand, please.

2 THE COURT: You're still under oath.

3 THE WITNESS: Yes, sir.

4 WILLIAM RICHARD FOSTER, having
5 been first duly sworn, testified as follows:

6 DIRECT EXAMINATION BY MR. BARNETTE

7 Q Sir, you heard the defendant say basically that he was
8 totally incoherent when y'all talked to him.

9 A Yes, sir.

10 Q Did he appear to be totally incoherent?

11 A No, sir.

12 Q Did he appear like that he was laying in the floor
13 asleep?

14 A Only after we were done and he was waiting on us to
15 get done with the paperwork.

16 Q Did he understand all of your questions?

17 A Yes, sir.

18 Q Did he act like he was coherent?

19 A Yes, sir.

20 Q Did he appear to want to talk to y'all about the case?

21 A Yes, sir. And he gave us actually statements that
22 only he would know about each of the cases, somebody
23 involved would know.

24 Q So y'all didn't give him any of this information.

25 A No, sir.

William Richard Foster (In-camera)
Direct examination by Mr. Barnette

1 Q He told you this information.

2 A Yes, sir.

3 Q As a matter of fact; you all hadn't really -- I mean,
4 you were involved with the investigation, but you hadn't
5 talked to everybody involved in the investigation.

6 A No, not at that time, no, sir.

7 Q So the information he was giving you, only the suspect
8 would know that in that case.

9 A Correct.

10 Q And did he appear to be under the influence of
11 anything when y'all was talking to him or anything like
12 that?

13 A Not to the point of incoherentness or unable to, to
14 respond to anything.

15 Q So he understood your questions.

16 A Yes, sir.

17 Q And you've interviewed how many subjects over in your
18 career?

19 A A good many.

20 Q And did he appear to understand everything that y'all
21 were asking him?

22 A Yes, sir.

23 Q And he was the one that gave y'all the information.

24 A He did. He was very forthcoming with it.

25 Q And that was on both cases.

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William Richard Foster (In-camera)
Direct examination by Mr. Barnette

1 A Yes, sir.

2 Q I mean, well, actually three cases, the two that
3 happened March 8th and the one happened February the 17th.

4 A Correct.

5 Q And he gave y'all that information.

6 A Yes, sir.

7 Q And, as a matter of fact, the one on February the
8 17th, nobody'd been arrested on that case yet.

9 MR. POOLE: Your Honor, I'm going to object to
10 leading.

11 A No. But he knew of it.

12 THE COURT: Overruled.

13 Q Okay. I mean, the one on February the 17th, did y'all
14 have a suspect for that?

15 A Not at the time, no, sir.

16 Q And did he give you all that information on that?

17 A He did.

18 Q And he was arrested on that based off that statement?

19 A Correct.

20 Q And later on in the investigation I assume y'all went
21 back to the victims once he admitted to it.

22 A And they picked him out of a lineup.

23 Q Thank you. Please answer any questions Mr. Poole may
24 have for you sir.

25

William Richard Foster (In-camera)
Cross-examination by Mr. Poole

1 CROSS-EXAMINATION

2 BY MR. POOLE

3 Q Detective Foster, you do admit that he was under the
4 influence of some drugs.

5 A Well, I'm sure he was because he came from the
6 hospital, but he didn't act like it, no, sir.

7 Q Okay. But you were answering the solicitor's
8 questions, and you said he was under the influence of
9 drugs. Then you qualified it but not to the extent that he
10 didn't know what he was doing.

11 A Right.

12 Q That's your qualifier, right?

13 A Right.

14 Q Okay. So he was under the influence of drugs.

15 A I think so, yes, sir.

16 Q Okay. All right. And let me ask you this. Was the
17 interview audio taped or video taped?

18 A No, sir.

19 Q And are they typically --

20 A No, sir.

21 Q -- taped? Was there a tape recorder in the room?

22 A No, sir.

23 Q Was there an audio system --

24 A No.

25 Q -- or a video system of any sort in the room?

William Richard Foster (In-camera)
Cross-examination by Mr. Poole

1 A Our rooms aren't set up for that.

2 Q Okay. Thank you.

3 MR. BARNETTE: That's all the questions of this
4 witness, Your Honor.

5 THE COURT: Let me ask you this.

6 You -- is it your testimony that the defendant was
7 under the influence of some type of a drug?

8 THE WITNESS: I would think he would be coming from
9 the hospital, but he didn't appear that he was to anything.
10 I mean, he was --

11 THE COURT: Well, why -- why would you think he'd be
12 under the influence of a drug because he's coming from the
13 hospital?

14 THE WITNESS: Well; they generally sedate them when
15 they work on them over there to some extent or give them
16 some kind of pain medication.

17 THE COURT: Well, do you know what kind of treatment
18 he received at the hospital?

19 THE WITNESS: No, sir.

20 THE COURT: Well, when he came back why did you
21 believe he was under the influence?

22 THE WITNESS: That's generally, just coming from the
23 hospitals what I took it to be.

24 THE COURT: Well, what did you notice that caused you
25 to think he was under the influence?

William Richard Foster (In-camera)

1 THE WITNESS: Nothing. I mean, that's just my
2 assumption that coming from the hospital and being in pain
3 that he had taken some kind of pain medication. But he
4 didn't act like there was any actions from him that -- that
5 would warrant that.

6 THE COURT: That would warrant what?

7 THE WITNESS: Him being -- being thought to be under
8 the influence.

9 THE COURT: Okay. Have y'all got any other questions?

10 MR. BARNETTE: No, sir.

11 MR. POOLE: No, sir.

12 THE COURT: All right. Step down.

13 MR. BARNETTE: May we approach for one second, Your
14 Honor?

15 (Bench conference held off the record.)

16 MR. BARNETTE: And, Your Honor, I would like to enter
17 State's Exhibit No. 5 into the record just for the purpose
18 of this hearing too.

19 THE COURT: That's the video you are going to address
20 also, Mr. Poole?

21 MR. POOLE: I'm sorry, Your Honor?

22 THE COURT: He is introducing State's Exhibit No. 5
23 which is a DVD or video of something. That's the video you
24 indicated earlier you were objecting to?

25 MR. POOLE: That's right.

Lorin Williams (In-camera)
Direct examination by Mr. Barnette

1 MR. BARNETTE: Yes, sir.

2 THE COURT: Okay.

3 (Bench conference held off the record.)

4 LORIN WILLIAMS, having been
5 first duly sworn, testified as follows:

6 DIRECT EXAMINATION BY MR. BARNETTE

7 Q If you would, sir, give your full name for the record,
8 please.

9 A Lorin Williams.

10 Q And where do you work at, sir?

11 A Spartanburg County Sheriff's Office.

12 Q And what is your position there, sir?

13 A Violent crime investigator.

14 Q Back on March 8th of 2010 was you brought into the
15 investigation of two robberies that occurred here in
16 Spartanburg County, sir?

17 A Yes, sir, I was.

18 Q And during that investigation did you come in contact
19 with the defendant in this case?

20 A Yes, sir, I did.

21 Q And where did you meet him at?

22 A The first time that I had any contact with him at all
23 was at the wreck site.

24 Q And did you -- did you see him there? Did y'all --

25 A I spoke to him at the wreck. E.M.S. was in the

Lorin Williams (In-camera)
Direct examination by Mr. Barnette

1 process of loading him onto the ambulance, and he left
2 there and went to Spartanburg Regional.

3 Q And later on was he brought to the sheriff's
4 department, sir?

5 A He was, but he actually had sent word through one of
6 the deputies that he would like to see me at the hospital.

7 Q And what happened then?

8 A I, I went to the hospital and just told him to let the
9 doctors take care of him and that I would -- I would talk
10 to him once he was released from the hospital.

11 Q Did he appear to be coherent to you when you talked to
12 him?

13 A Yes, sir.

14 Q Did he appear to understand what was going on and
15 everything?

16 A Yes, sir.

17 Q Later on did you interview him at the sheriff's
18 department, sir?

19 A Yes, sir, I did.

20 Q Did you give him his rights, sir?

21 A I did.

22 Q And just looking at State's Exhibit No. 3, did he
23 understand his rights when you gave them to him?

24 A He did.

25 Q Did you also tell him it was about crimes in

Lorin Williams (In-camera)
Direct examination by Mr. Barnette

1 Spartanburg County that you was asking him about?

2 A I did.

3 Q And did he tell you what grade level he had reached
4 to?

5 A He indicated here that he had finished 12 years in
6 school.

7 Q And did he sign both of those forms?

8 A Yes, sir, he did.

9 Q And was those written -- witnessed by Investigator
10 Foster --

11 A Yes, sir, it was.

12 Q -- or notarized by him?

13 A It was notarized. Witnessed by myself and notarized
14 by Investigator Foster.

15 Q And State's Exhibit 4, did he give you a statement,
16 sir?

17 A Yes, he did.

18 Q And while he was giving that statement and everything
19 did he understand everything?

20 A Yes.

21 Q Did he -- was he stumbling? Was he totally incoherent
22 and just didn't -- or did he know exactly what he was doing
23 when he was telling you about this information?

24 A He, he understood everything that was going on.

25 Q Okay. And this information he gave to you, was this

Lorin Williams (In-camera)
Direct examination by Mr. Barnette

1 information that y'all gave to him or was this information
2 that he was telling y'all about?

3 A Information that he provided to us.

4 Q Right. Was this information only the suspect would
5 have known?

6 A I'm sorry?

7 Q Would this have been the information only the
8 defendant or suspect would have known in this situation?

9 A Yes, sir.

10 Q And, as a matter of fact, did he tell you about
11 another incident that occurred on February the 17?

12 A He did.

13 Q And at that time did y'all have anybody arrested or a
14 suspect at that time before he gave that statement to
15 y'all?

16 A No, sir, we did not.

17 Q So he was the only one that knew that information.

18 A That's correct.

19 Q And this statement that in this, these two cases that
20 we're dealing with, State's Exhibit 4, did Investigator
21 Foster write that statement out for him?

22 A He did.

23 Q And did he get a chance to read over or look at it?

24 A Yes, sir.

25 Q And did he sign and witness both of those that -- I

Lorin Williams (In-camera)
Direct examination by Mr. Barnette

1 mean, did he sign that was both of his statements or both
2 pages he signed?

3 A He did. He signed both, both page one and page two.

4 Q And was that witnessed by Investigator Foster?

5 A It was, and notarized -- it was notarized by myself.

6 Q And later on was he taken outside of the sheriff's
7 department?

8 A Yes, sir.

9 Q And State's Exhibit 5, was Channel 7 outside at that
10 time?

11 A Yes, sir, they were.

12 Q And was you the gentleman that escorted him to the
13 police car to be taken to the jail?

14 A I was.

15 Q And have you seen this tape?

16 A I have.

17 Q Is that tape a fair representation of what happened
18 that night?

19 A Absolutely.

20 Q Okay. And the way it appeared there was the way he
21 appeared to y'all at the sheriff's department?

22 A Yes, sir.

23 Q Did he appear coherent?

24 A He did.

25 Q Did he understand what was going on?

Lorin Williams (In-camera)
Cross-examination by Mr. Poole

1 A Yes, sir.

2 Q Did he appear to be under the influence of anything at
3 that point?

4 A No, sir.

5 Q If you would, please answer any questions Mr. Poole or
6 the judge may have for you, sir.

7 CROSS-EXAMINATION

8 BY MR. POOLE

9 Q Detective Williams, the defendant was involved in a
10 automobile -- a truck accident, wasn't he?

11 A Yes, sir.

12 Q And it was a pretty bad accident, wasn't it?

13 A The truck rolled over.

14 Q And he was taken to the hospital.

15 A He was.

16 Q Was he taken by ambulance?

17 A He was.

18 Q And was he put in a neck brace and all of that
19 business?

20 A Yeah, after -- after a foot chase, yeah, he was.

21 Q Okay. All right. And how long was he at the
22 hospital?

23 A I really don't remember. I can look through my notes
24 and get a fairly -- get fairly close.

25 Q Well, that's okay. Can you tell us when you first

Lorin Williams (In-camera)
Cross-examination by Mr. Poole

1 started the interview?

2 A The first -- the interview, yes, sir. The interview
3 started at 7:10 p.m.

4 Q Okay. All right. And then do you remember him being
5 on the floor in the interview room?

6 A Being on the floor?

7 Q On the floor lying down.

8 A No, sir.

9 Q Do you remember his shirt being off?

10 A I -- no, sir. I do. I do remember him not having a
11 shirt on, but I don't remember him being in the floor.

12 Q Okay. All right. And was it you that told him that
13 the media was outside?

14 A I would have told him that as we were getting on the
15 elevator to go down.

16 Q Okay. All right. So did he tell you that he'd been
17 taking drugs?

18 A No, sir. He told me that he had had a pill problem.

19 Q And are you aware of any medications that he was given
20 at the hospital?

21 A No, sir.

22 Q And it's your testimony that he didn't appear to be
23 under the influence at all after going to the hospital and
24 using drugs?

25 A No, sir.

Lorin Williams (In-camera)
Cross-examination by Mr. Poole

1 Q None whatsoever.

2 A None whatsoever.

3 Q Thank you.

4 MR. BARNETTE: No further questions of this witness,
5 Your Honor.

6 THE COURT: You may step down.

7 MR. BARNETTE: We would ask him be excused right now.

8 THE COURT: You may be.

9 (Whereupon, the witness was excused.)

10 THE COURT: All right. Anything further?

11 MR. BARNETTE: Nothing from the state, Your Honor.

12 MR. POOLE: May it please the Court, Your Honor.

13 I would argue that on behalf of Mr. Williams that the
14 Court should rule that this statement given was not
15 voluntary, the waiver was not voluntary.

16 The defendant had been by his own testimony using
17 drugs for a period of time. He was involved in an
18 accident. He was beaten and banged up. He was
19 hospitalized. Obviously, he had a head injury.

20 The testimony further indicates that he was down on
21 the floor at some point in time during the interviewing
22 process. He was shirtless. And his testimony speaks for
23 itself in that he does not remember being there.

24 So we'd argue that under the guidelines highlighted in
25 the case law applied to this situation, would indicate that

1 the statement and waiver are involuntary.

2 MR. BARNETTE: Your Honor, we'd argue basically it is
3 voluntary in this situation. We had two witnesses testify
4 to it. There's also the Channel 7 tape that was introduced
5 that the Court can view if they'd like to.

6 There's no question that he was coherent, not in the
7 state the defendant portrayed up on the stand. Obviously,
8 he was -- he can remember what he wants to remember and not
9 remember what he didn't want to remember, especially not
10 remember the voluntary statement.

11 Also, the officers testified. We're talking about
12 three different cases. He's testified about things or he
13 gave in that statement things only the suspect would have
14 knew.

15 As a matter of fact, he told them about an incident
16 where he was not a suspect and arrested, and did an
17 additional investigation from the statement he gave. So he
18 was not a suspect in the February 17th case we're not
19 trying here today. I'm just adding that in for a part of
20 this hearing or part of the record.

21 THE COURT: All right. I'll review the video before I
22 issue a ruling.

23 Anything else? We might need to address that I
24 guess -- the video.

25 MR. BARNETTE: Yes, sir.

1 I just marked it and put a part of the hearing, Your
2 Honor. I think Lorin Williams has validated he was the
3 gentleman that was present during that time there. And I
4 think Mr. Poole has an objection to the statement there.

5 MR. POOLE: My objection basically is that there's
6 already evidence that -- well, we've got the testimony here
7 before. And when he left the sheriff's department the
8 video will indicate that he was shirtless and that he
9 answered a question in terms of, "I'm sorry for what I did.
10 I wish I could take it back. I'm sorry."

11 We would object to the admission of this video because
12 its prejudicial effect outweighs its probative value
13 showing a person cuffed. I believe he was in custody and
14 cuffed, shirtless and making these types of remarks. And
15 if a jury were to see that, because of the impact of the
16 video component, the audio, the video component it's too
17 prejudicial.

18 MR. BARNETTE: Your Honor, I think it's very
19 probative, and the probative value outweighs the
20 prejudicial, especially now since they've brought in the
21 statement trying to say that he didn't know what was going
22 on under any circumstances basically.

23 I think if you see the video he did understand. He
24 was coherent. And I think it even adds more to the
25 argument before that -- should be admitted in this

1 situation, much less the admissions he made to the news
2 reporter which was not a state agent in any way.

3 THE COURT: All right. I'll review the video and then
4 issue an order on that too.

5 Anything else?

6 MR. BARNETTE: Your Honor, I do have a
7 third-party-guilt motion in this case.

8 I understand Mr. Poole was -- he provided this in
9 discovery. He has, I believe, three inmates, possibly a
10 fourth one, that's involved in this, Your Honor.
11 Supposedly another man supposedly made statements that he
12 committed the crime.

13 Obviously, I think that's hearsay. And I understand
14 third-party guilt, possibly he could present that. I just
15 think that it's an issue that needs to be firmed up and
16 needs to be corroborated.

17 I don't know what the defendant's version is. We
18 didn't get into that on the stand, which is not the purpose
19 of the Jackson vs. Denno hearing. But obviously
20 third-party guilt -- we'd like to make a motion to make
21 sure that it fits the law the way it's supposed to fit, and
22 want to go ahead and make that motion before we start the
23 trial.

24 May I approach the bench, Your Honor? I've given
25 copies to Mr. Poole too.

1 THE COURT: All right. Mr. Poole.

2 MR. POOLE: Your Honor, I have spoken to Mr. Barnette
3 and given him the information as to the third-party guilt.

4 It's the defense's position that Phillip Young was the
5 individual who committed these crimes. He won't be here,
6 Your Honor, and we'll make the Court aware, until tomorrow
7 around 10:30. He is in custody in the department of
8 corrections. He's under subpoena.

9 And we have a couple of other witnesses that are
10 Michael Finchum, Michael Womack and Ricardo Hernandez.
11 They, they are inmates in the county jail.

12 I don't know whatever the Court -- Phillip Young is
13 not going to be available and we intend to call him. And
14 if he admits, either admits --

15 THE COURT: Excuse me. Did you say he will not be
16 available?

17 MR. POOLE: He will be available.

18 THE COURT: He will be available.

19 MR. POOLE: He will be available tomorrow. I don't
20 know if this is a matter that may be better taken up
21 tomorrow in its full context or not. I'm deferring to the
22 Court because, you know, we have these witnesses that will
23 testify as to what Phillip Young said and did.

24 THE COURT: Well, is it a fair statement to say that
25 we won't get to that until such time as the defense's turn

1 to present evidence?

2 MR. POOLE: Yes, sir.

3 THE COURT: You don't intend to introduce anything
4 like that during the state's case?

5 MR. POOLE: No, sir, I do not. You know, I'll just be
6 asking the, the usual identification questions but nothing
7 to be proffered during the state's case on third-party
8 guilt.

9 THE COURT: All right. Well, we'll address that
10 before any such evidence is offered.

11 MR. POOLE: Yes, sir.

12 THE COURT: It might be at the conclusion of the
13 state's case, but you understand that evidence can't be
14 developed during the state's case unless we address that
15 first.

16 MR. POOLE: Yes, sir. I understand that.

17 THE COURT: Okay. Then we'll address it prior to such
18 evidence being introduced. From what you tell me that will
19 be after the state's presentation's been received.

20 MR. POOLE: Yes, sir. And may I say this? The reason
21 that we're able to do that is because a lot of it will
22 hinge upon Phillip Young's testimony in the a.m. That's
23 the reason we can't develop it today.

24 THE COURT: Okay. All right. That's fine.

25 All right. Anything else?

1 MR. BARNETTE: Nothing from the state, Your Honor.

2 I don't -- there might be one matter. I'll talk,
3 check something and might make a motion after lunch, but it
4 would not affect this until that point.

5 May I approach?

6 THE COURT: Yes, sir.

7 (Bench conference held off the record.)

8 THE COURT: Anything else we need?

9 Mr. Poole, I'm going to view the video tape during
10 lunch.

11 Is there anything else we need to address?

12 MR. POOLE: No, sir.

13 THE COURT: All right. Court is in recess until
14 2:00 o'clock.

15 (Whereupon, a recess was taken.)

16 THE COURT: All right. With reference to the
17 admission of any statement made by the defendant subsequent
18 to his arrest that the state proposes to introduce during
19 the trial of the case, I've considered all the evidence
20 including the viewing of the video tape.

21 I do find based upon a preponderance-of-the-evidence
22 standard that the state has established the voluntariness
23 of that statement, and therefore the defense's motion if
24 there was one to exclude it is denied. And the statement
25 will be allowed. And the jury can give it whatever weight

1 they determine is appropriate.

2 And if there is testimony regarding it not being
3 voluntary during the trial, then of course I'll instruct
4 them on the fact that they must find it to have been
5 voluntarily made beyond a reasonable doubt before they
6 could consider it against the defendant in any way.

7 So far as the admission of the video and any
8 statements made on the video, we'll have to address that
9 when and if the state proposes to introduce that video,
10 because I think -- I have a number of questions that are
11 going to have to be addressed and satisfied before it would
12 be allowed, and it deals primarily with other things being
13 said on the video, what's being referenced that the
14 defendant is supposed to be responding to. And I'm not
15 sure I'm clear on it and I'm not sure the video or the
16 audio on the video is clear.

17 I'm not sure it is clear what the questionnaire was
18 referencing so far as other criminal offenses. So we'll
19 have to address that outside the jury's presence before
20 that can be introduced if it, in fact, is eventually
21 permitted. Okay.

22 MR. POOLE: May it please the Court, Your Honor.

23 I appreciate the Court's ruling, but I would like for
24 the record to reflect an objection, respectful objection,
25 to the Court's ruling on the statements.

1 THE COURT: All right. Make sure the record reflects
2 that.

3 All right. Any other matters we need to address
4 before the jury is brought in?

5 All right. Bring the jury in and ask Mr. Hockenberry
6 to take the foreperson's seat -- Mr. Hockenberry.

7 (The following takes place in the presence of the
8 jury.)

9 THE COURT: Good afternoon, ladies and gentlemen. We
10 are ready to begin with the trial of the case for which
11 each of you have been selected.

12 And, Mr. Hockenberry, I'm going to ask you to serve as
13 the foreperson of this jury. As the foreperson of a jury
14 you have three responsibilities that none of the other
15 jurors have.

16 No. 1, you're going to be called upon to serve as the
17 spokesperson for the jury. And that just means that if
18 during the trial of this case something needs to be brought
19 to my attention, that is you or one of your fellow jurors
20 has some difficulty or problem or question, it will be you
21 who will provide that information to me either directly or
22 through the bailiff if something like that should arise.

23 Secondly, you're going to be called upon to preside
24 over jury deliberations in the jury room when that time
25 comes. And as I've indicated, that of course will not be

1 until the end of the trial after all of the evidence has
2 been received and I've instructed you on the law that's
3 applicable in this case.

4 But when this time does come for jury deliberations
5 you are the person appointed to preside over that process
6 in the jury room simply to ensure that those deliberations
7 are carried out in some orderly fashion.

8 And, thirdly, you'll be called upon to actually write
9 the verdict or the decisions of the jury, and you'll do
10 that on verdict forms that I'll provide you at the trial's
11 conclusion on which you will indicate the jury's unanimous
12 decision as it relates to a specific indictment or a
13 specific charge.

14 Now, the foreperson has those specific duties that
15 I've just indicated. That does not however mean that he is
16 any more important than any of you other jurors because the
17 decision of a jury is the unanimous consensus opinion of
18 all 12 jurors, and therefore each of you will have an equal
19 say and an equal vote in what the ultimate decision will be
20 as it relates to a particular indictment.

21 Someone simply has to be delegated those
22 responsibilities that I have just indicated, and I have
23 delegated those to Mr. Hockenberry in appointing him as the
24 foreperson. But all of you jurors are equally important so
25 far as the ultimate decisions in this case are concerned,

1 because, as I've stated, the verdict or decisions have to
2 be unanimous. All 12 of you must be in agreement.

3 Now, Mr. Schroder, you've been selected as an
4 alternate juror. And the function of an alternate jury is
5 to take the place of one of the original 12 jurors if
6 during this trial one of these original 12 is unable to
7 continue to serve as a juror.

8 And so if one is called away because of an illness or
9 an emergency and is unable to continue, then you would be
10 called upon to take that person's place. In that event you
11 would become the 12th juror. And if that were to occur,
12 then you would participate throughout the trial including
13 the jury deliberations.

14 If however when the time does come for jury
15 deliberations the original 12 are all able to participate,
16 then your service would end and you would not participate
17 any further, because the decision of a jury is that of 12,
18 and no more than 12 are permitted to engage in that
19 deliberation process.

20 But it is important that you pay just as careful
21 attention as we ask of all of the jurors in this case
22 because it does occur from time to time for one reason or
23 another one of the original 12 may be unable to continue.
24 In that event you become the 12th.

25 So we of course do appreciate your participation as an

Jury sworn

1 alternate juror, just as we appreciate the participation of
2 each of you jurors who have been selected for the purpose
3 of deciding the verdicts in this particular case.

4 You may swear the panel.

5 (Whereupon, the jury was duly sworn.)

6 THE COURT: Ladies and gentlemen, as you are well
7 aware, you have been selected to decide the verdicts in the
8 case of the State vs. Jason Will Williams.

9 Mr. Williams has been accused by, as I've previously
10 informed you, of five separate and distinct criminal
11 offenses, although each of these offenses is alleged to
12 have arisen out of one particular event or a course of
13 events which the state alleges occurred back on March the
14 8th of 2010. But there are five separate and distinct
15 offenses for which you will be called upon to render five
16 separate and distinct decisions or verdicts.

17 And your verdicts as to each of the separate charges
18 may be the same, or they may be different. That will
19 depend upon your determination of the facts in this case
20 and then your application of the law as it relates to a
21 particular charge as I will provide it to you prior to you
22 going back to begin with your deliberations.

23 But in this case, as you know, Mr. Williams is charged
24 with the crimes of armed robbery and possession of a
25 firearm during the commission of a violent crime. And that

1 relates to an event wherein the victim is alleged to be
2 Anita Smith.

3 Mr. Williams is also charged on the same day but a
4 separate event with the crimes of common-law robbery and
5 assault and battery of a high and aggravated nature,
6 wherein the victim is alleged to have been Randall Seay.

7 And then subsequent to those events the defendant is
8 accused of having committed the crime of failing to stop
9 when signaled by a law enforcement officer using a blue
10 light and/or siren.

11 Now, as to each of those charges, as I told you, the
12 defendant has entered a plea of not guilty. And a plea of
13 not guilty places upon the state the burden of proving the
14 allegations that they have set forth in each of those
15 indictments; the burden of proving each of the essential
16 elements of each of the crimes that are set forth in each
17 of those separate indictments; and therefore the burden is
18 upon the state to establish the defendant's guilt to the
19 satisfaction of you 12 jurors beyond a reasonable doubt
20 before any verdict of guilty could be returned as to any of
21 the separate charges contained in these indictments.

22 You are instructed that the constitution of this state
23 and of the United States, and of every state so far as I
24 know, provides that any person accused of a crime is always
25 presumed innocent of the charge.

1 That presumption of innocence remains with any
2 defendant, as it does with this defendant, from the time
3 that he is placed under arrest and throughout the course of
4 the criminal process and even throughout the course of the
5 actual trial in the case.

6 That presumption of innocence will be with
7 Mr. Williams even at the time that you go back to begin
8 with your deliberations in this case at the trial's
9 conclusion. And that presumption of innocence will be with
10 him in the jury room, and it will be with him forever
11 unless you 12 jurors determine that he's no longer entitled
12 to that presumption of innocence.

13 In other words, after you've carefully considered all
14 of the evidence in the case, and from that evidence you've
15 determined what you believe to be the true facts as they
16 relate to those allegations, and upon determining the facts
17 you apply the law as it relates to a particular charge as I
18 will have provided it to you prior to your beginning your
19 deliberations, if you 12 jurors unanimously determine that
20 his guilt as to a particular charge has been proven beyond
21 a reasonable doubt, then he's no longer entitled to the
22 presumption of innocence as it relates to that particular
23 charge. But it's only if, unless and until you are
24 satisfied of his guilt beyond a reasonable doubt that the
25 presumption of innocence would no longer be applicable as

1 it relates to that particular charge.

2 Now, the way the trial will proceed is that in a
3 moment the lawyers are going to address you in what are
4 called opening statements. There are two occasions in the
5 trial of a case where lawyers are permitted to address the
6 jury, and that is at the beginning of the trial before any
7 evidence has been introduced and then again at the
8 conclusion of the trial after all of the evidence has been
9 received.

10 Please understand and keep in mind that the lawyers'
11 statements are not to be considered by you jurors as
12 evidence upon which you will base your decision in this
13 case, and that's because the lawyers don't know anything
14 about this case of their own personal knowledge or
15 perception or experience. If they did, then they'd be
16 witnesses. They would not be lawyers involved in the trial
17 of the case.

18 The lawyers aren't going to take the witness stand.
19 They're not going to testify under oath. They're not going
20 to be subjected to direct and cross-examination like
21 witnesses will be, and so what they tell you in their
22 statements is not to be construed by you as being evidence
23 presented during the trial. But you should listen to what
24 the lawyers have to say because those statements do serve a
25 purpose.

1 The opening statements will serve to provide you with
2 a basic understanding as to what this case is about from
3 both the perspective of the state and from the defendant so
4 that you'll have some context in which to place the
5 evidence that we will be receiving shortly thereafter.

6 The closing statements occur after all of the evidence
7 has been received. And, again, while those statements are
8 not evidence it does afford the lawyers an opportunity to
9 discuss with you the evidence that you have seen and heard
10 during the trial of this case. And through that discussion
11 each will have an opportunity to try to persuade you or to
12 convince you that that evidence does or does not support a
13 particular decision. And it's in between the opening and
14 the closing statements of the lawyers that we actually
15 receive the evidence upon which you will base your
16 decision.

17 As I told you, the state because they have brought
18 these charges against the defendant has the burden of
19 proving his guilt beyond a reasonable doubt. So the state
20 has an obligation to present evidence, because right now if
21 you were asked to go back and render a decision based upon
22 the evidence your decision would have to be not guilty
23 because there's no evidence upon which you could base a
24 verdict of guilty.

25 So the state does have an obligation to present

1 evidence. Because they have the obligation and the burden
2 of proof in this case, they will go forward first in their
3 presentation of evidence.

4 Once they've concluded a defendant in a criminal trial
5 has the same opportunity to testify or present evidence,
6 but a defendant in a criminal trial is never under any
7 obligation to testify or to present evidence.

8 A defendant never has to prove that he is not guilty
9 or to prove that he is innocent because in many cases that
10 might not even be possible. And therefore during a
11 criminal trial a defendant may not take the witness stand
12 and testify, may not call any witnesses, may not produce
13 any evidence.

14 And should that occur that's not a fact that a jury
15 may consider in any way whatsoever in your determination as
16 to whether or not the evidence in this case establishes his
17 guilt beyond a reasonable doubt.

18 You can't hold that against a defendant who does not
19 testify or offer evidence, because a defendant has no
20 burden of proof in a criminal trial. But, as I've stated,
21 every defendant has the opportunity to testify or present
22 evidence if they wish to do so.

23 And so after all of the evidence has been received and
24 after you hear the final summations of the lawyers I will
25 then instruct you fully on the law as it relates to the

1 criminal law in general and as it relates to these specific
2 charges particularly, after which you'll be asked to go
3 back and begin with your deliberations. And through that
4 process you'll examine all the evidence, you will assess
5 the credibility of witness testimony, you will determine
6 the facts, then apply the law and arrive at a fair and just
7 decision as it relates to each of the charges in this case.

8 Now, it's important that you keep an open mind
9 throughout the course of the trial, and it's important that
10 you give every witness that testifies the same degree of
11 attention as they testify.

12 That of course does not mean that you'll give every
13 witness' testimony the same degree of weight because one of
14 your prerogatives in any case is to assess and evaluate the
15 credibility or the believability of witness testimony.

16 And so as witnesses testify you should wait until all
17 of the witnesses have testified and until you've been asked
18 to go back and begin deliberations before you start
19 evaluating their credibility.

20 But you must give every witness the same degree of
21 attention as they testify so that when you do go back to
22 begin your deliberations you'll be in a proper position and
23 a fair position to be able to judge each witness'
24 credibility in light of not just that witness' testimony
25 but in light of all of the testimony and all of the

1 evidence received during the trial.

2 And, as I say, of course it's important that you keep
3 an open mind, which just simply means you are not to begin
4 making up your minds or formulating your opinions as to
5 what you think the ultimate decisions in this case ought to
6 be until all of the evidence has been received, until you
7 have been instructed by me as to the law and until you've
8 been asked to go back and begin with your deliberations in
9 the case. That is the process that is designed for you 12
10 jurors to arrive at fair and just decisions in this case.

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

15 Mr. Barnette.

16 MR. BARNETTE: May it please the Court, Your Honor.

17 Mr. Foreman, ladies and gentlemen, let me take you
18 back to March the 8th of 2010. On that day Anita Smith was
19 working her work at Smile Makers.

20 It was 1:00 o'clock. It was time for her break from
21 work. She goes outside. They have a picnic area. You'll
22 see the pictures of it. Several of her coworkers then went
23 out and took their break there as they do in the
24 afternoons.

25 While she and her coworkers was out there an

1 individual came up from a truck. You'll hear the truck, a
2 dark colored truck.

3 He came out with a mask on, a black mask pulled across
4 the front basically like this. It wasn't two holes. It
5 was across here.

6 He went after her purse. She had on a purse. He
7 takes a hammer and almost hits her arm with it, grabs and
8 takes her purse.

9 Tammy Forrest, one of her coworkers, saw what
10 happened. She went to get spray. She follows him. And
11 she'll describe what she saw too. He jumps in this dark
12 colored truck. And they'll tell you what they saw that
13 day.

14 Shortly after that two miles down the road where Smile
15 Makers is if you know where Exit 78 is on I-85, there's a
16 little frontage road. It's called Sha Na Lane. You go
17 right there. There's like a Burger King, a filling station
18 with a hotel and things across the street on that exit
19 there. You just take a right when you come off the exit.
20 You go down a frontage road. You'd come back out on 221,
21 Chesnee Highway. You'd go up the road to Cherokee Springs.
22 You go approximately 2 miles, maybe a little bit over two.

23 There's the Cherokee Springs Baptist Church. Randall
24 Seay is working in his church. He's working on the sound
25 system. The defendant comes into the church and asks him

1 about where his preacher is, asked him several questions.
2 He goes and gets a program to help him and gives him the
3 number.

4 At some point he'll describe to you what happened as
5 he turns his back and continues working on the sound system
6 in the pew area, in the pulpit area.

7 This defendant grabs him and chokes him by the throat,
8 takes his wallet, wants to know his PIN number so he can
9 use it. And you'll see the injuries that he received from
10 that. This fellow leaves. He leaves in a dark colored
11 truck. And he'll tell you about the markings on it.

12 During that time Investigator William Gary and several
13 other members of the Spartanburg County Sheriff's
14 Department is notified. They have had two robberies within
15 a very short period of time that afternoon, be on the
16 lookout for the truck that's been described in both cases.

17 He sees this. He then starts to do the -- and we'll
18 give you a map and show you where he was in Spartanburg
19 County. He goes over to pull the truck over. It stops
20 initially and he gets -- get out of his car. The truck
21 takes off. A high-speed chase pursues. Officers get
22 involved.

23 He later wrecks underneath the Converse community away
24 basically in the eastern part of the county. He gets out
25 of the truck. He attempts to run. Deputy Kish catches

1 him. And this defendant was driving that vehicle.

2 Inside the vehicle -- and you'll see photographs -- a
3 hammer was found. The witness will tell you about the
4 hammer at Smile Makers.

5 Anita Smith's belongings was found including her
6 driver's license, found in his possession. He has several
7 things, envelopes, everything like that. You'll see her
8 driver's license with those envelopes that spilled out.
9 When he wrecked the truck it flipped over, so everything
10 fell out, spilled out of the car when it rolled.

11 Randall Seay's wallet was there, plus a Wal-Mart VISA
12 card that was in the wallet. You'll see the picture taken
13 there. All of these items was found in the truck driven by
14 that man right there. And the truck was his girlfriend's
15 truck in this case.

16 He was arrested and charged with these crimes. We
17 bring this evidence to you today, ladies and gentlemen.
18 What I'd like for you to do is just listen to the evidence
19 because this is very important to both of these people.
20 They're here. They didn't have a choice of being here.
21 They're basically victims in this case. They're required
22 to come into this courtroom. We'll bring them into the
23 courtroom.

24 I'm proud to be representing them, because, like I
25 said, they needed to be represented in these type of

1 crimes. This is the type of situation that shouldn't
2 happen in our community.

3 Armed robbery is basically using a deadly weapon. I
4 guarantee a hammer when you see it and the way it was used,
5 it's obviously a deadly weapon. It was used to rob
6 somebody.

7 Common-law robbery is the use of threat and
8 intimidation by grabbing somebody and fighting them and
9 that type thing.

10 Failure to stop is when you're notified by blue
11 lights. Investigator Gary and Deputy Kish, they'll tell
12 you about the blue lights that was used to try and stop
13 him.

14 And assault and battery of a high and aggravated
15 nature is what happened to Mr. Seay. You'll see the
16 injuries that he received. When you attack somebody, when
17 you take in factors, the age, when a felony's being
18 committed, different things like that.

19 And if you would just listen to these folks when they
20 come up and tell you what happened to them. Look at the
21 evidence.

22 And I'm going to come back at the end of the case and
23 I'm going to ask you for guilty verdicts on all four
24 counts, all involved in this case. Again, I appreciate
25 y'all being here. Thank you again.

1 Thank you, Your Honor.

2 MR. POOLE: May it please the Court.

3 THE COURT: Mr. Poole.

4 MR. POOLE: Mr. Foreman and ladies and gentlemen, I am
5 proud to represent Jason Williams who is charged on five --
6 four indictments with five crimes.

7 I want to formally introduce myself and I would like
8 to say thank you on behalf of the defendant, Mr. Williams,
9 for being here, although you probably don't have much of a
10 choice.

11 Mr. Barnette has stated to you what the state intends
12 to prove. And Judge Cole has stated to you that the burden
13 is always upon the state to prove each and every element of
14 each and every crime against the defendant, Mr. Jason Will
15 Williams, beyond a reasonable doubt. You've heard it a
16 couple of times. You'll be hearing it again.

17 And Mr. Barnette has also stated to you the facts that
18 he intends to show. And the facts will be coming from the
19 witness stand and through exhibits that will be presented
20 to you for your consideration as you take the facts and
21 apply it to the law of the case and apply it to the law
22 instructed by Judge Cole and to see whether or not the
23 state has carried its burden of proof.

24 And every person that is charged with any crime, even
25 a traffic ticket, is entitled to a trial most of the times

1 by a jury, six people in magistrate court, 12 people up
2 here. And the state downstairs in magistrate court,
3 upstairs up here, has the same burden of proof.

4 And what every defendant has the right to do is to
5 say, okay, prove it, prove it with me he committed the
6 crime, prove it by facts that I did these things. And not
7 just do that, but prove it beyond a reasonable doubt.

8 A trial is a process. It occurs in time, and
9 necessarily somebody has to go first. Of course the state
10 does. They have the burden of proof.

11 And for every time there's a season, and there will be
12 a time when this defendant, Mr. Williams, will present a
13 defense if he chooses to. And then that's when I'll be
14 talking to you some more.

15 It will be at the end of this case that I will have a
16 lot more to say than what I have to say right now. It will
17 be at the end of this case that we will have the proper
18 respect of everybody in this box, have the proper
19 perspective to listen to what the lawyers say from their
20 respective positions.

21 And I ask that you keep an open mind throughout the
22 whole thing because everything does have a season. The
23 state will have theirs first and then ours comes next.

24 So to sum it up right now, I just wanted to say hello,
25 thank you for your time, thank you for being here.

William Robert Gary
Direct examination by Mr. Barnette

1 Y'all were chosen through a process, and you will
2 hear, that ensures the best and fairest people that can sit
3 and hear both sides and render a fair evaluation. And at
4 the end of the day, whatever day that will be, we say that
5 the evaluation is not guilty. Thank you.

6 THE COURT: Mr. Barnette.

7 MR. BARNETTE: May it please the Court, Your Honor.
8 I'd like to call Investigator Gary to the stand, please.

9 WILLIAM ROBERT GARY, having
10 been first duly sworn, testified as follows:

11 DIRECT EXAMINATION BY MR. BARNETTE

12 Q If you would, sir, state your full name for the
13 record, please.

14 A My name is William Robert Gary.

15 Q And where do you work at, sir?

16 A The Spartanburg County Sheriff's Office.

17 Q And what is your position there, sir?

18 A Right now I'm assigned to the -- I'm a senior
19 investigator in the violent crimes division at the
20 sheriff's office.

21 Q And how long have you been at the sheriff's
22 department, sir?

23 A I was hired March 6th of 1995. I've been in
24 investigations approximately 11 -- whatever. Eleven years.

25 Q Back on March the 8th of 2010, was you on duty that

William Robert Gary
Direct examination by Mr. Barnette

1 day, sir?

2 A I was.

3 Q Did y'all receive a call concerning two robberies that
4 occurred?

5 A Yes, sir. I actually heard -- I heard both of them.
6 I heard more of the second one on the radio and was alerted
7 that it was -- sounded similar to the first one.

8 Q And did y'all receive a BOLO or information about a
9 truck that was involved in these robberies?

10 A We, we got a BOLO of the suspect. A BOLO is an
11 acronym for be on the lookout. And it's just easier to say
12 on the radio. So the BOLO was given out for a dark colored
13 truck with a stripe down the side and tailgate down. And
14 if I remember right, it said something about a gas can
15 maybe in the bed of the truck.

16 Q And where was you at at that time, sir?

17 A I don't remember exactly where I was when I heard it.

18 Q Okay. And did you see a truck that matched that
19 description, sir?

20 A After hearing that and hearing this, from my
21 experience it just sounded like someone who was on a spree.
22 We have that happen occasionally where someone goes from
23 place to place, robbery, robbery, robbery.

24 MR. POOLE: Your Honor, I object to the
25 characterization of a spree.

William Robert Gary
Direct examination by Mr. Barnette

1 THE COURT: Sustained.

2 A From my experience and bearing that I went to saturate
3 certain areas of the county myself, and I ended up on
4 Cotton Drive on the east side of town. And actually I was
5 sitting at the stop sign where Cotton Drive comes into
6 Plainview Drive, which Plainview runs towards Cannons
7 Campground and East Main Street or 29 on the east side of
8 town.

9 Q And when you saw the vehicle, what did you do, sir?

10 A When I was sitting there there was a, a vehicle that I
11 saw. It was dark blue or black, large strips going down
12 the side. I noticed the tailgate was down and a white male
13 driver, no passenger in the vehicle.

14 It was traveling on Plainview going towards Cannons
15 Campground coming from the railroad-track area that
16 crossed Plainview Drive that run parallel with 29.

17 Q What did you do then, sir?

18 A When I saw it, it struck me that's pretty much
19 identical to the description we were given, so as far as
20 stopping and check it out and see what's going on.

21 So actually on that road it goes up to a little bit
22 of a hill and then it goes down. So I waited for the
23 truck to get out of sight so that -- because he looked
24 straight at me. And I drive an unmarked car, but it's
25 obvious that it's a police car.

William Robert Gary
Direct examination by Mr. Barnette

1 And so I let him get over the hill so he couldn't see
2 that I turned left. So I turned left to get in behind
3 him. And I knew that would catch him around the red light
4 at the intersection of Plainview and Cannons Campground --
5 and actually got behind him right after the red light. He
6 had his right signal on. He was going to turn right onto
7 Cannons Campground.

8 Q And then what happened then, sir?

9 A At that point I'd already called in that I was going
10 to initiate a traffic stop. And as soon as he turned right
11 on Cannons Campground I activated the blue lights in my
12 car, which I have a double strobe in the front window, two
13 quarter strobes that are clear. And then the headlights
14 flash in my car that you can see all of that from the
15 front.

16 And the truck pulled over. I could only see the last
17 three of the tag. There was a piece of wood that was kind
18 of wedged blocking the letters on the tag. So I called
19 out what I could.

20 I started getting out of my vehicle. Something told
21 me not to close my door. I left the door open and started
22 to step out of the doorway, and as soon as I did the truck
23 sped off on Cannons Campground heading towards Cowpens.

24 Q And what did you do then, sir?

25 A Got back in my vehicle, notified our dispatch that the

William Robert Gary
Direct examination by Mr. Barnette

1 truck took off on me, turned my siren on at that point and
2 pursued the vehicle on Cannons Campground calling out..
3 traffic conditions, speed. At one point we were doing in
4 excess of a hundred miles an hour on Cannons Campground.

5 I took a right on Dan River Road off of Cannons
6 Campground, which leads back towards 29. Pretty sharp
7 turn in it. The truck came close to wrecking in the
8 curve. Didn't -- it didn't though.

9 Kept going. We ended up at 29. He took a right.
10 Actually, he took a right before he got on 29. There's
11 some construction going on in the right lane. There's
12 four lanes there. The right lane headed back in towards
13 town was actually closed off. He actually turned right
14 and went up to the right of the sidewalk through the
15 grass.

16 So I got on 29 and just went parallel with the truck.
17 He got back onto 29. We turned left onto I believe it's
18 Main Street right there in Clifton that comes up. And it
19 goes down and becomes River Road right after you go under
20 a, like a, train trestle right there.

21 At that point I realized our helicopter was overhead.
22 In that area of town the signal in my car and a lot of our
23 cars doesn't get out very well. So I started losing some
24 radio traffic and couldn't hear a lot of what people were
25 saying. I could -- every once and a while I could hear

William Robert Gary
Direct examination by Mr. Barnette

1 the helicopter giving out directions.

2 And after we went under the trail trestle or actually
3 after he went under there was a school bus there. He --
4 the truck took a left in her yard to go around the school
5 bus, kept going on River Road.

6 So at this point hearing the helicopter and knowing
7 what my radio was doing I backed off just a little bit by
8 the way he was driving and knowing that the helicopter's
9 giving out directions.

10 And I don't know if you're familiar with the area,
11 but it's pretty curvey when you're in that area of that
12 community. And he ended up on Clifton Glendale Road
13 heading back towards Cowpens. On Clifton Glendale you
14 cross over the river there.

15 As I see that I saw Deputy Kish and his vehicle
16 sitting on the other side of the river waiting on him.
17 And I saw the vehicle turn right off of Clifton Glendale.
18 I forget the name of that road. I believe it's River up
19 there. And then Deputy Kish at that point was the lead
20 car in the pursuit.

21 And so cars had gotten between us. I got held up a
22 little bit. Heard on the radio where he was going. I
23 missed one turn and got back to where he was and actually
24 heard that he had wrecked the vehicle on Hammett Road,
25 which is almost in Cherokee County. It's pretty far.

William Robert Gary
Direct examination by Mr. Barnette

1 He's in Spartanburg County.

2 And when I got there Deputy Kish and the defendant
3 were approximately a hundred yards away from the truck.
4 The truck was on its top. When I pulled up I could see
5 the truck up there. And they were on the right side of
6 the road where I stopped, got out to help Deputy Kish get
7 him secured and then walked him up to Deputy Kish's
8 vehicle to secure him in his car.

9 Q And when Deputy Kish went on did he have his blue
10 lights and siren on?

11 A Yes, he did.

12 Q And did you still have your blue lights and siren on?

13 A I did. I actually left them on while we were walking
14 him up to the car.

15 Q And do you see the individual today that was driving
16 the -- that you saw driving the truck and that was caught
17 after he wrecked the car?

18 A I do. It's the gentleman in the white shirt with the
19 red, blue and gray or silver tie.

20 MR. BARNETTE: Your Honor, I would like the record to
21 reflect he's identified the defendant.

22 THE COURT: It shall.

23 Q Let me show you some pictures I have here, sir. Let
24 me show you. And before I forget it, Smile Makers, is that
25 in Spartanburg County, sir?

William Robert Gary
Direct examination by Mr. Barnette

1 A It is.

2 Q And is the Cherokee Springs Baptist Church, is it in
3 Spartanburg County?

4 A It is.

5 Q And this whole chase, did it occur in Spartanburg
6 County?

7 A It did.

8 Q Let me show you State's Exhibit 44. Do you recognize
9 that map, sir?

10 A I do, sir.

11 Q Let me show you State's Exhibits 6 -- let me show you
12 State's Exhibit 6 through, I believe it's going to be, 14
13 and let you get a chance to look at those pictures, sir,
14 and see if you recognize those pictures.

15 A Yes, sir, I do.

16 Q Do those pictures fairly represent what you saw that
17 day, sir?

18 A Yes, sir.

19 MR. BARNETTE: Your Honor, I'd like to enter State's
20 Exhibit 6 through 14 and the map, State's Exhibit 44, into
21 evidence at this time.

22 MR. POOLE: No objection, Your Honor.

23 THE COURT: They are admitted.

24 (Photographs marked State's Exhibits 6 through 14; map
25 marked State's Exhibit No. 44.)

William Robert Gary
Direct examination by Mr. Barnette

1 MR. BARNETTE: Permission to publish them to the jury,
2 Your Honor.

3 THE COURT: You may.

4 Q If you would, sir, step on down, if you would.

5 (Whereupon, the witness left the stand.)

6 Q Showing you State's Exhibit No. 44, Investigator Gary.
7 Now, this is I-85, is that correct?

8 A Yes, sir.

9 Q And this is 221 or Chesnee Highway.

10 A Yes, sir.

11 Q Is Smile Makers about right in that area, sir, give or
12 take?

13 A Yes, sir. It would be about where that second --
14 right in that area where the second road, yeah, that would
15 be it.

16 Q And is Cherokee County, I mean, Cherokee Springs
17 Baptist Church right about in this area here, about two
18 miles?

19 A I would say yes, sir.

20 Q Okay. And let me go out. Maybe that will be better
21 to let you move this, let you take over from this point.

22 Where was you sitting at, sir?

23 A That's it.

24 Q Okay.

25 A Okay. This is Plainview Drive here. This is

William Robert Gary
Direct examination by Mr. Barnette

1 Highway 29 and East Main. This is Skylyn Drive. I'm
2 sorry. Skylyn Drive. And then it becomes -- that's too
3 far. Slide up. Okay.

4 Q Spartanburg is back this way, is that correct?

5 A Right. Here it is. It's Skylyn Drive until you get
6 to here, and then it becomes Cannons Campground Road. This
7 is Cotton Drive here that runs off of Cannons Campground to
8 Plainview, intersects and runs between 29 and Cannons
9 Campground.

10 I was sitting at this intersection here at the red
11 light or at the stop sign. And this was the direction
12 that the vehicle I observed was coming from. Just after
13 he crossed over these railroad tracks here heading towards
14 Cannons Campground when I saw it.

15 Q And if you would, show the path that he took, sir.

16 A The red light would be here where I initially got
17 directly behind the vehicle. And then we turned right and
18 stopped a short distance from there.

19 And then that's when he, he left and proceeded up
20 Cannons Campground down through here. This is going to be
21 Dan River coming here. This is the curve here actually
22 someone warned me about on the radio, which I was glad
23 they did. Almost returned there, and then all the way
24 back to 29.

25 This is where he cut through to the right side of the

William Robert Gary
Direct examination by Mr. Barnette

1 sidewalk driving to the right of the construction. And
2 when he went up to about here, came up this direction
3 here, down through all the train trestle, the bridge that
4 you would go under here, and then through these curves and
5 all through this community and then actually end up down
6 here a little below this map.

7 And I believe where he wrecked is going to be -- I
8 don't believe Hammett is on here. I believe Hammett's
9 going to be about over into here if I'm not mistaken.

10 Q Let me show you what's been marked as State's Exhibit
11 No. 6 and entered into evidence. Is this a picture of the
12 truck that he was driving, sir?

13 A Yes, sir, after it was rolled.

14 Q And showing you State's Exhibit No. 7, is this another
15 picture of that, sir?

16 A It is. This would be from the -- the truck would have
17 been traveling from this direction. And the way this
18 picture is acclimated the vehicle would have been heading
19 up the road toward you if you're the one taking the photo.
20 And then he run off the road here and ended up in this
21 position here.

22 Q Okay. Showing you State's Exhibit No. 8, is that just
23 another picture of the angle?

24 A It is. This shows the direction that the truck came
25 up this road.

William Robert Gary
Direct examination by Mr. Barnette

1 My vehicle's not shown in this photo, but I think it
2 had already been removed. But where I encountered Mr.
3 Williams and Deputy Kish is about where that car was
4 stopped there, is where he was.

5 Q And is there a stripe on this truck?

6 A Yes, sir, there is.

7 Q And that was part of the BOLO that was sent out to
8 you?

9 A Yes, sir.

10 Q Showing you State's Exhibit No. 9. Is this just
11 another angle of the truck?

12 A Same truck, shows the stripe on this side, which is
13 actually the side that I would have seen. This is the
14 driver's side of the vehicle.

15 Q And this rolled, is that right, the truck did?

16 A It rolled. I'm not sure. I think that it just rolled
17 on the roof, but I'm not sure if it rolled. I wasn't
18 directly behind it -- if it rolled more than once or just
19 rolled --

20 Q Deputy Kish would be better for that.

21 A Yes, sir.

22 Q State's Exhibit No. 10, is that another picture of
23 that truck?

24 A It is. This is looking back the direction. That's
25 actually where my car would be.

William Robert Gary
Direct examination by Mr. Barnette

1 Q Showing you State's Exhibit No. 11. Was there items
2 that was, I guess, thrown out of the car at times?

3 A There were, there were. There were several things
4 here that, that come out of the vehicle once it came to
5 rest, and then a stich right here, a few items, things that
6 appeared to have been in the bed of the truck that come
7 out, as well as things from the cab of the truck and papers
8 and what not.

9 Obviously, the truck in order to be towed had to be
10 pulled back over onto its wheels. When that occurred the
11 dri -- the passenger's window broke, and it caused a lot
12 of the items. Obviously, the passenger window when it was
13 going over, it caused it to break and a lot of them fell
14 out as it was being rolled over.

15 Q And was you there when the items from the different
16 victims was found in the vehicle, or was that done by I.D.,
17 sir?

18 A I was there when some of it was done and I observed
19 some items that were pointed out to me as belonging to the
20 victims in this case -- the driver's license and a wallet
21 and the credit card if I remember right.

22 Q State's Exhibit No. 12, what is this a picture of,
23 sir?

24 A This is the bank looking down on the accident site
25 where it had rolled. And you can see some of the items

William Robert Gary
Direct examination by Mr. Barnette

1 that had already come out of it again in this picture.

2 Right at this point you see the license plate. I
3 guess it had rolled. The piece of wood that was wedged
4 under it had moved. And you actually see the three
5 letters now.

6 Q So you couldn't see the whole tag.

7 A No. I could just see the numbers. I couldn't see the
8 letters.

9 Q Okay. Showing you State's Exhibit 13. Is that just a
10 closer view of the license plate?

11 A It is.

12 Q And I believe this come back registered to his
13 girlfriend.

14 A I believe that's right.

15 Q State's Exhibit No. 14, is this just a closeup view of
16 the items, some of the items, that were, I guess, tossed
17 out and rolled over?

18 A Yes, sir.

19 Q If you would, sir, please have a seat.

20 (Whereupon, the witness returned to the stand.)

21 Q And later on was the defendant taken to the hospital?

22 A Yes, sir, he was.

23 Q And was some other investigators -- did they handle
24 the case after that?

25 A They did. Investigators Foster and Williams, Lorin

William Robert Gary
Cross-examination by Mr. Poole

1 Williams -- and basically handled it from there. It was
2 going to be primarily their cases to work on anyway, and
3 they were taking care of everything to do with the
4 defendant.

5 Q But when you rolled up Deputy Kish was with him
6 approximately a hundred yards from the car?

7 A Approximately a hundred yards. He had him on the
8 ground, and I helped get him secured. And we walked him
9 back to Deputy Kish's vehicle because his vehicle had a
10 cage in the back to secure a prisoner and mine does not.
11 So it was a better option to put him in his car instead of
12 in mine.

13 Q If you would, please answer any questions Mr. Poole
14 may have for you sir.

15 CROSS-EXAMINATION

16 BY MR. POOLE

17 Q Investigator Gary, could I get you to come back down
18 here?

19 A Absolutely.

20 (Whereupon, the witness left the stand.)

21 Q I'm not very good with this.

22 All right. You showed us a moment ago some things that
23 were sort of off the map, and one of them was what you
24 testified to be as Smile Makers' establishment.

25 A Yes, sir.

William Robert Gary
Cross-examination by Mr. Poole

1 Q Where would that be?

2 A It is on Sha Lane, which this map isn't labeled Sha
3 Lane. It should be on this map right in this, this area
4 here.

5 Q Okay. Near what used to be the Peach Valley Country
6 Club?

7 A Well, I think that label was probably off, because you
8 would go across 85 and on 221. And Sha Lane is the first
9 lane that's going to cross actually left and right on here.

10 Q All right. Sort of like a frontage road?

11 A Yes, sir.

12 Q Okay.

13 A There's a gas station, a B.P. station, right on the
14 other side of the interstate, and it turns just past that
15 between that and I guess the Subway right there. You turn
16 between. That's going to be. Actually, I think there's an
17 Exxon --

18 THE COURT: The court reporter needs to see the
19 witness at least as he speaks, so.

20 MR. POOLE: I'm sorry.

21 THE COURT: Don't stand in front of him.

22 And you need to speak louder so she can hear what
23 you're saying.

24 THE WITNESS: Yes, sir.

25 BY MR. POOLE

William Robert Gary
Cross-examination by Mr. Poole

1 Q Could you show us where Cherokee Springs Baptist
2 Church would be?

3 A If I'm not mistaken it's right off the top edge of
4 this map.

5 Q Okay. And where were you when you first saw the
6 truck?

7 A Okay. Here's Plainview again, and this is Cotton
8 Drive. And I had come down Cotton to Plainview, and I was
9 sitting at the stop sign. And the truck came up Plainview
10 towards Cannons Campground.

11 Q Up Plainview towards Cannons Campground.

12 A Yes, sir.

13 Q Okay. And where is Cannons Campground with --

14 A Actually Skylyn Drive until you get to Floyd Road, and
15 then it's Cannons Campground on that.

16 Q Okay. So Cannons Campground Road goes to S -- it's
17 S31?

18 A Yes, sir. It's all the way up to 110.. Basically, it
19 parallels 85.

20 Q Okay. And then it continues down, doesn't it?

21 A Yes, sir.

22 Q What time did you come on duty?

23 A 8:00 o'clock that morning.

24 Q Okay. What time did you see the truck?

25 A I don't know the exact time. It know it was probably

William Robert Gary
Cross-examination by Mr. Poole

1 anywhere from 20 to 30 minutes from the second incident if
2 I remember correctly.

3 Q You don't remember?

4 A I don't have the exact time with me I called out the
5 traffic stop.

6 Q You came on duty --

7 A 8:00 o'clock in the morning.

8 Q 8:00 a.m.

9 A Yes, sir.

10 Q Do you remember the time of the BOLO?

11 A I'm -- it would have been -- by the time I heard the
12 BOLO it would have been after the second incident.

13 Q Okay. That's the best of your recollection.

14 A Yes, sir. Well, it was by -- by the time I saw it it
15 was probably -- because I had gone a couple of places -- it
16 was probably 20 minutes, maybe 30 minutes, if memory serves
17 me that I actually observed the vehicle.

18 Q All right. Thank you very much.

19 MR. POOLE: That's all the questions I have got.

20 MR. BARNETTE: No further questions of this witness,
21 Your Honor. We'd ask he be excused.

22 THE COURT: He may be.

23 (Whereupon, the witness was excused.)

24 MR. BARNETTE: Your Honor, I would like to call
25 Ms. Smith to the stand, please.

Anita Swofford Smith
Direct examination by Mr. Barnette

- 1 ANITA SWOFFORD SMITH, having
2 been first duly sworn, testified as follows:
3 DIRECT EXAMINATION BY MR. BARNETTE
4 Q Ms. Smith, I'm going to have to ask you to talk loud
5 enough so these folks back here can hear you. Okay.
6 A Okay.
7 Q I know you're soft. You may want to pull that a
8 little bit closer, because I know you're soft spoken.
9 A Is that better? I'll try. I'll speak up.
10 Q Okay. Thank you, ma'am. I'm sorry. Could you give
11 me your full name, please?
12 A Anita Swofford Smith.
13 Q And, Ms. Smith, where do you work at?
14 A Smile Makers.
15 Q And what is your position there, ma'am?
16 A Customer service representative.
17 Q And how long have you worked there, ma'am?
18 A Almost two and a half years.
19 Q Was you working there on March the 8th of 2010?
20 A Yes, sir.
21 Q And on that day did you take an afternoon break?
22 A I did.
23 Q And about what time did you start your break?
24 A About 1:00 o'clock.
25 Q And who else went out with you when you took the

Anita Swofford Smith
Direct examination by Mr. Barnette

1 break?

2 A The one that came out with me was Tammy Forrest, and
3 there was also -- there's about 12 other people at the time
4 my break initially started.

5 Q Did some of those people go back into the building?

6 A Yes, yes, sir.

7 Q And during that time can you tell the jury what
8 happened to you while you was out there?

9 A Yes. It was probably about 1:15. Tammy and I were
10 talking. And a black or dark blue pickup truck pulled up
11 with a stripe on the side. And he had a ski mask on. And
12 I told Tammy it didn't seem right.

13 And we were starting to get up. And before we could
14 even get up he was already in my face. And my purse was
15 on the picnic table. And I had my arm there. And he went
16 to grab it. And when he went to pull it away my instinct,
17 I guess, was to grab it. And he swung the hammer at me.
18 And of course I retracted, and he just -- he took off.
19 And I went running inside.

20 Q You say he swung a hammer at you. What did you think
21 was going to happen?

22 A I thought he was hitting me with it. I, I didn't know
23 where, but I thought it was coming down to me. My arm was
24 where the dent was in the picnic table.

25 Q Did the hammer leave a dent in the picnic table?

Anita Swofford Smith
Direct examination by Mr. Barnette

1 A Yes, sir, a fairly good one.

2 Q And he took the purse. Did Ms. Forrest do anything
3 during that time?

4 A Yes. She ran after him with pepper spray, and-but he
5 was already in his truck by the time she got to him. I'm
6 sorry.

7 Q Take your time, ma'am. And did y'all call the police?

8 A Yes. I went running inside. And I myself did not
9 call 9-1-1, but several of my coworkers -- at least I know
10 at least one of them did because the police did show up.

11 Q So he did take your purse.

12 A Yes, sir.

13 Q And what was in your purse?

14 A My wallet and my cell phone with all of my I.D.s, my
15 marriage license, a dummy. I had everything in my purse,
16 all my belongings -- license, credit cards.

17 Q And did you have money also in there, ma'am?

18 A Luckily, I didn't have much cash, but I did have about
19 a dollar 85 in change. He didn't get much from me.

20 Q Let me show you what's been marked and already entered
21 into evidence as State's Exhibits Nos. 6, 7, 8 -- I guess
22 through State's Exhibit 14. Take a look at that, ma'am.

23 And does that appear to be the truck that was being driven
24 by the defendant?

25 A Yes, sir.

Anita Swofford Smith
Direct examination by Mr. Barnette

1 Q And showing the jury one of -- I know the jury has
2 already seen it.

3 Showing you State's Exhibit No. 8. Does that appear to
4 be the stripe that was on the side of the truck that you saw
5 that day?

6 A Yes, sir.

7 Q Let me show you State's Exhibit No. 1. Was this the
8 hammer that that man used?

9 A Yes, sir.

10 MR. BARNETTE: Your Honor, I'd like to enter these as
11 State's Exhibit No. 1 at this time.

12 MR. POOLE: Can we approach, Your Honor?

13 (Bench conference held off the record in the presence
14 of the jury but out of the hearing of the jury.)

15 MR. POOLE: No objection.

16 THE COURT: It's admitted.

17 (Hammer marked State's Exhibit No. 1.)

18 Q Okay. This is the hammer that was used by that
19 defendant, is that right?

20 A Yes, sir.

21 THE COURT: What number is that?

22 MR. BARNETTE: State's Exhibit No. 1, Your Honor.

23 Q Let me show you State's Exhibit No. 2, ma'am. Does
24 this appear to be the mask that the defendant was wearing?

25 A Yes.

Anita Swofford Smith
Direct examination by Mr. Barnette

1 MR. BARNETTE: Your Honor, I'd like to move State's
2 Exhibit No. 2 into evidence at this time.

3 MR. POOLE: No objection.

4 THE COURT: It's admitted.

5 (Black mask marked State's Exhibit No. 2.)

6 Q Ma'am, let me show you what's been marked as State's
7 Exhibit 21. Does this appear to be a picture of your
8 driver's license, ma'am?

9 A Yes, that's my driver's license.

10 MR. BARNETTE: Your Honor, I'd like to enter State's
11 Exhibit 21 into evidence.

12 MR. POOLE: No objection.

13 THE COURT: It's admitted.

14 (Photograph marked State's Exhibit No. 21.)

15 MR. BARNETTE: May I publish it to the jury, Your
16 Honor?

17 THE COURT: You may.

18 Q So that was your driver's license, ma'am, State's
19 Exhibit 21.

20 A Yes, sir.

21 Q And did you receive some items? Did you receive any
22 of these items back from the sheriff's department, ma'am?

23 A The only thing I received back at this time was my
24 social security card.

25 Q And was that taken in your purse?

Anita Swofford Smith
Direct examination by Mr. Barnette

1 A It was. It was in my wallet.

2 Q Okay. And you never received any of the other items
3 back.

4 A No, sir.

5 Q Your marriage license or anything.

6 A Nothing like that. My car keys were in there as well.

7 Q You didn't get those back either?

8 A I didn't get anything back except that little card.

9 Q Just your social security card. And that was in that
10 purse that was taken by the defendant.

11 A Right, yes, sir.

12 Q And your driver's license was also in that too, is
13 that right?

14 A Yes, sir, from the pictures. I did not know about it,
15 but yeah.

16 Q But you never got it back.

17 A No, sir.

18 MR. BARNETTE: One moment, Your Honor, please.

19 (Pause.)

20 MR. BARNETTE: Your Honor, I'd just like to publish
21 these two items, State's Exhibit 1 and 2, at this time on
22 the elmo to the jury.

23 THE COURT: Okay.

24 BY MR. BARNETTE

25 Q And in this mask, was it -- the hole was where you

Anita Swofford Smith
Cross-examination by Mr. Poole

1 could see through the eyes?

2 A Yes, sir.

3 Q And this is the mask that was used.

4 If you would, ma'am, please answer any questions

5 Mr. Poole may have for you. Thank you.

6 CROSS-EXAMINATION

7 BY MR. POOLE

8 Q Ms. Smith, just a couple of questions.

9 You, you took a break about 1:00 o'clock, is that
10 right?

11 A That's right.

12 Q And this incident occurred around 15 minutes into your
13 break?

14 A Yes, sir.

15 Q Okay. And how long does your break usually last?

16 A Half an hour.

17 Q All right. And so the event occurred, and then it
18 took a very short period of time.

19 A It was quick.

20 Q And then you went back into Smile Makers.

21 A Yes, ma'am.

22 Q And the coworkers were already calling?

23 A No, sir. They, they were still outside. They -- I
24 was the first into the building.

25 Q Uh-huh.

Tammy Lynn Forrest
Direct examination by Mr. Barnette

1 A And then the coworkers inside when I was hollering
2 that I had been robbed, call the police for me.

3 Q And they started calling. They started calling then?

4 A Uh-huh.

5 Q Okay. All right. And you stated, I think, it was
6 about 1:15.

7 A Approximately, yeah. I didn't look at my watch. My
8 phone was in my purse, so I couldn't see the time.

9 Q Half way into your break?

10 A Approximately.

11 Q Thank you very much.

12 MR. BARNETTE: I have no further questions of this
13 witness, Your Honor. We would ask her to be excused.

14 THE COURT: She may be.

15 You may step down.

16 (Whereupon, the witness was excused.)

17 MR. BARNETTE: Your Honor, I would like to call
18 Ms. Forrest to the stand, please.

19 TAMMY LYNN FORREST, having
20 been first duly sworn, testified as follows:

21 DIRECT EXAMINATION BY MR. BARNETTE

22 Q If you would, ma'am, state your full name for the
23 record, please.

24 A Tammy Lynn Forrest.

25 Q And where do you work at, ma'am?

Tammy Lynn Forrest
Direct examination by Mr. Barnette

- 1 A Smile Makers.
- 2 Q Okay. And what do you there, ma'am?
- 3 A Customer service.
- 4 Q I'm going to have to ask you to speak a little bit
- 5 louder so they can hear you.
- 6 A I'm sorry.
- 7 Q I apologize.
- 8 A Customer service.
- 9 Q And how long have you worked there, ma'am?
- 10 A About three years.
- 11 Q Okay. Was you working March 8th of 2010?
- 12 A Yes.
- 13 Q And did you take a break that afternoon also?
- 14 A Yes.
- 15 Q And who did you go out to the break?
- 16 A I was out there with Anita.
- 17 Q Okay. I showed this to her. Let me show you one
- 18 thing real quick. Let me show you what's been marked
- 19 State's Exhibit 25, 26. I'll give you a chance to look
- 20 through those -- 27, 28, 29 and 30. If you would, take a
- 21 look at those pictures and see if you recognize those
- 22 pictures, ma'am.
- 23 A Yes, sir, I recognize them.
- 24 Q Okay. Do those pictures fairly represent what -- on
- 25 that day?

Tammy Lynn Forrest
Direct examination by Mr. Barnette

1 A Correct.

2 MR. BARNETTE: Your Honor, I'd like to enter these
3 marked State's Exhibit 25 through State's Exhibit 30, Your
4 Honor.

5 MR. POOLE: No objection.

6 THE COURT: They're admitted. Did you say those are
7 25 through 30?

8 MR. BARNETTE: Yes, sir, 25 through 30.

9 (Photographs marked State's Exhibits Nos. 25 through
10 30.)

11 MR. BARNETTE: Permission to publish them to the jury,
12 Your Honor.

13 THE COURT: You may.

14 BY MR. BARNETTE

15 Q Ms. Forrest, if you will, let me go ahead and publish
16 these so the jury can actually see.

17 State's Exhibit 25, is that just a picture of y'all's
18 sign in front of the building?

19 A Correct.

20 Q Showing you State's Exhibit 26. Was this the break
21 area that y'all went to?

22 A Yes.

23 Q And is this the table that y'all was sitting at?

24 A Yes. We were sitting right at the end.

25 THE COURT: Ms. Forrest, you can move that microphone

Tammy Lynn Forrest
Direct examination by Mr. Barnette

1 if you need to. Just push it.

2 THE WITNESS: This one?

3 THE COURT: Yes, ma'am. Just be sure you use it when
4 you testify.

5 THE WITNESS: Thank you. I'm sorry.

6 BY MR. BARNETTE

7 Q Show you State's Exhibit 27. Is this just a closer
8 view of the table y'all were sitting at?

9 A Correct.

10 Q Showing you State's Exhibit 28. Was this the area
11 that y'all were sitting at?

12 A Yes.

13 Q Showing you State's 29. Was this the mark left by the
14 hammer?

15 A Yes.

16 Q State's Exhibit 30. Is this just a closer picture of
17 that mark left by the hammer?

18 A Yes.

19 Q If you would, tell the jury what happened when y'all
20 was on break there.

21 A Me and her -- me and Anita were sitting outside right
22 across from each other. And the truck come down and had
23 stopped. And we were looking kind of funny because he had
24 a mask on. And we were like, well, I think it's time for
25 us to go back inside, because I don't know what's going on.

Tammy Lynn Forrest
Direct examination by Mr. Barnette

1 So by the time we grabbed our purses and didn't even
2 get up out of the picnic table, was like we were hovering
3 over, over the bench seat, he was right there. And it was
4 like okay, what do we, you know, what's going to happen,
5 what's going on.

6 And he turned around. He grabbed her purse, slammed
7 that hammer down. I thought he hit her because she took
8 off running. I grabbed my spray out of my purse and
9 headed off towards him. And as I was running towards him,
10 probably I, I stopped about maybe 2 feet to get in this
11 truck. I could have jumped and could have made it in his
12 truck.

13 But I seen him reach his hand back and I seen him
14 look at me with his eyes. I'll never forget those eyes
15 because they were so soulless. And I thought he was
16 reaching for something else. I thought honestly he was
17 going to grab a gun and that was it. And I was out there
18 by myself, and nobody, you know.

19 Then I, I stopped, and I thought, okay, description,
20 description, get the description, let them know, you call
21 the cops, let them know..

22 So as he was backing up and pulling out I seen the
23 stripe on the car or on the truck and I knew it was a dark
24 colored. Couldn't tell if it was black or if it was like
25 a dark blue. But as he was pulling out there was

Tammy Lynn Forrest
Direct examination by Mr. Barnette

1 something. I couldn't get the license plate. There was a
2 license plate there, but it was covered, and I could not
3 make out. I -- and I was trying everything. And as he
4 left I went and grabbed my phone and was on the phone with
5 the police dialing 9-1-1.

6 Q Let me take you back.

7 So you couldn't see the license plate for -- could you
8 see partial of it or couldn't see the whole plate?

9 A I could see partial of it. I couldn't see the whole
10 thing.

11 Q Let me go ahead and republish these just to make sure.
12 Let me let you take a look at pictures, ma'am, 6 through
13 14. They're already entered into evidence. Let you take a
14 look at them too also, ma'am.

15 A Yes. That's, that's the truck.

16 Q Is that the truck you saw --

17 A Yes.

18 Q -- that day?

19 A Uh-huh.

20 MR. BARNETTE: Your Honor, I'd republish these, but I
21 think the jury has already seen these.

22 Q Are these -- the truck that you saw on these pictures
23 is the truck you saw that day.

24 A Yes.

25 Q Let me show you State's Exhibit No. 1, ma'am. Was

Tammy Lynn Forrest
Direct examination by Mr. Barnette

1 this the hammer that you saw that day that the defendant
2 used?

3 A Yes, sir.

4 MR. POOLE: Your Honor, I object to the solicitor
5 speaking that this is the hammer that the defendant used or
6 this is an item the defendant used. These were items that
7 were in use, not necessarily by the defendant. So I object
8 to that.

9 THE COURT: Well, can you identify the defendant?

10 THE WITNESS: I can by his eyes because he's got those
11 deep, dark soulless eyes. I mean, I -- when they showed
12 him on the news I seen his eyes. I didn't see his facial,
13 his hair or anything like that, but I -- I've had
14 nightmares ever -- seeing his eyes.

15 THE COURT: Overruled.

16 BY MR. BARNETTE

17 Q Okay. Ma'am, let me show you State's Exhibit No. 2.

18 Was this the mask that that person had on that day?

19 A Yes, sir.

20 Q And that was the mask that he was wearing.

21 A Yes.

22 Q And, ma'am, Smile Makers is in Spartanburg County, is
23 that correct?

24 A Correct.

25 Q And what time approximately was this, 1:15 or so?

Randall Seay
Direct examination by Mr. Barnette

1 A Yes, because we had finally had a break together for
2 the first time, so yes.

3 Q Okay. Thank you, ma'am. If you would answer, any
4 questions Mr. Poole may have for you.

5 MR. POOLE: I have no questions, Your Honor.

6 THE COURT: You may step down.

7 MR. BARNETTE: Your Honor, I'd like to call Randall
8 Seay to the stand, please.

9 And, Your Honor, permission to let the witness be
10 excused.

11 THE COURT: She may be.

12 (Whereupon, the witness was excused.)

13 RANDALL SEAY, having been
14 first duly sworn, testified as follows:

15 DIRECT EXAMINATION BY MR. BARNETTE

16 Q Mr. Seay, if you would, give your full name for the
17 record, please.

18 A Randall Ira Seay.

19 Q And where do you live at, Mr. Seay?

20 A I live in Cherokee Springs.

21 Q Okay. And your house, what is it near, sir?

22 A It is right next door to the Cherokee Springs Baptist
23 Church. It's actually the church parsonage, but the pastor
24 has his own house. And my wife does custodial work, and we
25 live there.

Randall Seay
Direct examination by Mr. Barnette

1 Q Do you work in the church, sir?

2 A Yes. I'm, I'm employed by the church. I'm the piano
3 player and I also do odd jobs, handiwork, work with the
4 sound system, the whole nine yards.

5 Q Was you working in the church on March 8th of 2010?

6 A Yes, sir.

7 Q About approximately what time was it when this
8 happened?

9 A It was after lunch. It was around 2:00, around
10 2:00 o'clock.

11 Q And you was working in the church. Can you tell, tell
12 the jury what you were doing and what happened, sir?

13 A Okay. I was -- we were having rehearsal for our
14 Easter program. And I'm, I'm a musician. I'm also a sound
15 technician. And I was setting the sound system up for this
16 Easter presentation. And I was -- I try to make it to
17 where there's less microphones, the whole deal. I try to
18 make it easier on everybody.

19 And I was in there working and a fellow came in and
20 asked was I the pastor. And I told him no, I wasn't the
21 pastor. And he said, well, he needed to see the pastor.
22 And I told him. I said, well, this is Monday and the
23 pastor is kind of hard to find on Monday, it's his day
24 off, and-but if you really need to see him we could call
25 him, I'm sure he will talk to you.

Randall Seay
Direct examination by Mr. Barnette

1 And he kept insisting on seeing the pastor, and so I
2 went to the -- I went outside the sanctuary there, and he
3 followed me, to a little table we have there. And I gave
4 him a church bulletin that had the pastor's phone number
5 on it. I gave it to him and I said call him, I said he'll
6 talk to you, I know he will, just give him a call.

7 And I went back in the sanctuary. And I asked him, I
8 said, "Is there anything I can do to help you?" And he
9 said, "Well, they're fixing to take my daughter again."
10 And I said, "Well, I can't help you with anything like
11 that." I said, "Call the pastor. He'll help you."

12 And I walked back up into the choir loft, and that's
13 when he ran up behind me and knocked me to the floor and
14 began choking me, just had his knee in my back and was
15 choking me.

16 Well, my wallet come out of my pocket. And he said,
17 "I'll kill you if you don't give me the PIN number." And
18 he was choking me so hard I couldn't talk. I was trying
19 to tell him. And then he said eight. I was trying to
20 tell him 18. I didn't mind giving him the number. And he
21 said eight, and I said 18. And I gave him the number.

22 And he got up and, and left. I came down out of the
23 choir loft, and I looked at it, and he had ran into a
24 little prayer room we have there. He must have thought
25 that was the way out.

Randall Seay
Direct examination by Mr. Barnette

1 And he saw me come down and he ran back in there and
2 hit me up beside my face again and knocked me down onto
3 the stage and left.

4 I went out and not far behind him, and he got into
5 the black pickup with the stripe up the side, which was
6 parked right at the door, and left.

7 He gets down to the road and there's a car at the
8 road that he pulls up behind. He can't get out, and he's
9 revving the engine. And I thought he was going to hit that
10 car in the back.

11 He turned right down 221, and that's when I went
12 home.

13 Q Do you see the man that did that to you this morning?

14 A Yes, sir.

15 Q Can you describe him, what he's wearing?

16 A He is sitting right there with the white shirt and tie
17 on.

18 MR. BARNETTE: Your Honor, the record will reflect
19 he's identified the defendant.

20 THE COURT: It shall.

21 Q Let me show you State's Exhibits 6 through 14, sir.
22 Let me let you look. They're already entered into
23 evidence. If you would, take a look at that, that truck
24 setting there.

25 A Yes, sir. That's the truck.

Randall Seay
Direct examination by Mr. Barnette

1 Q Is that the truck you saw that day, sir?

2 A Yes, sir.

3 Q Is that the truck that this defendant here was
4 driving?

5 A Yes, sir. That's the truck he got into.

6 Q And you said your wallet was taken, sir.

7 A Yes, sir.

8 Q What was in your wallet, sir?

9 A \$60 cash. I had a debit card, I had a check. My
10 paycheck from the church was in it. My driver's license, a
11 coach's -- I coach Little league, and my coach's
12 certificate in there. I think that's about it.

13 Q Later on did you receive your wallet back?

14 A Yes, sir.

15 Q Who did you get it back from?

16 A Spartanburg County Sheriff's Department.

17 Q And let me show you what's been marked as State's
18 Exhibit 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41 and 42.
19 Take a look at those pictures, sir, and see if you
20 recognize that.

21 A Yes, sir.

22 MR. BARNETTE: Your Honor, I'd like to move State's
23 Exhibits 31 through 42 into evidence at this time, sir.

24 MR. POOLE: No objection.

25 MR. BARNETTE: Your Honor, permission to publish

Randall Seay
Direct examination by Mr. Barnette

1 State's Exhibits 31 through 42 to the jury, sir.

2 THE COURT: They're admitted. You may.

3 (Photographs marked State's Exhibits Nos. 31 through
4 42.)

5 BY MR. BARNETTE

6 Q First let me show you State's Exhibit 31. Is that a
7 picture from after this incident occurred on March the
8 8th of 2010?

9 A Yes, sir.

10 Q Let me show you State's Exhibit 32. If you would like
11 to step, sir, you could, or are you okay?

12 A I'm fine.

13 Q Fine. Okay. Can you tell us what this was right
14 here, sir?

15 A That's where he hit me in the face when he was
16 leaving.

17 Q Okay. And was there bruising there, sir?

18 A Yes, sir.

19 Q Let me show you State's Exhibit 33. Can you tell us
20 what that is, sir?

21 A That's my right arm where he hit me, knocked me down
22 in the -- when he first attacked me from behind. Knocked
23 me to the door, and it skinned my arm and my shoulder
24 and...

25 Q Yes, sir. Let me show you State's Exhibit 34. What

Randall Seay
Direct examination by Mr. Barnette

- 1 is that, sir?
- 2 A That's, that's here.
- 3 Q Is that a cut on your elbow above your arm --
- 4 A Yes, sir.
- 5 Q -- above the wrist?
- 6 A Yes, sir.
- 7 Q State's Exhibit 35, can you tell us what that is, sir?
- 8 A That's my shoulder, right shoulder.
- 9 Q Okay.
- 10 A Probably carpet burn.
- 11 Q From the struggle or the fight?
- 12 A Yes, sir.
- 13 Q State's Exhibit 36, can you tell us what that is, sir?
- 14 A That's when my leg -- when he hit me the second
- 15 time -- the platform there is about 18 inches tall. And
- 16 when he hit me he knocked me down into that and I hit my
- 17 leg and all on that platform.
- 18 Q Yes, sir. Let me show you what's been marked as
- 19 State's Exhibit 37. Is that a picture of y'all's sign in
- 20 front of the church?
- 21 A Yes, sir.
- 22 Q Is it in Spartanburg County, sir?
- 23 A Yes, sir.
- 24 Q Show you State's Exhibit 38. Is this a picture of the
- 25 front of your church?

Randall Seay
Direct examination by Mr. Barnette

1 A That's the front door, yes, sir. The door he came in
2 is to the left side of that.

3 Q Let me show you State's Exhibit 39. Can you tell the
4 jury what this is, sir?

5 A That's from the door -- from the way he came in,
6 that's leading into the sanctuary.

7 Q Okay. And let me show you State's Exhibit No. 40.
8 Can you tell the jury what that is, sir?

9 A That's the platform area, and where I was attacked is
10 behind that wall.

11 Q Behind this wall here?

12 A Behind that, yes, sir. That's the choir loft. That's
13 where I went up into.

14 Q And was these items knocked down?

15 A Yes, sir. That's a little door that's up there. I
16 was knocked -- I was knocked into that door and all. And
17 it opened up and knocked the flowers and the monitors down.

18 Q Let me show you State's Exhibit 41. What's this, sir?

19 A That's a monitor that I had setting there for the
20 choir to hear the music. And it was knocked down whenever
21 that I was -- when that door.

22 Q Showing you State's Exhibit 42. What's this area
23 right here?

24 A Well, that's where it happened. I had two chairs --
25 not there -- out of the choir loft. And that's where my

Randall Seay
Direct examination by Mr. Barnette

1 mike was and everything. And right behind those two chairs
2 is where it happened.

3 Q Sir, let me show you State's Exhibit No. -- State's
4 Exhibit No. 23. Sir, if you would, look at it. Do you
5 recognize that item in that picture?

6 A Yes, sir. That's the debit card that I had in my
7 wallet.

8 Q Okay.

9 MR. BARNETTE: Your Honor, I would like to enter
10 State's Exhibit 23 into evidence at this time.

11 A As a matter of fact, I've got it now if you want to
12 see it.

13 Q Well, if you would, do you still have the wallet --

14 A Yes, sir.

15 Q -- that was taken? If you would, just show the jury
16 the wallet. That was the wallet that was taken from -- by
17 the defendant?

18 A Yes, sir.

19 (Whereupon, the witness displayed the wallet.)

20 Q And it was returned to you by the sheriff's
21 department?

22 A Yes, sir.

23 Q And you do have this debit card right now?

24 A Yes, sir.

25 MR. POOLE: No objection.

Randall Seay
Cross-examination by Mr. Poole

1 MR. BARNETTE: Your Honor, I'd like to enter State's
2 Exhibit 23 into evidence.

3 MR. POOLE: No objection.

4 THE COURT: It's admitted.

5 (Photograph marked State's Exhibit No. 23.)

6 MR. BARNETTE: Let me publish it.

7 BY MR. BARNETTE

8 Q So, Mr. Seay, this is your Wal-Mart card.

9 A Yes, sir.

10 Q And you have that card now?

11 A Yes, sir.

12 Q And that's the card that you have -- I'm not going to
13 take it and put it into evidence because I know you want it
14 back -- but this is the card that we see in the picture.

15 A Yes, sir.

16 Q Thank you, sir.

17 If you would, sir, please answer any questions

18 Mr. Poole may have.

19 A Yes, sir.

20 Q Thank you.

21 CROSS-EXAMINATION

22 BY MR. POOLE

23 Q Mr. Seay, I believe you gave a statement to the police
24 on March the 11th. Does that sound about right?

25 A Yes, sir, a couple of days afterwards.

Randall Seay
Cross-examination by Mr. Poole

- 1 Q And this occurred on March the 8th, is that correct?
- 2 A Yes, sir.
- 3 Q Okay. What did you do right after this occurred?
- 4 A I went home.
- 5 Q Okay. Did you call the police?
- 6 A My wife did.
- 7 Q Okay. And did you -- when was your first contact with
- 8 law enforcement?
- 9 A About five minutes after this happened. They were
- 10 there quick.
- 11 Q Okay. And you told them of course what you stated in
- 12 your statement. You signed the statement three days later.
- 13 And you told them of course what you said today and what
- 14 you stated in your statement.
- 15 A Yes, sir.
- 16 Q Is that right?
- 17 A Yes, sir.
- 18 Q Were you shown any photos --
- 19 A No, sir.
- 20 Q -- by law enforcement?
- 21 A No, sir.
- 22 Q Were you given any names by law enforcement?
- 23 A No, sir.
- 24 Q Were you shown any photo lineups by law enforcement?
- 25 A No, sir.

Randall Seay
Cross-examination by Mr. Poole

1 Q So you did not see any photos of the defendant?

2 A No, sir.

3 Q And so then it is fair to say that you have not seen
4 this defendant since March 8th of 2010?

5 A I haven't seen him. I saw the video on television
6 but --

7 Q Okay.

8 A -- I haven't seen him.

9 Q Thank you.

10 MR. POOLE: I have no other questions.

11 MR. BARNETTE: I have no further questions of this
12 witness, Your Honor.

13 THE COURT: You may step down.

14 MR. BARNETTE: We'd ask him to be excused.

15 THE COURT: He may be.

16 (Whereupon, the witness was excused.)

17 THE COURT: We're going to take a short break before
18 we go further. Let me ask the jury to please go to your
19 jury room.

20 Remember my caution. Do not discuss the case. I'll
21 bring you back after that short break.

22 (The following takes place outside the presence of the
23 jury.)

24 THE COURT: We will be at ease for 15 minutes.

25 MR. POOLE: May we approach briefly?

Jeremy West Taylor
Direct examination by Mr. Barnette

1 (Bench conference held off the record.)

2 (Whereupon, a recess was taken.)

3 THE COURT: Are we ready for the jury?

4 MR. BARNETTE: The state is ready Your Honor.

5 THE COURT: Bring them in, please.

6 (The following takes place in the presence of the
7 jury.)

8 THE COURT: All right. The jury is present.

9 You may proceed, Mr. Barnette.

10 MR. BARNETTE: Thank you, Your Honor. May it please
11 the Court.

12 I'd like to call Investigator Jeremy Taylor to the
13 stand, please.

14 JEREMY WEST TAYLOR, having
15 been first duly sworn, testified as follows:

16 DIRECT EXAMINATION BY MR. BARNETTE

17 Q If you would, please state your full name for the
18 record, please.

19 A Jeremy West Taylor.

20 Q And where do you work at, sir?

21 A Spartanburg County Sheriff's Office.

22 Q And what's your position there, sir?

23 A I'm a crime scene investigator.

24 Q And how long have you been at the sheriff's
25 department, sir?

Jeremy West Taylor
Direct examination by Mr. Barnette

1 A Since June of 2006.

2 Q Did you -- was you called to a wreck scene on
3 March the 8th of 2010, sir?

4 A Yes, sir.

5 Q And where was that scene located, sir?

6 A On Hammett Road.

7 Q Is it in -- was it in Spartanburg County?

8 A Yes, it was.

9 Q When you arrived there did you collect -- did you take
10 some pictures, sir?

11 A Yes, sir, I did.

12 Q Let me show you State's Exhibit 6 through 14 already
13 into evidence of the truck. Did you take those pictures,
14 sir?

15 A Yes, sir, I did.

16 Q Look at them all and make sure they're all pictures
17 you've taken.

18 A Yes, sir, they are.

19 Q Okay. Let me show you what has not been entered into
20 evidence yet. Let me show you State's Exhibits 18, 19, 16.
21 Well, get these in order first. Let me show you what's
22 been marked as 15 through 20. If you would, take a look at
23 those pictures and see if you recognize those pictures,
24 sir.

25 A Yes, sir, I do.

Jeremy West Taylor
Direct examination by Mr. Barnette

1 Q Do those pictures fairly represent what you saw there
2 at the scene, sir?

3 A Yes, sir.

4 MR. BARNETTE: Your Honor, I'd like to enter State's
5 Exhibits 15 through 20 into evidence at this time.

6 Your Honor, I don't think Mr. Poole has an objection
7 to 15 and 19. He just wants me to have a clarifying
8 question on 20 there.

9 MR. POOLE: That's correct.

10 MR. BARNETTE: I move 15 and 19 into evid -- 15
11 through 19 into evidence at this time.

12 THE COURT: They're admitted.

13 (Photographs marked State's Exhibits Nos. 15 through
14 19.)

15 Q No. 20, sir, that picture --

16 A Yes, sir.

17 Q -- where was those items located at, sir?

18 A These items were located in the roof of the truck as
19 the truck had overturned. These items were laying on the
20 roof of the truck, the inside interior.

21 MR. BARNETTE: Your Honor, I would renew, remake my
22 motion to enter this into evidence at this time.

23 MR. POOLE: No objection.

24 THE COURT: It's admitted.

25 (Photograph marked State's Exhibit No. 20.)

Jeremy West Taylor
Direct examination by Mr. Barnette

1 MR. BARNETTE: Your Honor, may I publish these items
2 to the jury?

3 THE COURT: You may.

4 Q If you would, sir, please step down for a second.

5 (Whereupon, the witness left the stand.)

6 Q Just showing State's Exhibit 14 which is already
7 placed into evidence. There were several items that was
8 found outside the truck.

9 A Yes, sir.

10 Q Is that right, sir?

11 A Yes, sir.

12 Q And some of these items were located right in here?

13 A Yes, sir.

14 Q And did you find a black mask?

15 A Yes, sir.

16 Q Let me show you State's Exhibit 15. Is that the black
17 mask you found, sir?

18 A Yes, sir, that's it.

19 Q Looking back at State's Exhibit 14, there's an
20 envelope right there and the mask.

21 A Yes, sir.

22 Q Okay. And State's Exhibit 15 is just a closeup
23 picture --

24 A Yes, sir. That's correct.

25 Q -- of that. Showing you what's been marked, I mean,

Jeremy West Taylor
Direct examination by Mr. Barnette

1 entered into evidence as State's Exhibit 2. If you would,
2 pull that out, sir.

3 A Yes, sir. That's the mask I collected.

4 Q Is that the mask that's in the picture?

5 A Yes, sir, it is.

6 Q And did you collect that, sir?

7 A I did.

8 Q And did you place that into evidence, sir?

9 A Yes, sir, I did.

10 Q Okay. So you're the one that collected it from the
11 scene.

12 A Yes, sir.

13 Q Thank you, sir. If you would, please stay here.

14 A All right, sir.

15 Q Let me show you State's Exhibit No. 16. What is this
16 a picture of, sir?

17 A It's a picture in the --

18 Q Can you take this and describe it?

19 A This is a picture of the roof of the truck. The truck
20 had overturned as you saw in the earlier pictures. This is
21 a picture of the ball-peen hammer, or the handle. The
22 hammer here is where I collected as an exhibit.

23 Q And that's where, like you said -- is this the air
24 bag?

25 A Yes, sir.

Jeremy West Taylor
Direct examination by Mr. Barnette

1 Q Okay. Let me show you State's exhibit No. 1 that's in
2 evidence, sir. Was this the hammer that we see in the
3 photos, sir?

4 A Yes, sir, that's it.

5 Q And is that -- did you collect this hammer from the
6 scene?

7 A Yes, sir.

8 Q And did you place it into evidence?

9 A Yes, sir, I did.

10 Q Showing you State's Exhibit 17. Is this just another
11 angle?

12 A Yes, sir. That's the same hammer, just a different
13 angle.

14 Q And showing you State's Exhibit No. 18. Is this --

15 A Same hammer, just a closeup view, sir.

16 Q And what is this right here, sir?

17 A That's electric tape.

18 Q Showing you State's Exhibit No. 19.

19 A Yes, sir.

20 Q Where was these items found at, sir?

21 A Inside of the truck, the roof of the truck. Well, you
22 can see one of them is a driver's license envelope.
23 Mr. Williams' name is on it.

24 Q Mr. Williams' name is on that envelope?

25 A It is.

Jeremy West Taylor
Direct examination by Mr. Barnette

1 Q Let me show you State's Exhibit No. 20 which has been
2 entered into evidence. Is this a closeup picture of that
3 item?

4 A It is, yes, sir.

5 Q And whose name is on that envelope?

6 A Jason Williams.

7 Q And that was the driver's license you found?

8 A Yes, ma'am -- yes, sir. I had -- belongs to Ms. Anita
9 Smith.

10 Q And State's Exhibit 21 which is already entered into
11 evidence, that's a closeup picture or a blownup picture of
12 her driver's license?

13 A Yes, sir.

14 Q And that's the same picture as the bigger version of
15 it.

16 A Yes, sir, it is.

17 Q Going back, that was her driver's license that was
18 found in the cab or on the roof of it, I guess.

19 A Yes, sir, it is, it was.

20 Q That was Mr. Williams' mail.

21 A Correct.

22 Q And did you find several items of Mr. Williams in
23 there too?

24 A Yes, sir.

25 Q And let me show you State's Exhibits 22 and 24. Do

Jeremy West Taylor
Direct examination by Mr. Barnette

1 those pictures -- do you recognize those pictures, sir?

2 A Yes, sir, I do.

3 Q Okay. Do they fairly represent what you saw that day?

4 A Yes, sir, they do.

5 MR. BARNETTE: Your Honor, I'd like to enter 22 and 24
6 into evidence at this time.

7 MR. POOLE: No objection.

8 THE COURT: They are admitted.

9 (Photographs marked State's Exhibits Nos. 22 and 24.)

10 MR. BARNETTE: May I publish them to the jury, Your
11 Honor?

12 THE COURT: You may.

13 Q State's Exhibit 22 what -- turn around.

14 A This was a credit card found in the name --

15 essentially where the truck rolled over. There were other
16 items that fell out of the truck that belonged to Mr. Seay.

17 Q And State's Exhibit 23 is already into evidence. Is
18 that just a bigger version?

19 A Yes, sir, it is.

20 Q Okay. And State's Exhibit 24, can you describe what
21 this is, sir?

22 A This is a downward view of the accident. This --

23 Q I'm sorry. I apologize.

24 A It's just a downward view of the accident. This is
25 the curve that Investigator Gary was telling you about

Jeremy West Taylor
Direct examination by Mr. Barnette

1 earlier. This is the overturned vehicle.

2 Q And is that the vehicle that's in the other picture,
3 sir?

4 A Yes, sir, it is.

5 Q And this area is located -- I think I may have asked
6 you before -- is located in Spartanburg County.

7 A Yes, sir, it is.

8 Q If you would, sir, please have a seat.

9 (Whereupon, the witness returned to the stand.)

10 Q In there, sir, did you find a wallet from Mr. Seay?

11 A Yes, sir, I did.

12 Q And did you collect that as evidence, sir?

13 A Yes, sir.

14 Q Was that later returned to Mr. Seay?

15 A Yes, sir.

16 Q And did you find a social security card of Ms. Anna
17 (sic) Smith?

18 A Yes, sir, I did.

19 Q And was that later returned to her?

20 A Yes, sir, it was.

21 Q And did you find several items that belonged to Jason
22 Williams in there also, sir?

23 A Yes, sir, I did.

24 Q And did you check on the truck that it belonged to
25 defendant's girlfriend?

Jeremy West Taylor
Cross-examination by Mr. Poole

1 A It was regis -- the paperwork said it was registered
2 to the Ms. Hensley subject.

3 Q That's who it was registered to.

4 A Right.

5 MR. BARNETTE: One moment, Your Honor, please.

6 Q Please answer any questions that Mr. Poole may have
7 for you, sir.

8 A All right, sir.

9 CROSS-EXAMINATION

10 BY MR. POOLE

11 Q Yes, sir. What time did you -- what time did you
12 arrive on the scene?

13 A I was -- I was dispatched after the pursuit had ended.
14 I don't have an exact time, sir.

15 Q Okay. Well, of course you were dispatched after the
16 pursuit ended. You don't know exactly when you got there?

17 A I don't have the exact time, sir, no, sir.

18 Q Okay. You didn't keep any notes or anything?

19 A I did a report, sir, but that's in our book. That's
20 in our -- that's on -- you can check through dispatch
21 commonly. Just I don't have exactly, no, sir.

22 Q Okay. So, well, got there and you took these
23 photographs.

24 A That's correct.

25 Q And obviously was after the failure to stop had ended.

William Franklin Kish
Direct examination by Mr. Barnette

1 A Correct.

2 Q And you were there. Were any items moved?

3 A No, sir.

4 Q Any items moved in order to photograph them?

5 A No, sir.

6 Q None at all?

7 A No, sir.

8 Q Now, you don't know if any items had been moved prior
9 to you getting there, do you?

10 A No, sir. I can't -- I can't say that there were, no,
11 sir. None were moved from the time I arrived, none had
12 been moved to my knowledge.

13 Q Thank you very much.

14 A Yes, sir.

15 MR. BARNETTE: No further questions of this witness,
16 Your Honor. We'd ask he be excused.

17 THE COURT: He may be. Thank you.

18 (Whereupon, the witness was excused.)

19 MR. BARNETTE: Your Honor, I would like to call
20 Officer Kish to the stand, please.

21 WILLIAM FRANKLIN KISH, having
22 been first duly sworn, testified as follows:

23 DIRECT EXAMINATION BY MR. BARNETTE

24 Q If you would, state your full name for the record,
25 please.

William Franklin Kish
Direct examination by Mr. Barnette

1 A William Franklin Kish.

2 Q Where do you work at, sir?

3 A Spartanburg County Sheriff's Office.

4 Q And how long have you worked there, sir?

5 A Will be seven years in June.

6 Q And back on March the 8th of 2010, was you working
7 that day, sir?

8 A Yes, sir, I was.

9 Q If you would, tell the jury. Did you receive a BOLO
10 call?

11 A Yes, sir, we did.

12 Q And tell the jury once you received that call what
13 happened.

14 A When I received the call I was actually in the parking
15 lot of the jail. The BOLO came out about a black Mazda
16 truck that had been involved in a string of robberies up in
17 the 21 area. So I headed in that direction just to canvass
18 the area, which is a common thing to do obviously when we
19 get that.

20 As I was getting closer to the scene Investigator
21 Gary I believe spotted the vehicle or what he thought was
22 the, the suspect vehicle and attempted a traffic stop.
23 And from there a pursuit began.

24 At that time what I was trying to do basically was to
25 keep the pursuit in the type of area -- if I could be in

William Franklin Kish
Direct examination by Mr. Barnette

1 the area so in case something happened and somebody lost
2 sight or something like that happened, then I would be
3 able to maybe spot the vehicle again so it wouldn't, you
4 know, it wouldn't get away with us.

5 I parked my vehicle at the intersection of Coopertown
6 Road and River Road, which is right where Beacon Light
7 starts to go up into Cowpens.

8 At that time I heard on the radio that they were --
9 there was heavy traffic coming down River Street in the
10 Clifton area and that they were starting --

11 MR. POOLE: Objection to hearsay, Your Honor.

12 THE COURT: Sustained.

13 Q If you would, just state what you saw.

14 A Yes, sir. I saw the suspect vehicle coming down
15 Clifton Glendale Road, recognized that to be the vehicle
16 that Investigator Gary was chasing. And he made an abrupt
17 right turn onto River Road when I activated my blue lights.

18 I crossed over Beacon Light Road onto River -- River
19 Drive, I believe it is -- and got in behind him and
20 activated my siren. At this time he made no attempt to
21 stop. He just continued driving erratically up River
22 Drive.

23 He then made a slight right-hand turn onto a road
24 called Chain Gang Hill Road which is very curvy. We went
25 up there. Basically speeds were, were kind of held down a

William Franklin Kish
Direct examination by Mr. Barnette

1 bit because of the fact that it was such a curvy road
2 rather dangerous. So we, we really never got too far
3 above 65.

4 As we came down Chain Gang Hill Road then we
5 continued with a right-hand turn onto Thompson Chapel
6 Road, again, disregarding the stop sign completely and
7 just turning directly onto Thompson Chapel without any
8 regard to traffic possibly coming in the other direction.

9 And then we moved to a left on Patterson Road. As we
10 continued on Patterson Road the best I can describe is
11 that there's a fork in the road about possibly half a mile
12 down Patterson Road. Patterson continues up and to the
13 left, and Hammett Road continues down and to the right.
14 And there's a slight embankment that connects the two
15 roads. There's grass.

16 While behind the suspect vehicle he initially wanted
17 to take Patterson Road and did so for approximately -- it
18 couldn't have been any more than 20 or 25 yards. And I
19 guess in an effort to -- like I can't really speak why,
20 but he made a right-hand turn off the embankment onto
21 Hammett Road. And I believe that possibly caused some
22 damage to the vehicle, which is why it started handling
23 rather erratically.

24 And about a quarter of a mile down Hammett Road after
25 that evasive maneuver the suspect vehicle overcorrected in

William Franklin Kish
Direct examination by Mr. Barnette

1 an off-camera left-hand bend once we crossed the river and
2 ended up executing a very hard left-hand turn into an
3 uphill embankment on the left-hand side of Hammett Road
4 and flipped and ended up on its roof. And that was the
5 end of the pursuit, the vehicle pursuit.

6 Q What happened after that, sir?

7 A Well, I deactivated siren. I left my blue lights on.
8 I exited the vehicle and went around to the -- the vehicle
9 would have been upside down with the nose of the vehicle in
10 this direction. And I went around to the -- what would be
11 the driver's side and looked in the cab. And as I looked
12 in the cab the suspect jumps up on the other side and began
13 running back down the direction we had come, Hammett Road.
14 And I saw no one else in the vehicle at the time, sir.

15 Q And then what happened, sir?

16 A I chased the suspect for -- it couldn't have been any
17 more than a hundred yards. I can't be exact about that.

18 He slowed down to a walk. I ordered him to prone out
19 on the ground, which is a common thing for this type of
20 offense. I wasn't getting any compliance, so I had
21 deployed my taser. One probe struck him in the lower back
22 and the other struck him in -- he was wearing a hooded
23 shirt, garment, some type -- and hit in the hood. So I
24 didn't get a good connection with the top probe.

25 At that point I just physically pushed, moved him to

William Franklin Kish
Direct examination by Mr. Barnette

1 the ground and secured him with handcuffs and double
2 locked them.

3 Q And later on did other officers arrive at the scene,
4 sir?

5 A Absolutely, yes.

6 Q Okay. Did you see -- when you were there did you see
7 anybody move anything or do anything to that scene?

8 A No, sir.

9 Q So it was secure and nobody tampered with the
10 evidence.

11 A No one got near that vehicle. It was -- I mean, I was
12 next to it all the way up until highway patrol cleared me.

13 Q Okay. And just -- I don't know if you can see this
14 from where you are. This is State's Exhibit 24, I think.

15 A Yes, sir.

16 Q Is this an accurate picture of what we're looking
17 down, Hammett Road?

18 A Yes, sir.

19 Q And if you would, just step down for a second.

20 (Whereupon, the witness left the stand.)

21 Q And from your testimony and everything he got out from
22 this side and started coming down this way. Is that what
23 you're --

24 A Yes, sir.

25 Q And you say he went up about a hundred yards.

William Franklin Kish
Direct examination by Mr. Barnette

1 A Yeah. I wouldn't say any more than a hundred.

2 Q And you had to capture him.

3 A Yes, sir.

4 Q And had you told him to stop or --

5 A Yes, sir.

6 Q Okay. And he did not comply..

7 A No, sir.

8 Q And I think that's it. Thank you, sir. And do you
9 see this individual that you saw that day in the courtroom
10 today?

11 A Yes, sir, I do.

12 Q Can you identify him for the jury, please?

13 A Right there.

14 Q Can you describe what he's wearing, sir?

15 A He has a white shirt and tie.

16 MR. BARNETTE: Your Honor --

17 Q Thank you, sir.

18 A Yes, sir.

19 MR. BARNETTE: I would say that, Your Honor, he has
20 indicated the defendant, I.D.'d him, Your Honor, and ask
21 the record reflect that.

22 THE COURT: It shall..

23 (Whereupon, the witness returned to the stand.)

24 MR. POOLE: Officer Kish you made a report shortly
25 after --

William Franklin Kish
Cross-examination by Mr. Poole

1 THE COURT: Just a minute.

2 MR. BARNETTE: One second.

3 BY MR. BARNETTE

4 Q Do you have the time of the chase after it started,
5 sir?

6 A From the time that --

7 Q When you started.

8 A 1442 in the afternoon, sir.

9 Q So that's 2:42 when you started on the chase.

10 A Yes, sir, that's correct.

11 Q Okay. So the chase actually started before that. But
12 that's when you went into it.

13 A Yes, sir, yes, sir.

14 Q 2:42 in the afternoon.

15 A Yes, sir.

16 MR. BARNETTE: Thank you, Your Honor.

17 Q Thank you, sir. Please answer any questions Mr. Poole
18 may have for you.

19 A Yes, sir.

20 CROSS-EXAMINATION

21 BY MR. POOLE

22 Q Officer Kish, you just answered the question I was
23 getting ready to ask you. But let me ask you this.

24 A Yes, sir.

25 Q Now, you were involved in the chase both in the

William Franklin Kish
Cross-examination by Mr. Poole

- 1 vehicle and on foot.
- 2 A Yes, sir.
- 3 Q And while you were involved in that chase you were
- 4 nowhere near the -- well, not near the overturned truck,
- 5 were you?
- 6 A You're, you're suggesting I wasn't near -- during the
- 7 foot pursuit?
- 8 Q Yes.
- 9 A I was within a hundred yards of the truck, yes, sir.
- 10 Q Okay. Well, within a hundred yards of the truck.
- 11 A Yeah, plain sight, yes, sir.
- 12 Q Okay. And-but some of this chase was in the vehicle.
- 13 A Yes, sir.
- 14 Q And the truck overturned.
- 15 A Yes, sir.
- 16 Q And then there was a foot chase.
- 17 A Yes, sir.
- 18 Q Do I, I have that sequence of events?
- 19 A Yes, you do.
- 20 Q And the distance could have been as much as a hundred
- 21 yards.
- 22 A For the foot pursuit, yes.
- 23 Q From the overturned truck.
- 24 A Correct.
- 25 Q Thank you.

William Franklin Kish
Redirect examination by Mr. Barnette

1 MR. BARNETTE: Just one question for clarification,
2 Your Honor.

3 REDIRECT EXAMINATION

4 BY MR. BARNETTE

5 Q Did you go up to the truck to check to see who was in
6 it?

7 A When I got out of the vehicle after the overturned
8 truck, I immediately went over to the -- would have been
9 the right-hand side of the vehicle and looked in it, and I
10 didn't see anybody in there because he had -- by that point
11 I had seen him pop up and take off running down the road,
12 sir.

13 Q You're right to the truck.

14 A Yeah. I could have been in it practically.

15 Q I understand: And then he ran a hundred yards -- you
16 caught him a hundred yards away from the truck.

17 A Yes, sir.

18 Q And he didn't -- I mean, he didn't stop or didn't
19 comply with any of your commands, I mean, you asked him to
20 stop.

21 A Yes, sir.

22 Q Thank you, sir.

23 A Yes, sir.

24 THE COURT: You may step down.

25 THE WITNESS: Thank you, sir.

1 MR. BARNETTE: We would ask for this witness to be
2 excused, Your Honor.

3 THE COURT: He may be.

4 (Whereupon, the witness was excused.)

5 THE COURT: Is that all this afternoon?

6 MR. BARNETTE: Yes, sir.

7 THE COURT: Ladies and gentlemen, the next witness is
8 not available until in the morning, so we're going to
9 recess for the afternoon.

10 Keep in mind my caution as you leave. No discussions
11 about the case with any person whatsoever. That includes
12 family, friends, as well as your fellow jurors.

13 Do not permit yourselves to be exposed to any type of
14 media coverage that might relate to this case --
15 television, radio or newspaper. And don't conduct any
16 research or do your own investigation in any fashion
17 whatsoever.

18 Otherwise, do have a good evening. And please report
19 to your jury room at 9:30 in the morning, 9:30 in the
20 morning. Have a good afternoon.

21 (The following takes place outside the presence of the
22 jury.)

23 THE COURT: Court is in recess until 9:30 in the
24 morning.

25 END OF PROCEEDINGS FEBRUARY 1, 2011

Lorin Williams
Direct examination by Mr. Barnette

1 (Proceedings February 2, 2011)

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

4 THE COURT: All right. Any matters we need to address
5 before the jury is brought in?

6 MR. BARNETTE: No, sir.

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

8 Mr. Poole, let me see you and Mr. Barnette.

9 (Bench conference held off the record.)

10 (The following takes place in the presence of the
11 jury.)

12 THE COURT: Good morning, ladies and gentlemen.

13 As you know, when we recessed yesterday the state was
14 in the midst of their presentation of evidence. So we'll
15 continue with that presentation this morning.

16 Solicitor.

17 MR. BARNETTE: May it please the Court, Your Honor.
18 I'd like to call Investigator Williams to the stand,
19 please.

20 LORIN WILLIAMS, having been
21 first duly sworn, testified as follows:

22 DIRECT EXAMINATION BY MR. BARNETTE

23 Q If you would, sir, state your full name for the
24 record, please.

25 A Lorin Williams.

Lorin Williams

Direct examination by Mr. Barnette

- 1 Q And where do you work at, sir?
- 2 A Spartanburg County Sheriff's Office.
- 3 Q And what's your position there, sir?
- 4 A I'm a violent crime investigator with the sheriff's
- 5 office.
- 6 Q And how long have you been there, sir?
- 7 A Six years.
- 8 Q Back on March 8th of 2010, was you working that day,
- 9 sir?
- 10 A I was.
- 11 Q Was you called to work and investigate two robberies
- 12 that occurred on that day?
- 13 A Yes, sir.
- 14 Q And did you come in contact with the defendant in this
- 15 case, Mr. Williams?
- 16 A Yes, sir, I did.
- 17 Q When is the first time you came in contact with him?
- 18 A The, the first time I came in contact with
- 19 Mr. Williams was actually at the wreck site.
- 20 Q And did you see him at the wreck site?
- 21 A Yes, I did.
- 22 Q Did y'all speak or anything at that point?
- 23 A We did.
- 24 Q And after that was he taken to the hospital?
- 25 A He was.

Lorin Williams
Direct examination by Mr. Barnette

1 Q And later on was he brought to the sheriff's
2 department?

3 A Yes, sir, he was.

4 Q And did you interview or talk to him at the sheriff's
5 department?

6 A I did.

7 Q Before you talked to him about this case did you give
8 him a waiver form or read him his rights, sir?

9 A Yes, sir.

10 Q Let me show you State's Exhibit No. 3. Is that the
11 rights form that you read to him, sir?

12 A It is.

13 Q And after you read that to him, read his rights,
14 Miranda rights, to him did he understand those rights?

15 A He did.

16 Q Did you threaten him in any way?

17 A No, sir.

18 Q Did you promise him anything?

19 A No, sir.

20 Q Did he ever ask for a lawyer or anything like that?

21 A No, sir, he did not.

22 Q Once you gave him his rights did he sign that he
23 understood those?

24 A He did.

25 Q And did you explain to him you was talking about

Lorin Williams
Direct examination by Mr. Barnette

1 crimes that occurred in Spartanburg County?

2 A Yes, sir.

3 Q And did you ask what grade school he had went through?

4 A Yes, sir.

5 Q And what grade did he tell you, sir?

6 A He, he indicated to me that he had finished the
7 12th grade.

8 Q And did he sign that after you talked to him about
9 that?

10 A Yes, sir, he did.

11 Q And you witnessed it. Who notarized that form, sir?

12 A Investigator Foster notarized it.

13 Q So both of y'all was present during that time..

14 A Yes, sir.

15 MR. BARNETTE: Your Honor, I'd like to enter State's
16 Exhibit 3 at this time into evidence.

17 MR. POOLE: Subject to prior objection, Your Honor.

18 THE COURT: It's admitted.

19 (Waiver of defendant marked State's Exhibit No. 3.)

20 Q And did he talk to you about this case, sir?

21 A Yes, sir, he did.

22 Q And in that situation did he give you a written
23 statement?

24 A He did.

25 Q Let me show you State's Exhibit No. 4, sir. Is that

Lorin Williams
Direct examination by Mr. Barnette

1 the statement that he gave?

2 A Yes, sir, it is.

3 Q Okay. And who witnessed the statement?

4 A Investigator Foster witnessed this statement, and I
5 notarized it.

6 Q So both of y'all was present during the interview.

7 A Yes, sir. It was actually -- it was actually written
8 by Investigator Foster at Mr. Williams' request. And then
9 he signed page one and page two.

10 Q That's his signature at the bottom of it?

11 A Yes, sir, it is.

12 Q Was he given a chance to read over it, I mean, to read
13 through this and everything?

14 A Yes, sir, he was.

15 Q And he agreed this was what his statement was?

16 A Yes, sir.

17 Q And did y'all threaten him in any way for this
18 statement?

19 A No, sir, not at all.

20 Q Did y'all promise him anything?

21 A No, sir.

22 Q When y'all was talking to him -- let me do this first.

23 MR. BARNETTE: I'd like to enter State's Exhibit No. 4
24 into evidence at this time, Your Honor.

25 MR. POOLE: Subject to our prior objection, Your

Lorin Williams
Direct examination by Mr. Barnette

1 Honor.

2 THE COURT: It's admitted.

3 (Written statement of defendant marked State's Exhibit
4 No. 4.)

5 MR. BARNETTE: Permission to publish the items to the
6 jury, sir.

7 THE COURT: You may.

8 BY MR. BARNETTE

9 Q Investigator Williams, can you see okay there up on
10 the screen if I put it up there?

11 THE COURT: Don't y'all have more than one copy?

12 MR. BARNETTE: No, sir. I've got -- we've got one
13 other copy. We don't have extra copies of this, no, sir.
14 I've got one extra copy. I'm just going to put it up and
15 let him read through it.

16 THE COURT: There's not another copy of that statement
17 anywhere?

18 MR. BARNETTE: Oh, yeah. He's got -- yes, sir. He's
19 got it.

20 THE COURT: He doesn't have to read the screen. He
21 can just read the statement.

22 MR. BARNETTE: Okay. Good enough. Yes, sir.

23 THE COURT: That way he can use the microphone.

24 MR. BARNETTE: Yes, sir.

25 BY MR. BARNETTE

Lorin Williams
Direct examination by Mr. Barnette

1 Q Okay. And showing you State's Exhibit No. 3 here, was
2 this his personal information that was filled out at the
3 top, sir?

4 A Yes, sir.

5 Q And was that filled out by you?

6 A Yes, sir, it was.

7 Q Okay. And you read him his rights. Is these the
8 rights you read him, sir, these five rights?

9 A Yes, sir.

10 Q And can you read those rights to the jury, please?

11 A "No. 1, I have the right to remain silent. No. 2,
12 anything I say can and will be used against me in a court
13 of law. I have the right to talk to a lawyer and have him
14 present while I am being questioned. If I cannot afford to
15 hire a lawyer one will be appointed to represent me before
16 any questioning if I so wish. I have the right to stop
17 answering questions at any point in the questioning."

18 Q Okay. And after he -- did he understand these rights
19 to you, sir?

20 A Yes, sir. Once, once I go over these five and he
21 understands, I have him sign. And then we proceed to the
22 next -- the next portion of the, the form.

23 Q No problem. This is his signature right there, is
24 that correct?

25 A That's, that's correct.

Lorin Williams
Direct examination by Mr. Barnette

1 Q And then you get to the second part of the form?

2 A The second part of the form says, "I waive, give up,
3 my rights as explained above and agree to talk to office --
4 agree to talk to Officer Williams in reference to crimes in
5 Spartanburg County. And my statement that I may make is of
6 my own free will without fear, threat or promise or favor
7 or reward of any kind. I am able to read and write the
8 English language and finished 12 years in school."

9 Q Did he understand that, sir?

10 A He did.

11 Q And did you have him sign to make sure he understood
12 that?

13 A Yes, sir. That's his signature.

14 Q In talking to him, how was he when he talked to you,
15 sir?

16 A He was fine. He was able to answer all of our
17 questions, went into, you know, details of what had
18 happened.

19 Q I understand. And showing you State's Exhibit No. 4,
20 the written statement he gave to you, or this is carried
21 out by Investigator Foster, is that correct?

22 A That's correct.

23 Q If you would, read the statement to the jury. And
24 I'll try to follow through with it.

25 A "I was riding down the road and I saw some women

Lorin Williams
Direct examination by Mr. Barnette

1 sitting outside at a table. I pulled up and got out of the
2 truck and walked over there -- and walked over there. I
3 was scared to death. I was hoping they would run. They
4 didn't. I grabbed one of the pocketbooks setting on the
5 table. They were about four women and four pocketbooks.
6 They started screaming. I ran and got back in the truck.
7 I rode down the road and went through her pocketbook. She
8 didn't have any money. I threw it out. I rode around some
9 more. I started feeling bad for what I did to those women.
10 I rode by the church and saw a man working on a car at the
11 house beside. I thought that was the preacher. So I was
12 going to talk with him about what I had done and my O.C.
13 problem. He walked in the church as I pulled up. I
14 followed him in the church. I asked him if he was the
15 chaplain. He said no."

16 Q One second if you would. Okay. Go ahead, sir.

17 A "I said how do I get in touch with him. He walked
18 over to the pulpit and got a brochure with names on it. I
19 started to leave. And as he turned around I saw his wallet
20 in his pocket. I pushed him down and held him on the
21 ground. I told him I was going to take his wallet, and he
22 said take it, just don't hurt me, just don't hurt. I told
23 him I wasn't going to hurt him. I took his wallet and ran
24 out the door. I rode around some more, and the police got
25 behind me. I got scared and ran. I wrecked and they

Lorin Williams
Direct examination by Mr. Barnette

1 arrested me. End of statement."

2 Q At the bottom of that page did he understand -- did he
3 sign again that that was his statement?

4 A Yes, sir, he did.

5 Q Was that witnessed by Investigator Foster?

6 A It was.

7 Q It was notarized by you?

8 A Yes, sir, it was.

9 Q Okay. Going back to page one, did you do the same
10 thing on that page, sir?

11 A Yes, sir, I did.

12 Q And did the defendant sign that form, the first page
13 also?

14 A Yes, he did.

15 Q And was these facts that was known by anybody else?

16 A No, sir. You're referring to the facts in the
17 statement as far as what happened during the incidents?

18 Q Yes, sir.

19 A No, sir.

20 Q And this statement was taken that night, is that
21 right?

22 A Yes, sir. It was taken -- the statement was completed
23 at 8:26 p.m. I started talking to him around 7:10 p.m.

24 MR. BARNETTE: One moment, Your Honor, please.

25 (Pause.)

Lorin Williams
Cross-examination by Mr. Poole

1 Q Just one other question, Investigator Williams.

2 Dispatch time for the second robbery, which is Mr. Seay
3 at the church, what was the dispatch time on that, sir?

4 A I would need to refer back to that book.

5 Q Would you like for me to hand you the book?

6 A That would be great. You're asking about the --

7 Q Cherokee Springs Baptist Church.

8 A Cherokee Springs Baptist Church. The dispatch time
9 was at 2:13 p.m.

10 Q Yes, sir.

11 A And the first deputy arrived on the scene at 2:18.

12 Q Okay. Thank you, sir. Please answer any questions
13 Mr. Poole has for you, sir.

14 CROSS-EXAMINATION

15 BY MR. POOLE

16 Q Investigator Williams, how long have you been in law
17 enforcement?

18 A Since 1993.

19 Q Okay. So 18 years?

20 A Around about.

21 Q Okay. And were you the lead investigator in this
22 case?

23 A Yes, sir.

24 Q And you've investigated several crimes throughout your
25 professional career, have you not?

Lorin Williams
Cross-examination by Mr. Poole

- 1 A Yes, sir.
- 2 Q And, and among those are most of them -- been serious
3 crimes?
- 4 A The majority of them.
- 5 Q Okay. And were you the lead investigator in this
6 case?
- 7 A Myself and -- well, yes, sir.
- 8 Q Okay. All right. Did you prepare an investigative
9 report --
- 10 A Yes, sir.
- 11 Q -- a comprehensive investigative report?
- 12 A Yes, sir.
- 13 Q Okay. Did you provide it to Mr. Barnette?
- 14 A Yes, sir.
- 15 Q Okay. Is that what it is you're looking at right
16 there? Is it your notebook?
- 17 A This?
- 18 Q Yes, sir.
- 19 A Yes, sir.
- 20 Q In the course of your professional career isn't it a
21 general practice to show witnesses a photo lineup so that
22 they can identify who a perpetrator was or would be?
- 23 A It can be, yes, sir.
- 24 Q But none -- no photo lineups were shown to the victims
25 in these two cases, were there?

Lorin Williams
Cross-examination by Mr. Poole

1 A No, sir, not that I recall.

2 Q There was no showup. In other words, the alleged
3 perpetrator was not brought into the presence of a victim?

4 A Circum --

5 Q -- and asked to identify them, is that right?

6 A No, sir. Circumstances would not have allowed that in
7 this particular incident.

8 Q Okay. And Mr. Seay was not -- a statement was not
9 taken from him until three days after March 8th, is that
10 correct?

11 A Bear with me just a second. I'll have to look at the
12 dates.

13 Q Certainly.

14 A No, sir. The statement was taken from Mr. Seay the
15 following day.

16 Q Okay. The event occurred on March 8th, is that right?

17 A I'm sorry, I'm sorry. You're correct, you're correct.

18 Q Okay. I thought it was. Isn't the date on Mr. Seay's
19 statement March 11?

20 A 3/11, that's correct.

21 Q So I am correct in that it was taken three days later.

22 A Yes, sir.

23 Q Okay. And, and so no photos were shown to the victims
24 at all --

25 A No, sir.

Lorin Williams
Cross-examination by Mr. Poole

- 1 Q -- in this case.
- 2 A Not, not that I'm aware of in this case, no, sir.
- 3 Q All right. Mr. Williams was involved in an accident
- 4 in which the vehicle he was driving flipped in the road.
- 5 A Rolled over.
- 6 Q Okay. And he was taken to the hospital.
- 7 A Yes, sir.
- 8 Q And he was in the hospital for a period of time.
- 9 A I'm not sure how long he was there.
- 10 Q Okay. Are you aware of the treatment he received
- 11 there at the hospital?
- 12 A No, sir. I don't know what, you know, what treatment,
- 13 what treatment he received.
- 14 Q Okay.
- 15 A He was released and brought to the sheriff's office.
- 16 Q Immediately upon his release he was taken to the
- 17 sheriff's department, is that correct?
- 18 A Yes, sir.
- 19 Q And that's when you started interviewing him.
- 20 A That's correct.
- 21 Q And this is in a room in the sheriff's department.
- 22 A Yes, sir.
- 23 Q Is it not true that Mr. Williams did not have a shirt
- 24 on?
- 25 A No, sir. I don't, I don't think he did have a shirt.

Lorin Williams -
Cross-examination by Mr. Poole

1 Q Okay. And was he cuffed?

2 A He may have been cuffed when I came to the office, but
3 the cuffs would have been removed prior to the interview.

4 Q Okay. Your testimony is that he was cooperative and
5 gave you information.

6 A Absolutely.

7 Q Do you know whether or not he had been administered
8 drugs at the hospital?

9 A No, sir.

10 Q In the statement that you just provided to the jury
11 that Mr. Williams provided to you he stated that he had a
12 problem with O.C.

13 A Yes, sir.

14 Q What is that?

15 A Oxycontin.

16 Q Okay. Now, is it not true also at one time
17 Mr. Williams was lying in the floor --

18 A No, sir.

19 Q -- in the sheriff's department?

20 A I, I never recall that at all.

21 Q Okay. Well, let me ask you this. If Mr. Williams was
22 so cooperative and has a 12th grade education and was so
23 forthright why did someone else have to write his
24 statement?

25 A That was his request.

Lorin Williams
Cross-examination by Mr. Poole

- 1 Q So y'all just complied?
- 2 A Absolutely.
- 3 Q Well, would it not have been a better practice to
- 4 allow him to do it on his own?
- 5 A Not if that's what he requests, no, sir.
- 6 Q Okay. Well, why did he request it?
- 7 A I have no idea.
- 8 Q Well, then let me ask you this. Was there a tape
- 9 recorder in the room?
- 10 A No, sir.
- 11 Q Was there an audio visual apparatus of any sort?
- 12 A No, sir.
- 13 Q Now, there are tape recorders all over the sheriff's
- 14 department, aren't there?
- 15 A I don't know that they're all over it.
- 16 Q They're there.
- 17 A I'm sure there are.
- 18 Q They're obtainable, aren't they?
- 19 A Possibly.
- 20 Q Why wasn't it recorded?
- 21 A That's just not -- that's not a common practice.
- 22 Q Why not?
- 23 A It is just not.
- 24 Q In cases where we have to bring the issue of the
- 25 voluntariness of the statement to a jury would it not be a

Lorin Williams
Cross-examination by Mr. Poole

1 good practice to have some sort of recordation, especially
2 under circumstances such as these, for the jury to be able
3 to make a determination as to voluntariness?

4 A Well, during -- during an interview if he requests
5 that we write it, then I'm not going to break the flow of
6 the information and break the rapport that we have at that
7 point to get up and go try to get something. That's not --
8 that's not something that I'm going to do. When he, when
9 he has asked that we write the statement for him that's --
10 we're just going to do that.

11 Q I understand. But wouldn't it be good to have some
12 sort of corroboration today for this jury to be able to
13 make a determination on voluntariness? We've got -- go
14 ahead and answer the question.

15 A I, I don't know what else to say.

16 Q Wouldn't it be good? Wouldn't it be a better
17 situation?

18 MR. BARNETTE: Your Honor, I'm going to object. I
19 think he's asking for speculation on the witness' part.

20 THE COURT: Well, he's asking him for his opinion.
21 Overruled.

22 A I guess it would.

23 Q Okay. And that's because we've got a person that's
24 been in a car accident and a person that has admitted to
25 drug use. And, you know, he may have brought this on

Lorin Williams
Cross-examination by Mr. Poole

1 himself, of course. And he's been to the hospital for
2 treatment. And the statement that he's given for
3 consideration today was written by another. Aren't those
4 some of the factors that would make it be advisable to have
5 some corroboration for the jury to consider today?

6 A I don't, I don't know. I mean, I don't really see the
7 difference.

8 Q You don't think we would have a better situation for
9 these folks to make --

10 MR. BARNETTE: Objection, Your Honor. I think we're
11 getting into speculation and everything else.

12 THE COURT: Sustained.

13 MR. POOLE: Your Honor, may we approach the bench,
14 please?

15 THE COURT: Yes, sir.

16 (Bench conference held off the record in the presence
17 of the jury but out of the hearing of the jury.)

18 THE COURT: Ladies and gentlemen, I've got one issue I
19 need to address. So I'll ask you to please go to your jury
20 room.

21 Again, don't discuss the case while you're in there.
22 I'll bring you back after that short break.

23 (The following takes place outside the presence of the
24 jury.)

25 THE COURT: All right. Mr. Poole.

Lorin Williams
Cross-examination by Mr. Poole

1 MR. POOLE: Your Honor, the conversation we briefly
2 had at the bar, at the bench rather, was that there was
3 mention made of an investigative report prepared by Mr. --
4 by Investigator Williams.

5 I have not been provided that report. I think the
6 solicitor has been provided it. I'm not trying to delay
7 the trial. I think that I should be allowed to be able to
8 look at it.

9 THE COURT: Well, I don't think there's any question
10 about that.

11 Mr. Barnette.

12 MR. BARNETTE: No, sir. I wasn't given a copy of it.
13 Obviously, I think Mr. Poole has a right to look at it, but
14 it wasn't provided by the sheriff's department.

15 THE COURT: All right. Mr. Williams, you can step
16 down from the witness stand.

17 Do not discuss your testimony during the break because
18 you're still on the witness stand.

19 If you'll give the solicitor that report he can
20 provide copies to Mr. Poole.

21 All right. We'll take ten or 15 minutes. Y'all let
22 me know when you're ready to continue.

23 MR. POOLE: Yes, sir.

24 (Whereupon, a recess was taken.)

25 THE COURT: All right. Are we ready for the jury?

1 MR. POOLE: Yes, Your Honor.

2 MR. BARNETTE: Yes, Your Honor.

3 THE COURT: Bring them in, please.

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

6 THE COURT: All right. Mr. Williams, if you will,
7 return to your place on the witness stand, please.

8 Mr. Poole.

9 MR. POOLE: Your Honor, I have no further questions of
10 Mr. Williams.

11 MR. BARNETTE: We have no further questions, Your
12 Honor. We'd ask that he be excused.

13 THE COURT: Okay. You may step down. You may also be
14 excused.

15 (Whereupon, the witness was excused.)

16 MR. BARNETTE: Your Honor, the state would rest.

17 THE COURT: All right. Ladies and gentlemen, that is
18 all of the testimony or other evidence to be offered by the
19 state, at least in their case in chief.

20 Before we go further I've got a couple of matters I'll
21 need to address with the lawyers, so I'll do that. It
22 should take only a moment or two.

23 So I'll ask you again to please go to your jury room.
24 Do not yet discuss the case. I'll bring you right back.

25 (The following takes place outside the presence of the

1 jury.)

2 THE COURT: All right. Mr. Poole, any motions or
3 other matters to address?

4 MR. POOLE: Your Honor, yes, I have some motions.

5 On the indictment that is 2113(A) there's a charge of
6 possession of a firearm during commission of a violent
7 crime. I think that should be dismissed.

8 MR. BARNETTE: I wouldn't object, Your Honor. I
9 thought at the time -- the definition has to be a knife or
10 a pistol. Obviously, that's not what was involved in this
11 case, count two.

12 THE COURT: Motion for a directed verdict is granted
13 with consent as to count two of Indictment 2010-2113.

14 MR. POOLE: Your Honor, that leaves us with the
15 charges of armed robbery, strong arm robbery, assault and
16 battery of a high and aggravated nature -- I have -- and
17 failure to stop a motor vehicle when signaled by a law
18 enforcement vehicle.

19 We would move for a directed verdict of not guilty on
20 those charges. Our position would be that there has not
21 been any evidence presented by the state to indicate that
22 with regard to the robberies and the ABHAN that Jason
23 Williams was, in fact, the perpetrator and assailant, and
24 that the only evidence we have is a sketchy identification
25 wherein one perpetrator was wearing a mask and wherein one,

1 one victim said that the -- a witness said that the
2 perpetrator or was wearing a mask, therefore the
3 identification could not be possible, that the witness
4 didn't say that but that's our position; and that the other
5 victim was -- had not seen any photo lineups and not been
6 presented any type of showup or photos prior to, by law
7 enforcement prior to, yesterday when he made an in-court
8 identification.

9 So we would ask for a directed verdict of not guilty
10 on those charges.

11 THE COURT: Mr. Barnette.

12 MR. BARNETTE: Thank you, Your Honor.

13 Obviously, Mr. Seay picked out the defendant
14 concerning the one robbery. We have a situation where the
15 hammer and the mask that was found in his truck that he
16 wrecked when he ran from the Spartanburg County Sheriff's
17 Department was found in that. That's been I.D.'d as the
18 hammer and mask that was used by the perpetrator. The
19 truck he was driving had been I.D.'d at both sites.

20 There were items from both victims and both robberies,
21 was found in the truck in his possession, Your Honor.
22 Obviously, he fled from law enforcement and kept fleeing
23 even after he wrecked his truck.

24 In this case I think there's ample evidence looking at
25 it in the light most favorable to the state. And of course

1 Mr. Seay has -- he testified about how he was beaten during
2 that time. There's no question that's an aggravate assault
3 too. So we would ask that you allow these cases to
4 continue on to the jury, continue on with the case.

5 THE COURT: Any reply?

6 MR. POOLE: No, sir.

7 THE COURT: All right. There is sufficient evidence
8 in the record if found to be credible by the jury from
9 which the jury could reasonably find all of the essential
10 elements of each of the crimes, and therefore your motions
11 for a directed verdict are denied.

12 MR. POOLE: Your Honor, we would renew or motion with
13 regard to the voluntariness of the statement also at this
14 point in time, which would be to exclude it.

15 THE COURT: All right. That motion is also denied.

16 MR. POOLE: Yes, sir. May we approach the bench
17 again?

18 (Bench conference held off the record.)

19 THE COURT: Mr. Poole, have you discussed with your
20 client his right to testify or not testify during the trial
21 of this case?

22 MR. POOLE: Yes, sir. We had a thorough discussion
23 regarding it.

24 THE COURT: And has he indicated to you a preference?

25 MR. POOLE: Yes, sir, he has.

1 THE COURT: And what is his preference as to
2 testifying?

3 MR. POOLE: His presence is to not testify.

4 THE COURT: All right. Mr. Williams, you've heard my
5 questions to your lawyer.

6 THE DEFENDANT: Yes, sir.

7 THE COURT: Any time a person is accused of a crime
8 they always have a constitutional right to remain silent.
9 That's an absolute right.

10 Nobody can require you to testify or make a statement
11 or answer any questions that relate to these charges. You
12 always have the right to remain silent and to require the
13 state to come into court with sufficient evidence to
14 establish your guilt to the satisfaction of a jury beyond a
15 reasonable doubt. And you never have to assist the state
16 in their efforts of proving your guilt by you taking the
17 witness stand and testifying and answering questions that
18 might tend to prove your own guilt.

19 At the same time, you only have one opportunity to
20 take the witness stand and testify, and that is during the
21 trial.

22 It's now at the point in the trial where you have the
23 right to present evidence if you wish to. Nobody can
24 require that you testify; nobody can require that you call
25 any witnesses; no one can require that you produce any

1 evidence. But if you wish to testify in order to provide
2 this jury with additional information that's not already
3 been presented now is the only chance that you will have to
4 do so.

5 Do you understand it is your decision as to whether or
6 not you will testify?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: Do you understand you have an absolute
9 right to remain silent?

10 THE DEFENDANT: Yes, sir.

11 THE COURT: Do you understand that during your
12 presentation or the opportunity that you have to present
13 evidence is the only opportunity that you are going to have
14 to testify in the trial of this case?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: In other words, you can't wait until after
17 the case has been decided by the jury and if you don't like
18 the decision, you don't get to change your mind about
19 testifying and then present testimony. You just have this
20 one opportunity to testify if you wish to.

21 Do you understand that?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: Have you and Mr. Poole discussed the
24 advantages, as well as the disadvantages, of testifying, as
25 well as not testifying?

1 THE DEFENDANT: Yes, sir.

2 THE COURT: And do you appreciate what those
3 advantages and disadvantages are?

4 THE DEFENDANT: Yes, sir.

5 THE COURT: And have you had time to reflect upon your
6 decision as to whether or not you will testify in the trial
7 of this case?

8 THE DEFENDANT: Yes, sir.

9 THE COURT: And have you made a decision in that
10 respect?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: And what is that decision?

13 THE DEFENDANT: I wish not to testify.

14 THE COURT: You do not wish to testify?

15 THE DEFENDANT: No, sir.

16 THE COURT: And is that a decision that you've reached
17 of your own free will and accord?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: Has anybody forced you into that decision?

20 THE DEFENDANT: No, sir.

21 THE COURT: Has anybody pressured you into that
22 decision?

23 THE DEFENDANT: No, sir.

24 THE COURT: Has anyone suggested that that's what you
25 ought to do in this case?

1 THE DEFENDANT: No, sir.

2 THE COURT: You made the decision on your own?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: And that is not to testify?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: Do you have other witnesses you want

7 Mr. Poole to call in your case?

8 THE DEFENDANT: Yes, sir.

9 THE COURT: All right. Do you understand that during
10 the time that you have to present evidence you can always
11 change your mind as to whether or not you will testify?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: In other words, if Mr. Poole calls three
14 witnesses and during the -- those witnesses' testimony you
15 think about it some more and you change your mind and you
16 decide you want to testify, you just need to tell
17 Mr. Poole.

18 But you can change your mind up until the time that he
19 concludes the presentation of evidence on your behalf.

20 Do you understand that?

21 THE DEFENDANT: Yes, sir.

22 THE COURT: So once Mr. Poole says that he's finished
23 his presentation, in other words he's resting his case, I'm
24 going to assume that that means you have adhered to your
25 decision not to testify.

1 Do you understand?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: So if you change your mind you'll need to
4 let Mr. Poole know.

5 Do we understand each other in that respect?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: Okay. Thank you. You may be seated.

8 Have we determined if Mr. Young is present?

9 MR. BARNETTE: He is. They're bringing him up, Your
10 Honor. He is down in the old jail. I think they're
11 bringing him up to the jail room.

12 (Pause.)

13 THE COURT: Do you have some other witnesses you can
14 call now, Mr. Poole?

15 MR. POOLE: Yes, sir.

16 THE COURT: All right. Let's bring the jury back,
17 please.

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

20 THE COURT: All right. Ladies and gentlemen, as you
21 know, the state has concluded in their presentation. So
22 we're now going to proceed with any additional evidence to
23 be offered by the defense.

24 Mr. Poole.

25 MR. POOLE: Your Honor, the defense would call

Crystal Hensley
Direct examination by Mr. Poole

1 Ms. Crystal Hensley.

2 CRYSTAL HENSLEY, having been
3 first duly sworn, testified as follows:

4 DIRECT EXAMINATION BY MR. POOLE

5 Q What is your name, please?

6 A Crystal Hensley.

7 Q And how do you spell your last name?

8 A H-E-N-S-L-E-Y.

9 Q Ms. Hensley, where do you live?

10 A I live at [REDACTED] Rock Bottom Circle in Clifton.

11 Q How long have you lived at that address?

12 A I moved back in last January.

13 Q Of this year? Well, no.

14 A No. Last year.

15 Q 2000 (sic). Okay.

16 A Yeah.

17 Q All right. And how old are you?

18 A I'm 25.

19 Q And what is your relationship with Jason Williams at
20 this point in time?

21 A I guess associate. We used to date.

22 Q Okay. And were y'all dating back in March --

23 A Yes.

24 Q -- of last year?

25 A Yes.

Crystal Hensley
Direct examination by Mr. Poole

- 1 Q Were y'all living together --
2 A Yes.
3 Q -- on March 8th of last year?
4 A Yes.
5 Q And where were you living together?
6 A At [REDACTED] Rock Bottom Circle in Clifton.
7 Q That's where you live right now?
8 A Yes.
9 Q Okay. How long did y'all live together?
10 A We had been together 14 months the -- in March, I
11 think it was.
12 Q Okay. And do you have any children?
13 A No, I don't.
14 Q Does Mr. Williams have children?
15 A Yeah. He has a little girl -- Lillie.
16 Q How old is she?
17 A She would be -- I think she's eight now.
18 Q Okay. And when y'all were living together did you own
19 a particular truck?
20 A Yes.
21 Q And the truck that has been mentioned in this case,
22 was that your truck?
23 A Yes.
24 Q Okay. Was that truck kept at where y'all lived
25 together?

Crystal Hensley
Direct examination by Mr. Poole

1 A Yes.

2 Q Who used that truck?

3 A I drove it on occasions, but Jason Williams was
4 normally the one that drove the truck.

5 Q Okay. Did he ever let anyone else use the truck?

6 A Yes, he did.

7 Q Who was that individual?

8 A He normally let Phillip Young borrow the truck, which
9 was one of his friends at the time.

10 Q How long had Jason and Phillip Young known one
11 another?

12 A I think they used to know each other from a long time
13 ago. That's what he said. I'm not really sure.

14 Q Can you describe Phillip Young?

15 A He's kind of tall. The last time I seen him he was
16 like tall, and he was really skinny because he was on
17 drugs.

18 Q Okay.

19 A And I -- he has like dark colored hair, I believe. I
20 didn't really hang out with him that much. I didn't like
21 being around him, so.

22 Q How often would he use your truck?

23 A I'm not really sure how often it was. Me and Jason
24 argued about it, because he'd say that he was over there
25 helping him get firewood and stuff like that. And then it

Crystal Hensley
Direct examination by Mr. Poole

1 would come out that he let him borrow the truck and he was
2 driving the truck. The insurance and everything was in my
3 name. So I had a, a problem with other people driving the
4 vehicle, so.

5 Q Did you have arguments with Jason on this point?

6 A Yeah. We argued about other people driving the
7 vehicle because the insurance was in my name. And if
8 anything happened the insurance would go up.

9 Q Okay. Do you remember March 8th of 2010?

10 A Yes, sir.

11 Q Had y'all had an argument prior to that morning?

12 A That -- on the 7th we was actually arguing that night,
13 because when he come home he didn't come home with the
14 truck. He let him keep it.

15 Q Who?

16 A Phillip Young.

17 Q Who let who?

18 A Jason Williams let Phillip -- Phillip Young keep the
19 black Mazda.

20 Q Okay. That is the truck --

21 A Yes.

22 Q -- that's been mentioned in this case.

23 A Yes, sir.

24 Q Did y'all talk about that?

25 A We talked about it. I told him I didn't like the idea

Crystal Hensley
Direct examination by Mr. Poole

1 of him letting someone else keep, you know, a vehicle that
2 was in my name because there's no telling what could
3 happen.

4 Q Did you have an argument?

5 A Yes. We argued about it.

6 Q Did you go to bed?

7 A I did. I -- he was informed that he was to sleep
8 upstairs that night. He wasn't --

9 Q Well, if he was informed he should sleep upstairs, who
10 told him to do that?

11 A I did.

12 Q Okay. All right. What time did you get up the next
13 day?

14 A I got up around -- I normally woke up around 11:30 or
15 12:00 o'clock. And we're remodeling the bathroom, so there
16 was no water in the bathroom. So when I got up I had to go
17 to my sister's house, which is on Phifer Line in Clifton
18 not even a mile from the house, and get a shower and stuff
19 and get ready for work.

20 Q Okay. When you left that morning was the truck there?

21 A No, the truck was not there.

22 Q Was Jason there when you left?

23 A I'm not sure if he was physically there, but I know
24 the boots and his clothes that he normally wears was
25 downstairs by the steps where they were when I went to bed

Crystal Hensley
Direct examination by Mr. Poole

1 that night.

2 Q Does he wear those clothes every day?

3 A Yeah. He had a tan Carhartt jacket he wore because it
4 was the wintertime. It was cold outside. And he had a
5 pair of work boots.

6 Q When you left were you under the assumption that he
7 was still upstairs?

8 A Yeah.

9 Q Why?

10 A Well, because his stuff was still there. I never
11 heard anybody leave. And for him to leave he'd have to
12 come down the steps and actually come out the bedroom door
13 of the room I was in.

14 Q You would have to see him leave?

15 A Yeah.

16 Q Is that a fair statement?

17 A Yeah.

18 Q And, once again, what time did you leave?

19 A I left around -- if I woke up at 11:30 I left around
20 11:45 -- 12:00 o'clock at the latest.

21 Q And the truck was not there.

22 A No.

23 Q Where did you go?

24 A I went to my sister's house on Phifer Line, which is a
25 mile up the road, not even a mile. It's in Clifton as

Crystal Hensley
Direct examination by Mr. Poole

1 well.

2 Q What did you do there?

3 A I got a shower, because Lillie gets off the bus at
4 2:30 or she gets out of school at 2:30. And she -- the bus
5 makes it down around 2:40 or 2:45 at the Rock Bottom Circle
6 where I live at.

7 Q Okay. So you took a shower. And is it fair to say
8 what you're telling us is that it was your intention to
9 pick up Lillie?

10 A Yes, pick her up at the bus stop.

11 Q And what time is that usually done?

12 A Around 2:40 or 2:45.

13 Q Did you have any contact with Jason Williams during
14 that day?

15 A No. I tried texting him, but where my sister lives
16 there's no signal, so it never went out, because we were
17 actually supposed to meet either at the house or at his
18 mother's house because we were supposed to go talk to the
19 lawyer he had at that point in time about my mother.

20 Q About your mother?

21 A Yes.

22 Q What was the situation with your mother?

23 A She --

24 MR. BARNETTE: Your Honor, I'm going to object at this
25 time. I don't know what the relevance is to this case.

Crystal Hensley
Direct examination by Mr. Poole

1 THE COURT: Sustained.

2 Q Okay. So y'all had plans for the afternoon?

3 A Yes.

4 Q Did you pick up Lillie?

5 A Yes. I got her off the bus around -- it was 2:40 or
6 2:45.

7 Q Okay. Now, tell us what happened then.

8 A When we left we took a left out of River -- onto River
9 Street from Rock Bottom Circle and went up towards his
10 mother's house. And at the underpass -- underpass in
11 Clifton -- I was sitting there waiting to go through. And
12 he come through on the other side, and that's when I
13 noticed the police were behind him.

14 Q You noticed Jason was in the truck?

15 A Yes. I noticed the truck. I seen him when he come
16 through.

17 Q Okay. And what happened after that?

18 A I tried calling him and the phone wouldn't go through.
19 And then it finally went through. And when it did he said
20 to go to his daddy's house. And then I heard him drop the
21 phone.

22 And then from there I went around and went back to my
23 next-door neighbor, which is my aunt. I went pretty much
24 home, but it was right next door. And I left his little
25 girl with her. And my sister, Casey Hensley, and his

Crystal Hensley
Cross-examination by Mr. Barnette

1 brother, Joshua Jackson, showed up. And they -- I rode
2 with them towards Hammett Grove Road where he wrecked the
3 truck.

4 Q Did you have an occasion to see him after the
5 accident?

6 A I never seen him after it. When I -- when we arrived
7 at the scene where he had wrecked the truck I jumped out
8 and ran up there. And the officers stopped me. And I just
9 asked him if he was okay, and he said yeah, that he was
10 fine.

11 And he's like who are you, and I told him that I was
12 the girlfriend. And I told him that that was my truck.
13 And he said that he was fine, that they had caught him.
14 And they had him in the back of the car -- and that they
15 were going to take him to the hospital and stuff and...

16 Q Okay. Thank you. Answer any questions Mr. Barnette
17 may have for you.

18 MR. BARNETTE: May it please the Court, Your Honor.

19 CROSS-EXAMINATION

20 BY MR. BARNETTE

21 Q Ma'am, if I understand your testimony right the first
22 time you saw him physically that day was in the truck when
23 he drove by.

24 A Yeah, on the exit was.

25 Q And that was -- and you had picked up I think 2:40 or

Delores Marie Spurling
Direct examination by Mr. Poole

1. 2:45, you said.
- 2 A Yeah.
- 3 Q And so you never saw him, so you don't know what he
- 4 did that day or anything.
- 5 A No.
- 6 Q Thank you, ma'am.
- 7 THE COURT: You may step down.
- 8 MR. POOLE: Ms. Spurling.
- 9 DELORES MARIE SPURLING, having
- 10 been first duly sworn, testified as follows:
- 11 DIRECT EXAMINATION BY MR. POOLE
- 12 Q Your name, please.
- 13 A Delores Marie Spurling.
- 14 Q Ms. Spurling, where do you live?
- 15 A I live on Cannons Campground Road.
- 16 Q What address?
- 17 A [REDACTED]
- 18 Q And how long have you lived at that address?
- 19 A Five years.
- 20 Q What is your relationship to Jason Williams?
- 21 A I'm Jason's mother.
- 22 Q And, Ms. Spurling, let me ask you this. Do you know
- 23 Phillip Young?
- 24 A Yes, I do.
- 25 Q And were Jason and Phillip friends?

Delores Marie Spurling
Direct examination by Mr. Poole

1 A Yes.

2 Q You've heard mention of the truck that was owned by
3 Ms. Hensley.

4 A Yes.

5 Q Do you know of your own knowledge whether or not
6 Phillip Young drove that truck?

7 A Yes, he did, because I got onto my son several times
8 when he would come by the house. They would come together,
9 and Phillip would take off in the truck and leave, gone for
10 several hours at a time.

11 Jason would stay there at the house with me. And I
12 sat down and talked with him and told him he didn't need
13 to be doing that, if he was to wreck it, because I knew
14 the boy was on drugs, and if he was to wreck it he might
15 lose his license, his insurance and he wasn't making a
16 good, wise decision for letting him have his truck.

17 Q Now, let's go back to March 8th of 2010. Did you see
18 your son, Jason Williams, then?

19 A Yes, I did.

20 Q Describe to us under what circumstances -- describe to
21 us the circumstances when you saw him. Where was he and
22 what did you do?

23 A Okay. On March 10th I had got up earlier that
24 morning.

25 Q Excuse me. I mean March 8th.

Delores Marie Spurling
Direct examination by Mr. Poole

1 A March 8th, yeah.

2 Q Excuse me.

3 A And I had gotten up earlier that morning and eat my
4 breakfast and everything. And I wasn't feeling well that
5 day, so I had laid back down.

6 And I heard a knock on the door. So I told my son,
7 Scottie, I said go see who's at the door. He come back
8 towards the bedroom. He said, "Mom, it's -- it's Jason
9 and some man."

10 And I said, "Well, go back and tell them to wait a
11 minute and give me time to get up and get my housecoat
12 on."

13 And I was sitting there on the side of the bed, and
14 Jason walked in. And he said, "You still in the bed this
15 late?" I said, "Well, I had been up earlier, son, but I
16 laid back down, I'm not feeling well." And I said, "What
17 time is it anyway?" And he pulled his cell phone out, and
18 he said, "It's just about 15 after 2:00."

19 He stayed approximately 15 minutes. He said, "Mom, I
20 hate to run." He said, "I'm going to have to go."

21 MR. BARNETTE: Your Honor, I'm going to object at this
22 point. This is hearsay.

23 THE COURT: Sustained.

24 Q Who was with him?

25 A Phillip Young was with him.

Delores Marie Spurling
Cross-examination by Mr. Barnette

1 Q And what car were they in?

2 A Sir?

3 Q What car were they in?

4 A He was in the truck.

5 Q In the truck we've been talking about for a day and a
6 half?

7 A Yes, sir.

8 Q What time did they leave?

9 A They left approximately 2:30.

10 Q Did Mr. Williams drop Mr. Young off anywhere?

11 A He said he had to leave because he was going to take
12 him to the store. And he had to go meet Crystal to pick
13 up -- she was supposed to pick Lillie up and he was
14 supposed to meet her. And they were going to go take and
15 go talk to a lawyer about her mother. And he said he would
16 be back later this evening after that.

17 Q Ms. Spurling, answer any questions Mr. Barnette may
18 have.

19 MR. BARNETTE: May it please the Court.

20 CROSS-EXAMINATION

21 BY MR. BARNETTE

22 Q Ms. Spurling, you said that they were in the truck
23 that -- the truck we've seen in all the pictures. I can
24 show you the pictures -- the truck we've been talking in
25 the whole case.

Delores Marie Spurling
Cross-examination by Mr. Barnette

- 1 A Yes, sir.
- 2 Q So they drove up in that truck.
- 3 A Yes, sir.
- 4 Q You're absolutely sure.
- 5 A Yes, sir.
- 6 Q And you said it was 1:45.
- 7 A No. It was 2:15.
- 8 Q 2:15. Okay. And you said they left at 2:30.
- 9 A Left around 2:30.
- 10 Q Okay. Mr. Williams is your son, is that right?
- 11 A Yes, sir.
- 12 Q Would you do anything for him?
- 13 A Sir?
- 14 Q Would you do anything for him?
- 15 A Would I do anything for my son?
- 16 Q Yes, ma'am.
- 17 A If he was in right, I would.
- 18 Q You're sure that they were both at your house from
- 19 2:15 to 2:30.
- 20 A Yes, sir.
- 21 Q You can't explain why the truck was seen up at
- 22 Cherokee Springs?
- 23 A I have no idea why the truck, truck was seen, but I
- 24 know he was --
- 25 Q Your testimony is to this jury that Phillip Young and

Delores Marie Spurling
Redirect examination by Mr. Poole

1 your son was at your house on Cannons Campground Road.

2 A Yes, sir.

3 Q At [REDACTED]

4 A [REDACTED] Cannons Campground Road.

5 Q And you'd just woke up.

6 A Yes, sir.

7 Q And they left at 2:30.

8 A Around 2:30, yes, sir.

9 Q Thank you, ma'am.

10 REDIRECT EXAMINATION

11 BY MR. POOLE

12 Q Would you tell a lie under oath for your son?

13 A No, sir.

14 Q Thank you, Ms. Spurling.

15 THE COURT: You may step down.

16 THE WITNESS: Oh, I'm sorry.

17 MR. POOLE: May we approach, Your Honor?

18 (Bench conference held off the record in the presence
19 of the jury but out of the hearing of the jury.)

20 THE COURT: Ladies and gentlemen, I've got one matter
21 we'll need to take up before we go further.

22 So I'll ask you to please go to your jury room.

23 Again, don't talk about the case. I'll bring you back just
24 as soon as I can.

25 (The following takes place outside the presence of the

1 jury.)

2 THE COURT: We'll be at ease for 15 minutes.

3 (Whereupon, a recess was taken.)

4 THE COURT: All right. Mr. Poole, have you had an
5 opportunity to talk with the additional potential witnesses
6 that you've listed on your witness list, which include
7 Phillip Young, Michael Womack, Michael Finchum and Ricardo
8 Hernandez?

9 MR. POOLE: That's correct, Your Honor, I have had an
10 opportunity to speak with these individuals.

11 Mr. Phillip Young was in the department of
12 corrections. He was brought up today, and today was the
13 first time I was able to speak with him.

14 And in the calling of the other witnesses -- Michael
15 Finchum and Michael Womack and Hernandez would hinge on a
16 lot of what Mr. Young would testify to. We're talking
17 about testimony in the terms of impeachment.

18 After speaking with Mr. Young and gathering further
19 information we have made the decision that it would be best
20 in my client's interest not to proceed with the calling of
21 Phillip Young and the subsequent witnesses.

22 I have discussed this procedurally and substantively
23 with Mr. Williams. He agrees that there's no necessity for
24 us to call any further witnesses, whereupon we would rest
25 our case.

1 THE COURT: All right. Mr. Williams, you heard what
2 Mr. Poole just told me.

3 THE DEFENDANT: Yes, sir.

4 THE COURT: There are some additional witnesses on the
5 witness list that you had suggested might be called during
6 the trial.

7 Mr. Poole says he's talked to them and that he doesn't
8 think it'll be beneficial to you or in your best interest
9 that they be called.

10 Have you talked with Mr. Poole about the substance of
11 the testimony they could provide?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: And do you agree with him and his
14 statement that you and he have made a decision not to call
15 these witnesses?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: And you're satisfied with that decision
18 not to call them?

19 THE DEFENDANT: Yes, sir.

20 THE COURT: Do you have anybody else you want
21 Mr. Poole to call?

22 THE DEFENDANT: No, sir.

23 THE COURT: Have you changed your mind about whether
24 you will testify?

25 THE DEFENDANT: No, sir.

1 THE COURT: Okay. Anything else?

2 MR. BARNETTE: Nothing from the state, Your Honor.

3 THE COURT: All right. We'll bring the jury back and
4 we'll excuse them for lunch. We will close at 1:30.

5 Bring them in.

6 (The following takes place in the presence of the
7 jury.)

8 THE COURT: Ladies and gentlemen, I apologize for the
9 delay. We've had some issues regarding the availability of
10 some witnesses or scheduling of those witnesses. And
11 that's not the fault of anybody here involved in the case.
12 It just happens on some occasions. But I think all of
13 those issues have now been resolved. And so we are now in
14 a position to continue with the trial of the case.

15 Mr. Poole.

16 MR. POOLE: Your Honor, the defense rests at this
17 point.

18 THE COURT: Does the state have any reply you wish to
19 present?

20 MR. BARNETTE: No, sir.

21 THE COURT: All right. Ladies and gentlemen, that is
22 all of the testimony and the other evidence to be received
23 in the trial of this case. And therefore what remains to
24 be done are the lawyers' final summations, after which I'll
25 instruct you fully on the law, and then you'll be asked to

1 begin with your deliberations in the case. And that's
2 going to take some time. I know it's lunchtime.

3 So we're going to excuse you for lunch. And had I
4 known that we'd be in the position we're in now I would
5 have excused you earlier. But, nevertheless, now is a
6 convenient time to stop for lunch, so we'll do so.

7 We will resume this afternoon at 1:30, at 1:30 this
8 afternoon, at which time we'll conclude with the lawyers'
9 summations, my instruction to you on the law that's
10 applicable. And then you'll begin with your deliberations.

11 So in the meantime don't have any discussions about
12 the case; don't allow yourselves to be exposed to any type
13 of media coverage; don't conduct any research or do your
14 own investigation.

15 Have a good lunch. Please report to your jury room at
16 1:30 this afternoon. Have a good lunch.

17 {The following takes place outside the presence of the
18 jury.}

19 THE COURT: Any additional or renewal of motions?

20 MR. POOLE: Renewal of all of our motions heretofore
21 based upon the record, Your Honor.

22 THE COURT: All right. They are each denied.

23 Any requests for instructions by the state?

24 MR. BARNETTE: No, sir. We would ask for the Court's
25 standard instructions in this case, Your Honor.

Closing arguments

1 THE COURT: Mr. Poole.

2 MR. POOLE: Standard instructions here also.

3 THE COURT: All right. Court is in recess until 1:30.

4 Let me see the lawyers before you go, please.

5 (Bench conference held off the record.)

6 (Whereupon, a recess was taken.)

7 THE COURT: All right. Are we ready for the jury?

8 MR. BARNETTE: The state's ready, Your Honor.

9 MR. POOLE: Yes, sir.

10 THE COURT: Okay. Bring them in.

11 (The following takes place in the presence of the
12 jury.)

13 THE COURT: Good afternoon, ladies and gentlemen.

14 As you know, all of the evidence has been received.

15 And so what remains to be done are the lawyers' final
16 summations, after which I'll provide you with the
17 instruction as to the law, and then you can begin with your
18 deliberations.

19 So please give the lawyers your attention now as they
20 give you their final summations.

21 MR. POOLE: May it please the Court.

22 THE COURT: Mr. Poole.

23 MR. POOLE: Mr. Foreman, ladies and gentlemen, first
24 of all I'd like to thank you for the attention that you
25 have given this case. It's a vital case for both the

Closing arguments

1 state, the State of South Carolina, and it is vitally
2 important for Jason Will Williams, the defendant who is
3 standing trial here today.

4 This has not been a long case but it's -- because it
5 hasn't been long doesn't diminish its importance to all
6 people that are involved.

7 And sometimes things happen during the course of a
8 case where you start out with a certain number of
9 indictments and a certain number of charges. But after a
10 while, after a day and a half of this case, those charges
11 dwindle.

12 I want to talk to you a few minutes about what I think
13 you should take into the deliberation room when the
14 judge -- after the judge charges you and gives you the law
15 that's going to be applicable to the charges that you have
16 to decide on: And you have to make a decision which has to
17 be unanimous, and it has to be a decision that you feel
18 convinced that the state has proven Mr. Williams' guilt
19 beyond a reasonable doubt. I want to talk about some of
20 those things.

21 Now, what you'll be taking into that room will be your
22 recollection of the evidence presented from both sides, the
23 state's case and the defense. You'll take into that room
24 the law as Judge Cole instructs you on.

25 You'll be asked to consider whether or not

Closing arguments

1 Mr. Williams is guilty of committing crimes in two
2 locations -- actually three -- the Smile Makers, the
3 Cherokee Springs Baptist Church and the failure to stop in
4 the Cannons Campground-Clifton-Thompson Chapel area.

5 Mr. Williams admits his guilt on the failure to stop.
6 That may take some of the deliberations away from you. He
7 is guilty of that charge. He admits that he was driving
8 that truck at that time and that he did wreck it after they
9 chased him. So let's get that right there off the bat.

10 The question remains then, questions remain, is he
11 guilty or did he commit the crime of armed robbery at Smile
12 Makers and is he guilty of the commission of the crime of
13 common law robbery and assault and battery of a high and
14 aggravated nature at Cherokee Springs Baptist Church.

15 And then there are a few things, and I won't go over
16 this because your recollection collectively, 12 of your
17 minds are better than one. And you've been told the times
18 of the alleged events and you've been given the locations.

19 And let me talk a little bit. And if your
20 recollection is better than mine, you go with yours because
21 I could be mistaken. But I believe it's sort of like this.

22 At Smile Makers Ms. Smith took her break about
23 1:00 o'clock. And about 1:15 there was somebody who came
24 up in this truck that belonged to Ms. Hensley and did the
25 ball thing, hammer thing, and had a mask on. Okay. And

Closing arguments

1 there was a crime committed. Right.

2 Now, the problem we've got about that is -- and the
3 same type of problem exists in the case of the First
4 Cherokee Springs Baptist Church -- is the identification.

5 This man at Smile Makers had a mask on and the -- as I
6 talk I'm going to be talking about the police
7 investigation, the way law enforcement handled the
8 investigation.

9 We have somebody who has a mask on committing this
10 robbery. And there was no photo lineup shown to the
11 victim, Ms. Smith. There was no followup showup like
12 showing the defendant to Ms. Smith or, excuse me, showing a
13 simple photograph to her. No identification was made by
14 her.

15 There was Ms. Forrest who was the one who was
16 gallivant enough to chase this assailant with the pepper
17 spray, said pointed out Mr. Williams and said that she
18 knows that was him because he had the soulless eyes.

19 Now, you know, this man had a mask on. And anybody
20 that's committing a crime like that you can pretty well be
21 sure that any person's going to have quote, unquote,
22 soulless eyes.

23 Unfortunately, drugs are a major move in the
24 commission of crimes, and a lot of people that commit
25 crimes are under the influence of drugs. And you know from

Closing arguments

1 your common sense that someone that's deeply under the
2 influence of drugs can have that impartial and sometimes
3 evil look.

4 But was that necessarily Jason Williams? I submit to
5 you no. The state hasn't proved that beyond a reasonable
6 doubt. It's easy to point to somebody on the right side if
7 you're looking from the Court's perspective, Judge Cole's
8 perspective, to this side of the courtroom, because that's
9 where the defense table is. That's where a lawyer sits
10 with the defendant alone. And it's easy to point right
11 there and say yeah, that's the person.

12 But the problem here is not so much in people's
13 recollection. It's in what law enforcement could have done
14 to really nail the identity of this person who did this at
15 Smile Makers.

16 Go on up to about 2:00 o'clock. Now, that's where the
17 robbery and the assault and battery of a high and
18 aggravated nature occurred at the church -- Mr. Seay. He's
19 minding his own business. He's caretaking the church.
20 He's preparing for an Easter Sunday service.

21 And he should not have been subjected to this in any
22 way, shape or form ever, but nevertheless he was. And he
23 was never shown a photo lineup, photo or showup by law
24 enforcement. In fact, his statement was taken three days
25 later after the offense. These are things that I want you

Closing arguments

1 to think about.

2 You know, when we're talking about the commission of
3 such serious crimes, was it Jason Williams that did it and
4 did law enforcement do what they needed to do to really
5 seal this case up beyond a reasonable doubt?

6 You're going to hear a lot about this statement that
7 was given. And the statement certainly doesn't help
8 Mr. Williams. In fact, it inculpatates him, as we say. But
9 look at the circumstances surrounding that and consider the
10 voluntariness of it.

11 What we have is we have law enforcement having this
12 man after he -- through his own fault ran from the police,
13 overturned this truck, taken to the hospital, treated,
14 taken to the police station, sheriff's office,
15 interrogated, asked questions, gave a statement written not
16 in his own hand, even though the testimony was that he had
17 a 12th grade education. And others said that too. Written
18 by a detective, signed by him at 8:26 p.m.

19 Now, consider whether or not, what I think
20 Detective-Investigator Williams said it would -- he said it
21 would have been good or would have been better to have to
22 bring it to you today on this judgment day for Mr. Williams
23 a recording, anything as simple as, you know, a \$20
24 Wal-Mart if they still make them cassette recordings. Even
25 a microcassette, handheld device, that doesn't cost that

Closing arguments

1 much. And they're available there at the sheriff's office.
2 Surely they are. If the, if the budget of our government
3 is such that you can't afford a visual, which is the ideal,
4 a visual dialogue, recordation between law enforcement and
5 the defendant or a suspect, then you can have at least
6 something else other than what we've got here. Consider
7 that.

8 And moreover, moreover, think of the testimony of
9 Ms. Hensley, the exgirlfriend. She's the one who said --
10 she testified that she got up at 11:30 or 12:00 on that
11 day, that she had had an argument even as recently as the
12 night before with Mr. Williams over the use of the truck,
13 her truck, by Phillip Young who was a friend of Jason
14 Williams, or an acquaintance.

15 Now, when she got up -- they had argued the night
16 before about that very thing. And she noticed -- this is
17 March 8 now -- and that he always wore clothes kept by his
18 door as most of us do if you've got your heavy jacket or if
19 you're working outside, you got your boots there, you know,
20 in March, especially in the winter were still there.

21 And if he had left at that time, if he had left before
22 she got up and left, then he would have had to come down
23 through her space, her bedroom, and she would have known
24 it.

25 Then we've got the testimony of his mother,

Closing arguments

1 Ms. Spurling. Now, she testifies that around 2:15 -- now,
2 these times, you know, they can't be written in stone
3 because she's pretty convinced that it was after 2:00 that
4 Phillip Young and Jason Williams came to her house and they
5 had a talk and to the best of her recollection left. And
6 Jason Williams dropped Phillip Young off somewhere.

7 So I submit to you, ladies and gentlemen, that what
8 occurred in this case, what occurred is that Mr. Williams
9 didn't commit these offenses. The man that committed these
10 offenses is not on trial today.

11 Think about these things. Every aspect of this, every
12 aspect of what doesn't add up, is just as important as what
13 you think adds up.

14 No one was there except people who were mistreated and
15 were violated by a criminal. And that criminal should be
16 brought to justice, but that person is not Jason Will
17 Williams.

18 Once again, Mr. Williams does not have to prove his
19 innocence. That is what is unique with this type of
20 system. He doesn't have to prove his innocence.

21 The state has to prove it beyond a reasonable doubt.
22 And Judge Cole will instruct you that a reasonable doubt is
23 a doubt that would cause a reasonable person to hesitate to
24 act.

25 My supplication to you is that when you look at the

Closing arguments

1 evidence as a whole, that a reasonable person cannot come
2 to the conclusion that the state has proved that this man
3 right here committed these offenses for the reasons I just
4 stated. I couldn't stand up here and go over them over and
5 over again. But y'all don't want to hear it more than
6 once.

7 So I am going to wind down and say please remember
8 these things when you go back there. I know you will.
9 Y'all have paid attention to everything that's gone on so
10 far. I know each and every one of you take your role
11 seriously.

12 And consider how the law enforcement, or the sheriff's
13 department in this case, could have put this thing together
14 a little bit better. And we could have had somebody that
15 was truly guilty that perpetrated these crimes on trial
16 today rather than Jason Will Williams.

17 Again, he admits the failure to stop. By admitting to
18 the failure to stop and having used that car in a chase
19 that led to his wreck doesn't make him responsible for the
20 contents of that car if he did not put those items in there
21 and there was another person that had almost free access to
22 that truck. I keep saying car. It's a truck, the black
23 truck with the stripe on it.

24 Thank you. I appreciate your time, appreciate your
25 attention. It's been a pleasure talking to you.

Closing arguments

1 THE COURT: Mr. Barnette.

2 MR. BARNETTE: May it please the Court, Your Honor.

3 State's Exhibit No. 1. You heard Ms. Smith and you
4 heard Ms. Forrester say this is the hammer that was used in
5 the armed robbery of Ms. Smith.

6 They talk about the mask. I asked both of them was
7 this the mask that was used. Yes, it was.

8 They were both found in a car driven by that man. Of
9 course the big question is -- they admit the failure to
10 stop. But the question is why did he run. Why did he run?
11 I'll tell you why he ran. He knew he had these items in
12 the car with him, he knew he had driver's licenses,
13 Wal-Mart cards, everything from both of these hard-working
14 victims right here.

15 Ms. Smith -- she's doing her work at Smile Makers, Mr.
16 Seay at his church doing his work getting ready for his
17 Easter service. And Mr. Seay will tell you. He told you
18 the man that did this to him is that man right there.

19 They talk about the I.D. Well, let me ask you, ladies
20 and gentlemen: Take ten seconds. Look at my face, take
21 just ten seconds starting now.

22 (Pause.)

23 MR. BARNETTE: Now, if that person told you they were
24 going to kill you and they were going to strangle you do
25 you think you'd remember that face? You would.

Closing arguments

1 They talk about the soleless eyes, looking throughout.
2 This is the soleless crime right here, ladies and
3 gentlemen.

4 Going through and talking about the times, I was
5 talking to both of their witnesses that testified. You
6 heard the lady, his girlfriend, come up. And basically she
7 said I didn't see him the whole day. The first time I saw
8 him the whole day was he was driving my truck by. I just
9 picked up his daughter. His daughter's sitting with her in
10 the car watching her dad drive that truck with the police
11 following. Why did he run? Because he just committed both
12 of those crimes.

13 His mother -- and believe me. We all -- I've been a
14 parent. I know how it is with my kids. But she tries to
15 tell you that Phillip Young and him came to her house at
16 2:15 and left at 2:30. There's no way. There's absolutely
17 no way because they live on Cannons Campground Road.

18 That truck, there's no question, was at Cherokee
19 Springs Baptist Church. The dispatch time went out 2:13,
20 at 2:13. And all the witnesses you heard from --
21 Ms. Smith, Ms. Forrester, Mr. Seay -- one person was there.
22 Him. He was there the whole time. They didn't mention no
23 other second person.

24 She says leave at 2:30. You heard Deputy Kish. He
25 wasn't on the initial chase. You remember Investigator

Closing arguments

1 Gary started the initial chase from the location he started
2 from. Deputy Kish didn't get into the chase until 2:42.
3 There's no way that it didn't happen. There's no way
4 Phillip Young -- if this Phillip Young guy was involved,
5 when did he pick him up and when did he drop him off? The
6 evidence shows there's a time, there's no way that could
7 have occurred.

8 Ladies and gentlemen, they keep talking about what the
9 sheriff's department could have done. You couldn't ask for
10 anything more. You've got the weapon that was used in the
11 armed robbery; you've got the mask that was used in the
12 armed robbery in possession of this individual in a truck
13 that has been I.D.'d by every victim in both cases in those
14 witnesses.

15 You've got items, and you've seen the pictures. I can
16 go through all the pictures here. Ms. Smith's items were
17 in there; Mr. Seay's wallet was in there.

18 They keep talking about the confession. And you will
19 have this back with you, but remember Mr. -- I asked Mr.
20 Seay, when did the police come back and talk to you. A day
21 or two later.

22 This statement was taken that night. There is no way
23 that the police would have known the things that happened
24 to, say, Mr. Seay. And he talks about taking the bulletin
25 and giving the bulletin to him. Mr. Seay gave him a

Closing arguments

1 bulletin when he found -- to give him the preacher's
2 number. Look through this.

3 This statement was taken, and the time's on the
4 bottom, March 8th. I think it was 8:26. There's no way he
5 could have known these things unless he was there. He gave
6 a statement. He got a chance to sign it and look it over:
7 He was given his rights in this case. And obviously that's
8 evidence you can take into consideration with every other
9 piece of evidence in here.

10 Let's say you take the statement. I mean, all of
11 these pieces fit together. There's an old saying if it
12 quacks like a duck, it walks like a duck, it's a duck. And
13 that's exactly what this is, ladies and gentlemen. Every
14 piece fits the one conclusion. That man right there is the
15 man that did this.

16 Like I say, Mr. Seay I.D.'d him. He saw him in this
17 case. That's something he's never going to forget
18 unfortunately in this thing going through what he went
19 through.

20 Ms. Smith. They went into detail describing the truck
21 for you, describing the hammer, describing the mask in this
22 case.

23 Ladies and gentlemen, I can keep talking. I want to
24 represent these people because they deserve justice for
25 what happened to them, and that's what we're coming to ask

Jury charge

1 you as jurors to bring to them and to the people of
2 Spartanburg County. I'm asking you for a guilty verdict on
3 all four counts. The evidence shows that this individual
4 did it.

5 I know he's called his girlfriend and his mother, but
6 if you look their -- the girlfriend never saw him that day.
7 There's no way she can alibi him. And I submit to you what
8 the mother told you couldn't have happened in this
9 situation. She's a mother just like any mother would do
10 for her son. I'm sorry for her, but what happened to these
11 folks demands justice.

12 That's what I ask you to do, ladies and gentlemen,
13 today. Please return verdicts of guilty on all four
14 counts. Thank you very much.

15 Thank you, Your Honor.

16 THE COURT: All right. Mr. Foreman, ladies and
17 gentlemen, you of course have heard and seen all of the
18 evidence in the case.

19 You've now heard the final summations of the lawyers,
20 and therefore it now becomes my duty and obligation to
21 instruct you on the law that's applicable in this case.
22 And then you'll be asked to go back and begin with your
23 deliberations. And through that process you'll examine all
24 of the evidence, decide the facts, apply the law and arrive
25 at a fair and just decision, whatever that decision might

Jury charge

1 be.

2 As jurors selected for that purpose it is your
3 exclusive duty to determine what the facts are. You do
4 that through your own common sense examination and
5 evaluation of all of the testimony and the other evidence
6 received during the trial of this case. And you 12 jurors
7 alone will decide what weight, value and effect to give to
8 any particular testimony or other evidence in the case.

9 Again, your sole objective is to simply reach the
10 truth in the matter, and by doing that you will have
11 fulfilled your obligations as jurors, and that is to simply
12 give both the state and the defendant a fair and impartial
13 trial.

14 Now, in this case, as you are aware, the defendant has
15 been charged with five separate criminal offenses. One of
16 those offenses has been disposed of or resolved by the
17 Court, so you won't need to concern yourself with that
18 particular charge. And that is the charge that was set
19 forth in count two of the indictment that alleged armed
20 robbery in count one.

21 Count two of the indictment and the statute that the
22 defendant was charged with having violated required that he
23 be in possession of a firearm during the commission of a
24 violent crime. In this case they were alleging the violent
25 crime to be armed robbery.

Jury charge

1 There is no evidence in this case that a firearm was
2 used in the commission of any crime, and therefore count
3 two of the indictment is no longer applicable because
4 there's no evidence to support that charge.

5 You will however still have that indictment in the
6 jury room because that indictment also contains a count
7 one. And as I say, count one is the allegations that the
8 defendant committed the crime of armed robbery.

9 Armed robbery does not require possession of a
10 firearm. It does require possession of a deadly weapon.
11 And I'll discuss that with you shortly.

12 But there are now four separate and distinct charges
13 that you're going to have to resolve and to arrive at
14 decisions as to. And those four separate charges are the
15 crimes of armed robbery, which involves allegations that
16 Mr. Williams committed the crime of robbery while armed
17 with a deadly weapon, in that he took, stole and carried
18 away from Anita Smith personal property on March the 8th of
19 2010.

20 You'll also have the indictment charging the defendant
21 with the crime of assault and battery of a high and
22 aggravated nature alleging that he committed an assault and
23 battery upon Randall Seay which was accompanied by some
24 circumstance of aggravation.

25 You'll also have the indictment that Mr. Williams did

Jury charge

1 commit the crime of common-law robbery in that he did take,
2 steal and carry away from the person or presence of Randall
3 Seay property by using force or violence, and/or the threat
4 of the use of force or violence.

5 And you'll have the remaining charge which charges the
6 defendant with having committed the crime of failing to
7 stop when signaled by a law enforcement officer using a
8 blue light or siren or both in order to effect the stop of
9 the vehicle.

10 Those indictments are going to be in the jury room
11 because it's on the back of those indictments, Mr. Foreman,
12 that you're going to indicate the jury's decision as it
13 relates to the particular charge set forth in the
14 indictment. So on the back of the indictment there's a
15 place for you to indicate the jury's unanimous decision as
16 to that particular charge.

17 But other than serving as the verdict forms the
18 indictments serve no purpose so far as you jurors are
19 concerned. As I believe I told you at the outset, the
20 indictments set forth the charges brought against a
21 defendant.

22 The indictments are the means by which any person is
23 brought into this court and is formally accused of a crime.
24 And of course the indictments serve to put that person on
25 notice as to what crime the state claims that he or she has

Jury charge

1 committed.

2 But the indictments are not evidence in the case.
3 They're not proof of anything. They do not establish
4 anything. The state has the burden of proving a
5 defendant's guilt beyond a reasonable doubt by the
6 presentation of evidence during the trial of the case. And
7 so the indictments will be in the jury room, but they are
8 solely there to serve as the verdict forms.

9 Now, as you know, as to each of the charges that have
10 been brought against the defendant he has entered a plea of
11 not guilty. And as I told you, that plea of not guilty has
12 placed upon the state the burden of proving the allegations
13 that they have made against the defendant, the burden of
14 proving each of the essential elements that constitute the
15 crimes that have been alleged against the defendant; and
16 therefore the burden is upon the state to establish the
17 defendant's guilt to your satisfaction beyond a reasonable
18 doubt before you could return a verdict as to a -- before
19 you could return a verdict of guilty as to a particular
20 charge.

21 The burden is never upon a defendant to prove that he
22 or she is not guilty or to prove that he or she is innocent
23 because in many cases that might not be possible. The
24 burden is always upon the state because they brought the
25 charge against another to establish that person's guilt

Jury charge

1 beyond a reasonable doubt.

2 You are instructed that it is a vital, important and
3 cardinal rule of law that every defendant in a criminal
4 trial, and it doesn't matter how serious the offense might
5 be for which that person stands charged, that person shall
6 always be presumed innocent of the charge.

7 And that presumption of innocence, as I've told you,
8 remains with every defendant as it does with this defendant
9 from the time that he is placed under arrest and throughout
10 the course of the criminal process and even throughout the
11 course of the actual trial in the case.

12 That presumption of innocence will be with
13 Mr. Williams even as go back to begin your deliberations
14 after I've provided you this legal instruction. And that
15 presumption of innocence will be with him in that jury
16 room, and it'll be with him forever unless you 12 jurors
17 determine that he's no longer entitled to that presumption
18 of innocence.

19 In other words, after you've carefully considered all
20 of the evidence in this case, and from that evidence you
21 have determined what you believe to be the true facts as
22 they relate to these allegations, and upon applying the law
23 to the facts as you have determined them to be, if you 12
24 jurors unanimously determine that his guilt as to a
25 particular crime has been proven beyond a reasonable doubt,

Jury charge

1 then he is no longer entitled to the presumption of
2 innocence as it relates to that particular charge. But
3 it's only if, unless and until you are satisfied of his
4 guilt beyond a reasonable doubt that the presumption of
5 innocence would no longer be applicable to that particular
6 charge.

7 Now, while the state does have the burden of proving
8 the defendant's guilt beyond a reasonable doubt, that
9 doesn't mean that the state has to prove his guilt beyond
10 all doubt or beyond any possible doubt. But it does
11 require the state to prove his guilt to your satisfaction
12 beyond a reasonable doubt.

13 The term reasonable doubt should be given its plain
14 and ordinary meaning. A reasonable doubt is the kind of
15 doubt that would cause a reasonable person to hesitate to
16 act upon the information provided.

17 A defendant in a criminal trial is entitled to any
18 reasonable doubt that arises from the evidence or lack of
19 evidence in a case. And if upon any factual issue
20 essential to a finding of a verdict of guilty you have some
21 reasonable doubt as to how that issue should be resolved it
22 would be your duty to resolve that reasonable doubt in
23 favor of the defendant.

24 And therefore if upon your consideration of the whole
25 case you have a reasonable doubt as to the defendant's

Jury charge

1 guilt as it relates to a particular charge you must resolve
2 that reasonable doubt in his favor and return a verdict of
3 not guilty as it relates to that charge.

4 And at the same time after you've carefully considered
5 all of the evidence and decided the facts and applied the
6 law if you have no reasonable doubt as to his guilt as it
7 relates to a particular charge, then it would be your
8 corresponding duty to find him guilty of that charge where
9 you are convinced of his guilt beyond a reasonable doubt.

10 Now, the same law that provides that you are the
11 judges of the facts also provides that I am the judge of
12 the law. And that simply means nobody's going to tell you
13 how to arrive at your determination of fact in this case.
14 You do that through the exercise of good judgment and
15 common sense conscientiously applied to the testimony and
16 the evidence received during the trial of the case.

17 You must however under your oath as a juror accept the
18 law as I provide it to you as being the law that you are to
19 apply in this case. In other words, you can't concern
20 yourself with what you thought the law was before you came
21 to serve as a juror this week or what you think the law
22 ought to be.

23 You must under your oath as a juror simply accept the
24 law as I provide it to you as being the law that you are to
25 apply in the case. And then you take that law and you

Jury charge

1 apply it to the facts as you 12 jurors determine those
2 facts to be based upon your common sense examination of all
3 of the evidence in the case.

4 Now, because you are the sole judges of the facts in
5 this case you are therefore necessarily the sole judges of
6 the credibility and the believability of each witness that
7 has testified during the course of this trial. And you 12
8 jurors alone will decide what weight, value and effect to
9 give to any particular witness' testimony, or even a
10 portion of that testimony.

11 And so there are a number of factors which you should
12 take into consideration in assessing a witness'
13 credibility. And those factors include what was the
14 demeanor of the witness. In other words, how did the
15 witness appear to you as the witness testified from the
16 witness stand. Was the witness straight forward in
17 responding to questions, or was the witness hesitant or
18 evasive in responding to questions that were asked of the
19 witness.

20 Simply put, did the witness appear to you to be
21 telling the truth and to have knowledge of the facts to
22 which that witness has testified.

23 You should also consider whether or not the testimony
24 of a witness is consistent, or is it inconsistent with that
25 witness' own testimony, as well as testimony and other

Jury charge

1 evidence received from other witnesses or presented during
2 the trial of the case.

3 You should also consider how the witness came to know
4 the facts to which that witness has testified. In other
5 words, what was a particular witness' opportunity and
6 ability to perceive the existence of those facts to which
7 that witness has testified by having previously used his or
8 her senses. And then what is that witness' ability to be
9 able to come into court and to accurately recollect to you
10 as to what they have previously seen or heard, or felt for
11 that matter.

12 You should also consider any bias, prejudice or
13 interest that a witness might have with respect to a case.
14 In other words, do you find some reason that a particular
15 witness would come into court and would testify one way or
16 another to help or to hurt one side or the other.

17 You may consider any interest that a witness might
18 have in the outcome of this case if you determine that a
19 witness does have such an interest and you find that that
20 interest would bear upon that particular witness'
21 credibility. And you may also consider whether or not the
22 testimony of a witness was strengthened, or was it weakened
23 by other testimony or other evidence received during the
24 trial of the case.

25 Now, because you are the finders of the fact and

Jury charge

1 because you are the judges of the credibility of each
2 witness you are permitted to believe as much or as little
3 of what a witness has testified to as you deem is
4 appropriate.

5 In other words, you may believe everything that a
6 witness testified to; you may choose to believe none of it.
7 You may believe one portion of a witness' testimony and
8 reject some other portion of that same witness' testimony.

9 In a given case you could believe one witness as
10 opposed to several, or several as opposed to one. But
11 whatever your good judgment and common sense tells you is
12 the most believable and credible testimony is the testimony
13 you should accept. And you should reject any testimony or
14 other evidence that you find not to be credible or
15 believable.

16 Again, your sole objective is to simply reach the
17 truth in the matter, and by doing that you will have
18 fulfilled your obligations as jurors, and that is to simply
19 give both the state and the defendant a fair and impartial
20 trial.

21 And it should not matter to you from what source that
22 truth may come, whether it be from a witness for the state
23 or a witness for the defendant or a combination of
24 testimony received from both sides in the case.

25 Now, while there are various forms of evidence such as.

Jury charge

1 testimony, photographs, documents and charts and other
2 types of physical exhibits, there are really only two types
3 of evidence. Either or both of those types of evidence may
4 be used to prove any fact in issue. But the two types of
5 evidence are direct evidence and circumstantial evidence.

6 Now, direct evidence is the testimony of a person who
7 testifies from actual knowledge of the fact. It is
8 testimony by a person who has perceived the existence of a
9 fact by means of his or her senses, and they come into
10 court and they testify as to what they have previously
11 perceived.

12 Circumstantial evidence, on the other hand, is the
13 proof of some other fact or set of facts which taken either
14 singly or collectively may prove the existence of a fact in
15 question as a necessary consequence, that is through an
16 inference.

17 An inference is simply a deduction of fact that may
18 logically and reasonably be drawn from the proof of some
19 other fact or set of facts. In other words, it's a fact
20 not proven by the direct testimony of a person based upon
21 personal perception. But it is a conclusion which might
22 reasonably be drawn from the proof of other facts.

23 In other words, you may infer that a particular event
24 occurred or that a particular fact exists based upon the
25 proof of sufficient factual circumstances which would

Jury charge

1 reasonably warrant your arriving at a particular
2 conclusion.

3 The law however makes absolutely no distinction
4 between the weight or the value to be given to direct
5 evidence as opposed to circumstantial evidence, nor is a
6 greater degree of certainty required of circumstantial as
7 opposed to direct evidence.

8 Whatever the type of evidence used to prove any fact
9 in issue, you should consider all of the evidence presented
10 during the trial of the case. And after carefully
11 considering that evidence and weighing it in your minds if
12 you are not convinced of the guilt of the defendant beyond
13 a reasonable doubt as it relates to a particular charge,
14 then you must resolve that doubt in his favor and return a
15 verdict of not guilty as to that charge.

16 Now, in this case you have four offenses that you will
17 be considering that have been brought against the
18 defendant. They include armed robbery, common-law robbery,
19 aggravated assault and battery, and failing to stop when
20 signaled by a law enforcement officer.

21 I'm going to define for you the criminal offense known
22 as robbery as I define for you the criminal offense known
23 as armed robbery, because robbery is necessarily included
24 in the crime of armed robbery. So I'm not going to
25 instruct you twice on robbery, but the definition of the

Jury charge

1 crime of robbery will be applicable to two of the
2 indictments.

3 One of the indictments which alleges armed robbery,
4 necessarily it is required that robbery be proven. And
5 there's an additional element that has to be established
6 which I will discuss with you. And that's the indictment
7 that alleges a robbery while armed with a deadly weapon of
8 Anita Smith.

9 The definition of robbery will also apply to the
10 indictment which charges the defendant with the crime of
11 robbery as it relates to Randall Seay. So first I'm going
12 to charge you on the law as it relates to armed robbery.
13 That's a statutory offense. I am going to read the statute
14 to you.

15 Robbery, which is necessarily included in that
16 definition of armed robbery, is a common-law offense. But,
17 as I say, when I define robbery, the term robbery or the
18 crime of robbery to you, it will apply both to the
19 indictment for armed robbery involving Ms. Smith and the
20 indictment for common-law robbery involving Mr. Seay.

21 Section 16-11-330 of the Code of Laws of South
22 Carolina provides that a person who commits the crime of
23 robbery while armed with a pistol, dirk, slingshot, metal
24 knuckles, razor or any other deadly weapon is guilty of the
25 crime of armed robbery.

Jury charge

1 As I've stated, the crime of armed robbery necessarily
2 includes the lesser offense of robbery. And robbery is
3 defined in the law as the taking and stealing of another
4 person's property having any value whatsoever from the
5 person or presence of the person by the use of force or
6 violence or by the threat of the use of force or violence
7 by way of intimidation.

8 A thing is deemed to be in the presence of a person
9 with respect to the crime of robbery when the property is
10 so within his or her reach, observation or control that he
11 or she could if not overcome by violence or prevented by
12 fear retain possession of his or her property.

13 Actual force implies the use of physical violence in
14 order to effect the theft of the property. Constructive
15 force could would include all demonstrations of force
16 including threats and any other means employed by the
17 perpetrator by which the person who is robbed is put in
18 fear sufficient to suspend the free exercise of his or her
19 will or prevent resistance to the taking because of the
20 apprehension of danger and causing that person to surrender
21 his or her property because of that fear.

22 So robbery is the forcing of a person to surrender
23 property with the intent to steal the property by the use
24 of force or violence or by threatening a person with the
25 use of force or violence in order to accomplish the theft.

Jury charge

1 Taking property of another with an intent to steal it
2 by forcing a person to surrender possession of his or her
3 property or by causing a person to surrender possession of
4 the property by putting that person in fear by way of
5 intimidation is a robbery under the law.

6 And in order to be guilty of the crime of armed
7 robbery it necessarily would require the additional element
8 that the person commit the crime of robbery while armed
9 with a deadly weapon. And a deadly weapon is defined as
10 any device or instrument which in the manner it is intended
11 to be used or in the manner that it is actually put to use
12 is known to be capable of producing death or causing
13 serious bodily harm.

14 Ordinary objects such as sticks, tools, hands, fists
15 or feet which have generally not been considered to be a
16 deadly weapon in the ordinary sense of the word may under
17 some circumstances be used in such a fashion or in such a
18 manner as to constitute a deadly weapon.

19 So whether or not an object is being utilized as a
20 deadly weapon depends upon the facts and circumstances of
21 the particular case. And it is for you 12 jurors to
22 determine whether or not an object used in the perpetration
23 of any robbery was a deadly weapon.

24 So before you could find the defendant guilty of the
25 crime of armed robbery in Indictment 2113 it would be

Jury charge.

1 necessary that the state prove to your satisfaction beyond
2 a reasonable doubt that Jason Williams, the defendant in
3 this case, committed the crime of robbery against Anita
4 Smith and that at the time he committed that crime he was
5 armed with a deadly weapon.

6 Now, the -- there's a separate indictment, as you
7 know, for common-law robbery. That involves Randall Seay.
8 The definition of robbery that I've just given has the same
9 application to that particular indictment.

10 So in order for the defendant to be found guilty of
11 common-law robbery it would -- with respect to the
12 indictment charging the robbery of Randall Seay it would be
13 necessary that the state has proven to your satisfaction
14 that the defendant did commit the crime of robbery in that
15 he took, stole and carried away from the person or presence
16 of Randall Seay property by the use of force or violence or
17 the threat of the use of force or violence; that is by way
18 of an intimidation.

19 The defendant is also charged in a separate
20 indictment, 2110, with the crime of assault and battery of
21 a high and aggravated nature. And that is an offense that
22 is alleged to have occurred on March the 8th of 2010. And
23 the victim is alleged to have been Randall Seay, the same
24 victim in the common-law armed robbery indictment.

25 So I'll now define for you the crime of assault and

Jury charge

1 battery of a high and aggravated nature. An assault and
2 battery of a high and aggravated nature includes the lesser
3 offenses and terms of assault and battery. So I'll define
4 for you the term assault; I'll define for you the term
5 battery; and then I'll define for you the crime of assault
6 and battery of a high and aggravated nature.

7 An assault is the unlawful attempt to do violence or
8 injury to the person of another where there is the present
9 ability to complete the attempt by way of a battery. And a
10 battery is the unlawful and intentional touching or the
11 striking of a person of another by the person committing
12 the assault or by any object put in motion by that person.
13 That is it is the completion of an act doing violence or
14 injury to the person of another.

15 A battery may be further defined as the carrying into
16 effect of an assault by using or applying force to the
17 person of another, however slight, in a rude, angry,
18 resentful or unlawful manner and without just cause or
19 legal excuse.

20 An assault and battery of a high and aggravated nature
21 is an assault and battery as I've just defined those terms
22 for you which is accompanied by some circumstance of
23 aggravation.

24 What is meant by a circumstance of aggravation is that
25 there is some fact, incident, detail or circumstance which

Jury charge

1 accompanies an assault and battery that tends to enhance or
2 to increase the severity of the assault and battery.

3 And some examples of facts which might be considered
4 circumstances of aggravation include the use of a deadly
5 weapon in the commission of an assault and battery -- a
6 deadly weapon being defined as I have -- being defined as I
7 have previously instructed you with respect to the crime of
8 armed robbery.

9 Another circumstance of aggravation is the infliction
10 of serious bodily injury. And serious bodily injury means
11 more than slight. It means substantial injury.

12 Another circumstance which might be considered a
13 circumstance of aggravation is an assault and battery
14 committed during the commission of a felony. And you are
15 instructed that the crime of robbery is classified as a
16 felony under the law of this state.

17 Another circumstance that might be considered as a
18 circumstance of aggravation is the difference in the sexes
19 of the parties or a great disparity in the ages or the
20 physical conditions or the abilities of the parties.

21 So, again, before the defendant could be found guilty
22 of the crime of assault and battery of a high and
23 aggravated nature it would be necessary that the state has
24 proven beyond a reasonable doubt that he committed an
25 assault and battery against Randall Seay and that that

Jury charge

1 assault and battery was accompanied by some circumstance of
2 aggravation:

3 The remaining indictment charges the defendant with
4 the crime of failing to stop when signaled by a law
5 enforcement vehicle. And that is a statutory offense, and
6 that's set forth in Section 56-5-750 of the Code of Laws.

7 That law provides that in the absence of mitigating
8 circumstances it is unlawful for a motor vehicle driver
9 while driving on a road, street or highway of this state to
10 fail to stop when signaled to do so by a law enforcement
11 vehicle using a siren or flashing light.

12 And the statute goes further and provides that any
13 attempt to increase the speed of a vehicle or in any other
14 manner avoid the pursuing law enforcement vehicle when
15 signaled by a siren or flashing light is prima facie
16 evidence of a violation of this section.

17 Failure to see the flashing light or hear the siren
18 does not excuse a failure to stop where the distance
19 between the vehicles and other road conditions are such
20 that it would be reasonable for a driver to hear or see the
21 signals from the law enforcement vehicle.

22 In order to establish a violation of this particular
23 statute it is necessary that the state has proven to your
24 satisfaction beyond a reasonable doubt, number one, that
25 the defendant was the driver of a motor vehicle on a road,

Jury charge

1 street or highway of this state in this county; secondly,
2 that he was signaled to stop by a law enforcement vehicle
3 using a flashing light or a siren, either one or both; and
4 that the defendant did not stop in the absence of
5 mitigating circumstances.

6 Mitigating circumstances are those circumstances which
7 in fairness and mercy may be considered as extenuating or
8 reducing the degree of moral culpability of an individual
9 and give rise to a reasonable justification for not
10 stopping the vehicle.

11 It is not however a defense to a failing to stop that
12 the driver did not see the flashing light or hear the siren
13 where it is shown by the evidence in the case that the
14 distance between the vehicles and other road conditions
15 were such that it would be reasonable for the driver to
16 have seen and/or heard the signals given by the law
17 enforcement vehicle.

18 In determining whether or not there are mitigating
19 circumstances which would justify a person's failure to
20 stop for the flashing light or siren you may take into
21 consideration actual road conditions, actual roadside
22 conditions, other conditions such as lighting and weather,
23 as well as officer, driver or passenger safety and any
24 other circumstances that you believe to reasonably mitigate
25 any alleged violation.

Jury charge

1 Any attempt to increase the speed of a vehicle or in
2 some other manner to avoid the pursuing law enforcement
3 vehicle when signaled by a siren or flashing light may be
4 considered by you as circumstantial evidence of a failure
5 to stop. And I've defined for you the term circumstantial
6 evidence earlier.

7 In other words, you may infer a violation of this
8 statute from proof of such facts if you determine it
9 reasonable to do so, however you are in no way required to
10 draw such an inference.

11 Any inference which may reasonably be drawn from the
12 proof of other facts or circumstances are merely
13 evidentiary facts to be taken into consideration by you 12
14 jurors along with all the other evidence in the case. And
15 you give such facts or inferences whatever weight you
16 determine they should receive, if any, in the exercise of
17 your own good discretion and common sense.

18 You are further instructed that one of the issues in
19 this case, as in every case where a defendant is charged
20 with a crime, is the identification of the defendant as the
21 perpetrator of a particular crime.

22 The state has the burden of proving every essential
23 element of any crime they allege against the defendant.
24 And that necessarily also includes that the state prove
25 beyond a reasonable doubt the identification of the

Jury charge

1 defendant as the perpetrator of that particular crime.

2 So you must be satisfied beyond a reasonable doubt as
3 to the accuracy of any identification of the defendant
4 before you could find him guilty of a crime where he has
5 been identified -- that he has been identified as having
6 committed.

7 After considering all the evidence in this case, both
8 direct and circumstantial, if you have a reasonable doubt
9 as to the accuracy of the identification of the defendant
10 as the perpetrator of any crime that he is alleged to have
11 committed, then you must resolve that reasonable doubt in
12 his favor and return a verdict of not guilty as to that
13 particular charge.

14 You are further instructed that voluntary intoxication
15 is not a defense to the commission of a crime. Where a
16 person voluntarily consumes intoxicating substances to such
17 an extent that he or she becomes intoxicated to any degree
18 and during the course of that intoxication commits some
19 criminal offense while under the influence of those
20 substances, under the law a person is just as responsible
21 for any criminal acts committed while intoxicated as that
22 person would be responsible for if committed while sober.
23 So voluntary intoxication is never a defense or an excuse
24 to the commission of a crime.

25 Now, although it is ordinarily a function of the Court

Jury charge

1 to determine the admissibility of any evidence, it is
2 always the jury's decision as to what weight, if any, to
3 give to that evidence which might be introduced during the
4 trial of the case.

5 There have been admitted into evidence during the
6 trial of this case certain statements which are alleged to
7 have been made by the defendant pursuant to some
8 interrogation or questioning by law enforcement after he
9 was taken into custody.

10 You are instructed that in regards to any statement
11 that is alleged to have been made by the defendant that you
12 as the finders of the fact in this case must make your own
13 determination as to whether or not any statement was made
14 by the defendant, and if one was whether or not any such
15 statement was freely and voluntarily given by the defendant
16 to the law enforcement.

17 You are instructed that before you may consider any
18 statement that is alleged to have been made by the
19 defendant against him you must be satisfied beyond a
20 reasonable doubt that any statement given by the defendant
21 was freely and voluntarily made after considering the
22 totality of the circumstances surrounding the making of
23 that statement.

24 In making your determination as to the voluntariness
25 of any statement you must consider a number of factors

Jury charge

1 relating to the characteristics of the defendant, as well
2 as the circumstances surrounding the interrogation
3 resulting in the making of a statement.

4 Some of the factors that you must consider are whether
5 or not the defendant was advised of and understood his
6 constitutional rights to remain silent, and that if he said
7 anything it might be used against him in court, and that he
8 had the right to the presence of a lawyer, and if he could
9 not afford a lawyer one would be appointed for him before
10 any questioning would take place, and that if he wished to
11 answer questions he could stop that questioning at any
12 time.

13 You must also consider evidence relating to the age of
14 the defendant, his intelligence, education, capacity and
15 experience of the defendant, as well as the nature of the
16 interrogation itself, including whether or not there were
17 any threats or coercion or promises made.

18 If, after your consideration of the totality of the
19 circumstances surrounding the making of any statement that
20 you find was, in fact, made by the defendant, if you are
21 not satisfied beyond a reasonable doubt that that statement
22 was made freely and voluntarily, then you may not consider
23 that statement in any way as evidence against the
24 defendant.

25 Should you find beyond a reasonable doubt that a

Jury charge

1 statement was made by the defendant and that it was freely
2 and voluntarily made, then you may consider that statement
3 as you deem appropriate. You may accept it, you may reject
4 it just as you do any other evidence that you will be
5 considering that was introduced during the trial of the
6 case..

7 Now, as I told you at the outset, and you are
8 instructed further, and I emphasize to you, that the fact
9 that a defendant does not take the witness stand and
10 testify during the trial of a case is not a fact or
11.. circumstance which may be considered in any way during your
12 deliberations or in your determination as to whether or not
13 his guilt has been proven beyond a reasonable doubt.

14 As I've stated, the burden is always upon the state
15 because they have brought these charges against the
16 defendant to prove his guilt to your satisfaction beyond a
17 reasonable doubt.

18 The burden is never upon a defendant to prove that he
19 or she is not guilty or to prove that he or she is innocent
20 because in some cases that might not be possible. And
21 therefore where a defendant does not testify during the
22 trial of case you may not permit that fact to weigh in the
23 slightest degree against the defendant, nor you may -- nor
24 may you consider that fact in any way whatsoever during
25 your deliberations and in your determination as to whether

Jury charge

1 or not his guilt has been proven beyond a reasonable doubt.
2 Nor may that fact even be discussed by you while you are
3 engaged in your deliberations in the jury room.

4 Now, ladies and gentlemen, I am not in any way
5 concerned with what your decisions are, but, as I told you,
6 any decision that you reach with respect to a particular
7 charge must be unanimous. All 12 of you must be in
8 agreement.

9 Now, Mr. Foreman, you're going to have the indictments
10 in the jury room, along with any other evidence. Well, let
11 me rephrase that. You're going to have the indictments in
12 the jury room along with the evidence.

13 The indictments, as I've told you, are not evidence.
14 They're only there because they will serve as the verdict
15 forms. And so you've got four separate indictments. You
16 have got four separate charges. You'll indicate the jury's
17 decision as it relates to that particular charge on the
18 back of an indictment.

19 And you'll see. This is the back of the indictment.
20 In the lower left-hand corner you'll see the word verdict.
21 And it's beneath that word that you'll indicate the jury's
22 decision.

23 There's also a space for you to sign your name as the
24 foreperson of the jury, and a place for the date. You are
25 the only juror that needs to sign the verdict form, but the

Jury charge

1 decision has to be unanimous. All 12 jurors must be in
2 agreement before you can insert the verdict in that space.

3 With respect to each of the separate indictments you
4 have two possible verdict forms. Those possible verdict
5 forms are guilty and not guilty. So whatever that decision
6 is as it relates to a particular indictment, indicate it in
7 the space provided, sign your name as the foreperson.

8 Also as I've told you at the outset of the trial, you
9 have four separate charges. You've got to render separate
10 and distinct verdicts as to those four separate charges.
11 And your verdict in these cases may be the same. They may
12 be different. That will depend upon your determination of
13 fact as it relates to that particular charge and then your
14 application of the law as it relates to that charge.

15 Now, I don't know if we have any smokers on the jury,
16 but if we do you are allowed to smoke during deliberations
17 but not in the jury room. You have to go outside if you
18 want to smoke. So if anybody wants to smoke or you decide
19 to take up smoking you let the bailiff know and they'll
20 take those of you outside who need to smoke.

21 You are instructed however that deliberations must not
22 take place unless all 12 jurors are present in the jury
23 room so that all may participate.

24 So if at any time a juror is absent for any authorized
25 purpose the deliberations have to stop. And they may only

Jury charge

1 resume when all 12 are present so that they all may
2 participate.

3 If during the course of your deliberations you ever
4 have a question about the facts of the case or the evidence
5 in the case or you wonder if there's something out there
6 that you could get and, you know, in addition to what
7 you've already received that might help you, I am never
8 permitted to respond to questions of fact. I am never
9 permitted to respond to questions about the evidence or the
10 testimony or what somebody said or what something means.

11 You have to resolve those issues by your consideration
12 of all of the evidence in the case in the exercise of good
13 judgment and common sense.

14 If you think there's something else, you wonder if
15 something else is out there that might assist you, and you
16 wonder if we can give it to you, you can't have it. Even
17 if it exists, you can't have it because the case is closed
18 now, and no additional evidence can be received even if it
19 did exist. So I'm not permitted to answer questions that
20 relate to the facts or evidence in the case.

21 If you have a question about testimony of a witness
22 and you think that that question can be answered by having
23 that witness' testimony replayed in its entirety or in
24 part, we can bring you back into the courtroom to have
25 testimony replayed.

Jury charge

1 I don't have transcripts to provide you, so I can't
2 send them back to the jury room. But we will allow you to
3 come back into the courtroom to have a witness' testimony
4 replayed if you find that to be desirable or necessary.

5 If you ever have a question about the law that is
6 applicable, I am permitted to answer those questions. So
7 if there's any confusion or you need a reinstruction or you
8 need a clarification or a different explanation as to the
9 law, I am permitted to give you another instruction or to
10 clarify it or explain it in another fashion so that you'll
11 know what you are to apply in this case.

12 So I can't answer questions of evidence. I can answer
13 questions relating to the law that's applicable.

14 I think that covers everything. Now, I'm going to
15 send you back, the 12 primary jurors. I'll send you back.

16 Mr. Schroeder, you'll stay here with me in the
17 courtroom.

18 As you go back do not yet begin deliberations. I've
19 got some matters I'll need to address with the lawyers. If
20 I don't need to bring you back for any reason I'll send
21 word by way of the bailiff that you can begin with your
22 deliberations. In that event he'll bring to the jury room
23 all of the exhibits which have been introduced.

24 And to you, Mr. Foreman, he'll also bring the
25 indictments which serve as the verdict forms.

Jury charge

1 So please retire but await my instruction as to when
2 to begin deliberations.

3 (Whereupon, the jury retired to deliberate at
4 2:43 p.m.)

5 (Whereupon, the alternate juror was excused.)

6 THE COURT: Are there any exceptions taken to the
7 instruction or requests for additions to the instruction by
8 the state?

9 MR. BARNETTE: None from the state, Your Honor.

10 THE COURT: By the defendant?

11 MR. POOLE: No, sir.

12 THE COURT: Let me ask y'all to verify the exhibits,
13 please, before they go back.

14 (Pause.)

15 THE COURT: All exhibits are accounted for?

16 MR. BARNETTE: Yes, sir.

17 THE COURT: All right. Take them back and instruct
18 the jury to begin deliberations and notify us when they
19 have concluded.

20 (Whereupon, the exhibits were submitted to the jury at
21 3:50 p.m. for deliberation.)

22 THE COURT: We will be at ease while the jury is
23 deliberating.

24 (Whereupon, a recess was taken.)

25 THE COURT: All right. We have a verdict. Are we

Verdict .

1 ready to receive it?

2 MR. BARNETTE: The state's ready, Your Honor.

3 MR. POOLE: Yes, sir.

4 THE COURT: Bring them in, please.

5 (Whereupon, the jury returned to the courtroom at
6 4:20 p.m. to report its verdict.)

7 THE COURT: Mr. Foreman, have you and your fellow
8 jurors reached a unanimous decision as to each of the
9 separate indictments?

10 THE FOREMAN: Yes, sir.

11 THE COURT: And have you indicated those decisions on
12 the back of the indictment as requested?

13 THE FOREMAN: Yes, sir.

14 THE COURT: And did you sign your name as the
15 foreperson and date it?

16 THE FOREMAN: Yes, sir.

17 THE COURT: If you will, please hand those verdict
18 forms up by way of the bailiff.

19 You may publish the verdicts.

20 THE CLERK: State of South Carolina, County of
21 Spartanburg, in the Court of General Sessions, State vs.
22 Jason Will Williams, Indictment No. 2010-GS-42-2113, armed
23 robbery, find the verdict, count one, guilty.

24 On Indictment No. 2010-GS-42-2110, assault and battery
25 of a high and aggravated nature, guilty.

Verdict

1 Indictment 2010-GS-42-2114, strong arm robbery,
2 guilty.

3 And Indictment 2010-GS-42-2109, failure to stop motor
4 vehicle when signaled by officer, guilty. Signed by the
5 foreperson, Edward Hockenberry, today's date, 2/2/11.

6 Ladies and gentlemen of the jury, is this your verdict
7 and still your verdict? If so, please raise your right
8 hand.

9 (Whereupon, all jurors responded in the affirmative.)

10 THE CLERK: So say you all.

11 THE COURT: All right. Does the defendant wish to
12 have the jury polled?

13 MR. POOLE: Please, sir.

14 THE COURT: Poll the jury, please, ma'am.

15 THE CLERK: Ladies and gentlemen of the jury, I will
16 be asking you a question. That question is is this your
17 verdict and still your verdict.

18 When I call your juror name and number, if you would,
19 just answer yes or no.

20 Juror No. 8, Leslie Belsick.

21 THE JUROR: Yes.

22 THE CLERK: Juror No. 114, Richard McCarson.

23 THE JUROR: Yes.

24 THE CLERK: Juror No. 76, Edward Hockenberry.

25 THE JUROR: Yes.

Verdict

1 THE CLERK: Juror No. 160, Anthony Towe.
2 THE JUROR: Yes.
3 THE CLERK: Juror No. 94, Keith Kolodziejczyk.
4 THE JUROR: Yes.
5 THE CLERK: Juror No. 45, Paul Fousek.
6 THE JUROR: Yes.
7 THE CLERK: Juror No. 62, Kimberly Hammond.
8 THE JUROR: Yes.
9 THE CLERK: Juror No. 15, Eric Bright.
10 THE JUROR: Yes.
11 THE CLERK: Juror No. 125, Shari Newman.
12 THE JUROR: Yes.
13 THE CLERK: Juror No. 71, Susie Hembree.
14 THE JUROR: Yes.
15 THE CLERK: Juror No. 58, Jeremy Greenway.
16 THE JUROR: Yes.
17 THE COURT: Juror No. 3, Peter Anderson.
18 THE JUROR: Yes.
19 THE CLERK: The jury has been polled.
20 THE COURT: All right. Any other matters that need to
21 be addressed with the jury present?
22 MR. BARNETTE: None from the state, Your Honor.
23 MR. POOLE: None here.
24 (Whereupon, the trial jury was excused.)
25 MR. BARNETTE: Your Honor, may I approach the court

Sentence

1 reporter and make this a court's exhibit, Your Honor?

2 THE COURT: Yes, sir.

3 (Notice, copy of Indictment No. 2003-GS-42-3150, copy
4 of sentencing sheet and two affidavits of service marked
5 Court's Exhibit No. 1.)

6 THE COURT: All right. Mr. Poole, any motions or
7 other matters to address prior to the imposition of
8 sentence?

9 MR. POOLE: Your Honor, we would move for a new trial
10 at this point in time. And that's based on previous
11 motions made and pretrial motions.

12 THE COURT: All right. Those motions are denied.
13 Anything further on behalf of the state?

14 MR. BARNETTE: Yes, sir, Your Honor.

15 We served a notice of life sentence pursuant to
16 Section 17-25-45(a) on the defendant. He had a prior
17 conviction for kidnapping. I have the notice here. I made
18 it Court's Exhibit 1, Your Honor.

19 The first page is the actual notice. The second and
20 third pages are the indictment where he pled guilty to,
21 Your Honor. The next sheet is the actual sentencing sheet
22 that he pled guilty to, Your Honor. And the last two are
23 the actual affidavits, Your Honor, where a life notice was
24 served on Mr. Poole, as well as on the defendant himself.

25 I have talked to Ms. Smith and Mr. Seay. They

Sentence

1 appreciate everything the Court has done and they feel like
2 there's no need to address the Court since there's an
3 automatic life sentence that will be imposed on the armed
4 robbery charge.

5 I do have his prior record if you would need it, Your
6 Honor. I will pass this up, Court's Exhibit No. 1, to you.

7 THE COURT: All right. Tell me about the defendant's
8 prior criminal history.

9 MR. BARNETTE: Yes, sir.

10 In 2003, Your Honor, he pled to common-law robbery,
11 ABHAN, Your Honor, and kidnapping. He received a sentence
12 of six years on the common-law robbery and the aggravated
13 assault and battery. He received ten years suspended to
14 six years and two years probation on the kidnapping, Your
15 Honor, in those cases. And I believe that's all the
16 convictions he has, Your Honor.

17 THE COURT: And the offense that qualifies him for a
18 life sentence was the conviction for the kidnapping?

19 MR. BARNETTE: Yes, sir.

20 THE COURT: And then this is his second most serious
21 conviction --

22 MR. BARNETTE: Yes, sir.

23 THE COURT: -- for armed robbery --

24 MR. BARNETTE: Yes, sir.

25 THE COURT: --- which is a mandatory life sentence

Sentence

1 pursuant to 17-25-45.

2 Mr. Poole; do you agree with the solicitor that both
3 you and Mr. Williams were served with a notice of the
4 state's intention to seek the life sentence upon his
5 conviction for armed robbery?

6 MR. POOLE: That's correct, Your Honor.

7 THE COURT: Okay. Do you have any reason to assert
8 that the statute is not applicable to Mr. Williams?

9 MR. POOLE: No, sir, I do not.

10 THE COURT: Okay. I'll be glad to hear anything else
11 you'd like to tell me.

12 MR. POOLE: Your Honor, under the section that the
13 Court has just stated it's -- the sentence that's going to
14 be imposed has to be a mandatory life sentence.

15 Mr. Williams had had a problem with drug use. He's
16 been a lifelong resident of Spartanburg County. He is a
17 father, as the Court knows, has heard from the testimony
18 given.

19 If there's anything that can be done with regard to
20 sentencing on the other charges it would be appreciated.
21 But, again, I understand that -- I understand that under
22 the statute it's mandatory.

23 THE COURT: All right. Mr. Williams, do you have
24 anything you'd like to add to what your lawyer has told me?

25 THE DEFENDANT: I don't know what to say.

Sentence .

1 THE COURT: Sir?

2 THE DEFENDANT: I don't know what to say. I know I
3 didn't do all of that stuff and I don't know -- the
4 offense. I don't know what to say, Your Honor, life
5 sentence, I don't know, sir. I ain't but 32 years old.

6 THE COURT: All right. On Indictment 2010-2113, count
7 one for armed robbery, wherein you have been found guilty
8 by the jury of that offense, and wherein you have
9 previously been convicted of a crime which is classified as
10 a most serious offense, the Sentence of the Court is you,
11 Jason Will Williams, be confined to the South Carolina
12 Department of Corrections for the period of your natural
13 life pursuant to Section 17-25-45.

14 Indictment 2010-2114, common-law robbery, Sentence of
15 the Court is 15 years.

16 Indictment 2010-2112, aggravated assault and battery,
17 Sentence of the Court is ten years.

18 Indictment 2010-2109, failing to stop, the sentence is
19 three years.

20 Mr. Williams, you have a right to appeal the verdicts
21 of the jury and the Sentence of the Court. You must file
22 any notice of your intention to appeal those decisions
23 within ten days of today's date. Do you understand that?

24 Anything else?

25 MR. BARNETTE: No, sir.

Sentence

1 MR. POOLE: No, sir, Your Honor.
2 END OF REQUESTED TRANSCRIPT OF RECORD
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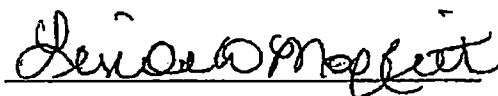
Certificate

CERTIFICATE

I, the undersigned Linda D. Moffitt, Official Court Reporter for the Seventh Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of all the proceedings had and evidence introduced in the trial of the captioned cause, relative to appeal, in the Court of General Sessions for Spartanburg County, South Carolina, on the 1st and 2nd days of February 2011.

I do further certify that I am neither of kin, counsel nor interest to any party hereto.

June 20, 2011



Linda D. Moffitt
Circuit Court Reporter

272

Spartanburg County Courthouse

RANDOM STRIKE SHEET

JUDGE NAME : Cole, J. Derham

TRIAL TYPE : Criminal

PANEL ID : 2010GS4202109

COURTROOM JAR

DESCRIPTION : STATE VS JASON WILLIAM

Sorted by: Random Nbr

Trial

NAME	JUROR NBR	RACE	SEX	ST/PLTFF	DEF	CRI	REMARKS
1 Tankersley, Tricia S	156	W	F	⊗	()	()	
2 Goodman, Carlos L	55	B	M	⊗	()	()	
3 Fowler, Ronald K W	48	W	M	✓	⊗	()	
4 Fowler, Jimmy D JR	47	W	M	⊗	()	()	
5 Belsick, Leslie T	8	W	F	✓	✓	()	
6 Mccarson, Richard D	114	W	M	✓	✓	()	
7 Hockenberry, Edward D	76	W	M	✓	✓	()	
8 Towe, Anthony D	160	W	M	✓	✓	()	
9 Ravan, Anthony C	139	W	M	✓	⊗	()	
10 Kolodziejczyk, Keith A	94	W	M	✓	✓	()	
11 Hemenway, Theodore C S	72	W	M	✓	⊗	()	
12 Fousek, Paul S	45	W	M	✓	✓	()	
13 Hammond, Kimberlie M	62	W	F	✓	✓	()	
14 Bright, Eric C	15	W	M	✓	✓	()	
15 McDowell, Betty J	115	B	F	⊗	()	()	
16 Hardwick, Charles A	63	W	M	✓	⊗	()	
17 Francis, Denise	49	W	F	⊗	()	()	
18 Newman, Shari A	125	W	F	✓	✓	()	
19 Hembree, Susie T	71	W	F	✓	✓	()	
20 Greenway, Jeremy M	58	W	M	✓	✓	()	
21 Anderson, Peter N	3	W	M	✓	✓	()	
22 Lee, Markus W	101	W	M	⊗	()	()	
23 Schroeder, Scott A Ando	149	W	M	✓	✓	()	
24 Gilliam, Jackie L	53	B	F	()	()	()	

272

CASE# <u>2010030095898</u>		VOLUNTARY STATEMENT		PAGE of <u>2</u>
STATEMENT OF: <u>JASON WILLIAMS</u>		AGE: <u>31</u>	DATE: <u>3-8-10</u>	
ADDRESS: _____				
PHONE # _____	DOB: _____	SSN: _____		

I WAS RIDING DOWN THE ROAD AND I SAW SOME WOMEN SITTING OUTSIDE AT A TABLE. I PULLED UP AND GOT OUT OF THE TRUCK AND WALKED OVER THERE I WAS SCARED TO DEATH. I WAS HopING THEY WOULD RUN THEY DIDN'T. I GRABBED ONE OF THE POCKET BOOKS SITTING ON THE TABLE. THERE WERE ABOUT FOUR WOMEN AND FOUR POCKETBOOKS THEY STARTED SCREAMING. I RAN AND GOT BACK IN MY TRUCK. I RODE DOWN THE ROAD AND WENT THROUGH HER POCKETBOOK. SHE DIDN'T HAVE ANY MONEY I THREW IT OUT I RODE AROUND SOME MORE I STARTED FEELING BAD FOR WHAT I DID TO THOSE WOMEN. I RODE BY THE CHURCH AND SAW A MAN WORKING ON A CAR AT THE HOME BESIDE IT. I THOUGHT THAT WAS THE PREACHER SO I WAS GOING TO TALK WITH HIM ABOUT WHAT I HAD DONE AND MY AC PROBLEM. HE WALKED IN THE CHURCH AS I PULLED UP. I FOLLOWED HIM IN THE CHURCH. I ASKED HIM IF HE WAS THE CHAPLAIN. HE SAID

I have read this statement consisting of two page(s), and I swear that the statement that I have just given is the truth, the whole truth, and nothing but the truth, so help me God. I also swear this statement was given freely and voluntarily and I have received a copy of my statement. This statement was completed at 8:26 P.M. on the 8th day of MARCH 20 10.

WITNESS

SWORN in before me this

day of

Notary Public of South Carolina

My Commission expires

Signature of person giving voluntary statement

8H104

274

CASE#	2010030095-98		VOLUNTARY STATEMENT	PAGE of
STATEMENT OF:	JASON WILLIAMS		AGE:	31 DATE: 3-8-10
ADDRESS:				
PHONE #:	DOR:	SSN:		

NO. I SAID HOW DO I GET IN TOUCH WITH HIM. HE WALKED OVER TO THE PURSET AND GOT A BROCHURE WITH NAMES, ON IT I STARTED TO LEAVE AND AS HE TURNED AROUND I SAW HIS WALLET IN HIS POCKET. I PUSHED HIM DOWN AND HELD HIM ON THE GROUND. I TOLD HIM I WAS GOING TO TAKE HIS WALLET. HE SAID TAKE IT JUST DON'T HURT I TOLD HIM I WASN'T GOING TO HURT HIM. I TOOK HIS WALLET AND RAN OUT THE DOOR. I RAN AROUND SOME MORE AND THE POLICE GOT BEHIND ME. I GOT SCARED AND RAN. I WICKED AND THEY ARRESTED ME - EOS - THIS STATEMENT WAS WRITTEN FOR JASON WILLIAMS AT HIS REQUEST BY JANE W. R. FOSTER

I have read this statement consisting of Two pages(s), and I swear that the statement that I have just given is the truth, the whole truth, and nothing but the truth, so help me God. I also swear this statement was given freely and voluntarily and I have received a copy of my statement. This statement was completed at 826 P M. on the 8th day of March 2010.

WITNESS

SWORN to before me this

day of

Notary Public of South Carolina

My Commission expires

Signature of person giving voluntary statement

(Seal)

SH1104

FORM 5

STATE OF SOUTH CAROLINA

COUNTY OF SpartanburgJason Will Williams # 298412
Full name and prison number (if any) of Applicant.

v.

State of South Carolina

IN THE COURT OF COMMON PLEAS

2013-CP-42-2875

APPLICATION FOR

POST-CONVICTION RELIEF

INSTRUCTIONS - READ CAREFULLY

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

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

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

1. Place of detention McCormick Correctional Institution
2. Name and location of Court which imposed sentence Court of General Sessions Spartanburg
3. Name(s) of co-defendant(s) (if any) _____
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 - (a) 2010-GS-42-2113 armed robbery
 - (b) 2010-GS-42-2114 Common-Law robbery
 - (c) 2010-GS-42-2112 assault and battery / 2010-GS-42-2109 failing to stop
5. The date upon which sentence was imposed and the terms of the sentence:
 - (a) February 1-2, 2011 Natural life sentence
 - (b) February 1-2, 2011 15 years

Revised 3/2003

- (c) February 1-2, 2011 10 years / February 1-2, 2011 3 years
6. Check whether a finding of guilty was made:
- (a) after a plea of guilty _____
- (b) ☒ after a plea of not guilty ☒ _____
- (c) after a plea of nolo contendere _____
7. Did you appeal from the judgment of conviction or the imposition of sentence?
yes
8. If you answered "yes" to (7), list:
- (a) the name of each Court to which you appealed:
- i. The South Carolina Court of Appeals
- ii. _____
- iii. _____
- (b) the result in each such Court to which you appealed:
- i. Appeal dismissed
- ii. _____
- iii. _____
- (c) the date of each such result:
- i. March 13, 2013
- ii. _____
- iii. _____
- (d) if known, citations of any written opinion or orders entered pursuant to such results:
- i. order of dismissal
- ii. _____
- iii. _____
9. If you answered "no" to (7), state your reasons for not so appealing:
- (a) _____
- (b) N/A
- (c) _____
10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:

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CLERK OF COURT
SOUTH CAROLINA
JUL -3 AM 9:16
M. MOPE BLACKLEY

- (a) Ineffective Assistance of Trial Counsel
 (b) _____
 (c) _____

11. State concisely and in the same order the facts which support each of the grounds set out in (10):

- (a) _____
 (b) _____
 (c) _____

12. Prior to this application have you filed with respect to this conviction:

- (a) any petition in a State Court under South Carolina Law? no
 (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? no
 (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? no
 (d) any other petitions, motions or applications in this or any other Court? no

13. If you answered "yes" to any part of (12), list with respect to each petition, motion or application:

(a) the specific nature thereof:

- i. _____
 ii. N/A
 iii. _____
 iv. _____

(b) the name and location of the Court in which each was filed:

- i. _____
 ii. N/A
 iii. _____
 iv. _____

(c) the disposition thereof:

- i. _____
 ii. N/A
 iii. _____

- iv. _____
 (d) the date of each such disposition:
 i. _____
 ii. _____
 iii. _____
 iv. _____

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

- i. _____
 ii. _____
 iii. _____
 iv. _____

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

NO

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

- (a) which grounds have been presented:

- i. _____
 ii. _____
 iii. _____

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

- i. _____
 ii. _____
 iii. _____

16. If any ground set forth in (10) has not previously been presented to any Court, State or Federal, set forth the ground and state concisely the reasons why such ground has not previously been presented:

- (a) _____
 (b) _____
 (c) _____

17. Were you represented by an attorney at any time during the course of:

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 CLERK OF COURT
 STAFFORD COUNTY
 2010 JUL -3 AM 10:16
 MARCOPE BLANCHARD

- (a) your arraignment and plea? yes
- (b) your trial, if any? yes
- (c) your sentencing? yes
- (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? yes
- (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? yes

18. If you answered "yes" to one or more parts of (17), list:

(a) the name and address of each attorney who represented you:

- i. J. Roger Poole 366 North Church Street, Suite 3000, Spartanburg, SC
- ii. Robert Michael Dudek 1330 Lady Street, Suite 401, Columbia, SC 29201
- iii. _____

(b) the proceedings at which each such attorney represented you:

- i. Trial
- ii. Direct appeal
- iii. _____

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

Vacate Conviction and Remanded for new trial

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

NO

STATE OF SOUTH CAROLINA)

County of Spartanburg)

VERIFICATION

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

Jason Will Williams

SWORN to and subscribed before me this 26 day of June, 2013

James L Young
Notary Public

(L.S.)

My Commission Expires: 10-11-2021

FILED
CLERK OF COURT
SPARTANBURG COUNTY
JUL -3 AM '13
KHOPE BEACHLEY

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

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

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

Jason Will Williams

Applicant

SWORN or affirmed to and subscribed before me this

26 day of June, 2013

James D. Young
Notary Public

My Commission Expires: 10/11/2021

FILED
CLERK OF COURT
JEFFERSON COUNTY
JUL - 3 AM '13
HOPE SPRING

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	SEVENTH JUDICIAL CIRCUIT
COUNTY OF SPARTANBURG	)	
	)	2013-CP-42-2875
Jason Will Williams, #298412,	)	
	)	
Applicant,	)	
	)	
v.	)	RETURN
	)	
State of South Carolina,	)	
	)	
Respondent.	)	

Respondent, making its Return to the application for post-conviction relief (PCR) filed July 3, 2013, but received by Respondent on November 5, 2013, would respectfully show this Court:

I.

The Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Spartanburg County Clerk of Court. He was indicted at the March 2010 term of the Spartanburg County Grand Jury for armed robbery and possession of a firearm during commission of a violent crime (2010-GS-42-2113(a)), common law robbery (2010-GS-42-2114), assault and battery of a high and aggravated nature (2010-GS-42-2112), and failure to stop (2010-GS-42-2109). The Applicant was represented by J. Roger Poole, Esquire. The Applicant proceeded to trial and, on February 2, 2011, was convicted as indicted. The Honorable J. Derham Cole sentenced Applicant to life imprisonment for armed robbery and possession of a firearm during commission of a violent crime, fifteen years for common law robbery, ten years for assault and battery, and three years for failure to stop, all to be served concurrently.

A timely Notice of Appeal was filed on the Applicant's behalf by Robert M. Dudek, Esquire, and an appeal was perfected. Following the submission of a brief pursuant to Anders v. California,

386 U.S. 738 (1967), the South Carolina Court of Appeals dismissed the appeal. State v. Williams, No. 2013-UP-105 (filed March 13, 2013). The Remittitur was issued on April 5, 2013.

Attached herewith and incorporated herein are the records of the Spartanburg County Clerk of Court regarding the subject conviction, the Applicant's records from the South Carolina Department of Corrections, the Applicant's appellate records, and the trial transcript. The Respondent reserves the right to amend this Return upon receipt of any relevant materials.

II.

In his current Application, the Applicant alleges that he is being held in custody unlawfully for the following reason:

- a. Ineffective assistance of trial counsel.

III.

In a post-conviction relief action, the Applicant bears the burden of proving the allegations in their application. Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). Where the application alleges ineffective assistance of counsel as a ground for relief, the Applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result." Strickland v. Washington, 466 U.S. 668, (1984); Butler, 334 S.E.2d 813. Respondent notes that it appears the Applicant appeared and pled guilty voluntarily without the assistance of counsel.

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. The courts presume that counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Strickland, 466 U.S. 668. The Applicant must overcome this presumption in order to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989).

The reviewing court applies a two-pronged test in evaluating allegations of ineffective assistance of plea counsel. First, the Applicant must prove that counsel's performance was deficient. Under this prong, the court measures an attorney's performance by its "reasonableness under professional norms." Cherry, 300 S.C. at 117, 386 S.E.2d at 625, citing Strickland. Second, counsel's deficient performance must have prejudiced the Applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625.

The Respondent submits that the Applicant cannot satisfy either requirement of the Strickland test. However, the allegation of ineffective assistance of counsel probably raises questions of fact that the record does not conclusively refute. Accordingly, the Respondent requests an evidentiary hearing to fully resolve this issue. See Sharper v. State, 279 S.C. 264, 305 S.E.2d 247 (1983).

IV.

Each and every allegation contained within the application not hereinbefore expressly admitted, qualified or explained is hereby denied.

V.

WHEREFORE, having made its Return, the State requests that an evidentiary hearing be held solely on the claim of ineffective assistance of counsel.

Respectfully submitted,

ALAN WILSON
Attorney General

JOHN W. McINTOSH
Chief Deputy Attorney General

KAREN C. RATIGAN

Senior Assistant Deputy Attorney General

SUZANNE H. WHITE
Assistant Deputy Attorney General

By: 
ATTORNEYS FOR RESPONDENT

Office of the Attorney General
P.O. Box 11549
Columbia, SC 29211
Telephone: (803) 734-3737

June 30, 2014.

STATE OF SOUTH CAROLINA
COUNTY OF SPARTANBURG

)
)

IN THE COURT OF COMMON PLEAS
SEVENTH JUDICIAL CIRCUIT

Jason Will Williams,

)
)

2013-CP-42-2875

Applicant,

)
)

v.

)
)

CERTIFICATE OF SERVICE BY MAIL

State of South Carolina,

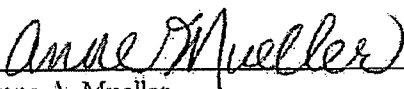
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Respondent.

)
)

1. I am an employee of the Respondent in the above-captioned action.
2. Regular communication by mail exists throughout the State of South Carolina and that this is a proper circumstance of service by mail.
3. I have this day served a copy of the Respondent's Return in the above-captioned matter on the following person(s) by depositing same in the United States mail, postage prepaid:

J. Brandt Rucker, Esquire
522 N. Church Street
Greenville, SC 29601



Anne A. Mueller
Legal Assistant for the Respondent

DATED this 30th day of June, 2014.

1	STATE OF SOUTH CAROLINA	}	COURT OF COMMON PLEAS NONJURY
2	<u>COUNTY OF SPARTANBURG</u>		
3			
4	JASON WILL WILLIAMS,	}	TRANSCRIPT
5	APPLICANT,		OF
6	vs.		RECORD
7	STATE OF SOUTH CAROLINA,		2013-CP-42-2875
8	<u>RESPONDENT.</u>		

9

10 March 23rd, 2015

11 Spartanburg, South Carolina

12

13 B E F O R E:

14 THE HONORABLE ROGER L. COUCH, Judge.

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

16 J. BRANDT RUCKER

17 ESQ.

18 Attorney for the Applicant

19 SUZANNE H. WHITE

20 Assistant Attorney General

21 Attorney for the Respondent

22 PAMELA E. GREEN

23 Circuit Court Reporter

24 Seventh Judicial Circuit

25

1	<u>I N D E X O F W I T N E S S E S</u>	
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EXHIBITS

<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EV</u>
	<u>Applicant's Exhibits</u>		
A-1	Medical Records	22	23

P R O C E E D I N G S

THE COURT: All right. We're on the record in the case of Jason, Jason Will Williams versus The State of South Carolina.

I'll hear from the State concerning the status of the case.

MS. WHITE: Thank you, Your Honor.

This is Case Number 2013-CP-42-2875. Mr. Williams is represented today by Mr. Brandt Rucker. He was indicted March of 2010 on charges of armed robbery, possession of a firearm during the commission of a violent crime, common law robbery, ABHAN, and failure to stop for blue lights. He proceeded to trial represented by Mr. Roger Poole, and as a result of his convictions for armed robbery, common, common law robbery, and ABHAN, and failure to stop, received a sentence of life on the armed robbery, common law robbery, 15 years, ten years for ABHAN, and three years for failure to stop.

There was an appeal filed and an Anders brief was filed. The appeal, conviction, and sentence were affirmed.

He filed this application July 3rd, 2013, alleging ineffective assistance of counsel, but he did not detail his allegations. So the State would just ask that he specify the allegations he's proceeding on before we could proceed.

Jason Williams - Direct examination
by Mr. Rucker

1 THE COURT: All right. Mr. Rucker.

2 MR. RUCKER: Your Honor, specifically we are alleging
3 that the -- Mr. Poole failed to properly investigate the
4 case, failed to advise him correctly during trial, failed to
5 make proper objections during trial, and failure to, to
6 request a different charge than was given.

7 THE COURT: Is that sufficient for you to go forward,
8 Ms. White?

9 MS. WHITE: I think so, Your Honor, as long as once, if
10 the charge requires any kind of legal research, we'll have
11 the ability to do that.

12 THE COURT: All right. Thank you, ma'am.

13 You may call your first witness, Mr. Rucker.

14 MR. RUCKER: Your Honor, I call my client, Jason
15 Williams, to the stand.

16 THE COURT: Sir, if you'll come forward to my left to
17 be sworn right over here.

18 (Witness complies.)

19 THE COURT: Place your left-hand on the Bible. Raise
20 your right.

21 JASON WILLIAMS, being first duly
22 sworn, testified as follows:

23 THE COURT: Have a seat please.

24 (Witness complies.)

25 THE COURT: Sir, once seated, state your name please.

Jason Williams - Direct examination
by Mr. Rucker

1 THE WITNESS: Jason Williams.

2 THE COURT: Thank you.

3 Mr. Rucker, your witness.

4 MR. RUCKER: Thank you, Your Honor.

5 May it please the Court?

6 THE COURT: Yes, sir.

7 DIRECT EXAMINATION

8 BY MR. RUCKER:

9 Q Mr. Williams, what's your current sentence that you're
10 serving?

11 A Natural life sentence.

12 Q Okay. And what charges were you convicted of?

13 A I was convicted of armed robbery, assault and battery
14 aggravated nature, failure to stop for blue light, and
15 strong armed -- strong armed robbery, armed robbery, failure
16 to stop for blue light. I can't even remember the other
17 one.

18 Q All right. Were you also convicted of possession of
19 firearm during commission of a violent crime?

20 A Yes, sir.

21 Q And regular assault and battery?

22 A Yes, sir.

23 Q And also failure to stop I believe you said?

24 A Yeah, failure to stop for blue light.

25 Q Okay. When did you -- who was your attorney at the

Jason Williams - Direct examination
by Mr. Rucker

1 trial?

2 A Roger Poole.

3 Q All right. And how long did you have Mr. Poole as your
4 attorney?

5 A Almost 11 months.

6 Q Okay. Was he appointed or did you retain him?

7 A They appointed him to me.

8 Q Okay. Were you in jail the whole time you were
9 represented by him?

10 A Yes, sir.

11 Q Okay. How many times did you actually meet with Mr.
12 Poole?

13 A I saw Roger Poole a total of four times.

14 Q All right. And in -- during those -- how, how long
15 would you meet during those meetings?

16 A The first time I saw Roger Poole I saw him in July when
17 he first brought my motion of discovery.

18 Q Okay.

19 A And when he brought me my motion of discovery he
20 stopped by and told me that I had some serious charges and I
21 was looking at a lot of time or if not life cause I had a
22 prior record.

23 Q Okay. What, what is your prior record?

24 What is your prior record at the time?

25 A I had a kidnapping charge and assault and battery

Jason Williams - Direct examination
by Mr. Rucker

1 aggravated nature charge.

2 Q Okay. Did you discuss with him any possible defenses
3 you may have?

4 A No, other than the -- when he come see me the very last
5 day, the day before -- the Sunday before my trial, he told
6 me we was gonna do a little hearing for the, the statement.
7 That was it.

8 Q Okay. And when, when you say he brought you the motion
9 for discovery, was that his motion that he filed and then
10 the response of the State?

11 A Yeah, that's the motion he got back and that suppose to
12 been all the evidence they had against me.

13 Q Okay. And you, you believe you saw the evidence that
14 was gonna be used against you at that time?

15 A No, I didn't see the evidence cause they showed
16 pictures of people getting on the stand testifying, giving
17 statements that I never seen. They even stopped the trial
18 in one of the statements because the lead investigator never
19 supposedly turned the report in. But they proceeded with
20 the trial. They stopped it so everybody can get a copy.
21 But I never got a copy of it. Everybody got it to read it
22 but me.

23 Q Do you recall which witness that was?

24 A This was Lorin Williams.

25 Q All right.

Jason Williams - Direct examination.
by Mr. Rucker

1 A The lead investigator.

2 Q Okay. And he worked for or works for Spartanburg
3 County Sheriff's Office?

4 A Yeah, he works for Spartanburg Sheriff's, Sheriff's
5 office.

6 Q All right. Did your attorney talk to you about the,
7 the, the implications of them failing to come forward with
8 evidence they were gonna use against you at trial?

9 A No, he didn't tell me nothing like that.

10 Q Okay. Did that testimony -- would Mr. Williams
11 testimony helped you or hurt you?

12 A It hurt me. It -- I mean cause he's the one got up
13 there and said, testified that I give a statement with him
14 being present. I mean cause they -- when they was getting
15 the statement, when they had the Jackson versus Denno, the,
16 the whole reason of getting the statement in the trial was
17 they had two key witnesses supposedly witnessed the
18 statement. But the one that supposedly wrote the statement
19 for me never testified against me.

20 Q All right.

21 A But the one that supposedly notarized it was the one
22 that testified against me.

23 Q Who was the person who took the statement from you?

24 A William Foster.

25 Q All right. Where was William Foster during the trial?

Jason Williams - Direct examination
by Mr. Rucker

1 A He didn't even -- he, he, he was there during the
2 Jackson Veston -- Den -- Denno. But he never showed up for
3 the -- he never -- they never put him on the stand for the
4 trial.

5 Q Okay. To your knowledge, did he -- was he gone?
6 Could he not testify or do you think there was a
7 problem with his testimony?

8 A I believe the State didn't want to put him up there
9 cause he, cause he testified in the Jackson Denno that, that
10 I was -- that he could tell I was on drugs. He could tell
11 that I would pass out in the floor. I was shirtless. So
12 --.

13 Q Okay. How were you initially found -- when the police
14 got involved at this point, when did you first interact with
15 them?

16 A At the police department.

17 Q Okay. Were you in a wreck before that?

18 A Yeah, I was in a car wreck.

19 Q All right. Did you go to the hospital as a result of
20 that car wreck?

21 A Yes, sir.

22 Q What kind of damage was done to you during the car
23 wreck?

24 A They said I was beat up, bruised up. Said I had head
25 contusion. See I finally got my medical records back

Jason Williams - Direct examination
by Mr. Rucker

1 something -- my lawyer never got me back, but I got them
2 when I was locked up. There's 23 pages long and it says
3 that I had a head contusions. Said that I had a seizure.
4 Said that I lost consciousness. There's a -- it said I
5 was -- it had -- it give me the lab report back said I was
6 on drugs, had methamphetamines I had in my system.

7 Says, at the end of it, during the doctor's statement
8 talking about that I was unable to sign and then it goes on
9 to another doctor. Another doctor says that I was unable to
10 sign the papers due to the condition that I was in and there
11 was another doctor signed and said the only way I could be
12 transported to the hospital was by ambulance. See that's
13 why I don't even know why my medical records wasn't even
14 used --

15 Q Did, did you---

16 A -- in Court.

17 Q -- discuss the effects of the crash with Mr. Poole as
18 part of his representation of you?

19 A Yeah, I discussed it with him.

20 Q All right. Did you tell him -- did you remember the
21 crash or remember talking to the police?

22 A I don't remember talking to the police. I didn't even
23 know nothing about talking to the police until I got my, my
24 motion of discovery in July.

25 Q Okay. Did y'all go over that material though, the,

Jason Williams - Direct examination
by Mr. Rucker

1 the -- your mental health issue or possible mental health
2 issue before the trial?

3 A We talked about it the night before the trial and he
4 told me that he didn't -- cause I was asking cause he was
5 explaining to me about the Jackson versus Denno, that the
6 State would go first, and then that I would get a chance to
7 get up on the stand and talk, and that the State would
8 present their evidence and present mine. And I asked him
9 about did he get my medical records or was he gonna have
10 someone speak on my behalf cause a doctor or nothing. He
11 was telling me that he didn't have enough time to get, get
12 my medical records, and that he didn't think that I would
13 need a doctor or a person to get up there because my
14 testimony would be enough.

15 Q All right. Did -- how long, again, had you -- was he
16 representing you at that point---

17 A It---

18 Q ---or had he been?

19 A ---was actually ten months. I lack 24 days before I
20 went to trial.

21 Q All right. Did y'all talk -- did you talk to him about
22 your medical issues or your mental health issues before the
23 night before the trial?

24 A Did I talk to him about it?

25 Q Yeah.

Jason Williams - Direct examination
by Mr. Rucker

1 A Yeah, I talked to him that I don't remember giving no
2 statements and stuff like that.

3 Q Okay. And so he knew that long before the night before
4 the trial?

5 A Oh, yeah, he knew it way before then.

6 Q Okay. Did you testify in your Jackson versus Denno
7 hearing?

8 A Yes, I testified.

9 Q Do you feel like you were properly prepared to testify
10 based on your conversations with Mr. Poole?

11 A Oh, no, cause we didn't even discuss nothing about
12 getting -- we, we talked one day about the talk about
13 talking about Jackson versus Denno. That's what he was
14 explaining to me. We were gonna have a Jackson versus Denno
15 and this was Sunday, the 30th of January, the week before
16 the trial cause the trial started that Tuesday. And that's
17 how -- that's the first time we've ever talked about me
18 getting up there talking about on the stand or even
19 presenting the statement or any of that stuff.

20 Q Okay. What were the previous meetings about then?

21 A The first time I met him, he just dropped my motion of
22 discovery off and told me that he would be back the
23 following week cause I even wrote -- he'd be back the
24 following week to go over my motion of discovery with me. I
25 wrote the -- he didn't come back the following week and then

Jason Williams - Direct examination
by Mr. Rucker

1 another week went by.

2 So I wrote Clay Allen, his boss man, trying to get
3 another attorney because I didn't feel like Roger Poole was
4 representing me in my best interest. I got copies of where
5 I wrote to Chris Moore -- to Clay Allen trying to get
6 another attorney because I told him that Roger Poole didn't
7 even show up for my bond hearing. They had to appoint me
8 another lawyer to step in for him because he wasn't at my
9 bond hearing, and then, a couple more weeks went by, and
10 then it was August 17th when he brought me a notice
11 talking about they was trying to give me a life sentence.
12 So we didn't -- so we really ever talked about my case.

13 Q All right. So when he brought the life without parole
14 notice, did y'all discuss that?

15 A Yeah, he told me that, that I was -- if I went to trial
16 and I got convicted of these charges that I was looking to
17 get a life sentence. If I did -- if I pled guilty I was
18 looking to get life and being one day I'd be eligible for
19 parole.

20 Q All right. And how, how did he explain that worked?

21 A I was -- what do you mean?

22 Q I mean when he said you were getting life but you were
23 eligible for parole, did he explain that under the law?

24 A He didn't explain it under the law. But when I got
25 back here in the Department of Corrections is when I go to

Jason Williams - Direct examination
by Mr. Rucker

1 the Law Library looking up stuff. The way I looked -- the
2 way I see it, we're not under the old law anymore. There's
3 no such thing as life with parole. If I knew what I knew
4 now I would of took that because you can't -- you're
5 offering me something that don't even exist.

6 Q All right. So do you believe you didn't get a real
7 offer in this case?

8 A I don't believe I got a real offer in this case, no.

9 Q Okay. Do you think Mr. Poole could of done anything to
10 help you get a new offer or different offer?

11 A Well, he said he would be back. He said he was gonna
12 go talk to the solicitor about the life sentence and stuff
13 like that and be back before the notice was up. But he
14 never showed back up before the notice was up.

15 Q All right. Did you, did you testify in your own
16 defense as part of the -- not in the Jackson versus Denno
17 hearing. We're not talking about that.

18 But during the actual trial, did you testify in your
19 own defense?

20 A No, cause February 2nd is the, the next, when we come
21 in, he come see me in the little room they got back there
22 where they keep me where I just came from now, and he was
23 telling me that the State would be wrapping up today, you
24 know, that it all be coming up and he's explaining to me
25 that if I got on the stand that my record past -- prior

Jason Williams - Direct examination
by Mr. Rucker

1 record would come up and they would be able to use it

2 against me. And so --.

3 Q Which, which part of your prior record did he say they
4 could use against you or all of it?

5 A Well, he was just talking about they was gonna --
6 they'd bring my -- the kidnapping and assault and battery
7 aggravated nature, you know, from where I got prison before,
8 and that it would look bad against me.

9 Q Okay. Did he say you could challenge that to see if
10 you---

11 A He didn't even tell me nothing about that.

12 Q Okay. Do you think you would help yourself by
13 testifying?

14 A It'd helped a lot. It would help a lot cause I could
15 of -- he could of done something. I could of, could of --
16 you sitting there saying I give a statement that I didn't
17 give, and I know I didn't give it, or you can give me
18 something to sit and read, let the jury see, and we'll
19 walk -- if he can read with a twelfth grade education and I
20 finished school two -- in three -- in high school in three
21 years cause when they changed the system over. It would
22 show the jury yeah, he could read and I mean -- I mean all
23 it takes is reasonable doubt. All it takes is one juror,
24 well, is the statement really voluntary.

25 Q All right. What was the actual evidence used to

Jason Williams - Direct examination
by Mr. Rucker

1 convict you?

2 A The statement.

3 Q All right. Were there other witness statements against
4 you?

5 A Yeah, there were other witness statements that --
6 against me, but all, all there was something where wear mask
7 and, and the person that had the dark clothes on and gloves.
8 Stuff like that.

9 Q All right. Did anybody identify you?

10 A Ain't nobody identify me. This woman got up and said
11 she could identify me by dark soulless eyes. That was it.

12 Q All right. To, to your knowledge did he ever do a
13 photo lineup or any kind of identification---

14 A No, no photo lineup. None of that. They even took my
15 clothes as evidence. For some reason they didn't even use
16 it at the trial. I don't know why my lawyer didn't get the
17 evidence cause see, the clothes I had on was a tan Carhartt,
18 Carhartt jacket and a, a Carolina hat on and it had my name
19 on the back of it, Mr. Williams. It had Williams on the
20 back of it.

21 They used that -- the description they give was a
22 person wearing a dark black jacket and had gloves on, blue
23 jeans, but the State took -- they took, they took all that
24 evidence. They took all my clothing. Never used as
25 evidence.

Jason Williams - Direct examination
by Mr. Rucker

1 I think that I should have a right to -- the jury to
2 see that my clothes do not even match the description of the
3 four witnesses the State has.

4 Q Okay. Do you believe, if your, your alleged statement
5 was suppressed, if it wouldn't of come in front of the jury,
6 would they had enough to go in front of the jury?

7 A I don't think so.

8 Q All right. The -- as far the jury charge, what is your
9 issue with the jury charge as far as intent?

10 A Intent?

11 Q Yeah.

12 A Yeah, the way I've read and seen, I think when -- the
13 judge asked the lawyer did he needed anymore -- I mean did I
14 have any further -- any additional instructions he wanted to
15 give the jury. I think the lawyer should of asked the judge
16 to give the instructions on what criminal intent means cause
17 I've read a lot, a lot of peoples' transcripts, the same
18 charges I got, and every one of them, in their, in their
19 transcript, it says criminal intent. It's like a page and a
20 half.

21 well, the definition, I got it wrote down over there in
22 my little yellow notebook, what, what the judges wrote -- I
23 mean instructed the jury on what the meaning of criminal
24 intent. I think the jury should of heard that cause it,
25 cause it says that, before a juror could find me guilty,

Jason Williams - Direct examination
by Mr. Rucker

1 they got to be -- it's got to be beyond a reasonable doubt
2 of the criminal intent was proved.

3 Q Okay. Is there any other issue you want the judge to
4 consider as far as the ineffectiveness of your trial
5 counsel?

6 A I think he should of made motions about my -- the
7 evidence. I think, I think he should of brought up stuff
8 about the criminal intent. I think he should of brought up,
9 brought my clothes into play because I never seen the -- I
10 mean that's, that's evidence that could of helped me.

11 Q Now, as far as the motions you think he should of made
12 specifically, what evidence do you think he could of gotten
13 excluded?

14 A Well, like the statements of all the officers, you got
15 Lorin Williams never turning in a police report. You got
16 William Foster never turning in a police report, never saw
17 that. You got William Kish stood up testifying. I never
18 seen his police report.

19 Who was the other one?

20 Oh, Taylor -- Jeremy Taylor, the, the crime tech guy
21 that was on the scene. I never seen none of these reports.
22 We should of had some kind of hearing to where I could of
23 seen the evidence or I could of seen the testimony that was
24 gonna be against me during my trial.

25 Q Did you have anything to risk going to trial in this

Jason Williams - Direct examination
by Mr. Rucker

1 case?

2 A Had what?

3 Say one more time.

4 Q What were you risking going to trial in this case?

5 A Risking going to trial?

6 Q Right.

7 A Life.

8 Q But you, you also had the chance of being found not
9 guilty on the charge?

10 A Yeah, I had the chance to not be found not guilty.

11 Q And do you believe that would of happened had he done
12 his job correctly?

13 A I think, yeah, that I would of had found not guilty
14 because all it takes is one juror to say okay, that's -- one
15 out of 12. Reasonable doubt. All it takes is one.

16 Anything. Like my medical records, if he would of showed --
17 brought my medical records into play, the jury could of seen
18 it. Even if the judge stopped during the Jackson versus
19 Denno, you know, the Court was questioning it -- Mr. Foster
20 about my -- cause he was talking about asking Mr. Foster
21 about well, you was -- was he on drugs?

22 Do you know?

23 I mean what kind of treatment did he get from the
24 hospital?

25 What makes you think that he was on drugs?

Jason Williams - Direct examination
by Mr. Rucker

1 I mean my medical records would of showed that maybe
2 I'd give Mr. -- Judge Cole that one little extra step that
3 he needs to see that okay, this statement wasn't voluntary.
4 This man does got a twelfth grade education.

5 I mean then if he did let it go, then the jury would of
6 seen it. Then if he had somebody -- the jury seen my
7 medical records or a jury seen somebody get up there and
8 speak on my behalf like a doctor or something speaking, they
9 could of been like well, I been in a car accident before.
10 I -- and the judge -- and the doctor reading the symptoms
11 off, well, I have, you know, woke up and not remembered
12 something the next day or don't -- anything.

13 All it takes is one juror and just that one little key
14 evidence could of turned my case over or got it thrown out
15 or another trial or anything or anything -- a better plea
16 bargain than what they was trying to offer me of life.

17 Q Did you bring a copy of those medical records with you?

18 A I got them over there.

19 MR. RUCKER: All right. Your Honor, I'm gonna have to
20 dig and get them out for a second if I can have one moment.

21 (Pause.)

22 THE WITNESS: I got an extra copy too there.

23 Q All right. Do you know which part of the---

24 A Can you bring them to me?

25 I can dig them out. It won't take but a second.

Jason Williams - Direct examination
by Mr. Rucker

1 MR. RUCKER: Your Honor, may I approach the witness?

2 THE COURT: You may approach.

3 A That's the medical records. That's the rest. That's a
4 copy here and a copy I made.

5 Q Is that it?

6 A That's the rest of them.

7 (WHEREUPON, the medical records were marked as
8 Applicant's Exhibit No. 1 for identification purposes only
9 at this time.)

10 MR. RUCKER: Your Honor, may I approach the witness
11 again?

12 THE COURT: You may.

13 Q I'm gonna show you what's been marked as Applicant's
14 Exhibit No. 1.

15 Do you recognize those documents?

16 A Yes, sir.

17 Q All right. What are those documents?

18 A Them are my medical records I got when I was back here.
19 I was incarcerated.

20 Q All right. Were those the medical records at the time
21 of the accident?

22 A Yeah, them's time of the accident.

23 MR. RUCKER: All right. Your Honor, I move Applicant's
24 Exhibit No. 1 into evidence.

25 THE COURT: Any objection?

Jason Williams - Direct examination
by Mr. Rucker

1 MS. WHITE: No objection, Your Honor.

2 THE COURT: All right. They'll be admitted as marked.

3 (WHEREUPON, Applicant's Exhibit No. 1 was received into
4 evidence at this time.)

5 Q All right. And based on your review of that paperwork,
6 what conditions were you suffering from at the time of the
7 alleged statement?

8 A I was suffering from a head contusions is what the
9 medical records says. It says when -- that I lost
10 consciousness. Said that I even had a seizure. Says I was
11 beat up and banged up, had lower back pain -- I mean lower
12 back -- cause the diagram showing I had -- where I had -- on
13 my upper back had like a black spot -- well, showing where
14 the spots was on my muscles. Two black spots on the top,
15 two on the bottom.

16 At the end of it it says and on through there it talks
17 about that I have had drugs in my system cause that's one of
18 my testimony when I was in Jackson versus Denno cause I done
19 been up for a week and a half on methamphetamine and, at the
20 end where the, the, I guess stamus (phonetic) and I guess
21 the nurses and stuff at the hospital, they explained --
22 cause you got to sign the paperwork and it says, says the
23 patient's signature, unable to sign, and then it gets onto
24 the back.

25 It talks about one of the doctors talking about that he

Jason Williams - Direct examination
by Mr. Rucker

1 had to sign in my place cause I was unable to sign due to
2 the conditions that I was in. The other, other signature
3 says for the ambulance, the only way I could -- the only way
4 they could transport -- the only way I -- I needed medical
5 treatment from the -- only -- how it go?

6 Can I look through it?

7 Q Yeah, it's in front of you so you can, but the, the
8 judge will have a copy of it. So if you can't -- if there
9 are things you can't remember he'll have a copy of it. It's
10 been introduced.

11 A That's -- I remember everything.

12 (Pause.)

13 A It says I clarify the transportation (sic) of this
14 patient, Jason will Williams, must -- was medically
15 necessary. This patient could not be transported by any
16 other means.

17 This another says -- this another doctor. My signature
18 below indicates that, at the time of this service, the
19 patient was physically or mentally incapable of signing,
20 that no authorized person was available willing to sign.

21 This patient was unable -- here's another signature.
22 This is -- this patient was able to sign due to condition of
23 this report. This patient was transported to the Livesay
24 Medical Factory (sic).

25 Q All right. Are there any -- outside of your mental

Jason Williams - Direct examination
by Mr. Rucker

1 condition and that statement and the things we've already
2 covered, are there any other grounds you want to make the
3 judge aware of that you have?

4 A I can't remember everything. It's -- I just think I
5 need another trial. I think I -- me, personally, I think if
6 I had -- if Roger Poole would of done a little better, like
7 presented the medical records, you know, cause I also gave
8 Roger Poole a letter from the person that had -- was
9 involved in on it. He could of took that letter and used
10 that letter, you know, DNA, DNA, cause it come in an
11 envelope. The handwriting on it. The person asked me not
12 telling me. That's stuff that could of been presented to
13 the jury.

14 Q All right. We've talked about a timeline issue as well
15 in your case.

16 Briefly describe what you were accused of.

17 The judge will have the transcript, but what, what do
18 they allege you did?

19 A They, they alleged, the way the solicitor put it, that
20 there was a timeline and that I robbed Smile Makers and then
21 supposedly robbed a church and then I failed -- failure to
22 stop for a blue light. But see their timeline don't even
23 fit the description because the State got four witnesses
24 to the -- when they -- when the person left their -- that
25 was another thing.

Jason Williams - Direct examination
by Mr. Rucker

1 If he'd of got -- went and had somebody done my
2 timeline, it would of made a big difference to the jury
3 because the timeline the State give don't even match cause
4 he said -- cause the way the solicitor put it to the jury
5 was, when the person come -- when they robbed the lady at
6 Smile Makers, when he come out of the parking lot, he took a
7 right and went to 221 where the, how you say it, the -- I
8 can't remember the name of the store, Burger King and all
9 that stuff right there. But the State's four witnesses
10 state, instead of going right coming out of the parking lot,
11 the person that robbed them took a left going back to Road
12 57.

13 Q All right.

14 A This don't even going over to the scene. So I mean
15 there's a, there's a timeline to everything and the time
16 that they said that the person got robbed was at 1:15. The
17 person at the church, it was -- got robbed at two o'clock.
18 That's a 2-mile difference between -- I mean it's two miles
19 from the -- from both the incidents. It don't take
20 45-minutes to get from one place to the other.

21 Q All right. Well, let's, let's walk back for a second.
22 Are you familiar with that area?

23 A I'm, yeah, very familiar with that area.

24 Q Do you have relatives that live in that area?

25 A Yes, I do.

Jason Williams - Direct examination
by Mr. Rucker

1 Q All right. Who lives over there?

2 A My brother lives right down the street from -- I mean
3 my brother lives over in that area. My dad -- well, my dad
4 lives in Pacolet. We all live in that area.

5 Q All right. What, what specifically is wrong -- and one
6 you said here's contradictory testimony.

7 What's wrong with the time amount?

8 A The time amounted, if, if he'd of got the timeline for
9 what I -- from time -- see, I was at the house all day that
10 day all the way up till 1:30. If he'd of got a timeline
11 from what time -- the incident happened at 1:15 and drove --
12 had investigator or somebody to get in a car and actually
13 video it and put it on a, put it on a stopwatch. To go from
14 Smile Makers to my house where I live, I had my brother do
15 it, and it took him like nine minutes to get from Smile
16 Makers to my house.

17 All right. Back from Smile Makers to the church, it's
18 like 12 minutes.

19 All right. From Smile Makers -- I mean from the church
20 to my mama's ain't but like five minutes. They're saying --
21 the way the solicitor puts it to the, to the jury was there
22 was a time. There's no way Mr. Williams, if someone else
23 was involved, that he could of picked him up, dropped him
24 off, picked him up, dropped him off.

25 We didn't take but nine minutes to be at Smile Makers

Jason Williams - Direct examination
by Mr. Rucker

1 to my house. Twelve minutes to get back to the church.

2 That ain't but say 22-minutes. It's a 45-minute window from
3 Smile Makers to the church robbery.

4 All right. From the church to my mama's house to where
5 I went to my mama's house it took 15. It's two streets over
6 from the church where it got robbed. The way the solicitor
7 put it to the juror was well, if there was another person
8 involved, well, how did he drop him off, where did he pick
9 him up cause he got pulled over on Roper -- I mean on
10 Cannons Campground Road. My mama lives on Cannons Camp
11 (sic) Road.

12 Q All right. So what was your specific defense?

13 Outside of trying to suppress the evidence, did you
14 allege somebody else did this crime?

15 A Yes, I did.

16 Q All right. And talk specifically about the defense you
17 could of talked about if you would of testified.

18 A If I could of talked about it, I could of put Phillip,
19 Phillip at the scene. I could of get -- put him that the --
20 I let him borrow the truck the night before. I could of
21 put, you know, he had my clothes. I could of put -- cause I
22 didn't give no statement. If I did give a statement I would
23 of told him that he did it --

24 Q All right.

25 A -- you understand.

Jason Williams - Direct examination
by Mr. Rucker

1 Q who, who is Phillip?

2 A One of my best friends --

3 Q All right.

4 A -- growing up.

5 Q where, where was he during this trial?

6 Did he ever come forward and give a statement to the
7 police?

8 A He never gave a statement but Roger Poole did have him
9 subpoenaed. See, he knew for six months that there was
10 another person involved, that he waited till the last
11 minute, the day of the trial, to question him about my case.

12 Q All right. Did he actually fail to appear to testify?

13 A He wouldn't testify. I don't know -- all he told Roger
14 Poole was Roger Poole said that it be in my best interest if
15 he didn't get on the stand.

16 Q If he did not get on the stand?

17 A Yeah.

18 Q All right. And that was based on what you -- a
19 conversation that Roger Poole had with him?

20 A Yeah.

21 Q But he did respond to the subpoena?

22 A Yeah, he respond cause he was incarcerated at the time.
23 So they brought him.

24 Q Okay. And how long was he in for at that time?

25 A I don't even know. He was in for the same charge -- he

Jason Williams - Direct examination
by Mr. Rucker

1 got up, like locked up like two or three weeks later for the
2 same two -- practically the same charges.

3 Q Okay. I may of misheard.

4 what's Phillip's last name?

5 A Young.

6 MR. RUCKER: Okay. No further questions, Your Honor.

7 THE COURT: Ms. White, your witness.

8 MS. WHITE: Thank you, Your Honor.

9 THE COURT: Yes, ma'am.

10 CROSS-EXAMINATION

11 BY MS. WHITE:

12 Q And, Mr. Williams, your attorney did attempt to argue
13 against the statement coming in.

14 Is that correct?

15 A Say again.

16 Q Your attorney did file a motion to prevent your
17 statement from coming in at trial.

18 Is that right?

19 A Yeah, he had a Jackson versus Denno.

20 Q Okay. And, in fact, he cross-examined the officers.
21 during that hearing about whether or not they knew you might
22 of been on drugs from your medical treatment.

23 Is that right?

24 A He cross-examined them but he didn't bring the medical
25 record to show them.

Jason Williams - Cross-examination
by Ms. White

1 Q But he asked them about that. He asked them about your
2 lack of communication, whether or not you could sign the
3 statement, and why they had the police actually fill it in
4 or write it for you.

5 Is that right?

6 A Yes, ma'am.

7 Q Okay. They actually had also a video from WSPA that
8 they presented during or right after that Jackson v. Denno.

9 Is that right?

10 A Yeah, something -- I never even seen my lawyer.

11 Q Okay. And your attorney had made an objection to that
12 video coming in?

13 A Yes.

14 Q The judge reviewed it and the judge ended up allowing
15 both your statement and the video in.

16 Is that right?

17 A He didn't let the statement -- the video in. He
18 wouldn't let it in unless there's more further questioning
19 because the video didn't even -- had too much going, too
20 many questions supposedly going on. He didn't -- he wasn't
21 preferring (sic) to one specific question. So he couldn't
22 let it in.

23 Q All right. So the judge found that it was too
24 prejudicial --

25 A Yeah.

Jason Williams - Cross-examination
by Ms. White

1 Q -- against you to, to be helpful for the State?

2 A Yes.

3 Q Okay. And your attorney objected during the trial when
4 they tried to put in your statement but the statement was
5 still allowed in?

6 A Yes.

7 Q Is that right?

8 A Yes, it was still allowed in.

9 Q And in regards to the facts of the case, when you had
10 the accident with police finding you, weren't items from
11 both of the victims of the robberies found in the vicinity
12 of that truck?

13 A Yeah, they was found in the vicinity of the truck but
14 they wasn't found on me and I didn't even know they was in
15 there.

16 Q Okay. And that was Randall Seay and Anita Smith were
17 the two victims.

18 Is that right?

19 A Yeah.

20 Q And Mr. Seay identified you in the courtroom as the
21 person who came in and robbed him in the church.

22 Is that right?

23 A Yeah, after he saw me in Court identification.

24 Q Right.

25 He had not, not identified -- nobody had identified you

Jason Williams - Cross-examination
by Ms. White

1 with a lineup or anything beforehand?

2 A No, and no lineup or nothing and I was on the news and
3 everything and they couldn't identify me.

4 Q Okay. But Mr. Seay did point out to you, in the Court,
5 pointed to you in the Court and said that's the man who
6 robbed me?

7 A Yeah, in Court --

8 Q Okay.

9 A -- identification.

10 Q All right. And also -- both Mr. Smith had said that
11 there had been a hammer used and the hammer was found in the
12 vicinity of the car when it was wrecked.

13 Is that right?

14 A Yeah, they found a hammer but they was also a tool bag
15 that I got paperwork saying that they was -- the whole bag
16 of tools but they was never presented in the trial either.

17 Q Okay.

18 A All that was kept away.

19 Q And your documents and driver's license were found with
20 the car as well, right?

21 A I don't think my license was found down there.

22 Q All right. Something that referenced your name that
23 that's how they kind of linked you---

24 A As to my mail was in there---

25 Q Right.

Jason Williams - Cross-examination
by Ms. White

1 A ---cause I drove the truck everyday.

2 Q Okay. All right. So the evidence against you was the
3 identification as well as the documents that were found in
4 the truck that you wrecked when you were running from
5 police.

6 Is that right?

7 A Yeah.

8 Q Okay. And your attorney actually questioned and
9 cross-examined all the officers about their interviews with
10 you.

11 Is that right?

12 A Say again.

13 Q He questioned them, even during trial, about their
14 interview with you?

15 A He questioned them, but -- he, he questioned them and
16 asked them did they ever turn a report in and none of them
17 said that -- and I never went over me with no reports.

18 Q He asked Mr. -- Investigator Williams about whether or
19 not, with the fact that you could of been on Oxycontin or
20 the fact that you had a higher level education, why they had
21 to write the statement for you.

22 Is that right?

23 A Yeah, he asked them that.

24 Q So he tried to present to the jury facts that showed
25 that there might of been a question as to whether or not you

Jason Williams - Cross-examination
by Ms. White

1 could voluntarily give a statement?

2 A He might of showed facts, but he could of done more,
3 you know, cause all it takes was a little -- just that
4 little iceberg just to tip it on over.

5 Q Okay. And in regards to -- you said you don't remember
6 talking to police, but you said earlier that you never gave
7 a statement, but isn't -- it's more true that you don't
8 remember if you gave a statement?

9 A I don't remember none of that.

10 Q Okay. And---

11 THE COURT: I'm sorry.

12 What was that last answer?

13 MR. WHITE: He said he didn't remember none, none of
14 that.

15 THE COURT: Thank you.

16 Q In regards to the third party guilt, Mr. Phillip Young,
17 you testified that Mr. Poole did subpoena him and he was
18 present ready to testify at trial?

19 A Yeah.

20 Q But that you spoke to him and he advised you it would
21 not be in your best interest?

22 A Yeah, he talked to the last minute. He had six months
23 to talk to Phillip Young.

24 Q But at the time of trial, Mr. Young's testimony would
25 not have been helpful to you.

Jason Williams - Cross-examination
by Ms. White

1 Is that what he informed you?

2 A That's what he said, but he never told me what Phillip
3 Young even told him back there.

4 Q Okay. You did have some people testify on your behalf.
5 Right?

6 A Oh, yes, ma'am, I did.

7 Q Okay. And if you had testified on your own behalf, did
8 Mr. Poole talk with you about whether or not they could
9 present your prior convictions?

10 A He told me they could present my prior convictions.

11 Q And, in fact, those would of been a strong armed
12 robbery, a kidnapping, and an ABHAN.

13 Is that right?

14 A Yes, ma'am.

15 MS. WHITE: Okay. Your Honor, I think that's all the
16 questions I have at this time.

17 THE COURT: You may redirect.

18 MR. RUCKER: Nothing further, Your Honor.

19 THE COURT: You may step down, sir.

20 The Applicant may call it's next witness.

21 MR. RUCKER: That's our only witness, Your Honor.

22 THE WITNESS: Do you need this?

23 THE COURT: It's been, been put into evidence. So give
24 it to the court reporter. Thank you. You can step down.
25 Thank you.

Roger Poole - Direct examination
by Ms. White

1 THE WITNESS: Thank you.

2 THE COURT: All right. Call -- is the State calling
3 Mr. Poole?

4 MS. WHITE: Yes, Your Honor.

5 THE COURT: Come forward, sir, and be sworn.

6 THE WITNESS: Yes, sir.

7 THE COURT: Place your left-hand on the Bible, raise
8 your right.

9 ROGER POOLE, being first duly
10 sworn, testified as follows:

11 THE COURT: Have a seat. Once seated, state your name.

12 THE WITNESS: Roger Poole.

13 THE COURT: Thank you.

14 Your witness, Ms. White.

15 MS. WHITE: Thank you, Your Honor.

16 DIRECT EXAMINATION

17 BY MS. WHITE:

18 Q Mr. Poole, do you recall representing Mr. Williams on
19 his charges?

20 A I certainly do.

21 Q And is his testimony correct that you were appointed
22 and represented him for approximately 11 months before the
23 trial?

24 A That's an accurate statement, yes.

25 Q All right. Tell me about the times you met with him.

Roger Poole - Direct examination
by Ms. White

1 He said four times.

2 Does that sound accurate?

3 A It could be. It seems to me it would be more than
4 that, but I met with him and discussed the case, went over
5 the evidence with him, gave him discovery. I -- of course,
6 he was incarcerated at the time and we spoke about the case,
7 and the primary, primary focus was the fact that he did
8 not -- his defense was that he didn't do it, someone else
9 did, and that other person was Phillip Young, and that's
10 mostly what we spoke about.

11 I spoke to, in my office, members of his family, his
12 girlfriend, and his mother, and we were able to use them at
13 trial to talk about timeframes and when they had seen
14 Mr. Williams and -- during the course of that day and got
15 pinned down certain times to in order to show, attempt to
16 show, that, time wise, Mr. Williams would not have been able
17 to be at these locations, which were two crime scenes at
18 least. That was one, the Smiley Makers and the one at the
19 church. An individual was robbed at the church and I think
20 that individual, Randall Seay, identified Mr. Williams in
21 Court.

22 There were some ladies at Smiley Makers that were
23 having lunch outside and they had purses on their table, and
24 someone in a ski mask and a ball ping hammer came up, struck
25 the table where they were, and took a purse or purses.

Roger Poole - Direct examination
by Ms. White

1 Q In the case of Mr. Randall Seay at the church, the, the
2 person that robbed him, he never said he had a mask on.

3 Is that right?

4 A That's correct.

5 Q And so he was the one that identified the Applicant
6 during trial?

7 A That's true.

8 Q All right. In regards to the third party guilt, you
9 did subpoena Mr. Phillip Young.

10 Is that right?

11 A That's right.

12 Q And Mr. Williams has alleged that you didn't speak with
13 him, Mr. Young, about his possible testimony until that day.

14 Had you had any conversation with him or had any kind
15 of statement or anything that would indicate to you what he
16 might of testified to before that time?

17 A Well, I anticipated that he would probably not step
18 forward and say yes, I'm the one that committed these crimes
19 and that's exactly what he did. I did have time to speak
20 with him and he told me that he saw Mr. Williams on this
21 date in question at six o'clock, and that he was totally
22 strung out, and that he was in possession of the truck that
23 was identified by everybody -- by -- not everybody, but by
24 the State -- certain State's witnesses. Also he said that
25 he had spoken to him at, at another time or on some occasion

Roger Poole - Direct examination
by Ms. White

1 when Mr. Williams stated that he would use the
2 Oxycontin/Methamphetamine defense.

3 Q Okay. And so, after talking with him, it was your
4 strategic decision that that would not be --?

5 A Phillip Young was not somebody you needed to call in
6 this case.

7 Q Okay. In fact, he would of been more harmful than
8 helpful---

9 A Yeah, and I---

10 Q ---in this case?

11 A ---told Mr. Williams that.

12 Q Okay. And in regards to the discovery materials, what
13 items -- did you have statements from witnesses,
14 investigative reports?

15 A All of that -- everything had been provided to me.
16 There was some photographs provided. I did have in
17 possession the hospital records and I did not introduce them
18 at the Jackson v. Denno hearing or at trial at all.

19 I figured that we probably had a good enough chance at
20 it to -- through Mr. Williams testimony because he could
21 testify as to what medications he had received and how he
22 may or may not have remembered certain things because he was
23 in an accident and he was taken to the hospital. You know,
24 maybe I should of introduced those records. I don't know.
25 Everything's clearer in hindsight.

Roger Poole - Direct examination
by Ms. White

1 Q All right. Now, in regards to the testimony at the
2 Jackson v. Denno, the officers that took his statement and
3 wrote it testified and Mr. Williams testified.

4 Is that right?

5 A That's right.

6 Q Okay. And ultimately it was ruled that the statement
7 was voluntary?

8 A That's true.

9 Q And you objected during trial again to renew that.
10 Is that, is that right?

11 A That's true.

12 Q Okay.

13 A And that, that was raised on an appeal.

14 Q Okay. And, in fact, on appeal, the statement was also
15 ruled or there was no, no question as to whether or not this
16 was an issue for appeal or that it was not properly
17 preserved?

18 A Right.

19 Q That's not a clear question. I'm sorry.

20 A No, it's not legally arguable --

21 Q Okay. And---

22 A -- according to the brief.

23 Q And in regards to Investigator Williams statement, I
24 know that there was a time period that he mentioned making
25 a, a report and you indicated that you did not have that

Roger Poole - Direct examination
by Ms. White

1 during the trial.

2 Do you recall that?

3 A Barely.

4 Q Okay. Was -- from your recollection, was that report
5 anything that could of made a difference or would of made a
6 difference to you preparing your defense?

7 A Well, I think, as I recall, I made mention, if I'm
8 correct, I made mention that I did not have that report. I
9 asked for the report and I had enough time to look over it
10 before we resumed the trial and I saw no reason to have any
11 concern about that other than it just wasn't provided.

12 Q And, in your experience, if that had been an issue that
13 you thought could of created problems for your client, would
14 you have moved for possible mistrial or anything if that was
15 a Brady violation that you felt?

16 A Yes.

17 Q Okay.

18 A If a -- of course, if it had material in it was that
19 exculpatory.

20 Q Right.

21 And so there wasn't anything, to your recollection,
22 that was in that report that would of helped the defense?

23 A True.

24 Q Okay. The evidence against Mr. Williams was, was
25 difficult to overcome, was it not?

Roger Poole - Direct examination
by Ms. White

1 A Yes, it was.

2 Q And do you recall talking with him about whether or
3 not -- what your chances would be if you went to trial?

4 A Well, of course, we would of discussed that, and he was
5 aware of who the witnesses were going to be, and I was. I
6 just tried to make him aware as much as possible as to
7 possible outcomes.

8 Q Did you ever discuss with him whether or not it would
9 be in his best interest for him to testify at trial?

10 A Yes, we had the discussion about that and it's in the
11 record that he made the free and voluntary decision not to
12 testify on his own behalf.

13 Q And in your review of that, was that an advisable
14 probably good decision on his report?

15 A Yes.

16 MS. WHITE: Okay. Your Honor, I think that's all the
17 questions I have at this time.

18 THE COURT: All right. Mr. Rucker.

19 MR. RUCKER: Your Honor, may it please the Court?

20 THE COURT: Yes, sir.

21 CROSS-EXAMINATION

22 BY MR. RUCKER:

23 Q Mr. Poole, did you -- you saw the medical records
24 before the trial?

25 A Yes.

Roger Poole - Cross-examination
by Mr. Rucker

1 Q Okay. And you went through those medical records with
2 my client or no?

3 A I'm not sure if I did or not. I looked at it on DVD
4 and I see that I do not have a hard copy.

5 Q Okay.

6 A I don't mean DVD. I mean CD.

7 Q Sure.

8 A And I, I don't know if I gave him a copy of that or
9 not. But I did see it on CD. I don't see a card copy in my
10 file.

11 Q Okay. Is there other discovery that you think you had
12 that he may not of gotten for him to review?

13 A There could be.

14 Q Okay.

15 A I've got hard copies of photos. I don't know if --.

16 Q Sure.

17 Now, Mr. -- the Randall Seay who testified, was there
18 anything in the discovery about his -- what his statement
19 would be?

20 A Did he not give a statement?

21 Q I'm asking you if, if you recall him giving a statement
22 previously?

23 A I think he did.

24 Q Okay. And then did he testify that he knew my client
25 before then?

Roger Poole - Cross-examination
by Mr. Rucker

- 1 A I don't think he did.
- 2 Q Okay. Did they ever do a photo lineup with him?
- 3 A No.
- 4 Q All right. But did you know he was gonna identify my
5 client at trial?
- 6 A I didn't know beforehand if he would or not.
- 7 Q Okay. You know -- I'm not trying to insult you at all.
8 You know the Neil versus Biggers standard, don't you?
- 9 A Yes.
- 10 Q Okay.
- 11 A Suggestiveness.
- 12 Q Right, that's part of it and part of it is also when
13 officers are around a defendant or if a defendant has been
14 called a defendant by the Court or by police.
- 15 Correct?
- 16 A Right.
- 17 Q And the first identification of my client was actually
18 in Court with my client sitting -- seated at counsel table.
- 19 A Right.
- 20 Q Is that right?
- 21 All right.
- 22 A Right.
- 23 Q You don't have -- you don't recall any other pretrial
24 identification, do you?
- 25 A No, I do not.

Roger Poole - Cross-examination
by Mr. Rucker

1 Q Did the police ever turn over to you how they knew he
2 could identify my client?

3 A I don't recall.

4 Q Okay. So nothing in the -- you -- nothing in the
5 discovery led you to believe he would be able to identify
6 him, but then he comes into trial basically is -- he wasn't
7 a complete surprise witness, but his testimony was a
8 surprise.

9 Is that fair?

10 A I didn't view it as a surprise. I mean I argued this
11 to the jury, this fact, that, you know, if the defendant is
12 over there and you never see him before, then it's easier to
13 look over there, see the defendant, and say yeah, that's the
14 one who robbed me.

15 Q Did you move to suppress the identification by Mr. Seay
16 though?

17 A No, I did not.

18 Q All right. Why did you not do that?

19 A I don't know.

20 Q All right. The -- that was considerable evidence
21 against my client.

22 Isn't that fair?

23 A It was a factor, yes, sir.

24 Q Okay. And the statement you did attack, correct?

25 His, his alleged statement you attacked?

Roger Poole - Cross-examination
by Mr. Rucker

1 I'm, I'm sorry.

2 My client's alleged statement you attacked in the

3 Jackson versus Denno --

4 A Right.

5 Q -- is that correct?

6 Did he -- before he testified -- before he decided not
7 to testify did you talk to him about the prior convictions
8 being used against him?

9 A Yes.

10 Q All right. Did you go over with him the standard under
11 South Carolina Rules and case law of what evidence -- what
12 actual previous convictions could be used against him and
13 not?

14 A Yes.

15 Q why did you believe that a strong armed robbery,
16 kidnapping, and ABHAN could be used in this case against him
17 considering what he had been accused of?

18 A I told him that his prior record could be used against
19 him. I'm not so sure that I told him that those charges
20 could be mentioned against him.

21 Q All right. So you didn't---

22 A You know what I'm trying to say?

23 Q I'm sorry.

24 A I -- a lot of times you can get by with saying have you
25 ever been convicted of a crime that carries a potential

Roger Poole - Cross-examination
by Mr. Rucker

1 sentence of more than one year.

2 Q Right.

3 A And if the defendant says yes, then it usually stops
4 there.

5 Q All right. I understand.

6 But you didn't -- did you tell him that they would
7 mention strong armed robbery, kidnapping, or ABHAN, and that
8 was a possibility?

9 A I don't remember -- I don't recall. I don't think I
10 did.

11 Q Okay. Did you have discussions with the Solicitor's
12 office that they intended to use that information before --
13 in front of the jury to impeach him?

14 A I assumed they would.

15 Q Okay. But you didn't have a discussion with them to
16 see what they were offering?

17 A I don't recall.

18 Q All right. And you didn't -- what you're talking about
19 earlier is a curative instruction or an instruction by the
20 Court to only allow the fact that he had been convicted of a
21 felony that carried more than, more than one year in.

22 Correct?

23 A Right.

24 Q But you didn't even know if you had to get -- go that
25 far?

Roger Poole - Cross-examination
by Mr. Rucker

1 You didn't know if you could have it suppressed
2 entirely, did you?

3 A No, I didn't.

4 Q All right. Why was his testimony gonna hurt him?
5 was it because of the prior convictions?

6 A Well, of course, he gave the statements that he would
7 have to contradicted the statements that he gave initially.

8 Q But he had a mental -- at least some mental condition
9 at the time and he was under use of drugs --

10 A Uh-huh. (Affirmative).

11 Q -- at the time not to deny based on that he couldn't
12 form the intent, but because he didn't actually give a
13 statement, correct?

14 Is that fair?

15 A Right.

16 Q All right. And so his statement was the reason you did
17 not want him to testify?

18 A Well, of course, there would of been an issue -- it
19 would of been raised to impeach him --

20 Q Okay.

21 A -- you know.

22 Q And what issues would those have been that you knew
23 that the Solicitor's Office was gonna use or you could guess
24 based on your training and experience?

25 A I don't understand. I'm sorry. I'm getting---

Roger Poole - Cross-examination
by Mr. Rucker

1 Q I know---

2 A It's technical issues.

3 Q I understand.

4 But specifically outside the prior convictions, what do
5 you believe they were gonna use against him to impeach his
6 statement?

7 A Well, the statement itself.

8 Q Okay. But if he got up to explain it, did you believe
9 they were gonna -- what, what did you believe they were
10 gonna use to impeach him, him explaining the statement?

11 A Just what I've said. Nothing further.

12 Q Okay. They're -- there's no other evidence that you
13 think, think could impeach the statement on its face?

14 Just he wouldn't be a good witness because you believed
15 he made the statement?

16 A They would use whatever testimony he would give on the
17 stand, which would of been I didn't do it, and they would
18 use the statement against -- what he mentioned in the
19 statement, they would use it against him.

20 Q All right. Well, let go, let me go back cause I'm
21 not---

22 THE COURT: Let me ask a question here.

23 MR. RUCKER: Sure.

24 THE COURT: Mr. Poole, the statement that, pretrial
25 statement that was challenged at the Jackson v. Denno

Roger Poole - Cross-examination
by Mr. Rucker

1 hearing I have not seen it.

2 Did it admit complicity or activity in the crime?

3 THE WITNESS: Yes, sir.

4 THE COURT: Okay. Thank you.

5 Q All right. And, and what way did it admit complicity
6 in the crime?

7 A One part of the statement he stated that I felt bad of
8 what I had done to those ladies. So I decided to go to this
9 church and this was the church where Randall Seay was
10 robbed.

11 Q Okay.

12 A That's one thing I remember.

13 Q Okay. Now, did they videotape the statement?

14 A No.

15 Q Were they leading him in questions?

16 You know, obviously you know the difference between
17 leading and not leading questions.

18 Were they suggesting answers to him?

19 MS. WHITE: Your Honor, I would just object. It's been
20 ruled voluntary and it's been reviewed on appeal. I
21 don't---

22 MR. RUCKER: But I'm trying to get at questions that
23 could of shown that it was involuntary, and even if the
24 questions came in, we're talking---

25 THE COURT: I'll allow you to ask -- you're on

Roger Poole - Cross-examination
by Mr. Rucker

1 cross-examination and I'll let -- of course, I'll read the
2 transcript just to see how it was handled.

3 But go ahead.

4 MR. RUCKER: Yes, sir.

5 Did you get into questions with them at all in, in
6 trying to challenge the voluntariness?

7 A Questions regarding what?

8 Q Whether they were leading him through his questioning.

9 A No.

10 Q All right. Do you know if he invoked---

11 A I wasn't there. I don't know.

12 Q Okay. Did you ask them is what I'm asking.

13 A No.

14 Q Okay. You assumed they didn't?

15 You assumed he just gave a fresh statement, statement
16 to a---

17 A No, I'm just---

18 Q ---to the investigators?

19 A ---assuming that a, you know, anybody who's saying they
20 took a voluntary statement would testify that they were not
21 leading.

22 Q Okay. But did you -- you didn't know about Lorin
23 Williams statement until you got to trial, what his
24 testimony was gonna be?

25 A There was a -- there was another statement where Lorin

Roger Poole - Cross-examination
by Mr. Rucker

- 1 Williams took I think, wasn't it?
- 2 Q Okay. Well, I---
- 3 A You know --.
- 4 Q What do you recall?
- 5 A I knew he was gonna be a witness.
- 6 Q Okay.
- 7 A Yeah.
- 8 Q Here's where I'm trying to get.
- 9 Did the statement -- did they take this statement at
- 10 the hospital?
- 11 A No, it was the Sheriff's Department.
- 12 Q All right. And how did my client get to the Sheriff's
- 13 Department?
- 14 A I don't recall.
- 15 Q All right. Was he -- did he voluntarily go or was he
- 16 transported from the hospital?
- 17 A He was transported.
- 18 Q All right. Where did he come from?
- 19 A The hospital.
- 20 Q All right. How long after the car wreck or truck crash
- 21 was this?
- 22 A I'm not sure.
- 23 Q How did the police get him out of that hospital?
- 24 How -- why did the hospital allow him to do that?
- 25 A I'm not sure of that.

Roger Poole - Cross-examination
by Mr. Rucker

1 Q Was he currently being treated at the time?

2 A He was treated and released I assume.

3 Q But you don't know from your review of the medical
4 records, do you?

5 A I don't remember.

6 Q All right. Okay. So the police transport him over
7 there.

8 Did you have any video or audio from inside the police
9 car when they were trying to transport him?

10 A No.

11 Q All right. Do you know if such video exists?

12 A No, I do not.

13 Q All right. When they get him back, is it -- are they
14 capable of videotaping these statements?

15 A They should be and I think I raised that point during
16 the course of the trial too.

17 Q All right. And you -- you're experienced up here.
18 You've had other cases in which videotaped confessions have
19 come in I'm assuming or at least you have that in the
20 discovery?

21 A Certainly.

22 Q All right. But, in this case, he had just been in a
23 car wreck. He was under sedation or some medical treatment
24 and they bring him and do not videotape it. They just say
25 what they say he says.

Roger Poole - Cross-examination
by Mr. Rucker

1 Right?

2 A Correct.

3 Q And there's a signature at the bottom of the statement
4 or no?

5 A I don't recall what -- I don't know if Mr. Williams
6 signed it or someone else signed his name or what.

7 MR. RUCKER: All right. No further questions, Your
8 Honor.

9 THE COURT: Redirect.

10 MS. WHITE: Just briefly.

11 REDIRECT EXAMINATION

12 BY MS. WHITE:

13 Q Mr. Poole, in your experience, are initial in Court
14 identifications reviewable I guess by Neil v. Biggers
15 hearings if that's a semi-clear question?

16 Can, can you file a pretrial motion or have a Neil v.
17 Biggers hearing when someone identifies a defendant for the
18 first time in the courtroom?

19 A I'm not aware of, of that because you don't know what's
20 going to happen ---

21 Q And is it---

22 A -- you know.

23 Q Is it possible that there's case law as well as you --
24 I'm -- and this is just throwing this out.

25 But State v. Lewis, have you ever heard of that case?

Roger Poole - Redirect examination
by Ms. White

1 A I'm not sure.

2 Q Okay.

3 A I don't know.

4 Q 2005 case that says specifically that it does not apply
5 to a first time in Court identification.

6 Is that your experience in regards to Neil v. Biggers
7 as to whether or not you can --?

8 A I can't say that it's -- that I know about the law or
9 that -- the Lewis case. I can say that---

10 Q Right?

11 A ---I've dealt -- I've tried cases where a defendant is
12 identified for the first time as being the guilty party.

13 Q And that is not generally able to be dealt with in a
14 pretrial hearing because you don't know till the actual
15 trial.

16 Is that right?

17 A That's right.

18 Q Okay. And, at the time, did you feel like you raised
19 sufficiently questions about his mental ability or his
20 physical condition at the time of giving his statement to
21 present to the Court to question the voluntariness of it?

22 A I thought so.

23 Q Okay. Thank you.

24 That's all I have, Your Honor.

25 THE COURT: Anything else?

1 MR. RUCKER: No, sir.

2 THE COURT: You may step down.

3 MS. WHITE: The State has no other witnesses, Your
4 Honor.

5 THE COURT: All right. Anything in reply?

6 MR. RUCKER: No, sir, not in reply as far as---

7 THE COURT: All right. I'll be happy to hear from you.

8 MR. RUCKER: Your Honor, we are specifically -- in
9 addition to -- well, not in addition.

10 I want to focus the Court's attention to the Neil
11 versus Biggers issue and the voluntariness of his decision
12 not to testify based on the use of prior convictions.

13 We believe that counsel, Mr. Poole, did not go over the
14 law with him as far as prior convictions. There's a good
15 chance those prior convictions would have not been used or
16 at least in a limited sense as Mr. Poole admitted.

17 More troubling though is the Neil versus Biggers
18 failure to try to suppress or even question the, the suspect
19 nature of the ID from a person who had not ID'd my client
20 for months after this, after this case actually happened.
21 It's unclear why this ID suddenly happens and is not
22 objected to and I think any lawyer should object to that and
23 probably get that identification suppressed.

24 THE COURT: Help me with something. Apparently there
25 was a wreck --

1 MR. RUCKER: Yes, sir.

2 THE COURT: -- after a police chase?

3 MR. RUCKER: Sort of, yes, sir.

4 MS. WHITE: Yes, sir.

5 THE COURT: It was a failure to stop for a blue light I
6 think you said---

7 MS. WHITE: Yes, sir.

8 MR. RUCKER: Yes, sir.

9 THE COURT: ---is the conviction and he was convicted
10 on that.

11 In the trial, how did that, how did that, how did that
12 come about?

13 How did the police start chasing -- I assume your
14 client was driving the vehicle since he went to the
15 hospital?

16 MR. RUCKER: They, they allege he was driving the
17 vehicle. He was convicted of driving the vehicle. So, at
18 this point, it's a fact.

19 THE COURT: And you allege he was injured as a result
20 of the wreck?

21 MR. RUCKER: Yeah, we, we -- yes, sir, we do.

22 THE COURT: Okay. So you don't dispute that, do you?

23 MR. RUCKER: We do not dispute that.

24 THE COURT: All right. How did the police come to be
25 chasing that particular vehicle?

1 MR. RUCKER: They -- call came in and they got the
2 report, and as a -- in response to that report, they chased
3 him down.

4 MS. WHITE: The truck was identified in both robberies.

5 THE COURT: Right.

6 MS. WHITE: Yeah.

7 THE COURT: I gathered that.

8 MS. WHITE: Yeah.

9 THE COURT: Well, how close to the robbery did the
10 police chase take place?

11 MS. WHITE: Within---

12 MR. RUCKER: Within minutes.

13 MS. WHITE: ---minutes.

14 THE COURT: Minutes. Oh, okay.

15 Now, I'll be happy to hear from you.

16 MS. WHITE: Thank you, Your Honor.

17 The State would allege then situation -- that, in this
18 situation, first it's a case of overwhelming evidence. I
19 know Mr. Williams alleges that there was a third party
20 involved. He was found in the truck running from police
21 with items from both of the victims of the robberies in his
22 vehicle. He was identified, obviously in court as we've
23 said, by Mr. Seay and the truck was identified by both
24 parties and victims as well.

25 He also gave a statement to police, although he

1 questions the voluntariness of it, in which he admitted
2 stealing, he had the facts of the case, admitted stealing
3 the purse from the woman and then going to the church as Mr.
4 Poole stated because he felt bad. Saw the man, determined
5 he wasn't a preacher, and stole his wallet.

6 So the Court -- the State would argue that this is a
7 case of overwhelming evidence and any alleged deficiency
8 there is no prejudice. However, we would note the case that
9 we referenced earlier, State v. Lewis, and that's, I've got
10 my cite here, 363 S.C. 37, specifically says, South Carolina
11 Supreme Court, that Neil v. Biggers does not apply to a
12 first time in Court identification, and so we would allege
13 that there can be no deficiency on counsel's behalf because
14 of that.

15 We think he sufficiently argued and against the
16 statement, but yet it came in anyway. So we would ask that
17 the application be denied.

18 THE COURT: Just for my information, since you folks
19 have researched this or studied it obviously more thoroughly
20 than I have, he was taken from the wreck scene to the
21 hospital I guess by ambulance is what I gathered?

22 MR. RUCKER: Yes, sir.

23 THE COURT: Do the records reveal how long was he at
24 the hospital?

25 MR. RUCKER: Four hours, Your Honor.

1 THE COURT: And the records, what do they show as far
2 as discharge?

3 was he discharged by the---

4 MR. RUCKER: He was discharged to the police, Your
5 Honor.

6 THE COURT: I see.

7 okay. So the -- they no longer saw a need to treat him
8 at that point in time?

9 MR. RUCKER: Yes, sir, that's, that's what that
10 evidence would show, yes, sir.

11 THE COURT: okay.

12 All right. Thank you very much. I'll take it under
13 advisement and issue an order.

14 MR. RUCKER: Thank you, Your Honor.

15 MS. WHITE: Thank you, Your Honor.

16

17

18 * * *END OF REQUESTED TRANSCRIPT OF RECORD* * *

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C E R T I F I C A T E

I, Pamela E. Green, Official Court Reporter for the Seventh Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Court of Common Pleas Nonjury for Spartanburg County, South Carolina, on the 23rd day of March, 2015.

I do further certify that I am neither of kin, counsel nor interest to any party hereto.

October 21st, 2015



PAMELA E. GREEN, Court Reporter

STATE OF SOUTH CAROLINA
COUNTY OF SPARTANBURG

Jason Will Williams, #298412,

Applicant,

v.

State of South Carolina,

Respondent.

IN THE COURT OF COMMON PLEAS
SEVENTH JUDICIAL CIRCUIT

2013-CP-42-2875

ORDER OF DISMISSAL

CLERK OF COURT
SPARTANBURG COUNTY
2015 AUG 17 PM 4:38
M. HOPE BLACKLEY

This matter comes before the Court by way of an Application for Post-Conviction Relief filed July 3, 2013 and received by Respondent on November 5, 2013. The Respondent made its Return on or about June 30, 2014. An evidentiary hearing into the matter was convened on March 23, 2015, at the Spartanburg County Courthouse. The Applicant was present and represented by J. Brandt Rucker, Esquire. Suzanne H. White, Esquire, of the South Carolina Attorney General's Office, represented the Respondent.

At the hearing, the Applicant testified on his own behalf. J. Roger Poole, Esquire, ("Counsel") also testified. This Court also had before it a copy of the records of the Spartanburg County Clerk of Court regarding the subject convictions, Applicant's records from the South Carolina Department of Corrections, the Return, the appellate records, and the trial transcript.

PROCEDURAL HISTORY

The Applicant is confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Spartanburg County Clerk of Court. He was indicted at the March 2010 term of the Spartanburg County Grand Jury for failure to stop for a blue light (2010-GS-42-2109), assault and battery of a high and aggravated nature (ABHAN) (2010-GS-42-2110), armed

SCANNED

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robbery (2010-GS-42-2113(A), count 1), possession of a weapon during commission of a violent crime ((2010-GS-42-2113(A), count 2), and strong arm robbery (2010-GS-42-2114). The Applicant was represented by J. Roger Poole, Esquire.

The Applicant proceeded to trial and, on February 2, 2011, was convicted of all charges but possession of a weapon during commission of a violent crime. The Honorable J. Derham Cole sentenced the Applicant to concurrent terms of 3 years for failure to stop for a blue light, 10 years for ABHAN, life imprisonment for armed robbery, and 15 years for strong arm robbery.

A notice of appeal was filed at the South Carolina Court of Appeals. Robert M. Dudek, Esquire of the South Carolina Commission on Indigent Defense, Division of Appellate Defense perfected the appeal in the form of an Anders¹ brief. The Court of Appeals dismissed the appeal. State v. Williams, No. 2013-UP-105 (filed March 13, 2013). The Remittitur was issued on April 5, 2013.

ALLEGATIONS

In his PCR application, the Applicant alleges he is being held in custody unlawfully for the following reason:

1. Ineffective assistance of trial counsel

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court has had the opportunity to review the record in its entirety and has heard the testimony and arguments presented. This Court has further had the opportunity to observe each witness who testified at the hearing, and to closely pass upon their credibility. This Court has weighed the testimony accordingly. Set forth below are the relevant findings of fact and conclusions of law as required by S.C. Code Ann. § 17-27-80 (2003).

¹ Anders v. California, 386 U.S. 738, 87 S. Ct. 1396, 18 L. Ed. 2d 493 (1967).

CLERK OF COURT
 SPARTANBURG COUNTY
 2015 APR 17 PM 4:38
 M. HOPE BLACKLEY

Ineffective Assistance of Counsel

The Applicant alleges he received ineffective assistance of counsel. In a PCR action, "[t]he burden of proof is on the applicant to prove his allegations by a preponderance of the evidence." Frasier v. State, 351 S.C. 385, 389, 570 S.E.2d 172, 174 (2002) (citing Rule 71.1(e), SCRCP). Where ineffective assistance of counsel is alleged as a ground for relief, the Applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result." Strickland v. Washington, 466 U.S. 668, 686, 104 S. Ct. 2052, 2064 (1984); Butler v. State, 286 S.C. 441, 442, 334 S.E.2d 813, 814 (1985).

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. Courts presume that counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Butler, 286 S.C. at 442, 334 S.E.2d at 814. The Applicant must overcome this presumption to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989).

First, the Applicant must prove that counsel's performance was deficient. Under this prong, attorney performance is measured by its "reasonableness under professional norms." Cherry, 300 S.C. at 117, 385 S.E.2d at 625, citing Strickland, 466 U.S. at 688, 104 S. Ct. at 2065. Second, counsel's deficient performance must have prejudiced the Applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625. "A reasonable probability is a probability sufficient to undermine confidence in the outcome of trial." Johnson v. State, 325 S.C. 182, 186, 480 S.E.2d 733, 735 (1997) (citing Strickland).

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2015 AUG 11 PM 4:30
M. HIDE BLANCHET
CLERK OF COURT
SPARTANBURG COUNTY

A.

The Applicant argued Counsel failed to properly investigate his case. The Applicant stated Counsel met with him 4 times in 11 months. The Applicant stated he had been in a car accident and did not recall speaking with police. The Applicant stated he discussed the effects of the crash with Counsel, but Counsel said he did not have time to get the medical records.²

Counsel testified he met with the Applicant and gave him discovery materials. Counsel testified he spoke with the Applicant's girlfriend and members of his family in order to make a timeline. Counsel testified the defense theory was that Phillip Young was the perpetrator. Counsel testified he did have the medical records.

This Court finds the Applicant failed to meet his burden of proving Counsel did not properly investigate his case. The gravamen of the Applicant's complaint is that Counsel failed to investigate his medical records and the impact that such could have had upon his trial. To establish counsel failed to adequately prepare for trial, applicant must present evidence of what counsel could have discovered or what other defenses could have been pursued had counsel more fully prepared. Jackson v. State, 329 S.C. 345, 495 S.E.2d 768 (1998) (finding the failure to conduct an independent investigation does not constitute ineffective assistance of counsel when the allegation is supported only by mere speculation as to the result). While Counsel testified that, in hindsight, he might have used the Applicant's medical records, this is not relevant to whether Counsel was effective. See, e.g., McAfee v. Thurmer, 589 F.3d 353, 356 (7th Cir. 2009) (noting attorney "reflection after the fact is irrelevant to the question of ineffective assistance of counsel"). The Applicant did not present an expert witness at the PCR hearing to interpret his medical records and offer an opinion about whether the Applicant's injury would have affected

² The medical records were admitted as Applicant's Exhibit 1.

him in any way. Without such, this Court cannot speculate as to the impact the Applicant's medical records would have had upon his trial. See Dempsey v. State, 363 S.C. 365, 370, 610 S.E.2d 812, 815 (2005) (finding that, as the applicant failed to have an expert testify at the evidentiary hearing, "any finding of prejudice is merely speculative").

B.

This Court finds the Applicant failed to meet his burden of proving Counsel should have requested a jury charge on criminal intent. The Applicant failed to articulate either why Counsel was deficient in failing to request this instruction or how this additional jury instruction would have affected the outcome of his trial. See Butler v. State, 286 S.C. 441, 442, 334 S.E.2d 813, 814 (1985) (holding that, in a post-conviction relief proceeding, the applicant bears the burden of proving the allegations in their application).

C.

The Applicant argued Counsel failed to properly advise him during the trial. The Applicant stated he testified at the Jackson v. Denno hearing but not during the trial. the Applicant stated he believed he should have testified at trial.

Counsel testified he and the Applicant discussed his chances in going to trial. Counsel testified they discussed the Applicant's prior convictions and whether the Applicant should testify at trial.

This Court finds the Applicant failed to meet his burden of proving Counsel failed to properly advise him during the trial. The gravamen of the Applicant's complaint is that Counsel did not properly discuss with him whether he should testify in his own defense. This Court notes, however, that the Applicant and Counsel both indicated to the trial judge that they had thoroughly discussed the matter and that the Applicant did not want to testify. The trial judge

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p 5

CLERK OF COURT
SPARTANBURG COUNTY
2016 AUG 17 PM 4:08
M. LOPE BLANKET

informed the Applicant of the right to testify in his own defense and the Applicant indicated he did not wish to do so. (Trial transcript, pp.194-98). This Court finds the Applicant's decision not to testify was both informed and voluntary. See Brown v. State, 340 S.C. 590, 594, 533 S.E.2d 308, 310 (2000) (holding a defendant's decision to testify or not must be made with knowledge of the consequences of either choice).

E.

This Court finds in regards to the allegations of ineffective assistance of counsel, Counsel's testimony was credible, while the Applicant's testimony was not credible. This Court further finds Counsel adequately conferred with the Applicant, conducted a proper investigation, was thoroughly competent in his representation, and that Counsel's conduct does not fall below the objective standard of reasonableness.

Accordingly, this Court finds the Applicant has failed to prove the first prong of the Strickland test – that Counsel failed to render reasonably effective assistance under prevailing professional norms. The Applicant failed to present specific and compelling evidence that Counsel committed either errors or omissions in his representation of the Applicant. This Court also finds the Applicant has failed to prove the second prong of Strickland – that he was prejudiced by Counsel's performance. This Court concludes the Applicant has not met his burden of proving Counsel failed to render reasonably effective assistance. See Fraser, 351 S.C. at 389, 570 S.E.2d at 174.

CONCLUSION

Based on all the foregoing, this Court finds and concludes the Applicant has not established any constitutional violations or deprivations before or during his trial and sentencing proceedings. Counsel was not deficient and the Applicant was not prejudiced by Counsel's

*Pls
pb*

CLERK OF DISTRICT COURT
SPARTANBURG COUNTY
2016 AUG 7 PM 4:38
M. HOPE LACKLEY

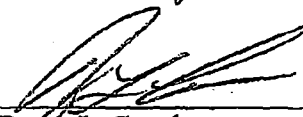
representation. Therefore, this PCR application must be denied and dismissed with prejudice.

This Court advises the Applicant that he must file a notice of intent to appeal within thirty (30) days from the receipt of this Order if he wants to secure appropriate appellate review. His attention is also directed to Rules 203, 206, and 243 of the South Carolina Appellate Court Rules for the appropriate procedures to follow after notice of intent to appeal has been timely filed.

IT IS THEREFORE ORDERED:

1. That the Application for Post-Conviction Relief must be denied and dismissed with prejudice; and
2. The Applicant must be remanded to the custody of the Respondent.

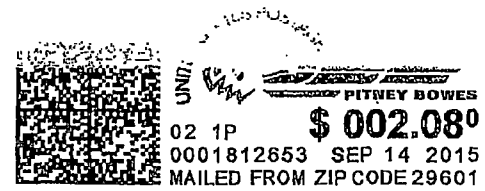
AND IT IS SO ORDERED this 17th day of August, 2015.



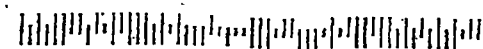
Roger L. Couch
Presiding Judge

CLERK OF COURT
SPARTANBURG COUNTY
2015 AUG 17 PM 4:38
M. HOPE BLACKLEY

Brandt Rucker
Attorney at Law, L.L.C.
522 North Church Street
Greenville, South Carolina 29601



The Honorable Daniel E. Shearouse
Supreme Court of South Carolina
P.O. Box 11330
Columbia, SC 29211



SENTENCE MADE
2. REPORT ENTERED
3. CARD FILED
Spartanburg County Sheriff's Office
CALCULATED WARRANTS
8. CHECKED SUBMITTALS
ASSESSMENT AND
AND MADE
10. CIVIL VIOLATIONS COPY

ARREST WARRANT NUMBER

M422025

ACTION OF GRAND JURY

True Bill

Foreperson of Grand Jury

Date:

VERDICT

Guilty

Foreperson of Petit Jury

Date:

2/2/2011

DOCKET NO.

10-GS-42-2109
The State of South Carolina

County of Spartanburg

Trey Gowdy, Solicitor

COURT OF GENERAL SESSIONS

MAR 29 2010

TERM

THE STATE

VS.

Jason Will Williams

Indictment for

FAILURE TO STOP MOTOR VEHICLE
WHEN SIGNALLED BY OFFICER

SC Code: 56-5-750 (B) (1)

CDR Code: 0065

Class MIS/A

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2010 APR -1 PM 3:50

STATE OF SOUTH CAROLINA)

INDICTMENT

COUNTY OF SPARTANBURG)

At a Court of General Sessions, convened on

MAR 25 2010

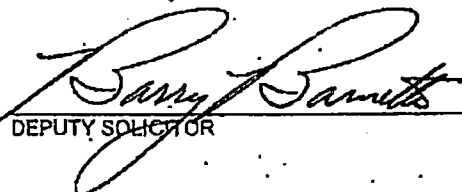
the

Grand Jurors of Spartanburg County present upon their oath:

FAILURE TO STOP MOTOR VEHICLE WHEN
SIGNALLED BY A LAW ENFORCEMENT VEHICLE

That the defendant, Jason Will Williams did in Spartanburg County on or about March 8, 2010, fail to stop the motor vehicle that he was driving on a road, street, or highway of the State of South Carolina when he was signaled by a law enforcement vehicle by means of a siren or flashing light, in violation of §56-5-750 (B) (1), *THE CODE OF LAWS OF SOUTH CAROLINA*, (Law. Co-op. 1976).

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


DEPUTY SOLICITOR

1. SENTENCE MADE **WITNESSES**
2. REPORT ENTERED **Computer**
3. CARD FILLED ☒
Spartanburg County Sheriff's Office
4. INDEXED ☒
5. CHECKED WARRANTS ☒
6. CHECKED SIGNATURE ☒
7. ASSESSMENT AND **Computer**
TRAFFIC VIOLATIONS COPY ☒

WARRANT NUMBER

M422019

ACTION OF GRAND JURY
True Bill

Foreperson of Grand Jury

Date: *3/25/10*

VERDICT

Guilty

Foreperson of Petit Jury

Date: *2/2/2011*

DOCKET NO.

10-GS-42-2110

The State of South Carolina

County of Spartanburg

Trey Gowdy, Solicitor

COURT OF GENERAL SESSIONS

MAR 29 2010

TERM

THE STATE

VS.

Jason Will Williams

Indictment for
ASSAULT AND BATTERY OF A
HIGH AND AGGRAVATED NATURE

SC Code: 17-25-30

CDR Code: 0013

Class MIS/UNC

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2010 APR -1 PM 3:50

STATE OF SOUTH CAROLINA)
COUNTY OF SPARTANBURG)

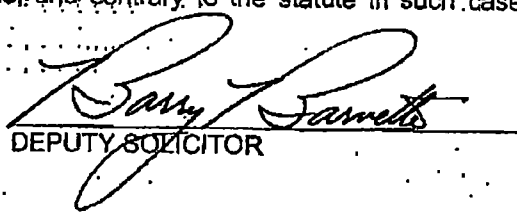
INDICTMENT

At a Court of General Sessions, convened on MAR 25 2010 the
Grand Jurors of Spartanburg County present upon their oath:

ASSAULT AND BATTERY OF HIGH AND AGGRAVATED NATURE

That the Defendant, Jason Will Williams, did in Spartanburg County on or about March 8, 2010, commit an assault and battery upon the victim, Randall Seay, constituting an unlawful act of violent injury to the victim, Randall Seay accompanied by circumstances of aggravation either to-wit: the use of deadly weapon and/or the intent to commit a felony; and/or the infliction of serious bodily injury and/or use of a deadly weapon; and/or great disparity in the physical conditions of the parties and/or beating the victim, by knocking him to the ground, in violation of §17-25-30, *THE CODE OF LAWS OF SOUTH CAROLINA*, (1976), as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


DEPUTY SOLICITOR

WITNESSES

1. SENTENCE MADE ☒ **Computer**

2. REPORT ENDED ☒ **Computer**

3. CARD FILED ☒ **Computer**

4. INDEXED ☒ **Computer**

5. CHECKED WARRANTS ☒ **Computer**

6. CHECKED SIGNATURE ☒ **Computer**

7. ASSIGNMENT ☒ **Computer**

8. NAME CARD READ ☒ **Computer**

9. TRAFFIC VIOLATIONS COPY ☒ **Computer**

ARREST WARRANT NUMBER

M422021 (Count One)

M422023 (Count Two)

ACTION OF GRAND JURY

True Bill

Foreperson of Grand Jury
Date: *3/5/10*

VERDICT

COUNT I: *Guilty*

Foreperson of Petit Jury
Date: *2/2/2011*

DOCKET NO.

10-GS-42-2113(A)

The State of South Carolina

County of Spartanburg

Trey Gowdy, Solicitor

COURT OF GENERAL SESSIONS

MAR 29 2010

TERM

THE STATE

vs.

Jason Will Williams

Indictment for

ARMED ROBBERY AND
POSSESSION
OF FIREARM DURING COMMISSION
OF A VIOLENT CRIME

SC Code: 16-11-330 (A); 16-23-490
CDR CODE: 139; 0549
CLASS: FEL/A; FEL/F

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2010 APR -1 PM 3:51

*Directed Verdict
Not guilty
Count II*

as

STATE OF SOUTH CAROLINA)
COUNTY OF SPARTANBURG)

INDICTMENT

At a Court of General Sessions, convened on MAR 25 2010, the
Grand Jurors of Spartanburg County present upon their oath:

COUNT ONE-ARMED ROBBERY

That the Defendant, Jason Will Williams, did in Spartanburg County on or about March 8, 2010, while armed with a pistol, dirk, slingshot, metal knuckles, razor, knife or other deadly weapon or while alleging, either by actions or word, he was armed while using a representation of a deadly weapon or any object which a person present during the commission of the robbery reasonably believed to be a deadly weapon feloniously take from the person or presence of Anita Smith by means of force or intimidation goods or monies of Anita Smith, described as follows: a purse and/or belongings and/or currency, with intent to deprive the owner permanently of such property, in violation of Section 16-11-330 (A), Code of Laws of South Carolina (1976, as amended).

**COUNT TWO-POSSESSION OF FIREARM DURING
COMMISSION OF A VIOLENT CRIME**

That Jason Will Williams did in Spartanburg County on or about March 8, 2010, possess a firearm, during the commission of a violent crime as defined in Code §16-1-60, to wit: ARMED ROBBERY, in violation of Code §16-23-490, CODE OF LAWS OF SOUTH CAROLINA, (1976), as amended. *D.V. Dale*

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

Barry Barnett
DEPUTY SOLICITOR

1. DENIANCE MADE WITH ☒ Computer

2. REPORT MADE ☒

3. CARD FILLED ☒

4. INDEXED ☒

5. CHARGED WHERE ☒

6. CHECKED SIGNATURE ☒

7. ASSIGNMENT ☒

8. FILE CARD MADE ☒

9. TRAFFIC VIOLATIONS CODE ☒

ARREST WARRANT NUMBER

M422016

ACTION OF GRAND JURY

True Bill

Foreperson of Grand Jury
Date: *3/25/10*

VERDICT

Guilty

Foreperson of Petit Jury
Date: *2/2/2011*

DOCKET NO. **10-GS-42-2114**

The State of South Carolina

County of Spartanburg

Trey Gowdy, Solicitor

COURT OF GENERAL SESSIONS

MAR 29 2010

TERM

THE STATE
vs.

Jason Will Williams

Indictment for
STRONG ARM ROBBERY

SC Code: 16-11-325
CDR Code: 0137
Class FEL-D

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2010 APR -1 PM 3:51

STATE OF SOUTH CAROLINA)
COUNTY OF SPARTANBURG)

INDICTMENT

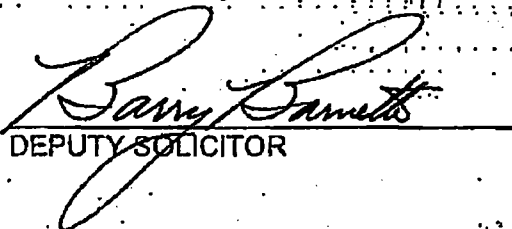
At a Court of General Sessions, convened on MAR 25 2010, the

Grand Jurors of Spartanburg County present upon their oath:

STRONG ARM ROBBERY

That the defendant, Jason Will Williams, did in Spartanburg County on or about March 8, 2010, feloniously take from the person or presence of Randall Seay, by means of violence or intimidation, take a wallet and/or currency with the intent to deprive the owner permanently of such property, in violation of §16-11-325, *THE CODE OF LAWS OF SOUTH CAROLINA*, (1976), as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


DEPUTY SOLICITOR