

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Appeal from Anderson County

Brooks P. Goldsmith, Circuit Court Judge

RECEIVED

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S.C. SUPREME COURT

JAMARIO QUINTON JONES,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO 2016-001356

APPENDIX

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STATE OF SOUTH CAROLINA)
COUNTY OF ANDERSON) IN THE COURT OF GENERAL SESSIONS
) 2011-GS-04-01210-1212
)
)
STATE OF SOUTH CAROLINA,)
)
PLAINTIFF,)
)
VERSUS)
)
JAMARIO QUINTON JONES,)
)
DATE: FEBRUARY 13-15, 2012
DEFENDANT.) ANDERSON, SOUTH CAROLINA

TRIAL TRANSCRIPT

B E F O R E:

THE HONORABLE R. LAWTON MCINTOSH

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

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ATTORNEY FOR THE DEFENSE

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South Carolina Judicial Department

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1 *Prior to Jury Selection, the attorneys agreed to
2 sequestering the witnesses.

3 JURY SELECTION

4 THE COURT: For the record, I spoke with counsel at
5 the bench before we brought Mr. Jones up and confirmed that
6 the strikes are ten and five. Is that correct?

7 MR. CAMPBELL: That's correct, Your Honor.

8 THE COURT: Mr. Smith?

9 MR. SMITH: Yes, sir.

10 THE COURT: Now, do you want to have one or two
11 alternates in this matter?

12 MR. CAMPBELL: I would like two, Your Honor.

13 MR. SMITH: Two is fine.

14 THE COURT: All right, two. Further, it's my
15 understanding that neither the State nor the Defense has
16 any particular voir dire for the jury other than the
17 standard. Is that correct?

18 Mr. Campbell: That's correct, Your Honor.

19 MR. SMITH: Yes, sir.

20 THE COURT: All right. Anything further that I need
21 to -- who are the victims in this case?

22 Mr. Campbell: Ronnie Bentley and Darcel Taylor.

23 THE COURT: Say that again.

24 Mr. Campbell: Ronnie Bentley and Darcel Taylor are
25 the two adults. There were two children also in the house

1 at the time. One of the children, Armani Patton, one year
2 old, got injured in this case. There's another child,
3 Desiree Taylor, who happened to be present when this took
4 place.

5 THE COURT: Ronnie Bentley, Darcel Taylor?

6 Mr. Campbell: Yes, sir. On my witness list, it's
7 No. 7 and No. 11.

8 THE COURT: Okay. Mr. Smith also has Desiree Taylor.
9 She's No. 9 on his list. So, it's Desiree, not Darcel?

10 MR. Campbell: That's the child, Desiree. She's four
11 right now, but the State plans on calling the two adult
12 victims.

13 THE COURT: Okay. And what's the third -- I've got
14 Mr. Bentley, Ms. Darcel Taylor, Desiree Taylor and what's
15 the final name?

16 Mr. Campbell: Your Honor, Armani Patton is the
17 one-year-old, at the time. I'm just giving you info of who
18 was there, because you asked about the victims. The two
19 adult victims, I anticipate calling.

20 THE COURT: Any matters of sequestration before we get
21 started?

22 Mr. Campbell: I don't have any problem.

23 THE COURT: So, you're not asking for sequestration?

24 MR. SMITH: Actually, I would like for the witnesses
25 to be sequestered, to make sure it's fair, that their

1 individual statements aren't heard by each other.

2 THE COURT: So, for the purposes of the trial, then,
3 Darcel Taylor can stay. I assume you are the chief
4 investigating officer?

5 DEPUTY JOHNSON: Yes, sir.

6 THE COURT: You can stay. Anybody else here, would
7 you raise your hand if you are a witness in this case.

8 MR. CAMPBELL: These are all officers that have been
9 subpoenaed in this case.

10 THE COURT: All right. Gentlemen, if you don't mind,
11 would you have a seat in the lobby, in the front, and we'll
12 call you as we need you. We're going to sequester the
13 witnesses. Please try to avoid contact with potential
14 jurors, please, while you're out there. Ma'am, are you
15 here as a witness?

16 MS. JONES: I'm his mother.

17 THE COURT: You are his mother?

18 MS. JONES: Yes.

19 THE COURT: And have you named her as a witness, Mr.
20 Smith?

21 MR. SMITH: I have not.

22 THE COURT: Okay. You're certainly free to stay here.
23 Any other matters we need to bring up before we get
24 started?

25 CLERK OF COURT: The striking of the alternates, is it

THE STATE OF SOUTH CAROLINA VERSUS JAMARIO QUINTON JONES

1 two and one?

2 THE COURT: Right. As far as the alternates, that's a
3 good point Mr. Shirley brought out, you get two on the
4 alternates and you get one. Okay? Is everybody ready to
5 bring the jury panel in?

6 MR. CAMPBELL: Yes, sir. Just for clarification on
7 the alternates, it's my understanding that's two and one on
8 each alternate.

9 THE COURT: I don't know. I thought it as two,
10 total. Let me look up the statute. Just one second.

11 Mr. Campbell: That's my understanding. Under 1120,
12 it says challenges for each alternate will be two and one.

13 THE COURT: For each alternate?

14 Mr. Campbell: Your Honor, I have the statute here.

15 THE COURT: I've got it. For each alternate juror, so
16 you are correct. So, that's a total of four for you, Mr.
17 Smith, and a total of two for you, Mr. Campbell. Okay.
18 Anything further before we bring the jury in, from the
19 State?

20 MR. CAMPBELL: No, Your Honor.

21 THE COURT: From the defense?

22 MR. SMITH: No, sir.

23 THE COURT: Mr. Frazier, bring the jury in, please.
24 People who have been subpoenaed to testify cannot come in,
25 but anybody else can.

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(Jury in at 11:03 a.m.)

Mr. Campbell: May it please the Court?

THE COURT: Yes, sir.

Mr. Campbell: Your Honor, the State is ready with Indictment Number 2011-GS-04-1210, The State versus Jamario Quinton Jones, for armed robbery. 2011-GS-04-1211, for burglary in the first degree and 2011-1212, possession of a weapon during the commission of a violent crime. It's my understanding it's going to be a trial. (Hands indictments to the Judge)

THE COURT: All right, Ladies and gentlemen of the jury, we are about to start jury selection in the case of The State versus Jamario Quinton Jones who is charged as just indicated by the Solicitor's office. Let me point out something to each and every one of you. The fact that this defendant has been arrested, charged and indicted is not evidence of his guilt. It does not raise an inference of his guilt. It is simply the charging mechanism of the State of South Carolina to bring people before citizens such as yourselves for a trial and a determination of their guilt or innocence. With that being said, I'm going to ask some more particularized questions of you and then we'll go through the selection. (Judge McIntosh conducts voir dire)

JURY SELECTION

CLERK OF COURT: When I call your name, please come

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1 stand right here. My first juror is No. 89, Johnny R.
2 Johnson.

3 (Whereupon, Johnny Johnson, a black male, comes forward)

4 CLERK OF COURT: What say you for the Prosecution?

5 MR. CAMPBELL: Present Mr. Johnson.

6 CLERK OF COURT: What say you for the Defense?

7 MR. SMITH: Please seat the juror.

8 CLERK OF COURT: Next juror, No. 29, Trevor A. Cox.

9 (Whereupon, Trevor Cox, a white male, comes forward)

10 CLERK OF COURT: What say you for the prosecution?

11 MR. CAMPBELL: Please excuse Mr. Cox.

12 CLERK OF COURT: Thank you, sir. Next juror, No. 98,
13 Christy M. Lawing.

14 (Whereupon, Christy Lawing, white female, comes forward)

15 CLERK OF COURT: What say you for the Prosecution?

16 MR. CAMPBELL: Present Ms. Lawing.

17 CLERK OF COURT: What say you for the defense?

18 MR. SMITH: Please seat the juror.

19 CLERK OF COURT: Juror No. 22, Timothy A. Cintron.

20 (Whereupon, Timothy Cintron, a white male, comes forward)

21 CLERK OF COURT: What say you for the Prosecution?

22 MR. CAMPBELL: Please seat the juror.

23 CLERK OF COURT: What say you for the Defense?

24 MR. SMITH: Please seat the juror.

25 CLERK OF COURT: Have a seat in the jury box, please,

THE STATE OF SOUTH CAROLINA VERSUS JAMARIO QUINTON JONES

1 sir. Juror No. 64, John K. Gouch.

2 (Whereupon, John Gouch, a white male, comes forward)

3 CLERK OF COURT: What say you for the Prosecution?

4 MR. CAMPBELL: Present Mr. Gouch.

5 CLERK OF COURT: What say you for the Defense?

6 MR. SMITH: Please excuse this juror.

7 CLERK OF COURT: Have a seat, Mr. Gouch. Next is No.
8 26, Kathy D. Collins.

9 (Whereupon, Kathy Collins, a white female, comes forward)

10 CLERK OF COURT: What say you for the Prosecution?

11 MR. CAMPBELL: Present Ms. Collins.

12 CLERK OF COURT: What say you for the Defense?

13 MR. SMITH: Please excuse this juror.

14 CLERK OF COURT: Have a seat, please. Next, is No.
15 62, Ronald K. Gilstrap.

16 (Whereupon, Ronald Gilstrap, a white male, comes forward)

17 CLERK OF COURT: What say you for the Prosecution?

18 MR. CAMPBELL: Present Mr. Gilstrap.

19 CLERK OF COURT: What say you for the Defense?

20 MR. SMITH: Please excuse this juror.

21 CLERK OF COURT: Have a seat, please, sir. Next
22 juror, No. 40, Christopher M. Donald, Sr.

23 (Whereupon, Christopher Donald, a white male, comes
24 forward)

25 CLERK OF COURT: What say you for the prosecution?

THE STATE OF SOUTH CAROLINA VERSUS JAMARIO QUINTON JONES

1 MR. CAMPBELL: Present Mr. Donald.

2 CLERK OF COURT: What say you for the Defense?

3 MR. SMITH: Please excuse this juror.

4 CLERK OF COURT: Have a seat, Mr. Donald. Next, is
5 No. 47, Negar T. Edwards.

6 (Whereupon, Negar Edwards, an Asian female, comes forward)

7 CLERK OF COURT: What say you for the Prosecution?

8 MR. CAMPBELL: Present Ms. Edwards.

9 CLERK OF COURT: What say you for the Defense?

10 MR. SMITH: Please seat the juror.

11 CLERK OF COURT: Next, is No. 172, Paul H. Wolf.

12 (Whereupon, Paul Wolf, a white male, comes forward)

13 CLERK OF COURT: What say you for the Prosecution?

14 MR. CAMPBELL: Present Mr. Wolf.

15 CLERK OF COURT: What say you for the Defense?

16 MR. SMITH: Please excuse this juror.

17 CLERK OF COURT: Next juror, is No. 39, Catherine Y.
18 Dickerson.

19 (Whereupon, Catherine Dickerson, a white female, comes
20 forward)

21 CLERK OF COURT: What say you for the Prosecution?

22 MR. CAMPBELL: Present Ms. Dickerson.

23 CLERK OF COURT: What say you for the Defense?

24 MR. SMITH: Please excuse this juror.

25 CLERK OF COURT: Next, is No. 33, Dollie M. Dantz.

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1 (Whereupon, Dollie Dantz, a white female, comes forward)

2 CLERK OF COURT: What say you for the Prosecution?

3 MR. CAMPBELL: Present Ms. Dantz.

4 CLERK OF COURT: What say you for the Defense?

5 MR. SMITH: Please excuse the juror.

6 CLERK OF COURT: Have a seat, please, ma'am. Next is
7 124, John P. Poore.

8 (Whereupon, John Poore, a white male, comes forward)

9 CLERK OF COURT: What say you for the Prosecution?

10 MR. CAMPBELL: Present Mr. Poore.

11 CLERK OF COURT: What say you for the Defense?

12 MR. SMITH: Please seat this juror.

13 CLERK OF COURT: Next is juror No. 83, Courtney N.
14 Hunter.

15 (Whereupon, Courtney Hunter, a black female, comes forward)

16 CLERK OF COURT: What say you for the Prosecution?

17 MR. CAMPBELL: Present Ms. Hunter.

18 CLERK OF COURT: What say you for the Defense?

19 MR. SMITH: Please seat this juror.

20 CLERK OF COURT: Juror No. 152, Randy H. Tee.

21 (Whereupon, Randy Tee, a white male, comes forward)

22 CLERK OF COURT: What say you for the Prosecution?

23 MR. CAMPBELL: Present Mr. Tee.

24 CLERK OF COURT: What say you for the Defense?

25 MR. SMITH: Please excuse this juror.

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1 CLERK OF COURT: Have a seat, Mr. Tee. Next juror is
2 137, William E. Rutledge.

3 (Whereupon, William Rutledge, a white male, comes forward)

4 CLERK OF COURT: What say you for the Prosecution?

5 MR. CAMPBELL: Please excuse Mr. Rutledge.

6 CLERK OF COURT: Have a seat, please. Next juror is
7 138, Michael J. Samples.

8 (Whereupon, Michael Samples, a white male, comes forward)

9 CLERK OF COURT: What say you for the Prosecution?

10 MR. CAMPBELL: Present Mr. Samples.

11 CLERK OF COURT: What say you for the Defense?

12 MR. SMITH: Please excuse this juror.

13 CLERK OF COURT: That is nine, sir. Juror No. 92,
14 Woodrow V. Johnson.

15 (Whereupon, Woodrow Johnson, a black male, comes forward)

16 CLERK OF COURT: What say you for the Prosecution?

17 MR. CAMPBELL: Present Mr. Johnson.

18 CLERK OF COURT: What say you for the Defense?

19 MR. SMITH: Please seat this juror.

20 CLERK OF COURT: Next juror is No. 38, Miranda L.
21 Dermid.

22 (Whereupon, Miranda Dermid, a white female, comes forward)

23 CLERK OF COURT: What say you for the Prosecution?

24 MR. CAMPBELL: Present Ms. Dermid.

25 CLERK OF COURT: What say you for the Defense?

THE STATE OF SOUTH CAROLINA VERSUS JAMARIO QUINTON JONES

1 MR. SMITH: Please seat this juror.

2 CLERK OF COURT: Next juror is No. 37, Barbara J. Day.

3 (Whereupon, Barbara Day, a black female, comes forward)

4 CLERK OF COURT: What say you for the Prosecution?

5 MR. CAMPBELL: Present Ms. Day.

6 CLERK OF COURT: What say you for the Defense?

7 MR. SMITH: Seat this juror.

8 CLERK OF COURT: Next juror is No.131, Claude L.

9 Richardson.

10 (Whereupon, Claude Richardson, a black male, comes forward)

11 CLERK OF COURT: What say you for the Prosecution?

12 Mr. CAMPBELL: Please excuse Mr. Richardson.

13 CLERK OF COURT: Have a seat, please, sir. Next juror
14 is No. 52, James W. Ervin.

15 (Whereupon, James Ervin, white male, comes forward)

16 CLERK OF COURT: What say you for the Prosecution?

17 MR. CAMPBELL: Present Mr. Ervin.

18 CLERK OF COURT: What say you for the Defense?

19 MR. SMITH: Please seat this juror.

20 CLERK OF COURT: Next juror is No. 104, Makai V.

21 Ligon.

22 (Whereupon, Makai Ligon, a black female, comes forward)

23 CLERK OF COURT: What say you for the Prosecution?

24 MR. CAMPBELL: Present Ms. Ligon.

25 CLERK OF COURT: What say you for the Defense?

THE STATE OF SOUTH CAROLINA VERSUS JAMARIO QUINTON JONES

1 MR. SMITH: Please excuse this juror.

2 CLERK OF COURT: Your Honor, I have ten strikes for
3 the Defense.

4 THE COURT: Yes, sir.

5 CLERK OF COURT: Next juror is 155, Jason E. Thomas.

6 (Whereupon, Jason Thomas, a white male, comes forward)

7 CLERK OF COURT: What say you for the Prosecution?

8 MR. CAMPBELL: Present Mr. Thomas.

9 CLERK OF COURT: That way, please, sir. Next juror is
10 110, Eldridge N. McIntosh, III.

11 (Whereupon, Eldridge McIntosh, a white male, comes forward)

12 CLERK OF COURT: What say you for the Prosecution?

13 MR. CAMPBELL: Please excuse Mr. McIntosh.

14 CLERK OF COURT: Your Honor, that is four strikes for
15 the Prosecution. Next juror is 128, Mary E. Reitmeier.

16 (Whereupon, Mary Reitmeier, a white female, comes forward)

17 CLERK OF COURT: What say you for the Prosecution?

18 MR. CAMPBELL: Present Ms. Reitmeier.

19 CLERK OF COURT: That way, please, ma'am. Your Honor,
20 I have twelve jurors and now move to select the alternates.

21 THE COURT: Two and one.

22 CLERK OF COURT: Two strikes for the Defense and one
23 for the Prosecution and we'll choose for the first
24 alternate from juror Nos. 28 through 31. The first juror
25 is No. 82, Thomas W. Humphrey.

THE STATE OF SOUTH CAROLINA VERSUS JAMARIO QUINTON JONES

1 (Whereupon, Thomas Humphrey, a black male, comes forward)

2 CLERK OF COURT: What say you for the Prosecution?

3 MR. CAMPBELL: Present Mr. Humphrey.

4 CLERK OF COURT: What say you for the Defense?

5 MR. SMITH: Please seat the juror.

6 CLERK OF COURT: Our second alternate, again we'll
7 have two strikes for the Defense, one strike for the
8 Prosecution and our choices will be from 32 through 35.
9 Juror No. 23, Israel D. Carter.

10 (Whereupon, Israel Carter, a black male, comes forward)

11 CLERK OF COURT: What say you for the Prosecution?

12 MR. CAMPBELL: Present Mr. Carter.

13 CLERK OF COURT: What say you for the Defense?

14 MR. SMITH: Please seat this juror.

15 CLERK OF COURT: Your Honor, if it pleases the Court,
16 I believe that's twelve jurors and two alternates.

17 THE COURT: Thank you, sir. Does the State have any
18 motions in reference to jury selection?

19 Mr. Campbell: No, Your Honor.

20 THE COURT: Does the Defense have any motions in
21 reference to jury selection?

22 MR. SMITH: No, sir.

23 THE COURT: All right. Very well. Ladies and
24 gentlemen, what I'm going to do is ask, in just a minute,
25 that you go back to the jury room. Buck will take you back

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1 and show you where you are supposed to go. I will ask that
2 you select someone who can be the foreperson for you. The
3 foreperson will be, first, someone who presides over your
4 deliberations at the end of the case. Also, the foreperson
5 is someone who communicates with the Court any time there
6 is a need to have any kind of communication. Also, the
7 only prohibition in this case is Mr. Humphrey, would you
8 raise your hand, and also Mr. Clark, would you raise your
9 hand. You two are alternates in this case. You have a
10 right to vote on the foreperson, but you may not serve as
11 the foreperson. Okay? I'm also going to ask each one of
12 you two gentlemen, each time you come into the courtroom
13 that you keep those same seats that you are in now. That
14 helps me perform some administrative duties I need to keep
15 up with. I will tell you that you don't have to have a
16 unanimous decision to elect a foreperson, just a simple
17 majority. Once you have selected the foreperson in this
18 matter, I'm going to ask the foreperson to poll the jury to
19 find out who might want pad and pencil during the course of
20 this trial and who does not. It's fine either way, but if
21 you want a pad and pencil, make sure your vote is counted.
22 I'm going to ask that you write down on paper the
23 foreperson, once you are selected, and your juror number,
24 and the number out of fourteen jurors that want to have a
25 pad and pencil. If you will do that, I'll get that

1 information and we'll probably excuse you for lunch. We
2 have some other administrative matters to take up and we'll
3 get you back this afternoon. But if you'll go back, select
4 your foreperson, then find out the number of people who
5 want to use pad and pencil during the trial. If you'll
6 follow Buck, now, please.

7 (Jury out at 11:38 a.m.)

8 THE COURT: For the rest of you out there, I can see,
9 looking from my vantage point, the disappointment in all
10 your faces since you weren't selected to serve. I tried to
11 let this young lady go a few minutes ago, and I'm sorry
12 about that and the Clerk caught me and corrected me. I'm
13 going to excuse you for the remainder of the day. Before
14 you get out of here, Mr. Shirley is going to give you a
15 sheet of paper that has a jury call-in number and you can
16 call in tomorrow night after, after 6:00, at which time we
17 will tell you whether or not you need to report or when you
18 need to call in again. I'm advised this case is supposed
19 to take three days to try. That doesn't mean it will, but
20 if you will call in tomorrow night after 6:00. That being
21 said, if you will get those numbers from Mr. Shirley, then
22 you are excused for the day. Thank you so much for being
23 here.

24 (Jury panel out at 11:41 p.m.)

25 MR. CAMPBELL: Your Honor, we have previously marked

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1 and agreed upon exhibits for this hearing and I have marked
2 them as Court's Exhibits. Court's Exhibit No. 1 is an
3 Advisement of Rights Form, and his two statements are
4 marked each individually as Court's Exhibit Nos. 2 and 3.

5 THE COURT: All right. Before we get started,
6 gentlemen, take a minute and gander around the courtroom
7 and make sure we don't have any potential witnesses in
8 here. (Attorneys comply)

9 MR. CAMPBELL: Your Honor, that should be all the
10 potential witnesses out of the courtroom from both the
11 State and the Defense.

12 THE COURT: Do you agree with that?

13 MR. SMITH: That's my understanding.

14 THE COURT: All right. Very good. Are you ready to
15 proceed with Jackson/Denno?

16 MR. CAMPBELL: Yes, sir.

17 THE COURT: All right. You may call your first
18 witness.

19 JACKSON/DENNO HEARING

20 MR. ALLEN: Your Honor, at this time, the State would
21 call Deputy Mark Gregory to the stand.

22 (After being duly sworn by the Clerk of Court, Mark
23 Gregory testified as follows:)

24 CLERK OF COURT: Take the witness stand and state your
25 name for the record and spell your last, please.

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JACKSON/DENNO HEARING

21

1 DEPUTY GREGORY: My name is Mark Gregory. My last
2 name is G-R-E-G-O-R-Y. I work at the Anderson County
3 Sheriff's Office.

4 PROFFERED DIRECT EXAMINATION OF MARK GREGORY BY MR. ALLEN

5 Q Deputy Gregory, where are you currently employed?

6 A Anderson County Sheriff's Office, sir.

7 Q And how long have you worked there?

8 A Roughly, a little over 10 years.

9 Q And what's your position with the Sheriff's Office?

10 A I'm on a Federal Task Force.

11 Q And approximately, how long have you worked in that
12 capacity?

13 A Approximately, two-and-a-half years, give or take.

14 Q And can you explain a little bit about what your
15 duties include, your job day-to-day.

16 A I work violent crimes, conspiracies with the F.B.I.
17 and other Department of Justice Agencies.

18 Q Now, were you employed at that position on April 15th
19 of last year?

20 A Yes, sir.

21 Q On that date, did you happen to be involved in an
22 investigation pertaining to an armed robbery and a
23 burglary at 601 Calhoun Road, here in Anderson County?

24 A Yes, sir. I was.

25 Q And that's in Belton, isn't it?

JACKSON/DENNO HEARING

22

1 A That is correct.

2 Q Okay. Describe a little bit about what your role was
3 during that investigation.

4 A That day, we were working on another investigation. I
5 heard a call for service go out over the radio. It
6 stated that there had been some sort of burglary, I
7 believe it was. At that time, I heard Investigator
8 Johnson say he was in route, because he was close, I
9 believe. After I finished doing what I was doing, I
10 called Investigator Johnson and asked him if he needed
11 any assistance from me or anybody else that was with
12 me at the time and he did say that he would let me
13 know. Later on that afternoon, I believe I spoke to
14 Investigator Johnson again and he asked me to go to
15 the Sheriff's office and help with interviews.

16 Q Okay. Once you arrived -- well, let me back up. When
17 you, after your investigation or during the course of
18 your investigation, was there an arrest made?

19 A Yes, there was.

20 Q And who was that?

21 A There were, I think there were a couple of arrests. I
22 only know of one, specifically, and that was the
23 defendant.

24 Q Jamario Jones?

25 A Yes, sir.

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1 Q Okay.

2 MR. CAMPBELL: Your Honor, may I approach a moment,
3 please?

4 THE COURT: Yes, sir.

5 MR. CAMPBELL: I'm sorry to break up the testimony.

6 (A jury note is passed up to the Judge)

7 THE COURT: Okay. The foreperson is Negar Edwards,
8 No. 47. All fourteen want pads and pencils. There is a
9 note from Juror No. 89. I'm going to ask Mr. Smith and Mr.
10 Campbell to come up here, please.

11 (Brief Bench Conference Off the Record)

12 THE COURT: Buck, would you bring in Juror No. 89?

13 (Juror enters the courtroom)

14 THE COURT: If you would stand right there for me,
15 please. Without calling your name for the record, you are
16 Juror No. 89?

17 JUROR NO. 89: Yes, sir.

18 THE COURT: And I received a note that purports to be
19 from you. Is that correct?

20 JUROR NO. 89: Yes, sir.

21 THE COURT: Now, the question I have and in your note,
22 just for the record, you refer to attempts to get
23 unemployment after having worked for a number of years and
24 my concern and everybody's concern today is that, when you
25 went through the questioning process, what we call voir

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1 dire, you indicated that you could be fair and impartial to
2 the State of South Carolina in this case and to the
3 defendant in this case. My question of you would be,
4 simply, based on your unhappiness, for the lack of a better
5 term, directed towards The Employment Security Commission,
6 would that prevent you from listening to the evidence in
7 this case and being fair and impartial to both the State
8 and to the defendant?

9 JUROR NO. 89: That's why I didn't say anything. At
10 first I thought I could, but the more I'm thinking about it
11 and it's on my mind and I don't want to make a bad judgment
12 and I have a home and I have a family right now and I don't
13 have a job and I've worked for 30 years. I'm always at
14 work and so right now that's all I can think about. I
15 think about losing my home and everything and I don't think
16 I'll be able to do my job right, the way I should do it.

17 THE COURT: Do you understand that the Employment
18 Security Commission is a totally unrelated group than the
19 Anderson County Solicitor's Office?

20 JUROR NO. 89: I do understand.

21 THE COURT: You do understand that, but you still
22 don't think you can separate the two out?

23 JUROR NO. 89: I'll try.

24 THE COURT: No, I mean, and listen I'm not trying to
25 put you on the spot, okay? I just want -- being able to

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1 try would not be sufficient. You have to be unequivocal
2 about your ability to be fair and impartial to both sides.
3 Okay? I'm not trying to beat up on you. I'm glad you
4 told me now as opposed to later, but either you can or you
5 can't be fair and impartial to both the defendant and to
6 the State in this matter.

7 JUROR NO. 89: I'd have to say, no.

8 THE COURT: Okay, sir. I tell you what I'm going to
9 do. I'm going to ask that you stick around, sit on the
10 front row and sit around and watch this for a while and
11 then I'll chat with you later, but I'm going to excuse
12 No. 89. I don't want to call your name for the record in
13 front of the jury panel. I don't think that there could be
14 any additional questions that need to be asked from either
15 side. He's candid and says he can't be fair and impartial
16 based on his experience with what he told us about and so,
17 I'm going to strike him from this jury. We're going to
18 replace -- well, the procedure is, Mr. Clerk, would you put
19 Mr. Humphrey and Mr. Clark in a hat. If you would have a
20 seat, sir, on the front row over here and I'll ask you to
21 stay there until I excuse you. Okay? All right, Mr.
22 Smith, I'm going to note your objection for the record as
23 to the procedure of me dismissing Juror No. 89. I know you
24 objected at the bench. I want to make sure you are
25 protected on the record. With that being said, in just a

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1 minute the Clerk is going to bring you a container. Close
2 your eyes and draw one number out of there. I know what it
3 sounds like, but that's the procedure you're supposed to
4 do. (Mr. Smith chooses a number) What number would that
5 be? Okay, Juror No. 82 will be moved up as a regular juror
6 and Juror No. 23 will remain as an alternate juror. Would
7 you bring them in here for me, please.

8 (Jury in at 11:57 a.m.)

9 THE COURT: All right, Ladies and gentlemen, first,
10 I'm going to refer to you by your juror number, but I
11 understand that Juror No. 47 has been selected as the
12 foreperson. Ma'am, I'm going to ask that throughout this
13 trial, that you stay in that seat and that each time we
14 come in and out of court, that you remain in that position.
15 If, at any time, the jury needs anything, has requests or
16 questions or anything, I'm going to ask that you follow the
17 same procedure that you've done, and that is simply to
18 write down the information that you need us to consider,
19 sign your name and knock on the door and give it to this
20 bailiff and we'll receive it here in the courtroom. Okay?
21 Also, Juror No. 82, I think you're on the very back. You
22 are now stepped up to the position of being a regular
23 juror. You are no longer an alternate. Juror No. 23, that
24 is you, correct? (Juror nods head) You will remain an
25 alternate and so, No. 23, if you would stay in that seat

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1 each time you come in and out the courtroom. No. 82, you
2 can sit where you like, except for this gentleman's seat or
3 this lady's seat. Okay? With that being said, what I'm
4 going to do, we have a few more administrative matters to
5 take up. We anticipate we will engage or begin the trial
6 and opening statements at 2:30. So, I'm going to excuse
7 you now and let you go to lunch on your own and ask that
8 you be back in your jury room no later than 2:30.

9 Let me give you a word of caution, though, Ms.
10 Forelady and ladies and gentlemen of the jury. Number one,
11 you're not allowed to ever engage in deliberations on this
12 case prior to the time I tell you it's appropriate to do
13 so. The reason being, we don't want you to make a
14 preliminary decision about the facts in this matter until
15 you're heard all the evidence, so you're not allowed during
16 breaks, including this break, to speak amongst yourselves
17 about anything going on with this trial. Also, no one else
18 is allowed to speak with you. The bailiffs can help direct
19 you in and out, but not even the bailiffs are allowed to
20 speak with you about this case, so if during the break any
21 one comes up to you and tries to talk to you about your
22 service as a juror, tell them that you are a juror and ask
23 them to please stop and if they continue, would you bring
24 it to my attention through the bailiff and it will be dealt
25 with forthwith. With that being said, I am going to excuse

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1 you until 2:30 and then we will resume with the beginning
2 of this trial.

3 (Jury out at 12:01 p.m.)

4 THE COURT: Other than Mr. Smith's objection to the
5 manner in which I questioned the other juror that was
6 dismissed, any additions or objections, from the State?

7 MR. CAMPBELL: No, Your Honor.

8 THE COURT: From the Defense?

9 MR. CAMPBELL: No, sir.

10 THE COURT: Okay. Are you ready to proceed with your
11 Jackson/Denno hearing?

12 MR. ALLEN: Yes, Your Honor.

13 THE COURT: Okay. Officer, would you come around. You
14 are still under oath.

15 CONTINUED PROFFERED DIRECT EXAMINATION OF DEPUTY GREGORY BY

16 MR. ALLEN

17 Q All right, Deputy Gregory, I believe where we left
18 off, you had said Jamario Jones had been arrested
19 pursuant to the investigation in Belton at 601 Calhoun
20 Road. Did you speak with him about giving a statement
21 that day?

22 A I did speak with him. Yes, sir.

23 Q Did you advise him of his rights?

24 A Yes, sir. I did.

25 Q Did you use a form to advise him of his rights?

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1 A Yes, sir. I did.

2 Q At this time, I'm going to hand you what has been
3 marked as State's Exhibit No. 1. I'd ask if you
4 recognize that.

5 THE COURT: Just for the record, that's for purposes
6 of this hearing and that has been stipulated to as
7 admissible. Is that correct, Mr. Smith?

8 MR. SMITH: Yes, sir. It is.

9 THE COURT: Okay. Thank you.

10 Q Is this the form that you used?

11 A Yes, sir. It is.

12 Q And how do you recognize the form?

13 A I recognize it based on the title "The Advisory of
14 Rights Form". Also, it is written in my handwriting
15 where there are fill-in-the-blank type items here.

16 Q At what time did this take place, your advising of his
17 rights to the defendant?

18 A Seven fifty-five p.m. on April 15, 2011.

19 Q Okay. And where did it take place?

20 A At the Anderson County Sheriff's office in an
21 interview room.

22 Q Can you explain a little bit about what that room
23 looks like.

24 A Yes, sir. It's on the second floor of the Anderson
25 County Sheriff's office. It's a square box-type room

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1 with one door leading into it, a two-way mirror, or a
2 one-way mirror, excuse me, on one side of the wall, no
3 pictures, nothing hanging on the wall, lights, a
4 table, and a few chairs.

5 Q Now, when you were questioning the defendant, was he
6 denied anything, a restroom break, something to drink,
7 anything like that? Well, let me back up. Did he ask
8 for any of that?

9 A No, sir. To my knowledge, no. I can tell you that we
10 always offer something to drink.

11 Q Okay. Now, was he in handcuffs at the time?

12 A To my recollection, he was either in handcuffs, and he
13 would have been handcuffed in the front, or he was not
14 in handcuffs at all. I just don't remember.

15 Q Okay. And were you the only one, other than the
16 defendant, in the room at the time?

17 A To the best of my recollection, yes, sir.

18 Q Now, what rights, exactly, did you inform the
19 defendant of?

20 A His Miranda rights.

21 Q Okay. Could you go over those, please?

22 A Absolutely. The first one; you have the right to
23 remain silent, anything you say may be used against
24 you in court. You have the right to speak to a lawyer
25 for advice before you are asked any questions and have

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1 him with you during questioning. If you cannot afford
2 a lawyer, one will be appointed for you before any
3 questioning if you wish. If you decide to answer
4 questions now without a lawyer present, you still have
5 the right to stop answering questions at any time.
6 You also have the right to stop answering any time
7 until you speak with a lawyer.

8 Q Okay. And you went over this form with the defendant?

9 A That is correct.

10 Q Did you make sure that he understood the rights that
11 you just read?

12 A At the end of reading somebody their Miranda rights, I
13 ask them if they understand their rights and they
14 either say yes or no, and at that point in time, I go
15 into the waiver of rights, which is listed at the
16 bottom of the form.

17 Q Okay. And can you explain what the information in the
18 top right corner is?

19 A Yes. The top right corner is a blank space on the
20 form and in that space I usually put their education
21 level, if they can read or write, and also, personal
22 information that they give to me at that point in time
23 and that is before I go into Miranda.

24 Q So, the defendant provided this information that you
25 put in this blank space?

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1 A Yes, sir.

2 Q Now, after you went over these rights, do you think
3 that the defendant understood those rights?

4 A Yes, sir. I do.

5 Q Okay. Were there any threats, promises made, to get
6 the defendant to provide a statement?

7 A No, sir.

8 Q Any intimidation, coercion?

9 A No, sir.

10 Q Was his waiver of rights voluntary?

11 A Yes, sir.

12 MR. ALLEN: Your Honor, at this time, I'd like to move
13 State's Exhibit No. 1 into evidence.

14 THE COURT: Any objection?

15 MR. SMITH: No objection.

16 THE COURT: Admitted, without objection.

17 COURT REPORTER: Excuse me, we marked that Court's
18 Exhibit No. 1.

19 MR. ALLEN: Excuse me, Court's Exhibit No. 1.

20 (Whereupon, a Miranda Rights Form is entered into
21 evidence as Court's Exhibit No. 1, without objection, for
22 purposes of the Jackson/Denno hearing only.)

23 Q Deputy Gregory, did the defendant give you a
24 statement?

25 A Yes, sir. He did.

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1 Q I will hand you what has been marked as Court's
2 Exhibit No. 2 and ask if you recognize that.

3 THE COURT: Now, those are Court's Exhibits. Is that
4 correct?

5 MR. ALLEN: Yes, Your Honor.

6 THE COURT: Mr. Smith, any objection to Exhibit No. 2?

7 MR. SMITH: No, sir.

8 THE COURT: For the purposes of this hearing only.

9 MR. SMITH: Yes, sir.

10 THE COURT: Okay. Thank you.

11 (Whereupon, a statement dated 4/15/11 is entered into
12 evidence as Court's Exhibit No. 2, without objection for
13 purposes of the Jackson/Denno hearing only.)

14 Q All right, Deputy Gregory, is this a statement that
15 the defendant provided you that day?

16 A Yes, it is, sir.

17 Q And who wrote the statement?

18 A I did, sir.

19 Q Did you write it accurately, according to what the
20 defendant told you?

21 A Yes, sir. I did.

22 Q Did you read it back to the defendant or have him read
23 it when the statement was done?

24 A I believe I turned the statement around and let him
25 read it before he signed it.

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1 Q And he indicated to you that that was, in fact, his
2 statement?

3 A Yes, sir.

4 Q Okay. Now, exactly how did he indicate and agree that
5 that was his statement?

6 A After I write a statement in somebody else's words, I
7 turn it around, let them read over the statement, make
8 any corrections if need be. Once they say that that
9 is the statement that they have provided, I have them
10 sign it at the bottom.

11 Q Okay.

12 MR. ALLEN: Your Honor, at this time, I'd like to move
13 Court's Exhibit No. 2 into evidence.

14 THE COURT: Admitted, without objection.

15 Q Deputy Gregory, at this time, could you read the
16 statement you took from the defendant.

17 A Yes, sir. At the top of the statement, we have
18 personal information: Jamario Quinton Jones, completed
19 ninth grade, can read and write. The statement is a
20 little cut off here based on the copying, but there's
21 an address and I can't read it. It's [REDACTED],
22 Belton, South Carolina. Date of Birth: the copying
23 machine cut off the first month, [REDACTED], 21 years
24 old, black male, cell phone number of 864-932-8302.
25 Social Security number, the first number is cut off,

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1 48-79-8404, the date is April 15, 2011, page number 1.
2 The beginning of the statement says: This statement
3 is being written for me by Investigator M. Gregory for
4 Jamario Quinton Jones in his own words. There's an
5 "x". At that point in time he signed after the "x".
6 The statement reads: I woke up a 9:00 a.m. today and
7 went outside to lift weights. I went back into the
8 house and sat down and watched my T.V. My old lady,
9 Candice Brown, got off work at 12:00. Candice works
10 at Love and Care Nursery. I was at Candice's house.
11 Candice lives at 113 D, Prospect Church Road. I spent
12 the night there last night. Candice and me sat in her
13 house. I don't know what time we sat there 'till. I
14 told Candice that I wanted to go check on my Mama in
15 Belton. Me, Candice and her friend Tiffany, I don't
16 know her last name, all rode to Belton in Candice's
17 burgundy Honda Accord four-door. We drove to 300
18 Saluda Drive to see my Mama. I sat at her house for
19 30 minutes to an hour because I was putting old
20 clothes and stuff under the house. Melody called me
21 and told me she needed a ride somewhere. I told my
22 old lady to go pick up Melody. Candice drove out to
23 the country near Camelot to pick up Melody. Melody
24 told me that she had to go to Oak Forest. Oak Forest
25 is some apartments up the street. Candice dropped

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1 Melody off and came back to my Mama's house. Me and
2 Candice sat at my Mama's house and played on the
3 computer. Me and Candice left my Mama's house and
4 that is when we saw Melody and Byrd run across the
5 street. I asked Melody what she was running for and
6 Byrd kept running toward his house. Byrd lives in a
7 duplex across the street from the apartments. Melody
8 answered me when I asked her what she was running for
9 and Melody said she needed a ride to her house.
10 Melody lives on Camelot. I was on the road in front
11 of Oak Forest and Melody got in the car and we drove
12 to Camelot. End of statement. Signed, Jamario Jones.

13 Q All right, Deputy Gregory, at this point, was there
14 any corrections made? Did the defendant indicate that
15 he wanted to change anything in his statement?

16 A No, sir.

17 Q Okay. And what did the defendant ask for after this
18 statement was taken?

19 A He asked to speak to Investigator Johnson.

20 MR. ALLEN: No further questions, Your Honor.

21 THE COURT: Cross examination?

22 MR. SMITH: No, sir.

23 THE COURT: No?

24 MR. SMITH: No.

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

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1 your next witness, please.

2 MR. ALLEN: Your Honor, at this time, the State calls
3 Deputy Tommy Johnson to the stand.

4 (After being duly sworn by the Clerk of Court, Deputy
5 Tommy Johnson testified as follows:)

6 CLERK OF COURT: Take the stand, state your name and
7 spell your last name for the record, please.

8 DEPUTY JOHNSON: My name is Thomas L. Johnson, III.
9 The spelling of my last name is J-O-H-N-S-O-N.

10 PROFFERED DIRECT EXAMINATION OF TOMMY JOHNSON BY MR. ALLEN

11 Q Deputy Johnson, where are you currently employed?

12 A I'm currently employed with the Anderson County
13 Sheriff's Department.

14 Q And how long have you worked at the Sheriff's
15 Department?

16 A I've worked at the Sheriff's Department for,
17 approximately, 18 years.

18 Q I know you've been in various positions, but what
19 position are you in right now at the Sheriff's Office?

20 A Currently, I'm assigned to the Criminal Investigative
21 Division.

22 Q Can you describe your duties in that position?

23 A Generally, my duties are to take cases that require
24 long-term investigations that are assigned to me, to
25 investigate property crimes, homicides and cases such

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1 as that.

2 Q Now, on April 15th, on the incident date, were you
3 employed in that capacity?

4 A I was.

5 Q How did you become involved in the investigation of
6 the armed robbery and burglary?

7 A I was in the Belton area, I heard the call come out
8 for service out at Calhoun Apartments. I responded
9 there and, generally, the way things operate on the
10 investigative side of it, whoever gets there first
11 handles the case. I happened to be the first
12 investigator on the scene after the responding
13 deputies arrived and so I just took the investigation
14 and went from there.

15 Q Okay. Now, as we heard from Deputy Gregory, Jamarion
16 Jones was arrested, transported back to the Sheriff's
17 Office, at which point he asked, after his first
18 statement, asked to talk to you. Could you explain a
19 little bit about why he would have asked to talk to
20 you.

21 A I've known the defendant, Mr. Jones, for several
22 years. I was stationed as a deputy at the Belton Honea
23 Path High School as a School Resource Officer there,
24 where I've known Mr. Jones while he was attending
25 school, the classes he was in, and I've also sat in on

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1 several meetings involving administration there
2 involving Mr. Jones. I'm also known by the kids at
3 the school as O.J. and when he asked that night --
4 that stands for Officer Johnson -- when he asked that
5 night of Deputy Gregory to see me, that's how he asked
6 for me. He said, "I want to talk to O.J."

7 Q Okay. Could you tell us, approximately, how long
8 passed between the end of his first statement to
9 Deputy Gregory and then when ---

10 A I'd say no longer than about five or ten minutes, at
11 most.

12 Q Now, had anything changed once you entered the room
13 and talked to the defendant from what Deputy Gregory
14 told us earlier?

15 A No, sir. When I entered the room, Jamario was sitting
16 to the right of the door, with his back to the door.
17 I passed around the table that was between him and the
18 back wall and sat in front of him and so there was
19 nothing between him and the door and we started
20 speaking. I asked him, I advised him he was still
21 under Miranda and I asked him did he still understand
22 that and he said, "Yes," at which point I went over
23 and assured him, I asked him, "Do you need a lawyer
24 and are you sure you don't want a lawyer to talk to?"
25 And he said, "No, I want to talk to you." He advised

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1 me that he had given some incorrect information on the
2 statement he gave Investigator Gregory and that he
3 wanted to change a certain part of that statement.

4 Q And at that time he, in fact, gave you a second
5 statement?

6 A He did.

7 Q At this time, I'm going to show you what has been
8 marked as Court's Exhibit No. 3 and ask if you
9 recognize that.

10 A I do.

11 Q And can you tell us, describe for us what the
12 information in the blank space in the top corner of
13 the page is?

14 A That's information I obtained from Jamario as far as
15 his name, Jamario Quinton Jones, his address, date of
16 birth, cell phone number, social security number.

17 Q Okay. And did you write this statement ---

18 A I did.

19 Q --- for Mr. Jones? You wrote the statement as he
20 verbalized it to you.

21 A Yes, sir.

22 Q Okay. Do you mind reading the statement?

23 A No. Start at the top with the name or specifically...

24 Q Yeah, start with his name.

25 A Jamario Quinton Jones, 300 Saluda Drive, Belton, South

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1 Carolina, 29627, 7/10/81, a black male. That's what
2 the initials B.M. stands for. Cell phone, with 864-
3 932-8302. Social Security: 248-79-8404. Completed
4 the ninth grade and can read and write. The date of
5 the statement was April 15, 2011. It's page one of
6 one. The first two initials there are Mr. Jones'
7 initials where I asked him after the statement was
8 completed to initial it at the beginning. I advised
9 him that that way, no one could add anything to the
10 beginning of the statement. It says, this statement
11 is being written for me by Detective T.L. Johnson. "In
12 my statement where I said I was in the car with
13 Candice when we saw Byrd and Melody running, I was
14 wrong. It was Byrd, Melody and me walking away from
15 the apartment complex. Byrd went to his house and
16 Melody and me walked to the store. I tried to call
17 Candice from the store phone, but she did not answer.
18 I saw Torry -- and then there is a scribbled mark
19 where there was a mistake I made there -- I also had
20 Mr. Jones initial above that mistake indicating that
21 he understood that that word was not proper -- and
22 Byrd in a green car. Byrd was like, come on. Byrd
23 had come in and bought a cigarette. They took us to
24 Melody's house off Camelot Forest. I asked Teresa to
25 give me a ride to Southside. I went in Teresa's house

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1 and got Candice's .380 pistol. Teresa carried Melody
2 and me to my friend's house "Dee". He lives on South
3 McDuffie Street. I went in -- and here again, we have
4 another mistake where Mr. Jones indicated he
5 understood that after I scribbled it out and he
6 initialed above it -- to Dee's house and gave him the
7 gun. I told Dee to put it on the refrigerator. Dee
8 took the gun and put it on the refrigerator." End of
9 statement. There are three "x's" along with Mr.
10 Jones' initials indicating where I explained, "Yes,
11 initial there, stating that no one could add anything
12 to his statement at the end." I also drew an "x" for
13 fill lines along with four smaller lines, which I
14 asked Mr. Jones to sign on each small line as far as
15 initials and this was to indicate that nothing could
16 be placed in there that he didn't say and then I asked
17 Mr. Jones to sign the bottom.

18 Q All right. Does this accurately reflect what the
19 defendant told you in his second statement?

20 A Yes, it does.

21 Q Did you read it back to him, have him read it, let him
22 look over it to make sure this ---

23 A I read it back to him orally while we went along and
24 he was more sitting sideways and I was just going
25 through the statement with him making sure he

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1 understood what he had given me and the information
2 that he had given me.

3 Q And during this second statement, had you made any
4 promises or threats to get him to provide that second
5 statement?

6 A No, sir.

7 Q Okay.

8 MR. ALLEN: I have no further questions, Your Honor.

9 THE COURT: Cross examination?

10 MR. SMITH: No, sir.

11 THE COURT: All right. Officer, you may step down.

12 Any other witnesses, Mr. Allen?

13 MR. ALLEN: No, Your Honor.

14 THE COURT: All right. I'll be glad to hear from you
15 on the issue of Jackson/Denno, please.

16 MR. ALLEN: Your Honor, based on the testimony by
17 Deputy Gregory and Deputy Johnson and looking at the
18 totality of the circumstances, the State's position is that
19 the defendant, Jamario Jones, did give these two statements
20 freely and voluntarily without any promises, threats or
21 coercion.

22 THE COURT: Okay, sir. All right, Mr. Smith?

23 MR. SMITH: Your Honor, we would agree that he, in
24 fact, gave the statements without any coercion and so forth
25 for this hearing.

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1 THE COURT: So, for the purposes of Jackson/Denno,
2 you're not challenging the ---

3 MR. SMITH: No objection.

4 THE COURT: Let me make sure we're clear on the record
5 with this. Number one, that the defendant properly
6 received Miranda while he was in police custody, that he
7 waived his Miranda rights, that he gave a free and
8 voluntary and knowing statement based on the totality of
9 the circumstances in existence at the time he made the
10 statements. Is that correct?

11 MR. SMITH: That's correct.

12 THE COURT: As to both statements?

13 MR. SMITH: Yes, sir.

14 THE COURT: All right. So, with that being said, is
15 there any issue of Jackson/Denno at all in this matter? In
16 other words, at this stage if the defendant acknowledges
17 being Mirandized, acknowledges he waived his rights,
18 acknowledges under the totality of the circumstances he
19 gave a free, knowing and voluntary statement, then should
20 that issue, Mr. Smith, I'm directing this to you, even be
21 submitted to the jury for their consideration, whatsoever?

22 MR. SMITH: No, sir.

23 THE COURT: Okay. Very good. Any other pre-trial
24 matters? I'm going to find that the issue of Jackson/Denno
25 is not before the jury in this matter based on the

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JACKSON/DENNO HEARING

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1 defendant's acknowledgment of receiving Miranda that he
2 freely and voluntarily waived his Miranda rights and gave a
3 free, knowing and voluntary statement to both Officer
4 Johnson and Officer Gregory and with that being said, that
5 issue will not be submitted to the jury for their
6 consideration of voluntariness. Any other pre-trial
7 issues?

8 MR. CAMPBELL: Well, Your Honor, I spoke with Mr.
9 Smith earlier in the week and we agreed that this case here
10 is not a chain of custody case and so there's no argument
11 or fighting over the evidence, whether it was lost or
12 tampered with in any shape or form and that will cut out a
13 lot of witnesses regarding chain of custody regarding the
14 gun and any type of evidence that may be submitted. This
15 is not much of an evidence case. There are photographs and
16 videos and a weapon involved in this case.

17 THE COURT: All right. From the Defense, any other
18 issues, Mr. Smith?

19 MR. SMITH: Not at this juncture, Your Honor.

20 THE COURT: Okay, sir. Is there any potential for you
21 to go ahead and mark as many exhibits as y'all can at this
22 stage and also check the technical aspects of any videos so
23 we don't have to sit around and watch you try to get it
24 going?

25 MR. CAMPBELL: We were here Friday on that.

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1 THE COURT: All right.

2 MR. CAMPBELL: One further thing, Your Honor, this is
3 an issue that has come up in a case that I currently have,
4 the Defense currently has an appeal with me. Prior to
5 this, in October or November, I tried a drug case and the
6 defendant is now indicating, and he's filed a PCR regarding
7 that, and he says the initial offering from the State was
8 never relayed to him and he is now in the Department of
9 Corrections and shouldn't be because he would have taken
10 the initial offer had he been told by his attorney. This
11 is an issue that has now come up in court as to, it's on
12 the docket for March and I'd just like the Court to address
13 the issues, because if Mr. Jones does choose in this case
14 to go to trial, that it is his decision to go to trial and
15 he understands what he's facing. It's really basically for
16 PCR if that comes to it, and it protects the State as well
17 as the Defense.

18 THE COURT: All right. You say he currently has a PCR
19 pending on another matter?

20 MR. CAMPBELL: My previous case I had after he went
21 down to Columbia, he's now saying, "Well, I was never told
22 the initial offer by the attorney," which we know wasn't
23 the case, but I just want to protect the record for any
24 type of future appeals that may or may not be available.

25 THE COURT: Okay. Mr. Jones, would you raise your

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1 right hand, please, sir. (Oath administered to Jamario
2 Jones by Judge McIntosh) These questions are solely for the
3 purposes of exploring, number one, whether or not the
4 offer, and I don't know what the offer is, but has been
5 relayed to you prior to today as to any potential deal from
6 the State of South Carolina. Is that correct?

7 MR. JONES: Yes, sir.

8 THE COURT: And I'm advised by your attorney and the
9 attorney for the State that you have rejected that offer
10 after you have had time to consider the offer that was made
11 to you. Is that correct?

12 MR. JONES: Yes, sir.

13 THE COURT: Okay, sir. And it is your choice to
14 proceed to trial in this matter. Is that correct?

15 MR. JONES: Yes, sir.

16 THE COURT: Any other additional question from the
17 State based on mine?

18 MR. CAMPBELL: No, sir.

19 THE COURT: From the Defense?

20 MR. SMITH: No, sir.

21 THE COURT: Okay. If there are no other matters we
22 need to deal with before lunch, we'll be at recess until
23 2:30. If y'all will go ahead and mark your exhibits and
24 review your mechanicals, we'll be good to go. We'll be in
25 recess until 2:30.

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1 FEBRUARY 13, 2012 - AFTERNOON

2 MR. CAMPBELL: The State has one thing to take up
3 before we start, Your Honor.

4 THE COURT: Okay, sir. Is the Defense ready to
5 proceed?

6 MR. SMITH: Yes, sir.

7 THE COURT: What issue do you have to take up?

8 MR. CAMPBELL: The victims are allowed to stay in the
9 courtroom, Ms. Bentley and Ms. Taylor. Ms. Taylor's four-
10 year-old daughter is here and she needs to stay with her
11 mother and we wanted to bring it to the Court's attention.
12 She has no one for her to stay out there with.

13 THE COURT: Where is the four-year-old? Okay. Hey,
14 sweetheart. If she gets restless, just step out with her,
15 okay?

16 MS. TAYLOR: Yes, sir. Thank you, Your Honor.

17 THE COURT: All right. For the record, we had a bench
18 conference and Mr. Smith raised the issue about the victims
19 being allowed to remain in the courtroom and not being
20 sequestered and I wanted you to put more on the record so
21 you can protect yourself, Mr. Smith.

22 MR. SMITH: If it please the Court. As the Court's
23 aware, an order of sequestration has been issued and,
24 unfortunately, there are two victims in this matter and it
25 is our understanding that it would be an unfair advantage

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1 for them to listen to everything that is said as to
2 everything being testified to as well as prior examination
3 and we think it is unfair to my client.

4 THE COURT: Listen, my understanding is that they have
5 a right to be here by statute. Certainly, that would be
6 something subject to cross examination. So, I note your
7 objection for the record, but I maintain by my ruling that
8 they be allowed to stay in the courtroom. Mr. Campbell,
9 anything on that?

10 MR. CAMPBELL: Yes, Your Honor. As you said, under
11 statute, S.C. Code §16-3-1515(b), it states that victims
12 have the right to be here.

13 THE COURT: Very good. Anything further from the
14 State before we start?

15 MR. CAMPBELL: Nothing further, Your Honor.

16 THE COURT: Mr. Smith, from the Defense? Mr. Smith,
17 do you anticipate that you will give an opening statement?

18 MR. SMITH: Yes. I will give an opening statement.

19 THE COURT: Okay, sir. That being said, will you
20 bring the jury in, please.

21 (Jury in at 2:37 p.m.)

22 THE COURT: Madam Forelady, ladies and gentlemen of
23 the jury, I hope you were able to have a nice lunch. It
24 wasn't so cold out there that you could tolerate it very
25 well. We're about to begin the case, as I told you

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INTRODUCTORY INSTRUCTIONS TO THE JURY

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1 earlier, of the trial of The State versus Jamarion Quinton
2 Jones. That being said, I'm going to have to swear you
3 before we go any further and then we will begin with more
4 explanation and then opening statements. Mr. Clerk.

5 (Juror's oath is duly administered by the Clerk of Court)

6 THE COURT: Let the record reflect that all jurors
7 answered in the affirmative.

8 INTRODUCTORY INSTRUCTIONS TO THE JURY

9 Ladies and gentlemen, first, if at any time you cannot
10 understand me or you cannot understand something that goes
11 on in the proceedings, I want you to raise your hand so we
12 can stop it, repeat it, and make sure that you do hear and
13 understand what's happening. I will give you more specific
14 instructions on the law that you will apply at the end of
15 this case, but I just want to give you a few details about
16 being here. Sometimes, in this courtroom, it's tough to
17 understand things. In other words, the acoustics are bad.
18 Don't be afraid to say, "I can't hear." Just raise your
19 hands and try not to just blurt out, don't be spontaneous
20 with it.

21 Also, it's either feast or famine. In other words,
22 it's either cold or hot and we don't get much in between,
23 so if you get uncomfortable, let us know. If you want to
24 bring drinks in here, that's certainly fine. You'll see
25 that I'll have water or coffee up here and y'all have the

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1 same courtesy if you would like to have it. No food, if
2 you don't mind. If, at any time you need to take a break,
3 Madam Forelady, let us know. This is not an endurance race
4 and we want you to all be engaged and paying attention to
5 the evidence throughout the trial.

6 With that being said, I don't know whether any of you
7 have ever been involved in the judicial system before. I
8 can expect, however, that each and every one of you have
9 watched what purports to be a T.V. show of the legal
10 system, such as Law and Order. My daughter watches that on
11 a regular basis, but let me tell you now, what you are
12 about to engage in is totally different from and not in any
13 way similar to Law and Order. Trials are not
14 entertainment, they are not movies and they are often slow,
15 they're methodical and they are very deliberate. They are
16 a fundamental part of our democracy that we as citizens
17 enjoy as United States citizens and South Carolinians.

18 Trials are a search for the truth to make sure that
19 justice is done. You are not here to be for or against one
20 side or the other. Your job is to listen to the evidence
21 and make your decision based on what the evidence is that
22 has been presented in this courtroom and no other place.

23 Now, these attorneys are fine attorneys. They are
24 advocates for their clients. That means that they have a
25 sworn ethical duty to zealously represent their clients and

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1 their cause, but they are also officers of this court.
2 That means you can expect them to be ethical to one another
3 and to witnesses, to be professional and competent in their
4 dealings with one another and with you.

5 Likewise, you just took an oath that you would be fair
6 and impartial in an attempt to reach a verdict in this
7 matter. That means that the parties have the right to
8 expect of you that you will be fair and ethical and
9 impartial and unbiased in your dealings in this matter.

10 Now, as I told you earlier, what I'm about to tell you
11 is not the law on the specifics of this case. I will
12 charge you on the law that you must apply at the end of
13 this case. I know that sounds backwards, but that's the
14 way we've done it for years and you'll probably understand
15 it better at the end of this case.

16 I am going to allow you to take notes during this
17 trial. The Clerk tells me there are notepads and pens in
18 each chair. Does everybody have one? Let me say this as a
19 cautionary measure. Some people are better note takers
20 than others. Just because somebody's notes say one thing
21 and another person's recollection is something else, that
22 doesn't mean that because it's written down it trumps or
23 holds over what somebody's recollection is. Notes and a
24 juror's recollections are on the same par, the same footing
25 as one another. As you go through all the evidence, and

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1 hopefully you will get it down, pay attention and take your
2 notes down, but let me caution you further. Sometimes, if
3 you are engaged in writing notes, you're not able to watch
4 the witness' reaction or their demeanor while they are
5 testifying and as you'll hear during this case, a part of
6 your process in making a decision on what the facts are is
7 determining credibility of a witness, in other words, which
8 witnesses you will believe and which witnesses you are not
9 going to believe or which part of that you will or won't.
10 A part of making that determination is the issue of
11 credibility and demeanor.

12 Now, as I told you earlier, there are three charges
13 and there is an indictment on all three charges. The first
14 charge is burglary, first degree. The second charge is
15 armed robbery and the third charge is the possession of a
16 weapon during a violent crime. The fact that the defendant
17 has been indicted, charged and arrested on these charges is
18 not evidence of his guilt. It does not raise an inference
19 of his guilt or a presumption of his guilt. This is simply
20 the charging mechanism by which the State brings defendants
21 before citizens such as yourselves for a determination of
22 guilt or innocence.

23 In fact, the defendant in this matter has pled not
24 guilty to all three indictments. That means that the
25 burden is on the State of South Carolina to prove him

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1 guilty beyond a reasonable doubt. All three indictments
2 are separate on the defendant and you will have to consider
3 each one on the evidence at the end of this case and make a
4 decision based on each one of these indictments at the end
5 of this case.

6 I want to give you a brief definition of what a
7 reasonable doubt is so as you're going through this trial
8 you can keep this in mind. I will charge you, again, at
9 the end, but a reasonable doubt is this: it's the kind of
10 doubt that would cause a reasonable person to hesitate to
11 act. Proof beyond a reasonable doubt is proof that leaves
12 you firmly convinced of a defendant's guilt. There are
13 very few things in this world that we know with absolute
14 and mathematical certainty and in criminal cases, the law
15 does not require proof that overcomes every possible doubt.
16 If, in this case, based on your consideration of the
17 evidence you are firmly convinced that the defendant is
18 guilty of the crime or crimes charged, it will be your duty
19 to find him guilty. On the other hand, if you think there
20 is a real possibility that the defendant is not guilty, it
21 will be your duty to give the defendant the benefit of the
22 doubt and find him not guilty to the crime or crimes
23 charged.

24 Now, Ladies and gentlemen, your job as jurors is to
25 determine facts. In the eyes of the law or the vernacular

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1 or the law, you are the sole judges of the facts. That
2 means that you will receive the evidence that is allowed to
3 come in through testimony or through exhibits or through
4 expert testimony. Any inference or conclusions that you
5 make from that, properly admitted through testimony, is
6 solely for you to make. Therefore, if I do anything during
7 the course of this trial that indicates to you that I have
8 a preference as to how you are supposed to find your facts,
9 I can tell you, number one, that I do not and number two,
10 the law does not allow me to have opinions about the facts.
11 My job is to be the instructor on the law, to make sure
12 that the process is followed so that both the State and the
13 defendant receive a fair and impartial trial in this matter
14 and, at the end of the day, you are able to receive
15 testimony and evidence that is appropriate.

16 Now, you are to determine what the facts are based on
17 the testimony and the evidence elicited here in this
18 courtroom and no other place. You are not to be influenced
19 by any outside influences, opinions or things you don't
20 hear in this courtroom. I cautioned you about that earlier
21 and I remind you that you are not to discuss this case with
22 yourselves or anyone else until after the case is over. Do
23 not discuss this case amongst yourselves or deliberate this
24 case amongst yourselves until I clearly and unequivocally
25 give you instructions that you may begin to do that.

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1 Now, the law that makes you the finders of the facts,
2 the sole finders of the facts, makes me the sole instructor
3 of the law. At the point in time that I do give you
4 substantive law that you are to follow, you may not agree
5 with it, you make think it should be something other than
6 what it is, but now, during this trial, is not the time for
7 you to try to change what the law is or apply something
8 that you think it should be and it is your sworn duty to
9 apply the law as I give it to you to the facts as you, the
10 jury, find them to be in this case.

11 Now, by prohibition, I'm going to include:
12 Deliberations or communications with other people and that
13 includes face to face communications, emails, twitters, and
14 any other type of device out there that you can communicate
15 with. Just don't do it. Our chief justice of the South
16 Carolina Supreme Court has also said, or told all the trial
17 judges such as myself, that we are to instruct jurors that
18 they are not to engage in outside jury research which
19 typically means looking up something about one of the
20 parties, about an issue in the case, about a court
21 official, about an issue that you think will be helpful.
22 We want you to confine your deliberations and your findings
23 of fact solely from testimony received in this courtroom
24 uninfluenced by outside factors. Okay? And that's solely
25 so we don't have inappropriate information considered by

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1 the jury.

2 Now, at every single trial in South Carolina, there
3 are five phases. There will be an opening statement, there
4 will be the presentation of the evidence, there will be
5 closing arguments by the attorneys, I will charge you on
6 the law and you'll be able to begin your deliberations when
7 I tell you you can. Those are the five phases. I tell you
8 that so you will know where you are at any given time
9 during this case.

10 In just a minute, the State is going to give you an
11 opening statement. What these lawyers say is not evidence.
12 It is designed to help you understand the facts, it is to
13 help you interpret the facts, but they are not sworn, they
14 are not witnesses, they are advocates. Listen to what they
15 say, but I just caution you, it is not testimony.

16 Also, the attorney for the Defense may, but is not
17 required to give you an opening statement. Likewise, what
18 he has to say to you is helpful and is designed to show you
19 or teach you what he thinks the issues in this case are,
20 but again, it is not evidence. It is only what their
21 contentions of what this case is about.

22 In every single case I was ever involved with as an
23 attorney or as a judge, there were objections. These
24 attorneys have a sworn duty that they are to object any
25 time they see or hear something they think is

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1 inappropriate. So, the fact that a lawyer objects or my
2 ruling on that objection to the extent I let you stay in
3 here and listen to my ruling on it is not to be considered
4 by you, it's not to ever be discussed in your
5 deliberations. That is simply a part of the process in
6 every single case. You are not to consider or discuss the
7 fact that an objection was made or discuss what I ruled on
8 it, whatsoever.

9 In fact, in some occasions and very likely in this
10 case, you might sometimes feel like you're cattle, rushed
11 in and rushed out, barely taking your seat before you're
12 asked to leave again. I forewarn you of that solely so you
13 won't get frustrated with the process. It's slow, it's
14 deliberate and these attorneys are doing what they are
15 supposed to do.

16 That being said, Madam Forelady, your job will be to
17 preside over the deliberations at the end of this trial. I
18 will tell you more about that later. You are also to be a
19 spokesperson, so if you ever have something that needs to
20 be brought to my attention, please do not hesitate to bring
21 it to my attention. Just use the same process I've asked
22 you to go through.

23 With that being said, I need to go over with these
24 lawyers whether or not I've said something I shouldn't have
25 or neglected to say something that I should have done as

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OPENING STATEMENT - MR. ALLEN

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1 well, and so if you would, I'm going to send you back to
2 your jury room and it will be very brief, so if you want to
3 get something, do it fairly quickly and make sure you have
4 time to do what you want to do, and then we will bring you
5 back out and we will continue with the trial.

6 (Jury out at 2:53 p.m.)

7 THE COURT: Any additions or exceptions from the
8 State?

9 MR. CAMPBELL: No, Your Honor.

10 THE COURT: From the Defense?

11 MR. SMITH: No, sir.

12 THE COURT: All right. Do you want to take a minute
13 before you do your openings?

14 MR. CAMPBELL: I'm ready.

15 THE COURT: All right. If you will just tell them
16 when they are ready to come back, please, sir.

17 (Jury in at 2:55 p.m.)

18 THE COURT: Mr. Frazier, would you make sure no one
19 comes in or out of the courtroom during opening statements,
20 please, sir. Make sure that if you can't hear at any time,
21 just speak up. Okay? That being said, is the State ready
22 for opening statements?

23 MR. ALLEN: The State's ready, Your Honor.

24 THE COURT: Yes, sir. You may proceed.

25 OPENING STATEMENT - MR. ALLEN

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OPENING STATEMENT - MR. ALLEN

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1 Ladies and gentlemen, I think we can all agree that
2 one of the few places that we can always feel safe and
3 secure is in our own homes and because of that, everyone's
4 worst nightmare, or one of them, is to be attacked while
5 you're in your own home.

6 On April 15, 2011, last year, it was a Friday
7 afternoon, this man right here, Jamario Jones, who I'm
8 going to refer to the rest of the day and the rest of the
9 trial as Jamario, and his co-defendant, Melody Ellis, made
10 that nightmare come true for four victims, two of which
11 were children. One was a one-year-old and one was a
12 three-year-old.

13 Let me remind you before I go further that this week,
14 this trial, is only about Jamario Jones and no one else.
15 It's not about Melody Ellis, even though she is a co-
16 defendant. We're only worried about Jamario Jones and his
17 guilt.

18 On that afternoon, a Friday afternoon, Darcel Taylor
19 and Ronnie Bentley and Darcel's two children, who I
20 mentioned earlier, are in their apartment and around 2:00
21 in the afternoon, they get a knock at the door. When
22 Ronnie, who is on the phone, answers the door, she sees the
23 defendant, Jamario Jones, who asks for another gentlemen
24 which he knew didn't live in that apartment, but what it
25 did is, it gave him the opportunity to scope out the

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OPENING STATEMENT - MR. ALLEN

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1 apartment to make sure everything was okay so that when he
2 came back, he could carry out what he came to do that day,
3 which was to rob Ronnie Bentley, Darcel Taylor and her two
4 children.

5 About ten minutes go by, they hear another knock at
6 the door. Ronnie is on the phone and she hears another
7 knock at the door and she opens the door, except this time,
8 Jamario is pointing a Highpoint .380 in her face and pushes
9 himself into the apartment. He pushes himself into the
10 apartment. Darcel is on the couch with her one-year-old.
11 The three-year-old is in the back bedroom. He forces
12 Ronnie into the kitchen, pointing the gun at her, gets her
13 on the ground in the kitchen, has a gun in her back. At
14 about that time, his co-defendant comes in and all this
15 time they are yelling, "Where's it at? Where's it at?"
16 They were trying to find money to steal from the victims.
17 While Jamario has the gun in Ronnie's back, his co-
18 defendant goes over to Darcel, who's on the couch as I
19 mentioned with her one-year-old, and starts to kick them.
20 While she's doing that, she makes contact with Darcel and
21 the one-year-old child injuring both of them while Darcel
22 is clutching the one-year-old child in her arms on the
23 couch.

24 As all this chaos is going on, the three-year-old,
25 Darcel's other child, comes out of the back bedroom and at

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OPENING STATEMENT - MR. ALLEN

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1 that time, Jamario comes around, swings around and sees who
2 it is and is pointing the Highpoint at this three-year-old
3 child. At this time, things become a little shaky. He
4 probably didn't realize these children were in the home.
5 They get, roughly, \$300.00 cash, a cell phone, and they
6 flee the apartment.

7 They run out the back of the apartment and there's a
8 set of railroad tracks down behind the apartments. They go
9 down behind those railroad tracks. They run down a little
10 ways and right down the road is an EMS station. It just so
11 happened at this time, some employees at the EMS station
12 are sitting at a front window. At that time, they see
13 Jamario running by the window clutching the .380 that he
14 used in the robbery. He drops it right in front of them.
15 I mean, they were mere feet from the defendant. He picks
16 up the gun, continues on. Later on, they get a ride from
17 the gas station right down the road and they get a ride
18 back, Jamario gets a ride back to Anderson.

19 You're going to hear testimony from the EMS officials,
20 from the victims, from law enforcement and from many others
21 that's going to allow you to go back in that jury room,
22 deliberate, and render a verdict, with confidence, which
23 speaks the truth. Thank you.

24 THE COURT: Mr. Smith, does the defendant wish to make
25 an opening statement?

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OPENING STATEMENT - MR. SMITH

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1 MR. SMITH: Yes, sir. May it please the Court.

2 THE COURT: Yes, sir.

3 OPENING STATEMENT - MR. SMITH

4 Ladies and gentlemen, my name is Don Smith, as you are
5 aware. This case is ten months old, a very serious case.
6 Accusations here are significant. Mr. Jones recognizes
7 that his life is on the line.

8 You're going to hear a lot of people in this courtroom
9 in the next couple of days and, frankly, when it all comes
10 down to it, there were four adults in that apartment that
11 day. There's no question about that. You won't hear me
12 trying to oppose that idea. Those four people are the only
13 ones who can tell us what truly happened. All these other
14 people are just extraneous players. All right?

15 My client's got three warrants, three indictments, one
16 of which is having a weapon during the commission of a
17 violent crime, armed robbery. Now, he has to have
18 committed a crime with a weapon. Okay?

19 So, it's important, I can't stress enough, how
20 important it is for the next two days or three days, to
21 listen to everything that is said on the stand, because
22 that is the only way you are going to be able to draw out
23 the truth or attempt to get past doubt. I can assure you
24 that you will hear plenty and there won't be, we'll see,
25 we'll see if anybody says the same thing.

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OPENING STATEMENT - MR. SMITH

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1 He is also charged with burglary. That requires an
2 intent to commit a crime when going into a residence.
3 Intent to commit a crime. So, you have to hear, listen for
4 that, and that he stole approximately \$350.00 in cash.
5 That's the only thing listed in the indictment that he's
6 taken. So, you're going to have to figure out if \$350.00
7 was taken, that was the only thing taken, and then you'll
8 have to listen to the witnesses and their recollections of
9 this event.

10 The job you have before you is large, to say the
11 least, and I can only say that if you truly wish to do it
12 in the best way possible, you're going to have to pay
13 attention regardless of how boring, as the Judge pointed
14 out, the idea of being taken in and taken out, which you've
15 already witnessed, but you still have to keep your focus,
16 because without that focus, extreme injustice will be given
17 to somebody. Thank you very much.

18 THE COURT: Are you ready for your first witness?

19 MR. CAMPBELL: The State's ready, Your Honor. The
20 State calls Deputy Daniel Bannister to the stand.

21 (After being duly sworn by the Clerk of Court, Deputy
22 Bannister testified as follows:)

23 CLERK OF COURT: If you would take the witness stand
24 and state your name and spell your last name for the
25 record, please.

THE STATE OF SOUTH CAROLINA VERSUS JAMARIO QUINTON JONES

DIRECT EXAMINATION OF DANIEL BANNISTER BY MR. CAMPBELL

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1 DEPUTY BANNISTER: Daniel Bannister.

2 B-A-N-N-I-S-T-E-R.

3 DIRECT EXAMINATION OF DANIEL BANNISTER BY MR. CAMPBELL

4 Q Deputy Bannister, are you employed with the Anderson
5 County Sheriff's Office?

6 A That's correct.

7 Q And how long have you been in law enforcement?

8 A I've been in law enforcement going on five years.

9 Q Has all that time been with the Anderson County
10 Sheriff's Office?

11 A No, I started with the City Police Department on the
12 ACE team, which is Aggressive Criminal Enforcement.

13 Q And after you were at Anderson City, did you go to
14 work at the Anderson County Sheriff's Office?

15 A That is correct. I started out in the patrol division
16 and then worked my way up to what I am on now, which
17 is a CATCH team, which is called A Criminal
18 Apprehension Through Community Help and also, the DUI
19 Enforcement Team.

20 Q And basically, what are your duties as a member of
21 this CATCH team, as you call it?

22 A We do a lot of different things, but the majority of
23 what we look for are narcotics and drunk driving.

24 Q Now, was that also what you were doing back when you
25 worked for the Anderson City Police Department?

DIRECT EXAMINATION OF DANIEL BANNISTER BY MR. CAMPBELL

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1 A That's correct.

2 Q The same type of job description?

3 A That is correct.

4 Q Now, were you in your capacity as you are today back
5 on April 15, 2011?

6 A On April 15, 2011, I was assigned to the patrol
7 division.

8 Q Now, what shift were you on that day?

9 A Alpha shift.

10 Q And do you recall whether it was a day shift or a
11 night shift?

12 A Night shift.

13 Q Now, on that day, did you have an occasion to become
14 involved in this case, this armed robbery?

15 A Yes. I was dispatched to a shooting in the area at
16 601 Calhoun Road, Oak Forest Apartments and in the
17 area of building "F". While I was in route, dispatch
18 advised that there wasn't a shooting in the area, that
19 it was, in fact, an armed robbery and the suspects had
20 left the scene in a Green Honda. Also, while I was in
21 route, I was informed by dispatch that Belton City had
22 stopped a burgundy Honda and I also learned later that
23 a burgundy Honda had also been seen leaving the
24 apartment complex at the same time and someone thought
25 there were shots fired. Also, while I was in route, I

DIRECT EXAMINATION OF DANIEL BANNISTER BY MR. CAMPBELL

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1 learned that there was a black male wearing a white
2 shirt and jeans and a black female wearing a burgundy
3 shirt and blue shorts were seen running behind Belton
4 EMS, and once confronted by Belton EMS employees ---

5 MR. SMITH: Your Honor, objection, based on hearsay.

6 THE COURT: Sustain the objection.

7 Q Now, as a result of this information, did you go to
8 Oak Forest Apartments?

9 A Yes, I did.

10 Q Now, when you arrived, approximately how long after
11 dispatch sent you, did you arrive at Oak Forest?

12 A Approximately, eight minutes.

13 Q And now, when we're talking about Belton, is this the
14 county side of Belton or is this within the
15 jurisdiction of the Belton City Police Department?

16 A It's in the county side.

17 Q Now, when you arrived, which direction were you coming
18 from?

19 A I was coming from the Anderson side which would have
20 been Highway 20 and I don't know if anybody is
21 familiar with Belton, but when you come in Highway 20,
22 East Calhoun takes a right headed toward Belton. The
23 Belton Mart would actually be on the corner of East
24 Calhoun and Highway 20 and Belton EMS would be on the
25 other corner of East Calhoun and Highway 20.

DIRECT EXAMINATION OF DANIEL BANNISTER BY MR. CAMPBELL

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1 Q And how far, what's the distance, would you imagine,
2 from the corner of Highway 20 where the Belton Mart is
3 to the apartments?

4 A Just a couple hundred yards.

5 Q And how about from there to the EMS station?

6 A About the same, approximately, a couple hundred yards.

7 Q Now, when you arrived on the scene, were any of the
8 other officers present when you showed up?

9 A No.

10 Q So, when you arrived and you were the first officer on
11 the scene, what steps did you take next?

12 A The first thing I done is make contact with someone in
13 the apartment, which was F-48. I made contact with a
14 Ronnie Bentley. My initial, once I stepped inside the
15 apartment, I went in to make sure, I did a safety
16 sweep of the apartment making sure there was no one
17 else hiding in there, possibly waiting for an ambush
18 situation and once everything was secured, I got
19 everybody out of the apartment, which there was Ronnie
20 Bentley and I believe there was a Taylor female and
21 two small kids. I got them out of the apartment and
22 secured the scene for investigations and forensics.

23 Q And when you say, secure the scene. What is the
24 purpose of that?

25 A To preserve any possible evidence.

DIRECT EXAMINATION OF DANIEL BANNISTER BY MR. CAMPBELL

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1 Q And when you secure it, does that mean you don't let
2 anybody else go back in there?

3 A That's correct. Nobody in.

4 Q Now, did you speak to Ms. Bentley and Ms. Taylor
5 regarding the events that took place?

6 A That is correct.

7 Q And did they tell you what happened?

8 A Yes.

9 Q And, what, if anything, did they tell you?

10 MR. SMITH: Objection, Your Honor. Hearsay.

11 THE COURT: Sustained.

12 Q Now, as a result of this information, did you learn of
13 the description of the individuals that had left the
14 place?

15 A Yes, I did.

16 Q And how were they dressed?

17 A There was a black female with a burgundy shirt ---

18 MR. SMITH: Objection, Your Honor. Relevance and
19 based on hearsay.

20 THE COURT: Overruled.

21 Q Please continue.

22 A A black female wearing a burgundy shirt and blue
23 shorts and black male that had a white shirt and
24 jeans.

25 Q Now, at this point -- after you learned the

DIRECT EXAMINATION OF DANIEL BANNISTER BY MR. CAMPBELL

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1 description of the individuals that came into the
2 apartment, were you able to learn any names that were
3 associated with these individuals?

4 A Yes.

5 Q And what was that?

6 A The female's name was Melody Ellis.

7 Q How about the male? Were you able to learn the name
8 of that person?

9 A They didn't know the name of the man.

10 Q Now, when you went in, when you interviewed the
11 victims in the case when you arrived, what was their
12 demeanor like?

13 A They seemed pretty upset. I know one female was
14 crying. Ronnie Bentley, the initial person I made
15 contact with at the door, she was very upset. It took
16 me a couple minutes to get them calmed down to be able
17 to even tell me what happened that day.

18 Q When you made a sweep of the apartment, tell the
19 ladies and gentlemen of the jury what the apartment
20 looked like as you remembered or observed it.

21 A When I first walked in, when you walked into the
22 apartment, it was a very small foyer, like where two
23 people could stand, at max, and then you walk into the
24 living room and I noticed there was a broken window to
25 the right side with glass on the floor. Directly

DIRECT EXAMINATION OF DANIEL BANNISTER BY MR. CAMPBELL

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1 across the living room was the kitchen and I noticed
2 the kitchen was in total disarray with drawers pulled
3 out and utensils and stuff laying on the floor.

4 Q And as a result of your observation of Ms. Bentley and
5 Ms. Taylor, did you observe any injuries upon them,
6 and also, either of the two small children that were
7 present in the apartment?

8 A Yes. On Ms. Bentley and Ms. Taylor, I did observe
9 knots on their foreheads that were consistent with
10 being kicked and also, on the small child, there were
11 also knots on the top of the forehead.

12 Q Now, both victims, both adult victims displayed
13 injuries?

14 A That's correct.

15 Q Now, after they told you what had taken place, did the
16 scene appear to match what they had told you had
17 happened?

18 A That is correct. I thought it was odd that, if the
19 events hadn't taken place, I don't think somebody
20 would leave glass laying in the floor, the kitchen in
21 total disarray. I have a kid myself.

22 MR. SMITH: Objection, Your Honor. Speculating.

23 THE COURT: I sustain.

24 Q Now, did you learn that this was actually an armed
25 robbery?

DIRECT EXAMINATION OF DANIEL BANNISTER BY MR. CAMPBELL

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- 1 A Yes.
- 2 Q And did they inform you that the individual actually
- 3 possessed a gun?
- 4 A Yes.
- 5 Q And which of the two suspects, did both of them or one
- 6 of the suspects possess a gun?
- 7 A The male subject displayed it.
- 8 Q And were they able to give you a description of the
- 9 weapon?
- 10 A As stated to me, it was what the police carried.
- 11 Q Now, after this then, did other law enforcement
- 12 officers arrive to assist you?
- 13 A Yes. Sergeant Holden arrived on scene.
- 14 Q And was he your supervisor?
- 15 A That is correct.
- 16 Q As well as Sergeant Holden, did any investigators come
- 17 out there to take over the scene?
- 18 A Yes. Forensics investigator Pridemore and also from
- 19 the Investigation Division, Tommy Johnson arrived on
- 20 scene.
- 21 Q Now, after the detective from CID, the Criminal
- 22 Investigative Division, shows up, do you normally turn
- 23 it over to them?
- 24 A That is correct.
- 25 Q And did you do that in this case?

DIRECT EXAMINATION OF DANIEL BANNISTER BY MR. CAMPBELL

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1 A Yes. That is correct.

2 Q Now, did you, after Tommy Johnson showed up, did you
3 stick around the apartment complex or did you leave at
4 that point in time?

5 A I stuck around to make sure, you know, Mr. Johnson
6 didn't need any other assistance while I was there.
7 He did have a possible location of Melody Ellis, which
8 was one subject that was named to be a part of the
9 armed robbery. I did go to her residence, which I
10 believe was Cowan Drive, just a couple miles up from
11 the apartment and I wasn't able to locate anybody.

12 Q Now, also, while you were at the scene, did you talk
13 to any other witnesses that may have seen anything
14 involved in this case?

15 A Yes, I talked to one of the witnesses from Belton EMS,
16 a Jim Ritter.

17 Q And did he inform you or tell you what he saw?

18 A That's correct.

19 Q And the information that you learned from him, did you
20 pass it on to Detective Johnson?

21 A That is correct.

22 Q Now, while you were discussing the matter over with
23 the victims and you observed the crime scene, were you
24 able to determine a motive of why they were targeted
25 for a robbery or a burglary?

DIRECT EXAMINATION OF DANIEL BANNISTER BY MR. CAMPBELL

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1 MR. SMITH: Objection. Calls for speculation.

2 THE COURT: Overruled.

3 A No. I did ask them several times. They did know
4 Ms. Ellis. I asked did they know any reason why they
5 would do it and they told me over and over again they
6 didn't have any idea.

7 Q And you stated that in your past history you've dealt
8 with narcotics and DUIs. When you spoke to the two
9 victims in the case, did they appear to be under the
10 influence of any type of alcohol or drugs?

11 A No, they didn't. I spoke to them, it was a good bit,
12 you know, gathering information. I spoke to both of
13 them separately, you know, and I did get close so
14 neither one of them could hear each other's story and,
15 therefore, I was real close to them and would be able
16 to smell any type of alcohol or drug. When I was
17 making my initial safety sweep of the apartment, you
18 know, being a part of my job with narcotics and DUIs,
19 my passion, that's what I'm looking for no matter what
20 kind of call I go to. Also, having kids myself, I
21 don't want anybody to have drugs where kids can get a
22 hold to them and possibly take them and I didn't see
23 anything, no paraphernalia, any drugs laying around
24 the apartment.

25 Q And the apartment that you went to, who was the renter

CROSS EXAMINATION OF DANIEL BANNISTER BY MR. SMITH

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1 of the apartment? Did you determine that?

2 A Ronnie Bentley.

3 Q And this crime did occur during broad daylight?

4 A Yes.

5 Q Deputy Bannister, I have no further questions for you
6 at this time. Please answer any questions Mr. Smith
7 may have.

8 THE COURT: Cross examination?

9 MR. SMITH: May it please the Court.

10 CROSS EXAMINATION OF DANIEL BANNISTER BY MR. SMITH

11 Q You had an opportunity to speak to Ms. Bentley and
12 Ms. Taylor, thoroughly, about what happened?

13 A Yes.

14 Q And did they share with you that they were in a
15 committed relationship?

16 A I didn't ask about that. I didn't find that relevant
17 to the case that I was dealing with.

18 Q Would you agree with me that the knots on the head
19 are, probably, very important to this case. Right?

20 A Yes.

21 Q And you have had an opportunity, based on your
22 investigation and so forth, to hear or know what
23 Ms. Harris has said about what happened? The other
24 co-defendant?

25 A Ms. Ellis? No.

CROSS EXAMINATION OF DANIEL BANNISTER BY MR. SMITH

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- 1 Q Ms. Ellis. My bad. There was a fight, wasn't there?
2 Ms. Ellis is a lesbian and so are the two victims and
3 that's why Ms. Ellis was there. Right?
- 4 A I don't know.
- 5 Q Oak Forest is not a good place to live. Is that
6 right? A lot of crime happens there, a narcotics
7 history. You happen to know that, right?
- 8 A It's slowed down over the years.
- 9 Q So, it has been, at least at some point, a very
10 dangerous place.
- 11 A Not near as bad as some apartment complexes around
12 Anderson.
- 13 Q How many times do you think you have you been out
14 there?
- 15 A I haven't been out there that much on drug complaints.
- 16 Q About how many cases?
- 17 A About four or five times.
- 18 Q In five years?
- 19 A I've had over a year working with the Sheriff's
20 office, which, that is the jurisdiction that's in.
- 21 Q And while working with the Sheriff's office, is there
22 an area you usually work?
- 23 A Yes.
- 24 Q How long did you work in the Belton area?
- 25 A It was the whole time I was assigned to the patrol

CROSS EXAMINATION OF DANIEL BANNISTER BY MR. SMITH

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1 division.

2 Q You said earlier that the knots on the head
3 illustrated that they were kicked in the head. Can
4 you tell me what the difference between a knot on the
5 head from a kick versus a punch is?

6 A It looks the same. Just from the stories that both of
7 the victims told me.

8 Q Did you see any blood?

9 A No. Not that I can remember.

10 Q Did you see any missing teeth?

11 A Not that I can remember.

12 Q Are you aware that the window was broken by one of the
13 victims so that they could yell out?

14 A That's correct.

15 Q And neither of them knew either of the defendants?

16 A One of them told me they knew the female, Ms. Ellis.

17 Q Which one told you that?

18 A I can't remember.

19 Q You can't remember that?

20 A No.

21 Q The child that was kicked, or whatever. Where was
22 that injury at?

23 A On top of the child's head. Ms. Taylor was holding
24 the small child as she was being assaulted by the
25 female, Ms. Ellis.

CROSS EXAMINATION OF DANIEL BANNISTER BY MR. SMITH

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- 1 Q Was Ms. Taylor sitting on the couch or was she lying
2 on the floor?
- 3 A She was sitting on the couch.
- 4 Q She was never on the floor?
- 5 A Not that I can recall.
- 6 Q What about the three-year-old child? Where was she?
- 7 A When I walked in, the three-year-old child come out of
8 the bedroom. At the time the armed robbery took
9 place, they stated to me that the child was in the
10 back bedroom.
- 11 Q So, the child was still in the back bedroom when you
12 got there?
- 13 A The child could have went back into the bedroom. I
14 didn't ask where the child was from the time they come
15 in the door from the time I got there.
- 16 Q So, there was an armed robbery and the children aren't
17 held by the parent? Is that right?
- 18 A The small child was. I don't, I can't recall about
19 the older child.
- 20 Q With regards to the kitchen, the cabinets were pulled
21 out. What does that mean?
- 22 A The drawers was pulled away from the cabinets.
- 23 Q All of them?
- 24 A Not all of them. There were a couple. I can't recall
25 exactly how many.

CROSS EXAMINATION OF DANIEL BANNISTER BY MR. SMITH

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1 Q Where were they located at, the ones that were open?

2 A All the cabinets was on the right side of the kitchen
3 that was open, the drawers.

4 Q Obviously, I haven't been in the kitchen. So, when
5 you say, "the right side", the cabinets and drawers
6 that were the closest ones to the living room?

7 A The kitchen itself ain't but probably six feet deep
8 and, probably, four foot wide, a very small kitchen,
9 and there was, I guess, cabinets, I believe it was the
10 first or second cabinet that was pulled out, what I
11 call, what I call and is commonly known as, a junk
12 drawer. It just had a bunch of different stuff in it
13 and then there was a couple more drawers pulled out as
14 well.

15 Q And you said that all the ones on the right side were
16 pulled out?

17 A All the cabinets was on the right side. The drawers
18 was on the right side.

19 Q How many drawers were pulled out?

20 A The best I can recall, two or three.

21 Q How many were pulled out?

22 A The best I can recall, there was two or three that was
23 pulled out. As far as in the kitchen, I don't have a
24 clue how many, total.

25 Q The EMS building and the store, you would agree with

CROSS EXAMINATION OF DANIEL BANNISTER BY MR. SMITH

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1 me that there is no way that a human being could see
2 unit "F" from either of those locations. Right?

3 A I haven't looked at it that way. I don't know.

4 Q In regards to the store, between the store and Unit
5 "F", there's an apartment complex that's perpendicular
6 to Calhoun Road. Is that right?

7 A There's a playground right behind it.

8 Q So, with that in mind, you clearly couldn't see
9 through that to the apartment complex, could you?

10 A I know the building that you are talking about that
11 sits perpendicular with Calhoun. I can't state yes or
12 no either way.

13 Q With regards to the EMS building, that's right on, is
14 that 20?

15 A Highway 20. Yes.

16 Q And that's right on 20 and you, in order to see Unit
17 "F", you would have to see through all the apartment
18 complexes that are along the railroad. Right?

19 A Uh-huh.

20 Q As well as where the management unit is. Right?

21 A I don't know where the management unit's at.

22 Q So, you'd be able to see the EMS building from Unit
23 "F"?

24 A I don't believe you would be able to see the front of
25 it. Possibly the back, but I couldn't state yes or no

CROSS EXAMINATION OF DANIEL BANNISTER BY MR. SMITH

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1 on that, as well.

2 Q And nothing was said about the possibility that
3 Ms. Ellis, who had dealings with Ms. Bentley before,
4 simply just came to fight? Nothing like that?

5 A No.

6 MR. SMITH: Nothing further, Your Honor.

7 THE COURT: Redirect?

8 MR. CAMPBELL: No further questions.

9 THE COURT: May this officer be excused?

10 MR. CAMPBELL: Yes, Your Honor.

11 THE COURT: Mr. Smith, any objection?

12 MR. SMITH: No objection.

13 THE COURT: You are excused. Call your next witness,
14 please, sir.

15 MR. CAMPBELL: Your Honor, the State calls Hoyt
16 Thackston.

17 (After being duly sworn by the Clerk of Court, Hoyt
18 Thackston testified as follows:)

19 CLERK OF COURT: If you will take the witness stand
20 and state your name and spell your last name for the
21 record, please.

22 MR. THACKSTON: Do you want my full name?

23 CLERK OF COURT: No.

24 MR. THACKSTON: Okay. It's Hoyt Thackston.

25 T-H-A-C-K-S-T-O-N.

THE STATE OF SOUTH CAROLINA VERSUS JAMARIO QUINTON JONES

DIRECT EXAMINATION OF HOYT THACKSTON BY MR. CAMPBELL

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1 DIRECT EXAMINATION OF HOYT THACKSTON BY MR. CAMPBELL

2 Q Mr. Thackston, where are you employed?

3 A Belton EMS.

4 Q And how long have you been with EMS?

5 A Three years.

6 Q Now, are you originally from Anderson?

7 A No. I'm from Simpsonville.

8 Q You're from the Upstate?

9 A Yes.

10 Q What is your education and training?

11 A I have a Bachelors Degree in Zoology from Clemson
12 University and I am currently a National Registry
13 Emergency Medical Technician, Intermediate level, and
14 I'm completing the Paramedic level now.

15 Q Now, back on April 15, 2011, were you employed with
16 the Belton EMS Department?

17 A Yes.

18 Q And what position or capacity were you employed there
19 as?

20 A As an Emergency Medical Technician.

21 Q You were actually someone who responded to calls. Is
22 that right?

23 A Yes. I'm on an emergency truck, a 911 truck.

24 Q Now, on that day, did you have an occasion to talk to
25 law enforcement and give them information regarding

DIRECT EXAMINATION OF HOYT THACKSTON BY MR. CAMPBELL

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1 what you had seen earlier that day?

2 A Yes.

3 Q How did that come about or take place, your getting in
4 touch with law enforcement?

5 A We were in the office. I had my, I was leaning up
6 against the desk with my back to the window. Our
7 assistant director, Jim Ritter, was standing in the
8 doorway facing me and he said, "What the," and headed
9 down the hall towards the door and I turned around and
10 looked out the window. I didn't see anything in that
11 direction. I caught something out of the corner of my
12 eye as I went to turn, a black male in a white tee
13 shirt was running from the corner of the building
14 towards the railroad tracks, towards the parking lot,
15 and just as he got in front of me at the window, he
16 dropped a semi-automatic pistol on the sidewalk.

17 Q And do you recall what color this gun was?

18 A Yes. It was a black frame with a silver slide.

19 Q I'm going to show you, Mr. Thackston, what has been
20 marked as State's Exhibit No. 20. I'm going to let
21 you look at this. This is a weapon that is unloaded.

22 THE COURT: Just one second. Ladies and gentlemen of
23 the jury, on occasion, throughout this trial, there may be
24 a need to handle weapon or weapons. Let me tell you and
25 assure you that any weapons have been rendered inoperable.

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DIRECT EXAMINATION OF HOYT THACKSTON BY MR. CAMPBELL

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1 They are not capable of firing and so you can rest assured
2 that there is no chance of them discharging. Thank you,
3 sir.

4 Q Mr. Thackston, does this weapon, State's Exhibit
5 No. 20, look similar to the weapon you saw this
6 individual drop on April 15, 2011?

7 A Yes.

8 Q And what you are referring to, you say the silver
9 slide, you are referring to this part right here?
10 (Indicating)

11 A Yes.

12 Q Now, when this individual dropped the gun, how close
13 to this person were you?

14 A Well, I was inside the building, but we were within
15 about four feet.

16 Q And was there anything blocking your observation of
17 this event taking place?

18 A No.

19 Q So, you were looking out the window?

20 A Yes.

21 Q When you say, four feet, stop me about how close I am
22 to you, as to how far you observed it. (Mr. Campbell
23 walks toward the witness)

24 A About right there.

25 Q And, basically, the wall and the window ---

DIRECT EXAMINATION OF HOYT THACKSTON BY MR. CAMPBELL

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1 A Well, I was leaned up against the window trying to see
2 in this direction and then caught him coming from my
3 right side and it landed about where your feet were.

4 Q And what did he do once this gun hit the pavement?

5 A He never missed a step. He scooped it up and kept
6 running and Jim Ritter had gone to the door. He had
7 seen a female run by the window.

8 MR. SMITH: Objection. He can't testify as to what
9 someone else witnesses.

10 THE COURT: Sustained.

11 Q Just describe what you witnessed or heard yourself.
12 Now, when the individual ran past you and you're
13 looking at him, were you able to get a look at his
14 face?

15 A No.

16 Q Were you able to give a description of the clothing
17 that he was wearing?

18 A Yes.

19 Q And what was that?

20 A He had on a white long tee shirt and bluejeans.

21 Q And did you see him with any other person?

22 A Later, I went outside and he caught up with a black
23 female. They were crossing the field between our
24 station and Belton Mart. He caught up with her at
25 Calhoun Road.

DIRECT EXAMINATION OF HOYT THACKSTON BY MR. CAMPBELL

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- 1 Q Now, where did they go as you watched them?
- 2 A They went inside the Belton Mart and were there
- 3 probably less than a minute, came back out, went
- 4 around to the other side of the building and then we
- 5 noticed them go behind the building and there are mini
- 6 warehouses, saw them go between the Belton Mart and
- 7 the mini warehouse and the first warehouse blocked our
- 8 view. They were, they came out and we could see them
- 9 between the first and second one. They turned around,
- 10 went back on the other side of the mini, the Belton
- 11 Mini Mart and in just a few seconds, a car came
- 12 driving out and came back by the station.
- 13 Q Do you recall the color of that car?
- 14 A It was kind of a light green.
- 15 Q And after that, did you call 911?
- 16 A I didn't.
- 17 Q I'm sorry, I didn't catch your...
- 18 A I did not.
- 19 Q Okay. Did someone from EMS ---
- 20 A Yes.
- 21 Q --- call 911?
- 22 MR. SMITH: Objection.
- 23 THE COURT: Overruled.
- 24 Q When you are talking about Belton Mart, what kind of
- 25 store is it?

DIRECT EXAMINATION OF HOYT THACKSTON BY MR. CAMPBELL

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1 A It's a convenience store/gas station.

2 Q And, approximately, how far would you reckon it is
3 from the Belton EMS station?

4 A Oh, it's, I'd probably say 120 yards, maybe.

5 Q A close distance.

6 A Yes.

7 MR. CAMPBELL: Your Honor, may this witness step off
8 the stand? I'm going to show him some photographs. Well,
9 first I'll show him the photographs and then ask him to
10 step off the stand to explain them with the overhead
11 projector.

12 THE COURT: Yes, sir.

13 (Mr. Campbell hands photographs to Mr. Smith)

14 MR. SMITH: Bench Conference, Your Honor?

15 (Brief Bench Conference Off the Record)

16 Q Mr. Thackston, I'm going to show you what has been
17 marked as State's Exhibit No. 10. Can you please
18 identify what this is.

19 A That's the parking lot at our station and the Belton
20 Mart and with the mini warehouses behind it.

21 Q Actually, it will be easier to go through these with
22 the projector. I'm going to let you look at these
23 first and see if you recognize them. State's Exhibit
24 Nos. 13, 11 and 14. Do you recognize all these, what
25 they show?

DIRECT EXAMINATION OF HOYT THACKSTON BY MR. CAMPBELL

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1 A Yes.

2 MR. CAMPBELL: Your Honor, may I have Mr. Thackston
3 step off the stand and we'll explain them?

4 THE COURT: Yes, sir.

5 Q Mr. Thackston, please come around. I want to put
6 these on the overhead projector here. I'm going to
7 first show you what has been marked State's Exhibit
8 No. 10.

9 THE COURT: Hang on one second. (Monitor isn't
10 working at the Defense table. They are trying to get it to
11 work) Ladies and gentlemen of the jury, whenever you work
12 with technology, there's always something ---

13 MR. CAMPBELL: Your Honor, I think we've got it.

14 THE COURT: Please, if you would, go back to your jury
15 room for a few minutes and let's make sure we've got it.
16 We'll take our afternoon break and I'll get you back out in
17 a few minutes.

18 (Jury out at 3:37 p.m.)

19 THE COURT: All right, do you think you're up and
20 running?

21 MR. CAMPBELL: Not yet.

22 THE COURT: All right, we'll take a 10 minute break.

23 (Brief Break)

24 THE COURT: All right, are you ready to proceed?

25 MR. CAMPBELL: Yes, sir.

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DIRECT EXAMINATION OF HOYT THACKSTON BY MR. CAMPBELL

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1 MR. SMITH: Yes, Your Honor.

2 THE COURT: Bring us the jury. You can come back
3 around. (Speaking to the witness)

4 (Jury in at 4:00 p.m.)

5 THE COURT: Madam Forelady, ladies and gentlemen of
6 the jury, are you ready to proceed? (Jurors nod heads)
7 Very good. Mr. Campbell.

8 MR. CAMPBELL: Thank you, Your Honor.

9 THE COURT: Do you want the witness to step down?

10 MR. CAMPBELL: Yes, sir. I was getting ready to ask
11 that. (Witness leaves the witness stand)

12 CONT. DIRECT EXAMINATION OF HOYT THACKSTON BY MR. CAMPBELL

13 Q Before the break, we were fixing to go over the
14 photographs and what they indicate or show. I'm going
15 to show you State's Exhibit No. 10 and I want you to
16 explain the different landmarks so the ladies and
17 gentlemen of the jury will understand, if you would,
18 please, sir. There's a little bit of glare to it, but
19 you can use this pointer, sir.

20 A Okay. This is looking from the side of our building
21 where the bay doors are. Highway 20 runs in front of
22 the building here and then in front of the Belton
23 Mart. Calhoun Road runs on the other side of this
24 vacant lot, just this side of the Belton Mart. This
25 is the Belton Mart, their covered gas pumps. These

DIRECT EXAMINATION OF HOYT THACKSTON BY MR. CAMPBELL

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1 are mini warehouses here that are along Calhoun Road
2 behind the Mini Mart.

3 Q And this is where you said the 100 or so yards are in
4 front of you and the direction they ran to?

5 A Yes.

6 Q So, they were running from right here to the Belton
7 Mart?

8 A Yes.

9 Q I'll show you, this is marked State's Exhibit No. 11.
10 I want you to identify what this is, sir.

11 A Okay. This is the front of our building that faces
12 Highway 20 over here. Right here, it's hard to see,
13 but there's a, they call it a railroad cut, it's a big
14 gully where the railroad track runs and this is the
15 corner of our building and the sidewalk ends right
16 here and this is the door going into the back of the
17 building and the bay area is on this side of the
18 building.

19 Q And where were you when you observed the individual
20 drop the gun? Where were you located?

21 A There's a, the office window is right here, but you
22 can't see it.

23 Q So, just on the other side of right here?

24 A Yeah. It's just out of view, but it would be back
25 this way from this door, the next window.

DIRECT EXAMINATION OF HOYT THACKSTON BY MR. CAMPBELL

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1 Q I'll show you State's Exhibit No. 12. Can you explain
2 what this is, sir?

3 A Yes. That's the railroad cut, it's just a big valley
4 where the railroad tracks are that go under a bridge
5 over here under Highway 20.

6 Q Is this where, is this looking down to the tracks from
7 the station?

8 A Yes.

9 Q So, at the end of No. 11, is this what No. 12 shows?

10 A Yes. It starts right about here. What you're seeing
11 here is the other side with the trees over here and
12 that right there is a park area that's on the other
13 side.

14 Q So, this is just showing the embankment and how high
15 it is ---

16 A Right.

17 Q --- off the railroad tracks.

18 A Yes.

19 Q I'll show you what's marked State's Exhibit No. 13.
20 Can you please identify what this is indicating,
21 showing.

22 A This is Calhoun Road that runs beside the Belton Mart.

23 Q So, the Belton Mart would be somewhere in this area?

24 A Right here with the mini warehouse along here
25 somewhere. This is the side of our building where the

DIRECT EXAMINATION OF HOYT THACKSTON BY MR. CAMPBELL

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1 bays are and up here is the front of the building and
2 Highway 20 runs this way.

3 Q And in reference to your building here, where did you
4 see the individual drop the gun?

5 A Well, it's around the corner here. It's on the side
6 facing Highway No. 20.

7 Q And what does this indicate? What are these buildings
8 back here?

9 A Those are apartment buildings that, they are kind of
10 behind our station. They face Calhoun Road, 601
11 Calhoun Road.

12 Q Is this the Oak Forest Apartments, or a part of them?

13 A Yes, sir.

14 Q I'll show you what has been marked as State's Exhibit
15 No. 14. What is that showing, sir?

16 A This is the bay side of our building. Oak Forest
17 Apartments are back here. This is our pad.

18 Q And this is just showing how close those Forest Oak
19 Apartments are in reference or relationship to your
20 EMS station.

21 A Yes. Our properties join.

22 Q Thank you, sir. If you will please take the stand.

23 (Witness complies) And Mr. Thackston, do these
24 pictures fairly and accurately represent how it looks
25 today as well as on April 15, 2011?

CROSS EXAMINATION OF HOYT THACKSTON BY MR. SMITH

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1 A Yes.

2 MR. CAMPBELL: Your Honor, we already pre-marked all
3 the exhibits. At this time, I want to move these exhibits
4 into evidence.

5 THE COURT: Is that without objection?

6 MR. SMITH: Absolutely.

7 THE COURT: Admitted, without objection. That's 10,
8 11, 12, 13, and 14?

9 MR. CAMPBELL: Yes, sir.

10 THE COURT: All right.

11 (Whereupon, five 4x6 photographs are entered into
12 evidence as State's Exhibit Nos. 10-14, without objection.)

13 Q Mr. Thackston, I don't have any further questions.
14 Please answer any questions Mr. Smith may have.

15 MR. SMITH: May it please the Court?

16 THE COURT: Yes, sir.

17 CROSS EXAMINATION OF HOYT THACKER BY MR. SMITH

18 Q Would you step down and help me with these photos.

19 They are a little difficult for me to understand. You
20 don't have a photo of that window you were looking out
21 of. Do you?

22 A No.

23 Q The first picture I'm going to show you is State's
24 Exhibit No. 10. That is Belton Mini Mart and the
25 storage warehouse. Isn't it?

CROSS EXAMINATION OF HOYT THACKSTON BY MR. SMITH

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- 1 A Yes.
- 2 Q Can you tell me how many cars are in the parking lot
- 3 at the gas station?
- 4 A No. I can't tell you.
- 5 Q If you can't tell me how many cars there are, can you
- 6 tell me the color of people's skin or their clothes or
- 7 anything?
- 8 A From this picture?
- 9 Q Yeah, well, not from this photo, but from your place.
- 10 A That's, you can't see it very well from this picture.
- 11 Q Oh, this is a bad picture?
- 12 A Yeah. You can see people. I can identify what color
- 13 someone is from our station.
- 14 Q Okay, but you just can't tell what color a car is from
- 15 this photo. This is State's Exhibit No. 14 and as you
- 16 said, this is the bay area and where you were would be
- 17 back here. Right?
- 18 A Yeah. Well, I was in the office on the front side of
- 19 the building.
- 20 Q Yes, sir. So, really, when you were looking out, you
- 21 could see Highway 20. Is that right?
- 22 A Yes.
- 23 Q With regard to the apartment complex, do you know
- 24 which one of these apartments this event occurred?
- 25 A No.

CROSS EXAMINATION OF HOYT THACKSTON BY MR. SMITH

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1 Q So, there's no way you could have seen what happened
2 at the apartment complex.

3 A Right.

4 Q This picture right here, this is exactly where the gun
5 was dropped. Right?

6 A Well, it's ---

7 Q On the sidewalk?

8 A Yes. It's on the sidewalk. The window being on this
9 side of the edge of the picture, it would have been
10 somewhere along here.

11 Q Was he holding it when he dropped it? Did it come out
12 of his hands? How did that occur?

13 A He was running and as I turned to look, I saw the gun
14 fall, so I don't know whether it was in his hand, his
15 pocket, or what.

16 Q You saw it on the ground or you saw it falling?

17 A I saw it falling from his pocket or -- he was running
18 and it fell.

19 Q So, you saw it like in mid-air or was it on the
20 ground?

21 A No. I saw it in mid-air.

22 Q Regarding this photo, which is State's Exhibit No. 12.
23 Was anybody down there, to your knowledge? I mean,
24 did you see them down there? Did you see the
25 defendant down there?

REDIRECT EXAMINATION OF HOYT THACKSTON BY MR. CAMPBELL

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1 A No.

2 Q So, we're just looking at a ravine?

3 A Yes.

4 Q All right. You can step back up there, sir. I
5 appreciate it. (Witness returns to the witness stand)
6 If I told you that this is, from your office, the
7 corner or the other side, that back corner right
8 there, that bay area, if I told you that distance and
9 the distance from there to the storage warehouse was
10 223 yards, would you agree with me?

11 A It's possible. I was, basically, guessing by the
12 length of a football field.

13 Q Yes, sir. I understand.

14 MR. SMITH: I have no further questions of this
15 witness.

16 THE COURT: Redirect?

17 REDIRECT EXAMINATION OF HOYT THACKSTON BY MR. CAMPBELL

18 Q Mr. Thackston, regarding the pictures showing the
19 railroad tracks, is that the direction you saw these
20 individuals come from?

21 A Yes.

22 Q And after all the events calmed down, did you go look
23 at this embankment, this area down towards the
24 railroad tracks?

25 A Yes.

REDIRECT EXAMINATION OF HOYT THACKSTON BY MR. CAMPBELL 97

1 Q And what, if anything, did you observe?

2 A There was, the dry dirt, the red dirt was disturbed,
3 an area coming up the embankment.

4 Q And is it common, in the time that you have worked at
5 the Belton EMS, do you normally see people ---

6 MR. SMITH: Objection, Your Honor. Calls for
7 speculation.

8 THE COURT: Overruled.

9 Q Mr. Thackston, during the time that you have worked at
10 Belton EMS, do you normally see people back on the
11 railroad tracks coming up that way towards, to your
12 station?

13 A No.

14 Q Other than the male that you saw, did you see anyone
15 else run past your window?

16 A No.

17 Q You just saw that one individual?

18 A Yes.

19 Q And that was just running past the window, but out in
20 the field you saw two people.

21 A Yes.

22 MR. CAMPBELL: I have no further questions.

23 THE COURT: Re-cross?

24 MR. SMITH: Yes, Your Honor. May it please the Court.

25 RE-CROSS EXAMINATION OF HOYT THACKSTON BY MR. SMITH

DIRECT EXAMINATION OF JIM RITTER BY MR. CAMPBELL

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1 Q The ravine, the only time that you saw this male, he
2 could only have been on the sidewalk. Is that right?

3 A Yes.

4 Q So, when he came from the sidewalk until you saw him
5 on the sidewalk. Right?

6 A Well, the only place I saw him was on the sidewalk.

7 Q Okay. So, the idea that he was down that hill, you
8 have no idea. Do you?

9 A No.

10 MR. SMITH: Nothing further, Your Honor.

11 THE COURT: Can this witness be excused?

12 MR. CAMPBELL: Yes, sir.

13 THE COURT: Mr. Smith?

14 MR. SMITH: Without objection.

15 THE COURT: Thank you, sir. Call your next witness.

16 MR. CAMPBELL: Your Honor, the State calls Jim Ritter.

17 (After being duly sworn by the Clerk of Court, Jim
18 Ritter testified as follows:)

19 CLERK OF COURT: If you would take the witness stand
20 and state your name and spell your last name for the
21 record, please.

22 MR. RITTER: My name is Jim, last name is Ritter.

23 R-I-T-T-E-R.

24 DIRECT EXAMINATION OF JIM RITTER BY MR. CAMPBELL

25 Q Mr. Ritter, it's obvious you are employed with an EMS

THE STATE OF SOUTH CAROLINA VERSUS JAMARIO QUINTON JONES

DIRECT EXAMINATION OF JIM RITTER BY MR. CAMPBELL

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1 station.

2 A Yes, sir.

3 Q And where, exactly, are you employed at?

4 A Belton EMS.

5 Q And how long have you been with EMS?

6 A Fifteen years now.

7 Q And how long at the Belton station?

8 A Fourteen.

9 Q And what position do you hold there?

10 A I am the assistant director.

11 Q Now, were you working on the day of April 15, 2011?

12 A I was.

13 Q On that day, did you become involved in an
14 investigation that the Anderson County Sheriff's
15 Office was conducting regarding an armed robbery?

16 A Yes.

17 Q And what, what part did you play or how did you become
18 involved with this case?

19 A Just tell the story?

20 Q Well, let me break it down. First of all, when you
21 were working on February 15, 2011, was it late at
22 night or during the day time?

23 A It was during the day time.

24 Q And do you recall, approximately, what time of day it
25 was?

DIRECT EXAMINATION OF JIM RITTER BY MR. CAMPBELL

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- 1 A It was in the afternoon.
- 2 Q And the weather that day, was it cloudy, overcast,
- 3 rainy, clear?
- 4 A It was pretty clear if I remember correct.
- 5 Q You wouldn't have any problem seeing, would you?
- 6 A No. Not at all.
- 7 Q Now, when you're at this station, did anything happen
- 8 that drew your attention, that caused you to think
- 9 something out of the ordinary was going on?
- 10 A It did. I was sitting in the office and kind of
- 11 sitting where the window would be to the right of me
- 12 and I see a flash go by the window and it was kind of
- 13 odd to me and so, obviously, I jumped up to run out
- 14 the front door. I mean, we are EMS and so people do
- 15 come for help in different ways and things like that,
- 16 so...
- 17 Q And what direction, when you saw this flash, what did
- 18 this flash turn out to be?
- 19 A The flash ended up being a woman in a red shirt.
- 20 Q And what direction was she coming from?
- 21 A From behind. The window is over here and she was
- 22 coming back behind me heading south, I believe,
- 23 towards the store across the street.
- 24 Q And when you say she was coming from behind you, is
- 25 that from the direction where the railroad tracks are?

DIRECT EXAMINATION OF JIM RITTER BY MR. CAMPBELL

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- 1 A Correct.
- 2 Q Now, when you saw her, what, if anything, was she
- 3 doing?
- 4 A Running. And when I had gotten up and went to the
- 5 door to see what was going on, actually, it wasn't her
- 6 I was face to face with.
- 7 Q And who was that?
- 8 A It would be, it was a black gentleman and he's sitting
- 9 over here in the courtroom.
- 10 Q So, this individual, referred to as the defendant in
- 11 this case in the gray shirt, is the person you came
- 12 face to fact with?
- 13 A Yes, sir. Approximately, two feet. We just about ran
- 14 each other over.
- 15 Q And was he running, walking? What was he doing?
- 16 A He was at a fast stride. At the time I opened the
- 17 door, I imagine it startled him as much as me, because
- 18 I wasn't expecting him to be there. He had put his
- 19 hands down to his sides and I asked him, I said, "Is
- 20 everything okay out here?" And he said, "Yes, sir,"
- 21 and then one of my fellow employees hollered, "He's
- 22 got a gun."
- 23 MR. SMITH: Objection, Your Honor. Hearsay.
- 24 THE COURT: Don't say what another person said,
- 25 please.

DIRECT EXAMINATION OF JIM RITTER BY MR. CAMPBELL

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- 1 Q Now, how was he dressed?
- 2 A A white, I believe it was a white tee shirt and he had
- 3 bluejeans on.
- 4 Q And when you saw him, this was outside, directly
- 5 outside your office at the EMS station. Is that
- 6 right?
- 7 A Correct.
- 8 Q And after you spoke to him, what did he do?
- 9 A At that time, when I heard somebody mention the gun---
- 10 MR. SMITH: Objection.
- 11 THE COURT: I sustain the objection. Do not say what
- 12 somebody else said. Okay, sir?
- 13 MR. RITTER: Okay.
- 14 Q What did you see him do after you came face to face
- 15 with him? What did he do?
- 16 A He ran.
- 17 Q In which direction did he run?
- 18 A Towards the girl in the red shirt.
- 19 Q And where was she running to?
- 20 A She was running towards the store.
- 21 Q And when you say, the store, are you talking about the
- 22 Belton Mart?
- 23 A The Belton Mart.
- 24 Q And what did they do when they got there?
- 25 A When they got there, we actually watched them go into

DIRECT EXAMINATION OF JIM RITTER BY MR. CAMPBELL

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1 the store and they were in, approximately, well, I was
2 on the phone with dispatch for twenty seconds, thirty
3 seconds. Turned around and came out, went to the side
4 of the store where there was a vehicle they got into
5 and headed the opposite way that they came from back
6 towards Williamston.

7 Q And what color was this vehicle?

8 A It was a greenish-blueish type. The car was a four-
9 door.

10 Q And when you say you were on the phone with dispatch,
11 what are you referring to? What do you mean by
12 dispatch?

13 A 911.

14 Q Now, after that, did you do anything further, have
15 anything further or any other involvement in this
16 case?

17 A Other than what I saw and being on the phone with them
18 and giving them directions to which way they were
19 heading, you know, my concern was the girl. We didn't
20 know anything that was going on other than we thought
21 that in the beginning that this person was going after
22 the girl, which was not the case.

23 Q Did you go over to -- did you see law enforcement
24 arrive at the Oak Forest Apartments?

25 A I did.

DIRECT EXAMINATION OF JIM RITTER BY MR. CAMPBELL

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1 Q Did you eventually go over to Oak Forest Apartments
2 and speak with the officers there?

3 A I did.

4 Q And at that point you told them the information that
5 you had observed and learned ---

6 A Yes.

7 Q --- through your firsthand knowledge.

8 A Yes.

9 MR. CAMPBELL: Your Honor, I have no further questions
10 for Mr. Ritter.

11 Q Please answer any questions Mr. Smith may have.

12 THE COURT: Cross exam?

13 MR. SMITH: May it please the Court.

14 CROSS EXAMINATION OF JIM RITTER BY MR. SMITH

15 Q Mr. Ritter, the vehicle that they got into, that was
16 already at the Mart?

17 A No. Actually, it was not. When they went into the
18 store, and when I say it was not, I didn't see it at
19 the time. It could have been around the side of the
20 building, but when it had started backing up, that is
21 when they had come out of the store and come around
22 the corner and got into this vehicle.

23 Q So, you never saw this vehicle until it was leaving.

24 A I saw this vehicle -- when they came out of the store,
25 the vehicle, you have to understand, there's a

DIRECT EXAMINATION OF JIM RITTER BY MR. CAMPBELL

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1 building and a tank and unless the vehicle pulled in,
2 which I did not see, it could have been parked over
3 here, either way, but when they come out the door,
4 this vehicle was backing up like it was backing from
5 the side of the building to where they had both got
6 into the vehicle and then when they got out of the
7 vehicle, they came out of the store and headed back
8 towards our station towards Williamston.

9 Q When this all began, you were inside the building?

10 A When it began.

11 Q And therefore, you couldn't see anything but 20 from
12 inside the building and the rest of the fellows.
13 Right?

14 A Yes, sir.

15 Q Did Mr. Jones have any red clay on his shoes or on his
16 white Tee ---

17 A That, I couldn't say. I just could not say. This was
18 all a split second thing. I mean, a detail like that,
19 I would not know.

20 MR. SMITH: I have nothing further.

21 THE COURT: Redirect?

22 MR. CAMPBELL: No, Your Honor.

23 THE COURT: May this witness be excused?

24 MR. CAMPBELL: Yes, sir.

25 MR. SMITH: No objection.

DIRECT EXAMINATION OF DEANGELO ACKER BY MR. CAMPBELL 106

1 THE COURT: Thank you, sir, you may be excused. Call
2 your next witness, please.

3 MR. CAMPBELL: We call DeAngelo Acker.

4 (After being duly sworn by the Clerk of Court,
5 DeAngelo Acker testified as follows:)

6 CLERK OF COURT: If you would take the stand and state
7 your name and spell your last name for the record, please.

8 MR. ACKER: My first name, DeAngelo, and Acker is my
9 last name. A-C-K-E-R.

10 DIRECT EXAMINATION OF DEANGELO ACKER BY MR. CAMPBELL

11 Q Mr. Acker, how old are you?

12 A Twenty-three.

13 Q And where do you live?

14 A [REDACTED].

15 Q And who do you live with?

16 A My Mama.

17 Q And that's Carolyn Acker?

18 A Uh-huh.

19 Q You have to speak into the mike so they can
20 understand. Okay?

21 A Okay.

22 Q Now, DeAngelo, do you go by a certain type of
23 nickname?

24 A Dee.

25 Q What's that?

DIRECT EXAMINATION OF DEANGELO ACKER BY MR. CAMPBELL 107

- 1 A Dee.
- 2 Q And I want to talk to you about the day of April 15,
- 3 2011. Do you recall that day?
- 4 A Yes, sir.
- 5 Q Now, do you recall what you did that morning?
- 6 A Well, I woke up that morning and I was down at my
- 7 girlfriend's house in Calhoun Falls and then I talked
- 8 to Mario and he told me he was in Belton and stuff
- 9 like that and I came on down the road.
- 10 Q Let me step back. When you say, Mario, who are you
- 11 referring to?
- 12 A Jamario Jones.
- 13 Q And is that him in the courtroom?
- 14 A Yes, sir.
- 15 Q And how long have you known Mr. Jones?
- 16 A Well, I can't, I've known him more than six months,
- 17 probably about a year.
- 18 Q And does he go by Mario or Jamario?
- 19 A Mario, Jamario.
- 20 Q Both of them?
- 21 A Yes, sir.
- 22 Q Now, you say you talked to him earlier that day, how
- 23 did you talk to him? Was it by phone or in person?
- 24 A By phone.
- 25 Q And did he call you or did you call him?

DIRECT EXAMINATION OF DEANGELO ACKER BY MR. CAMPBELL 108

- 1 A I think I called him. I can't really remember. I
2 know I talked to him coming down the road, but he
3 might have called me. I really can't remember.
- 4 Q Okay. And when he called you, did he tell you where he
5 was located?
- 6 A Yes, sir. He said he was in Belton.
- 7 Q And did you see him in person later that day?
- 8 A Yes, sir. He was at my house.
- 9 Q Okay. He was at your house. Was it in the morning or
10 afternoon?
- 11 A It was around afternoon.
- 12 Q And when you saw him, was anybody else with him?
- 13 A Yeah. When he came through the front door, it was him
14 and Ms. Ellis.
- 15 Q And how do you know Ms. Ellis?
- 16 A That's my cousin.
- 17 Q And did you speak to Mr. Jones, Mario, at your house?
- 18 A Yes, sir.
- 19 Q Now, at this point, when you spoke to him, had law
20 enforcement already shown up at your house?
- 21 A No, sir.
- 22 Q What did y'all talk about when he showed up?
- 23 A Nothing, they just came through the front door and he
24 handed me the pistol and told me to put the pistol on
25 top of the refrigerator and just left it at that.

DIRECT EXAMINATION OF DEANGELO ACKER BY MR. CAMPBELL 109

- 1 Q Did you think this was odd?
- 2 A It kind of was, but I didn't really pay it no
- 3 attention.
- 4 Q And what color was the pistol?
- 5 A It was silver and black.
- 6 Q And had you seen this pistol before?
- 7 A Yes, sir. It was his old lady's pistol.
- 8 Q When you say, old lady, who is that?
- 9 A His girlfriend.
- 10 Q What's her name?
- 11 A Candice.
- 12 Q Do you know her last name?
- 13 A I think -- Brown, I think.
- 14 Q And when had you seen this pistol before?
- 15 A She had it. It was her pistol.
- 16 Q Had you ever seen Mario with it before?
- 17 A No, sir.
- 18 Q So, but that day, he was the one that had it in his
- 19 hand when he gave it to you.
- 20 A Yes, sir.
- 21 Q Was Candice around at that time?
- 22 A No, sir.
- 23 Q I want to show you what's been marked for
- 24 identification, State's Exhibit No. 20. Could you
- 25 please identify this, sir?

DIRECT EXAMINATION OF DEANGELO ACKER BY MR. CAMPBELL 110

1 A That's the pistol.

2 Q Is this the same pistol? Is this the one that Mario
3 handed you on the afternoon of April 15, 2011?

4 A Uh-huh. Yes, sir.

5 Q You have to use words, because she is taking
6 everything down.

7 A Yes, sir.

8 Q Now, have you ever held this gun before?

9 A Yes, sir.

10 Q Prior to that day, before that day?

11 A Yes, sir.

12 Q You ever shot it?

13 A Yes, sir.

14 Q Now, when he gave it to you, what, if anything, what
15 did he ask you to do with the gun?

16 A He just told me to put it on top of the refrigerator.

17 Q Did you do that?

18 A Yes, sir.

19 Q Did he tell you why he wanted you to put it on top of
20 the refrigerator?

21 A No, sir.

22 Q Now, after you did that, did y'all go anywhere
23 together?

24 A Yeah. We walked to the store.

25 Q And while you were walking to the store, did y'all

DIRECT EXAMINATION OF DEANGELO ACKER BY MR. CAMPBELL 111

- 1 hold a conversation or talk to one another?
- 2 A Yeah. That's when he told me he had robbed somebody.
- 3 Q And after that, you went to the store and came back to
- 4 your house?
- 5 A Yes, sir.
- 6 Q And shortly after that, did law enforcement come by
- 7 your house?
- 8 A Yes, sir.
- 9 Q And were you present when he was arrested?
- 10 A Yes, sir.
- 11 Q Was Melody Ellis also with him when he was arrested?
- 12 A Yes, sir.
- 13 Q And where were they arrested at? Was it at your
- 14 house, actually?
- 15 A Yes, sir.
- 16 Q Was Mr. Johnson here, was he the one that arrested
- 17 him?
- 18 A Yes, sir.
- 19 Q And do you know Detective Johnson?
- 20 A Yes, sir.
- 21 Q How do you know him?
- 22 A From BHP.
- 23 Q And what do you know him as?
- 24 A The correction officer.
- 25 Q And what do you call him?

DIRECT EXAMINATION OF DEANGELO ACKER BY MR. CAMPBELL 112

- 1 A O.J.
- 2 Q And after they arrested him, did you talk to Mr.
- 3 Johnson?
- 4 A Yes, sir.
- 5 Q And did you tell him about the pistol?
- 6 A No, sir, not from the beginning, because I didn't know
- 7 what was really going on.
- 8 Q But did he speak to you?
- 9 A Yes, sir.
- 10 Q After he spoke to you, did you inform him about the
- 11 gun?
- 12 A Yes, sir.
- 13 Q And did you show him where the gun was hidden?
- 14 A No, I didn't show him where it was at, because that's
- 15 when they got the okay to go through the house from my
- 16 Mama and they told us we couldn't go back in the
- 17 house.
- 18 Q But you told him where to look?
- 19 A No. They didn't never ask me. No, I don't think
- 20 nobody, the only thing, really, nobody ever asked me
- 21 where was the pistol at. They were asking like, go in
- 22 front of the house when they seen them standing in the
- 23 doorway and stuff.
- 24 Q And they were arrested right at your front door?
- 25 A Yes, sir.

CROSS EXAMINATION OF DEANGELO ACKER BY MR. SMITH

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1 Q And after that, you haven't had anything further to do
2 with this case, have you?

3 A No, sir.

4 Q Please answer any questions Mr. Smith may have.

5 THE COURT: Cross exam?

6 MR. SMITH: May it please the Court.

7 CROSS EXAMINATION OF DEANGELO ACKER BY MR. SMITH

8 Q When did you talk to him on the phone?

9 A It was around like, I can't really remember the time,
10 but it was like after 12-something, I think.

11 Q But you definitely talked to him on the phone?

12 A Yes, sir.

13 Q And you have phone records that would show it. Right?

14 A Yes, sir.

15 Q And the State didn't ask you for those?

16 A No, sir.

17 Q Did you normally hang out with Jamario?

18 A Yes, sir.

19 Q And you said he told you to put the gun on top of the
20 refrigerator. Why would he say that?

21 A I don't even know, sir.

22 Q Have you ever seen a gun before?

23 A Have I ever seen a gun?

24 Q Yes.

25 A Yes, I've seen a gun.

REDIRECT EXAMINATION OF DEANGELO ACKER BY MR. CAMPBELL 114

1 Q On top of the refrigerator?

2 A No. Not on top of my refrigerator.

3 Q So, he told you to put it up there, but you don't keep
4 guns up there?

5 A Yeah, my gun was up there.

6 Q And he just, in conversation -- how far is the store?

7 A It ain't even a mile down the road.

8 Q And so, you're talking to him in April, you're talking
9 about baseball season, and he just slips in, "Hey, I
10 robbed a place."

11 A (Nods head)

12 Q Thank you.

13 MR. SMITH: I have no further questions.

14 THE COURT: Redirect?

15 REDIRECT EXAMINATION OF DEANGELO ACKER BY MR. CAMPBELL

16 Q When you talked to him on the phone, what did he want
17 to talk about? Did he want to talk about anything in
18 particular?

19 A I don't think so.

20 MR. SMITH: Objection. Calls for speculation.

21 MR. CAMPBELL: Your Honor, it's in response to his
22 question.

23 THE COURT: I understand. Overruled.

24 Q Do you recall anything that he wanted to know when he
25 called you on the phone?

RE-CROSS EXAMINATION OF DEANGELO ACKER BY MR. SMITH 115

1 A No, sir. Because, me and him, we talked on a regular
2 basis. You understand, that's just something we did,
3 because we were together, basically, all day every
4 day, so I guess he was just calling to see where I was
5 at, because he was at my house every day all day.

6 Q And Mr. Smith was asking you, when you walked to the
7 store, he, himself, told you that he committed a
8 robbery.

9 A Yes, sir.

10 MR. CAMPBELL: I have no further questions.

11 MR. SMITH: May it please the Court.

12 RE-CROSS EXAMINATION OF DEANGELO ACKER BY MR. SMITH

13 Q With regard to the statement that he gave to police,
14 this long statement right here -- Did you graduate
15 from high school?

16 A No, sir. I just got my GED.

17 Q So, you are more than capable to write down what you
18 saw, what you heard.

19 A Yes, sir. That's what I wrote.

20 Q Did you write this right here?

21 A I don't think I did.

22 Q Did Detective Johnson write it for you?

23 A I think so.

24 MR. SMITH: Nothing further.

25 THE COURT: May he be excused?

FIFTH AMENDMENT RIGHTS

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1 MR. CAMPBELL: Yes, sir.

2 MR. SMITH: No objection.

3 THE COURT: Thank you, sir.

4 MR. CAMPBELL: Your Honor, may we approach?

5 THE COURT: Yes, sir.

6 (Brief Bench Conference Off the Record)

7 THE COURT: Madam Forelady, ladies and gentlemen of
8 the jury, we're at a junction where we are going to break a
9 little bit early today, just for logistical matters getting
10 you in and out. I'm going to excuse you for the remainder
11 of the day. I remind you that you are not to speak with
12 anyone about this case. Do not speak amongst yourselves
13 about this case. I don't know that it will happen, but if
14 you happen to hear, read or see anything about this in
15 publications or media, please do not listen to it, read it,
16 look at it. Other than that, be back in your jury room no
17 later than 9:30 and we will resume testimony at that time.
18 Have a good evening. You can take your pads back to your
19 jury room.

20 (Jury out at 4:35 p.m.)

21 THE COURT: Mr. Smith, your client is presently in the
22 Detention Center. Is that correct?

23 MR. SMITH: Yes, sir. He is.

24 THE COURT: I'll let him remain so. Anything further
25 from the State?

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FIFTH AMENDMENT RIGHTS

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1 MR. CAMPBELL: Your Honor, may I speak to Mr. Smith?

2 THE COURT: Yes, sir.

3 MR. SMITH: Your Honor, based on the fact that we have
4 a little time here, do you think we could take care of his
5 right to testify or not to testify and ---

6 THE COURT: You want to take care of his Fifth
7 Amendment Rights now?

8 MR. SMITH: Yes, sir.

9 THE COURT: Okay.

10 MR. CAMPBELL: Your Honor, I just have a few more
11 witnesses, really. Just a few more victims and then law
12 enforcement and Mr. Smith and I were discussing that this
13 might be a good time to get this in so he can have time to
14 think about it, since we may reach his case by tomorrow
15 afternoon.

16 THE COURT: Sounds good.

17 FIFTH AMENDMENT RIGHTS

18 Mr. Jones, would you please stand. Would you raise
19 your right hand?

20 (Oath is duly administered to the defendant by Judge
21 McIntosh)

22 THE COURT: Okay. We are approaching that point in the
23 trial, Mr. Jones, where you will have to decide whether or
24 not you want to testify, but you have a right to claim the
25 protections of the Fifth Amendment to the United States

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FIFTH AMENDMENT RIGHTS

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1 Constitution which essentially says that no person shall be
2 compelled to testify against himself in any criminal
3 proceeding. Do you understand?

4 MR. JONES: Yes, sir.

5 THE COURT: Now, you have a right to testify, just like
6 any other person. If you do, you must make a decision
7 knowingly, intelligently and voluntarily with the knowledge
8 of the ramifications of your choice to testify. Okay, sir?
9 Let me go over that with you for a minute. If you don't
10 understand what I tell you or am going over with you, raise
11 your hand so I can stop and go over it such that you do.
12 Okay, sir?

13 MR. JONES: Yes, sir.

14 THE COURT: If you choose to testify, which is a
15 personal right to you, nobody can make that decision other
16 than yourself. Your attorney can't make it, your mother
17 can't make it, nobody else but yourself, but if you do
18 decide that you want to testify, you will be subject to the
19 same rules as any other witness and that means that the
20 State can cross examine you for issues of credibility,
21 issues about prior statements. In this case, if you have
22 been convicted or pled guilty to a crime that involved
23 incarceration for more than a year, or a crime that
24 involved dishonesty, if I determine the probative value
25 outweighs the prejudicial impact on you, then I can let the

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FIFTH AMENDMENT RIGHTS

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1 State get into those prior convictions and they will do
2 that to impeach your credibility. Do you understand?

3 MR. JONES: Yes, sir.

4 THE COURT: Okay, sir. Now, if, as I said earlier, if
5 you decide that you do want to testify, you must make that
6 decision knowing, number one, the Fifth Amendment
7 protections against being compelled to testify against
8 yourself. Also, knowing you will be subject to attack on
9 your credibility by the State if I let that go forward. Do
10 you understand?

11 MR. JONES: Yes, sir.

12 THE COURT: Okay. Now, Mr. Jones, if you want to
13 speak with anybody about your decision to testify, I would
14 certainly encourage you to do so. That would include: your
15 attorney, Mr. Smith, your mother, any family and friends,
16 whomever you would like to speak with about that decision.
17 Okay, sir? Now, we will come back to you from what I'm
18 hearing from the State, potentially, tomorrow, but at some
19 point, you will be called upon to make the decision of
20 whether or not you want to testify at that point. It will
21 certainly be your decision to make based on whether or not
22 you do. Do you understand, sir?

23 MR. JONES: Yes, sir.

24 THE COURT: Have you understood everything I've gone
25 over with you thus far?

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FIFTH AMENDMENT RIGHTS

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1 MR. JONES: Yes, sir.

2 THE COURT: Do you have any questions of me?

3 MR. JONES: No, sir.

4 THE COURT: Do you have any questions of Mr. Smith?

5 MR. JONES: No, sir.

6 THE COURT: All right. Thank you very much Mr. Jones.
7 Anything further from the State?

8 MR. CAMPBELL: No, Your Honor.

9 THE COURT: From you, Mr. Smith?

10 MR. SMITH: No, sir.

11 THE COURT: All right. I'm going to call recess. We
12 will start back at 9:30 in the morning.

13 MR. CAMPBELL: Nine-thirty?

14 THE COURT: Yes, sir. Nine-thirty.

15 FEBRUARY 14, 2012 - MORNING

16 THE COURT: Anything from the State before we start?

17 MR. CAMPBELL: Yes, sir. I do have a motion.

18 THE COURT: Okay, sir.

19 MR. CAMPBELL: Your Honor, Mr. Smith, on cross
20 examination yesterday attempted to bring out the victims'
21 sexual orientation, claiming they are lesbians. In this
22 case, that is not an element of any charges that are
23 involved against Mr. Jones, armed robbery, burglary first,
24 possession of a weapon during the commission of a violent
25 crime. The State feels this is an attempt to mis-lead or

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1 confuse the jury but clouding the issues. It violated Rule
2 403 in that it is irrelevant. It has nothing to do with
3 the elements of the crimes he's being charged with,
4 therefore, we're asking that line of questioning not be
5 allowed.

6 THE COURT: All right. Mr. Smith.

7 MR. SMITH: May it please the Court. I can't state
8 strong enough how relevant this is. It's the most
9 important aspect of our defense.

10 THE COURT: Well, tell me how it is relevant, please.

11 MR. SMITH: In my mind, it's relevant because his co-
12 defendant states, in multiple statements, that the only
13 purpose of that visit was for her to fight another lesbian
14 and that is my contention that that is what this is about,
15 a fight between girlfriends, just like there's a fight
16 between two boyfriends and one has shot the other and in
17 this case, the fact that they are lesbians, that fact is
18 relevant. They are human beings. I'm not just saying that.
19 They are both lesbians and the aspects of their
20 relationship is just like two guys fighting. That is why
21 they went over to that house and that is why the co-
22 defendant was there. The officers that investigated this
23 recognized that. They've been told this. I'm not doing
24 this for any inflammatory reason, but it is the case and is
25 my explanation for what happened that Friday in April. It

1 was just a fight, not a robbery. It was just a fight
2 between two women. They obviously have issues because
3 they've fought before and that is in the investigation as
4 well.

5 THE COURT: Do you have those statements?

6 MR. SMITH: Absolutely.

7 THE COURT: Get those statements. I want to see
8 counsel back in the back for a second, please.

9 (Brief Break)

10 THE COURT: I met in the back with the attorneys and
11 looked over the statements. With regards to the motion
12 from the State, I am taking that under advisement. I have
13 instructed counsel for the defense that before he is to get
14 into that testimony, to let me know so we can have an in
15 camera hearing outside the presence of the jury, so I can
16 get a better feel for what they are going to do and then I
17 can make a better ruling on it then. My inclination is,
18 quite frankly, that 403 does apply, that the probative
19 value is outweighed by the prejudicial impact, but I'm not
20 going to make that ruling until I hear testimony. Do you
21 understand?

22 MR. SMITH: Yes, sir.

23 THE COURT: And as I told the State and the Defense,
24 any time we have a backroom meeting, I am going to put it
25 on the record. If the State feels like they need to

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1 supplement or the Defense feels like they need to
2 supplement what I have put on the record, you have an
3 opportunity to do so. So, Mr. Campbell, anything further?

4 MR. CAMPBELL: No, Your Honor.

5 THE COURT: Mr. Smith?

6 MR. SMITH: Not at this time. No, sir.

7 THE COURT: Are you ready to proceed?

8 MR. CAMPBELL: Yes, Your Honor.

9 THE COURT: The Defense ready?

10 MR. SMITH: Yes, Your Honor.

11 THE COURT: Very good. Would you bring the jury in.

12 (Jury in at 9:53 a.m.)

13 THE COURT: If you will please make a note, Madam
14 Forelady, and remind me, I have a tendency, as my wife
15 tells me, to forget on a regular basis. (In response to a
16 note from the jury)

17 Ladies and gentlemen, good morning. Before we get
18 started, let me ask each and every one of you, has anybody
19 read, heard or seen anything about this case during the
20 period when the court was not in session? (Jurors shake
21 heads) Has anybody spoken to anybody about this case?
22 (Jurors shake heads) Very good. We've been working this
23 morning, contrary to what you may believe, but we will get
24 started with further testimony. Mr. Campbell, are you
25 ready to proceed?

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DIRECT EXAMINATION OF SHAWN STALLO BY MR. CAMPBELL 124

1 MR. CAMPBELL: The state calls Shawn Stallo.

2 (After being duly sworn by the Clerk of Court, Shawn
3 Stallo testified as follows:)

4 CLERK OF COURT: If you would take the witness stand
5 and state your name and spell your last name for the
6 record, please.

7 It's Shawn, S-H-A-W-N, Stallo, S-T-A-L-L-O.

8 DIRECT EXAMINATION OF SHAWN STALLO BY MR. CAMPBELL

9 Q Mr. Stallo, where are you employed?

10 A I'm a federal agent with the Bureau of Alcohol,
11 Tobacco, Firearms and Explosives. We are commonly
12 referred to as the ATF.

13 Q And where do you work out of?

14 A I'm assigned to the Greenville Field Office and work
15 primarily in the Anderson County area.

16 Q And what exactly is your job description or duties
17 here in Anderson County?

18 A I focus primarily on violent crime at the Federal and
19 State levels. I do firearm investigations, arson
20 investigations and explosives investigations.

21 Q Now, before you became an ATF agent, did you have any
22 previous or prior law enforcement experience?

23 A I was a Special Agent with the Georgia Bureau of
24 Investigation for, approximately, six years.

25 Q And when you say Georgia Bureau of Investigations,

DIRECT EXAMINATION OF SHAWN STALLO BY MR. CAMPBELL

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1 what is that kin to in the State of South Carolina?

2 A It's the State Law Enforcement Division similar to
3 your SLED, the South Carolina Law Enforcement Division
4 here in South Carolina.

5 Q And how long did you work there?

6 A Approximately, six years.

7 Q And what type duties or jobs did you do there?

8 A Again, mostly violent crimes, occasionally political
9 crimes, robberies, things of that nature.

10 Q Now, would a part of your job description be to assist
11 local law enforcement agencies here in Anderson
12 County?

13 A Yes, sir. I do.

14 Q Now, did you have an occasion to assist the Anderson
15 County Sheriff's Office in the investigation of
16 Jamario Jones and the case we're here today on?

17 A Yes, sir.

18 Q Now, as a part of your duties, do you have the ability
19 or the authority to, what they call, trace firearms?

20 A Yes, sir.

21 Q And in this case, were you asked to do that?

22 A I was.

23 Q And can you just briefly describe for the ladies and
24 gentlemen of the jury, what you refer to as firearms
25 trace? What does that mean?

DIRECT EXAMINATION OF SHAWN STALLO BY MR. CAMPBELL

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1 A Despite what most people think, there is no national
2 gun registry. When we trace a firearm, we are able to
3 trace it to the last federal firearms licensee and to
4 whom it was sold. For example, a pawn shop or
5 Grady's, they are a federal firearms licensee. They
6 sell that firearm, we are able to trace it to whom it
7 was sold to. Now, that doesn't mean that firearm
8 can't be transferred or moved around after that. You
9 may sell it to a friend or in the newspaper, which is,
10 in the State of South Carolina, legal. That's not
11 traceable of that nature.

12 Q So, is it under Federal law or State law, is it
13 against, if you purchase a weapon, is it against the
14 laws that I give it to someone else, a family member
15 or a friend?

16 A Not in the State of South Carolina. In some
17 circumstances, it may be, but in Federal law, it's not
18 as well, as long as you do not engage in the business
19 of selling firearms as your business, then you have to
20 get a license. Without that, you are free to trade
21 and swap and things of that nature.

22 Q Now, in this case, did you do a firearms trace?

23 A I did, sir.

24 Q I'm going to show you what's been marked State's
25 Exhibit No. 20, Mr. Stallo. I'm going to show you

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DIRECT EXAMINATION OF SHAWN STALLO BY MR. CAMPBELL

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1 this. Would you please identify this, sir. It's
2 unloaded, by the way.

3 A This is a Highpoint .380 pistol, semi-automatic that I
4 traced. I believe it was in April or May of 2011.

5 Q So, this is the weapon that you did a firearms trace
6 on?

7 A Yes, sir.

8 Q And when you do a firearms trace, you learn certain
9 information about the purchase or the selling of this
10 gun. Is that correct?

11 A Yes, sir.

12 Q And in this case, what caliber, I mean, what brand or
13 manufacturer is this gun?

14 A It's a Highpoint firearm, CF .380, a .380 caliber,
15 semi-automatic pistol.

16 Q And were you able to determine, was this gun sold
17 legally here in the State of South Carolina?

18 A Yes, sir. It was.

19 Q Do you recall when that was?

20 A It was in February of 2011. I believe it was February
21 4, 2011.

22 Q And where was this gun purchased?

23 A At the B&B Pawn Shop, which is on Main Street here in
24 Anderson, South Carolina.

25 Q And were you able to determine who the purchaser was?

DIRECT EXAMINATION OF SHAWN STALLO BY MR. CAMPBELL

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1 A Yes, sir. I was.

2 Q And who was that?

3 A That was a Ms. Candice Brown.

4 Q And this gun here was bought legally. Is that your
5 testimony?

6 A Yes, sir. It was a purchase an individual made at B&B
7 Pawn Shop in Anderson, South Carolina in February of
8 2011.

9 Q Now, after this gun was purchased, this was the gun
10 that was recovered in this ongoing investigation by
11 the Sheriff's Office. Is that right?

12 A That's what I understand. Yes, sir.

13 Q And as a result, the Sheriff's Office asked you to do
14 this firearm's trace.

15 A Yes, sir.

16 Q So, this gun was recovered and what your information
17 is, it was potentially used in a crime.

18 A Correct.

19 Q Now, after you did this firearms trace on this weapon
20 did you also assist the deputies in the Sheriff's
21 Office investigating this case?

22 A Yes. I was pretty much, from the get-go, involved in
23 the investigation.

24 Q And in this case, did you interview witnesses?

25 A Witnesses, potential suspects, et cetera.

CROSS EXAMINATION OF SHAWN STALLO BY MR. SMITH

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1 Q Now, do you know, when you did this firearms trace,
2 where this weapon was recovered?

3 A I do. A residence off of McDuffie Street here in
4 Anderson.

5 Q And to get it straight from you, there is no law that
6 says a legal purchaser of a weapon can't transfer it
7 or give it to someone else?

8 A You cannot purchase a weapon for someone else. That
9 would be a straw purchase which is illegal, but if you
10 purchase a firearm, have it for a little while, you
11 might say you don't like it, want to sell it, horse
12 trade it to my buddy, that, as long as that person is
13 not prohibited, that's fine. In the State of South
14 Carolina, that's fine.

15 Q Agent Stallo, I don't have any further questions. If
16 you will please answer any questions Mr. Smith may
17 have.

18 THE COURT: Cross examination?

19 MR. SMITH: May it please the Court.

20 CROSS EXAMINATION OF SHAWN STALLO BY MR. SMITH

21 Q Agent Stallo, tell me what you understand to have
22 occurred at the beginning of this incident. What was
23 the reason for Melody Ellis, to your knowledge, going
24 over to Ronnie Bentley's house?

25 A Based on our investigation, it was a robbery.

CROSS EXAMINATION OF SHAWN STALLO BY MR. SMITH

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1 Q Excuse me?

2 A It was a drug robbery.

3 Q That was the purpose?

4 A That was, what I believe, what Melody Ellis' purpose
5 was.

6 Q Did she get along well with the defendant?

7 A I did an interview with her and no, she did not.

8 Q Why is that?

9 A According to her statement?

10 Q Yes.

11 A When I interviewed her, she told me that she was
12 involved in a dramatic relationship with her over the
13 years in a small community and they didn't get along
14 well.

15 Q And have you had an opportunity to go over all of
16 Ms. Ellis' statements?

17 A I believe I have. I believe I have.

18 Q Have you seen one statement where she doesn't say that
19 her purpose was to go over and fight this woman? One
20 statement.

21 A No. I don't think I've seen one statement.

22 Q So, she has been consistent from the immediate
23 aftermath of this until today. Is that right?

24 A Her statements have. Yes, sir.

25 Q Other than that, you don't know anything that happened

REDIRECT EXAMINATION OF SHAWN STALLO BY MR. CAMPBELL 131

1 on that day in that apartment. Do you? Personally.

2 A Based on my interviews with the victims and witnesses
3 I feel ---

4 Q I asked if you had ---

5 A Oh, was I there in the apartment?

6 MR. CAMPBELL: Objection, Your Honor. He asked a
7 question and the witness has a right to answer.

8 THE COURT: Sustained. Give him a chance to answer
9 the question, please.

10 MR. SMITH: My question pertained to his personal
11 vision. It has nothing to do with anybody else. Just him.

12 THE COURT: Clarify your question and ask him again.

13 MR. SMITH: Yes, sir.

14 Q Can you tell me what you know, firsthand.

15 A Firsthand being...

16 Q From you, what did you see?

17 A I wasn't in the residence during the altercation.

18 MR. SMITH: I have nothing further.

19 THE COURT: Redirect?

20 REDIRECT EXAMINATION OF SHAWN STALLO BY MR. CAMPBELL

21 Q Agent Stallo, now, you helped Deputy Gregory and
22 Detective Johnson in the investigation of this crime?

23 A Yes, sir.

24 Q And as Mr. Smith has gone through, regarding the co-
25 defendant's case, Melody Ellis, you did interview her.

RE-CROSS EXAMINATION OF SHAWN STALLO BY MR. SMITH

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1 Is that right?

2 A Yes. I did.

3 Q Now, it was her intention to go there and fight with
4 Ronnie Bentley. Would you agree with that?

5 A No. I wouldn't agree with that.

6 Q Your understanding is, they had planned to do a drug
7 robbery?

8 A I believe that was their intention. Yes.

9 Q In fact, if Ms. Ellis had gotten into an altercation
10 or a physical fight with Ronne Bentley or Darcel
11 Taylor, would that have had anything to do with why he
12 was in the apartment?

13 A Not based on our investigation. No, sir.

14 Q So, the fact that he was committing an armed robbery
15 has nothing to do with whether she was in a fight with
16 the two victims.

17 A No, sir.

18 MR. CAMPBELL: I have nothing further.

19 MR. SMITH: May it please the Court.

20 RE-CROSS EXAMINATION OF SHAWN STALLO BY MR. SMITH

21 Q Mr. Jones didn't have anything to do with that fight.
22 Did he? As you were just saying.

23 A Based on our investigation, based on our
24 investigation, I don't believe the fight was an
25 altercation between them. I believe this was a home

RE-CROSS EXAMINATION OF SHAWN STALLO BY MR. SMITH

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1 invasion and a robbery where Mr. Jones was culpable
2 and was a co-defendant in this matter. That's what I
3 gleaned from the investigation.

4 Q That's your interpretation. Right?

5 A Based on my experience and the information that was
6 presented to me. Yes, sir.

7 Q The information that was presented to you. That
8 included a lack of forensic evidence. Didn't it?

9 A If memory serves, I don't know that -- forensics being
10 fingerprints or -- we had a firearm.

11 Q Anything.

12 A A recovered firearm.

13 Q No. I'm not talking about the firearm.

14 A Oh, from the crime scene?

15 Q Yes.

16 A I don't know that there was any forensic evidence.

17 Q So, there was no evidence other than the victim's
18 statements. Right?

19 A The victim's statements and the photographs that were
20 taken of the house in disarray and then witness
21 statements showing one of the victims screaming out
22 the window after the altercation. I think she pushed
23 the window out and was screaming to call 911.

24 Q After the altercation.

25 A Robbery, altercation.

RE-CROSS EXAMINATION OF SHAWN STALLO BY MR. SMITH 134

1 Q Oh, okay. Altercation. So, your investigation was
2 very thorough, yet didn't glean any fingerprints.
3 Right?

4 A To my knowledge, it did not.

5 Q And you took statements from Ms. Bentley and Ms.
6 Taylor, the alleged victims in this matter. Correct?

7 A Yes, sir.

8 Q And did they talk about how they cultivated or dealt in
9 marijuana or anything of the sort?

10 MR. CAMPBELL: Objection, Your Honor. There is no
11 evidence regarding these facts ---

12 THE COURT: I sustain the objection.

13 Q Was there any evidence that Ms. Bentley or Ms. Taylor
14 dealt drugs?

15 MR. CAMPBELL: Objection, Your Honor. Unless he can
16 lay a foundation for this ---

17 THE COURT: Just one second. Madam Forelady, would
18 you take your jury back to the jury room, please, ma'am.

19 (Jury out at 10:08 a.m.)

20 THE COURT: All right, Mr. Campbell, state your
21 objection.

22 MR. CAMPBELL: Your Honor, my objection is, unless he
23 can lay a foundation for this, he can't go into this line
24 of questioning, and so far he has not done so. He's just,
25 basically, throwing stuff against the wall and going on a

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1 fishing expedition. He can go through and lay a proper
2 foundation. I don't think this witness has any knowledge
3 or have the ability to testify to that.

4 THE COURT: Mr. Smith?

5 MR. SMITH: Thank you. May it please the Court.
6 First of all, he's the one interpreting the robbery and
7 with that in mind, I should be able to go into what the
8 robbery is about ---

9 THE COURT: Well, he stated that it was, that
10 concluded, if I'm not mistaken in my notes, that this was a
11 robbery for drugs. Did he not?

12 MR. CAMPBELL: Yes, sir.

13 MR. SMITH: He stated it himself and so why can't I
14 expand on his statement?

15 THE COURT: Do you have a good-faith basis for that
16 question?

17 MR. SMITH: Absolutely, Your Honor. I'm not making
18 this up. It's based on his investigation.

19 THE COURT: What is the good-faith basis, please, sir?

20 MR. SMITH: The good-faith basis is based on Agent
21 Stallo's interrogation of the suspected individuals as well
22 as the victims, that that's what he was after and that's
23 what he's got in his report.

24 THE COURT: What is "it", please?

25 MR. SMITH: Marijuana. Marijuana sales.

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1 THE COURT: Marijuana sale or marijuana possession?

2 MR. SMITH: Possession and his statement actually
3 talks to Ronnie Bentley about possessing marijuana and
4 distributing to friends, so I'm going off what has been
5 given to me. I'm not making this up and this is not a
6 fishing expedition, it's what I'm looking at.

7 THE COURT: All right. Mr. Campbell?

8 MR. CAMPBELL: Your Honor, my whole thing is if he can
9 lay a proper foundation with this witness. Agent Stallo
10 just testified what his knowledge is based upon witness
11 interviews. He hasn't even laid the foundation, if he went
12 to the scene or anything like that. I think, he said,
13 their ability to sell drugs perceived in this case. I
14 don't think at this point in time that he has laid the
15 proper foundation with this witness to go into that.

16 THE COURT: Well, hold on. I thought you laid the
17 foundation for that, that he was a part of the
18 investigation, along with Anderson County, interviewed the
19 witnesses and interviewed the potential suspects, so what
20 further foundation are you asking?

21 MR. CAMPBELL: I'm talking about, he's going into that
22 them actually selling drugs. So far, he hasn't said
23 anything to actually imply they were actually selling or
24 not and I don't know if this witness here knows anything
25 about that, but it ---

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1 THE COURT: If he doesn't know, he doesn't know.

2 MR. CAMPBELL: That's where I was going. If he can
3 lay a little bit more information with this witness, then I
4 don't have a problem.

5 THE COURT: Let me say this: This witness clearly
6 testified, if my notes are correct, that the conclusion was
7 this was a robbery for drugs.

8 MR. CAMPBELL: Yes, sir.

9 THE COURT: He certainly has a right to ask him about
10 that. I don't disagree with Mr. Campbell, however, as to
11 any alleged dealing of drugs, you're going to have to put a
12 little bit more information on the record before he can
13 answer any questions along that line. Okay?

14 MR. SMITH: Yes, sir.

15 THE COURT: Do you understand?

16 MR. SMITH: Yes, sir.

17 THE COURT: All right. Anything further?

18 MR. CAMPBELL: No, Your Honor.

19 THE COURT: Mr. Smith?

20 MR. SMITH: No, sir.

21 THE COURT: Would you bring the jury back?

22 (Jury in at 10:18 a.m.)

23 THE COURT: All right. Mr. Smith?

24 CONTINUED RE-CROSS EXAMINATION OF SHAWN STALLO BY MR. SMITH

25 Q Agent Stallo, we were previously discussing the fact

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1 that, through your interpretation, this was a drug
2 robbery.

3 A I believe that's what the suspects talked about prior
4 to entering the residence. Yes.

5 Q And you took statements from Ms. Ellis who told you,
6 "I went just to fight." Right?

7 A Correct.

8 Q Yet, your interpretation was that it was a drug
9 robbery.

10 A That's what -- In my interpretation based on our
11 investigation, what was in the minds of the two
12 suspects that were arrested in this case were, they
13 believed there were drugs in the house and monies.

14 Q I don't know if this is something new in the agency.
15 Can you tell me how you are allowed to read minds?

16 A Well, this was mostly based on prior investigations
17 we've conducted, but mostly on witness -- I'm sorry --
18 victim interviews that said that, explained to me,
19 that when they were going through the residence,
20 "Where's it at?" "Where is this?" and opening the
21 drawers and ransacking the place to a degree and this
22 is based on my experience with other investigations
23 we've worked in the community, that a lot of these
24 daytime robberies are for narcotics, because people
25 think that the police will never be called, so it's

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1 almost a free robbery, so to speak. It's what we call
2 it. Now, I think I should point out, clearly, that I
3 don't think there were necessarily, I think there was
4 bad intel, so to speak. I think, based on our
5 investigation, there weren't necessarily drugs in the
6 residence. I'm speaking to the minds of the accused
7 prior to the robbery.

8 Q Because you can read them. With regard to their
9 belief that there would be drugs in there, do you have
10 any belief that there may have been drugs in there at
11 some time?

12 A If memory serves, there may have been a user amount of
13 marijuana at one point in time, but we didn't, based
14 on the investigation, we didn't find anything of
15 manufacturing, distribution or anything of that kind.

16 Q You used the word narcotics. There were never
17 narcotics here or even the allegation of narcotics.
18 Is that right?

19 A I believe marijuana came up.

20 Q Oh, is that a narcotic?

21 A It's a Schedule I narcotic, I believe, if memory
22 serves, but marijuana, however you want to typify it.

23 Q So, out of all the interviews that you did ---

24 A Uh-huh.

25 Q --- you choose not to believe Ms. Ellis, who gave

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1 statements in the police car to the jail. Didn't she?

2 A I'm not certain, but she did give me an interview.

3 Yes. I spoke with her for an hour or so.

4 Q At any time, did she waiver from the fact that the

5 purpose of going over there was to fight another

6 woman?

7 A No.

8 Q And did she, in fact, fight another woman?

9 A There was an altercation. I don't know if it was a

10 fistfight or more of a, somebody held a gun to

11 someone's head and there wasn't much of a fight there,

12 according to the victim.

13 Q According to the victims.

14 A Yes.

15 Q The victims have had marijuana? Do you recall,

16 through your investigation and speaking to the

17 victims?

18 A Yes.

19 Q And do you recall that one of the victims talked about

20 the marijuana?

21 A If memory serves, one of the victims said that there

22 was maybe user amounts of marijuana in the residence

23 in the past. To my knowledge, no marijuana or any

24 other drugs were discovered inside the residence or

25 paraphernalia, items that would be used to manufacture

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1 or distribute, such as; baggies or scales, et cetera.

2 Q Did she also state that she distributed to friends?

3 A To be quite honest, I simply don't remember. If I had
4 the report, I could recollect. It may refresh my
5 memory.

6 Q Yes, sir. When did this particular incident take
7 place?

8 A I believe it was April 15, 2011.

9 Q What time?

10 A Mid-afternoon, possibly.

11 Q Oak Forest, is that a -- how would you describe that
12 particular location?

13 A Multi-unit apartment complex.

14 Q A couple people there?

15 A I would say there are four or five buildings with four
16 apartments per building, so...

17 Q So, a lot of people, a lot of traffic through there?

18 A A mild amount in the middle of the day, on a weekday.

19 Q But it's still your interpretation that they came over
20 at lunchtime for a robbery.

21 A Yes.

22 Q So, you don't recall whether you got anything from the
23 interviews with the victims?

24 A I'm sorry.

25 Q With regards to drugs. You do remember that there was

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1 a robbery?

2 A This was not a narcotics investigation. It was a home
3 invasion and robbery investigation and so that was
4 primarily what we focused on. We did ask if there
5 were drugs in the residence. You know, we were trying
6 to establish a motive. So.

7 Q And the motive that you came up with is baseless,
8 because there was no marijuana, there were no drugs,
9 really, in the house, yet that's what they came for.
10 Right? According to you.

11 A I felt -- yeah. I felt that was why they were there.
12 Yes.

13 Q So, you don't have anything, based on speaking with
14 the victims, to understand why they would do that.
15 Isn't that right?

16 A Prior experience and countless other robberies we've
17 investigated in this area, lead us to believe this
18 same motive applied.

19 Q So, based on what you are saying then, people might
20 just rob your house for drugs. Right? Just out of
21 the blue.

22 A If the information that I had drugs was presented to
23 them, regardless if I did or did not, certainly.

24 Q So, it's your understanding that the defendants had an
25 understanding that two women and a one-year-old and a

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1 three-year-old were Escobar or something over at Oak
2 Forest?

3 A No. It was more of a, maybe a few hundred dollars,
4 maybe this, maybe that. One statement that comes to
5 mind, as you were talking, on one of the interviews
6 that we conducted, the defendant was heard saying,
7 "When I get out, I'm going to ask for a sack or I'm
8 going to go get a sack," which we determined would be
9 a sack of marijuana, again, speaking to what we
10 believe was his mindset prior to engaging in the
11 robbery. We believe it was a robbery.

12 Q So, you do recall that.

13 A As I sit here and talk, I do. Yes.

14 Q So, you would agree with me that you and Investigator
15 Johnson, your purpose is to put people in jail.
16 Right?

17 A To investigate criminal activity and if -- yes.

18 Q And all these statements that were gathered in this
19 particular matter, they all were written by someone
20 other than the person who was actually giving
21 information. Is that right?

22 A Is your question, were there any statements prepared
23 that were written by the defendant?

24 Q Sorry for the confusion. The question is, any and all
25 statements that were provided to law enforcement were

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1 written by law enforcement. Is that correct?

2 A If memory serves, if memory serves, I believe that's
3 accurate. There may be some witness statements that
4 were prepared by the witnesses. I remember the
5 handwriting. I just don't remember at the end, who,
6 particularly, wrote it.

7 Q At this juncture, it's your recollection that all
8 statements were written by law enforcement.

9 A Correct.

10 Q Is that because the people are unable to write?

11 A In my particular -- I can speak to the way I conduct
12 an investigation. The way I conduct an investigation
13 is, I conduct an interview, I take notes. Ninety-nine
14 percent of the time, I'll have another member of law
15 enforcement there. I'll generate a report. I'll have
16 the officer or other investigator read the report.
17 We'll both agree that accuracy was retained and I'll
18 submit the report.

19 Q So, you asked for "your partner" to see if they
20 understand exactly what hearsay, I mean, what was
21 said. Right?

22 A Just to make sure that I didn't miss anything or he
23 heard something, or she heard something, that I didn't
24 hear, et cetera.

25 Q And would you agree with me then, once again, that it

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1 is your interpretation of what you heard as to what
2 you write down for this person to sign.

3 A Oh, we're talking about statements.

4 Q Sure.

5 A No. I didn't do statements in this investigation. If
6 I did, yes, it would be similar, but with a statement,
7 if I was preparing a statement for someone, it would
8 be a little more in depth. I would go over the
9 statement several times, have them read it if they
10 could read and write and make sure there were no
11 necessary changes to be made and if there were, they
12 would initial it, and things of that nature.

13 Q That's my point, sir. The individuals that you
14 interviewed and there were several, right? Were they
15 unable to write sentences or anything like that?

16 A You know, I didn't ask. The individuals I
17 interviewed, I wrote the statement. It wasn't a
18 statement. It was, per se, I took notes and generated
19 a report based on that. I never asked anybody to
20 prepare a statement for me.

21 Q I do understand that, sir.

22 A Okay.

23 Q What I'm asking you is ---

24 MR. CAMPBELL: Your Honor, I'm going to object to this
25 line of questioning. It's -- he's answered this question

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1 several times in several different ways and the answer,
2 he's not eliciting the information he wants from this
3 witness. I think it's time to move on.

4 MR. SMITH: Your Honor, I would ask to re-phrase.

5 THE COURT: I can give you a very limited chance to do
6 so. Okay, sir?

7 MR. SMITH: Okay. Thank you.

8 Q All I'm asking is, the people you interviewed, from
9 your interviews, did any of them, did you believe any
10 of them to be unable to write their own statements?
11 That's all I'm asking.

12 A No. I believe they each could.

13 Q With regard to the injuries that were sustained in
14 this incident, who all was injured?

15 A If memory serves, Ms. Ronnie Bentley and I believe
16 there was a little girl that had a small injury. I
17 remember taking a photograph of a bruise on Ms.
18 Bentley's face and elbow, or being present when one
19 was taken, and possibly the child, physically.

20 Q And so, you aren't sure about the child?

21 A No. And I was not initially involved. I wasn't there
22 the first day. That would have been another
23 investigator's responsibility to document those
24 injuries.

25 Q Agent Stallo, the last thing I will ask you, you are

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1 discounting everything that Melody Ellis said about
2 going over to fight that girl. Isn't that right?

3 A Yes.

4 MR. SMITH: I have no further questions, Your Honor.

5 THE COURT: Thank you, sir. You may be excused. Call
6 your next witness, please.

7 MR. CAMPBELL: Darcel Taylor.

8 (After being duly sworn by the Clerk of Court, Darcel
9 Taylor testified as follows:

10 CLERK OF COURT: If you would take the witness stand
11 and state your name and spell your last name for the
12 record, please.

13 MR. TAYLOR: My name is Darcel Taylor. My last name
14 is spelled T-A-Y-L-O-R.

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16 Q Ms. Taylor, where do you currently live?

17 A I stay in Mauldin, South Carolina.

18 Q I'm sorry. I didn't hear you.

19 A Mauldin, South Carolina.

20 Q Mauldin. Okay. And how old are you?

21 A I'm 27 years old.

22 Q And do you have any children?

23 A I have two girls.

24 Q And what are their names?

25 A My oldest, she's four now, her name is Desiree Simone

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1 and my youngest is two now and her name is Aminah
2 London.

3 Q And are you employed?

4 A Yes, I am.

5 Q And where are you employed at?

6 A I'm employed at Comfort Care Providers, it's a home
7 healthcare agency, and I am the office administrator.

8 Q Now, on April 15, 2011, were you still living at your
9 Mauldin address?

10 A At that time, I was in Spartanburg County.

11 Q Okay. And were you employed back in your same
12 capacity in your employment on April 15, 2011?

13 A Yes. I was working two jobs at that time. I was
14 working at BMW on third shift and I had been working
15 there five-and-a-half years and then I started part-
16 time with my company I'm with now, Comfort Care
17 Providers.

18 Q And currently, are you working with BMW any more?

19 A No. I had an accident after this accident. I fell
20 and busted the back of my head and I had to get
21 stitches.

22 Q Now, back in April of 2011, you were friends with
23 Ronnie Bentley?

24 A Yes, I am.

25 Q And she had an apartment, apartment F-48 at Oak Forest

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1 Apartments?

2 A Yes, sir.

3 Q Would you occasionally go stay over there?

4 A Yes, I would on certain days, like, BMW had work flex
5 shifts and I would have long weekends and on long
6 weekends, I would go down and it would be Thursday,
7 Friday, Saturday and Sunday, Monday, then work would
8 start back up on Tuesday and if I was already working
9 my part-time job already, I'd go back and forth and
10 commute from Anderson County to Greenville County.

11 Q And when you would go see Ms. Bentley, would you take
12 your children with you?

13 A Yes, I would.

14 Q You are the primary caregiver for these two children?

15 A Yes, I am. They stay with me, they live with me, I
16 take them to the doctors, I do everything for them.
17 I'm all they have.

18 Q Now, you said you live in Mauldin, are you originally
19 from Greenville County?

20 A No, I'm not.

21 Q Where are you from?

22 A I'm originally from Detroit, but I've been raised back
23 and forth between Detroit and Greenville because my
24 Dad is from Detroit and my Mom, she's from Greenville,
25 South Carolina.

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1 Q And prior to this, did you have any contacts in
2 Anderson County besides knowing Ms. Bentley?

3 A No. I only know her and her family and that's all.

4 Q Do you know, or did you know at the time, Jamario
5 Jones?

6 A No, I did not. Not until he came into her home that
7 day.

8 Q So, prior to April 15, 2011, you didn't know this man
9 sitting right here. Did you?

10 A No, sir.

11 Q Did you know his co-defendant in this case, Melody
12 Ellis?

13 A No. I did not.

14 Q Now, about what time on the day of April 15, 2011, did
15 you first see Mr. Jones?

16 A The first time ever on April 15th, it was probably
17 around 12:30 or 1:00 and me and my, at the time she
18 was a one-year-old, and we were sitting down watching
19 T.V. and I had a big old teddy bear that we would lay
20 on and the T.V. was directly in front of us and the
21 door is kind of diagonal and I heard a knock at the
22 door and, Ronnie, she came and she answered the door
23 and once again said, "Byrd doesn't live here," and
24 shuts the door.

25 Q And at that point in time, did you get a good look at

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1 him?

2 A Yes, I did.

3 Q How was he dressed?

4 A He had a white tee shirt on, he had a low hair cut and
5 he had dark blue jeans on and I seen he had a chip in
6 his tooth.

7 Q Now, after -- did Ronnie let him in the house, in the
8 apartment?

9 A No. The first time, no. She just said, "No, Byrd
10 doesn't live here. I told you that before." And
11 shut the door.

12 Q And the apartment that you were staying at, Ms.
13 Bentley's, could you just briefly describe it for the
14 ladies and gentlemen of the jury?

15 A I mean, the living room is, it's a big huge living
16 room, but the kitchen is small. It's like the size of
17 from here to the ending of that post. (Indicating)
18 That's how big the kitchen is. And then there's the
19 kitchen sink, the stove. It's built for one person
20 and it's for her, but like I said, me and her are
21 friends and me and my kids would come down and she
22 would watch my kids on occasion, because I don't
23 really have nobody to watch them and so they would
24 have their little stuff over in the corner to the
25 left-hand side and in the kitchen, a little princess

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1 table that they would eat at and she had one sectional
2 couch that went around the whole living room and then
3 you go to the back, there's her drawers, a walk-in
4 closet that you can put everything in, her bathroom
5 and then her back room and plus I bought a smaller
6 toddler bed for my kids to sleep in when they were
7 there.

8 Q So, he came to the door and he left. Did you see him
9 anytime shortly after that?

10 A After the first knock, then the second knock came.
11 Ronnie, she was on the phone with her sister, because
12 she was getting ready to go talk to her landlady about
13 something and her sister, her and her sister, they
14 were talking on the phone and then ---

15 MR. SMITH: Objection, Your Honor, speculation.

16 THE COURT: Sustained.

17 Q Ms. Bentley was on the phone, and while she was on the
18 phone, what happened next?

19 A Well, she was on the phone and she said, "Well, I'll
20 be right back and there was a knock on the door and I
21 said, "Get the door again," and then next thing you
22 know, the only thing I seen was a black gun and a
23 black glove holding the gun and he said, "Give it up."
24 Excuse my language, but he said, "Give it up. Where
25 the fucking money at? Where's the fucking money at?"

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1 And he told her to turn around. She drops her phone
2 and I didn't know what was going on at the time and I
3 was just holding my little girl and she starts crying
4 and he says, "Come on, you know what this is." And he
5 says, "Come on, get in here." And he makes her come
6 in, leave from the door, makes her go into the kitchen
7 and says, "Get face down." She gets face down on the
8 kitchen floor and the next thing you know, once she
9 was positioned on the floor, that's when his, whoever
10 she is, comes in and she shuts the door and she locks
11 it behind her and then she comes in ranting and
12 raving, "Oh, so you think you all are bad, talking
13 shit, da, da, da, da," and then he comes back out
14 pointing the gun and points at me. They are
15 alternating, she's in there taunting her and he comes
16 out and asks me "Where's the money at?" And I tell
17 him there's no money, there's nothing in here, and he
18 goes back in, puts the gun back to the back of her
19 head and she comes out and says, "Well, baby girl, I
20 know you know where it's at, give it up." And I'm
21 like, "Nothing's in here. There is nothing in here."
22 I'm holding onto my little girl, because she's crying.
23 My three-year-old, at the time, she's in the back
24 watching Spongebob and she, like I always told her,
25 "just stay in your room and just watch T.V.," and she

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1 leaves and goes back into the kitchen with Ronnie. He
2 comes out and he has the gun on me, but he's still
3 searching around the apartment and he's asking,
4 "Where's it at, where's it at?" And I told him, "I
5 don't have anything, there's nothing there, there's no
6 money." And it just keeps continuing and the next
7 thing you know, the girl, she comes back out asking me
8 one last time, asking like it's one last time and I'm
9 still sitting down and she was kneeling down towards
10 me and with her doing that, I'm thinking she's just
11 going to go back and do whatever, but she comes back
12 and next thing you know I see a foot go full force and
13 comes at my face, so I cover my child, because she's
14 still on my left side and I'm still getting kicked in
15 the face and that's when my three-year-old comes
16 around and then she sees me and she says, "Mommy,
17 what's going on?" And then she stops finally and goes
18 back to the kitchen where Ronnie was and starts
19 kicking here, all on her left side, starts kicking her
20 on her left side and he comes back out with the gun
21 and he didn't know my three-year-old was right there
22 and so he swung to the left and came back and put the
23 gun on me and then he went to the back and he goes to
24 the back and he's checking the closet that's right
25 there when you walk through the hall, he goes to back

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1 and I get up with my one-year-old and I walk to the
2 back and I'm checking on my daughter, because that's
3 the only thing I'm worried about and he's pointing the
4 gun at me and telling me, "Sit down. Sit down." And
5 I'm like, there's nothing in here, there's nothing in
6 here. That's the only thing I can keep repeating and
7 at this time, I'm trying to calm both my kids down and
8 I keep telling my three-year-old to go back in the
9 room and then that's when he goes back to the kitchen
10 and he's still searching in the cabinets and stuff and
11 she comes and she's pulling on me and telling me to go
12 in the kitchen and check and making me open up and go
13 through the refrigerator, the drawers and everything.
14 We always would have money there on the side just in
15 case and she is still taunting her and while she's
16 still kicking her, kicking Ronnie while she's on the
17 ground, Ronnie has not moved once, because he said he
18 would blow her head off if she moved and then she was
19 talking and just saying, "Oh, you think you're bad,
20 talking about me in the streets," and just saying all
21 this other stuff and telling me, "Why you with this
22 loser," and all this irrelevant stuff and if you come
23 to fight somebody and then she was like, "Ain't
24 nothing in here. This bitch ain't got nothing, she
25 ain't worth shit and then she says, "Come on," and

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1 then he seen that I slid my phone underneath my teddy
2 bear because I was trying to call for help, but he
3 locked my phone. Somebody went through my purse,
4 because it was beside the door. We have a chair
5 that's right beside the door and I just said, "Please,
6 just leave my phone. Just leave my phone," because he
7 already had hers and he left my, he gave me my phone
8 and told me, "Don't call the police." I can't call
9 nobody, because it's locked. Once they ran out, I'm
10 still holding my daughter. I locked the door. I put
11 the chain on it and I go back there and I check on
12 Ronnie, because she's just bleeding all from the side
13 of her head and she has knots and bruises all down her
14 body. Then I look, I seen my little girl. She was
15 bleeding from the top right-side of her head where she
16 got kicked at. She has a permanent scar on the top of
17 her head now and a knot still there. My three-year-
18 old, now who is four, she is having, just keeps
19 saying, "Mommy, what's going on? What's going on?"
20 And I don't know what to tell her and I didn't know
21 anything that happened to me, but when somebody comes
22 into your home or whatever, I have this result now. I
23 have no top teeth. They cut them and they are
24 deteriorating now, so with all that I'm going through
25 extensive surgery that I can't pay for, because yeah,

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1 I just left my job for a year now, well, this month
2 will be a year and so without insurance, they want you
3 to pay \$1800.00 up front. And my little girl, I had
4 to take her to the doctor just to make sure nothing
5 was damaged with her and taking my youngest to make
6 sure -- she suppresses everything and Ronnie's just
7 worried about us and everybody was outside. It was a
8 bright day. You could see what was going on and
9 nobody calls the police. For her sister to have to
10 hear on the phone and her sister and Mom come over
11 there. It doesn't make sense. After that, I don't
12 know where they went or how they went. I just knew
13 everybody in the whole apartment complex was outside.
14 There was a guy who kept asking about, was outside
15 trying to be like, "Oh, what's going on," looking
16 around and you don't know what's going on, but
17 somebody said they heard a gunshot because the window
18 got broken when they were throwing stuff all over the
19 place and there was glass everywhere and all over my
20 kid's toys.

21 Q Now, Ms. Taylor, when you saw him come in the second
22 time, you say you saw the gun. He also had gloves on
23 his hands?

24 A The first time ---

25 MR. SMITH: Objection. Leading.

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1 THE COURT: Re-phrase, please.

2 Q Ms. Taylor, when you saw him the second time, when he
3 came to the door, did Ronnie voluntarily let him come
4 through the door?

5 A No. She was just answering the door and the next
6 thing you know, a gun is right there, and so when
7 somebody tells you to move, get back, turn around, you
8 know what this is, you're going to turn around and not
9 do anything because you are fighting for your life,
10 because that's how the gun was, pointed at her in her
11 face while she had the phone up to her head and says,
12 "Turn around. You know what this is." And so, the
13 door is forcefully pushed open instead of inviting
14 somebody in.

15 Q And when you saw him with the gun, was he wearing
16 anything?

17 A He just had black gloves on this time, I guess to
18 cover up, but he didn't have no mask on, his face was
19 clear as plain as day, he still had on the white tee
20 shirt and blue jeans on.

21 Q And that's how he was dressed when you saw him
22 earlier?

23 A Yes, sir.

24 Q Just a few minutes prior to that.

25 A Yes, sir.

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1 Q So, the only difference was, he had gloves on this
2 time.

3 A That's the only difference.

4 Q Do you think he knew your kids were there?

5 A I'm not sure. I can't state or say, but once he saw
6 my three-year-old, he started getting shaky.

7 Q And the co-defendant who's known as Ms. Ellis, the
8 girl that you saw in there.

9 A Uh-huh.

10 Q How was she dressed?

11 A She had on a burgundy, she had long dreads pulled back
12 in a ponytail, she had on a burgundy Bojangles shirt,
13 because it had the Bojangles logo and everything in
14 yellow written on the back and Bojangles written on
15 the bottom. I'm not sure if it was navy blue or
16 black, but they were Dicky shorts with black shoes.

17 Q And how long after -- he was in the apartment first.
18 Is that right?

19 A Yes, sir.

20 Q How long was he in the apartment before she showed up?

21 A Before she showed up, it was thirty seconds to a
22 minute, because he made sure she was secured on the
23 ground and next thing you know, she walks in, she
24 shuts the door and she locks it.

25 Q And when you saw her, did she have any type of weapon

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1 in her hands?

2 A She didn't have anything in her hands.

3 Q So, the only person you saw with a weapon was him.

4 A Yes, sir.

5 Q And that was a gun?

6 A Yes, sir.

7 Q Now, can you describe the gun that you saw?

8 A I just remember seeing a black gun and it was pointed
9 at the back of her head, pointed at my face and just
10 going all over the room, because just to make you to
11 stay somewhere, telling you to sit down, don't move.
12 That's all I remember.

13 Q And when the gun was pointed at you, were you holding
14 your child, your one-year-old child, in your arms at
15 that time?

16 A Yes, sir. I never let go of my daughter. She stayed
17 on my side. If a child is crying, they are not going
18 to want to get down from a parent.

19 Q And when the three-year-old came out of the back
20 bedroom -- Desiree is her name?

21 A Yes, sir.

22 Q Did I say that right?

23 A Uh-huh. Desiree.

24 Q When Desiree came out of the room, did he point the
25 gun at her?

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1 A He swung -- when he seen her say, "Mommy, what's going
2 on," because that's when she seen the girl attacking
3 me, then he swung over the left and then came back to
4 me to make sure I sat back down because I was getting
5 up before I could tell her to just sit down, go back
6 into your room and he said, "No, you sit down, stay
7 right there." I'm not going to sit down. Those are
8 my kids and if he had to kill me for that, then that
9 would have been that, but I'm still going to protect
10 my kids.

11 Q And do you know exactly what they were looking for?

12 A He came in and say, "Give me all your money and give
13 up the weed," but there's nothing there. I'm not
14 going to have my kids around something -- I work two
15 jobs, for God's sakes. I'm a single parent and so if
16 I'm selling or if anybody's selling, why would I have
17 need to have this and I'm paying my taxes, I'm doing
18 all this. There's no such reason for me to even go --
19 why would I want to risk my life?

20 Q Would you have even taken your kids over to Ms.
21 Bentley's house if there was evidence of drug use or
22 drug dealing?

23 A No. I would not.

24 Q And was there any?

25 A No. There was not.

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1 Q And after you -- after they left and you locked the
2 door -- about how long were they in the apartment,
3 from your recollection?

4 A They were in there for a good thirty minutes going on
5 an hour and with all that noise and people were
6 outside, nobody did anything.

7 Q And did you yell out, after they left, for someone to
8 call 911?

9 A No. Ronnie, she yelled out, because she was so upset
10 and she was bleeding. That's when we all started
11 noticing the scars and everything and she was like,
12 "Y'all standing out there. Y'all call the police,"
13 because nobody had called the police that we knew of.

14 Q And did law enforcement respond?

15 A Yes, they did, because her sister had called the
16 police and her Mom was calling the police and they had
17 got there -- her Mom and sister had arrived two
18 minutes right after they had ran out the door.

19 Q And law enforcement showed up pretty quickly after
20 they left. Is that right?

21 A They did.

22 Q And you spoke to the detectives on the scene?

23 A Yes, sir.

24 Q And you described to them what had happened or taken
25 place as you remembered it or recalled it?

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1 A Yes. I did.

2 Q And you also gave them a description of the suspects
3 or the two individuals that came to the apartment and
4 attacked y'all.

5 A Yes.

6 Q And prior to this, had you ever seen the other girl,
7 the Ellis girl?

8 A Prior to this -- I stay to myself. I've never seen
9 her. I don't know nobody in Anderson County. I don't
10 know you, (indicating juror) I don't know anybody
11 before today.

12 MR. CAMPBELL: Court's indulgence, please.

13 Q Ms. Taylor, this man seated right here, (indicating)
14 Mr. Jones, is that the man that came through the door
15 on ---

16 A Yes, sir.

17 Q --- April 15, 2011?

18 A Yes, sir. It is.

19 MR. CAMPBELL: Your Honor, for the record, I don't
20 know if I did this prior to this, but let the record
21 reflect that she is referring to Mr. Jones, the defendant
22 in this case.

23 THE COURT: Right. So reflected.

24 MR. CAMPBELL: I have no further questions. Your
25 Honor, may Mr. Smith and I approach?

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1 THE COURT: Yes, sir.

2 (Bench conference off the record)

3 (Break)

4 THE COURT: Is the defense ready to proceed?

5 MR. CAMPBELL: Yes, sir.

6 THE COURT: Are you ready to proceed?

7 MR. SMITH: Yes, sir.

8 THE COURT: Bring the jury in, please.

9 (Jury in at 11:13 a.m.)

10 THE COURT: All right, Mr. Smith, are you ready for
11 cross examination?

12 MR. SMITH: Yes, sir. May it please the Court.

13 CROSS EXAMINATION OF DARCEL TAYLOR BY MR. SMITH

14 Q Good morning, Ms. Taylor.

15 A Good morning.

16 Q With regard to that morning, when Mr. Jones and Ms.
17 Ellis came into the residence, where were you sitting?

18 A I was sitting in the middle of the couch. It's a
19 sectional couch and I was in the middle of it.

20 Q Can you tell me where the door is?

21 A The door is diagonal, the door is like -- say this
22 corner is the door (indicating), and then diagonally
23 the couch goes all around the living room and I'm on
24 the couch and then the teddy bear is right here and my
25 little girl is beside me and the T.V. is in front of

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1 us.

2 Q Would it be easier for you to draw the diagram of the
3 living room?

4 A I can.

5 MR. SMITH: May I approach, Your Honor?

6 THE COURT: Yes, sir.

7 (Mr. Smith hands paper and pen to Ms. Taylor)

8 (Ms. Taylor draws and explains the floor plan)

9 Q Yes, ma'am. Thank you. You drew a pretty nice diagram.
10 How many times have you been over there?

11 A I've been over there no more than five times.

12 Q You've only been to Ronnie's house five times?

13 A More than five times.

14 Q More than. How long have you been friends?

15 A For a year, year-and-a-half.

16 Q In regards to that particular day, you said they were
17 there for a half hour to an hour. Is that right?

18 A I didn't hear the beginning of your question.

19 Q Regarding this incident, you said it went on for a
20 half hour to an hour. Is that correct?

21 A Yes. But really when -- I mean, I knew it lasted for
22 a long time. I'm not counting, so...

23 Q So, it could have been a half hour, it could have been
24 an hour.

25 A Yes.

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1 Q Ronnie was on the phone at the time this began.

2 Correct?

3 A Yes.

4 Q So, the person -- did Ronnie have time to tell that
5 person, "Hey, I'm being robbed. I've got to go." Is
6 that how that went?

7 A No. She didn't have time to say anything to the
8 person. When she was on the phone, that's when she
9 was opening -- she was still talking on the phone to
10 her sister, she opened up the door like any other day
11 if you're living at home, you hear a knock, that's
12 what you do, answer the door. She opens up the door,
13 there's the gun. That's the first thing that you see.
14 And then he says what he says. She's holding the
15 phone. He says, "Drop the phone." She drops it.

16 Q So, could you hear what he had to say?

17 A Yes. He say, "Give it up. You know what this is.
18 Turn around. Where's the fucking money."

19 Q And you were fifteen feet away on the couch? How far
20 away were you?

21 A I was sitting on the couch because he told me not to
22 get up when he was making her come into the kitchen,
23 still sitting on the couch holding my child. He was
24 at the door. There was no movement or anything.

25 Q How far were you from the door would you say,

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1 distance-wise?

2 A Ten or fifteen feet? It's not that big of a gap
3 there. I mean, it's a small apartment. It's how I
4 drew it. I mean, it's not a perfect thing, but you
5 can hear everything that goes on in that apartment.

6 Q Everything.

7 A Everything. I can.

8 Q So, he comes to the door, Ronnie answers the door.
9 What hand was the phone in, left or right?

10 A She had the phone in her left hand, but she had been
11 on the phone prior to when I said, "Well, there's
12 somebody at the door," because she was heading out
13 already thinking that it was probably a friend. You
14 never know, but she was walking out to the door.

15 Q Yes, ma'am. So, she had the phone in her left hand
16 talking to her, I believe you said it was her sister.

17 A It was her sister.

18 Q And suddenly, Mr. Jones, and you could hear him from
19 the couch, says, "Give it up." Is that right?

20 A Yes, I did.

21 Q So you hear him from the couch and her sister --
22 because she had the phone, and she dropped it about
23 how soon after Mr. Jones came in?

24 A When he told her to drop the phone, she dropped it.

25 Q And from that point, thirty minutes to an hour.

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1 Right?

2 A Yeah, because I mean, I'm thinking it was thirty
3 minutes. It wasn't a split second, because they were
4 asking questions, going through, she was taunting, she
5 was assaulting, he was having a gun, "I'll blow your
6 head off if you move," and Ronnie has not moved from
7 this kitchen.

8 Q The sister that you believe Ronnie was speaking to,
9 what's her name?

10 A Her name is Latoya Bentley.

11 Q And where does she live?

12 A She stays in Anderson County.

13 Q She has a phone.

14 A Yes.

15 Q And Ronnie abruptly stopped talking to her.

16 A Uh-huh.

17 Q With regard to the window, Ronnie broke that out.

18 Right?

19 A With regard to what?

20 Q The window that you just drew on my diagram there.
21 Ronnie broke that out to call for help. Isn't that
22 right?

23 A I'm not sure. I just know things were getting flung
24 around the house.

25 Q You stated earlier that that's what caused the break.

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1 Right?

2 A No. I did not.

3 Q You did not say ---

4 A I said things were getting thrown around the house.
5 The window was already broken, and so Ronnie, she got
6 up, she was mad. She yelled out the window and said,
7 "Somebody call the police."

8 Q You were interviewed by Agent Stallo. You had an
9 opportunity to see him. Right?

10 A Yes.

11 Q And you were interviewed at the same time as Ronnie.
12 Is that right?

13 A I mean, he asked us questions. He didn't say it was
14 an interview or anything. He was taking down some
15 information because he wanted to ask us some
16 questions.

17 Q Certainly. And where were you sitting in comparison
18 to Ronnie in the interview?

19 A To say exactly, I can't remember. I just know that we
20 were at a table and he had one of his officers there.
21 He was there. I was there and she was there, but I
22 don't know where I was sitting at.

23 Q You could hear what Ronnie was saying and Ronnie could
24 hear what you were saying. Right?

25 A Yes.

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1 Q So, when you were speaking to Investigator, Agent
2 Stallo, which one of you said that Ronnie broke the
3 window and screamed for help. Was it you or her that
4 told him that?

5 A No. I didn't tell him that. I said the window had
6 gotten broken.

7 Q In that interview, did Ronnie admit to ever
8 distributing marijuana?

9 A No. She admitted to smoking it on occasions, but not
10 to selling it.

11 Q And according to you, were there ever any drugs,
12 whatsoever, in that apartment?

13 A By large quantities, no.

14 Q No, no. I'm asking if ever while you were there with
15 your children, were there ever any drugs in that
16 residence, according to you?

17 A No. Not to my recollection, because I told her I
18 didn't like that. I didn't want it around my kids.

19 Q With regard to your injuries, would you share with us
20 what your injuries were?

21 A Mine, just per se, or everybody's? Mine?

22 Q Yours. Yes.

23 A I was kicked, I don't know how many times. I just
24 know repetitively. I had a knot on my head and the
25 next thing you know, I seen chipped teeth. I've

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1 always smiled, I've always talked. I'm an open
2 person. I work with people, and so for me to just sit
3 here and say, "Oh, well, this is what happened and
4 next thing you know I come to find out I don't have
5 two front teeth. They are sliced and so now they are
6 deteriorating and so I'm going into my pockets to take
7 care of what somebody else did.

8 Q Do you recall being in this courtroom before. Right?

9 A For bond hearings.

10 Q And you recall giving statements in both of those
11 hearings?

12 A Yes.

13 Q Do you recall telling the Judge that you got your
14 teeth kicked out? Do you remember that?

15 A Yes. I do.

16 Q Did you tell the police that?

17 A Yes. I did. I told them that and they took pictures,
18 from my understanding. I mean, everything is supposed
19 to be in evidence, so I don't know, but I know what I
20 said.

21 Q And kicked your teeth out means cracked them or does
22 that mean kicked them out and there's blood?

23 A For me, that's basically kicking your teeth out when
24 somebody's kicking you in your face and then you don't
25 have half of your teeth in there, that's me, just per

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1 se, kicking my teeth out so, sorry if I said that like
2 that, so kicking in my face making my teeth sliced.

3 Q Was Investigator Stallo very thorough when he was
4 talking with you?

5 A Which investigator was that?

6 Q The investigator that was right up there. He sat
7 there right before you.

8 A I'm sorry, but no. He wasn't thorough with
9 everything. He just asked the questions that he
10 needed to ask.

11 Q Right. He just asked questions. Were you ever asked
12 if you were injured?

13 A Yes.

14 Q And at any time, one time, did you tell anybody that
15 you got your teeth kicked out?

16 A Yes. I did.

17 Q Who did you tell that to?

18 A I told that to plenty of the investigators.

19 Q Please share a name with me.

20 A I can't recollect any of the names, because I mean,
21 I've spoken with different, numerous of people. I
22 can't say -- I can point somebody out if I seen
23 somebody, but I can't really tell you who I told,
24 because I can't remember names like that. I'm great
25 with faces.

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1 Q So, you had the opportunity to tell Agent Stallo, who
2 was up there right before you.

3 A Uh-huh.

4 Q Do you remember what he looks like?

5 A Yes.

6 Q You had the opportunity to tell him how you got your
7 teeth kicked out.

8 A Yes.

9 Q But you didn't do it. Did you?

10 A I did.

11 Q When I asked him ---

12 MR. CAMPBELL: Your Honor, I object. She's already
13 answered this question several times.

14 THE COURT: I sustain the objection.

15 Q When I asked Agent Stallo what injuries resulted from
16 this, did you hear your name mentioned?

17 MR. CAMPBELL: Your Honor, I am going to object to
18 this line of questioning. He's trying to pit one witness
19 against the other.

20 THE COURT: I sustain the objection.

21 A When you asked him, he really couldn't ---

22 THE COURT: Just one second. No, ma'am. You don't
23 ask the questions.

24 MS. TAYLOR: Okay.

25 Q Your daughter, she was kicked in the head?

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- 1 A Yes.
- 2 Q And she sustained a cut of some sort?
- 3 A She sustained a cut and a knot on the right side of
- 4 her head.
- 5 Q She now has a permanent scar. Is that right?
- 6 A Yes. She does.
- 7 Q I suppose we will see pictures of that later?
- 8 A I guess you will. I didn't take them.
- 9 Q You work for Home Healthcare?
- 10 A Yes. I do.
- 11 Q Your daughter has nightmares, you said?
- 12 A My oldest and, I think, my youngest, too, because she
- 13 is always running into my bedroom. I had to re-train
- 14 my three-year-old from not peeing in the bed and she
- 15 hasn't peed in the bed ever since she was one year
- 16 old.
- 17 Q Working for Home Healthcare, did you take your
- 18 daughter to get counseling of any sort?
- 19 A Yes. I did.
- 20 Q Who's her counselor?
- 21 A Who's her counselor?
- 22 Q Yeah.
- 23 A I really have to tell you all that information?
- 24 Q Well, I mean, just throw a name out there for fun.
- 25 A Dr. Nevine.

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1 Q Do you take your two-year-old now for counseling, as
2 well?

3 A No. I don't.

4 Q How many visits with Dr. Levine have with ---

5 A Dr. Nevine. "N".

6 Q Nevine.

7 A "N" as in Nancy.

8 Q How many visits did Desiree have with him?

9 A She only had three visits.

10 Q With regard to the first time Mr. Jones was at the
11 residence, where were you at that point?

12 A The first time?

13 Q Yes.

14 A When he knocked on the door that first day?

15 Q Sure.

16 A I was ---

17 Q Now, wait. You did say about noon. Right?

18 A Yeah, that's what I'm saying. The first day, when he
19 knocked the first time. The same day when he knocked
20 the first time.

21 Q I'm sorry. Okay. Yes.

22 A I was in my same position on the couch, because it was
23 my day off, so I wasn't going nowhere, I was lounging
24 around.

25 Q And you know for a fact that he didn't have gloves on

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1 at that time. Is that right?

2 A I'm positive.

3 Q How many times did you meet Quenton Byrd?

4 A Twice.

5 Q How many times did your three-year-old meet Quenton
6 Byrd?

7 A Like introduced to him?

8 Q How many times was she around him?

9 A Once.

10 Q Who was crying in the residence? Was it you and Ronnie
11 or just you or ---

12 A At what time? What point?

13 Q When the individuals were in the residence.

14 A I know I was crying and saying at the same time,
15 "Nothings in here." I know my one-year-old was crying
16 at the same time. She was clutching onto me. And my
17 three-year-old, once she came around the corner and
18 seen what was going on, she started crying.

19 Q About how long into this incident that your three-
20 year-old came out of the bedroom?

21 A When the lady, Melody Ellis, when she was kicking me
22 in my face.

23 Q Was that about ten minutes in, twenty minutes in?

24 A I'm not sure.

25 Q And when she came out, where did she end up?

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- 1 A My daughter?
- 2 Q Yeah. When you saw the three-year-old, where did she
- 3 end up? With you on the couch or where?
- 4 A When she came out, she just stood frozen in the
- 5 hallway, because I'm telling her to stop, don't come
- 6 here, go back into the room.
- 7 Q Did she listen to you?
- 8 A I mean, eventually, she did and that's when he was
- 9 right there and he went around the corner to check the
- 10 room.
- 11 Q When you say, "eventually, she went back into the
- 12 room," how long was that?
- 13 A A split second.
- 14 Q So, a split second she was in the same room that he
- 15 was allegedly pillaging. Is that right?
- 16 A No. Like I said, they were going back and forth. He
- 17 was in the kitchen. They kept one in the kitchen.
- 18 They kept one out. When she stopped, she went back
- 19 into the kitchen where he was doing whatever he was
- 20 doing and came back out telling me to sit down because
- 21 I'm telling my three-year-old to go back into the
- 22 room.
- 23 Q Yes, ma'am. And that's what we're talking about here,
- 24 your three-year-old. Where did she go? Did she go
- 25 back into the same bedroom she came from?

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1 A Yes.

2 Q And she was watching Spongebob, right?

3 A Uh-huh.

4 Q And that was nearly instantaneous from you telling her
5 to get back into the bedroom. Is that right?

6 A Yeah. She was just following her mother's orders
7 because I didn't want her to see that and hopefully he
8 wouldn't go around there.

9 Q All right. And then, then he went and checked the
10 bedrooms. Is that right?

11 A Yes, he did.

12 Q So, he was back there alone with your daughter?

13 A No. Because I was up, because I was checking on my
14 child. My instinct is to still check on the other one
15 and I'm still getting up when he told me to sit down
16 and he pointed the gun back at me telling me to get
17 back into the living room.

18 Q So, were you sitting down or were you in the hallway?

19 A When he came and he seen her, he finally went back
20 into the room. He went around. I got up and followed
21 him to check on my child to make sure nothing was
22 happening to her and when he seen me up, he came back,
23 I guess after he finished going up and underneath the
24 beds and everything, and telling me to sit my ass back
25 down.

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1 Q When your daughter watches Spongebob, where does she
2 sit?

3 A On her little bed.

4 Q Did Mr. Jones ask her to stand up so he could get
5 under the bed?

6 A No. She was already standing up. She didn't know
7 what to do at that point in time.

8 Q Could you see her in there?

9 A Yes, I seen my daughter. That's what I was looking
10 for, was her. I didn't care what he was trying to do.

11 Q You could see her in the bedroom?

12 A I was standing up at the same time when he came from
13 around -- when he was coming, trying to make me sit
14 back down, I'm standing there with a gun pointed at me
15 telling me to sit down, but I'm still looking at my
16 child saying, "Just please put the gun away. Just let
17 me check on my child.

18 Q How many bedrooms in the house?

19 A There's only one, and the bathroom.

20 Q And you stayed, correct me if I'm wrong, but upon
21 telling your daughter to go back in the bedroom,
22 that's exactly what she did?

23 A I mean, she froze right there, but yes. She went
24 around, but eventually she went back in the room.

25 Q And you would agree with me that you cannot see into

CROSS EXAMINATION OF DARCEL TAYLOR BY MR. SMITH

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1 the bedroom from anywhere in the living room.

2 A No, you can't, but he wasn't in the room yet until he
3 went -- once she went in, she was there by herself,
4 but he went in and I got up, went around, I seen my
5 child standing.

6 Q So, you got up off the couch.

7 A Yes.

8 Q Walked down the hallway and took a right turn ---

9 A It's not a big hall. It's a split second of a hall.

10 Q Yes, ma'am. I'm sorry. The small area to get around
11 the wall to look in the bedroom.

12 A Yes. I did.

13 Q And where was he positioned as it relates to your
14 child?

15 A He was at the bed. After, I guess, he lifted it up,
16 he seen me. So, once he seen me, he came back and
17 that's when he pointed the gun still saying, "Sit
18 down."

19 Q So, he did he have the gun in his right hand or his
20 left hand?

21 A It was in his right hand.

22 Q And he was lifting the bed up with his ---

23 A No. He had already lifted the bed up, he had already
24 done what he had to do, because I was standing there
25 trying to check on my child.

CROSS EXAMINATION OF DARCEL TAYLOR BY MR. SMITH

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1 Q Did you see him lift the bed?

2 A No. But I know he was near the bed.

3 MR. CAMPBELL: Your Honor, I object to this line of
4 questioning. He's already been over this, asked and ---

5 THE COURT: Overruled.

6 Q Did you see him lift the bed?

7 A No. I didn't see him lift the bed, but he was beside
8 the bed, so, I was just trying to check on my child.

9 Q So, you never saw him lift the bed.

10 A No.

11 Q Did anybody ever make you get on the floor?

12 A No.

13 Q With regard to Ms. Ellis, how tall would you say she
14 is.

15 A She's my height. Five eight, five eight-and-a-half,
16 five nine.

17 Q And she kicked you, kicked your teeth out from a
18 standing position?

19 A She was standing up, I was sitting down in the same
20 position as when all this had started.

21 Q And I understand -- were you here yesterday for Deputy
22 Bannister? For his testimony?

23 A Was that the first one?

24 Q Yes, ma'am.

25 A Yes. I was.

CROSS EXAMINATION OF DARCEL TAYLOR BY MR. SMITH

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1 Q He said something about a bruise on a head, on the top
2 of a head. Do you remember that?

3 A It wasn't on the top -- yes. Because she was bleeding
4 from the top of her head and there's still a little
5 mark, a permanent scar.

6 Q On the top of her head?

7 A On the front right side where I'm pointing at
8 (indicating). It's right here that you can see it
9 because she still be scaling from afterbirth on her
10 head and I have to make sure her hair is greased just
11 right and I have to feel that every day. So, you can
12 see it, you can feel it and there was a knot there
13 where she was bleeding from it, bleeding onto me.

14 Q There is absolutely no doubt in your mind that she was
15 bleeding on April 15th of last year. Is that correct?

16 A That's correct.

17 Q Do Ronnie or did Ronnie and Melody know each other
18 previously?

19 A To my knowledge, I don't know how much they know of
20 each other. I knew they probably knew of each other
21 in the neighborhood, but she never stated her name.

22 Q Since that time, she hasn't told you of any
23 difficulties she's had with Melody before?

24 A No.

25 Q Have you learned of her ---

CROSS EXAMINATION OF DARCEL TAYLOR BY MR. SMITH

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1 MR. CAMPBELL: Objection, Your Honor. May we
2 approach?

3 THE COURT: Yes, sir.

4 (Brief bench conference off the record)

5 Q What relationship did Ms. Bentley have with Mr. Jones,
6 if any, that you became aware of or knew of?

7 A None.

8 Q So, it's your understanding that she didn't know him?

9 A She didn't know him at all.

10 Q The gun that you saw, the gun was black. Right?

11 Isn't that what you said?

12 A Yes, sir.

13 Q You also said that Mr. Jones locked your phone. Is
14 that right?

15 A Yes.

16 Q What kind of procedure is that? To lock your phone as
17 you're talking about, how do you do that with a phone?

18 A I mean, I was resetting my password on my phone taking
19 it off and if you're in the middle of doing something,
20 if it locks up, it locks up for permanent and I didn't
21 know the password to it. That's when I slid my phone
22 underneath my teddy bear.

23 Q So you were in the midst of changing your password,
24 when?

25 A When I was just at home thinking that I was just

CROSS EXAMINATION OF DARCEL TAYLOR BY MR. SMITH . 184

1 watching T.V. with my child and Ronnie was walking out
2 the door while she was answering it and ---

3 Q So, right at that moment, you started changing your
4 password and someone got into your account or
5 something of that nature?

6 A No. I was just taking it off. I mean, I was at home.
7 I was just sitting and doing nothing watching T.V.
8 with my child and so I always have my phone in my hand
9 or my phone is beside me, so I mean, I can play apps
10 or my games, I can change my password on my phone. I
11 can do a whole bunch of stuff on my phone and so at
12 that time, I was just changing my password and when I
13 was in the midst of doing that, it got locked. When
14 you're in the midst of changing your password, it gets
15 locked and you don't know the new password to it, you
16 can't get in your phone.

17 Q No one took that phone from you. Right?

18 A It got taken at the end, because he seen that I had
19 my phone underneath my teddy bear and I told him to
20 give me my phone back and he gave me my phone and he
21 said, "Don't call the police."

22 Q So, he was robbing you and he gave you a way to call
23 the police and he simply said, "Don't call the
24 police?"

25 A Well, yes. It sounds stupid, but I don't know why he

CROSS EXAMINATION OF DARCEL TAYLOR BY MR. SMITH

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1 did it, but he did.

2 Q With regard to outside the apartment, did you testify
3 that there were a lot of people outside?

4 A Did I see a lot of people?

5 Q Were they watching?

6 A I don't know if they were watching, but, I mean, it
7 was broad daylight and there were a lot of people
8 outside.

9 Q You also said Mr. Jones got shaky when he saw your
10 three-year-old daughter. Exactly what is "shaky"?

11 A I mean, it just looked like he was stunned. When he
12 seen another child, he didn't know what to do.

13 Q So, one child, it's all right, but two children ---

14 A I didn't say that. I mean, it looks like he got
15 shakier. There were kids, I guess he didn't know
16 there were kids there. I don't know what was going on
17 through their minds.

18 Q With regards to Ms. Harris, how long did it take for
19 her to come into the residence?

20 A Who is Mrs. Harris?

21 Q The young lady that was with Mr. Jones.

22 A Ms. Ellis?

23 Q Ms. Ellis. I'm sorry about that. Yes.

24 A Probably like a split second that she came in. Like a
25 minute or a second, like a couple seconds to a minute,

CROSS EXAMINATION OF DARCEL TAYLOR BY MR. SMITH

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1 because like I said, once Ronnie was on the ground in
2 the kitchen, that's when she came in.

3 Q So, Mr. Jones, comes in the door and Ms. Ellis was not
4 directly behind him?

5 Q I don't know where she was. She probably could have
6 been at the door. There's a pantry where you can
7 store your stuff in the storage. She could have been
8 probably on that side. I don't know. I don't know how
9 they started. I don't know how they plotted, but I
10 just know that he was there. He was the first one in.
11 I guess he was the gunman, the henchman. He had the
12 weapon, so get the person whoever gets the door, get
13 them on the ground and that's what he did and once she
14 was down on the ground, then there comes the second
15 person, which I'm thinking there's only one person. I
16 see somebody come around the door, shut it and lock it
17 and so I see a female and a male.

18 Q So, what color door handle does the apartment have?

19 A I think it's gold.

20 Q And Ms. Ellis, closes the door and then locked it?

21 A Uh-huh.

22 Q You wouldn't take your kids near where there are
23 drugs. Is that correct?

24 A No, I wouldn't.

25 Q The child was, the three-year-old, Desiree, only met

CROSS EXAMINATION OF DARCEL TAYLOR BY MR. SMITH

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1 Mr. Byrd, Mr. Quenton Byrd one time?

2 A To my knowledge, yes.

3 Q Ronnie was on the phone with her sister at the time of
4 the break-in. Right?

5 A Yes.

6 Q The individuals were in the home for a half hour to an
7 hour. Right?

8 A Something to that effect. Yes.

9 Q Ronnie broke the window to the outside. Right?

10 A Not to my knowledge, no. I just know things were
11 getting flung around the apartment like I said and
12 they were over by the toys, they were in the kitchen,
13 they were in the bedroom.

14 Q Well ---

15 A I just know the house was clean that day.

16 Q Was the window broken when they left?

17 A Yes. It was broke.

18 Q Before they left.

19 A Before they left.

20 Q So, you are stating that they did it, not you or
21 Ronnie.

22 A That's correct.

23 MR. SMITH: Nothing further, Your Honor.

24 THE COURT: Just one second. May I see the attorneys?

25 (Bench Conference Off The Record)

REDIRECT EXAMINATION OF DARCEL TAYLOR BY MR. CAMPBELL 188

1 THE COURT: Are you finished?

2 MR. SMITH: Yes, sir.

3 MR. CAMPBELL: Just a few on redirect, Your Honor.

4 REDIRECT EXAMINATION OF DARCEL TAYLOR BY MR. CAMPBELL

5 Q Ms. Taylor, when the events were taking place, as you
6 have recalled on the stand, you were seated on the
7 couch.

8 A Yes.

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

10 A Yes. I did.

11 Q Was anything obstructing or blocking your vision or
12 view of the door?

13 A No, there wasn't.

14 Q So, you could see anybody that came to the door?

15 A Yes. If I'm sitting right in the middle, I can always
16 see anybody that comes to the door or standing at the
17 door if they don't all the way come through.

18 Q And when this was all taking place, the actual event
19 of the robbery, the assault, burglary, were you
20 actually paying attention to how long it was taking
21 place?

22 A No.

23 Q Did you look at a clock or did that even cross your
24 mind?

25 A No. That didn't cross my mind at all.

REDIRECT EXAMINATION OF DARCEL TAYLOR BY MR. CAMPBELL 189

1 Q So, the amount of times you're giving, you're just
2 assuming that's what it was?

3 A I mean, with something like that going on, it feels
4 like your life, because it's like I can't time it, let
5 me hit on my phone, I'm timing how long I'm getting
6 robbed. No. I didn't time it. I just knew it was
7 afternoon time and it lasted like it was forever. It
8 lasted for a while, I know, so thirty to an hour.

9 Q And when Mr. Jones came in, did Ronnie comply with his
10 commands?

11 A Yes. She did.

12 Q Did you comply with the commands and what he told you?

13 A In the beginning, yes, I did. Every time that he told
14 me to just sit there, asked me where the money was and
15 all that, I did, but when it came to my kids, no I got
16 up like I said when he seen my three-year-old and when
17 he went to the back to, I guess, search it, I went
18 back there to make sure that he wasn't messing with
19 her, because you can take whatever if you find
20 anything, go ahead, but as long as my child is okay,
21 I'm all right.

22 Q The rooms in this apartment, would you consider this a
23 small apartment?

24 A It's very small. It's only for -- it's a one bedroom,
25 not for two people, but like I said, I didn't stay

REDIRECT EXAMINATION OF DARCEL TAYLOR BY MR. CAMPBELL 190

1 there. My apartment was in Spartanburg County.

2 Q And when you say small, when you take a few steps, you
3 can see everything.

4 A Yes.

5 Q Now, Mr. Smith was going on about the window, was this
6 window broken before he came into your apartment?

7 A Before the robbery?

8 Q Yes, ma'am.

9 A No, it wasn't.

10 Q So, there was no glass on the floor or anything like
11 that until he and Ms. Ellis came in.

12 A That's correct. Because my kids, they wouldn't be
13 able to go over there and play, they wouldn't be able
14 to eat or anything, because, I mean, glass is hard to
15 get up even with just a vacuum.

16 Q So, when he left and Ms. Ellis left the apartment,
17 that window was broken.

18 A Yes, sir.

19 Q And neither you nor Ms. Bentley were the ones that
20 broke it.

21 A No, sir.

22 Q And when this incident was taking place, there was a
23 lot of talk about your three-year-old child. She
24 witnessed a lot of what happened. Would you say that's
25 a fair statement?

REDIRECT EXAMINATION OF DARCEL TAYLOR BY MR. CAMPBELL 191

1 MR. SMITH: Objection. Speculation.

2 THE COURT: Sustained.

3 Q Did your child witness Mr. Jones in the apartment?

4 A Yes. She seen him.

5 Q Did she witness him with a gun in his hand?

6 A Yes.

7 Q How was she? How did she act?

8 A I mean she was just stunned. After all was said, she
9 came to me and told me, "Mommy, he was looking under
10 the bed."

11 MR. SMITH: Objection, Your Honor. Hearsay.

12 THE COURT: Sustained.

13 Q Let me ask you this: as a result of this incident, Mr.
14 Smith has gotten into that you have had to take her to
15 Dr. Nevine?

16 A Yes, sir.

17 Q Three times, I think you said?

18 A Yes.

19 Q What's the reason you've had to take your child to
20 Dr. Nevine?

21 A Just to try to suppress the memories out of her head.
22 It's something that I can't explain to her. Yes, I'm
23 a mother. Yes, I've been in health care for so long
24 or whatnot, but for a mother to try to explain to her
25 child, "Well, it's okay. Don't try to think about

REDIRECT EXAMINATION OF DARCEL TAYLOR BY MR. CAMPBELL 192

1 it." But they're still thinking about it and they
2 have nightmares and then they wet their bed, they're
3 crying in their sleep. The way I know my child, she
4 will cry in her sleep and she wouldn't move and she
5 would pee in the bed. Now, when I start noticing,
6 well, when she cried. I go pick her up, take her to
7 the bathroom, she'll pee and then she'll go back to
8 sleep. It's like she's stuck solid and can't move and
9 the doctor, he would be like, these are some things
10 that you can do to try to help her and just keep -- if
11 she brings it up, tell her ---

12 MR. SMITH: Objection, Your Honor. Hearsay.

13 THE COURT: Sustained.

14 Q Before you took her to the doctor, you had to have a
15 reason to take her to Dr. Nevine. Is that right?

16 A Yes, sir.

17 Q You didn't just up and take her to her. Did you?

18 A No. The only reason I take my kids to the doctor is
19 for their yearly shots. They are both up on their
20 shots. Her shots aren't until when she's eleven or
21 twelve or if they have a cold or for their allergies,
22 because it runs in my family.

23 Q And Desiree in this case, has brought this incident up
24 to you which is why you've taken her to Dr. Nevine.

25 A Yes.

REDIRECT EXAMINATION OF DARCEL TAYLOR BY MR. CAMPBELL 193

1 Q And while this was, the incident was taking place, as
2 Mr. Smith has said, they were pillaging the apartment,
3 did you see Mr. Jones actually go through drawers and
4 pull things out?

5 A Yes. He was going through the kitchen drawers. He
6 was opening up the kitchen cabinets. Those were the
7 only cabinets that I seen that he was mainly going
8 through.

9 Q And when he looked at your phone, you stated on cross
10 exam, that your phone got locked.

11 A Uh-huh.

12 Q Did Mr. Jones actually pick your phone up?

13 A Yes. He picked it up off from underneath the big
14 teddy bear that I said was sitting beside me when I
15 was on the couch. It's like a big teddy bear about
16 this big (indicating) and you can just lay on it and
17 that's what I lay on if I'm watching T.V. and when I
18 finally realized what was going on when it all just
19 happened, I slid my phone because I was changing my
20 password and it must have got hit by the bear and it
21 locked.

22 Q Did Mr. Jones pick your phone up and take a look at
23 it?

24 A I don't know if he looked at it. I just know he
25 picked it up.

RE-CROSS EXAMINATION OF DARCEL TAYLOR BY MR. SMITH

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1 Q Have you been back to the apartment since then?

2 A We tried to go there, because we were all trying to
3 face our fears and nobody slept and my little kids,
4 their stuff is still in there, probably. I don't know
5 if somebody tried to break in, but it's still in
6 there.

7 MR. CAMPBELL: I have no further questions.

8 THE COURT: Mr. Smith?

9 MR. SMITH: Yes, sir.

10 RE-CROSS EXAMINATION OF DARCEL TAYLOR BY MR. SMITH

11 Q When you previously testified, you said that Mr. Jones
12 locked your phone up. Is that right?

13 A Well, it got locked.

14 Q Mr. Jones did it. That's what you said. Right?

15 A If I did, I didn't mean to. I mean, when I know I had
16 my phone, it was unlocked, because I could change my
17 password myself, but by the time when I got it back,
18 it was locked, because I couldn't do anything to it.

19 Q And, once again, you were with Ronnie, with Agent
20 Stallo. Is that right?

21 A Yes. We were there.

22 Q And you heard everything she said and she heard
23 everything you said. Right?

24 A Yes.

25 Q And she did not break the window?

RE-CROSS EXAMINATION OF DARCEL TAYLOR BY MR. SMITH 195

1 A No. Not to my knowledge, no, because the window was
2 broken and I just know glass was everywhere. That was
3 not the focus of everything. I just know -- yeah,
4 somebody yelled out, and we said, "Call the police,"
5 because we'd just been robbed, so the focus of the
6 glass being broke, that's not...

7 Q Had Ms. Ellis taken something from Ms. Bentley before?

8 A I don't think so.

9 Q So, you're not sure?

10 A I'm not sure. I don't know her, never met her. Ms.
11 Ellis, I've never met her.

12 Q I'm talking about Ms. Bentley right now.

13 A Oh, Ms. Bentley?

14 Q Has she said that Ms. Ellis took something from her
15 before?

16 A No.

17 Q No marijuana?

18 A No. She's never mentioned it to me.

19 Q She didn't say that to ---

20 MR. CAMPBELL: Objection, Your Honor, she has answered
21 this. This calls for speculation. He's just not getting
22 the answer he wants.

23 THE COURT: I sustain that.

24 Q You said that your child had met Quenton Byrd one
25 time.

RE-CROSS EXAMINATION OF DARCEL TAYLOR BY MR. SMITH

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1 A Yes. To my knowledge.

2 Q And would that be as many ---

3 MR. CAMPBELL: Your Honor, I'm going to object. That
4 was not a part of my redirect from his cross. He can only
5 go into the information that I went back into.

6 THE COURT: I sustain that.

7 Q How many times did she see Mr. Jones?

8 A That was her first time, that day.

9 MR. SMITH: I have nothing further for this witness.

10 THE COURT: May this witness step down?

11 MR. CAMPBELL: Yes, sir.

12 THE COURT: Thank you, ma'am. All right, Madam
13 Forelady, ladies and gentlemen of the jury, the attorneys
14 tell me the next witness is probably going to be rather
15 lengthy, so we are going to take a break now and I'm going
16 to let you go to lunch on your own. I know that's real
17 gracious of us to do, but before you do, would you mind
18 querying, in the jury room, the juror that needs some extra
19 time and let me know how much extra time you're going to
20 need and send word back, please, ma'am.

21 MS. EDWARDS: Yes, sir.

22 THE COURT: Thank you.

23 (Jury out at 12:00 p.m.)

24 THE COURT: While we are doing that, I want to make
25 sure we are clear on the record. I had a bench conference

THE STATE OF SOUTH CAROLINA VERSUS JAMARIO QUINTON JONES

1 with the attorneys up here, because I was concerned that,
2 contrary to what I had previously ruled, that information
3 was going to be elicited about some relationship-type
4 testimony that was going to be done in camera or outside
5 the presence of the jury. Again, I want to clarify for
6 counsel, if either side wants to go there, tries to elicit
7 that type testimony, let me know. We'll do an in camera
8 hearing and I'll rule on the admissibility. I'm not saying
9 you can't do it. I'm just saying I want to hear it first.
10 I don't want the jury to hear it first. That's all I'm
11 saying. Okay. Are we clear, Mr. Campbell?

12 MR. CAMPBELL: Yes, sir.

13 THE COURT: Mr. Smith?

14 MR. SMITH: Yes, sir.

15 THE COURT: All right. Let's get the word back from
16 the jury and then we'll take a recess.

17 FEBRUARY 14, 2011 - AFTERNOON

18 THE COURT: Would you bring the jury in?

19 (Jury in at 1:34 p.m.)

20 THE COURT: Mr. Campbell, is the State ready to
21 proceed?

22 MR. CAMPBELL: Yes, Your Honor.

23 THE COURT: Is the Defense ready to proceed?

24 MR. SMITH: Yes, sir.

25 THE COURT: Call your next witness.

THE STATE OF SOUTH CAROLINA VERSUS JAMARIO QUINTON JONES

DIRECT EXAMINATION OF RONNIE BENTLEY BY MR. CAMPBELL

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1 MR. CAMPBELL: Your Honor, the State calls Ronnie
2 Bentley to the stand.

3 (After being duly sworn by the Clerk of Court, Ronnie
4 Bentley testified as follows:)

5 CLERK OF COURT: If you would take the witness stand
6 and state your name and spell your last name for the
7 record, please.

8 MR. BENTLEY: My name is Ronnie Bentley.
9 B-E-N-T-L-E-Y.

10 DIRECT EXAMINATION OF RONNIE BENTLEY BY MR. CAMPBELL

11 Q Ms. Bentley, how old are you?

12 A Twenty-four.

13 Q And where are you from?

14 A I'm from Anderson.

15 Q Did you go to school here?

16 A I did.

17 Q Where did you go to school?

18 A I went to Westside.

19 Q And where do you currently live?

20 A Still at my address, [REDACTED].

21 Q And I know you're real soft spoken, you'll have to
22 speak up.

23 A Okay.

24 Q Now, you're living today where you were living on
25 April 15, 2011?

DIRECT EXAMINATION OF RONNIE BENTLEY BY MR. CAMPBELL 199

- 1 A That's not my residence.. I'm staying with my sister.
- 2 Q Do you still have that apartment?
- 3 A Yes, sir.
- 4 Q Why are you staying with your sister now?
- 5 A Because I don't want to go home.
- 6 Q What for? The reason why.
- 7 A Because I got robbed.
- 8 Q Is that why we're here today? Are you talking about
- 9 this robbery?
- 10 A Yes, sir.
- 11 Q Now, how long have you had the apartment F-48 at the
- 12 Oak Forest Apartments?
- 13 A Three years.
- 14 Q Three years? Okay. And in April of last year when
- 15 you were staying there, Ms. Taylor would bring her
- 16 kids over there every now and then and spend the
- 17 weekend with y'all?
- 18 A She did.
- 19 Q Now, do you know Jamario Jones?
- 20 A I don't.
- 21 Q Had you met him prior to April 15, 2011?
- 22 A I met him April 13th.
- 23 Q Please tell the ladies and gentlemen of the jury about
- 24 that.
- 25 A I met him April 13th through my cousin, whose name is

DIRECT EXAMINATION OF RONNIE BENTLEY BY MR. CAMPBELL 200

- 1 Quenton Byrd. I was introduced to Jamario as his
2 cousin. We just said, "Hey," and that was that.
- 3 Q Did he come into your apartment?
- 4 A No.
- 5 Q Was it outside the Oak Forest Apartments?
- 6 A It was. It was at a friend's house.
- 7 Q Now, you said Quenton Byrd. Does he live in the area?
- 8 A He said that he lives across the street from our
9 apartments.
- 10 Q Can you see it from your apartment?
- 11 A I can.
- 12 Q Now, when you saw him on April 13th -- you said, April
13 13th?
- 14 A Uh-huh.
- 15 Q How long did you talk to him?
- 16 A Just to know his name.
- 17 Q And prior to that date or prior to being introduced to
18 him by Quenton Byrd, you hadn't seen him before?
- 19 A No.
- 20 Q Now, when was the next time that you had the
21 opportunity to see Mr. Jones?
- 22 A The next day, on the 14th.
- 23 Q Okay. And what was that about?
- 24 A He came to my door and asked me was Byrd there. I
25 told him Byrd wasn't there.

DIRECT EXAMINATION OF RONNIE BENTLEY BY MR. CAMPBELL

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1 Q And when he came to your door, was he by himself?

2 A He was.

3 Q Did you let him into your apartment?

4 A No. I did not.

5 Q How long did the conversation or meeting with him at
6 your door last?

7 A No more than three seconds.

8 Q I'm sorry. I didn't hear you.

9 A Nor more than five or six seconds.

10 Q So, you just told him Byrd wasn't there and closed the
11 door?

12 A Uh-huh.

13 Q Now, your apartment, are you on the first floor or
14 second floor of your apartment building?

15 A Second floor.

16 Q And how close do you think you are to the Belton Mart,
17 the little convenience store down the road?

18 A Nor far at all. It's walking distance.

19 Q How about the Belton EMS station?

20 A Walking distance.

21 Q Now, after you saw him, I guess it would be the day of
22 April 14th, when he came to your door, did you see him
23 at any other time the rest of that day?

24 A No. Not that day.

25 Q When was the next time you saw him?

DIRECT EXAMINATION OF RONNIE BENTLEY BY MR. CAMPBELL

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1 A April 15th.

2 Q And on that day, can you just tell the ladies and
3 gentlemen of the jury what you did earlier that day?

4 A I went to Anderson with my friend, the same friend
5 that I met him at her house. I went to Anderson. I
6 went to my sister's house, because I had a meeting
7 with my rent lady when I got back home.

8 Q And you came back home.

9 A Uh-huh.

10 Q Was Ms. Taylor at your apartment when you got home?

11 A She was.

12 Q Were her two children there?

13 A They were.

14 Q Now, when you came back from Anderson, you went back
15 to your apartment?

16 A Yes, sir.

17 Q At any point while you were in your apartment, did you
18 have an occasion to come into contact, again, with Mr.
19 Jones? When was the next time you saw him?

20 A When he knocked on my door.

21 Q And do you know, approximately, what time of day that
22 was?

23 A It had to be about two, two ten, maybe.

24 Q Was it before the opportunity you had to meet with
25 your landlady?

DIRECT EXAMINATION OF RONNIE BENTLEY BY MR. CAMPBELL 203

- 1 A Yes.
- 2 Q Now, when you saw him, can you please describe what he
- 3 looked like, how he was dressed?
- 4 A He is a black male. He had a low-cut.
- 5 Q When you say, low-cut, what are you talking about?
- 6 A He didn't have as much hair as he has now. It was
- 7 shorter than that. He had a white tee shirt on and
- 8 bluejeans.
- 9 Q And this was in the daylight hours. Is that right?
- 10 A It was.
- 11 Q And when you saw him this time, what, if anything, was
- 12 said between the two of y'all?
- 13 A When he came to my house and knocked the first time?
- 14 Q Yes, ma'am.
- 15 A He asked me where Byrd at.
- 16 Q Was this the same thing he had asked you the day
- 17 before?
- 18 A It was.
- 19 Q And what did you tell him?
- 20 A I told you the other day that Byrd doesn't stay here.
- 21 I slammed my door and locked it.
- 22 Q Did you think this was peculiar or funny?
- 23 A It was. I didn't know why he would come to my house.
- 24 Q When you met him the first time on April 15th, this
- 25 time, did you allow him to come into your apartment?

DIRECT EXAMINATION OF RONNIE BENTLEY BY MR. CAMPBELL

204

1 A No.

2 Q Now, after you closed the door, what, if anything,
3 were you doing next?

4 A I kissed the girls and my cell phone rings and I'm
5 talking to my sister and I hear a knock on my door and
6 I go to my door and it's Jamario standing at my door
7 with a gun in my face and he said, "Get the fuck off
8 the phone." I dropped my phone instantly and he was
9 lowering me in the kitchen telling me to get the fuck
10 on the ground.

11 Q Now, I want to step you back just a second. When he
12 knocked on the door the second time and you opened it,
13 you were on the telephone?

14 A I was.

15 Q And you were talking to you sister.

16 A I was.

17 Q Now, did you say anything to your sister while you
18 were on the phone with her?

19 A No.

20 Q Why not?

21 A I was shocked.

22 Q And how was he dressed this second time, when you saw
23 him the second time?

24 A Still the same way, a white tee shirt and bluejean
25 pants.

DIRECT EXAMINATION OF RONNIE BENTLEY BY MR. CAMPBELL

205

1 Q Except this time, he had a gun. Is that right?

2 A Yes. He had a black gun and black gloves.

3 MR. SMITH: Objection.

4 THE COURT: Re-phrase.

5 Q What did he have with him this time that he didn't
6 have the previous time you had seen him?

7 A He had black gloves on and a gun.

8 Q Do you know what kind of gun it was?

9 A Like a police gun.

10 Q And what color was it?

11 A Black.

12 Q Now, when he came to the door the second time with the
13 gun, did he force his way into your apartment?

14 A He did.

15 Q You didn't allow him to come in voluntarily, did you?

16 A No.

17 Q What, if anything, did you do with the phone that you
18 were holding?

19 A I dropped it.

20 Q And did you say anything to your sister prior to
21 dropping the phone?

22 A She had hung up.

23 Q So, your conversation with your sister was very short?

24 A Uh-huh.

25 Q You have to use words, because she is taking down

DIRECT EXAMINATION OF RONNIE BENTLEY BY MR. CAMPBELL 206

1 everything you say for the record, so you have to use
2 words, please, ma'am. Okay?

3 A Okay.

4 Q Now, so you were on the phone and the phone call had
5 ended, the conversation had ended with your sister.

6 A It did. When I dropped my phone, I guess she hung up,
7 because she wasn't on the phone.

8 Q But you didn't tell her, "I have to go" or "I have to
9 get off the phone."

10 A No.

11 Q Now, when he came in, did he lay hands on you?

12 A No. He didn't.

13 Q What did he do?

14 A He directed me to the kitchen with the gun and told me
15 to get the fuck on the floor and going through my
16 kitchen and scrambling through everything.

17 Q Did he put you on the floor?

18 A He did.

19 Q I'm sorry, I couldn't hear you.

20 A He did.

21 Q Okay. Did he ask you or make you get on the floor?

22 A He told me to get the fuck on the ground, or motioned
23 me with the gun.

24 Q At any point, when he had the gun held to you, was it
25 to the back of your head?

DIRECT EXAMINATION OF RONNIE BENTLEY BY MR. CAMPBELL

207

- 1 A It was.
- 2 Q Did he ever actually touch you physically with the
- 3 gun?
- 4 A No. Not with the gun.
- 5 Q And what was going through your mind at this time?
- 6 A That I was going to be dead.
- 7 Q Were you scared?
- 8 A I was.
- 9 Q And did he tell you what reason or why he was there?
- 10 A No. He said, "Where's the money?" "Where's the
- 11 weed?" I told him I didn't have anything.
- 12 Q Did you have any money?
- 13 A The money that he took.
- 14 Q And did you have any weed?
- 15 A No.
- 16 Q And when you're talking about weed, are you talking
- 17 about marijuana?
- 18 A Uh-huh.
- 19 Q You have to use words again, ma'am.
- 20 A Yes.
- 21 Q And you didn't have any in the house?
- 22 A No.
- 23 Q Now, while this was going on, did anybody else, when
- 24 he first knocked on the door, was anybody else with
- 25 him?

DIRECT EXAMINATION OF RONNIE BENTLEY BY MR. CAMPBELL

208

1 A No. Not that I recall.

2 Q Let me ask you this: Is Jamario in the courtroom
3 today?

4 A Yes. He's right there.

5 Q You are referring this man with the gray shirt?
6 (Indicating)

7 A Yes, sir.

8 Q The defendant in this case?

9 A Yes, sir.

10 Q And this is the man who robbed you back in 2011?

11 A Yes, sir.

12 Q And when he came to the door the second time, did he
13 do anything to try to hide his identity or who he was?

14 A No. Just wearing the gloves.

15 Q Nothing over his face or anything like that?

16 A No.

17 Q Now, as this was going on, or prior to that, when he
18 came to the door the second time, was anybody else
19 with him that you could see?

20 A No.

21 Q Did anybody else come into your apartment while this
22 was taking place?

23 A They did.

24 Q And who was that?

25 A Melody Ellis.

DIRECT EXAMINATION OF RONNIE BENTLEY BY MR. CAMPBELL 209

1 Q Now, you didn't know Mr. Jones, but did you know Ms.
2 Ellis?

3 A I know of her.

4 Q And did you previously know her?

5 A I know of her. We dated the same women.

6 Q Now, did you and her have something ongoing, a feud or
7 something like that?

8 A Well, we're two studs.

9 Q Did either one of you have an argument pending with
10 each other, did y'all have a running feud?

11 A No.

12 Q And when she came in, did she say anything to anybody
13 in the room?

14 A She said something to me.

15 Q What did she say?

16 A She told me that I already knew what this was, where
17 the fuck is the money, I'm riding around in \$20,000.00
18 cars, you go around talking about me having sex with
19 men, I rob you in broad daylight. She was kicking me
20 and told me to get the fuck up and fight her. I was
21 like, how am I supposed to fight you when you have a
22 gun at my back and she said he has the gun.

23 Q At any point, did she have a weapon?

24 A She didn't

25 Q So, Mr. Jones was the one that held the gun on you the

DIRECT EXAMINATION OF RONNIE BENTLEY BY MR. CAMPBELL

210

1 entire, or had the gun the entire time?

2 A Yes, sir.

3 Q Now, you said she was kicking you. Where, about, what
4 part of your body were you kicked?

5 A She kicked me on the left side of my face and after
6 I'd been kicked many times, I covered my face with my
7 left arm and had a big bruise here where she was
8 kicking my arm then.

9 Q Now, when this was going on and she was assaulting
10 you, what was Mr. Jones doing?

11 A He was walking around the house with the gun, coming
12 back and forth, making sure I wouldn't move.

13 Q And, at any point, did he start going through your
14 drawers in the kitchen?

15 A He did. He started going through my drawers and then
16 he started going through my back pockets to make sure
17 if I had money in those.

18 Q And was he able to get any money?

19 A He did.

20 Q Approximately, how much?

21 A Twenty dollars.

22 Q Did he get it out of your drawers?

23 A He got money out of the drawers and ---

24 MR. SMITH: Objection. Leading.

25 THE COURT: Overruled. Go ahead.

THE STATE OF SOUTH CAROLINA VERSUS JAMARIO QUINTON JONES

DIRECT EXAMINATION OF RONNIE BENTLEY BY MR. CAMPBELL 211

- 1 Q As he was going through the drawers, you indicated he
2 was looking for money.
- 3 A Yes. He was.
- 4 Q Did he get any money out of your drawers in the
5 kitchen?
- 6 A He did.
- 7 Q Approximately, how much was that?
- 8 A Three and a quarter, maybe.
- 9 Q And you also stated that he went through your pockets.
- 10 A He did.
- 11 Q And as he was going through your pockets, where were
12 you?
- 13 A I was still laying down on the ground.
- 14 Q And did he still have the gun in his hand?
- 15 A He did.
- 16 Q Did you reach into your pockets and pull the money out
17 or did he reach into your pockets?
- 18 A He pulled my money out.
- 19 Q And where was your money? Was it in the front pocket
20 or your back pocket?
- 21 A I believe it was in my back pocket, on the lefthand
22 side.
- 23 Q Approximately, how much did he get off your person?
- 24 A Twenty dollars.
- 25 Q And so, total, he got close to \$350.00?

DIRECT EXAMINATION OF RONNIE BENTLEY BY MR. CAMPBELL

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1 A Yes.

2 Q You don't know the exact amount, do you?

3 A No.

4 Q And the money that he got, was it all cash?

5 A It was.

6 Q Did Ms. Ellis also participate in going through the
7 drawers?

8 A She did.

9 Q Now, besides the kitchen drawers, did they go through
10 any other parts of your apartment?

11 A They were taking turns going back and forth. I mean,
12 I was on the ground, but they did go in and out the
13 kitchen.

14 Q Could you hear them?

15 A Yeah, I heard them.

16 Q Did you ever look up and see what was going on?

17 A No, I was just praying that he wouldn't shoot me.

18 Q Now, at some point, did they eventually leave your
19 apartment?

20 A They did.

21 Q And did you see them leave?

22 A I heard them leave. I was still on the ground.

23 Q You still haven't looked up at this point in time?

24 A No.

25 Q And after they left, what, if anything, did you do

DIRECT EXAMINATION OF RONNIE BENTLEY BY MR. CAMPBELL 213

1 next?

2 A I got up and went to the window and I seen that the
3 window was broke and I just yelled out somebody call
4 the police. All y'all out there, somebody call the
5 police. It seemed like the whole apartment complex
6 was like right there in front of my window. I mean,
7 they heard all this and nobody called the police.

8 Q That kind of upset you?

9 A It did.

10 Q Did -- now this window we're talking about, was it a
11 normal window? Was it broken or was it not broken?

12 A It was broken. It wasn't broken before the incident
13 happened.

14 Q Well, let's talk about the window. The window, prior
15 to them coming in, was anything wrong with that
16 window?

17 A No.

18 Q Was the glass broken in the window?

19 A No.

20 Q And after they left, was anything wrong with the
21 window?

22 A It was shattered.

23 Q And did you see it get shattered or how it got
24 shattered?

25 A No.

DIRECT EXAMINATION OF RONNIE BENTLEY BY MR. CAMPBELL

214

1 Q Did you hear it?

2 A I heard a lot of commotion.

3 Q Did you hear the glass break?

4 A I heard a loud bang. That's all I heard. I never got
5 up, because I was scared.

6 Q So, you never looked up to see exactly what was
7 happening?

8 A No.

9 Q But after they left, did you notice the condition of
10 the window?

11 A I did.

12 Q And what was it?

13 A It was shattered.

14 Q And was there glass on the floor?

15 A Yes.

16 Q And did you yell out this window?

17 A I did.

18 Q And the window, does this window face the road as you
19 come into the apartment complex?

20 A Yes.

21 Q Now, did you, yourself, call 911?

22 A No. I did not.

23 Q Do you know who called 911?

24 A No. I'm thinking maybe my sister or my Mom, because
25 right after I yelled out the window, there was another

DIRECT EXAMINATION OF RONNIE BENTLEY BY MR. CAMPBELL 215

1 knock on my door and I went to my door and I was like,
2 don't go to the door. I was like, we just got robbed,
3 like, what's going on, and it was my sister and my Mom
4 at the door. She was telling me that they had told
5 her somebody was up there with a gun. She was
6 pregnant at the time, but she comes up there.

7 Q Now, what type of injuries did you receive or sustain
8 as a result of this robbery and assault?

9 A Just like my face injury.

10 Q Any other parts of your body?

11 A My arm.

12 Q And was it was just your left side, as you're
13 indicating, or your right side, too?

14 A My left side.

15 Q And after you saw your mother and your sister shortly
16 thereafter when they knocked on the door, did law
17 enforcement come?

18 A They did.

19 Q And did you speak to them?

20 A I did.

21 Q Did you see Detective Johnson there?

22 A I did.

23 Q And did you give them permission to search your house?

24 A I did.

25 Q And when they went to search your house, were you

DIRECT EXAMINATION OF RONNIE BENTLEY BY MR. CAMPBELL

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1 inside your apartment?

2 A No.

3 Q So, it was just law enforcement themselves?

4 A Yes.

5 MR. CAMPBELL: Court's indulgence just a second.

6 THE COURT: Yes, sir.

7 Q Ms. Bentley, I want to show you a series of
8 photographs and for the record, I have shown these to
9 Mr. Smith.

10 THE COURT: Any objection?

11 MR. SMITH: No, sir.

12 THE COURT: Admitted without objection.

13 Q Ms. Bentley, I'm going to show you these photographs.
14 First, I want you just to briefly identify them, know
15 what they look like or know what they are of and if
16 they accurately represent what they depict and then
17 I'll ask you to come off the stand and we'll explain
18 what they are.

19 A Okay.

20 Q I'm going to show you what's marked as State's Exhibit
21 Nos. 17, 18, and 19. Could you please ma'am identify
22 what these are.

23 A Those are bruises on my arm where she kicked me.

24 Q Well, first of all, are these pictures of you in these
25 three photographs?

DIRECT EXAMINATION OF RONNIE BENTLEY BY MR. CAMPBELL

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1 A They are.

2 Q And these photographs represent some of the injuries
3 you received as a result of this altercation, robbery?

4 A Yes.

5 Q And these photographs here were not taken the day of
6 the assault. Were they not?

7 A No.

8 Q It was a couple of days later?

9 A Yes.

10 MR. SMITH: Objection. Speculation.

11 THE COURT: I overrule on the basis of the objection.

12 Go ahead.

13 Q I'm going to show you what has been marked ---

14 MR. SMITH: Objection to hearsay.

15 THE COURT: Overruled.

16 Q Marked State's Exhibit Nos. 4, 5, 6, 7, 8, 9, 15, and
17 16. I don't want you to explain this. I just want
18 you to look at them and just tell me what these
19 pictures, as a group, represent.

20 A This is where I stayed.

21 Q Just look at them first and then we'll go through
22 them. These photographs represent where you lived?

23 A Yes.

24 Q And they fairly and accurately represent your
25 apartment complex and your apartment?

DIRECT EXAMINATION OF RONNIE BENTLEY BY MR. CAMPBELL

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1 A Yes.

2 MR. CAMPBELL: Your Honor, may I have the witness step
3 down and have her explain a little more in detail?

4 THE COURT: Yes, sir. Please, step down. (Witness
5 complies)

6 Q All right. Ms. Bentley, I want to show you these
7 photographs on that display up there. If you could
8 please describe what this photograph is depicting.

9 A I have a bruise right here.

10 THE COURT: Identify the exhibit number, please, sir.

11 MR. CAMPBELL: That's number 17, Your Honor.

12 A I have a bruise here, much bigger. I have knots here.

13 Q And these photographs here, they were not taken the
14 day of the incident. Is that right?

15 A No. They weren't.

16 Q Do you recall how many days after the fact they were
17 taken?

18 A It might have been almost a week.

19 Q And you are still showing a bruise on the inside of
20 your arm.

21 A Yes.

22 Q State's Exhibit No. 18, what is that depicting?

23 A That's a bruise.

24 Q Is this the bruise on the inside or outside of your
25 arm?

DIRECT EXAMINATION OF RONNIE BENTLEY BY MR. CAMPBELL 219

- 1 A Outside.
- 2 Q Now, you're going to have to speak up.
- 3 A That's the outside.
- 4 Q I'm going to show you what has been marked as State's
- 5 Exhibit No. 19. What is that depicting, ma'am?
- 6 A The same bruise.
- 7 Q Just at a different angle?
- 8 A Yes.
- 9 Q Now, I'm going to show you two photographs that you
- 10 acknowledge are pictures of your apartment at Oak
- 11 Forest. This is State's Exhibit No. 4. Could you
- 12 please just identify this, please, ma'am, what it
- 13 shows.
- 14 A The complex, but you can't see my apartment in this
- 15 picture.
- 16 Q And these apartment buildings are two-story?
- 17 A Yes.
- 18 Q Approximately, how many apartment buildings are there
- 19 in the Oak Forest Apartment Complex?
- 20 A Nine units. Eight apartments in every unit.
- 21 Q So, there are four apartments upstairs and four units
- 22 downstairs?
- 23 A It is.
- 24 Q And what is this over here? What building is this?
- 25 A That's the office.

DIRECT EXAMINATION OF RONNIE BENTLEY BY MR. CAMPBELL

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1 Q And your apartment is in this building right here?

2 A Yes.

3 Q Which, where would your apartment be located?

4 A Right there.

5 Q Upper right-hand corner?

6 A Yes.

7 Q I'll show you what has been marked as State's Exhibit

8 No. 5. Can you show me which, look at this photograph

9 and tell us where your apartment is located?

10 A Right here.

11 Q And the window that you talked about being broken, is

12 it shown in this photograph?

13 A It is.

14 Q Which one is it?

15 A The first one.

16 Q And that's the window you yelled out of for someone to

17 call 911?

18 A Yes.

19 Q State's Exhibit No. 6. What is that depicting?

20 A That's my apartment complex.

21 Q That's just showing your building and the apartments

22 in there?

23 A Yes.

24 Q State's Exhibit No. 7. What is that depicting?

25 A That's my apartment.

DIRECT EXAMINATION OF RONNIE BENTLEY BY MR. CAMPBELL

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- 1 Q Is that the backside or the front side?
- 2 A Front side.
- 3 Q Is this the back right here? This area?
- 4 A Yes.
- 5 Q Now, what does this look like? Is it an open field or
- 6 is it ---
- 7 A It's an open field.
- 8 Q State's Exhibit No. 8.
- 9 A That's the stairway that you would take to get to my
- 10 apartment.
- 11 Q And show, this picture, is this the bottom of the
- 12 stairs or the top of the stairs?
- 13 A That's the bottom.
- 14 Q And if you were to go up these stairs, where would
- 15 your apartment be located?
- 16 A This hallway, there's another apartment right here and
- 17 mine's the next one.
- 18 Q This area right here, what is that depicting?
- 19 A That's where the field is.
- 20 Q That's the backside of your unit?
- 21 A It is.
- 22 Q So, the breezeway just goes straight through?
- 23 A Uh-huh.
- 24 Q You have to use words.
- 25 A Yes.

DIRECT EXAMINATION OF RONNIE BENTLEY BY MR. CAMPBELL

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- 1 Q Photograph, Exhibit No. 9. What is that showing?
- 2 A That's my apartment's storage area.
- 3 Q Is this showing that at an angle from the ground up?
- 4 A Yes, sir.
- 5 Q Looking upwards?
- 6 A Yes.
- 7 Q State's Exhibit No. 15. What does this picture show?
- 8 A That's the backside of my apartment and that's the
- 9 field.
- 10 Q And you were saying it was showing on one of the
- 11 previous photographs, State's Exhibit No. 8, is this
- 12 the back area you are referring to?
- 13 A Yes, sir.
- 14 Q And when you come past this field, what's on the edge
- 15 of this field?
- 16 A That's the railroad tracks.
- 17 Q State's Exhibit No. 16.
- 18 A That's the backside.
- 19 Q Just a closer version of the previous picture?
- 20 A Yes.
- 21 Q If you will just retake the stand, please. (Witness
- 22 returns to witness stand)
- 23 MR. CAMPBELL: Your Honor, at this time I would like
- 24 to move State's Exhibit Nos. 17, 18, 19 into evidence.
- 25 THE COURT: Any objections?

THE STATE OF SOUTH CAROLINA VERSUS JAMARIO QUINTON JONES

DIRECT EXAMINATION OF RONNIE BENTLEY BY MR. CAMPBELL 223

1 MR. SMITH: No, sir. Not to the ones I just saw.

2 MR. CAMPBELL: These are the photographs I just handed
3 Mr. Smith. Nos. 4, 5, 6, 7, 8, 15 and 16.

4 THE COURT: Is exhibit 9 in there anywhere?

5 MR. CAMPBELL: I have No. 9 here.

6 THE COURT: All right. Is there any objection to
7 State's Exhibit Nos. 4 through 9 and 15 through 19?

8 MR. SMITH: No objection, Your Honor.

9 THE COURT: Thank you, sir. Admitted, without
10 objection.

11 (Whereupon, Eleven 6x4 photographs are entered into
12 evidence as State's Exhibit Nos. 4, 5, 6, 7, 8, 9, 15, 16,
13 17, 18, and 19, without objection)

14 Q Now, Ms. Bentley, after this took place on the 15th,
15 did you cooperate with law enforcement after the fact
16 and tell them the events that took place as you
17 recalled them?

18 A I did.

19 Q And did you go back or speak to officers on several
20 occasions regarding this?

21 A Yes.

22 Q Did you get a good look at Ms. Ellis when she came
23 into your apartment?

24 A I did.

25 Q How was she dressed?

DIRECT EXAMINATION OF RONNIE BENTLEY BY MR. CAMPBELL 224

1 A She had a burgundy shirt. I think it was a Bojangle's
2 shirt. I think black shorts and she had on boots,
3 some kind of boot.

4 Q At any point, did you see her with any type of weapon?

5 A No. I didn't.

6 Q And she was the one who physically assaulted you, but
7 has he ever laid hands on you, physically?

8 A Besides going into my pockets.

9 Q Besides that?

10 A No, sir.

11 Q He never struck you or anything like that?

12 A No.

13 Q And while this was going on, do you recall where Ms.
14 Taylor was sitting?

15 A Yes.

16 Q Where was she?

17 A She was on the couch in front of the door.

18 Q And could you see what was taking place, what was
19 happening to her and her two children?

20 A No.

21 MR. CAMPBELL: I have no further questions. Ms.
22 Bentley, if you would answer any questions Mr. Smith may
23 have.

24 THE COURT: Cross examination?

25 MR. SMITH: May it please the Court.

THE STATE OF SOUTH CAROLINA VERSUS JAMARIO QUINTON JONES

CROSS EXAMINATION OF RONNIE BENTLEY BY MR. SMITH

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1 THE COURT: Yes, sir.

2 CROSS EXAMINATION OF RONNIE BENTLEY BY MR. SMITH

3 Q Ms. Bentley, can you tell me what a stoke is?

4 A A what?

5 Q A stoke.

6 A A stoke?

7 Q Yeah.

8 A I don't know.

9 Q I guess I didn't understand that either. Have you
10 ever met Melody Ellis before?

11 A I have.

12 Q And how do you know her?

13 A We dated the same girls.

14 Q You dated the same girls?

15 A We did.

16 Q And that's because you are both, what?

17 A We're lesbians.

18 Q I'm sorry. I didn't mean that. I thought there was a
19 term you used.

20 A We're studs.

21 Q Oh, okay. With regards to Ms. Ellis, was that the
22 first time you saw her?

23 A No. I see her.

24 Q Have you ever -- when was the first time you met her?

25 A I've never really met her, but I know of her. I've

CROSS EXAMINATION OF RONNIE BENTLEY BY MR. SMITH

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- 1 seen her around.
- 2 Q You've never met her?
- 3 A No.
- 4 Q Do you recall giving a statement to Special Agent
- 5 Stallo, along with Ms. Taylor?
- 6 A Yes.
- 7 Q And everything you told him was the truth, fact.
- 8 Right?
- 9 A It was.
- 10 Q Did you ever tell him that Ms. Ellis robbed you of
- 11 marijuana before?
- 12 A No.
- 13 Q Did you tell him that you broke the window and yelled
- 14 and screamed out to help you?
- 15 A No.
- 16 Q Do you have an on-going feud with Ms. Ellis?
- 17 A No.
- 18 Q Would this be the third time she beat you up?
- 19 A No.
- 20 Q Was it a black gun?
- 21 A Was it a black gun?
- 22 Q Yes.
- 23 A It was.
- 24 Q And I want to make sure I heard you, on April 13th, a
- 25 Wednesday, you met Mr. Jones at a cousin's house or a

CROSS EXAMINATION OF RONNIE BENTLEY BY MR. SMITH

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1 friend's house?

2 A A friend's.

3 Q That was April 13th?

4 A It was.

5 Q Do you remember what time of day it was?

6 A I'm not sure.

7 Q And then April 14th, which of course would have been a
8 Thursday, Mr. Jones came to your place for the first
9 time just to scout it out. Is that right?

10 A Yes.

11 Q What time did he come by? Was it in the afternoon?

12 A Yes.

13 Q About 2:00?

14 A I'm not sure.

15 Q But definitely in the afternoon on April 14th.

16 A He did.

17 Q So, you definitely met him on the 13th?

18 A I did.

19 Q And referring to the statement or discussion you had
20 with Special Agent Stallo, you've never met Jamario
21 prior to Thursday, April 14th. Is that right?

22 A That's right.

23 Q All right. So, the 13th story you just told me about,
24 meeting him at a friend's house, that's not right?

25 A Yes. I met him on the 13th.

CROSS EXAMINATION OF RONNIE BENTLEY BY MR. SMITH

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1 Q Oh, so you met him on the 13th. So, when you told
2 Special Agent Stallo that you met him on the 14th,
3 that would be wrong?

4 A I met him on the 13th. He came again on the 14th.

5 Q And he came again on the 15th?

6 A Yes.

7 Q What time was the first visit to your door on April
8 15th?

9 A It was a little bit -- it was almost 2:00.

10 Q And what time was the second visit?

11 A It was 2:00.

12 Q I thought you said something about a realtor or
13 something of that nature. Did you say something like
14 that?

15 A A what?

16 Q Someone was coming over to your house at -- oh, the
17 landlady. Is that right?

18 A Yes.

19 Q When was she supposed to come over?

20 A I was supposed to go to her around, like, 2:30.

21 Q And you never showed up?

22 A No, because I had got robbed.

23 Q Right. Did you have the opportunity to hear Ms. Taylor
24 testify? Did you hear Ms. Taylor have a chance to sit
25 up there and talk?

CROSS EXAMINATION OF RONNIE BENTLEY BY MR. SMITH

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- 1 A Yes.
- 2 Q How long were Ms. Ellis and Mr. Jones in your home?
- 3 A I'd say no more than 20 minutes.
- 4 Q And you heard her say 30 minutes to an hour, right?
- 5 A Uh-huh.
- 6 Q But that was wrong?
- 7 A Apparently.
- 8 Q Apparently. With regard to Belton Mart, how far is
- 9 that from Unit "F"?
- 10 A It's not far at all. It's within walking distance.
- 11 Q Could you try to give me a mathematical number?
- 12 A It's just walking distance. I don't know how many
- 13 feet.
- 14 Q You would agree with me that if you walked out the
- 15 front of the apartment "F", where you live at, you
- 16 could not see Belton Mart from your apartment.
- 17 A I can. I can't see the front of the store, but I can
- 18 see the store. If I walk out my complex, I'm seeing
- 19 the store. I can see the store.
- 20 Q Isn't there an apartment complex perpendicular to the
- 21 road between your apartment "F" and Belton Mart? You
- 22 can't look through it, can you?
- 23 A It's a road, Calhoun Road, and there's another road
- 24 that goes here, and then there's a storage building
- 25 and then the store.

CROSS EXAMINATION OF RONNIE BENTLEY BY MR. SMITH

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1 Q Yes, sir. Yes, ma'am. Excuse me. When you come out
2 of the apartment, your apartment is back some on a "U"
3 driveway. Right?

4 A Yes.

5 Q All right. When you come out of "F", it's kind of
6 like on the bottom of the "U", right?

7 A No, it's not at the bottom. It's at the front where
8 the office is. The "U" is when you keep going.

9 Q It goes "F", where you live.

10 A Uh-huh.

11 Q Then "G", then "H", which is closest to the road. Is
12 that correct?

13 A Yes.

14 Q All right. So, "G" is here and then -- no "H" is
15 here, then "G", then "F".

16 A Uh-huh.

17 Q So that's at the bottom of the "U", right?

18 A It's the beginning. It's not at the bottom. No.

19 Q Would you say that your apartment complex is slightly
20 at an angle as opposed to a straight angle?

21 A It is. It's at an angle.

22 Q And there is an apartment complex up here to make a
23 "U" on the opposite side. Right?

24 A Yes.

25 Q . But you can see through that up to the Belton Mart 500

CROSS EXAMINATION OF RONNIE BENTLEY BY MR. SMITH

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1 yards up there by 20?

2 A I don't get what you're asking me.

3 Q I guess what I'm asking you is if you can see through
4 that apartment building that is between your building
5 and Belton Mart.

6 A You're asking me if I can see the store from my
7 apartment?

8 Q Can you see that store?

9 A Yes.

10 Q With regard to the EMS building, you know what I'm
11 talking about.

12 A Yes.

13 Q And that is all the way up on 20.

14 A Uh-huh.

15 Q With regard to that EMS building and your apartment,
16 how many apartment buildings are there between your
17 apartment building and EMS?

18 A I'd say about 5.

19 Q Can you see the EMS building from your apartment?

20 A No. I can't.

21 Q How did you meet Mr. Jones again on the 13th?

22 A Uh-huh.

23 Q How did you meet him?

24 A Through my cousin Byrd.

25 Q Where was that meeting at?

REDIRECT EXAMINATION OF RONNIE BENTLEY BY MR. CAMPBELL 232

1 A At Yolanda's house, my friend's house.

2 Q Is there any doubt in your mind that that happened
3 April 13th?

4 A No.

5 Q Does Quenton Byrd have a key to your home?

6 A No.

7 Q Has he ever borrowed anything from your home?

8 A I borrowed something from him.

9 Q Has he borrowed anything from you?

10 A No.

11 Q He never borrowed a grill?

12 A I borrowed the grill from him.

13 Q Oh, okay. You borrowed it from Byrd.

14 A Yes.

15 Q Byrd did not borrow it from you?

16 A No.

17 MR. SMITH: Nothing further, Your Honor.

18 THE COURT: Redirect?

19 REDIRECT EXAMINATION OF RONNIE BENTLEY BY MR. CAMPBELL

20 Q Ms. Bentley, when the robbery and assault were taking
21 place, were you looking at the clock to see how long
22 it lasted?

23 A No.

24 Q You're speculating on the amount of time it was?

25 A Yes.

DIRECT EXAMINATION OF MARK GREGORY BY MR. CAMPBELL

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1 MS. CAMPBELL: I have no further questions.

2 THE COURT: Thank you, ma'am. You may step down if
3 there are no further questions.

4 MR. SMITH: Nothing further, Your Honor.

5 THE COURT: Call your next witness, please.

6 MR. CAMPBELL: The State calls Mark Gregory.

7 (After being duly sworn by the Clerk of Court, Mark
8 Gregory testified as follows:)

9 CLERK OF COURT: If you will take the stand and state
10 your name for the record, please.

11 MR. GREGORY: My name is Mark Gregory. Last name
12 spelling is: G-R-E-G-O-R-Y.

13 DIRECT EXAMINATION OF MARK GREGORY BY MR. CAMPBELL:

14 Q Mr. Gregory, it's obvious by the badge you are wearing
15 you are in law enforcement.

16 A Yes, sir. I am.

17 Q And where are you employed?

18 A Anderson County Sheriff's Office.

19 Q And how long have you been employed there?

20 A Approximately, ten years, sir.

21 Q And prior to that, were you in law enforcement?

22 A Yes, I was.

23 Q And where was that?

24 A Pendleton Police Department.

25 Q And any other type of experience that you have with

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1 law enforcement?

2 A Yes, sir. Military Police Investigator in the United
3 States Marine Corp.

4 Q How long did you do that for?

5 A Four years, sir.

6 Q And your job, what would you call your job description
7 right now with the Sheriff's Office?

8 A I work on a Federal Task Force with the Department of
9 Justice, specifically, the F.B.I. and other federal
10 agencies involved in law enforcement.

11 Q And Agent Stallo with the Alcohol, Tobacco and
12 Firearms, do you work with him?

13 A Yes, sir. I do.

14 Q Now, on April 15, 2011, were you working with the
15 Sheriff's Office?

16 A I was.

17 Q And do you recall what day of the week that was?

18 A Friday.

19 Q Now, how did you first become involved in this case,
20 the reason why you are in court today?

21 A That afternoon, we were working on another case, Agent
22 Stallo and I and some other investigators. We heard a
23 call for service go out over the radio. It sounded
24 like a burglary in progress, per Investigator Johnson
25 who arrived on scene. He told dispatchers that he was

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1 on ---

2 MR. SMITH: Objection. Hearsay.

3 THE COURT: Sustained.

4 Q As a result of Detective Johnson arriving on the
5 scene, did you make any type of contact with him?

6 A Yes, sir. I did.

7 Q And what was the purpose, or why were you calling him?

8 A I called him to ask him if he needed any assistance
9 with the investigation that he was out on.

10 Q And did he, at that time?

11 A He said that he would call me back and let me know
12 what I could do to help him later on.

13 Q Did you go to the Oak Forest Apartments?

14 A Not at that time. No, sir.

15 Q That's what I'm referring to, April 15, 2011.

16 A Correct. No, sir, I did not.

17 Q Now, after you spoke with him on the phone, you went
18 about investigating what you were in the middle of.

19 Is that correct?

20 A That is correct.

21 Q At some point, did you have an occasion to become
22 involved in this case?

23 A Yes, sir, I did.

24 Q And what day was that?

25 A Friday. It would have been the same day, Friday

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1 afternoon.

2 Q And, approximately, what time of day was it?

3 A Seven o'clock to eight o'clock, in that time frame,
4 sir.

5 Q And how did you become involved? What, if anything,
6 did you do?

7 A I asked Investigator Johnson if he needed assistance.
8 I went to the Sheriff's Office on his direction and
9 read Miranda to the defendant and obtained a written
10 statement from him, sir.

11 Q I'm going to get into detail about that. Now, at this
12 point in time, you went back to the law enforcement
13 center. Right?

14 A That is correct.

15 Q Is that here in Anderson County?

16 A Yes, it is.

17 Q And when you arrived, was Mr. Jones already in
18 custody?

19 A Yes, sir.

20 Q Is Mr. Jones in the courtroom today?

21 A Yes, he is.

22 Q Could you please identify him, sir.

23 A He's the defendant, sitting behind the computer screen
24 right there. (Indicating)

25 MR. CAMPBELL: May the record reflect he, in fact,

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1 referred to Mr. Jones?

2 THE COURT: Record so reflects.

3 Q So, prior to going to the law enforcement center, had
4 you seen him before that, that day, I mean, on the
5 15th?

6 A No, sir. I had not.

7 Q So, the first time you laid eyes on him was that night
8 of April 15, 2011?

9 A That is correct.

10 Q And when you saw him, was it at the actual law
11 enforcement center or was it over at the jail?

12 A It was at the actual Law Enforcement Center, at the
13 Sheriff's office building.

14 Q And where did you see him at, at the Law Enforcement
15 Center?

16 A He was in the interview room. We have two interview
17 rooms at the Sheriff's office. He was in one of those
18 two rooms.

19 Q And where is that located at the Sheriff's office?

20 A The interview room is on the second floor. When you
21 come up the stairs, the room directly in front of the
22 staircase door would be the interview room.

23 Q And at this point in time, he is in custody. Is that
24 correct?

25 A That is correct.

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- 1 Q Now, when you saw him, was he handcuffed?
- 2 A I don't recall if he was handcuffed in the front or
- 3 back. I don't recall that.
- 4 Q Was he in an orange jumpsuit?
- 5 A No, sir. He was not.
- 6 Q Do you recall how he was dressed?
- 7 A White tee shirt, bluejeans.
- 8 Q Now, to your knowledge at this point, had anyone
- 9 spoken to Mr. Jones?
- 10 A To my knowledge, no. Can you re-phrase the question,
- 11 as far as speaking with him?
- 12 Q To your knowledge had anyone else talked to him prior
- 13 to you introducing yourself to him?
- 14 A I would imagine people spoke to him.
- 15 MR. SMITH: Objection. Anything further would be
- 16 speculation.
- 17 THE COURT: Sustained.
- 18 Q So, you met him at the Law Enforcement Center and did
- 19 you have an opportunity to talk to him?
- 20 A Yes, sir.
- 21 Q Did you introduce yourself?
- 22 A I did, sir.
- 23 Q And did you introduce yourself as a deputy with the
- 24 Anderson County Sheriff's office?
- 25 A That is correct.

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1 Q How were you dressed?

2 A I was dressed in plain clothes. I don't remember
3 exactly what I was wearing. My uniform is plain
4 clothes uniform.

5 Q And did you advise him of the reason why you wanted to
6 talk to him?

7 A Yes, I did.

8 Q And what, if anything, did you tell him?

9 A I explained I was Mark Gregory of the Anderson County
10 Sheriff's Office. It seems like you are in some
11 trouble, you know, from the way it appears. I'd like
12 to talk to you about whatever has happened with you.

13 Q And did you talk to him?

14 A I did.

15 Q And prior to talking to, whether it's Mr. Jones or
16 anybody else, do you go through a procedure? Is there
17 a procedure you go through to talk to a person?

18 A Yes, sir. There is.

19 Q And what is the purpose or reason why you go through a
20 procedure prior to talking to them?

21 A We go through a procedure when someone is in custody
22 called a Miranda. It's a procedure to allow an
23 individual to know what their rights are. We read
24 down their rights from a sheet of paper and ask if
25 they understand their rights. At that time, if they

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1 do or do not understand their rights, excuse me -- if
2 they do understand their rights, they go ahead and
3 sign a piece of paper that says, "I understand my
4 rights." After that, we go into what we call a Waiver
5 of Rights. It's "do you want to talk," more or less.
6 It goes through some wordage and if they do want to
7 talk to me after understanding what their rights are,
8 they sign the next line.

9 Q And you do this prior to engaging in conversation
10 with, in this case, Mr. Jones, but with any suspect?

11 A Any suspect that is in custody, sir.

12 Q Now, did you do that in this case?

13 A Yes, sir. I did.

14 Q And was an Advisory of Rights Form signed?

15 A Yes, sir. It was.

16 Q And after this was signed, did Mr. Jones agree to
17 voluntarily speak with you?

18 A Yes, sir. He did.

19 Q And did he speak to you?

20 A Yes, sir.

21 Q And as a result of your conversation, was it reduced
22 down to words?

23 A Yes, sir. It was.

24 Q At that point in time, was he given an opportunity to
25 review it?

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1 A That is correct.

2 Q And did he sign it?

3 A Yes, sir. He did.

4 Q Now, I'm going to show you two exhibits and we are
5 going to go through them.

6 MR. CAMPBELL: Your Honor, for the record, State's
7 Exhibit No. 1 is the Advisory of Rights Form. State's
8 Exhibit No. 2 is the first statement. I have shown this to
9 Mr. Smith.

10 THE COURT: Okay.

11 Q Now, Investigator Gregory, I'm going to show you what
12 has been marked State's Exhibit No. 1.

13 MR. CAMPBELL: Your Honor, may I have the witness step
14 off the stand and we can just go through them all at one
15 time?

16 THE COURT: Yes, sir.

17 Q Investigator Gregory, if you will just step off the
18 stand and we'll go through these together.

19 A Yes, sir.

20 Q First of all, and I know you are not on the stand
21 where the microphone is in front of you and I need you
22 to speak up for the ladies and gentlemen of the jury.

23 MR. SMITH: May we approach, Your Honor?

24 THE COURT: Yes, sir.

25 (Bench Conference Off the Record)

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1 THE COURT: Madam Forelady, if you would take your
2 jury to the jury room, please.

3 (Jury out at 2:27 p.m.)

4 THE COURT: All right, we had a bench conference, at
5 which time, and please correct me Mr. Smith, you reaffirmed
6 that you are not challenging the Jackson/Denno findings of
7 voluntariness and he knowingly made a statement, but you
8 have another objection to these exhibits?

9 MR. SMITH: Yes, sir, Your Honor. My objection is
10 based on hearsay, an out-of-court statement for the
11 purposes of truthfulness. My client doesn't have to
12 testify, according the United States Constitution and that
13 would be considered testimony.

14 THE COURT: All right. Number one, under Rule
15 801(d)(1) a prior statement by a witness or defendant is
16 not hearsay and under (d)(2), an admission by a party
17 opponent, which is probably more close to the mark, is also
18 not hearsay. So, I deny your hearsay argument. What you
19 are saying is, it violates his Fifth Amendment Right of
20 self-incrimination?

21 MR. SMITH: Yes, sir.

22 THE COURT: I am going to deny your motion on that.
23 Any other constitutional grounds?

24 MR. SMITH: Not at this time, Your Honor.

25 THE COURT: Thank you, sir. Bring the jury back in,

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1 please.

2 (Jury in at 2:29 p.m.)

3 MR. CAMPBELL: Your Honor, may I proceed?

4 THE COURT: Yes, sir.

5 CONT. DIRECT EXAMINATION OF MARK GREGORY BY MR. CAMPBELL

6 Q Deputy Gregory, if you will please step back off the
7 stand, sir.

8 (Witness complies) (Mr. Campbell projects document on
9 large screen in front of jury)

10 Q Now, Deputy Gregory, I know you are not at the
11 microphone, and so your are going to have to speak up
12 loudly so the ladies and gentlemen of the jury can
13 hear you as you explain this, so as you explain it,
14 please talk to them. This courtroom is hard to hear
15 in.

16 A Yes, sir.

17 Q Now, I'm going to show you what's been marked --
18 first, I want you to identify this. This is what's
19 been marked State's Exhibit No. 1. Can you please
20 identify what this is, sir?

21 A This right is here a form called Miranda. It advises
22 a person who is custody of their rights.

23 Q And how do you know this form is the one that was used
24 in this case?

25 A This form right here comes blank, of course. It's

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1 then filled out by the person I'm giving their rights
2 to. The top right-hand corner here is the defendant's
3 name, Jamario Jones. Personal information; tells me
4 he can read and write, he completed ninth grade and
5 it's also signed by the defendant, Jamario Jones.
6 After he understands what his rights are, at the
7 bottom is where he signs that he talked to me.

8 Q Is your signature on this also?

9 A Yes, sir. It is.

10 Q Now, first, as you were stating, Deputy Gregory, this
11 form here is done by the Sheriff's office?

12 A That is correct.

13 Q And the information that you have on here of Jamario
14 Quinton Jones, his address, date of birth, social
15 security, where did this information come from?

16 A This information would have come from the defendant
17 himself. I would ask him these questions: What is
18 your name, date of birth, phone number, and such.

19 Q And what is the purpose of why you go through and get
20 this information from a person before you talk to
21 them?

22 A To understand who you are giving rights to, you have
23 to know who is receiving these rights, that identifies
24 this piece of paper to the person.

25 Q And you said you've been at the Sheriff's office at

1 least ten years?

2 A That is correct.

3 Q And during those ten years, have you made arrests on
4 individuals under the influence of alcohol or on drugs
5 of some sort?

6 A I have.

7 Q And in this case, when you were speaking to Mr. Jones,
8 did he appear to be under the influence of anything
9 that would prohibit him or interfere with his ability
10 to understand or speak to you?

11 A No. He did not appear to be under the influence.

12 Q If he had been, would you have taken a statement from
13 him?

14 A I would have probably spoken to him long enough to
15 find out exactly what was going on. Of course the
16 last question is: Are you under the influence of
17 drugs or alcohol at this point and if he had said yes,
18 I would have terminated the interview.

19 Q And if he had said yes or you had felt he was under
20 the influence of alcohol or drugs, would you have
21 terminated the interview?

22 A I would have.

23 Q This information right here, was this elicited from
24 him or did you get this from some other source?

25 A I obtained that information from the defendant

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1 himself.

2 Q And as you obtained this information, did it also help
3 you understand he was in full control of his faculties
4 or abilities to communicate with you?

5 A It does. It lets me know he's coherent enough to
6 answer simple questions that any person should be able
7 to answer when they are not under the influence of
8 something.

9 Q Okay. And after you get this information, you write
10 down the date and time you start on this. Is that
11 right?

12 A That is correct.

13 Q And can you just please explain the process as you
14 went through this with him on April 15, 2011, and you
15 can show it on the form right here.

16 A Absolutely. The first thing that we do is identify
17 the form, identify yourself: I'm Mark Gregory of the
18 Anderson County Sheriff's Office, before I speak with
19 you, you need to understand your rights. You need to
20 know what they are. So, that's when I let them know
21 what this form is, specifically. I put it in front of
22 them. I fill out the place the interview is going to
23 take place and here on this form, specifically, is 305
24 Camson Road, which is the Sheriff's office's address
25 and the date was April 15, 2011, and the time is

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1 7:55 p.m. On the other, opposite, side of the sheet,
2 you see this information here. This is information
3 that I received from Mr. Jones by speaking to him.
4 I'm going to obtain this information first before I go
5 into Miranda so I can follow this sheet along to the
6 person it comes from. The first right -- Once I
7 obtain information, personal information, before
8 Miranda, I go in and let them know that they have
9 rights, they don't have to talk to me and they need to
10 know what their rights are. The first right that I
11 read is: You have the right to remain silent. The
12 second one: Anything you say can be used against you
13 in court. The third one: You have a right to speak
14 to a lawyer for advice before you are asked any
15 questions and have with you during questioning. The
16 fourth one: If you cannot afford a lawyer, one will
17 be appointed for you before any questioning, if you
18 wish. If you decide to answer questions now without a
19 lawyer present, you will still have the right to stop
20 answering questions at any time. You also have the
21 right to stop answering at any time until you speak
22 with a lawyer. And then I say, "Do you understand
23 your rights?" And they give me a yes or no. If he
24 tells me yes, I put the date and the time and I ask
25 him to sign that which is right here. He signs when

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1 he understands his rights. After I ask him if he
2 understands his rights, we move into the Waiver of
3 Rights. Here I explain to him, you understand your
4 rights, you don't have to talk to me. If you want to
5 talk to me, I need you to sign this and I go into
6 reading the Waiver of Rights. And the Waiver of
7 Rights states: I have read this statement of my
8 rights and I understand what my rights are. I am
9 willing to make a statement now and answer questions.
10 I do not want a lawyer at this time. I understand and
11 know what I am doing. No promises or threats have
12 been made to me and no pressure or coercion of any
13 kind has been used against me. I ask him again, do
14 you understand what this is? Do you want to speak to
15 me? If he says, yes, I date it, time stamp it, have
16 him sign at the bottom and then I witness both spots.

17 Q And this is the statement that he signed on April 15,
18 2011?

19 A Yes, sir. That is correct.

20 MR. CAMPBELL: Your Honor, at this time, I would move
21 State's Exhibit No. 1 into evidence.

22 THE COURT: Any objection?

23 MR. SMITH: No, sir.

24 THE COURT: Thank you, sir.

25 (Whereupon, an Advisory of Rights Form is entered into

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1 evidence as State's Exhibit No. 1, without objection)

2 Q Now, Deputy Gregory, if you will take the stand,
3 please, sir. (Witness complies) Now, at this point
4 in time, did you take a statement from him?

5 A Yes, sir. I did.

6 Q And he didn't ask for a lawyer or wish to not speak to
7 you. Is that right?

8 A I'm sorry. Say that again, please.

9 Q At any point, prior to making his statement, did he
10 ask for a lawyer?

11 A No, sir. He did not.

12 Q And at this point, did he agree, after you went
13 through the Advisory of Rights Form, agree to talk to
14 you?

15 A That is correct. He did.

16 Q And did he give you a statement of his version of why
17 he was there and what took place?

18 A That is correct. He did give a written statement.

19 Q And when you take a written statement, what is the
20 procedure that you go through when you take a
21 statement from an individual?

22 A The first thing I do, again, is get personal
23 information again from them and make sure it matches
24 up with the Miranda Form that I administered prior to
25 taking the statement. The next line I fill out is:

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1 This statement is being written by Investigator M. or
2 Mark Gregory. I draw a little "x" and have them sign
3 it to let this person know that I am writing this
4 statement for them so they can concentrate on the
5 events that had happened and so we can put it on the
6 paper legibly.

7 Q And do you normally write the statement out from a
8 person you are taking a statement from?

9 A I either write it or type it.

10 Q And why do you do this? Why wouldn't you let the
11 individual that you are taking the statement from
12 write it for themselves?

13 A When you are taking a statement from an individual,
14 events can happen so quickly that they start spouting
15 off what had transpired in a very quick manner. I
16 have to slow that process down, let them speak,
17 collect their thoughts and make sure that what they
18 are telling me is what they want to say versus putting
19 everything down on paper and just saying, you know,
20 this is what happened.

21 Q And is a part of this process, does it allow them to
22 concentrate on telling you the story?

23 A Yes, it does.

24 Q And did you talk to him about the events of why he was
25 there?

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- 1 A Yes, I did.
- 2 Q And he gave you a statement of what that was. Is that
- 3 right?
- 4 A He gave a statement. Correct.
- 5 Q I'm going to show you what has been marked as State's
- 6 Exhibit No. 2. If you could first identify what this
- 7 is, sir.
- 8 A This is the written that I took from Jamario Jones on
- 9 April 15, 2011.
- 10 Q And how do you know that's the statement you took from
- 11 him?
- 12 A According to the date, April 15, 2011, and it's in my
- 13 handwriting and I can identify it that way.
- 14 Q And is his signature on it?
- 15 A It is. It's in two spots.
- 16 Q Now, after you finished speaking with him, you put
- 17 down on paper what he told you. Is that right?
- 18 A That is correct.
- 19 Q And that's what's indicated on State's Exhibit No. 2?
- 20 A That is correct.
- 21 Q And after you finished writing this on paper, did you
- 22 give him an opportunity to review it and make any type
- 23 of corrections that he may want to make?
- 24 A Yes. I always do.
- 25 Q And in this case, did he make any corrections in this?

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1 A No. He did not.

2 Q And did you give him an opportunity to review it and
3 read it?

4 A Yes, I did.

5 Q And after he did this, did he sign it as his
6 statement?

7 A Yes, he did.

8 MR. CAMPBELL: Your Honor, at this time, I'm going to
9 move State's Exhibit No. 2 into evidence.

10 THE COURT: Admitted.

11 (Whereupon a statement by Jamario Jones, dated April
12 15, 2011, is admitted into evidence as State's Exhibit No.
13 2, without objection)

14 MR. CAMPBELL: And at this time I would have Deputy
15 Gregory read it to the jury.

16 THE COURT: You may step down. Did you want him to
17 step down or stay on the stand?

18 MR. CAMPBELL: I'm going to have him read it from the
19 stand, Your Honor.

20 THE COURT: I'm sorry. Excuse me. You may publish it
21 to the jury.

22 MR. CAMPBELL: Thank you, Your Honor.

23 Q Since State's Exhibit No. 2 has been admitted into
24 evidence, Deputy Gregory, if you will please relay or
25 tell the ladies and gentlemen of the jury what that

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1 State's Exhibit No. 2 states.

2 A Yes, sir. The document that is in my hand is a
3 statement that I took from the defendant, Jamarion
4 Johnson. The top lefthand corner gives personal
5 information that states his name, other identifying
6 information.

7 MR. CAMPBELL: Your Honor, I think it might be best to
8 have him step off the stand to go through this.

9 THE COURT: All right, sir.

10 Q Deputy Gregory, if you will step off the stand and
11 I'll let you go through it and I want you to publish
12 it or read it to the jury once this thing fires up.
13 (Projects statement on large screen)

14 A In the top lefthand corner is personal information:
15 Jamarion Jones, 300 Saluda Drive, Belton, South
16 Carolina. Date of birth is 7/10/1981. He's twenty-
17 one years old and B/M stands for black male. Cell
18 phone number is: 864-932-8302. Social Security Number
19 is: 248-79-8404. He completed the ninth grade and
20 states he can read and write. Then I go into the
21 date. It's in the top right-hand corner, April 15,
22 2011. This is page number one. Then we go into the
23 first sentence that I always put on a statement: This
24 statement is being written, was written by
25 Investigator M. Gregory for Jamarion Quinton Jones in

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1 his own words. I then have him sign this to make sure
2 he understands I am writing this statement for him and
3 I go in and say -- excuse me. He went on to say and I
4 wrote on this piece of paper: I woke up at 9:00 a.m.
5 today. I went outside to lift weights. I went back
6 into the house and sat down and watched T.V. My old
7 lady, Candice Brown, got off work at 12:00. Candice
8 works at Love and Care Nursery. I was at Candace's
9 house. Candice lives at 113-D Prospect Church Road.
10 I spent the night there last night. Candice and me
11 sat in her house. I don't know what time we sat there
12 'till. I told Candice I wanted to go check my Mama
13 and, go and check on my Mama in Belton. Me and
14 Candice and her friend Tiffany, I don't know her last
15 name, all rode to Belton in Candice's burgundy Honda
16 Accord four-door. We drove to 300 Saluda Drive to see
17 my Mama. I sat at her house for thirty minutes to an
18 hour, because I was putting old clothes and stuff
19 under the house. Melody called me and said she wanted
20 a ride somewhere. I told my old lady to go pick up
21 Melody. Candice drove out to the country near Camelot
22 to pick up Melody. Melody told me that she had to go
23 to Oak Forest. Oak Forest is some apartments up the
24 street. Candice dropped Melody off and came back to
25 my Mama's house. Me and Candice sat at my Mama's

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1 house and played on the computer. Me and Candice left
2 my Mama's house and that is when we saw Melody and
3 Byrd run across the street. I asked Melody what she
4 was running for and Byrd kept running towards his
5 house. Byrd lives in a duplex across the street from
6 the apartments. Melody answered me when I asked her,
7 Melody answered me when I asked her what she was
8 running for and Melody said she needed a ride to her
9 house. Melody lives on Camelot. I was on the road
10 from Oak Forest and Melody got in the car and we drove
11 to Camelot. End of statement. Signed, Jamario Jones.

12 Q Deputy Gregory, if you will please take the stand.
13 (Witness complies) Now, after you took his statement,
14 what did you do next?

15 A I made sure it was correct and made sure he didn't
16 want to change anything, cross anything out, make
17 other corrections to the statement and then I took the
18 statement and went and spoke to Investigator Johnson.

19 Q And what was the purpose of that?

20 A He was the lead investigator in the case and I wanted
21 to let him know where I was at with helping him in his
22 investigation. I turned the paperwork over to him.
23 Also, Mr. Jones had asked me to see if ---

24 MR. SMITH: Objection, Your Honor. Anything Officer
25 Johnson said would be hearsay.

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1 THE COURT: Overruled.

2 Q Please continue.

3 A Mr. Jones had asked me to see if Investigator Johnson
4 would come speak with him.

5 Q Did he call him Investigator Johnson?

6 A No. He did not.

7 Q What did he call him?

8 A O.J.

9 Q So, he wanted to speak to O.J., who is Investigator
10 Johnson.

11 A That's correct.

12 Q And did you go talk to Investigator Johnson?

13 A Yes, I did.

14 Q And did you relay this information to him?

15 A Yes, I did.

16 Q Do you know if Detective Johnson went and spoke to
17 him?

18 A He did.

19 Q Were you present when this took place?

20 A No, I was not.

21 Q Now, that night, that day of April 15, 2011, after you
22 had taken this statement, you gave it to Detective
23 Johnson?

24 A That is correct.

25 Q Did you do anything further, have any further

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1 involvement in this case that day, that night?

2 A No, sir. I did not, that night.

3 Q Did you also continue to help Detective Johnson in the
4 investigation of this case?

5 A Yes, I did.

6 Q And as a result of that, did you go to the apartment
7 complex?

8 A Yes, I did.

9 Q And what was the purpose of doing that?

10 A We went to the apartment complex, because we wanted to
11 see for ourselves what it looked like and when we
12 arrived on scene, we noticed some posters that said,
13 "This property is under video surveillance." At that
14 time, we knocked on the manager's door and asked her
15 if there was video surveillance to the apartment
16 complex and she said, "yes".

17 Q And as a result of this, did you review the video --
18 well, first of all, did they have any video
19 surveillance of April 15, 2011?

20 A Yes. They did.

21 Q And did you, yourself, actually review it?

22 A I did.

23 Q And when you reviewed it, was it on their equipment?

24 A It was.

25 Q As a result of viewing this, did you have a time frame

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1 that you were looking at?

2 A Yes, we did. It would have been the time frame when
3 the call for service went out.

4 Q And as a result of looking at that video, did you,
5 were you able to see any information that helped you
6 in the investigation of this case?

7 A Yes, I was.

8 Q What did you do with the videos that the apartment
9 complex had?

10 A We, once we viewed the videos, we transferred the
11 videos to thumb drives and then, ultimately,
12 transferred those images from the thumb drive to a CD.

13 Q And you were the one that transferred it from the
14 thumb drive?

15 A Yes.

16 Q And as a result, you made two disks and provided them
17 to us. Is that right?

18 A That is correct.

19 Q I want to show you what has been marked State's
20 Exhibit Nos. 21 and 22. Deputy Gregory, are these two
21 DVDs, is this what you provided to us in discovery as
22 a result of viewing the apartment complex's video
23 surveillance?

24 A Yes, it is.

25 Q As a result of that, that's information that helped

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1 you, you were able to observe information on these
2 videos that helped you in the case, the investigation
3 of this case?

4 A Yes.

5 MR. CAMPBELL: Your Honor, I want to move State's
6 Exhibit Nos. 21 and 22 into evidence.

7 THE COURT: Any objection?

8 MR. SMITH: No, sir.

9 THE COURT: Exhibit Nos. 21 and 22 admitted, without
10 objection.

11 (Whereupon, two DVDs are entered into evidence as
12 State's Exhibit Nos. 21 and 22, without objection.)

13 MR. CAMPBELL: At this point in time, Your Honor, I'm
14 going to have Deputy Gregory step off the stand and set up
15 the video and play it. We are going to fast forward it
16 until strictly the time we need. It's rather lengthy and
17 it's just a short segment of it.

18 THE COURT: All right. You may step down, sir.

19 MR. CAMPBELL: First of all, I'm going to put it in.
20 This is State's Exhibit No. 21. This is marked Disk "A".

21 Q Deputy Gregory, once we get it playing, as it goes
22 along, if you will please identify what you are
23 observing and if you need to stop it at any point in
24 time, please let us know so we can do that.

25 A Yes, sir.

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1 (Playing video, State's Exhibit No. 21, Disk "A" on
2 large screen)

3 Q Deputy Gregory, we are going to start it a little
4 before it. If something takes place, please let us
5 know what you are observing or what peaks your
6 interest and explain it to the ladies and gentlemen of
7 the jury. If we need to pause it, we will.

8 A Yes, sir. This is Oak Forest Apartments, which is in
9 Belton, South Carolina, in Anderson County. There's
10 one, two, three buildings here on this camera. This
11 camera is at the very top of the office. The building
12 that this camera is mounted on is the office itself
13 and it's pointed directly down this sidewalk. This
14 building here, not these apartments, but the whole
15 building is just four apartments. So, for one
16 building, there are two apartments on the bottom --
17 excuse me. Four apartments on the bottom and four
18 apartments on the top. There are eight apartments
19 total for one building. What you are going to see is,
20 you are going to see a car. It should be in a few
21 seconds. If you could pause it a second, please.
22 This angle is where you will see the car. The car
23 will come down here and let out two people. One
24 person walks to the back of this building and one
25 person walks to the front of the breezeway. You can

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1 play it. These two people are the defendants, Jamario
2 Jones and ---

3 MR. SMITH: Objection, Your Honor. Foundation.
4 May we approach?

5 THE COURT: Yes, sir. Stop that video, please. Would
6 you take the jury back to the jury room, please, Madam
7 Forelady?

8 (Jury out at 2:54 p.m.)

9 MR. SMITH: There is no foundation to say -- I've got
10 eagle eyes. I can't see anybody, let alone the defendants.
11 He's stating that's who it is. How is that possible? I
12 didn't even see it when he was saying it. Are we talking
13 about the far, not this apartment complex here, but the
14 next one down? I saw somebody with green on or something
15 of that nature.

16 THE COURT: Well, it did sort of look like green and
17 then turned white. Let me ask the officer. Would you mind
18 stepping around, officer?

19 DEPUTY GREGORY: Yes, sir, Your Honor. Where to?

20 THE COURT: Right there is good. First, do you have
21 any objection as to the authenticity or any rules of
22 evidence as to the admissibility of this videotape?

23 MR. SMITH: No. He's already laid the foundation
24 where it came from and so forth, although, I think the
25 person from the apartment complex could tell us that, but

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1 other than that, certainly.

2 THE COURT: Let me just say this: As to the
3 authenticity, if he can say that it purports to be what it
4 is and he gave the basis behind it, I think it's adequately
5 authenticated. That's on both thresholds. Okay?

6 MR. SMITH: Yes, sir.

7 THE COURT: There's been no evidence that the
8 duplicate is improper or there's no argument it's improper.

9 MR. SMITH: No, sir.

10 THE COURT: So, your argument, as I understand it, and
11 that's what I'm trying to get to is, that he has identified
12 subjects on this tape as being the defendant and another
13 co-defendant, although when you look at it, you can't ---

14 MR. SMITH: I don't know how he can authenticate that.

15 THE COURT: Okay. Well, I don't know if that's the
16 issue, authentication. I think it's a case of
17 identification and weight, frankly. I'm going to ask the
18 officer, though, if they can, is there any indication of a
19 date stamp or time stamp on that?

20 DEPUTY GREGORY: Yes, Your Honor.

21 THE COURT: Okay. Could you give us that as a part of
22 what you are saying and that will be subject to your cross
23 examination. I note your objection. For the record, too,
24 Exhibit No. 2, the statement of the defendant, the Defense
25 has already objected to it and there's no reason to object

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1 to it again.

2 MR. SMITH: Yes, sir.

3 THE COURT: All right. It's 3:00, let's take about a
4 10 minute break and then we'll come back and start up
5 again.

6 (Brief Break)

7 THE COURT: Are you ready to proceed with your direct?

8 MR. CAMPBELL: Yes, sir.

9 THE COURT: Are you ready, Mr. Smith?

10 MR. SMITH: Yes, sir.

11 THE COURT: Bring us the jury, please.

12 (Jury in at 3:15 p.m.)

13 THE COURT: Mr. Campbell.

14 MR. CAMPBELL: May it please the Court.

15 CONT. DIRECT EXAMINATION OF MARK GREGORY BY MR. CAMPBELL

16 Q Deputy Gregory, let me step back a little bit, lay a
17 little bit of background so the jury will understand
18 what we're looking at, what you were looking for.

19 Okay?

20 A Yes, sir.

21 Q This video that we are showing is the actual video
22 that you copied from the apartment complex. Is that
23 correct?

24 A That is correct.

25 Q And you witnessed this video or looked at it prior to

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1 downloading it to your thumb drive.

2 A That is correct.

3 Q Now, what date in question were you looking at, when
4 you went to look at this video?

5 A Friday, April 15, 2011, around 1:30 to 1:50 p.m.

6 Q Now, on this video at the bottom it does say 2011,
7 actually 2011-04-15. That indicates April 15, 2011.
8 Is that correct?

9 A That is correct.

10 Q And the time of 13:55:11, what exactly does that
11 equate to?

12 A It equates to military time. 12:00, being 12:00 in
13 the afternoon. The number being 13, means 1:00 in the
14 afternoon.

15 Q Now, so this number then would be 1:56 based on their
16 time stamp. Is that correct?

17 A That is correct.

18 Q And in your experience, have you ever gotten videos
19 from other places before?

20 A Yes. I have.

21 Q Now, the time stamps on these videos that you've
22 received, are they always, do they coincide with your
23 time stamps?

24 A No, they do not.

25 Q Based on what dispatch and other officers give you?

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1 A Yes, sir. We often compare watches, all of us would
2 be about the same time, but they would be off a few
3 seconds or even a minute or two. The same with store
4 surveillance, surveillance here, and then the
5 Sheriff's office dispatch times that are generated
6 from the computers.

7 Q So, there would be a little discrepancy involved in
8 the actual time frame.

9 A That is correct.

10 Q Now, when you got this video, did you get this video
11 the very next day, April 16, 2011, or was it several
12 days after the fact?

13 A No, it would have been the 18th, April 18, which would
14 have been a Monday.

15 Q And when you went to review this video, were you
16 looking for anything in particular?

17 A Yes.

18 Q And what was that?

19 A We were looking specifically for a maroon car, looking
20 for a maroon car that dropped off at least two people.

21 Q And in this case, do you have a description of what
22 these people were wearing or what you were looking for
23 when you viewed this video?

24 A Yes.

25 Q And what was that?

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1 A A black male, a black female, wearing a white shirt or
2 gray shirt and bluejeans.

3 Q And in this video, this video was taken from the point
4 of view of the apartment office?

5 A That is correct.

6 Q The actual -- do you know the distance between the
7 apartment office to this apartment building?

8 A Roughly twenty yards, twenty meters.

9 Q Does this video portray, is it kind of a close-up view
10 of it or far away view?

11 A Far away.

12 Q Does this video camera, the angle, does it show, what
13 it depicts in the pictures, is it farther, does it
14 look farther away or does it look closer to you?

15 A The video camera makes it look a little bit farther
16 away than it actually is.

17 Q And in this, can you actually identify or pick out the
18 faces of the people that you were looking for?

19 A No, you cannot.

20 Q So, what were you looking for then, to begin with?

21 A Looking for descriptions of people that would have
22 been consistent with the descriptions of the people
23 that were arrested on Friday, April 15, 2011.

24 Q And that's what you were looking for in this video and
25 what you are testifying to?

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1 A That is correct.

2 Q Now, I'm going to go ahead and -- Now, when we are
3 viewing this, you can't say for a fact that's actually
4 Mr. Jones and Ms. Ellis. Is that right?

5 A That is correct.

6 Q But what are you saying, then, what are you indicating
7 is that you think these two people that you see in
8 this video are them. What are the grounds for your
9 belief?

10 A From the totality of the circumstances surrounding the
11 events of April 15, 2011.

12 MR. SMITH: Objection, Your Honor. It should be based
13 on what he sees, not the totality of the circumstances.

14 THE COURT: Overruled.

15 Q Detective, if you will go ahead and, we'll go ahead
16 and play the video. If you will just describe what
17 this indicates to you or what it shows to you.

18 A Yes, sir. What you will see for about a split second,
19 about ten seconds, is a car come through the bare area
20 of the trees and it will stop in this general area.

21 (Indicating) Two people are getting out of the car
22 now, walking closest to the building. I do not know
23 the building number here. This person who is dressed
24 in the darker clothing of the two will walk to the
25 back of the building. The person wearing the white

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1 tee shirt walks toward the front of the building.

2 This building, again, has eight apartments in it.

3 Four on the bottom, four on the top, separated by a
4 breezeway that goes all the way through the middle of
5 the apartments, through the apartment building.

6 Q And do you see this car leave in this video?

7 A It would have already left. If you go back to 1356, I
8 believe, about ten seconds, you may be able to view
9 the vehicle leave here. (Rewind) The two people leave
10 the vehicle and you'll see the shadow of a vehicle go
11 through this tree, right there. (Indicating)

12 Q All right. Now, I'm going to show you what has been
13 marked State's Exhibit No. 22. This is also taken
14 from a different camera in the apartment complex. Is
15 that correct?

16 A That is correct.

17 Q And what does this video, this DVD, what angle is it
18 going to show?

19 A This DVD the Solicitor is holding, that I'm holding
20 now, this is going to depict the angle from the front
21 of the office to the parking lot.

22 Q The entrance into the apartment complex?

23 A It will be one of the two entrances to the apartment
24 complex. Yes.

25 MR. CAMPBELL: Your Honor, at this time we are going

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1 to put it on the computer and play it.

2 THE COURT: Just one second. Are you seeking to
3 introduce it?

4 MR. CAMPBELL: I thought it already had.

5 THE COURT: I have "A". I don't have "B". Do you
6 have "B"? (Speaking to court reporter)

7 COURT REPORTER: I have "B".

8 THE COURT: Go right ahead, please, sir.

9 (The second video, State's Exhibit No. 22, is played
10 for the jury on the large screen)

11 Q What is this depicting?

12 A This video camera, which is the office -- can you
13 pause it -- this video camera here is the office for
14 the apartment complex that the manager works out of.
15 The mailboxes are in this vicinity as well. The
16 camera is pointing up to the main entrance of the
17 apartment complex which is up here. This vehicle that
18 drives off would be the vehicle that you saw through
19 the trees on the opposite video camera. This gives
20 you a better angle to depict what kind of vehicle it
21 is. If you could back it up a second.

22 Q And did you get a description of what make and model
23 this type of vehicle is?

24 A From when?

25 Q Did you get a description of what make and model this

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1 car is?

2 A It's a burgundy Honda Accord.

3 Q And did that come from Mr. Jones' statement?

4 A I'd have to look at it to refresh my memory. This,
5 again, is the vehicle that you saw with the other
6 video camera going through the trees. It is a
7 burgundy Honda Accord. This is the vehicle that let
8 out the two people that you saw walking to the
9 apartment on the prior disk.

10 (Stop playing the video)

11 Q Detective, if you would please take the stand.

12 (Witness complies) Now, Deputy Gregory, if you will
13 step off the stand, please, because I'm going to show
14 you State's Exhibit No. 4. First, please describe
15 what this is indicating, what it is showing.

16 A The main part of this picture is the building where
17 you would have seen the two people walk to that got
18 out of the burgundy vehicle.

19 Q If you would please show where the video camera angle
20 is from that first video that we were looking at.

21 A The first video angle is going to be from right here.

22 Q Is that the camera that was shooting the first video
23 that we saw?

24 A That is correct. Right here there is a small speck on
25 the photograph, which is the camera on the office that

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1 points in this direction.

2 Q And is this the building -- right here, is this the
3 victim's building, where she resided at the time?

4 A Yes, it is.

5 Q And is this the building that we saw the two
6 individuals get out of the car and walk towards?

7 A Yes, it is.

8 Q And the other video camera, what direction would it
9 have been shooting from in the second video?

10 A It would have been pointing out in this direction, if
11 you can see, pointing out.

12 Q So, the roadway is out this way?

13 A That is correct.

14 Q Please take the stand. (Witness complies)

15 MR. CAMPBELL: Court's indulgence, please.

16 THE COURT: Yes, sir.

17 Q I have no further questions. Please answer any
18 questions Mr. Smith may have.

19 THE COURT: Mr. Smith.

20 MR. SMITH: May it please the court.

21 CROSS EXAMINATION OF MARK GREGORY BY MR. SMITH

22 Q Officer Gregory. Would that be appropriate or is it
23 Detective?

24 A Either way, sir, is fine.

25 Q I want to be right. Officer Gregory, you took a

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1 statement from many people. You took one from Mr.
2 Jones and when you say you take it, you're the one
3 writing it. You told us that one of the things you
4 learn in your initial interview is whether someone can
5 read or write. Isn't that right?

6 A Correct. It's what they tell me.

7 Q As someone that can read and write, do you think they
8 can write their own statement?

9 A Yes.

10 Q Why, then, would you take it out of their hands and
11 you write it?

12 A It's common procedure at the Sheriff's office to write
13 somebody's statement for them. Just because somebody
14 can read and write, doesn't make their statement
15 legible.

16 Q It has to do with legibility?

17 A Yes. We want people to understand and be able to read
18 what you put on paper earlier.

19 Q So, you would agree with me that the statement that
20 you wrote is not everything that you heard. Right?

21 A Could you re-phrase?

22 Q That statement right there. That is not every single
23 word that you heard. Right?

24 A Prior to the statement, we talked to get my
25 understanding of what's going on. Everything in that

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1 statement, when he gave the statement, is in his own
2 words.

3 Q So, this statement is in his own words?

4 A Yes. It is.

5 MR. SMITH: May I approach, Your Honor?

6 THE COURT: Yes, sir.

7 Q Would you read that sentence right there, verbatim.

8 A I was at Candice's house.

9 Q Do you see a "T" there, sir?

10 A No. I do not.

11 Q So, it says, "I was a Candice's house?

12 A Yes.

13 Q Do you think Mr. Jones would have done that?

14 A Could he have done what, sir?

15 Q Could he have written that statement?

16 A Yes. He could have written that statement.

17 Q Is it possible that when you're talking and listening
18 that you make an interpretation of your own of what
19 he's trying to say? Is that possible?

20 A Absolutely.

21 Q Is it possible that someone told you they can read and
22 write, can't really read? Is that possible?

23 A I would say, yes.

24 Q How often would you say, do people, after you write
25 their statement for them, how often do you see people

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1 that just in apathy or something, just sign their name
2 and that's it? They don't read anything, they just
3 sign their name. How many times has that happened, do
4 you think?

5 A About what, as far as...

6 Q Percentage-wise. Would you say it happens often?

7 A As far as statement taking?

8 Q No. The person that signs their name to the bottom of
9 a statement, would you agree with me, that it happens
10 a great deal of the time, that people who are now
11 incarcerated or in jail, not free to leave, don't
12 really care and just sign their name?

13 A I can't speak for anybody else. I can only speak for
14 myself.

15 Q Right. But ---

16 A In the amount of statements that I've taken over the
17 years, people want to know what's written down.

18 Q So, you have not had the opportunity to interact with
19 someone who is somewhat unhappy about their situation
20 and, as a result, is not really willing to sign
21 anything?

22 A Have I ever run across that?

23 Q Right.

24 A Yes.

25 Q With regard to apartment "F" and the video

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1 surveillance camera coming from the management office,
2 you would agree with me that you lose sight of whoever
3 we just witnessed. Right? And you lose sight of them
4 alongside building "G". Is that correct?

5 A I'm not familiar with which building is which without
6 something in front of me and so, are you talking -- is
7 building "G" going to be the victim's building?

8 Q Building "F" is actually the victim's building.

9 MR. SMITH: Could you put that up on the screen for
10 me? (Speaking to someone concerning the video)

11 Q Could you come down and help me as you did with
12 Mr. Campbell?

13 A Absolutely. (Witness leaves the witness stand)

14 (Video is projected onto large screen)

15 Q So, would those be the individuals, the alleged
16 defendants in this matter?

17 A Yes.

18 Q Okay. And they continue alongside that other
19 building. Is that right?

20 A No, sir. You're talking about the building that's
21 next to it? Isn't this the victim's building right
22 here? (Indicating)

23 Q The closest one to us, isn't that the victim's
24 building?

25 A Yes.

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1 Q Okay. Well, aren't they going alongside the other
2 building? I mean, this is the sidewalk.

3 A The people that you can see walking, they walk
4 alongside this far building here. The person wearing
5 the white shirt will then turn right around here and
6 walk to the breezeway, which I described earlier.

7 Q Can you see the breezeway?

8 A No. You cannot see the breezeway.

9 Q So, you are assuming he walks to the breezeway?

10 A Based on my experience, I don't know where else he
11 would go.

12 Q Well, do you know where the woman went?

13 A No, sir. She would be off the video camera at that
14 point.

15 Q And from this camera, can you tell me whether it's a
16 man or a woman?

17 A Which person?

18 Q Any of them. Either of them.

19 A From this angle, no.

20 Q Can you tell me what color shirt is that?

21 A That appears to be white.

22 Q It's not -- it's white?

23 A Yes.

24 Q Okay. So, we know that to be the defendant?

25 A From the totality of the circumstances. Yes, sir.

CROSS EXAMINATION OF MARK GREGORY BY MR. SMITH

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1 Q A good guess, based on the circumstances. Right?

2 A Yes.

3 Q Is it possible that it could have been someone else
4 from the neighborhood? Excuse me, sir. I take that
5 back. You have to assume in order to get them inside
6 that breezeway. Don't you?

7 A Yes. That's an educated guess. They disappear from
8 the video.

9 Q An educated assumption. However, with that in mind,
10 you have no idea what went on once they entered the
11 breezeway. Is that right?

12 A Absolutely.

13 Q And you would agree with me, then, that the only thing
14 that truly matters is who saw what went on inside that
15 apartment.

16 A Yes.

17 Q So, the credibility of the victims is absolutely
18 essential.

19 A With evidence. When you can, when you can take a
20 person's opinion or a person's facts and they
21 articulate what happened, and then you have other
22 pieces of evidence that come into the equation, that
23 becomes the totality of the circumstances and you take
24 everything as a whole and you look at it and you are
25 then able to present it to yourself as a reasonable

REDIRECT EXAMINATION OF MARK GREGORY BY MR. CAMPBELL 278

1 person, can a reasonable person obviously believe what
2 happened.

3 Q Can a reasonable person take something that isn't true
4 and make it true?

5 A No, sir. I believe that takes out reasonable.

6 Q Thank you, sir. I have nothing further.

7 THE COURT: Redirect?

8 MR. CAMPBELL: Just a couple.

9 REDIRECT EXAMINATION OF MARK GREGORY BY MR. CAMPBELL

10 Q Deputy Gregory, when you took this statement, State's
11 Exhibit No. 2, Mr. Jones' statement, are these your
12 words, is this your interpretation of the events that
13 took place on April 15, 2011?

14 A No, it's not my interpretation.

15 Q Where did these words come from who did they come
16 from?

17 A Jamarío Jones.

18 Q Did you put down on this statement your thoughts and
19 your ideas of how you think things should have been?

20 A I did not.

21 Q So, when Mr. Smith was talking about it should say
22 "at" instead of "a", was that just a scribner's error?

23 A Quite possibly, yes.

24 Q And when you write this, after you write this, did you
25 give Mr. Jones an opportunity to review it?

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1 A Yes.

2 Q Did he read over it?

3 A Yes.

4 Q And at any point, did he make any corrections saying
5 this is not right, this is wrong?

6 A No. Had he done that, there would be proof on the
7 statement.

8 Q There would be something crossed out?

9 A With his initials. Yes.

10 Q When you say, initials, whose initials?

11 A The initials of Jamario Jones, the person I was taking
12 the statement from.

13 Q Let me get this straight, this is not your
14 interpretation.

15 A No, it's not.

16 Q At the time you spoke to him or talked to him, did you
17 already know what had happened?

18 A No, not really. There were things that were in play
19 that I didn't necessarily know about. I was already
20 off work at that point.

21 Q In the camera angle that we see here, where these two
22 individuals, where they were walking to the apartment
23 complex, these cameras are not going to show the
24 actual robbery as it took place, are they?

25 A No, they will not.

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1 Q This is just another tool that you used in your
2 investigation to piece together this case?

3 A That is correct.

4 Q And when you do a case, whether Mr. Jones' case or
5 anybody else's, do you strictly rely upon what the
6 victim's themselves say to you before you make an
7 arrest?

8 A I do not.

9 Q What do you do before you make an arrest?

10 A We want to corroborate information, we want to make
11 certain the puzzle pieces are actually fitting
12 together with other evidence out there.

13 Q In the past, have you ever had victims lie to you?

14 A Yes.

15 Q And based on what they tell you, do you make an arrest
16 based on what they say to you?

17 A No, I do not.

18 Q And why is that?

19 A It's not right. We try to give everybody an
20 opportunity to give their side of the story and I can
21 only imagine if we went off everybody's word all the
22 time.

23 Q So, in this case, prior to an arrest being made, not
24 only you, but all the investigators working the case
25 look at what you call, "the totality of the

RE-CROSS EXAMINATION OF MARK GREGORY BY MR. SMITH

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1 circumstances," to see if all the facts match?

2 A Yes.

3 Q And this is done prior to making an arrest?

4 A From what you have. Yes.

5 Q Does your investigation end at that point in time? Do
6 you stop investigating?

7 A No, sir.

8 Q Why not?

9 A There's always more to the investigation. You must
10 continue on, you must find evidence like we have here
11 with the videos or anything else that may exist and
12 you have to rule out things.

13 Q And did you do that in this case?

14 A We did, specifically, yes.

15 MR. CAMPBELL: I have no further questions.

16 MR. SMITH: May it please the Court.

17 RE-CROSS EXAMINATION OF MARK GREGORY BY MR. SMITH

18 Q Things at play.

19 A I'm sorry. Could you speak up?

20 Q Things at play. What things are you speaking of?

21 A In the sentence that I just stated, things at play
22 about an investigation?

23 Q Yes, sir. What do you mean by that?

24 A Certain things happen in certain investigations.

25 There could be a car pulled over. There could be

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- 1 somebody that ran from the police, a gun was dropped,
2 they threw dope. Anything can happen during an
3 investigation. Those are things at play. We want to
4 investigate the crime the best way we know how.
5 That's tracking down leads, following up on suspicious
6 people that could be part of the investigation, to
7 either rule them in as a suspect or rule them out.
8 Those are what I would consider things at play.
- 9 Q Mr. Jones has been charged with first degree burglary.
10 As you are aware, that requires an intent to commit a
11 crime, therein. Right?
- 12 A That is correct.
- 13 Q Can you tell me how you are able to figure out
14 Mr. Jones' intent? I mean, without a doubt.
- 15 A I didn't sign the warrants. Does that make sense?
- 16 Q Certainly. I'm asking you, though.
- 17 A Okay.
- 18 Q How do you figure out his intent, without a doubt.
- 19 A His intent, burglary, first degree, during the
20 daylight hours, requires a firearm. The intent would
21 be evidence that you have when you start talking to
22 people, victims, witnesses. If there is a victim that
23 makes a report about somebody breaking into their
24 house and beating them up and they have marks to prove
25 it, that shows intent.

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1 Q So, it's intent to beat somebody up? That's what
2 occurred. We know that. Right?

3 A Yes. We do know that.

4 Q Okay. With regards to what was taken. What was
5 taken, again, according to you?

6 A I do not recall. I would have to see the police
7 report, please.

8 Q I will withdraw that. With regard to what happened in
9 that residence, there are four adults that can say,
10 without a doubt, what happened. Would you agree with
11 that?

12 A Again, I was not the lead investigator. I would have
13 to see the police report to know who was in the
14 apartment.

15 Q Anybody else, any other adults, in that home besides
16 two defendants and the two victims?

17 A I don't believe there were any other adults in the
18 home. No.

19 MR. SMITH: Nothing further, Your Honor.

20 THE COURT: Any reason this officer can't be excused?

21 MR. SMITH: No, sir.

22 THE COURT: Very good. You may step down and be
23 excused.

24 MR. CAMPBELL: Your Honor, may we approach?

25 THE COURT: Yes, sir.

1 (Brief Bench Conference Off the Record)

2 THE COURT: All right, Madam Forelady, ladies and
3 gentlemen of the jury, as you can see, I confer with these
4 attorneys. They've been working on this case a lot longer
5 than me. I heard of it just an hour or two before we were
6 introduced to the case and at their suggestion, and I think
7 it's an appropriate one, this is a good time to break for
8 the afternoon just because of where we are and the
9 logistics of the testimony. I'm going to excuse you for
10 the evening. I'm going to ask you to be back in your jury
11 room no later than 9:30. We will resume testimony at that
12 point. Let me remind each and every one of you, however,
13 that while court is not in session, do not speak amongst
14 yourselves or with anyone else about the case. Do not
15 listen to, read or look at anything about this case. You
16 are excused for the evening.

17 (Jury out at 3:50 p.m.)

18 THE COURT: All right. Let me ask you while we are
19 together, because we may potentially give the case to the
20 jury tomorrow, may not. Do you, either of you, anticipate
21 there will be a request for a lesser included of any of the
22 charges?

23 MR. CAMPBELL: No, Your Honor.

24 THE COURT: You don't have to, I'm not holding you to
25 it. I'm just trying to get things in order. If you change

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1 your mind, whatever, that's fine.

2 MR. SMITH: I don't foresee it.

3 THE COURT: Okay. Anything further from the State?

4 MR. CAMPBELL: Not at this time, Your Honor.

5 THE COURT: From the Defense?

6 MR. SMITH: Not at this time.

7 THE COURT: All right. Thank you, ladies and
8 gentlemen. We will be in recess until 9:30 in the morning.

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10 MR. SMITH: Your Honor, I would like to add Captain
11 Arnett Jones of the Detention Center. She's already been
12 subpoenaed and I gave a copy of my subpoena to the
13 Solicitor and she, obviously, won't be brought up until my
14 case, if she gets up, but I wanted to put everybody on
15 notice that that is my intention.

16 THE COURT: Where's Mr. Campbell? Did he step out?

17 MR. ALLEN: Yes, Your Honor.

18 THE COURT: That's all right.

19 (Mr. Campbell returns to the courtroom)

20 THE COURT: Mr. Campbell, there's an addition or there
21 is notice of the addition of a potential witness. It's a
22 Captain Arnett Jones from the detention center that Mr.
23 Smith wants to add to his witness list. What would be your
24 position on that, please, sir?

25 MR. CAMPBELL: Just a moment. Your Honor, I don't

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1 have a problem as long as the jury is questioned. The only
2 problem I have is if a juror steps up and says they have a
3 problem and know her. At this stage of the game, that
4 would affect their ability to be fair and that would lead
5 to an alternate and that's the only issue I have at this
6 late stage of the game.

7 THE COURT: I propose to do that this morning, unless
8 you want to do it at another time, Mr. Smith?

9 MR. SMITH: Your Honor, if you want to question the
10 jury to see if there are any kinds of relationship to Ms.
11 Jones, that's fine with me.

12 THE COURT: All right. Captain Arnett Jones?

13 MR. SMITH: Yes, sir. That's my understanding.

14 THE COURT: Anything from the State before we proceed?

15 MR. CAMPBELL: Court's indulgence just one second,
16 please.

17 THE COURT: Yes, sir.

18 MR. CAMPBELL: Your Honor, yesterday afternoon Mr.
19 Smith asked me to have Agent Stallo with the ATF come back.
20 He made mention he may want to call him as a witness.
21 Since he's already testified on direct and cross
22 examinations, I know it's really at the Court's discretion
23 whether or not it's allowed to have a witness be recalled.
24 There is a sequestration order in effect that you imposed
25 at the outset of this trial. Since he's already testified,

1 do you want him in here or out of here? That's the only
2 issue I want to bring up to the Court's attention.

3 MR. SMITH: May it please the Court? I would say that
4 he could sit in here if he likes. I have no problem with
5 that.

6 THE COURT: That satisfies that.

7 MR. CAMPBELL: Yes, sir. I just wanted to make sure
8 we were all clear.

9 THE COURT: Very good. Mr. Smith, are you ready to
10 proceed?

11 MR. SMITH: Absolutely, sir.

12 THE COURT: Anything further from the Defense other
13 than what you've brought up thus far?

14 MR. SMITH: No, sir.

15 THE COURT: Very good. Would you bring the jury in.

16 (Jury in at 9:36 a.m.)

17 THE COURT: Good morning, Madam Forelady and ladies
18 and gentlemen of the jury. I hope you had a nice evening,
19 a nice Valentine's Day or whatever. Before we get started,
20 may I ask each and every one of you if anybody has read,
21 heard or seen anything about this case or spoken to anybody
22 about this case? (Jurors shake heads) Very good. One
23 further matter before we get started, a potential,
24 additional witness has been added to this case, a Captain
25 Arnett Jones from the Anderson County Detention Center.

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1 Has anybody ever been related by blood or marriage or have
2 you ever had a personal or social relationship with Captain
3 Arnett Jones? If so, would you raise your hand. (No
4 response) Very good. Any additional voir dire request
5 from the State?

6 MR. CAMPBELL: No, Your Honor.

7 THE COURT: From the Defense?

8 MR. SMITH: No, sir.

9 THE COURT: Very good. Are you ready to proceed?

10 MR. CAMPBELL: Yes, sir.

11 THE COURT: Call your next witness.

12 MR. CAMPBELL: Your Honor, the State calls Detective
13 Tommy Johnson to the stand.

14 (After being duly sworn by the Clerk of Court, Tommy
15 Johnson testified as follows:)

16 CLERK OF COURT: If you would take the witness stand,
17 state your name and spell your last name for the record,
18 please.

19 DETECTIVE JOHNSON: Thomas L. Johnson, III.

20 J-O-H-N-S-O-N.

21 DIRECT EXAMINATION OF TOMMY JOHNSON BY MR. CAMPBELL

22 Q Detective Johnson, you are employed by the Anderson
23 County Sheriff's Office?

24 A Yes, I am.

25 Q And how long have you been employed with law

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1 enforcement?

2 A Approximately, eighteen years with the Sheriff's
3 office.

4 Q Any other law enforcement experience prior to that?

5 A Two years with The South Carolina Department of
6 Corrections and five years with the South Carolina
7 Department of Motor Vehicles.

8 Q Now, talking about your experience with the Anderson
9 County Sheriff's Office, what position or capacity
10 have you held in, I believe you said, eighteen years?

11 A Yes, sir.

12 Q What positions have you held during that time?

13 A Originally, a patrol deputy assigned to Alpha Shift, a
14 school resource officer at T.L. Hanna, then in 2001 I
15 took the position of school resource officer at
16 Belton-Honea Path High School and in 2008 I moved to
17 the investigations division.

18 Q And when you say, school resource officer, what
19 exactly is that type of position?

20 A Basically, what that is, is designed as a threefold
21 teacher, counselor and law enforcement officer, but a
22 law enforcement officer first at the school. I was
23 assigned to the BHP High School basically to handle
24 situations at the school, instruct students in law
25 related issues and counsel students on law related

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1 issues.

2 Q And while you're, in this case, a school resource
3 officer at Belton Honea Path High School, do you
4 become or form a bond with the students?

5 A Yes, sir.

6 Q And in this case did the students have a name that
7 they called you?

8 A Yes. The nickname actually started at T.L. Hanna and
9 carried over to BHP, it's O.J. It stands for Officer
10 Johnson. It's just a short version for the students
11 and that's what the students know me in that area by.

12 Q Now, the current position you're in now, what type of
13 investigations do you handle at the C.I.D. or Criminal
14 Investigation Division?

15 A I handle various cases pertaining to property crime
16 offenses, burglaries, robberies, shootings and
17 homicides.

18 Q Now, how did you first become involved in this case
19 that we are dealing with today?

20 A On April 15th, I was in the Belton area. I responded
21 to a call at Calhoun Road Apartments because I was in
22 the area. As I got there, Belton City had stopped a
23 vehicle just down the road which fit the description
24 that was given out on a BOLO, which is a "Be on the
25 Lookout For", a certain type of suspect vehicle. When

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1 I arrived there, I spoke to officers on the scene,
2 which I believe was Officer Turner and I forget the
3 other officer's names. I believe there were three
4 officers there. The information that I obtained at
5 that point identified that this was the vehicle that
6 was at the apartments, which was a red in color Honda.
7 They also were able to identify at least one of the
8 individuals that were in the car with the defendant in
9 this case, Jamario Jones. They referred to him as
10 Mario. From that point, I proceeded to the incident
11 location.

12 Q Now, in this case, were you actually assigned this by
13 any type of supervisor, anybody higher up than you at
14 the Sheriff's office?

15 A No, sir. Generally, what happens is, if you arrive on
16 scene and you are an investigator, then it
17 automatically is your case. There were two other
18 detectives that were on call that day. Seeing that
19 they were still in the Anderson area, I was the
20 closest one and so I responded to it and took control
21 of the scene when I got there.

22 Q Now, you said you first responded at first to a car
23 being stopped to a BOLO being put out, is that by the
24 dispatchers?

25 A It was. It was by our dispatcher on Channel 1.

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1 Q And when you responded to this red Honda, how many
2 people were in that car?

3 A There were two females in the vehicle.

4 Q And do you know their names?

5 A I do. One was Candice Brown and the other was Tiffany
6 Petty.

7 Q Did either one of them have a relationship with Mr.
8 Jones?

9 A My understanding is that Candice Brown is his spouse.
10 That's the way it's listed on his booking sheet.

11 Q Now, I believe you testified they told you his name
12 was Mario at the scene?

13 A That's correct. Tiffany Petty at the scene referred
14 to him as Mario. Tiffany was also a student at BHP
15 during my time there and when she referred to Mario,
16 she also said ---

17 MR. SMITH: Objection. Hearsay.

18 THE COURT: Sustained.

19 Q Now, do you know Mr. Jones?

20 A I do.

21 Q How long have you known him?

22 A Since he started BHP High School. I've had, sat in on
23 several hearings, administrative hearings at school.
24 I've actually arrested him in 2002 for public
25 disorderly conduct in school.

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1 Q Now, do you know him as Mario or Jamario?

2 A I know him as both. Jamario is his given name, but
3 also, I know him as Mario.

4 Q And so you had a relationship with him while he was at
5 BHP?

6 A Yes, sir.

7 Q And after this, did you go to the Oak Forest
8 Apartments?

9 A I did. I left the vehicle stop and went to Oak Forest
10 Apartments. Once I arrived on scene, Detective
11 Hendricks showed up on scene. She interviewed the
12 victims. I briefly got some basic information,
13 basically because it was my understanding there was an
14 armed robbery committed and there may be a subject
15 running through the woods or the local area and the
16 community that was armed and I had to assess whether,
17 that was correct. I did call for K-9 units to come
18 out and asked for additional assistance to come to the
19 scene.

20 Q Now, I know people get an idea about how a crime scene
21 is handled based upon what they see on T.V. and we
22 know that T.V. is not true. Would you please just
23 explain to the jury about when a, in this case, you as
24 a lead case investigator arrive on scene and you take
25 charge, what procedures or processes do you go through

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1 once you get there?

2 A The first thing you want to do is, you want to find

3 out, obviously, you make contact with the detective

4 that arrived on scene before me. You start

5 ascertaining information from him, speaking with

6 witnesses at the scene to discover what happened. In

7 this case, like I said, we discovered there was

8 possibly one if not two armed suspects running in the

9 woods. We do know of one pistol that one of them had,

10 described as a black male with a white shirt and

11 bluejeans on and armed with a handgun and had fled out

12 into the area. While we were there we started

13 receiving information from dispatch radio that there

14 were other witnesses within a few hundred yards from

15 the apartment complex and they called in and said

16 they'd seen a black male with bluejeans and a white

17 shirt and that he was armed. We obtained written

18 consent from Ms. Bentley, which is a voluntary written

19 form where she gives permission for us to go in, just

20 because it's a crime scene. She was in control of the

21 residence. She lives there and so she has the

22 authority to give us permission to be there. At that

23 time, myself and forensics investigator Pridemore

24 entered the residence and started processing the

25 scene. Forensics officer Pridemore, basically the way

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1 it works, when you go in to the scene, everything is
2 photographed. Everybody is out of the scene, there's
3 nobody in the scene at which point we let them go in
4 and do overall photographs and documentation of it and
5 then we go in and do a general walk through of the
6 scene just to see what's in the scene.

7 Q Now, you mentioned photographs in this case. Were
8 photographs taken?

9 A Yes, they were.

10 Q And what, if anything, happened to those photographs?

11 A It's my understanding there was some sort of computer
12 software failure on our forensics computer which all
13 our crime scene photographs many months ago and not
14 only on this case but numerous other cases, the
15 photographs were lost. The computer, from my
16 understanding, was taken and images were tried to, I
17 don't know the proper terminology, but they tried to
18 recover those photographs and they were unsuccessful
19 in doing so.

20 Q Now, the photographs that we have were taken several
21 days later or after the fact. Is that correct?

22 A That's true.

23 Q Now, when you arrived at Oak Forest Apartments, did
24 you have an opportunity to speak with Ms. Bentley and
25 Ms. Taylor?

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- 1 A I did, briefly.
- 2 Q And did you also observe two small children?
- 3 A I did.
- 4 Q And did you, were you able to, based on your direct
5 observation, see if they had sustained or received any
6 type of injuries?
- 7 A I did. I observed several, you could describe them as
8 knots, bumps, bruises, things like that. I did not
9 see any blood on the child, but I did see a small
10 maybe a contusion or something that I would classify
11 as that, on the child, on the three-year-old.
- 12 Q Like a cut?
- 13 A A cut. I'm sorry, on the small child, the one-year-
14 old.
- 15 Q Now, when you arrived, are you from the Belton-Honea
16 Path area?
- 17 A No, sir. I'm not. I've worked in that area, like I
18 said, since 2001 in high school and made a lot of
19 relationships as far as acquaintances through the high
20 school and through coaching football and things like
21 that.
- 22 Q I want to talk a little bit about the area. When you
23 come in -- what direction did you come in from
24 Anderson?
- 25 A I came in from, I actually came in from Broadway

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1 School Road which comes up to Highway 20, which is
2 directly across from the Belton Mart and Calhoun Road
3 Apartments.

4 Q And how far is the Belton Mart from the apartment
5 complex.

6 A I would say from my information, probably a hundred to
7 two hundred yards.

8 Q Is the Belton EMS station right there also?

9 A Yes. As soon as you pull onto Calhoun Road, you're at
10 the Belton Mart and if you look left about one hundred
11 fifty, maybe two hundred, yards across the field is
12 the Belton EMS station and then the apartment complex
13 and so it's sort of like a triangle, is the way they
14 sit.

15 Q Now, when you are investigating a crime, you don't do
16 all the work by yourself. Do you?

17 A No, sir. There's just too much. You have to rely on
18 other individuals, such as in this case, Agent Stallo
19 with ATF and an Agent Gregory, they followed up leads
20 while I was working other parts of the case.

21 Q And in this case, you spoke with the victims.

22 A I did.

23 Q Now, as a result of your conversations, did you
24 identify suspects in this case as potential people who
25 committed this crime?

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1 A We did.

2 Q And who were the names that popped up?

3 A Quenton Byrd's name popped up, but that was assigned
4 to Agent Stallo and Agent Gregory of the Sheriff's
5 office and they followed up on that and subsequently,
6 he was ruled not a suspect in this case.

7 Q Any other people identified as potential suspects?

8 A Melody Ellis was and Mr. Jones were the only other
9 two.

10 Q Now, as a result of talking to the victims in this
11 case, did you learn that -- they identified Mr. Jones
12 as being the individual with the gun. Is that right?

13 A That's correct.

14 Q And you learned that he had gloves on.

15 A That's correct.

16 Q Now, you processed, were you present when the crime
17 scene was processed?

18 A I was. When I first arrived and we got started on the
19 crime scene, going through it, Officer Pridemore began
20 his process, which was normally, they are the ones
21 that collect for prints and evidence like that. I do
22 a general walk-through. When I walked through the
23 house, the house was in disarray, the kitchen area was
24 in disarray with cabinets open and drawers pulled out.
25 The bed back in the bedroom had been, it appeared that

DIRECT EXAMINATION OF TOMMY JOHNSON BY MR. CAMPBELL 299

1 it had been moved and jostled around.

2 Q Now, when you went through this apartment, did you see
3 any other signs of illegal activity ongoing in this
4 apartment?

5 A No, sir. When I walk through an apartment, the first
6 thing that I -- I didn't see any evidence of any kind
7 of bongs or pipes or things like that that would
8 indicate any kind of narcotics in the residence. I
9 didn't see any baggies, I didn't see any type of drug
10 paraphernalia such as that and there was no odor of
11 any type, you know, like a marijuana smell was not in
12 the apartment.

13 Q As a result of you and Investigator Pridemore
14 processing this crime scene, were y'all able to lift
15 some fingerprints from the kitchen area?

16 A Not that I recall. I think most of them were smudges,
17 from what I recall.

18 Q But prints were lifted?

19 A Yes. There were partials.

20 Q As a result of that, did you have them attempted to be
21 compared with Mr. Jones and Ms. Ellis?

22 A I did.

23 Q And what was the result of that?

24 A They came back negative.

25 Q And when you say negative, what does that mean?

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1 A It means they didn't match specifically to Mr. Jones
2 or Ms. Ellis, but that's not uncommon on crime scenes.
3 It could have been the victim's fingerprints, it could
4 have been acquaintances of the victims that had been
5 in the house, it could have been there the day before,
6 three days before, a week before. It just depends on
7 when you've cleaned, because cleaning under door
8 handles and places like that, folks don't really think
9 about cleaning there. You wipe a counter down and
10 you're done. So, it could be a fingerprint that was
11 there from five months ago that hadn't been cleaned
12 off.

13 Q And do you know, were these prints of sufficient
14 quality to make a comparison?

15 A The partials were, but as far as I know they did not
16 match back to the defendant.

17 Q Now, if a person was wearing gloves, would they leave
18 fingerprints?

19 A No. They would actually, they would not leave any
20 type of fingerprints, it would be more of a, it would
21 look like a smear based on what I've seen in my
22 experience of many years. It kind of looks more like
23 a smear, depending on the gloves. In some cases,
24 there are specific types of gloves that there may be a
25 pattern like rubberized hand grips, things like that

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1 making that pattern on there, but I didn't see any of
2 that.

3 Q Now, were you able to determine if anything was taken
4 during this crime?

5 A There was cash money taken from the residence,
6 approximately \$350.00 between Ms. Bentley and what was
7 in the kitchen area.

8 Q Anything else taken?

9 A Not that I recall.

10 Q Now, after you processed the crime scene, what was the
11 next step or process that you took in the
12 investigation of this case?

13 A During the processing of the crime scene, Investigator
14 Hendricks was conducting an interview with the
15 victims, individually, and once we finished processing
16 the crime scene, at that point, we came back out and
17 again, I was briefed by Investigator Hendricks. We
18 started getting -- if I could back up. The traffic
19 stop, when I first arrived there, the vehicle was
20 actually towed. Belton City made an actual arrest on
21 Ms. Brown based on unrelated charges, based on driving
22 under suspension. We started getting phone calls from
23 a tow company stating someone was calling trying to
24 know how to get this vehicle. It was a male's voice.
25 They did not identify themselves or who they were. We

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1 were able to obtain that number and I was able to put
2 a team together to go, based on that, we felt that may
3 be Mr. Jones. We can't prove it was Mr. Jones, but we
4 felt it would be. We went to the residence over on
5 the north side of Anderson where the phone number came
6 back from.

7 Q And what, if anything, came about because of that?

8 A We -- it was not -- the number at that residence had
9 not been changed on our 911 system and that's how we
10 took the number and searched our 911 system to find
11 out the residence and it turned out to be an eighty-
12 year-old white female that lived there and we kind of
13 surprised her and she advised us that she had not had
14 that number in a while so, at that point, I had to go
15 back and continue the investigation trying to find
16 leads on it.

17 Q And what was the next break that you received in this
18 case?

19 A Once we spoke with the elderly female, we left, I left
20 and went back to the detention center where I spoke
21 with Ms. Brown who in return said that he may be at
22 his cousin's house and that's on South McDuffie
23 Street, at [REDACTED]. I did notify the team and when I say
24 team, it's a conglomeration of Anderson City Police
25 Officers and Anderson County Officers and we were in

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1 route there to McDuffie Street just to check the area
2 to see if Mr. Jones may be in the area.

3 Q And did you, yourself, go to [REDACTED]
4 Street?

5 A Yes, sir. As I was coming down South McDuffie Street,
6 I actually see a city police car sitting in front of
7 the immediate area where this residence is with his
8 blue lights on. My first impression was that they had
9 already found him, so as I pulled up on the scene, I
10 looked to my right and I seen Mr. Jones, who I know by
11 face, by recognition, standing on the front porch of
12 DeAngelo Acker's house. I get out, I go up and talk
13 to Officer Kevin Looney from Anderson City, who was
14 actually on a Moped stop in front of this residence
15 and just so happens to be there when I arrived and I
16 immediately tell Mr. Looney that the two suspects are
17 on the front porch. Ms. Ellis is on the front porch
18 with her dreads. I described her to him, I described
19 Mr. Jones and myself and Kevin Looney, I don't know if
20 it was a reserve officer or a training officer with
21 him, took Mr. Jones and Ms. Ellis into custody at
22 DeAngelo Acker's house.

23 Q Now, when you arrived and you talked about Officer
24 Looney with the Anderson City Police Department. Was
25 this just coincidence?

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- 1 A It was. Officer Looney was actually on duty that
2 night, had not been a part of our team looking for
3 them. We actually had -- he had no indication of what
4 was going on. When I pulled up, he thought I was just
5 checking on him to see that he was okay, which is not
6 uncommon in our business. We may pull up, roll the
7 window down, just signal to them or we may get out
8 just to make sure for their safety, what's going on,
9 so he actually thought I was checking on him.
- 10 Q And, approximately, what time of day is this?
- 11 A I'd say this was around 5:30, 6:30 in the evening.
- 12 Q Still daylight?
- 13 A Yes. It was still daylight.
- 14 Q And at this point in time, Mr. Jones and Ms. Ellis are
15 just listed as suspects. Is that right?
- 16 A That's correct.
- 17 Q At this point, you didn't know if they were actually
18 involved or not, you just thought they possibly could
19 be?
- 20 A I had a suspicion they possibly could be.
- 21 Q And as a result of this, you took both of them into
22 custody?
- 23 A We took both of them into custody and detention and
24 took them back to the Sheriff's Department where Mr.
25 Jones was placed in interview room No.2 and Ms. Ellis

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1 was taken to Investigator Lacy Holden's office.

2 Q Now, while you were on the scene at [REDACTED]
3 [REDACTED] Street -- let me back up. Is that considered
4 the south side of Anderson?

5 A It is.

6 Q Now, did you do any type of investigation while you
7 were at that residence?

8 A Yes. While we were at that residence, I was informed
9 that Mr. Jones had actually handed a gun to DeAngelo
10 Acker where he lives with his mother at that
11 residence. I spoke with Ms. Acker, advised her, she
12 said she did not want any type of weapon like that
13 that may have been used in a crime or something in her
14 house. She provided written consent for us to go into
15 her house and retrieve this. We were told it was on
16 top of the refrigerator. We went down the hallway
17 with Ms. Acker, who was present. DeAngelo also came
18 into the kitchen, identified the weapon and said it
19 was on top of the refrigerator where we found it. It
20 was black in color with a silver stripe or silver
21 slide, a loaded .380 Highpoint automatic, semi-
22 automatic. I'm sorry.

23 Q As a result of this, did you recover this gun?

24 A I did.

25 Q And did you take this gun into evidence?

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1 A I took the gun into evidence. We had to clear the
2 weapon on scene just for everyone's safety. We
3 removed the magazine and there were five live rounds
4 in the gun.

5 Q Now, I'm going to show you what has been marked for
6 identification as State's Exhibit No. 20.

7 MR. CAMPBELL: Your Honor, for the record, State's
8 Exhibit No. 20 is actually comprised of two parts, the
9 pistol as well as the clip with some ammo. For
10 identification and for court exhibit purposes, I had Ms.
11 Rice to list the bullets and the clip as State's Exhibit
12 No. 20-A, just for identification purposes while we are
13 dealing with this.

14 THE COURT: Yes, sir.

15 Q Now, Detective Johnson, I'm going to show you what has
16 been marked as State's Exhibit No. 20 and No. 20-A. I
17 want you to please look at it first and see if you can
18 identify it.

19 A (Witness complies) Yes, this is the gun that was
20 recovered from the refrigerator at DeAngelo Acker's
21 house and this is the magazine that was taken out of
22 the weapon along with the five rounds, including the
23 one in the chamber.

24 Q As a result of this, did you take this gun into
25 evidence?

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1 A We did.

2 MR. CAMPBELL: Your Honor, at this time, I'm going to
3 move State's Exhibit Nos. 20 and 20-A into evidence.

4 THE COURT: Any objection?

5 MR. SMITH: No, sir.

6 THE COURT: Admitted, without objection.

7 (Whereupon, a pistol is admitted into evidence as
8 State's Exhibit No. 20 and a magazine with bullets is
9 admitted into evidence as State's Exhibit No. 20-A, without
10 objection)

11 Q Now, after you took possession of this pistol, you
12 entered this into evidence with the Sheriff's office.
13 Is that right?

14 A Yes.

15 Q Did you also request that these items be
16 fingerprinted?

17 A I did.

18 Q And what, if anything, came about due to your request?

19 A There were no fingerprints found on the weapon.

20 Q How about the clip and the magazine and the ammo?

21 A No, sir.

22 Q Now, after this, did you go back to the Law
23 Enforcement Center?

24 A I did. I left once we completed our investigation at
25 Ms. Acker's house, we provided her a copy of the

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1 consent to search and left there. I went back to the
2 Sheriff's Department where myself and Investigator
3 Holden began an interview with Melody Ellis, the co-
4 defendant.

5 Q Now, did you transport anybody back to the Sheriff's
6 Office yourself?

7 A No, sir. No one left with me in my vehicle.

8 Q Now, when you arrived, were the two individuals, Ms.
9 Ellis and Mr. Jones, were they taken to the Detention
10 Center or to the Law Enforcement Center?

11 A They were taken to the Sheriff's Department, to the
12 second floor. Mr. Jones was in interview room No. 2
13 and Ms. Ellis was taken to Investigator Holden's
14 office.

15 Q Now, is your office also on the second floor?

16 A Yes, sir.

17 Q How long did you speak with Ms. Ellis?

18 A We began her interview when I got there -- give me one
19 second, I have those notes with me, I believe. I
20 think it was around 8:00, something like that, a
21 little bit after, when we started talking to Ms.
22 Ellis. During this interview, Detective Gregory came
23 down the hall and notified me that Mr. Jones wanted to
24 speak with me. He actually referred to me as O.J. and
25 I proceeded to talk to Mr. Jones.

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1 Q And did Investigator Gregory, did he give you a
2 statement that he had already taken from Mr. Jones?

3 A He provided it to me. Yes, sir.

4 Q And was this statement initially done at your request?

5 A Yes. It was.

6 Q I mean, you asked Investigator Gregory to go talk to
7 Mr. Jones first?

8 A While we were doing the scene, once we took him into
9 custody, I advised, I called Investigator Gregory on
10 the phone and told him we were going to be tied up for
11 a while and the defendants were back at the office and
12 if he would, go ahead and begin the interview with Mr.
13 Jones.

14 Q And he did that at your request?

15 A Yes, sir.

16 Q And as a result, the statement that you heard
17 yesterday was the statement that he got from Mr.
18 Jones?

19 A That's correct.

20 Q Now, after this interview process that Mr. Jones
21 conducted with Investigator Gregory, what was the time
22 difference between the two, when you went to speak
23 with Mr. Jones?

24 A Five, ten minutes, tops. I talked with Investigator
25 Gregory just a few minutes, and then I went in to

DIRECT EXAMINATION OF TOMMY JOHNSON BY MR. CAMPBELL 310

1 speak to Mr. Jones.

2 Q And during this break, was Mr. Jones in the same room
3 that he was when Investigator Gregory talked to him?

4 A Yes. He was still in the interview room No. 2.

5 Q Now, when you talked to -- you talked to Mr. Jones,
6 obviously.

7 A Yes, sir. I did.

8 Q And what steps or procedures did you go through prior
9 to talking to him?

10 A I got his personal information, again, from him and
11 put it on the statement form. I then reviewed Miranda
12 with him just to make sure that he understood he was
13 still under the Miranda from the form he signed with
14 Investigator Gregory. I asked him, I know at least
15 once if not twice, are you sure you don't want to talk
16 to a lawyer before you talk to me? At which point, he
17 advised me he had made a mistake or inaccurate
18 information that he had given to Investigator Gregory
19 and he wanted to change a part of his statement.

20 Q As a result of that, did you do another Advice of
21 Rights form with him?

22 A No, sir. I did not do another form.

23 Q But did he say he understood his rights and wanted to
24 speak to you?

25 A Yes, sir. He said he understood his rights and that

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1 he wanted to change a part of his statement because he
2 had given inaccurate information on the first
3 statement.

4 Q And how long after the first statement he gave you,
5 was this?

6 A Approximately, five or ten minutes.

7 Q As a result, did you take a statement from him?

8 A I did.

9 Q And did you do this on a statement form?

10 A Yes, sir.

11 (Mr. Campbell shows document to Mr. Smith)

12 Q I'm going to show you what's been marked for
13 identification, State's Exhibit No. 3, Detective
14 Johnson. Could you please identify this, please, sir?

15 A This is the original statement that I took from
16 Jamario based on his request to talk to me.

17 Q And this is the original?

18 A Yes, sir.

19 Q Now, in this, how do we know this is Mr. Jones'
20 statement?

21 A On the top lefthand corner, I took his personal
22 information from him. It says, "Jamario Quinton
23 Jones, 300 Saluda Drive, Belton, South Carolina,
24 20627. Date of birth was 7/10/81. B/M stands for
25 black male. Cell phone number: 864-932-8302. Social

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1 Security Number: 248-79-8404. Those are identifying
2 indicators that he provided to me.

3 Q This wasn't something that you wrote off the previous
4 statement?

5 A No, sir.

6 Q And what was the purpose of why you elicited this
7 information a second time?

8 A So, one is for comparison to make sure I'm getting the
9 proper information so I can see he's not lying. He
10 may have given some different information on the first
11 statement as far as who he was. It's just a part of
12 the investigation.

13 Q Now, at this point, did he give you, tell you what he
14 wanted to change or correct?

15 A Yes, sir. He did.

16 Q And how did that go about?

17 A I asked him, "You requested me. What's going on?" He
18 said that he wanted to change his statement. I said,
19 "Okay, which part?" And then he started talking to me
20 about which part of his statement he wanted to change.

21 Q As a result of that, did you put this down in writing?

22 A I did.

23 Q And as a result of that, did you go back over it with
24 him?

25 A I did. I went back over with him orally and let him

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1 view it.

2 Q And were any corrections made?

3 A There were actually two parts in there. I think they
4 were just words, spelling, where I had started to put
5 a different word than he provided. In other words, he
6 changed it and we scribble those out and we made sure
7 as we went back over the statement before they sign a
8 completed statement form, that this is what they want
9 to say, this is how they want it said and that these
10 are errors and we have them scribble it out and
11 initial above it.

12 Q And after you went through this process and put it
13 down in writing, he had a chance to review it?

14 A Yes, sir.

15 Q And after he had a chance to review it, did he sign
16 the statement?

17 A Yes, he did.

18 MR. CAMPBELL: Now, at this point, Your Honor, I would
19 like Detective Johnson to read the statement. First of
20 all, I'm going to move State's No. 3 into evidence.

21 THE COURT: Any objections?

22 MR. SMITH: No, sir.

23 THE COURT: Admitted, without objection.

24 (Whereupon, a statement by Jamario Jones is entered
25 into evidence as State's Exhibit No. 3, without objection)

THE STATE OF SOUTH CAROLINA VERSUS JAMARIO QUINTON JONES

DIRECT EXAMINATION OF TOMMY JOHNSON BY MR. CAMPBELL 314

1 Q Detective Johnson, would you please read the statement
2 that Mr. Jones gave you on April 15, 2011.

3 A We start in the upper lefthand corner where the
4 identifying information is: Jamario Quinton Jones,
5 300 Saluda Drive, Belton, South Carolina. Date of
6 birth is 7/10/81. Black male. Cell phone number:
7 864-932-8302. Social Security Number: 248-79-8404.
8 It says he completed the ninth grade and he can read
9 and write. The date of the statement is April 15,
10 2011, and it's page number 1. He initialed the
11 beginning of the statement with JJ. It says: This
12 statement is being written for me by Detective T.L.
13 Johnson. In my statement where I said I was in the
14 car with Candice when we saw Byrd and Melody running,
15 I was wrong. It was Byrd, Melody and me running away
16 from the apartment complex. Byrd went to his house
17 and Melody and me walked to the store. I tried to
18 call Candice from the store phone, but she did not
19 answer. I saw Torry -- and then there's a scribble
20 mark where there was an error made in the statement
21 with the initials of JQJ over the top of that -- and
22 Byrd in a green car. Byrd was like, come on. Byrd
23 had come in and bought a cigarette. They took us to
24 Melody's house off of Camelot Forest. I asked Teresa
25 to give us a ride to the south side. I went in

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1 Teresa's house and got Candice's .380 pistol. Teresa
2 carried Melody and me to my friend's house "Dee". He
3 lives on South McDuffie Street. I went in -- and here
4 again is another scribble mark, JQJ above it where an
5 error was made -- to Dee's house and gave him the gun.
6 I told "Dee" to put the gun on the refrigerator.
7 "Dee" took the gun and put it on the refrigerator.
8 End of statement. There are three "x" and his
9 initials JQJ indicating that's the end of the
10 statement and nothing can be added. There's also two
11 fill marks, which are two crossed lines on the
12 statement where they cross and four smaller lines on
13 the statement where we require them to put their
14 initials. That's just fill space and nobody can go in
15 to change their statement. At the bottom of the
16 statement, it's signed Jamario Jones.

17 Q Now, after you have received the second statement with
18 some corrections that he wanted to make, did that end
19 your investigation?

20 A No, it did not. That was just an additional piece to
21 the investigation.

22 Q Now, at this point, had he already been taken to the
23 Law Enforcement Center?

24 A He was at the Sheriff's Department. Yes, sir.

25 Q I'm sorry. Had he been taken to the Detention Center?

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- 1 A No, sir. He was still at the office at that point.
- 2 Q After he gave this, what was the next process that
- 3 y'all went through?
- 4 A We went back through all the information to
- 5 collaborate the witnesses' statements, all the
- 6 information was collected at the scene, at which
- 7 point, it was determined that we felt there was
- 8 probable cause to charge both defendants with the
- 9 crime.
- 10 Q And in this case, were you the person that took out
- 11 the warrants against Mr. Jones?
- 12 A Yes, I was.
- 13 Q And you took him out for three charges?
- 14 A That's correct. Burglary, first degree, armed
- 15 robbery, and possession of a weapon during the
- 16 commission of a violent crime.
- 17 Q As a result of this, was Mr. Jones booked into the
- 18 Anderson County Detention Center?
- 19 A Yes, he was.
- 20 Q And as a part of that process as they are booked in,
- 21 they give certain information to the booking people?
- 22 A Yes, they do. They give pertinent information that
- 23 goes in the booking file: Name, date of birth,
- 24 driver's license number, things like that. Spouse.
- 25 There's an inventory of property on them when they

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1 enter the jail or what's taken from them when they
2 enter the jail and placed in the property safe at the
3 jail.

4 Q Did Mr. Jones indicate who his next of kin was?

5 A He did. He listed Candice Brown as his spouse and
6 next of kin, which is an area found on the booking
7 sheet, kind of like for emergency contact information
8 or things like that in case they need to contact
9 someone.

10 Q And did he also list what his employment was?

11 A He did. He listed his employment as unemployed.

12 Q And when they process a person in at the jail, do they
13 take items that are on that person into evidence?

14 A They take the items that are made aware of in
15 inventory and in this case it was \$202.00 in cash that
16 was in his inventory that we thought came from the
17 robbery and it was taken into evidence, along with his
18 clothing and things of that nature that he had on that
19 was pertinent to the crime as far as being probable
20 evidence in this case.

21 Q Now, after this arrest was made on Mr. Jones, was Ms.
22 Ellis also charged?

23 A Yes, she was. Once we finished her statement also,
24 then yes, she was arrested also.

25 Q Was she charged with the same crimes?

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1 A Yes, sir. She was.

2 Q Now, did you stop at this point in time?

3 A No, sir. The investigation continued on for a couple
4 days after that, or several days. It took a total of
5 several days. We had to review video. When I got the
6 video, I believe it was Monday afternoon after Mr.
7 Gregory obtained the video. I viewed it and there
8 were several other things we continued to do.

9 Q Okay. Now, you learned that there were two adults and
10 two children in the apartment when this crime was
11 committed.

12 A That's correct.

13 Q Did you attempt to talk or have someone in your
14 department speak to the little girl, the three-year-
15 old?

16 A I did. I requested Investigator Michael Collins, who
17 investigates sex crimes and been trained to do
18 forensic interviews, to do a forensic interview with
19 the child.

20 MR. SMITH: I'm going to object if he's going to speak
21 for someone else.

22 MR. CAMPBELL: I'm not going there. I'm just going to
23 ask him what he did.

24 THE COURT: All right.

25 Q As a result, did you get anything from this video?

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1 MR. SMITH: Objection. Hearsay.

2 THE COURT: Don't go into what he said.

3 MR. CAMPBELL: That's as far as I'm going to go with
4 that.

5 THE COURT: All right.

6 Q Now, besides that, did you, yourself, also talk with
7 the victims?

8 A I did talk to both victims.

9 Q And you got the apartment video.

10 A I did. From the complex.

11 Q Did you also attempt to get the police reports from
12 Belton P.D.?

13 A I did. I attempted to get a copy of the police report
14 from Belton and I also attempted to get a police
15 report from Kevin Looney. I believe it was supplied
16 as to why he was on South McDuffie Street at that
17 time.

18 Q And based upon what you know, did you ever get a
19 description of what the two individuals were wearing
20 at the time this crime was committed?

21 A Yes. From the initial traffic stop when I went to
22 respond to it is where I obtained the information on
23 who Jamario Jones was, along with the description, and
24 I got descriptions from individuals at the apartment
25 complex at the scene and from there, we were able to

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1 take that.

2 Q Were you able to determine what these individuals were
3 wearing?

4 Q Yes, I was.

5 Q And what was that?

6 A Mr. Jones was wearing a white tee shirt and bluejeans.
7 Ms. Ellis was wearing a red or burgundy colored
8 Bojangles shirt and shorts.

9 Q And when you arrested Mr. Jones at [REDACTED]
10 Street, what color of clothes or what kind of clothes
11 was he wearing?

12 A He as wearing bluejeans and a white tee shirt.

13 Q You also, as a part of your investigation, asked that
14 a firearms trace be done on this weapon?

15 A I did. I sent the firearm trace to ATF.

16 Q And what was the purpose or why did you go through
17 doing that?

18 A We like to find out, you know, go back and find out
19 the last person the gun was registered to. Also,
20 whether it comes back stolen or something like that.
21 We like to call the individual and find out, you know,
22 how did this gun get here.

23 Q And in this case, you learned that the registered
24 owner was Candice Brown?

25 A That's correct.

DIRECT EXAMINATION OF TOMMY JOHNSON BY MR. CAMPBELL 321

1 Q Who is listed as his spouse?

2 A That's correct, as Mr. Jones' spouse.

3 Q Now, approximately, from the time that you initially
4 got the call to the time the arrests were made, how
5 many hours are we talking about here?

6 A I'd say between probably six or seven hours.

7 Q But that didn't end your investigation, your
8 investigation took a lot longer.

9 A We don't stop with an arrest. We continue on to make
10 sure everything collaborates each other and everything
11 you know, matches up, because ---

12 Q When you say, everything matches up, did you go
13 through the statements that were given, whether by the
14 suspects or the victims and try to look at it as
15 compared to the evidence as you observed it?

16 A Yeah, if you look at statements that people give you
17 and it's kind of like putting together a jigsaw
18 puzzle, you take this statement, compare it to this
19 statement, compare it to this statement and compare it
20 to this statement to see if the information matches,
21 if there are discrepancies in the statements to kind
22 of see where you're at and that kind of gives you a
23 better indication of what went on.

24 Q And in this case, did you do that?

25 A I did.

DIRECT EXAMINATION OF TOMMY JOHNSON BY MR. CAMPBELL 322

1 Q And what was the information that was consistent to
2 you?

3 A The information that was consistent with me was Mr.
4 Jones and Ms. Ellis entered the apartment, Mr. Jones
5 was armed prior to coming to the apartment, that they
6 went to commit a robbery, based on the fact that I
7 felt they had had intel of drugs and narcotics or
8 money in the residence. They fled from the scene,
9 were seen fleeing from the scene in the general area
10 by the EMS folks and the fact that several hours later
11 they're at Melody Ellis' cousin's house, DeAngelo
12 Acker's, in which he provides to go to him and speaks
13 to Mr. Acker, telling him that he just committed a
14 robbery.

15 Q And when he gave you, the two statements that he gave
16 to law enforcement, to Detective Gregory and also to
17 yourself, it corroborated most of that information.
18 Is that right?

19 A Most of the information. It places him at the scene
20 there at the apartment. The only thing it does not
21 incorporate is the gun in his hand. He states that
22 gun was picked up later after he left the apartment
23 complex.

24 Q But doesn't he, in the two statements, actually admit
25 to committing the crime?

DIRECT EXAMINATION OF TOMMY JOHNSON BY MR. CAMPBELL 323

1 A He does not admit to committing the crime. No, sir.

2 Q But he gives you information before, he gives you
3 information that you can back up before the crime and
4 after the crime.

5 A Yes, sir. He gives me information that I can
6 collaborate with witness statements before the crime
7 and after the crime, other than actually committing
8 the crime.

9 Q So, that was the only part that was actually left out?

10 A That's correct.

11 Q And when you observed, when you went into the actual
12 apartment, F-48, did you observe, there's been
13 testimony about a broken window.

14 A I actually observed it when I first arrived on scene.
15 It stood out. It was on the top right of the victim's
16 apartment.

17 Q And why did it stand out to you?

18 A Just the way the glass was kind of hanging out of the
19 window and the way it had broken and there were pieces
20 of glass laying on the ground.

21 Q And were you ever able to determine why this crime was
22 committed during broad daylight?

23 MR. SMITH: Objection. Calls for speculation.

24 THE COURT: Lay your foundation, please, sir.

25 MR. CAMPBELL: I'll just back up.

DIRECT EXAMINATION OF TOMMY JOHNSON BY MR. CAMPBELL 324

1 Q Now, Detective Johnson, in your experience, and I know
2 there is some information that has come up about drugs
3 and you have testified on direct examination that you
4 saw no evidence of that.

5 A That's correct.

6 Q In your experience, have you arrested people that were
7 doing drugs?

8 A Yes, sir. I have.

9 Q And is it your experience, that people that are doing
10 something illegal, do they typically call law
11 enforcement when they become a victim?

12 A In my experience, it happens one of two ways: one,
13 they don't call if they are distributing or have
14 narcotics in the house or two, when they do call and
15 realize, I shouldn't have called, they sign a
16 complaint of withdrawal.

17 Q And how long after the initial dispatch was sent out
18 over the radio, did the officers arrive?

19 A It was, approximately, eight minutes, eight to ten
20 minutes for the first officer to get there and I
21 believe the first one there was actually Deputy
22 Bannister and then when I got there, the two victims
23 were still highly emotional, very upset, agitated to
24 the point they were trying to, needed to calm down
25 before we could actually sit down and talk with them.

DIRECT EXAMINATION OF TOMMY JOHNSON BY MR. CAMPBELL 325

1 Q And based upon what they told you and other detectives
2 on the scene, did the evidence that you personally
3 observed in the apartment match the description of
4 what they described to you?

5 A They did.

6 MR. CAMPBELL: Court's indulgence, please?

7 THE COURT: Yes, sir.

8 MR. CAMPBELL: Your Honor, that's all the questions I
9 have for this witness.

10 MR. SMITH: Permission to approach, Your Honor?

11 THE COURT: Yes, sir.

12 (Brief Bench Conference Off the Record)

13 THE COURT: Madam Forelady, ladies and gentlemen of
14 the jury, we're going to take about a 10 minute break. If
15 you would go back to your jury room and make yourself
16 comfortable. If you need anything, let us know. Officer,
17 you can't speak with anybody during the break. Okay, sir?

18 INVESTIGATOR JOHNSON: I understand, sir.

19 (Jury out at 10:24 a.m.)

20 THE COURT: We'll be in recess for about 10 minutes.
21 If you need additional time, just send word down, please.

22 MR. SMITH: Yes, sir. Thank you, Your Honor.

23 (Brief Break)

24 THE COURT: All right, Mr. Smith. Are you ready to
25 proceed?

CROSS EXAMINATION OF TOMMY JOHNSON BY MR. SMITH

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1 MR. SMITH: Yes, I am, Your Honor

2 THE COURT: All right. Bring us the jury, please.

3 (Jury in at 10:44 a.m.)

4 THE COURT: Cross examination?

5 MR. SMITH: May it please the Court.

6 CROSS EXAMINATION OF TOMMY JOHNSON BY MR. SMITH

7 Q Investigator Johnson, you would agree with me that the
8 most important aspect of this case is the credibility
9 of the victims, because no one else was in that
10 apartment that day. Right?

11 A I would say their credibility plays into it, yes, sir,
12 based on everyone else and the other pieces of the
13 puzzle that we put together.

14 Q No, sir. The only people in that apartment were the
15 two victims. Right?

16 A The two victims and the two children.

17 Q Right. The only people that can speak are the two
18 victims. Right?

19 A Correct. As to what went on inside the apartment.

20 Q With regard to the child, I noticed you brought that
21 up, the child had a cut to her head?

22 A I saw a mark on her head. I did not see any blood,
23 but the parent had already cleaned the child up and
24 taken care of her by the time I saw her.

25 Q Oh, really. When did you see her the first time?

CROSS EXAMINATION OF TOMMY JOHNSON BY MR. SMITH

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1 A Well, it was a few minutes. See, the responding
2 deputies were already on scene. I was down the road,
3 approximately, a quarter of a mile at the traffic stop
4 and I probably spent 30 minutes to an hour at that
5 area before I came back to the apartment complex.

6 Q With regard to the officers, and we are talking about
7 plain clothes officers. Is that right?

8 A No. We're talking about uniformed deputies.

9 Q Exactly. That was my point. Thank you. They deal
10 with a lot of criminal domestic violence, a lot of
11 assault and battery and so forth. Is that correct?

12 A There are calls for service. I don't know exactly
13 what each officer deals with on each call.

14 Q And because of that, they have to have a camera so
15 that they can take pictures of injuries.

16 A I do know that a lot of the officers in our agency are
17 not issued cameras.

18 Q A lot of them are, a lot of them aren't?

19 A It basically boils down to a fiscal issue as far as
20 financials for the Sheriff's department.

21 Q Sure. Are you aware that nobody had cameras on that
22 particular day?

23 A I know I didn't. The only one I know that had cameras
24 that particular day was forensics. In fact, CID just
25 got our cameras two months ago.

CROSS EXAMINATION OF TOMMY JOHNSON BY MR. SMITH

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- 1 Q Forensics. And this is your baby, this case. You
2 know everything.
- 3 A Yes.
- 4 Q Forensics had a camera.
- 5 A That's correct.
- 6 Q And, gosh, you know, are there any pictures of this
7 child?
- 8 A As I stated earlier, if they were photographed that
9 day, they've been inadvertently lost with a software
10 issue with our system at the office, along with
11 numerous other cases.
- 12 Q No doubt there was a cut to this child's head?
- 13 A I'd say there was a mark there. I wouldn't
14 necessarily say it was a cut, but there was an injury
15 there.
- 16 Q But did you see any bleeding?
- 17 A I didn't.
- 18 Q For purposes of this case, have you taken a picture of
19 the scarring that remains?
- 20 A No. I have not.
- 21 Q Have you seen this child since then?
- 22 A No, sir. I've actually seen the victims. The last
23 time I saw the victims was at the preliminary hearing.
- 24 Q You've not seen the child?
- 25 A Not since then.

CROSS EXAMINATION OF TOMMY JOHNSON BY MR. SMITH

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1 Q So, we don't know if there's a scar?

2 A I haven't seen it. I do know that at the preliminary
3 hearing there was an injury brought out by Ms. Tucker,
4 about her teeth being injured.

5 Q Ms. Tucker?

6 A Taylor. I'm sorry. Ms. Taylor.

7 Q So, you learned of the teeth situation at the
8 preliminary hearing or was that a bond hearing?

9 A It was a pre-lim.

10 Q A pre-lim?

11 A Yes, sir.

12 Q How long after, was that?

13 A Oh, I couldn't -- I would say, maybe, a month or
14 shorter time frame there.

15 Q That was the first time, however, that you learned of
16 her teeth?

17 A Yes. The day of the incident I was primarily
18 concerned with the general public safety and getting
19 an armed person off the street.

20 (Mr. Smith shows document to Mr. Campbell)

21 MR. SMITH: May I approach, Your Honor?

22 THE COURT: Yes, sir.

23 Q So, the child definitely had a bruise. Can you tell
24 me what that is?

25 A This is just a supplement that was added on April the

CROSS EXAMINATION OF TOMMY JOHNSON BY MR. SMITH 330

- 1 18th. Actually, yes, and it was reviewed by Sergeant
2 Bussey. This says, "In reference to the child being
3 assaulted, I did not find cause to charge the suspects
4 with assault in this case." That doesn't mean they
5 didn't have any injuries. It just means I didn't find
6 cause, because it was a lesser, basically, a
7 misdemeanor charge.
- 8 Q So, "In reference to the child being assaulted, I did
9 not find cause to charge either of the suspects with
10 assault in this case."
- 11 A That's correct.
- 12 Q Cause. A cut to the head is not cause?
- 13 A It -- basically, I did not find a reason that I needed
14 to sign a warrant based on charges already made
15 against both defendants.
- 16 Q But that doesn't mean that the child wasn't hurt?
- 17 A No. That doesn't mean the child wasn't hurt.
- 18 Q Of course, you don't have any pictures.
- 19 A No, sir.
- 20 Q With regard to the testimony that you've heard, is
21 that -- has the testimony been what you, what your
22 investigation had allowed you to corroborate?
- 23 A Yes.
- 24 Q So, it's your understanding that this incident took a
25 half-hour to an hour to take place?

CROSS EXAMINATION OF TOMMY JOHNSON BY MR. SMITH

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1 A Based on -- yeah. I don't know about a half-hour to
2 and hour. When you get into time frames in situations
3 like that, just like when officers get in stressful
4 situations, you may perceive that it's an hour when it
5 took ten minutes. You may perceive that you shot your
6 weapon dry, so based on the perception of the victim
7 and the stress that they were under, so based on their
8 perception, each person is going to have a different
9 perception of time.

10 Q Is perception important when the testimony is given
11 about interacting with other people -- that's
12 confusing. I withdraw it. You have a long history
13 with Jamario, don't you?

14 A I wouldn't say long. I would say, well, if you
15 consider probably two to three years at the high
16 school, then yes, sir.

17 Q It was always in a negative light. Isn't that right?

18 A Not necessarily. I actually talked him into coming
19 out and playing football for me when I coached "C"
20 team football at the high school. We thought it would
21 be an opportunity to, you know, let Jamario do
22 something good for a change. I mean, when I say "good
23 for a change" I only arrested him one time, but I sat
24 in on many administration hearings in school in
25 reference to discipline problems he had in the

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1 classroom, that I took no criminal action against him.

2 Q So, you already had an understanding that Jamario was
3 a bad man.

4 A No. I never assumed Jamario was a bad man. That's
5 the reason I invited him to come out and play football
6 for me. He was actually a pretty good football
7 player, but he's the one that wound up leaving the
8 team.

9 Q Do you remember telling Candice, the lady that you
10 identified as his spouse, do you recall telling her
11 you were going to get Jamario?

12 A No, sir. I do not.

13 Q With regard to Mr. Acker's statement, you wrote that
14 for him. Didn't you?

15 A I wrote his words on that paper.

16 Q Did you find anything when you looked through his
17 house?

18 A We did not actually search his house. We got
19 permission to go in and retrieve the weapon off the
20 refrigerator. At that point, there was no other need
21 for us to search his house.

22 Q And so, this was Jamario's friend's?

23 A This was actually Melody Ellis' cousin.

24 Q Okay. I thought I heard in testimony that was
25 Jamario's friend.

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1 A Well, they went to school, were acquaintances from
2 high school. As far as friendship, each person has
3 their own definition of what a friend is.

4 Q And were you questioning the Ackers about what went on
5 that day?

6 A I did.

7 Q And ---

8 A As far as what happened at their residence.

9 Q The statement that Mr. Acker gave, including your
10 sentence saying that you were writing it for him,
11 contained about four sentences. Does that sound about
12 right?

13 A Four or five. I have a copy of it.

14 Q Including your sentence.

15 A The sentence where I put that I'm writing the
16 statement for him. Yes.

17 Q And...

18 THE COURT: Just one second. (Note from juror) May I
19 see the attorneys.

20 (Brief bench conference off the record)

21 THE COURT: Ladies and gentlemen of the jury, Mr. Day?
22 Is Mr. Day here? Okay, Ms. Day? I'm sorry. May I get
23 you, it's okay, but may I get you to step back here in the
24 hallway. I'll get the jury to go back to the jury room and
25 ask you to stay in the hallway.

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1 (The judge instructs the witness to stay on the
2 witness stand and not to speak to anyone)

3 (Jury out at 10:52 a.m.)

4 (Brief break)

5 THE COURT: Ladies and gentlemen, that was not
6 involving us, just so you know. Are you ready to proceed?

7 MR. SMITH: Yes, sir.

8 THE COURT: Thank you for your tolerance.

9 (Jury in at 10:56 a.m.)

10 THE COURT: Mr. Smith.

11 MR. SMITH: May it please the Court.

12 THE COURT: Yes, sir.

13 Q Investigator Johnson, you also talked to -- how did
14 Mr. Jones and Ms. Ellis get to Anderson?

15 A I don't know. They were brought over there by
16 someone, an acquaintance or someone of that nature.
17 From Mr. Jones' statement, he states that he asked
18 Teresa, who I would, if I'm not mistaken is Ellis'
19 mother, to take him over there.

20 Q So, if I told you I was looking in your report and
21 your report said that Tory Acker and Quenton Byrd
22 drove Jones to Anderson. What would you say to that?

23 A That it's a possibility.

24 Q So, we don't even know how he got to Anderson?

25 A I know that he got to Anderson, he was on the porch of

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1 his house when I got there.

2 Q With regard to the incident that allegedly occurred in
3 the apartment, did you have an opportunity to talk to
4 EMS, or your group, to talk to EMS? Is that right?
5 About what they saw?

6 A The EMS workers?

7 Q Yes.

8 A Actually, I sent Investigator Lacy Holden, who
9 responded to assist. I sent her over to EMS to
10 collect statements from those individuals and then I
11 reviewed the statements once I received them.

12 Q And upon your review, was there anything mentioned
13 about black gloves?

14 A About?

15 Q Black gloves.

16 A Will you give me a moment?

17 Q Absolutely.

18 (Witness looks through documents)

19 A In those statements, I don't believe there was.

20 Q And there's no question that they were close enough to
21 see if he had black gloves on. He picked up the gun
22 in front of them. Right?

23 A Well, yeah, he picked up the gun, but, I mean, I don't
24 have a reason why they didn't see them. I mean, they
25 may have. I don't know.

CROSS EXAMINATION OF TOMMY JOHNSON BY MR. SMITH

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- 1 Q And it's your belief that they used the railroad
2 tracks as a means of getting away. Isn't that right?
- 3 A It is.
- 4 Q So, seemingly, you investigated the ravine or ---
- 5 A We went back there and looked at the ravine.
- 6 Q Did you find any black gloves?
- 7 A I did not.
- 8 Q Did anybody from your office find black gloves?
- 9 A No. There were no black gloves turned in.
- 10 Q So, the only testimony or anything that we know about
11 black gloves comes from the victims. Is that right?
- 12 A That's correct.
- 13 Q And so, black gloves, seemingly, and correct me if I'm
14 wrong, would not allow a person to leave a
15 fingerprint. Right?
- 16 A If the gloves were on, no.
- 17 Q So, the only reason we know about black gloves are the
18 two ladies.
- 19 A Correct.
- 20 Q Did Melody Ellis have gloves at all, to your
21 knowledge?
- 22 A Not to my knowledge.
- 23 Q And you heard the testimony indicating that she came
24 in, closed the door, locked it and then, seemingly,
25 the first one out. Did you ever find a fingerprint of

CROSS EXAMINATION OF TOMMY JOHNSON BY MR. SMITH

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1 hers on anything?

2 A No, sir.

3 Q Forensics is pretty important. Isn't it?

4 A It is. It goes along with a part of the puzzle.

5 Q And what did forensics find for you in this particular
6 matter?

7 A They found some partials that were matched, not
8 matched, but compared to Mr. Jones and Ms. Ellis.
9 They found numerous smudges all over the apartment and
10 smudges are, basically, when you touch something, you
11 pull away from it and rather than leaving a print, it
12 leaves a smear and those are unidentifiable and there
13 were numerous of those found inside the apartment.

14 Q So, you got nothing. Right?

15 A No, sir. I have two victims ---

16 Q No.

17 A You're talking about forensics?

18 Q Fingerprints or ---

19 A No. They were not matched to either one of the
20 partials.

21 Q Three hundred and fifty dollars. Is that about the
22 amount of money?

23 A That's what the victims stated. Yes, sir.

24 Q Okay. And, of course, you know what was in Jamario
25 Jones' and Melody Ellis' pockets prior to that

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- 1 entrance into the apartment?
- 2 A No, sir. I do not.
- 3 Q And, according to you, you found, what, \$202.00 ---
- 4 A That's correct.
- 5 Q ---on Jamario? And do you know what the serial
- 6 numbers of the money lost by the victims were?
- 7 A No, sir. I don't think, in today's society, I don't
- 8 think anybody sits down and writes serial numbers from
- 9 their money now.
- 10 Q So, you have absolutely no knowledge of whether the
- 11 money he had came from that house or that apartment.
- 12 Do you?
- 13 A I know the money was processed by our forensics unit.
- 14 Q Yes.
- 15 A There was no obtainable or usable prints processed off
- 16 of the money.
- 17 Q Not even from the people that allegedly had the money,
- 18 initially?
- 19 A No, sir.
- 20 Q So, you don't know the money that Mr. Jones had in his
- 21 pockets an hour prior to this incident. Right?
- 22 A No. I don't know if he had it prior to this incident
- 23 or not.
- 24 Q Once again, all you have is the statements of the
- 25 victims. Right?

CROSS EXAMINATION OF TOMMY JOHNSON BY MR. SMITH

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1 A The statements of the victims, along with other
2 supporting evidence from both witnesses around the
3 scene. And when I say that, what I'm articulating is,
4 yes, I have their statements from inside, what
5 occurred inside the apartment, and then there is other
6 supporting evidence from individuals that transported
7 Mr. Jones to the scene, what they saw at the scene,
8 what the EMS people saw at the scene, what happened
9 several hours later when Mr. Jones was discovered and
10 then we have the information of him being moved from
11 there to the scene.

12 Q All of those people that you just discussed, not one
13 individual can tell us that the money that he had was
14 not his. Right?

15 A That's correct.

16 Q So, you would agree with me, at this point, that the
17 victims are the key to this case.

18 A Not necessarily. They are a part of this case.

19 Q You have no way of telling me that Mr. Jones stole
20 money from them, unless they say so. Isn't that
21 right?

22 A They say so.

23 Q Exactly.

24 A But that's only a part of the investigation in this
25 case.

CROSS EXAMINATION OF TOMMY JOHNSON BY MR. SMITH

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1 Q That's the only way you know this.

2 A I have cases, I've worked cases in the past where I've
3 had one victim and that's it, but you take that
4 combined with the other parts of the case to lead you
5 to the determination that this happened.

6 Q Okay. The black gloves, once again, the only way we
7 know about black gloves is the victims.

8 A Uh-huh.

9 Q The teeth. It was unknown that they were broke out at
10 the time of the incident?

11 A Well, when I say, "broke out," some people may
12 visualize broke out as -- chipped is different from
13 broke out. Broke out is dependant on how they
14 describe it. I was made aware of it at the
15 preliminary hearing. At the initial scene, the
16 victims were actually, individually, were sitting in
17 the car with Investigator Hendricks. I spoke with
18 them through the window, because I was trying to do a
19 trace on one of the victim's cell phones that was
20 taken to try to get a beam off a tower, which did not
21 pan out.

22 Q Thanks for bringing that up. The phone that was
23 allegedly taken, did you ever find that?

24 A No, sir. But it's not uncommon for people to throw
25 those away when they run from a scene.

CROSS EXAMINATION OF TOMMY JOHNSON BY MR. SMITH

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1 Q Really?

2 A Yeah.

3 Q In a ravine?

4 A No. You've got trash cans, you could throw it in a
5 ravine, you could throw it out the window going down
6 the road. I mean, there's a time frame there that
7 they could have disposed of whatever it was.

8 Q Can you share with us the time frame that they had to
9 dispose of it?

10 A I can tell you that when we initially received the
11 call at two and then my time frame would be when I
12 took him into custody on South McDuffie Street.

13 Q So, you didn't find the phone.

14 A No, sir.

15 Q You didn't find the black gloves.

16 A No, sir.

17 Q But the victims told us that that's what you should
18 know what to find. Right?

19 A They told me -- that was their description, not
20 necessarily what I should find.

21 Q Do you believe that the gun is silver?

22 A No. I said the gun was black with a silver slide,
23 which that has a silver stripe down the slide.

24 Q That's silver?

25 A In my interpretation, it is. Yes, sir.

CROSS EXAMINATION OF TOMMY JOHNSON BY MR. SMITH

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- 1 Q I thought silver was shiny.
- 2 A It depends on what color. I mean, it's silver.
- 3 Q That's not gray?
- 4 A I consider it silver.
- 5 Q You heard the testimony of both of the victims.
- 6 A Yes, sir.
- 7 Q They both said "black guns". Is that a black gun?
- 8 A If you point the barrel at you, it would be.
- 9 Q What if you're there for a half-hour or an hour?
- 10 You'd get a good look at that gun. Huh?
- 11 A I don't really think they were worried about that. If
- 12 you've got a gun to your head, I think you would be
- 13 more concerned with whether he's going to pull the
- 14 trigger.
- 15 Q You wouldn't be focused on the gun?
- 16 A No. I'd be more focused and worried about whether
- 17 he's going to kill me.
- 18 Q So, in order to see a finger on the trigger, you would
- 19 have to look at the gun.
- 20 A You could glance at it and see it. Yes.
- 21 Q So, a half-hour or an hour, you couldn't see that
- 22 there was a silver stripe?
- 23 A That's their interpretation of what the gun looked
- 24 like, but that's not uncommon in stressful situations.
- 25 Q Your office is extremely thorough. Right?

CROSS EXAMINATION OF TOMMY JOHNSON BY MR. SMITH

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1 A To a degree. Yes, sir.

2 Q But you were unaware that this lady had chipped teeth?

3 A It wasn't brought to my light at the scene, but here
4 again, I had my basic information. I had already
5 established who were possible suspects in this case.
6 I understood that he was armed. He was out on the
7 street and it was my major concern for this community
8 for the safety around them.

9 Q Please answer my question, yes or no.

10 A I did not know until the preliminary hearing.

11 Q So, it wasn't really that important. Right?

12 A It was important, but it was not brought to light to
13 me at the scene.

14 Q How long were, how long were Jones and Ellis gone from
15 the apartment before the call was made to the police?

16 A I don't know that time frame. All I know is the
17 initial call for service and the responding deputies.

18 Q So, you don't know how much time that Ms. Bentley and
19 Ms. Taylor had between the time they left and the time
20 they called. Right?

21 A I only have the information that is on the report and
22 the time in our cad system as to when they made their
23 911 call. If you're asking from the time that the
24 defendants fled the scene? No, sir.

25 Q Right. And with regard to the drawers that were

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1 pulled out, we don't have any prints.

2 A No, sir. Other than, there were some partials
3 collected from inside the residence that were never
4 matched.

5 Q So, the victims could have pulled the drawers out. Is
6 that right?

7 A Well, they lived there. They probably pulled them out
8 everyday.

9 Q Oh, I'm not asking ---

10 A Are you saying, in this instance?

11 Q Yes. They could have pulled them out.

12 A If that's your interpretation of what happened, they
13 could have. That's not mine.

14 Q Well, I understand what your interpretation is, but
15 I'm asking you, could they have done that?

16 A It's feasible.

17 Q And with regard to the wrinkled bed, do you really
18 know what did that?

19 A Based off of what I was told and what I saw.

20 Q Based on the witnesses' statements.

21 A Yes.

22 Q How much money did Ms. Ellis have?

23 A I don't recall that she had any.

24 Q So, \$202.00. And so he spent \$133.00 on the train
25 tracks?

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1 A I don't know.

2 Q Did you find any money on the tracks where they just
3 tried to get rid of that, too?

4 A No, sir. I don't think that someone who commits a
5 crime of that nature would actually throw what they
6 just robbed, away.

7 Q That wouldn't seem reasonable. Would it?

8 A No.

9 Q Well, you only found \$202.00.

10 A That's correct.

11 Q If you know the police are coming and you are a felon,
12 do you think you might be scared?

13 A I don't think ---

14 Q Especially, if you have a gun.

15 A I don't think that I could give you an honest answer
16 on that, because I'm not a felon.

17 Q Okay. The victim's were agitated. Right?

18 A Excited, yes. Agitated, excited.

19 Q Could it be because they just got beat up?

20 A Could be.

21 Q And you have had the opportunity to review all the
22 statements and Special Agent Stallo has helped you,
23 and so forth. Right?

24 A That's correct.

25 Q And Melody Ellis has talked to anybody that's wanted

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1 to listen to her. Is that right?

2 A Pretty much. Yes.

3 Q And her story, as opposed to others, has remained the
4 same the entire time. Hasn't it?

5 A Yes, sir.

6 Q And that story is that, she went over to beat up
7 Ronnie Bentley. Right?

8 A Correct.

9 Q And did she beat up Ronnie Bentley?

10 A There was a physical altercation.

11 Q Were there any marks on Ms. Ellis?

12 A I did not see any, but...

13 Q And so, Ms. Ellis had the upper hand and made a fool
14 out of -- well, not a fool, but she beat up
15 Ms. Bentley. Would you say that, with all the welts
16 or knots or whatever around her head?

17 A I'd say she assaulted her. Yes.

18 Q Is it an assault instead of a fight when someone wins?
19 Is that how that works?

20 A No. It's an assault whenever someone unwantingly
21 touches someone else.

22 Q Are you aware that this was the third time that this
23 happened, that she beat her up?

24 A That who beat who up?

25 Q Ms. Ellis beat up Ms. Bentley.

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- 1 A She had stated to us in her interview that she had
2 assaulted her before. There had been a altercation
3 several years ago or ---
- 4 Q You heard the testimony of Ms. Bentley when she said
5 that they were two studs.
- 6 A That's correct.
- 7 Q As a man, and you've gotten in a fight before, are you
8 embarrassed when you get beat up?
- 9 A That happened to me when I was a youth. Yes, sir.
- 10 Q Embarrassing?
- 11 A Not really.
- 12 Q You just took it like a man?
- 13 A Yeah.
- 14 Q Is it possible that this has happened before and since
15 she, obviously, can't deal with her physically, she
16 could get back at her with the police? Does that
17 sound right? Could it be possible?
- 18 A It could be possible, but in this case, I don't think
19 it was. I think that maybe Ms. Ellis did go over
20 there to start a fight, but Mr. Jones decided to play
21 the upper hand and gain something from it.
- 22 Q Perhaps, something.
- 23 A Perhaps.
- 24 Q So, really this case, once again, boils down to the
25 statements of the victims. Correct?

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1 A As far as what took place in the apartment. Yes, sir.

2 Q You heard Ms. Bentley state that she met Mr. Jones on
3 April 13th, a Wednesday, at her friend's, I believe.
4 Did you hear that?

5 A I did.

6 Q And you also heard that Mr. Jones had been over to
7 their apartment the previous afternoon to scout the
8 place, to see if Byrd was there. You heard that.
9 Didn't you?

10 A I heard that testimony. Yes, sir.

11 Q And taking the victim's word for what it is, you
12 believe that occurred, both of those situations: Ms.
13 Bentley meeting Mr. Jones April 13th at her friend's
14 house. Right? You believe that.

15 A Based on her testimony, yes, sir.

16 Q So, you agree. And on the 14th, you believe that Mr.
17 Jones came to their apartment asking for Byrd.

18 A Yes, sir.

19 (Mr. Smith shows document to Mr. Campbell)

20 MR. SMITH: May I approach, Your Honor?

21 THE COURT: Yes, sir.

22 Q Investigator Johnson, could you tell me what that is?

23 A This is a Anderson County Booking Report from the
24 Anderson County Detention Center.

25 Q And who is it on?

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1 A It's on Jamario Quinton Jones.

2 Q Is that the defendant right over there?

3 A It is.

4 Q When was Mr. Jones detained, according to this
5 document?

6 A His date of initial booking was April 6, 2011 at
7 18:30 hours.

8 Q When was he released?

9 A It says the release time was April 14, 2011 at 16:04,
10 which would have been approximately 4:00 in the
11 afternoon.

12 Q Thank you, sir.

13 MR. SMITH: I would like to introduce this as
14 Defendant's Exhibit No. 1.

15 THE COURT: Any objection?

16 MR. CAMPBELL: No, Your Honor.

17 THE COURT: Admitted as Exhibit No. 1.

18 (Whereupon, a booking report is admitted into evidence
19 as Defense Exhibit No, 1, without objection)

20 Q So, now, we've just learned that Mr. Jones was in jail
21 until 4:00 on the afternoon of the 14th. Does that
22 change any of your thoughts about this case?

23 A As far as what happened on the incident date, no, sir,
24 it does not.

25 Q Not one bit?

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1 A No, sir.

2 Q Okay. So, Ms. Bentley, how would you describe Ms.
3 Bentley's testimony based on what you've just learned?

4 A Other than what she said on the stand as far as what
5 happened on these three previous days, they were not a
6 part of my investigation until ATF Agents Stallo and
7 Gregory were involved in that.

8 Q Was she under oath when you were talking to her
9 outside this courtroom?

10 A When was this?

11 Q I don't know. That's what I'm saying. Whenever you
12 talked to her before, was she ever under oath other
13 than in this courtroom?

14 A No.

15 Q So, you would agree with me that it's of the utmost
16 importance to tell the truth in court.

17 A I would.

18 Q And you would agree with me that Mr. Jones could not
19 have been met at a friend's house on the 13th.
20 Wouldn't you?

21 A I would agree with that, but I would also agree with
22 the fact that people do get dates, as far as like
23 that, or dates, wrong. And I'm not saying that's what
24 happened, but I would agree with you.

25 Q She met him one day, he comes to her house the next

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1 day, and then comes to her house the following day and
2 so there are three days there. Was there any question
3 of that in the testimony?

4 A Based on what she said, no.

5 Q And as we discussed earlier, the victims are the only
6 ones that are providing information on the gloves, the
7 money, and what went on in that apartment. Isn't that
8 right?

9 A What went on in the apartment. Yes, sir.

10 Q Do you have any doubt in what Ms. Bentley said, now?

11 A No. Looking back on the case, I don't. I still, just
12 like I said, you take pieces of the puzzle and you put
13 it together.

14 Q That's pretty big pieces now missing, wouldn't you
15 agree?

16 A Not involving the incident date. No, sir.

17 Q Mr. Johnson, or Investigator Johnson, you earlier told
18 us that you had dealings with Jamario Jones, but of
19 course, you stated that you did not tell Ms. Brown
20 that, "you were going to get him". Right?

21 A That's correct. I did not.

22 Q But now that you've learned that he was in jail, it
23 doesn't push you one bit from your stance that he did
24 this. Does it?

25 A No, sir. It does not.

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- 1 Q If she came up and told you, "This is a lie," you
2 wouldn't believe that either. Would you?
- 3 A I believe we would dig off further into it.
- 4 Q You've had the opportunity to review Special Agent
5 Stallo's reports. Correct?
- 6 A I have.
- 7 Q All right. And Ms. Bentley broke out that window.
8 Didn't she?
- 9 A All I know is the window was broken and my
10 understanding is, it was during an altercation. I
11 don't know exactly who broke the window out, but now,
12 in testimony, she said that she broke it out, I
13 believe.
- 14 Q Ms. Bentley said that Ms. Ellis robbed her of
15 marijuana four years ago. Didn't she?
- 16 A In the report, she did.
- 17 Q Did you hear any testimony like that when she was on
18 the stand? I asked about drugs ---
- 19 A No. Actually, in the report, if you read it, Ms.
20 Ellis said she was supposed to sell Ms. Bentley a
21 large quantity, but that it never happened.
- 22 Q Well ---
- 23 A I believe that's in the report.
- 24 Q I'm looking at the report, the interview of Ms.
25 Bentley and Ms. Taylor, however.

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1 A Okay. That's what I'm looking at.

2 Q Page two of three.

3 A Page what?

4 Q Two of three.

5 A Page two of three.

6 Q Or, down at the bottom, actually.

7 A Okay. (Looks at document) In the report, Ms. Bentley
8 actually states that she does not sell large amounts
9 of marijuana, however, she does have marijuana for
10 personal use.

11 MR. SMITH: May I approach, Your Honor?

12 THE COURT: Yes, sir.

13 Q Make sure we're looking at the same thing. Could you
14 do me a favor and read this right here. (Indicating)

15 A "Bentley said that Ellis had robbed her of marijuana,
16 approximately, four years ago. Bentley was delivering
17 some marijuana to Ellis. Bentley gave the marijuana
18 to Ellis and Ellis ran off without paying Bentley."

19 Q That's plenty, sir. Thank you. So, they do have a
20 past.

21 A They do.

22 Q And dealt with drugs, apparently.

23 A Apparently so.

24 Q Did Ms. Bentley say that when she was up on the stand?

25 A I don't recall, sir. I really don't.

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1 Q Can you tell me one thing that Ms. Bentley said,
2 besides her name, that is, in fact, the truth?

3 A On...

4 Q On the stand. Is there anything ---

5 MR. CAMPBELL: Your Honor, I object. He needs to be
6 more specific regarding that.

7 THE COURT: I agree. I'll sustain the objection.

8 Q With regard to the same statement that you are looking
9 at, Quenton Byrd borrowed a grill from Ms. Bentley.
10 Isn't that right? It's at the bottom, sir.

11 A Yes. It states that here. Yes.

12 Q And you heard me ask her, to make sure that what I
13 heard was true, she said that she borrowed the grill.
14 Didn't she? When she was on the stand.

15 A I believe so. Yes, sir.

16 Q So, that is ---

17 A But now, in your statement here, it doesn't say
18 "borrowed", it says he walked out with the grill. And
19 if she borrowed the grill, then a reasonable person
20 would assume that maybe he went to pick his grill up.

21 Q Let's look at the statement together.

22 A Okay.

23 Q Bentley stated that Byrd borrowed her grill. Am I
24 mis-reading that?

25 A I don't see that. I'm looking at "Stallo's

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1 explanation of surveillance video of Quenton Byrd".

2 Q Can you read that for me?

3 A It does. It does state that Bentley stated that Byrd
4 often borrowed her grill, but found it very unusual
5 that he did not knock on her door to tell her he was
6 borrowing the grill.

7 Q So, bottom line. She let him borrow the grill on a
8 regular basis, or numerous times, according to that.
9 Correct?

10 A According to this.

11 Q And that's her statement pursuant to Officer, Agent
12 Stallo's narrative. Right?

13 A To his narrative. Yes, sir.

14 Q And, obviously, he's not going to write something
15 exactly the opposite of what happened. Right?

16 A Correct.

17 Q And, of course, Ms. Bentley said that's not the way it
18 happened. So, which Ms. Bentley is the right
19 Ms. Bentley?

20 MR. CAMPBELL: Your Honor, I'm going to object to this
21 line of questioning. He's pitting one witness against
22 another witness. That's for closing argument.

23 THE COURT: Overruled. Go ahead.

24 Q So, we've found some inconsistencies. Would you agree
25 with that?

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- 1 A It could be inconsistencies. It could be...
- 2 Q Lies?
- 3 A I'm not going to classify them as lies. It could be
- 4 inconsistencies.
- 5 Q Please share with me how it was possible for Ronnie
- 6 Bentley to meet Jamario Jones on April 13th at her
- 7 friend's house. Please share that with us.
- 8 A I don't know. That was not a part of my initial part
- 9 of the investigation. That came after the fact.
- 10 Q I understand that. So, you can't explain it.
- 11 A That -- I can't explain it. No, sir.
- 12 Q Do you believe it happened?
- 13 A Do I believe it?
- 14 Q Yes.
- 15 A Based on what you've shown me, no, sir. I don't
- 16 believe it now.
- 17 Q So, you don't believe Ms. Bentley.
- 18 A No, I don't believe that that happened. I do believe
- 19 that the robbery took place.
- 20 Q So, Mr. Jones is going to jail, because that
- 21 definitely happened, according to Ms. Bentley.
- 22 A No, sir. I'm just saying I believe the facts of my
- 23 case, what I found in my investigation that proves
- 24 that Mr. Jones and Ms. Ellis went to that house, based
- 25 on bad drug intelligence, and committed an armed

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1 robbery and a burglary.

2 Q You wouldn't agree with me that you're speculating?

3 A No, sir. I wouldn't.

4 Q No? I mean, then what about this drug intel? Where
5 did you get that?

6 A Basically, I think they went over there with the
7 information that there were drugs in the house.

8 Q There's no drug intel. That's your belief. Right?

9 A Yes.

10 Q Yeah. And the 14th, when Mr. Jones allegedly came
11 over to scout the place and he was in jail, then, too.

12 A Until 4:00 that afternoon.

13 Q When did the scouting occur?

14 A I don't know.

15 Q Didn't Ms. Bentley testify 2:00, or around that, in
16 the afternoon?

17 A I don't recall. I recall her saying 2:00 about the
18 actual incident date, but...

19 Q Once again, these inconsistencies, they don't make you
20 waiver one bit?

21 A No, sir.

22 Q So, regardless of the only, one of the only eyewitness
23 accounts of this event, regardless of her ability to
24 be truthful, you maintain that this happened?

25 A Yes, sir. Based on the totality of all the evidence

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1 and the witness statements and things collected. Yes,
2 sir. I do.

3 Q Would you agree with me that there are only two
4 victims that can talk?

5 A There are two victims that can talk about what
6 happened and there's evidence that leads up to, the
7 time of, and then afterwards.

8 Q You have no fingerprints indicating that my client
9 touched anything in that house, or that apartment.

10 A No, sir.

11 Q You found no black gloves at all ---

12 A No, sir.

13 Q --- that he allegedly wore. Right?

14 A No, sir.

15 Q You've got him with \$202.00, when, allegedly, there
16 was \$350.00 gone. Right?

17 A That's correct.

18 Q She said that a phone was stolen. Did you find a
19 phone?

20 A No, sir.

21 Q Do we know that a phone was stolen?

22 A Yes, we do, because we actually contacted Sprint. She
23 said the phone was stolen and then we contacted Sprint
24 trying to do traces on it to see if we could get GPS
25 off of it.

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1 Q How did that work for you?

2 A Didn't work.

3 Q Yeah. Where did you find it? You didn't find it at
4 all. Did you?

5 A No, sir.

6 Q So, Ms. Bentley is still the star witness for you?

7 A Their information provided at the time and statements
8 from them, along with others. Yes, sir.

9 Q And Ms. Taylor's chipped teeth, you didn't learn of
10 that until the pre-lim.

11 A That's correct.

12 Q Have you ever had any teeth problems, tooth problems?

13 A No, sir.

14 Q Have you ever been hurt? Do you know when you've been
15 hurt, instantly, or do you find out a month later?

16 A I know when I'm hurt instantly, but I don't complain
17 about it and some people do and some people don't.

18 Q Do you believe that Mr. Jones and Ms. Ellis were in
19 that residence for a half-hour to an hour?

20 A I don't -- I believe they were in the residence as far
21 as the time frame. Here again, it's left up to the
22 individual's perception.

23 Q And the child, you never saw blood on the child?

24 A I did not.

25 Q And is it in any of your reports, even?

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- 1 A (Looks through documents) Yes, as far as the child
2 being kicked. Deputy Bannister placed it on pages
3 three and four of the incident report.
- 4 Q Does it say anything about blood?
- 5 A No, sir.
- 6 Q With regard to the description that Officer Bannister
7 has regarding the kick to the head.
- 8 A Yes, sir.
- 9 Q Is there anything that physically indicates that there
10 was a kick to the head?
- 11 A On the child?
- 12 Q Yes.
- 13 A There was a mark, but, like I said, I didn't see any
14 blood or anything like that, but by the time I got
15 there, some time frame had elapsed. I don't know
16 exactly how long.
- 17 Q As a matter of fact, after your thorough
18 investigation, you didn't find cause to arrest either
19 of them for hitting a child. Is that right?
- 20 A No, sir. It would have been, basically, an assault
21 and battery case that would have been tried in
22 Magistrate's Court and I felt that the armed robbery,
23 the burglary, first, and the possession of a weapon,
24 that would have covered what took place.
- 25 Q And that would get them. Wouldn't it?

CROSS EXAMINATION OF TOMMY JOHNSON BY MR. SMITH

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1 A No. I just figured that would cover the charges.

2 Q Okay. And ---

3 A I figured the assault was actually a part of the
4 robbery.

5 Q So, it's almost time for me to sit down and so I just
6 want to make sure that I understand, regardless of
7 what Ms. Bentley says, it doesn't matter, he's still
8 guilty of robbery, according to you.

9 A Based on the information that she gave me that day,
10 along with other corroborating evidence that I
11 collected that day and from various other individuals.

12 Q It's interesting that you should bring that up. The
13 interview that was done with Ms. Bentley.

14 A Yes.

15 Q It was done with Ms. Taylor, too. Wasn't it?

16 A I don't recall. I was inside processing the scene
17 while Investigator Hendricks handled that.

18 Q Right. And Officer ---

19 A That may have been done with a Federal Agent, but at
20 the scene, it was not.

21 Q Okay. So, they were interviewed at the same time and
22 were able to hear what the other was saying?

23 A Not at the crime scene, the initial statements. No,
24 sir.

25 Q But with regards to Agent Stallo, they were both in

REDIRECT EXAMINATION OF TOMMY JOHNSON BY MR. CAMPBELL 362

1 there.

2 A I don't know. I wasn't present for that interview.

3 Q Oh. Okay.

4 A I've got the report.

5 Q So, according to that, you would agree with me, they
6 were both in the same room.

7 A (Looks through documents) Based on this statement, it
8 just says Special Agent Stallo and Anderson County
9 Sheriff's Officer Lieutenant Andy Tribble, interviewed
10 victims, Ronnie Bentley and Darcel Taylor at the
11 Sheriff's office.

12 Q So, they would have heard each other's statements.

13 A It depends if they took them in separate interview
14 rooms. I don't know what they did. I wasn't present
15 and I don't recall seeing in here that it actually
16 says that they were interviewed together, other than
17 they were at the Sheriff's office, which is a rather
18 large facility.

19 Q Despite what we've heard today, nothing changes your
20 mind?

21 A Of the events that occurred that day, no, sir.

22 Q Thank you, sir.

23 THE COURT: Redirect?

24 MR. CAMPBELL: Yes, Your Honor.

25 REDIRECT EXAMINATION OF TOMMY JOHNSON BY MR. SMITH

 THE STATE OF SOUTH CAROLINA VERSUS JAMARIO QUINTON JONES

REDIRECT EXAMINATION OF TOMMY JOHNSON BY MR. CAMPBELL 363

1 Q Now, Detective Johnson, let me ask you this: You are
2 a sworn law enforcement officer. Is that correct?

3 A Correct.

4 Q Is it your job to go out and get people?

5 A No, sir. It's my job to investigate crimes that occur
6 in the community, develop probable cause and present
7 it to a magistrate for an arrest warrant.

8 Q Do you have a grudge against this man?

9 A No, sir.

10 Q Do you have a vendetta against Mr. Jones?

11 A No, sir.

12 Q In fact, you knew him as a teenager. Didn't you?

13 A Yes, sir, when he was a teenager, football player, and
14 student at BHP High School.

15 Q So, is there any reason you would want to go out and
16 "get him"?

17 A No, sir.

18 Q Now, if he committed a crime, would you go out and
19 "get him"? And when I say "get him", try to arrest
20 him?

21 A Try to arrest him, yes, sir, if I had enough
22 information to justify an arrest. Yes, sir.

23 Q In this case, do you feel like you had enough
24 information to make an arrest on him?

25 A I feel I had overwhelming evidence. Yes, sir.

REDIRECT EXAMINATION OF TOMMY JOHNSON BY MR. CAMPBELL 364

- 1 Q Now, when you went to DeAngelo Acker's house. You
2 were present, you talked to everybody there at the
3 house. Is that right?
- 4 A Yes, sir. That's correct.
- 5 Q And did you ever possibly consider that DeAngelo Acker
6 was involved?
- 7 A I had some suspicions at first until, basically, we
8 sat down and talked and he told me what had occurred
9 there at the house and that his mother had also told
10 me what occurred there.
- 11 Q And based upon that, you didn't bring a warrant out on
12 Mr. Acker. Did you?
- 13 A No, sir. I did not.
- 14 Q Did you have any information that Mr. Acker was even
15 present at Oat Forest Apartments?
- 16 A No, sir. I did not.
- 17 Q In fact, he told you that Mr. Jones committed a
18 robbery.
- 19 A He did.
- 20 Q Now, during the cross examination, there was a lot of
21 information brought out about whether or not he had on
22 gloves or not. When he was arrested, he didn't have
23 any gloves. Did he?
- 24 A No, sir.
- 25 Q And the EMS workers didn't say whether or not he had

REDIRECT EXAMINATION OF TOMMY JOHNSON BY MR. CAMPBELL 365

1 gloves on. Is that right?

2 A No, sir.

3 Q They did say he had a black gun with a silver slide.

4 A Yes, sir.

5 Q It's possible -- I mean, he was definitely not wearing
6 gloves when he left the apartment complex and was seen
7 running by EMS.

8 A Yes, sir. He wasn't.

9 Q It's feasible he could have had gloves that he put in
10 his pocket. Is that right?

11 A Yes, sir.

12 Q And when you -- you were one of the officers that
13 actually went into the crime scene itself. Is that
14 right?

15 A Yes, sir. Myself and Officer Pridemore went in.

16 Q Did it appear to you that the victims staged this
17 crime scene to get even with Ellis?

18 A No, sir. It did not.

19 MR. SMITH: Objection. Leading.

20 THE COURT: Overruled.

21 Q You, yourself, spoke to Melody Ellis.

22 A Yes.

23 Q In fact, you yourself, actually you brought out
24 warrants against Ms. Ellis for the same charges.

25 A Yes. I did.

REDIRECT EXAMINATION OF TOMMY JOHNSON BY MR. CAMPBELL 366

1 Q And when you were speaking to Ms. Ellis, the thing she
2 told you was that she went over there for a fight.

3 A Yes. She stated she went over there and if I'm not
4 mistaken, to "beat the bitche's ass".

5 Q And at any point, did she mention that it was a
6 robbery or a burglary?

7 A No, sir. She did not.

8 Q She tried to distance herself from that?

9 A Very much so.

10 MR. SMITH: Calls for speculation.

11 THE COURT: Sustained.

12 Q Now, while you were talking to Ms. Ellis, she did
13 acknowledge that Mr. Jones was with her.

14 A Yes, she did. She stated that Jamario went with her.

15 Q And that he was inside that apartment?

16 A Yes, sir. He was inside the apartment.

17 Q Mr. Smith brought out that there was an ongoing feud
18 or grudge between Ms. Bentley and Ms. Ellis.

19 A Yes, sir.

20 Q Did you know anything about that prior to this
21 incident date?

22 A Prior to this incident date, no, sir.

23 Q And talking about the incident dates that Ms. Bentley
24 gave, when she was talking about April 13th, at which
25 time Mr. Jones, Mr. Smith pointed out he was

REDIRECT EXAMINATION OF TOMMY JOHNSON BY MR. CAMPBELL 367

1 incarcerated.

2 A. Uh-huh.

3 Q Is that out of the ordinary for you that when you talk
4 to people, they get the dates wrong?

5 A No, sir. It's not.

6 Q And I want to talk to you a little bit about Defense
7 Exhibit No. 1. I'll hand this up to you, sir. And
8 this document, Defense Exhibit No. 1, what exactly is
9 it?

10 A It's a booking report from the Anderson County
11 Detention Center.

12 MR. SMITH: Asked and answered.

13 THE COURT: Overruled.

14 Q Please identify it.

15 A It's a booking report from the Anderson County
16 Detention Center that has the defendant's information
17 on it.

18 MR. SMITH: May we approach, Your Honor?

19 THE COURT: Yes, sir.

20 (Brief Bench Conference Off the Record)

21 Q Now, Detective Johnson, let's go through, I'm going to
22 go through Defense Exhibit No. 1 since this has been
23 brought out.

24 A Okay.

25 Q In this, it shows that Mr. Jones was arrested. Is that

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REDIRECT EXAMINATION OF TOMMY JOHNSON BY MR. CAMPBELL 368

1 right?

2 A It does.

3 Q He was arrested on April 6, 2011?

4 A That is the date of the booking sheet. Yes, sir.

5 Q And what date was he released?

6 A It says he was released on April 14, 2011 at 16:04,
7 which would mean 4:04 in the afternoon, based on the
8 recorded time.

9 Q And what charges was he booked on?

10 A He was charged with driving without a license, first
11 offense, reported giving false information to law
12 enforcement on a fire department rescue, and a child
13 support obligation to support children.

14 Q So, failure to pay child support.

15 A Yes.

16 Q And when you look at this documentation, next of kin,
17 who does he list?

18 A He lists next of kin, spouse, as Candice Brown and
19 supplies a phone number.

20 Q Okay. And under property.

21 A Yes, sir.

22 Q How much money does he have?

23 A It depicts none. It doesn't say anything about it.

24 It says he has one blue phone and one cap, gray, and
25 that's the only property listed on this report.

REDIRECT EXAMINATION OF TOMMY JOHNSON BY MR. CAMPBELL 369

1 Q So, the day before, almost twenty-four hours prior to
2 this or twenty-two hours of this, when he was released
3 from the Anderson County Detention Center, he didn't
4 have any money. Did he?

5 A Based on this booking report, no, sir.

6 Q And based upon your investigation when he was booked
7 in, due to your warrant, how much money did he have on
8 him?

9 A Two hundred and two dollars in cash.

10 Q And was he employed?

11 A No, sir.

12 Q In fact, that's what he told them. Is that right?

13 A That is correct.

14 Q So, this money had to come from somewhere.

15 A That's correct.

16 Q And he didn't have a job.

17 A That's correct.

18 Q And there's been talk about Ellis and Bentley and past
19 dealings with drug dealing or who was selling to who.
20 Ms. Ellis knew all that information. Didn't she?

21 A Yes, sir.

22 Q And Ms. Ellis was with him on the date of April 15,
23 2011.

24 A That is correct.

25 Q And any information -- well, you heard the testimony.

REDIRECT EXAMINATION OF TOMMY JOHNSON BY MR. CAMPBELL 370

1 Ms. Bentley said she had not any experience with Mr.
2 Jones.

3 A I'm sorry?

4 Q Ms. Bentley did not have any previous experience or
5 knowledge of Mr. Jones. She'd just met him.

6 A That's correct.

7 Q So, any information regarding drug use or drug dealing
8 would have come from Ms. Ellis herself?

9 MR. SMITH: Objection. Calls for speculation.

10 THE COURT: I'll sustain that.

11 Q Now, I know Mr. Smith has gone over on his cross
12 examination with you about Ms. Bentley, but as a part
13 of bringing these charges against him, do you also
14 take into consideration what Ms. Taylor has said?

15 A Yes, I did.

16 Q And at any point, was there any deviation or anything
17 different in Ms. Taylor's information that she has
18 given?

19 A No, sir.

20 Q And when you saw Ms. Taylor on the afternoon of April
21 15, 2011, was she concerned about herself or the
22 welfare of her child?

23 A She was more concerned about the welfare of her
24 children.

25 Q So, the fact that she didn't bring up her teeth

REDIRECT EXAMINATION OF TOMMY JOHNSON BY MR. CAMPBELL 371

1 injury, you wouldn't consider that out of the
2 ordinary?

3 A No, sir. I would not.

4 Q And Mr. Smith has gone over in his cross about the
5 child, the child's injury.

6 A Yes, sir.

7 Q And you indicated through his exam that Mr. Bannister
8 saw a knot on the head. You saw the child, you saw a
9 cut with no bleeding.

10 A That's correct.

11 Q Now, Mr. Smith was implying in his cross that possibly
12 the victims made this up to get even with Ellis.

13 MR. SMITH: That calls for his testifying to my
14 questioning.

15 THE COURT: State that again, please, sir.

16 MR. SMITH: My objection is that he's replying to my
17 question.

18 THE COURT: Re-phrase that, please, counsel.

19 Q In this case, do you think Ms. Bentley was making this
20 up, this whole story of the robbery?

21 A No, sir. I do not.

22 Q In this case, do you think Ms. Taylor was making up
23 the story of this robbery?

24 A No, sir. I do not.

25 Q And in your opinion, based on your own personal

RE-CROSS EXAMINATION OF TOMMY JOHNSON BY MR. SMITH 372

1 observations of the scene and the victims at the Oak
2 Forest Apartments, is it feasible that Ms. Taylor or
3 Ms. Bentley assaulted a one-year-old to make this up?

4 A No, sir. It is not.

5 MR. CAMPBELL: I have no further questions.

6 THE COURT: Re-cross?

7 MR. SMITH: May it please the Court.

8 RE-CROSS EXAMINATION OF TOMMY JOHNSON BY MR. SMITH

9 Q So, the use of, "feasible," "could be" with regard to
10 the child's injuries, which there are no pictures,
11 right? Did you ever see a cut? You saw a cut?

12 A Yes, sir.

13 Q Oh. You did? Did you take a picture of it?

14 A I did not have a camera. No, sir. Now, forensics may
15 have, but like I said, again, those photographs are
16 gone due to an issue at the Sheriff's office.

17 Q Assault and battery of a high and aggravated nature,
18 what's included in that?

19 A I don't think that charge actually exists anymore.
20 It's now "attempted murder".

21 Q So, there's no battery?

22 A There's assault and battery. You have three degrees
23 of assault and battery: First, second and third.

24 Q Okay. And what does it take to get into General
25 Sessions with that particular charge?

RE-CROSS EXAMINATION OF TOMMY JOHNSON BY MR. SMITH

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1 MR. CAMPBELL: Your Honor, I'm going to object.

2 There's no evidence or reason to go into this.

3 THE COURT: Overruled.

4 A What does assault and battery take?

5 Q What does it take to get into General Sessions?

6 A It takes -- to General Sessions?

7 Q Yes.

8 A It takes extreme bodily injury or harm to the person,
9 which a simple laceration is not.

10 Q What about kicked out teeth?

11 A Could be, but I believe that was all part of the
12 robbery. Period.

13 Q You still believe it was a part of the robbery despite
14 the fact you learned about it a month later?

15 A Yes.

16 Q Do you have any dental records for that?

17 A No, sir. I do not.

18 Q With regard to DeAngelo Acker, he gave a statement.
19 Didn't he?

20 A Yes, sir. He did.

21 Q And it was about his friend and it included, including
22 your sentence, three or four sentences?

23 A One moment, please. (Looks through documents)
24 Actually, five sentences.

25 Q Excuse me. Sorry. You said he left after he finished

RE-CROSS EXAMINATION OF TOMMY JOHNSON BY MR. SMITH

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1 his statement. Right?

2 A His statement, actually, was collected several days
3 after the arrest, but he gave me the information that
4 afternoon and then we went back and interviewed him.

5 Q So, he was released upon ---

6 A He was never in custody.

7 Q I understand that. Do you use that term in your
8 statement?

9 A In -- used what term? Released?

10 Q Yeah.

11 A In DeAngelo's statement?

12 Q No, it's not actually a statement. It was in
13 testimony earlier. You stated that once you got the
14 statement, what did you say?

15 A I said when we were finished with the scene, we
16 released the scene and left.

17 Q So, you wrote his statement and DeAngelo says, "Oh,
18 yeah, he told me committed a robbery on someone."

19 A In his words, yes, sir. He stated while they were
20 walking to the store.

21 Q And didn't you write Ms. Petty's statement, as well?

22 A I wrote her words on it. Yes, sir.

23 Q Why do you guys write the statements for ---

24 A It's general practice. It's been that way since I've
25 been at the agency for 18 years. We take the wording

RE-CROSS EXAMINATION OF TOMMY JOHNSON BY MR. SMITH

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1 that is given to us by an individual and we place it
2 onto the paper and then we will review the statement
3 with them. I, personally, go back and orally review
4 it with them to make sure they understand, ask him if
5 there are any additions or deletions they want to make
6 in it and if they say they do, we strike that out and
7 have them initial. So, that's why we do that.

8 Q You talked about mixing up dates and so forth and
9 that's a common problem. Is that right?

10 A It can be for individuals. Yes, sir.

11 Q When I was crossing Ms. Bentley yesterday, I
12 specifically said, Wednesday, April 13th. Is there
13 any way that could be misunderstood?

14 A Misunderstood? If you said, Wednesday, April 13th,
15 no. If you asked me what I was doing April 13th of
16 last year, I probably couldn't tell you, but then, I
17 may be able to.

18 Q Right. While she obviously knew it. She offered it
19 to us.

20 A Yeah.

21 Q Or dragged out of her. And then, this incident
22 happened April 15th, on a Friday.

23 A That's correct.

24 Q So, April 13th, Wednesday, no doubt about it.

25 A Not in my book. No, sir.

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1 MR. CAMPBELL: Your Honor, I'm going to object to any
2 further line of questioning. We've already beat this horse
3 to death here and it was not a part of my redirect.

4 THE COURT: Move on, please, counsel.

5 Q Once again, you're sticking by what Ms. Bentley and
6 Ms. Taylor told you?

7 A Based on the evidence I have, yes, sir.

8 Q And the evidence that you just learned, that is
9 irrelevant? The evidence of Mr. Jones being in jail
10 Wednesday, the 13th.

11 A That just tells me he was arrested during that date.
12 That does mean he was not in jail the day of the crime
13 and that's what I dealt with.

14 Q What does the word detained mean to you?

15 A Detained?

16 Q Yes, sir.

17 A To me, that they are being taken into investigative
18 detention until we can figure out what's going on.

19 Q What does release mean?

20 A Release means they were released and let go and free
21 to walk away.

22 Q So, there's no question that he was in jail April 6th
23 and got out on the 14th at 4:00. Right?

24 A Based on that document, no, sir.

25 Q We don't have any reason not to believe that document.

RE-CROSS EXAMINATION OF TOMMY JOHNSON BY MR. SMITH

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1 Do we?

2 A No, sir.

3 Q Now, we do have a reason to disbelieve Ms. Bentley's
4 statement.

5 A No, sir. I don't.

6 Q Okay. Thank you, sir.

7 THE COURT: May this witness step down?

8 MR. CAMPBELL: Yes, sir.

9 THE COURT: Thank you, sir. (Witness leaves the
10 witness stand) Would you call your next witness, please?

11 MR. CAMPBELL: Your Honor, at this point, the State
12 rests.

13 THE COURT: All right. Thank you. Madam Forelady,
14 ladies and gentlemen of the jury, the State says they rest,
15 which means they have completed presenting their side of
16 the case as far as the evidence is concerned. That means
17 that I must take up some administrative matters, which will
18 take a little while. I think this is probably a good time
19 to go ahead and excuse ourselves for lunch and I'm going to
20 let you go on your own again and ask you to be back in your
21 jury room at 1:15 unless there's a problem with that from
22 either side. Any problem with 1:15?

23 MR. SMITH: No, sir.

24 MR. CAMPBELL: No, Your Honor.

25 THE COURT: All right. I'm going to remind you not to

1 talk about this with anybody about this case. Thank you.

2 (Jury out at 11:47 a.m.)

3 THE COURT: All right. Any motions?

4 MR. SMITH: The defense moves for a Directed Verdict
5 based on their lies, to use that term, because there was no
6 question he was in jail on April 13th and 14th and they are
7 the only eyewitnesses to these alleged crimes, the only
8 eyewitnesses. I don't care what happened outside that
9 apartment, everything derives from inside that apartment.
10 These ladies, obviously, mis-remember. There's no way that
11 Ms. Bentley met the defendant on Wednesday. He was in jail
12 on the 14th when he allegedly came by and knocked on the
13 door asking for Byrd. Beyond a reasonable doubt, there's
14 no way he could have been there. So, they are the only
15 eyewitnesses and clearly, I don't know what perjury is, but
16 I don't know what else to say, but she obviously did not
17 see him on the 14th. She testified she saw him in the
18 afternoon, 2:00 in the afternoon and that's impossible.
19 So, based on those things, we'd ask for a directed verdict.

20 THE COURT: I'm going to deny your motion. The issues
21 have to go to credibility of the witnesses. Credibility is
22 a question of fact for the jury to determine based on
23 evidence presented by the State. The evidence is capable
24 of more than one inference, especially viewed in the light
25 most favorable to the State. That's a question for the

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1 jury to determine. That being said, anything else from the
2 State I need to determine now before we take a lunch break?

3 MR. CAMPBELL: The only thing is Deputy Pridemore.
4 Mr. Smith has mentioned that if we hadn't reached him by
5 twelve, he could leave. He has to fly out of Atlanta to
6 fly to Oklahoma. It has something to do with a funeral and
7 I just wanted to know if we were going to release him. I'd
8 like to clarify that.

9 MR. SMITH: May it please the Court, we can release
10 him now.

11 THE COURT: Very well, Mr. Smith. He is released.
12 Someone who knows how to communicate with him, just let him
13 know, please. Anything further from the Defense?

14 MR. SMITH: No, sir.

15 THE COURT: All right. We'll be in recess until 1:15
16 and then we'll resume. Do you think we'll, without placing
17 you under any obligation, do you have an idea, generally,
18 how many witnesses you may have?

19 MR. SMITH: It could be zero. It could be eight.

20 THE COURT: I'll ask you at that point, for your
21 client to make a determination as to whether or not he
22 wishes to exercise his Fifth Amendment privileges or
23 whether he wants to waive those and testify. Okay, sir?

24 MR. SMITH: Yes, sir.

25 THE COURT: All right. We'll be in recess until 1:15.

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2 THE COURT: Before we get started, let me go over
3 this. I'm informed Mr. Jones, that you are going to
4 exercise your Fifth Amendment Rights that I charged you on
5 yesterday and you're not going to testify. Is that
6 correct?

7 MR. JONES: Yes, sir.

8 THE COURT: Have you had plenty of time to make that
9 call?

10 MR. JOHNS: Yes, sir.

11 THE COURT: Have you spoken with anyone you felt like
12 you needed to in order to make that decision?

13 MR. JONES: Yes sir.

14 THE COURT: Thank you very much. My understanding is,
15 further, Mr. Jones, that you do not intend to call any
16 witnesses in this case?

17 MR. SMITH: That's correct, Your Honor.

18 THE COURT: Okay. Let's do this, then. I'll tell the
19 jury that we've finished with the testimony, that we are
20 working on the charge and then we'll go from there. One
21 question that I do have of you, Mr. Smith, is whether or
22 not you want or do not want a lesser included of burglary
23 first and/or the robbery charge to the jury.

24 MR. SMITH: We'll take the lesser included of
25 burglary.

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1 THE COURT: I'm sorry?

2 MR. SMITH: The lesser included of burglary.

3 THE COURT: Lesser included on burglary, but not on
4 armed robbery?

5 MR. SMITH: Yes, sir.

6 THE COURT: Any objection to that?

7 MR. CAMPBELL: No, Your Honor.

8 CHARGE CONFERENCE

9 THE COURT: All right. All right. Let's do this.
10 Mr. Smith, I've not tried a case with you yet, so I want to
11 go over my basic charge and then the substantive law. I've
12 shown you my charge on substantive law, including the law
13 of identification. Do you have any objection to that law
14 as I've shown you as far as my proposed charge?

15 MR. SMITH: No, sir.

16 THE COURT: Very good. Mr. Campbell?

17 MR. CAMPBELL: No, sir.

18 THE COURT: Okay. Now, in my basic structure of my
19 charge, what I'm going to do is charge three different
20 sections. The first part will be the duties that define
21 and control the jurors' duties as jurors and that will
22 include that they are to make their decisions based on the
23 evidence and from nothing else, they are not to be
24 influenced by any likes or dislikes for one side or the
25 other, have a bias towards one side or the other and that

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1 they are the sole judges of the facts and that if I've done
2 anything to influence how they are supposed to find facts,
3 they are to disregard that, because I have no opinion and
4 the law doesn't allow me to have one, that they can't, I
5 can't give them a set of scales, that they have to go
6 through the literal exercise of weighing the evidence and
7 discussing the evidence to come to a decision. I tell them
8 what is evidence and what is not evidence. Are there any
9 stipulations? I don't recall any stipulations in this
10 case.

11 MR. CAMPBELL: One thing we stipulated to was the
12 chain of custody.

13 THE COURT: Yeah. All right. Then, I tell them what
14 is not evidence and basically what you heard at the
15 beginning of the case, arguments, things they've seen
16 outside. I have not ordered anything stricken from the
17 record in this case that I can recall. Then I go over what
18 is not evidence, as I've told you, there's nothing that's
19 been stricken, then I go over the direct evidence
20 explanation, circumstantial evidence explanation, that
21 there's no difference between the two as far as the law is
22 concerned, each is equally as available to the jury to
23 consider as the other. Also, I tell them that in deciding
24 what the facts are is absolutely essential. They have to
25 determine the credibility of the witnesses. That's just a

1 fact of what they have to do. I go through a number of
2 considerations in making that determination and I tell them
3 they don't check in their common sense at the door and they
4 should not add up all the ones that testified for one side
5 or the other because it doesn't matter where it comes from,
6 whether direct or cross or from your case or their's, it's
7 just their sole function to find the truth from the facts
8 as presented in the courtroom. There's been no expert
9 testimony in this case. Is that correct?

10 MR. CAMPBELL: That's correct, Your Honor.

11 THE COURT: Then I'll go over the fact that there are
12 multiple indictments and they have to decide each one
13 separately, on their own, a freestanding basis. They can
14 find him guilty of one and innocent of another or any
15 combination of that and I say the defendant has pled not
16 guilty, placing the burden on the State to prove his guilt
17 beyond a reasonable doubt and he's presumed innocent of the
18 charges on the presumption of innocence. I charge them on
19 what reasonable doubt is and I also charge them on intent
20 and finally, under the, well, then I'll go into and tell
21 them about failure of the defendant to testify and finally
22 I charge them on the law of identification that I just gave
23 you to look at. Okay? Any objection to that
24 identification charge? I don't think there were any.

25 MR. SMITH: No, sir.

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1 THE COURT: Okay. And then, going back, just to
2 reiterate on the record, I charge them on burglary first,
3 the lesser included of burglary second and I just point out
4 the only difference, really, between the two is that
5 burglary second doesn't have the aggravating circumstances.
6 Then I charge them on armed robbery.

7 MR. SMITH: May it please the Court, we would like to
8 put robbery in there as well, since we have second degree.

9 THE COURT: You want to have robbery?

10 MR. SMITH: The lesser included.

11 THE COURT: Do you need to speak to your client any
12 further?

13 MR. SMITH: (Mr. Smith speaks to Mr. Jones) I think
14 we're going to stick with armed robbery.

15 THE COURT: That's okay. You sure about that Mr.
16 Jones? I'm not trying to convince you one way or the
17 other. I just want to make sure we're clear on the record
18 that's what you want to do.

19 MR. JONES: Yes, sir.

20 THE COURT: Okay. Very good. Thank you, sir. So,
21 we'll continue not to charge the lesser included of
22 robbery. Then, we'll also charge on the possession of a
23 weapon during the commission of a violent crime. And I was
24 going to charge them and the question I had for everybody,
25 I was also going to tell them that armed robbery and

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1 burglary in the first degree or first degree burglary are
2 violent crimes and second degree burglary is a violent
3 crime, as well.

4 MR. CAMPBELL: It has two parts, Your Honor. The "A"
5 section is violent, the "B" section is not.

6 THE COURT: The "B" section is going into a building
7 as opposed to a dwelling and that's where you would arm
8 yourself, potentially, so in this case, burglary second
9 would not be violent. Okay. So, I'll only charge them
10 that first degree burglary and armed robbery are the
11 violent crimes in this case. Would you agree with that,
12 Mr. Smith?

13 MR. SMITH: Yes, sir.

14 THE COURT: All right. My law clerk is amending the
15 verdict form, so if you guys want to take a quick break
16 before we get started, why don't you go ahead and do so,
17 then we'll come back. It's my understanding, for the
18 record, that both the State and Defense have agreed that I
19 charge on the law first before we go into closing
20 arguments. Is that correct?

21 MR. CAMPBELL: Yes, sir.

22 MR. SMITH: Yes, sir.

23 THE COURT: Finally, Mr. Smith, Mr. Campbell, I did
24 not do this. My final part of my charge will be on their
25 deliberations. I'll point out that the jurors are not

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1 partisans, they are not advocates, they are here to make
2 their decision on the facts that are in evidence in this
3 case and no other place, then they are not here to reward
4 one side or the other and they are to use their common
5 sense and logic and that when they deliberate, they are to
6 take their time, do it in a careful manner, they are to
7 listen to the arguments of all the jurors and come to a
8 decision and they are not to be afraid to change their
9 decision based on what they hear, don't change a firmly
10 held decision on the evidence just because others want you
11 to do so. Then I'll go over the verdict form with the
12 forelady, send them back, check to see if you have an
13 objection, either side, and let you go forward with the
14 arguments and as I stated at the bench, you presented an
15 exhibit, so the State gets last argument. Agreed?

16 MR. CAMPBELL: Yes, sir.

17 THE COURT: Agreed?

18 MR. SMITH: Yes, sir.

19 THE COURT: All right. Good, good, good.

20 (Brief Break)

21 THE COURT: Are you ready?

22 MR. SMITH: Are you getting ready to charge them?

23 THE COURT: Yes, sir. What I'm going to do is charge
24 them ---

25 MR. SMITH: Could I have a couple of minutes before

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1 closing?

2 THE COURT: How long do you need?

3 MR. SMITH: A couple of minutes. I could wait until
4 after your charge.

5 THE COURT: No, let's go ahead and do it now.

6 (Brief Break)

7 THE COURT: Is the State ready?

8 MR. CAMPBELL: Yes, sir, Your Honor.

9 THE COURT: Is the Defense ready?

10 MR. SMITH: Yes, sir, Your Honor.

11 THE COURT: Okay. Bring the jury in, please.

12 (Jury in at 1:50 p.m.)

13 THE COURT: Thank you, ladies and gentlemen of the
14 jury, for your patience. At this stage, you will recall at
15 the beginning of the case, I told you there are five phases
16 in each trial. We have finished with the presentation of
17 the evidence. Normally, we let the lawyers do their
18 closing statements and then I charge you on the law and
19 then you get into your deliberations. We've changed that
20 up. I am going to charge you on the law first, then we are
21 going to send you back to your jury room to see if I mis-
22 stated anything or omitted to state something that I should
23 have. There will be a very brief meeting and then we'll
24 bring you back and let the closing arguments begin at that
25 point. Okay?

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1 With that being said, if at any time during my charge
2 to you on the law or during the attorney's closing
3 statements, you have a difficulty, any difficulty hearing
4 what we are saying, raise your hand so we can say it such
5 that you can. Okay?

6 CHARGE ON THE LAW

7 At the close of any case, Ladies and gentlemen, it
8 becomes my duty to charge you on the law. My charge to you
9 will be in three parts: the first part will be the rules
10 that define and control your duties as jurors. The second
11 part will be the substantive law that applies in this case,
12 in other words, what the State must prove in order to make
13 out its case against this defendant and the third part will
14 be some points and considerations for your deliberations.

15 Now, I've told you from the beginning of this case and
16 I am reiterating it to you now, that it is your duty as
17 jurors that you are to find the facts from the evidence
18 that has been presented here in this courtroom in this case
19 and from no other place to the facts as you find them to
20 be. It is your duty to apply the law as I give it to you
21 now. You shall not be concerned with what you think the
22 law should be. You cannot be concerned with what you want
23 it to be. It is your sworn duty to apply the law as I give
24 it to you. That is, you apply the law as I give it to you.

25 Now, with that being said, in your deliberations you

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1 shall not be influenced by any personal likes or dislikes,
2 any opinions prejudice or undue sympathy you may have for
3 one side or the other. You are to solely decide your case
4 from the evidence presented in this case according to the
5 law as I give it to you. In following my instructions
6 today, it is not allowable for you to single out the things
7 that you may like and apply those and disregard the things
8 you may dislike and ignore those. All my instructions are
9 equally important and so you must apply everything I tell
10 you in your deliberations.

11 Again, as I told you at the beginning of this case,
12 you are the finders or the judges of the facts. No one,
13 including this Court, has the right to invade that
14 function. Likewise, I am the instructor on the law. That
15 means, simply, that you must apply the law as I charge it
16 to you and I cannot invade your function to find facts as
17 your find them to be, therefore, if I have done anything
18 during the course of this trial which indicates or seems to
19 indicate to you that I have a preference one way or the
20 other how you are to find facts in this case, I'm going to
21 ask you and I'm also going to instruct you, to disregard
22 that. I can assure you that I have no preference. My job
23 is to simply instruct you on the law and make sure that the
24 process is followed fairly and equably for both sides.
25 You, and you alone, are the judges of the facts.

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1 Now, you determine what those facts are by weighing
2 and evaluating the evidence that's been presented here in
3 this courtroom and I'm going to go over with you in a
4 minute what evidence is, what evidence is not. Now, I
5 can't give you a set of scales so you can literally weigh
6 the evidence. It is entirely a mental process where you
7 weigh and evaluate the evidence by discussing it, using
8 your good sense of logic and sound sense of judgment.

9 So, that leads us to this: What is evidence and what
10 is not evidence. As it applies to this particular case,
11 the sworn testimony of witnesses in this case and the
12 exhibits that have been received into evidence is the only
13 evidence that you may consider. Now, you don't consider
14 whether that evidence came across on direct examination, on
15 cross examination or some re-cross or redirect and it
16 doesn't matter whether it comes from the direct or cross,
17 it just matters that it comes from the witness stand.
18 Okay? And also, the exhibits that have been received into
19 evidence.

20 Certain things are not evidence and I told you this at
21 the beginning. The arguments and statements of these
22 attorneys is not evidence and so what they've said to you
23 in their opening statements, what they will say to you in a
24 few minutes in their closing statements and what they've
25 said during other times during this trial is intended to

1 help guide you through this case and understand the issues
2 and understand their contentions, but again, they are not
3 sworn witnesses, they are not testifying from the witness
4 stand, so if in your deliberations your memory of what the
5 evidence is differs from what either one of these attorneys
6 tell you it is, your memory will control and again, if you
7 recall at the beginning of this trial, I gave you a
8 cautionary note about taking notes. Just because somebody
9 has something in their notes doesn't mean that somebody's
10 memory is trumped by the notes. They are both equally on
11 the same footing and subject to your deliberations, calmly,
12 courteously, and thoroughly in your deliberations.

13 Also, ladies and gentlemen, questions and objections
14 by lawyers is not evidence. It shall not even be discussed
15 or considered by you in your deliberations. Simply said,
16 the fact that an attorney may have objected, the fact that
17 I ruled on that in the courtroom while you were here, shall
18 not be discussed by you or considered by you. That is
19 simply the process that goes on in each and every case in
20 this state and across this country.

21 Also, anything that you may have heard while court was
22 not in session. That means, walking down these hallways
23 during breaks or during lunch or overnight is not evidence
24 and shall not be discussed or considered by you in your
25 deliberations.

1 That leads us to the types of evidence that you may
2 consider. South Carolina recognizes two types of evidence.
3 We have direct evidence and we have circumstantial
4 evidence. Both are equally recognized in the eyes of our
5 law. Direct evidence is pretty much what it sounds like it
6 is. It is testimony of a person who asserts or claims to
7 have actual and direct knowledge of a fact such as an
8 eyewitness. Circumstantial evidence, on the other hand, is
9 a little more tricky. It is this: It is proof of a chain
10 of facts or circumstances from which you could find that
11 another fact exists although that fact has not been proven
12 directly. To give you an example and to put it in
13 perspective: If you were to go to bed in the evening and
14 you were to have snow in your front yard and you were to
15 wake up in the morning and there were tracks in your front
16 yard, you may infer that someone or some thing walked
17 through your yard during the night although you did not
18 actually see that person or thing walk through your yard.
19 That's what circumstantial evidence is.

20 Now, ladies and gentlemen, again, the law makes
21 absolutely no distinction between the weight or the value
22 to be given either direct or circumstantial evidence. You
23 are allowed to consider both types of evidence in your
24 deliberations and there is not a greater degree or
25 certainty required before circumstantial evidence can be

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1 heard by you or considered by you in this case, but at the
2 end of all your deliberations, after weighing all the
3 evidence, whether direct or circumstantial or a
4 combination, if you are not convinced of the guilt of the
5 defendant beyond a reasonable doubt, you must find the
6 defendant guilty. I mean, excuse me, not guilty.

7 Now, in performing your function as finders of fact,
8 it is essential that you must determine credibility of the
9 witnesses. You must consider which evidence you are going
10 to believe and which evidence you are going not to believe.
11 You have a right to disbelieve all or a part of any
12 witness' testimony. You may believe all of any witness'
13 testimony. In making that decision of the credibility of
14 witnesses, you may, but you're not required, to take into
15 account a number of factors and let me give some of those
16 factors to you. Was the witness able to hear or see or
17 know the things about which that witness testified, how
18 well was the witness able to recall and describe those
19 things about which they testified, what was the witness'
20 manner while testifying, in other words, what was that
21 witness' demeanor. Is there some reason some witness would
22 want to give testimony that would help or hurt one side or
23 the other, did the witness have an interest in the outcome
24 of this case or any bias or any prejudice concerning any
25 party or any matter involved in this case. You may

1 consider how reasonable was the witness' testimony
2 considered in light of all the evidence that's been
3 presented in this case and you may ask yourselves was that
4 witness' testimony contradicted by what that witness had
5 said or done at another time or by the testimony of other
6 witnesses or other evidence.

7 Now, ladies and gentlemen, those are just some, but
8 not all the factors you may consider in making your
9 determination of the credibility of the witnesses and,
10 again, you do not, as jurors, check your common sense at
11 the door when you become jurors and you should not do so in
12 this case. You should use those things in your day to day
13 lives that you find indicative of truthfulness or
14 indicative of lack of truthfulness when you make your
15 determination of the credibility of the witnesses.

16 And again, you may believe as much or as little of any
17 witness' testimony as you think is proper. You may believe
18 all or none or a part of any witness' testimony, you may
19 believe one over several or several over one, but what you
20 certainly do not do is add up the number of witnesses that
21 testified for one side or the other in making your
22 determination of the credibility of the witnesses, because
23 it does not matter to you whether it comes from the State,
24 the Defense, from direct examination or from cross
25 examination.

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1 Now, ladies and gentlemen, as I told you at the
2 beginning of the case, there are three indictments.
3 Indictment for burglary first degree, indictment for armed
4 robbery and possession of a weapon during the commission of
5 a violent crime. I remind you that the fact that the
6 defendant was charged, arrested and indicted is not
7 evidence of his guilt, it does not raise a presumption of
8 his guilt nor does it raise any inference of his guilt.
9 Those are simply the mechanisms by which the State of South
10 Carolina brings a defendant such as Mr. Jones before a
11 jury, such as yourselves, for a determination of guilt or
12 innocence.

13 Further, each indictment of the three indictments is a
14 separate and distinct offense, so you must decide each
15 indictment separately based on the evidence and law
16 applicable to that indictment uninfluenced by your decision
17 as to any other indictment. The defendant may be convicted
18 or acquitted on any or all of the offenses charged.

19 Now, Madam Forelady, I'm going to ask that you write a
20 separate decision or verdict on each indictment. I'm going
21 to go over that with you in just a minute and I'm also
22 going to charge you, ladies and gentlemen of the jury, on
23 the law of a lesser included offense in just a minute.

24 If you recall, the defendant has pled not guilty to
25 all three indictments. What that simply means is, he says

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1 I'm not guilty of anything, therefore, the State has the
2 burden of proving him guilty beyond a reasonable doubt.
3 Now, I'll tell you that a person in any charge in South
4 Carolina is never required to prove himself or herself
5 innocent and that is a very important rule of law in the
6 state that the defendant, no matter what the seriousness of
7 the charges may be, will always be presumed to be innocent
8 of the crime for which the indictment was issued unless
9 guilt has been proven by evidence satisfying you, the jury,
10 that the defendant is guilty beyond a reasonable doubt.

11 Now, this presumption of innocence does not end when
12 you begin your deliberations, but it accompanies the
13 defendant until you, the jury, reach a unanimous verdict of
14 guilt based on evidence that satisfies you of guilt beyond
15 a reasonable doubt. It has been said in the law that the
16 presumption of innocence is like a robe of righteousness
17 which is placed about the shoulders of the defendant which
18 remain upon his shoulders until such time that it has been
19 stripped by evidence satisfying you of the defendant's
20 guilt beyond a reasonable doubt. Now, the presumption of
21 innocence is not a mere legal theory, it's not just a legal
22 phrase, it is a substantial right which every defendant is
23 entitled to unless you, the jury, are satisfied of guilty
24 beyond a reasonable doubt.

25 So, that leads us to what is a reasonable doubt. This

1 is what a reasonable doubt is: A reasonable doubt is the
2 kind of doubt that would cause a reasonable, sincere,
3 honest and conscientious person to hesitate to act in an
4 important matter in their own affairs. Proof beyond a
5 reasonable doubt is proof that leaves you firmly convinced
6 of the defendant's guilt.

7 Now, ladies and gentlemen, there are very few things
8 in this world that we know with absolute certainty and in
9 criminal cases, the law does not require proof that
10 overcomes every possible doubt. If, based on your
11 consideration of the evidence, you are firmly convinced the
12 defendant is guilty of the crimes charged of any of those
13 crimes, you must find the defendant guilty. On the other
14 hand, if you think there is a real possibility that the
15 defendant is not guilty, you must give the defendant the
16 benefit of the doubt and find him not guilty.

17 A reasonable doubt may arise from the evidence or the
18 lack of evidence. Ladies and gentleman, I further instruct
19 you that the defendant is entitled to every reasonable
20 doubt that may arise in the case. What that simply means
21 is this: If, upon any issue of fact essential to a
22 conviction and a verdict of guilty of an offense charged,
23 if you have any reasonable doubt as to how that issue
24 should be resolved, it is your duty to resolve that doubt
25 in favor of the defendant.

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1 Now, in order to establish criminal liability,
2 criminal intent is required. For example, the mental state
3 required to be proven by the State for a particular crime
4 might be purpose, intent, knowledge, recklessness or
5 criminal negligence. Criminal intent must be proven by the
6 State beyond a reasonable doubt. Criminal intent is always
7 a matter that must be determined by you, the jury, from the
8 circumstances surrounding the situation shown to have
9 existed. Let me say that again. Criminal intent is always
10 a matter that must be determined by you, the jury, from the
11 circumstances surrounding the situation shown to have
12 existed. Now, there is no way to prove intent to a
13 mathematical certainty. There is no way that medical
14 science can dissect a person's brain to determine what that
15 person had in mind. So, the law says that criminal intent
16 may be inferred from the circumstances shown to have
17 existed.

18 Now, that is how you make a determination of whether
19 or not the element of intent was present. It is not
20 necessary to establish intent by direct or positive
21 evidence, but intent may be established by inference in the
22 same way as any other fact by taking into consideration the
23 acts of the parties and all the facts and circumstances of
24 the case. Criminal intent is a mental state, it is a
25 conscious wrongdoing. It's up to you to determine what the

1 defendant intended to do based on the circumstances shown
2 to have existed.

3 Now, Ladies and gentlemen, I instruct you and I
4 emphasize to you the fact that the defendant did not
5 testify is not a factor that may be considered by you in
6 your deliberations and it would be improper for you, the
7 jury, to even mention or discuss the failure of the
8 defendant to testify in this case.

9 Now, there was an issue raised in this case as to the
10 identification of the defendant as the person who committed
11 the crimes charged. The State has the burden of proving
12 identity beyond a reasonable doubt. You, the jury, must be
13 satisfied, beyond a reasonable doubt, of the accuracy of
14 the identification of the defendant before you may convict
15 the defendant. Identification testimony is an expression
16 of belief or impression by a witness. You must determine
17 the accuracy of the identification of the defendant in your
18 deliberations. You must consider the believability of each
19 identification witness in the same manner as any other
20 witness. You may consider whether the witness had an
21 adequate opportunity to observe the offender at the time of
22 the offense. This will be affected by things such as how
23 long or short of a time was available, how close or how far
24 the witness was, the lighting conditions or whether the
25 witness had a chance to see or know the person in the past.

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1 Once again, I instruct you that the burden of proof is on
2 the State and extends to every element of the crime charged
3 and that would include the burden of proving, beyond a
4 reasonable doubt, the identify of the person who has
5 committed that crime. If, after examining all the
6 testimony you have a reasonable doubt as to the
7 identification, you much find the defendant not guilty.

8 Now, ladies and gentlemen, that ends the first section
9 of my charge to you. That will be the more lengthy
10 section, but I know it involves a lot of reading and it's
11 somewhat dry, and so I'm going to let you stand up and move
12 about. I'm going to move into the substantive law and
13 after that I'll go into your deliberations and so if you
14 would stand up and move around a minute, if you would.
15 (Jurors comply) Madam Forelady, if you would check to see
16 if everybody is okay. Is everyone okay? (Jurors indicate
17 yes.

18 This is the substantive law that you must apply in
19 this case and this is the law that the State must prove in
20 order to establish its case against the defendant.

21 First, the defendant is charged with first degree
22 burglary. The State must prove, beyond a reasonable doubt,
23 that the defendant entered into a dwelling without consent.
24 A dwelling is any building or portion of a building that a
25 person ordinarily sleeps. A building constructed as a

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1 dwelling that has never been occupied cannot be considered
2 a dwelling for purposes of burglary, but a building is a
3 dwelling even if the residents are temporarily absent from
4 the building. In order to prove that the defendant entered
5 into the dwelling, the State does not have to show that the
6 defendant's entire body entered the dwelling. The smallest
7 entry is sufficient. It may be any part of the body such
8 as a hand or a foot or even an instrument such as a hook or
9 other instrument.

10 In addition, the State does not have to prove that
11 force was used to gain entry. If a person enters a
12 building by using deception, artifice, trick or
13 misrepresentation to get consent to enter, this is an entry
14 without consent.

15 Next, the State must prove, beyond a reasonable doubt,
16 that the defendant intended to commit a crime, either a
17 felony or a misdemeanor at the time of entry. The mere
18 entry into a dwelling without consent is not a burglary.
19 If the intent to commit a crime is formed after the entry,
20 it is not a burglary. On the other hand, if the defendant
21 intended to commit a crime at the time of the entry, it is
22 a burglary even if the intent was abandoned after the
23 entry. It does not matter that the intended crime was not
24 completed. Intent may be shown by acts and conduct of the
25 defendant and other circumstances from which you can

1 naturally and reasonably infer intent.

2 Finally, the State must prove, beyond a reasonable
3 doubt, at least one of the following aggravating
4 circumstances: When entering, while in the dwelling or
5 while fleeing, the defendant or an accomplice was armed
6 with a deadly weapon or explosive. A deadly weapon is any
7 article, instrument, or substance which is likely to cause
8 death or great bodily harm. Whether an instrument has been
9 used as a deadly weapon depends on the facts and
10 circumstances of each case. Also, when entering, while in
11 the dwelling or while fleeing, the defendant or an
12 accomplice caused physical injury to anyone not
13 participating in the crime or when entering, while in the
14 dwelling or while fleeing, the defendant or an accomplice
15 displayed what was or appeared to be a knife, pistol,
16 revolver, rifle or shotgun, machine gun or other firearms.

17 Now, ladies and gentlemen, also, what will be
18 presented to you for consideration is the law of second
19 degree burglary. It is known as a lesser included offense.
20 If you find that the State has failed to prove, beyond a
21 reasonable doubt, that the defendant committed first degree
22 burglary, you may consider whether the State has proved,
23 beyond a reasonable doubt, that the defendant committed a
24 second degree burglary. Second degree burglary includes
25 all the elements of first degree burglary except the

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1 circumstances of aggravation that I just read to you. That
2 is, the State must prove, beyond a reasonable doubt, that
3 the defendant entered a dwelling. Further, the State must
4 prove, beyond a reasonable doubt, that the defendant
5 entered the dwelling without consent and finally, the State
6 must prove, beyond a reasonable doubt, that the defendant
7 entered the dwelling with the intent to commit a crime
8 therein.

9 The difference between first degree burglary and
10 second degree burglary is the presence of aggravating
11 circumstances in the first degree burglary. Or, put
12 another way, the absence of aggravating circumstances in
13 the charge of second degree burglary.

14 Now, the defendant is also charged with armed robbery.
15 In order to prove this offense, the State must prove,
16 beyond a reasonable doubt, that the defendant took personal
17 property from the person or presence of another person.
18 Property is in the presence of a person if it is within the
19 person's reach, inspection, observation or control so that
20 the person could, if not overcome, the violence or
21 prevented by fear keep possession of the property. The
22 State must also prove, beyond a reasonable doubt, that the
23 defendant carried the property away intending to deprive
24 the owner of the property and to keep the property for the
25 defendant's own use. The slightest removal of the property

1 or the complete possession of the property, even for an
2 instant, by the defendant is sufficient to show a taking
3 and carrying away of the property. The taking and carrying
4 away of the property must have been done with violence or
5 by putting the owner of the property in fear of violence.

6 Finally, the State must prove, beyond a reasonable
7 doubt, that the defendant was armed with a deadly weapon
8 during the robbery. A deadly weapon is any article,
9 instrument or substance which is likely to cause death or
10 great bodily harm. Whether an instrument has been used as
11 a deadly weapon depends on the facts and circumstances of
12 each case.

13 Finally, ladies and gentlemen of the jury, the
14 defendant was charged with possession of a weapon during
15 the commission or attempting to commit a violent crime.
16 The State must prove, beyond a reasonable doubt, that the
17 defendant was in possession of a firearm or visibly
18 displayed what appeared to be a firearm during the
19 commission of a violent crime. A firearm means any machine
20 gun, automatic rifle, revolver, pistol, or any weapon which
21 is designed to or may be readily converted to expel a
22 projectile. In order to find the defendant guilty of
23 possession of a deadly weapon during the commission of a
24 violent crime, you must first find the defendant guilty of
25 either committing a violent crime or attempting to commit a

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1 violent crime.

2 In this case, ladies and gentlemen, I charge you that
3 the charge of first degree burglary and armed robbery are
4 violent crimes. The charge of second degree burglary is
5 not a violent crime.

6 Ladies and gentlemen, that is the substantive law in
7 this case that the State must prove in order to make out
8 its case against the defendant. That leads me to the final
9 part of my charge and that has the law that applies to your
10 deliberations.

11 Number one, you don't serve as jurors to be advocates
12 or partisans for one side or the other. You were chosen by
13 the State and the Defense because both sides thought that
14 you could be fair and impartial in your actions in this
15 case and your deliberations in this case and, ultimately,
16 in your decision. In going back for your deliberations,
17 you should use your experiences in life, your good common
18 sense and your sense of logic and reason when you
19 deliberate the evidence with your fellow jurors and come to
20 an ultimate, hopeful, conclusion.

21 Let me say something about deliberation. It is
22 defined as this: It's a careful consideration weighing up
23 with a view to a decision. Now, regardless of how you may
24 have felt before coming in here or still feel, one of the
25 geniuses of our jury system is that it allows twelve people

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1 from different walks of life, from twelve different
2 backgrounds and experiences and perspectives to sit back
3 and listen to a trial, to go back into the jury room and
4 discuss the evidence thoroughly and courteously and
5 ultimately, hopefully, arrive at a verdict.

6 We call them deliberations for a reason. You are to
7 consider the evidence carefully and deliberately and
8 discuss it in a calm, thorough and courteous manner.
9 Again, you are not advocates or partisans for one side or
10 the other. You are judges of the facts. Your sole
11 interest in this case is to find the truth from the
12 evidence that has been presented here in this courtroom. I
13 ask you and I charge you to listen to the views of your
14 fellow jurors, talk through all their points, talk through
15 your points, listen to everybody's views and, ultimately,
16 come to a decision if at all possible.

17 Do not be in a big hurry today to come to a decision.
18 This is the State's only day in court. This is the
19 defendant's only day in court and this case is very
20 important to both sides.

21 Also, in order for your decision to be valid, it must
22 be unanimous. With that being said, you must decide the
23 case on your own. That means you must listen to all the
24 evidence. Don't be afraid to change your opinion if the
25 deliberations convince you that your decision on the facts

1 should be changed, but do not change your opinion or
2 decision just because your fellow jurors say that's the
3 thing to do. You must make your own decision. You must
4 attempt to come to a unanimous verdict, but do not change
5 your verdict just because everybody says you should, but on
6 the other hand, do not be afraid to change it if you think
7 that's the right thing to do.

8 Now, Madam Forelady, if during your deliberations, and
9 you're not to do those yet. You're to do those after the
10 final closing arguments. If you have any questions, any
11 needs or any comments, write it down as you've been doing,
12 give it to the bailiff, we will receive it here and we will
13 respond accordingly.

14 Now, the verdict form will have several options for
15 you. Look at it. It's fairly self-explanatory. The order
16 that these options appear is of no consequence, because
17 they have to be in some order or the other, okay? The
18 first option that you will have is, "We, the jury, under
19 Indictment 2011-GS-04-1211, unanimously find the defendant,
20 Jamario Quinton Jones is, not guilty of burglary first
21 degree or guilty of burglary first degree. If you would,
22 once you reach a unanimous verdict, you check which one is
23 applicable and then you will go down to the next one.
24 Okay?

25 In this case, the next option is, "We, the jury,

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1 unanimously find the defendant, Jamario Quinton Jones, is
2 not guilty of second degree burglary or guilty of second
3 degree burglary.

4 Now, you only may consider the charge of second degree
5 burglary if you do not find the State has met its burden of
6 proof with regard to first degree burglary. In other
7 words, you find that the defendant is not guilty of first
8 degree burglary. Okay?

9 If you find that the defendant is guilty of first
10 degree burglary, then you skip over the next option. If
11 you find him not guilty, then you may consider the next
12 option. Do the same thing. Once you come to a verdict,
13 then you check the appropriate option, then go to the next
14 one. Okay?

15 The next option is, "We, the jury, under Indictment
16 2011-GS-04-1210 unanimously find that the defendant,
17 Jamario Quinton Jones, is not guilty of armed robbery or
18 guilty of armed robbery." Again, once you simply discuss
19 each of these options, you come to a verdict, you check the
20 one that's applicable and the last one you'll come to is,
21 We, the jury, under Indictment 2011-GS-04-1212 unanimously
22 find the defendant, Jamario Quinton Jones, is not guilty of
23 possession of a weapon during a violent crime or guilty of
24 the possession of a weapon during a violent crime.

25 I remind you that violent crimes in this case would be

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1 burglary first and armed robbery. Burglary second is not a
2 violent crime. Okay?

3 Now, Madam Forelady, once you have considered all the
4 options, you've come to a decision on them, you've filled
5 them in, then you sign your name as indicated. You will
6 date it. Today is, what, the 15th. Okay. That's not
7 critical. If you don't have that, we can add that. Then
8 you'll knock on the door and we'll receive your verdict
9 back here in the courtroom. Okay?

10 Again, any questions, if you need anything, don't
11 hesitate to ask the bailiff. They can't talk to you except
12 about drinks or food and something that they can respond
13 to, but otherwise, direct it to me and we'll receive it
14 here in the courtroom. At this time, I'm going to ask that
15 you go back to your jury room. I'll see if there is
16 anything that I've forgotten to add or see if I said
17 something I shouldn't have. Get you a drink, get you a
18 Coke or something and then we'll come back in for closing
19 arguments. Okay?

20 (Jury out at 2:26 p.m.)

21 THE COURT: Any additions or exceptions from the
22 State?

23 MR. CAMPBELL: No, Your Honor.

24 THE COURT: From the Defense?

25 MR. SMITH: No, sir.

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1 THE COURT: Do you want a quick second before you go?

2 MR. SMITH: Yes, please.

3 THE COURT: All right. Y'all go ahead.

4 (Brief Break)

5 (The Defense rests)

6 (Jury in at 2:33 p.m.)

7 THE COURT: All right, Mr. Frazier, if you will make
8 sure that no one comes in or leaves the courtroom during
9 closing arguments, please, sir.

10 MR. FRAZIER: Yes, sir.

11 THE COURT: All right. Madam Forelady, ladies and
12 gentlemen of the jury, we are now entering into the phase
13 of closing arguments. Mr. Campbell, Mr. Smith, are you
14 ready to proceed?

15 MR. CAMPBELL: Yes, Your Honor.

16 MR. SMITH: Yes, Your Honor.

17 THE COURT: Go right ahead, please, sir.

18 MR. SMITH: May it please the Court.

19 THE COURT: Yes, sir.

20 CLOSING ARGUMENT - MR. SMITH

21 Good afternoon, ladies and gentlemen. I appreciate
22 your attention in this matter. As I told you when we
23 started, everything relates to your senses, your ability to
24 listen and then recognize the truth and not the truth.

25 The bottom line is, this all comes down to

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1 credibility. As I told you on Monday, there were four
2 people in that apartment. I don't care who comes up here
3 and talks, there were four people that can tell us what
4 happened. You heard two people.

5 What this is, is two studs, in the words of Ms.
6 Bentley, having some sort of squabble and a fight. No
7 question about that. You heard about a gun. Okay, there's
8 a gun. I don't think there's any argument about that.
9 There was a gun there. He's got a gun. Okay? That's not
10 a crime. You've never heard anything explained to you that
11 is against him having a gun, although a felon shouldn't
12 have one, right?

13 Other than Ms. Bentley and Ms. Taylor, all other
14 testimony is not eyewitness testimony. It's hearsay, it's
15 whatever you want to call it, it's not someone using one of
16 their senses to explore that.

17 My client is charged with crimes that occurred in that
18 apartment on April 15, 2011. The crime of burglary
19 requires intent. There must be an intent to do something
20 of a criminal nature inside a dwelling. In addition, armed
21 robbery, you've got to take something. The possession of a
22 weapon during a felony, of course, requires one of the
23 first two before you can get to that part. All right? So,
24 if you're not guilty on those, then you can't be guilty on
25 the felony possession of a weapon.

1 With regard to the fight, there's no question as to
2 the fight. There's no question as to Ms. Ellis, who we
3 didn't see. There's no question as to her wish to fight, I
4 guess you would say. There's no question that they had met
5 before in some capacity or other. There is, of course, a
6 little confusion as to when and why. Investigators kind of
7 remember what they want to remember, but they did say that
8 there were some issues with them in the past. All right?

9 So, what it comes down to is credibility of the
10 witnesses, as I said. Ms. Taylor testified. If you
11 recall, originally, she said that Mr. Jones got her phone
12 and locked it in some way and then when I got up and
13 crossed her, she stated that she didn't mean that and so
14 her testimony changed as she sat up there. No time
15 elapsed, essentially. She said, if you recall, Ms. Bentley
16 was talking to her sister on the phone, Mr. Jones comes to
17 the door, knocks, she opens the door with the phone to her
18 ear, and he starts saying, "Give it up," and all this other
19 business. Ms. Taylor, who originally was ten to fifteen
20 feet away on the L-shaped couch can hear that plain as day.
21 Can somebody hear that on the phone? More importantly, the
22 phone is dropped with no explanation, whatsoever. After
23 hearing that yell of, "Give it up," or whatever, well that
24 would alert someone's sibling, perhaps, I guess.

25 She also testified that, apparently, Ms. Ellis was a

1 Ninja, because she's going around swinging and kicking
2 people in the head. She's saying that her child was
3 bleeding that day saying that she has a scar, yet there are
4 no pictures. No one has seen the child in the last three
5 days. We haven't seen anything. There's no allegation of
6 that and while Investigator Johnson said, "Oh, that was
7 nothing that he was charged with," the idea that they want
8 to pile it on seems a bit absurd. The truth of the matter
9 is, no pictures. There's nothing in the police reports
10 that indicated there was blood. It talks about a cut, but
11 no blood, but they cleaned it up before they got there, I
12 guess.

13 Ms. Taylor said it happened for a half hour to an hour
14 this was going on. That's a long time in an apartment
15 complex, no less. And then Ms. Bentley, of course,
16 testified after her and she stated that it was twenty
17 minutes and then when pressed on whether that was wrong
18 what Ms. Taylor had told us, she said apparently. So,
19 those two people were in the same apartment during the same
20 incident, yet they don't have the same story, at least, in
21 that particular situation, but they shared my client had
22 gloves on. We've never seen anything about gloves. I
23 mean, if you heard Investigator Johnson say they are
24 thorough and so forth. If they say it's true that the EMS
25 workers didn't see any gloves, basically, they came out of

1 the apartment complex, went on the train tracks and came up
2 the hill, so you could, allegedly, see EMS from the
3 apartment complex, meaning, of course, that they didn't run
4 very long and so whatever they had in their pockets or they
5 wanted to dispose of, it would have been right there.

6 They talk about the money that they allegedly took.
7 He was found with \$202.00 in his pocket and according to
8 Investigator Johnson, he didn't have any money, and so on
9 the train tracks, as you recall, I asked him if he tried to
10 get rid of the money, tried to do anything with the money.
11 "No." So, how do you prove that the \$202.00 and change was
12 taken from that residence that day? How can you prove
13 that? I mean, he told me the serial numbers were unknown.
14 Okay, well, that is a fact, that you cannot tell it was
15 their money.

16 The gloves, the phone was taken. We didn't see the
17 phone in here. Of course, we saw a gun. The two victims
18 said it was a black gun, but it's a silver gun, but I am
19 getting off track with that because the truth of the matter
20 is, I'm not worried about the gun. Let's say the State is
21 right and my client had a gun. Okay. We don't have a
22 problem with that. What we have a problem with is the fact
23 that a woman gets beaten up by another woman, that's two
24 studs, and it's embarrassing for her, it's embarrassing for
25 her girlfriend and so suddenly, we get a call to the police

1 that there has been a robbery, that there has been a
2 burglary. The idea that Mr. Taylor [sic] and Ms. Ellis
3 would go into rob two women and two little babies of
4 anything, pacifiers, anything, is absurd, especially with a
5 man with a record, you know. My only exhibit is proof that
6 my client was in jail. I've not done that before, using my
7 client's incarceration as a weapon, but it's the greatest
8 weapon ever. We're talking about reasonable doubt and the
9 Judge talked about absolute certainty. Do you know what is
10 absolutely certain? That Ms. Bentley's story that she met
11 Mr. Jones at Yolanda's house, her friend, on April 13th, a
12 Wednesday, is absolutely, positively false. There's no
13 way. On Thursday when they allegedly saw Mr. Jones knock
14 on the door and ask for Byrd, that occurred in the
15 afternoon. I believe Ms. Taylor said that was noon and Ms.
16 Bentley said that it was definitely in the afternoon. Mr.
17 Jones was in jail until 4:00. Did that happen? That
18 didn't happen either. That is embellishing, trying to
19 create a story, because there's nothing there. There's no
20 money. I mean, a robbery? What did he steal? He stole
21 \$202.00 and, what, he took \$143.00 and just put it in a
22 tree or something? It's not reasonable.

23 She got her teeth kicked in. The investigating
24 officer learned of the teeth at the preliminary hearing and
25 the only reason he learned it is because she spouted that

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1 off in court, not because she came to the police and said
2 my teeth are kicked in. There's no evidence that anything
3 occurred to her teeth, that she even stated.

4 As you know, I submitted that one exhibit. What that
5 exhibit says is that Mr. Jones was in jail. Mr. Jones has
6 been to jail. All right? I've told you he's a felon.
7 He's a twenty-two year old black man in our society. All
8 right? And he has a gun and he's a felon. Someone tells
9 you, "I'm calling the police." There's nothing he fears
10 more than the police, not even death. The police are more
11 of a threat to him and as we look at this case, you know
12 why. All right?

13 We talked to Investigator Johnson at length today and
14 Investigator Johnson learned that Ms. Bentley, who had met
15 Mr. Jones at Yolanda's house on April 13th, a Wednesday,
16 could not have possibly have done that because Mr. Jones
17 was in jail. He testified to that. He also testified he
18 was in jail on the 14th when Ms. Taylor and Ms. Bentley
said that he had knocked and asked for Byrd to see what was
going on in the house, scoping it out. Well, once again,
not possible.

Despite these facts, despite this new knowledge he
has, that doesn't make him waiver one second. He's still
guilty of robbery. Wait a second. The only reason this
case started, was because of two women telling the, telling

them, their word, of what happened and despite that fact, he's not going to pause even for an instance? If you recall, I even told Investigator Johnson, you wouldn't doubt if there was a robbery even if they came up and said that they were lying, the only people that have seen this or could admit that they were lying and it wouldn't change the State's belief? And see, therein lies a problem. The only -- while the witnesses that got up here really are irrelevant other than the two victims, notice that the EMS worker could not tell if there was a car in the parking lot, but he could tell whether it was a black man or a black woman, what have you, once they get this in their minds, as human beings, we want to do something to help society and so everything pushes towards a conviction. However, reasonable doubt, I can't imagine a greater doubt than the eyewitnesses lying.

Ms. Bentley testified after Ms. Taylor, of course, and she changed the thirty minutes to an hour that this traumatic event took place down to twenty minutes. Clearly, she saw how ridiculous it was.

She also said, "Gosh, that phone call ended because..." That was ridiculous, too. The evidence, their explanations of what occurred and so forth have been very flexible, like Jell-O. They mold it to whatever they think is going to help them most and so that's why we get on the

13th, "I met him at Yolanda's on the 13th and then he scoped out the joint on the 14th. We both saw him there." Ms. Taylor said she could see everybody from that L-shaped couch straight ahead. So, the stories change. Why? Because they are stories.

Ms. Bentley says that she had never met Ellis before despite the fact that Investigator Johnson said that she had stated that in previous interviews. The window, which is irrelevant in many instances with the factors involved in this case, it is relevant based on the fact that they lied about that, too. Ms. Taylor initially said, "Well, they were throwing stuff around and that's how that got broken." Well, their statement that Investigator Johnson read for us said, "Bentley admits to breaking the window and screaming out or yelling that we've been robbed." So, that's yet another non-truth. I don't know what you want to call it, but the fact is, that's not correct, again. And for a case that's based on credibility, and we know with absolute certainty that these two people are unable to tell the truth, it's pretty scary.

As I said, previously, there's no evidence that, in fact, makes the money something that was done by theft from that residence. The gloves were never found despite the fact that people saw them running in front of the EMS building and so in that short span, the gloves disappeared

one place or another if, in fact, they existed, but they never found them, even after their thorough investigation.

I can't stress enough. I know they are going to make a big story about him running with the gun, but the idea of a man that's been to jail recognizing that he probably shouldn't have a gun in the first place and knowing the police are coming, is a very scary thing and he knows, at the least, he's going back to jail again, or possibly going back to jail and so, his mind is a whirlwind.

With regards to Mr. Acker, his statement, prepared by Mr. Johnson and, of course, it was Mr. Acker's words and the last sentence, "Oh, yeah, he told me that he robbed somebody." Just three sentences and then, boom, he robbed somebody. How convenient. And then Mr. Acker was free and he didn't have to deal with Investigator Johnson anymore. He didn't have to worry about them bothering him or anything. I don't know what the incentive was, but once again, it's irrelevant. There are two victims here that are the ones that started the case and here we are today and you've heard how their stories changed. The borrowing of a grill, that's not a big factor, but when we're talking about credibility, it's immense.

Mr. Jones gave two statements. There's no doubt about that. He gave an initial statement, recognized that's not a good statement and then gave another statement. All

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right? As I told you and as you are aware, he's been to jail. He didn't want to go to jail again and so he said that the gun was at his girlfriend's house, but when it comes down to it, he had the gun.

But he didn't -- drug intel. Do you remember that? Drug intel, according to Investigator Johnson. Their intel was the two victims saying that's why they were there. How would they know that? How would they know why they were there?

The, as I said, the testimony of the scoping that took place on the 14th in the afternoon, not possible, and there's no question about it. I got the transcript to make sure I didn't miss a word in any of the statements. Yolanda's house, that's where they met while he was eating lunch down at the Detention Center. He was at the Detention Center when he was supposed to be at Yolanda's house. It's all about credibility. You've heard their credibility. Doubtful? It's not even doubtful. They lied, based on those circumstances that these individuals aren't able to tell the truth with regard to that, I mean, how their story just continues to grow like they were writing screenplays of some sort.

Our contention, of course, is that there exists a great deal of doubt, reasonable doubt, and we'd ask that you take that into consideration, these truths about the

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grill, about forensics not finding any prints. How convenient is that? I mean, if these girls don't want them to come back and beating them, they bring the police and I go back to my initial story, they could have pulled out the drawer. Who says there was money? Does anybody in the world know that there was money in there? Nobody besides them, right? So, the idea of moving the bed? Oh, my God, they moved the bed. There's no proving that. Only the credibility. It's all about the credibility. Forensics didn't come up with a single print. Remember, Ms. Ellis is the one that goes to the door, locks it, and then they had to get out at some point and Ms. Ellis is the one closest to the door, but we don't have any prints, whatsoever. No forensics. Nothing. Nothing. It's all about credibility. You've had an opportunity to see credibility at its worst. We're hoping you will take that into consideration. Thank you.

THE COURT: Mr. Campbell.

MR. CAMPBELL: Thank you, Your Honor.

CLOSING ARGUMENT - MR. CAMPBELL

Ladies and gentlemen of the jury, people have the right to feel safe and secure in their own home. This is a fundamental principle of our country. This is a part of being American. It is in our books of law, that is Federal and State, that people, no matter age, sex, creed or

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origin, have a right to feel safe and secure in their own homes and not have to worry about intrusion from two classes of people and institutions. One is government itself. The government has no right to go into people's homes. The other class is, citizens should not have to worry about other citizens coming into their homes and if that happens, then the person that commits that crime should be held accountable and responsible and that is what we are dealing with here today. That is why Jamarion Jones is on trial today and why three counts have been brought against him: armed robbery, burglary in the first degree and possession of a weapon during the commission of a violent crime.

Now, what exactly are these charges? The Judge gave you, he gave you the law, that's what you go by. Mr. Smith offered a little bit on it and I'm also going to speak, but what the Judge said is what you go by.

In this case, what is armed robbery? It's the intent to commit a robbery, you commit a robbery armed with a deadly weapon. In this case, a pistol. What is robbery? Robbery is stealing, it's larceny. It's taking away the personal property, something of another person that doesn't belong to you with the intent to keep it. Now, there's nothing to say that we have to prove what he intended to do with it, how he used it, but just the fact that he took

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that property. That is robbery. With the force of a gun, the threat, the intimidation, it's armed robbery.

Burglary in the first degree is when a person enters, in this case, an apartment, a dwelling, a place where a person lives without consent, without permission, with the intent to commit a crime. And intent in this case, you know, there's been a lot of talk about what is intent. Intent is this: When he knocked on that door and brandished a gun and put it in the face of Ms. Bentley and forced his way in, do you think he was there for a social call? No. He intended to commit a crime. Why else would you stick a gun in someone's face?

The weapons charge, if you don't find him guilty of armed robbery or burglary in the first degree, there is no weapons charge. Okay? They both go hand in hand because as the Judge told you, those are violent crimes with the possession of a weapon during the commission of a violent crime. So, you really have to look at the first two before you get to the third one.

Now, the Judge instructed you on what the burden of proof is. We have to prove this case to you beyond a reasonable doubt. We don't have to, as he told you, prove to you beyond an absolute certainty. There are only two things in this life that we can be absolutely certain of, one, and you know what both of them are, is death and the

other one, and this is a coincidence, you're going to pay taxes and this happened on April 15, 2011, tax day of 2011. You know, the law does not require us to prove everything to an absolute certainty because they are always open to interpretation. That is why we have actually chosen you twelve to decide this case. We have two different versions. They have their version of the story of what took place and so do we, but you decide the facts and when it comes down to reasonable doubt, the Judge gave you the law, that it causes a reasonable person to hesitate to act. This is the way that I look at it. If I, as the State, have not met my burden in proving my case to you and you have a doubt as to his guilt, find him not guilty, acquit him. However, the flip side is, if the State has met its burden and you do not have a doubt as to his guilt and think he is guilty of these crimes, it's your duty to find him guilty.

Now, intent is another big issue we kept going into and you may ask yourself, well, why was this done in the middle of broad daylight. People outside, people can see them, why didn't he cover his face. As Detective Johnson told you on the stand, you know, there are certain people in our society who really don't like law enforcement, have issues with them, who do not like to obey the laws of our community and society and one big one is drug dealers. Who

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is the last person that is going to call law enforcement to their house if they are a victim? It's a drug dealer. Who is the last person that's going to call law enforcement and say, go into my place, tear it apart, look at everything, if they have something to hide? People who are doing illegal activities are not going to call law enforcement. You know what they are going to do. They are going to get their street justice. They don't come into a courtroom. They are going to get justice some other way, the way they see fit that you will never hear about.

So, it makes no sense that these two individuals, Ms. Bentley and Ms. Taylor are making this up as a big sham to get back at Ms. Ellis or to point out to him as Mr. Jones, pinpoint him and say, hey, we're going to pick on him. That makes no sense and what this case, I think, comes down to is definitely bad intelligence. As you've seen in Defense Exhibit No. 1, he was in jail on the 14th and got released around 4:00. And yes, Ms. Bentley, she got her dates confused. She may have been off a day or so. You know, that happens, but what this does tell you is a lot. It tells you he's behind on child support payments. What does that mean? He needs money. It also means, when you look at this, is his property. He doesn't have a dime to his name. He's unemployed and so how, less than twenty-four hours later, he's up to \$202.00? Did he come by this

legally? Did he go get a job in that time frame? No.

Now, the State's version of this and what my take on it is, the only way that he could possibly know there were drugs and possibly money in that apartment is if Ms. Ellis told him. She had a running beef, as Mr. Smith brought out in his cross examination of Detective Johnson, going on for a couple of years regarding past drug use of marijuana, who's selling drugs to who. It's the only way that he's going to get the idea that there is marijuana and/or money in that apartment is from her. They conspired together and yes, she may have decided to go there herself for a fight, that's what she thinks it was, but he decided to take matters into his own hands and kind of get a little bit more out of it, so to speak.

You've seen the video. Why is the video important? It's in that time frame. We see two individuals dressed as has been described by numerous witnesses as being him, Jones, and Ellis. You see them go into the apartment complex. Now, we're not going to see what exactly happened and Mr. Smith is right, the only four people that are going to know are the two victims and the two defendants that entered that property, that apartment, but we can piece it together on facts. In this case, Mr. Jones, probably prompted by Ms. Ellis, went out there and knocked on the door. She knew she couldn't knock on the door. Ms.

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Bentley wouldn't let her in and when he first went up there, he knocked on the door. What is he doing? He's scoping it out. He sees two females in there, Ms. Bentley and Ms. Taylor. He goes back down, they run into Byrd. At that point, their plan is in action, he puts his gloves on, gets his gun out, knocks on the door. When she opens it, he forces his way in and that's when the chaos starts. That's when the nightmare for these two victims start. And I guarantee he didn't think he was getting himself in over his head until he walked in there and saw a one-year-old child and that little three-year-old girl come out there. This is what he was holding, (demonstrating gun) this is what he put to the back of Ronnie Bentley's head, loaded with five rounds. A semi-automatic weapon. This is what he pointed at Ms. Taylor and her one-year-old child and this is what he pointed at a little three-year-old girl. I guarantee that he got nervous when that little girl walked out there. He wasn't expecting that. He's thinking we're going to have an easy little hittable lick and we'll be out of here. Does it make sense that the two victims in this case who are supposedly mad at Ms. Ellis are going to point to this man and say, "He's the one who did it"? No. They would intentionally say, "It's Ms. Ellis. She had the gun, she did this." As it came out on cross examination with Detective Johnson, he's there. Ms. Ellis puts him there

through her statements. He is seen before this incident, getting out of the car, his old lady's car, the burgundy Honda, and it's kind of funny. This is a bad day to be a criminal, because law enforcement is all over the place. Everybody is getting stopped, either intentionally or coincidentally and she gets stopped and they learn who Jamario is and through his experience with the high school, he knew exactly who he was, learned he was already armed, had a gun when he got out of that car and that they were dropped off at Oak Forest Apartments. And if Ms. Bentley and Ms. Taylor are making this up, how do you account for the EMS workers? Do you think they went over there and spoke to them and said, "Hey, I've got a beef with this girl. I'm going to set her up, will you help me out here?" No.

The fact is, EMS had nothing to do with it except watching him run, within a couple of feet, by their building, drop this weapon and he described to a tee, black with a silver slide, gray or silver, however you want to call it, run off, go to the store, get into a green car, which we later learn is Byrd or Tory Acker's and leave, both him and her, they leave the area. They are in a hurry.

Now, after they left, you know I can't tell you what their true motive is, what their true purpose was going

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over there. That's speculating on human emotions, human affairs. You know, you'll never get a straight answer on why that is. We can only use, as we call it, circumstantial evidence, look at everything and think about why they possibly would have done it and this time, I think it was for money. I think they thought there was dope there because of the question he told them, "I'm going to ask for a sack." He's getting this information from Ms. Ellis and when they walked in the first thing they ask for is, "Where is the money and where's the weed." It was only during this time they realize, these girls don't have nothing. And if this is a big elaborate set up and I know people get things wrong, get them backwards and there's a lot of talk about, why aren't their stories the same? I'll guarantee you, if Ms. Taylor and Ms. Bentley's stories had been the same, he would be jumping up and down and saying, "This has been rehearsed. They sat down, went through this item by time, line by line, and got their stories together so there's no discrepancies." You hear a little bit of discrepancies, but the discrepancies have nothing to do with the actual event itself. And that's where the problem lies for Mr. Jones. Yeah, there may be issues prior to his getting out of jail or when they actually saw him prior to that, but the actual event itself, the day of April 15, 2011, there is no discrepancies. They may have their own

little versions, but it doesn't change the fact that they held a gun to their head and robbed them. And if this is an elaborate setup, why would they go through their own house, pull out off the drawers, trash it, tear up their room, move the mattress, break out the window? Do you think they smacked their own one-year-old girl up outside the head, put a knot on her, hit each other so they could show law enforcement, we've got wounds just to be an elaborate setup or conspiracy to frame Ms. Ellis? No.

You know, the fact that when they left, and it so happened, and like I said, this case has a lot of coincidences, law enforcement is everywhere this day, all different agencies, when he, Detective Johnson got a location of where he possibly may be, he pulls up, there's another officer, Officer Looney, who had made another stop unrelated to this, he looks up and there they are standing. They are at her cousin's house, DeAngelo Acker's. As Mr. Acker told you on the stand, "I know Mr. Jones. I know him as Jamario, Mario, we talk every day, I see him about every day, he came to my house." Mr. Acker is a big key, because, yeah, discount, if you want to, discount what the victims said. Discount what EMS said. Why would DeAngelo Acker, his friend, his buddy, why would he come in here and say he told me he committed a robbery? What does he have to gain? He doesn't have anything to gain. All he was

doing was telling you the truth and the only way he knew what events took place -- because he wasn't there, because he told you he was in Calhoun Falls and he called me earlier as I was coming back -- is because he told him. They arrest him, they tell them where the gun is, they go up, it's exactly where DeAngelo says it was. He said, "I was outside the house because they made us come out." They go in and it's right on top of the refrigerator. Mr. Jones would only tell someone he's comfortable with, what the truth is. He tells DeAngelo Acker the truth. "Hey, I just committed a crime. I need to get rid of this gun," but you know he can't just throw this gun in a bunch of bushes on the side of the road as he's going down the road. Why? As Mr. Acker said, it's his old lady's gun. I've seen it before. I've shot it. I've held it. He just can't throw the gun away. He's got to put it in a place of safekeeping and what are you going to do? You're going to trust a friend of yours, it's who you're going to give it to, because if he had thrown it away, he'd have to explain it to Candice. So, he's smart enough to get rid of the evidence, not thinking law enforcement would find it.

You know, I didn't bring this out. Mr. Smith brought this up in his closing. He's a felon. He shouldn't be having this. He knows that, but yet less than twenty-four hours after being released for failure to pay child

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support, giving false information to law enforcement and driving without a license, he's committing another crime.

Ladies and gentlemen of the jury, if you look at the statements, both the first one and the second one, you can pick through them line by line, everything matches up. The only part that he denies is the actual crime itself. We've got him in the apartment, we've got him before and after with the gun, we have him with money when he didn't have money the day before and no, we're not going to be able to track serial numbers. Everybody doesn't write them down.. Do you write down the serial numbers that are in your pocketbook and billfold right now? No. But using your common sense and your everyday experiences, you can piece it all together and it points to one direction, one conclusion and that, in this case, on April 15, 2011, Jamario Jones committed the crime of armed robbery and burglary in the first degree while he possessed a weapon.

And you're going to have an opportunity to go back in that jury room and deliberate and you, as the judges of facts, will have the right to say yes or no. You decide guilt. You must render a verdict that in this case speaks the truth and justice demands and that, and in this case, it is guilty. I thank you for your effort and your time.

THE COURT: Madam Forelady, ladies and gentlemen of the jury, I'm going to get you, at this stage, to go back

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to your jury room. At this point, do not begin your deliberations. We're going to go through all the evidence to make sure you have it. Buck will bring back a note or word to you that you may begin your deliberations when you can. At this point, go back to your jury room, except Mr. Clark. Mr. Clark if you would stay right here, please, sir, but you go back to your jury room, otherwise.

(Jury out at 3:13 p.m.)

THE COURT: All right. Let me first thank the attorneys, all the attorneys for their preparation and hard work in this case. That makes my life a lot easier when everybody is prepared and ready to go. You tried a good case, both sides, regardless of how it turns out. With that being said, would you guys both, or all three of you, go through the evidence and make sure we have all of it. (Attorneys comply) Mr. Clark. (Judge McIntosh dismisses the alternate off the record)

Let me see the attorneys. Is there any reason that we send the gun back there? I think there is and it's disabled. I want one of the officers to check it and make sure it is, whoever is best to make sure it won't shoot anybody.

MR. CAMPBELL: We removed the bullets.

THE COURT: Right. And the bullets will stay out. Is that okay with you, Mr. Smith?

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MR. SMITH: Yes.

THE COURT: All right. I assume that's -- it's good? All right. Thank you. (Deputy checked the gun and confirmed it's disabled) We're in recess. If y'all start to go anywhere, leave your numbers so we can call you.

FIRST QUESTION FROM THE JURY

THE COURT: We have a note from the jury. They want to hear the jury charges. I've taken the liberty of just making a clean copy. I want y'all to look at them. If they ask for them, I'll send them back to them. That's what I normally do if they ask for them. Any objection from the State by my doing that?

MR. CAMPBELL: Is it the whole jury charge or just the actual charges?

THE COURT: It's the whole thing. In fact, there's case law that says I can't send back bits and pieces.

MR. CAMPBELL: Okay. I have no problem with it.

MR. SMITH: If it's by case law.

THE COURT: Well, that was more geared to me sending back the statute. I've always interpreted it to mean if I'm going to let them look at it, they get the whole thing. Okay?

MR. CAMPBELL: I'd rather they go through what you actually said than try to go through and make it up on their own.

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THE COURT: Listen, here's the only difference between what I told them and what was in the book, in this, is that I have one part that has to do with the fact that there is an indictment that they have to, they can't infer guilt from that. I usually combine that with multiple indictments and the fact that they have to decide each one on their own. I just put both those in separately. I'm glad to let y'all look at them right quick if you want.

MR. CAMPBELL: I have no objection, your Honor.

MR. SMITH: No, sir.

THE COURT: Okay. Other than that, I would propose instead of stopping them, going ahead and sending them back and telling them to resume and telling them to go forward. Any exceptions from the State?

MR. CAMPBELL: No, Your Honor.

THE COURT: From the Defense?

MR. SMITH: No, sir.

THE COURT: All right. (Hands document to the bailiff)

VERDICT

THE COURT: I know the lawyers know, but regardless of the verdict, there is not to be any outcry from any other person in the courtroom, please.

(Jury in at 4:41 p.m.)

THE COURT: Madam Forelady, we understand there is a
THE STATE OF SOUTH CAROLINA VERSUS JAMARIO QUINTON JONES

verdict. Is that correct?

MS. EDWARDS: Yes.

THE COURT: Is it unanimous?

MS. EDWARDS: Yes.

THE COURT: Would you pass it to the bailiff, please.
(Bailiff hands document to the Judge) Would you publish
the verdict, please?

CLERK OF COURT: Yes, sir. The State of South
Carolina in the county of Anderson, Court of General
Sessions. The State of South Carolina versus Jamario
Quinton Jones, defendant.

We have the verdict form. We, the jury, under
Indictment 2011-GS-04-01211 unanimously find that the
defendant, Jamario Quinton Jones is guilty of burglary in
the first degree.

We, the jury, under Indictment 2011-GS-04-01210,
unanimously find that the defendant, Jamario Quinton Jones
is guilty of armed robbery.

We, the jury, under Indictment 2011-GS-04-01212,
unanimously find that the defendant, Jamario Quinton Jones
is guilty of possession of a weapon during the commission
of a violent crime, Anderson County, Dated today, signed by
Negar T. Edwards, foreperson.

THE COURT: Madam Foreperson, ladies and gentlemen of
the jury, was that your verdict in the jury room and is

THE STATE OF SOUTH CAROLINA VERSUS JAMARIO QUINTON JONES

that your verdict now? If so, would you raise your right hand? Let the record reflect that all twelve jurors answered in the affirmative on that question.

Ladies and gentlemen, the Court is never concerned with what your verdict is, but is concerned that the process is followed. In this case, I watched you during the trial, periodically, you stay engaged, you watched the evidence, you listened to the evidence and you did your duties and regardless of whatever your verdict was, we appreciate your service to Anderson County and to the State. Without citizens like you participating in the process, the process would break down and it doesn't work. With that being said, I'm going to ask you to go back to your jury room for just one minute. I'd like to speak with you more on a personal basis and then you will be welcome to come around in a few minutes if you choose to and I will sentence the defendant. Okay? If you would go back to the jury room, please.

(Jury out at 4:45 p.m.)

THE COURT: If you would just remain seated, please.
(Speaking to the defendant)

(Brief Break)

THE COURT: Mr. Campbell, do you know if the victims want to say anything further than what they've already testified to? Would you verify that for me, please, sir?

THE STATE OF SOUTH CAROLINA VERSUS JAMARIO QUINTON JONES

MR. CAMPBELL: Yes, sir.

SENTENCING

THE COURT: All right. Mr. Smith, Mr. Jones, would you come around please? (They comply) Yes, sir.

MR. CAMPBELL: Your Honor, I'll just hit the major high points. He does have an extensive record in the criminal system. He was convicted of, or pled guilty to malicious injury to personal property in 2008, 728. 2008, 729, unlawful neglect of a child. 2008, 730, unlawful neglect of a child. 2008, 731, unlawful neglect of a child.

THE COURT: Is that three counts of that?

MR. CAMPBELL: Four counts. In 2008, 732, unlawful neglect of a child. In 2009, 2389, he pled guilty to unlawful carrying of a pistol. 2010, 598 and 599, he pled guilty to two counts of strong armed robbery. Actually, Your Honor, you were the judge in this case. You sentenced him on, it looks like, February 16, 2010. As a result of that sentence, it was initially an armed robbery and he pled down to what Mr. Smith and I worked out to a YOA sentence. He went to the Department of Corrections. This crime actually occurred after he was released, 262 days after the fact, which is why I filed a notice of motion, a motion to increase the sentence for repeat offenders. Under statute 16-1-120, which states a subsequent offense

THE STATE OF SOUTH CAROLINA VERSUS JAMARIO QUINTON JONES

committed within 270 days of release, two years shall be added to the sentence, mandated by subsequent conviction. I'll hand all this up. And that's really, it comes down to your discretion if you want to do it.

THE COURT: It's discretionary or non-discretionary?

MR. CAMPBELL: I think it really comes down to being discretionary. It doesn't say "must". Let's see. It actually says, "if convicted of another felony offense, the individual shall have added to the sentence imposed with a subsequent conviction, such addition in time is provided below and this case, I've highlighted it. I'll hand up a copy of the statute. He was served this notice on January 25, 2012, while he was in the Detention Center and Mr. Smith was also served this by a letter and through discovery.

THE COURT: "Shall", as I interpret it, Mr. Smith, is mandatory, not discretionary. What is your position with regards to just that, please?

MR. SMITH: That's my interpretation, as well.

THE COURT: Fair enough.

MR. CAMPBELL: And Your Honor, for the record on that issue, he went into the Department of Corrections, based on their records, July 21, 2010, came out July 28, 2010 and when you calculate July 28, 2010 until April 15, 2011, it comes up to 262 days.

THE STATE OF SOUTH CAROLINA VERSUS JAMARIO QUINTON JONES

THE COURT: Okay. After the strong armed robberies that he got a YOA sentence for, does he have any other record other than these charges?

MR. CAMPBELL: After his release, it's my understanding he's on probation for this, or parole.

MR. SMITH: Your Honor, with regard to the 262 days, it's my understanding he got time served. So, that would mean a combination of 262 days, it would be more like 400 days because he'd been in jail for several months prior to ---

THE COURT: Did you check that out?

MR. CAMPBELL: It's from the release, when you are released.

THE COURT: Oh, so if he's a repeat within a certain amount of time -- let me look at the statute.

MR. CAMPBELL: And I also handed up the Youthful Offender date of release certificate.

THE COURT: Under 16-1-110, it says under subsection (1)(d), if the subsequent offense was committed within 270 days of his release. So, it wouldn't matter how long he was in there. What's this?

MR. CAMPBELL: That's a copy of his parole release showing the dates for the Court's purposes.

THE COURT: Have you seen that, Mr. Smith?

MR. SMITH: Yes, sir.

THE STATE OF SOUTH CAROLINA VERSUS JAMARIO QUINTON JONES

THE COURT: I'm going to make this a Court's Exhibit for this file. Mr. Smith, do you have anything you want to tell me about this gentleman?

MR. SMITH: I'll spare you the details regarding this case, Your Honor. With regard to his prior charges, the child neglect, it was his child is my understanding. The armed robbery was something we were ready to go to trial with based on the facts in that matter, but we found we worked out the case in the manner that would best suit everybody. Bottom line, he didn't hurt anybody, he hasn't killed anybody. Clearly, it's a victimless crime in our society. However, the fact that he hasn't hurt anyone should be taken into consideration. He's a young man. Any time he has I hope it will have an effect in a positive manner.

THE COURT: Mr. Jones, what do you have to say?

MR. JONES: Nothing, sir.

THE COURT: Do you have anything you want to say to these victims?

MR. JONES: No, sir.

THE COURT: Mr. Jamario Quinton Jones, the jury, having found you guilty by unanimous verdict, under Indictment 2011-GS-04-1210, armed robbery, the sentence will be twenty years. In addition to that, under S16-1-110, there will be an additional two years to that.

THE STATE OF SOUTH CAROLINA VERSUS JAMARIO QUINTON JONES

That will be concurrent with Indictment No. 2011-GS-04-1211, burglary first. The sentence will be two years plus an additional two years under §16-1-110, subsection (1)(d) in that a crime was committed within 270 days of your release from your YOA sentence. Under Indictment 2011-1212, possession of a weapon during a violent crime, the sentence is five years, consecutive to both the above indictments. Good luck to you, sir.

MR. CAMPBELL: Your Honor, may I ask, what was the burglary? I didn't catch that.

THE COURT: Two. There was twenty plus two, they were concurrent and I made the weapons consecutive.

MR. CAMPBELL: I'm sorry. I didn't hear you.

THE COURT: That's okay.

FEBRUARY 16, 2012 - RE-SENTENCING HEARING

THE COURT: Mr. Jones, can you hear me? This is Lawton McIntosh. (Video conference)

MR. JONES: Yes, sir.

THE COURT: Can you see me?

MR. JONES: Yes, sir.

THE COURT: All right. Mr. Campbell, I want you to tell us what's going on, please, sir.

MR. CAMPBELL: May it please the Court, Your Honor. I had filed a motion for the repeat offender act on Mr. Jones. After the sentencing yesterday, I went back and

THE STATE OF SOUTH CAROLINA VERSUS JAMARIO QUINTON JONES

MR. CAMPBELL: No, Your Honor, nothing further.

THE COURT: All right. Good luck to you, Mr. Jones.

reviewed the statute just to double check for my own self, basically, and while he does technically qualify under the two, he was initially charged with armed robbery, but he pled to strong armed robbery. It turns out that's a Class D felony. It can only go towards Classes A, B and C, so I'm asking the Court to remove the two years that was enhanced by that. When I found out after double checking, I called Mr. Smith last night and told him what was going on and we wanted to bring it before Your Honor this morning.

THE COURT: Very good. All right. Mr. Smith, do have anything that you want to add to that, at all?

MR. SMITH: Not to this, sir.

THE COURT: I understand. All right. Mr. Jones, I added two years under S.C. Code §16-1-110 to your twenty year sentence. I am removing those two years from Indictment 2011-GS-04-1210, which is the armed robbery indictment and Indictment 2011-GS-04-1211, which is the burglary first degree indictment. The sentence will remain twenty years, concurrent, on Indictments 1210 and 1211 and a five year consecutive sentence for the possession of a weapon during the commission of a violent crime under Indictment 1212. You have ten days to appeal this sentence. Anything further from you, Mr. Smith?

MR. SMITH: Not at this time, sir.

THE STATE OF SOUTH CAROLINA VERSUS JAMARIO QUINTON JONES

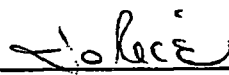
STATE OF SOUTH CAROLINA)
)
 COUNTY OF ANDERSON)

CERTIFICATE

Be it known that I, the undersigned Jo Rice, Official Court Reporter for the Tenth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing transcript represents a partial transcript of record of the proceedings had and evidence introduced in the hearing of the captioned case, relative to appeal, before the Circuit Court for Anderson County, South Carolina, so given on February 13-15, 2012 to the best of my skill and ability;

That I am not related to nor an employee of any of the parties hereto, nor a relative or employee of any attorney or counsel employed by the parties hereto, nor interested in the outcome of this action.

IN WITNESS WHEREOF I have here unto set my hand and seal this 16th day of September, 2012.



 Jo Rice
 Official Court Reporter

THE STATE OF SOUTH CAROLINA VERSUS JAMARIO QUINTON JONES

FORM 5

20/4 - CP - 04 - 1727

STATE OF SOUTH CAROLINA

COUNTY OF AndersonFILED CLERK'S OFFICE IN THE COURT OF COMMON PLEAS
ANDERSON SCTamara Quinton Jones - 3352114 AUG 13 PM 2 28
Full name and prison number (if any) of Applicant.

v.

COMMON PLEAS AND
GENERAL SESSIONSAPPLICATION FOR
CLERK OF COURT

State of South Carolina

POST-CONVICTION RELIEF

A TRUE COPY

AUG 13 2014

INSTRUCTIONS - READ CAREFULLY

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

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

If the application is taken in forma pauperis, it shall include an affidavit (attached at the back of the form) setting forth information which establishes that applicant will be unable to pay 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 Anderson County Detention Center
2. Name and location of Court which imposed sentence Anderson County / General Sessions
3. Name(s) of co-defendant(s) (if any) Melody Ellis
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 - (a) Armed Robbery - 2011-GS-040-1210
 - (b) Burglary - 2011-GS-040-2011
 - (c) Weapon - 2011-GS-040-2012
5. The date upon which sentence was imposed and the terms of the sentence:
 - (a) February 15, 2012, Two - Twenty (concurrent) / Consecutive five yrs
 - (b) _____

- (c) _____
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. Anderson County / General Session _____
- ii. _____
- iii. _____
- (b) the result in each such Court to which you appealed:
- i. Affirmed _____
- ii. _____
- iii. _____
- (c) the date of each such result:
- i. January 29, 2014 _____
- ii. _____
- iii. _____
- (d) if known, citations of any written opinion or orders entered pursuant to such results:
- i. unpublished opinion No 2014-42-040 _____
- ii. _____
- iii. _____
9. If you answered "no" to (7), state your reasons for not so appealing:
- (a) _____
- (b) _____
- (c) _____
10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:

- (a) Ineffective Assistance of counsel
 (b) Confrontation Clause
 (c) _____
11. State concisely and in the same order the facts which support each of the grounds set out in (10):
 (a) Attached Memorandum in support of
 (b) INEFFECTIVE Assistance of Counsel
 (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? _____
 (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? _____
 (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? _____
 (d) any other petitions, motions or applications in this or any other Court? yes
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. Appellate - Motion For Directed Verdict
 ii. _____
 iii. _____
 iv. _____
 (b) the name and location of the Court in which each was filed:
 i. Division of Appellate Defense
 ii. P.O. Box 11589
 iii. Columbia S.C. 29211-1589
 iv. _____
 (c) the disposition thereof:
 i. Affirmed
 ii. _____
 iii. _____

Ground 10(A)

Ineffective Assistance of Counsel Failing to properly object

(A). Applicant counsel was ineffective in failing to properly object to Applicant right to confrontation (Hearsay). This violated applicant right to counsel as guaranteed by amendment 6 and 14 to the U.S. Constitution and article I Sec 14 of the South Carolina Constitution See *Strickland v. Washington*, 466 U.S. 668 (1984)

(I. Relevant Fact)

Counsel was ineffective as to where he did not object to state witness (Deangelo Acker) "Hearsay." A witness may not testify to matter unless evidence is introduced sufficient to support finding the witness has personal knowledge of the matter (Tr. 111 LN 2)

(II Relevant legal principle and argument)

The sixth amendment guaranteed all criminal defendant the right to the effective assistance of counsel (*Strickland v. Washington* 466 U.S. 688 (1984); see also *William v. Taylor* 529 U.S. 362 (2000)). In order to establish that one is title to relief on an effective assistance of counsel claim one must demonstrate that: (1) his attorney representation "fell below an objective standard of reasonableness," and (2) he was prejudiced as a result thereof. *Strickland*, 466 U.S. at 687; 88; see also *Martinez v. State*, 304 S.C. 39 (1991) (describing standard) counsel occur when trial counsel fail to object to excludable or other improper evidence *Mitchell v. State*, 379 S.E. 2d 12 (1989); see also *Girts v. Yandel*, 501 F.3d 743 (6th Cir 2007) (finding counsel ineffective as the failure to object

exacerbated the prejudicial effect of the prosecutor's statement); Mason v. Scully, 16 F.3d 38 (2d Cir. 1994) Finding Counsel ineffective for failure to object to testimony by police detective about (Hearsay) of statement of non-testify Co-defendant.

Ground 10(A)

Ineffective Assistance of counsel
Acting In Role of Adversary

(13) Applicant counsel was ineffective failing to act as applicant advocate. This violated applicant right to counsel guaranteed by amendment 6 and 14 of 16 U.S. Constitution and article I see 14 of 16 South Carolina constitution

(I Relevant fact)

Counsel was ineffective as to where Counsel informed the jury that (Tamarico Jones) is a convicted felon. As he was doing his Closing Argument. See fact (Tr 416, LN 4-12)

Ineffective assistance of counsel
In-Camera Waiver

(C). Applicant counsel was ineffective failing to follow the judge procedure to call for a(n-camera hearing). This violated applicant right to counsel guaranteed by amendment 6 and 14 of the U.S. constitution and article I, see 14 of 16 South Carolina constitution Strickland v. Washington, 466 U.S. 668 (1984)

(I Relevant Fact)

Counsel was ineffective as to failure to ask for a(In-camera hearing) so the court could listen to the (New Evidence) by waiving that opportunity. The applicant was prejudice by counsel deficient performance during trial counsel did not follow court's ruling and proper procedure which cause the Waiver on counsel part to an extent. (Reconsideration motion pg 11.6-14)(Tr 122. LN 10-21)

Ground 10(B)

The confrontation clause provides that, "Li. In all criminal prosecutions, the accused shall enjoy the right... to be confronted with the witness against," U.S. const. amend. VI. In South Carolina, the right is guaranteed not only by the sixth and fourteenth amendments, but by the corresponding state constitution. *State v. green*, 239 S.E.2d 425 487 (S.C. 1977) (citing S.C. const. art. I, § 14).

(Relevant Legal principle and argument)

In *Crawford v. Washington* 541 U.S. 36, 68 (2004), the supreme court held that even well established exception to the hearsay rule do not trump the confrontation clause. The supreme court reversed *Crawford*'s assault and battery conviction, holding that the trial court should not have admitted a statement provided to law enforcement by the defendant's wife even though state privilege law prevented the prosecution from forcing *Crawford* wife to testify. The state trial court concluded that the statement was admissible because it fell with a state hearsay exception for statement against penal interest. *Wash. R. Evid. 804 (b)(3)* (2003). The supreme court however, held that "[w]here testimonial evidence is at issue the sixth amendment demands what the common law required: unavailability and a prior opportunity for cross-examination." *Crawford v. Washington* 541 U.S. 36, 68 (2004). Since *Crawford*, the court of the United States and the [South Carolina supreme court] have consistently recognized that witness unavailability and a prior opportunity for cross-examination are required whenever the prosecution seeks to admit testimonial hearsay evidence. See, e.g. *State v. Mitchell*, 662 S.E.2d 493 (S.C. 2008) (holding that the admission of an accomplice's prior statement to police under the hearsay exception violated the confrontation clause). The supreme court has clarified the requirement that statement be testimonial in recent years as well. In *Davis v. Washington*, 547 U.S. 813 (2006), the supreme court held that statement taken by law enforcement as part of a criminal investigation squarely fall in the

Davis v. Washington, 547 U.S. at 822 (statement, "are testimonial when the circumstances objectively indicate that there is no such ongoing emergency and that the primary purpose of the interrogation is to establish or prove past event potentially relevant to later criminal prosecution.") see also Ouyueh v. State, 667 S.E.2d 85, 89 (Ga. 2008) (witness identification of the defendant at the crime scene was made for the purpose of establishing past fact with a view to a future prosecution making the statement testimonial in nature); State ex rel. TR., 949 A.2d 790, 791 (N.J. 2008) (holding that statement describing a robbery committed ten minutes earlier were testimonial). Nor does the fact that the report may have satisfied a business record or other hearsay rule exception exempt the record from the rigors of the confrontation Clause. The court recently noted in Melendez - Diaz, supra, that it has been clear for decades that if the regularly conducted business activity is the production of evidence for use at trial, the evidence is subject to the right of confrontation. 2009 WL 1789468 at *10

iv. _____

(d) the date of each such disposition:

i. January 29, 2014

ii. _____

iii. _____

iv. _____

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

i. unpublished opinion

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?

N/A

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:

- (a) your arraignment and plea? _____
- (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. Donald L. Smith 122 N. Main Street Anderson SC 29621
 - ii. _____
 - iii. Dayne C. Phillips, Carmen Gandehsani
- (b) the proceedings at which each such attorney represented you:
 - i. Donald L. Smith, Trial
 - ii. _____
 - iii. Mrs Gandehsani, Appellate Review

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

Vacate conviction and NEW Trial

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

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

Tamario Jones
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.

Tamario Jones

Applicant

SWORN or affirmed to and subscribed before me this
5th day of August, 2014.

Quedra Bryant
Notary Public

My Commission Expires: May 26, 2020

FILED CLERK'S OFFICE
ANDERSON SC
2014 AUG 13 PM 2 28
COMMON PLEAS AND
GENERAL SESSIONS

A TRUE COPY

AUG 13 2014

Richard A. Kirby
CLERK OF COURT

Revised 3/2003

STATE OF SOUTH CAROLINA

County of

Anderson

VERIFICATION

Tamerio Jones

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.

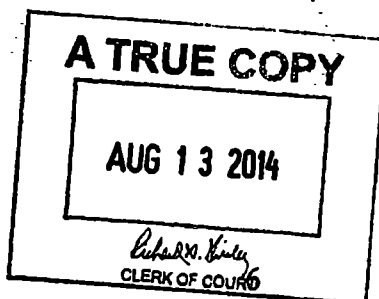
Tamerio Jones

SWORN to and subscribed before me this 5th
day of August, 2014.

Ludheen Bryant (L.S.)
Notary Public

My Commission Expires: May 26, 2028

FILED CLERK'S OFFICE
ANDERSON SC
2014 AUG 13 PM 2 28
COMMON PLEAS AND
GENERAL SESSIONS



STATE OF SOUTH CAROLINA
COUNTY OF ANDERSON

Jamario Q. Jones, #335879,

Applicant,

v.

State of South Carolina,

Respondent.

IN THE COURT OF COMMON PLEAS
TENTH JUDICIAL CIRCUIT

2014-CP-04-1727

RETURN

Respondent, making its Return to the Application for Post-Conviction Relief (PCR) filed August 13, 2014, would respectfully show this Court:

I.

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Clerk of Court for Anderson County. Applicant was indicted at the July 2011 term of the Court of General Sessions for Anderson County for Armed Robbery (2011-GS-04-1210), Burglary First Degree (2011-GS-04-1211), and Possession of a Weapon during a Violent Crime (2011-GS-04-1212). Applicant was represented by Donald L. Smith, Esq. Applicant proceeded to trial on February 15, 2012, in which a jury convicted him as indicted. The Honorable R. Lawton McIntosh sentenced Applicant to concurrent terms of twenty (20) years each for Armed Robbery and Burglary with a sentence of five (5) years for Possession of a Weapon during a Violent Crime to run consecutively to the previous sentence.

A timely Notice of Appeal was filed on Applicant's behalf and an appeal was perfected by Carmen Ganjehsani, Esq. The South Carolina Court of Appeals affirmed the Applicant's convictions and sentences. State v. Jones, No. 2014-UP-040 (filed January 29, 2014). The Remittitur was issued on March 4, 2014.

Attached herewith and incorporated herein by reference are the records of the Richland County Clerk of Court regarding the subject conviction(s), the transcript from Applicant's trial hearing, Applicant's records for the Department of Corrections, and Applicant's appellate records. Respondent reserves the right to amend its return upon the receipt of other relevant records.

II.

In his Application, the Applicant alleges that he is being held in custody unlawfully for the following reasons:

1. Ineffective Assistance Counsel, in that;
 - a. Counsel "fail[ed] to properly to object to Applicant right to confrontation",
 - b. Counsel "informed the jury that (Jamario Jones) is a convicted felon,"
 - c. Counsel "fail[ed] to ask for a (In-camera hearing)"
2. Due Process Violation, in that;
 - a. "Confrontation clause."

III.

Applicant's first claim is an allegation of ineffective assistance of trial counsel. Respondent contends that Applicant's trial counsel rendered adequate assistance and provided representation within the range of competence required by attorneys in criminal cases. See Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985).

In a post-conviction relief proceeding, the Applicant bears the burden of proving the allegations in their application. Id. Where ineffective assistance of counsel is alleged as a ground for relief, Applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result."

Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2052, 2064, 80 L.Ed.2d 674, 692 (1984); Butler, 334 S.E.2d 813.

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. The courts presume that counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Strickland, 80 L.Ed.2d 674. Applicant must overcome this presumption in order to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989).

A two-pronged test is used in evaluating allegations of ineffective assistance of counsel. First, 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, 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.

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 cannot be conclusively refuted by the record. 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.

Applicant also alleges due process violations. These allegations appear to be merely recitations of his grounds for ineffective assistance of counsel. Therefore, Respondent submits these allegation are without merit and incorporates its response in Part III, supra.

In the event Applicant alleges independent claims of due process violations, Respondent submits such claims are likewise without merit. A due process violation only occurs "when a defendant in a criminal trial is denied the fundamental fairness essential to the concept of justice." State v. Hornsby, 326 S.C. 121, 129, 484 S.E.2d 869, 873 (1997) (citing 21 Am.Jur.2d, Criminal Law § 640 (1981)). Respondent submits the record fully demonstrates Applicant's trial procedures fully complied with the requirements of due process. Accordingly, Respondent submits this allegation should be dismissed pursuant to Rule 12(b)(6), SCRCP.

V.

Respondent therefore requests that this Court convene an evidentiary hearing solely on the issue of ineffective assistance of counsel. As to all other allegations, Respondent moves for summary dismissal pursuant to S.C. Code Ann. § 17-27-70 on the basis that there is no genuine issue of material fact which would necessitate an evidentiary hearing and that those allegations should be dismissed as a matter of law.

VI.

Applicant must specify any claims he intends to raise at the PCR trial. Any claims not *specifically* laid out in this PCR application or in amendments will be opposed by the State at an evidentiary hearing. S.C. Code § 17-27-10 et seq; SCRCP 71.1. All claims should be made well in advance of the PCR hearing. If Applicant has an attorney appointed, the attorney, and not the inmate, is the only one authorized to file amendments. SCRCP Rule 11. Filings by inmates will not be considered at the PCR hearing.

VII.

Each and every allegation contained within the application not either expressly admitted, qualified or explained is hereby denied.

VIII.

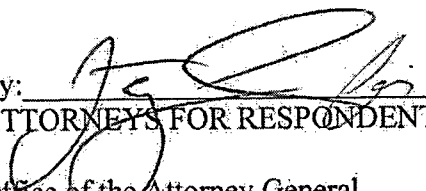
WHEREFORE, having made its Return, Respondent requests that a hearing be held solely on the claims of ineffective assistance of counsel.

ALAN WILSON
Attorney General

JOHN W. McINTOSH
Chief Deputy Attorney General

KAREN C. RATIGAN
Assistant Deputy Attorney General

PATRICK L. SCHMECKPEPER
Assistant Attorney General

By: 
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January 13 2016

STATE OF SOUTH CAROLINA

COUNTY OF ANDERSON

JAMARIO QUINTON JONES, #335879

Applicant,

vs.

STATE OF SOUTH CAROLINA,

Respondent.

IN THE COURT OF COMMON PLEAS

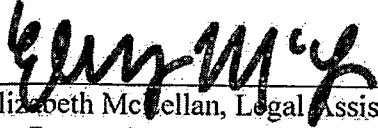
2014-CP-04-1727

AFFIDAVIT OF SERVICE BY MAIL

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 **Return** in the above-captioned matter on the following person by depositing same in the United States mail, postage prepaid:

Hugh W. Welborn, Esquire
 PO Box 173
 Anderson, SC 29622

DATED this 13th day of January, 2016.


 Elizabeth McCellan, Legal Assistant
 For Respondent

STATE OF SOUTH CAROLINA)	
COUNTY OF ANDERSON)	COURT OF GENERAL SESSIONS
Jamario Quinto Jones,)	
Applicant,)	
v.)	Case No.
State of South Carolina.)	2014-GS-04-01727
Defendant)	

ORIGINAL
TRANSCRIPT OF HEARING

The within Hearing in the above-captioned matter was held on February 9, 2016, before The Honorable Brooks P. Goldsmith, Anderson County Courthouse, 100 South Main Street, Anderson, SC 29622; attended by counsel as follows:

APPEARANCES:

Hugh Wingo Welborn, Esq.
Appearing for The Applicant.

Patrick Lowell Schmeckpeper, Esq.
Appearing for The State.

Vivian H. Cross
Circuit Court Reporter – 10th Judicial Circuit
P O Box 704
Belton, South Carolina 29627
vcross@sccourts.org

I-N-D-E-X

JAMARIO QUINTO JONES v. STATE OF SOUTH CAROLINA
CASE NO. 2014-CP-04-01727
FEBRUARY 9, 2016

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COLLOQUY	3
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E-X-H-I-B-I-T-S

IDENTIFICATION ENTERED

*****NO EXHIBITS OFFERED*****

P R O C E E D I N G S

10:35 A.M.

1
2
3 **THE COURT:** Mr. Schmeckpeper?

4 **MR. SCHMECKPEPER:** Thank you, Your Honor, may it
5 please The Court. This is *Jamario Jones versus The State*
6 *of South Carolina*, 2014-CP-04-1727. Mr. Jones was
7 indicted in July, 2011 for armed robbery, burglary first
8 degree and possession of a weapon during a violent crime.
9 Proceeded to trail before Judge McIntosh, was convicted
10 on -- as indicted on February 15th 2012.

11 He was sentenced to concurrent sentences of twenty
12 years for the armed robbery -- robbery, burglary first,
13 and a consecutive five years for possession of a weapon
14 during a violent -- during a violent crime.

15 His appeal was -- he filed an appeal; that was
16 dismissed. It was an opinion by The Court of Appeals,
17 um, filed January 29, 2014.

18 At this point I'll turn it over to Mr. Welborn so he
19 can call his case and produce his record.

20 **THE COURT:** All right; Mr. Welborn?

21 **MR. WELBORN:** Your Honor, if it please The Court, I
22 call Jamario Jones.

23 **THE COURT:** All right.

24 (WITNESS FORWARD.)

25 **CLERK:** Mr. Jones, if you'll please raise your right

1 hand to the best of your ability?

2 (WHEREUPON, **JAMARIO QUINTO JONES** WAS DULY SWORN AND
3 TESTIFIED AS FOLLOWS:)

4 **CLERK:** Thank you; you may have a seat.

5 **MR. WELBORN:** Your Honor, for the record, my client
6 has alleged ineffective assistance from Counsel, saying
7 that Counsel failed to properly object to my client's
8 right to confrontation.

9 Counsel informed the jury that my client is a
10 convicted felon.

11 Counsel failed to ask for an in camera hearing.

12 And, uh, there was a violation of the confrontation,
13 uh, which I think would, uh, fall under Counsel failing
14 to object to a lack of confrontation.

15 And, in addition, Your Honor, uh, Attorney General
16 agreed we could amend -- and we did -- to allege that
17 Counsel failed to object to a picture of the victim, uh,
18 that he failed to object to a Deangelo Acker's (phonetic)
19 testimony as hearsay, he failed to ask where the stolen
20 property was.

21 If it please The Court, I'll question my client at
22 this time.

23 **THE COURT:** Certainly.

24 **JAMARIO QUINTO JONES, DIRECT EXAMINATION BY MR. WELBORN:**

25 Q You're Jamario Jones?

1 A Yes, sir.

2 Q Mr. Jones, can you hear me okay from up there?

3 A Yes, sir.

4 Q And if you can't, let me know and I'll approach and
5 try to talk a little louder.

6 Mr. Jones, you've heard, for the record, what you
7 were indicted for and what you, uh, ended up being found
8 guilty of. And, you've heard the allegations of your
9 fail- -- of your, uh, allegations that your lawyer was
10 ineffective. Let's talk about that.

11 Mr. Jones, you stated in your application that your
12 lawyer, Mr. Smith, failed to properly object to your
13 right to confrontation, and you -- you attached to your
14 application, uh, your allegations regarding that. And, I
15 think, in your attached application, you basically were
16 saying that your client didn't -- that your lawyer didn't
17 object to hearsay. And that was your violation of
18 confrontation.

19 Have I stated that correctly?

20 A Yes, sir.

21 Q All right now, I've read the transcript -- and I'm
22 sure you're familiar with it -- and there was a lot of,
23 uh, of objections, uh, that mostly were sustained by The
24 Court regarding hearsay.

25 A Yes, sir.

1 Q Sustained means that, uh, your lawyer prevailed
2 on those grounds. Now, there were some that The Court
3 overruled. Now, you understand, then The Court
4 overrules it, then there is no hearsay at that point
5 according to that Court. Do you understand what I just
6 said?

7 A Yes, sir.

8 Q Having said those things, tell The Court how --
9 what, uh, hearsay that he objected to or failed to object
10 to that you think -- I think you allege failed to object
11 to -- that would cause you -- him to be ineffective.
12 What'd he fail to object to?

13 A That Deangelo Acker, he said that I rob somebody --
14 that I told him that I rob somebody. But that I never
15 did.

16 Q All right now, let me see if I understand this.
17 Tell The Court again, 'cause I'm not sure I heard it
18 correctly, precisely what you're objecting to that he
19 didn't do -- your lawyer didn't do.

20 A He did not object to Deangelo Acker testimony at the
21 time that he's saying that I told him that I rob
22 somebody.

23 Q All right. Now, I've read that transcript, and for
24 The Court's edification, uh, alleged -- allegedly, you,
25 after this event occurred -- the event being, uh, some,

1 uh -- uh, something you were accused of -- after that
2 happened---

3 A Yes, sir.

4 Q ---the allegations in the transcript are that you
5 told Deangelo that you committed a robbery.

6 That's what it says in there; is that correct?

7 A Yes, sir.

8 Q Now, tell The Court how that's hearsay.

9 A 'Cause I never told him that.

10 Q Well, but they didn't let Mr. -- they didn't let
11 Deangelo's testimony come in.

12 Uh, he wasn't there in the courtroom if I remember
13 correctly; am I correct?

14 A Yes, sir; he was there.

15 Q He was there; okay.

16 A He testified.

17 Q He did testify. Well, with him testifying, would
18 you agree then that was purely an alleged hearing 'cause
19 he's there and he's testifying?

20 A He wasn't never there at the incident.

21 Q He wasn't there at the incident?

22 A At the incident.

23 Q Well, did you -- did you tell your lawyer that?

24 A He knew that.

25 Q Okay. Well, would you -- would you agree that if he

1 wasn't at the incident location, the objection would be
2 he wasn't at the incident location, it wouldn't be the
3 hearsay---

4 A You can't go off another person's hearsay.

5 Q ---because... I'm sorry?

6 A You can't go off another person's word---

7 Q All right, let me see if I can---

8 A ---with no evidence.

9 Q All right, what -- what you're trying to say,
10 Mr. Jones, isn't really hearsay, it's just that Deangelo
11 wasn't even there; is that fair to say?

12 A Yes, sir.

13 Q Did you tell your lawyer that?

14 A Yes, sir; he was never there.

15 Q Did you tell your lawyer that Deangelo wasn't there?

16 A Yes, sir; he knew who was all there.

17 Q Okay. Well, did you tell your lawyer, then, that he
18 needed to cross-examine Deangelo about being present when
19 you said these things to him?

20 A No, sir.

21 Q You didn't tell him that?

22 A (No response.)

23 Q In addition to what you just told The Court, what
24 other allegations would you have that your lawyer
25 violated confrontation con- -- clause by allowing hearsay

1 in that shouldn't have been allowed and that he didn't
2 object to it?

3 A And, um, about Sarah -- about Sarah Taylor.

4 Q About Sarah Taylor?

5 A Talking -- talking about the incident that she said
6 that she got her teeth kick out and there was no
7 evidence.

8 Q Okay; now, Ms. Taylor, for The Court's knowledge
9 and edification -- this is a long transcript -- who is
10 Ms. Taylor?

11 A The victim.

12 Q She's the victim. And tell again how the victim's
13 situation or testimony would be hearsay. She was there
14 in Court, wasn't she?

15 A Yes, sir; she testified.

16 Q Okay; how would that be hearsay to the Court?

17 A 'Cause you cannot be on the stand and testify
18 against something that you don't know about.

19 Q Okay; now what you're saying, she lied under oath?

20 A Yes, sir.

21 Q Okay; did you tell your lawyer that?

22 A Yes, sir.

23 Q Now, you understand that lying under oath isn't
24 hearsay, it's -- lying under oath is perjury; do you
25 understand that?

- 1 A Yes, sir.
- 2 Q So he's aware of that?
- 3 A Yes, sir.
- 4 Q And he cross-examined her; is that correct?
- 5 A Yes, sir.
- 6 Q What in -- about this cross-examination, then, did
- 7 you object to?
- 8 A Uh, I don't know.
- 9 Q You don't know. All right, this is your day in
- 10 Court and I want you to be real clear to The Court.
- 11 You've got some serious allegations and you're
- 12 incarcerated, and I want to make sure The Court
- 13 understands what you're telling The Court in your
- 14 Application.
- 15 What else did Mr. Smith do or not do that violated
- 16 the confrontation clause as you stated regarding hearsay?
- 17 A Oh, the EMS worker.
- 18 Q What about the EMS worker?
- 19 A I don't have it in here.
- 20 Q You don't have what?
- 21 A I don't have it on me; it's in my transcript.
- 22 Q It's in your transcript? What page would that be on
- 23 with an EMS worker in your transcript?
- 24 A I don't know; I only have -- I don't have it by me.
- 25 Q Okay; I do have your transcript. Would you be able

1 to find it or would you -- or do you need---

2 A I believe I would need some time to look over it.

3 Q You will need some time. Do you have an idea where
4 it might be?

5 A No, sir; I have none.

6 Q I'm gonna let my paralegal look through there and
7 ask you some more questions and come back to that; okay?

8 A (No response.)

9 Q Did you hear me, sir?

10 A Yes, sir.

11 Q I'll come back to that in just a few minutes; she's
12 gonna look through there. She's actually read this
13 herself.

14 All right, Mr., uh, Mr. Jones, we'll come back to
15 those allegations; let's go to the next thing. You said
16 in your -- in this return here in your Application that
17 Counsel informed the jury that you were a convicted
18 felon.

19 A Yes, sir; at the closing argument.

20 Q Okay. Now, how did that prejudice the jury? I
21 think, in reading your transcript, he was trying to tell
22 the jury a convicted felon would not have done the things
23 you did with a gun. I think that's what he was trying to
24 get to; it was a trial strategy for him. Do you disagree
25 with that?

1 A Yes, I didn't agree to it because he supposed to
2 be de- -- defending me, not going against me. You
3 telling -- you telling the jury that I'm a convicted
4 felon, that's not helping me.

5 Q Okay; now, did you understand what I just said a
6 moment ago?

7 A Yes, sir.

8 Q That perhaps it was a trial strategy?

9 (WHEREUPON, PROCEEDINGS WERE INTERRUPTED FOR A
10 CONFERENCE, OFF THE RECORD.)

11 (WHEREUPON, PROCEEDINGS CONTINUED.)

12 Q I'm sorry; did you understand my question just then,
13 sir?

14 A Yes, sir.

15 Q Anything you want to respond to in that regard?

16 A No, sir.

17 Q Okay. So you're saying that he shouldn't have told
18 the jury under any strategy whatsoever that you were
19 already a felon, even though it related to the possession
20 of a weapon? Is that what you're telling The Court?

21 A Yes, sir.

22 Q Okay. Do you think you were prejudiced by that?

23 A Yes, sir.

24 Q Now, the next one you'll have to help on a little
25 bit, Mr. Jones. I've read it and I can't understand it

1 myself.

2 You allege in your Application that your lawyer
3 failed to object -- um, to ask for an in camera hearing.
4 What do you mean by that?

5 A Yes, sir; the Judge had told him, before he go into
6 the, um, conversation that he supposed to ask for an in
7 camera and he never did; he waived it.

8 Q All right, now what was -- the Judge -- what was the
9 Judge asking -- referring to an in camera hearing about?
10 Do you recall that?

11 A Um, it was about a -- a conversation about two guys
12 firing at each other.

13 Q Well, what was the in camera hearing going to be
14 for? What was the purpose that you thought that hearing
15 needed to take place?

16 A (No response.)

17 Q What was the purpose that you thought this in camera
18 hearing would encompass? Why should it have taken place?

19 A 'Cause it would-a showed a different outstanding
20 (sic).

21 Q It would-a showed what, sir?

22 A It would-a showed a different outstanding.

23 Q A different outstanding? Do you mean a different
24 outcome?

25 A Yes, sir.

1 Q And how would it have produced a different outcome,
2 Mr. Jones?

3 A 'Cause it would-a showed that I never did anything
4 to the female; it -- it was just a fight.

5 Q It was just a fight between the two females?

6 A Yes, sir.

7 Q And I think your lawyer, that was his theory in
8 the -- in the whole trial was this was just a fight
9 between two lesbian females; isn't that correct?

10 A Yes, sir. He showed him -- he showed the jury and
11 the prosecutor the statements.

12 Q Okay; so he got that out in front of the jury at
13 some point anyway, isn't that correct?

14 A Yes, sir.

15 Q Can you tell The Court then how you were prejudiced
16 by not having an in camera hearing on that issue since it
17 did get put in front of the jury?

18 A I already waived my opportunity for that, sir.

19 Q But he did put it in front of the jury. He -- the
20 jury was aware and he's questioned that these were two
21 lesbians; they admitted it themselves, didn't they?

22 A Yes, sir.

23 Q So then, isn't it a fact, then, that that really --
24 that objection that you've made -- you didn't have an in
25 camera hearing, but it didn't matter 'cause he'd got to

1 the jury what he wanted the jury to hear about it; is
2 that true?

3 A Yes, sir.

4 Q All right; I wanted to make sure I understood that.
5 Now, you've also alleged, Mr. Jones -- bear with me, sir.

6 You've also alleged that your lawyer failed to
7 object to the picture of the victim, and he -- and he
8 said that he didn't put her (sic) hands on her.

9 I guess you're talking about you; is that correct?

10 A Yes, sir.

11 Q Uh, now, in this particular case -- for the
12 Judge's understanding -- this allegedly was an armed
13 robbery in -- in a victim's apartment; is that correct?

14 A Yes, sir.

15 Q And there allegedly was two little babies there; one
16 was three and one was about one; is that correct?

17 A Yes, sir.

18 Q And allegedly, uh, one of the adult victims had her
19 teeth kicked and her head got kicked and there were
20 several bruises on her; is that correct?

21 A Yes, sir.

22 Q And they took -- and the Law Enforcement took
23 pictures of that; is that correct?

24 A No, sir; they took pictures of Ronnie Bentley
25 (phonetic) but the officer -- they took pictures of

1 Ronnie Bentley but---

2 Q Ronnie Bentley is one of the victims, isn't she?

3 A Yes, sir.

4 Q There were two women in the apartment; correct?

5 A Yes, sir.

6 Q And she's one of 'em?

7 A Yes, sir.

8 Q And she was the one that allegedly was kicked some
9 and had her teeth knocked around; is that correct?

10 A Yes, sir.

11 Q Now, you're alleging that your lawyer failed to
12 object to a picture of Ms. Bentley, who as a victim; is
13 that correct?

14 A Yes, sir.

15 Q But wouldn't that -- wouldn't her picture be
16 allowed, Mr. Jones, if she's a victim and she's been
17 hurt? Wouldn't that be allowed normally in front of a
18 jury?

19 A Not if she admit that she -- that I didn't put hands
20 on her.

21 Q Okay. Did -- did -- did you tell -- did he tell
22 the -- the jury at some point or cross-examine you---

23 A They testified that I didn't do nothing.

24 Q But you didn't testify. Well, would you agree,
25 then, that that was simply a matter for the jury to

1 decide whether or not you'd done any of this?

2 A No, sir.

3 Q Well, the jury did decide that, didn't they?

4 A Yes, sir.

5 Q Now, again, so I'm clear and the Judge is clear, a
6 victim normally, if they have injuries, those injuries
7 would normally be put to the jury for the jury to see in
8 the form of a photograph.

9 Would you agree with that?

10 A Yes, sir.

11 Q And so, is your objection that your client (sic)
12 should have objected to it even though it normally
13 comes -- goes to the jury anyway?

14 A Yes, sir.

15 Q Okay. All right, it says that your lawyer failed to
16 object to Deangelo Acker's hearsay. We talked about that
17 a few minutes ago.

18 A Yes, sir.

19 Q One more thing you alleged is that your lawyer
20 failed to ask where the alleged stolen property was.
21 Now, for The Court's edification, uh, basically, you and
22 someone else took three hundred and fifty dollars from
23 Mrs., uh, Bentley and some other woman. Is that correct?

24 A Yes, sir.

25 Q And you're saying your lawyer failed to ask where

1 the stolen property was? That was money, wasn't it?

2 A Yes, sir.

3 Q Well, they recovered two hundred and two dollars of
4 that, didn't they? Law enforcement? Didn't they get two
5 hundred and two dollars?

6 A Yes, sir.

7 Q Out of the three-fifty?

8 A Yes, sir.

9 Q And there was some questioning, I think by
10 Mr. Smith, about where the remainder went and maybe if
11 they had -- if someone threw it on the railroad tracks
12 or something. He actually stated that in his
13 cross-examination, didn't he?

14 A No, sir.

15 Q He didn't? You don't recall that?

16 A I don't recall it.

17 Q Okay. So if he didn't ask where the stolen property
18 was, or make a -- uh, or allude to how did a hundred and
19 fifty dollars disappear quickly, he should have done
20 that.

21 Is that your allegation?

22 A Yes, sir.

23 Q All right now, Mr. Jones, this is your day in Court.
24 I want you to see if I've asked all the questions I need
25 to ask. I've gone over everything you -- that you

1 alleged in your original Application. And, in the packet
2 of information you sent me that opposing Counsel
3 graciously allowed me to amend. So is there anything
4 else you want to tell The Court today?

5 A That's it, sir.

6 Q Now, do you feel like that, because of these things
7 you allege your lawyer did and didn't do, that, uh, you
8 were ineffectively represented?

9 A Yes, sir.

10 Q And are you asking The Court to find that and to
11 allow you to have a new trial on these issues?

12 A Yes, sir.

13 Q Do you think that, but for those errors by your
14 lawyer, you would have had a different result and perhaps
15 be found not guilty?

16 A Yes, sir.

17 Q Thank you; answer anything opposing Counsel or The
18 Court may have.

19 **THE COURT:** Mr. Schmeckpeper; cross-examination?

20 **MR. SCHMECKPEPER:** Your Honor, I have no questions
21 of this witness.

22 **THE COURT:** All right. You may step down.

23 (WHEREUPON, WITNESS LEFT THE WITNESS STAND.)

24 **THE COURT:** You may call your next witness,
25 Mr. Welborn.

1 **MR. WELBORN:** Bear with me, Your Honor.

2 **THE COURT:** Okay.

3 (WHEREUPON, PROCEEDINGS WERE INTERRUPTED FOR A
4 CONFERENCE, OFF THE RECORD.)

5 (WHEREUPON, PROCEEDINGS CONTINUED.)

6 **MR. WELBORN:** Your Honor, for The Court's
7 edification -- and I forgot to get back to my client on
8 this -- but, there is some EMS testimony. It's at the
9 beginning on page eighty-two and going to about page
10 one-o-two. I'm not going to call my client back on that,
11 I just want to add that there is some testimony to an EMS
12 issue on that. And it was objected to as being hearsay
13 by Mr. Smith -- on page one hundred and...

14 **THE COURT:** Page what?

15 **MR. WELBORN:** This -- on page one-o-one, Mr. Smith
16 objected to some testimony and The Court actually
17 sustained that and -- and found it to be hearsay.

18 (WHEREUPON, PROCEEDINGS WERE INTERRUPTED FOR A
19 CONFERENCE, OFF THE RECORD.)

20 (WHEREUPON, PROCEEDINGS CONTINUED.)

21 **THE COURT:** Okay.

22 **MR. WELBORN:** I'm sorry, Your Honor?

23 **THE COURT:** I -- I note it; I see that.

24 **MR. WELBORN:** And that's my case.

25 **THE COURT:** Mr. Schmeckpeper?

1 **MR. SCHMECKPEPER:** Your Honor, at this point I'd
2 move for a summary judgement. Uh, I think, looking at --
3 even taking these allegations in the light best -- in --
4 in a light most favorable to the Applicant, he hasn't met
5 his burden. Uh, I'd request that you dismiss his
6 Application with prejudice.

7 **THE COURT:** All right. Uh, Mr. Welborn?

8 **MR. WELBORN:** Your Honor, if it please The Court,
9 uh, I think my client has met his burden. We ask that
10 you grant him, uh, post-conviction relief.

11 **MR. SCHMECKPEPER:** Your Honor, I'd be happy to
12 answer any questions or submit anything.

13 **THE COURT:** The only -- only real question I have is
14 about any of the testimony or allegations related to the
15 Applicant's belief that his attorney told the jury he was
16 a felon, I don't think that's what his attorney said.
17 Uh...

18 **MR. SCHMECKPEPER:** Your Honor, uh, for the record, I
19 think -- that did come out during closing argument. I'd
20 be happy to put Counsel up on that specific issue.

21 **THE COURT:** Well, I'll -- I mean, I'm looking at it,
22 but -- but -- on page, uh, four-eleven. Is there another
23 place other than four-eleven?

24 **MR. WELBORN:** Page four-sixteen.

25 **THE COURT:** Page four-sixteen also?

1 **MR. WELBORN:** Yes, sir; on line six through line
2 ten.

3 (WHEREUPON, PROCEEDINGS WERE INTERRUPTED FOR
4 TRANSCRIPT REVIEW.)

5 (WHEREUPON, PROCEEDINGS CONTINUED.)

6 **THE COURT:** Uh, yeah. Mr. Schmeckpeper, I'd -- I'd
7 like to hear testimony on that, uh, on that issue about
8 why he told the jury that his client was a felon. That's
9 really the only question I have.

10 **MR. SCHMECKPEPER:** Thank you, Your Honor. The State
11 . calls Donald Smith.

12 (WITNESS FORWARD.)

13 **CLERK:** Mr. Smith, will you please raise your right
14 hand.

15 (WHEREUPON, **DONALD SMITH** WAS DULY SWORN AND
16 TESTIFIED AS FOLLOWS:)

17 **CLERK:** Thank you; please have a seat around on the
18 witness stand.

19 DONALD SMITH, DIRECT EXAMINATION BY MR. SCHMECKPEPER:

20 Q Good afternoon, Mr. Smith.

21 | A Good afternoon.

22 Q How you doing today?

23 | A Great; how are you?

24 Q Pretty good. Do you remember -- do you have a
25 pretty good memory of this case?

1 A I remember everything from this case.

2 Q And do you remember telling, uh, the jury, during
3 your closing argument, that the Applicant was indeed a
4 convicted felon?

5 A I most certainly did.

6 Q And do you remember the EMS testimony from the
7 beginning of the trial?

8 A As in reference to what? I mean, I---

9 Q Was not the Applicant seen fleeing the actual scene
10 of the armed robbery?

11 A He was alleged to have been seen fleeing (sic) --
12 or, fleeing the apartment complex along the railroad
13 tracks. He took a left turn which took him in front of
14 the EMS building and he went the -- and his gun fell out
15 of his sock, I believe, while going in front of the EMS
16 building.

17 Q He was seen running away -- he was seen with a gun
18 running away?

19 A Yes.

20 Q Did you have any real way to explain that?

21 A The only -- the reason I did what I did is because I
22 had represented him before and I knew he was a felon.
23 And the jury needed to know why he would run; because he
24 had a gun, because other than that it looks like he's in
25 an armed robbery.

1 So I said to myself, well, you need to show the jury
2 that he had a reason to run to -- because of a felon
3 having a gun.

4 It had nothing -- this had nothing to do with the
5 robbery; he wasn't using it for a violent act. So, I
6 wanted them to understand that. Because, having a gun for
7 a felon is, uh -- well, slightly better than armed
8 robbery.

9 Q You're saying, pursuant to a trial strategy, you
10 told the jury he was a felon? That would explain why he
11 was fleeing the scene?

12 A Absolutely.

13 Q Thank you, Mr. Smith. I have no further questions;
14 please answer any questions Counsel may have.

15 **MR. WELBORN:** No questions.

16 **THE COURT:** All right, thank you. You may step
17 down.

18 **MR. SMITH:** Thank you, sir.

19 (WHEREUPON, WITNESS LEFT THE WITNESS STAND.)

20 **THE COURT:** All right, anything else from The State?

21 **MR. SCHMECKPEPER:** Your Honor, The State rests
22 unless you have any further questions. I'd be happy to
23 answer anything.

24 **THE COURT:** I don't have any questions. Anything
25 else, Mr. Welborn?

1 **MR. WELBORN:** No, sir. There's just another
2 reference of this, uh, fleeing felon cross-examination on
3 page three-forty-five, but it's basically related --
4 related to what he just said. In the transcript; it's on
5 line eleven and twelve in cross-examining a -- an Officer
6 Johnson. And it's on the same period I would assume; but
7 I just want to point that out it is two places.

8 **THE COURT:** Okay; I understand. Anything else
9 before The Court rules?

10 **MR. SCHMECKPEPER:** No, sir, Your Honor.

11 **THE COURT:** Mr. Welborn?

12 **MR. WELBORN:** No.

13 **THE COURT:** Mr. Schmeckpeper?

14 **MR. SCHMECKPEPER:** Nothing further, Your Honor.

15 **THE COURT:** All right, I under- -- I understand, and
16 I -- particularly after reading page three-forty-five,
17 uh, the trial strategy of -- of why the jury was, uh,
18 informed that he was a felon.

19 Well, uh, nevertheless, I -- I find that there is
20 insufficient evidence for the Applicant's motion to be
21 granted. That there appears to be no prejudice. So,
22 there appears to be no prejudice to him by anything. And
23 further, I -- I don't see any errors. For those reasons,
24 The Court will deny the application for post-conviction
25 relief.

1 And, Mr. Schmeckpeper, if you'd please prepare an
2 order?

3 **MR. SCHMECKPEPER:** Yes, Your Honor.

4 **THE COURT:** All right; thank you.

5 (WHEREUPON, HEARING ENDED AT 11:04 A.M.)

6 *****END OF REQUESTED TRANSCRIPT*****
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1 STATE OF SOUTH CAROLINA)

2) CERTIFICATE OF REPORTER

3 COUNTY OF OCONEE)

4

5 I, THE UNDERSIGNED VIVIAN H. CROSS, OFFICIAL COURT
6 REPORTER FOR THE TENTH JUDICIAL CIRCUIT OF THE STATE OF
7 SOUTH CAROLINA, DO HEREBY CERTIFY THAT THE FOREGOING IS A
8 TRUE, ACCURATE AND COMPLETE TRANSCRIPT OF THOSE
9 PROCEEDINGS REQUESTED AND EVIDENCE INTRODUCED IN THE TRIAL
10 OF THE CAPTIONED CASE, RELATIVE TO APPEAL, IN THE COURT OF
11 COMMON PLEAS FOR ANDERSON COUNTY, SOUTH CAROLINA, ON THE
12 2ND DAY OF FEBRUARY 2016.

13 I DO FURTHER CERTIFY THAT I AM NEITHER OF KIN,
14 COUNSEL NOR INTEREST TO ANY PARTY HERETO.

15

16

17

18

19

VIVIAN H. CROSS, COURT REPORTER

20

TENTH CIRCUIT AT LARGE

21

NOVEMBER 6, 2016

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25

STATE OF SOUTH CAROLINA

COUNTY OF ANDERSON

Jamario Q. Jones,
S.C.D.C. No. 335879

Applicant,

v.

State of South Carolina,

Respondent.

) IN THE COURT OF COMMON PLEAS

) TENTH JUDICIAL CIRCUIT

) C.A. No. 2014-CP-04-1727

ORDER OF DISMISSAL
(with prejudice)

A TRUE COPY

JUN 15 2016

*Debra M. Kiley*FILED-CLERKS OFFICE
ANDERSON, SC

2016 JUN 14 PM 12

COMMON PLEAS AND
GENERAL SESSIONS

This matter comes before the Court by way of a post-conviction relief (PCR) application

filed on August 13, 2014. Respondent filed its Return on January 19, 2016. An evidentiary hearing into the matter was convened on February 9, 2016, at the Anderson County Courthouse. Applicant was present at the hearing and was represented by Hugh W. Welborn, Esquire. Respondent was represented by Patrick Schneckpeper, Esquire, of the South Carolina Attorney General's Office.

PROCEDURAL HISTORY

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Clerk of Court for Anderson County. Applicant was indicted at the July 2011 term of the Court of General Sessions for Anderson County for Armed Robbery (2011-GS-04-1210), Burglary First Degree (2011-GS-04-1211), and Possession of a Weapon during a Violent Crime (2011-GS-04-1212). Applicant was represented by Donald L. Smith, Esq. Applicant proceeded to trial on February 15, 2012, in which a jury convicted him as indicted. The Honorable R. Lawton McIntosh sentenced Applicant to concurrent terms of twenty

(20) years each for Armed Robbery and Burglary with a sentence of five (5) years for Possession of a Weapon during a Violent Crime to run consecutively to the previous sentence.

A timely Notice of Appeal was filed on Applicant's behalf and an appeal was perfected by Carmen Ganjehsani, Esq. The South Carolina Court of Appeals affirmed the Applicant's convictions and sentences. State v. Jones, No. 2014-UP-040 (filed January 29, 2014). The Remittitur was issued on March 4, 2014.

Allegations

In his application for post-conviction relief, Applicant alleged he was being held in custody unlawfully for the following reasons:

1. Ineffective Assistance Counsel, in that;
 - a. Counsel "fail[ed] to properly to object to Applicant right to confrontation",
 - b. Counsel "informed the jury that (Jamario Jones) is a convicted felon,"
 - c. Counsel "fail[ed] to ask for a (In-camera hearing)"
2. Due Process Violation, in that;
 - a. "Confrontation clause."

On January 29, 2016, Applicant submitted an amended application, through counsel, raising the following additional allegations:

1. Ineffective assistance counsel.
 - a. Counsel failed to object to the picture of the victim, admitted he didn't put hands on her.
 - ~~b. Counsel failed to object to Deangelo Acker as hearsay.~~
 - c. Counsel failed to ask where alleged stolen property was at.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court has reviewed the testimony presented at the evidentiary hearing, observed the witnesses presented at the hearing, passed upon their credibility, and weighed the testimony accordingly. Further, this Court reviewed the Clerk of Court records regarding the subject

convictions, Applicant's records from the South Carolina Department of Corrections, the application for post-conviction relief, the transcripts and documents from the prior proceedings, and the legal arguments of counsel. Pursuant to S.C. Code Ann. §17-27-80 (2015), this Court makes the following findings of fact and conclusions of law based upon all of the probative evidence presented.

Ineffective Assistance of Counsel

In a post-conviction relief action, the applicant has the burden of proving the allegations in the application. Rule 71.1(e), SCRPC; Butler, 286 S.C. 441, 334 S.E.2d 813 (1985). Where ineffective assistance of counsel is alleged as a ground for relief, the Applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result." Strickland v. Washington, 466 U.S. 668, (1984); Butler, 286 S.C. 441, 334 S.E.2d 813 (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. 441, 334 S.E.2d 813 (1985). The applicant must overcome this presumption to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989).

Courts use a two-pronged test in evaluating allegations of ineffective assistance of counsel. First, the applicant must prove that counsel's performance was deficient. Under this prong, attorney performance is measured by its "reasonableness under professional norms." Cherry, 300 S.C. at 117, 385 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."

Id. at 117-18, 386 S.E.2d at 625.

Failure to Object to Hearsay

With respect to Applicant's allegation that counsel was ineffective for failing to object to hearsay, he has failed to raise any instances of actual hearsay. Applicant said DeAngelo testified that Applicant told him he robbed somebody. Applicant said that this was hearsay because DeAngelo was not at the scene. Applicant said that he told his lawyer that.

This Court finds the statement in question is, by definition, not hearsay. An admission by a party opponent is not hearsay. Rule 801(d)(2). Accordingly, any objection would have been frivolous and overruled. This allegation is therefore denied and dismissed.

Victim's Missing Teeth

Applicant further alleged that one of the victims, Darcel Taylor, lied under oath in saying her teeth were kicked out during the armed robbery. This Court finds no deficiency as counsel elicited testimony to the jury that called Ms. Taylor's credibility into question. On cross-examination, Daniel Bannister – the officer who initially responded to the scene – testified in response to counsel's questioning that he did not remember seeing any missing teeth from the victims. Tr. p. 77, l. 10-11. Counsel also pointed out that one of the investigating officers – Agent Stallo – did not mention seeing Ms. Taylor's teeth missing when he told the jury which injuries he observed at the scene. Tr. p. 173, l. 15-16. Counsel also elicited testimony from Officer Tommy Johnson that he was initially unaware of the injuries to Ms. Taylor's teeth, and did not actually find out about them until Applicant's preliminary hearing. Tr. p. 343, l. 2-10. Finally, counsel argued to the jury that there was no evidence anything happened to Ms. Taylor's teeth during the robbery. Tr. p. 416, l. 2-3.

In addition, Applicant has not presented any evidence other than his own testimony – which this Court finds not credible – that Ms. Taylor was lying under oath. This Court will not assist Applicant in meeting his burden by engaging in rampant speculation. See generally, Moorehead v. State, 329 S.C. 329, 334, 496 S.E.2d 415, 417 (1998) (speculation not sufficient to support prejudice prong of ineffective assistance of counsel claim). This allegation is therefore denied and dismissed.

Informing the Jury Applicant was a Convicted Felon

Applicant alleged counsel was ineffective for informing the jury that he was a convicted felon. This Court finds Applicant has failed to meet his burden, as counsel acted pursuant to a valid trial strategy. Where counsel articulates a valid reason for employing certain strategy, such conduct will not be deemed ineffective assistance of counsel. See Whitehead v. State, 308 S.C. 119, 417 S.E.2d 529 (1992).

Counsel testified at the evidentiary hearing that he informed the jury applicant was a convicted felon as part of a trial strategy. Counsel said there was testimony at trial that Applicant was armed and fleeing from police. Counsel said that telling the jury Applicant was a convicted felon helped to explain why Applicant would be running from police even if he had not committed the armed robbery – because he was in unlawful possession of a weapon.

This Court finds that counsel's testimony is credible, and that his trial strategy here was objectively reasonable. Further, this Court agrees that by revealing Applicant's status as a convicted felon, counsel provided the jury with another possible explanation for fleeing from the police. This allegation is therefore denied and dismissed with prejudice.

Failure to Request an In Camera Hearing

Applicant next alleges counsel was ineffective for failing to request an *in camera* hearing. Applicant said that the judge was referring to lesbians fighting, and that if the jury had heard that the incident was "just a fight between two females," then there would have been a different outcome. Applicant admitted, however, that the jury ultimately got to hear that information.

This Court finds this allegation is without merit. First, Applicant has failed to present any evidence that he was actually entitled to an evidentiary hearing. Following a bench conference, the trial court ruled that any information concerning the relationship-type testimony was to be first elicited in camera or outside the presence of the jury. Tr. p. 196, l. 24 - p. 197, l. 11. To the extent Applicant is to be alleging that as a result of this ruling counsel failed to elicit such evidence, his claim is factually refuted by the record. The record reflects that counsel was able to elicit and argue to the jury that the victim, Ms. Bentley, and Applicant's co-defendant, were lesbians. Tr. p. 225, l. 16-17. There was testimony that Applicant's co-defendant went over there for a fight rather than to rob anyone. Tr. p. 366, l. 1-4. Further, Applicant stated in argument that this was "some sort of squabble and a fight" between "two studs." Tr. p. 411, l. 5-6. As there is no evidence in the record to support the factual basis of this allegation, it is denied and dismissed.

Failure to Object to the Picture of the Victim

Applicant also alleges counsel was ineffective in failing to object to pictures of Ms. Bentley's injuries, when she said Applicant did not "lay hands on her." This Court finds Applicant has failed to meet his burden, where the pictures were admissible to corroborate the victim's story and as part of the *res gestae* of the burglary and armed robbery.

The *res gestae* theory recognizes that evidence of other bad acts may be an integral part of the crime with which the defendant is charged or may be needed to aid the fact finder in understanding the context in which the crime occurred. State v. Owens, 346 S.C. 637, 652, 552 S.E.2d 745, 753 (2001) *overruled on other grounds by* State v. Gentry, 363 S.C. 93, 610 S.E.2d 494 (2005). Evidence of other crimes which supplies the context of the crime, or is intimately connected with and explanatory of the crime charged, is admissible as *res gestae* evidence. State v. Wiles, 383 S.C. 151, 158, 679 S.E.2d 172, 176 (2009).

This Court finds the testimony regarding the assault of the victim by Applicant's co-defendant was "necessary and relevant to a full presentation of the evidence in this case." See State v. Wood, 362 S.C. 520, 528, 608 S.E.2d 435, 439-40 (Ct. App. 2004). The photographs of Ms. Bentley's injuries corroborated her testimony, in which she described Applicant going back and forth between searching for drugs and money, and holding her at gunpoint while his co-defendant repeatedly kicked her. Tr. p. 210, l. 9-12. It was relevant to show the complete, whole, unfragmented story regarding the armed robbery. See Id. Accordingly, the photographs were admissible, and any objection by Applicant would have been overruled. Applicant has therefore failed to meet his burden with respect to this allegation.

In any event, Applicant has failed to show prejudice. At the evidentiary hearing, Applicant testified that the robbery was actually "just a fight between two females." The pictures were consistent with this version of events. Further, Applicant has failed to produce the photographs at the evidentiary hearing. Without the opportunity to view the photographs, this Court has no way of determining what the actual impact on Applicant's case would be. See Moorehead v. State, 329 S.C. 329, 334, 496 S.E.2d 415, 417 (1998). Accordingly, this Court

finds Applicant has failed to meet his burden to show a reasonable likelihood that they contributed to the verdict.

Failure to ask where Stolen Property went

Applicant also alleges counsel was ineffective in failing to ask where the stolen property went. This allegation is entirely without merit. A review of the record indicates that counsel made a substantial issue out of what happened to the property Applicant stole from the victims. According to the testimony presented at trial, Applicant stole approximately three hundred and fifty dollars from the victims. Tr. p. 337, l. 21-22. Upon apprehension, very shortly after the robbery, Applicant was found with only two hundred and two dollars on his person. Tr. p. 338, l. 3-4.

On cross-examination, counsel elicited testimony from law enforcement that they could not definitively link the money recovered from Applicant to what was stolen from the victims. Tr. p. 338, l. 10-12. Counsel also pointed out that police did not know what happened to the missing money – the difference between the amount reportedly stolen and the amount in Applicant's possession – and could not explain how Applicant got rid of it in such a short amount of time. Tr. p. 345, l. 21 - p. 345, l. 3. Counsel emphasized both of these points to the jury during his closing arguments. Tr. p. 414, l. 6-15. As the record entirely refutes Applicant's allegation, this Court finds he has failed to meet his burden. This allegation is therefore denied and dismissed.

ALL OTHER ALLEGATIONS

As to any and all allegations that were raised in the application or at the hearing in this matter and not specifically addressed in this order, the Court finds Applicant failed to present

any evidence regarding such allegations. Accordingly, the Court finds Applicant has abandoned any such allegations.

CONCLUSION

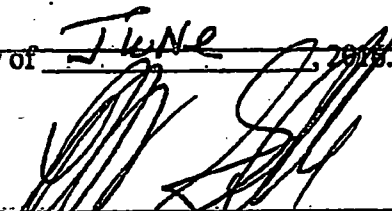
Based on the foregoing, this Court finds that the Applicant has not established any constitutional violations or deprivations that would require this Court to grant his application for post-conviction relief. Therefore, this application for post-conviction relief must be denied and dismissed with prejudice.

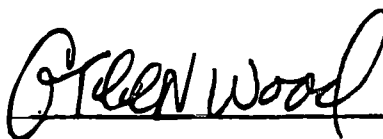
This Court notes that Applicant must file and serve a notice of intent to appeal within thirty (30) days from receipt of this Order to secure the appropriate appellate review. See Rule 203, SCACR. Rule 71.1(g), SCRCP; Bray v. State, 336 S.C. 137, 620 S.E.2d 743 (2005), for the obligation of Applicant's counsel to file and serve notice of appeal. The Applicant's attention is also directed to South Carolina Appellate Court Rule 243 for appropriate procedures after notice 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. Applicant must be remanded to the custody of the South Carolina Department of Corrections.

AND IT IS SO ORDERED this 7 day of JUNE, 2016.


BROOKS P. GOLDSMITH
Presiding Judge
Tenth Judicial Circuit
COMMON PLEAS AND
GENERAL SESSIONS

 South Carolina

FILED-CLERK'S OFFICE
ANDERSON SC
2016 JUN 14 PM 12:32

WITNESSES

Tommy Johnson, Anderson County Sheriff's Dept.

ARREST WARRANT NUMBER

J910005

ACTION OF GRAND JURY

TRUE BILL

JUL 26 2011

Foreperson of Grand Jury

Date: Foreperson

VERDICT

Foreperson of Petit Jury

Date: 2-15-12

DOCKET NO. 2011GS04 01210

The State of South Carolina

County of Anderson

COURT OF GENERAL SESSIONS

JUL 26 2011

Term

THE STATE

VS.

Jamario Quinton Jones

RLC

Indictment for

**Robbery / Armed Robbery, robbery while armed
or allegedly armed**

SC Code: 16-11-0330(A)

CDR Code: 0139

A TRUE COPY

AUG 13 2014

Robert M. Kelly
CLERK OF COURT

COMMITMENT

2-16-12 - Amended

2-15-12 - R+

STATE OF SOUTH CAROLINA)
COUNTY OF Anderson)

INDICTMENT

At a Court of General Sessions, convened on JUL 26 2011, the Grand Jurors of Anderson County present upon their oath:

Robbery / Armed Robbery, robbery while armed or allegedly armed

That Jamario Quinton Jones did in Anderson County, on or about April 15, 2011, while armed with a deadly weapon, to wit: a firearm, or while alleging either by action or words he/she was armed while using a representation of a deadly weapon or any object which a person present during the commission of the robbery would reasonably believe to be a deadly weapon, take by means of force or intimidation, goods or monies described as: approximately \$350.00 in cash from the person or presence of Ronni Bentley. This is in violation of §16-11-330(A) of the *South Carolina Code of Laws (1976)*, as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

Ramel Campbell

ASSISTANT SOLICITOR

WITNESSES

Tommy Johnson, Anderson County Sheriff's Dept.

ARREST WARRANT NUMBER

J910006

ACTION OF GRAND JURY
TRUE BILL

JUL 26 2011

Foreperson of Grand Jury
Date:

VERDICT

Foreperson of Petit Jury
Date: 2-15-12

DOCKET NO. 2011GS04

01211

The State of South Carolina
County of Anderson

COURT OF GENERAL SESSIONS

JUL 26 2011

Term

THE STATE

VS.

Jamarlo Quinton Jones

RLC

Indictment for

Burglary / Burglary (After June 20, 1985) - First
degree

SC Code: 16-11-0311
CDR Code: 0079

A TRUE COPY

AUG 13 2014

Robert A. Kelly
CLERK OF COURT

COMMITMENT
2/16/12 - Amended
2-15-12 - R+

502

STATE OF SOUTH CAROLINA)
COUNTY OF Anderson)

INDICTMENT

At a Court of General Sessions, convened on JUL 26 2011, the Grand Jurors of Anderson County present upon their oath:

Burglary / Burglary (After June 20, 1985) - First degree

That Jamario Quinton Jones did in Anderson County, on or about April 15, 2011, willfully and unlawfully enter the dwelling of Ronni Bentley located at 601 Calhoun Road in Belton, South Carolina, without consent and with the intent to commit a crime therein and/or when, in effecting entry or while in the dwelling or in immediate flight he or another participant in the crime, is armed with a deadly weapon or explosive; and/or causes physical injury to a person who is not a participant in the crime; and/or uses or threatens the use of a dangerous instrument; and/or displays what is or appears to be a knife, pistol, rifle, shotgun, machine gun, or other firearm; and/or the burglary is committed by a person with a previous record of two or more convictions for burglary or housebreaking or a combination of both; and/or the entering or remaining occurs in the nighttime. This is in violation of §16-11-311 of the *South Carolina Code of Laws (1976)*, as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



ASSISTANT SOLICITOR

WITNESSES

Tommy Johnson, Anderson County Sheriff's Dept.

ARREST WARRANT NUMBER

J910007

ACTION OF GRAND JURY

TRUE BILL

JUL 26 2011

Foreperson of Grand Jury
Date: 7-26-11

VERDICT

Guilty

Foreperson of Petit Jury
Date: 2-15-12

DOCKET NO. 2011GS04

01212

The State of South Carolina
County of Anderson

COURT OF GENERAL SESSIONS

JUL 26 2011

Term

THE STATE

vs.

Jamario Quinton Jones

RLC

Indictment for

**Weapons / Poss. weapon during violent crime,
If not also sen**

SC Code: 16-23-0490
CDR Code: 0549

A TRUE COPY

AUG 13 2014

Robert M. Kinley
CLERK OF COURT

COMMITMENT

2/16/12 Amended

2/15/12 RT

STATE OF SOUTH CAROLINA)
COUNTY OF Anderson)

INDICTMENT

At a Court of General Sessions, convened on JUL 26 2011, the Grand Jurors of Anderson County present upon their oath:

Weapons / Poss. weapon during violent crime, if not also sen

That Jamarion Quinton Jones, did in Anderson County on or about April 15, 2011, while committing the crime of Armed Robbery, a crime of violence, have in his possession a firearm, all in violation of Section 16-23-490, Code of Laws of South Carolina, (1976), as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

Ramel Campbell
ASSISTANT SOLICITOR