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Volume II of II

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

ORIGINAL

Appeal from Florence County

Honorable Michael G. Nettles, Circuit Court Judge

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SC Court of Appeals

THE STATE,

RESPONDENT,

V.

MICHAEL DONTA BROOKS,

APPELLANT

APPELLATE CASE NO

RECORD ON APPEAL

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THE FOLLOWING EXHIBITS ARE ON FILE WITH THIS COURT:
STATE'S EXHIBIT NO. 1 – INTERVIEW ON MARCH 17, 2014;
STATE'S EXHIBIT NO. 5 – CD OF JAIL PHONE CALL

CROSS EXAMINATION OF MICHAEL BROOKS BY MR. JEPERTINGER 542

1 Q All right. And then you said he had seen Mr. Murphy at the
2 bank, had a lick, had jewelry, was with Terrance, had a
3 gun. I would not get involved with this if I knew they had
4 done something wrong?

5 A I didn't say wrong. I said what they did.

6 Q So, you take jewelry that you know that they've gotten
7 from a robbery and now you're saying to this jury, I
8 wouldn't have gotten involved at all with this if I'd know
9 what they'd done?

10 A I didn't know they committed a robbery, sir. I thought
11 they might have broke into somebody house or something
12 like that. If you understand ---

13 Q Oh, I got you. I got you.

14 A Yes, sir.

15 Q I got you. Okay. I understand what you're ---

16 MR. WILSON: Let him answer. He's trying to answer.

17 THE COURT: Okay. Re-phrase the question and allow him to
18 answer.

19 Q I'm misunderstanding a lick, right?

20 A Yes, sir, you are.

21 Q Okay. So, a lick for you is burglary. Right?

22 A It's not necessarily a burglary. I guess breaking in
23 somebody's car, I might pay a hundred for a pair of
24 speakers and sell them to somebody else for two hundred
25 dollars. I might come across something here. Different

1 things.

2 Q Okay.. So, theft is just as morally good as robbery and
3 burglary. That's okay?

4 A No, sir, it isn't.

5 Q Uh-huh. So, it's okay if you just steal from someone.
6 That's okay?

7 A No, sir. It isn't.

8 Q Well, I think that's what you told this jury.

9 MR. JEPERTINGER: That's all the questions I have of this
10 witness.

11 THE COURT: Redirect?

12 MR. WILSON: No, sir. No redirect, Your Honor.

13 THE COURT: All right. You may step down. Mr. Wilson, you
14 may call your next witness.

15 MR. WILSON: That would be the Defense, Your Honor.

16 THE COURT: Very good. Mr. Foreman, ladies and gentlemen of
17 the jury, we're required to take up matters of law outside of
18 your presence at this time. Retire to the jury room, but do not
19 discuss the case.

20 (Jury out at 10:53 AM)

21 THE COURT: I'll be glad to hear motions at this time.

22 MOTIONS

23 MR. WILSON: Your Honor, if it please the Court at this
24 time I would -- the Defense rests and we would like to renew
25 our motion for a directed verdict on all the charges as we did

1 at the end of the State's case and also to renew the motion
2 that I'd made for a mistrial at the end of the State's case.
3 And on the same grounds that we expressed during, at the end of
4 the State's case.

5 MR. JEPERTINGER: Your Honor, I think by him testifying
6 about giving other statements, I think that would kind of
7 invalidate any mention of further communications that he had
8 with law enforcement.

9 THE COURT: All right. Well, motions are denied. Does the
10 State intend to offer any reply?

11 MR. JEPERTINGER: Yes, I would call Justin Head to the
12 stand.

13 MR. WILSON: Could we take five minutes, Judge?

14 THE COURT: Yes. We could do that. We'll take five minutes
15 and we'll reconvene and then we'll take the reply testimony.

16 MR. WILSON: Thank you, Judge.

17 THE COURT: Take five minutes. We'll stand at ease.

18 (Brief break)

19 THE COURT: Anything from the State before we bring the
20 jury out?

21 MR. JEPERTINGER: No, sir.

22 THE COURT: Anything from Defense?

23 MR. WILSON: No, sir.

24 THE COURT: We're ready.

25 MR. JEPERTINGER: Well, one second here. The next witness,

THE STATE OF SOUTH CAROLINA VERSUS MICHAEL DONTA BROOKS

JACKSON V DENNO - DIRECT EXAM OF JUSTIN HEAD - MR. JEPERTINGER 545

1 because he brought this up, I'm going to recall Justin Head to
2 the stand to talk to him about the April 16th -- is that the
3 date -- no, June 16th conversation he had with him and Mirandas
4 were given.

5 THE COURT: Well, we probably need to have a Jackson v.
6 Denno hearing with regard to that statement.

7 MR. WILSON: Yes, sir.

8 MR. JEPERTINGER: Okay.

9 THE COURT: If you'd come forward. Place your left hand on
10 the Bible and raise your right hand as the clerk administers
11 the oath. You swear to tell the truth, the whole truth and
12 nothing but the truth, so help you God?

13 MR. HEAD: Yes, sir, I do.

14 THE COURT: All right. Please be seated.

15 MR. JEPERTINGER: Thank you, Your Honor.

16 (After being duly sworn by the Clerk of Court, JUSTIN
17 HEAD testified as follows:)

18 JACKSON V DENNO HEARING

19 DIRECT EXAMINATION

20 BY MR. JEPERTINGER:

21 Q Investigator Head, now we're talking about June the 16th.

22 A Yes, sir.

23 Q Can you tell the Court what you did on June the 16th in
24 regards to Mr. Brooks?

25 A June the 16th, I actually originally received a phone call

THE STATE OF SOUTH CAROLINA VERSUS MICHAEL DONTA BROOKS

JACKSON V DENNO - DIRECT EXAM OF JUSTIN HEAD - MR. JEPERTINGER 546

1 from the co-defendant's girlfriend, who requested that I
2 go out there and speak to him.

3 Q Which one?

4 A Mr. Campbell.

5 Q Okay.

6 A Mr. Campbell, I received a call from the girlfriend who
7 said that he wished to speak to me. I responded to the
8 jail, spoke to him where he provided me with the name of
9 Terrance Baker. He stated that Mr. Baker was in his pod
10 and that he recognized him from this incident where he had
11 committed this crime with Mr. Brooks and Mr. Baker. I, in
12 turn, had a photo lineup created and I went back to the
13 jail to speak to Mr. Brooks about Mr. Baker, wanting to
14 confirm Mr. Baker's involvement. He did meet the physical
15 description that he had originally told me of Terrance,
16 Mr. Campbell had told me of Terrance Baker, but because of
17 the inconsistencies and multiple stories I was getting
18 from both of them, I wanted to have both people say it
19 was, indeed, Terrance Baker before I obtained a warrant. I
20 went to Mr. Brooks' pod. I read him his Miranda warnings.
21 Here's the form here where he signed it.

22 Q Okay.

23 MR. JEPERTINGER: I will have this marked, please?

24 (Whereupon, State's Exhibit #21 was marked for
25 identification.)

THE STATE OF SOUTH CAROLINA VERSUS MICHAEL DONTA BROOKS

1 Q I show you State's Exhibit #21.

2 MR. JEPERTINGER: May I just inform the witness that when
3 we get in front of the jury, if we get in front of the jury,
4 that he's not allowed to give hearsay statements of what
5 Campbell may have told him.

6 INVESTIGATOR HEAD: Copy that.

7 THE COURT: Yeah.

8 MR. JEPERTINGER: At this time, I would move State's
9 Exhibit...

10 Q Well, once you read it, first.

11 A Sure.

12 Q I think it's duplicative of effort.

13 A Yes, sir. It has June 16th, 2014 on the top. Before we ask
14 any questions, you must understand your rights. You have
15 the right to remain silent. Anything you say can and will
16 be used against you in a court of law. You have a right to
17 talk to a lawyer and have him present with you while
18 you're being questioned. If you cannot afford to hire a
19 lawyer, one will be appointed to represent you for any
20 questioning, if you wish. You can decide at any time to
21 exercise these rights and not answer any questions or make
22 any statements. I, Michael Brooks, voluntarily, without
23 threats, duress, force, promises of immunity or reward
24 agree to be questioned by the Florence Police Department.
25 Important notice, if you do not understand any part of

JACKSON V DENNO - DIRECT EXAM OF JUSTIN HEAD - MR. JEPERTINGER 548

1 this form, do not sign it until you do. There's his
2 signature, my signature and I believe that's Investigator
3 Howard Wynn's signature, as well, on the bottom of it.

4 Q Okay.

5 MR. JEPERTINGER: I would move State's Exhibit #21 into
6 evidence.

7 THE COURT: Any objection?

8 MR. WILSON: I don't have an objection to the form.

9 THE COURT: That's what the ---

10 MR. WILSON: But I will just wait until -- and this is in
11 camera, so that's fine for the purposes of this proceeding.

12 THE COURT: Very good.

13 (Whereupon, a Miranda form dated 6/16 is entered into
14 evidence as State's Exhibit #21 for this hearing)

15 Q All right. Now, just talking to Brooks without any of the
16 preliminary information ---

17 A Right. Uh-huh.

18 Q --- if we get to tell this in front of the jury, what did
19 you do with Brooks in terms of after you gave him his
20 Miranda warnings?

21 A I explained to Michael that we wanted to identify the
22 third party in this crime. We wanted to make an arrest. I
23 showed him the photo lineup and said, just show me who
24 this Mr. Baker is or who the other party involved in this
25 crime is and we will do what we need to do.

THE STATE OF SOUTH CAROLINA VERSUS MICHAEL DONTA BROOKS

- 1 Q Now, in that lineup did you have Terrance Baker's photo?
- 2 A Yes, sir, I did.
- 3 Q Okay. And when you said that, what did Mr. Brooks do?
- 4 A He stared blankly at me and kept saying, I believe, things
- 5 of, we were trying to frame him, things of that nature. He
- 6 would never point at anything. I do not recall him
- 7 specifically asking for his attorney, but he would not say
- 8 anything.
- 9 Q Okay. At that point -- now, let me ask you. This
- 10 conversation took place in a pod. Correct?
- 11 A Correct. Just a small little room at the pod. I typically
- 12 bring them up to talk to them, but because I felt it would
- 13 be a quick interview, I walked down there just to speak to
- 14 him.
- 15 Q Was it recorded?
- 16 A No, it wasn't.
- 17 Q All right. And at that point, did you leave after those--
- 18 A Yes, sir. I determined that he wasn't going to say
- 19 anything, that he obviously didn't care if we made an
- 20 arrest. So, I told him we would keep looking into it and
- 21 that was it. I never received a phone call or anything
- 22 from him stating otherwise.
- 23 Q All right. That's it, Judge.
- 24 THE COURT: Was he -- he was obviously in detention at this
- 25 time?

JACKSON V DENNO - DIRECT EXAM OF JUSTIN HEAD - MR. JEPERTINGER 550

1 MR. HEAD: Yes, sir, he was.

2 THE COURT: Was he under the influence of any drugs or
3 alcohol?

4 MR. HEAD: No, sir.

5 THE COURT: All right. Did he appear to understand the
6 Miranda warnings?

7 MR. HEAD: Yes, sir. He's understood them every time I've
8 read them to him.

9 THE COURT: All right. Answer any questions that Mr. Wilson
10 has.

11 MR. WILSON: Judge, before I ask him any questions, my
12 position is that just based on what he has said thus far, that
13 none of what he's said is admissible. This Defendant was
14 incarcerated, had an attorney. Whether he -- and he doesn't say
15 the Defendant sent for him. He says that he goes there. He
16 takes this photographic lineup and he's trying to have a
17 conversation with the Defendant. I don't care if ---

18 THE COURT: And you were representing him at that time?

19 MR. WILSON: I wasn't. Mr. DeBerry was.

20 THE COURT: All right.

21 MR. WILSON: And he had absolutely no right to approach him
22 at any point regardless of what his reason was unless it was a
23 totally separate crime.

24 THE COURT: I kind of -- what do you have to say about that
25 Mr. Jepertinger?

1 MR. JEPERTINGER: Well, that would be accurate.

2 THE COURT: I agree. We aren't going to get into that. Do
3 you have anything else you need to offer? I think that's
4 inappropriate.

5 MR. JEPERTINGER: Yeah. I agree. I agree and there's no
6 reason to do that.

7 THE COURT: Okay.

8 MR. JEPERTINGER: Okay. So, that'll be it. We can go to
9 charge conference, I guess.

10 THE COURT: Okay. Well, let's do that.

11 THE COURT: That's a very good point. Mr. Jepertinger, are
12 you ready?

13 MR. JEPERTINGER: Your Honor ---

14 THE COURT: I tell you what, let's do it this way. Pay
15 attention to what I plan on charging and we'll get to the
16 requests the Defense has made.

17 CHARGE CONFERENCE

18 I'm going to charge: the arrest and charges are not
19 evidence, the indictment's not evidence. I'm going to charge
20 that each indictment needs to be considered separately and
21 distinctly, presumption of innocence, reasonable doubt, explain
22 the varying duties of the judge and the trial jury, direct and
23 circumstantial evidence, and I'm going to charge the most
24 recent version of it where it says -- the real difference
25 between this and the other charge is, is that however, to the

1 extent the State relies on circumstantial evidence, all the
2 circumstances must be consistent with each other and when taken
3 together point conclusively to the guilt of the accused beyond
4 a reasonable doubt. That's the operative language that's
5 different. Credibility of witnesses, the record of the
6 Defendant is limited to credibility. We're all familiar with
7 that charge. Expert witness, I'm going to charge the hand of
8 one. I'm going to charge all of the law pertaining to
9 identification. Prior inconsistent statements, how they're to
10 evaluate that. The statement of the Defendant. Charge the
11 substantive law of armed robbery. I'm going to charge the
12 substantive law of burglary first degree and the -- which
13 elements does the State rely upon for aggravation?

14 MR. JEPERTINGER: Your Honor, in this case, the aggravation
15 was he was armed. He or another participant in the crime was
16 armed with a deadly weapon, to wit: a handgun or threatened the
17 use of a dangerous instrument or displays a pistol.

18 THE COURT: So, it would be the first section where it says
19 when entering -- while in the dwelling or when fleeing the
20 Defendant or an accomplice was armed with a deadly weapon or
21 explosive and I'll define deadly weapon. And ---

22 MR. JEPERTINGER: He threatened the use of a dangerous
23 instrument or displayed a pistol.

24 THE COURT: Okay. All right. I'm going to charge the law
25 with regard to kidnaping. Charge the substantive law of

1 possession of a weapon during the commission of a violent
2 crime. And ---

3 MR. JEPERTINGER: Your Honor, in terms of that, there are
4 three qualifying offenses in that regard because he's charged
5 with armed robbery, burglary first degree and kidnaping. So
6 either one of the three will suffice.

7 THE COURT: All right. And unlawful possession of a firearm
8 by a person convicted of a violent offense. I'm going to charge
9 then that burglary second is, indeed a violent crime. I'm going
10 to also give them sort of a curative charge saying how they can
11 use the prior conviction of the Defendant. It doesn't have
12 anything to do with whether he's guilty of this offense, but
13 has to do with his credibility or whether it meets the
14 particular element of the offense.

15 All right. The Defendant has requested receiving stolen
16 goods. Of course, he has not been indicted for that. He can't
17 be convicted of that. But what do you think? They've talked
18 about receiving stolen goods and he's either going to be
19 convicted of armed robbery, burglary or kidnaping and receiving
20 stolen goods is not a lesser included offense of that. But what
21 is your position with regard to whether or not they're charged
22 with the law concerning receiving stolen goods?

23 MR. JEPERTINGER: I don't think it should be charged, Your
24 Honor. In my opinion, if it's impossible to convict him of it.

25 THE COURT: Well, there's been some discussion of it and,

1 of course, Mr. Wilson's going to say that he's guilty of
2 receiving stolen goods, but not the offenses for which he's
3 been charged. What would be wrong with letting the jury know
4 what receiving stolen goods is? And more importantly, it would
5 be reversible error if I did not do that?

6 MR. JEPERTINGER: All right.

7 THE COURT: I'm asking.

8 MR. JEPERTINGER: I think -- I'm going back, thinking back
9 to a case that they felt that if it wasn't charged, even though
10 they did not call it a lesser included offense, that, that
11 should have been an option available. So, if you charge it, you
12 charge it.

13 THE COURT: Okay. I think I am going to charge the
14 substantive offense of receiving stolen goods and it's going to
15 be incumbent upon you to explain to them that that's not what
16 he's charged with.

17 MR. JEPERTINGER: Yeah.

18 THE COURT: And that ---

19 MR. JEPERTINGER: Herein lies the problem. I did not put up
20 any value in terms of what he received, so I guess ---

21 THE COURT: Well, nobody can convict him of it. What
22 they're just saying is, that he's guilty of something other
23 than what he's charged. They say receiving stolen goods and I
24 really don't understand how we could value it.

25 MR. JEPERTINGER: Well, I mean, are you making that an

1 option for him to be found guilty of only receiving stolen
2 goods?

3 THE COURT: No, absolutely not because he's not indicted
4 for that. He's going to be -- it's not a lesser included
5 offense, so it can't be ---

6 MR. JEPERTINGER: So, I mean, what significance would it
7 have that he's only guilty of receiving stolen -- I think he
8 can argue it without you charging it.

9 THE COURT: Okay. What is the Defense's position on that?

10 MR. WILSON: This is the reason that we want it charged,
11 Your Honor, so that the jury can understand that while he may
12 have committed a crime it is not -- because in their minds, if
13 they think he got the stolen property and that somehow made him
14 a party or a part of -- because His Honor is saying he's going
15 to charge the hand of one is the hand of all. Well, he ends up
16 with part of the jewelry under -- at least under our theory of
17 the case and so the jury is now thinking that, okay, well, he
18 ends up with a part of the jewelry, so he is a part of that
19 hand. So, he's the part of the hand of one is the hand of all.
20 So ,now he's guilty of everything because he ---

21 THE COURT: If you read the charge on the hand of one, the
22 hand of all, it requires that he be present.

23 MR. WILSON: Well, I know. But -- and I think -- and I
24 understand that distinction. It's just that I think that gets
25 confusing sometimes. And, you know, honestly, I believe that

1 the jury ought to be able to find him guilty of receiving
2 stolen goods.

3 THE COURT: I'm interested for you to tell me how you can
4 do that because it's not a lesser included offense and he has
5 not been indicted for that. It's absolutely impossible for that
6 to be the case.

7 MR. WILSON: Well, I'm not sure. I mean, I don't know
8 exactly how to do it, other than if the Court charges it and it
9 can be on the, on the sentencing sheet if ---

10 THE COURT: You mean on the verdict form?

11 MR. WILSON: Yes, sir. I'm sorry. I said sentencing sheet.
12 The verdict form.

13 THE COURT: No. I don't think I can do that.

14 MR. WILSON: I'm sorry?

15 THE COURT: And what you -- I assume it would be incumbent
16 upon you to say that he's guilty of this and therefore, not
17 guilty of the other, you need to find him not guilty.

18 MR. WILSON: Right.

19 THE COURT: If it were a lesser included offense, like if
20 there was some evidence that it was, there's a question -- if
21 he would have gotten up on the stand and said I'd gone into the
22 house but I did not have a gun and strong arm robbery is a
23 lesser included offense of armed robbery, but receiving stolen
24 goods isn't.

25 MR. WILSON: Well, part of what, part of what the Court

THE STATE OF SOUTH CAROLINA VERSUS MICHAEL DONTA BROOKS

1 will tell the jury is more like that the Court tells them what
2 the law is and not the lawyers. So, for me to get up and argue
3 to them something that you don't say is the law -- I'm standing
4 there arguing, you know, that it's accessory after the fact or
5 I'm arguing receiving stolen goods and there is no charge on
6 that from the Court, then the jury will think, okay, well, the
7 Judge didn't say that, so I can't consider that in any event.

8 THE COURT: All right. I'm going to charge receiving stolen
9 goods and it's going to be incumbent upon y'all to explain what
10 your relative position is.

11 MR. WILSON: Yes, sir.

12 THE COURT: How about accessory after the fact? What do you
13 think about that?

14 MR. JEPERTINGER: Judge, based on his testimony he wasn't
15 there and did nothing. I mean, if you've got a receiving stolen
16 goods, I mean, that -- if you take his testimony as a hundred
17 percent true and accurate, the only thing he did was receive
18 stolen goods.

19 THE COURT: Right.

20 MR. JEPERTINGER: He didn't aid or abet.

21 THE COURT: Okay. What do you have to say about that?

22 MR. WILSON: Well, I think that he did if you listen to his
23 story, because the police say that he came to them at first,
24 that he concealed the crime, he lied about it to them,
25 according to them, which could be considered, you know,

1 concealing the crime or simply helping them ---

2 THE COURT: A misprision of felony.

3 MR. WILSON: Right. To get away.

4 THE COURT: What do you think about that, Mr. Jepertinger?

5 I'm not really inclined to ---

6 MR. JEPERTINGER: I don't think it would apply, Judge, in
7 this case.

8 MR. WILSON: Your Honor, one last thing before you make
9 that ruling. The other thing is, is that at the jail, if you'll
10 remember, one of the single pieces of this case is their claim
11 that he called -- in fact, they played the tape for the jury
12 where this Defendant called the co-defendants or which they're
13 alleging are co-defendants to warn them about the fact that the
14 police was after them.

15 THE COURT: I think that would probably be a separate
16 crime, not accessory after the fact.

17 MR. WILSON: I think my ---

18 THE COURT: It would be obstruction of justice and
19 misprision of a felony, and maybe a whole bunch of other
20 things. I don't think it's an accessory after the fact. All
21 right. Your request is noted for the record, but I'm not going
22 to charge accessory after the fact. How about, Mr. Jepertinger,
23 he's requested I charge probable cause to arrest.

24 MR. JEPERTINGER: I've never heard that charge charged,
25 Your Honor. I think it's an improper charge. Your Honor, the

1 Grand Jury indicted this case. Okay? They found that it was
2 probable cause.

3 THE COURT: Right.

4 MR. JEPERTINGER: Okay? And so it goes past probable cause
5 to arrest. I mean, you know, the subject-matter jurisdiction
6 related to this ---

7 THE COURT: I don't think that's really an issue in this
8 case and your objection is noted on the record. I mean, your
9 request is noted on the record, Mr. Wilson.

10 MR. WILSON: Thank you, Your Honor.

11 THE COURT: All right. And the mere presence, this is a
12 separate charge on mere presence and I think the charge with
13 regard to the hand of one addresses that very issue.

14 MR. JEPERTINGER: It does.

15 THE COURT: And I'm going to allow you to listen to my
16 charge on hand of one is the hand of all. And at the conclusion
17 -- well, I'm going to look at it. You know, the hand of one the
18 hand of all addresses that very clearly. However, mere presence
19 at the scene of a crime is not sufficient to convict one. It's
20 a principle on the theory of aiding and abetting and it
21 explains it in great detail. I'm going to allow you to listen
22 to that. And if -- and you can make an additional request if
23 you aren't satisfied that it handles that. I don't know whether
24 I will or not. How about aiding, abetting and accomplice
25 liability?

1 MR. JEPERTINGER: Your Honor, I saw that and it looks like
2 your hand of one hand of all charge. It's the same thing,
3 Judge.

4 THE COURT: It's the same thing. All right. And intent?

5 MR. JEPERTINGER: Intent's part of the law. These crimes
6 are crimes of intent. I'm sure you have a charge on it.

7 THE COURT: All of the elements are set forth on the -- I'm
8 not even going to charge, specifically charge this on intent,
9 but it's covered in my charge. All right. Specific requests
10 from the State?

11 MR. JEPERTINGER: No, Judge. We're fine with what you're
12 charging.

13 THE COURT: Well, I want y'all to come and take a look at
14 the verdict form.

15 MR. WILSON: Your Honor, before we move forward, there were
16 a couple more, alibi and prior knowledge.

17 THE COURT: Was it?

18 LAW CLERK: I may have given them back to her.

19 MR. JEPERTINGER: That's the state of the law, Judge.

20 THE COURT: What is?

21 MR. JEPERTINGER: In terms of alibi.

22 THE COURT: Yes. Prior knowledge is covered in my charge..
23 And no objection to the alibi charge?

24 MR. JEPERTINGER: No.

25 THE COURT: Okay. I want y'all to come forward and take a

1 look at the verdict form.

2 (Brief bench conference held off the record.)

3 THE COURT: All right. Very good. Mr. Jupertinger, are you
4 in agreement with the verdict form?

5 MR. JEPERTINGER: Yes, sir, absolutely.

6 THE COURT: Mr. Wilson, are you in agreement with the
7 verdict form?

8 MR. WILSON: I am, Your Honor, yes, sir.

9 THE COURT: All right. We are going to recess until one
10 thirty and come back for closing arguments.

11 MR. WILSON: Thank you, Your Honor.

12 THE COURT: Mr. Wilson, obviously, you go first.

13 MR. WILSON: Yes, sir.

14 THE COURT: All right. We'll stand at ease until one-
15 thirty.

16 THE BAILIFF: Judge, you want me to bring the jury in now?

17 THE COURT: Yes, we can bring them out.

18 (Jury in at 11:43 AM)

19 THE COURT: Mr. Foreman, ladies and gentlemen of the jury,
20 you have heard all of the evidence that's going to be presented
21 in this case. And now we're going to break for lunch and we're
22 going to come back at one-thirty and then we'll have closing
23 arguments. Closing arguments are going to be very similar in
24 form to opening statements. However, they're going to be truly
25 argumentative in nature because these very fine lawyers are

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1 going to be able to point to the evidence that supports their
2 relative theories. What they have to say is not evidence, but
3 it will aid you immensely in your deliberation process. So,
4 when we come back, you need to come back with an attentive mind
5 and pay very close attention to what they tell you. We're
6 getting close to the end of this trial. But once again, it's
7 not time to start talking about the case. Don't talk about the
8 case amongst yourselves or with anyone else. Y'all have to hear
9 the closing arguments. You have to hear my charge on the law.
10 And then I'll give you instructions on when to begin
11 deliberations. But until then, do not do that. Do not do any
12 independent investigation. Do not discuss it amongst yourselves
13 or with anyone else. Everyone remain seated as the jury exits
14 the courtroom. One-thirty. One-thirty sharp.

15 (Jury out at 11:45 AM)

16 THE COURT: All right. Anything from the State?

17 MR. JEPERTINGER: No, sir.

18 THE COURT: Anything from Defense?

19 MR. WILSON: No, sir.

20 THE COURT: All right. We'll stand at ease until one
21 thirty.

22 AFTERNOON - JUNE 18, 2015

23 THE COURT: Please be seated. Good afternoon everybody.
24 Anything from the State before we proceed?

25 MR. JEPERTINGER: No, sir.

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1 THE COURT: Anything from the Defense?

2 MR. WILSON: No, sir.

3 THE COURT: Are you ready?

4 MR. WILSON: Yes, sir.

5 THE COURT: All right. Bring in the jury.

6 (Jury in at 1:34 PM)

7 THE COURT: Mr. Foreman, ladies and gentlemen of the jury.

8 Thank you for being here and being here on time. As I mentioned
9 earlier, we're about to proceed forward with closing arguments.
10 Pay very close attention. Mr. Wilson.

11 MR. WILSON: Thank you, Your Honor.

12 CLOSING ARGUMENT

13 BY MR. WILSON:

14 Mr. Foreman and ladies and gentlemen, we've been here now
15 for four days and I know at the outset of this trial I said to
16 you that I know when you got your summons to appear, that you
17 probably could think of a hundred different things that you'd
18 rather do than to sit here and listen to lawyers go at it, for
19 four days as it turned out. But I also told you that there is
20 probably no more important place that you could be, because
21 there is really no more important service that you could
22 render, maybe other than military service during a time of war,
23 than serving on a jury, because you stand between the State of
24 South Carolina and every defendant who's brought into this
25 courtroom. Otherwise, the State would have the last word about

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1 what happens to a person. And think about what kind of world
2 that would be if the government got to decide what happens to
3 you. Not that they don't already do a lot of that, but what
4 kind of world would that be if the State had the final word?
5 Well, they don't because our system doesn't work that way and
6 there may be other systems where in other countries where they
7 do things differently, but I can tell you after having
8 practiced law for all these thirty-plus years, that I don't
9 know of a fairer system than the one we have. It's not perfect.
10 It has its flaws, but it's the best out there and until
11 something else comes along, it's the best we've got.

12 The cardinal rule is that every defendant, no matter how
13 minor or no matter how serious the charge, is presumed to be
14 innocent. He's presumed to be not guilty of the offense that he
15 is charged with or she is charged with until and unless the
16 State of South Carolina, through their prosecutors, can bring
17 you sufficient evidence to prove that the person actually
18 committed the crime beyond a reasonable doubt. Not that they
19 committed some other crime, but that they committed the exact
20 crimes for which they have been charged and that they must
21 bring you proof which satisfies you beyond a reasonable doubt.

22 And you say, well, okay, well, what does that mean? What
23 is a reasonable doubt? It's a doubt for which you, as an honest
24 juror who's seeking the truth, can give a reason. Something
25 that would cause you to hesitate to act and when you come to

1 jury service, I think the best tool of all is your good common
2 sense. You don't leave it at home when you come to jury
3 service. You bring that with you. You bring your life
4 experiences with you and you use those things to try to
5 determine if there is a doubt and if there is a reason for that
6 doubt.

7 Let me also say to you that it is almost impossible for a
8 defendant, any defendant, to prove that he or she did not do
9 something. I can say it. I can tell you, well, I was home by
10 myself watching the Ed Sullivan Show or whatever comes on
11 nowadays, but how can I prove to you that I was home? So, the
12 law does not place the responsibility of proving that on the
13 defendant. That responsibility rests with the State of South
14 Carolina, because they're the ones who chose to arrest you and
15 charge you. So, when they make that choice, along with that
16 choice, is the responsibility to prove that you and no other
17 person actually committed the offense.

18 We're going to talk during the -- His Honor is going to
19 talk with you about what we call credibility of witnesses and
20 what does that mean? And I think I mentioned that to you at the
21 outset, as well. Credibility of witnesses simply means
22 believability and in assessing a person's believability or
23 credibility of a witness, what you're looking for is, did the
24 witness say something inconsistent with what he or she said on
25 the witness stand at some other time? Was the witness hesitant

1 about what he or she said? Did the witness really have an
2 opportunity to observe and know for a fact what the witness is
3 testifying to? Did the witness contradict themselves at other
4 times? Those are the kinds of things. Because if the witness is
5 contradicting him or herself on some previous occasion, then
6 you may decide that, well, I don't really want to believe what
7 this person says because they said something different at
8 another time. Or they weren't real sure the first time but now
9 they're sure now. And why, if they weren't sure the day after
10 it happened, why would they be sure a year-and-a-half later?
11 So, those are the kinds of things that I would submit to you
12 would go into the credibility or believability of the witness.

13 Now, let me say at the very outset, I don't know Mr. & Ms.
14 Murphy. I have never met them before this trial. They seem like
15 really nice people and I'm sure they are and I'm sure that they
16 believe what they are saying to you. I don't have any real
17 doubt about that in my mind, but that's not the issue. The
18 issue is not whether they believe it. The issue is whether
19 that's how it happened. I always believe that I'm going to hit
20 the lottery. It just doesn't happen. Every time I go by one of
21 those tickets -- I'm not buying anymore. My point simply is, is
22 that simply because you believe something, that doesn't mean
23 that it's true. It just does not. And no matter how nice of
24 people they are -- and the other thing I will tell you and I
25 think I said this to you at the outset, I have absolutely no

1 doubt that somebody robbed Mr. & Ms. Murphy. I don't have any
2 dispute about that. And if that were the issue here, we
3 wouldn't even be here, because I have absolutely no doubt
4 somebody did exactly to them what they say happened to them.
5 That is not the issue. The issue is, who did it. That's the
6 issue. And that's why we're here. What happened to Mr. & Ms.
7 Murphy shouldn't happen to anybody. Every person ought to be
8 able to be safe and secure in their own homes. When you go to
9 your home -- and if you're going to be safe anywhere, your
10 home, your church, your school, those are the places that you
11 ought to be safe. We ought not have to worry about somebody
12 pointing a gun in your face and pushing you in your house and
13 making you get on the floor and they should not have had to
14 endure that and the people who did it ought to be punished for
15 it.

16 We're here to decide and determine whether or not Michael
17 Brooks was one of those people. That's the sole issue in this
18 case, not whether it happened. What they said is undisputed
19 about what happened to them in their home. That's not the
20 issue. The issue is, who did it to them.

21 Let's talk about that and let's talk about what happened
22 in this case, how this all got out of whack here. Because see,
23 the police in this case, when this crime happens, they don't
24 have a suspect. Not only do they not have a suspect, they don't
25 even have a good description of a suspect. The only description

1 that they had was it was a tall African American male and I
2 think at some point somebody said he was of muscular build.
3 That's it. That's all that they have. The police then started
4 searching, trying to find some of the jewelry and they did.
5 They went to the pawn shops. One of the pawn shop people called
6 them back and said, hey, look, I saw a lady in here with it a
7 few days ago or a day ago or last night or whenever it was.
8 They track her down, Miss Peaches. And they then get from her
9 that, yes, she got the medallion from Tasha McNeil. They then
10 go to Tasha McNeil, which they should have, and they talk to
11 Tasha McNeil to find out where she got the medallion from. Now,
12 mind you, they didn't charge Peaches. She's the one who's got
13 it. They didn't charge her. They go to Tasha McNeil, they
14 didn't charge her. And do you know the reason? Because the only
15 description they had was one of a tall African American male.
16 Well, neither Tasha nor Miss Peaches fit that description. Miss
17 Peaches is white. Even though Tasha's black, she's not a male
18 and she's not really that tall. So, that couldn't work.
19 So, then they go, based on what Tasha tells them, they
20 find Mr. Brooks, who had the -- who she said she purchased the
21 medallion from. So, they go to him. Unfortunately for Mr.
22 Brooks, he is a tall African American male and that's where the
23 trouble starts, because at this point in time, the police jump
24 to the conclusion that, well, he's got the medallion so he must
25 have been in on it and they never wavered from that position

1 from day one. No matter what he said to them, they insisted
2 that he was in on it.

3 He told you and they told you that on the 14th they talked
4 to him. They went back on the 17th and you heard the videotape
5 or audiotape from the 17th. You don't have to ask anybody about
6 what was said. You've got it. You can hear it. He told them the
7 same story on the 17th of March of 2014 that he told you in
8 here today and you can judge that for yourself. You don't have
9 to ask anybody. You heard him today. You heard him on March
10 17th of 2014. But that didn't satisfy the police because now
11 that they found the medallion, they still don't have a real
12 suspect and he wasn't telling them what they wanted to hear. He
13 never said, "I did it," or "I was involved in it," and that
14 wasn't enough and even though they spent all this time with him
15 on this audiotape talking to him, asking him questions -- and
16 when they talked to him on the 14th he says what most people
17 say. Well, I don't know nothing about it. I don't want to talk
18 about it. I don't know nothing. What happens? They don't come
19 back to him. He calls them, sends for them. He's locked up at
20 the jail. He sends for them. Now, remember they've already
21 charged him at this point. He was already arrested and charged
22 with this armed robbery. There's no DNA, there is no nothing.
23 At this point, the only thing that they've got is the fact that
24 Tasha McNeil said she bought the medallion from him. They go
25 and they arrest him. That's it. What happens next is, is that

1 they talk to him. They arrest him on the 14th. Said, well, he
2 won't talk to them. Then Officer Head, Investigator Head, says
3 that he was off from work from Friday until Monday. On Monday
4 when he comes back in, he received a call from Mr. Brooks to
5 come out to the jail so he can talk to him. He didn't go back,
6 voluntarily. He didn't go back on his own, Mr. Brooks sent for
7 him. He meets with Mr. Brooks. You heard the results of that
8 meeting on this tape. There's no law that said he had to call
9 Investigator Head and talk to him anymore or anything else. In
10 fact, he had a legal right not to if he didn't want to, but he
11 did and he told them, and you heard him, he didn't want to tell
12 on his cousin. This is his first cousin, but he's in jail for
13 some really serious crimes. So, he tells him what happened. He
14 tells him how he got possession of the property, the medallion.
15 But you see, that wasn't enough and he tells them who the other
16 person was that was involved, the people that he got the
17 medallion from.

18 So, what happens from this point is this: The police had
19 already made up their minds because they'd already charged him.
20 On the 14th they charged him. On the 17th when they're talking
21 to him, he's already under charge. They didn't have any of that
22 information about who the driver of the green vehicle was. They
23 had no DNA. There was nothing, other than the fact that he had
24 possession of that medallion and that was, for them, all they
25 wanted or needed, and he was a tall African American male. That

1 was enough.

2 Well, it doesn't get better from there. It actually gets
3 worse. So, what do they do? They go to Mr. & Ms. Murphy. Ms.
4 Murphy had told the police I really don't know. This is on
5 March the 3rd. I can't give you a description of the men who
6 robbed us. I was face down. I couldn't tell you. Mr. Murphy
7 said he didn't think he could either, but in spite of that,
8 they took the photographic lineup out to Mr. & Ms. Murphy. Ms.
9 Murphy couldn't pick anybody out of the lineup. Mr. Murphy
10 says, well, I'm not sure but this guy here looks more like him
11 than anybody else in the photographic lineup. Well, there was
12 one problem. There was never a mention about having facial
13 hair. But when you look at the picture they picked out, the man
14 had facial hair. And when you're giving a description of an
15 individual who has just committed a heinous crime against you,
16 you're going to give the best description you've got. And if a
17 man's got a beard like I've got and a mustache like I've got,
18 how are you not going to notice that?

19 Well, it gets worse. And even though, even though Mr.
20 Murphy told the police, you know, I really can't be sure, they
21 let him do it anyway. They said, okay. Well, that's fine. Just
22 go ahead. You say you think he looked more like him than
23 anybody else. Well, that's fine with us. He's a tall African
24 American male. You know, the other thing that really bothers me
25 in this case not one time did they ask, well, what complexion

1 was the tall African American male? Is he brown, is he black,
2 is he yellow, is he -- what is his complexion? They didn't do
3 it. What did they do? They then go back to the Murphys later
4 with a second photographic lineup. This time a photographic
5 lineup with Mr. Campbell in it. Now, Mr. Murphy said he
6 couldn't pick anybody out of that lineup. Ms. Murphy thought
7 Mr. Campbell was the person and that's who she picked. So, now
8 you've got Ms. Murphy having picked Mr. Campbell and you've got
9 Mr. Murphy having picked Mr. Brooks. Now, if you recall, Ms.
10 Murphy testified that she really never saw anything, other than
11 the back of the male who was tying them up and I think she
12 referred to him as the shorter of the two men because she was
13 face down the whole time.

14 Now, you think about it for a second, if she never saw
15 anything except the back of the person's head, how in the world
16 do you pick them out of a photographic lineup? How? Well, it
17 gets worse. And, listen, do I think that the Murphys were
18 trying to do anything wrong? No, I don't think that. I don't
19 think that. I think they're mistaken. Do they believe what they
20 said? I think that they believe that. I think that they're good
21 people, but good people make mistakes just like bad people make
22 mistakes. Generally, bad people make a lot more of them but we
23 all make them.

24 Let's talk about what happens next, because now if you
25 remember Mr. Brooks is in jail all this time. As I said, you've

1 got this (Holding up CD) and His Honor will tell you that if
2 you want to play this, he'll play it for you. I don't know what
3 the circumstances will be but it's in evidence. So, if you want
4 to listen to the March 17th tape, you have every right to
5 listen to it.

6 The other thing, remember when the Solicitor had the video
7 of the bank and he brought it over here and he put it up here
8 and he called Mr. Murphy up and I asked Mr. Murphy when he was
9 on the witness stand about his sight and him being able to see.
10 And he was saying he always had his glasses on. He always wears
11 his glasses, but then later he changed it and said, well --
12 when I started cross-examining him -- he told the Solicitor
13 that. But then when I started cross-examining him he said,
14 well, you know, I had had surgery on my eyes and I had a
15 contact in one eye and I didn't have anything in the other eye
16 at the time that the robbery occurred. Now, remember, the man
17 that they're, that they said is the perpetrator came under the
18 garage. And you have a picture of the garage, which shows you
19 how dark it is in the garage. Because when they apparently --
20 the gate was up -- but anyway you'll have it. It's in this
21 stack of pictures that you'll have back there with you and you
22 can look at it at your leisure.

23 So, when the man comes up to the door, he says that the
24 man has a gun in one hand. He finally, after they have some
25 conversation about well, do you want -- do you need your house

1 painted or can I paint your house or something to that effect,
2 He said, well, no, it's vinyl and brick and I don't really need
3 that service. And then the man grabs him by the collar and has
4 got a gun in one hand and he backs him into the house and then
5 he says, within seconds, he makes him lie down on the floor,
6 face down.

7 Remember the video from the bank? The Solicitor played the
8 video. Now, remember the man in the video from the bank is who?
9 Mr. Campbell. Ain't no question about that. Nobody disputes
10 that. Law enforcement says that. The Solicitor's saying that.
11 Nobody disputes that. When he asked Mr. Murphy when he's
12 standing there looking at the video, and he was standing right
13 over here looking at it and he says is that the man -- do you
14 see the man that had the gun on you in the video? And he just
15 stands there for maybe forty-five seconds or longer, looking at
16 the picture and he is this close to it and he still doesn't
17 know that it's not Mr. Brooks. He finally says, after a long
18 drawn out pause, no. It's amazing that the day after this
19 robbery, the day of the robbery and on the 14th when they take
20 them the video -- I'm sorry, the photographic lineups, and then
21 they take them the second photographic lineup, that they are
22 having difficulty, but when they come in here a year-and-a-half
23 later, they're a hundred percent positive. Why is that? Well,
24 because who else is sitting over there? And they've had an
25 opportunity to see him again at the bond hearing back in May of

1 2014. So, the more they see him, they see the photo, then they
2 see the bond hearing, okay. That's got to be the guy. The
3 police arrested him. So, now they become more and more
4 convinced and more and more certain that that's what happened
5 and that's who did it.

6 The other things is that -- let's talk for a minute about
7 the police and what we know about what they did and what they
8 didn't do. They talked with Mr. Brooks, I assume, as long as
9 they wanted to talk to him. Don't even know if he had a lawyer
10 at that point. I wasn't. But they talked to him however long
11 they wanted to talk to him. He tells them, I didn't do this. I
12 was with Danny the manager of the mobile home park on the
13 morning this occurred and not only was I with Danny, we were on
14 the computer doing my tax stuff. You listen to the tape. You
15 will hear Officer Head say yeah, well, I talked to Danny. I
16 know Danny was doing your taxes and don't you think for one
17 second that if Danny had said he was not with him, I did not do
18 his taxes, I did not see him that morning, that they'd have had
19 him in here on this witness stand raising his right hand to the
20 good Lord saying he's lying? I didn't have anything to do with
21 him that day, didn't see him, he wasn't at my place. The fact
22 that Danny ain't here tells you everything you need to know.

23 Now, why would the police not go to Danny? Why? Because if
24 Danny says, yeah, he was with me and, yeah, here's my computer
25 and my hard drive and you can send it off to SLED and SLED can

1 tell you that we were doing his taxes at ten forty-five or ten-
2 thirty or eleven o'clock, then their case is gone. That's why
3 they didn't talk to Danny. And he's begging them to talk to
4 Danny. Over and over again, he's begging them. And you see the
5 thing is, folks, sometimes law enforcement gets so caught up in
6 getting a conviction that they forget about the truth. Yeah, we
7 want to convict the bad guys. We want to put the criminals in
8 jail, but when a Defendant is in your custody and they've got
9 him. They've got him. He is in their custody. He is with them.
10 He can't make anything. In fact, the only thing he can do is
11 call from the jail and when he calls from the jail, they record
12 that, too. He is in jail. He is locked up. He can't get out to
13 help himself and he tells them, go to him. Talk to him. He will
14 tell you that I was there. He will show you his computer, show
15 you that we were doing this and they did not do it. And what I
16 said to you earlier was, it is almost impossible sometimes for
17 a defendant to prove that he didn't do something. And here's an
18 opportunity, a great opportunity for law enforcement to prove
19 that he did do it. Have Danny say, no, he wasn't with me. I
20 don't know where he was, but he wasn't with me.

21 Now, on the 14th, there's no mention of any lawyer but on
22 the 17th when all of this conversation is going on -- you see,
23 the whole idea of justice is fairness. What's right. You know,
24 what's right doesn't change whether you're on the side of the
25 prosecutor or whether you're on the side of the defense. It

1 doesn't change. What's just and what's right doesn't change.
2 They wanted him to admit or say that he was somehow involved
3 and he wouldn't say it and they weren't going to do anything
4 that might help him. They weren't. And you'll hear on there
5 where he's trying to get them to do that so he can get out of
6 jail. Because if they go to Danny and talk to Danny and find
7 out that he was with Danny and that they got the computer to
8 show that they were on there at that particular time, looking
9 at his taxes or whatever it was, then they've got no case. So,
10 they don't do it and you can't hold that against this Defendant
11 because he's in jail.

12 Well, it gets worse. I asked, I think it was Officer Myers
13 who took the swabs from the buccal swabs, if you remember. For
14 the DNA, I asked him well, who took those buccal swabs? He
15 said he took them and that he turned them over to Ms. Miles.
16 Mr. Myers turned it over to Ms. Miles at some point, but for
17 nine days he says, well, I had them in my personal locker. Now
18 the buccal swabs he took from the Murphys, he took them on the
19 3rd. On the 4th, they were turned over to her, a day later.
20 Nine days he held onto his. For what purpose? Why? Why would he
21 turn theirs over in one day and hold this Defendant's for nine
22 days? What possible reason? He couldn't even give an answer
23 when I asked him about. He could not give an answer. I still
24 don't know why he did it.

25 Well, it gets worse. Nine days. What is interesting is

1 that sometimes between the 14th and April the 11th, I think,
2 when he went back in to package and stuff and go execute a
3 search warrant on this Defendant -- well, they didn't have a
4 search warrant. They went out and talked to his mom and I think
5 they said that the mom let them search the house. Now, did that
6 have anything to do with why they held it for nine days? I
7 don't know. I don't know. I don't know. But what's
8 uncontradicted is that they held it for nine days. There ain't
9 no question about that. Then I asked him, he says -- well, you
10 know, I asked him, well now, what did you get it out for on the
11 11th? Because remember, it wasn't even sent to SLED until the
12 17th. I said well, why did you get it out of evidence? He said,
13 well, I had to package it. Why not package it on the 17th, he
14 day you're going to take it to SLED or the 16th or the 15th?
15 He had it -- and remember when the evidence custodian from the
16 Florence Police Department came in and she testified, and I
17 kept asking her about, you know, the dates and she said well,
18 yeah, he came -- but see he stayed right there with me. That's
19 why -- because I asked her about well, logging things in and
20 out. Because what happens, ladies and gentlemen, is they have a
21 protocol. Whenever you get a piece of evidence out of the lock
22 up, you have to sign for it. You have to sign it out. You have
23 to sign it back in. Okay. If you're touching it, you've got to
24 sign for it. He signs for it, that is Mr. Myers. He signs for
25 it on the 11th. There is no other signature showing that he

1 ever signed it back in. The next thing we know is on the 17th
2 it goes to SLED. And what happened to it between then and the
3 time it got to SLED on the 11th and 17th, I don't know again.
4 Let's talk a minute about the DNA, the tape. Because you
5 see, there is absolutely no evidence to connect this Defendant
6 to anything, other than the fact that he had the medallion,
7 until they get the DNA. That's it. He wasn't at the bank. The
8 tape wasn't at his house. He wasn't the owner of the green
9 vehicle. So, then we get DNA. And remember when the lady from
10 SLED was testifying, I think, Ms. Hines, I think was her name.
11 If I'm wrong, I apologize. But I think that was her name.
12 Teresa Hines. Anyway, she said it's one however many
13 quadrillion. A number I never even heard of. You what that
14 means? That you almost have to have the perfect amount of DNA
15 to make that kind of a match. Like well, maybe if I had some of
16 your blood or I had some of your saliva. But the suggestion --
17 because think about it for a second. And I was amazed. When the
18 Solicitor got up -- let me steal his roll of tape for a second.
19 You know, and he was trying to show you how the DNA might have
20 gotten on the strips and he tore a piece off and he put it here
21 and he tore another piece off and he put it here and he said
22 well, you know, it couldn't have been on there like that. Well,
23 you know, the amazing thing is, what she testified -- because
24 think about it, if this Defendant, if this Defendant had been
25 taping up Mr. & Ms. Murphy with this tape or with any tape and

1 he's holding -- because you've got to -- in order to do it,
2 you've got to hold it and you've got to grip it so that you can
3 tear it off and then put it on the person or wrap it around
4 them or whatever it is you're trying to do. Well, you see this?
5 Because you've got to hold it enough to be able to pull it and
6 do it and then you've got to tear it off. Now, the amazing part
7 is, there is nothing, no DNA of this Defendant on this roll, on
8 that roll of tape according to SLED, not a single piece of his
9 DNA, nothing. But they said that there is a perfect amount of
10 his DNA on a piece of tape, which is on the wrist of Mr.
11 Murphy. Now, think about Mr. & Ms. Murphy both say that,
12 according to them, this would have been the man holding the
13 gun, not the man taping them up. If he's holding the gun, then
14 he doesn't have the tape. Somebody else has got the tape
15 according to them and the amazing thing is, this guy Terrance,
16 he is considered a minor contributor to the DNA. Now, if he is
17 the actual guy who's taping them up -- and remember how they
18 described him. They said he's a short ugly guy or something
19 like that I think is what they said, with the bumps around his
20 mouth or some craziness, but that's how they described him. So
21 they want Terrance to be the short guy. So, the short guy is
22 the one who is doing the taping. Well, if the short guy is the
23 one who's doing the taping, wouldn't he be the major
24 contributor, because he's the one having to pull the tape off,
25 tie it around Mr. Murphy's arms, tie it around Mr. Murphy's

1 legs, tie up Ms. Murphy and tie Ms. Murphy's legs? His DNA
2 should be all over that tape and the roll, but you know what's
3 even more amazing, Mr. Murphy says that he managed to wiggle
4 his out and get his tape off. And you can see it in the little
5 bag. It's in pieces where he ripped it to try to get it. Not
6 one bit of his DNA is on that tape. And the tape's on his arms
7 and he's getting it off. Not one bit of his DNA is on that
8 tape. How can that possibly be? He's not only handling it,
9 he's taking it off of himself. And SLED said, oh, no. None of
10 his DNA is on it. But even more amazing, there is none of Ms.
11 Murphy's DNA on the tape. None. None. How did it get on there?
12 How did it get on there. Think about it.

13 Let's assume for the sake of argument that at some prior
14 time -- because even that doesn't make sense. Let's assume for
15 the sake of argument, that this Defendant had touched that roll
16 of tape a month earlier and he touched a piece of it on the
17 top, handled it like this and touched a piece of it on the top.
18 Because they're saying that the DNA that was found was on the
19 smooth part of the tape. They didn't say on the side or on the
20 sticky part. And remember, remember now, she said -- and I
21 think this is critical. She says that it was still unseparated,
22 that she didn't separate the sticky parts from the smooth parts
23 of the tape. They were still all stuck together and she never
24 actually tested the sticky part at all, according to her. So
25 now, if the tape is pulled off and wrapped around Mr. Murphy's

1 hands, as the Solicitor would suggest, then it would have been
2 wrapped over so it would have been under the sticky part of the
3 tape anyway. If the Defendant had at some previous time touched
4 it, had given it, if he'd touched this at some previous time
5 and somehow that tape ended up at that house on that day, it
6 would have been on the top here. Well, the problem with that
7 is, it was already wrapped around Mr. Murphy's hands multiple
8 times. And you can see -- I mean there must be three yards of
9 tape that was wrapped around Mr. Murphy's hands. So how would
10 the DNA be there? They all testified that the tall man, the man
11 with the gun, which they're trying to say is this Defendant
12 never touched the tape in their presence. Never. Not one person
13 says that. But his perfect DNA is on the tape. You know, I'm
14 too old to believe in fairy tales and I'm too old to believe in
15 coincidences and before we put people in jail for the rest of
16 their life, we need to be certain. And you ought not to have to
17 guess. You ought not have to be left to surmise or to wonder or
18 think or -- that's the State's job to produce evidence that's
19 beyond a reasonable doubt. And if anything, there's a lot more
20 questions here than there are answers.

21 Let me say this to you. Sometimes with law enforcement the
22 problem is, they rush to judgment. Not all the time, but
23 sometimes. And that's what happened here. They made up their
24 minds that he was the man from the moment they heard that he
25 had somehow had possession of that medallion. Maybe it was

1 because he had a criminal record in the past. Maybe it was
2 because he was a tall African American male. But for whatever
3 reason, they made up their mind and they never wavered from
4 that moment. In fact, you heard him testify. They didn't even
5 think that this guy Terrance existed.

6 But the other important thing here is this. Both Mr.
7 Campbell and Mr. Brooks are tall African American males, both
8 of muscular build. But isn't it amazing that the car belonged
9 to Mr. Campbell, the tape belonged to Mr. Campbell, found at
10 his house. Mr. Campbell was the one who Ms. Murphy picks out.
11 Mr. Campbell is the one who's on the video at the bank with Mr.
12 Murphy. And even Mr. Murphy has some difficulty, I would submit
13 to you, trying to decipher between the two. And as I said, it
14 really doesn't matter whether I think they looked alike or
15 don't think they look alike, what really matters is whether Mr.
16 & Ms. Murphy think that they look alike. And obviously they
17 did, because one of them picked him out and the other one was
18 having trouble trying to determine that it wasn't the same
19 person on the video.

20 The other thing that I would say to you, ladies and
21 gentlemen is this, is that in every criminal trial a Defendant
22 is charged and His Honor is going to instruct you to the law.
23 If I say something that's inconsistent with anything His Honor
24 tells you the law is, then you just disregard what I said. I
25 would not intentionally mislead you, but sometimes I misstate

1 things or I'm saying something because I'm thinking about
2 something else or I'm trying to apply it in a way that it
3 doesn't really apply. But His Honor will tell you what the law
4 is and that's his job and not mine. And I'm certainly not
5 trying to invade his province whatsoever.

6 The only thing that Michael Brooks did wrong, he never
7 should have taken possession of that medallion. It was stolen
8 property. He knew it was stolen property and he took it and he
9 sold it. And is that a crime? Yeah, it's probably called
10 receiving stolen goods. But it's not armed robbery. It's not
11 kidnaping. It's not burglary first degree. It's not being a
12 felon in possession of a weapon or a felon in possession of a
13 weapon during the course of a violent crime. It's none of those
14 things. He was not a part of any of this. And even if you
15 believe that he shouldn't have gotten the jewelry from these
16 people who took it, that doesn't make him a party to this crime
17 and it does not make him the hand of one, the hand of all. His
18 Honor will charge you that there is a rule of law called the
19 hand of one and the hand of all. And basically, what that means
20 if two or more people combine or assist in committing a crime,
21 that generally all of them are equally guilty, no matter which
22 one held the gun and which one went in the house.

23 But my point is, is that he was not present at that house.
24 He had absolutely nothing to do with that robbery, other than
25 he received the stolen items that they had. And that's the only

1 thing that they have proved. They have not proven anything else
2 and he's not charged with that.

3 I'm always mindful that when I stand up and I talk, that
4 inevitably there are ten things that I want to tell you and I
5 forget nine of them and no matter how long I've done this, I
6 still run into that from time to time and I don't get a chance
7 to get back up and talk again. The State will have it's
8 opportunity to talk. They will get the last word. That's our
9 system. That's how things work. And I'm comfortable with that.
10 That's how it's been for the whole thirty-plus years that I
11 have been practicing law and I don't suspect it's going to
12 change anytime soon.

13 But let me say this before I finish: Michael Brooks may be
14 a lot of things. And, yeah, he has a criminal record. But he's
15 not on trial today for his criminal record. He's not on trial
16 because in 2012 he did something or 2006 he did something. That
17 is not what we're here for. Even as Michael Brooks sits where
18 he sits at this moment, he is presumed to be innocent of each
19 and every charge that have been levied against him. And I often
20 tell jurors that it's not really the Defendant who's on trial.
21 It's really the State. Because see, the law places the burden
22 on the State to come in and to prove these allegations beyond a
23 reasonable doubt. Now, in a civil case, you don't have to prove
24 things beyond a reasonable doubt. You get in an automobile
25 accident and you go there, and whoever's got the more likely

1 than not, they win, okay? That's how it works. Not so in a
2 criminal trial. In a criminal trial, you not only got to prove
3 more, you've got to reach that whole level of beyond a
4 reasonable doubt and it's the highest standard in the law. So
5 if you get in your jury room -- you say, well, yeah, it could
6 have happened that way or maybe it did or that's possible,
7 well, then you've already made your decision because then your
8 answer would be not guilty because that would mean that the
9 State had not proven its case beyond a reasonable doubt.
10 Because when you enter your verdict, if it's anything other
11 than not guilty, then you would have to say that the State has
12 proven its case beyond every reasonable doubt to you. And if
13 you have any hesitation, then they have not met their burden.
14 You can see my efficient paralegal is always trying to
15 help me and because I'm old, I can't read without my glasses
16 either, so -- so let me finish up and just say to you lastly.
17 If you end up with more questions than answers about what this
18 or what or why is it that way or what happened or who did this
19 or who did that, again, then you've already made the decision
20 because then the answer, the only answer is not guilty because
21 you have to be firmly convinced of the guilt of the accused or
22 you must find him not guilty. And I don't think you have to go
23 any further than Danny to do that. You don't have to go any
24 further. Why wasn't Danny brought here? Why wasn't he
25 contacted by the police? Why wasn't the computer that Danny

1 was using brought -- got by the police and sent to SLED to try
2 to show that he was not with Danny on that day? Just food for
3 thought, folks. I simply ask you to do this.

4 And I have paid very close attention to you during the
5 course of this trial and I know that you have paid close
6 attention to the witnesses who've testified and you've listened
7 very attentively to me and to Mr. Jupertinger here and Mr.
8 Richardson as we've gone through this trial and I appreciate
9 that on behalf of this Defendant and I'm sure on behalf of
10 these victims as well. Because the only thing that any of us
11 are entitled to is a fair and impartial trial. Nothing more or
12 nothing less. You have no enemies to punish. You have no
13 friends to reward. Your job is simply to do justice. And justice
14 in this case is not guilty. Thank you very much.

15 THE COURT: Thank you, Mr. Wilson. Mr. Foreman, ladies and
16 gentlemen of the jury, we're going to take a recess for a
17 moment. Y'all have been sitting for more than an hour. I'm
18 going to have you return to the jury room, but once again, do
19 not discuss the case.

20 (Jury out at 2:34 PM)

21 THE COURT: We'll stand at ease for five minutes.

22 (Brief break)

23 THE COURT: All right. Anything from the State before we
24 proceed?

25 MR. JEPERTINGER: No, sir.

THE STATE OF SOUTH CAROLINA VERSUS MICHAEL DONTA BROOKS

1 THE COURT: Anything from Defense?

2 MR. WILSON: No, sir.

3 THE COURT: All right. We're ready for the jury.

4 (Jury in at 2:45 PM)

5 THE COURT: Mr. Foreman, ladies and gentlemen of the jury,
6 pay very close attention. Mr. Jepertering, you're recognized.

7 MR. JEPERTINGER: Yes, sir. Thank you so much.

8 CLOSING ARGUMENT

9 BY MR. JEPERTINGER:

10 Children born during World War II, both Cara and Larry
11 Murphy who are now seventy-six and one seventy-five, some might
12 consider in the sunset of their lives. Who knows? Only the
13 good Lord can tell you that. But I tell you what, folks, never
14 in their lives would they ever imagine that the last thoughts
15 that went through their mind at about quarter to twelve on
16 March the 3rd, 2014, was that our daughter may find our dead
17 bodies in our den when two perpetrators came into house, bound
18 us like animals in our house, with Larry having to crawl like
19 an animal to the kitchen to get a pair of scissors to cut his
20 bonds loose.

21 Now, Mr. Wilson, who I greatly respect and has been a
22 friend of mine for years, says this is a question of who did
23 it. Well, ladies and gentlemen, we know who did it, who was
24 involved. There is no question in my mind that you have a good
25 synopsis of what happened that day.

THE STATE OF SOUTH CAROLINA VERSUS MICHAEL DONTA BROOKS

1 But to review briefly: About nine-fifteen, Larry went to
2 the SCB&T up here at Palmetto Street with \$2100.00 of the
3 choir's money. Let me just stop there and say this. One of the
4 things Judge Nettles is going to tell you during his charge to
5 you, that in assessing a witness and their credibility, you can
6 consider their demeanor, consider their forthrightness to you,
7 consider all those things, but we know that he's a credible
8 individual, a trustworthy individual. How do we know that?
9 Just by the very fact of being entrusted with twenty-one
10 hundred dollars by other choir members. Contrast that with the
11 Defendant in this case. What do we know about him? A robber,
12 burglar, cocaine possessor, those are the individuals we're
13 dealing with in this case. Cara Murphy, a teacher of the deaf
14 for thirty-two years. Going to be, I guess, married for forty-
15 seven coming up.

16 What happened? A predator, as Mr. Richardson called him
17 during opening statement, was waiting, not maybe directly
18 because Larry went into the bank first and here comes Greg
19 Campbell and you'll be able to see that on the SCB&T video.
20 What do we see? Larry up at the counter with a wad of money
21 right in front of him, wearing a long shirt, wearing those
22 glasses, reading glasses around his neck and an idea was born
23 in the mind of Gregory Campbell. Had to be. Now, this is where
24 it's a little perplexing to me because I don't have the answers
25 and I'm going to be the first one to admit it. I can't tell you

1 if "Boogie" was with Campbell, whether Brooks was with
2 Campbell, whether Campbell had to pick those two up later, I
3 don't know about that. But one thing I do know, he had to
4 follow Mr. Murphy. First, to when he dropped off the deposit
5 slip to Ann Marie, over off Heritage Lane and then follow him
6 to his house and a plan was born in Gregory Campbell's mind. Is
7 it so difficult to believe that his cousin wasn't included in
8 that plan? And as you saw from Mr. Gioldasis' photographs;
9 their -- #3UU and #3DD and #3XX and #3WW and #3YY -- that green
10 Tahoe going up and down Berkeley Avenue, casing the place
11 before the robbery.

12 Mr. Murphy gets home with Cara there in the kitchen, hears
13 the doorbell ring. An African American gentleman, taller than
14 he is, taller than six feet tall, asks if he wants any painting
15 done. Well, the house is brick and vinyl. It don't need to be
16 painted. Here comes the gun. But the one thing he did mention
17 to you from the stand was this; that fellow who was tall has no
18 dread locks. Look at the bank video of March the 3rd.
19 Campbell's got dreads there. Campbell's got dreads here. That's
20 the one thing he did remember about the height. No, he may not
21 have remembered the complexion of the individual, but I don't
22 know how many folks are on the working end of the barrel of a
23 gun that are going to remember a person's complexion at that
24 point. When they're shoving you down to the ground and someone
25 else is called in and duct taping your hands. Now, this whole

1 business of -- they never saw him with duct tape. It doesn't
2 take a rocket scientist. He called the other individual from
3 the house. The other gentleman had to be in the garage and that
4 other individual was Terrance Baker, no doubt. Look man, when
5 we get in the house, I'm going to give you this duct tape now.
6 You duct tape them. There you go. I'm touching it. I'm grabbing
7 it. I've got it and I'll give it to the guy because I've got to
8 hold the gun and make sure I got control of the situation. That
9 is how your DNA winds up on that duct tape that was used to
10 bind the hands of the Murphys. Specifically, the hands of Mr.
11 Murphy.

12 And to say this business -- and this is one thing Mr.
13 Wilson didn't want to bring up here. When Brooks sent the
14 letter to Justin Head and Ralph Wilson, my attorney, the
15 Defense Exhibit of April the 7th, 2015, I do not know how my
16 DNA got on that tape that was used on those people, but I have
17 a feeling you and Bannister did that. It makes no sense. There
18 is no mention of the incident of him using the duct tape in
19 February or touching it. You know what that is, folks? It's a
20 ruse. It's a ruse to get your mind off the fact that I've got
21 to be able to say how the DNA got on that duct tape. So it's
22 either one of two things; the police planted it on me or
23 planted it on the tape or I touched it later, even though he
24 didn't mention it.

25 The second prong that he's got problems with is him saying

1 that his DNA was planted by Bannister and Head. If you think
2 about it, they didn't get the swab, his DNA, his sample until
3 April the 2nd, 2014. The tape that was used to bind the wrists
4 of the Murphys was already at SLED on March the 21st. You
5 remember the first SLED expert that looked for fingerprints?
6 But then I asked him how about in terms of your evidence
7 collection expertise. I'm the one that swabbed the tapes. Now,
8 unless you believe that Thomas Darnell is in on some grand
9 conspiracy to stick it to Mr. Brooks, there's only one
10 reasonable way how that DNA got onto that duct tape. He handed
11 that roll to Boogie and that's how it got on him.

12 Having said that, one thing that Mr. Wilson's forgotten
13 about is the towel. Unless Larry and Cara Murphy's towel was
14 over at his home when Gregory Campbell was putting speakers,
15 putting speakers into Campbell's car, how in the world, how in
16 the world, how in the world, do we wind up with a situation
17 that says this; the DNA profile from item 3.1, which is the
18 towel, is a mixture of at least three individuals; Larry
19 Murphy, Cara Murphy and Michael Brooks can't be excluded as
20 possible contributors to this mixture and the probability of
21 randomly selecting unrelated individuals who could have
22 contributed to this mixture is approximately one in ten. He
23 can't be excluded. Larry, Cara and Michael. Who could be
24 excluded? Gregory Campbell is excluded as a possible
25 contributor to this mixture. Remember what he was doing?

1 Campbell wasn't in the house. He was picking things up,
2 including those jewelry pieces she had. From the kitchen to the
3 upstairs. Don't forget about the towel. They were bound. Larry
4 got himself free. He got Cara free and called the law. While
5 this was all going on, remember Megan Barr? Megan Barr came in
6 and said I saw a green Tahoe with one individual on the outside
7 of that vehicle. Ladies and gentlemen, no question in my mind
8 that that individual would fit the description of Gregory
9 Campbell while the other two were in the house doing their
10 business.

11 From the Defendant, we know he sold the jewelry on the 3rd
12 to Latasha McNeil. Why did he sell it to her? He needed money.
13 He absolutely needed money. His lights were cut off. He says he
14 was trying to get his tax return money back and this is
15 something that I think is absolutely astounding that Mr. Wilson
16 would say this, but he said it. He said why doesn't the State
17 bring Danny in here to clear up the whole thing? My question to
18 you, ladies and gentleman, if my client is looking at burglary
19 first, armed robbery, kidnaping, and the two weapons charges,
20 why in the world doesn't he bring him in? It's his friend. Why
21 in the world? I ask that question to Mr. Brooks. Where is Danny
22 if he can vouch for you? Could it be as what Investigator
23 Williamson testified to? Yeah, I went out and talked to Danny.
24 You remember he said that on the statement of March 17th. I
25 talked to Danny and he said he went back on the 18th, even

1 though he didn't write a report about it, and at the end of his
2 conversation with him, he still felt the proper charges were
3 burglary first, armed robbery, kidnaping and the two weapons
4 charges.

5 And speaking of the other witness, why in the world didn't
6 we hear from this Ron guy if he knew his phone number? Why
7 didn't he bring him in to say the police were doing all these
8 things that reflects against his mother, which didn't make
9 sense to me in any way, shape or form of why his cousin, his
10 first cousin as he called him, would threaten to kill his aunt,
11 makes no sense. Makes absolutely no sense. So, the police have
12 a lead. Franklin Jones calls and they go out to see Peaches
13 Heyward and Peaches tells them that she gets it from Latasha.
14 Latasha tells them she gets it from Michael. Michael, of
15 course, corroborates that and they arrest him. He did fit the
16 description. But the investigation continued, ladies and
17 gentlemen. It wasn't a one shot deal here. The DNA confirmed he
18 was in that house, but not only the DNA, the Murphys did.

19 Now, let's discuss that one second because I know Mr.
20 Wilson brought that up. When I showed the bank video to Mr.
21 Murphy, he looked at it. I asked him was that guy -- referring
22 to Campbell -- in your house and he said, I don't know. Well,
23 remember, he never got to see the second guy. Now, in my
24 opinion, the second guy was Boogie Baker, based on the DNA. And
25 Campbell was the wheel man. But that was a good answer and a

1 truthful answer. When I asked him, was this the guy with the
2 gun? He did pause. And when Mr. Wilson brought that point out
3 during cross examination, why did you pause so long, he gave a
4 very truthful answer, I wanted to be sure. When they brought
5 the photo array, the lineup, on March the 14th to Larry, he
6 looked at it and he said number two resembles the big guy that
7 went into the, that came in with the gun, came into my house
8 and put me on the ground. Remember what he also said -- and
9 this was a two-dimensional picture -- I'm not seeing body
10 shape, I'm not seeing -- I'm not hearing his voice, but when I
11 saw him at that bond hearing and I heard that voice, likewise
12 for Cara, when I'm at that bond hearing and I hear that voice,
13 that's the same voice that said if you move -- excuse the
14 terminology folks -- bitch, I'll shoot you. That voice she
15 didn't forget. I asked her, did you hear Gregory Campbell speak
16 at the bond hearing? Yes. Was that the same voice? No. When she
17 saw the picture on the second lineup with Campbell in it, there
18 is a similarity when you look at Campbell and Brooks. There is.
19 And you can look at it folks, back there, to your hearts
20 content. However, the difference, the difference, if you
21 remember what Larry said once again, the hair's not right. The
22 guy had short hair. He's got -- Campbell's got long hair on the
23 video. He had short hair.

24 So, they arrested Brooks and they talked to him. On the
25 14th he knew nothing, but he did know this; that he had the

1 jewelry. So, he began to think. How in the world am I going to
2 get away with it if they can trace the jewelry back to me that
3 was taken from this place? Well, he did what I call, criminal
4 mathematics. He figured that a half truth, which equals a whole
5 lie by the way, would be enough to get the cops off his back.
6 He knew, he knew this fact. He knew that two individuals went
7 in the house. So, he gave them two individuals. He knew
8 Campbell had seen Mr. Murphy at the bank, so he gave them that.
9 He gave them the green Tahoe just in case anybody saw a green
10 Tahoe. He had two individuals, name them. Name them. Now, think
11 about what he said their purpose was to go over to Smith &
12 Smith Mobile Home Park, which we learned is somewhere between
13 National Cemetery Road and Freedom Boulevard. He said they were
14 looking for a dumpster to throw the stuff, the jewelry away.
15 Folks, I bet you, conservatively, there's probably about five
16 hundred dumpsters between Marsh and Smith & Smith Mobile Home
17 Park. Why in the world would you drive over to Smith & Smith
18 Mobile Home Park to throw your jewelry away? Then why, also,
19 why in the world after you have bound two people, once again,
20 bound two people, robbed them at gunpoint, let this guy steal
21 the jewelry that you have just stolen, a thing of value? It
22 makes no sense.

23 Mr. Wilson's right about this. He said in reaching the
24 conclusion of whether there's a reasonable doubt you should use
25 your common sense. Well, I have often held to this old saw that

1 if common sense makes good sense, you need find no other sense
2 or you wind up with nonsense. And the bottom line is, it makes
3 no sense to have let this guy steal this jewelry. Who had the
4 motive? He did. No lights on, needed money. Campbell, we know,
5 was cashing a check. So, they arrest him. And the first thing
6 he says, I know nothing. Then on the 17th he says that whole
7 statement we've heard. Then later that day, this is what you
8 hear. (Plays recorded call from the jail) Now, why in the world,
9 why in the world a few hours after you had thrown Gregory
10 Campbell and Boogie -- and it sounds like he's about to say
11 Boogie at the end of that tape -- But why in the world, if
12 you're only guilty of receiving stolen goods, two pieces of
13 jewelry, are you concerned about them keeping their mouths
14 closed? Why? There's only one reasonable explanation and it's
15 this, folks: Because if Gregory Campbell or Boogie talk,
16 they're going to tell the cops possibly that Michael Brooks
17 just didn't receive these pieces of jewelry. It was Michael
18 Brooks that handed the tape to Boogie. It was Michael Brooks
19 who grabbed a hold of Larry Murphy. It was Michael Brooks that
20 put them on the ground. It was Michael Brooks that ordered them
21 to be duct-taped. It was Michael Brooks that took the kitchen
22 towel from the kitchen, started grabbing items in the kitchen,
23 stealing items from them, their wallet, credit cards, cash. It
24 was Michael Brooks who went upstairs, rummaged through their
25 bedrooms upstairs, stole their jewelry. You don't say, keep

1 your mouth shut, if all you've done was steal jewelry from
2 thieves and robbers. It makes no sense. And he had to explain
3 this to you, ladies and gentlemen. He had to explain this to
4 you, because it makes no sense. Not once does he mention his
5 mother or family in that recording. Not once.

6 So, that was the 17th. Then we learn when he testifies on
7 the 19th, okay, I was driving the car, but I said that just to
8 make the cops happy, I guess. And then he writes the letter.
9 Oh, that letter that we went through before. To Justin and
10 Ralph: Let them know if Michael is willing to admit to being
11 present and being the one who was ordered to put the duct tape
12 on, that it was Campbell's idea because he was in the bank and
13 thought the man was depositing the money, that I went along
14 with him and followed him into the residence and I'll be
15 willing to testify to this.

16 So, it doesn't matter, folks. That's the third story. You
17 pick one. Whatever will get me off this charge because remember
18 what he said early on in his statement on the 17th? I can't
19 take no charge. So, whatever statement will get him off, that's
20 the one he wants you to believe.

21 Now, Mr. Wilson brought up the issue of Mr. Myers, Bo
22 Myers, Thomas Myers, the Sergeant with crime scene, keeping
23 that swab, buccal swabs from Campbell and Brooks in his office
24 locker, crime scene locker for nine days. You know, what he
25 doesn't do, though, and he didn't ask any witness, what

1 difference does it make? He didn't ask one of the experts
2 whether it was Jennifer Bartman from SLED or Teresa Hines, what
3 difference does it make. They sent it up on the 17th and they
4 got a sample. They took a swab -- if you remember Darnell. He
5 said he took the swab on May the 8th, sent it to DNA and that
6 DNA off the duct tape bindings, Jennifer Bartman was able to
7 make her analysis, including the one in eighteen quadrillion of
8 Michael Brooks. And the one in ten in terms of Michael Brooks,
9 Cara and Larry on the blue towel, not once did she say, oh,
10 those nine days have degraded the sample and we can't reach a
11 conclusion. What difference does it make? We know what
12 happened. You can follow it from his office locker to the
13 Florence Police Evidence locker, from when Amelia Miles carried
14 it on up to SLED. Their secure procedure at SLED to analysis.
15 It was all accounted for, including the duct tape role that
16 they seized from Larry Murphy's house. Both Larry and Michael
17 were excluded as possible contributors to that mixture and they
18 should have been because the duct tape that would have been
19 around his hands was no longer on that roll. It was in those
20 strips that Tom Darnell tested on May the 8th.

21 Now, Mr. Wilson has talked about the role of justice and
22 fairness and I think we both have given our careers to that.
23 However, justice doesn't just mean letting an innocent man go,
24 justice also has this principle: It means holding responsible
25 those who are guilty for the crimes that they commit. There was

1 no rush to judgment to this case. The only rushing that was
2 done, if you recall, was when Brooks ran from Bannister when
3 they tried to arrest him. And his excuse was, I thought it was
4 for Family Court warrants. Well, folks, why would he run from
5 Family Court warrants? It makes no sense.

6 Think about his past. He's been arrested for robbery, been
7 arrested for burglary, been arrested for drug possession, been
8 convicted of those things. Why would he run on a Family Court
9 warrant? It makes no sense. You go up there and if you owe back
10 support, you owe back support. But do you do run if you think
11 they're going to get you for burglary, armed robbery,
12 kidnaping, because you know what you did? And that is so
13 indicative of a guilty conscience.

14 When I was a boy, I had an older brother and he passed
15 away a couple of years ago, but as older brothers tend to do,
16 they like to have a little fun at younger brother's expense.
17 And we'd go up through the woods. We loved to fish. And when
18 you get up in the woods and they gave me this old saw, if you
19 get lost there's moss on the north side of a tree. Well, let me
20 tell you, I've walked around trees my whole life and I have yet
21 to find one with moss on the north side of the bark. So, I'm --
22 anyhow, if you wanted to know where north was, you'd get a
23 compass because that thing will point you straight to north.

24 In the trial of a criminal case, you need to look at all
25 the evidence together, not just one part, but everything

1 together. The credibility and demeanor of the witnesses, the
2 DNA evidence, the photographs, how he got the jewelry in this
3 case. All of it together; why he would have gotten the jewelry,
4 how he could have stolen the jewelry, how he fits the physical
5 description, all of that together. Why he makes that call to
6 Ron to tell Greg to keep his mouth shut. You have to look at it
7 all together, because that evidence is like a compass needle
8 and it'll point you to the truth. And your job is not -- and
9 your obligation is not to Mr. Wilson. It's not to Mr.
10 Richardson. It's not to Judge Nettles, it's not to myself. Your
11 obligation is to the truth of what happened on March the 3rd,
12 2014 at the home of Larry and Cara Murphy. And all the evidence
13 together, together, points conclusively to the guilt of Michael
14 Donta Brooks and it is truth that should leave you firmly
15 convinced of his guilt. Thank you.

16 THE COURT: Thank you, Mr. Jepertinger.

17 MR. JEPERTINGER: Yes, sir.

18 THE COURT: Mr. Foreman, ladies and gentlemen of the jury,
19 you've been sitting for a little while. I'm going to ask if you
20 can just stand and stretch for just one moment.

21 (Jurors comply)

22 CHARGE ON THE LAW

23 THE COURT: All right. You may be seated. Mr. Foreman,
24 ladies and gentlemen of the jury, at this time I'm going to
25 charge you the law. At the beginning of the case you've taken a

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1 solemn oath that you'll listen to the evidence presented in
2 this case. When called upon to deliberate, you're going to be
3 called upon to find out what the true facts are and apply it to
4 the law. You've paid very close attention throughout the trial
5 of this case, you've got a good handle on what the facts are
6 and in order for you to fulfill your duty and your solemn oath,
7 you have to pay attention to the law. I wish there was an
8 easier way to do it, but there isn't. It's sort of like taking
9 medicine. It' mid-afternoon. I know that y'all have probably
10 had a big lunch. I'm going to ask you to perk up and pay close
11 attention. Although it's not the most riveting thing in the
12 world, this is very important that you understand what the law
13 is. So everybody perk up, pay close attention.

14 The indictments charge the Defendant with armed robbery,
15 burglary first degree, kidnaping, possession of a weapon during
16 the commission of a violent crime and felon in possession of a
17 firearm. I remind you that the fact that the Defendant was
18 arrested, charged, and indicted is not evidence and cannot be
19 considered by you as evidence of guilt, nor does it create any
20 presumption or inference of guilt. This document is simply the
21 formal written instrument which contains the charges made
22 against the Defendant. It is the formal document by which this
23 case is brought into this Court. Each indictment charged is a
24 separate and distinct offense. You must decide each indictment
25 separately on the evidence and the law applicable to it,

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1 uninfluenced by your decision as to any other indictment. The
2 Defendant may be convicted or acquitted on any or all of the
3 offenses charged. You'll be asked to write a separate verdict
4 of guilty or not guilty for each indictment.

5 Mr. Foreman, ladies and gentlemen of the jury, I'll remind
6 you that during this trial you and I have certain duties to
7 perform. As the trial judge it is my responsibility to preside
8 over the trial and I also have the duty to rule on the evidence
9 and the admissibility of the evidence. You're to consider only
10 the competent evidence before you. There was testimony ordered
11 stricken from the record in this case during this trial. You
12 must disregard that testimony. You're to consider only the
13 testimony which has been presented from this witness stand, any
14 exhibits which have been made a part of the record in this case
15 and any stipulations of counsel. I have the additional duty to
16 charge you the law applicable to this case. As the presiding
17 judge, I am the sole judge of the law and it is your duty as
18 jurors to accept and apply the law as I now state it to you. If
19 you already have an idea as to what the law is or what the law
20 ought to be and does not agree with what I now tell you the law
21 is, you must abandon this idea because you are sworn to accept
22 the law and apply the law exactly as I state it to you.

23 In every case tried before a jury, the jury becomes the
24 sole and exclusive judge of the facts. A trial judge cannot
25 intimate, state, comment on or make any statement to a trial

1 jury about the facts. Since you the jury are the sole judge of
2 the facts, you are not to infer from what I have said during
3 the progress of this trial and ruling upon the admissibility of
4 evidence or otherwise or anything that I say now during the
5 course of this instruction to you, that I have any opinion
6 about the facts. The law simply does not allow me to have an
7 opinion about the facts in this case. This is a matter solely
8 for you, the jury, to determine. As jurors, it is your duty to
9 determine the effect, value, weight and truth of the evidence
10 presented during this trial.

11 Mr. Foreman, ladies and gentlemen of the jury, the
12 Defendant has pled not guilty to this indictment and that plea
13 puts the burden on the State to prove the Defendant guilty. A
14 person charged with a criminal offense in South Carolina is
15 never required to prove himself innocent. I charge you that it
16 is an important rule of law that the defendant in a criminal
17 trial, no matter the seriousness of the charge may be, will
18 always be presumed to be innocent of the crime from which the
19 indictment was issued unless guilt has been proven by evidence
20 satisfying you of that guilt beyond a reasonable doubt.

21 This presumption of innocence does not end when you begin
22 your deliberations but it accompanies the Defendant throughout
23 the trial until you reach a verdict of guilt based on the
24 evidence satisfying you of that guilt beyond a reasonable
25 doubt. The presumption of innocence is like a robe of

1 righteousness placed about the shoulders of the Defendant,
2 which remains with the Defendant until it has been stripped
3 from the Defendant by evidence satisfying you of the
4 Defendant's guilt beyond a reasonable doubt. The presumption of
5 innocence is not a mere legal theory. It's not just a legal
6 phrase. It's a substantial right to which every defendant is
7 entitled, unless you, the jury are satisfied from the evidence
8 of the Defendant's guilt beyond a reasonable doubt.

9 Ladies and gentlemen of the jury, what is reasonable doubt
10 in the law? A reasonable doubt is the kind of doubt that would
11 cause a reasonable person to hesitate to act. The State has the
12 burden of proving the Defendant guilty beyond a reasonable
13 doubt. Some of you may have served as jurors in a civil case
14 where you're told that it is only necessary to prove that a
15 fact is more likely true than not true, such as by a greater
16 weight or preponderance of evidence.

17 In criminal cases, the State's proof must be more powerful
18 than that. It must be beyond a reasonable doubt. Proof beyond a
19 reasonable doubt is proof that leaves you firmly convinced of
20 the Defendant's guilt. There are very few things in this world
21 that we know with absolutely certainty and in criminal cases
22 the law does not require proof that overcomes every possible
23 doubt. If, based on your consideration of the evidence you are
24 firmly convinced the Defendant is guilty of the crime charged,
25 you must find the Defendant guilty. If, on the other hand you

1 think there's a real possibility that the Defendant is not
2 guilty, you must give the Defendant the benefit of the doubt
3 and find him not guilty.

4 Ladies and gentlemen of the jury, there are two types of
5 evidence which are generally presented during a trial, direct
6 evidence and circumstantial evidence. Direct evidence directly
7 proves the existence of a fact and does not require deduction.
8 Circumstantial evidence is proof of a chain of facts and
9 circumstances indicating the existence of a fact. Crimes may be
10 proven by circumstantial evidence. The law makes no distinction
11 between the weight or value to be given to either direct or
12 circumstantial evidence. However, to the extent the State
13 relies on circumstantial evidence, all the circumstances must
14 be consistent with each other and when taken together point
15 conclusively to the guilt of the accused beyond a reasonable
16 doubt. If these circumstances merely portray the Defendant's
17 behavior as suspicious, the proof has failed. The State has the
18 burden of proving the Defendant guilty beyond a reasonable
19 doubt. This burden rests with the State regardless of whether
20 the State relies on direct evidence, circumstantial evidence or
21 some combination of the two.

22 Mr. Foreman, ladies and gentlemen of the jury, necessarily
23 you must decide the credibility of witnesses who have
24 testified. Credibility simply means believability. It becomes
25 your duty as jurors to analyze and evaluate the evidence and

1 determine which evidence convinces you of its truth. In
2 determining the believability of witnesses who have testified,
3 you may: believe one witness over several witnesses or several
4 witnesses over one witness, you may believe a part of the
5 testimony of a witness and reject the remaining part of the
6 testimony of that same witness, you may believe the testimony
7 of a witness in its entirety or reject the testimony of a
8 witness in its entirety, you may consider whether any witness
9 exhibits to you any interest, bias, prejudice or other motive,
10 you may also consider the appearance and manner of the witness
11 while on the witness stand, their demeanor.

12 Mr. Foreman, ladies and gentlemen of the jury, you have
13 heard evidence that the Defendant was convicted of a crime,
14 other than the one which the Defendant is now on trial for.
15 This evidence may be considered by you if you conclude it is
16 true. Only in deciding whether the Defendant's testimony is
17 believable and for no other purpose. You must not consider the
18 Defendant's prior record as any evidence of a Defendant's guilt
19 for the charge we are trying here today.

20 There's been evidence presented that witnesses have made
21 prior statements, which are not consistent with the witnesses
22 present testimony. You may use this evidence to decide whether
23 to believe the witness. You may also use evidence of the
24 earlier contradictory statements to determine the truth of
25 those statements. It is up to you to decide whether to believe

1 the earlier statements or the testimony given at trial. If a
2 witness is shown to have knowingly testified untruthfully
3 concerning any material matter, you may consider this in
4 determining whether to trust the witnesses testimony as to
5 other matters. You may reject all testimony of that person or
6 give all or part of the testimony the weight you think it
7 deserves.

8 Ladies and gentlemen of the jury, the rules of evidence
9 ordinarily do not permit witnesses to testify to opinions or
10 conclusions. An exception to this rule exist for witnesses we
11 call expert witnesses. A witness who by education and
12 experience has become expert in some art, science, profession,
13 or calling may state an opinion as to the relevant material
14 matter in which the witness claims to be an expert and may also
15 state the reasons for the opinion. You should consider any
16 expert opinion received into evidence and like any other
17 evidence give it the weight you think it deserves. If you
18 decide that the opinion of an expert is not based on sufficient
19 education and experience, if you conclude that the reasons in
20 support of the opinion are not sound, or that the opinion is
21 outweighed by other evidence, you may disregard the opinion
22 entirely. An expert witness' testimony is to be given no
23 greater weight than that of other witnesses simply because the
24 witness is an expert. Further, you are not required to accept
25 an expert's opinion even though it is uncontradicted.

1 Mr. Foreman, ladies and gentlemen of the jury, I want to
2 explain to you a concept in the law, which is known as the hand
3 of one is the hand of all. Pay very close attention. If a crime
4 is committed by two or more people who are acting together and
5 committing a crime, the act of one is the act of all. A person
6 who joins with another to commit an unlawful act is criminally
7 responsible for everything done by the other person which
8 happens as a probable and natural consequence of the acts done
9 in carrying out the common plan and purpose. For example, two
10 people can be guilty of killing another person when only of the
11 two had a gun. There was only one bullet and only one of the
12 two fired the shot that caused the death, but if two or more
13 people are together, acting together, assisting each other in
14 committing the offense, the act of one is the act of all and it
15 is sometimes said the hand of one is the hand of all.

16 Prior knowledge that a crime is going to be committed
17 without more is not sufficient to make a person guilty of that
18 crime. Mere knowledge that another person is going to commit a
19 crime, even if the Defendant is present when the crime is
20 committed, is not sufficient to convict the Defendant as a
21 principal. Guilt as a principal is shown by actual or
22 constructive presence at the scene as a result of prior
23 arrangement. Therefore, a finding of a prior arranged plan or
24 common scheme is necessary for a finding of guilt as a
25 principal.

1 The State must prove beyond a reasonable doubt by
2 competent evidence the theory of the hand of one is the hand of
3 all. A principal in a crime is one who either actually commits
4 the crime or who is present, aiding, abetting or assisting in
5 committing the crime. When a person does an act in the presence
6 of and with the assistance of another, the act is done by both.
7 Where two are more acting with a common plan or intent are
8 present at the commission of a crime, it does not matter who
9 actually commits the crime. All are guilty. The hand of one is
10 the hand of all. Presence at the commission of a crime means to
11 be sufficiently near to aid and abet and assist in the
12 commission of the crime. However, mere presence at the scene of
13 a crime is not sufficient to convict one as a principal on the
14 theory of aiding and abetting.

15 Intent is also a necessary element for there must have
16 been a common design or intent to commit the crime and the
17 crime must have been committed pursuant thereto with the person
18 aiding and abetting some overt act. Intent means intending the
19 result which actually occurs, not accidentally or
20 involuntarily. Intent may be shown by acts and conduct of the
21 Defendant and other circumstances from which you may naturally
22 and reasonably infer intent. The State must prove these
23 elements beyond a reasonable doubt.

24 Ladies and gentlemen of the jury, an issue in this case is
25 identification of the Defendant as the person who committed the

1 crime charged. The State has the burden of proving identity
2 beyond a reasonable doubt. You must be satisfied beyond a
3 reasonable doubt of the accuracy of the identification of the
4 Defendant before you may convict the Defendant. Identification
5 testimony is an expression of belief or impression by a
6 witness. You must determine the accuracy of the identification
7 of the Defendant. You must consider the believability of each
8 identification witness in the same way as any other witness.
9 You may consider whether the witness had an adequate
10 opportunity to observe the offender at the time of the offense.
11 This will be affected by things like how long or short a time
12 was available, how far or close the witness was, the lighting
13 conditions and whether the witness had the chance to see or
14 know the person in the past. Once again, I instruct you the
15 burden of proof on the State extends to every element of the
16 crime charged and this specifically includes the burden of
17 proving beyond a reasonable doubt the identity of the Defendant
18 as the person who committed the crime. If, after examining the
19 testimony you have a reasonable doubt as to the accuracy of the
20 identification, you must find the Defendant not guilty.

21 Mr. Foreman, ladies and gentlemen of the jury, a statement
22 alleged to have been made by the Defendant has been admitted
23 into evidence in this case. While the Court has determined that
24 the statement is admissible, I instruct you that you make the
25 ultimate decision of whether not the Defendant made the

1 statement. If the Defendant did make the statement, you must
2 determine whether the statement was made by the Defendant
3 voluntarily and of his own free will. This means that the
4 statement was not caused by pressure, force, fear, threats,
5 coercion or intimidation or by hope of a promise of leniency or
6 a reward of any kind. In determining whether the statement was
7 voluntary, you should consider both the characteristics of the
8 Defendant and the details of the questioning. Some of the
9 factors that you must consider are: the age of the Defendant,
10 the Defendant's education or lack of education, the Defendant's
11 mental ability or capacity, the Defendant's IQ or intelligence,
12 the Defendant's background and environment, the place and
13 length of detention, the nature of the questioning, the advice
14 or lack thereof to the Defendant of his constitutional rights
15 including, but not limited to the right to remain silent and
16 any statement could be used against him in a court of law,
17 the right to have a lawyer present and if he could not afford a
18 lawyer would be appointed to him without any cost and that he
19 can stop making a statement at any time. You must carefully
20 consider all of the surrounding circumstances before you give
21 any weight to an alleged statement. The State has the burden of
22 proving beyond a reasonable doubt that the alleged statement
23 was voluntary. If you determine it was, you may give the
24 statement any further consideration that you deem proper. You
25 must decide what weight, if any, should be given to the alleged

1 statement. If you determine that the alleged statement was not
2 the free and voluntary statement of the Defendant, you should
3 not consider the statement at all.

4 I charge you the substantive law with regard to armed
5 robbery. The Defendant is charged with armed robbery. In order
6 to prove this offense the State must first prove beyond a
7 reasonable doubt that the Defendant took personal property from
8 the person or presence of another. Property is in the presence
9 of a person if it is within the person's reach, inspection,
10 observation or control so that the person could, if not
11 overcome with violence or prevented by fear, keep possession of
12 the property.

13 The State must also prove beyond a reasonable doubt that
14 the Defendant carried the property away intending to
15 permanently deprive the owner of the property and to keep the
16 property for the Defendant's own use. The slightest removal of
17 the property or the complete possession of the property, even
18 for an instant by the Defendant is sufficient to show a taking
19 and carrying away of the property. The taking and carrying away
20 of the property must have been done with violence or by putting
21 the owner of the property in fear of violence. Finally, the
22 State must prove beyond a reasonable doubt that the Defendant
23 was armed with a deadly weapon during the robbery. A deadly
24 weapon is any article, instrument or substance which is likely
25 to cause death or great bodily harm. The following are examples

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1 of instruments which may be deadly weapons: a pistol, shotgun,
2 rifle, dirk, dagger, knife, slingshot, metal knuckles, a razor,
3 gasoline, a firebomb, or a Molotov cocktail and lighter fluid.
4 A gun may be a deadly weapon, even if it is not operating.

5 I will now charge you the law with regard to burglary. The
6 Defendant is charged with first degree burglary. The State must
7 prove beyond a reasonable doubt that the Defendant entered a
8 dwelling without consent. A dwelling is any building or portion
9 of a building in which a person ordinarily sleeps. A building
10 constructed as a dwelling that has never been occupied cannot
11 be considered a dwelling for purposes of the burglary, but a
12 building is a dwelling even if the residents are temporarily
13 absent from the building. In order to prove that the Defendant
14 entered the dwelling, the State does not have to show that the
15 Defendant's entire body entered the dwelling. The smallest
16 entry is sufficient. It may be any part of the body such as a
17 hand or foot or even an instrument, such as a hook or other
18 instrument. In addition, the State does not have to prove that
19 force was used to gain entry. If a person enters a building by
20 using deception, artifice, trick or misrepresentation to get
21 consent to enter, this is an entry without consent.

22 Next, the State must prove beyond a reasonable doubt that
23 the Defendant intended to commit a crime, either a felony or a
24 misdemeanor at the time of the entry. Mere entry into a
25 dwelling without consent is not burglary. If intent to commit a

1 crime is formed after the entry, it is not burglary. On the
2 other hand, if a Defendant intended to commit a crime at the
3 time of the entry, it is a burglary even if the intent was
4 abandoned after the entry. It does not matter that the intended
5 crime was not completed. Intent may be shown by acts and
6 conduct of the Defendant and other circumstances from which you
7 may naturally and reasonably infer intent.

8 Finally, the State must prove beyond a reasonable doubt
9 that when entering, while in the dwelling, or when fleeing, the
10 Defendant or an accomplice was armed with a deadly weapon or
11 when entering, while in the dwelling or when fleeing, the
12 Defendant or an accomplice displayed what was or appeared to be
13 a knife, pistol, revolver, rifle, shotgun or machine gun or
14 other firearm.

15 I will charge you the law with regard to kidnaping. The
16 Defendant is charged with kidnaping. The State must prove
17 beyond a reasonable doubt that the Defendant knowingly and
18 unlawfully seized, confined, inveigled, decoyed, kidnapped,
19 abducted, or carried away another person without authority of
20 law. To do a thing unlawfully is to do it, willfully, against
21 the law. Knowingly means with knowledge, consciously, not
22 accidentally. Seize means to take hold, suddenly or forcibly.
23 Confine means to limit, restrict or enclose within bounds,
24 imprison, or shut or keep in. Inveigle means to lure, entice or
25 lead astray by false representation, promises or other

1 deceitful means. Decoy means to lure by or if by decoy. A decoy
2 is something to entice a person into a trap. Kidnap is to
3 remove a person against his will by unlawful force or by fraud.
4 Abduct means to carry off secretly or by force for an illegal
5 purpose. Carry away means to remove. The State does not have to
6 prove that the Defendant did all of these things. Instead if
7 you find beyond a reasonable doubt the Defendant did any of
8 these things, you may find the Defendant guilty of kidnaping.
9 It's something done without authority of law or something which
10 the law does not sanction, permit, allow, condone or provide
11 justification for. Kidnaping does not have to be for any
12 personal or monetary gain, for any illegal purpose. It may be
13 for any reason whatsoever.

14 I'm going to charge you the law with regard to possession
15 of a weapon during the commission of a violent crime. The
16 Defendant is charged with possession of a weapon during the
17 commission of or attempt to commit a violent crime. The State
18 must prove beyond a reasonable doubt that the Defendant was in
19 possession of a firearm or visibly displayed what appeared to
20 be a firearm during the commission of a violent crime. A
21 firearm means any machine gun, automatic rifle, revolver,
22 pistol, or any weapon which is designed to or may be readily
23 converted to expel a projectile. In order to find the Defendant
24 guilty of possession of a weapon during the commission of a
25 violent crime, you must first find the Defendant guilty of

1 either committing a violent crime or attempting to commit a
2 violent crime. Burglary first, armed robbery, kidnaping are all
3 violent crimes. The State must prove beyond a reasonable doubt
4 that the weapon furthered, advanced, or helped in the
5 commission of the crime.

6 I charge you the law of unlawful possession of a firearm
7 by a person convicted of a violent crime. It is unlawful for a
8 person who has been convicted of a violent crime to possess a
9 firearm or ammunition within this State. Burglary second degree
10 is a violent crime. Evidence of a prior offense committed by
11 the Defendant was not offered to prove the Defendant has bad
12 character. The prior offense may be considered by you only for
13 the purposes of determining whether or not he satisfied the
14 element of offense requiring that he has been convicted of a
15 violent crime.

16 The Defendant has not been charged with receiving stolen
17 goods, the verdict form doesn't call for you to make a finding
18 on that, but there's been some discussion about receiving
19 stolen goods and I want to define what that is. The State must
20 prove beyond a reasonable doubt that the Defendant bought,
21 received or possessed goods, chattel, or other property that
22 the Defendant knew or had reason to believe that the property
23 was stolen. That the Defendant knew or had reason to believe
24 that the property was stolen may be shown by direct or
25 circumstantial evidence. The State may prove the Defendant knew

1 or had reason to believe that the property was stolen by
2 showing that the Defendant knew facts that would make a
3 reasonable person believe that the property was stolen.

4 The Defendant has raised the defense of alibi. There is no
5 burden on the Defendant to prove an alibi. The burden is on the
6 State to prove beyond a reasonable doubt that the Defendant was
7 actually present at the scene of the crime, actually
8 participated in it, and was not somewhere else. In other words,
9 the State has the burden of disproving the Defendant's alibi
10 defense.

11 Mr. Foreman, ladies and gentlemen of the jury, I'm going
12 to come forward and share with you the verdict form. I just
13 want to remind the alternates, y'all have been a big help. I'm
14 going to talk to you here momentarily, but y'all don't go back
15 into the jury room when I release the jury. Y'all stay with us.

16 Mr. Foreman, if you could stand up, I want to go over this
17 form with you. It's fairly self-explanatory. The State of South
18 Carolina, County of Florence. The State of South Carolina
19 versus Michael Donta Brooks. It's got in the Court of General
20 Sessions. It's got the indictment number here. It's a document
21 that's entitled, Verdict Form. These are the various offenses
22 that we've discussed over the last several days and I've
23 charged you the law.

24 First, is armed robbery. It says we, the jury, find by
25 unanimous consent, the Defendant Michael Donta Brooks is either

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1 not guilty or guilty. You will be called upon to check one or
2 the other. It's important for you to note that the verdict must
3 be unanimous. It can't be eight to four, six to six, eleven to
4 one. Everyone has to agree. It has to be unanimous. You'll be
5 called upon to determine each one of these offenses separately
6 and distinctly and there's a place for kidnaping, possession of
7 a weapon during the commission of a violent crime, felon in
8 possession of a firearm. There's a place for you to sign. A
9 place for you to date it. The verdict, once again, must be
10 unanimous and once you've reached a verdict, you'll notify the
11 bailiff and we will receive you back in and receive the
12 verdict. You can have a seat. I'm going to speak with you
13 briefly.

14 Mr. Foreman, you, like everyone else, are going to have a
15 vote with regards to deliberations, but you have an additional
16 duty. You're to preside over the deliberation process and that
17 simply means that you're to ensure that everybody's voice is
18 heard. If there's a question that develops amongst y'all, I
19 don't anticipate there will be because y'all have paid very
20 close attention to the evidence over the last several days, you
21 paid attention to the law. I don't think there are going to be
22 any questions, but if there are, there are certain type
23 questions I can answer. If you want me to answer questions
24 concerning the law, I can do that. But once again, the hard
25 questions in this case are the factual questions. Y'all are

1 going to have to resolve that. If a question or concern
2 develops, I'm going to ask that you reduce it to writing, give
3 it to the bailiff and if it's something I can help you with, I
4 will. If, in your mind, you can't decide whether it's a legal
5 question or factual question, write it down and I'll tell you.
6 But I don't anticipate there are going to be any questions. I
7 think y'all have everything that you need to resolve this case.
8 Mr. Foreman, I'm going to ask that if anyone gets up to use the
9 restroom, stop deliberations because everybody has to
10 participate in all the deliberation process.

11 Throughout the trial of this case, when I sent y'all out
12 of the courtroom I always say don't begin deliberations. Once
13 again, I'm going to tell you to do that because I have to talk
14 with these very fine lawyers to determine whether or not they
15 have an objection to the manner in which I charged the law and
16 we have to also get together the documentary evidence. If it's
17 necessary for me to bring you back out for additional charge or
18 for clarification with regard to the charge, I'll do that. If
19 that's not necessary, then we will provide all the documentary
20 evidence to you and they'll probably provide you with some
21 paper and pencil to aid you in the deliberation process and
22 we'll tell you to begin deliberations. But once again, do not
23 begin deliberations until you receive instructions from either
24 me or the bailiff. I'm going to ask if you could return to the
25 jury room. Alternates, if you'll remain with us.

THE STATE OF SOUTH CAROLINA VERSUS MICHAEL DONTA BROOKS

1 (Jury out at 3:55 PM)

2 THE COURT: I want to thank y'all for being here. I know
3 y'all -- you know, jury service is a difficult thing and I
4 think it's particularly difficult when you're an alternate,
5 because y'all have spent all of this time and y'all don't get
6 to deliberate. You kind of get the sensation you've been
7 invited to a dance and didn't get to dance. But nonetheless,
8 it's very important that you be here because there's a lot been
9 invested in this case. If we were to lose one of the jurors for
10 illness, one of them had some transportation problems or a
11 conflict develops, then we would have to start all over again
12 and you have sort of been our insurance policy. It's not
13 uncommon for us to have to promote an alternate to the regular
14 jury. It happens all the time. But we didn't in this case. I
15 always tell jurors after their service if there are any
16 questions you have, I'll be happy to answer them. Do y'all have
17 any questions?

18 ALTERNATE JURORS: (Shake heads)

19 THE COURT: This is, indeed a public forum and I know y'all
20 have other things you'd rather be doing, but you're welcome to
21 stay with us to see what the result is. However, if you wanted
22 to call, you can call the clerk's office and they'll tell you
23 what the verdict is at a later date and time or if you just
24 want to move on your merry way you can. There is some good news
25 that we want to impart to you, one of which is that you're

THE STATE OF SOUTH CAROLINA VERSUS MICHAEL DONTA BROOKS

1 going to be paid handsomely for your service. I think it's
2 twenty-five dollars a day. How much is it?

3 CLERK OF COURT: Ten dollars a day and ten cents a mile.

4 THE COURT: Ten cents a mile. Gracious. That's not a whole
5 lot, but it's a small token of our appreciation for your
6 service and you've also earned a three-year exemption. If
7 called upon to serve in this court within the next three years,
8 tell them you served this week and you'll have a right to
9 exercise an exemption. You can serve if you want to, but if you
10 want to exercise your exemption you can. The bad news is, it
11 doesn't apply to federal court, magistrates court or municipal
12 court. It applies only to participation in this court, but you
13 earned a three-year exemption. Can I help y'all with anything?
14 Can I answer any of your questions?

15 ALTERNATE JURORS: No, sir.

16 THE COURT: Nobody ever asks me any questions, but at any
17 rate. All right. Very good. If it's a hard question, I'll get
18 my law clerk to answer it. No questions?

19 ALTERNATE JURORS: (Shake heads)

20 THE COURT: All right. Very good. Y'all are free to leave
21 at this time. Thank you. Y'all have a good evening. And y'all
22 are excused for the week, by the way. Very good.

23 (Alternates are released at 3:58 PM)

24 THE COURT: All right. Let's have quiet. All right. Any
25 objections with regard to the jury charge, from the State?

THE STATE OF SOUTH CAROLINA VERSUS MICHAEL DONTA BROOKS

1 MR. JEPERTINGER: No, sir.

2 THE COURT: Any from Defense?

3 MR. WILSON: No, sir.

4 THE COURT: All right. I'm going to ask if each of you
5 could come forward and I'm going to -- do you think it would be
6 best for us to put all of the documentary evidence up here or
7 to just put it in one place. How about that? Sometimes it
8 would be easier if you would bring it over here so that the
9 court reporter can assist us.

10 (Attorneys look through evidence)

11 THE COURT: Mr. Jepertinger, is everything in that pile
12 evidence?

13 MR. JEPERTINGER: Yes, sir, Your Honor.

14 THE COURT: Mr. Wilson, is everything in that pile in
15 evidence?

16 MR. WILSON: Yes, sir.

17 THE COURT: Very good. Mr. Jepertinger, is there anything
18 in that pile not in evidence?

19 MR. JEPERTINGER: No, sir, Your Honor.

20 THE COURT: Mr. Wilson, is there anything in that pile that
21 is not in evidence?

22 MR. WILSON: No, sir, Your Honor.

23 THE COURT: Very good. You may take the evidence to the
24 jurors and tell them to begin deliberations.

25 (Whereupon, the exhibits were delivered to the jury and

THE STATE OF SOUTH CAROLINA VERSUS MICHAEL DONTA BROOKS

1 deliberations began at 4:03 PM)

2 THE COURT: We'll stand at ease while they begin
3 deliberations.

4 (Jury in at 4:55 PM)

5 QUESTION FROM THE JURY

6 THE COURT: Watch your step. Mr. Foreman, ladies and
7 gentlemen of the jury, I think this is a first for me. I've
8 been practicing law for 20 years, been on the bench for ten and
9 never had the power go out, but y'all are doing a fantastic
10 job. I anticipate that the power will be on shortly. I think
11 Progress Industries indicated it will be around 6:00 to 6:30.
12 It will definitely be on, so let's continue on as best we can.
13 I want to specifically say you can't view anything that is
14 not in evidence. "Are we entitled to review the SLED reports?"
15 "No, not in evidence." "Can we review the police report log-out
16 sheets of the evidence?" The answer is, "No, not in evidence."
17 Please return to the jury room and resume deliberations.

18 THE COURT: We will stand at ease in the dark.

19 (Question from the jury is marked as Court's Exhibit #5)

20 (Jury out at 4:57 PM)

21 VERDICT

22 THE COURT: I understand the jury has reached a verdict.
23 And, of course, my job is to preside over the trial and charge
24 the jury and a number of other things, but one of the most
25 important things is to maintain order in the Court. So,

THE STATE OF SOUTH CAROLINA VERSUS MICHAEL DONTA BROOKS

1 everyone, I know this is very emotional times. Whatever the
2 verdict is, somebody's going to be disappointed about it and
3 some people might have some sort of relief, but we aren't going
4 to show any kind of emotion. If there's any outburst of any
5 sort from anybody, the deputies have received instructions to
6 handcuff you and take you into custody. We will have no
7 outburst from anybody. We're ready for the jury.

8 (Jury in at 6:07 PM)

9 THE COURT: Mr. Foreman, have you reached a verdict?

10 MR. FOREMAN: Yes, sir. We have. Yes, sir.

11 THE COURT: If you can provide the verdict form to the
12 bailiff.

13 THE BAILIFF: (Receives verdict form from Foreman, hands up
14 to the court.)

15 THE COURT: The verdict form seems to be in order. I'll ask
16 the clerk to publish it. I'm going to ask Mr. Brooks to stand.

17 MR. BROOKS: (Complies)

18 CLERK OF COURT: State of South Carolina, County of
19 Florence in the Court of General Sessions, Twelfth Judicial
20 Circuit, Indictment number 2014-GS-21-813, State of South
21 Carolina versus Michael Donta Brooks.

22 Armed robbery. We, the jury, find, by unanimous consent,
23 that the Defendant, Michael Donta Brooks, is guilty.

24 Burglary first degree. We, the jury, by unanimous consent,
25 find the Defendant, Michael Donta Brooks, guilty.

THE STATE OF SOUTH CAROLINA VERSUS MICHAEL DONTA BROOKS

1 Kidnaping: We, the jury, find by unanimous consent, that
2 Michael Donta Brooks is guilty.

3 Possession of a weapon during the commission of a violent
4 crime: We, the jury, find by unanimous consent, the Defendant,
5 Michael Donta Brooks, guilty.

6 Felon in possession of a firearm. We, the jury, by
7 unanimous consent, find that Defendant, Michael Donta Brooks,
8 is guilty.

9 Signed, Vernon Sawyer, Foreperson. Dated June 18th, 2015.
10 Members of the jury, if this is your verdict, please raise your
11 right hand.

12 (Whereupon, all jurors' right hand was raised)

13 THE COURT: Any additional requests for polling, Mr.
14 Wilson?

15 MR. WILSON: No additional requests, Your Honor.

16 THE COURT: All right. Did everyone raise their hand? If
17 this is your verdict, indicate so by raising your right hand.

18 (Whereupon, all jurors' right and was raised)

19 THE COURT: Very good. All right. Do we have a sentencing
20 sheet? Very good.

21 Mr. Foreman, ladies and gentlemen of the jury, you have
22 discharged your duty and there will be no more jury service
23 this week. Everybody's been released. You're free to go home
24 for the weekend. There's some good news in that you've earned a
25 three-year exemption if called upon to serve in Circuit Court

THE STATE OF SOUTH CAROLINA VERSUS MICHAEL DONTA BROOKS

1 over the next three years. You can tell them you served this
2 week and you can exercise an exemption. If you want to serve,
3 you can. But by virtue of the fact that you served this week,
4 you can, indeed, do that. You will be paid handsomely for your
5 service. I think it's ten dollars a day, ten cents a mile, but
6 it's a small token of our appreciation for your service. I want
7 to thank you. Y'all clearly have paid very close attention. You
8 have given it a great deal of thought. For that, we are
9 grateful. You've been able to do what nobody else in this
10 courtroom has been able to do. You've been able to bring some
11 resolution to this matter and for that we thank you. I always
12 ask jurors at the conclusion of a case if there are any
13 questions that you have. (No response) All right. If you need
14 excuses, you can speak with the clerk and she'll be happy to
15 provide one for you.

16 The other thing is, your job was to determine what the
17 verdict was. My job is to preside over the trial, charge the
18 law, and I also have the responsibility of sentencing the
19 individual. In some states, the jurors actually participate in
20 the sentencing aspect of it. But in South Carolina, that's not
21 the case. That's my responsibility. You have discharged your
22 responsibility and you're going to be free to leave at this
23 time. Of course, this is a public forum and if you would like
24 to, you can come back into the back of the courtroom into the
25 audience and you can observe if you would like to. Certainly,

1 you're not required to and I'm going to ask everyone to remain
2 seated as the jury exist the courtroom.

3 (Jury out at 6:13 PM)

4 SENTENCING

5 THE COURT: Do we have a sentencing sheet? We'll wait here
6 momentarily until the clerk comes back. Everyone just remain
7 seated at the moment. Mr. Wilson, will you bring Mr. Brooks
8 around? (Mr. Wilson complies) I'll be glad to hear from the
9 State with regard to sentencing. Is there anybody who would
10 like to speak on behalf of the State?

11 MR. RICHARDSON: Thank you, Your Honor. The first thing I
12 need to place on the record with respect to the kidnaping
13 charge, my understanding of the law in this State is if a
14 person is convicted of kidnaping and there is no sexual
15 component, that there must be a finding on the record that
16 there should be no sex offender registry. We do not feel that
17 the facts of this case warrant sex offender registry so we
18 would ask the Court to make that finding.

19 With respect to sentencing, the State's position -- well,
20 first, I'll read the Defendant's prior record.

21 MR. WILSON: Your Honor, before we do that. I don't know if
22 it may be more appropriate for me to do my motions or should I
23 wait until after the sentencing?

24 THE COURT: We're going to sentence and you can make you
25 motions at that time. You're certainly protected on the record.

THE STATE OF SOUTH CAROLINA VERSUS MICHAEL DONTA BROOKS

1 MR. WILSON: Thank you, Your Honor.

2 MR. RICHARDSON: Your Honor, he had an attempted burglary,
3 which a conviction was for third degree in 1999; larceny of
4 bicycle, 1999; driving under suspension, '99; assault and
5 battery high and aggravated nature in 2000; resisting arrest in
6 2003; possession of cocaine 2003; possession of marijuana in
7 2003; a parole revocation in '03; common law robbery in 2006.
8 He received a three-year sentence for that; possession of
9 cocaine second offense in 2008; financial transaction card
10 fraud 2009; trespass in 2010; violation of probation 2010 on
11 the second offense cocaine charge; disorderly conduct 2011;
12 violation of a court order of protection 2012; and a violent
13 burglary second degree in 2012.

14 Your Honor, the State's position based on the egregious
15 nature of the facts of this case and the escalation of
16 behavior, we would ask for the maximum allowable sentences
17 under the statute. With that stated, I'd ask the Court hear
18 from both of the victims if they wish to address you.

19 THE COURT: I'll be glad to hear from both or either of
20 you. It's not necessary that you speak, but if you'd like to.
21 And if you'd like to speak, I would ask that you direct your
22 comments to me and not the Defendant. Yes, ma'am. Your full
23 name for the record so we can have it on the record.

24 MS. MURPHY: My name is Cara Murphy.

25 THE COURT: Right.

THE STATE OF SOUTH CAROLINA VERSUS MICHAEL DONTA BROOKS

1 MS. MURPHY: And I would like to say -- I really don't know
2 what I would like to say. I would like to thank you and the
3 Solicitor's office for all the work that has gone into this. I
4 would like to say that I am greatly relieved. I don't know what
5 else to say.

6 THE COURT: That's fine. And you don't have to say anything
7 else unless the spirit moves you in that direction. Mr. Murphy,
8 would you like to say something?

9 MR. MURPHY: No, sir. I have nothing to add.

10 THE COURT: Very good. I'm sorry for the circumstance you
11 find yourself in. Anything else from the State?

12 MR. RICHARDSON: No, sir.

13 THE COURT: Mr. Wilson, be glad to hear from you.

14 MR. WILSON: Your Honor, there's not a lot that I can add.
15 The Court heard the evidence and the testimony in this case and
16 you heard all of the witnesses and you heard the Defendant's
17 testimony so I don't know that there's anything that I can add
18 to what's already been said. I would just ask the Court to have
19 as much mercy as the Court can see fit to under the
20 circumstances of this case.

21 THE COURT: All right. Mr. Brooks would you like to say
22 anything? If you'd like to say anything I'd ask you direct
23 your comments to me and not to the Murphys.

24 MR. BROOKS: Yes, sir. I would like to say I still maintain
25 my innocence and that I hope that God will bless them in

1 everything that's going on.

2 THE COURT: All right. Very good. How much time is he
3 entitled to credit for?

4 MR. JEPERTINGER: He was arrested on March 14th, 2014, Your
5 Honor and he's not been out of jail since. So, it would be a
6 year, plus.

7 THE COURT: Let's see if we can calculate up the days
8 while...

9 MR. JEPERTINGER: Four hundred and sixty-one days.

10 THE COURT: Four hundred and sixty-one days. Is that right,
11 Mr. Wilson?

12 MR. WILSON: That is. Yes, sir. I think that's correct.

13 THE COURT: Mr. Brooks, given all of the circumstances of
14 this case, and the fact that these are the most serious of the
15 offenses, the three; armed robbery, burglary, and kidnaping are
16 non-parolable offense, you'll serve those day for day. Taking
17 that all into consideration, this is the sentence of the Court.

18 On indictment 2014-GS-21-00813, armed robbery. The
19 sentence of the Court is you be committed to the State
20 Department of Corrections for a period of thirty years. The
21 sentence will run concurrent, credit for four hundred sixty one
22 days.

23 With regard to indictment 2014-GS-21-00813, burglary. The
24 sentence of the Court is you be committed to the State
25 Department of Corrections for a period of thirty years. The

THE STATE OF SOUTH CAROLINA VERSUS MICHAEL DONTA BROOKS

1 sentence will run concurrent. Credit for four hundred sixty one
2 days.

3 With regard to indictment 2014-GS-21-00813, kidnaping. The
4 sentence of the Court is you be committed to the State
5 Department of Corrections for a period of thirty years. The
6 sentence will run concurrent, credit for four hundred sixty-one
7 days. No sex offender registry.

8 With regard to indictment 2014-GS-21-00813, possession of
9 a weapon during the commission of a violent crime, the sentence
10 of the Court is you be committed to the State Department of
11 Corrections for a period of five years. The sentence to run
12 concurrent. Credit for four hundred one days.

13 With regard to indictment 2014-GS-21-00813, possession of
14 a firearm. The sentence of the Court is you be committed to the
15 State Department of Corrections for a period of five years.
16 Sentence to run concurrent. Credit for four hundred and sixty-
17 one days. Mr. Wilson, yes, sir.

18 MR. RICHARDSON: Your Honor, if I may, the weapons charge,
19 possession of a weapon during commission of a violent crime by
20 statute has to be consecutive if it's not life on the
21 substantive underlying offense.

22 THE COURT: I think you're right on that. The possession of
23 a weapon, possession of a weapon during the commission of a
24 violent crime?

25 MR. RICHARDSON: Yes, sir.

THE STATE OF SOUTH CAROLINA VERSUS MICHAEL DONTA BROOKS

1 THE COURT: All right. Be happy to hear any motions at this
2 time, Mr. Wilson.

3 MR. WILSON: Your Honor, at this time I would just move for
4 a judgment of acquittal with an outstanding verdict in this
5 case. I think, you know, during the course of the trial the
6 jury listened to the evidence. I do believe that. I just think
7 that the evidence is inconsistent with the verdict and I would
8 ask the Court to grant us a new trial based on that or a
9 judgment of acquittal in this case.

10 THE COURT: All right. I'll be glad to hear from the State
11 in that regard.

12 MR. RICHARDSON: Your Honor, we would ask the Court to deny
13 that motion. The evidence, from our perspective, has been
14 abundantly clear to reach the verdict and we'd ask the Court to
15 respect that verdict and deny that motion.

16 THE COURT: All right. You're protected on the record in
17 all respects with regard to all of your motions and you're
18 protected on the record.

19 MR. WILSON: Thank you.

20 THE COURT: And the motions are denied. Mr. Brooks, good
21 luck to you.

22 MR. WILSON: Thank you very much, Your Honor.

23 THE COURT: I'd ordered all the sentences to run concurrent
24 initially, which means that it was essentially a thirty-year
25 sentence, but the State has pointed out that the offense of

1 possession of a weapon during the commission of a violent crime
2 was mandatory consecutive, which means it would add another
3 five years to that. I've looked at the law after you left the
4 courtroom and I can do it concurrently. That was my original
5 intent. So, I'm going to run that concurrently. I will forward
6 notice to your lawyer indicating that it's not to run
7 consecutively.

8 MR. BROOKS: Is there anything I could have so I could --
9 if I have a problem where I'm going that I can show them?

10 THE COURT: It will be. Good luck to you. We stand
11 adjourned for the evening.

WITNESSES

Justin Head Florence Police Department

John C Jeperfinger

ARREST WARRANT NUMBER

2014A2120200319 2014A2120200320

2014A2120200321 2014A2120200322

2014A2120200323

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury.
Date:

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2014-GS-21-00813

The State of South Carolina

County of
FLORENCE

COURT OF GENERAL SESSIONS

JULY **TERM** **2014**

THE STATE

vs.

MICHAEL DONTA BROOKS

Indictment for

**ARMED ROBBERY,
BURGLARY FIRST DEGREE,
KIDNAPPING,
POSSESSION OF A WEAPON DURING THE
COMMISSION OF A VIOLENT CRIME
AND
FELON IN POSSESSION OF A FIREARM**

CERTIFIED: A TRUE COPY

FILED

2014 JUL 10 AM 11:31

CONNIE REEL-SHEARIN
CCCP & GS
FLORENCE COUNTY, SC

CLERK OF COURT C.P. & G.S.
FLORENCE COUNTY, S.C.

STATE OF SOUTH CAROLINA)

COUNTY OF FLORENCE)

INDICTMENT FOR

ARMED ROBBERY,
BURGLARY FIRST DEGREE,
KIDNAPPING,POSSESSION OF A WEAPON DURING THE
COMMISSION OF A VIOLENT CRIME
AND
FELON IN POSSESSION OF A FIREARM

At a Court of General Sessions, convened on JULY 10, 2014 the Grand Jurors of FLORENCE County present upon their oath:

COUNT ONE- ARMED ROBBERY

That MICHAEL DONTA BROOKS did in Florence County on or about March 3, 2014, while armed with a deadly weapon, to wit: a handgun, take and carry away personal property of Larry and Cara Murphy to wit: jewelry, cash and credit cards, from or in the immediate presence of Larry and Cara Murphy with intent to deprive Larry and Cara Murphy of possession by use of force, threats or intimidation, in violation of Section 16-11-0330(A), S. C. Code of Laws, 1976, as amended.

COUNT TWO- BURGLARY FIRST DEGREE

That MICHAEL DONTA BROOKS did in Florence County, on or about March 3, 2014, enter the dwelling of Larry and Cara Murphy, located at [REDACTED] Avenue, Florence, SC, without consent and with the intent to commit a crime therein; and he or another participant in the crime was armed with a deadly weapon, to wit: a handgun or threatened the use of a dangerous instrument, or displayed a pistol; in violation of Section 16-11-0311, S.C. Code of Laws, 1976, as amended.

COUNT THREE - KIDNAPPING

That MICHAEL DONTA BROOKS did in Florence County on or about March 3, 2014, unlawfully seize, confine, inveigle, decoy, kidnap, abduct or carry away Larry and Cara Murphy by forcing them to the ground in their own house and duct taping both their hands and feet together, without authority of law, in violation of Section 16-03-0910; S. C. Code of Laws, 1976, as amended.

Y909 ZUNT AUCU KML

2014 JUL 10 PM 4:00
CLERK OF COURT
FLORENCE COUNTY, SC

ATTACHED TO AND BECOMING A PART OF THE ORIGINAL INDICTMENT FOR ARMED ROBBERY, BURGLARY FIRST DEGREE, KIDNAPPING, POSSESSION OF A WEAPON DURING THE COMMISSION OF A VIOLENT CRIME AND FELON IN POSSESSION OF A FIREARM, WITH THE AFORESAID NAMES(S) OF MICHAEL DONTA BROOKS SHOWN THEREON:

**COUNT FOUR- POSSESSION OF A WEAPON DURING THE COMMISSION
OF A VIOLENT CRIME**

That MICHAEL DONTA BROOKS did in Florence County, on or about March 3, 2014, possess a firearm, or visibly display what appeared to be a firearm, or visibly displayed a knife to wit: a handgun, during the commission of an Armed Robbery, or Burglary First Degree, or Kidnapping, in violation of Section 16-23-0490, S. C. Code of Laws, 1976, as amended.

COUNT FIVE- FELON IN POSSESSION OF A FIREARM

That MICHAEL DONTA BROOKS did in Florence County on or about March 3, 2014 knowingly possess a firearm or ammunition after having been convicted of a crime of violence to wit: Burglary Second Degree (B)(violent), defined in Section 16-1-60, S.C. Code of Laws, 2003, as amended, in violation of Section 16-23-0500(A), S.C. 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.



E.L. Clements, III
TWELFTH CIRCUIT SOLICITOR

CERTIFIED: A TRUE COPY

Annie R. Spain
CLERK OF COURT C.P. & G.S.
FLORENCE COUNTY, S.C.

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS 597

COUNTY OF Florence

STATE VS.

Mi'chal Do n tBro o ks

AKA:

Race: Black Sex: M Age: 33

DOB: SS#:

Address:

City, State, Zip:

DL#:

SID#:

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was

☒ CONVICTED OF or ☐ PLEADS

TO: Robbery / Armed Robbery, robbery while armed or allegedly armed with a deadly weapon

in violation of § 16-11-0330(A) of the S.C. Code of Laws, bearing CDR Code # 0139

☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST

Jepardier, John C. 9826
Jepardier, John C. SC Bar#

Defendant

Attorney for Defendant

SC Bar#

WHEREFORE, the Defendant is committed to the

☒ State Department of Corrections, ☐ County Detention Center,for a determinate term of 30 days/months/years or ☐ under the Youthful Offender Act not to exceed years

and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment

of \$; plus costs and assessments as applicable*; the balance is suspended with probation for

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on:☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections. 46 days☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

Total: \$ plus 20% fee: \$

Payment Terms:

☐ Set by SCDPPPS

Recipient:

*Fine:

§ 14-1-206 (Assessments 107.5 %)	\$	
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$ 100.00
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§ 56-5-2995 (DUI Assessment)	\$12	\$
§ 56-1-286 (DUI Breath Test)	\$25	\$
Proviso 47.9 (Public Def/Prob)	\$500	\$
§ 14-1-212 (Law Enforce. Funding)	\$25	\$
§ 14-1-213 (Drug Court Surcharge)	\$150	\$
§ 50-21-114 (BUI Breath Test Fee)	\$50	\$
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
Proviso 90.5 (SCCJA Surcharge)	\$5	\$ 500.00
3% to County (if paid in installments)	\$	\$
TOTAL		\$ 1050.00

INDICTMENT/CASE#: 2014-GS-21-00813

A/W#: 2014A2120200319

Date of Offense: 3/3/2014

§ 16-1-0330(A)

CDR Code #: 0139

JUN 26 2015

SENTENCE SHEET

SC Court of Appeals

PTUP

days/hours Public Service Employment

Obtain GED ☐

Attend Voc. Rehab. or Job Corp.

May serve W/E beginning

Substance Abuse Counseling ☐Random Drug/Alcohol testing ☐

Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ beginning

\$ paid to Public Defender Fund

Other:

☐ Appointed PD or appointed other counsel, § 47.12 requires \$500 be paid to Clerk during probation.

CERTIFIED-A TRUE COPY
CLERK OF COURT C.P. & G.S.
FLORENCE COUNTY, S.C.

Clerk of Court/ Deputy Clerk

Court Reporter: J. Rice

SCCA/217 (03/2011)

Presiding Judge

Judge Code:

Sentence Date: June 18, 2015

COUNTY OF
STATE

Florence

VS.

Michael Donta Brooks

AKA:

Race: Black

Sex: M

Age: 33

DOB:

SS#:

Address:

City, State, Zip:

DL#:

SID#:

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the said indictment comes now the Defendant who was
TO: Burglary / Burglary (After June 20, 1985) - First degree

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2014-GS-21-00813

A/W#: 2014A2120200320

Date of Offense: 3/3/2014

S.C. Code §: 16-11-0311

CDR Code #: 0079

SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADS

15 - Life

in violation of § 16-11-0311

of the S.C. Code of Laws, bearing CDR Code # 0079

☐ NON-VIOLENT☒ VIOLENT☐ SERIOUS☒ MOST SERIOUS☐ Mandatory GPS(CSC
w/minor 1st or Lewd Act)☐ §17-25-45The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTES:

John C. Jernigan

9826

Jernigan, John C.

SC Bar#

Defendant

Attorney for Defendant

SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,for a determinate term of 30 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years
and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment
of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of
probation, which are incorporated by reference.☒ CONCURRENT or ☐ CONSECUTIVE to sentence on:☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied
by the State Department of Corrections. 461 days☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal
Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUP

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms:

☐ Set by SCDPPPS

Recipient:

*Fine:

§ 14-1-206 (Assessments 107.5 %)	\$	\$
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$ 100.00
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§ 56-5-2995 (DUI Assessment)	\$12	\$
§ 56-1-286 (DUI Breath Test)	\$25	\$
Proviso 47.9 (Public Def/Prob)	\$500	\$
§ 14-1-212 (Law Enforce. Funding)	\$25	\$
§ 14-1-213 (Drug Court Surcharge)	\$150	\$
§ 50-21-114 (BUI Breath Test Fee)	\$50	\$
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
Proviso 90.5 (SCCA Surcharge)	\$5	\$ 5.00
3% to County (if paid in installments)	\$	\$
TOTAL		\$ 105.00

_____ days/hours Public Service Employment

Obtain GED ☐

Attend Voc. Rehab. or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling ☐Random Drug/Alcohol testing ☐Fine may be pd. in equal, consecutive weekly/monthly
pmts. of \$ _____ beginning _____

\$ _____ paid to Public Defender Fund

Other: _____

☐ Appointed PD or appointed other counsel,
§ 47.12 requires \$500 be paid to Clerk
during probation.

Clerk of Court/ Deputy Clerk

Court Reporter:

SCCA/217 (03/2011)

Presiding Judge

Judge Code: 2140

Sentence Date:

June 18, 2015

CERTIFIED: A TRUE COPY
Clerk of Court
FLORENCE COUNTY, S.C.

STATE OF SOUTH CAROLINA

COUNTY OF Florence

STATE VS.

Michael Donta Brooks

AKA:

Race: Black Sex: M Age: 33

DOB: SS#:

Address:

City, State Zip:

DL#: SID#:

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the said indictment comes now the Defendant who was
TO: Kidnapping / Kidnapping

IN THE COURT OF GENERAL SESSIONS 599

INDICTMENT/CASE#: 2014-GS-21-00813

A/W#: 2014A2120200321

Date of Offense: 3/3/2014

S.C. Code §: 16-03-0910

CDR Code #: 0095

SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADS

0-30

in violation of § 16-03-0910 of the S.C. Code of Laws, bearing CDR Code # 0095

☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Jeperinger, John C

9826
SC Bar#

Defendant

Attorney for Defendant

SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,for a determinate term of 30 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years
and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment
of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of
probation, which are incorporated by reference.☒ CONCURRENT or ☐ CONSECUTIVE to sentence on:☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied
by the State Department of Corrections. 46 days☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal
Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms:

☐ Set by SCDPPPS

Recipient:

*Fine:		\$
§ 14-1-206 (Assessments 107.5 %)		\$
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$ 100.00
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§ 56-5-2995 (DUI Assessment)	\$12	\$
§ 56-1-286 (DUI Breath Test)	\$25	\$
Proviso 47.9 (Public Def/Prob)	\$500	\$
§ 14-1-212 (Law Enforce. Funding)	\$25	\$
§ 14-1-213 (Drug Court Surcharge)	\$150	\$
§ 50-21-114 (BUI Breath Test Fee)	\$50	\$
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ca	\$
Proviso 90.5 (SCCA Surcharge)	\$5	\$ 5.00
3% to County (if paid in installments)		\$
TOTAL		\$ 105.00

Clerk of Court/ Deputy Clerk

Court Reporter: J Rice

SCCA/217 (03/2011)

PTUP

_____ days/hours Public Service Employment

Obtain GED ☐

Attend Voc. Rehab. or Job Corp. _____

May serve W/B beginning _____

Substance Abuse Counseling ☐Random Drug/Alcohol testing ☐Fine may be pd. in equal, consecutive weekly/monthly
pmts. of \$ _____ beginning _____

\$ _____ paid to Public Defender Fund

Other: Not sex offender Registry☐ Appointed PD or appointed other counsel,
§ 47.12 requires \$500 be paid to Clerk
during probation.

Presiding Judge

Judge Code: 2140

Sentence Date: June 18, 2015

CERTIFIED: A TRUE COPY
 JUNE 18 2015
 CLERK OF COURT C.P. & G.S.
 FLORENCE COUNTY, S.C.

STATE OF SOUTH CAROLINA

600
COUNTY OF
STATE

Florence

VS.

Michael Donta Brooks

AKA:

Race: Black -- Sex: M -- Age: 33

DOB: SS#:

Address:

City, State, Zip:

DL#:

SID#:

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was

TO: Weapons / Possession of Firearm or Ammunition by person convicted of violent felony

☒ CONVICTED OF or ☐ PLEADS

0-5 for \$2,000.00

in violation of § 16-23-0500(A), (B) of the S.C. Code of Laws, bearing CDR Code # 3434

☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45

The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)

The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST: *John C. Depertinger* 9826

Depertinger, John C

SC Bar#

Defendant

Attorney for Defendant

SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,

for a determinate term of 5 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years

and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment

of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of

probation, which are incorporated by reference *MAH*

☒ CONCURRENT or ☒ CONSECUTIVE to sentence on: 6-18-15 (Concurrent)

☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections. 461 days

☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

PTUP

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms:

☐ Set by SCDPPPS

Recipient:

*Fine:

§ 14-1-206 (Assessments 107.5 %)	\$	
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$ 100.00
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§ 56-5-2995 (DUI Assessment)	\$12	\$
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Proviso 47.9 (Public Def/Prob)	\$500	\$
§ 14-1-212 (Law Enforce. Funding)	\$25	\$
§ 14-1-213 (Drug Court Surcharge)	\$150	\$
§ 50-21-114 (BUI Breath Test Fee)	\$50	\$
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
Proviso 90.5 (SCCA Surcharge)	\$5	\$ 5.00
3% to County (if paid in installments)	\$	\$
TOTAL		\$ 105.00

_____ days/hours Public Service Employment

Obtain GED ☐

Attend Voc. Rehab. or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling ☐

Random Drug/Alcohol testing ☐

Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ _____ beginning _____

\$ _____ paid to Public Defender and _____

Other: _____

CERTIFIED TRUE COPY
CLERK OF COURT C.P. & G.S.
FLORENCE COUNTY, S.C.

☐ Appointed PD or appointed other counsel, § 47.12 requires \$500 be paid to Clerk during probation.

Clerk of Court/ Deputy Clerk

Court Reporter:

SCCA/217 (03/2011)

Presiding Judge

Judge Code: 2140

Sentence Date: June 18, 2015

April 7, 2015

601

Dear Justin Head and Ralph Wilson my Attorney:

How are you doing, ^(Justin) You told me in our interview if I wasn't the one holding the gun then you would have my charges lowered. I do not know how my DNA got on the tape that was used on those people but I have a feeling you and Rannister did that. I'm ready to end this nightmare and drop the lawsuit. Heres my offer You talk to my lawyer and the solicitor. Let them know if Michael is willing to admit to being present and being the one who was ordered to put the duck tape on what it was Campbell's idea because he was in the bank and thought the man was depositing the money. That I went along with him and followed him into the residence and I will be willing to testify to this. I'm ready to end this and move on with my life. In order I plead to necessary saying I was Campbell's accomplice. And Ill plead to anything between 5-10 years. I will do this instead of having "Sick" look into when the items were sent off. or still getting my case dismissed for "warrantless unconstitutional arrest" or "Bad faith warrants". If I can go ahead and set this meeting up get an agreement from the solicitor. Then I will give my statement against Campbell go ahead and plea. So I can go ahead up the road and can be called back to trial when I am needed. Below is my Lawyer's name and phone number.

Ralph Wilson (943) 381-0765
1315 Third Avenue
P.O. Box 1897
Conway SC 29528
Fax (943) 381-0767



Justin & Ralph
PS I know you feel the same way I do let's close out this case and end this lawsuit. what I am offering is an honest way between us to do this. If you can bear me of your word Justin I'm ready to end this. I'm also sending my lawyer a copy. 5-10 years means the less I can do is 5 the most 10.

I love you Justin & Ralph

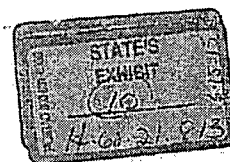
April 7, 2015

Dear Justin Head and Ralph Wilson my Attorney:
(Chad)

Let them know if Michael is willing to admit to being present and being the one who was ordered to put the duck tape on that it was Campbell's idea because he was in the bank and through the man was depositing the money. That I went along with him and followed him into the residence and I will be willing to testify to this. I'm ready to end this and move on with my life.

Below is my Lawyer's name and phone number.

Ralph Wilson (943) 381-0765
1315 Third Avenue
P.O. Box 1887
Conway SC 29528
Fax (943) 381-0767



CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

Respectfully Submitted,


Kathrine H. Hudgins
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S.C. 29211-1589

ATTORNEY FOR APPELLANT

,This 28th day of November, 2016.

RECEIVED

NOV 28 2016

SC Court of Appeals