

THE STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM LEXINGTON COUNTY
Court of Common Pleas
Post-Conviction Relief
Brooks P. Goldsmith. - Presiding Judge

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S.C. SUPREME COURT

Case No.: 2016-002253

Gregory Velez #345428 Petitioner,

vs.

State of South Carolina Respondent.

APPENDIX

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1 STATE OF SOUTH CAROLINA

COURT OF GENERAL SESSIONS

2 COUNTY OF LEXINGTON

3
4
5 STATE OF SOUTH CAROLINA

6 -vs-

TRANSCRIPT OF RECORD

7 GREGORY VELEZ,

08-GS-32-3721, et al

8
9 Defendant.

10 March 28-30, 2011
11 Lexington, South Carolina

12
13
14
15 B E F O R E:

16 HONORABLE R. KNOX MCMAHON, Judge; and a jury.

17
18
19 A P P E A R A N C E S:

20 J. ANGELA GARRICK, Asst. Solicitor
21 RHONDA W. PATTERSON, Asst. Solicitor
Attorneys for the State

22 W. MICHAEL DUNCAN, Esquire
23 Attorney for the Defendant

24 L. COCONUT PANTSARI, R.P.R.
25 Circuit Court Reporter

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1 (The following proceedings are reported on
2 March 28, 2011.)

3 THE COURT: Solicitor, you may call your first
4 case for trial.

5 MS. GARRICK: Thank you, Your Honor. May it
6 please the Court. Your Honor, the State calls
7 Indictment 2008-GS-32-3721, Gregory Velez, indicted for
8 burglary first. Indictment Number 2008-GS-32-3722,
9 Gregory Velez, indicted for kidnapping. Indictment
10 2008-GS-32-3724, the State versus Gregory Velez,
11 indicted for criminal conspiracy.

12 Indictment 2008-GS-32-3725, the State versus
13 Gregory Velez, indicted for armed robbery.
14 2008-GS-32-3726, the State versus Gregory Velez,
15 possession of a firearm during the commission of a
16 violent crime. Indictment 2008-GS-32-3727, the State
17 versus Gregory Velez, indicted for kidnapping.

18 Your Honor, the Defendant is present and
19 represented by counsel and ready for trial.

20 THE COURT: Thank you.

21 (Hands to Court.)

22 THE COURT: Ladies and gentlemen of the jury
23 panel, if you would please give me your complete and
24 undivided attention. I would also advise you to
25 consider yourselves still under oath from the previous

1 oath that you have taken this morning.

2 We are now going to begin a process to select
3 a trial jury for the first case that has been called for
4 trial. It is captioned the State versus Gregory Velez.
5 Did I pronounce that correct?

6 MR. DUNCAN: Your Honor, it's Velez
7 (phonetic).

8 THE COURT: Thank you very much. Gregory
9 Velez, V-E-L-E-Z. As part of this process, I am going
10 to publish or read to you the indictments that have been
11 called for trial.

12 However, I would advise you, ladies and
13 gentlemen, the indictments are not evidence. The
14 indictments are the formal charging documents by which
15 an individual is placed on notice of the charges that
16 have been brought against him or her.

17 They contain mere allegations and they are not
18 evidence of any of the allegations contained therein. I
19 read or publish these indictment to you because of
20 certain questions that I will ask you during the process
21 of selecting the jury for the trial of this case.

22 The first indictment, 2008-GS-32-3721, reads
23 that Gregory Velez, along with codefendants, did in
24 Lexington County, South Carolina, on or about August 13,
25 2008, did knowingly and willfully enter a dwelling;

1 141 Padgett Road, Batesburg Leesville, being the
2 dwelling of another, without consent and with the intent
3 to commit a crime therein and was armed with a deadly
4 weapon and/or the entering or remaining occurred in the
5 nighttime in violation of 16-11-311 of the Code of Laws
6 of South Carolina. That is an indictment for burglary
7 in the first degree.

8 The next indictment, 2008-GS-32-3722, reads
9 that Gregory Velez, along with codefendants, did in
10 Lexington County, South Carolina, on or about that same
11 date, August 13, 2008, did knowingly, willfully, and
12 unlawfully seize, confine, inveigle, decoy, kidnap,
13 abduct or carry away one John Corley, Jr. by any means
14 whatsoever without authority of law and without his
15 consent, to wit, the Defendant bound the arms of the
16 victim and pushed him into a closet in violation of
17 16-3-910 of the Code of Laws of South Carolina. That is
18 an indictment for kidnapping.

19 The next indictment, 2008-GS-32-3724, reads
20 that Gregory Velez did in Lexington County, South
21 Carolina, on or about August 13, 2008, knowingly and
22 willfully unite, combine, conspire, confederate, agree,
23 and have a tacit understanding with Jeremy Leaphart
24 and/or Lewis Barnes and/or Jawaiski Thompson for the
25 purpose of accomplishing a criminal act or unlawful act,

1 to wit, armed robbery, in violation of the common laws
2 and punishable under 16-7-410 of the South Carolina
3 Code of Laws. That is an indictment for criminal
4 conspiracy.

5 The next indictment, 2008-GS-32-3725, reads
6 that Gregory Velez, along with codefendants, did in
7 Lexington County, South Carolina, on or about August 13,
8 2008, knowingly and willfully while armed with a deadly
9 weapon, to wit, a shotgun, a rifle, and/or a handgun did
10 feloniously take from the person and presence of Connie
11 Otts, O-T-T-S, and/or John Corley, Jr. by means of
12 force, threats or intimidation, goods or monies being
13 described as follows, cash money and/or jewelry, with
14 the intent to deprive the owner of the use of such
15 property in violation of 16-11-330(a) of the Code of
16 Laws of South Carolina. That is an indictment for armed
17 robbery.

18 Indictment 2008-GS-32-3726 reads that Gregory
19 Velez, along with codefendants, did in Lexington County,
20 South Carolina, on or about August 13, 2008, knowingly
21 and willfully possess a firearm during the commission of
22 a violent crime or an attempt to commit a violent crime,
23 to wit, armed robbery, such weapon being described as a
24 shotgun, rifle and/or handgun, in violation of 16-23-490
25 of the Code of Laws of South Carolina. That is an

1 indictment for possession of a firearm during the
2 commission of a violent crime.

3 Indictment 2008-GS-32-3727 reads that Gregory
4 Velez, along with codefendants, did in Lexington County,
5 South Carolina, on or about August 13, 2008, knowingly,
6 willfully, and unlawfully seize, confine, kidnap, abduct
7 or carry away one by any means whatsoever without the
8 authority of law and without her consent, to wit, Connie
9 Otts. The Defendants did bound the arms of the victim.
10 in violation of 16-3-910 of the Code of Laws of South
11 Carolina. That is an indictment for kidnapping.

12 Ladies and gentlemen, the Defendant again is
13 charged by these indictments, which are no more than
14 formal charging documents. It is not evidence of any of
15 the mere allegations contained therein.

16 The charges are burglary first, two counts of
17 kidnapping, one count of armed robbery, one count of
18 criminal conspiracy, one count of possession of a
19 firearm during the commission of a violent crime.

20 It alleges an incident that occurred on or
21 about August 13, 2008, at 141 Padgett Road in the
22 Batesburg Leesville area of Lexington County, South
23 Carolina.

24 The State in this case is represented by
25 Assistant Solicitors Garrick and Patterson. If you

1 would please stand and introduce yourself and any other
2 members of the Solicitor's staff that are going to
3 assist you in the prosecution of this case.

4 MS. GARRICK: Thank you, Your Honor. May it
5 please the Court. Good morning, ladies and gentlemen.
6 My name is Angela Garrick. I'm one of the prosecutors
7 in this case. Also in our office, Wendy Frazier. She
8 is our victim's advocate. My co-counsel in the case is
9 Ms. Rhonda Patterson.

10 THE COURT: Thank you. Thank you very much,
11 Solicitor.

12 The Defendant in the case is represented by
13 Mr. Michael Duncan. Mr. Duncan, if you would please
14 stand and introduce yourself and any members of your
15 staff that are going to assist you and your client.

16 MR. DUNCAN: Thank you, Your Honor. My name
17 is Mike Duncan. I practice law over in Columbia.
18 Sitting with me at the table is my client, Mr. Gregory
19 Velez.

20 THE COURT: Stand up for me, please,
21 Mr. Velez, and face the jury panel.

22 (The Defendant stands.)

23 THE COURT: Thank you, Mr. Duncan. Thank you,
24 Mr. Velez.

25 Is any member of the jury panel related by

1 blood or marriage or close personal friends or have any
2 personal or professional relationship with either
3 Assistant Solicitor Garrick or Patterson or any member
4 of the Lexington County Solicitor's Office staff? If
5 so, please stand.

6 (Juror stands.)

7 THE COURT: Yes, your number and name, please?

8 PROSPECTIVE JUROR: I'm 13, Mary Barnett.

9 THE COURT: Tell me your situation,
10 Ms. Barnett.

11 PROSPECTIVE JUROR: I'm no longer in legal,
12 but I worked with Wendy Frazier.

13 THE COURT: You worked with Ms. Frazier at the
14 Solicitor's Office?

15 PROSPECTIVE JUROR: No.

16 THE COURT: At what location?

17 PROSPECTIVE JUROR: I worked for the City of
18 Cayce, Cayce Department of Public Safety.

19 THE COURT: When was that?

20 PROSPECTIVE JUROR: Not since 2002.

21 THE COURT: The fact that you formerly worked
22 with Ms. Frazier and worked at the City of Cayce Police
23 Department, could you still be a fair and impartial
24 juror in the trial of this case for both the State and
25 the Defendant?

1 PROSPECTIVE JUROR: Yes, sir.

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

3 Any others?

4 (There is no response.)

5 THE COURT: Is any member of the jury panel
6 related by blood or marriage or close personal friends
7 or have any business or professional relationship with
8 Mr. Mike Duncan, the attorney for Mr. Velez? If so,
9 please stand.

10 (There is no response.)

11 THE COURT: Has any member of the jury panel
12 or any member of your immediate family ever been
13 represented by Assistant Solicitor Garrick or Patterson
14 or been prosecuted by Assistant Solicitor Garrick or
15 Patterson, either yourself, family member or close
16 personal friend? If so, please stand.

17 (There is no response.)

18 THE COURT: Has any member of the jury panel
19 or any member of your immediate family or close personal
20 friend ever been represented by Mr. Duncan? If so,
21 please stand.

22 (There is no response.)

23 THE COURT: Is any member of the jury panel
24 related by blood or marriage or close personal friend or
25 have any personal or business relationship with the

1 named Defendant in this case, Mr. Gregory Velez, who
2 previously stood before you? If so, please stand.

3 (There is no response.)

4 THE COURT: Again, ladies and gentlemen, you
5 recall my reading of the indictments allege an incident
6 that occurred August 13, 2008, at 141 Padgett Road,
7 Batesburg Leesville, Lexington County, South Carolina.
8 Does any member of the jury panel have any knowledge
9 about the case? If so, please stand.

10 (There is no response.)

11 THE COURT: Does any member of the jury panel
12 have any bias or prejudice towards the parties, that
13 being the State or Mr. Velez, or the subject matter
14 involved in the trial of this case? If so, please
15 stand.

16 (There is no response.)

17 THE COURT: Has any member of the jury panel
18 heard or know anything about the case from any source
19 whatsoever? If so, please stand.

20 (There is no response.)

21 THE COURT: I'm going to call a list of names
22 of potential witnesses for the trial of this case,
23 ladies and gentlemen. The question, of course, is is
24 any member of the jury panel related by blood or
25 marriage or close personal friends of any of these

1 individuals whose names I call. If you are, if so,
2 please stand.

3 I would ask if any of these individuals are
4 present at the time their name is called, if you would
5 please stand and face the jury panel. I would advise
6 the jury panel that the witnesses are not required to be
7 present during this proceeding; therefore, names may be
8 called and no one stands.

9 The first five names: Chief Wallace Oswald,
10 Batesburg Leesville Police Department. This is Chief
11 Oswald. Major Henry Sims, Batesburg Leesville Police
12 Department.

13 Captain Wallace Goss to my front right,
14 Batesburg Leesville Police Department. Thank you.
15 Lieutenant Steve Clare, Batesburg Leesville Police
16 Department. Corporal Kendrick McCullum, Batesburg
17 Leesville Police Department.

18 Again, is any member of the jury panel related
19 by blood or marriage to any of those individuals whose
20 names I just called and/or who stood before you? If so,
21 please stand.

22 (There is no response.)

23 THE COURT: The next five names: P.F.C. Mike
24 Durrell, Batesburg Leesville Police Department. Patrice
25 Burgess, Batesburg Leesville Police Department. J.L.

1 Hickman, Lexington County Sheriff's Department. David
2 Day, Lexington County Sheriff's Department. Sergeant
3 Brad Melton, Lexington County Sheriff's Department.

4 Is any member of the jury panel related by
5 blood or marriage or close personal friends with any of
6 those individuals whose names I just called? If so,
7 please stand.

8 (Juror stands.)

9 THE COURT: Your name and number, please?

10 PROSPECTIVE JUROR: Letitia Tanks, juror
11 number 163.

12 THE COURT: Related by blood or marriage,
13 friends?

14 PROSPECTIVE JUROR: Mr. Henry Sims, my dad and
15 Mr. Sims are friends and coworkers.

16 THE COURT: And you say friends and coworkers.
17 Where does your dad work with Major Sims?

18 PROSPECTIVE JUROR: My dad is Chief of Police
19 in Trenton, South Carolina, Edgefield County.

20 THE COURT: The fact that your dad and Major
21 Sims are friends and colleagues, could you still be a
22 fair and impartial juror in the trial of this case for
23 both the State and Mr. Velez?

24 PROSPECTIVE JUROR: Yes.

25 THE COURT: Thank you. Thank you, Ms. Tanks.

1 You may be seated.

2 (Juror stands).

3 THE COURT: Yes, ma'am, way in the back, your
4 name and number, please?

5 PROSPECTIVE JUROR: My name is Darcy
6 Templeton. My juror number is 164. J.L. Hickman and I
7 are close personal friends.

8 THE COURT: The fact that you are close
9 personal friends with Mr. Hickman, could you still be a
10 fair and impartial juror in the trial of this case for
11 both the State and the defense?

12 PROSPECTIVE JUROR: Yes, sir.

13 THE COURT: Thank you. Thank you very much.
14 You may be seated.

15 (Juror stands).

16 THE COURT: Yes, sir, your name and number,
17 please?

18 PROSPECTIVE JUROR: Yes, sir. Juror
19 number 93, Hubbard Lindler. I'm sorry, Your Honor, for
20 not standing before. Chief Wallace and I attend the
21 same church.

22 THE COURT: The fact that you attend the same
23 church with Chief Oswald -- how long have you done that?

24 PROSPECTIVE JUROR: Three years, sir.

25 THE COURT: Three years. Did you know him

1 prior to that time?

2 PROSPECTIVE JUROR: No, sir.

3 THE COURT: The fact that you have been a
4 member and attend the same church with Chief Oswald,
5 could you still be a fair and impartial juror in the
6 trial of this case for both the State and Mr. Velez?

7 PROSPECTIVE JUROR: Yes, Your Honor.

8 THE COURT: Any others?

9 (There is no response.)

10 THE COURT: The next five names: Mike Phipps,
11 Lexington County Sheriff's Department. Mike Wheeler.
12 Ken Williamson. Andrena Belton. Kenneth H. Whitler.
13 Those last four are with the State Law Enforcement
14 Division.

15 Again, that was Mike Wheeler, Kenny
16 Williamson, Andrena Belton, and Kenneth H. Whitler,
17 State Law Enforcement Division. Is any member of the
18 jury panel related by blood or marriage or close
19 personal friends with any of those individuals whose
20 names I just called? If so, please stand.

21 (There is no response.)

22 THE COURT: The next five names: Amy
23 Stephens, State Law Enforcement Division. Stephanie
24 Braithwaite, Lexington County E.M.S. Bobby Day,
25 Lexington County E.M.S. Jeremy D. Leaphart. Jawaiski

1 O. Thompson.

2 Is any member of the jury panel related by
3 blood or marriage or close personal friends or have any
4 business, personal or professional relationship with any
5 of those individuals whose names I just called? If so,
6 please stand.

7 (Juror stands.)

8 THE COURT: Your number and name, please?

9 PROSPECTIVE JUROR: My name is Dawn Sullivan,
10 Number 160. I am an R.N. and work at the Lexington
11 Emergency Room Department. I do know Bobby Day,
12 Ms. Braithwaite, but we are not close personal friends.

13 THE COURT: How long have you been employed
14 there?

15 PROSPECTIVE JUROR: I'm not employed there any
16 longer. I ceased my employment with Lexington in 2005.

17 THE COURT: Have you worked with them at all
18 since '05?

19 PROSPECTIVE JUROR: No, sir.

20 THE COURT: The fact that you have worked with
21 E.M.S. prior to '05, could you still be a fair and
22 impartial juror in the trial of this case for both the
23 State and the defense?

24 PROSPECTIVE JUROR: Yes, sir.

25 THE COURT: Thank you. Thank you very much.

1 You may stay with us. Any others?

2 (Juror stands.)

3 THE COURT: Your number and name, please?

4 PROSPECTIVE JUROR: Jo Ann Veronee, juror
5 number 170: I'm a registered nurse at Lexington County
6 Emergency Room. I don't recognize the names but I may
7 know them though.

8 THE COURT: You may know them by face?

9 PROSPECTIVE JUROR: Yes, sir.

10 THE COURT: How long have you worked there?

11 PROSPECTIVE JUROR: Seven years.

12 THE COURT: Seven. The fact that you don't
13 know their names but you may know them if you see them,
14 could you still be a fair and impartial juror in the
15 trial of this case for both the State and Mr. Velez?

16 PROSPECTIVE JUROR: Yes, sir.

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

18 Any others?

19 (There is no response.)

20 THE COURT: Thank you. The next five names:
21 Lewis B. Barnes, Jr. Jimmy Boatwright. Carl Alewine.
22 Lawrence Long. John P. Corley, Jr. This is Mr. Corley
23 to my front right. Thank you, Mr. Corley. You may be
24 seated.

25 Is any member of the jury panel related by

1 blood or marriage or close personal friends with any of
2 those individuals whose names I called? If so, please
3 stand.

4 (There is no response.)

5 THE COURT: The next five names: Connie Otts,
6 Ms. Otts to my front right. Thank you, Ms. Otts.
7 Jackaize Raiford. Did I pronounce that correct?

8 MS. GARRICK: Jackaize (phonetic).

9 THE COURT: Jackaize Raiford. Juanita Hall.
10 Whitney Lindsay. Ricky Harris.

11 Is any member of the jury panel related by
12 blood or marriage or close personal friends of any of
13 those individuals whose names I just called? If so,
14 please stand.

15 (There is no response.)

16 THE COURT: Any other potential witnesses from
17 the State?

18 MS. GARRICK: No, sir, Your Honor.

19 THE COURT: From the defense?

20 MR. DUNCAN: No, sir, Your Honor.

21 THE COURT: Any additional requested voir dire
22 from the State?

23 MS. GARRICK: No, sir.

24 THE COURT: From the defense?

25 MR. DUNCAN: No, sir.

1 THE COURT: Finally, ladies and gentlemen, you
2 know yourselves best. Does any member of the jury panel
3 know any reason whatsoever why you feel like you could
4 not serve as a fair and impartial juror in the trial of
5 this case for both the State and defense, Mr. Velez? If
6 so, please stand.

7 (There is no response.)

8 THE COURT: Thank you. Thank you very much.
9 I find our panel is qualified. Do you already have a
10 list?

11 CLERK: We are drawing it now.

12 THE COURT: If you would draw me a list. Thank
13 you.

14 (Pause.)

15 THE COURT: Strikes, Solicitor?

16 MS. GARRICK: Five and ten.

17 THE COURT: Is that correct, Mr. Duncan?

18 MR. DUNCAN: Yes, sir, Your Honor.

19 THE COURT: Five strikes for the State and ten
20 strikes for the defense.

21 Madame Clerk, if you would give us a jury,
22 please.

23 CLERK: Yes, sir. Number 117, Steven Owens.

24 (The juror, a white male, comes forward.)

25 CLERK: What say you for the State?

1 MS. GARRICK: Please present the juror.

2 CLERK: What say you for the defense?

3 MR. DUNCAN: Please seat Mr. Owens.

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

5 Number 17, Lisa Bird.

6 (The juror, a white female, comes forward.)

7 CLERK: What say you for the State?

8 MS. GARRICK: Please present the juror.

9 CLERK: What say you for the defense?

10 MR. DUNCAN: Please excuse this juror.

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

12 Number 160, Dawn Sullivan.

13 (The juror, a white female, comes forward.)

14 CLERK: What say you for the State?

15 MS. GARRICK: Please present this juror.

16 CLERK: What say you for the defense?

17 MR. DUNCAN: Please seat this juror, Your

18 Honor.

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

20 Number 109, Jonathan Mitchell.

21 (The juror, a black male, comes forward.)

22 CLERK: What say you for the State?

23 MS. GARRICK: Please excuse the juror from

24 this case.

25 CLERK: Return to your seat, please, sir.

1 Number 107, David Miller.

2 (The juror, a white male, comes forward.)

3 CLERK: What say you for the State?

4 MS. GARRICK: Please present the juror.

5 CLERK: What say you for the defense?

6 MR. DUNCAN: Please seat this juror.

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

8 Number 13, Mary Barnett.

9 (The juror, a white female, comes forward.)

10 CLERK: What say you for the State?

11 MS. GARRICK: Please present this juror.

12 CLERK: What say you for the defense?

13 MR. DUNCAN: Excuse me. What was her number?

14 CLERK: Number 13.

15 MR. DUNCAN: Please excuse.

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

17 Number 36, Richard Carson.

18 (The juror, a white male, comes forward.)

19 CLERK: What say you for the State?

20 MS. GARRICK: Please present the juror.

21 CLERK: What say you for the defense?

22 MR. DUNCAN: Please excuse this juror.

23 CLERK: Return to your seat, please, sir.

24 Number 122, Ronald Peters.

25 (The juror, a white male, comes forward.)

1 CLERK: What say you for the State?

2 MS. GARRICK: Please present the juror.

3 CLERK: What say you for the defense?

4 MR. DUNCAN: Please seat this juror.

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

6 One-eighty, Tracy Williams.

7 (The juror, a white female, comes forward.)

8 CLERK: What say you for the State?

9 MS. GARRICK: Please present this juror.

10 CLERK: What say you for the defense?

11 MR. DUNCAN: Please seat this juror.

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

13 Number 112, William Mounfield.

14 (The juror, a white male, comes forward.)

15 CLERK: What say you for the State?

16 MS. GARRICK: Please present this juror.

17 CLERK: What say you for the defense?

18 MR. DUNCAN: Please strike this juror.

19 CLERK: Return to your seat, please, sir.

20 Number 54, Susan Fellers.

21 (The juror, a white female, comes forward.)

22 CLERK: What say you for the State?

23 MS. GARRICK: Please present this juror.

24 CLERK: What say you for the defense?

25 MR. DUNCAN: Please seat this juror.

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

2 Number 98, Dianna Lydiard.

3 (The juror, a white female, comes forward.)

4 CLERK: What say you for the State?

5 MS. GARRICK: Please present this juror.

6 CLERK: What say you for the defense?

7 MR. DUNCAN: Please seat this juror.

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

9 Number 40, Michael Clark.

10 (The juror, a white male, comes forward)

11 CLERK: What say you for the State?

12 MS. GARRICK: Please present this juror.

13 CLERK: What say you for the defense?

14 MR. DUNCAN: Please seat this juror.

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

16 Number 163, Letitia Tanks.

17 (The juror, a black female, comes forward.)

18 CLERK: What say you for the State?

19 MS. GARRICK: Please present this juror.

20 CLERK: What say you for the defense?

21 MR. DUNCAN: Please excuse this juror.

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

23 Number 134, Helen Workman.

24 (The juror, a white female, comes forward.)

25 CLERK: What say you for the State?

1 MS. GARRICK: Please present this juror.

2 CLERK: What say you for the defense?

3 MR. DUNCAN: Please excuse this juror.

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

5 MR. DUNCAN: Ms. Frick, how many strikes is
6 that?

7 CLERK: Six.

8 MR. DUNCAN: Thank you.

9 CLERK: Number 69, Deborah Gunter.

10 (The juror, a white female, comes forward.)

11 CLERK: What say you for the State?

12 MS. GARRICK: Please present this juror.

13 CLERK: What say you for the defense?

14 MR. DUNCAN: Please seat this juror.

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

16 Number 47, Tina Daniels.

17 (The juror, a white female, comes forward.)

18 CLERK: What say you for the State?

19 MS. GARRICK: Please present this juror.

20 CLERK: What say you for the defense?

21 MR. DUNCAN: Please excuse this juror.

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

23 Number 1, AnneMarie Agnew.

24 (The juror, a white female, comes forward.)

25 CLERK: What say you for the State?

1 MS. GARRICK: Please present the juror.
2 CLERK: What say you for the defense?
3 MR. DUNCAN: Please excuse this juror.
4 CLERK: Return to your seat, please, ma'am.
5 Number 179, Norman Williams.
6 (The juror, a white male, comes forward.)
7 CLERK: What say you for the State?
8 MS. GARRICK: Please present the juror.
9 CLERK: What say you for the defense?
10 MR. DUNCAN: Please seat this juror.
11 CLERK: Have a seat in the jury box, sir.
12 Number 38, Praveen Chauhan.
13 (The juror, an Asian male, comes forward.)
14 CLERK: What say you for the State?
15 MS. GARRICK: Please present this juror.
16 CLERK: What say you for the defense?
17 MR. DUNCAN: Please seat this juror.
18 CLERK: Have a seat in the jury box, sir.
19 Number 156, Steven Spires.
20 (The juror, a white male, comes forward.)
21 CLERK: What say you for the State?
22 MS. GARRICK: Please present the juror.
23 CLERK: What say you for the defense?
24 MR. DUNCAN: Please seat this juror.
25 CLERK: Have a seat in the jury box, sir.

1 Alternates, Your Honor?

2 THE COURT: One alternate. The strikes are
3 one and two.

4 CLERK: Number 7, Howard Baehre.

5 (The juror, a white male, comes forward)

6 CLERK: What say you for the State?

7 MS. GARRICK: Please excuse this juror.

8 CLERK: Return to your seat, please, sir.

9 Number 135, Taliferrio Richards.

10 (The juror, a black male, comes forward.)

11 CLERK: What say you for the State?

12 MS. GARRICK: Please present this juror.

13 CLERK: What say you for the defense?

14 MR. DUNCAN: Please seat this juror.

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

16 That's the alternate, Your Honor.

17 (The jury is impaneled at 11:24 a.m.)

18 THE COURT: Any motions regarding the jury
19 selection process from the State?

20 MS. GARRICK: No, Your Honor.

21 THE COURT: From the defense?

22 MR. DUNCAN: No, Your Honor.

23 THE COURT: Thank you. Ladies and gentlemen
24 of the jury panel that were selected as members of the
25 trial jury for the trial of this case, momentarily I

1 will ask you to step to your new temporary home, your
2 jury room, while I give further instructions to your
3 colleagues for their jury service for the remainder of
4 the week.

5 I would remind you and will give you further,
6 more detailed instructions upon your return concerning
7 your duties and responsibilities as members of the trial
8 jury. You will not be authorized to discuss this case
9 with anyone. That includes your fellow jurors, family,
10 friends or anyone else until you have heard all the
11 evidence, all the testimony in the case from the
12 witnesses testifying under oath from this witness stand,
13 the closing arguments by the attorneys, and the
14 instruction on the law by the Court and then directed by
15 the Court to begin your deliberations in your jury room
16 with your fellow jurors.

17 If anyone tries to talk with you about the
18 case, please let me know immediately. As I have stated
19 to you, I will give you further instructions concerning
20 your duties and responsibilities as members of this
21 trial jury, but at the present time I will ask you to
22 please go with your bailiff to your jury room as I give
23 instructions to your colleagues. Thank you very much.
24 You may retire to your jury room.

25 (The jury retires to the jury room.)

1 (The jury panel is excused.)

2 THE COURT: Any pretrial matters from the
3 State?

4 MS. GARRICK: Yes, Your Honor. Thank you.
5 May it please the Court. Your Honor, the first thing
6 I would like to bring to your attention is that this
7 case is going to have evidence of four different
8 firearms.

9 I am well aware of the position or the rules
10 regarding handling of the firearms in the courtroom.
11 I did make a copy of that policy for Mr. Duncan. Your
12 Honor, I can tell you that two Batesburg Leesville
13 police officers have checked all four of the
14 firearms.

15 Deputy Reed with the county has also checked
16 behind the two Batesburg Leesville officers. There are
17 gun locks on those four weapons. The ammunition is
18 packaged separately, and we will all be mindful of
19 having the weapons and the ammunition in the same room
20 at the same time.

21 THE COURT: Thank you. Thank you very much,
22 Solicitor.

23 MS. GARRICK: Your Honor, I have a concern
24 about the victim. The victim is probably going to be
25 one of our first witnesses. He does have a prior record

1 that I would like to maybe discuss as to what will be
2 allowed for impeachment purposes. If we could handle
3 that.

4 Your Honor, I provided that rap sheet to
5 Mr. Duncan, as well as copies of the certified sentence
6 sheet. Your Honor, he has a conviction in 2000 for
7 possession with intent to distribute cocaine. Your
8 Honor, I take the position that that crime is over ten
9 years old, and I would ask that it be excluded.

10 THE COURT: Mr. Duncan, a 2000 possession with
11 intent to distribute cocaine?

12 MR. DUNCAN: Your Honor, I believe that is
13 correct if I am reading it. There's going to be other
14 convictions that can come in that are similar.

15 THE COURT: You would agree that is outside of
16 the period and would not be admissible under Rule 609?

17 MR. DUNCAN: Yes, sir, I would. I agree with
18 that.

19 THE COURT: Next, Solicitor?

20 MS. GARRICK: Your Honor, he has a June 2002
21 possession with intent to distribute marijuana. He has
22 an August 2008 possession of crack and a separate
23 indictment for possession of cocaine. Your Honor, those
24 are all felonies that do carry over a year, so I think
25 that he would be subject to impeachment for them. I

1 would ask the Court to consider excluding the nature of
2 the charges.

3 THE COURT: Why is that, Solicitor?

4 MS. GARRICK: Because I think that he can be
5 impeached for a crime that carries over a year, but as
6 far as the underlying charge itself, I am aware that
7 some judges and some case law has said that the offense
8 itself may not be what is important.

9 I would say that what the conviction was for
10 is not relevant, does not help in answering the question
11 as to whether there has been an armed robbery, a
12 burglary, a kidnapping.

13 Also, even if it is relevant, Your Honor, I
14 would ask under Rule 403 that it may be excluded because
15 the jurors may be prejudiced against him or it may
16 confuse them as to what the real issues are.

17 Also, in the alternative, Your Honor, under
18 Rule 608, it might be improper character evidence, prior
19 bad acts.

20 THE COURT: Mr. Duncan?

21 MR. DUNCAN: Your Honor, I believe that I
22 should be able to inquire of Mr. Corley or that the jury
23 should be able to know under Rule 609 what the felony
24 convictions are.

25 I certainly don't believe that Rule 608, the

1 character of Mr. Corley, is impacted by it. The very
2 nature of a felony conviction is that it is what it is.
3 I don't think 608 would come into play.

4 I also don't believe that it would -- that
5 Rule 403, the implication of Rule 403, would come into
6 play here. I believe that we are entitled to inquire as
7 to the nature of the conviction. I think there is some
8 relevance to those convictions of Mr. Corley.

9 THE COURT: Well, of course, the only
10 relevance to whether or not you can even ask about a
11 prior conviction is the issue of credibility. It has no
12 relevance beyond that.

13 That's why, in my opinion, why Rule 609 is
14 structured in the manner in which it is structured.
15 However, I'm not familiar with the case. I'm familiar
16 with Judge Cottingham's case on Colf, C-O-L-F.

17 I thought that case was more directed towards
18 the accused as opposed to a witness. I haven't -- I
19 don't have it before me right this moment. Are you
20 familiar with such a case where it's a witness,
21 Solicitor?

22 MS. GARRICK: Your Honor, I'm not sure.

23 THE COURT: Let me look just a minute.

24 (Pause.)

25 THE COURT: As I understand it, it's a 2002

1 possession with intent to distribute marijuana?

2 MS. GARRICK: Yes, sir, Your Honor.

3 THE COURT: And a 2008 possession of cocaine?

4 MS. GARRICK: Yes, sir.

5 THE COURT: And a 2008 possession of crack
6 cocaine?

7 MS. GARRICK: Yes, sir.

8 THE COURT: In reviewing Rule 609, there is a
9 different analysis for a witness versus an accused..
10 Rule 609(a)(1) states for purposes of attacking the
11 credibility of a witness, evidence that a witness, other
12 than an accused, has been convicted of a crime shall be
13 admitted subject to Rule 403.

14 So it requires the Court to conduct a 403
15 analysis. Of course, the solicitor has argued that
16 these charges would fall within a 403 analysis, that the
17 probative value is substantially outweighed by the
18 unfair prejudice and confusion of the issues or
19 misleading of the jury.

20 I would find that they are admissible under
21 609(a)(1) and under the 403 analysis, given the fact
22 that none of the crimes with which the accused is
23 charged has any implications of drugs.

24 Further, the Court would instruct the jury
25 that the prior criminal history can only be used, if at

1 all by the jury, on the issue of credibility. I would
2 allow the names of the offenses to be put before the
3 jury: That the witness has been convicted of a 2002
4 possession with intent to distribute marijuana, a 2008
5 simple possession of cocaine, and a 2008 simple
6 possession of crack cocaine.

7 Further, in my analysis I take into account
8 that this particular witness is a named victim in this
9 matter, at least named in one of the kidnapping
10 indictments. So in that regard I will allow that.
11 Obviously you cannot go into any details.

12 Any other motions, Solicitor?

13 MS. GARRICK: Thank you, Your Honor. Your
14 Honor, it's my understanding the defense is requesting a
15 Jackson v. Denno hearing.

16 THE COURT: Is that correct, Mr. Duncan?

17 MR. DUNCAN: Yes, sir. Yes, sir, that is..

18 THE COURT: How long is this going to take,
19 Solicitor?

20 MS. GARRICK: Your Honor, I can put up the one
21 witness who did a verbal and audio-taped statement if I
22 lay the proper foundation, and we begin the audio. The
23 audio is 46 minutes, but I think we can all agree what
24 is on the audio. I don't think we have to play the
25 whole thing, so 20 minutes.

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1 THE COURT: You may proceed.

2 MS. GARRICK: Your Honor, I call Captain Goss.

3 THE COURT: If you would come around and be
4 sworn, please.

5 WALTER GOSS, being
6 first duly sworn, testifies as follows:

7 CLERK: Once you are seated, state your full
8 name, spelling your last on the record.

9 THE WITNESS: My name is Captain Walter Goss,
10 G-O-S-S.

11 IN CAMERA EXAMINATION

12 BY MS. GARRICK:

13 Q Captain Goss, did you have an occasion to meet the
14 Defendant, Gregory Velez.

15 A I did.

16 Q What date was that?

17 A I believe this was, if I'm not mistaken, 8/13/2008.

18 Q And when you first met Mr. Velez, was he taken into
19 custody?

20 A He was.

21 Q And was he actually arrested to your knowledge at
22 the beginning of your meeting with him?

23 A At the beginning of the interview, I was not sure
24 if he was or not.

25 Q And did you have an occasion to have Mr. Velez in

1 an interview room at Batesburg Leesville Police
2 Department?

3 A Yes, I was.

4 Q And when you did that, who else was with you in the
5 room?

6 A Also present was Sergeant Brad Melton of the
7 Lexington County Sheriff's Department.

8 Q At that time did you inform the Defendant that he
9 was in investigative detention?

10 A I informed him he was being interviewed in
11 connection with the offense, interviewed in
12 connection with an armed robbery, I believe it was.

13 Q Was he free to leave at that time?

14 A He was not.

15 Q And did you inform him of any constitutional rights
16 that he has?

17 A I did.

18 Q And what rights were those?

19 A I advised Mr. Velez of the Miranda warnings.

20 Q Did you do this in writing?

21 A I did.

22 Q And did you do this on an audio --

23 A I did.

24 Q -- as well.

25 MS. GARRICK: Your Honor, if I may approach

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1 the witness?

2 THE COURT: Yes, ma'am.

3 (State's Exhibit Number 1 is marked for
4 identification.)

5 BY MS. GARRICK:

6 Q If I can show you what has been marked State's 1
7 for I.D., do you recognize this document?

8 A I do.

9 Q What is that document?

10 A This is a statement form that I used on this
11 particular case when I interviewed Mr. Velez.

12 Q And what rights, if any, does it advise him of?

13 A It advised him, number one, that I have the right
14 to remain silent. Number two, that anything I say
15 can and will be used against me in a court of law.
16 Number three, that I have the right to talk to a
17 lawyer for advice before asked any questions and to
18 have him or her present with me during questioning.

19 If I have no money -- excuse me, number
20 four -- if I have no money for lawyer's fees, the
21 Court will appoint one to represent me without cost
22 to me if I wish. Number five, if I decide to
23 answer questions now without a lawyer present, I
24 will still have the right to stop answering
25 questions at any time. I also have the right to

1 stop answering questions at any time until I talk
2 with a lawyer.

3 Q And did Mr. Velez appear to be under the influence
4 of alcohol or drugs at that time?

5 A He did not.

6 Q Was he able to answer general informational
7 questions, such as where he lived and who his
8 family was?

9 A He was.

10 Q Did he initial in writing the rights you gave to
11 him on that document there?

12 A Yes, he did. That was followed up by question,
13 number six, have any threats or promises of any
14 kind been made so that you will give us a
15 statement.

16 Q And what was his answer to that?

17 A No.

18 Q And did you or Sergeant Melton, in fact, offer him
19 anything in regards to him giving a statement to
20 law enforcement?

21 A We did not.

22 Q Did you threaten him in any way?

23 A We did not.

24 Q Did you deprive him of water or anything such as
25 that?

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1 A We did not.

2 Q Did he need any medical attention that you were
3 aware of?

4 A Not as we were aware of, no.

5 Q Did he, in fact, give you a written statement,
6 which is on State's 1 there?

7 A Yes, he did.

8 Q And did he, in fact, give you an audio-taped
9 statement?

10 A He did.

11 (State's Exhibit Number 2 is marked for
12 identification.)

13 BY MS. GARRICK:

14 Q Was a record made of this audio-taped interview?

15 A It was.

16 Q Can you identify State's 2, please?

17 A I'm sorry?

18 Q Can you identify State's 2?

19 A Yes, this is a compact disk which would be a
20 recording of the audio interview conducted with
21 Mr. Velez.

22 Q In preparation for court today, are you aware if my
23 office had to redact certain portions of your
24 interview?

25 A If I'm not mistaken, I believe certain portions

1 were.

2 Q Is that a record -- other than what we redacted
3 out -- is that a complete record of the entire
4 interview process of Mr. Velez?

5 A Yes.

6 MS. GARRICK: Your Honor, I'd offer State's 1
7 and 2 into evidence for purposes of this hearing.

8 THE COURT: Mr. Duncan, any objections?

9 MR. DUNCAN: No objection, Your Honor.

10 THE COURT: State's 1 and 2 for identification
11 purposes are in evidence for this hearing.

12 MS. GARRICK: Your Honor, I need to either
13 publish or have you just look at the written statement
14 and then we have a 46-minute taped audio statement. I
15 have redacted it. Mr. Duncan has checked it. He had a
16 couple of questions and a couple of areas. I went back
17 and reviewed it, and I think we agreed that the redacted
18 one would be proper.

19 THE COURT: Is that correct, Mr. Duncan?

20 MR. DUNCAN: Yes, sir, Your Honor.

21 THE COURT: Then you want me to listen to it?

22 MS. GARRICK: If you need to, Your Honor. I
23 think I have established the voluntariness of the
24 statement and the waiver process. If you care about
25 what the substance of the statement is, it's available

1 to you.

2 THE COURT: All right. I don't think that is
3 relevant at this time.

4 MS. GARRICK: No, sir, I don't either.

5 THE COURT: Mr. Duncan, you may cross examine.

6 IN CAMERA EXAMINATION

7 BY MR. DUNCAN:

8 Q Sergeant Goss, you have Exhibit Number 1 in front
9 of you, Mr. Velez's written statement?

10 A Yes, sir, I do.

11 Q And I say written, did he write these answers? It
12 has Q. It has a place for a Q. I assume that is
13 your writing?

14 A Yes, sir, that's correct.

15 Q The place where it says A., who wrote that, those
16 responses?

17 A Mr. Velez wrote those.

18 Q And are those his initials as you recall? Are
19 those his initials besides the A. portion of the
20 statement?

21 A Yes, sir, that's correct. When I conduct an
22 interview, I ask an interviewee if they will
23 initial before and after each answer or response.

24 Q And, Captain Goss, in response to the solicitor's
25 questions, you stated that at the time you went

1 into the interview with Mr. Velez, it was an
2 ongoing investigation. I mean, Mr. Velez was not
3 charged with anything; is that right?

4 A That is correct, sir.

5 Q And, in fact, you had spoken -- is it correct,
6 Captain Goss, you had already spoken with three
7 other individuals related to this same incident
8 that occurred at Padgett Road?

9 A I spoke to a total of four, yes, sir.

10 Q Was Mr. Velez the last person, do you recall?

11 A I don't remember the sequence. I remember he was
12 one of the four that I spoke with, but I do not
13 recall the exact sequence. I will have to go back
14 through my notes.

15 Q Captain Goss, I believe a while ago in response to
16 the solicitor's questions, you stated that you
17 informed Mr. Velez he was being questioned in
18 connection with an armed robbery, I think?

19 A Yes, sir.

20 Q On the document it says burglary, do you recall --

21 A Burglary.

22 Q Do you recall either way what you said to
23 Mr. Velez?

24 A What I said would have been verbatim what is on the
25 statement form. So if he was being interviewed in

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1 connection with a burglary, that's what I would
2 have told him.

3 Q And, Captain Goss, at the end of your -- the
4 written statement, Exhibit 1, I believe -- and I
5 have obviously listened to the audio a couple of
6 times, several times -- but you asked a question:
7 Is there anything else that you want to add to this
8 statement, I believe; is that right?

9 A Is there anything you wish to add to this
10 statement, yes, sir.

11 Q Kind of a catchall, open-ended whatever else you
12 want to say, Mr. Velez; is that right?

13 A Yes, sir. I usually ask that question as an
14 open-ended question to give someone an opportunity
15 to say anything else that they wish to say about a
16 statement. Sometimes somebody might say no.
17 Sometimes they may interject information I did not
18 know before or anything in regards to anything we
19 have talked about or have not, just a general
20 open-ended question.

21 Q And Mr. Velez's response to that was, I'm not into
22 breaking into people's houses?

23 A Yes, sir.

24 MR. DUNCAN: Your Honor, I think that's all
25 the questions I have of Captain Goss.

1 THE COURT: Thank you. Thank you very much.
2 Anything in redirect, Solicitor?

3 MS. GARRICK: No, Your Honor.

4 THE COURT: Thank you. You may step down.

5 THE WITNESS: Thank you, Your Honor.

6 (Witness leaves the witness stand.)

7 MS. GARRICK: Your Honor, that's all I have on
8 this issue. I believe we have laid the proper
9 foundation for the written statement, as well as the
10 audio-taped statement. They are done simultaneously.

11 THE COURT: I would like to listen to that
12 part of the audio, Solicitor, where the rights are.

13 (Pause.)

14 THE COURT: Why don't I let the jury go first
15 and get the speakers set up. I want to hear it.

16 MS. GARRICK: Yes, sir, Your Honor.

17 THE COURT: Then we will continue this motion.
18 Bring us our jury, please.

19 (The jury returns to the courtroom at
20 12:02 p.m.)

21 THE COURT: Welcome back, ladies and
22 gentlemen. I apologize for the delay. Your time is
23 very important and very valuable to me. I just don't
24 manage it very well. I will try to do better.

25 This case is no different from many others,

1 most quite frankly. There are always pretrial matters
2 that must be resolved before the actual trial begins. I
3 thought I would be able to handle it a little bit more
4 timely, and we could start before our luncheon recess.

5 However, it appears it's going to take a
6 little bit longer than I initially anticipated. With
7 that being said, rather than hold you captive any
8 longer, I will release you for your luncheon recess. We
9 will press on with the motion.

10 This has nothing to do with the parties not
11 working. They have all been out here working very
12 diligently ever since y'all went to your jury room. We
13 are just going to press on.

14 I must give you some further instructions,
15 however, concerning your jury service. While you are on
16 jury service, again, you may not discuss this case with
17 anyone. That includes your fellow jurors, your lunch
18 mates, family, friends or anyone else.

19 You may not read, listen to or watch any news
20 reports about the case, should there be any. You may
21 not use your computer, cellular phone or other
22 electronic device with communication capabilities while
23 in attendance at trial or during deliberations.

24 These devices, of course, may be used during
25 lunch breaks but may not be used to obtain or disclose

1 information, which I am going to cover in a moment,
2 which is prohibited.

3 You may not use your computer, cellular phone
4 or other electronic device with communication
5 capabilities or any other method to obtain or to
6 disclose information about the case when you are not in
7 court.

8 Information about the case includes but is not
9 limited to the following: Information about a party, a
10 witness, an attorney or a court officer, news accounts
11 of the case, information collected through juror
12 research on any topics raised or testimony offered by
13 any witness or information collected through juror
14 research on any other topic the juror might think would
15 be helpful in deciding the case.

16 You will hear me say this in my opening
17 remarks to you and throughout the course of the trial
18 and in my closing charge or instruction to you. You
19 decide the case based on the evidence and testimony you
20 hear from the witnesses testifying under oath in this
21 courtroom from this witness stand and any reasonable
22 inferences you as a jury decide to draw therefrom, any
23 documentary evidence, photographs or the like that may
24 be introduced in court, and the law as I tell you the
25 law is.

1 You cannot do any independent investigation or
2 any investigation on the internet. So that is the
3 instructions that are required, both by our Court and by
4 order of the Supreme Court.

5 If anyone tries to talk with you about the
6 case, please let me know immediately. Remember to keep
7 an open mind and do not begin any deliberations until
8 you are instructed by the Court to do so and then and
9 only then you would be authorized to deliberate with
10 your fellow jurors in your jury room.

11 Mr. Richards, if you would always maintain
12 that seat for me as my alternate. I need to keep up
13 with my alternate. Mr. Owens?

14 JUROR: Yes, sir.

15 THE COURT: Mr. Owens, I am going to appoint
16 you as the foreperson of the jury. I had an election in
17 y'all's absence. I will tell you how I make my
18 selections at some later time.

19 Be that as it may, I will appoint you the
20 foreperson of the jury. Upon your return back into the
21 courtroom after the luncheon hour, if you would sit at
22 this seat closest to the Court.

23 You would be the jury's spokesperson in the
24 courtroom and responsible for signing and writing the
25 verdict. I will give you further instructions

1 concerning that at the end of the trial.

2 With that being said, rather than bring you
3 back too quickly, I will give you somewhat of an
4 extended luncheon recess. I don't know how long we were
5 going to be in here after you leave.

6 If you would be back at 2:15. Please be back:
7 at 2:15 in your jury room. We will try to start
8 promptly at that time. That gives you a little extra
9 time to sit in Lexington lunch time traffic and kind of
10 experience the feel of traffic around the courthouse.

11 With that being said, you are now excused for
12 lunch. I hope y'all have a pleasant lunch. See you
13 promptly at 2:15. Thank you very much.

14 (The jury is excused at 12:10 p.m.)

15 THE COURT: You have some speakers, Solicitor?

16 MS. GARRICK: Your Honor, I think we are going
17 to go old school and use a boom box.

18 THE COURT: That's perfect. I didn't realize
19 a boom box is old school quite frankly. I thought that
20 was pretty modern technology.

21 MR. DUNCAN: It's not, Your Honor.

22 (State's Exhibit Number 2 for identification
23 is played for the Court.)

24 MS. GARRICK: Your Honor, that's all the
25 rights' portion:

1 THE COURT: Thank you, Solicitor. Mr. Duncan,
2 did you have any questions of Captain Goss concerning
3 that portion of State's 2 for identification that the
4 Court has just listened to?

5 MR. DUNCAN: Your Honor, I do not.

6 THE COURT: Thank you. Thank you very much.
7 Solicitor, you may call your next witnesses.

8 MS. GARRICK: Your Honor, that's all the
9 witnesses on this issue.

10 THE COURT: Thank you. Thank you very much,
11 Solicitor. Mr. Duncan, do you have any witnesses in
12 this regard?

13 MR. DUNCAN: No, sir, I do not.

14 THE COURT: Solicitor, I would be glad to hear
15 from you.

16 MS. GARRICK: Your Honor, just briefly. I
17 believe that Miranda was properly given. Mr. Velez was
18 held in detention. He was not free to go, but I believe
19 Captain Goss advised him of all his Miranda warnings.

20 Your Honor, he did that in writing and had
21 Mr. Velez initial. He also did it by way of taping the
22 entire interview process, and I think it's clear from
23 that that Mr. Velez gave a knowing and voluntary waiver,
24 that he had not been threatened or coerced or promised
25 anything in regards to giving such a statement.

1 THE COURT: Thank you. Thank you very much,
2 Solicitor. Mr. Duncan, I would be glad to hear from
3 you.

4 MR. DUNCAN: Your Honor, this really was kind
5 of a matter for the record. I don't believe, as I sit
6 here -- Mr. Velez generally stands by the interview he
7 gave with Captain Goss, and we don't have any issue with
8 it.

9 THE COURT: Thank you. Thank you very much.
10 Well, the issues, of course, he is entitled to it and
11 has received an in camera hearing to determine if he was
12 in custody and entitled to Miranda warnings and further
13 to determine whether the confession or statement was
14 voluntary.

15 It appears from State's 1 for identification
16 that he was advised in writing of his -- first, it does
17 appear that he was in custody. Second, it appears that
18 he was advised in writing and orally of his Miranda
19 warnings.

20 It appears that he has a G.E.D. and that he
21 indicates he can read and write. He was advised of each
22 and every one of his constitutional rights under
23 Miranda. He initialed each of those.

24 Further, he answered the questions of any
25 threats or promises of any kind been made to you, being

1 the Defendant, so that you will give us a statement. He
2 wrote no and initialed that. So it does appear that he
3 was properly advised.

4 Further, in listening to State's 2 for
5 identification, it appears that he was advised and that
6 process was taped by the officer or officers. It
7 appears from the sound of it, there were two officers
8 present.

9 I detect -- although I have never heard
10 Mr. Velez speak -- assuming that is Mr. Velez on State's
11 2 for identification, it appears he responds
12 appropriately to questions asked.

13 For example, when he was asked his date of
14 birth, he gives a date of birth; the location of where
15 he was born, he gives a location. Whether that is true
16 or not true, I have no idea of knowing, but it is a
17 proper response.

18 He gives an address, gives phone numbers. It
19 appears he is able to answer questions appropriately in
20 that regard. He was advised of his rights. I detect no
21 coercion from the officer's demeanor or tone of voice or
22 anything of that nature.

23 So I would find that State's 1 and State's 2
24 do comply with Miranda and Jackson versus Denno, and
25 they are voluntary statements.

1 Solicitor, are there other motions from the
2 State?

3 MS. GARRICK: Your Honor, there is one other
4 matter I need to bring to your attention.

5 THE COURT: All right.

6 MS. GARRICK: Your Honor, this case originally
7 involved four defendants. Mr. Velez is the only one
8 going to trial. Two others have plead guilty and
9 received a sentence. They will be witnesses from the
10 Department of Corrections. They are already here.

11 The third defendant is a man named Lewis
12 Barnes. Lewis Barnes has a court-appointed attorney,
13 George McElveen. Lewis Barnes was also on the trial
14 list for this week. He indicated he wished to be a
15 State's witness, and he is going to be a State's
16 witness.

17 He does not have any deal with the Solicitor's
18 Office, and he is facing all six of these indictments.
19 I think you need to know that and maybe question him on
20 the record.

21 His attorney and Mr. Barnes have a met with me
22 and members of my office multiple times to make sure
23 that all that is known, but I do think we need to put
24 that on the record. He needs to know everything said in
25 this proceeding can and will be used against him in his

1 case later down the road.

2 THE COURT: Where is Mr. Barnes?

3 MS. GARRICK: Mr. Barnes is right here.

4 THE COURT: Where is his attorney?

5 MS. GARRICK: Your Honor, his attorney has
6 gotten stuck in Richland County Family Court with Judge
7 Riddle. There was a message. I think Patsy brought it
8 in, that he was still stuck in Richland Family Court. I
9 don't know what to do about that.

10 THE COURT: We can take it up whenever
11 Mr. McElveen gets here, depending on where the flow of
12 the trial is.

13 MS. GARRICK: We had told Mr. McElveen it
14 would probably be closer to the 2:00 o'clock break, but
15 we didn't know for sure. Mr. Barnes is the third
16 witness, so we have got plenty to start with.

17 THE COURT: Thank you, Solicitor.

18 MS. GARRICK: Your Honor, that's all I have.

19 THE COURT: Thank you, Solicitor. Mr. Duncan?

20 MR. DUNCAN: Your Honor, I don't have anything
21 else at this time.

22 THE COURT: All right.. Thank you. Thank you
23 very much. With that being said, we will be in recess
24 until 2:15.

25 MS. GARRICK: Yes, Your Honor. We might try

1 and work on our exhibits for a little while before
2 Mr. Duncan leaves and see what we can agree on.

3 THE COURT: Thank you. Thank you very much.
4 We will be in recess until 2:15.

5 (Whereupon there is a luncheon recess.)

6 THE COURT: Solicitor.

7 MS. GARRICK: Your Honor, I think the only
8 outstanding matter was that involving Lewis Barnes.
9 Mr. McElveen came right before lunch and we had already
10 adjourned. We told him to be here at two.

11 THE COURT: All right.

12 MS. GARRICK: Mr. Barnes is here and we are
13 here.

14 THE COURT: We are waiting on Mr. McElveen?

15 MS. GARRICK: I believe so, Your Honor, yes,
16 sir.

17 (Pause).

18 THE COURT: Solicitor?

19 MS. GARRICK: Your Honor, the State intends
20 to call Lewis Barnes to testify in this matter.
21 Mr. Barnes is presently under indictment for the same
22 charges as Mr. Velez. Mr. Barnes is represented by
23 Mr. McElveen.

24 It's my understanding, through numerous prior
25 meetings with Mr. Barnes and Mr. McElveen, that

1 Mr. Barnes intends to waive his right against self
2 incrimination and does intend to take the witness stand.
3 I just want to make that part of the record in whatever
4 manner you think would be appropriate.

5 THE COURT: Is he going to enter a plea?

6 MS. GARRICK: Not today, Your Honor, no, sir.

7 THE COURT: Thank you. Mr. McElveen?

8 MR. McELVEEN: Yes, Your Honor.

9 THE COURT: What do you propose I do?

10 MR. McELVEEN: Your Honor, I've discussed with
11 Mr. Barnes what his situation is. If you have any
12 interest in examining him on the record, that would be
13 fine. That's what his desire is.

14 THE COURT: Mr. Barnes, if you would come
15 around, please.

16 Do you have the indictments against
17 Mr. Barnes?

18 If you would step up to the podium, you and
19 Mr. McElveen.

20 MS. GARRICK: If I may approach, Your Honor?

21 THE COURT: Yes, ma'am.

22 MS. GARRICK: There is an additional charge
23 for grand larceny that we did not call against

24 Mr. Velez. That's why there is one more indictment.

25 There's seven.

1 (Hands to Court.)

2 THE COURT: Madame Clerk, would you place
3 Mr. Barnes under oath.

4 CLERK: Yes, sir. Raise your right hand,
5 please.

6 LEWIS BENJAMIN BARNES, JR. is
7 first duly sworn.

8 THE COURT: Mr. McElveen, you represent Lewis
9 Benjamin Barnes, Jr.?

10 MR. McELVEEN: I do, Your Honor.

11 THE COURT: Have you explained to him the
12 charges, the possible punishment, and his rights,
13 including his right to a jury trial?

14 MR. McELVEEN: I have, Your Honor.

15 THE COURT: In your opinion does he understand
16 those things?

17 MR. McELVEEN: I believe that he does.

18 THE COURT: Now, have you explained to him
19 that we are now conducting the trial of State versus
20 Gregory Velez?

21 MR. McELVEEN: Yes, Your Honor.

22 THE COURT: It is my understanding that
23 Mr. Barnes intends to testify truthfully if called as a
24 witness in the case of the State versus Gregory Velez.

25 MR. McELVEEN: That is my understanding as

1 well, Your Honor.

2 THE COURT: Have you explained to him his
3 right to remain silent?

4 MR. McELVEEN: I have.

5 THE COURT: Have you explained to him that if
6 he is called to testify and waives his right to remain
7 silent, that anything he says can and will be used
8 against him in any future proceeding?

9 MR. McELVEEN: Yes, Your Honor.

10 THE COURT: In your opinion does he understand
11 that?

12 MR. McELVEEN: I think he does.

13 THE COURT: He understands he has a right to
14 take the Fifth, to remain silent and not say anything at
15 all?

16 MR. McELVEEN: He understands that, Your
17 Honor.

18 THE COURT: Thank you. Are you Lewis Benjamin
19 Barnes, Jr.?

20 MR. BARNES: Yes, sir.

21 THE COURT: How old are you, Mr. Barnes?

22 MR. BARNES: Twenty-two.

23 THE COURT: Pull that microphone up. Tell me
24 again, how old are you?

25 MR. BARNES: Twenty-two, Your Honor.

1 THE COURT: Twenty-two?

2 MR. BARNES: Yes, sir.

3 THE COURT: How much education do you have?

4 MR. BARNES: I got to the tenth grade.

5 THE COURT: What type of work do you do?

6 MR. BARNES: Lawn care with my father.

7 THE COURT: You say you got to the tenth
8 grade. Did you quit school?

9 MR. BARNES: I was expelled from school.

10 THE COURT: How long have you been doing lawn
11 care?

12 MR. BARNES: For like several months.

13 THE COURT: What did you do before that?

14 MR. BARNES: Nothing.

15 THE COURT: Do you reside in Lexington County?

16 MR. BARNES: No, sir, Saluda County.

17 THE COURT: Are you married?

18 MR. BARNES: No, sir.

19 THE COURT: Do you have any children?

20 MR. BARNES: Yes, I have a daughter.

21 THE COURT: What age is she?

22 MR. BARNES: One.

23 THE COURT: Is she with her mother?

24 MR. BARNES: Yes, sir.

25 THE COURT: Now, the Solicitor handed me up

1 seven indictments. It appears you are charged with
2 criminal conspiracy, burglary in the first degree,
3 kidnapping, two counts, armed robbery, grand larceny of
4 1,000 but less than \$5,000, and possession of a firearm
5 during the commission of a violent crime. Do you
6 understand that?

7 MR. BARNES: Yes, Your Honor.

8 THE COURT: Have you been over those charges
9 and the elements of those offenses with your lawyer?

10 MR. BARNES: Yes, Your Honor.

11 THE COURT: What is the potential punishment
12 for grand larceny, 1 to 5,000, Solicitor?

13 MS. GARRICK: Five years.

14 THE COURT: Thank you. I really don't know
15 anything about your cases, Mr. Barnes. The indictments
16 allege an incident that occurred in Lexington County on
17 or about August 13, 2008, at an address of 141 Padgett
18 Road, Batesburg Leesville, South Carolina, the victims
19 being a John Corley, Jr. and Ms. Otts.

20 There are also allegations that you conspired
21 with Jawaiski Thompson, Gregory Velez, and Jeremy
22 Leaphart for the purposes of accomplishing this
23 burglary, kidnapping, armed robbery, grand larceny, and
24 that you were armed with a weapon at the time. Do you
25 understand those charges?

1 MR. BARNES: Yes, sir.

2 THE COURT: Do you understand that if you are
3 called as a witness, you could choose not to testify?

4 MR. BARNES: Yes, I understand, sir.

5 THE COURT: In other words, you have the
6 absolute right to remain silent. Do you understand
7 that?

8 MR. BARNES: Yes, sir.

9 THE COURT: You have the absolute right to
10 keep your mouth shut. Do you understand that?

11 MR. BARNES: Yes, sir.

12 THE COURT: And if you testify, the State
13 could use whatever statements you made against you in
14 any future proceeding. Do you understand?

15 MR. BARNES: Yes, sir.

16 THE COURT: Have any promises or hope of
17 reward been made to you in return for your testimony?

18 MR. BARNES: No, sir.

19 THE COURT: Have you been threatened or
20 coerced in any manner to get you to testify for the
21 State or against the State?

22 MR. BARNES: No, sir.

23 THE COURT: Has anyone used any pressure or
24 intimidation to get you to testify for the State or
25 against the State?

1 MR. BARNES: No, sir.

2 THE COURT: If you testify are you choosing to
3 testify of your own free will and accord?

4 MR. BARNES: Yes, sir.

5 THE COURT: If my math is correct, if you were
6 convicted or plead guilty to all these charges, I
7 believe you could receive a sentence of up to life, plus
8 105 years. Do you understand that?

9 MR. BARNES: Yes, sir.

10 THE COURT: Knowing that do you wish to
11 exercise your right to remain silent?

12 MR. BARNES: No, sir.

13 THE COURT: Do you have any questions you
14 would like to ask me about your right to remain silent?

15 MR. BARNES: No, sir.

16 THE COURT: And you understand you cannot be
17 compelled to testify? You cannot be forced to testify.

18 MR. BARNES: Yes, sir.

19 THE COURT: Do you feel like you have talked
20 with your lawyer as often and for as long as necessary
21 for him to explain to you these charges?

22 MR. BARNES: Yes, sir.

23 THE COURT: And your right to testify or not
24 to testify?

25 MR. BARNES: Yes, sir.

1 THE COURT: Have you understood your talks
2 with your lawyer?

3 MR. BARNES: Yes, sir.

4 THE COURT: Do you need anymore time to talk
5 to your lawyer?

6 MR. BARNES: No, sir.

7 THE COURT: Do you have any questions you
8 would like to ask me?

9 MR. BARNES: No, sir.

10 THE COURT: Any additional questions you would
11 like me to ask your client, Mr. McElveen?

12 MR. McELVEEN: Could you bear with me one
13 moment, Your Honor?

14 THE COURT: Certainly.

15 (Pause.)

16 MR. McELVEEN: No, Your Honor.

17 THE COURT: Any additional questions you would
18 like me to ask Mr. Barnes, Solicitor?

19 MS. GARRICK: No, Your Honor.

20 MR. McELVEEN: I would state to the Court,
21 Your Honor, of course, he has a hope this will work to
22 his benefit.

23 THE COURT: Excuse me?

24 MR. McELVEEN: Of course, he has a hope that
25 this will work to his benefit, but there have been no

1 promises.

2 THE COURT: There is no way to predict the
3 future, Mr. Barnes.

4 MR. BARNES: Yes, sir.

5 THE COURT: You understand that?

6 MR. BARNES: Yes, sir.

7 THE COURT: The solicitor has announced to the
8 Court earlier in your presence that there has been no
9 promises, no hope of reward. No deals whatsoever have
10 been made.

11 MR. BARNES: Yes, sir.

12 THE COURT: Do you understand that?

13 MR. BARNES: Yes, sir.

14 THE COURT: That may be what you might like to
15 happen, but there has been absolutely no indication to
16 this Court that that is going to happen. Do you
17 understand?

18 MR. BARNES: Yes, sir.

19 THE COURT: Again, I will ask you, do you have
20 any questions you would like to ask me?

21 MR. BARNES: No, sir.

22 THE COURT: If at any time you change your
23 mind, Mr. Barnes, about testifying on behalf of the
24 State or called as a witness, please advise your lawyer
25 so the Court can be advised prior to your testimony.

1 You can't be called just to take the Fifth Amendment.

2 Do you understand?

3 MR. BARNES: Yes, sir.

4 THE COURT: If you change your mind any time
5 prior to being called as a witness, please let me know.

6 MR. BARNES: Yes, sir.

7 THE COURT: Thank you very much. I find that
8 Mr. Barnes is an intelligent young man, that he has
9 responded appropriately to the questions asked. In
10 other words, they are logical responses.

11 He is represented by a very competent and
12 experienced attorney, who he says has explained to him
13 his rights, the elements of the crime or the crimes, his
14 right to testify or not testify, the fact that if he
15 were to testify, that statements could be used against
16 him to prosecute him for these charges.

17 He states he understands that. No promises,
18 coercion, threats, reward or hope of reward have been
19 made and that at this time he intends to testify, and
20 that will be freely and voluntarily.

21 He knowingly and intelligently understands his
22 rights. He has no questions of the Court. The Court
23 has advised him if he changes his mind, to please advise
24 me prior to being called as a witness. Thank you.

25 Thank you very much, Mr. Barnes. Thank you,

1 Mr. McElveen.

2 MR. McELVEEN: Thank you, Your Honor.

3 THE COURT: Anything further before we bring
4 in our jury, Solicitor?

5 MS. GARRICK: No, Your Honor.

6 THE COURT: Mr. Duncan?

7 MR. DUNCAN: No, Your Honor.

8 THE COURT: If you would bring our jury,
9 please.

10 MR. DUNCAN: Your Honor, I'm sorry.

11 THE COURT: Just a moment, please. Yes, sir.

12 MR. DUNCAN: Your Honor, I would move to
13 sequester any witnesses that the State has.

14 THE COURT: Of course, the victims can remain.
15 Mr. Corley and Ms. Otts can remain. The chief
16 investigating officer, of course, can remain. Beyond
17 that I will grant that motion. I will leave it up to
18 the attorneys to police it because I don't know the
19 witnesses.

20 MS. GARRICK: Yes, sir. Can I have one moment
21 to coordinate that?

22 THE COURT: All right.

23 (Pause.)

24 MS. GARRICK: Your Honor, it's my
25 understanding -- and, Mr. Duncan's -- that Lieutenant

1 Clare, who is the evidence custodian who has all the
2 evidence that these witnesses will be I.D'ing, he
3 doesn't have any objection to him sitting in here with
4 the evidence to make it more convenient.

5 Chief Oswald is no longer -- is not going to
6 be called as a witness. So the only one that was an
7 issue was Lieutenant Clare, and we appreciate that from
8 Mr. Duncan.

9 THE COURT: Is that correct, Mr. Duncan?

10 MR. DUNCAN: That is correct, Your Honor.

11 THE COURT: With that amendment to my order,
12 that's fine..

13 MR. DUNCAN: Thank you.

14 THE COURT: Ready, Solicitor?

15 MS. GARRICK: Yes, sir, Your Honor.

16 THE COURT: Mr. Duncan?

17 MR. DUNCAN: Yes, sir.

18 THE COURT: Now, bring us our jury, please.

19 (The jury returns to the courtroom at
20 2:23 p.m.)

21 THE COURT: Madame Clerk, would you swear our
22 jury, please.

23 (The jury is duly sworn.)

24 THE COURT: Thank you. Thank you very much,
25 Madame Clerk.

1 Mr. Foreman, ladies and gentlemen of the jury,
2 the case we are about to try is the case of the State
3 versus Gregory Velez. What I will now say is intended
4 to serve as an introduction to the trial of this case.

5 These remarks are not a charge or instruction
6 on the law. I will instruct you on the law that applies
7 to this case at the end of the trial before you retire
8 to consider your verdict. This is merely an explanation
9 of the procedure that we will follow in the trial of
10 this case so that you may better understand what may be
11 happening.

12 The Defendant is charged by indictments filed
13 in this court with the crimes of criminal conspiracy,
14 burglary in the first degree, two counts of kidnapping,
15 armed robbery, and possession of a firearm during the
16 commission of a violent crime, the elements of which
17 will be explained to you later.

18 These indictments again, ladies and gentlemen,
19 are simply the charges which brings this case into
20 court, and they are not in any sense evidence of any of
21 the allegations they contain. These are the formal
22 documents which place a defendant on notice of the
23 charges that have been brought against him or her.

24 The Defendant has pled not guilty to these
25 indictments. The State therefore has the burden of

1 proving each of the elements of each indictment
2 separately and distinctly beyond a reasonable doubt.

3 It will be your duty, ladies and gentlemen, to
4 decide whether the State meets that burden. Your
5 purpose as jurors is to find and determine the facts.
6 You are the sole judge of the facts.

7 If at any time I make any comment regarding
8 the facts, you must disregard it. You are to determine
9 the facts from the testimony you hear and from other
10 evidence introduced in court. It is up to you to
11 determine the inferences which you feel may properly be
12 drawn from the evidence.

13 It is especially important that you perform
14 your duty of determining the facts diligently and
15 conscientiously because ordinarily there is no way to
16 correct an erroneous determination of the facts by a
17 jury.

18 On the other hand and with equal emphasis, the
19 same law that makes you the judges of the facts makes me
20 the judge of the law. The law as given by the Court is
21 the only law you may consider. You must accept it and
22 follow it even though you may disagree with it.

23 I cannot tell you what the facts are. You
24 cannot disagree with me about what the law is or should
25 be. Your job is to take the law as I give it to you and

1 apply it to the facts as you find them from the
2 testimony of the witnesses and any other evidence that
3 is introduced.

4 After doing that you will render your
5 verdicts, true and just verdicts, under the solemn oath
6 that you just took as jurors. Ladies and gentlemen,
7 it's important that you keep an open mind and not decide
8 any issue in the case until all of the evidence has been
9 presented, the parties have made their closing
10 arguments, and I have instructed you on the law that
11 applies in this case.

12 It is your solemn responsibility to determine
13 the guilt or innocence of the Defendant as to each
14 indictment. Your verdicts must be based solely on the
15 evidence as it is presented to you as to each indictment
16 in this trial and on the law as I instruct you during
17 and at the close of this trial.

18 In just a few moments, ladies and gentlemen,
19 the solicitor will make what is called an opening
20 statement in which the solicitor will explain to you the
21 issues in this case or at least what the solicitor
22 thinks the issues are in this case.

23 Mr. Duncan, the attorney for Mr. Velez, may
24 also make an opening statement, although he is not
25 required to do so. A criminal defendant in South

1 Carolina is always presumed to be innocent of the crime
2 or crimes charged regardless of the nature or the
3 seriousness of those crimes.

4 That is not just a mere legal theory or just a
5 mere legal phrase. It is a very important right to
6 which this and each and every defendant is entitled
7 under our law.

8 What the attorneys tell you during their
9 opening statements is not evidence in the case. It is
10 only their contention as to what the issues are. The
11 evidence in this case will be presented to you by the
12 testimony of witnesses sworn under oath from this
13 witness stand and by any exhibits that may be introduced
14 into evidence.

15 By the same token, ladies and gentlemen, the
16 questions of the attorneys are not evidence. They are
17 the frame by which the answer is given. It's the
18 responses by the witnesses that is the evidence which is
19 framed by the particular questions of the attorneys.

20 From time to time during the trial, you may
21 hear one of the lawyers say something like, Your Honor,
22 I believe we have a question of law or a matter of law
23 to discuss with you or, Your Honor, may we approach the
24 bench or sometime I myself might find it necessary to
25 excuse you from the courtroom for a short while so the

1 attorneys and I can discuss a matter of law.

2 The reason for this is because you are the
3 judges of the facts, and sometimes when I am discussing
4 matters of law with the attorneys, it may be necessary
5 for me to make some comment as to the facts in
6 connection with ruling whether or not a particular law
7 applies.

8 I am not supposed to tell you what I think the
9 facts are. So I will then excuse you from the courtroom
10 while these discussions take place so that in no way
11 will you be influenced by anything that I might say or
12 do in connection with the facts.

13 In determining what the true facts are in this
14 case, you must decide whether or not the testimony of
15 the witnesses is believable. It will be my
16 responsibility to rule as a matter of law as to whether
17 certain testimony is admissible at all or not, but once
18 the testimony is admitted, once I allow it into
19 evidence, whether or not you believe it is solely for
20 you to determine.

21 In deciding whether to believe a witness,
22 given the background of your good judgment and your
23 common sense, you have the right to consider the
24 interest of any witness, the bias of any witness, the
25 prejudice of any witness, the opportunity for the

1 witness to have seen the matters and things about which.
2 the witness may testify, and the demeanor or the way the
3 witness acts on the witness stand..

4 You have the right to consider anything that
5 is in the record that will help you evaluate the
6 testimony of the witnesses as to believability,
7 credibility.

8 That means it will be your duty to pay close
9 attention to these witnesses, to observe them, to listen
10 to them, to pay close attention to the attorneys and to
11 the Court.

12 Don't let your thoughts wander but give strict
13 attention to the testimony in this case, so that at the
14 end of all the testimony, after all the arguments of
15 counsel, and the instruction on the law by the Court,
16 you will then be in a position to determine what the
17 true facts are and to apply the law to those facts and
18 thus render true and just verdicts. Your goal, your
19 purpose, is to determine the truth.

20 It will be your added duty, Mr. Foreman, to
21 preside in the jury room and be the jury's spokesperson
22 here in court. It will also be your duty to write the
23 verdicts, but I will give you further instructions about
24 that at the conclusion of the case.

25 A couple of housekeeping matters. I tell

1 jurors from week to week, we have a real simple rule
2 about taking breaks. When I want to take break, we take
3 a break. I figure that's real simple. That's the only
4 thing I am in charge of.

5 It's not some type of judicial marathon. Any
6 time any of you need a break, you have been sitting out
7 here too long, your thoughts start to wander; please
8 raise your hand.

9 Y'all will take your break and we will take
10 our break. Again, it's not any type of judicial
11 marathon. I assure you of that. At any time any one of
12 you needs to take a break, please raise your hand.

13 We have a speaker system obviously in the
14 courtroom. However, if you cannot hear a particular
15 witness, you won't be able to determine what the true
16 facts are to determine that person's credibility. If
17 you can't hear, again, just raise your hand. We will
18 try to have the witness speak up.

19 Also from time to time, there could be
20 photographs or documents. I don't know what the
21 evidence, documentary evidence, may be that is
22 introduced into court.

23 Many times it will be handed to the foreperson
24 while y'all are out here in the courtroom in the jury
25 box and passed among the jury panel while you are out

1 here.

2 You may you look at those items all you wish
3 in the courtroom, but keep in mind if I allow it in
4 evidence, you will also have it with you in your jury
5 room at the time of your deliberation.

6 I tell you this to let you know that will not
7 be the only and the last opportunity you get to view
8 those items. Again, look at them all you wish out here
9 in the courtroom, but just keep that in mind.

10 From time to time, also, you may see me on the
11 computer. I don't send e-mails. I don't play games on
12 the computer. Many times an issue may pop into my mind.
13 I anticipate legal issues so to speak, and I will do
14 quick, rudimentary research. I will say for the heavy
15 lifting, my lawyer does that research, but you may see
16 me on there from time to time. That is what I am doing
17 in that regard.

18 If you have any questions, if jurors have
19 commitments this evening, I don't know how late we may
20 work or at what point, but please write out a note
21 whenever you take a break if you need a question or
22 concern about the evening hours. Knock on the door and
23 give it to bailiff. They will get it to my attention.

24 In order to preserve everyone's rights, I give
25 the parties the right to object to anything I have said.

1 Any exceptions to anything I have said to the jury by
2 the State?

3 MS. GARRICK: No, Your Honor.

4 THE COURT: By the Defendant?

5 MR. DUNCAN: No, Your Honor.

6 THE COURT: Thank you. Thank you very much.
7 We will now begin the trial of the case. Solicitor, you
8 may address the jury.

9 **OPENING STATEMENT**

10 MS. PATTERSON: Thank you, Your Honor. May it
11 please the Court.

12 The right to feel safe in one's home is one of
13 the most important rights there is. After all, when you
14 close the door and turn the lock, no one has the right
15 to enter into your home unless you invite them in, no
16 one.

17 On August 13, 2008, the victim in this case,
18 John Corley, his right to feel safe in his home was
19 taken, destroyed, violated when Gregory Velez and his
20 codefendants invaded his home wreaking fear, terror, and
21 injury to Mr. Corley and his girlfriend, Connie Otts,
22 and her three children.

23 Gregory Velez is charged with burglary in the
24 first degree, armed robbery, kidnapping, two counts,
25 criminal conspiracy, and possession of a firearm during

1 the commission of a violent offense.

2 You are going to hear from Mr. Velez's three
3 codefendants. They are going to get on this witness
4 stand, and they are going to tell you how they all got
5 together on August 13, 2008, and how they plotted,
6 planned, and conspired to enter into John Corley's
7 house, armed and dangerous, and rob him in broad
8 daylight.

9 You are going to hear from Mr. Corley, and you
10 may hear some things, some things he will be one of the
11 first persons to admit that he is ashamed of, but you
12 know what, he is not on trial.

13 This is the State of South Carolina versus
14 Gregory Velez. You are going to hear from Ms. Connie
15 Otts. She's going to tell you how she not only feared
16 for her life, her safety, not only feared for John, but
17 feared for her three babies that were in that house that
18 afternoon.

19 You are going to hear from some law
20 enforcement officers about their quick response in
21 apprehending Gregory Velez and his codefendants and how
22 they were able to gather a lot of the evidence that was
23 described in this crime.

24 You may hear some things, some things that may
25 shock you, some things you didn't even know was going on

1 in Lexington County, but you know what, they are going
2 on. It went on August 13, 2008, when John Corley's
3 right to feel safe in his home was violated by Gregory
4 Velez and his codefendants.

5 You are going to see some evidence that may
6 shock you, but these are things that is going on, things
7 that went on on August 13, 2008. Now, we just ask you
8 to pay attention to the witnesses that testify, pay
9 attention to the evidence, and the judge will instruct
10 you later on about the law.

11 But we are certain that we will prove beyond
12 a reasonable doubt that Gregory Velez is guilty of all
13 the crimes that he is being tried for this week. Thank
14 you.

15 THE COURT: Thank you. Thank you very much,
16 Solicitor. Mr. Duncan.

17 MR. DUNCAN: Thank you, Your Honor. May it
18 please the Court.

19 THE COURT: Yes, sir.

20 **OPENING STATEMENT**

21 MR. DUNCAN: Good afternoon, ladies and
22 gentlemen. Again, my name is Mike Duncan and my client,
23 Mr. Gregory Velez, is here today. This is an important
24 day for him.

25 I was appointed to represent Mr. Velez several

1 months ago. As I have sat here this morning and this
2 afternoon, a couple of times Judge McMahon has stated
3 that the indictments, the charges against Mr. Velez, are
4 just that. They are allegations. They are not
5 evidence..

6 The Court is required to read those charges to
7 you. As you sit there, my client punches me and says,
8 that sounds bad. But the problem is or the problem for
9 the State is that it's just allegations.

10 The case that has been brought against
11 Mr. Velez, you are not going to have any statement from
12 Mr. Corley, the victim of this home invasion on
13 August 13, 2008, done by someone.

14 You are not going to have any statement from
15 Mr. Corley that he could identify Gregory Velez.
16 There's no fingerprints. You won't hear any -- you
17 won't have any physical evidence linking Mr. Velez to
18 the home of Mr. Corley. It's just not there.

19 Ladies and gentlemen, I tell you that the
20 State has to meet this heavy burden of proof beyond a
21 reasonable doubt. The Court has, in its preliminary
22 instructions, has advised -- and you may know this from
23 just your life as an American citizen -- a defendant
24 doesn't have to prove anything.

25 Mr. Velez sits before you. He is presumed

1 innocent and he remains innocent until and unless the
2 State can meet that heavy burden of beyond a reasonable
3 doubt, of proof beyond a reasonable doubt.

4 And because something bad happened -- and I
5 sympathize with Mr. Corley. That hasn't happened to me.
6 That has not happened to me, and I thank God it hasn't
7 happened to me.

8 But because that happened to Mr. Corley does
9 not somehow make it remove some of that burden, some of
10 that beyond a reasonable doubt that makes this system,
11 that makes the system in our State and in our country,
12 it makes it the best judicial system in the world, the
13 envy of all.

14 Because you, ladies and gentlemen, are willing
15 to serve as jurors here today. I know that's not what
16 you wanted to do. When you got that notice in the mail,
17 I know nobody said, wow, I get to go be a juror. I
18 can't wait to do that.

19 But you are here. You have all come today.
20 You have given up your time. You are giving up the
21 things you have to do in your jobs and in your personal
22 lives, and on behalf of Mr. Velez, I thank you for that.

23 Again, Mr. Velez sits before you. He is a
24 28-year-old man. He has lived in South Carolina about
25 six years. He is the father of three young children.

1 His family lives in New York. They are from New York.

2 His mother lives in New York.

3 I tell you that as we sit here today, the
4 State has this burden. The State has to present
5 witnesses, whatever evidence they have, and I would urge
6 you to listen carefully to the witnesses' testimony and
7 listen and see, is there some physical evidence?..

8 Is there something that will link this
9 gentleman sitting at the table to the crime, to the
10 crimes that have been charged here? And can the State,
11 can the State of South Carolina, present enough
12 evidence, sufficient evidence, to prove beyond a
13 reasonable doubt guilt in this case.

14 I would submit to you, ladies and gentlemen,
15 at the end of the evidence in this case, the end of the
16 testimony and the end of other evidence, the answer will
17 be no, they can't meet that burden. You will be
18 required by your oath as jurors, as finders of the fact,
19 to return a verdict of not guilty. Thank you very much.

20 THE COURT: Thank you. Thank you, Mr. Duncan.
21 Solicitor, you may call your first witness.

22 MS. PATTERSON: Thank you, Your Honor. The
23 State calls Jawaiski Thompson.

24 THE COURT: Ladies and gentlemen, I have
25 sequestered a number of the witnesses. That means they

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1 will not be in the courtroom at the time other witnesses
2 testify.

3 They are not being disrespectful to the Court
4 or to you. They are following the Court's order. So it
5 may be some few minutes delay from time to time when a
6 witness is called until they actually come into the
7 courtroom and get on the witness stand. Mr. Thompson.

8 JAWAISKI THOMPSON, being
9 first duly sworn, testifies as follows:

10 CLERK: Once you are seated, speak up loud and
11 clear, and state your name on the record, please.

12 THE WITNESS: Jawaiski Thompson.

13 DIRECT EXAMINATION

14 BY MS. PATTERSON:

15 Q Mr. Thompson, are you currently incarcerated?

16 A Yes, ma'am.

17 THE COURT: Speak up a little bit for us,
18 please, Mr. Thompson.

19 BY MS. PATTERSON:

20 Q Where are you currently housed?

21 A Lee Correctional Institution.

22 Q And what offenses are you at the Lee Correctional
23 Institute for?

24 A Can you repeat that again?

25 Q What charges are you there for? What led you to

1 Lee Correctional Institute?

2 A Second degree burglary, kidnapping, and armed
3 robbery.

4 Q And did you plead guilty to these offenses?

5 A Yes, ma'am.

6 Q And are these offenses related to incidents that
7 happened in Batesburg?

8 A Yes, ma'am.

9 Q Do you remember when you pled guilty?

10 A No, ma'am, I ain't sure.

11 Q When you pled guilty, do you remember who your
12 Solicitor was?

13 A Yes, ma'am.

14 Q Who was your Solicitor?

15 A Ms. Angela Garrick.

16 Q And when you pled guilty, did you testify under
17 oath to some questions that Ms. Garrick asked you?

18 A No, ma'am.

19 Q When you pled guilty, did you have any kind of deal
20 with regard to your sentence with Ms. Garrick?

21 A No, ma'am.

22 Q And did you agree to testify if she needed you to
23 truthfully?

24 A Yes, ma'am.

25 Q And is that why you are here today?

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- 1 A Yes, ma'am.
- 2 Q Do you know Gregory Velez?
- 3 A Yes, ma'am.
- 4 Q Do you see him here in the courtroom?
- 5 A Yes, ma'am.
- 6 Q Where is he seated?
- 7 A To the left side of me.
- 8 Q Can you describe what he has on?
- 9 A A white T-shirt with a yellow tie.
- 10 MS. PATTERSON: Let the record reflect
- 11 Mr. Thompson has identified the Defendant as being
- 12 Gregory Velez.
- 13 THE COURT: So reflected.
- 14 BY MS. PATTERSON:
- 15 Q Were you with Gregory Velez on August 13, 2008?
- 16 A Yes, ma'am.
- 17 Q And how did y'all get together on that day?
- 18 A One early morning we had -- they had came to my
- 19 house. Me and my girlfriend, we was in the house,
- 20 just woke up. Him and Jeremiah Leaphart came to
- 21 the door and knocked on the door and asked for me,
- 22 and my old lady came and got me out of the room.
- 23 We started talking. Then after that we been
- 24 debating about making a lick, robbing somebody.
- 25 Q Let me slow you down one moment. Do you remember

- 1 what time it was when they picked you up?
- 2 A I ain't sure.
- 3 Q What area did your girlfriend live? Where did she
- 4 live?
- 5 A Lexington.
- 6 Q And did you know Gregory Velez before this date?
- 7 A No, ma'am.
- 8 Q Did you know Jeremy Leaphart?
- 9 A No, ma'am.
- 10 Q So how did you get together with them?
- 11 A I had met Jeremiah Leaphart like a couple of days
- 12 after he got out the county.
- 13 Q So you did know him?
- 14 A Yes, ma'am.
- 15 Q And how did they get to your girlfriend's house?
- 16 A In a truck.
- 17 Q Do you know who was driving the truck?
- 18 A Gregory.
- 19 Q What did this truck look like?
- 20 A Black Tahoe.
- 21 Q Did you get in this black Tahoe with them?
- 22 A Yes, ma'am.
- 23 Q When you got in the truck with them, did y'all talk
- 24 about anything?
- 25 A About pulling a mission, a lick.

- 1 Q What does pulling a mission or a lick, what does
2 that mean?
- 3 A Robbing somebody.
- 4 Q And whose idea was this?
- 5 A Gregory Velez.
- 6 Q And did he say in particular who y'all were going
7 to rob?
- 8 A No, ma'am.
- 9 Q Who was with y'all?
- 10 A It was Gregory Velez, Jeremiah Leaphart, and me.
- 11 Q Did y'all pick up anybody else?
- 12 A Yes, ma'am.
- 13 Q Who did you pick up?
- 14 A Lewis Barnes.
- 15 Q Did y'all have any weapons?
- 16 A No, ma'am -- yes, ma'am. Yes, ma'am.
- 17 Q Who had weapons?
- 18 A I did, Lewis Barnes, Jeremiah Leaphart, and Gregory
19 Velez.
- 20 Q Where did y'all get these weapons?
- 21 A From some, I guess, neighbor's house.
- 22 Q Whose neighbor?
- 23 A Lewis Barnes.
- 24 Q And did you know Lewis Barnes?
- 25 A No, ma'am.

- 1 Q What kind of weapon did you have?
- 2 A A.K.47.
- 3 Q What kind of weapon did Gregory Velez have?
- 4 A A sawed-off Mossberg pump.
- 5 Q And what kind of weapon did Jeremy Leaphart have?
- 6 A A Glock 9.
- 7 Q And what type of weapon did Mr. Barnes have?
- 8 A A .45.
- 9 Q And how were y'all dressed?
- 10 A In all black.
- 11 Q And whose idea was that?
- 12 A Gregory Velez.
- 13 Q And when they picked you up, how were you initially
- 14 dressed?
- 15 A In my house clothes.
- 16 Q And what color were those clothes?
- 17 A I had on a white T-shirt and some basketball
- 18 shorts.
- 19 Q Where did you get your clothes?
- 20 A From my house.
- 21 Q Where did you get your dark clothes?
- 22 A From Lewis Barnes' neighbor.
- 23 Q Is that the same place you got the guns?
- 24 A Yes, ma'am.
- 25 Q And where did y'all decide to go?

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- 1 A To Batesburg Leesville.
- 2 Q And whose idea was that?
- 3 A Gregory Velez.
- 4 Q And were y'all going anywhere in particular in
- 5 Batesburg?
- 6 A Yes, ma'am.
- 7 Q Where were y'all going?
- 8 A To Mr. Corley house.
- 9 Q Whose idea was it to go to Mr. Corley's house?
- 10 A Gregory Velez.
- 11 Q Did you know Mr. Corley?
- 12 A No, ma'am.
- 13 Q Did you know where he lived?
- 14 A No, ma'am.
- 15 Q Did y'all get to his house?
- 16 A Yes, ma'am.
- 17 Q Can you describe the area surrounding his house?
- 18 A A bunch of woods and a dirt road.
- 19 Q And was Mr. Velez still driving?
- 20 A Yes, ma'am.
- 21 Q And where did he drive up in relation to
- 22 Mr. Corley's house?
- 23 A The dirt road right behind his house.
- 24 Q And did y'all immediately go in?
- 25 A No, ma'am.

- 1 Q What happened when you first got there?
- 2 A We had circled around the dirt road once or twice.
- 3 Q Why did y'all do that?
- 4 A So I could notify the area.
- 5 Q And whose idea was that?
- 6 A Gregory Velez.
- 7 Q And then what did y'all do after you circled the
- 8 area?
- 9 A Pulled up in the dirt road behind Mr. Corley house.
- 10 Q And were there any discussions when y'all pulled up
- 11 to Mr. Corley's house?
- 12 A No, ma'am.
- 13 Q Did y'all go into his home?
- 14 A Yes, ma'am.
- 15 Q Did everybody go in his home?
- 16 A No, ma'am.
- 17 Q Who did not go in his home?
- 18 A Jeremiah Leaphart.
- 19 Q Where did he go?
- 20 A He stood outside the back door.
- 21 Q Do you know why?
- 22 A To be the watch-out man.
- 23 Q So how did y'all enter into Mr. Corley's house?
- 24 A I kicked in the back door.
- 25 Q Whose idea was it for you to kick in the door?

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- 1 A Mine.
- 2 Q And why did you kick in the door?
- 3 A Because I was the biggest one out of all of them.
- 4 Q And who followed you inside? Who came behind you
- 5 next?
- 6 A Gregory Velez and Lewis Barnes.
- 7 Q And did all y'all still have these same weapons you
- 8 described earlier?
- 9 A Yes, ma'am.
- 10 Q When y'all entered into the home, what happened?
- 11 A We went in the room. John Corley, he was on the
- 12 floor. Ms. Connie, she was laying on the bed, and
- 13 we just went in and start asking where the money
- 14 was.
- 15 Q And how were y'all asking where the money was?
- 16 A Screaming and yelling.
- 17 Q And what were y'all doing with the guns while y'all
- 18 were screaming and yelling?
- 19 A Having to point and present.
- 20 Q Pointing and presenting to who?
- 21 A Miss Connie and Mr. Corley.
- 22 Q And what were they doing?
- 23 A They was scared for their life.
- 24 Q And how do you know that?
- 25 A Because they was -- Ms. Connie, she was crying, and

- 1 Mr. Corley, he was shaking.
- 2 Q Which door did you knock down?
- 3 A The back door.
- 4 Q When everybody was screaming, what did you do? Did
- 5 you do anything?
- 6 A Well, yes, I had -- I was searching through the
- 7 house for the money.
- 8 Q Where were you searching?
- 9 A Like on the dresser, under the bed.
- 10 Q And how were you searching the dresser and the bed?
- 11 A With my hand.
- 12 Q And were you organized when you was doing this or
- 13 how was you searching?
- 14 A Just basically tearing up the house.
- 15 Q And did you take anything?
- 16 A Yes, ma'am.
- 17 Q What did you take?
- 18 A I took money out of Miss Connie's pocketbook and
- 19 the jewelry.
- 20 Q Where did you get the jewelry?
- 21 A From out the dresser.
- 22 Q And where was Miss Connie's pocketbook?
- 23 A Sitting on the dresser.
- 24 Q What kind of money did you take from her
- 25 pocketbook?

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- 1 A Like \$150 cash. It was in a bank bill.
- 2 Q And what type of jewelry did you take?
- 3 A A bracelet, a watch. That's it.
- 4 Q And do you know -- did y'all do anything else to
- 5 John or Miss Connie?
- 6 A Yeah, I had hit Connie with the gun -- I mean,
- 7 Mr. Corley with the gun on his arm.
- 8 Q And do you know if anybody else hit, got physical
- 9 with John or Connie?
- 10 A Yes, ma'am.
- 11 Q Who got physical with them?
- 12 A Lewis Barnes.
- 13 Q And who did he get physical with?
- 14 A Mr. Corley.
- 15 Q Do you know what he did to Mr. Corley?
- 16 A Hit him with the gun.
- 17 Q Where did he hit Mr. Corley at?
- 18 A In the head.
- 19 Q Was Mr. Corley bleeding or anything?
- 20 A Yes, ma'am.
- 21 Q Did y'all find any other money in the house?
- 22 A Yes, ma'am.
- 23 Q And where did you find this money?
- 24 A In the closet.
- 25 Q And how did you find this money?

- 1 A Looking in the closet.
- 2 Q Where was this money?
- 3 A Like a big old water jug, see-through.
- 4 Q Who took the water jug?
- 5 A I don't remember who passed it to me, but I had
- 6 slid it to the back door.
- 7 Q Did you give it to anybody at the back door?
- 8 A Yes, ma'am.
- 9 Q Who did you give it to?
- 10 A Jeremiah Leaphart.
- 11 Q And did you see any kids in the house?
- 12 A No, ma'am.
- 13 Q Did you know if any kids were in the house?
- 14 A Yes, ma'am. Miss Connie, she said that her kids
- 15 was in the house. She was yelling and screaming
- 16 about her kids in the back room, but my notice I
- 17 didn't see no kids.
- 18 Q Did y'all do anything else to Mr. Corley or
- 19 Miss Connie while you were in the house?
- 20 A Yes, ma'am.
- 21 Q What did y'all do to them?
- 22 A We tied them up.
- 23 Q Did you play a part in tying them up?
- 24 A Yes, ma'am.
- 25 Q What was your role?

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- 1 A To get the string or the speaker wire off the
2 kitchen table.
- 3 Q Was the speaker wire attached to anything?
- 4 A On the speaker:
- 5 Q How did you get it off the speaker?
- 6 A Tore it off.
- 7 Q Who did you give that you speaker wire to?
- 8 A Lewis Barnes.
- 9 Q What did he do with it?
- 10 A Tied up Miss Connie and Mr. Corley.
- 11 Q Did anybody assist Mr. Barnes in tying up Mr. John
12 or Miss Connie?
- 13 A No, ma'am.
- 14 Q Did you help?
- 15 A No, ma'am.
- 16 Q What did y'all do with them after they were tied
17 up?
- 18 A Put them in the closet.
- 19 Q Which closet was that?
- 20 A The room door closet, in the room.
- 21 Q Did y'all put both of them in the closet?
- 22 A Yes, ma'am.
- 23 Q How long were y'all inside the house?
- 24 A About 15 minutes.
- 25 Q And how did you leave the house?

- 1 A The same way we had entered, through the back door.
- 2 Q And do you know who left out first?
- 3 A I did.
- 4 Q And when you left out, what did you do?
- 5 A Headed towards the truck.
- 6 Q And let me ask you something. What did you do with
- 7 the money and jewelry you took?
- 8 A Put it in my pocket.
- 9 Q When you were heading towards the truck, did you
- 10 notice anything?
- 11 A Yes, ma'am. I seen Batesburg Leesville Police
- 12 Department sitting around the truck, watching the
- 13 truck. I seen the cars around the truck, but I
- 14 ain't seen no officer.
- 15 Q How did this car look?
- 16 A It was white with blue writing on the side of it.
- 17 Q What did that writing say? Could you make it out?
- 18 A Batesburg Police Department.
- 19 Q When you saw that car, what did you do?
- 20 A I started running the other way, away from the
- 21 police car.
- 22 Q Where did you run to?
- 23 A Across the street to the woods.
- 24 Q While you were in the woods, did you meet up with
- 25 any of the other guys?

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- 1 A Yes, ma'am.
- 2 Q Who did you meet up with?
- 3 A It was Gregory Velez and Lewis Barnes.
- 4 Q And did y'all have any discussion about what
- 5 happened?
- 6 A No, ma'am.
- 7 Q Did y'all have any discussion about what to tell
- 8 law enforcement?
- 9 A Yes, ma'am.
- 10 Q What was this discussion?
- 11 A About how we -- how the truck ran out of gas.
- 12 Q Whose idea was that?
- 13 A Gregory Velez.
- 14 Q Were you going along with that story?
- 15 A Yes, ma'am.
- 16 Q And did you do anything else while you were in the
- 17 woods?
- 18 A Ditched the gun.
- 19 Q Where did you put that gun, do you remember?
- 20 A No, ma'am.
- 21 Q Did you do anything else?
- 22 A Yes, I tried to disguise myself, took off the
- 23 thermal that I had on and the stockings.
- 24 Q I apologize. Again, what color was that thermal?
- 25 A It was black.

- 1 Q Where did you put it in the woods?
- 2 A I just ditched it in the woods.
- 3 Q Did y'all eventually come out of those woods?
- 4 A Yes, ma'am.
- 5 Q Where did y'all go when you came out of the woods?
- 6 A I don't remember whose house it was, but it was a
- 7 house on the other side, like on the other side of
- 8 the road from Mr. Corley home.
- 9 Q What did y'all do at this house?
- 10 A Knocked on the door.
- 11 Q Did anybody respond?
- 12 A No, ma'am.
- 13 Q And what happened after y'all were at that house?
- 14 A We had knocked on the door, and it was -- I think
- 15 it was a Crown Vic that came up and had seen us on
- 16 the porch. At first he kept on going, but he seen
- 17 us and stopped and backed up and sat there and see
- 18 what we was going to do. But we had -- I sat on
- 19 the porch and Lewis Barnes knocked on the door
- 20 while Gregory Velez like standing right on the side
- 21 of the house.
- 22 Q And do you know who was in the Crown Vic?
- 23 A No, ma'am.
- 24 Q Did you later find out who was in it?
- 25 A Yes, ma'am.

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1 Q Do you remember who that was?

2 A An officer.

3 Q Do you remember the officer's name?

4 A No, ma'am.

5 Q Do you remember what he looked like?

6 A Yes, ma'am.

7 Q Can you see him in the courtroom?

8 A Right there behind you.

9 MS. PATTERSON: Left the record reflect, Your
10 Honor, he is describing Officer Goss.

11 THE COURT: So reflected.

12 BY MS. PATTERSON:

13 Q And did Officer Goss talk to y'all?

14 A Yes, ma'am.

15 Q And did he do anything else before he talked to
16 y'all?

17 A He put us in handcuffs.

18 Q And did some other officers respond?

19 A Yes, ma'am.

20 Q When they responded what happened to you?

21 A They had all of us in handcuffs. He was like --
22 well, he asked us about a home invasion, and we was
23 like we don't know nothing about a home invasion.
24 But he was like, well, the home invasion just
25 happened around the corner where the truck

1 supposedly had ran out of gas at. We was like --
2 we didn't really have nothing else to say about it,
3 but I already knew I was going to jail.

4 Q And were you transported anywhere after you talked
5 to Officer Goss?

6 A Yes, ma'am.

7 Q Where did you go?

8 A Batesburg Leesville Police Department.

9 Q When you got there, were you searched?

10 A Yes, ma'am.

11 Q Do you remember who searched you?

12 A No, ma'am.

13 Q Do you remember what they found on you?

14 A Yes, ma'am.

15 Q What did they find on you?

16 A Jewelry and the money that I took out Miss Connie
17 purse.

18 Q Now, did you talk to the officers and give them a
19 statement?

20 A Yes, ma'am.

21 Q And what you told them, was that the truth?

22 A No, ma'am.

23 Q And why did you lie?

24 A Because I was scared.

25 MS. PATTERSON: Beg the Court's indulgence.

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1 (Pause.)

2 BY MS. PATTERSON:

3 Q Now, let's go back. When y'all entered into the
4 house, were y'all's faces covered?

5 A Yes, ma'am.

6 Q What was covering your face?

7 A A bandanna and a stocking.

8 Q What was covering the other guys' face?

9 A Stocking.

10 Q And were they all covered just alike?

11 A Yes, ma'am.

12 Q And do you know what color the stockings were?

13 A I think they was like black.

14 Q Where did you get that bandanna?

15 A From out of Gregory Velez's truck.

16 Q Where did they get those stockings?

17 A From Gregory Velez's truck.

18 MS. PATTERSON: Beg the Court's indulgence.

19 THE COURT: Yes, ma'am.

20 (Pause.)

21 BY MS. PATTERSON:

22 Q Mr. Thompson, I am going to show you what has been
23 marked as State's Exhibit 29 for identification
24 purposes only and ask you to take a look at it. Do
25 you recognize what I just showed you?

1 A Yes, ma'am.

2 Q And what is this?

3 A The money I took out of Miss Connie pocketbook and
4 the jewelry I took out the dresser.

5 Q I am going to show you what is marked as State's
6 Exhibit Number 30 for identification purposes only.
7 Do you recognize this?

8 A Yes, ma'am.

9 Q What is this?

10 A The thermal that I had on.

11 Q Mr. Thompson, I am going to show you what is marked
12 as State's Exhibit Number 31 for identification
13 purposes only and ask you to take a look at this
14 photo.

15 A Uh-huh. (Indicating affirmative response).

16 Q What does that photo show?

17 A The jug of money sitting in the front seat of the
18 truck, the passenger side.

19 Q Does that look like the jug of money that you took
20 out of Mr. Corley's home?

21 A Yes, ma'am.

22 MS. PATTERSON: Your Honor, may we approach?

23 THE COURT: Yes, ma'am.

24 (Whereupon there is a bench conference off the
25 record in the presence of the jury but out of the

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1 hearing of the jury.)

2 THE COURT: Thank you very much. Mr. Foreman,
3 ladies and gentlemen of the jury, the solicitor is now
4 going to show this particular -- or certain items,
5 firearms, that have been referred to to this witness,
6 Mr. Thompson.

7 I have reviewed that and there are certain
8 guidelines in South Carolina for the handling of
9 firearms and ammunition as evidence in court. I would
10 advise you, and I have reviewed this with the officers,
11 that all of the firearms are unloaded. All of them have
12 gun locks in place.

13 The ammunition is held separately and will be
14 held separately and distinctly from any and all firearms
15 that are offered or introduced into evidence during the
16 course of this trial.

17 Further, no firearm would be pointed at any
18 other person, any member of the jury or anyone else. If
19 they are offered and allowed into evidence, at the close
20 of the trial when they go to the jury room, they would
21 remain in that same condition, unloaded with gun locks.

22 There will be no time in which both the
23 ammunition and the firearms are in the jury room at the
24 same time. If the jury wants to examine the ammunition,
25 the firearms would come out, and the ammunition would go

1 in.

2 With that being said, Solicitor, you may
3 proceed.

4 MS. PATTERSON: Thank you.

5 BY MS. PATTERSON:

6 Q Mr. Thompson, I am going to show you what is marked
7 as State's Exhibit Number 25 for identification
8 purposes only and ask you if you recognize this?

9 A Yes, ma'am.

10 Q And is this -- what is that?

11 A A.K.47.

12 Q Is this A.K.47 similar to the one that you had on
13 August 13, 2008?

14 A Yes, ma'am.

15 Q Mr. Thompson, I am going to show you what is marked
16 as State's Exhibit Number 26 for identification
17 purposes only.

18 A Yes, ma'am.

19 Q Do you know what this is?

20 A Mossberg pump.

21 Q And does this look like the gun that Gregory Velez
22 had on August 13, 2008?

23 A Yes, ma'am.

24 Q I am going to show you what is marked as State's
25 Exhibit Number 27 for identification purposes only.

1 What is this?

2 A A .45.

3 Q And does this look like the gun that Lewis Barnes
4 had on August 13, 2008?

5 A Yes, ma'am.

6 Q This is State's Exhibit Number 28 marked for
7 identification purposes only. What is in this box?

8 A A Glock 9.

9 Q Does that look like the gun that Jeremy Leaphart
10 had on August 13, 2008?

11 A Yes, ma'am.

12 Q Mr. Thompson, do you know if those guns were loaded
13 on August 13, 2008?

14 A Yes, ma'am.

15 Q Which ones were loaded?

16 A All of them.

17 Q Thank you, Mr. Thompson. Please answer any
18 questions Mr. Duncan may have.

19 THE COURT: Thank you. Thank you, Solicitor.
20 Mr. Duncan.

21 MR. DUNCAN: Thank you, Your Honor.

22 CROSS EXAMINATION

23 BY MR. DUNCAN:

24 Q Mr. Thompson, my name is Mike Duncan. I represent
25 Mr. Velez. Good afternoon.

1 A Good afternoon, sir.

2 Q Mr. Thompson, if I heard you correctly, on the
3 afternoon of August 13th or on August 13th, you
4 were at your girlfriend's house?

5 A Yes, sir.

6 Q And that was in Lexington?

7 A Yes, sir.

8 Q And two guys, according to you, two guys came up to
9 the house and knocked on -- is it an apartment or a
10 house?

11 A Apartment.

12 Q So two guys came to the apartment and knocked on
13 the door; is that right?

14 A Yes, sir.

15 Q You testified at first that you didn't know
16 Mr. Velez, my client, or Mr. Leaphart before that
17 day; is that right? Do you remember saying that?

18 A Yes, sir.

19 Q Then you said that you did know -- you had met
20 Mr. Leaphart in the county or something. I think
21 you said in the county.

22 A No, I met him when he got out the county.

23 Q You met him when he got out of the county. How did
24 you meet him?

25 A Because his baby momma staying out there where my

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1 girlfriend stay at.

2 THE COURT: Say that for me, again,
3 Mr. Thompson.

4 THE WITNESS: His baby momma stay out there
5 where my girlfriend stay at.

6 BY MR. DUNCAN:

7 Q So Mr. Leaphart's girlfriend, the baby's mother?

8 A Uh-huh. (Indicating affirmative response.)

9 Q Stayed in the same apartment complex as your
10 girlfriend?

11 A Uh-huh. (Indicating affirmative response.)

12 THE COURT: That's a yes?

13 THE WITNESS: Yes, sir.

14 THE COURT: You have to answer yes or no.

15 THE WITNESS: Yes, sir.

16 BY MR. DUNCAN:

17 Q So you had seen him several times? Had y'all ever
18 hung around together?

19 A No, sir.

20 Q You had just seen him around the apartment complex?

21 A Yes, sir.

22 Q And your testimony today is August 13, 2008, is the
23 first time you had ever laid eyes on my client,
24 Mr. Velez?

25 A Yes, sir.

- 1 Q And so, Mr. Thompson, you got -- you left your
2 girlfriend's house or girlfriend's apartment in
3 Lexington?
- 4 A Yes, sir.
- 5 Q And got in the vehicle with a guy you had never
6 seen before; is that right?
- 7 A Yes, sir.
- 8 Q To go -- and you didn't know where you were going?
- 9 A Yes, sir.
- 10 Q Had you and Mr. Leaphart had some discussions
11 before about doing any lick, as you call it, you
12 robbing somebody?
- 13 A No, sir.
- 14 Q Never had any discussion with him about that at
15 all?
- 16 A No, sir.
- 17 Q So this, according to you, this is all just out of
18 the clear blue that day?
- 19 A Yes, sir. I needed money because I had got fired
20 like probably -- from Lizard's Thicket right up the
21 road -- like probably about week or two before this
22 even happened. My girlfriend didn't work. I was
23 the only person in the house that can supply for
24 the three kids and my old lady.
- 25 Q And Mr. Thompson, you have stated that you are here

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- 1 today, and obviously you are serving some time --
- 2 A Yes, sir..
- 3 Q -- in the South Carolina Department of Corrections?
- 4 A Yes, sir.
- 5 Q Before this incident, before this incident that you
- 6 pled guilty for coming from August 2008, you had
- 7 been found guilty before of robbing?
- 8 A Yes, sir.
- 9 Q You pled guilty to that?
- 10 A No, sir, they had dropped it down to strong arm.
- 11 Q So you pled guilty to a strong arm robbery?
- 12 A Yes, sir.
- 13 Q And that was in 2007?
- 14 A Yes, sir.
- 15 Q So you were on probation for that?
- 16 A No, sir.
- 17 Q Were you on probation back in 2008?
- 18 A Yes, sir..
- 19 Q How long were you serving probation?
- 20 A Two years.
- 21 Q So you caught -- you pled guilty to strong arm
- 22 robbery in July of 2007 or somewhere in the
- 23 neighborhood of July 2007?
- 24 A Yes, sir.
- 25 Q You got two years probation?

1 A Yeah, I had ten years suspended and two years
2 probation.

3 Q So you had ten years hanging over your head?

4 A Yes, sir.

5 Q And, Mr. Thompson, when you said a while ago on
6 examination from the solicitor that you had put --
7 you had put items in your pocket. I believe they
8 marked that.

9 THE COURT: State's 29 for I.D.

10 MR. DUNCAN: May I approach the witness, Your
11 Honor?

12 THE COURT: Certainly.

13 BY MR. DUNCAN:

14 Q That stuff in that bag there, you identified as
15 being things that you had taken and put in your
16 pocket?

17 A Yes, sir.

18 Q Jewelry and some cash; is that right?

19 A Yes, sir.

20 Q And that remained in your pocket?

21 A Yes, sir, until I got to Batesburg Police
22 Department. They had pat me down, had searched me,
23 and that's what they pulled out my pocket.

24 Q And you said that you knew you were going to jail?

25 A Yes, sir.

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1 Q And part of the reason you knew you were going to
2 jail is because you had that stuff in your pocket,
3 right?

4 A Yes, sir, and I was on probation.

5 Q And you were on probation?

6 A Yes, sir.

7 Q So you knew you were going to be violated
8 probation?

9 A Yes, sir.

10 Q You said you didn't know Mr. Corley. Do you know
11 Mr. Corley now? Do you know who he is? Can you
12 see him in the courtroom?

13 A Yes, sir.

14 Q Do you know him just because of this case?

15 A Yes, sir, that's the only reason why.

16 Q Because you have been getting ready for the trial
17 of this case. I mean, you knew you were going to
18 be called as a witness; right?

19 A Yes, sir.

20 Q So you have become familiar with Mr. Corley, but
21 you didn't know him otherwise?

22 A No, sir.

23 Q You say that you kicked in the back door?

24 A Yes, sir.

25 Q Because you are the biggest guy?

1 A Yes, sir.

2 Q And then after you were in the house -- you were in
3 the house. Let me get this straight. You only saw
4 Mr. Corley and a lady?

5 A Miss Connie.

6 Q Again, you are calling her Miss Connie because you
7 know her from this case?

8 A Yes, sir.

9 Q But you didn't know who it was on that day?

10 A No, sir.

11 Q That's all you saw in the house though?

12 A Yes, sir.

13 Q That's the only people staying in the house that
14 you saw in the house?

15 A That's all I seen.

16 Q All right. You say that you took a jug. You took
17 a jug that had been identified, and Ms. Patterson
18 showed you?

19 A Yes, sir.

20 Q And you handed it to Mr. Leaphart?

21 A Yes, sir.

22 Q And do you know what happened after that with that
23 jug?

24 A I guess he took it to the truck because that's
25 where it was.

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1 Q You don't know that? I mean, you didn't see him
2 take it to the truck?

3 A That's the only person outside to take it to the
4 truck.

5 Q You gave it to Mr. Leaphart, and he took it -- he
6 took it somewhere and it went to the truck is what
7 your testimony is?

8 A Yes, sir.

9 Q Tell me this, Mr. Thompson. When you saw -- how
10 many Batesburg Leesville Police Department cars did
11 you see around the vehicle that you were talking
12 about when you came out of the house?

13 A Like two or three of them.

14 Q They were marked cars, blue lights?

15 A Yeah, lights on top.

16 Q Clearly they were --

17 A Lights on the side.

18 Q No doubt about it?

19 A Yeah.

20 Q And then your testimony was you were knocking on
21 some doors, and I can't remember, did you say you
22 were knocking on doors?

23 A No.

24 Q You didn't knock on doors?

25 A No.

- 1 Q Mr. Barnes was knocking on doors?
- 2 A Yes, sir.
- 3 Q Mr. Barnes was knocking on the door at some houses
- 4 in the general vicinity of this home invasion; is
- 5 that right?
- 6 A Yes, sir.
- 7 Q And then you saw a Crown Victoria pull up?
- 8 A Yes, sir.
- 9 Q Was that a marked car or an unmarked car?
- 10 A Marked car.
- 11 Q Blue lights?
- 12 A No, it was an unmarked car, I mean.
- 13 Q An unmarked car?
- 14 A Yes.
- 15 Q You couldn't tell that was the police?
- 16 A No, sir.
- 17 Q You didn't know that was the police until this
- 18 gentleman, Captain Goss, got out; is that right?
- 19 A Yes, sir.
- 20 Q He identified himself at that point?
- 21 A Yes, sir.
- 22 Q Did he put you under arrest at that time?
- 23 A No, sir, he had -- I don't know what they call it,
- 24 but he had told us something about a home invasion.
- 25 So he had put us in handcuffs for -- I guess it was

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1 for isolation or something like that.

2 Q Where were you? Where did he put you? Did he put
3 you in a vehicle?

4 A No, he made us stand outside the car because he was
5 the only officer there at that time.

6 Q Did he stay with you?

7 A He stayed with all of us.

8 Q When you say he put you in isolation, there was
9 three of you standing there?

10 A Yes, sir.

11 Q And you were all just standing beside the car?

12 A Yes, sir.

13 Q And then did Captain Goss -- you were transported
14 eventually to the Batesburg Leesville Police
15 Department?

16 A Yes, sir.

17 Q Not by Captain Goss though?

18 A No, sir.

19 Q By somebody else?

20 A Yes, sir.

21 Q Do you remember who that was?

22 A No, sir.

23 Q A marked Batesburg Leesville police car?

24 A Yes, sir.

25 Q Mr. Thompson, are you from Lexington?

1 A Yes, sir, born and raised.

2 Q Grew up in Lexington?

3 A Yes, sir.

4 Q Had you been to Batesburg Leesville before
5 August 13, 2008?

6 A You saying before then?

7 Q Yes, sir.

8 A Yes, sir.

9 Q You had been down there. Had you been around
10 Batesburg some, I mean, on a regular basis?

11 A No, I went down there just one time to take my
12 girlfriend and auntie down there because she had
13 moved down there.

14 Q That's the only time you had been down to
15 Batesburg?

16 A Yes, sir.

17 Q You don't know nothing about Batesburg?

18 A No, sir.

19 Q Did I understand when Ms. Patterson asked you
20 something about when you pled guilty, you pled
21 guilty in this to burglary second degree?

22 A Uh-huh. (Indicating affirmative response.)

23 Q Kidnapping?

24 A Uh-huh. (Indicating affirmative response).

25 THE COURT: Is that a yes? I'm sorry.

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1 THE WITNESS: Yes, sir.

2 THE COURT: You may continue.

3 BY MR. DUNCAN:

4 Q And armed robbery?

5 A Yes, sir.

6 Q And at that time I think Ms. Patterson asked you,
7 did you testify to any questions under oath at the
8 time of that plea, and you said no, I believe; is
9 that right?

10 A Which means? Can you repeat that again?

11 Q Did you answer any questions at that time? You
12 admitted your guilt?

13 A Yes, sir.

14 Q And that's what you did?

15 A Yes, sir.

16 Q Is that right?

17 A Yes, sir.

18 Q You didn't implicate anybody else, none of your
19 codefendants?

20 A Yes, sir.

21 Q You said that three other people were involved?

22 A Yes, sir.

23 Q All in front of a judge?

24 A Yes, sir.

25 MR. DUNCAN: Beg the Court's indulgence just a

1 moment.

2 THE COURT: Yes, sir.

3 MR. DUNCAN: Thank you.

4 (Pause.)

5 BY MR. DUNCAN:

6 Q Mr. Thompson, when you were inside Mr. Corley's
7 house, what made you leave?

8 A We had finished doing what we had to do.

9 Q You had finished doing what you had to do?

10 A Yes, sir.

11 Q And you said you found the money. You had kind of
12 gone through the house; is that right?

13 A The bedroom part.

14 Q And then you said Mr. Leaphart was outside?

15 A Yes, sir.

16 Q Standing watch?

17 A Watching out.

18 Q And when you left the house, there were police cars
19 around the vehicle where you were trying to go to;
20 is that right?

21 A Yes, sir.

22 Q Mr. Leaphart didn't say, hey, there's some cops out
23 here? You weren't aware of that until you stepped
24 outside the house?

25 A When we was running to the truck. I guess he

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1 couldn't see through the woods.

2 Q He couldn't see through the woods?

3 A (Witness nods.) (Indicating affirmative response.)

4 Q All right. All right. Thank you.

5 MR. DUNCAN: I don't have anything further?

6 THE COURT: Redirect, Solicitor?

7 REDIRECT EXAMINATION

8 BY MS. PATTERSON:

9 Q Mr. Thompson, when you pled guilty, you said you
10 told the judge who was with you during these
11 charges?

12 A Yes, ma'am.

13 Q And who did you tell that judge was with you?

14 A Jeremiah Leaphart, Gregory Velez, and Lewis Barnes.

15 Q And are you sure -- was Gregory Velez with you on
16 August 13th when y'all went into Mr. John Corley's
17 house?

18 A Yes, ma'am.

19 Q Was Gregory Velez with you the whole time you were
20 in that house?

21 A Yes, ma'am.

22 Q Are you sure he went in that house with you?

23 A Yes, ma'am.

24 Q Are you sure he left out of that house with you?

25 A Yes, ma'am.

1 Q Are you sure he was running in those woods with
2 you?

3 A Yes, ma'am.

4 Q And you are sure he had that gun we discussed
5 earlier?

6 A Yes, ma'am.

7 Q Thank you.

8 THE COURT: Recross, Mr. Duncan?

9 MR. DUNCAN: I don't have anything further.

10 THE COURT: Thank you. Thank you very much,
11 Mr. Thompson. You may step down.

12 (Witness leaves the witness stand.)

13 THE COURT: How long is your next witness,
14 Solicitor?

15 MS. PATTERSON: About the same length.

16 THE COURT: Why don't we take a break then
17 before we start our next witness.

18 Mr. Foreman, ladies and gentlemen of the jury,
19 we will take about a 15-minute recess. Please remember
20 during this recess, do not discuss this case with
21 anyone. That includes your fellow jurors or anyone
22 else. With that being said, you may go with the
23 bailiff.

24 (The jury retires to the jury room.)

25 THE COURT: Solicitor, here are copies that

1 you handed up of Mr. Barnes' indictments. Court will be
2 in recess 15 minutes.

3 MR. DUNCAN: Thank you, Your Honor.

4 MS. GARRICK: Thank you.

5 (Whereupon there is a recess.)

6 THE COURT: Anything before we bring in the
7 jury, Solicitor?

8 MS. GARRICK: No, Your Honor.

9 THE COURT: Mr. Duncan?

10 MR. DUNCAN: No, Your Honor.

11 THE COURT: Bring our jury, please.

12 (The jury returns to the courtroom.)

13 THE COURT: Our jury is back present in the
14 courtroom. Solicitor, you may call your next witness.

15 MS. PATTERSON: Thank you, Your Honor. The
16 State calls Jeremy Leaphart.

17 THE COURT: Mr. Leaphart, if you would come
18 around, please.

19 JEREMY DERRELL LEAPHART,
20 being first duly sworn, testifies as follows:

21 CLERK: Once you are seated, speak up loud and
22 clear, stating your full name on the record, please.

23 THE WITNESS: My name is Jeremy Leaphart,
24 Jeremy Derrell, Leaphart.

25 COURT REPORTER: Spell your middle name,

1 please.

2 THE WITNESS: D-E-R-R-E-L-L.

3 DIRECT EXAMINATION

4 BY MS. PATTERSON:

5 Q Mr. Leaphart, are you currently incarcerated?

6 A Yes, ma'am.

7 Q Where are you incarcerated at?

8 A At Allendale.

9 Q What charges are you incarcerated on?

10 A Attempted armed robbery, second degree burglary.

11 Q Are these charges that arose out of Batesburg?

12 A Yes, ma'am.

13 Q And did you pled guilty to these charges?

14 A Yes, ma'am.

15 Q Do you remember who your solicitor was?

16 A Ms. Angela Garrick.

17 Q When you pled with Ms. Garrick, did you answer some
18 questions that she had for you under oath?

19 A Yes, ma'am.

20 Q Did you answer those questions truthfully?

21 A Yes, ma'am.

22 Q And were they about the incident that you are
23 incarcerated on?

24 A Yes, ma'am.

25 Q Did you have any deal with Ms. Garrick with regards

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1 to your sentence?

2 A No, ma'am.

3 Q And do you know Gregory Velez?

4 A Yes, ma'am.

5 Q And do you see him in the courtroom?

6 A Yes, ma'am.

7 Q What is he wearing?

8 A A white shirt.

9 Q Anything else?

10 A And yellow tie.

11 MS. PATTERSON: Let the record reflect that

12 Mr. Leaphart has identified the Defendant, Gregory

13 Velez.

14 THE COURT: So reflected.

15 BY MS. PATTERSON:

16 Q Do you call Mr. Velez something? Does he have a
17 nickname?

18 A Call him G.

19 Q And were you with Mr. Velez on August 13, 2008?

20 A Yes, ma'am.

21 Q And how did y'all get together that day?

22 A He picked me up.

23 Q What was he driving?

24 A A black truck.

25 Q And did you get in that truck with him?

- 1 A Yes, ma'am.
- 2 Q And who was in that truck with you and him?
- 3 A Me and Jawaiski and Mr. Thompson.
- 4 Q When did y'all get Mr. Thompson?
- 5 A From the same place.
- 6 Q Where was that at?
- 7 A From Park North.
- 8 Q What time of the day was this?
- 9 A In the morning.
- 10 Q And when y'all got together, did y'all have any
- 11 discussions about what y'all were going to do?
- 12 A Yes, ma'am.
- 13 Q What was y'all discussing?
- 14 A We was going to Batesburg.
- 15 Q What was y'all going to Batesburg for?
- 16 A For a robbery.
- 17 Q And did you know who y'all were going to rob?
- 18 A Yes, ma'am.
- 19 Q Who was y'all going to rob?
- 20 A Mr. John Corley.
- 21 Q Do you know Mr. Corley?
- 22 A Yes, ma'am.
- 23 Q Whose idea was it to go rob Mr. Corley?
- 24 A It been kind of mine's.
- 25 Q And did y'all have any weapons?

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- 1 A Yes, ma'am.
- 2 Q And what kind of weapon did you have?
- 3 A I had a Ruger, a 9 Ruger.
- 4 Q Where did you get your weapon?
- 5 A I always had it.
- 6 Q And Mr. Velez and Mr. Thompson, did they have
- 7 weapons?
- 8 A No, not at the time.
- 9 Q Did they get any weapons?
- 10 A That came later.
- 11 Q Where did they get those weapons?
- 12 A Some place in Gilbert.
- 13 Q What were y'all doing in Gilbert?
- 14 A Just made a stop. Then we left. That was when
- 15 Mr. Barnes jumped in the car with us.
- 16 Q Who is Mr. Barnes?
- 17 A Lewis.
- 18 Q Did you know Lewis?
- 19 A Yeah, I knew of him.
- 20 Q Did you know Mr. Thompson?
- 21 A Yeah, I knew Mr. Thompson.
- 22 Q And did y'all eventually make it to Batesburg?
- 23 A Yes, ma'am.
- 24 Q And when y'all got to -- did you know where
- 25 Mr. Corley lived?

- 1 A Yes, ma'am.
- 2 Q And can you describe the area where his house is
- 3 located?
- 4 A Off Howard Street. It's in the middle on two dirt
- 5 roads.
- 6 Q Two dirt roads. Anything else surrounding his
- 7 house?
- 8 A A fence.
- 9 Q Anything else?
- 10 A Woods.
- 11 Q And when y'all got to Mr. Corley's road, what
- 12 happened?
- 13 A Somebody seen us.
- 14 Q How do you know?
- 15 A Because I seen the car and they rode right past us.
- 16 Q When you got to Mr. Corley's house, did you see any
- 17 cars in the yard?
- 18 A Yes, ma'am.
- 19 Q What kind of cars you saw in the yard?
- 20 A It was a silver car and a truck.
- 21 Q When you saw these cars, how did that make you
- 22 feel?
- 23 A I knew something wasn't right. I knew somebody
- 24 else was there, right. I kind of didn't want to do
- 25 it.

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- 1 Q Did you tell this to the other guys?
- 2 A We had a discussion. I said I ain't going out
3 there. I ain't going in. I am standing outside.
- 4 Q Did they go in?
- 5 A Yes, ma'am, they went in.
- 6 Q And when they went in, did they go in with their
7 weapons?
- 8 A Yes, ma'am.
- 9 Q What kind of weapon did Mr. Velez have?
- 10 A He had a shotgun.
- 11 Q What kind of weapon did Mr. Thompson have?
- 12 A The assault rifle.
- 13 Q What kind of weapon did Mr. Barnes had?
- 14 A He had a little black one.
- 15 Q Do you know how they got inside the house?
- 16 A Yes, ma'am.
- 17 Q How did they get inside?
- 18 A Thompson kicked the door in.
- 19 Q Did you ever go in?
- 20 A No, ma'am.
- 21 Q Where were you when they were inside the house?
- 22 A Out the door, like in between the fence and the
23 car.
- 24 Q Could you hear what was going on?
- 25 A Huh-uh. (Indicating negative response.) I just

- 1 heard, get down on the ground. That's it.
- 2 Q Did you ever go closer to the house?
- 3 A As far as like afterwards, I told them to come on,
- 4 we need to go, but other than that, no.
- 5 Q And did they come out with you?
- 6 A Yes, ma'am.
- 7 Q Let me back up. How was everybody dressed?
- 8 A Barnes had on like a black shirt, Jawaiki had on
- 9 gray, Mr. Velez had on blue, and I had on black.
- 10 Q And did y'all agree to dress like this?
- 11 A No, it wasn't no -- no, we ain't agreed to none of
- 12 that.
- 13 Q When they went inside the house, how was -- were
- 14 their faces covered?
- 15 A Yeah.
- 16 Q And do you remember how Mr. Barnes' face was
- 17 covered?
- 18 A No.
- 19 Q Do you remember how Mr. Velez's face was covered?
- 20 A Huh-uh. (Indicating negative response.)
- 21 Q Do you remember how Mr. Thompson's face was
- 22 covered?
- 23 A Huh-uh. (Indicating negative response.)
- 24 Q But you do remember their faces were covered?
- 25 A Yeah.

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1 Q Was your face covered?

2 A No.

3 Q Why not?

4 A I was out the door.

5 Q Did you ever come in possession with anything that
6 was taken from that house?

7 A A jug.

8 Q And how did you get this jug?

9 A I got it from Mr. Velez. He was kind of like in
10 the back door, but he went all the way in the
11 house. So that's how I got that. He gave it to
12 him and he gave it to me.

13 Q How did this jug look?

14 A A clear jug with money in it.

15 Q What did you do with the jug?

16 A I put it in the car.

17 Q Which car did you put it in?

18 A The truck, the black truck.

19 Q Was that the truck Mr. Velez was driving?

20 A (Witness nods.) (Indicating affirmative response.)

21 Q Do you remember where in the truck you put it?

22 A The front passenger.

23 Q Did you do anything else when you ran back to that
24 truck?

25 A I cranked it up.

- 1 Q Why did you crank it?
- 2 A I thought they was fixing to go.
- 3 Q And did you realize anything after that?
- 4 A Yeah.
- 5 Q What did you realize?
- 6 A They wasn't coming.
- 7 Q So what did you do?
- 8 A I tried to go back and tell them to come on. That
- 9 was just it.
- 10 Q And after you went back to tell them to come on,
- 11 what did you do?
- 12 A I left back out to go to the truck, but the police
- 13 was out there.
- 14 Q How do you know it was a policeman?
- 15 A I seen the car and the man standing out there.
- 16 Q And how was this car? Describe his car.
- 17 A It was a Batesburg police car, white and blue.
- 18 Q Did it have anything written on it?
- 19 A Yeah, Batesburg.
- 20 Q And you saw the officer?
- 21 A Yeah.
- 22 Q Did you hear him say anything?
- 23 A He told me to stop.
- 24 Q Did you stop?
- 25 A Huh-uh. (Indicating negative response.)

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1 Q What did you do?

2 A I ran.

3 Q Where did you run to?

4 A The woods.

5 Q And when you were running in the woods, was anybody
6 with you?

7 A I was by myself then.

8 Q When you were running in the woods, did you do
9 anything in the woods?

10 A Yeah, I dropped my weapon. I ran back towards the
11 road.

12 Q Do you know what road that was you ran towards?

13 A Howard Street.

14 Q When you got to Howard Street, what happened?

15 A I got arrested.

16 Q Do you remember who arrested you?

17 A Officer Sims.

18 Q And what did Officer Sims do to you when he
19 arrested you?

20 A He said he got a robbery in progress. So he
21 searched me, put me in handcuffs, and put me in the
22 back of the car.

23 Q When he put you in the car, did he transport you
24 anywhere?

25 A The next street over.

- 1 Q When you got to the next street, what did you see?
- 2 A I seen Velez, Barnes, and Jawaiski.
- 3 Q Who was with them?
- 4 A The police had them detained.
- 5 Q Did anybody ever get in the car with you?
- 6 A Barnes got in the car first, and then he got out
- 7 and they put Velez in the car with me.
- 8 Q Then where did you and Velez go?
- 9 A To the police station.
- 10 Q Which police station is that?
- 11 A Batesburg.
- 12 Q When y'all got to Batesburg, were you interviewed
- 13 by any police officers?
- 14 A A detective. I don't know his name. He's right
- 15 there.
- 16 Q Captain Goss?
- 17 A Yeah.
- 18 Q And did you give them any kind of statement?
- 19 A Yeah.
- 20 Q When you gave them a statement, did you tell them
- 21 the truth?
- 22 A Nah.
- 23 Q Why didn't you tell them the truth?
- 24 A I got caught by myself. I wasn't with them.
- 25 Q Now, prior to this incident on August 13, 2008, did

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1 you have a prior record?

2 A Yeah, I had a distribution of cocaine.

3 Q Were you on probation for that?

4 A No, I had done get off probation by then.

5 MS. PATTERSON: Beg the Court's indulgence.

6 (Pause.)

7 BY MS. PATTERSON:

8 Q Mr. Leaphart, I am going to show you what is marked
9 as State's Exhibit 31 for identification purposes
10 only. What does this picture show, Mr. Leaphart?

11 A A jug.

12 Q What kind of jug?

13 A A water jug with money in it.

14 Q Does that look like the water jug you got from
15 Mr. Velez on August 13, 2008?

16 A (Witness nods.) (Indicating affirmative response.)

17 Q Does that look like the water jug you put in the
18 black Tahoe on August 13, 2008?

19 A Yes, ma'am.

20 Q Mr. Leaphart, I am going to show you what is marked
21 as State's Exhibit Number 28 for identification.
22 What is in this box Mr. Leaphart?

23 A My weapon. It was mine.

24 Q So this weapon looks like the weapon that was
25 similar to the weapon you had August 13, 2008?

1 A (Witness nods.) (Indicating affirmative response.)

2 THE COURT: Is that a yes?

3 THE WITNESS: Yes, sir.

4 THE COURT: Thank you.

5 BY MS. PATTERSON:

6 Q Mr. Leaphart, You are sure that Mr. Velez was with
7 you on August 13, 2008?

8 A Yes, ma'am.

9 Q Are you sure that he entered into Mr. Corley's
10 house with Mr. Jawaicki Thompson and Mr. Lewis
11 Barnes?

12 A Yes, ma'am.

13 Q And he passed you that water jug? Are you sure
14 that was him?

15 A Yes, ma'am.

16 Q And you are sure he was driving that black Tahoe
17 that you rode to Batesburg in on August 13, 2008?

18 A Yes, ma'am.

19 MS. PATTERSON: Beg the Court's indulgence.

20 (Pause.)

21 BY MS. PATTERSON:

22 Q Mr. Leaphart, you are sure that when Mr. Velez went
23 into Mr. Corley's home, he had a shotgun?

24 A Yes, ma'am.

25 Q Thank you. Please answer any questions Mr. Duncan.

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1 may have.

2 THE COURT: Thank you, Solicitor. Mr. Duncan.

3 MR. DUNCAN: Thank you, Your Honor.

4 CROSS EXAMINATION

5 BY MR. DUNCAN:

6 Q Good afternoon, Mr. Leaphart. My name is Mike
7 Duncan. I'm Mr. Velez's lawyer. Mr. Leaphart, I
8 have got a couple of statements to hand to you.
9 One is what you -- if I could approach the witness?

10 THE COURT: Certainly.

11 BY MR. DUNCAN:

12 Q One is the statement that you gave to the Batesburg
13 Leesville Police Department on August 13, 2008. Do
14 you recall that, sir?

15 A Yeah, I recall that.

16 Q And then the second one is a letter. It's in
17 letter form, and I will hand that to you. It's
18 dated December 4, 2008, with a signature on it that
19 purports to be your signature.

20 A That's my signature.

21 Q That's your signature? You wrote that letter?

22 A Yeah, I wrote that.

23 Q Mr. Leaphart, on the -- let me ask you first about
24 the letter dated December 4, 2008, that is signed
25 by you. You acknowledge that you signed that

1 letter, correct?

2 A Correct.

3 Q Would you read that letter?

4 A To whom it may concern: On August 13, 2008,
5 Mr. Gregory Velez --

6 THE COURT: You need to read, Mr. Leaphart,
7 for me a little slower and a little louder; okay?

8 THE WITNESS: All right.

9 THE COURT: Thank you.

10 A To whom it may concern: That on August 13, 2008,
11 Mr. Gregory Velez wasn't with Jeremy Derrell
12 Leaphart at all that day. When I was arrested, I
13 was by himself. Mr. Velez was on another street in
14 somebody yard when we pulled up in the police car.

15 Q All right, Mr. Leaphart. That's a handwritten
16 letter that you wrote back in December 2008,
17 correct?

18 A Correct.

19 Q And at the time you wrote it -- I mean, it's
20 addressed to whom it may concern. Nobody forced
21 you to write that letter, right?

22 A Right.

23 Q Why did you write it?

24 A Because when I got arrested, I was by myself. He
25 wasn't nowhere around me. They put me with him,

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1 put me up on another block, and say we all was
2 together.

3 Q So at the time you wrote this letter, December 4,
4 2008, were you in the county jail?

5 A Yes.

6 Q And nobody was putting any pressure on you to write
7 this letter?

8 A No.

9 Q Correct?

10 A Correct. I ain't had no pressure. I did it on my
11 own free will.

12 Q And you wrote this letter, which is absolutely
13 contrary to what you have testified to here today.
14 Can you explain that?

15 A No, I can't explain it.

16 Q Mr. Leaphart --

17 MR. DUNCAN: Your Honor, if I could offer that
18 letter, December 4, 2008, as Defendant's Exhibit 1 at
19 this time.

20 THE COURT: Solicitor, do you have any
21 objections?

22 MS. PATTERSON: Can I take a look at it, Your
23 Honor?

24 MR. DUNCAN: I have a copy for her.

25 MS. PATTERSON: That's fine, Your Honor.

1 THE COURT: Defendant's 1 is in evidence
2 without objection:

3 (Defendant's Exhibit Number 1 is received into
4 evidence.)

5 BY MR. DUNCAN:

6 Q Mr. Leaphart, you have in front of you there a
7 statement that you gave to Sergeant Goss, I
8 believe -- excuse me, Captain Goss, Captain Walter
9 Goss -- on August 13th; is that correct? Do you
10 have that in front of you?

11 A Yeah.

12 Q And that statement, again, is generally consistent
13 with your letter written December 4, 2008. Do you
14 agree with that?

15 A Yeah.

16 Q That's what you told Sergeant Goss, and that's what
17 you wrote as you sat in Lexington County yourself;
18 correct?

19 A Correct.

20 Q Once again, Mr. Leaphart, you can't explain why the
21 difference between that December 4, 2008, letter
22 and your testimony here today?

23 A No, I can't explain the difference.

24 MR. DUNCAN: Your Honor, I move to introduce
25 the statement of Mr. Leaphart to Sergeant Goss -- excuse

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1 me. I keep saying that -- Captain Goss dated
2 August 13th. I believe that's the original.

3 THE COURT: Solicitor?

4 MS. PATTERSON: That's without objection, Your
5 Honor.

6 BY MR. DUNCAN:

7 Q One question, Mr. Leaphart --

8 THE COURT: Give me just a moment.

9 MR. DUNCAN: I'm sorry, Your Honor.

10 THE COURT: Defendant's 2 is in evidence
11 without objection.

12 (Defendant's Exhibit Number 2 is received into
13 evidence.)

14 THE COURT: You may continue, Mr. Duncan.

15 MR. DUNCAN: Thank you, sir.

16 BY MR. DUNCAN:

17 Q Mr. Leaphart, the letter that you wrote on
18 December 4, 2008, it says you were not with Gregory
19 Velez at all that day, and you acknowledge that you
20 wrote that letter of your own free will; is that
21 correct?

22 A Yeah, that's correct.

23 MR. DUNCAN: I don't have anything further,
24 Your Honor.

25 THE COURT: Thank you, Mr. Duncan. Solicitor,

1 redirect?

2 MS. PATTERSON: Yes, sir, Your Honor.

3 REDIRECT EXAMINATION

4 BY MS. PATTERSON:

5 Q Mr. Leaphart, I want to pass you up what is marked
6 as State's Exhibit Number 32 for identification
7 purposes and ask you to take a look at that. Do
8 you recognize that?

9 A (Witness nods.) (Indicating affirmative response.)

10 Q And what is it?

11 A You want me to read it?

12 THE COURT: Back up a minute. Do you
13 recognize it? Did you answer that question?

14 THE WITNESS: Yes, sir, I recognize it.

15 THE COURT: Thank you.

16 BY MS. PATTERSON:

17 Q What is it?

18 A It's a letter.

19 Q Who is it a letter from?

20 A Gregory Velez.

21 Q Who is it a letter to?

22 A To whom it may concern: I, Gregory Velez, swear on
23 August 13 --

24 THE COURT: Wait a minute. What was your
25 question, Solicitor?

1 BY MS. PATTERSON:

2 Q Did you ever get a copy of that letter?

3 A Yes.

4 Q How did you get a copy of that letter?

5 A He wrote it for me.

6 Q Who is he?

7 A Mr. Velez.

8 Q And when did he write that?

9 A I guess December the 4th, 2008.

10 Q And how did you get it?

11 A It was passed to me.

12 Q Passed to you where?

13 A In Lexington County.

14 MS. PATTERSON: Your Honor, if I may get
15 Mr. Leaphart to read the letter.

16 THE COURT: Has it been offered into
17 evidence?

18 MS. PATTERSON: Yes, sir, Your Honor. At
19 this time I would move that State's Exhibit Number 32 be
20 moved into evidence, Your Honor.

21 THE COURT: Mr. Duncan?

22 MR. DUNCAN: I have no objection to the
23 letter, Your Honor.

24 THE COURT: State's 32 is in evidence without
25 objection.

1 (State's Exhibit Number 32 is received into
2 evidence.)

3 BY MS. PATTERSON:

4 Q Mr. Leaphart, will you please read that letter.

5 A To whom it may concern: I, Gregory Velez, swear
6 that on August 13, 2008, Mr. Jeremy Derrell
7 Leaphart wasn't at any point with me when I was
8 being detained on Albert Street and an officer
9 pulled up with Mr. Jeremy Leaphart in the back of
10 his police vehicle.

11 Q So is that basically saying the same thing that
12 your letter to Mr. Velez said?

13 A Yeah.

14 Q Were y'all trying to cover for each other?

15 A No, because I wasn't -- I ain't get arrested with
16 him. I got arrested by myself. So when I -- I
17 don't know how y'all are going to take that. When
18 they got pulled up, they pulled up with each other.

19 Q And did y'all discuss --

20 A No, we didn't discuss nothing like this.

21 Q -- the story?

22 A No.

23 Q Is either one of those statements a sworn
24 statement?

25 A What you mean, under oath?

1 Q Yes.

2 A I just say I swear.

3 Q Y'all just kind of wrote those statements on your
4 own will?

5 A (Witness nods.) (Indicating affirmative response.)

6 Q To try to help each other out?

7 MR. DUNCAN: Your Honor, I object to the
8 characterization.

9 THE COURT: I will allow the question. If you
10 know the answer to it, you may answer the question.

11 A You say to try to help each other out. I wouldn't
12 say try to help each other out. We was just both
13 saying that he wasn't with me as far as our arrest.

14 Q Was that statement you wrote to Mr. Velez, was it
15 true?

16 A As far as when I got arrested or period?

17 Q Was he with you on August 13, 2008, at any time
18 that day?

19 A Yeah.

20 MS. PATTERSON: Beg the Court's indulgence.

21 (Pause.)

22 MS. PATTERSON: No further questions, Your
23 Honor.

24 THE COURT: Recross, Mr. Duncan?

25 MR. DUNCAN: Yes, sir.

RECROSS EXAMINATION

1
2 BY MR. DUNCAN:

3 Q Mr. Leaphart, one more time. Nobody made you write
4 this letter on December 4th?

5 A No, ain't nobody make me write it. I did it on my
6 own free will.

7 Q And do you stand by that letter dated December 4,
8 2008?

9 A I stand on it as far as like he wasn't with me when
10 I got arrested. They were somewhere else. I can't
11 put me with him.

12 Q Mr. Leaphart, you are struggling to tell the truth
13 here today; aren't you?

14 A I ain't struggling to tell the truth.

15 Q But you got a statement from a little over two
16 years ago?

17 A Yeah.

18 Q That you say you wrote and you meant to write?

19 A Yeah.

20 Q Did it of your own free will, and it says that
21 Mr. Velez wasn't with you that day?

22 A Yep.

23 Q And you say you generally stand by that letter; is
24 that right?

25 A As far as me getting arrested or just period?

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1 Q I am asking you -- I've asked a couple of times
2 about you explaining why you wrote the letter, and
3 you said you couldn't explain it.

4 A No, I couldn't explain it because he was not with
5 me when I got arrested. They saying basically we
6 caught together, but we didn't. He was on a whole
7 other block. I'm on a whole other road. How can I
8 be with him? When we got arrested, they put us
9 together.

10 MR. DUNCAN: I don't have anything further,
11 Your Honor.

12 THE COURT: Thank you. Thank you very much
13 for being us with today, Mr. Leaphart. I appreciate
14 your time. You may step down.

15 (Witness leaves the witness stand.)

16 THE COURT: Solicitor, you may call your next
17 witness.

18 MS. GARRICK: Your Honor, the State calls
19 Lewis Barnes.

20 LEWIS BENJAMIN BARNES, JR.,
21 being first duly sworn, testifies as follows:

22 CLERK: Have a seat, please sir. Once you are
23 seated speak up loud and clear, stating your full name
24 on the record.

25 THE WITNESS: Lewis Benjamin Barnes, Jr.

1 DIRECT EXAMINATION

2 BY MS. GARRICK:

3 Q Mr. Barnes, how old are you?

4 A Twenty-two.

5 Q And do you live here in Lexington County or
6 somewhere else?

7 A No, ma'am, Saluda County.

8 Q Do you have any children?

9 A Yes, I have one daughter.

10 Q How old is she?

11 A She is one.

12 Q And what do you do for a living?

13 A Lawn care with my father.

14 Q And how old would you have been in 2008?

15 A Nineteen.

16 Q And were you arrested?

17 A Excuse me -- I was 18.

18 Q And were you arrested August 13, 2008?

19 A Yes, ma'am.

20 Q And prior to you being arrested for these charges,
21 have you ever been in general sessions court?

22 A No, ma'am.

23 Q So you have no prior convictions?

24 A No, ma'am.

25 Q And are you presently facing charges in connection

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1 with burglary, armed robbery, and kidnapping down
2 in Batesburg --

3 A Yes, ma'am.

4 Q -- from August 13, 2008?

5 A Yes, ma'am.

6 Q And do you have a lawyer?

7 A Yes, ma'am.

8 Q Who is your lawyer?

9 A George McElveen.

10 Q Is he present in court today?

11 A Yes, ma'am.

12 Q And do you fully realize that everything you say
13 here under oath today can and will be used against
14 you in your case?

15 A Yes, ma'am.

16 Q And are you expecting to plead guilty or go to
17 trial in your case?

18 A I am expecting to plead guilty.

19 Q Is that going to happen sometime soon?

20 A Yes, ma'am.

21 Q Is it going to happen this week?

22 A Yes, ma'am.

23 Q Do you have any deal worked out with me or anyone
24 else in my office about what is going to happen
25 with you?

- 1 A No, ma'am.
- 2 Q Have we promised to help you with your charges or
- 3 with your sentence?
- 4 A No, ma'am.
- 5 Q And have you talked about this fully with your
- 6 attorney and with me?
- 7 A Yes, ma'am.
- 8 Q And did you, in fact, have your lawyer contact me
- 9 about being a State's witness in this case?
- 10 A Yes, ma'am.
- 11 Q And is this what you want to do?
- 12 A Yes, ma'am.
- 13 Q And why are you willing to give up your rights
- 14 today and tell us what happened on August 13th?
- 15 A I am hoping to get some help with like -- what's
- 16 the word I am looking for -- I am hoping to -- I
- 17 can't find the word I am looking for. I just want
- 18 to go along with y'all and get as much help as I
- 19 can.
- 20 Q Are you expected to go to prison for what you did
- 21 on August 13th?
- 22 A Yes.
- 23 Q And you don't have any deal worked out with me?
- 24 A No, ma'am.
- 25 Q Or any supervisor in my office?

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1 A No, ma'am.

2 Q Do you know Gregory Velez, the man that's on trial
3 here today?

4 A Yes, ma'am.

5 Q And did you know him back in 2008?

6 A Yes, ma'am.

7 Q And at that time how long would you say you had
8 known him?

9 A For a while.

10 Q Did you know someone named Jeremy Leaphart?

11 A I had like heard of him, like so and so said his
12 name. Just word of mouth I have heard of him.

13 Q Do you know Jawaiski Thompson?

14 A No, ma'am.

15 Q When was the first time you met Jawaiski Thompson?

16 A That day.

17 Q Can you tell us what happened on the morning of
18 August 13, 2008?

19 A Okay. I was at a friend's house in Gilbert, and
20 the codefendants, my codefendants, came and got me.
21 We were talking about it in the vehicle on the way
22 there, and --

23 Q Let me interrupt you. You were talking about what?

24 A A robbery, a home invasion.

25 Q This was a discussion going on in the car?

- 1 A Yes, ma'am.
- 2 Q And whose car were you in?
- 3 A Gregory Velez.
- 4 Q Do you remember what kind of car it was?
- 5 A A black Tahoe.
- 6 Q And was he driving?
- 7 A Yes, ma'am.
- 8 Q And how did y'all decide to commit a home
- 9 invasion?
- 10 A Well, it was Leaphart's and Velez's idea, and
- 11 they presented the idea to me, and I just went
- 12 along with it.
- 13 Q Did you know who y'all were going to rob?
- 14 A No, ma'am.
- 15 Q Did you know John Corley, Jr.?
- 16 A No, ma'am, I just like heard of him. I didn't know
- 17 him personally or anything.
- 18 Q Did you know Connie Otts?
- 19 A No, ma'am.
- 20 Q When y'all were in the car there on the way to
- 21 Batesburg, did y'all have weapons?
- 22 A Yes, ma'am.
- 23 Q What kind of weapons did y'all have?
- 24 A A.K.47, a shotgun, and two handguns.
- 25 Q What kind of gun did you have?

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1 A I believe it was a .45 handgun.

2 Q Do you remember what color it was?

3 A Black.

4 Q And was this a gun that you had had for a long
5 time?

6 A Yeah, for a while.

7 Q Do you know where they got their weapons from?

8 A From a neighbor.

9 Q A neighbor of whose?

10 A Of a friend of mine's.

11 Q Was it in Gilbert?

12 A It's in Gilbert.

13 Q Did y'all have any discussion about your clothing,
14 how you were going to dress or anything?

15 A Like once we got in the truck, Velez, I think, had
16 like pantihose and suggested that we go in in
17 black. I had on black shoes, a pair of black
18 jeans, and a T-shirt. I got a black shirt from out
19 of the back of the vehicle.

20 Q When you got to Batesburg, did you know where the
21 house was you were going to rob?

22 A No, ma'am.

23 Q And do you remember what kind of road it was on or
24 anything like that?

25 A On a dirt road.

1 Q And did you have any other conversations with your
2 codefendants about how the robbery was going to
3 take place?

4 A They just said that Thompson was going to be the
5 one that go in, and we just go in after him.

6 Q Was Leaphart going to go in with y'all?

7 A No, he was going to stay at the door.

8 Q Do you know why?

9 A Because he knew the victim and the victim knew him.

10 Q And did Mr. Thompson go in first?

11 A Yes.

12 Q And did all of y'all have your weapons when you
13 went inside?

14 A Yes.

15 Q What happened when you went in?

16 A We went to the victim's bedroom and told them to
17 get down, and we commenced with the home invasion
18 then.

19 Q And did y'all take any money from Mr. Corley's
20 house?

21 A Yes.

22 Q And do you know where this money was?

23 A It was in a water jug by the bed.

24 MS. GARRICK: May I approach the witness?

25 THE COURT: Yes, ma'am.

LEWIS BARNES -- DIRECT -- MS. GARRICK.

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- 1 BY MS. GARRICK:
- 2 Q State's 31 for I.D., do you recognize this
- 3 photograph?
- 4 A Yes, I do.
- 5 Q What do you see in that photograph?
- 6 A The water jug containing the money.
- 7 Q This was taken from Mr. Corley's house?
- 8 A Yes, ma'am.
- 9 Q Are you aware of any other money taken from
- 10 Mr. Corley's house?
- 11 A No, ma'am.
- 12 Q What was John Corley doing or saying when y'all
- 13 were robbing him?
- 14 A He was saying he didn't have anything.
- 15 Q And did y'all make any threats to Mr. Corley?
- 16 A No, ma'am.
- 17 Q Did you commence to strike him or beat him up in
- 18 any manner?
- 19 A It was I who hit him across the head once.
- 20 Q What did you hit him with?
- 21 A With the gun.
- 22 Q Did he bleed?
- 23 A Yes, ma'am.
- 24 Q Did you see anybody else hit him?
- 25 A No, ma'am.

1 Q Will y'all were looking for money, where did y'all
2 look?

3 A One of the codefendants was looking in the dresser,
4 and another one, I think, was looking in another
5 dresser.

6 Q Did you see or hear the kids?

7 A No, ma'am. No, ma'am.

8 Q Did you know there were children?

9 A No, ma'am.

10 Q Wasn't Connie -- did Connie have anything to say
11 about the children?

12 A I don't think so. I didn't know there was any kids
13 until like after the incident.

14 Q About how long do you think y'all were inside the
15 house there?

16 A I would say anywhere from five to ten minutes.

17 Q Of the four of y'all, who's the largest
18 codefendant?

19 A Thompson.

20 Q And who is the shortest codefendant?

21 A Me.

22 Q Do you know what happened with the water jug?

23 A Could you like be more specific?

24 Q Do you know who handed it outside and how it ended
25 up where it ended up?

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- 1 A I think it was Thompson who handed it to Leaphart.
- 2 Q How did y'all decide to leave?
- 3 A We just all exited the house. Once we seen the
- 4 car, the cop car, we just split up and went in
- 5 different directions towards the woods.
- 6 Q Before y'all get outside, what, if anything, do you
- 7 do to John and Connie?
- 8 A Excuse me?
- 9 Q Before y'all actually go outside, what, if
- 10 anything, did you do with John and Connie?
- 11 A They were tied up.
- 12 Q Do you know what they were tied up with?
- 13 A I think speaker wire.
- 14 Q Do you know where they were tied up?
- 15 A In the bedroom.
- 16 Q Do you know where John Corley was left?
- 17 A In the bathroom.
- 18 Q Do you know where Connie was left?
- 19 A No, ma'am.
- 20 Q Did you help or assist in the tying up?
- 21 A With John I snatched the cord.
- 22 Q And how did you tie him up?
- 23 A Ma'am?
- 24 Q How did you tie him up and what were you tying him
- 25 up with?

- 1 A I was the one that handed the cord to Velez, and he
2 tied his wrists up.
- 3 Q Was it in front or behind if you remember?
- 4 A I don't remember.
- 5 Q When you left you said you were making your way to
6 the truck. What happened next?
- 7 A I seen the officer car like right behind the Tahoe,
8 and that's when we turned and ran.
- 9 Q And when you ran do you know which way you ran?
- 10 A No.
- 11 Q Do you know where you ran?
- 12 A In the woods.
- 13 Q And as you were running, do you know where Thompson
14 and Velez were?
- 15 A No.
- 16 Q Were they near you or far away from you?
- 17 A I would say they would have to have been like
18 behind me.
- 19 Q Do you know where Leaphart went?
- 20 A No.
- 21 Q And as you went through the woods, what did you do?
- 22 A I discarded my handgun and exited the woods.
- 23 Q When you got out of the woods, do you know where
24 you were?
- 25 A No.

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- 1 Q Were you on a road?
- 2 A Yes, I was on a road.
- 3 Q And where was Thompson and Velez?
- 4 A They came out shortly after me.
- 5 Q And when y'all ended up on that road, what did you
- 6 do?
- 7 A Went to someone's house and knocked on the door.
- 8 Q Did you know the person that lived in that house?
- 9 A No.
- 10 Q Did they know the person that lived in the house?
- 11 A No.
- 12 Q And had y'all talked about what was going to happen
- 13 if you were confronted by law enforcement?
- 14 A Yes, ma'am.
- 15 Q What was that conversation?
- 16 A My codefendants said tell them we ran out of gas,
- 17 and I just told them to tell them that they were
- 18 going to drop me off at a friend's house.
- 19 Q And is that what Mr. Velez said to say?
- 20 A Yes.
- 21 Q And did you get confronted by law enforcement?
- 22 A Yes, ma'am.
- 23 Q Do you remember what officer you saw first?
- 24 A The officer that is standing or sitting beside you.
- 25 Q Captain Goss?

- 1 A Yes, ma'am.
- 2 Q And did you see Leaphart again shortly thereafter?
- 3 A Yes, ma'am, in the back of the car.
- 4 Q Was it when you were on the road there?
- 5 A Yes, ma'am.
- 6 Q Was he already in custody?
- 7 A Yes, ma'am.
- 8 Q And when y'all left the road there, where did y'all
- 9 go?
- 10 A To the Batesburg County Police Department.
- 11 Q Were you interviewed by law enforcement?
- 12 A Yes, ma'am.
- 13 Q Were you advised of your rights?
- 14 A Yes, ma'am.
- 15 Q Did you give a statement, an audio-taped statement
- 16 to law enforcement?
- 17 A Yes, it was audio taped.
- 18 Q Was it the truth or was it a lie?
- 19 A It was -- at the time I was scared and by it being
- 20 like my first time being in trouble, I didn't know
- 21 what to do, so it wasn't the truth.
- 22 Q What you have said today under oath, has it been
- 23 the truth?
- 24 A Yes, ma'am.
- 25 MS. GARRICK: Beg the Court's indulgence one

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1 moment.

2 THE COURT: Yes, ma'am.

3 (Pause.)

4 MS. GARRICK: If I may approach the witness,

5 Your Honor?

6 THE COURT: Yes, ma'am.

7 BY MS. GARRICK:

8 Q If I may show you what is marked State's 26 for
9 I.D. Do you recognize this weapon?

10 A Yes, ma'am.

11 Q Which weapon is this?

12 A That's the shotgun.

13 Q Who was carrying this shotgun?

14 A Velez.

15 Q State's 25 for I.D.?

16 A That's the A.K.47.

17 Q Who had the A.K.?

18 A Thompson.

19 Q State's 28 for I.D.?

20 A That's the 9-millimeter and Leaphart had that.

21 Q State's 27 for I.D.?

22 A That's the .45 that I had.

23 Q This is the gun you used?

24 A Yes, ma'am.

25 Q Is this the gun you struck John Corley with?

1 A Yes, ma'am.

2 Q Were all these weapons loaded?

3 A I think so.

4 Q Was yours?

5 A Yes, ma'am.

6 Q Please answer Mr. Duncan's questions.

7 THE COURT: Thank you, Solicitor. Mr. Duncan.

8 MR. DUNCAN: Thank you, Your Honor.

9 CROSS EXAMINATION

10 BY MR. DUNCAN:

11 Q Good afternoon, Mr. Barnes.

12 A Good afternoon.

13 Q My name is Mike Duncan. I'm the attorney for
14 Mr. Velez. Mr. Barnes, you testified or you began
15 your testimony with some questioning from the
16 solicitor about your situation in regard to these
17 charges. You are currently facing similar charges,
18 the same charges that Mr. Velez is on trial for; is
19 that correct?

20 A Correct.

21 Q And you have indicated that you expect to plead
22 guilty?

23 A Yes, sir.

24 Q You are not incarcerated at this time, are you?

25 A No, sir.

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- 1 Q You testified you have a one-year-old child?
- 2 A Yes, sir.
- 3 Q So that child -- when was the child born?
- 4 A February the 8th of last year.
- 5 Q 2010? February 8, 2010?
- 6 A Yeah.
- 7 Q So a year and a half or so after this incident at
- 8 Mr. Corley's house?
- 9 A Yes, sir.
- 10 Q And, Mr. Barnes, you further testified in response
- 11 to the Solicitor's questions that you are hoping to
- 12 get some help on these charges?
- 13 A Yes, sir.
- 14 Q That you are facing?
- 15 A Yes, sir.
- 16 Q And I believe -- I don't want to put words in your
- 17 mouth -- but I believe you said something to the
- 18 effect of, I want to go along with y'all and see if
- 19 I can get some help?
- 20 A Yeah.
- 21 Q Is that correct? Do you remember testifying to
- 22 that?
- 23 A Yes, sir.
- 24 Q So, Mr. Barnes, would you agree with me you have
- 25 some incentive here today to testify against

- 1 Mr. Velez?
- 2 A Yes, sir.
- 3 Q And the other gentleman, the codefendant in this
- 4 case, Mr. Thompson, I believe you said you didn't
- 5 know Mr. Thompson; is that right?
- 6 A No, sir, I didn't know him.
- 7 Q Had you ever seen Mr. Thompson before --
- 8 A No.
- 9 Q -- August 13th?
- 10 A That was the first time seeing him that day.
- 11 Q You knew Mr. Leaphart a little bit?
- 12 A Yeah, like I have heard of him, like from other
- 13 people, and I seen him a couple of times, but I
- 14 didn't like know, know him like I knew Mr. Velez.
- 15 Q So as we sit here today, you have been asked by the
- 16 State to testify?
- 17 A Yes.
- 18 Q Against my client?
- 19 A Yes, sir.
- 20 Q In hopes that you will get a break or a deal, help
- 21 on your sentence?
- 22 A Yes, sir.
- 23 Q In order to get home to your child, would you be
- 24 willing to do just about anything?
- 25 A I mean, this is my first time being a father. I

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1 mean, she means the world to me, and I just want to
2 be there for her really. So you could say that,
3 yeah.

4 Q The answer to my question is you would do just
5 about anything to get home to your daughter?

6 A Yeah.

7 Q You testified that the gun that you had, was it a
8 .45; is that right?

9 A Yes, sir.

10 Q You said that gun was loaded?

11 A Yes, sir.

12 Q And you say you struck Mr. Corley in the head with
13 that?

14 A Yes, sir.

15 Q That was you?

16 A That was me.

17 Q Nobody --

18 A Nobody.

19 Q Nobody made you do that?

20 A It was me.

21 MR. DUNCAN: Beg the Court's indulgence a
22 minute.

23 THE COURT: Yes, sir.

24 MR. DUNCAN: Thank you, Your Honor.

25 (Pause.)

- 1 BY MR. DUNCAN:
- 2 Q Mr. Barnes, your testimony about the jug that was
- 3 in Mr. Corley's home, I believe Ms. Garrick, the
- 4 solicitor, showed you a picture of a jug?
- 5 A Yes, sir.
- 6 Q And you say Mr. Thompson handed that to
- 7 Mr. Leaphart?
- 8 A Yes, sir.
- 9 Q Mr. Leaphart was outside?
- 10 A Yes.
- 11 Q Is that correct?
- 12 A He was at the front door.
- 13 Q Mr. Leaphart was at the front door?
- 14 A Yeah.
- 15 Q And you saw Mr. Thompson hand Mr. Leaphart that
- 16 jug?
- 17 A Yes.
- 18 Q And you don't know what happened with Mr. Leaphart
- 19 after that; is that correct?
- 20 A I think he went to like -- went to the vehicle and
- 21 put it in there.
- 22 Q Did you see that?
- 23 A I didn't see it but I seen like when Thompson was
- 24 handing it to him, like taking it to Leaphart.
- 25 MR. DUNCAN: I don't have anything further,

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1 Your Honor.

2 THE COURT: Redirect, Solicitor?

3 MS. GARRICK: Just briefly, Your Honor.

4 REDIRECT EXAMINATION

5 BY MS. GARRICK:

6 Q How many doors did y'all go in and out of at
7 Mr. Corley's house?

8 A One.

9 Q When you say the front door, you just mean the same
10 door that Thompson kicked in?

11 A Yes.

12 Q What have I asked you to do here in court today?

13 A Excuse me?

14 Q What I have asked you to do in the court proceeding
15 today?

16 A To answer truthfully.

17 Q And have you done that?

18 A Yes, ma'am.

19 Q Was Gregory Velez with you during an armed robbery,
20 a burglary, a kidnapping?

21 A Yes, ma'am.

22 Q And he was a hands-on participant?

23 A Yes, ma'am.

24 Q He had his own gun?

25 A Yes, ma'am.

1 Q He was inside that house?

2 A Yes, ma'am.

3 Q He actually drove you there?

4 A Yes, ma'am.

5 MS. GARRICK: That's all I have, Your Honor.

6 THE COURT: Recross, Mr. Duncan?

7 RECROSS EXAMINATION

8 BY MR. DUNCAN:

9 Q Mr. Barnes, how long were you in jail on this
10 charge?

11 A I think about six months.

12 Q Then you bonded out?

13 A Yes.

14 Q And you have been out ever since?

15 A Yes.

16 Q And remain out today?

17 A Yes.

18 Q And do you hope to remain out longer?

19 A Hopefully, yes.

20 Q Thank you.

21 THE COURT: Thank you. Thank you very much,
22 Mr. Barnes. You may step down.

23 (Witness leaves the witness stand.)

24 THE COURT: Solicitor, how long will your next
25 witness be?

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1 MS. GARRICK: It will be Mr. Corley, which is
2 the primary victim, half an hour.

3 THE COURT: You may call your next witness,
4 Solicitor. Thank you.

5 MS. GARRICK: John Corley.

6 JOHN PHILLIP CORLEY, JR.,
7 being first duly sworn, testifies as follows:

8 CLERK: Once you are seated, speak up loud and
9 clear and state your full name on the record, please.

10 THE WITNESS: John Phillip Corley, Jr.

11 DIRECT EXAMINATION

12 BY MS. GARRICK:

13 Q Hey, Mr. Corley. How old are you?

14 A How old am I?

15 Q Yes.

16 A Forty-two.

17 Q Where do you live?

18 A At 141 Padgett Road.

19 Q Is that in Lexington County?

20 A Yes, ma'am.

21 Q Is it in the Town of Batesburg?

22 A Yes, ma'am.

23 Q And do you have a girlfriend?

24 A Yes, ma'am.

25 Q What is her name?

- 1 A Connie Otts.
- 2 Q Is she here today?
- 3 A Yes, ma'am.
- 4 Q Do y'all have any children together?
- 5 A No, ma'am.
- 6 Q Does she have children?
- 7 A Yes, ma'am.
- 8 Q How many children does she have?
- 9 A Three boys.
- 10 Q Do they spend a lot of time with you?
- 11 A Pretty much, yes, ma'am.
- 12 Q And what do you do for work?
- 13 A I own my own business.
- 14 Q What kind of business is that?
- 15 A It's a construction company. We cut trees,
- 16 bulldoze, dump truck, stuff like that, do a lot of
- 17 work.
- 18 Q Do you have other employees that work for you?
- 19 A Yes, ma'am.
- 20 Q How many employees do you have?
- 21 A A total of four now.
- 22 Q And do you pretty much do that work every day?
- 23 A Yes, ma'am.
- 24 Q Was there a time in your past, Mr. Corley, where
- 25 you yourself were up here in general sessions

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1 facing charges?

2 A Yes, ma'am.

3 Q And did you plead guilty June of 2002 to possession
4 with intent to distribute marijuana?

5 A Yes, ma'am.

6 Q And did you plead guilty in August of 2008 to
7 possession of cocaine?

8 A Yes, ma'am.

9 Q And did you plead guilty at that same time to
10 possession of crack?

11 A Yes, ma'am.

12 Q Do you have any pending charges, sir?

13 A No, ma'am.

14 Q Are you on probation or parole now?

15 A No, ma'am.

16 Q Can you tell us, please, where were you the
17 afternoon of August 13, 2008?

18 A Well, I was at the house. It rained that morning
19 so we didn't have to go to work that day. So me
20 and my girlfriend and the kids was kind of having a
21 little day, you know, just laying around the house
22 and everything.

23 Q What, if anything, unusual happened?

24 A Well, we were sitting there, laying there up on the
25 bed watching T.V., and all of sudden the door flew

1 open and everything. I saw three armed men come
2 into the house, into my room.

3 Q Let's slow it down a little bit. Who was with you
4 in the bedroom?

5 A Ms. Otts.

6 Q Where were the children?

7 A They was on the other end of the house playing.
8 They was playing.

9 Q Is there a bedroom on that end of the house as
10 well?

11 A Yes, ma'am, it's three.

12 Q When you say you saw three armed men come in, could
13 you see their faces?

14 A No, ma'am.

15 Q Why is that?

16 A They had like bandannas covering their face up.

17 Q And when you say they were armed, can you tell us
18 and describe for us the kind of weapons you saw?

19 A Well, one of them was like a 9-millimeter. Like I
20 said, A.K.47, the one I saw, too, an assault rifle
21 it looked like, and a shotgun.

22 Q Can you tell us were you able to recognize these
23 faces even though they were covered or recognize
24 voices?

25 A No, ma'am.

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1 Q Can you tell us which person had the A.K. as far as
2 description of the size and shape of the person?

3 A It was a big guy. He was the biggest of them.

4 Q And do you recall what the shortest one of them,
5 what weapon that he had?

6 A He had a black gun.

7 Q When they came in, what, if anything, were they
8 saying, these people?

9 A They was like, where the safe at, give me some
10 money, and they even asked for some drugs, all kind
11 of stuff. They were asking crazy stuff.

12 Q What did you tell them about having money there?

13 A I don't have any.

14 Q What was Connie doing when this was going on?

15 A She was kind of crying and everything, and about
16 that time she had rolled off the bed, hiding on the
17 side of the bed kind of.

18 Q Could you hear anything coming from the children's
19 room?

20 A I heard somebody holler to get back in the room. I
21 could hear that. After that, you know, the kids
22 didn't know what was going on. They was back there
23 just playing like regular.

24 Q Were you aware of anybody else, other than these
25 three that were involved in the robbery?

- 1 A Well, I heard somebody outside kept hitting on the
2 door, come on, come on, we got to go. I figured
3 there was another person.
- 4 Q But you never saw that person?
- 5 A No, ma'am.
- 6 Q Do you know Jeremy Derrell Leaphart?
- 7 A Yes, ma'am.
- 8 Q You know him by face?
- 9 A By face, yes.
- 10 Q Were you able to give these armed men any money?
- 11 A No, ma'am, I didn't have any cash on me.
- 12 Q Did they look in your room for any cash?
- 13 A Yes, ma'am. They was going all through the drawers
14 and everything, tearing stuff up, turning over
15 stuff, turning mattresses over and stuff, you know,
16 looking under the bed and stuff.
- 17 Q Did they take any cash out of your bedroom area?
- 18 A I had a jar or jug that I saved, you know, keep all
19 my change in and everything, you know, and they
20 took that.
- 21 Q I can show you again what is marked for I.D.
22 State's 31. Do you recognize the item in the car
23 there?
- 24 A Yes, ma'am.
- 25 Q What is that?

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- 1 A The jug that I had at my house.
- 2 Q Do you know about how much money was in there?
- 3 A Well, after they did a count, I think it was like
- 4 about 1400, but I didn't figure it was that much.
- 5 I figured it was about 800 and something in there.
- 6 Q Was this water jug and money returned to you?
- 7 A Yes, ma'am.
- 8 Q By law enforcement?
- 9 A Yes.
- 10 Q Do you remember who you got it from? If you don't
- 11 that's fine.
- 12 A I am thinking Officer Clare. I think that's who
- 13 gave it to me.
- 14 Q There in the back with the mustache?
- 15 A I think that's who it was. I'm not sure.
- 16 Q What was Connie offering, if anything, to give
- 17 these people?
- 18 A She was crying and kept telling them I ain't had no
- 19 money and everything. She said she got some money
- 20 in her wallet because she had went to the bank the
- 21 other day or something, and there was some money,
- 22 120 or something she had.
- 23 Q Where was her pocketbook?
- 24 A I thought it was -- I think it was in the kitchen
- 25 or something or in the other room, I think.

1 Q Did they take any other of your property from the
2 bedroom dresser?

3 A It was some jewelry and everything they took.

4 MS. GARRICK: If I may approach, Your Honor?

5 THE COURT: Yes, ma'am.

6 BY MS. GARRICK:

7 Q I show you State's Exhibit 29 for I.D. Can you
8 look through the bag there and tell me if you
9 recognize any of the items in there?

10 A Yes, ma'am.

11 Q And do you recognize that jewelry?

12 A Yes.

13 Q Whose jewelry is this?

14 A The watch is Ms. Otts' and the necklace is mine.

15 Q Was this taken from your dresser during the armed
16 robbery?

17 A Yes, ma'am.

18 Q Did anyone physically harm you?

19 A Yes, ma'am.

20 Q How were you injured?

21 A Well, the guy with the black gun, he hit me upside
22 the head and caused me to have to get stitches and
23 stuff. I was bleeding a lot.

24 Q Did anyone else strike you?

25 A Yes. The guy with the shotgun hit me on the arm

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1 and everything. It caused it to bruise and it did
2 a little damage to my arm.

3 Q Was it the shotgun or the A.K.?

4 A I am thinking it was the shotgun. When he hit me,
5 I was bleeding so bad and I could just see
6 blurring, but I am pretty sure it was the shotgun.
7 It could have been possibly the A.K. I'm not sure.

8 Q About how long did this ordeal last when they were
9 there in your home riffling through everything?

10 A Ten, 15 minutes.

11 Q And do you know why they decided to leave?

12 A I am thinking because when Jeremy kept hitting on
13 the door, come on, come on, come on, they kept
14 hollering and all this here, kept badgering me,
15 where it's at, where it's at, give me the money.
16 He was come on, come on. He kept beating real
17 loud.

18 Q And when they left, did they do anything else to
19 you?

20 A They tied me up.

21 Q Do you know what they tied you up with?

22 A With my speaker wire.

23 Q And do you know which one tied you up?

24 A I'm thinking -- I really don't know because I was
25 just bleeding so bad, but it was one of them in the

- 1 room, one of them in the room that was there.
- 2 Q And were you left in the bedroom or somewhere
- 3 else?
- 4 A I was left in my bedroom. Adjacent I got my
- 5 bathroom and there is a big old closet, big
- 6 walk-in closet.
- 7 Q Did they put you in there?
- 8 A Yes, ma'am.
- 9 Q Do you know what happened to Connie?
- 10 A At the time I didn't but once they left out and
- 11 everything, she was tied up and I had to get her
- 12 untied. I got myself untied.
- 13 Q So after they left you got untied?
- 14 A Uh-huh. (Indicating affirmative response.)
- 15 Q And where did you go?
- 16 A I was looking for her and everything and then found
- 17 her and I untied her and everything. She had went
- 18 in there with the kids and everything, trying to
- 19 find her kids.
- 20 Q Did y'all call law enforcement?
- 21 A We had called. She had to run outside to get it.
- 22 But then when we was calling them, the woman said
- 23 they was already there and everything. They had
- 24 some people apprehended.
- 25 Q Did you ever go outside right then?

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- 1 A I went to the door but I couldn't see nothing. I
2 had to hold onto the door because there was so much
3 blood in my eyes.
- 4 Q And did law enforcement come help y'all?
- 5 A Yes, ma'am.
- 6 Q And was E.M.S. called to help you?
- 7 A Yes, ma'am.
- 8 Q And did they want to transport you?
- 9 A Yeah, they wanted to transport me but I didn't want
10 to ride in the ambulance. So she took me to one of
11 the medical centers down there.
- 12 Q Were you treated for your injuries?
- 13 A Yes, ma'am.
- 14 Q What kind of treatment did you receive?
- 15 A I think I got eight to ten stitches. They gave
16 me some stuff for the bruising on my arm and
17 stuff.
- 18 Q Did you give Captain Goss a written statement?
- 19 A Yes, ma'am.
- 20 Q About what happened?
- 21 A Yes.
- 22 Q Did you receive any more of your property returned
23 to you by law enforcement?
- 24 A The water jug. I think that's about all that I
25 received.

1 (State's Exhibit Number 33 is marked for
2 identification.)

3 BY MS. GARRICK:

4 Q If I can show you State's 33 for I.D. Do you
5 recognize those cords?

6 A Yeah. I think one of these cords was to my
7 computer and everything, and I think they did
8 something with it or something happened because I
9 didn't have it there then.

10 Q So law enforcement returned this to you?

11 A I think they brought that back because I didn't
12 have it, and I think I asked them for it. I'm not
13 sure.

14 Q If I can show you State's Exhibit 27 for I.D. Does
15 this gun look familiar?

16 A Yeah, I believe that's the one that struck me.

17 Q State's 26 for I.D., do you recognize this?

18 A Yes, ma'am.

19 Q What is this?

20 A It's a shotgun.

21 Q And State's 25?

22 A Yes, ma'am.

23 Q Do you recognize this?

24 A Yes, ma'am.

25 Q Who had this weapon?

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1 A I think the big guy had that one.

2 Q Other than your eye, you said you were struck in
3 the shoulder?

4 A Yes, ma'am.

5 Q Do you recognize State's Exhibit 5 and 6?

6 A Yes, ma'am. That's when I got hit over the eye,
7 and that's when I got hit with either the shotgun
8 or S.K., one of them.

9 MS. GARRICK: Your Honor, I move State's 5 and
10 6 into evidence.

11 THE COURT: Mr. Duncan?

12 MR. DUNCAN: I have no objection, Your Honor.

13 THE COURT: State's 5 and 6 in evidence
14 without objection.

15 (State's Exhibits Number 5-6 are received into
16 evidence.)

17 MS. GARRICK: Your Honor, I move to publish
18 them.

19 THE COURT: Yes, ma'am.

20 BY MS. GARRICK:

21 Q What does State's 6 show?

22 A Where I got my stitches at, where I got hit at over
23 the eye.

24 Q And State's 5?

25 A It shows the bruising where I got hit in the arm.

1 MS. GARRICK: Your Honor, may I pass this one?
2 It's kind of difficult to see.

3 THE COURT: Yes, ma'am, certainly.

4 MS. GARRICK: Your Honor, if I may approach
5 the witness?

6 THE COURT: Yes, ma'am.

7 BY MS. GARRICK:

8 Q State's 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17,
9 18, 19, 20, 21, and 23, if you could briefly flip
10 through these and see if you can recognize them.
11 We will go back through them.

12 A (Pause:)

13 Q Do you recognize each and every one of those
14 photographs?

15 A Yes, ma'am.

16 Q Do they fairly and accurately show your home after
17 the armed robbery?

18 A Yes, ma'am.

19 MS. GARRICK: Your Honor, I believe it's
20 without objection. I would move each of these into
21 evidence.

22 MR. DUNCAN: That is correct, Your Honor,
23 without objection.

24 THE COURT: State's 7 through 21 inclusive and
25 then State's 23 is in evidence without objection.

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1 (State's Exhibits Number 7-21 and 23 are
2 received into evidence.)

3 BY MS. GARRICK:

4 Q If I can show you State's 23. Do you recognize
5 what room that is in?

6 A Yes, ma'am.

7 Q What room is that?

8 A The bedroom.

9 Q And what is the significance, if any, of that white
10 door there?

11 A Where I was tied up at and put in right there.

12 Q Is that a closet in your bathroom?

13 A Yes, ma'am, it's a walk-in closet like.

14 Q State's 21, do you recognize that?

15 A Yeah, that's one of the cords right there.

16 Q One of the cords, what does that mean?

17 A That I was tied up with or either Ms. Otts was tied
18 up with, either one. It was one of the cords.

19 Q State's 20?

20 A Well, that's the cord, one of them.

21 Q That's in your bathroom?

22 A Yes, ma'am.

23 Q State's 19, what room is that?

24 A That's the bedroom where it took place, the
25 incident.

- 1 Q What is all this stuff under the bed?
- 2 A Just stuff from where they tore out the drawers and
- 3 just ram-shacking the house in the bedroom.
- 4 Q Is the mattress always like that?
- 5 A No, ma'am.
- 6 Q And how was that done?
- 7 A When they flipped it over and everything looking
- 8 for money.
- 9 Q State's 18, what room are we in?
- 10 A Still in the same room.
- 11 Q Is that how your dresser always is?
- 12 A No, it's neater than that.
- 13 Q What is all this stuff on the floor here?
- 14 A Just stuff where they was just tearing out, pulling
- 15 out stuff.
- 16 Q Was the jewelry in that dresser?
- 17 A Yes, ma'am.
- 18 Q State's 17, are we still in your bedroom?
- 19 A Yes, ma'am.
- 20 Q State's 16, what room is this?
- 21 A That's the kitchen.
- 22 Q What is that on the table?
- 23 A My computer.
- 24 Q Does it have --
- 25 A My laptop.

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1 Q Does it have its cord?

2 A No, the cord, I don't see it. There is usually a
3 big box over there and everything.

4 Q State's 15 is kind of hard to see, but what room is
5 this?

6 A That's still in the kitchen. It's the refrigerator
7 right there, and I got a closet door right beside
8 it.

9 Q What is this room here?

10 A Leading into the bedroom.

11 Q Into your bedroom?

12 A Yes, ma'am.

13 Q State's 13, what is that a view of?

14 A That's looking at it this way. That's going out
15 the door, which when they kicked in, it comes in
16 like the door swings in.

17 Q What room does it come into?

18 A The kitchen.

19 MS. GARRICK: Your Honor, may I pass this one
20 because it's so dark?

21 THE COURT: Yes, ma'am.

22 MR. DUNCAN: Your Honor, excuse me. What
23 number is that one?

24 MS. GARRICK: Thirteen.

25 MR. DUNCAN: Thank you.

- 1 BY MS. GARRICK:
- 2 Q State's 14, can you recognize this view?
- 3 A Yes, ma'am.
- 4 Q What view is that?
- 5 A That's the back door that's leading into the back.
- 6 Q Is that the same door that was kicked in?
- 7 A Yes, ma'am.
- 8 Q Looking into this which side of the house is your
- 9 bedroom on?
- 10 A Going in to the left.
- 11 Q This way (indicating)?
- 12 A Yes, ma'am.
- 13 THE COURT: Y'all can see those all right? If
- 14 not the solicitor can pass them around.
- 15 Go ahead, Solicitor.
- 16 BY MS. GARRICK:
- 17 Q State's 12, can you tell us what view of your house
- 18 this is?
- 19 A That's the side of my house, the right side.
- 20 Q And State's 11?
- 21 A That's in the back yard. To the left is where the
- 22 door that was kicked in is right there.
- 23 Q On the left side?
- 24 A Yes, ma'am, right there.
- 25 Q What vehicle is this?

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1 A That was a small truck I had but I sold it.

2 Q But it was there that night, that day?

3 A Yes, ma'am.

4 Q State's 10?

5 A That's still the right side of my house there, out
6 in my yard.

7 THE COURT: Let me stop you a minute, please,
8 Solicitor.

9 Mr. Foreman, ladies and gentlemen of the jury,
10 if y'all would step out momentarily. Do not discuss the
11 case during this brief recess. You may leave the
12 pictures just upside-down on your chairs. Thank you
13 very much.

14 (The jury retires to the jury room.)

15 THE COURT: I have noticed that juror
16 number 160, Ms. Sullivan, appears not to be paying
17 attention. In fact, at some point she appears to be
18 nodding off, slumped over.

19 Do you have a position in that regard,
20 Solicitor?

21 MS. GARRICK: No, Your Honor. I didn't see it
22 but, of course, I trust your judgment. If she has
23 missed any of this, that is cause for concern.

24 THE COURT: Mr. Duncan?

25 MR. DUNCAN: Your Honor, given what you have

1 said -- I haven't seen her asleep -- but given what you
2 have said, I have concern. We have got an alternate. I
3 would ask that the alternate be used.

4 THE COURT: Mr. Corley, would you step down
5 momentarily. You can sit there on the front bench.
6 Give me Ms. Sullivan, juror number 160. Bailiff,
7 Ms. Sullivan.

8 (The juror enters the courtroom.)

9 THE COURT: Madame Clerk, would you place
10 Ms. Sullivan under oath.

11 DAWN SULLIVAN is first duly
12 sworn.

13 THE COURT: Ms. Sullivan, you can stand there
14 momentarily. I have a few questions. I noticed and
15 perhaps I misnoticed (sic), but I just want to make
16 sure. It appeared to be times that you were not paying
17 attention, that perhaps you had nodded off.

18 Like I say, I could have noticed or I could
19 have misnoticed, but I wanted to ask you about that. Is
20 there any part of the trial that you have not paid
21 attention to?

22 JUROR: I have nodded off.

23 THE COURT: I realize it's a long day and it's
24 just very difficult to sit and listen sometime.

25 JUROR: No, sir, I work nights. It's

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1 difficult for me to get turned around.

2 THE COURT: So you work third shifts?

3 JUROR: I work 7:00 p.m. to 7:00 a.m.

4 THE COURT: That's right. My error. It was
5 first, second, and third. I guess now there is a.m.
6 and p.m.

7 JUROR: Yes, sir.

8 THE COURT: Did you have to work last night?

9 JUROR: No, sir, I worked two nights ago, but
10 it takes a while to get turned around.

11 THE COURT: By the time you get used to, I've
12 found when I worked third shift and midnight shift, I
13 would rotate to a different shift. When do you have to
14 go back to work?

15 JUROR: When you are done with me.

16 THE COURT: When I'm done. What a great
17 answer, whenever I let you. All right. Thank you.
18 Thank you very much, Ms. Sullivan. I think I will
19 excuse you from further service on this jury.

20 Thank you very much for your service. I
21 certainly understand if you have to work that night
22 shift, and in an abundance of precaution, I am going to
23 excuse you from further service on this jury.

24 JUROR: I apologize to the Court.

25 THE COURT: That's all right. You don't owe

1 me an apology. Like I say, I certainly understand your
2 particular schedule. I understand that. In an
3 abundance of precaution, I will excuse you. Thank you
4 for your forthrightness. Give the bailiff your button,
5 please. You don't have to call back or come back..
6 Thank you very much.

7 JUROR: Thank you, sir.

8 (The juror leaves the courtroom.)

9 THE COURT: Any objections, Solicitor?

10 MS. GARRICK: No, Your Honor.

11 THE COURT: Mr. Duncan?

12 MR. DUNCAN: No, sir, Your Honor.

13 THE COURT: Our alternate -- that's why we
14 have an alternate -- Mr. Richards, will now be a member
15 of the primary jury panel. If you would bring us our
16 jury, please.

17 (The jury returns to the courtroom.)

18 THE COURT: Welcome back, ladies and
19 gentlemen. Mr. Richards, you have been promoted. You
20 are now a member of the primary jury. You may sit
21 wherever you would like to sit, except in the
22 foreperson's seat, although I am sure you would make a
23 fine foreperson. I have already appointed an individual
24 to that particular position.

25 I neglected to tell the jury earlier that

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1 besides the foreperson and at that time our alternate,
2 you can sit wherever you like, the other members of the
3 jury panel in the jury box.

4 I have always found that most juries are very
5 territorial. They like to sit in the same place each
6 and every time, which suits me. If our gentleman in
7 charge gets y'all in that proper order, that's fine with
8 me. Maybe by the end of the trial, I will know each and
9 every one of your names or y'all can test my abilities
10 and move about.

11 Be that as it may, Mr. Corley, if you would
12 rejoin us, please. You are still under oath.

13 JOHN PHILLIP CORLEY, JR.,
14 having been previously duly sworn, resumes the witness
15 stand and testifies as follows:

16 THE COURT: Thank you. Thank you very much,
17 Solicitor. You may proceed.

18 DIRECT EXAMINATION

19 BY MS. GARRICK:

20 Q If I may show you State's 9 in evidence. What view
21 is that?

22 A That's the back of the house right there with my
23 pickup truck.

24 Q State's 8?

25 A Still the back of the house.

1 Q Is that the back door?

2 A The back door, yes.

3 Q Is that the door that was kicked in?

4 A Yes, ma'am.

5 Q And State's 7 what does that show?

6 A It looks like the front of my house there.

7 MS. GARRICK: I will show the ones, Your
8 Honor, that were kind of dark.

9 THE COURT: Certainly, Solicitor.

10 MS. GARRICK: Beg the Court's indulgence.

11 (Pause.)

12 BY MS. GARRICK:

13 Q Mr. Corley, did there come a time that Captain Goss
14 showed you a photo lineup?

15 A Yes, ma'am.

16 Q Were you able to pick out any of the armed
17 robbers?

18 A No, ma'am.

19 Q Please answer Mr. Duncan's questions.

20 THE COURT: Thank you. Thank you very much,
21 Solicitor. Mr. Duncan.

22 MR. DUNCAN: Thank you, Your Honor.

23 CROSS EXAMINATION

24 BY MR. DUNCAN:

25 Q Good afternoon, Mr. Corley.

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1 A Good afternoon.

2 Q Mr. Corley, the solicitor began your questioning
3 this afternoon in regards to some prior involvement
4 that you had with the criminal justice system;
5 correct?

6 A Yes, sir.

7 Q You had a possession with intent to distribute
8 marijuana charge?

9 A Yes, sir.

10 Q From 2002 is when you plead guilty to that?

11 A Yes, sir.

12 Q Is that right?

13 A Yes, I believe so.

14 Q And then you also had a possession of cocaine and a
15 possession of crack charge, which you plead guilty
16 to August 27, 2008; is that correct?

17 A Yes, sir..

18 Q So at the time of this incident, invasion into your
19 home on August 13th, you had -- those most recent
20 charges were still pending; correct?

21 A Yes, sir, but it was -- the charges didn't happen
22 till -- they happened way before that. I just came
23 to court during that time.

24 Q It's just coincidental that you came to court a
25 couple of weeks after this incident; is that right?

1 A Yes, sir.

2 Q It was already scheduled?

3 A Before. I really don't know. It's been a while.
4 I don't remember the exact date of how it happened.

5 Q At the time your home was broken into?

6 A Yes, sir.

7 Q Were you already scheduled to come to court and
8 plead guilty to those drug charges?

9 A Yes, sir, I think so.

10 Q Mr. Corley, were you known to have money in your
11 home?

12 A No, sir.

13 Q Or drugs in your home?

14 A No, sir.

15 MS. GARRICK: Objection, Your Honor, under
16 Rule 608.

17 THE COURT: Yes, I would sustain that
18 objection as far as the last question, not as far as the
19 question concerning money. You may ask your next
20 question, Mr. Duncan.

21 MR. DUNCAN: Thank you, Your Honor.

22 BY MR. DUNCAN:

23 Q Mr. Corley, you had testified on direct examination
24 from the solicitor that you knew Jeremy Leaphart?

25 A Yes, sir.

1 Q Is he somebody you have known for a long time?

2 A His family resides in Batesburg Leesville, and I
3 knew him when he was a boy and everything. I'd
4 just see him on the street.

5 Q Mr. Corley, how old are you?

6 A I will be 42.

7 Q So you had known Mr. Leaphart and his family -- you
8 had known Mr. Leaphart like most of his life?

9 A Well, we are not -- it ain't like that. I just
10 know him because Batesburg is kind of a small town
11 and everybody know everybody's family and pretty
12 much knows whose kids is whose, just one of them
13 things.

14 Q You testified on direct exam that you heard
15 Mr. Leaphart saying, we got to go. We got to go,
16 something to that effect. Do you recall saying
17 that?

18 A Yes, I recall saying that, but I didn't know it was
19 Leaphart. I heard somebody saying that. Later on
20 from listening, we knew it was Leaphart.

21 Q You have been in the courtroom all day today, so
22 you have heard --

23 A Yes, sir.

24 Q -- the testimony, and you have heard people say it
25 was Mr. Leaphart outside the door?

1 A Yes, sir.

2 Q But on that day you had no idea any of the three
3 individuals that you say -- the three individuals
4 that were in your house; is that right?

5 A Yes, sir, I didn't know them.

6 Q Mr. Corley, the solicitor asked you were you able
7 to identify any of the defendants in a photo
8 lineup; is that correct?

9 A Yes, sir.

10 Q And you were not able do so; is that right?

11 A No, sir.

12 Q Mr. Corley, as you sit here today, other than being
13 in court today with my client, Mr. Velez, do you
14 know him? Do you know him at all?

15 A No, sir, I don't know him.

16 Q Have you ever met him to your knowledge?

17 A No, not really. I don't think so.

18 Q The photographs -- and I saw the injury to your
19 eye, I guess over your right eye?

20 A Yes, sir.

21 Q Is that correct? Do you have any scarring from
22 that?

23 A Yes, sir.

24 Q Do you recall was the smaller man the one that hit
25 you with the gun?

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1 A Yes, sir, it was the smaller one.

2 Q The shortest man?

3 A The one with the black gun hit me.

4 Q And you heard Mr. Barnes testify that he struck
5 you?

6 A Yes. Now I know it was him. I didn't know which.
7 one did it, you know.

8 Q And you say you think the big man hit you with
9 another gun in the arm; is that right?

10 A I am thinking so. See, when he hit me, the blood
11 was shooting so much, I really couldn't see. They
12 was in the room, but I knew it had to be either --
13 I knew it wasn't the one with the pistol that hit
14 me again. It was either a shotgun or something
15 that hit me or the A.K.

16 Q And as you sit here, you just don't know?

17 A I don't know. That's what I'm saying.

18 Q I understand. A couple of days after this incident
19 occurred, were you contacted by Mr. Leaphart's
20 family at all?

21 A No. The only thing they said, a couple of them I
22 would see them, you know, at the grocery store --

23 MS. GARRICK: Objection, hearsay.

24 THE COURT: The question, actual question, is
25 whether or not he was contacted. That's not hearsay. I

1 guess the answer, if he knows it, can be yes or no.

2 Beyond that it would be hearsay.

3 THE WITNESS: Yes..

4 THE COURT: I would sustain that part of the
5 objection. Perhaps his answer was heading that way.

6 You may ask your next question.

7 MR. DUNCAN: I didn't get -- Your Honor, can I
8 get an answer to that. Was he contacted?

9 THE COURT: Yes, sir.

10 A It wasn't no like indirect contact. They just said
11 passing by when I see them in the store or
12 something, said, we're sorry to hear about that
13 happening to you and everything, just little stuff
14 like that. You don't hold it against nobody for
15 what other people do.

16 MR. DUNCAN: Beg the Court's indulgence just a
17 moment.

18 THE COURT: Certainly.

19 (Pause.)

20 BY MR. DUNCAN:

21 Q Mr. Corley, do you recall giving a statement to
22 Batesburg Leesville Police Department shortly after
23 this incident occurred, the same afternoon, I
24 believe?

25 A I think so. I'm not sure, you know, for sure, but

1 I know I gave them one.

2 Q At the time do you recall telling the Batesburg
3 Leesville Police Department that you believed you
4 could identify the gentleman who hit you with the
5 pistol? Do you remember that?

6 A I'm not sure. I mean, you know, they had like on
7 stockings and stuff. I really couldn't tell. I
8 really don't know.

9 Q I'm glad to show you this. If I told you, if I
10 have a statement here that says that you could
11 identify or you stated that you could identify that
12 the person who hit you with the pistol with no
13 problem, is it possible that you said that?

14 A I don't know. It could have been possible. But
15 then like when they did show me, I wanted to be
16 sure because I didn't want to get the wrong guy in
17 trouble and make a mistake.

18 When I saw the pictures of it, I couldn't
19 really say. So there wasn't no need for me to
20 because I didn't want to get the wrong person in
21 trouble or nothing.

22 Q It doesn't matter whether you -- if you said that
23 you thought you could identify a defendant, but
24 once you were shown photographs, you were unable to
25 do so?

1 A Yes, sir.

2 Q That's correct.

3 MR. DUNCAN: I think that's all the questions
4 I have, Your Honor.

5 THE COURT: Thank you, Mr. Duncan. Redirect,
6 Solicitor?

7 MS. GARRICK: No, Your Honor.

8 THE COURT: Thank you. Thank you, Mr. Corley.
9 You may step down.

10 (Witness leaves the witness stand.)

11 THE COURT: Perhaps now would be a good time
12 for us to take our evening recess. I remind you, ladies
13 and gentlemen, during this recess you may not discuss
14 the case with anyone, including your fellow jurors,
15 family, friends or anyone else.

16 You may not read, listen to or watch any news
17 reports about the case. You may not use a computer,
18 cellular phone or other electronic device with
19 communication capabilities or any other method to obtain
20 or disclose information about the case.

21 Information about the case includes but is not
22 limited to the following: Information about a party, a
23 witness, an attorney or a Court officer, news accounts
24 of the case, information collected through juror
25 research on any topics raised or testimony offered by

1 any witness or information collected through juror
2 research on any other topic that you might think would
3 be helpful in deciding the case.

4 If anyone tries to talk with you about the
5 case, please let me know. Remember to keep an open mind
6 and not decide any issue in the case until you have
7 heard all the evidence, all the testimony, the closing
8 arguments by the attorneys, the instruction on the law
9 by the Court, and then directed by the Court to begin
10 your deliberation with your fellow jurors in your jury
11 room.

12 Perhaps before this case is over, you will be
13 able to repeat all that back to me. You will hear it so
14 much. I know you will follow your oath as I have you
15 instructed.

16 With that being said, I hope y'all have a
17 pleasant evening. You are now released. I would ask
18 you to please be back promptly at 9:30 in the morning.
19 Please be back promptly at 9:30. I hope y'all have a
20 pleasant evening. Thank you very much.

21 (The jury is excused for the day at 5:38 p.m.)

22 THE COURT: Anything further from the State
23 before we take our recess?

24 MS. GARRICK: No, Your Honor.

25 THE COURT: The defense?

1 MR. DUNCAN: No, sir, Your Honor.

2 THE COURT: Thank you. Thank you very much.
3 Court will be in recess until 9:30.

4 (Whereupon the proceedings are concluded for
5 March 28, 2011.)

6 (The following proceedings are reported on
7 March 29, 2011.)

8 THE COURT: Anything from the State before we
9 bring in our jury?

10 MS. GARRICK: No, sir, Your Honor.

11 THE COURT: From the defense?

12 MR. DUNCAN: No, sir, Your Honor.

13 THE COURT: Bring our jury, please.

14 (The jury returns to the courtroom at
15 9:29 a.m.)

16 THE COURT: Good morning, ladies and gentlemen
17 of the jury panel. I hope y'all had a pleasant evening.
18 Welcome back. We are continuing the trial of the case
19 by the presentation of evidence and testimony by the
20 State in its case in chief.

21 Solicitor, you may call your next witness.

22 MS. PATTERSON: Thank you, Your Honor. The
23 State calls Connie Otts.

24 THE COURT: If you would come around, please,
25 Ms. Otts, and be sworn.

CONNIE OTTS -- DIRECT -- MS. PATTERSON

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1 CONNIE RENEE OTTS, being
2 first duly sworn, testifies as follows:

3 CLERK: Please be seated and state your full
4 name and spell your last name.

5 THE WITNESS: Connie Renee Otts, O-T-T-S.

6 DIRECT EXAMINATION

7 BY MS. PATTERSON:

8 Q Ms. Otts, where do you live.

9 A 126 Wide Street, Batesburg.

10 Q Do you know John Corley?

11 A Yes, ma'am.

12 Q How do you know John Corley?

13 A He is my boyfriend.

14 Q And how long have you guys been dating?

15 A Eight years.

16 Q Do you two have any children together?

17 A No, ma'am.

18 Q Do you have any children?

19 A Yes, ma'am.

20 Q And how old are your children?

21 A Fourteen, ten, and nine.

22 Q And how old would your children have been in 2008?

23 A Twelve, seven and eight.

24 Q And do you remember being at -- do you and your
25 children ever go to Mr. Corley's house?

- 1 A Yes, ma'am.
- 2 Q And do you remember being there on the afternoon of
- 3 August 13, 2008?
- 4 A Yes, ma'am.
- 5 Q And do you remember anything unusual that happened
- 6 that day?
- 7 A Yes, ma'am.
- 8 Q Let's go back to that date. Was school in?
- 9 A No, it was fixing to start.
- 10 Q What was the weather like that day?
- 11 A Cloudy and rainy like.
- 12 Q So what were you guys doing at Mr. Corley's house
- 13 that day?
- 14 A Napping.
- 15 Q And do you remember anything unusual that happened
- 16 that day?
- 17 A Yes, ma'am.
- 18 Q And about what time did this incident occur?
- 19 A I would say around 1:30, 2:00 o'clock.
- 20 Q Explain to the jury what happened.
- 21 A We were laying in the bed and we heard the back
- 22 door slam open to the bar.
- 23 Q Who was laying in what bed?
- 24 A Me and John was laying in the bed prior to the
- 25 kitchen, as you walk in from the kitchen.

CONNIE OTTS -- DIRECT -- MS. PATTERSON

- 1 Q And is that a bedroom?
- 2 A Yes, ma'am.
- 3 Q Whose bedroom is that?
- 4 A John Corley's.
- 5 Q Where were the children?
- 6 A Back in the other end, to the other end of the
7 house in the bedroom.
- 8 Q And where is that room located?
- 9 A At the back end of the house.
- 10 Q And what do you remember happening?
- 11 A The back door slammed to the bar and three guys was
12 rushing in, rushing in at John trying to rob --
13 well, robbed him with weapons. He got hit and they
14 ram-shacked his house, his room.
- 15 Q Were they saying anything?
- 16 A Yes, ma'am, they was telling him, where the money
17 at? And if you don't give it, I will kill you. I
18 will do this. I will do that. Ma'am, we ain't
19 going to bother you, and I tell them the kids are
20 in here. Leave them alone. I want my kids, and
21 they told me not to move. You ain't going nowhere.
22 Stay right there.
- 23 Q Where were you when all this first started?
- 24 A I was laying in the bed and I was sitting in the
25 bed when they rushed John and rolled off the bed

- 1 onto the floor in the corner.
- 2 Q And could you see these individuals? Could you see
- 3 their faces?
- 4 A No, ma'am.
- 5 Q Why not?
- 6 A They were covered.
- 7 Q Do you know what they were covered with?
- 8 A Stockings.
- 9 Q Did you recognize -- were they all the same size?
- 10 A No, ma'am.
- 11 Q What were their sizes?
- 12 A A real big one, a short one, and like a tall, slim
- 13 one.
- 14 Q Were all of them armed?
- 15 A Yes, ma'am.
- 16 Q Could you tell who had which weapon?
- 17 A Yes, ma'am.
- 18 Q And which weapon did the bigger one have?
- 19 A The A.K.
- 20 Q And which weapon did the smallest one have?
- 21 A The little handgun, black.
- 22 Q Which one did the other one have?
- 23 A A pump shotgun, whatever.
- 24 Q Where was John?
- 25 A Standing. After they hit him, he was standing. He

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- 1 backed up to the back end of the bed, to the foot
2 of it.
- 3 Q Did you see who hit John?
- 4 A I am thinking it looked like the shortest one hit
5 him, but I don't want to be wrong.
- 6 Q Do you know what he hit him with?
- 7 A The small black handgun.
- 8 Q Where did he hit John?
- 9 A The side the head.
- 10 Q Did this cause any injury to John?
- 11 A Yes, ma'am.
- 12 Q What was that injury?
- 13 A They bust his eye and he had to get eight to ten
14 stitches.
- 15 Q Was he bleeding?
- 16 A Yes, ma'am.
- 17 Q Was he bleeding bad?
- 18 A Yes, ma'am.
- 19 Q And did you stay beside the bed or on the floor?
- 20 A I got up. They told me to get back down, with the
21 gun. Get back down. Get back down.
- 22 Q Did they do anything in the bedroom?
- 23 A They ram-shacked it.
- 24 Q And what do you mean by ram-shacking it?
- 25 A They flipped the mattress, pulled out all the

- 1 drawers, just turning stuff over.
- 2 Q Did they get anything out of the bedroom?
- 3 A They took the money jug, they took the money out my
- 4 pocketbook, and jewelry.
- 5 Q Where was this money jug located?
- 6 A In a corner by the dresser.
- 7 Q How did the money jug look?
- 8 A Like a water container.
- 9 Q What size was it?
- 10 A A big blue, clear blue.
- 11 Q And do you know how much money was in it?
- 12 A Not at the time. When they counted it, I think it
- 13 was like 1400.
- 14 Q Where was your purse located?
- 15 A On John's dresser.
- 16 Q What did they take from your purse?
- 17 A My \$120 cash that was in a bank envelope with the
- 18 receipt.
- 19 Q Did they take anything else out of your purse?
- 20 A No, ma'am.
- 21 Q Did they take anything else out of the bedroom?
- 22 A Just the jewelry and the jug.
- 23 Q Where was the jewelry located?
- 24 A Inside the dresser drawer.
- 25 Q What type of jewelry was it?

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1 A A rope necklace and a watch.

2 Q Can you describe that necklace and watch?

3 A A rope necklace with a charm on it, and a nugget
4 gold watch.

5 Q Were both of them gold?

6 A Yes, ma'am.

7 Q And did you see or hear anybody else that came in
8 the house?

9 A No, ma'am, other than just somebody knocking at the
10 back door telling them to come on, come on.

11 Q And had this individual been inside your house?

12 A I don't know if he came in the house. He got the
13 water jug.

14 Q And did these people do anything else while they
15 were in your house?

16 A Yes, ma'am.

17 Q What did they do?

18 A They tied me and John up.

19 Q Do you know what you were tied up with?

20 A A speaker wire.

21 Q Do you know where that speaker wire was located?

22 A When John took it off me, he laid it on his
23 countertop in the rest room, the bathroom.

24 Q Do you know where the guys got the speaker wire
25 from?

- 1 A No, ma'am.
- 2 Q Do you remember who tied you up?
- 3 A It was the big one and the tall, slim one.
- 4 Q And how did they tie you up?
- 5 A From the back with my wrists.
- 6 Q What did they tie?
- 7 A My wrists.
- 8 Q And did they do anything else to John that you know
- 9 of?
- 10 A They tied him up and push him in the closet and
- 11 close him in the closet.
- 12 Q Do you know what they tied him up with?
- 13 A A computer cord.
- 14 Q Did y'all have a computer in that house?
- 15 A Yes, ma'am.
- 16 Q Where was the computer located?
- 17 A On the table.
- 18 Q The table where?
- 19 A In the kitchen.
- 20 Q And how was John tied up?
- 21 A From the back.
- 22 Q What was tied up on him?
- 23 A His wrists.
- 24 Q What did you say they did with John?
- 25 A Pushed him in the closet and closed it.

CONNIE OTTS -- DIRECT -- MS. PATTERSON

- 1 Q What did they do after they tied you?
- 2 A Left me standing in the kitchen.
- 3 Q What happened after that?
- 4 A They ran out.
- 5 Q Do you know about how long they were inside in
- 6 John's house?
- 7 A I'd say about 10, 15 minutes.
- 8 Q When they left out of the house, what did you first
- 9 do?
- 10 A Went to my kids.
- 11 Q Why did you go to your kids?
- 12 A Went back to see if they was okay and check on
- 13 them.
- 14 Q Were you concerned about your kids?
- 15 A Yes, ma'am, I was.
- 16 Q Were you concerned about yourself?
- 17 A Yes, ma'am.
- 18 Q Were you concerned about John?
- 19 A Yes, ma'am.
- 20 Q Were your kids okay?
- 21 A Yes, ma'am.
- 22 Q And when you went to check on your kids, were you
- 23 still tied up?
- 24 A Yes, ma'am.
- 25 Q And then what happened after that?

1 A They ran back through the back by the window, and
2 it scared me. I thought they was coming back in.

3 Q Where was John when you were checking on your
4 children?

5 A I don't know how he got out the closet, but he came
6 and untied me.

7 Q And after he untied you, what did you do?

8 A Was looking for the cell phone, the house phone.
9 We couldn't find it. I slipped something over my
10 gown. I had on some pants and I went to my car to
11 use the cell phone, went out the back door, and
12 that's when we seen the black truck. I was scared
13 to move after I got to the door and seen the black
14 truck. As I walk further out the door, I seen the
15 police car. Everything was fine. I was safe.

16 Q Did you get to call for safety?

17 A Yes, ma'am, after I got my cell phone out of the
18 car.

19 Q You said when you went to check on your children;
20 you saw someone going by the window?

21 A (Witness nods.) (Indicating affirmative response.)

22 Q Could you tell who that was?

23 THE COURT: Answer out loud for me, Ms. Otts,
24 please.

25 THE WITNESS: Sir?

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1 THE COURT: I didn't hear your answer.

2 THE WITNESS: Yes, ma'am, I could tell who it
3 was.

4 BY MS. PATTERSON:

5 Q Who was it?

6 A It was the three guys that was inside the house.

7 Q Which side of the house did you see them running
8 on?

9 A The back end of the house closer to the woods.

10 Q Was this the same side as the bedroom that you and
11 John was in?

12 A No, ma'am, the other end.

13 Q And how was these people dressed?

14 A In black.

15 Q And were their hands covered?

16 A I can't remember.

17 MS. PATTERSON: Beg the Court's indulgence.

18 THE COURT: Yes, ma'am.

19 (Pause.)

20 MS. PATTERSON: May I approach the witness?

21 THE COURT: Yes, ma'am.

22 BY MS. PATTERSON:

23 Q I am going to show you what is marked as State's
24 Exhibit Number 31 for identification purposes and
25 ask you to take a look at the picture. Do you

- 1 recognize what is on that picture?
- 2 A Yes, ma'am.
- 3 Q What is in that picture?
- 4 A John's water jug.
- 5 Q Is that the way the jug looked on August 13, 2008?
- 6 A Yes, ma'am.
- 7 Q I am going to show you what has been marked as
- 8 State's Number 33 for identification. Do you
- 9 recognize what is in that photo?
- 10 A Yes, ma'am.
- 11 Q What is in that photo?
- 12 A John's computer cord to his laptop.
- 13 Q Is that the cord that they tied John up with?
- 14 A Yes, ma'am.
- 15 Q I am going to show you what has been marked as
- 16 State's Exhibit 3 and 4 for identification. Do you
- 17 recognize those photos?
- 18 A Yes, ma'am.
- 19 Q What is in those photos?
- 20 A A mark on my arm from where they tied me up with
- 21 the speaker wire.
- 22 Q And do those photos accurately represent the way
- 23 you looked on August 13, 2008?
- 24 A Yes, ma'am.
- 25 Q Does it look like those pictures have been changed

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1 in any way?

2 A No, ma'am.

3 MS. PATTERSON: Your Honor, I would move that
4 State's 3 and 4 be introduced into evidence.

5 THE COURT: Mr. Duncan?

6 MR. DUNCAN: No objection, Your Honor.

7 THE COURT: State's 3 and 4 in evidence
8 without objection.

9 (State's Exhibits Number 3-4 are received into
10 evidence.)

11 BY MS. PATTERSON:

12 Q Ms. Otts, I am going to show you what has been
13 marked as State's 29 for identification purposes
14 and ask you to take a look at this. Do you
15 recognize what is in that bag?

16 A Yes, ma'am.

17 Q What is in that bag?

18 A The rope necklace and the gold watch bracelet.

19 Q Anything else in that bag?

20 A And change.

21 Q And do you recognize that necklace and that watch
22 as being the jewelry that was taken?

23 A Yes, ma'am. That John's necklace, the gold rope
24 necklace with the charm, and that's my nugget gold
25 watch.

- 1 Q Were those the items that were taken?
- 2 A From the dresser drawer.
- 3 Q On August 13, 2008?
- 4 A Yes, ma'am.
- 5 Q And let me ask you this. Did you receive some of
- 6 your property back from Batesburg Leesville?
- 7 A Yes, ma'am, I got the money back that was in the
- 8 envelope.
- 9 Q Did y'all get anything else back?
- 10 A We got the money, the money jug back, John's money
- 11 jug.
- 12 Q Is that all of the money in that envelope that was
- 13 taken?
- 14 A No, ma'am, it was more that was inside the
- 15 envelope.
- 16 (Pause.)
- 17 MS. PATTERSON: Your Honor, may I approach the
- 18 witness?
- 19 THE COURT: Yes, ma'am.
- 20 BY MS. PATTERSON:
- 21 Q Ms. Otts, I am going to put on the screen what has
- 22 been introduced as State's Exhibit Number 9. Do
- 23 you recognize that?
- 24 A Yes, ma'am.
- 25 Q What does that picture show?

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1 A The back of John house with his white truck in the
2 back yard:

3 Q Where was your car parked on this day?

4 A My car was closer to that end (indicating), over
5 there, but you couldn't see it.

6 Q And after they left out and law enforcement came,
7 what did you do? Did you leave the house?

8 A After they came out, I went and took -- they told
9 me to take him to B&L Family Practice.

10 Q How did y'all get there?

11 A In my car.

12 Q I am going to show you what has been introduced as
13 State's Exhibit Number 11 into evidence. Do you
14 recognize what that photo shows?

15 A Yes, ma'am, the back end of John house.

16 Q And where would your car have been parked in that
17 picture?

18 A Right there (indicating), right behind the silver
19 truck.

20 Q And does this photo -- where did you see those guys
21 running?

22 A Back towards the house that way (indicating).

23 Q Is that the side of the house the bedroom was
24 located that the children were in?

25 A Yes, ma'am.

1 Q Do those photos show the side of the house where
2 John's bedroom was?

3 A No, ma'am, it's at the back end of it. His room is
4 up on the other end (indicating).

5 Q Ms. Otts, I am going to show you what has been
6 marked as State's Exhibit 34 for identification
7 purposes and ask you to take a look at that.

8 A This is the envelope that the money was in, and
9 these are the bank statements from my withdrawals.

10 Q Is that the envelope and the bank receipts that was
11 in your purse on August 13, 2008?

12 A Yes, ma'am.

13 Q Who took those items from you?

14 A Thompson, the big one.

15 Q Now, did you get -- besides the money -- did you
16 get any other items back from Batesburg?

17 A No, ma'am, just the money and the receipts.

18 Q Do you know what happened to the computer cords?

19 A John got it back.

20 Q Let me show you what has been marked as State's
21 Exhibit 27 for identification purposes and ask you
22 to take a look at it.

23 A Yes, ma'am.

24 Q Do you recognize what is in this box?

25 A The black handgun that hit John.

CONNIE OTTS -- DIRECT -- MS. PATTERSON

1 Q Does this gun look similar to the one that hit
2 John?

3 A Yes, ma'am.

4 Q Who had a gun like this on August 13th?

5 A The short one.

6 Q Let me show you what has been marked as State's
7 Exhibit 28 for identification purposes only and ask
8 you to take a look at it. What is in this box,
9 Ms. Otts?

10 A A handgun.

11 Q Do you recognize this handgun?

12 A No, ma'am.

13 Q Let me show you what has been marked as State's
14 Exhibit 25 for identification purposes only. Do
15 you recognize what is in this box?

16 A Yes, ma'am.

17 Q What is in this box?

18 A The A.K.

19 Q Does this A.K.47 look similar to the one that you
20 saw August 13, 2008?

21 A Yes, ma'am.

22 Q And who had a gun that was similar to this one?

23 A The big one.

24 Q Let me show you State's Exhibit 26 for
25 identification purposes -- let me show you what has

1 been marked as State's Exhibit 26 for
2 identification purposes. What is in this box?

3 A The pump, the shotgun. I don't know what y'all
4 call it.

5 Q Does this shotgun look similar to the one you saw
6 in John's house on August 13, 2008?

7 A Yes, ma'am.

8 Q Who had a gun that was similar to this?

9 A The tall, slim one.

10 MS. PATTERSON: Beg the Court's indulgence.

11 THE COURT: Yes, ma'am.

12 (Pause.)

13 BY MS. PATTERSON:

14 Q Ms. Otts, please answer any questions Mr. Duncan
15 may have.

16 A Okay.

17 THE COURT: Thank you, Solicitor. Mr. Duncan.

18 MR. DUNCAN: Thank you, Your Honor. May it
19 please the Court.

20 CROSS EXAMINATION

21 BY MR. DUNCAN:

22 Q Good morning, Ms. Otts.

23 A Good morning.

24 Q Ms. Otts, you testified that you had been dating
25 Mr. Corley for about eight years now?

CONNIE OTTS -- CROSS -- MR. DUNCAN

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1 A Yes, sir.

2 Q Was it ordinary for you to be over at his house?

3 A Yes, sir.

4 Q Did you spend the night at his house on a regular
5 basis?

6 A Yes, sir.

7 Q Did your children, did they have a room at his
8 house?

9 A Yes, sir.

10 Q And do you recall August 13, 2008, what day of the
11 week it was?

12 A I can't remember the exact day. I think it's a
13 Wednesday.

14 Q Was it a weekday?

15 A It was on a weekday.

16 Q A weekday, okay. So being over at Mr. Corley's
17 house routinely, did you know he had money in the
18 house? Did you know he had cash in the house?

19 A I knew of his money jug.

20 Q Do you recall giving a statement to Captain Goss --
21 Captain Goss, the gentleman right here -- the day
22 of the incident at Mr. Corley's house? Do you
23 remember giving a statement?

24 A Yes, sir.

25 Q Do you remember in that statement referring to a

1 safe?

2 A Yes, sir.

3 Q Can you tell me about the safe? Mr. Corley had a
4 safe in his house?

5 A Yes, sir. He had been robbed once before.
6 Somebody stole it. I guess they thought maybe that
7 safe was still there.

8 Q Can you tell me, do you remember about when this
9 safe was in the house when Mr. Corley had been
10 robbed before?

11 A That safe had been gone probably two years.

12 Q Two years before that?

13 A It had been gone.

14 Q Before this happened?

15 A (Witness nods.) (Indicating affirmative response.)

16 Q Do you know why he had a safe in the house?

17 A No, sir.

18 Q Do you know how much money he kept in that safe?

19 A No, sir.

20 Q And do you know or do you remember when the safe
21 was taken?

22 A No, sir.

23 Q How did you know it had been taken?

24 A Because that's my boyfriend.

25 Q And he told you about it?

CONNIE OTTS --- CROSS -- MR. DUNCAN

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1 A Yes, sir.

2 Q He told you -- did he tell you how much money was
3 missing?

4 A He didn't tell me what was in the safe.

5 Q You said you were aware of this money jug?

6 A Uh-huh. (Indicating affirmative response.)

7 Q In the house; is that right?

8 A (Witness nods.) (Indicating affirmative response.)

9 Q I'm sorry. Just answer out loud.

10 A Yes, sir.

11 Q Thank you. Did you know he had as much money as
12 \$1,400 in this jug?

13 A Me and him both put change for the kids and school
14 and Christmas.

15 Q Ms. Otts, obviously you have been here throughout
16 the trial. So you heard the witnesses testify
17 yesterday?

18 A Yes, sir.

19 Q Mr. Leaphart, Mr. Jeremy Leaphart, testified he is
20 from Batesburg, I believe. Did you know him?

21 A No, sir, heard of him but don't know him.

22 Q Don't know him. Where did you grow up, Ms. Otts?

23 A In Batesburg.

24 Q Did you go to high school in Batesburg?

25 A Yes, sir.

1 Q But John, your boyfriend John, yesterday said that
2 he knew the Leaphart family, but you didn't know
3 them?

4 A I know more of Leaphart's family, but I don't know
5 him. He's a little younger than I am.

6 Q In your statement to the Batesburg Leesville Police
7 Department and Captain Goss specifically, do you
8 recall stating to him that you had heard that
9 Derrell was calling his family members --

10 MS. PATTERSON: Objection, Your Honor,
11 hearsay.

12 THE COURT: About her statement?

13 MR. DUNCAN: It's her statement. I am asking
14 her. Supposedly she had heard something.

15 THE COURT: Let me see the statement, please,
16 that you are referring to.

17 MR. DUNCAN: Sure.

18 (Hands to Court.)

19 THE COURT: Yes, I would sustain that
20 objection. That would be hearsay.

21 BY MR. DUNCAN:

22 Q Ms. Otts, let me ask you, did you see -- strike
23 that. You testified you were asleep or y'all were
24 in the bed on the afternoon of August 13, 2008?

25 A We were laying in the bed napping.

1 Q So did it wake you up when you heard the door?

2 A By the time I dozed off, that's when that door
3 slammed into that bar.

4 Q And did you see the big man come in the door?

5 A I can't remember who came in first. It was three
6 of them together.

7 Q But you didn't see anybody until they got to the
8 bedroom; is that right?

9 A I seen them. They was coming in. They waited for
10 like a couple of seconds. After they kicked in the
11 door, they waited, I guess, to see if anybody was
12 going to come out. By the time John got to his
13 bathroom, that's when the three of them ran in.

14 Q Ms. Otts, I want to try to get this straight. At
15 the point of you calling the police, okay, you
16 would have been -- you had been tied up by the
17 hands?

18 A Yes, sir.

19 Q And the arms as shown on those photographs that we
20 just looked at?

21 A Yes, sir.

22 Q And you were standing in the kitchen; is that
23 right?

24 A Yes, sir. They left me standing in the kitchen
25 tied up.

- 1 Q Just your hands?
- 2 A Yes, sir.
- 3 Q And once John untied you -- is that right?
- 4 A Yes, sir.
- 5 Q And then you didn't have -- you didn't have a phone
- 6 or you couldn't find a phone in the house?
- 7 A No, sir, it's like 10 or 15 minutes before I could
- 8 call.
- 9 Q And to do that you went outside? You went to get
- 10 your cell phone?
- 11 A Yes, sir.
- 12 Q Ms. Otts, let me understand. I thought you said
- 13 that you saw a police car outside your house?
- 14 A No, outside the dirt road beside the black Tahoe.
- 15 Q Down the road?
- 16 A (Witness nods.) (Indicating affirmative response.)
- 17 Q How far from your house -- I'm sorry -- from
- 18 Mr. Corley's house?
- 19 A You could see through the woods. I could see it
- 20 through the woods.
- 21 Q So you saw a police car?
- 22 A I spotted the black Tahoe first, and then I seen
- 23 the police officer car.
- 24 Q So actually the police were there, were present,
- 25 before you called them?

CONNIE OTTS -- CROSS -- MR. DUNCAN

- 1 A Yes, sir.
- 2 Q But you did call the police --
- 3 A Yes, sir.
- 4 Q -- anyway?
- 5 A Yes, sir.
- 6 Q Did anybody come to your house?
- 7 A They came to Mr. Corley's house.
- 8 Q I'm sorry. I keep saying that. They came to
- 9 Mr. Corley's house just a few minutes later or when
- 10 did they arrive at Mr. Corley's house?
- 11 A They arrived at Mr. Corley's house when I made the
- 12 call.
- 13 Q Not the officer that was up the way already?
- 14 A No, sir, because they didn't know where the home
- 15 invasion was or where the water jug come from until
- 16 I made the call. They had already got them.
- 17 Q They had gotten some folks?
- 18 A Yes, sir.
- 19 Q Is that right?
- 20 A Yes, sir.
- 21 Q Did you see people outside with the officer?
- 22 A No, sir.
- 23 Q Not at all?
- 24 A No, sir.
- 25 Q Ms. Otts, do you remember specifically that

1 the three people inside the house were wearing
2 black?

3 A Yes, sir.

4 Q Did you see the fourth man you talked about, the
5 fourth man being outside? Did you see the fourth
6 person?

7 A Through the crack of the door, I seen a fourth
8 person. When I was standing in the kitchen, he was
9 standing at the door.

10 Q Was he wearing black, too?

11 A He had on black, too, because I couldn't see his
12 face.

13 Q You could not identify any of the three people that
14 were in the house?

15 A No, sir.

16 Q Could not then and cannot now; is that true?

17 A Not seeing them now.

18 Q Yesterday obviously witnesses came in here.

19 Mr. Thompson came in here, the big man, the first
20 man to testify, and said he was a person who broke
21 into Mr. Corley's house?

22 A Uh-huh. (Indicating affirmative response.)

23 Q Now, would you say --

24 A I don't know either one of them.

25 Q You didn't know them?

CONNIE OTTS -- CROSS -- MR. DUNCAN

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1 A Never heard of them.

2 MR. DUNCAN: Beg the Court's indulgence just a
3 moment.

4 THE COURT: Yes, sir.

5 (Pause.)

6 MR. DUNCAN: I have no other questions.

7 THE COURT: Thank you, Mr. Duncan. Redirect,
8 Solicitor?

9 MS. PATTERSON: No, sir, Your Honor.

10 THE COURT: Thank you. Thank you very much,
11 Ms. Otts. You may step down.

12 THE WITNESS: You're welcome.

13 (Witness leaves the witness stand.)

14 THE COURT: Solicitor, you may call your next
15 witness.

16 MS. PATTERSON: The State calls Corporal
17 Kendrick McCullum.

18 THE COURT: Come around please, sir, and be
19 sworn.

20 KENDRICK McCULLUM, being
21 first duly sworn, testifies as follows:

22 CLERK: Have a seat and state your full name,
23 spelling your last name.

24 THE WITNESS: Kendrick McCullum,
25 M-C-C-U-L-L-U-M.

DIRECT EXAMINATION

1
2 BY MS. PATTERSON:

3 Q Is it Corporal McCullum?

4 A It is.

5 Q Corporal McCullum, where are you employed?

6 A I am currently employed with the Lexington Police
7 Department.

8 Q How long have you been with the Lexington Police
9 Department?

10 A I've been here about eight months.

11 Q Where did you work prior to working with the
12 Lexington Police Department?

13 A Batesburg Leesville Police Department.

14 Q And how long did you work with the Batesburg
15 Leesville Police Department?

16 A About three and a half years.

17 Q And what was your position at the Batesburg
18 Leesville Police Department?

19 A I was a corporal on patrol.

20 Q What were some of your duties as a corporal on
21 patrol?

22 A Assist the other patrolmen with their daily
23 activities, reviewing reports for distribution.

24 Q And were you on duty on August 13, 2008?

25 A Yes, ma'am, I was.

KENDRICK McCULLUM -- DIRECT -- MS. PATTERSON

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1 Q Were you dispatched to Howard Street?

2 A Yes, ma'am.

3 Q And what time were you dispatched to Howard Street?

4 A It was approximately 1:15, 1:20 in the afternoon.

5 Q And what was that dispatch in reference to?

6 A I was dispatched to Howard Street in reference to
7 suspicious activity, possibly -- the information
8 that was given was about possibly some guys in the
9 neighborhood wearing dark clothing.

10 Q And how long did it take you to get to that
11 location?

12 A Approximately two to three minutes.

13 Q And when you got to that location, what did you do?

14 A When I came up Howard Street, I drove in the
15 direction of Kathleen and Padgett Road. I noticed
16 a black in color S.U.V. parked on Kathleen Street
17 on the left side of the road with the passenger
18 side door open.

19 Once I noticed the vehicle, I proceeded down
20 Kathleen Street towards the vehicle. When I
21 approached I noticed the tag number. I radioed in
22 the tag number to dispatch.

23 As I drove past the vehicle, I noticed the
24 door was open and the car was running. The
25 passenger side door was open. I looked inside of

1 the vehicle from my patrol car, and I noticed there
2 was a water cooler with a large sum of cash and
3 coins inside of the cooler.

4 I proceeded past the car -- I'm sorry --
5 proceeded past the S.U.V. I turned around on the
6 dirt road, and I came back towards -- came back
7 towards the S.U.V. to actually clear the vehicle to
8 make sure there wasn't anybody inside or anything
9 suspicious going on inside the vehicle.

10 Q Let me stop you for one second. Where is Kathleen
11 and Padgett Street in relation to Howard Street?

12 A I guess at the far end of Howard Street in the City
13 of Batesburg Leesville going -- if you were
14 attempting to go out of the Town of Batesburg
15 Leesville, one of the streets you would have to
16 pass by off of Howard Street would be Kathleen and
17 Padgett.

18 Q Which road did you drive down?

19 A I drove down Howard Street, and I took a left turn
20 on Kathleen Street.

21 Q What type of road is that?

22 A It's a dirt road.

23 Q What type of area is that?

24 A It's a wooded area.

25 Q And are there any houses? Did you pass any houses?

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1 A I passed a brick home once I turned down Kathleen,
2 but in the area where I actually noticed the
3 vehicle, there were no houses in that area.

4 Q How far was that from that house?

5 A Approximately maybe 50 yards.

6 Q Did you see anybody around the Tahoe?

7 A No, ma'am.

8 Q And how far did you go to turn around?

9 A Maybe ten yards, just enough room to actually clear
10 the S.U.V. with my patrol car and to give myself
11 enough time to actually turn around on the dirt
12 road portion, maybe ten yards.

13 Q Did you get a tag number?

14 A I did.

15 Q What did you do with that tag number?

16 A I radioed it in to my dispatch.

17 Q Do you know what time you radioed the tag number
18 in?

19 A It was approximately 1:20 in the afternoon.

20 Q When you turned your car around, where was your car
21 positioned in relation to the Tahoe?

22 A I was parked -- I parked my marked patrol unit. It
23 would have been to the left of the S.U.V. facing
24 the direction of Howard Street.

25 Q And did you see anybody around the Tahoe at that

1 point?

2 A No, ma'am.

3 Q And did you proceed to get out of your vehicle?

4 A I did.

5 Q And why were you getting out of your vehicle?

6 A I exited my vehicle with intent to clear the S.U.V.

7 to see if anyone was inside of the vehicle, if

8 there was any activity that was going on inside of

9 the vehicle that I should be aware of.

10 Q What did you notice about the Tahoe?

11 A I noticed it was running. I noticed that there was

12 a clear water jug inside of the passenger

13 floorboard of the vehicle. The passenger door was

14 open, and also, like I said, I also noticed the

15 vehicle was running at the time.

16 Q And did you ever see anybody?

17 A Well, as I exited my vehicle and was attempting to

18 clear the vehicle, I saw one male subject running

19 in the direction of the dirt road portion from the

20 brick house that is at the corner of Kathleen and

21 Padgett.

22 He ran to the dirt road portion and when he

23 noticed my marked patrol car and myself standing

24 besides the S.U.V., he stopped. He was wearing

25 black-colored clothing. He was also brandishing an

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1 object. I believed it to be a weapon, a black and
2 silver object in his hand.

3 At that time he proceeded to place the weapon,
4 the object, behind his leg. He took a few steps
5 backwards and proceeded to run back towards the
6 house that he initially ran from.

7 Q How far away were you from that individual?

8 A About 50 yards.

9 Q So you could see the person, the image of the
10 person?

11 A Yes, ma'am.

12 Q And after he ran, after he turned to run, did you
13 see -- what did you do?

14 A When the subject came and he stopped in the dirt
15 road portion, I drew my service weapon. I gave the
16 subject a loud verbal command to stop, put the
17 weapon down.

18 He was attempting to possibly hide the object
19 behind his leg. He stepped back and he started
20 running. I also noticed two other subjects running
21 from the direction -- in the direction of the
22 house, in the direction of the first subject.

23 Q How did you see those subjects?

24 A There is a wood line right behind the house, and I
25 was able to see the other subjects through the wood

1 line.

2 Q Did they ever make it up to the dirt road?

3 A No, ma'am.

4 Q Where did they go?

5 A They all went back in the general direction of the
6 house.

7 Q And what did you do next?

8 A I radioed into my dispatch to send assistance, that
9 there was three to four males in the area possibly
10 armed with handguns, and I needed assistance.

11 Q And did assistance show up?

12 A Yes, ma'am.

13 Q And about how long did it take your backup to show
14 up?

15 A Approximately maybe two minutes, approximately two
16 minutes.

17 (Attorneys confer.)

18 MS. PATTERSON: Your Honor, may I approach the
19 witness?

20 THE COURT: Yes, ma'am.

21 BY MS. PATTERSON:

22 Q Corporal McCullum, let me show you what has been
23 marked as State's Exhibit Number 35. Take a look
24 at the picture. What does that picture show?

25 A It shows the intersection crossing of Kathleen

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1 Street and Padgett Street off of Howard in the City
2 of Batesburg Leesville.

3 Q Does that picture accurately -- fairly and
4 accurately -- represent the intersection of Padgett
5 and Kathleen on August 13, 2008?

6 A It does.

7 Q Does it look like it has been changed in any way?

8 A No, ma'am.

9 MS. PATTERSON: I would move that State's
10 Exhibit Number 35 be admitted into evidence..

11 MR. DUNCAN: No objection.

12 THE COURT: Thirty-five is in evidence without
13 objection.

14 (State's Exhibit Number 35 is received into
15 evidence.)

16 BY MS. PATTERSON:

17 Q I am going to show you -- let me show you what has
18 been marked as State's Exhibit 36. What is in that
19 photo?

20 A It's a photo of the marked patrol unit that I was
21 driving the day in question. It also has a picture
22 of the dark-in-color Tahoe with the passenger side
23 door open on Kathleen Street.

24 Q And does that photo fairly and accurately represent
25 the way your patrol car was positioned and the way

1 you found the Tahoe on August 13, 2008?

2 A It is.

3 Q Does it look like it has been altered in any way?

4 A No, ma'am.

5 MS. PATTERSON: Your Honor, at this time I
6 would move that State's Exhibit 36 be admitted into
7 evidence.

8 MR. DUNCAN: No objection.

9 THE COURT: Thirty-six is in evidence without
10 objection.

11 (State's Exhibit Number 36 is received into
12 evidence.)

13 BY MS. PATTERSON:

14 Q I am going to show you what has been marked as
15 State's Exhibit 37. What does that photo show?

16 A This shows a view of Kathleen Street from the
17 direction of where my patrol car was -- would have
18 been parked or was parked.

19 Q Does that picture fairly and accurately represent
20 the view from your car on August 13, 2008?

21 A It does.

22 MS. PATTERSON: Your Honor, at this time I
23 would move that State's Exhibit Number 37 be admitted
24 into evidence.

25 THE COURT: Mr. Duncan?

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1 MR. DUNCAN: No objection.

2 THE COURT: Thirty-seven is in evidence
3 without objection.

4 (State's Exhibit Number 37 is received into
5 evidence.)

6 BY MS. PATTERSON:

7 Q Let me show you what has been marked as State's
8 Exhibit 38, Corporal McCullum. What is in that
9 photo?

10 A That's a picture of my marked patrol unit, the
11 dark-in-color S.U.V. with the passenger door open,
12 and the Lexington County crime scene van.

13 Q Does that photo fairly and accurately represent the
14 way all the cars were positioned on August 13,
15 2008, after you got your backup?

16 A It does.

17 Q Has anything been changed in that photo?

18 A No, ma'am.

19 MS. PATTERSON: Your Honor, at this time I
20 would move that State's Exhibit 38 be admitted into
21 evidence.

22 THE COURT: Mr. Duncan?

23 MR. DUNCAN: Without objection.

24 THE COURT: State's 38 is admitted without
25 objection.

1 (State's Exhibit Number 38 is received into
2 evidence.)

3 BY MS. PATTERSON:

4 Q Let me show you what has been marked as State's
5 Exhibit 39. Please take a look at that photo.
6 What does it show?

7 A In the far right is a picture of my marked patrol
8 car and also the crime scene van. This would be a
9 picture that shows two automobiles in the front
10 portion of the photo. That (indicating) would show
11 the house and the parking area right there at
12 Kathleen and Padgett.

13 Q Does that photo fairly and accurately represent the
14 scene on Kathleen Street on August 13, 2008, in
15 relation to the house and where your patrol car was
16 positioned?

17 A Yes, ma'am, it does.

18 Q And does it look like it has been altered in any
19 way?

20 A No, ma'am.

21 MS. PATTERSON: Your Honor, I would move that
22 State's Exhibit 39 be admitted into evidence.

23 MR. DUNCAN: No objection.

24 THE COURT: State's 39 is in evidence without
25 objection.

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1 (State's Exhibit Number 39 is received into
2 evidence.)

3 BY MS. PATTERSON:

4 Q Corporal McCullum, again, what does that picture
5 show?

6 A It shows the intersection of Kathleen and Padgett
7 Street which is off of Howard Street.

8 Q What street did you drive down?

9 A Howard Street.

10 Q Which street did you drive down?

11 A I'm sorry. I drove down Kathleen.

12 Q Corporal McCullum, what does that picture show?

13 A It shows the picture of my marked patrol unit,
14 and to the left there is the picture of the
15 dark-in-color S.U.V. with the passenger door open.

16 Q Can you point to the passenger door that is open.
17 It's a little hard to see.

18 A Right here (indicating).

19 Q Was this after you had turned your car around?

20 A Yes, ma'am, I had already -- I proceeded past the
21 S.U.V. I proceeded in front of it, turned around

22 back in the direction of Howard Street. I was
23 exiting my vehicle to clear the S.U.V., and that is
24 an accurate description.

25 Q What does this photo show?

1 A That's a photo of Kathleen Street in the direction
2 of Howard Street. That's the visual that I would
3 have had from the front of my patrol vehicle.

4 Q Where was the Tahoe parked in relation to this
5 picture?

6 A The Tahoe would have been parked on the shoulder of
7 the road here (indicating). My marked patrol unit
8 was parked here (indicating) in the middle of the
9 roadway.

10 Q Where did you see that first individual?

11 A The first individual was in this general area
12 (indicating).

13 Q About how far did you get in that roadway before
14 y'all made eye contact?

15 A He had just come from the wooded area. I saw him
16 through the wood line. He came maybe three to four
17 steps onto Kathleen Street before he noticed me.

18 Q Which area did he run to? Did he run away?

19 A When he noticed -- when he ran onto Kathleen
20 Street, he noticed me, and he ran back into the
21 general direction of the house. I was able to
22 notice the subject through the wood line running
23 back towards the house on the corner of Kathleen
24 and Padgett.

25 Q And where did you see the second and third

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1 individuals?

2 A I noticed the second and third individuals through
3 the wood line running in the general direction as
4 that first subject.. Both subjects were running
5 towards Kathleen Street.

6 Q And then where did you notice -- where did the two
7 guys go after the first person ran back?

8 A They both -- all three ran back in the general
9 direction of the house.

10 Q It's a little hard to see, but can you tell what is
11 in this photo?

12 A That's a photo of Kathleen Street with the crime
13 scene -- the crime scene van -- after my backup had
14 arrived on scene.

15 Q Can you see your patrol car in that picture?

16 A Yes, it's the one with the headlights on.

17 Q And what is in this photograph?

18 A It's a picture of the Lexington County crime scene
19 van -- this is a picture of the Lexington County
20 crime scene van, that's my marked patrol vehicle,
21 and this is a picture of the dark-in-color S.U.V.

22 Q What county is Batesburg in?

23 A Lexington County.

24 Q Corporal McCullum, let me show you what has been
25 marked as State's Exhibit 24 for identification

1 purposes. Do you recognize what this board shows?

2 A Yes, ma'am.

3 Q What does it show?

4 A It's aerial footage of the area of Howard Street,
5 Padgett, and Kathleen in the Town of Batesburg
6 Leesville.

7 Q And does it fairly and accurately represent the
8 aerial view of that area you were patrolling on
9 August 13, 2008?

10 A Yes, ma'am, it does.

11 Q Does it look like it has been changed in any way?

12 A No, ma'am.

13 MS. PATTERSON: Your Honor, I would move that
14 State's Exhibit Number 24 be admitted into evidence.

15 MR. DUNCAN: No objection.

16 THE COURT: State's 24 is in evidence without
17 objection.

18 (State's Exhibit Number 24 is received into
19 evidence.)

20 MS. PATTERSON: Your Honor, I ask permission
21 for the witness to step down.

22 THE COURT: Yes, sir, you may step down. When
23 you get down to the aerial photograph, if you will stand
24 on the other side and face back this way towards our
25 court reporter. Please keep your voice up when you are

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1 away from the microphone.

2 THE WITNESS: Yes, sir.

3 (Witness leaves the witness stand.)

4 BY MS. PATTERSON:

5 Q Corporal McCullum, can you show on this aerial
6 photo where Howard Street is?

7 A Yes.

8 THE COURT: You may have to turn a little bit
9 to the side. You may be cutting off one of the jurors
10 over there.

11 MS. PATTERSON: I'm sorry.

12 THE COURT: She couldn't quite see..

13 BY MS. PATTERSON:

14 Q Which way did you come down Howard Street?

15 A I proceeded down Howard Street in the direction of
16 Kathleen and Padgett, just this general direction
17 (indicating).

18 Q Could you label where Padgett Street is,
19 141 Padgett Road.

20 A (Witness complies.) This (indicating) is Padgett
21 Road. It's going to be 141, this residence
22 (indicating).

23 Q Is that the house that you passed when you were
24 driving down Kathleen Street?

25 A Yes, ma'am, it is.

1 Q Will you label Kathleen Street?

2 A (Witness complies.) This dirt road here
3 (indicating), this is Kathleen Street.

4 Q Do you see the house on that photo, Mr. Corley's
5 house?

6 A Yes, ma'am, it's right here (indicating).

7 Q Can you please label where you saw the Tahoe.

8 A (Witness complies.) The Tahoe was parked on the
9 left side of the road, Kathleen Street, was parked
10 to the left on the shoulder of the road with the
11 passenger door open.

12 Q And can you mark on the board where your vehicle
13 was positioned.

14 A (Witness complies.) My vehicle was positioned,
15 once I turned around and actually exited my vehicle
16 and noticed the subjects coming up toward Kathleen
17 Street, my vehicle was parked behind the Tahoe in
18 the direction back towards Howard Street.

19 Q Thank you.

20 A (Witness resumes the witness stand.)

21 Q Corporal McCullum, please answer any questions that
22 Mr. Duncan may have for you.

23 A Yes, ma'am.

24 THE COURT: Thank you very much, Solicitor.
25 Mr. Duncan.

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1 MR. DUNCAN: Thank you, Your Honor.

2 THE COURT: Do you want this diagram down,
3 Mr. Duncan?

4 MR. DUNCAN: Your Honor, for the time being,
5 yes.

6 THE COURT: Thank you.

7 MR. DUNCAN: Your Honor, in a moment maybe
8 someone with the Solicitor's Office or someone can help
9 me operate this machinery up here.

10 THE COURT: Yes, sir.

11 MR. DUNCAN: I need to see those photos again.

12 (Pause.)

13 CROSS EXAMINATION

14 BY MR. DUNCAN:

15 Q Good morning, Corporal.

16 A Good morning.

17 Q My name is Mike Duncan. I represent Mr. Velez in
18 this case. Corporal, I wanted to understand. You
19 had -- you were at Batesburg Leesville for three
20 and a half years?

21 A Yes, sir.

22 Q And now have been here in Lexington for eight
23 months?

24 A Yes, sir.

25 Q So you went to work for Batesburg Leesville, what,

1 in about 2007 or so?

2 A January of 2007.

3 Q Corporal, are you from Batesburg Leesville?

4 A No, sir.

5 Q Where are you from?

6 A Lamar, South Carolina.

7 Q Lamar. Corporal, on the date in question,
8 August 13, 2008, you had responded to a call from
9 your dispatch; correct?

10 A Yes, sir.

11 Q And what was that call from dispatch? What was the
12 call?

13 A The call came out in reference to suspicious
14 activity on Howard Street.

15 Q Did you have any other information than that? In
16 other words; did dispatch provide you any
17 information other than what you just said?

18 A Yes. There was suspicious activity, guys, subjects
19 in the area, wearing all black and possibly wearing
20 masks.

21 Q Did you get a number of five people? Did you hear
22 that from dispatch?

23 A I can't recall, sir.

24 Q You don't know?

25 A I can't recall.

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1 Q But you responded and it was just you responding,
2 correct?

3 A Yes, sir.

4 Q At that point?

5 A At that point, yes, sir.

6 Q And you were driving. You drove down Howard
7 Street?

8 A Yes, sir.

9 Q And where were you coming from, Corporal?

10 A I drove from up in the Batesburg area. I was
11 coming down Pine Street, took a right turn onto
12 Howard Street, and drove down Howard Street until I
13 got to the vicinity where the car came out.

14 Q And, Corporal, when you first arrived, you came
15 down Howard Street. I tell you what. I think I
16 will put this back up if I can:

17 MR. DUNCAN: Your Honor, can I ask Corporal
18 McCullum to come back down?

19 THE COURT: Yes, sir, certainly. Just keep
20 your voice up for us, Corporal.

21 (Witness leaves the witness stand.)

22 BY MR. DUNCAN:

23 Q Corporal, again, as you drove, where were you
24 coming from? You were just describing that. It
25 would be helpful to me and maybe to the jurors if

1 you could show us where you were coming to get to
2 Howard Street.

3 A Okay. Well, this photo doesn't show the actual
4 road that I drove down before I actually turned
5 onto Howard.

6 Q Yes, sir.

7 A But a little further on down, there is a road
8 called Pine Street. I turned right onto Pine. I
9 turned off of Pine onto Howard Street, coming down
10 Howard Street.

11 Then I came down past the intersection of
12 Padgett Road, and once I got to this intersection,
13 this portion (indicating) of Howard Street, that's
14 when I went down Kathleen Street, and I noticed the
15 S.U.V. parked on the shoulder of the road.

16 Q So you kept driving? You proceeded down and parked
17 your vehicle as shown on those photographs on
18 Kathleen Street?

19 A I took a left turn on Kathleen Street and I parked,
20 yes, sir, once I advanced past the Tahoe.

21 Q And at that point in time, you didn't see anybody;
22 is that correct?

23 A Correct. I didn't notice anyone until I actually
24 advanced past the Tahoe, was turned back in the
25 general direction of Howard Street, and was in the

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1 position to exit my vehicle. That's when I noticed
2 the first subject.

3 Q You said you saw a person that took a couple of
4 steps onto Kathleen Street, two or three steps onto
5 Kathleen Street, and went back into the woods?

6 A No, sir, he didn't go back into the woods.

7 Q Where did he go?

8 A There is a wood line between the house there
9 (indicating), an open area here (indicating)
10 between the house and the wood line. The subject
11 ran from behind the house in this open area, ran
12 onto Kathleen Street, noticed me, and then ran back
13 into the general direction of the house here
14 (indicating) on Padgett Road in the open area
15 between the house and the wood line.

16 Q You said you were about 50 yards away from the
17 individual?

18 A Yes, sir.

19 Q Half a football field?

20 A Yes, sir.

21 Q From that distance could you tell, was he short?
22 Could you tell?

23 A No, sir.

24 Q You saw a male -- what did you see?

25 A I saw a subject dressed in all black that was

1 brandishing an object that I believed to be a
2 handgun.

3 Q And you said you yelled stop?

4 A Yes, sir.

5 Q Gave a verbal command to stop?

6 A Yes, sir.

7 Q He, of course, did not stop?

8 A Did not stop.

9 Q And what did you do next?

10 A I gave several commands for the subject to drop the
11 object and get on the ground. The subject was in
12 this area (indicating). He placed the object
13 behind his right leg and took a couple of steps
14 back, and he ran back in the general direction of
15 this open area (indicating), back toward the house.

16 I stayed at the Tahoe because I didn't know
17 the full extent of the circumstances of what was
18 going on. So I continued to stay here. As I was
19 watching through the tree line, that's when I saw
20 the second two subjects, the second and third
21 subject, running in the direction of Kathleen
22 Street. At that time I radioed into dispatch for
23 assistance with three subjects possibly armed with
24 handguns.

25 Q So you saw a total of three people in that wood

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1 line area?

2 A Yes, sir.

3 Q Off Kathleen Street?

4 A Yes, sir.

5 Q And the second and third individuals that you saw,
6 you said they could have had handguns. Did you see
7 a gun? Did you see any weapons or you just -- why
8 do you say that?

9 A I saw the first subject on Kathleen Street with the
10 handgun, and the second subject I wasn't sure if he
11 had a handgun or not, but I know the first guy was
12 armed with an object that I believed to be a
13 handgun.

14 Q Your call to dispatch -- is it correct that your
15 call to dispatch saying possibly armed with a
16 handgun was based on seeing the first guy?

17 A Right, right, for protection, to get about as much
18 information to make the guys that were coming to
19 assist me to be aware of what potential situation
20 they could be coming into.

21 Q And, Corporal McCullum, you then remained at
22 Kathleen Street near your patrol car until backup
23 arrived; is that correct?

24 A Yes, sir.

25 Q And backup came in the form of Lexington County?

1 A Batesburg Leesville.

2 Q Batesburg Leesville arrived first. When did the
3 C.S.I. vehicle from Lexington County arrive? Was
4 that sometime later? I have seen the photographs
5 here.

6 A It was sometime later. It was sometime after I
7 radioed in for assistance and after the subjects
8 were apprehended.

9 Q Did you have any discussion with any of the
10 individuals who were taken into custody that day at
11 that location?

12 A The only interaction with the subjects that were
13 taken into custody was when I noticed the first
14 guy, noticed the first subject, when he ran from
15 the open area onto Kathleen Street, and I was
16 giving verbal commands, but I never spoke or saw
17 any of them after that.

18 Q You were never close enough to identify anybody?

19 A No, sir.

20 Q Corporal McCullum, the house that you pointed out a
21 couple of times, you know that now to be Mr. John
22 Corley's home?

23 A Yes, sir.

24 Q And that's the only house in that specific area
25 there on Padgett Road?

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1 A Yes, sir.

2 Q How close did you get to the house? How close did
3 you come to that home, John Corley's home, on that
4 day?

5 A Well, once I first got on scene, I drove -- part of
6 the question you are looking for, I guess, is I
7 drove past the house when I took a left turn onto
8 Kathleen. When I first arrived on the scene --
9 once you are on Kathleen Street, you are maybe 15
10 yards away from the house, if that.

11 I proceeded past the house to come up -- when
12 I proceeded to the Tahoe. Once I got back or came
13 back to the direction with my patrol car facing
14 Howard Street, I was maybe, I would say, about 50
15 yards away from the house at that time.

16 Q Corporal McCullum, you saw no activity at
17 Mr. Corley's home though?

18 A Once I noticed the Tahoe, I kind of directed my
19 attention towards the Tahoe when I turned on
20 Kathleen Street. So I didn't notice any activity.
21 I was focused on the Tahoe at the time.

22 Q You can have a seat.

23 A (Witness resumes the witness stand.)

24 MR. DUNCAN: Beg the Court's indulgence just a
25 moment.

1 THE COURT: Yes, sir.

2 (Pause.)

3 MR. DUNCAN: I have no further questions of
4 Corporal McCullum.

5 THE COURT: Thank you very much, Mr. Duncan.
6 Redirect, Solicitor?

7 MS. PATTERSON: Nothing on redirect, Your
8 Honor.

9 THE COURT: Thank you. Thank you very much
10 for being with us today, Corporal. You may step down.

11 THE WITNESS: Yes, sir.

12 (Witness leaves the witness stand.)

13 THE COURT: How long is your next witness
14 going to be, Solicitor?

15 MS. GARRICK: Maybe 15, 20 minutes. I'm not
16 sure.

17 THE COURT: We will press on.

18 MS. GARRICK: Your Honor, I call Agent
19 Wheeler.

20 MICHAEL GORDON WHEELER, being
21 first duly sworn, testifies as follows:

22 CLERK: Once you are seated, state your full
23 name, spelling your last name.

24 THE WITNESS: Wheeler, W-H-E-E-L-E-R, Michael
25 Gordon.

MICHAEL WHEELER -- DIRECT -- MS. GARRICK

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DIRECT EXAMINATION

BY MS. GARRICK:

Q Good morning.

A Good morning.

Q Agent Wheeler, where are you employed?

A The South Carolina Law Enforcement Division in the Special Operations section assigned to the tracking team and S.W.A.T. team.

Q And how long have you been at S.L.E.D.?

A Since October 2005 and before that I was a South Carolina State trooper since roughly 1998.

THE COURT: Speak up just a little bit for me.
For how long?

THE WITNESS: I became a State trooper in 1998.

THE COURT: Thank you.

BY MS. GARRICK:

Q Does S.L.E.D. routinely assist some of the smaller agencies with major crimes?

A Yes, ma'am. Part of the tracking team's mission is to help city, county, and federal agencies, as well as State agencies, at any time.

Q Can you tell us a little bit more about the tracking team? What kind of duties do you perform?

A The tracking team, one of our primary

1 responsibilities, is the care, maintaining,
2 breeding, and training of the bloodhounds that we
3 have. S.L.E.D. has, since approximately 1947, had
4 a bloodhound program, and we say approximately
5 because no one actually wrote down the first date
6 that dogs were bought in by Chief Strom.

7 Part of what we do on a daily basis is train
8 the dogs in the man tracking and hunting of human
9 beings. The program is predominately done
10 in-house. We do all the breeding and raising of
11 the puppies, along with going to calls and dealing
12 with the S.W.A.T. team assignments. That's
13 primarily what we do every day is train the dogs.

14 Q Were you called out to assist an agency on
15 August 13, 2008?

16 A Yes, ma'am. Batesburg Leesville Police Department
17 called our headquarters and requested our
18 assistance due to a home invasion.

19 Q Did you come on down to Batesburg?

20 A Yes, ma'am. Myself and another tracker team came
21 out. We were assigned the first call that day and
22 brought two of our dogs to the scene. We responded
23 in one of our marked wagons.

24 Q What were you asked to do once you got to the scene
25 there in Batesburg?

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1 A Upon our arrival we were advised that Batesburg
2 Leesville had arrested or detained four suspects
3 that they believed were involved in the crime. And
4 due to the home invasion and the use of firearms
5 they had not located the firearms at the time.

6 So they wanted us to attempt to track those
7 four from the scene to the area that they were
8 caught in, in hopes we would locate those firearms
9 along the way of the trail.

10 Q Tell me a little bit more about your training and
11 the training of the bloodhounds in tracking
12 people.

13 A That's kind of a long story. I will try to make
14 it short. A human, when it goes through any kind
15 of environment, leaves two different kinds of
16 scent. One is called ground scent and one is
17 called raft.

18 Ground scent is any kind of disturbance the
19 human causes to the environment. It includes
20 crushed vegetation, the breaking of limbs, the
21 movement or breakage of any bushes or anything to
22 that effect that has actually pushed down the
23 vegetation.

24 The easiest way to think of that is imagine a
25 large bush sitting in your way, and you push

1 : through it. You create a rift within that
2 : vegetation, and you can actually see that, but it
3 : also causes a scent.

4 : Raft is referred to as -- the human body has
5 : cells, skin cells, that basically shed constantly.
6 : I believe it's somewhere in the millions of cells
7 : that shed from your body. As they come off of your
8 : body, they begin to deteriorate, and this
9 : deterioration is what the dog can smell.

10 : The easiest way to think of it is the old
11 : Peanut's cartoon of Pig Pen, all the stuff coming
12 : off of him. While grotesque in a cartoon, it is
13 : actually true. This is one of those things a dog
14 : can smell.

15 : The bloodhound is genetically designed, for
16 : lack of a better word, to track this odor. They
17 : have long leather ears that cut the scent into
18 : their nose, as well as the skin that folds along
19 : the face to help focus the nose into the scent.
20 : This is what the dog can do.

21 : Part of what we do on a daily basis is train
22 : the dog to track a human. They are not trained on
23 : food or any kind of toy reward. It's all based
24 : solely on love.

25 : We don't know who we are tracking. It can be

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1 a criminal Alzheimer's patient or a small child.
2 We don't want the dog to be overly aggressive when
3 they catch them.

4 We did the training trail yesterday, using one
5 of our agent's children and his friends, and the
6 kids were kind of surprised at how many times they
7 got licked in the face by the dog.

8 Q Have you testified in other courts here in South
9 Carolina about this, the handling of the dog and
10 the tracking of humans?

11 A I have not. Other agents have but I have not.

12 Q How are you -- do you have a certification program
13 to be a handler?

14 A Most of what we do is in-house training. The
15 majority of our guys have all attended the National
16 Police Bloodhound Association training that is held
17 in, I believe, both Rock Hill and Maryland twice a
18 year.

19 I have gone through that program, as well as
20 our own introductory bloodhound tracking class that
21 was taught by Lieutenant Powell, who served with
22 the tracking team for 27 years, and he was trained
23 by Hoss Horton.

24 Q And do you have to routinely receive training to
25 keep up your credentials so to speak?

1 A Yes, ma'am. Part of what we do is training every
2 day. Normally we set the training up so that the
3 handlers don't know what is going on with the call.
4 It can be a control agent, so to speak, and this is
5 how we test both the handler and the dog.

6 MS. GARRICK: Beg the Court's indulgence one
7 moment.

8 (Pause.)

9 BY MS. GARRICK:

10 Q So let's go back specifically to what you did
11 August 13, 2008. When you got there, what did you
12 and the other agent do with the dogs?

13 A We unloaded the bloodhound Bruiser, who is another
14 dog that we own. He actually had been born and
15 raised by us from one of our other front line
16 females that is still running calls today as well
17 he is.

18 We started to -- and I have to explain the
19 verbiage a little bit -- we cut is how we refer to
20 starting a trail. We have an idea of where someone
21 might have gone, and we work the dog back and forth
22 along that area so they tell us where was the
23 person was, not us tell them.

24 So we cut him along the back side of the house
25 in the back yard. He struck a trail. Again,

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1 that's where we say the dog has indicated there's
2 someone who has gone in a particular direction.

3 We followed this trail from the back yard,
4 along the left side of the house, out across the
5 dirt road, and into a head of woods, thick wooded
6 area.

7 Q Do you remember what the weather was like that day?

8 A I remember it ended up raining on us for a little
9 while. I don't believe it was raining at the time,
10 but it did rain that day. It rained before. I
11 don't recall. I know while we were there, we did
12 have rain on us.

13 Q Do you remember -- you talked about a house. Do
14 you remember the address of the house where you
15 began?

16 A Only by my report, which is 121 Padgett Street.

17 Q You started on Padgett Road and ended up in a
18 wooded area you say?

19 A Yes, ma'am.

20 Q What did you come across in the wooded area?

21 A As I going down the hill toward the small creek, we
22 located foot tracks. This just means there was a
23 person or persons in the woods at the time. Down
24 at the bottom in that creek, we located a black
25 sweatshirt.

1 Then we came out on the other side, up behind
2 a row of houses. One of them appeared to be an
3 abandoned building to me and found another black
4 sweatshirt on our first pass through the woods.

5 Q And when you came across the sweatshirts, first,
6 did you collect these items yourself?

7 A I believe we did and turned them over to crime
8 scene or at least indicated the area. I don't
9 recall that.

10 Q When it was turned over to crime scene, do you know
11 if it was turned over to -- which agency if you
12 recall?

13 A Both Batesburg Leesville Police Department, as well
14 as Lexington County was on the scene. So I'm not
15 sure which, but we took custody of both those
16 items.

17 MS. GARRICK: Beg the Court's indulgence one
18 moment.

19 THE COURT: Yes, ma'am.

20 (Pause.)

21 MS. GARRICK: May I approach the witness, Your
22 Honor?

23 THE COURT: Yes, ma'am.

24 BY MS. GARRICK:

25 Q Let me show you what has been marked as State's 40.

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1 Can you identify that photograph?

2 A That is the picture of the sweatshirt I believe we
3 found next to a tree down towards the creek bed.

4 MS. GARRICK: Your Honor, I move State's 40
5 into evidence.

6 MR. DUNCAN: No objection, Your Honor.

7 THE COURT: State's 40 is in evidence without
8 objection.

9 (State's Exhibit Number 40 is received into
10 evidence.)

11 BY MS. GARRICK:

12 Q Now let me show you what has been marked as State's
13 Exhibit 41.

14 A This is the other sweatshirt we found. This was
15 closer to those abandoned buildings if I remember
16 correctly or the next street over. Again, we
17 came down a hill towards the creek and came back
18 out the other side, and this was on the other
19 side.

20 MS. GARRICK: I move State's 41 into evidence,
21 Your Honor.

22 MR. DUNCAN: Your Honor, I have no objection
23 to that.

24 THE COURT: State's 41 is in evidence without
25 objection.

1 (State's Exhibit Number 41 is received into
2 evidence.)

3 BY MS. GARRICK:

4 Q And what did you say was done with this item?

5 A I believe it was turned over to crime scene, both
6 of those were.

7 Q Let me show you what has been marked as State's 30
8 for I.D. only. Do you recognize this item?

9 A That would be one of the sweatshirts.

10 Q If you could look at this, State's 45, and see if
11 you can recognize that.

12 A Yes, ma'am. This is the other one that we found.

13 Q And turned over to C.S.I.?

14 A Yes, ma'am.

15 Q After you had tracked and recovered the clothing
16 items, what, if anything, else did you happen
17 upon?

18 A Because we found the clothing items -- but our
19 attempts with running the dogs, we didn't find
20 anything else -- we decided to go back into the
21 wood line or in the woods and see in the area that
22 we found the clothes if we could find anything else
23 down in the creek area.

24 In this creek bed near the tree, we ended up
25 finding a shotgun shell or two which made us kind

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1 of intensify our search in that area. In doing so
2 we found a S.C.S. assault rifle.

3 Then actually while we were standing there
4 talking about it, I looked down between the feet of
5 either myself or the other agent and found a
6 Hi-Point .45-caliber pistol.

7 Q And was this documented by photographs?

8 A Yes, ma'am. We didn't touch them. We made sure --
9 I don't remember if the guy with the camera was
10 there at the time, but we called them into the
11 woods, directed them to our location, and he took
12 pictures of all those in the condition that they
13 were found.

14 Q So you had not touched the shells or the gun?

15 A No, ma'am.

16 Q Let me show you what has been marked as State's 46.

17 A That is a picture of a shotgun shell that was
18 located in the woods that we found.

19 Q And 44?

20 A I believe it's a close-up of the same shotgun
21 shell.

22 Q Could it possibly be a different area?

23 A Strong possibility.

24 Q Do you remember if the shotgun shells were found in
25 one area or more?

1 A We found them in more than one area.

2 MS. GARRICK: Your Honor, I move 44 and 46
3 into evidence.

4 THE COURT: Mr. Duncan?

5 MR. DUNCAN: No objection to those, Your
6 Honor.

7 THE COURT: State's 44 and 46 in evidence
8 without objection.

9 (State's Exhibit Number 44 and 46 are received
10 into evidence.)

11 BY MS. GARRICK:

12 Q Could you describe this A.K. you say you found?

13 A It was a S.C.S. style assault rifle. I believe it
14 had a wooden stock black barrel. I couldn't get
15 more descriptive than that.

16 MS. GARRICK: Your Honor, if I may approach
17 the witness?

18 THE COURT: Yes, ma'am.

19 BY MS. GARRICK:

20 Q I show you State's 42 and 43. Do you recognize the
21 items in those photographs?

22 A Yes, ma'am. This is the weapon we found in the
23 wood line that we described as the S.C.S. style
24 assault rifle.

25 MS. GARRICK: Your Honor, I move 42 and 43

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1 into evidence.

2 MR. DUNCAN: No objection, Your Honor.

3 THE COURT: Forty-two and 43 are in evidence
4 without objection.

5 (State's Exhibit Number 42-43 are received
6 into evidence.)

7 BY MS. GARRICK:

8 Q Was this weapon turned over to C.S.I.?

9 A It was.

10 Q Did you check it or clear it or anything?

11 A No, ma'am.

12 Q Let me show you what has been marked as State's 25
13 for I.D.

14 A That is what we found in the woods.

15 Q After you found the assault rifle, what, if any
16 other weapons did you find?

17 A The Hi-Point .45-caliber pistol.

18 Q Let me show you what has been marked as State's
19 Exhibit 47.

20 A This is a photo of the pistol and the place that it
21 was found.

22 MS. GARRICK: Your Honor, I move State's 47
23 into evidence.

24 THE COURT: Mr. Duncan?

25 MR. DUNCAN: No objection.

1 THE COURT: State's 47 is in evidence without
2 objection.

3 (State's Exhibit Number 47 is received into
4 evidence.)

5 BY MS. GARRICK:

6 Q Let me show you what has been marked as State's 27
7 for I.D. Do you recognize this?

8 A I believe that's the pistol that we found.

9 Q What was done again with this pistol?

10 A Turned over to the crime scene investigators.

11 Q Please answer Mr. Duncan's questions.

12 THE COURT: Thank you very much, Solicitor.
13 Mr. Duncan.

14 MR. DUNCAN: Thank you, Your Honor.

15 CROSS EXAMINATION

16 BY MR. DUNCAN:

17 Q Good morning, Agent Wheeler.

18 A Good morning.

19 Q Agent Wheeler, a couple of questions. Did you
20 take -- I thought you said that you took
21 photographs of the S.K.S. style rifle and the .45
22 caliber pistol.

23 A We did not take the photos, no, sir.

24 Q Did not?

25 A We don't have all of that stuff. With what I am

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1 carrying in the woods, a camera is not one of them.

2 No, sir, I did not take those pictures.

3 Q When you advised the crime scene folks of the
4 finding -- or did you?

5 A We stayed there until they got there and took those
6 pictures.

7 Q You didn't physically take custody of those --

8 A No, sir.

9 Q -- items at any point in time?

10 A Not at all.

11 Q The same with the sweatshirts?

12 A I don't believe with the sweatshirts. We were
13 looking for the guns as I recall. We did not touch
14 the sweatshirts knowing they might be part of the
15 case.

16 We leave them there, identify where they are,
17 remember them, and make sure they get printed and
18 collected by the people that do that.

19 Q In other words, you came across the sweatshirts in
20 the woods with your bloodhound?

21 A Uh-huh. (Indicating affirmative response.)

22 Q You said, we found this?

23 A Right.

24 Q And that was all you were asked to do?

25 A Yes, sir.

1 MR. DUNCAN: That's all I have.

2 THE COURT: Redirect, Solicitor?

3 MS. GARRICK: No, Your Honor.

4 THE COURT: Thank you very much, Agent

5 Wheeler. You may step down.

6 (Witness leaves the witness stand.)

7 THE COURT: I believe now we will take a
8 morning recess of about 15 minutes. Please remember,
9 ladies and gentlemen, do not discuss the case with
10 anyone, including your fellow jurors during this brief
11 recess. You may now go with your bailiffs.

12 (The jury retires to the jury room.)

13 THE COURT: Court will be in recess 15
14 minutes.

15 (Whereupon there is a recess.)

16 THE COURT: Anything from the State before we
17 bring in the jury?

18 MS. GARRICK: No, sir.

19 THE COURT: From the defense?

20 MR. DUNCAN: No, sir.

21 THE COURT: Bring our jury, please.

22 (The jury returns to the courtroom.)

23 THE COURT: Welcome back. Somebody said that
24 was the quickest 15 minutes ever. We are continuing the
25 trial of the case by the presentation of evidence by the

CARLTON ALEWINE -- DIRECT -- MS. PATTERSON

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1 State in its case in chief.

2 Solicitor, you may call your next witness.

3 MS. PATTERSON: Thank you, Your Honor. The
4 State calls Carl Alewine.

5 THE COURT: If you would come around, sir, and
6 be sworn in.

7 CARLTON ALEWINE, being
8 first duly sworn, testifies as follows:

9 CLERK: Please be seated and state your full
10 name and spell your last name.

11 THE WITNESS: Carlton Alewine. I work for the
12 Town of Batesburg Leesville Water Department.

13 THE COURT: Spell your last name:

14 THE WITNESS: A-L-E-W-I-N-E.

15 THE COURT: Thank you.

16 DIRECT EXAMINATION

17 BY MS. PATTERSON:

18 Q Again, Mr. Alewine, where do you work?

19 A The Town of Batesburg Leesville Water Department.

20 Q And what are some of your responsibilities in the
21 water department?

22 A I run the plant on the weekend and I'm head over
23 the maintenance --

24 THE COURT: Speak up a little bit, please,
25 sir.

1 THE WITNESS: Head over the maintenance on the
2 outside, and I work in the water plant on the weekend.

3 BY MS. PATTERSON:

4 Q And doing maintenance on the outside, where do you
5 work primarily?

6 A Well, we got right-of-ways, forced sewer lines that
7 we keep up. We make water taps and all that kind
8 of stuff.

9 Q And do you work a lot in the woods?

10 A Yes, ma'am.

11 Q What type of things do you do out in the woods?

12 A He go back and cut right of ways that the sewer
13 lines are on.

14 Q And did you get a request from Chief Wallace Oswald
15 on August 13, 2008?

16 A Yes.

17 THE COURT: What was that question?

18 THE WITNESS: He asked us to help him find
19 some guns they couldn't find off of Padgett Road and
20 Howard Street.

21 BY MS. PATTERSON:

22 Q And describe that area.

23 A It was wooded, I mean, real thick woods. Since we
24 done so much deer hunting, we would be the ones to
25 help him find them.

CARLTON ALEWINE -- DIRECT -- MS. PATTERSON

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- 1 Q Did you help him?
- 2 A Yes, ma'am.
- 3 Q And did others from your department assist in that
- 4 investigation?
- 5 A Yes, ma'am.
- 6 Q And who all went with you?
- 7 A Me, Jimmy Boatwright, and it was two -- one is
- 8 retired and Lawrence Long.
- 9 Q And when y'all all got in the woods, how were you
- 10 grouped?
- 11 A We split up.
- 12 Q And which direction did you go?
- 13 A I headed straight for the bottom of the property.
- 14 It's a creek bed down there.
- 15 Q And did you recover anything?
- 16 A Yes, ma'am, I found a Ruger 9-millimeter pistol.
- 17 Q And what color was that pistol?
- 18 A It was like a stainless with maybe a black handle.
- 19 Q And when you located that pistol, who did you
- 20 inform?
- 21 A We called Steve Clare. He come down and
- 22 photographed it and everything, and they picked it
- 23 up and took it back out.
- 24 Q Did you ever touch it?
- 25 A No, ma'am.

1 (Attorneys confer.)

2 BY MS. PATTERSON:

3 Q Let me show you what has been marked as State's
4 Exhibit 48. Will you take a look at that photo.

5 A Yes, ma'am.

6 Q What is in that photo?

7 A A 9-millimeter.

8 Q Does that look like the area that you found the
9 pistol in?

10 A Yes, ma'am.

11 Q On August 15th?

12 A Yes, ma'am, it was laying by the tree.

13 Q Does that look like the gun you saw?

14 A Yes, ma'am.

15 MS. PATTERSON: Your Honor, I would move that
16 this be introduced as State's Exhibit 48.

17 THE COURT: Mr. Duncan?

18 MR. DUNCAN: No objection.

19 THE COURT: State's 48 is in evidence without
20 objection.

21 (State's Exhibit Number 48 is received into
22 evidence.)

23 BY MS. PATTERSON:

24 Q I am going to -- let me show you what has been
25 marked as State's Exhibit 28 for identification.

CARLTON ALEWINE -- CROSS --- MR. DUNCAN

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1 A Yes, ma'am.

2 Q Do you recognize what is in this box?

3 A Yes, ma'am.

4 Q What is in this box?

5 A A 9-millimeter pistol.

6 Q Does that look like the pistol that you recovered
7 in those woods?

8 A Yes, ma'am.

9 Q On August 15, 2008?

10 A Yes, ma'am.

11 Q And, again, what happened to that gun?

12 A Steve Clare come down there after we found it. He
13 come down and took pictures of it, and he bagged
14 it. He picked it up and bagged it and took it back
15 out.

16 Q Did you have anymore involvement?

17 A We were still looking around the woods until Jimmy
18 found a shotgun.

19 Q Thank you, Mr. Alewine. Please answer any
20 questions Mr. Duncan may have.

21 THE COURT: Mr. Duncan.

22 MR. DUNCAN: Thank you, Your Honor.

23 CROSS EXAMINATION

24 BY MR. DUNCAN:

25 Q Good morning, Mr. Alewine.

- 1 A All right.
- 2 Q Mr. Alewine, at Chief Oswald's request, you went
3 down in the woods to look for some guns; is that
4 right?
- 5 A Yes, sir.
- 6 Q Of course, you spent sometime deer hunting in that
7 area?
- 8 A Right. I have hunted that area, not that property,
9 but hunted in that area.
- 10 Q You found that pistol that the solicitor showed
11 you?
- 12 A Yes, sir.
- 13 Q And you just called Lieutenant Clare and he came
14 down?
- 15 A Right, right. He was up on the -- kind of back
16 toward the woods, and we were down in there
17 looking.
- 18 Q You didn't touch the gun?
- 19 A No, sir, I didn't touch it.
- 20 Q And after that, that's what you had to do with it?
- 21 A That's it.
- 22 Q This search?
- 23 A (Witness nods.) (Indicating affirmative response.)
- 24 Q Thank you, sir.
- 25 THE COURT: Redirect, Solicitor?

JIMMY BOATWRIGHT -- DIRECT -- MS. GARRICK

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1 MS. PATTERSON: Nothing from the State, Your
2 Honor.

3 THE COURT: Thank you very much for being with
4 us, Mr. Alewine. You may step down.

5 THE WITNESS: Yes, sir.

6 THE COURT: You are excused.

7 (Witness leaves the witness stand.)

8 THE COURT: Solicitor.

9 MS. GARRICK: Your Honor, we call Jimmy
10 Boatwright.

11 THE COURT: Come around and be sworn, please,
12 sir.

13 JIMMY BOATWRIGHT, being
14 first duly sworn, testifies as follows:

15 CLERK: Please be seated. State your full
16 name and spell your last name.

17 THE WITNESS: I'm Jimmy Boatwright,
18 B-O-A-T-W-R-I-G-H-T.

19 DIRECT EXAMINATION

20 BY MS. GARRICK:

21 Q: Good morning, Mr. Boatwright.

22 A: Good morning.

23 Q: Where are you employed?

24 A: Town of Batesburg Leesville, water treatment plant.

25 Q: And how long have you been working there in

1 Batesburg Leesville?

2 A About 24 years.

3 Q And what do some of your duties entail? Do you
4 get to go out on the property there in Batesburg
5 often?

6 A Yes, ma'am, all the time.

7 Q Do you go in the woods very often?

8 A Very often. We have sewer right of ways and water
9 line right of ways and things like that that we
10 have to maintain and patrol.

11 Q Do you know Carl Alewine?

12 A Yes.

13 Q Do y'all work together?

14 A That's right.

15 Q The Chief asked y'all to assist him on August 15,
16 2008, with a case?

17 A That's correct.

18 Q What did he ask y'all to do?

19 A To help them try to recover a couple of extra guns
20 that were not found, I think the previous weekend.

21 Q And did you have an area that y'all were going to
22 do this search?

23 A We did, a wooded area they thought they were in.

24 Q Do you know where that wooded area was?

25 A Yes.

JIMMY BOATWRIGHT -- DIRECT -- MS. GARRICK

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1 Q Can you tell us, please.

2 A At the intersection of Kathleen Street and Howard
3 Street, and it also boarded Albert on the back
4 side.

5 Q Albert Street on the back side?

6 A Yes, ma'am.

7 Q And did you, in fact, look for weapons there in the
8 woods?

9 A That's correct.

10 Q Did you yourself find anything?

11 A Yes, ma'am, I did. I found one after Carl Alewine
12 found a 9-millimeter. I found a shotgun about 20
13 minutes after.

14 Q After you found this shotgun, what did you do?

15 A Lieutenant Clare was right beside me. I called him
16 over to get it out of the mud. It was stuck in the
17 mud.

18 Q And did you touch the shotgun in any manner?

19 A No, ma'am.

20 Q You turned it over to Lieutenant Clare?

21 A Correct.

22 Q Let me show you State's 49. Do you recognize this?

23 A Yes, ma'am, that's it.

24 Q Is that the shotgun you located?

25 A Yes, ma'am.

1 MS. GARRICK: Your Honor, I move State's 49
2 into evidence.

3 THE COURT: Mr. Duncan?

4 MR. DUNCAN: No objection, Your Honor.

5 THE COURT: State's 49 is in evidence without
6 objection.

7 (State's Exhibit Number 49 is received into
8 evidence.)

9 BY MS. GARRICK:

10 Q Let me show you what has been marked or if I can
11 show you State's 26 for I.D. Does this look like
12 the gun?

13 A Yes, ma'am, it looks like it.

14 Q You turned this over to whom?

15 A Lieutenant Clare.

16 Q Please answer any questions Mr. Duncan may have.

17 THE COURT: Thank you, Solicitor. Mr. Duncan.

18 MR. DUNCAN: I don't have any questions.

19 THE COURT: Thank you. Thank you very much.

20 Thank you for being with us today.

21 THE WITNESS: You are quite welcome.

22 THE COURT: You may step down and you may be
23 excused.

24 THE WITNESS: Thank you.

25 (Witness leaves the witness stand.)

JAMES HICKMAN -- DIRECT -- MS. GARRICK

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1 THE COURT: Solicitor, you may call your next
2 witness.

3 MS. GARRICK: Your Honor, we call Jim Hickman.

4 JAMES L. HICKMAN, being
5 first duly sworn, testifies as follows:

6 CLERK: Please be seated. State your full
7 name and spell your last name.

8 THE WITNESS: It's James L. Hickman,
9 H-I-C-K-M-A-N.

10 DIRECT EXAMINATION

11 BY MS. GARRICK:

12 Q Detective Hickman, are you presently employed?

13 A No, ma'am.

14 Q Can you tell us where you formerly worked?

15 A At the Lexington County Sheriff's Department. I
16 retired from them in 2009.

17 Q And how long of a career did you have in law
18 enforcement?

19 A Approximately 38 years.

20 Q And did you have any specialized training?

21 A Yes, ma'am. Of course, I graduated from the South
22 Carolina Law Enforcement Academy. I have also
23 attended Midlands Tech and graduated with a
24 associate's degree in police administration.

25 I have taken classes in crime scene

1 investigation, death investigation, a basic
2 investigation class, all offered by the South
3 Carolina Criminal Justice Academy and other places.
4 Fire death investigation, forensic anthropology,
5 buried bodies recovered by the F.B.I., large
6 vehicle bomb explosion crime scenes, cemetery
7 related crimes, and reconstruction.

8 All of these are just seminars or classes I
9 attended. I was also certified by the
10 International Association of Identification as a
11 Senior Crime Scene Analyst. I also -- I wasn't
12 exactly in charge, but I led the group at Lexington
13 County Sheriff's Department, their crime scene
14 unit; and I also assisted in the training of the
15 new people coming into the department. I also
16 assisted in the training and presentations of the
17 citizen's academy with crime scenes.

18 Q Can you guesstimate the number of times you have
19 testified in a court of law?

20 A At least 50 or more.

21 Q And have you ever been qualified as an expert
22 before?

23 A Yes, ma'am.

24 Q Have you been qualified as an expert in crime scene
25 investigation?

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1 A Yes, ma'am.

2 MS. GARRICK: Your Honor, I offer him at this
3 time as an expert in crime scene investigation.

4 THE COURT: Crime scene investigations?

5 MS. GARRICK: Yes, sir.

6 THE COURT: Mr. Duncan, do you have any
7 questions in that regard?

8 MR. DUNCAN: No, sir. No, sir.

9 THE COURT: Do you have any objections to
10 Detective Hickman being qualified as an expert in the
11 field of crime scene investigation?

12 MR. DUNCAN: Based on his experience, I do
13 not, sir.

14 THE COURT: Thank you. Mr. Foreman, ladies
15 and gentlemen of the jury, normally a person cannot give
16 opinion testimony. Normally when a person testifies,
17 they must testify as to either what they saw, heard or
18 sensed by smell or something of that nature.

19 However, there is an exception when someone is
20 qualified because of education or experience in a
21 particular field, art, science, profession or trade.
22 They are permitted to give their opinions in certain
23 areas if the Court qualifies them that way.

24 This witness, James Hickman, will be qualified
25 in the area of crime scene investigations to give

1 opinion testimony in that area. That does not mean that
2 the jury must accept the opinion, but it is evidence for
3 you the jury to use in any way you see fit. You give it
4 what weight and value you deem appropriate, if any.

5 Thank you, Solicitor. You may proceed.

6 MS. GARRICK: Thank you, Your Honor.

7 BY MS. GARRICK:

8 Q On August 13, 2008, were you called to assist the
9 Batesburg Leesville Police Department?

10 A Yes, ma'am.

11 Q And can you tell us, what time did you respond
12 there or the approximate time?

13 A Yes, ma'am. I received the call at 14:00, which is
14 2:00 o'clock p.m. I arrived on the scene at 14:27,
15 which was 2:27 p.m.

16 Q And where did you go? What area of Batesburg?

17 A It was off of Padgett Road.

18 Q And when you got there, what was one of the first
19 duties you did?

20 A Usually the first thing I do when I arrive on the
21 scene is I either talk to the investigator that is
22 present or the first officer on the scene or
23 someone that was there that is a little familiar
24 with this case. In this instance that's what I
25 did.

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1 I spoke and found out basically what happened
2 so I would know how to go. The basic information I
3 received at that time was that there was four black
4 males who parked a vehicle down the dirt road and
5 walked to the house. They kicked in the door, duct
6 taped the two people inside and robbed them and
7 then fled. That was the basic information I went
8 on.

9 Q And in the course of your investigation, did you
10 find out that some of the first information you had
11 was erroneous?

12 A Yes, ma'am, I did. The duct tape wasn't used. It
13 was some wire. I think it was speaker wire and
14 computer wire used to tie them up with.

15 MS. GARRICK: Beg the Court's indulgence one
16 moment.

17 THE COURT: Yes, ma'am.

18 (Pause.)

19 BY MS. GARRICK:

20 Q Did you photograph the home there on Padgett Road?

21 A Yes, sir, I did.

22 Q If I can show you State's 21 in evidence. Do you
23 recognize that?

24 A Yes, ma'am.

25 Q What is that?

1 A This is the wire that was on the countertop in the
2 bathroom which was later identified to us as one of
3 the pieces that the victims had been tied up with.

4 Q Did you actually collect that speaker wire?

5 A Yes, ma'am, I did.

6 Q If I can show you what is marked as State's 50.

7 A Yes, ma'am.

8 Q Do you recognize that?

9 A Yes, ma'am.

10 Q Can you tell us what it is?

11 A It's the black wire in the photograph that was on
12 the bathroom countertop, the sink countertop in the
13 bathroom, which was identified to me as one of the
14 pieces of wire that the victim had been tied up
15 with.

16 MS. GARRICK: Your Honor, I move State's 50
17 into evidence.

18 THE COURT: Mr. Duncan?

19 MR. DUNCAN: No objection to that, Your Honor.

20 THE COURT: State's 50 is in evidence without
21 objection.

22 (State's Exhibit Number 50 is received into
23 evidence.)

24 BY MS. GARRICK:

25 Q Did you document the bedroom area where the victims

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1 had been?

2 A Yes, ma'am, I did.

3 Q If I can show you State's 17, 18, and 19 already in
4 evidence. Do you recognize those photographs and
5 that area?

6 A Yes, ma'am, I do.

7 Q Can you tell us what these photographs show?

8 A In State's 17 this is a photograph I took standing
9 in the doorway leading into the bedroom. It's the
10 bed with the mattress pulled up on it and leaning
11 up against the wall and stuff scattered all over
12 the floor.

13 State's Exhibit 18 is another photograph of
14 the same area showing the bed and the chest of
15 drawers, one that I took after I stepped into the
16 room looking back towards the door. State's
17 Exhibit 19 is, again, I stepped into the room. You
18 can see the dresser, a table with a T.V. on it, and
19 the foot of the bed.

20 Q Did you see any other cords that had been used in
21 this case?

22 A Yes, ma'am. When we had finished our crime scene
23 investigation, we learned that the duct tape wasn't
24 used, and that's when we found the cord that was on
25 the bathroom counter and also another cord that was

1 laying on the floor right next to the door leading
2 into the bedroom.

3 Q And did you take a picture of this cord?

4 A No, ma'am, I did not.

5 Q And tell us why is that?

6 A This was the last -- we had actually just about
7 finished, and we were just cleaning up. The camera
8 I had was already packed up, and that's whenever we
9 learned that the cord instead of duct tape was
10 used.

11 Q If I can show you what is marked as State's 33 for
12 I.D. Can you recognize those cords?

13 A Yes, ma'am, it was the one we collected, which
14 appears to be this one here.

15 Q After you finished photographing the house in that
16 area, where did you go next?

17 A To the vehicle up the street. We photographed it
18 and started a preliminary search of it.

19 Q When you say you went to the vehicle next, do you
20 remember what kind of vehicle it was?

21 A Yes, ma'am, it was a Chevrolet Z-71, which is an
22 S.U.V. The vehicle was parked on a dirt road
23 behind the victim's residence, I would say about 50
24 to 75 yards up the road.

25 The car was headed in the opposite direction

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1 with the tail, the back of the car, towards the
2 residence. The passenger front door was open, the
3 vehicle was running, and the windshield wipers were
4 on.

5 Q Let me show you what has been marked as State's 31
6 for I.D. Can you recognize that?

7 A Yes, ma'am. This is the front compartment of the
8 S.U.V. showing the front seat and several things in
9 the middle. The key is in the switch and a water
10 jug is sitting on the floorboard on the front
11 passenger side.

12 MS. GARRICK: Your Honor, I move State's 31
13 into evidence.

14 THE COURT: Thirty-one, Mr. Duncan?

15 MR. DUNCAN: No objection.

16 THE COURT: In evidence without objection.

17 (State's Exhibit Number 31 is received into
18 evidence.)

19 BY MS. GARRICK:

20 Q If I can show you what has been marked State's 53
21 and 54.

22 A Yes, ma'am. State's 53 is the cargo compartment of
23 the vehicle. It shows a camouflaged gun case that
24 was there. State's 54 is, again, the same gun case
25 except it's folded over, just one of the normal

1 soft gun cases.

2 MS. GARRICK: Your Honor, I move 53 and 54
3 into evidence.

4 THE COURT: Mr. Duncan?

5 MR. DUNCAN: No objection.

6 THE COURT: Fifty-three and 54 in evidence
7 without objection.

8 (State's Exhibit Number 53-54 are received
9 into evidence.)

10 BY MS. GARRICK:

11 Q And let me show you what has been marked as State's
12 50.

13 A Yes, ma'am. This is the soft camouflaged zip-up
14 gun case that was depicted in the two photographs
15 that you just showed me.

16 MS. GARRICK: Your Honor, I move State's 50
17 into evidence.

18 MR. DUNCAN: No objection.

19 THE COURT: State's 50 --

20 MS. GARRICK: I meant 55. I apologize. I'm
21 sorry, Your Honor.

22 THE COURT: State's 55, Mr. Duncan?

23 MR. DUNCAN: No objection, sir.

24 THE COURT: State's 55 is in evidence without
25 objection.

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1 (State's Exhibit Number 55 is received into
2 evidence.)

3 BY MS. GARRICK:

4 Q Let me show you what has been marked State's 52.

5 A Yes, ma'am. This is a photograph of a wallet with
6 a driver's license in it. The wallet was found in
7 the vehicle in the front driver's door pocket, the
8 pocket on the driver's side in the doorway.

9 MS. GARRICK: Your Honor, I move State's 52
10 into evidence.

11 MR. DUNCAN: No objection.

12 THE COURT: State's 52 in evidence without
13 objection.

14 (State's Exhibit Number 52 is received into
15 evidence.)

16 BY MS. GARRICK:

17 Q I show you State's 51. Can you identify that?

18 A Yes, ma'am. This is the black wallet itself that
19 the photograph shows and the driver's license that
20 was in the wallet. This is the wallet that I found
21 in the door, the driver's door of the vehicle.

22 MS. GARRICK: Your Honor, I move State's 51
23 into evidence.

24 THE COURT: Mr. Duncan?

25 MR. DUNCAN: Your Honor, if I could look at

1 that.

2 (Attorneys confer.)

3 MR. DUNCAN: No objection.

4 THE COURT: Fifty-one is in evidence without
5 objection.

6 (State's Exhibit Number 51 is received into
7 evidence.)

8 BY MS. GARRICK:

9 Q What is the name on the driver's license? If I can
10 show you State's 52 again.

11 A It's Gregory Velez, V-E-L-E-Z.

12 Q After you finished at the vehicle, where did you go
13 next?

14 A S.L.E.D. and Batesburg P.D. were searching an area
15 across the street, a wooded area. I went around --
16 I think I went a block over to a street called
17 Albert and met them on Albert Street and went into
18 the woods where they had discovered an A.K.47, and
19 I photographed it and collected it.

20 Q Let me show you what has been marked -- what is in
21 evidence as State's 42 and 43. May I approach?

22 THE COURT: Yes, ma'am.

23 A Yes, ma'am. State's 42 shows the A.K. laying on
24 the ground, and State's 43 is also a photograph
25 from the other side showing the same weapon.

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- 1 Q Did you collect this weapon?
- 2 A Yes, ma'am, they were collected and taken out of
3 the woods. After I photographed them, I collected
4 them.
- 5 Q Let me show you what has been marked State's 25 for
6 I.D.
- 7 A Yes, ma'am. This is the weapon that is shown in
8 the photographs, and this is one that I collected.
9 This is the A.K.47.
- 10 Q After you collected this item, who did you turn it
11 over to?
- 12 A Lieutenant Clare of the Batesburg Police
13 Department.
- 14 Q When you collected that weapon, did you check and
15 see if it was loaded?
- 16 A Yes, ma'am. Normally any weapon I collect, I check
17 and see if it's loaded. If it's loaded I will
18 unload it and make it safe. I don't like
19 transporting unsafe weapons.
- 20 Q Do you recognize the writing on this bag and the
21 contents of the bag?
- 22 A Yes, ma'am, I do.
- 23 Q What are those items?
- 24 A These are -- this is the clip or the magazine from
25 the A.K. and the bullets that were in the magazine

- 1 and the bullet that was in the A.K. in the chamber.
- 2 Q After you removed it from the A.K., what did you do
- 3 with those items?
- 4 A These were again turned over to Lieutenant Clare,
- 5 as all the evidence that I had was turned over to
- 6 him.
- 7 Q After y'all had located the A.K., what, if any,
- 8 other evidence did you help in the collection of?
- 9 A There was right close to it, about 20 foot away, we
- 10 found four red shotgun shells. Those were
- 11 photographed and collected.
- 12 Q Were the four in one area or were they divided up
- 13 somehow?
- 14 A They were divided up. One was a little closer to
- 15 the A.K., and the other three were off to one side.
- 16 Q If I can show you what is already in evidence as
- 17 State's 46. Can you recognize this document?
- 18 A Yes, ma'am. State's 46 shows one of the red
- 19 shotgun shells and a red casing laying on the
- 20 ground.
- 21 Q Let me show you what has been marked State's 57.
- 22 A This is the shotgun shell as shown in State's
- 23 Exhibit 46, the red shotgun shell.
- 24 Q Does it have your writing on the bag?
- 25 A Yes, ma'am. It was found near the A.K.

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1 Q I show you State's 58. Can you recognize this?

2 A Yes, ma'am. This is a photograph of the remaining
3 three red shotgun shells that I found. They were
4 sort of in a triangle area right close to where the
5 other one was found.

6 Q If I can show you State's 59. Do you need some
7 scissors?

8 A I've got it. Thank you. These are the three
9 shotgun shells which are shown in State's Exhibit
10 58.

11 Q That's your handwriting on the bag?

12 A Yes, ma'am, three 12-gauge shotgun shells found
13 near a single shell.

14 Q Do you know what area those shotgun shells were
15 found in?

16 A They identified the area as near an old dried up
17 creek bed out in the middle of this wooded area,
18 right close to what was identified as a dried up
19 creek bed.

20 MS. GARRICK: Your Honor, I move State's 59 in
21 evidence.

22 THE COURT: Mr. Duncan?

23 MR. DUNCAN: No objection.

24 THE COURT: State's 59 in evidence without
25 objection.

1 (State's Exhibit Number 59 is received into
2 evidence.)

3 BY MS. GARRICK:

4 Q Did you gather any other items of evidence in this
5 case?

6 A Yes, ma'am. There was a black shirt. It was found
7 beside a tree behind 233 Albert Street, which is
8 the street where I was parked at.

9 Q If I can show you what has been marked State's 40.
10 Do you recognize that?

11 A Yes, ma'am. That's the shirt that was found over
12 next to a tree. State Number 40 is a shirt leaning
13 up against a tree.

14 Q If I can show you what is marked as State's 30 for
15 I.D.

16 A Yes, ma'am. This is one of the shirts that was
17 found in the woods next to a tree. This is also
18 the same -- State's 30 is the same shirt that is in
19 State's 40.

20 MS. GARRICK: Your Honor, I move the
21 photograph into evidence if it's not already in.

22 THE COURT: Mr. Duncan, State's 40, the
23 photograph?

24 MR. DUNCAN: The photograph, I have no
25 objection to the photograph.

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1 COURT REPORTER: Judge, I have that as in
2 evidence already, but not State's 57 yet.

3 THE COURT: Thank you. Solicitor?

4 MS. GARRICK: I would move State's 57 in
5 evidence.

6 THE COURT: Mr. Duncan?

7 MR. DUNCAN: No objection, Your Honor.

8 THE COURT: State's 57 in evidence without
9 objection.

10 (State's Exhibit Number 57 is received into
11 evidence.)

12 BY MS. GARRICK:

13 Q If I can show you State's 41: Do you recognize
14 this item?

15 A Yes, ma'am. This is another black shirt that was
16 found next to a tree over behind an old vacant
17 barbershop on Albert Street.

18 MS. GARRICK: I move that photograph into
19 evidence.

20 THE COURT: Mr. Duncan?

21 MR. DUNCAN: I have no objection to that
22 photograph.

23 COURT REPORTER: Judge, I have that as in
24 evidence.

25 THE COURT: Thank you.

1 BY MS. GARRICK:

2 Q If I can show you State's 45 for I.D.

3 A Yes, ma'am. This is the shirt that is shown in
4 State's 41 that was found in the woods behind
5 233 Albert.

6 MS. GARRICK: Beg the Court's indulgence one
7 moment.

8 THE COURT: Yes, ma'am.

9 MS. GARRICK: Your Honor, I move any of the
10 photographs that Mr. Hickman took, 46, 42, and 43, if
11 they are not already in evidence, I would move them in
12 at this time.

13 THE COURT: What are those numbers?

14 MS. GARRICK: Forty-two, 43, and 46.

15 THE COURT: Do you agree, Mr. Duncan?

16 MR. DUNCAN: Yes, sir.

17 THE COURT: That was without objection?

18 MR. DUNCAN: Yes, sir.

19 MS. GARRICK: Basically I move any photograph
20 that Mr. Hickman took in evidence.

21 THE COURT: I don't know how to rule on that,
22 Solicitor.

23 MS. GARRICK: I would have to get with the
24 court reporter on a break.

25 THE COURT: Are there specific photographs?

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1 MS. GARRICK: Item 58.

2 THE COURT: State's 58 is a picture of the
3 shotgun shell?

4 MS. GARRICK: Yes, sir.

5 THE COURT: Show that to Mr. Duncan.

6 MR. DUNCAN: That's without objection.

7 THE COURT: State's 58 is in evidence without
8 objection.

9 (State's Exhibit Number 58 is received into
10 evidence.)

11 THE COURT: Are there any others, Solicitor?

12 MS. GARRICK: No, Your Honor, not that I'm
13 aware of.

14 THE COURT: Thank you.

15 MS. GARRICK: That's all I have of this
16 witness.

17 BY MS. GARRICK:

18 Q If you could please answer Mr. Duncan's questions.

19 A Yes, ma'am.

20 THE COURT: Thank you very much, Solicitor
21 Mr. Duncan.

22 MR. DUNCAN: Thank you, Your Honor.

23 CROSS EXAMINATION

24 BY MR. DUNCAN:

25 Q Good afternoon, Mr. Hickman.

1 A Yes, sir.

2 Q Mr. Hickman, you had testified that what brought
3 you to Batesburg Leesville on the afternoon of
4 August 13th is you got a call from someone who
5 contacted you, who initiated the call to you?

6 A It was either my supervisor or the dispatch. At
7 this particular time, I can't remember which one.
8 Either they called my supervisor and he called us
9 or either dispatch called me directly.

10 Q You testified as to the time you got the call was
11 about 2:00 o'clock, I believe?

12 A Yes, sir.

13 Q And then you went straight on down from where you
14 were here in Lexington at the time?

15 A Yes, sir; I was at headquarters.

16 Q And you went down to Batesburg and arrived at
17 2:27 I believe; is that right?

18 A Yes, sir.

19 Q I wrote down you arrived on the scene. Where did
20 you go? Did you go to the home? Did you go to the
21 home on Padgett Road or where did you go?

22 A They gave me an address of 421 Padgett Road, and
23 when I arrived on Padgett Road, of course, the
24 police officer was there. That's where I stopped
25 at, where the residence was, the victim's

1 residence, and the vehicle.

2 Q And the photographs that you -- you took all these
3 photographs; is that right?

4 A Yes, sir.

5 Q The photographs of the shotgun shells and these
6 couple of the two sweatshirts, those are all your
7 photos?

8 A Yes, sir.

9 Q And, Mr. Hickman, after you took those photographs,
10 you gave them over to Batesburg Leesville's
11 Lieutenant Clare?

12 A Yes, sir. They were digital photographs and I
13 don't remember the media. I gave them immediately
14 or later on when I made a copy, put them on a C.D.
15 and gave him a copy of them.

16 Q And the sweatshirts that you have I.D.ed here today
17 in court, did you take possession of any of those
18 items or were those in your hands for a moment and
19 then you gave them to Lieutenant Clare? How did
20 you do that?

21 A Basically that's correct. I picked them up, did
22 the paperwork, what little bit I needed, and wrote
23 down the information and then turned everything
24 over to Lieutenant Clare at the scene.

25 Q The items that you removed from the vehicle, was

1 somebody at the vehicle? Was there an officer,
2 Batesburg Leesville police officer, at the vehicle
3 or they had just turned that over to you?

4 A No, sir, there was a Batesburg police officer
5 there.

6 Q Do you recall who that was?

7 A No, sir, I don't.

8 Q The information that you had initially -- and you
9 testified on direct about it -- some of that being
10 erroneous, like you had information that the
11 victims were tied up with duct tape, and you found
12 that not to be the case?

13 A Yes, sir.

14 Q And who advised you of that? Who had you talked
15 with?

16 A The male victim came back to the residence. I
17 think he had been to the emergency room, and he
18 came back. And like I said earlier, it was right
19 at the end of our investigation.

20 I was talking to him and I also was taking
21 Lieutenant Clare through the scene showing what we
22 had established at the scene. From those
23 conversations there is when I found out that it
24 wasn't tape, it was the wire.

25 Q How had you gotten your initial information?

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1 A From the officer that was on the scene when I
2 arrived.

3 Q And that's the gentleman you just don't remember
4 who that was?

5 A No, sir, I don't.

6 Q Mr. Hickman, did the crime scene investigation that
7 you did -- well, let me ask you this. Do you
8 recall a shoe impression being on the door?

9 A Yes, sir, I do.

10 Q Did you do anything with that? Was there anything
11 you could do with that?

12 A The shoe impression was photographed. We have a
13 photograph of it, but it was -- there was no detail
14 in the shoe impression. It was just that you could
15 see the outline of the shoe and sand where somebody
16 had walked -- it was raining that day and somebody
17 walked through sand and their shoes were wet and
18 put their foot there. It was of no value other
19 than saying it was a shoe print.

20 Q So you found or you located that afternoon an
21 A.K.47?

22 A Yes, sir.

23 Q And these shells that have been entered into
24 evidence here in the last few minutes?

25 A Yes, sir.

1 Q And a clip from the A.K.47?

2 A The clip was in the A.K.

3 Q The clip was in the A.K.?

4 A Yes, sir.

5 Q All right, sir. Those are the only weapons, or that
6 one weapon is the only weapon that you were able to
7 locate that afternoon?

8 A Yes, sir, it is.

9 Q And, Mr. Hickman, after the afternoon of
10 August 13th, did you have any other involvement
11 in this case?

12 A Not that I recall, other than making reports
13 available to Batesburg and making photographs
14 available to Batesburg and giving them a copy. I
15 don't recall doing anything else.

16 Q You had no other tasks as a crime scene
17 investigator?

18 A No, sir.

19 MR. DUNCAN: Beg the Court's indulgence just a
20 moment.

21 THE COURT: Yes, sir.

22 MR. DUNCAN: I have no other questions, Your
23 Honor.

24 THE COURT: Thank you. Redirect, Solicitor?

25 MS. GARRICK: Briefly, Your Honor.

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REDIRECT EXAMINATION

BY MS. GARRICK:

Q Detective Hickman, do you recall there being some confusion over the address on Padgett Road?

A At the time of the incident, no, I don't remember anything other than that I didn't see a house number on the house, just the address they gave me. Later on in the conversations I discovered it was incorrect.

Q The numerics of your report 421?

A Yes, sir.

Q Was wrong?

A Yes, ma'am.

Q Do you know the right number now?

A It's 141.

MS. GARRICK: That's all I have, Your Honor.

THE COURT: Recross, Mr. Duncan?

MR. DUNCAN: No, sir.

THE COURT: Thank you, Mr. Hickman. You may step down.

MS. GARRICK: We ask that he be excused.

THE COURT: Any objection to Mr. Hickman being excused?

MR. DUNCAN: No, sir.

THE COURT: Thank you for being with us.

1 THE WITNESS: Thank you.

2 (Witness leaves the witness stand.)

3 THE COURT: Solicitor, you may call your next
4 witness.

5 MS. GARRICK: Your Honor, we call Lieutenant
6 Clare.

7 THE COURT: If you could come around.
8 Lieutenant.

9 STEPHEN E. CLARE, being
10 first duly sworn, testifies as follows:

11 CLERK: Please be seated. State your full
12 name and spell your last name.

13 THE WITNESS: Stephen E. Clare, C-L-A-R-E.

14 DIRECT EXAMINATION

15 BY MS. GARRICK:

16 Q: Detective Clare, could you please tell us where you
17 are employed?

18 A: I work for the Batesburg Leesville Police
19 Department.

20 Q: And how long have you been in law enforcement?

21 A: I've been in law enforcement 23 years.

22 Q: And how long have you been at Batesburg Leesville?

23 A: Twenty-three years.

24 Q: And do you have any specialized duties?

25 A: Yes, I do.

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- 1 Q Can you tell us about that, please.
- 2 A I'm the C.S.I. for Batesburg Leesville and also the
3 evidence custodian.
- 4 Q Were you working August 13, 2008?
- 5 A Yes.
- 6 Q And can you tell us, did you respond to a call that
7 afternoon?
- 8 A Yes, I did.
- 9 Q Can you tell us the nature of that call as it first
10 began.
- 11 A Initially the call went out to Officer McCullum.
12 It was a suspicious vehicle with three black males
13 on Kathleen Street.
- 14 Q And did you respond to assist him?
- 15 A After Officer McCullum arrived on scene, he
16 observed, I want to say, three black males, who
17 appeared to be armed and requested assistance, and
18 I headed that way.
- 19 Q Where did you leave from if you remember?
- 20 A I left from the police department.
- 21 Q And how far is the police department to the Howard,
22 Kathleen, and Padgett area?
- 23 A It's not very far.
- 24 Q And after he called for assistance, which road did
25 you take?

1 A I left the police department, which is located on
2 West Columbia Avenue, and I took a left down West
3 Columbia Avenue, turned left on Bethlehem Road, and
4 then left on Howard Street coming into the opposite
5 way that Officer McCullum came in.

6 Q And were other officers going to assist Officer
7 McCullum?

8 A Yes, I believe Captain Goss headed that way and
9 Major Sims.

10 MS. GARRICK: Your Honor, can I have him step
11 down?

12 THE COURT: Yes, you may step down,
13 Lieutenant. Keep your voice up for us, please.

14 THE WITNESS: Yes, sir.

15 (Witness leaves the witness stand.)

16 BY MS. GARRICK:

17 Q Let me show you what has been marked as States' 24.
18 Can you show the jury what route you took that day.
19 Take a moment and orient yourself.

20 A The police department is back over this way
21 (indicating). I came out of the police department,
22 and Number 1 runs in front of the police
23 department. I took a left out of the police
24 department, went down Number 1, and I turned left
25 on Bethlehem Road.

STEPHEN CLARE -- DIRECT -- MS. GARRICK

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1 Bethlehem Road runs toward Howard Street,
2 which is this street right here (indicating), and I
3 turned left off of Bethlehem Road onto Howard and
4 headed in this direction (indicating).

5 Q When you got in that area, what, if anything, did
6 you see?

7 A When I got down Howard Street, I observed a black
8 male coming out of the wood line right here
9 (indicating) at Padgett Road and Howard Street.

10 Q And was any other law enforcement in the area right
11 there?

12 A Yes, Major Sims who also headed to that area. He
13 was coming up Howard Street in this direction
14 (indicating), and we both got out pretty much at
15 the same time.

16 Q Lieutenant Clare, I will ask you to mark where you
17 and Major Sims got out with the black male on
18 Howard Street.

19 A (Witness complies.) Right there (indicating). I
20 would say it's right there.

21 Q Okay. You can have a seat.

22 A (Witness resumes the witness stand.)

23 Q Was the person that you and Major Sims got out
24 with, was he identified by name? Did you all
25 identify who you had at Howard Street?

1 A Yes, we did.

2 Q Who was that?

3 A It was Mr. Leaphart.

4 Q And after you were on Howard Street, where did you
5 go next?

6 A After I left Howard Street and Padgett Road, I
7 proceeded to Albert Street where Captain Goss had
8 got out with the three black males.

9 Q Do you have an idea of the timeline? Do you know
10 when you got out on Howard Street first?

11 A I believe that time was approximately 1:24.

12 Q And do you have an approximate time that you got
13 out on Albert Street?

14 A It was shortly after I got out on Howard Street.
15 Mr. Leaphart was detained. Captain Goss said that
16 he was out with three black males on Albert, so I
17 headed in that direction to help him out.

18 Q When you got to Albert Street, it was you and
19 Captain Goss. Any other law enforcement that you
20 recall?

21 A Major Sims also went to Albert Street, and I
22 believe Officer Durrell also went.

23 Q Was Jeremy Leaphart transported from Howard to
24 Albert Street?

25 A Yes, he was. He was in Officer Durrell's vehicle.

STEPHEN CLARE -- DIRECT -- MS. GARRICK

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1 Q Were the three males that Captain Goss was out
2 with, were they identified by name?

3 A I don't remember if all of them were identified by
4 name.

5 Q Did you do any pat-downs of the individuals there
6 on Albert?

7 A Yes, ma'am, I did.

8 MS. GARRICK: Beg the Court's indulgence.

9 THE COURT: Yes, ma'am.

10 BY MS. GARRICK:

11 Q Was Mr. Velez patted down there on Albert?

12 A Yes, he was.

13 Q Did you find anything on his person?

14 A Yes, I did.

15 Q What did you find on his person?

16 A Two shotgun shells.

17 Q Did you collect those items?

18 A Yes, I did.

19 Q Did you bring those items to court today?

20 A Yes, I did.

21 Q If I can show you what has been marked as State's
22 60. Can you identify those?

23 A These were the two shotgun shells that were found
24 in Mr. Velez's pocket.

25 MS. GARRICK: Your Honor, I move State's 60

1 into evidence.

2 THE COURT: Mr. Duncan?

3 MR. DUNCAN: No objection, Your Honor.

4 THE COURT: State's 60 is in evidence without
5 objection.

6 (State's Exhibit Number 60 is received into
7 evidence.)

8 BY MS. GARRICK:

9 Q What, if anything, happened? Did you receive any
10 new information when you were still there on Albert
11 Street?

12 A Yes. When I was -- right after I did the pat-down
13 on Mr. Velez, we got a call about a home invasion
14 on Padgett Road. I then gave those two shotgun
15 shells to Major Sims, and I proceeded over to
16 Padgett Road.

17 Q What did you find when you got to Padgett Road?

18 A Well, initially we didn't know. We were trying to
19 find the address of where the home invasion was.
20 Dispatch gave 321 Padgett Road, so it was unclear
21 where exactly the home invasion was.

22 I proceeded to where Officer McCullum was with
23 the vehicle, and I believe that's when he told me
24 about Ms. Otts from the residence right there on
25 the corner of Padgett Road and Kathleen Street.

STEPHEN CLARE -- DIRECT -- MS. GARRICK

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1 Q And after you learned of the home invasion, what
2 did you do next?

3 A I let Chief Oswald know where the home invasion
4 was, that it was within our jurisdiction, and I
5 believe that the Chief called Lexington County for
6 their crime scene unit to come out.

7 Q Did y'all ask any other agencies to assist?

8 A Yes. The Chief called for the S.L.E.D.
9 bloodhounds.

10 Q Let's talk about the S.L.E.D. bloodhounds. First,
11 were you with them when they were tracking through
12 the woods there behind Padgett Road?

13 A No, I wasn't.

14 Q Were you in the area?

15 A I was. I was on Albert.

16 Q And did they call you about any items that they
17 found?

18 A The Chief called me to come photograph a weapon
19 that they had found later on in the evening.

20 Q Which weapon was that?

21 A It was the black .45.

22 Q Would this have been after Detective Hickman had
23 left?

24 A Yes.

25 Q I would like to show you what is in evidence as

1 State's 47. Do you recognize this document?

2 A State's 47, this is a photograph of the black .45.

3 Q After you photographed it, did you collect the .45?

4 A Yes, I did.

5 Q State's 27 for I.D., can you recognize what is in
6 that box?

7 A State's 27 is the black .45 that was photographed.

8 Q And did you collect that item?

9 A Yes, I did.

10 Q Did you put it in evidence at Batesburg?

11 A Yes, I did.

12 Q And did you bring it to court today?

13 A Yes.

14 MS. GARRICK: Your Honor, I move State's 27
15 into evidence.

16 THE COURT: Mr. Duncan?

17 MR. DUNCAN: Your Honor, no objection to
18 Exhibit 27.

19 THE COURT: State's 27 is in evidence without
20 objection.

21 (State's Exhibit Number 27 is received into
22 evidence.)

23 BY MS. GARRICK:

24 Q When you collected that .45, did you check it to
25 see if it was loaded?

STEPHEN CLARE -- DIRECT -- MS. GARRICK

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1 A Yes, I did.

2 Q Was it loaded?

3 A It had ammo in the clip.

4 Q Did you collect that ammo?

5 A Yes, I did.

6 Q If I can show you State's 61...

7 A State's 61 is the clip and ammunition that came out
8 of the .45.

9 Q And after you collected it that day, where did it
10 go?

11 A It went into our evidence.

12 Q How did it get here today?

13 A It was transported by myself.

14 MS. GARRICK: Your Honor, I move State's 61
15 into evidence.

16 THE COURT: Mr. Duncan?

17 MR. DUNCAN: No objection.

18 THE COURT: State's 61 in evidence without
19 objection.

20 (State's Exhibit Number 61 is received into
21 evidence.)

22 BY MS. GARRICK:

23 Q When Detective Hickman was still there, did he make
24 you aware of the A.K. assault rifle that had been
25 found?

1 A Yes, he did.

2 Q Did he turn over that weapon to you?

3 A He did.

4 Q Where did it go when you left the scene back there
5 in '08?

6 A It went into Batesburg evidence.

7 Q And did you bring it to court today?

8 A Yes, ma'am, I did.

9 Q I show you State's 25 for I.D. Do you recognize
10 that?

11 A This State's 25 is the weapon that Detective
12 Hickman transferred to me on the 13th.

13 Q And you brought it here to court today?

14 A Actually yesterday.

15 MS. GARRICK: Your Honor, I move that into
16 evidence.

17 THE COURT: Mr. Duncan?

18 MR. DUNCAN: No objection.

19 THE COURT: State's 25 is in evidence without
20 objection.

21 (State's Exhibit Number 25 is received into
22 evidence.)

23 BY MS. GARRICK:

24 Q Was this weapon loaded or did you receive
25 ammunition from this weapon?

STEPHEN CLARE -- DIRECT -- MS. GARRICK

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1 A I did receive ammunition from the weapon.

2 Q If I can show you State's 56.

3 A State's 56 is the clip that came from the A.K.47
4 and the ammunition that was in the clip.

5 Q And how did that get to court, those items?

6 A They were transported by myself.

7 Q They were given to you by whom?

8 A Detective Hickman.

9 MS. GARRICK: Your Honor, I move those into
10 evidence.

11 THE COURT: Mr. Duncan?

12 MR. DUNCAN: No objection.

13 THE COURT: State's 56 is evidence without
14 objection.

15 (State's Exhibit Number 56 is received into
16 evidence.)

17 BY MS. GARRICK:

18 Q Are you familiar with a water jug that was found in
19 this case?

20 A Yes, I am.

21 Q And did that make it into evidence there in
22 Batesburg?

23 A Yes, it did.

24 Q Can you identify State's 62?

25 A Yes. State's 62 is a photograph of the water jug

1 with the money in it that was in the black
2 vehicle.

3 MS. GARRICK: Your Honor, I move this
4 photograph into evidence.

5 THE COURT: Mr. Duncan?

6 MR. DUNCAN: No objection to the photograph,
7 Your Honor.

8 THE COURT: State's 62 is in evidence without
9 objection.

10 (State's Exhibit Number 62 is received into
11 evidence.)

12 BY MS. GARRICK:

13 Q Do you have the water cooler here today?

14 A No, we don't.

15 Q Do you know what has been done with the water
16 cooler?

17 A Yes, the water cooler was returned to Mr. Corley.

18 Q Do you know how much money was in it?

19 A Yes, ma'am, \$1,645.28.

20 Q Did you have to count each and every bill and coin
21 in that water jug?

22 A Yes, I did.

23 Q Are you aware of any power cords that were
24 collected as evidence in this case?

25 A Yes.

STEPHEN CLARE -- DIRECT -- MS. GARRICK

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1 Q Did you collect it?

2 A I don't remember if I collected it or Detective
3 Hickman collected it.

4 Q Did it come into your possession?

5 A Yes, it did.

6 Q If I can show you State's 33 for I.D.

7 A State's 33 is a photograph of the power cord that I
8 photographed.

9 MS. GARRICK: Your Honor, I move that picture
10 into evidence.

11 THE COURT: Mr. Duncan?

12 MR. DUNCAN: No objection to the photograph,
13 Your Honor.

14 THE COURT: State's 33 is in evidence without
15 objection.

16 (State's Exhibit Number 33 is received into
17 evidence.)

18 BY MS. GARRICK:

19 Q Where is the power cord now? Is it still in
20 evidence?

21 A No. The power cord has been returned to
22 Mr. Corley.

23 Q Were you aware that the water department assisted
24 y'all in this case?

25 A Yes, I was.

1 Q And did they call you to come meet them or were you
2 with them on August 15, 2008?

3 A I was present with them on the 15th.

4 Q What weapons, if any, were recovered?

5 A Recovered on the 15th were a black and silver
6 9-millimeter and a Mossberg shotgun.

7 Q If I can show you State's 49.

8 A Forty-nine is a photograph I took of the shotgun
9 when it was laying in the woods.

10 THE COURT: I think it's in evidence.

11 MS. GARRICK: Thank you..

12 BY MS. GARRICK:

13 Q State's 26, can you identify that?

14 A State's 26 is the shotgun that I collected on
15 August 15th.

16 Q Did you take it to your evidence department at
17 Batesburg Leesville?

18 A Yes, I did.

19 Q Did you bring it with you to court today or
20 yesterday?

21 A Yes, ma'am, yesterday.

22 MS. GARRICK: Your Honor, I move that into
23 evidence, please.

24 THE COURT: Mr. Duncan, do you have any
25 objection to State's 26?

STEPHEN CLARE -- DIRECT -- MS. GARRICK

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1 MR. DUNCAN: No objection, Your Honor.

2 THE COURT: State's 26 is in evidence without
3 objection.

4 (State's Exhibit Number 26 is received into
5 evidence.)

6 BY MS. GARRICK:

7 Q Was that shotgun loaded?

8 A Yes, it was.

9 MS. GARRICK: Beg the Court's indulgence one
10 moment.

11 THE COURT: Yes, ma'am.

12 (Pause.)

13 BY MS. GARRICK:

14 Q Can you identify what is in State's 63?

15 A State's 63 are the shotgun shells that I took out
16 of the shotgun.

17 Q Have they been in evidence at Batesburg?

18 A Yes.

19 Q Did you bring them to court yesterday?

20 A Yes, I did.

21 MS. GARRICK: Your Honor, I move those into
22 evidence.

23 THE COURT: Mr. Duncan?

24 MR. DUNCAN: No objection, sir.

25 THE COURT: State's 63 is in evidence without

1 objection.

2 (State's Exhibit Number 63 is received into
3 evidence.)

4 BY MS. GARRICK:

5 Q Did you receive any other weapons through the water
6 department?

7 A Yes, I did.

8 Q What weapon if you recall?

9 A The silver and black 9-millimeter.

10 Q Did you collect that yourself?

11 A Yes, I did.

12 Q Do you remember what area you were in?

13 A It was in the wooded area between Padgett Road and
14 Albert Street. It wasn't down in the creek bed.
15 It was higher up, on toward the crest above the
16 creek.

17 Q Did you photograph it?

18 A Yes, I did.

19 Q Then did you collect it?

20 A I did.

21 Q I will show you what has been marked State's 28 for
22 I.D.

23 A Yes, state's 28 is the 9-millimeter that I
24 collected.

25 Q And has it been in evidence in Batesburg all this

STEPHEN CLARE -- DIRECT -- MS. GARRICK

1 time?

2 A In Batesburg, yes.

3 Q And did you bring it to court yesterday?

4 A Yes, it came to court yesterday.

5 MS. GARRICK: Your Honor, I move that firearm
6 into evidence.

7 THE COURT: Mr. Duncan, State's 28?

8 MR. DUNCAN: No objection, sir.

9 THE COURT: State's 28 is in evidence without
10 objection.

11 (State's Exhibit Number 28 is received into
12 evidence.)

13 BY MS. GARRICK:

14 Q Was this 9-millimeter loaded?

15 A Yes, it was.

16 Q If I can show you State's 64.

17 A State's 64 is the clip with the ammunition in it
18 that came from the 9-millimeter that I had
19 collected.

20 MS. GARRICK: Your Honor, I move that into
21 evidence.

22 THE COURT: Mr. Duncan?

23 MR. DUNCAN: No objection.

24 THE COURT: State's 64 is in evidence without
25 objection.

1 (State's Exhibit Number 64 is received into
2 evidence.)

3 BY MS. GARRICK:

4 Q Were you present with Detective Hickman most of the
5 time that day?

6 A Most of the time, yes, ma'am.

7 Q And any evidence Detective Hickman had, did he give
8 it to you?

9 A Everything that Detective Hickman collected he gave
10 to me.

11 Q If I can show what has been marked as State's 29
12 for I.D.

13 A State's 29 is a watch, a gold watch, that belongs
14 to Ms. Otts, and a gold chain, I believe, that
15 belongs to Mr. Corley.

16 Q Has that been in evidence?

17 A Yes, it has.

18 Q Did you bring it to court with you yesterday?

19 A And today, yes.

20 Q And do you know who collected that?

21 A Officer Durrell.

22 Q Do you know if Captain Goss was also involved in
23 that?

24 A Yes, I believe a search warrant was obtained to
25 collect it.

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1 Q If I can show you what is marked as State's 34 for
2 I.D. Do you recognize these items?

3 A State's 34 is the Bank of America cash envelope,
4 and it looks like some receipts.

5 Q Do you know where you received those items from?

6 A These items were also taken by Officer Durrell.

7 Q And Captain Goss?

8 A Yes.

9 Q Pursuant to a search warrant?

10 A Yes.

11 Q Are you aware of any latent or fingerprint evidence
12 we have in this case? Do we have any?

13 A We don't have any, no, ma'am.

14 Q And have you had fingerprint examination classes
15 and things of that nature?

16 A Yes, I have.

17 Q And did you attempt to do any of that on the
18 weapon?

19 A Not on the weapon, no.

20 Q Why is that?

21 A I sent the weapons to S.L.E.D. so they could
22 process them.

23 Q Do we have any fingerprint evidence here today?

24 A No.

25 Q Do we have any D.N.A. evidence present today?

1 A No, we don't.

2 Q All of the weapons that have now been entered into
3 evidence, are they considered deadly weapons?

4 A Yes, they are.

5 Q Were they in proper working order?

6 A Yes.

7 MS. GARRICK: Your Honor, may I have one
8 moment?

9 THE COURT: Yes, ma'am.

10 (Pause.)

11 BY MS. GARRICK:

12 Q One last thing. If I can show you item 65. Do you
13 recognize the items in that bag?

14 A Yes, I do.

15 Q Can you identify them for us, please.

16 A Item 65 is two plastic stocking containers that
17 stockings came in that were recovered from the
18 front center console of the black Tahoe pursuant to
19 a search warrant.

20 MS. GARRICK: Your Honor, I move item 65 into
21 evidence.

22 THE COURT: Mr. Duncan?

23 MR. DUNCAN: No objection, sir.

24 THE COURT: State's 65 is in evidence without
25 objection.

STEPHEN CLARE -- CROSS -- MR. DUNCAN

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1 (State's Exhibit Number 65 is received into
2 evidence.)

3 BY MS. GARRICK:

4 Q Can you identify State's 66?

5 A State's 66 is a stocking that I recovered from the
6 floorboard behind the driver's seat in the black
7 Tahoe.

8 MS. GARRICK: Your Honor, I move item 66 into
9 evidence.

10 THE COURT: Mr. Duncan?

11 MR. DUNCAN: No objection, Your Honor.

12 THE COURT: State's 66 is in evidence without
13 objection.

14 (State's Exhibit Number 66 is received into
15 evidence.)

16 MS. GARRICK: Your Honor, that's all we have
17 of this witness.

18 THE COURT: Thank you very much, Solicitor.
19 Mr. Duncan.

20 MR. DUNCAN: Yes, sir.

21 CROSS EXAMINATION

22 BY MR. DUNCAN:

23 Q Good afternoon, Lieutenant Clare.

24 A Good afternoon.

25 Q Lieutenant Clare, you testified on questions from

1 the solicitor that there were no fingerprints taken
2 here off of any of these weapons that you have
3 testified about; is that correct?

4 A That's correct.

5 Q You sent those weapons to S.L.E.D.? Did I hear
6 that right?

7 A Yes, I did.

8 Q What happened at S.L.E.D., do you know?

9 A They processed them and I believe the report we got
10 back were no identifiable latents.

11 Q You also testified about no D.N.A. evidence being
12 present. Did you similarly send anything to
13 S.L.E.D. for that purpose?

14 A Yes, we did.

15 Q What did you hear back from S.L.E.D. on that?

16 A We have a report but I'm not sure if it has D.N.A.
17 on it. We just -- I collected everything from
18 S.L.E.D. last week, and their report was
19 incomplete, so apparently they didn't finish.

20 Q That's beyond your control? You don't have
21 anything to do with that?

22 A That's correct.

23 Q Lieutenant Clare, you testified that you responded
24 to a call at about, I think you said, about
25 1:24 p.m., is that right, on August 13th?

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1 A Can you repeat that?

2 Q Did you respond to a call on August 13th at about
3 1:24 in the afternoon?

4 A The time of 1:24 is when I arrived with Major Sims
5 at Howard and Padgett Road with Mr. Leaphart coming
6 out of the wood line.

7 Q What were you responding to? Were you responding
8 to Corporal McCullum's call for backup? What was
9 the purpose of you going there? Why did you go
10 there?

11 A Officer McCullum called for assistance and I headed
12 that way.

13 Q You and Major Sims likewise; is that correct?

14 A Yes.

15 Q In separate vehicles though?

16 A Yes.

17 Q Were you by yourself in your vehicle?

18 A I was.

19 Q And, Lieutenant Clare, you encountered a gentleman
20 on Howard Street and later identified him to be
21 Jeremy Leaphart; is that right?

22 A Yes.

23 Q And you were the first law enforcement person to
24 encounter Mr. Leaphart as far as you know?

25 A Myself and Major Sims.

- 1 Q Major Sims was also there?
- 2 A Yes.
- 3 Q From your testimony you didn't stay there very long
- 4 though. Did you talk to Mr. Leaphart?
- 5 A I believe Major Sims talked with him, and we stayed
- 6 there very briefly.
- 7 Q You didn't question Mr. Leaphart at that point in
- 8 time; is that correct?
- 9 A That's correct.
- 10 Q Then you went on to Albert Street; is that right?
- 11 A That's correct.
- 12 Q And, again, you didn't stay there very long either;
- 13 did you?
- 14 A No, sir.
- 15 Q You ultimately responded to the home of John
- 16 Corley?
- 17 A Yes, sir.
- 18 Q That's where you spent the bulk of your time on
- 19 August 13th; is that correct?
- 20 A A good bit of the time, yes, sir.
- 21 Q And then you -- did you interview Mr. Corley or
- 22 Ms. Otts?
- 23 A No, I didn't.
- 24 Q Were you just gathering evidence at their home?
- 25 What were you doing?

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1 A I was there observing Lexington County when they
2 processed that scene.

3 Q That would be Detective Hickman --

4 A Yes, sir.

5 Q -- who testified earlier?

6 A Yes, sir.

7 Q And then you were also out in the wooded area
8 searching; is that right?

9 A No, I wasn't searching.

10 Q You didn't go off anywhere? You were at the
11 residence? I am trying to square up what your
12 bloodhound man from S.L.E.D., Mr. Wheeler,
13 testified to earlier. Did I misunderstand that you
14 were out there when the bloodhound was searching
15 for items? Is that not true?

16 A I was on Albert Street. I was not in the woods
17 until Chief Oswald called me in to photograph the
18 .45.

19 Q You were on Albert Street?

20 A Yes.

21 Q What were you doing on Albert Street?

22 A I was just standing by for Detective Hickman so he
23 could transfer the evidence to me.

24 Q You were waiting on Detective Hickman to complete
25 his investigation?

1 A That's correct.

2 Q I understand. The last two exhibits, Number 65 and
3 66, that the solicitor just showed you is a
4 stocking, some stockings and a stocking container
5 that was found in the vehicle; is that right?

6 A Yes, sir.

7 Q Was it inside the container or not?

8 A The stocking was not inside the container.

9 Q Was there any way for you to tell whether that
10 stocking had been used before? Was it new?

11 A I couldn't tell.

12 MR. DUNCAN: Beg the Court's indulgence just a
13 moment, sir.

14 THE COURT: Yes, sir.

15 (Pause.)

16 BY MR. DUNCAN:

17 Q Lieutenant Clare, you stated or you testified on
18 direct that you had done a pat-down of my client,
19 Mr. Velez?

20 A Yes, sir.

21 Q And that was -- you did that pat-down or somebody
22 else?

23 A Yes, sir.

24 Q You?

25 A Yes, sir.

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1 Q You located two shotgun shells?

2 A Yes.

3 Q Unused shotgun shells in his pocket?

4 A Yes.

5 Q Hang on one second. Were those shells likewise
6 submitted to S.L.E.D. for processing?

7 A No, they weren't.

8 Q No prints found on those at all?

9 A No.

10 MR. DUNCAN: Nothing further.

11 THE COURT: Redirect, Solicitor?

12 MS. GARRICK: No, Your Honor.

13 THE COURT: Thank you, Lieutenant Clare. You
14 may step down.

15 (Witness leaves the witness stand.)

16 THE COURT: Ladies and gentlemen, we are now
17 going to take our luncheon recess. Please remember
18 during this recess, do not discuss this case with
19 anyone. That includes your fellow jurors, lunch mates,
20 family, friends or anyone else.

21 Do not read, watch or listen to any news
22 reports about the case, should there be any. Do not use
23 your computer, cellular phone or other electronic device
24 to obtain or disclose any information about the case.

25 As I have explained to you earlier, don't do

1 any investigation on the internet or independently. If
2 anyone tries to talk with you about the case, please let
3 me know immediately. Remember to keep an open mind; and
4 do not begin your deliberations until you are instructed
5 to do so by the Court.

6 We will take an hour and a half recess. I
7 have one other matter I have to attend to, and I don't
8 want y'all sitting back there waiting on me to finish
9 it.

10 Why don't we say to be back at quarter to
11 three. Be back, please, in your jury room at 2:45. You
12 are now excused for your lunch. I hope y'all have a
13 pleasant lunch. Thank you very much.

14 (The jury is excused for lunch at 1:10 p.m.)

15 THE COURT: Court will be in recess until
16 2:45.

17 (Whereupon there is a luncheon recess.)

18 THE COURT: Anything from the State before we
19 bring our jury in?

20 MS. GARRICK: Yes, Your Honor. Your Honor,
21 during the lunch break, I was going back through the
22 evidence and looking through some of the items. State's
23 51 is purported to be Mr. Velez's Wallet with his I.D.

24 We found a businesses card for probation,
25 pardon, and parole with the phone number and office. I

1 would propose to remove this businesses card from
2 Mr. Velez's wallet, from State's Exhibit 51. I wouldn't
3 want the jury to speculate why he has this card in his
4 wallet.

5 THE COURT: Mr. Duncan?

6 MR. DUNCAN: Your Honor, the defense would
7 agree to that.

8 THE COURT: All right.

9 MR. DUNCAN: To the removal of that card.

10 THE COURT: Have you looked at other items in
11 the wallet?

12 MS. GARRICK: Your Honor, I have looked at
13 everything, yes, sir. There is Kent Collins, Solicitor,
14 his business card. There is an A-one Bonding Company
15 business card. They are in there.

16 THE COURT: Let me see 51.

17 (Hands to Court.)

18 (Pause.)

19 THE COURT: Mr. White's bonding company card
20 and Mr. Solicitor's card might be collector items.

21 MS. GARRICK: Might be, Your Honor.

22 THE COURT: Do you know what this key is to,
23 Solicitor?

24 MS. GARRICK: No, I don't, Your Honor. Your
25 Honor, on his audio-taped statement, he says he always

1 keeps an extra car key in his wallet. I don't know if
2 that is the key.

3 THE COURT: Mr. Duncan, do you have any
4 position as to A.B.C. Bonding Company, Inc. card?

5 MR. DUNCAN: Your Honor, I think I would like
6 to have that removed from his wallet.

7 THE COURT: There is also a business card of
8 M. Kent Collins, II, Assistant Solicitor, Eleventh
9 Judicial Circuit.

10 MR. DUNCAN: Again, I think I would like to
11 have that taken out. As Your Honor says, it may be a
12 collector's item, but I don't think -- I would ask that
13 it be removed from his wallet.

14 THE COURT: Solicitor, do you have any
15 position as to those items?

16 MS. GARRICK: Your Honor, I think they are in
17 his wallet, and his wallet is in evidence. I don't
18 object to those items being in there. The reason I
19 brought the probation and parole card to your attention
20 is that may call to mind there has been a conviction and
21 that someone is supervising him.

22 I think there is a difference between that and
23 having a solicitor's card or a bonding company card. We
24 would object to the removal of that but certainly leave
25 it to your discretion.

1 THE COURT: I think it's very prudent that you
2 bring up the probation and parole officer's card and
3 consent to removing that. I will remove the others,
4 too.

5 There could be some speculation involved in
6 both, that the day he was taken in custody and his
7 wallet was found, he would have an A.B.C. Bonding
8 Company card in there.

9 The jury might even -- it does say bail bonds
10 on it and a card from Mr. Collins. They could think he
11 was a confidential and reliable informant. That would
12 lead to speculation.

13 MS. GARRICK: Yes, sir.

14 THE COURT: Have you looked at every other
15 item in here, Mr. Duncan?

16 MR. DUNCAN: Your Honor, I have looked at it
17 as Ms. Garrick opened the bag.

18 THE COURT: I suggest you do that and if you
19 have any others you would like for me to review. I'm
20 not saying there's others in there that should be
21 removed. I'm not inviting that. I'm just saying I
22 would be glad to review any of those other items if you
23 have any objections to them, Mr. Duncan.

24 MR. DUNCAN: Thank you, sir.

25 (Pause.)

1 MR. DUNCAN: Everything else in there is fine,
2 Your Honor.

3 THE COURT: Mr. Duncan has reviewed State's 51
4 and has no objections. The solicitor brought to the
5 attention of the Court the probation officer's business
6 card. It has been removed.

7 The Court has also removed Mr. Kent Collins,
8 Assistant Solicitor's card, and A.B.C. Bonding. Mark
9 those as a Court's exhibit as being removed from 51.

10 (Court's Exhibit Number 1 is marked for
11 purposes of the record).

12 THE COURT: Do you have other issues,
13 Solicitor?

14 MS. GARRICK: No, Your Honor. During the
15 lunch break, the court reporter and I went through the
16 evidence, and there are two items I thought I had moved
17 in. I don't know that the record accurately reflects
18 that item 30 and item 45 are in evidence.

19 I conferred with Mr. Duncan. He also thought
20 they were in, but in an abundance of caution, as soon as
21 the jury comes back, I would like to make that motion
22 before I call my last witness.

23 They were both items of clothing that the
24 S.L.E.D. bloodhound trackers located. Then they were
25 photographed and collected by Detective Hickman, who

1 turned them over to Lieutenant Clare, who brought them
2 to court.

3 THE COURT: Any others for I.D. only that you
4 are aware of, Solicitor?

5 MS. GARRICK: No others that I am moving into
6 evidence at this time.

7 THE COURT: We have the two pretrial exhibits,
8 Number 1 and Number 2. Thank you so much. Anything
9 further, Solicitor?

10 MS. GARRICK: We do have two other items of
11 evidence we are going to move in with that last witness.

12 THE COURT: I understand.

13 MS. GARRICK: No, sir, nothing else.

14 THE COURT: Anything from the defense?

15 MR. DUNCAN: No, sir.

16 THE COURT: I received this note from the
17 jury: Please ask the lady sitting behind the solicitor
18 table on the first row to limit their conversation. It
19 has been a little distracting. Thank you. That is a
20 note from the jury.

21 Madame Court Reporter, if you would mark this
22 as a Court's exhibit, please.

23 (Court's Exhibit Number 2 is marked for
24 purposes of the record).

25 THE COURT: So, Solicitor, if you would take

1 care of that for us, please.

2 MS. GARRICK: Yes, sir, Your Honor.

3 THE COURT: If nothing further, bring us the
4 jury, please.

5 (The jury returns to the courtroom at
6 3:00 o'clock p.m.)

7 THE COURT: Welcome back, ladies and
8 gentlemen. I hope y'all had a pleasant lunch. I spoke
9 with all the parties in the courtroom in hopes that
10 there will not be any distractions during the course of
11 the testimony. If there are any, please let me know,
12 and I will address that promptly.

13 With that being said, we are continuing the
14 trial of the case by the presentation of evidence and
15 testimony by the State in its case in chief.

16 Madame Solicitor, you may call your next
17 witness.

18 MS. GARRICK: Thank you, Your Honor. Your
19 Honor, the first thing I would like to do is State's 30
20 for I.D., I would like to move it into evidence.

21 THE COURT: Mr. Duncan?

22 MR. DUNCAN: Your Honor, I have no objection
23 to that clothing coming in.

24 THE COURT: State's 30 is in evidence without
25 objection.

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1 (State's Exhibit Number 30 is received into
2 evidence.)

3 MS. GARRICK: State's 45 is also clothing,
4 Your Honor. We would move it into evidence.

5 THE COURT: Mr. Duncan?

6 MR. DUNCAN: And I have no objection to that
7 article of clothing coming in either.

8 THE COURT: State's 45 is in evidence without
9 objection.

10 (State's Exhibit Number 45 is received into
11 evidence.)

12 MS. GARRICK: Your Honor, we call Captain
13 Goss..

14 WALTER GOSS, being
15 first duly sworn, testifies as follows:

16 CLERK: Once you are seated, speak up loud and
17 clear and state your full name on the record.

18 THE WITNESS: My name is Walter Goss, G-O-S-S.

19 DIRECT EXAMINATION

20 BY MS. GARRICK:

21 Q Captain Goss, where are you presently employed?

22 A I am employed by the Batesburg Leesville Police
23 Department.

24 Q And how long have you been at Batesburg Leesville?

25 A This time almost four years.

- 1 Q Where were you employed before that?
- 2 A Lexington County Sheriff's Office.
- 3 Q How long have you been a law enforcement officer?
- 4 A Civilian law enforcement. 18 years.
- 5 Q You say civilian. Were you a military law
- 6 enforcement person?
- 7 A Military police just prior, four years.
- 8 Q And what is your rank there at the police
- 9 department?
- 10 A I'm a captain.
- 11 Q Does that mean you are in an advisory capacity?
- 12 A Yes, I am.
- 13 Q And were you working August of 2008?
- 14 A Yes, I was.
- 15 Q And did you have an occasion to go out that
- 16 afternoon, August 13, 2008?
- 17 A I did.
- 18 Q What kind of call were you responding to?
- 19 A I heard by radio that Corporal Kendrick McCullum
- 20 requested assistance. At that time myself and
- 21 other officers that were present at the police
- 22 department responded to assist him.
- 23 Q From the police department to where Officer or
- 24 Corporal McCullum was asking for help, how many
- 25 minutes or how long would it take you to drive

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1 there?

2 A Approximately one or two minutes. It didn't take
3 long.

4 Q And can you tell us what road you approached from?

5 A When I left the police department, I took a
6 right-hand turn from the front parking area of the
7 police department and turned right on U.S.
8 Highway 1, turned back in on Regal Street, the next
9 connecting road to Howard Street. Then I took
10 another right on Howard Street, and at that point
11 in another two blocks I was in the area that he was
12 requesting assistance.

13 MS. GARRICK: Your Honor, can I ask the
14 witness to come down for a moment, please?

15 THE COURT: Certainly. If you will keep your
16 voice up when you are away from the microphone.

17 THE WITNESS: Yes, sir.

18 (Witness leaves the witness stand.)

19 BY MS. GARRICK:

20 Q If I can show you what has been marked as State's
21 Exhibit 24. Are you familiar with this diagram?

22 A Yes.

23 Q And if you could step back to the side. Can you
24 show us the route that you took to go help Corporal
25 McCullum.

1 A Yes. The police department would be located in
2 this general area here (indicating). U.S.
3 Highway 1 would run roughly parallel to Howard
4 Street.

5 I would have left the police department, taken
6 a right-hand turn, came down to Regal Street,
7 turned back to the right, which is the connector
8 back to Howard Street.

9 I believe it comes out about right in this
10 area here (indicating), and I took a right and came
11 in this area (indicating) that he was requesting
12 assistance.

13 Q When you got to that area, what, if anything, did
14 you see there on Howard Street?

15 A Well, Major Henry Sims was behind me. I heard
16 Lieutenant Clare coming around the other way,
17 coming this way (indicating). I went on through
18 this intersection (indicating).

19 I was looking left and right based on what we
20 were told by Corporal McCullum. I was looking left
21 and right. I heard that Major Sims was getting out
22 with the individual who was later identified as
23 Jeremy Leaphart. I then turned around and came
24 back and got out with Major Sims momentarily.

25 Q Can you circle the area in which you got out with

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1 Major Sims and Jeremy Leaphart.

2 A This area right here (indicating).

3 Q Lieutenant Clare was there as well?

4 A He was.

5 Q If we could jump ahead for just a moment. Then I
6 can get rid of the diagram. Did you subsequently
7 at some point end up on Albert Street?

8 A I did.

9 Q Can you show us where Albert Street is on this map.

10 A Yes, Albert Street is this street running along in
11 here (indicating).

12 Q Were you concentrated in a particular address on
13 Howard Street?

14 A I wound up at a particular address.

15 Q Do you know the address?

16 A It was 237 Albert Street.

17 Q Could you mark that for us, please.

18 A (Witness complies.)

19 Q And the other area of importance, the wooded area
20 where items of clothing, guns, and ammunition were
21 found?

22 A Yes.

23 Q Can you make a big star on the area that would
24 cover the wooded area?

25 A If I'm not mistaken, that area should be right here

1 in this area (indicating).

2 Q That's all with the map. If you could have a seat.

3 A (Witness resumes the witness stand.)

4 Q Let's back up. When you got out with Major Sims

5 and Lieutenant Clare there on Padgett Road and

6 Howard Street with Mr. Leaphart, do you have an

7 approximate time?

8 A Yes, I got out with them at approximately 1:26 in

9 the afternoon.

10 Q And did you stay there with them or did you go

11 somewhere else?

12 A I stayed there momentarily. Major Sims was on

13 scene, as well as Lieutenant Clare, and Officer

14 Durrell. There were plenty of officers there. I

15 knew there were suspects in the area. I left after

16 a moment of being there and began searching the

17 area of Albert Street.

18 Q So you went down Albert Street. What, if anything,

19 caught your attention on Albert?

20 A I turned right onto Albert Street. I was leaving

21 the area of Howard Street. I headed down Albert

22 Street, away from that area. I observed two black

23 males walking to the right side of the roadway

24 alongside Albert Street very close to the area of

25 the address of 237 Albert.

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- 1 Q And you say you saw two black males?
- 2 A Two.
- 3 Q What did you do next?
- 4 A I initially saw two. Then I saw the third male
- 5 join them. As I approached they immediately turned
- 6 right and walked over to the address of 237 Albert
- 7 Street, and one of them began knocking on the door.
- 8 Q Do you have an approximate time that you saw them
- 9 go up on the porch there on 237 Albert Street?
- 10 A Yes, I signed out with them about 1:29 in the
- 11 afternoon.
- 12 Q And did others officers come there to assist you?
- 13 A Yes. As soon as I saw them walking, I communicated
- 14 that information by radio and requested assistance.
- 15 Q Did Major Sims come?
- 16 A Major Sims, Lieutenant Clare, and Officer Durrell.
- 17 Q You say that a third person came up. What was the
- 18 length of time from when you saw two to when you
- 19 saw three?
- 20 A It was momentarily.
- 21 Q Seconds, minutes, what?
- 22 A Seconds.
- 23 Q When law enforcement backed you up there, did you
- 24 get the names of these three people?
- 25 A We did.

1 Q What were the names?

2 A The names were the Defendant, Gregory Velez, Jeremy
3 Leaphart, and also Lewis Barnes.

4 Q Is Gregory Velez the man that is on trial here?

5 A Yes, that is correct.

6 Q And what, if anything, did you notice about their
7 description -- I mean -- their appearance?

8 A Well, I notice it had been raining when we
9 responded. It was a light rain. One thing I
10 noticed about Mr. Velez, there was a wet leaf on
11 the back of his neck.

12 Q And were you present when Lieutenant Clare removed
13 shotgun shells from Mr. Velez?

14 A I was present. I recall seeing shotgun shells. I
15 cannot recall who he removed those from.

16 Q Now, initially when you were on Albert Street, were
17 you already looking for subjects involved in a home
18 invasion or were you looking for individuals
19 involved in something else?

20 A Well; when I responded to Albert Street, I was
21 unaware of a home invasion. We originally
22 responded -- it was a request of Corporal McCullum
23 who had seen individuals dressed in black running
24 from his area in the direction of Albert Street and
25 possibly armed. That's what we were responding to.

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1 Q And do you have an approximate time that you became
2 aware of a home invasion from Padgett Road?

3 A Yes, that information was called out -- let me
4 see -- it was called out by radio dispatch at about
5 1:33 that afternoon.

6 Q If I can show you what is marked as State's Exhibit
7 29 for I.D.

8 MS. GARRICK: If I may approach, Your Honor?

9 THE COURT: Yes, ma'am, certainly.

10 BY MS. GARRICK:

11 Q Can you identify what is in this exhibit?

12 A This was a gold-type chain with a nugget-type
13 pendant attached to it and a gold-in-color watch.
14 There is also some loose change and a couple of
15 dollar bills.

16 Q Can you tell us when you first saw those items?

17 A These items were obtained pursuant to a search
18 warrant from the property of Mr. Thompson.

19 Q Were you present when that search warrant was
20 executed?

21 A I was.

22 Q That jewelry and money, who was it given to?

23 A The jewelry and money, who was it given to?

24 Q Right. After you collected it, where did it go?

25 A We took it into evidence.

1 Q It ended up with Lieutenant Clare?

2 A Yes.

3 MS. GARRICK: Your Honor, I move those items
4 into evidence.

5 THE COURT: Mr. Duncan?

6 MR. DUNCAN: No objection, sir.

7 THE COURT: State's 29 in evidence without
8 objection.

9 (State's Exhibit Number 29 is received into
10 evidence.)

11 BY MS. GARRICK:

12 Q If I can show you item 34 for I.D.. Do you
13 recognize those documents?

14 A Yes, ma'am, I do.

15 Q Can you please identify them for us?

16 A These were documents taken off the possession of
17 Mr. Thompson as well pursuant to a search warrant.

18 Q Was that done in your presence?

19 A It was..

20 Q Were those given to Lieutenant Clare?

21 A They were.

22 MS. GARRICK: I move that State's Exhibit into
23 evidence?

24 THE COURT: Mr. Duncan?

25 MR. DUNCAN: No objection, sir.

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1 THE COURT: State's 34 is in evidence without
2 objection.

3 (State's Exhibit Number 34 is received into
4 evidence.)

5 BY MS. GARRICK:

6 Q What, if any, significance is there to the bank
7 receipts in that exhibit?

8 A Well, the bank receipts were consistent with some
9 of the items that were described by Ms. Connie Otts
10 as some of the items taken from her during the home
11 invasion.

12 We took those receipts, along with Ms. Otts,
13 to the local branch of the Bank of America and
14 compared them and matched them as belonging to her
15 account.

16 Q Did you have an opportunity on the 13th to
17 interview John Corley and Connie Otts?

18 A I remember interviewing Ms. Otts. I cannot
19 recall -- I am sure Mr. Corley was interviewed, but
20 I don't remember for certain.

21 Q Do you have an idea of how many victims of violent
22 crime you have seen throughout your career?

23 A Many.

24 Q More than 50?

25 A Oh, yes. Part of my employment with the Lexington

1 County Sheriff's Office was as a major crimes
2 detective with Lexington County.

3 Q And based on your training and experience, do
4 victims of violent crime often believe they can
5 identify their assailant if they see them again?

6 A Many times, yes.

7 Q When presented with photo lineups or things of that
8 nature later, is it common or uncommon for victims
9 to be unable to identify the perpetrator?

10 A It's fairly common.

11 Q And did that, in fact, happen in our case, in this
12 case?

13 A It did.

14 Q With Mr. Corley?

15 A Yes.

16 Q And Ms. Otts?

17 A Yes.

18 Q Please answer Mr. Duncan's questions.

19 A Thank you, ma'am.

20 THE COURT: Mr. Duncan.

21 MR. DUNCAN: Thank you, sir.

22 CROSS EXAMINATION

23 BY MR. DUNCAN:

24 Q Good afternoon, Captain Goss.

25 A Good afternoon, sir.

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- 1 Q Captain Goss, you had testified that you had
2 responded to Corporal McCullum's request for help
3 down on Kathleen Street?
- 4 A Yes, sir, that's correct.
- 5 Q And approximately when did you receive that call?
- 6 A The request came out through the radio, and I
7 responded at 1:22 hours, 1:22 p.m.
- 8 Q Captain Goss, you are reading off your dispatch
9 report?
- 10 A That is correct, sir.
- 11 Q And so you were on the scene at Kathleen Street by
12 1:24 or something in that neighborhood based on
13 your prior testimony, right?
- 14 A I am in that area according to this about 1:23,
15 yes, sir, approximately a minute later.
- 16 Q A minute later. You were at headquarters and you
17 came down to Kathleen Street?
- 18 A Yes, sir, it's within a block or two.
- 19 Q When you arrived -- I am trying to get this
20 straight -- did you see a gentlemen who was later
21 identified as Mr. Leaphart, Jeremy Leaphart?
- 22 A Well, yes, I did.
- 23 Q With Corporal McCullum?
- 24 A No.
- 25 Q I'm sorry -- strike that. Tell me that. How did

1 you see that individual? How did that happen?

2 A When I was responding to the area, I drove past the
3 intersection of Padgett Road and Howard Street.
4 Major Sims was following behind me. He called out
5 on the radio that he had someone he was with,
6 someone in that area.

7 Lieutenant Clare was coming from the opposite
8 direction that I was. He got out with him, as well
9 as did Officer Durrell. I turned around. I had
10 already gone past that area, and I turned around
11 and joined them.

12 Q And, of course, at this time you were responding to
13 a suspicious vehicle call; is that right?

14 A No, sir, I was responding to a request from
15 Corporal McCullum requesting assistance because he
16 had seen what appeared to be armed men running from
17 his direction toward Howard Street.

18 Q And Corporal McCullum at that point in time had --
19 did you know how many? Had you heard three from
20 Corporal McCullum?

21 A I believe I heard three.

22 Q And it was some ten minutes or so later after you
23 arrived there at Kathleen Street, at about 1:33,
24 before you got word from Mr. Corley's residence of
25 this break-in, this home invasion, that we are here

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1 for?

2 A That is correct.

3 Q This is your case, isn't it, Captain Goss? You are
4 the main investigator, primary investigator, on the
5 case? Don't let me characterize it.

6 A Right.. I guess I could be considered that, yes,
7 sir.

8 Q You interviewed the four individuals that
9 afternoon, on the afternoon of August 13th, who
10 were ultimately charged with this crime?

11 MS. GARRICK: Objection, Your Honor. May I
12 approach?

13 THE COURT: Sustained.

14 MS. GARRICK: Thank you.

15 MR. DUNCAN: Your Honor, can we approach?

16 THE COURT: Mr. Foreman, and ladies and
17 gentlemen of the jury, if you would please step out to
18 your jury room. Do not discuss the case during this
19 brief recess.

20 (The jury retires to the jury room.)

21 THE COURT: If we can go back. I would be
22 glad to hear from you, Solicitor, and I would be glad to
23 hear from you, Mr. Duncan. I didn't feel comfortable
24 doing it at the bench. I did cut you both off. I
25 sustained the solicitor's objection. I would be glad to

1 hear from you, Mr. Duncan.

2 MR. DUNCAN: Yes, sir. I think my question --
3 and certainly the court reporter can correct me if I
4 said it wrong -- I just asked did he have occasion to
5 interview these individuals who were charged with the
6 crime.

7 THE COURT: I think that was your question.
8 Solicitor?

9 MS. GARRICK: Yes, sir, Your Honor. He asked
10 if he had interviewed the four defendants, and I would
11 object to him eliciting any testimony from Captain Goss
12 about any interview done with the Defendant.

13 My objection is based on the fact that any
14 answers elicited from the captain as to what the
15 Defendant might have said would be self-serving hearsay,
16 and under State versus Terry, I would think that would
17 not be proper.

18 THE COURT: Thank you. Terry was the basis of
19 my ruling. As a matter of fact, I looked it up when the
20 solicitor sat down, without going into the statement.

21 MR. DUNCAN: Yes, sir.

22 THE COURT: Do you have the same objection as
23 to the other three defendants?

24 MS. GARRICK: No, sir.

25 THE COURT: As to the codefendants?

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1 MS. GARRICK: On the other three defendants, I
2 think it would be improper. I think it would be
3 hearsay, and I don't think we ever get into a situation
4 where any of the prior witness defendants would have
5 been impeached by saying something different in trial
6 than as to what they said to Captain Goss. I don't
7 think any foundation was laid for Captain Goss to
8 impeach these testifying codefendants.

9 THE COURT: All right. Mr. Duncan, I would be
10 glad to hear from you.

11 MR. DUNCAN: Your Honor, I don't know -- I
12 know what the other witnesses said. I know what their
13 testimony was generally. Generally speaking they said
14 the information they gave to Captain Goss on August 13th
15 was not correct, and I think that's out there.

16 Really I had some questions in regard to
17 Captain Goss' investigation generally. I can handle it
18 another way. I think I can ask him that question, and
19 he can say, for instance, he could say, yes, I did
20 interview them, but then I would be able to go into the
21 scope of that interview.

22 THE COURT: Well, you know, I reread Terry or
23 looked back at it after the solicitor did not go into
24 Mr. Velez's testimony. One specific issue in Terry is
25 that if you are bringing it out to show that Terry gave

1 a statement or that he cooperated to the police, this.
2 Court said -- that wouldn't be the Terry Court, which
3 was a capital murder case -- said that wouldn't be.
4 admissible.

5 You would not even be able to elicit the fact
6 that he had given a statement in order to demonstrate
7 that he had cooperated with the police.. That would be
8 misleading to the jury, and it's simply irrelevant to
9 the issue at trial. I was just following the commands
10 of State versus Terry, which is 529 S.E.2d 274.

11 MR. DUNCAN: Yes, sir.

12 THE COURT: That's why I sustained the
13 objection.

14 MR. DUNCAN: Yes, sir, I understand. I
15 understand.

16 THE COURT: I'm not prohibiting you from
17 asking because you have already asked Captain Goss:
18 This is basically your case. You are the chief officer.
19 You can ask about the quality of the police
20 investigation. Obviously that is always fruit that may
21 or may not be productive, may or may not be ripe or low
22 hanging, but you can certainly ask --

23 MR. DUNCAN: Yes, sir.

24 THE COURT: -- about police investigation.
25 All right. Anything further?

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1 MR. DUNCAN: I think I understand the Court's
2 ruling.

3 THE COURT: Anything before we bring the jury
4 back in?

5 MS. GARRICK: So Captain Goss is not going to
6 testify as to any statement made by the Defendant?

7 THE COURT: Not at this point.

8 MS. GARRICK: Thank you.

9 MR. DUNCAN: Or the other defendants, I guess.

10 THE COURT: That's right.

11 MS. GARRICK: Yes, sir.

12 THE COURT: The jury, please.

13 (The jury returns to the courtroom.)

14 THE COURT: Our jury is back in the courtroom.

15 Mr. Duncan, you may proceed.

16 MR. DUNCAN: Thank you, Your Honor.

17 CROSS EXAMINATION

18 BY MR. DUNCAN:

19 Q Captain Goss, I believe just before the jury was
20 excused for a minute, I was asking you about when
21 you became aware of a break-in of Mr. Corley's
22 home, and I think you said about 1:33; is that
23 right?

24 A Yes, sir, that is correct.

25 Q And did you go from -- you were still on Kathleen

1 Street at that time? Where were you? I'm sorry.

2 I have gotten that fuzzy.

3 A At that time, sir, I was on Albert.

4 Q You were on Albert?

5 A Yes, sir.

6 Q What, if anything, did you do upon learning of a
7 break-in of Mr. Corley's home in response to that
8 information?

9 A I am trying to remember the sequence of events
10 there. I remember that I was standing pretty much
11 with Mr. Thompson, Mr. Barnes, and Mr. Velez.
12 Major Sims, I believe, spoke with them
13 individually. After that time they were taken into
14 custody.

15 Q Did you go over to Mr. Corley's home?

16 A Not to the home itself. I went over there after
17 leaving Albert Street. I went over there and spoke
18 with Chief Oswald very briefly to find out what
19 happened so I could conduct further investigations.

20 Q You said that you had spoken with Ms. Otts? You
21 had interviewed Ms. Otts?

22 A Yes, I had.

23 Q On that afternoon, the afternoon of August 13th?

24 A I believe that's correct.

25 Q So at that point that afternoon you went to the

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1 residence or is that not correct?

2 A I stopped by briefly. Ms. Otts met me at the
3 police department in Batesburg.

4 Q And you believe that was the same afternoon?

5 A It may have been. I will have to look at my
6 statement. I believe that's right.

7 Q The initial information, as I understand it -- as I
8 understand it -- from the testimony, particularly
9 from Corporal McCullum earlier today, was that
10 there was a call by an individual or by someone, a
11 call came in of people and a suspicious vehicle out
12 on Kathleen Street. Is that your understanding?

13 A That's my understanding, that's correct.

14 Q Are you aware of an interview being done of an
15 individual named Ricky Harris?

16 A I have heard that one was done. I'm not aware of
17 it though.

18 Q You have never seen an interview with a Ricky
19 Harris done by your department?

20 A No, sir.

21 Q At all?

22 A I believe there was a copy of a statement relating
23 to that, but I have not -- was not privy to that
24 interview.

25 Q As you sit here today, do you have any idea who

1 called in the suspicious vehicle at Kathleen
2 Street?

3 A Not personally, no.

4 Q Are you aware of anyone at the Batesburg Leesville
5 Police Department knowing where that information
6 came from?

7 A My understanding it was called in, but I'm not sure
8 who it was that called.

9 Q Your first indication of individuals in the
10 vicinity of Kathleen Street and Howard Street was
11 from Corporal McCullum the afternoon of August 13,
12 2008?

13 A That is correct.

14 Q Your information about that from him initially was
15 that there were three people out there?

16 A Yes, sir, that's correct.

17 Q As you approached -- and you, again, showed this to
18 the jury earlier. I'm not sure if you can see from
19 where you are.

20 MR. DUNCAN: Your Honor, if I could ask
21 Captain Goss to step down.

22 THE COURT: Certainly. You may step down,
23 Captain. Just keep your voice up for us.

24 THE WITNESS: Yes, sir.

25 (Witness leaves the witness stand.)

WALTER GOSS -- CROSS -- MR. DUNCAN

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1. BY MR. DUNCAN:

2 Q Again, you were coming from --

3 THE COURT: I hate to make you do it, but if
4 you could switch sides first so the witness' voice
5 carries toward our court reporter. Thank you.

6 MR. DUNCAN: Sure.

7 BY MR. DUNCAN:

8 Q You were coming again from this direction
9 (indicating)?

10 A No, sir, I was coming from this direction
11 (indicating).

12 Q I understand. So you came onto Howard Street?

13 A Yes, sir.

14 Q Similar to where Corporal McCullum, I believe,
15 testified he was coming?

16 A I believe that same direction, yes, sir.

17 Q So where -- how far did you go? I know you drew on
18 here. I can't remember what markings are what.
19 Where were you? Where did you stop?

20 A I went beyond this point (indicating) until the
21 point I heard Major Sims get out with a black male,
22 later identified as Mr. Leaphart, at which time I
23 turned around and came back and got out with Major
24 Sims, Lieutenant Clare, and Officer Durrell.

25 Q At the time that you get here, you had gone back

1 and gone past and come back. Is that 1:23 in the
2 afternoon?

3 A I would have to go back and reflect on my notes.

4 Q I guess that's fine. You can go certainly go back.

5 A The time I got out with Major Sims was at 1:26.

6 Q At 1:26?

7 A Yes, sir.

8 Q So you were dispatched at about 1:22; is that
9 right?

10 A Yes, sir.

11 Q And you went down the street, went beyond where you
12 ultimately ended up?

13 A Yes, sir.

14 Q And then returned and it was about 1:26?

15 A Yes, sir.

16 Q In the afternoon?

17 A Yes, sir.

18 Q I notice a wooded area there, but you didn't see
19 anything happening around Padgett Road, around the
20 residence that we know now is Mr. Corley's when you
21 arrived at that scene?

22 A When I initially came to the area, I did not, no,
23 sir.

24 Q Saw nothing at all?

25 A No, sir.

WALTER GOSS -- CROSS -- MR. DUNCAN

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1 Q Captain Goss, we have heard testimony from three
2 other defendants in this matter who were
3 interviewed by you, who testified they gave a
4 statement and that they interviewed with you. Did
5 you interview any other individuals in connection
6 with -- as suspects in this case?

7 MS. GARRICK: Objection, Your Honor.

8 THE COURT: I overrule that objection. I will
9 allow that.

10 A I'm sorry. Your question again, please, sir?

11 Q Other than the three codefendants who have
12 testified here in court, Mr. Barnes, Mr. Thompson,
13 and Mr. Leaphart, did you interview any other
14 individuals as suspects for this home invasion?

15 A Yes, I did.

16 Q Anyone other than my client, Mr. Velez? Any other
17 suspect besides the three and Mr. Velez?

18 A No, sir.

19 Q That was the end of your investigation of any
20 suspects in this matter; is that right?

21 A Yes, sir, that's correct..

22 Q Those interviews had been completed -- do you
23 recall, had those interviews been completed by
24 about the evening of August the 13th, 2008?

25 A I believe so, yes, sir.

1 MR. DUNCAN: Beg the Court's indulgence just a
2 moment.

3 (Pause.)

4 THE COURT: Mr. Duncan, do you have any
5 further questions of the Captan?

6 MR. DUNCAN: Your Honor, that is all the
7 questions I have of Captain Goss.

8 THE COURT: I wasn't rushing you at all. I
9 want you to understand that.

10 MR. DUNCAN: No, sir, that's fine.

11 THE COURT: Solicitor, redirect?

12 MS. GARRICK: Thank you, Your Honor, briefly.

13 REDIRECT EXAMINATION

14 BY MS. GARRICK:

15 Q Captain Goss, 1:22 is when you say you got notice
16 of the home invasion; is that right?

17 A Yes, ma'am, that is correct.

18 Q And once you had notice of the home invasion, were
19 you made aware of how many people you were looking
20 for, if you know or if you recall?

21 A I do not know.

22 Q When you did interview victims later, how many
23 people did they tell you had been involved in this
24 home invasion?

25 A A total of four.

WALTER GOSS -- RECROSS -- MR. DUNCAN

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1 Q And the distance between 141 Padgett, which is the
2 victim's home, and then the 237 Albert Street
3 address, where Mr. Velez was taken into custody,
4 through that wooded area there, what is the
5 distance between those two areas?

6 A I couldn't say offhand. It's a fairly sort
7 distance.

8 Q Is it something that can be walked within minutes
9 or hours?

10 A Within minutes I would say.

11 MS. GARRICK: That's all I have.

12 THE COURT: Recross, Mr. Duncan?

13 RECROSS EXAMINATION

14 BY MR. DUNCAN:

15 Q Captain Goss, on Albert where you ultimately were,
16 on down here (indicating) --

17 A Yes, sir.

18 Q -- on August 13, 2008, there appear to be a number
19 of houses on Albert along the roadway?

20 A Yes, sir.

21 Q Did you encounter any other individuals besides the
22 three men that we have talked about?

23 A I did not, no, sir.

24 Q Do you recall vehicles being on that street that
25 afternoon? Do you have any recollection of that?

1 A Not specific vehicles, no, sir.

2 Q Thank you.

3 THE COURT: Thank you very much. Thank you
4 Captain. You may step down.

5 THE WITNESS: Thank you, Your Honor:

6 (Witness leaves the witness stand.)

7 THE COURT: Solicitor, you may call your next
8 witness.

9 MS. GARRICK: Your Honor, the State rests.

10 THE COURT: Thank you. Thank you very much.

11 Mr. Foreman, and ladies and gentlemen of the
12 jury panel, at this stage I must ask you to step
13 momentarily to your jury room. Please do not discuss
14 the case during this brief recess. Thank you very much.

15 (The jury retires to the jury room.)

16 THE COURT: Mr. Duncan, the State has now
17 rested. Does the Defendant have any motions under
18 Rule 19 of the Rules of Criminal Procedure?

19 MR. DUNCAN: Your Honor, the Defendant would
20 move for a directed verdict under Rule 19(a) on all six
21 charges in the indictment against Mr. Velez.

22 Your Honor, there is no physical evidence,
23 there is no fingerprints, no D.N.A., no direct evidence
24 to establish Mr. Velez's guilt beyond a reasonable
25 doubt, and for that reason we would ask for a directed

1 verdict of acquittal at this time.

2 THE COURT: Thank you, Mr. Duncan. Solicitor?

3 MS. GARRICK: Thank you, Your Honor. May it
4 please the Court. Your Honor, certainly there has been
5 eyewitness codefendant testimony that Mr. Velez was part
6 of the conspiracy, was part of the burglary, part of the
7 kidnappings, and part of the armed robbery. He himself
8 had possession of a handgun during the commission of a
9 violent crime.

10 Taking the evidence in the light most
11 favorable to the State, I believe we have presented
12 enough for a jury question on that issue and on all the
13 indictments.

14 THE COURT: Thank you very much. At this
15 stage of the proceedings on a directed verdict motion, I
16 must view the evidence in the light most favorable to
17 the State.

18 The Defendant is entitled to a directed
19 verdict when the State fails to produce evidence of the
20 offense charged. If there is any direct evidence or
21 substantial circumstantial evidence reasonably tending
22 to prove the guilt of the accused, then the directed
23 verdict motion should properly be denied.

24 I should grant a directed verdict motion when
25 the evidence merely raises a suspicion that the accused

1 is guilty. Suspicion implies a belief or opinion as to
2 guilt based upon facts or circumstances which do not
3 amount to proof.

4 In this case there is clearly direct evidence
5 and substantial circumstantial evidence reasonably
6 tending to prove the guilt of the accused on all counts
7 of the indictments.

8 When you take the evidence of the two
9 codefendants, Mr. Leaphart and Mr. Thompson, and their
10 conversations between them, along with Mr. Velez,
11 concerning going on a mission or making a lick, they
12 were all clearly involved in a criminal conspiracy.

13 They go from the Lexington area to the Gilbert
14 area where they arm themselves with even more firearms
15 than the testimony has already brought out, Mr. Leaphart
16 saying he always had his weapon. They then get other
17 weapons from a neighbor of Mr. Barnes. Mr. Barnes at
18 that point joins the conspiracy.

19 They then go to the Batesburg Leesville area
20 to 141 Padgett Road. Mr. Barnes testifies -- all of
21 them actually testify -- to the manner in which they
22 dressed, in a very stealthful manner to hide their
23 identities.

24 Further, Mr. Leaphart, who according to the
25 testimony of Mr. Corley, Mr. Corley has known

1 Mr. Leaphart since Mr. Leaphart was a young boy, does
2 not go into the residence according to everyone's
3 testimony thus far.

4 Ms. Otts testifies that three individuals do
5 come into the house, all three being armed and she says
6 a fourth is outside. Mr. Corley testifies there is a
7 fourth outside.

8 I wouldn't say a request but there is a demand
9 for money. They take money, jewelry, and then get
10 speaker cords and computer cords and tie both or bind
11 both Ms. Otts and Mr. Corley, one in the closet and
12 another in another location in the residence. Each are
13 armed.

14 Clearly there is that direct testimony by the
15 victims and direct testimony by the codefendants of what
16 occurs. Then the police in their search, they actually
17 have the four individuals in custody before the crime
18 even is reported, the specific crime.

19 Then there is the substantial circumstantial
20 evidence where four weapons are recovered in the same
21 wooded area where the corporal sees three of the four
22 individuals running from. Then all those weapons are
23 identified by Mr. Corley and Ms. Otts.

24 Clearly there is direct and substantial
25 circumstantial evidence. That's not just looking at the

1 testimony of the codefendants. It is clearly
2 corroborated by substantial circumstantial evidence. So
3 I would deny the Defendant's motions for directed
4 verdict as to all indictments.

5 Mr. Velez, would you please come around to the
6 microphone for me, please.

7 (Pause.)

8 THE COURT: Madame Clerk, place Mr. Velez
9 under oath.

10 GREGORY VELEZ is first duly
11 sworn.

12 THE COURT: Mr. Velez, I need to go over some
13 things with you. I do this with everyone who is on
14 trial. I need your responses to be under oath. That's
15 why I had the clerk place you under oath. Do you
16 understand?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: We have reached the stage of the
19 trial where the State has rested its case in chief.
20 Your side has already introduced some documentary
21 evidence, I believe, Defendant's 1 and 2. But I do want
22 you to understand that you now have the opportunity to
23 present other evidence for the jury to consider if you
24 wish to do so. Do you understand?

25 THE DEFENDANT: Yes, sir.

1 THE COURT: Do you understand where we are in
2 this trial?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: In that regard you may call
5 witnesses to testify and if you choose to testify
6 yourself, you may do so. Do you understand?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: No one can force you to testify.
9 You have the absolute right to remain silent, and if you
10 choose not to testify, I will tell this jury that they
11 cannot hold your silence against you in any way. I will
12 tell them that they are not to even discuss that in the
13 jury room. Do you understand?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: Solicitor, does the Defendant,
16 Mr. Velez, have a criminal record that would subject him
17 to impeachment under Rule 609?

18 MS. GARRICK: Yes, sir, Your Honor.

19 THE COURT: What is that?

20 MS. GARRICK: A 2007 possession with intent to
21 distribute marijuana.

22 THE COURT: That's the only one?

23 MS. GARRICK: I believe so, Your Honor, yes,
24 sir.

25 THE COURT: If you choose to testify -- do you

1 agree that is an impeachable offense under Rule 609(a),
2 Mr. Duncan?

3 MR. DUNCAN: Yes, sir, it is.

4 THE COURT: Do you understand that, Mr. Velez?
5 If you take the witness stand, the solicitor would be
6 able to ask you about that criminal record. In other
7 words, she could ask you whether or not you have been
8 convicted of possession with intent to distribute
9 marijuana in 2007. Do you understand?

10 THE DEFENDANT: Yes, sir.

11 THE COURT: I would advise you that the
12 solicitor cannot go into the details of the prior
13 offense; but they can ask you if you have been
14 convicted.

15 If that happens I would tell this jury that
16 they can only consider that evidence against you, if
17 they consider it at all against you, on the issue of
18 whether your testimony is believable or not and for no
19 other purpose. Do you understand?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: The decision about whether you
22 testify or not is your decision to make and yours alone.
23 I expect that you have conferred with your attorney and
24 perhaps others whose opinions you value on important
25 decisions, but the decision about whether you testify or

1 not is your call to make, your decision. Do you
2 understand?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: How old are you, Mr. Velez?

5 THE DEFENDANT: Twenty-eight years old.

6 THE COURT: How much education do you have?

7 THE DEFENDANT: I have a G.E.D. and some
8 college.

9 THE COURT: Today are you under the influence
10 of any medication, drugs or alcohol?

11 THE DEFENDANT: No, sir.

12 THE COURT: Are you aware of any physical,
13 emotional or nervous problems that keeps you from
14 understanding what you are doing today?

15 THE DEFENDANT: No, sir.

16 THE COURT: Has anyone exercised any undue
17 influence over you to get you to choose to testify or
18 not to testify?

19 THE DEFENDANT: No, sir.

20 THE COURT: Do you have any questions you
21 would like to ask me about your right to testify or your
22 right not to testify?

23 THE DEFENDANT: No, sir.

24 THE COURT: Do you understand your right?

25 THE DEFENDANT: Yes, sir.

1 THE COURT: Whatever decision you have made
2 about whether to testify or not, is it your decision
3 made of your own free will and accord?

4 THE DEFENDANT: Yes, sir.

5 THE COURT: I find that Mr. Velez is an
6 intelligent young man. He is educated, has some
7 college. It appears that he understands his right to
8 testify or not to testify. Have you made your decision?

9 THE DEFENDANT: No, sir.

10 THE COURT: I will give you a few more minutes
11 to talk with your attorney. I will give you about --
12 let's say we will take about a ten-minute recess. You
13 can talk with your attorney about that, and upon your
14 return to the courtroom, I will ask you again; all
15 right?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: Mr. Duncan, do you intend to offer
18 any other witnesses?

19 MR. DUNCAN: No, sir.

20 THE COURT: Or any other evidence or
21 testimony?

22 MR. DUNCAN: No, sir.

23 THE COURT: We will take about a ten-minute
24 recess. That will give you an opportunity to speak with
25 Mr. Velez further about his right to testify or not to

1 testify.

2 MR. DUNCAN: Thank you, Your Honor.

3 (Whereupon there is a recess.)

4 THE COURT: Mr. Velez, would you please stand.

5 Did you have the opportunity to speak with your lawyer?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: Have you made a decision about
8 whether or not you are going to testify or not testify?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: What is your decision?

11 THE DEFENDANT: I'm not going to testify.

12 THE COURT: Have you made that decision of
13 your own free will and accord?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: Do you have any questions you
16 would like to ask me about that decision?

17 THE DEFENDANT: No, sir.

18 THE COURT: I find that the Defendant's
19 decision not to testify is made of his own free will and
20 accord, knowingly and voluntarily. Thank you. You may
21 return to your seat.

22 I will bring the jury back out momentarily,
23 Mr. Duncan, and I will advise them the stage that we are
24 at. I generally tell them that the Defendant can offer
25 additional evidence or testimony if they choose to do

1 so. I will direct my attention to you and ask you to
2 call your first witness, and you can formerly rest in
3 front of the jury.

4 MR. DUNCAN: Yes, sir.

5 THE COURT: Bring the jury, please.

6 (The jury returns to the courtroom.)

7 THE COURT: Welcome back, ladies and
8 gentlemen. As you recall, the State has rested its case
9 in chief. The Defendant may offer additional evidence
10 and testimony if the Defendant chooses to do so.

11 A criminal defendant in South Carolina is
12 never required to prove himself or herself innocent.
13 They are presumed to be innocent, regardless of the
14 seriousness of the charge or charges involved.

15 However, again, a defendant may present
16 evidence if the Defendant chooses to do so. We would
17 now turn our attention to Mr. Duncan and ask:
18 Mr. Duncan, you may call your first witness.

19 MR. DUNCAN: Your Honor, the defense rests.

20 THE COURT: Thank you. Thank you very much,
21 Mr. Duncan.

22 With that being said, ladies and gentlemen,
23 you have heard all the evidence and all the testimony
24 that you are going to hear in the trial of this case
25 from both the State and the defense.

1 Where we are at now is the point of the
2 closing arguments by the attorneys and then the
3 instruction on the law by the Court. It's hard to
4 estimate or determine how long that may take.

5 Our appellate courts, primarily our Supreme
6 Court, frowns on beginning closing arguments and
7 instructions by the Court after 4:00 p.m. in the
8 afternoon.

9 So with that being said, I am going to allow
10 you to take your evening recess. We will start back in
11 the morning on the closing arguments by the attorneys
12 and the instruction on the law by the Court.

13 Of course, you know you are not going to
14 escape without hearing my instructions yet again, but
15 they are very important. They are important to the
16 State and the Defendant and important to the process
17 itself.

18 Please remember, you are not to discuss this
19 case with anyone. That includes your fellow jurors,
20 family, friends or anyone else. Do not read, listen to
21 or watch any news accounts of the case, should there be
22 any.

23 Do not use your computer, cellular phone or
24 any other electronic device with communication
25 capabilities or any other method to obtain or disclose.

1 any information about the case while you are not in
2 court.

3 You recall information about the case includes
4 but is not limited to the following information: About
5 an attorney, a party, a witness, a court officer, news
6 accounts of the case, information collected through your
7 research on any topics raised or testimony offered by
8 any witness or information collected through your
9 research on any other topic that you might think would
10 be helpful in deciding the case.

11 In other words, do not do any research on the
12 internet or otherwise or personally. Remember to keep
13 an open mind. Do not decide any issue in the case until
14 you have heard the closing arguments by the attorneys,
15 the instructions on the law by the Court, and then
16 directed to begin your deliberations with your fellow
17 jurors in your jury room.

18 With that being said, I appreciate very much
19 your continued patience, your continued focus, and
20 undivided attention that you have shown the Court and
21 all the parties throughout this trial. You are now
22 excused for the evening. I will see you promptly at
23 9:30 in the morning. Thank you. Thank you very much.

24 (The jury is excused at 4:30 p.m.)

25 THE COURT: Do you renew your motions,

1 Mr. Duncan?

2 MR. DUNCAN: I do, Your Honor.

3 THE COURT: Any additional grounds?

4 MR. DUNCAN: No, sir, Your Honor, the same
5 basis as before. There has been no additional evidence
6 that has been presented.

7 THE COURT: I would again review the evidence,
8 without listing it again, and applying the standards,
9 again, in the light most favorable to the State, on the
10 directed verdict motion and renew my previous rulings
11 and reaffirm them and respectfully deny the Defendant's
12 motion for directed verdict.

13 Any requests to charge, Solicitor?

14 MS. GARRICK: Your Honor, the only one that
15 may be a little different is the hand of one, the hand
16 of all.

17 THE COURT: I intend to charge that.

18 MS. GARRICK: Nothing else, Your Honor.

19 THE COURT: Do you care to be heard in that
20 regard, Mr. Duncan?

21 MR. DUNCAN: Your Honor, no, sir. I think --
22 no, sir.

23 THE COURT: I intend to charge that. I will
24 additionally charge mere presence and that type of
25 language encapsulated within that charge, but I do

1 intend to charge the hand of one, hand of all. Any
2 others, Solicitor?

3 MS. GARRICK: No, Your Honor.

4 THE COURT: Any specific requests to charge
5 from the defense, Mr. Duncan?

6 MR. DUNCAN: Your Honor, you hit the one that
7 I would ask for, the mere presence.

8 THE COURT: Yes, sir, I intend to charge that.
9 That will be part of the hand of one, hand of all
10 charge.

11 MR. DUNCAN: I appreciate that. I think
12 that's the only one that I would specifically request.

13 THE COURT: Do y'all know now about how long
14 you need to argue? Is the State going to open?

15 MS. GARRICK: We are not going to open on the
16 law, no.

17 THE COURT: You waive opening. About how long
18 do you think you need to close, Solicitor? I'm not
19 going to hold you to it. I am just trying to get an
20 idea in my mind.

21 MS. GARRICK: About 20 minutes.

22 THE COURT: --Mr. Duncan?

23 MR. DUNCAN: Your Honor, I would think about
24 the same, something in that range.

25 THE COURT: Anything further before we take

1 our recess, Solicitor?

2 MS. GARRICK: No, Your Honor, just I know that
3 they want to pick a jury on other case.

4 THE COURT: Mr. Duncan, anything further?

5 MR. DUNCAN: Nothing further this evening.

6 THE COURT: Thank you very much. Court will
7 be in recess until 9:30 in the morning.

8 (Whereupon the proceedings are concluded for
9 March 29, 2011.)

10 (The following proceedings are reported on
11 March 30, 2011.)

12 THE COURT: Anything before we bring in the
13 jury from the State, Solicitor?

14 MS. GARRICK: No, Your Honor.

15 THE COURT: From the defense?

16 MR. DUNCAN: No, sir, Your Honor.

17 THE COURT: Is our jury here?

18 BAILIFF: Yes, sir.

19 THE COURT: Bring the jury.

20 (The jury returns to the courtroom at
21 9:34 a.m.)

22 THE COURT: Good morning, ladies and gentlemen
23 of the jury. I hope you had a pleasant evening. I hope
24 you had a wonderful morning. Did you get out and walk,
25 walk through the parking lot or anything like that?

1. As you recall, all the evidence and testimony
2 has been presented in the trial of this case. We are
3 now at the stage of the closing arguments by the
4 attorneys on behalf of their clients.

5 The procedure we follow is Mr. Duncan will
6 present the closing argument on behalf of Mr. Velez
7 first, thereafter followed by the solicitor who will
8 present the closing argument on behalf of the State.

9 The attorneys can argue the facts, the
10 reasonable inferences to be drawn from the facts, and
11 how that applies to the law. I will instruct you on the
12 law after the closing arguments.

13 Please remember that the State is the party
14 who bears the burden of proof. They must prove the
15 case, each and every element of the crimes charged in
16 the indictment, by proof beyond a reasonable doubt. The
17 Defendant is presumed to be innocent.

18 After the closing arguments of the attorneys,
19 I will instruct you on the law that you must apply to
20 the facts as you find them to be. Depending on how long
21 we are out here with the closing arguments, we may take
22 a break.

23 We may take a break after Mr. Duncan's closing
24 argument and before the State's, depending on the
25 length, or we may take a break after the State's closing

1 argument prior to my instructions to you, again,
2 depending on the length. Please keep in mind if at any
3 time you need a break and I have not taken one, just
4 raise your hand. Y'all will take your break and we take
5 ours.

6 If you would please give the attorneys your
7 complete and undivided attention as you have done
8 throughout the trial of this case. Thank you very much.

9 With that being said, Mr. Duncan.

10 **CLOSING ARGUMENT**

11 MR. DUNCAN: Thank you, Your Honor. Good
12 morning, ladies and gentlemen. As the Court has
13 advised, the procedure at this point is that I get my
14 last chance to talk to you, my last chance to address
15 you.

16 The rules here in South Carolina, as in every
17 state, the State has the burden of proof, and they get
18 kind of the last chance to talk to you. That's part of
19 the process, part of that burden that they carry of
20 proving guilt beyond a reasonable doubt.

21 Now, as I stand before you this morning, I
22 thought overnight, what do I need to say to this jury?
23 What do I want to say to this jury? You are looking for
24 answers. You are the finders of fact.

25 I think about how T.V. has ruined us to a

1 large degree in the sense of Law and Order type shows,
2 but the worst one goes back before some of you younger
3 folks on the jury were born or certainly were watching
4 T.V.

5 It was the old Perry Mason T.V. show. Raymond
6 Burr, Perry Mason, stands up and, you know, he solved
7 the crime. He represents the Defendant, just like I'm
8 representing the Defendant here today.

9 Not only did he say, my guy is not guilty, but
10 let me tell you who is. It's that guy over there. Life
11 doesn't work that way. I don't have the answers, the
12 answer to that question either.

13 I can't tell you what happened out at
14 141 Padgett Road on August 13, 2008, entirely. I can
15 tell you, just like you have heard here today -- excuse
16 me, in the last two days -- some of what happened out
17 there.

18 I note this morning I don't see Mr. Corley or
19 Ms. Otts in the courtroom, but they have obviously been
20 here throughout the trial. It's Mr. Corley's home.
21 Ms. Otts was a frequent visitor, you know, resident of
22 that home. She said her children had a place in that
23 house. She was there.

24 This was a Wednesday afternoon, August the
25 13th. It's roughly lunchtime or so when some folks

1 broke in their house. The thing about that, the thing
2 about that from Mr. Corley and Ms. Otts' prospective, is
3 they don't know who did it either. They didn't know at
4 the time.

5 Now, as they testified in court, they have
6 been here and they have heard the other defendants,
7 Mr. Thompson and Mr. Leaphart, had pled guilty. So
8 Connie Otts and John Corley identified them and said,
9 yeah, well, it was a big man, and there was a guy
10 outside. According to Ms. Otts, there was a guy
11 outside.

12 Then another gentleman who you will recall,
13 Mr. Barnes, testified that he has not pled guilty, but
14 he said, I intend to. So Mr. Corley and Ms. Otts,
15 they can't really help us, help you solve the crime
16 either. They can't identify the people who were in
17 their house.

18 So we are left with the people who say, we
19 were in the house. We went to that house. I will start
20 with Jawaiki Thompson, the big man, the big guy who
21 says he kicked in the door.

22 Mr. Thompson, I will ask you as far as my
23 client, Mr. Velez, I am going to ask you, submit to you,
24 that his testimony should be completely discounted.
25 Mr. Thompson says, I don't know your client. I don't

1 know Mr. Velez, never laid eyes on him.

2 But on August the 13th I was at my
3 girlfriend's house in Lexington, and Mr. Velez comes up
4 and says, let's go rob a guy down in Batesburg. How do
5 you reckon that conversation went?

6 It's nice to meet you. I think I will come
7 rob a guy with you. It sounds good to me. I ain't got
8 anything else to do today and I need some money. By the
9 way, I committed a strong arm robbery in the past. So
10 it doesn't bother me to do that.

11 I would submit to you, ladies and gentlemen,
12 that Mr. Thompson when he got on the stand, he
13 identified Mr. Velez. That is no great shakes to be
14 able to identify the guy sitting at the table.

15 I think Mr. Thompson, and I submit to you,
16 that Mr. Thompson would have testified against whoever
17 was sitting at the table. It wouldn't have bothered
18 him. He doesn't know Mr. Velez. It suits him fine to
19 say, yes, that's the guy. That's the guy.

20 Mr. Thompson, you will recall, is the
21 gentleman who was caught with Ms. Otts' jewelry, a
22 watch. I say Ms. Otts' jewelry. I believe it was
23 Ms. Otts' watch and Mr. Corley's rope necklace and some
24 cash in his pocket.

25 He stated on the stand -- you will recall he

1 stated on the stand -- I knew I was going to jail. I
2 was on probation. I had this stuff in my pocket. I
3 knew I was going to jail that afternoon. He was done.
4 So that's one of the guys who knows what happened on
5 August 13th.

6 The other guy, Lewis Barnes, Lewis Barnes has
7 been out of jail about two years, roughly two years. He
8 bonded out after about six months in jail he said.
9 Mr. Barnes says, I would do anything to be with my
10 child.

11 He says -- and I don't doubt this. I don't
12 doubt this at all -- that he doesn't have any
13 arrangement with the State. He doesn't have any deal
14 with the State, but consider what he said. He is
15 wanting to go along with y'all, y'all being the State,
16 so I can maybe get some help in this situation.

17 Mr. Barnes' expectations may not be realistic
18 in that regard, but he is hoping -- maybe he is hoping
19 beyond hope -- but he is hoping that if he says what he
20 thinks is the right thing -- and, again, I'm not telling
21 you that the Solicitor's Office is telling him something
22 that they are not going to live up to. They are not
23 telling him anything.

24 Mr. Barnes has in his mind though that it's a
25 way for me to squeak out of this. What is it I can do?

1 I submit to you in his mind it's not telling the truth
2 necessarily, but it's saying, there is a guy on trial.
3 That's how I can help. I can help by trying to convict
4 him.

5 That's the second guy who knows what happened.
6 Mr. Barnes testified that he hit Mr. Corley in the head
7 with the gun. That is bore out with Ms. Otts' testimony
8 and with Mr. Corley's testimony. They talked about a
9 short man striking Mr. Corley with the gun, talked about
10 the big man -- Connie Otts talked about the big man
11 coming through the door.

12 Then you have got the third codefendant who
13 testified. His name is Jeremy Leaphart. Jeremy
14 Leaphart was the second witness in this trial, the
15 second witness in this trial.

16 He sat on that stand and Mr. Leaphart was
17 having, I would submit to you, was having a crisis of
18 conscience. He could barely look at -- he couldn't look
19 at Mr. Velez.

20 You will recall he sat up there and he teared
21 up. He started tearing up. I asked him about letters
22 that he -- a letter that he had written. You will have
23 it back in the jury room.

24 It's Defendant's Exhibit 1. To whom it may
25 concern: On August 13, 2008, Mr. Gregory Velez wasn't

1 with Jeremy Leaphart at all that day. I was arrested by
2 myself. Mr. Gregory Velez was on another street in
3 somebody's yard when we pulled up in the police car,
4 signed Jeremy Leaphart.

5 Mr. Leaphart was with Gregory Velez later that
6 day because they were in a police car together being
7 taken off to Batesburg Leesville. Mr. Leaphart said
8 Gregory Velez was wearing blue that afternoon, in
9 contrast with what Ms. Otts and Mr. Corley talked about.
10 the people that broke in their house were all wearing
11 black.

12 Mr. Leaphart and Mr. Barnes talked about going
13 to Gilbert, and Mr. Thompson as well, going to Gilbert
14 to get some weapons. I believe Mr. Leaphart said he had
15 a weapon. I believe Mr. Barnes said he had a weapon.
16 They testified about going to a person in Gilbert.

17 I don't know who that was. Is that man number
18 four? Is that the other guy? Could that be the
19 gentleman that went in John Corley's house? I don't
20 know the answer to that. I don't know the answer to
21 that, but I have got some question about that.

22 That, from my prospective, from the
23 Defendant's prospective in a criminal case, is there
24 reasonable doubt? Does that create reasonable doubt?
25 Once again, I will say that this case is an example of

1 why a defendant doesn't have a burden of proof, doesn't
2 have to -- has to prove his innocence or disprove his
3 guilt. Because how do you prove a negative?

4 How do you -- you know, Gregory Velez was
5 questioned by Captain Goss. I will try to put this up
6 here without dropping it. Captain Goss testified about
7 being called to the scene of this incident.

8 Let me get it right because it's somewhat --
9 it's confusing to me, and it has got to be a little
10 confusing to everyone who hears what was going on on the
11 early afternoon of Wednesday, August 13, 2008.

12 There was a call that came in and Corporal
13 McCullum -- Corporal McCullum who is now with the
14 Lexington Police Department -- responded and went
15 generally right here (indicating) on Kathleen Street.
16 He is up here (indicating).

17 The house of Mr. Corley is right here
18 (indicating) on the corner of Padgett and Kathleen.
19 Y'all saw pictures of it. But here on this map you see
20 the house and you see Kathleen Street.

21 Corporal McCullum doesn't see anything going
22 on over here at Mr. Corley's house. He doesn't see
23 anything here, but he does see somebody. I believe
24 later on it was established that that somebody was
25 Jeremy Leaphart, at the edge about 50-yards up the road

1 on Kathleen Street.

2 So he calls in Captain Goss. Excuse me, he
3 makes a call. Several Batesburg Leesville police
4 officers come to the scene. Captain Goss, Major Sims,
5 and Lieutenant Clare all come in separate vehicles.

6 Captain Goss says he drove beyond the scene
7 and then he came back but was here at this area
8 (indicating) at about 1:26 in the afternoon. Again,
9 nobody sees, for the significance of this trial, nobody
10 sees Mr. Velez around Padgett Road at this time.

11 Within less than ten minutes -- less than ten
12 minutes -- Captain Goss is talking to Mr. Velez down
13 here (indicating) on Albert Street, 237 Albert Street.
14 So from here (indicating) to here (indicating) through
15 the woods, clearly Mr. Velez was there, ain't no doubt
16 about that. Mr. Velez was in Batesburg Leesville.

17 He had a vehicle. It's his girlfriend's
18 mother's vehicle, but it was a vehicle that was his
19 vehicle. He was present on Albert Street shortly after
20 a crime was committed up here (indicating) on Padgett
21 Road.

22 What can Mr. Velez say about his presence down
23 here? I was there, you know. He was there, no doubt
24 about it, no doubt about his presence there. He
25 denied -- denied at the time and he continues to deny

1 throughout -- that he had anything to do with any home
2 invasion up here (indicating) at Padgett Road.

3 John Corley, you will recall, said he didn't
4 know Mr. Velez at all, didn't know him, never laid eyes
5 on him as far as he knew. I believe that's the way he
6 said it. As far as I know, I have never seen the guy
7 before.

8 Jeremy Leaphart was, again, trying to piece it
9 together, trying to piece together how this plan, this
10 robbery came down, how it went down. Jeremy Leaphart
11 was a resident of Batesburg. He lived in Batesburg all
12 his life.

13 John Corley said, I have known -- I didn't
14 really know Jeremy Leaphart, but Batesburg is a small
15 town. I'm from a small town. I know how that works.
16 Batesburg is a town like the one I grew up in in
17 Jefferson, South Carolina, where if you call somebody
18 and it's a wrong number, you can still talk about 15
19 minutes and say, how is your family? How is everybody?
20 It's that kind of town.

21 So Corley knew Leaphart's family. Leaphart
22 knew Corley's family. Mr. Corley had cash in the house.
23 He had, not a tremendous amount of cash in the house,
24 but over \$1,600 in the house.

25 I think maybe more significantly, from what

1 Ms. Otts testified to, Mr. Corley had had a safe in that
2 house. He had been broken into sometime previously, and
3 his safe had been taken.

4 I don't know what happened with that. That
5 didn't -- wasn't significant to this case, except for
6 what I'm saying to you that it was reason to believe
7 that Mr. Corley kept money in his house, and
8 Mr. Leaphart obviously had believed that to be the case.

9 That's a reason that Mr. Corley would be a
10 target. Mr. Leaphart sat on the stand again and says,
11 you know, it was my idea. Now, again, I have said to
12 you I don't have the answer. I don't have the answer to
13 who -- I am convinced after hearing John Corley and
14 Connie Otts, they didn't make this up.

15 They didn't -- John Corley, I saw the mark and
16 I have seen the mark over his eye. Something happened,
17 something bad happened, that afternoon of August the
18 13th. I don't know who the tall slim guy, as Connie
19 Otts describes, I don't know who that was.

20 I don't know who provided the guns. I don't
21 know if he got in the car. I don't know if he went to
22 Batesburg with those guys, but I ask you to think about
23 what the investigation showed.

24 Again, the officers here -- and, you know, the
25 officers weren't there either. They were close by.

1 They were close by because they were right in here
2 (indicating) at about the time Mr. Corley's house was
3 getting broken into.

4 You know, it's almost -- this case is almost
5 too clean. That's the wrong word. I'm not sure I can
6 come up with the right word. It's my job to come up
7 with a word. It's too neat.

8 As a practical matter -- and Captain Goss said
9 this yesterday on the witness stand -- as a practical
10 matter this case was over pretty much before they even
11 got a call that the house had been broken into.

12 They had four gentlemen. They weren't under
13 arrest yet, but they were being held really at the time
14 the call came in to Batesburg Leesville that there was a
15 home invasion or a break-in of this house:

16 Captain Goss testified he didn't -- he didn't
17 interview anybody else, no other suspects. The person
18 who called in the call about a suspicious vehicle that
19 led Corporal McCullum to the scene in the first place,
20 to the general vicinity in the first place, nobody --
21 apparently there was a statement taken from a gentleman
22 named Ricky Harris, but Captain Goss said he kind of
23 vaguely remembered that, but it wasn't something that
24 they followed up on.

25 Lieutenant Clare testified yesterday. He was

1 very candid about what was done. They collected
2 evidence. When I say the investigation was practically
3 done, arrests were made.

4 I mean, we had several witnesses in here
5 yesterday who testified about what they did to get
6 various pieces of evidence. What they did, they found
7 weapons. The big gentleman, Mr. Alewine from the water
8 department, said he was a hunter and he knew the woods
9 well in the Batesburg area. So Chief Oswald called him
10 in to help find some stuff.

11 Lieutenant Clare was very candid, again, very
12 candid about what happened in terms of submitting this
13 evidence, any evidence that they gathered. He said he
14 sent weapons -- I believe he said he sent the weapons
15 over to S.L.E.D. for processing, and they didn't get any
16 results back. No fingerprints, none of that happened
17 from S.L.E.D.

18 I know he testified about sending the weapons.
19 I think he testified about sending some of the
20 ammunition. Again, it went to S.L.E.D. and fell in -- I
21 don't know -- fell in the S.L.E.D. black hole. I'm not
22 sure what happened with that, but Lieutenant Clare
23 testified, we didn't get any results back. We don't
24 have any results.

25 I submit to you, ladies and gentlemen, that

1 the investigation of this case was not as thorough as it
2 should have been. Leads weren't followed up that led to
3 anything other than Mr. Velez being the fourth guy at
4 the Corley house.

5 It didn't fit. It didn't fit their theory.
6 So they said, well, we don't need to look into that. We
7 are not worried about that. Once more, I ask you -- I
8 ask you -- are mistakes made? I know if you ask my
9 wife, she will answer that for me every day. I make
10 mistakes every day.

11 Police officers are human beings. They make
12 mistakes. But once more, who knows what went down at
13 141 Padgett Road on August 13th? The gentlemen who
14 confessed to their involvement.

15 I ask you, does Mr. Thompson's testimony make
16 any sense? I'd ask you to completely discount that.
17 Does his testimony make any sense? I met you two
18 minutes ago. Let's go rob somebody.

19 Mr. Barnes, who says I want to go along with
20 y'all to try to get some help, I want to go along with
21 y'all. What you need is to help me stay out of prison.
22 Is his testimony credible? Is his testimony enough to
23 convict a man?

24 Finally, Mr. Leaphart, who breaks down on the
25 stand, starts tearing up on the stand and says, yeah, I

1 wrote this letter that says an alibi that Mr. Velez
2 wasn't with me that day.

3 Did anybody make you write that letter?

4 No.

5 Did you write that letter of your own free
6 will?

7 Yes.

8 He had all the time in the world sitting at
9 the Lexington County jail, sitting in a cell. Nobody is
10 putting any pressure on him. Nobody is coercing him.
11 Nobody is telling him that this is something he needs to
12 do. He did it.

13 Of the people who knew what happened at
14 141 Padgett Road, does anybody -- does anybody -- have
15 testimony that is credible, that is sufficient to meet
16 that heavy burden of proof beyond a reasonable doubt?

17 Ladies and gentlemen, I'm a big football fan.
18 I'm a big football fan. Last week down in Five
19 Points -- some of y'all may care. Some of you may
20 not -- down in Five Points on Thursday night, the
21 superstar recruit for the South Carolina Gamecocks,
22 Jadeveon Clowney got handcuffed down in Five Points.

23 He fit somebody's description. Somebody said
24 we saw a big man with dreads down here and robbed
25 somebody. The next thing you know, the superstar

1 recruit is in handcuffs. He didn't get charged. He
2 didn't get charged. But are mistakes made? Absolutely.

3 It's just too important. A person's freedom
4 is too important for there to be any speculation, for
5 there to be any holes, for there to be any reasonable
6 doubt.

7 I submit to you folks, the 12 of you, I submit
8 to you that there is reasonable doubt in this case and
9 that the just verdict for Mr. Gregory Velez is not
10 guilty. Thank you for your attention. Thank you for
11 your time. Ms. Garrick will talk with you.

12 THE COURT: Thank you. Thank you very much,
13 Mr. Duncan. Solicitor.

14 MS. GARRICK: Your Honor, I need one moment.

15 (Pause.)

16 MS. GARRICK: Thank you, Your Honor. May it
17 please the Court.

18 THE COURT: Yes, ma'am.

19 CLOSING ARGUMENT

20 MS. GARRICK: Mr. Duncan, Ms. Patterson. Good
21 morning, ladies and gentlemen. Let me first address
22 some of the issues Mr. Duncan has talked about. One of
23 the main things he said is how there is no forensic
24 evidence in this case, how there's no latents, no
25 fingerprints or D.N.A.

1 That is certainly true. That is true. He
2 brought up television shows. I am going to bring up
3 television shows. This isn't like C.S.I. and my
4 personal favorite, N.C.I.S. This is a real courtroom
5 and this is a real case, and the evidence we have is
6 what we bring to you.

7 Certainly every prosecutor and perhaps every
8 juror would like to have the conclusive scientific
9 evidence that forensic evidence brings to court, but
10 it's not available in every case.

11 You heard about in this case how stuff was
12 sent to S.L.E.D. Items were analyzed and it just wasn't
13 there. Is that really so surprising? There wasn't
14 D.N.A. either. I think the word used was it was
15 incomplete, whatever that means, but it's not available
16 for your consideration.

17 These weapons, the photographs that you have
18 of them in evidence, it shows the conditions where the
19 weapons were left, in that wooded area by the dried-up
20 creek bed. We know it had been raining. In fact, two
21 of the weapons were not found until two days later.

22 Is that so surprising? Is that troublesome
23 for you? Because there is no forensic evidence, are you
24 supposed to automatically assume and believe that the
25 State has not met its burden of proof, that we haven't

1 been able to convince you beyond a reasonable doubt that
2 Mr. Velez is guilty as charged?

3 Of course not. You have got other evidence to
4 consider. You have got the witnesses you heard from the
5 witness stand, and you have got 60-plus exhibits for
6 your consideration. So please keep that in mind.

7 Now, I guess the first thing you have to do is
8 decide whether the six crimes actually were committed.
9 I don't think there is really any dispute about that,
10 and Mr. Duncan has agreed in his closing argument that
11 crimes were committed on that day.

12 Let me talk to you just a moment about the
13 crimes themselves just in general. Burglary first.
14 Have we shown that someone went into someone else's home
15 with the intent to commit a crime and they went in
16 without consent?

17 There's different kinds of burglary. In our
18 case the burglary first was that the person inside and
19 while inside the home was armed with a deadly weapon.
20 And did that happen? Was there an armed robbery? Did
21 someone armed with a firearm take property from someone
22 else and intended to permanently deprive the person of
23 that property?

24 Was there a kidnapping? Was there two
25 kidnappings? Were two people without authority of law

1 deprived of their freedom of movement? Was there
2 possession of a firearm during the commission of a
3 violent crime?

4 Certainly there was. Judge McMahon is going
5 to actually define for you violent crimes. Armed
6 robbery is a violent crime, as is burglary first and
7 kidnapping.

8 Was there a criminal conspiracy? Ladies and
9 gentlemen, you have heard that there were four people
10 involved in this incident. Four people certainly aren't
11 just going to do something like this without prior
12 planning.

13 There is going to be a conspiracy. There is
14 going to be a discussion about what they are going to
15 do. There is going to be a plan about committing this
16 criminal act.

17 So we have six different charges, and then the
18 next thing y'all have to decide is whether Gregory Velez
19 was involved in these six crimes. Has the State proven
20 to you beyond a reasonable doubt that he was?

21 I left out one other thing that the judge is
22 going to completely define for you, and he is going to
23 tell you the law of this. But in South Carolina we have
24 something called the hand of one is the hand of all.

25 That means if you are with someone and they

1 commit a felony and you assisted in that and you
2 participated in it and you were involved in it, not just
3 merely there, but that you had something to do with that
4 felony, it's as if you did it yourself.

5 Because Thompson had the jewelry, can Velez be
6 responsible for that as well? And the answer to that is
7 yes. Judge McMahon is going to explain that theory of
8 law to you.

9 John Corley, y'all heard him testify. You
10 heard about his prior record. You've heard that he has
11 got a business now. He has got four other employees.
12 He and Connie have been together eight-plus years. She
13 has got three children, and Connie and the kids spend a
14 lot of time there at that house.

15 You may not have liked Mr. Corley's past, but
16 does that matter? Remember how this case first started.
17 It first started with Ms. Patterson telling y'all
18 everyone has a right to be safe in their home.

19 Everyone has a right to be safe in their own
20 home. No matter what, your home should be your
21 sanctuary. That is certainly true for Mr. Corley and
22 certainly true for people that he invites into his home,
23 his girlfriend and her children. They should have a
24 right to be safe there, ladies and gentlemen.

25 Mr. Corley also told you something else that

1 was quite impressive. He said at the time when it
2 happened, he had told Captain Goss and law enforcement
3 that he felt like if he saw the people again. Even
4 though they had on stockings, he thought he could
5 identify them.

6 But when Captain Goss did present the photo
7 lineup to Mr. Corley, he said he wasn't sure. He told
8 us on the witness stand he couldn't just identify them
9 and he didn't want to identify the wrong person. He
10 didn't want to do that. That was quite impressive.
11 He was trying to be straightforward and honest with
12 y'all.

13 So how do we know who did what? The only way
14 to know who committed this crime, since the Defendants
15 all had their faces covered, the only way to know who
16 did what is for one of those four people to tell us, one
17 of those four.

18 We have three of those four who have told
19 y'all, who have told us, who has told law enforcement
20 what happened that day. Mr. Duncan has said you can't
21 trust what they said. You shouldn't go with it.

22 But, ladies and gentlemen, you have reason to
23 believe them because each of them told you some special
24 detail or some significant detail or took more blame
25 upon themselves as they told you what they did.

1 If this was just some big conspiracy against
2 Mr. Velez, they would have put all the blame on him.
3 They would have tried to minimize what they did and put
4 it on him.

5 Let me give you an example. Jawaiski
6 Thompson, the first one that testified, he told us that
7 he was the one who kicked the door in. He didn't have
8 to tell us that. We wouldn't have known if he hadn't
9 told us. He could have blamed that on Mr. Velez, but he
10 didn't.

11 He also told us that one of the thermals or
12 hoodies that you have got in evidence, he had worn that
13 during the armed robbery and home invasion and that he
14 had dropped it in the woods.

15 He didn't have to tell us that. He could have
16 said that was Velez's. That's why it's important and
17 that's why you can believe him is because he is telling
18 us stuff that we didn't know.

19 What about Mr. Leaphart? Let me remind you,
20 Mr. Thompson and Mr. Leaphart, as they told you, had
21 both been prosecuted by me. They both pled guilty.
22 They both, at the time of their guilty plea, answered
23 questions under oath about who did what and who was with
24 them, who else assisted in this armed robbery, burglary,
25 home invasion case.

1 Mr. Leaphart certainly did get emotional. He
2 didn't want to be here. He didn't want to testify,
3 ladies and gentlemen, against his friend, Gregory Velez,
4 but he was under oath and he was forced to answer
5 questions truthfully, just like at his guilty plea.

6 Ladies and gentlemen, Mr. Leaphart told us
7 other details. He told us that on the way there, he saw
8 someone else who saw them. Maybe that's the mysterious
9 Ricky Harris. We don't know but we know somebody had
10 called law enforcement. Some good citizen in Batesburg
11 saw something going down and called 9-1-1.

12 Leaphart told us that. Leaphart also told us,
13 you know what? Me and Velez picked John Corley. He
14 didn't put it all on Velez. He didn't put it all on
15 Velez. He took part of that blame himself. He said,
16 yeah, you could say me and Velez decided on John
17 Corley. He didn't have to tell us that, ladies and
18 gentlemen.

19 What about these letters that are in
20 evidence? If you look at them, they are exactly 99
21 percent the same language. Velez was trying to alibi
22 Leaphart, and Leaphart is trying to alibi Velez. It's
23 when they are in the county jail before Mr. Leaphart has
24 pled guilty.

25 Mr. Leaphart tried, I think, to explain why he

1 wrote those letters. It makes sense if you think about
2 it. Mr. Leaphart was the one who was caught by himself.
3 The other three were detained together.

4 If any of the four were hopefully, maybe
5 possibly going to get out of this, it would have been
6 Mr. Leaphart, don't you think, because he was by
7 himself, and the other three were together with some of
8 the stolen items.

9 Thompson had stolen items in his pocket. So
10 those three were certainly not going to get away with
11 this. So those letters, are they sworn testimony? Are
12 they notarized?

13 They are just letters. They are just
14 handwritten jail notes from one charged person to
15 another charged person for him to give to their lawyers.
16 Take that for what it's worth.

17 What about Lewis Barnes, ladies and gentlemen,
18 the third guy that testified, 18 years old when this
19 went down? And Mr. Duncan got him you to say that he
20 would be willing to do anything or either almost
21 anything to try and get out of trouble.

22 Well, he did it. He testified. That's doing
23 anything. He has no deal with my office. He has no
24 arrangement worked out. He came into court and he
25 testified against himself. He incriminated himself on

1 six different felony charges hoping that that will help
2 him when his case is ready to come to court.

3 He has told you he is planning on pleading
4 guilty, and he fully expects to go to prison. You can
5 trust what he said because, once again, there are extra
6 things, details, that come out.

7 Mr. Barnes says, I'm the one who hit John
8 Corley. I'm the one who made him bleed. I did it. If
9 Lewis Barnes was trying to minimize his own actions and
10 put more blame on Velez or conspire against Velez for
11 whatever reason you may think there is, he would have
12 done it that way.

13 He wouldn't have admitted, no, I'm the one who
14 actually struck John Corley. That's why you can believe
15 what he told us. There are no other witnesses who can
16 say who are the four people, except the four people
17 themselves. Three of the four people have admitted
18 their involvement and have named Gregory Velez as the
19 fourth person.

20 Ladies and gentlemen, y'all know what
21 happened. Gregory Velez, in that black Tahoe, picked up
22 Jeremy Leaphart, a friend, and Mr. Thompson joined in.
23 They decided they were going to do a lick. They were
24 going commit an armed robbery.

25 They go to Gilbert, get more weapons.

1 Leaphart already has his pistol. They pick up Lewis
2 Barnes who already has his pistol. They have got now
3 the assault rifle and the shotgun. They have got
4 ammunition, and they decide to rob John Corley.

5 They go to Batesburg and they park on that
6 road, that dirt road, in this deserted area. That house
7 is isolated. They make sure they have on dark clothing.
8 Gregory Velez has stockings, pantihose, ladies pantihose
9 stockings in his car. They cover their faces and they
10 go to go in.

11 Jeremy Leaphart sees somebody else in that
12 area, and it concerns him but they don't stop what they
13 are doing. Thompson kicks the door in and three go in.
14 Velez is carrying the shotgun. They go inside and they
15 attack and terrorize John Corley and Connie Otts.

16 They make a mess of that bedroom. They
17 destroy it. They are flipping mattresses, going through
18 dressers. They are taking the water jug full of money.
19 They are taking jewelry. They are taking Connie's other
20 envelope of money.

21 They hit John. He has got bruises on his
22 arms. He is pouring blood from his eye. Jeremy
23 Leaphart, someone hands Jeremy Leaphart that water jug
24 full of money. He takes it back to the Tahoe, puts it
25 on the right-hand side, the passenger side.

1 He goes ahead and cranks up the vehicle to get
2 ready because he wants to get out of there. The guys
3 don't come out. Leaphart goes back to the kitchen door
4 there. He's knocking, telling them to come on.

5 At that point the other guys are ready. They
6 are done. They have tied Connie up with speaker wire.
7 They leave her in the kitchen. They tied John Corley up
8 with the computer laptop cords, and they left him in
9 that closet that is right in the bathroom off the
10 bedroom, and they run out.

11 Jeremy Leaphart is closest to the Tahoe. He
12 is the lookout man. Remember, he couldn't go in because
13 John Corley knew him and he knew John Corley. So
14 Leaphart is closest to the Tahoe.

15 Lo and behold what does he see? He sees a
16 Batesburg police car right there. He has his gun. The
17 officer hollers at him to stop. He tucks his gun, backs
18 up, turns and runs away.

19 The officer who has gone there for suspicious
20 activity sees them. He sees other people running
21 through the wood line, and that's when the clock starts
22 ticking.

23 These men run by the other side of the house.
24 Connie tells you at that point she has gone to check on
25 her kids. They are in that front bedroom. She's gone

1 to check on them, to comfort them.

2 John has come. He untied her. She sees the
3 three run by that window. She is looking for a house
4 phone to call 9-1-1. She puts on some clothes. I think
5 she said she had to slip on some pants and a top.

6 She ended up going out to her car to get a
7 cell phone to call 9-1-1. She says once she goes out,
8 she knows it's going to be okay because the police car
9 is already there.

10 Within minutes Major Sims, Lieutenant Clare,
11 and even Captain Goss are out with Jeremy Leaphart, who
12 has come through the woods there, and they have stopped
13 him.

14 Captain Goss knows there are other people out
15 there. Corporal McCullum saw other people and says, I
16 will look. He goes right down the road, goes down
17 Albert Street, and sure enough there's three people,
18 three people matching the clothing description. He
19 detains them. And what else? Evidence is collected
20 from Thompson and Velez. They go back to the police
21 department.

22 Ladies and gentlemen, it's not just what the
23 three codefendants have said. Law enforcement did a
24 fine job. They did a fine job of gathering
25 corroborating evidence.

1 They gathered evidence on that day and over
2 the next period of a couple of days that should help you
3 make your decision. Is what the witnesses said borne
4 out by the evidence?

5 We have the photographs of the crime scene,
6 the photographs of that bedroom, of how it was
7 destroyed, the speaker wire that was collected, the
8 computer cords that were collected.

9 The Tahoe itself, ladies and gentlemen, the
10 Tahoe on the crime scene road behind the house, parked,
11 left there. And interestingly you heard the lie that
12 Thompson and Barnes had said and Velez that they were
13 going to tell law enforcement they had just run out of
14 gas or whatever.

15 It's kind of funny because Leaphart had gone
16 to put the water jug in, and he cranked it up and got
17 ready because he was hoping they were going to leave.
18 With all the law enforcement being there and everybody
19 running through the words, Thompson and Barnes had not
20 realized that the car was running.

21 It couldn't have been out of gas. The car was
22 running when law enforcement got there. So law
23 enforcement, from that car, they process that car. They
24 get Velez's driver's license. His wallet is in the
25 driver's door pocket.

1 They get empty pantihose, pantihose egg
2 things. Ladies, y'all know what I'm talking about.
3 They are in evidence. They collect that. There is a
4 camouflaged gun case in evidence, all from the car.

5 What else? Well, Batesburg Police Department,
6 the S.L.E.D. team, Lexington County crime scene, the
7 water department employees, what do they find in the
8 woods? Each one of these guns, two found that day, two
9 found two days later.

10 They found each one of these guns and each one
11 fully loaded. There are shotgun shells that were found
12 in the woods and collected. Thompson, the clothing item
13 that he wore, was found and collected in the woods.

14 Over on Albert Street, Gregory Velez, he is
15 with Jawaiki Thompson. He is with Lewis Barnes.
16 Gregory Velez, shotgun shells in his right front pocket.
17 What is in Thompson's pocket? The stolen jewelry, the
18 bank envelope, the Bank of America receipts.

19 Law enforcement has gotten you corroborating
20 evidence to show what has happened in this case, ladies
21 and gentlemen. The timeline here: 1:15, McCullum
22 responds to suspicious activity. It wasn't just an
23 abandoned vehicle. He said he remembers it being
24 suspicious activity of men dressed in dark clothes.

25 At 1:20 McCullum runs the tag on the Tahoe;

1 1:22, other Batesburg police respond to assist him,
2 McCullum, who is out with three armed -- possibly
3 armed -- men. So at 1:22 McCullum has already seen
4 people running.

5 At 1:24 two officers are out on Padgett with
6 Jeremy Leaphart. At 1:26 Captain Goss is checking with
7 them on Padgett Street, too, with Jeremy Leaphart. At
8 1:29 Captain Goss sees three men on Albert Street.

9 That's when he calls for backup. Seven
10 minutes from when it's noted that men are running, and
11 then seven minutes later they are on Albert Street
12 together.

13 At 1:33 the 9-1-1 call has come in, and
14 officers have been dispatched to a home invasion.
15 That's 11 minutes after McCullum sees men running, 11
16 minutes it has taken Connie to comfort her kids, for
17 John to untie her, to look for the phone, to go out --
18 put on clothes and then go out to her car to get her
19 cell phone.

20 Once she sees the police car, there is not as
21 much urgency because she knows it's going to be okay.
22 By 2:00 o'clock we have got other crime scene people
23 coming in. That's when Detective Hickman is requested
24 to come.

25 It makes perfect sense. Look at this, ladies

1 and gentlemen. It's all laid out for you: 141 Padgett
2 Road, the victim's home. Kathleen Street here
3 (indicating). You've got the Tahoe on that deserted
4 road.

5 You've got law enforcement. You've got
6 Padgett found. It's all marked for you. Padgett found
7 here (indicating). All the items found in the woods.
8 Defendants are found here (indicating), Albert Street.

9 Ladies and gentlemen, law enforcement is
10 chasing you. You've got stockings. You've got these
11 armed assault rifles, weapons such as this that you are
12 ditching in the woods.

13 You have just kicked in a door, roughed up a
14 family, done a home invasion. Certainly you could get
15 through these woods in seven to eight to ten minutes.
16 Come on.

17 Ladies and gentlemen, it's not really a very
18 complicated case. It's not that confusing. It's pretty
19 straightforward if you think about it. One thing we
20 don't have to prove to you, the State does not have to
21 prove to you, why these people did this. That would be
22 impossible.

23 It doesn't make sense, does it? Four people
24 who are not family, who don't know each other that well
25 would do something like this, would do something so

1 violent, but it happens. It happened in this case. It
2 could just be as simple as what Mr. Thompson said. He
3 needed money. We are going to go do a lick, going to go
4 do a lick.

5 There are four men, ladies and gentlemen, who
6 committed this crime. There are four men who did this
7 home invasion and armed robbery. Four men were
8 identified. We know it was four men because of the
9 victims. There were four men who were caught within
10 minutes by good, solid police work.

11 Four weapons were found and each one of these
12 weapons has been testified to you by the three
13 codefendants. They have all told you who had what
14 weapon and who did what. All the victims have said,
15 both victims, have identified the guns, three of the
16 guns, that is.

17 Four people need to be held accountable for
18 what happened on August 13, 2008. Two have pled
19 guilty and are in prison, one is going to plead
20 guilty, and this week, today, is Mr. Velez's time in
21 court.

22 This is his opportunity to face his charges.
23 Ladies and gentlemen, I would ask that your verdict hold
24 Mr. Velez accountable for what he did on August 13,
25 2008.

1 This was a very senseless crime. It was a
2 very violent crime, very violent crime. Look at this
3 firepower here. Look at the shotgun that Velez had.
4 John and Connie are in the sanctity of John's home with
5 their children there, and three masked, armed gunmen
6 bust in and the demands they were making for money, the
7 threat to kill John.

8 Connie, when she testified, you saw how
9 emotional she got, and it's two and a half years later.
10 It still gets to her. How frightening it must have been
11 for John and Connie and the children on the other end of
12 the house.

13 It's a senseless violent, violent crime,
14 ladies and gentlemen. Have you been convinced beyond a
15 reasonable doubt? You don't have to be convinced beyond
16 each and every doubt. That would be impossible. That's
17 not the burden the State has.

18 There are few things you can know with
19 absolute certainty, but if you are firmly convinced, you
20 must convict. You swore to base your juror's oath -- by
21 your juror's oath, you swore that you would base your
22 verdict on the evidence and the law.

23 Mr. Velez is guilty. He is guilty beyond any
24 reasonable doubt. I would ask that you return a verdict
25 of guilty on each of the six counts. Thank you.

1 (Whereupon the Court charged the jury as
2 follows.)

3 THE COURT: Mr. Foreman, ladies and gentlemen,
4 my charge will take 35, 40 minutes. If anyone needs a
5 break, now is the time to take it. If everybody is all
6 right, we will press on. Very well, we will press on.

7 The method and procedure I use in charging or
8 instructing the jury is I cover the general criminal law
9 that applies to all criminal cases first. Thereafter I
10 cover the specific charges in each indictment. Then I
11 cover the form of the verdict.

12 Usually I will give you the caption of the
13 paragraph I am fixing to cover, and when I change from
14 one topic to another, I will give you the caption of
15 that next topic I am intending to cover.

16 I try to change the tone and cadence of my
17 voice as much as I can; however, it is a good bit of
18 material to cover. If you would please give me your
19 complete and undivided attention as you have given to
20 all the parties during the trial of this case.

21 Charge, arrest, indictments not evidence. The
22 indictments charge the Defendant with burglary first
23 degree, armed robbery, two counts of kidnapping,
24 possession of a firearm during the commission of a
25 violent crime, and criminal conspiracy.

1 I remind you that the fact that this Defendant
2 was arrested, charged, and indicted in these cases is
3 not evidence in this case and cannot be considered by
4 you as evidence of guilt in this case, nor does it
5 create any presumption or inference of guilt.

6 These documents, these indictments, are simply
7 the formal written documents which contain the charges
8 brought in this case. Each indictment, ladies and
9 gentlemen, charge a separate and distinct offense.

10 You must decide each indictment separately on
11 the evidence and the law applicable to it, uninfluenced
12 by your decision to any other indictment. The Defendant
13 may be convicted or acquitted on any or all of the
14 offenses charged. You will be asked to write a separate
15 verdict of guilt or not guilt as to each indictment.

16 Presumption of innocence. The Defendant has
17 pled not guilty to these indictments. That plea puts
18 the burden on the State to prove the Defendant guilty.
19 A person charge with committing a criminal offense in
20 South Carolina is never required to prove himself
21 innocent.

22 I charge you that it is an important rule of
23 the law that the Defendant in a criminal trial, no
24 matter what the seriousness of the charge, will always
25 be presumed to be innocent of the crime for which the

1 indictment was issued unless guilt has been proven by
2 evidence satisfying you the jury of that guilt beyond a
3 reasonable doubt.

4 This presumption of innocence does not end
5 when you begin your deliberations, but it accompanies
6 the Defendant throughout the trial until you reach a
7 verdict of guilt based on evidence satisfying you of
8 that guilt beyond a reasonable doubt.

9 The presumption of innocence has been said to
10 be like a robe of righteousness placed about the
11 shoulders of a defendant which remains with the
12 Defendant until it has been stripped from the Defendant
13 by evidence satisfying you of the Defendant's guilt
14 beyond a reasonable doubt.

15 The presumption of innocence is not a mere
16 legal theory. It is not just a legal phrase. It is a
17 substantial right to which every defendant is entitled
18 unless you the jury are satisfied from the evidence of
19 the Defendant's guilt beyond a reasonable doubt.

20 Reasonable doubt. What is a reasonable doubt
21 in the law? A reasonable doubt is the kind of doubt
22 that would cause a reasonable person to hesitate to act.
23 The State has the burden of proving the Defendant guilty
24 beyond a reasonable doubt.

25 Some of you in the past may have served as

1 jurors in civil cases where you were told it is only
2 necessary to prove that a fact is more likely true than
3 not true, such as by the greater weight or the
4 preponderance of the evidence.

5 In criminal cases the State's proof must be
6 more powerful than that. It must be beyond a reasonable
7 doubt. Proof beyond a reasonable doubt is proof that
8 leaves you firmly convinced of the Defendant's guilt.

9 There are very few things in this world that
10 we know with absolute certainty, and in criminal cases
11 the law does not require proof that overcomes every
12 possible doubt.

13 If based on your consideration of the evidence
14 you are firmly convinced that the Defendant is guilty of
15 the crime charged, you must find the Defendant guilty.
16 If, on the other hand, you think there is a real
17 possibility that the Defendant is not guilty, you must
18 give the Defendant the benefit of the doubt and find him
19 not guilty.

20 Duty of jury and trial judge. I remind you
21 that during this trial, you and I have certain duties to
22 perform. As the trial judge, it is my responsibility to
23 preside over the trial, and I also have the duty to rule
24 on the admissibility of the evidence.

25 You are to consider only the competent

1 evidence before you. You are to consider only the
2 testimony which has been presented from the witness
3 stand and any exhibits which have been made part of the
4 record.

5 I have the additional duty to instruct you or
6 charge you the law that applies to this case. As the
7 presiding judge, I am the sole judge of the law of this
8 case, and it is your duty as jurors to accept and apply
9 the law as I now state it to you.

10 If you already have any idea as to what the
11 law is or what the law ought to be and it does not agree
12 with what I now tell you the law is, you must abandon
13 your idea because you are sworn to accept the law and
14 apply the law exactly as I state it to you.

15 In every case tried in this court before a
16 trial jury, the jury becomes the sole and exclusive
17 judge of the facts in the case. A trial judge cannot
18 intimate, state, comment on or make any statement to a
19 trial jury about the facts in a case.

20 Since you the jury are the sole judge of the
21 facts in the case, you are not to infer from what I have
22 said during the progress of this trial in ruling on the
23 admissibility of evidence or otherwise or anything that
24 I now say to you during the course of this instruction
25 that I have any opinion about the facts in this case.

1 The law does not allow me to have an opinion
2 about the facts in the case. This is a matter solely
3 for you the jury to determine. As jurors it is your
4 duty to determine the effect, the value, the weight, and
5 the truth of the evidence that has been presented during
6 the course of this trial.

7 Direct and circumstantial evidence. There are
8 two types of evidence which are generally presented
9 during a trial, direct evidence and circumstantial
10 evidence.

11 Direct evidence is the testimony of a person
12 who claims to have actual knowledge of a fact, such as
13 an eyewitness or an ear witness. It is evidence which
14 immediately establishes the main fact to be proved,
15 direct evidence.

16 Circumstantial evidence is proof of a chain of
17 facts and circumstances indicating the existence of a
18 fact. It is evidence which immediately establishes a
19 collateral fact or facts from which the main fact may be
20 inferred.

21 Circumstantial evidence is based on inference
22 and not on personal knowledge or observation. The law,
23 our law, makes absolutely no distinction between the
24 weight or the value to be given to either direct or
25 circumstantial evidence, nor is there a greater degree

1 of certainty required of circumstantial evidence than of
2 direct evidence.

3 You the jury should weigh all of the evidence
4 in the case. After weighing all of the evidence, if you
5 are not convinced of the guilt of the Defendant beyond a
6 reasonable doubt, you must find the Defendant not
7 guilty.

8 Credibility of the witnesses. Necessarily you
9 must determine the credibility of the witnesses who have
10 testified in this case. Credibility simply means
11 believability. It becomes your duty as jurors to
12 analyze and to evaluate the evidence and determine which
13 evidence convinces you of its truth.

14 In determining what the facts are in this
15 case, in passing on the credibility of the witnesses,
16 you ask this question: Can I believe this witness? Is
17 this witness' testimony credible?

18 The value and the weight to be given to the
19 testimony is in your sound discretion and good judgment.
20 You alone must decide the force and the effect and the
21 truth of the testimony.

22 In making the determination of the credibility
23 of the witnesses, there are many factors that you may
24 and should take into consideration, such as, the
25 appearance or manner of the witness as he gave his

1 testimony from the stand, known in the law as the
2 demeanor of the witness.

3 Did the witness have an interest in the
4 outcome of the trial? Was the witness forthright or
5 hesitant? Was the witnesses' testimony consistent or
6 did it contain discrepancies?

7 What was the ability of the witness to know
8 about the facts concerning which he or she gave
9 testimony? Did the witness have cause or reason to be
10 biased or prejudiced in favor of the testimony that he
11 or she gave?

12 Was the testimony of the witness corroborated
13 and made stronger by other testimony and evidence or was
14 it made weaker and impeached by other testimony and
15 evidence?

16 As jurors you have the right to believe a
17 small portion of a witness' testimony and disregard the
18 larger portion or you may believe a larger portion of a
19 witness' testimony and disregard the smaller portion.

20 You may disregard a witness' testimony
21 entirely if you have a sound reason in the record for
22 doing so. You may believe the testimony of a single
23 witness against that of many witnesses or the many
24 witnesses as against the one.

25 Most certainly you do not determine the matter

1 of credibility or believability merely by counting the
2 number of witnesses for either side. Throughout this
3 entire process, ladies and gentlemen, you have but one
4 single objective, and that is to seek the truth
5 regardless of from what source that truth may come.

6 Prior record of a witness. A person who has a
7 prior past criminal record is competent to testify
8 during a trial. A past record does not affect the
9 ability of that witness to testify.

10 The past record may only be considered by you,
11 if at all, in determining the witness' believability.
12 Remember again, you are the sole judges of the facts in
13 this case and of the believability of any and all of the
14 witnesses.

15 Expert witnesses. Our rules of evidence
16 ordinarily do not permit witnesses to testify to
17 opinions or conclusions. An exception exists for this
18 rule for witnesses that we call expert witnesses.

19 A witness, who by education or experience, has
20 become expert in some art, science, profession, calling
21 or trade may state an opinion as to relevant and
22 material matters in which the witness claims to be an
23 expert and may also state the reasons for holding that
24 opinion.

25 You should consider any expert opinion

1 received in evidence in this case and like any other
2 evidence give it the weight you think it deserves. If
3 you decide that the opinion of an expert witness is not
4 based on sufficient education or experience or if you
5 conclude that the reasons given in support of the
6 opinion are not sound or that the opinion is outweighed
7 by other evidence, you may disregard the opinion in its
8 entirety.

9 An expert witness' testimony is to be given no
10 greater weight than that of any other witness simply
11 because the witness is an expert. Further, you are not
12 required to accept an expert's opinion even though it is
13 not contradicted.

14 Ladies and gentlemen, I instruct you and
15 emphasize that the fact that the Defendant did not
16 testify is not a factor to be considered by you in any
17 way in your deliberation and in your consideration on
18 the question of the guilt or the innocence of the
19 Defendant. It must not be considered by you in any
20 manner whatsoever.

21 A defendant has the constitutional right to
22 remain silent, and the assertion of this right must not
23 be considered by you in your deliberations. I repeat,
24 under your oath you are to draw no conclusion whatsoever
25 from the fact that the Defendant in this case did not

1 testify.

2 The fact that this Defendant did not testify
3 should not even be discussed in the jury room. The
4 burden of proof, as I have stated, is on the State. The
5 Defendant is not required to prove his innocence. The
6 burden of proof remains on the State to prove guilt
7 beyond a reasonable doubt.

8 Intent. In order to establish criminal
9 liability, criminal intent is required. For example,
10 the mental state required to be proven by the State for
11 a particular crime might be purpose, intent, knowledge,
12 recklessness or criminal negligence.

13 Criminal intent must be proven by the State
14 beyond a reasonable doubt. Criminal intent is always a
15 matter that must be determined by the jury from the
16 circumstances surrounding the situation.

17 There is no way to prove intent to a
18 mathematical certainty. There is no way that medical
19 science can dissect a person's brain and determine what
20 the person had in mind.

21 So our law says that criminal intent may be
22 inferred from the circumstances shown to have existed.
23 This is how you make the determination of whether or not
24 the element requiring intent was present.

25 It is not necessary to establish intent by

1 direct and positive evidence, but intent may be
2 established by inference in the same way as any other
3 fact, by taking into consideration the acts of the
4 parties and all the facts and circumstances surrounding
5 the case.

6 Criminal intent is a mental state, a conscious
7 wrongdoing. It is up to you to determine what the
8 Defendant intended to do based on the circumstances
9 shown to have existed.

10 Criminal intent can arise from action or a
11 failure to act. It may arise from negligence,
12 recklessness or an indifference to duty or to
13 consequences that is considered by the law to be the
14 equivalent of criminal intent.

15 Accomplice liability. If you would please
16 continue to give me your complete and undivided
17 attention. If a crime is committed by two or more
18 people who are acting together in committing a crime,
19 the act of one is the act of all.

20 A person who joins with another to commit an
21 unlawful act is criminally responsible for everything
22 done by the other person which happens as a probable and
23 natural consequence of the acts done in carrying out the
24 common plan and purpose.

25 For example, two people can be guilty of

1 killing another person when only one of the two had a
2 gun, there was only one bullet, and only one of the two
3 fired the shot that caused the death.

4 If two or more people are together, acting
5 together, assisting each other in committing the
6 offense, the act of one is the act of all or as it is
7 sometimes said, the hand of one is the hand of all.

8 Prior knowledge that a crime is going to be
9 committed without more is not sufficient to make a
10 person guilty of that crime. Mere knowledge that
11 another person is going to commit a crime, even if the
12 Defendant is present when the crime is committed, is not
13 sufficient to convict the Defendant as a principal.

14 Guilt as a principal is shown by showing that
15 the Defendant, while present at the commission of the
16 crime, aided, abetted or assisted in the commission of
17 the crime pursuant to a common design and purpose.
18 Therefore, a finding of a prior arranged plan or common
19 scheme is necessary for a finding of guilt as a
20 principal.

21 The State must prove beyond a reasonable doubt
22 by competent evidence all of the evidence of the theory
23 of the hand of one is the hand of all. A principal in a
24 crime is one who either actually commits the crime or
25 who is present aiding, abetting or assisting in

1 committing the crime.

2 When a person does an act in the presence of
3 and with the assistance of other, the act is done by
4 both where two or more acting with a common plan or
5 intent are present at the commission of the crime. It
6 does not matter who actually commits the crime. All are
7 guilty. Again, the hand of one is the hand of all.

8 Present at the commission of a crime means to
9 be sufficiently near, to aid and abet and assist in the
10 commission of the crime. However, mere presence at the
11 scene of a crime is not sufficient to convict one as a
12 principal on the theory of aiding and abetting.

13 Intent is also a necessary element, for there
14 must have been a common design or intent to commit the
15 crime, and the crime must have been committed pursuant
16 thereto with the person aiding and abetting by some
17 overt act.

18 Intent means intending the result which
19 actually occurred, not accidentally or involuntary.
20 Intent, again, may be shown by acts and conduct of the
21 Defendant and other circumstances from which you may
22 naturally and reasonably infer intent. The State must
23 prove these elements beyond a reasonable doubt.

24 Mere presence at the scene is not sufficient
25 to prove someone guilty of a crime. A defendant's

1 presence where a crime is being committed or mere
2 association with a person who commits a crime does not
3 make a defendant an accomplice or an aider or abettor of
4 the person committing the crime.

5 The burden is on the State to prove every
6 element of the crime charged. If you find, after
7 reviewing all the evidence, that the State has proved
8 that the Defendant was only present at the scene of the
9 crime and that they have not proved beyond a reasonable
10 doubt any other participation in the crime, then you
11 must find the Defendant not guilty. The law is that
12 proof of presence at the scene is not sufficient to find
13 someone guilty.

14 Ladies and gentlemen, that is the general
15 criminal law that applies to all criminal cases in South
16 Carolina. I am now going to cover the various charges
17 in the indictments. I believe there are six charges.

18 Conspiracy. The Defendant is charged with
19 conspiracy. The State must prove beyond a reasonable
20 doubt that the Defendant combined with one or more
21 persons for the purpose of committing an unlawful act or
22 of committing a lawful act by unlawful means.

23 There must be a mutual understanding,
24 agreement or common intention and plan. Mere passive
25 knowledge of or consent to the criminal conduct of

1 another is not enough to make a person a conspirator.

2 There must be guilty knowledge and participation.

3 Similarly, the mere fact that the Defendant
4 may have associated with another person or met with
5 another person and discussed common aims and interests
6 does not necessarily establish proof of the existence of
7 a conspiracy or that the Defendant was involved in a
8 conspiracy.

9 On the other hand, it is not necessary that
10 the agreement be a formal one, that it be in writing,
11 that the person hold a meeting and expressly state the
12 terms of the common plan or that the agreement be stated
13 in words between them.

14 The agreement of a criminal conspiracy may
15 come into being through an implied mutual understanding.
16 The willful, intentional, and knowing adoption by two or
17 more persons of a common plan is sufficient. No overt
18 acts need to be shown to establish a conspiracy. A
19 conspiracy may be shown by circumstantial evidence and
20 the conduct of the parties.

21 In order to convict the Defendant of
22 conspiracy, the State must prove beyond a reasonable
23 doubt not only that the Defendant knew of the unlawful
24 conduct but that the Defendant agreed to combine with
25 other persons for the purpose of accomplishing the

1 unlawful conduct. That's the charge on criminal
2 conspiracy.

3 Burglary, burglary in the first degree,
4 Section 16-11-311: The Defendant is charged with
5 burglary in the first degree. The State must prove
6 beyond a reasonable doubt that the Defendant entered a
7 dwelling without consent.

8 A dwelling is any building or portion of a
9 building in which a person ordinarily sleeps. In order
10 to prove that the Defendant entered the dwelling, the
11 State does not have to show that the Defendant's entire
12 body entered the dwelling.

13 The smallest entry is sufficient. It may be
14 any part of the body, such as a hand or foot or even an
15 instrument, such as a hook or other instrument. In
16 addition, the State does not have to prove that force
17 was used to gain entry.

18 Next the State must prove beyond a reasonable
19 doubt that the Defendant intended to commit a crime,
20 either a felony or a misdemeanor, at the time of the
21 entry. The mere entry into a dwelling without consent
22 is not burglary.

23 If the intent to commit a crime is formed
24 after the entry, it is not burglary. On the other hand,
25 if the Defendant intended to commit a crime at the time

1 of the entry, it is a burglary even if the intent was
2 abandoned after entry.

3 It does not matter that the intended crime was
4 not completed. Intent may be shown by acts and conduct
5 of the Defendant and other circumstances from which you
6 may naturally and reasonably infer intent.

7 Finally, the State must prove beyond a
8 reasonable doubt that either one of the following:
9 Number one, when entering or while in the dwelling or
10 when fleeing, the Defendant or an accomplice was armed
11 with a deadly weapon or explosive.

12 A deadly weapon is any article, instrument or
13 substance which is likely to cause death or great bodily
14 harm. Whether an instrument has been used as a deadly
15 weapon depends on the facts and circumstances of each
16 case. Examples of deadly weapons: A pistol, a shotgun,
17 a rifle, a knife.

18 Number two, when entering or while in the
19 dwelling or when fleeing, the Defendant or an accomplice
20 caused physical injury to anyone not participating in
21 the crime. Or, number three, when entering or while in
22 the dwelling or when fleeing, the Defendant or an
23 accomplice used or threatened to use a dangerous
24 object.

25 Or, number four, when entering or while in

1 the dwelling or when fleeing, the Defendant or an
2 accomplice displayed what was or what appeared to be a
3 knife, pistol, revolver, rifle, shotgun, machine gun or
4 other firearm. That's the charge on burglary first
5 degree.

6 The next charge is armed robbery, 16-11-330.
7 The Defendant is charged with armed robbery. In order
8 to prove this offense, the State must prove beyond a
9 reasonable doubt that the Defendant took property,
10 personal property, from the person or presence of
11 another person.

12 Property is in the presence of a person if it
13 is within the person's reach, inspection, observation or
14 control so that the person could, if not overcome with
15 violence or prevented by fear, keep possession of the
16 property.

17 The State must also prove beyond a reasonable
18 doubt that the Defendant carried the property away,
19 intending to permanently deprive the owner of the
20 property and to keep the property for the Defendant's
21 own use.

22 The slightest removal of the property or the
23 complete possession of the property, even for an instant
24 by the Defendant, is sufficient to show a taking and
25 carrying away of the property.

1 The taking and carrying away of the property
2 must have been done with violence or by putting the
3 owner of the property in fear of violence. Finally, the
4 State must prove beyond a reasonable doubt that the
5 Defendant was armed with a deadly weapon during the
6 robbery.

7 A deadly weapon is any article, instrument or
8 substance which is likely to cause death or great bodily
9 harm. Whether an instrument has been used as a deadly
10 weapon depends on the facts and the circumstances of
11 each case.

12 Again, the following are examples of
13 instruments which may be deadly weapons: A pistol,
14 shotgun, rifle, knife. That is the charge on armed
15 robbery.

16 Next, kidnapping, 16-3-910. The Defendant is
17 charged with kidnapping. The State must prove beyond a
18 reasonable doubt that the Defendant knowingly and
19 unlawfully seized, confined, inveigled, decoyed,
20 kidnapped, abducted or carried away another person
21 without authority of law.

22 To do a thing unlawfully is to do it willfully
23 against the law. Knowingly means with knowledge,
24 consciously, not accidentally. Seize means to take hold
25 of suddenly or forcibly. Confine means to limit or

1 restrict or enclose within bounds, imprison or shut or
2 keep in.

3 Inveigle means to lure, entice or lead astray
4 by false representations, promises or other deceitful
5 means. Decoy means to lure by or as if by decoy. A
6 decoy is something to entice a person into a trap.

7 Kidnap is to remove a person against his will
8 by unlawful force or by fraud. Abduct means to carry
9 off secretly or by force for an illegal purpose. Carry
10 away means to remove.

11 The State does not have to prove that the
12 Defendant did all these things. Instead if you find
13 beyond a reasonable doubt that the Defendant did any of
14 these things, you may find the Defendant guilty of
15 kidnapping.

16 Something done without authority of law is
17 something which the law does not sanction, permit,
18 allow, condone or provide justification for. The
19 kidnapping does not have to be done for any personal or
20 monetary gain or any illegal purpose but may be for
21 any reason whatsoever. That is the charge of
22 kidnapping.

23 Finally, ladies and gentlemen, possession of a
24 weapon during the commission of or attempt to commit a
25 violent crime under 16-23-490. The Defendant is charged

1 with possession of a weapon during the commission of or
2 attempt to commit a violent crime.

3 The State must prove beyond a reasonable doubt
4 that the Defendant was in possession of a firearm or
5 visibly displayed what appeared to be a firearm during
6 the commission of a violent crime.

7 For purposes of this section, a firearm means
8 any machine gun, automatic rifle, revolver, pistol or
9 any weapon which will or is designed to or may be
10 readily converted to expel a projectile.

11 In order to find the Defendant guilty of
12 possession of a weapon during the commission of a
13 violent crime, you must first find the Defendant guilty
14 of either committing a violent crime or attempting to
15 commit a violent crime. Armed robbery, burglary in the
16 first degree, and kidnapping are violent crimes.

17 Ladies and gentlemen, that concludes the
18 charges on the specific indictments, the allegations of
19 the indictment. I assure you the end is in sight. I am
20 going to cover the form of the verdict. If you would
21 continue to give me your complete and undivided
22 attention.

23 Ladies and gentlemen, a jury cannot allow
24 itself to be governed by sympathy, by prejudice,
25 passion, public opinion or any other arbitrary factor

1 not in evidence in this case.

2 Both the State and the Defendant have the
3 right to expect that each of you will carefully and
4 impartially consider all of the evidence in this case
5 and that you will follow the law as I have explained it
6 to you.

7 There are two possible verdicts which you may
8 find in this case as to each indictment, guilty or not
9 guilty. There is absolutely no significance whatsoever
10 in the order in which I have stated these possible
11 verdicts. It's simply that one must be stated first.

12 Mr. Foreman, you will have in the jury room a
13 verdict form. It lists out the charges and it gives the
14 option as to each charge, guilty or not guilty. Ladies
15 and gentlemen, your verdicts must be unanimous ones.
16 All 12 of you must agree as to each verdict.

17 Mr. Foreman, whatever manner and method y'all
18 want to conduct the deliberations, I have only listed
19 them on this form of verdict numerically, by the numbers
20 of the indictments.

21 The first one that comes up is Indictment
22 Number 2008-GS-32-3721. As to burglary first degree, we
23 the jury by unanimous consent find the Defendant -- it
24 has got a line guilty or a line not guilty.

25 Once the jury has reached its verdict as to

1 that particular charge, a unanimous verdict, I would ask
2 you to check to the left of guilty, if you find guilt,
3 that the State has proven its case beyond a reasonable
4 doubt, and circle both the checkmark and the word
5 guilty.

6 If, on the other hand, you find that the State
7 has failed to prove its case beyond a reasonable doubt,
8 check to the left of not guilty, and circle both your
9 checkmark and the word not guilty.

10 The form is self-explanatory. I am not going
11 through each and every one of the indictments. Once you
12 have reached those unanimous verdicts as to each and
13 every indictment, you have signed and dated it, if you
14 would knock on the jury room door. The bailiff will be
15 posted outside. You will then be brought back into the
16 courtroom for us to receive your verdicts.

17 I must ask you to return to your jury room
18 momentarily. Do not begin your deliberations until you
19 are instructed to do so by the clerk. The law requires
20 I meet with the attorneys one final time outside of your
21 presence before you begin your deliberations.

22 If during the course of your deliberations,
23 Mr. Foreman, you have any questions whatsoever
24 concerning the law or anything of that nature, write out
25 a note for me and knock on the jury room door. Give it

1 to the bailiff. He will bring it to my attention, and I
2 will respond timely.

3 I will either have to bring you back out or
4 you will receive the form of the verdict and the
5 evidence and instructed by the clerk to begin your
6 deliberations. With that being said, you may now go
7 with your bailiff. Thank you very much for your
8 attention during my instructions to you.

9 (The jury retires to the jury room.)

10 THE COURT: Exceptions from the State?

11 MS. GARRICK: None, Your Honor.

12 THE COURT: From the defense, Mr. Duncan?

13 MR. DUNCAN: None, Your Honor.

14 THE COURT: Thank you. Thank you very much.

15 If y'all would check the exhibits, please. Madame
16 Clerk, make sure that -- which I know you will -- that
17 the ammunition is not sent in initially. If they
18 request it at a later time, we will send it in and
19 bring the weapons out. Madame Clerk, I want you to
20 advise the jury to begin their deliberations.

21 CLERK: Yes, sir.

22 THE COURT: If y'all would check the exhibits
23 and the form of the verdict.

24 (Pause.)

25 THE COURT: Did y'all check the exhibits?

1 MS. GARRICK: Yes, sir, Your Honor.

2 THE COURT: Are you satisfied with them?

3 MS. GARRICK: Yes, sir.

4 THE COURT: Mr. Duncan?

5 MR. DUNCAN: Yes, sir, Your Honor.

6 THE COURT: Thank you very much.

7 (The jury commences its deliberation at
8 11:30 p.m.)

9 (The following occurred at 1:00 p.m.)

10 THE COURT: I received two notes from the
11 panel, Solicitor and Mr. Duncan. They are not numbered.
12 The first note that I come to is: Can we get a copy of
13 the armed robbery law? The next note is: Can we get a
14 copy of the law referring to the hand of one.
15 Specifically does this law apply to all separate
16 indictments?

17 What is y'all's position as far as giving them
18 a copy of my charge on armed robbery and a copy of my
19 charge on hand of one, hand of all, Solicitor?

20 MS. GARRICK: Your Honor, that would be
21 perfectly fine.

22 THE COURT: Mr. Duncan?

23 MR. DUNCAN: Your Honor, on the armed robbery,
24 I have no problem with that at all. I am trying to
25 remember. I remember your language on the hand of one

1 is the hand of all. I was trying to remember where mere
2 presence is. Is that part of your hand of one, hand of
3 all?

4 THE COURT: It is A., part of it, and B., I
5 have a separate paragraph, actually two separate
6 paragraphs, at the end of my charge on the hand of one,
7 hand of all.

8 Actually I would have to make a correction
9 before -- not a correction -- but I would have to
10 reprint it because I wrote some of my notes on it. Step
11 up here and let me show you how I do it.

12 MR. DUNCAN: Yes, sir.

13 THE COURT: It starts on page 15 and goes
14 through -- this is where I have my language that I wrote
15 out that I charged there. I would have to type that in,
16 and then here I have this that I would have to -- I said
17 I would have to type it in. My loyal law clerk or my
18 loyal lawyer would have to type it in. That's the third
19 page.

20 Then I also did two paragraphs or three
21 paragraphs also on the standard of mere presence charge.
22 So it is -- mere presence is covered in the hand of one,
23 hand of all. However, I also covered it here both ways.
24 So whatever y'all's position is in that regard, y'all
25 tell me.

1 The actual question, of course, if you get
2 down to -- if you haven't looked at this note,
3 Solicitor, it says: Specifically does this apply to all
4 the separate indictments?

5 Of course, the answer to that is, I guess it's
6 yes, except maybe the criminal conspiracy might be the
7 mouth of the one is the mouth of all as far as criminal
8 conspiracy, but I think the simple answer to it is yes..
9 It does apply to each and every indictment.

10 MS. GARRICK: Yes, sir.

11 THE COURT: Do y'all want me to send it in?
12 I'm not going to send it in unless y'all agree to it. I
13 will not send armed robbery in and not send in hand of
14 one, hand of all. I will send it all in or not send
15 anything in, and I will recharge them.

16 MR. DUNCAN: Your Honor, my position would be
17 if you -- and I understand you would have to make a
18 couple of corrections to clean up the place where you
19 had your handwritten things -- but there is a little bit
20 more to this mere presence at maybe the top of the next
21 page.

22 THE COURT: Yes, sir. Three words, find
23 someone guilty.

24 MR. DUNCAN: I would take the position that if
25 you send that entire page 15 through 18 and those couple

1 of words at the top of 19, that would be fine with me.

2 THE COURT: Solicitor, do you have a position?

3 MS. GARRICK: Your Honor, that's absolutely
4 fine.

5 THE COURT: Let me have Ms. Parker just put my
6 handwritten notes, type them out, and I will staple it,
7 and send the charges in.

8 MS. GARRICK: Yes, sir.

9 THE COURT: Is that all right, Mr. Duncan?

10 MR. DUNCAN: Yes, sir.

11 THE COURT: Thank you. Thank you very much.

12 MR. DUNCAN: Thank you, Your Honor.

13 MS. GARRICK: Your Honor, are you going to
14 answer the question on the note or are we just going to
15 ignore that?

16 THE COURT: I better bring them out. I better
17 bring them out. Let me get it typed up. I will bring
18 them out.

19 (Pause.)

20 THE COURT: Bring the jury panel, please.

21 (The jury returns to the courtroom at
22 1:14 p.m.)

23 THE COURT: Our jury is back present in the
24 courtroom. I apologize for the delay, Mr. Foreman, and
25 ladies and gentlemen. I assure you we have not left

1 you. We did not leave the building. I was selecting
2 another jury panel for the trial of the next case and
3 could not respond any earlier.

4 By agreement of the parties, the solicitor and
5 the defense, Mr. Duncan, I will send in to you your
6 request for the armed robbery charge. This is what I
7 charged you earlier, and also the hand of one, hand of
8 all charge, I will send that in to you. It's five pages
9 or four and about three lines. You may review that in
10 the jury room.

11 The bottom of that second question concerning
12 the hand of one, hand of all, specifically does this law
13 apply to all separate indictments? The hand of one,
14 hand of all would apply to all the indictments depending
15 on your determination of the facts in the case.

16 So the hand of one, hand of all if you are
17 present, aiding and abetting at the time pursuant to a
18 common plan and scheme, it could apply, but that depends
19 on your determination of what the facts are in the case.

20 If I have not responded fully and completely
21 to your questions, I see you know how to write them to
22 me. Just write me another note and I will certainly try
23 to respond a little bit -- in a more prompt manner.

24 Mr. Bailiff, would you hand these documents to
25 our foreperson for me, please.

1 BAILIFF: Yes, sir.

2 THE COURT: As I say, if you need anything
3 further, Mr. Foreman, and ladies and gentlemen, please
4 write me a note and I will respond. Thank you very
5 much. You may return to your jury room and continue
6 your deliberations.

7 (The jury retires to continue its deliberation
8 at 1:17 p.m.)

9 THE COURT: Any exceptions, Solicitor?

10 MS. GARRICK: No, Your Honor.

11 THE COURT: Mr. Duncan?

12 MR. DUNCAN: No, sir.

13 THE COURT: Y'all may step aside. Would you
14 get me the lawyers in the other case.

15 (Whereupon there is a recess.)

16 (The following occurred at 1:42 p.m.)

17 THE COURT: Bring the jury, please.

18 (The jury returns to open court to report its
19 verdict.)

20 THE COURT: Madame Clerk.

21 CLERK: Mr. Foreman, have you reached your
22 verdicts?

23 FOREMAN: Yes, ma'am, we have.

24 CLERK: Please pass them up by the bailiff.

25 (Hands to Court.)

1 THE COURT: Madame Clerk, the verdict appears
2 to be in the proper form. You may publish the verdicts,
3 please.

4 (Whereupon the verdicts of the jury are
5 published as follows).

6 CLERK: Indictment 2008-GS-32-3721, 3722,
7 3724, 3725, 3726, and 3727, the State of South Carolina
8 versus Gregory Velez, Indictment Number 2008-GS-32-3721,
9 as to burglary first degree, we the jury by unanimous
10 consent find the Defendant guilty. Indictment
11 2008-GS-32-3722, as to kidnapping of John Corley, Jr.,
12 we the jury by unanimous consent find the Defendant
13 guilty.

14 Indictment 2008-GS-32-3724, as to criminal
15 conspiracy, we the jury by unanimous consent find the
16 Defendant guilty. Indictment 2008-GS-32-3725, as to
17 armed robbery, we the jury by unanimous consent find the
18 Defendant guilty. Indictment 2008-GS-32-3726, as to
19 possession of a firearm during the commission of a
20 violent crime, we the jury by unanimous consent find the
21 Defendant guilty.

22 Indictment 2008-GS-32-3727, as to kidnapping
23 of Connie Otts, we the jury by unanimous consent find
24 the Defendant guilty, and it is so signed by the
25 foreperson.

1 Mr. Foreman, ladies and gentlemen of the jury,
2 if this so be your verdicts, please indicate each of you
3 by raising your right-hand.

4 (All jurors so indicate.)

5 CLERK: All hands are raised, Your Honor.

6 THE COURT: Thank you. Thank you very much.
7 Anything further for the jury from the State?

8 MS. GARRICK: No, Your Honor.

9 THE COURT: From the defense, Mr. Duncan?

10 MR. DUNCAN: Your Honor, if I could poll the
11 jury.

12 THE COURT: Certainly. Madame Clerk, would
13 you please explain that procedure to the members of the
14 jury, the polling of the jury.

15 CLERK: As I call your name, if you will hold
16 up your hand so I can recognize you. I will ask you two
17 questions. The first question will be: As to the
18 verdicts, were these your verdicts? Then you respond.
19 Are they still your verdicts? And then respond.

20 Stephen Owens.

21 JUROR: Yes, ma'am.

22 CLERK: Thank you. As to the verdicts, were
23 these your verdicts?

24 JUROR: Yes, ma'am.

25 CLERK: Are they still your verdicts?

1 JUROR: Yes, ma'am.

2 CLERK: David Miller.

3 JUROR: Yes, ma'am.

4 CLERK: Please hold your hands up so I can see
5 you. As to the verdicts, were these your verdicts?

6 JUROR: Yes, ma'am.

7 CLERK: Are they still your verdicts?

8 JUROR: Yes, ma'am.

9 CLERK: Ronald Peters, as to the verdicts,
10 were these your verdicts?

11 JUROR: Yes, ma'am.

12 CLERK: Are they still your verdicts?

13 JUROR: Yes, ma'am.

14 CLERK: Tracy Williams, as to the verdicts,
15 were these your verdicts?

16 JUROR: Yes, ma'am.

17 CLERK: Are they still your verdicts?

18 JUROR: Yes, ma'am.

19 CLERK: Susan Fellers, as to the verdicts,
20 were these your verdict?

21 JUROR: Yes, ma'am.

22 CLERK: Are they still your verdicts?

23 JUROR: Yes, ma'am.

24 CLERK: Dianna Lydiard, as to the verdicts,
25 were these your verdicts?

1 JUROR: Yes, ma'am.

2 CLERK: Are they still your verdicts?

3 JUROR: Yes, ma'am.

4 CLERK: Michael Clark, as to the verdicts,
5 were these your verdicts?

6 JUROR: Yes, ma'am.

7 CLERK: Are they still your verdicts?

8 JUROR: Yes, ma'am.

9 CLERK: Deborah Gunter, as to the verdicts,
10 were these your verdicts?

11 JUROR: Yes, ma'am.

12 CLERK: Are they still your verdicts?

13 JUROR: Yes, ma'am.

14 CLERK: Norman Williams, as to the verdicts,
15 were these your verdicts?

16 JUROR: Yes, ma'am.

17 CLERK: Are they still your verdicts?

18 JUROR: Yes, ma'am.

19 CLERK: Praveen Chauhan, as to the verdicts,
20 were these your verdicts?

21 JUROR: Yes, ma'am.

22 CLERK: Are they still your verdicts?

23 JUROR: Yes, ma'am.

24 CLERK: Steven Spires, as to the verdicts,
25 were these your verdicts?

1 JUROR: Yes, ma'am.

2 CLERK: Are they still your verdicts?

3 JUROR: Yes, ma'am.

4 CLERK: Taliferrio Richards, as to the
5 verdicts, were these your verdicts?

6 JUROR: Yes, ma'am.

7 CLERK: Are they still your verdicts?

8 JUROR: Yes, ma'am.

9 CLERK: All jurors are polled, Your Honor.

10 THE COURT: Thank you. Thank you, Madame
11 Clerk. Anything further, Mr. Duncan?

12 MR. DUNCAN: No, sir, Your Honor.

13 THE COURT: Do you have any motions?

14 MR. DUNCAN: Not at this time, sir.

15 THE COURT: Sir?

16 MR. DUNCAN: I would renew my motion under
17 Rule 19.

18 THE COURT: All right.

19 Thank you. Thank you very much, ladies and
20 gentlemen, for your service during the trial of this
21 case. Momentarily I am going to release you from your
22 jury service for the remainder of the day and the
23 remainder of this term of court.

24 This will conclude your jury service for State
25 circuit court of record for this calendar year, the year

1 2011. Thank you again for your participation. We could
2 not be about the very important business of
3 administering your criminal justice without
4 participation from yourselves and people just like you
5 each and every week, not only in Lexington County but
6 throughout South Carolina on cases such as this and on
7 civil cases.

8 I did some cycling on the jury panel. I am
9 not sure you would find this in other county in South
10 Carolina. Of course, there are eight males and four
11 females on this jury. Each and every one is gainfully
12 employed. Each and every one is a high school graduate.

13 There are a number of you that have college
14 degrees, a number of you that have advanced degrees. I
15 figured the average age was 40.3 years of age. Some of
16 us, as my court reporter points out very often, are
17 above that average. Others are not.

18 There are individuals with military, currently
19 in the military, and some, I'm sure, with military
20 background. There are medical individuals, both nurse
21 practitioners, R.N.s, nurses, self-employed, run their
22 own business, State employees, one with an advanced
23 degree, a Ph.D., government employees, working at major
24 corporations, construction foremen and contractors in
25 that regard.

1 I'm not sure I have ever sat as a trial judge
2 or a trial lawyer back when I sat out there where these
3 folks do and had a jury with such credentials and such
4 qualifications.

5 I do commend each and every one of you for
6 that, and I commend you for your service with us this
7 week. As I say, I am going to release you at this time.
8 You do not have to come back, and you do not have to
9 call back.

10 The bailiff will have you leave your juror
11 buttons on the column or the post as you leave. You are
12 certainly welcome to stay while I impose sentence on
13 Mr. Velez if you choose to do so. However, you are
14 welcome to leave if you choose to do so. It has been my
15 pleasure and privilege to be with you this week. Thank
16 you. Thank you very much.

17 (The jury is excused.)

18 THE COURT: Do you have other motions,
19 Mr. Duncan?

20 MR. DUNCAN: No, sir, none other than the
21 Rule 19.

22 THE COURT: Any motions under Rule 29?

23 MR. DUNCAN: No, sir. No, sir.

24 THE COURT: Thank you. Thank you very much.
25 Do you know of any reason under the law why sentence

1 should not be imposed at this time, Mr. Duncan?

2 MR. DUNCAN: No, sir, I do not.

3 THE COURT: As far as your prior motions under
4 Rule 19, your directed verdict motions, I would reaffirm
5 my previous rulings in that regard. There was adequate
6 direct and substantial circumstantial evidence for which
7 a jury could return the verdict which was returned in
8 this particular case.

9 Mr. Velez, would you and Mr. Duncan come
10 around to the podium, please.

11 (Pause.)

12 THE COURT: Solicitor, anything further from
13 the State?

14 MS. GARRICK: Just reminding you of his prior
15 record from a 2007 possession with intent to distribute
16 marijuana out of Louisiana. He got a probationary
17 sentence, and that was transferred here. He is under
18 supervision for that here, and I do believe Louisiana
19 has a hold on him.

20 THE COURT: It was possession of what now?

21 MS. GARRICK: Possession with intent to
22 distribute marijuana.

23 THE COURT: Marijuana. Any victim impact,
24 Solicitor?

25 MS. GARRICK: No, Your Honor, I do not have

1 any victim impact.

2 THE COURT: Anything further from the
3 Batesburg Police, Chief Oswald?

4 CHIEF OSWALD: Yes, sir.. May it please the
5 Court, Your Honor. I feel this case, of course,
6 sometimes we have a threat to the community when persons
7 are armed to the nature that you saw with the weapons
8 here today or the last two days.

9 We feel this is not only a threat, of course,
10 to the community, the citizen community, but to our
11 officers that have to answer calls such as this with
12 people who are this heavily armed. That should be taken
13 into consideration of the violence that could have
14 occurred out of this.

15 THE COURT: Thank you. Thank you very much,
16 Chief.

17 Mr. Duncan, I would be glad to hear from you.

18 MR. DUNCAN: Thank you, Your Honor. Your
19 Honor, I understand and Mr. Velez understands the
20 possible punishment that he faces here today. I know
21 that the burglary first just by itself carries a minimum
22 of 15 years in prison.

23 Your Honor, I would remind the Court that two
24 of the codefendants in this case did plead guilty, have
25 pled guilty already. Mr. Thompson and Mr. Leaphart pled

1 sometime ago, during 2009. Mr. Thompson received a
2 ten-year sentence, and Mr. Leaphart received a similar
3 ten-year sentence, the same ten-year sentence.

4 Your Honor, Mr. Velez, he has denied
5 involvement in this matter. I understand the jury has
6 spoken and has rendered its verdict. I would simply say
7 that listening to the testimony of the witnesses in this
8 case, including the codefendants who described what
9 occurred at Mr. Corley's home, I do not believe that
10 even taking their testimony as completely credible that
11 Mr. Velez was anymore involved than either of those two
12 individuals, Mr. Thompson and Mr. Leaphart.

13 I believe Mr. Leaphart said it was -- I
14 believe he said it was his plan. I think Mr. Thompson
15 said otherwise. I think he said it was Mr. Velez and
16 Mr. Leaphart. But in any event, Your Honor, I would
17 urge the Court and I would ask the Court to sentence
18 Mr. Velez at a level that is near the bottom of that
19 15-year mandatory minimum that he would face on that
20 burglary charge.

21 I believe that would be -- that's a
22 substantial sentence, and I believe that would be
23 appropriate for Mr. Velez given the circumstances of
24 this incident and his prior record, which is not --
25 which is only one, as I understand it. He has a

1 P.W.I.D. marijuana from Louisiana, and I believe he was
2 on five years probation for that offense. Thank you,
3 Your Honor.

4 THE COURT: Thank you very much, Mr. Duncan.
5 Anything you would like to say, Mr. Velez?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: Speak up to where I can hear you,
8 Mr. Velez.

9 THE DEFENDANT: First of all, I'd like to say
10 I heard a lot of things about you, you know what I'm
11 saying, and it ain't true. You are fair to me from what
12 I heard going around the jail. I'm not just saying that
13 to try to get on your good side. It really is..

14 There's a lot of things -- I probably can't
15 say what I'm about to say, but I will see if you allow
16 me to say it anyway. There's a lot of the things in my
17 case that wasn't spoken upon, like a lot of facts that
18 wasn't spoken upon that I can actually show in
19 paperwork, but obviously it's too late.

20 It shows there's some foul play going on.
21 It's one thing to just to say it, but it's another thing
22 to prove it. You know what I'm saying? I just hope
23 that you find it in your heart to give me -- I
24 understand I have to get punished for what the jury has
25 spoken, what the jury has said, but I hope you find it

1 in your heart to try to give me a minimum sentence. I
2 got three daughters out there. I am trying to get back
3 to them.

4 THE COURT: How old are you, Mr. Velez?

5 THE DEFENDANT: Twenty-eight.

6 THE COURT: Twenty-eight?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: And you have three children?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: Where are your children?

11 THE DEFENDANT: I have two down here, one in
12 Lexington and one in Columbia, and I have my oldest
13 daughter in New York.

14 THE COURT: In New York?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: All right. Well, quite frankly,
17 Mr. Velez -- and you have been very respectful to me
18 throughout this entire proceeding. You are not getting
19 on my good side nor my bad side. I hope I only have one
20 side. I hope that's just my fair side.

21 But quite frankly the evidence is just
22 overwhelming. The officers had, by my recollection, the
23 officers had you in custody or detained four minutes
24 before Ms. Otts called 9-1-1 because someone else in
25 that neighborhood had called.

1 I'm not going to cut you off. I will let you
2 say whatever you want to say. You have to realize you
3 have a right to remain silent, of course, also. Do you
4 understand what I'm saying?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: We talked about that earlier. You
7 understand?

8 THE DEFENDANT: Yes, sir.

9 THE COURT: But even though Mr. Corley or
10 Ms. Otts couldn't identify you, their numbers were
11 correct, the number of individuals there, which matched
12 up with the number of weapons..

13 You know, you hear people say, well, that is
14 just circumstantial. That's just a circumstantial case.
15 Witnesses will lie. Circumstances don't lie. That's
16 the difference.

17 A circumstantial case can be more overwhelming
18 than a direct evidence case on eyewitness identification
19 or something like that. It's like Mr. Corley said, I
20 don't want to identify anybody just on the fear that I
21 might get the wrong person.

22 You have heard tell me jurors throughout the
23 week, it's my pleasure and privilege to be a South
24 Carolina circuit court judge and it is. I don't enjoy
25 sending young men like yourself off to prison.

1 Unfortunately the acts that were committed deserve it.
2 Did you want to say something else?

3 THE DEFENDANT: Yeah, about the time
4 situation. I got paperwork in my discovery that kind of
5 says a little different than the time he said stuff
6 occurred, not just that but statements by officers was
7 different than what was said on the stand. The jury
8 only knows what goes on in here. They don't see the
9 paperwork, but it's in my paperwork.

10 THE COURT: All right.

11 MS. GARRICK: Your Honor?

12 THE COURT: Yes, ma'am.

13 MS. GARRICK: Could I ask that you make a
14 finding on the two kidnapping indictments that they were
15 not sexual in nature?

16 THE COURT: Yes, ma'am.

17 MS. GARRICK: Thank you.

18 MR. DUNCAN: Thank you. Thank you for that.

19 THE COURT: That's under the sex offender
20 registry?

21 MS. GARRICK: Yes, sir, Your Honor.

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

24 THE COURT: Sir?

25 THE DEFENDANT: Can I say one other thing?

1 THE COURT: Yes, sir.

2 THE DEFENDANT: I said the time wasn't quite
3 right on my paperwork, right, but the time actually
4 shows I was arrested at least 16 minutes before the
5 situation actually occurred. It's in my paperwork, not
6 just in one spot but in two spots. I can show it to you
7 if you want to take a look at it.

8 THE COURT: Now is not the time to show it to
9 me, Mr. Velez. I will look at anything you want me to
10 look at. I'm not cutting you off, but --

11 THE DEFENDANT: Can I show it to you?

12 THE COURT: -- it's just like I told that
13 jury. We have different functions. The jury is the
14 finder of facts. I'm the judge of the law. They are
15 responsible for returning the verdict, and I am
16 responsible for, if it's a guilty verdict, handing down
17 the sentence. With that being said, I will look at
18 anything you want me to look at.

19 THE DEFENDANT: Can I get it right quick?

20 THE COURT: Mr. Duncan?

21 MR. DUNCAN: Your Honor, I don't think taking
22 a look at this will make any difference at all in what
23 we are doing here.

24 (Pause.)

25 MR. DUNCAN: Your Honor?

1 THE COURT: Yes, sir.

2 MR. DUNCAN: Your Honor, Mr. Velez does have
3 three pieces of discovery in this case, essentially a
4 phone -- the C.A.D. reports, the phone call times, and
5 Ms. Otts' -- I guess it's Ms. Otts' statement that has a
6 different time. He feels compelled that he wants to
7 hand that up. I don't have any problem with him handing
8 that up if Your Honor doesn't have any problem looking
9 at it.

10 THE COURT: I would be glad to look at it.

11 MR. DUNCAN: Thank you, sir.

12 (Hands to Court.)

13 THE COURT: Thank you, sheriff.

14 (Pause.)

15 THE COURT: Ms. Otts' statement appears
16 consistent with her testimony. It does have around
17 1:45 p.m., a robbery occurred. She identifies a number
18 of individuals that came in, identified there were three
19 that came in.

20 The big one was the first in. He was the one
21 that had the S.K.47. The middle one had a sawed off
22 shotgun. The small-faced one had a Tech 9. The C.A.D.
23 report tracks the time beginning at 13:16 hours.

24 The vehicle, black in color, Tahoe. Three
25 black males wearing masks and red bandannas. It says a

1 9-1-1 call from Connie Otts at 14:15 hours. A callback
2 number advising of a break-in at 141 Padgett Road.

3 Ms. Otts stated boyfriend hit over head and
4 family was tied up, stated she was able to get free. I
5 have reviewed these documents. There is a third
6 document, another C.A.D. report at 141 Padgett. I
7 reviewed that. Anything else you would like to say,
8 Mr. Velez?

9 THE DEFENDANT: Basically I just wanted to
10 show you that if you look at the two C.A.D. reports, it
11 shows -- if you go down this page right here, it shows
12 one time I was arrested. It was at 1:29. It says here
13 a phone call at 2:15. She said it took 10 to 15 minutes
14 to make the phone call. So that means I was arrested
15 before the crime even started.

16 THE COURT: All right. Even if it's 1:33 --
17 anything further, Mr. Velez?

18 THE DEFENDANT: No, sir.

19 THE COURT: As to the criminal conspiracy, the
20 jury having returned a verdict of guilty, the Defendant
21 is committed to the State Department of Corrections for
22 a determinate term of five years.

23 As to the burglary first, kidnapping,
24 kidnapping, and armed robbery, the Defendant is
25 committed to the State Department of Corrections for a

1 determinate term of 25 years.

2 As to the possession of a weapon during the
3 commission of a violent crime, the Defendant is
4 committed to the State Department of Corrections for a
5 determinate term of five years. All those are to run
6 concurrent. He is given credit for all time served.

7 I find under 2008-GS-32-03727, kidnapping, and
8 2008-GS-32-03722, that this kidnapping did not
9 constitute a criminal sexual offense or an intent for
10 criminal sexual offense. Therefore, he would not be
11 appropriate for or included in the sex offender
12 registry.

13 Good luck to you, Mr. Velez. Thank you,
14 Mr. Duncan, for your services.

15 *** END OF REQUESTED TRANSCRIPT OF RECORD ***
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C E R T I F I C A T E

I, the undersigned L. Coconut Pantsari, Official Reporter for the Eleventh Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete Transcript of Record of all the proceedings had and the evidence introduced in the trial of the captioned cause, relative to appeal, in the Criminal Court for Lexington County, South Carolina on the 28th through the 30th days of March, 2011.

I do further certify that I am neither of kin, counsel nor interest to any party hereto.

July 14, 2011



Court Reporter

473 WITNESSES

Batesburg Leesville Police Department

W Goss

Law Enforcement Case #:

JAG

ARREST WARRANT NUMBER

1022164

ACTION OF GRAND JURY

TRUE BILL

Donald L. Leaphat

Foreperson of Grand Jury

Date: 11-10-08

VERDICT

Guilty

S. J. 30

Foreperson of Petit Jury

Date: MARCH 30, 2011

DOCKET NO. 2008-GS-32-3721

The State of South Carolina

County of Lexington

COURT OF GENERAL SESSIONS

NOVEMBER TERM 2008

THE STATE

vs.

Gregory Velez

CDR #: 0079

Indictment for

BURGLARY FIRST DEGREE

§ 16-11-0311

DONALD V. MYERS, SOLICITOR

03312011

STATE OF SOUTH CAROLINA)
COUNTY OF LEXINGTON)

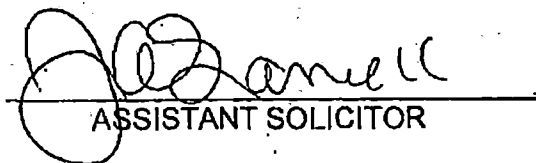
INDICTMENT FOR
BURGLARY FIRST DEGREE

§ 16-11-0311

At a Court of General Sessions, convened on NOVEMBER 2008, the Grand Jurors of Lexington County present upon their oath:

That Gregory Velez along with co-defendants did in Lexington County, South Carolina on or about August 13, 2008 did knowingly and willfully enter a dwelling, to wit: 141 Padgett Road, Batesburg-Leesville, SC and being the dwelling of another, without consent and with the intent to commit a crime therein and was armed with a deadly weapon and/or the entering or remaining occurs in the nighttime, in violation of § 16-11-311 of the Code of Laws of South Carolina, 1976, as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


ASSISTANT SOLICITOR

STATE OF SOUTH CAROLINA
COUNTY OF Lexington
STATE

VS.

Gregory Velez

AKA:

Race:

Sex: M

Age: 28

DOB:

258

Address:

City, State, Zip: L

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 violation of § 16-11-0311

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

☐ NON-VIOLENT

☒ VIOLENT

☐ SERIOUS

☒ MOST SERIOUS

☐ Mandatory GPS

☐ §17-25-45

The charge is:

☒ As indicted,

☐ Lesser Included Offense,

☐

Defendant Waives Presentment to Grand Jury.

(def.'s initials)

The plea is:

☒ Without Negotiations or Recommendation,

☐

Negotiated Sentence,

☐ Recommendation by the State.

ATTEST:

Solicitor

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 25

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.

☐ The Defendant is to be placed on 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: \$ _____

_____ days/hours Public Service Employment

Payment Terms: _____

Obtain GED ☐

☐ Set by SCDPPPS

Attend Voc. Rehab. Or Job Corp. _____

Recipient: _____

*Fine:

\$

§14-1-206 (Assessments 107.5%)

\$

§14-1-211 (A)(1)(Conv. Surcharge)

\$100

\$

§14-1-211 (A)(2)(DUI Surcharge)

\$100

\$

§56-5-2995 (DUI Assessment)

\$12

\$

§56-1-286 (DUI Breath Test)

\$25

\$

Proviso 47.9 (Public Def/Prob)

\$500

\$

§14-1-212 (Law Enforce. Funding)

\$25

\$

§14-1-213 (Drug Court Surcharge)

\$150

\$

§50-21-114 (BUI Breath Test Fee)

\$50

\$

§56-5-2942(J) (Vehicle Assessment)

\$40/ea

\$

Proviso 90.5 (SCCJA Surcharge)

\$5

\$

§44-53-450(C) (Conditional Discharge)

\$350

\$

3% to County (if paid in installments)

\$

TOTAL

\$

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: NO CONTACT WITH VICTIM

☐ Conditional Discharge, §44-53-450(C) requires \$350 be paid to the Clerk prior to case disposition

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

Presiding Judge: [Signature]

Judge Code: 2145

Sentence Date: 30 March 11

Clerk of Court/Deputy Clerk: [Signature]

Court Reporter: [Signature]

SCCA217 (6/2010)

WITNESSES

Batesburg Leesville Police Department

W Goss

Law Enforcement Case #:

JAG

ARREST WARRANT NUMBER

1022173

ACTION OF GRAND JURY

TRUE BILL

Donald Leadcraft

Foreperson of Grand Jury

Date: 11-20-08

VERDICT

Guilty

S. Myers
Foreperson of Petit Jury

Date: MARCH 30, 2011

DOCKET NO. 2008-GS-32-3722

The State of South Carolina

County of Lexington

COURT OF GENERAL SESSIONS

NOVEMBER TERM 2008

THE STATE

vs.

Gregory Velez

CDR #: 0095

Indictment for

KIDNAPPING

§ 16-03-0910

DONALD V. MYERS, SOLICITOR

STATE OF SOUTH CAROLINA)
)
COUNTY OF LEXINGTON)
)

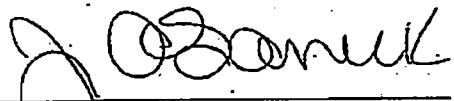
INDICTMENT FOR
KIDNAPPING

§ 16-03-0910

At a Court of General Sessions, convened on NOVEMBER 2008, the Grand Jurors of Lexington County present upon their oath:

That Gregory Velez along with co-defendants did in Lexington County, South Carolina on or about August 13, 2008, knowingly, willfully, and unlawfully seize, confine, inveigle, decoy, kidnap, abduct or carry away one John Corley, Jr. by any means whatsoever without authority of law, and without his consent, to wit: defendants bound the arms of the victim and pushed him into a closet, in violation of § 16-3-910 of the Code of Laws of South Carolina, 1976, as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


ASSISTANT SOLICITOR

478

STATE OF SOUTH CAROLINA
COUNTY OF Lexington
STATE

VS.

Gregory Velez

AKA:

Race: Sex: M Age: 28

DOB:

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

INDICTMENT/CASE#:

2008GS3203722

AW#:

1022173

Date of Offense:

8/13/2008

S.C. Code §:

16-03-0910

CDR Code#:

0095

SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADS

TO: Kidnapping / Kidnapping

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 ☐ §17-25-45(CSC w/minor 1st or Lawd Act)The charge is: ☒ As indicted, ☐ Lesser Included Offense,☐ Defendant Waives Presentation to Grand Jury.

(def.'s initials)

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

ATTEST:

Solicitor 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 25 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.☐ The Defendant is to be placed on 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 PTUPTotal: \$ plus 20% fee: \$

days/hours Public Service Employment

Payment Terms:

☐ Set by SCOPPPS

Recipient:

*Fine:

\$14-1-206 (Assessments 107.5%)		\$	
\$14-1-211 (A)(1)(Conv. Surcharge)	\$100	\$	100.00
\$14-1-211 (A)(2)(DUI Surcharge)	\$100	\$	
\$56-5-2995 (DUI Assessment)	\$12	\$	
\$56-1-286 (DUI Breath Test)	\$25	\$	
Proviso 47.9 (Public Def/Prob)	\$500	\$	
\$14-1-212 (Law Enforce. Funding)	\$25	\$	25.00
\$14-1-213 (Drug Court Surcharge)	\$150	\$	
\$50-21-114 (BUI Breath Test Fee)	\$50	\$	
\$56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$	
Proviso 90.5 (SCCJA Surcharge)	\$5	\$	5.00
\$44-53-450(C) (Conditional Discharge)	\$350	\$	
3% to County (if paid in installments)		\$	
TOTAL		\$	130.00

Clerk of Court/Deputy Clerk

Court Reporter:

SCCA/217 (06/2010)

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:

NO CONTACT WITH VICTIM☐ Conditional Discharge, §44-53-450(C) requires \$350 be paid to the Clerk prior to case disposition☐ Appointed PD or appointed other counsel, §47.12 requires \$500 be paid to Clerk during probation.

Presiding Judge

Judge Code:

Sentence Date

I find this did not constitute a criminal sexual offense on the defendant.

479 WITNESSES

Batesburg Leesville Police Department

W Goss

Law Enforcement Case #:

JAG

ARREST WARRANT NUMBER

1022177

ACTION OF GRAND JURY

TRUE BILL

Donald Leaphart

Foreperson of Grand Jury

Date: 11-10-08

VERDICT

Guilty

S. H. S.

Foreperson of Petit Jury

Date: MARCH 30, 2011

DOCKET NO. 2008-GS-32-3724

The State of South Carolina

County of Lexington

COURT OF GENERAL SESSIONS

NOVEMBER TERM 2008

THE STATE
vs.

Gregory Velez

CDR #: 0049

Indictment for

CRIMINAL CONSPIRACY

§ 16-17-0410

DONALD V. MYERS, SOLICITOR

STATE OF SOUTH CAROLINA)
COUNTY OF LEXINGTON)

03312011

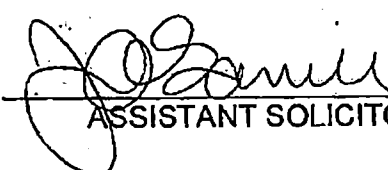
INDICTMENT FOR
CRIMINAL CONSPIRACY

§ 16-17-0410

At a Court of General Sessions, convened on NOVEMBER 2008, the Grand Jurors of Lexington County present upon their oath:

That Gregory Velez did in Lexington County, South Carolina on or about August 13, 2008 knowingly and willfully unite, combine, conspire, confederate, agree and have tacit understanding with Jeremy Leaphart and/or Lewis Barnes and/or Jaiwaiski Thompson, for the purpose of accomplishing a criminal or unlawful object; to wit: Armed Robbery, in violation of the common law and punishable under Section 16 -17- 410 of the South Carolina Code of Laws, 1976, as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


ASSISTANT SOLICITOR

STATE OF SOUTH CAROLINA
COUNTY OF Lexington
STATE

IN THE COURT OF GENERAL SESSIONS

481

INDICTMENT/CASE#: 2008GS3203724

VS.
Gregory Velez

AW#: 1022177

AKA: _____

Date of Offense: 8/13/2008

Race: _____ Sex: M Age: 28

S.C. Code §: 16-17-0410

DOB: _____

CDR Code #: 0049

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: Conspiracy / Criminal Conspiracy, Common Law conspiracy defined

In violation of § 16-17-0410 of the S.C. Code of Laws, bearing CDR Code # 0049

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

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

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

ATTEST:

[Signature] 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.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on:

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

☐ The Defendant is to be placed on 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: \$ _____

_____ days/hours Public Service Employment

Payment Terms: _____

Obtain GED ☐

☐ Set by SCDPPPS

Attend Voc. Rehab. Or Job Corp. _____

Recipient: _____

*Fine: \$ _____
\$14-1-206 (Assessments 107.5%) \$ _____
\$14-1-211 (A)(1)(Conv. Surcharge) \$100 \$ 100.00
\$14-1-211 (A)(2)(DUI Surcharge) \$100 \$ _____
\$56-5-2995 (DUI Assessment) \$12 \$ _____
\$56-1-286 (DUI Breath Test) \$25 \$ _____
Proviso 47.9 (Public Def/Prob) \$500 \$ _____
\$14-1-212 (Law Enforce. Funding) \$25 \$ 25.00
\$14-1-213 (Drug Court Surcharge) \$150 \$ _____
\$50-21-114 (BUI Breath Test Fee) \$50 \$ _____
\$56-5-2942(J) (Vehicle Assessment) \$40/ea \$ _____
Proviso 90.5 (SCCJA Surcharge) \$5 \$ 5.00
\$44-53-450(C) (Conditional Discharge) \$350 \$ _____
3% to County (if paid in installments) \$ _____
TOTAL \$ 130.00

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: _____

☐ Conditional Discharge, §44-53-450(C) requires \$350 be paid to the Clerk prior to case disposition

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

Presiding Judge [Signature]

Judge Code: 2145

Sentence Date 30 April 11

Clerk of Court/Deputy Clerk [Signature]

Court Reporter: C. Pantari
SCCA/217 (08/2010)

WITNESSES

Batesburg Leesville Police Department

W Goss

Law Enforcement Case #:

JAG

ARREST WARRANT NUMBER

1022178

ACTION OF GRAND JURY

TRUE BILL

Donald Leaphart

Foreperson of Grand Jury

Date: 11-10-08

VERDICT

Guilty

5/630

Foreperson of Petit Jury

Date: MARCH 30, 2011

DOCKET NO. 2008-GS-32- 3725

The State of South Carolina

County of Lexington

COURT OF GENERAL SESSIONS

NOVEMBER TERM 2008

THE STATE

vs.

Gregory Velez

CDR #: 0139

Indictment for

ARMED ROBBERY

§ 16-11-0330(A)

DONALD V. MYERS, SOLICITOR

STATE OF SOUTH CAROLINA)

COUNTY OF LEXINGTON)

03312011

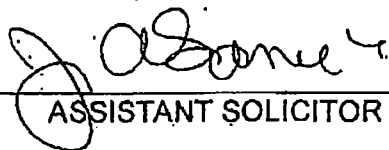
INDICTMENT FOR
ARMED ROBBERY

§ 16-11-0330(A)

At a Court of General Sessions, convened on NOVEMBER 2008, the Grand Jurors of Lexington County present upon their oath:

That Gregory Velez along with co-defendants did in Lexington County, South Carolina on or about August 13, 2008 knowingly and willfully while armed with a deadly weapon, to wit: a shotgun, a rifle and/or a handgun did feloniously take from the person or presence of Connie Otts and/or John Corley, Jr. by means of force, threats or intimidation goods or monies being described as follows: cash money and/or jewelry with intent to deprive the owner of the use of such property, in violation of Section 16-11-330 (A) of the South Carolina Code of Laws, 1976, as amended

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


ASSISTANT SOLICITOR

STATE OF SOUTH CAROLINA
484 COUNTY OF Lexington

STATE

VS.

Gregory Velez

AKA:

Race:

Sex: M

Age: 28

DOB:

12-10-1980

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

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2008GS3203725

AW#: 1022178

Date of Offense: 8/13/2008

S.C. Code §: 16-11-0330(A)

CDR Code #: 0139

SENTENCE SHEET

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 ☐ §17-25-45

(CSC w/minor 1st or Lewd Act)

The charge is: ☒ As Indicted, ☐ Lesser Included Offense,

☐ Defendant Waives Presentation to Grand Jury.

(def.'s initials)

The plea is: ☒ Without Negotiations or Recommendation,

☐ Negotiated Sentence,

☐ Recommendation by the State.

ATTEST:

Solidator

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 25 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.

☐ The Defendant is to be placed on 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: \$

 days/hours Public Service Employment

Payment Terms:

Obtain GED: ☐

☐ Set by SCDPPPS

Attend Voc. Rehab. Or Job Corp.

Recipient:

*Fine:

\$14-1-206 (Assessments 107.5%)

\$14-1-211 (A)(1)(Conv. Surcharge)

\$14-1-211 (A)(2)(DUI Surcharge)

\$58-5-2995 (DUI Assessment)

\$58-1-286 (DUI Breath Test)

Proviso 47.9 (Public Def/Prob)

\$14-1-212 (Law Enforce. Funding)

\$14-1-213 (Drug Court Surcharge)

\$50-21-114 (BUI Breath Test Fee)

\$58-5-2942(J) (Vehicle Assessment)

Proviso 90.5 (SCCJA Surcharge)

\$44-53-450(C) (Conditional Discharge)

3% to County (if paid in installments)

TOTAL

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Clerk of Court/Deputy Clerk

Court Reporter:

SCCA/217 (06/2010)

Presiding Judge

Judge Code:

Sentence Date

☐ Conditional Discharge, §44-53-450(C) requires \$350 be paid to the Clerk prior to case disposition
☐ Appointed PD or appointed other counsel, \$47.12 requires \$500 be paid to Clerk during probation.

Presiding Judge

Judge Code:

Sentence Date

483
WITNESSES

Batesburg Leesville Police Department

W Goss

Law Enforcement Case #:

JAG

ARREST WARRANT NUMBER

1022180

ACTION OF GRAND JURY

TRUE BILL

Donald Leaphart

Foreperson of Grand Jury

Date: 11-10-08

VERDICT

Guilty

S. H. D.
Foreperson of Petit Jury

Date: MARCH 30, 2011

DOCKET NO. 2008-GS-32-3726

The State of South Carolina

County of Lexington

COURT OF GENERAL SESSIONS

NOVEMBER TERM 2008

THE STATE

vs.

Gregory Velez

CDR #: 0549

Indictment for

POSSESSION OF FIREARM DURING
COMMISSION OF A VIOLENT CRIME

§ 16-23-0490

DONALD V. MYERS, SOLICITOR

33312011

STATE OF SOUTH CAROLINA)

COUNTY OF LEXINGTON)

INDICTMENT FOR
POSSESSION OF FIREARM DURING
COMMISSION OF A VIOLENT CRIME

§ 16-23-0490

At a Court of General Sessions, convened on NOVEMBER 2008, the Grand Jurors of Lexington County present upon their oath:

That Gregory Velez along with co-defendants did in Lexington County, South Carolina on or about August 13, 2008 knowingly and willfully possess a firearm, during the commission of a violent crime or attempt to commit a violent crime, to wit: Armed Robbery, such weapon described as a a shotgun, rifle and/or handgun in violation of § 16-23-490 of the Code of Laws of South Carolina, 1976, as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


ASSISTANT SOLICITOR

STATE OF SOUTH CAROLINA
COUNTY OF Lexington
STATE

IN THE COURT OF GENERAL SESSIONS

487

INDICTMENT/CASE#:

2008GS3203726

Gregory Velez

VS.

AW#:

1022180

Date of Offense:

8/13/2008

S.C. Code §:

16-23-0490

CDR Code #:

0549

SENTENCE SHEET

AKA:

Race:

Sex:

M

Age:

28

DOB:

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: Possession of a weapon during a violent crime

In violation of § 16-23-0490 of the S.C. Code of Laws, bearing CDR Code # 0549

☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS ☐ §17-25-45

(CSC w/minor 1st or Lewd Act)

The charge is: ☒ As Indicted, ☐ Lesser Included Offense,

☐ Defendant Waives Presentment to Grand Jury. (def.'s initials)

The plea is: ☒ Without Negotiations or Recommendation,

☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Solicitor

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.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on:

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

☐ The Defendant is to be placed on 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: \$

 days/hours Public Service Employment

Payment Terms:

☐ Set by SCDPPPS

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:

☐ Conditional Discharge, §44-53-450(C) requires \$350 be paid to the Clerk prior to case disposition

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

Presiding Judge

Judge Code:

Sentence Date

Recipient:

*Fine:

\$14-1-206 (Assessments 107.5%)

\$14-1-211 (A)(1)(Conv. Surcharge)

\$100

\$14-1-211 (A)(2)(DUI Surcharge)

\$100

\$56-5-2995 (DUI Assessment)

\$12

\$56-1-286 (DUI Breath Test)

\$25

Proviso 47.9 (Public Def/Prob)

\$500

\$14-1-212 (Law Enforce. Funding)

\$25

\$14-1-213 (Drug Court Surcharge)

\$150

\$50-21-114 (BUI Breath Test Fee)

\$50

\$56-5-2942(J) (Vehicle Assessment)

\$40/ea

Proviso 90.5 (SCCJA Surcharge)

\$5

\$44-53-450(C) (Conditional Discharge)

\$350

3% to County (if paid in installments)

TOTAL

Clerk of Court/Deputy Clerk

Court Reporter:

SCCA/217 (03/2010)

WITNESSES

Batesburg Leesville Police Department

W Goss

Law Enforcement Case #:

JAG

ARREST WARRANT NUMBER

08-STR-00289

ACTION OF GRAND JURY

TRUE BILL

Donald Leachant

Foreperson of Grand Jury

Date: 11-10-08

VERDICT

Guilty

S/ESD

Foreperson of Petit Jury

Date: MARCH 30, 2011

DOCKET NO. 2008-GS-32-3727

The State of South Carolina

County of Lexington

COURT OF GENERAL SESSIONS

NOVEMBER TERM 2008

THE STATE

vs.

Gregory Velez

CDR #: 0095

Indictment for

KIDNAPPING

§ 16-03-0910

DONALD V. MYERS, SOLICITOR

STATE OF SOUTH CAROLINA)
COUNTY OF LEXINGTON)

03312011

INDICTMENT FOR
KIDNAPPING

§ 16-03-0910

At a Court of General Sessions, convened on NOVEMBER 2008; the Grand Jurors of Lexington County present upon their oath:

That Gregory Velez along with co-defendants, did in Lexington County, South Carolina on or about August 13, 2008, knowingly, willfully, and unlawfully seize, confine, kidnap, abduct or carry away one by any means whatsoever without authority of law, and without her consent, to wit: Connie Otts, the defendants did bound the arms of the victim, in violation of § 16-3-910 of the Code of Laws of South Carolina, 1976, as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


ASSISTANT SOLICITOR

JUN1020

460 STATE OF SOUTH CAROLINA
COUNTY OF Lexington
STATE

VS:

Gregory Velez

AKA:

Race: Sex: M Age: 28

DOB:

Address:

City, State, Zip:

DL#

SID# SC01684596

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

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

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2008-GS-32-03727

AW#: 08-STR-00289

Date of Offense: 8/13/2008

S.C. Code §: 16-03-0910

CDR Code #: 0095

SENTENCE SHEET

TO: Kidnapping / Kidnapping ☒ CONVICTED OF or ☐ PLEADS

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 ☐ §17-25-45

(CSC w/mhor 1st or Lawd Act)

The charges: ☒ As indicted, ☐ Lesser Included Offense,

☐ Defendant Waives Presentation to Grand Jury.

(def.'s initials)

The plea is: ☒ Without Negotiations or Recommendation,

☐ Negotiated Sentence,

☐ Recommendation by the State.

ATTEST:

Solicitor

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 25 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.

☐ The Defendant is to be placed on 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: \$ _____ days/hours Public Service Employment

Payment Terms:

☐ Set by SCDPPPS

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:

☐ Conditional Discharge, §44-53-450(C) requires
\$350 be paid to the Clerk prior to case disposition
☐ Appointed PD or appointed other counsel,
\$47.12 requires \$500 be paid to Clerk
during probation.

Presiding Judge

Judge Code:

Sentence Date

Recipient:

*Fine:

§14-1-206 (Assessments 107.5%)

§14-1-211 (A)(1)(Conv. Surcharge)

§14-1-211 (A)(2)(DUI Surcharge)

§56-5-2995 (DUI Assessment)

§56-1-286 (DUI Breath Test)

Proviso 47.9 (Public Def/Prob)

§14-1-212 (Law Enforce. Funding)

§14-1-213 (Drug Court Surcharge)

§50-21-114 (BUI Breath Test Fee)

§56-5-2942(J) (Vehicle Assessment)

Proviso 90.5 (SCCJA Surcharge)

§44-53-450(C) (Conditional Discharge)

3% to County (if paid in installments)

TOTAL

Clerk of Court/Deputy Clerk

Court Reporter:

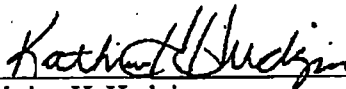
SCCA217 (08/2010)

I find this did not constitute a criminal sexual
act. There was no actual attempted criminal sexual intercourse. The

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 August 13, 2007, order from the South Carolina Supreme Court entitled "Interim Guidance Regarding Personal Data Identifiers and Other Sensitive Information in Appellate Court Filings."

May 18th, 2012



Kathrine H. Hudgins
Appellate Defender

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

ATTORNEY FOR APPELLANT