

THE STATE OF SOUTH CAROLINA
In The Supreme Court

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S.C. SUPREME COURT

APPEAL FROM GREENVILLE COUNTY
Court of Common Pleas

The Honorable John C. Hayes

Appellate Number 2017-000268

Trico Ladson,

Petitioner,

v.

The State of South Carolina,

Respondent.

APPENDIX

Respectfully Submitted,

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STATE OF SOUTH CAROLINA) COURT OF GENERAL SESSIONS
)
COUNTY OF GREENVILLE) Case No(s) : 2015GS2303555,
) 2015GS2303556,
State of South Carolina,) 2015GS2303557
)
Plaintiff,)
)
-VS-) TRANSCRIPT OF RECORD
)
Trico Anthony Ladson,)
)
Defendant.)
)

November 04, 2015
Greenville, South Carolina

B E F O R E:

HONORABLE R. SCOTT SPROUSE, Judge.

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

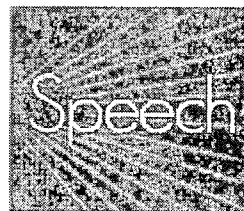
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P R O C E E D I N G S

(WHEREUPON, the proceedings begin on the 4th day of November, 2015 at approximately 9:32 a.m.)

THE COURT: Okay. This is the case of the State of South Carolina versus Trico Anthony Ladson. Okay. We've got Ms. Hodge and Mr. Gibson. Each party has submitted a witness list. Is there anything before we bring our jury panel in to select the jury?

MR. GIBSON: Your Honor, I've got a very short motion in limine, but we can handle it after the jury is selected.

THE COURT: Okay. Okay. Ms. Hodge?

MS. HODGE: Your Honor, we don't have any motions. Mr. Gibson and I discussed there is a photo lineup in this case, but the defendant and the victim know each other.

MR. GIBSON: I have not --

THE COURT: Okay. Okay. All right. Well, it is my understanding they are going to be sending our jury panel up here. Do we have any voir dire questions from either side?

MS. HODGE: None from the State, Your Honor.

MR. GIBSON: None from the defense, Your

Jury Qualification

1 Honor.

2 THE COURT: Okay.

3 MS. HODGE: And Mr. Gibson and I were just
4 discussing are the strikes 10 and 5 or 5 and 5?

5 THE COURT: Attempted murder, that's a 10
6 and 5.

7 MS. HODGE: That's what I thought.

8 THE COURT: We have got three -- we've got
9 attempted murder, attempted armed robbery and
10 conspiracy, so those three indictments?

11 MS. HODGE: Yes, sir.

12 THE COURT: Okay.

13 (WHEREUPON, the jury enters at approximately
14 9:45 a.m.)

15 THE COURT: All right. Good morning,
16 Ladies and Gentlemen. I am Judge Sprouse. I'll
17 be the presiding judge today. You have
18 previously been qualified as jurors in the
19 Greenville County Court of General Sessions.
20 You are called here to form a jury pool.

21 This is the case of the State versus Trico
22 Anthony Ladson. The defendant has been charged
23 on three indictments, uh, with the charges of
24 Attempted Murder, Conspiracy and Attempted Armed
25 Robbery. These indictments are simply the

Jury Qualification

1 charges by which the case is brought into court.
2 They are not, in any sense, evidence of the
3 allegations.

4 The defendant has pled not guilty to these
5 charges. The State, therefore, has the burden
6 of proving each of the elements of the
7 indictments beyond a reasonable doubt. It will
8 be your duty, Ladies and Gentlemen, to decide
9 whether the State has met that burden, if you
10 are called to serve on this particular jury.

11 You had a number of questions asked of you
12 earlier when you where qualified as a jury pool.
13 Now I'm going to ask you some more questions
14 that are specific to this particular case. This
15 is not to pry into your personal lives, but it
16 is to merely ensure that each party receives a
17 fair and impartial jury to hear this case. It
18 will require you to go under oath.

19 Madam clerk, would you swear our jury
20 panel?

21 **THE CLERK:** Please stand and raise your
22 right hand. You shall true answer make to all
23 such questions that may be demanded of you,
24 touching the matter now before the court, by
25 court order thereof. You shall speak the truth,

Jury Qualification

1 the whole truth and nothing but the truth, so
2 help you God. I will?

3 (WHEREUPON, each juror responds.)

4 THE COURT: The first thing I would do is
5 I'll have each attorney introduce themselves and
6 their clients or persons assisting them in the
7 trial of the case.

8 MS. HODGE: Thank you, Your Honor.

9 My name is Kris Hodge. I'm an Assistant
10 Solicitor here in Greenville County. At the
11 table with me is my investigator, Ms. Melissa
12 Bishop.

13 MR. GIBSON: I am Ken Gibson. I am a
14 defense attorney here in Greenville. This is my
15 client, Trico Anthony Ladson.

16 THE COURT: Is any member of the jury
17 panel related by blood or marriage or has a
18 close personal or social relationship with
19 either party or one of the attorneys involved in
20 this case?

21 (No audible response.)

22 There's no response.

23 Has any member of the jury panel ever been
24 represented by one of the attorneys involved in
25 this case or their law firms?

Jury Qualification

1 (No audible response.)

2 There's no response.

3 The following is a list of potential
4 witnesses in the case. Please listen carefully,
5 Leroy Thomas, Doctor -- Sergeant David Weiner,
6 Investigator Devin Hoover, Deputy Steven Hodge,
7 Deputy Mike DeRosa, Investigator Ricky Motes,
8 Trico Ladson, Larry Ladson, Michael Ladson. Is
9 any member of the jury panel related by blood or
10 marriage or has a close personal or social
11 relationship with any of these potential
12 witnesses?

13 (No audible response.)

14 Okay. There are no responses.

15 Does any member of the jury panel have any
16 prior knowledge about the facts of this case?
17 This case was alleged to have occurred on the
18 third day of December, 2013 -- these charges.
19 Does any member of the jury panel have any prior
20 knowledge about the facts of this case? If so,
21 please stand.

22 (No audible response.)

23 Okay. There are no responses.

24 Does any member of the jury panel know of
25 any reason why he or she could not be fair and

Jury Selection

1 impartial to each of the parties of this case?
2 If so, please stand.

3 (No audible response.)

4 All right. There are no responses.

5 All right. Are there any specific
6 questions from the State?

7 **MS. HODGE:** None from the State.

8 **THE COURT:** Any specific questions from
9 the defense?

10 **MR. GIBSON:** None from the defense, Your
11 Honor.

12 **THE COURT:** Okay. Ladies and Gentlemen,
13 you may have served as jurors in the past in the
14 pre-computer age or you may have seen it on
15 television when they used to draw the names out
16 of a big hat. They don't do that anymore. It
17 is generated by a computer list now. Now, you
18 are in the pool. The clerk will call your name.
19 You will need to come forward. Each party will
20 have the opportunity to strike jurors.

21 Madam clerk, are we ready to proceed?

22 **THE CLERK:** Yes, sir.

23 When I call your name, please come forward,
24 bring all of your things with you.

25 Juror Number 197, ... You may

12

Jury Selection

1 come around.

2 What says the State?

3 **MS. HODGE:** Please present the juror.

4 **THE CLERK:** What says the defense?

5 **MR. GIBSON:** Please present this juror.

6 **THE CLERK:** Ma'am, please be seated in the
7 jury box.

8 Juror Number 17,

9 What says the State?

10 **MS. HODGE:** Please present the juror.

11 **THE CLERK:** What says the defendant?

12 **MR. GIBSON:** Please excuse the juror.

13 **THE CLERK:** Please be seated. You have
14 been excused from this jury. Yes.

15 Juror Number 155,

16 What says the State?

17 **MS. HODGE:** Please present the juror.

18 **THE CLERK:** What says the defense?

19 **MR. GIBSON:** Please seat the juror.

20 **THE CLERK:** Please have a seat in the jury
21 box.

22 Juror Number 147,

23 What says the State?

24 **MS. HODGE:** Please present the juror.

25 **THE CLERK:** What says the defendant?

Jury Selection

1 **MR. GIBSON:** Please excuse the juror.
2 **THE CLERK:** Please be seated. You have
3 been excused. Juror Number 95,
4
5 What says the State?
6 **MS. HODGE:** Please present the juror.
7 **THE CLERK:** What says the defendant?
8 **MR. GIBSON:** Please present the juror.
9 **THE CLERK:** Please be seated in the jury
10 box.
11 Juror Number 179, -- --
12 What says the State?
13 **MS. HODGE:** Please present the juror.
14 **THE CLERK:** What says the defendant?
15 **MR. GIBSON:** Please present the juror.
16 **THE CLERK:** Please be seated in the jury
17 box.
18 Juror Number 192,
19 What says the State?
20 **MS. HODGE:** Please present the juror.
21 **THE CLERK:** What says the defendant?
22 **MR. GIBSON:** Please present the juror.
23 **THE CLERK:** Please be seated in the jury
24 box.
25 Juror Number 148,

Jury Selection

1 What says the State?

2 **MS. HODGE:** Please present the juror.

3 **THE CLERK:** What says the defendant?

4 **MR. GIBSON:** Please excuse the juror.

5 **THE CLERK:** Please be seated. You have
6 been excused.

7 Juror Number 189,

8 What says the State?

9 **MS. HODGE:** Please present the juror.

10 **THE CLERK:** What says the defendant?

11 **MR. GIBSON:** Please present the juror.

12 **THE CLERK:** Please be seated in the jury
13 box.

14 Juror Number 37,

15 What says the State?

16 **MS. HODGE:** Please present the juror.

17 **THE CLERK:** What says the defendant?

18 **MR. GIBSON:** Please present the juror.

19 **THE CLERK:** Please be seated in the jury
20 box.

21 Juror Number 199,

22 What says the State?

23 **MS. HODGE:** Please present the juror.

24 **THE CLERK:** What says the defendant?

25 **MR. GIBSON:** Please excuse the juror.

Jury Selection

1 **THE CLERK:** Please be seated. You have
2 been excused.
3 Juror Number 110,
4 What says the State?
5 **MS. HODGE:** Please present the juror.
6 **THE CLERK:** What says the defendant?
7 **MR. GIBSON:** Please present the juror.
8 **THE CLERK:** Please be seated in the jury
9 box.
10 Juror Number 26,
11 What says the State?
12 **MS. HODGE:** Please present the juror.
13 **THE CLERK:** What says the defendant?
14 **MR. GIBSON:** Please present the juror.
15 **THE CLERK:** Please be seated in the jury
16 box.
17 Juror Number 177,
18 What says the State?
19 **MS. HODGE:** Please present the juror.
20 **THE CLERK:** What says the defendant?
21 **MR. GIBSON:** Please excuse the juror.
22 **THE CLERK:** Please be seated. You have
23 been excused.
24 Juror Number 175,
25 What says the State?

Jury Selection

1 **MS. HODGE:** Please present the juror.
2 **THE CLERK:** what says the defendant?
3 **MR. GIBSON:** Please seat the juror.
4 **THE CLERK:** Please be seated in the jury
5 box.
6 Juror Number 196,
7 What says the State?
8 **MS. HODGE:** Please present the juror.
9 **THE CLERK:** What says the defendant was
10 more
11 **MR. GIBSON:** Please present the juror.
12 **THE CLERK:** Please be seated in the jury
13 box.
14 Juror Number 70,
15 What says the State?
16 **MS. HODGE:** Please present the juror.
17 **THE CLERK:** What says the defendant?
18 **MR. GIBSON:** Please excuse the juror.
19 **THE CLERK:** Please be seated. You have
20 been excused.
21 Juror Number 11,
22 What says the State?
23 **MS. HODGE:** Please present the juror.
24 **THE CLERK:** What says the defendant?
25 **MR. GIBSON:** Please present the juror.

Jury Selection

1 **THE CLERK:** Please be seated in the jury
2 box.
3 **THE COURT:** Mr. Gibson, you want one or
4 two?
5 **MR. GIBSON:** One.
6 **THE COURT:** We'll do one.
7 **THE CLERK:** Juror Number 86.
8
9 What says the State?
10 **MS. HODGE:** Please present the juror.
11 **THE CLERK:** What says the defendant?
12 **MR. GIBSON:** Please excuse the juror.
13 **THE CLERK:** Please be seated. You have
14 been excused.
15 Juror Number 129,
16 What says the State?
17 **MS. HODGE:** Please present the juror.
18 **THE CLERK:** What says the defendant?
19 **MR. GIBSON:** Please excuse the juror.
20 **THE CLERK:** Please be seated. You have
21 been excused. Juror Number 35,
22
23 What says the State?
24 **MS. HODGE:** Please present the juror.
25 **THE CLERK:** What says the defendant?

Jury Selection

1 **MR. GIBSON:** Please present the juror.
2 **THE CLERK:** Please be seated in the jury
3 box.
4 **THE COURT:** Are there any motions or
5 exceptions to the jury panel from the State?
6 **MS. HODGE:** Not from the State.
7 **THE COURT:** Any motions or exceptions to
8 the jury for the jury panel from the defense?
9 **MR. GIBSON:** None from the defense, Your
10 Honor.
11 **THE COURT:** All right. Madam clerk, will
12 you swear the jury?
13 **THE CLERK:** I'll be glad to.
14 Please stand and raise your right hand.
15 The correct response to the oath is "I will".
16 You shall well and truly try the case 2015-GS-
17 23-03555, the State versus Trico Anthony Ladson,
18 indicted for Attempted Murder and, 3556, for
19 Conspiracy and, 3557, for Attempted Armed
20 Robbery and a true verdict render according to
21 the law and the evidence so help you God?
22 (WHEREUPON, each juror responds.)
23 **THE CLERK:** Thank you. You may be seated.
24 **THE COURT:** Ladies and Gentlemen in the
25 remainder of our jury pool, those of you who

Remarks

1 were not selected for this case, you will now
2 return to the jury assembly room. So thank you,
3 thank you. Return to where you were before.

4 **(WHEREUPON,** the jury panel exits at approximately
5 10:07 a.m.)

6 **THE COURT:** All right. Before we start,
7 Ladies and Gentlemen, let me explain our roles
8 in the trial. I am the judge of the law. You
9 must apply the law as I give it to you. You are
10 the judges of the facts.

11 As the judge of the facts, you have the
12 duty to evaluate the evidence that is presented.
13 Evidence is sworn testimony from the witness
14 stand or exhibits that have been entered. You
15 and you alone determine credibility of the
16 witnesses and how much weight to give their
17 testimony.

18 Each attorney will have the opportunity to
19 give an opening statement to outline their
20 positions and the evidence that he or she
21 intends to present to support those claims. The
22 attorneys will also have the opportunity to make
23 a closing argument to you at the end. Keep in
24 mind the statements of the attorneys are not
25 evidence, but merely tools that they use to help

Remarks

1 you understand their positions.

2 The State has the burden of proof in this
3 trial. It must prove, beyond a reasonable
4 doubt, that the defendant is guilty of the
5 offenses charged. If the state fails to meet
6 that burden, then you must find the defendant
7 not guilty. On the other hand, if the State
8 does prove its case beyond a reasonable doubt,
9 then you must find the defendant guilty.

10 The defendant is presumed innocent and has
11 no burden of proof in this trial. You are going
12 to hear about this more later, but I will give
13 you a preliminary definition. A reasonable
14 doubt is defined as a doubt that would cause a
15 reasonable person to hesitate to act.

16 Now, a few more things before we get
17 started. This is not an endurance contest. We
18 will take breaks as we go along. If any member
19 of the jury is in distress and you need to take
20 a break, please let your bailiff know. Clerk
21 staff and the bailiffs here are here to assist
22 you, so please let them know.

23 Now, this is very important. There will be
24 times when you will leave the courtroom for
25 breaks or for lunch or we may have to take up an

Remarks

1 issue of law outside your presence. At no time,
2 are you to discuss this case with any third
3 parties. At no time, are you to do any
4 independent investigation. In this era of smart
5 phones and Internet access, it is easy for a
6 person to do research. That is expressly
7 prohibited. You cannot research the law or the
8 facts of this case.

9 It is also very important that you do not
10 deliberate amongst yourselves until the evidence
11 is presented in full and I instruct you to
12 deliberate at the end. This is very important,
13 because you cannot discuss this case amongst
14 yourselves until each side has had an
15 opportunity to present each piece of evidence
16 that they would like to and all the evidence is
17 concluded. It's not fair if you start
18 deliberating before the evidence is finished.

19 In a courthouse, sometimes it's
20 unavoidable. You're walking up the hallway.
21 You run into one of the attorneys or one of the
22 parties in the case. They're not going to speak
23 to you. It's not because they're trying to be
24 rude, but they know they can't talk to you. If
25 any third party attempts to talk to you about

Remarks

1 this case when you're outside the courtroom,
2 you let the bailiff know and they will let me
3 know and I'll attend that. But it's important.
4 We make these rules because we want each side to
5 have a fair trial. That's the basis for the
6 rule.

7 Now, you are not allowed to take notes
8 during these proceedings. The reason for that
9 is some people are good notetakers and other
10 people are not good notetakers. I was never a
11 good notetaker. If you're in that boat, I
12 understand. You don't want the deliberations,
13 at the end, to turn into a contest between the
14 good notetakers and the people who didn't take
15 notes.

16 Also, during the course of the trial,
17 sometimes, the way a witness appears on the
18 witness stand is important. Sometimes it is.
19 That's called the demeanor of the witness. If
20 your head is buried in a notepad taking notes,
21 you might miss something that's important during
22 the course of the trial. That's why you are not
23 allowed to take notes.

24 The last thing I want to tell you before we
25 get started is the attorneys have a job to

Remarks

1 represent their side. Part of that job
2 sometimes is to object to pieces of evidence or
3 testimony that they don't feel should be brought
4 into the record. As the judge, I have to make a
5 ruling on objections. The fact that I rule one
6 way or the other should not be interpreted to
7 mean that the court favors one side or the
8 other. That is most certainly not the case. It
9 is simply to ensure that each side has a fair
10 trial.

11 Like I said before, sometimes you will have
12 to leave the courtroom. We will have to take up
13 issues outside of your presence. That's not to
14 hide things from you. It's just to ensure a
15 fair trial for each side.

16 With that said, I'm going to ask you to
17 return to the jury room. You won't return; this
18 will be your first trip to the jury room. Your
19 first order of business will be to elect a
20 foreperson. This will be the presiding juror.
21 This will be the juror that presides over your
22 deliberations at the end when I instruct you to
23 begin deliberations. They will also be the
24 juror that communicates with the Court. Any
25 communication with the Court should be by

Motions

1 written note from the foreperson.

2 So, Madam bailiff, if you will, take the
3 jury to the jury room at this point.

4 (WHEREUPON, the jury exits at approximately
5 10:13 a.m.)

6 THE COURT: Okay. Any exceptions to my
7 preliminary instructions from the State?

8 MS. HODGE: No, sir.

9 THE COURT: Any exceptions to my
10 preliminary instructions from the defense?

11 MR. GIBSON: No, Your Honor.

12 THE COURT: All right. Before we take a
13 break, I understand, Mr. Gibson, you have a
14 motion that you would like to take up?

15 MR. GIBSON: Yes, Your Honor. It shouldn't
16 take that long, and I've got a witness on it if
17 the Court wants to hear from him. Basically,
18 what it is, Your Honor, is they did a search
19 warrant -- executed a search warrant. In the
20 house where my client lived, they found a bottle
21 of gun cleaning oil and a gun cleaning rod. The
22 oil and the gun cleaning rod, from my
23 understanding, has not been tied in any way
24 whatsoever to this offense. Accordingly, Your
25 Honor, given that, I don't think that it's

1 relevant to this case. I think it is far more
2 likely to prejudice the jury than it is to help
3 them in any way to decide whether or not my
4 client is innocent or guilty of this case.

5 The witness that I would present, Your
6 Honor, is his father. His father lived in that
7 same house, Larry Ladson. Mr. Ladson would
8 testify that the gun cleaning rod and the oil
9 actually belonged to him, and that the bedroom
10 that they found it in was actually his bedroom.

11 **THE COURT:** Okay, Ms. Hodge?

12 **MS. HODGE:** Your Honor, the State's
13 version of that is going to be different. There
14 is going to be testimony from two officers that
15 state they located the gun cleaning oil and rod
16 in what was told to them to be the defendant's
17 bedroom. This is an armed robbery case.
18 Obviously, we would say that the defendant had
19 gun cleaning fluid and the rod in his room, that
20 would be circumstantial evidence that would help
21 assist the State's case.

22 Again, I think that's gonna be a matter for
23 the jury to decide. We're going to have a
24 witness to say it is the defendant's bedroom.
25 They have a witness that says it isn't his

1 bedroom. I think that is a factual dispute that
2 the jury needs to decide.

3 **THE COURT:** Do we have a gun in the case?

4 **MS. HODGE:** We don't have a gun, Your
5 Honor, no.

6 **THE COURT:** Okay. All right. Mr. Gibson,
7 would you like to respond to that?

8 **MR. GIBSON:** Your Honor, whether it was his
9 bedroom or not, I just don't see how the
10 presence of a bottle of gun oil and a gun
11 cleaning rod in any way helps the jury in this
12 case. It doesn't -- it's not tied to any weapon
13 that was used in this case. It's not tied to
14 anything in this case. They can't say where the
15 gun cleaning oil came from. They can't even say
16 that it was his. I just don't how it's relevant
17 to the case.

18 **THE COURT:** All right. I've considered
19 arguments of counsel. I'm going to deny your
20 motion.

21 **MR. GIBSON:** Thank you, Your Honor.

22 **MS. HODGE:** Thank you.

23 **THE COURT:** All right. We'll take a few
24 minutes break until we get word from the jury
25 that they have elected a foreperson.

1 (WHEREUPON, a short recess is taken.)

2 THE COURT: Ms. Hodge, Mr. Gibson, I have
3 received a notice from the jury that Mr.
4 Childress has been elected as the foreman. I
5 will make this a Court's exhibit. All right.
6 Anything we before we bring our jury in?

7 (WHEREUPON, Court's Exhibit 1 is marked for
8 identification purposes.)

9 MS. HODGE: No, sir.

10 MR. GIBSON: No, sir.

11 THE COURT: All right. Very good.

12 Madam bailiff, if you will, bring our jury
13 please.

14 (WHEREUPON, the jury enters at approximately
15 10:28 a.m.)

16 THE COURT: All right. Ladies and
17 Gentlemen, we are ready to begin.

18 Mr. Foreman, you will sit in the chair on
19 the end whenever you are in the room.

20 Our alternate will always sit on that end
21 on the back. Okay.

22 THE JUROR: One question, Judge. One of
23 the jurors said she knows somebody in the
24 courtroom. They weren't clear on who it is or
25 relevance.

Opening Statement by Ms. Hodge

1 **THE COURT:** All right. Would that juror
2 come forward please?

3 All right, Ms. Hodge and Mr. Gibson.

4 **(WHEREUPON,** a bench conference is held off the
5 record.)

6 **THE COURT:** Ma'am, if you will, come down
7 and sit there.

8 Okay, Ms. Hodge, Mr. Gibson, after
9 conferring with the juror, we will now proceed
10 without an alternate.

11 **MS. HODGE:** Yes, sir.

12 **MR. GIBSON:** Yes, sir.

13 **THE COURT:** All right. We're ready for
14 opening statements?

15 **MS. HODGE:** Yes, sir. May it please the
16 court.

17 Ladies and Gentlemen of the jury, first,
18 that was the quickest dissension from alternate
19 to juror I think I've ever seen. My name is
20 Kris Hodge. As I said earlier, I'm the
21 prosecutor in this case. This case is about two
22 men who cared so little about another human
23 being that they were willing to rob him, stick a
24 gun in his face and almost kill him over the
25 possibility of a few dollars.

Opening Statement by Ms. Hodge

1 On December the 3rd, 2013, the victim in
2 this case, Mr. Leroy Thomas, was called by the
3 defendant. He was called to come to the
4 defendant's house where he lived with, I
5 believe, some relatives, either uncle or father
6 and brother, to sell some ball tickets, pool
7 tickets. These are a form of gambling and they
8 are illegal. They are something you get cited
9 for, get a ticket for. Mr. Thomas is known to
10 sell those. The defendant calls him to come to
11 the house to buy some tickets.

12 The evidence will show that Mr. Thomas
13 drove up, stayed in his truck, witnessed the
14 defendant come out from the house on the porch
15 on the phone and then go back into the home.
16 Mr. Thomas stayed put in his car, waiting for
17 him to come back out.

18 Almost immediately, a masked man comes up
19 to the side of his car and sticks a gun in his
20 face and says something to the effect of give it
21 up. Mr. Thomas knows this is an attempted
22 robbery. He is attempting to be robbed. The
23 evidence will show that, at this point, the
24 victim, Mr. Thomas, attempts to crank his car
25 and just get out of there, but this masked

Opening Statement by Ms. Hodge

1 gunman doesn't let him do that. He starts to
2 come into the driver's side of the car.

3 At this point, the defendant comes out of
4 the house and stands at the passenger-side door
5 keeping Mr. Thomas from being able to get out.
6 The defendant has no mask on. It is the middle
7 of the day. Mr. Thomas knows who he is. That's
8 who called him to come here.

9 During the struggle inside of Mr. Thomas'
10 vehicle, the gunman fires a shot. If Mr. Thomas
11 would've been one inch up, down, left or right,
12 we would be on a whole different case. We would
13 be on a murder case. The gun, thankfully, fired
14 and went across the cab and went out the
15 passenger window, shattering the passenger-side
16 window. There was tint on it, so it stayed
17 intact.

18 At this point, the gunman flees and Mr.
19 Thomas is attempting to still get out and get
20 away. Scared to death. The evidence will show
21 that the attempted robbery doesn't stop there.
22 Once Mr. Thomas gets out of his vehicle, he
23 flees and the defendant chases him down. They
24 end up across the street in another yard. There
25 becomes a physical altercation between the

1 victim and the defendant.

2 At some point, the victim loses his cell
3 phone. He will tell you that he fought him, and
4 I think he said he even bit him, the evidence
5 will be, to just get away, to try to get away.

6 He was able to get away and go to a
7 different home and call 911. The defendant
8 fled. Officers arrived. The evidence will show
9 the defendant wasn't there, couldn't find him.
10 There was no mask or no gunman. That was gone
11 too.

12 The defendant did live at that home. You
13 will hear officers testify about that, that they
14 did a search warrant for the home, that they
15 located some gun cleaning fluid and a rod in a
16 bedroom that belonged to the defendant, that
17 officers also did a photographic lineup with the
18 victim. He identified the defendant as one of
19 the robbers. It was a simple identification.
20 Unfortunately, law enforcement was not given any
21 information or did not find the masked gunman,
22 the co-defendant. So today, we are here, on
23 trial, with the defendant for his portion of
24 this crime.

25 In South Carolina, we have what is called

Opening Statement by Ms. Hodge

1 the hand of one is the hand of all. So if
2 several people get together and decide to commit
3 a crime, each person is responsible for
4 everybody's part in the crime. If you are going
5 to go and rob a gas station and there's four of
6 you, one's driving there, two get out as
7 lookouts, and one is the gun person to rob,
8 everybody is responsible for the armed robbery,
9 not just the robber.

10 There's also a law called natural and
11 probable consequences. So if you are doing an
12 activity that naturally or probably could cause
13 harm or death, such as, brandishing a loaded
14 pistol, firing a loaded pistol, whatever the
15 consequences are of that are also attributed to
16 each person in the crime. So even if you are
17 sitting out in the car waiting to drive
18 everybody away from the robbery and somebody
19 gets shot inside, you are still responsible
20 because that's a natural and probable
21 consequence of carrying a loaded weapon and
22 pointing a loaded weapon and, obviously, firing
23 a loaded weapon.

24 That's what the case today is about. It is
25 about the defendant's participation in this

Opening Statement by Mr. Gibson

1 armed robbery and attempted murder. Thankfully,
2 Mr. Thomas was not hurt. He didn't get hurt.
3 He did get into a physical altercation, but he
4 was not hurt. The evidence will come in the
5 form of testimony from Mr. Thomas himself, the
6 officers, plus the physical evidence I just
7 described to you.

8 At the conclusion of the State's case, the
9 defense has an opportunity to present evidence,
10 but is not required to do so. The burden is on
11 the State to prove the defendant guilty beyond a
12 reasonable doubt. So I ask you just to listen
13 carefully during this time.

14 You'll be taking a few breaks, like the
15 judge said. You will be asked not to deliberate
16 until you've receive all the evidence. Once
17 that has happened, I'll be back in front of you
18 to ask you to return a verdict of guilty against
19 the defendant for all three counts. Thank you.

20 **THE COURT:** All right, Mr. Gibson.

21 **MR. GIBSON:** Thank you, Your Honor.

22 Ladies and Gentlemen, today, the State, our
23 government, is attempting to do an extraordinary
24 thing. They are attempting to take away the
25 freedom and the liberty, the most fundamental

Opening Statement by Mr. Gibson

1 right that a citizen has, from Trico Ladson.
2 Now, fortunately, they can't just come in here
3 and just say, Judge, send him to jail. They
4 have to prove their case ---

5 MS. HODGE: Objection, Your Honor, to ---

6 MR. GIBSON: --- beyond a reasonable
7 doubt.

8 MS. HODGE: --- any references to
9 incarceration or penalty. That is not for the
10 jury to decide.

11 THE COURT: Overruled.

12 MR. GIBSON: Thank you, Your Honor.

13 They cannot just come in here and say we're
14 going to take him and put him in jail. They
15 have to prove their case beyond a reasonable
16 doubt. Not with conjecture, not with a cause
17 for you to use your common sense, not with
18 speculation, but with hard and fast evidence.
19 Evidence that is credible and evidence that
20 proves to you that this occurred beyond a
21 reasonable doubt.

22 Now unfortunately for the State in this
23 case and fortunately for Mr. Ladson, the State
24 will not be able to be that burden. The reason
25 why they won't be able to meet that burden is

Opening Statement by Mr. Gibson

1 because Mr. Ladson is not guilty of this crime.

2 What happened on December 3rd, 2013 was
3 this, as Mr. Ladson has done numerous, numerous
4 times, he called Mr. Thomas and asked him to
5 come over to sell him some gambling tickets,
6 lottery tickets. He was doing it for his
7 father. His father has bought numerous tickets
8 from him. Trico has bought numerous tickets
9 from him. So given that, Mr. Thomas came over.

10 At the time Mr. Thomas came over, Mr.
11 Ladson was on the phone with his father finding
12 out how many tickets that his dad wanted, how
13 many tickets that he was going to want. He went
14 out, spoke with Mr. Thomas, went back inside to
15 borrow \$20 from his uncle, Michael Ladson. Then
16 he came back outside.

17 He came around to the driver's side window
18 because that was the only window that was open.
19 He started to talk to Mr. Thomas and try to pay
20 for the tickets. And then, behind him, out of
21 the woods, a gunman, a masked gunman came and
22 stuck a gun in the face of Mr. Thomas. He
23 pointed it, then, at Trico and told him to back
24 away. Trico did that, but he stayed on that
25 side of the car.

Opening Statement by Mr. Gibson

1 Mr. Thomas didn't take it seriously. He
2 thought it was a joke. He told the fellow, he
3 said, get that out of my face; get that out of
4 my face. The gunmen hit him in the face with
5 the firearm. When he did so, the gun went off
6 and a shot went through the door on the other
7 side, breaking the passenger side window, which
8 was still up.

9 At this point, Mr. Thomas scooted across
10 the car and got out of the passenger-side door
11 and he began to run. When Trico saw him run, he
12 ran too. He came back around from the driver
13 side of the car, ran to the passenger side of
14 the car and followed Mr. Thomas, but he's faster
15 than him.

16 He started to overtake him. When he got
17 past him, he looked back and he saw Mr. Thomas
18 hit the ground. Rather than continue to run, he
19 came back and he tried to help him up. But in
20 the haze of adrenaline and the haze of fear,
21 somehow, Mr. Thomas decided that Trico must've
22 been involved. So he grabbed him by his hair and
23 he started accusing him of being involved in it.

24 At that point, Trico said just let me go.
25 And he left. He knew Mr. Thomas was going to

1 tell the police that he was involved in it. So
2 he didn't come back to his house. But, Ladies
3 and Gentlemen, he is not guilty of this crime.
4 You're going to hear the testimony of Mr.
5 Thomas, but you're not going to find -- you're
6 not going to hear about any forensic or physical
7 evidence which corroborates his story. As we
8 get into his story, you're going to realize that
9 his story does not make sense.

10 I plead with you to listen to the evidence
11 and hold the government to the burden that our
12 Constitution requires them to meet. Make them
13 prove their case beyond a reasonable doubt. If
14 they do not, I ask you to allow Mr. Trico -- Mr.
15 Ladson to go home. Thank you.

16 **THE COURT:** Ms. Hodge, call your first
17 witness.

18 **MS. HODGE:** Thank you, Your Honor. The
19 State calls Leroy Thomas.

20 **THE CLERK:** Mr. Thomas, please come
21 forward. Place your left hand on the Bible and
22 raise your right hand.

23 **LEROY THOMAS**
24 having first been duly sworn, testifies as follows:

25 **THE CLERK:** Please be seated. Please

Leroy Thomas - Direct Examination by Ms. Hodge

1 state your name for the record.

2 **THE WITNESS:** Leroy Thomas.

3 **THE COURT:** Speak into that microphone,
4 sir, so everyone can hear you.

5 **DIRECT EXAMINATION**

6 **BY MS. HODGE:**

7 **Q** All right. Please state your name again
8 into the microphone.

9 **A** Leroy Thomas.

10 **Q** Yes, sir. And Mr. Thomas, are you from the
11 Greenville area?

12 **A** Am I what now?

13 **Q** Are you from Greenville?

14 **A** No, ma'am, I'm from Gray Court, Laurens
15 county.

16 **Q** All right. Are you married?

17 **A** I was. My wife is deceased.

18 **Q** Your wife's deceased?

19 **A** Yes, August the 3rd.

20 **Q** All right. Recently, this year?

21 **A** Two years ago, the same time this happened.

22 **Q** Do you have any children?

23 **A** Yeah, I got three. One of them are back
24 there, my daughter, and two more out there somewhere.

25 **Q** Were they moving their cars?

1 **A** Yes, ma'am. They had to go move their
2 cars. They had to go move the cars.

3 **Q** Okay. And so have you worked different
4 places in your life?

5 **A** Yes, ma'am. I am retired.

6 **Q** All right. And so you also would do some
7 stuff on the side, sell some ball tickets?

8 **A** Yes, ma'am, a little hustle. Yes.

9 **Q** A little hustle?

10 **A** Yeah.

11 **Q** It's not legal, is it?

12 **A** No. I did it every now and again.

13 **Q** Okay. You know the defendant?

14 **A** Yeah.

15 **Q** How do you know him?

16 **A** I met him -- I met the whole family of
17 them. Him and his uncle back there, I been dealing
18 with him for about two or three years. Lately, I
19 just started dealing with them about a couple of
20 years. They call me -- you know, he call me on the
21 phone. My wife just had deceased and we were trying
22 to get things together. I was supposed to had been
23 going to probate court that same day. He called me
24 and said me and my dad want some tickets. I said,
25 well, I'll see you sometime later on. I know I had

1 to go to probate court, you know. And so he said
2 okay and I hung up.

3 Then he call me back again. He said I need
4 to see you right now. Come on. At the time, I
5 wasn't doing nothing. I said I'm going to run over
6 there and just catch him and get it out the way and
7 then go on to probate court.

8 So when I got over there, he was standing
9 in the door -- standing out in the yard -- out there
10 in the yard. You know, where they always have been.
11 He said him and his dad, but I didn't see his dad.
12 And so I sit in the truck waiting on him. He sitting
13 on the side -- standing on this side over here. He's
14 just looking, looking in the house, you know. I said
15 what you waiting on. He said wait a minute, he ran
16 in and went in the house. He went in the house and
17 he came back. When he came back, he still stood on
18 this side -- on this side, you know. Instead of
19 coming around to me, you know, he was still on this
20 side.

21 Q Okay.

22 A By the time he standing there, then this
23 guy pull up -- I don't know who it was -- with a mask
24 on. He had the gun. I thought he was planning trick
25 with me, you know. He was just pointing the gun,

1 just pointing the gun at me. I said, ah, man, what
2 y'all doing, you know, just like that.

3 So he went around to the front of my car.
4 I started to go this way. He ran around to the front
5 of my truck and pointed right there at the window. I
6 said, man, I know y'all ain't jo -- ain't real, is
7 you? He came back around and when he came back
8 around to me, I was trying to get my car in gear, you
9 know, I mean, cranked it up. When I cranked it up,
10 he reached in and punched me and, uh, grabbed my
11 steering wheel. When he did that, I seen he was
12 serious. I broke out this way and he shot, bam, just
13 like that.

14 Q I'm going to stop you one second real quick
15 just because I want to make sure we get all the
16 pieces of it. Was the defendant outside?

17 A Yeah, he was still on this side. Not him.
18 Not this one. I'm talking about the one that had the
19 mask on. He was still on the side. He was laughing
20 and grinning and going on like he knew what was going
21 on, you know. He was just there grinning.

22 So when I went out -- when I went out the
23 door, he grabbed me. When he grabbed me, I grabbed
24 him and throw him down and I took off running. I
25 seen he was serious. So he chased me. He come on

1 down there trying to -- running me down -- run me
2 down.

3 He was coming up with me. I wasn't as fast
4 as he was. He caught up with me and grabbed me. Up
5 it. Up it. Up it. I said, up what? Up what? I
6 thought the other guy with him was going to kill me.
7 I said, oh, Lord, I got to fight. So I just started
8 fighting. I grabbed his hair -- head. Me and him
9 went down the ground. Me and him scuffling and
10 rubbing and rubbing. I started biting him and doing
11 everything. He's got to hollering. Oh. When he got
12 up, he took off. When he took off, I just walked. I
13 went on. I started to go behind him but I didn't
14 because I didn't know where the other guy was with
15 the gun. I thought really he had it, you know. So I
16 went on up to the house and call the police then.

17 Q All right.

18 A I called them.

19 Q Okay. So let's go back to at the truck.
20 The guy that had the gun, did you get to see anything
21 about him?

22 A No, nothing but the mask. He had a mask on
23 his face and all I could see was the gun.

24 Q Was it a handgun?

25 A A handgun, yeah.

1 **Q** You said something about did he hit your
2 face?

3 **A** Yeah, he hit me, punch me, took his hand in
4 the truck and hit me. That's when I knew he was real
5 serious. Then he reached in there and tried to stop
6 my steering wheel. I was trying to crank up and go.
7 I was going to try to run him over was what I was
8 going to do. After that, when I did this here, he
9 shot. I said, oh, Lord.

10 **Q** Where did the shot go?

11 **A** Yeah, he shot. All I heard was a shot.
12 Bam. I was going out on the other side. When I got
13 on the side, he grabbed me. I knocked him away and
14 took off running. He chased me down. He was coming
15 down there behind me and running me down. Like I
16 said, I couldn't run as fast as he was. When he
17 grabbed me, I had to do what I had to do. I threw
18 him down. Me and him down on the ground scuffling.
19 Scuffling. I bit him and I pulled -- I think I
20 pulled a couple of hairs, rows out of his head, you
21 know. After that, he got up and took off.

22 **Q** All right. And he was saying something
23 like give it up?

24 **A** Yeah, he told me give it up, give it up. I
25 said give him what. He was trying to get in my

1 pocket and everything. Give it up.

2 Q All right.

3 A I don't know what he was talking about.

4 Q Okay. And he wasn't wearing a mask or
5 anything, was he?

6 A No.

7 Q That person -- is that person present in
8 court today?

9 A Ma'am?

10 Q The one that chase you down and said give
11 it up, is he present today in the courtroom?

12 A Yeah.

13 Q Okay. Where is he? Which one is he?

14 A The one there. The one with the man.

15 Q The white shirt?

16 A Uh-huh.

17 Q Okay. You've known him for a couple of
18 years?

19 A Yeah, for at least two years.

20 Q Okay.

21 A I started dealing with them at least two.

22 Q Okay. All right. And did your car get
23 damaged during this -- when the shot got went off,
24 did your car get damaged or your truck?

25 A My truck. He shot my window out.

1 Q Okay.

2 A Broke my glass. Shot my glass.

3 Q Okay. Let me show you a couple of
4 pictures, okay?

5 (WHEREUPON, State's Exhibits 1 through 4 are
6 marked for identification.)

7 BY MS. HODGE:

8 Q I'm going to show you what's State's Number
9 1, 2, 3 and 4. There are four pictures here. Do you
10 recognize what's being shown in that picture? Do you
11 know what that is?

12 A Yeah, that's his house.

13 Q I'm going to let you speak in here so they
14 can hear you.

15 A That's they house right there.

16 THE COURT: Refer to the number that he's

17 --

18 MS. HODGE: Yes, sir.

19 BY MS. HODGE:

20 Q All right. In State's Number 1, you are
21 saying whose house is in that?

22 A That's his house right there.

23 Q Whose house?

24 A His.

25 Q Mr. Ladson's house?

1 **A** Yeah.

2 **Q** Is your truck in that picture?

3 **A** That's my truck, yeah.

4 **Q** Is this how the house looked on that day
5 when you drove up?

6 **A** Yeah, it looked like that.

7 **Q** Is this what it looked like?

8 **A** Yeah.

9 **Q** Is that where your truck was parked?

10 **A** That's where it was parked right there.

11 **Q** All right. We'll go to look at number 2.
12 You know what Number 2 is?

13 **A** Uh-huh.

14 **Q** Is that --

15 **A** That's over there.

16 **Q** On the side, the grass on the side?

17 **A** Uh-huh.

18 **Q** Okay. Is that how it looked that day?

19 **A** Yeah.

20 **Q** State's Number 3, what's in that picture?

21 **A** That's my truck and then that's the house..

22 **Q** Is that where your truck was parked when
23 you pulled up to sell the tickets?

24 **A** It look like it. That's where it was.

25 Look like I was parked a little further up. Look

1 like I was parked a little further up. But that's it
2 though. That's where I was parked. I thought I was
3 parked beside that tree.

4 Q Okay. All right. Then this last picture,
5 what's that showing?

6 A That's showing where he shot at. He shot
7 right there. That's it. That's the house. That's
8 the barn behind it right there.

9 Q Okay. Did your window look like that
10 before you got there that day?

11 A No. Huh-uh.

12 Q Is that what happened to your window?

13 A That's what happened right there.

14 Q All right. That's State's Number 4.

15 MS. HODGE: All right. Your Honor, we
16 asked to move these into evidence, 1 through 4.

17 THE COURT: Any objection?

18 MR. GIBSON: No objection, Your Honor.

19 THE COURT: All right, State's Exhibits 1,
20 2, 3 and 4 would be admitted without objection.

21 MS. HODGE: Thank you, Your Honor.

22 (WHEREUPON, State's Exhibits 1 through 4 are
23 admitted into the record.)

24 BY MS. HODGE:

25 Q All right. I'm going to put these up and

1 they're going to show behind you.

2 A All right.

3 Q If you will, just briefly tell them the
4 same thing we were just talking about to the jury so
5 they can see.

6 A All right.

7 Q State's Number 1. Okay. You want to tell
8 us whose house is that?

9 A That's the same house. That's his house.
10 That's his trailer.

11 Q Had you been to that house before?

12 A Yes, ma'am.

13 Q All right. Was the defendant -- was Mr.
14 Ladson living at the house before this day?

15 A Yeah.

16 Q What you call Mr. Ladson?

17 A Uh, his daddy, I know his daddy name -- I
18 think it's Larry. His daddy, Larry.

19 Q All right. What do you call him, the
20 defendant?

21 A Not -- I didn't really know his name.

22 Q Did he go by anything?

23 A Yeah, Ladson's all I know. I know he was a
24 Ladson. Yeah.

25 Q Okay. Did you know him as Rico?

1 **A** Well, they called him -- yeah. They say
2 they call him Rico. I heard later they say they call
3 him Rico, but I didn't know his name.

4 **Q** You didn't know his name?

5 **A** No.

6 **Q** All right. You knew he was a Ladson?

7 **A** Yeah.

8 **Q** You didn't know if he went by Rico or not?

9 **A** No.

10 **Q** Okay. State's Number 2, what's this area
11 right here? Is that still at the same place?

12 **A** Yeah.

13 **Q** Where would your truck be if your truck was
14 parked?

15 **A** It's on the right side.

16 **Q** On the right side. Okay. And where did
17 the guy with the mask and the gun come from? Do you
18 know?

19 **A** On the left side, came from the left, on
20 the driver side. I don't know where he came from.
21 All I know is when he was at my window pointing at
22 me.

23 **Q** All right.

24 **A** I don't know where he come.

25 **Q** All right. And are these --

1 **A** It was on the left side.

2 **Q** Okay.

3 **A** I was on the driver's side.

4 **Q** All right. And then let me just show you
5 State's Number 3. Whose truck is that?

6 **A** That's my truck.

7 **Q** Okay. State's Number 4, what is that
8 showing?

9 **A** That's my truck.

10 **Q** Okay. What about this window here?

11 **A** That's on the right side.

12 **Q** Is there something that happened to your
13 window there?

14 **A** Yeah, he shot my window out.

15 **Q** And it didn't look like that before you
16 came to this house on this day, did it?

17 **A** No.

18 **Q** Okay. Thank you. All right, did you think
19 that -- did you think that the defendant was trying
20 to help you during this robbery?

21 **A** No, he couldn't have been. He couldn't
22 have been. He's a good boy. I know that. But he
23 couldn't have been. He had to set me up. If he was
24 with me, he would have tried to help me or stop me.
25 He didn't even try to do that. He grabbed me when I

1 went out the window, out the door. I had to throw
2 him down.

3 Then he took off at me. When he caught up
4 with me, then he hollered give it up. Why is he with
5 him? I mean, why is he helping me? He asking me to
6 give it up, trying to take my -- whatever I had in my
7 pocket. He was really trying to take what I had,
8 talking about give it up, give it up.

9 Q When you sell ball tickets, is this all a
10 cash business?

11 A Yeah, I went around the house there. Yeah,
12 we went across the road. I thought maybe both of
13 them was at me because I said they was going to kill
14 me. But it wasn't the one that's when I started
15 trying to fight him.

16 Q When you realized it was only him?

17 A When it was him ---

18 Q Okay. All right.

19 A --- what chased me.

20 Q When he -- let's go back and talk about
21 these tickets, these ball tickets. Did people pay
22 cash for those?

23 A Yeah.

24 Q You don't pay credit?

25 A No, ma'am.

1 Q I mean, this is a cash business, right?
2 When someone wants to buy tickets, they give you the
3 cash.

4 A They give me the cash.

5 Q If they win, you give them cash back?

6 A Right. Yeah.

7 Q Usually there's some cash ---

8 A That's right.

9 Q --- involved with the tickets?

10 A Uh-huh.

11 Q Do anything get stolen from you or taken
12 from you during this robbery?

13 A I missed my bag, what I have my tickets in,
14 what I usually put my tickets in. I guess they got
15 this. I don't know what happened to it. They
16 must've thought money was in it or whatever. That's
17 the only thing I'm missing. When I got back, my dash
18 drawer was open. The police went through my dash
19 drawer and all. I don't think I had nothing in
20 there. Sometimes I usually had -- might have had
21 something in there and might have didn't. But I
22 didn't miss nothing.

23 Q Nothing that you knew for sure?

24 A Right. Nothing but that bag. I guess they
25 had that bag and thought ---

1 Q Had some money in it?

2 A --- thought some money was in it, yeah.

3 Q Okay. And did you ever -- were you ever
4 able to tell the police anything at all about the
5 gunmen as far as maybe what style hair he had or
6 anything like that? Were you about to describe them
7 at all?

8 A No, I couldn't describe him. Just like I
9 told them, I didn't know him. He had a mask on.

10 Q What kind of a mask was it?

11 A An ugly mask, a terrible mask. It scared
12 me.

13 Q A Halloween mask?

14 A Like a Halloween mask or something like
15 that.

16 Q Okay.

17 A Yeah.

18 Q All right.

19 A And, uh, after -- when the police got me in
20 the car and brought me back up there ---

21 Q Uh-huh.

22 A --- and asked me to describe the guy that
23 came out the door. He was sitting in his car and he
24 said is this the guy right here. I said no. Looked
25 just like him. Probably his twin or whatever. I

1 said no, that's not him. The police told him to go
2 back. He set in the car and he pulled something up
3 on the screen in his car. I said that's him right
4 there.

5 Q Okay.

6 A But this one, I never had seen him before.
7 Ever since I been there, the other one, I never had
8 seen him before. It could have been him that did the
9 shooting. I don't know.

10 Q Okay.

11 A But it was somebody and I think he know who
12 did it.

13 Q Okay. All right. The police showed you
14 his brother?

15 A Right.

16 Q And you said, no, that's not the guy.

17 A Yeah, they showed me his brother. I have
18 never seen his brother before.

19 Q They look similar?

20 A Yeah, they look just alike.

21 Q You said that's not him?

22 A That's not him.

23 Q And then at some point, you saw a picture.

24 A Right.

25 Q And you were like that's him.

1 **A** Right.

2 **Q** And that would be the defendant?

3 **A** That was him.

4 **Q** Okay. And then later, did you come to talk
5 to Investigator Hoover and give a statement about
6 what happened at the police station?

7 **A** Yes, ma'am.

8 **Q** Okay. Did he have you look at a photo
9 lineup or a group of pictures ---

10 **A** Yes, ma'am.

11 **Q** --- to see if you could just clarify who
12 the person was?

13 **A** Yes, ma'am.

14 **Q** All right.

15 **(WHEREUPON, State's Exhibit 5 is marked for**
16 **identification.)**

17 **BY MS. HODGE:**

18 **Q** Okay. I'm going to show you what's been
19 marked State's Number 5. Do you know what this is?
20 This piece of paper?

21 **A** Yes, ma'am.

22 **Q** What is that?

23 **A** Faces of the people, you know, the
24 defendant.

25 **Q** Uh-huh. People that the police officer

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1 showed you?

2 **A** Yeah, the police showed me that. Yeah.

3 **Q** Does it look just like it did the day that
4 you signed it?

5 **A** Yeah.

6 **Q** Your signature is on it?

7 **A** Yeah.

8 **Q** What date is on it?

9 **A** 12/10/13.

10 **Q** December 10, 2013?

11 **A** Uh-huh.

12 **MS. HODGE:** At this time, we move to
13 admit State's Number 5.

14 **THE COURT:** Any objection?

15 **MR. GIBSON:** No objection, Your Honor.

16 **THE COURT:** State's Exhibit Number 5 will
17 be admitted without objection.

18 **MS. HODGE:** Thank you, Your Honor.

19 **(WHEREUPON, State's Exhibit 5 is admitted into**
20 **the record.)**

21 **BY MS. HODGE:**

22 **Q** I'm going to put it up there and ask you a
23 couple of questions.

24 **A** All right.

25 **Q** Okay, Mr. Thomas, how did the officer show

1 you this? Did he tell you anything beforehand?

2 **A** Yeah, he showed me some more pictures, you
3 know, and put them up there. I told him it wasn't
4 none of them. He came up with that one and then I
5 marked it.

6 **Q** So he showed you some pictures before this
7 one?

8 **A** Yeah, before that, yeah.

9 **Q** There was nobody in there that you
10 identified?

11 **A** No.

12 **Q** Then he showed you this group of pictures?

13 **A** That's right.

14 **Q** Did you immediately pick out who you knew
15 to be --

16 **A** Time he showed it to me.

17 **Q** Okay. One of the robbers, not the one with
18 the gun, but the other one?

19 **A** Yeah.

20 **Q** At that point, did the officer, was that
21 the end of what you had to do with?

22 **A** He showed me the other people before -- I
23 think that was about the last one. He showed me.

24 **Q** Okay.

25 **A** I kept saying that's not him, not him. He

1 finally got that one there. I told him that's the
2 one right there. Then he showed me the rest of them.
3 I said that's him right there.

4 Q All right.

5 A He told me to mark it and I signed it.

6 Q All right. Okay. Perfect. Thank you.

7 All right. I think that's all I have for you, Mr.
8 Thomas. Please answer any of Mr. Gibson's questions.

9 A All right.

10 THE COURT: Mr. Gibson, your witness.

11 MR. GIBSON: Thank you, Your Honor.

12 CROSS-EXAMINATION

13 BY MR. GIBSON:

14 Q Mr. Thomas, how long have you been selling
15 ball tickets?

16 A Off and on about seven or eight years.

17 Q Say it again?

18 A Off and on about seven or eight years.

19 Q Seven or eight years?

20 A Uh-huh.

21 Q And you've been convicted of doing this
22 before?

23 A Right.

24 Q Back in 2011, correct?

25 A Right.

1 Q But yet, you still do it?

2 A Huh?

3 Q But yet, you continue to sell these illegal
4 ball tickets?

5 A No, I don't sell them now.

6 Q You don't sell them right now?

7 A Huh-uh.

8 Q When did you stop?

9 A I quit after that.

10 Q You quit after this?

11 A That's enough to make you quit.

12 Q Okay. Uh, over the seven or eight years
13 that you sold these tickets, you were well known
14 throughout the community to be a seller of these
15 items, is that correct?

16 A Yeah.

17 Q So when people would see you, they would
18 know your truck and they would know you, right?

19 A Right.

20 Q So if somebody in the neighborhood saw you
21 riding down the street to a house like Mr. Ladson's,
22 where they knew you had gone multiple times before,
23 they could presume that that's where you were going
24 and come there and rob you, is that not correct?

25 A (No audible response.)

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Leroy Thomas - Cross-Examination by Mr. Gibson

1 Q That's not correct?

2 A Say what now? Come back again. Say it
3 again.

4 Q If somebody saw your truck, ---

5 A Yeah.

6 Q --- they would know that it is you,
7 correct?

8 A Right.

9 Q And they would know that you sell ball
10 tickets?

11 A Right.

12 Q And they would know that you would carry
13 cash on you from the sale of those ball tickets?

14 A Right.

15 Q How much cash would you normally carry on
16 you?

17 A Not much, just a little bit.

18 Q Just a little bit? How much?

19 A Well, say about a couple of hundred
20 dollars.

21 Q A couple of hundred dollars?

22 A Uh-huh.

23 Q So you're saying that all of this went
24 down, they planned this robbery and tried to kill you
25 over a couple of hundred dollars?

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Leroy Thomas - Cross-Examination by Mr. Gibson

1 **A** I think they did.

2 **Q** Okay. You sure you weren't known to have
3 sometimes thousands of dollars on your person when
4 you sell ball tickets?

5 **A** Sometime I might probably would, but I
6 don't have it when I'm doing that.

7 **Q** When you have these thousands of dollars,
8 you would often flash the money, is that right?

9 **A** Right.

10 **Q** So people knew that you had a lot of money
11 and you sold ball tickets?

12 **A** Right.

13 **Q** If they saw your car and they knew you were
14 going down this particular street as many times as
15 you have been there, they would know that you were
16 probably going to Trico and Larry Ladson's house, is
17 that not fair to say?

18 **A** No, he called me there.

19 **Q** I understand.

20 **A** He called me there. I wouldn't have went
21 there if he hadn't called me.

22 **Q** I understand. But if someone saw you going
23 down the street in your truck, ---

24 **A** Right.

25 **Q** --- they could presume that you were going

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1 to Trico and Larry Ladson's house?

2 A Yeah.

3 Q And they could then come to rob you?

4 A Yeah. That's the only place. It was a
5 dead end. Wasn't but only one way in there.

6 Q Somebody came through the woods, is that
7 not correct?

8 A I don't know who came to the woods. I
9 don't know where they came from. Out the house or
10 where.

11 Q You said the masked gunmen came to the
12 driver side?

13 A He came to the driver side, but where he
14 came from, I don't know.

15 Q And the driver's side was right next to the
16 woods?

17 A Right.

18 Q So to come to your door, they would have
19 had to come from the woods, is that not correct?

20 A I can't say. They could've come from
21 behind the house.

22 Q So you think they came, if they came around
23 the house --

24 A They could've come around the house.

25 Q Your truck was facing the house, is that

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1 not correct?

2 A Right.

3 Q If they came around the house, you would
4 see them coming from around the house, right?

5 A Not really.

6 Q Why not?

7 A Not really if you ain't looking.

8 Q So you are in your truck --

9 A I was sitting in the truck.

10 Q You are looking forward and you're saying
11 that someone could have come around the house, come
12 directly towards you and you would not see them?

13 A He didn't come direct to me. My truck was
14 parked this way. The house around here. He came
15 around the house. I don't know which way he come.
16 He might've come around the woods but I didn't see
17 him come out.

18 Q You didn't see them come around the house.

19 A I didn't see him come around the house
20 either. I didn't see him.

21 Q Okay. All right. You get there that day
22 after Trico called you?

23 A Uh-huh.

24 Q You testified that he was on the porch like
25 he normally is waiting for you to come?

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1 **A** Yeah.

2 **Q** So there's nothing at this point that is
3 out of the ordinary?

4 **A** Right.

5 **Q** And he's on the phone?

6 **A** Yeah.

7 **Q** And then what did he do?

8 **A** What --

9 **Q** What happened then?

10 **A** What did he do?

11 **Q** Yeah. What happened then?

12 **A** He came up and -- what I got up there, he
13 came to the car.

14 **Q** Came to the car, the driver side?

15 **A** On the driver's side. Just standing there.
16 He said wait a minute. He took off and went in the
17 house.

18 **Q** Okay.

19 **A** He went in the house and he came back?

20 **Q** To the driver side?

21 **A** No, on the passenger side. He never did
22 come on the passenger side. He was still on this
23 side.

24 **Q** Okay. All right. Let's go through that
25 then. He comes out of the house.

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Leroy Thomas - Cross-Examination by Mr. Gibson

1 **A** Yeah.

2 **Q** First, he comes to the driver's side?

3 **A** He never come to the driver side. He never
4 did come to the driver side.

5 **Q** Didn't you just say he came to the driver
6 side?

7 **A** No, on the driver side, he never -- he
8 didn't.

9 **Q** He didn't?

10 **A** No.

11 **Q** So just 30 seconds ago when you said he
12 came to the driver side, that's not true?

13 **A** No, not him, I said the one with the gun.

14 **Q** Didn't you just say Trico came to the
15 driver side, he said I'll be right back and he went
16 back into the house?

17 **A** He came to this side. He didn't come to
18 the driver side. He came on this side and said I'll
19 be right back.

20 **Q** So you are saying now that he didn't come
21 to the driver side?

22 **A** No, he never come to the driver side.

23 **Q** On the passenger side, your window was up,
24 correct?

25 **A** Yeah.

666

1 there.

2 Q Okay. So he's outside.

3 A He's already outside.

4 Q And you testified that he went back into
5 the house?

6 A He went back in the house.

7 Q Then he came out again?

8 A Came out.

9 Q The first time he's out there, did he come
10 to the driver side of your --

11 A No, he didn't come to the driver side --

12 Q So you are saying --

13 A He was standing there. He was standing on
14 this side on the left. Right in the front of my
15 truck on the left side.

16 Q Right in front of your truck?

17 A Right.

18 Q And how long did he stand there?

19 A I'd say about two or three seconds and then
20 he said wait a minute and went running back in the
21 house.

22 Q Okay. And then what happened?

23 A When he came back out, he still stood right
24 there. Right on this side. By that time, that's
25 when this one came up. He jumped back and was

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Leroy Thomas - Cross-Examination by Mr. Gibson

1 Q And your window was tinted?

2 A Right.

3 Q Correct?

4 A Uh-huh.

5 Q What did Trico do at the window that was
6 already up and tinted?

7 A Really, he didn't come to the window. He
8 was on the front of the truck, right on the side
9 standing right here. He never did make it down in
10 front of my truck. He was on the side.

11 Q On the side, the driver side or the
12 passenger side?

13 A By my fender. That's where he was standing
14 at right there.

15 Q Driver side or passenger side?

16 A On the passenger side.

17 Q Okay.

18 A On the passenger side on the phone right
19 there.

20 Q Okay.

21 A Then all of a sudden, after that, all of a
22 sudden, this guy come up from behind me.

23 Q No, I'm talking about the first time he
24 comes out. The first time he comes out.

25 A When he was already out there when I got

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1 laughing and going on.

2 Q Who jump back laughing?

3 A He did.

4 Q He jump back where laughing?

5 A Laughing on the right side, still on that
6 side.

7 Q You said he jumped back, he jumped away
8 from your car?

9 A He was hollering whoa, whoa, whoa, whoa.
10 Just like that and, uh, he was laughing. I said
11 y'all ain't playing no joke on me.

12 Q He was laughing?

13 A Yeah, he was laughing. He was laughing.
14 This guy with the gun, he went to -- he was on my
15 side pointing at me first.

16 Q Uh-huh.

17 A I was going to move my truck. He ran
18 around the front of the truck.

19 Q The -- the -- the -- the one with the gun?

20 A With the gun, with the mask on. He was
21 still standing there. He was still standing on the
22 side right there laughing and going on like he knew
23 what was going on.

24 Q At the fender?

25 A Right.

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1 Q At the front of your car?

2 A Right.

3 Q Okay.

4 A He was standing there laughing. I thought
5 they were playing a joke of me.

6 Q Okay.

7 A I went and sat back down before I come back
8 around again. I tried to crank my truck up and he
9 jumped in there and he hit me.

10 Q So wait a minute. Let me get it straight.
11 So the masked gunman, he comes around to the front of
12 your truck, right?

13 A Right.

14 Q And then you try to put the truck into
15 gear?

16 A Right.

17 Q And then that's when he runs back to the
18 driver side?

19 A To the driver side and punched me. He
20 stuck his hand in there and grabbed my steering
21 wheel. When he grabbed my --

22 Q He grabbed it with one hand and punched you
23 with the other.

24 A Yeah, he punched me and grabbed my steering
25 wheel.

1 Q Where's the gun?

2 A He had the gun in his hand.

3 Q You just said he grabbed the steering wheel
4 with one hand and he punched you with the other one.

5 A Yeah, that's what he did. He punched me.

6 Q You can't do that unless he has three
7 hands.

8 A Yeah. He hit me.

9 Q But you just said he grabbed the steering
10 with one hand and punched you with the other.

11 A That's after, when he punched me. That's
12 when he punched me after when he done grabbed the
13 steering will first and then he punched me.

14 Q Okay. Did he have three hands?

15 A Huh?

16 Q Did he have three hands?

17 A No, I don't guess he did. He had two.

18 Q All right. This laughing thing, that
19 sounds like a pretty important fact. Did you tell
20 the police that?

21 A Yeah, I told them he hit me. I told him he
22 hit me.

23 Q Did you tell him that he was laughing?

24 A Yeah, I told him he was laughing. He was
25 grinning and laughing. He hit me.

1 Q Take a look at that. Do you recognize
2 that?

3 A Yeah.

4 Q That's the written statement that you gave
5 to police, right?

6 A Uh-huh.

7 Q You went to the police station seven days
8 after this happened and you sat down with an officer
9 and you had as much time as you wanted to state what
10 happened in your case.

11 A Yeah.

12 Q Is there anything in that written statement
13 about Trico Ladson sitting in the front laughing --
14 laughing?

15 A No, it's not on here.

16 Q Like I said --

17 A I told him that.

18 Q You didn't put it in your statement?

19 A No.

20 Q You had a chance to review your statement?

21 A Yeah.

22 Q They said take a look at the statement to
23 make sure you have everything that's important.

24 A Yeah. He was standing there laughing.

25 Q Yet still, it's not here in your written

1 statement?

2 **A** Yeah.

3 **Q** So the point we're at in your story is that
4 now the masked gunmen has for whatever reason, you
5 got the car in gear, he runs back around to the
6 driver side, grabbed the steering wheel with one
7 hand, punches you in the other -- punches you with
8 the other. I'm not sure -- what has he done with the
9 gun at this point?

10 **A** He had both hands on the gun like this
11 here. He went in front of the car. When he come in
12 the front, I went and put it in gear. Then he come
13 back around on this side. When he come around on
14 this side, he punched me and he grabbed the steering
15 wheel. When he grabbed the steering wheel, I took
16 off. I seen he was serious. I said he serious.

17 **Q** You took off?

18 **A** I did this. I was going out the other
19 side.

20 **Q** Going out the other side.

21 **A** Out the right side. That's when he shot.

22 **Q** So he's coming out the other side. You're
23 going across and you put it back in park?

24 **A** I didn't put nothing -- no. I didn't even
25 get it in there. I was trying.

1 Q You didn't actually get it in. So you're
2 going out the other side and you get out the other
3 door.

4 A Yeah.

5 Q Is Trico pushing on the door holding you
6 in?

7 A When I went out, he grabbed me. Yeah, he
8 was at the door.

9 Q No, I'm saying did you tell the police that
10 he was -- that you were trying to get out of the car
11 and he was holding the door close so you could not
12 get out?

13 A No, I didn't tell them that.

14 Q You didn't tell them that?

15 A Huh-uh.

16 Q So you come out of the door and Trico is
17 right there waiting for you?

18 A He grabbed me when I came out.

19 Q When did he move up to this door before the
20 shot?

21 A After the shot.

22 Q After the shot?

23 A Yeah.

24 Q Okay. So he's at the front of the car and
25 he moves over to the passenger side ---

Leroy Thomas - Cross-Examination by Mr. Gibson

1 **A** Right.

2 **Q** --- as you are getting out?

3 **A** Right.

4 **Q** How old were you in this happened?

5 **A** How old I was?

6 **Q** Yes, sir.

7 **A** 70 -- 71.

8 **Q** You are how old now?

9 **A** I'm 71 now, so 70.

10 **Q** You are 71 now?

11 **A** Uh-huh.

12 **Q** So when this happened you were probably

13 what, 70 or 69?

14 **A** 70. Two years. Well, I'm 71 now so about

15 69.

16 **Q** Okay. And how tall are you?

17 **A** 5'5. How much do you weigh?

18 **A** 140.

19 **Q** All right. So you get out of the car and

20 Trico is what, roughly 5'10?

21 **A** Yeah.

22 **Q** And 50 years younger than you?

23 **A** Uh-huh.

24 **Q** Wrestles you down to the ground. Now,

25 while he is wrestling you down to the ground, what is

1 the gunmen doing?

2 **A** I don't know. I didn't see gunman no more.

3 **Q** So you never told any of the officers that
4 both of the individuals were holding you down on the
5 ground?

6 **A** No. No.

7 **Q** You never said that?

8 **A** No.

9 **Q** Okay. So the other gunmen, he just
10 disappeared -- the gunmen, he disappears at this
11 point?

12 **A** After he shot, I guess he disappeared.

13 **Q** While this is going on, Trico had you on
14 the ground beside your car, is that correct?

15 **A** No.

16 **Q** No?

17 **A** Huh-uh.

18 **Q** You said he was waiting for you when you
19 got out of the car?

20 **A** He didn't have me down. No. He didn't get
21 me down until we ran down the street.

22 **Q** So he runs out and he grabs you?

23 **A** He grabbed me and I push him down. Pushed
24 him away from me and took off running.

25 **Q** Okay. And he runs after you and catches

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1 you?

2 **A** Came right behind me.

3 **Q** Okay. And the gunmen, at this point, who
4 according to your testimony is trying to kill you, he
5 is nowhere to be seen?

6 **A** I ain't seen him.

7 **Q** So he doesn't run after you?

8 **A** No.

9 **Q** He doesn't try to get you down on the
10 ground?

11 **A** No.

12 **Q** He doesn't take advantage of the fact that
13 Trico supposedly delayed you as you were getting out
14 of this car door to cut you off and stop you?

15 **A** No, he didn't. I didn't see him.

16 **Q** He didn't do any of that?

17 **A** Huh-uh.

18 **Q** So you are running and you are running,
19 then you get to a point where he gets you down on the
20 ground, is that right?

21 **A** Right.

22 **Q** Is that behind --

23 **A** He caught up with me, yeah.

24 **Q** Is that behind house number 429 on that
25 street?

1 **A** No, it's not behind it but it's across the
2 street. It's across the road.

3 **Q** So he gets you down on the ground and you
4 start grabbing his head?

5 **A** Yeah.

6 **Q** You said earlier that you thought that you
7 had pulled some of his hair out?

8 **A** I thought I did.

9 **Q** Okay. What did you do with that hair?

10 **A** I don't know what I did with it.

11 **Q** Okay. So you didn't keep it though, right?

12 **A** No.

13 **Q** You probably dropped it right there?

14 **A** Probably dropped it.

15 **Q** That is where your phone was found too,
16 correct?

17 **A** Yeah.

18 **Q** In that same little area?

19 **A** Right.

20 **Q** So if there was hair that had been pulled
21 out, the police when they found the phone, they would
22 have found the hair as well?

23 **A** I don't know if they would or not.

24 **Q** Okay. All right. Now you also claim that
25 you had bit him a number of times?

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1 **A** Huh?

2 **Q** Did you tell the police that you bit him?

3 **A** I what?

4 **Q** Did you bite Trico?

5 **A** Yeah, I bit him.

6 **Q** Where did you bite him?

7 **A** I don't know. We're fighting. We're

8 fighting. I don't know where I bit him but I know I

9 bit him.

10 **Q** You said you bit him a number of times?

11 **A** Yeah.

12 **Q** You have no recollection of where you bit

13 him?

14 **A** When I had him down, me and him were both

15 on the ground. I bit him. Where I bit him at, I

16 don't know.

17 **Q** You bit him on his neck, his chest, his

18 mouth?

19 **A** I bit him.

20 **Q** You bit him on his mouth?

21 **A** No, I didn't bite him on the mouth.

22 **Q** Where did you bite him?

23 **A** I don't know where I bit him at.

24 **Q** But you know you bit him a number of times?

25 **A** I bit him.

1 Q Did you bite him hard enough to break the
2 skin?

3 A On the neck and things like that. I had
4 his head.

5 Q Yeah, did you bite him hard enough to break
6 the skin?

7 A Should have.

8 Q Did you bite him as hard as you could?

9 A Should. I had blood.

10 Q You bit him enough to make a scar or
11 whatever?

12 A Yeah.

13 Q Okay. All right. Now, you said that you
14 think that they took your bag of tickets?

15 A They took my bag, yeah.

16 Q With your tickets in it?

17 A No. The bag. The tickets were on the
18 seat. They got the bag cause they thought money was
19 in it.

20 Q So they took the bag with money in it?

21 A They thought the bag had money in it.

22 Q What was in the bag?

23 A Wasn't nothing in it. The tickets was
24 supposed to be in it but the tickets were laying on
25 the seat. I was waiting on him to pull the tickets.

1 Q Did you tell the police that they took the
2 bag?

3 A I didn't tell them that, but the bag was
4 gone. Yeah. That's the only thing I'm missing. I
5 didn't really know I had done missed it. I thought
6 the police had the bag, you know.

7 Q So you didn't tell --

8 A They didn't say nothing about the bag.

9 Q What else did you have in the car?

10 A That's all. Two shotguns back behind the
11 seat.

12 Q Anything else?

13 A A lot of stuff. There was a lot of stuff
14 in there.

15 Q What did you have in there?

16 A I had my two shotguns. That's the only
17 thing really I had in there.

18 Q Yeah.

19 A Nothing in the glove compartment. And I
20 had the tickets. That's all.

21 Q And the shotguns were left, correct?

22 A Right behind the seat.

23 Q And the tickets were there, correct? And
24 the only thing you thing that you think was missing
25 is a bag?

1 **A** Right.

2 **Q** Okay. But the bag didn't have anything in
3 it?

4 **A** Huh-uh.

5 **Q** Okay. After you got away from Trico that
6 last time, where did you go then?

7 **A** I went to the house and called the police.

8 **Q** Which house?

9 **A** The neighbor, a friend girl that I knew
10 right across the street.

11 **Q** Uh-huh.

12 **A** She let me use the phone. She called them.

13 **Q** All of these houses are kind of close
14 together?

15 **A** Uh-huh.

16 **Q** And my understanding is you were also
17 yelling for help?

18 **A** Yeah.

19 **Q** Okay. While you were fighting with them on
20 the ground, you were yelling? How long did the fight
21 on the ground last?

22 **A** I would say three or four seconds. It
23 wasn't that long. We were scuffling.

24 **Q** You said you think you bit him numerous
25 times--

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1 **A** I bit him. Me and him just rolled over.
2 When he grabbed me, I rolled over. Me and him rolled
3 over. I had his head. I bit him a couple of times.

4 **Q** Okay.

5 **A** He finally got loose and took off. When he
6 took off, I went on over there. I started to go
7 behind him but I didn't know where -- I see he was
8 already had done give in now.

9 **Q** Okay. So then, you went to your friend
10 girl's house and that's when you called the police?

11 **A** I had to call the police.

12 **Q** Did you get charged with selling ball
13 tickets?

14 **A** Yeah.

15 **Q** You did get charged with that?

16 **A** Yeah.

17 **Q** This time around?

18 **A** Yeah.

19 **Q** Have you been to court on that?

20 **A** Huh?

21 **Q** Have you been to court on that?

22 **A** No, I didn't have to go to court on it.

23 **Q** Why not?

24 **A** Cause I didn't. All I had to do was pay a
25 fine.

Steven Hodge - Direct Examination by Ms. Hodge

1 **Q** Okay. So you paid the fine?

2 **A** I paid the fine.

3 **Q** Okay. And you have not sold ball tickets
4 since then?

5 **A** No.

6 **Q** Just a second please. (Pause.)

7 Thank you, Mr. Thomas.

8 **A** Uh-huh.

9 **THE COURT:** Ms. Hodge, any redirect?

10 **MS. HODGE:** No, sir. You may step down.

11 **THE COURT:** Thank you, sir. You may step
12 down.

13 **MS. HODGE:** The State calls Deputy Hodge.

14 **THE CLERK:** Deputy Hodge, please place
15 your left hand on the Bible and raise your
16 right.

17 **STEVEN HODGE**

18 having first been duly sworn, testifies as follows:

19 **THE CLERK:** State your name for the
20 record.

21 **THE WITNESS:** Steven Hodge.

22 **DIRECT EXAMINATION**

23 **BY MS. HODGE:**

24 **Q** Deputy Hodge, who do you work for?

25 **A** Greenville County Sheriff's Office.

1 Q How long have you been with the Sheriff's
2 Office?

3 A 24 years.

4 Q What are your duties currently with the
5 Sheriff's Office?

6 A I am a warrants officer at this point.

7 Q What does a warrants officer do?

8 A We go out and find folks on warrants that
9 don't want to be found.

10 Q All right. And were you working in that
11 same capacity December 3rd of 2013?

12 A No, ma'am. I was a uniform patrol officer
13 answering 911 calls for service.

14 Q All right. Did you -- what area and what
15 shift were you working that day?

16 A I was on first shift, on day shift, and I
17 was working the east side of Greenville County.

18 Q Did you receive a call for service at 430
19 Goldsmith Road?

20 A I did.

21 Q And where is that? What part of the county
22 is that?

23 A That's in Simpsonville, in Greenville
24 county.

25 Q What was the call in reference to?

1 **A** It was in reference to an armed robbery.

2 **Q** What time did that call come out?

3 **A** If I can look at my report here.

4 (Reviewing.)

5 It came out at 12:33 p.m.

6 **Q** What time did you get there?

7 **A** I got there is six minutes after 1:00.

8 **Q** What did you observe on arrival?

9 **A** On arrival, I observed the victim speaking
10 with a couple of other deputies at 503 Goldsmith
11 Road, which was the house that the victim had ran to.

12 **Q** So you knew there other officers already
13 there before you got there?

14 **A** Yes, ma'am.

15 **Q** And do you recall who was speaking to Mr.
16 Thomas?

17 **A** Deputy Stewart.

18 **Q** And then, did you also begin to speak to
19 Mr. Thomas?

20 **A** That's correct. I was the reporting
21 officer, so I began to speak with Mr. Thomas.

22 **Q** And did he advise -- give you the accident
23 incident location or did you already know that?

24 **A** Yes, ma'am. He gave it to me.

25 **Q** Can you tell us, uh, what, if anything, you

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1 observed about the victim while you were talking to
2 him?

3 **A** He had some grass stains. He was very
4 disheveled. He had a lot of grass stains and some
5 soiled clothing. He had, like, a cream-colored
6 jacket on and some jeans.

7 **Q** Did he have any visible injuries?

8 **A** I don't recall any visible, anything other
9 than that.

10 **Q** Did he tell you what happened?

11 **A** Yes, ma'am.

12 **Q** After you got this information from him or
13 spoke to him, what did you do?

14 **A** I began to write a report as he told me the
15 information.

16 **Q** Okay. How about did you go over to --
17 eventually go over to the actual incident location?

18 **A** Yes, ma'am. Over to 430 Goldsmith Road.

19 **Q** Okay. What did you observe about the
20 incident location?

21 **A** The victim's truck was parked in front of
22 the house with the passenger side kind of facing the
23 house more so than directly on front. The passenger
24 side was kind of facing the house.

25 **Q** Were any doors of the truck open that you

1 recall?

2 **A** Uh, I don't recall any of the doors being
3 open right offhand. I remember the, uh, -- the hole
4 in the door, not the passenger side. Correction.
5 The passenger-side door was open, the one that had
6 the hole in it. The driver's side door, I didn't see
7 open.

8 **Q** Okay. Did you notice damage to that
9 passenger side?

10 **A** Right. There was a bullet hole, consistent
11 with a bullet hole in the driver's -- passenger-side
12 window. The window was still intact, because there
13 was window film, tint on the window that still held
14 the window together.

15 **Q** How about did you notice anything inside
16 the vehicle or did you look for anything inside?

17 **A** Right. Just in a plain view, there was,
18 what we consider ball tickets, gambling tickets on
19 the front seat area of the pickup truck.

20 **Q** And then there was mention of shotguns.
21 Were those actually in the front of the seat or were
22 those behind the seat?

23 **A** Uh, I don't recall the -- any shotguns that
24 I could see. It may have been behind when forensics
25 got there to process the truck.

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1 **Q** Okay. All right. Was the victim bought
2 over to the incident location?

3 **A** Yes.

4 **Q** Or did he stay at the other house?

5 **A** He stayed at the other house. But we
6 eventually -- eventually drove him over into the
7 driveway area there. It's a long -- it was a long
8 driveway, so it wasn't right upon the truck or upon
9 the house.

10 **Q** What was the purpose for bringing him over
11 there?

12 **A** Just to get him on the scene, just to bring
13 him there to get him away from the house that he was
14 at.

15 **Q** Okay. Do you know if the defendant was on
16 scene?

17 **A** I don't recall the defendant -- I'm sorry.
18 This defendant, I don't recall seeing him personally
19 on the scene. Not me, personally.

20 **Q** What about did a K-9 unit come out?

21 **A** Correct.

22 **Q** What was the K-9 unit for?

23 **A** They were used to track the area in which
24 the victim ran in order to try to see if they could
25 find some -- any other evidence.

1 Q Okay. Did they also look for suspects?

2 A Correct.

3 Q Okay. Were you able to get a description
4 from the victim of the two robbers?

5 A Yes, ma'am.

6 Q Okay. What were those?

7 A The descriptions were -- on the first
8 suspect was a medium average-sized build, black male,
9 with a black and white face mask and a hood that was
10 over it and all-dark clothing.

11 Q All right.

12 A On the second one, it was a braided
13 hairstyle -- long, braided hairstyle, slender build,
14 uh, black male, I think, if I'm not mistaken.

15 Q Did victim say he knew either one of them?

16 A He stated that he knew Number 2 because he
17 knew him by Trico. That's the only thing he knew him
18 by when I spoke with him.

19 Q All right. Did you know who lived at the
20 incident location?

21 A No, ma'am. I don't know who lived there.
22 Not from my report.

23 Q All right. Did you speak to -- were there
24 any other witnesses there that you may have spoken
25 to?

1 **A** I spoke with a Larry Ladson, Larry Anthony
2 Ladson ---

3 **Q** Okay.

4 **A** --- a Michael Anthony Ladd, and a Melvin
5 Lewis Busby.

6 **Q** All right. Did any of these witnesses or
7 people actually observe what happened to the victim?

8 **A** No, ma'am.

9 **Q** And where did these people live that you
10 spoke to?

11 **A** Uh, Larry Anthony Ladson lived there at
12 430, Michael Anthony Ladson lived there at 430 and
13 Melvin Lewis Busby lived at 121 William Circle in
14 Simpsonville, which is not too far down.

15 **Q** William Circle come here --

16 **A** Yes, ma'am.

17 **Q** And Goldsmith?

18 **A** Yes, ma'am.

19 **Q** At this point, they don't give any
20 information or you weren't able to gain any
21 information about what happened in the robbery?

22 **A** Right.

23 **Q** All right. I think you briefly talked
24 about the K-9 unit was deployed to look for possible
25 things that were related?

1 **A** Yes, ma'am.

2 **Q** Was anything located to your knowledge?

3 **A** To my knowledge, in my report, it shows
4 that a cell phone that belonged to the victim was
5 located behind the house, the house at Number 429.

6 **Q** All right. Where's the house in relation
7 to the incident location?

8 **A** Out of the passenger side of the truck, it
9 would be directly behind the group of houses there
10 where the -- the incident location was behind that
11 house in a row of houses.

12 **Q** Okay. Is it to the left or the right or
13 across the street?

14 **A** On the same side where this house was.

15 **Q** Did the victim get his phone back, look
16 through his phone?

17 **A** He looked through his phone and showed us
18 the number that he had called to bring the ball
19 tickets, to sell the ball tickets.

20 **Q** The number that had called him?

21 **A** Right.

22 **Q** What was that number? Did you document it?

23 **A** Yes, ma'am.

24 **Q** What was that?

25 **A** Area code

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1 Q All right. Did the victim know the person
2 on the other end of the line that he was speaking to?

3 A The Trico gentleman. Yeah, that's the only
4 name he knew him by at that point.

5 Q All right. Did a forensic unit come out to
6 process the scene?

7 A Yes, ma'am. Yes, ma'am.

8 Q What was the weather like that day? Do you
9 recall that?

10 A I recall it being a little -- it was a
11 little cool. It wasn't very cold, but it was a
12 little cool that day. It wasn't raining, but it was
13 kind of damp. I think it had rained some time before
14 that.

15 Q Okay. And did a sergeant or someone from
16 investigations come out to the scene?

17 A Yes, ma'am.

18 Q All right. Who was that?

19 A Sergeant Weiner.

20 Q Once he comes out to the scene, is he then
21 in control?

22 A Right, he was the supervising investigator.
23 At that point, he takes control of the scene.

24 Q Did you do anything else at the scene?

25 A Other than issue the citation, I didn't.

1 Q Tell me about that. What did you do?

2 A I issued a citation to the victim for
3 Adventuring in Lotteries.

4 Q All right. Is that -- you said citation.
5 Is that a ticket?

6 A Yes, ma'am. It's a new copy -- like a
7 state traffic ticket, on that same ticket.

8 Q All right. Thank you. Answer Mr. Gibson's
9 questions.

10 **CROSS-EXAMINATION**

11 **BY MR. GIBSON:**

12 Q Deputy Hodge, how long have you been a
13 deputy?

14 A 24 years.

15 Q All right. During that time, you were
16 trained in-house to do incident reports; is that
17 correct?

18 A That's correct.

19 Q One of the things that you are trained
20 about is to make sure that the information that's in
21 the incident report is accurate?

22 A Yes, sir.

23 Q You would not -- based on that, you would
24 not put information in an incident report that was
25 incorrect?

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1 **A** I would try my best not to.

2 **Q** If you had in your incident report that the
3 victim told you something, the victim told you that
4 day; is that fair to say?

5 **A** Correct.

6 **Q** I'm looking at your incident report now.

7 **A** Okay.

8 **Q** It says that -- it looks like the third
9 page of it.

10 **A** Okay.

11 **Q** About midway down through that first
12 paragraph. I want to read it -- read this part to
13 you and you tell me if this is correct.

14 **A** Okay.

15 **Q** Subject Number 1, meaning the masked gunman
16 --

17 **A** Okay.

18 **Q** -- hit him in the left chin area of his
19 face with his fists. Subject number -- do you see
20 where I am?

21 **A** Yes, sir.

22 **Q** Subject Number 1 then shot once at him with
23 the handgun, missing him.

24 **A** Okay.

25 **Q** Victim climbed over the passenger-side of

1 the truck to climb out on the passenger-side to get
2 away. There he was met by Subject Number 2 -- who
3 was Mr. Ladson?

4 A Correct.

5 Q -- who was stronger than him and demanded
6 his money?

7 A Correct.

8 Q At that time, you write both subjects, 1
9 and 2, try to get in his pockets?

10 A Correct.

11 Q So he, in fact, told you that, at some
12 point, both defendants were struggling with him and
13 trying to take his money away from him?

14 A Correct.

15 Q Thank you.

16 A You're welcome.

17 THE COURT: Any redirect?

18 REDIRECT EXAMINATION

19 BY MS. HODGE:

20 Q All right. And just kind of going in that
21 same theme, Deputy, keep going. The victim stated he
22 struggled back with the defendant ---

23 A Correct.

24 Q --- and ran around several houses to get
25 away from him; is that correct?

1 **A** Yes, ma'am.

2 **Q** All right. States he was on the ground
3 fighting with the defendant, correct?

4 **A** Correct.

5 **Q** And he lost his phone in the area; is that
6 right?

7 **A** Right.

8 **Q** All right.

9 **A** And then says that Subject Number 1 never
10 gave chase after that.

11 **Q** Okay. So the gunman never gave chase, but
12 the defendant, Number 2, did?

13 **A** Right. Correct.

14 **Q** Okay. Let's see here. Starting off, what
15 the victim told you is when he drove into the yard,
16 Number 2, who he knows as Trico, was outside and then
17 went back inside, correct?

18 **A** Correct.

19 **Q** Then Number 1, the gunman, walked up from
20 behind the truck?

21 **A** Uh-huh.

22 **Q** And stated he had his truck door open?

23 **A** Right.

24 **Q** Number 1 pointed his gun at him and
25 demanded for him to give him his money, correct?

1 **A** Correct.

2 **Q** All right. Victim refused to give him any
3 money, right?

4 **A** Correct.

5 **Q** I think that's where we picked up. Now, he
6 did not -- the victim did not read your report to
7 make additions or clarifications or anything like
8 that; is that correct?

9 **A** That's correct.

10 **Q** So you're -- he's telling you things and
11 you are summarizing --

12 **A** On the initial --

13 **Q** -- writing what he's telling you?

14 **A** Correct.

15 **Q** When an officer comes and takes an initial
16 report from a victim or a witness, is that the time
17 that you usually get every single detail of
18 everything that happened?

19 **A** No, ma'am.

20 **Q** Okay. And are there things that you are
21 interpreting from hearing the story that you are
22 trying to make sure you are clear about, correct?

23 **A** Correct.

24 **Q** Again, the victim never gets a chance to
25 read over this to make any corrections?

1 **A** No, it's initial report to gather the basis
2 on what took place. Then, after some time, when the
3 trauma has kind of settled down and the victim has a
4 chance to think about it, the investigators are
5 called in. They speak to them in a neutral location
6 to where they can properly think and gather their
7 thoughts.

8 **Q** During this time, this is just after this
9 attempted robbery ---

10 **A** Right.

11 **Q** --- and this attempted murder --

12 **A** The tension is still high. He's still
13 upset, correct..

14 **Q** And based on what the victim is telling
15 you, the defendant was part and parcel of this whole
16 thing?

17 **A** Correct.

18 **Q** All right.

19 **RECROSS EXAMINATION**

20 **BY MR. GIBSON:**

21 **Q** We're not -- in this particular case
22 though, we are not talking about adding facts that he
23 left out; is that correct? I mean, isn't that true?
24 In this particular incident, we're talking about him
25 telling the jury one thing and then telling you

Mike Derosa - Direct Examination by Ms. Hodge

1 something totally different; isn't that correct?

2 **A** I don't know what he told the jury as far
3 as going back and recollecting what he told the jury.
4 I can read from what he told me that day.

5 **Q** He told you that he struggled with both --
6 that both defendants were struggling with him?

7 **A** Outside after he crossed over the truck and
8 out the passenger door, right there is where he
9 struggled with them. Right.

10 **Q** He also told you that the masked gunman
11 came from behind his truck and not from in front?

12 **A** Right.

13 **Q** Thank you.

14 **THE COURT:** Anything further from this
15 witness?

16 **MS. HODGE:** No, sir.

17 **THE COURT:** Any objection to this witness
18 being excused?

19 **MR. GIBSON:** None whatsoever, Your Honor.

20 **THE COURT:** Thank you, Officer, you are
21 excused.

22 **THE WITNESS:** Thank you, Judge.

23 **MS. HODGE:** The State calls Deputy DeRosa.

24 **MIKE DEROSA**

25 having first been duly sworn, testifies as follows:

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1 **THE CLERK:** Please be seated. State your
2 name for the record.

3 **THE WITNESS:** My name is Deputy DeRosa.
4 Last name D-E-R-O-S-A.

5 **DIRECT EXAMINATION**

6 **BY MS. HODGE:**

7 **Q** Deputy, who do you work for?

8 **A** I'm currently employed by the Greenville
9 County Sheriff's Office.

10 **Q** How long have you been with the Sheriff's
11 Office?

12 **A** I've been here in Greenville since 2009.

13 **Q** All right. What are your duties with the
14 Sheriff's office?

15 **A** Currently assigned to the K-9 Services
16 Division.

17 **Q** What does that division do?

18 **A** I work a dual-purpose dog, a dog that
19 detects narcotics and also does human work such as
20 tracking, building searches, article searches, items
21 like that.

22 **Q** What is your dog's name?

23 **A** Dooley.

24 **Q** How long have you had that dog?

25 **A** Three and a half years.

1 **Q** What kind of certifications and training
2 does your dog have?

3 **A** We go through an initial 600-hour course.
4 It turns out to be about four or five months that
5 prepares us for North American Police Work Dog
6 Association certification. It's a national
7 certification that we get every single year saying
8 that we are up to par as far as finding narcotics,
9 human odor, aggression control, obedience and
10 whatnot.

11 **Q** Did you -- were you called to respond to
12 430 Goldsmith Road in Greenville County?

13 **A** Yes, ma'am.

14 **Q** On December the 3rd, 2013?

15 **A** Yes, ma'am.

16 **Q** Why were you called?

17 **A** K-9 service unit responds to all in-
18 progress calls. In this particular case, we were
19 summoned in reference to a robbery that had taken
20 place.

21 **Q** All right. And what time do you think you
22 arrived?

23 **A** According to my report, I think I arrived
24 at 1:01 in the afternoon having been requested at
25 12:53.

1 Q All right. What did you observe upon
2 arrival and what did you do?

3 A Upon my arrival, still getting information
4 from dispatch that was coming across sketchy and
5 hectic as far as a robbery and who may or may not
6 have been involved. I ended up detaining a subject
7 who was later identified as Michael Ladson. He
8 appeared to be attempting to avoid me in some tall
9 grass, so I had stopped him and identified him. He
10 turned out not to be the defendant.

11 Q All right. Not to be involved in the
12 robbery ---

13 A Yes, ma'am.

14 Q --- as far as you know or anyone knew?

15 A Yeah.

16 Q Okay. Uh, and when you say you found him,
17 what were you doing? Were you deploying your dog?

18 A No, ma'am. I'm sorry. That was actually
19 when I first responded, and I came into the
20 neighborhood, and I found him as far as I saw him in
21 the tall grass walking -- what appeared to me, at the
22 time, to be walking away from me and/or trying to
23 avoid me. So I had gotten out and told him, you
24 know, stop. Again, this was an armed robbery. My
25 dog was deployed with me for my protection. If it

1 was the subject, I would have him there to help
2 protect me.

3 Q Once you stopped and identified him, what
4 did you do with Mr. -- that Mr. Ladson?

5 A It was kind of chaotic. There were
6 officers coming from all over the place. At that
7 point, it was basically, hey, I'm a family member. I
8 live at this address. His involvement was kind of --
9 he was handed off to other deputies, and his
10 involvement was worked out from there.

11 Q Okay. For them to talk to him to see if he
12 had any information or involvement?

13 A Yes, ma'am.

14 Q And were you attempting to search for
15 suspects at the scene?

16 A When we got to the scene, we started
17 piecing together from the elderly victim what had
18 kind of transpired and what had taken place. At one
19 point, I did deploy K-9 Dooley in search of a track.
20 Due to the story we were getting, we knew that there
21 was at least two subjects. We knew that the victim
22 had run in the neighborhood per se. He had gone
23 behind several houses.

24 He had -- for the most part, the way the
25 dogs work is, uh, as skin grafts drop off of our

1 bodies, while we are sitting here talking, the dog is
2 able to pick that up. So if the victim were to run
3 across a particular area or a group of witnesses were
4 to flee, the dog's not going to know the difference
5 without some sort of scent article for me to tell
6 him, hey, this is what I want you to find. So the
7 dog may jump from area to area, and it makes it a
8 little more difficult.

9 So Dooley is basically deployed in the
10 wooded area, from what would be the left side of the
11 house, around to the right side of the house to see
12 if there's a track in the woods, what I would call a
13 clean area or an area that normal people don't walk
14 across to see if there's a track heading out that
15 way, which there was not.

16 Q Okay. At this point, did you know the
17 identity, at least, of one of the perpetrators?

18 A When I had first arrived, no. When
19 Sergeant Weiner showed up, he took over the
20 investigation. Through his investigation, we had
21 learned that Mr. Ladson was a suspect, that he lived
22 in the home and that he rented a home -- rented a
23 room inside the home. At his request, I authored a
24 search warrant for that room, in particular.

25 Q Okay. Let's see. Did you -- did that

1 happen before you began the article search with your
2 dog?

3 **A** No, ma'am. The article search I conducted
4 was an attempt to try to locate the victim's phone.
5 Again, when the victim runs or a suspect runs or
6 witnesses run, the dog follows human odor. When you
7 hold a phone or hold any other item, a book or a
8 pencil or anything else, you are leaving your skin
9 grafts back on that item. So if you throw it in the
10 grass, the dog smells grass. Smells grass. Smells
11 grass. And then all of a sudden, he can smell, boom,
12 human odor. So that's how an article search works,
13 in simplicity. With that, I conducted an article
14 search and was able to locate the victim's phone.

15 **Q** All right. And where was that found?

16 **A** I forget the house number. It was may be
17 about 60 yards away from the truck running down the
18 roadway into a yard.

19 **Q** Across from the incident location?

20 **A** Yes, ma'am.

21 **Q** All right. Did you bring -- did you pick
22 up the phone and bring it back?

23 **A** With Sergeant Weiner's permission, I
24 brought the phone back thinking it was the victim's
25 phone, not the suspect's phone or anything.

1 Q All right. And then you assisted with a
2 search warrant; is that correct?

3 A Yes, ma'am.

4 Q Tell us what you did with that.

5 A After authoring a search warrant, it was
6 printed up at the law enforcement center. Warrant
7 deputies took it over and had it signed by a judge.
8 Once it was approved, we went into the room that was
9 identified as Mr. Ladson's. Once inside there, is
10 when we observed the gun cleaning kits, the gun oil
11 and the, uh, -- there was a gun rod to clean it.

12 Q Were there other people living in that
13 residence that you are aware of?

14 A Yes, ma'am.

15 Q Do you recall who the other people were in
16 the residence?

17 A I know it was a family residence and he was
18 paying rent on the room.

19 Q You determined which bedroom was ---

20 A Yes, ma'am.

21 Q --- his room? All right.

22 (WHEREUPON, State's Exhibit 6 is marked for
23 identification purposes.)

24 BY MS. HODGE:

25 Q I'm going to show you State's Number 6.

1 Take a look in there and tell me if you recognize
2 what is in there.

3 A Yes, ma'am.

4 Q Okay. What is that?

5 A It is a cleaning rod, uh, for a pistol and
6 then gun cleaning oil.

7 Q Okay. Are those the items that you located
8 pursuant to the search warrant of the defendant's
9 bedroom?

10 A I believe so, ma'am.

11 Q Did you actually pick those items up and
12 take them into custody?

13 A No, ma'am.

14 Q You know who would've done that?

15 A Uh, I believe Sergeant Weiner.

16 Q Okay. Do these look to be in substantially
17 the same condition as when you saw them in the bed?

18 A Yes, ma'am.

19 MS. HODGE: Okay. At this point, we move
20 to admit State's Number 6.

21 THE COURT: Any objection?

22 MR. GIBSON: Subject to my earlier --

23 THE COURT: All right. Subject to, they
24 will be admitted as State's Number 6.

25 (WHEREUPON, State's Exhibit 6 is admitted into

1 the record.)

2 **BY MS. HODGE:**

3 **Q** Would you mind pulling those out and just
4 putting them on top of the bag?

5 **A** It's a bottle of Hoppe's No. 9, which is a
6 gun cleaning kit, and then a push rod, which appears
7 to be probably about a nine millimeter caliber. It
8 has some other items attached to it, whether it's
9 hair or fabric or some sort.

10 **Q** Okay. What are the main purposes for those
11 items?

12 **A** The push rod, obviously, cleans the barrel
13 out, the carbon that's left behind from shooting.
14 The oil is to lubricate it and make sure the gun is
15 working properly.

16 **Q** To stay in proper working order?

17 **A** Yes, ma'am.

18 **Q** How often do you clean your firearm?

19 **A** Every time I shoot it.

20 **Q** Okay. And that's necessary to keep it
21 working for the most part?

22 **A** I clean mine every time I shoot it.

23 **Q** Okay. Is there any other thing that these
24 would be used for? Is there any other purpose for
25 these items that you know of?

1 **A** Those items are designed to clean a
2 firearm.

3 **Q** Okay. So after assisting with the
4 execution of the search warrant, did you have any
5 other involvement in this case?

6 **A** No, ma'am.

7 **Q** Thank you. Please answer any of Mr.
8 Gibson's questions.

9 **CROSS-EXAMINATION**

10 **BY MR. GIBSON:**

11 **Q** Mr. DeRosa, you said that you deployed K-9
12 Dooley to do an article search?

13 **A** Yes, sir.

14 **Q** My understanding from what you are saying
15 is basically you give him the command and he goes and
16 finds whatever human smell and tracts it down?

17 **A** Well, no. For an article search, he is
18 looking for items that are not God-made. They are
19 not nature items. For example, if you had a Coke
20 bottle that was sitting out in the woods from a year
21 and a half or two years or just litter from years
22 ago, he would not alert on that. If you had a Coke
23 bottle that one of us threw in the woods 25 minutes
24 earlier and still had our fresh skin grafts on them
25 that had not been broken down yet, he would say, hey,

1 that's a fresh item, daddy; and he would lay down.

2 Q Basically, anything with a fresh skin graft
3 on it, he would find it?

4 A Yes.

5 Q All right. So if the victim had grabbed
6 the defendant's hair and pulled it out -- forcibly
7 enough to pull it out, it would certainly have fresh
8 skin grafts on it, would it not?

9 A Actually, when that came up earlier, I was
10 wondering that. I have no idea. I've never found
11 hair. I don't think I've ever had the situation to.
12 So I'm ignorant as to far whether or not my dog would
13 alert on hair. I would hope that if skin came with
14 it ---

15 Q Yes.

16 A --- as far as, you know, from the scalp or
17 something like that. You know, we have had
18 situations where he has found human matter before,
19 parts of the body, but never hair. I'm just ignorant
20 about whether or not he would actually alert on it.

21 Q All right. So you found the telephone
22 because skin grafts from the victim had got on the
23 cell phone?

24 A Yes, sir.

25 Q So if the same victim had grabbed the hair,

///

1 you would think there would be his skin grafts on the
2 hair as well. Don't you think?

3 **A** In theory. Again, I've never trained on
4 it. I've never done it. I'm just going to have to
5 claim ignorant as far as whether or not he'd actually
6 alert on it.

7 **Q** I understand. Did you find any hair?

8 **A** No, sir. I did not.

9 **Q** All right. Now, you went out and you got a
10 search warrant. You talked about what you found.
11 Let's talk about what you were actually looking for.
12 According to the search warrant, you were looking for
13 a firearm, a pistol of an unknown make, model and
14 size, ball tickets, gambling papers and effects,
15 (Indiscernible) in conjunction with gambling, thefts
16 and robberies, clothing, to include black clothing
17 and black in color full-face mask possibly with white
18 trim; is that correct?

19 **A** Yes, sir.

20 **Q** Did you find any of those items?

21 **A** No, sir.

22 **Q** You found the gun -- you found the gun oil
23 and the gun cleaning rod. How many other people
24 lived in the house?

25 **A** I don't have an exact number for you. I

1 know the family was living there.

2 Q More than three?

3 A I would be guessing if I answered the
4 question. I know it was more than, obviously,
5 Mr. Ladson.

6 Q Did you find anything that actually tied
7 the gun oil or gun cleaning rod directly to
8 Mr. Ladson?

9 A Did I personally? No, I did not. That
10 would have been Sergeant Weiner's role.

11 Q Thank you.

12 **REDIRECT EXAMINATION**

13 **BY MS. HODGE:**

14 Q You did find that stuff in the room that
15 the people in the home identified --

16 **MR. GIBSON:** Objection; hearsay.

17 **THE COURT:** Sustained.

18 **BY MS. HODGE:**

19 Q You did find during the course of the
20 investigation, the defendant's room --

21 **MR. GIBSON:** Objection; lack of foundation.

22 **THE COURT:** He's already testified to that
23 in direct.

24 **THE WITNESS:** I found that in the room
25 that I authored a search warrant for, which was

1 also room that was identified to us that day as
2 his room.

3 **MS. HODGE:** All right. Thank you.

4 **THE COURT:** Anything further from this
5 witness?

6 **MS. HODGE:** No, sir.

7 **MR. GIBSON:** No, sir.

8 **THE COURT:** Any objection to this witness
9 being excused?

10 **MS. HODGE:** No, sir.

11 **MR. GIBSON:** No, sir.

12 **THE COURT:** Thank you, Officer. You may
13 be excused.

14 **MS. HODGE:** The State calls Investigator
15 Hoover.

16 **THE CLERK:** Please raise your right hand.

17 **DEVIN HOOVER**
18 having first been duly sworn, testifies as follows:

19 **THE CLERK:** Please be seated and state
20 your name for the record.

21 **THE WITNESS:** Devin Hoover.

22 **DIRECT EXAMINATION**

23 **BY MS. HODGE:**

24 **Q** Investigator Hoover, you are an
25 investigator?

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1 **A** I've been transferred to uniform patrol.
2 But at the time, yes, I was an investigator.

3 **Q** What are your current duties?

4 **A** I am a Sergeant in Uniform Patrol.

5 **Q** I apologize. I think I knew that. I did
6 not address properly. Sergeant Hoover, back on
7 December 3rd, 2013, what were your duties?

8 **A** I was an investigator in the Robbery unit.

9 **Q** And did you have an occasion to become a
10 part of this case?

11 **A** I did.

12 **Q** Who was the victim in this case?

13 **A** I believe it was Mr. Leroy Thomas, I
14 believe is his name.

15 **Q** And how did you -- what was your first
16 involvement with this case?

17 **A** My first involvement was, uh, I was made
18 aware by my sergeant at the time, Sergeant Weiner,
19 that he had been involved in an investigation in a
20 freshly-occurred incident and he asked me to drive
21 the search warrant that they had detained to the
22 scene and hand it off to them.

23 **Q** So you were at the Law Enforcement Center?

24 **A** I was.

25 **Q** You transported the search warrant?

1 **A** Yes, ma'am.

2 **Q** You were not additionally on the scene to
3 investigate?

4 **A** No, ma'am.

5 **Q** Who was the lead investigator?

6 **A** That would have been Sergeant Weiner.

7 **Q** And what did you do once you got to the
8 scene?

9 **A** I provided Sergeant Weiner with the search
10 warrant. Pretty much, my role, at that point, was
11 just hurry up and wait. I made small talk with the
12 victim, just trying to get a feel for what had
13 happened and talking with the deputies on the scene,
14 kind of get a feel for what was going on. Basically,
15 just stood by while processing happen.

16 **Q** Okay. And you -- were you supposed to do a
17 return on the search warrant? Is that what you were
18 waiting to do?

19 **A** I was actually going to take items located
20 back to Property and Evidence.

21 **Q** Were you briefed about how many suspects
22 there were in this case?

23 **A** I believe I had gotten that from just
24 talking to different people. I think there was two
25 pretty much from the get-go.

1 **Q** Okay. One of the suspects lived in the
2 incident location?

3 **A** Yes, ma'am, that was my understanding.

4 **Q** Did you ever come in contact with that
5 person, Mr. Ladson?

6 **A** No, sir.

7 **Q** Was he present on the scene when you were
8 there?

9 **A** No, ma'am.

10 **Q** Did you speak to any other witnesses or
11 anyone beside the victim that day?

12 **A** Not to my recollection, no, ma'am.

13 **Q** About how long did it take to process the
14 search warrant?

15 **A** I think I might've been out there an hour
16 maybe.

17 **Q** And what were you given to take that for
18 evidence?

19 **A** All the items that Deputy DeRosa was
20 explaining to the jury.

21 **Q** State's Number 6?

22 **A** Yes, ma'am.

23 **Q** The gun cleaning oil and the rod. All
24 right. Once you did that, once you collected those
25 items, what did you do with them?

1 **A** Took them to Property and Evidence and
2 turned them in.

3 **Q** Okay.

4 **A** But prior to that, I kind of worked out
5 with the victim that, at a later time, we could maybe
6 sit down and talk in the office and kind of hash out
7 everything when he wasn't so nervous, and take his
8 statement.

9 **Q** Okay. And did that happen?

10 **A** Yes, ma'am.

11 **Q** When did that happen?

12 **A** I believe it was a day or two later. It
13 was a day or two in between.

14 **Q** This incident was on December 3rd; is that
15 right?

16 **A** I'd have to go back and look at the
17 original report, but I know I took his statement on
18 the 10th.

19 **Q** Okay.

20 **A** There was some time in between. I just
21 don't know how many days exactly.

22 **Q** Okay. Sure. How do you take a statement?
23 And what is the purpose of that? How does that all
24 work?

25 **A** Generally, just to state the facts of what

1 had transpired and get the specifics of what actually
2 happened and solidify -- in this case, solidify the
3 Trico that we were talking about.

4 Q Okay. The identity with an actual face and
5 name and --

6 A Yes, ma'am.

7 Q Okay. All right. And so the victim gave
8 you a statement that day?

9 A Yes, ma'am.

10 Q And did he continue to maintain that the
11 defendant was one of the perpetrators and that an
12 unknown masked man was?

13 A Yes, ma'am.

14 Q In trying to solidify the identity of the
15 defendant, because you didn't have a name, what did
16 you do?

17 A I put together a six-person array and
18 showed it to him.

19 Q All right.

20 A To make sure we had the right Trico, Rico.
21 Just to make sure all of those particulars were
22 correct.

23 Q Okay. Did you show him more than one
24 lineup or -- do you recall?

25 A I believe it was just one.

1 Q Did you attempt to show him any lineups for
2 the other suspect?

3 A No, ma'am.

4 Q Okay. And how did you present your
5 lineups?

6 A Generally, whether they know them or not, I
7 kind of go through the same spiel pretty much every
8 time. I'm about to show you six photographs. Don't
9 feel like you have to choose anybody. The person
10 that did this may or may not even be in here. Seeing
11 as he did know the person, I gave him the spiel. And
12 I told that if he sees somebody, to stop me and tell
13 me exactly how he knows that person.

14 Q Did he do that?

15 A He did.

16 Q Was he hesitant?

17 A Not at all.

18 Q Who did he identify in that lineup?

19 A It would have been Perpetrator Number 4,
20 which would be the defendant.

21 Q All right. Once you got the lineup from --
22 confirmation, I guess I should say, from the victim,
23 about the unarmed robber, what, if anything, did you
24 do in this case?

25 A We took the information that Sergeant

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Devin Hoover - Cross-Examination by Mr. Gibson

1 Weiner had gleamed at the scene, compared that
2 information with his story then compared to the story
3 that he provided days later, which was the same. Uh,
4 taking into consideration that the scene with the
5 vehicle with the gun discharge that, obviously, had
6 occurred, he, obviously, was telling us the truth. I
7 presented it to a judge and obtained arrest warrants
8 for the defendant.

9 Q What warrants did you obtain?

10 A I believe it was attempted robbery --
11 attempted armed robbery, conspiracy, because there
12 was more than two people and, I believe, attempted
13 murder.

14 Q Conspiracy, it being more than one person,
15 but at least two people?

16 A Correct.

17 Q All right. Did you ever have an
18 opportunity to speak with the defendant at any point?

19 A No, ma'am.

20 Q Were you ever able to get any more
21 information to charge the masked gunman?

22 A No, ma'am. We had a name, a very generic
23 name of a possible transient-type person who may or
24 may not had been involved and was never able to
25 identify that person.

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1 Q Thank you. Please answer any of Mr.
2 Gibson's questions.

3 **CROSS-EXAMINATION**

4 **BY MR. GIBSON:**

5 Q Did Mr. Thomas say anything to you about
6 Mr. Ladson laughing during this incident?

7 A I don't believe so.

8 Q Did he ever tell you anything about him
9 pulling hair out of Mr. Ladson?

10 A You mind if I check back in his statement?

11 Q Absolutely.

12 A No, sir. I don't believe he did.

13 Q Okay. Did you talk to Mr. Ladson before
14 you signed the warrants?

15 A No, sir. No, sir.

16 Q You said that, uh, you said that you
17 reviewed the statements from what he told before and
18 what he told you that day ---

19 A Correct.

20 Q --- and that they were the same?

21 A Yes, sir. They were similar.

22 Q Similar, but not the same?

23 A Not -- the same tone, yes, sir.

24 Q But there the same -- differences in the
25 statements that he's given in the past and what he

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1 told you that day?

2 **A** From what he and I discussed on the scene
3 and from what he sat down and told me in the office
4 were obviously probably not verbatim, but cookie-
5 cutter, the same incident.

6 **Q** Did you -- when you considered this, did
7 you consider the report of Deputy Hodge?

8 **A** As in the original --

9 **Q** As an Deputy Hodge stating that he
10 struggled with both suspects at the same time.

11 **A** Correct.

12 **Q** Did you consider that?

13 **A** Yes, sir.

14 **Q** So he told you that before?

15 **A** Yes, sir. The -- both people being
16 involved and that he struggled with both of them at
17 the scene, at the truck.

18 **Q** At the same time?

19 **A** Correct.

20 **Q** Okay. So he told you that both individuals
21 were trying to get in his pockets at the same time?

22 **A** I don't remember exactly. I do know what
23 the statement was at the time he sat down in my
24 office. I do know that there were two people at the
25 scene.

1 Q Okay.

2 A To what degree -- who was in his pockets
3 went -- I can't remember exactly who he was saying at
4 the scene versus what he tells me here in his written
5 statement.

6 Q Okay. But -- all right. Did you consider
7 the fact that he told deputy -- Investigator Weiner
8 that, at the time that this happened, the defendant
9 was holding him inside the vehicle and not allowing
10 him to get out of the passenger-side door?

11 A I can't say what he told Sergeant Weiner.
12 All I know is what he was telling me.

13 Q Okay. So when you say you compared
14 statements, you didn't compare Deputy Weiner's
15 statement, you compared what he told you that day and
16 what he told you when he came in?

17 A Yes, sir. I can only testify to what he
18 told me.

19 Q Okay. I thought you had said that you
20 considered all the statements and they were all
21 consistent.

22 A I said I considered the facts of the scene
23 and, after discussing with Sergeant Weiner, what he
24 had told him, yes.

25 Q Okay. And this was seven days after the

1 incident?

2 **A** Yes, sir. It was a few days in between.

3 **Q** All right. So initially, you guys did not
4 issue a warrant ---

5 **A** No, sir.

6 **Q** --- based upon the evidence that you had?

7 **A** Not at the moment, no. I didn't have it on
8 paper.

9 **Q** So some days later, he comes in and gives
10 his written statement?

11 **A** Yes, sir.

12 **Q** And that's when you issued the warrants?

13 **A** Yes, sir.

14 **Q** And you issued the warrants without feeling
15 a need to talk to Mr. Ladson to get his story?

16 **A** We issued them when the victim came in to
17 cooperate, and I presented it to the judge, yes, sir.

18 **Q** After Mr. Ladson -- Mr. Ladson was
19 ultimately arrested at his house; is that --

20 **A** I'm not sure.

21 **Q** After he was arrested, did anyone go and
22 try to talk to him?

23 **A** I did not, nor did anybody try to contact
24 me to try to figure out why.

25 **Q** Okay. You had his telephone or you had a

1 number that you believed to be his cell phone number.
2 Did anybody get his cell phone records to see if he
3 was talking to a possible co-conspirator?

4 **A** No, sir. At the time, there was no
5 question of who the phone belong to. The victim was
6 saying who it was; that's who called me. There was
7 never a question of -- it could have belonged to a
8 McDonald's for all we know. But that's who called.

9 **Q** And the victim told you he did repeatedly
10 bite Mr. Ladson; did he not? Or did he tell you
11 that?

12 **A** One second, so I can read through this. I
13 know he said that he bit him. I think his quote was
14 he bit him pretty good, but I don't know whether
15 that's repeated or what.

16 **Q** On the 13th, when Mr. Ladson was arrested,
17 do you know if anyone went to look at him and see if
18 there were any bite marks or scars or anything like
19 that on him that were consistent?

20 **A** No, sir.

21 **Q** No, you don't know or --

22 **A** I don't know. I don't know.

23 **Q** All right. You also said that he ID'd Mr.
24 Ladson?

25 **A** Yes, sir. Well, the victim did, yes, sir.

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1 **Q** Yeah. And he also readily admitted that he
2 knew Mr. Ladson very well?

3 **A** Correct.

4 **Q** So it's not really a surprise that he was
5 able to pick him out of a lineup, was it?

6 **A** No, sir.

7 **Q** In fact, it would be more surprising if he
8 was not able to?

9 **A** Correct.

10 **Q** Other than Mr. Thomas' story and this gun
11 oil and gun cleaning rod, did you find any other
12 evidence that corroborated that Mr. Ladson was
13 involved in this?

14 **A** No, sir, I did not. No, sir.

15 **Q** Thank you.

16 **A** Yes, sir.

17 **THE COURT:** Anything further from this
18 witness?

19 **MS. HODGE:** No, sir.

20 **THE COURT:** Any objection to this witness
21 being excused?

22 **MS. HODGE:** No, sir.

23 **MR. GIBSON:** No, sir.

24 **THE COURT:** Thank you, Officer. You are
25 excused.

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1 **THE WITNESS:** Thank you.

2 **MS. HODGE:** You want me to call my next
3 witness?

4 **THE COURT:** Counsel approach.

5 **(WHEREUPON,** a bench conference is held off the
6 record.)

7 **MS. HODGE:** The State calls Sergeant
8 Weiner.

9 **THE CLERK:** Please raise your right hand.

10 **DAVID WEINER**

11 having first been duly sworn, testifies as follows:

12 **THE CLERK:** Please be seated and state
13 your name for the record.

14 **THE WITNESS:** David Weiner.

15 **DIRECT EXAMINATION**

16 **BY MS. HODGE:**

17 **Q** Sergeant Weiner, who do you work for?

18 **A** Greenville County Sheriff's Office.

19 **Q** How long have you been with them?

20 **A** 15 years.

21 **Q** What are your current responsibilities at
22 the Sheriff's Office?

23 **A** I'm assigned as a Supervisor in the
24 Criminal Investigations Division, but specifically to
25 the Armed Robbery unit.

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1 **Q** How long have you been in that capacity?

2 **A** April of 2013.

3 **Q** So in December of 2013, you were in that
4 capacity, correct?

5 **A** Yes, ma'am.

6 **Q** And did you become involved in an
7 investigation with the defendant and the victim,
8 Leroy Thomas?

9 **A** I did. Yes, ma'am.

10 **Q** Tell us about why you responded, and what
11 time you responded, what you did.

12 **A** Sure. As a general rule, we don't respond
13 to all robberies. I was training on that side of
14 town that day. Just by chance, I heard it go out on
15 the radio. It was a right around lunchtime. I
16 responded down there to see where I could help out.

17 **Q** And what did you observe on arrival? What
18 was happening when you got there?

19 **A** Several other deputies there; I believe the
20 K-9 just pulled up or maybe pulled up behind me; the
21 victim's truck in the driveway; several witnesses or
22 at least people looking on at what we were doing.

23 **Q** All right. What was your first step?

24 **A** I met with the uniform patrol sergeant that
25 was on the scene at the time, just to get a briefing

1 from him as to what was occurring.

2 Q And what was -- what were the basics?

3 A Victim pulled up in the driveway to sell
4 some ball tickets and was robbed at gunpoint by two
5 individuals who had fled the scene.

6 Q Was there an identify -- an identity of one
7 of the individuals?

8 A I was given the first name of Rico.

9 Q And did you determine who lived at the
10 incident location, the 430 Goldsmith?

11 A The Ladsons live there. I believe there
12 was the grandmother, whose residence it truly is, and
13 there may be some sons and grandsons and nieces or
14 nephews that stay there as well.

15 Q Was the defendant one of the residents at
16 430 Goldsmith?

17 A Yes, ma'am.

18 Q You observed the victim's vehicle there?

19 A Yes, ma'am, in the driveway.

20 Q And what did you observe about the vehicle?

21 A Pickup truck, a couple of dog boxes in the
22 back. If you do any bird hunting, he had some dog
23 boxes back there. The passenger-side window had a
24 small bullet hole that appeared to me to be going in
25 at exit from inside to outside. The window was

1 tinted, so it had a layer of film that prevented the
2 window from shattering. So it just maintained a
3 small hole.

4 Q Did you note any ball tickets in the truck?

5 A Plain view on the front seat.

6 Q How about any cash? Did you notice any
7 money or cash?

8 A I didn't see any. If there was any money,
9 if it was under the seat, I don't know. But no large
10 sums of money laying out.

11 Q Did you ask for that truck at the scene to
12 be processed by forensics?

13 A I did.

14 Q Tell us what that means that -- what
15 happened, if anything.

16 A As a general rule, forensics come out and
17 photograph the scene, the vehicle and process any
18 prints that I request. This day, that didn't happen
19 because it was raining. The rain prevents them from
20 processing latent prints. However, it did allow them
21 to take photographs.

22 Q And can you tell us a little bit about why
23 rain would prevent that, just in generic basic terms?

24 A The fingerprint powder, you always see them
25 throw around that black stuff. It's like a magnetic

1 power. Of course, if you put it on something wet,
2 instead of sticking to the oils of the finger, it's
3 just going to stick to the water and just clump up.

4 Q Okay. So will it be fair to say no
5 fingerprints were lifted from the scene ---

6 A Correct.

7 Q --- because they were not able to be?

8 A Correct. We did not have it processed.

9 Q All right. I'm going to show you a few
10 photos.

11 (WHEREUPON, State's Exhibits 7 through 12 are
12 marked for identification purposes.)

13 BY MS. HODGE:

14 Q I'm going to show you what's been marked as
15 State's Number 7 through 11. If you will, take a
16 look at those and just tell us what those are,
17 generally speaking.

18 A Photographs of the victim's vehicle.

19 Q Is this how the victim's vehicle looked, in
20 substantially the same condition as when you came out
21 and did your investigation?

22 A Yes, ma'am.

23 MS. HODGE: We would move to admit State's
24 7 through 11.

25 MR. GIBSON: No objection, Your Honor.

1 **THE COURT:** State's Exhibit 7, 8, 9, 10
2 and 11 will be admitted without objection.

3 **MS. HODGE:** Thank you, Your Honor.

4 **(WHEREUPON,** State's Exhibits 7 through 11 are
5 admitted into the record.)

6 **BY MS. HODGE:**

7 **Q** I would like to go back with you and look
8 at just a couple that were already introduced. Show
9 you State's Number 1, Sergeant. Okay. Is this the
10 incident location?

11 **A** It is, yes, ma'am.

12 **Q** All right. And it seems to be some trees
13 or wooded area around the incident location?

14 **A** It is. For some time, I lived in
15 Simpsonville, when it was not house on top of house
16 like a lot of Simpsonville. This was a lower
17 eastside portion of it. It is very rural. The
18 driveway is maybe 100 feet long. You pull into the
19 driveway to get to this residence.

20 **Q** Do you see the victim's vehicle in this
21 photograph?

22 **A** Yes, ma'am. You can see a gentleman
23 standing up. It is just beyond him. It's that
24 burgundy and, I think, silver pickup truck with the
25 door open.

1 Q Okay. All right. I'm going to show you
2 State's Number 7. There we go. State's Number 7.
3 All right. I'm not sure if you will need this, but
4 if you get to something you want to point to. What
5 are we looking at?

6 A The victim's vehicle from the driver's
7 side. You can see the defendant's residence off the
8 other side of it.

9 Q Was the driver-side window down or up? Do
10 you know?

11 A When the incident occurred, I have no idea.
12 When I arrived, the vehicle sits as it was.

13 Q As it was. All right. So the window -- I
14 can't really tell. Is it down?

15 A Yes, ma'am, cause it was tinted.

16 Q All right. So it was down. And the door
17 was closed or thereabout pushed to?

18 A I would say pushed to. You can see at the
19 bottom there is a gap. It appears to me as though
20 the door is opened just a little bit, maybe not
21 latched all the way.

22 Q All right. And then, I'm showing you
23 State's Number 8. What are we looking at here?

24 A Passenger-side view of the victim's
25 vehicle. You can see on that front passenger's seat,

1 those are actually the pool tickets or ball tickets
2 that he had.

3 Q All right. What else is in the picture on
4 the seats?

5 A I see a couple of raffle cases, soft cases
6 for holding shotguns or long guns.

7 Q You know if those were placed there by law
8 enforcement?

9 A Not by me. The vehicle would've been
10 checked prior to me getting there. My understanding
11 was they were behind the seat.

12 Q All right.

13 A If I recall correct, one of them were
14 actually a very nice bird gun, a very nice shotgun.

15 Q All right. And the ball tickets, where are
16 those? I see a lot of papers, but what are we
17 speaking of. Where are the ball --

18 A Yeah, if I'm not mistaken, they are -- this
19 pile here, I believe, are the ball tickets.

20 Q Okay. Is there any, uh, -- to your
21 knowledge in this process, were there any bags that
22 those went in that you are aware of?

23 A No. I mean, if it's not in the photograph,
24 I don't believe it was there.

25 Q Okay. All right. And there was no cash

1 lying out or anything like that?

2 **A** No, ma'am.

3 **Q** Okay. Just showing you another photo here
4 similar. What are we looking at?

5 **A** Again, the victim's vehicle from the
6 passenger's side.

7 **Q** And the door was open -- as you found the
8 vehicle, the door was open?

9 **A** Yes, ma'am.

10 **Q** All right. I'm going to show you State's
11 Number 10. What's that?

12 **A** The upper portion of the door. It's got
13 like one of those rain guards or SunGard's, little
14 plastic trim pieces on the window. That is that
15 little darker portion here. Then, the actual
16 projectile exited here. It shattered and a little
17 piece of that plastic came out of the window.

18 **Q** I'm going to show you State's 11. Are we
19 talking about the same thing here?

20 **A** Yes, ma'am. Top edge of the window.

21 **Q** Are you able to determine anything from
22 that as far as what kind of gun or caliber or
23 anything?

24 **A** No, ma'am.

25 **Q** Okay. Thank you. Okay. So forensics took

1 those photographs; is that correct?

2 **A** Yes, ma'am.

3 **Q** All right. What was the next thing that
4 you asked to be done or what did you do?

5 **A** I spoke to the victim briefly. We knew he
6 had this Rico name. I'd also spoken to a couple of
7 the occupants at 430 Goldsmith.

8 **Q** All right. Who were those people?

9 **A** Larry Ladson and Michael Ladson.

10 **Q** And how were they -- or were they related
11 to the defendant if you know?

12 **A** I know, at least what I was told, Larry is
13 a brother --

14 **MR. GIBSON:** Objection; hearsay.

15 **THE COURT:** Sustained.

16 **BY MS. HODGE:**

17 **Q** Larry was, through the course of the
18 investigation, determined to be a relative?

19 **A** A relative of the defendant, Mr. Ladson.

20 **Q** Were you able to establish, through your
21 investigation, any relationship between Michael and
22 the defendant?

23 **A** I'm not 100 percent sure of what their
24 relationship. Obviously, they shared the same last
25 name, lived in the same residence. They are related.

1 I just don't know what capacity.

2 Q Were they present were during the course of
3 your investigation or did you find they were present
4 during the time this incident occurred at that
5 address?

6 MR. GIBSON: Objection; lack of foundation.

7 THE COURT: You need to lay some
8 foundation for that question.

9 BY MS. HODGE:

10 Q Did you determine if anyone was present at
11 the residence during this robbery?

12 A Yes.

13 Q Who was that?

14 MR. GIBSON: Objection; lack of
15 foundation.

16 MS. HODGE: Your Honor, this was the
17 course of the police investigation.

18 THE COURT: I'm going to overrule. I'm
19 going to allow the question.

20 BY MS. HODGE:

21 Q Who did you find to be present at the time?

22 A Michael Ladson and Larry Ladson.

23 Q Without telling us anything that they told
24 you, did you interview them?

25 A Yes.

1 **Q** How about -- you stated a grandmother
2 actually owned this residence?

3 **A** Yes, ma'am.

4 **Q** Was she present during -- did you find out
5 if she was present during the course of the
6 investigation?

7 **A** She was not.

8 **Q** All right. Did you speak to her also
9 though?

10 **A** Yes, ma'am.

11 **Q** Okay. During the course of the
12 investigation, did you find the defendant had been
13 present at the incident location?

14 **A** Yes, ma'am.

15 **Q** Okay. When you arrived on the scene, was
16 the defendant there?

17 **A** No, ma'am.

18 **Q** How long do you think you were on the
19 scene?

20 **A** Several hours.

21 **Q** Did he ever come back or show up?

22 **A** No, ma'am.

23 **Q** Were there a lot of police cars around?

24 **A** Yes, ma'am.

25 **Q** It was obvious that was going on, an

1 investigation; is that correct?

2 **A** Yes, ma'am.

3 **Q** Did, uh, -- was there ever anyone that you
4 were able to determine that was the masked or
5 unidentified subject? Were you able to make a
6 determination about that person's identity?

7 **A** A name was presented; however, nothing
8 definitive to identify him as the masked individual.

9 **Q** Okay. So what -- after speaking to these
10 individuals who were at the residence of Mr. Ladson,
11 the two other Ladsons, what did you do next?

12 **A** Determined that the defendant actually
13 resided at 130 Goldsmith, asked Deputy DeRosa obtain
14 a search warrant to search a room identified as his
15 for any effects of this crime.

16 **Q** You said you spoke to the victim, correct?

17 **A** Yes, ma'am.

18 **Q** Got a brief statement about what happened,
19 and the defendant was never back on scene to your
20 knowledge, correct?

21 **A** No, ma'am.

22 **Q** All right. You searched his room any way?

23 **A** Yes, ma'am.

24 **Q** And what did you find, if anything, in his
25 room?

1 **A** Of evidentiary value to us in this case was
2 a gun cleaning oil, as well as the gun cleaning rod.

3 **Q** Was a handgun used in this robbery?

4 **A** Yes, ma'am.

5 **Q** Are you able to say that was the cleaning
6 rod for that particular gun?

7 **A** No, ma'am.

8 **Q** Okay. Is that pretty generic-type stuff
9 that you could use those items to clean most guns?

10 **A** Yes, ma'am.

11 **Q** Did you find a gun or a mask or anything
12 like that?

13 **A** No, ma'am.

14 **Q** Did you search the rest of the residence or
15 just the defendant's room?

16 **A** The defendant's room and a common area. As
17 soon as you went in the side door, there is, like, a
18 common area they all shared. It had like a couch,
19 and a TV, so I just checked cushions. But we didn't
20 -- the search warrant would allow us; however, his
21 family was very cooperative and nice with us. We
22 wanted to extend that. I didn't want to destroy
23 their home or tear their house up. We just wanted to
24 check his room and the common area.

25 **Q** During the course of your investigation,

1 did you determine that, in fact, the defendant had
2 not been back in the residence since the incident
3 occurred?

4 **A** Correct. He had not returned.

5 **Q** Would you expect to find anything from the
6 actual robbery inside of his room if he had not
7 returned?

8 **A** No, ma'am.

9 **Q** During your investigation, were you able to
10 verify the cell phone number on the victim's phone as
11 that coming from the defendant's phone?

12 **A** Yes, ma'am.

13 **Q** And did you think that getting phone
14 records would be important to establish that?

15 **A** No, ma'am. The victim had told us who had
16 called him. Obviously though, the investigation
17 determined who whose phone it was. The phone records
18 would just show us that the defendant called the
19 victim and the victim spoke with him.

20 **Q** Tell us what, if anything, else you did
21 during your investigation.

22 **A** The only other thing I did was,
23 unfortunately, for the victim because he had the ball
24 tickets, he needed to be charged. Two wrongs don't
25 make a right. He was breaking the law, so I had one

1 of the uniform deputies there issue him a citation
2 for Adventuring in Lotteries.

3 Q Did you do any further follow-up
4 investigation after leaving the scene that day?

5 A No, ma'am. The case was turned over to
6 Sergeant Hoover.

7 MS. HODGE: That's all I have. These
8 answer any of defense questions.

9 THE COURT: Mr. Gibson?

10 MR. GIBSON: Thank you, Your Honor.

11 CROSS-EXAMINATION

12 BY MR. GIBSON:

13 Q You said, uh, you did not think it was
14 necessary to get the phone records?

15 A No, sir.

16 Q You didn't believe that the phone was used
17 in any way to coordinate the robbery or anything like
18 that?

19 A Just in calling the victim to come bring
20 the ball tickets.

21 Q So let me just clarify. When he was on the
22 phone, it was not your belief that he was on the
23 phone with the masked gunmen?

24 A No, sir.

25 Q And that he was on the phone with someone

1 else?

2 **A** Correct.

3 **Q** Okay. Did you ever talk to Mr. Ladson?

4 **A** No, sir. Well, can you clarify? There
5 were several Ladsons. I assume you're talking about
6 the defendant.

7 **Q** Yes.

8 **A** I did not talk to him, no, sir.

9 **Q** You said that during the course of your
10 investigation that you determined the gun cleaning
11 rod and gun oil was found in Ms. Ladson's bedroom?

12 **A** Yes, sir.

13 **Q** All right. How many people lived in this
14 house?

15 **A** At least the three that I already
16 discussed, the grandmother, his brother, and then
17 Michael Ladson, I think is an uncle, but I'm not 100
18 percent sure.

19 **Q** Would it surprise you to know that six
20 people lived in the house?

21 **A** No, not at all.

22 **Q** So it's possible that -- is it possible
23 that the room that was identified as Trico's room was
24 not just Trico's room but was also shared by someone
25 else?

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1 **A** I would find that hard to believe. It was
2 cramped quarters, one bed, a lot of stuff in there.

3 **Q** So six people lived in the house. There
4 are three bedrooms. But somehow it is confusable
5 that two people shared that room?

6 **A** When I asked, that was identified as his
7 room, sir.

8 **Q** Did you ask is that only his room?

9 **A** I did not.

10 **Q** Did -- I understand you talked to Mr.
11 Thomas; is that correct?

12 **A** Yes, sir.

13 **Q** Did he ever mention anything to you about
14 Mr. Ladson, my client, Mr. Ladson, standing in front
15 of the vehicle and laughing while this robbery was
16 going on?

17 **A** Not to me, no, sir.

18 **Q** Did he ever mention anything to you about
19 pulling out Mr. Ladson, meaning, my Mr. Ladson's
20 hair?

21 **A** I don't remember that. Just that a
22 struggle ensued. The victim was kind of hard for me
23 to understand.

24 **Q** And you've also -- how long have you been
25 on the force?

1 **A** 15 years, sir.

2 **Q** During that time you were also trained to
3 do incident reports; is that correct?

4 **A** Yes, sir.

5 **Q** You are trained to only put information in
6 that is actually information that you either found or
7 was told; is that correct?

8 **A** Or lose my job, yes, sir.

9 **Q** Absolutely. Certainly, there are some
10 times when, situations where a witness will leave
11 things out. I understand that.

12 **A** Absolutely.

13 **Q** But if a witness says something, one thing,
14 and it's in your report, it's because he said it?

15 **A** Correct.

16 **Q** Is that fair to say?

17 **A** Yes, sir.

18 **Q** Now, I'm looking at your incident report.
19 In that report, the victim claims -- excuse me -- I
20 think, on the second page, the victim claims that he
21 -- when the masked gunmen threatened to shoot him, he
22 ducked towards the passenger side and Trico was there
23 holding him inside the vehicle.

24 **A** Yes, sir.

25 **Q** So he told you that?

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1 **A** Yes, sir.

2 **Q** He told you when he was trying to get out
3 of the passenger side of the vehicle, Trico was there
4 holding the door shut?

5 **A** I don't know if he was holding the door.
6 He just told me he was trying to keep him in the
7 truck.

8 **Q** Okay. Is there any other way to do that
9 other than being by the door and holding it?

10 **A** I guess he could physically block him. The
11 victim would've been older and certainly a smaller
12 stature.

13 **Q** But he would still have to be on that side
14 of the car?

15 **A** Yes, sir. Absolutely.

16 **Q** He told you this was before the gunshot?

17 **A** Yes, sir.

18 **Q** Now, other than the victim's story and the
19 gun cleaning rod and the gun oil, did you find any
20 evidence that indicates that Mr. Ladson was actually
21 involved in this robbery?

22 **A** No, sir.

23 **Q** Based upon the information that you had at
24 that time, you did not see fit to issue warrants
25 against Mr. Ladson on December 3rd?

1 **A** The reason that was done was the victim
2 needed to come in for his official statement. Beyond
3 that, the victim knew the family and had expressed
4 some reservations about whether or not he wanted to
5 go through with this.

6 **Q** All right. Do you know if anyone -- the
7 victim had told you about biting Mr. Ladson. Do you
8 know if anyone looked at or examined Mr. Ladson to
9 see if there were any bite marks or any evidence of
10 any of this?

11 **A** I personally did not. I don't know the
12 answer to that, sir.

13 **Q** On the scene, you didn't find any hair or
14 any like that that could have been ripped out of Mr.
15 Ladson's hair?

16 **A** No.

17 **Q** Just to clarify this particular
18 circumstance, the victim's statement saying this
19 happened was more than sufficient to arrest Mr.
20 Ladson on this charge?

21 **A** Yes, sir. In eight years of doing
22 robberies, I've probably touched into the thousands
23 of cases. The vast majority are not captured on
24 camera. The vast majority do not have any other
25 witnesses other than the victim. If you were at your

1 vehicle and somebody came up and put a gun in your
2 back and it's not on camera, I have nothing to
3 operate on other than your word. I trust in people
4 to give me exactly that.

5 Q Okay. So if Mr. Ladson has stuck around at
6 his house and waited for the police to get there and
7 given his side of the story, he would have been
8 arrested anyway, wouldn't he?

9 A Very likely. Yes, sir.

10 Q Just a second please. (Pause.)

11 You said that it was raining that day?

12 A It had been. Yes, sir. I don't know if it
13 was raining at that exact moment, but it had been.
14 Yes, sir.

15 Q Okay. So I'm looking at -- I don't know
16 how to work this machine. I'm going to do it the
17 old-fashioned way.

18 A Yes, sir.

19 MS. HODGE: Do you want me to --

20 MR. GIBSON: Show me? That would be great.

21 MS. HODGE: It is simple. It takes one
22 little touch. That's it. There you go.

23 BY MR. GIBSON:

24 Q All right. I'm looking at this picture,
25 and I'm talking about Defendant's Exhibit 9. The

1 jury will have this in the back, so they can actually
2 get a better view than this gives. But it looks like
3 that the ground is pretty dry.

4 A No, it had been raining, sir. I assure
5 you.

6 Q Okay. But you don't know when it started
7 raining?

8 A I don't. It was an overcast day, and it
9 had been raining.

10 Q So you don't know if it had been raining
11 after or during -- when the incident occurred?

12 A Not the actual incident. I can tell you
13 from when we were there, it was almost like one of
14 those days when it's almost foggy. There was like
15 mist in the air, but it's not pouring down rain.
16 That's kind of how that afternoon progressed, but it
17 had been raining that day.

18 Q Okay. And based upon that rain, whenever
19 it happened, that's why you felt like you could not
20 get fingerprint evidence?

21 A Well, it's not my -- forensics will refuse
22 to process anything when it's wet.

23 Q Okay.

24 A It's not even my choice.

25 Q All right. Thank you.

1 **A** Yes, sir.

2 **REDIRECT EXAMINATION**

3 **BY MS. HODGE:**

4 **Q** Briefly, Mr. Gibson asked you about
5 possible information of someone else living in or
6 sharing a bedroom that the defendant was supposed to
7 be in. You spoke to people that lived in the
8 residence; is that correct?

9 **A** Yes, ma'am.

10 **Q** All right. You spoke to Larry and Michael
11 Ladson; is that correct?

12 **A** Yes, ma'am, and the grandmother.

13 **Q** And the grandmother. And then through the
14 course of your communication with them, you
15 determined which was the defendant's bedroom,
16 correct?

17 **A** Yes, ma'am.

18 **Q** Did they tell you that anyone else shared
19 that room with him?

20 **A** They did not.

21 **MS. HODGE:** Thank you.

22 **THE COURT:** Anything further from this
23 witness?

24 **MS. HODGE:** Nothing further from the
25 State, Your Honor.

1 **MR. GIBSON:** No, Your Honor.

2 **THE COURT:** Any objection to this witness
3 being excused?

4 **MS. HODGE:** Only if we possibly need him
5 for rebuttal.

6 **THE COURT:** Okay. All right. Thank you,
7 Officer.

8 **THE WITNESS:** Yes, sir.

9 **THE COURT:** You can step down.

10 **MS. HODGE:** Your Honor, at this time, the
11 State rests.

12 **THE COURT:** Okay.

13 All right. Ladies and Gentlemen of the
14 jury, we have reached a natural point in which
15 to break, so I'm going to send you to lunch now.
16 I will reiterate my instructions from earlier.
17 While you are outside this courtroom, you cannot
18 conduct independent investigation, you cannot
19 discuss the case with third parties and you
20 cannot deliberate amongst yourselves, meaning,
21 you cannot talk about the case amongst
22 yourselves in any way. I hope everyone has a
23 good lunch. We will reconvene at 2 o'clock. So
24 be in the jury room shortly before 2 o'clock.

25 Okay, Madam Bailiff.

Motions

1 **(WHEREUPON,** the jury exits at approximately
2 12:35 p.m.)

3 **THE COURT:** Okay. Any motions, matters?

4 **MR. GIBSON:** I do, Your Honor.

5 **THE COURT:** Yes, sir.

6 **MR. GIBSON:** I have a motion for directed
7 verdict. For the record, I'd ask for directed
8 verdict on all the claims based upon
9 insufficient evidence, but I'd also really would
10 like to focus on the attempted murder charge.

11 Your Honor, in, uh, 2015 case, *State versus*
12 *Rakeem D. King*. Your Honor, there is a
13 requirement -- for an attempted murder charge,
14 it is a specific intent crime. There must be
15 evidence of a specific intent to kill. In this
16 particular instance, Your Honor, there is no
17 evidence of any specific intent to kill. Based
18 upon the lack of evidence in that regard, Your
19 Honor, I think certainly that claim should be
20 dismissed at this time.

21 But again, Your Honor, for the record, I
22 ask that they all be dismissed based upon lack
23 of evidence.

24 **THE COURT:** Ms. Hodge?

25 **MS. HODGE:** I believe the victim's

Court Remarks to Defendant

1 testimony was that the gunman fired the weapon
2 at him while they were in close quarters,
3 attempting the course of this robbery. I'm not
4 sure how you cannot intend specifically to kill
5 someone if you are firing at them. I think it
6 is implicit in the act that the intent was
7 there. You want me to address the other one?

8 **THE COURT:** I find that there is some
9 evidence in the record to support the State's
10 allegations. Therefore, I'll have to deny your
11 motion.

12 **MR. GIBSON:** Thank you, Your Honor.

13 **THE COURT:** Mr. Ladson, would you stand
14 please, sir?

15 Madam clerk, would you put Mr. Ladson under
16 oath?

17 **THE CLERK:** Yes.

18 Please raise your right hand.

19 **(WHEREUPON, the defendant is first duly sworn.)**

20 **THE COURT:** All right. Mr. Ladson, at
21 this time, I'm going to explain to you some of
22 your rights. If you do not understand anything
23 that I say, please let me know and I will
24 explain it in more detail. If you answer the
25 question, I will assume that you understood the

Court Remarks to Defendant

1 question. Do you understand?

2 **MR. LADSON:** Yes, sir.

3 **THE COURT:** We have reached the stage in
4 the trial where you may present your defense.
5 You have the right to claim the protections
6 given to you by the Fifth Amendment to the
7 Constitution of the United States. This
8 amendment states, in part, no person shall be
9 compelled in a criminal case to be a witness
10 against himself. This means that you cannot be
11 required to testify in this case.

12 On the other hand, you have the right to
13 testify on your own behalf should you to choose
14 to do so. However, no one can make you testify.
15 This is a personal right and no one can waive
16 this right but you.

17 If you decide to testify, you will be
18 subject to the same rules that govern other
19 witnesses and you may be examined and cross-
20 examined on any relevant issue in this case. In
21 addition, if you have any convictions involving
22 dishonesty or false statement or for crimes
23 punishable by imprisonment for more than one
24 year and this court determines that the
25 probative value of admitting this evidence

Court Remarks to Defendant

1 outweighs its prejudicial effect to you, the
2 solicitor will be able to introduce your record
3 to attack your credibility.

4 If you decide to testify, this decision on
5 your part must be freely, voluntarily and
6 intelligently made with knowledge of the
7 protections given to you by the Fifth Amendment
8 and the consequences of your decision to
9 testify.

10 If you decide not to testify, I will
11 instruct the jurors that they cannot give the
12 fact that you did not testify any consideration
13 whatsoever and that there is to be absolutely no
14 prejudice to you because you did not testify.
15 It is left entirely up to you whether or not to
16 testify. You may talk to your attorney, your
17 family, friends and anyone else, but the final
18 decision will be left entirely up to you. Do
19 you understand what I've explained to you?

20 **MR. LADSON:** Yes, sir.

21 **THE COURT:** Do you have any questions
22 about what I've explained?

23 **MR. LADSON:** No, sir.

24 **THE COURT:** Okay. We're going to break
25 for lunch and you can use this opportunity to

Court Remarks to Defendant

1 discuss this issue with your lawyer during lunch
2 and then I will get your decision when we
3 reconvene.

4 **MR. GIBSON:** Your Honor, in order to assist
5 my client in making that decision, would the
6 court ask the State to identify what, if any,
7 crimes they intend to or may introduce if he
8 takes the stand?

9 **MS. HODGE:** The only thing that would be
10 impeachable would be False Information to Police
11 conviction on 5/15/11.

12 **MR. GIBSON:** Okay. Thank you, Your Honor.

13 **THE COURT:** Mr. Gibson, you discuss that
14 with your client over lunch and then we will
15 reconvene and Mr. Ladson can give us his
16 decision.

17 **MR. GIBSON:** Thank you.

18 **THE COURT:** We will now be in recess until
19 2 o'clock.

20 **(WHEREUPON, a lunch recess is taken.)**

21 **THE COURT:** All right. Mr. Gibson, you've
22 been able to discuss with your client his Fifth
23 Amendment rights and whether or not he chooses
24 to testify?

25 **MR. GIBSON:** I have, Your Honor. It's my

Requests for Charge

1 understanding that he's going to elect not to
2 testify.

3 **THE COURT:** Is that correct, Mr. Ladson?
4 Please stand, Mr. Ladson. Is that correct?

5 **MR. LADSON:** Yes, sir.

6 **THE COURT:** Okay. Thank you. You may be
7 seated.

8 **MS. HODGE:** Your Honor?

9 **THE COURT:** Yes, ma'am.

10 **MS. HODGE:** And I don't believe you'll be
11 calling any witnesses; is that right?

12 **MR. GIBSON:** No. No, we're resting.

13 **MS. HODGE:** Can we discuss charges before
14 you bring them back in?

15 **THE COURT:** That was going to be my next
16 question. Specific -- I can just go over what I
17 have for the standard charges and then we can
18 talk about specific defenses. I have standard
19 charge about the duties of the jury. I also
20 have standard charge about direct and
21 circumstantial, reasonable doubt, credibility of
22 witnesses, presumption of innocence, criminal
23 intent, uh, 'charge of indictment not in
24 evidence. I have a standard charge on failure
25 of the defendant to testify. Then, we have case

1 specific charges on attempted murder,
2 conspiracy, armed robbery and then a charge on
3 multiple charges, uh, which explains how each
4 indictment is just a separate offense.

5 Now, Mr. Gibson, I have looked at that case
6 that you cited. It appears to me that the
7 standard bench book charge was not changed
8 before that case came down. The bench book
9 charge stated a specific intent to kill is not
10 an element of attempted murder, but there must a
11 general attempt to commit serious bodily injury.
12 It appears to me, from the reading of that case,
13 that that was expressly a sentence in the charge
14 that the court overruled. I'm going to delete
15 that sentence from the standard charge to be in
16 accordance with the case.

17 **MR. GIBSON:** When you say delete, are you
18 going to charge them that they must find
19 specific intent to kill?

20 **THE COURT:** What I came up with is
21 specific intent to kill is an element of
22 attempted murder.

23 **MR. GIBSON:** Thank you, Your Honor.

24 **THE COURT:** I think that is in accordance
25 with the case law.

Requests for Charge

1 **MR. GIBSON:** Yes, sir.

2 **THE COURT:** The sentence in the bench -- I
3 am leaving because that bench book has not been
4 updated since that came down.

5 **MR. GIBSON:** Yes, sir.

6 **THE COURT:** Are there any other charges
7 other than the ones that I've mentioned that
8 either party would request?

9 **MS. HODGE:** Yes, Your Honor, I would
10 request the hand of one is the hand of all
11 charge.

12 **THE COURT:** Okay.

13 **MS. HODGE:** In addition, the natural and
14 probable consequences charge.

15 **THE COURT:** Okay.

16 **MS. HODGE:** I'm embarrassed to say that I
17 have this file from about 15 years ago. It is
18 also good law. It's probably cases that was
19 before 1994.

20 **THE COURT:** All right. (Pause.)

21 All right. I'm having her print out the
22 hand of one is the hand of all charge as part of
23 the standard instructions. Natural and probable
24 consequence ---

25 **MS. HODGE:** Okay.

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Requests for Charge

1 **THE COURT:** --- what I'm going to have her
2 do is just print that out and let each one of
3 you look at that charge.

4 **MS. HODGE:** And Your Honor, the State
5 would request the lesser included on the
6 attempted murder charge in case they do not
7 believe there was specific intent to kill the
8 victim and there is thought that it was an
9 accidental discharge or something along those
10 lines. I don't know. I would ask that the
11 court instruct on the lesser included of assault
12 and battery first-degree, which is where one
13 injures another and an act occurs during the
14 commission of an robbery, burglary, kidnaping or
15 theft.

16 **THE COURT:** Mr. Gibson?

17 **MR. GIBSON:** Your Honor, my only concern
18 about that is it seems to take two different
19 things, there's the shooting of a weapon and
20 then injury is him being hit in the face. I'm
21 not sure -- if we're talking about the injury,
22 the hitting to the face, I'm not sure that can
23 be a lesser included offense of attempted murder
24 when the attempted murder is based on the firing
25 of the weapon, if that makes sense.

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Requests for Charge

1 **THE COURT:** You object to a lesser
2 included offenses?

3 **MR. GIBSON:** No, Your Honor.

4 **THE COURT:** Well, since there is no
5 objection, I will charge assault and battery
6 first-degree.

7 **MS. HODGE:** Thank you.

8 **THE COURT:** Generally, I believe that a
9 defendant is entitled to go to trial on the
10 charge for which he has been indicted. However,
11 if the evidence conforms to lesser included
12 offenses, I will charge those. There was
13 testimony in the record that there was a blow
14 struck. There was testimony in the record that
15 an attempted robbery took place. So there is
16 evidence in the record to support those charges
17 for the jury to determine what the facts were,
18 so I will do that.

19 Are there any other charges that you would
20 request, Mr. Gibson?

21 **MR. GIBSON:** No, Your Honor.

22 **THE COURT:** Any other charges you would
23 request, Ms. Hodge?

24 **MS. HODGE:** Your Honor, you -- in previous
25 instruction to the jury, you gave them a small

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Requests for Charge

1 snippet about your reasonable doubt and hesitate
2 to act, I'm not sure if you do the combination
3 of *Victor v. Nebraska* and hesitate to act.

4 **THE COURT:** I will let each party look at
5 my reasonable doubt charge. It's much more
6 extensive than just hesitate to act.

7 **MS. HODGE:** Okay. Perfect.

8 **THE COURT:** If y'all want to take a minute
9 and look at it.

10 **MS. HODGE:** I am glad you have it printed
11 big.

12 **THE COURT:** I wouldn't be able to see it
13 if it wasn't.

14 **(WHEREUPON, there is a pause.)**

15 **MR. GIBSON:** Your Honor?

16 **THE COURT:** Yes, sir.

17 **MS. HODGE:** I hate to be a flip-flopper,
18 but I think I am going to object to the lesser
19 included offense. Like I said, I just don't see
20 how -- I don't see how the injury from the
21 attempted murder is a lesser included -- the
22 injury of hitting him in the face is a lesser
23 included of the attempted murder charge.

24 **THE COURT:** Well, then, I won't charge it.
25 My philosophy on that is I leave that up to the

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Requests for Charge

1 defendant. He's indicted on attempted murder.
2 If he objects to lesser included offenses, that
3 is the defendant's prerogative.

4 **MS. HODGE:** Yes, sir.

5 **MR. GIBSON:** Thank you.

6 **THE COURT:** I will grant your request, Mr.
7 Gibson. (Pause.)

8 We're having a problem with our state
9 Outlook on the computer. So I'm having -- my
10 court reporter -- my clerk is having trouble
11 sending the document. I have a copy that I've
12 printed out myself if you want to look at it.
13 Disregard what I've marked out. It's not a
14 clean copy.

15 **MS. HODGE:** Thank you.

16 (WHEREUPON, there is a pause.)

17 **THE COURT:** Is there anything else from
18 either party before we bring our jury back in?

19 **MS. HODGE:** Nothing from the State.

20 **MR. GIBSON:** Nothing from the defense,
21 Your Honor.

22 **THE COURT:** Okay.

23 **MS. HODGE:** Do you want to go on the
24 record if the defense has any motions so we
25 don't bring them in and send them back out or do

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Closing Argument by Ms. Hodge

1 you want to --

2 **MR. GIBSON:** I don't have another one, Your
3 Honor. It's the same directed verdict motion
4 that you've heard.

5 **THE COURT:** I've already heard the
6 directed verdict motions.

7 **MS. HODGE:** Right.

8 **THE COURT:** Anything further?

9 **MS. HODGE:** No, sir.

10 **MR. GIBSON:** No, Your Honor.

11 **THE COURT:** All right. Well, let's --
12 Madame bailiff, if we could get our jury
13 please.

14 The State -- State, you're prepared to open
15 and, Mr. Gibson, you're prepared to close?

16 **MR. GIBSON:** Yes, Your Honor.

17 **(WHEREUPON,** the jury enters at approximately
18 2:19 p.m.)

19 **THE COURT:** All right, Ladies and
20 Gentlemen, I hope everyone has had a good lunch.
21 The evidence in the case has concluded. We will
22 now proceed to the next stage of the trial,
23 which is closing statement. The State will go
24 first. And then the defense will go last. And
25 after that, I will charge you the law.

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1 Ms. Hodge?

2 **MS. HODGE:** Thank you, Your Honor. May it
3 please the court.

4 Mr. Gibson.

5 Ladies and Gentlemen, this was a fairly
6 quick trial as you can tell. Some of them last
7 days, but this was just for our morning. Now is
8 that time, as the judge says, you're going to be
9 able to go back to the room. The next time you
10 go back there, you going to deliberate to
11 reached a verdict.

12 A verdict means to find the truth in what
13 happened. Verdict comes from the Latin word,
14 "veredictos"; and that's what it means, to speak
15 the truth. So that's what we expect, both the
16 State and the defense, your verdict will speak
17 the truth.

18 One thing I want to address before we get
19 into my argument about why the State believes
20 you should return a verdict of guilty is
21 something the defense attorney, Mr. Gibson, said
22 in opening. He said the State is here to put
23 people in jail. That's why we are here. That's
24 all we do. That's what we want. That's not
25 right. That's not accurate.

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Closing Argument by Ms. Hodge

1 The State is here to uphold the laws that
2 -- the people all voted on with our
3 representatives, maybe it was our ancestors, but
4 we all consistently get to review the laws that
5 we think should be in place. The State's job is
6 to uphold the law and to hold people accountable
7 when they break the law. The State does not
8 seek prison. The State seeks justice. Prison
9 is not justice.

10 I've been doing this for 20 years, and I
11 carry hundreds of cases on my docket every day.
12 I've had more probationary cases than prison
13 cases. So you should not worry or have some
14 kind of intimidation or guilt or a question
15 about what's going to happen after you reach
16 your verdict. That's not for you to decide.
17 You decide what happened in this case, speak the
18 truth about this case. Whichever way you decide
19 it, there will be either guilty or not guilty.
20 That's all you need to worry about.

21 I hope that that ploy, which I believe
22 that's what that is is to get you to kick back a
23 little bit, rock back a little bit, shy back
24 from what might be obvious in some kind of
25 emotional turmoil about, ooh, I don't want to

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1 send anybody to jail. I don't want to do
2 anything like that. I want you to take that out
3 of your mind.

4 This is very serious, obviously. We take
5 this case very seriously from the State and
6 from the defense side because there are
7 constitutional rights that we're all guaranteed.
8 The State's not here trying to ramrod anybody or
9 put people in jail. We're simply here to seek
10 justice and hold people accountable. That's it.

11 So, let's look at this case specifically.
12 What is the State trying to do? The State is
13 trying to prove that the defendant committed an
14 attempted armed robbery, that he conspired with
15 somebody to commit this robbery and that the
16 person that committed the robbery with the
17 weapon almost murdered the victim in the
18 process. That's what the State is here to prove
19 to you.

20 We're going to prove it through the
21 evidence, which is what you heard on the witness
22 stand. We're going to use the most important
23 thing that each of you brought, which is your
24 common sense. Your common sense is going to
25 tell you what is true and right in this case.

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Closing Argument by Ms. Hodge

1 So let's look at what the State has
2 presented. First of all, the State presented
3 the victim, Mr. Thomas. Mr. Thomas was very
4 well versed with the defendant and his family.
5 He knew them. Sold them ball tickets before.
6 Knew people in the area. It's not unusual for
7 the victim to be over there or to be seeing
8 these people. He wasn't scared to go. He
9 wasn't nervous about going. He went. He had
10 other things he needed to do, like go to probate
11 court, but he went.

12 What you can gleam from that is that the
13 defendant knew the victim. He knew that he was
14 going to have cash or should have had cash. He
15 was known to hold his cash on him. He was asked
16 if maybe he even flashed his cash. The victim
17 was a greater target for a living -- for a
18 robbery. For one, he had the goods, or so they
19 thought. Number 2, he's doing something that's
20 not legal.

21 A lot of times, when people are doing
22 something that's not legal, they're not going to
23 call the police and report that they had been
24 robbed because they were doing something
25 illegal. I submit the defendant knew that he

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1 wasn't going to tell. He would get some cash
2 and be gone.

3 The fact that they knew each other, which,
4 at first blush, seems kind of stupid to rob
5 somebody you know, really, it makes a little bit
6 of sense if you think about it in terms of,
7 well, I know him and he knows me and we know
8 which other's people, so is he really going to
9 come up and call the police on me? Again,
10 seemed like a kind of a dumb idea maybe from
11 somebody on the outside but, in this, the victim
12 was the perfect target.

13 Second, the evidence is the defendant
14 called the victim to come there. Specific time,
15 specific instance. This is not the victim
16 driving around the neighborhood wanting to know
17 if anybody wanted to sell ball tickets and all
18 this time somebody -- somebody gets a great idea
19 to rob him. The defendant, with questioning,
20 would have you think that this was the greatest
21 coincidence in the world that the defendant
22 calls the victim to him and, low and behold, oh
23 my gosh, a robbery happens. Use your common.
24 Does that make sense? Or was this a set up?
25 Plain and simple.

Closing Argument by Ms. Hodge

1 Third, the defendant in this case is a
2 participant. He is not a spectator. The
3 victim, who was an eyewitness to the case --
4 you've got yourself an eyewitness -- says as
5 soon as the guy with the mask comes up, the
6 defendant's right there and he is laughing and
7 thinking it's funny or something to that effect.

8 I'm not sure you heard it, but the
9 defendant even laughed in here. He's not
10 concerned. He's not going to help. Does it
11 make sense that if he was just a spectator that
12 happened upon a robbery that he would stick
13 around? You've got a guy with a gun with a
14 mask. They'd be hauling you-know-what away from
15 there. They wouldn't be standing around to see
16 what happened.

17 Then, the victim tells you as soon as he
18 tried to escape after he was almost shot and
19 killed, he has to get this guy out of his way so
20 he can run. Then what happens? The defendant
21 runs after him. They want you to believe that
22 was to help him? I want you to use your common
23 sense and think about that.

24 What was he going to help him do? He was
25 already running. He was already away. The

Closing Argument by Ms. Hodge

1 gunman was gone. Why is he going to chase him?
2 And why is he going to say give it up or up it?
3 Up it. What is he trying to get? He's trying
4 to continue the robbery. The first attempt
5 spoiled. So this was the last attempt to get
6 some money. I hope that your common sense will
7 take you through the facts of that scenario.

8 The last thing I would like for you to look
9 at is the defendant flees. The masked gunman
10 flees, but so does the defendant. If the
11 defendant is a spectator or possible victim
12 himself in this armed robbery, why did he run?
13 Truly, if you are truly innocent, you'll stay
14 and you will tell the cops everything you know
15 about what you saw because right now, there is a
16 masked gunman still out there. If you are
17 really innocent, would you want that person on
18 the street? The person that robbed someone?
19 The person that almost killed someone? You
20 would come back and you would tell what you saw.
21 You wouldn't stay away.

22 The defense gets to argue last which, for
23 us lawyers, is really difficult because we like
24 to have the last word. But he gets to come up
25 here and tell you his closing argument. I want

Closing Argument by Ms. Hodge

1 you to listen and pay careful attention. One
2 thing that I feel that you will hear because it
3 was bought out in cross-examination of the
4 witnesses is that the victim said a couple of
5 different things. I think he's going to make a
6 really big deal about that, that he said that
7 the defendant was laughing. Well, that's
8 nowhere in the written statements. He said that
9 he was grabbed or held, maybe, by both of them.

10 So, what we have here are small things,
11 what I would like to call rabbit trails, for you
12 to go down in hopes that you won't look away
13 from the obvious. Oh, he didn't say that he was
14 laughing. Well, it must not be true then. This
15 must not have ever happened.

16 He said that both guys held him. Let's
17 talk about context. If I'm telling somebody,
18 yeah, I got robbed. Both of them had me. It
19 was this one was here and this one here. There
20 could be some communication that gets crossed
21 over. It sounds like both of them had me. At
22 certain points, both of them did. Again, small
23 discrepancy in the big picture in hopes that you
24 will go down the rabbit trail.

25 So I just ask you to use your common sense

Closing Argument by Ms. Hodge

1 when you are evaluating what the victim said
2 consistently. He said somebody robbed him and
3 that this defendant was a part of it; he was
4 there, but that he was active, present and
5 participating and even continued to chase him
6 down to try to accomplish this robbery.

7 I hope that when you review the evidence on
8 your own and review the testimony, you will talk
9 and walk through all of these things and that
10 you will have questions and you will think about
11 what Mr. Gibson says because, obviously, this is
12 very important and you should do that. If
13 you're stopping to talk about it, I want you to
14 understand that that is not hesitating to act in
15 this case.

16 The judge is going to tell you the State's
17 got to prove the case beyond a reasonable doubt.
18 The first thing he told you this morning was a
19 small definition that a reasonable doubt is one
20 that causes a person to hesitate to act. So, we
21 should hesitate. We should think through. But
22 we should not hesitate at the end when we have a
23 significant doubt that we can not resolve. So
24 there is a difference. The judge is also going
25 to tell you that the State is not required to

Closing Argument by Ms. Hodge

1 prove this case to you beyond every doubt, but
2 beyond a reasonable doubt. If you are firmly
3 convinced of the defendant's guilt, then you
4 must find him guilty.

5 Firmly convinced. What does that mean?
6 That means that you know it in your head, you
7 know it in your heart that this is what
8 happened, this is the truth. You don't have
9 some large looming question out there that keeps
10 you from doing that.

11 If you are firmly convinced of the
12 defendant's guilt, then you should find him
13 guilty. On the other hand, if there is a real
14 probability that you think the defendant is not
15 guilty, then you've got to find him not guilty.
16 That's the standard I believe the judge will
17 instruct you on and that I hope that you will
18 take with you to the jury room.

19 My last and my final point in the closing
20 is what motive does Mr. Thomas have for calling
21 the police that day and making this report and
22 coming to court today and telling you what
23 happened to him? I submit there is no motive.
24 In fact, that goes from the State to proof that
25 this actually did happen. This man was

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Closing Argument of Mr. Gibson

1 conducting illegal activity. If this whole
2 thing is a made-up story about the defendant,
3 why would he call the police and say these
4 things? It doesn't make sense that this didn't
5 happen. I'm just going to run on down to my
6 friend's house, call the cops and say Rico tried
7 to rob me. What good does that do me? What
8 that got him was a citation himself. Just think
9 about that as well.

10 I submit when you use your common sense,
11 and you go through the evidence presented and
12 you listen to our closing statements, you will
13 find the truth in this case and that you will
14 return a verdict of guilty beyond a reasonable
15 doubt on all three charges. Thank you.

16 **THE COURT:** Mr. Gibson?

17 **MR. GIBSON:** Thank you, Your Honor.

18 Ladies and Gentlemen, I want to going to
19 start off addressing what she started addressing
20 and that is that told you at the beginning of
21 this trial and her assertion that this is some
22 kind of a ploy. This is not a ploy. This is
23 the most serious court that we have. The
24 standard of proof is beyond a reasonable doubt.
25 The standard is the highest standard of proof

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1 that we have.

2 If you get sued or you sue someone, you can
3 go to court and prove this preponderance of
4 evidence, which means more likely than not. If
5 you want to get punitive damages from someone,
6 you go to court and give clear and convincing
7 evidence. Above all of those is beyond a
8 reasonable doubt. The reason why, Ladies and
9 Gentlemen, is because of exactly what I said.
10 What is at stake is a citizen's liberty. Now,
11 she tells you don't worry about it. But Ladies
12 and Gentlemen, I assume you, if you convict him
13 you stick around at the end of this case, she is
14 not --

15 **MS. HODGE:** Objection, Your Honor.

16 **THE COURT:** Sustained. Let's move along.

17 **MR. GIBSON:** In one week, Ladies and
18 Gentlemen, it will be Veterans Day. It is my
19 most favorite holiday because, one, I am a
20 veteran, and two, I get a lot of free stuff on
21 Veterans Day. But on that day, we will also
22 remember the sacrifices of all of our soldiers,
23 people who went to war, people who sacrifice
24 their lives, people who -- who went into harm's
25 way, not because of a concept, not because they

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1 wanted to, but because they wanted to protect
2 what our Constitution protects. That's liberty.
3 That's freedom. That's why we have the system
4 of justice that we have. That's why criminal
5 cases are like this.

6 If we wanted it to be where we make sure
7 that guilty people went to jail, it would be
8 very different. We wouldn't require it to be
9 unanimous. We wouldn't have you here. We would
10 have professional jurors to come in, dot some
11 I's, cross some T's and find him guilty. We
12 wouldn't have a burden of proof that is beyond a
13 reasonable doubt. We would have something much
14 lower.

15 Ladies and Gentlemen, the reason why we
16 have the system of justice that we have for
17 criminal cases is not because we want to see
18 guilty people go to jail, it's because we want
19 to make sure that innocent people don't. The
20 very foundation of this system is that it is
21 better for 1000 guilty people to go free then
22 for one innocent person to be convicted of a
23 crime.

24 Now, if you think that you are here to
25 determine whether or not this happened or not,

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1 then you are not listening to what he is going
2 to tell you. Because what you have to decide is
3 far greater than that. What you have to decide
4 is whether or not they have presented evidence
5 that is so strong and so convincing that not
6 that you just think he might be guilty of this
7 crime but that you are convinced of it beyond a
8 reasonable doubt. Sure it's not beyond every
9 doubt. But Ladies and Gentlemen, it is the
10 highest standard of proof that we have for a
11 reason. That does mean something. If you think
12 that you can use conjecture and speculation and
13 say, oh, it's coincidence or he must be guilty,
14 then you are not living up to your oath.

15 Now, she talked about what is Mr. Thomas's
16 motivation. I think Mr. Thomas actually
17 believes that Trico was involved in this crime.
18 I think he actually believes that. But Ladies
19 and Gentlemen, his story is not conducive to
20 that. What actually happened is not conducive
21 to that.

22 The mind is a great thing. We can
23 convince ourselves of things. And once we do
24 that, we come up with all kinds of reasons and
25 memories and everything else to justify it. If

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1 you think that your dad is the greatest dad in
2 the world, you can remember everything good that
3 he did and you are going to create some memories
4 in your mind that really don't exist. You are
5 going to remember, oh, yeah, I remember when my
6 dad took me fishing when it didn't happen
7 because it's going to support that belief. If
8 you believe that your dad or someone is the
9 worst parent in the world, you're going to
10 create all kinds of other things to support
11 that.

12 Now the problem with when you create those
13 memories is they are not consistent. The truth
14 is consistent. If somebody is telling the
15 truth, the story doesn't change. There aren't
16 memories one day and memories another. You
17 don't tell one person one thing and then two
18 hours later you tell someone else something
19 different. That's exactly what happened in this
20 particular case.

21 Today, Mr. Thomas got on the stand and he
22 told you that there was never an instance where
23 he struggled with both defendants at the same
24 time. There was never an instance where both of
25 them had come up to him and were trying to get

1 in his pockets. When Deputy Hodge arrived on
2 the scene, the very first officer in this case,
3 he told him explicitly that -- he told him that
4 after he got out of the passenger side of the
5 vehicle, he said Trico Ladson stopped me and the
6 other individual came around and they were both
7 trying to get in my pockets.

8 He told you today that Rico stood in front
9 of the vehicle at the fender and laughed at him.
10 He told you not just that, he told you I told
11 all the officers that as well. None of the
12 officers testified that he told them that. In
13 fact, when I asked every last one of them, they
14 said no, I don't recall. These are trained
15 officers, 15, 24, 20 plus years of service. Do
16 you really think that if he had told them that
17 they would've put it in a report and they
18 would've remembered that?

19 He told you today he believed the gunman
20 approached him from around the house coming to
21 his front. Yet, he told Deputy Hodges when he
22 first got there that he believed there masked
23 gunman approached from behind the vehicle.

24 He told you today that he pulled Rico's
25 hair to the point of pulling out even some rows

1 out. He didn't tell any of the officers that.
2 None of them had ever heard that story before.
3 More importantly, Ladies and Gentlemen, they
4 deployed K-9 who is trained to find such things
5 that he didn't find anything like that. If
6 there was enough skin graft to find a cell
7 phone, don't you think there would be enough
8 skin graft out there to be able to find some
9 hair that he pulled out with his own hand?

10 Now, she says use your common sense.
11 Whenever the prosecutor says use your common
12 sense what that means is ignore the fact that I
13 don't have evidence to prove what I need to
14 prove. Jump to a conclusion. Use speculation.
15 Use a coincidence and use that to say that
16 there's enough evidence to convict somebody of a
17 crime beyond a reasonable doubt.

18 If you believe Mr. Thomas' story, there are
19 a number of other things, and I told you this at
20 the beginning that it sort of just did not make
21 sense, there are a number of other things that
22 you have to believe as well. If you have to
23 believe that he got into two struggles -- that a
24 gun was fired, he got into two struggles. One,
25 he fought with Trico at his house and again

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1 behind number 429 on their street. And during
2 this time frame, during this last fight, he bit
3 him and he pulled out his hair and he did it
4 multiple times, he screamed during all of this
5 fighting. And all during this time, there was
6 not one witness to see this fight. Not one.

7 If you believe his story, you have to
8 believe that Trico called him to his house using
9 his phone, a person that he knew, to come to his
10 house and rob him right there with his brother
11 and his uncle inside of the house. And then you
12 have to believe that when it went bad, Trico,
13 and not the masked gunman tracked him down, ran
14 him down and tried to fight him and steal money.

15 You also have to believe that Trico who is
16 twenty-something years old somehow could not
17 subdue a man who was 69 or 70 and who has -- is
18 five inches shorter than him. You have to
19 believe that he pulled out his hair, but it was
20 not found. You have to believe he bit his skin,
21 but apparently no one ever saw any marks of
22 that.

23 You have to believe that Trico committed
24 this crime and yet there was no evidence
25 whatsoever other than his testimony that

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1 suggests he did. Then you have to get past all
2 of the inconsistencies in his statement. You
3 have to get past all of the things that just
4 don't make sense about the story altogether.

5 She says, oh, yeah, it makes sense. You
6 know, certainly he knows him so there's no
7 chance of Mr. Thomas turning him in or doing
8 anything like that. If that's the case, if he
9 really believes that he's not going to turn him
10 in, why does he need the masked gunman? He can
11 do it himself. He doesn't need to bring someone
12 else in. He doesn't need some other guy that
13 comes into the situation and brings him into it.
14 He could just have him come there, go outside,
15 pull a gun on him, take his money and go from
16 there.

17 Ladies and Gentlemen, there is no way, like
18 I said, that his story makes sense. In order to
19 believe his story, you have to believe that a
20 man who has lost his wife, who wants to get to
21 probate court, who needs to get to probate court
22 drives up to a house. A guy comes out of the
23 house, doesn't say anything to him. He waits
24 there without saying anything to him whatsoever
25 while he goes back inside. While this is

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1 happening, he waits while he is inside and then
2 he comes back out. He still doesn't come --
3 instead of coming to his window to transact any
4 business, he still just sits there and he does
5 nothing but sit and wait while all of this
6 happens. It just doesn't make sense, Ladies and
7 Gentlemen. It just does not make sense.

8 Now, she talked about Trico not being there
9 when the police came. I'd love to say that he
10 should have stayed. I would love to say that he
11 should stay and tell his story and all would be
12 great and they would just let him go. But
13 Investigator Weiner told you, it wouldn't matter
14 if he had told his story or stayed around or
15 not. He was going to arrest him based upon the
16 statement of Mr. Thomas. Even with all the
17 inconsistencies that were there, if a citizen
18 comes in and says, hey, this guy did this to me,
19 the police don't sort through that. They arrest
20 him. They arrest everybody and let you figure
21 it out.

22 We all hope -- we all hope that you would
23 do your job and make sure that there is enough
24 evidence to actually convict someone before you
25 do it. You are the stop net. You are the

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1 safety valve. She's got her job. I've got my
2 job. But at the end of the day, you are the
3 protection. You are what keeps us all safe.
4 Because quite frankly, Ladies and Gentlemen, if
5 juries like you advocate your responsibility and
6 don't hold the State to the burden of proof that
7 it is required to meet under the Constitution,
8 then, quite frankly, we are all in trouble. All
9 of us.

10 Now, if you look at all the evidence in
11 this case, the judge has said something to you
12 at the very beginning of the trial. He said
13 reasonable doubt is enough to give a reasonable
14 person pause. So, let's think about what
15 evidence has been presented to you and determine
16 whether or not that is enough to give a
17 reasonable person pause.

18 Here, you have an individual, Mr. Thomas,
19 who has testified in his own words that he broke
20 the law for seven or eight years. Even after he
21 was convicted of a crime, he continued to do it.
22 He tells you one story. He tells the police two
23 or three others. There are all kinds of
24 inconsistencies in the story. The story in
25 itself does not make a whole lot of sense. And

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1 even Ms. Hodge realizes that. That is why she
2 discussed it with him. It doesn't make a whole
3 lot of sense.

4 The question is is that the kind of
5 testimony that we convict people of in this
6 country? Is that the kind of testimony that we
7 want to say justifies giving someone a criminal
8 record? Putting their liberty and their freedom
9 in danger? I submit, that it's not. I think if
10 you go back and you look through the evidence
11 and you hold the State to the burden that the
12 Constitution requires, you will come back and
13 you will find Mr. Ladson not guilty on all of
14 these charges. Thank you.

15 **THE COURT:** Okay. Ladies and Gentlemen,
16 we have come to the point in this trial where I
17 instruct you on the law. My instructions will
18 be somewhat lengthy. They will be in three
19 parts. First, instructions on the general rules
20 that define and control the jury's duties.
21 Second, the instructions that state the rules of
22 law you must apply, what the State must prove to
23 make his case. And thirdly, some rules for your
24 deliberations.

25 The general rules begin with your duties as

Jury Charge

1 jurors. It is your duty to find the facts from
2 all of the evidence in the case. To those
3 facts, you must apply the law as I give it to
4 you. You shall not be concerned with what the
5 law should be, but with what it is. You must
6 not be influenced by any personal likes or
7 dislikes, opinions, prejudices or undue
8 sympathy. That means, you must decide the case
9 solely on the evidence before you in accordance
10 with the law, the very thing you took an oath
11 promising to do at the beginning of the trial.
12 It's your responsibility and yours alone to
13 determine the facts in this case.

14 I will therefore charge you that, if,
15 during the course of this trial or during this
16 charge, you have been given or left with the
17 impression or feeling that I have a personal
18 feeling about the facts of this case or that I
19 favor one side or the other, I would
20 specifically instruct you to disregard that
21 impression. Under our Constitution, I'm not
22 allowed to have an opinion as to the facts of
23 the case. You should not be influenced by any
24 objections or the court's ruling. You and you
25 alone are the judges of the facts. You

Jury Charge

1 determine the facts by evaluating the weight and
2 the evidence that you heard during the trial.

3 What is evidence? Evidence is the sworn
4 testimony from witnesses and any exhibits that
5 have been entered into evidence. The statements
6 by the attorneys are not evidence. What they
7 have said in opening statements, closing
8 arguments and at other times are intended to
9 help you interpret the evidence, but it is not
10 evidence.

11 There are two types of evidence which are
12 generally presented during a trial, direct
13 evidence and circumstantial evidence. Direct
14 evidence directly proves the existence of a fact
15 and does not require a deduction.
16 Circumstantial evidence is proof of a chain of
17 facts and circumstances indicating the existence
18 of the fact.

19 Crimes may be proven by circumstantial
20 evidence. The law makes no distinction between
21 the weight or the value to be given to either
22 direct or circumstantial evidence. However, to
23 the extent the State relies on circumstantial
24 evidence, all the circumstances must be
25 consistent with each other and, when taken

1 together, point conclusively to the guilt of the
2 accused beyond a reasonable doubt. If the
3 circumstances merely portray the defendant's
4 behavior as suspicious, the proof has failed.

5 The State has the burden of proving the
6 defendant guilty beyond a reasonable doubt. The
7 burden rests with the State, regardless of
8 whether the State relies on direct evidence,
9 circumstantial evidence or some combination of
10 the two.

11 What is a reasonable doubt in the law? A
12 reasonable doubt is the kind of doubt that will
13 cause a reasonable person to hesitate to act.
14 Some of you may have served as jurors in civil
15 cases where you were told that it is only
16 necessary to prove that a fact is more likely
17 true than not true, such as by the greater
18 weight or preponderance of the evidence. In
19 criminal cases, the State's proof more powerful
20 than that. It must be beyond a reasonable
21 doubt. Proof beyond a reasonable doubt is proof
22 that leaves you firmly convinced of the
23 defendant's guilt.

24 There are very few things in this world
25 that we know with absolute certainty. In

Jury Charge

1 criminal cases, the law does not require proof
2 that overcomes every possible doubt. If, based
3 on your consideration of the evidence, you are
4 firmly convinced that the defendant is guilty of
5 the crimes charged, you must find the defendant
6 guilty. If, on the other hand, you think that
7 there is a real possibility that the defendant
8 is not guilty, you must give the defendant the
9 benefit of the doubt and find him not guilty.

10 A reasonable doubt may arise from the
11 evidence or from the lack of evidence. The
12 defendant is entitled to every reasonable doubt
13 that may arise in the case. If, upon any issue
14 of fact essential to a conviction of a verdict
15 of guilty of an offense, if you have any
16 reasonable doubt as to how that issue should be
17 resolved, it is your duty to resolve that doubt
18 in favor of the defendant.

19 Suspicion, however strong, is not enough to
20 sustain the conviction. The evidence presented
21 by the State must be substantial evidence that
22 tends to prove the guilt of the defendant beyond
23 a reasonable doubt.

24 As judges of the facts, you are the sole
25 judges of the credibility, that is, the

Jury Charge

1 believability of the witnesses who have
2 testified in this case. In determining their
3 credibility, you may take into consideration
4 many things, such as the appearance and manner
5 of the witness on the witness stand, sometimes
6 referred to as the demeanor of the witness, was
7 the witness able to see, hear or know the things
8 about which the witness testified, how well was
9 the witness was able to recall or describe those
10 things? Did the witness have a cause or reason
11 to be biased and prejudiced in favor of the
12 testimony he or she gave? How reasonable was
13 the witness' testimony considered in the light
14 of all the other evidence -- all of the evidence
15 in the case? Was a witness' testimony
16 contradicted by what the witness had said or
17 done at another time or by the testimony of
18 other witnesses or by other evidence? These are
19 some of the factors you may consider in deciding
20 whether to believe testimony.

21 As jurors, you have a right to believe all
22 of the testimony of a witness or none of the
23 testimony of a witness. You have a right to
24 believe a portion of the testimony of the
25 witness and discard the rest. You may believe

Jury Charge

1 the testimony of one witness over the many or
2 the many over the one. Most certainly, you do
3 not determine the matter of credibility or
4 believability by counting up the number of
5 witnesses who may have testified on behalf of
6 the parties in this case. Your sole objective
7 is to find the truth. It does not matter
8 whether the truth comes from a witness for the
9 State or a witness for the defendant.

10 The defendant has pled guilty -- has pled
11 not guilty to these indictments. That plea puts
12 the burden on the State to prove the defendant
13 guilty. A person charged with committing a
14 criminal offense is never required to prove
15 himself innocent. I charge you that it is an
16 important rule of law that a defendant in a
17 criminal trial, no matter what the seriousness
18 of the charge may be, will always be presumed to
19 be innocent of the crime for which the
20 indictment was issued, unless guilt has been
21 proven by evidence satisfying you of that guilt
22 beyond a reasonable doubt.

23 The presumption of innocence does not end
24 when you begin your deliberations, but it
25 accompanies the defendant throughout the trial

Jury Charge

1 until you reach a verdict of guilt based on
2 evidence satisfying you of that guilt beyond a
3 reasonable doubt. Presumption of innocence is
4 like a robe of righteousness placed about the
5 shoulders of the defendant which remains with
6 the defendant until it has been stripped from
7 the defendant by evidence satisfying you of the
8 defendant's guilt beyond a reasonable doubt.

9 The presumption of innocence is not mere
10 legal theory. It is not just a legal phrase.
11 It is a substantial right to which every
12 defendant is entitled unless you, the jury, are
13 satisfied from the evidence of the defendant's
14 guilt beyond a reasonable doubt.

15 In order to establish criminal liability,
16 criminal intent is required. For example, the
17 mental state required to be proven by the State
18 for a particular crime may be purpose, intent,
19 knowledge, recklessness or criminal negligence.
20 Criminal intent must be proven by the State
21 beyond a reasonable doubt. Criminal intent is
22 always a matter that must be determined by the
23 jury from circumstances surrounding the
24 situation.

25 There is no way to prove intent to a

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Jury Charge

1 mathematical medical certainty. There is no way
2 medical science can dissect a person's brain and
3 determine what the person had in mind. So the
4 law says that criminal intent may be inferred
5 from the circumstances shown to have existed.
6 This is how you make a determination of whether
7 or not the element requiring intent was present.
8 It is not necessary to establish intent by
9 direct and positive evidence, but intent may be
10 established by inference in the same way as any
11 other fact, by taking into consideration the
12 acts of the parties and all the facts and
13 circumstances of the case.

14 Criminal intent is a mental state, a
15 conscious wrongdoing. It is up to you to
16 determine what the defendant intended to do
17 based on the circumstances shown to have
18 existed. Criminal intent can arise from action
19 or a failure to act. It may arise from
20 negligence, recklessness or an indifference to
21 duty or consequences that is considered by the
22 law to be equivalent of criminal intent.

23 The indictments charge the defendant with
24 attempted murder, attempted armed robbery and
25 conspiracy. I remind you that the fact that the

Jury Charge

1 defendant was arrested, charged and indicted in
2 this case is not evidence in this case and
3 cannot be considered by you as evidence of guilt
4 in this case, nor does it create any presumption
5 or inference of guilt. These indictments are
6 simply the formal written instruments which
7 contain the charges made against the defendant.
8 It is the formal -- they are the formal
9 documents by which the cases are brought to
10 court.

11 I instruct you and emphasize that the fact
12 that the defendant did not testify is not a
13 factor to be considered by you in any way in
14 your deliberation and in your consideration on
15 the question of the guilt or innocence of a
16 defendant. It must not be considered by you in
17 any manner whatsoever. A defendant has a
18 constitutional right to remain silent, and the
19 assertion of this right must not be considered
20 by you in your deliberations.

21 I repeat, under your oath, you are to draw
22 no conclusion whatsoever from the fact that the
23 defendant in this case did not testify. The
24 fact that this defendant did not testify should
25 not even be discussed in the jury room. The

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Jury Charge

1 burden of proof, as I have stated to you, is on
2 the State. The defendant is not required to
3 prove his innocence. The burden of proof
4 remains on the State to prove guilt beyond a
5 reasonable doubt.

6 The indictments in this case allege several
7 different offenses against the defendant, Trico
8 Anthony Ladson. The charges are Indictment
9 2015-GS-23-3555, Attempted Armed Robbery,
10 Indictment 3556, Attempted Murder and Indictment
11 3557, Conspiracy. Each indictment charges a
12 separate and distinct offense. You must decide
13 each indictment separately on the evidence and
14 the law applicable to it, uninfluenced by your
15 decision as to any other indictment. The
16 defendant may be convicted or acquitted on any
17 or all of the offenses charged. You will be
18 asked to write a separate verdict of guilty or
19 not guilty for each indictment.

20 I remind you that the fact that the
21 defendant was arrested, charged and indicted in
22 this case is not evidence and cannot be
23 considered you as evidence of guilt, nor does it
24 create any presumption or guilt in this case.

25 The defendant is charged with Attempted

Jury Charge

1 Murder. In order to prove the crime, the State
2 must prove that the defendant attempted to kill
3 another person with malice aforethought, either
4 expressed or implied. Malice is hatred, ill
5 will or hostility towards another person. It is
6 the intentional doing of a wrongful act without
7 just cause or excuse and with an intent to
8 inflict an injury or under circumstances that
9 the law will infer an evil intent.

10 Malice aforethought does not require that
11 the malice exists for any particular time before
12 the act is committed, but malice must exist in
13 the mind of the defendant just before and at the
14 time the act is committed. Therefore, there
15 must be a combination of the previous evil
16 intent and the act.

17 Malice aforethought may be expressed or
18 inferred. The terms expressed or inferred do
19 not mean different kinds of malice but merely
20 the manner in which malice may be shown to
21 exist, that is, either by direct evidence or by
22 the inference of the facts and circumstances
23 which are proved. Expressed malice is shown
24 when a person speaks words which express hatred
25 or ill will for another when the person prepared

Jury Charge

1 beforehand to do the act which was later
2 accomplished. For example, lying in wait for a
3 person or any other acts of preparation going to
4 show that the deed was in the defendant's mind
5 would express malice.

6 Malice may be inferred from conduct showing
7 a total disregard for human life. Inferred
8 malice may also arise -- arrive -- arrive --
9 excuse me -- may arise when the deed is done
10 with a deadly weapon. A deadly weapon is any
11 article, instrument or substance which is likely
12 to cause death or great bodily harm. Whether an
13 instrument has been used as a deadly weapon
14 depends on the facts and circumstances of each
15 case.

16 The following are examples of instruments
17 which may be deadly weapons: a pistol, a
18 shotgun, rifle, a dirk, a dagger, a knife, a
19 slingshot, metal knuckles, a razor, gasoline, a
20 fire bomb or Molotov cocktail. A gun may be a
21 deadly weapon even if it does not operate.

22 If the facts are proven beyond a reasonable
23 doubt sufficient to raise an inference of malice
24 to your satisfaction, this inference would
25 simply be an evidentiary fact to be considered

Jury Charge

1 by you, the jury, along with all other evidence
2 in the case. And you may give it the weight you
3 decide it should receive.

4 A specific intent to commit murder is an
5 element of attempted murder. Intent means
6 intending the result which actually occurs, not
7 accidentally or involuntarily. Intent may be
8 shown by the acts and conduct of the defendant
9 and other circumstances from which you may
10 naturally and reasonably infer intent. Evidence
11 of character of the act, the character of the
12 instrument use, the manner in which it was used,
13 the purpose to be accomplished and the resulting
14 wounds or injuries may be considered in
15 determining the intent from which the act was
16 committed. Intent may also be inferred when it
17 is demonstrated that the defendant voluntarily
18 and willfully commits an act, the natural
19 tendency of which is to destroy another's life.

20 The defendant is charged with attempted
21 armed robbery. In order to prove this offense,
22 the State must first prove beyond a reasonable
23 doubt that the defendant attempted to take
24 personal property from the person or presence of
25 another person. Property is in the presence of

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Jury Charge

1 a person if it is within the person's reach,
2 inspection, observation or control so that the
3 person could, if not overcome with violence or
4 prevented by fear, keep possession of the
5 property.

6 The State must also prove beyond a
7 reasonable doubt that the defendant attempted to
8 carry the property away, intended to permanently
9 deprive the owner of the property and to keep
10 the property for the defendant's own use. The
11 slightest removal of the property or the
12 complete possession of the property, even for an
13 instance by the defendant, is sufficient to show
14 a taking and carrying away of the property. The
15 attempt and the carrying away of the property
16 must have been done with violence or by putting
17 the owner of the property in fear of violence.

18 Finally, the State must prove beyond a
19 reasonable doubt that the defendant was armed
20 with a deadly weapon during the attempted
21 robbery. A deadly weapon is any article,
22 instrument or substance which is likely to cause
23 death or great bodily harm. Whether an
24 instrument has been used as a deadly weapon
25 depends on the facts and circumstances of each

Jury Charge

1 case.

2 The defendant is charged with conspiracy.
3 The State must prove beyond a reasonable doubt
4 that the defendant combined with one or more
5 persons for the purpose of committing an
6 unlawful act or committing a lawful act by
7 unlawful means. There must be a mutual
8 understanding, agreement or common intention in
9 plan.

10 Mere passive knowledge of or consent to the
11 criminal conduct of another is not enough to
12 make a person a conspirator. There must be
13 guilty knowledge and participation. Similarly,
14 the mere fact that the defendant may have
15 associated with another person or met with
16 another person and discussed common aims or
17 interests does not necessarily establish proof
18 of the existence of a conspiracy or that the
19 defendant was involved in a conspiracy.

20 On the other hand, it is not necessary that
21 the agreement be a formal one, that it be in
22 writing, that the persons hold a meeting and
23 expressly state the terms of the common plan or
24 that the agreement be stated in words between
25 them. The agreement of criminal conspiracy may

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Jury Charge

1 come into being through an implied mutual
2 understanding. The willful, intentional and
3 knowing adoption by two or more persons of a
4 common plan is sufficient. No overt acts need
5 to be shown to establish conspiracy. Conspiracy
6 may be shown by circumstantial evidence and the
7 conduct of the parties. In order to convict the
8 defendant of conspiracy, the State must prove
9 beyond a reasonable doubt, not only that the
10 defendant knew of the unlawful conduct, but that
11 the defendant agreed to combine with the other
12 person for the purpose of accomplishing the
13 unlawful act.

14 If a crime is committed by two or more
15 people who are acting together in committing a
16 crime, the act of one is the act of all. A
17 person who joins with another to commit an
18 unlawful act is criminally responsible for
19 everything done by the other person which
20 happens as a probable or natural consequence of
21 the acts done in carrying out the common plan
22 and purpose.

23 Bear with me, Ladies and Gentlemen. Our
24 printer is not working. (Pause.)

25 If two or more people together, acting

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1 together, assisting each other committing the
2 offense, the act of one is the act of all or, as
3 it is sometimes said, the hand of one is the
4 hand of all. Prior knowledge that the crime is
5 going to be committed without more is not
6 sufficient to make another person guilty of that
7 crime.

8 Mere knowledge that another person is going
9 to commit a crime, even if the defendant is
10 present when the crime is committed, is not
11 sufficient to convict the defendant as a
12 principal. Guilt -- as a principal -- is shown
13 by actual or constructive presence at the scene
14 as a result of prior arrangement. Therefore, a
15 finding of a prior arranged plan or common
16 scheme is necessary for the finding of guilt as
17 a principal. The State must prove beyond a
18 reasonable doubt, by competent evidence, the
19 theory of the hand of one is the hand of all.

20 A principal in a crime is one who either
21 actually commits the crime or who is present,
22 aiding, abetting or assisting in committing the
23 crime. When a person does an act in the
24 presence of and with the assistance of another,
25 the act is done by both. Where two or more

Jury Charge

1 acting with the common plan or intent are
2 present at the commission of a crime, it does
3 not matter who actually commits the crime. All
4 are guilty. The hand of one is the hand of all.

5 Present at the commission of the means to
6 be sufficiently near to aid and abet and assist
7 in the commission of a crime. However, mere
8 presence at the scene of the crime is not
9 sufficient to convict one as a principal on the
10 theory of aiding and abetting. Intent is also a
11 necessary element for there must have been a
12 common design or intent to commit the crime, and
13 the crime must've been committed pursuant
14 thereto with the person aiding and abetting by
15 some overt act.

16 Intent means intending the result which
17 actually occurs, not accidentally or
18 involuntarily. Intent may be shown by acts and
19 conduct of the defendant and by other
20 circumstances from which you may naturally and
21 reasonably infer intent. The State must prove
22 these elements beyond a reasonable doubt.

23 Ladies and Gentlemen, we're almost to the
24 point where I send you to the jury room to begin
25 your deliberations. This has been a long

Jury Charge

1 instruction on the law. I appreciate your
2 attention and patience. I'm going to leave you
3 with some final thoughts.

4 You were chosen as jurors because both
5 sides believed that you could be fair and
6 impartial in deciding this case. I instruct you
7 to make use of your life experiences, your good
8 common sense and your sense of logic in
9 evaluating the evidence in this case. You're
10 not partisans or advocates for either side. You
11 have no friends to reward nor any enemies to
12 punish. You are the judges of the facts. Your
13 sole interest is to find the truth from the
14 evidence presented in this case.

15 Be courteous with one another. Listen to
16 the views of your fellow jurors. Take the
17 amount of time necessary for you to thoroughly
18 evaluate the evidence. This case is important
19 to both sides. This is their only day in court.

20 Mr. Foreman, I am going to go over the
21 verdict form with you. Your verdict form states
22 the caption of the case, and then it has it
23 broken down into three indictments: Attempted
24 Armed Robbery, Attempted Murder and Conspiracy.
25 Under each one, there are two boxes. One is

Jury Charge

1 guilty of the offense; the other is not guilty.
2 Place no significance on which order the choices
3 are on the page. One just simply had to go on
4 the page before the other. Once you have
5 reached a verdict, which must be unanimous --
6 you all must agree on the verdict -- you will
7 check the appropriate box on each indictment.
8 Again, there is a separate space for you to
9 check the box for each separate indictment.

10 Mr. Foreman, once you have reached a
11 verdict on these three indictments, you will
12 sign your name on the appropriate line here and
13 date it and knock on the door and let the
14 bailiff know. We will get you back into -- back
15 in the courtroom.

16 Now, I'm going to send you to the jury room
17 right now. Do not begin your deliberations
18 until I send the exhibits and the verdict form
19 back.

20 So, Madam Bailiff, take the jury please.

21 **(WHEREUPON,** the jury exits at approximately
22 3:10 p.m.)

23 **THE COURT:** Any exception to the charges
24 from the State?

25 **MS. HODGE:** No, Your Honor.

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Question of the Jury

1 **THE COURT:** Any from the defense?

2 **MR. GIBSON:** No, Your Honor.

3 **THE COURT:** Okay. Would the attorneys
4 come forward and make sure all the exhibits are
5 marked or that all the exhibits that have been
6 entered are ready to send back to the jury?
7 (Pause.)

8 Madam Bailiff, take those back to the jury
9 and instruct them that they may begin their
10 deliberations. Wait a minute. That is not been
11 -- we have all the exhibits then. Tell them
12 they may begin their deliberations.

13 All right. We will be in recess.

14 **(WHEREUPON,** the jury deliberation begins at
15 approximately 3:12 p.m.)

16 **(WHEREUPON,** the Court resumes at approximately
17 4:30 p.m.)

18 **THE COURT:** All right. I have received a
19 question from the jury. It states please
20 provide a copy of, and then it says South
21 Carolina's statute regarding conspiracy,
22 regarding attempted murder; please provide copy
23 of transcript of victim's testimony. Now, I
24 don't send the charges back to the jury room. I
25 will reread the charge on conspiracy and

Question of the Jury

1 attempted murder.

2 Certainly, we don't have a transcript of
3 the victim's testimony. We can replay that. I
4 spoke with the court reporter. That can be
5 done, but that is the only thing I know to do in
6 response to this question is just replay the
7 testimony.

8 **MS. HODGE:** Are you going to ask them if
9 that's what they want or you're just going to do
10 it?

11 **THE COURT:** I am just going to -- they
12 want a transcript. There is no transcript.
13 Sounds like they want to hear it. I mean, I can
14 ask them. I can ask the foreman to clarify what
15 they want. But based on what's written here, we
16 can not provide them with what they want.

17 **MS. HODGE:** Right.

18 **THE COURT:** Really, the only thing we can
19 provide them is what's in the record. His
20 testimony is the only thing that's in the record
21 at this point.

22 **MS. HODGE:** Okay.

23 **THE COURT:** I think that's just what we're
24 going to do is just replay the testimony. Okay.
25 All right.

Question of the Jury

1 **(WHEREUPON,** the jury enters at approximately
2 4:34 p.m.)

3 **THE COURT:** Ladies and Gentlemen of the
4 jury, I received your question in which you have
5 asked the Court please provide copy of South
6 Carolina statute regarding conspiracy, regarding
7 attempted murder. What I can do for you is to
8 reread the law on those two charges. That is
9 what I will do.

10 The other question, please provide a copy
11 of the transcript of victim's testimony. A
12 transcript is not available. We can replay the
13 victim's testimony for you to hear it, but there
14 is no written transcript available other than
15 testimony at this point. We will replay the
16 testimony that's in the record.

17 First, I will read you the law regarding
18 these two offenses that are mentioned in your
19 question. The defendant is charged with
20 conspiracy. The State must prove beyond a
21 reasonable doubt that the defendant combined
22 with one or more persons for the purpose of
23 committing an unlawful act or of committing a
24 lawful act by unlawful means. There must be a
25 mutual understanding, agreement, or common

Question of the Jury

1 intention in plan.

2 Mere passive knowledge of or consent to the
3 criminal conduct of another is not enough to
4 make a person a conspirator. There must be
5 guilty knowledge and participation. Similarly,
6 the mere fact that the defendant may have
7 associated with another person or met with
8 another person and discussed common aims and
9 interest does not necessarily establish proof of
10 the existence of a conspiracy or that the
11 defendant was involved in a conspiracy.

12 On the other hand, it is not necessary that
13 the agreement be a formal one, that it be in
14 writing, that the persons hold a meeting and
15 expressly state the terms of a common plan or
16 that the agreement be stated in words between
17 them. The agreement of a criminal conspiracy
18 may come into being through an implied mutual
19 understanding. The willful, intentional and
20 knowing adoption by two or more persons of a
21 common plan is sufficient. No overt acts need
22 to be shown to establish a conspiracy. A
23 conspiracy may be shown by circumstantial
24 evidence and the conduct of the parties.

25 In order to convict the defendant of

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1 conspiracy, the State must prove beyond a
2 reasonable doubt not only that the defendant
3 knew of the unlawful conduct, but that the
4 defendant agreed to combine with the other
5 person for the purpose of accomplishing the
6 unlawful act.

7 Now, the law regarding attempted murder is,
8 as follows: the defendant is charged with
9 attempted murder. In order to prove this crime,
10 the State must prove the defendant attempted to
11 kill another person with malice aforethought,
12 either expressed or implied.

13 Malice is hatred, ill will or hostility
14 towards another person. It is the intentional
15 doing of a wrongful act without just cause or
16 excuse and with an intent to inflict an injury
17 or other circumstance that the law will infer an
18 evil intent. Malice aforethought does not
19 require that the malice exists for any
20 particular time before the act is committed, but
21 malice must exist in the mind of the defendant
22 just before and at the time the act is
23 committed. Therefore, there must be a
24 combination of the previous evil intent and the
25 act.

Question of the Jury

1 Malice aforethought may be expressed or
2 inferred. The terms expressed or inferred do
3 not mean different kinds of malice, but merely
4 the manner in which the malice may be shown to
5 exist. That is either by direct evidence or by
6 inference from the facts and circumstances which
7 are proved.

8 Expressed malice to shown when a person
9 speaks words which express hatred or ill will
10 for another or when the person prepared
11 beforehand to do the act which was later
12 accomplished. For example, lying in wait for a
13 person or any other acts of preparation going to
14 show that the deed was within the defendant's
15 mind would be an expressed malice.

16 Malice may be inferred from conduct showing
17 a total disregard for human life. Inferred
18 malice may also arise when the deed is done with
19 a deadly weapon. A deadly weapon is any
20 article, instrument or substance which is likely
21 to cause death or great bodily harm. Whether an
22 instrument is used as a deadly weapon depends on
23 the facts and circumstances of each case.

24 The following are examples of instruments
25 which may be deadly weapons: a pistol, a

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1 shotgun, a rifle, a dirk, a dagger, a knife, a
2 slingshot, metal knuckles, a razor, gasoline, a
3 fire bomb or Molotov cocktail or lighter fluid.
4 A gun may be a deadly weapon even if it is not
5 operating.

6 If facts are proved beyond a reasonable
7 doubt sufficient to raise an inference of malice
8 to your satisfaction, this inference will simply
9 be an evidentiary fact to be considered by you,
10 the jury, along with other evidence in this
11 case. You may give it the weight you should --
12 you decide it should receive.

13 A specific intent to commit murder is an
14 element of attempted murder. Intent means
15 intending the result which actually occurs, not
16 accidentally or involuntarily. Intent may be
17 shown by acts and conduct of the defendant and
18 other circumstances from which you may naturally
19 and reasonably infer intent. Evidence of the
20 character of the act, the character of the
21 instrument used, the manner in which it was
22 used, the purpose to be accomplished and
23 resulting wounds or injuries may be considered
24 in determining the intent with which the act was
25 committed. Intent may also be inferred when it

Verdict

1 is demonstrated that the defendant voluntarily
2 and willfully commits an act, the natural
3 tendency of which is to destroy another's life.
4 That is the law on conspiracy and attempted
5 murder.

6 Now, we will replay the testimony of Mr.
7 Thomas.

8 (WHEREUPON, the entire testimony of the victim,
9 Mr. Leroy Thomas, is played.)

10 THE COURT: Okay. Ladies and Gentlemen,
11 that concludes that testimony. I'm going to
12 have you return to the jury room and resume your
13 deliberations. Thank you.

14 (WHEREUPON, the jury exits at approximately
15 5:20 p.m.)

16 THE COURT: We will go back in recess.

17 (WHEREUPON, jury deliberation continues from
18 approximately 5:22 p.m. to 6:28 p.m.)

19 (WHEREUPON, the Court resumes at approximately
20 6:30 p.m.)

21 THE COURT: I have been informed that we
22 have a verdict. Anything before we bring our
23 jury in from the State?

24 MS. HODGE: No, sir.

25 THE COURT: Anything from the defense?

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Verdict

1 **MR. GIBSON:** No, sir.

2 **THE COURT:** Bring our jury.

3 **(WHEREUPON,** the jury enters at approximately
4 6:32 p.m.)

5 **THE COURT:** Mr. Foreman, has the jury been
6 able to reach a verdict?

7 **THE JUROR:** Yes, we have, Your Honor.

8 **THE COURT:** Would you hand that verdict to
9 the bailiff?

10 **(WHEREUPON,** the verdict form is passed to the
11 Court.)

12 **THE COURT:** Okay. Madam clerk, will you
13 publish the verdict.

14 Mr. Ladson, will you stand, please?

15 **THE CLERK:** In the State of South Carolina
16 versus Trico Anthony Ladson, on the charge of
17 Attempted Armed Robbery, we, the jury
18 unanimously, find on Indictment Number 2015-GS-
19 23-3555, that the defendant, Trico Anthony
20 Ladson, is guilty of Attempted Armed Robbery.
21 On Attempted Murder, we, the jury, unanimously
22 find on Indictment Number 2015-GS-23-3556 that
23 the defendant, Trico Anthony Ladson, is not
24 guilty. On the Conspiracy, we, the jury,
25 unanimously find, on Indictment Number 2015-GS-

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1 23-3557, that the defendant, Trico Anthony
2 Ladson, is guilty of Conspiracy.

3 Ladies and Gentlemen of the jury, if you
4 agree that your -- the verdict you have reached,
5 please raise your right hand.

6 (WHEREUPON, each juror responds.)

7 THE COURT: Ladies and Gentlemen of the
8 jury, I thank you for your service. I know it's
9 been a long day. Jury service is a very
10 important part of our system. Without our
11 citizens being willing to serve as jurors, our
12 system could not function. I'm going to release
13 you at this point. You will refer to the --

14 Madam clerk, do you have a telephone
15 contact number -- or instruct them what they
16 need to do.

17 THE CLERK: Yes, they are released from
18 jury duty this week.

19 THE COURT: I neglected to ask, is there
20 anything else from the jury from the State?

21 MS. HODGE: Not from the State.

22 THE COURT: Anything from the defense?

23 MR. GIBSON: Nothing from the defense.

24 THE COURT: Thank you. Ladies and
25 Gentlemen, you are released. Thank you for your

Sentencing of the Court

1 service.

2 Mr. Foreman? Mr. Foreman, I need your
3 signature.

4 (WHEREUPON, the jury exits at approximately
5 6:35 p.m.)

6 THE COURT: Okay. Let's do this, let me
7 hear from the State and Mr. Ladson's record.
8 Uh, and then I want to hear from the victim, if
9 he wishes to say anything.

10 Then, Mr. Gibson, I will hear from you, and
11 if your client or any of his family members wish
12 to say anything.

13 MR. GIBSON: Yes, sir.

14 THE COURT: All right.

15 MS. HODGE: Yes, sir, Your Honor. As far
16 as prior record goes, in 2011, he had a Public
17 Disorderly Conduct and a Giving False
18 Information charge. He does have a charge
19 pending.

20 I don't know if you want to handle that at
21 another time or if that's going to be a separate
22 trial. I don't know.

23 MR. GIBSON: From what he tells me, I
24 think he might be willing to plea to a lesser
25 offense, but not the charge because there was no

Sentencing of the Court

1 meditation.

2 **MS. HODGE:** All right. Okay. All right.
3 We can talk about that when this was over.

4 **MR. GIBSON:** Okay.

5 **MS. HODGE:** I do have the file here. We
6 have not talked about that at all, Judge. I
7 apologize. As far as the State's position, we
8 have all along and Mr. Thomas has all along just
9 come to us just wanting to follow through, do
10 the right thing. I think he was nervous about
11 coming forward at first, but then realized this
12 could've been serious; it could've ended far
13 more differently.

14 As you can tell, he was afraid. He thought
15 that he might be killed during the course of
16 this incident, but he never has said that he
17 wanted any specific sentence or didn't have
18 anything other than just wanted to follow
19 through and make sure justice was done and not
20 just let this go by the wayside. I don't
21 believe that he wants to speak today in regard
22 to sentence.

23 These are his daughters and his son. We
24 briefly discussed that in the hall and just
25 leave it to the court's discretion as far as

1 sentencing goes. He did serve 19 days before
2 making bond. Your Honor has heard the facts of
3 the case. It could have turned out a lot worse
4 than it actually did.

5 **THE COURT:** Mr. Thomas, do you wish to
6 tell me anything?

7 **THE VICTIM:** No.

8 **THE COURT:** Okay. Thank you. All right.
9 Mr. Gibson?

10 **MR. GIBSON:** Thank you, Your Honor. Your
11 Honor, Trico is 23 years old. He has a ninth
12 grade education. He has one child who was just
13 born. The child is two weeks old. He was in
14 the process of getting ready to start a job with
15 his stepfather there. That may not be happening
16 now.

17 He has a minimal record, Your Honor. As
18 you have heard, he has two magistrate level
19 charges from 2011. He hasn't been in any other
20 trouble. There is a pending charge. It relates
21 to a fight that happened that involved his
22 father. He was charged with Assault and Mob
23 third degree. It should not be that. It should
24 be something less than that, probably a simple
25 assault and battery. Like I said, it was a

Sentencing of the Court

1 passionate thing like that. But he hasn't been
2 in any trouble since he got charged with that
3 offense; and that's been well over a year.

4 He has been consistent with me, Your Honor.
5 I would love to say he accepts responsibility in
6 this, but I don't know if I can really say it
7 because, quite frankly, Your Honor, I have
8 talked to him for over a year. Every time I
9 talked to him, he has been consistent that he
10 did not try to rob Mr. Thomas.

11 We accept the jury's verdict. I don't --
12 they took a long time. I think that -- I think
13 that speaks to the problems that they had with
14 the evidence or any residual doubts that they
15 had. I accept their verdict as it came out.

16 The question, Your Honor, is what do we do
17 with Mr. Ladson now. The charge that he has
18 been convicted of, the conspiracy, as you know,
19 carry 0 to 5 and the attempted armed robbery
20 carries 0 to 20. I don't -- I don't think that,
21 in this particular case, jail is going to make
22 him -- rehabilitate him or anything like that or
23 do anything positive other than derail what he
24 has been doing for the last year or so.

25 I leave it to the discretion of the Court.

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Sentencing of the Court

1 I ask the Court to be extremely merciful, as
2 merciful as it can. The Court has heard the
3 evidence. Even under the State's theory, Mr.
4 Ladson didn't have a gun. He didn't fire the
5 gun at Mr. Thomas. He just didn't do that.

6 He has a number of people here, Your Honor,
7 on his behalf, his father in the red in the
8 back, his uncle in the black jacket, his mother
9 in the purple, his friend whose name,
10 unfortunately, I do not know, in the red, and
11 his stepfather there who was getting him the
12 job. They do not want to speak. But they do
13 want the Court to know that they support him and
14 are asking the Court to be as merciful as
15 possible.

16 **THE COURT:** Okay. Mr. Ladson, anything
17 you'd like to tell me?

18 **MR. LADSON:** No, sir.

19 **THE COURT:** Mr. Gibson, you agree it's 19
20 days he's served?

21 **MR. GIBSON:** Yes, Your Honor.

22 (WHEREUPON, there is a pause.)

23 **THE COURT:** All right. I'm taking into
24 account the defendant's age. I'm taking into
25 account the lack of the significant criminal

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Sentencing of the Court

1 record as Mr. Ladson's lawyer has pointed out.
2 What you have on your record is not good, but
3 it's not as horrific a record that we see a lot
4 of times in this court. However, this is a very
5 serious offense. You are extremely fortunate
6 that the bullet that was fired didn't hit Mr.
7 Thomas. Extremely fortunate. This kind of
8 event changes lives. It changes the lives of
9 both the person charged, the people involved and
10 also the victim.

11 I'm very saddened to see this. I am
12 saddened to see a young man, like yourself, in
13 court. You've got your life ahead of you now
14 that you have got a child, but I have to take
15 into account the seriousness of this. Armed
16 robbery -- attempted armed robbery is a serious
17 offense.

18 So it would be the sentence of the Court,
19 2015-GS-23-03557, that the defendant be confined
20 to the State Department of Corrections for a
21 term of 10 years. That will be suspended on the
22 service of two years followed by probation for
23 five years, credit for 19 days time served.
24 Special conditions of probation will be
25 substance abuse counseling, drug -- random drug

1 and alcohol testing as directed, and obtaining
2 his GED.

3 Then, on 2015-GS-23-03556, the defendant is
4 confined to the Department of Corrections for a
5 period of five years suspended on the service of
6 two years followed by five years probation.
7 Credit for 19 days time served, random drug and
8 alcohol testing, substance abuse counseling as
9 directed, obtain GED as a condition of
10 probation. The charges will be run
11 concurrently.

12 Mr. Ladson, good luck to you. Use this to
13 turn your life around. You are going to get
14 out. Okay. You're gonna get out. You have a
15 child waiting on you. Use this as a reset
16 button. Get your life on track.

17 **MR. GIBSON:** Thank you very much, Your
18 Honor.

19 **MS. HODGE:** Thank you, Your Honor.

20 **(WHEREUPON,** the proceedings conclude at
21 approximately 6:47 p.m.)
22

CERTIFICATE

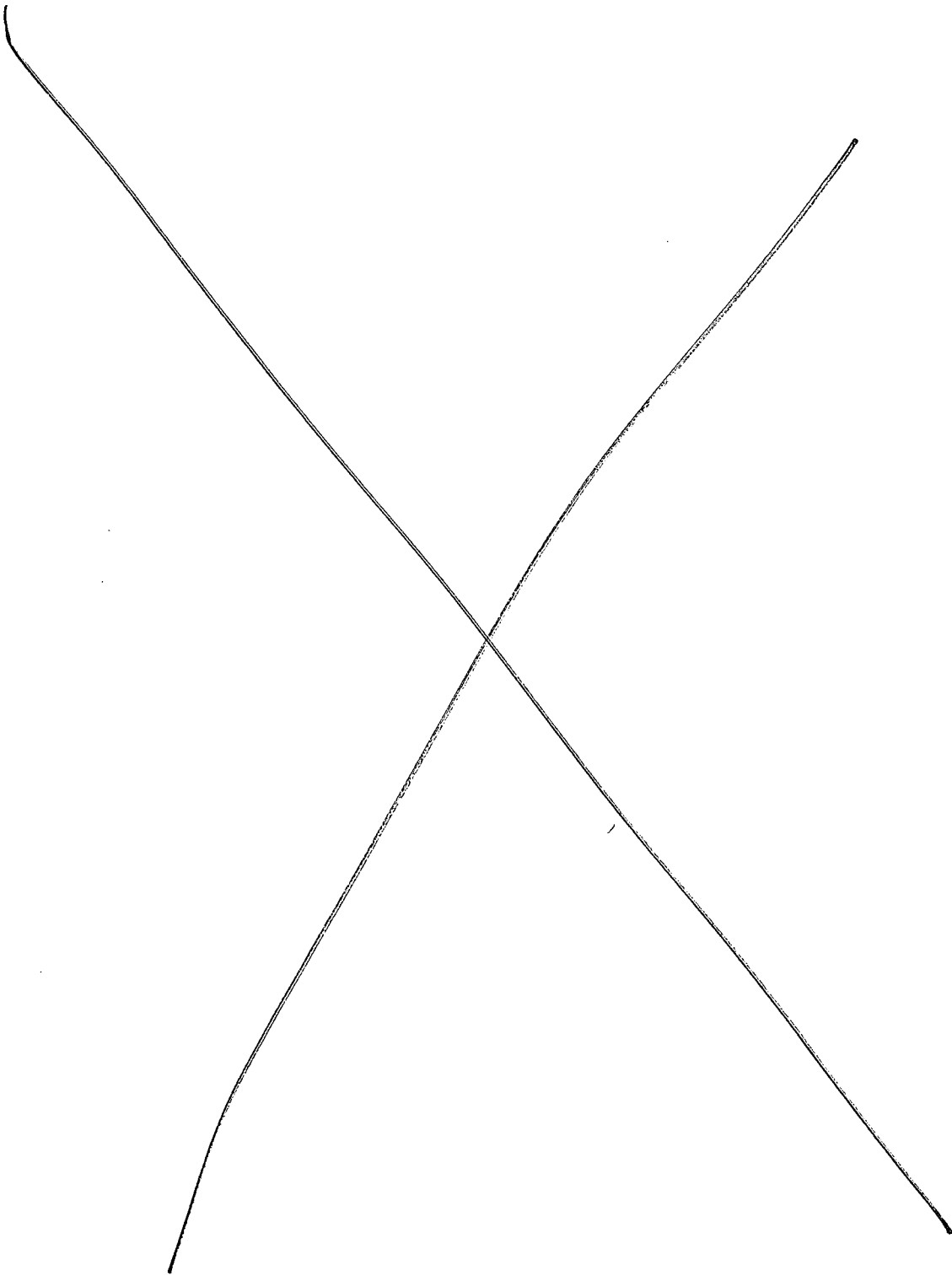
STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)

I, the undersigned, Teresa B. Johnson, Official Court Reporter for the Thirteenth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of all the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Court of General Sessions for Greenville, South Carolina, on this 15rd day of June, 2016.

I do further certify that I am neither of kin, counsel nor interest to any party hereto.

Teresa B. Johnson

Official Court Reporter



STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

TRICO LADSON 00365992

Plaintiff(s)

vs.

STATE OF SOUTH CAROLINA

Defendant(s)

Submitted By: William G. Yarborough, III

Address: 522 North Church Street
Greenville, SC 29601

IN THE COURT OF COMMON PLEAS

CIVIL ACTION COVERSHEET

2016-CP - 23- 02039

SC Bar #: 10271
Telephone #: (864)331-1612
Fax #: (864)370-0022
Other:
E-mail: wgyarborough@gmail.com

NOTE: The coversheet and information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is required for the use of the Clerk of Court for the purpose of docketing. It must be filled out completely, signed, and dated. A copy of this coversheet must be served on the defendant(s) along with the Summons and Complaint.

DOCKETING INFORMATION (Check all that apply)

**If Action is Judgment/Settlement do not complete*

- ☐ JURY TRIAL demanded in complaint. ☒ NON-JURY TRIAL demanded in complaint.
☐ This case is subject to ARBITRATION pursuant to the Court Annexed Alternative Dispute Resolution Rules.
☐ This case is subject to MEDIATION pursuant to the Court Annexed Alternative Dispute Resolution Rules.
☐ This case is exempt from ADR. (Proof of ADR/Exemption Attached)

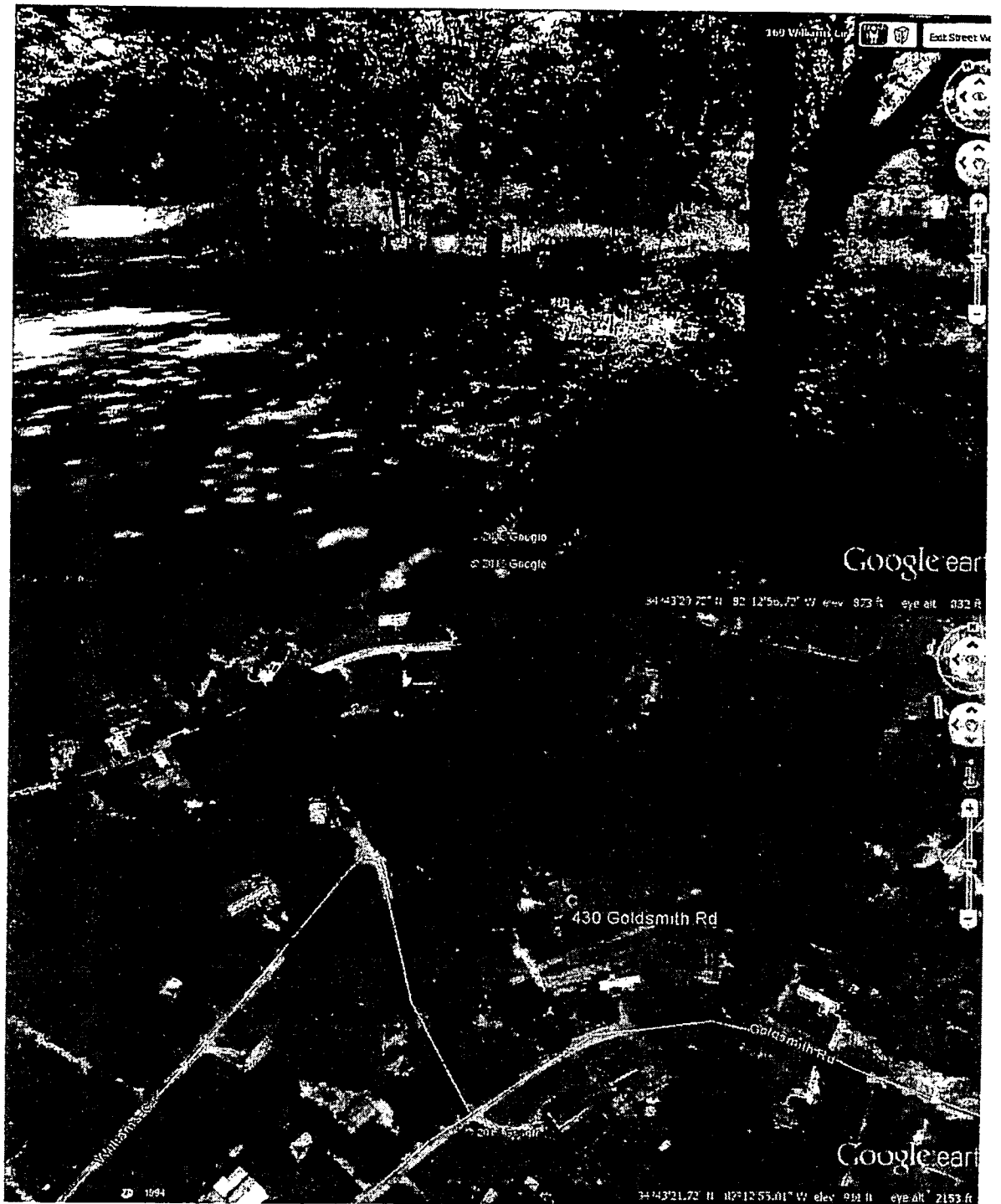
NATURE OF ACTION (Check One Box Below)

- | | | | |
|--|--|---|--|
| Contracts
☐ Constructions (100)
☐ Debt Collection (110)
☐ Employment (120)
☐ General (130)
☐ Breach of Contract (140)
☐ Other (199) | Torts - Professional Malpractice
☐ Dental Malpractice (200)
☐ Legal Malpractice (210)
☐ Medical Malpractice (220)
Previous Notice of Intent Case #
20 -NI- -
☐ Notice/ File Med Mal (230)
☐ Other (299) | Torts - Personal Injury
☐ Assault/Slander/Libel (300)
☐ Conversion (310)
☐ Motor Vehicle Accident (320)
☐ Premises Liability (330)
☐ Products Liability (340)
☐ Personal Injury (350)
☐ Wrongful Death (360)
☐ Other (399) | Real Property
☐ Claim & Delivery (400)
☐ Condemnation (410)
☐ Foreclosure (420)
☐ Mechanic's Lien (430)
☐ Partition (440)
☐ Possession (450)
☐ Building Code Violation (460)
☐ Other (499) |
| Inmate Petitions
☒ PCR (500)
☐ Mandamus (520)
☐ Habeas Corpus (530)
☐ Other (599) | Administrative Law/Relief
☐ Reinstate Drv. License (800)
☐ Judicial Review (810)
☐ Relief (820)
☐ Permanent Injunction (830)
☐ Forfeiture-Petition (840)
☐ Forfeiture-Consent Order (850)
☐ Other (899) | Judgments/Settlements
☐ Death Settlement (700)
☐ Foreign Judgment (710)
☐ Magistrate's Judgment (720)
☐ Minor Settlement (730)
☐ Transcript Judgment (740)
☐ Lis Pendens (750)
☐ Transfer of Structured Settlement Payment Rights Application (760)
☐ Confession of Judgment (770)
☐ Petition for Workers Compensation Settlement Approval (780)
☐ Other (799) | Appeals
☐ Arbitration (900)
☐ Magistrate-Civil (910)
☐ Magistrate-Criminal (920)
☐ Municipal (930)
☐ Probate Court (940)
☐ SCDOT (950)
☐ Worker's Comp (960)
☐ Zoning Board (970)
☐ Public Service Comm. (990)
☐ Employment Security Comm (991)
☐ Other (999) |
| Special/Complex /Other
☐ Environmental (600)
☐ Automobile Arb. (610)
☐ Medical (620)
☐ Other (699) | ☐ Pharmaceuticals (630)
☐ Unfair Trade Practices (640)
☐ Out-of State Depositions (650)
☐ Motion to Quash Subpoena in an Out-of-County Action (660)
☐ Sexual Predator (510) | | |

Submitting Party Signature: William G. Yarborough

Date: 03/28/16

Note: Frivolous civil proceedings may be subject to sanctions pursuant to SCRCP, Rule 11, and the South Carolina Frivolous Civil Proceedings Sanctions Act, S.C. Code Ann. §15-36-10 et. seq.



FORM 5

STATE OF SOUTH CAROLINA)

COUNTY OF GREENVILLE)

Trico Ladson 00365992)

Full name and prison number (if any) of Applicant.)

v.)

State of South Carolina)

IN THE COURT OF COMMON PLEAS

2016-CP-23- 02039

APPLICATION FOR

POST-CONVICTION RELIEF

INSTRUCTIONS - READ CAREFULLY

In order for this application to receive consideration by the Court, it shall be in writing (legibly handwritten or typewritten), signed by the applicant and verified (notarized), and it shall set forth in concise form the answers to each applicable question. If necessary, applicant may furnish his answer to a particular question on the reverse side of the page or on an additional page. Applicant shall make clear to which question any such continued answer refers.

Since every application must be sworn under oath, any false statement of a material fact therein may serve as the basis of prosecution and conviction for perjury. Applicants should, therefore, exercise care to assure that all answers are true and correct.

If the application is taken in forma pauperis, it shall include an affidavit (attached at the back of the form) setting forth information which establishes that applicant will be unable to pay the fees and costs of the proceedings. When the application is completed, the original shall be mailed to the Clerk of Court for the County in which the applicant was convicted.

1. Place of detention Wateree River Correctional Institute
2. Name and location of Court which imposed sentence Greenville General Sessions
3. Name(s) of co-defendant(s) (if any) None
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 - (a) 2015GS2303555
 - (b) 2015GS2303556
 - (c) 2015GS2303557
5. The date upon which sentence was imposed and the terms of the sentence:
 - (a) 11/04/2015 10 yrs susp 2 yrs bal susp 5 yrs prob
 - (b) _____

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- (c) _____
6. Check whether a finding of guilty was made:
- (a) after a plea of guilty _____
- (b) after a plea of not guilty X
- (c) after a plea of nolo contendere _____
7. Did you appeal from the judgment of conviction or the imposition of sentence?
No
8. If you answered "yes" to (7), list:
- (a) the name of each Court to which you appealed:
- i. _____
- ii. _____
- iii. _____
- (b) the result in each such Court to which you appealed:
- i. _____
- ii. _____
- iii. _____
- (c) the date of each such result:
- i. _____
- ii. _____
- iii. _____
- (d) if known, citations of any written opinion or orders entered pursuant to such results:
- i. _____
- ii. _____
- iii. _____
9. If you answered "no" to (7), state your reasons for not so appealing:
- (a) defense attorney failed to file Notice of Intent to Appeal within 10 days despite my insistence that I was not guilty of the charges.
- (b) _____
- (c) _____
10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:

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- (a) ineffective assistance of counsel
- (b) _____
- (c) _____
11. State concisely and in the same order the facts which support each of the grounds set out in (10):
- (a) See attachment 11(a)
- (b) _____
- (c) _____
12. Prior to this application have you filed with respect to this conviction:
- (a) any petition in a State Court under South Carolina Law? No
- (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? No
- (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? No
- (d) any other petitions, motions or applications in this or any other Court? No
13. If you answered "yes" to any part of (12), list with respect to each petition, motion or application:
- (a) the specific nature thereof:
- i. _____
- ii. _____
- iii. _____
- iv. _____
- (b) the name and location of the Court in which each was filed:
- i. _____
- ii. _____
- iii. _____
- iv. _____
- (c) the disposition thereof:
- i. _____
- ii. _____
- iii. _____

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iv. _____

(d) the date of each such disposition:

i. _____

ii. _____

iii. _____

iv. _____

(e) if known, citations of any written opinions or orders entered pursuant to each such disposition:

i. _____

ii. _____

iii. _____

iv. _____

14. Has any ground set forth in (10) been previously presented to this or any other Court, State or Federal, in any petition, motion or application which you have filed?

No

15. If you answered "yes" to (14) identify:

(a) which grounds have been presented:

i. _____

ii. _____

iii. _____

(b) the proceedings in which each ground was raised:

i. _____

ii. _____

iii. _____

16. If any ground set forth in (10) has not previously been presented to any Court, State or Federal, set forth the ground and state concisely the reasons why such ground has not previously been presented:

(a) presented as soon as practical

(b) _____

(c) _____

17. Were you represented by an attorney at any time during the course of:

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Revised 3/2003

- (a) your arraignment and plea? Yes
- (b) your trial, if any? Yes
- (c) your sentencing? Yes
- (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? n/a
- (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? n/a

18. If you answered "yes" to one or more parts of (17), list:

- (a) the name and address of each attorney who represented you:
 - i. Kenneth Clifton Gibson P.O. Box 5536 Greenville, SC 29606-5536
 - ii. _____
 - iii. _____
- (b) the proceedings at which each such attorney represented you:
 - i. arraignment & plea, trial & sentencing
 - ii. _____
 - iii. _____

19. State clearly the relief you seek in filing this application:

I request a White v. State belated direct appeal

20. Are you now under sentence from any other court that you have not challenged?

No

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STATE OF SOUTH CAROLINA

County of Sumter

VERIFICATION

I, Trico Ladson, being duly sworn upon my oath, depose and say that I have subscribed to the foregoing application; that I know the contents thereof; that it includes every ground known to me for vacating, setting aside or correcting the conviction and sentence attacked in this application; and that the matters and allegations therein set forth are true.

5/ Trico Ladson

by attorney

William D. Yorkborough

SWORN to and subscribed before me this 28
day of March, 2016.

Thomas Flahive
Notary Public

(L.S.)

My Commission Expires: 4/9/24

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ATTACHMENT 11A

Questions about the prosecution of Trico Ladson

The nature of the charges against Mr. Ladson (Attempted Murder, Attempted Armed Robbery and Criminal Conspiracy) despite any substantial evidence suggests the charges were motivated by the prosecution to get Mr. Ladson to admit to his involvement *had he been involved*. These charges were also used to try to get Mr. Ladson to admit to involvement by the offer of a plea deal. Mr. Ladson refused and decided to take his chances with a jury citing his innocence. The lack of evidence suggests the prosecutor should have reviewed the case before trial, realized the charges were intended to discover Mr. Ladson's possible involvement, that the effort had been unsuccessful and in light of the lack of evidence declined to move forward to trial. Mr. Ladson advises he was not asked to provide a statement by law enforcement.

There were essentially only three persons involved in this case.

1. The intended victim who was engaged in selling sports gaming tickets. Upon request by telephone, he typically drove his vehicle to the customer's location to consummate cash sales.
2. The defendant who called the victim to request the purchase sports gaming tickets.
3. An unidentified attempted robber who attempted to rob the victim in the presence of the defendant.

The defense attorney Mr. Ken Gibson did not allow the defendant to testify in his own defense, did not call a single witness (presented no defense phase). Since he opted not to allow the defendant to testify in his own defense, he alone was responsible for telling the defendants side of the story. He not only did not do so, he did not appear to remember the defendant's side of the story nor did he know anything about the scene of the crime. Immediately before the trial commenced, he asked the defendant to describe the area in which the attempted robbery occurred.

Since defense counsel did not allow the defendant to testify in his own behalf and the would be robber's identity is unknown, the only witness who provided relevant testimony was the intended victim.

Mr. Ladson's counsel had the task of

1. Explaining how the attempted robbery occurred without the involvement of Mr. Ladson. Although it would have taken little effort, he failed to do so.
2. By his cross examination of the victim, demonstrate that the victim had no real evidence on which to base his belief that the defendant was involved. He did not do so.
3. The victim should have been questioned extensively about the cash nature of his business and the risk of armed robbery. Specifically he should have been asked about how he mitigated the risk of armed robbery. This line of questioning would have led to the victim pointing out the importance of not allowing a potential robber to follow him

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without his notice. This point should have been clearly established and culminated in an admission on the part of the victim that he prided himself in not being followed without his notice. This is critical because his pride in not allowing himself to be followed would explain his insistence, without evidence, that the defendant must have tipped off the would-be robber. If the victim did not volunteer it, he should have been questioned about what a potential robber would be looking for in terms of opportunity. He should have been questioned extensively about what kind of opportunity a potential robber would be seeking. Using prompting as necessary, it should have been established that a potential robber would be looking for a location in which he could commit the robbery without a potential witness identifying him or his vehicle. An aerial view (as provided by Goggle Earth) should have been introduced to show the environment around Goldsmith Road.

4. If the victim testified he sometimes felt some vulnerability due to a client knowing his location near a specific time, he should have been required to admit that this consideration was present with almost each transaction regardless of location. He should have been asked if this was normally a serious consideration if the location provided little or no possibility for a robber to conceal his vehicle (in addition to his face) from view of any potential witnesses.

Questions about the defense of Trico Ladson

- I. Before trial
 1. Did counsel have a responsibility of obtaining the phone records of the defendant which could have been presented as exculpatory? He did not do so.
 2. Did counsel have the responsibility to visit and analyze the scene of the crime to determine if the location itself was responsible for the crime taking place there without the aid of the defendant? He apparently did not do so.
 3. Did counsel familiarize himself with the thinking and motivation of the defendant during the commission of the attempted robbery? At trial, he did not appear to remember that the defendant had stated that he was trying to assist the victim to his feet on the two occasions the intended victim fell down.
- II. At trial
 1. Was it the responsibility of defense counsel to file a motion for a directed verdict of not guilty for lack of evidence after the prosecution closed its case? He did not do so.
 2. Did defense council stress to the jury that the number of people who knew the victim carried large amounts of cash was larger than might be imagined? Was it not the responsibility of defense counsel to point out that the number of people who were aware that the victim carried large amounts of cash was increased by those who mentioned it to others? Did this circle of people not also include those people who simply knew the business of the victim involved cash transactions

ATTACHMENT 11A

- exclusively? Did he mention that the size of this circle of people would be impossible to determine but could conceivably number one hundred persons or more? Could this have been accomplished during cross examination of the intended victim by asking him leading questions about the potentially large number of people who knew he carried large amounts of cash? He did not do so.
3. Was it not the responsibility of defense council to point out the likely thinking processes of a potential robber? Should he not have pointed out that a potential robber would likely follow the victim in a motor vehicle to identify a location that would permit the robber to execute the robbery without the victim driving away or the robber giving away his personal identity or that of his vehicle to any potential witnesses? Could this have been accomplished during cross examination of the intended victim by asking leading questions about a potential robber likely following him in search of an ideal location?
 4. Was it not the responsibility of defense council to point out that a potential robber may have previously followed the victim to this location on a number of occasions as the intended victim visited Goldsmith many times in the conduct of his business? Could this have been accomplished during cross examination of the intended victim by asking about how many times he had visited Goldsmith during the last month or 3 months?
 5. Was it not the responsibility of defense council to point out the features of the location which make it the most desirable location imaginable in which to rob the victim?
 - a. The location is at the end of a long driveway with no exit or circle to change direction to exit and the robbery location is not visible from Goldsmith Road or any nearby house.
 - b. The driveway has neither exit nor circle in which to reverse direction. Reversing direction requires heading into an area then backing to reverse direction. This makes it impossible for a victim to escape a robbery by suddenly driving away.
 - c. The driveway is parallel to very nearby, little used Williams Circle. This end of Williams Circle has no house between Goldsmith Road and the sharp bend beyond. (See Google Earth) A vehicle parked on this area of Williams Circle is not likely to be seen by anyone yet is only a short distance (less than 50 yards) through the wooded area to the home at Goldsmith Road. Counsel did not give any indication he knew anything at all about the location.
 6. Did defense council not have the responsibility of suggesting to the jury that the features of this location were 100% responsible for the robber's decision to commit the robbery at this location, that the robber might have previously followed the victim to this location and did not likely know Mr. Ladson?

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7. With respect to the behavior of Trico Ladson, was defense counsel not responsible for either allowing the defendant to testify in his own defense or raising the possibility that the defendant thought the intended victim had been shot and twice tried to help him to his feet after he fell? For example defense counsel might have asked: "So you fell out of your truck almost immediately after the shot was fired near your head? Did it occur to you Mr. Ladson might have wondered if you had been hit by the gunshot when he attempted to help you to your feet?" Unfortunately, defense council apparently had forgotten Mr. Ladson's account of the event and his thinking at the time.
8. With respect to a brief tussle between the victim and the defendant, did defense council not have the responsibility of pointing out that the victim was over 70 years of age and about 5'6" tall and Mr. Ladson was 20 years old, about 5'10" and had amateur boxing experience? Did counsel not have the responsibility of pointing out that the intended victim testified he pulled the defendant's hair and bit him and that this indicates a lack of aggressive behavior on the part of the much more physically capable defendant?
9. With respect to the fact that Mr. Ladson left the premises before law enforcement arrived, did defense counsel not have the responsibility of pointing out that the defendant was frightened by the behavior of the intended victim who made it clear he suspected Mr. Ladson was part of a conspiracy to rob him? Did defense counsel not have the responsibility of pointing out Mr. Ladson did not flee to avoid arrest and he was arrested several days later at his home, the location of the attempted robbery?

III. After Trial

1. Defense Counsel failed to file Notice of Appeal within the (10) ten days.

STATE OF SOUTH CAROLINA

COUNTY OF

Trico Ladson
SCDC# 00365992

Plaintiff(s)

vs.

State of South Carolina Defendant(s)

Submitted By: William G. Yarborough

Address: 522 N. Church St.
Greenville, S.C. 29601

IN THE COURT OF COMMON PLEAS

CIVIL ACTION COVERSHEET

2016 -CP-23-02039

SC Bar #: 10271

Telephone #: 864-331-1612

Fax #: 864-370-0022

Other:

E-mail: wgyarborough@gmail.com

NOTE: The coversheet and information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is required for the use of the Clerk of Court for the purpose of docketing. It must be filled out completely, signed, and dated. A copy of this coversheet must be served on the defendant(s) along with the Summons and Complaint.

DOCKETING INFORMATION (Check all that apply)

*If Action is Judgment/Settlement do not complete

- ☐ JURY TRIAL demanded in complaint. ☐ NON-JURY TRIAL demanded in complaint.
☐ This case is subject to ARBITRATION pursuant to the Court Annexed Alternative Dispute Resolution Rules.
☐ This case is subject to MEDIATION pursuant to the Court Annexed Alternative Dispute Resolution Rules.
☐ This case is exempt from ADR. (Proof of ADR/Exemption Attached)

NATURE OF ACTION (Check One Box Below)

- | | | | |
|--|--|---|--|
| Contracts
☐ Constructions (100)
☐ Debt Collection (110)
☐ Employment (120)
☐ General (130)
☐ Breach of Contract (140)
☐ Other (199) | Torts - Professional Malpractice
☐ Dental Malpractice (200)
☐ Legal Malpractice (210)
☐ Medical Malpractice (220)
Previous Notice of Intent Case #
20 -NI- -
☐ Notice/ File Med Mal (230)
☐ Other (299) | Torts - Personal Injury
☐ Assault/Slander/Libel (300)
☐ Conversion (310)
☐ Motor Vehicle Accident (320)
☐ Premises Liability (330)
☐ Products Liability (340)
☐ Personal Injury (350)
☐ Wrongful Death (360)
☐ Other (399) | Real Property
☐ Claim & Delivery (400)
☐ Condemnation (410)
☐ Foreclosure (420)
☐ Mechanic's Lien (430)
☐ Partition (440)
☐ Possession (450)
☐ Building Code Violation (460)
☐ Other (499) |
| Inmate Petitions
☒ PCR (500) Amended
☐ Mandamus (520)
☐ Habeas Corpus (530)
☐ Other (599) | Administrative Law/Relief
☐ Reinstate Drv. License (800)
☐ Judicial Review (810)
☐ Relief (820)
☐ Permanent Injunction (830)
☐ Forfeiture-Petition (840)
☐ Forfeiture-Consent Order (850)
☐ Other (899) | Judgments/Settlements
☐ Death Settlement (700)
☐ Foreign Judgment (710)
☐ Magistrate's Judgment (720)
☐ Minor Settlement (730)
☐ Transcript Judgment (740)
☐ Lis Pendens (750)
☐ Transfer of Structured Settlement Payment Rights Application (760)
☐ Confession of Judgment (770)
☐ Petition for Workers Compensation Settlement Approval (780)
☐ Other (799) | Appeals
☐ Arbitration (900)
☐ Magistrate-Civil (910)
☐ Magistrate-Criminal (920)
☐ Municipal (930)
☐ Probate Court (940)
☐ SCDOT (950)
☐ Worker's Comp (960)
☐ Zoning Board (970)
☐ Public Service Comm. (990)
☐ Employment Security Comm (991)
☐ Other (999) |
| Special/Complex /Other
☐ Environmental (600)
☐ Automobile Arb. (610)
☐ Medical (620)
☐ Other (699) | ☐ Pharmaceuticals (630)
☐ Unfair Trade Practices (640)
☐ Out-of State Depositions (650)
☐ Motion to Quash Subpoena in an Out-of-County Action (660)
☐ Sexual Predator (510) | | |

Submitting Party Signature:

William G. Yarborough

Date:

5/31/16

Note: Frivolous civil proceedings may be subject to sanctions pursuant to SCRCF, Rule 11, and the South Carolina Frivolous Civil Proceedings Sanctions Act, S.C. Code Ann. §15-36-10 et. seq.

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Aiken, Allendale, Anderson, Bamberg, Barnwell, Beaufort, Berkeley, Calhoun, Charleston, Cherokee, Clarendon, Colleton, Darlington, Dorchester, Florence, Georgetown, Greenville, Hampton, Horry, Jasper, Kershaw, Lee, Lexington, Marion, Oconee, Orangeburg, Pickens, Richland, Spartanburg, Sumter, Union, Williamsburg, and York

SUPREME COURT RULES REQUIRE THE SUBMISSION OF ALL CIVIL CASES TO AN ALTERNATIVE DISPUTE RESOLUTION PROCESS, UNLESS OTHERWISE EXEMPT.

You are required to take the following action(s):

1. The parties shall select a neutral and file a "Proof of ADR" form on or by the 210th day of the filing of this action. If the parties have not selected a neutral within 210 days, the Clerk of Court shall then appoint a primary and secondary mediator from the current roster on a rotating basis from among those mediators agreeing to accept cases in the county in which the action has been filed.
2. The initial ADR conference must be held within 300 days after the filing of the action.
3. Pre-suit medical malpractice mediations required by S.C. Code §15-79-125 shall be held not later than 120 days after all defendants are served with the "Notice of Intent to File Suit" or as the court directs. (Medical malpractice mediation is mandatory statewide.)
4. Cases are exempt from ADR only upon the following grounds:
 - a. Special proceeding, or actions seeking extraordinary relief such as mandamus, habeas corpus, or prohibition;
 - b. Requests for temporary relief;
 - c. Appeals
 - d. Post Conviction relief matters;
 - e. Contempt of Court proceedings;
 - f. Forfeiture proceedings brought by governmental entities;
 - g. Mortgage foreclosures; and
 - h. Cases that have been previously subjected to an ADR conference, unless otherwise required by Rule 3 or by statute.
5. In cases not subject to ADR, the Chief Judge for Administrative Purposes, upon the motion of the court or of any party, may order a case to mediation.
6. Motion of a party to be exempt from payment of neutral fees due to indigency should be filed with the Court within ten (10) days after the ADR conference has been concluded.

**Please Note: You must comply with the Supreme Court Rules regarding ADR.
Failure to do so may affect your case or may result in sanctions.**

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FORM 5

STATE OF SOUTH CAROLINA)

COUNTY OF GREENVILLE)

Trico Ladson, 00365992)

Full name and prison number (if any) of Applicant.)

v.)

State of South Carolina)

IN THE COURT OF COMMON PLEAS

AMENDED
APPLICATION FOR

POST-CONVICTION RELIEF

INSTRUCTIONS - READ CAREFULLY

In order for this application to receive consideration by the Court, it shall be in writing (legibly handwritten or typewritten), signed by the applicant and verified (notarized), and it shall set forth in concise form the answers to each applicable question. If necessary, applicant may furnish his answer to a particular question on the reverse side of the page or on an additional page. Applicant shall make clear to which question any such continued answer refers.

Since every application must be sworn under oath, any false statement of a material fact therein may serve as the basis of prosecution and conviction for perjury. Applicants should, therefore, exercise care to assure that all answers are true and correct.

If the application is taken in forma pauperis, it shall include an affidavit (attached at the back of the form) setting forth information which establishes that applicant will be unable to pay the fees and costs of the proceedings. When the application is completed, the original shall be mailed to the Clerk of Court for the County in which the applicant was convicted.

1. Place of detention Wateree River Correctional Institute
2. Name and location of Court which imposed sentence 13th Judicial Circuit, Greenville County, SC
3. Name(s) of co-defendant(s) (if any) N/A
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 - (a) 2013A2330210320
 - (b) 2013A2330210322
 - (c)
 - (d)
5. The date upon which sentence was imposed and the terms of the sentence:

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Revised 3/2003

- (a) 11/04/2015 10 years suspended, 2 years bal susp 5 years prob
- (b)
- (c)
6. Check whether a finding of guilty was made:
- (a) after a plea of guilty _____
- (b) after a plea of not guilty X
- (c) after a plea of nolo contendere _____
7. Did you appeal from the judgment of conviction or the imposition of sentence?
No
8. If you answered "yes" to (7), list:
- (a) the name of each Court to which you appealed:
- i. _____
- ii. _____
- iii. _____
- (b) the result in each such Court to which you appealed:
- i. _____
- ii. _____
- iii. _____
- (c) the date of each such result:
- i. _____
- ii. _____
- iii. _____
- (d) if known, citations of any written opinion or orders entered pursuant to such results:
- i. _____
- ii. _____
- iii. _____
9. If you answered "no" to (7), state your reasons for not so appealing:
- (a) Counsel failed to file Notice of Intent to Appeal within 10 days even though I insisted I was not guilty of the charges.
- (b) _____

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- (c) _____
10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:
- (a) Trial counsel denied Applicant his constitutional right to testify in his own defense.
- (b) Trial counsel rendered ineffective assistance of counsel by failing to remedy severe factual inconsistencies in the victim's testimony.
- (c) Trial counsel rendered ineffective assistance of counsel by failing to use the victim's police statement to impeach him.
- (d) Trial counsel rendered ineffective assistance of counsel by failing to investigate and call witnesses.
11. State concisely and in the same order the facts which support each of the grounds set out in (10):
- (a) Trial counsel did not let Applicant testify even though Applicant relayed to trial counsel his decision to testify in his own defense.
- (b) See attachment.
- (c) See attachment.
- (d) See attachment.
12. Prior to this application have you filed with respect to this conviction:
- (a) any petition in a State Court under South Carolina Law? No
- (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? No
- (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? No
- (d) any other petitions, motions or applications in this or any other Court? No
13. If you answered "yes" to any part of (12), list with respect to each petition, motion or application:
- (a) the specific nature thereof:
- i. _____
- ii. _____
- iii. _____
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iv. _____

(b) the name and location of the Court in which each was filed:

i. _____

ii. _____

iii. _____

iv. _____

(c) the disposition thereof:

i. _____

ii. _____

iii. _____

iv. _____

(d) the date of each such disposition:

i. _____

ii. _____

iii. _____

iv. _____

(e) if known, citations of any written opinions or orders entered pursuant to each such disposition:

i. _____

ii. _____

iii. _____

iv. _____

14. Has any ground set forth in (10) been previously presented to this or any other Court, State or Federal, in any petition, motion or application which you have filed?

No

15. If you answered "yes" to (14) identify:

(a) which grounds have been presented:

i. _____

ii. _____

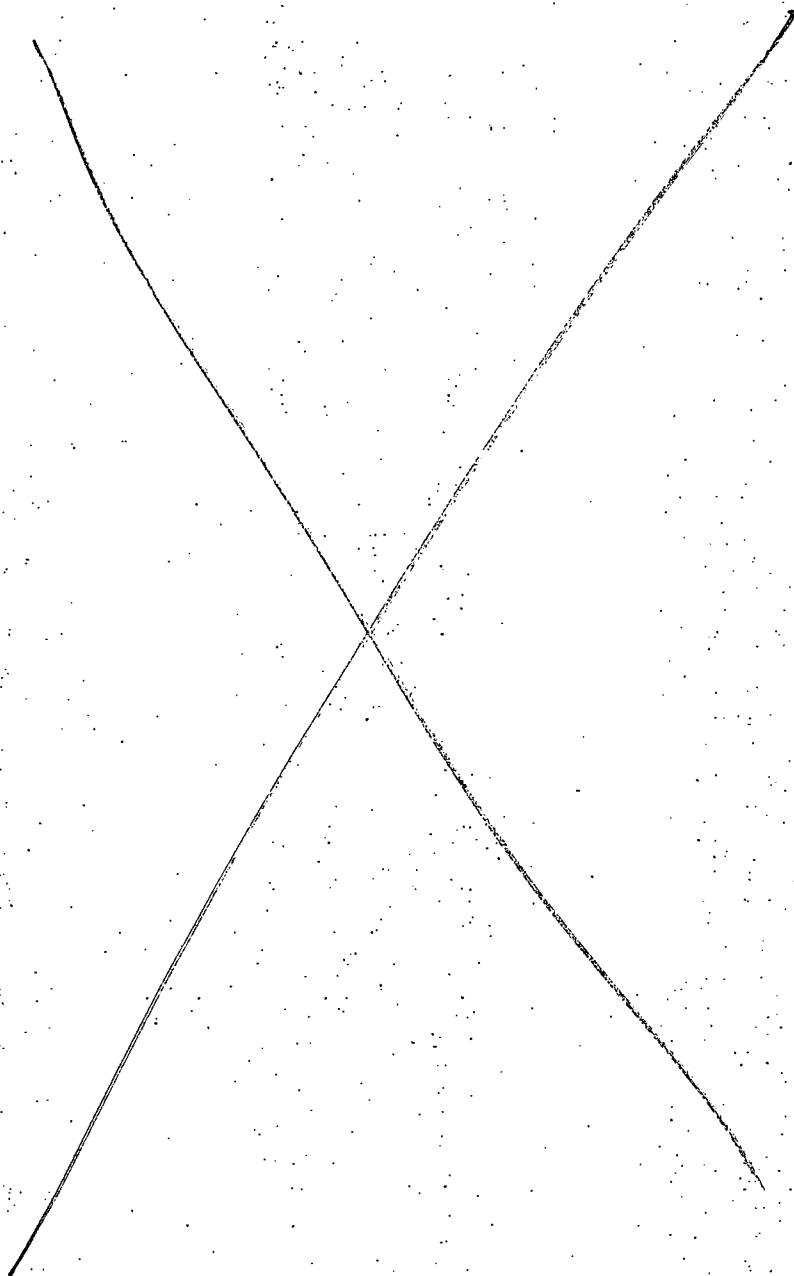
iii. _____

(b) the proceedings in which each ground was raised:

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- i. _____
- ii. _____
- iii. _____
16. If any ground set forth in (10) has not previously been presented to any Court, State or Federal, set forth the ground and state concisely the reasons why such ground has not previously been presented:
- (a) Presented as soon as possible
- (b) _____
- (c) _____
17. Were you represented by an attorney at any time during the course of:
- (a) your arraignment and plea? Yes
- (b) your trial, if any? Yes
- (c) your sentencing? Yes
- (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? N/A
- (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? N/A
18. If you answered "yes" to one or more parts of (17), list:
- (a) the name and address of each attorney who represented you:
- i. Kenneth Clifton Gibson, P.O. Box 5536 Greenville, SC 29606-5536
- ii. _____
- iii. _____
- (b) the proceedings at which each such attorney represented you:
- i. Arraignment, plea, trial, sentencing
- ii. _____
- iii. _____
19. State clearly the relief you seek in filing this application:
- I request a belated direct appeal pursuant to White v. State
20. Are you now under sentence from any other court that you have not challenged?
- No

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Attachment to post-conviction relief application question 11:

(b) Leroy Thomas was the intended victim of the attempted armed robbery at issue at Applicant's trial. Thomas' trial testimony was severely disorganized and incoherent as he would ramble and jump between describing two different points of time without sufficient explanation. His testimony was made more confusing by his failure to differentiate between the masked robber and Applicant in that would use "he" to refer to the masked robber and Applicant to the point where they became interchangeable to the jury, which allowed the jury to improperly speculate who he was referring to throughout his testimony. Trial counsel failed to provide Applicant of effective assistance of counsel because he failed to draw a coherent and comprehensible version of events from Thomas that set forth the diverse actions and motive of the gunman and Applicant. For example, trial counsel's failure to elicit coherent testimony allowed the jury to incorrectly assume that Applicant grabbed Thomas after the gun shot was fired and that Thomas picked Applicant out of the police lineup as the masked robber and gunman.

Furthermore, Thomas gave a statement to police following the attempted robbery, and although trial counsel had received the statement during discovery, he failed to use it. Trial counsel failed to provide effective assistance because he could have introduced the statement to not only impeach Thomas' inconsistent statements, but also set a clear version of what happened to the jury. Failure to introduce such a statement in light of extremely confusing testimony was unreasonable pursuant to prevailing professional norms.

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STATE OF SOUTH CAROLINA)

County of Greenville)

VERIFICATION

I, Trico Ladson, being duly sworn upon my oath, depose and say that I have subscribed to the foregoing application; that I know the contents thereof; that it includes every ground known to me for vacating, setting aside or correcting the conviction and sentence attacked in this application; and that the matters and allegations therein set forth are true.

s/ Trico Ladson

by: William B. Yarbrough
Counsel for Applicant

SWORN to and subscribed before me this _____
day of _____ 2____.

(L.S.)

Notary Public

My Commission Expires: _____

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(c) Due to the incoherence of Thomas' testimony, trial counsel's impeachment attempts were futile without introduction of the police statement. Because it was not even clear what Thomas meant or said in his trial testimony, highlighting any inconsistency between Thomas' testimony with his statement to police held no significance to Applicant's defense. Introduction of the police statement into evidence would have allowed the jury to discern what Thomas actually told police and what he was testifying to at trial. Thus, the statement's introduction into evidence would have allowed the jury to appreciate the inconsistencies and properly evaluate Thomas' credibility. Moreover, due to Thomas' confusing testimony, trial counsel's failure to introduce the statement precluded the jury from fully appreciating the fact that Thomas neither told police that Applicant was laughing during the crime, nor that Applicant barred Thomas' exit from his vehicle. Had the jury appreciated such impeachment, they would have been able to discern Applicant's lack of involvement in the armed robbery.

(d) The crux of the defense was to underscore the potential for any other person besides Applicant to commit the crime, and trial counsel rendered ineffective assistance of counsel for failing to investigate various sources for this defense to be successful. For example, Thomas suggests that Applicant made a phone call to the masked gunman prior to the crime to tip him off that Thomas had arrived, thus relaying his and the State's theory that a conspiracy existed between the gunman and Applicant. Defense counsel rendered ineffective assistance of counsel for failing to procure the Applicant's phone records and introduce them at trial in order to show that he called someone who could not have possibly been the gunman and have that person testify at trial. Moreover, trial

counsel precluded any fruitful results from the defense's theory for failing to call witnesses to corroborate Thomas' reputation in the community for selling tickets and carrying hundreds to thousands of dollars with him in order to demonstrate the ease and feasibility for any other person in the community to rob him.