

VOLUME ONE OF TWO

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Appeal from Richland County

Honorable D. Craig Brown, Circuit Court Judge

THOMAS LEWIS BLOODSAW,

RECEIVED

JUL 03 2017

S.C. SUPREME COURT

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO 2016-002496

APPENDIX

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1 STATE OF SOUTH CAROLINA) IN GENERAL SESSIONS
2 COUNTY OF RICHLAND) COURT
3)
4 STATE OF SC,)
5) TRANSCRIPT
6 -V-) OF
7) RECORD
8) 2012-GS-40-1158,
9 THOMAS BLOODSAW) 2012-GS-40-1159
10 DEFENDANT,)

11

12 MARCH 11 THROUGH 13, 2013
13 RICHLAND, SOUTH CAROLINA

14

15 B-E-F-O-R-E:

16 HONORABLE R. KNOX MCMAHON, JUDGE; AND A JURY

17

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

19 FOR THE PLAINTIFF:

20 MARGART BODMAN, ESQ.

21 FOSTER MATHEWS, ESQ.

22 FOR THE DEFENDANT:

23 VICTOR LI, ESQ.

24

25

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1 (The following proceedings were held on
2 March 11, 2013.)

3 MS. BODMAN: Your Honor, in 2012-GS-40-1158 and
4 1159 of the State vs. Thomas Bloodsaw, prior to bringing a
5 jury in, in case Your Honor was going to read the indictment
6 and the charges, there was one matter we needed to cover.
7 He was charged with burglary in the first degree and grand
8 larceny. The grand larceny was indicted under the old
9 values, 1,000 to 5,000, that was improperly done. It should
10 have been 2,000 to 10,000. And so we are going to be
11 proceeding on just a larceny charge, the lesser charge.

12 THE COURT: All right.

13 Mr. Li?

14 MR. LI: Thank you, Your Honor. If it's petite
15 larceny, it's lesser included petite larceny, then we don't
16 have a problem with amending it to petite larceny. The
17 indictment, Your Honor, we believe that 1,000 to 5,000
18 versus 2,000 to 10,000 is materially different. The
19 elements are not that -- the grand jury could not have --
20 may or may not have decided on that, Your Honor, so we do
21 not agree to the amendment. So we'd ask that the original
22 grand larceny be dismissed and -- actually, you know, for
23 the petite larceny, we don't agree to go under a petite
24 larceny, Your Honor. We would ask it be quashed.

25 THE COURT: I'm sorry, I didn't understand what

1 you said?

2 MR. LI: We believe the indictment should be
3 quashed, Your Honor, for improper indictment. Your Honor, I
4 believe there's a material difference between 1,000 and
5 5,000. The grand jury was not allowed to consider the
6 proper range of the amount, which is a material element of
7 the case.

8 THE COURT: Solicitor?

9 MS. BODMAN: The petite larceny is a lesser
10 included offense. It was presented to the grand jury. They
11 did find probable case, and so we are proceeding on the
12 lesser included charge. Up to 2,000 is included in the
13 value that the grand jury true billed. I mean, the grand
14 jury found that the value was between 1,000 and 5,000, so by
15 that, they would find that it was between one and two, which
16 is included in the petite larceny.

17 (Pause.)

18 THE COURT: So if I understand it, Solicitor, Mr.
19 Bloodsaw was indicted for factually an offense that doesn't
20 exist?

21 MS. BODMAN: No, it does exist. Grand larceny
22 does exist. It is a crime to steal somebody else's
23 property. The values of it changed, but it never changed
24 the petite larceny as a lesser included offense.

25 THE COURT: I don't disagree that petite

1 larceny -- I do agree, I do not disagree that petite larceny
2 is a lesser included offense of grand larceny. We all agree
3 on that. I don't disagree with that at all. But when you
4 look at 16-13-30(b)(1), which is cited on the indictment and
5 cited in the body of the indictment and cited on the front,
6 when you read 16-13-30(b)(1), the caption is grand larceny,
7 value more than 2,000, but less than 10,000. I guess my
8 question is, my first question is then was he validly and
9 appropriately indicted under 16-13-30(b)(1)? Because if --
10 I don't mean -- when I say it doesn't exist, I mean,
11 16-13-30(b)(1) does not exist between 1,000 and \$5,000. It
12 exist between 2,000 and \$10,000.

13 MS. BODMAN: 16-13-30(b)(1) does exist, though.
14 That is a crime. 16-13-30(b)(1) is a crime. It's not a
15 situation where we indicted him for something that
16 16-13-30(b)(1) didn't exist at all. It wasn't even a crime
17 on that day. It was the value that determined whether or
18 not it would be a felony or it would be a -- potentially, a
19 petite larceny if it fell under the -- under \$2,000, within
20 that value. It's if it's between -- if the value is between
21 one and two, then it's a petite. If it's over two, then it
22 remains 16-13-30(b)(1). So the petite larceny, clearly,
23 existed and probable cause was found for that lesser
24 included offense of 16-13-30(b)(1).

25 MR. LI: And Your Honor, it would just be the

1 Defense's contention that the value of the range between one
2 and five versus two and ten is material to the elements of
3 the case that he was charged -- that he was indicted for.
4 If he was improperly indicted, improperly charged with a --
5 with a charge of indictment, Your Honor, we find it -- for
6 them to come back and just say that we'll take a lesser
7 included, Your Honor, we would be against that. One to five
8 versus two to ten is substantially different. It's
9 materially different because the grand jury could have --
10 the material -- the grand jury could have thought it was
11 \$1,500 and, therefore, there's no crime they could have
12 indicted on. If they want to go forward with the petite
13 larceny, they should reindict for petite larceny or if they
14 want to indict under correct grand larceny case and then
15 reduce it down to petite larceny, he would have, at least,
16 been properly indicted, Your Honor.

17 At this point, he was indicted for a crime that
18 does not exist because the State is trying to separate grand
19 larceny just to say that the range of values is just some
20 extra fact to the charge when the charge itself is grand
21 larceny between these two values. Grand larceny between one
22 and five did not exist at that time. Not just the first
23 part of the charge, but the entire charge as a whole, grand
24 larceny one to five is substantially different from grand
25 larceny two to ten.

1 MS. BODMAN: If you follow out his logic -- I
2 understand that he's saying that it's a material fact about
3 the value of this property. But if you -- if we followed it
4 out to an argument that oh, let's say that we presented to
5 the jury that the value of the property was \$6,000 and that
6 we proceed on a grand larceny one to five and we proved,
7 actually, that the value of the property was 6,000, we
8 proved more than our burden of proof, a jury could come back
9 and say guilty on one to five. They don't come back and say
10 not guilty. Gosh, darnit, they stole a hundred thousand
11 dollars worth of property. We have met the one to five
12 range.

13 MR. LI: Your Honor, no --

14 MS. BODMAN: And so the petite larceny,
15 essentially, is we are already going to give him the benefit
16 of what he's saying is the material issue of fact and the
17 value of this property. We've going to give him the benefit
18 of that and proceed on the lesser included charge of
19 16-13-30(b)(1).

20 THE COURT: Well, I guess I was sitting here
21 trying to think what I would do if Mr. Bloodsaw stood up
22 here and says I want to plead guilty to the lesser included
23 offense of larceny. Would I then require him to waive
24 presentment to the grand jury because I think the value is a
25 material element. I see what you're saying to prove more

1 than that element that you -- that the greatest includes the
2 greater, so to speak. I understand that.

3 (Pause.)

4 THE COURT: Well, it's clear that petite larceny,
5 2,000 or less, is a lesser included offense of grand
6 larceny, value of more than 2,000, but less than 10,000.
7 It's further clear that the indictment towards the value
8 part of it reads grand larceny 1,000 to 5,000, and in the
9 body of it, valued at more than \$1,000, but less than \$5,000
10 mathematically, the 1,000 to 5,000, also, includes the
11 \$2,000 or less.

12 With that being said, I'm going to grant the
13 State's motion that this indictment is an appropriate
14 noticed document for petite or simple larceny \$2,000 or
15 less. And in doing so, if you look at the indictment with a
16 practical eye, the values changed with the statute
17 renotification of the different values -- one time, I well
18 remember grand larceny was anything over \$200. Now, it's
19 anything over 2000, so you can see in term of changing times
20 how the statute has changed. I think it does give the
21 Defendant adequate notice of the lesser included offense, it
22 will be part of the greater. And it puts the Court on
23 notice of what sentence to pronounce if a defendant were to
24 plead guilty or if a defendant were convicted at trial.

25 All right. Anything further, Solicitor?

1 MS. BODMAN: No, sir.

2 MR. LI: We would like to pick the jury first,
3 then we'll have pretrial matters.

4 THE COURT: Certainly.

5 All right, Madam Clerk, if you will bring us our
6 jury, please.

7 BAILIFF: All present, Judge.

8 THE COURT: Solicitor, you may call your first
9 case for trial.

10 MS. BODMAN: Thank you, Your Honor. The State
11 calls 2012-GS-40-1158 and 1159 against Thomas Lewis Bloodsaw
12 for burglary in the first-degree and larceny.

13 THE COURT: Thank you, Solicitor.

14 Mr. Li, you represent Mr. Bloodsaw?

15 MR. LI: Yes, Your Honor.

16 THE COURT: And is he present?

17 MR. LI: Yes, sir.

18 THE COURT: And are y'all ready for trial?

19 MR. LI: Yes, sir.

20 THE COURT: All right. Thank you very much.

21 Good afternoon, ladies and gentlemen of the jury
22 panel. My name is Knox McMahon. I'm a circuit court judge.
23 My resident circuit is the 11th Judicial Circuit, which
24 includes Lexington, Edgefield, Saluda and McCormick
25 Counties. I've been assigned to a term of General Sessions

1 court here in Richland County this week. Is it my pleasure
2 and privilege to be with y'all.

3 As you've heard, the State has called a case for
4 trial. We're going through the procedure now to select a
5 jury for the trial of that case.

6 I will ask you a series of questions. I will try
7 to explain those questions to you. If you do not understand
8 any of them, please let me know.

9 Madam Clerk, during the jury qualification, was
10 the panel placed under oath?

11 CLERK: Yes, Your Honor.

12 THE COURT: And for purposes of that proceeding
13 then, I will now have the Clerk administer another oath, but
14 I would ask that you, please, understand that you are still
15 under oath.

16 The State has called for trial two indictments.
17 The indictments, ladies and gentlemen, are not evidence.
18 The indictments are the formal documents, the formal
19 charging papers by which a case is brought before the Court.
20 They contain mere allegations and in no way are they
21 evidence of any of the allegations contained therein. Based
22 on the questions that I will ask you, I will publish or read
23 these indictments to you.

24 Indictment 2012-GS-40-1158, the State v. Thomas
25 Lewis Bloodsaw, the indictment reads that Thomas Lewis

1 Bloodsaw did in Richland County on or about August 24th,
2 2011 enter the dwelling of Leroy Kelly located at [REDACTED] Old
3 Leesburg Road without consent and with the intent to commit
4 a crime therein and when effecting entry or while in the
5 dwelling or in immediate flight, the Defendant was armed
6 with a deadly weapon in violation of Section 16-11-311(a) of
7 the code of laws of South Carolina 1976 as amended. That is
8 an indictment for burglary in the first-degree.

9 The next indictment alleges that Thomas Lewis
10 Bloodsaw did in Richland County on or about that same day,
11 August 24th, 2011, take and carry away the personal goods of
12 Leroy Kelly valued at \$2,000 or less, described as follows:
13 One computer and/or three firearms with the intent to
14 deprive the owner permanently of such property and to
15 convert the goods to his own use in violation of 16-13-30(a)
16 of the South Carolina code of laws. That is an indictment
17 for petite or simple of value of \$2,000 or less.

18 The State is represented by Assistant Solicitors
19 Bodmon and Matthews.

20 If you would, please, stand, introduce yourself to
21 the jury panel and any other members of the solicitor's
22 staff that are assisting you in the prosecution of this
23 case.

24 MS. BODMAN: Thank you.

25 Good morning, I am Margaret Bodmon and this is my

1 colleague Foster Matthews. We are both assistant solicitors
2 in the Richland County Solicitor's Office.

3 This is my paralegal, Rain. She will be
4 assisting. And I have two law clerks here, Amy and Molly,
5 who are law students and graduates of law school and will be
6 assisting us.

7 THE COURT: Thank you, Solicitor.

8 MS. BODMAN: Mr. Bloodsaw is represented by Mr.
9 Li.

10 If you would, please, stand, introduce yourself
11 and any member of your staff and your client to the jury
12 panel.

13 MR. LI: Thank you, Your Honor.

14 Victor Li. I work here in Columbia, South
15 Carolina. This is my paralegal Whitney Handy, and this is
16 my client, Thomas Bloodsaw. Thank you for being here.

17 THE COURT: Thank you very much, Mr. Li.

18 Is Mr. Kelly present, Leroy Kelly? Is he present
19 at this time?

20 MS. BODMAN: No, sir.

21 THE COURT: All right.

22 Ladies and gentlemen, you've heard the name Leroy
23 Kelly, who's house allegedly was burglarized. Is any member
24 of jury panel related by blood or marriage to any of the
25 parties involved in the case, that being Mr. Leroy Kelly of

1 [REDACTED] Old Leesburg Road, or Mr. Thomas Bloodsaw that stood
2 before you just a moment ago? If you're related by blood or
3 marriage, close personal friend, have any personal or
4 business relationship with either of those parties, I would
5 ask you to please stand.

6 Yes, ma'am, your number, please?

7 PROSPECTIVE JUROR: Seventeen.

8 THE COURT: All right. Would you come around here
9 to my court reporter for me, please. Yes, you come around
10 to my right, your left.

11 (Juror conference.)

12 THE COURT: Good afternoon.

13 PROSPECTIVE JUROR: Good afternoon.

14 THE COURT: And you say your number is 17?

15 PROSPECTIVE JUROR: Seventeen.

16 THE COURT: All right. And tell me your --

17 PROSPECTIVE JUROR: Leroy Kelly is related to me
18 by marriage.

19 THE COURT: Okay. And how is that?

20 PROSPECTIVE JUROR: My stepfather is his uncle.

21 THE COURT: Your stepfather --

22 PROSPECTIVE JUROR: Daniel Martin.

23 THE COURT: Daniel Martin.

24 PROSPECTIVE JUROR: Is his uncle.

25 THE COURT: Is his uncle. All right. Given the

1 fact that your stepfather, Mr. Martin, is Mr. Kelly's --

2 PROSPECTIVE JUROR: Uncle.

3 THE COURT: -- uncle, could you still be a fair
4 and impartial juror in the trial of this case for both the
5 State and the Defense?

6 PROSPECTIVE JUROR: Yes, sir.

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

8 We'll now move on from the parties to the
9 attorneys in the case.

10 As they have introduced themselves to you,
11 Assistant Solicitor Bodmon and Matthews to my front right,
12 and Mr. Li to my front left. Is any member of the jury
13 panel related by blood or marriage or have any business,
14 professional or personal relationship with any of the
15 attorneys involved in the case, either Assistant Solicitor
16 Bodmon and Matthews or Attorney Li? If so, please stand.

17 (There was no response.)

18 THE COURT: Has any member of the jury panel or
19 any member of your immediate family ever been represented by
20 or prosecuted by either Solicitor Bodmon, Matthews or Mr.
21 Li? If so, please stand.

22 Your number and name, please? Excuse me, I forget
23 I'm in Richland County. In some places, they use names. So
24 just give me your number, please.

25 PROSPECTIVE JUROR: 284.

1 THE COURT: Would you step up here for me with the
2 court reporter.

3 That goes for all the jurors. If I ask you to
4 give me your name, please, do not do so. I forget I'm in
5 Rome sometimes.

6 This is No. 284?

7 PROSPECTIVE JUROR: Yes.

8 THE COURT: Tell me your situation.

9 PROSPECTIVE JUROR: My son was represented by
10 Mr. McGill, which he was --

11 MR. LI: What's your son name?

12 PROSPECTIVE JUROR: Doug.

13 MR. LI: Oh, yeah. Okay.

14 MS. BODMAN: I prosecuted her son.

15 THE COURT: Okay.

16 Given the fact that Mr. Li represented your son
17 and Ms. Bodmon prosecuted your son, could you still be a
18 fair and impartial juror in the trial of this case for both
19 Mr. Bloodsaw and the State?

20 PROSPECTIVE JUROR: Yes, sir.

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

22 THE CLERK: Thank you.

23 THE COURT: Okay. 284 is going to stay with us.

24 Ladies and gentlemen, you heard me read the
25 indictment alleging the burglary that occurred on

1 August 24th, 2011, at [REDACTED] Old Leesburg Road. Does any
2 member of the jury panel have any knowledge about the case?
3 If so, please stand.

4 (There was no response.)

5 THE COURT: Does any member of the jury panel have
6 any bias or any prejudice towards the parties, that being
7 the State, or the Defendant, that being Mr. Bloodsaw, or
8 towards the subject matter involved in the case? If so,
9 please stand.

10 (There was no response.)

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

14 All right. Let's see, this is No. 17?

15 PROSPECTIVE JUROR: Uh-huh.

16 THE COURT: Step back up here for me, please.

17 PROSPECTIVE JUROR: The only that I've heard is
18 through family that his house was broken into. I didn't
19 know what happened or know anything, I just knew that he had
20 been broken into.

21 THE COURT: I've got enough jurors out here. I
22 think you would be fair and impartial, but I'm going to set
23 you aside from the trial of this case.

24 PROSPECTIVE JUROR: Okay.

25 THE COURT: All right. Thank you so much. And

1 you can have a seat in the back.

2 Yes, sir. I'm going to excuse No. 17.

3 Thank you so much.

4 Ladies and gentlemen, I'm going to call a list of
5 names of potential witnesses in the trial of this case. The
6 question, of course, is is any member of the jury panel
7 related by blood or marriage, close personal friends, have
8 any business, professional or personal relationship with any
9 of these potential witnesses whose names I'll now call.

10 I would ask if any of witnesses are present, when
11 your names are called, would you, please, stand and face the
12 jury panel.

13 I would advise the jury panel that more likely
14 than not, there will be more names called than individuals
15 here. The witnesses do not have to be present during this
16 proceeding.

17 The first witness, of course, we've already --
18 I've already called his name, that's Leroy Kelly. The next
19 witness is Rachel Grant with the Richland County Sheriff's
20 Department. Ms. Grant does not appear to be present. If I
21 notice them up there, I'll direct your attention.

22 Next, Diane W. Bodie, B-O-D-I-E, Richland County
23 Sheriff's Office; Investigator Trisha Odom, Richland County
24 Sheriff's Department; Jeffrey Jamie Lucas, Richland County
25 Sheriff's Department; Sergeant Don Robinson to my front

1 right, Richland County Sheriff's Department.

2 Thank you, Sergeant Robinson.

3 Investigator Shawn Schroder, Richland County

4 Sheriff's Department and Stan Richards, Richland County

5 Sheriff's Department; Marty Ludas, L-U-D-A-S.

6 Again, is there any member of the jury panel
7 related by blood or marriage or close personal friends with
8 any of those individuals whose names I just called and/or
9 who stand before you? If so, please stand.

10 (There was no response)

11 THE COURT: Any additional request of voir dire
12 from the State?

13 MS. BODMAN: No, sir.

14 THE COURT: From the Defense, Mr. Li.

15 MR. LI: No, sir.

16 THE COURT: And, finally, ladies and gentlemen,
17 each of you know yourselves best. You know what the
18 allegations are in the charging documents of burglary and
19 petite larceny. We've gone through these list of questions.
20 Our goal is to seat a fair and impartial jury for the trial
21 of this case. It's an important case to Mr. Bloodsaw. It's
22 an important case to the State.

23 So in closing, does any member of the jury panel
24 know any reason whatsoever why you feel like you could not
25 be a fair and impartial jury in the trial of this case for

1 both the State and the Defense? If so, please stand.

2 (There was no response.)

3 THE COURT: Thank you very much. No one stands.

4 If you would, please, give us -- give the jury
5 direction, give us a jury panel.

6 And the strikes, Solicitor, are?

7 MS. BODMAN: Five and ten, I believe.

8 MR. LI: Yes, sir.

9 THE COURT: Mr. Li?

10 MR. LI: Ten, five.

11 THE COURT: I always like it on the record. Ten

12 for the Defense, five for the State.

13 Yes, ma'am. Give us a panel, please.

14 THE CLERK: Ladies and gentlemen of the jury, as I

15 call your number, please come down, bring all your

16 belongings with you, stand here in front of the microphone

17 facing the State and the Defense and give us your

18 occupation.

19 No. 291.

20 (Juror No. 291, Elaine Wilson, a black

21 male, came forward.)

22 THE CLERK: You're all right. Give us your

23 occupation.

24 PROSPECTIVE JUROR: I work at USC Law School and

25 I'm a cashier.

1 THE CLERK: What says the State?
2 MS. BODMAN: Please present the jury.
3 THE CLERK: What says the Defense?
4 MR. LI: Please seat the jury.
5 THE CLERK: Have a seat in the jury box, please.
6 (Laughter.)
7 THE CLERK: No. 186.
8 (Whereupon, Dianetta Newton, a black
9 female, came forward.)
10 THE CLERK: Give us your occupation.
11 PROSPECTIVE JUROR: Children's services
12 supervisor.
13 THE CLERK: What says the State?
14 MS. BODMAN: Please present the juror.
15 THE CLERK: What says the Defense?
16 MR. LI: Please seat the jury.
17 CLERK: Have a seat in the jury box, please.
18 No. 182.
19 (Whereupon, Elizabeth Naglet, a white
20 female, came forward.)
21 PROSPECTIVE JUROR: Hello. I'm a retail manager.
22 I work for --
23 THE CLERK: Can you speak up a little bit?
24 PROSPECTIVE JUROR: Retail manager of a store.
25 THE CLERK: What says the State?

1 MS. BODMAN: Please present the juror.

2 THE CLERK: What says the Defense?

3 MR. LI: Please excuse this juror.

4 THE CLERK: Have a seat in the back of the
5 courtroom, please.

6 No. 262.

7 (Whereupon, Jeffrey Thompson, a white
8 male, came forward.)

9 PROSPECTIVE JUROR: I'm a pharmacist at Palmetto
10 Health Richland.

11 THE CLERK: What says the State?

12 MS. BODMAN: Please present the juror.

13 THE CLERK: What says the Defense?

14 MR. LI: Please seat this juror.

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

16 No. 308.

17 (Whereupon, Daniel Harrington, a white
18 male, came forward.)

19 PROSPECTIVE JUROR: -- designer.

20 THE CLERK: What says the State?

21 MS. BODMAN: Please present the juror.

22 THE CLERK: What says the Defense?

23 MR. LI: Please excuse this juror.

24 THE CLERK: Have a seat in the back of the
25 courtroom, please.

1 No. 114.
2 (Whereupon, Robert Helmandollar, a white
3 male, came forward.)
4 PROSPECTIVE JUROR: Quality assurance specialist.
5 THE CLERK: What says the State?
6 MS. BODMAN: Please seat this juror.
7 THE CLERK: What says the Defense?
8 MR. LI: Please strike this juror.
9 THE CLERK: Have a seat in the back of the
10 courtroom, please.
11 No. 135.
12 (Whereupon, Susan Jennings, a white
13 female, came forward.)
14 PROSPECTIVE JUROR: Network engineer.
15 THE CLERK: What says the State?
16 MS. BODMAN: Please present this juror.
17 THE CLERK: What says the Defense?
18 MR. LI: Please strike this juror.
19 THE CLERK: Have a seat in the back of the
20 courtroom, please.
21 Ladies and gentlemen, please speak up. The
22 microphone is not working very well and the court reporter
23 has to take down everything that is being said, and I need
24 you to speak out loud, please.
25 No. 217.

1 (Whereupon, Bernice Richardson, a white
2 female, came forward.)

3 PROSPECTIVE JUROR: Retired, and, currently, I'm a
4 consultant with a medical practice.

5 THE CLERK: What says the State?

6 MS. BODMAN: Please present the juror.

7 THE CLERK: What says the Defense?

8 MR. LI: Please excuse this juror.

9 THE CLERK: Have a seat in the back of the
10 courtroom, please.

11 No. 140.

12 (Whereupon, Bridgette Jones, a black
13 female, came forward.)

14 PROSPECTIVE JUROR: I'm a fast food manager.

15 THE CLERK: What says the State?

16 MS. BODMAN: Please excuse this juror.

17 THE CLERK: Have a seat in the back of the
18 courtroom.

19 No. 157.

20 (Whereupon, Gary Marquis, a white male,
21 came forward.)

22 PROSPECTIVE JUROR: I'm an operations manager for
23 Richo Corporation. I'm a retired military officer.

24 THE CLERK: What says the State?

25 MS. BODMAN: Please present the juror.

1 THE CLERK: What says the Defense?

2 MR. LI: Please strike this juror.

3 THE CLERK: Have a seat in the back of the
4 courtroom.

5 No. 194.

6 (Whereupon, Joy Paull, a white female,
7 came forward.)

8 PROSPECTIVE JUROR: I'm a computer systems
9 analyst.

10 THE COURT: Would you restate that for me, please?

11 PROSPECTIVE JUROR: I'm a computer systems
12 analyst.

13 THE COURT: Thank you.

14 THE CLERK: What says the State?

15 MS. BODMAN: Please present this juror.

16 THE CLERK: What says the Defense?

17 MR. LI: Please seat this juror.

18 THE CLERK: Have a seat in the jury box, please.

19 No. 267.

20 (Whereupon, Rosa Toland, a black female,
21 came forward.)

22 PROSPECTIVE JUROR: Owner/operator of a
23 construction company.

24 THE CLERK: What says the State?

25 MS. BODMAN: Please present this juror.

1 THE CLERK: What says the Defense?

2 MR. LI: Please seat this juror.

3 THE CLERK: Have a seat in the jury box, please.

4 No. 191.

5 (Whereupon, Barbara Palmer, a black

6 female, came forward.)

7 PROSPECTIVE JUROR: Housekeeper.

8 THE CLERK: What says the State?

9 MS. BODMAN: Please present this juror.

10 THE CLERK: What says the Defense?

11 MR. LI: Please seat this juror.

12 THE CLERK: Have a seat in the jury box, please.

13 No. 24.

14 (Whereupon, Lee Blackmon, a white male,

15 came forward.)

16 THE CLERK: Y'all can breath. It's all right.

17 PROSPECTIVE JUROR: Full time student.

18 THE CLERK: What says the State?

19 MS. BODMAN: Please present the juror.

20 THE CLERK: What says the Defense?

21 MR. LI: Please strike this juror.

22 THE CLERK: Have a seat in the back of the
23 courtroom, please.

24 No. 304.

25 (Whereupon, Ronald Williams, a white

1 male, came forward.)
2 PROSPECTIVE JUROR: Certified financial planner.
3 THE CLERK: What says the State?
4 MS. BODMAN: Please present this juror.
5 THE CLERK: What says the Defense?
6 MR. LI: Please strike this juror.
7 THE CLERK: Have a seat in the back of the
8 courtroom, please.
9 No. 250.
10 (Whereupon, Veleska Stigger, a black
11 female, came forward.)
12 PROSPECTIVE JUROR: Currently unemployed.
13 THE CLERK: What says the State?
14 MS. BODMAN: I apologize, this is No. 250? 2-5-0?
15 THE CLERK: 250.
16 MS. BODMAN: Okay. Please excuse this juror.
17 THE CLERK: Have a seat in the back of the
18 courtroom, please.
19 No. 204.
20 (Whereupon, Ellen Purvis, a white
21 female, came forward.)
22 PROSPECTIVE JUROR: I'm a retired teacher.
23 THE CLERK: What says the State?
24 MS. BODMAN: Please present the juror.
25 THE CLERK: What says the Defense?

1 MR. LI: Please seat the juror.

2 THE CLERK: Have a seat in the jury box, please.

3 No. 103.

4 (Whereupon, Michael Glenn, a black male,
5 came forward.)

6 PROSPECTIVE JUROR: General Manager at McDonald.

7 THE CLERK: What says the State?

8 MS. BODMAN: Please present the juror.

9 THE CLERK: What says the Defense?

10 MR. LI: Please seat the juror.

11 THE CLERK: Have a seat in the jury box.

12 No. 215.

13 (Whereupon, Barbara Rice, a black
14 female, came forward.)

15 PROSPECTIVE JUROR: Registered nurse.

16 THE CLERK: What says the State?

17 MS. BODMAN: Please present the juror.

18 THE CLERK: What says the Defense?

19 MR. LI: Please seat the juror.

20 THE CLERK: Have a seat in the jury box, please.

21 No. 284.

22 (Whereupon, Diane White, a black female,
23 came forward.)

24 PROSPECTIVE JUROR: Janitorial/housekeeping.

25 THE CLERK: What says the State?

1 MS. BODMAN: Please excuse this juror.

2 THE CLERK: Have a seat in the back of the

3 courtroom.

4 No. 100.

5 (Whereupon, Cynthia Gilliam, a black

6 female, came forward.)

7 PROSPECTIVE JUROR: Hotel associate.

8 THE CLERK: What says the State?

9 MS. BODMAN: Please present the juror.

10 THE CLERK: What says the Defense?

11 MR. LI: Please seat this juror.

12 THE CLERK: Have a seat in the jury box.

13 No. 168.

14 (Whereupon, Tommy McKenzie, a black

15 male, came forward.)

16 PROSPECTIVE JUROR: Student and I work at --

17 MS. BODMAN: Please excuse --

18 THE CLERK: I'm sorry. What says the State?

19 MS. BODMAN: Please excuse the juror.

20 THE CLERK: Have a seat in the back of the

21 courtroom, please.

22 As I review the strikes for the State, I have

23 four. For the Defendant, I have eight.

24 MR. LI: Yes, ma'am.

25 THE COURT: All right. No. 84.

1 (Whereupon, Simone Francis, a black
2 female, came forward.)

3 PROSPECTIVE JUROR: Area supervisor.

4 THE CLERK: What says the State?

5 MS. BODMAN: Please present the juror.

6 THE CLERK: What says the Defense?

7 MR. LI: Please present the juror.

8 THE CLERK: Have a seat in the jury box, please.

9 No. 13.

10 (Whereupon, Lola Banks, a black female,
11 came forward.)

12 PROSPECTIVE JUROR: Teacher.

13 THE CLERK: What says the State?

14 MS. BODMAN: Please present the juror.

15 THE CLERK: What says the Defense?

16 MR. LI: Please excuse this juror.

17 THE CLERK: Have a seat in the back of the

18 courtroom, please.

19 No. 314.

20 (Whereupon, Joel Moss, a white male,
21 came forward.)

22 MR. LI: Say the number one more time.

23 THE CLERK: 314, 3-1-4.

24 PROSPECTIVE JUROR: Vice-president of Sea Hunt
25 Boat Company.

1 THE CLERK: What says the State?

2 MS. BODMAN: Please present the juror.

3 THE CLERK: What says the Defense?

4 MR. LI: Please excuse the juror.

5 THE CLERK: Have a seat in the back of the
6 courtroom, please.

7 No. 213.

8 (Whereupon, Justin Redfern, a black
9 male, came forward.)

10 PROSPECTIVE JUROR: Area supervisor.

11 THE CLERK: What says the State?

12 MS. BODMAN: Please present the juror.

13 THE CLERK: Does the Defense challenge for cause?

14 MR. LI: No, ma'am.

15 THE COURT: Have a seat in the jury box, please.

16 No. 316.

17 (Whereupon, Cardel Tucker, a black male,
18 came forward.)

19 MR. LI: How many strikes for the alternate?

20 THE CLERK: Two.

21 THE COURT: One and two.

22 PROSPECTIVE JUROR: Music producer, full time
23 student.

24 THE CLERK: What says the State?

25 MS. BODMAN: Please present the juror.

1 THE CLERK: What says the Defense?

2 MR. LI: Please present the juror.

3 THE CLERK: Have a seat in the jury box, please.

4 No. 36.

5 (Whereupon, Robert Bryant, a black male,

6 came forward.)

7 MS. BODMAN: What number is that again?

8 THE CLERK: Thirty-six.

9 PROSPECTIVE JUROR: Legal estimate examiner for
10 the VA.

11 THE CLERK: What says the State?

12 MS. BODMAN: Please present the juror.

13 THE CLERK: What says the Defense?

14 MR. LI: Please strike this juror.

15 THE CLERK: Have a seat in the back of the
16 courtroom, please.

17 No. 202.

18 (Whereupon, Ralph Praylow, a black male,

19 came forward.)

20 PROSPECTIVE JUROR: Army, sergeant major.

21 THE CLERK: What says the State?

22 MS. BODMAN: Please present the juror.

23 THE CLERK: What says the Defense?

24 MR. LI: Please strike this juror.

25 THE CLERK: Have a seat in the back of the

1 courtroom, please.

2 No. 214.

3 (Whereupon, David Reed, a black male,
4 came forward.)

5 PROSPECTIVE JUROR: Small youth advocate.

6 THE CLERK: What says the State?

7 MS. BODMAN: Please present the juror.

8 THE CLERK: Does the Defense challenge for cause?

9 MR. LI: No, ma'am.

10 THE COURT: Have a seat in the jury box, please.

11 Any motions regarding the jury selection process

12 from the State?

13 MS. BODMAN: Just beg the Court's indulgence for
14 one moment.

15 THE COURT: Yes, ma'am.

16 MS. BODMAN: We do, Your Honor.

17 THE COURT: You do?

18 MS. BODMAN: Yes.

19 THE COURT: From the Defense?

20 MR. LI: No, Your Honor.

21 THE COURT: All right. Ladies and gentlemen of
22 the jury panel that have been selected, momentarily, I'm
23 going to send you to your jury room. I would advise you do
24 not discuss this case with anyone, including your fellow
25 jurors or anyone else during this brief recess. I have a

1 matter to take up with the attorneys. Do not discuss the
2 case with anyone, including your fellow jurors during this
3 brief recess. You may exit to your left and go with your
4 bailiff.

5 (The jury retires from the courtroom at
6 12:54 p.m.)

7 THE COURT: All right. Ladies and gentlemen of
8 the jury panel, momentarily, I'm going to ask you to step
9 back to your jury assembly room. You are not excused at
10 this time. You may not remain in the courtroom, however, so
11 I would ask you to please return to your jury assembly room
12 and wait further instructions. During this time, do not
13 discuss this case with anyone, that includes your fellow
14 jurors or anyone else. So if you would, please, at this
15 time, exit the courtroom and report to your jury assembly
16 room.

17 (The jury venire retires from the
18 courtroom at 12:55 p.m.)

19 THE COURT: All right. Appears all jurors are
20 out of the courtroom.

21 All right, Solicitor.

22 MS. BODMAN: Your Honor, we do make a Batson
23 motion against the Defense as a threshold showing nine out
24 of ten of his strikes were on white individuals.

25 THE COURT: All right. Thank you, Solicitor.

1 Mr. Li.

2 MR. LI: Yes, Your Honor.

3 THE COURT: All right. Whatever order you would
4 like to take your strikes.

5 MR. LI: Sure. I think we have them written down,
6 Your Honor. We did not plan to -- we can give an
7 explanation for each one if you like, Your Honor.

8 THE COURT: Do what now?

9 MR. LI: This is my first time doing a Batson
10 motion, so I really have no idea. Never had this problem
11 before. We can go over each person and review why we --

12 THE COURT: Yes, sir.

13 MR. LI: Okay. Can you read the ones --

14 THE CLERK: The first one struck is 182.

15 MR. LI: Can we skip number one, Your Honor?

16 THE COURT: Excuse me?

17 MR. LI: Can we skip this one? We don't really
18 have -- we just struck her. It wasn't because she was white
19 or she was a female, just struck her. We put on --

20 THE COURT: Well, you --

21 MR. LI: I have no reason why -- if the Court is
22 asking us, you know, I have no reason as to why, just had a
23 gut feeling.

24 THE COURT: All right. Well, let's go to the
25 others. No. 182, no reason, gut feeling. Not because she

1 was white. Is that --

2 MR. LI: Absolutely, Your Honor.

3 THE COURT: All right.

4 THE CLERK: 308.

5 MR. LI: 308 looked like he could have -- looked
6 like he possessed maybe a firearm or something, Your Honor.

7 THE COURT: Looked like what?

8 MR. LI: Looked like he could be a firearms owner.
9 That's the reason we struck him. Also, again, not because
10 he was white.

11 THE COURT: All right. Next.

12 THE CLERK: No. 114.

13 MR. LI: He had a military background, Your Honor,
14 so we assumed that he was -- made the assumption. Again,
15 not because he was white.

16 THE COURT: How you know he had a military
17 background?

18 MR. LI: We looked him up.

19 THE COURT: Sir?

20 MR. LI: We did research very quickly. My
21 paralegal took the list and had a quick list.

22 THE COURT: All right. Next.

23 THE CLERK: No. 135.

24 MR. LI: No particular reason, Your Honor.

25 THE COURT: No particular reason?

1 MR. LI: No, sir. She's from Chesterfield, I'm
2 from Chesterfield. Didn't want to cloud the juror, may know
3 my family or me. Not because she was white.

4 THE COURT: All right. Next.

5 THE CLERK: No. 217.

6 MR. LI: Age, Your Honor. Seeing this case had to
7 deal with scientific evidence, just a gut reaction of
8 whether or not she could understand the detail of
9 fingerprint analysis. Again, not because she was white.

10 THE COURT: All right.

11 THE CLERK: No. 157.

12 MR. LI: Again, Your Honor, just a gut reaction.
13 Looks like someone that may own guns.

14 THE COURT: All right.

15 THE CLERK: No. 24.

16 MR. LI: This is one that my paralegal knew, Your
17 Honor, said he would not be --

18 THE COURT: Wouldn't what?

19 MR. LI: Just somebody my paralegal knew and told
20 me I should strike them.

21 THE COURT: All right.

22 MR. LI: Personal knowledge from my paralegal.

23 THE COURT: All right.

24 THE CLERK: No. 304.

25 MR. LI: No particular reason. We think that he

1 looked like he may own guns.

2 THE COURT: All right. Thank you. Any others --
3 any other reason for striking any of these?

4 That's all of them?

5 THE CLERK: There's one more, Judge. 314 on the
6 second page.

7 THE COURT: Oh, I'm sorry one more. 314, you
8 said?

9 THE CLERK: Yes, sir, 314.

10 MR. LI: Your Honor, the reason for that one is
11 because he said he was vice-president of Sea Hunt. I really
12 don't know what that is, but I thought it might involve
13 hunting, also, may have something to do with guns. We
14 struck for that reason.

15 MS. BODMAN: I'm sorry, I didn't hear that.

16 MR. LI: There was something about Sea Hunt. I
17 don't know what Sea Hunt is. I assumed it had something to
18 do with hunting, so we assumed he had involvement with guns.

19 And, Your Honor, if I could ask the Clerk of Court
20 what's the racial profile the State struck?

21 THE CLERK: Black female, black female, black
22 female, and white male.

23 MR. LI: Four out of five? Three out of four.

24 THE CLERK: Yes.

25 MR. LI: Your Honor, we'd ask that the State

1 justify their decision with respect to their jurors.

2 THE COURT: All right. Well, I had already asked
3 that.

4 MR. LI: I withdraw that, Your Honor.

5 THE COURT: I would like to know what I'm dealing
6 with, however, I do not want to do anything that would have
7 an adverse effect on Mr. Bloodsaw's rights.

8 On -- it looks like three of them, I think, by my
9 count 308 -- four of them 308, 157, 304 and 314. 308 was a
10 white male, 36 years of age, works at town theater, looks
11 like his wife, also, works there. 157 is a white male, 57
12 years of age, works for a business called R-I-C-H-O. 304,
13 white male, 59 years of age. And 314, a white male, 38
14 years of age.

15 Could you give me more --

16 MR. LI: Sure, Your Honor.

17 THE COURT: -- elucidation as to what the --

18 MR. LI: 314, we've --

19 THE COURT: Let me finish.

20 MR. LI: Yes, sir.

21 THE COURT: What the facts and characteristics are
22 of the gun owners -- what -- what factors you look at to
23 determine that a person may look like a gun owner.

24 MR. LI: Sure, Your Honor. But 314, specifically,
25 was because he was employed at something called Sea Hunt.

1 We don't understand what -- we don't know exactly what Sea
2 Hunt is, but it had the word hunt in it, so we thought it
3 may have something to do with hunting, therefore, involved
4 some sort of guns.

5 Three -- start from the top, 308. 308. Okay.

6 The best I can articulate this, Your Honor, this one seems
7 more heavysset, less nerdy as the first white male we put on
8 the jury, so maybe they have some sort of outdoor-type
9 hobbies, Your Honor. That was our gut instinct as opposed
10 to somebody who we believe may be more of a bookworm or
11 somebody maybe more of an indoor person, somebody that looks
12 more -- they seem to be healthier, seem to be bigger. We
13 thought that they may participate in outdoor activities,
14 Your Honor, such as hunting or fishing. We believe that
15 they may have more of a chance that they would own guns. So
16 that was our criteria of doing that as opposed to the
17 pharmacist we put on first, Your Honor. We took our shot
18 that he did not hunt. So for all the ones that I mentioned
19 gun ownership, those were our qualities, Your Honor.

20 Let me see 304, 157. The same applies to 157.

21 308. Yes, sir, those are our reasons for those three, Your
22 Honor. From their physical appearance, not there skin
23 color, Your Honor, it appeared that they may participate in
24 some sort of outdoor activities. So we struck them for the
25 possibility that they may own guns. The victim in this case

1 appeared to be an avid outdoorsman, had a lot of guns.

2 Those are the reasons why we struck those jurors, Your

3 Honor.

4 THE COURT: Well, you have one -- how does that

5 compare with No. 103? 103 was the first, I believe,

6 African-American male that came out of the jury box. He's

7 36 years of age and he's general manager of McDonald's.

8 MR. LI: Your Honor, he was -- we saw on the list

9 that he was born in Panama, Your Honor. We rightly or

10 wrongly considered he may have some -- he may have some --

11 maybe more soft-hearted towards foreigners like myself.

12 THE COURT: Well, he lives in the Hopkins area,

13 which is an area that is flushed with hunters and gun

14 owners. And most -- many, many, individuals that you can

15 find in the Midlands of South Carolina could have been born

16 in Germany, Japan and South Korea and Panama because they're

17 extracted from military families.

18 MR. LI: That's true, Your Honor. And it was my

19 gut reaction. That's all it was.

20 THE COURT: All right. Solicitor as to 308, 157,

21 304 and 314, you care to address those?

22 MS. BODMAN: I apologize, can you give -- 308,

23 157, 314.

24 THE COURT: And 304. That's the one that I had

25 listed as looked like gun ownership.

1 MS. BODMAN: And I do have a problem with that.
2 First of all, he -- the first words out of his mouth are
3 looked like. He on his own gave no articulable basis for
4 what that was. For instance -- well, they can't bring guns
5 in here, but I guess a race neutral thing would be I saw a
6 gun and holster on him or I -- you know, I saw something on
7 him that he looked like he, actually, carries a weapon.
8 Something articulable. But looks like is to me white male.

9 And if he wanted to know, if he was that concerned
10 about striking people who were, in fact, gun owners,
11 regardless of race, if he would have asked in voir dire I
12 would like Your Honor to ask what jurors are gun owners.
13 Who here either has a gun at home? Who here has a DWP?
14 Which individuals in this courtroom are gun owners? And
15 that would -- without race and no gut feeling about it,
16 looks like they might be a gun owner takes that completely
17 out of the equation. So --

18 And the 314, as he said, I have something written
19 about Sea Hunt. Well, the gentleman said he worked at
20 worked Seat Hunt Boats. So when that came out of the
21 gentleman's mouth standing up here at the microphone, Sea
22 Hunt, he would have known directly and immediately oh,
23 that's why I struck him. They said Sea Hunt Boats.

24 THE COURT: All right. Anything further,
25 Solicitor, as to 304, 157, 308 or 314?

1 MS. BODMAN: No, Your Honor.

2 THE COURT: Anything further as to those four?

3 MR. LI: Yes, Your Honor. Rightly or wrongly for

4 No. 314, rightly or wrongly for not hearing him, that was

5 our decision based on what was written on the jury list. As

6 to what I could not articulate as to the appearances, sounds

7 like white male, your Honor, is white male with certain

8 physical attributes, certain size, certain figure, Your

9 Honor, certain stature as opposed to the first white male

10 that was seated. We found him very unlikely he was going to

11 be a hunter.

12 Your Honor, it's more than just -- it's more than

13 just gun ownership, Your Honor. It is the very fact of gun

14 owners and being an outdoorsman. The victim in this case

15 had lots of guns in his house. He had shotgun shells. He

16 seems like an outdoorsman, Your Honor. So it's more than

17 just gun ownership or more than just -- more than just gun

18 ownership, Your Honor. It's what we thought -- gut reaction

19 of whether or not they could have been into hunting or

20 fishing or some sort of outdoor sports that involves rifles.

21 THE COURT: Thank you. All right. Now, you want

22 to add anything, Mr. Li, on either 182, 114, 135, 217 or 24?

23 MR. LI: I'm sorry, Your Honor, could you repeat

24 that question?

25 THE COURT: 182, you want to add anything on No.

1 182 for your reasons, that was no reason?

2 MR. LI: Oh.

3 THE COURT: Gut feeling.

4 MR. LI: Gut feeling, Your Honor, no particular
5 reason.

6 THE COURT: And No. 114, your paralegal did some
7 research. There was also guns on that and military
8 background.

9 MR. LI: That's right.

10 THE COURT: 135, no particular reason. She was
11 from Chesterfield, you're from Chesterfield.

12 MR. LI: Yes, sir.

13 THE COURT: 217, age, white female, 62, may not
14 understand the scientific evidence. And then 24, a student
15 at USC, paralegal knew him?

16 MR. LI: That's right, Your Honor.

17 THE COURT: Solicitor, you care to address those?

18 MS. BODMAN: I do. First of all, just saying you
19 have a gut feeling is not sufficient under Batson. If
20 saying that I just have a gut feeling was sufficient, we
21 wouldn't have Batson and in an enormous amount of cases that
22 came after Batson talking about what reasons are race
23 neutral and what reasons are not. You can't say you have a
24 gut reason. You have to articulate it. That is the very
25 basis of Batson and why it came about. So, clearly, 182,

1 135 are violations right there because he doesn't give
2 anything.

3 With regard to 114, I do have written down from
4 jury qualifications this morning that indicated he had
5 military background. And so he did say at some point that's
6 why he struck 114 was the military background. So I concede
7 only with regards to 114 there has been provided something
8 that is race neutral.

9 THE COURT: He also struck the gentleman that
10 worked at the VA, on the alternate, the African-American
11 male, No. 36 that I think would probably have a military
12 background. I would agree with No. 114.

13 MS. BODMAN: I haven't particularly gone through
14 all the other people that were seated to make sure that they
15 all had military backgrounds, but in thinking about who's on
16 the panel, nobody is coming to mind that would then
17 contradict that reason.

18 With regard to 24, he says well, my paralegal
19 knows her and told me I should strike. Well, everybody
20 sitting at that table is a part of the Defense team and is
21 subject to Batson. So whatever reason the paralegal then
22 provided has to be articulated and provided in terms of what
23 is that race neutral reason. Because the paralegal is in
24 with the team and is violating Batson if there's not an
25 articulable reason. What is it that they know that they

1 don't think it should be -- that would be a good juror for
2 them that has nothing to do with the color of her skin. So
3 I would ask that at this point, we don't have any
4 articulable reason to justify it.

5 And then, No. 217, the age, 62 may not understand
6 scientific data. There are two other individuals that were
7 seated that are 60 years of age. There is -- there's a
8 woman, a black female, 59 that was seated, black female, 58
9 that was seated and one of the 60-year-olds seated is a
10 black female. So I don't know what happens between 60 and
11 62 that makes scientific data not comprehensible.

12 And that reason, also, to me is the very opposite
13 of -- in this particular case what they would want in a
14 juror, is they want somebody that doesn't understand it and
15 comprehend it, so wouldn't accept fingerprint testimony.
16 They would go, this all is just very confusing --

17 MR. LI: Your Honor, I would object to her
18 speculating that's the strategy, Your Honor.

19 THE COURT: Well, she -- not so much strategy,
20 she's the opponent to the strike and has to convince the
21 Court that she's --

22 You may continue.

23 MS. BODMAN: But the fact that there is -- there
24 are two other individuals that are 60 years of age, a
25 59-year-old and 58-year-old that were, in fact, seated,

1 three of those being black females, and that goes against
2 that --

3 THE COURT: What numbers are those?

4 MS. BODMAN: Number 291, 267, 204 and 100.

5 THE COURT: And what age is 291?

6 MS. BODMAN: 291 is 60.

7 THE COURT: What age is 267?

8 MS. BODMAN: Fifty-eight.

9 THE COURT: What age is 204?

10 MS. BODMAN: Sixty.

11 THE COURT: And 100?

12 MS. BODMAN: Fifty-nine.

13 THE COURT: Okay. All right. Anything further,

14 Solicitor?

15 MS. BODMAN: I think that covers everything, Your

16 Honor.

17 THE COURT: Okay.

18 All right. Mr. Li, what about the reason for

19 striking 24?

20 MR. LI: Twenty-four, Your Honor, I can clearly

21 explain, Your Honor. She knew him from -- at Carolina, Your

22 Honor. She believes that he's kind of racist and kind of --

23 as she puts it --

24 THE COURT: She believes 24 is racist?

25 MR. LI: Yes, Your Honor. She knows him from

1 Carolina.

2 THE COURT: All right. A recent decision that
3 came out in 400 S.C. 298, 2012 decision gives the Court and
4 restates the guidance the Court must use --

5 After a party objects to a jury strike, the
6 proponent of the strike must offer a race -- factually race
7 neutral explanation. Once the proponent states a reason
8 that is race neutral, the burden is on the party challenging
9 the strike to show the explanation is mere pretext either by
10 showing similar situated members of another race were seated
11 on the jury or that the reason given for the strike is so
12 fundamentally implausible as to constitute mere pretext
13 despite a lack of disparitive treatment.

14 Proponent's reason for striking a juror does not
15 have to be clear, reasonably specific or legitimate. The
16 reason need only be race neutral. The burden of persuading
17 the Court that a Batson violation has occurred remains at
18 all times on the opponent of the strike. The opponent of
19 the strike must show the race or general neutral explanation
20 was mere pretext, which generally is established by showing
21 the party did not strike a similarly situated member of
22 another race or gender.

23 Whether a Batson violation has occurred must be
24 determined by examining the totality of the facts and
25 circumstances in the record.

1 Under some circumstances, the explanation given by
2 the proponent may be so fundamental implausible, a trial
3 judge can find the explanation was a mere pretext even
4 without a showing of disparitive treatment.

5 All right. I'll try to take them one at a time as
6 I see them. Juror No. 24, the stated reason -- Juror No. 24
7 is a white male, student at USC, known by Mr. Li's
8 paralegal. He stated to the Court the paralegal told him to
9 strike No. 24. Upon further questioning, he states that the
10 paralegal does know this individual personally and believes
11 this person to have a racist opinion and attitude, although
12 it wasn't articulated to the Court that way, that he may be
13 racist.

14 In McMillian, one of stated reasons for striking a
15 juror was that he, the defense lawyer, had reasons to
16 believe the juror was being biased based on his counsel's
17 conversation with members of the legal County Bar. The
18 Court said we find this reason, although questionable, is
19 race neutral. Again, citing that defendant's reason for
20 striking a juror do not have to be reasonably specific or
21 legitimate. The reasons need only be race neutral. So I
22 would find there is no violation as to juror -- no Batson
23 violation as to Juror No. 24.

24 As to Juror No. 114, it is now my understanding,
25 the State has conceded that would not be a Batson violation

1 because 114 did bring up his military background and that
2 would be a race neutral reason. Further, the Defendant did
3 strike a member of the African-American race that was
4 employed at the VA.

5 Is that correct, Solicitor, you conceded 114?

6 MS. BODMAN: Yes, Your Honor.

7 THE COURT: And that other one with the VA was
8 Juror No. 36. That was an African-American male.

9 Jurors No. 308, 157, 304. 308 is a white male, 36
10 years of age; 157 is white male, 57 years of age; 304 is
11 white male, 59 years of age. 103 is a white male -- excuse
12 me, is an African-American male. 103 is -- that is 36 years
13 of age. Juror No. 213, the last juror sat, the 12th juror
14 sat is an African-American male and is 23 years of age.

15 These three jurors appear to fit the Defendant's
16 profile of gun ownership based on their physical attributes.
17 Looked like -- 308 looked like a gun owner. No. 157 was a
18 gut reaction that he was, perhaps, a gun owner and guns were
19 stolen in this case. And then number 304, he stated --
20 Defense stated no reason, may own guns.

21 The first white male out of the box was Juror No.
22 3, the pharmacist. Juror No. 3 -- for some reason, I don't
23 have page one to tell me how old Juror No. 3 is.

24 Madam Clerk, do you have another jury list?

25 THE CLERK: Not with the birthdays on it.

1 MS. BODMAN: What are you looking for -- he was
2 No. 262.

3 THE COURT: What age is he?

4 THE CLERK: Actually, he asking for about 182 --
5 no, I'm sorry, 262, you were right.

6 MS. BODMAN: 262 was the first white male that was
7 called. He's 34 years of age.

8 THE COURT: Thirty-four. And he is a pharmacist.
9 Upon reviewing my notes, he would probably have the most
10 education of the white males that were -- perhaps, the most
11 education of any member of the jury panel. This Court does
12 not have the ability to look at someone to determine if they
13 look like a gun owner. However, the Defendant's reasons do
14 not have to be legitimate. I take into account, also, the
15 demeanor of the Defense attorney and his candid statements
16 to the Court. And I would find that 308 and 157 and 304 are
17 not Batson violations.

18 No. 314 has a college education. Sea Hunt -- he
19 did say Sea Hunt Boats. Again, I don't find that that's
20 necessarily legitimate, but I don't see the disparate
21 treatment between that strike and 103 or 213. It does not
22 violate Batson.

23 No. 217 was a white female, age 62. It looks to
24 me like her occupation is listed as COO, perhaps, now
25 retired. I'm not sure. COO and American anesthesiology.

1 Anesthesiology perks my ears up to think there's something
2 scientific involved with that. When I look at the members
3 of African-American females on the jury, Juror No. 291 is 60
4 years old. She's a cashier, adult ed is listed as her
5 occupation -- I mean, as her education. No. 267 is a
6 58-year-old. She's listed as cleaning. She has a high
7 school education. No. 100 is 59 years of age and has a high
8 school education. I do not think one's mental ability drops
9 between 60 and 62 or between 58 and 62. In some people's
10 case, they may drop much earlier than that. I find 217 is a
11 violation of Batson. That's not a race neutral reason in
12 that regard. 217 -- I said 260 -- 217 Batson violation.

13 Are there any college educated African-American
14 female on the jury, Solicitor?

15 MS. BODMAN: I'll just need one second to --

16 (Pause.)

17 MS. BODMAN: No. 84 does indicate she has some
18 college.

19 THE COURT: What age is she?

20 MR. LI: Twenty-seven, Your Honor.

21 COURT: Say it again.

22 MR. LI: Twenty-seven as listed on the --

23 THE COURT: Twenty-seven?

24 MR. LI: Yes, sir.

25 MS. BODMAN: And 215 has college and is 41 years

1 of age.

2 THE COURT: All right. As to 182, is a white
3 female, 32 years of age, college degree, works at
4 Books-A-Million. The reason given was no reason, gut
5 feeling as was 135. She works for Blue Cross Blue Shield.
6 No particular reason. No particular reason and no reason,
7 gut feeling is no reason at all. It doesn't arise to mere
8 pretext. It doesn't rise at all. It's a nonexplanation.
9 No. 182 and 135 is a violation of Batson.

10 I believe I have covered all nine; is that
11 correct?

12 MS. BODMAN: I apologize, Your Honor.

13 THE COURT: I believe I have covered all nine of
14 them?

15 MS. BODMAN: I believe so, yes, sir.

16 THE COURT: 217, 182, 135 violates Batson.
17 Now, what is the remedy?

18 MS. BODMAN: Your Honor, I believe we go back and
19 strike a new jury.

20 THE COURT: I think there was one case -- I
21 thought it was State V. Ellis Franklin, I could be wrong
22 about that being the Franklin decision, but says you could
23 plug a juror back in. I was never particularly a fan of
24 that procedure, quite frankly. But does the order set --
25 know whether -- the strike list remains the same?

1 MS. BODMAN: That I do not know. The case I'm
2 looking at just says the judge must set aside the petite
3 jury and the process begins.

4 THE COURT: Well, Mr. Li would end up maybe or
5 maybe not striking the same ones, but he knows the ones that
6 he can strike that are not -- that are Batson qualified, so
7 to speak.

8 MR. LI: Yes.

9 THE COURT: The ones that he couldn't, unless a
10 new reason arises between now and the second jury strike.
11 And I would add Juror No. 316 sent a note out that she just
12 found -- she or he, I'm not sure, has had a death in the
13 family and would like to be excused.

14 MS. BODMAN: I don't have any objection to that.
15 He just had a death in the family.

16 MR. LI: No objection, Your Honor.

17 THE COURT: First alternate, okay. Seems to me a
18 lot of alternates in Richland County -- all right. Well,
19 let's bring this panel out, bring the panel up. We'll
20 restrike the jury, same strike list.

21 No. 316, when he comes out, Madam Clerk, he can be
22 excused. Y'all give whatever instructions.

23 THE CLERK: Yes, sir.

24 THE COURT: All right. Bring them out and bring
25 them up.

1 All right. I'm going to have the list redone,
2 shook up again.

3 Take the clerk a few minutes?

4 THE CLERK: Yes, sir.

5 THE COURT: Now, this panel here, you want me to
6 just have them sit in the courtroom or you want them to
7 report downstairs?

8 THE CLERK: We can take them back downstairs, yes,
9 sir.

10 THE COURT: You want the bailiffs to take them
11 downstairs?

12 THE CLERK: Have Mr. Coward escort them down to
13 the jury assembly room, please.

14 BAILIFF: Yes, sir.

15 THE COURT: Whenever they're ready, bring them up
16 and let me know. I'm going to step out of the courtroom.

17 (Whereupon, a short recess was held.)

18 THE COURT: Madam Clerk, do we have our jury?

19 THE CLERK: Still waiting, Your Honor.

20 MS. BODMAN: May we approach while we're waiting?

21 THE COURT: Yes, ma'am.

22 (The jury panel returned to the
23 courtroom at 2:10 p.m.)

24 THE COURT: All right.

25 BAILIFF: Jury panel is present.

1 THE COURT: Thank you very much.

2 Seems like I've already done this one. I don't

3 know.

4 Welcome back, ladies and gentlemen. I apologize

5 for the delay. I thank you very much for your continued

6 patience.

7 I assure you the delay is not the result of the

8 lack of diligence of either party or the attorneys involved.

9 They have been working very hard. I do have one other

10 question that I've been asked to ask you. Is any member of

11 jury panel a gun owner? If so, please stand.

12 (Jurors stand.)

13 All right. All I'm going to do is -- I'll start

14 probably to my front right on the front row. All I want is

15 your number.

16 PROSPECTIVE JUROR: 157.

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

18 PROSPECTIVE JUROR: 314.

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

20 PROSPECTIVE JUROR: 68.

21 THE COURT: All right. Thank you very much.

22 Yes, sir. You may be seated.

23 PROSPECTIVE JUROR: 36.

24 THE COURT: Thank you.

25 PROSPECTIVE JUROR: 142.

1 PROSPECTIVE JUROR: 202.

2 PROSPECTIVE JUROR: 98.

3 PROSPECTIVE JUROR: 17.

4 PROSPECTIVE JUROR: 308.

5 PROSPECTIVE JUROR: 100.

6 PROSPECTIVE JUROR: 229.

7 PROSPECTIVE JUROR: 200.

8 PROSPECTIVE JUROR: 204.

9 THE COURT: Thank you. Thank you very much. And
10 I believe for purposes of this panel, also, I set No. 17
11 aside.

12 PROSPECTIVE JUROR: Yes.

13 THE COURT: And I will still set you aside for the
14 trial of this case. Thank you. Thank you very much.

15 (Jurors move to the back of the courtroom.)

16 Is there another one I had set aside? No, there
17 was not.

18 Anything additional from the State before we
19 select our jury, Solicitor?

20 MS. BODMAN: Nothing, Your Honor.

21 THE COURT: Defense?

22 MR. LI: Nothing, Your Honor.

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

24 Madam Clerk, if you will give us our juror,
25 please. And if y'all would, please, speak up when you come

1 to the microphone so that I can hear you. Thank you. Thank
2 you very much.

3 THE CLERK: No. 304.

4 (There was no response.)

5 THE CLERK: Number three-zero-four.

6 THE COURT: Y'all like a herd of turtles today.

7 THE CLERK: 272.

8 PROSPECTIVE JUROR: Oh, that's me. Sorry.

9 (Whereupon, Ann Ulmer, a white female,
10 came forward.)

11 THE COURT: Mr. Truitt, can you get us a status on
12 Juror No. 304?

13 BAILIFF: Yes, sir.

14 PROSPECTIVE JUROR: School registrar.

15 THE CLERK: What says the State?

16 MS. BODMAN: Please present the juror.

17 THE CLERK: What says the Defense?

18 MR. LI: Please strike this juror.

19 THE CLERK: Have a seat in the back of the
20 courtroom, please.

21 No. 214.

22 (Whereupon, David Reed, a black male,
23 came forward.)

24 PROSPECTIVE JUROR: Small group membership
25 advocate.

1 THE CLERK: What says the State?

2 MS. BODMAN: Please present the juror.

3 THE CLERK: What says the Defense?

4 MR. LI: Please present this juror.

5 THE CLERK: Have a seat in the jury box.

6 No. 279.

7 (Whereupon, Zenoe Washington-Cohen, a
8 black female, came forward.)

9 PROSPECTIVE JUROR: Learning specialist in writing
10 and doctoral student.

11 THE CLERK: What says the State?

12 MS. BODMAN: Please present the juror.

13 THE CLERK: What says the Defense?

14 MR. LI: Please seat this juror.

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

16 No. 186.

17 (Whereupon, Dianetta Newton, a black
18 female, came forward.)

19 MR. LI: What number is it?

20 THE CLERK: 186.

21 PROSPECTIVE JUROR: Children's services
22 supervisor.

23 THE CLERK: What says the State?

24 MS. BODMAN: Please present the juror.

25 THE CLERK: What says the Defense?

1 MR. LI: Please strike this juror.

2 THE CLERK: Have a seat in the back of the
3 courtroom, please.

4 No. 132.

5 (There was no response.)

6 THE COURT: 132.

7 (Whereupon, Kevin James, a Hispanic
8 male, came forward.)

9 PROSPECTIVE JUROR: General dentist.

10 THE CLERK: What says the State?

11 MS. BODMAN: Please present the juror.

12 THE CLERK: What says the Defense?

13 MR. LI: Please seat the juror.

14 THE CLERK: Have a seat in the jury box, please.

15 No. 194.

16 (Whereupon, Joy Paull, a white female,
17 came forward.)

18 PROSPECTIVE JUROR: Computer analyst.

19 THE CLERK: What says the State?

20 MS. BODMAN: Please present the juror.

21 THE CLERK: What says the Defense?

22 MR. LI: Please seat the juror.

23 THE CLERK: Have a seat in the jury box, please.

24 No. 304.

25 (Whereupon, Ronald Williams, a white

1 male, came forward.)

2 PROSPECTIVE JUROR: Certified financial planner.

3 THE CLERK: What says the State?

4 MS. BODMAN: Please present the juror.

5 THE CLERK: What says the Defense?

6 MR. LI: Was he in here for the questions?

7 THE COURT: No, sir.

8 Could I ask you a question, Juror No. 303?

9 PROSPECTIVE JUROR: 304.

10 THE COURT: And I asked the rest of the panel, I'm
11 not singling you out. I don't want you to think that.

12 PROSPECTIVE JUROR: Yeah, I was in the restroom.
13 I didn't hear them.

14 THE COURT: That's all right. Are you gun owner?

15 PROSPECTIVE JUROR: Yes.

16 THE COURT: Thank you.

17 304 response is yes.

18 MR. LI: Please strike this juror.

19 THE COURT: All right. Thank you very much.

20 THE CLERK: Have a seat in the back of the
21 courtroom.

22 No. 68.

23 (Whereupon, Randal Dickens, a white
24 male, came forward.)

25 PROSPECTIVE JUROR: Insurance executive.

1 THE CLERK: What says the State?

2 MS. BODMAN: Please present the juror.

3 THE CLERK: What says the Defense?

4 MR. LI: Please strike this juror.

5 CLERK: Have a seat in the back of the courtroom,

6 please.

7 No. 191.

8 (Whereupon, Barbara Palmer, a black

9 female, came forward.)

10 PROSPECTIVE JUROR: Housekeeping.

11 THE CLERK: What says the State?

12 MS. BODMAN: Please present the juror.

13 THE CLERK: What says the Defense?

14 MR. LI: Please seat this juror.

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

16 No. 164.

17 (Whereupon, Rayshaun McClurkin, a black

18 male, came forward.)

19 PROSPECTIVE JUROR: Full time student.

20 THE CLERK: What says the State?

21 MS. BODMAN: Please present the juror.

22 THE CLERK: What says the Defense?

23 MR. LI: Please seat this juror.

24 THE CLERK: Have a seat in the jury box, please.

25 No. 13.

1 (Whereupon, Lola Banks, a black female,
2 came forward.)
3 PROSPECTIVE JUROR: Teacher.
4 THE CLERK: What says the State?
5 MS. BODMAN: Please present the juror.
6 THE COURT: What says the Defense?
7 MR. LI: Please strike this juror.
8 THE CLERK: Have a seat in the back of the
9 courtroom.
10 No. 140.
11 (Whereupon, Bridgette Jones, a black
12 female, came forward.)
13 PROSPECTIVE JUROR: Fast food manager.
14 THE CLERK: What says the State?
15 MS. BODMAN: Please excuse the juror.
16 THE CLERK: Have a seat in the back of the
17 courtroom, please.
18 No. 98.
19 (Whereupon, Jason Gibson, a white male,
20 came forward.)
21 PROSPECTIVE JUROR: Sales rep.
22 THE CLERK: What says the State?
23 MS. BODMAN: Please present the juror.
24 THE CLERK: What says the Defense?
25 MR. LI: Please strike this juror.

1 THE CLERK: Have a seat in the back of the
2 courtroom, please.

3 No. 157.

4 (Whereupon, Gary Marquis, a white male,
5 came forward.)

6 PROSPECTIVE JUROR: Operations manager, retired
7 military officer.

8 THE CLERK: What says the State?

9 MS. BODMAN: Please present the juror.

10 THE CLERK: What says the Defense?

11 MR. LI: Please excuse this juror.

12 THE CLERK: Have a seat in the back of the
13 courtroom, please.

14 No. 215.

15 (Whereupon, Barbara Rice, a white
16 female, came forward.)

17 PROSPECTIVE JUROR: Registered nurse.

18 THE CLERK: What says the State?

19 MS. BODMAN: Please present the juror.

20 THE CLERK: What says the Defense?

21 MR. LI: Please present the juror.

22 THE CLERK: Have a seat in the jury box, please.

23 No. 36.

24 (Whereupon, Robert Bryant, a black male,
25 came forward.)

1 PROSPECTIVE JUROR: Legal estimate examiner,
2 retired military.

3 THE CLERK: What says the State?

4 MS. BODMAN: Please present the juror.

5 THE CLERK: What says the Defense?

6 MR. LI: Please excuse the juror.

7 THE CLERK: Have a seat in the back of the
8 courtroom, please.

9 No. 229.

10 (Whereupon, Rodney Sheehan, a white
11 male, came forward.)

12 PROSPECTIVE JUROR: Retired subcontractor.

13 THE CLERK: What says the State?

14 MS. BODMAN: Please present the juror.

15 THE CLERK: What says the Defense?

16 MR. LI: Please excuse the juror.

17 THE CLERK: Have a seat in the back of the
18 courtroom, please.

19 (Whereupon, Araina Brown, a black female, came
20 forward.)

21 THE CLERK: As I review your strikes, for the
22 State, I have one; for the Defendant, I have nine.

23 PROSPECTIVE JUROR: Medical operator.

24 THE CLERK: What says the State?

25 MS. BODMAN: Please excuse the juror.

1 THE CLERK: Have a seat in the back of the
2 courtroom, please.

3 No. 142.

4 (Whereupon, Ross Jordan, a black male,
5 came forward.)

6 PROSPECTIVE JUROR: A systems analyst.

7 THE CLERK: What says the State?

8 MS. BODMAN: Please present the juror.

9 THE CLERK: What says the Defense?

10 MR. LI: Please strike this juror.

11 THE CLERK: Have a seat in the back of the
12 courtroom, please.

13 No. 84.

14 (Whereupon, Simone Francis, a black
15 female, came forward.)

16 PROSPECTIVE JUROR: Area supervisor.

17 THE CLERK: What says the State?

18 MS. BODMAN: Please present the juror.

19 CLERK: What says the Defense?

20 MR. LI: Please seat the juror.

21 THE CLERK: You --

22 MR. LI: No challenge.

23 THE COURT: Please have a seat in the jury box.

24 No. 66.

25 (Whereupon, Betty Dement, a white

1 female, came forward.)

2 PROSPECTIVE JUROR: Credit Union branch manager.

3 THE CLERK: What says the State?

4 MS. BODMAN: Please present the juror.

5 THE CLERK: Does the Defense challenge for cause?

6 MR. LI: No, ma'am.

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

8 No. 24.

9 (Whereupon, Lee Blackmon, a white male,

10 came forward.)

11 PROSPECTIVE JUROR: Full time student.

12 THE CLERK: What says the State?

13 MS. BODMAN: Please present the juror.

14 THE CLERK: Does the Defense challenge for cause?

15 MR. LI: Yes, ma'am.

16 THE COURT: Step up here, please, Solicitor and

17 Mr. Li.

18 (Whereupon, a bench conference was held

19 off the record, in the presence of the

20 jury, but out of the hearing of the

21 jury.)

22 THE COURT: All right. Madam Clerk, you may seat

23 this juror subject to --

24 CLERK: Have a seat in the jury box, please.

25 No. 100.

1 (Whereupon, Cynthia Gilliam, a black
2 female, came forward.)

3 PROSPECTIVE JUROR: Hotel associate.

4 CLERK: What says the State?

5 MS. BODMAN: Please present the juror.

6 THE CLERK: Does the Defense challenge for cause?

7 MR. LI: No, ma'am.

8 THE COURT: Have a seat in the jury box, please.

9 No. 135.

10 (Whereupon, Susan Jennings, a white
11 female, came forward.)

12 PROSPECTIVE JUROR: Medical engineer.

13 THE CLERK: What says the State?

14 MS. BODMAN: Please present the juror.

15 THE CLERK: Does the Defense challenge for cause?

16 MR. LI: No, ma'am.

17 THE COURT: Have a seat in the jury box, please.

18 No. 217.

19 (Whereupon, Bernice Richardson, a white
20 female, came forward.)

21 PROSPECTIVE JUROR: Retired medical consultant.

22 THE CLERK: What says the State?

23 MS. BODMAN: Please present the juror.

24 THE CLERK: What says the Defense?

25 MR. LI: Please strike this juror.

1 THE CLERK: Have a seat in the back of the
2 courtroom, please.

3 No. 314.

4 (Whereupon, Joel Moss, a white male,
5 came forward.)

6 PROSPECTIVE JUROR: Vice-president of Sea Hunt
7 Boat Company.

8 THE CLERK: What says the State?

9 MS. BODMAN: Please present this juror.

10 THE CLERK: What says the Defense?

11 MR. LI: Please strike this juror.

12 THE CLERK: Have a seat in the back of the
13 courtroom, please.

14 No. 114.

15 (Whereupon, Robert Helmandollar, a white
16 male, came forward.)

17 PROSPECTIVE JUROR: Retired military, quality
18 assurance specialist --

19 CLERK: What says the State?

20 MS. BODMAN: Please present the juror.

21 THE CLERK: Does the Defense challenge for cause?

22 MR. LI: No, ma'am.

23 THE COURT: Have a seat in the jury box, please.

24 No. 250.

25 (Whereupon, Valeska Stigger, a black

1 female, came forward.)

2 PROSPECTIVE JUROR: Stay at home mother.

3 THE CLERK: What says the State?

4 MS. BODMAN: Please excuse the juror.

5 THE CLERK: Have a seat in the back of the

6 courtroom, please.

7 No. 284.

8 (Whereupon, Diane White, a black female,

9 came forward.)

10 PROSPECTIVE JUROR: Janitorial/housekeeping.

11 THE CLERK: Does the State challenge for cause?

12 MS. BODMAN: Yes, we do.

13 MR. LI: Your Honor --

14 THE COURT: All right. Seat Juror No. 284?

15 PROSPECTIVE JUROR: 284.

16 THE COURT: All right. Yes, ma'am, you're seated

17 in the jury.

18 THE CLERK: Have a seat in the jury box.

19 No. 262.

20 (Whereupon, Jeffrey Thompsn, a white

21 male, came forward.)

22 PROSPECTIVE JUROR: Pharmacist.

23 THE CLERK: What says the State?

24 MS. BODMAN: Please present the juror.

25 THE CLERK: What says the Defense?

1 MR. LI: No challenge.

2 THE CLERK: Have a seat in the jury box, please.

3 THE COURT: That's three alternates?

4 THE CLERK: Yes, sir.

5 THE COURT: All right. Besides those challenges
6 that I've noted by the State and the Defense, any other
7 motions regarding the jury selection process from the State,
8 Solicitor?

9 MS. BODMAN: Nothing, Your Honor.

10 THE COURT: The defense?

11 MR. LI: Nothing further.

12 THE COURT: All right. Thank you. Thank you very
13 much.

14 Again, ladies and gentlemen, I'm going to ask you
15 to step momentarily to your jury room while I give your
16 colleagues further instruction concerning their jury service
17 for the remainder of the day and remainder of the week.

18 During this brief recess, do not discuss this case
19 with anyone, that includes your fellow jurors or anyone
20 else. If you would now go with your bailiff to your jury
21 room.

22 (The jury retires from the courtroom at
23 2:31 p.m.)

24 THE COURT: Ladies and gentlemen of jury panel
25 that were not fortunate enough to be selected for the trial

1 of this case, do not give up hope. The week is young.
2 There are many cases to be tried. With that being said, it
3 has been my pleasure and privilege to be with you this
4 afternoon. I'm going to ask you to report to your jury
5 assembly room and they will give you instructions concerning
6 your jury service for the remainder of the day and the
7 remainder of the week. Thank you. Thank you very much.

8 (The jury venire retires from the
9 courtroom at 2:32 p.m.)

10 THE COURT: All right. Mr. Li, I believe you had
11 a challenge for cause as to Juror No. 24?

12 MR. LI: Yes, sir, Your Honor.

13 THE COURT: All right. I'll be glad to hear from
14 you.

15 MR. LI: Juror No. 24, my paralegal says she's
16 known him from her time at University of South Carolina,
17 Your Honor. Says that his personality -- his character is
18 in question. She says he's kind of a jerk and she says that
19 maybe -- I guess, just her feelings on it, Your Honor, that
20 she feels that he has shown bias or racial tendencies.

21 THE COURT: All right.

22 MR. LI: Racist tendencies. We have no proof,
23 Your Honor, that's just what my paralegal tells me.

24 THE COURT: That's based on her observations?

25 MR. LI: Yes, sir, personal observations of Juror

1 24 outside of the courtroom.

2 THE COURT: How long has she known or been around
3 Juror No. 24?

4 MR. LI: About a year and a half.

5 THE COURT: And on what frequency?

6 MR. LI: Your Honor, if I may ask --

7 THE COURT: Yes, ma'am, your name, please?

8 PARALEGAL: Whitney Handy.

9 THE COURT: All right. Handley?

10 PARALEGAL: Handy, H-A-N-D-Y.

11 THE COURT: Thank you. Thank you so much.

12 PARALEGAL: It was quite frequent. We shared
13 mutual friends and we were the same major.

14 THE COURT: What major is that?

15 PARALEGAL: He's chemistry and I was biology, but
16 they overlapped.

17 THE COURT: So y'all are classmates, so to speak?

18 PARALEGAL: Yes.

19 THE COURT: Schoolmates. And you also have --

20 PARALEGAL: Mutual friends.

21 THE COURT: Mutual social friends.

22 PARALEGAL: Yes, sir.

23 THE COURT: Is that correct?

24 PARALEGAL: Yes, sir.

25 THE COURT: So you've been around him in both a

1 school setting and social setting?

2 PARALEGAL: Yes, sir.

3 THE COURT: And your observations have been what?

4 PARALEGAL: That he's questionable towards -- I

5 don't want to say racist, but he has racial tendencies as

6 far as comments or judgment.

7 THE COURT: You are still in school?

8 PARALEGAL: No, I graduated.

9 THE COURT: Graduated with a degree in?

10 PARALEGAL: Biology.

11 THE COURT: And, you're now employed as a

12 paralegal?

13 PARALEGAL: Yes.

14 THE COURT: How long have you been employed in

15 that capacity?

16 PARALEGAL: Since January.

17 THE COURT: January of this year?

18 PARALEGAL: Yes, sir.

19 THE COURT: When did you graduate?

20 PARALEGAL: In August of 2012.

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

22 PARALEGAL: Thank you.

23 THE COURT: Thank you, Mr. Li.

24 MR. LI: Thank you, Your Honor.

25 THE COURT: Solicitor, do you care to respond?

1 MS. BODMAN: Well, I guess two things is, you
2 know, there is nothing on the record, you know, to support
3 it. It's just her impressions. But I guess as a side as a
4 related troubling issue is that all the parties were
5 introduced to the jurors and asked if they knew anybody and
6 this gentleman did not respond that he knew her and it was
7 not brought forth to the Court that there was some type of
8 relationship or that to be addressed to the gentleman. You
9 know, can we refresh your memory for a second? Do you know
10 this person and can you still be fair? So that's -- and
11 she's now saying they know each other.

12 THE COURT: She wasn't asked that question,
13 Solicitor.

14 MS. BODMAN: Okay.

15 THE COURT: That juror has to respond to the
16 question.

17 MS. BODMAN: No, I'm saying that -- right, but we,
18 as officers of the Court, if a juror -- if I know a juror
19 and a juror does not respond, as an officer of the Court, I
20 need to stand up and say I do know that person. I don't
21 know why they didn't respond, but we do know each other, but
22 I do know juror number whatever. And the Court can inquire
23 as to maybe the person just didn't remember it or if you
24 refresh their memory, then they go oh, right, you know,
25 yeah, I do know them. But I was just -- you know, because

1 the juror didn't indicate that he knew her, so.

2 THE COURT: All right. Thank you, Solicitor.

3 Now, what about as to 284?

4 MS. BODMAN: Juror No. 284 indicated -- she was
5 brought up the first time, her son was represented by Victor
6 Li and Edward Dunn. He was prosecuted by myself and Foster
7 Matthews. We went to trial. He was convicted of burglary
8 and kidnapping and arm robbery and received a 30-year
9 sentence. It was -- a lot of it was directed at her, the
10 defendant's mother. There was a recorded phone call that we
11 had between Edward Dunn and this juror where this juror said
12 -- where he admitted to his mom that he was being accused of
13 sexually assaulting an elderly woman and that they got his
14 DNA at the scene. And it was very volatile in terms of her
15 response of shut up, I don't want to hear anything. You
16 shouldn't have talked to the police. You know, don't say
17 anything else. They're just out to get you.

18 And there was a lot of stuff that was directed in
19 that trial in opening and closing arguments and in testimony
20 about her, specifically, and her really complacency and,
21 really, lack of appropriate response when her son says that
22 he was accused of raping an elderly woman. There it was a
23 lot of animosity towards her -- well, back from her towards
24 the State.

25 And when we were standing up here with Your Honor

1 and you were inquiring, she brought -- I saw her turn to
2 Victor and pat him on the back and smile. And then Victor
3 asked her what was the name of her son. She says oh, Victor
4 Li represented my son. And Victor said the name of the son.
5 And then I said, Oh, I was the prosecutor. And she turned
6 and gave me a very saving look and then turned back to Your
7 Honor. I realize that she said on the record that she could
8 be fair, but she, clearly, has an agenda to say that to get
9 on the jury.

10 I mean, we directly went after her and attacked
11 her for covering up her son and it was not a pleasant trial
12 experience. And the fact that all three of us were involved
13 in that that she would have allegiance to Victor as she,
14 clearly, patted him on the back and she is not happy with
15 what happened to her son based on our actions against him.

16 THE COURT: Thank you. Thank you very much,
17 Solicitor.

18 Mr. Li.

19 MR. LI: In all honestly, I would have to agree
20 with Ms. Bodmon at this time.

21 THE COURT: Mr. Bailiff, would you bring me Juror
22 No. 24.

23 BAILIFF: Twenty-four --

24 THE CLERK: 284.

25 THE COURT: Isn't 24 Mr -- isn't that the one that

1 you challenged for cause?

2 MR. LI: Yes, sir.

3 THE CLERK: I'm sorry.

4 THE COURT: Madam Clerk, would you place this
5 juror under oath for me, please?

6 THEREUPON,

7 LEE BLACKMON,

8 after having been duly sworn, testified as follows:

9 THE CLERK: Thank you.

10 THE COURT: You're Juror No. 24?

11 PROSPECTIVE JUROR: Yes, sir.

12 THE COURT: And your occupation?

13 PROSPECTIVE JUROR: Full time student.

14 THE COURT: And where at?

15 PROSPECTIVE JUROR: University of South Carolina
16 Honors College.

17 THE COURT: Okay. What is your major?

18 PROSPECTIVE JUROR: I'm majoring in biology and
19 chemistry with a minor in medical humanities.

20 THE COURT: What year are you in?

21 PROSPECTIVE JUROR: Senior.

22 THE COURT: All right. Do you recognize this
23 young lady sitting next to Mr. Li?

24 PROSPECTIVE JUROR: I do not believe so.

25 THE COURT: Do you recognize her, perhaps, in a

1 class setting or --

2 PROSPECTIVE JUROR: (The witness shakes head.)

3 THE COURT: -- that you were in class with her?

4 PROSPECTIVE JUROR: Not that I'm aware of.

5 THE COURT: Or in any social settings?

6 PROSPECTIVE JUROR: No, sir.

7 THE COURT: Ms. what?

8 PARALEGAL: Handy.

9 THE COURT: Ms. Handy?

10 PROSPECTIVE JUROR: Were you in Dr. Andy's class?

11 PARALEGAL: I was. And --

12 PROSPECTIVE JUROR: Was I TNA at the time?

13 PARALEGAL: No, we shared some mutual friends,

14 Ally Wood.

15 PROSPECTIVE JUROR: Oh, okay, yeah. I remember

16 her.

17 THE COURT: Did the bell ring?

18 PROSPECTIVE JUROR: Yeah, I remember Ally. That

19 was my ex, so.

20 THE COURT: I could see that recognition.

21 PROSPECTIVE JUROR: Yeah.

22 THE COURT: So you do recognize her?

23 PROSPECTIVE JUROR: I believe so, now that the

24 name's been dropped.

25 THE COURT: All right. Do you recall being in a

1 social settings or --

2 PROSPECTIVE JUROR: At one point, probably, yes,
3 sir.

4 THE COURT: All right. And also in a classroom
5 setting then --

6 PROSPECTIVE JUROR: I'm assuming, yes, sir.

7 THE COURT: -- overlapping.

8 PROSPECTIVE JUROR: (The witness nodded head.)

9 THE COURT: All right. Well, obviously, you do
10 not know her well?

11 PROSPECTIVE JUROR: (Witness nods head.)

12 THE COURT: Is that a fair statement?

13 PROSPECTIVE JUROR: I believe that would be fair.

14 THE COURT: All right. Given the fact that she is
15 the paralegal for the gentleman on trial, could you still be
16 a fair and impartial juror in the trial of this case for
17 both the State and the Defense?

18 PROSPECTIVE JUROR: I believe I could be fair.

19 THE COURT: Anything about this case whatsoever,
20 the fact that it's a burglary, the fact that there's an
21 allegation that -- an allegation only that the perpetrator
22 at the crime was armed or became armed during the commission
23 of the crime, anything about the State or the State's
24 witnesses or the Defense or the Defendant himself,
25 Mr. Bloodsaw, anything whatsoever that would make you feel

1 like you could not be a fair and impartial juror in the
2 trial of this case for either party?

3 PROSPECTIVE JUROR: I am not a strong proponent
4 for gun control -- or I believe there should be gun control,
5 if that's what you mean.

6 THE COURT: Given that belief, do you think you
7 could still be a fair and impartial juror in the trial of
8 this case for both the State and the Defense?

9 PROSPECTIVE JUROR: No, sir.

10 THE COURT: All right. Just have -- if you'd just
11 step right out in the hallway with the bailiff momentarily.
12 Thank you very much.

13 PROSPECTIVE JUROR: Yes, sir.

14 THE COURT: Solicitor, do you care for me to ask
15 any additional questions or would you like to ask any
16 questions?

17 MS. BODMAN: No, sir.

18 THE COURT: Mr. Li?

19 MR. LI: No, sir.

20 THE COURT: All right. I'm going to excuse for
21 cause Juror No. 24. I'm going to excuse for cause Juror No.
22 284.

23 If you would, bring me Juror 24 back in here and
24 Juror and 84 out of the jury room.

25 THE COURT: All right. Juror No. 24 and Juror

1 No. 284 are present in the courtroom. I'm going to release
2 both of y'all from the trial jury in the trial of this case.

3 That's Juror No. 24 and Juror No. 284.

4 That is your number, correct, ma'am?

5 PROSPECTIVE JUROR: That is correct.

6 THE COURT: Thank you. Thank you very much for
7 being present with us throughout these early afternoon
8 hours. I'm going to ask you to please report back to your
9 jury assembly room. The Clerk will give you further
10 instructions concerning your jury service for the remainder
11 of the week. Again, thank you very much for your service.

12 PROSPECTIVE JUROR: All right.

13 THE COURT: I struck 284 based on the facts and
14 circumstances that were explained to me during the trial of
15 her son's case in which she was a witness, that they there
16 were the same prosecutors involved in her son's case, Mr.
17 Matthews, Ms. Bodmon, the same defense attorney in the case,
18 Mr. Li, that, at least, one of charges were the same,
19 burglary in the first-degree, that there was evidently a
20 phone situation between her and her son, the defendant in
21 that case, and she was an intricate part of that particular
22 situation.

23 I would add, I do note that she appeared gracious,
24 if that's the proper word, toward Mr. Li having represented
25 her son. She became -- her demeanor did change when she

1 became aware after being told that Ms. Bodmon was the one
2 that prosecuted her son. There was a change in her demeanor
3 in both her facial expression and her body language in that
4 regard.

5 All right. Bring us our jury, please.

6 We've got to promote somebody. We've got to
7 promote one of the alternates. Y'all don't have any
8 objection to the Clerk pulling the name?

9 MR. LI: No, sir.

10 MS. BODMAN: No objection from the State.

11 (The jury returned to the courtroom at
12 2:49 p.m.)

13 BAILIFF: The jury is seated, Your Honor.

14 THE COURT: All right.

15 Now, let's see, Juror No. 262, I believe you're an
16 alternate.

17 If you would have him sit where the alternates sit
18 (indicating).

19 And Juror No. 114, you are, also, an alternate,
20 but you've been promoted already, so you've gone from
21 alternate to being a member of the primary juror.

22 PROSPECTIVE JUROR: Yes, sir.

23 THE COURT: Ladies and gentlemen of the jury
24 panel, after I give you some brief instructions, I am going
25 to release you from your jury service for the remainder of

1 the afternoon. That is not unusual that I would have
2 pretrial matters in a case such as this. And I realize I
3 have gone deep into the lunch and afternoon hours already.
4 I apologize for the delay in holding y'all captive. Once I
5 give you these instructions and release you, I will tell
6 what time and where to report back in the morning.

7 I will remind you, while you're on jury service,
8 you are not to discuss this case with others. That includes
9 your fellow jurors, family, friends, or anyone else. If
10 anyone tries to talk with you about the case, please, let me
11 know.

12 Do not read, watch, listen to any new reports
13 about this case should there be any. You may not use your
14 computer, cellular phone or other electronic device with
15 communication capability while in attendance at trial or
16 during deliberations. These devices, of course, may be used
17 during lunch breaks and evening hours, obviously, but may
18 not be used to obtain or disclose information which is
19 prohibited.

20 Information which is prohibited includes, but is
21 not limited to the following: Information about a party, a
22 witness, an attorney or a court officer; new accounts of the
23 case; information collected through juror research on any
24 topic raised or testimony offered by any witness or
25 information collected through juror research on any other

1 topic that the juror might think would be helpful in
2 deciding the case.

3 You decide the case based on the evidence and the
4 testimony you hear coming from the witness stand, from the
5 witnesses testifying before you under oath and any diagrams,
6 exhibits, photographs or the like that may be introduced
7 into evidence and the law as I tell you the law is. You are
8 the judges of the facts. You make those finding of fact
9 from the testimony of witnesses and any inferences
10 reasonably to be drawn from that testimony.

11 So please, please, keep that in mind. Upon your
12 return in the morning, I would give you your first
13 assignment as a trial jury. I would ask you to, please,
14 select or elect one among your number to serve as the
15 Foreperson of the jury. That can be based on prior jury
16 experience or lack of prior jury experience, whatever is
17 jury decides in that regard, but select one among your
18 number. That can be any one of you, except Juror No. 262,
19 because 262 right now is still in the capacity of an
20 alternate juror. Although I'm sure he would make a fine
21 jury foreperson, he may not be selected because of his
22 status as an alternate.

23 With that being said, please, remember my
24 instructions to not do any investigation on the internet or
25 on your own. Please be back promptly in your jury room at

1 9:30 in the morning. The bailiff will show you the way out
2 today and will show you where to report and how to report
3 back in the morning.

4 Again, thank you very much for your patience and
5 your consideration. Hope you all have a pleasant afternoon
6 and evening. See you prompt at 9:30 in the morning.

7 PROSPECTIVE JUROR: Thank you.

8 THE COURT: Thank you.

9 (The jury retires from the courtroom at
10 2:56 p.m.)

11 THE COURT: All right. There were some pretrial
12 matters, Solicitor?

13 MS. BODMAN: Jackson V Denno, there was oral
14 statement made to Sergeant Don Robinson. Just talking to
15 Mr. Li this morning before we started jury qualifications,
16 there was a witness from Richland County Sheriff's
17 Department that he asked if we could get here. I tried to
18 call him and he, actually, has a funeral at 2:00 o'clock
19 this afternoon. So if we put on Sergeant Robinson for the
20 Denno and I can have Sergeant Faust first thing in the
21 morning to just briefly put him up for whatever Mr. Li -- I
22 know what the issue is now. We can address that in the
23 morning, I think, very briefly. So we can just start with
24 Sergeant Don Robinson.

25 THE COURT: All right.

1 Come around and be sworn, please.

2 THEREUPON,

3 SERGEANT DON ROBINSON,

4 after having been duly sworn, testified as follows:

5 THE CLERK: Thank you. Have a seat in the witness
6 stand, please. State your name for the record.

7 THE WITNESS: Don Robinson.

8 DIRECT EXAMINATION

9 BY MS. BODMAN:

10 Q With whom are you employed?

11 A Richland County Sheriff's Department.

12 Q In what capacity?

13 A I am a supervising detective in our investigative
14 addition.

15 Q And how did you come to be involved in this
16 burglarly/larceny case involving Thomas Lewis Bloodsaw?

17 A Okay. During my duties -- I have two duties. One is I
18 supervise a group of detectives for the burglary units,
19 and I, also, handle some of the cases myself. So when
20 these reports came in, I disseminate them to several
21 different investigators and some of the cases, I will
22 assign to myself. So I assigned this one here to
23 myself because, normally, I work that area for the most
24 part.

25 Q Okay. And what date -- I have the warrants here in

1 front of me. What date did the offense, actually,
2 occur?

3 A August the 24th, 2011.

4 Q And involving the burglary, I guess, at that point, did
5 you have any evidence or information that developed any
6 particular suspect?

7 A I had no suspect information at all, neither did -- the
8 victim had no idea who their suspect was and at that
9 point, it was a wide-open investigation with zero
10 leads.

11 Q Okay. What potential evidence did you have in the
12 case?

13 A I knew that our crime scene had gone to the scene and
14 processed it. And I knew that there was a potential
15 for a fingerprint match.

16 Q Okay. And did you get information that, in fact, there
17 was a latent print lifted at the scene that matched a
18 name, matched a suspect?

19 A I did. I received notification from our forensic unit
20 that there was a potential fingerprint match in this
21 case.

22 Q Okay. And what name -- what did that fingerprint match
23 to, who did it match to?

24 A Upon the confirmation, I received notification from
25 them and it came to the Defendant, Thomas Bloodsaw.

1 Q And did you, subsequently, then get a warrant or
2 warrants?

3 A Well, the first thing I did is I immediately called the
4 victim and spoke to the victim, the husband and wife,
5 spoke to both of them to make sure they had no idea who
6 Thomas Bloodsaw was to confirm that there was no reason
7 for that fingerprint to be in their residence.

8 Q Okay.

9 A And after concluding with them that they had no idea
10 who Thomas Bloodsaw was, that he was not a friend or an
11 associate of anyone in their family, then I acquired
12 the arrest warrant.

13 Q Okay. And on what date was the warrant served?

14 A It was served on September 17th, 2011.

15 Q Okay. Did you have occasion then to come in contact
16 with the Defendant himself, Thomas Bloodsaw?

17 A I did.

18 Q Okay. And how did that happen?

19 A I found out over the weekend that he arrested. I was
20 notified by the deputies who made the arrest, so my
21 first time back into work, which would have been Monday
22 morning, I went to the jail, picked him up and brought
23 him back to my headquarters for an interview.

24 Q Okay. And what happened in terms of that interview?
25 What did you say to him, do?

1 A As normal procedure, we will pick him up from the sally
2 port, put him in my vehicle. As we're getting ready to
3 leave, I explain to him where we're going and why we're
4 going.

5 Q Okay.

6 A That's the first question they usually ask. So I
7 approached him, explained to him who I was, what my
8 purpose was and that we were heading to our
9 headquarters to talk about this incident. And during
10 the transient from the jail to the office, which is
11 about a 20, 25-minute ride, I explained to him that --
12 who I was and that I was assigned the case and I was
13 assigned the burglary case at a residence. And at that
14 time, I provided verbal Miranda as we're riding down
15 the road. Initially, as we're going, I do the verbal
16 Miranda -- of course, driving, I can't do the written
17 Miranda, so I do the verbal Miranda in case there's an
18 utterance or confession on the way.

19 Q Okay. And so that verbal Miranda, what, specifically,
20 do you advise him of? What do you say to him?

21 A Okay. It's pretty much, I say you understand you have
22 the right to remain silent. Anything you say can and
23 will be used against you in a court of law. You have a
24 right to an attorney. If you cannot afford one, one
25 will be appointed to you by the State of South

1 Carolina. Do you understand the rights I've read to
2 you.

3 Q Okay. And did he indicate that he -- anything about
4 acknowledging those rights or waiving those rights --

5 A Yeah.

6 Q -- or anything?

7 A He understood.

8 Q Okay.

9 A He wasn't very vocal on the way back, but he
10 acknowledged, yes, I got it (indicating).

11 Q And then you subsequently -- or, actually, let me ask
12 you this, you said you picked him up at Alvin S. Glenn?

13 A Yes.

14 Q He had been arrested over the weekend. And this was a
15 Monday morning?

16 A Yes, this was Monday.

17 Q Okay. Did he appear to be under the influence of any
18 alcohol or drugs?

19 A No, he was fine.

20 Q Did he appear to be educated, cognizant, aware of what
21 you were talking about?

22 A He seemed alert and cognizant. I don't know about his
23 mental status and everything else. He seemed
24 appropriate. He understood what was going on.

25 Q So when you said I'm taking you to headquarters, he

1 didn't have any questions about what does that mean or
2 what is headquarters as opposed to --

3 A He didn't bring anything else up for discussion, so.

4 Q Okay. Did you, subsequently, then talk to him about
5 the specifics of the case?

6 A Oh, I did.

7 Q What was that about?

8 A Well, I started going through the details of the case.
9 I explained to him who the Kellys were and if he knew
10 them. And I explained to him that I had a particular
11 location where this burglary occurred. And his comment
12 to me is I don't -- I wasn't there. I wasn't involved.
13 I have no idea what you're talking about. Everything
14 was complete denial. I said, Well, do you have any
15 legal reason to have your fingerprint inside the house?
16 No, sir, I don't.

17 Q So you did, actually, tell him about the fingerprint?

18 A Yes, he was well aware of the fingerprint.

19 Q And his response about is there any legal reason why
20 your fingerprint would be in the home, what was his
21 response?

22 A No, I have no idea. He has no idea.

23 Q Did you document or did he give any kind of written
24 sworn statement?

25 A No, there was nothing. That was the gist of our

1 conversation. We spoke about it for a little while,
2 but during the whole entire interview, it was complete
3 100 percent denial.

4 Q Okay.

5 MS. BODMAN: I have no further questions.

6 THE COURT: Thank you.

7 Mr. Li?

8 CROSS-EXAMINATION

9 BY MR. LI:

10 Q Mr. Robinson, how are you doing?

11 A Good, how are you?

12 Q Good. Quick questions. You said you Mirandized Mr.
13 Bloodsaw on the way from the jail to headquarters;
14 correct?

15 A Yes.

16 Q Okay. You didn't have him sign anything?

17 A No, we didn't do the written.

18 Q He didn't initial anything?

19 A No, sir.

20 Q Okay. And after you -- you said you read him his
21 Miranda rights. When you started questioning him about
22 the burglary, he, basically, denied any involvement;
23 correct?

24 A That's correct.

25 Q And the only incident report or the only report that

1 was typed up by you was something similar to this?

2 A It was just that follow-up report.

3 Q Follow-up report?

4 A Yes.

5 Q The initial incident report was by somebody else;

6 correct?

7 A That's correct.

8 Q Okay. And in your report, you don't have quotes as to

9 what Thomas said; correct? It was summaries --

10 A I have a summation, but not a verbatim word-for-word.

11 Q No word-for-word, okay. And, in fact, your summery

12 was, basically, two phrases. He denied any involvement

13 in the burglary; correct?

14 A That's correct.

15 Q But your second phrase is he could not provide me or

16 any other investigator any reason why his fingerprint

17 would be discovered in the victim's residence; correct?

18 A That's correct.

19 Q So it's, basically, more of a phrase saying he did not

20 tell you anything; correct? He could not give you a

21 reason?

22 A He could not give me a reason -- he did not give me a

23 reason that his fingerprint would be in that house.

24 Q That's correct. He did not give you a reason?

25 A That's correct.

1 Q Okay. And you -- do you have what he, actually, said
2 written down or recorded?

3 A No.

4 Q And at the point, approximately how long did
5 Investigator Faust show up for the interview?

6 A I'm not quite sure.

7 Q Okay. All right.

8 MR. LI: Your Honor, no further questions.

9 THE COURT: Thank you.

10 Any redirect, Solicitor?

11 MS. BODMAN: No, Your Honor.

12 THE COURT: Thank you very much, Mr. Robinson.

13 We'll have Investigator Faust tomorrow?

14 MS. BODMAN: Yes, we will.

15 THE COURT: And are there any other witnesses?

16 MS. BODMAN: Not in regard to a Jackson V. Denno,
17 no.

18 THE COURT: Okay. All right. Are there other
19 motions from the State, Solicitor?

20 MS. BODMAN: Your Honor, we did file a reciprocal
21 motion for discovery. It is my understanding that a Defense
22 expert by the name of Marty Ludas came to the Richland
23 County Sheriff's Department to look over the evidence, look
24 over the fingerprints and spoke with our officers at
25 Richland County. And they indicated to Trisha Odom, I

1 believe, he indicated to Trisha Odom that he always writes a
2 report. So we just want to ask if that expert has written a
3 report that that report be turned over.

4 MR. LI: We're under the understanding that if we
5 decide to call him, Mr. Ludas, we'll turn it over as part of
6 our case in chief.

7 THE COURT: I'm sorry?

8 MR. LI: I'm sorry. We were under the
9 understanding or under the impression that if we decide to
10 call Mr. Ludas as part of our case in chief, we will
11 definitely provide the information. As of right now, we're
12 not sure if Mr. Bloodsaw is going to call him in the case.

13 THE COURT: So you're saying as of right now,
14 there is no report?

15 MR. LI: Right now, there is no report, Your
16 Honor.

17 THE COURT: As of right now, you don't know that
18 you're going to call --

19 MR. LI: That's right.

20 THE COURT: Mr --

21 MR. LI: Mr. Ludas?

22 THE COURT: As a witness?

23 MR. LI: Yes, sir.

24 THE COURT: All right.

25 Solicitor?

1 MS. BODMAN: Well, he's on the witness list and
2 there is a report and we've requested it under reciprocal
3 rules.

4 MR. LI: We did that just out of an abundance of
5 caution for potential witnesses for the jury.

6 THE COURT: You know, the only case I can think of
7 is either Ted Powers or one that Judge Westbrook tried in
8 Lexington County years ago where we ordered an expert
9 prepare a report. There was also the barefoot impression
10 case where I think -- well, I'm not going to even try to sit
11 here and figure out what happened with that case. I'm still
12 not sure.

13 Let me look at the rule.

14 MS. BODMAN: Under Rule 5, I guess the language is
15 who the defendant intends to call at trial. So, that, I
16 guess, would be -- what that means intends to call at trial.
17 He's on the witness list. And, specifically, I think under
18 (b)(2), information not subject to disclosure. And it says
19 except as to scientific or medical reports. This
20 subdivision does not authorize the discovery or inspection
21 of reports, memorandum or other internal documents. Then it
22 goes down at the end, or by perspective prosecution or
23 defense witnesses. So the fact that they have at the very
24 top except as to scientific or medical reports tells me that
25 even if you're perspective.

1 THE COURT: Well, Mr. Li, Rule 5(b) --

2 MR. LI: Your Honor, we listed the witness as a
3 potential witness out of an abundance of caution, Your
4 Honor. At this point, we do not intend to call him.

5 THE COURT: You do not intend to call him?

6 MR. LI: Do not intend to call him, that's right.

7 THE COURT: Do you intend to introduce any
8 examinations or tests that he conducted or prepared as
9 evidence in chief at trial?

10 MR. LI: No, sir.

11 THE COURT: And you do not intend to call Mr.
12 Ludas at trial?

13 MR. LI: No, sir.

14 THE COURT: Does that resolve that, Solicitor?

15 MS. BODMAN: Yes.

16 THE COURT: Okay. Anything further, Solicitor?

17 MS. BODMAN: I'll just say we, also, ran the
18 victim's rap sheet and there are no convictions, no arrests
19 on the victim, Leroy Kelly, criminal history.

20 THE COURT: Thank you.

21 Mr. Li, any motions?

22 MR. LI: Thank you, Your Honor. Very brief
23 motions, Your Honor. One -- the first motion is fairly
24 standard. We make a motion to exclude any reference to Mr.
25 Bloodsaw's prior burglaries, Your Honor. I believe that

1 will be more prejudicial than probative, Your Honor. That
2 would include any mention -- when the fingerprint analyst is
3 on the stand, Your Honor, we would ask that due care be
4 given to any mention of Mr. Bloodsaw's fingerprints being
5 already in the database. I believe that we can come to some
6 compromise. I've done other cases before how his
7 fingerprints were matched up to the AFIS machine. We just
8 believe it would be more prejudicial than probative. That's
9 my first motion.

10 THE COURT: All right. Solicitor?

11 MS. BODMAN: Well, we are going to present
12 evidence that it matched a print, a known print in AFIS
13 because there is no other way to explain how we came to
14 arrest the Defendant. I mean, there's no other connection.
15 We have zero suspects. We get a latent -- two latent prints.
16 We, actually, got more than that, but two ended up being
17 able to be matched, readable of quality. They run those in
18 AFIS and they get a possible -- they get 30 possibles. They
19 examine number one and take it out, do the initial
20 screening.

21 It then goes to the fingerprint analyst, who said
22 yes, I analyze this as a match. Goes to somebody to verify
23 it. Yes, this latent print matches the one we bot in the
24 computer -- or, actually, we then go get the actual 10-print
25 card or print it out from the SLED database. It is a match

1 and we get the warrants. There is nothing else.

2 We, subsequently, then -- there's testimony that
3 we had a Sergeant Stan Richards of the sheriff's department
4 come and, actually, print Thomas Bloodsaw. And we do a
5 verification that the print that was in AFIS is, in fact, as
6 represented, Thomas Bloodsaw's.

7 The investigators with the Richland County
8 Sheriff's Department know they are not to mention at all
9 where these prints come from, but just that it is a database
10 of known prints. So they will not be mentioning anything
11 about criminal histories or where all the potential sources
12 of these prints are that get placed into AFIS.

13 MR. LI: That's all I want to hear, Your Honor.

14 As long as the match -- it isn't mentioned it was pulled off
15 the DOC or from probation or anything like that, they can
16 feel free to mention that they matched it to a database.

17 THE COURT: All right.

18 Solicitor?

19 MS. BODMAN: In terms of his prior convictions,
20 while they will not come out in our case in chief, they are,
21 I believe, impeachable offenses if he decides to take the
22 stand. One is a burglary in the second-degree, a
23 nonviolent, 2010-GS-40-10392. The date of the offense was
24 April 29th of 2009. And he pled guilty to it on
25 February 1st of 2011. And the facts that were presented in

1 that case are that it was in relation to a burglary where a
2 laptop was stolen from a business, so it was the intent to
3 commit a crime therein was effect. So that makes it a crime
4 of moral turpitude. Then he has a grand larceny conviction,
5 2009-GS-40-4517, that was from May 12th of 2009. And he
6 pled guilty on that same day, February 1st, 2011, to grand
7 larceny, the value of 1,000, but less than 5,000.

8 THE COURT: Thank you, Solicitor.

9 MR. LI: Your Honor, we think that would be highly
10 prejudicial. If Mr. Bloodsaw would take the stand, we would
11 ask that be excluded. It's very prejudicial, Your Honor.

12 THE COURT: Well, I'll cross that bridge if I have
13 to.

14 MR. LI: Thank you, Your Honor.

15 THE COURT: Do you have other motions?

16 MR. LI: Yes, sir. Two more motions. Next motion
17 being -- we make the motion to exclude any reference to
18 Defense's expert, from the fact that the Defense has an
19 expert or from the fact the Defense's expert went down to
20 Richland County Sheriff's Department. We believe that would
21 be burden shifting, Your Honor. If any mention of Defense
22 expert were to be mentioned and the Defense decides to rest
23 and not take -- put on a case, I believe that would be
24 highly prejudicial for the jury to expect the defense if
25 they put on a case they would put on an expert, Your Honor.

1 THE COURT: All right. Solicitor?

2 MS. BODMAN: Potentially, Your Honor, I think
3 that -- I guess as a general rule, I'm not planning on
4 bringing it up as a point, but there could be a possibility
5 that he opens the door, depending on how he attacks our
6 expert, the fact that they did open their doors, allow him
7 in, allow him to examine all the cards, the latents, all the
8 physical evidence and that they did allow this Defense
9 expert to come over and examine freely and to talk to them.
10 So under the right attack, I think the door could be opened
11 to that issue.

12 MR. LI: I agree, Your Honor. I have no problems
13 with that. If we open the door, if we attack him under the
14 chain of custody or anything of that nature, I believe we've
15 opened the door. Outside of that, we just ask that the
16 State makes no reference and the witnesses make no reference
17 to the Defense coming to investigate the prints themselves
18 and in opening or closing to reference any sort of Defense
19 expert. Unless we open the door, of course. We could
20 address that at that time.

21 THE COURT: Well, if you get to that point and you
22 think it's opened, Solicitor, just say you have a matter of
23 law --

24 MR. LI: Yes, sir.

25 THE COURT: All you have to do is tell me and I

1 will be glad to hear it.

2 MR. LI: Yes, sir.

3 MS. BODMAN: Yes, sir.

4 THE COURT: Other motions?

5 MR. LI: Last one, Your Honor. I was just handed
6 this this morning. It's the State's picture, a blown-up
7 version of the fingerprints, Your Honor. In it, there are
8 certain dots that are indicative of where the Richland
9 County Sheriff's Department's analyst believes to be
10 matches. We have asked repeatedly for something similar to
11 this prior to trial, something where it will show the
12 matches that the analyst made, some sort of worksheet, some
13 sort of notes. And they gave us plenty of notes, but
14 nothing that indicates the actual matches between the two
15 points until this morning.

16 This is a the crux of their case, Your Honor. On
17 it, there's 13 dots. I have no doubt that this Trisha Odom
18 is going to get up on the stand and say we matched 13
19 points. And there's no part in discovery that they say
20 anything about 13 points. I know they're going to get up on
21 the stand and they're going to mention 13 points that match.
22 That has nowhere been mentioned in any of the discovery.
23 We've asked repeatedly for something exactly like this, but
24 you can see the worksheet where they match up points.
25 Everything up to this point has been something to the effect

1 of well, we just kind of eyeball it and there's no set
2 minimal number of points, no set maximum number of points,
3 we just know what we know. And now, all of a sudden, right
4 at trial, there's a sheet of comparison that has 13 distinct
5 dots on there. And I'm sure there's going to be testified
6 that there are 13 points that match. And we have asked
7 repeatedly for something very similar to this. I have not
8 had a chance to analyze this. I have not had a chance to
9 proof it. I have not had a chance to get this to my expert.
10 This is information we were looking for, something that said
11 we matched X number of points.

12 They never gave us -- there is not anything
13 written. They never said we matched X number of points to
14 Mr. Bloodsaw. And this was the exact thing we were looking
15 for. And, Your Honor, we would ask that it either be
16 excluded or we ask time to -- for my expert to go over this
17 specific document, Your Honor, or have suppress it from
18 trial.

19 THE COURT: All right. Thank you.

20 MR. LI: Thank you.

21 THE COURT: Solicitor?

22 MS. BODMAN: Your Honor, they did not have --
23 well, I agree that in the comparison, they do eyeball it and
24 they keep track. They don't sit there and write a dot and
25 write a dot where they see a point. Their analysis of it

1 and visual of it is just that. In trial preparation, in
2 talking to them about we are going to get this across to the
3 jury, how we're going to explain this, I mean, they do say
4 that there is no -- it's international standard, that there
5 is no standard as to how many points you have to match it to
6 call it the defendant. And they will, you know, continue
7 with that.

8 While there are 13 points on that -- and I'll
9 clarify with Trisha Odom, I don't think she's going to say
10 that's all that I could match. I think if Victor Li asked
11 her to, she could sit here for the rest of the afternoon in
12 front of the jury and continue to plot points where she sees
13 matches and continue beyond the 13.

14 We asked her in our struggle to say how are we
15 going to explain fingerprint comparisons to the jury, could
16 you prepare something that shows this visual of, you know,
17 where these minutia are located that match each other, so
18 could you do that for us for the jury and so, she did. And
19 you know, this is all just in trial preparation in putting
20 together the evidence that we have and how are we going to
21 present it visually to the jury.

22 THE COURT: All right.

23 Anything in response, Mr. Li?

24 MR. LI: No, Your Honor.

25 THE COURT: All right. Well, if you're asking me

1 to exclude -- realizing this is a motion in limine. The
2 purposes of a motion in limine assuming that all unfolds in
3 the manner in which it does, if Detective Odom testifies --
4 not excluded if the proper foundation was laid. Now --
5 because it could have been in the nature of the report that
6 was recently generated, I don't know when, by the expert.
7 It might not be written, but it's, clearly, the visual
8 report of her findings.

9 As far as being examined by your expert, I don't
10 know Mr -- I apologize. Once I get the name wrong, I never
11 get it right. I don't know the gentleman, but it appears to
12 me that he has, at least, till 9:30 in the morning, at the
13 very minimum, to review it. Like I said, I don't know if
14 he's local or not. But it seems like he's got time to
15 review it in that regard, unless you can give me some reason
16 otherwise.

17 MR. LI: No, sir, I'll e-mail it to him, Judge.

18 THE COURT: All right. Anything further, Mr. Li?

19 MR. LI: No, sir.

20 THE COURT: Solicitor?

21 MS. BODMAN: No, sir.

22 THE COURT: All right. We'll start at 9:15 in the
23 morning if you'll have Sergeant Faust in here, please.

24 MS. BODMAN: Yes, sir.

25 THE COURT: Thank you very much. Court will be in

1 recess until 9:15 in the morning.

2 (Whereupon, Court was concluded for the
3 day.)

4 (The following proceedings were held on
5 March 12th, 2013.)

6 THE COURT: All right, Solicitor.

7 MS. BODMAN: Sergeant Faust is here this morning.

8 THE COURT: All right.

9 SOLICITOR: And he brought a follow-up with him.

10 This is in relation to the CSC case. This is not in
11 relation to the burglary case. He read through the
12 follow-up to refresh his memory about his statement, taking
13 of the Miranda and that sort of thing. So I wanted to give
14 you that. And I think what's on the second page, under the
15 9-19-11, about two-thirds down where he starts talking about
16 his conversation with the Defendant. I just wanted to hand
17 over that followu-up.

18 MR. LI: Is there any mention in this report -- I
19 don't want to waste the Court's time by reading the whole
20 thing. Is there anything in here about the burglary?

21 Your Honor, I would just ask a couple of minutes
22 to read over this.

23 THE COURT: Yeah, sure, sure.

24 MS. BODMAN: And that's why I wanted to direct
25 your attention --

1 MR. LI: Right. Is that it? Is that the only
2 place it's mentioned about burglary?

3 (Pause.)

4 MR. LI: Ready to proceed, Your Honor.

5 THE COURT: All right. Thank you.

6 Solicitor.

7 MS. BODMAN: We would call Sergeant Scott Faust.

8 THEREUPON,

9 SERGEANT SCOTT FAUST,
10 after having been duly sworn, testified as follows:

11 THE CLERK: Thank you. Have a seat in the witness
12 stand, please. State your name for the record.

13 THE WITNESS: Steven Faust, F-A-U-S-T.

14 DIRECT EXAMINATION

15 BY MS. BODMAN:

16 Q And with whom are you employed?

17 A The Richland County Sheriff's Department.

18 Q In what capacity?

19 A I'm currently a sergeant over the special victim's
20 unit.

21 Q Okay. Have you had occasion to be involved in a sexual
22 assault case involving the Defendant, Thomas Bloodsaw?

23 A I have.

24 Q And did you at any point make physical contact with
25 Mr. Bloodsaw to talk to him about your charges?

1 A I have.

2 Q Can you tell us what date that was?

3 A I was on September 19th, 2011.

4 Q Okay. And what were the circumstances surrounding that
5 contact?

6 A On this particular day, Don Robinson indicated to me --
7 he knew that I had had warrants on Mr. Bloodsaw. And
8 he indicated that he was picking him up from
9 headquarters and was calling a courtesy to let me know
10 because he knew I wanted to speak to him. He called me
11 that morning and at approximately 11:00 a.m, he
12 notified me that Mr. Bloodsaw was, actually, up at
13 headquarters. So I left my office, which is Garners
14 Ferry and Pine View and started heading up to
15 headquarters.

16 When I arrived at headquarters, I walked up to Don
17 Robinson's office to kind of indicate hey, I'm here,
18 and I was just going to kind of step off and wait until
19 he was done. It was my way of letting him know that I
20 was there. At that time, he introduced me to
21 Mr. Bloodsaw. And at that time, Mr. Bloodsaw indicated
22 that he didn't want to talk to Don anymore, that he
23 wanted to talk to me. That he had been -- something to
24 the effect of I been trying to find you and talk to
25 you. I looked over at Sergeant Robinson and made eye

1 contact. At that time, Mr. Bloodsaw had stood up. I
2 kind of gave him a nonverbal indication of was it all
3 right if I just go on and take him. And Don Robinson
4 indicated yes.

5 At that time, he had already gotten up and we
6 walked over and I found an empty cubicle, which at that
7 time would have been Don Robinson -- or excuse me, Don
8 McCray's desk. He's currently with the evidence room,
9 but at that time, he had an office that was empty. He
10 wasn't in. He may have been working nights, but,
11 anyway, I sat at his desk at that time.

12 Mr. Bloodsaw went on to say that he had been
13 trying to reach me and left messages indicating he
14 wanted to talk to me about this case.

15 Q And this case, you mean by your sexual assault case?

16 A My case, that's correct.

17 Q Okay.

18 A I indicated that I had never gotten a message from him
19 and I asked him if he was sure that I was the one
20 calling because I had never left my number with anybody
21 that would have been able to supply it to him.

22 After talking with him, I realized that it was
23 probably the fugitive team, the people that go out
24 serving the warrant and he wouldn't know the difference
25 between them serving my warrant versus me going out and

1 serving it. He just knew that -- I guess the details
2 of the case. Anyway, at that time, I had -- he
3 indicated to me that he wanted to get his side of the
4 matter out.

5 At approximately 11:36, I found a statement form
6 on Don's computer, Don McCray, that is, and started
7 taking a statement. A short time later, Don Robinson
8 walked by and I indicated -- it went something like
9 this, I was like advice of rights. And that was about
10 the extent of what I said. And he indicated, you know,
11 one, it hadn't been done or gave me a short answer like
12 that. So I don't know if we were --

13 Q You said a short answer like that, you were shaking
14 your head back and forth?

15 A Yes.

16 Q Okay.

17 A So it wasn't like we had an opportunity of going into
18 details. It was more like advice of rights
19 (indicating).

20 Q You're -- as you're sitting on the witness stand, you're
21 kind of holding up a piece of paper and shaking it?

22 A That's correct. Because I wanted an advice of rights
23 to go with my statement. I was asking, basically, get
24 me a copy. And based off of his answer, I got the
25 impression that he had not done a written one, so at

1 that time, I stop, did a written one for my own records
2 due to the short conversation we had. And I advised
3 Mr. Bloodsaw of his rights. And at that point,
4 proceeded with my statement and incorporated that into
5 the statement that I took from him.

6 Q Okay. You incorporated your advice of rights into the
7 statement you took from him about the sexual assault?

8 A That's correct.

9 Q Okay. And was that the extent of any conversation you
10 had with Don Robinson about advice of rights and
11 Miranda, that type of thing?

12 A After I took a statement from Mr. Bloodsaw, I walked
13 him back to Don's office and said, let me know if you
14 need any help transporting or anything. And Don was
15 like, I have it. I left. I haven't talked to him,
16 seen him or -- you know, haven't discussed the case
17 since.

18 Q Okay. When you were with the Defendant shortly after,
19 I guess, took him from Don Robinson, did the Defendant
20 appear to you to be under the influence of any alcohol
21 or drugs?

22 A No. He didn't. And I believe he would have been at
23 the jail, so he would have been -- you know, he would
24 have been at the jail, so I would hope that he would
25 have been resource free of drugs or alcohol.

1 Q And the entirety of your conversation with him that
2 day, did he appear to understand everything you were
3 talking to him about?

4 A Yes. And I, actually, asked questions of him of that
5 in the statement.

6 Q Did he indicate to you that he was -- what his
7 educational level was?

8 A He did. He indicated that he had a GED and a little
9 bit of time at Midlands Tech.

10 MS. BODMAN: No further questions at this time.

11 THE COURT: Thank you let me ask you this Mr. Lee.

12 CROSS-EXAMINATION

13 BY MR. LI:

14 Q Good morning, Investigator Faust.

15 A Morning.

16 Q This is going to be very brief. When you started
17 talking to Thomas Bloodsaw, it was understood that you
18 were going to be talking about the CSC case; correct?

19 A That's correct.

20 Q Okay. And so none of the statements he made pertained
21 to or were relevant to the burglary case; correct?

22 A I included one sentence in my statement in reference to
23 what appears to be a burglary.

24 Q But that point when you asked him, you had not read his
25 Miranda rights; correct?

1 A Shortly thereafter.

2 Q By that point when you asked him questions, you had
3 not?

4 A No. And then I went back and said do you still want to
5 supply this statement.

6 Q But at that point, when you first asked questions, you
7 had not?

8 A I had not.

9 Q You had not. But at that point when you were talking
10 to him, you -- I guess you were both under the
11 assumption -- through your testimony previously, you
12 were both kind of under the assumption you were talking
13 about the CSC case?

14 A That's correct.

15 Q Okay. And the -- as far as Don Robinson's reading the
16 Miranda rights or not reading the Miranda rights, you
17 have no clue whether or not Don Robinson read
18 Mr. Bloodsaw his Miranda rights?

19 A I have no idea.

20 Q The only thing you know is there was no written consent
21 form?

22 A That was the impression of the short nonverbal --

23 Q Right.

24 A -- body language that there was not one done.

25 Q Okay.

1 A It could have been one, I don't know, but --

2 Q It could have been one; right?

3 A But I went ahead and got one done for my records.

4 Q It could have been a verbal one done in the car;
5 correct?

6 A Correct.

7 Q But you don't know that?

8 A I was not there.

9 Q Okay. And you read the Miranda rights to Mr. Bloodsaw
10 shortly thereafter, realizing he had not been given his
11 advice of rights form; correct?

12 A A form, a written form.

13 Q A form, a written form, correct.

14 MR. LI: No further questions, Your Honor.

15 THE COURT: Thank you, Mr. Li.

16 Redirect, Solicitor?

17 MS. BODMAN: No, Your Honor. No further
18 questions.

19 THE COURT: Thank you, Sergeant. You may step
20 down.

21 All right. Solicitor, you may call your next
22 witness.

23 MS. BODMAN: We have no further witnesses on this
24 issue.

25 THE COURT: Thank you, Solicitor.

1 Mr. Li?

2 MR. LI: No witnesses, Your Honor.

3 THE COURT: All right. Solicitor, I'll be glad to
4 hear from you.

5 MS. BODMAN: Your Honor, Don Robinson indicated
6 that when he picked the Defendant up at Alvin S. Glenn that
7 he verbally Mirandized him in the car and that the Defendant
8 then started answering his questions, appeared to understand
9 him, did not appear to be under the influence of any alcohol
10 or drugs, so it was a voluntary statement.

11 In terms of Sergeant Faust, I can understand that
12 there may have been some confusion about Don Robinson and
13 Scott Faust's communication about no advice of rights form
14 done, but it was clear that Sergeant Faust held up a piece
15 of paper, pointed to the paper and said advice of rights.
16 And that's what Don Robinson indicated no to. Not that no
17 Miranda had never been given the Defendant, but that it had
18 not been documented on a piece of paper. So that's when
19 Sergeant Faust for his case was going to go ahead and
20 document because in that case, you know, he was fully
21 willing to sit down and give a statement and sign it. But
22 Don Robinson gives it verbally in the car and the Defendant
23 acknowledges it and continues -- starts to talk to him about
24 I didn't do it and I don't know why my prints would be
25 there.

1 THE COURT: All right. Thank you, Solicitor.

2 Mr. Li.

3 MR. LI: Thank you, Your Honor. Your Honor, we
4 have no -- we consent to the statement from Mr. Don Robinson
5 coming in. We do make an objection to any statements that
6 would have been made to Mr. Scott Faust in regards to --
7 when Investigator Faust was talking to Mr. Bloodsaw about
8 the other case, anything that may have been said about the
9 burglary. I believe that we would ask that -- I'm not even
10 sure they're going to try to get that in.

11 THE COURT: All right. So you have no objections
12 to the statements that were given to Detective Robinson?
13 Further, you don't -- your position is they complied with
14 Miranda warnings and they were voluntary?

15 MR. LI: Sure. Yes, sir, Your Honor.

16 THE COURT: As far as the statements to Detective
17 Robinson -- your objection would be any statements given to
18 Sergeant Faust as to the second offense or second allegation
19 against your client.

20 MR. LI: Yes, sir, we would object to those coming
21 in. Based on that, Your Honor, and based on improper
22 Miranda warnings being given. I don't believe you can
23 incorporate that -- giving Miranda rights first and then
24 having -- you know, having the defendant or client say
25 something and then give the Miranda rights and giving him

1 the option to withdraw. I believe that's different, Your
2 Honor. The person giving the statement may appear and may
3 believe that by withdrawing a statement after may give some
4 sort of implication that there's some guilt involved or
5 something that he was trying to hide rather than the Miranda
6 rights were given at first, Your Honor.

7 I'm not even sure the State's trying to introduce
8 Mr. Faust's statement. I just wanted to put that on the
9 record, we object to any statements to Mr. Faust.

10 THE COURT: All right. Solicitor?

11 MS. BODMAN: We are not offering any statements
12 given to Sergeant Faust about the sexual assault. We merely
13 brought him in here because Mr. Li asked us to and brought
14 up this issue about whether or not Miranda had been given
15 him because of his communication with Don Robinson.

16 Now, if an issue arises about whether or not he
17 was under the influence or something like that, then Scott
18 Faust's observations of the Defendant, clearly, would become
19 relevant and we would bring him in for that purpose. But we
20 don't have any intention of bringing in the statements about
21 the sexual assault.

22 THE COURT: Okay. It's my understanding, just
23 depending on the course of the evidence and how it flows,
24 you don't intend to offer Sergeant Faust?

25 MS. BODMAN: Correct.

1 MR. LI: Correct, Your Honor. We called him just
2 because we wanted to cover our bases and have him explain
3 the Miranda rights issue. We're fine with what he said
4 about Don Robinson. No objection.

5 THE COURT: All right. Given the fact that there
6 is no objection to the statement given to Detective
7 Robinson, not necessarily -- I'm not sure it's necessary for
8 me to do so, but I do find that the statement did comply
9 with Miranda and appeared voluntary. There was no threats,
10 no coercion, no undue influence or promises. The Defendant
11 appeared to understand and respond appropriately to the
12 questions throughout the course of the questioning from the
13 Alvin S. Glenn Detention Center to the Richland County
14 Sheriff's Office.

15 All right. Solicitor, anything further before we
16 bring in our jury?

17 MS. BODMAN: Just one issue about these statements
18 is that under the rules of evidence, these statements are
19 only admissible if we offer them against the Defendant. And
20 if at the time that, you know, Sergeant Robinson is on the
21 stand and we decide not to offer those statements, we just
22 wanted to make a motion in limine that Mr. Li does not try
23 to admit those statements on behalf of his own client.

24 THE COURT: What case is that, Solicitor?

25 MS. BODMAN: It's a rule of evidence.

1 THE COURT: It's, also, State v. Gary Kerry. I
2 remember it because it was kind of catchy. Self-serving
3 statements are not admissible. I would agree that the
4 Defendant can't offer them if they're self-serving. If
5 that's the point you're making.

6 MS. BODMAN: Correct.

7 MR. LI: Your Honor, I would like to clarify. The
8 Defendant cannot introduce those statements, but if they
9 open the door -- if Don Robinson gets on the stand and opens
10 that door, we bring that in; correct?

11 THE COURT: Sure. Not necessarily by just getting
12 on the stand, but if the door is opened --

13 MR. LI: Correct.

14 THE COURT: -- sure, that's -- but if that occurs,
15 as I told you both yesterday, if you think it's occurred,
16 then make a --

17 MR. LI: Yes, sir.

18 THE COURT: Ask for a matter of law that you would
19 like to be heard and the Solicitor can do the same.

20 MR. LI: Thank you, Your Honor.

21 THE COURT: All right.

22 Is that -- does that respond to your question,
23 Solicitor?

24 MS. BODMAN: Yes, sir.

25 THE COURT: Or to your statement?

1 MS. BODMAN: Yes, sir.

2 THE COURT: Anything further before we bring in
3 our jury?

4 MS. BODMAN: Nothing else, Your Honor.

5 THE COURT: Mr. Li, anything further?

6 MR. LI: Ready to proceed, Your Honor.

7 (The jury returned to the courtroom at
8 9:36 a.m.)

9 BAILIFF: The jury is seated, Your Honor.

10 THE COURT: Thank you very much, Mr. Bailiff.
11 Madam Clerk, would you place our jury under oath,
12 please.

13 THE CLERK: Yes, Your Honor.

14 Ladies and gentlemen of the jury, please, stand
15 and raise your right hand to be sworn.

16 (Jury was duly sworn.)

17 THE CLERK: Thank you.

18 THE COURT: Madam Clerk, do you have the
19 indictments?

20 THE CLERK: Yes, sir.

21 THE COURT: Is this Juror No. 132?

22 PROSPECTIVE JUROR: Yes.

23 THE COURT: And you're the Foreperson of our jury?

24 PROSPECTIVE JUROR: No.

25 THE COURT: Where's the Foreperson?

1 All right. Ma'am, would you come take this chair
2 (indicating) 132? Thank you.

3 And tell me your number, ma'am?

4 PROSPECTIVE JUROR: 194.

5 THE COURT: 194. All right. Thank you. Thank
6 you very much for agreeing to serve as the Foreperson of the
7 jury.

8 Madame Forelady, ladies and gentlemen of the jury
9 panel, the case that we're about to try is the case of the
10 State v. Thomas Lewis Bloodsaw, the Defendant. What I now
11 say is intended to serve as an introduction to the trial of
12 this case. These remarks are not an instruction on the law
13 of the case. I will instruct you on the law that applies to
14 the case at the end of the trial at the close of all of the
15 evidence before you retire to consider your verdicts. This
16 is merely an explanation of the procedure that we will
17 follow in the trial so that you may better understand what
18 may be happening.

19 The Defendant is charged with two indictments
20 filed with this Court of the crime of burglary first-degree
21 and petit or simple larceny. The elements of which will be
22 explained to you later. These indictments, again, ladies
23 and gentlemen, are simply the charge by which this case is
24 brought into court. They are not in any sense evidence of
25 any of the allegations they contain.

1 The Defendant has pled not guilty to these
2 indictments. The State, the party to my front right,
3 therefore, has the burden of proofing each of the elements
4 of the indictments beyond a reasonable doubt. And it will
5 be your duty, ladies and gentlemen, to determine whether or
6 not the State has met that burden.

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

15 It is especially important that you perform your
16 duty of determining the facts diligently and conscientiously
17 because, ordinarily, there is no way to correct an erroneous
18 determination of the facts by a jury. On the other hand and
19 with equal emphasis, the same law that makes you the judges
20 of the facts makes me the judge of the law.

21 The law as given by the Court is the only law you
22 may consider. You must accept and follow it, even though
23 you may disagree with it. I cannot tell you what the facts
24 are and you cannot disagree with me about what the law is or
25 what the law ought to be. Your job is to take the law as I

1 give it to you and apply it to the facts as you find the
2 facts to be from the testimony of the witnesses and any
3 other evidence that is introduced. After doing that, you
4 will render your verdicts, true and just verdicts under the
5 solemn oath that you have just taken as jurors.

6 It is important that you keep an open mind and
7 not decide any issue in the case until you've heard all of
8 the evidence presented, the parties have made their closing
9 arguments to you and I have instructed you on the law in
10 this case.

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

16 Now, in just a few moments, the Solicitor will
17 make what is called an opening statement in which the
18 Solicitor will explain to you the issues in this case or, at
19 least, what the Solicitor thinks the issues are in the case.

20 Mr. Li, the attorney for the Defendant, may also
21 make an opening statement, although he is not required to do
22 so. A criminal defendant in South Carolina is never
23 required to prove his or her innocence and has no burden of
24 proof or burden of persuasion whatsoever. The party with
25 the burden of proof beyond a reasonable doubt, again, is the

1 State. I always remember the party having the burden of
2 proof is, generally, the party closest to the jury panel, as
3 it is in this case.

4 Ladies and gentlemen, what the attorneys tell you
5 during their opening statements is not evidence in the case.
6 It is only their contention as to what the issues are. The
7 evidence in the case is not the opening statements of the
8 attorneys, not the closing arguments by the attorneys. The
9 evidence is not the questions by the attorneys. The
10 questions by the attorneys are the frame work by which the
11 evidence is extracted, the testimony is extracted from the
12 witnesses that are under oath. The attorneys are not under
13 oath. They are officers of the Court, but they are not
14 witnesses providing testimony to the jury or to the Court.
15 That is where the evidence will come from, from those sworn
16 witnesses from the witness stand and/or any exhibits that
17 may be introduced.

18 From time to time during a trial, you may hear one
19 of the attorneys say something like, Your Honor, I believe
20 we have a question of law or a matter of law to discuss with
21 you or Your Honor, may we approach the bench, or sometime, I
22 myself might find it necessary to excuse you from the
23 courtroom for a short while so the attorneys and I can
24 discuss a matter of law. The reason for this is not to hide
25 anything from you, but this is because you are the judges of

1 the facts. And sometimes when I am discussing matters of
2 law with the attorneys, it may be necessary for me to make
3 some comment as to the facts in connection with ruling
4 whether or not a particular law applies or not. I am not
5 supposed to tell you what I think the facts are, so I will
6 excuse you from the courtroom while these discussions take
7 place so that in no way will you be influenced by anything
8 that I might say or do in connection with the facts.

9 In determining what the true facts are in this
10 case, and using your good judgment and your common sense,
11 both individually and collectively as a jury, you must
12 decide whether or not the testimony of the witnesses is
13 believable. It will be my responsibility to rule as a
14 matter of law as to whether or not the testimony is
15 admissible or not and whether or not you hear it or not.
16 But once the testimony is admitted, whether or not you
17 believe it is solely for you to determine.

18 In decide whether to believe a witness, you have a
19 right to consider the interest of any witness, the bias of
20 any witness, the prejudice of any witness, the opportunity
21 for the witness to have seen the matters and things about
22 which the witness may testify and the manner or the demeanor
23 in which the witness exhibits while on the witness stand,
24 whether a witness is hesitant or forthright, whether or not
25 a witness's testimony is consistent or inconsistent, whether

1 or not it is corroborated or uncorroborated.

2 You have the right to consider anything that is in
3 the record that will help you evaluate the testimony of the
4 witnesses. That means it will be your duty to pay close
5 attention to the witnesses, to observe the witnesses, to
6 listen to the witnesses and to pay close attention to the
7 attorneys and to the Court. Don't let your thoughts wonder,
8 but give strict attention to the testimony in the case so
9 that at the end of all of the testimony, after the closing
10 arguments by the attorneys, and the instruction by the Court
11 on the law, you will then be in a position to determine what
12 the true facts are and to apply the law to those facts as
13 the jury finds those facts to be and thus, render a true and
14 just verdict.

15 It will be your added duty, Madame Forelady, to
16 preside in the jury room and be the jury's spokesperson here
17 in court. It will also be your duty to write and sign the
18 verdict, but I will give you further instructions about that
19 at the conclusion of the trial.

20 Do not -- remember, do not discuss the case with
21 anyone, including your fellow jurors until you've heard all
22 the evidence, all the testimony, closing arguments,
23 instructions by the Court and then directed by the Court to
24 begin your deliberations with your fellow jurors in your
25 jury room.

1 A couple of administrative matters. Ladies and
2 gentlemen, many times during the course of a trial, if there
3 are documents or photographs or the like presented, they may
4 be handed to the Foreperson and passed upon members of the
5 jury while you're in the courtroom in your jury box. You
6 may look at those items, take as much time as you wish to
7 take. Remember, if I allow an item of evidence admitted,
8 that will not be the only opportunity you will have to view
9 that item. You will also have it with you in your jury room
10 at the time of deliberations. I tell you that not to speed
11 you up to look at those items when they're being passed
12 among you, if there are any, but to let you know that's not
13 your only opportunity, the only time you will get to view
14 those items.

15 Also, ladies and gentlemen, if you cannot hear a
16 particular witness, please, get my attention or the
17 attention of the Clerk or one of the bailiffs, we will have
18 them speak up, particularly, those of you a little further
19 away from the witness stand. From time to time, you may see
20 me on my computer. I -- I don't repeat, tweet, e-mail, I
21 don't do any of that. These are very good attorneys, very
22 experienced lawyers, and sometimes as the testimony unfolds,
23 I might think of a particular legal issue and I may try to
24 research that during the course of that testimony. As far
25 as heavy lifting on the legal issues, my clerk, Mr. Nettles,

1 does that. But if I see something that maybe coming around
2 the curve, you may see me on my computer from time to time.

3 And, finally, breaks. I have a real simple rule
4 about taking breaks. When I want to take a break, we take a
5 break. It just works out so well like that.

6 (Laughter.).

7 THE COURT: Well, this is not some type of
8 judicial marathon. If any of you need a break, please,
9 raise your hand, let me know. If you sit out here too long,
10 I mean, you're just squirming in your seat and you just need
11 a break, please, again, let me know and we will let y'all
12 take a break. We will take our break.

13 This may not be a particular lengthy trial, but
14 the length of the trial has nothing to do with the
15 importance of the trial. So it's an important case to
16 Mr. Bloodsaw. It's his day in court. It is an important
17 case to the State of South Carolina (indicating). So, I
18 would ask you, and I know that you will, be true to your
19 oath and give your complete and undivided attention to the
20 attorneys, to the witnesses, and to the Court and return
21 those true and just verdicts. Thank you. Thank you very
22 much.

23 Any objection to anything I've told the jury from
24 the State, Madam Solicitor?

25 MS. BODMAN: No, Your Honor.

1 THE COURT: From the Defense?

2 MR. LI: No, Your Honor.

3 THE COURT: All right.

4 Ladies and gentlemen, we will now start the trial.

5 Solicitor, you may address the juror.

6 MR. MATTHEWS: Thank you, Your Honor. May it
7 please the Court.

8 THE COURT: Yes, sir.

9 MR. MATTHEWS: Good morning.

10 Imagine you come home after a long day of work,
11 12-hour shift. You just want to be home, end the day. You
12 walk up to your house, but you notice something is not quite
13 right. The back door is opened. Your back door that you
14 always close. Your back door that you always lock. You
15 walk up to your house a little bit closer and you notice
16 something is clearly not right. It looks like somebody's
17 been in your house, things have been kind of moved around.
18 So you hesitate, you don't know what to do, back up, hide
19 and call the police. Wait 30 minutes on them to show up.

20 Once the police show up, you follow them into your
21 house and you see it's been ransacked. Drawers pulled open,
22 mattresses flipped over, pictures taken off the wall and
23 trampled. You see a lot of your stuff is gone, too.
24 Electronics, game systems, TVs, and guns. Registered
25 firearms that have been in your home. That's exactly what

1 happened to Mr. Leroy Kelly (indicating) back in August of
2 2011.

3 He came home to find his house completely
4 ransacked. He came home to find items of his stolen,
5 specifically, those three handguns that have been in his
6 home. Three handguns that have never been recovered. We
7 have no idea where they are. We have no idea of what
8 they're being used for at this time.

9 Mr. Kelly followed the police into his house that
10 day and he saw everything that had happened, found the door
11 that had been forced open. He had to spend his hard-earned
12 money to replace the items that had been stolen and to fix
13 his door that had been kicked open. And now, he can't even
14 feel safe in his own home? And why? Because Thomas
15 Bloodsaw decided that he wanted to go in somebody's house,
16 not his own, force his way in and take things that were not
17 his. Take TVs, gaming systems, computers and guns. None of
18 those were ever recovered.

19 How do we know it was Thomas Bloodsaw? We know
20 because after the police were called, the Richland County
21 crime scene investigation unit came out and they canvased
22 that entire house. They looked for DNA. They looked for
23 fingerprints. And what did they find? Not one, but three
24 of Mr. Bloodsaw's fingerprints. Three fingerprints. Two on
25 a filing cabinet that had been pried open in Mr. Kelly's

1 bedroom and another one on a box of ammunition that was,
2 also, in Mr. Kelly's bedroom. Now, these are three
3 fingerprints. Three fingerprints that are unique to Mr.
4 Bloodsaw. They are unlike those of anyone else in the world
5 alive or dead. And those are three fingerprints that are
6 going to hold Mr. Bloodsaw responsible for breaking into Mr.
7 Kelly's house.

8 Now, my name is Foster Matthews and this is my
9 co-counsel, Assistant Solicitor Margaret Bodmon. And we are
10 assistant solicitors for the 5th Judicial Circuit. We
11 prosecute crimes that happen in Richland County.

12 And we're today because Mr. Bloodsaw has been
13 charged with two crimes, as the Judge explained to you
14 earlier, burglary in the first degree and petit larceny.
15 And after the trial is over, the Judge is going to explain
16 to you the law as it's written, but I just kind of want to,
17 essentially, tell you what you want to listen for when
18 you're hearing the testimony from all the witnesses.

19 Burglary in the first-degree, as defined by the
20 South Carolina Legislature, is when a person enters the
21 dwelling without consent of the owner and with the intent to
22 commit a crime inside the dwelling, here would be when he
23 stole the items, commit a larceny. And that there has to be
24 an aggravated factor in order to make this a first-degree
25 burglary. It could be different things from occurring at

1 nighttime, having prior burglary convictions. But here,
2 specifically, it is when effecting entry while in the
3 dwelling or immediate flight, the Defendant or another
4 participant in the crime is armed with a deadly weapon or
5 explosive. Here is because he stole those three handguns,
6 those three registered handguns that were in Mr. Kelly's
7 home (indicating).

8 The Defendant is, also, charged with petit
9 larceny, which is the taking and carrying away of the
10 personal property of another without the consent of the
11 owner with the intent to steal. That's when he took the
12 guns, the computers and the televisions and all of the other
13 electronics from the home.

14 Now, our job as the State of South Carolina is to
15 prove to you beyond a reasonable doubt that Thomas Bloodsaw
16 is, in fact, guilty of these crimes that he's charged with.
17 And as I said, the Judge (indicating) will explain to you at
18 the end of the trial beyond a reasonable doubt is a very
19 high standard, but it's not beyond all doubt or beyond any
20 doubt. It means that we've done our job and we leave you
21 firmly convinced that Thomas Bloodsaw is guilty of the
22 crimes which he has been charged with.

23 And now, to do that, to show that he's guilty,
24 what the State is going to do is we're going to introduce
25 evidence in the form of pictures or anything that we

1 recovered from the scene. We're going to elicit testimony
2 from witnesses right up here in the witness stand
3 (indicating). The witnesses are going to come up here.
4 They're going to swear on the Bible to tell the truth, the
5 whole truth and nothing but the truth and they're going to
6 tell you what they know about the case. You're going to
7 hear from law enforcement who was on the scene and inspected
8 the house. You're going to hear from crime scene
9 investigators, who did an excellent job in recovering these
10 fingerprints we were able to match to Mr. Bloodsaw. You're
11 going to hear from the victim, Mr. Kelly, himself. And
12 you're, also, going to hear from expert witnesses from the
13 State who examined these fingerprints and were able to
14 provide a positive match to Thomas Bloodsaw.

15 As the Judge said earlier, your job as the jury is
16 the fact finders in the case, to believe what you believe is
17 true from the evidence and the testimony that you see. And,
18 importantly, what I want to make sure that each of you do is
19 judge the witness's credibility when they get up here on the
20 stand (indicating) because you determine what you believe
21 based on the demeanor, based on whether or not they have a
22 reason to lie. It's, essentially, when you're having a
23 conversation with someone if you believe what they're saying
24 or not. Because you can choose to believe any, all or
25 nothing of what one of these witnesses gets up on the stand

1 and says based on how you judge their credibility.

2 And now, you, as individual jurors, were each
3 specially and individually chosen and given an important job
4 here and that's to ensure that justice prevails here.

5 People deserve to feel safe in their own homes. People
6 deserve to feel that their belongings are safe in their
7 homes when they leave and lock the doors. And people
8 deserve to feel safe that their firearms that they leave
9 secure in their homes are safe and not out on the street.

10 Now, after you've heard all of the evidence and
11 the testimony in this case, you will find Thomas Bloodsaw
12 guilty of burglary in the first-degree and petit larceny.

13 Thank you for your time.

14 THE COURT: Thank you, Solicitor.

15 Mr. Li.

16 MR. LI: Thank you, Your Honor.

17 THE COURT: Yes, sir.

18 MR. LI: Good morning, ladies and gentlemen. Let
19 me introduce myself first. My name is Victor Li. I
20 practice here in Columbia, South Carolina. And this is
21 Thomas Bloodsaw (indicating). He's my client. I want to
22 thank you for being here today. We know that yesterday was
23 a long day and we appreciate your time.

24 I'm going to keep this as short as possible. But
25 I want to kind rephrase -- I know you're going to hear it

1 over and over throughout the trial, you know, what the
2 Judge's job is, what our job is, what your job is as the
3 fact finder, but I'm going to rephrase it the way I like to
4 think about it. I think about the Judge here as kind of
5 like the referee. He doesn't play sides, just kind of makes
6 sure everybody does their job, plays according to the rules.
7 My job as Defense attorney is to make sure that Thomas
8 Bloodsaw's rights are protected. And the State, their job
9 is to prove to you beyond a reasonable doubt that Thomas
10 Bloodsaw is, in fact, guilty of what they charged him with.
11 Okay.

12 And your job, ladies and gentlemen, your job is
13 very -- is the most important job. It is to judge whether
14 or not the State has done their job. Your job is simply to
15 judge whether or not the State has met its burden of proof.
16 And the burden of proof is on them and only them to prove
17 beyond a reasonable doubt the charges that they have charged
18 Mr. Bloodsaw with.

19 Another way I like phrase it is that it is not
20 your job to figure out what really happened. If you get
21 back in the jury room later or you're sitting here in the
22 jury box and you think, um, I wonder what really happened.
23 Stop. That is not your job. Your job is to make sure that
24 they (indicating) have proven to you that's what really
25 happened. Prove to you that their story is true, that their

1 rendition of what happened is what, actually, happened.

2 Now, you may wonder why I use the words story and
3 version and, you know, maybe I'll use the word rendition.
4 It's not to be antagonistic. It's not to taunt them. It's
5 because in this case, that's what it is, is a story. It is
6 a version of the events that they need to paint for you,
7 that they need to happen, okay, to convict Thomas Bloodsaw
8 of burglary first and petit larceny.

9 And this story, this picture that they want you to
10 see, this story that they need for their conviction is based
11 on one thing. It's the only thing they have. The only
12 thing they have in this case. Fingerprints. Okay. They
13 say they have three fingerprints, three or two. There's two
14 sets of fingerprints, some on the file cabinet, some on the
15 ammo box. Pay close attention when their expert gets on the
16 stand (indicating). Pay close attention to the details, how
17 they explain it to you. Make them prove it to you beyond a
18 reasonable doubt. Listen to them.

19 Now, throughout this trial, they're going to force
20 feed you. They're going to force feed you ideas and
21 assumptions about fingerprint analysis. And they're going
22 to wave it under the banner of science. They're going to
23 call it science, but in reality, it is the art of
24 fingerprint analysis. They're going to want you to believe
25 it. They're going to do everything under the sun to

1 convince you that those two fingerprints belong to Thomas
2 Bloodsaw because that's what they need.

3 They need you to believe that those two
4 fingerprints -- those two sets of fingerprints, whether two
5 or three, it's not important to talk about it. They need
6 you to believe that those fingerprints belong to Thomas
7 Bloodsaw. And because of that and because they belong to
8 Thomas Bloodsaw, they're going to need you to believe their
9 rendition of the story. Their picture. It's what they want
10 to paint for you so they can get their win. So they can get
11 the conviction for burglary first and petit larceny, they
12 need to convince you of that.

13 Ladies and gentlemen, they have to prove every
14 facet of this case. They have to prove every element of the
15 charges. Make them prove it. It's their burden and their's
16 alone. And it's your job to judge them on it, so do so.
17 Judge them on it. Make them prove it to you. And those are
18 the last two words I'm going to leave you with. Prove it.

19 Every time they want you to believe their story,
20 every time they want you to believe the narrative they give
21 you, that they want to paint for you, you say to yourself
22 prove it. Because that's what you're supposed to do.
23 That's your job, to make them prove it. They have to prove
24 it to you. Every time they ask you to just believe
25 something or to use your common sense or to use your gut

LEROY KELLY DIRECT BY MR. MATHEWS

1 feeling. Every time they use one of those buzz words, every
2 time the use a code word, you say to yourself prove it.
3 Every time they ask you just believe something on blind
4 faith or ask you to take a leap of faith, you ask yourself
5 prove it. Because, ladies and gentlemen, at the end of this
6 trial, you're going to come to the realization that they
7 cannot prove to you beyond a reasonable doubt that Thomas
8 Bloodsaw (indicating) is guilty of burglary first and petit
9 larceny. Thank you so much.

10 THE COURT: Thank you, Mr. Li.

11 Solicitor, you may call your first witness.

12 MR. MATTHEWS: The State calls Leroy Kelly.

13 THEREUPON,

14 LEROY KELLY,

15 after having been duly sworn, testified as follows:

16 THE CLERK: Thank you. Have a seat in the witness
17 stand, please.

18 BAILIFF: State your full name for the record.

19 THE WITNESS: Leroy Kelly, III.

20 DIRECT EXAMINATION

21 BY MR. MATTHEWS:

22 Q Good morning, Leroy?

23 A Morning.

24 Q Tell the jury a little bit about yourself. How old are
25 you?

LEROY KELLY DIRECT BY MR. MATHEWS

- 1 A Thirty-two.
- 2 Q And where do you live currently?
- 3 A Hopkins.
- 4 Q Okay.
- 5 A South Carolina.
- 6 Q And tell me where you work?
- 7 A SCDOT.
- 8 Q Department of Transportation?
- 9 A Yes, sir.
- 10 Q What do you do out there?
- 11 A I work in a research and materials lab. I work in the
- 12 receiving room.
- 13 Q Okay. And tell me -- I want to go back to August 24th,
- 14 2011. Tell me what address you were living at at that
- 15 time?
- 16 A [REDACTED] Old Leesburg Road.
- 17 Q Is that where you still live?
- 18 A Yes, sir.
- 19 Q Okay. And what were you doing that day during the day?
- 20 Were you at work?
- 21 A Yes, sir.
- 22 Q What time did you leave for work?
- 23 A About 7:00.
- 24 Q Did you lock your door?
- 25 A Yes.

LEROY KELLY DIRECT BY MR. MATHEWS

1 Q Do you always lock your door?

2 A Always.

3 Q And what time did you get home from work?

4 A About 6:30.

5 Q All right. Did you drive home?

6 A I actually drove my sister's vehicle home.

7 Q Okay. And tell me what happened when you came up to
8 your house that evening?

9 A I walked up to the back door and noticed that my back
10 door was wide open, which made me a little concerned.
11 So I went slightly in to see, and then I saw that an
12 interior door that I always most certainly keep shut
13 was open as well. And that I could see even from there
14 that my computer was already missing.

15 Q Okay.

16 (State's Exhibit Nos. 1 and 2 were
17 marked for identification.)

18 Q Back it up one step. I'm showing you what I've already
19 shown Defense counsel marked as State's Exhibit 1 and
20 Exhibit 2. Do you recognize that?

21 A Yes.

22 Q What, in general, is that?

23 A That's my house and my brother.

24 Q Okay. And is that a fair and accurate representation
25 of what it looked like back on August 2011?

LEROY KELLY DIRECT BY MR. MATHEWS

1 A Yeah.

2 MR. MATTHEWS: Your Honor, at this time, the State
3 would introduce State's Exhibits 1 and 2 into evidence.

4 THE COURT: Mr. Li?

5 MR. LI: No objection, Your Honor.

6 THE COURT: State's 1 and State's 2 is in evidence
7 without objection.

8 (State's Exhibit Nos. 1 and 2 were
9 admitted into evidence.)

10 MR. MATTHEWS: May I publish these to the jury,
11 Your Honor?

12 THE COURT: Yes, sir.

13 BY MR. MATTHEWS:

14 Q Do you have any neighbors really very close by?

15 A Just my great aunt lives across the street.

16 Q Okay. And now, back to the afternoon of the incident
17 in question. After you walked in and you said you saw
18 your computer was missing, what did you do after that?

19 A I immediately went back outside because I was concerned
20 someone may still be inside. So I went and hid behind
21 my truck in the yard and called 911.

22 Q So you didn't go all the way in your house?

23 A No, I went far enough in to notice something was wrong.

24 Q How far away was your truck from the house?

25 A About 20, 30 feet maybe.

LEROY KELLY DIRECT BY MR. MATHEWS

1 Q And how long did you wait until the police showed up?

2 A Twenty-five, 30 minutes.

3 Q And what happened after law enforcement came?

4 A One officer showed up and he wanted to wait for another
5 office to show up. And when the second officer showed
6 up, they both wanted to go inside to make sure someone
7 was not still in my house. And after they cleared the
8 house, they came back and they walked -- I walked back
9 in with them and I begin telling them what was missing
10 or what was misplaced or out of order.

11 Q Okay. And we're going to go through some pictures in a
12 minute of what it looked like on the inside. Just kind
13 of tell me in general what did your house look like
14 when you walked inside?

15 A Pretty messy. Even more so than normal. The drawers
16 were opened. The mattress was flipped over. Some
17 drawers were completely removed. Stuff was knocked off
18 my dresser, pictures knocked over. Some of the
19 pictures were stepped on and broken on my carpet.

20 MR. MATTHEWS: Beg the Court's indulgence just one
21 second.

22 (State's Exhibit Nos. 3 through 8 were
23 marked for identification.)

24 BY MR. MATTHEWS:

25 Q I'm going to ask you to flip through these boards real

LEROY KELLY DIRECT BY MR. MATHEWS

1 quick without showing and I'll flip through here and
2 you tell me if you recognize these?

3 A Yes.

4 Q That's State's Exhibit 8. Now, State's Exhibit 7?

5 A Yes.

6 Q Just speak up so the court reporter can hear you.

7 A Yes.

8 Q State's Exhibit 6?

9 A Yeah.

10 Q State Exhibit 4?

11 A Yeah.

12 Q State's Exhibit 5?

13 A Yeah.

14 Q State's Exhibit 3?

15 A Yeah.

16 Q And these have all been show to Defense counsel. In
17 general, tell me what those represent.

18 A You want me to tell you what they are?

19 Q In general, is that what your house looked like?

20 A Yeah.

21 Q Is that a fair and accurate representation of your home
22 and exterior of on August 24, 2011.

23 A Yes, sir.

24 MR. MATTHEWS: Your Honor, at this time, State
25 moves into evidence State's Exhibits 3 through 8.

LEROY KELLY DIRECT BY MR. MATHEWS

1 THE COURT: Mr. Li?

2 MR. LI: No objection, Your Honor.

3 THE COURT: State's 3 through 8 is in evidence
4 without objection.

5 (State's Exhibit Nos. 3 through 8 were
6 admitted into evidence.)

7 MR. MATTHEWS: Your Honor, may I have the witness
8 step down?

9 THE COURT: Yes, sir.

10 Mr. Kelly, you may step down. Just, please, keep
11 your voice up when you're away from the microphone.

12 BY MR. MATTHEWS:

13 Q I'm going to hand you this pointer right here. We're
14 going to go through these each individually. First,
15 start with State's Exhibit 3. Can you tell me what
16 this is?

17 A That is my backyard and that is a speaker stand that
18 was with my computer that was stolen.

19 Q That was not outside when you left?

20 A No, sir, it was not.

21 Q You can tell me what this second photograph is?

22 A The second photo is the surge protector that my
23 computer was plugged into.

24 Q And where is that located?

25 A Also, in the back yard.

LEROY KELLY DIRECT BY MR. MATHEWS

- 1 Q And that wasn't there when you left it?
- 2 A No, sir, it wasn't.
- 3 Q And this bottom picture, where is that?
- 4 A That is my back door/utility room.
- 5 Q Is that the door that was open when you came home?
- 6 A Yes, sir.
- 7 Q Now, moving on to State's Exhibit 5. Can you tell me
- 8 what room this is?
- 9 A That would be in my game room.
- 10 Q And I'm going to point to the top picture on State's
- 11 Exhibit 5. What's missing in this room?
- 12 A Forty-two-inch high definition TV.
- 13 Q If you would take this and point to me where the
- 14 television was.
- 15 A It was sitting on that stand right there (indicating)
- 16 and my PlayStation 3 was in that cubby hole right there
- 17 (indicating).
- 18 Q And this second picture, is that a close-up of that
- 19 cubby hole?
- 20 A Yes, sir.
- 21 Q With what missing?
- 22 A The PlayStation 3.
- 23 Q And what is this bottom picture?
- 24 A It, also.
- 25 Q Okay. Moving on to State's Exhibit 4. What room is

LEROY KELLY DIRECT BY MR. MATHEWS

1 this?

2 A That would be my master bedroom.

3 Q And starting with this first picture, just describe
4 what's different about it from when you left that
5 morning?

6 A Well, these drawers weren't open. That belt wasn't
7 hanging there. None of this stuff was on the floor,
8 other than my shoes, which even they're out of place.
9 These picture were leaning up. They weren't on the
10 floor. Those clothes weren't there. They were on top
11 of the dresser there. And the mattress was in place
12 and it wasn't knocked off the bed like that.

13 Q And this second picture, can you kind of describe
14 what's there that's different?

15 A Most of what's here (indicating) was, actually, in this
16 drawer here (indicating), most of what's on the floor
17 there (indicating).

18 Q And this third picture, what's different about that?

19 A For one, this picture was leaning against the dresser
20 there. The file cabinet wasn't up -- wasn't sideways
21 like that or wasn't open. And the bed, once again, the
22 mattress was on the bed correctly.

23 Q And this file cabinet, was that the condition you left
24 it in that morning?

25 A No, it was locked and in good condition.

LEROY KELLY DIRECT BY MR. MATHEWS

1 Q What had happened to it when you got there? I mean,
2 just describe it. I know you can see it.

3 A It appeared to have been pried open or ripped open,
4 something.

5 Q And then this fourth picture, describe to me what's
6 happening there?

7 A A lot of this (indicating), these ammo boxes were on
8 top of the file cabinet. These pictures, some of which
9 were on top of the dresser, some were, actually,
10 leaning against the dresser. These were broken. They
11 weren't when I left that morning. The pillows weren't
12 there either.

13 Q All right. Moving on one more time, State's Exhibit 6.
14 What room is this?

15 A That's still the master bedroom.

16 Q And describe in this first picture what's different.
17 And if there's nothing, you can say nothing.

18 A Well, the belt wasn't hanging out like that.

19 Q Then the second picture, and if anything is missing,
20 please, describe that as well.

21 A One of my handguns was laying right there.

22 Q What kind of handgun was that?

23 A Forty-four Magnum.

24 Q Okay. Third picture, if you can tell me what's
25 different there?

LEROY KELLY DIRECT BY MR. MATHEWS

1 A You can see the dresser was opened. That, also, wasn't
2 standing up. I can't really make it out, but some of
3 the jewelry I had sitting on it is missing up top
4 there. And, once again, you can see the gun is not
5 where it was.

6 Q Fourth picture, tell me what that is?

7 A That's a close-up of my dresser. And you can see it a
8 little bit better that I had some jewelry here and it's
9 no longer there.

10 Q And then the final picture?

11 A That's my closet.

12 Q Okay. Tell me all the items that were missing from
13 your room.

14 A Two sterling silver rings, a -- I guess you'd call it a
15 fake cross necklace. It wasn't real. Two steel rings.

16 Q Guns?

17 A Well, yeah, definitely.

18 Q How many guns?

19 A There was two guns in that room.

20 Q Where were they located? You pointed out the one.
21 Where is the second one?

22 A The second one was, actually, in a case on the other
23 side of the bed in a handbag that I carried it in.

24 Q And what kind of gun was that?

25 A It was Mark 3 Ruger 22.

LEROY KELLY DIRECT BY MR. MATHEWS

- 1 Q And were both of those guns registered?
- 2 A Yes, sir.
- 3 Q Registered to you?
- 4 A Yes, sir.
- 5 Q Did you keep the serial numbers?
- 6 A Yes, I did.
- 7 Q Did you provide those to law enforcement?
- 8 A Yes, sir.
- 9 Q All right. Moving on. State's Exhibit 7, what room is
10 this?
- 11 A That's, actually, my hall.
- 12 Q Tell me what's different in this first picture.
- 13 A The cabinet wasn't open. These drawers weren't open
14 and the chair was pushed more under the desk.
- 15 Q Now, the second picture?
- 16 A They weren't open. There was also a computer there
17 with monitor and keyboard and mouse and speakers.
- 18 Q Third picture?
- 19 A The drawer wasn't open and none of these CDs or games
20 were on the floor. And they were -- some of them were
21 on top of the computer and some of them were, actually,
22 in the top two and bottom drawer.
- 23 Q And this picture?
- 24 A Once again, there was a monitor here (indicating), a
25 computer here and the keyboard and mouse was right here

LEROY KELLY DIRECT BY MR. MATHEWS

1 (indicating).

2 Q Then the bottom left picture?

3 A Picture of the cabinet again that was not open.

4 Q And then the bottom right picture?

5 A The drawer, once again, were not open and they were in

6 a lot better condition.

7 Q Okay. And we're on the final one. State's Exhibit 8.

8 The top two pictures, what do those display?

9 A That's my front door.

10 Q And when you came to your house that day, did you enter

11 from the front or the rear?

12 A I entered from the rear.

13 Q So you hadn't seen the front door at that time?

14 A No.

15 Q Now, describe for me the condition of the front door in

16 the bottom two pictures?

17 A Once the officers got there and we went inside. We

18 went through the front door and we noticed that the

19 deadbolt was on the floor and the door and door jam had

20 been broken, cracked. The lock had been knocked clean

21 out of the upper part (indicating).

22 Q Is that what these pictures display?

23 A Yes, sir.

24 Q All right. You can go ahead and have a seat back up

25 there. Thank you. And you describe for me two guns

LEROY KELLY DIRECT BY MR. MATHEWS

- 1 that were missing. Were there any others that were
2 missing?
- 3 A Yes. I had my sister's gun.
- 4 Q What was that?
- 5 A It was laying beside my computer desk.
- 6 Q Okay. What was it? What kind of gun?
- 7 A Oh, it was a -- also, a 22.
- 8 Q Okay. And was that one registered?
- 9 A Yeah, it was registered to her.
- 10 Q And she have the serial number for that one?
- 11 A Yes, she did.
- 12 Q Okay. And did you report that to law enforcement?
- 13 A Yes, sir.
- 14 Q Is there anybody who had permission to be inside your
15 house that day?
- 16 A No, sir.
- 17 Q Anybody usually in your house when you're at work?
- 18 A No, I live alone.
- 19 Q All your doors were locked and secured when you left?
- 20 A Yes, sir.
- 21 Q Sitting over here at the Defense table is Thomas
22 Bloodsaw in the middle in the blue shirt. Do you know
23 him (indicating).
- 24 A No, I do not.
- 25 Q Before today, had you ever seen him in person?

LEROY KELLY DIRECT BY MR. MATHEWS

1 A No, sir.

2 Q Is there any reason that he would have to be in your
3 home without your permission?

4 A No.

5 Q Have you had people in your home doing any kind of
6 repair work, plumbing or anything in the recent?

7 A Six months to a year before that, I had U-Verse AT&T
8 installed.

9 Q Was he the one that installed it?

10 A No, he was not.

11 Q So he has no reason to be inside your house?

12 A None whatsoever.

13 Q And your house, is that located in Richland County?

14 A Yes, sir.

15 Q And can you tell me the total value of all the items
16 that were taken from your house?

17 A It's a little over 5,000.

18 Q And were you reimbursed for any of that?

19 A I was reimbursed for 1832, \$1,832.

20 Q By -- who was that by?

21 A That was by my insurance company.

22 Q But in your opinion, that wasn't the value of the
23 items?

24 A No, sir. That was greatly depreciated.

25 MR. MATTHEWS: Beg the Court's indulgence.

LEROY KELLEY CROSS BY MR. LI

1 THE COURT: Yes, sir.

2 BY MR. MATTHEWS:

3 Q At the time this happened, did you live alone?

4 A Yes, sir.

5 Q Okay. Thank you.

6 MR. MATTHEWS: I have no further questions.

7 THE COURT: Thank you, Solicitor.

8 Mr. Li?

9 MR. LI: Thank you, Your Honor. May it please the
10 Court?

11 CROSS-EXAMINATION

12 BY MR. LI:

13 Q Good morning, Mr. Kelly.

14 A Morning.

15 Q I just have a few questions for you. Some of them may
16 be repetitive, and I apologize. That morning, you said
17 that you left the house, roughly, what time?

18 A Seven a.m.

19 Q And got home at?

20 A Six-thirty.

21 Q You didn't come home for lunch or any kind of breaks?

22 A No.

23 Q So 7:00 a.m. to 6:30 p.m. you were gone?

24 A Yeah.

25 Q Okay. And when you got home that night, you realized

LEROY KELLEY CROSS BY MR. LI

1 that somebody had -- you said the back door was
2 unlocked; correct?

3 A Actually, it was wide open.

4 Q Wide open, but not broken into, just wide open;
5 correct?

6 A Yeah. (The witness nodded head.)

7 Q And then once you went inside, you realized that the
8 house had been ransacked, some sort of disarray, you
9 went and called the police; correct?

10 A Yes, sir.

11 Q And the first person that showed up on the scene was
12 somebody named Jamie Lucas; correct?

13 A I'm not sure of his name, but that sounds maybe right.

14 Q Okay.

15 (Laughter.)

16 Q Fair enough.

17 A I mean, there was like three officers there that day,
18 so.

19 Q I understand.

20 (Laughter.)

21 Q So to the first officer on the scene, to whoever wrote
22 the report, you told him -- at that point, you told him
23 what was missing; correct?

24 A What I -- once he went inside -- we, actually had to
25 wait for another guy, another officer to show up before

LEROY KELLEY CROSS BY MR. LI

1 we even went inside.

2 Q I understand. So once the other officer came and had
3 cleared the house, you went inside and did an
4 assessment of what the things were missing?

5 A What I could see, you know, right offhand without
6 cleaning up everything.

7 Q Yes, sir, right. And, you know, if it was something
8 important or something of value that you can see right
9 way, you would have told the police officer?

10 A Yes, sir.

11 Q And they would have put it on their list; correct?

12 A (The witness nodded head.)

13 Q Now, let me ask you this, you have other people that
14 come to your house?

15 A About once a month.

16 Q Once a month?

17 A (The witness nodded head.)

18 Q Okay. So there are other people that come into your
19 home; correct?

20 A Yes, sir.

21 Q When they come into your house, you don't ask them to
22 wear gloves or anything; correct?

23 A No, sir.

24 Q They come and watch TV and hang out?

25 A Yes.

LEROY KELLEY CROSS BY MR. LI

- 1 Q Like normal friends would or family?
- 2 A Family.
- 3 Q When you're at home, you don't wear a hair net;
- 4 correct?
- 5 A No, sir.
- 6 Q You don't put on gloves?
- 7 A No, sir.
- 8 Q Okay. You touch things freely?
- 9 A Yes, sir.
- 10 Q With your bare hands; correct?
- 11 A (The witness nodded head.)
- 12 Q Okay. Now, I want to direct you to -- which State's
- 13 exhibit is it? I'm going to direct you to State's
- 14 Exhibit No. 4, I believe, has these picture on it.
- 15 Okay. Now, you mentioned that there were three guns
- 16 missing; correct?
- 17 A Yes, sir.
- 18 Q One was laying near the kind of a closet/dresser --
- 19 between the closet and the dresser floor --
- 20 A Yes, sir.
- 21 Q -- correct? And then you had one inside a case?
- 22 A Yes, sir.
- 23 Q That was inside a bag?
- 24 A Yes, sir.
- 25 Q That was, also, in your bedroom?

LEROY KELLEY CROSS BY MR. LI

- 1 A Yes, sir.
- 2 Q Okay. And then the other -- third one was in the
- 3 living room or the game room?
- 4 A In the hall by the computer.
- 5 Q By the computer.
- 6 A (The witness nodded head.)
- 7 Q Okay. And then your TV and PlayStation 3 were in the
- 8 game room or living room? I forget what you call it.
- 9 A The game room.
- 10 Q Which is separate from the living room?
- 11 A Yes, sir.
- 12 Q And then you're missing jewelry?
- 13 A Yes, sir.
- 14 Q From the bedroom?
- 15 A Yes, sir.
- 16 Q All right. Now, I'm going to point your -- bring your
- 17 attention to the bedroom. Okay. This case
- 18 (indicating), I'm going to point to this. Can you tell
- 19 us -- tell the jury what this -- what I'm pointing to
- 20 right there (indicating) is?
- 21 A That would be the 44 Magnum case that originally the
- 22 gun came in.
- 23 Q Okay. And did you or the officers place it on the bed?
- 24 A Not that I'm aware of.
- 25 Q Not that you're aware of?

LEROY KELLEY CROSS BY MR. LI

- 1 A Not that I'm aware of.
- 2 Q So you don't leave your gun case randomly lying on the
- 3 mattress?
- 4 A No.
- 5 Q Okay.
- 6 (Laughter.)
- 7 Q So it was not there?
- 8 A No.
- 9 Q Okay. So it had been touched?
- 10 A Yes.
- 11 Q By someone other than yourself or the police?
- 12 A I would assume so.
- 13 Q Okay. And I'm going to direct your attention to kind
- 14 of two pictures here. I'm going to point out -- only
- 15 because it's cut off in one of these shots. I'm going
- 16 to point out these items to you. What are those two
- 17 items?
- 18 A Those are ammo boxes.
- 19 Q Those are ammo boxes?
- 20 A Yes, sir.
- 21 Q And they're, specifically, the Winchester ammo boxes;
- 22 correct?
- 23 A Yes, sir.
- 24 Q What caliber are they?
- 25 A Forty-four Magnum.

LEROY KELLEY CROSS BY MR. LI

- 1 Q Forty-four Magnum. And one of the guns that was taken
2 was a 44 Magnum; correct?
- 3 A Yes, sir.
- 4 Q Okay. And those are there?
- 5 A Yes, sir.
- 6 Q And this PMC box right here (indicating), what is that?
- 7 A That's, also, a 44 Magnum.
- 8 Q Also, a 44 Magnum. All right. That's a box of ammo,
9 also?
- 10 A Yes, sir.
- 11 Q And next to the gun case, next to the gun case on the
12 bed (indicating), you have a yellow box right there
13 (indicating)?
- 14 A Yes.
- 15 Q What is that?
- 16 A That is 22 bullets.
- 17 Q Okay. 22 bullets. Were any bullets missing?
- 18 A Only the ones that were left in the case that my 22 was
19 in.
- 20 Q Okay. None of these -- but these ammo boxes were full;
21 correct?
- 22 A Some of those were, actually, just empty casings ready
23 to be reloaded.
- 24 Q There boxes were still left at the scene, though?
- 25 A Yes, sir.

JAMIE LUCAS DIRECT BY MR. MATHEWS

1 Q Okay. And when the State asked you to estimate the
2 value, you estimated your value of the lost items at
3 roughly?

4 A Five thousand.

5 Q Five thousand. Okay. And so, from 7:00 to 6:30,
6 didn't come home?

7 A No, sir.

8 Q You have no idea when these things were taken?

9 A No.

10 Q You have no idea if they were taken at 7:05?

11 A Not a clue.

12 Q 6:25 --

13 A No, sir.

14 Q -- that night? No clue; correct?

15 A It was still daytime when I got home.

16 Q That's right. Still daytime?

17 A Yes.

18 Q Thank you. So it was still daytime when you got home,
19 but you have no idea when it happened; correct?

20 A No, sir.

21 Q All right.

22 MR. LI: Beg the Court's indulgence.

23 THE COURT: Yes, sir.

24 MR. LI: No further questions. Thank you.

25 THE COURT: Thank you, Mr. Li.

JAMIE LUCAS DIRECT BY MR. MATHEWS

1 Solicitor, redirect?

2 MR. MATTHEWS: No, Your Honor.

3 THE COURT: Thank you, Mr. Kelley. You may step
4 down.

5 All right. Solicitor, you may call your next
6 witness.

7 MR. MATTHEWS: The State calls Jamie Lucas.

8 THE COURT: All right. If you would, come around
9 and be sworn.

10 THEREUPON,

11 JAMIE LUCAS,

12 after having been duly sworn, testified as follows:

13 THE CLERK: Thank you. Have a seat in the witness
14 stand, please. State your name or the record.

15 THE WITNESS: Jamie Lucas.

16 DIRECT EXAMINATION

17 BY MR. MATTHEWS:

18 Q Deputy Lucas, where are you employed?

19 A I'm employed with the Richland County Sheriff's
20 Department.

21 Q And what do you do there?

22 A I am a master deputy in the road patrol division.

23 Basically, what that is is when a citizen calls for law
24 enforcement assistance, we are most likely to be the
25 initial contact to those individuals from a range of a

JAMIE LUCAS DIRECT BY MR. MATHEWS

1 different type of calls.

2 Q So you're on the road in your car?

3 A Yes, sir.

4 Q Okay. Now, I want to direct you back to August the
5 24th of 2011. What was your job description then?

6 A I would be the same. It would be on the road patrol.

7 I mean, we do a variety of things, but, again, if a
8 citizen calls, we respond and listen to their complaint
9 and determine what actions need to be done.

10 Q And what day, what shift were you working?

11 A As far as -- I don't recall because it's right there in
12 the middle of our shift change. We change from 7:00
13 a.m. to 7:00 p.m. or 7:00 p.m. to 7:00 a.m.

14 Q But you were working that day?

15 A Absolutely, yes, sir.

16 Q And did you have occasion to go out to [REDACTED] Old
17 Leesburg Road?

18 A I did.

19 Q And why did you go out there?

20 A It was a dispatch that assigned me to a call for a
21 possible burglary. So I responded to [REDACTED] Old Leesburg
22 Road.

23 Q About what time did you get out there?

24 A According to my report, I arrived at 6:59.

25 Q Tell me what you saw when you got there.

JAMIE LUCAS DIRECT BY MR. MATHEWS

- 1 A I met Mr. Kelly. He briefed me on basically what he
2 observed when he got home. When I arrived to the front
3 door, I noticed that the front door appeared to be
4 forced open.
- 5 Q It was still open when you got there?
- 6 A Yes, sir.
- 7 Q Did you go inside at that point?
- 8 A I did.
- 9 Q Did you clear the house?
- 10 A I did.
- 11 Q Was there anybody inside?
- 12 A No, sir.
- 13 Q And just, in general, kind of describe for me what the
14 interior of the house looked like?
- 15 A The interior of the house, in my report, I put
16 ransacked, but, basically, it was just in disarray.
- 17 Q Did Mr. Kelly provide you with a list of items that
18 were missing?
- 19 A He did.
- 20 Q And after you cleared the house and talked with Mr.
21 Kelly, what did you do at that point?
- 22 A At that moment, I contacted our desk sergeant and
23 requested our Richland County Sheriff's Department lab
24 unit to come out and assist with processing the crime
25 scene for evidence.

JAMIE LUCAS DIRECT BY MR. MATHEWS

1 Q Is that protocol?

2 A Yes, sir.

3 Q Why would you do that?

4 A Just again, with the Richland County Sheriff's
5 Department, we're all -- can process crime scenes, but
6 with burglaries and stuff like that, we rely on the lab
7 to come out. They've had more extensive training than
8 what the regular road division unit would have in
9 collecting such items. So it being a burglary, it
10 being the items that were taken, I requested the lab to
11 come out there.

12 Q So what was your job on the scene that day?

13 A Initial contact to speak with Mr. Kelly, to get a list
14 of the things that were taken, to do the initial
15 report.

16 Q Did you secure the crime scene when you arrived?

17 A As far as waiting on another deputy, is that what you
18 mean?

19 Q Making sure nobody else came in or out?

20 A Oh, that's correct, yes, sir.

21 Q And you said you called crime scene?

22 A Yes, sir.

23 Q What time did they get there?

24 A In my report, I do not have that information, but
25 Investigator Schroeder was notified. He states that he

JAMIE LUCAS CROSS BY MR. LEE

1 would be in route.

2 Q Just in your approximation, 30 minutes, hour?

3 A As far as that, I'm not sure. I'm looking at my report
4 and it shows that I departed the scene at 7:35.

5 Q Okay. And that was -- was that the extent of your
6 involvement in this case?

7 A Other than getting a list of information and if he had
8 some serial numbers, which I'm seeing on the report, I
9 would have contacted our desk sergeant to have those
10 items entered into what we call our national crime
11 information computer.

12 Q Serial numbers for what?

13 A For, let's see, a PlayStation 3 that Mr. Kelly reported
14 stolen. He had a serial number for that. A 42-inch
15 Phillips flat screen television. He had a serial
16 number for that. And he, also, had a serial number
17 for, looks like, appears to be a Smith & Wesson 44
18 caliber revolver. He had a serial number for that at
19 the time of the report. And those were entered into
20 our national crime information computer as stolen.

21 Q You didn't collect any evidence or anything from the
22 scene?

23 A No, sir.

24 Q Was that the extent of your involvement?

25 A It is.

JAMIE LUCAS CROSS BY MR. LEE

1 MR. MATTHEWS: Beg the Court's indulgence.

2 BY MR. MATTHEWS:

3 Q Just briefly, can you kind of describe the location of
4 this house? Like, where is it in relation to other
5 homes in the area.

6 A There are other homes surrounding it. I believe
7 there's homes across the street from it. It's in a
8 rural area.

9 Q Rural area?

10 A Yes, sir.

11 Q Pretty far from downtown?

12 A Middleways, but, yeah, it's in a rural.

13 Q Okay. All right. Thank you.

14 MR. MATTHEWS: I have no further questions.

15 THE COURT: Thank you, Solicitor.

16 Mr. Li?

17 MR. LI: Thank you, Your Honor.

18 THE WITNESS: Good morning, Counsel.

19 MR. LI: Good morning, Deputy Lucas.

20 CROSS-EXAMINATION

21 BY MR. LI:

22 Q You were the first person -- first officer on the
23 scene?

24 A Yes, sir.

25 Q And you spoke with Mr. Kelly?

JAMIE LUCAS CROSS BY MR. LEE

1 A Yes, sir.

2 Q All right. And then you -- did you wait for backup?

3 Did you wait for one more person or did you clear the

4 house?

5 A That I cannot recall. Protocol, sometimes -- it just

6 depends on where our backup is from. Sometimes,

7 we're -- in our region, we do the best we can.

8 Sometimes, we have to clear a house by ourselves, but

9 other times, we do wait on backup.

10 Q But you were the reporting office?

11 A Yes, sir.

12 Q Correct?

13 A Correct.

14 Q So you wrote an incident report; correct?

15 A Yes, sir.

16 Q In this incident report, you try to be as accurate and

17 thorough as possible?

18 A Yes, sir.

19 Q Time allowing?

20 A Yes, sir.

21 Q But you do make your best effort to be as accurate as

22 possible?

23 A Sure.

24 Q Okay. Let me tell you -- let me ask you this, when you

25 got there and after you had a brief time to look around

JAMIE LUCAS CROSS BY MR. LEE

1 the home, Mr. Kelly, he gave you a list of things that
2 he could immediately notice that were missing; correct?

3 A Yes, sir.

4 Q You mentioned a PlayStation 3?

5 A Correct.

6 Q I know some of this is repetitive, I apologize.

7 A No.

8 Q A computer with a monitor?

9 A Yes, sir, a Gateway desktop computer.

10 Q And TV?

11 A Yes, sir.

12 Q Three guns?

13 A Yes, sir.

14 Q Three guns. And on your incident report, there's
15 something mentioned in here about a golden-colored
16 necklace and nugget estimated at \$600 and then there's
17 a line drawn through that. Can you explain to the jury
18 why that was?

19 A On that, I would not have drawn the line on it. I
20 don't know if that would be investigations or somebody
21 else. Our reports are done on a computer and once I
22 send it off and they're approved, we don't print off
23 copies.

24 Q Okay. But you do see a line there?

25 A Oh, I do, yes, sir.

JAMIE LUCAS CROSS BY MR. LEE

1 Q But you didn't put it there?

2 A No, sir.

3 Q Okay. That's fair enough. And Mr -- did, Mr. Kelly,
4 did he show you the -- did he kind of show you where
5 things were, where they were taken from or he kind of
6 just give you a list?

7 A No, sir, we did a walk-through.

8 Q You did a walk-through?

9 A Yes, sir. Just a brief walk-through to give me just in
10 general what he could see --

11 Q Uh-huh.

12 A -- without us touching anything, disturbing the scene
13 until the lab arrived.

14 Q Yes, sir. And he explained to you there was a gun case
15 on the bed; correct?

16 A That I don't recall.

17 Q Okay. Did he explain to you that one of the 22's was
18 in a case in his bag?

19 A I don't recall.

20 Q Okay. All right. He did tell ammunition was missing,
21 right, boxes of ammunition were missing?

22 A None that I can recall.

23 Q None. And just very quickly, some pictures were
24 disheveled; correct? Pictures were off the wall or the
25 house was in -- just seemed like somebody had been

SHAWN SCHRODER DIRECT BY MS. BODMAN

- 1 moving a lot of stuff; correct?
- 2 A Yes, sir. As far as pictures and stuff like that, I
- 3 don't recall, however, the house was in disarray.
- 4 Q Okay. And if anything was to -- anything that came to
- 5 mind or off the top of his head that he would see
- 6 immediately that was missing, he would have told you;
- 7 correct?
- 8 A I would think so, yes, sir.
- 9 Q Okay. And in your report, you mention that the value
- 10 was \$4,000. Correct?
- 11 A With the list that I was provided and it is my practice
- 12 to ask the victim or the person making the report what
- 13 they estimate the value at. That doesn't reflect what
- 14 the actual value could be after investigation.
- 15 Q Could be lower, could be higher; correct?
- 16 A Correct.
- 17 Q Okay. But even with your estimation, \$4,000?
- 18 A Yeah, with the -- well, it was 4,120, yes, sir.
- 19 Q All right. And these were the items that were listed?
- 20 Nothing else, no garden nomes, no nothing?
- 21 A No, sir.
- 22 Q That's it. Thank you very much.
- 23 THE COURT: Redirect, Solicitor?
- 24 MR. MATTHEWS: No, Your Honor.
- 25 THE COURT: Thank you very much, Deputy Lucas.

SHAWN SCHRODER DIRECT BY MS. BODMAN

1 THE WITNESS: Thank you, Judge. May I be excused?

2 THE COURT: Any objection, Solicitor?

3 MR. MATTHEWS: No, Your Honor.

4 THE COURT: Mr. Li?

5 MR. LI: No, sir.

6 THE COURT: Yes, sir, you may be excused.

7 Solicitor, call your next witness.

8 MS. BODMAN: State calls investigator Shawn

9 Schroder.

10 THEREUPON,

11 SHAWN SCHRODER,

12 after having been duly sworn, testified as follows:

13 THE CLERK: Thank you. Have a seat in the witness

14 stand. State your full name for the record, please.

15 THE WITNESS: Shawn Schroder.

16 DIRECT EXAMINATION

17 BY MS. BODMAN:

18 Q And with whom are you employed?

19 A Richland County Sheriff's Department.

20 Q In what capacity?

21 A Currently, I'm a crime scene investigator.

22 Q Okay. Can you tell the jury a little bit about

23 yourself in terms of your education and your training,

24 your background that brings you today to be a crime

25 scene investigator with Richland County?

SHAWN SCHRODER DIRECT BY MS. BODMAN

1 A Sure. My forensic career started 2002, 2005. I
2 attended Weaver State University in Ogden, Utah. I
3 took a little over a year in forensic science courses.
4 We had our own crime lab there. From there, I came to
5 Richland County Sheriff's Department in 2007, where
6 went on the road as a patrolman. I processed crime
7 scenes, much as Deputy Lucas did, you know, basic crime
8 scenes. And I did that approximately three and a half
9 years.

10 After that, in 2010, December of 2010, I came to
11 the Richland County crime scene unit. During that
12 time, when I started, I took about a year to a year and
13 a half of extensive in-house training. And during that
14 type, we went -- trained in crime scene processing,
15 development and documentation recording of prints,
16 footwear and tire track development and documentation,
17 bloodstain pattern analysis, trajectory analysis,
18 latent print examinations, crime scene reconstruction
19 and footwear and tire trace examinations.

20 After that, we always do more training. I
21 attended a 16-hour course in homicide questioning death
22 scene seminar; a 16-hour course in latent fingerprint
23 techniques; an eight-hour course in bloodstain pattern
24 analysis; a 40-hour course in skin -- training; 40-hour
25 course in bloodstain pattern analysis, level one

SHAWN SCHRODER DIRECT BY MS. BODMAN

1 training; 40-hour course in crime scene reconstruction
2 analysis, level one training; 40-hour course in
3 fingerprint recognition and comparison; also, a 20-hour
4 course in ethics in forensic science; and I'm also a
5 certified crime scene investigator to the IAI,
6 International Association for Identification.

7 Q International Association for Identification?

8 A Yes, ma'am.

9 Q Do you at all have an estimate of how many -- let's not
10 talk about when you were a patrolman. You said you did
11 process some crime scenes when you were a patrolman?

12 A Sure.

13 Q But since you've gotten your training with the crime
14 scene unit, your extensive specialized training, do you
15 have any idea about how many scenes you have processed
16 during that period of time?

17 A Recently, I checked. I've done over 500 reports while
18 I've been in the crime scene unit. That could be
19 anything from a homicide to followup on a case or
20 anything related to that, so approximately 500.

21 Q Okay. And have you had occasion to testify with regard
22 to your crime scene processing?

23 A Yes, I have.

24 Q In courts in South Carolina?

25 A Yes, ma'am.

SHAWN SCHRODER DIRECT BY MS. BODMAN

1 MS. BODMAN: Your Honor, at this time, I would
2 tender Investigator Schroder as an expert in the area of
3 crime scene processing.

4 THE COURT: Mr. Li?

5 MR. LI: No objection, Your Honor.

6 THE COURT: All right.

7 Madame Forelady, ladies and gentlemen of the jury,
8 normally, our rules of evidence do not permit a witness to
9 testify as to opinions or conclusions. There are exceptions
10 for witnesses that we call expert witnesses. A witness, who
11 by education, experience and training has become expert in
12 some art, science, profession or calling may state an
13 opinion as to relevant and material matter in which the
14 witness claims to be an expert and, also, may state the
15 reasons for holding such opinion.

16 This witness, Investigator Shawn Schroder, will be
17 qualified as an expert in the field of crime scene --

18 Is that correct? Is that the correct term?

19 MS. BODMAN: That's what I tendered.

20 THE COURT: In that area, he may give opinions and
21 conclusions. That does not mean you must accept those
22 opinions or conclusions, but it is evidence for you, the
23 jury, to give whatever weight and value you deem
24 appropriate.

25 Thank you, Solicitor. You may continue.

SHAWN SCHRODER DIRECT BY MS. BODMAN

1 BY MS. BODMAN:

2 Q Okay. Did you occasion then to go out to [REDACTED] Old
3 Leesburg Road in relation to a burglary complaint?

4 A Yes, ma'am. It was August 24th, 2011. I received a
5 call at approximately 7:20 p.m. I arrived on scene at
6 8:36 p.m. in regards to Deputy Lucas contacting me.

7 Q You said you got there about 8:30?

8 A About 8:36.

9 Q Do you remember at that time kind of what the lighting
10 was in terms of the sun?

11 A It had -- the sun was down at that point. It was dark
12 out.

13 Q Okay. So what essentially do you do? What is your
14 process that you took in examining this location?

15 A For crime scene investigations, documentation is very,
16 very important. So, of course, when I arrive on scene,
17 I'm going to document the scene as it is. And the best
18 way to do that for us is through photographs and bench
19 notes. So, I will go through at that point and
20 photograph everything.

21 Q And what's the process that you take in terms of
22 photographing?

23 A Photographing, the way I do it is I start sometimes
24 from where I believe is the point of entry or, you
25 know, where there's something off for the victim -- or

SHAWN SCHRODER DIRECT BY MS. BODMAN

1 Mr. Kelly says, you know, there's -- the front door
2 wasn't like this. It was open when I got home. And
3 then I, generally, have the victim walk me through the
4 house or the deputy, but in this case, the victim. He
5 walked me through the house and explained to me what
6 had been moved, missing, other items out of place. And
7 then I photograph as I go through.

8 Q These exhibits have already been admitted into
9 evidence. Let me just show them to you real quick.
10 There is Exhibit No. 3, 5, 6.

11 A Yes.

12 Q Seven?

13 A Yes.

14 Q And 8?

15 A Yes.

16 Q Okay. And there's my 4, State's Exhibit 4.

17 A Yes.

18 Q Who took those photograph?

19 A I did. I took all of those photographs.

20 Q If you can, walk us through then, I guess, the
21 photographs that you took and why you took them in
22 terms of your crime scene processing?

23 A Sure.

24 MS. BODMAN: May I have the witness come down?

25 THE COURT: Yes, sir. Just keep your voice up

SHAWN SCHRODER DIRECT BY MS. BODMAN

1 when you're away from the microphone.

2 THE WITNESS: All right, sir.

3 BY MS. BODMAN:

4 Q We'll start with State's Exhibit 8.

5 A All right. Generally, when I start taking photographs
6 at a location, I will start with the front. And this
7 is just the front of that -- to me, what was the front
8 of the house from the road (indicating). The road
9 would be back here (indicating). The front door
10 closed. It's going to be your exterior of your front
11 door and then the interior of front door. Again, here
12 I noted forced entry to the front door. You can see
13 where it's splintered. By no means -- you know, that
14 could be a couple different ways. It could be forced
15 open by a foot, shoulder, it's unknown.

16 Q And what do you -- have you seen entries that you could
17 tell how entry was made?

18 A Sure. Sometimes, you will see a partial footwear
19 impression on the door or -- if it's, generally, what
20 it is. You know, when you see a door like this, you'll
21 see a door splinted open, but not all the time. That
22 doesn't necessarily mean anything. It's just not there
23 all the time.

24 Q So some type of force was used --

25 A Some type of force.

SHAWN SCHRODER DIRECT BY MS. BODMAN

1 Q -- to open this door?

2 A Correct.

3 Q Okay. What else did you observe and document in your
4 photographs about the entry?

5 A Of course, I documented that the door itself -- and,
6 also, if you note down here (indicating), there is part
7 of the lock right here (indicating) and right here
8 (indicating). That's part of the -- that's going to be
9 the lock from that door.

10 Q Okay. Then State's Exhibit 7?

11 A When you come into the house, it's the living room
12 area. And then to the right, there's a hallway
13 (indicating). What I did was I took a full shot down
14 the hallway. To the right down the hallway, you can
15 see the desk area (indicating). And the victim
16 stated -- the reason why I took the photograph is that
17 he stated there were some items here and that those
18 drawers and doors had been opened in the process.
19 Also, some stuff lying on the floor here.

20 Q Okay.

21 A That's just the general scene.

22 Q Okay. So just documenting the missing items --

23 A Correct.

24 Q -- that were on the desk?

25 A Yes.

SHAWN SCHRODER DIRECT BY MS. BODMAN

1 Q The fact that this was -- did you move anything at this
2 point?

3 A No, ma'am.

4 Q Or did you touch anything at all?

5 A No.

6 Q So as far you knew, these doors were open when the
7 victim returned home?

8 A When I arrived on the scene, that's the way it was.

9 Q Okay. Door open and items on the floor?

10 A Yes.

11 Q Okay. Then going down this hallway into this room
12 right here?

13 A That's the game room.

14 Q The game room. Okay. This is State's Exhibit 5, the
15 game room.

16 A This is just a shot to the left when you walk from the
17 hallway toward the left-hand side -- back a little bit
18 towards the left-hand side. It's a fairly large home.
19 Then you can just see -- I tried to document here some
20 items that Mr. Kelly stated was missing. I think he
21 talked about a television and PlayStation 3, some other
22 items. At this point, all I'm trying to do is
23 documents items, you know, that the homeowner is
24 stating is missing from it.

25 Q And there's, clearly -- up on this top photograph, what

SHAWN SCHRODER DIRECT BY MS. BODMAN

1 are those cords that we're seeing around that table?

2 A It looks like a coax cable from the television,
3 possibly, or an electrical cord of some type --

4 Q Okay. And, again, you didn't move this cabinet, that
5 was open when you saw it?

6 A Correct.

7 Q Okay. So the game room. Now, if you go into that
8 house, you said -- excuse me, to the right was the
9 hallway with the computer and then to the game room?

10 A Yes, ma'am.

11 Q So when you walk into home then, what is to the left?

12 A The -- I believe, Mr. Kelly calls it the master
13 bedroom. It's to left-hand side.

14 Q State's Exhibit No. 4, what is that?

15 A This is going to be the master bedroom area. Trying to
16 document the overall bedroom, basically.

17 Q Okay. And just items, again, that appeared to be not
18 where the victim had left them?

19 A Yeah. Of course, he stated -- you know, the best
20 person is the homeowner. I just kind of -- with the
21 area. But I mean, I just wanted to document -- one
22 thing I did notice was this filing cabinet was, you
23 know, out of place. It appeared that it was forced
24 entry. And then there's a lot of stuff on the floor
25 right there. It was even hard to walk around and take

SHAWN SCHRODER DIRECT BY MS. BODMAN

1 photographs from that direction. I didn't want to
2 break anything else, especially since I documented it.
3 So it's just the overall bedroom.

4 Q Okay. And then, also, in the bedroom, State's Exhibit
5 6. I guess in looking at the orientation of the bed --

6 A Yes.

7 Q -- where is this (indicating) in comparison to this
8 (indicating)?

9 A When you -- this was on the far side of the bedroom,
10 towards the far corner would be this area, this area
11 (indicating). And then, this would have been on the --
12 well, actually, this is when you first walk into the
13 bedroom, shooting a photograph that direction
14 (indicating) and then that's on the right-hand side.
15 So on the left-hand side would be this (indicating).

16 Q Okay.

17 A From the bed.

18 Q So if we took a left on this side, the bed --

19 A Correct. You take a left on this (indicating).

20 Q Okay. And the purpose of these photographs are then
21 documenting?

22 A Yes, he, you know, kind of directed me to some items
23 missing and moved over on this side (indicating).

24 Q Okay. One last photograph or board is State's Exhibit
25 3?

SHAWN SCHRODER DIRECT BY MS. BODMAN

1 A When you walk out the back door towards the woodline,
2 there was a couple items laying on the ground that Mr.
3 Kelly stated were not there. And what I did was I
4 photographed them. Also, one thing to note here was
5 there was some dew on the ground there, so these were
6 wet. But this was a surge protector and part of a
7 speaker, I believe, some electrical.

8 Q Okay. So what do you -- after you go through then and
9 photograph it as is, untouched, what's the next thing
10 that you do in your processing?

11 A After photographing, I'll go through and try to
12 determine the best surfaces of what was touched. So
13 many items were touched and sometimes, it's just not
14 feasible to process every single item when I get beyond
15 three, four or five items. So I try to go through and
16 get the surfaces that I believe in my opinion were
17 possibly touched by the suspect and that, generally,
18 yields the best evidence.

19 Q And so -- I mean, obviously, I assume this house had a
20 kitchen?

21 A Yes.

22 Q You inspected the home. And there was a bathroom. But
23 there was no direction to any of those rooms in terms
24 of noticing that someone was in those?

25 A Correct.

SHAWN SCHRODER DIRECT BY MS. BODMAN

1 Q Okay.

2 A I, generally, don't document areas that weren't
3 bothered in any way, such as the kitchen and in the
4 bathroom. However, if they would have been, we would
5 see photographs.

6 Q And were there, also, other bedrooms in the home?

7 A I can't -- I believe so, but I don't remember off the
8 top of my head.

9 Q Okay. In looking at -- just in looking at the
10 photographs on State Exhibit No. 7, we're looking down
11 the hallway?

12 A Yes.

13 Q And this is to the right. You said the master bedroom
14 is to the left. And there do appear to be other doors?

15 A There are other rooms.

16 Q Other rooms?

17 A Yes.

18 Q Okay. But again, nothing was directed to your
19 attention in terms of --

20 A Correct. If --

21 Q -- disturbances?

22 A Correct. That's -- you know, you try to -- I want to
23 get the best evidence possible, so I try to direct
24 myself to those areas rather than, you know, spend
25 unneeded or unnecessary time in areas where I don't

SHAWN SCHRODER DIRECT BY MS. BODMAN

1 necessarily need to be.

2 Q Okay. Take a seat for a minute and we'll come back and
3 talk about some of these photographs again.

4 So, you said you're going to focus on surfaces
5 that you think you can get the best evidence?

6 A (The witness nodded head.)

7 Q Are you -- what are you trying to lift off of those
8 surfaces?

9 A Well, one of my ultimate goals is to lift latent prints
10 or hidden prints. And, you know, some of the
11 surfaces -- generally, your best surface is a smooth,
12 nonporous surface, such as glass or metal, maybe like a
13 car top frame. It could be kind of like a coded
14 cardboard. Anything that you just think -- if you
15 think it's smooth, it's more than likely a smooth,
16 nonporous surface.

17 Q So what about wood? I mean, in some of these, it looks
18 like the cabinets and the doors --

19 A Yes. Some surfaces -- wood can be considered a porous
20 surface. It depends on if it's a fake wood or real
21 wood. Real wood would be a porous surface. They do
22 yield prints. Anything can yield a print. It doesn't
23 take a specific surface. But, you know, when you're
24 going through a scene -- and I did process some of
25 those, I believe, in my report, and I can go through

SHAWN SCHRODER DIRECT BY MS. BODMAN

1 those. But because of print -- if a print is here, if
2 I touch this, it really depends on multiple factors.
3 It depends on, you know, the surface itself, such as a
4 smooth, nonporous surface, a porous surface. The
5 condition of the hand, you know, how much the person is
6 sweating. Environmental factors --

7 Q And how does that -- how does that affect whether a
8 print is left.

9 A Well, a print -- 99 percent of a print is water. So
10 the one percent of the print that's left, which is the
11 sweat, which comes from your palmar and your plantar
12 surfaces, which are your hands and your feet. The one
13 percent is amino acids, creates oil and that's what the
14 powder adheres to when you see the black powder when
15 you use black powder. So that's what we're trying to
16 do is, you know, get that surface.

17 Q So sweating might potentially increase -- is that what
18 you're saying, it would increase the likelihood of
19 leaving a print?

20 A Yes.

21 Q Okay.

22 A Sweating it increases it. But, again, it goes back to
23 the condition of the hand. It doesn't -- just because
24 one person sweats more, it does not necessarily mean
25 that a print will be left there.

SHAWN SCHRODER DIRECT BY MS. BODMAN

1 Q These are all just factors?

2 A They're factors and they all come in effect together.

3 Q Okay. So you were saying the surface type, sweating.

4 What else? You said environmental factors?

5 A Environmental factors. It can depend on how hot or

6 cold out it is. Generally, in a house, it's fine, but

7 that's just another factor.

8 Q Okay. What about surfaces that are touched a lot by

9 either the same person or many people so that there are

10 layers of prints on that surface?

11 A Well, you can -- with prints, there can be a lot of

12 pressure applied. So if pressure is applied, it can,

13 actually, smudge or even destroy that print, you know,

14 the ridges on that print. So -- there's a lot of

15 factors that go into that, but pressure is going to be

16 one. And, again, it goes back to the condition of the

17 hand.

18 Q Okay. Just because I come over here and we all see

19 that I touched this, just as you did, does that mean

20 100 percent that I have just left a print or even a

21 readable print?

22 A No, it does not. Also, you know, sometimes surfaces

23 are touched multiple times, so you can multiple

24 fingerprints on top of one another. So that's, also,

25 another possibility.

SHAWN SCHRODER DIRECT BY MS. BODMAN

1 Q Okay. And multiple prints on top of one another have
2 what type of effect on your being able to read those
3 prints?

4 A It's -- it's harder. It's not impossible, but it's
5 harder. But that's -- you know, it depends on that
6 area. If all the ridge details are destroyed because
7 of the multiple prints on top of it or if there's an
8 area that is readable.

9 Q So then, what exactly do you do in terms of attempting
10 to lift prints? Can you tell us what surfaces you went
11 through specifically?

12 A Sure. I processed the front entry door and the door
13 knob with black powder, which I had negative results.
14 Do you want me to tell the results as well?

15 Q Yeah, that's great.

16 A The computer desk in the hallway --

17 Q Okay. Let's stop. The entry door, this is on Exhibit
18 8. Where did you say you tried to lift it?

19 A I'll try -- generally, I will try to use black powder,
20 which is good for a door like that, around where
21 somebody might touch, you know, while they're trying to
22 make forced entry. Around the door knob area, maybe
23 like that two-foot area --

24 Q Okay.

25 A -- on the interior and exterior.

SHAWN SCHRODER DIRECT BY MS. BODMAN

1 Q Okay. To see if, instead of the foot, they used their
2 hands to pry it open, to force it open?

3 A In the past, you know, I've seen it where some people,
4 when they force it open, they grab. And then
5 sometimes, you see prints right there (indicating) as
6 soon as the door is opened.

7 Q Okay. What was the result of your attempt to lift any
8 prints off the door?

9 A That was negative.

10 Q That was negative. Okay. What was next?

11 A Next, I went to the hallway area, the computer desk in
12 the hallway.

13 Q Okay. And where are you going to be, I guess, focusing
14 on where you think somebody touched?

15 A Well, again, it goes back to the homeowner who says,
16 you know, the drawers are open, the doors are open,
17 this is on the floor. So in this case, I processed the
18 drawers and the top because I believe that a computer
19 was missing that was on top.

20 Q Like the desk top, the counter top; is that what you're
21 saying?

22 A Yes, the top of the desk.

23 Q Okay.

24 A Negative on both of those.

25 Q Negative on both of those?

SHAWN SCHRODER DIRECT BY MS. BODMAN

- 1 A Correct.
- 2 Q Okay. Where did you go next?
- 3 A From there, I went into the game room.
- 4 Q Okay.
- 5 A I processed the alarm clock. Was told that it was
- 6 moved or out of place, so I processed the alarm clock.
- 7 Also, the audio cables and the receiver. And that's
- 8 what I processed.
- 9 Q And why are you thinking about the audio cables?
- 10 A Because the home -- Mr. Kelly stated they had been
- 11 moved or out of place.
- 12 Q Okay. I mean, if there was a TV there, obviously, they
- 13 had to unplug the cables?
- 14 A (The witness nodded head.)
- 15 Q Okay. And what was your result about that?
- 16 A Negative on those three items.
- 17 Q Okay. Where did you go next?
- 18 A From there, I went into the master bedroom.
- 19 Q Okay. And what did you process in there?
- 20 A I processed the dresser drawers with black powder,
- 21 which was negative results.
- 22 Q Okay. What else?
- 23 A The master bedroom -- the filing cabinet that appeared
- 24 forced open, I processed that. And I did have positive
- 25 results with -- and I lifted one latent print card from

SHAWN SCHRODER DIRECT BY MS. BODMAN

1 there.

2 Q One latent print card?

3 A Yes.

4 Q Does that mean one print?

5 A No.

6 Q Or there could potentially be more than one print on a
7 card?

8 A Correct. It's a card. It's three by five, like an
9 index card.

10 Q Okay. So off of that. And what else?

11 A I processed a wolf picture, a picture of a wolf.

12 Q Okay.

13 A And that was with magnetic powder. And I had negative
14 results on that.

15 Q And you're saying -- I guess this is a different
16 powder?

17 A It is.

18 Q Why is that? Why do you use different types of
19 powders?

20 A Well, again, it's for the surfaces. And what magnetic
21 powder is it has a magnetic wand and there's ferrous
22 particles with powder on there and if you print that
23 over a print, sometimes, you get a great print. It
24 just, you know, depends, of course. And then black
25 powder is carbon based.

SHAWN SCHRODER DIRECT BY MS. BODMAN

1 Q So what was the result of the attempt to lift off the
2 wolf picture?

3 A It was negative.

4 Q What else, if anything?

5 A From there, I processed a Winchester ammo box with
6 magnetic powder. And I got one latent print card from
7 there.

8 (State's Exhibit No. 9 was marked for
9 identification.)

10 BY MS. BODMAN:

11 Q I'm going to show you what's marked as State's Exhibit
12 No. 9 and ask you do you recognize these photographs?

13 A Yes.

14 Q Who took these photographs?

15 A I took those.

16 Q And do these documents the items that you lifted the
17 print cards?

18 A Yes, they do.

19 MS. BODMAN: The State offers into evidence,
20 State's Exhibit No. 9.

21 MR. LI: No objection, Your Honor.

22 THE COURT: State's Exhibit No. 9 is in evidence
23 without objection.

24 (State's Exhibit No. 9 was admitted into
25 evidence.)

SHAWN SCHRODER DIRECT BY MS. BODMAN

1 BY MS. BODMAN:

2 Q The file cabinet, State's Exhibit No. 8, do you
3 remember where you lifted those latent prints and
4 created that card or lifted the card?

5 A I do. The prints were, actually, lifted from the
6 inside of here (indicating), so it was, actually,
7 inside.

8 Q And when you say of here, what --

9 A Of the top, the top drawer.

10 Q The drawer?

11 A (The witness nodded head.)

12 Q Okay. And was it the inside of this part of the door
13 or inside of the top?

14 A It would be inside of the door.

15 Q This actual door?

16 A Yes.

17 Q Where it appears to be bent?

18 A Correct.

19 Q Okay. Was the location of it consistent with a hand
20 going in like that (indicating) to pull it back?

21 A In my opinion, it's consistent with, you know, this
22 forced entry, getting into that. And that's why I
23 checked that.

24 Q And this is the Winchester box that you --

25 A That's correct. Now, I had moved the Winchester to the

SHAWN SCHRODER DIRECT BY MS. BODMAN

1 area and I wanted to put a distinct background so we
2 knew that had been moved. And I just wanted to
3 photograph what it was after it was on the floor.

4 Q So for purposes of this picture, you --

5 A Correct.

6 Q -- moved it once you found it?

7 A Yes.

8 Q And then you also would have to move it in order to do
9 the powder and process it?

10 A I didn't want to get the carpet really nasty.

11 Q And then in looking at State's Exhibit No. 4 right
12 there (indicating), is that the Winchester box? Sorry.

13 A Yes, it is.

14 Q Okay.

15 A That's it.

16 (State's Exhibit No. 10 was marked for
17 identification.)

18 BY MS. BODMAN:

19 Q I show you what's marked as State's Exhibit 10 and ask
20 you if you recognize that?

21 A These are the latent print cards that I had lifted that
22 night and submitted for evidence.

23 Q The ones off the Winchester box and off the file
24 cabinet?

25 A Correct.

SHAWN SCHRODER DIRECT BY MS. BODMAN

1 Q And who put them into this envelope?

2 A I did.

3 Q Okay. And is that your label?

4 A Yes. When we submit these to evidence, we fill out the
5 label on the front. And at the time I had submitted
6 these on 08/25, which was the next day at approximately
7 10:45 a.m, I submitted them to our latent dropbox
8 number two, which was upstairs by our lab at the time.

9 Q Okay. And so inside this, can you tell us what these
10 two cards are?

11 A Yes. These are the actual fingerprint cards
12 themselves --

13 THE COURT: Are those in evidence, Solicitor?

14 MS. BODMAN: They are not.

15 THE COURT: All right.

16 MR. LI: I have no objection.

17 THE COURT: State's Exhibit 10 is in evidence
18 without objection.

19 You're offering them, Solicitor?

20 MS. BODMAN: I am offering them.

21 THE COURT: All right. State's 10 is in evidence
22 without objection.

23 (State's Exhibit No. 10 is admitted into
24 evidence.)

25

SHAWN SCHRODER DIRECT BY MS. BODMAN

1 BY MS. BODMAN:

2 Q And in case I didn't make it clear, 10 contained these
3 two cards that you're holding?

4 A Correct.

5 Q Two latent print cards?

6 A Correct. This latent print card is from the filing
7 cabinet. The way that I know that is on the back, I
8 fill out some information here and I'll read it to you
9 and, also, draw a diagram. And then I'll do the
10 orientation on the front.

11 Q And what do you mean by orientation?

12 A I'll show you. Right here (indicating), I put the
13 location of the latent print lifted was the file
14 cabinet in the master bedroom inside top drawer. From
15 here, I draw a diagram. I'm definitely not an artist,
16 but, you know, everyone I believe will get to see
17 these. But with the orientation, you'll see my
18 orientation -- I have arrows. You see arrows on that
19 side as well. So from here, if you're looking at the
20 filing cabinet, this would be from the inside. That's
21 the way it would be oriented.

22 Q Okay.

23 A So it would have been, you know, on the inside there
24 (indicating).

25 Q Okay. So down?

SHAWN SCHRODER DIRECT BY MS. BODMAN

1 A Correct. Down on the inside.

2 Q Okay. And the other card?

3 A This is lifted from the Winchester box in the master
4 bedroom. And I drew a photograph of an orientation
5 arrow on that side and, also, it's on the front, you
6 can see. I took it how the picture was as well so
7 everyone could relate to the photo.

8 Q Okay. Did you attempt to -- I guess, did you process
9 the scene in any other way other than attempting to
10 lift prints?

11 A Yes. We collect swabs for possible DNA. So I went
12 through and I did collect some swabs as well as I
13 got -- collected a buccal swab from Mr. Kelly.

14 Q And what is that buccal swab?

15 A It's just a swab from inside of the cheek so then we
16 can have his DNA on file for elimination purposes.

17 Q And what do you mean by elimination purposes?

18 A Well, if we find his DNA on the scene, that's not
19 uncommon, so we want to know that we can eliminate his
20 DNA from the samples that we get.

21 Q Because, obviously, he lives in this home --

22 A Correct.

23 Q -- and breathing and touching items?

24 A It's not unusual we get the victim's DNA.

25 (State's Exhibit Nos. 11 and 12 were

SHAWN SCHRODER DIRECT BY MS. BODMAN

1 marked for identification.)

2 BY MS. BODMAN:

3 Q I show you Exhibits 11 and 12. And just see if you
4 recognize those?

5 A Yes, these are the swabs that I had collected. On the
6 front, you'll notice a label again filled out and where
7 they were taken from. And I had dropped these at -- on
8 August 25th, 2011, at approximately 10:50 in the
9 morning.

10 Q Okay.

11 A And this one was collected from Mr. Kelly, that swab.
12 And these swabs were collected from various items
13 around the residence. There's four swabs.

14 Q Where -- and you don't need to read off the exhibit.
15 Do you document it in your report?

16 A Yes.

17 Q Where did you take the swabs in hopes that we could
18 possibly get some DNA?

19 A The Winchester box in the master bedroom, the game room
20 audio cables, the game room alarm clock and the file
21 cabinet in the master bedroom.

22 Q Okay.

23 MS. BODMAN: Your Honor, I'd offer into evidence
24 State's Exhibits 11 and 12.

25 MR. LI: No objection, Your Honor.

SHAWN SCHRODER DIRECT BY MS. BODMAN

1 THE COURT: State's 11 and 12 is in evidence
2 without objection.

3 (State's Exhibit Nos. 11 and 12 were
4 admitted into evidence.)

5 BY MS. BODMAN:

6 Q Inside of State's Exhibit 11 then is what swab?

7 A This is Mr. Kelly's swab. And, again, let me explain
8 where these go from us. When we collect these, we
9 submit these into evidence and they, actually, go to
10 DNA analysts, so.

11 Q So you're going to separate them out?

12 A Correct.

13 Q You did all this --

14 A To prevent cross contamination. That's why we would
15 submit the victim's swab rather than the single swab.

16 Q Okay. And then you do all this packaging yourself?

17 A Yes. Correct.

18 Q And seal it up?

19 A Yes.

20 Q And then inside State's Exhibit 12?

21 A These are the four swabs that I had collected from
22 various items. And they're, actually, marked on there
23 with the case number and the items collected from it
24 and the time collected.

25 Q Did you do anything else -- processing this crime

SHAWN SCHRODER CROSS MR. MR. LI

1 scene?

2 A No, I believe that was -- that was the extent that I
3 did. And then after that, you know, I copy that down
4 for further documentation on the bench notes and then
5 go back and create my file and report.

6 Q What time did leave Mr. Kelly's home?

7 A I left at approximately 10:05 p.m.

8 Q So arrived 8:30 and left at 10:05.

9 A Approximately.

10 Q Okay. How would you describe the location of
11 Mr. Kelly's home?

12 A It's fairly remote. It's definitely a rural area.
13 It's -- there are other houses around there, but
14 everybody has a little bit of property, I guess is the
15 best way to explain it, maybe an acre or two, some a
16 little more. But I believe there's a house directly
17 across the street that I could see. And then from
18 there, I don't recall seeing any other homes, you know,
19 in that immediate vicinity.

20 Q Okay.

21 MS. BODMAN: I have no further questions at this
22 time.

23 THE COURT: Mr. Li?

24 MR. LI: Thank you, Your Honor. May it please the
25 Court?

SHAWN SCHRODER CROSS MR. MR. LI

1 CROSS-EXAMINATION

2 BY MR. LI:

3 Q Good morning, Investigator Schroder.

4 A Morning.

5 Q So you're the CSI person; correct?

6 A Correct.

7 Q Crime scene investigator. Anybody else crime scene
8 investigator that worked on this case that you know of?

9 A Not on case, just myself.

10 Q Just you?

11 A Yes.

12 Q What you've done -- what you tell on your report is
13 inclusive; correct?

14 A Yes, sir.

15 Q On what was done. And you wrote a report about this --
16 about what you did at the scene; correct?

17 A Yes, sir.

18 Q And, you know, it wasn't your job to interview the --
19 Mr. Kelly or anything like that to find out the
20 details? Your job is more to get information necessary
21 to do crime scene work?

22 A Correct. It's a limited investigation.

23 Q Yes, sir.

24 A So it would be, you know, just by asking where
25 location -- locations about items possibly removed and

SHAWN SCHRODER CROSS MR. MR. LI

1 that type of information.

2 Q Uh-huh. And if he told you this, for example -- you
3 said that you usually go around taking photographs of
4 places where he tells something is out of place here or
5 something is missing here or something weird is going
6 on here, then you take a picture of that. Is that how
7 you get started on your picture location?

8 A It's kind of how I get started and then I go from there
9 with, you know, what I may find from my investigation.

10 Q I got you. But if he definitely told, he said, I used
11 to have a TV here, now there's no TV, you would take a
12 picture of that; correct?

13 A Yes, sir.

14 Q So if he, actually -- obviously, you do stuff on your
15 own that he doesn't tell you, but if he says something
16 is missing, you usually try to take a picture or have
17 some sort of documentation as to that part of it;
18 correct?

19 A Generally, yes, sir.

20 Q Okay. And let me get these questions out the way. You
21 did take swabs for DNA?

22 A Correct.

23 Q You submitted them to the place you send them to, the
24 lab; correct?

25 A Evidence to go into --

SHAWN SCHRODER CROSS MR. MR. LI

- 1 Q Evidence.
- 2 A For DNA analysis.
- 3 Q Yes, sir. And you don't do any of the analysis
- 4 yourself?
- 5 A Correct.
- 6 Q That takes care of those questions. Tire marks, you
- 7 look for tire marks?
- 8 A It was -- again, it was dark.
- 9 Q Uh-huh.
- 10 A And I think I did look for tire marks, if I remember
- 11 correctly, but it was in grass.
- 12 Q Okay.
- 13 A So I didn't capture --
- 14 Q Nothing --
- 15 A -- anything notable.
- 16 Q Nothing useful; correct?
- 17 A Correct.
- 18 Q Skid marks?
- 19 A Nothing like that, sir.
- 20 Q Shoe prints?
- 21 A Did not note.
- 22 Q Hair samples? Did you find any hair follicles, hair
- 23 fibers?
- 24 A (The witness shakes head.)
- 25 Q Or cloth, anything like that?

SHAWN SCHRODER CROSS MR. MR. LI

- 1 A No.
- 2 Q Cloth fiber?
- 3 A No, just the swabs for the DNA.
- 4 Q Just the swabs for DNA?
- 5 A Yes, sir.
- 6 Q Okay. So I'm going to run over this list again. I
- 7 know Ms. Bodmon has already been over it once. But the
- 8 following items that you listed with black powder or
- 9 magnetic powder, those are for fingerprints?
- 10 A Correct.
- 11 Q You're trying to look for fingerprints?
- 12 A Correct.
- 13 Q Okay. And so you did something on the front door knob,
- 14 the computer desk, the computer desk in the hallway top
- 15 drawer, I guess, game room glass doors, alarm clock,
- 16 audio cables, receive and the drawers. The things I
- 17 just listed, negative results; correct?
- 18 A Correct.
- 19 Q And then we get to the master bedroom filing cabinet,
- 20 you got one card?
- 21 A Correct.
- 22 Q All right. And the wolf picture, the wolf picture
- 23 negative, no results?
- 24 A Correct.
- 25 Q And Winchester ammo box, you got a card from that?

SHAWN SCHRODER CROSS MR. MR. LI

- 1 A Correct.
- 2 Q All right. And then you also tested the Master
- 3 Remington 22 box?
- 4 A Yes.
- 5 Q No results on that?
- 6 A Correct.
- 7 Q Surge protector, no results on that?
- 8 A Correct.
- 9 Q Now, the -- there was a gun case there, correct?
- 10 A Correct.
- 11 Q There was a blue Smith & Wesson gun case; right?
- 12 A Yes.
- 13 Q It was laying on the mattress?
- 14 A (The witness nodded head.)
- 15 Q You didn't take any fingerprints off that; right?
- 16 A Correct.
- 17 Q Now, Ms. Bodmon said something kind of interesting
- 18 earlier -- she said that -- when you were testifying to
- 19 her, you said just because someone touches something
- 20 doesn't mean there's always a print?
- 21 A That's correct.
- 22 Q And I apologize if I'm butchering it, but something to
- 23 that effect; correct?
- 24 A Correct.
- 25 Q If you come up there and touched the wood, it's not

SHAWN SCHRODER CROSS MR. MR. LI

1 necessarily going to leave a useable mark?

2 A That's correct.

3 Q So, therefore, Mr. Kelly, obviously, who lives in the
4 house, you know, does normal things, touches things.

5 And out of all those items, no mark; correct?

6 A That was --

7 Q No result; correct?

8 A Yes.

9 Q And, in fact, he said friends come over. He has
10 friends come over once a month. They sit in the game
11 room and do stuff as well with no gloves on or
12 anything, no fingerprints; correct?

13 A Correct.

14 Q Didn't get any fingerprints from that. So it just so
15 happens that the only two fingerprints you get are the
16 ones from the file cabinet and from the Winchester ammo
17 box; correct?

18 A Correct.

19 Q Okay. And where the TV was sitting, it was sitting on
20 some sort of glass, a glass desk, glass table. Did you
21 take fingerprints? Did you try to test that?

22 A From the glass top?

23 Q From the glass top, yes, sir?

24 A I did not.

25 Q Did not. Okay. And you took the swabs for these items

SHAWN SCHRODER CROSS MR. MR. LI

1 for DNA. Do you, literally, just take a Q-tip and just
2 kind of run it over?

3 A It's similar to that. We'll take --

4 Q Okay. Explain.

5 A We'll that distilled water and put it on -- you can
6 think of the swab like a Q-tip, and then run it over
7 where we believe may be positive for DNA.

8 Q And then you also said -- I'm going to bring you back
9 to something that you testified earlier to, is not only
10 is it possible that if somebody touches something that
11 there's no print; correct?

12 A Uh-huh.

13 Q It's, also, possible that if multiple people touch it,
14 the print will become unusable and can't get a -- if
15 something is unusable, would you still write negative
16 on your report?

17 A No.

18 Q You would just say unusable?

19 A No.

20 Q Oh, I'm sorry.

21 A If it was -- if it had enough or sufficient ridge
22 detail.

23 Q Yes, sir.

24 A Then I would submit it. And what I mean by that is if
25 multiple people have touched something --

SHAWN SCHRODER CROSS MR. MR. LI

1 Q Right.

2 A -- and there was multiple pressure, but there was maybe
3 one area of the print --

4 Q That's right.

5 A -- that would still --

6 Q Distinct?

7 A Well, it still had enough ridge detail or
8 characteristics, then I would still submit it,
9 definitely.

10 Q I understand. Okay. So the ones that you, actually,
11 tested, the one that, actually, have negative,
12 actually, mean negative, mean nothing?

13 A It means negative for me to submit, correct.

14 Q Negative for you to submit?

15 A Yes.

16 Q Okay. Because we know that the -- according to prior
17 testimony, I don't know if you were in here, but the
18 box on Exhibit No. 4, the -- as you were talking to the
19 victim, it's obvious that a lot of stuff was moved;
20 correct?

21 A Yes.

22 Q And you didn't get fingerprints on a lot of things;
23 correct?

24 A Correct.

25 Q Even though it was obvious that things were moved?

SHAWN SCHRODER CROSS MR. MR. LI

- 1 A Correct.
- 2 Q So you have no idea who moved those -- from the items
- 3 that you did not get fingerprints on, you have no idea
- 4 who moved them; correct?
- 5 A Correct.
- 6 Q And let me get to the last couple of questions here.
- 7 Now, based on getting the fingerprints, you said
- 8 something that -- you said, 90 percent or 99 percent of
- 9 fingerprints contains water?
- 10 A Approximately 99 percent, yes.
- 11 Q And then after that evaporates, the residue is what
- 12 causes the fingerprint; correct?
- 13 A Well, the approximate one percent creates oils, amino
- 14 acids, yes.
- 15 Q And that one percent is the part that causes the
- 16 fingerprint to be used; correct?
- 17 A Correct.
- 18 Q Now, with the amino acids and the oils that are left,
- 19 based on your expertise, you can't tell the time of
- 20 when that was left; correct?
- 21 A That is correct.
- 22 Q You can't tell if it was left -- in fact, you only have
- 23 have an upper limit to when it could have been left
- 24 past; correct?
- 25 A I cannot date a print, that's correct.

SHAWN SCHRODER REDIRECT BY MS. BODMAN

1 Q Right.

2 A I cannot age a print.

3 Q Right. And I'm just sorry to be -- but you know it
4 couldn't have been left after 6:30 because that's when
5 Mr. Kelly got back; correct?

6 A Can you restate that?

7 Q The print -- the only thing that you can tell for
8 certain is that it was not -- the prints were not left
9 after 6:30 because you were in the home -- or Mr. Kelly
10 was in the home and there's testimony that anybody else
11 could have touched that?

12 A Well, all that I know is that prior to my arrival -- I
13 don't know what happens prior to my arrival.

14 Q Okay.

15 A That I lifted those prints when I arrived, that's what
16 I know.

17 Q No time frame at all?

18 A Correct.

19 Q Could have been 7:01 in the morning to 6:24?

20 A That's correct.

21 Q Okay.

22 MR. LI: Beg the Court's indulgence.

23 THE COURT: Yes, sir.

24 MR. LI: No more questions.

25 THE COURT: Redirect, Solicitor?

SHAWN SCHRODER REDIRECT BY MS. BODMAN

1 REDIRECT EXAMINATION

2 BY MS. BODMAN:

3 Q There was a question about tire marks or foot
4 impressions. And you said something about grass, it
5 appeared that there was a lot grass. Can you tell the
6 jury how does grass as opposed to, I guess, mud or
7 other types of ground surfaces affect tire tracks or
8 foot impressions?

9 A Grass -- you may be able to see where a person had
10 stepped in the grass or tire tracks had been -- you
11 know, a car had driven in the grass, but there's no
12 identifiable characteristics associated with it, so
13 it's -- I mean, other than saying well, there may have
14 been a car back here. That's where we can go with
15 that.

16 Q Okay. And from your memory, State's Exhibit No. 3,
17 those top two photographs do show what type of ground
18 surface?

19 A It's grass.

20 Q Okay. And in addition, Exhibit 2?

21 A (The witness nodded head.)

22 Q The distance photo of Mr. Kelly's home is what type of
23 ground surface?

24 A It's grass.

25 MS. BODMAN: No further questions.

SHAWN SCHRODER REDIRECT BY MS. BODMAN

1 THE COURT: Recross, Mr. Li?

2 MR. LI: No, Your Honor.

3 THE COURT: Thank you very much, Officer. You may
4 step down.

5 THE WITNESS: Thank you.

6 THE COURT: All right.

7 Ladies and gentlemen of jury panel, I believe we
8 will take our morning recess for about 15 minutes. I remind
9 you, during the recess do not discuss the case, do not
10 discuss the case with your fellow jurors or anyone else.
11 Please remember to keep an open mind. Do not begin your
12 deliberations until I instruct you to do so.

13 With that being said, you may now go with your
14 bailiff for a 15-minute recess.

15 (The jury retires from the courtroom.)
16 at 1:30 p.m.)

17 THE COURT: All right. Anything further from the
18 State before we take our recess?

19 MR. LI: No, sir.

20 THE COURT: Mr. Li?

21 MR. LI: No, sir.

22 THE COURT: All right. The case has now been
23 called for trial, the jury is sworn, the bond has ended.
24 Mr. Bloodsaw is in the custody of the Richland County
25 Detention Center.

STAN RICHARDS DIRECT BY MR. MATHEWS

1 Sheriff, if you will take the Defendant in
2 custody, please.

3 Thank you very much. Court will be in recess for
4 15 minutes.

5 (Whereupon, a short recess was held.)

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

8 MS. BODMAN: Your Honor, with our second witness,
9 we are going to be using a PowerPoint presentation regarding
10 the ACE-V method of fingerprint examination. We provided a
11 copy of that PowerPoint previously to Mr. Li. I just wanted
12 to put that on the record.

13 THE COURT: Thank you. Thank you, Solicitor.
14 Mr. Li?

15 MR. LI: No objection to that, Your Honor. The
16 only thing from the Defense is we would like to remind the
17 State of the pretrial motion excluding mention of our
18 expert. As to the AFIS database, we would ask, again,
19 nothing be mentioned about Mr. Bloodsaw, how they got the --
20 which database they used to match.

21 THE COURT: All right.

22 MS. BODMAN: In case they didn't hear Mr. Li, just
23 as we previously spoke, they are aware that they are not to
24 mention how these fingerprints get into the database, just
25 that it is a database of known prints. And I don't know if

STAN RICHARDS DIRECT BY MR. MATHEWS

1 we did discuss this, but unless we specifically ask you
2 about the Defense expert, you are not to mention any contact
3 or communication of the fact there was a Defense expert
4 unless you're specifically asked. And you will know that
5 question, so.

6 MR. LI: That's it, Your Honor.

7 (The jury returned to the courtroom at
8 1:54 p.m.)

9 BAILIFF: The jury is seated, Your Honor.

10 THE COURT: Thank you. Thank you very much,
11 Mr. Bailiff.

12 Welcome back, ladies and gentlemen of the jury.
13 We're continuing the trial of the case by the presentation
14 of evidence and testimony by the State in their case in
15 chief. If you would please continue to give the parties
16 your complete and undivided attention.

17 Solicitor, you may call your next witness.

18 MR. MATTHEWS: The State calls Sergeant Stan
19 Richards.

20 THEREUPON,

21 STAN RICHARDS,
22 after having been duly sworn, testified as follows:

23 THE CLERK: Thank you. Have a seat in the witness
24 stand, please. State your full name for the record.

25 THE WITNESS: Stan Richards.

STAN RICHARDS DIRECT BY MR. MATHEWS

1 THE CLERK: Thank you.

2 DIRECT EXAMINATION

3 BY MR. MATTHEWS:

4 Q Sergeant Richards, where are you currently employed?

5 A Richland County Sheriff's Department crime scene unit.

6 Q What are your duties there in the crime scene unit?

7 A I'm the operations sergeant for nine full time crime
8 scene investigators, two latent print analysts, and one
9 admin clerk.

10 Q And do you, yourself, help in some of the processing
11 with the crime scene?

12 A Oh, yes.

13 Q I want to direct you to the reason we're here today,
14 Thomas Bloodsaw. Did you have occasion to work on the
15 investigation of Mr. Bloodsaw?

16 A Yes.

17 Q And I'm going to direct you to October 15th of 2012.

18 What did you do on that date in relation to
19 Mr. Bloodsaw?

20 A At about 9:30 in the morning of that day, I responded
21 to the courthouse here at 1701 Main Street. I rolled
22 ten print cards for Mr -- on Mr. Bloodsaw as directed
23 by court order.

24 Q And what's a ten print card?

25 A A ten print card is just a backing card that we use to

STAN RICHARDS DIRECT BY MR. MATHEWS

1 roll prints on -- the black ink that we use to roll
2 prints.

3 Q And what was the purpose of getting Mr. Bloodsaw's
4 prints.

5 A The purpose was that an unknown print was compared to
6 had Mr. Bloodsaw at one time, but this court order was
7 issued in order for us to come down, myself,
8 particularly, and roll an additional print ten print
9 card on Mr. Bloodsaw so those prints could be kept in
10 the chain of custody from him to me to the comparison
11 process in order to verify that they were his prints.

12 Q So, essentially, so we could have a known fingerprint
13 sample from Mr. Bloodsaw?

14 A Correct.

15 (State's Exhibit No. 13 was marked for
16 identification.)

17 BY MR. MATTHEWS:

18 Q I'm handing you what's been marked as State's Exhibit
19 13. You can go ahead and open that up. And without
20 holding it up or anything, can you tell me what that
21 is?

22 A That's the ten print card that I rolled on Mr.
23 Bloodsaw.

24 Q And what was the date that you rolled that card?

25 A October 15th, 2012.

STAN RICHARDS CROSS BY MR. LI

1 Q And after you took that card, what did you do with it?

2 A This card was then brought back and sealed in an
3 envelope by me and entered into evidence.

4 Q Is that the envelope you sealed it in?

5 A It is.

6 Q Is your signature on that envelope?

7 A It is.

8 MR. MATTHEWS: Your Honor, at this time, the State
9 would offer State's Exhibit 13, I believe, 13 into evidence.

10 MR. LI: No objection.

11 THE COURT: State's 13 is in evidence without
12 objection.

13 (State's Exhibit No. 13 was admitted
14 into evidence.)

15 BY MR. MATTHEWS:

16 Q Sergeant Richards, on the day that you rolled the
17 prints from Mr. Bloodsaw, do you see the person that
18 you rolled the prints from that day in the courtroom?

19 A I do.

20 Q Can you point him out and describe him for, please?

21 A He's the individual sitting in the center of the
22 Defense table in a blue shirt.

23 MR. MATTHEWS: Your Honor, let the record reflect
24 the witness has identified the Defendant.

25 THE COURT: So reflected.

DIANE BODIE DIRECT BY MS. BODMAN

1 BY MR. MATTHEWS:

2 Q He's the person whose prints are on that card?

3 A He is.

4 Q Thank you.

5 MR. MATTHEWS: No further questions.

6 THE COURT: Thank you, Solicitor.

7 Mr. Li?

8 MR. LI: Thank you, Your Honor.

9 CROSS-EXAMINATION

10 BY MR. LI:

11 Q When you took the ten print card, the fingers -- they
12 were whole prints; correct?

13 A They were -- what you mean whole?

14 Q They were of his entire hand; correct?

15 A No. They were rolled prints of each individual finger.

16 Q I got you. So the whole finger?

17 A Yes.

18 Q Not partial prints?

19 A They were the tip end of the finger that were rolled
20 from side to side.

21 Q From side to side?

22 A From each individual finger.

23 Q Got you.

24 MR. LI: No further questions.

25 THE COURT: Redirect?

DIANE BODIE DIRECT BY MS. BODMAN

1 MR. MATTHEWS: No, Your Honor.

2 THE COURT: Thank you. Thank you very much,
3 Sergeant Richards. You may step down and you may be
4 excused.

5 All right. Solicitor, you may call your next
6 witness.

7 MS. BODMAN: The State calls Diane Bodie.

8 THE COURT: Come around please.

9 THEREUPON,

10 DIANE BODIE,
11 after having been duly sworn, testified as follows:

12 THE CLERK: Thank you. Have a seat in the witness
13 stand, please. State your name for the record.

14 THE WITNESS: My name is Diane Watts Bodie.

15 DIRECT EXAMINATION

16 BY MS. BODMAN:

17 Q With whom are you employed?

18 A I'm employed with Richland County Sheriff's Department
19 in latent print crime scene unit.

20 Q Okay. What is your title or position in the crime
21 scene -- the latent print crime scene division.

22 A I'm a latent print analyst.

23 Q Can you tell the jury about your background, your
24 education, the previous positions that you've held that
25 brings you today with the Richland County Sheriff's

DIANE BODIE DIRECT BY MS. BODMAN

1 Department?

2 A Yes, ma'am. I began my career a little over 40 years
3 ago. My first job was with the FBI in Washington, DC,
4 where in August of 1971, I enrolled in my first science
5 fingerprint course and began my study into
6 fingerprints. I worked there for a little over six
7 years. And in that job, through experience levels, I
8 advanced to working with many of the units, which units
9 were just areas where we manually classified and
10 searched fingerprint cards. So I was exposed to
11 numerous arrangements of fingerprints that you would
12 have and, also, specialized units where I searched
13 unknown deceased prints for identification.

14 I worked in identifying units where you would
15 identify fingerprint cards, unknown to known
16 fingerprint cards, as well as verify them.

17 I also served as a staff instructor for students
18 entering the science fingerprint course. I am from
19 Savannah, Georgia. I wanted to get closer to home. I
20 moved back to Savannah and applied for a job with the
21 State Law Enforced Division, SLED, where I was hired as
22 a fingerprint examiner in 1979 and worked there for
23 approximately 16 years as the fingerprint examiner with
24 same exposers, study, continued my studies in science of
25 fingerprints.

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1. Back in the late 80's, I got involved with the
2 automated finger identification system project. The
3 State was requiring the automated system for our state
4 and I was on a committee that dealt with the purchasing
5 of the system, the requirements of the system, the
6 implementation of the system, testing and acceptance of
7 that system as well as once it was installed, the
8 day-to-day operations of the AFIS system for the state.

9 I continued on, in the 90's, I wanted to apply for
10 a position in the lab and I needed a college degree. I
11 went to school at night and graduated from Southern
12 Wesleyan University with a Bachelor of Science degree.
13 I applied for an agent's position in the crime scene
14 latent print unit. I went to the basic police academy,
15 graduated and served as a special agent and senior
16 agent in the latent print unit there. So I retired.
17 And I retired and still remained working for SLED for
18 number of more years, until able 2010. I left SLED and
19 had the opportunity in early 2011 to come to work for
20 Richland County and I've been there ever since. I
21 teach numerous courses around the country in
22 fingerprint identification and latent print subjects, I
23 guess you would say. I've served on curriculum
24 development for several universities across the
25 country. LSU for hazardous environment and conditions,

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1 developing latent prints in hazardous environments.
2 I've worked at the National -- Academy through the
3 University of Tennessee. And I've taught several
4 college courses -- and numerous civic groups. I'm a
5 member of the International Association for
6 Identification, South Carolina Chapter and South
7 Carolina Law Enforcement Officers Association.

8 Q Would it be fair to say then that from the beginnings
9 of your career with the FBI in the early 70's through
10 today, you have remained really in this field of
11 fingerprint analysis and identification?

12 A Yes, ma'am. Through all of my jobs, latent prints,
13 fingerprints and latent prints have always been a part
14 of my curriculum.

15 Q Okay. And that was both in, I guess, examining them
16 yourself, teaching, curriculum development and have you
17 had continuous training yourself?

18 A Yes, ma'am. I continued to go through different
19 trainings. And a lot of the courses have been very
20 extensive. Just the science of fingerprint, the
21 initial course that I took in the early 70's was a
22 three-month eight-hour day course, probably close to
23 500 hours.

24 Q And have you had occasion to testify in courts of law
25 in either, I guess, federal occurs in DC or state

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1 courts with regard to fingerprint examination and
2 analysis?

3 A Yes. I've been qualified in the state and federal
4 occur in latent print analysis.

5 Q You said qualified, is that you've been qualified as an
6 expert?

7 A An expert, yes, ma'am.

8 Q In latent print analysis?

9 A Examinations, yes.

10 MS. BODMAN: Your Honor, at this time, I would
11 tender the witness as an expert in the area of fingerprint
12 analysis and examination.

13 THE COURT: All right.

14 Mr. Li?

15 MR. LI: No objection, Your Honor.

16 THE COURT: All right.

17 Again, ladies and gentlemen, normally, a person
18 cannot give opinion testimony. Normally, when a person
19 testifies, they have to testify as to what they either saw,
20 heard or sensed by smell or something of that nature.
21 However, there is exception for those witnesses that are
22 qualified as experts in some particular field, art, science
23 or profession. They are permitted to give their opinions
24 and the basis of their opinions in certain areas if the
25 Court qualifies them that way. This witness, Officer Diane

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1 Bodie, will be qualified in the area of fingerprint, latent
2 print analysis and examination to give opinion testimony.
3 That does not mean that you must accept the opinion, but it
4 is evidence for you, the jury, to use in any way you deem
5 appropriate.

6 Thank you, Solicitor. You may continue.

7 BY MS. BODMAN:

8 Q Since your, I guess, first course and training in
9 fingerprint analysis in the early 70's, has the science
10 of examination changed since you've been involved in
11 this field?

12 A It has changed as far the examination goes. They --
13 we've improved as far as our standards of how we
14 practice, our reporting. Methodology has been more --
15 not that it wasn't something we did, but it's more
16 documented, the procedure we take.

17 Q And when was -- I guess, this field of fingerprint
18 analysis, when did it first -- was it discovered or
19 realized about the uniqueness of the fingerprint?

20 A Well, there's been a lot of studies about fingerprints.
21 It was probably the late 1800's that fingerprints were,
22 actually, used or believed they could be used as a
23 means of identification. There was a lot of study as
24 to their uniqueness. You know, how they were formed
25 and that they were different even in being used by

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1 people who didn't realize it could separate one person
2 from another as far as, actually, using that for that
3 point.

4 In the late 1800's is when a lot of research was
5 put into effect around the world of research where
6 people were comparing prints and you never find two
7 prints to be the same, so it's been years.

8 Q So you said you never find two prints to be the same.
9 Can any two people -- even twins, can any two people
10 have the same fingerprint?

11 A Even identical twins do not have the same fingerprint.

12 Q It's absolutely unique to a single individual?

13 A Yes, ma'am.

14 Q In terms of, I guess, preparing for your testimony
15 today, do you have a PowerPoint or presentation that
16 would be helpful to the jury to explain this process of
17 examining a print and the standards and the process
18 that you go through?

19 A Yes, ma'am. As I stated earlier, all along this
20 certain manner in which a person determined the
21 identity of a print. In the fingerprint side of the
22 science, we use what we call the ACE-V methodology, the
23 scientific methodology. And I have a PowerPoint
24 presentation just to explain that to you.

25 Q You said it was the late 80's that this ACE-V came

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1 about, the word?

2 A Well, it was -- not -- it's used in science probably
3 back in the 60's and we adopted that methodology for
4 fingerprint latent prints. And now that's the
5 terminology, I guess you can say, we use for our
6 examination.

7 Q Okay. Would it be helpful to you to be able to use
8 this PowerPoint to explain this process to the jury?

9 A Yes, ma'am, it would to explain what we do, basically,
10 so you'll understand the process when we get an unknown
11 print and trying to identify it to a known.

12 MS. BODMAN: May I have the witness step down,
13 Your Honor?

14 THE COURT: Yes, ma'am.

15 You may step down, just keep your voice up when
16 you're away from the microphone, please.

17 BY MS. BODMAN:

18 Q You have kind of a soft voice, so project to the last
19 row, if you can.

20 A As I stated earlier, we have the ACE-V scientific
21 methodology for our 13 ridge examination and each step
22 of the ACE-V stands for a component of that
23 examination. Analyze, the A in ACE-V, where we analyze
24 the print. In other words, we receive an unknown
25 print. And the first thing we're going to do is,

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1 obviously, look at it. So there's several levels of
2 detail that we're going to look at when we first
3 receive that print. And then once we're comfortable
4 with that and even to a point where we felt that we
5 have a known print that is identified to that unknown,
6 we will send it to what we call prepare stage of that
7 examination. And then the evaluate stage and verify
8 stage.

9 Now, the very first stage, as I said, is level
10 one, analyze. So there's three levels of -- that we go
11 through in the fingerprint, the ridge detail. And the
12 first level is we're just looking at the fingerprint.
13 As you can see up there, this may be our latent card or
14 our unknown print. And we're just handed that card.
15 We don't know if it's upside down, sideways or any
16 portion of that finger. We just see ridge detail. So
17 the very thing we're going to do is take that latent
18 print card or unknown card and try to determine, okay,
19 how is this print situated? How would it be situated
20 on the person's hand? So --

21 Q I'm going to stop you with one question. We have
22 previous testimony about the ten print card and how
23 they're rolled from, I guess, one side to the other,
24 the tip. In a latent print, an unknown, are you,
25 typically, getting that full print that you get on a

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1 ten print card?

2 A No, in a latent print -- remember, on a ten print card,
3 it's a controlled environment. You controlled in an
4 environment where you can continuously use the same
5 amount of pressure, hopefully, if you're holding it
6 properly. A latent print is just happenstance. It is
7 left at the scene or left on the object. So you don't
8 really know what you're getting. What area of the
9 finger -- what might be recorded on a known fingerprint
10 card. If it's upside down on the latent that you
11 receive, you know, how was it touched and how was it
12 lifted on the card.

13 So I may get something like this (indicating) and
14 my first thing is to look at the ridge flow across the
15 pattern and determine the orientation of the print.
16 And I'm orienting it as it is on the hand as it would
17 be if it was on a rolled fingerprint card as this
18 picture here detects (indicating). This is a correct
19 orientation of the print, hopefully, rolled nail to
20 nail, whereas you see this might be the latent and it's
21 upside down. So I'm going to work this first level
22 one.

23 Now, at this level, I'm not able to say it's my
24 print and only my print because we all have ridge flow
25 across the pattern. We all have ridges come in one

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1 side and exit out the other side or circle around or
2 stop and go. Ridges aren't just one continuous line.
3 They continue on and don't change. So, we've -- I'm
4 going to be looking for these things that are similar
5 to all fingerprint patterns. But, you know, there
6 might be a chance I can classify it to break it down to
7 a certain pattern type, which sometimes we're able to
8 determine the pattern type.

9 This picture here (indicating) shows ridge flow.
10 And this is one thing we look for to determine pattern
11 type. As you can see in the different colors, this
12 ridge comes in, circles around and exits out the other
13 side of the finger. But these ridges come in, circle
14 around and exit out the same side they started on,
15 which is formerly what we call a loop pattern. As you
16 can see the looping ridges there, that's the loop
17 pattern. And this here is where the tip of your finger
18 is.

19 So we've now determined we have a ridge pattern
20 flowing across the -- ridge flow across the pattern
21 area. And, possibly, we can even eliminate a lot of
22 other patterns in the database because we see that
23 pattern. Again, we don't know how much of the print
24 we're going to get in the unknown standard that we get.

25 Q I have some water here if you need it.

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1 A Thank you.

2 Then we have a classification, as I said -- excuse
3 me. We all have three pattern -- main pattern types.
4 We're all classified in loops, arches and whirls.
5 Loops being the most predominant fingerprint pattern
6 across the globe. That counts for about 65 percent of
7 fingerprint patterns in people's hands. Then the
8 whirl, over here on the other side (indicating)
9 accounts for about 35 percent. And then our arch
10 accounts for about five percent of fingerprint patterns
11 in the hands on everyone.

12 So, hopefully, perhaps, we can get that amount of
13 information in the unknown standard, but who knows.
14 That's something that we decide at this stage, at the
15 level one stage. And at times, we may be able to
16 determine core and delta, which, mainly, just means the
17 general pattern area is found in between core and
18 delta. So if you have that, sometimes it aids in the
19 distance between the core and delta.

20 Q So what is the core?

21 A The core is the very innermost of the fingerprint
22 where -- in a loop pattern that ridges come in and
23 circle and go out the same side as the innermost ridge
24 that does that. The delta is where the ridges start to
25 go and they divide and surround -- they tend to

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1 surround the pattern area. As you can see where the
2 ridges are going here and then they separate and then
3 they surround this loop area, which our pattern is a
4 loop. It's much like a river does, you know, it's the
5 opening of the ridge, where the other ridges are coming
6 in, going up and going back out the same side in the
7 loop pattern.

8 But then we move on to level two. Level two is
9 the phase that the examiner, someone trained in
10 competency is able to take this information and start
11 where they can individualize the fingerprint. Whereas
12 level one, I just saw that you had a loop, you know, it
13 was -- you have a core and a delta. It's the same
14 amount of distance as another loop core and delta in a
15 pattern. I still can't individualize your prints being
16 only your print. It's in the level two stage that we
17 can analyze the print and determine if it is
18 specifically to your fingerprint or only yours. And
19 that's by the ridge path.

20 As I said, ridges come in, flow in your hand and
21 out your finger, in one side the finger and out the
22 other. But they don't come in one continuous nonstop
23 route. They're broken up in many pieces. They may
24 decide -- a ridge may come in as this yellow shows and
25 they'll decide which -- you might hear the word or

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1 heard it on TV bifurcation, trifurcation. But it's,
2 basically, a single ridge that splits off. In this
3 case, it's a bifurcation. Or you may have a ridge that
4 just stops. It's called an ending ridge. It just
5 stops and goes nowhere. And that would be an ending
6 ridge. And there's a third name, it's just a plain
7 dot. There's no direction. It's just a dot, as you
8 can see in the red, blue and yellow pictures here.

9 But it's the relationship. It's not just these
10 features. But it's the relationship of these features
11 to each other that make your fingerprint unique and
12 different from anyone else. Different from any other
13 finger on your hand. Just because you may have a
14 fingerprint here, it's not going to identified to any
15 other fingerprint. It's that relationship in those
16 types of -- the ridge path that it takes that allows us
17 to get that individualization in fingerprints.

18 So here, I'm showing the fingerprint pattern that
19 I showed at the very first age. We had the very first
20 stage. When we orient it, we look at the ridge flow.
21 And now we look at the ridge path. And, you know, we
22 have that bifurcation. And here, we have the -- or
23 dividing ridge. We have the ending ridge and here, we
24 have the dot. So we found all that.

25 But if you look in this huge pattern here, you're

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1 going to see a lot of dots. You're going to see ending
2 ridges. You're going to see ending ridges and you're
3 going to see dividing ridges. So, as I said earlier,
4 we all have these characteristics. But what's unique
5 about these characteristics to you and only you is that
6 relationship and the number and the placement of these
7 characteristics.

8 In this case, you have your dividing ridge, your
9 ending ridge and your dots. We have six ridges between
10 the ending ridge and the dot. So if you go from this
11 ending ridge here (indicating) to this dot
12 (indicating). For it to be you and only you, one of
13 the things it has to be are the six ridges between
14 those two relationships. Is that spacial relationship
15 that makes your fingerprint unique, as you can see
16 here. If this dot were right here on the known print
17 (indicating) and then five below on my unknown, they're
18 not the same print. I can have a dividing ridge here,
19 an ending ridge here and a dot here, but I've got to
20 have this relationship. Immediately, I can move on to
21 the next print just that quick, for example, because we
22 don't have to go any further. We have to have that
23 relationship.

24 But then again, it's not just solid -- we see.
25 This is an actual magnified print of one of our latent

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1 print analyst. And this is showing the secretions to
2 the core of the finger. This is the ridge detail and
3 the furrow and the secretions. And this is what aids
4 in you leaving or not leaving a fingerprint at the
5 scene. Of course, as you touch someone or you shake
6 someone's hand, you ate a nice big hamburger at
7 lunchtime or something, you may leave your print, that
8 residue on top of that ridge detail as well and leave
9 that at the scene. But these are your cores and these
10 are your ridges.

11 And level three, the shape of the ridges, the
12 width of the ridges, the edge of the ridges and, also,
13 the course running along side the ridges aid, also, in
14 that identification process, that uniqueness that is to
15 you and only to you. And it's unique because of the
16 way it's formed in early stages of child development
17 and as you're being born in your mother's womb. It's
18 not a layer that your DNA says you're going to create
19 ridges from this edge and it's going to be shaped like
20 this. It's something very randomly that's unique to
21 how the mother carries the baby, the environmental
22 condition inside the mother's womb. And it's like you
23 can't put sand back into an hourglass. You know, you
24 can't recreate that moment. So however these ridges
25 are formed, they're formed at that second in time and

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1 you can't recreate it. So it's unique. That's what
2 make you unique. DNA may have a lot of -- a mother
3 carries a baby or anything like that, but the
4 environment or what the mother eats, how the mother
5 feels, the conditions mentally, all kinds of things
6 create how our fingerprints are born. And that's why
7 they're unique and why nobody can get the same two
8 prints. No two people share the same prints.

9 So we take this level three. And then it's with
10 the combination of all of these levels, as we show
11 here, you see the ridge shape here and the core is
12 running along side the ridges, the little white dot,
13 the cores. The cores aren't even -- the cores are
14 unique to each other. I mean, they don't all run the
15 same place down a ridge. They may fall off the ridge,
16 which sometimes creates some of the shapes of the
17 ridge. It's just the way the core is located on that
18 ridge. But they run all through the ridge detail on
19 the print. And so those are, also, unique.

20 But as an examiner, and even you just looking at
21 this print here (indicating) can see difference in some
22 of the ridge shapes, some of the bifurcations. This
23 bifurcation may be different from this bifurcation.
24 See how this bifurcation slants down here. It's a
25 little more, I'd say wide-mouthed or whatever. But

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1 it's in these unique shapes and their relationship to
2 each other and the type characteristics we use that's
3 available that in the long run, we, as examiners, put
4 all this information together, the totality of all this
5 information that helps us to come to our conclusion.

6 So we get to that point where we've got the
7 analysis phase. And now we go into the comparison
8 phase. We believe that we have a known print to match
9 our unknown. And we pretty much take that known print
10 and go through that same work that we did on the latent
11 print as far as what does that sample look like? What
12 does our known print look like? Has it been rolled
13 properly? Is it heavily inked. Any of those
14 conditions, we would examine it.

15 Then we take all three levels of detail in the
16 known print and then we compare it to the unknown
17 print. Which here's our unknown print and here's our
18 known print (indicating).

19 Q When you say you're going to look at all three levels
20 of detail in the known print, you're, basically, going
21 to go back to A, the analysis that you just described,
22 and do that analysis with the known print?

23 A Right.

24 Q Okay.

25 A We're going to look at the known print. We've looked

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1 at the -- we've pretty much dissected the unknown
2 print. We've looked for that ridge flow. We've looked
3 at those characteristics. We've looked for the core
4 structure. We've looked for the shape of the ridges.
5 We've taken all that information and now we're going to
6 study the known print and look for the same information
7 and go through our comparison process. Okay.

8 And then the evaluation of where we take the
9 qualities, so, you know, the totality of the quality of
10 the ridge detail, along with a number of all three
11 levels of detail. As we discussed earlier, we use all
12 of that information to determine the identity or if
13 it's not identifiable to that unknown latent print.

14 And once we reach that evaluation, we, also, as a
15 part of our protocol procedure -- and even back in 1971
16 when I did identifications, my work was verified by
17 another examiner. So it's a practice that I know the
18 FBI has had for years and years, but where competent
19 and qualified examiner will take all these levels of
20 detail and go through that same examination that you
21 did to determine the results and reaches the same
22 conclusion. And that's how -- what we go through on an
23 average day of working with latent prints.

24 Q And if at any of these stages that you go through --
25 for example, you go through the analysis stage with

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1 your latent, if you determine there is not sufficient
2 characteristics, sufficient relationships, sufficient
3 information you as an expert have to compare it to a
4 known, is this process going to stop?

5 A Right. When I go through the analysis stage, I may get
6 to looking at that unknown print, that analysis stage
7 of that unknown print and determine there's not enough
8 information in this print for me to proceed. And at
9 that time, it just stops at that point. You know, I
10 follow all these steps until I can't follow them any
11 more, basically.

12 Q Okay. Thank you can return to your seat.

13 A (The witness complies).

14 Q So I don't know exactly how long that took, if it was
15 10 minutes, 15 minutes, 20 minutes, but that is not the
16 entirety of the training and education that you have
17 gotten in order to be a latent print examiner?

18 A No, ma'am.

19 Q Okay. You talked about initially in the early 70's,
20 you had a three-month course to even begin doing this?

21 A Yes, ma'am. The three months -- back then, we did
22 manual classification and manual identification -- or
23 manual searching, I should say. It's all manual
24 identification. But we were trained in, actually,
25 classifying a ten print fingerprint card. We didn't

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1 have an automated system like we have today that can
2 submit that electronic format where it will search
3 against another database.

4 What we did back then is, actually, sit down with
5 a ten print fingerprint card and class each fingerprint
6 based on pattern type, how many ridges were in that
7 certain area from what I showed you earlier, the delta
8 and the core. We would count the ridges in between
9 that area. And all of that came up with a type of
10 mathematical equation that would lead us to a certain
11 area of fingerprint card, like a -- we called them
12 units, which could have literally thousands of
13 fingerprint cards that might have all whirls in those
14 units. So instead of looking for a fingerprint that
15 were all plain arches or a different type pattern, I
16 didn't have to search every fingerprint card in the
17 country. I could narrow down that to a certain
18 percentage of fingerprint cards by that classification
19 system. But now with the automated system, it
20 literally has replaced me as far as the manual
21 searching part and it does it a lot quicker than me.
22 So we're thankful for that because it's very time
23 consuming.

24 Q So explain to us this automated system. What is the
25 exact language or title of this automated system?

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1 A Well, the automated system is referred to as the
2 Automated Fingerprint Identification System.
3 Basically, it will take a known fingerprint card and
4 encode those fingerprints and store them in a database.
5 It captures the image and it encodes characteristics as
6 you would that it sees on a fingerprint image into the
7 database in some type of computer -- or whatever that
8 is retrievable, however I enter it in characteristics,
9 it will search those characteristics looks for a
10 candidate that comes close to matching the
11 characteristics that I might have encoded.

12 On the latent print end, meaning the unknown print
13 that was sent to the database, prior to automation, it
14 was virtually impossible to search an unknown against a
15 known with nothing else. I mean, there's no way you
16 could take a fragment or a partial print and search it
17 against a known database without having to go through
18 everything in the database, which would be impossible.

19 Q So prior to the automated system, you would,
20 essentially, need to have some type of suspect, someone
21 that says oh, that person was near the crime scene or
22 we recovered property that was stolen at their home, so
23 some type of suspect to begin with?

24 A Prior to automation, we needed a name to be able to
25 pull a card or obtain fingerprints on a known person to

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1 roll their ten print card to compare the latent to.

2 Q So the automated system now allows you to have known
3 prints to compare them to without a suspect?

4 A Yes. The automated system has increased the
5 possibility of canvas tremendously. We are able to go
6 through a system of known prints that are stored and
7 search that unknown against those prints.

8 Q Okay. Did you have occasion to work on this case that
9 we've been talking about, the burglary at [REDACTED] Old
10 Leesburg Road against Thomas Bloodsaw?

11 A Yes, ma'am.

12 Q Okay. And can you tell the jury how your participation
13 began?

14 A I, typically -- my main role at the sheriff's
15 department is receiving the AFIS cases, which AFIS is
16 the abbreviation for the Automated Fingerprint
17 Identification System. When we don't know who the
18 print might belong to and don't have any other means of
19 comparing that print to a list of names per se, I'll
20 receive the evidence in and I will enter into the AFIS
21 system, which, basically, I will encode -- what I
22 showed you on the PowerPoint, I will encode those
23 characteristics and set up that relationship in hopes
24 that the automated fingerprint system will send me back
25 a list of candidates for me to review looking for those

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1 characteristics and that relationship between the
2 characteristics.

3 Q So did you receive some latent print cards to, I guess,
4 examine and to potentially put into AFIS?

5 A Yes, I did.

6 Q Okay. Do you recall who you received them from? I'd
7 like to show you -- this is State's Exhibit 10
8 containing the two latent print cards. Sorry.

9 A It appears at that time I received them from another
10 latent print analyst, Trisha Odom.

11 Q Okay. And so what did do you then with these latent
12 print cards?

13 A Well, I began with the first stage of the ACE-V process
14 whether I analyzed the print to determine if I had a
15 print I could enter into the AFIS system.

16 Q And you said you analyzed the print -- I mean, in
17 looking at these cards, do they look like there's only
18 one print or multiple prints on the actual card?

19 A Well, I analyzed the print -- all the prints on here,
20 but I took, for instance, the first latent lift, which
21 was labeled L-1. And the print I determined to enter
22 on the AFIS system was L-1.3.

23 Q Okay. So L-1 is the label for one of these cards?

24 A Yes, ma'am. L-1 stands for the latent. The point
25 three -- for the latent print card, I'm sorry. And

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1 point three stands for the latent impression on the
2 latent print card.

3 Q So different impressions on a single card, you're going
4 to then individually number?

5 A Yes, ma'am.

6 Q Okay. So L-1, card one, point three, so a third
7 impression?

8 A Yes, ma'am.

9 Q And you entered that into AFIS?

10 A That's the print I entered into the AFIS system.

11 Q Okay. And then how was your automated system set up in
12 terms of receiving back -- feedback from the database?

13 A Typically, I will encode the print -- I'll capture the
14 print with a camera. I'll encode it. The system does
15 some encoding and you can leave that encoding on or you
16 can tweak it somewhat. In other words, it may leave
17 off the characteristics that's obvious to you, I may
18 apply that characteristic. And then I'll send it to
19 search against the known database. And I will request
20 such things as how many candidates do I want to view.
21 And, typically, all the searches I do, I use 30
22 candidates. So the system is going to return a
23 candidate. It's going to return 30 candidates. So it
24 doesn't mean any of the candidates are going to match
25 my print and it doesn't mean the first candidate is,

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1 but the examiner -- it's the examiner's job to go
2 through the candidate list to aid in determination of
3 is that candidate list -- is that identification a
4 possible identification listed on the candidate list.

5 Q So your standard at the sheriff's department is to ask
6 for 30 candidates and you definitely get 30 back?

7 A Oh, yes, ma'am.

8 Q Okay.

9 A I have looked at more, but, on average, 30 candidates.

10 Q Okay. So then what did you do in this case when you
11 got your 30 candidates back?

12 A I began to look at the candidates for those individual
13 characteristics in that relationship to each other.

14 Q So doing that analysis stage that you talked about?

15 A Yes, doing the analysis and comparison age, yes.

16 Q Okay. And then did you identify a print that looked
17 good for in a comparison stage, a comparison?

18 A Yes, I came across a print that I believed should -- we
19 term it as like an AFIS hit, which, basically, means
20 that what I was doing on the screen from the database
21 to the known and the unknown print, I believed was a
22 possible match and we move it to that comparison stage,
23 which wouldn't involve AFIS any longer.

24 Q Okay. So what happens now that you identify a print
25 that looks good for comparison?

DIANE BODIE DIRECT BY MS. BODMAN

- 1 A Once I make a possible match, I will notify the other
2 latent print analysis and she -- I transfer this
3 evidence to her and printing out the known fingerprint
4 card from the database and trans -- gave her that
5 information, transferred the evidence to her where she
6 began the ACE-V process.
- 7 Q And who was that person that you made that transfer to?
- 8 A Trisha Odom.
9 (State's Exhibit No. 14 and 15 were
10 marked for identification.)
- 11 BY MS. BODMAN:
- 12 Q First, I'm going to show you what's marked as State's
13 Exhibit No. 15 and just ask you to look at that and do
14 you recognize it?
- 15 A Yes, ma'am. This is a copy of what the AFIS screen
16 looks like when I'm doing my canvas.
- 17 Q Okay. And, specifically, was it the screen that you
18 were looking at in relation to this case?
- 19 A Yes. It's the screen that has the unknown print on the
20 left and the print I felt was a candidate for matching
21 the unknown print on the right.
- 22 Q And which print of the one through 30 possibles that
23 you got, which print was this one that you thought was
24 a possible candidate?
- 25 A This particular one came back in the first place.

DIANE BODIE DIRECT BY MS. BODMAN

1 Q Okay. And this is just a screen shot of what you were
2 looking at on the computer?

3 A Yes, ma'am.

4 Q Okay. And I'm going to show you what's been marked as
5 State's 15 and ask you if you can look at that and if
6 you recognize that?

7 A Yes, ma'am. This is the known fingerprint that was
8 responding back to -- on the AFIS screen. And it has
9 the same control number across the AFIS screen as well
10 as the fingerprint card. And it has my initials on it,
11 so I know that's the print that --

12 Q So are there unique and identifying numbers that go
13 with this known print that's in the database with the
14 ten print card so you know you've gotten now the ten
15 print card that was the source of this known print on
16 your screen?

17 A Yes. I printed the ten print card source of the print
18 on the AFIS screen and moved forward with that.

19 Q So the comparison is not going to be done on the
20 computer screen? You're, actually, going to print out
21 the ten print card so that you can go further in your
22 process with the actual -- with the ten print card?

23 A Yes, the comparison starts with the actual evidence and
24 the fingerprint card.

25 MS. BODMAN: Offer into evidence Exhibits 14 and

DIANE BODIE DIRECT BY MS. BODMAN

1 15.

2 MR. LI: No objection, Your Honor.

3 THE COURT: All right. May I see those, please?

4 Madam Forelady, ladies and gentlemen, you're going

5 to step out. Please do not discuss the case during this

6 brief recess.

7 (The jury retires from the courtroom at

8 12:46 p.m.)

9 THE COURT: State's 15 offered into evidence

10 appears to be the rolled prints of Mr. Bloodsaw. On the

11 back of this document, it has date of arrest 5/26/2009 and

12 date of offense 5/26/2009.

13 MR. LI: Yes, Your Honor. I apologize for that.

14 I was not given a copy of the back of it.

15 THE COURT: Please don't interrupt me.

16 It has burglary, burglary violent second-degree,

17 larceny, grand larceny. There are, also, some numbers, and

18 I do not know what they mean, in the lower right side of

19 State's Exhibit 14.

20 Please bring me the jury. I am going to release

21 them for lunch.

22 Please get those items redacted before they are

23 introduced into evidence.

24 (The jury returned to the courtroom at

25 12:47 p.m.)

DIANE BODIE DIRECT BY MS. BODMAN

1 BAILIFF: We've got one in the restroom, Your
2 Honor.

3 THE COURT: All right. Thank you. Thank you.

4 BAILIFF: Jury is seated, Your Honor.

5 THE COURT: Thank you, thank you very much, Mr.
6 Bailiff.

7 Madam Forelady, ladies and gentlemen of the jury,
8 I have a matter of law to take up. There's no need for me
9 to hold y'all captive in the back while I take this matter
10 up, so I'm going to release you for your lunch recess.
11 However, I must give you further instructions before I do
12 that.

13 During this recess, you shall not discuss this
14 case with others, that includes your fellow jurors, lunch
15 mates, family, friends, or anyone else. If anyone tries to
16 talk with you about this, please, let me know. Do not read,
17 watch, listen to any news reports about the case should
18 there be any. As you know, you may not use your computer,
19 cellular phone or any other electronic device with
20 communication capabilities while in attendance at trial or
21 during your deliberations. You may use those devices during
22 this lunch and recess, but you may not use them to obtain or
23 disclose information that is prohibited.

24 Information that is prohibited includes, but is
25 not limited to the following: Information about a party, a

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1 witness, an attorney or a court officer; news accounts about
2 the case, should there be any; information collected through
3 juror research on any topic raised or testimony offered by
4 any witness or information collected through juror research
5 on any other topic the juror might think would be helpful in
6 deciding the case. In other words, do not do any
7 independent investigation, don't talk about the case, don't
8 do any investigation on the internet. You must decide the
9 case based on the evidence and the testimony from the
10 witnesses testifying under oath before you, any reasonable
11 inferences to be drawn and the law as I tell you the law is.

12 I would ask you to, please, be back in your jury
13 room promptly at 2:30. If you will, please, be back
14 promptly at 2:30. The bailiff will instruct you how to
15 leave and how to return after your lunch and recess. I hope
16 y'all have a pleasant lunch. Thank you. Thank you very
17 much.

18 (The jury retires from the courtroom at
19 12:53 p.m.)

20 THE COURT: Mr. Li, I apologize for cutting you
21 off. Sometime went I get on a train of thought, if I get
22 interrupted, the train gets derailed.

23 MR. LI: No, sir, I apologize.

24 THE COURT: I can't get back to it, so that's the
25 only reason. I did not take that as you being rude or

DIANE BODIE DIRECT BY MS. BODMAN

1 disrespectful in any manner. I just don't want to get
2 derailed.

3 MR. LI: Absolutely, Your Honor. I apologize as
4 well.

5 THE COURT: And, you know, an issue such as this,
6 I would rather y'all take the time to get it in the pristine
7 condition or stellar condition that you think is appropriate
8 as far as these documents. So 14 and 15, right now, are for
9 identification purposes only.

10 Anything additional before we take our recess,
11 Solicitor?

12 MS. BODMAN: Would you like us to address this,
13 what we found on the card?

14 THE COURT: No, ma'am. I would like for y'all to
15 get this redacted in the proper manner where it will be -- I
16 don't -- I should rephrase that. Redacted in whatever
17 manner you deem appropriate to where it can be offered and I
18 can rule it in. In the manner it is now, it's not
19 admissible.

20 MS. BODMAN: I apologize for that, Your Honor. I
21 just didn't know if you wanted our suggestions as to how to
22 redact it. We'll just try to work it out over the lunch
23 break.

24 THE COURT: My theory is good trial lawyers can
25 work it out.

DIANE BODIE DIRECT BY MS. BODMAN

1 MS. BODMAN: Okay.

2 THE COURT: Y'all know what you're doing. You
3 know what the law is and you know what I expect.

4 MS. BODMAN: Yes, sir.

5 THE COURT: I'm sure y'all can work it out,
6 Solicitor, without my mediation. If you can't, I'll rule on
7 it when I get back.

8 MS. BODMAN: Okay.

9 THE COURT: Mr. Li?

10 MR. LI: Yes, sir yes, sir.

11 THE COURT: All right.

12 Agent Bodie, you may, certainly, step down during
13 this recess. You may not discuss your testimony with anyone
14 during this brief recess.

15 THE WITNESS: (The witness nodded head.)

16 THE COURT: We'll be back at 2:15.

17 MS. BODMAN: Yes, sir.

18 MR. LI: Yes, sir.

19 THE COURT: Thank you very much.

20 (Whereupon, a short recess was held.)

21 THE COURT: All right.

22 MS. BODMAN: With regard to State's Exhibit 14, I
23 believe there wasn't any issue. With regards to State's
24 Exhibit 15, which was the ten print card, we substituted
25 just a copy of the front side of that card, not the back

DIANE BODIE DIRECT BY MS. BODMAN

1 side that has the reference to the arrest.

2 THE COURT: All right.

3 Mr. Li, you have no objection to State's 14?

4 MR. LI: Your Honor, I have no objection to it.

5 My only concern is possibly the state identification number.

6 I don't think that's a direct reference to any sort of

7 department of corrections connotation. That would be my

8 only concern, Your Honor. If that doesn't show a legitimate

9 purpose, I would ask that be redacted as well, the top

10 number from the right -- I mean, from the left. I'm not

11 sure if has any reference to the department of corrections

12 or any sort of negative criminal history. That would be my

13 only concern.

14 THE COURT: What is that? You're talking about on

15 State's 15?

16 MR. LI: State's 15 and 14, I think, both have it,

17 Your Honor. If I may approach?

18 THE COURT: What are you asking me do?

19 MR. LI: I'm asking to redact that. If they can

20 put a white line over it.

21 THE COURT: What is that number, Solicitor, do you

22 know?

23 MS. BODMAN: It's the South Carolina

24 identification number, so it's the individual identifying

25 number given to, I guess, anybody that is booked into a jail

DIANE BODIE DIRECT BY MS. BODMAN

1 facility. Or I would need to ask the expert if that also
2 includes any other individual if for some reason is printed
3 non-arrest, but any other person that's printed, for
4 example, law enforcement officers who are printed and those
5 prints have to go in AFIS. They also get their own South
6 Carolina identification number. I think it's important. It
7 doesn't refer to any kind of arrest or conviction or
8 booking, but it's another identifying number that matches
9 that ten print card to the one on AFIS that they pulled the
10 correct card in order to make that comparison.

11 THE COURT: All right. I see where the
12 identifying number on 14 matches the State's identification
13 number on No. 15. There is no identification number that
14 has anything to do with any agency. It could be highway
15 department identification card. It could be any type of
16 card. Probably very few people in this room that hasn't
17 been fingerprinted at some point in time for some reason. I
18 will allow that to remain. I don't see that it goes to
19 prior criminal history.

20 The other thing, Solicitor, there will be no
21 testimony about that, that's just the identifier within the
22 database?

23 MS. BODMAN: Correct.

24 THE COURT: Did you have any other objections to
25 14 or 15, Mr. Li?

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1 MR. LI: No, sir.

2 THE COURT: Anything further, Solicitor?

3 MS. BODMAN: With another witness, I do have
4 another ten print card that I will be addressing with that
5 witness. And I have done the same procedures. I want to
6 make sure that that's clear on the record that I've made a
7 photocopy of the front page and I'll be offering just that
8 front page as a substitute to the original.

9 THE COURT: All right.

10 Anything further, Mr. Li?

11 MR. LI: No, sir.

12 THE COURT: Is our jury back?

13 BAILIFF: Yes, sir.

14 THE COURT: All right. You can bring them out.

15 Here's your exhibits, Solicitor.

16 (The jury returned to the courtroom at

17 2:23 p.m.)

18 BAILIFF: The jury is seated, Your Honor.

19 THE COURT: Thank you, Mr. Bailiff.

20 Our witness will come back around for us, please.

21 (The witness resumed the witness stand.)

22 THE COURT: Welcome back, ladies and gentlemen. I
23 hope y'all had a pleasant lunch. We'll continue in the
24 trial of the case by the continuing direct examination of
25 Agent Bodie by the State in its case in chief. If you will,

DIANE BODIE DIRECT BY MS. BODMAN

1 please, continue to give the parties your complete and
2 undivided attention. Thank you. Thank you very much.

3 Solicitor, you may proceed.

4 MS. BODMAN: Thank you.

5 BY MS. BODMAN:

6 Q And so the ten print card that you then printed out,
7 who did you give that card to?

8 A To another latent print analyst, Trisha Odom.

9 Q Did have -- after handing that off to Trish for -- I
10 guess, the purposes were for her comparison?

11 A Yes, ma'am, to compare the known and the unknown.

12 Q Did you have contact again with that known ten print
13 card and the unknown latents?

14 A Yes, ma'am. After she completed her examination, she
15 transferred the evidence to me to apply that last step
16 of the ACE-V process, the verification stage, and I
17 verified her conclusions.

18 Q And so her conclusion -- when handing it to you for
19 verification, her conclusion was what?

20 A That the known print --

21 MR. LI: Your Honor, I'm going to object. She's
22 testifying to somebody's opinion.

23 THE COURT: Well, she -- I'm going to overrule the
24 objection. She's testifying to the verification stage and
25 she is an expert.

DIANE BODIE DIRECT BY MS. BODMAN

1 You may continue.

2 THE WITNESS: I verified her conclusion of the
3 fingerprint at the crime scene was identified to the same
4 print on the card that I printed out from AFIS that was the
5 result of the AFIS search. I verified it to be No. 3 finger
6 of Thomas Bloodsaw.

7 BY MS. BODMAN:

8 Q After your verification, did you have any further
9 involvement in this case?

10 A I also verified the comparison of the inked impression
11 that was recovered by Sergeant Smith. Earlier, he came
12 and printed the Defendant. We compared those prints to
13 the verification -- to the known prints that were in
14 the database.

15 Q You just said Sergeant Smith. There's a Stan Smith of
16 Richland County Sheriff's Department --

17 A I'm sorry, Sergeant Richards.

18 Q Stan Richards. And that card that he rolled, did you
19 compare that with State's Exhibit 13?

20 A Yes, ma'am. This is the card I compared. It has the
21 case number written on it as well as my initials.

22 Q And your verification results with regards to this
23 known rolled ten print card of the Defendant to the
24 AFIS ten print card, represented, also, as being Thomas
25 Bloodsaw's, what was the result of your verification?

DIANE BODIE CROSS BY MR. LI

1 A Well, I compared the fingerprint captured by Sergeant
2 Richards to the fingerprint card that was printed from
3 the known database and determined they were the same
4 fingerprints and they matched the 1.3 item, latent No.
5 3 on this crime scene printed matched the No. 3 finger
6 on both fingerprint cards.

7 Q Do you have an expert opinion based upon a reasonable
8 degree of scientific certainty as to who's print -- the
9 latent prints that were left at the scene, who's prints
10 those belonged to?

11 A The latent print that was left at the scene belongs to
12 Thomas Bloodsaw.

13 Q Would you recommend that any layperson take a look at,
14 you know, what's been printed out here and try to do
15 some type of examination themselves, a layperson
16 without any type of training or experience in latent
17 print examination?

18 A No, ma'am, that's why we have to qualify ourselves to
19 give this opinion. It's based on your experience,
20 training, education, hands-on exposure to latent
21 prints.

22 MS. BODMAN: No further questions at this time.

23 THE COURT: Thank you, Solicitor.

24 Mr. Li?

25 MR. LI: Thank you, Your Honor. May it please the

DIANE BODIE CROSS BY MR. LI

1 Court?

2 CROSS-EXAMINATION

3 BY MR. LI:

4 Q Good afternoon.

5 A Good afternoon.

6 Q Before I get started with my line of questioning, I
7 want to pick up somewhere where the Solicitor left off.

8 She said -- she phrased her question as to some degree
9 of scientific certainty, do you think that the latent
10 prints match the known prints of Thomas Bloodsaw;
11 correct, she asked you that?

12 A It may be the way she worded it, but I say with
13 certainty I say it's Thomas Bloodsaw.

14 Q So you say it's 100 percent certainty?

15 A Yes, sir.

16 Q No mistakes?

17 A Yes, sir.

18 Q Okay. Now, the lab that you work for is Richland
19 County Sheriff's Department lab; correct?

20 A Yes, sir.

21 Q And they do DNA results, too; correct?

22 A Yes, sir.

23 Q Do you do any DNA?

24 A No, sir.

25 Q But as an expert in the field of forensic science, you

DIANE BODIE CROSS BY MR. LI

- 1 are aware somewhat generally with DNA; correct?
- 2 A Could you repeat that?
- 3 Q Because you're in the field of forensic science and/or
- 4 through the sheriff's department, you are familiar with
- 5 some terminology, some parts of DNA evidence; correct?
- 6 A Yes, sir.
- 7 Q Okay. And you know that even with DNA that they don't
- 8 report 100 percent certainty; correct?
- 9 A Correct.
- 10 Q Okay. And DNA is scientifically proven; correct?
- 11 A Correct.
- 12 Q And when they report DNA evidence, they don't come to
- 13 court and say this is 100 percent certain. In fact,
- 14 the way they report is the State likes to draw a
- 15 number, like a one, and then a line and then a big
- 16 number at the bottom, and they like to report as it is
- 17 a one in 10 million chance that it does not
- 18 represent -- that it is not a match; correct? That's
- 19 the way they generally report that statistic; correct?
- 20 A Yes, sir.
- 21 Q Okay. So even with DNA evidence, they don't tell you
- 22 100 percent certainty; correct?
- 23 A Correct.
- 24 Q Okay. First, I want to clarify what your role in this
- 25 case, specifically, was. I know you may have gone over

DIANE BODIE CROSS BY MR. LI

1 it already. I hate to be repetitive. I just want it
2 for my own clarity. You performed the initial AFIS
3 analysis part; correct?

4 A Yes, sir. I'm given the unknown prints where we don't
5 have a known person to compare them to.

6 Q Yes, ma'am.

7 A I will enter those into the AFIS in hopes to get
8 respondents, which I will get, and in hopes to,
9 possibly, get an AFIS hit, which will eventually lead
10 to positive identification.

11 Q So you stick -- you somehow scan the cards, the
12 transparent latent cards taken by Investigator Schroder
13 or somebody from the crime scene, then input the data
14 into a computer. Okay. Now, from there, you make some
15 sort of markings on the latent print side; correct?

16 A Yes, sir.

17 Q Okay. And the marks that you're making are for what
18 you call identified characteristics or minutia -- the
19 characteristics you pointed out on your presentation;
20 correct?

21 A Yes, sir.

22 Q I don't know the word for that. Now, you are visually
23 putting those things in and then you hit a button and
24 then AFIS generates this list of 30 people, this list
25 of 30 possible matches or list of 30 things; correct?

DIANE BODIE CROSS BY MR. LI

1 A Yes, sir.

2 Q Okay. So AFIS has some sort of algorithm inside its
3 code that it will take what you did on the left-hand
4 side -- well, on one side. I don't know if it's left
5 or right. But on one side with the unknown print, and
6 then you hit a button and then do, do, do, do, do and
7 something comes up on the right side; correct?

8 A Yes, sir.

9 Q Okay. And in this case, Thomas Bloodsaw's identifying
10 number or his prints came up to be number one; correct?

11 A Yes, sir.

12 Q There at the top -- in this case, it turned out to be
13 the top one. So you have this algorithm that's in the
14 computer that generates this list for you and it ranks
15 them in some order; correct?

16 A Yes, sir, it does.

17 Q Okay. With that being said, then what you did in this
18 case -- I'm just trying to get the procedural part.
19 What you did is you then printed out the known side?

20 A Yes, sir. I retrieved the known fingerprint card from
21 the database, which is the same database it searches
22 against.

23 Q Okay. Got you. So you print out this ten print card?

24 A Yes, sir. I printed it out.

25 Q And then you take that ten print card and you take the

DIANE BODIE CROSS BY MR. LI

- 1 latent -- and let me know if I'm wrong. You take the
2 latent print and you take that now printed out known
3 print for match number one, okay?
- 4 A (The witness nodded head.)
- 5 Q Okay. And you hand it to Trisha Odom?
- 6 A I transferred it -- chain of custody transferred it on
7 the computer to Trisha Odom.
- 8 Q Okay. So Trisha Odom now has -- Trisha Odom now has
9 the one -- she has a latent print and a ten print card
10 that you have handed to her?
- 11 A Yes, sir.
- 12 Q Correct?
- 13 A Yes, sir.
- 14 Q Okay. Now, you -- you only handed her the top one;
15 correct?
- 16 A Yes, sir.
- 17 Q You didn't hand her number two?
- 18 A No, sir.
- 19 Q You didn't hand her number three, four, et cetera;
20 correct?
- 21 A No -- correct.
- 22 Q So you hand this -- hand these two -- transfer it to
23 Trisha Odom, who knows it's coming from you. Then she
24 does her analysis on it; correct?
- 25 A Yes, sir.

DIANE BODIE CROSS BY MR. LI

1 Q She does a point by point comparison using her eyes
2 only; correct?

3 A Yes, sir.

4 Q When I say eyes only, no computer algorithm; correct?

5 A Oh, no, sir.

6 Q This is from human eyes?

7 A Yes, sir.

8 Q Okay. So there's nothing -- there, actually, is no
9 magic -- no magic machine that you put some
10 fingerprints, hit a button and do, do, all of a sudden,
11 like Jason Borne's picture pops up; correct?

12 A On TV?

13 Q --

14 A Well, the system can -- the system -- on a ten print
15 side will, possibly -- they call it like the lights out
16 type system, but you're comparing 10 fingers to 10
17 fingers. In the latent world, there is no magic system
18 that says this is absolutely -- I mean, absolutely your
19 print and the human eye is not going to verify it.

20 Q Yes, sir.

21 A We do all of our verifications based on our human eye.

22 Q That's right.

23 A Not what the computer tells us.

24 Q Because the computer algorithm is not powerful enough
25 to give you that -- as you put it, that 100 percent

DIANE BODIE CROSS BY MR. LI

1 match; correct? That 100 percent confidence level;

2 correct?

3 A Right.

4 Q Okay.

5 A Not in my world.

6 Q Not in your world. So the computer is not perfect;

7 correct?

8 A Correct.

9 Q Okay. And the listings -- if you ask for 30, it's

10 going to give you 30; correct?

11 A Yes, sir. Yes, sir.

12 Q So the computer's algorithm is not great and it's not

13 perfect, that's why you take it out and you put it in

14 human eyes and a human person can look at it and

15 analyze it?

16 A Yes, sir.

17 Q Okay. All right. So this, you gave to Trisha Odom.

18 And then she does her analysis on her and then she

19 hands it back to you?

20 A She did in this case.

21 Q Okay. So she hands it back to you and then you're the

22 final verifier; correct?

23 A I happen to be one there to do the verification that

24 day.

25 Q Okay.

DIANE BODIE CROSS BY MR. LI

1 A We have others that can do verifications. I just
2 happened to be the one to complete the case.

3 Q I understand. I understand. So to recap, in this
4 case, in this specific case, you were the person that
5 generated the initial ten print card taken from the
6 AFIS system; correct?

7 A Yes, sir.

8 Q All right. Then you take your match and you take it to
9 Trisha Odom and you say check these; correct?

10 A Yes, sir.

11 Q She takes the same two things, turns around and gives
12 it back to you and says yeah, I checked them, they're
13 good. And what you said is yeah, they're good.
14 Correct?

15 A After I checked them, yes.

16 Q After you checked them. But knowing that these were
17 the original two that you had handed her in the first
18 place; correct?

19 A Yes, sir.

20 Q Because you would not have handed her -- you wouldn't
21 have handed her something that you didn't think matched
22 in the first place; correct?

23 (There was no response.)

24 Q What I'm saying is, I'm sorry. That was confusing,
25 even to myself. If the initial match, when the latent

DIANE BODIE CROSS BY MR. LI

1 prints and match number -- AFIS generated list number

2 three or two, okay?

3 A Uh-huh.

4 Q If latent prints don't match number two, just for

5 example, you don't take these two things unmatched and

6 take them to Trisha Odom and say hey, look, I've got

7 two things. Look at them to verify them. Correct?

8 A Well, AFIS works as a tool. And that tool is to

9 identify possible person who could have left the print.

10 Q That's right.

11 A If I had been given a name to pull, you know, and a

12 fingerprint card that someone requested, for instance,

13 you, if someone said check Mr. Li's prints --

14 Q Uh-huh.

15 A -- then I would have written a report not identified to

16 those prints and given it as well to Trisha to verify,

17 not just the identification. The AFIS system is just

18 to pull out possible candidates.

19 Q I understand, but these possible candidates are --

20 these possible candidates are -- you have some input

21 into the possible candidates because the initial part,

22 the initial comparison was by you; correct?

23 A Correct.

24 Q Okay. So you've done an initial comparison already and

25 so when you hand those things over to Trisha Odom,

DIANE BODIE CROSS BY MR. LI

1 there is already a message that you're -- not literally
2 sending, but you're taking two things, handing them to
3 Trisha Odom and you're saying hey, check these;
4 correct?

5 A Correct.

6 Q All right. And you would not take those if they did
7 not match; correct? If you thought they didn't match,
8 you wouldn't take them to her; correct?

9 A Not running the AFIS. I would have kept running the
10 AFIS system on that print to try to identify what I
11 thought was possible match to give her.

12 Q I understand. And in this case, it just so happened
13 that you didn't run any other comparisons to AFIS;
14 correct?

15 A I didn't need to until I had eliminated this case.

16 Q So the first one popped up was the one that was
17 analyzed; correct?

18 A Correct.

19 Q Okay. So match number two, three, four, or list number
20 two, three, four, five, never checked; correct?

21 A When I turn that over to another latent print analyst,
22 who was Trisha Odom, and say she were to look at those
23 and they weren't his prints, she would have given them
24 me to look at to see if they weren't those prints. At
25 that point, I would make my determination as to whether

DIANE BODIE CROSS BY MR. LI

1 they were or weren't. Let's say they weren't his
2 prints, I would have taken that case and run it again
3 on AFIS to look at other candidates because I would
4 have eliminated that source. But that's not what
5 happened in this case.

6 Q Got you. So let's talk about the partial prints. So
7 the latent prints that were given to your lab, to
8 yourself at the point, you said they were partial
9 prints, so it was not a complete rolled print; correct?

10 A Correct.

11 Q And each -- I guess, each person's finger or each
12 finger has unique characteristics; correct?

13 A The relationship and type and number of those
14 characteristics. We all have the same characteristics.
15 We have, as I explained --

16 Q Yes. Yes.

17 A -- dividing ridge, ending ridge, dots.

18 Q Has the same --

19 A The combination of those characteristics in the
20 fingerprint and relationship to those characteristics
21 as well as the level three detail I talked of, the
22 shape of the ridges, the width of the ridges, the edges
23 of the ridges, the pores running along the ridges. All
24 of that, the totality of that is what makes that print
25 unique, not just the characteristics.

DIANE BODIE CROSS BY MR. LI

- 1 Q I understand. But -- so let me rephrase it. This is
2 poor terminology on my part. The sum total of what you
3 just said, each person has a finite number of those -
4 each person has a number of those on their finger;
5 correct?
- 6 A Yes, sir.
- 7 Q Okay. And from a partial print, just by its very name,
8 you have only part of a print; correct?
- 9 A Yes, sir.
- 10 Q So it's like -- so -- I understand a fingerprint --
11 there's one rule called one dissimilarity rule;
12 correct?
- 13 A Yes, sir.
- 14 Q And that rule says, basically, that if anything doesn't
15 match -- because fingerprint works with the underlying
16 assumption that fingerprints are universally unique;
17 correct?
- 18 A Yes, sir.
- 19 Q So if there was one identifying mark that was
20 different, you would have to rule that out; correct?
- 21 A If there's one dissimilarity that cannot be explained.
- 22 Q So it's one dissimilarity that cannot be explained?
- 23 A Uh-huh.
- 24 Q It must be excluded; correct?
- 25 A Yes, sir.

DIANE BODIE CROSS BY MR. LI

- 1 Q So it's like if you have -- it's like if you're looking
2 at -- this is a rough analogy. Like two dollar bills.
3 And then the dollar bill -- one dollar bill has a
4 serial number and the other dollar bill has a serial
5 number; correct?
- 6 A Yes, sir.
- 7 Q You take a look at the middle of that serial number and
8 it says 54JQ; correct?
- 9 A Yes, sir.
- 10 Q Then you look at another dollar bill, and in that
11 middle, it's got 54JQ. Okay?
- 12 A Yes, sir.
- 13 Q On one of them, you've got the entire serial number;
14 correct?
- 15 A Yes, sir.
- 16 Q On the other one, you've only got half of it or you've
17 got an unknown number; correct?
- 18 A Yes, sir.
- 19 Q All right. And that would be analogous to partial
20 fingerprints to a whole print; correct?
- 21 A Not really.
- 22 Q Explain.
- 23 A The dollar bill -- I mean, I would have to know how
24 often those four repeated just like that in the dollar
25 bill.

DIANE BODIE CROSS BY MR. LI

1 Q Absolutely. You would have to know the frequency --

2 A In that relationship or --

3 Q That's right. You would have to know the frequency of
4 it; correct?

5 A Yes, sir.

6 Q And you would have to know the general pattern and how
7 often it shows up; correct?

8 A Yes, sir.

9 Q And in the art of finger -- in the world of
10 fingerprinting, there's no mathematical data for any of
11 that; correct?

12 A In the world of fingerprinting, frequency comes in with
13 experience and exposure to looking at fingerprints.

14 Q There's -- but there's -- unlike DNA, there is no
15 scientific research or data that says well -- I'm just
16 going to use the example you used in your presentation.
17 That the -- the two lines separated by the six lines
18 and then has a dot. That comes up in the human
19 population, roughly, four -- one in every four million.
20 There's no data that's anywhere close to that, those
21 kind of numbers; correct?

22 A Well, it would be hard to have data like that because
23 each one of those lines represents a different element
24 of data.

25 Q Correct.

DIANE BODIE CROSS BY MR. LI

- 1 A The width of the ridge, how much value is the width of
2 the ridge given to the next ridge below it.
- 3 Q So there is no data?
- 4 A There is no data as far as frequency.
- 5 Q Okay. So as far as frequency, there is no data;
6 correct?
- 7 A (The witness shakes head.)
- 8 Q So with frequency, there's no -- if there's no data as
9 to frequency, which is the number of times something
10 happens, the underlying assumption of fingerprint
11 analysis that all humans now and since the beginning of
12 time have different fingerprints, that is just an
13 assumption; correct?
- 14 A Just an assumption?
- 15 Q Yes.
- 16 A I mean, it's based on how they're formed. A dollar
17 bill is printed.
- 18 Q But nobody --
- 19 A Fingerprints aren't printed. They're formed by random
20 acts.
- 21 Q They're formed by random acts?
- 22 A Yes.
- 23 Q And randomness involves possibility of similarity;
24 correct, that the very definition of random?
- 25 A And there are a lot of similarities in fingerprints,

DIANE BODIE CROSS BY MR. LI

1 but the uniqueness of a fingerprint is not just based
2 on what forms a fingerprint.

3 Q Has anybody ever -- has anybody in the field of
4 fingerprint ever taken a fingerprint of every human on
5 earth?

6 A No, sir.

7 Q No. And so, for example, the counter argument to that
8 is -- you said, well, how does DNA work. DNA is done
9 differently; correct?

10 A Well, I don't think everyone's DNA's been collected
11 either.

12 Q Exactly, it has not been collected. But DNA, what they
13 do is they the permutation of the amino acids, correct?
14 And they can tell -- they can tell from the mathematic
15 permutation that there are some many different
16 combinations that it would be unlikely -- it would be
17 one in, make up a number, four billion chances. That
18 would be the way they would report it. But one in four
19 billion would mean something significant because
20 there's less than 4 billion people on earth; correct?
21 So they don't even report with absolute certainty that
22 DNA is -- the DNA is unique to each individual;
23 correct?

24 A Yes, DNA doesn't report to that, yes.

25 Q Ever though there has been no -- the underlying

DIANE BODIE CROSS BY MR. LI

1 assumption is that because of the way it's formed, it's
2 formed with the babies -- the way the babies touch
3 their mother's womb and the way their fingers develop
4 during the infancy stage. There's no -- the underlying
5 assumption that -- the uniqueness assumption of
6 fingerprint is just that, an assumption; correct?

7 A Well, that leads to the uniqueness.

8 Q Excuse me?

9 A That explains why they are unique.

10 Q There's no proof of that; correct?

11 A Well, I can give you in 40 years of experience, I've
12 never once have found a fingerprint to match two
13 different people.

14 Q Fair enough.

15 A Just a hands-on experience. And I'm one examiner in
16 this world.

17 Q I understand. And when you're saying that -- I'm going
18 to take the beginning part, that it is with 100 percent
19 certainty that you're reporting that this match is
20 Thomas Bloodsaw?

21 A I believe that fingerprint to be Thomas Bloodsaw and no
22 one else.

23 Q Okay. And you can -- and in your field of study and
24 your field, you do not believe in calculating an error
25 rate?

DIANE BODIE CROSS BY MR. LI

1 A Calculating error on the science of fingerprints or on
2 the human factor?

3 Q Both?

4 A I don't -- fingerprints aren't the error rate, human
5 factor is the error rate. There are people out there
6 that misidentify a print, don't find a print, say the
7 print is the wrong print. They're human beings
8 operating it.

9 Q Okay.

10 A So when science is guided by human operation, that's
11 where the error rate falls in.

12 Q Okay.

13 A Not in the science, the uniqueness of a fingerprint.

14 Q And in this case, the fingerprints were matched by
15 humans; correct?

16 A Yes, sir.

17 Q So there is an error rate; correct?

18 A Sure.

19 Q So there is an error rate, okay.

20 A In human error rate, not in science.

21 Q Yes. Okay. In this case, there's a human error rate?

22 A Yes, sir.

23 Q Okay. In other words, before there was 100 percent
24 certainty, and now you're acknowledging that there is a
25 human error rate?

DIANE BODIE CROSS BY MR. LI

1 A Oh, absolutely.

2 Q Okay.

3 A Humans make errors.

4 Q Okay.

5 A Unfortunately.

6 Q Yes, ma'am. Now, two more questions, I promise. When
7 you're analyzing these prints -- I know I've asked
8 other people this, do you have -- do the prints that
9 you're given, the latent prints you're given, do they
10 indicate anything about time frame?

11 A No, sir.

12 Q No time frame?

13 A No, sir.

14 Q Okay.

15 MR. LI: Beg the Court's indulgence.

16 THE COURT: Yes, sir.

17 BY MR. LI:

18 Q And in this case, did you write any written reports?

19 A I just did bench notes on the verification process and
20 then, I had AFIS notes where I had entered -- you know,
21 that I submitted that fingerprint, that latent print to
22 the AFIS system, what I charted, what I might have
23 called it. I could tell pattern types, so I entered
24 pattern type on the worksheet. I could tell how we
25 write down the minutia I encoded. And then I would

DIANE BODIE CROSS BY MR. LI

1 also write down the candidate list and the printout of
2 the candidates. And then the verification, I do my
3 bench notes as to my verification.

4 Q So you do have a worksheet that have the number of
5 minutia on it?

6 A Yes, sir.

7 Q Did you give that to the Richland County Sheriff's
8 Department — I mean, the Solicitor's Office?

9 A It's part of the case file.

10 MR. LI: Beg the Court's indulgence.

11 THE COURT: Yes, sir.

12 BY MR. LI:

13 Q I'm sorry, just wanted to clarify. You're saying that
14 you have some sort of written report as to the minutia
15 and the, I guess, the characteristics that were pointed
16 out by you?

17 A Well, a picture of the screen. It doesn't, actually,
18 necessarily show the minutia pointed. But on the
19 worksheet, it will state how many I may have encoded.

20 Q How many you might have encoded?

21 A Yes, sir.

22 Q Okay.

23 A Should be in the case file.

24 Q All right. Is this what you're talking about
25 (indicating)?

DIANE BODIE CROSS BY MR. LI

1 A It looks like it.

2 Q And these are the minutia points you're talking about?

3 A Yes, sir.

4 Q Okay. I couldn't read it.

5 A I'm sorry.

6 Q That's okay.

7 So last question. In the -- or last questions.

8 In the partial prints, it was -- the print was cut off

9 at -- some part of the fingerprint from the latents

10 were cut off; correct?

11 A The entire print wasn't left on the latent impression.

12 Q There was some missing part?

13 A Yes, sir.

14 Q All right. And if there had been -- if there had been

15 a point or details on the missing part which you were

16 not aware of, but because there were missing and didn't

17 match, you would have to -- under the one dissimilarity

18 rule, you would have to exclude it; correct?

19 A Well, I identified the print, meaning all of the

20 fingerprint was his print. Whatever would be

21 missing -- I don't understand what you're talking

22 about.

23 Q I'm sorry. So you have -- from the latent prints, you

24 had a portion of the entire -- you have a portion of

25 the whole print; correct?

DIANE BODIE CROSS BY MR. LI

1 A Yes, sir.

2 Q And so from those prints, you matched up certain points
3 or certain characteristics -- I'm not trying to get
4 technical. Whatever the relationship, you matched X
5 number of things from that partial side to the known
6 side; correct?

7 A Yes, sir.

8 Q Okay. Now, but you don't know what the rest of this
9 fingerprint is; correct? It was not there; correct?

10 A Correct.

11 Q So the rest of that fingerprint is not there. If there
12 was -- if there was characteristics or relationships or
13 whatever on that missing side that did not match the
14 known side, you would have to say it didn't match;
15 correct?

16 A Well, I wouldn't have called it a match to begin with.
17 If the entire print had been left at the scene, the
18 entire print would have matched. A portion of that
19 can't match and another portion of it not.

20 Q A portion can match -- a portion can match -- I'm just
21 saying a portion cannot match if the other portion does
22 not match?

23 A For me to call this his fingerprint, if he had left the
24 whole print at the scene, the whole print would have
25 matched him.

DIANE BODIE CROSS BY MR. LI

- 1 Q That -- but you don't know that; correct?
- 2 A I do know that because I identified his fingerprint.
- 3 And if the rest of it was there, it would have been his
- 4 fingerprint.
- 5 Q Okay. So --
- 6 A I'm not saying a portion of that print might match.
- 7 That print is Thomas Bloodsaw's print.
- 8 Q Okay.
- 9 A What he left --
- 10 Q Based on -- I'm sorry. Go ahead.
- 11 A What he left -- the portion he left --
- 12 Q Uh-huh.
- 13 A -- I'm comfortable saying I identify that print as
- 14 Thomas Bloodsaw.
- 15 Q Okay. Even though there was still parts of the print
- 16 that was missing; correct?
- 17 A Yes, sir.
- 18 Q Okay. What I'm trying to say, and I'm not making
- 19 myself clear, is if you look -- just, for example,
- 20 looking at a thumb. You compare my thumb print, top
- 21 part of that, then maybe a little bit down or you
- 22 compare it to a known print, okay? And the top part
- 23 matches, okay, the top part matches. Then you don't
- 24 have the bottom part; correct?
- 25 A Correct.

DIANE BODIE REDIRECT BY MS. BODMAN

1 Q So if there was some dissimilarity in the bottom part,
2 you would have to exclude it; correct?

3 A There's not going to be.

4 Q So if that's the case, why have 13 points? Why have 10
5 points? If any portion of it -- if any portion of it
6 is good enough that you're going to call it -- any
7 portion is good enough for a match and how dare someone
8 question how the rest of it is going to be because I
9 matched a small portion of it, then, of course, the
10 rest of the fingerprint matches. So how small a
11 portion can you go?

12 A Well, the only thing I can tell you is in the partial
13 print, we judge the totality of that particular partial
14 print. In that particular area that was left at the
15 crime scene is not going to repeated anywhere on
16 anything, his hand, anywhere else, but where it is on
17 that finger. On all the fingers in the world, that
18 particular portion is found right where it is on the
19 number three finger on his hand.

20 Q So why not have a smaller portion -- pretend you didn't
21 have that portion, you had a smaller portion of that,
22 you would make the same analysis?

23 A It depends. I'd have to know what that portion is
24 you're giving me, the totality of that, the way the
25 ridges flow, the way the ridges look, the amount of

DIANE BODIE REDIRECT BY MS. BODMAN

1 minutia points I see, the relationship of those points,
2 the totality of that. I don't know just say oh, I need
3 five things and whamo, it's you.

4 Q I got you.

5 A It's the totality of that fingerprint before I can
6 determine it's your finger.

7 Q It's mainly based on the human eye, trained human eye?

8 A Yes, sir.

9 Q The totality of the circumstances?

10 A (The witness nodded head.)

11 Q And experience?

12 A And the uniqueness. How fingerprints are formed, they
13 are unique. Unlike a dollar bill, that number can be
14 printed over and over again with very few changes.
15 It's a random act.

16 MR. LI: No further questions.

17 THE COURT: Redirect, Solicitor?

18 REDIRECT EXAMINATION

19 BY MS. BODMAN:

20 Q What we have been talking about in term of your
21 training and experience is latent print examination;
22 correct?

23 A Yes, ma'am.

24 Q Okay. Not known to known or just the science of
25 fingerprint itself, but latent print examination?

DIANE BODIE REDIRECT BY MS. BODMAN

1 A Yes, ma'am.

2 Q And latent prints are those that are left at a crime
3 scene?

4 A They refer to those as crime scene, meaning hidden
5 prints.

6 Q And your earlier comment about the difference between a
7 latent print and the print that is made, for example,
8 on a ten print card that is made under conditions, you
9 know, rolled with the same pressure from side to side,
10 compare that again to those left at a scene, a latent
11 print?

12 A Yes, ma'am. We compare the latent print, which is not
13 controlled. It can be portions of that print, the tip,
14 the side, the center, the low part of the thumb or the
15 feet, any area, that ridge detail, whatever we --
16 whatever is recovered. As I said in the demonstration,
17 oriented that print and tried to locate the area of the
18 print that we believed those ridges would be and locate
19 them in the known standard, which is a controlled
20 environment, where equal pressure is applied,
21 hopefully, proper inking. The print is rolled from
22 nail to nail so all the ridge detail is captured. And
23 we compare that to the -- the unknown to the known
24 print.

25 Q And so in your experience and training and doing latent

DIANE BODIE REDIRECT BY MS. BODMAN

1 print examinations, how frequently -- in the 40 years
2 that you said that you've been doing this, how
3 frequently do you find a latent that is a full, as if
4 it's done on a ten print card, rolled from side to side
5 with equal pressure and that you get a full print from
6 a latent?

7 A I hardly ever get a latent print that looks like a
8 controlled environment, where it's rolled like a ten
9 print card would be.

10 Q And that is what you do is latent print examination?

11 A Yes, ma'am.

12 Q And what you've been trained in, this science, the area
13 of latent print examinations?

14 A Yes, ma'am.

15 Q Okay. I'm talking about your scientific methodology.
16 When you put that latent into AFIS, you asked for 30
17 potentials. You said you got your list back and the
18 number one, you took a look at it and you made a
19 decision to then pass that number one hit off onto
20 Trisha Odom?

21 A Yes, ma'am.

22 Q What process in this ACE-V methodology, what process
23 was that?

24 A I do the analysis phase, where I analyze the print. I
25 look at the three rows of detail. Then you go to the

DIANE BODIE REDIRECT BY MS. BODMAN

1 comparison part of the on-screen comparison, which is
2 not how we conduct our C in ACE-V, but it's done for
3 any time we're looking to determine is it a possible
4 hit or not.

5 So when my candidates came back, I would look at
6 the candidate to see if I saw the same type formations,
7 characteristics and relationship in the candidates that
8 I saw in the -- that I saw in the latent impression.
9 At that time, I feel like this needs to go through our
10 process of comparison, evaluate and verification. It's
11 at that point that I turned it over to the latent print
12 examiner. We do rely on AFIS system to print -- we
13 make sure we print the card. We compare the evidence
14 to the printed card, not the screen prints.

15 Q So you just did the analysis prior to handing that
16 latent and then the ten print card off to Trisha Odom?

17 A (The witness nodded head.)

18 Q And then the comparison. And you said she also did the
19 evaluate?

20 A She will go through the same process once she gets the
21 ten print card, the comparison process. She will adapt
22 that same analysis concept to the ten print card.
23 She'll look at the latent. She'll do the analysis just
24 as I would do, looking at the ridge detail, the type
25 characteristics, their location to each other,

DIANE BODIE REDIRECT BY MS. BODMAN

1 relationship with each other and the numbers and what
2 type of characteristics they are.

3 She will also look at the ten print card in that
4 same mindset, that analysis phase, and then begin a
5 comparison of, okay, we have these characteristics,
6 this relationship, this is the ridge flow, this is the
7 amount of things I'm seeing, are there any
8 dissimilarities, what's the quality of the print. All
9 those questions she'll answer to that point where
10 she'll go to evaluate it and determine is or isn't it
11 an identification.

12 Q And then it came back to you for verification; correct?

13 A And at the verification stage, it starts all over
14 again, where I go through the analysis, comparison of
15 the ten print card comparing the actual latent, not the
16 AFIS print, the actual latent to the ten print card or
17 the unknown to the known, go through that comparison
18 phase, same as she did, not just saying yeah, I agree,
19 but going through that step by step process. Do I see
20 the same type characteristics in the print? Are the
21 relationships the same? Do the ridges flow the same?
22 Do the ridges appear to be shaped the same? You know,
23 all of those questions I have to answer. And then at
24 that point, I verify her finding, of course, if I agree
25 with her finding.

DIANE BODIE REDIRECT BY MS. BODMAN

1 Q Okay. Are you familiar with the term 100 percent
2 verification?

3 A Yes, ma'am.

4 Q What does that term mean?

5 A It means -- we don't 100 percent verify only prints
6 that are identified. We 100 percent verify
7 nonidentifications as well, you know, anything dealing
8 with fingerprint evidence. Another examiner goes over
9 the entire case and develops a conclusion and reaches
10 the same conclusion.

11 Q And when you said we also verify no matches, what did
12 you mean by we?

13 A All the latent print analysts. The ones qualified to
14 do examinations and qualified to do verifications.

15 Q All latent print examinations across the world?

16 A No.

17 Q Okay.

18 A In Richland County.

19 Q At the Richland County Sheriff's Department?

20 A At the Richland County Sheriff's Department, we do 100
21 percent verification.

22 Q And have you found that that is a different standard
23 than some other labs have?

24 A Some labs may only require so much verification. They
25 may require all identifications are verified, but 20

DIANE BODIE REDIRECT BY MS. BODMAN

1 percent verification of other types were. Every lab
2 operates differently. But every -- but I've worked
3 at -- you know, retired from SLED and we, also, did
4 100 percent verification. So pretty much part -- I
5 think a lot of agencies do 100 percent verification,
6 but I couldn't say for sure. But I do know Richland
7 County does.

8 Q Okay. Now, even prior to getting to that analysis
9 stage in terms of your AFIS, you've already done an
10 examination of the latent itself; correct?

11 A Part of the analysis stage, I'm looking at the
12 latents --

13 Q Okay.

14 A -- and determining can I enter them.

15 Q Are they even of quality to put them into AFIS?

16 A Yes, ma'am.

17 Q Okay. Have you -- in your experience of 40 years
18 gotten latents that not are of quality to even enter
19 into AFIS?

20 A Yes, ma'am.

21 Q And it appears on these latent cards that there are
22 other impressions; correct?

23 A Yes, ma'am.

24 Q Okay. And some of them, was it your opinion, that they
25 were not of quality to put into AFIS?

DIANE BODIE REDIRECT BY MS. BODMAN

1 A Yes, ma'am.

2 Q Okay. When AFIS gave you the list of one to 30, is
3 that given to you in an order of AFIS is telling you
4 that one is your best shot?

5 A The AFIS categories them according to their highest
6 probability to the lowest, the highest candidate. It's
7 not something I use as the guide because there's times
8 that I have a hit on the number one or it could be much
9 further down the candidate list. Or it might not be
10 any of them at all. And for the most part of my day,
11 that's probably the ones I look at is the very
12 candidates that don't produce a possible hit.

13 Q So even going through all 30, you have at times said
14 I'm not passing any of these 30 on to anybody for
15 comparison?

16 A More times than not, yes.

17 Q The -- in the history of fingerprints -- I mean, when
18 was it first recognized that fingerprints are
19 absolutely unique? I know you talked about it wasn't
20 until later that they started realizing -- it was in
21 the 1800's, they realized they could start using it for
22 crime solving investigation. But when was it first
23 recognized that fingerprints are absolutely unique?

24 A Well, it's through the research from years -- centuries
25 ago, just the research and all of that compounded, you

DIANE BODIE REDIRECT BY MS. BODMAN

1 know, the research of print and --

2 Q So --

3 A Just research. I mean --

4 Q How much time. You just said something about
5 centuries?

6 A A hundred fifty, 200 years.

7 Q Okay. And in all of the research that is out there and
8 in your 40 years of being involved in latent
9 comparison, have you heard of one study, one situation
10 where they found two people with the same fingerprint?

11 A No.

12 MS. BODMAN: No further questions.

13 THE COURT: Recross, Mr. Li?

14 RECROSS-EXAMINATION

15 BY MR. LI:

16 Q Are you familiar with the concept of blind
17 verification?

18 A Yes, sir.

19 Q Okay. That was not done in this case; correct?

20 A No, sir.

21 Q And you are aware of the NAS report?

22 A Yes, sir.

23 Q From 2009?

24 A Yes, sir.

25 Q Where they talk about the ACE-V system?

DON ROBINSON DIRECT BY MR. MATHEWS

1 A Yes, sir.

2 Q And they reviewed it and they found the available
3 scientific evidence of validity of the ACE-V method and
4 they found none. Are you familiar with that in the
5 report?

6 A They, in that report, are referring to not factoring in
7 human error. Not so much the science of fingerprints,
8 but the human error factor.

9 Q Correct.

10 A There is human error.

11 Q Correct. And they referred to -- and they said that
12 the method used that merely following the steps of
13 ACE-V does not ensure that one is proceeding with
14 scientific manner or producing reliable results. Are
15 you aware of that?

16 A It's a scientific method. But what they are referring
17 to further down in that report is the human factor. It
18 states in parentheses almost human factor.

19 Q You're aware that they said with the exception of
20 nuclear DNA analysis, no other forensic has been
21 rigorously shown to have the capacity to connect
22 evidence to a specific individual. Are you aware the
23 NAS report from 2009 says that?

24 A There's probably more to that sentence because science
25 -- fingerprints have definitely shown through the years

DON ROBINSON DIRECT BY MR. MATHEWS

1 their infallibility.

2 Q And you have been -- how long have you been working
3 with the Richland County Sheriff's Department?

4 A I started February 2011.

5 Q How many times did you say you've testified in court?

6 A For Richland County?

7 Q Um --

8 A Oh, for fingerprints, in general. At least, 25 times.

9 Q Of those roughly 25 times, approximately how many times
10 did you get on the stand and say that they did not
11 match?

12 A That it did not match?

13 Q That it did not match the person sitting on the
14 defendant's chair?

15 A That it didn't match. I haven't.

16 Q Okay. Thank you.

17 MR. LI: No further questions.

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

19 You may step down.

20 Solicitor, you may call your next witness.

21 MR. MATTHEWS: Your Honor, the State calls
22 Sergeant Don Robinson.

23 THEREUPON,

24 SERGEANT DON ROBINSON,

25 after having been duly sworn, testified as follows:

DON ROBINSON DIRECT BY MR. MATHEWS

1 CLERK: Thank you. Have a seat in the witness
2 stand, please. State your name for record.

3 THE WITNESS: My name is Don Robinson,
4 R-O-B-I-N-S-O-N.

5 DIRECT EXAMINATION

6 BY MR. MATTHEWS:

7 Q Sergeant Robinson, where are you currently employed?

8 A Richland County Sheriff's Department.

9 Q And what is your job description there?

10 A Currently, I am the supervising investigator for the
11 burglary team in the criminal investigative division.

12 I supervise our burglary unit.

13 Q Do you, also, investigate cases yourself?

14 A I do. From time to time, I'll adopt some cases myself
15 from other investigators. When they have family leave
16 or may have some issues, I will take cases myself.

17 Q Okay. I want to go back to August the 25th of 2011,
18 did you have an occasion to -- excuse me, August 24th,
19 2011. Did you have occasion to investigate a burglary
20 at [REDACTED] Old Leesburg Road?

21 A I did.

22 Q And could you tell me your initial involvement in that
23 investigation?

24 A The way I become involved is the deputies will write
25 the report and they'll respond to the scene and they'll

DON ROBINSON DIRECT BY MR. MATHEWS

1 handle their initial activity. They will take the
2 report. They will summons the forensic unit to come to
3 the scene, if required or if needed. The next day, I
4 will receive a number of reports of all the burglaries
5 throughout the entire county. I will disseminate them
6 and assign them to separate investigators or myself.
7 Then we will start our investigation of the incident.

8 Q Did you talk to the victim in this incident?

9 A I did. I spoke to the victim, Mr. Leroy Kelly.

10 Q After speaking with him, were you able to develop any
11 suspects?

12 A At that time, initially, we had no idea who was
13 involved with the burglary.

14 Q What was the next step in the investigation?

15 A The next step, what we do is -- if we have no witnesses
16 or anything like that, the next step is, actually, try
17 to pursue the -- to locate the stolen property to see
18 if we can come back and learn information of who the
19 suspect may be. And we can do that through various
20 means, pawn shops, internet sites, any way to try to
21 track the stolen property. And that's -- in order to
22 develop a lead is what that is. If we can't get
23 anything else from the neighbors or anyone that would
24 develop a lead.

25 Q Were you able to find any of the property?

DON ROBINSON DIRECT BY MR. MATHEWS

1 A None of the property was ever recovered. And the next
2 step is we communicate with the forensic investigator
3 that went to the scene. So we will communicate with --
4 in this case, I communicated with Investigator Schroder
5 to find out what his understanding of the scene was,
6 what evidence he had learned and then we communicate
7 and try to develop a lead that way.

8 Q Did you know what forensic evidence was taken from the
9 scene?

10 A Well, I know there was some prints lifted, I knew that,
11 and that he swabbed the scene.

12 Q Do you know what -- when you say he swabbed the scene,
13 what did he swab for?

14 A The whole purpose of swabbing -- and it was explained
15 earlier, that he's swabbing for DNA evidence. That's
16 the attempt to collect DNA.

17 Q And were those swabs submitted to the lab to attempt to
18 develop a profile?

19 A They were submitted by the lab.

20 Q Was any profile for comparison purposes developed from
21 any of those swabs?

22 A There were no profiles developed at all.

23 Q Not even that of the victim, who we know lived in the
24 house?

25 A That is correct.

DON ROBINSON DIRECT BY MR. MATHEWS

1 Q Is it uncommon to send swabs to the lab and not receive
2 any DNA results front it?

3 A Is it uncommon? It's rare to make -- to have a
4 profile, put it that way. It's rare to have a profile
5 develop.

6 Q And to your knowledge, there were fingerprints
7 recovered from the scene?

8 A There were.

9 Q And what was the result that you found out of those
10 fingerprints?

11 A I was contacted by our forensic unit that a fingerprint
12 match had been developed. And they provided me with
13 the name of Thomas Bloodsaw. And the next step that I
14 did is I contacted the victim, Leroy Kelly. I provided
15 him this name. Do you know this guy? As a matter of
16 fact, I even showed him the picture, do you know this
17 guy just in case -- some people know people by
18 nicknames. They may not know their proper name. So I
19 went through that process. His explanation is I have
20 no idea who this guy is. He's never been in my house.
21 I have on earthly idea.

22 Q Did you get warrants at that point?

23 A At that point, I acquired an arrest warrant.

24 Q And what were the arrest warrants for?

25 A It was for a burglary and, also, a larceny.

DON ROBINSON DIRECT BY MR. MATHEWS

1 Q At that point, what did do you with those warrants?

2 A Once we get an arrest warrant, we have the option
3 either to one, we can try to execute it and serve the
4 warrants ourselves, or we have access to what's called
5 the NCIC computer database. It's the National Crime
6 Index Reporting on the computer. What that is it's a
7 nationwide -- it, actually, goes worldwide, also, but
8 it's a computer database that anyone in the United
9 States that's stopped, on a traffic stop or some kind
10 of field stop or anything, they can search that
11 database to see if someone's wanted by any other
12 agency.

13 So the general process as we get the warrants, we
14 make a determination of whether we're going to do
15 what's called an extradition if this person has been
16 apprehended out of the state. We put that information
17 into this database to alert or have available for
18 anyone who may do an inquiry in the other law
19 enforcement agency.

20 Q Now, did you, yourself, try to physically locate
21 Mr. Bloodsaw?

22 A I did, once we acquired the arrest warrants. And we
23 had learned that he had family in the Eastover area of
24 Richland County, so we started going to different spots
25 in Eastover. We went to his brother's home. We went,

DON ROBINSON DIRECT BY MR. MATHEWS

1 also, to his home and spoke to his mother. We tried to
2 find the girlfriend, couldn't find that. We went
3 through as many means as we could. We spoke to
4 citizens. We never could find a place where he was
5 residing any more.

6 Q So you couldn't find a permanent location for
7 Mr. Bloodsaw?

8 A That is correct.

9 Q So is there way you could develop information to try to
10 get a search warrant to look for the property?

11 A Well, we would like to get a search warrant, but in
12 order for us to acquire a search warrant, we have to be
13 able to document and show that he, actually, has an
14 address and is living there and the items that we would
15 be looking for were likely to be there upon our search.
16 Considering through our investigation that we never
17 could find a solid address at all for him, we couldn't
18 have a location to execute a search warrant.

19 Q Is it common for investigators in the sheriff's
20 department to share information with other
21 investigators about ongoing activities?

22 A We do it repeatedly. The way our office is laid out,
23 we're in kind of a large cubicle office area. So you
24 can even whisper and your partner next door can
25 understand every single word you're saying. So --

DON ROBINSON DIRECT BY MR. MATHEWS

1 MR. LI: Your Honor, I have a matter of law.

2 THE COURT: You have a matter of law?

3 MR. LI: Yes, sir.

4 THE COURT: All right. Thank you.

5 Madam Forelady, ladies and gentlemen of the jury,

6 if would you step out, please. Do not discuss the case

7 during the brief recess.

8 (The jury retires from the courtroom at

9 3:22 p.m.)

10 THE COURT: Yes, sir.

11 MR. LI: Your Honor, I believe that this line of

12 questioning is going to go toward the Jackson V Denno

13 hearing this morning about Officer Scott Faust

14 interviewing -- giving some sort of Miranda rights. If it's

15 not, I apologize for the interruption. If it is, I would

16 just like to bring the Court's attention to we object to any

17 reference any ongoing case with Mr. Bloodsaw, anything

18 pertaining to CSC, however they want to phrase that. The

19 only thing I'm going to object to -- the fact that they're

20 trying to get into the fact that, you know -- different

21 investigator read the Miranda rights to Mr. Bloodsaw. I'm

22 not going to object to any of that. We would just ask any

23 mention of prior case, a different investigation involving

24 Mr. Bloodsaw be excluded, Your Honor.

25 THE COURT: Solicitor?

DON ROBINSON DIRECT BY MR. MATHEWS

1 MR. MATTHEWS: No, Your Honor, that's not the line
2 of questioning that this was going down. This was more
3 towards prior to any time when he was arrested information
4 developed in the sheriff's department so that they could
5 locate Mr. Bloodsaw before he was even arrested, so.

6 THE COURT: All right. What's the information,
7 Solicitor?

8 MR. MATTHEWS: That he was selling T-shirts at the
9 Carolina football games, which is where he was, ultimately,
10 arrested a couple of weeks later.

11 THE COURT: Might be a prior bad act. Never mind.
12 You have any objections to that?

13 MR. LI: No, sir, we have no objections.

14 THE COURT: We might as well take 10 minutes,
15 somebody will be in the restroom. We'll take 10 minutes.

16 You may step down, Detective Robinson. Do in the
17 discuss the case with anyone.

18 (Whereupon, a short recess was held.)

19 THE COURT: Anything before we bring out jury,
20 Solicitor?

21 MR. MATTHEWS: No, sir.

22 THE COURT: Mr. Li?

23 MR. LI: No, sir.

24 (The jury returned to the courtroom at
25 3:39 p.m.)

DON ROBINSON DIRECT BY MR. MATHEWS

1 BAILIFF: The jury is seated, Your Honor.

2 THE COURT: Thank you. Thank you very much, Mr.

3 Bailiff.

4 Welcome back, ladies and gentlemen. We will
5 continue with the direct examination of Detective Robinson
6 by the Solicitor. Please continue to give the parties your
7 complete and undivided attention.

8 You may continue, Solicitor.

9 MR. MATTHEWS: Thank you, Your Honor.

10 BY MR. MATTHEWS:

11 Q I'll repeat my last question for clarification. Is it
12 common for investigators in the Richland County
13 Sheriff's Department to share information on ongoing
14 cases?

15 A It's very common. Like I was explaining earlier, we
16 all sit in kind of a large cubicle office style, so
17 there is direct communication constantly amongst many
18 cases going on. More of the burglar people a little
19 bit closer together, major crimes may be nearby, so
20 you're constantly getting exchange and flow of
21 information, names passing by continuously throughout
22 the day.

23 Q Did you develop any information on the location of Mr.
24 Bloodsaw, potential location?

25 A Well, I did. When I first started talking about Thomas

DON ROBINSON DIRECT BY MR. MATHEWS

1 Bloodsaw being a suspect, I had two other detectives
2 who approached me who explained to me they had saw him
3 at a Carolina football game selling T-shirts and that
4 may be a potential location.

5 Q And when was Mr. Bloodsaw finally arrested?

6 A The date of his arrest was September the 17th.

7 Q And what did of the week was that, do you know?

8 A That was on a Saturday, that was at one of the Carolina
9 football games.

10 Q And when you found out about his arrest, what did do
11 you?

12 A They notified me when he was arrested over the weekend.
13 I was out of the area and couldn't come immediately, so
14 my next plan of action was to meet with Mr. Bloodsaw on
15 Monday morning. The first Monday morning immediately
16 right afterwards, I called the detention facility where
17 he was still there. I called them and set up an
18 appointment for me to pick him up so I could take him
19 back to my office for an interview.

20 Q And so you went to the detention facility and picked
21 him up?

22 A Yes, that's correct.

23 Q And drove him to the sheriff's department?

24 A That is correct.

25 Q And can you explain to me what happened on that ride?

DON ROBINSON DIRECT BY MR. MATHEWS

- 1 A Sure. The way we handle this is the first thing we do
2 is we go pick him up, sign him out, check him out, put
3 him in our vehicle -- drive around to go to get to the
4 sally port. I put him in my car, secured him, sat him
5 in the seat, handcuffed, seat belted him in seat, then
6 I went to my seat, of course. Then I approached him as
7 I was getting ready to drive. I advised him who I was,
8 I introduced myself and explained to him the reason
9 why -- what we were doing to pick him up. At that
10 point, we do a verbal Miranda. Because we're getting
11 ready to drive, we don't have an office space.
- 12 Q Can you tell me exactly what you told him when you say
13 you gave him this verbal Miranda?
- 14 A Yes. Verbal Miranda is exactly the same. The first
15 thing I say is, you have the right to remain silent.
16 Anything you say can and will be used against you in a
17 court of law. You have a right to an attorney. If you
18 cannot afford one, one will be appointed to you by the
19 State of South Carolina. You understand the rights
20 I've read to you. And he responded, yes.
- 21 Q So in your opinion --
- 22 A And we continued travel.
- 23 Q Okay. In your opinion, you felt he understood his
24 rights as you explained them?
- 25 A Yes, that is correct.

DON ROBINSON CROSS BY MR. LI

1 Q Did he appear under the influence at the time?

2 A No, he was pretty aware and cognizant.

3 Q And so he appeared to understand what you told him?

4 A Yes, sir.

5 Q And after you put him in the car, did the two of you
6 have a conversation?

7 A Well, slightly, yes. We started leaving and as we left
8 the jail, then, you know, the inquiries started coming,
9 why are you picking me up, so on and so on. So I
10 explained to him that I'm investigating a burglary at
11 this address. Do you know anything about it? I have
12 no idea what you're talking about was the response that
13 I had received from him.

14 Q I'm going to stop you right there. Did you confront
15 him with any information or any evidence you had about
16 this burglary?

17 A I did. The closer we got back to the office, we
18 started getting into a little bit more of a detail of
19 how I acquired him as a suspect. And I explained to
20 him that we had a fingerprint match inside the
21 residence that matched him.

22 Q And what was his response to you confronting him with
23 the evidence that you had his fingerprint match in the
24 victim's house?

25 A He repeated that he did not do it. And I said well, is

DON ROBINSON CROSS BY MR. LI

1 there any legal reason why your fingerprint would be in
2 the house and his response was no.

3 Q Did you, ultimately, take him back to the detention
4 facility?

5 A Ultimately, I did, yes.

6 MR. MATTHEWS: All right.

7 Beg the Court's indulgence.

8 Thank you. I have no further questions.

9 THE COURT: Thank you, Solicitor.

10 Mr. Li?

11 MR. LI: Thank you, Your Honor.

12 CROSS-EXAMINATION

13 BY MR. LI:

14 Q Good afternoon, Investigator Robinson.

15 A Afternoon.

16 Q Very, very, very briefly. You were assigned this case,
17 roughly, 8/25/2011.

18 A Probably either -- yes, the 25th.

19 Q And at any point, did you ever get a statement from the
20 owner of the home, Mr. Kelly (indicating)?

21 A Just verbally.

22 Q Verbally. Never any written statements?

23 A No.

24 Q Never sat down and had him write down an itemized
25 list -- a new itemized list of the things that were

DON ROBINSON CROSS BY MR. LI

1 missing?

2 A We discussed all the items on the list. We didn't get
3 a -- we didn't come -- in other words, when a victim
4 files a report of burglary, it's a little bit different
5 than say a victim of an assault. A victim of an
6 assault, you would, actually, bring them into the
7 office. You would, actually, go through an interview
8 process and you would have them go through an affidavit
9 process because there's going to be identification
10 involved in the assault, typically. So it's a little
11 bit different than a burglary.

12 A burglary is you have the victim, who was,
13 actually, gone to work. They're not at home. They
14 didn't see the perpetrator. They're completely away
15 from the burglary, so you don't have that
16 identification portion that's involved. So you take
17 the report, you get their information and -- all their
18 information is listed in the report. But what we do is
19 we get their list of property stolen, which I have to
20 go through probably as much detail about the stolen
21 property so we can try and track it. For example, it
22 would be serial numbers.

23 Q Got you.

24 A Or other distinguishing features, stuff like that.

25 Q I guess my real question was, you spoke to the victim;

DON ROBINSON CROSS BY MR. LI

1 correct?

2 A Yes, sir.

3 Q And he had an opportunity to update you if anything new
4 was missing; correct?

5 A Yes.

6 Q And he didn't?

7 A Update, not add.

8 Q Not add?

9 A I believe the only thing that I had additional
10 information is I acquired the two serial numbers for
11 the guns that he did not have initially when he filed
12 the report.

13 Q Sure. No new items, no major items that he found
14 missing?

15 A No new major items, no.

16 Q No mention of ammunition; correct?

17 A No.

18 Q No mention of ammunition?

19 A I don't -- give me one second, let me make sure.

20 Q Go ahead.

21 A As far as I know, no.

22 Q All right.

23 A No.

24 Q And did you get a chance to verify any of the amounts
25 that he claimed that was value -- either his estimation

DON ROBINSON CROSS BY MR. LI

1 or Jamie Lucas's estimation?

2 A Well, the dollar amounts we don't get involved in
3 because it's -- the only way it becomes material for us
4 is if we've crossing the threshold of between less than
5 2,000 or over 2,000, which is part of one of the
6 statutory requirements.

7 Q Got you.

8 A Otherwise, the dollars that they submit on their
9 reports, that's would be used maybe with home insurance
10 purposes or some other reason.

11 Q I understand. So no new updates?

12 A Restitution, possibly.

13 Q My question is no new updates on the value; correct?

14 A That's correct.

15 Q Basically, what Jamie Lucas wrote in his report?

16 A Yes.

17 Q Which was about \$4,120?

18 A Relatively close.

19 Q Okay. And you didn't check any of the pawnshops for
20 the stolen items?

21 A Oh, we check everything. We do a -- we have clerks who
22 assist us by running through -- we have this database,
23 it's called -- it's an internet database that you can
24 search stolen property value and names of suspects or
25 by serial number or item description.

DON ROBINSON CROSS BY MR. LI

- 1 Q Sure.
- 2 A And --
- 3 Q For local barber shops?
- 4 A Did you see barber shops?
- 5 Q Uh-huh.
- 6 A It searches pawnshops.
- 7 Q Pawnshops. I'm just asking yes or no, barber shops?
- 8 A Barber shops, no.
- 9 Q Yes.
- 10 A We haven't searched any barber shops.
- 11 Q Did you interview the great aunt that lives cross the
- 12 street?
- 13 A I remember speaking to a female, but I think that was
- 14 mostly for contacting Leroy Kelly.
- 15 Q Okay.
- 16 A She hasn't been interviewed, not by me anyway.
- 17 Q As far -- you're the lead investigator, as far as you
- 18 know, the person who lives across the street has not
- 19 been interviewed?
- 20 A No. As far as I know, she was not even home and has no
- 21 relevance to the issue, but that's what I had --
- 22 Q So the answer is no?
- 23 A That's correct.
- 24 Q Okay. And you testified to something earlier as to the
- 25 -- you sent off some DNA to the lab?

DON ROBINSON CROSS BY MR. LI

- 1 A Yes, sir, the request was made.
- 2 Q The request was made?
- 3 A Yes.
- 4 Q Did you get anything back?
- 5 A No.
- 6 Q You got nothing back; correct?
- 7 A No, no profile.
- 8 Q And you answered previously that that's not abnormal;
- 9 correct?
- 10 A That's not abnormal at all.
- 11 Q Even if it was the person that lived in the house and
- 12 may have guest every -- once a month, it's normal for
- 13 it to come back negative; correct? In your experience?
- 14 A In my experience, it's a very low percentage that we
- 15 get any kind of DNA profile on most of the burglaries.
- 16 Q Okay. And the -- I guess you didn't pick up Thomas
- 17 Bloodsaw; correct, initially? You did not initially
- 18 pick up Thomas Bloodsaw; correct?
- 19 A Not from the football game, no.
- 20 Q He was at the football game -- to your knowledge, he
- 21 was at the football game selling T-shirts; correct?
- 22 A To my knowledge, yes.
- 23 Q Got picked up?
- 24 A He was picked up, arrested.
- 25 Q And you talked to him on the following?

DON ROBINSON REDIRECT BY MR. MATHEWS

1 A Monday.

2 Q Monday. Okay. And aside from those things that you
3 mentioned, his denial of any involvement or anything
4 like that, that his fingerprints should not have been
5 in the home, other than that, he didn't make any other
6 statements to you; correct?

7 A That's correct.

8 Q And when you talked to him at that point, did you
9 ascertain where he lived at that point, around the
10 November 17th time?

11 A We tried to, but we couldn't ascertain any solid
12 information.

13 Q And the hits that you put in -- the serial numbers you
14 put into the database, any hits come back?

15 A No.

16 Q Okay.

17 MR. LI: Beg the Court's indulgence.

18 THE COURT: Yes, sir.

19 BY MR. LI:

20 Q And upon your -- any followup investigation, you have
21 no more details to whether or not -- as to the time of
22 the actual burglary; correct? Other than between 7:00
23 and 6:30?

24 A Other than the range, no.

25 Q Other than the range of 7:00 in the morning to 6:30 at

DON ROBINSON REDIRECT BY MR. MATHEWS

1 night?

2 A That's correct.

3 Q No new information; correct?

4 A I can't narrow that.

5 MR. LI: No further questions, Your Honor.

6 THE COURT: Thank you, Mr. Li.

7 Redirect, Solicitor?

8 MR. MATTHEWS: Just very briefly.

9 REDIRECT EXAMINATION

10 BY MR. MATTHEWS:

11 Q I want to clarify on the swabs. You said it's
12 uncommon -- or not uncommon to not develop a profile
13 when there are swabs done in a burglary location;
14 correct?

15 A Yes.

16 Q You're not dealing with a homicide or somewhere where
17 there's blood; right?

18 A Correct. It's totally different. It's comparing
19 apples to oranges. It's different types of scenes.

20 Q Okay. Thank you.

21 MR. MATTHEWS: No further questions.

22 THE COURT: Recross?

23 MR. LI: Nothing further, Your Honor.

24 THE COURT: Thank you. Thank you very much,
25 Sergeant. You may step down.

TRISHA ODOM DIRECT BY MS. BODMAN

1 THE WITNESS: Thank you.

2 THE COURT: All right.

3 Solicitor, you may call your next witness.

4 MS. BODMAN: The State calls Trisha Odom.

5 THE COURT: Ms. Odom, will you come around and be
6 sworn, please?

7 TRISHA ODOM,
8 after having been duly sworn, testified as follows:

9 THE CLERK: Thank you. Have a seat in the witness
10 stand, please. State your name for the record.

11 THE WITNESS: Trisha Collins Odom. The spelling
12 of my last name is O-D-O-M.

13 DIRECT EXAMINATION

14 BY MS. BODMAN:

15 Q And with whom are you employed?

16 A With the Richland County Sheriff's Department.

17 Q And in what capacity?

18 A I'm the senior latent prints analyst.

19 Q Can you tell the jury about your education and training
20 the background that brings you to be a senior analyst
21 with the sheriff's department?

22 A Sure. I started out, I went to University of South
23 Carolina. I have a degree in criminal justice. After
24 that, I worked -- I was hired as a dispatcher for the
25 Forest Acres Police Department and had the opportunity

TRISHA ODOM DIRECT BY MS. BODMAN

1 to go to the police academy to become a road officer,
2 which I did. And I was a road officer with Forest
3 Acres for about four years. And at that point, I
4 applied with Richland County and was hired as a road
5 deputy. Shortly after I became a road deputy, in March
6 of 1999, I had the opportunity to interview what we
7 then called the forensics section.

8 So I interviewed for that and was placed on the
9 list. And in November of 1999, I was -- I'm sorry, in
10 December of 1999, I was promoted to be a crime scene
11 investigator, what we called forensic investigators at
12 that point.

13 During the early phases of my training, I worked
14 with another investigator. We also went to a lot of
15 offsite courses. Some of the ones that I attended that
16 sort of affect latent print area are the chemical
17 development and enhancement of latent prints, advanced
18 palm print identification school, basic fingerprint
19 training, ID tech school, forensic ridgeology course,
20 recovery of fingerprint evidence from human skin,
21 complex latent print examination. And then, of course,
22 there was the experience that I've gotten from looking
23 at fingerprints from about December of 1999 until
24 today.

25 Q And you said forensic ridgeology?

TRISHA ODOM DIRECT BY MS. BODMAN

1 A Yes.

2 Q Is that what you said?

3 A Yes.

4 Q And what is ridgeology?

5 A Ridgeology is a term that was coined by the author of a
6 book. His name is David Ashbaugh, and he was with the
7 Royal Canadian Valley Police. And Mr. Ashbaugh, he,
8 essentially, said what the rest of us knew or what the
9 rest of my predecessors knew, is that looking at
10 fingerprints is based on both the quality of the print
11 and the quantity of the information that's provided on
12 the front. And he coined the term ridgeology. He,
13 also, taught that course.

14 Q How many latent print comparisons do you think that you
15 have done in the course of your training and your
16 employment as an analyst?

17 A Thousands, possibly hundreds of thousands.

18 Q And have you had occasion to testify in courts of law
19 with regard to latent print analysis and examination?

20 A I have.

21 Q And have you been qualified as an expert in, I guess,
22 either fingerprint examination or latent print
23 analysis?

24 A Yes.

25 Q And what, specifically, do you remember that you have

TRISHA ODOM DIRECT BY MS. BODMAN

1 been qualified -- in areas that you have been
2 qualified?

3 A It's, typically, all latent print analysis or latent
4 print identification. I haven't written what name was
5 given every single time, but under the same umbrella of
6 latent print comparison.

7 Q Latent print comparison. Okay.

8 MS. BODMAN: Your Honor, at this time, I would
9 tender Trisha Odom as an expert in fingerprint latent
10 fingerprint comparison.

11 THE COURT: All right.

12 Mr. Li?

13 MR. LI: No objection, Your Honor.

14 THE COURT: All right.

15 Again, ladies and gentlemen, normally, a person
16 cannot give opinion testimony. Normally, when a person
17 testifies, they must testify as to what they saw, heard or
18 sensed by smell or something of that nature. However, there
19 is an exception when someone is qualified because of
20 education, experience or training in a particular field, art
21 science or profession. They are permitted to give their
22 opinions if the court qualifies them that way. This
23 witness, Investigator Trisha Odom, will be qualified as an
24 expert in the field latent print analysis, identification
25 and comparison. She would be authorized to give opinion

TRISHA ODOM DIRECT BY MS. BODMAN

1 testimony in that regard. That does not that you must
2 accept the opinion, but it is evidence that you, the jury,
3 can use in any way you deem appropriate. Thank you.

4 Solicitor, you may continue.

5 MS. BODMAN: Thank you.

6 BY MS. BODMAN:

7 Q I believe you've been present during Diane Bodie's
8 testimony and her explanation, description of the ACE-V
9 methodology, scientific methodology comparison. Do you
10 agree with her explanation or disagree?

11 A I do agree. I would like just to point out that the
12 way this is kind of listed right here, it almost
13 appears as if I don't do an analysis when I receive it.
14 I do. When I do a comparison, I go through that
15 entire -- all those steps. I do my own analysis of the
16 fingerprint, my own analysis of the ten print card
17 because I'm the one whose name is going to go on that
18 report.

19 Q So each step, basically, encompasses also the previous
20 step in ACE-V?

21 A I'm not sure I understand.

22 Q When you're down to comparison, you're including
23 analysis?

24 A Right.

25 Q When you're down to evaluate, you're doing analysis and

TRISHA ODOM DIRECT BY MS. BODMAN

1 comparison?

2 A Right. Right.

3 Q And then any verification includes analysis, comparison
4 and evaluating?

5 A Right. And the only thing the original analyst does
6 not do is, clearly, we don't do our own verifications.

7 Q You're going to give that to somebody else to verify?

8 A Right.

9 Q Okay. Okay. So in this particular case with Thomas
10 Bloodsaw, tell us what your participation was, what
11 evidence came to you and at what stage?

12 A Okay. At that point, all of our latent prints were
13 being -- whether they were submitted by our line units
14 or whether they were being submitted by our crime scene
15 investigators, we had two dropboxes that they would
16 drop them in to be submitted to be admitted into our
17 evidence database. At the point, I was the one who was
18 collecting them 99 percent of the time.

19 In this case, what I did was I got the latent
20 prints. I determined -- I opened up the envelope after
21 I had input it into our evidence database and
22 determined that there was enough friction ridge detail
23 on that card that merited being submitted to AFIS.

24 And what I mean by the friction ridge -- I don't
25 know if anybody's really touched on this, but if you

TRISHA ODOM DIRECT BY MS. BODMAN

1 look at your hand, every surface on the palmar -- every
2 area on the palmar surface of your hand is covered with
3 these little ridges. They're called friction ridges.
4 And what they do is they help you grip. That's exactly
5 what they're for. If your hand gets a little bit wet
6 or it starts sweating like you saw that picture of,
7 when you press on objects to pick it up, those ridges
8 keep the item from sliding out of your hand. That's
9 their function. They also have the function of being
10 able to identify people.

11 Q And so I'm looking at State's Exhibit 10. And I guess
12 the cards therein, do you recognize those latent print
13 cards?

14 A I do.

15 Q So are you the one then -- we have a description from
16 Diane about one's called L-1 and one's called L-2.

17 A That's right.

18 Q And the on each of those, L-1 and L-2, are numbers
19 identify, I guess, the different impressions?

20 A Right. The card itself is labeled as latent one,
21 latent two. And each friction ridge image that we see
22 on here is going to be sublabeled as -- with a number,
23 subnumber, point one, point two, point three in this
24 case.

25 Q Okay. So did you do that number labeling or Diane did

TRISHA ODOM DIRECT BY MS. BODMAN

1 that number labeling?

2 A I did that.

3 Q Okay. And then after labeling that, are you the one

4 that makes the determination of this one looks like

5 it's good enough to go into AFIS?

6 A Right, at the point, I was, yes.

7 Q Okay. And so how many different -- let's look at L-1.

8 How many different impressions did you note on L-1?

9 A Three.

10 Q Okay. So there's a L-1.1, L-1.2, and L-1.3?

11 A That's correct.

12 Q So what was your findings with regard to L-1.1?

13 A L-1.1 was of no value.

14 Q Okay. Meaning?

15 A There's nothing I could do with it. There -- if I had

16 a fingerprint card that was the same person and I

17 looked at it, I wouldn't be able to make a

18 determination because there's just not enough friction

19 ridge detail in there for me to even begin trying to

20 make a comparison.

21 Q Okay. L-1.2?

22 A Right. That was also of no value.

23 Q Okay. And then L-1.3?

24 A Was made by the same source as the number three, which

25 is your right middle finger, as Thomas Bloodsaw.

TRISHA ODOM DIRECT BY MS. BODMAN

- 1 Q Okay. But L-1.3, I guess, is the one that -- is that
2 the one that you say can be submitted into AFIS?
- 3 A That is why I -- when I saw that one, that is why I
4 went ahead and forwarded the packet on to Diane to be
5 entered into AFIS.
- 6 Q Okay. So at this point, you don't -- you haven't
7 identified that as Thomas Bloodsaw?
- 8 A Right.
- 9 Q That, ultimately, was your conclusion?
- 10 A Right.
- 11 Q Okay.
- 12 A Right. Right.
- 13 Q And then looking at L-2?
- 14 A Okay.
- 15 Q What -- how many impressions did you see on that?
- 16 A There are three impressions that are subnumbered.
- 17 Q All right. And let's go through that. L-2.1, what was
18 your conclusion about 2.1?
- 19 A Are we referring to prior to it being submitted to AFIS
20 or you want my ultimate results?
- 21 Q I guess let's just stick with AFIS. Like what was your
22 conclusion anything about AFIS?
- 23 A When I was the one receiving the evidence and I was the
24 one making the determination of whether or not it was
25 being submitted to AFIS, what I would do is I would

TRISHA ODOM DIRECT BY MS. BODMAN

1 find a single print. If I found a single print that
2 was suitable to be submitted to AFIS, I would then send
3 the entire packet to the AFIS operator and she would
4 make the determination of which ones to submit. So
5 once I saw that one print that was good, I said forward
6 it.

7 Q So you at this point don't really do an examination of
8 L-2?

9 A That's correct.

10 Q Because you've identified one on L-1 --

11 A Right.

12 Q -- that's good for AFIS?

13 A Right. I may have looked at them, but I didn't make
14 any determination as to whether or not they were going
15 to be identified.

16 Q Some was, also, good enough to be put into AFIS or
17 anything --

18 A Probably, but I don't remember that.

19 Q Okay. So where do you send these cards?

20 A They are given -- what we do is we seal them up, all of
21 the cards that are submitted, in one envelope together,
22 in this envelope together. Even if there are some that
23 have absolutely nothing on them at all, except maybe
24 some dust that was picked up, we still send everything
25 in the same envelope. We seal it up, send it on to the

TRISHA ODOM DIRECT BY MS. BODMAN

1 AFIS operator and document this in our case management
2 database.

3 Q Okay. And did you send these on to Diane Bodie?

4 A I did.

5 Q Okay. And what was your next involvement with regard
6 to the evidence?

7 A She notified me that there was a potential hit on one
8 of the latent prints.

9 Q Uh-huh.

10 A And then we followed that same process of sealing the
11 items up and then she transferred them -- or I,
12 actually, did the transfer from her to myself in -- our
13 case management database is called ASIS. And in our
14 ASIS database, I did the transfer.

15 Q Okay. And so then what happens next?

16 A At that point, what I would do is take that ten print
17 card that she would also hand to me and start doing the
18 analysis, comparison and evaluation of what I found
19 there and determine whether or not I believe that a
20 match is present. And in this case, at this point, we
21 were doing everything that we had on the cards. We
22 would make a determination about all of the latent
23 prints, not just the one that we got the potential AFIS
24 hit on.

25 Q So at this stage, you were examining both L-1 and L-2?

TRISHA ODOM DIRECT BY MS. BODMAN

1 A Right.

2 Q Okay. You've already testified that on L-1 you matched
3 it to the ten print card of Thomas Bloodsaw, the L-1.3?

4 A That's correct.

5 Q Okay. And so what about L-2?

6 A On L-2, the three subnumbers -- L-2.1, I found was made
7 by the same source as the number four, which is the
8 right ring finger of Thomas Bloodsaw. L-2.2 was made
9 by the same source as the number five, which is the
10 right little finger of Thomas Bloodsaw. And 2.3 was of
11 no value.

12 Q And so at this point in your ACE-V process, did you
13 formulate an opinion as to a reasonable degree of
14 scientific certainty as to whose print, the latent
15 prints belonged to?

16 A I know they belong to Thomas Bloodsaw.

17 Q Okay. And so at this point, what do you do?

18 A At that point, I gave -- I sealed it back up in the
19 package and gave it, in this case, to -- back to
20 Ms. Bodie to do the verification on. We have several
21 other analysts that are eligible to do verifications,
22 but in this case, I did give it back to Ms. Bodie.

23 Q Is it a violation of any type of standard to have
24 verification done by someone who did analysis?

25 A No.

TRISHA ODOM DIRECT BY MS. BODMAN

1 Q Okay. Talk to us a little bit about the lab, the
2 Richland County Sheriff's Department lab. Is it
3 accredited?

4 A Yes. We are accredited through the American Society of
5 Crime Lab Directors, which is a fairly prestigious
6 accreditation. We went through a lot of changes, a lot
7 of training, a lot of documentation changes just to be
8 able to pass their inspections. We, also, have an
9 onsite inspection every year to make sure that we are
10 following what our protocol says we have. We have a
11 written protocol for each of our different sections of
12 the forensic lab, which encompasses drug ID and
13 encompasses ballistics and encompasses the DNA, trace,
14 fire debris, all of those things. And each one of
15 those sections has to have a protocol manual.

16 And when we had our initial inspection to be given
17 the ASCLAD accreditation, what they do is they come is
18 they take your huge protocol manual and your training
19 manual and they look through it and they determine
20 whether or not they agree with or if they feel like the
21 standards of your protocol manual are high enough. If
22 they're not, you have a certain amount of time to
23 correct them. And then if you show that you've
24 corrected them over a period of time, they will then
25 grant you the accreditation.

TRISHA ODOM DIRECT BY MS. BODMAN

1 Now, we, also, have an onsite visit every single
2 year where they do a spot check, essentially, to make
3 sure that we're still doing what we're supposed to be
4 doing. They'll come up with changes as far as well, we
5 thought that was okay then, but this is more correct or
6 more direct. So we'll have to change the way we do
7 things then as well.

8 It was very arduous going through that,
9 especially, really starting from scratch as far as
10 protocols and trying to figure out the proper way to
11 document things so that they would fall under ASCLAD's
12 umbrella. And it's a really good accreditation to
13 have. We are required every year -- in fact, each
14 discipline is required every year to complete a
15 proficiency test to make sure that we are still up to
16 snuff as far as skills and our methodology with
17 whatever field that we're in.

18 Q And that's each individual analyst, each person?

19 A That's correct.

20 Q Is required to undergo proficiency examinations?

21 A Right.

22 Q And has the sheriff's department maintained its
23 accreditation?

24 A Oh, yes.

25 Q Okay. Did you have occasion, then, to, also, compare a

TRISHA ODOM DIRECT BY MS. BODMAN

- 1 known print card from the Defendant that was gotten by
2 Sergeant Stan Richards?
- 3 A Yes, I did.
- 4 Q Okay. And this is in State's Exhibit 13?
- 5 A Yes.
- 6 Q Okay. And so I guess the information that's in AFIS,
7 it is a database; correct?
- 8 A Yes.
- 9 Q And the database is a tool?
- 10 A That's correct.
- 11 Q Okay. And what does this -- getting the actual known
12 print card from a person that eye-balled this Defendant
13 rolling his prints on this card, what does that do?
- 14 A It just -- it is kind of a backup to say that we are
15 100 percent sure that the person that was arrested was
16 the person that we matched the fingerprints to.
- 17 Q Okay. Matched the prints from AFIS?
- 18 A That's correct.
- 19 Q Okay.
- 20 A What we did was since each individual print is
21 individual and -- so what we did is we took one of the
22 fingers and did a comparison with the fingerprint card
23 that we received from the AFIS database and compared it
24 to the same finger position for the inked print card.
25 And we determined that they were the same, so they're

TRISHA ODOM DIRECT BY MS. BODMAN

1 the same person.

2 Q So when you earlier said that you matched the latent to
3 Thomas Bloodsaw, to the ten print from AFIS that was
4 represented as Thomas Bloodsaw, it was, in fact, Thomas
5 Bloodsaw?

6 A Correct. We were able to determine that by the
7 comparison with the inked card.

8 Q Okay. And after doing that comparison, what did you do
9 with that card in the evidence at that point?

10 A All of it was returned to -- let me stop myself and go
11 back just a little bit. We sort of changed up the way
12 we did things about a year and a few months ago,
13 whereas I am no longer receiving the latent prints. So
14 when we received the latent prints, I was the one who
15 kept them. They were kept secure in my office in a
16 locked storage drawer. But since then, everything that
17 was in my custody was transferred down to our secured
18 evidence facility. So those were in December -- I'm
19 sorry, in February of last year, these were moved down
20 to our evidence facility. And these were returned back
21 to the evidence facility where they were originally
22 submitted.

23 Q Prior to that, was there a verification procedure with
24 regard to the prints that Stan Richards rolled? After
25 you did a comparison?

TRISHA ODOM DIRECT BY MS. BODMAN

1 A Uh-huh.

2 Q Did anybody verify that comparison?

3 A Oh, yes, ma'am, Diane Bodie did.

4 Q Okay. In preparation for your testimony, did you
5 prepare a diagram, I guess, both on PowerPoint and,
6 also, we have a blow-up of this known versus the latent
7 print, the known print from Thomas Bloodsaw and the
8 latent?

9 A I did.

10 Q Okay. And would that help you be able to describe or
11 tell the jury about your comparison and what you
12 observed?

13 A Sure.

14 Q Okay.

15 MS. BODMAN: If I can have the witness step down
16 to the screen.

17 THE COURT: Yes, ma'am.

18 You may step down.

19 BY MS. BODMAN:

20 Q If you can tell the jury then what it is we're looking
21 at?

22 A Okay. This is the way I always work. I always put my
23 latent print on the left and my known print on the
24 right. It's just the way that I work. It doesn't make
25 it right or wrong for anybody else to do it

TRISHA ODOM DIRECT BY MS. BODMAN

1 differently.

2 In this case, this is L-1.3, as you can see right
3 there, the latent print that Investigator Schroder
4 submitted from the crime scene. And this is
5 Mr. Bloodsaw's number three finger from the known
6 fingerprint card.

7 Q Okay. So walk us through what the yellow dots are on
8 the two cards?

9 A Okay. What I did with the yellow dots is I just marked
10 a few points of the minutia points that Ms. Bodie was
11 talking about, the bifurcations or the bife ridges, as
12 she referred to them, and ending edges. I didn't have
13 any dots in this particular latent print.

14 But what I did -- and just to give you an idea of
15 how we start, we try to look for something that stands
16 out, what stands out to you. Now, we're really lucky
17 in this print right here as we have that center of the
18 print, the core right here. And you can see that it's
19 going to be an arch pattern. Okay. See how it comes
20 out here (indicating), the ridges flow down right here,
21 exactly how they do right there. As a matter of fact,
22 if you look at these three ridges right there, they
23 almost look like a cat scratch or like if you were
24 raking through sand or something like that. And so
25 that's something that catches the eye. You think,

TRISHA ODOM DIRECT BY MS. BODMAN

1 okay, not only do we have an arch pattern. So we've
2 met that threshold. We've met that -- we've gotten the
3 same arch pattern.

4 And we have this really interesting feature right
5 here. We have one that's a bifurcation and then just
6 up from that, we have another bifurcation. And if you
7 back up just a little bit right here (indicating), what
8 you're going to see is either an ending ridge or a
9 bifurcation. It gets cut off a little bit right here,
10 but it's that feature right there (indicating). And if
11 you go down just a few ridges, you have an intervening
12 ridge right here and then you have a bifurcation right
13 here, which is what you have right there (indicating).
14 And there's your intervening ridge right there.

15 Can y'all see that?

16 (Jurors responded in the affirmative.)

17 A So you have that. And then you're going to move
18 upwards. And then you go -- you count ridges and you
19 look at features and you look how those features are
20 shaped. Like I said, you have this really interesting
21 kind of raking pattern that you look at there to begin
22 with. And I think Ms. Bodie was trying to talk about
23 how you have bifurcations, but they're not all the
24 same.

25 I'm going to step over here for just a second.

TRISHA ODOM DIRECT BY MS. BODMAN

1 You see this one right here? You see how narrow the
2 distance between the ridges is? That is clearly
3 different than that ridge right there. And this one is
4 even thinner than that one. And that's what she means
5 by trying to look at the individual characteristics.
6 Yeah, it's a bifurcation. Yeah, there are lots of
7 bifurcations out there, but there's not another
8 bifurcation like that (indicating) and there's not one
9 on this whole print. You can, actually, see on this
10 one, you can see the little white dots right there
11 (indicating). Those are the pores that are on the
12 ridges. And you saw that really interesting graphic
13 with the fingerprint that has the sweat coming out of
14 the pores. Those pores, that's what those are right
15 there. And how those are -- I mean, you can see,
16 they're not all the same on this ridge. I, certainly,
17 can't find two that look exactly the same or their
18 placement exactly.

19 We, also, have these really interesting clusters
20 of pores. I'm sorry, I'm going to step back over here.
21 I'm sorry. You see like, for example, right here
22 (indicating), right under this, you see this kind of
23 area right there (indicating), that's a pore cluster
24 right there (indicating). And then under that one, we
25 have this other kind of open area. It's a pore cluster

TRISHA ODOM DIRECT BY MS. BODMAN

1 right there. And then under that one, you'll have that
2 kind of area and there's your pore cluster right there.

3 And taking all these things put together, looking
4 at the way the ridges flow -- you see how this ridge
5 flows right here (indicating)? It kind of has a really
6 nice arc. Look right there (indicating), what do you
7 see right there (indicating)? And that's how we do it,
8 that's how we're looking at it. We go back and forth
9 until we determine that a particular source made a
10 fingerprint. And that's what I did in this case.

11 Q And as you said, it is the -- you're using the totality
12 of the relationship of these --

13 A Right.

14 Q -- to each other to call it a match?

15 A Right.

16 Q And how certain are you that this latent print 1.3 is,
17 in fact, Thomas Bloodsaw?

18 A I know it's Thomas Bloodsaw.

19 (State's Exhibit No. 17 was marked for
20 identification.)

21 BY MS. BODMAN:

22 Q I'm going to show you what I have marked as State's
23 Exhibit 17 and ask you if you recognize that?

24 A I do.

25 Q And is this what we just showed on the PowerPoint?

TRISHA ODOM DIRECT BY MS. BODMAN

1 A It's a version of it. There are four minutia points
2 that are not marked on this chart that were present on
3 that display.

4 Q And why is that?

5 A To give the jury an opportunity to look for them
6 themselves.

7 Q Because, I guess, the dots kind of hide what it is that
8 you --

9 A It can.

10 Q -- have found?

11 A Yeah.

12 Q But do you recommend that a layperson without your
13 experience, without Diane Bodie's experience attempt to
14 make some type of conclusion themselves?

15 A No. I can clearly remember after having looked at
16 fingerprints and having gone to a couple of fingerprint
17 schools not particularly liking them and then one day,
18 the light flipped on. One day, you know, after you
19 look at them enough, you can really start seeing the
20 minutia points. I guess the danger is that you don't
21 want to make a determination without having the
22 training and experience. I wouldn't want an untrained
23 doctor working on me.

24 Q And that is why part of your -- much of accreditation
25 is to have proficiency, is to have training?

TRISHA ODOM DIRECT BY MS. BODMAN

1 A That's correct.

2 Q Okay. There was a report that was mentioned by Mr. Li
3 to Diane Bodie that was made by the NAS, I believe?

4 A Yes, ma'am.

5 Q Okay. You are aware of that report?

6 A I am.

7 Q Okay. And the International Association of
8 Identification?

9 A For identification.

10 Q For identification. So IAI? /

11 A I.

12 Q What association or governing body are they?

13 A They're not strictly speaking of governing body. It's
14 an association of people who are professional forensic
15 people.

16 Q Okay.

17 A You can -- it's -- if you do anything within the field,
18 you can join. But it's the big organization, the
19 parent body. A lot of states have a local chapter and
20 we do, too. And we're all members of the local chapter
21 and of the international chapter or the parent body.
22 And it's just -- that's sort of where you look to for
23 your standards. What's the best way to do things.
24 They have a website that's got a lot of current
25 research and a lot of the current literature. They put

TRISHA ODOM DIRECT BY MS. BODMAN

1 out a journal every month -- or, I'm sorry, I think
2 it's a quarter or every two months that discusses
3 research that different people in the field have done
4 to allow all of the folks who are members to keep up
5 with the current studies.

6 Q Is it a generally recognized and accepted association
7 in the field of forensic interview -- or forensic
8 analysts?

9 A It is. I mean, that's the big organization for people
10 in forensics.

11 Q Are you aware of any response that they had to the
12 article that was put out by the NAS?

13 A They did. The -- they wrote a letter to the members of
14 the organization and also put out a statement that,
15 essentially, said that we agree with lot of things that
16 you're saying. I mean, the report that the NAS put
17 out, it wasn't just about fingerprints. It was about
18 all forensics. It was about DNA. It was about all the
19 state of forensics, that's what it's about. And the
20 IAI, essentially, said we agree with you on a lot of
21 things you're suggesting about the standardized
22 training and certification and things like that, but we
23 disagree that the ACE-V is not an accepted methodology.
24 So the actual -- so the parent group said you're kind
25 of off the mark there.

TRISHA ODOM CROSS BY MR. LI

1 Q Okay. And was there any kind of attack by the NAS on
2 the science of fingerprints itself, that they are, in
3 fact, unique and --

4 A I didn't see that. What I saw was, possibly,
5 questioning the execution of ACE-V.

6 Q And the execution means specifically what?

7 A How you do it. ACE-V, it's like having a recipe. If
8 you follow the recipe, as long as you're trained in a
9 certain way, you can reach that same result. They're
10 not saying, I don't believe -- or, at least, the IAI's
11 belief is not that ACE-V is bad, but you can -- you can
12 have the equation and still mess up the answer. So you
13 can follow all of these steps, but if you're not
14 trained, if you're not competent, if you don't have
15 some experience, then there's a chance that you could
16 mess this up. And if you don't have that experience
17 and that training, then following this 500 times may
18 lead you to 500 different answers.

19 Q So not having the proper training is what leads to the
20 human error?

21 A Right.

22 MS. BODMAN: I would offer into evidence Exhibit

23 17.

24 MR. LI: No objection, Your Honor.

25 THE COURT: All right. State's 17 is in evidence

TRISHA ODOM CROSS BY MR. LI

1 without objection.

2 (State's Exhibit No. 17 was admitted

3 into evidence.)

4 MS. BODMAN: And I have no further questions at

5 this time.

6 THE COURT: Thank you, Solicitor.

7 Mr. Li?

8 CROSS-EXAMINATION

9 BY MR. LI:

10 Q Good afternoon.

11 A Good afternoon.

12 Q I'm going to start off -- Investigator Odom, I'm going

13 to start off the same way I started off with Diane

14 Bodie. You said there was 100 percent confidence;

15 correct?

16 A Yes.

17 Q Okay. But in your own ACE-V system, you have yourself

18 being verified; correct?

19 A Right.

20 Q But you wouldn't need to verify something if you knew

21 it was 100 percent; correct?

22 A No, I don't -- I think that's a little short-sighted.

23 I'm a hundred percent and so, I'm going to make sure

24 that somebody checks behind me.

25 Q Okay. So you're a hundred sure?

TRISHA ODOM CROSS BY MR. LI

- 1 A Right.
- 2 Q And you want to make -- so you have it verified again;
- 3 correct?
- 4 A I have --
- 5 Q You have it verified the first time?
- 6 A Right. I have a second set of eyes verify my findings.
- 7 Q And then she's a hundred percent, too?
- 8 A Yes.
- 9 Q So 200 percents equals a real 100 percent; correct?
- 10 A No.
- 11 Q In your system, in your system, you're a hundred
- 12 percent. You get it verified, it's a hundred percent.
- 13 Now, it's a hundred percent?
- 14 A No.
- 15 Q No. Okay, I'm sorry. Explain.
- 16 A She's a hundred percent sure of her results, I am a
- 17 hundred percent sure of my results. It's still the
- 18 same hundred percent.
- 19 Q I understand. But for the ACE-V system, one
- 20 verification is all you need; correct?
- 21 A For ACE-V, it requires a verification. You can have
- 22 more people look at it. You can have as many people as
- 23 you want look at it.
- 24 Q That's right. But ACE-V -- the ACE-V, in general,
- 25 calls for one verification; correct?

TRISHA ODOM CROSS BY MR. LI

- 1 A It calls for verification. It does not specify how
2 many.
- 3 Q Let me rephrase. It calls for, at least, one
4 verification?
- 5 A Yes.
- 6 Q Okay. And at that point -- and then when they verify
7 this, there's a possibility that the first person was
8 incorrect; correct?
- 9 A No. I mean, it's a double check, yes, but I would not
10 call something that I wasn't 100 percent sure. This is
11 a methodology and I know what I know.
- 12 Q Okay. Fair enough. And in this case, specifically, to
13 this case, you were handed an analysis -- you're handed
14 something -- you're handed some stuff from Investigator
15 Bodie; correct?
- 16 A That's correct.
- 17 Q So she handed you a latent print and a known print from
18 ACE-V; correct?
- 19 A That's correct.
- 20 Q And you compared it and you -- in fact, this comparison
21 step involves reanalysis and procedure; correct?
- 22 A I'm sorry, let me go back and correct something.
- 23 Q Okay.
- 24 A I think you meant AFIS.
- 25 Q AFIS. No, no, no, I'm saying in your comparison part,

TRISHA ODOM CROSS BY MR. LI

- 1 you have to go back and do the analysis part and
2 comparison part --
- 3 A Right.
- 4 Q -- because you said within each step, there is also the
5 ACE-V --
- 6 A You said -- you said when you got this from ACE-V, and
7 I think you meant AFIS.
- 8 Q Yes. Well, when you got the information from Diane
9 Bodie?
- 10 A Right, from AFIS.
- 11 Q From AFIS?
- 12 A That's right.
- 13 Q And then she handed it to you?
- 14 A By a chain of command, obviously.
- 15 Q Right, right. And she, at that point, has done some
16 analysis on it already; correct?
- 17 A She has.
- 18 Q She has. So she has made some sort of determination
19 already -- she has made a determination already and
20 then handed it to you; correct?
- 21 A She has made the determination that it bears looking at
22 some more.
- 23 Q Okay.
- 24 A It's sort of along the lines of a -- like a Crime
25 Stoppers tip. I mean, it's just a place to start.

TRISHA ODOM CROSS BY MR. LI

- 1 There's no guarantee when I receive an AFIS that it's
2 going to be a match. That's why I have to look at it,
3 you know, from the actual evidence onto the known print
4 card.
- 5 Q And at the end of this process here, you gave it back
6 to Diane Bodie to verify?
- 7 A In the case, yes, I did.
- 8 Q So in this case, it originated from Diane Bodie, went
9 to you?
- 10 A (The witness nodded head.)
- 11 Q Went back to Diane Bodie?
- 12 A Yes.
- 13 Q So you verified -- she verified her own initial
14 information that she gave to you?
- 15 A No, she verified my findings.
- 16 Q Okay. She verified your findings of the initial
17 information that she initially gave you?
- 18 A She verified my findings of the tip she gave me.
- 19 Q Okay. That she did give you?
- 20 A Right.
- 21 Q Okay. Fair enough. And this -- I'm going to be very
22 brief here. I'm going to show you State's Exhibit 17.
23 I know on the display here that there are more dots,
24 but first, let me ask you, these dots were put on here
25 in preparation for trial; correct?

TRISHA ODOM CROSS BY MR. LI

1 A That's correct.

2 Q Never before had there been little dots on this thing?

3 On the original latent print, on the original known

4 print, never before were there little dots?

5 A No.

6 Q Now, this section right here (indicating) of the latent

7 print missing; correct?

8 A That's right.

9 Q Okay. And you have matched -- you've claimed to match

10 X number of points here with X number of points here;

11 correct?

12 A Right. Those were minutia points.

13 Q Now, if there were points on the part that's not in the

14 latent side?

15 A Uh-huh.

16 Q Okay. And there was a point here, there's some sort of

17 characteristic -- and I'm not trying to get into the

18 details -- I mean, I'm not trying to get into

19 technicalities.

20 A Right.

21 Q Including the relativity, all of the stuff that y'all

22 mentioned, okay?

23 A (The witness nodded head.)

24 Q If y'all had some sort of characteristic on this part

25 right here (indicating) that did not match over here,

TRISHA ODOM CROSS BY MR. LI

1 you'd have to call it not matched; correct?

2 A But it wouldn't happen.

3 Q I'm just saying if?

4 A But there is no if because it wouldn't happen that way.

5 If that much was in common, the ridge flow, the minutia

6 points, the placement of the pores, how the minutia

7 points are in relation to one another, there's not

8 going to be one that doesn't match over here.

9 Q Because there's so many that's matched over here;
10 correct?

11 A Because it's the same print.

12 Q Okay. Because -- you've determined that's the same
13 print because there are already so many dots over here
14 that match over here (indicating), in your mind, you've
15 already said well, these two match, so, therefore,
16 you're testifying they match. Whatever's over here
17 that's not here now will match this because you have
18 already determined it to be a match because of your
19 determination that these dots match up; correct?

20 A Not specifically because the dots match up, but, also,
21 because --

22 Q All the stuff?

23 A -- I understand the way that fingerprints develop and
24 why they are both unique and permanent.

25 Q Correct. So if there was something over here -- I know

TRISHA ODOM CROSS BY MR. LI

- 1 you're saying there's not, okay. If there was
2 something over here -- and you're saying there's not.
3 If there was, you would have to say it was not a match;
4 correct?
- 5 A But there is no if.
- 6 Q Okay.
- 7 A I know what you're trying to get me to say, but there
8 is no if.
- 9 Q Fair enough. Let's say you don't have these bottom
10 five dots; correct?
- 11 A Uh-huh.
- 12 Q And you don't have these bottom five dots over here?
- 13 A Uh-huh.
- 14 Q And you only have the top -- one, two, three, four, and
15 you only have the top five dots?
- 16 A Uh-huh.
- 17 Q Now, if you don't have this section and you don't have
18 these five, you would say well, I don't need this
19 bottom over here because I don't need this bottom
20 section over here because I've got five dots up top.
21 I've got five dots over here (indicating), so there's
22 no way -- I've called it a match already. There's no
23 way those five dots matter because, you know what, I've
24 got five dots over there that match already; correct?
- 25 A Well, I wouldn't say that because I have all of those.

TRISHA ODOM CROSS BY MR. LI

1 I have all of that -- all of those minutia points and I
2 have all of those ridges. So for me to go back and say
3 what I would say in that case -- in the case if there
4 were only five minutia points, I might not even send it
5 to AFIS.

6 Q So it just so happened that this case has the magic
7 number of dots necessary to say --

8 A It has the quality and the quantity to be able to
9 determine that the latent print on the left was made by
10 the same source as the known print on the right.

11 Q This comparison has the quality and quantity, those
12 were your words; correct?

13 A Yes.

14 Q Okay. So if the bottom half up here was not -- if you
15 had a print -- if you had a latent print that only had
16 the top half of this and a latent print -- yeah, a
17 latent print that only had the top half of this and you
18 matched these five dots up here with -- you matched the
19 quality and quantity of the characteristics of the top
20 portion of those, you would say that you don't need the
21 bottom; correct?

22 A I don't know what I would say because that wasn't the
23 situation.

24 Q Okay. So, basically, you're saying that unidentified
25 -- the part that's missing, there's no way there could

TRISHA ODOM CROSS BY MR. LI

1 be characteristics or quality or any characteristics on
2 that missing side because you've determined it to be a
3 match already based on what you already have; correct?

4 A There might be characteristics in that missing area --
5 as a matter of fact, looking at the known print, we
6 know that there are characteristics in that missing
7 area, but because we know that that latent was made by
8 Thomas Bloodsaw, we know that any kind of
9 characteristic that are on that known print --

10 Q Will match?

11 A -- if we had that whole finger --

12 Q Uh-huh.

13 A -- that whole latent, that nail to nail latent, they
14 would have the very same characteristics.

15 Q Fair enough. And your aware of the -- case of the --
16 bomber case?

17 A I am.

18 Q Okay. And you're aware that in that case, the FBI
19 analyst matched 50 points --

20 MS. BODMAN: Your Honor, I object to any other
21 cases and what happened in any other cases.

22 THE COURT: Sustained.

23 BY MR. LI:

24 Q You're aware that there's human error?

25 A Certainly.

TRISHA ODOM CROSS BY MR. LI

1 Q Certainly. But here, you testified that there is no
2 human -- basically, once you've been trained, no more
3 human error; correct?

4 A No, I didn't say there wasn't human error.

5 Q You said if you're properly trained, you would exclude
6 human error?

7 A No, I didn't say that.

8 Q I'm sorry.

9 A What I said, if you were properly trained, you would be
10 able to come to the same conclusion that I came to.
11 Two properly trained analysts should be able to come to
12 the same conclusion, whatever that conclusion is.

13 Q Okay.

14 MR. LI: Beg the Court's indulgence.

15 THE COURT: Certainly.

16 BY MR. LI:

17 Q And, again, through your analysis of fingerprints, no
18 time table as to when the latent prints were matched,
19 when they were put on -- when they were given to you;
20 correct?

21 A I'm sorry.

22 Q When the latent prints were, actually, placed on the
23 crime scene, through your analysis, no indication of
24 any --

25 A No. There's no reliable way to age fingerprints.

TRISHA ODOM CROSS BY MR. LI

1 Q Thank you.

2 MR. LI: No further questions, Your Honor.

3 THE COURT: Thank you, Mr. Li.

4 Solicitor?

5 MS. BODMAN: No further questions, Your Honor.

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

7 Officer Odom, you may step down.

8 All right. Solicitor, you may call your next

9 witness.

10 MS. BODMAN: Beg the Court's indulgence for just
11 one moment.

12 THE COURT: Yes, ma'am.

13 MS. BODMAN: Your Honor, at this time, the State
14 of South Carolina rest its case.

15 THE COURT: Thank you. Thank you, Solicitor.

16 You have motions, Mr. Li?

17 MR. LI: Yes, Your Honor.

18 THE COURT: All right.

19 Madam Forelady, ladies and gentlemen of the jury,
20 if you would step momentarily to your jury room. Do not
21 discuss the case during this brief recess.

22 (The jury retires from the courtroom at
23 4:38 p.m.)

24 THE COURT: All right. Mr. Li?

25 MR. LI: Thank you, Your Honor. At this time, the

TRISHA ODOM CROSS BY MR. LI

1 Defense makes a motion for directed verdict. We believe
2 that the State has failed to prove any -- show any sort of
3 intent within the home. Your Honor, they have fingerprints
4 that may or may not match. Your Honor, we ask for directed
5 verdict based on they haven't show any sort of intent. They
6 have not shown that Mr. Bloodsaw was the one that committed
7 any larceny.

8 THE COURT: All right. Thank you. Thank you,
9 Mr. Li.

10 Solicitor?

11 MS. BODMAN: In the light most favorable to the
12 State, Your Honor, we have shown that there was an entry
13 into this home, dwelling, Mr. Kelly's dwelling, without
14 consent, that items were stolen from his home. He listed
15 all those items, computer, guns, which make this a
16 first-degree burglary. And we've located a print inside the
17 file cabinet that belongs to the Defendant. The victim
18 doesn't know him. He's never given him permission to be in
19 his home. In the light most favorable to the State, we have
20 proven it.

21 THE COURT: All right. Thank you, Solicitor.
22 I would respectfully deny your motion for directed
23 verdict, Mr. Li, I think in the light most favorable to the
24 nonmoving party.

25 MR. LI: Thank you, Your Honor.

THOMAS BLOODSAW RIGHT TO TESTIFY

1 THE COURT: All right. Mr. Li, do you want me to
2 interview your client as to his right to testify or not to
3 testify?

4 MR. LI: Yes, sir.

5 THE COURT: All right. Come around to the
6 microphone, please, Mr. Bloodsaw.

7 THEREUPON,

8 THOMAS BLOODSAW,
9 after having been duly sworn, testified as follows:

10 THE COURT: Mr. Bloodsaw, I go over these rights
11 with everyone who is on trial. I always require their
12 responses to be under oath. That's why I had the Clerk
13 place you under oath. Do you understand?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: Hold are you, sir?

16 THE DEFENDANT: Twenty-one.

17 THE COURT: How much education do you have?

18 THE DEFENDANT: GED and some college.

19 THE COURT: GED and what?

20 THE DEFENDANT: -- Midlands Tech.

21 THE COURT: All right. We have now reached the
22 stage of the trial where you heard the State has rested.
23 And your side, the Defense, now has the opportunity to
24 present evidence for the jury to consider. Do you
25 understand where we're at in the trial?

THOMAS BLOODSAW RIGHT TO TESTIFY

1 THE DEFENDANT: Yes, sir.

2 THE COURT: In that regard, your side, the
3 Defense, may call witnesses to testify if you choose to do
4 so, or you, yourself, may testify. Do you understand?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: No one can force you to testify. You
7 have the absolute right to remain silent. And if you choose
8 not to testify, I will tell this jury that they cannot hold
9 your silence against you in any way. That they are not to
10 even discuss that issue in the jury room. I will tell them
11 that that has no part of their determination of your guilt
12 or innocence in this case. Do you understand.

13 THE DEFENDANT: Yes, sir.

14 THE COURT: If your side offers no evidence at
15 all, in other words, you don't testify or any one or your
16 behalf or any exhibits are offered on your behalf, then your
17 attorney, Mr. Li, will get to make the last argument to the
18 jury, otherwise, the prosecutor will get to make the last
19 argument. Do you understand?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: Solicitor, Mr. Li, does Mr. Bloodsaw
22 have a criminal history that would subject him to
23 impeachment under Rule 609?

24 MS. BODMAN: He does, Your Honor. He has a
25 burglary second, nonviolent conviction from February the 1st

THOMAS BLOODSAW RIGHT TO TESTIFY

1 of 2011, that stemmed from an April 29th, '09 offense.

2 There was a related grand larceny with that charge where a
3 laptop was taken. Those were the facts that were presented
4 as part of the plea deal that the grand larceny was
5 dismissed, that that wasn't the crime -- intent to commit
6 the crime therein that supported the burglary.

7 In addition, on that same day, February 11, he
8 pled guilty to a grand larceny, one to 5,000, on offense
9 that occurred May 12th, 2009. It also was related to a
10 burglary, but part of the plea deal with the burglary was
11 dismissed and he pled to the grand larceny.

12 THE COURT: All right. So he has a burglary
13 second conviction and grand larceny conviction?

14 MS. BODMAN: Yes, sir.

15 MR. LI: Your Honor, I would ask for a few minutes
16 so we reconcile -- I have different dates, I have
17 different -- I have different information on the rap sheet I
18 received.

19 THE COURT: All right. If y'all would review it.

20 MS. BODMAN: I've got the sentencing shoots since
21 the rap for whatever reason did not get updated.

22 MR. LI: Your Honor, I think we can agree to the
23 fact that he was convicted of burglary second -- a burglary
24 second at one point and a grand larceny at one point. Your
25 Honor, we would object to the burglary coming in under State

THOMAS BLOODSAW RIGHT TO TESTIFY

1 v. Bryant. The underlying larceny charge was dismissed.

2 THE COURT: Which Bryant is that?

3 MR. LI: The --

4 THE COURT: Thomas Bryant?

5 MR. LI: Yes, sir.

6 THE COURT: That was the defendant that was in the
7 wheelchair?

8 MR. LI: Yes, sir. Yes, sir. And we would object
9 to the burglary coming in under that. I believe that the
10 grand larceny comes -- the other grand larceny, I believe
11 that comes in, Your Honor. The burglary, I believe, is the
12 exact charge that was charged -- that would be more
13 prejudicial than probative. Plus, the underlying element of
14 untruthfulness. The grand larceny was dismissed, Your
15 Honor. So I believe the case, specifically, says --
16 reference to that burglary is not a crime of moral
17 turpitude --

18 THE COURT: Typically, what I allow is impeachment
19 along the lines of were you convicted of a felony for which
20 you could have received a sentence in excess of one year --

21 MR. LI: Excuse me, Your Honor?

22 THE COURT: Have you been convicted of a felony
23 for which you could have received a sentence in excess of
24 one year or whatever the sentence was rather than the label
25 of burglary since it's the same crime for which

THOMAS BLOODSAW RIGHT TO TESTIFY

1 Mr. Bloodsaw's on trial. In other words, the Solicitor can
2 ask a generic question like that.

3 MR. LI: And would that apply to the grand larceny
4 as well, Your Honor?

5 THE COURT: No, sir, it doesn't apply to the grand
6 larceny. He's not charged with grand larceny.

7 MR. LI: He was charged with larceny, Your Honor.

8 THE COURT: Yes, sir. But it wouldn't be
9 associated with the burglary.

10 MR. LI: Your Honor, we understand your ruling.
11 We still object for the record.

12 THE COURT: All right.

13 MR. LI: Thank you.

14 THE COURT: All right.

15 So, Mr. Bloodsaw, what all this means to you in
16 your determination and your decision to testify or not to
17 testify, if you take the witness stand (indicating), the
18 solicitor can cross-examination or your attorney could ask
19 you if he wanted, but the Solicitor could cross-examine you
20 as to whether or not you have been convicted of a grand
21 larceny in the past.

22 THE DEFENDANT: (The witness nodded head.)

23 THE COURT: And whether or not you have been
24 convicted of a felony that carried in excess of one year.
25 Do you understand that?

THOMAS BLOODSAW RIGHT TO TESTIFY

1 THE DEFENDANT: (The witness nodded head.)

2 THE COURT: Do you understand?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: All right. And I would tell the jury

5 that they could use that evidence, if they used it at all,

6 only as to the issue of your credibility, your

7 believability. Do you understand?

8 THE DEFENDANT: Yes, sir.

9 THE COURT: Do you understand that the decision

10 about whether or not you testify is your decision to make

11 and yours alone. It's not your lawyer's or any one else. I

12 imagine you have spoken with your lawyer about that decision

13 and others who opinions you value on important issues. Is

14 that correct?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: But no one can force you to testify

17 and no one can make the decision for you. It is a personal

18 decision. Do you understand?

19 THE DEFENDANT: Yes, sir.

20 THE COURT: Has anyone used any undue influence or

21 pressure or intimidation to get you to choose to testify or

22 not testify?

23 THE DEFENDANT: No, sir.

24 THE COURT: Today, are you under the influence of

25 any medication, drugs or alcohol that negatively affects

THOMAS BLOODSAW RIGHT TO TESTIFY

1 your thinking ability?

2 THE DEFENDANT: No, sir.

3 THE COURT: Do you have any mental, emotional or
4 nervous condition that keeps you from understanding what
5 you're doing today?

6 THE DEFENDANT: No, sir.

7 THE COURT: Do you have any questions you would
8 like to ask me about your right to testify or not to
9 testify?

10 THE DEFENDANT: No, sir.

11 THE COURT: Have you made your decision?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: Is it your decision?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: Made of your own free will and accord?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: Do you need any more time to talk with
18 your lawyer about the decision you've made?

19 THE DEFENDANT: No, sir.

20 THE COURT: And what is your decision,
21 Mr. Bloodsaw?

22 THE DEFENDANT: I'm going to testify.

23 THE COURT: You going to testify?

24 THE DEFENDANT: Yes, sir.

25 THE COURT: All right. Thank you. Thank you very

THOMAS BLOODSAW RIGHT TO TESTIFY

1 much. You may return to your seat.

2 I find that the Defendant has had the opportunity
3 to talk with Defense counsel that I just gave him. I have
4 interviewed him. I asked him did he have any questions of
5 the Court. He does not. I make the finding that he has
6 chosen to testify and that that is his decision made freely,
7 knowingly and voluntarily.

8 All right. Anything before we bring our jury back
9 in from the State?

10 MS. BODMAN: No, sir.

11 MR. LI: No, Your Honor.

12 THE COURT: How many witnesses do we have, Mr. Li?

13 MR. LI: Just one, Your Honor.

14 THE COURT: All right.

15 MR. LI: We would ask that Mr. Bloodsaw's shackles
16 to be taken off.

17 THE COURT: All right. Let's take about a
18 10-minute recess and then we'll bring our jury back in. He
19 can be unshackled during his testimony. Thank you. Thank
20 you very much.

21 (Whereupon, a short recess was held.)

22 THE COURT: Anything before we bring in our jury
23 from the State?

24 MS. BODMAN: Nothing, Your Honor.

25 THE COURT: From the Defense?

THOMAS BLOODSAW DIRECT BY MR. LI

1 MR. LI: Nothing, Your Honor.

2 THE COURT: What I'd like to do if we just have
3 one witness -- have y'all argue and charge this evening.

4 MR. LI: Sure.

5 THE COURT: All right. Bring us our jury, please.

6 (The jury returned to the courtroom at
7 5:00 p.m.)

8 BAILIFF: The jury is seated, Your Honor.

9 THE COURT: Thank you very much, Madam Bailiff.
10 Madame Forelady, ladies and gentlemen of the jury,
11 you heard before the break, the State has rested. That
12 means you've heard all the evidence and all the testimony
13 that you're going to hear from the State in their case in
14 chief of the trial of this case.

15 The Defense may now present evidence or testimony
16 if the Defense chooses to do so. Please, remember, the
17 burden never shifts. The burden of proving the case is
18 always on the State of South Carolina to prove each and
19 every element of the crime charged beyond a reasonable
20 doubt. Again, please, remember a criminal defendant in
21 South Carolina is always presumed to be innocent and never
22 has to prove himself or herself innocent.

23 With that being said, however, we will turn our
24 attention to the Defense and ask Mr. Li, does the Defendant
25 intend to produce evidence or testimony?

THOMAS BLOODSAW DIRECT BY MR. LI

1 MR. LI: Yes, Your Honor.

2 THE COURT: All right. If would you, please, call
3 your first witness.

4 MR. LI: Thank you. The Defense calls Thomas
5 Bloodsaw.

6 THE COURT: All right. Mr. Bloodsaw, if you would
7 come around and be sworn, please.

8 THEREUPON,

9 THOMAS BLOODSAW,
10 after having been duly sworn, testified as follows:

11 THE CLERK: Thank you. Have a seat in the witness
12 stand, please. State your name for the record.

13 THE DEFENDANT: Thomas William Bloodsaw.

14 THE COURT: All right. Yes, sir.

15 MR. LI: May it please the Court, Your Honor.

16 DIRECT EXAMINATION

17 BY MR. LI:

18 Q Mr. Bloodsaw, how old are you?

19 A Twenty-one.

20 Q Twenty-one. And tell us a little bit about yourself.

21 A I'm 21. I work right now at the cell phone store. I
22 have a one-year-old son.

23 THE COURT: Speak up just a little bit for me.

24 Mr. Bloodsaw, you want to make sure the jury can hear you.

25 This is your opportunity.

THOMAS BLOODSAW DIRECT BY MR. LI

1 THE WITNESS: I'm 21. I have a one-year-old son.
2 I live on Briar Road. I work at a cell phone store and I
3 sell T-shirts on the side.

4 BY MR. LI:

5 Q I'm going to get straight to the point. I'm going to
6 take you the day of August 24th, 2011. Do you remember
7 that day?

8 A Yes, sir.

9 Q Okay. Tell the ladies and gentlemen of the jury --
10 take us through your day?

11 A Okay. Well, I was living with my friend, Tammy. So I
12 woke up that morning and I took her kids to school.
13 And that was around -- I took them to school around
14 like 7:30. When I took them to school, I came back
15 home and got in the shower. When I got in the shower,
16 I started to get -- I started getting dressed.

17 Q I'm sorry, I didn't mean to interrupt you. Did you
18 take your car or whose car did you take?

19 A I took her boyfriend's car.

20 Q Okay. Keep going.

21 A I started to get dressed. And as I was getting
22 dressed, I got a phone call from a friend. And he
23 was --

24 Q Now, who was the person who made the phone call?

25 A Moses. And he told me that he had broke in a house and

THOMAS BLOODSAW DIRECT BY MR. LI

1 that -- I told him -- I had told him I needed extra
2 money a couple days earlier, so he was like I should go
3 check it out. So went did that.

4 Q So let me stop you there. What's his last name?

5 A McKnight.

6 Q How do you know Moses? How did you know it was him?

7 A A friend. I known him since like sixth grade.

8 Q Okay. What do you know about Moses?

9 A I just know, you know what I'm saying, we just chill,
10 smoke together. I know he break in houses and stuff,
11 but beside that, I just know we chill and smoke
12 sometimes.

13 Q Okay. And keep going. What happened? He called you?

14 A Yeah. And he told me about he had broke in a house and
15 there was a lot of stuff in there, but he didn't take
16 everything, so I can, you know what I'm saying, go
17 check out.

18 Q Okay.

19 A So that's what I did. At first, I wasn't going to do
20 it, but at the time, I was thinking about I had a baby
21 on the way and I needed the extra money. So I went to
22 go check it out.

23 Q So you went to go check out -- and let's be exact.

24 Which house did you go check out?

25 A The house on Old Leesburg.

THOMAS BLOODSAW DIRECT BY MR. LI

1 Q The one that's in question today; correct?

2 A Yes, sir.

3 Q Okay. Tell us what happened.

4 A It's close to where I live, so I went there on my way
5 to work. I was going to go there on my way work, then
6 go straight to work.

7 Q I'm going to ask you to slow down just a little bit and
8 speak up. Okay?

9 A All right.

10 Q Keep going.

11 A Okay. Well, when I got there, I pulled into the
12 backyard, you know what I'm saying. The back door was
13 open, so I just went inside the house. I went inside
14 the house. When I got inside, I saw that the house was
15 already ransacked, so I just like going to look around.
16 So when I started looking around, I just -- I ain't
17 really see nothing. I just was looking around to steal
18 maybe money, jewelry, anything I can, you know what I'm
19 saying, get money for. But there really wasn't nothing
20 in there. So when I went in one room, I saw -- you
21 know what I'm saying, I saw the cords and stuff on the
22 floor, like maybe it was a video game or something in
23 there, but it wasn't in there no more. So I did go to
24 the other side of the house. And when I walked to the
25 other side of house, I started looking around the

THOMAS BLOODSAW DIRECT BY MR. LI

1 bedroom. It was -- the bedroom was worse than the rest
2 of the house.

3 Q Okay.

4 A So as I was in the bedroom walking around, I just kept
5 seeing bullets and stuff all over the floor. So, you
6 know what I'm saying, I picked up some bullets and
7 looked at them. Then I went to the dresser looking for
8 jewelry, you know what I'm saying. I didn't see no
9 jewelry in the dresser, so I just went -- then I seen
10 this file cabinet. The file cabinet was about halfway
11 open, but it wasn't all the way open, so I tried to
12 open the file cabinet all the way to see what was
13 inside. But when I opened it, I didn't really see
14 nothing but some bullets and stuff. So I had no need
15 for them, so I went back to look around the house
16 again.

17 Q So did you take anything?

18 A Yes, sir.

19 Q What did you take?

20 A Well, before I was leaving, I said I'm not going to
21 leave without nothing, you know what I'm saying, that's
22 a waste of time. So I saw the computer, the desktop
23 computer, you know what I'm saying. They not as good
24 as laptops, but I still -- like I said, I took the
25 desktop computer, the whole thing, the monitor and the

THOMAS BLOODSAW DIRECT BY MR. LI

1 hard drive.

2 Q Okay.

3 A And I left.

4 Q You went -- but you went into his bedroom? You went
5 into this other man's bedroom; correct?

6 A Yes, sir.

7 Q Okay. And you rifled around and you looked and you
8 touched stuff and you moved stuff around; correct?

9 A Yes, sir.

10 Q Okay. And, in fact, your hands touched --

11 MS. BODMAN: Objection to the leading.

12 MR. LI: Sorry.

13 BY MR. LI:

14 Q Did you have a chance to see any ammunition?

15 A I seen -- I touched some bullets and I seen more. I
16 seen a lots of bullets.

17 Q Okay.

18 A But I have no need for bullets because I don't really
19 deal with guns like that, so.

20 Q Okay.

21 A I wasn't worried about the bullets.

22 Q And so the only thing that you took is the computer on
23 your way out?

24 A Yes, sir.

25 Q Okay. Approximately, how long did you stay in the

THOMAS BLOODSAW DIRECT BY MR. LI

1 house?

2 A Maybe around -- maybe about three minutes or four
3 minutes, at the most.

4 Q Okay. And -- but you didn't take any guns?

5 A I didn't take any guns at all.

6 Q Did you see any guns?

7 A I didn't see any guns at all.

8 Q Okay. And I'm going to take you to -- so after that,
9 you left and then you went back to work?

10 A Yes, sir.

11 Q And what happened to that computer?

12 A Well, on my way to work, as I was riding to work, Moses
13 called me, he asked me did I go to check out the house.
14 I told him yeah. He asked me what did I get. I told
15 him what I had. I was like I don't got a laptop, but I
16 got a desktop computer, but it looks kind of new. So
17 he was like well, bring it down the street and maybe I
18 can get somebody who might want to buy it. And I told
19 him what I wanted, I told him I wanted \$150. He said
20 okay, just bring it. So I took it to him and he went
21 in a house and came back out and looked at the
22 computer. And we took the computer in the house and
23 left. And he gave me my money.

24 Q Okay. So he gave you the money. You sold the -- you
25 got rid of the --

THOMAS BLOODSAW DIRECT BY MR. LI

1 A Uh-huh.

2 Q At any point, did you take any ammunition?

3 A No, sir.

4 Q Any guns?

5 A No, sir. I didn't take any guns or any ammunition.

6 Q And you had a chance -- because I'm going to fast
7 forward a little bit. During this time -- during the
8 weekends on USC home football games, what were you
9 doing?

10 A Selling T-shirts.

11 Q And your selling T-shirts why?

12 A Like -- I guess, like a little -- I sell T-shirts to
13 make money because like selling T-shirts, I can make
14 like maybe 200 or \$300 in one day just by selling
15 T-shirts at the football games, concerts and other
16 events. So I do that on the side and stuff on the
17 weekends when I got free time.

18 Q Okay. And, you know, during the Navy -- the USC vs.
19 Navy game, I believe that was the 17th?

20 A Yes, sir.

21 Q You got -- what happened that day?

22 A Well, okay. Like it -- my day started off good. I
23 went out to the game to sell T-shirts. USC was playing
24 Navy, so, you know what I'm saying, there was a lot of
25 people out there because they know they were going to

THOMAS BLOODSAW DIRECT BY MR. LI

1 win. So I was out there selling T-shirts. I had sold
2 like three dozen T-shirts and I had like probably six
3 or seven T-shirts left. So I said I was going to go to
4 the door to see my T-shirts. So I went to the front of
5 the stadium. I knew I wasn't supposed to be there, so
6 an officer told me that I needed to move, you know what
7 I'm saying, move to the other side of the stadium.

8 When he told me, I said okay, yes, sir. And I
9 started walking, but then he stopped me. When he
10 stopped me, he asked me did I have an ID on me. I
11 didn't have an ID on me. So he stopped me and asked me
12 my name. I know I wasn't supposed to be selling
13 T-shirts and I thought -- you know what I'm saying, I
14 thought about some stuff that I did, maybe I was in
15 trouble or something because he approached me like he
16 knew me and he knew I was in trouble. So I just lied
17 to him about my name. I told him a different name.

18 Q Okay.

19 A And --

20 Q So let me stop you there. The selling of the T-shirts,
21 that's not technical legal; correct?

22 A It's illegal, but it's not like -- you know, it's not a
23 felony or nothing.

24 Q Speaking of which, you have been convicted for a
25 felony; correct?

THOMAS BLOODSAW DIRECT BY MR. LI

- 1 A Yes, I have.
- 2 Q And you've been convicted of a grand larceny before;
- 3 correct?
- 4 A Yes, I have.
- 5 Q Okay.
- 6 A But I've never stolen a gun before.
- 7 Q So that one you, also, did not?
- 8 A No.
- 9 Q Okay.
- 10 A Never stole a gun.
- 11 Q You have met Don Robinson; correct?
- 12 A Yes, sir.
- 13 Q And he asked you some questions.
- 14 A Yes, sir.
- 15 Q And what did you tell him?
- 16 A Well, at first -- when I first talked to him, I kept
- 17 telling him that I wasn't going to talk to him. I
- 18 wasn't going to talk to him. But as we kept riding, he
- 19 kept -- we was still talking, still talking. He'd
- 20 change the subject a little bit. We started talking
- 21 about sports and stuff, then we started back talking
- 22 about the case. He kept asking me questions and I just
- 23 started telling him I don't know nothing about the
- 24 burglary, you know what I'm saying. My fingerprints in
- 25 the house, but I don't know it got in there. I don't

THOMAS BLOODSAW DIRECT BY MR. LI

1 know anything.

2 Q But you really did know; correct?

3 A Yes, I did, but I know that I had did wrong, so I

4 didn't -- I wasn't -- you know what I'm saying, I

5 didn't want to tell him, plus, I didn't have a lawyer

6 and I knew my right to remain silent. So I just told

7 him I didn't know anything about it.

8 Q Okay. And, in fact -- so when you told him you didn't

9 know anything about it and you told him you didn't know

10 why your fingerprints were in the house, would it be

11 fair to say that you lied to him?

12 A Yes, I did lie because I knew I had did wrong.

13 Q Okay. And if somebody were to ask, you know -- this is

14 the first time you've told somebody that you broke into

15 this house?

16 A Yes, sir, first time I talked about it.

17 Q And would it be fair to say this is the first time --

18 this has been the best forum to talk about? You

19 haven't had a proper chance to talk about it?

20 A Yes, sir.

21 MR. LI: Beg the Court's indulgence.

22 THE COURT: Yes, sir.

23 BY MR. LI:

24 Q And at no point did you take any ammo boxes?

25 A I never took any guns or any bullets.

THOMAS BLOODSAW CROSS BY MS. BODMAN

1 Q Did you see any guns?

2 A No, I never saw any guns, but I saw lots and lots of
3 bullets.

4 Q In fact, you definitely -- you touched the ammo box;
5 correct?

6 A Yeah, I touched the bullets.

7 Q Didn't take them?

8 A Yeah. I didn't take any bullets. I didn't take any
9 guns.

10 MR. LI: No further questions.

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

12 Mr. Li.

13 Solicitor?

14 MS. BODMAN: Your Honor, may we approach briefly?

15 THE COURT: Yes, ma'am.

16 (Whereupon, a bench conference was held
17 off the record, in the presence of the
18 jury, but out of the hearing of the
19 jury.)

20 THE COURT: Thank you.

21 Thank you, Mr. Li.

22 MR. LI: Okay.

23 CROSS-EXAMINATION

24 BY MS. BODMAN:

25 Q So let me get this straight, when a law enforcement

THOMAS BLOODSAW CROSS BY MS. BODMAN

1 officer approached you at the stadium when you were
2 selling T-shirts --

3 A Yes, ma'am.

4 Q -- you lied about your name?

5 A Yes, ma'am.

6 Q When you spoke with Sergeant Don Robinson at the
7 sheriff's department about the burglary, you lied to
8 him about that?

9 A I lied because I knew that I had did wrong and, plus, I
10 didn't have a lawyer present, so I didn't want to talk
11 to him at all.

12 Q I understand that you may have reasons, but whatever
13 your reasons, you said you lied to him about this
14 burglary; correct?

15 A Because I didn't have a lawyer present and then on top,
16 I lied about it.

17 Q Did you, in fact, lie to Sergeant Robinson about this
18 burglary, yes or no?

19 A Yes, ma'am, I did.

20 Q You have a previous conviction for grand larceny?

21 A Yes, ma'am, I do.

22 Q And you have a previous conviction for a felony that
23 carried over a year in prison; correct?

24 A Yes, ma'am, I do.

25 Q And the question that was posed to you was is this the

THOMAS BLOODSAW CROSS BY MS. BODMAN

1 first time, is this the first time you have told anyone
2 about this case and your answer was yes?

3 A Yes, ma'am.

4 Q So you went to [REDACTED] Old Leesburg Road; correct?

5 A Yes, ma'am, I did.

6 Q To Leroy Kelly's home (indicating)?

7 A Yes, ma'am.

8 Q Is that the home you went to?

9 A Yes, ma'am.

10 Q Speak up so everyone can hear you?

11 A Yes, ma'am.

12 Q Okay. And you entered into his home?

13 A Yes, ma'am, I did.

14 Q Did you go in the front door or did you go in the back
15 door?

16 A I just told you I pulled into the back and the door was
17 open, so I walked in the back.

18 Q So you walked into his home, Leroy Kelly's home without
19 Leroy Kelly's permission; correct?

20 A Yes, ma'am, I did.

21 Q And it was with the intent to take some property;
22 correct?

23 A I was going to take anything that I could find that
24 would be worth money, basically, jewelry, electronics
25 and stuff like that.

THOMAS BLOODSAW CROSS BY MS. BODMAN

1 Q Okay. So you were intending on stealing from Leroy
2 Kelley?

3 A Well, I didn't know him at the time, but, yes, I was
4 intending on stealing from Leroy Kelley.

5 Q The home owner, you were going to steal from the
6 homeowner?

7 A Yes, ma'am.

8 Q Okay. So no permission to enter, intending to steal
9 property. And you said, in fact, you did take a
10 computer; correct?

11 A Yes, ma'am. I took computer, monitor and the hard
12 drive.

13 Q So you did, in fact, commit a larceny at Leroy Kelly's
14 home?

15 A Yes, ma'am -- yes, ma'am, I did.

16 Q Okay. And you're saying that you did touch items in
17 this home?

18 A Yes, ma'am.

19 Q Did you touch the file cabinet?

20 A Yes, ma'am.

21 Q And so that print that we have spent hours on with
22 Investigator Odom and Diane Bodie, that is your
23 fingerprint?

24 A Yes, ma'am, it might be, it might not be, I don't know.

25 Q You touched the file cabinet?

THOMAS BLOODSAW CROSS BY MS. BODMAN

1 A I touched the file cabinet, but I'm not saying that's
2 my fingerprint. It might be or it might not be.

3 Q And you're saying that you then left, you called up
4 your buddy, Moses, who told you he committed this
5 burglary; right?

6 A Yes, sir -- ma'am.

7 Q And you told him hey, I got the computer?

8 A Yes, ma'am.

9 Q And --

10 A Well, he asked me what did I get out the house -- he
11 asked me did I go to the house and I said yes, I did.
12 And he asked me what did I get and I told him wasn't
13 really nothing in there, but a computer, so that's what
14 I got.

15 Q Okay. And so your buddy, Moses, he commits a lot of
16 burglaries, that's what you said?

17 A Yes, something like that.

18 Q He commits a lot of burglaries. So Moses offers to
19 buy --

20 A No, he didn't buy it.

21 Q For \$150?

22 A He didn't buy it, but he knew -- the person he put me
23 on is the person that did buy it.

24 Q And you said that Moses couldn't carry -- he didn't
25 take the computer because he couldn't carry the stuff?

THOMAS BLOODSAW CROSS BY MS. BODMAN

1. A No, he just said he got what he got and there was a lot
2 more stuff in there, so maybe you can get some stuff,
3 too.

4 Q Okay. I thought I remembered you saying that Moses
5 couldn't carry all the stuff?

6 A No, I did not.

7 Q Because he took a TV -- or a TV was taken; correct?

8 A I don't know what he took, ma'am, to be honest.

9 Q And you are aware that the theft of the guns --

10 MR. LI: I object, Your Honor.

11 THE COURT: What's the objection? Step up here

12 for me, Mr. Li.

13 (Whereupon, a bench conference was held
14 off the record, in the presence of the
15 jury, but out of the hearing of the
16 jury.)

17 THE COURT: Thank you, Solicitor.

18 Thank you, Mr. Li.

19 MR. LI: You're welcome.

20 BY MS. BODMAN:

21 Q And just to make clear, today is the moment that you
22 have decided to tell this story?

23 A Yes, ma'am.

24 MS. BODMAN: No further questions.

25 THE COURT: Redirect, Mr. Li?

THOMAS BLOODSAW RECROSS BY MS. BODMAN

1 MR. LI: Very, very briefly.

2 REDIRECT EXAMINATION

3 BY MR. LI:

4 Q Now, Thomas, throughout the investigation of this case,
5 you spoke with -- or you had the opportunity -- let me
6 rephrase. Mr. Don Robinson spoke to you that one time;
7 correct?

8 A Yes, sir.

9 Q And today is the -- since then, you've been
10 incarcerated; correct?

11 A Yes, sir, I have.

12 Q Had different attorneys; correct?

13 A Yes, sir.

14 Q Had different public defenders; correct?

15 A Excuse me. Yes, sir.

16 Q And today is the first day that you've told that to a
17 group of strangers; correct?

18 A Yes, sir.

19 Q And you knew you had done something wrong; correct?

20 A Yes, sir.

21 MR. LI: No further questions.

22 THE COURT: Recross, Solicitor?

23 RECROSS-EXAMINATION

24 BY MS. BODMAN:

25 Q A question that was posed to you on direct examination

THOMAS BLOODSAW RECROSS BY MS. BODMAN

1 by your attorney was -- the question was is this the
2 first time you have told this story. I asked you is
3 this day in this courtroom today the first time you've
4 told that story and you answered yes?

5 A Yes, ma'am.

6 MS. BODMAN: No further questions.

7 THE COURT: Thank you.

8 Thank you, Mr. Bloodsaw. You may step down.

9 All right. Mr. Li, you may call your next
10 witness.

11 MR. LI: The Defense rest at this time, Your
12 Honor.

13 THE COURT: All right. Thank you. Thank you very
14 much, Mr. Li.

15 Solicitor, does the State intend to produce any
16 evidence or testimony in reply?

17 MS. BODMAN: No, sir.

18 THE COURT: All right. Thank you. Thank you very
19 much.

20 Madam Forelady, ladies and gentlemen of the jury,
21 you've now heard all the evidence and all the testimony
22 you're going to hear in the trial of this case from the
23 parties, both the State and the Defense. We are now at the
24 stage of the closing arguments by the attorneys and the
25 instruction on the law by the Court. We will begin that

1 process promptly at 9:30 in the morning.

2 Momentarily, I am going to release for the
3 remainder of the evening. I must again advise you of your
4 responsibilities as jurors during the trial of this case.

5 You're not to discuss this case with others, that includes
6 your fellow jurors, family, friends or any one else. Do not
7 watch, listen to or read any news accounts of the case
8 should there be any. Do not use your computer, cellular
9 phone or other electronic device with communication
10 capabilities to research any prohibited information.

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

19 As you've heard me say before, you decide the case
20 based on the evidence and the testimony you've heard from
21 the witnesses testifying under oath from the witness stand,
22 any exhibits and the inferences that you may properly draw
23 from the evidence and the law as I tell you what the law is.

24 Remember to keep an open mind. Do not begin your
25 deliberations until you're instructed to do so by the Court.

1 I'm going to release you and ask you to be back
2 promptly at 9:30 in the morning. I hope y'all have a
3 pleasant evening. Thank you very much.

4 (The jury retires from the courtroom at
5 5:25 p.m.)

6 THE COURT: All right. Anything additional from
7 the State, Solicitor?

8 MS. BODMAN: No, Your Honor.

9 THE COURT: Defense?

10 MR. LI: We renew all our prior motions, Your
11 Honor.

12 THE COURT: All right. I would renew all my
13 previous trial rulings and I would respectfully deny
14 directed verdict motion as to burglary first and larceny.

15 Any request to charge, specifically, from the
16 State?

17 MS. BODMAN: I do request a hand of one hand of
18 all. And, actually, is -- if we think about it, separate
19 from -- like prior to the Defendant taking the stand, I was
20 going to request the hand of one hand of all because the
21 jury could conceivably think that one theory was that, you
22 know, maybe he was -- you know, didn't actually grab the
23 guns. He wasn't, actually, the person to take the guns into
24 his own hands and burglarize this house, that somebody,
25 also, had some type of participation in it. So we couldn't

1 prove that he was the one that grabbed the guns themselves
2 in his own hand. So it doesn't matter if he was by himself,
3 one person or 10 people, he is guilty of this burglary under
4 the hand of one hand of all.

5 But then throwing in -- I don't think that even
6 throwing in his testimony relieves that that is a possible
7 theory that the jury can go back and think. We discount his
8 story. We don't believe his story, that he wasn't a part of
9 this burglary. We think that he did. But if they go back
10 and they say what if he was with Moses, what if he committed
11 this burglary with Moses and Moses is the one who, actually,
12 found the guns, picked up the guns with his own hand and
13 took the guns and he's the one that, you know, grabbed the
14 computer and grabbed other items. So they would have a
15 difficulty saying gosh, do we find him guilty of a burglary
16 first if they haven't proved that he's the one that,
17 actually, handled the weapons? So they need to know, no
18 matter who, actually, stole these weapons, whether Moses,
19 somebody else or 10 other people that handled these weapons
20 and he never touched them, he is still guilty of a burglary
21 in the first degree under hand of one hand of all.

22 THE COURT: Well, he has no prior knowledge or he
23 -- I mean, under his testimony, he had no prior knowledge.
24 He knows nothing about the burglary or the items that may
25 have been stolen in the burglary by Moses until after the

1 fact. That's kind of the issue I have with it. That's a --
2 he doesn't have prior knowledge, that crime is completed.

3 MS. BODMAN: But you're, also -- you are assuming
4 the believability of that story. The jury has the
5 possibility of saying I don't at all believe his story.
6 We've going to discount his story. Okay. Just on the
7 State's case in and of itself, they could say what if, you
8 know, he did do this burglary. He was one of the people
9 that busted in that door the first time, took some of the
10 property, but that the State doesn't have a witness to say
11 that the guns went into his hands. We're entitled to the
12 hand of one hand of all. His theory could be completely
13 discounted by the jury. They could go he's a liar and we
14 don't believe anything he said.

15 THE COURT: Well, when you say I'm believing his
16 story, I'm taking that into account. But under the State's
17 theory, you tell me whether it is correct and/or
18 circumstantial evidence that -- it's on the State's theory
19 that there's more than one perpetrator. That would appear
20 to be speculation.

21 MS. BODMAN: The absence of evidence is not
22 evidence of absence.

23 THE COURT: I --

24 MS. BODMAN: And so the jury could say, you know,
25 we don't know. There could have been more people. There

1 could have been somebody driving the get-away car and Thomas
2 goes inside. Because they're going to go how did he get all
3 this -- you know, carry all this property away? How was he
4 able to do it so fast? You know, they could go back and
5 just say gosh, the State didn't produce a single shred of
6 evidence that these guns, the guns that make it a burglary
7 first were in his actual hand. What if he was with somebody
8 else and that other person is the one that, actually, picked
9 up the guns? It doesn't matter. It doesn't matter that we
10 don't have that, you know, we don't have a videotape of the
11 home that shows this burglary happening.

12 THE COURT: Well, I think the key to that is gosh,
13 the State didn't prove X. That shows why to me that it's
14 speculation that there is more than one person. There's no
15 testimony, for example, well, they stole the safe. Well,
16 how much does the safe weigh? 300 pounds. Well, you know,
17 most of us, myself, of course, included, I can't lift 300
18 pounds. I couldn't lift a third of that or a sixth of that.
19 So I don't see where it rises above speculation when you
20 don't have -- I'll think about it, Solicitor.

21 MS. BODMAN: Well, the other thing is that he has
22 presented a second person. He has presented this other
23 person, Moses. So the jury could come to another theory
24 that he committed this crime with another guy and that the
25 truth is somewhere -- you know, that there is another person

1 involved and that Moses did, in fact, handle these weapons
2 himself. He only took the computer. But there is evidence
3 that potentially another person committed this with him.
4 He's added a Moses into the equation.

5 THE COURT: All right. Thank you, Solicitor.
6 I'll consider it. I'll let you know in the morning.

7 Mr. Li?

8 MR. LI: Yes, Your Honor. For the record, we --

9 THE COURT: Do you have an objection to the charge
10 of hand of one hand of all?

11 MR. LI: Yes, we strongly object. We don't think
12 there's any evidence in the record, Your Honor. Even with
13 Mr. Bloodsaw's testimony, he never -- he always said it was
14 after the fact, that the crime had already been completed.
15 No testimony as to corroboration or somebody working in
16 concert, Your Honor. And the State presented in evidence
17 saying that no evidence is not a sign of --

18 THE COURT: Absence of evidence is not evidence of
19 absence?

20 MR. LI: Correct, Your Honor. If that was case,
21 then I believe -- either way, they're not -- we don't
22 believe they're entitled to hand of one hand of all.
23 They've done nothing in their case, no direct evidence, no
24 circumstantial evidence to imply there was a second person,
25 Your Honor. Anything of that nature would be pure

1 speculation.

2 The Defense would ask that a burglary second
3 charge be included, Your Honor. I believe that we're
4 entitled to that. There is evidence in the record now as to
5 the commission of the burglary. I believe Ms. Bodmon went
6 over fairly thoroughly with Mr. Bloodsaw. The elements's
7 there. We believe the jury should be given the opportunity
8 to believe whether or not he took the gun or he didn't take
9 the gun. We believe we're entitled to burglary second, Your
10 Honor.

11 THE COURT: Yes, I'll charge burglary second.

12 MR. LI: Thank you.

13 THE COURT: You don't have any objection to that,
14 Solicitor?

15 MS. BODMAN: No, sir.

16 THE COURT: Okay. All right. 9:15 in the
17 morning?

18 MR. LI: Yes.

19 MS. BODMAN: Yes, sir.

20 MR. LI: Your Honor, one more thing I forgot
21 about.

22 THE COURT: I apologize. Yes, sir.

23 MR. LI: I apologize. I forgot. Mr. Bloodsaw
24 wanted me to ask would it be possible for him to be allowed
25 to remain on bond for the night if he came back tomorrow.

1 He said he was here on time today. He plans on being here
2 tomorrow. We understand your ruling, Your Honor, but he
3 says he's got a son that's got health issues, Your Honor.
4 And, in all honesty, probably not going to be around soon.
5 And we would for him to remain out for the night, Your
6 Honor.

7 THE COURT: Yes, sir. And I will deny the motion.
8 I, certainly don't object to you asking, Mr. Li, but, you
9 know, he is facing very serious criminal charges --

10 MR. LI: Yes, sir.

11 THE COURT: -- facing up to a life sentence.

12 MR. LI: Yes, sir.

13 THE COURT: Minimum of 15 years and then he, of
14 course, could be found not guilty on it.

15 MR. LI: That's correct.

16 THE COURT: I'm not second guessing that, but I
17 think posture of the case as it is, his bond is revoked.
18 He's in custody in the detention center. I hope his son
19 gets along well.

20 MR. LI: Okay. Would you afford him five minutes
21 to talk to them before he gets arrested?

22 THE COURT: I don't have any objection. That's up
23 to the sheriff.

24 MR. LI: Can he talk to his family?

25 THE COURT: I don't have an objection, but if the

1 sheriff says no, I support the sheriff. He's taken into
2 custody and moved on, taken into custody and moved on.

3 MR. LI: Thank you, Your Honor.

4 THE COURT: All right. Thank you. Thank you

5 Mr. Li.

6 Court will be in recess until 9:15.

7 (Whereupon, Court was adjourned for the
8 day.)

9 (The following proceedings were held on
10 March 13th, 2013.)

11 THE COURT: All right. Anything from the State,
12 Solicitor?

13 MS. BODMAN: I guess, clarification. I guess the
14 proposed charge was e-mailed to us, and the hand of one is
15 in the proposed charge?

16 THE COURT: I'm sorry, what?

17 MS. BODMAN: The hand of one hand of all is in the
18 charge that was e-mailed to us.

19 THE COURT: A, I didn't e-mail the charge.

20 MS. BODMAN: Okay.

21 THE COURT: And B, I'm not charging hand of one
22 hand of all.

23 MS. BODMAN: I'm sorry?

24 THE COURT: I'm not charging hand of one hand of
25 all?

1 MS. BODMAN: Okay.

2 THE COURT: Perhaps, my law clerk e-mailed it. I
3 know he was going to.

4 MS. BODMAN: Yes, I just wanted to clarify that.
5 Because I do have an argument to make, at least, about being
6 able to argue the law to the jury, even if you're not going
7 put it into the instructions. Because one of my arguments
8 that I think I possibly proposed at a bench conference when
9 I was crossing the Defendant and we approached was that he's
10 sitting here and knows, okay, I cannot admit to this
11 burglary first. I know that the guns are the thing that
12 makes it a burglary first, so I'm going to, basically, admit
13 to everything else, but the guns. And so in crafting his
14 story, what he needs to say to get out of this, he knows
15 that he can't admit even being in that house with someone
16 else who stole the guns because the law then recognizes that
17 as a burglary first. So he knows that he has to put
18 himself -- he's got to explain the print. He's got to put
19 himself in that house at some point, but I cannot put myself
20 in the house with the person that I'm going to say stole
21 these guns.

22 And so they need to know that law. That if he
23 is -- that he knows that if he is at any point in time in
24 the home when these guns are stolen as part of that burglary
25 that he's guilty of burglary first. So that's why he crafts

1 the story that he does.

2 THE COURT: I think the problem you have is
3 there's no evidence in the State's case that more than one
4 person perpetrated the crime.

5 MS. BODMAN: But what --

6 THE COURT: No evidence whatsoever. So that would
7 be pure speculation.

8 MS. BODMAN: But what I'm saying is that's the
9 reason that he comes up with his story, is that he is aware
10 that it is the guns that makes it a burglary first, so he
11 can't put himself in the house at the time that the guns are
12 taken, so he crafts this story to put himself and explain
13 the prints at another time. It is the knowledge of the law
14 and that is a burglary first if he's there when it happens.
15 It's the motivation, it's the reason he crafts the story
16 that he does.

17 THE COURT: His credibility would be at issue, but
18 it still wouldn't -- that law may motivate his testimony,
19 but that hand of one hand of all is not the law or facts of
20 this case.

21 MS. BODMAN: Well, it is the law. It's different
22 than when you decide whether or not to submit a lesser
23 included offense, a crime. A lesser included offense, there
24 has to be evidence in the record from some source that says
25 if I am guilty of anything, it is of the lesser. And so

1 there is a standard to submit that. Hand of one hand of all
2 is the law. It is the state of the law. The jury can
3 decide to believe one witness, all of it, some of it or none
4 of it.

5 They can go back and they can put all of this
6 together and they can say gosh, he throws in this other
7 person, Moses, into the scenario. He does. So they can go
8 back and deliberate and start talking and go gosh, what if
9 he, actually, did this with Moses? So part of his story is
10 crafted from truth, but then part of his story is a lie
11 because he is trying to get out from under the guns. They
12 can come up with that theory. They can say gosh, that's
13 really tough for one person to go in and steal all have that
14 stuff. You know, that's hard. So I bet he did do this with
15 Moses. I bet Moses did call him that morning, said hey,
16 I've got a place that we can burglarize. Come with me.
17 That they go, that they then burglarize the place. They go
18 back to Moses. Moses finds a dude to buy the computer. So
19 there is some truth -- they can accept some of the truth
20 that the Defendant has given, but they can reject the part
21 where he says I did it at a separate time. There is
22 evidence in there of another person.

23 THE COURT: But that was never the State's theory.
24 That was never, never the State's theory, either at the
25 indictment stage or at the trial. But setting that aside,

1 theories change --

2 MS. BODMAN: Well, the truth --

3 THE COURT: I've already ruled on that. What are
4 you asking me to do, Solicitor?

5 MS. BODMAN: Either to A, actually, charge the
6 hand of one hand of all.

7 THE COURT: I've already ruled on that.

8 MS. BODMAN: Or B -- and I just last night, I was
9 thinking through this, so I did have other arguments to
10 present to Your Honor, so I wanted to do that. Or B, to
11 allow me to, at least, argue that law because it is a true
12 statement of the law and it provides the exact motive for
13 why he crafts the story that he does. Because he knows if
14 he -- he has to explain the print, but he's got to separate
15 himself out from those guns, effect of the guns. So he
16 crafts this story of a second time that he goes.

17 THE COURT: All right. Thank you. Thank you,
18 Solicitor.

19 Mr. Li?

20 MR. LI: Your Honor, we would object to allowing
21 the argument of hand of one hand of all. It's never been
22 the State's theory. They are, basically, proposing to be
23 allowed -- they're asking to be allowed to argue something
24 so in hopes that the jury will speculate as to what
25 happened, not based on what any of the evidence presented by

1 the State or any -- you know, any burden the State has
2 proven. They just want to put the last Hail Mary in there
3 so that they can maybe think of something with Moses.
4 Before Thomas got on the stand, there was no statement as to
5 Moses. No statement -- no inference to another person.
6 They completely left that out of their case in chief. I
7 don't think it's fair to now allow them to argue everything
8 under the sun.

9 They said well, he crafted this story because he
10 knew something. They're speculating, Your Honor. They're
11 guessing. They can attack his credibility. They can attack
12 his reasons and they can say it's convenient that he's
13 telling this. All those things they can make inference to,
14 Your Honor. We just think it's inappropriate to charge the
15 hand of one hand of all.

16 On a side-note, Your Honor, if the proposed jury
17 charges were e-mailed, I did not -- I checked my e-mail this
18 morning. I did not them get. I may have the wrong e-mail
19 address.

20 THE COURT: Well, you know, the Solicitor's
21 argument doesn't go -- argument for her request to argue
22 hand of one hand of all is solely limited to his
23 credibility. In other words, as she says, he cannot put
24 himself in the house with a co-conspirator or an accomplice
25 who becomes armed during commission of a daytime residential

1 burglary because under that scenario, if the co-defendant is
2 armed and the accomplished liability is the same as if
3 Mr. Bloodsaw is armed.

4 And if I understand her argument, it's then that
5 the reason it balances into his credibility -- jury has
6 determined his believability. His theory -- one reason for
7 him to take the stand and testify in the manner in which he
8 testifies is to A, explain his version of the circumstances;
9 B, not place himself in the residence at any time with an
10 armed accomplice; and C, set up the lesser included offense.

11 So, although, it might not be the State's theory
12 or it was not the State's theory that more than one person
13 perpetrated the burglary at the Kelly residence,
14 circumstantially taking Mr. Bloodsaw's testimony and
15 credibility into account, it would not be speculation for a
16 jury to say well, I believe part of what he says. I believe
17 he went in that house. I believe he stole a desktop
18 computer. I don't believe he did that alone. I believe
19 that he did that with Moses, his accomplice. Because of the
20 State's theory, I still don't think the hand of one hand of
21 all applies, but as to his motive and his credibility, I can
22 see where a reasonable jury could reach that conclusion to
23 get the gun or guns not only out of his hands, but out of
24 the residence before he's in the residence so that -- unless
25 one of the other aggravating factors, which none of them

1 apply. I guess you can break into a residence during the
2 daylight hours and not have one of the aggravating factors
3 and it's always burglary second. It's kind of like flight
4 evidence in some respect. You never charge flight evidence,
5 but the Solicitor can always argue evidence of flight is
6 evidence of guilty knowledge.

7 I'm trying -- but I, also, think that's why I
8 didn't allow the Solicitor's question concerning
9 Mr. Bloodsaw why you're testifying like this. First off,
10 that had to be based on hearsay or his understanding of all,
11 it had to be from another third party. And I felt part of
12 that would be lack of personal knowledge and somewhat going
13 to the attorney/client privilege. By that, I'm not implying
14 that the attorney said testify this way or that way, but if
15 the attorney explained the law of burglary first or,
16 perhaps, whatever the other potential offers he had on his
17 plate -- I don't know if was burglary second or what, I
18 don't know.

19 I think she can argue that as a motive. Because
20 if -- they don't have to believe that he received a call and
21 says hey, come on over, you know, I got a house over here,
22 go through, you know, get what you want. You know, just
23 free rein burglary on the Kelly resident in Hopkins, South
24 Carolina on the day of 24 August, '11. They don't have to
25 believe that.

1 MR. LI: Your Honor, I --

2 THE COURT: I'm going to allow her to charge
3 that -- I mean, I'm going to allow her to argue that.

4 MR. LI: And that's fine, Your Honor. Is she --
5 we would ask she not be allowed to open -- if they're going
6 to do the opening with us and then they take a final
7 response, we would ask that they cannot instruct the jury as
8 to the law of that, Your Honor.

9 THE COURT: Well, I think you can do that in
10 flight evidence, though, Mr. Li. That's always kind of the
11 classic one, I think of it, is the law of the State of South
12 Carolina flight is evidence of guilty knowledge. And so I
13 think they can argue that. That is part of the law of South
14 Carolina. And the jury's not going to hear me say it. And
15 you know, just thinking of the future, which I can't predict
16 as well, just a little bit of the future I predict, they're
17 first question is, maybe, will you reexplain that law hand
18 of one hand of all. I don't know. Which I won't.

19 MR. LI: Is it proper for me to address the jury
20 and predict the future that you will not be addressing the
21 hand of one hand of all? You made a ruling that you were
22 not going to address it. I will tell them that you will not
23 be charging happen of one hand of all.

24 THE COURT: I think because it goes to a motive, I
25 don't -- I don't think -- I'm trying to think if I've heard

1 that argument in flight.

2 Do you have a position on that, Solicitor?

3 MS. BODMAN: I mean, it is a current state of the
4 law. It is correct statement of the law. I think it
5 misleads them in telling them that I'm incorrectly stating
6 the law.

7 THE COURT: No, I don't think he said that. I
8 think what he was saying was you object to me telling -- do
9 I object to him telling the jury I'm not going to charge
10 that.

11 MS. BODMAN: Right. And that's what I'm saying,
12 his comment then to the jury, they could infer then that I'm
13 improperly telling them the law.

14 MR. LI: Your Honor, same argument --

15 THE COURT: Well, my whole issue and I think your
16 issue to argue is that as it goes to his credibility or as
17 to his motive, so it's almost like a charge on a prior
18 crime, that -- you know, that, if at all, you use that as to
19 credibility. I mean, that's what you used it for --

20 MS. BODMAN: But I'm just simply saying his
21 standing up to the jury and saying, ladies and gentlemen of
22 the jury, you're not going to hear those words out of the
23 Judge's mouth would be an inference that it is not a correct
24 statement of the law. Because you are going to read them --
25 you are going to tell them I am going to read you the law

1 that applies in this case. So then, when they don't hear it
2 from your voice, they're going to say, you know, did that
3 Solicitor lie to us about the current state of the law?

4 MR. LI: It's extremely unfair, Your Honor. So
5 they can say something about the state of the law. I'm also
6 saying something that's true, you will not be instructed on
7 the hand of one hand of all. I think it's only fair, if
8 they get to address it, I get to say -- I didn't say I was
9 going to gouge. I'm just going to say you're not going to
10 hear those words from the Judge's mouth. You will not be
11 charged with hand of one hand of all.

12 What she's using it for is motive, so I get that,
13 that's fine. We have no objection to that, but we should be
14 allowed -- they think an improper inference could be drawn
15 by me telling them that the Judge is not going to hear it,
16 that that law is valid. Well, the opposite could be true.
17 They may think that -- they may be given improper inference
18 to Ms. Bodmon's theory that it is the law and it is going to
19 be charged, you know, that it is part of this case. They're
20 using it for credibility purposes only to attest to whether
21 or not they believe Thomas Bloodsaw's testimony. That's it.
22 I have the right to say something that's absolutely true.

23 Just like in self-defense, you tell the jury,
24 ladies and gentlemen, you're going to hear from the Judge
25 that the State must prove -- must disprove, you know,

1 whatever the charge is for hand of one hand of all. They're
2 allowed to address that that's a fact. They're not making
3 it up. I'm not going to be making up the fact that you're
4 not going to address them on the hand of one hand of all.
5 They can draw whatever inferences they want. Because, in
6 reality, the State wants the jury to draw their inference
7 from it, so if I can't address, then I believe it's unfair.

8

9 THE COURT: Well, if it's just motive, it doesn't
10 matter if that's the law then because it is the law. You
11 can say -- I mean, you can -- you can argue that although
12 that is the law of South Carolina, what I charge -- what the
13 solicitor argues shouldn't be an inference negative to
14 either of the parties based on my charge.

15 It's just like -- again, I go back to evidence of
16 flight being the classic one. I tried to rethink if I've
17 ever heard anyone say well, you're not going to hear the
18 judge tell you that flight is evidence of guilt, which we
19 all know it is. That's a legal decision that I've made as
20 far as I think it should be charged based on the facts in
21 this case. I think you have to frame it in such a way -- if
22 you comment on it, Mr. Li -- I'm not foreclosing you or the
23 Solicitor from a proper comment --

24 MR. LI: Okay.

25 THE COURT: -- on the facts, the inferences and

1 the law beyond the parameters of appropriate closing
2 arguments, but, you know, if I interject that you can't draw
3 an inference that the Solicitor -- nor can she draw an
4 inference that you are mislead the jury in any way just
5 because I might not charge a particular aspect of the law.

6 MR. LI: Yes, sir.

7 THE COURT: That's just the point I make. And
8 that shouldn't be a fact for the jury in weighing the
9 credibility of the witnesses. And, generally, many of y'all
10 will argue if I misstate the law or if I misstate the facts
11 as you remember them, the law as the judge tells you and
12 such like that.

13 MR. LI: Yes, sir. And my other -- two more
14 questions, I guess. One is I will be able to address the
15 issue of hand of one hand of all as long as it's framed in
16 the form of responses to motive; correct?

17 THE COURT: Yes, sir. I'm not foreclosing -- I
18 mean, if I allow the State to argue hand of one hand of all
19 and not going to charge it, then I'm not foreclosing you
20 from proper argument.

21 MR. LI: Yes, sir.

22 THE COURT: Nor am I the Solicitor.

23 MR. LI: Yes, sir.

24 And second, Your Honor, we'd ask for a jury
25 instruction to the point of -- to the effect of the issue of

1 hand of one hand of all was used so that you can determine
2 whether or not it was used for credibility or motive only.
3 I have a feeling that a new legal theory is being thrown in
4 their face at the last minute and that they can take that
5 theory and use it improperly, Your Honor. If -- was
6 stricken for the use of motive and credibility, we would ask
7 for a limited instruction on that.

8 THE COURT: Well, if you want a limited
9 instruction on that, then you want the entire hand of one
10 hand of all charge and then you want me to preface that by
11 this is the law of South Carolina if you -- it can only be
12 used, if at all, by you, the jury, in determining the motive
13 or credibility.

14 MR. LI: Just a thought.

15 THE COURT: Sir?

16 MR. LI: It was just a thought.

17 THE COURT: I'm not saying it was a bad thought.
18 I just want to make sure I understand --

19 MR. LI: Then you would go over the entire -- and
20 part of the instruction would be that that is not part of
21 your jury instructions?

22 THE COURT: No, that is part of my jury
23 instruction. That would be, in that regard, just a limited
24 instruction.

25 MR. LI: To not consider that as to guilt or

1 innocence of the Defendant, just used only to determine
2 motive and credibility.

3 THE COURT: Well, when you say not considered in
4 the guilt or innocence of the Defendant, that's not precise
5 because in determining his credibility, that could be
6 considered as part of his credibility --

7 MR. LI: Right.

8 THE COURT: -- you know, his believability and --
9 I mean, that's the jury's responsibility anyway, so that,
10 ultimately, leads to, perhaps -- I mean, it's the weight and
11 value they give to that.

12 MR. LI: Withdraw the request.

13 THE COURT: All right.

14 MR. LI: Nothing further from the Defense.

15 THE COURT: All right.

16 Anything further, Solicitor?

17 MS. BODMAN: No, sir.

18 THE COURT: All right.

19 Court will be in recess 10 minutes. Thank you.

20 Thank you very much.

21 (Whereupon, a short recess was held.)

22 THE COURT: I usually wait on the appellate
23 courts to reverse me, but I don't think I'm going to do that
24 in this case.

25 Solicitor, on your B request to argue hand of one

1 hand of all, I'm going to deny that. There is a missing
2 link in the hand of one hand of all theory. If it were
3 present, I would charge it. But it is not the same as
4 evidence to flight because it is, typically, charged when it
5 applies. That way -- well, it keeps the jury from being
6 diverted from -- you know, he went in the house. He's
7 admitted going in the house. He stole the guns or he
8 didn't. It comes down to what he stole in the house.

9 So with that being said, anything further from the
10 State before we bring in our jury, Solicitor?

11 MS. BODMAN: No, sir.

12 THE COURT: Defense?

13 MR. LI: No, sir.

14 (The jury returned to the courtroom at
15 10:07 a.m.)

16 THE BAILIFF: The jury is seated, Your Honor.

17 THE COURT: Thank you. Thank you very much, Mr.
18 Bailiff.

19 Madam Forelady, ladies and gentlemen of the jury,
20 good morning.

21 (Jurors replied good morning.)

22 THE COURT: Hope y'all had a pleasant evening. I
23 apologize for the delay. I assure you it was not caused by
24 either of the parties that they were not on time, but early
25 working very diligently.

1 As you recall, you've heard all of the evidence,
2 all of the testimony in the case. We're now at the point of
3 the closing arguments by the attorneys.

4 The procedure we follow --

5 Solicitor, are you going to open on the law?

6 MS. BODMAN: We are not. We're going to reserve
7 for the closing.

8 THE COURT: All right.

9 The procedure we will follow in the case is Mr. Li
10 will present the closing argument first to you on behalf of
11 his client, Mr. Bloodsaw. Thereafter, the Solicitor will
12 present the closing argument on behalf of the State. After
13 the closing arguments, depending on how long they are, if
14 you need a short break, we'll take a short break. I will
15 then charge or instruct you on the law that applies as to
16 burglary first, lesser included offense of burglary second
17 and simple or petit larceny. Thereafter, the case will be
18 submitted to you for your verdicts.

19 Please remember my instructions that what the
20 attorneys say is not evidence in the case, but the closing
21 arguments are different from opening statements. They are
22 true arguments. They may comment and argue are the facts,
23 the reasonable inferences to be drawn from the facts and the
24 law and how those facts apply to the law in the case.

25 Please give the parties your complete and

1 undivided attention.

2 All right. Mr. Li.

3 MR. LI: Thank you, Your Honor. May it please the
4 Court?

5 THE COURT: Yes, sir.

6 MR. LI: Good morning, ladies and gentlemen.

7 (Jurors responded good morning.)

8 MR. LI: Yesterday, I started off by telling you a
9 quick summery of what each person's role in this case was.
10 I'm going to start again today by telling you. I'm know
11 you're going to be tired of hearing it.

12 Everybody has their own special job. The Judge,
13 the referee, is the judge of the law. My job as the Defense
14 attorney is to protect the rights of Mr. Thomas Bloodsaw
15 (indicating). And the State's job is to prove to you beyond
16 a reasonable doubt that Thomas Bloodsaw is guilty of
17 burglary first and petit larceny. And your job, ladies and
18 gentlemen, is strictly to judge whether or not the State has
19 met its burden. It's their burden and their's alone.

20 It is not your job to figure out what really
21 happened, to go back and try to recreate the scene. If you
22 catch yourself in the jury room trying to figure out what
23 really happened, stop. That is not your job. Your job is
24 only to judge if the State has proven to you beyond a
25 reasonable doubt that their events, that their story, that

1 their version of what happened, actually, happened. The
2 proof that they've put up on the stand, the evidence that
3 they've presented to you, it's their burden and their's
4 alone.

5 Now, ladies and gentlemen, the State has failed to
6 meet that burden. They have failed to show that Thomas
7 Bloodsaw took the guns. They have done nothing. They have
8 done nothing to show you what happened in that home between
9 7:00 a.m. and 6:30 p.m.

10 Now, yesterday, they spent the better part of the
11 day showing you that those fingerprints matched Thomas
12 Bloodsaw. Now, I don't fault them for that. They've got to
13 do that. That's part of their job. Remember, in the
14 beginning, I told you they have to prove every facet of the
15 case. And they did that. They tried. They got up here and
16 had a lot of evidence. And they showed it to you and --
17 they tried to show it to you.

18 It was my job to protect the rights of
19 Mr. Bloodsaw (indicating), to make sure that they did their
20 job. To make sure that all the I's were dotted, all the T's
21 were crossed. But, ladies and gentlemen, after three
22 expert, Schroder, Bodie, Trisha Odom, after three experts, a
23 bunch of photographs, a slide show presentation, a science
24 lecture, what did we learn? Did we learn anything about
25 what happened in that home between 7:00 a.m. and 6:30 p.m.

1 I asked every one of their experts, every one of their
2 experts, do the fingerprints indicate -- can you give me any
3 type of indication as to the time? They could have been
4 left at 7:01. They could have been left at 9:30 in the
5 morning. They could have been left at 1:00 in the
6 afternoon. They could have been left at 5:55, could have
7 been left at 6:20, 6:25. All the answers were on.
8 Fingerprints give you no indication of time.

9 Now, when CS -- when crime scene investigator
10 Schroder was on the stand, we made it a point -- he made it
11 a point, the State made it a point to tell you that just
12 because there is no fingerprint evidence, just because
13 there's no DNA doesn't mean it wasn't touched, doesn't mean
14 somebody wasn't in there. Remember? Remember, their
15 overwhelming theory of that case, their overall theme at
16 that point of their testimony was to show you that, yeah,
17 because Mr. Leroy Kelly lived in the house, he had friends
18 over, you know -- and we didn't find any DNA, we didn't find
19 any fingerprints, doesn't mean that there's -- there was
20 touch or that nobody lived there. You know, in fact, Don
21 Robinson got up on the stand and said it's very normal not
22 to get results from DNA. Don't let them flip that around on
23 you now. That was there theory. In fact, Ms. Bodmon came
24 up here to the stage and well, so if I touch this thing, it
25 doesn't always mean I'm going to leave a print, right? And

1 Investigator Schroder said yes, that's correct.

2 That was their theory of the case at that point.

3 That was what they wanted to show you. That's fine. I

4 don't care how they phrase it. They can say, well, just

5 because fingerprints weren't there doesn't mean somebody

6 wasn't, actually, there. Or they can phrase it, just

7 because someone was there doesn't mean they had to have

8 fingerprints left. However they phrase it, we agree. I

9 didn't challenge them at all. We agree with it.

10 Ladies and gentlemen, the burden is on the State.

11 The burden is on the State alone to prove that Thomas

12 Bloodsaw took the guns. And, ladies and gentlemen, they

13 have presented zero evidence of that. They have done

14 nothing to show you, they have done nothing to show you that

15 Thomas Bloodsaw took the guns.

16 Now, when the State has their chance to do their

17 final closing, I'm going to promise you two things. Okay.

18 One, the first thing they're going to do is shift your

19 attention to judge Thomas Bloodsaw, okay. Pay attention.

20 It's going to come in a different form. I'm not going to be

21 able to cover every variation of it in my closing. But the

22 first thing they're going to do is shift the focus. They're

23 going to attempt to shift the burden to Thomas Bloodsaw.

24 Shift your attention to Thomas Bloodsaw. They're going to

25 call him a bad person. They're going to call him a liar and

1 a thief. And they're going to say it just like that, he is
2 a liar and a thief. And they're going to ask you not to
3 believe him. They're going to tell you about his motives.
4 They're going to make up some motives that are going to
5 sound good, okay. They're going to tell you because he
6 knows that this is the only way he's going to get out of a
7 burglary first, so he came over to you and he made it up.
8 He told you about some guy named Moses. They're going to
9 shift your attention from the burglary that they have to
10 prove to Thomas Bloodsaw. They want you to judge his story
11 now. Okay. But didn't let them do it.

12 If you catch them trying to do it, you say in the
13 back of your mind prove it. Prove that Thomas's theory is
14 not true. Proof that what his testimony is -- that his
15 testimony is not true. You have done nothing to show that
16 what happened in that house between 7:00 a.m. and 6:30 p.m.
17 And now you want us to -- you want us to not believe him.
18 Because that's all they have. That's the only shot they
19 have left. Don't let them shift your focus.

20 They're going to tell you that he's never told his
21 side of the story before. Oh, how convenient. You come to
22 trial and this is the first time we've heard this. We live
23 in America. You have a right to not incriminate yourself.
24 You have the right to remain silent. For them to imply
25 differently is just wrong.

1 They're going to make up a motive. They're going
2 to -- they're going to shift your attention to try to judge
3 Thomas. In the back of your head, say to yourself prove it.
4 Prove to us as the jury, prove to us as the jury that their
5 story is correct.

6 When Mr. Matthews got up over here and he told you
7 the story, he said -- this is the initial picture that he
8 tried to pain. He said imagine yourselves and you come home
9 and things are ransacked and you have to -- and you stay
10 outside and you have to wait for the police. And you go in
11 the house and things are missing. You come home and you
12 feel violated and you're -- you go in there, your guns are
13 missing and all your stuff has been ransacked. All of
14 that's true. At least, they presented evidence on that.
15 Mr. Kelly got up on the stand. I don't think he has any
16 reason to lie. All that stuff. They've got evidence on
17 that. They put evidence to that.

18 Then all of a sudden, he jumps. He points
19 (indicating). He points, he says well, that's because of
20 Thomas Bloodsaw (indicating). How did you get there?
21 You've showed me nothing. You haven't shown me Thomas
22 Bloodsaw was the only person in there, when he went in
23 there, how many other possible burglars there might be.
24 Between 7:00 a.m. and 6:30 p.m, you have shown us nothing.
25 And yet, that's the jump they want you to make. That's the

1 assumption, the leap of faith. And we'll talk about that in
2 a second. But that's the jump. A really sad event that
3 nobody wishes on anybody, somebody did get violated, their
4 home being violated. Then all of a sudden, 7:00 a.m. to
5 6:30 p.m. jump, boom (indicating), Thomas Bloodsaw, he took
6 the guns. They've shown you nothing about what happened in
7 that house between 7:00 a.m. and 6:30 p.m.

8 Ladies and gentlemen, don't let them shift your
9 focus. The burden is not on Mr. Bloodsaw to prove that
10 Moses took the guns. The burden is not on Thomas Bloodsaw.
11 Thomas Bloodsaw told you he didn't know Moses took the guns.
12 He didn't know what he took. The burden is on the State to
13 show that Mr. Bloodsaw did take the gun and they can't.

14 Now, part two. This is what's going to happen.
15 It's going to come in different forms, different words,
16 different sayings when they ask you to make a leap of faith.
17 And they're going to use code words. They're not going to
18 just come out here and say we need you to believe me.
19 They're going to use code words. Code word number one,
20 common sense. They're going to say use your common sense.
21 Use your common sense. Or gut feeling. Use your gut
22 feeling. All of those are code words for we can't prove it.
23 They need you to make a jump because they can't prove it.
24 And they may give you some story like walking like a duck,
25 talking like a duck. And they'll give you a story about

1 snowing outside.

2 I don't know what story they'll use. Whatever
3 code word or whatever saying they're going to use, they're
4 going to ask you to make a jump, a leap of faith. They're
5 going to ask you to just believe them because they put
6 nothing on the stand. No pictures, no witnesses. They
7 didn't talk to the great aunt next door. They have on
8 evidence. No tire marks. Nobody didn't find any of the
9 evidence. They didn't find any guns in Thomas Bloodsaw's
10 house. They have nothing, nothing even close to tell you
11 what happened in that home between 7:00 a.m. and 6:30 p.m.

12 Now, ladies and gentlemen, they know -- they, the
13 State, knows they can't prove it. They're going to get up
14 here, shift your focus, talk about other things and ask you
15 to judge Thomas Bloodsaw as a liar and a thief. Don't shift
16 your focus. Don't make any jumps. Don't make any leaps of
17 faith. If they do either of those things, in the back of
18 your head say prove it. Prove to me your story. Stop
19 talking about this, tell me your story. Prove it to me.
20 Show me it. Bring some people to the stand. Show me your
21 story. The State's story contradicts Thomas's, it couldn't
22 possibly be true. It's not possible for Thomas Bloodsaw to be
23 true because the State, we have shown you this. We've put
24 it on a slide show. We've done pictures, whatever.
25 Whatever they can do, make them prove it. Ladies and

1 gentlemen, they cannot and they know they cannot.

2 Look at this, fact number one, Thomas Bloodsaw
3 charged with petit larceny. You'll see it on -- I'm sure
4 they have a poster board, zero to \$2,000. That's fact.
5 That's what he's charged with.

6 Jamie Lucas comes on the stand. How much does he
7 write on his report? \$4,120. Okay. Fine.

8 Mr. Kelly (indicating), he gets on the stand. I
9 asked him how much did you lose, roughly, approximately.
10 Very quickly, he says \$5000, at least. Ladies and
11 gentlemen, you do the math. He's charged with petit larceny
12 from zero to \$2,000. Jamie Lucas says 4,000, Mr. Kelly says
13 5,000. They know they can't prove what he took. Yeah,
14 okay, we're going to charge him with -- we're going to
15 charge him with petit larceny, it's zero -- zero to 2,000
16 because he took something. I mean, it's their guess. He
17 took thing, zero to 2,000.

18 Ladies and gentlemen, I promise you I'm almost
19 finished. Thomas Bloodsaw, he's not an angel. Okay. He's
20 got a felony on his record. He's got a larceny on his
21 record. But he got up on that stand and he told you he
22 didn't steal the guns. He got up there and he admitted to
23 you, as embarrassing as it was and shameful because he knows
24 he did something wrong. He went into Mr. Kelly's house, he
25 broke in with the intent to steal something. Okay. He

1 searches for money and jewelry and anything that he could
2 get really quickly. He saw some ammo boxes. If you believe
3 the State about the fingerprints, he touched the ammo boxes.
4 He says he touched the ammo boxes. He didn't take them. In
5 fact, in Exhibit No. 4, which you'll see in the bottom
6 right-hand corner four ammo boxes. One box of 44's, three
7 22's -- three boxes of 22's -- or it could be the opposite
8 way around. Four boxes in the photo. Still there. And as
9 Thomas Bloodsaw is on his way out, he took a desktop
10 computer. Surge protector is in the back yard.

11 Ladies and gentlemen, Thomas Bloodsaw is guilty.
12 He's guilty of burglary second and petit larceny. But he is
13 not guilty of first-degree burglary because the State has
14 not shown you anything, they have proved you nothing of what
15 happened in that home between 7:00 a.m. and 6:30 p.m. Thank
16 you.

17 THE COURT: Thank you. Thank you, Mr. Li.
18 Solicitor.

19 MS. BODMAN: [REDACTED] Old Leesburg Road was the
20 Defendant's personal piggy bank. He needed money and he
21 went to the home of Leroy Kelly to get it.

22 Leroy Kelly, who works an honest day for an honest
23 dollar. But it was the Defendant's greed (indicating), his
24 greed that was also his demise. His greed in prying back
25 that file cabinet to look for whatever was locked in that

1 filing cabinet, possibly more than the three guns he already
2 stole. His own greed is his demise that brings him here
3 today (indicating).

4 The Defense said in opening statements, I have two
5 words, prove it. And we did. We meticulously brought you
6 through the entire case.

7 The Defense attorney stood up here and said they
8 brought you nothing, nothing. What is all of this
9 (indicating) that we had witness after witness. We had
10 Leroy Kelly go through each photograph describing
11 everything. Investigator Schroder meticulously going
12 through describing everything. He said they've shown you
13 nothing that showed you what happened.

14 Well, this is Leroy Kelly's home (indicating).
15 This is Leroy Kelly's front door (indicating) that was
16 busted in, the force that was used to break into his home,
17 the deadbolt, the locks laying on the ground (indicating).
18 Each and every room that was ransacked in Leroy Kelly's
19 home, as drawer are pulled out, cabinets are pulled out.
20 His privacy and his sense of security being invaded and
21 broken down. Each and every photograph, as Leroy Kelly
22 walked you through his home to tell you about this invasion,
23 invasion of his property and his sense of security.

24 His bedroom (indicating), the place where he lays
25 his head down on the bed at night, torn apart. His privacy

1 invaded. Photo after photo after photo. His sense of
2 security being invaded, which is really why there is
3 probably two issues to -- or two sides to this gun issue
4 that's out there. It's because there are people like the
5 Defendant (indicating) who will come into your home and take
6 --

7 MR. LI: Your Honor, I object --

8 MS. BODMAN: -- what they want.

9 THE COURT: Okay.

10 MR. LI: I object to pledging to the passions of
11 the jury.

12 THE COURT: All right.

13 You can rephrase that, Solicitor.

14 Thank you, Mr. Li.

15 Thank you, Solicitor. You may continue.

16 MS. BODMAN: We meticulously walked through

17 Investigator Schroder, the crime scene investigator, who
18 talked to you about his training and his experience. I
19 would ask you to also take into consideration his demeanor.
20 He seemingly -- you can tell he cares about his job and he
21 wants to do a good job and he wants to meticulously go
22 through that crime scene and pick up any possible pieces of
23 evidence. He wants to A, preserve it in photographs so that
24 we can bring it to life to you in this courtroom
25 (indicating) so that you can know what happened. He wants

1 to walk through each piece of evidence and know this is a
2 good one to fingerprint, this is good one to possibly lift
3 prints off. I know the surfaces. I know the elements of
4 what leaves a print. And he, also, probably knows good
5 places to lift where someone can't really defend it.

6 For example, the inside of the file cabinet where
7 it's pulled back. Think about if it's on the outside of the
8 file cabinet, someone could come into the court, you know, I
9 used to work for a file cabinet manufacturing company. I
10 bet that I was the one that put that file cabinet together
11 when I worked for that company. So that could be the reason
12 that my prints are there. It's on the Winchester box. Gee,
13 I happen to used to work at Wal-Mart and I sold ammo at
14 Wal-Mart, so that could be why my print is on that box.

15 But he knows to look in places where you're not
16 going to be able to explain why a print is right there where
17 the file cabinet was being pried open. That is the kind of
18 good crime scene investigation that you listen to and you
19 saw in this courtroom.

20 Then we heard from Diane Bodie and Trisha Collins,
21 who -- Odom, excuse me, carefully teaching us about the
22 centuries' old science of fingerprint, centuries old. And
23 their extensive, extensive training and education and
24 experience. 40 years Diane Bodie has been doing this. 40
25 years. And we spent hours on that testimony because the

1 Defense said in opening they've got fingerprints, that's it,
2 prove it. Meticulously bringing that to you how they go
3 through their methodology, the fact that they are going to
4 verify with somebody else, separate verification.

5 Sergeant Don Robinson what got as much information
6 as possible from the victim, from Leroy Kelly. He then
7 makes sure that the evidence has been submitted for
8 analysis, that the latents are being looked at, that the
9 possible DNA swabs are being looked at. When he gets that
10 result back, hey, we got a match on Thomas Bloodsaw. He
11 wants to call Leroy Kelly and just say hey, do you know this
12 person? Is there an explanation why this person's prints
13 would be in your home? Because if he goes oh, yeah, that's
14 my buddy, that's my friend, then we're off in another
15 direction. We've got to figure it out. I don't know this
16 guy. There's no reason why this Defendant should be in my
17 home.

18 Then he goes and tries to talk to Thomas Bloodsaw
19 to get an explanation. The hey, I worked for a filing
20 cabinet manufacturer. Hey, I used to work at Wal-Mart and I
21 sold ammo, that's possibly why. Right? Or yeah, I went in
22 there. My other buddy burglarized the place, but I went in
23 there later. But no, I don't know nothing, he said. I
24 don't know anything that you're talking about.

25 Sergeant Stan Richards, who participated and,

1 actually fingerprinting this Defendant (indicating) himself,
2 eyeballed those prints being rolled on a ten print card so
3 that we could then come to you and let you know that this
4 was not any type of entry database error. That nobody
5 accidentally entered the prints that we matched it under
6 Thomas Bloodsaw's name, that it, actually, belonged to
7 somebody else. There was no error in that database. We
8 eyeballed his prints on a card and we compared his known
9 prints to verify our match so that you all could be
10 comfortable with every step of the way of that fingerprint
11 comparison. And then, again, Diane Bodie and Trisha Odom
12 that go back and compare that. And say yes, we were
13 correct, that is Thomas Bloodsaw's fingerprint.

14 Well, the Defendant being surrounded -- has been
15 surrounded by what we call a robe of righteousness, thus
16 presumption of innocence. And that is, as the law requires
17 and justice demands. But with each and every witness, each
18 and every question and each and every answer and each and
19 every exhibit, we slowly chipped away at that presumption of
20 innocence. And the Defendant was here and saw it and felt
21 every chip. He felt (indicating) every chip of that cloak
22 being chipped off of him and knew that justice was coming
23 right fast for him.

24 I want to talk to you about some of the laws that
25 are applicable in this case. First is the larceny charge.

1 It is the taking and carrying away of personal goods of
2 another person with the intent to deprive the owner
3 permanently of such property and to convert the goods to his
4 own use.

5 Well, by his own admission, by his own admission,
6 right, he said that he took the computer out of the home
7 that belonged to Leroy Kelly and that he sold it for \$150.
8 There was no intent to get that computer back. So just by
9 the Defendant's own testimony and own admission. But then
10 we do have more. There was a lot more property that he
11 stole from that home that we know of. There were three
12 guns, a TV, PlayStation, some jewelry. But by the
13 Defendant's own admission, he had -- has confessed to the
14 larceny.

15 Burglary in the second degree. It is unlawful to
16 enter a dwelling, a person's home, [REDACTED] Old Leesburg Road,
17 without consent. He said he did not have the permission of
18 Leroy Kelly and Leroy Kelly said he doesn't know the
19 Defendant and didn't give him permission. And it was with
20 the intent to commit a crime. In this case, it was the
21 crime of theft. And again, the Defendant's own admission on
22 the stand was I went into this home. I did not have
23 permission. And I was intending on stealing something and,
24 in fact, I did. Because the intent to commit a crime, you
25 don't, actually, have to prove that something is stolen

1 because, conceivably, theoretically, I guess somebody could
2 break into a home thinking I'm going to take a lot of stuff
3 and then they get into the home and they go, uh, you know,
4 there's nothing here that I want or they're stopped before
5 they're able to take any property. So it's still a burglary
6 even if they don't successfully remove something. That's
7 just the law. We're not going to benefit, give them some
8 kind of benefit because they either didn't like what was in
9 the house or they weren't able to get it out.

10 So, then we take burglary in the first degree.
11 Well, we see enters a dwelling, same, without consent with
12 the intent to commit a crime therein. So there's your
13 burglary second. What makes it a burglary in the
14 first-degree could be a number of factors under the law.
15 For instance, if you enter somebody's home at night, that
16 could be an aggravating factor. In this case, our
17 aggravating factor is either when in effecting entry using a
18 weapon to try to enter the home or while you're in the
19 dwelling. So you don't enter the home with a gun, but you
20 get one while you're in there or in the immediate flight or,
21 say, you leave the defendant was armed with a deadly weapon.
22 Three guns were taken.

23 And if you think about why is this an aggravating
24 factor in terms of weapons, it's because we are talking
25 about people's homes. We are talking about people's homes

1 and people come and go from their home. So even if you,
2 don't enter my home with a weapon, but you steal one, you
3 could come upon that person who's in your home stealing
4 things. You know, you pop home during the day unexpectedly
5 or it is your routine and the person doesn't know, that is a
6 dangerous situation. That weapon -- your own weapon that
7 has been stolen from your home could be used against you.
8 It is a seriously dangerous situation when guns are
9 involved. And so the law has decided that it is a burglary
10 in the first degree if weapons are either brought in or
11 stolen from the home.

12 Direct and circumstantial evidence. Well, direct
13 evidence is the testimony of a person who asserts or claims
14 to have knowledge of a fact, such as an eyewitness. So if
15 Investigator Schroder tells us where he lifts the prints, if
16 Leroy Kelly says yeah, these items were in my home and now
17 they are not in my home, my door was broken in. But it's,
18 also, for example, the Defendant confessing to the entry in
19 the dwelling without permission and intent to a commit.

20 Then there's, also, circumstantial evidence. It's
21 proof of a chain of facts and circumstances indicating the
22 existence of a fact. So his fingerprint in the home, we
23 know he was there. And the law makes absolutely no
24 distinction between the weight and value to be given to
25 either direct or circumstantial evidence. Nor is a greater

1 degree of certainty required of circumstantial evidence than
2 of direct evidence. They are the same weight.

3 Beyond a reasonable doubt. Proof beyond a
4 reasonable doubt is proof that leaves you firmly convinced
5 of the Defendant's guilt. There are few things in this
6 world that we know with absolute certainty. And in criminal
7 cases, the law does not require proof that overcomes every
8 possible doubt. If, based on your consideration of the
9 evidence, you are firmly convinced that the Defendant is
10 guilty of the crime charged, you must find him guilty. If
11 on the other hand, you think there is real possibility that
12 he's not guilty, you must give him the benefit of the doubt
13 and find him not guilty.

14 Finally, I want to talk to you about the
15 credibility of the witness. You are the judges of the facts
16 in the case. You are the judges of the credibility or
17 believability of each witness that took the stand. And you
18 ask yourselves the same things that you do in ordinary
19 common life. When your child tells you they didn't eat the
20 cookies from the cookie jar, those sorts of things, you use
21 your common sense. Was the person straightforward or
22 hesitant when answering questions.

23 I want you to think about all the State's
24 witnesses and how they were confident about how they
25 processed the scene, confident about their experience in

1 examining prints. Leroy Kelly didn't have anything to hide
2 in terms of what happened that day. Was the witness
3 consistent or inconsistent? How does the witness know the
4 facts that he or she is testifying to? For example,
5 education, training. 40 years of experience. Was the
6 witness present during the incident or did he happen on the
7 scene? Was the witness's testimony strengthened or weakened
8 by the other testimony or evidence? And is there some
9 reason a witness would want to give testimony which would
10 help or hurt one side or the other? In other words, was the
11 witness biased or prejudice?

12 They said in opening statement, the only thing the
13 State has is a fingerprint that they wave under the banner
14 of science, but it is an art. And we brought forth
15 competent, lengthy expert testimony about that fingerprint.

16 The Defendant -- the Defense, even through all
17 this cross-examination was unable to shake or destroy the
18 science of fingerprinting single-handed after centuries in
19 this courtroom. And the Defendant (indicating) sat there
20 and watched that. So he decided to take his defense into
21 his own hands.

22 So let's talk about the credibility of the
23 Defendant. The presumption of innocence does not mean that
24 he is presumed to tell the truth. You judge his credibility
25 just like you would any other witness. What is his motive?

1 So more than 20 months have passed since Leroy Kelly's home
2 was invaded. He tells not a single soul, nobody, nobody,
3 that means not his momma, not the mother of his child.
4 There was testimony that, apparently, he's had multiple
5 attorneys. Not a single soul does he tell this story to
6 until yesterday after he watches all of that fingerprint
7 testimony that he is not going to be able to overcome. Even
8 if he says oh, my gosh, this is not working out. He knew as
9 he's sitting there, he knows that this story that he comes
10 up with cannot be that he was in the home at the time that
11 those guns were taken.

12 He can't say oh, well, somebody else grabbed the
13 guns, I just grabbed the computer. Because that is a
14 burglary in the first degree. He's a participant in that
15 crime. So he's got to get out from under the guns because
16 the fingerprint's there. He's in the house. He can't shake
17 the fingerprint. The science is solid. So what am I going
18 to do? I've got to get out, at least, from the guns. I've
19 got to cut my losses.

20 So this person who has been convicted of a felony.
21 The Defendant has been convicted of a grand larceny. He
22 offered in his own testimony that he was engaged in some
23 type of selling T-shirts, which was an illegal activity.
24 And he offers to you, but it's a misdemeanor, it's not a
25 felony. So he knows he's got to manipulate something to get

1 out from under the guns, to, at least, cut his losses that
2 maybe he'll be convicted of a burglary second instead of
3 burglary first. I've got to get out from under those guns.

4 He admits that he lies to the officer that comes
5 to arrest him at the stadium when he's selling the shirts.
6 The officer just says to him hey, are you Thomas Bloodsaw or
7 what's your name -- no, I'm sorry. It was, what's your
8 name? And given two options -- because I understand, I
9 totally understand that there are people that don't
10 necessarily like law enforcement. I get that. But he is
11 given two options, right. An officer comes up to him and
12 says what is your name. He can either say it's really none
13 of your business. You know, what is it your authority to be
14 asking me my name. Or he can lie. And given those two
15 options, what does he do? He lies. He doesn't say I'm
16 sorry, Officer, but it's really none of your business what
17 my name is. He lies. Okay.

18 Sergeant Don Robinson, he goes to talk to Don
19 Robinson -- or Don Robinson goes to talk to him about this
20 burglary. Hey, there's a burglary out a [REDACTED] Old Leesburg
21 Road, August of 2011, what you know about it? He's got two
22 options. Now, Mr. Li, in his closing, said you know, this
23 Defendant has a right to remain silent. He has a right to
24 remain silent. Okay. Yeah, he can, right to remain silent.
25 That's one of his options. Lie. Two options. What does he

1 decide to do? Lie. I don't know what you're talking about.

2 Do not know what you're talking about.

3 Science does not have friends to reward or enemies

4 to punish. Science does not have a motive. People have

5 motives. People have motives. So when he's sitting here

6 with his options as he watches the fingerprint science

7 testimony rock solid, he's weighing those options. I'm

8 going to have to cut my losses and get out from under the

9 guns. So he comes up with Moses. Moses is going to be his

10 miracle. Moses is going to part the sea and get him out of

11 here. He says oh, my buddy, my friend, Moses, calls me and

12 says that he did the burglary and I go there later and I

13 just take the computer.

14 You did not see -- in the credibility of the

15 witnesses, you judge their demeanor. You judge their

16 demeanor as he sat here and he just -- there was not one bit

17 of remorse or apology. There wasn't, you know, I am so

18 sorry this happened to you. Gosh, I am just stupid. It was

19 just a stupid decision that I made to go over there after

20 Moses. I'm so sorry. No, it was so, yeah, needed some

21 money and so he called me, told me. So I went over there, I

22 looked around and I took a computer, then I left and sold it

23 for \$150. Not a single bit of, you know, this is awful. I

24 should have told you a long time ago. I don't know why I

25 kept it a secret. You know, this is awful. No, because all

1 of this happened after he saw the fingerprint testimony come
2 down on him (indicating). It wasn't about the truth. It
3 have not about the truth. It was about his options and the
4 option that he chose to cut his losses.

5 The truth is in the details. Truth is definitely
6 in the details. Because when you listen to his story, he
7 never said that he pried that file cabinet open. Never said
8 it. He talks about how he is, basically, meandering through
9 this house and looking and seeing things and maybe touched
10 the file cabinet. Well, that makes no sense whatsoever that
11 you would just, you know, touch a file cabinet. That print
12 from a pry open to get in to see what valuable things were
13 lock in that cabinet.

14 It, also, is not reasonable at all that Moses says
15 he just committed this burglary. Moses, who commits lots of
16 burglaries. He says, yeah, I just committed this burglary
17 up on Old Leesburg and I got everything I wanted to. Okay.
18 Why are you going to then -- because he says he honestly
19 works. He dropped off the kids and he's on his way to work.
20 Why are you going to risk this home that's out there in the
21 middle of nowhere to go and look at a home that's already
22 been burglarized, that the good stuff has already been
23 taken? And Moses, this career, burglar leaves behind a
24 computer that you can 150 bucks for. That is not chump
25 change. 150 bucks. And then -- and Moses knows who to sell

1 it to. Moses is the one that says yeah, I've got somebody
2 who will pay 150 bucks for it. That is completely
3 ridiculous that Moses is going to leave behind a computer he
4 can get 150 bucks for.

5 The truth is in the lack of details and the
6 unreasonableness of his story because it was just the option
7 that he was faced with.

8 It was not just Leroy Kelly's home that was
9 invaded that day. It was his life. It was his life. Your
10 job in looking at beyond a reasonable doubt is also to
11 question the Defendant's credibility, to question his story
12 and to reject it as being unreasonable. He knew I have got
13 to get myself out of that house when the guns were taken to
14 cut my losses. It was his Hail Mary approach, his Hail Mary
15 approach after yesterday's testimony. The credible
16 evidence, the law and the credible evidence presented to you
17 is that he is guilty of a burglary in the first degree, a
18 burglary in the first degree. Thank you.

19 THE COURT: Thank you. Thank you very much,
20 Solicitor.

21 Madame Forelady, ladies and gentlemen of the jury,
22 my instructions to you will take -- well, I don't even want
23 to give you a too reasonable of an estimate and hold it to
24 me and just get up and walk out because it was so long, but
25 it may take about 30 minutes. Does anybody need a break

1 before that? If so, just raise your hand and I'll be glad
2 to take one.

3 You do?

4 All right. Let's take about a 10-minute recess.

5 Do not the discuss the case during this brief recess. Thank
6 you. Thank you very much.

7 (The jury retires from the courtroom at
8 10:58 a.m.)

9 THE COURT: All right. Court will be in recess 10
10 minutes.

11 (Whereupon, a short recess was held.)

12 THE COURT: All right. Bring us the jury, please.

13 (The jury returned to the courtroom at
14 11:08 a.m.)

15 THE BAILIFF: The jury is seated, Your Honor.

16 THE COURT: Thank you, Mr. Bailiff.

17 Madam Forelady, ladies and gentlemen of the jury,

18 I am going to begin my charge or instructions to you. I

19 will tell you the procedure of the form that I follow. I

20 generally charge the criminal law that applies to all

21 criminal cases in South Carolina first, the general criminal

22 law. I will give you the caption of the subject to the

23 paragraph I'm fixing to cover. When I change from one

24 paragraph to another, I will give you that caption.

25 After I cover the general criminal law, I will

1 then cover the charge in the indictments. First, the
2 burglary first degree and a lesser included offense of
3 burglary second degree, which I will explain to you. And
4 next, I will cover petit or simply larceny. Thereafter, I
5 will cover the charge and the verdict.

6 This is wrote. It is very scripted. However, it
7 is very important. This is the law that you will apply to
8 the facts of the case as you find them to be. Please give
9 me your complete and undivided attention.

10 Charge, arrest, indictment, not evidence. The
11 indictments, these documents (indicating) are the charge --
12 the Defendant is charged with is indictment of burglary
13 first degree and simple or petit larceny. I remind you the
14 fact that the Defendant was arrested, charged and indicted
15 in this case is not evidence and cannot be considered by you
16 as evidence in this case. Nor does it create any
17 presumption or inference of guilt. These documents are
18 simply the formal written instruments which contain the
19 charges made against the Defendant. They are the formal
20 documents by which the case is brought into court.

21 The indictments in this case allege two different
22 offenses against the Defendant. The first, burglary first
23 degree and/or the lesser included offense of burglary second
24 degree. And the second indictment petit larceny. Each
25 indictment charges a separate or distinct offense. You must

1 decide each indictment separately on the evidence and the
2 law that applies to it uninfluenced by your decision as to
3 the other indictment. The Defendant may be convicted or
4 acquitted on any or all of the offenses charged. You will
5 be asked to write a separate verdict of guilt or not guilt
6 for each indictment.

7 Presumption of innocence. The Defendant has pled
8 not guilty to these indictments. And that plea puts the
9 burden on the State to prove the Defendant guilty. A person
10 charged with committing a criminal offense in South Carolina
11 is never required to prove himself innocent. I inform you
12 that it is an important rule of the law that a defendant in
13 a criminal trial, no matter what the seriousness of the
14 charge may be will always be presumed to be innocent of the
15 crime for which the indictment was issued unless guilt has
16 been proven by evidence satisfying you of that guilt beyond
17 a reasonable doubt.

18 This presumption of innocence does not end when
19 you begin your deliberations, but it accompanies the
20 Defendant throughout the trial until you reach a verdict of
21 guilt based on evidence satisfying you of the Defendant's
22 guilt beyond a reasonable doubt.

23 This presumption of innocence has been said to be
24 like the robe of righteousness placed about the shoulders of
25 the Defendant, which remains with the Defendant until it has

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

8 What is a reasonable doubt in the law? A
9 reasonable doubt in the law is the kind of doubt that would
10 cause a reasonable person to hesitate to act. The State has
11 the burden of proving the Defendant guilty beyond a
12 reasonable doubt. Some of you may have served as jurors in
13 civil cases in the past, where you were told that it is only
14 necessary to prove that the fact is more likely true than
15 not true, such as by the greater weight or the preponderance
16 of the evidence. In criminal cases, the State's proof must
17 be more powerful than that. It must be beyond a reasonable
18 doubt.

19 Proof beyond a reasonable doubt is proof that
20 leaves you firmly convinced of the Defendant's guilt. There
21 are very few things in this world that we know with absolute
22 certainty. And in criminal cases, the law does not require
23 proof that overcomes every possible doubt. If based on your
24 consideration of the evidence, you are firmly convinced that
25 the Defendant is guilty of the crime charged, you must find

1 the Defendant guilty. If on the other hand, you think there
2 is a real possibility that the Defendant is not guilty, you
3 must give the Defendant the benefit of the doubt and find
4 him not guilty.

5 Duties of the trial jury and trial judge. I
6 remind you that during this trial, you and I have certain
7 duties to perform. As the trial judge, it is my
8 responsibility to preside over the trial and I, also, have
9 the duty to rule on the admissibility of evidence offered
10 during the trial. You are to consider only the competent
11 evidence before you. You are to consider only the testimony
12 which has been presented from the witness stand and any
13 exhibits which have been made part of the record. I have
14 the added duty to charge you the law that applies. As the
15 presiding judge, I am the sole judge of the law of this
16 case. And it is your duty as jurors to accept and apply the
17 law as I now state it to you. If you already have any idea
18 as to what the law is or what the law ought to be and it
19 does not agree with what I now tell you the law is, you must
20 set aside, you must abandon your idea because you are sworn,
21 you have taken an oath to accept the law and apply the law
22 exactly as I state it to you.

23 In every case tried in this court before a jury,
24 the jury becomes the sole and exclusive judge of the facts
25 in a case. The trial judge cannot intimate, state, comment

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

13 Direct and circumstantial evidence. There are two
14 types of evidence which are generally presented during a
15 trial, direct evidence and circumstantial evidence. Direct
16 evidence is the testimony of a person who claims to have
17 actual knowledge of a fact, such as an eyewitness or an ear
18 witness. It is evidence which immediately establishes the
19 main fact to be proved.

20 Circumstantial evidence is proof of a chain of
21 facts and circumstances indicating the existence of a fact.
22 It is evidence which immediately establishes collateral
23 facts from which the main fact may be inferred.
24 Circumstantial evidence is based on inference and not on
25 personal knowledge or observation. Our law makes absolutely

1 no distinction between the weight or the value to be given
2 to either direct or circumstantial evidence. Nor is there a
3 greater degree of certainty required of circumstantial
4 evidence than of direct evidence. You should weigh all the
5 evidence in the case. After weighing all of the evidence,
6 if you are not convinced of the guilt of the Defendant
7 beyond a reasonable doubt, you must find the Defendant not
8 guilty.

9 Credibility of witnesses. Necessarily, you must
10 determine the credibility of the witnesses who have
11 testified in this case. As you all know, credibility simply
12 means believability. In using your good judgment and your
13 common sense individually and collectively, it becomes your
14 duty as jurors to analyze and evaluate the evidence and
15 determine which evidence convinces you of its truth.

16 In determining the believability of the witnesses
17 who have testify in this case, you may believe one witness
18 over several or several over one. You may believe a part of
19 the testimony of a witness and reject the remaining part of
20 the testimony of that same witness. You may believe the
21 testimony of a witness in its entirety or reject the
22 testimony of a witness in its entirety. You may consider
23 whether any witness has exhibited to you any interest, bias,
24 prejudice or other motive in this case. You may consider
25 the demeanor, the manner or the appearance of the witness

1 while on the witness stand. Was he or she hesitant or
2 forthright? Was his or her testimony corroborated or
3 consistent or inconsistent? You may use whatever skills you
4 have, again, against that back drop of your good judgment
5 and your common sense in determining the credibility, the
6 believability of the witnesses in your search for the true
7 facts in the case.

8 Expect witnesses. I know you have heard this
9 several times. The rules of evidence ordinarily to do
10 permit witnesses to testify as to opinions or conclusions.
11 An exception to this exist for witnesses that we call expert
12 witnesses. A witness, who by education and experience,
13 training has become expert in some art, science, profession
14 or calling may state an opinion as to relevant and material
15 matter in which the claims to be an expert and may also
16 state the reasons, the underlying basis for holding that
17 opinion. You should consider any expert opinions received
18 in evidence in this case and, like any other evidence, give
19 it the weight you think it deserves.

20 If you decide that the opinion of an expert
21 witness is not based on sufficient education and experience
22 and training or if you conclude that the reasons given in
23 support of the opinion are not sound or that the opinion is
24 outweighed by other evidence, you may disregard the opinion
25 in its entirety. An expert witness's testimony is to be

1 given no greater weight than that of other witnesses simply
2 because the witness is an expert. Further, you are not
3 required to accept an expert's opinion even though it is not
4 contradicted.

5 Statement of the Defendant. A statement alleged
6 to have been made by the Defendant has been admitted into
7 evidence in this case. While this Court has determined that
8 the statement is admissible, I instruct you that you make
9 the ultimate decision as to whether or not the Defendant
10 made the statement. If the Defendant did make the
11 statement, you must determine whether the statement was made
12 voluntarily and of his own free will. This means that the
13 statement was not caused by pressure, force, fear, threat,
14 coercion, intimidation, hope or promise of leniency or
15 reward of any kind.

16 In determining whether the statement was
17 voluntary, you should consider both the characteristics of
18 the Defendant and the details of the questioning. Some of
19 the factors you must consider are the age of the Defendant,
20 the Defendant's education or lack of education, the
21 Defendant's mental ability or capacity, the Defendant's IQ
22 or intelligence, the Defendant's background and environment,
23 the place and length of detention, the nature of the
24 questioning and the advice or lack thereof to the Defendant
25 of his Constitutional rights, including but not limited to

1 the right to remain silent, that any statement could be used
2 against him in a court of law, the right to have an attorney
3 present, that if he could not afford an attorney, an
4 attorney would be appointed to represent him without any
5 cost and that he could stop making a statement at any time.
6 You must carefully consider all of the surrounding
7 circumstances before you give any weight to any alleged.

8 The State has the burden of proving beyond a
9 reasonable doubt that the alleged statement was voluntary.
10 If you determine it was, you may give statement any further
11 consideration you deem proper. You must decide what weight,
12 if any, should be given to the alleged statement. If you
13 determine the alleged statement was not the free and
14 voluntary statement of the Defendant, you should not
15 consider the statement at all.

16 I would further instruct you that a person who has
17 a prior criminal record is competent to testify during a
18 trial. A past record does not affect the ability of the
19 witness to testify. The past record may only be considered
20 by you, if at all, in determining the witness's credibility
21 or believability. Remember, you are the sole judges of the
22 facts in this case and of the believability of any and all
23 of the witnesses.

24 Ladies and gentlemen, that covers the general
25 criminal law that applies to this case and all cases in

1 South Carolina. I am now going to cover the charges in the
2 indictment.

3 The first indictment 2012-GS-40-01158 is an
4 indictment for burglary in the first degree. I will charge
5 and instruct you on the law of burglary in the first degree
6 and what is known as the lesser included offense of burglary
7 in the second degree.

8 The Defendant is charged with burglary in the
9 first degree. The State must prove beyond a reasonable
10 doubt that the Defendant entered a dwelling without consent.
11 A dwelling is any building or portion of a building in which
12 a person ordinarily sleeps. A building constructed as a
13 dwelling that has never been occupied cannot be considered a
14 dwelling for purpose of burglary. But a building is a
15 dwelling even if the residents are temporarily absent from
16 the building.

17 Next, the State must prove beyond a reasonable
18 doubt that the Defendant intended to commit a crime, either
19 a felony or a misdemeanor at the time of the entry. The
20 mere entry into a dwelling without consent is not burglary.
21 If the intent to commit a crime is formed after the entry,
22 it is not burglary. On the other hand, if the Defendant
23 intended to commit a crime at the time of the entry, it is a
24 burglary even if the intent was abandoned after the entry.
25 It does not matter that the intended crime was not

1 completed. Intent may be shown by the acts and conduct of
2 the Defendant and other circumstances from which you, the
3 jury, may naturally and reasonably infer intent.

4 Finally, for burglary first, the State must prove
5 beyond a reasonable doubt that when entering or while in the
6 dwelling or when fleeing, the Defendant was armed with a
7 deadly weapon. A deadly weapon is any article, instrument
8 or substance which is likely to cause death or great bodily
9 harm. The following are examples of instruments which may
10 be deadly weapons: A rifle, a shotgun, a pistol, dagger,
11 knife and so forth.

12 That is the charge of burglary in the first
13 degree. The Defendant entered a dwelling without consent
14 with the intent to commit a crime therein and when effecting
15 -- when entering, while in the dwelling or when fleeing from
16 the dwelling, the Defendant was armed with a deadly weapon.

17 Under the theory of our law, a greater includes a
18 lesser offense. I will instruct you on the lesser offense
19 of burglary in the second degree. If you find that the
20 State has failed to prove beyond a reasonable doubt that the
21 Defendant committed first degree burglary, you may consider
22 whether the State has proved beyond a reasonable doubt that
23 the Defendant committed second degree burglary. Second
24 degree burglary includes all of the elements of first degree
25 burglary, except that the Defendant was armed with a deadly

1 weapon or when entering, while in the dwelling or when
2 fleeing. So it would be the entry into a dwelling with the
3 intent to commit a crime therein.

4 The next, petit larceny. The Defendant is charged
5 with petit larceny. The State must prove beyond a
6 reasonable doubt that the Defendant took and carried away
7 the property of another against the will or without the
8 consent of the other person. The slightest removal of the
9 property or the complete possession of the property, even
10 for an instance, by the Defendant is enough to show the
11 taking and carrying away of the property. The State must
12 also prove beyond a reasonable doubt that the Defendant
13 intended to permanently deprive the owner of the property.
14 That is the charge of petit larceny.

15 And, finally, ladies and gentlemen, I assure you
16 the end is in sight. Please continue to give me your
17 complete and undivided attention.

18 As to the form of possible verdicts. Madam
19 Forelady, you will have this from (indicating) in the jury
20 room with you. It is very -- I think a very simple form.
21 It has the caption of the case. The indictment number
22 that's indicated in the verdict form. It indicates, please,
23 mark with appropriate verdict below and follow the
24 accompanied instructions carefully.

25 Number one, it has as to the charge of burglary,

1 we, the jury, unanimously find the Defendant -- and it has
2 three possible verdicts you may reach as to that charge.
3 There's absolutely no significant whatsoever in the order in
4 which they are listed nor in the order in which I explain
5 them to you, simply, one must be listed first, second and
6 third. Based on your determination of the facts in the
7 case, apply the jury's determination of the facts to the law
8 as I have instructed. If you find that the State has met
9 its burden of proof beyond a reasonable doubt as to burglary
10 in the first degree, I would ask you to put a check mark to
11 the left of guilty burglary first degree, circle both the
12 check mark and all those words, one, two, three, four words,
13 guilty of burglary first degree. If you find the State has
14 failed to prove beyond a reasonable doubt that the Defendant
15 is guilty of burglary in the first degree, but you find that
16 the State has met its burden beyond a reasonable doubt as to
17 burglary in the second degree, I would ask you to check to
18 the left of guilty of burglary in the second degree, circle
19 both, put a check mark and those words. If you find that
20 the State has failed to meet its burden of proof as to
21 burglary or as to burglary second and you find him not
22 guilty, I would ask you to check to the left of the words
23 not guilty, circle both your check mark and the words not
24 guilty.

25 So as to the burglary, you may find him guilty of

1 burglary in the first degree or burglary in the second
2 degree or not guilty, depending on your determination of the
3 facts, applying those facts to the law as I have explained
4 the law to you.

5 The next is as to the charge of petit larceny.

6 And there's only one of two possible verdicts there, guilty
7 or not guilty, based on the jury's determination.

8 Ladies and gentlemen, as you've heard me use the
9 term unanimous, your verdict must be unanimous. All 12 of
10 you must agree. Your verdict must be based on the evidence,
11 the testimony presented in the courtroom and the law as I
12 have explained it to you. Your verdict may not be based on
13 passion, prejudice, bias, emotion or any other emotion not
14 in evidence in this case.

15 After the jury has reached the unanimous verdicts
16 as to both charges, Madame Forelady, if you would, please,
17 sign this form as the presiding juror and date it today's
18 date, I believe is 13-March-13.

19 I'm going to ask you to return to your jury room,
20 but do not begin your deliberations until you are instructed
21 to do so. The law requires me to meet with the attorneys
22 one final time outside of your presence in case I have to
23 bring you back out here for any further instructions. If I
24 do not have to bring you back out here for further
25 instructions, everybody looks great, what will happen is our

1 alternate will come out of the jury room, you would be
2 delivered the items of evidence that has been introduced and
3 instructed by the Court to then begin your deliberations.
4 Do not begin until you are instructed to do so.

5 If you have any questions during the course of
6 your deliberations, Madame Forelady, if you would just write
7 out a note for me, please, knock on the door, the bailiff
8 will be stationed out there, and they'll give it to me.

9 All right. Thank you. Thank you very much.

10 (The jury retires from the courtroom at
11 11:35 a.m.)

12 THE COURT: All right. Anything from the State,
13 Solicitor?

14 MS. BODMAN: No, sir.

15 THE COURT: Defense?

16 MR. LI: No, Your Honor.

17 THE COURT: Do y'all want to look at the verdict
18 form and get the evidence straight, please.

19 (Whereupon, a short recess was held.)

20 THE COURT: Anything from the State before we
21 bring in our jury?

22 MS. BODMAN: The victims are in the elevator on
23 the way down.

24 THE COURT: All right. Thank you, Solicitor.

25 (Pause.)

1 THE COURT: Anything from the State before we
2 bring in our jury?

3 MS. BODMAN: No, sir.

4 THE COURT: Defense?

5 MR. LI: No, Your Honor.

6 (The jury returned to the courtroom at
7 2:29 p.m.)

8 THE BAILIFF: The jury is seated, Your Honor.

9 THE COURT: Thank you. Thank you very much, Mr.
10 Bailiff.

11 Madam Clerk.

12 THE CLERK: Madame Forelady, has the jury reached
13 a verdict?

14 MADAM FORELADY: Yes, we have.

15 THE CLERK: Would you hand it to the bailiff,
16 please?

17 THE COURT: Madam Clerk, the verdict appears to be
18 in proper form. If you would publish our verdict, please.

19 THE CLERK: In the Court of General Sessions for
20 the 5th Judicial Circuit, State of South Carolina v. Thomas
21 Lewis Bloodsaw, indictments number 2012-GS-40-1158,
22 2012-GS-40-1159, as to the charge of burglary, we, the jury,
23 unanimously find the Defendant guilty of burglary in first
24 degree. As the charge of petit larceny, we, the jury,
25 unanimously find the Defendant guilty. Signed by the

1 forelady, dated March 13th, 2013.

2 Madame Forelady, is this your verdict and verdict
3 of the entire jury?

4 MADAM FORELADY: Yes, it is.

5 THE COURT: All right. Thank you. Thank you very
6 much, Madam Clerk.

7 Anything else from the jury from the State,
8 Solicitor?

9 MS. BODMAN: No, Your Honor.

10 THE COURT: From the Defense, Mr. Li?

11 MR. LI: Not from the jury, Your Honor.

12 THE COURT: All right. Thank you. Thank you very
13 much.

14 Madame Forelady, ladies and gentlemen of the jury,
15 I never criticize or commend a jury for its verdict,
16 however, I will say that you have been very diligent, very
17 attentive, very hard working, very patient with the Court.
18 There's no need for you to be patient with the attorneys.
19 They're very find trial attorneys. They have both done an
20 excellent job both for the State and for the Defense in the
21 case. But I do appreciate that very much.

22 My pleasure and privilege in being a circuit court
23 judge in South Carolina is being able to work with citizens
24 of South Carolina throughout various counties on jury duty
25 weekly and with the court personnel. The clerk staff is

1 just outstanding in Richland. They'll work early, they'll
2 work late, they'll work weekends if they have to. I also
3 had the pleasure of working with Ms. Holmes this week in
4 Richland County, and have worked with her in the past. She
5 does an excellent job. All the courtroom personnel, the
6 sheriffs.

7 Momentarily, I'm going to release you from your
8 jury service.

9 Do they have to report back, Madam Clerk?

10 THE CLERK: No, Your Honor.

11 THE COURT: So you will be excused from your jury
12 service for the remainder of the week and remainder of the
13 day. You do not have to call back. You do not have to come
14 back. Again, it has been my pleasure and privilege.

15 You have them report back to the jury room, Madam
16 Clerk?

17 THE CLERK: Yes, sir.

18 THE COURT: All right. If you would, please, go
19 with your bailiff, report back to your jury room. Thank you
20 very much.

21 (The jury retires from the courtroom at
22 2:33 p.m.)

23 THE COURT: All right. Any motions, Mr. Li?

24 MR. LI: Your Honor, we renew all our prior
25 motions and objections and, also, make a motion for a new

1 trial, Your Honor.

2 THE COURT: All right. And I would renew all my
3 previous trial ruling and rulings on directed verdict motion
4 and respectfully deny motion for a new trial.

5 MR. LI: Thank you.

6 THE COURT: Any reason, Mr. Li, sentence should
7 not be imposed at this time?

8 MR. LI: Your Honor, if I could have one second?

9 THE COURT: Absolutely, certainly.

10 MR. LI: No, Your Honor, we're ready to proceed.

11 THE COURT: All right. Come around, please,
12 Mr. Bloodsaw.

13 Anything additional from the State, Solicitor?

14 MS. BODMAN: Your Honor, the victim, Leroy Kelly,
15 has prepared an impact statement and has asked our victim
16 advocate to please read it to Your Honor.

17 THE COURT: All right. Certainly.

18 Yes, ma'am, I'll be glad to hear from you.

19 MS.:

20 VICTIM'S ADVOCATE: Your Honor, it has been very
21 hard on me and my whole family. When I return from work
22 each night not knowing what I may find has added unnecessary
23 stress. It has definitely been an adjustment. It has been
24 a huge expense. I had to replace all that was stolen and
25 damaged as well as having to get a security system installed

1 just so that I could feel safe in my own home. I am very
2 reluctant to go on vacation or even leave my home for a few
3 hours for fear that this will happen again. I ask you to,
4 please, give Thomas Bloodsaw the maximum sentence allowed by
5 law so that he will not be able to put anybody else through
6 what I have been through. Thank you, Leroy Kelly, III.

7 THE COURT: Thank you. Thank you very much.
8 Anything further, Solicitor?

9 MS. BODMAN: Your Honor, in terms of his two prior
10 convictions that we talked about. He has a burglary prior
11 conviction that was from April 11 and he -- I apologize,
12 April of '09, that he pled to in February of '11. The grand
13 larceny charge that was separate from the burglary that
14 happened in May of 2009 involved a 12-gauge shotgun that was
15 stolen. So this is incredibly dangerous that the items that
16 he is stealing are weapons and they are weapons that have
17 not been recovered. We do not know where they are and in
18 whose hands he placed these weapons. So we ask you to take
19 that seriously into account in determining his sentence.

20 THE COURT: All right. Solicitor, what sentence
21 did he receive for the burglary in '09?

22 MS. BODMAN: It was a three-year time-served
23 sentence on the burglary.

24 THE COURT: No probation?

25 MS. BODMAN: Nothing.

1 THE COURT: He stayed in jail from April of '09,
2 or whenever he was arrested on the burglary until February
3 of '11 when he pled?

4 MS. BODMAN: At --

5 THE COURT: Received three years suspended on time
6 served?

7 MS. BODMAN: Three years time served, yes.

8 THE COURT: So he got out February of '11?

9 MS. BODMAN: Yes, February 1st of 2011.

10 THE DEFENDANT: I was out before that.

11 THE COURT: If I go back to that grand larceny,
12 the burglary was in April of '09, and then the grand larceny
13 was separate and distinct in May of '09?

14 MS. BODMAN: Correct. So I don't know exactly --
15 I do not know exactly when he was arrested or, potentially,
16 if he at some point did get out on bond, but that was in
17 assessing the facts of the cases that we had. They were
18 both burglaries, both with grand larceny -- accompanying
19 grand larceny charges. And in assessing our facts, the plea
20 agreement that we made on that day was a three-year
21 time-served sentence. And then on the grand larceny, it was
22 a two-year time-served sentence.

23 THE COURT: And he pled both on the same day?

24 MS. BODMAN: He pled to both on the same day and
25 concurrent is checked off, yes.

1 THE COURT: He got out of jail February when?

2 MS. BODMAN: Well, he pled on February 1st of
3 2011, but I'm not exactly sure when he got out of jail on
4 those. I don't know if he came over as -- on the jail list
5 or if he was out on bond, but we just knew he had that time
6 under his belt. The prosecutor that handled that is out
7 today, so.

8 THE COURT: All right. Anything further,
9 Solicitor?

10 MS. BODMAN: No, Your Honor.

11 THE COURT: What is the sentence range on burglary
12 first degree?

13 MS. BODMAN: Fifteen to life.

14 THE COURT: And the sentence is -- on the petit
15 larceny is 30 days?

16 MS. BODMAN: Thirty days.

17 THE COURT: Thank you. Thank you, Solicitor.

18 Mr. Li, I'll be glad to hear from you.

19 MR. LI: Thank you, your Honor. Mr. Bloodsaw is
20 21 years old, Your Honor. He has his GED. He got it when
21 he was 16 years old. He has a newborn baby. Your Honor,
22 he's a young man who's made a lot of mistakes in his life.
23 He has been diagnosed with a whole host of mental issues,
24 Your Honor. I'm going to let him other address that with
25 the Court, Your Honor. At this time, I would for his mother

1 to address the Court.

2 THE COURT: All right. Yes, sir. I'll be glad to
3 hear from Mr. Bloodsaw's mother.

4 DEFENDANT'S MOTHER: Your Honor.

5 THE COURT: Yes, ma'am. Tell me your name,
6 please.

7 DEFENDANT'S MOTHER: Brenda Higgins.

8 THE COURT: Sheriff, do you mind if she walks over
9 here closer where I can hear her?

10 Brenda?

11 DEFENDANT'S MOTHER: Higgins.

12 THE COURT: All right. I'm sorry. If you will
13 speak up, I'll be glad to hear from you, Ms. Higgins.

14 DEFENDANT'S MOTHER: Judge, I love my son very
15 much. And as a child, at an early age, at the age of maybe
16 eight or nine, he was diagnosed with ADHD. And I was a
17 single parent and I got him some help with therapy and some
18 medication and he was put in special education. And at the
19 time he turned 12, 13, he -- I was burned out from having to
20 deal with, you know, the disability that came with that
21 special need. He lived with his father for two years. And
22 he sat at the hospital two days before his father passed.
23 At the age of 14, his father passed with cancer.

24 At the point, in high school -- I worked for the
25 department of social services. I inquired about a lot of

1 help. So I did a lot of proactive things for him, but I
2 didn't -- what I didn't do is when he turned 14 and 15 --
3 and none of this is an excuse for what he's done, but as a
4 teenager, he didn't want to go to therapy. He didn't want
5 to take his medication. And he got in the incident when he
6 was 17. And I'm the one that asked that they take him to
7 DJJ because I thought maybe that would help. But I still
8 didn't get therapy -- I mean, therapy and medication. I
9 think they may have done a little medication while he was
10 locked up. And I'm just sorry for the family. I'm really
11 sorry. I've gone through 15 years of dealing with his
12 special need that he has and I -- for some reason in my
13 heart, I knew this day would come. I knew it.

14 When you call the police to take them somewhere
15 for help, he has to already commit a crime, Your Honor, for
16 them to take him. He never was in harm of hurting himself,
17 so whatever issue there. And I sort of give up -- I guess
18 not give up, but I stepped back and he went and lived with
19 some friends as a young, going into manhood, I assume. And
20 with his disorder, he's easily influenced and has a hard
21 time listening and directing his attention.

22 What's out there on the street, I have no idea. I
23 can't be with him all the time. And, therefore, he was --
24 he didn't get therapy or mental treatment or maybe not the
25 correct role models.

1 He is a great reader. I challenged his illness
2 and I moved him from school to school -- special education,
3 but he went from school to school. Because of the behavior
4 issues, I guess, you know, things -- well, we can't teach
5 you, but then there are some teachers that do get through
6 and are able to teach him. And so he's an excellent reader
7 as of today.

8 It is a burden -- I'm just not happy to be in this
9 position, but I thank you for the opportunity for letting
10 me -- let you know a little bit. And whatever happens, I'm
11 just hoping he gets some therapy and some medication. And I
12 know that he would end up being a good productive young man
13 if he had the time and the patience, which in this society
14 the way the young teenagers are time and patience sometimes
15 just gets to this point in time where patience is not
16 allowed. And that's all I have to say.

17 THE COURT: Is he on any medication?

18 DEFENDANT'S MOTHER: No, he hasn't taken any since
19 high school. We did have a little assessment with the
20 therapist while he was out the last three months and he did
21 write something down for me to confirm that I did do that.

22 THE COURT: You say he's an excellent -- he has
23 the ability to read?

24 DEFENDANT'S MOTHER: Oh, yes.

25 THE COURT: Does he read?

1 DEFENDANT'S MOTHER: Yeah. But, sir --

2 THE COURT: What does he read, what type of books
3 does he read?

4 DEFENDANT'S MOTHER: Well, when he was locked
5 because he was locked up for about a year, you know, he read
6 the Bible. He read chapters. And we would elaborate on
7 that when I came to visit him. He likes a lot of different
8 type books. I mean, he could tell you. I don't know
9 exactly what he is reading. But because -- when you're
10 locked up and seems like that is the time he has penetrated
11 reading. Otherwise, I don't know if he's reading when he's
12 not, you know, locked up. He writes good letters, excellent
13 letters.

14 THE COURT: Thank you, Ms. Higgins. And I will
15 share this you, although I'm not much giving advice. You
16 don't have to apologize to anyone. You haven't done
17 anything wrong, number one. And I think it's very heartfelt
18 what you've said about your son and to the Kellys and I
19 appreciate you doing that. But you don't have anything to
20 apologize for, number one. And if you think you do, number
21 two, you need to forgive yourself. Thank you for being
22 here.

23 DEFENDANT'S MOTHER: Thank you for listening to
24 me.

25 THE COURT: Yes, ma'am.

1 Mr. Li.

2 MR. LI: Thank you, Your Honor. I believe
3 Mr. Bloodsaw would like to address the Court and the
4 victims.

5 THE COURT: All right.

6 Mr. Bloodsaw.

7 THE DEFENDANT: I just want to say that I
8 apologize for, basically, my actions. I didn't take any
9 guns, but I did go inside the Kelly's residence and I did,
10 you know what saying, take the computer and --

11 THE COURT: Speak up a little bit.

12 THE DEFENDANT: I know what I did was wrong. I
13 know what the other person did was wrong. I know I should
14 have reported the other person and didn't do what I did, but
15 at the time, I wasn't thinking. And it just -- I mean, you
16 make mistakes, but you learn from your mistakes. So,
17 hopefully, I mean, this won't be the end of me, but I can
18 move forward. But I did just want to apologize to the
19 Kellys and I'm sorry for the burdens that I laid upon them.

20

21 THE COURT: Thank you. Thank you, Mr. Bloodsaw.

22 Mr. Li.

23 MR. LI: Your Honor, that was our presentation.

24 We would ask for any sentence as close to the 15 as
25 possible, Your Honor. He's a young man. I believe he's got

1 quite some time ahead of him to think about his actions. We
2 would ask for anything close to 15. Your Honor, we do have
3 a special request after sentencing today with regards to a
4 medical issue. We can wait until afterwards. It should
5 have on bearing on the sentencing, Your Honor.

6 THE COURT: All right.

7 Madam Clerk, do you have the sentencing sheets?
8 Anything further from the State, Solicitor?

9 MS. BODMAN: No, sir.

10 MR. LI: And, Your Honor, just for the record,
11 he's done 15 months. We'd ask for credit for time served.

12 THE COURT: Okay. Thank you. You said 15 months?

13 MR. LI: Fifteen months, approximately, Your
14 Honor.

15 MS. BODMAN: It was September 17th, 2011, and then
16 he bonded out on December 29th of 2012.

17 Yeah, that's -- that's on the website.

18 MR. LI: Yeah, that's --

19 THE COURT: How much time is it?

20 MR. LI: I'm sorry. You said September till?

21 MS. BODMAN: September 17th of 2011, to
22 December 29th of 2012.

23 MR. LI: Fifteen months, Your Honor.

24 THE COURT: All right.

25 Mr. Bloodsaw, I did not find your testimony

1 credible. Moses has been known by many different names in
2 courtrooms throughout our criminal justice system history.
3 Sometimes he's called Bo, sometimes Sport, sometimes Leroy,
4 sometimes the one-armed man. I think he's imaginary. I
5 don't think he exist. I don't think he was a participant in
6 this burglary. I do not believe you when you say you did
7 not steal the firearms. Why burglarize a house that's
8 already been burglarized? That does not appeal to my common
9 sentence. Old science is as good as old dogs, it's very
10 dependable. You can rely on it. Throughout our history,
11 for centuries, we relied on fingerprints. We relied on
12 bloody thumbprints to notarize legal documents. There had
13 to be some uniqueness, even back then, to say this was X, Y
14 or Z's thumbprint. The sanctity of the home is one of the
15 basic foundations and traditions of this country. People
16 not only want to feel safe and secure in their home, they
17 want to be safe and secure in their home. One of the most
18 dangerous acts a person can commit is to decide the entering
19 of another person's home.

20 The solicitor referred to the guns. I would also
21 refer to them. We have a right to own guns in this country
22 provided we're not under some type of disability for our own
23 protection and our own security. Those three guns, along
24 with a sawed-off shotgun from two or three years ago, are
25 now out on the street. They are now threats to everyone in

1 this courtroom, everyone in our community, every officer who
2 stops a car, every pedestrian walking down the street or
3 leaving a convenience store or mall. As I recall the
4 testimony, it was two 22's and a 44 Magnum. They have
5 riveting effect. You don't know what body is going to be
6 under one of those guns one day. You just don't know. It's
7 like turning a toxic substance loose. That's why they're
8 called a dangerous weapon in our society.

9 You are a young man. You have a wonderful mother.
10 She is, certainly, well spoken. It sounds like she did her
11 very best, which is all any of us can ask for of our fellow
12 citizens. You did get your GED. I've taken into account
13 your age. I've taken into account the issues that your
14 mouther said you have. I've taken into account the victim
15 impact statement and prior record, however, I will not
16 impose the maximum sentence, which a life sentence is what
17 you could receive. This is a substantial sentence in my
18 opinion.

19 2012-GS-40-1158, burglary first degree, Thomas
20 Bloodsaw, the Defendant is committed to the State Department
21 of Corrections for a term of 18 years, credit for 15 months
22 time served. And on petit larceny, 30 days. Those are
23 concurrent, credit for time served.

24 Good luck to Mr. Bloodsaw.

25 THE DEFENDANT: (The witness nodded head.)

1 MR. LI: Thank you, Your Honor.

2 THE COURT: Thank you.

3 THE DEFENDANT: Eighteen years, I caught 18 years.
4 I love y'all, man. I love y'all.

5 MR. LI: Aside from that, Your Honor, Mr. Bloodsaw
6 does have two scheduled dentists appointments. Is there any
7 way the department of corrections or some facility will be
8 able to take him to -- or somehow supply him with two dental
9 procedures. He went for a root canal sometime last --

10 DEFENDANT'S MOTHER: Last Tuesday.

11 MR. LI: Last Tuesday. And there's two
12 followups -- his teeth are -- the procedure is not complete,
13 Your Honor. It's not additional procedures, it's followups
14 to these procedures. If there is anything that can be done
15 that DOC could --

16 THE COURT: I would just recommend you contact
17 Mr. Tarsic --

18 MR. LI: Okay.

19 THE COURT: -- Dave Tarsic, general counsel for
20 the department of corrections, and try to coordinate with
21 him. I will, certainly, be happy to sign the consent order
22 or whatever it takes.

23 MR. LI: All right. I'll speak to him. Thank you,
24 Your Honor.

25 THE COURT: All right. Thank you. Thank you very

1 much.

2 MR. LI: Thank you, Your Honor.

3 THE COURT: Thank you, Solicitor.

4 MS. BODMAN: Thank you, Your Honor.

5 END OF PROCEEDINGS

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1 COUNTY OF RICHLAND)

2 CERTIFICATE OF REPORTER

3 I, Crystal Holmes, hereby certify that I reported
4 the preceding case entitled State of Thomas Bloodsaw Case
5 No. 2012-GS-40-02982, 2012-GS-40-2986, at the Richland
6 County Courthouse, March 11 through March 13, 2013.

7 I FURTHER CERTIFY that the foregoing pages 1
8 through 463 constitute a true, accurate and full transcript
9 of said hearing.

10 I FURTHER CERTIFY that I am not employed by any of
11 the parties hereto and I have no financial interest in the
12 outcome of said case.

13 IN WITNESS WHEREOF, I have heretofore set my hand
14 and seal at Richland County on this 23rd day of June, 2013.

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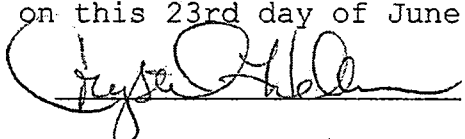
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25


Crystal Holmes, Court Reporter
and Notary Public for the
State of South Carolina my
Commission Expires:
April 21 2014

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

The State, Respondent,

v.

Thomas L. Bloodsaw, Appellant.

Appellate Case No. 2013-000643

The Honorable R. Knox McMahon,
Richland County
Trial Court Case No. 52012GS4001158, 2012GS4001159

ANDERS BRIEF OF APPELLANT

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ATTORNEYS FOR APPELLANT

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Statutes

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STATEMENT OF ISSUE ON APPEAL

Whether the court erred in allowing the State to argue “hand of one, hand of all” during their closing argument, with regard to motive and credibility, after already making the determination that “hand of one, hand of all” was not applicable in this case and that he would not be charging the jury with “hand of one, hand of all.”

STATEMENT OF THE CASE

On May 9, 2012, the Grand Jury indicted Thomas L. Bloodsaw (“appellant”) for First Degree Burglary, in violation of Section 16-11-0311(A), Code of Laws of South Carolina, 1976, as amended; and Petit Larceny (\$2,000 or Less), in violation of Section 16-13-0030(A), Code of Laws of South Carolina, 1976, as amended. (R. pgs. 464-467). The appellant was tried before a jury of his peers on March 11 through March 13, 2013 in Richland County. The jury returned a verdict of guilty on both charges. (R. p. 446, lines 19-25; p. 447, line 1). The court ultimately sentenced him to eighteen years imprisonment, with credit for fifteen months time served, and thirty days for petit larceny. (R. p. 460, lines 19-23). Victor Li represented appellant. The assistant solicitor(s) were Margaret Bodman and Foster Mathews. (R. p. 1, lines 19-23).

This appeal follows.

ARGUMENT

The court erred in allowing the State to argue “hand of one, hand of all” during their closing argument, with regard to motive and credibility, after already making the determination that “hand of one, hand of all” was not applicable in this case and that he would not be charging the jury with “hand of one, hand of all.”

Relevant Facts

The appellant was indicted and convicted on the charge of burglary first degree. The aggravating factor which made it a first degree burglary was being armed with a deadly weapon. When the appellant took the stand, he testified that another individual, “Moses”, had broken into the house and subsequently informed the appellant that he should go over to the house because there were still some valuable items to be stolen. (R. p. 362, lines 11-25; R. p. 363, lines 1-22). Prior to the appellant testifying, the State had not introduced any evidence that another individual has involved in the robbery. The appellant’s testimony revealed that he had not stolen any guns and by implication, “Moses” had stolen the guns earlier in the day. The judge allowed the State to argue “hand of one, hand of all” in their closing argument. In making his ruling, the judge stated, “Because of the State’s theory, I still don’t think the “hand of one, hand of all” applies, but as to his motive and his credibility, I can see where a reasonable jury could reach that conclusion to get the gun or guns not only out of his hands, but out of the residence before he’s in the residence so that - - unless one of the other aggravating factors, which none of them apply.” (R. p. 394, lines 19-25 – p. 395, line 1). When the judge made his ruling to allow argument on “hand of one, hand of all”, he had already decided “‘hand of one, hand of all’ is not the law or facts of this case” and also he had already decided not to charge “hand of one, hand of all” to the jury. (R. p. 390, lines 19-20). Furthermore, the judge commented that the State had introduced no evidence that more than one person perpetrated the crime. He goes on to say, “‘hand of one, hand

of all' has never been the State's theory, either at the indictment stage or at the trial." (R. p. 390, lines 2-4; p. 391, lines 23-25).

Discussion

As seen, the judge ruled to allow the solicitor to argue "hand of one, hand of all", after already determining that theory of law did not apply to this case. By allowing the solicitor to argue "hand of one, hand of all", the prosecution was allowed to introduce an entirely new theory that had been absent from the trial up until that point.

A review of a solicitor's closing argument is based upon the standard of whether his comments so infected the trial with unfairness as to make the resulting conviction a denial of due process. State v. Caldwell, 300 S.C. 494, 504, 388 S.E.2d 816, 822 (1990). The appropriateness of a solicitor's closing argument is a matter left to the trial court's discretion. State v. Rudd, 355 S.C. 543, 548, 586 S.E.2d 153, 156 (Ct. App. 2003). To warrant reversal, the appellant must prove both abuse of discretion and resulting prejudice. State v. Sierra, 337 S.C. 368, 373, 523 S.E.2d 187, 189 (Ct. App. 1999).

In this case, it can reasonably be inferred that allowing the solicitor to argue "hand of one, hand of all" resulted in prejudice to the appellant. In her closing argument, the solicitor stated:

"He can't say, oh, well, somebody else grabbed the guns, I just grabbed the computer. Because that is a burglary in the first degree. He's a participant in that crime. So he's got to get out from under the guns because the fingerprint's there. He's in the house. He can't shake the fingerprint. The science is solid. So what am I going to do? I've got to get out, at least, from the guns. I've got to cut my losses." (R. p. 425, lines 12-19).

It was fundamentally unfair for the solicitor to be allowed to make these remarks in closing. The unfairness stems from the fact that the trial court had already determined that "hand of one, hand of all" did not apply to this case. Despite the fact that the trial judge already made that determination, he allowed the highly prejudicial argument, illustrated above, that the

appellant had to concoct his story to avoid being guilty under the theory of “hand of one, hand of all.”

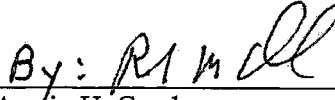
By virtue of the court allowing the solicitor to argue this theory, which had been entirely absent from the prosecution’s case in chief, the appellant was prejudiced and it was an abuse of the trial court’s discretion.

Appellant’s conviction on the first degree burglary should be reversed since the trial judge improperly allowed the State to argue “hand of one, hand of all” in their closing argument.

CONCLUSION

By reason of the foregoing argument, this appeal should be granted.

Respectfully submitted,

By: 

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ATTORNEYS FOR APPELLANT

This 18th day of February, 2014.

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

The State, Respondent,

v.

Thomas L. Bloodsaw, Appellant.

Appellate Case No. 2013-000643

The Honorable R. Knox McMahon,
Richland County
Trial Court Case No. 52012GS4001158, 2012GS4001159

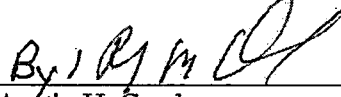
PETITION TO BE RELIEVED AS COUNSEL

Counsel for Thomas L. Bloodsaw states:

1. He was appointed to represent appellant.
2. He has reviewed the transcript of the trial before Judge R. Knox McMahon, which was held on March 11 through March 13, 2013, and, in his opinion, the appeal is without legal merit sufficient to warrant a new trial.
3. He has, pursuant to Anders v. California, 386 U.S. 738-, 87 S.Ct. 1396 (1967), briefed arguable legal issues which arose during the course of the trial.

WHEREFORE, he asks the Court to relieve him as counsel for Thomas L. Bloodsaw.

Respectfully submitted,



Austin H. Crosby
Robert M. Dudek

This 18th day of February, 2014.

ATTORNEYS FOR APPELLANT

THE STATE OF SOUTH CAROLINA

In the Court of Appeals

The State, Respondent,

v.

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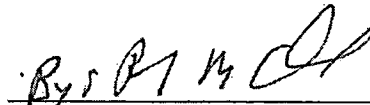
**DESIGNATION OF MATTER TO BE
INCLUDED IN RECORD ON APPEAL**

Appellant proposes the following be included in the Record on Appeal:

- (1) Trial Transcript;
- (2) Indictments.

I certified that this designation contains no matter which is irrelevant to this appeal.

February 18, 2014.


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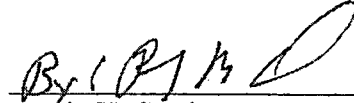
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ATTORNEYS FOR APPELLANT

CERTIFICATE OF COUNSEL

The undersigned certified that to the best of my ability this Anders Brief of Appellant complies with Rule 211(b), SCACR.

February 18, 2014.


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THE STATE OF SOUTH CAROLINA
In the Court of Appeals

The State, Respondent,

v.

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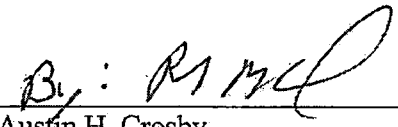
Appellate Case No. 2013-000643

The Honorable R. Knox McMahon,
Richland County
Trial Court Case No. 52012GS4001158, 2012GS4001159

CERTIFICATE OF SERVICE

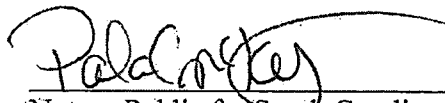
The undersigned attorney hereby certifies that a true copy of the Anders Brief of Appellant and Designation of Matter in the above referenced case has been served upon Salley W. Elliott, Esquire, at 1000 Assembly Street, Room 519, Columbia, South Carolina 29201; and on Thomas L. Bloodsaw, #00354735 at Lieber Correctional Institution, 136 Wilborn Avenue, Ridgeville, South Carolina 29472, this 18th day of February, 2014.

Respectfully submitted,


Austin H. Crosby
Robert M. Dudek

ATTORNEYS FOR APPELLANT

SUBSCRIBED AND SWORN TO before me
this 18th day of February, 2014.


_____(L.S.)
Notary Public for South Carolina
My Commission Expires: July 24, 2022

**THIS OPINION HAS NO PRECEDENTIAL VALUE. IT SHOULD NOT BE
CITED OR RELIED ON AS PRECEDENT IN ANY PROCEEDING
EXCEPT AS PROVIDED BY RULE 268(d)(2), SCACR.**

**THE STATE OF SOUTH CAROLINA
In The Court of Appeals**

The State, Respondent,

v.

Thomas L. Bloodsaw, Appellant.

Appellate Case No. 2013-000643

Appeal From Richland County
R. Knox McMahon, Circuit Court Judge

Unpublished Opinion No. 2015-UP-002
Submitted November 1, 2014 – Filed January 7, 2015

APPEAL DISMISSED

Austin Howell Crosby, of Peters, Murdaugh, Parker,
Eltzroth & Detrick, P.A., of Hampton, Chief Appellate
Defender Robert Michael Dudek, of Columbia, and
Thomas L. Bloodsaw, pro se, for Appellant.

Attorney General Alan McCrory Wilson and Senior
Assistant Deputy Attorney General Salley W. Elliott,
both of Columbia, for Respondent.

PER CURIAM: Dismissed after consideration of appellant's pro se brief and review pursuant to *Anders v. California*, 386 U.S. 738 (1967). Counsel's motion to be relieved is granted.

APPEAL DISMISSED.¹

HUFF, SHORT, and KONDUROS, JJ., concur.

¹ We decide this case without oral argument pursuant to Rule 215, SCACR.



The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS
CLERK

V. CLAIRE ALLEN
DEPUTY CLERK

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January 23, 2015

The Honorable Jeanette W. McBride
PO Box 2766
Columbia SC 29202-2766

REMITTITUR

Re: The State v. Thomas Bloodsaw
Lower Court Case No. 2012GS4001158, 2012GS4001159
Appellate Case No. 2013-000643

Dear Clerk of Court:

The above referenced matter is hereby remitted to the lower court or tribunal. A copy of the judgment of this Court is enclosed.

Very truly yours,

V. Claire Allen, Deputy

CLERK

Enclosure

cc: Thomas Bloodsaw, 00354735
Salley W. Elliott, Esquire
Robert Michael Dudek, Esquire
Alan McCrory Wilson, Esquire
Austin Howell Crosby, Esquire

FORM 5

STATE OF SOUTH CAROLINA)

COUNTY OF Richland)

Thomas Lewis Bloodsaw # 354735)
 Full name and prison number (if any) of Applicant.)

v.)

State of South Carolina)

2015 CP4001846
IN THE COURT OF COMMON PLEAS

APPLICATION FOR

POST-CONVICTION RELIEF

2015 MAR 27 PM 12:10
 CLERK OF COURT
 RICHLAND COUNTY
 FILED

INSTRUCTIONS - READ CAREFULLY

In order for this application to receive consideration by the Court, it shall be in writing (legibly handwritten or typewritten), signed by the applicant and verified (notarized), and it shall set forth in concise form the answers to each applicable question. If necessary, applicant may furnish his answer to a particular question on the reverse side of the page or on an additional page. Applicant shall make clear to which question any such continued answer refers.

Since every application must be sworn under oath, any false statement of a material fact therein may serve as the basis of prosecution and conviction for perjury. Applicants should, therefore, exercise care to assure that all answers are true and correct.

If the application is taken in forma pauperis it shall include an affidavit (attached at the back of the form) setting forth information which establishes that applicant will be unable to pay fees and costs of the proceedings. When the application is completed the original shall be mailed to the Clerk of Court for the County in which the applicant was convicted.

1. Place of detention _____
2. Name and location of Court which imposed sentence Richland County General Sessions
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) 16-13-0030
 - (b) 16-11-0311
 - (c) _____
5. The date upon which sentence was imposed and the terms of the sentence:
 - (a) MARCH 13, 2013 18 years
 - (b) _____

- (c) _____
6. Check whether a finding of guilty was made:
- (a) after a plea of guilty _____
- (b) after a plea of not guilty _____
- (c) after a plea of nolo contendere _____
7. Did you appeal from the judgment of conviction or the imposition of sentence?
yes
8. If you answered "yes" to (7), list:
- (a) the name of each Court to which you appealed:
- i. South Carolina Court of Appeals
- ii. _____
- iii. _____
- (b) the result in each such Court to which you appealed:
- i. Direct Appeal Dismissed
- ii. _____
- iii. _____
- (c) the date of each such result:
- i. JANUARY 7TH 2015
- 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) _____
- (b) _____
- (c) _____
10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:

- (a) Ineffective Assistance of Counsel
- (b) Prosecutorial Misconduct
- (c) _____

11. State concisely and in the same order the facts which support each of the grounds set out in (10):

- (a) Failed to object to States Closing Argument
- (b) Failed to move for Direct Verdict for 1st degree burglary - Closing Argument
- (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. _____

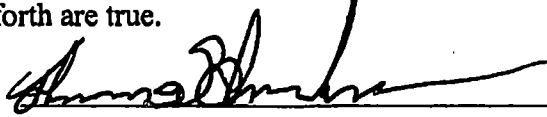
- iv. _____
- (d) the date of each such disposition:
- i. _____
- ii. _____
- iii. _____
- iv. _____
- (e) if known, citations of any written opinions or orders entered pursuant to each such disposition:
- i. _____
- ii. _____
- iii. _____
- iv. _____
14. Has any ground set forth in (10) been previously presented to this or any other Court, State or Federal, in any petition, motion or application which you have filed?
- _____
15. If you answered "yes" to (14) identify:
- (a) which grounds have been presented:
- i. _____
- ii. _____
- iii. _____
- (b) the proceedings in which each ground was raised:
- i. _____
- ii. _____
- iii. _____
16. If any ground set forth in (10) has not previously been presented to any Court, State or Federal, set forth the ground and state concisely the reasons why such ground has not previously been presented:
- (a) _____
- (b) _____
- (c) _____
17. Were you represented by an attorney at any time during the course of:

- (a) your arraignment and plea? yes
- (b) your trial, if any? yes
- (c) your sentencing? yes
- (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? yes
- (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? yes
18. If you answered "yes" to one or more parts of (17), list:
- (a) the name and address of each attorney who represented you:
- i. Victor Li
- ii. Austin H. ~~and~~ Crosby
- iii. Robert M. Dudek
- (b) the proceedings at which each such attorney represented you:
- i. Trial, Arraignment, Sentencing
- ii. Direct Appeal
- iii. Direct Appeal
19. State clearly the relief you seek in filing this application:
Reverse and Remand with orders to vacate
20. Are you now under sentence from any other court that you have not challenged?
yes

STATE OF SOUTH CAROLINA)
)
 County of)

VERIFICATION

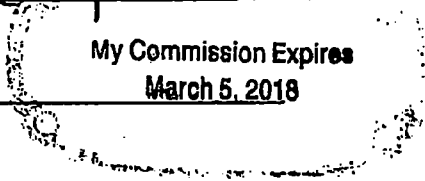
I, , being duly sworn upon my oath, depose and say that I have subscribed to the foregoing application; that I know the contents thereof; that it includes every ground known to me for vacating, setting aside or correcting the conviction and sentence attacked in this application; and that the matters and allegations therein set forth are true.



SWORN to and subscribed before me this 11th
 day of March, 2015.

Susan H. Frye (L.S.)
Notary Public

My Commission Expires: March 5, 2018



**APPLICATION TO PROCEED WITHOUT PAYMENT
OF COSTS AND AFFIDAVIT
IN SUPPORT THEREOF**

I, _____, hereby apply for leave to proceed in this action without prepayment of fees or costs or security therefor. In support of my application I declare under penalty of perjury that the following facts are true:

- (1) I am the applicant in this action and I believe I am entitled to redress.
- (2) Because of my poverty I am unable to pay the costs of said proceeding or give security thereof.


Applicant

SWORN or affirmed to and subscribed before me this
17th day of March, 2015.


Notary Public

My Commission Expires
March 5, 2018

My Commission Expires: _____

RICHLAND COUNTY
FILED
2015 MAR 27 PM 12:10
JEANETTE W. MCBRIDE
C.C.P. & G.S.

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

Thomas Bloodsaw, #354735,

Applicant,

v.

State of South Carolina,

Respondent.

IN THE COURT OF COMMON PLEAS
FIFTH JUDICIAL CIRCUIT

2015-CP-40-01846

RETURN

Respondent, making its Return to the Application for Post-Conviction Relief (PCR) filed March 27, 2015, would respectfully show this Court:

I.

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Clerk of Court for Richland County. Applicant was indicted at the May 2012 term of the Court of General Sessions for Richland County for Burglary First Degree (2012-GS-40-1158) and Larceny (2012-GS-40-1159). Applicant was represented by Victor Li, Esq. Applicant proceeded to trial on March 13, 2013. He was convicted of Burglary First Degree and Petit Larceny as a lesser included offense. The Honorable R. Knox McMahon sentenced Applicant to eighteen (18) years' imprisonment for Burglary First Degree and to thirty (30) days for Petit Larceny. These sentences were to be served concurrently.

A timely Notice of Appeal was filed on Applicant's behalf and an appeal was perfected by Robert M. Dudek, Esq. and Austin H. Crosby, Esq. Following the submission of a brief pursuant to Anders v. California, 386 U.S. 738 (1967), the South Carolina Court of Appeals dismissed the appeal. State v. Bloodsaw, No. 2015-UP-002 (filed January 7, 2015). The Remittitur was issued on January 26, 2015.

Attached herewith and incorporated herein by reference are the records of the Richland County Clerk of Court regarding the subject conviction(s), the transcript from Applicant's trial hearing, Applicant's records for the Department of Corrections, and Applicant's appellate records. Respondent reserves the right to amend its return upon the receipt of other relevant records.

II.

In his Application, the Applicant alleges that he is being held in custody unlawfully for the following reasons:

1. Ineffective Assistance of Counsel, in that;
 - a. Counsel "failed to object to States closing argument",
 - b. Counsel "failed to move for Direct Verdict for 1st degree burglary – closing argument"
2. Prosecutorial Misconduct

III.

Applicant's first claim is an allegation of ineffective assistance of trial counsel. Respondent contends that Applicant's trial counsel rendered adequate assistance and provided representation within the range of competence required by attorneys in criminal cases. See Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985).

In a post-conviction relief proceeding, the Applicant bears the burden of proving the allegations in their application. Id. Where ineffective assistance of counsel is alleged as a ground for relief, Applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result." Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2052, 2064, 80 L.Ed.2d 674, 692 (1984); Butler, 334 S.E.2d 813.

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. The courts presume that counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Strickland, 80 L.Ed.2d 674. Applicant must overcome this presumption in order to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989).

A two-pronged test is used in evaluating allegations of ineffective assistance of counsel. First, Applicant must prove that counsel's performance was deficient. Under this prong, attorney performance is measured by its "reasonableness under professional norms." Cherry, 300 S.C. at 117, 386 S.E.2d at 625, citing Strickland. Second, counsel's deficient performance must have prejudiced the Applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625.

Respondent submits that the Applicant cannot satisfy either requirement of the Strickland test. However, the allegation of ineffective assistance of counsel probably raises questions of fact that cannot be conclusively refuted by the record. The Respondent requests an evidentiary hearing to fully resolve this issue. See Sharper v. State, 279 S.C. 264, 305 S.E.2d 247 (1983).

IV.

Applicant alleges prosecutorial misconduct. Prosecutorial misconduct is not an issue for post-conviction relief. Rather, this allegation is a direct appeal issue that is procedurally barred by S.C. Code Ann. § 17-27-20(b) (2003). Post-conviction relief is not a substitute for an appeal. Simmons v. State, 264 S.C. 417, 423, 215 S.E.2d 883, 885 (1974). A post-conviction relief application cannot assert any issues that could have been raised at trial or on appeal. Drayton v. Evatt, 312 S.C. 4, 8, 430 S.E.2d 517, 520 (1993). The Applicant could have raised this issue on

appeal. The failure to do so has waived this allegation as grounds for relief. Regardless, it is Applicant's burden to prove actual prosecutorial misconduct. Alabama v. Smith, 490 U.S. 794, 109 S. Ct. 2201 (1989). The Applicant has not supported this allegation with any facts whatsoever. The Respondent submits the Applicant has not carried his burden of proving actual prosecutorial misconduct; therefore, this allegation should be summarily dismissed.

V.

Respondent therefore requests that this Court convene an evidentiary hearing on the issue of ineffective assistance of counsel. As to all other allegations, Respondent moves for summary dismissal pursuant to S.C. Code Ann. § 17-27-70 on the basis that there is no genuine issue of material fact which would necessitate an evidentiary hearing and that those allegations should be dismissed as a matter of law.

VI.

Applicant must specify any claims he intends to raise at the PCR trial. Any claims not *specifically* laid out in this PCR application or in amendments will be opposed by the State at an evidentiary hearing. S.C. Code § 17-27-10 et seq; SCRCP 71.1. All claims should be made well in advance of the PCR hearing. If Applicant has an attorney appointed, the attorney, and not the inmate, is the only one authorized to file amendments. SCRCP Rule 11. Filings by inmates will not be considered at the PCR hearing.

VII.

Each and every allegation contained within the application not either expressly admitted, qualified or explained is hereby denied.

VIII.

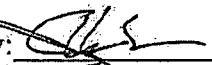
WHEREFORE, having made its Return, Respondent requests that counsel be appointed and a hearing be held solely on the claims of ineffective assistance of counsel.

ALAN WILSON
Attorney General

JOHN W. McINTOSH
Chief Deputy Attorney General

KAREN C. RATIGAN
Assistant Deputy Attorney General

J. CLAYTON MITCHELL
Assistant Attorney General

By: 
ATTORNEYS FOR RESPONDENT

Office of the Attorney General
P.O. Box 11549
Columbia, SC 29211
Telephone: (803) 734-3737

June 30th, 2015

STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF RICHLAND	)	
	)	
THOMAS LEWIS BLOODSAW	)	2015-CP-40-01846
	)	
Applicant,	)	
	)	
vs	)	AFFIDAVIT OF SERVICE BY MAIL
	)	
STATE OF SOUTH CAROLINA,	)	
	)	
Respondent.	)	
_____	)	

1. I am an employee of the Respondent in the above-captioned action.
2. Regular communication by mail exists throughout the State of South Carolina and that this is a proper circumstance of service by mail.
3. I have this day served a copy of the **Return** in the above-captioned matter on the following person by depositing same in the United States mail, postage prepaid:

**Thomas Lewis Bloodsaw, #354735
Broad River Correctional Institution
4460 Broad River Road
Columbia, SC 29210**

DATED this 30th day of June, 2015.

Sara B. Moore

Sara B. Moore, Legal Assistant
For Respondent

STATE OF SOUTH CAROLINA	)	
	)	COMMON PLEAS COURT
COUNTY OF RICHLAND	)	2015-CP-40-01846
	)	
	)	
	)	
	)	
THOMAS LEWIS BLOODSAW,	)	
PLAINTIFF,	)	
	)	
vs.	)	TRANSCRIPT OF RECORD
	)	
STATE OF SOUTH CAROLINA,	)	
DEFENDANT.	)	
_____	)	

July 14, 2016
Columbia, South Carolina

B E F O R E:

THE HONORABLE D. CRAIG BROWN, JUDGE.

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

JONATHAN D. WALLER ESQ.
Attorney for the Plaintiff

JOHNNY JAMES, ESQ.
Attorney for the Defendant

KAREN AMBROZIAK, RPR
Circuit Court Reporter

I N D E X

(PW) - Denotes Plaintiff's Witness
(DW) - Denotes Defense Witness

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E X H I B I T S

(There were no exhibits introduced.)

P R O C E E D I N G S

THE COURT: Call your case.

MR. JAMES: Your Honor, if it may please the Court, this is the case of Thomas Lewis Bloodsaw vs. The State of South Carolina, docket number 2015-CP-40-1846.

Mr. Bloodsaw was indicted in May 2012 for burglary in the first degree and petit larceny. He was represented on those charges by Victor Li, Esquire. He entered a plea of not guilty and proceeded to a jury trial from March 11th through March 13, 2013. He was convicted of burglary first and petit larceny. The Honorable Knox McMahon sentenced Mr. Bloodsaw to 18 years imprisonment.

His application for Post Conviction Relief was filed March 27, 2015. Mr. Bloodsaw is present and he is represented by Mr. Jonathan D. Waller.

Your Honor, the State is ready.

THE COURT: Mr. Waller.

MR. WALLER: Thank you, Your Honor. May it please the Court.

THE COURT: Yes, sir.

MR. WALLER: I would call Thomas Lewis Bloodsaw.

THE COURT: Sir, if you'll come around to be sworn, please.

THOMAS LEWIS BLOODSAW, after
being duly sworn, testified as follows:

1 THE COURT: All right. You may be seated. State
2 your name for the record. Spell your last, please, sir.

3 THE WITNESS: My name is Thomas Bloodsaw,
4 B-L-O-O-D-S-A-W.

5 DIRECT EXAMINATION

6 BY MR. WALLER:

7 Q Mr. Bloodsaw, how are you this morning?

8 A I'm all right under the circumstances.

9 Q Yes, sir. Mr. Bloodsaw, where are you from
10 originally?

11 A Eastover, South Carolina.

12 Q And how old are you now?

13 A Twenty-four --

14 Q Okay.

15 A -- at the time, sir.

16 Q When you got arrested on these charges back in 2011,
17 how old were you?

18 A 2011, approximately 19.

19 Q Okay. And the charges we're here on today were
20 burglary first and a larceny?

21 A Yes, sir.

22 Q Okay. When you originally were arrested and
23 approached by law enforcement, was it about this burglary?

24 A No -- no and yeah. They said it was a warrant when I
25 got locked up, but when they initially investigated me, it

1 was an assault and battery charge I was convicted of.

2 Q When you first got arrested -- where did you get
3 arrested?

4 A At USC --

5 THE COURT: Hold on a minute, Mr. Bloodsaw. Back up
6 from the mic just a little bit.

7 THE WITNESS: I got arrested at Williams Brice
8 Stadium, USC versus Navy.

9 BY MR. WALLER:

10 Q What were you doing at USC Stadium?

11 A Selling t-shirts and watching the game?

12 Q Is that something you had done before?

13 A Yes, sir.

14 Q Okay.

15 A They had actually saw me at the first game in
16 Charlotte, USC versus East Carolina and they had in my
17 record that I was a big Gamecock fan.

18 Q And do you remember if South Carolina won?

19 A That game, yeah.

20 Q When you were approached by law enforcement, they
21 approached you about the t-shirts originally?

22 A Yes, sir.

23 Q Okay. Did you get arrested that day?

24 A Yes, sir.

25 Q Did you speak with somebody from law enforcement that

1 day? Did you give a statement or talk to anybody?

2 A No, sir.

3 Q Okay. When was the first time that you spoke to law
4 enforcement?

5 A Okay, the game was Saturday. They probably came and
6 got me for -- an investigator came and picked me up from
7 the county jail maybe that Tuesday, I'd say.

8 Q Okay. So past the weekend?

9 A Yes, sir.

10 Q And what did they want to talk to you about? What
11 crimes did they want to talk to you about?

12 A I had a prior charge. I got convicted of an assault
13 and battery I was being investigated for, and then they --
14 he asked me about the burglary, but I never really replied
15 to a separate investigator from the one I was talking to.
16 The one I was talking to at first was Investigator Faust
17 and the one that was investigating the burglary was
18 Investigator Roberson.

19 Q Okay. Let me slow you down one second. So you
20 are -- you said you were convicted for an assault and
21 battery?

22 A Yes, sir.

23 Q When you got arrested, you hadn't already been
24 convicted?

25 A No, sir.

1 Q That's been since --

2 A Since I got convicted of the burglary.

3 Q So originally, they were talking to you about an
4 assault and battery that you got arrested on after that?

5 A Yes, sir.

6 Q Okay. And so you had not been convicted at that
7 time?

8 A No, sir.

9 Q And that was a different investigator than the
10 burglary case?

11 A Yes, sir.

12 Q Okay. How did that conversation go with law
13 enforcement? Who were you talking to and how did the
14 burglary come up?

15 A Okay. Investigator Faust was investigating the
16 assault and battery charge I have and Investigator
17 Roberson was investigator over the burglary.

18 At first -- well, at first, Mr. Roberson wanted to
19 talk to me about the burglary, but I told them that I
20 didn't want to talk to him. So Mr. Faust came and got me,
21 and we started talking about the assault and battery and I
22 gave him the statement about the assault and battery.

23 At that time, he asked Mr. Roberson did Mr. Roberson
24 want to add anything on my statement about the burglary.
25 And he said he's not -- he didn't talk to me about -- he's

1 not going to talk to me about the burglary, so the only
2 thing I could ask him was he involved in a burglary on
3 Leesburg Road. So he asked me if I was involved in a
4 burglary on [REDACTED] Leesburg Road. At the time, I informed
5 him no, I wasn't.

6 Q Okay. You told him you weren't involved and you
7 didn't know anything about it; is that right?

8 A Yes, sir.

9 Q Okay. But that was the only real question he had for
10 you?

11 A Yes, sir.

12 Q Okay. So did you give a written statement about the
13 burglary at all?

14 A No, sir, besides that one question, you know, the
15 answer was no.

16 Q Okay. After you spoke with law enforcement -- did
17 you have a lawyer when you spoke with law enforcement?

18 A Yeah. He passed away, but at that time, James Cooper
19 was my lawyer.

20 Q Okay.

21 A And I was really going back and forth with getting
22 that situation straight with him at the time of his death.

23 Q Okay. And Mr. Cooper was with the public defender's
24 office?

25 A Yes, sir.