

STATE OF SOUTH CAROLINA

VOLUME II OF II

IN THE COURT OF APPEALS

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Appeal from Greenville County

AUG 09 2017

Honorable James R. Barber, Circuit Court Judge

SC Court of Appeals

THE STATE,

RESPONDENT,

V.

GERALD AKEEM GADSDEN,

APPELLANT

APPELLATE CASE NO 2016-001286

RECORD ON APPEAL

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DAVID WEINER - DIRECT EXAMINATION BY MR. FRETWELL

611

1 would move State's 70 into evidence.

2 **MR. YARBOROUGH:** Your Honor, I would object to State's
3 70. I mean, it's just a cut up piece of paper. I don't
4 think it has any relevance. The witness said he couldn't
5 identify him.

6 **MR. FRETWELL:** Judge, that's not even -- that's not --
7 I think -- can we approach?

8 **THE COURT:** No. I'm going to admit it. He indicated
9 he couldn't exactly say ---

10 **MR. FRETWELL:** Thank you.

11 **THE COURT:** --- that was it. It's a picture of a piece
12 of cloth.

13 (Whereupon State's exhibit 70 was admitted into
14 evidence)

15 Q. Let me take you to January 25th, 2014. Did you attempt
16 to make contact with either Mr. White or his girlfriend,
17 Katrina Ferguson?

18 A. Yes, sir.

19 Q. For what purpose?

20 A. I wanted Mr. White to review the photo lineup
21 containing Mr. Gadsden.

22 Q. Okay. And why did you want to contact Ms. Ferguson?

23 A. Because I knew that I had Mr. White's phone. So it was
24 the only available phone number for him that I knew of.

25 Q. Did you hear from Mr. White regarding the photo lineup

DAVID WEINER - DIRECT EXAMINATION BY MR. FRETWELL

612

1 of Mr. Gadsden?

2 A. Yes, sir.

3 Q. When was that?

4 A. He called me at ten pm on January 25th.

5 Q. 2014?

6 A. 2014, yes, sir.

7 Q. Okay. He called you in what manner or of what number?

8 A. Blocked his numbers so that I couldn't see what it was.

9 Q. Okay.

10 **MS. ROSS:** And I'd object to whether -- how he knew it
11 was him and hearsay.

12 **MR. FRETWELL:** That's fair, Judge.

13 Q. When you received a phone call on January the 25th,
14 2014, approximately ten pm did you recognize the voice that
15 was on the phone with you?

16 A. Yes, sir.

17 Q. How did you know who that was?

18 A. I'd already spoken to Mr. White several times.

19 Q. And who was it?

20 A. It was Mr. White.

21 Q. Okay. Did you tell Mr. White at that time during that
22 conversation about what you had pulled off of Mr. Gadsden's
23 phone that you -- that he had in his possession when he came
24 to see you?

25 A. Yes, sir.

DAVID WEINER - DIRECT EXAMINATION BY MR. FRETWELL

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1 Q. What -- what did you tell him?

2 A. I told him that I had these pictures of an individual
3 holding a large amount of cash with a camouflage jacket.

4 Q. And did you identify that individual to Mr. White?

5 A. I did.

6 Q. And what did you tell him?

7 A. That I'd identified him as Gerald Gadsden.

8 Q. And how did he respond?

9 A. He said he didn't know who Gerald Gadsden was.

10 Q. Was there anything more to the conversation?

11 A. No, sir.

12 Q. Okay. Do you know -- could you identify Defendant
13 Gerald Gadsden?

14 A. Yes, sir.

15 Q. Can you identify him for the record?

16 A. He's seated next to his counsel, Ms. Ross, in the
17 bluish colored shirt.

18 (Whereupon the witness pointed to the Defendant, Gerald
19 Gadsden)

20 Q. Okay.

21 **MR. FRETWELL:** Your Honor, let the record reflect that
22 the witness has identified the Defendant, Gerald Gadsden.

23 **THE COURT:** So noted.

24 Q. Based on your investigation did you determine that
25 there was a connection between Defendant White and Gadsden?

DAVID WEINER - DIRECT EXAMINATION BY MR. FRETWELL

614

1 A. Yes, sir.

2 Q. All right. And what factors primarily did you consider
3 in your charging decision?

4 A. That there were several -- it was clear to me that the
5 robbery at the Olive Garden was an inside job. Somebody had
6 made an attempt to break the window to make it appear as
7 though they had forced their way in, but they were
8 unsuccessful.

9 Q. Let me ask you a question about that. Was there any
10 way to enter that restaurant through that broken outer pane
11 of the window?

12 A. Only that the door was propped open with a dishrag.

13 Q. And what condition were the locks on those front doors
14 when officers arrived?

15 A. They were still locked.

16 Q. All right.

17 A. So I knew that the towel had been placed there by
18 somebody that was inside the business, of course, it being a
19 towel from the Olive Garden itself. Based on the statements
20 from the three individuals inside, Mr. Kretzschmar said he'd
21 been punched in the face and shoved around in the office,
22 Mr. Pugh had been pushed to the floor, Mr. White made no
23 indication that he'd been assaulted at all.

24 I'd also received numerous stories from Mr. White
25 regarding his source of income that he described to Mr.

DAVID WEINER - DIRECT EXAMINATION BY MR. FRETWELL

615

1 Riley whether they be from door sales, from rappers paying
2 him, then, of course, the information gleaned from the
3 phone.

4 I also had Mr. White in possession of Mr. Gadsden's
5 phone in his pocket when he came to our interview. And he
6 tried to cover up the fact that it was Mr. Gadsden's phone
7 by claiming that it was his own and that it was inoperable
8 and had not been used for several months when, in fact, it
9 was current and working properly.

10 I also had the pictures of Mr. Gadsden shortly after
11 the robbery wearing a jacket, a rain jacket described by the
12 -- similar to -- described by the victims and witnesses as
13 well as him holding large amounts of ones and five dollar
14 bills, which was confirmed by Mr. Kretzschmar's -- the
15 probable denominations that were stolen that night.

16 And also Mr. White denying that he had any knowledge of
17 who Mr. Gadsden was when, in fact, I had a text the day he
18 came to speak to me listing his entire full name, first
19 name, middle name, last name, social security number, date
20 of birth.

21 I also had the search warrant at his residence that
22 revealed the MasterCard that belonged to Mr. Gadsden at Mr.
23 White's residence.

24 I also noted that Mr. Gadsden himself fits the physical
25 description provided by the victims and witnesses as far as

DAVID WEINER - DIRECT EXAMINATION BY MR. FRETWELL

616

1 height and weight. I believe that's what I used, sir.

2 There was one other item also ---

3 Q. Okay.

4 A. --- that came into play with this case, which was the
5 ruling out Mr. Riley by the video system in that he clocked
6 out at 11:18 and the video system was still functioning at
7 11:22 pm and was turned off after 11:22 because I had an
8 image after Mr. Riley had left the restaurant.

9 Q. And I think you've already testified to any
10 significance you placed on the conversation that Mr. White
11 and Mr. Riley had at the time. Is that ---

12 A. Yes, sir.

13 Q. --- something also that factored ---

14 A. Yes, sir.

15 Q. Are you the one that obtained the warrants for both Mr.
16 White and Mr. Gadsden in this case?

17 A. Yes, sir.

18 Q. Mr. Weiner or Sergeant Weiner, with respect to the
19 towel, the brick and these other items that Mr. Yarborough
20 and Ms. Ross have been talking about with respect to DNA or
21 latent testing, can you give the jury some of your rationale
22 with respect to these items? Why tests were or were not
23 performed and your rationale for making those decisions.

24 A. Yes, sir. The towel itself I would expect to have Mr.
25 White's DNA on it. He's a dishwasher at the restaurant. It

DAVID WEINER - CROSS EXAMINATION BY MR. YARBOROUGH

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1 would not surprise me to find it.

2 The brick, I didn't have. The forensic technician made
3 a decision not to process it. And that's the decision
4 forensics made. I can't decide what they saw or didn't see.
5 They felt it was unsuitable for -- so they did not process
6 it.

7 Q. Okay. And with respect to the money and the coins, the
8 safe and all of that, did you have any evidence or
9 information that the robber, the gunman had come in contact
10 or put his or her hands on those items?

11 A. No, sir.

12 Q. Okay. Thank you, Sergeant Weiner. Please answer any
13 questions Defense counsel has.

14 A. Yes, sir.

15 **Cross Examination by Mr. Yarborough:**

16 Q. Sergeant Weiner, you said it was significant to you
17 that there had been deleted phone calls between Mr. White
18 and Mr. Gadsden.

19 A. Correct.

20 Q. Okay. And you said there were how many?

21 A. Count them again?

22 Q. Yeah, ---

23 A. Okay.

24 Q. --- we're going to count a lot, fourteen, fifteen.

25 A. Nineteen.

DAVID WEINER - CROSS EXAMINATION BY MR. YARBOROUGH

618

1 Q. Nineteen. Okay. Now did you look at that same phone
2 for the month of October, prior to the robbery?

3 A. The phone records were reviewed, yes, sir.

4 Q. Okay. And so would it be accurate that there were
5 thirty-two deleted texts in October?

6 A. Very possible, yes, sir.

7 Q. And seventy-four deleted texts in -- through November?

8 A. Okay.

9 Q. And fifty-nine in December?

10 A. Very possible, yes, sir.

11 Q. So the fact that there were texts deleted between Mr.
12 White and Mr. Gadsden really has no relevance to this case,
13 does it?

14 A. Well, it was the fact that every text and every phone
15 call between the two were deleted.

16 Q. But there -- there were very many deleted texts, right?

17 A. Yes, sir.

18 Q. Okay. So -- and those texts were deleted by Mr. White
19 or on his phone?

20 A. They're deleted on the phone.

21 Q. Okay. So the significance of fifteen is when you talk
22 about the number of deleted texts is insignificant, right?

23 A. Nineteen, sir.

24 Q. Nineteen. Nineteen. Would you agree that it's
25 insignificant?

DAVID WEINER - CROSS EXAMINATION BY MR. YARBOROUGH

619

- 1 A. No, sir, 'cause it's every communication between Mr.
2 Gadsden and Mr. White.
- 3 Q. Well, I mean, it's obvious Mr. White deleted a lot of
4 texts?
- 5 A. Yes, sir.
- 6 Q. That's not unusual?
- 7 A. No, sir.
- 8 Q. People do that all the time?
- 9 A. Yes, sir.
- 10 Q. You're not going to go charge everybody that deletes a
11 text with a crime?
- 12 A. No, sir.
- 13 Q. Okay. So -- now the door was -- there was a rag in the
14 door, is that correct?
- 15 A. Wrapped around the post at the base of the door, yes,
16 sir.
- 17 Q. Wrapped around the post. And how many people worked at
18 that Olive Garden that day?
- 19 A. I don't know the exact answer, sir.
- 20 Q. How many did you interview?
- 21 A. I interviewed Mr. Riley and participated in Mr. White's
22 ---
- 23 Q. Okay. And you didn't interview the other twenty people
24 that were working there that night?
- 25 A. No, sir.

DAVID WEINER - CROSS EXAMINATION BY MR. YARBOROUGH

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1 Q. You didn't call them?

2 A. No, sir.

3 Q. You didn't talk to them?

4 A. No, sir.

5 Q. Okay. And so you don't know if any of those people may
6 have left that rag there or not?

7 A. I know they did not, sir.

8 Q. Because you know who left the rag there?

9 A. Mr. Riley was the last one out and said the door was
10 locked without a rag there, sir.

11 Q. And so this jury is supposed to believe that Mr. Riley
12 knew that, right?

13 A. That's what he told me, sir.

14 Q. Okay. And you've investigated Mr. Riley?

15 A. Yes, sir.

16 Q. And he has some issues?

17 A. I don't know what you mean by issues, sir.

18 Q. He's been convicted of crimes of moral turpitude.

19 **THE COURT:** All right.

20 **MR. FRETWELL:** Thank you, Judge.

21 **THE COURT:** That's not proper.

22 Q. Mr. -- did you investigate Mr. Riley's background?

23 A. Yes, sir.

24 Q. Okay. And so at the time that you said Mr. Riley left,
25 who picked him up?

DAVID WEINER - CROSS EXAMINATION BY MR. YARBOROUGH

621

- 1 A. His girlfriend.
- 2 Q. Okay. And she picked him up in what car?
- 3 A. I don't know what kind of car it was, sir.
- 4 Q. Okay. Did you interview his girlfriend?
- 5 A. I spoke to her on the telephone, yes, sir.
- 6 Q. Okay. And did you find out what kind of car it was?
- 7 A. I did not ask her, sir.
- 8 Q. And did you -- the tapes you reviewed, did you see that
- 9 car in the parking lot?
- 10 A. No, sir.
- 11 Q. Okay. So you don't -- there's a chance that she did
- 12 not pick him up because you didn't see a picture of that
- 13 car, right?
- 14 A. She told me she picked him up, sir.
- 15 Q. She told you she picked him up, but the evidence
- 16 indicated that that wasn't true, right?
- 17 A. I'm not sure I understand the question, sir.
- 18 Q. Okay. Well, you had pictures of -- that were operating
- 19 around that area prior to Mr. Riley leaving the Olive
- 20 Garden?
- 21 A. Yes, sir.
- 22 Q. You got that picture of the car right there.
- 23 A. It's a ---
- 24 Q. Right?
- 25 A. --- very narrow camera view that shows three parking

DAVID WEINER - CROSS EXAMINATION BY MR. YARBOROUGH

622

1 spots. And, in fact, if you were on -- well, I'd say the
2 right side of the road driving through the parking lot,
3 close to the doors, the camera wouldn't catch you.

4 Q. Okay. But you didn't see any other cars coming in that
5 parking lot?

6 A. Not around the time of the robbery, sir.

7 Q. Okay. And didn't you think it was worth it to
8 interview her?

9 A. I did, sir.

10 Q. And did you interview her and what did she say?

11 A.. That she picked him up and took him home, sir.

12 Q. Okay. And what time did she pick him up?

13 A. Can I refer? Do you mind?

14 Q. To your notes?

15 A. Well, to the supplemental.

16 Q. Sure.

17 A. Around 11:20 pm, sir.

18 Q. Okay. And the robbery took place at what time? What
19 time was the phone call in from the robbery?

20 A. I don't know what -- the exact time the phone call came
21 in. The first deputy responded -- in his report, 11:28.

22 Q. At 11:28. So eight minutes later the place is robbed,
23 the robber has left and there's a phone call, or, no,
24 there's not even a -- there's a phone call made and a deputy
25 has arrived at the scene.

DAVID WEINER - CROSS EXAMINATION BY MR. YARBOROUGH

623

- 1 A. I'm not understanding your question, sir.
- 2 Q. Okay.
- 3 A. I actually didn't hear a question.
- 4 Q. At 11:20 he clocks out.
- 5 A. 11:18, sir.
- 6 Q. Well, the picture at 11:20, what was that of?
- 7 A. It's not a picture, sir. His girlfriend told me it was
- 8 about 11:20 when she picked him up.
- 9 Q. Okay. So 11:18, 11:20 she picks him up.
- 10 A. Yes, sir.
- 11 Q. Okay. And then there is a phone call made to the
- 12 police station indicating there was a robbery at the Olive
- 13 Garden.
- 14 A. Yes, sir.
- 15 Q. And that phone call was made when?
- 16 A. I don't know the exact time, sir. I guess if we figure
- 17 out how long the phone call is and subtract that from
- 18 Officer Middleton's response time of 11:28, probably about,
- 19 I'd guess 11:27, 11:26.
- 20 Q. Okay. You don't think it took Officer Middleton longer
- 21 than that to get to the Olive Garden?
- 22 A. No, sir.
- 23 Q. Okay. So you're going to give him two or three
- 24 minutes?
- 25 A. Yes, sir.

DAVID WEINER - CROSS EXAMINATION BY MR. YARBOROUGH

624

1 Q. Okay. So we're backing that up from 11:20 -- I think
2 your time's 11:28. So we're back to 11:25.

3 A. Correct.

4 Q. Okay. And what you're saying is that somebody went and
5 put that rag down, right?

6 A. Yes, sir.

7 Q. After Mr. Riley left. Is that correct?

8 A. Yes, sir.

9 Q. Okay. That's your -- that's how you think this case
10 happened, somebody put the rag down and then someone came
11 and smashed the window, right?

12 A. Mr. White put the rag down and Mr. Gadsden smashed the
13 window, yes, sir.

14 Q. You don't know that Mr. White put that rag down, do
15 you?

16 A. That's why I made that charge, sir.

17 Q. But you don't -- how do you know Mr. White put that rag
18 down?

19 A. I had the probable cause, sir, for the warrant.

20 Q. Did you see him put it down?

21 A. No, sir.

22 Q. You're sworn to tell the truth in here.

23 A. Yes, sir.

24 Q. Okay. So you don't know he put that down?

25 A. It's my belief that Mr. White put the rag ---

DAVID WEINER - CROSS EXAMINATION BY MR. YARBOROUGH

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1 Q. It's your belief, but you don't know that?

2 A. It's my belief, sir, that he put the rag ---

3 Q. It's your belief, but you don't know it?

4 A. That's what I know, sir. It's my ---

5 Q. How do you know that?

6 A. Because it's my belief that he put the rag there, sir.

7 **THE COURT:** All right. He's answered the question.

8 Q. So it's your belief that the rag was placed down there
9 at some time after 11:18?

10 A. Yes, sir.

11 Q. Okay. And it's your belief that someone smashed the
12 window to the Olive Garden, right?

13 A. Well, actually, I know both of those events occurred.

14 Q. Okay. You -- well, let's go back. How do you know
15 that that rag was placed there before you got to the scene,
16 before Officer Middleton got there?

17 A. It's documented in his report that when he arrived the
18 rag was in the door, sir.

19 Q. Okay. But you don't know when that rag was placed
20 there?

21 A. After Mr. Riley left, sir.

22 Q. Okay. But it could have been placed there when
23 somebody left the Olive Garden.

24 A. Nobody left between Mr. Riley leaving and then the
25 robbery, sir.

DAVID WEINER - CROSS EXAMINATION BY MR. YARBOROUGH

626

1 Q. Okay. And how do you know that?

2 A. Because there were only four people left inside. Then
3 Mr. Riley leaves, there's only three. When the responding
4 deputy arrives, there's ---

5 Q. And how do you know that? Were you there?

6 A. It's in his report, sir.

7 Q. In whose report?

8 A. In Officer Middleton's report, sir.

9 Q. And Officer Middleton knows who was there in between
10 that period of time?

11 A. He knows ---

12 **MR. FRETWELL:** I'm going to object to the argumentative
13 nature of the question.

14 **THE COURT:** Let's ask the question and not be ---

15 Q. How do you know who was in the Olive Garden at the time
16 it was robbed?

17 A. It is in Mr. -- in Officer Middleton's report and it's
18 also from the statements I took from the witnesses.

19 Q. Okay. You took statements from who?

20 A. Mr. Riley and then participated in Mr. White's.

21 Q. Okay. And who else?

22 A. That was it.

23 Q. You -- okay. So you took Mr. Riley's statement?

24 A. Yes, sir.

25 Q. And Mr. Riley's the one that told you that the rag

DAVID WEINER - CROSS EXAMINATION BY MR. YARBOROUGH

627

- 1 wasn't there at the time he left?
- 2 A. Correct.
- 3 Q. Okay. And did he -- did he say that the window was
- 4 broken or not broken?
- 5 A. It was not broken.
- 6 Q. Okay. And so it's your belief that that window was
- 7 broken after Mr. Riley left the scene?
- 8 A. Yes, sir.
- 9 Q. Okay. And it's your belief that Mr. White was inside?
- 10 A. Correct.
- 11 Q. The manager, Mr. ...
- 12 A. Kretzschmar.
- 13 Q. Kretzschmar was inside?
- 14 A. Yes, sir.
- 15 Q. And who else?
- 16 A. Grady Terrell Pugh.
- 17 Q. And Grady Terrell Pugh. The three of them were in the
- 18 building?
- 19 A. As well as an armed robberer.
- 20 Q. Or two?
- 21 A. One, sir.
- 22 Q. How do you know there was one?
- 23 A. Because they described one individual, sir.
- 24 Q. But -- well, let's think about this. Have you got
- 25 pictures of the Olive Garden? The inside?

DAVID WEINER - CROSS EXAMINATION BY MR. YARBOROUGH

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1 A. Not up here, sir.

2 Q. Okay. Let's get them. You were the investigator.

3 Okay. That's the picture of the window broken, right?

4 A. Yes, sir.

5 Q. Okay. Did you try to reach your hand through that
6 broken window to see if you could open that door?

7 A. Did I personally do it? No, sir. I didn't want to cut
8 my arm.

9 Q. What?

10 A. I don't want to cut my arm on anything.

11 Q. Well, ---

12 A. There was a solid intact piece of glass behind that
13 window.

14 Q. Okay. But did it not go to the door?

15 A. Did what not go to the door, sir?

16 Q. Couldn't you open that window by going to the -- stick
17 your hand through the window and go in to the door?

18 A. Oh, no, sir, not at all.

19 Q. Okay. Did you try?

20 A. I did not try. There was a solid intact piece of glass
21 behind the broken window. It was two panes, like for
22 insulation. There's a glass on the outside just like at
23 home and a glass on the inside. Some were triple paned.

24 Q. Okay.

25 A. This rock only broke one pane. There was a solid

DAVID WEINER - CROSS EXAMINATION BY MR. YARBOROUGH

629

1 intact glass behind that, sir.

2 Q. All right. And you believe that the person slammed
3 that rock up against that door for what reason?

4 A. To make it appear as though it was not an inside job.

5 Q. So you -- you think that somebody planned that in
6 advanced?

7 A. Yes, sir.

8 Q. Okay. Now, there's traffic going up and down
9 Cherrydale right there in front of the Olive Garden, isn't
10 there?

11 A. There is a road there, but at 11:30 on a Monday, I
12 wouldn't expect much traffic, sir.

13 Q. Okay. But there's a road that the Chick-fil-A faces,
14 the movie theater faces, the -- there's a hamburger place
15 right there and then ---

16 A. There's a Five Guys there, sir.

17 Q. Five Guys is there.

18 A. Um-hum (affirmative).

19 Q. And that road is what?

20 A. North Pleasantburg Drive, sir.

21 Q. Okay. And that is a very busy road in Greenville,
22 South Carolina, isn't it?

23 A. During the daytime, yes, sir.

24 Q. Do you live out that way?

25 A. I do, yes, sir.

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1 Q. I do, too. I live in Travelers Rest. And I travel ---

2 MR. FRETWELL: Objection.

3 THE COURT: All right. You're not testifying. Ask a
4 question, Mr. Yarborough.

5 Q. Okay. When you -- when you drive down that road in the
6 evening there is the possibility of traffic out there, isn't
7 there?

8 A. Yes, sir.

9 Q. Okay. And so a person that was going to rob the Olive
10 Garden that knew that there was a rag stuck in the door to
11 get in, why would he smash that window?

12 A. To cover up the fact that it was an inside job, sir.

13 Q. So you think these guys got together and planned this?
14 This is your -- your synopsis?

15 A. Yes, sir. That's why I made a conspiracy charge.

16 Q. Okay. All right. I'm just trying to figure it out.
17 And it's your testimony you can't get inside that door by
18 throwing that rock at it?

19 A. If you threw it hard enough to break both panes, yes,
20 sir. But it was not thrown hard enough.

21 Q. Okay. And so you think that that simple rag stuck down
22 in the bottom there is what allowed them to get into that
23 door, right?

24 A. Yes, sir.

25 Q. You don't think somebody let them in?

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- 1 A. They did let them in by placing the rag there, sir.
- 2 Q. Okay. And that rag right there is supposed to hold
- 3 those two doors shut?
- 4 A. Open, sir.
- 5 Q. Hold it open, is that ---
- 6 A. It did ---
- 7 Q. --- right?
- 8 A. Correct.
- 9 Q. And that's what you believe happened?
- 10 A. There's photographic evidence of it doing that, sir.
- 11 Q. Where's the photographic evidence?
- 12 A. It's in the pictures, sir.
- 13 Q. Well, can you show it to me?
- 14 A. Yes, sir.
- 15 Q. Okay.
- 16 A. In this one here you can see the left door slightly
- 17 propped, but there's some other pictures. In fact, this one
- 18 also shows the left door propped. And then there's some
- 19 that show it from the inside that show the right door
- 20 propped open also from it.
- 21 Q. Okay. So that inside door is what you're talking
- 22 about?
- 23 A. That's not the inside door, sir. That's from the
- 24 inside looking out. That's the doors.
- 25 Q. Okay. But at that point when that picture's taken, how

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1 many people have been in and out that door?

2 A. I don't know the answer to that, sir.

3 Q. More than five?

4 A. I don't know the answer to that, sir.

5 Q. Okay. But police officers have been in and out that
6 door?

7 A. Yes, sir.

8 Q. Okay. And so that rag has moved?

9 A. Not that I'm aware of, sir.

10 Q. Did anybody -- did Sergeant Middleton take a picture of
11 this rag in the door when he got there?

12 A. Officer Middleton did not, sir.

13 Q. Did you take it when you got there?

14 A. I didn't respond that night, sir.

15 Q. Okay. So you weren't there?

16 A. Not that night, sir.

17 Q. Now I'll show you another picture of the rag, okay?
18 See that picture?

19 A. Yes, sir.

20 Q. Okay. Does that picture look like the rag has moved?

21 A. It looks to me as though the door has been opened, sir.

22 Q. Okay. So the door's coming in and coming out. So
23 people are coming in and out the door, right?

24 A. Well, we know Officer Middleton did a protective sweep
25 of the business, sir. So I know he went in.

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- 1 Q. Okay.
- 2 A. He's also trained not to disturb evidence, sir.
- 3 Q. Now, you see the line of five dollar bills out there?
- 4 A. I can see some bills. From here I can't tell the
- 5 denomination, sir.
- 6 Q. There are (4) five dollar bills?
- 7 A. I see five, sir.
- 8 Q. (5) five dollar bills. Do they all look like they're
- 9 in pretty good shape?
- 10 A. I can't tell that from the picture. I see (5) five
- 11 dollar bills, sir.
- 12 Q. Do they look flat?
- 13 A. None of them appear flat, sir.
- 14 Q. Do they look relatively new?
- 15 A. I can't tell the age from the photograph, sir.
- 16 Q. What?
- 17 A. I cannot tell the age of those bills from the
- 18 photograph, sir.
- 19 Q. I'm just asking you do they appear flat and maybe bent
- 20 a little bit?
- 21 A. They do not appear flat to me, sir.
- 22 Q. Okay. In Mr. White's telephone he does not list Mr.
- 23 Gadsden's name, he calls him Keem, right?
- 24 A. Correct, sir.
- 25 Q. Okay. So that's how he knows him is Keem?

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1 A. Yes, sir.

2 Q. Okay. So when you asked him who Gerald Gadsden is, he
3 knows him as Keem.

4 A. That's his nickname, sir, Keem.

5 Q. Keem. But that's -- that's how he knows him is Keem?

6 A. But he knows his full name, sir.

7 **MS. ROSS:** I object to what he knows, him testifying of
8 what he knows and what he doesn't know -- the evidence in
9 the case.

10 **THE COURT:** You object to what he knows and what he
11 doesn't ---

12 **MS. ROSS:** Well, I object -- I object to the
13 investigator testifying that Mr. White knew him as Gerald
14 Akeem Gadsden. He does not know what ---

15 **MR. FRETWELL:** Objection, Your Honor, to the character
16 -- she's not testifying.

17 **THE COURT:** Overruled.

18 Q. Let's go back to -- we were talking about where they
19 went in to the -- the robbery. You see this picture?

20 A. Yes, sir.

21 Q. Okay. And what is that?

22 A. That's a -- there's a door leading to the office just
23 around the ice cooler, short hallway, maybe fifteen feet,
24 ten feet. And there's a door that could be secured for the
25 manager to block out the noise of the kitchen and all. And

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1 there's a small window in that door that allows you to view
2 into the office and, obviously, if you're in the office,
3 look out.

4 Q. And when you're in the office where the money was that
5 was stolen, right?

6 A. That is where the safe is, yes, sir.

7 Q. That's where the what?

8 A. The safe.

9 Q. The safe is. So the robber went in there to get the
10 money, right?

11 A. Yes, sir.

12 Q. Okay. And this area is of some -- significantly
13 farther away from where the guys were washing dishes?

14 A. Maybe fifteen feet.

15 Q. Fifteen, twenty, twenty-five feet?

16 A. I wouldn't go that high, sir.

17 Q. Okay.

18 A. Ten or twelve ---

19 Q. How about this, the manager of the store goes into this
20 office where he says he's been hit and he has a gun held to
21 him and the two individuals, one of them being my client,
22 and one of them being Mr. Pugh, were on the floor over by
23 the dishwasher and they say that ---

24 **MR. FRETWELL:** Objection. What's the question, Judge?

25 **MR. YARBOROUGH:** I'm getting ---

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1 **THE COURT:** Ask the question.

2 Q. Let's go back to this. You said there were not two
3 robbers?

4 A. Correct.

5 Q. Okay. Now what I'm saying is one robber is here,
6 right?

7 A. At some point the individual robs Mr. Kretzschmar,
8 striking him in the face and forcing him back to that office
9 after visiting Mr. Pugh and Mr. White in the dishwashing
10 area.

11 Q. Right. And where he's telling Mr. Pugh and Mr. White
12 to get on the ground.

13 A. Which they did.

14 Q. Which they did. They did get on the ground, ---

15 A. Yes, sir.

16 Q. Okay. And Mr. Pugh told you that Mr. White got on the
17 ground.

18 A. Yes, sir.

19 Q. And Mr. White told you he got on the ground.

20 A. Correct.

21 Q. Mr. White came down and gave you a statement.

22 A. He wrote a statement, yes, sir.

23 Q. Okay. And he told you at that time that he had had a
24 concert with his rap down in North Charleston.

25 A. Yes, sir.

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1 Q. Okay. And at that point you knew that he had told Mr.
2 Pugh that he had made some money at that concert.

3 A. Mr. Riley, sir.

4 Q. Mr. Riley. Made two bands.

5 A. Yes, sir.

6 Q. Okay. And he had shown Mr. Riley a little card, the
7 card that's in evidence that showed that there'd actually
8 been a concert that day, is that correct?

9 **MR. FRETWELL:** Objection, Your Honor. I'm not sure
10 that -- if he wants to show the witness what he's talking
11 about. To just happen to refer to something that might be
12 in evidence, there are sixty ---

13 **MR. YARBOROUGH:** I can -- they're up here, sir.

14 Q. You can look at that one. There's a bigger one, I
15 think, the State put in. Did you get a copy of that for --
16 with your investigation?

17 A. From Mr. White's phone, I got a copy of his flier, sir.

18 Q. You got a copy of his flier?

19 A. Yes, sir.

20 Q. And you brought that flier to court. Right? Did you?

21 A. I don't know if it was entered into evidence or not,
22 sir.

23 **MR. FRETWELL:** It's not in evidence. It's been
24 identified, but it's not in evidence.

25 Q. Is this the one that you saw?

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1 A. Can I -- can I look at it a little closer, sir? I'm
2 sorry.

3 (Pause)

4 A. It's one similar. It appears identical. I don't think
5 that's the exact one I saw, but it's one just like that,
6 sir.

7 Q. Okay. And did -- did you print that off the phone?

8 A. Yes, sir.

9 Q. Okay. And you printed that as part of your
10 investigation?

11 A. Clarify. This did not come off the phone. This was
12 from Facebook.

13 Q. You printed it -- but you printed that off from
14 Facebook?

15 A. I think I printed it -- well, I don't have access to
16 Facebook. It was printed from Facebook.

17 Q. Okay. But you recognize that as something you got as
18 part of your investigation?

19 A. Yes, sir.

20 Q. Okay.

21 **MR. YARBOROUGH:** Your Honor, I thought it'd been moved
22 into evidence. I'd move it into evidence at this time as
23 Defense exhibit 3.

24 **MR. FRETWELL:** No objection, Judge.

25 **THE COURT:** So admitted.

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1 (Whereupon Defendant White exhibit 3 was marked and
2 admitted into evidence)

3 Q. So I thought that you had said earlier that you got the
4 telephone number to call the guy in North Charleston from
5 that flier. Is that incorrect?

6 A. No, that's correct. There was a flier on his phone,
7 but this one's printed from Facebook, looks like almost a
8 month later.

9 Q. Okay. And what is the date of that concert?

10 A. It says Saturday, January 18th. No year.

11 Q. Okay. And prior to the robbery your investigation
12 showed that Mr. White had discussed this concert with Mr.
13 Riley?

14 A. Correct. Yes, sir.

15 Q. And that was in Mr. Riley's statement that he gave to
16 you?

17 A. Yes, sir.

18 Q. And at that point in your investigation what did you
19 learn that Mr. White told Mr. Riley about that concert?

20 A. That he had earned two bands.

21 Q. What did you think that meant?

22 A. Two thousand dollars.

23 Q. Okay. And you said that you discussed that with Mr.
24 White and he gave you several explanations about that, is
25 that correct?

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1 A. Two, sir.

2 Q. Two -- two of them. And what that was about how he got
3 paid.

4 A. I don't know if it was how he got paid. It was how the
5 money was earned. I don't know how he got paid. I don't
6 know if it was cash, check. It was how he -- how the money
7 was earned.

8 Q. Okay. Well, I mean, you don't refute that that took
9 place?

10 A. Not at all, sir.

11 Q. Okay. And it took place two days before the robbery?

12 A. Yes, sir.

13 Q. Okay. And Mr. White had told Mr. Riley about that
14 beforehand?

15 A. That was not discussed with me, sir.

16 Q. Okay. But you are the lead investigator and you have
17 looked at that?

18 A. Looked at the flier? I have looked at ---

19 Q. No. Looked at Mr. Riley's statement.

20 A. Yes, sir.

21 Q. And in Mr. Riley's statement it says what?

22 A. That he stopped him -- stopped Mr. Riley as Mr. Riley
23 was about to leave and explained to him that he had a
24 concert on Saturday and earned two bands, sir.

25 Q. Okay. So they had discussed it?

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- 1 A. After the concert, prior to the robbery, sir.
- 2 Q. After the concert, prior to the robbery?
- 3 A. Yes, sir.
- 4 Q. Okay. And you don't have any reason to doubt that?
- 5 A. No, sir.
- 6 Q. Now did you talk to the -- to the promoter in
- 7 Charleston?
- 8 A. I called a lower part of the State area code and
- 9 telephone number that was on the flier, sir.
- 10 Q. Okay. And did you go down there and do any
- 11 investigation?
- 12 A. No, sir.
- 13 Q. Okay. But my client had told you that he had had this
- 14 concert?
- 15 A. Yes, sir.
- 16 Q. And you were following leads?
- 17 A. Yes, sir.
- 18 Q. And so you didn't think it was important to do that?
- 19 A. I spoke to the individual who answered the phone on
- 20 that sheet, sir, about the concert.
- 21 Q. And they said the concert took place?
- 22 A. Yes, sir.
- 23 Q. And there was -- you didn't have any reason to question
- 24 that?
- 25 A. No, sir.

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1 Q. Okay. You just didn't agree with what the individual
2 told you on the telephone and you did no follow up?

3 A. No, sir, I didn't -- it's not that I didn't agree with
4 him. I just took what he said and told Mr. White.

5 Q. Did you try to follow it up?

6 A. No, sir. Well, I did -- well, I did with Mr. White.

7 Q. And he told you he made a couple of bands or a couple
8 of ---

9 A. No, sir. He told me seven thousand, five hundred
10 dollars.

11 Q. Okay. So he -- he told you he made some money?

12 A. Yes, sir, seven thousand, five hundred dollars.

13 Q. Okay. And did you have any reason to doubt that?

14 A. Yes, sir.

15 Q. Okay. And what was that? What -- what led you to
16 doubt that?

17 A. When I called that phone number, the individual
18 identified as the promoter told me that the concert did not
19 go well, they took in maybe one thousand dollars and that
20 Mr. White was paid one hundred dollars.

21 Q. Okay. And did you ever try to follow that up?

22 A. No further than that phone call, sir.

23 Q. Okay. So ---

24 A. Except for confronting Mr. White with that.

25 Q. All right. So if there's evidence that backs that up,

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1 you don't know it?

2 A. I confronted Mr. White with what was told to me, sir.

3 Q. Right. And he -- and he said that they were wrong.

4 A. No. He changed his story and told me, well, I didn't
5 get it from the door sales, the other rappers paid me.

6 Q. Okay.

7 A. Which the promoter may not know about.

8 Q. Okay. Well, -- and so that's what -- that's what you
9 found, right?

10 A. Yes.

11 Q. Okay. And in looking at the phone records that you've
12 talked about in here today, did it appear to you that --
13 that there was communication from Mr. White to a -- some
14 individuals about something that happened the 19th of
15 January?

16 A. I don't know what you're referring to, sir.

17 Q. Okay.

18 A. I don't know anything about the 19th.

19 Q. The 19th. Have you looked at his phone records for the
20 19th of January?

21 A. I have some of them here, sir.

22 Q. Okay. Well, look at the one you've got up there, the
23 19th.

24 (Pause)

25 A. I have two text messages listed for the 19th, sir.

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1 Q. Okay. And they weren't deleted.

2 A. They are deleted, sir.

3 Q. They are deleted.

4 A. They're marked -- they were -- when you say deleted,
5 they were deleted by the user of the phone, but our
6 software's still able to recover them. Not all, but a lot
7 of it.

8 Q. Okay. But it does show that, perhaps, he spent some
9 money on the 19th, right?

10 A. I don't know that it shows he spent any money, sir. I
11 don't -- I don't see where it says that.

12 Q. Okay. But the records speak for themselves.

13 A. I don't see where it says he spent money, sir.

14 Q. Okay. Did you check or did you have forensics check
15 the brick in this case to see if there was any DNA found on
16 it?

17 A. The forensic technician on-scene made a judgment call
18 based on her experience and training that the rock could not
19 be processed, sir.

20 Q. Okay. And do you have that rock?

21 A. No, sir.

22 Q. Okay. So that's an important piece of evidence that is
23 not available anymore?

24 A. I did not consider it important, sir. And neither did
25 she.

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1 Q. Okay. But if we had that rock today we could check it,
2 right?

3 A. You could check it, yes, sir.

4 Q. Okay. And you haven't or you did check DNA on this
5 rag?

6 A. No, sir.

7 Q. Okay. You didn't? But you got DNA from my client, but
8 you didn't check the rag?

9 A. Correct.

10 Q. But you said you would have expected to find DNA on
11 that rag?

12 A. No, I said I would have expected to find his DNA on
13 that rag.

14 Q. Right. But -- but you didn't.

15 A. I didn't check it, sir. That was the reason why I
16 didn't check it.

17 Q. This is what's in evidence here, right?

18 A. Yes, sir.

19 Q. And you're the lead investigator?

20 A. Yes, sir.

21 Q. And you didn't check it?

22 A. I made a decision not to have DNA searched for on that
23 rag because I expected to find Mr. White's DNA on it because
24 he works there and handles them. It would show me
25 absolutely nothing other than he handled the dishrag at the

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1 Olive Garden.

2 Q. Well, he could have been the one that handled the
3 dishrag that put it in the corner if you'd checked the DNA,
4 right?

5 A. He placed it at the base of the door, sir, not in the
6 corner.

7 Q. Well, you don't know that he placed it -- he put it in
8 the base of the door. We've been through that.

9 **MR. FRETWELL:** Objection, Your Honor. Argumentative.

10 Q. You haven't checked that?

11 A. It has not been checked for DNA, sir, that's correct.

12 Q. Okay. You didn't. The rock hasn't been checked for
13 fingerprints?

14 A. Not that I'm aware of, sir. Again, that was a call
15 that the forensic technician made out on the scene.

16 Q. Now, these pictures here are -- where's the -- you want
17 to step down in front of the jury.

18 A. Yes, sir.

19 Q. Where's the Olive Garden?

20 A. The Olive Garden is located right here.

21 Q. Okay. And this is the main road. That's North
22 Pleasantburg.

23 A. Yes, sir.

24 Q. And that's State Park Road.

25 A. Yes, sir.

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1 Q. And behind Olive Garden are all these houses.

2 A. There is a small neighborhood back there. Sylvania,
3 Orlando. I don't think you can see it -- I think Apopka
4 Avenue runs over here. I worked this beat area for about
5 seven years when I started at the sheriff's office.

6 Q. All right. And there's some -- there's some what I'd
7 -- what I'd describe as crack houses back over here.

8 A. There are some vacant homes. And there's some low
9 income housing there, sir.

10 Q. Okay. And back up here off State Park Road?

11 A. No. Those are actually a lot nicer. In fact, just
12 over here is Montebello, probably one of the highest priced
13 ---

14 Q. Well, not -- Montebello's about half a mile back up in
15 there?

16 A. Maybe. Probably less than -- substantially -- if you
17 go the way the crow flies, substantially less.

18 Q. Okay. But to get there it would be ---

19 A. By driving, yes, sir.

20 Q. Yeah. But you'd still have to go through this rough
21 section of town?

22 A. I don't consider this rough, sir. In my seven years
23 working this beat area, I don't believe I ever answered a
24 call on Sylvania Avenue. Now, Orlando, I know I've been to
25 calls to and Apopka down here. But, again, it's a lower

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1 income housing, but not crazy high crime.

2 Q. If you drove up to that house right down there in the
3 corner would you see chairs and a grill sitting out in the
4 front of that house on Sylvania Avenue?

5 **MR. FRETWELL:** Your Honor, what's the relevance? Your
6 Honor, I object.

7 **THE COURT:** Sustained.

8 **MR. YARBOROUGH:** Your Honor, ---

9 Q. But it's safe to say that there are houses all around
10 there?

11 A. Yes, sir.

12 Q. And did you investigate any of that to see if someone
13 from there had robbed the Olive Garden?

14 A. No, sir.

15 Q. Okay.

16 **THE COURT:** Mr. Yarborough, we're going to break in
17 five minutes. So ---

18 **MR. YARBOROUGH:** Okay.

19 **THE COURT:** --- I'm not telling you you need to quit,
20 you just need to find a spot in five minutes that you can
21 recess for the evening.

22 Q. The dog -- you followed the path of the dog, right?

23 A. I did not follow it, but I know the path the dog took,
24 sir.

25 Q. Okay. Well, the path of the dog goes back to that

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1 area, right?

2 A. It actually ends at State Park and Sylvania.

3 Q. Right. And that's the area we were pointing to?

4 A. Well, it's part of it, yes, sir.

5 Q. It's what?

6 A. It's part of that area, yes, sir.

7 Q. Okay. And do you know where this picture was found,
8 exhibit number 36?

9 A. I do not know. Somewhere along the path of the money
10 that was dropped. I don't know where it was.

11 Q. Okay. And would you agree with me that that hundred
12 dollar bill's in good shape?

13 A. Again, from the photograph, I can't tell. It's a
14 hundred dollar bill. I'm not denying that.

15 Q. Okay. But would -- if you look at it, you would not
16 describe that hundred dollar bill as in good shape?

17 A. Certainly much better than other hundred dollar bills
18 I've seen, yes, sir.

19 Q. Okay. Did you check it for fingerprints?

20 A. That money was returned. I didn't have access to it,
21 sir.

22 Q. But you could ---

23 A. No, there was no need to, sir.

24 Q. What do you mean there's no need to?

25 A. Mr. Kretzschmar had provided that he put the money in

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1 the bag. And then when the robber ran out, the bag broke.

2 So there's no contact between the robber and the money, just

3 Mr. Kretzschmar and the bag.

4 Q. Okay. So what you're saying is that -- that the robber
5 never touched any of this money?

6 A. Well, not the money that's on the ground.

7 Q. And you ---

8 A. Mr. Kretzschmar ---

9 Q. --- know that exactly how?

10 A. Mr. Kretzschmar put the money in the bag. The robber
11 flees with the bag. The coins break the bag and drop the
12 money out.

13 Q. So you made a decision not to have this tested?

14 A. I didn't make the decision, the forensic technician
15 did.

16 Q. But you're the lead agent, right?

17 A. I am not aware of this case when that money was
18 returned, sir.

19 Q. And there's -- was money up and down the sidewalk?

20 A. I'd have to see that picture, if I could tell you where
21 it was, it's possible. I know there was some beside the
22 Olive Garden. I think they even found some close to
23 Sylvania.

24 (Pause)

25 A. Yeah, this is the sidewalk next to the Olive Garden.

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1 The building next to it -- has like a Little Caesars and
2 maybe a FedEx or UPS store in it. And that's what these
3 sidewalk pictures are.

4 Q. Okay.

5 A. And this one with the car is behind the Olive Garden on
6 -- I believe on Sylvania.

7 Q. Okay. Did you have any -- any of this tested for DNA
8 or fingerprints?

9 A. Again, sir, not my call to make. I was not notified of
10 the case until after that money had been returned. But the
11 same argument.

12 Q. Okay. Do you know how much money was returned?

13 A. I don't know the exact amount. That was Mr.
14 Kretzschmar.

15 Q. Okay. And Mr. -- do you know how much money -- what
16 numerical dollars were stolen?

17 A. Not the exact amount. It was approximately three
18 thousand, five hundred dollars with between seven and nine
19 hundred dollars returned.

20 Q. Okay. So does that mean twenty-eight hundred dollars
21 was stolen or forty-two hundred dollars was stolen?

22 A. Well, you can't have -- no, initially in the safe was
23 about thirty-five hundred dollars.

24 Q. Okay. So then twenty-eight hundred dollars leaves.

25 A. Roughly. Between twenty-eight and twenty-seven or

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1 twenty-six hundred.

2 Q. Okay. And do you -- do you know what types of bills
3 those were?

4 A. Predominantly ones, fives and tens.

5 Q. Okay. And how do you know that?

6 A. Because Mr. Kretzschmar's statement to the other
7 investigators that that was the change that they needed.

8 Q. And who did he tell that to?

9 A. It would have been -- I have actually heard that from
10 him, but he also told it to whoever took his statement. I'd
11 have to look and see who it was.

12 Q. But if he testified in court that he didn't know, was
13 he telling the truth when he testified in court or ---

14 **MR. FRETWELL:** Objection, Your Honor.

15 **THE COURT:** Mr. Yarborough.

16 Q. Did you hear him testify in court?

17 A. I did.

18 Q. Okay. And did you hear what he said?

19 A. I did.

20 Q. And what did he say?

21 A. He said that predominantly it would be ones, fives and
22 tens, there'd be very few one hundreds because this was the
23 money they used for the change to the patrons.

24 Q. And you're saying he said that in this courtroom?

25 A. Yes, sir, that's what I heard. He said ---

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1 **THE COURT:** All right.

2 A. Sorry.

3 **THE COURT:** We're going to break for the evening.

4 Ladies and gentlemen, I'm going to let y'all go home. We're
5 going to start tomorrow morning at 9:30. I'm going to ask
6 that you not discuss the case with each other or with
7 anybody else while you're gone tonight.

8 I'm going to ask you to do me one favor when you come
9 in in the morning. If y'all would select a foreperson of
10 this jury before we begin. I anticipate that you will get
11 the case tomorrow and -- it'll probably be tomorrow morning
12 or late morning. And I'm going to need a foreperson. And
13 we will give that person instructions at the same time we
14 give the jury instructions.

15 So don't get on the computer, don't run by any
16 locations, don't do anything other than go home, rest and
17 relax a little bit, come in tomorrow and we'll put you back
18 to work. So y'all have a nice evening and we'll see you in
19 the morning.

20 (Whereupon the jury exited the courtroom at 5:28 pm)

21 **THE COURT:** All right. Sir, you can step down.

22 A. Thank you, sir.

23 **THE COURT:** We'll see you in the morning. Don't
24 discuss your testimony ---

25 A. Yes, sir.

1 **THE COURT:** --- with anybody while you're off the
2 stand. Let me ask a couple of things. Anybody have any
3 charges they want me to look at?

4 **MS. ROSS:** I do, Your Honor.

5 **THE COURT:** Mr. Yarborough, you have any idea how long
6 you're going to be with this witness tomorrow?

7 **MR. YARBOROUGH:** Probably no more than thirty minutes,
8 Your Honor.

9 **THE COURT:** Thirty more minutes?

10 **MR. YARBOROUGH:** Yes, sir.

11 **THE COURT:** All right. Ms. Ross?

12 **MS. ROSS:** It depends -- I'm going to go through it
13 tonight and try to check off all the points that someone
14 else has made. So I think I can do it in ---

15 **THE COURT:** Thirty minutes?

16 **MS. ROSS:** Yeah.

17 **THE COURT:** All right. And then do you anticipate
18 putting up a case?

19 **MR. YARBOROUGH:** A brief one, Your Honor.

20 **THE COURT:** Brief being thirty minutes?

21 **MR. YARBOROUGH:** Thirty minutes.

22 **THE COURT:** Ms. Ross, do you anticipate putting up any
23 evidence?

24 **MS. ROSS:** I do not, Your Honor.

25 **THE COURT:** All right. And then you'll have any reply.

1 I don't know whether y'all anticipate that at this time.

2 All right.

3 **MS. ROSS:** Can I have one thing? I know it's too late.
4 I didn't make a contemporaneous objection, but Investigator
5 Kelly testified to a couple of texts made about an hour
6 before the robbery saying are you going to be in Anderson in
7 the am? And I don't know what's the response.

8 I really hadn't seen that and didn't know what it meant
9 or was coming from and thought it would be clarified, but it
10 hasn't been. So I'd move to strike those if you would
11 consider that, for the jury just to strike that part of the
12 record.

13 **THE COURT:** You're a little late on that one.

14 **MR. FRETWELL:** And, Judge, we provided that information
15 to Ms. Ross.

16 **MS. ROSS:** I know. It was in a different form. And
17 then ---

18 **THE COURT:** All right. Well, we're not going to strike
19 it.

20 **MS. ROSS:** All right. And then, I guess, in light of
21 that -- well, I'll wait for tomorrow.

22 **THE COURT:** These just general charges?

23 **MS. ROSS:** Mostly general. I asked for State v.
24 Edwards on -- here, Allen, I'm sorry, on circumstantial
25 evidence. I understand the state of the law today, however,

1 I think that language is relevant in the Constitution. So
2 I'd ask for that.

3 **THE COURT:** All right.

4 **MR. FRETWELL:** Judge, do you charge Grippon for
5 circumstantial evidence?

6 **THE COURT:** Do I charge what?

7 **MR. FRETWELL:** State versus Grippon.

8 **THE COURT:** Grippa?

9 **MR. FRETWELL:** Grippon. G-r-i-p-p ---

10 **THE COURT:** The last case that I knew was Marbury
11 versus Madison. If you want, I mean, I can show you my
12 charge. I charge what I believe to be the current law on it
13 and ---

14 **MR. FRETWELL:** That is satisfactory with the State,
15 Judge.

16 **THE COURT:** They're both good. And we've got a ---

17 **MR. FRETWELL:** Thank you for that, Judge.

18 **THE COURT:** I'll show you my -- I'll show you what I'm
19 going to charge before we charge in the morning. I'll show
20 you the verdict form.

21 **MS. ROSS:** All right.

22 **MR. FRETWELL:** Thank you, Judge.

23 **MS. SIMPSON:** Thank you, Your Honor.

24 **MR. FRETWELL:** Have a good night.

25 **THE COURT:** Y'all have a nice evening.

1 **MR. FRETWELL:** Yes, sir.

2 (Whereupon court was in recess at 5:32 pm)

3 (End of Volume Two of Three)

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF GREENVILLE

STATE OF SOUTH CAROLINA,)

PLAINTIFF,)

2014-GS-23-03815

2014-GS-23-10507

-VS-)

TRANSCRIPT OF RECORD
(VOLUME THREE OF THREE)

JAMES WHITE AND)
GERALD GADSDEN,)

DEFENDANTS.)
_____)

JUNE 6 - 9, 2016
GREENVILLE, SOUTH CAROLINA

B E F O R E:

THE HONORABLE JAMES R. BARBER

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

ATTORNEY FOR PLAINTIFF:

ALLEN FRETWELL, ASSISTANT SOLICITOR
NICOLE SIMPSON, ASSISTANT SOLICITOR

ATTORNEYS FOR DEFENDANTS:

WILLIAM YARBOROUGH, ESQ.
SUSANNAH ROSS, ESQ.

SUSAN W. HUDGINS
CIRCUIT COURT REPORTER

1 Thursday, June 9, 2016 (Volume Three of Three):

2 (Whereupon court reconvened at 9:36 am)

3 **THE COURT:** Based on what y'all told me yesterday, I
4 anticipate that we should finish with the sergeant here in
5 an hour or so. I anticipate going into -- well, you're
6 going to rest at that point in time. You say you have a
7 very short -- if you call anybody it'll be very short?

8 **MR. YARBOROUGH:** That's correct. Yes, sir.

9 **THE COURT:** Get to -- go to closings by about eleven.
10 Figure we'll finish closings by 11:15.

11 **MR. FRETWELL:** That'd be great, Judge.

12 **THE COURT:** Well, my point is, I was asking them to
13 prepare for the jury for lunch, that we would eat sometime
14 about one.

15 **MR. YARBOROUGH:** So bring it in?

16 **THE COURT:** I'm going to bring it in for them and let
17 them -- so that's sort of my time-frame. And we'll take a
18 break after sometime about 10:30, quarter til eleven to
19 allow the jury to order and then we can chat at that time
20 about charges. I don't know if y'all have had a chance to
21 see Ms. Ross' proposed charges and whether there's any
22 objection to anything.

23 **MR. FRETWELL:** I didn't hear that last part, Judge.

24 **THE COURT:** If there's any objections to any of their,
25 if there are. I'll tell you, Ms. Ross, on my reasonable

1 doubt, it's sort of a combination of hesitate to act and --
2 what's the other ...

3 **MR. FRETWELL:** Firmly convinced.

4 **THE COURT:** Yeah, firmly convinced. So ...

5 **MR. FRETWELL:** Judge, on another matter, while the
6 jury's out and we have this opportunity, do you want to know
7 what convictions the State would introduce against the
8 Defendants should they happen to take the stand? Do you
9 want that information?

10 **THE COURT:** Well, I mean, I don't necessarily need it,
11 if you've talked to them about it.

12 **MR. FRETWELL:** I certainly turned over all the -- all
13 the information. I just didn't know if you wanted that
14 information for purposes of your voir dire of the
15 Defendants.

16 **THE COURT:** I mean, I just ask them, I mean, if they
17 understand if there's any prior record, it would be
18 admissible under the rules if they -- their credibility may
19 be related to that on cross examination.

20 **MS. ROSS:** You want a copy ---

21 **THE COURT:** Of what?

22 **MS. ROSS:** Of my requests for instructions ---

23 **THE COURT:** Sure. I'm going to need a copy back. So
24 if we're going to talk about them -- you can make a copy?

25 **MADAME CLERK:** Yes.

1 (Pause)

2 **THE COURT:** All right. We have the jury. The State
3 ready to proceed?

4 **MR. FRETWELL:** We are, Your Honor.

5 **THE COURT:** Mr. Yarborough?

6 **MR. YARBOROUGH:** Yes, sir, Your Honor.

7 **THE COURT:** Ms. Ross?

8 **MS. ROSS:** Yes, Your Honor.

9 **THE COURT:** All right. You can bring the jury in.

10 (Whereupon the jury entered the courtroom at 9:38 am)

11 **THE COURT:** All right. Good morning to you, ladies and
12 gentlemen. Nice to see you this morning. I hope all of
13 y'all had a nice evening last night and ready to go to work
14 again this morning.

15 As we do every day, I need to ask did anybody have any
16 conversation about this case or were you approached by
17 anyone since we left yesterday afternoon?

18 **THE JURY:** No, sir.

19 **THE COURT:** Anybody do any independent investigation,
20 or computer inquiry or anything of that nature since we left
21 yesterday?

22 **THE JURY:** No, sir.

23 **THE COURT:** All right. Good. Just for the attorneys'
24 information, Mr. Stewart White has been selected as
25 foreperson of the jury. You Mr. White?

DAVID WEINER - CROSS EXAMINATION BY MR. YARBOROUGH

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1 **MR. WHITE:** Yes, sir.

2 **THE COURT:** Well, you and I will have a little
3 conversation after everything's done and tell you some of
4 your responsibilities as foreperson. Of course, it will be
5 in the same room with all your other colleagues. I
6 appreciate your willingness to serve.

7 The State is still in the process of its case in chief
8 being put up. And I think Mr. Yarborough was examining the
9 Sergeant here. So, Mr. Yarborough, I'll ask if you would
10 proceed, sir.

11 **MR. YARBOROUGH:** Thank you.

12 **Cross Examination by Mr. Yarborough Continued:**

13 Q. Sergeant Weiner, we were talking yesterday when we left
14 about your investigation, is that correct?

15 A. Yes, sir.

16 Q. And your investigation revealed that Mr. Riley left the
17 Olive Garden sometime between 11:18 and 11:20, is that your
18 testimony?

19 A. He clocked out at 11:18, sir.

20 Q. He clocked out at 11:18 and it took him some time to
21 leave. So 11:18 -- we'll give -- we'll give you 11:18,
22 okay? That's what time he clocked out. Is that fair?

23 A. Yes, sir.

24 Q. Okay. Now, do you -- the call into the police station
25 about the robbery came from who?

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1 A. From Mr. Kretzschmar.

2 Q. Okay. And that came in at what time?

3 A. I don't know the exact time. My report indicates what
4 time the first officer went on-scene. I listened to the 911
5 call. And it lasts maybe a couple of minutes. He goes on-
6 scene at 11:28. So I'd say roughly 11:25.

7 Q. Okay. So seven minutes after Mr. Riley leaves?

8 A. Yes, sir.

9 Q. Okay. And your belief was that it was an inside job,
10 the robbery, is that right?

11 A. Yes, sir.

12 Q. Okay. And that belief stemmed from the fact that there
13 was a white Olive Garden towel stuck down in the bottom down
14 there?

15 A. Yes, sir.

16 Q. Okay. And you knew that Mr. Riley was the last person
17 to leave.

18 A. Yes, sir.

19 Q. Okay. So did you subpoena Mr. Riley's phone records?

20 A. No, sir.

21 Q. Okay. Did you check Mr. Riley's DNA against the
22 dishtowel that was in the door?

23 A. No, sir.

24 Q. Okay. Did you check Mr. -- did you interview Mr.
25 Riley?

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1 A. Yes, sir.

2 Q. He came down and gave you his statement?

3 A. Yes, sir.

4 Q. Okay. And did you try to substantiate what Mr. Riley
5 told you?

6 A. Yes, sir.

7 Q. And you did that by calling his girlfriend?

8 A. Yes, sir.

9 Q. Okay. Did you do anything else to substantiate what
10 Mr. Riley told you?

11 A. Confirmed what time he clocked out of the business,
12 sir.

13 Q. Okay. But we've already discussed that. And you said
14 that was 11:18.

15 A. Correct.

16 Q. Okay. And do you know if Mr. Riley got some food after
17 the time he left and the time he, I mean, after the time he
18 clocked out and the time he walked out the door?

19 A. He indicated to me the last thing he did was clock out,
20 sir.

21 Q. Okay. So you're saying the last thing he did, 11:18,
22 he clocks out and the robbery call comes in seven minutes
23 later?

24 A. Yes, sir.

25 Q. And there's no question that somebody broke the window

DAVID WEINER - CROSS EXAMINATION BY MR. YARBOROUGH

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1 out there?

2 A. Correct.

3 Q. And it appeared from your investigation that the window
4 was broken by a brick.

5 A. I don't know that -- some kind of rock. I don't know
6 if it's a brick, sir.

7 Q. Okay. Well, you've seen the photographs.

8 A. Yes, sir.

9 Q. And we looked at them yesterday.

10 A. Yes, sir.

11 Q. And there's a brick down in the right hand corner.

12 A. There's some kind of rock, stone. I don't know that
13 it's a brick, sir.

14 Q. Okay. Do you have it?

15 A. I do not, sir.

16 Q. Did you ever have it?

17 A. No, sir.

18 Q. So it's never been tested for anything?

19 A. No, sir.

20 Q. And so it's never been tested for Mr. Riley's
21 fingerprints?

22 A. No, sir.

23 Q. Okay. Now, Mr. Riley came down and gave you his
24 statement and he told you that when he was -- when he left
25 Aaron was there, James was there and Mr. Pugh was there.

DAVID WEINER - CROSS EXAMINATION BY MR. YARBOROUGH

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1 A. Yes, sir.

2 Q. Okay. And he said that my client, Mr. White, and Mr.

3 Pugh were back there washing dishes.

4 A. He didn't tell me where they were. He said they were
5 still in there.

6 Q. Okay. So he didn't know where they were?

7 A. No, sir.

8 Q. But you talked to Mr. Kretzschmar and he said they were
9 back there washing dishes.

10 A. I think he assumed they were washing dishes. But he
11 was in his office, sir.

12 Q. When Officer Middleton got there, they're on the floor
13 by the dishwasher -- by the dishwashing machine, right?

14 A. Yes, sir.

15 Q. Okay. And at that point you interviewed Mr. Pugh.

16 A. I did not interview Mr. Pugh, sir.

17 Q. You never interviewed Mr. Pugh?

18 A. No, sir.

19 Q. Did you get Mr. Pugh's statement in your investigation?

20 A. Yes, sir.

21 Q. And did that statement say that Mr. White didn't leave
22 from the time Mr. Riley left til the time the store was
23 robbed?

24 A. I believe it said the best he could remember he did not
25 leave, sir.

DAVID WEINER - CROSS EXAMINATION BY MR. YARBOROUGH

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1 Q. Okay. The best he could remember. So he said the best
2 he could remember is that Mr. White didn't leave the
3 dishwashing area.

4 A. Yes, sir.

5 Q. Okay. And at that point you didn't think it was
6 important to test that towel for Mr. White's DNA?

7 A. No, sir.

8 Q. Because as you said yesterday, you knew you'd find Mr.
9 White's DNA on that towel?

10 A. I don't know that I would find it, but I would expect
11 to find it, sir.

12 Q. You would expect to find it. So wouldn't that be
13 important in your investigation?

14 A. No, sir. He's a dishwasher at the Olive Garden. I
15 expect his DNA on a dishtowel.

16 Q. But there were twenty other people working there that
17 night.

18 A. Yes, sir.

19 Q. Twenty other people had access to dish -- I mean, to
20 towels at the Olive Garden.

21 A. Yes, sir.

22 Q. Okay. And so it could have had somebody else's DNA on
23 it.

24 A. Yes, sir.

25 Q. But you didn't test it?

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1 A. No, sir.

2 Q. Now, you got descriptions of the robbers from the
3 reports that were taken that night, right?

4 A. I got the description of a robber, sir.

5 Q. Got the description of a robber.

6 A. Yes, sir.

7 Q. And that description said the robber had short, cropped
8 hair.

9 A. Could I refer to the ---

10 Q. Sure.

11 A. --- original report? Thank you.

12 (Pause)

13 A. One witness described short hair.

14 Q. Short hair. Okay. Now, at the time of the robbery
15 Gadsden had dreadlocks, right?

16 A. Some kind of twisty braids. I think dreadlocks are
17 more of the long clumped together hair. These were like
18 twisty little braids, if I recall.

19 Q. Let me ask you if you recognize this picture.

20 A. Yes, sir, I've seen it.

21 Q. Okay. And do you see Gadsden in there?

22 A. On the far right in the teal pants.

23 Q. Okay. And what's his hair look like?

24 A. He has twisty little braids, sir.

25 Q. Twisty little braids or twisty long braids?

DAVID WEINER - CROSS EXAMINATION BY MR. YARBOROUGH

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- 1 A. They're little skinny braids that come about to his
2 cheeks, maybe. Is that right? In that picture, as far as I
3 know.
- 4 Q. Okay. But there are braids on that hair?
- 5 A. Yes, sir.
- 6 Q. That's not short, cropped hair, is it?
- 7 A. That's not what I would call short hair, sir.
- 8 Q. Okay. So you knew that Gadsden at the time of this
9 robbery had this long hair, right?
- 10 A. Yes, sir.
- 11 Q. Okay. And -- but you put his picture in a photo lineup
12 anyway as far as your investigation.
- 13 A. Yes, sir.
- 14 Q. And you showed that photo lineup to Mr. Pugh.
- 15 A. Yes, sir.
- 16 Q. And he could not pick out the robber.
- 17 A. No, sir.
- 18 Q. Okay. And you showed that photo lineup to Mr. Riley.
- 19 A. No, sir.
- 20 Q. You never showed the photo lineup to Mr. Riley.
- 21 A. He did not view the robber, sir.
- 22 Q. He what?
- 23 A. He never saw the robber, sir.
- 24 Q. He never saw -- he never saw the robbery.
- 25 A. No, sir.

DAVID WEINER - CROSS EXAMINATION BY MR. YARBOROUGH

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1 Q. So you never showed it to him.

2 A. No, sir.

3 Q. Okay. And did you show it to Mr. Kretzschmar?

4 A. Yes, sir.

5 Q. And when you showed it to Mr. Kretzschmar could Mr.

6 Kretzschmar pick out Mr. Gadsden?

7 A. No, sir.

8 Q. Okay. And so at that point did you not think you

9 needed to do some more investigation?

10 A. At that time I determined that I had probable cause to

11 make an arrest, sir.

12 Q. I said did you -- did you feel like you should do some

13 more investigation?

14 A. No, sir. I felt we'd gone as far as we could with this

15 case.

16 Q. Okay. And you had -- you had the two people that were

17 in there that had been robbed, two of the three people in

18 there that had been robbed that had looked at a photo lineup

19 and they could not pick out Gadsden?

20 A. Yes, sir.

21 Q. Okay. And that didn't make you wonder?

22 A. Not one bit, sir.

23 Q. Didn't make you wonder one bit?

24 A. No, sir.

25 Q. Now, right after that Mr. White told you that he had

DAVID WEINER - CROSS EXAMINATION BY MR. YARBOROUGH

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- 1 made some money at a rap concert.
- 2 A. Yes, sir.
- 3 Q. Okay. And somehow or another you confirmed that there
- 4 was a rap concert held on -- two days before, right?
- 5 A. Yes, sir.
- 6 Q. Two days before the robbery?
- 7 A. Yes, sir.
- 8 Q. Okay. And that didn't make you question where the
- 9 money had come from?
- 10 A. It did, sir.
- 11 Q. It did?
- 12 A. Yes, sir.
- 13 Q. Okay. And so when it made you question you made a
- 14 phone call to somebody and that was it? That's ---
- 15 A. Yes, ---
- 16 Q. --- all you did?
- 17 A. Yes, sir.
- 18 Q. You didn't go down, you didn't interview anybody?
- 19 A. No, sir.
- 20 Q. You didn't try to ask the promoter of the concert or
- 21 anybody that was there if there were -- there was money
- 22 made?
- 23 A. No, sir.
- 24 Q. And if there was money made that would have changed
- 25 your opinion.

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1 A. There was money made, sir. I testified to that
2 earlier.

3 Q. Well, you testified there was a hundred dollars, but if
4 -- you also knew that one of your witnesses said that Mr.
5 White had said there was two bands made.

6 A. I testified that one thousand dollars was made at the
7 event, that Mr. White was paid one hundred dollars, sir.

8 Q. Okay. The one thousand -- but you knew that he had
9 said he'd made more money than that.

10 A. Yes, sir.

11 Q. Okay. And so you didn't want to follow up and check
12 that out?

13 A. I did, sir.

14 **MR. FRETWELL:** Your Honor, at this point I'm going to
15 object. We went into this yesterday.

16 **THE COURT:** Mr. Yarborough, ---

17 **MR. YARBOROUGH:** I'll move on, Your Honor.

18 Q. Show you number 62. Do you recognize that picture?

19 A. Yes, sir.

20 Q. And what is that picture?

21 A. A large stack of bills that would appear to be one
22 dollar bills taken from Mr. Gadsden's phone the day after
23 the robbery.

24 Q. Okay. And does it have two bands on it?

25 A. Looks like a rubber band doubled over to me.

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- 1 Q. Okay. But you see there's two wraps on it?
- 2 A. Yes, sir.
- 3 Q. Okay. And that picture came off of Gadsden's phone,
- 4 right?
- 5 A. Yes, sir.
- 6 Q. And this picture came off of Gadsden's phone, too,
- 7 didn't it?
- 8 A. Yes, sir.
- 9 Q. Okay. Now let's discuss Gadsden's hair in this
- 10 picture.
- 11 A. Yes, sir.
- 12 Q. How does that hair look?
- 13 A. Again, those twisty -- probably about almost jaw line
- 14 at that point, they appear.
- 15 Q. Would it -- you don't think that gets all the way down
- 16 to the shoulders? You want to look at it closer?
- 17 A. He -- it's a hood. It's touching the hood, sir.
- 18 Q. Okay. You see the hair in the right hand corner?
- 19 A. My opinion is it comes to about his jaw line and it's
- 20 touching the hood, sir.
- 21 Q. Would you agree the picture speaks for itself?
- 22 A. It is a photograph, sir.
- 23 Q. What?
- 24 A. I don't understand your question.
- 25 Q. Would you agree the picture speaks for itself?

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1 **THE COURT:** I agree the picture speaks for itself.

2 Let's move on.

3 **MR. YARBOROUGH:** Thank you.

4 Q. And that picture has the same money in it that you just
5 identified, right?

6 A. I don't know that it's the same money, sir.

7 Q. So this was another picture that came off of there?

8 A. Yes, sir.

9 Q. Okay. And that has a stack of ones and fives, does it
10 appear?

11 A. Yes, sir.

12 Q. Okay. And that's Defense exhibit, I mean, State's
13 exhibit 60?

14 A. Yes, sir.

15 Q. And this picture, which was from the -- you believe
16 that's from the concert?

17 A. I don't know when it's from, sir.

18 Q. Okay. But it's got Mr. White and Gadsden's picture on
19 it, right?

20 A. Yes, sir. They're both in the picture together.

21 Q. Okay. And would Gadsden's hair be consistent with the
22 way it's seen in these pictures?

23 A. Yes, sir.

24 Q. Okay.

25 **MR. YARBOROUGH:** And I think without objection we've

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1 agreed this will be Defense 4?

2 **MR. FRETWELL:** Judge, I don't have an objection to the
3 picture.

4 **THE COURT:** So admitted without objection.

5 **MS. ROSS:** No objection.

6 (Whereupon Defendant White exhibit 4 was marked and
7 admitted into evidence)

8 Q. Did you ever find a camouflage jacket?

9 A. No, sir.

10 Q. Camouflage jackets are pretty normal wear?

11 A. I don't know that it's normal wear. I don't have a
12 camouflage jacket, sir.

13 Q. Well, you work in Greenville, right?

14 A. Yes, sir.

15 Q. And the concert took place on January 18th, right?

16 A. Yes, sir.

17 Q. And the weather in Greenville's chilly, right?

18 A. The concert was in Charleston, sir. But it's chilly in
19 Greenville.

20 Q. Would it be chilly in Charleston?

21 A. I don't know, sir.

22 Q. But it would be chilly in Greenville. So people wear
23 jackets, right?

24 A. Yes, sir.

25 Q. Did you look and see who else clocked out around the

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1 time that Mr. Riley did?

2 A. No, sir.

3 Q. Okay. So you don't know how many people clocked out
4 around 11:00?

5 A. No, sir.

6 Q. And you didn't do any check on that?

7 A. No, sir.

8 Q. And did you -- did you ask any of the employees -- just
9 one second.

10 (Pause)

11 **MR. YARBOROUGH:** I don't have anything further. Thank
12 you.

13 **THE COURT:** All right. Ms. Ross.

14 **MS. ROSS:** Thank you, Your Honor. May it please the
15 Court.

16 **Cross Examination by Ms. Ross:**

17 Q. Okay. I'm going to go sort of in chronological order
18 and kind of move along. Is it fair to say you're the lead
19 investigator on the case?

20 A. After Investigator Motes left, yes, ma'am.

21 Q. And you're familiar with the entire file, the CDs,
22 incident reports?

23 A. To the best of my ability, yes, ma'am.

24 Q. Okay. I just want to pull out incident recall. Can I
25 show you the incident recall in the case? Or can you tell

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1 the jury what an incident recall is?

2 A. I don't know what that is, ma'am, unless you show it to
3 me.

4 Q. Do you know what that is? Have you ever seen one of
5 those before?

6 A. Yeah. We call them a CAD report.

7 Q. Okay. Can you tell the jury what that is?

8 A. Just as the dispatchers enter into the computer system,
9 you can maybe even hear keystrokes going on while 911 -- it
10 enters in the calls so that all the dispatchers in the
11 center can see it. And so even though she's talking to Mr.
12 Kretzschmar on the phone, another dispatcher's dispatching
13 Officer Middleton to the robbery. And this is just like a
14 chronological set of events. As each car goes on-scene,
15 they mark it, as forensics go on-scene, they mark it and so
16 forth.

17 Q. And you can see I've highlighted two items on there but
18 made no other changes to the CAD report, correct? And I ---

19 A. I don't know ---

20 Q. --- just wanted ---

21 A. Yes, ma'am.

22 Q. Okay. I just wanted to highlight -- when does it say
23 the case was opened?

24 A. At 11:25 pm.

25 Q. Okay. So that means 911 was called at 11:25?

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1 A. According to the CAD report's time, yes, ma'am.

2 Q. Okay. Is that Central Mean Time or ---

3 A. I don't know, ---

4 Q. --- is that the correct time?

5 A. --- but it's very accurate. Yes, ma'am.

6 Q. Okay. And accuracy is part of the job, right?

7 A. Yes, ma'am.

8 Q. And then it says at 23:27, which is 11:27, James

9 Middleton is on the scene.

10 A. Yes, ma'am.

11 Q. And he said 11:28, but 11:27 could have been when he

12 radioed in the parking lot and said I'm on the way in, I'm

13 on the scene, right?

14 A. Yes, ma'am.

15 Q. You don't know that that ---

16 A. Right. There could have been a time discrepancy

17 between his mobile data terminal and this CAD report.

18 Q. Okay. Would you like to see it some more?

19 A. No, ma'am.

20 Q. Okay. Now, you -- when you said before, you weren't on

21 the scene, you didn't become involved in the case until

22 January 22nd, two days later?

23 A. The following morning I read the reports and assigned

24 it to Investigator Motes.

25 Q. Okay. Well, then, I guess in your report you talked

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1 about having Damion Riley and James White come down to the
2 LEC on January 22nd.

3 A. Yes, ma'am.

4 Q. And Damion Riley came first. You spoke to him first,
5 correct?

6 A. Yes, ma'am.

7 Q. And did you ask him if he drove down to the LEC? Did
8 you ask him how he got there?

9 A. I did, yes, ma'am.

10 Q. And what did he say?

11 A. That he got a ride.

12 Q. Okay. Now, he was the last to leave the Olive Garden
13 before the robbery. And we've established he clocked out at
14 11:18. And he said he was picked up at 11:20, correct?

15 A. He clocked out at 11:18. His girlfriend didn't have
16 any record of time. So she thought it was around 11:20 when
17 she took him home.

18 Q. Okay. And you talked to Lorraine Walker, his
19 girlfriend, on the phone, correct?

20 A. Yes, ma'am.

21 Q. Now, you never interviewed her personally, did you?

22 A. No, ma'am.

23 Q. Did you take a picture of her car or were you familiar
24 with what kind of car she had?

25 A. No, ma'am.

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1 Q. And you didn't write out a report or statement, you
2 just made a phone call and she confirmed she picked up
3 Damion Riley?

4 A. Yes, ma'am.

5 Q. Okay. Did you ever run her rap sheet or look into any
6 kind of record she might have?

7 A. No, ma'am.

8 Q. Now, Damion Riley gave a written statement to you on
9 the 22nd, correct?

10 A. Yes, ma'am.

11 Q. Okay. And then he said that James White had bragged
12 about making a few bands, and we've kind of gone over that,
13 at a rap show.

14 A. Yes, ma'am.

15 Q. And based on that you called a venue and you thought
16 that -- eventually thought that he didn't really make as
17 much money as he'd said.

18 A. Not based on Mr. Riley's statement, no, ma'am.

19 Q. Okay. I'll skip over that and we can come back later.
20 Riley said that he'd finished work, collected his W-2 from
21 Aaron Kretzschmar that day and he came around the corner to
22 the manager's office where the safe was and then went and
23 got some food and then clocked out and left. Is that your
24 recollection of his statement?

25 A. He would have got the W-2 -- I don't want to get

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1 confused, but the W-2, the safe and Kretzschmar were all in
2 the same place. So he went around, talked to Mr.
3 Kretzschmar, got his W-2, walked out, picked up his food,
4 clocked out and left.

5 Q. Okay. And you were here in the courtroom, Aaron
6 Kretzschmar did not recall giving Damion Riley a W-2 that
7 night, did he?

8 A. No, ma'am.

9 Q. And he never made any mention of that to law
10 enforcement that night or in his statement.

11 A. No, ma'am.

12 Q. And then going on, Riley said he was sure the door shut
13 and locked behind him, correct?

14 A. Yes, ma'am.

15 Q. Now, at one point you said -- don't even want to touch
16 it, but the dishrag, you didn't test it for DNA because if
17 it showed it wouldn't prove anything because if White's DNA
18 was on there you wouldn't be surprised, correct?

19 A. Yes, ma'am.

20 Q. Do you recall saying that? Now, this is assuming
21 White's DNA would be on there. If Riley's DNA was on there,
22 that would be another story, wouldn't it?

23 A. No, ma'am.

24 Q. Well, he was not a dishwasher, was he?

25 A. No, ma'am. But those are the towels that the kitchen

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1 uses in the back.

2 Q. I believe he testified, and you might have been in the
3 courtroom, that he used a different kind of towel, like a
4 little yellow rag ---

5 **MR. FRETWELL:** Objection, Your Honor. Not only is she
6 testifying with that, but she's pitting one witness against
7 another.

8 **THE COURT:** Sustained.

9 Q. Were you in the courtroom during the -- when Mr. Riley
10 testified?

11 A. Yes, ma'am.

12 **MR. FRETWELL:** Same objection, Your Honor.

13 **THE COURT:** I'm going to let her ---

14 **MS. ROSS:** Judge, I think I can ask this question.

15 **THE COURT:** You can ask what question you're going to
16 ask and we'll determine whether you can ask it.

17 **MS. ROSS:** Thank you, Judge.

18 Q. So my question was isn't it true that if Damion Riley's
19 DNA was on that rag it could be significant?

20 A. No, ma'am.

21 Q. And your position is that Damion Riley did use those
22 rags all the time?

23 A. Yes, ma'am.

24 Q. But you were in the courtroom yesterday. Did he say he
25 used those rags all the time?

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1 A. His statement that I ---

2 Q. Day before yesterday.

3 A. --- observed was that the servers used some kind of
4 yellow napkins, but in the back they used dishtowels.

5 Q. Okay. So you don't recall him saying anything about we
6 used yellow towels to deal with the heat when we're cooking?

7 A. I remember him talking about the servers using those to
8 carry the plates, ma'am. I don't remember him saying that.
9 His statement was that they used those towels to wipe down
10 counters and prep areas.

11 Q. Okay. Now, however, that being said, wouldn't it be
12 significant if his DNA was on the rag when he said he never
13 saw the rag ---

14 **MR. FRETWELL:** Objection, Your Honor. This is probably
15 the third time she's asked this same question, Judge.

16 **THE COURT:** All right. Overruled. We'll give him one
17 more chance to answer it.

18 A. I would expect his DNA to be on there just like I would
19 Mr. White's, ma'am.

20 Q. All right.

21 A. It would not surprise me.

22 Q. Now, Riley said the door shut and locked behind him.

23 And his job was on the line, wasn't it? If he didn't -- if
24 he let that door stay open, that's a terminable offense?

25 A. Yes, ma'am.

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1 Q. And so would you have expected him to admit leaving the
2 door open if he had?

3 A. I would hope he would tell the truth to law
4 enforcement, ma'am.

5 Q. But according to Aaron Kretzschmar he would have been
6 fired for that?

7 A. Yes, ma'am.

8 Q. Now, you didn't ask, and we've been through this, you
9 didn't ask to search his phone. You didn't ask him to hand
10 over his phone, did you?

11 A. No, ma'am.

12 Q. You didn't ask to take a swab of his DNA, did you?

13 A. No, ma'am.

14 Q. You didn't get a search warrant for his house or his
15 car?

16 A. No, ma'am.

17 Q. Or should I say Lorraine Walker's car? Now, Riley
18 didn't mention he was in trouble for burglary to you, did
19 he?

20 A. No, ma'am.

21 Q. And you were in the courtroom day before yesterday and
22 he testified that he did tell you he'd been in trouble,
23 didn't he?

24 A. Not that I recall, ma'am.

25 Q. All right. And if he had mentioned that would that be

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1 relevant to you in any manner that he had -- he was in
2 trouble for burglary?

3 A. To me it would depend on how old the charge was and
4 what kind of charge it is.

5 Q. Now, on this charge, we're not on trial for burglary,
6 but you originally took out a warrant for burglary as well?

7 A. Yes, ma'am.

8 Q. Okay. Now, just to go over it, the employer records
9 confirmed that David -- Damion Riley clocked out at 11:18
10 and 911 was called at 11:25. So that's a seven minute
11 difference there, right?

12 A. Yes, ma'am. That's assuming the clock at Olive Garden
13 is in line with our clock at dispatch. It could also be off
14 a little bit.

15 Q. Okay. Did you find any evidence to ---

16 A. No.

17 Q. --- that it was off ---

18 A. I would assume if it was off it would be a brief amount
19 of time.

20 Q. Okay. I want to move on to the Olive Garden
21 surveillance video because I was a little confused about
22 that and I wanted to clarify it. You -- in my discovery I
23 received this image. It's in evidence, a good nice color
24 copy.

25 A. Yes, ma'am.

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1 Q. Do you recognize this image?

2 A. Yes, ma'am.

3 Q. Okay. And what's the clock stamp time?

4 A. 11:22.

5 Q. Okay. So assuming the video timing is correct on the

6 Olive Garden video, that suggests that this car drove

7 through around 11:22?

8 A. Yes, ma'am. I checked the clock. It was correct. If

9 it was not I would have documented it.

10 Q. Okay. And so that's two minutes after Michelle [sic]

11 Walker estimated that they -- Damion Riley and she had left,

12 right?

13 A. Yes, ma'am.

14 Q. And could she explain her certainty about the time?

15 You said before she just wasn't -- she estimated that time.

16 A. That was just her estimate of time was 11:20.

17 Q. Okay.

18 A. I went off Mr. Riley's clock-out time, which was 11:18.

19 Q. And on this car -- you put it out -- you were trying to

20 find the car, so you put it ---

21 **MR. FRETWELL:** Objection, Your Honor. That particular

22 photo is not in evidence. If she wants to get the photo in

23 evidence and share that with the jury, that's fine, but that

24 photo ---

25 **MS. ROSS:** Okay.

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1 **MR. FRETWELL:** --- is not in evidence.

2 **MS. ROSS:** Sorry. I'm not trying to show it to the
3 jury.

4 **Q.** You know the picture I'm talking about?

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

6 **Q.** With that picture, you put it out on the news and said,
7 anyone seen this car?

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

9 **Q.** And you got a call from a neighbor lady or a lady who
10 lived nearby?

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

12 **Q.** Now, and she said that was her?

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

14 **Q.** That was probably her. Now, did she give any reason
15 she could have any certainty of the time?

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

17 **Q.** What was that reason?

18 **A.** She went to the Burger King drive-thru and cut through
19 the parking lot to avoid the traffic light at 291 and State
20 Park Road. And she had her receipt.

21 **Q.** Did she have her receipt? And ---

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

23 **Q.** --- it said 11:22 or 23 ---

24 **A.** I think it was like 24 or something to that effect.

25 **Q.** Okay. So that's how you knew that that was that?

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1 A. Yes, ma'am.

2 Q. Okay. Well, that makes -- that helps. And then going
3 back to the video, you said the video must have been turned
4 off around 11:22 because this was in it. And I just -- just
5 to ask, so did -- was this the last image and then 11:23,
6 boom?

7 MR. FRETWELL: Your Honor, I'm going to object to the
8 compound nature of the question. She's asked two different
9 things. I'd just object to the compound nature of the
10 question.

11 Q. How did you know the video had been turned off at
12 11:22?

13 A. I don't know that it was turned off at 11:22. I don't
14 know that that was the last image. But I know it was
15 functioning at 11:22. And it was not functioning at 11:28.

16 Q. Did you look at the -- did you look at the whole video?

17 A. I did, but that was the only car. I don't recall what
18 time the video went off.

19 Q. Did the -- you don't recall at all? I mean, could it
20 have not gone off until after 11:30?

21 A. No, no. There were no patrol cars on the video or
22 anything. It turned off shortly after that vehicle.

23 Q. Okay. And you say -- so when it turns off is it just a
24 stopped image like in crime movies where it's just showing
25 the parking lot and it just stops and there's still an image

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1 there? Or does it just go black?

2 A. From what I recall, it just -- it ends, the recording
3 ends.

4 Q. And you don't recall what time it ended?

5 A. No, ma'am. It was not long after that vehicle.

6 Q. Okay. Let's see. Okay, moving on. James White came
7 to the LEC after Damion Riley, correct?

8 A. Yes, ma'am.

9 Q. And he came to your office at your request? You'd
10 asked him to come down?

11 A. I think Investigator Motes requested him, but ---

12 Q. Okay.

13 A. --- at the request of law enforcement, yes, ma'am.

14 Q. Okay. And you questioned him about the rap show. And
15 then you called -- and this time you called the unknown male
16 about the rap show that the number was on the flier?

17 A. Yes, ma'am.

18 Q. And he didn't seem to confirm what Mr. White was
19 saying?

20 A. He did not, ma'am.

21 Q. And White gave his statement. And you knew his
22 nickname was Jr. G and he said he was a rapper.

23 A. I don't knew if I -- I don't know if I knew that at
24 that time, but I know now.

25 Q. Okay.

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1 A. At some point during the investigation that was
2 discovered.

3 Q. Yeah, and when you saw this it helped?

4 A. Yes, ma'am.

5 Q. And then he consented to his phone search on that day,
6 right?

7 A. Yes, ma'am.

8 Q. And he consented to the DNA search on that day?

9 A. Yes, ma'am.

10 Q. And at that point you got a warrant on him for a
11 driving infraction and arrested him and impounded his car,
12 correct? During that day?

13 A. I don't know if it was a warrant or a ticket. But that
14 is correct, he ---

15 Q. Okay.

16 A. Yes, ma'am.

17 Q. Okay. Now, just going back, I want to show you this
18 real quick. This is the consent to search for the phones.

19 A. Yes, ma'am.

20 Q. We've heard some testimony, the second phone was kind
21 of handed over later after the fact time?

22 A. My understanding was within a minute or two of the
23 first phone, the second phone comes out of the pocket.

24 Q. Were you there?

25 A. Yes, ma'am.

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1 Q. Okay. So it wasn't your understanding, that's what --
2 you were there?

3 A. Yes, ma'am.

4 Q. Okay. And because of the different color inks, a
5 couple of days later you went ahead and said let's just go
6 get a warrant, be on the safe side before we go in and
7 search these phones.

8 A. Yes, ma'am.

9 Q. Okay. Now, I just want to go -- I'm skipping around.
10 I need to get back in order. You talked to or someone in
11 law enforcement talked to Mr. White's girlfriend, Katrina
12 Ferguson, the next day when she came to pick up her car.

13 A. Yes, ma'am.

14 Q. And at that point she was upset.

15 A. Yes, ma'am.

16 Q. And she was asked to consent to the search of
17 everything in the vehicle and she consented, didn't she?

18 A. Yes, ma'am.

19 Q. And in that vehicle two more phones were found.

20 A. Yes, ma'am.

21 Q. And it was a -- I'm going to mispronounce this, Kialata
22 or -- it was a similar Kialata and a similar Samsung, almost
23 identical phones, two more.

24 A. Yes, ma'am.

25 Q. That were found in the car. Now, those -- there's a

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1 search warrant. Those phones were searched as well and
2 nothing relevant came off those phones, right? The ones
3 found in the car.

4 A. One was password locked. We never could determine.

5 Q. Okay.

6 A. And to my knowledge, the second one, no, ma'am.

7 Q. But she consented to the search, they found them and
8 they were -- they were out there.

9 A. Yes, ma'am.

10 Q. Now, skipping to January 25th, this is five days after
11 the robbery, James White called your office from a blocked
12 phone and he was upset, wasn't he?

13 A. He called my cell phone, ma'am.

14 Q. So you'd given him your cell phone number and ---

15 A. Yes, ma'am.

16 Q. --- he'd called that cell phone. And at that point he
17 said he had no idea who Gerald Gadsden was and hung up on
18 you.

19 A. That is some of the conversation, yes, ma'am.

20 Q. Okay. Now, during that conversation you didn't refer
21 him to the contact Keem you saw in his phone, did you?

22 A. No, ma'am.

23 Q. And this hang up was after you'd arrested him for a
24 driving ticket and were beginning to threaten to charge him
25 with the burglary.

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1 A. I informed him of the potential charges, ma'am.

2 Q. So that's the context of him saying I don't know Gerald
3 Gadsden and hanging up?

4 A. I don't know if those were his last words, but he
5 denied knowing Gerald Gadsden and he did hang up on me.

6 Q. Okay. Now, on January 27th, a week after the incident,
7 about a week, you swore out a search warrant for Jamie
8 White's home?

9 A. Can I look at this just to see what the date was? Do
10 you mind?

11 **THE COURT:** You may.

12 Q. You could if I was more organized.

13 A. I should have ---

14 Q. Oh, you ---

15 A. --- it in here.

16 Q. --- it? Okay.

17 A. Yes, ma'am.

18 (Pause)

19 A. Yes, ma'am, January 27th.

20 Q. All right. And on the search warrant, it's based on
21 suspected guns, money and evidence or robbery that might be
22 found in his home.

23 A. Yes, ma'am.

24 Q. And in the home you found a Jr. G -- I don't know if
25 it's in evidence, a rap CD that said Jr. G on it, like a --

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1 well, CD that said Jr. G on it.

2 A. Yes, ma'am.

3 Q. And a pair of teal pants with a credit card in them
4 with the name Gerald Gadsden on them.

5 A. Yes, ma'am.

6 Q. And in the pocket.

7 A. Yes, ma'am.

8 Q. Any guns found?

9 A. No, ma'am.

10 Q. Any gift cards or sums of money found?

11 A. No, ma'am.

12 Q. And at that point or right around then there was a
13 search of the phone, the phones. Are you familiar with
14 those searches of the phones?

15 A. Yes, ma'am.

16 Q. You said there were phone calls to Keem over a month
17 long period, correct?

18 A. It went back to October, ma'am.

19 Q. And there were three calls on January 18th, is that
20 correct?

21 A. I would have to look.

22 Q. Do you have that there with you?

23 A. I do have a smaller of this, over by the boards.

24 Q. You don't have all four hundred pages?

25 A. There are no calls between Keem -- between Mr. Gadsden

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1 and Mr. White on the 18th.

2 Q. Okay. From -- okay. Well, then there was reference to
3 a text to Antwanett giving the name Gerald Akeem Gadsden and
4 a social security number.

5 A. Yes, ma'am.

6 Q. Do you recall that?

7 A. Yes, ma'am.

8 Q. And isn't the context of that text -- doesn't it say
9 taxes or information for tax returns or something about
10 taxes?

11 A. All I have is a text showing that exact information,
12 ma'am.

13 MS. ROSS: Beg the Court's indulgence.

14 (Pause)

15 Q. We'll come back to that. Now, looking through the
16 pictures on Mr. White's phone isn't it true there were a
17 number of images like this? Of money, and rap singers, and
18 rap singers holding money?

19 A. Of large denominations, yes, ma'am.

20 Q. All right. And there was this flier.

21 A. Yes, ma'am.

22 Q. All showing a clear interest in rap.

23 A. Yes, ma'am.

24 Q. And is cut an album clear interest to being a rap
25 singer and going to a concert?

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1 A. Yes, ma'am.

2 Q. Now, going to the Samsung phone, there were no calls to
3 or from Keem, and this was testified to before, the day
4 before the robbery, were there?

5 A. No, ma'am.

6 Q. And the day after there were four, correct?

7 A. There's five.

8 Q. Okay. And those were starting about -- was it 7:45 in
9 the morning?

10 A. 7:23, ma'am.

11 Q. Okay. On 2 or 3. They're just going through the
12 afternoon, right?

13 A. Just the morning, ma'am.

14 Q. And that's kind of the end of the calls at all on that
15 phone. The phone just -- the last call was on January 21st
16 until it's in State's possession and y'all make the call.

17 A. I'm not one hundred percent sure, but that was the last
18 call on that phone, ma'am.

19 Q. Okay. And this picture and all these money pictures
20 were all taken after the phone calls between James White and
21 Gerald Gadsden, correct?

22 A. The way I reviewed the files and interpreted them, they
23 were taken about the same time.

24 Q. Okay. Now, the -- we heard testimony before from
25 Investigator Perry that said the time on the phone was

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1 correct. And the time for these shots are around 2:00,
2 2:30, right in there, is that correct?

3 A. Again, the way I interpreted it because the phone lists
4 pictures and ---

5 Q. Well, not to interpretation.

6 **MR. FRETWELL:** Your Honor, ---

7 Q. The photograph was taken ---

8 **MR. FRETWELL:** Objection, Your Honor. The witness
9 hasn't finished his answer.

10 A. The phone listed pictures in Standard Time and
11 Greenwich Mean Time, which is a five hour difference. So I
12 took the five hours off. The phone calls themselves are
13 listed in Eastern Standard Time, but the photographs and the
14 way the phone was in ---

15 Q. Okay.

16 A. --- Greenwich Mean Time, ---

17 Q. Now, Investigator ---

18 A. --- which is a five hour difference.

19 Q. --- Perry, the phone expert yesterday, said nothing
20 about that.

21 A. (No response)

22 Q. Okay. Now, going on, the contact for Gerald in Mr.
23 White's phone said Keem, K-e-e-m, correct?

24 A. Yes, ma'am.

25 Q. Now, going to the text messages on the Samsung phone,

DAVID WEINER - CROSS EXAMINATION BY MS. ROSS

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1 yesterday in court a few text messages were brought in
2 between Mr. Gadsden and someone who in the contacts was
3 Dezzie, is that correct?

4 A. I heard that discussed, yes, ma'am.

5 Q. Okay. So I'm showing you a printout of the other text
6 messages to give you some context around that time period.
7 Does that look familiar to you?

8 A. Yes, ma'am.

9 Q. Okay. So there was testimony yesterday that there was
10 a text, you gonna be in Anderson tomorrow. And then the
11 reply was -- and that was from Dezzie. And the reply from
12 Keem was don't know yet. And that was on January 20th, 2014
13 around 10:30? 10:20, 10:30, correct?

14 A. In the evening, yes, ma'am. Again, I'll point out,
15 this one says UTC plus zero, which is that Universal Time,
16 which is a five hour difference.

17 Q. Okay. As a non-expert on the phones I would ask you
18 not to make ---

19 **MR. FRETWELL:** Your Honor, I'm going to object. She's
20 ---

21 Q. --- assumptions on ...

22 **MR. FRETWELL:** She's asking the witness about
23 information. Either he's qualified to talk about it or she
24 needs to have somebody else ---

25 **THE COURT:** He gave his response.

DAVID WEINER - CROSS EXAMINATION BY MS. ROSS

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1 **MS. ROSS:** Okay.

2 **THE COURT:** You don't like it, you can cross him on
3 that response.

4 **MS. ROSS:** All right.

5 Q. You're not an expert on these phone records, are you?

6 A. No, ma'am.

7 Q. Okay. If you don't mind turning to the part -- the
8 next page.

9 A. Yes, ma'am.

10 Q. That just shows the prior texts. And it says at 10:11
11 Dezzie texted what up, bro, correct?

12 A. That's not the first one in the transaction, but, yeah,
13 he or she says WYD, which I believe is short for what are
14 you doing?

15 Q. Okay. And if you could just respond. Gerald responded
16 at 10:14, looking at Face/Off, the John Travolta movie. He
17 just said looking at Face/Off, correct?

18 A. That's most of it, yes, ma'am. I don't know if you're
19 just trying to avoid the expletive in there, but mine has an
20 expletive in it.

21 Q. Yes. I thought it was unnecessary to say, shit, you
22 looking at Face/Off. That's what it says.

23 A. I just wanted to get the ---

24 Q. Okay.

25 A. --- complete statement in there.

DAVID WEINER - CROSS EXAMINATION BY MS. ROSS

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1 Q. That's great. At 10:16 it says, is it good? Response,
2 yeah, it's an old movie. Dezzie responds, correct. Is that
3 what it says?

4 A. Yeah, it is -- he sends back, yeah, it is okay, it is a
5 old movie.

6 Q. And Dezzie responds at 10:23, LOL, ick, what you
7 talking about that movie is good, correct?

8 A. I think the IK means I know what you talking about that
9 movie is good.

10 Q. Sorry.

11 A. Yes, ma'am.

12 Q. That shows my -- okay. And then Gerald says, it is.

13 A. Yes, ma'am.

14 Q. And then Dezzie asks, are you going to Anderson
15 tomorrow?

16 A. You gonna be in Anderson tomorrow, yes, ma'am.

17 Q. Okay. So that's the context of the Anderson thing,
18 nothing about the robbery?

19 A. I don't see anything about a robbery, ma'am.

20 Q. Okay. Now, Mr. or Officer Middleton was the first on
21 the scene and interviewed the manager, Aaron Kretzschmar,
22 correct?

23 A. Yes, ma'am.

24 Q. And he described the robber and he said, remember, you
25 were in the courtroom, he said he took notes at the time he

DAVID WEINER - CROSS EXAMINATION BY MS. ROSS

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1 was talking to him, to Aaron, correct?

2 A. There was some discussion about notes, but I never
3 heard if he actually took them.

4 Q. Okay. And said that it was a black male, six foot,
5 stocky build, tan jacket, short hair and no facial hair,
6 black semiautomatic gun.

7 A. Yes, ma'am. That's what he put in here.

8 Q. Okay. He didn't say a hoodie, did he?

9 A. Mr. Kretzschmar did not, no, ma'am.

10 Q. And you're saying that Mr. Pugh didn't get a look at
11 all. So Mr. Kretzschmar was the one who saw him. He didn't
12 say a hoodie, just said ---

13 **MR. FRETWELL:** Objection, Your Honor. What's ---

14 **THE COURT:** Sustained.

15 **MR. FRETWELL:** --- the question?

16 **MS. ROSS:** Sorry.

17 Q. He didn't say a hoodie, did he?

18 **MR. FRETWELL:** She's ---

19 **THE COURT:** He just ---

20 **MR. FRETWELL:** --- mentioning different ---

21 **THE COURT:** --- answered that question before you asked
22 it again.

23 **MS. ROSS:** All right.

24 Q. Now, on January 24th you went to the Olive Garden
25 yourself, correct?

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1 A. Yes, ma'am.

2 Q. Or am I getting you confused with ---

3 A. No, ma'am. It was about dinnertime.

4 Q. Okay. And at that point did you administer the lineup
5 or did I -- was it Investigator Motes?

6 A. Investigator Motes was not there. I believe
7 Investigator Owens ---

8 Q. Owens.

9 A. --- was with me.

10 Q. Okay. So it was the both of you that did the lineup?

11 A. Yes, ma'am.

12 Q. And did you take the photographs from the lineup and
13 put them in property and evidence?

14 A. Yes, ma'am.

15 Q. And they were color pictures?

16 A. No, ma'am.

17 Q. They were black and white photos?

18 A. Yes, ma'am.

19 Q. Do you have them with you today?

20 A. Yes, ma'am.

21 Q. May I see them?

22 A. They're in a bag behind Mr. Fretwell. You want me to
23 get them for you, ma'am?

24 Q. If you could, that would be great.

25 (Pause)

DAVID WEINER - CROSS EXAMINATION BY MS. ROSS

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1 Q. And -- do you recognize these pictures?

2 A. Yes, ma'am.

3 Q. Are those the pictures that you showed to Mr.

4 Kretzschmar and Mr. Pugh?

5 A. Yes, ma'am.

6 Q. And is Gerald Gadsden's photograph in that group?

7 A. Yes, ma'am.

8 Q. And the reason they all have longer braids is because

9 ---

10 **MR. FRETWELL:** Your Honor, I'm going to object again.

11 **THE COURT:** Sustained. Those pictures aren't in

12 evidence.

13 **MS. ROSS:** Apologies, Judge.

14 Q. Now, were either Pugh or Kretzschmar able to pick out

15 Gerald Gadsden from this lineup?

16 A. No, ma'am.

17 **MS. ROSS:** And I'll go ahead and offer these into

18 evidence at this time.

19 **MR. FRETWELL:** May I see them?

20 (Pause)

21 **MS. ROSS:** And I assume it's okay to put the other

22 pictures in evidence along with Mr. Gadsden's picture even

23 though they weren't involved. There are no privacy issues

24 or anything.

25 **THE COURT:** Well, I don't know what other pictures

DAVID WEINER - CROSS EXAMINATION BY MS. ROSS

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1 you're talking about.

2 **MS. ROSS:** They're just part of the array.

3 **MR. FRETWELL:** No objection, Your Honor..

4 **THE COURT:** Any objection, Mr. Yarborough?

5 **MR. YARBOROUGH:** No, sir, Your Honor.

6 **THE COURT:** So admitted.

7 (Whereupon Defendant Gadsden exhibit 1 was marked and
8 admitted into evidence)

9 Q. Okay. All the photos show people with longish braids,
10 correct?

11 A. Yes, ma'am.

12 Q. And that's because in a photo array you don't want one
13 person to stand out ---

14 A. Yes, ma'am.

15 Q. --- from the others such that someone looking at it
16 would just say one of these things is not like the other and
17 just pick them?

18 A. Yes, ma'am.

19 Q. Now, that being said, Mr. Gadsden is certainly more
20 light skinned than the others, correct?

21 A. I think there was one more that had it. That's why I
22 did it in black and white. I did not make this photograph
23 array. It was provided to me by SLED.

24 Q. Okay.

25 A. I didn't have a picture of Mr. Gadsden.

DAVID WEINER - CROSS EXAMINATION BY MS. ROSS

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1 Q. And have you seen it -- isn't it true that he's got
2 sort of light green and blue -- sort of lighter eyes?

3 A. Yes, ma'am.

4 MS. ROSS: And I'd like to publish this to the jury.

5 THE COURT: Sure.

6 Q. Now, going back, Mr. Gadsden was not identified. At
7 the same time you showed Aaron Kretzschmar a picture of the
8 jacket, and that's in evidence, just a picture of the selfie
9 with the face cut out, just of the jacket, correct?

10 A. Yes, ma'am.

11 Q. And he couldn't say that was the same jacket for sure,
12 could he?

13 A. Not for sure, no, ma'am.

14 Q. Now, Mr. Pugh was not shown a picture of the jacket,
15 you said, right?

16 A. No, ma'am.

17 Q. And he did say, his prior testimony, that he did not
18 change at that time during the lineup was that Mr. White had
19 not left the washroom that he could recall prior to the
20 robbery. Or he said from the time of closing Mr. White did
21 not leave -- I don't remember Mr. White leaving the washroom
22 or something to that effect, correct?

23 A. In his original statement to law enforcement that's
24 what he said. I remember him in here saying that the dishes
25 had to be put away.

DAVID WEINER - CROSS EXAMINATION BY MS. ROSS

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1 Q. Did you write that down anywhere?

2 A. I did in talking not with Mr. Pugh, but with the
3 management.

4 Q. So it's not in your report?

5 A. It is.

6 (Pause)

7 A. Report dated January 28th, 2014, page 3 of 5, the
8 bottom paragraph. I'd already spoken with the management at
9 Olive Garden and they confirmed that someone washing the
10 dishes has to put them away at various locations around the
11 restaurant after they are washed.

12 Q. Okay. Is this the last paragraph?

13 A. Yes, ma'am, on page 3 of 5.

14 Q. Isn't it the third sentence I asked Pugh about White
15 leaving the dishwashing station close to the time of the
16 robbery, but Pugh said they washed dishes together til the
17 incident happened?

18 A. Yes, ma'am.

19 Q. And that's what you wrote in your incident report,
20 correct?

21 A. Yes, ma'am.

22 (Pause)

23 **MS. ROSS:** Beg the Court's indulgence.

24 (Pause)

25 **THE COURT:** Anything further, Ms. Ross?

DAVID WEINER - REDIRECT EXAMINATION BY MR. FRETWELL

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1 **MS. ROSS:** Judge, I'm looking for -- to see if they can
2 find that text. If you'll just give me one more minute.

3 (Pause)

4 **MS. ROSS:** Never mind. We don't need to wait. I've
5 got no further questions.

6 **THE COURT:** All right. Thank you. Anything in
7 redirect?

8 **MR. FRETWELL:** Just briefly.

9 **Redirect Examination by Mr. Fretwell:**

10 Q. Sergeant Weiner, let me take you back to Mr.
11 Yarborough's examination. At that time you said -- he'd
12 asked you a question about the inside job and was that based
13 on a towel in the door, and you responded that it was. Was
14 that the only thing in this case that led you to believe
15 this was an inside job?

16 A. No, sir.

17 Q. Okay. What are the other items that you relied on in
18 determining this was an inside job?

19 A. One of the primary things was the window being broken,
20 but not completely. If the doors are propped open, there's
21 no need to break that window. So the window was broken to
22 conceal that it was an inside job. It was just -- it was
23 their job -- somebody's job to pick up the towel and they
24 forgot. Maybe Officer Middleton got there too fast, I don't
25 know.

DAVID WEINER - REDIRECT EXAMINATION BY MR. FRETWELL

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1 Q. Okay. And then in Mr. White's statement, and you may
2 have a copy of it up there with you, but it's in evidence,
3 and I just can't locate it.

4 A. I have one, sir.

5 Q. Does Mr. White in his statement reference a man with a
6 hood?

7 A. Yes, sir.

8 Q. I'm going to have an item marked.

9 (Whereupon State's exhibit 71 was marked for
10 identification)

11 Q. State's exhibit 71, do you -- was that among the
12 forensic photographs that you reviewed in this -- in your
13 investigation of this case?

14 A. Yes, sir.

15 Q. Do you recognize that photograph?

16 (Pause)

17 Q. I'm not going to ask you where -- where it ---

18 A. I'm trying to place where it is. It's some of the
19 money trail that was dropped. I think it's just outside the
20 manager's office. I'm not a hundred percent sure on that.

21 Q. Okay. But that particular photograph is a photo that
22 you reviewed in your investigation?

23 A. Yes, sir.

24 **MR. FRETWELL:** Your Honor, at this time I would ask
25 that State's 71 be placed in evidence.

DAVID WEINER - REDIRECT EXAMINATION BY MR. FRETWELL

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1 **MR. YARBOROUGH:** Without objection.

2 **MS. ROSS:** No objection.

3 **THE COURT:** So admitted.

4 (Whereupon State's exhibit 71 was admitted into
5 evidence)

6 Q. Mr. Yarborough spent quite a bit of time yesterday
7 asking you about flat bills or new bills. What -- what
8 appears to be the condition of that bill right there?

9 A. It's a ten dollar bill from what I can tell. It's
10 either bended or missing a corner. It does appear slightly
11 wrinkled. It's hard to tell from the picture, sir.

12 Q. Okay. To the questions that Ms. Ross asked you, she
13 gave you a time-line of Mr. Riley about picking up food,
14 clocking out and leaving. Did he -- have you not also
15 testified that you understood that he spoke to the
16 Defendant, Mr. White, before he left?

17 A. Yes, sir.

18 Q. Ms. Ross asked you about a burglary charge that you
19 made in this case. Did you determine in your investigation
20 that the robber, Mr. Gadsden, entered the building
21 unlawfully?

22 A. That's what I determined, yes, sir.

23 Q. With the intent to commit a crime inside?

24 A. Yes, sir.

25 Q. And was that at night?

DAVID WEINER - RECROSS EXAMINATION BY MR. YARBOROUGH

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1 A. Yes, sir.

2 Q. And are those the elements of the burglary charge?

3 A. Yes, sir.

4 Q. And finally, the pictures I think that are -- been up
5 on the -- that you just looked at just a moment ago, the
6 photographs, those pictures are DMV photographs, is that
7 correct, prepared by SLED?

8 A. That's my understanding where SLED gets them is from
9 the driver's database.

10 Q. So those aren't necessarily taken at any point near the
11 time of this particular incident?

12 A. No, sir.

13 **MR. FRETWELL:** No further questions, Your Honor.

14 **THE COURT:** Anything?

15 **MR. YARBOROUGH:** Briefly.

16 **Recross Examination by Mr. Yarborough:**

17 Q. You're saying the text messages are five hours off?

18 **MR. FRETWELL:** Your Honor, that exceeds the scope of my
19 redirect.

20 **THE COURT:** Sustained.

21 **MR. YARBOROUGH:** Judge, this came out in what Ms. Ross
22 was asking him.

23 **THE COURT:** Well, he's the one that redirected.

24 Q. Mr. Fretwell just asked you about Mr. White's
25 statement. And did he tell you that the robber had a

DAVID WEINER - RECROSS EXAMINATION BY MR. YARBOROUGH

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1 camouflage hoodie?

2 A. The statement reads saw a guy with a hood. Doesn't
3 mention camouflage, sir.

4 Q. Okay. He said a guy with a hood. And that's -- that's
5 the statement that was given by my client right here, Mr.
6 White, the written one.

7 A. Yes, sir.

8 Q. The written one.

9 A. Yes, sir.

10 Q. He said that -- a guy with a hood.

11 A. Yes, sir.

12 Q. Okay. And he had come down there freely and
13 voluntarily and given you that statement?

14 A. Yes, sir.

15 Q. Did he tell you anything else in that statement about a
16 description about the robber?

17 **MR. FRETWELL:** I didn't hear the question, Judge.

18 Q. In that statement you're referring to did he tell you
19 anything about the -- anything else about the description of
20 the robber?

21 A. No, sir.

22 Q. The one Mr. Fretwell asked you about.

23 A. No, sir.

24 Q. So could you -- could you read that statement?

25 A. I went to work at 6:15. I clocked in and started in

DAVID WEINER - RECROSS EXAMINATION BY MS. ROSS

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1 the dishroom washing dishes about eleven or so. A guy with
2 a hood came to da dishroom and pointed a gun and demanded us
3 to get on the floor and lay down. He then stood guard and I
4 heard commotion? He then robbed the store.

5 Q. Thank you.

6 **MR. YARBOROUGH:** I don't have any further questions.

7 **THE COURT:** Anything, Ms. Ross?

8 **MS. ROSS:** Just real quick.

9 **Recross Examination by Ms. Ross:**

10 Q. I'm thinking back -- looking at my notes on the 911
11 call of Aaron Kretzschmar and he described a tan camo-ish
12 jacket, correct, or do you recall?

13 A. Yes, ma'am.

14 Q. And he said he didn't believe the face was covered,
15 correct?

16 A. Yes, ma'am.

17 Q. All right.

18 **MS. ROSS:** No further questions.

19 **THE COURT:** All right. Thank you. You may step down.

20 A. Thank you, sir.

21 **MR. FRETWELL:** Your Honor, at this time the State
22 rests.

23 **THE COURT:** All right. Ladies and gentlemen, I'm going
24 to let y'all step out. I'm anticipating that we might be
25 able to get this case to you sometime around one or so. And

1 what we're going to do is order lunch. So I'm going to get
2 you to do a menu while we're on break. And I can take up
3 some matters with these attorneys while we're on break.

4 So the State has rested, which means it's now completed
5 the presentation of its evidence in its case in chief. And
6 I'll bring you back just as soon as I can. Y'all step back
7 and relax. Don't talk about the case and get yourself a
8 lunch.

9 (Whereupon the jury exited the courtroom at 10:43 am)

10 **THE COURT:** All right. Is there anything we need to
11 take up?

12 **MR. YARBOROUGH:** Your Honor, at this time I don't
13 believe the State has met its burden. And the Defense would
14 move for a dismissal based on a directed verdict.

15 There's no evidence before this Court that ties my
16 client, Mr. White, to the robbery. In fact, he went down
17 and he cooperated with the police officers. There's nothing
18 else past that. There's no statement, there's no -- there's
19 nothing that ties him except for -- giving the statement the
20 benefit of the doubt, there's a picture of an individual
21 holding some money. And I don't think that's enough to send
22 it to the jury on kidnapping and armed robbery or
23 conspiracy.

24 **THE COURT:** All right. Anything from the State?

25 **MR. FRETWELL:** Your Honor, certainly there is evidence.

1 The crimes were committed. The State's pointed to the
2 evidence that this individual was one of the three
3 individuals that was inside the restaurant at the time of
4 the incident.

5 The investigation indicated that this was an inside
6 job, that the Defendant, Mr. White, went to meet with
7 officers, he had in his possession a phone that belonged to
8 Mr. Gadsden, on that phone within hours of the robbery are
9 photographs of an individual matching the description given
10 by all of the individuals inside the restaurant at the time
11 of the robbery, that individual in that picture is holding
12 stacks of money.

13 When asked about that individual, Mr. White denied
14 knowing that individual even though the investigation
15 suggested that they had a lot of contact back and forth,
16 which was removed or deleted from his personal smart phone
17 at sometime before coming to the Law Enforcement Center and
18 that phone was turned over to investigations.

19 Your Honor, I think there is sufficient evidence to
20 allow this matter to go to the jury and upon which they
21 could/can determine a verdict of guilty.

22 **THE COURT:** All right. Well, the directed verdict --
23 the standard for a directed verdict, is there any direct
24 evidence or any substantial circumstantial evidence that
25 this offense was committed and committed by this Defendant?

1 I think this is a hand of one, hand of all case in terms of
2 the State's allegations and in addition to a conspiracy
3 charge.

4 And there's clearly evidence an armed robbery occurred.
5 There's clearly evidence that this armed robbery occurred as
6 a result of somebody inside helping somebody to get into the
7 building and commit the offense. There's evidence that
8 these two individuals had a relationship and the
9 relationship was ongoing. There's evidence that both
10 parties had some money at some point in time. And, you
11 know, it's a circumstantial case, but there is evidence. So
12 I'm going to deny your motion.

13 **MR. YARBOROUGH:** Thank you, Judge.

14 **MS. ROSS:** Judge, I, too, would make a motion for
15 directed verdict pursuant to rule 19 of the South Carolina
16 Rules of Criminal -- of Criminal Procedure. I would hand up
17 State v. Odom in support of my motion. Again, substantial
18 circumstantial evidence is required. We argue that that
19 does not exist here.

20 Also, there's no proof or sufficient proof of all the
21 elements. Certainly a conspiracy has to show some meeting
22 of the minds. And that did not exist here that I saw in the
23 evidence. In fact, what I saw in the evidence is mostly
24 near conjecture and suspicion about a suspicious looking
25 picture. So I, too, would move for a directed verdict at

1 this point.

2 **THE COURT:** All right. Again, there's substantial
3 circumstantial evidence. Clearly there's evidence of it may
4 have been an inside job, it took the inside person to assist
5 the outside person to commit the offense. In order for that
6 to occur there had to be some effort on the two parties to
7 get together and plan this thing. So I'm going to deny your
8 motion.

9 **MS. ROSS:** Thank you, Your Honor.

10 **THE COURT:** All right. Let's talk about what -- is
11 your client going to testify, Mr. Yarborough?

12 **MR. YARBOROUGH:** No, sir, Your Honor. I've discussed
13 it with him at length. If you want to voir dire ---

14 **THE COURT:** Yes, sir. Mr. White, let me get you to
15 stand if you would, please, sir, and raise your right hand.
16 I'm not going to ask you anything about the elements or the
17 facts of this case. I'm going to talk to you about do you
18 understand your rights with respect to testifying or not
19 testifying, okay?

20 **MR. WHITE:** Okay.

21 **THE COURT:** Do you solemnly swear or affirm any
22 evidence, testimony or statements you give to be the truth,
23 the whole truth and nothing but the truth?

24 **MR. WHITE:** Yes, sir.

25 **THE COURT:** All right. Now, you're represented by Mr.

1 Yarborough in this case, correct?

2 **MR. WHITE:** Yes, sir.

3 **THE COURT:** And you've had ample opportunity to talk to
4 Mr. Yarborough about the case?

5 **MR. WHITE:** Yes, sir.

6 **THE COURT:** And one of the rights that you have in this
7 case is to testify, to get up and tell your side of the
8 story. Do you understand that?

9 **MR. WHITE:** Yes, sir.

10 **THE COURT:** And in addition you also have the right to
11 not testify. You don't have -- you have no burden of proof
12 in this case. You don't have to prove anything. So you do
13 not have to testify. Do you understand that?

14 **MR. WHITE:** Yes, sir.

15 **THE COURT:** Mr. Yarborough has indicated that you've
16 elected not to testify. Is that correct?

17 **MR. WHITE:** Yes, sir.

18 **THE COURT:** You understand, of course, if, in fact,
19 that occurs, I will instruct the jury that they can't even
20 consider the fact that you did not testify in this case. So
21 they can't go back to the jury room and talk about, well,
22 Mr. White didn't testify. Do you understand that?

23 **MR. WHITE:** Yes, sir.

24 **THE COURT:** Again, you also -- if you elected to
25 testify, you understand you would be subject to cross

1 examination by the State of South Carolina and Ms. Ross, I
2 guess, and they could attempt to impeach you? And that
3 would include asking you about any prior record that you
4 might have for which I know of none, but if you testified we
5 would discuss that before that came out and they could
6 attack you in that regard. Do you understand that?

7 **MR. WHITE:** Yes, sir.

8 **THE COURT:** All right. Now this decision not to
9 testify, you've made it after having ample consultation with
10 your attorney?

11 **MR. WHITE:** Yes, sir.

12 **THE COURT:** It is your decision?

13 **MR. WHITE:** Yes, sir.

14 **THE COURT:** Nobody else has forced you to take -- make
15 that decision?

16 **MR. WHITE:** (Negative nod). No, sir.

17 **THE COURT:** I need you to answer because the court
18 reporter has to take it down. Hadn't had any alcoholic
19 beverages in the last twenty-four hours?

20 **MR. WHITE:** No, sir.

21 **THE COURT:** Haven't taken any drugs, had any medication
22 in the last twenty-four hours?

23 **MR. WHITE:** No, sir.

24 **THE COURT:** All right. This decision is being made
25 freely and voluntarily?

1 **MR. WHITE:** Yes, sir.

2 **THE COURT:** It's being made knowingly and
3 intelligently?

4 **MR. WHITE:** Yes, sir.

5 **THE COURT:** And there's no reason other than your
6 making the decision that you do not want to testify, is that
7 correct?

8 **MR. WHITE:** Yes, sir.

9 **THE COURT:** All right. Thank you, sir. Anything you
10 would like to inquire of your client, Mr. Yarborough?

11 **MR. YARBOROUGH:** No, sir, Your Honor.

12 **THE COURT:** All right. You believe he understands his
13 right with respect to testifying or not testifying?

14 **MR. YARBOROUGH:** He does, Your Honor.

15 **THE COURT:** You've clearly reviewed that with him ---

16 **MR. YARBOROUGH:** I've clearly reviewed it with him on
17 several occasions.

18 **THE COURT:** All right. Thank you.

19 All right. Mr. Gadsden, have y'all elected to testify
20 or not testify?

21 **MS. ROSS:** Not testify.

22 **THE COURT:** All right.

23 **MS. ROSS:** He's in agreement with that.

24 **THE COURT:** All right. Mr. Gadsden, let me get you to
25 raise your right hand, if you would, please, sir. You

1 solemnly swear or affirm any evidence, testimony or
2 statement you give will be the truth, whole truth and
3 nothing but the truth?

4 **MR. GADSDEN:** Yes, sir.

5 **THE COURT:** All right. Now, you can put your hand
6 down. I'm not going to ask you anything about the case
7 itself or the facts of the case. I just wanted to see if
8 you understand your rights, okay?

9 **MR. GADSDEN:** (Affirmative nod).

10 **THE COURT:** I need you to answer me ---

11 **MR. GADSDEN:** Yes, sir.

12 **THE COURT:** --- now so that ---

13 **MR. GADSDEN:** Yes, sir.

14 **THE COURT:** --- our court reporter can take down what
15 you're saying. If you shake your head, you're not going to
16 be able to get that down, okay?

17 **MR. GADSDEN:** Yes, sir.

18 **THE COURT:** All right. Now, you've had -- you're
19 represented by Ms. Ross?

20 **MR. GADSDEN:** Yes, sir.

21 **THE COURT:** And you've had an opportunity to talk to
22 her about this matter and get whatever advice she wants to
23 give you and you tell her whatever you want to tell her
24 about the matter, is that correct?

25 **MR. GADSDEN:** Yes, sir.

1 **THE COURT:** And you've discussed whether you would
2 testify or not testify, is that right?

3 **MR. GADSDEN:** Yes, sir.

4 **THE COURT:** And you've elected not to testify, is that
5 correct?

6 **MR. GADSDEN:** Yes, sir.

7 **THE COURT:** All right. And you understand that you
8 have the right to testify if you'd like to? You can get up
9 in this jury, I mean, this witness box right here under oath
10 and tell the jury your side of the story, whatever you want
11 to tell them. You understand that?

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

13 **THE COURT:** And, of course, if you do so you understand
14 you're subject to being cross examined in this matter. And
15 if you have any prior record, which probably do based on the
16 fact that I've been given notice that you are -- they're
17 seeking life without parole. Any prior criminal record you
18 have or anything else that they could do to attempt to
19 impeach you or attack your credibility, they would do so.
20 Do you understand that?

21 **MR. GADSDEN:** Yes, sir.

22 **THE COURT:** All right. Now, you also have the right
23 not to testify. Do you understand that? The Constitution
24 gives you that right. Do you understand that?

25 **MR. GADSDEN:** Yes, sir.

1 **THE COURT:** You don't have to prove anything in this
2 case. The State of South Carolina has to prove it. And
3 they have to prove you guilty beyond a reasonable doubt.
4 You have no burden. Do you understand that?

5 **MR. GADSDEN:** Yes, sir.

6 **THE COURT:** And, of course, if you don't testify, I
7 will instruct the jury that the jury can't even consider the
8 fact that you did not testify when they go back to deliver
9 [sic] this case. They can't even talk about that. Do you
10 understand that?

11 **MR. GADSDEN:** Yes, sir.

12 **THE COURT:** Now, this decision that you are making, is
13 this your decision?

14 **MR. GADSDEN:** Yes, sir.

15 **THE COURT:** Anybody force you to make that decision?

16 **MR. GADSDEN:** No, sir.

17 **THE COURT:** Anybody threaten you, coerce you to make
18 that decision?

19 **MR. GADSDEN:** No, sir.

20 **THE COURT:** You're doing so voluntarily, is that
21 correct?

22 **MR. GADSDEN:** Yes, sir.

23 **THE COURT:** All right. And you're doing so knowingly,
24 is that correct?

25 **MR. GADSDEN:** Yes, sir.

1 **THE COURT:** Now, have you had any alcoholic beverages
2 in the last twenty-four hours?

3 **MR. GADSDEN:** No, sir.

4 **THE COURT:** I know you're taking some medication. You
5 understand what we're talking about here today?

6 **MR. GADSDEN:** Yes, sir.

7 **THE COURT:** Does that medication affect your ability to
8 make a decision as to whether you want to testify or not
9 testify?

10 **MR. GADSDEN:** No, sir.

11 **THE COURT:** So this decision is your decision and your
12 decision alone?

13 **MR. GADSDEN:** Yes, sir.

14 **THE COURT:** All right. Ms. Ross, anything you want me
15 to further inquire of your client?

16 **MS. ROSS:** No, Your Honor.

17 **THE COURT:** Anything you want to inquire of your
18 client?

19 **MS. ROSS:** No, Your Honor.

20 **THE COURT:** You believe that you've had ample
21 opportunity to discuss his testifying or not testifying?

22 **MS. ROSS:** I do.

23 **THE COURT:** Do you believe he understands his rights
24 and his election?

25 **MS. ROSS:** Yes.

1 **THE COURT:** Even though he's taken some medication in
2 the last twenty-four hours?

3 **MS. ROSS:** Yes.

4 **THE COURT:** All right. Thank y'all. All right. Mr.
5 Yarborough, you going to call witnesses?

6 **MR. YARBOROUGH:** I'm going to call one, possibly two.

7 **THE COURT:** All right. Ms. Ross, do you anticipate
8 calling any witnesses?

9 **MS. ROSS:** No, Your Honor.

10 **THE COURT:** All right. Well, let's take about five
11 minutes or so and y'all can relax and use the restroom. And
12 then we'll come back and start back up, okay?

13 (Whereupon court was in recess at 10:55 am)

14 (Whereupon court reconvened at 11:09 am)

15 **THE COURT:** Yes, sir.

16 **MR. YARBOROUGH:** Your Honor, Ms. Ross went first in
17 opening. So I was going to let her go first again, if
18 that's okay with the Court and go after her in closing.

19 **THE COURT:** Do y'all have any objection to that?

20 **MR. FRETWELL:** Judge, I know we are the last ones up.
21 Other than that, we don't have any position.

22 **THE COURT:** All right. If that's what y'all want. All
23 right. Let's -- are we ready to go? Are you ready, Mr.
24 Yarborough?

25 **MR. YARBOROUGH:** Yes, sir, Your Honor.

25 **MR. YARBOROUGH:** No, sir, Your Honor.

**KEYERA BROOMFIELD-WHITE - DIRECT EXAMINATION BY
MR. YARBOROUGH**

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1 **THE COURT:** Tell me your name again. Keyera White?

2 **MS. BROOMFIELD-WHITE:** It's Broomfield-White.

3 **THE COURT:** All right. Ladies and gentlemen, you'll
4 recall at the beginning of the trial I introduced you to a
5 number of -- read the names of a number of potential
6 witnesses that would testify. Apparently this individual's
7 name was not given to me. So I would inquire at this time
8 is there any member of this jury panel or any member of the
9 jury panel's immediate family related by blood or connected
10 by marriage or either now or in the past has had a close
11 personal relationship with Keyera White, is that ---

12 **MS. BROOMFIELD-WHITE:** Keyera Broomfield-White.

13 **THE COURT:** Keyera Broomfield-White or either now or in
14 the past has had an employment or business relationship with
15 Ms. White. If so, please stand.

16 (No response)

17 **THE COURT:** All right. Thank you, Mr. Yarborough.

18 **MR. YARBOROUGH:** Thank you.

19 **Direct Examination by Mr. Yarborough:**

20 Q. Ms. White, where are you from?

21 A. Charleston, South Carolina.

22 Q. Okay. And how old are you?

23 A. Twenty-one.

24 Q. And do you -- what kind of work do you do in
25 Charleston?

KEYERA BROOMFIELD-WHITE - DIRECT EXAMINATION BY
MR. YARBOROUGH

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1 A. Well, I'm from Charleston. I live in Beaufort, South
2 Carolina. And I do housekeeping.

3 Q. Okay. And you've been doing that for some period of
4 time?

5 A. Yes. I just started the housekeeping actually about
6 two months ago, but before then I was working at a Wal-Mart
7 deli.

8 Q. Okay. And do you know Mr. White?

9 A. Yes.

10 Q. Are you related to him?

11 A. Yes. That's my uncle.

12 Q. That's your uncle. Were you at a party in Charleston
13 in January of 2014?

14 A. Yes, sir. He threw a party over there. And he had a
15 welcome home/birthday celebration for the January birthdays.

16 Q. Okay. And were there a number of people that were
17 celebrating birthdays that day?

18 A. Yes. It was about seven birthday celebrations that we
19 had including mine and my mother's. And ---

20 Q. Okay. And what's your mother's birthday?

21 A. Hers is on the .

22 Q. Okay. And what day was the party?

23 A. On the 18th.

24 Q. Is that how you remember it?

25 A. Yes.

KEYERA BROOMFIELD-WHITE - DIRECT EXAMINATION BY
MR. YARBOROUGH

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1 Q. Okay. Were there a lot of people at the party?

2 A. Yeah. Towards the end of the night around 11:30/12:00
3 we had probably about two fifty, three hundred people out
4 there.

5 Q. And did -- was there a charge to get in?

6 A. Yes. My friend, Chelsea, I know she had to pay ten
7 dollars to get in. And the guys, I had like six guys that
8 came with me, they had to pay more than her. Exact amount,
9 I'm not sure, but I know it was more than ten.

10 Q. It was more than ten? And you said approximately how
11 many people were there?

12 A. Two fifty to three hundred.

13 Q. Okay. And do you know Mr. Gadsden?

14 A. Not personally, but I have seen him.

15 Q. Okay. And did you see him that night?

16 A. Yes.

17 Q. Do you recognize this picture that's been previously
18 marked as Defense exhibit number 4?

19 A. Yes.

20 Q. Okay. And where was that picture taken?

21 A. I don't know where it was taken, but I do recognize the
22 picture.

23 Q. Okay. Does it look like the night of the party?

24 A. Yeah. That's what he was wearing that night.

25 Q. Okay. And is he in that picture?

KEYERA BROOMFIELD-WHITE - DIRECT EXAMINATION BY
MR. YARBOROUGH

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- 1 A. Yes.
- 2 Q. And do you see his hair?
- 3 A. Yes.
- 4 Q. How would you describe his hair?
- 5 A. Dreadlocks.
- 6 Q. Dreadlocks? Is that what you have?
- 7 A. No, these are braids.
- 8 Q. Those are ---
- 9 A. Singles.
- 10 Q. --- braids? And what's the difference in braids and
- 11 dreadlocks?
- 12 A. Braids is just like weaving of the hair. They take
- 13 your hair and weave and braid it where dreadlocks is your
- 14 real hair that they twist and lock it together.
- 15 Q. Okay. And is your uncle in this picture?
- 16 A. Yes.
- 17 Q. And which one is he?
- 18 A. The one in the middle in the orange shirt with the hat,
- 19 ---
- 20 Q. Okay.
- 21 A. --- the orange looking hat.
- 22 Q. Did he perform that night?
- 23 A. Yes, he did.
- 24 Q. And did a number of other people perform that night?
- 25 A. Yes.

KEYERA BROOMFIELD-WHITE - DIRECT EXAMINATION BY
MR. YARBOROUGH

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1 Q. You recognize this, which has been previously marked as
2 Defendant's exhibit 3?

3 A. Yes. That's the flier that we had. And I'm actually
4 on it.

5 Q. And that's the flier from the party?

6 A. Yes.

7 Q. Okay. And you said approximately how many people were
8 there?

9 A. Two fifty to three hundred.

10 Q. Okay. And the party lasted for about how long?

11 A. I got there around nine something. It went on past
12 1:00, I believe. It was probably over like 1:30, maybe two.
13 I'm not sure exact. I left a little early that night.

14 Q. Okay. Let me ask you this. Was there a -- was there a
15 cash bar there?

16 A. A what?

17 Q. A bar, a cash bar where you buy alcohol.

18 A. Oh, yeah.

19 Q. Okay. But did you buy any alcohol?

20 A. No. I was underage.

21 Q. Okay. But did you see people buy alcohol?

22 A. Yes.

23 Q. Okay. And do you know anything else about the party?
24 How many other people were singing?

25 A. I was there when he performed. And I think one other

KEYERA BROOMFIELD-WHITE - CROSS EXAMINATION BY MS. SIMPSON

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1 person performed with him. I didn't stay throughout all the
2 performances, but I know that they still had other
3 performances left when I had left.

4 Q. Okay.

5 A. But I was tired. So I left.

6 Q. Right. And you said when you left there were
7 approximately two hundred and fifty to three hundred people
8 there?

9 A. Yes. People were consistently coming.

10 Q. Okay. And was there a line to get in?

11 A. When I left, everybody was just kind of like already in
12 there. And when I first got there, there wasn't a line
13 because I got there before everybody else appeared.

14 Q. Okay. And you had in excess of six friends with you?

15 A. Six to seven. I only had one female friend with me.
16 It was just Chelsea. The rest of them were guys. That's
17 how I knew that they had to pay more because they said that
18 they paid more than ten dollars to get in.

19 Q. Okay. I don't have any further questions. Answer
20 anything Mr. Prosecutor may have.

21 **MS. SIMPSON:** May it please the Court.

22 **Cross Examination by Ms. Simpson:**

23 Q. Ms. White, you said James White's your uncle, right?

24 A. Yes, ma'am.

25 Q. And are y'all pretty close?

KEYERA BROOMFIELD-WHITE - CROSS EXAMINATION BY MS. SIMPSON

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1 A. Yes, we are.

2 Q. Okay. And you grew up in Charleston. He's from

3 Charleston, too.

4 A. Yes.

5 Q. And you're actually still in the Beaufort, low country

6 area.

7 A. Yes.

8 Q. And you're how old?

9 A. Twenty-one.

10 Q. Twenty-one. And you said this was a concert, a

11 birthday bash he put on for everybody's kind of January

12 birthday, right?

13 A. Yeah, like the people that he knew. Like me, my mom

14 and my cousin, we all have birthdays in January. And we

15 hadn't seen him in a while. So he wanted to do something

16 for him coming back as a local artist as well as us for our

17 birthdays.

18 Q. Okay. So this is a birthday bash for you.

19 A. Um-hum (affirmative).

20 Q. And you still had to pay to get in?

21 A. I didn't have to pay.

22 Q. You didn't have to pay?

23 A. Ladies were actually free up until a certain time, ---

24 Q. And I think earlier ---

25 A. --- but ---

KEYERA BROOMFIELD-WHITE - CROSS EXAMINATION BY MS. SIMPSON

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1 Q. --- you said they paid ten dollars to get in?

2 A. Yeah, my friend, Chelsea, she had to pay. She didn't
3 come with me. She appeared after I got there. I got there
4 before a lot of people got there, me and my boyfriend at the
5 time.

6 Q. Okay. And you said you got there about 9:30.

7 A. Um-hum (affirmative).

8 Q. And you left about when?

9 A. I left around 1:30.

10 Q. 1:30. And you love your uncle, right?

11 A. Of course.

12 Q. And your mother was there.

13 A. No, my mother didn't come. She's on there, but she
14 didn't come with us.

15 Q. She's on there?

16 A. Yeah.

17 Q. So I believe LJ, Tina, Keyera, ---

18 A. My mother's Tina.

19 Q. --- Jessica, all that's family, though?

20 A. Not all. Our family, Big Boy's family and my mother,
21 Tina, is family. The rest are like friends or so.

22 Q. Okay. But like I said, you -- ladies were free for a
23 period of time?

24 A. Yes, ma'am.

25 Q. And you don't really know even about what went on at

KEYERA BROOMFIELD-WHITE - CROSS EXAMINATION BY MS. ROSS

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1 the Olive Garden on the 20th, right?

2 A. No.

3 Q. You don't know anything about this armed robbery at
4 all?

5 A. No.

6 Q. But you do know your uncle?

7 A. Yes.

8 Q. And you love him?

9 A. Yes.

10 **THE COURT:** Anything, Ms. Ross?

11 **Cross Examination by Ms. Ross:**

12 Q. Even though you didn't pay you know some money was
13 taken in that night?

14 A. Yes, because I had a friend -- some other friends to
15 meet me up there because it was for like birthdays. My
16 birthday was just a few days previous on the . So they
17 met me up there to celebrate my birthday with me. And they
18 got there later than I did. And they had to pay to get in.

19 Q. Okay. So you know they took in some money ---

20 A. Yes.

21 Q. --- that night? Okay. And you're not -- you love your
22 uncle, but you're not lying for him, are you?

23 A. Of course not.

24 Q. Thanks.

25 **THE COURT:** Anything further?

1 **MR. YARBOROUGH:** No, sir, Your Honor.

2 **THE COURT:** All right. Thank you. You may step down.

3 A. Thank you.

4 **MR. YARBOROUGH:** That's the Defense case, Your Honor.

5 **THE COURT:** All right. Ms. Ross, anything from your
6 client?

7 **MS. ROSS:** Closing -- going straight into closing?

8 **THE COURT:** All right. Ladies and gentlemen, ---

9 **MS. ROSS:** No, Your Honor.

10 **THE COURT:** --- the State is -- anything in reply?

11 **MS. ROSS:** No, Your Honor.

12 **MR. FRETWELL:** No, Your Honor.

13 **THE COURT:** Well, I mean from the State. That means
14 we've concluded the presentation of the evidence in the
15 case, ladies and gentlemen. The next phase of the trial is
16 the lawyers have an opportunity to speak to you. And as a
17 matter of fact -- and when we finish that, then I will go
18 into the charge.

19 Before we begin, ladies and gentlemen, I have to review
20 with the attorneys the charge that I'm going to give. And
21 this will take about five minutes. So I'm going to let you
22 step back into the jury room. Don't get too comfortable
23 because we're going to bring you right back. And then we'll
24 go into the closing arguments.

25 (Whereupon the jury exited the courtroom at 11:22 am)

1 **THE COURT:** All right. Let me -- anything further we
2 want ...

3 **MR. YARBOROUGH:** Your Honor, I'd renew my motion at
4 this time for a directed verdict.

5 **MS. ROSS:** I will as well, Your Honor.

6 **THE COURT:** Based on the same arguments you made
7 earlier, is that correct?

8 **MR. YARBOROUGH:** Yes, sir.

9 **MS. ROSS:** Yes. And I would also renew our pretrial
10 motions as well. For what it's worth, I'd like to preserve
11 on the record.

12 **THE COURT:** All right. Y'all want to step up here a
13 second? Did you want to say something, Ms. Simpson?

14 **MS. SIMPSON:** Your Honor, I was just going to -- when
15 we address the jury instructions, we do have objections to
16 both, some of Mr. Yarborough's ---

17 **THE COURT:** I haven't seen anything from Mr.
18 Yarborough. So ...

19 **MS. SIMPSON:** We received something ...

20 **THE COURT:** He likes to keep me out of the loop. I
21 want y'all to look at the verdict forms and let me tell you
22 how I'm going to amend them a little bit.

23 **MS. ROSS:** And my request number four is not
24 applicable. I apologize. I made this a long time ago. And
25 I did not ---

1 **MS. SIMPSON:** Okay. That was my first objection.

2 **MS. ROSS:** That's just something I put in to remind
3 myself ahead of time. That's not applicable.

4 **THE COURT:** Do y'all want to go back to my room, my
5 office or do you want to do that here?

6 **MS. SIMPSON:** However you want to do it, Your Honor.

7 **THE COURT:** Let me show you the verdict forms. And
8 they're both the same for both Defendants. And they -- the
9 only thing I was going to do is I was going to write the two
10 alleged victims on top of one of the -- each of the
11 kidnapping charges so that they -- apparently that's a
12 Greenville -- that's a Greenville verdict form.

13 (Whereupon a bench conference was held off the record)

14 **THE COURT:** All right. I'm not going to charge any of
15 the -- any of the proposed charges from Ms. Ross because I
16 think my charges include all of them. And number four is
17 not -- is not ---

18 **MS. ROSS:** Applicable.

19 **THE COURT:** --- applicable.

20 **MS. ROSS:** Judge, if you'd just make it a Court
21 exhibit, that's fine. Just the request.

22 **THE COURT:** Do y'all have any objections to anything,
23 Mr. ---

24 **MS. SIMPSON:** Pretty much all of them, Your Honor. The
25 -- with respect to the burden of proof, I would just say

1 that's included in your standard -- clean slate language,
2 all that.

3 Your direct and circumstantial evidence, we'd prefer
4 the standard charge for that as well. As far as the
5 determining the credibility of witnesses, the fact that the
6 law enforcement's testimony is highlighted under there, I've
7 been doing ---

8 **THE COURT:** I'm not going to charge that.

9 **MS. SIMPSON:** Okay. Additionally, Your Honor, the
10 accomplice Co-Defendant testimony, ---

11 **MR. YARBOROUGH:** I mean, I put that in earlier.

12 **MS. SIMPSON:** Okay. So that's out.

13 With respect to the charges on the actual armed robbery
14 and the laws itself, we would ask that you charge the
15 statute, so not the language that Mr. ---

16 **THE COURT:** I've got a charge.

17 **MS. SIMPSON:** --- Yarborough has put in there.

18 And ...

19 **MR. YARBOROUGH:** You will charge the -- my presumption
20 of innocence and the ---

21 **THE COURT:** I have a presumption of innocence, burden
22 of proof.

23 **MS. SIMPSON:** And finally, ---

24 **THE COURT:** You don't want to hear what Mr. Yarborough
25 has to say, Ms. Ross?

1 (Whereupon Ms. Ross exited the courtroom)

2 **MS. SIMPSON:** Okay. So you're just charging his
3 absolute last paragraph about the -- all of Mr. Yarborough's
4 we would object to with respect to the actual statutes and
5 the law and that you just charge the law.

6 **MR. YARBOROUGH:** You've got to charge the statute.

7 **MS. SIMPSON:** Yeah, but he's added additional language
8 which speak to the facts of the case.

9 **THE COURT:** I've got a charge on criminal conspiracy,
10 kidnapping and armed robbery, ---

11 **MR. FRETWELL:** Yes, sir.

12 **THE COURT:** --- which I think it's consistent with the
13 statute. But if you young folks -- we'll make these Court
14 exhibits, each of the instructions provided by Mr.
15 Yarborough and Ms. Ross.

16 (Whereupon Court's exhibits 7 and 8 were marked)

17 **THE COURT:** Are y'all going to open on the law?

18 **MR. FRETWELL:** No, Your Honor.

19 **THE COURT:** Y'all agree to waive ---

20 **MR. FRETWELL:** Unless Mr. Yarborough wants to hear from
21 me twice.

22 **MR. YARBOROUGH:** We'll waive. Or I will.

23 **THE COURT:** I'll ask her when she comes in. How long
24 do you anticipate your closing, Mr. Yarborough?

25 **MR. YARBOROUGH:** Thirty minutes at the most, maybe not

1 ---

2 **THE COURT:** How long do you anticipate Ms. Ross?

3 **MR. YARBOROUGH:** Probably less, I would guess.

4 **THE COURT:** All right. How long do you anticipate Mr.
5 Fretwell?

6 **MR. YARBOROUGH:** Could go on for days.

7 **THE COURT:** Well, he'll be doing it with an empty
8 courtroom.

9 **MR. FRETWELL:** Judge, I'm not sure exactly how long
10 mine is. I will certainly get through it as quickly as I
11 possibly can. But, of course, I don't know what issues ---

12 **THE COURT:** We've got an hour and a half. So divide it
13 up three ways ---

14 **MR. FRETWELL:** I'll do my best, Judge.

15 (Whereupon Ms. Ross entered the courtroom)

16 **THE COURT:** All right.

17 **MR. YARBOROUGH:** Yes, sir, Your Honor.

18 **THE COURT:** Ms. Ross, I made your -- put those charges
19 a ---

20 **MS. ROSS:** Thank you, Your Honor.

21 **THE COURT:** --- Court exhibit along with Mr.

22 Yarborough's. All right. Ladies and gentlemen, let's bring
23 the jury in, if we could.

24 (Whereupon the jury entered the courtroom at 11:31 am)

25 **THE COURT:** All right. Ladies and gentlemen, as I told

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1 you, this is the opportunity for the lawyers to speak to
2 you. And normally in a criminal case the State, because it
3 has the burden of proof, has the opportunity to make two
4 closing arguments. One, they open on the law and then they
5 have an opportunity to close in full after the Defendants
6 have made their closing.

7 **MR. FRETWELL:** Your Honor, the State waives its
8 opening.

9 **THE COURT:** I understand that.

10 **MR. FRETWELL:** Yes, sir.

11 **THE COURT:** I haven't gotten to that, but I appreciate
12 the help.

13 **MR. FRETWELL:** Yes, sir.

14 **THE COURT:** In this instance the solicitor has elected
15 with the consent of the Defendants to waive the opening on
16 the law and will just make the closing arguments. So with
17 that said, Ms. Ross, my understanding is you're going to go
18 first, is that correct?

19 **MS. ROSS:** Yes, Your Honor. May it ---

20 **THE COURT:** All right. If ---

21 **MS. ROSS:** --- please the Court, ---

22 **THE COURT:** --- you would, please, ma'am.

23 **MS. ROSS:** --- counsel.

24 Ladies and gentlemen of the jury, hurry up and wait. I
25 know y'all have been working hard all week and paying

CLOSING ARGUMENTS - MS. ROSS

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1 attention. And I really appreciate it on behalf of my
2 client, Gerald Gadsden, who's sitting over there.

3 I just pointed to him, but if you'll recall back over
4 the days of this trial, only one other witness pointed to
5 Gerald Gadsden this entire trial, and that was one of the
6 photo people who pointed him out as, you know, this photo
7 which was on his phone.

8 And like I said in the beginning, that is some strong
9 circumstantial evidence. I don't deny it, but it's not
10 proof beyond a reasonable doubt. And that's all the State
11 gave you. And I'd submit if it was him there would have
12 been something more.

13 Now, I'd like to take you back to those first witnesses
14 that the State put up, the victims, the eyewitnesses. And
15 one that hit me a lot is when Mr. Pugh identified Mr. White
16 from the stand up there. He said, that's Mr. White, the guy
17 that I work with. And then to Gerald Gadsden he said, I've
18 never seen that man before today in response to the State's
19 questioning.

20 And I came up just to make sure y'all heard that and in
21 cross asked him, so you never saw him before today? And he
22 said, no. And I reminded him, well, you saw his picture two
23 days afterwards when you looked at this lineup. And at that
24 point he did not identify Mr. Gadsden as the robber. And I
25 would state or submit that someone -- he talked about the

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1 gun, how scared he was, if someone was robbed they might
2 say, yeah, he looks a little familiar, not I've never seen
3 that man in my life.

4 Now he was scared and didn't get a good look. I know
5 that. But your job as the jury is to see if the State has
6 proven guilt beyond a reasonable doubt. And when one of the
7 victims says I've never seen that man before in my life,
8 that is reasonable doubt, ladies and gentlemen.

9 Moving on to Aaron Kretzschmar. I just want to take
10 you back to that first day, it seems like a long time ago,
11 but that was when the State chose to put up all the
12 witnesses who were robbed, victims who could not identify
13 Gerald Gadsden. None did. They all saw this lineup.

14 And I put it in so you could see it. He's a little bit
15 distinctive looking. He does have braids. Maybe they're
16 not dreads down his back, but they're braids. And they're
17 fairly long and a little bit big. He's got pretty light
18 eyes and he's got facial hair.

19 Mr. Kretzschmar said, I saw his face. He was a black
20 male, heavy set, six foot. Was there a lot of people
21 fitting that description? That's not proof beyond a
22 reasonable doubt. With short hair and no facial hair.

23 And he said he saw his face. This man does not have
24 short hair and no facial hair. This picture attributed to
25 the next day. Does not have short hair and no facial hair.

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1 And that's because Gerald Gadsden was not the guy in the
2 Olive Garden who robbed them. He is the wrong guy.

3 Now, there was a lot about hoodie. The word was
4 mentioned so many times in opening. How could they know
5 with a hoodie? Well, Kretzschmar told you, he saw his face,
6 described short hair. And he said jacket. He did not say
7 hoodie. And maybe it was a jacket with a hood. And maybe a
8 hood was pulled up at one point and then went down. But the
9 description you heard is not Gerald Gadsden. And that's
10 because he was not the robber.

11 Just going back to the beginning, that cat in the box
12 all tied up, and you see the hole in the bottom, and maybe
13 the mouse got out the hole, this case is full of holes. And
14 I tried to bring some of those out during the trial. And I
15 hope it came across. I hope I made sense because there's a
16 lot here.

17 One is Damion Riley. We've made a big deal about
18 Damion Riley because it's so strange. He signed out right
19 before the robbery. And he really wasn't adequately
20 investigated. Maybe if he didn't do it, I don't think he
21 turned around and ran back in and he was the robbery [sic].
22 Someone got out of his car.

23 If you'll go back to thinking about what you heard
24 about the -- I think it was Deputy Anderson, the dog handler
25 who talked about dogs and how great they smell and

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1 everything. And he said it kind of came back around to the
2 corner right near the Olive Garden, this trail of money as
3 if it was picked up right there. He was just simply not
4 investigated. His phone wasn't searched. His home wasn't
5 searched.

6 Going back to these shots, there was a lot made of what
7 was deleted and what was not deleted. These photos were
8 never deleted off the phone. And this is the phone that
9 James White accidentally, whether he was confused with the
10 other phone in the car or not accidentally, carried into the
11 Law Enforcement Center with him and handed over to the
12 police to search. They were right there.

13 They turned on the phone, boom, there are these
14 pictures. That's how incriminating these guys thought those
15 pictures were because Mr. Riley's phone was full of pictures
16 just like that. It's a common image. It's on the cover --
17 cover of rap magazines, Snoop Dog dripping in money, it's
18 just a thing.

19 And these guys, whether it was wise or not, did not
20 think it was a thing that was going to get them prosecuted
21 for armed robbery.

22 **MR. FRETWELL:** Object to the testimony, Your Honor.
23 That's not in evidence.

24 **THE COURT:** Stay within the record.

25 **MS. ROSS:** I'll move on, Judge.

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1 And you've heard enough. Neither victim picked Mr.
2 Gadsden out of the lineup. Shown -- I don't have it in
3 front of me, but y'all -- it's somewhere in here, shows a
4 picture just of the jacket. Mr. Kretzschmar couldn't be
5 positive about the jacket.

6 And just looking at it, this is just me, and everything
7 I tell you is just me saying it. I want you to think about
8 what you heard from the witnesses. That's the testimony.
9 I'm just trying to help you process it 'cause I've been
10 working on the case.

11 Looking at that, I think this is more of a green jacket
12 than a tan jacket. It's a camo, but the original 911 call
13 said a tan camo-ish jacket, for what it's worth. It was
14 hard to get -- get that out, camo is camo. It's certainly
15 not as popular as jeans, but it's something that we've all
16 seen.

17 This evidence is not proof beyond a reasonable doubt.
18 And a lot of times I don't like to go on about the State's
19 burden of proof beyond a reasonable doubt because to me the
20 question is if -- the proof will be there. These lineups,
21 someone would pick something. There would be something more
22 than what the State is serving up for you that Gerald
23 Gadsden committed that robbery. And the reason there's not
24 is because he didn't. He's not guilty.

25 And we talk about that, he didn't testify. He pled not

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1 guilty. And with that plea he told you what he had to say.
2 He's not guilty. What more he could say -- I wasn't there,
3 I don't know anything. That's what he can add to this
4 situation. He pled not guilty. He had no duty to testify.
5 His constitutional right is to not testify. And he couldn't
6 have told you anything more than you already know that he
7 pled not guilty.

8 Now, going to -- I'm just going to look through some of
9 the witnesses and look at my notes to see if I've missed
10 something here.

11 One thing I did mention about Aaron Kretzschmar, on the
12 stand he said, yeah, it could have been less than ten
13 minutes before Damion Riley -- between when Damion Riley
14 left and the robbery. So he said that. There's no, you
15 know, -- and he was up-front and credible. He did not
16 identify my client.

17 Damion Riley, on the other hand, said something about
18 the W-2. I don't know what's up with getting the W-2,
19 whether that matters, but Aaron Kretzschmar had no memory of
20 that. And I don't know what's going on with that.

21 I don't know whether he's saying it as an excuse why
22 his prints might be in the office, you know, since -- they
23 didn't search for his prints, but him saying he went in
24 there to get his W-2. Maybe he was trying to cover for that
25 or cover something. I don't know. I'm not -- I'm not in

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1 the State's business to prosecute. I'm just saying these
2 are holes, these are reasonable doubt.

3 They didn't test the towel for his DNA. The thing
4 about he's so sure the towel wasn't in there, okay, well,
5 let's go with that. He's so sure the towel was in there and
6 that creates a window of seven minutes where these guys, in
7 the State's theory, must have telepathically communicated to
8 each other. Come during this seven minute window. This is
9 the time where the doors open.

10 And the State presented you no way that they could have
11 communicated that. How would White ever control when Damion
12 Riley got his meal, did all his stuff and walked out the
13 door to run afterwards and put in a rag?

14 The timing -- that theory is impossible, ladies and
15 gentlemen. Or if not impossible -- I don't even think they
16 could have synchronized their watches, because again, how
17 would they know when Damion Riley was going to leave? It
18 just -- it doesn't make sense. And that's because Gerald
19 Gadsden's not guilty. It doesn't make sense because he
20 didn't do it.

21 It makes it easier for me to ask questions like -- to
22 be brave enough to ask one of the victims, so you're saying
23 you've never seen him before in your life, on cross?
24 Because I know the answer. And as a lawyer, you never ask a
25 question you don't know the answer to. I mess that up

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1 sometimes. But I certainly wouldn't open up for him to say,
2 come to think of it, I think I do recognize that guy. And I
3 did open that up because he's not guilty.

4 Ah, one more thing about Damion Riley. I think of it
5 as one of those shows when, I don't know, books, money's
6 being hunted or someone's being hunted and they take a stick
7 and they throw it over there so dogs run over and go over
8 there. That's exactly what Damion Riley did with this
9 rapper show comment.

10 He's throwing the scent off him and putting it on
11 White. He's saying, I'm not suspicious, this guy is because
12 he said he made a lot of money and he's saying -- he
13 probably is saying that to cover that he did that robbery.

14 So he threw -- he effectively threw the investigator
15 off the scent and put it square on White. And I submit to
16 you that he might have done that for a reason, I don't know.

17 But we also know, according to Investigator Weiner, he
18 lied about his prior record. He didn't tell Weiner he had a
19 record. Yet he told y'all, think back two days ago from the
20 stand, I told him I was in trouble for burglary. That's
21 what he told y'all. But Investigator Weiner said he didn't
22 tell him that. So that wasn't part of the consideration of
23 his investigation.

24 Terrell Pugh, there's no question he said White did not
25 leave the dishroom. That's what he said. That's what he

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1 said again. At the time that's what he said. To change it
2 now, okay, but I will submit to you, given this timeline
3 window we have of seven minutes, this tiny amount of time, I
4 think someone -- a victim would have commented, White was
5 acting suspiciously. Pugh never said he was acting
6 suspiciously or didn't seem scared.

7 But he was down there with him. And he never said,
8 it's weird, White was suspicious, and he ran off and left
9 right before the robbery. He said none of that because that
10 wasn't true. He would have said it at the time if it was
11 true.

12 Going around testimony two days ago, because it was a
13 while ago, Officer Middleton, remember him? He wrote down
14 notes. And he put those notes in the report. And again, at
15 the time, tan coat, short hair, no facial hair. Not this
16 guy.

17 Prints, none. There was a lot of testimony, no prints.
18 Phone, again, there we go. Money is money. Everyone has
19 cash. It's not evidence of a crime. And I shouldn't say
20 everyone has cash. Everyone has seen some cash. Cash is
21 like the most common thing going. Camo coats, not so much,
22 but pretty much up there.

23 Phone calls, now there were calls after the robbery,
24 but not before between White and Gadsden. And to set
25 something up, they need to be before or at least close

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1 before. There were none a few days before, I believe the
2 testimony was. One time asked during the three days before
3 and after how many calls? Four calls afterwards was the
4 original testimony.

5 And the picture was taken after the calls. So it might
6 be likely that White would tell his friend, Keem, I was just
7 robbed by this guy in a camo jacket. You mean like this?
8 You know, going back to these pictures. Like this, yo?
9 Pretty dumb to take a picture like that. But he talked --
10 he knew what had happened to James ---

11 **MR. FRETWELL:** Your Honor, I'm going to object to
12 Defense counsel putting in -- trying to put in front of the
13 jury statements that are not in evidence.

14 **THE COURT:** Stay within the record.

15 **MS. ROSS:** All right, Your Honor.

16 Going to the text messages, I asked Investigator Weiner
17 -- yesterday some text messages came up that were on Gerald
18 Gadsden's phone. And I asked Officer Weiner about them
19 today. And you heard the testimony. It was about a movie
20 they saw. This is supposedly an hour before the robbery.
21 They were brought in yesterday to suggest he was going to
22 Anderson, kind of planning for the robbery or a code.

23 I don't know what it was, but there was more context to
24 that. And I wanted to share that with you. And I think it
25 shows again not guilty of this crime, reasonable doubt,

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1 certainly. The phone expert said nothing about the time
2 being off on the phone. They said the time was fine.

3 Just to give you a little bit of the context. Mr.
4 White -- the State's going to talk about -- Mr. White said
5 he did not know a Gerald Gadsden. That is a big part of
6 this case. And it's coming in -- I asked Mr. Weiner because
7 I wanted to give y'all a little context of that. The
8 context of that was what you heard from the stand.

9 Well, what I heard was, you know, I'm thinking about
10 charging you with these crimes, I've just arrested you for
11 traffic thing, I just searched your car, you started out
12 cooperating and now I'm aiming in -- being in for you. That
13 was the context. And I'd submit that White's reaction of
14 saying I don't know Gerald Gadsden, click, is a normal
15 reaction and not indicative of being part of a crime.

16 Now, just some things. Gerald Gadsden's case must be
17 considered separately from James White's case. And I
18 represent Gerald Gadsden. And I just bring in some of Mr.
19 White's situation because I think there deserves some
20 explanation for why he might have acted like he did.

21 But I represent Gerald Gadsden. And you have to
22 consider the proof the State submitted to you against him.
23 He had a rap style picture of himself on the phone, no
24 question. But there's no gun, there's no DNA, there's no
25 more connection.

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1 They didn't go search his house. They went and
2 searched White's house and found a pair of pants with his
3 MasterCard in it. Not guilty -- crime of anything that he
4 had a MasterCard and probably had some money.

5 I'd ask that if you go back in the jury room and start
6 deliberating, and I think that's where we might be. In the
7 first few minutes if any of y'all are thinking, you know,
8 I'm not sure that this proof is substantial, I'd submit to
9 you -- I'd ask you to go with that. That's reasonable
10 doubt. They have to prove guilt beyond a reasonable doubt.

11 And if you're struggling at that point and you don't
12 want to go with that, I'd ask you to think back to the first
13 day of this trial when the victims testified and none of
14 them picked out or pointed to Gerald Gadsden.

15 And you can go and ask for that testimony again if you
16 want to hear it. And you can ask for whatever testimony you
17 want. And I think it will show you a lack of proof.
18 Certainly not substantial proof or proof beyond a reasonable
19 doubt.

20 Then quite often juries are split and they don't, you
21 know, they're split and they can't decide. Some say yes and
22 some say no. I would ask you to consider if people are
23 saying not guilty -- the burden of proof is on the State.
24 And you have to give the Defendant the benefit of that
25 burden of the proof.

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1 And I'd say if people are saying not guilty, I'd ask
2 you to go with that, of not guilty. You must be unanimous
3 not guilty, I mean, unanimous guilty, not not guilty. And
4 with that if you are split, the Judge will come and give you
5 what's called an Allen charge saying go back and think some
6 more.

7 A lot of times they will not remind you again that the
8 State must prove guilt beyond a reasonable doubt. That's so
9 important. They have that burden and they have not done
10 that here. And that's why at the beginning I talked about
11 the holes in this -- the holes in the box and the holes in
12 this case. There's so many there.

13 I know I'm missing a lot. I have a lot more notes. I
14 tend to be note-bound. And I apologize for the lack of
15 polish. This is a huge case for my client, Gerald Gadsden.
16 Thank you for the consideration you've given to it. I'd ask
17 you after the State's closing and other closings -- I won't
18 get a chance to talk again, but I'd ask you to think about
19 what I might have responded or what I could have told you or
20 think about the testimony that came out that is reasonable
21 doubt.

22 And think about what I might have said because I can't
23 get up and talk again. And think about that time-line and
24 the impossibility -- the difficulty of pulling this off like
25 the State's submitting it was pulled off is huge.

CLOSING ARGUMENTS - MR. YARBOROUGH

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1 And the reason is because it's a contorted case.
2 They're trying to contort all the evidence into proving that
3 this picture means guilt. And the problem is, it doesn't
4 because he wasn't guilty.

5 And that's why they didn't pick him up. And that's why
6 all this evidence doesn't fit. So I'd ask you to go and
7 deliberate and I'd ask you to give Mr. Gadsden the benefit
8 of reasonable doubt and find him not guilty.

9 **THE COURT:** Mr. Yarborough.

10 **MR. YARBOROUGH:** Thank you, Your Honor.

11 Ladies and gentlemen, of the jury, so it's been a long
12 case. And this is nothing but a circumstantial case. My
13 client, Mr. White, has pled not guilty. And he had nothing
14 to do with this robbery. He was a victim. He was a victim
15 that tried to cooperate with the police.

16 The people that were robbed besides Mr. White all said
17 that the person that robbed them had a -- short hair, lights
18 colored -- lights colored -- colored skin and they had an
19 opportunity to view him. Now, to believe that Mr. White had
20 something to do with this you would have to believe that Mr.
21 Gadsden had something to do with this.

22 Now, Mr. Gadsden had these braids on the night of the
23 robbery, okay? We know that for a lot of reasons because
24 two days before, Mr. Gadsden had these braids, okay? This
25 is a significant piece of evidence in this case.

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1 This should have sent Investigator Weiner looking at
2 least for other evidence of this robbery. He should have
3 looked because it's clear that the person that witnesses
4 said created the robbery, did the robbery was not this
5 individual in this picture, okay?

6 Let's talk about this picture. This picture is a
7 picture of money. It also has bands on it, okay? This
8 picture was taken after the robbery, twelve, fourteen hours
9 after the robbery. It was taken by Mr. Gadsden. And it is
10 a picture of money that I submit to you is not close to the
11 money that was stolen at the Olive Garden.

12 I want you to look at this money real closely. This
13 money -- there's pictures of ones, okay? It's pictures of
14 ones. You can take it back there and look at it closely.
15 But I want you to look at it, and I want you to use your
16 common sense, okay?

17 It's a Sunday night at the Olive Garden and the manager
18 is closing up. And he takes the money and puts it in the
19 safe. There is all kinds of hundred dollars, fifty dollars,
20 twenty dollars, ten dollars, five dollars, one dollars.
21 There are all smooth bills that haven't been munched up like
22 this. They haven't been handled. They haven't been like
23 they've been inside a bar, okay? Or inside a nightclub
24 where they're selling tickets.

25 These tickets -- this money came from that nightclub.

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1 You can look at it and you can tell. You can use your
2 judgment as a jury to look at this. And without these
3 pictures, nobody's sitting here, right?

4 Because this rag right here -- what does this rag tell
5 you? This rag could have told you something, but
6 Investigator Weiner made a decision -- he made a decision.
7 You heard him say that on the stand. He said from this jury
8 stand right here, he said, I made a decision that I knew
9 James White had done this because the rag was there.

10 I kept on trying to say how could you say that? How
11 could you say that, Investigator Weiner? Because I know.
12 Because I know.

13 Now, I'll tell you this. You're the gatekeeper.
14 You're the guy -- you're the jury that makes the decision if
15 -- can he just come in here and say he knows? Don't you
16 want something more? Don't you want to ask another
17 question? Don't you want to have this tested? Don't you
18 want to look? You're talking about serious charges. Don't
19 you want to ask more, okay?

20 Maybe the night those rags were found -- say I don't
21 need to ask more. I don't need to ask more. But then you
22 get two witnesses to come down to the police station and
23 they say I was in there and Mr. White was in the back of the
24 -- washing dishes, and he was with me, and he never left.
25 He never left that area.

CLOSING ARGUMENTS - MR. YARBOROUGH

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1 That was the testimony that was given by the witnesses
2 two days after the robbery. That was what was put into the
3 statements, okay? That's the best evidence. He said,
4 that's it. That's the best evidence. And he didn't leave.
5 He didn't leave that kitchen. Mr. White didn't leave that
6 kitchen that night.

7 Now, Mr. White is working hard as a dishwasher. He's
8 also a rapper. Now, don't hold it against him for being a
9 rapper. Don't hold it against him because he raps. He
10 tells you the truth, he raps.

11 Now, for you to believe that he was involved in this,
12 okay, you would have had to decide -- he would have had to
13 come up with this in advance. He would have had to say,
14 okay, I'm going to put on a nightclub show in advance to be
15 able to determine where this money came from.

16 Now, how could an individual do that? How could an
17 individual decide months in advance to put on a show and
18 then have a show and they say, well, you know, the good
19 thing about that show is that after the show we can go rob
20 the Olive Garden and take pictures of the money from the
21 Olive -- take pictures of the money from the show and we can
22 say it didn't come from the Olive Garden? Now, do you think
23 anybody's that smart?

24 Well, let me ask you this. When that became a question
25 shouldn't Investigator Weiner gone and looked for more

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1 evidence? Shouldn't he have gotten in the car and driven
2 down to Charleston and found out what -- what kind of money
3 was made at that party? Shouldn't he have gotten the names
4 of the other people that were involved in throwing that
5 party and found out how much money was involved in that
6 party?

7 Because he had pictures of it. He was told where the
8 money came from. Here you go. He had pictures. He had
9 this. So didn't he owe another check? But, no, he was so
10 sure -- he was so sure that night because that rag was there
11 it was an inside job.

12 And Riley, who we know had a prior record for burglary,
13 Riley had just left. We know it had to have been White.
14 White was on the inside. We had to know -- I submit to you
15 Weiner made that decision on his own because he didn't want
16 to do anything more. He owed us more of an investigation.
17 He owed you more information to bring into this courtroom,
18 okay? Mr. Fretwell can only give you what he's got. And he
19 ain't got it.

20 Where's the brick, okay? Where's the brick? They
21 didn't keep the brick because they didn't want to talk about
22 the broken glass, right? They don't want to talk about the
23 broken glass because why would you break the glass? Why
24 would you break the glass out there if it was an inside job?

25 I'll tell you what happened. You could think and you

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1 could surmise that the guy threw the rock at the glass
2 thinking he could bust open the door. Whoever the robber
3 was -- whoever the robber was slammed the rock into the
4 glass and all of a sudden the door moves, okay? The door
5 moves because there's a rag in the door.

6 Now, you go why is there a rag in the door? Several
7 reasons why there's a rag in the door. One possible reason
8 is people are going in and out that door to smoke late at
9 night, okay? They're cleaning up, they want to go outside.

10 They've got reasons to take the garbage outside, okay?
11 How you going to get in and out to take the garbage? You
12 got to stick the rag in the door so you can get in and out.

13 Another way to do it. You got people coming and
14 picking each other up from work late at night. You've got
15 twenty other people leaving that restaurant that night. And
16 they're coming and people are in there doing their shifts.
17 They stick the rag in the door so people can come by and
18 pick them up, all right?

19 That rag could have been in there for a long time.
20 They don't want to look at that rag to see whose DNA was on
21 it because they don't want to know who put the rag there.
22 They wanted to assume it was an inside job. They wanted to
23 assume it was an inside job.

24 I don't know why they wanted to assume it was an inside
25 job. Maybe because it was easier. I have no idea. Maybe

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1 it's easier to call a job an inside job. I don't know.

2 Doesn't -- doesn't matter. It's not -- but it's your
3 decision to say stop, stop, there's some questions here.

4 I've got -- I need some more evidence, okay?

5 So you go what do the witnesses say about who did the
6 robbery? The witnesses say that the robber had short,
7 cropped hair. Not Gerald Gadsden.

8 What else do they have that ties White to this? Okay.
9 You've got the phone, all right? The phone goes to the
10 police station. Now, this -- these smart, super criminal
11 James White, who's planned this really in-depth robbery who
12 says I'm going to throw a rock at the window to throw
13 everybody off.

14 He's so dumb he walks down to the police station with
15 the phone in his pocket that's got pictures from the
16 robbery? Come on. That doesn't make any sense. Why would
17 he do that? That doesn't make any sense.

18 The reason he did it was because he got his phone mixed
19 up. They said there were four phones. They said that two
20 of the phones looked alike. They said two phones looked
21 alike. He got his phone mixed up, obviously, with his
22 buddy, Gadsden. The phones got mixed up. Gadsden's got
23 pictures from the -- from the money that he got paid from
24 the -- from the concert down in Charleston. He's got that
25 money. That's the money that came out of there. That's

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1 what it looks like.

2 Maybe part of that money belongs to my client, Mr.

3 White, but it's two bands, two bands. Mr. White tells Mr.

4 Riley that he made two bands at the concert, okay? He tells

5 the police he makes money at the concert. You heard a

6 witness come to the courtroom, said there were people paying

7 ten dollars and more to get into the concert, and there were

8 two hundred to three hundred people in there. And there was

9 a cash bar that was running over there.

10 (Whereupon a juror stood up)

11 **THE COURT:** We have one that needs to use the restroom.

12 So we're going to take about a couple of minutes, five

13 minute break. Ladies and gentlemen, I'll let you step back

14 to the jury room. We're only going to be a minute. Don't

15 discuss the case while you're there.

16 (Whereupon court was in recess at 12:06 pm)

17 (Whereupon court reconvened at 12:13 pm)

18 **THE COURT:** All right. Are we ready?

19 **THE BAILIFF:** Yes, sir.

20 **THE COURT:** Bring them in.

21 (Whereupon the jury entered the courtroom at 12:13 pm)

22 **THE COURT:** All right, Mr. Yarborough.

23 **MR. YARBOROUGH:** Thank you, Your Honor. I didn't mean

24 to run y'all out of here. This is -- I can sit here and try

25 to beat this case into the ground. But I can tell you from

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1 looking at the evidence that has come in that there are
2 several different possible scenarios how this happened. And
3 two of those scenarios just don't have anything to do with
4 my client, Mr. White.

5 One scenario is that the rag was put there by Mr. Riley
6 or somebody else. And somebody else left that door ajar and
7 they had somebody coming to help them, okay? That's a
8 possible scenario, okay?

9 The other scenario is what I told you before is that
10 the rag was just there and when somebody smashed the door,
11 the door jarred and they went in. And there is plenty of
12 reason to believe that that area over there next to the
13 Olive Garden would attract a robber to that area at night.

14 Now, I don't believe the scenario that the solicitor's
15 office is submitting. And I don't believe that you should
16 believe that because I don't see why someone that was
17 planning a robbery out there with the traffic that's out
18 there at night would try to smash that window. If you're
19 planning it, and you know you can get in, why in the heck
20 would you smash that thing thinking that you could get
21 caught on camera or caught on -- by somebody driving by and
22 they see you? So I don't think that scenario works.

23 I think the correct scenario is that somebody else had
24 something to do with it. They smashed it. The door jarred.
25 They go in, they rob the place, they get away back up the

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1 woods where the dog tracked them down and they're gone and
2 they're sitting there thinking that nobody's ever going to
3 come get them.

4 But the scenario that the solicitor's office wants you
5 to believe that Mr. White and Mr. Gadsden got together and
6 planned this thing is crazy. It's crazy. Because you would
7 have to believe that they were so smart and so bright in
8 planning this thing that they're going to smash a rock
9 through the window to kind of send you off on another
10 direction, okay?

11 They're going to have a party two days before the
12 robbery. They're going to have a party down in Charleston
13 two days before the robbery and -- so that they can take
14 pictures of money later on so that they could bring that --
15 bring that evidence into court and say, hey, well, that's
16 where that money came from.

17 That would also -- why -- why -- why would Mr. White,
18 if he was planning a robbery, the day before tell a witness
19 that's in there that he had made two bands, two bands, that
20 was what he told the guy, I made two bands -- I made two
21 bands at my rap concert. Two bands, okay?

22 Two bands, let's think about this, two bands. The girl
23 that came in that testified, she said that there was two
24 hundred to three hundred people there. And you start adding
25 that up, and that's easily two bands, which is the money he

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1 came -- came away with, which is easily and more probably
2 the money in this picture, okay?

3 Now, we would know -- we would know if the money in
4 this picture was the money from the robbery if one thing
5 would have happened, okay? That one thing would have been
6 they could have taken the sheet, the checkout sheet from the
7 Olive Garden on the 20th of January and they could have said
8 to you there were four hundred ones, fifty tens. They could
9 have said all that. That sheet existed somewhere, okay?

10 Now, there was an argument between what Investigator
11 Weiner said and what Mr. Kretzschmar said. Mr. Kretzschmar
12 said nobody asked me for it. Investigator Weiner said, oh,
13 we got it, we did it. But that's just like everything
14 Investigator Weiner said in this case is he believes that
15 because he says it, because he says it, because he says that
16 James White stuck this rag in the door down here, that James
17 White stuck that rag -- I said, how do you know he stuck it
18 in there? I know. How do you know? I know.

19 And so if James White doesn't stick this rag in there,
20 James White's not on trial, okay? The only person that says
21 James White stuck this rag in there is Weiner. And Weiner
22 says he wasn't there. He wasn't there for three or four
23 days later.

24 If the -- if James White doesn't stick that rag there,
25 he's not on trial. He didn't stick the rag there. They

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1 could have looked -- they could have looked for DNA. They
2 could have looked.

3 Why -- why would James White sit there and tell them a
4 description of the robber, okay? Why would he tell them a
5 description of the robber on the night of the robbery and go
6 down to the police station two days later if he was guilty?
7 Why would he point -- why would he point the finger at
8 somebody? He wasn't -- he tried to cooperate with the
9 police.

10 And then they get mad at each other, okay? They get
11 mad at each other because Investigator Weiner starts making
12 threats at James. You know exactly what happened. And he's
13 -- he hangs up and he gets mad. And he says in a fit of
14 anger -- he says in a fit of anger he doesn't know who
15 Gadsden is because he knows him as Keem. Every one of the
16 phone records that came in here, he was known as Keem.
17 Keem, not Gadsden.

18 And you know -- you can use -- you can go back in the
19 jury room and take your own personal experience. Sometimes
20 when you get excited and when you get upset, your memory's
21 not exactly right, okay? I know mine's not.

22 And I keep going back to these pictures. These
23 pictures -- these pictures, okay? This person -- this
24 person right here has dreads. I might have misspoken with
25 dreads or whatever you call the other things. I'm not sure

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1 about it. But those are dreads. The robber didn't have
2 dreads. The robber didn't have dreads. And we know that
3 Gadsden had dreads, okay?

4 And we know that this isn't the money from the robbery
5 because it doesn't look like money that would have come out
6 of the Olive Garden. We know that. Well, we could have
7 known -- we could have known who touched this. We could
8 have known who threw that rock. We could have at least
9 looked at the rock. We could have looked at that brick. We
10 could have tested it.

11 You know, instead we just assume, oh, no, we're not
12 going to have to -- we're not going to have to. We're going
13 to figure it out because I'm Investigator Weiner and I know
14 what happened. Just because he knows what happened and he
15 says it doesn't mean that's what you're supposed to buy.
16 He's selling you something because he doesn't want to do
17 this other stuff.

18 Now, it looks interesting that there are -- that
19 Investigator Perry can't even get the phone straight, okay?
20 So there's four phones. They're all the same -- two of them
21 are matching phones. Investigator Perry testified to that.
22 So, obviously, these phones could have gotten mixed up at
23 different times.

24 And, obviously, there could have ended up pictures that
25 Gadsden took in White's pocket because they, you know, they

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1 knew each other. They were friends. There's no question
2 they worked together on this concert. I mean, we've got
3 pictures there. You've got pictures. You can take them
4 back in the jury room and you can look at them.

5 I'd submit to you, ladies and gentlemen, that this is a
6 very, very weak, weak circumstantial case. And when you
7 have a weak circumstantial case as the Solicitor's Office
8 has, you, the jurors, and the Judge is going to tell you the
9 law, you can judge the facts and you can say that it does
10 not rise to beyond a reasonable doubt. You can say there
11 are other ways to apply those circumstantial pieces of
12 evidence that are different than the way the State presents
13 them. You as the juror -- jury has the right to do that.

14 And I'd submit to you that in doing the right thing you
15 have to do it here. You've got to go back in the jury room
16 and look at the evidence and look at the small, small
17 circumstantial evidence, if there is even any circumstantial
18 evidence against Mr. White, it is -- it is so weak. It is
19 -- it is -- it is so small.

20 There were twenty other people that walked out of that
21 restaurant that night that had access to that rag. Twenty
22 other people. Did they look? Did they check? No. Did Mr.
23 White try to cooperate? Yes. Did he give a statement?
24 Yes. Did he go down to the police station? Yes. Is that
25 the action of somebody that's guilty? No, it's not.

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1 Then they find these pictures of this money. And they
2 jump, oh, my gosh, we got him. We got him. We jumped to
3 conclusion. We jumped to a conclusion. He's told them that
4 he made money at the concert and they don't check it out.
5 They don't follow it up. We had to do it. We had to bring
6 it in to you. That's not enough to convict him.

7 Where -- where is the other evidence? Where is the
8 other evidence to convict my client, my buddy, James White?
9 The man that was washing dishes that night, they got a gun
10 pulled on him, got on the ground, they didn't think he was
11 upset enough, whatever that means.

12 How does a person know how upset somebody's supposed to
13 be when they've been robbed? How do they know? It's just a
14 fluff. That's fluff. They're trying to throw fluff at you
15 to try to convict an innocent man.

16 And then you've got these pictures. And I submit to
17 you, it would have been easy pie to go figure out how many
18 ones and fives were left over at the Olive Garden. And I'll
19 tell you what, these guys are good. Weiner's good. He
20 would have looked if he would have thought it would have
21 helped him, but he knew it wouldn't help him. And if the
22 money doesn't help him, then there's absolutely no case
23 against either one of them.

24 You know, it's hard. Y'all got a hard job. And the
25 Judge is going to charge you on the law. And he's going to

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1 tell you it's your responsibility to go back and make these
2 decisions. I'm just telling you, there are two or three
3 different ways to look at this thing. And all you got to do
4 is find one.

5 And it's the State's burden -- you ask Mr. Fretwell
6 when he gets up here in a minute, it's his burden to prove
7 these guys guilty beyond a reasonable doubt. And he ain't
8 come close.

9 I submit to you in regards to Mr. White there's only
10 one verdict. And that's a verdict that speaks the truth,
11 which is not guilty to all charges. Thank you.

12 **THE COURT:** Mr. Fretwell.

13 **MR. FRETWELL:** May it please the Court, Your Honor.

14 **THE COURT:** Yes, sir.

15 **MR. FRETWELL:** Mr. Yarborough, Ms. Ross.

16 Good afternoon, ladies and gentlemen. They tell you in
17 law school never -- never thank a jury, but it kind of
18 struck me as odd. Don't thank them because they're not
19 there listening to you because they have a choice. They're
20 there because they have to.

21 I'm going to disregard that advice in this situation
22 and I'm going to thank you, but I'm not going to thank you
23 for being here. I've watched you throughout the trial. And
24 the fact that you're engaged in the process, you're
25 listening and responding to the evidence is all that a trial

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1 attorney can ask for.

2 Now, I'm also a little bit at a loss for words, which
3 is unusual for a lawyer because from that stand Sergeant
4 Weiner laid out the evidence in this case both on my
5 questioning and under cross examination by Mr. Yarborough
6 and Ms. Ross far better than I could do, but that's what a
7 trial is.

8 A trial is evidence that's put before you, compelled to
9 be here, but fair and impartial members of the community to
10 test that evidence. Test it through cross examination to
11 determine whether at the conclusion of the trial you are
12 firmly convinced of the Defendants' guilt.

13 So while I feel at a loss for words, and I think that
14 Sergeant Weiner's testimony is sufficient, I know you're all
15 expecting a closing from me. And I'm going to give that to
16 you.

17 The Judge has also informed me that he's going to pull
18 my PowerPoint presentation if I go too long. So you don't
19 have anything to worry about in that regard, I'm pretty
20 sure. Okay. All right.

21 Hopefully this technology will work. I want to start
22 off by talking to you all about what happened immediately
23 before the robbery. You heard testimony that the Defendant,
24 Mr. White, spoke to Damion Riley as he's leaving, that he
25 discussed his recent cash windfall with him.

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1 He also told that story, told that account to Sergeant
2 Weiner when he gave -- he gave his statement in this case.
3 And he -- he determined that it was unusual. And then the
4 robbery occurs moments after Riley leaves.

5 Why is this significant and why is this my first slide?
6 Because I think it speaks volumes about a couple of things.
7 First of all, as Sergeant Weiner told you, it makes sense if
8 you're planning a robbery to tell somebody at least that you
9 might be coming into a lot of money.

10 But secondly, and possibly more importantly, the fact
11 that he -- that Mr. White talked to Damion Riley as he left
12 -- and I think you heard on cross examination or direct
13 examination Mr. Riley tell you, he knew I was leaving
14 because he had been there a lot longer than normal, that he
15 had to clean two stations. Normally clocked out about
16 10:30-ish. This time he's clocking out almost at twenty
17 after eleven.

18 So Mr. White sees him, they have a conversation about
19 this windfall and then Mr. Riley leaves at that point. And,
20 ladies and gentlemen, I submit that you can take from that
21 evidence that Mr. White was trying to determine when Mr.
22 Riley would leave so that the robbery could begin.

23 In fact, what that did, in essence, was even the odds.
24 Mr. Riley is the wild card. He's in the restaurant, he's
25 in the cook area, he's in the kitchen where he is. Once

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1 he's gone, you now have Mr. White and Mr. Pugh in the
2 dishroom. And you have a robber that comes in and confronts
3 one on one the manager.

4 After all, one of the questions that came up earlier in
5 this investigation for me was who robs an Olive Garden? You
6 rob a bank, you rob a convenience store, you rob a place
7 with quick cash, you might burglarize a store that has a lot
8 of electronic gadgets, but who goes into an Olive Garden at
9 night to rob it?

10 I don't know if y'all are familiar with Olive Garden,
11 but sometimes it's the most difficult thing to determine in
12 an Olive Garden is where's the restroom? It's circuitous.
13 You're trying to find this, trying to find that.

14 Who robs an Olive Garden? Unless, ladies and
15 gentlemen, you have a friend on the inside, a friend that
16 can tell you what time or what day of the week is the best
17 week to rob because that individual sees every single week
18 the armored car service come on Monday, a person who can --
19 who knows the doors are locked, but also has the ability to
20 put something in those doors to prop them open for you to
21 come in, a person who can press hold on the only camera that
22 that person knows operates in that store.

23 So let's talk for a little bit about police
24 investigation. And I want to speak to this in this sense.
25 There's no question, ladies and gentlemen, from Mr.

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1 Kretzschmar, Mr. Pugh and from the Defendant in his
2 statement that a robbery occurred at gunpoint where Mr. Pugh
3 was told to get on the floor and if he moved he would be
4 shot, and the manager was taken by force back to the office
5 where he was robbed at gunpoint after being assaulted a
6 number of times and that individual left the store. There's
7 no question that those crimes occurred.

8 Yet Defense counsel would have you believe that law
9 enforcement officers of sergeant rank and all of these
10 individuals thought we found a guy who likes to rap, he must
11 be the one that committed the crime. And, ladies and
12 gentlemen, I'd submit that's offensive.

13 It's as offensive, but not -- it's not as offensive as
14 saying that because an Olive Garden's located near a -- an
15 area that might have a lower socioeconomic income that's not
16 Montebello, that that must be a crime area. That people are
17 attracted to these areas because that's all that live in
18 that area is vagrants, and homeless, and criminals or
19 whatever. But that's offensive, ladies and gentlemen. And
20 that's just not the case or that Olive Garden would be
21 ordering a lot of windows.

22 But this police investigation and jumping to the
23 conclusion that this -- that Mr. White is the one that
24 committed the crime would leave the actual robber out there
25 to do it again and again. Their job, ladies and gentlemen,

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1 is to stop crime, to prevent crime.

2 And I would submit to you that much more important than
3 the fact that he said he got it at a rap concert was that
4 you have one of three people inside a store on what these
5 officers had determined to be an inside job that as telling
6 somebody prior to the robbery, hey, I made a lot of money.
7 In fact, he comes to the LEC afterwards, the office, and
8 says, I made seventy-five hundred dollars.

9 So in this investigation, let's take a look at it. I'm
10 not afraid of this broken glass. This broken glass is one
11 of the most important things that you can look at in this
12 case. It absolutely eliminates, with those doors locked,
13 that everyone has testified were locked, that anyone can
14 make entry into that building without the rag in -- on the
15 ground and around that turn-stop.

16 So I think the question was asked at some point, well,
17 why would you -- if you knew it was an inside job, why would
18 you have the towel if you had the rock? That doesn't make a
19 lot of sense.

20 Well, it's dark out there. We know it's dark out
21 there. Contrary to what Mr. Yarborough says, you can drive
22 by and that's what -- that's what that area looks like at
23 night. You can't see the front doors.

24 He tossed that rock, you hear a crash. You've already
25 got a plan in place that allows you to get through that door

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1 with this towel, that props open both doors. But if you
2 don't have that towel, then there's some problems. You
3 could throw that rock at the glass as he did and you can't
4 get in.

5 There's another problem. You might have a hole like
6 that way up there, you might not be 6'5" like I am with the
7 ability to reach all the way in and open that bar. So
8 you've got a problem there.

9 But more importantly, you're planning this in a way
10 that you won't be recognized. A lot of thought and planning
11 went into this. You put your arm in there and you cut it on
12 that glass, at that point you're leaving blood evidence.

13 What's the best way to do this? Throw the rock at the
14 glass, have the glass break, go in through the doors that
15 are already propped, commit your crime, your robbery, and
16 grab that towel on the way out. And like that, ladies and
17 gentlemen, the State would submit is -- was the plan in this
18 case.

19 Now, that brick was not from the immediate area. That
20 was the testimony, which is, of course, some evidence of
21 planning, bringing it with you to the area, not just some
22 rock that you grabbed from the parking lot, but a brick, and
23 that it was coordinated by the use and the placement of that
24 towel.

25 Again, we talked about this. Olive Garden policy

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1 dictated you could be terminated. I think -- I can't
2 remember exactly how many times Mr. Yarborough tried to get
3 Mr. Riley to say that people take smoke breaks and they put
4 the towel in the door. And he was clear, you don't go out
5 those doors after close and expect to come back inside.
6 Smoke break all day. There's a smoking area in the
7 restaurant, but you don't go out those doors and come back.

8 And, ladies and gentlemen, if you get your magnifying
9 glass and look at that picture I just showed you, that's the
10 sign right there still attached to that intact interior
11 piece of glass. The locked doors could only be accessed
12 from the inside.

13 This is interesting to me. They're not locking these
14 doors because of this high crime area behind them. They're
15 locking the doors because they're a restaurant. They want
16 to go home.

17 If you let patrons come in after 10:00, there's more
18 food to be prepared. It pushes -- all the side jobs go
19 later and later and people don't get out til 1:00, 2:00.
20 Guess who that -- guess who that costs money? Salaries.
21 And it costs the company. The company wants those doors
22 locked at 10:00. And that's why they're so serious about
23 it.

24 Damion Riley confirmed those doors were locked. He
25 indicates he left, clocked out at 11:18 and that he left by

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1 11:20, just to put it at the latest time possible.

2 And what about that to-go camera? Mr. Yarborough has
3 spoken I don't know how many times about the twenty some
4 individuals that were working that night. Well, we recall
5 the camera was still running at 11:22. So if you left
6 before 11:22, which at 11:22 we know there were three people
7 in the store. You didn't press -- you didn't press hold on
8 that camera. Why? Because we have a picture that was taken
9 at 11:22. The camera's still operating at that point. And
10 Mr. Yarborough doesn't want you to focus on that.

11 So what were the conclusions? That early on it was an
12 inside job, there was evidence of planning, preparation and
13 coordination, specifically with White's conversation with
14 Riley, the camera being on hold. And probably most
15 importantly, that towel in the door.

16 What was the plan? Mr. Yarborough has asked the
17 question a number of times, and I'm going to answer it. Why
18 would you take the brick? Why would Mr. White cooperate
19 with police and give a similar vague description as
20 everybody else? Because it was made to look like a random
21 act and Mr. White was supposed to be a victim according to
22 the plan, but mistakes were made.

23 This is something that was -- this is an adage or a
24 saying that has been in place for a long time, that the best
25 laid plans often go awry. I always thought it was odd that

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1 it's best laid plans of mice and men. And I understand the
2 men reference. I didn't understand the mouse reference
3 until I realized that it was written in the 1700s by a
4 Scottish poet by the name of Robert Burns, who wrote the
5 poem To a Mouse. Makes a lot more sense that way.

6 But why is a phrase taken from a poem in the 1700s
7 still relevant today? Because this is still true. You can
8 plan and you can plan, you can plan to use your PowerPoint
9 presentation, it might not work, so what do you do? You
10 have backup.

11 Sometimes things happen that have a positive effect.
12 Sometimes you need to go to the restroom, and a juror needs
13 to go to the restroom, and that juror has to go, so you get
14 an opportunity to go.

15 But why is this true, ladies and gentlemen? Because
16 people make mistakes. And mistakes were made that night, no
17 question.

18 And I want you to focus on this because this is --
19 this, in my opinion, is where all of this starts to unravel.
20 The flimsy plastic bag that Mr. Gadsden brought in there to
21 get that money coupled with his request that he have the
22 rolled coins is what set all of this in motion.

23 Now, there was a mistake that was made before that
24 time. He threw the brick at the window and it didn't go all
25 the way through, but that could be rectified on the way out.

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1 And take it -- if you've got plenty of time, grab that
2 towel, make sure that is broken and leave.

3 This is what caused the mistakes to happen. Because at
4 that point the bag breaks almost immediately. There's a
5 loss of coins and currency starting at the office and goes
6 all the way outside, all the way up until that dog track
7 ends close to, not these residences behind the Olive Garden,
8 but to the road, the State Park Road, the intersection of
9 Sylvania and State Park Road.

10 This causes a distraction for the robber. He's now
11 trying to salvage what he can. And I would submit, ladies
12 and gentlemen, that what's going to go first are the items
13 that are not bundled, the loose currency. That's what
14 scatters. The stacks that remain that are bandaged together
15 or bound together, they don't fall. They stay in the bag.

16 But as he's trying to get out of the door with all of
17 those -- with all of the money that he can salvage, he
18 doesn't do anything about the fact or even perhaps notice
19 that he didn't break the door on the way in. He doesn't
20 take the towel out from around the door, which if he had
21 taken, ladies and gentlemen, and that hole was all the way
22 through the glass, those investigators wouldn't have a clue
23 what happened in this case.

24 Now, they might suggest who robs an Olive Garden?
25 Maybe it was an inside job. They wouldn't have any evidence

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1 of that. They wouldn't have any -- they would look at the
2 employees, but when you have three people and you have all
3 the facts that they knew in this -- in this case, they were
4 able to really examine those employees and ask, can I look
5 at your cell phone? Can I look at that other cell phone?

6 And it wasn't even on the first cell phone that they
7 got -- that they received the information that started as
8 Sergeant Weiner indicated them down the path of we need to
9 take a closer look at this guy. This is -- this is somebody
10 who matches the description, who has a large amount of money
11 taken hours after the robbery occurs.

12 Failure to remove that camera from hold, and if you're
13 not fighting to keep money in a bag and you have a clear
14 head, you only have three things to do on the way out. Take
15 it off hold, grab the towel, check to make sure those -- the
16 glass is completely broken. Not a chance with money
17 spilling everywhere and you're just trying to get out of
18 that restaurant, every man for himself.

19 James White's reaction on-scene was simply a failure
20 because although he was attempting to act like a victim, he
21 knew he was never in any danger. In fact, he was there in
22 case Mr. Pugh decided, hey, I'm going go for the -- he's
23 turned his back on us, I'm going to go for the telephone or
24 something like that. No, no, no, no, no, he's got a gun.
25 Just settle down.

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1 So that's under control. That gives the robber the
2 opportunity to turn his back on those two dishwashers and
3 lie in wait for the manager to come out of his office. You
4 heard that from Officer Middleton's testimony as well as Mr.
5 Kretzschmar.

6 Let's look at Mr. White's mistakes after the fact
7 because they didn't just stop with -- of the scene. He
8 brought that Samsung phone to the police. We might even
9 back up a little bit and say Mr. Gadsden made a pretty big
10 mistake by taking these photos with the money in the attire
11 that he wore when he robbed the store hours after the
12 robbery. Maybe that's where the mistake occurred. Because
13 if those photos aren't taken, it doesn't matter if his phone
14 is in Mr. White's pocket.

15 But as Ms. Ross and Mr. Yarborough pointed out to you
16 in Mr. White's girlfriend's car there was a phone that was
17 just like that. It's very possible that he was confused and
18 thought he did have his old phone. You ever been to a party
19 and picked up somebody else's cell phone on the way out and
20 you realized outside that your code doesn't work?

21 Or you go to a car, you try the key, looks just like my
22 car, the key doesn't work. And you're clicking that thing
23 and nothing's happening.

24 So it quite -- it may quite be that he walked in there,
25 didn't think he had any kind of incriminating information on

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1 him. By the way, at that time we know he's deleted from his
2 phone every communication he had with Mr. Gadsden,
3 including, ladies and gentlemen, if you recall the
4 testimony, you can have it played back, this picture that
5 was in the cash of the -- sorry -- catch of the phone of Mr.
6 White's phone, but deleted. All referenced. These photos
7 were taken hours after the robbery. They matched the
8 witnesses' description of the robber.

9 And, ladies and gentlemen, Mr. White's own statement,
10 you can take a look at it yourself, says a man in a hood
11 came over to rob them. In a hood. Not incidentally from
12 the back when he turned around and looked the other way, I
13 saw it was a hoodie. He said in a hood.

14 If that hood is around your face in a restaurant, in
15 the kitchen area of a restaurant, which believe me, are not
16 that bright, what can you see? Can you see that the hair is
17 long or short, it's pulled back? Does that look like some
18 person -- one person might call that facial hair, another
19 person might not. If I don't shave at night and in the
20 morning, by the time it comes 5:00 it looks like I have
21 facial hair.

22 So the robber's description, a stocky black male,
23 approximately six foot and two hundred pounds wearing a
24 camouflage jacket and a hoodie. You heard the testimony --
25 slips my mind right now, of the officer who pulled -- I

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1 think it was Sergeant Weiner, who pulled together the photo
2 lineup from DMV photos that the Defense placed in evidence.
3 It's right here. And by the way, you know, your license
4 goes ten years. So this has no bearing to the time of the
5 incident.

6 But one thing that was important was that he was able
7 to -- and indicate from the DMV records, and it's clear he
8 had an opportunity to view him, that at the time he took his
9 license photo he was five foot -- 5'11". And your height
10 doesn't vary that much until you get really older and you
11 start maybe to lean over a little bit. The weight might.
12 And his weight was two hundred and forty pounds.

13 So spot on with the description. Camouflage jacket and
14 hoodie. Not just the camouflage jacket, but also the fact
15 that it had a hoodie described by all occupants including
16 White. And, in fact, Mr. Kretzschmar indicated he wasn't a
17 hundred percent positive, but it looked like the gunman's
18 clothing when he was shown this cropped photo.

19 White's account of the cash windfall, he comes to the
20 law enforcement office to talk to Sergeant Weiner and he
21 says, I made seventy-five hundred dollars from ticket sales
22 at the rap concert. Changed his story after being
23 confronted by Sergeant Weiner, who had called the promoter.
24 The promoter said, yeah, we made a thousand dollars overall,
25 his share was a hundred. Okay.

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1 Well, it didn't come from ticket sales. Other rappers
2 paid me to rap with them. Okay. So they made a thousand
3 dollars overall, but the other rappers that were there paid
4 seven and a half times the total gross receipts to just rap
5 with him at a birthday party for primarily his family and
6 friends. It's not believable. It's not credible.
7 Moreover, the evidence indicates as Sergeant Weiner
8 indicated from the text information that someone said I
9 don't do this for free, that he had to pay that individual
10 to rap at this -- at this birthday bash. The reality,
11 ladies and gentlemen, he's just setting the stage for having
12 a lot of cash.

13 And he had to say something when he came back down to
14 the police office. By the way, much was made about two
15 bands he made. He said a couple of bands at the restaurant
16 to Mr. Riley, but then when he gets to the sheriff's
17 department he says seventy-five hundred. It's easy to not
18 remember something if it's not true.

19 At that point Sergeant Weiner asked him, well, what
20 happened to the money? He says, I went to the club. I
21 spent it all on girls and booze. All right. What club? I
22 don't remember. Okay. Who went with you so we can talk to
23 those people and confirm this? I don't know.

24 Mr. Yarborough talked about how Sergeant Weiner didn't
25 follow up on this when he didn't know what club, nor who

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1 went with him so that he could corroborate or invalidate any
2 of that information.

3 **MS. ROSS:** Judge, just one thing on the PowerPoint, I'd
4 make an objection, with the quotes it's suggesting that this
5 is evidence, exactly what's said. And I'd just ask that the
6 jury know that this is what the lawyer's telling them and
7 not what they've seen in evidence.

8 **MR. FRETWELL:** If it's not clear, I prepared this
9 PowerPoint, that's my fault. And just like you should not
10 take my word for the evidence, you certainly shouldn't take
11 the rendition of either of these attorneys for the -- for
12 what the evidence was.

13 Your own recollection and even if you have to come in
14 and have the transcript or the testimony played back to you
15 is what you should rely on. That's evidence. This is --
16 none of this is. You're the finders of the fact.

17 **THE COURT:** All right. Move along.

18 **MR. FRETWELL:** So he denies to Sergeant Weiner that he
19 knows Gadsden despite having Gadsden's phone in his pocket,
20 despite each being a contact in each other's phone, numerous
21 calls, texts and messages, including blocked calls. Why do
22 you call your friend after the robbery *67 so your number
23 won't show up in their phone again and again? Distance.
24 It's after the robbery, we're putting distance, we're
25 deleting contact information, pictures that puts them

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1 together.

2 And you also have this text from White's phone, and you
3 can go back and listen to the testimony if you want, that
4 happened the morning that Mr. White was going to see
5 Sergeant Weiner and the other detectives where he sent
6 Gerald Akeem Gadsden's birth date, social security number to
7 somebody named Antwanett. For what purpose? It doesn't
8 matter. He knew his full name. He even had his vital
9 information.

10 So the fact that he would say, Gerald Gadsden, I don't
11 know who that is, I know somebody named Keem, is ridiculous.
12 And despite Gadsden's pants and credit card located in
13 White's apartment, which were found at that search warrant.

14 What reason would White have to deny knowing Gadsden?
15 The only person involved in this incident, you've heard the
16 testimony from Jim Perry about whether those phone numbers
17 were located in Gadsden's phone, Terrell Pugh, Damion Riley,
18 is James White.

19 Let's look at Gadsden's Samsung phone, what Gadsden
20 tells Matt Owens, Investigator Matt Owens back here about
21 that phone. Investigator Owens asks him about it. He said,
22 I lost it on the 15th at Club Sho Tyme. Club Sho Tyme?
23 Hmm, that sounds familiar. That is on the flier, which is
24 not readily accessible. That's where the birthday bash on
25 the 18th was. Not the 15th, but on the 18th.

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1 And we know a picture was taken with that phone of all
2 this money and the camouflage the day after the robbery.
3 But by this time -- by this time when Matt Owens speaks to
4 Gadsden, White's already been there. White realizes they
5 have Gadsden's phone, those pictures are on Gadsden's phone.

6 So what's Gadsden's response? Oh, I -- I -- he wants
7 to go well before the weekend so there's no connection to
8 the robbery. I lost it all the way back on the 15th. I'm
9 sure about the 15th. Did you follow up with anybody? No.

10 Gadsden already knows from White police have his phone
11 and he knows the police may find incriminating material on
12 the phone. He wants to distance himself from Mr. White.

13 White's Kyocera phone, one of the most amazing things
14 to find is that four days before the robbery, this is
15 Thursday before the weekend party in Charleston, there's a
16 picture taken in the area of the kitchen. The testimony was
17 that the dish area was behind and that this was the exact
18 location of where the manager, Aaron Kretzschmar, was
19 assaulted. That's on Mr. White's phone four days earlier.

20 It's not a selfie. Here, I'm at work. This is where I
21 work. This is where I work all right. This is the exact
22 spot where the attack occurred. How do we know that? Well,
23 we have interestingly enough a forensic photo depicting the
24 area of the assault. And they look remarkably similar.

25 Ladies and gentlemen, Ms. Ross said in her opening,

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1 flashing money and a photo doesn't make you guilty of a
2 crime. But as Ms. Simpson told you in her opening, this was
3 a planned crime made to look like a random act and mistakes
4 were made.

5 Flashing money doesn't make you guilty of a crime.
6 Seems true until you realize that that matches the
7 witnesses' description, the individual on that photo matches
8 the witnesses' description in build and in clothing was
9 taken hours after the robbery on a phone in White's
10 possession, one of three people working inside at the time
11 of the robbery who has a photo of the assault location in
12 his phone that was there four days earlier of a person White
13 claims not to know.

14 Ladies and gentlemen, I told you the purpose of a trial
15 is to test evidence. And at the end of that trial if that
16 evidence leaves you -- leaves you firmly convinced that
17 these Defendants conspired together to commit an armed
18 robbery and kidnapping during that process of Aaron
19 Kretzschmar and Terrell Pugh, then, ladies and gentlemen,
20 they are guilty as charged.

21 In a few moments after the Judge has charged you on the
22 law, you will have an opportunity to go back to your jury
23 room and deliberate. And the whole goal of that
24 deliberation is to come up with a verdict. And the word
25 verdict is taken from the Latin word *veridictus*, to speak

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1 the truth. On behalf of the people of Greenville County, I
2 would ask you to render a just and guilty verdict.

3 **THE COURT:** All right. Ladies and gentlemen of the
4 jury, the indictments in this case allege several different
5 offenses against each of the Defendants. The charges in
6 this case against each Defendant are armed robbery, two
7 kidnapping charges and a criminal conspiracy charge.

8 Ladies and gentlemen, the indictments allege that each
9 Defendant did in Greenville County on or about January 20th,
10 2014 while armed with a deadly weapon, or while alleging
11 either by action or words they were armed with a deadly
12 weapon, or a representation of a deadly weapon, or any
13 object which a person present during the commission of the
14 robbery would reasonably believe to be a deadly weapon take
15 by means of force or intimidation goods, monies described as
16 U.S. currency belonging to the Olive Garden from the person
17 or presence of Aaron Kretzschmar.

18 The indictments also allege that each Defendant did in
19 Greenville County on or about January 20th, 2014 unlawfully
20 seize, abduct, confine, inveigle, decoy or carry away Aaron
21 Kretzschmar without the authority of law.

22 Indictments as to each Defendant allege that each
23 Defendant did on or about January 20th, 2014 unlawfully
24 seize, abduct, confine, inveigle, decoy or carry away Gary
25 [sic] Terrell Pugh without the authority of law.

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1 And the indictments also allege that each Defendant did
2 on or about January 20th, 2014 wilfully and unlawfully
3 combined with the other Defendant for the purpose of
4 accomplishing an unlawful object or an unlawful object or a
5 lawful object by unlawful means, and that was armed robbery
6 and/or kidnapping.

7 I'll remind you that the fact that each Defendant was
8 arrested, charged and indicted in this case is not evidence
9 in the case and cannot be considered by you as evidence of
10 guilt in this case. Nor does it create any presumption or
11 inference of guilt. The indictments are simply the formal
12 written instruments which contain the charges made against
13 each Defendant. They are the formal documents by which this
14 case is brought into this court.

15 Now, each indictment charges a separate and distinct
16 offense. You must decide each indictment separately or each
17 charge separately on the evidence and the law applicable to
18 that charge uninfluenced by your decision as to any other
19 charge.

20 A Defendant may be convicted or acquitted on any or all
21 of the offenses charged, although, you cannot find the
22 Defendant guilty of criminal conspiracy unless you find the
23 Defendant has, in fact, committed an armed robbery or other
24 offenses. You will be asked, Mr. Foreman, ladies and
25 gentlemen, to write a separate verdict of guilty or not

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1 guilty as to each charge.

2 Now, there are two Defendants in this case, each of
3 which is charged with all of the criminal offenses for which
4 I just told you. The case of each Defendant and the verdict
5 and the evidence and the law concerning that Defendant
6 should be considered separately and individually.

7 Your verdict does not have to be the same for all
8 Defendants. The fact that you may find one Defendant guilty
9 or not guilty should not control your verdict as to the
10 other Defendant when more than one person is charged with a
11 crime.

12 If the evidence warrants it, you may convict one and
13 acquit the other or you may acquit both or you may convict
14 both or you may -- it will depend on your view of the
15 testimony and the evidence. You must take each Defendant
16 and consider the evidence as to that Defendant and my
17 instructions to you on the law. You will then write a
18 separate verdict of guilty or not guilty for each individual
19 Defendant.

20 Now, to the indictments, ladies and gentlemen, the
21 Defendants have entered pleas of not guilty, which places
22 upon the State of South Carolina the burden of proving the
23 Defendants guilty. A person charged with committing an
24 offense in South Carolina is never required to prove himself
25 innocent.

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1 I charge you that it is a vital important rule of the
2 law of evidence that the defendant in a criminal trial, no
3 matter how great or how serious may be the offense for which
4 he may be charged, must always be presumed innocent until
5 the guilt has been proven beyond a reasonable doubt. This
6 presumption of innocence remains with the Defendant at all
7 times, from the moment of his appearance in this court
8 throughout the trial and until the jury has upon the
9 testimony and the evidence presented reached a verdict of
10 guilty beyond a reasonable doubt.

11 For it is the solemn duty of the jury if not clearly
12 convinced of the defendants guilt beyond a reasonable doubt
13 to acquit the defendant. So the burden of proof is upon the
14 State to establish by evidence to your satisfaction the
15 guilt beyond a reasonable doubt as to these Defendants here
16 on trial for the crimes of armed robbery, kidnapping and
17 criminal conspiracy.

18 Now, what is a reasonable doubt? A reasonable doubt is
19 the kind of doubt that would cause a reasonable person to
20 hesitate to act. If you have such a doubt as to the guilt
21 of the Defendant, then he would be entitled to a verdict of
22 not guilty. Proof beyond a reasonable doubt is proof that
23 leaves you firmly convinced of the Defendant's guilt.

24 Reasonable doubt may arise from the evidence which is
25 in the case or from the absence or lack of evidence in the

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1 case. To think that a defendant is probably guilty or the
2 circumstances are suspicious is not enough. You alone must
3 make the determination of whether or not reasonable doubt
4 exists as to the guilt of the -- each Defendant. .

5 Now, ladies and gentlemen, there are two types of
6 evidence which are generally presented during a trial,
7 direct evidence and circumstantial evidence. Direct
8 evidence directly proves the existence of a fact and does
9 not require deduction.

10 Circumstantial evidence is a proof of a chain of facts
11 and circumstances indicating the existence of a fact.
12 Crimes may be proven by circumstantial evidence. The law
13 makes no distinction between the weight or value to be given
14 to either direct or circumstantial evidence.

15 However, to the extent that the State relies on
16 circumstantial evidence, all the circumstances must be
17 consistent with each other and when taken together point
18 conclusively to the guilt of accused beyond a reasonable
19 doubt. If these circumstances merely portray the
20 defendant's behavior as suspicious, the proof has failed.

21 The State has the burden of proving the Defendant
22 guilty beyond a reasonable doubt. This burden rests with
23 the State regardless of whether the State relies on direct
24 evidence, circumstantial evidence or some combination of the
25 two.

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1 Mr. Foreman, ladies and gentlemen of the jury, under
2 the Constitution and laws of South Carolina you are the
3 finders of the facts in this case. I do not have the right
4 to pass upon the facts or even express any opinion I may
5 have as to them. Nor may I intimate in any way what I may
6 think about the guilt or the innocence of a defendant.

7 You are the sole judges of the credibility. And by
8 that I mean the believability of the witnesses who testified
9 in this case. In passing upon their credibility you may
10 take into consideration many things such as the demeanor or
11 the manner of testifying of that witness, whether the
12 witness had reason to be biased or prejudiced, whether a
13 witness' testimony was contradicted on the one hand or
14 supported and corroborated on the other hand.

15 You do not determine the credibility or believability
16 by counting the number of witnesses who may have testified
17 for one side or the other. You may believe a small portion
18 of a witness' testimony and disregard the larger or vice
19 versa.

20 Now, you've heard testimony of witnesses who have
21 special knowledge, skill, experience, or training or
22 education in particular professions or occupation who have
23 given their opinions as experts as to matters in which they
24 are skilled. In determining the weight to be given such
25 opinion you should consider the qualifications and the

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1 credibility of the expert and the reason for the opinion.
2 You are not bound by such an opinion. Give it the weight,
3 if any, to which you deem it is appropriate.

4 Now, a statement alleged to have been made by one or
5 more of the Defendants has been admitted into evidence in
6 this case. While the Court has determined that the
7 statements are admissible, I instruct you that you make the
8 ultimate decision of whether or not the Defendant made the
9 statement.

10 If a Defendant did make the statement, you must
11 determine whether the statement was made by the Defendant
12 voluntarily and of his own free will. This means that the
13 Statement was not caused by pressure, or by force, or fear,
14 threats, coercion, or intimidation, or by hope, or a promise
15 of leniency or any reward of any kind.

16 In determining whether a statement was voluntary you
17 should consider the characteristics of the Defendant and the
18 details of the questions. Some of the factors that you must
19 consider are the age of the Defendant, the Defendant's
20 education or lack of education, the Defendant's mental
21 ability or capacity, the Defendant's IQ or intelligence, the
22 Defendant's background and environment, the place and length
23 of any detention, the nature of the questioning and the
24 advice or lack thereof to the Defendant of his
25 Constitutional rights including, but not limited to the

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1 right to remain silent, that any statement can be used
2 against him in a court of law, the right to have a lawyer,
3 if he could not afford a lawyer, a lawyer would be
4 appointed, that he could stop making a statement at any
5 time. You must carefully consider all these surrounding
6 circumstances before you give any weight to an alleged
7 statement.

8 The State has the burden of proving beyond a reasonable
9 doubt any statement was voluntary. If you determine it was,
10 you may give it the consideration which you deem proper.
11 You must decide the weight, if any, should be given to the
12 alleged statement.

13 Now, there's been evidence presented that a witness may
14 have made prior statements which are not consistent with a
15 witness' later testimony. You may use this evidence to
16 decide whether to believe a witness. You also may use
17 evidence of any earlier contradictory statements to
18 determine the truth of subsequent statements.

19 It is up to you to decide whether to believe the
20 earlier statements a witness has shown to have knowingly
21 testified untruthfully concerning any material matter. You
22 may consider this in determining whether to trust the
23 witness' testimony or -- as to other matters. You may
24 reject all testimony of that witness or give it -- all or
25 part of the testimony you think that it deserves in terms of

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1 weight.

2 Now, a person who has a past criminal record is
3 competent to testify during trial. A past record does not
4 affect the ability of that witness to testify. The past
5 record may only be considered by you, if at all, in
6 determining the witness' believability.

7 Remember, you are the sole judges of the facts in this
8 case and the believability of any and all witnesses. All
9 these things you will consider bearing in mind that you
10 should give both Defendants the benefit of a reasonable
11 doubt.

12 Now, the same Constitution and laws which make you the
13 finders of facts of the evidence -- and the evidence as I
14 discussed with you make me the sole and only instructor of
15 the law. You must accept the law as correct as I charge it
16 to you and apply it to the evidence as you find it and then
17 reach your verdict.

18 Finally, I charge you that you should not be concerned
19 about what you think the law ought to be or what you wished
20 the law is, but rather what I charge you the law to be.

21 Now, I instruct you and emphasize that the fact that a
22 Defendant did not testify is not a factor to be considered
23 by you in any way in your deliberations and in your
24 consideration on the questions of the guilt or the innocence
25 of the Defendant. It must not be considered by you in any

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1 manner whatsoever.

2 A defendant has the Constitutional right to remain
3 silent. And the assertion of this right must not be
4 considered by you in your deliberations. I repeat, under
5 your oath you are to draw no conclusions whatsoever from the
6 fact that the Defendant in this case did not testify.

7 I instruct, Mr. Foreman, it's your responsibility to
8 see that those discussions do not take place. The fact that
9 the Defendant did not testify should not even be discussed
10 in the jury room.

11 The burden of proof, as I stated to you, is on the
12 State. The Defendant is not required to prove his
13 innocence. The burden of proof remains on the State to
14 prove the Defendants' guilt beyond a reasonable doubt.

15 Now, ladies and gentlemen, as you know, the Defendant
16 is charged with armed robbery. In order to prove this
17 offense the State must prove beyond a reasonable doubt that
18 the Defendant took personal property from the person or
19 presence of another person.

20 Property is in the presence of a person if it is within
21 the person's reach, inspection, observation or control so
22 that the person could, if not overcome with violence or
23 prevented by fear, keep possession of the property.

24 The State must also prove beyond a reasonable doubt
25 that the Defendant carried the property away intending to

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1 permanently deprive the owner of the property and to keep
2 the property for the Defendant's own use. The slightest
3 removal of the property or the complete possession of the
4 property, even for an instance, by the Defendant is
5 sufficient to show a taking and carrying away of the
6 property. The taking and carrying away of the property must
7 have been done with violence or by putting the owner of the
8 property in fear of violence.

9 Finally, the State must prove beyond a reasonable doubt
10 that the Defendant was armed with a deadly weapon during a
11 robbery. A deadly weapon is any article, instrument or
12 substance which is likely to cause death or great bodily
13 harm.

14 Whether an instrument has been used as a deadly weapon
15 depends on the facts and circumstances of each case. The
16 following are examples of instruments which may be deadly
17 weapons; a pistol, a shotgun, a rifle, a knife, metal
18 knuckles, a razor, gasoline. A gun may be a deadly weapon
19 even if it is not operating.

20 The Defendants are each charged with two counts of
21 kidnapping. The State must prove beyond a reasonable doubt
22 that a Defendant knowingly and unlawfully seized, confined,
23 inveigled, decoyed, kidnapped, abducted, or carried away
24 another person without authority of law.

25 To do a thing unlawfully is to do it wilfully against

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1 the law. Knowingly means with knowledge, consciously, not
2 accidentally. Seized means to take hold of suddenly or
3 forcibly. Confined means to limit, restrict or enclose
4 within bounds, imprison, or shut or keep in -- keep in.
5 Kidnap is to remove a person against his will by unlawful
6 force or by fraud.

7 The State does not have to prove all -- the Defendant
8 did all of the things above. Instead, if you find that
9 beyond a reasonable doubt the Defendant did any of the
10 things, you may find the Defendant guilty of kidnapping.

11 Something done without authority of law is something
12 which the law does not sanction, permit, allow, condone or
13 provide justification for. Kidnapping does not have to be
14 for any personal or monetary gain for any illegal purpose,
15 but may be for any reason whatsoever.

16 Now, the Defendants are charged with criminal
17 conspiracy. The State must prove beyond a reasonable doubt
18 that the Defendants combined with one or more persons for
19 the purpose of committing an unlawful act or committing a
20 lawful act by unlawful means. There must be a mutual
21 understanding, agreement or common intention and plan. Mere
22 passive knowledge or consent to the criminal conduct of
23 another is not enough to make a person a conspirator. There
24 must be guilty knowledge and participation.

25 Similarly, the mere fact the Defendant may have

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1 associated with another person or met with another person
2 and discussed common aims and interests does not necessarily
3 establish proof of the existence of a conspiracy or that the
4 Defendant was involved in a conspiracy.

5 On the other hand it is not necessary that the
6 agreement be a formal one, that it be in writing, that the
7 person's holding a meeting and expressly state the terms of
8 the common plan or that the agreement be stated in words
9 between them. The agreement of a criminal conspiracy may
10 come into being through an implied, mutual understanding.

11 The wilful, intentional and knowing adoption by two or
12 more persons of a common plan is sufficient. No overt acts
13 need to be shown to establish a conspiracy. Conspiracy may
14 be shown by circumstantial evidence and the conduct of the
15 parties.

16 In order to convict the Defendant of conspiracy the
17 State must prove beyond a reasonable doubt not only the
18 Defendant knew of the unlawful conduct, but the Defendant
19 agreed to combine with the other persons for the purpose of
20 accomplishing the unlawful conduct.

21 Now, ladies and gentlemen, if a crime is committed by
22 two or more people who are acting together in committing a
23 crime, the act of one is the act of all. A person who joins
24 with another to commit an unlawful act is criminally
25 responsible for everything done by the other person which

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1 happens as a probable or natural consequence of the acts
2 done in carrying out the common plan and purpose.

3 For example, two people can be guilty of killing
4 another person when only one of the two had a gun. There
5 was only one bullet and only one of the two fired the gun
6 that caused the death. If two or more people are together,
7 acting together, assisting each other in committing the
8 offense, the act of one is the act of all or as it is
9 sometimes said, the hand of one is the hand of all.

10 Now, mere presence at the scene is not sufficient to
11 prove someone guilty of a crime. A defendant's presence
12 where a scene is -- where a crime is being committed or mere
13 association with the person who commits a crime does not
14 make a defendant an accomplice or an aider and abettor for
15 the person committing the crime.

16 The burden is on the State to prove every element of
17 the crime charged. If you find after reviewing all the
18 evidence that the State has proved that the Defendant was
19 only present at the scene of a crime, they have not proved
20 beyond a reasonable doubt any other participation of the
21 crime, then you must find the Defendant not guilty. The law
22 is that proof of the Defendant at the scene of the crime is
23 not sufficient to find someone guilty.

24 Now, Mr. Foreman, and ladies and gentlemen of the jury,
25 you have been selected as fair and impartial jurors to

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1 impartially try and determine the facts of this case. And
2 when you comply with your oath to do so, then no one will
3 have a right to criticize your verdict and you will have
4 fully discharged your duty as a juror.

5 You are to decide this case according to the testimony
6 that you have heard from the lips of the sworn witnesses
7 along with any other evidence introduced. I charge you that
8 as jurors you must decide the issues in this proceeding
9 without bias and without prejudice to any party.

10 You cannot allow yourself to be governed by sympathy,
11 by prejudice, by passion, by public opinion or by any other
12 arbitrary factor. Both the State and the Defendant have the
13 right to expect that each of you will carefully and
14 impartially consider all the evidence in this case and that
15 you will follow the law as I have explained it to you.

16 Now, Mr. Foreman, ladies and gentlemen, I have prepared
17 two verdict forms here, one for each Defendant. Each
18 verdict form has the four charges for which each Defendant
19 is charged.

20 Each verdict form has two possible verdicts that you
21 can reach as to each charge. For example, as to the charge
22 of armed robbery, we, the jury, find the Defendant guilty or
23 not guilty. As to the charge of kidnapping, we, the jury,
24 find the Defendant guilty or not guilty.

25 With respect to the two kidnapping charges I have

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1 written the name of the two alleged victims on top of that
2 particular charge, one being Aaron Kretzschmar and the other
3 being Grady Terrell Pugh.

4 As to the charge of criminal conspiracy, we, the jury,
5 find the Defendant guilty or not guilty. You will be asked
6 to determine the verdict on each of the charge with each of
7 the Defendants.

8 Now, ladies and gentlemen, your verdict must be the
9 unanimous verdict of all twelve jurors. It cannot be 11/1,
10 9/3, 7/5. It has to be the unanimous verdict of all twelve
11 jurors.

12 Mr. Foreman, what I'm going to ask you to do, as you
13 determine the verdict of each Defendant as to each charge,
14 I'm going to ask you to check what that is, guilty or not
15 guilty, and initial by your check. When you have reached a
16 verdict as to both Defendants on all the charges, I'm going
17 to ask you to sign the verdict form.

18 The verdict is -- well, it's dated as I prepared it
19 yesterday. I'm changing the date to June 9. It says June
20 8. So you don't need to date it. Once you have determined
21 your verdict and reached your verdict on all the charges as
22 to both Defendants, then, I think, what you do, you push a
23 button or do something in there, right?

24 **THE BAILIFF:** Yes, sir.

25 **THE COURT:** In Richland County, we just knock on the

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1 door and the bailiff comes and gets you. But when you do
2 that, if you will -- the bailiff will explain what you do
3 once you've reached the verdict on both Defendants as to all
4 charges. Then we will bring you back into the courtroom so
5 that you can have your verdicts published.

6 Now, in just a moment I'm going to ask everybody but
7 the alternates to step back to the jury room. When you get
8 back to the jury room, do not begin your deliberations. I
9 have to review with the attorneys the charges that I just
10 gave you.

11 If they believe I either failed to instruct you in some
12 way or additional -- or incorrectly instructed, and I agree
13 with them, I'll bring you back and give you those
14 instructions. If not, I will have these verdict forms along
15 with all of the evidence that has been introduced brought to
16 the jury room and you can begin your deliberations.

17 Now, as you know, we've ordered lunch. And that lunch
18 should be back in your jury room. You can deliberate and
19 eat, you can eat and not deliberate, whatever you want to
20 do, but just make sure that all of you agree that whatever
21 you're doing, everybody agrees to it. All right.

22 If y'all will step back to the jury room. Do not begin
23 your deliberations. And we will be with you momentarily.

24 (Whereupon the jury exited the courtroom at 1:24 pm)

25 **THE COURT:** All right. Ladies, apparently all of your

1 colleagues survived the four day ordeal. And so we're going
2 to be able to allow them to go forward with the
3 deliberations. And we're going to be able to turn you
4 loose.

5 I don't know how you feel about that. I've had jurors
6 tell me different things. Sometimes they say, man, I stayed
7 there and worked like the dickens and listened and I sure
8 wanted to participate in that verdict. And sometimes they
9 say, man, I'm sure glad I don't have to make that decision.

10 But when you get a lengthy jury -- trial like we had,
11 it's essential that we have alternates because oftentimes we
12 lose a juror or two in the trial. So I do thank you very
13 much for your service.

14 You are going to get a lunch. And you are welcome to
15 stay up here. We'll put you in a jury room somewhere and
16 y'all can eat and talk about what you would have done or you
17 can take your lunch and go wherever you want to go.

18 I'm going to turn you loose from any further jury
19 service. I don't know if there's any other trials going on
20 in here.

21 You should get a strong token of appreciation of the
22 people of Greenville County by a check at some point in time
23 in the future, which will be very little. But we can't
24 operate without y'all as you've -- I'm sure you've seen in
25 this process.

1 And I hope if you have the opportunity to serve in the
2 future that you will make yourself available because you are
3 critical to the process.

4 Now, I know Ms. Simpson said y'all are more important
5 than I am, and it hurt my feelings a little bit, but you are
6 essential because you're the same as me. You're the judges
7 of the facts, and I'm the judge of the law. So I thank you
8 very much. And we'll turn you loose.

9 And I guess if y'all will take their badges and give
10 them their lunch. And if they want a place to eat and stay
11 up here, then provide that to them, and give them something
12 to drink and their food. If you eat here, maybe I'll come
13 down and speak to you. So, all right. Thank y'all. Y'all
14 have a nice -- if I don't see you, y'all have a nice
15 weekend.

16 (Whereupon the alternates exited the courtroom)

17 (Whereupon someone in the gallery stood up to leave)

18 **THE COURT:** All right. Ma'am, if you'll have a seat.
19 Please have a seat. I'm not finished. Any further --
20 anything from the State with respect to the instructions?

21 **MS. SIMPSON:** No, Your Honor.

22 **THE COURT:** Anything from Mr. Yarborough?

23 **MR. YARBOROUGH:** No, sir, Your Honor.

24 **THE COURT:** Anything from Ms. Ross?

25 **MS. ROSS:** None other than you put my request on

VERDICT OF THE JURY

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1 exhibit, and I crossed out number 4.

2 **THE COURT:** All right. If y'all would like to get with
3 our trusty court reporter and clerk of court and make sure
4 we have all the exhibits. I understood one was missing at
5 some point in time. And I assume we found it?

6 **MADAME COURT REPORTER:** Yes, sir.

7 **THE COURT:** All right. We will stand in recess and see
8 what happens.

9 (Whereupon court was in recess at 1:28 pm)

10 (Whereupon the jury received the evidence and verdict
11 forms and began deliberating at 1:35 pm)

12 (Whereupon court reconvened at 2:59 pm)

13 **THE COURT:** All right. Are we ready to bring the jury
14 in? State ready to proceed with the verdict?

15 **MR. FRETWELL:** Yes, Your Honor.

16 **THE COURT:** Mr. Yarborough, you ready?

17 **MR. YARBOROUGH:** Yes, sir.

18 **THE COURT:** Ms. ---

19 **MS. ROSS:** Yes, Your Honor.

20 **THE COURT:** --- Ross? I don't want any outbursts. I
21 don't know what this verdict is, but let's behave ourselves.
22 All right. If you could, Mr. Bailiff.

23 (Whereupon the jury entered the courtroom at 3:01 pm)

24 **THE COURT:** All right. Mr. Foreman, it's been reported
25 that the jury's reached a verdict on these two cases.

VERDICT OF THE JURY

1 **MR. FOREMAN:** Yes, sir.

2 **THE COURT:** And this is -- you've reached a verdict on
3 both Defendants?

4 **MR. FOREMAN:** Yes, sir.

5 **THE COURT:** And it's a unanimous verdict of all twelve
6 jurors?

7 **MR. FOREMAN:** Yes, sir.

8 **THE COURT:** All right. If you would hand the verdict
9 forms to the bailiff, please, sir.

10 (Pause)

11 **MADAME CLERK:** In the case 2014-GS-23-10507, State
12 versus Gerald Akeem Gadsden, as to the charge, armed
13 robbery, we, the jury, find the Defendant guilty.

14 As to the charge of kidnapping Aaron Kretzschmar, we,
15 the jury, find the Defendant guilty.

16 As to the charge of kidnapping Gerald [sic] Terrell
17 Pugh, we, the jury, find the Defendant guilty.

18 As to the charge of conspiracy, we find the -- we, the
19 jury, find the Defendant guilty.

20 In 2014-GS-23-3815, the State versus James Damon Lanar
21 White, as to the charge of armed robbery, we, the jury, find
22 the Defendant guilty.

23 As to the charge of Aaron Kretzschmar of kidnapping,
24 we, the jury, find the Defendant guilty.

25 As to the charge of kidnapping Gerald [sic] Terrell

VERDICT OF THE JURY

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1 Pugh, we, the jury, find the Defendant guilty.

2 As to the charge of conspiracy, we, the jury, find the
3 Defendant guilty.

4 **THE COURT:** All right. Anything from the State with
5 respect to the verdicts?

6 **MR. FRETWELL:** No, Your Honor.

7 **THE COURT:** Anything from the ---

8 **MR. YARBOROUGH:** No, sir, Your Honor.

9 **THE COURT:** Anything from you?

10 **MS. ROSS:** Judge, I'd just ask to poll the jury and
11 poll on the issue of looking up Mr. Gadsden on the computer.

12 **THE COURT:** I'm sorry?

13 **MS. ROSS:** I would just ask to poll the jury on the
14 verdict and poll the jury on looking up anything about the
15 Defendant on the computer. Googling his name on the
16 computer or phone. I think this is something ---

17 **THE COURT:** All right.

18 **MS. ROSS:** --- we've asked before, but I ---

19 **THE COURT:** Well, I've inquired that every day they've
20 been here. They haven't left the courtroom -- courthouse
21 today, but ---

22 **MS. ROSS:** I understand, Judge.

23 **THE COURT:** All right. Can we poll the jury with
24 respect to Mr. Gadsden?

25 **MADAME CLERK:** The verdict I have published was the

VERDICT OF THE JURY

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1 verdict you reached in the jury room. I ask you was it your
2 verdict then and is it your verdict now? When I call your
3 name, answer yes or no. And this is for Gerald Akeem
4 Gadsden. Juror number 59, Debra Dasilva.

5 **MS. DASILVA:** Yes.

6 **MADAME CLERK:** Juror number 30, Jody Boyle.

7 **MR. BOYLE:** It is.

8 **MADAME CLERK:** Juror number 83, Todd Gillespie.

9 **MR. GILLESPIE:** Yes, ma'am.

10 **MADAME CLERK:** Juror number 179, Greg Owens.

11 **MR. OWENS:** Yes.

12 **MADAME CLERK:** Juror number 81, Joann Garrett.

13 **MS. GARRETT:** Yes.

14 **MADAME CLERK:** Juror number 241, Jason Wise.

15 **MR. WISE:** Yes.

16 **MADAME CLERK:** Juror number 163, Ashley Moore.

17 **MS. MOORE:** Yes, ma'am.

18 **MADAME CLERK:** Juror number 232, Stewart White.

19 **MR. WHITE:** Yes.

20 **MADAME CLERK:** Juror number 193, Alan Redmon.

21 **MR. REDMON:** Yes.

22 **MADAME CLERK:** Juror number 109, Robert Hogan.

23 **MR. HOGAN:** Yes, ma'am.

24 **MADAME CLERK:** Juror number 121, Beverly James.

25 **MS. JAMES:** Yes, ma'am.

VERDICT OF THE JURY

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1 **MADAME CLERK:** Juror number 102, James Harris.

2 **MR. HARRIS:** Yes.

3 **THE COURT:** All right. Anything else with respect to
4 the jury?

5 **MS. ROSS:** No, Your Honor.

6 **THE COURT:** All right. Ladies and gentlemen of the
7 jury, I thank you very much for your service in these cases.
8 As you see, you are absolutely critical to the whole
9 process. We could not do it without you.

10 And I know these are tough cases, which, I think, one
11 of the lawyers remarked about how attentive you were. And I
12 think you were very attentive in this case. And I thank you
13 for that.

14 And we are going to turn you loose. You will be
15 getting a small token of appreciation from the County of
16 Greenville in the form of money at some point in time for
17 your service, but don't plan on a big night with it.

18 And I hope if you have the opportunity to come back and
19 serve again you will certainly avail yourself to do so now
20 that you realize how serious this process is and how
21 important it is that we get good people who are willing to
22 serve.

23 So if you will go with the bailiff, he will take you
24 back to the jury room, and we'll turn you loose. And y'all
25 have a nice weekend.

SENTENCE OF THE COURT

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1 (Whereupon the jury exited the courtroom at 3:07 pm)

2 **THE COURT:** All right. We got the sentencing sheets?

3 **MR. FRETWELL:** We do, Your Honor.

4 **THE COURT:** Mr. Yarborough, if I can get you and your
5 client and Ms. Ross. All right. Mr. Solicitor, anything
6 you want to tell me?

7 **MR. FRETWELL:** Yes, sir. Your Honor, at this time I
8 would like to make as a Court's exhibit -- Mr. White, I have
9 his prior record. 2007, habitual traffic offender, assault
10 with a high and aggravated nature and criminal conspiracy.

11 **THE COURT:** Wait a minute. 2007 what?

12 **MR. FRETWELL:** 2007, ---

13 **THE COURT:** HTO?

14 **MR. FRETWELL:** --- and AHAN and criminal conspiracy.
15 2009, also from South Carolina, ABHAN with misdemeanor,
16 unclassified. In Georgia, 2010, robbery and possession of a
17 firearm by a convicted felon.

18 **THE COURT:** All right. Anything else you want to tell
19 me?

20 **MR. FRETWELL:** No, Your Honor, unless Sergeant Weiner
21 wants to speak on behalf of law enforcement.

22 **THE COURT:** Well, I'm not concerned about -- any of the
23 victims here ---

24 **MR. FRETWELL:** No, I was not able to get them back in
25 time, Judge.

SENTENCE OF THE COURT

815

1 **THE COURT:** All right. Mr. Yarborough.

2 **MR. YARBOROUGH:** Your Honor, if the Court please. I've
3 spent a lot of time with James over the course of the last
4 three or four months getting ready for trial. He's --
5 always found him to be a pleasant -- he shows up when he's
6 supposed to show up. He's helped me throughout this trial.
7 He's a good guy. All my experience has been with him, him
8 being a good guy.

9 His mother and father are here with him. They have
10 been supportive throughout this process. He was working,
11 obviously, as a dishwasher. And he was trying to make it as
12 a rap artist.

13 He's always maintained his innocence in this. But I
14 will tell you this, that the testimony at trial was that he
15 was a good employee. And so I think at some point that
16 speaks highly for him. I'd ask the Court to be as lenient
17 on him as possible.

18 **THE COURT:** Anything your client wants to say?

19 **MR. WHITE:** I'm just going to maintain my ---

20 **THE COURT:** I need you to speak up a little bit.

21 **MR. WHITE:** I'm going to maintain my innocence and
22 that's about it.

23 **THE COURT:** I could not understand what you said.

24 **MR. WHITE:** I'm going to maintain my innocence ---

25 **THE COURT:** Oh, you maintain your innocence. Okay.

SENTENCE OF THE COURT

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1 **MR. WHITE:** And the State hasn't proven any physical
2 evidence or whatnot. You know, I'm going to leave it at
3 that.

4 **THE COURT:** All right.

5 (Pause)

6 **THE COURT:** All right. On the armed robbery the
7 sentence of this Court, you be committed to the Department
8 of Corrections to a term of twelve years plus costs and
9 assessments.

10 On kidnapping, the sentence of this Court, you be
11 committed to the Department of Corrections for term of
12 twelve years plus costs and assessments as applicable. The
13 other kidnapping, the sentence of this Court, you be
14 committed to the Department of Corrections for a term of
15 twelve years plus costs and assessments as applicable.

16 And on the conspiracy, you be committed to the
17 Department of Corrections for a term of five years. These
18 sentences are run concurrent. And you will get whatever
19 credit for time served you have. You pay any costs within
20 ninety days from the release from the Department of
21 Corrections.

22 **MR. YARBOROUGH:** Thank you, Your Honor.

23 **MR. WHITE:** Thank you, Your Honor.

24 **THE COURT:** All right, Mr. Solicitor.

25 **MR. FRETWELL:** May it please the Court, Your Honor. In

SENTENCE OF THE COURT

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1 conformance with the statutory code 17-25-45 the State would
2 like to have marked as Court's exhibit the notice of intent
3 to seek life without parole on Mr. Gadsden, which is
4 combined with an affidavit of service that was served on
5 Attorney Susannah Ross at her office on the 27th day of
6 April. And we also have an affidavit of service where the
7 notice was served on Mr. Gadsden in the Anderson County
8 Detention Center on May 2nd, 2016.

9 As a final Court's exhibit, the underlying certified
10 copy of the conviction for assault and battery with intent
11 to kill from 2008, which does qualify under the statute. It
12 is connected with several other items of certified
13 convictions from the Clerk of Court in Berkeley County. We
14 just ask that we make it one exhibit for the purpose of the
15 Court.

16 In addition to the ABWIK charge from 2008, Mr. Gadsden
17 has a 2014 conviction for giving or offering bribes to
18 officer and receiving stolen goods.

19 (Whereupon Court's exhibits 9, 10 and 11 were marked)

20 **THE COURT:** All right. Now, you noticed him on the two
21 kidnapping and the armed robbery charge or just the armed
22 robbery?

23 **MR. FRETWELL:** No, sir. I noticed him on all three.

24 **THE COURT:** All right, Ms. Ross.

25 **MS. ROSS:** Thank you, Your Honor. May it please the

SENTENCE OF THE COURT

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1 Court. I understand your hands are tied. I'd again object
2 to the LWOP being presented today. I believe it's arbitrary
3 and cruel and unusual punishment. And it was issued after
4 Mr. Gadsden failed to appear in court in April due to
5 seeking mental health assistance.

6 Mental health issues certainly have pervaded through my
7 representation of Mr. Gadsden, certainly during the latter
8 part. So I would object to that. But, otherwise, I
9 understand that as it is, your hands are tied.

10 **THE COURT:** Your client want to say anything?

11 **MR. GADSDEN:** Me, Your Honor?

12 **MS. ROSS:** Yes.

13 **MR. GADSDEN:** All I'd like to say is that I understand
14 that you are a judge and what you are here for. And I would
15 like to ask you to not tread on me.

16 **THE COURT:** I'm sorry, ask me what?

17 **MS. ROSS:** Not tread on him, like the snake on the New
18 Hampshire flag. Don't tread on me. We talked about that.

19 **THE COURT:** Well, ...

20 (Pause)

21 **THE COURT:** Mr. Gadsden, I don't know about treading on
22 you as your lawyer has said. I don't have any discretion on
23 this case. I'm not a big fan of -- in many instances of
24 this life without parole.

25 If the State hadn't have sought it, I would not have on

SENTENCE OF THE COURT

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1 my own sentenced you to a sentence such as this based on
2 what I heard in this case. But when you made that decision
3 -- I think you and your lawyer made that decision or you
4 made it and you took any control over that out of my hands.

5 So with respect to the armed robbery, 2014-GS-23-10507,
6 the sentence of this Court, you be committed to the
7 Department of Corrections for a term of life without parole
8 pursuant to 17-25-45, code of laws of South Carolina plus
9 costs and assessments.

10 On indictment 2014-GS-23-10507, kidnapping, sentence of
11 this Court, you be committed to a sentence of life without
12 parole plus costs and assessments pursuant to the 17-25-45,
13 the code of laws of South Carolina.

14 As to indictment 2014-GS-23-10507, kidnapping, the
15 sentence of this Court, you be committed to Department of
16 Corrections for a term of life without parole pursuant to
17 17-25-45 code of laws of South Carolina.

18 And with respect to the conspiracy charge, 2014-GS-21-
19 [sic] 10507, sentence of this Court, you be committed to the
20 Department of Corrections for a term of five years plus
21 costs and assessments. I'm going to run them all
22 concurrent. And on the ones that -- credit now matters, I
23 will give you credit for the time that you have served.

24 **MR. FRETWELL:** Thank you, Your Honor.

25 **MS. ROSS:** Thank you, Judge.

SENTENCE OF THE COURT

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- 1 **THE COURT:** Good luck to you.
- 2 (Hearing Ended at 3:20 pm)
- 3 (End of Requested Transcript of Record)

Certificate of Reporter

I, the undersigned, Susan W. Hudgins, Official Court Reporter for the Thirteenth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete transcript of record of all the proceedings had and evidence introduced in the trial/hearing of the captioned case, relative to appeal, in the Circuit Court for Greenville County, South Carolina, on the 6th - 9th day of June 2016.

I do further certify that I am neither of kin, counsel, nor interest to any party hereto.

October 8, 2016

S/ Susan W. Hudgins
Circuit Court Reporter

STATE OF SOUTH CAROLINA	)	COURT OF GENERAL SESSIONS
	)	2014-GS-23-3815
COUNTY OF GREENVILLE	)	2014-GS-23-10507
	)	
	)	
	)	
	)	

STATE OF SOUTH CAROLINA,
PLAINTIFF,

vs.

) TRANSCRIPT OF RECORD

JAMES DAMON LANAR WHITE and)
GERALD AKEEM GADSDEN,)
DEFENDANTS.)

April 11, 2016
Greenville, South Carolina

B E F O R E:

THE HONORABLE JAMES R. BARBER, III, JUDGE

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

ALLEN O. FRETWELL, ESQ.
NICOLE MARIE SIMPSON, ESQ.
Assistant Solicitor

WILLIAM G. YARBOROUGH, III, ESQ.
Attorney for Defendant White

SUSANNAH CONYERS ROSS, ESQ.
Attorney for Defendant Gadsden

CHERYL A. SMITH
Circuit Court Reporter

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EXHIBITS

<u>NO</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EVD</u>
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(All exhibits were returned to law enforcement at the
conclusion of the hearing.)

P R O C E E D I N G S

1
2 THE COURT: This is the case of the State of South
3 Carolina vs. James Damon White and Gerald Akeem Gadsden.
4 And my information is that Mr. Gadsden has not made himself
5 available here today. Is that correct, Ms. Ross?

6 MS. ROSS: Yes. That's correct, Your Honor.

7 THE COURT: She had some inclination that that might,
8 in fact, be the case. He had been here on prior occasions,
9 either in custody or not in custody, but had appeared and
10 did not today. I've signed a bench warrant. As a result,
11 we will not be going forward with the trial of this case
12 this week.

13 But there is an outstanding motion to suppress that
14 has been filed by Mr. Yarborough on behalf of his client,
15 James White, that I think we're going to go ahead and hear
16 that motion to suppress here this morning with the
17 understanding that if Mr. Gadsden is located today, then we
18 will look at trying it beginning tomorrow. If he's not
19 located today, then the matter will be carried over. And
20 I'm scheduled to be back in Greenville in June. I think
21 it's the first week in June or so. And assuming that they
22 have located Mr. Gadsden by then, then that case will be
23 called in front of me and we will go forward with the trial
24 at that time. If he's not been located, then we'll have to
25 deal with it, again, see what the solicitor's position is

1 and what Mr. Yarborough and Ms. Ross' position would be at
2 that time.

3 Anything -- is that basically where we are,
4 Mr. Fretwell?

5 MR. FRETWELL: That sounds like the State's
6 recollection of your ---

7 THE COURT: It's my understanding is the motion that
8 we are going to hear this morning, motion to suppress --
9 well, Ms. Ross may tangentially join in.

10 MS. ROSS: I would like to join in that motion.

11 THE COURT: She's hoping that Mr. Yarborough has great
12 success. But it really does not affect her client, and so
13 it's not a matter of -- I mean, it's not his motion.

14 MS. ROSS: We would have made that motion pretrial had
15 he been here, and he would like to join in that motion.
16 And I would argue that since ---

17 THE COURT: My concern, if this is going to be his
18 motion, then I don't know how we're going to hear it today.
19 Either he's going to be found at some point in time or
20 you're seeking to orally join in the motion here today. I
21 know you anticipate Mr. Yarborough doing the bulk of the
22 arguing, but ---

23 MR. FRETWELL: May it please the Court Your Honor.

24 THE COURT: Yes, sir.

25 MR. FRETWELL: I think it's the State's position, I

1 believe it was the Court's position in chambers that
2 Mr. Gadsden doesn't really have a standing to assert this
3 motion at this time. Certainly if, at some later point,
4 Mr. Gadsden was picked up and wanted to attempt at that
5 time to assert a similar type of motion, that would be up
6 to yourself or the other Circuit Court judge who heard that
7 case. But it's my understanding it was filed by
8 Mr. Yarborough.

9 THE COURT: I think that's clear.

10 MR. FRETWELL: Yes, sir.

11 MS. ROSS: Well, the motion, the writing motion was
12 filed, but I had, as a pretrial motion, the motion to
13 suppress.

14 Similarly, on the standing argument, I would argue
15 that Mr. Gadsden has standing because he had a legitimate
16 expectation of privacy as to the pictures and the images
17 that were on his phone. When the police found those images
18 and looked into that information, according to my
19 understanding of the discovery, they had already made
20 contact with "Ma," who was Mr. Gadsden's mother, so they
21 knew it was his phone. They knew it was not Mr. White's
22 phone at that point, and therefore, going in to delve into
23 the private information on that phone would violate
24 Mr. Gadsden's rights.

25 THE COURT: Well, you're really arguing on a different

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STATE OF SOUTH CAROLINA

COUNTY OF
STATE

Berkeley

VS.

GERALD A. GADSDEN

AKA:

Race: B Sex: M Age: 18

DOB: SS#:

Address:

St Stephen, SC 29479

DL#: 0101073602 SID#: SCJ9006573

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 07-GS-08-2027

A/W#: H924138

Date of Offense: 9/8/2007

S.C. Code § : 16-03-0620

CDR Code #: 0014

COURT'S

EXHIBIT NO. 11

IDENTIFICATION/EVIDENCE

DKT.#

DATE: 6/9/16

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was ☐ CONVICTED OF or ☒ PLEADS TO: ABWIK/Assault and Battery with Intent to Kill

in violation of § 16-03-0620 of the S.C. Code of Laws, bearing CDR Code # 0014

☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC ☐ §17-25-45

w/minor 1st or Lewd Act)

The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (Defendant initial)The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Mikell M. Henderson

Gerald A. Gadsden
DefendantKeshia V. White
Attorney for DefendantWHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center, for a determinate term of 12 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for 4 months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.☐ CONCURRENT or ☐ CONSECUTIVE to sentence on: _____☐ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections.☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

SPECIAL CONDITIONS:

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

PTUP

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

Payment Terms: _____

☐ set by SCDPPPS _____

Recipient: _____

*Fine:

§ 14-1-206 (Assessments 107.5 %) \$

§ 14-1-211(A)(1) (Conv. Surcharge) \$100 \$ 100.00

§ 14-1-211(A)(2) (DUI Surcharge) \$100 \$

§ 56-5-2995 (DUI Assessment) \$12 \$

§ 35.13 (Public Def/Prob) \$500 \$ 500.00

§ 73.3, 1B TP (Law Enforce. Funding) \$25 \$ 25.00

§ 33.7, 1B TP (Drug Court Surcharge) \$100 \$

§ 50-21-114(BUI Breath Test Fee) \$50 \$

§ 56-5-2942(J) (Vehicle Assessment) \$40/ea \$

3% to County (if paid in installments) \$ 18.75

TOTAL \$ 643.75

_____ days/hours Public Service Employment

Obtain GED _____

Attend Voc. Rehab. or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling _____

Random Drug/Alcohol testing _____

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

\$ _____ paid to Public Defender Fund

Other: _____

No Contact w/ Victim

☒ Appointed PD or appointed other counsel §35.13 TP
Requires \$500 be paid to Clerk during probation.

CERTIFIED TRUE COPIES OF RECORD

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

DATE 11/10/15

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

BERKELEY COUNTY

Court Reporter: Harry Walker

SCCA/217 (10/2007)

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Berkeley
STATE VS.
Gerald Akeem Gadsden
AKA:
Race: BLACK Sex: M Age: 24
DOB: SS#:
Address:
City, State, Zip: Saint Stephen, SC 29479-3233
DL#: 101073602 SID#:

INDICTMENT/CASE#: 2014GS0801489
A/W#: 2014A0820100009
Date of Offense: 3/19/2014
S.C. Code § : 16-09-0210
CDR Code #: 0262

SENTENCE SHEET

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐
In disposition of the said indictment comes now the Defendant who was
TO: Bribes / Giving or offering bribes to officers

☐ CONVICTED OF or ☒ PLEADS

in violation of § 16-09-0210 of the S.C. Code of Laws, bearing CDR Code # 0262
☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC ☐ §17-25-45
w/minor 1st or Lewd Act)

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

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

ATTEST: 100437 SC Bar# Defendant Attorney for Defendant SC Bar#
Szymczyk, Sas, Kamila

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
for a determinate term of 182 days/months/years or ☐ under the Youthful Offender Act not to exceed years
and/or to pay a fine of \$ 1000.00; provided that upon the service of days/months/years and/or payment
of \$; plus costs and assessments as applicable*; the balance is suspended with probation for

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

☐ CONCURRENT or ☐ CONSECUTIVE to sentence on:
☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied
by the State Department of Corrections. 182 days
☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

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

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waiver Hearing ☐ Ordered
Total: \$ plus 20% fee: \$
Payment Terms:
☐ Set by SCDPPPS

PTUP
 days/hours Public Service Employment
Obtain GED ☐
Attend Voc. Rehab. or Job Corp.
May serve W/E beginning
Substance Abuse Counseling ☐
Random Drug/Alcohol testing ☐
Fine may be pd. in equal, consecutive weekly/monthly
pmts. of \$ beginning
\$ paid to Public Defender Fund
Other:

Recipient:
*Fine: \$ 1,000.00
§ 14-1-206 (Assessments 107.5 %) \$ 1,075.00
§ 14-1-211(A)(1) (Conv. Surcharge) \$100 \$ 1100.00
§ 14-1-211(A)(2) (DUI Surcharge) \$100 \$
§ 56-5-2995 (DUI Assessment) \$12 \$
§ 56-1-286 (DUI Breath Test) \$25 \$
Proviso 47.9 (Public Def/Prob) \$500 \$
§ 14-1-212 (Law Enforce. Funding) \$25 \$ 25.00
§ 14-1-213 (Drug Court Surcharge) \$150 \$
§ 50-21-114(BUI Breath Test Fee) \$50 \$
§ 56-5-2942(J) (Vehicle Assessment) \$40/ea \$
Proviso 90.5 (SCCJA Surcharge) \$5 \$ 5.00
3% to County (if paid in installments) \$ 67.50
TOTAL \$ 2,271.50

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

Clerk of Court/ Deputy Clerk
Court Reporter: Mia Person
SCCA/217 (03/2011)

CERTIFIED TRUE COPIES OF RECORD
IN THIS COUNTY

DATE 11/10/15 CLERK OF COURT, C.P. & O.B.
BERKELEY COUNTY Amst

COUNTY OF
STATE

Berkel

VS.

GERALD A. GADSDEN

AKA:

Race: B Sex: M Age: 18

DOB: SS#:

Address:

St Stephen, SC 29479

DL#: 0101073602 SID#: SCJ9006573

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 07-GS-08-2028

A/W#: 11924139

Date of Offense: 9/8/2007

S.C. Code § 16-23-0020, 0050(A)(2)

CDR Code #: 0044

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was ☐ CONVICTED OF or ☒ PLEADS TO: Unlawful Possession of a Pistol

in violation of § 16-23-0020, 0050(A)(2) of the S.C. Code of Laws, bearing CDR Code # 0044

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

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

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

ATTEST:

Mikell M. Henderson
Mikell M. Henderson

Gerald A. Gadsden
Defendant

Kesha V. White
Attorney for Defendant

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center, for a determinate term of _____ days/months/years or ☒ under the Youthful Offender Act not to exceed 5 years and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment of \$ _____, plus costs and assessments as applicable*; the balance is suspended with probation for _____ months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☐ CONCURRENT or ☐ CONSECUTIVE to sentence on: _____

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

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

SPECIAL CONDITIONS:

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

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

Payment Terms: _____

☐ set by SCDPPPS _____

Recipient: _____

*Fine:	\$
§ 14-1-206 (Assessments 107.5 %)	\$
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100 \$ 100.00
§ 14-1-211(A)(2) (DUI Surcharge)	\$100 \$
§ 56-5-2995 (DUI Assessment)	\$12 \$
§ 35.13 (Public Def/Prob)	\$500 \$
§ 73.3, 1B TP (Law Enforce. Funding)	\$25 \$ 25.00
§ 33.7, 1B TP (Drug Court Surcharge)	\$100 \$
§ 50-21-114(BUI Breath Test Fee)	\$50 \$
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea \$
3% to County (if paid in installments)	\$ 3.75
TOTAL	\$ 128.75

_____ days/hours Public Service Employment

Obtain GED

Attend Voc. Rehab. or Job Corp.

May serve W/E beginning

Substance Abuse Counseling

Random Drug/Alcohol testing

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

\$ _____ paid to Public Defender Fund

Other: _____

☐ Appointed PD or appointed other counsel, §35.13 TP Requires \$500 be paid to Clerk during probation.

CERTIFIED TRUE COPIES OF RECORD

IN THIS COUNTY

Judge: _____

Sentence Dates: _____

DATE

11/10/15

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

BERKELEY COUNTY, ARK

SCCA/217 (10/2007)

Court Reporter:

Harry Walker

Clerk of Court/ Deputy Clerk

10



MARY P. BROWN

**CLERK OF COURT
BERKELEY COUNTY**

GENERAL SESSIONS COURT

POST OFFICE BOX 219

MONCK'S CORNER, SOUTH CAROLINA 29461-0219

(843) 719-4400 (843) 567-3311 (843) 723-3800

FILED
MARY P. BROWN
CLERK OF COURT
BERKELEY COUNTY, S.C.

15 NOV 10 AM 9:59

FILED
AMH

TO: T. Lynn Crouch
RE: Gerald Gadsden

The enclosed document is being returned for the following reason(s):

- ☐ This Order needs to be sent to Berkeley County General Sessions Administrative Judge for Signature.
- ☐ Requires original signature.
- ☐ This document is a copy. We must file original.
- ☐ We do not do criminal records check.
- ☐ This is not a Berkeley County Case.
- ☐ Please provide case number.
- ☒ Attached is the requested information.
- ☐ Contact Court Administration for transcript at the following address:
1220 Senate Street, Suite 200, Columbia, SC 29201-3739
- ☐ Information may be obtained from our web-site at www.berkeleycountysc.gov.
- ☐ Other _____

Please make the necessary corrections and return this document for filing.
Thank you for your assistance.

Staff Initials AMH

Date 11/10/15

STATE OF SOUTH CAROLINA)
)
 COUNTY OF GREENVILLE)

IN THE COURT OF GENERAL SESSIONS

INDICTMENT(S): 2014 GS-23-10507

Warrant(s): 2014A2330200745; 46 & 47

State of South Carolina,)
)
 -vs-)
)
 Gerald Akeem Gadsden,)
 Defendant.)

**NOTICE OF INTENT TO SEEK SENTENCE
 OF IMPRISONMENT FOR LIFE
 WITHOUT POSSIBILITY OF PAROLE**

FILED IN THE COURT
 OF THE THIRTEENTH JUDICIAL CIRCUIT
 PAUL D. GENSINGER
 CLERK
 GREENVILLE CO. SC
 2016 APR 26 AM 11:35

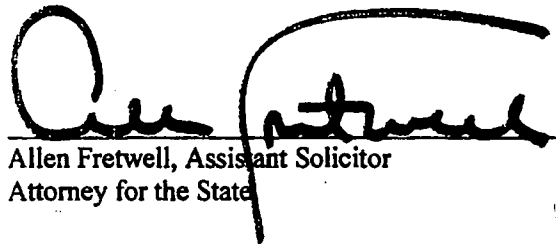
To: Gerald A. Gadsden, Defendant, and Susannah Ross, Esq., Attorney for Defendant

PLEASE TAKE NOTICE that the State, through the Office of the Thirteenth Judicial Circuit Solicitor, will seek a sentence of imprisonment for life without the possibility of parole should the Defendant suffer conviction on the charge of:

- 1) Armed Robbery
 (and/or)
- 2) Kidnapping

The State will seek this sentence pursuant to South Carolina Code of Laws Section 17-25-45 (1999) based on the Defendant's prior conviction(s) as follows:

- 1) Assault and Battery with Intent to Kill
 2007 GS-08-2027
 S.C. Code § 16-3-620
 Date of Conviction: March 6, 2008


 Allen Fretwell, Assistant Solicitor
 Attorney for the State

April 26, 2016
 Greenville, South Carolina

WITNESSES

David Weiner

Greenville County Sheriffs Office

9/25/2014

ARREST WARRANT NUMBER

2014A2330200745, 2014A2330200746,
2014A2330200747, 2014A2330200748,
2014A2330200749, 2014A2330200750

**ACTION OF GRAND JURY
TRUE BILL**

FOREMAN GRAND JURY

Foreperson of Grand Jury

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2014-GS-23-

AOF

The State of South Carolina

County of Greenville

COURT OF GENERAL SESSIONS

November

TERM 2014

THE STATE

vs.

GERALD AKEEM GADSDEN

Indictment for

0139, 0095, 0086, 0049 and 0549

ARMED ROBBERY, KIDNAPPING, BURGLARY
SECOND DEGREE, CONSPIRACY AND
POSSESSION OF A WEAPON DURING THE
COMMISSION OF A VIOLENT CRIME

VIOLATION § 16-11-0330, §16-3-910, §16-11-312,
§16-17-410 and §16-23-490

010507

STATE OF SOUTH CAROLINA)
)
 COUNTY OF GREENVILLE)

INDICTMENT FOR
 ARMED ROBBERY, KIDNAPPING, BURGLARY SECOND
 DEGREE, CONSPIRACY AND POSSESSION OF A WEAPON
 DURING THE COMMISSION OF A VIOLENT CRIME

At a Court of General Sessions, convened on NOV 25 2014 the Grand Jurors of Greenville
 County present upon their oath:

COUNT 1 — ARMED ROBBERY

That GERALD AKEEM GADSDEN did in Greenville County, on or about the 20th day of January, 2014, while armed with a deadly weapon, or while alleging either by action or words he was armed while using a representation of a deadly weapon or any object which a person present during the commission of the robbery would reasonably believe to be a deadly weapon, take by means of force or intimidation, goods or monies described as: U.S. CURRENCY belonging to OLIVE GARDEN from the person or presence of AARON KRETZSHMAR. This is in violation of §16-11-330 of the South Carolina Code of Laws (1976) as amended.

COUNT 2 — KIDNAPPING

That GERALD AKEEM GADSDEN did in Greenville County, on or about the 20th day of January, 2014, unlawfully seize, abduct, confine, inveigle, decoy or carry away AARON KRETZSHMAR, without the authority of law. This is in violation of §16-3-910 of the South Carolina Code of Laws (1976) as amended.

COUNT 3 — KIDNAPPING

That GERALD AKEEM GADSDEN did in Greenville County, on or about the 20th day of January, 2014, unlawfully seize, abduct, confine, inveigle, decoy or carry away GRADY TERRELL PUGH, without the authority of law. This is in violation of §16-3-910 of the South Carolina Code of Laws (1976) as amended.

COUNT 4 — BURGLARY SECOND DEGREE

That GERALD AKEEM GADSDEN did in Greenville County, on or about the 20th day of January 2014, willfully and unlawfully enter the restaurant belonging to OLIVE GARDEN, located at 3290 North Pleasantburg Drive, Greenville, South Carolina, without consent and with the intent to commit a crime therein, accompanied by circumstances of aggravation, to wit: Armed With a Deadly Weapon, and/or Did Cause Injury to Any Person Who is not a Participant in the Crime, and/or Use or Threaten the Use of a Dangerous Instrument, and/or Displays What Appears to be a Knife, Pistol, Revolver, Rifle, Shotgun, Machine Gun or Other Firearm, and/or the Entering and/or Remaining Did Occur During Hours of Darkness. This is in violation of §16-11-312 of the South Carolina Code of Laws (1976) as amended.

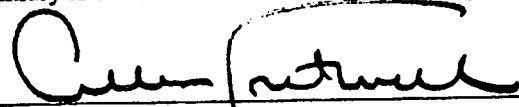
COUNT 5 — CONSPIRACY

That GERALD AKEEM GADSDEN did in Greenville County, on or about the 20th day of January 2014, willfully and unlawfully combine with JAMES DAMON LANAR WHITE for the purpose of accomplishing an unlawful object or a lawful object by unlawful means, to wit: ARMED ROBBERY and/or KIDNAPPING and/or BURGLARY SECOND DEGREE. This is in violation of §16-17-410 of the South Carolina Code of Laws (1976) as amended.

COUNT 6 — POSSESSION OF A WEAPON DURING THE COMMISSION OF A VIOLENT CRIME

That GERALD AKEEM GADSDEN did in Greenville County on or about the 20th day of January, 2014, possess or visibly display a handgun during the commission or attempted commission of a violent crime, to wit: BURGLARY OF A BUILDING IN THE SECOND DEGREE and/or ARMED ROBBERY and/or KIDNAPPING. This is in violation of §16-23-490 of the South Carolina Code of Laws (1976) as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


SOLICITOR

STATE OF SOUTH CAROLINA

1518522

IN THE COURT OF GENERAL SESSIONS 10-30-14

COUNTY OF Greenville
 STATE VS.
Gerald Akeem Gadsden
 AKA: _____
 Race: BLACK Sex: M Age: 24
 DOB: _____ SS#: _____
 Address: _____
 City, State, Zip: Saint Stephen, SC 29479
 DL#: _____ SID#: _____
 *CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐
 In disposition of the said indictment comes now the Defendant who was
 TO: Armed Robbery

INDICTMENT/CASE#: 2014 GS-23-10507
 A/W#: 2014A2330200745
 Date of Offense: 1/20/2014
 S.C. Code §: 16-11-0330(A)
 CDR Code #: 0139

SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADS

in violation of § 16-11-0330(A) of the S.C. Code of Laws, bearing CDR Code # 0139
☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC ☒ §17-25-45
 w/minor 1st or Lewd Act)

The charge is: ☐ As Indicted ☐ Lesser Included Offense ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)
 The plea is: ☐ Without Negotiations or Recommendation ☐ Negotiated Sentence ☐ Recommendation by the State.

ATTEST: [Signature] 17016
Fretwell, Allen SC Bar# _____ Defendant [Signature] Attorney for Defendant SC Bar# _____

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
 for a determinate term of LIFE WITHOUT PAROLE PER 17-25-15 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years
 and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment
 of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____

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

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

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

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUP _____
 Total: \$ _____ plus 20% fee: \$ _____
 Payment Terms: _____
☐ Set by SCDPPPS _____

Recipient: _____

*Fine: _____ \$
 § 14-1-206 (Assessments 107.5 %) _____ \$
 § 14-1-211(A)(1) (Conv. Surcharge) \$100 \$ 100.00
 § 14-1-211(A)(2) (DUI Surcharge) \$100 \$
 § 56-5-2995 (DUI Assessment) \$12 \$
 § 56-1-286 (DUI Breath Test) \$25 \$
 Proviso 47.9 (Public Def/Prob) \$500 \$
 § 14-1-212 (Law Enforce. Funding) \$25 \$ 25.00
 § 14-1-213 (Drug Court Surcharge) \$150 \$
 § 50-21-114 (BUI Breath Test Fee) \$50 \$
 § 56-5-2942(J) (Vehicle Assessment) \$40/ca \$
 Proviso 90.5 (SCCJA Surcharge) \$5 \$ 5.00
 3% to County (if paid in installments) \$ 3.90
 TOTAL \$ 133.90

_____ days/hours Public Service Employment

Obtain GED ☐

Attend Voc. Rehab. or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling ☐

Random Drug/Alcohol testing ☐

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

\$ _____ paid to Public Defender Fund

Other: _____

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

Clerk of Court/ Deputy Clerk Paul B. Wickens

Court Reporter: Hudgens

SCCA/217 (03/2011)

Presiding Judge James Z. Bacht

Judge Code: 2110

Sentence Date: 10/19/16

STATE OF SOUTH CAROLINA

COUNTY OF Greenville
STATE VS.

Gerald Akeem Gadsden

AKA:

Race: BLACK Sex: M Age: 25

DOB: SS#:

Address:

City, State, Zip: Saint Stephen, SC 29479

DL#: SID#:

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

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2014GS2310507

A/W#: 2014A2330200746

Date of Offense: 1/20/2014

S.C. Code §: 16-03-0910

CDR Code #: 0095

SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADS

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

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

ATTEST

Fretwell, Allen

17016
SC Bar#

Defendant

Attorney for Defendant

SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
for a determinate term of LIFE WITHOUT PAROLE PER 17-25-45 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years
and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment
of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of
probation, which are incorporated by reference.☒ CONCURRENT or ☐ CONSECUTIVE to sentence on:☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied
by the State Department of Corrections.☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal
Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

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

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

Payment Terms:

☐ Set by SCDPPPS

Recipient:

*Fine:

§ 14-1-206 (Assessments 107.5 %)	\$	\$
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$ 100.00
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§ 56-5-2995 (DUI Assessment)	\$12	\$
§ 56-1-286 (DUI Breath Test)	\$25	\$
Proviso 47.9 (Public Def/Prob)	\$500	\$
§ 14-1-212 (Law Enforce. Funding)	\$25	\$ 25.00
§ 14-1-213 (Drug Court Surcharge)	\$150	\$
§ 50-21-114 (BUI Breath Test Fee)	\$50	\$
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ca	\$
Proviso 90.5 (SCCJA Surcharge)	\$5	\$ 5.00
3% to County (if paid in installments)	\$	\$ 3.90
TOTAL	\$	\$ 133.90

_____ days/hours Public Service Employment

Obtain GED ☐

Attend Voc. Rehab. or Job Corp. _____

May serve W/E beginning _____

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

\$ _____ paid to Public Defender Fund

Other: _____

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

Clerk of Court/ Deputy Clerk

Court Reporter: Budgens

SCCA/217 (03/2011)

Presiding Judge

Judge Code: 2110

Sentence Date: 6/9/16

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS **6304**COUNTY OF Greenville
STATE VS.Gerald Akeem Gadsden

AKA:

Race: BLACK Sex: M Age: 25DOB: SS#:

Address:

City, State, Zip: Saint Stephen, SC 29479DL#: SID#:*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the said indictment comes now the Defendant who was
TO: KidnappingINDICTMENT/CASE#: 2014GS2310507A/W#: 2014A2330200747Date of Offense: 1/20/2014S.C. Code §: 16-03-0910CDR Code #: 0095

SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADSin violation of § 16-03-0910 of the S.C. Code of Laws, bearing CDR Code # 0095☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC) ☒ §17-25-45
w/minor 1st or Lewd Act)The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Fretwell Allen17016

SC Bar#

Defendant

Attorney for Defendant

SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
for a determinate term of LIFE WITHOUT PAROLE PER 17-25-45 days/months/years or ☐ under the Youthful Offender Act not to exceed years
and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment
of \$; plus costs and assessments as applicable*; the balance is suspended with probation for months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of
probation, which are incorporated by reference.☒ CONCURRENT or ☐ CONSECUTIVE to sentence on:☐ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied
by the State Department of Corrections.☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal
Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ OrderedTotal: \$ plus 20% fee: \$ Payment Terms: ☐ Set by SCDPPPS Recipient:

*Fine:

§ 14-1-206 (Assessments 107.5 %)	\$	
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$ <u>100.00</u>
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$ <u> </u>
§ 56-5-2995 (DUI Assessment)	\$12	\$ <u> </u>
§ 56-1-286 (DUI Breath Test)	\$25	\$ <u> </u>
Proviso 47.9 (Public Def/Prob)	\$500	\$ <u> </u>
§ 14-1-212 (Law Enforce. Funding)	\$25	\$ <u>25.00</u>
§ 14-1-213 (Drug Court Surcharge)	\$150	\$ <u> </u>
§ 50-21-114(BUI Breath Test Fee)	\$50	\$ <u> </u>
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ca	\$ <u> </u>
Proviso 90.5 (SCCA Surcharge)	\$5	\$ <u>5.00</u>
3% to County (if paid in installments)		\$ <u>3.90</u>
TOTAL		\$ <u>133.90</u>

PTUP days/hours Public Service EmploymentObtain GED ☐Attend Voc. Rehab. or Job Corp. May serve W/E beginning Substance Abuse Counseling ☐Random Drug/Alcohol testing ☐Fine may be pd. in equal, consecutive weekly/monthly
pmts. of \$ beginning \$ paid to Public Defender FundOther: ☐ Appointed PD or appointed other counsel,
§ 47.12 requires \$500 be paid to Clerk
during probation.

Clerk of Court/ Deputy Clerk

Court Reporter: Hudgens

SCCA/217 (03/2011)

Presiding Judge

Judge Code: 2110Sentence Date: 6/9/2016

STATE OF SOUTH CAROLINA)
COUNTY OF Greenville)
STATE VS.)
Gerald Akeem Gadsden)
AKA:)
Race: BLACK Sex: M Age: 24)
DOB: SS#:)
Address:)
City, State, Zip: Saint Stephen, SC 29479)
DL#: SID#:)

IN THE COURT OF GENERAL SESSIONS **ESYAL**
16-17-0410
INDICTMENT/CASE#: 2014 GS-23-10507

A/W#: 2014A2330200749
Date of Offense: 1/20/2014
S.C. Code §: 16-17-0410
CDR Code #: 0049

SENTENCE SHEET

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

☒ CONVICTED OF or ☐ PLEADS

in violation of § 16-17-0410 of the S.C. Code of Laws, bearing CDR Code # 0049
☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45

The charge is: ☐ As Indicted, ☒ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)
The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST: Allen Fretwell 17016
Fretwell, Allen SC Bar# Defendant Attorney for Defendant SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
for a determinate term of 5 days/months/years ☐ under the Youthful Offender Act not to exceed _____ years
and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment
of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____

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

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

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

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUP _____
Total: \$ _____ plus 20% fee: \$ _____
Payment Terms: _____
☐ Set by SCDPPPS _____
Recipient: _____

*Fine:		\$
§ 14-1-206 (Assessments 107.5 %)		\$
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$ 100.00
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§ 56-5-2995 (DUI Assessment)	\$12	\$
§ 56-1-286 (DUI Breath Test)	\$25	\$
Proviso 47.9 (Public Def/Prob)	\$500	\$
§ 14-1-212 (Law Enforce. Funding)	\$25	\$ 25.00
§ 14-1-213 (Drug Court Surcharge)	\$150	\$
§ 50-21-114(BUI Breath Test Fee)	\$50	\$
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
Proviso 90.5 (SCCJA Surcharge)	\$5	\$ 5.00
3% to County (if paid in installments)		\$ 3.90
TOTAL		\$ 133.90

_____ days/hours Public Service Employment
Obtain GED ☐
Attend Voc. Rehab. or Job Corp. _____
May serve W/E beginning _____
Substance Abuse Counseling ☐
Random Drug/Alcohol testing ☐
Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ _____ beginning _____
\$ _____ paid to Public Defender Fund
Other: _____

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

Clerk of Court/ Deputy Clerk Paul B. Wickens
Court Reporter: Wickens
SCCA/217 (03/2011)

Presiding Judge James T. Hall
Judge Code: 2110
Sentence Date: 6/9/2016

STATE OF SOUTH CAROLINA

1518522

IN THE COURT OF GENERAL SESSIONS 10-30 Y

COUNTY OF Greenville
STATE VS.

Gerald Akeem Gadsden

AKA:

Race: BLACK Sex: M Age: 24

DOB: SS#:

Address:

City, State, Zip: Saint Stephen, SC 29479

DL#: SID#:

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

INDICTMENT/CASE#: 2014 GS-23-10307

A/W#: 2014A2330200745

Date of Offense: 1/20/2014

S.C. Code §: 16-11-0330(A)

CDR Code #: 0139

JUN 17 2016

SENTENCE SHEET

SC Court of Appeals

☒ CONVICTED OF or ☐ PLEADS

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

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

ATTEST:

Fretwell, Allen

17016
SC Bar#

Defendant

Attorney for Defendant

SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
for a determinate term of LIFE WITHOUT PAROLE PER 17-25-45 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years
and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment
of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____

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

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

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

SPECIAL CONDITIONS:

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

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

Payment Terms:

☐ Set by SCDPPPS

Recipient:

*Fine:

§ 14-1-206 (Assessments 107.5 %)	\$	\$
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$ 100.00
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§ 56-5-2995 (DUI Assessment)	\$12	\$
§ 56-1-286 (DUI Breath Test)	\$25	\$
Proviso 47.9 (Public Def/Prob)	\$500	\$
§ 14-1-212 (Law Enforce. Funding)	\$25	\$ 25.00
§ 14-1-213 (Drug Court Surcharge)	\$150	\$
§ 50-21-114(BUI Breath Test Fee)	\$50	\$
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ca	\$
Proviso 90.5 (SCCA Surcharge)	\$5	\$ 500
3% to County (if paid in installments)	\$	\$ 390
TOTAL		\$ 13390.00

PTUP

_____ days/hours Public Service Employment

Obtain GED ☐

Attend Voc. Rehab. or Job Corp. _____

May serve W/E beginning _____

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

\$ _____ paid to Public Defender Fund

Other: _____

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

Clerk of Court/ Deputy Clerk

Court Reporter:

SCCA/217 (03/2011)

Presiding Judge

Judge Code: 2110

Sentence Date: 6/9/16

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

430 Y

COUNTY OF Greenville

STATE VS.

Gerald Akeem Gadsden

AKA:

Race: BLACK Sex: M Age: 25

DOB: SS#:

Address:

City, State, Zip: Saint Stephen, SC 29479

DL#: SID#:

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

INDICTMENT/CASE#: 2014GS2310507

A/W#: 2014A2330200746

Date of Offense: 1/20/2014

S.C. Code § : 16-03-0910

CDR Code #: 0095

SENTENCE SHEET,

☒ CONVICTED OF or ☐ PLEADS

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

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

ATTEST:

Fretwell, Allen

17016

SC Bar#

Defendant

Attorney for Defendant

SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
 for a determinate term of LIFE WITHOUT PAROLE PER 17-25-45 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years
 and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment
 of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____

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

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

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

SPECIAL CONDITIONS:

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

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

Payment Terms:

☐ Set by SCDPPPS

Recipient:

*Fine:

§ 14-1-206 (Assessments 107.5 %)

§ 14-1-211(A)(1) (Conv. Surcharge)

§ 14-1-211(A)(2) (DUI Surcharge)

§ 56-5-2995 (DUI Assessment)

§ 56-1-286 (DUI Breath Test)

Proviso 47.9 (Public Def/Prob)

§ 14-1-212 (Law Enforce. Funding)

§ 14-1-213 (Drug Court Surcharge)

§ 50-21-114(BUI Breath Test Fee)

§ 56-5-2942(J) (Vehicle Assessment)

Proviso 90.5 (SCJA Surcharge):

3% to County (if paid in installments)

TOTAL

	\$
§ 14-1-206 (Assessments 107.5 %)	\$
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100
§ 14-1-211(A)(2) (DUI Surcharge)	\$100
§ 56-5-2995 (DUI Assessment)	\$12
§ 56-1-286 (DUI Breath Test)	\$25
Proviso 47.9 (Public Def/Prob)	\$500
§ 14-1-212 (Law Enforce. Funding)	\$25
§ 14-1-213 (Drug Court Surcharge)	\$150
§ 50-21-114(BUI Breath Test Fee)	\$50
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea
Proviso 90.5 (SCJA Surcharge):	\$5
3% to County (if paid in installments)	\$
TOTAL	\$13390.00

PTUP

_____ days/hours Public Service Employment

Obtain GED ☐

Attend Voc. Rehab. or Job Corp. _____

May serve W/E beginning _____

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

\$ _____ paid to Public Defender Fund

Other: _____

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

Clerk of Court/ Deputy Clerk

Court Reporter:

SCCA/217 (03/2011)

Presiding Judge

Judge Code:

Sentence Date:

STATE OF SOUTH CAROLINA

COUNTY OF Greenville
STATE VS.Gerald Akeem Gadsden

AKA:

Race: BLACK Sex: M Age: 25DOB: SS#

Address:

City, State, Zip: Saint Stephen, SC 29479DL#: SID#*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the said indictment comes now the Defendant who was
TO: KidnappingIN THE COURT OF GENERAL SESSIONS 2014INDICTMENT/CASE#: 2014GS2310507A/W#: 2014A2330200747Date of Offense: 1/20/2014S.C. Code §: 16-03-0910CDR Code #: 0095

SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADSin violation of § 16-03-0910 of the S.C. Code of Laws, bearing CDR Code # 0095☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC § 17-25-45
w/minor 1st or Lewd Act)The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Fretwell Allen17016

SC Bar#

Defendant

Attorney for Defendant

SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
for a determinate term of LIVE WITHOUT PAROLE PER 17-25-45 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years
and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment
of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of
probation, which are incorporated by reference.☒ CONCURRENT or ☐ CONSECUTIVE to sentence on:☐ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied
by the State Department of Corrections.☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal
Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

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

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

Payment Terms:

☐ Set by SCDPPPS

Recipient:

*Fine:

§ 14-1-206 (Assessments 107.5 %)	\$	\$
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$ <u>100.00</u>
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§ 56-5-2995 (DUI Assessment)	\$12	\$
§ 56-1-286 (DUI Breath Test)	\$25	\$
Proviso 47.9 (Public Def/Prob)	\$500	\$
§ 14-1-212 (Law Enforce. Funding)	\$25	\$ <u>25.00</u>
§ 14-1-213 (Drug Court Surcharge)	\$150	\$
§ 50-21-114 (BUI Breath Test Fee)	\$50	\$
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
Proviso 90.5 (SCCJA Surcharge)	\$5	\$ <u>5.00</u>
3% to County (if paid in installments)	\$	\$ <u>3.90</u>
TOTAL	\$	\$ <u>133.90</u>

PTUP

_____ days/hours Public Service Employment

Obtain GED ☐

Attend Voc. Rehab. or Job Corp. _____

May serve W/E beginning _____

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

\$ _____ paid to Public Defender Fund

Other: _____

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

Clerk of Court/ Deputy Clerk

Court Reporter: Budgens

SCCA/217 (03/2011)

Presiding Judge

Judge Code: 2110Sentence Date: 6/9/2016

STATE OF SOUTH CAROLINA

COUNTY OF Greenville
STATE VS.

Gerald Akeem Gadsden

AKA:

Race: BLACK Sex: M Age: 24

DOB: SS#:

Address:

City, State, Zip: Saint Stephen, SC 29479

DL#: SID#:

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the said indictment comes now the Defendant who was
TO: ConspiracyIN THE COURT OF GENERAL SESSIONS ^{§ 542}
^{§ 16-17-25A}

INDICTMENT/CASE#: 2014 GS-23-10507

A/W#: 2014A2330200749

Date of Offense: 1/20/2014

S.C. Code § : 16-17-0410

CDR Code #: 0049

SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADS

in violation of § 16-17-0410 of the S.C. Code of Laws, bearing CDR Code # 0049

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

ATTEST:

Fretwell, Allen

17016
SC Bar#

Defendant

Attorney for Defendant

SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
for a determinate term of 5 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years
and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment
of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of
probation, which are incorporated by reference.☒ CONCURRENT or ☐ CONSECUTIVE to sentence on:☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied
by the State Department of Corrections.☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal
Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

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

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

Payment Terms:

☐ Set by SCDPPPS

Recipient:

*Fine:

§ 14-1-206 (Assessments 107.5 %)	\$	
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$ 100.00
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§ 56-5-2995 (DUI Assessment)	\$12	\$
§ 56-1-286 (DUI Breath Test)	\$25	\$
Proviso 47.9 (Public Def/Prob)	\$500	\$
§ 14-1-212 (Law Enforce. Funding)	\$25	\$ 25.00
§ 14-1-213 (Drug Court Surcharge)	\$150	\$
§ 50-21-114(BUI Breath Test Fee)	\$50	\$
§ 56-5-2942(I) (Vehicle Assessment)	\$40/ea	\$
Proviso 90.5 (SCCJA Surcharge)	\$5	\$ 5.00
3% to County (if paid in installments)	\$	\$ 3.90
TOTAL	\$	\$ 133.90

_____ days/hours Public Service Employment

Obtain GED ☐

Attend Voc. Rehab. or Job Corp. _____

May serve W/E beginning _____

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

\$ _____ paid to Public Defender Fund

Other: _____

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

Clerk of Court/ Deputy Clerk

Court Reporter:

SCCA/217 (03/2011)

Presiding Judge

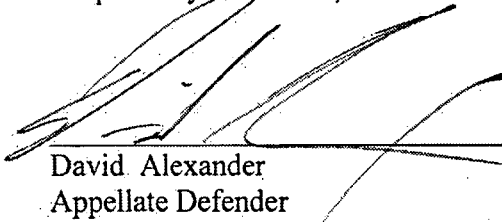
Judge Code: 2110

Sentence Date: 6/9/2016

CERTIFICATE OF COUNSEL FOR APPELLANT

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

Respectfully Submitted,


David Alexander
Appellate Defender

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

ATTORNEY FOR APPELLANT

This 9th day of August, 2017.

RECEIVED

AUG 09 2017

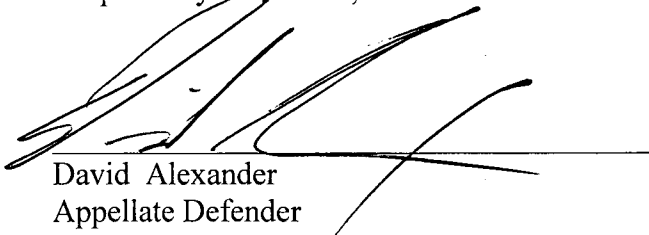
734

SC Court of Appeals

CERTIFICATE OF COUNSEL FOR APPELLANT

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

Respectfully Submitted,



David Alexander
Appellate Defender

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

ATTORNEY FOR APPELLANT

This 9th day of August, 2017.