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SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Greenville County

Honorable Robin B. Stilwell, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

RODRIGUS RATRON WILLIAMS,

APPELLANT

APPELLATE CASE NO 2016-002174

RECORD ON APPEAL

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STATE OF SOUTH CAROLINA)
) COURT OF GENERAL SESSIONS
 COUNTY OF GREENVILLE) 2016-GS-23-00596; 00598;
) 00599
)

ORIGINAL

STATE OF SOUTH CAROLINA)
) PLAINTIFF)
 vs.) TRANSCRIPT OF RECORD
)
 RODRIGUS RATRON WILLIAMS)
) DEFENDANT)

October 12-13, 2016
 Greenville, South Carolina

B E F O R E:

THE HONORABLE ROBIN B. STILWELL, Judge; and a
 jury.

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

ANDREW HEITMAN, ESQ.
 JONATHAN GREGORY, ESQ.
 Attorneys for the State.

AMANDA WICKER, ESQ.
 Attorney for the Defendant

APRIL HERRON
 Official Court Reporter

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ALL EXHIBITS WERE RETAINED BY THE
CLERK OF COURT FOR GREENVILLE
COUNTY

(WHEREUPON, State's Exhibits Nos. 1, 2 & 3 were marked for identification only.)

THE COURT: Good morning. It's my understanding that the jury is here.

Madam Clerk, would you have them come up, please, ma'am.

THE CLERK: I sure will.

MR. HEITMAN: Your Honor.

THE COURT: Yes, sir.

MR. HEITMAN: The State intends to go forward on the strong armed robbery and two counts of assault and battery first degree, not the shoplifting.

THE COURT: Okay, not the shoplifting?

MR. HEITMAN: Yes, sir.

THE COURT: Okay. Thank you for telling me. I'm going to hand it back to you.

THE CLERK: Thank you.

(WHEREUPON, the jury venire came into open court at approximately 9:30 a.m.)

THE COURT: Thank you.

All right, good morning, everyone, welcome to courtroom four. Some of you I know I'm seeing again from yesterday. And some of you I saw on Monday. I remind you before we get started that you continue under the oath that you took on Monday morning to

1 tell the truth to the questions that are posed by the
2 Court. We are going to call a specific case to bar
3 today and select a jury on that case and begin the
4 trial. Now, ladies and gentlemen, the process for
5 selecting a jury on a specific trial, in some ways,
6 is similar to qualifications in that I'll ask you
7 questions and I would ask you to stand and say your
8 name and juror number and respond to any questions as
9 needed. However, do understand that as opposed to
10 general questions regarding qualifications, these
11 questions are designed to determine whether it's
12 suitable and appropriate for you to serve as jurors
13 on the trial of this specific case.

14 Now, I'm going to read to you the indictments in
15 this case. The indictments that I read to you are
16 the charging papers that are promulgated by The State
17 in bringing the charges before the Court. Understand
18 that the charging papers, the indictments, are simply
19 allegations of The State. The State has the burden
20 of proving each and every element of each offense
21 beyond a reasonable doubt. Until such time as The
22 State has met its burden of proof to the satisfaction
23 of 12 deliberating jurors, the Defendant is presumed
24 innocent. The Defendant retains his presumption of
25 innocence until 12 jurors determine that The State

1 has met its burden of proving each and every element
2 of each offense beyond a reasonable doubt.

3 Now, the reason I went into some detail in that
4 is because that's not a mere legal theory. That's
5 the cornerstone of our justice system. So, it's
6 important that as you listen to the case that you
7 keep that in mind. It's also important that you keep
8 that in mind when I read to you the allegations on
9 the indictments. Because I don't want you to think
10 that because I'm reading you the allegations that I'm
11 suggesting to you that these are the facts in this
12 case. I am not. I don't have an opinion about the
13 facts in this case. But it's important for me to
14 read the indictments to you so you will know who the
15 parties are and what the case is about. So, that you
16 can intelligently answer the questions that I pose to
17 you.

18 So, ladies and gentlemen, they're three
19 indictments in this case. The first one is case No.
20 2016-GS-23-596. And it is The State vs. Rodrigus
21 Ratron Williams. And that is an indictment for
22 strong armed robbery. In this case The State would
23 allege that Mr. Williams did in Greenville County on
24 or about July 22, 2015, felonious take from the
25 person or presence of Henry Homesley and/or Russel

1 Myer, by means of force, threat or intimidation,
2 goods or monies being described as follows: Leapfrog
3 learning games belonging to K-Mart with the intent to
4 permanently deprive the owner thereof.

5 Ladies and gentlemen, the second indictment
6 that's before the Court in this trial is Indictment
7 2016-GS-23-598, The State vs. Rodrigus Ratron
8 Williams, indicted for assault and battery in the
9 first degree. Wherein The State would allege that
10 Mr. Williams did in Greenville County on or about
11 July 22, 2015, offer or attempt to injure Henry
12 Homesley with the present ability to commit the act
13 and the act occurred during the commission of a
14 robbery, burglary, kidnapping or theft.

15 Ladies and gentlemen, the third indictment
16 before the Court is Indictment No. 2016-GS-23-599,
17 The State vs. Rodrigus Ratron Williams, indicted for
18 assault and battery of the first degree. Wherein,
19 The State would allege that Mr. Williams did in
20 Greenville County on or about July 22, 2015, offer or
21 attempt to injure Russel Myer with the present
22 ability to commit the act or the act occurred during
23 the commission of a robbery, burglary, kidnapping or
24 theft.

25 Now, ladies and gentlemen, I'll ask you, is

1 there anyone among you who has any prior knowledge,
2 any prior opinion, any predisposition regarding the
3 allegations in this case or the parties to this case?

4 All right, let the record reflect no affirmative
5 response.

6 Ladies and gentlemen, as I've identified
7 already, the Defendant in this case is Mr. Rodrigus
8 Ratron Williams. Is there anyone among you who has a
9 personal, professional or family relationship with
10 Mr. Williams?

11 There was no response.

12 Ladies and gentlemen, the Defendant,
13 Mr. Williams, is represented by Ms. Amanda Wicker of
14 the Greenville County Bar. Is there anyone among you
15 who has a personal, professional or family
16 relationship with Ms. Wicker?

17 There was no response.

18 Ladies and gentlemen, in this case, The State,
19 The 13th Circuit Solicitor's Office is being
20 represented by Mr. Andrew Heitman and Mr. John
21 Gregory. Each are assistant solicitors with the
22 Greenville County Solicitor's Office. Is there
23 anyone among you who has any professional, family or
24 personal relationship with either Mr. Heitman,
25 Mr. Gregory or anyone employed by the 13th Circuit

1 Solicitor's Office?

2 THE COURT: Yes, ma'am.

3 PROSPECTIVE JUROR: Again, I'm not sure, but I
4 worked for Barbara Tiffin's husband about five years.
5 Four, five years ago.

6 THE COURT: Because this is a different case can
7 you state specifically your name and juror number?

8 PROSPECTIVE JUROR: Oh, yeah. Catherine
9 Peacock, 162.

10 THE COURT: Okay. Do you think given that fact
11 that you can still be a fair and impartial juror in
12 the trial of this case?

13 PROSPECTIVE JUROR: Yes, sir.

14 THE COURT: Thank you for telling me, I
15 appreciate it.

16 Anyone else?

17 There was no response.

18 Ladies and gentlemen, there are several
19 witnesses who may be called in this case. I'm going
20 to read to you a list of perspective witnesses who
21 may be called to testify. And then I'll ask you the
22 same questions that I asked you about the parties and
23 the attorneys. Potential witnesses are as follows:
24 Investigator Ricky Lollis of the Greenville County
25 Sheriff's Office, Sergeant Betty Thompson of the

1 Greenville County Detention Center, Henry Homesley,
2 Russell Myer, Michelle Spurgeon. Ladies and
3 gentlemen, is there anyone among you has a personal,
4 professional or family relationship with any those
5 perspective witness?

6 There was no response.

7 Ladies and gentlemen, is there anyone among you
8 who is or has been a member or contributor to an
9 organization which advocates for victim's rights or
10 criminal prosecution? And just by way of example,
11 organizations like MADD or SADD, which again,
12 advocates for victim rights and criminal prosecution?

13 Yes, sir.

14 PROSPECTIVE JUROR: I'm a former member of MADD
15 and I'm 173.

16 THE COURT: Yes, sir.

17 PROSPECTIVE JUROR: I'm a former member of MADD
18 and -- national.

19 THE COURT: Okay. Do you think given that fact
20 that you can still be a fair and impartial juror in
21 the trial of this case?

22 PROSPECTIVE JUROR: Absolutely.

23 THE COURT: Okay, thank you for telling me, I do
24 appreciate it.

25 All right. Is there anyone among you who has --

1 who is currently or who has ever been employed by law
2 enforcement?

3 Yes, ma'am.

4 PROSPECTIVE JUROR: Jamila Thomas, juror 227. I
5 was previously employed at The South Carolina
6 Department of Corrections. I resigned in August.

7 THE COURT: Okay. I know you have some other
8 issues because we've spoken about that. That may not
9 be the time quite for you to address them. But with
10 respect to your capacity as a law enforcement
11 officer, do you think that you can still be fair and
12 impartial?

13 PROSPECTIVE JUROR: I don't think that I can
14 ever be fair and impartial on no jury.

15 THE COURT: Okay. All right, thank you.

16 Yes, sir.

17 PROSPECTIVE JUROR: My name is James Norris,
18 154. I was a security guard about 30 years ago.

19 THE COURT: Okay. You think given that fact
20 that you can still be fair and impartial in this
21 case, sir?

22 PROSPECTIVE JUROR: Yes, sir.

23 THE COURT: Okay, good. Thank you for telling
24 me, I appreciate it.

25 Is there anyone among you who has ever been the

1 victim of a violent crime or has an immediate family
2 member who has been a victim of a violent crime?

3 Let the record reflect no affirmative response.

4 Is there anyone among you who for whatever
5 reason feels you cannot be a fair and impartial juror
6 in the trial of this case?

7 Ms. Thomas.

8 PROSPECTIVE JUROR: Do I need to state the
9 reason again?

10 THE COURT: Yeah, because it's a different case
11 and these are different attorneys. And I know what
12 you're going to say but they have no idea.

13 PROSPECTIVE JUROR: Because I have a sister who
14 is serving natural life with no possibility of
15 parole, she was convicted by a jury and she was
16 innocent.

17 THE COURT: Okay. Then you feel like you cannot
18 be a fair and impartial juror in the trial of this
19 case?

20 PROSPECTIVE JUROR: No.

21 THE COURT: Okay, thank you, I appreciate that.

22 Counsel, any of you have any objection to my
23 striking Ms. Thomas for cause?

24 MR. HEITMAN: No objection.

25 MS. WICKER: None from the Defendant, Your

1 Honor.

2 THE COURT: Okay, she shall be stricken for
3 cause. Counsel, any additional questions in voir
4 dire?

5 MR. HEITMAN: Nothing from The State, Your
6 Honor.

7 MS. WICKER: Nothing from the Defense, Your
8 Honor.

9 THE COURT: Okay.

10 All right, ladies and gentlemen, now we're going
11 to proceed with selecting a jury in this case. We're
12 going to select 12 sitting jurors and one alternate.
13 Now, we select an alternate because it's important to
14 have an alternate because we can't proceed to actual
15 conclusion and verdict unless we have 12 jurors in a
16 criminal case. Therefore, the alternates role and
17 duty is just as important as the primary jurors
18 because we never know when we may have to replace a
19 primary juror with an alternate.

20 So, each side gets four strikes or peremptory
21 challenges. What will happen is the Clerk of Court
22 will read from a randomly generated list which
23 includes all of your names in a random order. She
24 will call your name. When she does, I'd like for you
25 to stand up where you are, please. The attorneys

1 will make strikes, peremptory challenges. Now, they
 2 have great latitude to make peremptory challenges and
 3 can strike you for just about whatever reason they
 4 want to with certain limitations. But if you hear
 5 from both parties, both parties, either, Please swear
 6 the juror or please seat the juror, that means that
 7 you have been selected to sit on this jury. If you
 8 hear that from both parties then take all your
 9 belongings that you have with you and come have a
 10 seat in the jury box. If you hear from either party,
 11 Please strike the juror or please excuse the juror
 12 from the trial of this case, then just sit down as
 13 you will have been stricken from the trial of this
 14 case. Once we have 12, we'll proceed and we will
 15 select an alternate juror.

16 So, Madam Clerk, you may proceed, now.

17 THE CLERK: Juror No. 172, Ernesto Ramos, Jr.
 18 (Ernesto Ramos, Jr., a Hispanic male, came
 19 forward.)

20 What says The State?

21 MR. HEITMAN: Present this juror.

22 THE CLERK: What says the Defendant?

23 MS. WICKER: Please swear the juror.

24 THE CLERK: Please bring your things and have a
 25 seat in the jury box.

1 Juror No. 193, Sharon Sprouse.

2 (Sharon Sprouse, a white female, came forward.)

3 What says The State?

4 MR. HEITMAN: Please present this juror.

5 THE CLERK: What says the Defendant?

6 MS. WICKER: Please excuse the juror.

7 THE CLERK: Please be seated, you've been
8 excused from this case.

9 Juror No. 173, Joseph Reid, the Third.

10 (Joseph Reid, III, a white male, came forward.)

11 What says The State?

12 MR. HEITMAN: Please present this juror.

13 THE CLERK: What says the Defendant?

14 MS. WICKER: Please excuse the juror.

15 Please be seated, you've been excused from this
16 case.

17 Juror No. 156, David Osborne.

18 (David Osborne, a white male, came forward.)

19 What says The State?

20 MR. HEITMAN: Please present this juror.

21 THE CLERK: What says the Defendant?

22 MS. WICKER: Please swear the juror.

23 THE CLERK: Please bring your things and have a
24 seat in the jury box.

25 Juror No. 97, Charles Hartman, the Third.

1 (Charles Hartman, III, a white male, came
2 forward.)

3 What says the state?

4 MR. HEITMAN: Please present this juror.

5 THE CLERK: What says the Defendant?

6 MS. WICKER: Please excuse the juror.

7 THE CLERK: Please be seated, you've been
8 excused from this case.

9 Juror No. 134, Daniel Mcinerney.

10 (Daniel Mcinerney, a white male, came forward.)

11 What says The State?

12 MR. HEITMAN: Please present this juror.

13 THE CLERK: What says Defendant?

14 MS. WICKER: Please excuse the juror.

15 THE CLERK: Please be seated, you've been
16 excused from this case.

17 Juror No. 18, Brandon Biron.

18 (Brandon Biron, a white male, came forward.)

19 What says The State?

20 MR. HEITMAN: Please present this juror.

21 THE CLERK: What says the Defendant?

22 MS. WICKER: Please swear the juror.

23 THE CLERK: Please bring your things and have a
24 seat in the jury box.

25 Juror No. 63, Stacy Doane.

1 (Stacy Doane, a white female, came forward.)

2 What says The State?

3 MR. HEITMAN: Please present the juror.

4 THE CLERK: What says the Defendant?

5 MS. WICKER: Please swear the juror.

6 THE CLERK: Please bring your things, have a
7 seat in the jury box.

8 Juror No. 90, John Gosnell.

9 (John Gosnell, a white male, came forward.)

10 What says The State?

11 MR. HEITMAN: Please excuse this juror.

12 THE CLERK: Please be seated, you've been
13 excused from this case.

14 Juror No. 69, Lucretia Edens.

15 (Lucretia Edens, a black female, came forward.)

16 What says The State?

17 MR. HEITMAN: Please present this juror.

18 THE CLERK: What says the Defendant?

19 MS. WICKER: Please swear the juror.

20 THE CLERK: Please bring your things and have a
21 seat in the jury box.

22 Juror No. 17, Larry Berglind.

23 (Larry Berglind, a white male, came forward.)

24 What says The State?

25 MR. HEITMAN: Please present the juror.

1 THE CLERK: What says the Defendant?

2 MS. WICKER: Please swear the juror.

3 THE CLERK: Please bring your things, have a
4 seat in the jury box.

5 Juror No. 15, Mary Bennett.

6 (Mary Bennett, a white female, came forward.)

7 What says The State?

8 MR. HEITMAN: Please present this juror.

9 THE CLERK: What says the Defendant?

10 MS. WICKER: Please swear the juror.

11 Please bring your things, have a seat in the
12 jury box.

13 Juror No. 160, Austin Patton.

14 (Austin Patton, a white male, came forward.)

15 What says The State?

16 MR. HEITMAN: Please excuse this juror.

17 THE CLERK: Please be seated, you've been
18 excused from this case.

19 Juror No. 175, Rusty Rhodes.

20 (Rusty Rhodes, a white male, came forward.)

21 What says The State?

22 MR. HEITMAN: Please present this juror.

23 THE CLERK: What says the Defendant?

24 MS. WICKER: Please swear the juror.

25 THE CLERK: Please bring your things, have a

1 seat in the jury box.

2 Juror No. 5, Lisa Ashmore.

3 (Lisa Ashmore, a black female, came forward.)

4 What says The State?

5 MR. HEITMAN: Please present this juror.

6 THE CLERK: What says the Defendant?

7 MS. WICKER: Please swear the juror.

8 THE CLERK: Please bring your things, have a

9 seat in the jury box.

10 Juror No. 75, Dale Fenton.

11 (Dale Fenton, a white male, came forward.)

12 What says The State?

13 MR. HEITMAN: Please present this juror.

14 THE CLERK: What says the Defendant?

15 MS. WICKER: Please swear the juror.

16 THE CLERK: Please bring your things, have a

17 seat in the jury box.

18 Juror No. 174, Anthony Rhodes.

19 (Anthony Rhodes, a black male, came forward.)

20 What says The State?

21 MR. HEITMAN: Please excuse this juror.

22 THE CLERK: Please be seated, you've been

23 excused from this case.

24 Juror No. 9, Andrew Barr.

25 (Andrew Barr, a white male, came forward.)

1 What says The State?

2 MR. HEITMAN: Please present this juror.

3 THE CLERK: What says the Defendant?

4 MS. WICKER: Please excuse the juror.

5 THE COURT: That's your fifth, I believe, right?

6 MS. WICKER: Yes, sir, Your Honor.

7 THE CLERK: What did you say?

8 MS. WICKER: Excused.

9 THE CLERK: Excused, I'm sorry.

10 MS. WICKER: That's okay.

11 THE CLERK: Juror No. 72, Vanessa Ewing.

12 (Vanessa Ewing, a black female, came forward.)

13 What says The State?

14 MR. HEITMAN: Please present this juror.

15 THE CLERK: What says the Defendant?

16 MS. WICKER: Please swear the juror.

17 THE CLERK: Please bring your things and have a
18 seat in the jury box.

19 Juror No. 85, Allen Genobles.

20 (Allen Genobles, a white male, came forward.)

21 What says The State?

22 MR. HEITMAN: Please present this juror.

23 THE CLERK: What says the Defendant?

24 MS. WICKER: Please swear the juror.

25 THE CLERK: Please bring your things, have a

1 seat in the jury box.

2 THE COURT: Okay, we'll pick one alternate.

3 Each side gets one strike.

4 THE CLERK: Juror No. 100, Cinnamon Hightower.

5 (Cinnamon Hightower, a white female, came
6 forward.)

7 What says The State?

8 MR. HEITMAN: Please present this juror.

9 THE CLERK: What says the Defendant?

10 MS. WICKER: Please swear the jury.

11 THE CLERK: Please bring your things and have a
12 seat in the jury box.

13 THE COURT: All right, counsel any exceptions,
14 issues, matters of law to take up with respect to the
15 qualification and selection of this jury?

16 MR. HEITMAN: None from The State, Your Honor.

17 MS. WICKER: Nothing from the Defense, Your
18 Honor.

19 THE COURT: All right, ladies and gentlemen, the
20 remainder of you can be excused for the remainder of
21 the day. Call back, please, after six o'clock this
22 evening, we may be picking another jury tomorrow on
23 other cases. And I'm not certain and I can't say
24 that with certainty, however, we may. So, call back
25 after 6:00 if you would. Hope you have a great day.

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(WHEREUPON, the jury left open court at approximately 11:50 a.m.)

THE COURT: All right, ladies and gentlemen, congratulations on having made the cut. I look forward to working with you in this case. This should be a fairly short case. I suspect that we'll be done either early tomorrow, that is by midday tomorrow and no later than the end of the day tomorrow. I always find that before we begin a case that it's helpful for me to give the jury some indication, some idea, of what your role is in the trial of a case. Some of you may have already been on a jury this week and I may be repeating what you have already heard. To the extent that that's true, I apologize that you have to sit through it again. Maybe you'll learn something that you didn't catch the first time.

Your role as jurors in the trial of a case is to be the finders of fact. The judges of the facts. You will determine based on the evidence that's submitted in trial in this case, what the facts are. Now, you'll receive the evidence in this case in many separate, in many different forms, potentially. Evidence can take the form of witnesses who take the stand and testify. It can take the form of written

1 documents, audio tapes, video tapes, it can be actual
2 physical objects that are placed into the record.

3 But all those will be placed into the record by and
4 through the introduction and presentation of the
5 parties respective cases. When you begin your
6 deliberations and determine what the facts are.

7 What you will then do, you will take those facts
8 as you determine them to be and apply them to the law
9 as I give it to you. Now, your job is the judge of
10 the facts, my job is to be the judge of the law.

11 What that means is that I'm charged with the
12 responsibility for telling you what the law is as it
13 relates to the charges before the Court and more
14 specifically as it relates to the evidence that was
15 presented.

16 Now, I wait until the very end of the case to
17 give you a charge on the law because as I sit here,
18 I'm in the very same posture that you are. And that
19 is, I haven't heard any of the evidence in this case,
20 I haven't heard from any of the witnesses and I don't
21 know anymore about this case other than what I read
22 to you from the allegations on the indictments.

23 Therefore, it's important that just like you, I wait
24 until all the evidence has been presented until I
25 make the determination as to what evidence -- or

1 excuse me, what law is appropriate.

2 Now, understand that in my capacity as the judge
3 of the law, I don't have the authority, the right,
4 the privilege of having an opinion about the facts of
5 the case. Or about your ultimate decision in this
6 case. The only thing that I'm concerned with in this
7 case is that each side has a fair trial. So, if you
8 hear me during the course of this case say anything
9 that gives you the impression that I have an opinion
10 about what the facts or about what your ultimate
11 decision should be, please disregard that. Because I
12 honestly have no stake in that and no concern over
13 what your ultimate decision is or what the facts as
14 you determine them to be are.

15 Now, do understand that as we go through this
16 trial, the attorneys for each side will be making
17 motions, perhaps posing objections as well. I will
18 be ruling on those objections and those motions. And
19 when they're two parties, I must necessarily rule for
20 one party and against the other. Please don't think
21 that when I rule for one party and against the other
22 that I have a preference or a bias one way or the
23 other, I truly don't. I'm just making a clinical
24 decision based on my understanding of the law and the
25 rules of evidence.

1 Now, ladies and gentlemen, the way we'll start
2 this case after I give you this brief introductory
3 charge, each party will have the opportunity to offer
4 opening statements to you. Now, those opening
5 statements are not arguments and those opening
6 statements aren't intended to tell you the entirety
7 of the case. It's a means of each side introducing
8 themselves and their theory of the case to you.
9 After you've heard opening statements from each
10 party, then The State will have the -- its turn to
11 present its case.

12 Now, The State goes first because, like I told
13 you when we first started, The State has the burden
14 of proof. The State has the burden of proving each
15 and every element of all three offenses beyond a
16 reasonable doubt. And because The State has the
17 burden of proof, it has the luxury of going first.
18 The requirement of going first. And what happens
19 ordinarily is The State will call witnesses to the
20 stand. That witness will take the oath of a witness
21 then he or she will be examined. Or in other terms,
22 asked questions. After all those questions have been
23 exhausted of a witness, the Defense will have the
24 opportunity to cross-examine that witness. After all
25 of his or her testimony, that witness' testimony has

1 been introduced, then that witness will be excused,
 2 then the next witness will come up. And we will
 3 proceed in that fashion until The State has rested
 4 and has exhausted all the evidence it intends to
 5 introduce in its case in chief.

6 The Defense thereafter will have the opportunity
 7 to present a case. The Defense does not have to
 8 present a case because the Defense does not have the
 9 burden of proof. As I've told you, the Defendant is
 10 presumed innocent. And does not have the burden of
 11 saying, proving, doing anything to you. The State
 12 has the burden of proof. But if the defense elects
 13 to present evidence then we'll follow the same
 14 procedure. Calling witnesses to the stand, asking
 15 them questions, excusing them, moving on to the next.

16 After all the evidence is introduced in the
 17 case, then we will move to closing arguments. Now,
 18 ladies and gentlemen, just like opening statements,
 19 closing arguments are not evidence in the case. It's
 20 just arguments and comments from the attorneys to the
 21 case. Now, the distinction between closing arguments
 22 is the attorneys will then be commenting on the
 23 evidence that's been presented in this case and will
 24 be attempting to persuade you to their perspective
 25 sides. Advocating for their client. After you've

1 heard closing arguments from both parties, then I'll
2 give you the closing charge on the law.

3 Now, understand you must not begin your
4 deliberations until I give you instructions to do so.
5 I'll give you instructions to do so after I finish
6 the closing charge on the law. Now, the reason for
7 that is fairly simple. And that is you know, in your
8 own common experience in your lifetime, you have not
9 been able to make any important decision on any
10 matter of substance unless and until you know all of
11 the evidence that bears upon the issue to be
12 determined. So, by way of example, you know that at
13 some point in your life a child or a family member,
14 brother, sister, parent or good friend, may have come
15 to you and told you a story. And you were absolutely
16 convinced having heard that story. But after you
17 heard the other side, when your other child told you
18 the other side of the story, it changed the nature
19 and complexion of the issue. Well, court is the same
20 way. It's important that you listen to everything
21 before you begin making up your mind and before you
22 begin your deliberations.

23 Now, ladies and gentlemen when I say, Don't
24 being your deliberations, what that mean is don't
25 discuss the case. Don't discuss anything about the

1 case. Don't discuss the witnesses and how they look
2 and how they appeared and what they said. Just don't
3 discuss it. Because when you begin your
4 deliberations you will have the opportunity to
5 discuss it as much as you need to. Also, know that
6 we're going to take breaks in this case. And when we
7 take a break in this case, whether you're back in
8 your jury room or whether you go home for lunch, for
9 supper, overnight, whatever, please don't discuss the
10 case with your friends or your family members. What
11 ordinarily happens is when you go home one of your
12 friends or family members is going to ask you
13 question about, Hey, what are you doing? You on a
14 jury? What's it about?

15 Well, the initial answer is fairly innocuous and
16 innocent enough but if your spouse is like mine, then
17 sure as the sun rises, you're going to get another
18 question. And before you know it, you're discussing
19 the case. So, the problem with that is you're
20 deliberating with someone that's outside the juror.
21 So, just resist the temptation. Tell your friends,
22 spouse, significant other, tell them, Hey, I can't
23 talk to you about it now, after it's over, this
24 weekend, we'll talk about it as much as you want to.

25 Also, don't conduct any self help. Meaning,

1 don't go on the computer look and look on the Clerk
2 of Court's file or look for media publications or
3 reports about this. I don't think you can find
4 anything. But having said that, the only thing that
5 would be appropriate to your deliberations is that
6 which is presented in accordance with the law and the
7 rules in open court.

8 All right. So, ladies and gentlemen, we're
9 about to proceed to opening statements from the
10 attorneys. Right now it is my understanding from the
11 attorneys that this case should be fairly short. We
12 will do opening statements, we'll probably take a
13 fairly short break for lunch and then come back and
14 begin the introduction of testimony. We're going to
15 end today at about 2:00 or 2:15, somewhere around
16 there. Because I have a commitment that I cannot
17 avoid. So, we're going to end then. And what I hope
18 is to get in all of the evidence today, to have both
19 sides rests, and then come back tomorrow and go to
20 argument and charge. That's my hope, that's my
21 intent. But I don't control the witnesses and the
22 examination. So, it could go a little bit longer.
23 It is conceivable that it could be shorter. But
24 having said that, we're going to go ahead and begin
25 with the opening statements before lunch.

1 Before we get started I'm going to ask the Clerk
2 of Court to swear you in. Now, I know you took an
3 oath downstairs to tell the truth and this is a
4 different oath. This is an oath to verily and truly
5 try the case in accordance with the law and the
6 evidence.

7 Madam Clerk, you may swear the jury.

8 THE CLERK: Please stand and raise your right
9 hand. The correct response to the oath is, I will.

10 (WHEREUPON, the jury was sworn.)

11 THE CLERK: Thank you, you may be seated.

12 THE COURT: All right, Mr. Heitman.

13 OPENING STATEMENT

14 MR. HEITMAN: May it please the Court?

15 THE COURT: Yes, sir.

16 MR. HEITMAN: Ms. Wicker.

17 Ladies and gentlemen of the jury, good
18 afternoon. I'm here today prosecuting the Defendant,
19 Rodrigus Williams, for strong armed robbery and two
20 counts of assault and battery in the first degree.
21 The evidence will show that the Defendant entered a
22 K-Mart on July 22, 2015 in Greenville County and
23 selected five Leapfrog video games from the shelf.
24 The Defendant then concealed those video games inside
25 of his purse and attempted to exit the store without

1 paying for those items. Before he exited the store,
2 the Defendant was approached by two loss prevention
3 officers. The Defendant then pulled out a can of
4 pepper spray and maced the loss prevention officers
5 in the face. Then this Defendant ran away.

6 It is my burden of proof today to prove to you
7 beyond a reasonable doubt that this Defendant
8 committed these crimes. And beyond a reasonable
9 doubt, that means are you firmly convinced? Are you
10 firmly convinced that the Defendant committed these
11 crimes? In order to be guilty of a crime in South
12 Carolina, you have to satisfy all of the elements of
13 that crime. The elements of a crime are simply the
14 checklist that the legislature has created, you have
15 to check off every block on the checklist to be
16 guilty. The elements of strong armed robbery are
17 taking and carrying away of another persons property
18 with the intent to deprive by use of force. The
19 elements for assault and battery in the first degree,
20 are the injury of another person during the
21 commission of a theft or robbery.

22 At the end of this trial I'll have a chance to
23 come back up here and speak with you again. I'll go
24 over all the evidence and how it relates to the
25 elements of these crimes. And at that point I will

1 ask that you find the Defendant, Rodrigus Williams,
2 guilty of strong armed robbery and two counts of
3 assault and battery in the first degree.

4 MS. WICKER: May it please the Court?

5 THE COURT: Yes, ma'am.

6 OPENING STATEMENT

7 MS. WICKER: Mr. Heitman.

8 Good afternoon. You've heard now that we don't
9 anticipate that is going to be a very lengthy trial.
10 And that Mr. Williams is charged with strong armed
11 robbery and two counts of assault and battery in the
12 first degree. And as Mr. Heitman told you, The State
13 has the burden of proving each element of each of
14 these offenses beyond a reasonable doubt. Each of
15 these offenses contains one essential element,
16 larceny. That's stealing. They have to prove that
17 beyond a reasonable doubt Mr. Williams stole from
18 K-Mart. That's what this case hedges on.

19 I believe that the evidence in this case doesn't
20 rise to that level. It's all based on store
21 surveillance video. Because we don't anticipate this
22 is going to be a very lengthy trial, it becomes that
23 much more important for you to pay attention to the
24 evidence. The testimony that you hear and the
25 tangible evidence that you see. Pay attention to the

1 details of the witnesses that you will hear from and
2 what you actually see on the video. If you do so,
3 I'm convinced that you will see that The State simply
4 cannot prove that Mr. Williams stole from K-Mart and
5 I ask you to return a verdict of not guilty. Thank
6 you.

7 THE COURT: All right, ladies and gentlemen -- .
8 How long do you anticipate your first witness
9 may take?

10 MR. HEITMAN: Maybe about 15 minutes.

11 THE COURT: Okay, let's go ahead and break for
12 lunch, okay. And we'll come back and take the
13 evidence.

14 The Bailiff will take you out, show you where
15 your jury room is and advice you of your means of
16 ingress and egress out of the courthouse. Please be
17 back at 1:00. As a matter of fact, if you'd be back
18 at five till the hour that would be better. That
19 means we can start right at 1:00. Try not to be
20 late. Not out of consideration for me or the parties
21 but for each other. Because if one of you is
22 straggling, then the other 12 are going to be waiting
23 on you. So, out of consideration for the other
24 jurors, please be on time and we'll try to start as
25 quickly as possibly after 1:00. All right have a

1 great lunch. Thank you.

2 (WHEREUPON, the jury left open court at
3 approximately 12:06 p.m.)

4 THE COURT: All right, counsel, any matters to
5 put on the record before we adjourn for lunch?

6 MR. HEITMAN: Nothing from The State.

7 MS. WICKER: Nothing from the Defense, Your
8 Honor.

9 THE COURT: All right, we'll start as promptly
10 as 1:00 as the jury will allow.

11 MS. WICKER: Thank you, Your Honor.

12 THE COURT: Thank you.

13 (WHEREUPON, a lunch break was taken.)

14 THE COURT: All right, I've been advised we have
15 all our jurors. Y'all ready?

16 All right, would you bring the jury in, please?

17 THE BAILIFF: Yes, sir.

18 (WHEREUPON, the jury came into open court at
19 approximately 1:00 p.m.)

20 THE COURT: All right, thank you for being
21 timely, I appreciate it. So, let's go ahead and get
22 started.

23 Mr. Heitman, I believe you may call your first
24 witness, sir.

25 MR. HEITMAN: The state calls Henry Homesley.

HENRY HOMESLEY-DIRECT BY MR. HEITMAN

1 THE COURT: Okay.

2 THE CLERK: Mr. Homesley, please come forward.
3 Place your left hand on the Bible, raise your right
4 hand.

5 HENRY HOMESLEY, after being duly
6 sworn, testified as follows:

7 THE CLERK: Please be seated, state your name
8 for the record.

9 THE WITNESS: Henry Homesley.

10 DIRECT EXAMINATION

11 BY MR. HEITMAN:

12 Q Mr. Homesley, how old are you?

13 A Fifty-one.

14 Q Where do you work?

15 A K-Mart.

16 Q What's your occupation?

17 A I'm the loss prevention manager.

18 Q How long have you been employed by K-Mart?

19 A I've been there nine years.

20 Q What did you do before you worked at K-Mart?

21 A I worked at the fire department for 24 years as
22 a fire investigator.

23 Q Okay. What type of education and training do
24 you have?

25 A I have -- we've been through certified loss

HENRY HOMESLEY-DIRECT BY MR. HEITMAN

1 prevention training through K-Mart. We have a onboard
2 program that we go through to get certified.

3 Q Okay. Do you live in Greenville County?

4 A I do.

5 Q How long have you lived here?

6 A All my life.

7 Q All right. How long have you worked in the loss
8 prevention, part-time or full-time?

9 A Nine years.

10 Q Okay. Were you working as an asset protection
11 agent at K-Mart on July 22, of 2015?

12 A I was.

13 Q And which K-Mart do you work at?

14 A I work at the one on Church Street.

15 Q In Greenville County?

16 A Yes, sir.

17 Q What do you see performed as a loss protection
18 agent?

19 A As far as?

20 Q As far as asset protection agent?

21 A Oh, basically I do internal and external cases.
22 Externally we watch video, watch people trying to take
23 merchandise in the store.

24 Q Okay. When someone enters K-Mart, do you watch
25 them for suspicious activity?

HENRY HOMESLEY-DIRECT BY MR. HEITMAN

1 A Yes. When they come in the door we got a few
2 things that we try to key on, certain things we key on.

3 Q What are those types of things?

4 A People come in and they look and see for the
5 camera. They're wearing coats or hoodies when it's warm
6 outside, large empty purses, large bags.

7 Q Okay. On July 22, 2015, were you watching the
8 cameras looking for that suspicious activity?

9 A Yes, sir.

10 Q Okay. Where do you watch the cameras from?

11 A We have an office in the back of the store. The
12 surveillance room.

13 Q Okay. How many cameras does K-Mart have?

14 A I think this store probably has around 40.

15 Q How many loss prevention agents do y'all have?

16 A We have two full-time and part-time and myself.

17 Q Do you remember who was working as loss
18 prevention at K-Mart the night of July 22, 2015?

19 A I -- myself and Russ Myer's.

20 Q Did either of y'all notice any suspicious
21 activity?

22 A I did.

23 Q Who was involved in that activity?

24 A The Defendant coming in the store.

25 Q Okay. Sorry.

HENRY HOMESLEY-DIRECT, BY MR. HEITMAN

1 A He come in the store and had a large empty bag
2 with him. So, I kind of one -- that's one of our key
3 things so I started watching him.

4 Q When did you first notice the Defendant?

5 A Quickly. Right after he come in the door he
6 went over to the pantry department.

7 Q Okay. Do you remember about what time he came
8 in?

9 A It was towards closing, around 9 -- between 9:00
10 and 9:30.

11 Q Okay. And where did you observe the Defendant
12 from?

13 A From the surveillance room.

14 Q And when you were observing the Defendant, what
15 did you see?

16 A I seen him, he had a shopping cart, he was
17 carrying, looked like a EBT card and he had a large purse,
18 a empty purse, sitting in the front of the buggy.

19 Q Okay. Then did you keep watching him?

20 A I did.

21 Q What did you see next?

22 A He come out the pantry, he got some items, put
23 them in the buggy. Kind of stacked them kind of funny in
24 the buggy. They do it sometimes where they call it
25 shielding. They'll take a shopping cart, build like a

HENRY HOMESLEY-DIRECT BY MR. HEITMAN

1 shield around where you can't see it, where they're going
2 to do something.

3 Q And what department did the Defendant go to
4 after that?

5 A From pantry he went straight over to the toy
6 department.

7 Q Okay. And what did the Defendant do there?

8 A There was a display of Leapfrog video games. He
9 selected five games and laid them on his bag in the buggy.

10 Q Okay. After you saw the Defendant placing the
11 items in his purse, what did you do?

12 A I had Russ go to the outside. We would -- two
13 of us there, one of use would go outside and we would
14 communicate over phones. And one of us stay back and
15 watch him until he gets ready to leave the store.

16 Q Okay. When the Defendant was ready to leave the
17 store, what did you do?

18 A Russ was already outside, the Defendant stepped
19 to the door, I was coming down the aisleway behind him.
20 And--

21 Q Okay. I'm sorry, go ahead.

22 A And Russ had stepped in front of him to ask him
23 to come back in the store -- said who he was and asked him
24 to come back in the store. He was refusing. So, when I
25 got up to the door, I stepped in kind of behind him and

HENRY HOMESLEY-DIRECT BY MR. HEITMAN

1 asked him to come back in the store.

2 He said, I didn't do nothing.

3 I said, Well, just come back in and we'll
4 talk about the games you got in your bag that you got.

5 And that's the time he took the mace out
6 and started macing us.

7 Q Did it hurt when the Defendant maced you?

8 A Yeah, it hurt a little bit.

9 Q And before you approached the Defendant did you
10 identify yourself?

11 A I did.

12 Q After this incident occurred did you meet with
13 Deputy Lollis?

14 A I did.

15 Q When did you meet with him?

16 A He come and did the report that night.

17 Q Okay. Where did you come from?

18 A Back in the loss prevention office, surveillance
19 office.

20 Q Did you meet with him at any other time?

21 A He did bring a lineup back for me to look at.

22 Q Okay.

23 A At a later date.

24 Q When was that?

25 A I don't remember the exact date.

HENRY HOMESLEY-DIRECT BY MR. HEITMAN

1 Q Okay. When he did show you that lineup, how
2 many people were present in the room when he showed it to
3 you?

4 A Just me and Deputy Lollis.

5 Q Okay. Was anyone else shown the photo lineup in
6 your presence?

7 A Not in my presence. That I remember.

8 Q Did Deputy Lollis give you any instructions as
9 to what you should do for the photo lineup?

10 A Just told me to look at it, if I recognize
11 somebody to mark it on the paper.

12 Q Okay. Did you feel any pressure from Deputy
13 Lollis to pick anyone out of the lineup?

14 A No.

15 Q Did Detective Lollis or anyone else present
16 suggest to you which photograph to pick?

17 A No, sir.

18 Q Did Deputy Lollis influence your decision at
19 all?

20 A No, sir.

21 Q On incident date of July 22, 2015, how long were
22 you able to observe the individual who stole from K-Mart
23 on this day?

24 A Probably -- probably in there five minutes or
25 so. Not very long.

HENRY HOMESLEY-DIRECT BY MR. HEITMAN

1 Q Is the area that you viewed him in well lit?

2 A It is.

3 Q Were you able to get a good look at the
4 individual?

5 A I did, yes, sir.

6 Q Did you have any difficulty seeing him?

7 A No.

8 Q How much attention did you pay to him?

9 A Once I start surveilling somebody, I pay pretty
10 good attention.

11 Q Okay. When you were shown the photo lineup, did
12 you see that person in the lineup?

13 A I did.

14 Q Did you look at the lineup closely?

15 A I did.

16 Q Did you look at each picture carefully?

17 A I did.

18 Q Did tell Deputy Lollis which photograph you
19 picked.

20 A Yes, sir.

21 Q What, if anything, did you do to the photo
22 lineup to indicate which picture you chose?

23 A I believe I circled it and initialed my initials
24 on it and the date.

25 Q Was there any doubt in your mind that you had

HENRY HOMESLEY-DIRECT BY MR. HEITMAN

1 the right individual in the lineup?

2 A No doubt.

3 Q I'm showing you what has been marked as State's
4 Exhibit No. 1. Without telling me what that is, do
5 recognize it?

6 A The photo lineup--

7 Q Without telling me what it is, do you recognize
8 it?

9 A Oh, I'm sorry, yes, sir.

10 Q How do you recognize it?

11 A It's a paper that Detective Lollis brought for
12 me to do the lineup on.

13 Q Okay. Is that your handwriting on the paper?

14 A Yes, sir.

15 Q Is this lineup in the same condition as it was
16 when you last saw it?

17 A Yes, sir.

18 Q Do you notice any changes or additions to it?

19 A No, sir.

20 MR. HEITMAN: Your Honor, The State offers
21 exhibit number 1 for admission as evidence.

22 THE COURT: Objection, ma'am?

23 MS. WICKER: No, Your Honor.

24 THE COURT: Without objection same is admitted.

25 (WHEREUPON, State's Exhibit No. 1 was admitted

HENRY HOMESLEY-DIRECT BY MR. HEITMAN

1 into evidence.)

2 BY MR. HEITMAN:

3 Q Would you, please, point out on the exhibit the
4 picture that you chose?

5 A It was this one.

6 Q Okay. Will you point out the markings that you
7 made on the lineup?

8 A I circled the number three and I put my name on
9 it, initialed it and dated it.

10 Q Okay.

11 A And I wrote a statement.

12 Q What does that statement say?

13 A This guy entered K-Mart store at 1 K-Mart Plaza.
14 Proceeded to kids games. He then concealed five games
15 into a purse. He then proceeded to the front of the store
16 where myself and Russ Myer's tried to stop him. And he
17 then sprayed us with mace pepper spray and run off.

18 Q Okay. Did you ever select any other individual
19 as being the person that you saw that day?

20 A No, sir.

21 Q I'm going to -- this is the photograph that you
22 just pointed out, correct?

23 A Yes, sir.

24 Q Do you see the person who stole from K-Mart, who
25 maced you, in the courtroom today?

HENRY HOMESLEY-DIRECT BY MR. HEITMAN

1 A Yes, sir, I do.

2 Q Where is that person sitting?

3 A It's the Defendant.

4 Q What is that person wearing?

5 A He's got a purplish color shirt and glasses.

6 MR. HEITMAN: Okay, let the record show that the
7 witness pointed to the Defendant.

8 BY MR. HEITMAN:

9 Q As far as your duties in the regular course of
10 business, do you keep store recordings of people suspected
11 of shoplifting?

12 A Yeah, we keep case files, yes, sir.

13 Q Okay. Do you keep in-store -- did you keep
14 in-store recording of this incident that happened on
15 July 22 of 2015?

16 A Yes, sir.

17 Q What did you do with that recording?

18 A We put them in a locked file cabinet in the
19 office and filed them.

20 Q I'm handing you what's been marked as exhibit
21 number 2, do you recognize that?

22 A Yes, sir.

23 Q How do you recognize it?

24 A It's a copy of the video that I made.

25 Q Okay. If you'll take it out.

HENRY HOMESLEY-DIRECT BY MR. HEITMAN

1 A (The witness complies.)

2 Q Are your initials on that?

3 A Yes, sir.

4 Q Okay. Did you do anything -- did you alter this
5 video before you handed it over to police?

6 A No, sir.

7 Q Is this video recording up there a fair and
8 accurate presentation of the actual events that you
9 witnessed on July 22, 2015?

10 A Yes, sir.

11 MR. HEITMAN: Your Honor, at this time the State
12 offers exhibit 2 for admission of evidence.

13 MS. WICKER: No objection, Your Honor.

14 THE COURT: All right, without objection the
15 same is admitted.

16 (WHEREUPON, State's Exhibit No. 2 was admitted
17 into evidence.)

18 MR. HEITMAN: Court's indulgence, Your Honor.

19 THE COURT: Okay.

20 (WHEREUPON, State's Exhibit 2 was published.)

21 BY MR. HEITMAN:

22 Q Okay. Now, through your training and experience
23 as a loss prevention officer, can you point out the
24 suspicious activity, if any, right here?

25 A First is the large purse up in front of the

HENRY HOMESLEY-DIRECT BY MR. HEITMAN

1 buggy. And the way he's stacking the merchandise, like a
2 wall.

3 Q Okay. All right. Now, what's the Defendant
4 doing right now?

5 A This is where he's picking up the video games.
6 The Leapfrog game.

7 Q Okay. You said he's picking Leapfrog games?

8 A Yes, sir.

9 Q What type of packaging are those Leapfrog games
10 in?

11 A They're in acrylic plastic case with a security
12 device inside of them.

13 Q Does K-Mart rely on any technology to prevent
14 shoplifting's?

15 A We do.

16 Q What type?

17 A We use, like I said, the case, plastic cases.
18 We use little tags and we have spider wraps on the
19 merchandise.

20 Q And do you use an alarm system?

21 A Yes, we have pedestals at the door. And once
22 you pass these pedestals, it has a light and a audible
23 noise that goes off if the merchandise hadn't been
24 deactivated at the registers.

25 Q Okay. Now, at what point, using your

HENRY HOMESLEY-DIRECT BY MR. HEITMAN

1 experience, at what point does the concealment of those
2 games take place?

3 A Right here. He's kind of laying on his bag, you
4 see him kind of messing with them.

5 Q Okay.

6 A He's leaning up on the cart. See, kind of
7 looking around and he takes his purse out, puts it on his
8 arm. And he moves around, all the merchandise is gone at
9 this point.

10 Q Do you see the merchandise in the cart at all?

11 A No.

12 Q Is this when the Defendant exits the store?

13 A Yes, sir.

14 Q Was -- you mentioned that there are an audible
15 and visual alarm that goes off?

16 A Yeah. If you look at the pedestal there,
17 there's a little red light on top. And that light will
18 flash and will set off our audible alarm.

19 Q Keep in mind when the alarm goes off.

20 A Right there.

21 Q Okay. Was that alarm functioning properly on
22 July 22, 2015?

23 A Yes, it was.

24 Q Let me just point to something for the jurors
25 here. The alarm is located right here?

HENRY HOMESLEY-DIRECT BY MR. HEITMAN

1 A Yeah, that's the light on top.

2 Q I got you.

3 Go back and play that again.

4 Why is that alarm going off?

5 A Because there's security devices passing the
6 point through the pedestals.

7 Q Okay. Are you talking to the Defendant right
8 now in this video?

9 A Yeah, I was talking to him. Then Russ comes up
10 to him at this point. I was asking him to come back in
11 the store and let's talk about it. He kept saying he
12 didn't have nothing.

13 I said, Let's come in and let's talk about
14 it.

15 Q Okay. Did the Defendant leave behind the
16 shopping cart that was full of merchandise that we saw?

17 A He did.

18 Q Okay. And in that shopping cart did you find
19 the five Leapfrog games that we see the Defendant taking?

20 A I did not.

21 MR. HEITMAN: No further questions, Your Honor.

22 THE COURT: Yes, ma'am.

23 MS. WICKER: Thank you, Your Honor, may it
24 please the Court?

25 THE COURT: Yes, ma'am.

HENRY HOMESLEY-CROSS BY MS. WICKER

CROSS-EXAMINATION

1

2 BY MS. WICKER:

3 Q Mr. Homesley, you testified that when
4 Mr. Williams was in the store you were watching the
5 surveillance video, is that correct?

6 A When he first come into the store?

7 Q Yes, sir.

8 A I was doing surveillance video, yes.

9 Q Okay. And that was in a back room of the store?

10 A Yes, ma'am.

11 Q Okay. And you eventually asked Mr. Myer to wait
12 outside, to wait for the suspect?

13 A Yes.

14 Q Okay. After you were pepper sprayed, the
15 suspect left?

16 A Yeah, he ran off, yes.

17 Q When you approached Mr. Williams when he was
18 exiting, was your attention to detain him and keep him in
19 the store?

20 A Yes, usually.

21 MS. WICKER: Okay, thank you, I don't have any
22 further questions.

23 THE COURT: Redirect, sir?

24 MR. HEITMAN: Nothing further.

25 THE COURT: Okay.

RUSSELL MYER-DIRECT BY MR. HEITMAN

1 Thank you, sir, you may step down. I appreciate
2 your being here.

3 THE WITNESS: Thank you.

4 THE COURT: You may call your next witness, sir.

5 MR. HEITMAN: The State calls Russell Myer.

6 THE CLERK: Mr. Myer, please place your left
7 hand on the Bible, raise your right.

8 RUSSELL MYER, after being duly sworn,
9 testified as follows:

10 THE CLERK: Please be seated and state your name
11 for the record.

12 THE WITNESS: Russell Myer.

13 DIRECT EXAMINATION

14 BY MR. HEITMAN:

15 Q Mr. Myer, how old are you?

16 A Thirty-nine.

17 Q And where do you work?

18 A Security at BSAF Chemical Company in Mauldin.

19 Q What did you do before that?

20 A Loss prevention at K-Mart.

21 Q Okay. Is that K-Mart in Greenville County?

22 A Yes, sir.

23 Q Is that the same K-Mart that Mr. Homesley worked
24 at?

25 A Yes, sir.

RUSSELL MYER-DIRECT BY MR. HEITMAN

1 Q Are you a resident of Greenville County?

2 A No, I'm a resident of Pickens County.

3 Q Okay. How long were you employed at K-Mart?

4 A Roughly a year.

5 Q And what type of education or training do you
6 have?

7 A Loss prevention -- accreditation you go through.

8 Q Okay. And were you working as loss prevention
9 at K-Mart on July 22, 2015?

10 A Yes, sir.

11 Q What duties did you perform as loss prevention
12 manager?

13 A Doing surveillance on cameras, sometimes walking
14 around, seeing if anybody is doing anything that's
15 suspicious.

16 Q What are some types of suspicious activity that
17 you look for?

18 A Large bags, walking around in the same area.

19 Q Okay. On July 22, 2015 were you watching the
20 cameras for suspicious activity?

21 A Yes, sir.

22 Q And where did you watch the cameras from?

23 A In the back room of K-Mart.

24 Q And about how many cameras did K-Mart have when
25 you worked there?

RUSSELL MYER-DIRECT BY MR. HEITMAN

1 A Forty.

2 Q Do you remember who was working with you in loss
3 prevention the night of July 22, 2015?

4 A Mr. Homesley.

5 Q Did he or you notice any suspicious activity
6 that day?

7 A Yes, sir.

8 Q And who was involved in that suspicious
9 activity?

10 A Say again.

11 Q Who was involved in that suspicious activity?

12 A The Defendant.

13 Q When did you first notice the Defendant?

14 A As he was walking in, looking around, then going
15 down the one aisle with a big purse and then going back
16 around. And then after he left the buggy, he picked up
17 his purse and was going out as to leave the stuff that he
18 had already was going to pay for but obviously didn't.

19 Q Okay. And where did you observe the Defendant
20 from?

21 A In the back room, camera room.

22 Q And when -- I guess, when you observed the
23 Defendant, what did you see?

24 A Him taking them and putting them in the big
25 purse after he had gone through the pantry and picked some

RUSSELL MYER-DIRECT BY MR. HEITMAN

1 items up.

2 Q After that, what did you do?

3 A I went outside to wait.

4 Q When you saw the Defendant coming out the front
5 door, what happened next?

6 A I came up, told him who I was. Then
7 Mr. Homesley came up and we tried to say come back inside
8 so we can talk about it and then he maced me.

9 Q Okay. Did you touch or grab the Defendant?

10 A No.

11 Q And so, did y'all identify yourselves as loss
12 prevention agent?

13 A Yes, sir.

14 Q Did the pepper spray hurt?

15 A Yeah, you saw me go on the ground. Yeah, it
16 did.

17 Q All right. Let's talk about after you were
18 maced. After this incident occurred, did you meet with
19 Deputy Lollis?

20 A Yeah, he came by after.

21 Q Okay. When did you meet with him?

22 A Probably 30, 45 minutes after it happened, I
23 guess.

24 Q All right. Where did y'all meet?

25 A In the room -- back room at K-Mart.

RUSSELL MYER-DIRECT BY MR. HEITMAN

1 Q Okay. Did you meet with him again?

2 A I think so. I'm not -- I know I met with him
3 the first time. Then he brought me the lineup. But I'm
4 not sure what day it was or anything like that.

5 Q Okay. I'm showing you what's been marked as
6 State's Exhibit No. 3. Do you recognize that?

7 A Yes.

8 Q How do you recognize it?

9 A This is what I wrote down and signed.

10 Q Okay. It is substantially in the same condition
11 as when you last saw it?

12 A Yes.

13 Q Do you see any changes or additions to it?

14 A No.

15 MR. HEITMAN: Your Honor, State offers exhibit
16 number three as admission into evidence.

17 MS. WICKER: No objection, Your Honor.

18 THE COURT: All right, without objection the
19 same is admitted.

20 (WHEREUPON, State's Exhibit No. 3 was admitted
21 into evidence.)

22 BY MR. HEITMAN:

23 Q Can you tell us what I just handed you?

24 A It's a affidavit of what happened and the
25 pictures of the -- the lineup pictures.

RUSSELL MYER-DIRECT BY MR. HEITMAN

1 Q Okay. When you were shown the lineup, how many
2 people were present in the room?

3 A I think it was me and the detective.

4 Q Was anyone else shown the photograph lineup in
5 your presence?

6 A No, just me and him.

7 Q Did Deputy Lollis give you instructions on what
8 to do with the lineup?

9 A Yes, just like at the pictures, look at each one
10 of them, carefully and pick which one, if any, pick which
11 one you thought was the person.

12 Q Did you feel any pressure from Deputy Lollis to
13 pick someone out of the lineup?

14 A No.

15 Q Did Deputy Lollis or anyone else present suggest
16 which photograph to pick?

17 A No.

18 Q Did deputy Lollis influence your decision at
19 all?

20 A No.

21 Q On the incident date of July 22, 2015, how long
22 were you able to observe the individual who stole from
23 K-Mart and maced you?

24 A Short time, ten minutes maybe. Maybe not even
25 that. Somewhere around that.

RUSSELL MYER-DIRECT BY MR. HEITMAN

1 Q Okay. Is the area that you viewed him in well
2 lit?

3 A Oh, yeah.

4 Q Were you able to get a good look at this
5 individual?

6 A Yes.

7 Q Did you have any difficulty seeing him?

8 A No.

9 Q How much attention did you pay to him?

10 A A good bit.

11 Q When you were shown the photo lineup did you see
12 that person in the lineup?

13 A I did.

14 Q Did you look at the lineup closely?

15 A I did.

16 Q Did you look at each picture carefully?

17 A I did.

18 Q Did you tell Deputy Lollis which photograph you
19 picked?

20 A Yes.

21 Q What, if anything, did you do to indicate which
22 picture that you chose.

23 A I initialed it, I'm sure and probably circled
24 the number. I have to look at it, I'm not sure what I
25 did. Yeah, I circled it and signed my name at the top and

RUSSELL MYER-DIRECT BY MR. HEITMAN

1 wrote down the date.

2 Q Was there any doubt in your mind that you picked
3 the right individual out of the lineup?

4 A No, sir.

5 Q Okay. And would you, please, point out on the
6 exhibit which photograph you chose?

7 A Want me to show you?

8 Q Yeah.

9 A (The witness complies.)

10 Q This is the photograph that you chose?

11 A Yes, sir.

12 Q Did you ever select any other individual as
13 being the person that you saw that day?

14 A No.

15 Q Did you see the person who stole from K-Mart in
16 the courtroom today?

17 A Yeah.

18 Q Where is that person sitting?

19 A The Defendant. I see a blue shirt not a purple,
20 but a blue shirt.

21 MR. HEITMAN: Okay, let the record show that the
22 witness pointed to the Defendant.

23 No further questions.

24 THE COURT: Yes, ma'am.

25 MS. WICKER: Thank you, Your Honor.

RUSSELL MYER-CROSS BY MS. WICKER

CROSS-EXAMINATION

1

2 BY MS. WICKER:

3 Q Mr. Myer, when Mr. Williams was in the store,
4 you were watching surveillance videos; is that right?

5 A Yes, sir.

6 Q Were you in the back room with Mr. Homesley at
7 that time?

8 A Yes, ma'am.

9 Q And he asked you to wait outside for
10 Mr. Williams?

11 A Yes, ma'am, after we had seen him.

12 Q Right, after you watch the surveillance video, I
13 understand. And when you were meeting him out there, was
14 it your intention to prevent him from leaving the premises
15 at that time?

16 A Yeah, to question him.

17 Q To detain him?

18 A Yes.

19 MS. WICKER: Thank you, I don't have any further
20 questions.

21 THE COURT: Redirect, sir?

22 MR. HEITMAN: Nothing further.

23 THE COURT: Thank you, sir, I appreciate you
24 being here.

25 All right, you may call your next witness, sir.

RICKY LOLLIS-DIRECT BY MR. HEITMAN

1 MR. HEITMAN: The State calls Master Deputy
2 Lollis.

3 THE CLERK: Deputy Lollis, please place your
4 left hand on the Bible, raise your right.

5 RICKY LOLLIS, after being duly sworn,
6 testified as follows:

7 THE CLERK: Please be seated and state your name
8 for the record.

9 THE WITNESS: Master Deputy Ricky Lollis.

10 DIRECT EXAMINATION

11 BY MR. HEITMAN:

12 Q Master Deputy Lollis, how old are you?

13 A Sir?

14 Q How old are you?

15 A Forty-seven.

16 Q Where are you employed?

17 A Greenville County Sheriff's Office.

18 Q In what capacity are you employed there?

19 A I am currently master deputy in uniform patrol.

20 Q What duties are associated with that job?

21 A Mainly, field training officer and our primary
22 is in-depth investigations, training new hires.

23 Q How long have you been employed there?

24 A Twelve and a half years.

25 Q Were you employed at the sheriff's office on

RICKY LOLLIS-DIRECT BY MR. HEITMAN

1 July 22, 2015?

2 A Yes, sir.

3 Q What type of education or training have you
4 received?

5 A Completed Criminal Justice Academy and went
6 through the field training program to be a training
7 officer. And I also spent one year in 2009 as a criminal
8 investigations investigator in auto theft and arson.

9 Q Okay. Did you have a chance to become involved
10 in this case?

11 A Yes, sir.

12 Q How did you become involved in this case?

13 A I was actually cross training in investigations
14 when I was assigned the case from the armed robbery
15 division.

16 Q When was the case assigned to you?

17 A I believe it is the 23rd of July.

18 Q Okay.

19 A Of 2015.

20 Q What did you do?

21 A Upon reading the original report, I observed
22 that there was a video surveillance that was obtained from
23 the incident location. I went to property and evidence,
24 pulled it out, played it and watched the incident. And
25 there was an option on it to create a digital still image

RICKY LOLLIS-DIRECT BY MR. HEITMAN

1 when the Defendant first came into the store. So, I
2 created a still image and printed off, basically, a
3 photograph of the individual when he was looking at the
4 camera.

5 Q Okay. It was your job to determine whether --
6 was it your job to determine the identity of the
7 Defendant?

8 A Yes, sir.

9 Q Okay. Did you ask around about the identity of
10 the Defendant?

11 A Yes, I did.

12 Q Did you receive any leads as to the identity of
13 the Defendant?

14 A It took approximately, I believe, about a week.
15 And upon asking a bunch of different people I worked with,
16 one person gave me a nickname. Then they passed it around
17 a few more times and then they gave me the name of
18 Rodrigus Williams.

19 Q After receiving the lead, did you meet with the
20 Defendant's cousin, Michelle Spurgeon?

21 A Yes, sir, I did.

22 Q Did you show the Defendant's cousin any
23 pictures?

24 A Yes, sir, the digital still image I created from
25 the surveillance.

RICKY LOLLIS-DIRECT BY MR. HEITMAN

1 Q Okay. And as a result of meeting with the
2 Defendant's cousin, what did you do next?

3 A Well, I spoke with her and advised her why I was
4 there. And when I presented her with the pictures, kind
5 of held her hand over her mouth and said, What did he do?

6 So, I explained what he did. And I asked
7 her did she know him?

8 She said, Yeah, that's my cousin, Rodrigus
9 Williams.

10 Q Did you conduct a photo lineup explaining this
11 case?

12 A Yes, sir, I did, two of them.

13 Q Did you personally put the lineup together?

14 A I did, sir.

15 Q How many photographs are displayed in the
16 lineup?

17 A Six in each.

18 Q How are the photographs displayed?

19 A It's a subsequential lineup. Instead of putting
20 all six of them on one page, it's a single picture on each
21 individual page.

22 Q Was the Defendant included in this lineup?

23 A Yes, sir, it [verbatim] was.

24 Q Were the other five individuals similar in
25 physical description of the Defendant?

RICKY LOLLIS-DIRECT BY MR. HEITMAN

1 A As well as age, yes, sir.

2 Q How are they similar?

3 A Just facial features. Because it's based off
4 features on the face.

5 Q Okay.

6 A And the hair.

7 Q Who did you show the lineup to?

8 A The two victims, Mr. Homesley and Mr. Myer.

9 Q Okay. Do you remember when you showed them the
10 lineup?

11 A I believe the exact date for Mr. Myer was the
12 29th of July and the 30th, possibly. It was two separate
13 dates.

14 Q Okay. I'm going to show you photo lineup,
15 Exhibit No. 1.

16 A Mr. Homesley's was conducted on July 30th, 2015
17 at 08:05 hours. And Mr. Myer was the 29th of July 2015 at
18 approximately 1:55: p.m.

19 Q Okay. How much time had passed between the
20 incident and when you showed Mr. Myer the photo lineup?

21 A The incident date was the 22nd. So, roughly a
22 week.

23 Q Okay. And where did you show the lineup?

24 A Mr. Myer, I met with him at K-Mart, the incident
25 location. Mr. Homesley, I met with him at his residence.

RICKY LOLLIS-DIRECT BY MR. HEITMAN

1 Q And how did you present the photo lineups to
2 Mr. Homesley and to Mr. Myer?

3 A Had them all laid out. Each one of them were
4 numbered at the top, one through six. And advised them to
5 look through each individual photograph. Look at them
6 slowly and carefully. And even explained to them that the
7 person may or may not be in the lineup. Explained to them
8 that even if they saw the person that was in it, to
9 continue on and look at all six photographs, then go back
10 through until they recognized the person, if they were in
11 there.

12 Q Okay. Did you lead either Mr. Homesley or
13 Mr. Myer's to believe that they had to or should pick
14 someone out?

15 A No, sir.

16 Q Did you observed any pressure to pick someone
17 out of the lineup?

18 A No, sir.

19 Q Did you suggest in any way which photographs to
20 pick out?

21 A No, sir, I did not.

22 Q Did the witness select a photograph from the
23 lineup?

24 A Yes, sir.

25 Q And which photograph did Mr. Homesley select?

RICKY LOLLIS-DIRECT BY MR. HEITMAN

1 A Number three.

2 Q Which photograph was that?

3 A That was the photograph of Rodrigus Williams.

4 Q And which photograph did Mr. Myer select?

5 A Number three as well.

6 Q And whose photograph was that?

7 A That was Rodrigus Williams as well.

8 Q How certain or confident did the persons appear
9 to you?

10 A They were certain. I will say that Mr. Myer, he
11 pulled out -- after he looked through all of them, he
12 pulled out two and put them side by side. And then he set
13 the other one down and then he handed me Rodrigus Williams
14 and he said, I'm positive that's him.

15 Q Okay. Did you ask the witnesses to make
16 identifying marks on the photo that they gave you, the
17 exhibit?

18 A Yes. Everyone that I do I'll have them initial
19 it, date it and at the very bottom of the lineup, of the
20 photograph that they select, to write a brief narrative of
21 how they know that individual, how they came in contact
22 with them.

23 Q Did either of them select anyone else from the
24 lineup as being the one who committed this crime?

25 A No, sir.

RICKY LOLLIS-DIRECT BY MR. HEITMAN

1 MR. HEITMAN: No further questions.

2 THE COURT: Yes, ma'am.

3 MS. WICKER: I don't have any questions for this
4 witness, Your Honor.

5 THE COURT: Okay, thank you, sir, I appreciate
6 it. You may step down.

7 Have any additional witnesses, sir?

8 MR. HEITMAN: No, Your Honor.

9 THE COURT: Okay.
10 The State rest at this point?

11 MR. HEITMAN: Yes, Your Honor, the State rests.

12 THE COURT: All right.

13 Does the Defense, and I understand they're
14 certain motions that you wish to make, does the
15 Defense have any intention of introducing any
16 evidence?

17 MS. WICKER: No, sir, Your Honor.

18 THE COURT: All right.

19 All right, ladies and gentlemen, that was quick.
20 So, what we're going to do is we'll come back
21 tomorrow morning and we'll go to argument and charge.
22 As you hear, the Plaintiff has rested and the Defense
23 has elected not to put any evidence into the record.
24 As I told you, it's not incumbent upon the Defense to
25 put any evidence into the record because the

1 Defendant is presumed innocent and does not have to
2 prove himself innocent. The burden rests squarely
3 with the State.

4 So, they're several matters of law that I need
5 to take up at this point. We need to discuss
6 argument and charge on the law. That is with the
7 parties to the action, I need to talk about what law
8 they believe is relevant. Perhaps, have some
9 discussions regarding that. There's no reason for
10 y'all to wait around for that. So, I'm going to go
11 ahead and release y'all and y'all to be back here at
12 9:30 tomorrow morning. 9:30 tomorrow morning.

13 Again, please be on time and we'll start as
14 promptly as possible. And I'll remind you, don't
15 discuss the case. All right. Thank you, have a
16 great evening.

17 (WHEREUPON, the jury left open court at
18 approximately 1:40 p.m.)

19 THE COURT: Okay, motions?

20 MS. WICKER: Your Honor, for the record, we make
21 a motion for a directed verdict at this time.

22 THE COURT: Okay. All right. Of course, in
23 accordance with the prescribed standard for directed
24 verdict, I respectfully deny the same. I find that
25 there is evidence in the record, without commenting

1 on the quality of the evidence or the weight of the
2 same, there's evidence in the record upon which a
3 jury could find that The State has met its burden of
4 proof.

5 Anything else?

6 MR. HEITMAN: Nothing from The State.

7 THE COURT: Okay. Do y'all have any requests
8 for charge? We're not going to do a charge
9 conference on the record, I just want to know if you
10 have any written requests for charge?

11 MS. WICKER: I do, Your Honor. I have one for
12 assault and battery third degree. It's a lesser
13 included of assault and battery first degree.

14 THE COURT: Okay.

15 MR. HEITMAN: Objection, Your Honor. There's no
16 evidence to show that. That that charge is
17 prohibited.

18 THE COURT: Okay. This is what I'm going to do.
19 If you want the --

20 You want the lesser included assault and battery
21 in the third degree?

22 MS. WICKER: Yes, sir, Your Honor.

23 THE COURT: And I presumed that you're charge
24 mirrors the statute?

25 MS. WICKER: Exactly, Your Honor.

1 THE COURT: All right, I'll look at that and
2 I'll let you know tomorrow --

3 MS. WICKER: Okay.

4 THE COURT: -- whether I do that or not. I had
5 anticipated that you would ask for a lesser included.

6 MS. WICKER: I thought you might.

7 THE COURT: And I'm going to look at it and see.
8 I will tell you that I'm favorably inclined to
9 include the lesser included. But we won't argue
10 about that today, we'll discuss it tomorrow, okay.

11 Any other issues or matters that we need to take
12 up?

13 MR. HEITMAN: Nothing from the State.

14 THE COURT: Okay. I will be here, obviously,
15 earlier than 9:30. If y'all need me for anything you
16 can come let me know. And if you have any questions
17 about the charge, you are welcome to come and ask me
18 the same, just come together. And if we need to talk
19 it through just to give y'all some comfort as to what
20 I'm going to say, although, you probably know it's
21 going to be very standard. And understand, of
22 course, the reasonable doubt charge will be the
23 firmly convinced and not the type of doubt which
24 would cause a reasonable person to hesitate to act.
25 If you need to tailor your arguments in that regard,

1 that's information for you.

2 So, I will see y'all back here tomorrow morning.
3 Again, if you have issues to discuss, we do that
4 before 9:30. So, that when the jury gets here we can
5 go straight to argue and charge, okay. All right,
6 y'all have a great evening.

7 MS. WICKER: Thank you, Your Honor.

8 MR. HEITMAN: Thank you, Your Honor.

9 (WHEREUPON, the proceedings were concluded for
10 the day to be reconvened on October 13, 2016.)

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October 13, 2016

THE COURT: Good morning, hope everybody's doing well. The question that I have to pose to you this morning, the jury coordinator indicates that we're running low on jurors. Probably going to pick another juror today on at least one case. She wants to know if anybody has a problem with us releasing the alternate on this case so that that alternate can be included in a jury pool. I don't have a position one way or the other. I entirely defer to you whether you want to keep the alternate or not.

MS. WICKER: I don't think we have any objection from the defense, Your Honor.

MR. HEITMAN: No objection from The State.

THE COURT: All right.

Then, Lisa, if you'll tell Judy we'll put the alternate back in the jury pool.

THE CLERK: Okay.

THE COURT: Okay.

Otherwise, we have all the jurors?

THE BAILIFF: Yeah. She is in our jury room now, so I'll just have a bailiff take her back downstairs, is that fine?

THE COURT: Sure, that's fine.

THE BAILIFF: Okay.

1 THE COURT: Okay, are we ready for the jury and
2 begin our arguments?

3 MR. HEITMAN: Your Honor, I just want to put on
4 the record, yesterday Ms. Wicker asked for a lesser
5 included offense to be charge to the jury, and I just
6 want to put on the record to preserve The State's
7 objection, according to State v. Morris states that
8 severe attention that the jury might accept the
9 State's evidence in part and reject it in part is
10 unsupportive and doesn't support the motion.

11 THE COURT: Okay. All right. And I appreciate
12 that. I am electing to charge the lesser included
13 offense of assault and battery third degree. The
14 reason is because The State's theory for assault and
15 battery in the first degree is that it was committed
16 during the commission of the robbery. Of course,
17 when I give the jury the charge, I charge them very
18 specifically that they must consider each and every
19 indictment separately and autonomously. Therefore,
20 if they find that The State has not met its burden of
21 proof with regard to the strong armed robbery, then
22 they can certainly find under the same set of
23 circumstances that there was still an assault and
24 battery. I don't believe that the State asserts any
25 other elements of assault and battery first degree.

1 That is that there was great bodily harm or that
2 there was any other factor which would make it a
3 assault and battery first degree. Therefore, I'm
4 going to charge third in keeping with the logical
5 intent of the charge in its totality. Okay. Good
6 enough.

7 All right, we ready? Okay. So, I presume that
8 the State will open. I don't think that the Defense
9 will put any evidence into the record so the Defense
10 will go last. Am I correct?

11 MS. WICKER: Yes, your Honor.

12 MR. HEITMAN: Yes, sir.

13 THE COURT: All right, good enough.

14 All right, bring them in, please. Before you
15 bring them in, I need to appoint a foreperson.
16 That's what I haven't done yet.

17 That's what happens when y'all go too fast.

18 Okay, put Ms. Ewing, Number 72, in the
19 foreperson's seat, please, sir.

20 THE BAILIFF: Ms. Ewing?

21 THE COURT: Yes, sir.

22 (WHEREUPON, the jury came into open court at
23 approximately 9:37 a.m.)

24 THE COURT: All right, welcome back, ladies and
25 gentlemen. Thank you for being on time. I do

1 appreciate it.

2 Ms. Ewing, congratulations.

3 THE FOREPERSON: Thank you.

4 THE COURT: Because of your demonstrated
5 excellence as a juror, I'm appointing you as
6 foreperson of the jury.

7 THE FOREPERSON: Thank you.

8 THE COURT: Now, you can put that on resumes on
9 your job application later if you want to. The role
10 of a foreperson of the jury is to ensure that
11 everyone on the jury has a voice. And that everyone
12 has the opportunity to be heard. Any time a group of
13 12 people get together, whether they know each other,
14 whether they don't, you're always going to have some
15 people who are louder than others, more opinionated,
16 and then others who are more reluctant to voice their
17 opinion. And your job is just to make sure that
18 everybody has the opportunity to be heard during jury
19 deliberations.

20 Now, I can't tell you how to conduct jury
21 deliberations, I've never been on a jury and I'm not
22 allowed to go into your jury room and listen to you.
23 So, I suspect that each and every jury kind of comes
24 to their own manner and method of conducting
25 deliberations. And I'm sure that y'all will settle

1 in on an efficient and appropriate way to deliberate.
2 So, I can't give you any further instructions beyond
3 just make sure everybody has the opportunity to be
4 heard.

5 I'm hopeful that you won't have any questions.
6 I'm hopefully that the charge will give you all of
7 the information that you need to make a decision.
8 However, if during your deliberations you have a
9 question, then you're welcome to write it down, give
10 it to the bailiff and they will present it to me.
11 Now, in anticipation of some of those questions,
12 sometimes I get questions from juries that I can't
13 answer. Questions about, you know, evidence, what
14 does evidence mean? Or they ask me why didn't we
15 receive additional evidence? Or we'd like to see the
16 testimony of somebody who never did testify in the
17 trial. And I can't give you answers to questions
18 like that. Because I can't have an opinion about
19 what the evidence means and I can't introduce to you
20 additional evidence that wasn't presented at trial.

21 So, when it comes to evidence you got what you
22 got, okay. And y'all are the ones who will determine
23 what that evidence means, not me. Okay? So, I only
24 tell you that in anticipation so you don't send me
25 back a question that says, What does -- where was

1 this? Or does this evidence show X or Y? Okay.

2 All right. All right, having said that, ladies
3 and gentlemen, what we will do is we'll proceed to
4 closing arguments. As I told you earlier, closing
5 arguments are not evidence. You heard all the
6 evidence in the case. Now, the respective sides will
7 argue their positions in an attempt to persuade you.
8 So, The State will go first and then the Defense will
9 have the opportunity to close. Then I'll give you a
10 charge on the law. Okay.

11 Mr. Heitman, your argument, sir.

12 CLOSING STATEMENT

13 MR. HEITMAN: May it please the Court?

14 THE COURT: Yes, sir.

15 MR. HEITMAN: Ms. Wicker.

16 Ladies and gentlemen of the jury, during my
17 opening statement yesterday, I told that you I would
18 have another chance to come up here and talk to you.
19 About when I came up here to talk to you that I will
20 go over all the evidence and how it relates to the
21 elements. And that's exactly what I'm about to do.

22 Now, yesterday you heard testimony from the
23 first loss prevention officer, Henry Homesley. That
24 what the Defendant is doing right here is stacking
25 these Pepsi, I guess, Pepsi containers. And that

1 behavior is consistent with someone who is trying to
2 conceal their actions during the shoplifting. Also,
3 if you will notice the purse, how it's laying opened
4 and flat. That's the type of suspicious activity
5 that loss prevention officers look for.

6 Next, we see the Defendant selecting the five
7 Leapfrog games off the shelves. This is where Loss
8 Prevention Officer Homesley stated that the Defendant
9 begins to conceal these games within his purse. And
10 I know it is hard to see the concealment happening
11 right here. But, you know, Officer Homesley has nine
12 years of experience and he recognizes this type of
13 behavior. And even though it's hard to see him
14 concealing these items in his purse, you can see he
15 puts the purse on his shoulder, you can tell it's a
16 lot more full than when it was laying flat.

17 Also, you heard testimony from Officer Homesley
18 who stated that when he went to check the cart after
19 the Defendant left it behind, that the cart was empty
20 and the games were nowhere to be found. Now, right
21 here is a crucial point. Because if you watch this
22 alarm right here, you can see it going off as soon as
23 the Defendant walks through the door.

24 Loss Prevention Officer Homesley also testified
25 that the games that the Defendant took are included

1 in a hard plastic casing. And those casings have
2 security sensors in them. The security sensors are
3 what sets off the security alarm when someones tries
4 to shoplift this item. You can see it going off
5 right there. Finally, in effort to escape, the
6 Defendant pulls out a can of pepper spray and maces
7 the two loss prevention officers in the face.

8 Put the lights back on.

9 Now, since I'm a visualor [verbatim], I decided
10 to put the elements of the crime strong armed robbery
11 up here, we'll go through these together. So, strong
12 armed robbery is the taking and carrying aware of
13 another persons personal property with the intent to
14 deprive and by use of force. Another persons
15 property here are the K-Mart Leapfrog video games.
16 That we see the Defendant taking off the shelf.

17 Now, the taking and carrying away, that is the
18 concealment of the Leapfrog video games. Then the
19 evidence that shows the alarms going off while the
20 Defendant is trying to escape. The intent to
21 deprive, that is shown by the Defendant not paying
22 for the items and trying to steal something that
23 belongs to K-Mart. And finally, the use of force.
24 That is shown by the pepper spray that the Defendant
25 pulls out and sprays in the loss prevent officers

1 eyes.

2 Moving on to assault and battery in the first
3 degree. We've already stated that at this point the
4 threat has occurred with the strong armed robbery.
5 And during the commission of that robbery or theft,
6 the two loss prevention officers were injured. You
7 heard testimony from them that said that it hurt when
8 they were pepper sprayed. That their eyes were
9 hurting. You can see Russell Myer rolling around on
10 the ground it hurt so much.

11 Now, the great thing about our judicial system
12 is all of you, the jury. One of the best things
13 about the jury is that you all get to use your common
14 sense. Does it make sense to you that an innocent
15 person who is not shoplifting, who is stopped and
16 questioned for shoplifting, will then pull out pepper
17 spray, spray the two loss prevention officers then
18 run away. I submit to you that it is not.

19 In a minute you will be asked by the Judge to go
20 to your jury deliberation room and come to a verdict.
21 Now, the word verdict comes from the Latin word,
22 Veredicto, which means to speak the truth. And I ask
23 of you, when you come back out to the courtroom, that
24 you speak the truth and find the Defendant Rodrigus
25 Williams guilty of strong armed robbery and two

1 counts of assault and battery in the first degree.

2 Thank you.

3 THE COURT: Okay, Ms. Wicker, your argument,
4 ma'am.

5 CLOSING STATEMENT

6 MS. WICKER: Thank you, Your Honor, may it
7 please the Court.

8 Mr. Heitman.

9 Good morning. I told you yesterday I didn't
10 think it would be a very lengthy trial. I certainly
11 didn't ask a lot of questions because it's just not
12 necessary. The only evidence here is that video.
13 And unlike what the Solicitor told you, it's not --
14 just not hard to see the stealing, it just didn't
15 happen. He did not steal. I told you yesterday that
16 the essential element of strong armed robbery and
17 assault and battery first degree is larceny. And
18 here, it just didn't take place. You just don't see
19 it on the video.

20 In the video, this is the video that loss
21 prevention is relying on, they watched it in the back
22 room at K-Mart. Nobody followed Mr. Williams through
23 the store, no patrons came forward, they didn't find
24 any property on him, nobody said they saw him with
25 it. He didn't pawn it. It is simply this video.

1 What you see in the video is, yes, he picks up
2 some merchandise, which is around the cart and leaves
3 the store without the cart. You just don't see him
4 put anything in the purse. Loss prevention told you
5 that the purse looks a lot larger when he leaves. I
6 didn't see it. It certainly doesn't seem like it's
7 bulging at the seams with five video games.

8 Mr. Williams did use the pepper spray. Yes, that
9 fact is undisputed, it's clear as day in this video.
10 He pepper sprayed two, plained clothed individuals
11 both larger than himself, that were trying to
12 physically detain him for something he did not do.
13 He told them he didn't do it. I've never been pepper
14 sprayed, I'm sure it hurts very badly. Nobody went
15 to the hospital, no one called EMS, no one lost their
16 vision. After -- you don't need a special permit to
17 have pepper spray.

18 The State would ask you find Mr. Williams guilty
19 of assault and battery first degree. They have to
20 prove that he stole something beyond a reasonable
21 doubt. And that video just doesn't show it. The
22 State's witnesses focused a lot on how the cart was
23 packed, that Mr. Williams set off the alarms. And
24 that when he checked on the cart, five games were
25 missing. These facts are only bad if you start from

1 the presumption that he did this. And that's not
2 what you're called to do. You're called to start
3 from the presumption that he's not guilty, he's
4 innocent, he didn't do this.

5 I can't tell you how many times I've walked
6 through security in this building with a pen in my
7 bag and set off the alarm. I didn't have any weapons
8 or anything like that on me. Just last month I was
9 catching a flight back to Greenville and I set off
10 the security there. I got pat down. I didn't have
11 any contraband. These machines are not infallible.
12 When walking through a store sometimes I think, yeah,
13 I'm going to buy that shirt, put it in my cart,
14 continue shopping. And then out of sheer laziness I
15 think, I'm not going to buy this but I'm not walking
16 back to that department, no way. And I just put it
17 on a shelf nearby. When shopping in Wal-Mart,
18 K-Mart, grocery stores, you frequently see
19 merchandise that's not in the proper section. It's
20 not uncommon.

21 Where's the K-Mart employee who dose the
22 inventory to tell us, when I went through that night
23 I saw that five games were missing? They're not here
24 to tell us that because five games weren't missing.
25 The only evidence in this case is that video and you

1 just don't see him conceal the items.

2 Standard in our criminal justice system is prove
3 beyond a reasonable doubt. And that term's been
4 bandied around a lot so I'm going to kind of talk
5 about what it means. When you go back to deliberate,
6 if you go back and you think, you know what, he
7 really might have done it. Your verdict must be not
8 guilty. If you go back and you're even thinking, you
9 know what, he probably did this. That is also not
10 guilty. That's not our standard. You have to be
11 firmly convinced. You have to be sure that he's
12 guilty of a larceny to convict him for strong armed
13 robbery, assault and battery in the first degree.

14 We all watched the video in the case. The only
15 evidence in this case. And you just don't see him
16 put the games in his purse. And that is the
17 essential element in strong armed robbery assault and
18 battery first degree. And I'd ask you return a
19 verdict of not guilty.

20 JURY CHARGE

21 THE COURT: All right, ladies and gentlemen,
22 when we started this case I told you that you had
23 certain roles to perform and I had certain duties as
24 well. Your role is the finders of the fact, as I've
25 already told you. My job is as the judge of the law.

1 Under your oath that you took when we first started
2 the case, you swore to accept the law as I give it to
3 you. Therefore, you must accept the law as I give it
4 to you. If you come into this courtroom with any
5 predisposition or any opinion about what the law is
6 or about the law should be, I charge you now that you
7 must disregard that under your oath.

8 Now, you, of course, are the judges of the
9 facts. And you have the sole and exclusive duty to
10 determine what the facts are in this case based on
11 the evidence that has been provided in this case.
12 Now, ladies and gentlemen, you must rely upon the
13 evidence that was provided in the case. And you will
14 determine based on that evidence what the facts are.
15 If I said anything during the course of this case or
16 if I have said anything or done anything that gives
17 you the impression that I have an opinion about the
18 facts, I charge you now to disregard that because I
19 truly don't have an opinion about the facts in this
20 case.

21 Now, ladies and gentlemen, you are going to
22 determine whether, in fact, the State has met its
23 burden of proving each and every element of the
24 offense beyond a reasonable doubt. Not only each and
25 every element of the offense but each and every

1 element of each offense beyond a reasonable doubt.
2 As I told you at the inception of the case, the
3 Defendant is presumed innocent. The Defendant
4 retains that presumption of innocence until 12
5 deliberating jurors determine that the State has met
6 its burden or proof. So, as of right now,
7 Mr. Williams continues with his presumption of
8 innocence. You imagine that he's wearing a cloak.
9 And it's a cloak of innocence that won't be removed
10 until 12 jurors determine the State has met its
11 burden of proof.

12 Now, you got three indictments in this case.
13 Three separate and distinct charges. As you know,
14 strong armed robbery and two counts of assault and
15 battery first degree. Understand that you're going
16 to consider all of those separately and independently
17 of one another. So, when you look at each and every
18 indictment, and I'm going to give you a verdict form
19 for each and every separate indictment, just as a
20 sign to you, a demonstrable proof and evidence that
21 you consider them separately and distinctly, you'll
22 determine whether the State has met its burden of
23 proof as to each indictment and as to all the
24 elements of those charges.

25 Now again, you consider them separately and

1 distinctly. Which means, if you find the Defendant,
2 just by way of example, not guilty on one indictment
3 or guilty on one indictment, it doesn't mean that you
4 must find him guilty or not guilty on the remainder.
5 Again, consider them all independently of one
6 another.

7 Now, ladies and gentlemen, I told you any number
8 of times that the State must prove the Defendant
9 guilty beyond a reasonable doubt. Now, a
10 reasonable -- prove beyond a reasonable doubt is
11 prove which leaves you firmly convinced of the
12 Defendant's guilt. Now, there's virtually nothing on
13 earth that you can know with absolute certainty and
14 the law doesn't require that the State prove its case
15 beyond any possible doubt. However, if after your
16 review of the evidence you're firmly convinced of the
17 Defendant's guilt, then under your oath you would
18 find the Defendant guilty. However, after your
19 review of the evidence if you feel that there is a
20 real possibility that the Defendant is not guilty,
21 then under your oath you find the Defendant not
22 guilty.

23 Now, ladies and gentlemen, you'll look at the
24 evidence and you analyze it in order to determine
25 whether the State has met its burden of proof. In

1 doing that you're going to weigh the evidence to
2 determine what's important and what's not important.
3 You're going to determine what has value and how much
4 value it may have. You're going to look at the
5 witnesses and determine the credibility of those
6 witnesses who took the stand. That is whether they
7 can be believed or not. And you know whether you can
8 believe a person just by and through your common
9 sense. You know that someone can be determined to be
10 believable or not believable based on what they say,
11 how they say it. Their mannerisms, their body
12 languages. Whether they had something to gain or
13 something to lose as a consequence of their
14 testimony. And from that you will determine who is
15 believable and who is not.

16 Now, understand, you can take a portion of a
17 witness' testimony and find that it's believable and
18 valuable and put a lot of weight on it and then
19 disregard the remainder of it if you want to. You can
20 take it all or you can take none or you can take
21 parts of it. Again, that's all within your
22 discretion as the finders of fact in the case.

23 All right, when you receive evidence in the case
24 you're going to receive it in one or two different
25 forms and perhaps both. And evidence is going to

1 take the form of either direct evidence or
2 circumstantial evidence. Direct evidence is evidence
3 that immediately establishes the fact to be proven.
4 Circumstantial evidence, by distinction, is proof of
5 collateral facts. And when taken together prove the
6 main fact to be proven. Now, that's a nice
7 definition. I find sometimes it's easier for people
8 to comprehend and to conceptualize it if I give you
9 an example. So, let's say on January morning you're
10 at your house -- or January evening, excuse me. And
11 you go to bed and you look out your front window and
12 you see on your front lawn or parking lot, you see
13 that there's no precipitation on the ground. You go
14 to sleep and the next morning you wake up. When you
15 walk past that very same window or front door, you
16 see that there's a blanket of snow on the ground.
17 You also see in that snow footsteps which lead to
18 your front door and then lead away.

19 Now, under that set of circumstances you got
20 direct evidence that it snowed last night. Because
21 it's immediately established by the presence of the
22 snow. You can touch it, you can feel it, you can
23 taste it, it's right there. But you have
24 circumstantial evidence that someone that evening or
25 early that morning walked to your door and walked

1 away. You can't see that person, you can't touch
2 them, you can't have a conversation with them. But
3 you know that as a consequence of the timing of this
4 snowfall and the presence of those fingerprints, that
5 someone came to your door and walked away.

6 Now, ladies and gentlemen, understand that the
7 law doesn't put any preference on either direct or
8 circumstantial evidence. You decide what has value
9 and how much value it has. You decide whether direct
10 or circumstantial evidence should be considered and
11 to what extent it should be considered. Ladies and
12 gentlemen, just understand that to the extent that
13 The State relies on circumstantial evidence, all of
14 the circumstances when taken together must prove
15 conclusively to the guilt of the accused. Those
16 circumstances and circumstantial evidence can't
17 merely create a suspicion, it must point conclusively
18 beyond a reasonable doubt to the guilt of the
19 accused.

20 Now, ladies and gentlemen, in this instance as
21 you know, you sat through the testimony, that the
22 Defendant elected not to testify. Now, understand
23 that under our Constitution, that a Defendant is not
24 required to testify. A Defendant does not have the
25 burden of proof. The State has the burden of proof.

1 Therefore, a Defendant doesn't have to take the
2 stand. Now that is a essential and fundamental
3 tenant of our Constitution. And because it is so
4 important and so sacred, you can't hold that against
5 the Defendant that he elected not to testify.
6 Because that is his right. As is everyone in the
7 United States. As a matter of fact, it's so
8 important and sacred that you can't even discuss it
9 in your jury room. It cannot enter into your thought
10 process in deliberations regarding whether The State
11 has met its burden of proving each and every element
12 of the offense beyond a reasonable doubt.

13 Now, ladies and gentlemen, let's talk about the
14 offenses. The first offense, as you know, is strong
15 armed robbery. Strong armed robbery is the taking of
16 something of value from a person or an immediate
17 presence of a person by violence or intimidation.
18 The State must prove beyond a reasonable doubt that
19 the Defendant took or attempted to take something of
20 value with the intent of depriving the rightful owner
21 of possession thereof. Secondly, The State must
22 prove beyond a reasonable doubt that it was done in
23 the immediate presence of a person by violence or
24 intimidation. Now, ladies and gentlemen, when
25 determining whether the robbery was committed with

1 intimidation, you should determine whether an
2 ordinary reasonable person in the victim's position,
3 would feel a threat of bodily harm with the
4 perpetrators act.

5 Now, let's talk about assault and battery. You
6 got two charges of assault and battery in the first
7 degree. It's important for me first to define for
8 you simple assault and battery. So, that you'll know
9 what assault and what battery is. An assault occurs
10 when the person unlawfully attempts or offers to
11 commit a violent injury upon another person and has
12 the present ability to complete the attempted injury.
13 And it's all the intentional creation of reasonable
14 fear and immediate bodily harm.

15 Ladies and gentlemen, a battery is the unlawful
16 touching of another person by a person who has
17 committed the assault. An unlawful touching may be
18 caused by a part of the accused body -- by a part of
19 the accused body or by any object the accused puts in
20 motion. It's the completion of the assault. So,
21 let's say I walk up to a person and they are in front
22 of me. And I cock my fist back as though I'm going
23 to hit them. Well, I am offering to harm or attempt
24 to harm a person with the present ability to do so
25 because they are right in front of me. That is the

1 assault. The battery, however, is the completion of
2 the act. The unlawful touching. Regardless of how
3 slight. So, that's the distinction between assault
4 and battery. Understand that assault and battery,
5 and I gave you an example of a punch, but assault and
6 battery can be accomplished, perhaps, not through a
7 punch but by and through an instrument.

8 Ladies and gentlemen, understand that for the
9 charge as it is indited is for assault and battery in
10 the first degree. Under the statute in the State of
11 South Carolina, a person who commits the offense of
12 assault and battery in the first degree, if the
13 person unlawfully injures another person and the act
14 occurred during the commission of a robbery, burglary
15 kidnapping or theft. Now, ladies and gentlemen, so
16 in order to find assault and battery in the first
17 degree, you must find that there was a battery which
18 injured a person and that it occurred during the
19 commission of robbery, burglary, kidnapping or theft.

20 Now, I'm going to allow you to consider a lesser
21 included offense. Now, what that means is if you
22 find that all of the elements of assault and battery
23 first degree have not been proven beyond a reasonable
24 doubt to your satisfaction, then you could consider
25 the lesser included offense of assault and battery

1 third degree. Assault and battery third degree is
2 simply the statutory equivalent of simple assault and
3 battery. And I've explained to you assault and
4 battery, offer an attempt to cause injury in the
5 completion of the same. All right. And it doesn't
6 require anything over and beyond that, they must
7 simply prove those elements beyond a reasonable
8 doubt.

9 Ladies and gentlemen, those are the charges
10 which are before you. Now, I have prepared jury
11 verdict forms separate for each charge. Now, I'm
12 going to go through the jury verdict forms with you.
13 And I'm going to pick out specifically the assault
14 and battery verdict form. All of them are very
15 similar, okay. And they all start out with, We, the
16 jury, unanimously find the Defendant. Okay. Now,
17 what's important in that is it says, Unanimously find
18 the Defendant. Your decision must be unanimous. All
19 12 of you must agree. It can't be 10 to 2 or 9 to 3,
20 it must be all 12 of you agreeing on the verdict in
21 this case. Understand your verdict cannot be based
22 on passion or sympathy or caprice or anything other
23 than the evidence that was presented in the trial and
24 the law as it relates to that. To the evidence that
25 I have given you.

1 So, what it says is, We, the jury, unanimously
2 find the Defendant as to the charge of assault and
3 battery first degree. And you'll note on these
4 verdict forms, so it will be very clear to you, in
5 the caption I've put who the alleged victim is. So,
6 you'll know specifically which victim each verdict
7 form corresponds to. I put first as to the charge of
8 assault and battery first degree, you got two
9 choices, Not guilty or guilty. Now, understand, I
10 don't put the choices in any particular order. If
11 there are two I have to put them in some order. So,
12 don't take from this that I'm sending you any type of
13 signal, okay? I just put them down as choices for
14 you.

15 So, with respect to not guilty, if you feel as
16 though the State has not met its burden of proof with
17 respect to all of the elements of the crime, then you
18 would initial not guilty. And then you will sign as
19 foreperson of the jury and let the bailiff know that
20 you have come to a unanimous verdict. However, if
21 you do find that the State has met all of the
22 elements of the crimes of proving them beyond a
23 reasonable doubt, then you would check guilty. Now,
24 if you look at the evidence and you determine that
25 the State has not proven all of the elements of

1 assault and battery in the first degree, that is that
2 there was an assault and battery and that there --
3 that it was done during the commission of a robbery,
4 then you could consider guilty of assault and battery
5 in the third degree. Which I have defined for you as
6 simple assault.

7 So, you'll make an election. You'll determine
8 whether they have met all of the elements. And if
9 not, then you can find that they met the simple
10 elements of assault and battery. You'll pick one of
11 three. One of three, okay. After you've come to a
12 unanimous decision, again, sign as foreperson of the
13 jury. You'll have a second verdict form as to the
14 other alleged victim. And then, of course, a much
15 more simple verdict form for your strong armed
16 robbery, which says, guilty, not guilty. Okay.

17 Now, I'm going to send you back to your jury
18 room and not allow you to begin your deliberations
19 quite yet. This is a point in which the attorneys
20 have an opportunity to take exceptions to points of
21 law that I might have given you or to advise me of
22 matters of law that I may have inadvertently left out
23 of the charge. So, give us the opportunity to make
24 sure that I've given you a full and complete and
25 accurate charge on the law. And then once we have

1 made that determination, I'm going to send back to
2 you the verdict forms with the bailiff. When you get
3 the verdict forms from the bailiff, that will be your
4 signal to begin your deliberations in this case. All
5 right, thank you, very much. You may return to your
6 jury room.

7 (WHEREUPON, the jury left open court at
8 approximately 10:10 a.m.)

9 THE COURT: All right, exceptions to the charge?

10 MS. WICKER: Nothing from the Defense, Your
11 Honor.

12 MR. HEITMAN: None from The State.

13 THE COURT: All right. Counsel, each of you
14 tried an excellent case and I appreciate it. What
15 I'm going to do is I'm going to send these verdict
16 forms back. Y'all go ahead and do an inventory of
17 the evidence and when you're satisfied that that's
18 the evidence, then you can send that back afterwards
19 as well.

20 MS. WICKER: Thank you, Your Honor.

21 THE COURT: So, we'll be in recess until we hear
22 from the jury.

23 (WHEREUPON, deliberations began at approximately
24 10:12 a.m.)

25 (WHEREUPON, Court was in recess awaiting a

1 verdict.)

2 VERDICT

3 THE COURT: All right, counsel, I've been
4 advised that the jury has reached a unanimous
5 verdict.

6 State ready to receive the verdict?

7 MR. HEITMAN: Yes, Your Honor.

8 THE COURT: Defense?

9 MS. WICKER: Yes, sir, Your Honor.

10 THE COURT: All right, will you bring the jury
11 in, please!

12 Ms. Wicker, I don't know how this case is going
13 to come out, but I do know based on your closing
14 arguments that you are a lazy shopper and a
15 suspect terrorist. You may even be a lazy
16 terrorist.

17 (WHEREUPON, laughter filled the courtroom.)

18 (WHEREUPON, the jury came into open court at
19 approximately 10:36 a.m.)

20 THE COURT: All right, Ms. Erwin, you reached a
21 unanimous verdict, ma'am?

22 THE FORELADY: We have, yes.

23 THE COURT: Can you pass the verdict forms to
24 the Bailiffs, please?

25 Thank you, sir.

1 Madam Clerk, you may publish the verdict.

2 THE CLERK: Okay. In The State of South
3 Carolina vs. Rodrigus Williams, as to strong armed
4 robbery, case no. 2016-GS-23-0596, we, the jury, by
5 unanimous agreement, find the Defendant guilty. As
6 to case No. 2016-GS-23-0598, as to the charge of
7 assault and battery first degree, Henry Homesley, we,
8 the jury, unanimously find the Defendant guilty. As
9 to case 2016-GS-23-0599, as to the charge of assault
10 and battery first degree, Russell Myer, we, the jury,
11 unanimously find the Defendant guilty.

12 Ladies and gentlemen, if you agree this is the
13 verdict you reached in this case, please raise your
14 right hand.

15 (WHEREUPON, all members of the jury raised their
16 right hand.)

17 THE COURT: All right, counsel, anything
18 additional for this jury?

19 MR. HEITMAN: Nothing further.

20 MS. WICKER: Nothing from the Defense, Your
21 Honor.

22 THE COURT: All right. Ladies and gentlemen,
23 thank you for your service, I do appreciate it. If
24 you'll return to your jury room, get your phones and
25 everything, I'll come back there and dismiss you less

1 formally, okay.

2 (WHEREUPON, the jury left open court at
3 approximately 10:38 a.m.)

4 THE COURT: All right, counsel, I'm going to go
5 dismiss the jury, then I'm going to come back in.
6 We'll take up any post-trial motions and sentencing
7 at that time. It should only be about five minutes
8 unless they have a significant amount of questions,
9 okay.

10 (WHEREUPON, a short break was taken.)

11 THE BAILIFF: Remain seated, court is back in
12 session.

13 THE COURT: Okay. All right, any post-trial
14 motions?

15 MR. HEITMAN: Nothing from The State.

16 MS. WICKER: Your Honor, we just renew our prior
17 motions in this case.

18 THE COURT: Okay. All right. And I'll
19 respectfully deny the same on those same grounds as
20 articulated earlier.

21 MS. WICKER: Yes, Your Honor.

22 THE COURT: Okay. If you would please proceed
23 or come forward for sentencing.

24 SENTENCING

25 THE COURT: All right, Mr. Heitman, is there

1 anything additional from The State?

2 MR. HEITMAN: Would you like to hear his record?

3 THE COURT: Yes, please.

4 MR. HEITMAN: It's substantial.

5 THE COURT: I would, please.

6 MR. HEITMAN: Okay. 2003, shoplifting. 2005,
7 throwing bodily fluid. 2006, public disorderly
8 conduct. 2008, purse snatching. 2009, shoplifting
9 times two. 2010, prostitution times two. 2011,
10 prostitution times three, shoplifting and
11 trespassing. 2012, trespassing, shoplifting times
12 two. 2013, shoplifting times four, which he received
13 five years for.

14 THE COURT: Okay. And that was 2000 when?

15 MR. HEITMAN: 2013.

16 THE COURT: 2013.

17 You still serving that sentence or he's been
18 released on that?

19 MS. WICKER: I think --

20 THE COURT: Been released based on the time of
21 this offense.

22 MS. WICKER: Right. He's on probation right
23 now.

24 THE COURT: All right.

25 MS. WICKER: But he's in violation of his

1 probation.

2 THE COURT: Okay. I understand.

3 Okay, yes, ma'am, Ms. Ford.

4 MS. FORD: Your Honor, Mr. Williams already had
5 a pending violation. He is on probation for the five
6 counts of those shoplifting enhancement. He did not
7 have any prior violations. His violation of this
8 case was a probable cause due to the strong armed
9 robbery and assault and battery, which now he has
10 been convicted of. And he had been reporting. He
11 had missed some reports and changed his address. And
12 then some financial obligations that he was behind
13 on.

14 THE COURT: What's the outstanding amount of
15 time hanging over his head?

16 MS. FORD: It's three years.

17 THE COURT: Three years?

18 MS. FORD: Yes, sir. He originally did five of
19 the eight.

20 THE COURT: Okay.

21 All right, I'll be happy to hear from you,
22 ma'am.

23 MS. WICKER: Thank you, Your Honor, may it
24 please the Court. We understand that the verdict is
25 spoken -- or, the jury has spoken. He has been in

1 custody since August 12th of last year, Your Honor.

2 THE COURT: 2015?

3 MS. WICKER: Yes, sir, Your Honor. And I know
4 that Mr. Williams wants me to let you know that he's
5 been in touch with David Gay since he's been in the
6 detention center. Who has agreed to have him in any
7 kind of inpatient treatment facility if Your Honor
8 were inclined to consider something like that.

9 THE COURT: Okay.

10 All right, Mr. Williams, is there anything that
11 you'd like to tell me, sir?

12 MR. WILLIAMS: Yes. First, I'd like to
13 apologize for my actions. I'd like to apologize for
14 my actions. I mean, I wasn't thinking clearly. I
15 mean, I was out there doing drugs and living the life
16 and caught got on drugs and made some bad mistakes in
17 my life. So, I just want to say -- I just want to
18 say I apologize. I'm not blaming the drugs but I
19 just want to say I apologize for my actions. And
20 nothing that I can take back and I accept my
21 consequences.

22 THE COURT: Okay, Mr. Williams, I appreciate
23 that, sir. As the Solicitor was reading off your
24 prior record, it was absolutely apparent to me that
25 you have a drug problem and you have had a drug

1 problem for quite a bit of time. There's no other
2 reason why you would have done these things. The
3 problem that you find -- the circumstances that you
4 find yourself in now is that you appear before the
5 Court with a significant amount of prior record. And
6 also, you've been -- you had the opportunity to avail
7 yourself of certain substance abuse programs to try
8 to help yourself get over it. And through the time
9 that you committed this crime, you hadn't
10 successfully availed yourself of the same. It is my
11 hope that you will be able to avail yourself of
12 resources that are available to you in the Department
13 of Corrections. And that you can -- that you can
14 kick your drug addiction, you can serve your sentence
15 and then you can come out as a contributing member of
16 society. And I'm hopeful that that will happen.

17 With regard to the probation revocation, I find
18 that there has been a willful violation of probation
19 and the same is revoked in full. With regards to the
20 strong armed robbery, sentence of the Court is you be
21 committed to the Department of Corrections for a
22 period of eight years. Concurrent, credit time
23 served since 12 August 2015. Recommending the
24 Addiction Treatment Unit so that you can get help
25 with your addictions. With regard to the assault and

1 battery first degree, indictment ending in 598, the
2 sentence of the Court is that you be committed to the
3 Department of Corrections for eight years,
4 concurrent, credit time served. With regard to the
5 assault and battery first degree ending 599, that's
6 eight years, concurrent, credit time served.

7 Mr. Williams, good luck to you, sir.

8 MS. WICKER: Thank you, Your Honor.

9 MR. HEITMAN: Thank you, Your Honor.

10 THE COURT: All right, ladies and gentlemen,
11 thank you. I hope y'all have a great weekend. Oh,
12 by the way, if you go back downstairs Ms. Olson can
13 give you a statement if you need one, okay.

14 (WHEREUPON, the proceedings were concluded.)
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CERTIFICATE OF REPORTER

STATE OF SOUTH CAROLINA)
COUNTY OF GREENVILLE)

I, APRIL P. HERRON, 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 the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Court of General Sessions for Greenville County, South Carolina, on the 12 & 13 day of October, 2016.

I do further certify that I am neither of kin, counsel nor interest to any party hereto.

March 1, 2017



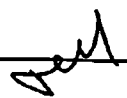
APRIL P. HERRON, Court Reporter

WITNESSES

R. Lollis

Greenville County Sheriffs Office

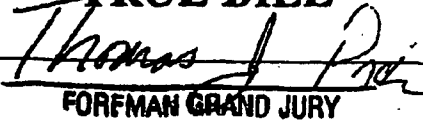
8/12/2015



ARREST WARRANT NUMBER
2015A2330206696

ACTION OF GRAND JURY

TRUE BILL


FORFMAN GRAND JURY

Foreperson of Grand Jury

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2016-GS-23-
JMG

000596

106

The State of South Carolina

County of Greenville

COURT OF GENERAL SESSIONS

August TERM 2016

THE STATE

vs.

RODRIGUS RATRON WILLIAMS

Indictment for

0137

STRONG ARM ROBBERY

VIOLATION §16-11-0325

FILED

JAN 28 2016

Clerk of Court
Greenville County

STATE OF SOUTH CAROLINA)
COUNTY OF GREENVILLE)

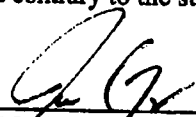
INDICTMENT FOR
STRONG ARM ROBBERY

At a Court of General Sessions, convened on **AUG 23 2016** the Grand Jurors of Greenville

County present upon their oath:

That RODRIGUS RATRON WILLIAMS did in Greenville County, on or about the 22nd day of July, 2015, feloniously take from the person or presence of Henry Homesley and/or Russell Myer, by means of force, threats or intimidation, goods or monies being described as follows: multiple LEAP FROG learning games belonging to KMART, with the intent to permanently deprive the owner thereof. This is in violation of §16-11-0325 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 BAR # 73601

WITNESSES

R. Lollis

Greenville County Sheriffs Office

8/12/2015

TL

ARREST WARRANT NUMBER
2015A2330208695

ACTION OF GRAND JURY

TRUE BILL

Thomas J. Pugh

FOREMAN GRAND JURY

Foreperson of Grand Jury

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2016-GS-23-

JMG

000599

The State of South Carolina

County of Greenville

COURT OF GENERAL SESSIONS

August

TERM 2016

THE STATE

vs.

RODRIGUS RATRON WILLIAMS

Indictment for

3412

ASSAULT AND BATTERY 1ST DEGREE

VIOLATION §16-03-0600

FILED

JAN 28 2016

**Clerk of Court
Greenville County**

STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)

INDICTMENT FOR
ASSAULT AND BATTERY 1ST DEGREE

At a Court of General Sessions, convened on
County present upon their oath:

AUG 23 2016

the Grand Jurors of Greenville

That RODRIGUS RATRON WILLIAMS did in Greenville County, on or about the 22nd day of July 2015 offer or attempt to injure Russell Myer with the present ability to commit the act, and the act occurred during the commission of a robbery, burglary, kidnapping or theft. This is in violation of §16-03-0600 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

BAR # 73601

WITNESSES

R. Lollis

Greenville County Sheriffs Office

8/12/2015

Self

ARREST WARRANT NUMBER
2015A2330206694

ACTION OF GRAND JURY

TRUE BILL

Thomas J. Prid

FOREMAN GRAND JURY

Foreperson of Grand Jury

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2016-GS-23-
JMG

000598

The State of South Carolina

County of Greenville

COURT OF GENERAL SESSIONS

August TERM 2016

THE STATE

vs.

RODRIGUS RATRON WILLIAMS

Indictment for

3412

ASSAULT AND BATTERY 1ST DEGREE

VIOLATION §16-03-0600

FILED

JAN 28 2016

Clerk of Court
Greenville County

STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)

INDICTMENT FOR
ASSAULT AND BATTERY 1ST DEGREE

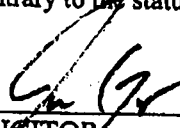
At a Court of General Sessions, convened on
County present upon their oath:

AUG 23 2016

the Grand Jurors of Greenville

That RODRIGUS RATRON WILLIAMS did in Greenville County, on or about the 22nd day of July 2015 offer or attempt to injure Henry Homesley with the present ability to commit the act, and the act occurred during the commission of a robbery, burglary, kidnapping or theft. This is in violation of §16-03-0600 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.

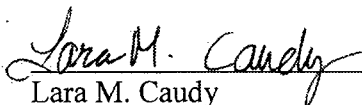


SOLICITOR BAR # 73601

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,



Lara M. Caudy
Appellate Defender

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

ATTORNEY FOR APPELLANT

This 16th day of August, 2017.

CERTIFICATE OF COUNSEL FOR APPELLANT

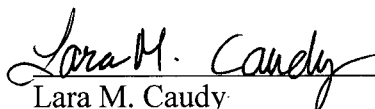
Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised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

Respectfully Submitted,

RECEIVED

AUG 16 2017

SC Court of Appeals



Lara M. Caudy
Appellate Defender

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

ATTORNEY FOR APPELLANT

This 16th day of August, 2017.