

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Laurens County

Honorable Frank R. Addy, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

KEASTON DAHJA KINARD,

APPELLANT

APPELLATE CASE NO. 2017-000215

RECORD ON APPEAL

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State of South Carolina) In the Court of General Sessions
) Eighth Judicial Circuit
 County of Laurens) 2012-GS-30-1898
 2012-GS-30-1899
 2012-GS-30-1901

State of South Carolina,)
)
 Plaintiff,)
)
 vs.) Transcript of Record
)
 Keaston Dahja Kinard,)
)
 Defendant.)
)
 _____)

January 30 - February 1, 2017
 Laurens, South Carolina

B e f o r e:

The Honorable Frank R. Addy, Jr., Judge; and a jury

A p p e a r a n c e s:

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 James C. Todd, IV, Assistant Solicitor
 Attorneys for the Plaintiff

Joel T. Broome, Esquire
 Claude H. Howe, III, Esquire
 Attorneys for the Defendant

Maryann S. Nevers, CVR-M-CM
 Circuit Court Reporter

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1 TRIAL DAY 1 - 01/30/17

2 (Whereupon, State's Exhibits 1 through 15 were
3 marked for identification off the record prior to
4 the commencement of the proceeding.)

5 THE COURT: Ladies and gentlemen of the jury panel,
6 thank you for your continued patience and welcome back.
7 We're about to begin with selecting a jury in the case of
8 the *State of South Carolina v. Keaston Kinard*. Ladies
9 and gentlemen, I've been presented with three
10 indictments. They charge Mr. Kinard with the offenses of
11 burglary, grand larceny, and safecracking.

12 And in this case, ladies and gentlemen, as a
13 preliminary matter, let me just emphasize to you that the
14 fact that Mr. Kinard has been charged with these
15 offenses, has been indicted for these offenses, of
16 course, is not evidence, all right? These indictments
17 are merely the allegations made against Mr. Kinard. In
18 this case, Mr. Kinard has pled not guilty to all of these
19 charges, and that puts the burden squarely on the state
20 of South Carolina to prove his guilt beyond a reasonable
21 doubt, okay?

22 Now, in this case, the state of South Carolina is
23 being represented by Mr. Scott. Mr. Scott, if you would
24 care to introduce yourself and anyone else seated at
25 counsel table with you, sir.

1 MR. SCOTT: Thank you, Your Honor. Dale Scott, I'm
2 the deputy solicitor here in the eighth circuit,
3 primarily working Newberry and Laurens County,
4 prosecuting cases that occur in these two counties.
5 Assisting me this week is going to be Jim Todd, assistant
6 solicitor works in my office, Laurens County guy. Walter
7 Bentley is our investigator. He's going to be helping
8 with the case. And this case that we're calling first
9 today involves Clinton city, and with us in that -- in
10 his capacity with Clinton Department of Public Safety is
11 Tyrone Goggins. Thank you.

12 THE COURT: Thank you, Mr. Scott. In this case,
13 ladies and gentlemen, Mr. Kinard is being represented by
14 Mr. Broome. Mr. Broome, if you'd care to introduce
15 yourself, your client, and Mr. Howe to the jury panel.

16 MR. BROOME: Thank you, Your Honor. My name is Joel
17 Broome. I work with the Laurens County Public Defender
18 Office's for people that have been charged with criminal
19 offenses and are too poor to -- are basically indigent.
20 Sitting next to me is my client, Keaston Kinard, and with
21 me as well is Chip Howe of Clinton. He was the former
22 chief public defender here in Laurens County.

23 THE COURT: Thank you, Mr. Broome.

24 Ladies and gentlemen of the jury, I have a number of
25 questions that I have to ask you that are specific to

1 this case. We'll use the same procedure that we did
2 earlier. If the question applies to you, stand up and
3 give me an answer. First question, is there any member
4 of the jury panel who is related by blood or marriage to
5 the defendant in this case, Mr. Keaston Kinard? If so,
6 please stand.

7 (Whereupon, no potential juror stood.)

8 THE COURT: Is there any member of the jury panel
9 that has any close business or social relationships with
10 the defendant in the case, Mr. Kinard? If so, please
11 stand. No one is standing.

12 And the alleged victim in the case is Bennie Poole?

13 MR. SCOTT: Yes, Your Honor.

14 THE COURT: Bennie Poole. Where does Mr. Poole
15 reside, Solicitor?

16 MR. SCOTT: It's a Clinton address,
17 in Clinton.

18 THE COURT: Mr. Poole lives at
19 in Clinton. Is there any member of the jury panel who is
20 related by blood or marriage or has any close business or
21 social relationships with the alleged victim in the case,
22 Bennie Poole? If so, please stand. No one is standing.

23 You've been introduced to the attorneys involved in
24 this case. Is there any member of the jury panel related
25 by blood or marriage to any of the lawyers? Do you have

1 any social relationships with any of the attorneys, or is
2 anyone -- or has anyone previously been represented or is
3 currently being represented in a professional capacity by
4 any of the attorneys, Mr. Scott, Mr. Todd, Mr. Broome, or
5 Mr. Howe? If so, please -- and yes, sir, your name, sir.

6 (Whereupon, a potential juror stood.)

7 JUROR: Michael Jones.

8 THE COURT: And Mr. Jones, which of the lawyers has
9 represented you?

10 JUROR: Mr. Howe.

11 THE COURT: Okay. Is he still representing you, or
12 how long ago was that, sir?

13 JUROR: Two years ago. Divorce.

14 THE COURT: Divorce action? Okay. The fact that
15 Mr. Howe -- was involved in the defense of this case,
16 would that affect your ability to be fair to all
17 concerned?

18 JUROR: No.

19 THE COURT: Good. Have a seat, please, sir.

20 JUROR: (Complied.)

21 THE COURT: Anyone else? No one is standing.

22 I'm going to read a list of potential witnesses in
23 this case, and I need you to pay close attention to
24 this -- to this list, because after I'm done speaking,
25 I'll ask whether there's any member of the jury panel

1 related by blood or marriage to any of these folks or
2 whether you have any business or social relationships
3 with any of these people, okay? Here are the possible
4 witnesses in this case: Reginald Poole, P-o-o-l-e;
5 Bennie Poole, Sr.; Annie Poole; Corey Willis; Gary Jacks;
6 Phillip Wicker with Clinton Public Safety; Casey Jones,
7 also with Clinton Public Safety; Tyrone Goggins with
8 Clinton Public Safety; Crystal Roberts with Clinton
9 Public Safety; Hazella, H-a-z-e-l-l-a, Baylor with SLED;
10 Kimberly Mears, M-e-a-r-s, with SLED; and Andrena Belton,
11 also with SLED.

12 Any member of the jury panel related by blood or
13 marriage to any of those folks or anyone who has any
14 close business, social dealings with any of those
15 individuals? If so, please stand.

16 (Whereupon, a potential juror stood.)

17 THE COURT: Yes, sir. What's your name, please?

18 JUROR: Mike Pragman, Juror 78. I'm a former law
19 enforcement with the city of Clinton.

20 THE COURT: Okay. So you know some of those folks?

21 JUROR: I know just about all of them.

22 THE COURT: How long have you been out of law
23 enforcement?

24 JUROR: I been out of law enforcement since 2013.

25 THE COURT: 2013?

1 JUROR: Yeah.

2 THE COURT: Okay. Since this incident is alleged to
3 have occurred in 2012, I'm going to let you sit this one
4 out, since you were working with that agency at that
5 time.

6 JUROR: Well, I wasn't working with them, but I was
7 still in law enforcement at that time.

8 THE COURT: Right, exactly.

9 So just pull his name, okay? Anyone else?

10 (Whereupon, a potential juror stood.)

11 THE COURT: Yes, sir. What's your name, please?

12 JUROR: James Robinson.

13 THE COURT: Mr. Robinson, yes.

14 JUROR: I know Tyrone Goggins.

15 THE COURT: Okay. If Mr. Goggins were to testify in
16 the case, can you put aside any sort of friendship that
17 you have with him and judge this case solely based on the
18 evidence?

19 JUROR: Yes, sir.

20 THE COURT: Good enough, sir. You can have a seat.

21 JUROR: (Complied.)

22 THE COURT: Anyone else? No one standing.

23 Ladies and gentlemen, it's alleged that this
24 incident took place on the 23rd day of June of 2012 at --
25 is it at Mr. Poole's residence, Solicitor?

1 MR. SCOTT: It is, Your Honor.

2 THE COURT: Okay. The state is alleging this
3 incident took place at in Clinton on or
4 about June the 23rd of 2012 at approximately -- what time
5 does the state allege?

6 MR. SCOTT: Approximately 2:30 a.m.

7 THE COURT: At about 2:30 in the morning. Is there
8 any member of the jury panel who thinks that they may
9 know anything about the allegations involved in this
10 case, or who has formed or expressed any opinions about
11 the allegations? If so, please stand. No one is
12 standing?

13 All right. Is there any member of the jury panel
14 who is close friends with anyone who works with the
15 Eighth Circuit Solicitor's Office or anyone who works for
16 the Clinton Public Safety? If so, please stand.

17 If you previously stand, you don't have to stand
18 again. Any member of the jury panel who is close friends
19 with anybody who works at the solicitor's office related
20 to anyone that who at the solicitor's office in the
21 eighth circuit or close friends or family members with
22 Clinton Public Safety members? If so, please stand. No
23 one is standing.

24 Is there any member of the jury panel who has
25 actively campaigned for or made a substantial monetary

1 contribution to Ricky Chastain, newly elected sheriff Don
2 Reynolds, or Solicitor Stumbo? If so, please stand. No
3 one is standing.

4 Is there any member of the jury panel or close
5 family member who is a member of or has previously been a
6 member of any sort of victims' advocacy organization like
7 Mothers Against Drunk Driving, Students Against Drunk
8 Driving, things of that nature? Any organization in
9 which the primary purpose of which is advancing victims'
10 rights? If so, please stand. No one is standing.

11 Is there any member of the jury panel who has
12 previously worked in a law enforcement capacity? You
13 don't have to stand up again, sir. Any member of the
14 jury panel who has previously worked as a police officer,
15 highway patrolman, or some other capacity with law
16 enforcement? If so, please stand. No one is standing.

17 All right. Is there any member of the jury panel or
18 any close family member who lives close to

19 in Clinton? If so, please stand. Anyone live
20 close to Thornwell Street? I have no idea where
21 Thornwell Street is. I'm sorry. If you don't know, then
22 you can't stand. No one is standing.

23 All right. Ladies and gentlemen, what I'm going to
24 do is I'm going to ask this question. If anyone stands
25 up, then I'm going to let you come forward and speak with

1 me privately down front, okay? Is there any member of
2 the jury panel or a close family member who has ever been
3 the victim of a serious or what you, in your mind, would
4 consider to be a serious crime like burglary, assault and
5 battery of a high and aggravated nature, murder, things
6 of that nature, murder, things of that nature? Things
7 you would normally rate -- things like that you would
8 normally consider to be serious. Is there any member of
9 the jury panel who has ever been the victim of a crime of
10 that nature or close family member who has ever been a
11 victim of a crime of that nature, or have you or any
12 family member been accused of any crime of a serious
13 nature like that. If so, please stand.

14 (Whereupon, potential jurors stood.)

15 THE COURT: All right, I'll let y'all come forward
16 and speak with me privately down here, okay?

17 THE CLERK: 133.

18 (A sotto voce discussion was held.)

19 THE CLERK: 48.

20 (A sotto voce discussion was held.)

21 THE CLERK: 175.

22 (A sotto voce discussion was held.)

23 THE CLERK: 72.

24 (A sotto voce discussion was held.)

25 THE CLERK: 151.

1 (A sotto voce discussion was held.)

2 THE CLERK: 153.

3 (A sotto voce discussion was held.)

4 THE CLERK: 177.

5 (A sotto voce discussion was held.)

6 THE COURT: All right. Ladies and gentlemen, next
7 question: Is there any member of the jury panel who
8 feels that a police officer is either more likely or less
9 likely to tell the truth than a witness who is not a
10 police officer? Anyone who feels like any law
11 enforcement is entitled to more or less credibility than
12 any other witness? If so, please stand. No one is
13 standing.

14 Ladies and gentlemen, I'll instruct you that under
15 the laws of our state, an individual who is facing trial
16 does not have to testify. As I mentioned, the burden is
17 always on the state to prove their guilt beyond a
18 reasonable doubt, and that is a right that every U.S.
19 citizen has. As a potential juror, is there any member
20 of the jury panel who feels strongly that you would have
21 to or that you would need to hear from the defendant or
22 would hold it against the defendant if he failed to
23 testify? If so, please stand. No one is standing.

24 I've reviewed the other submitted voir dire. I
25 don't think they're necessarily germane to this case, so

1 I am going to decline to answer -- to ask those, but
2 y'all can mark them and introduce them.

3 Additional voir dire from the state?

4 MR. SCOTT: No, Your Honor.

5 THE COURT: From the defense?

6 MR. BROOME: No, Your Honor.

7 THE COURT: All right. Actually I do have a couple
8 of my own I do need to ask. I forgot to. Any member of
9 the jury panel that knows of any reason whatsoever why
10 you cannot give the State of South Carolina and the
11 defendant in this case, Mr. Kinard, a fair trial, judging
12 this case based solely on the evidence, the testimony,
13 and the law? Any reason whatsoever why you just don't
14 feel like you should serve on this jury? If so, please
15 stand. No one is standing.

16 Is there any member of the jury panel who has any
17 deeply held moral or religious beliefs that would prevent
18 you from serving on the jury and rendering a verdict in
19 this case? If so, please -- no one is standing.

20 All right. Strikes will be ten and five plus one
21 alternate, 12 plus 15 -- y'all just draw it.

22 The way we do this, ladies and gentlemen, if you
23 serve as a juror in a civil case, the way we select a
24 jury in a criminal case is a little bit different. If
25 your name is called, what I need you to do is come

1 forward and stand kind of right here at the corner of
2 this area where my court reporter is sitting, and then
3 turn around and face towards the back of the courtroom.
4 At that point in time, the solicitor will be given the
5 opportunity to either seat you or excuse you, and the
6 defense will be given a similar opportunity, okay?

7 Now, ladies and gentlemen, I'm going to tell you
8 what I tell every jury that I pick. If, for some reason,
9 one of the lawyers asks that you not serve on this jury,
10 people, don't take it personally, okay, please? There
11 are 14,000 lawyers in the state of South Carolina. We
12 each have our own individual way of picking a jury, okay.

13 So it ain't personal;; it's just business. All
14 right? So if they ask you not to serve, don't get your
15 feelings hurt.

16 Please give me a jury.

17 CLERK OF COURT: Juror No. 156, Jane M. Rogers.

18 (Whereupon, the potential juror came forward.)

19 CLERK OF COURT: What says the state?

20 MR. SCOTT: Please present the juror.

21 CLERK OF COURT: What says the defense?

22 MR. BROOME: Please excuse the juror. Excuse.

23 (Whereupon, the potential juror returned to the jury
24 panel.)

25 CLERK OF COURT: Juror No. 118, Bradrick Lomax.

1 (Whereupon, the potential juror came forward.)

2 CLERK OF COURT: What says the state?

3 MR. SCOTT: Please excuse the juror in this case.

4 (Whereupon, the potential juror returned to the jury
5 panel.)

6 CLERK OF COURT: Juror No. 104, Vivian Jennings.

7 (Whereupon, the potential juror came forward.)

8 CLERK OF COURT: What says the state?

9 MR. SCOTT: Please present the juror.

10 CLERK OF COURT: What says the defense?

11 MR. BROOME: Please seat Ms. Jennings.

12 (Whereupon, the potential juror was seated on the
13 jury.)

14 CLERK OF COURT: Juror No. 173, Katherine E. Single.

15 (Whereupon, the potential juror came forward.)

16 CLERK OF COURT: What says the state?

17 MR. SCOTT: What was that number?

18 CLERK OF COURT: 173.

19 MR. SCOTT: 73.

20 MR. TODD: 173.

21 CLERK OF COURT: It's a little out of order.

22 MR. SCOTT: Please present the juror.

23 CLERK OF COURT: What says the defense?

24 MR. BROOME: Please excuse the juror.

25 (Whereupon, the potential juror returned to the jury

1 panel.)

2 CLERK OF COURT: Juror No. 114, Brandon K. Lawson.

3 (Whereupon, the potential juror came forward.)

4 CLERK OF COURT: What says the state?

5 MR. SCOTT: Please present the juror.

6 CLERK OF COURT: What says the defense?

7 MR. BROOME: What was the number again?

8 CLERK OF COURT: 114.

9 MR. BROOME: Please sit Mr. Lawson.

10 (Whereupon, the potential juror was seated on the
11 jury.)

12 CLERK OF COURT: Juror No. 132, Cathy R. Nance.

13 (Whereupon, the potential juror came forward.)

14 CLERK OF COURT: What says the state?

15 MR. SCOTT: Please present the juror.

16 CLERK OF COURT: What says the defense?

17 MR. BROOME: Please sit the juror.

18 (Whereupon, the potential juror was seated on the
19 jury.)

20 CLERK OF COURT: Juror No. 141, Janice M. Owens.

21 (Whereupon, the potential juror came forward.)

22 CLERK OF COURT: What says the state?

23 MR. SCOTT: Please present the juror.

24 CLERK OF COURT: What says the defense?

25 MR. BROOME: Please sit Ms. Owens. I said please

1 sit.

2 CLERK OF COURT: He wants to seat her.

3 THE COURT: Did you leave your purse back there,
4 Ms. Owens?

5 JUROR: I did.

6 THE COURT: Okay. You're going to need your purse.

7 THE BAILIFF: I just returned her to get her stuff.

8 CLERK OF COURT: Oh, okay.

9 THE BAILIFF: I knew she had to sit back there.

10 (Whereupon, the potential juror was seated on the
11 jury.)

12 CLERK OF COURT: Juror No. 72, Kelli S. Feder.

13 (Whereupon, the potential juror came forward.)

14 CLERK OF COURT: What says the state?

15 MR. SCOTT: Please present the juror.

16 CLERK OF COURT: What says the defense?

17 MR. BROOME: Please excuse the juror.

18 (Whereupon, the potential juror returned to the jury
19 panel.)

20 CLERK OF COURT: Juror No. 194, Krystal S. Whitmore.

21 (Whereupon, the potential juror came forward.)

22 CLERK OF COURT: What says the state?

23 MR. SCOTT: Please excuse the juror.

24 CLERK OF COURT: Juror No. 199, Sterling O. Wilson.

25 (Whereupon, the potential juror came forward.)

1 CLERK OF COURT: What says the state?

2 MR. SCOTT: Please excuse the juror from this trial.

3 (Whereupon, the potential juror returned to the jury
4 panel.)

5 CLERK OF COURT: Juror No. 91, Ty C. Harrison.

6 (Whereupon, the potential juror came forward.)

7 CLERK OF COURT: What says the state?

8 MR. SCOTT: Please present the juror.

9 CLERK OF COURT: What says the defense?

10 MR. BROOME: Please sit the juror.

11 (Whereupon, the potential juror was seated on the
12 jury.)

13 CLERK OF COURT: Juror No. 172, Donna L. Smith.

14 (Whereupon, the potential juror came forward.)

15 CLERK OF COURT: What says the state?

16 MR. SCOTT: Please present the juror.

17 CLERK OF COURT: What says the defense?

18 MR. BROOME: Please excuse the juror.

19 (Whereupon, the potential juror returned to the jury
20 panel.)

21 CLERK OF COURT: Juror No. 113, Thomas J. Lanford.

22 (Whereupon, the potential juror came forward.)

23 CLERK OF COURT: What says the state?

24 MR. SCOTT: Please present the juror.

25 CLERK OF COURT: What says the defense?

1 MR. BROOME: Please sit the juror.

2 (Whereupon, the potential juror was seated on the
3 jury.)

4 CLERK OF COURT: Juror No. 14, Birney F. Blind.

5 (Whereupon, the potential juror came forward.)

6 CLERK OF COURT: What says the state?

7 MR. SCOTT: Please present the juror.

8 CLERK OF COURT: What says the defense?

9 MR. BROOME: Please excuse the juror.

10 (Whereupon, the potential juror returned to the jury
11 panel.)

12 CLERK OF COURT: Juror No. 123, Kevin H. McKee.

13 (Whereupon, the potential juror came forward.)

14 CLERK OF COURT: What says the state?

15 MR. SCOTT: Please present the juror.

16 CLERK OF COURT: What says the defense?

17 MR. BROOME: Please excuse the juror.

18 (Whereupon, the potential juror returned to the jury
19 panel.)

20 CLERK OF COURT: Juror No. 11, Sherylan Batson.

21 (Whereupon, the potential juror came forward.)

22 CLERK OF COURT: What says the state?

23 MR. SCOTT: Please present the juror.

24 CLERK OF COURT: What says the defense?

25 MR. BROOME: Please present the juror.

1 (Whereupon, the potential juror was seated on the
2 jury.)

3 CLERK OF COURT: Juror No. 21, Donna S. Brown.

4 (Whereupon, the potential juror came forward.)

5 CLERK OF COURT: What says the state?

6 MR. SCOTT: Please present the juror.

7 CLERK OF COURT: What says the defense?

8 MR. BROOME: Please present the juror.

9 (Whereupon, the potential juror was seated on the
10 jury.)

11 CLERK OF COURT: Juror No. 155, James Roberson.

12 (Whereupon, the potential juror came forward.)

13 CLERK OF COURT: What says the state?

14 MR. SCOTT: Please present the juror.

15 CLERK OF COURT: What says the defense?

16 MR. BROOME: Please excuse the juror.

17 (Whereupon, the potential juror returned to the jury
18 panel.)

19 CLERK OF COURT: Juror No. 108, Michael A Jones, Jr.

20 (Whereupon, the potential juror came forward.)

21 CLERK OF COURT: What says the state?

22 MR. SCOTT: Please present the juror.

23 CLERK OF COURT: What says the defense?

24 MR. BROOME: Please seat the juror.

25 (Whereupon, the potential juror was seated on the

1 jury.)

2 CLERK OF COURT: Juror No. 30, Martha L. Burton.

3 (Whereupon, the potential juror came forward.)

4 CLERK OF COURT: What says the state?

5 MR. SCOTT: Present the juror.

6 CLERK OF COURT: What says the defense?

7 MR. BROOME: What was her number?

8 CLERK OF COURT: 30.

9 MR. BROOME: 30. Please present the juror.

10 (Whereupon, the potential juror was seated on the
11 jury.)

12 CLERK OF COURT: Juror No. 87, Bernice Grant.

13 (Whereupon, the potential juror came forward.)

14 CLERK OF COURT: What says the state?

15 MR. SCOTT: Present the juror.

16 CLERK OF COURT: What says the defense?

17 MR. BROOME: Please present the juror.

18 (Whereupon, the potential juror was seated on the
19 jury.)

20 CLERK OF COURT: Juror Number 77, Terrence D.
21 Foster.

22 (Whereupon, the potential juror came forward.)

23 CLERK OF COURT: What says the state?

24 MR. SCOTT: Please excuse the juror from this trial.

25 (Whereupon, the potential juror returned to the jury

1 panel.)

2 CLERK OF COURT: Juror No. 133, Denise C. Nash.

3 (Whereupon, the potential juror came forward.)

4 CLERK OF COURT: What says the state?

5 MR. SCOTT: Please present the juror.

6 CLERK OF COURT: What says the defense?

7 MR. BROOME: Please excuse the juror.

8 (Whereupon, the potential juror returned to the jury
9 panel.)

10 CLERK OF COURT: Juror No. 73, Ronald S. Ferguson.

11 (Whereupon, the potential juror came forward.)

12 CLERK OF COURT: What says the state?

13 MR. SCOTT: Present the juror.

14 CLERK OF COURT: What says the defense?

15 MR. BROOME: Please sit the juror.

16 (Whereupon, the potential juror was seated on the
17 jury.)

18 THE COURT: All right. We'll go with one alternate.

19 Strikes are one for the state, two for the defense.

20 CLERK OF COURT: Juror No. 69, Karl E. Eudy.

21 (Whereupon, the potential juror came forward.)

22 CLERK OF COURT: What says the state?

23 MR. SCOTT: Please present the alternate.

24 CLERK OF COURT: What says the defense?

25 MR. BROOME: What number?

1 CLERK OF COURT: 69.

2 MR. BROOME: Please excuse the juror.

3 (Whereupon, the potential juror returned to the jury
4 panel.)

5 CLERK OF COURT: Juror No. 175, Jessica R. Stinson.

6 (Whereupon, the potential juror came forward.)

7 CLERK OF COURT: What says the state?

8 MR. SCOTT: Please present the alternate.

9 CLERK OF COURT: What says the defense?

10 MR. BROOME: Please sit the juror.

11 (Whereupon, the potential juror was seated on the
12 jury.)

13 THE COURT: All right. Any issues with jury
14 selection or composition from the state?

15 MR. SCOTT: None from the state, Your Honor.

16 THE COURT: Anything from the defense?

17 MR. BROOME: Nothing from the defense, Your Honor.

18 THE COURT: Very good. Ladies and gentlemen who
19 were selected on this particular case, what we're going
20 to go ahead and do, the bailiff is going to give you some
21 buttons that you can wear back. I'm going to ask you be
22 back here at three o'clock. And hopefully, there are
23 just a few brief matters that I need to address with the
24 attorneys on this case, but we got to eat something too,
25 okay? So I hope to have you back out here promptly or

1 close to promptly around three o'clock.

2 Of course, this will go -- what I'm about to say
3 will go for any time we take a break. Please don't talk
4 about the case with anyone, okay? I'll give you more
5 details on that later on, but at this point in time, you
6 know nothing about this case. You haven't heard from the
7 first witness, so it should be amazingly simple for you
8 not to speak with anyone about it.

9 Enjoy your lunch. The bailiff will show you where
10 the jury room is and the quickest way back there. I'll
11 see you at three o'clock. Thank you.

12 (Whereupon, the jury exited the courtroom at 1:55
13 p.m.)

14 THE COURT: All right. Ladies and gentlemen, the
15 rest of you -- Solicitor, you want me to have them call
16 back Wednesday evening or tomorrow night, or which would
17 be the best? Probably Wednesday evening.

18 MR. SCOTT: Wednesday, yes.

19 THE COURT: Ladies and gentlemen, it's entirely
20 possible that we may be able to get a second case in. I
21 did conference with some attorneys this morning on what's
22 anticipated as being the second case up for trial, but
23 that case may get resolved in a different fashion, in
24 which case we're going to be looking for something to
25 else to try, okay?

1 So what I want you to do, if I've already protected
2 you for Friday or Thursday or something, you're still
3 protected, okay? This doesn't go for you. You don't
4 have to worry about that. I'm not jerking it out from
5 underneath you here.

6 But everybody else, I need you to call the number
7 that's on your juror card any time after six Wednesday
8 evening and follow whatever those instruction are, okay?
9 It may very well be that this is the last time that you
10 see me this week -- which I know will be heartbreaking
11 for all of you -- in the event that we have or that can
12 occupy me, but at the same time, I want to try and use
13 time efficiently.

14 I want to use court time efficiently in Laurens
15 County. So if we can get another case going and get it
16 done in two days, I may ask that y'all come back Thursday
17 morning. I probably will, okay, but if we have enough
18 work to do otherwise, I won't make you come back.

19 With that, you're starving; go eat some lunch. I'll
20 possibly see y'all later this week. Remember to call
21 this number Wednesday evening after six. Thank you.

22 (Whereupon, the unselected portion of the jury panel
23 exited the courtroom at 1:57 p.m.)

24 THE COURT: We'll be at ease until around three,
25 then.

1 (Off the record from 1:57 p.m. until 3:12 p.m.)

2 (Whereupon, Court's Exhibit 1 was marked while off
3 the record.)

4 THE COURT: Thank you. Please have a seat. Before
5 we proceed with motions, there's one housekeeping matter
6 that the bailiff brought to my attention. Juror No. 104,
7 Ms. Jennings, approached him either before or after lunch
8 and indicated that although she did not recognize the
9 defendant's name, when she came up here -- or at some
10 point when she was selected, apparently she recognized
11 Mr. Kinard kind of as being someone she had seen in her
12 neighborhood. And the bailiff, of course, asked her not
13 to, of course, mention this to anybody else.

14 Apparently, she recognized him but did not recognize
15 him or associate his name with him. Does anyone want me
16 to take any actions along those lines or as a result of
17 that information?

18 MR. SCOTT: It is just that -- I think -- is there
19 any more information? She's just seen him in the
20 community?

21 THE COURT: Apparently so. She recognized him as
22 somebody who had lived in that community, and that's the
23 extent of -- am I characterizing this correctly? I can't
24 remember who gave me that information, but somebody gave
25 me that information. Y'all have any position on that?

1 MR. BROOME: I don't think I do. She offered, but
2 I'll consult my client.

3 THE COURT: Sure.

4 MR. BROOME: It was Juror Number ---

5 THE COURT: --- 104. Vivian Jennings was her name.

6 MR. BROOME: Maybe we can bring Ms. Jennings out and
7 question her about it. If she has any specific
8 knowledge, I guess question her further about it.

9 THE COURT: Okay. Let's do that.

10 THE BAILIFF: What's her name?

11 THE COURT: Jennings, Juror No. 104. Her first name
12 is Vivian.

13 (Whereupon, the juror entered the courtroom.)

14 THE COURT: Hey, Ms. Jennings. You're fine right
15 there. First things first, you're not in any trouble
16 whatsoever. This often happens when a juror comes
17 forward and they kind of get a better view of everybody
18 involved. But one of the bailiffs indicated to me that
19 at some point you indicated that although you didn't
20 recognize Mr. Kinard's name when it was called, once you
21 got up here, you recognized Mr. Kinard as maybe somebody
22 who lives in your vicinity or in your neighborhood?

23 JUROR: My neighborhood, yes.

24 THE COURT: In the neighborhood, okay. But you
25 don't know him personally.

1 JUROR: I don't know him personally. I know his
2 mom.

3 THE COURT: Okay. You know his mother?

4 JUROR: Yes.

5 THE COURT: Okay. How do you know his mother?

6 JUROR: When she was a young girl, his mother -- his
7 mother and my daughter was good friends at one point.

8 THE COURT: I see. Okay. Ms. Jennings, now that
9 you have kind of put two and two together and connected
10 Mr. Kinard as the individual who -- who -- lived in your
11 neighborhood ---

12 JUROR: Uh-huh.

13 THE COURT: --- does that affect your ability to be
14 fair and impartial?

15 JUROR: It might. I might not be the best juror
16 that I could be.

17 THE COURT: All right. I appreciate your candor.
18 In that case, unless there's any objection or any
19 additional questions that y'all want me to inquire of
20 Ms. Jennings?

21 MR. SCOTT: No, Your Honor.

22 THE COURT: Ms. Jennings, if you could return to the
23 jury room, let me talk to the attorneys for five seconds,
24 and then we'll be back on the record, okay, ma'am?

25 Ms. Jennings, you said you know something about the

1 family too?

2 JUROR: I do.

3 THE COURT: All right. You feel like maybe there's
4 a problem here for you personally?

5 JUROR: Like I said, I might not be the best juror I
6 could be.

7 THE COURT: Okay. Can you be fair to both sides, do
8 you think? That's the main question here. That's the
9 key question for you.

10 JUROR: Well, I hope so.

11 THE COURT: Okay. All right. Can you put aside any
12 kind of relationship that you have with this -- with
13 these people and just judge this case solely on the facts
14 and the evidence? That's what I need to know. And if
15 you can't, you can't. Just be honest with me.

16 JUROR: I guess. I don't know.

17 THE COURT: Good enough, Ms. Jennings. Go to the
18 back and we'll be back on the record shortly. Thank you.

19 (Whereupon, the juror exited the courtroom.)

20 THE COURT: As much as I am hesitant to use an
21 alternate so early in the trial, based upon her demeanor
22 and the way she behaved, I can tell that maybe she's just
23 not 100 percent comfortable with serving as a juror. I
24 think the fair thing to do is to let her go. I think
25 that's fair to both sides. So I'm going to let her go

1 and we'll replace her. Unless there's any strenuous
2 objection or major objection, I'm going to let her be
3 replaced by Ms. Stinson, our alternate.

4 Okay. Let's do this. Go ahead and bring the whole
5 jury panel in here, but ask Ms. Jennings, to kind of --
6 tell her I'm going to release her, okay, based on what
7 she's told me. But bring her on in and I'll let her go
8 separately once we

9 THE BAILIFF: I'll bring her in last and she can
10 stand right here for just a minute.

11 THE COURT: And before you do that, were there some
12 motions we needed to address, gentlemen, before we
13 started?

14 MR. BROOME: Yes, Your Honor.

15 THE COURT: Go ahead, Mr. Broome. Let me hear from
16 you, then.

17 MR. BROOME: Thank you, Your Honor. First,
18 housekeeping matter of -- make a motion to sequester any
19 witnesses under the -- I know the state will probably
20 request that Investigator Goggins sit at the table,
21 probably the victims. Outside of that, we'd ask for
22 anyone else to be outside the courtroom.

23 THE COURT: Any other witnesses aside from the
24 victim and Mr. Goggins? Are we okay?

25 MR. SCOTT: We're good.

1 MR. BROOME: Additionally, Your Honor, we would
2 renew our Rule 5 motion. We filed a supplemental Rule 5
3 Brady motion back in November when this was set for
4 trial, specifically asking for investigator notes, copies
5 of any and all memoranda, reports, correspondence,
6 anything from law enforcement. So we just want the
7 record to be perfectly clear that at this point we've
8 gotten every -- every piece of paper, everything that we
9 have -- witnesses from the state and under Rule 5, under
10 Whitley, under Giglio that -- they could expound upon
11 whatever efforts they've made to get everything from
12 Clinton Police Department.

13 THE COURT: Solicitor, you want to speak to that or
14 respond?

15 MR. SCOTT: I don't really have a response. They've
16 got everything that we've got. I've worked, prepping
17 this thing up a number of times with Tyrone Goggins. And
18 -- and I can relate to the Court they have all the
19 discovery we have.

20 THE COURT: Very good. And Mr. Broome?

21 MR. BROOME: Thank you, Your Honor. Just wanted to
22 protect ourselves in case something came up ---

23 THE COURT: Sure.

24 MR. BROOME: --- at trial. We also filed a --
25 should be in front of the Court -- notice of motion to

1 reveal granted immunity, other concessions, and serve
2 that on the solicitor's office and Mr. Scott,
3 particularly speaking to Mr. Jacks and Mr. Willis. They
4 could place on the record what deals, if any -- I have
5 not heard response. I think their response will be there
6 will be no deal up front, and so trying to protect my
7 client going forward. If they're going to be testifying
8 that there's no deal, obviously those are different
9 witnesses.

10 In the event this does not go the way we would like
11 this to be and they end up pleading to something
12 different down the road, we can address that. But we'd
13 like for them to be clear what deals have been offered.

14 THE COURT: All right. Solicitor, do you want to
15 speak to what discussions or assurances or guarantees,
16 etc., whatever the case may be concerning Willis and
17 Jacks?

18 MR. SCOTT: No guarantees, no assurances. I
19 purposely never make offers on the offered on the front
20 end to testifying codefendants. They are told that
21 perhaps truthful testimony would favor them down the
22 road, but nothing concrete up front. Made Mr. Kinard a
23 number of offers, but none for the codefendants, Your
24 Honor. They have not been put on the trial docket yet.

25 THE COURT: One of the codefendants is Kinard, I

1 have down as Willis.

2 MR. SCOTT: Defendant Kinard.

3 THE COURT: Okay.

4 MR. SCOTT: Corey Willis is a codefendant and Gary
5 Jacks is the other codefendant. They will testify -- we
6 predict they'll testify for the state, but no offers have
7 been made, Your Honor.

8 THE COURT: Okay. That's the answer.

9 MR. BROOME: And Your Honor, we'd ask to -- in light
10 of that, considering they will be testifying, presumably
11 you'll be hearing -- they'll be pleading potentially to a
12 burglary first, one of the things if none of this shakes
13 out, we'd ask if it comes to motion for new trial, we
14 could address at that point. I'd ask Your Honor to
15 retain exclusive jurisdiction over Mr. Willis and
16 Mr. Jackson's case as well, see how that shakes out.

17 THE COURT: At least as it relates to Mr. Kinard, I
18 know I'll be in charge of that, and I'll consider what
19 you're requesting, as far as the other two codefendants,
20 after they've testified. It sounds like at the very
21 least you can elicit from them that their testimony, if
22 truthful, would help them down the line. I think that's
23 how exactly how the solicitor characterized it. What
24 exactly that means, that's something apparently do not
25 know at this point.

1 MR. BROOME: Thank you, Your Honor.

2 THE COURT: No additional motions from anyone?

3 MR. SCOTT AND MR. BROOME: (No audible response.)

4 THE COURT: All right. Let's have them out, please,
5 and ask Ms. ---

6 CLERK OF COURT: Jennings.

7 THE COURT: --- Jennings, yeah, let her be the last
8 one.

9 (Off the record briefly.)

10 (Whereupon, the jury entered the courtroom at 3:27
11 p.m.)

12 THE COURT: Ms. Jennings, I'm going to -- based on
13 our discussions earlier, I'm going to go ahead and
14 release you from this particular jury panel, okay, based
15 on everything you related to me. And I just want to
16 thank you for your willingness and your candor. I do
17 need you to call back in Wednesday night any time after
18 6:00 to that number that's on your juror card or your
19 juror summons. If you need another one, I can give you
20 this one, but ---

21 JUROR: Wednesday night.

22 THE COURT: Wednesday night after six and follow
23 whatever those instructions are, okay, ma'am? You have
24 it or you need it?

25 THE BAILIFF: You have your card?

1 JUROR: I do.

2 THE COURT: Okay. Good enough. Just call that
3 number Wednesday evening after six and take care of
4 yourself, ma'am. He'll show you the quickest way out.

5 (Whereupon, the juror exited the courtroom.)

6 THE COURT: All right. Since the Court has released
7 Ms. Jennings, our alternate, Ms. Stinson -- Ms. Stinson?
8 There's Ms. Stinson. You were at Mig's with me earlier.
9 Okay. You will be now a full member of the jury, okay,
10 Ms. Stinson.

11 Hope none of you get sick, because we have to have
12 12 jurors. So please do take care of yourself over the
13 next couple of days while we try this case.

14 My first order of business, ladies and gentlemen, is
15 to appoint a foreperson. Who is Janice Owens?

16 JUROR: (Gestured.)

17 THE COURT: Ms. Owens, I'd like to make you the
18 foreperson, if that's all right. Obviously your votes
19 count no more, no less than any other juror's vote. Your
20 primary responsibility would be to make sure everyone has
21 a chance to have their fair say once the case is
22 submitted to y'all for your deliberations, so if that's
23 okay, I'm going to make you the foreperson, okay? When
24 you come back, if you sit in the seat that's occupied by
25 the lady in black.

1 The rest of you can feel free to move about. Some
2 people get very attached to their seated. Others move
3 about as the case goes on.

4 Just a few quick housekeeping matters. If at any
5 point during the trial, ladies and gentlemen, you have
6 any difficulty hearing the testimony of the witnesses, I
7 want you to raise your hand. That will be my cue or the
8 attorney's cue to ask that particular witness to speak a
9 little bit more loudly. You shouldn't have any trouble
10 hearing in this courtroom, but if you do, just raise your
11 hand. I'll ask them to speak up, okay?

12 Similarly, if at any point in time, you need a
13 break, just raise your hand or get my attention. Let me
14 know that you need a break and we'll more than happy to
15 take a five- or ten-minute break for your own comfort,
16 all right?

17 With that, I'm going to ask that you stand where you
18 are so that the clerk can administer your oath to you as
19 jurors. So if you would, please stand up and raise your
20 right hand for me.

21 (Whereupon, the jury was duly sworn at 3:30 p.m.)

22 THE COURT: Ladies and gentlemen, what I now say to
23 you is intended to serve as an overview of the trial of
24 this case. Again, these remarks are not instruction on
25 the law. I'll instruct you on the law at the conclusion

1 of the trial before you retire to deliberate your
2 verdict. Again, this is just an explanation or overview
3 of the procedure we're going to use so that you can
4 better understand what's taking place.

5 Now, this case, ladies and gentlemen, the defendant,
6 Mr. Kinard, is charged by indictments filed in this court
7 with the offenses of burglary, grand larceny, and
8 safecracking. I'll explain to you at a later point in
9 time what the elements of these charges are. Again, as I
10 mentioned earlier, these indictments are merely the means
11 by which these cases are brought into court, and they are
12 not, in any sense of the word, proof of any of the
13 allegations contained in the indictment.

14 Mr. Kinard has pled not guilty to these charges, and
15 that plea puts the burden on the state to prove his guilt
16 beyond a reasonable doubt. It will be your duty, ladies
17 and gentlemen, to determine whether the state has met
18 this burden.

19 Now, your purpose as jurors is to find and determine
20 the facts in this case. If at any time I make any
21 comment concerning the facts, you have to disregard that
22 comment, because, as I'll explain at the conclusion of
23 the trial, the law does not allow me to have any opinion
24 about the facts in the case. This is a matter solely for
25 you to determine.

1 You're to determine the facts from the testimony
2 that you hear and the other evidence introduced during
3 the trial. It's up to you to determine what inferences
4 you think can properly be drawn from the evidence
5 presented. Now, ladies and gentlemen, it's especially
6 important that you perform your duty of determining the
7 facts diligently and conscientiously because ordinarily
8 there is no way to correct an erroneous determination of
9 facts by a trial jury.

10 On the other hand, the same law that makes you the
11 judge of the facts makes me the judge of the law. The
12 law as given by the Court is the only law that you can
13 consider. Your job will be to take the law as I give it
14 to you, apply it to the facts as you find them to be, and
15 render your verdict under the oath you have just taken.

16 Now, until I advise you to begin your deliberations,
17 again, please don't discuss this case with anyone. Not
18 friends, family members, not even your fellow jurors.
19 The lawyers and the other people involved in the case
20 have been told they're to have no contact with you while
21 the case is going on, so if you see somebody who is
22 involved with this case coming or going from the
23 courtroom, be it a witness or a lawyer, and they don't
24 say hello to you, understand they're not being rude.
25 They're just following my instructions to have nothing to

1 do with you while the case is going on.

2 The reason for this is readily apparent. If the
3 other side were to see one of the attorneys talking to
4 you, it could easily be misinterpreted as an effort at
5 jury tampering, and the easiest way to keep that issue
6 from even coming up is to say that jurors are off limits
7 while the case is going on, okay?

8 Now, I don't anticipate there will be any media
9 coverage of this case while the trial is taking place.
10 But, of course, please don't read anything about the case
11 in the paper, don't listen to anything that might be
12 concerning the case on electronic media, and certainly
13 ladies and gentlemen, please do not independently
14 investigate via Internet searches or what have you.
15 Don't do any kind of independent research.

16 The reason for this, I'm sure you can imagine, the
17 stuff that's on the Internet, ladies and gentlemen, a lot
18 of it just ain't true, okay? And there's no filter for
19 the Internet. This courtroom, the rules of evidence are
20 designed to try to give you the best, most reliable
21 information possible, all right. And that's the filter
22 through which we see a case or we experience a case. The
23 same simply is not true for what is written online.

24 Understand that certain judges in this state have
25 been put in a position where it's come to light that a

1 juror has decided to go and start Googling people's names
2 and doing independent research and doing independent kind
3 of investigations. Please, ladies and gentlemen, don't
4 put me in that kind of a position.

5 I've never been, as a trial judge, been placed in
6 that position by a juror. I don't know what I would do,
7 but I know that other judges weren't at all happy with
8 those jurors when they found out that hey, the juror went
9 behind their back and did something they were expressly
10 told not to do. So please, just don't put me in that
11 position, okay?

12 Ladies and gentlemen, it's important that you keep
13 an open mind and not decide any issue in the case until
14 all the evidence has been presented, the parties have
15 made their closing arguments, and I've instructed you on
16 the law. It's your solemn responsibility to determine
17 the guilt or innocence of the defendant and your verdict
18 must be based solely on the evidence presented during
19 trial and other laws I instruct you.

20 Now, in a moment, ladies and gentlemen, the
21 solicitor will make his opening statement to you in which
22 he'll explain to you what the issues are, at least what
23 he thinks the issues are, in this particular case. The
24 attorney for Mr. Kinard will be given an opportunity to
25 give an opening as well, although he's not required to do

1 so. I instruct you that what the attorneys say during
2 their openings and their closings, is, of course, not
3 evidence. It's merely their contention as to what will
4 be proven or has been proven.

5 Even though it's not evidence, you should certainly
6 pay attention to the attorneys's openings because it's a
7 road map, it's a guide, it's an overview of what they
8 anticipate the testimony being. Again, the testimony
9 will be presented through the testimony of sworn
10 witnesses from that witness stand, as well as any
11 exhibited introduced into the record.

12 Now, during this trial, it may become necessary for
13 us to take breaks where I ask that you leave the
14 courtroom so that I can take up an issue of law with the
15 attorneys out here on the record. The reason that I'm
16 asking you that you leave the courtroom is that in ruling
17 on issues of law, sometimes it's necessary to make a
18 comment about what facts have been introduced into the
19 record, what evidence has been presented, what testimony
20 has been said, okay? Since you are the sole judges of
21 the facts, I don't want anything that I say about those
22 facts to have any effect, any bearing on what you
23 ultimately find those facts to be. That's why I ask you
24 leave the courtroom during those breaks.

25 Of course, please don't speculate about what I say

1 concerning the facts. Again, the law does not allow me
2 to have any opinion about any fact involved in this
3 particular case.

4 Now, determining what the true facts are, ladies and
5 gentlemen, you have to determine whether or not the
6 testimony of witnesses is believable or not. It will be
7 my responsibility to rule as a matter of law on whether
8 certain testimony is admissible. Once that testimony is
9 admitted, however, whether you choose to believe it is
10 solely for you to determine. In deciding whether the
11 believe a witness, you have the right to consider the
12 interest of any witness, the bias of any witness, the
13 prejudice of any witness, the opportunity for the witness
14 to have seen the matters about which they testify, and
15 you can also consider the way the witness acts while on
16 the witness stand.

17 You have the right to consider anything that's in
18 the record in the case which will help you evaluate the
19 witness's credibility. That means it's your duty to pay
20 close attention to them, listen to them, observe them,
21 and pay close attention to the attorneys and the Court.

22 Try and keep your thoughts from wandering. If you
23 give strict attention to the testimony, you'll be in as
24 best a position as possible to apply the law to the facts
25 and thus render your verdict at the conclusion of the

1 trial.

2 Now, if you want to take notes during the course of
3 the trial, you'll be at liberty to do so. Just let the
4 bailiff know at our first break and we'll be more than
5 happy to get you a pen and some paper. Just a couple of
6 rules about note-taking: Don't let the taking of notes,
7 please, distract you from the testimony of the witnesses.

8 Secondly, those notes are your personal, private
9 property. They're for your eyes only. At any break,
10 we'll secure those notepads. We'll keep them here, and
11 at the conclusion of the trial, you'll take with you any
12 notes that you have taken and you can either keep it as a
13 souvenir or toss it in the garbage can, whatever you
14 choose to do, okay?

15 Now, in order to preserve everyone's rights, I'll
16 give the attorneys an opportunity to object to anything I
17 said during these opening remarks to you, and then we'll
18 proceed with opening statements. Any objections from the
19 state?

20 MR. SCOTT: No, Your Honor.

21 THE COURT: From the defense?

22 MR. BROOME: None, Your Honor.

23 THE COURT: Very good. We'll now commence the
24 trial. Mr. Scott or -- sorry -- Mr. Todd, you're
25 recognized for your opening.

1 MR. TODD: Thank you, Judge.

2 OPENING STATEMENT BY MR. TODD

3 MR. TODD: Good afternoon. My name is Jim Todd, and
4 born and raised in Laurens, South Carolina, graduate of
5 Laurens High School. Was able to stick around in Laurens
6 and continue to prosecute cases here after law school.
7 Sitting at my table here is Dale Scott, deputy solicitor
8 of Laurens and Newberry; Walter Bentley, investigator
9 for our office, the solicitor's Office; and Tyrone
10 Goggins, Clinton Public Safety investigator.

11 Now, you've heard from the judge that Mr. Kinard
12 over here is charged with grand larceny, safecracking,
13 and burglary in the first degree. Now, I'll get into
14 those in a minute, but by way of introductions, I want to
15 introduce you to the victims in this crime. We've got
16 Mr. Poole over here -- if you'll raise your hand -- his
17 wife, Annie; and their son, Reggie, who was also a victim
18 in this crime.

19 Mr. Poole is a resident of Clinton, South Carolina,
20 for about 40 years. Married to his wife, Annie, for 42
21 years, and they have a daughter and son, Reggie, who also
22 lives with them. Now, he's worked his entire life. And
23 when I say his entire life, he's worked every job you can
24 imagine. You shake the man's hand, you can tell he's
25 been working his whole life.

1 He, as I mentioned, was a veteran in the Army,
2 worked in the cotton mill, farmed, Walmart distribution,
3 you name it. He worked his entire life and saved up all
4 his money, and he and his wife together started a family
5 and moved to Clinton back in 1980, right when Reggie was
6 born. And their house is located on Thornhill street.
7 And to kind of give you an idea of where that is, it's
8 right behind the Taco Bell in Clinton, right before you
9 get to Thornwell School.

10 Now, you've always heard that your home is your
11 castle. You know, it's your safe place. It's the place
12 where you keep your possessions, the first place to have
13 Thanksgiving dinner. I know Mr. Poole has done that with
14 his family over the years.

15 Mr. Poole, as I mentioned, as worked all his life
16 and saved up his money and collected personal property
17 along the way and he wanted a place to put it. So he
18 purchased a house where he and his wife saved up enough
19 money, bought at , and that's where
20 they reside to this day.

21 Now, you'd like to this all his possessions and
22 those happy memories, and watching your granddaughter
23 grow up there, and raising a family, you'd like to this
24 that that's your safe space. Obviously, we can't control
25 anything outside of the world, in the outside world.

1 We'd like to think we can control what goes on inside our
2 own home. That's our place where we consider our safety
3 retreat. Go home, when you have a bad day at work or
4 maybe you didn't get that raise you were trying to and
5 you want to go home and vent about it. You get to go
6 home and retreat to your private space.

7 You might also think that when you go to work during
8 the day or go on family vacation, all that property you
9 have accumulated over the years, worked hard for, saved
10 up, purchased odds and ends, maybe it's antiques, maybe
11 it's a sports car collection -- stuff. Everybody's got
12 it. You'd like to think all of that kind of stuff would
13 be safe in your home. And your peace of mind, you'd like
14 to think that would be secure when you go to work or on
15 vacation.

16 Well, sadly, that's just not the case, especially
17 when you have people like Keaston Kinard walking around
18 the streets. Sometimes it's just not the case.

19 Now, on June 23rd, 2012, you're going to hear from
20 Reggie Poole over here, the Pooles' son, how he was
21 working a second shift job at Kraft Foods in Newberry,
22 came home around 2/2:30 in the morning, and his parents
23 were on vacation in Georgia, going to see family. He was
24 the only person that was supposed to be there that
25 weekend.

1 Comes home, tired from work, put in a long day's
2 hours, opens the door, goes to his room, passes by his
3 parents' room and sees the TV on in there. Says hmm,
4 that's weird. Parents are out of town and I know I
5 didn't turn that TV on. I don't usually go in my
6 parents' room.

7 So then he says -- I'm going to go back to the
8 kitchen, starts cutting on lights. Goes into the
9 kitchen, cuts on the kitchen light, sees glass on the
10 floor. That is the door where it's got a top window, and
11 there's a door handle right there, with the glass panel
12 smashed out. Glass was on the floor.

13 So he said, something's up. This is -- this is not
14 good. Goes and turns on all the other lights, goes to
15 his parents' room where that TV was on and there's the
16 family safe where his parents had been collecting their
17 prized possession all 42 years put in that safe, gone.
18 Safe's gone. There's an imprint on the floor where it
19 once stood because it had been there for a long time.
20 They grew up around that safe. It's now gone.

21 You're going to hear about at that point, he calls
22 Clinton Police Department to report a homeowner's worst
23 nightmare. They had been burglarized. Clinton Police
24 Department comes out there, they investigate, and start
25 doing the usual crime scene investigation. There was a

1 house break-in.

2 Listen to Casey Jones. He's going to testify that
3 he actually got a piece of that glass from that punched-
4 out door and lifted a fingerprint off of that door panel.
5 You're going to hear also how this is was not just a
6 one-man job. You're going to hear from the two
7 codefendants, his partners in crime, who helped him carry
8 out this safecracking, this burglary-first, and this
9 grand larceny.

10 Now, they're charged with the same charges as Mr.
11 Kinard is and they'll have their day in court. But this
12 week is about Keaston Kinard and his role in it. This is
13 about him, not them.

14 They're going to testify to about how Keaston
15 punched in that back door, reached around, opened it, let
16 himself in the house, looked around, took his time,
17 finally found that safe, and thinks to himself, Gosh, you
18 know, this must be something really important in here.
19 Takes the crowbar, tries to pry into it in the bedroom.
20 Can't get into it, so he is thinking, How am I going to
21 get away with this and get this out of here?

22 Starts looking around the house. What can I find?
23 Find Mr. Poole's Ford Ranger keys. They're on vacation;
24 they're in the family car. Truck is still there, parked
25 behind that house. He's brazen enough, says, I'm going

1 to take this truck while I'm at it.

2 So he backs the truck up to the back door, which he
3 busted in, load that safe on there, drive it out to a
4 discreet location, get a crowbar and tie around and bust
5 in that thing and take everything that the Poole family
6 has worked so hard to earn. Left everything they didn't
7 want to ruin: birth certificates, birthday cards from
8 their grandchildren. All of that just ruined in this
9 rain, but Mr. Kinard probably doesn't care.

10 You're going to hear about how they were -- Mr.
11 Poole's nine guns -- he's a veteran, so he owns firearms.
12 He has those gone. Several other family heirlooms.
13 Mrs. Poole's family stamp collection, jewelry, all that's
14 gone. Ruined.

15 You're going to continue to hear more testimony from
16 law enforcement, you know, piecing this thing together.
17 Particularly, I want you to pay close attention to
18 Kimberly Mears. Now, she is a forensic analyst that will
19 tell you about the fingerprints. She actually takes
20 fingerprint on that busted-out glass piece, test it,
21 compares it to Mr. Kinard, and I submit to she's going to
22 testify there is a match. Mr. Kinard's fingerprints are
23 on that glass.

24 You're going to hear a lot of testimony and evidence
25 that leads directly back to Keaston Kinard committing

1 these crimes. You're also going to hear about the words
2 "reasonable doubt," and the judge has touched on it a
3 little bit. But I will as well.

4 Reasonable doubt is the standard of proof, the
5 burden of proof in this state of South Carolina to prove
6 someone guilty. It's a very high standard, but it's a
7 standard we will gladly accept. And I believe after we
8 show you all the evidence and you hear all the testimony,
9 that you will be firmly convinced beyond a reasonable
10 doubt that Keaston Kinard is guilty of safecracking,
11 grand larceny, and burglary first-degree.

12 Now, I want you guys to use your common sense
13 throughout this trial. I know there are plenty of other
14 places you'd rather be this week, but I really appreciate
15 your service here today with the jury service. And if I
16 could just have your attention and patience throughout
17 this trial, I'd appreciate it. Thank you.

18 THE COURT: Thank you, Mr. Todd. Mr. Broome, you're
19 recognized, sir.

20 MR. BROOME: Thank you, Your Honor.

21 OPENING STATEMENT BY MR. BROOME

22 MR. BROOME: My good friend, Mr. Todd, touched on a
23 few things about what you'll see in this course of this
24 trial. One of those things he just mentioned is a
25 fingerprint. AND Ms. Mears from SLED is going to come

1 in, talk about how she did an examination -- there was a
2 print that was found at the scene -- and they're going to
3 say it matched Mr. Kinard's. I can't get around that,
4 that she's going to testify that way. That's what I
5 expect she'll testify to.

6 However, what she should testify to is where the
7 fingerprint was found was on the outside of the glass,
8 outside of the home. But more importantly, touching on
9 that is the thing about fingerprints is fingerprints
10 can't really talk. They don't tell a story.

11 People that do tell the story would be Gary Jacks
12 and Corey Willis. They're the two codefendants in this
13 case, and what -- that's how the state is going to use
14 this case.

15 They're going to try to use Mr. Willis and Mr. Jacks
16 to come up here and testify against Mr. Kinard. These
17 are two men who are facing the same charges, and they're
18 going to talk about how they cooperated with the police.
19 I want you to focus on when they take the stand,
20 Mr. Jacks and Mr. Willis.

21 Mr. Jacks was arrested August the 8th. He was
22 handcuffed; he was placed with his arms behind him. He
23 was put into the back of a car, police car, with barred
24 windows. He was taken to the county jail. He was booked
25 in, fingerprinted, given an orange jumpsuit. He was put

1 in a cell, a very tiny cell, and placed in there with
2 other inmates.

3 At that time, when Mr. Jacks was finally caught by
4 police, he was cornered, and he was caged in, he decided
5 to talk to law enforcement. And that's the same thing
6 that happened for Mr. Willis. These men were caught,
7 they were cornered, and they were caged in, and that's
8 when they decided to talk to the police, multiple
9 occasions to the police, and they've given different --
10 different statements to the police.

11 This case will be about not Mr. Kinard, but
12 Mr. Willis and Mr. Jacks. And you're going to focus
13 on -- I want you to pay attention specifically to what
14 they testify to, how they testify, men who are desperate.

15 These are desperate measures. When they talked to
16 the police, they were desperate then. Their backs were
17 up against the wall. They were in that caged cell. They
18 had nowhere to go. They were trying to -- what they're
19 going to try to do is buy -- let me back up.

20 They had -- there's certain things -- there's one
21 thing specifically that money can't buy, that gold can't
22 buy, and jewels can't buy, and that's what Mr. Willis and
23 Mr. Jacks are trying to buy. I want you to think about
24 that during the course of this trial.

25 And there's also three Cs, what I call three Cs, in

DIRECT EXAMINATION BY MR. TODD - REGINALD POOLE 55

1 this trial I want y'all to focus on. That will be
2 credibility, consistency, and corroboration: credibility
3 of the witnesses, consistency of the witnesses, and
4 corroboration, independent corroboration that the police
5 did in this trial. And that's what it comes down to.
6 Mr. Willis, Mr. Jacks, and the three Cs, credibility,
7 consistency, and corroboration. Thank you.

8 THE COURT: Thank you, Mr. Broome. Solicitor, thank
9 you, sir. Solicitor, you may call your first witness.

10 MR. SCOTT: State calls Reginald Poole.

11 REGINALD POOLE, after having first being duly
12 sworn, testified under oath as follows:

13 DIRECT EXAMINATION

14 BY MR. TODD:

15 Q Mr. Poole, just introduce you to the jury. Where
16 are you employed?

17 A I'm employed at Kraft Foods in Newberry, South
18 Carolina.

19 THE COURT: You have a very nice baritone, deep
20 voice. I think we'll be able to hear you fine.

21 Q Okay, where are you employed? Sorry.

22 A Kraft Foods.

23 Q And where is that located?

24 A Newberry, South Carolina.

25 Q And how long have you been employed there?

1 A I've been employed there seven years.

2 Q Seven years?

3 A (Nodded head up and down.)

4 Q What do you do there?

5 A Machine operator.

6 Q Okay. What hours do you work?

7 A I work -- supposed to be an eight-hour shift, but we
8 go in at 4:30 and we get off whenever.

9 Q They tell you -- okay. And were you employed at
10 Kraft Foods back on June 23rd, 2012?

11 A Yes, sir.

12 Q Okay. And let's just cut right to the chase. Will
13 you walk through this jury what you found when you
14 arrived back at your house on June 23rd, 2012?

15 A Okay. On the day in question, like I said, I was
16 supposed to go to work that afternoon at 4:30. I left my
17 house around 3:30 that afternoon. Specifically got off
18 work around 2/2:30 that morning a.m. Came home, just
19 like a normal night, any other night.

20 Came home; all the lights was off in the house.

21 Came through the back door. Came through the kitchen;
22 came through the hallway. I noticed in my parents' room
23 TV was on. Like I said, all the lights was off. And
24 that seemed kind of strange to me, because when I left
25 the house, none of the lights was on, no TV, nothing was

DIRECT EXAMINATION BY MR. TODD - REGINALD POOLE 57

1 on, so I thought it was kind of strange, so ---

2 Q What did you do then?

3 A I proceeded to go through all of the other rooms.

4 Nothing was out the ordinary. So I decided to go in my
5 parents' room; turned on the light. That's when I
6 noticed all her -- my mom's personal stuff was scattered
7 around. Some of the drawers -- her jewelry chest was,
8 you know it was open, and then that's when I noticed the
9 family safe was gone.

10 Q Okay. And that family safe was in your parents'
11 bedroom, you said?

12 A Yes, sir.

13 Q Okay. I'm going to show you a photo, premarked here
14 if I can find it. Going to show you what's been marked
15 State's Exhibit Number 7. You mentioned you walked in
16 your parents' bedroom and saw where the safe had been.

17 A Yes, sir.

18 Q Can you take a look at that? Does that fairly and
19 accurately describe what you're talking about when you
20 say the safe was there on that carpet?

21 A Yes, sir. That's exactly what I observed.

22 Q Okay.

23 MR. TODD: Number 7.

24 THE COURT: Any objection to State's 7?

25 MR. BROOME: No, Your Honor.

DIRECT EXAMINATION BY MR. TODD - REGINALD POOLE 58

1 (Whereupon, State's Exhibit 7 was entered into
2 evidence.)

3 Q Now, when you noticed that the safe was gone from
4 the -- from your parents' bedroom, what happened next?
5 What did you do next?

6 A First thing came to my mind, I said I'm calling my
7 parents, let them know, first and foremost. Then I
8 decided to call the police, Clinton police.

9 Q Okay. And where were your parents that weekend?

10 A They was in -- on vacation for the weekend.

11 Q Where?

12 A They was on vacation for the weekend.

13 Q Were you the only person that was supposed to be
14 there that weekend?

15 A Yes, sir.

16 Q Okay. And had there been anyone else that was
17 supposed to be there, would you parents have let you
18 know?

19 A Yes, sir, they would have let me know.

20 Q Okay. And what else did you do? Where did you go
21 in the house after that?

22 A I went to the back kitchen; turned on the light.
23 That's when I noticed the broken glass from the window.

24 Q Where was it?

25 A It was broken glass on the floor in the kitchen.

DIRECT EXAMINATION BY MR. TODD - REGINALD POOLE 59

1 Q Okay. And where did that glass come from?

2 A From the back door.

3 Q Okay. Want to show you what's been marked State's
4 Exhibit No. 3 and State's Exhibit No. 4. Would you take
5 a look at that, State's Exhibit No. 3?

6 A Okay.

7 Q State's Exhibit No. 4, what are those? Can you
8 describe what's on those photos?

9 A Yes, sir. That's the back door of the kitchen,
10 exactly the way I found it.

11 Q Does it fairly and accurately describe what the
12 broken glass window ---

13 A Yes, sir.

14 Q --- around the kitchen door?

15 A Yes, sir.

16 MR. TODD: State would offer these -- State's No. 3
17 and 4 into evidence.

18 THE COURT: Any objections to State's 3 and 4?

19 MR. BROOME: No, Your Honor.

20 THE COURT: All right. They're in evidence.

21 (Whereupon, State's Exhibits 3 and 4 were entered
22 into evidence.)

23 Q So this is how you found the back door?

24 A Exactly.

25 Q Okay. And that -- describe to the jury -- they've

DIRECT EXAMINATION BY MR. TODD - REGINALD POOLE 60

1 never been in your house before. Where, in fact, is that
2 door located on the house? Is it front?

3 A It's right at the back -- at the back door. When
4 you get to our house, it's like real black at the back
5 door of our house. So when I first got there, you
6 wouldn't be able to see that unless you turn on some
7 lights. So that's exactly why I didn't notice it when I
8 first got there.

9 Q Okay. And I'm going to show you one more photo of
10 the back of the house. This has been marked State's
11 Exhibit No. 2. Can you describe or take a look at that?

12 A Uh-huh. Yeah. This is exactly the back door of our
13 house.

14 Q And that's where this photo is?

15 A Yes, sir.

16 Q That door?

17 A Exactly.

18 MR. TODD: We would like to offer State's Exhibit 2
19 in.

20 THE COURT: Without objection, State's 2 is in
21 evidence.

22 (Whereupon, State's Exhibit 2 was entered into
23 evidence.)

24 Q Just for the jury, again, this is your back door?

25 A Correct.

DIRECT EXAMINATION BY MR. TODD - REGINALD POOLE 61

1 Q Okay. And right here would be where that punched-
2 out window is?

3 A Yes, sir.

4 Q Okay. What else did -- what did you do after you --
5 you noticed the broken-out glass window on the floor?

6 A Like I said, continued to walk around the house,
7 make sure nothing else wasn't stolen, and then I decided
8 to call my parents and then just called the Clinton
9 police after that.

10 Q So you called the police after you had spoke to your
11 parents?

12 A Yes, sir.

13 Q And they arrived shortly after?

14 A Yes, sir.

15 Q Okay.

16 MR. TODD: Beg the Court's indulgence.

17 THE COURT: Yes, sir.

18 Q You mentioned earlier you had gotten off work around
19 what time?

20 A 2/2:30.

21 Q And what time does it usually take from Kraft Foods
22 where you work to your house on Thornwell Street?

23 A About 25 minutes, maybe 30 minutes.

24 Q So that puts you back at the house around 2:30 in
25 the morning?

1 A Uh-huh.

2 Q Okay. Do you know Keaston Kinard at all, the man
3 right there?

4 A No, sir. I've never seen him before.

5 Q Okay. Do you -- would you have given him consent or
6 anybody else you know consent to go in that house while
7 you were out at work?

8 A No, sir.

9 Q Okay. Okay?

10 MR. TODD: Believe that's it.

11 (Whereupon, Mr. Todd and Mr. Scott conferred.)

12 Q And we've talked about the safe that had the
13 personal property and valuables in there. Was anything
14 of yours taken in this?

15 A Yes, sir. I owned a firearm that was in the safe.

16 Q Okay. And you're legally permitted to have that
17 firearm?

18 A Yes, sir. I'm a CWP owner.

19 Q Was that -- what does that mean?

20 A Weapon permit.

21 Q So that has been stolen. Was it ever recovered?

22 A No, sir.

23 Q Did you have anything else stolen in that safe?

24 A No, sir, not of mine.

25 Q Okay. Just the handgun?

DIRECT EXAMINATION BY MR. TODD - PHILLIP WICKER 63

1 A Yes, sir.

2 Q Okay.

3 MR. TODD: Beg the Court's indulgence.

4 (Whereupon, Mr. Todd and Mr. Scott conferred.)

5 Q About how much did that handgun cost?

6 A It was \$475.

7 Q What kind was it? Do you remember?

8 A Taurus .40 caliber.

9 Q And it was never recovered?

10 A No, sir.

11 MR. TODD: No further questions, Your Honor.

12 THE COURT: Cross?

13 MR. BROOME: No, Your Honor.

14 THE COURT: Sir, thank you. You can step down.

15 (Whereupon, the witness exited the witness stand.)

16 THE COURT: All right, next witness, Mr. Todd.

17 MR. TODD: State would like to call Phillip Wicker
18 of the police department.

19 (Whereupon, the witness came forward.)

20 PHILLIP WICKER, after having first being duly
21 sworn, testified under oath as follows:

22 DIRECT EXAMINATION

23 BY MR. TODD:

24 Q Could you introduce yourself to the jury? What's
25 your name?

DIRECT EXAMINATION BY MR. TODD - PHILLIP WICKER 64

1 A My name is Phillip Wicker, sergeant with the Clinton
2 Police Department.

3 Q And how long have you been working there?

4 A Since 2010.

5 Q And what position do you have? You said lieutenant?

6 A I'm a sergeant.

7 Q Okay. And you said since 2010. So jumping right
8 into it, June 23rd, 2012, were you working that night?

9 A Yes, sir, I was.

10 Q Okay. Do you recall receiving a house call, an
11 incident located on Thornwell Street?

12 A Yes, sir, I do.

13 Q And describe to the jury, how you took that call,
14 how you handled it, where did you go?

15 A On June 23rd, 2012, I responded to

16 , which is in my jurisdiction in Clinton, South
17 Carolina. I believe the call came out approximately
18 2:30 in the morning.

19 I got there and I spoke to Mr. Reginald Poole, who
20 said he left for work earlier that day and returning that
21 night around 2. He noticed -- he noticed that his
22 parents' TV was on. He found it odd because his parents
23 were out of town. He called the police.

24 I get there, and he said he noticed the back door,
25 the pane glass had been busted out. He also noticed in

DIRECT EXAMINATION BY MR. TODD - PHILLIP WICKER 65

1 his parents' room he had seen -- somebody had been
2 through some things.

3 I observed the glass that was broken from the back
4 door. I also observed in the parents' bedroom what
5 appeared to be where something had been sitting on
6 carpet, a heavy object for a long period of time,
7 consistent with the gun safe that was stolen.

8 Q Okay. I'm going to show you
9 This photo here, does that house look like the one that
10 you dispatched on the call to?

11 A Yes, it does.

12 Q Fairly and accurately describes it?

13 A Yes, sir.

14 MR. TODD: This has been marked as State's Exhibit
15 No. 1. I'd offer it into evidence, Your Honor.

16 THE COURT: Without objection, State's 1 is in
17 evidence.

18 (Whereupon, State's Exhibit 1 was entered into
19 evidence.)

20 Q So this is where you responded to the call?

21 A Yes, it is.

22 Q And you went through the front door, back door?

23 A I went through the front door initially.

24 Q And that's where you met with Mr. Reggie Poole?

25 A Yes, sir.

DIRECT EXAMINATION BY MR. TODD - PHILLIP WICKER 66

1 Q Okay. I'm going to show you also just to give the
2 jury some perspective, this photo here, an aerial of the
3 house. Does that fairly and accurately describe --

4 A Yes, it does.

5 MR. TODD: State's Exhibit No. 15.

6 THE COURT: Without objection, State's 15 is in
7 evidence.

8 (Whereupon, State's Exhibit 15 was entered into
9 evidence.)

10 Q And just to kind of give the jury an idea of where
11 this is all taking place, this is , correct?

12 A To the best of my knowledge it is, yes.

13 Q And what is this area here?

14 A It's an old motel which has since been turned into
15 an apartment building.

16 Q Okay. And this is right behind the Taco Bell?

17 A Yes, sir.

18 Q Okay. This is where you went?

19 A Yes.

20 Q Now, you were mentioning when you responded to that
21 call that night, Mr. Reggie Poole met you at the door and
22 let you go through the house to kind of investigate on
23 what had been taken, what was out of place?

24 A Yes, sir.

25 Q Going to show you what's been marked State's Exhibit

DIRECT EXAMINATION BY MR. TODD - PHILLIP WICKER 67

1 No. 5.

2 A That appears to be his parents' bedroom.

3 Q And that's where that safe would have been?

4 A Yes, sir. Besides the dresser drawer where the TV
5 was at?

6 Q Okay.

7 MR. TODD: State's 5.

8 THE COURT: Without objection, State's 5 is in
9 evidence.

10 (Whereupon, State's Exhibit 5 was entered into
11 evidence.)

12 Q To reiterate, this is his parents' bedroom, correct?

13 A Yes, sir.

14 Q And that's how you found it when you walked in?

15 A Yes, sir.

16 Q Okay. One more of parents' bedroom. Would you
17 describe it the picture, more or less?

18 A Yes, sir.

19 MR. TODD: State's No. 6, Your Honor.

20 THE COURT: 6, no objection.

21 (Whereupon, State's Exhibit 6 was entered into
22 evidence.)

23 Q And you say you were the first responder on that
24 call?

25 A Yes, sir, I was.

CROSS-EXAMINATION BY MR. BROOME - PHILLIP WICKER 68

1 Q And after you had done an initial walk-through, what
2 did you do after that?

3 A After I saw that there actually was a burglary and
4 there was things taken, I called my immediate supervisor,
5 which was Casey Jones, and he came to help process the
6 scene.

7 Q Okay. So you more or less came in, secured the
8 premises, and then called your supervisor?

9 A Yes, sir.

10 Q That's all the questions I have. Answer any
11 questions that Mr. Broome might have.

12 THE COURT: Any questions?

13 CROSS-EXAMINATION

14 BY MR. BROOME:

15 Q Briefly, Officer Wicker, are you trained in any
16 fingerprint examination? Have you been trained in that
17 area?

18 A No, sir. That's why I called my supervisor. Well,
19 at that time, I had not been. That's why I called my
20 supervisor to handle the process.

21 Q I'm sorry. Did you call anyone else other than
22 officer ---

23 A My lieutenant ---

24 Q The lieutenant ---

25 A Sergeant Jones.

DIRECT EXAMINATION BY MR. SCOTT - CASEY JONES

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1 Q Sergeant Jones?

2 A Lieutenant Robinson.

3 Q You called Lieutenant Robinson as well?

4 A Yes, sir.

5 Q And they showed up?

6 A Yes, sir.

7 Q Okay. Thank you.

8 THE COURT: Thank you, sir. You can step down. You
9 are free to go.

10 (Whereupon, the witness exited the witness stand.)

11 MR. SCOTT: State calls Casey Jones.

12 CASEY JONES, after having first being duly
13 sworn, testified under oath as follows:

14 DIRECT EXAMINATION

15 BY MR. SCOTT:

16 Q Officer Jones, what's your job at Clinton city?

17 A I'm currently a lieutenant in the uniform patrol
18 division.

19 Q What about June 23rd of 2012?

20 A I believe at that time, I was actually a sergeant
21 within uniformed patrol at that time.

22 Q Okay. We just heard from Phillip Wicker. Was he
23 working under you at that time?

24 A He was. We were on shift together. Yes, sir.

25 Q Okay. So would you have been working about 3 a.m.,

1 give or take, June 23rd, 2012?

2 A Yes.

3 Q Do you remember that date?

4 A Yes, sir.

5 Q And did you have an opportunity to respond to

6 ?

7 A I did.

8 Q That's in Clinton?

9 A Yes, sir, that's correct.

10 Q Laurens County?

11 A Yes.

12 Q What was the nature of the call?

13 A It was in reference to a burglary.

14 Q Okay. And what did you do when you get there?

15 A Officer Wicker was -- documenting the scene,
16 handling his portion of the report. Once I arrived on
17 scene, I photographed the scene and processed it for any
18 type of physical evidence that may have been there.

19 Q What did you do to process the screen?

20 A One of the things I did, I processed the broken
21 glass on the -- I believe it was a rear door of the
22 residence for any latent prints.

23 Q What's the -- state's -- let's see. State's No. 2
24 is what I'm showing you. Do you recognize that picture?

25 A Yes, sir.

DIRECT EXAMINATION BY MR. SCOTT - CASEY JONES

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1 Q Okay. And you said you did what? You processed
2 some broken glass?

3 A Yes, sir, that's right. The interior -- the
4 exterior but the wooden door, not the storm door, had
5 some broken glass on one of the panes, if I remember
6 correctly.

7 Q Let me see State's No. 3. That's what you're
8 describing?

9 A Yes, that's right.

10 Q And when you say processed the glass, was it some of
11 the glass we see here, or was it glass on the ground?

12 A What I actually processed, if I remember right, it
13 was some glass that had fallen down. I believe it was
14 inside the residence.

15 Q I want to show you State's No. 4.

16 A Yes, sir, I would have processed that piece too.

17 Q Okay. State's 4 is in evidence; court reporter has
18 it. But this is State's No. 4 on the screen. So what is
19 that black stuff we're looking at?

20 A What you're looking at there is actually fingerprint
21 powder.

22 Q Tell us about that. How does that work?

23 A Basically, to lift latent prints, we'll use
24 fingerprint powder to dust a surface. And if there's any
25 latent prints left there, they'll appear and they can

1 then be lifted with transfer tape.

2 Q Okay. So how do you determine what you're going to
3 process for fingerprints?

4 A Typically, what I would look at -- particularly on a
5 burglary scene is either the method of entry or the
6 method of egress or exit that the suspect may have used.

7 Q Okay. So you determine that was a probable point of
8 entry for the burglary.

9 A Yes, sir. That was the only forced entry that I
10 observed on that residence that night.

11 Q Okay. What kind of training do you go through to
12 lift fingerprints?

13 A I received -- I'm not quite sure how many hours
14 within the department itself. I've also gone to
15 detective school, which is a portion of that school,
16 which is an 80-hour program. That's taught through the
17 South Carolina Criminal Justice Academy.

18 Q And what is it, some kind of like magnesium or
19 something you dust on there?

20 A I'm not quite sure of the actual substance.

21 Q But how does it work? I mean, you just kind of
22 coarse hair brush or something that you put on it?

23 A Yes, you'll take a brush. You've got several
24 different types of powder, whether it's just a standard
25 powder or magnetic powder. And you can dust the surface

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1 of the -- what you're trying to look at any latent prints
2 that may not be visible. And what will happen is the
3 powder will then stick to that latent print and you'll
4 actually see it form.

5 Q Okay. Did you see any fingerprints, I guess, with
6 the naked eye when you were there that night?

7 A Not prior to printing with fingerprint powder, no,
8 sir.

9 Q So you're saying you put the magnesium powder on
10 there whatever, and then it reveals the print that you
11 couldn't see?

12 A That's right.

13 Q Okay. And then you say something about some tape to
14 lift it?

15 A Yes, sir. Once you can see the print form in the
16 fingerprint powder.

17 Q Uh-huh?

18 A You then take a clear tape, apply it over the top of
19 the surface, and it will then lift that print to the tape
20 and then you can take the tape and put it on the white
21 surface or piece of paper, which can then be processed
22 further?

23 Q Okay. All right?

24 A For fingerprint identification.

25 Q And this is showing -- is this where you lifted the

1 fingerprint?

2 A I remember it was from the -- some of the broken
3 glass. I can't recall if it was that actual piece or
4 not.

5 Q But you took this photograph?

6 A Yes, sir, I did.

7 Q Okay. And once you did the lift, what did you do
8 with the -- what did you do with the tape?

9 A Once I lifted it with the tape, I applied it to --
10 if I remember correctly, one of our fingerprint cards,
11 and it was later submitted into evidence to be sent to
12 SLED for further analysis.

13 Q Okay.

14 MR. SCOTT: Beg the Court's indulgence. Moving
15 along a little quicker than I thought today. This is
16 contained in State's Exhibit 16.

17 MR. BROOME: What is that?

18 MR. SCOTT: This will be labeled State's 16, Your
19 Honor.

20 A This would be the fingerprint I lifted from the
21 glass that night?

22 Q Okay. And that night, did you take it to -- did you
23 take it to the evidence custodian at Clinton?

24 A What we have in place, obviously our evidence
25 custodian is not there 24 hours a day. What we have in

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1 place at our office is a secure drop box that only the
2 evidence custodian has access to, and it would have been
3 dropped there.

4 Q Okay. Is it like a mail drop, like --

5 A Yes, sir. That's exactly what it is. It's one of
6 the large steel mailboxes, like you would drop your mail
7 off at the post office.

8 Q All right. Crystal Roberts, Amanda Roberts, is she
9 the evidence custodian at the time?

10 A I believe so, to my best knowledge.

11 Q Any other involvement -- did you have any other
12 involvement in the case?

13 A No, sir. Nothing further than what I did there on
14 scene and

15 Q Did you have anything to do with known standards,
16 known fingerprint standards?

17 A No. No, sir.

18 Q Okay?

19 MR. SCOTT: Your Honor, state offers State's 16 into
20 evidence.

21 THE COURT: Any objection?

22 MR. BROOME: No, Your Honor.

23 THE COURT: State's 16 is in evidence.

24 (Whereupon, State's Exhibit 16 was marked and
25 entered into evidence.)

1 Q Answer any questions Mr. Broome has. Thank you.

2 A Yes, sir.

3 CROSS-EXAMINATION

4 BY MR. BROOME:

5 Q Sergeant Jones, you indicated that you had some
6 training in fingerprints?

7 A Yes, sir.

8 Q Can you tell us what specific portions or
9 certifications you hold in that?

10 A I've been to 80-hour detective school that's taught
11 through the South Carolina Criminal Justice Academy.

12 Q Have you looked at prints before from other scenes?

13 A Yes.

14 Q Okay. And the only way to get -- properly process a
15 latent print would be to use the powder?

16 A There's several different ways to do that. But
17 given the options I had available at the time that night,
18 and the same -- the fingerprint powder was perfectly
19 acceptable.

20 Q Inside the house did you attempt to process any
21 others as far as maybe the TV that was on? Did you
22 attempt to lift prints from the TV, glass screen, any of
23 that?

24 A No, sir, not that I recall.

25 MR. BROOME: Can you pull up State's No. 2 for me?

CROSS-EXAMINATION BY MR. BROOME - CASEY JONES

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1 Q I believe the state has already introduced this.

2 This is the out -- this is the door. This is the outside

3 door, this is the door. You can see this outside door.

4 Is this where you took the print from, this little corner
5 on the wooden door right here?

6 A It would have been on the exterior door with the
7 wooden door inside the storm door.

8 Q On the outside of the glass, correct?

9 A I can't recall. I know it was from some of the
10 broken glass on that pane. I can't remember if it was
11 inside or outside right off the top of my head.

12 Q If you had taken a latent print from the inside
13 glass, would you have given that print to the police
14 department?

15 A Yes. Any evidence I would have collected that night
16 would have been submitted into evidence. Yes, sir.

17 Q So there should be pictures of that if that had been
18 done?

19 A Should be. Like I said, I can't recall exactly.
20 That's been five years ago.

21 Q Fair enough. Did you process or attempt to process
22 fingerprints off of this glass door?

23 A Not that I recall, no, sir.

24 Q Okay. Can you tell if those appear to be
25 fingerprints on the outside door right there?

1 A I can't say for certain, no, sir.

2 Q Okay. And when you took the latent print off the
3 outside door, I notice that you -- the back side of the
4 tape, would you agree with me that the proper procedure
5 would have been place the print on the opposite side of
6 the tape?

7 A I'm not tracking what you're asking.

8 Q Where is the -- Maryann has it. When you -- I think
9 you explained to the jury the process of gathering a
10 latent print and you post it on a fingerprint card,
11 correct?

12 A That's right, from the tape.

13 Q Okay. And there are two sides to the card?
14 Correct?

15 A Yes, sir, just like any other piece of paper.

16 Q Just going to -- and when you lifted that print off
17 the window on to the card, you placed it on one side of
18 the card, one side of the tape, but that's actually on
19 the back of the card, correct?

20 A Do what, now?

21 Q The print is placed on the back of the card?

22 A It was placed on this side here.

23 Q On -- correct on the back of the card because the
24 front of the card was blank, correct?

25 A Sure.

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1 Q Okay. Would you agree with me that it could have
2 been that as someone who has been certified in
3 fingerprint expert -- examinations, the proper procedure
4 may have been to place it on the front of the card for to
5 provide better clarity for the forensic examiner?

6 A I've never testified that I was certified in
7 fingerprint examination.

8 Q All right. But as someone who has had extensive
9 training in fingerprint examination, the Criminal Justice
10 Academy?

11 A I've never been trained in fingerprint examination.
12 What I testified to that I had been train in lifting
13 latent prints.

14 Q Okay.

15 A Those are two entirely different things.

16 Q Okay. Someone that's been trained in lifting latent
17 prints, did they teach you the proper procedure or the
18 procedure for lifting the prints off of different
19 objects?

20 A Yes, sir.

21 Q Surfaces?

22 A Yes.

23 Q One of those is glass?

24 A Yes, sir.

25 Q And they showed you how to use -- place it on actual

1 card, like the one you have in front of you?

2 A Sure.

3 Q Did they teach you to place it on the front side of
4 it or back side of it?

5 A I've never been told either way.

6 Q Okay.

7 MR. BROOME: Beg the Court's indulgence.

8 Q Just to be clear, did you inspect the television
9 that was in the Pooles' bedroom?

10 A I don't recall.

11 Q So you would not have -- you don't recall looking at
12 the knob to see if maybe there had been fingerprints on
13 that that or at least kind of process?

14 A I don't recall. Like I said, it's been a long time.

15 Q Okay. And you recall processing -- attempting
16 process anything else involving this case?

17 A No, sir, not off the top of my head.

18 Q Nothing at the courthouse?

19 A Not that I recall, no, sir.

20 MR. BROOME: No further questions.

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

22 Thank you very much, sir.

23 (Whereupon, the witness exited the witness stand.)

24 THE COURT: Ladies and gentlemen, why don't we take
25 a -- do you have an additional witness we can get to this

1 evening? I assume you have a quick one or --

2 MR. SCOTT: I intended to call Mr. Poole next.

3 THE COURT: Ladies and gentlemen, we're going to
4 take a quick, five-minute break. If you need to have a
5 cigarette, let the bailiff know. He'll pop you out back.

6 Again, don't discuss the case, but go ahead and take
7 a moment to refresh yourselves as you may need to, and
8 we're going to take one more witness and then probably
9 break for the day. So return to the back, but don't
10 discuss the case.

11 (Whereupon, the jury exited the courtroom at 4:29
12 p.m.)

13 THE COURT: Just for planning purposes, the
14 fingerprint analyst will be the one for tomorrow morning?
15 Is that what we decided?

16 MR. SCOTT: Yes. But I think this kind of moved a
17 lot quicker than I thought. So I think even keeping her
18 in my initial line up, I think we could call her last and
19 get her where she needs to be. She just needs to be gone
20 by 2.

21 THE COURT: I'll leave that to y'all. We're going
22 to take a few moments for ourselves.

23 (Off the record from 4:30 p.m. until 4:41 p.m.)

24 (State's Exhibit Number 17 was marked for
25 identification while off the record.)

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1 (Whereupon, the jury entered the courtroom at 4:41
2 p.m.)

3 THE COURT: All right. Back on the record. Mr.
4 Kinard is present with counsel at this point.

5 Mr. Scott, call your next witness, please.

6 MR. SCOTT: State calls Bennie Poole.

7 (Whereupon, the witness came forward.)

8 BENNIE POOLE, after having first being duly
9 sworn, testified under oath as follows:

10 DIRECT EXAMINATION

11 BY MR. SCOTT:

12 Q Okay, Mr. Poole, you are soft-spoken, so make sure
13 you speak up into the microphone.

14 A Okay.

15 Q How old are you?

16 A 61.

17 Q Where do you live?

18 A Clinton,

19 Q How long have you been at that address?

20 A Thirty-something years.

21 Q We talked about it in opening. I see your coat that
22 you were in the Army?

23 A Yeah, yes, sir.

24 Q And radio operator -- what were you in the Army?

25 A 31-C.

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1 Q Okay, what is that?

2 A Radio operator.

3 Q Okay. Weren't you stationed in Augusta?

4 A Uh-huh.

5 Q Do you have family in Augusta?

6 A Brother-in-law.

7 Q Okay. Where else have you worked? When did you
8 leave the Army?

9 A '79.

10 Q Then what did you do?

11 A Let's see. I worked distribution around town.

12 Q Okay. Truck driver for a while too?

13 A Yeah. I drove trucks.

14 Q What else did you do?

15 A I did some security work, was an SCDC officer at
16 Tyger River. I worked for Wells Fargo as a driver and
17 cotton mill. I worked in the cotton mill a while.

18 Q Okay. You really have done a little bit of
19 everything, hadn't you?

20 A Yeah.

21 Q Two children: Reggie and you got a daughter?

22 A I got three kids. I got an older son. He lives in
23 Mauldin. He's 40 -- 42.

24 Q Who lives in the home at Thornwell right now?

25 A Me and Reggie. My daughter, she moved out.

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1 Q Okay. And who all was living there back in June of
2 2012?

3 A Me and -- let's see. Me and Reggie and wife and my
4 grandson. He stayed with us. Now he's staying with his
5 daddy.

6 Q Okay. Let me -- you said you drive an armored
7 truck? Is that what you said you did with --

8 A Yeah, with Wells Fargo, I was an armored-truck
9 driver.

10 Q I guess you had to carry a firearm, then, didn't
11 you?

12 A Yeah. I also carried a firearm doing security work.

13 Q Okay. And obviously with the Army, you were
14 probably trained in firearms.

15 A Yes, sir.

16 Q Okay. So did you accumulate, I guess, kind of a
17 collection of guns over the years?

18 A Yes, sir.

19 Q That's something you have an interest in?

20 A Yes, sir.

21 Q Okay. Well, tell me in 2012, do you know about how
22 many guns you would have had again?

23 A I had about nine or ten firearms.

24 Q Okay. Describe some of them.

25 A I had three .45s. Did security work, 9-millimeter,

DIRECT EXAMINATION BY MR. SCOTT - BENNIE POOLE 85

1 SKS and I had quite a few that was antiques. I had a
2 World War II sniper rifle and quite a few old rifles,
3 shotgun, .410. I had just thought about taking Reggie
4 hunting. I had quite a few variety of them.

5 Q Okay. And where did you keep those guns?

6 A I had a gun cabinet my wife bought me because they
7 was scattered around everywhere. One year, she bought me
8 a hunting cabinet to keep them all in.

9 Q Okay. And would it have a combination on it, or how
10 did it lock?

11 A No, sir, it had two regular locks.

12 Q And you had the keys to them?

13 A Yes, sir.

14 Q Anybody else have the keys?

15 A No, sir.

16 Q Okay. What else was in the gun cabinet besides
17 firearms?

18 A It was -- my wife -- her mother gave her a coin
19 collection and stamp collection and birth certificate, my
20 kids' birth certificate, deed to our house. We kept, you
21 know, mostly our important papers there. Some photos.

22 Q Okay. And safe was kept -- did you already say
23 where the safe was kept?

24 A At the foot of our bed in me and my wife room.

25 Q I'll show you State's No. 6.

1 A Yes, sir. That's it.

2 Q What's it?

3 A That's where our cabinet stood in the corner at the
4 foot of our bed.

5 Q So about right there?

6 A Yes, sir.

7 Q Okay. And that's the foot of your bed, that's the
8 bed right there?

9 A Yes, sir.

10 Q So it would have been in this corner beside this --
11 your dresser?

12 A Yes, sir.

13 Q Okay. I heard Reggie say he had a pistol in there
14 and you said your wife had a stamp collection?

15 A Yep, coin collection that her mother left her and
16 then it was some money in there, you know, about \$200.

17 Q Okay. I think Reggie said he had a pistol about
18 475. Do you have any idea the value of the guns you had
19 in there?

20 A All of them?

21 Q Yes, sir.

22 A It was about around 10,000 or more.

23 Q Okay. \$10,000 worth of guns. You said you had \$200
24 in cash in there?

25 A Yes, sir.

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1 Q Do you have any idea of the value of that coin
2 collection or the stamp collection?

3 A Stamp collection I had -- I had really -- ever since
4 I was a little boy, about seven or eight years old. And
5 my wife, the coin collection, the mother gave her those,
6 you know, old coins.

7 Q Okay. You got any idea what the value of those
8 would be?

9 A The coins just regular value I guess. Would be
10 about 6 -- \$700.

11 Q Okay.

12 A And the stamp collection, like I said that ought to
13 have been worth about a thousand bucks, thousand dollars.

14 Q Okay. June 23rd, 2012, where did you -- your wife's
15 name is Ann?

16 A Annie.

17 Q Where were you and Annie June 23rd of 2012?

18 A We went to Augusta and we stayed at a motel down --
19 let's see -- I believe it was Best Western. Stayed down
20 there; we was going to visit her brother the next
21 morning. We was going to go down there and we usually go
22 shopping. Go to the flea markets. Stuff like that,
23 spend some time with her brother.

24 Q Okay. To your knowledge, who was going to be
25 staying at your home at while you were

1 gone?

2 A Just my son, Reggie.

3 Q Okay.

4 A My grandson was staying with his grandmother.

5 Q Okay. At some point while you were Annie were in
6 Augusta, did you get a call to come back to Clinton?

7 A Yes, sir. Reggie called us and told us that he got
8 off from work and somebody had broke in the house. And
9 he said they took your -- they said they had took out the
10 gun cabinet. They had took our gun cabinet.

11 Q Did you go home that night?

12 A Yeah, we got up and left then. Right -- we got up
13 and left by the time we called.

14 Q In the middle of the night?

15 A Yeah.

16 Q What did you notice when you got back home to
17 Clinton?

18 A I noticed my truck was missing. I drove up in the
19 yard and I noticed it was missing. I didn't see it.

20 Q What kind of truck was it?

21 A '99 Ford Ranger.

22 Q That's No. 8?

23 A Yes, sir. I did see it.

24 Q That's it?

25 A Yes, sir.

DIRECT EXAMINATION BY MR. SCOTT - BENNIE POOLE 89

1 MR. SCOTT: State offers No. 8 for admission.

2 MR. BROOME: No objection, Your Honor.

3 THE COURT: Without objection, State's 8 is in.

4 (Whereupon, State's Exhibit 8 was entered into
5 evidence.)

6 Q Okay. And so that normally would have been parked
7 where?

8 A It usually would have been parked -- if you back in
9 the driveway, the little -- in front of the driveway, you
10 back up to the back yard.

11 Q Do you remember where you left the keys to that
12 truck when you went to Augusta?

13 A Yes, sir. I left it on the dresser because, you
14 know, it's a big key. '99 Ford Ranger is a big key in it
15 if you put it in your pocket and I didn't want to, you
16 know, be toting it around or take the chance of losing
17 it, so I just left it there.

18 Q On that dresser that was besides your safe in your
19 bedroom?

20 A Yes, sir. On our dresser.

21 Q All right. What else did you notice, if anything,
22 that was missing from inside the home?

23 A Just a -- just a gun cabinet, really.

24 Q Okay.

25 A Like computer, TVs, stuff like that, that was all

1 still there.

2 Q So really the gun cabinet was the thing that was
3 missing. Let me show you State's No. 5. What's all that
4 stuff on your bed here?

5 A That's -- my wife had a camcorder we used to use
6 when we were on vacation when we would go to the beach in
7 a briefcase.. Briefcase had been cut open.

8 Q Okay.

9 A So it was a combination lock and the camcorder
10 usually be up in the -- usually be up in the closet.

11 Q Okay. So that stuff that's on the bed, that was not
12 stuff that you had left on the bed, is what you're
13 saying?

14 A No.

15 Q You said the briefcase had been cut open?

16 A Yeah. I guess somebody thought it was valuables in
17 there.

18 Q Okay. But you didn't have valuables inside the
19 briefcase?

20 A No, sir. It wasn't valuables, no valuables in
21 there, just papers.

22 Q Okay. Let me show you State's No. 3. Did you see
23 that?

24 A Yeah.

25 Q You did?

DIRECT EXAMINATION BY MR. SCOTT - BENNIE POOLE 91

1 A Yeah, I seen it.

2 Q On the night of June 23rd, is that something you
3 noticed when you got back from Augusta?

4 A No, sir, I didn't notice it then. Reggie was
5 telling us, you know, but I didn't notice it then when I
6 came in, when we came in?

7 Q When was the first time you saw that?

8 A After Reggie told us somebody had broke in and we
9 started looking around, then we see how they got in.

10 Q Okay. Well, I guess my question -- when you left to
11 go to Augusta, was your back door in that condition?

12 A No, sir.

13 Q The glass was not broken when you left?

14 A No, sir.

15 Q All right. Do you know Keaston Kinard?

16 A No, sir.

17 Q Okay. Well, then I guess my next question, he was
18 not somebody you had given consent to be in your home
19 while you were in Augusta?

20 A No, sir.

21 Q Did you tell him he could break into that window or
22 anything?

23 A No, sir.

24 Q Is he somebody that's come to visit you before?

25 A No, sir.

DIRECT EXAMINATION BY MR. SCOTT - BENNIE POOLE

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1 Q All right. This is State's No. 9, Mr. Poole. All
2 right. What is that?

3 A That's the inside of a gun cabinet after detective
4 Tyrone and I found -- when Detective Tyrone found it, he
5 called me in to identify it, that's my safe on the back
6 of the truck.

7 Q Okay. That's the safe that you were talking about
8 that used to be in your bedroom?

9 A Yes, sir.

10 MR. SCOTT: Now the state offers State's No. 9.

11 THE COURT: Without objection, State's 9 is in
12 evidence.

13 (Whereupon, State's Exhibit 9 was entered into
14 evidence.)

15 Q And so --

16 MR. SCOTT: Can you zoom that for me? Reduce it a
17 little bit now.

18 Q Can you see this corner of the safe, Mr. Poole, from
19 where you are?

20 A Yes, sir.

21 Q Okay. What did you observe about the door to the
22 safe?

23 A It's bent. It had two locks one at top and one at
24 the bottom.

25 Q Uh-huh.

DIRECT EXAMINATION BY MR. SCOTT - BENNIE POOLE 93

1 A The one at the top is bent.

2 Q Was it like that when you left ---

3 A No, sir.

4 Q --- to go to Augusta? This is State's No. 10. Can
5 you tell what that is?

6 A That's my gun cabinet.

7 Q Just a different picture of it?

8 MR. SCOTT: Your Honor, the state would offer
9 State's No. 10 for admission.

10 MR. BROOME: No objection.

11 THE COURT: Without objection, State's 10 is in
12 evidence.

13 (Whereupon, State's Exhibit 10 was entered into
14 evidence.)

15 Q These marks specifically right here on your gun
16 safe, was that something that was on the safe when you
17 left to go to Augusta?

18 A No, sir.

19 Q Okay. Were you able to recover anything out of that
20 safe when the police turned it over to you?

21 A Bunch of wet papers, but they wasn't really worth
22 anything.

23 Q They leave any guns in there?

24 A No, sir.

25 Q They leave any coin collection in there?

1 A No, sir.

2 Q What about that stamp collection?

3 A No, sir.

4 Q Did you at least get your birth certificates and
5 some of those important documents back?

6 A It was some in there, but like I said, they was
7 smeared because of the rain and stuff.

8 Q All right. This is No. 14. Do you recognize that?

9 A Yes, sir.

10 Q Okay. What is it, Mr. Poole?

11 A This is Thornwell Street. This is where I live.

12 Q This is an aerial that shows your home?

13 A Yes, sir.

14 MR. SCOTT: State offers 14 for admission into
15 evidence.

16 THE COURT: Without objection.

17 (Whereupon, State's Exhibit 14 was entered into
18 evidence.)

19 Q Okay. This is sort of a different angle. What is
20 this home, Mr. Poole?

21 A That's my home.

22 Q And is this the driveway I guess you use to park
23 your cars.

24 A Yes, sir. The back where the truck is, that's where
25 my truck were right there.

DIRECT EXAMINATION BY MR. SCOTT - BENNIE POOLE

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1 Q That's the truck?

2 A Yes, sir.

3 Q You said it's a Dodge?

4 A That's the truck I got now.

5 Q You have an older one we were just looking in the
6 picture, though?

7 A Yes. That's the one I got now. It was an old Ford
8 Ranger.

9 Q The Ranger, where would you have had that parked?

10 A Where the GMC is.

11 Q Right here, the Sierra? Right here, what's this
12 building?

13 A That's a motel right next to my house.

14 Q Okay. This is Thornwell right here?

15 A That's the street. Yes, sir. Other side of it on
16 the left is the city utility department.

17 Q Okay. But no, I'm saying, this is Thornwell?

18 A Yes, sir.

19 Q Just to get everybody kind of understanding of where
20 we are, this is downtown Clinton here?

21 A Yes, sir.

22 Q All right. I think that's all the questions I have.
23 Answer any questions Mr. Broome has for you.

24 Yes, sir.

25

CROSS-EXAMINATION

1
2 BY MR. BROOME:

3 Q Mr. Poole, after the night of the 23rd, did you ever
4 meet with the officers, specifically Investigator Goggins
5 on this case?

6 A Yes, sir.

7 Q Did you go to the police department and meet with
8 him?

9 A Yes, sir.

10 Q Do you remember giving him a list of items that may
11 have been in the safe?

12 A Yes, sir.

13 Q Okay. And I know that you testified that there
14 were -- you had three .45 caliber handguns?

15 A Yes, sir.

16 Q And there were some other guns I think he mentioned.
17 An SKS; is that right?

18 A Yes, I had an SKS and -- I had probably a variety of
19 guns. I didn't mention I had some knives. I didn't
20 even -- I don't know I put that on the list or not, but I
21 had an extensive knife collection.

22 Q Knife collection? I'm not much of a gun expert, but
23 the SKS, is that what you call a rifle or --

24 A It's a old assault rifle.

25 Q Something you need two hands for?

CROSS-EXAMINATION BY MR. BROOME - BENNIE POOLE 97

1 A Yes.

2 Q You said there was a -- you had a .410 shotgun in
3 there?

4 A Yes, sir.

5 Q Did you have another gun in there, another pump
6 shotgun?

7 A I don't think it was in there.

8 Q Did -- when you met with Investigator Goggins and
9 you gave and went through and inventoried what was in the
10 safe, do you remember, did you make note -- did you write
11 down a list for him and give it to him, or did he make a
12 list?

13 A No, I wrote down a list. I had to write it down for
14 the insurance company and I wrote down one to him.

15 Q Okay. And provided that to him?

16 A Yeah, yes, sir.

17 Q Okay. So there would have been an SKS, a -- and two
18 rifles?

19 A Yes, sir. And quite a few antique rifles. One of
20 them was a, like I said, a World War II sniper rifle.

21 Q I think you said it was -- correct, a World War II
22 sniper?

23 A Yeah, I had about three or four antiques, I know.

24 Q Antiques. And that would have been rifles, or
25 rifles and shotguns, non-handguns-type of weapons?

1 A Rifles. They was rifles.

2 Q How many -- if you had to put an exact number on it,
3 how many guns, non-handguns, rifles, shotguns, long guns,
4 did you have in there?

5 A I would say I had about five handguns and about five
6 or six -- just long guns.

7 Q Five or six?

8 MR. BROOME: Beg the Court's indulgence.

9 Q Did you have any of the guns appraised recently or
10 the stamp -- I'll stop with that. Have you had any of
11 those guns appraised recently before you met with
12 Investigator Goggins?

13 A No, sir.

14 MR. BROOME: Beg the Court's indulgence.

15 Q Thank you, Mr. Poole. I have no further questions.

16 THE COURT: Mr. Poole, you can step down, sir..

17 (Whereupon, the witness exited the witness stand.)

18 THE COURT: We're after five. Solicitor, do you
19 have another brief witness we can get to today, or would
20 you rather go ahead and start in the morning?

21 MR. SCOTT: I think the jury is ready to -- and I
22 don't have any real quick ones right now.

23 THE COURT: Ladies and gentlemen, probably a good
24 breaking point in the trial, and I believe we're probably
25 ahead of schedule here. What I'm going to ask that you

1 do is first of all, most importantly, have a pleasant
2 evening. Secondly, be back if you would in the jury room
3 tomorrow morning at 9:30 and then we'll proceed with the
4 trial at that point in time, okay? So if you could be
5 back in the jury room at 9:30. And we do need all 12 of
6 you there, so don't any of you fall ill tonight.

7 This evening when you go home, it's only natural
8 that your husband, wife, spouse, significant other,
9 whoever you share a roof with, it's only natural they're
10 going to ask you, okay, well, how was jury duty today,
11 and did you get picked?

12 And, of course, you're at liberty to say yes, I got
13 selected; I'm a juror. Well, of course, what's the next
14 question they're going to ask? Well, what kind of case
15 is it? That's when you need to draw the line.

16 Understand, ladies and gentlemen, the questions that
17 are being put forward in the case are yours to answer.
18 They're not for your husband, not for your wife,
19 significant other. So hopefully, you can talk about some
20 other topic other than this case. Hopefully, you can
21 discuss the weather or the weather or how miserably cold
22 it is or something along those lines, but don't talk
23 about the case this evening, all right?

24 With that, I do hope you'll have a pleasant evening.
25 There will be coffee in the jury room tomorrow morning.

1 We'll start around 9:30. Usually we take our lunch
2 breaks around 1:00. Have a lovely evening, and I'll see
3 you at 9:30. Take care.

4 Oh, bring those badges home and bring them back.
5 Helps the security people identify you when you come back
6 in the front door.

7 (Whereupon, the jury exited the courtroom at 5:07
8 p.m.)

9 THE COURT: We'll be at ease until 9:30 tomorrow
10 morning.

11 (Whereupon, the proceeding was adjourned at 5:07
12 p.m.)

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DIRECT EXAMINATION BY MR. SCOTT - CRYSTAL ROBERTS 101

1 TRIAL DAY 2 - 01/31/17

2 (Whereupon, the proceeding was reconvened at 9:51
3 a.m.)

4 (Whereupon, State's Exhibit 18 was premarked for
5 identification prior to the resumption of the
6 proceeding.)

7 (Whereupon, the jury entered the courtroom at 9:52
8 a.m.)

9 THE COURT: Ladies and gentlemen, welcome back.
10 Thank you for being here. Again, we're still involved in
11 the case of the state versus Mr. Kinard.

12 At this point in time, if you would call your next
13 witness, Mr. Scott.

14 MR. SCOTT: Thank you, Your Honor. State calls
15 Commander Crystal Roberts.

16 (Whereupon, the witness came forward.)

17 CRYSTAL ROBERTS, after having first being duly
18 sworn, testified under oath as follows:

19 DIRECT EXAMINATION

20 BY MR. SCOTT:

21 Q Okay, Commander Roberts. You're wearing your
22 Clinton uniform today. You were working with the Clinton
23 Department of Public Safety in 2012 as well, correct?

24 A That's correct.

25 Q And what were your primary duties in 2012?

DIRECT EXAMINATION BY MR. SCOTT - CRYSTAL ROBERTS 102

1 A 2012, I -- my primary duties, I mean, I do case
2 investigation, admin-type stuff, and I'm also the
3 evidence custodian.

4 Q Okay. And still to this day?

5 A That's correct.

6 Q And what are the duties of an evidence custodian
7 with the police department?

8 A I maintain -- I take the evidence that the officers
9 collect and then I'll either put them in our evidence
10 storage, or if they need to be sent out for further
11 testing, I usually transport it to, say for instance, to
12 SLED so they can do analysis or whatever they need. And
13 then once they complete their stuff, I pick it up and
14 then I bring it back and I put it in our evidence
15 storage.

16 Q Okay. And evidence custodian, what do you do --
17 just safekeeping of evidence?

18 A That's correct.

19 Q And you talked about sometimes you have to take the
20 evidence from the police department, transport it to
21 SLED?

22 A That's correct.

23 Q Are you familiar with this case we're here for
24 today?

25 A Yes, sir.

DIRECT EXAMINATION BY MR. SCOTT - CRYSTAL ROBERTS 103

1 Q And let me show you what's been marked State's 16.

2 Do you recognize that?

3 A Yes, sir, I do.

4 Q And did you have occasion to transport that piece of
5 evidence to SLED?

6 A I did. I transported this piece of evidence to SLED
7 on July the 27th, 2012.

8 Q And what is it?

9 A It is a latent fingerprint on a latent fingerprint
10 card.

11 Q Okay.

12 MR. SCOTT: I don't think we have -- do you have
13 this one introduced?

14 Q Just describe it. What is the description of Item
15 16?

16 A It's almost like an index card and it's got some
17 preprinted boxes for the officers to make notations on.
18 It asks for the date, which is the date it's collected,
19 which was 6/23 of 2012. It asks for a case number. Case
20 number written -- handwritten on here is 201206175.

21 The type of crime, it's handwritten on here that
22 it's a burglary. The victim in the case, the name was
23 handwritten, Bennie Poole, address
24 and it states that this latent was lifted from the back-
25 door glass and was lifted by Sergeant Jones. He's with

CROSS-EXAMINATION BY MR. BROOME - CRYSTAL ROBERTS 104

1 our department; his badge is listed on here as C14.

2 Q Is that Casey Jones?

3 A Casey Jones, that's correct.

4 Q Commander Roberts, answer any questions that
5 Mr. Broome has for you, please.

6 THE COURT: Mr. Broome?

7 MR. BROOME: Thank you, Your Honor.

8 CROSS-EXAMINATION

9 BY MR. BROOME:

10 Q Did you receive any additional latent prints, other
11 than the card that's in your possession right there?

12 A I can't recall.

13 Q And you mentioned July 27, 2012, was the date it was
14 sent off?

15 A That's correct.

16 Q What date was it received back from SLED?

17 A It was picked up November the 16th, 2012.

18 Q Okay.

19 MR. BROOME: Beg the Court's indulgence.

20 (Whereupon, Mr. Broome and Mr. Howe conferred.)

21 MR. BROOME: No further questions.

22 THE COURT: Ma'am, thank you. You can step down.

23 (Whereupon, the witness exited the witness stand.)

24 THE COURT: Solicitor, call your next witness.

25 MR. SCOTT: Your Honor, state calls Tyrone Goggins.

DIRECT EXAMINATION BY MR. SCOTT - TYRONE GOGGINS 105

1 (Whereupon, the witness came forward.)

2 TYRONE GOGGINS, after having first being duly
3 sworn, testified under oath as follows:

4 DIRECT EXAMINATION

5 BY MR. SCOTT:

6 Q Okay. Lieutenant Goggins, also with Clinton
7 Department of Public Safety, June 2012 did you have
8 occasion to become involved in this burglary case we're
9 talking about, ?

10 A I did.

11 Q Okay. Did you respond to the scene June 23rd, the
12 day it was reported?

13 A I did not respond to the scene.

14 Q Okay. What -- when was your first involvement with
15 the case?

16 A It was shortly after that date. Case come through
17 the office and I was going to be the investigator
18 assigned to that case. Maybe one or two days at the
19 most.

20 Q Okay. When you first get involved, what are you
21 working with? We heard about the fingerprint that was
22 lifted. Any other evidence that you were working with at
23 the time?

24 A At that time, had no other evidence. I did know of
25 a possible print that was at the location that was lifted

DIRECT EXAMINATION BY MR. SCOTT - TYRONE GOGGINS 106

1 by the officers. Had no suspects, no other evidence that
2 I was aware of.

3 Q Okay. At some point, did you get some kind of tip
4 that helped you identify some suspects?

5 A I did. Actually, I was sitting on North Sloan
6 Street in my patrol vehicle and an individual pulled up
7 beside me and told me that they --

8 MR. BROOME: Objection, Your Honor: hearsay.

9 THE COURT: Any exception?

10 MR. SCOTT: It's part of his investigative -- his
11 investigation, I guess, Your Honor. It's not -- well, it
12 is offered for the truth of the matter asserted ---

13 THE COURT: Sustained.

14 Q As a result of -- I don't want you to say -- can't
15 say what they said. As a result of the tip, did you go
16 speak to somebody?

17 MR. BROOME: Objection: leading, Your Honor.

18 THE COURT: Overruled. Go ahead.

19 A I talked to Gary Jacks.

20 Q Okay. Where was he when you first spoke with him?

21 A Clinton Manor Apartments.

22 Q And who was he there with?

23 A It was his girlfriend's apartment at the time, and I
24 spotted him sitting on the back side of the apartment and
25 approached him.

DIRECT EXAMINATION BY MR. SCOTT - TYRONE GOGGINS 107

1 Q And did you speak with him?

2 A I did.

3 Q As a result of speaking with Mr. Gary Jacks, did you
4 seek warrants for anybody's arrest?

5 A As of speaking with Gary Jacks, I was able to talk
6 with the judge and able to obtain an arrest warrant for
7 Gary Jacks and Keaston Kinard.

8 Q Okay. So Gary Jacks and -- what were the warrants
9 for? What were the arrest warrants for?

10 A Burglary-first, safecracking, grand larceny,
11 malicious injury to private property -- personal
12 property. It was also -- I think conspiracy to commit
13 burglary.

14 Q Okay. And when were those -- do you know when the
15 arrest warrants were issued?

16 A Yes. I signed the arrest warrants with the judge on
17 July 21st.

18 Q Okay. So I guess it took about a month for the --
19 between the incident to the time you got these arrest
20 warrants?

21 A That's correct.

22 Q Just short of a month. As a result, did you go out
23 and try to look for Keaston Kinard and Gary Jacks?

24 A Yes.

25 Q And were you able to ultimately locate them?

DIRECT EXAMINATION BY MR. SCOTT - TYRONE GOGGINS 108

1 A August the 8th of 2012, they was arrested from the
2 Days Inn hotel in Clinton.

3 Q They were both there together?

4 A Yes, sir.

5 Q And -- okay. You know whose name they got the hotel
6 room under?

7 A If I recall, the name was in Kenneth Sanders ---

8 MR. BROOME: Objection: hearsay, Your Honor.

9 THE COURT: Any exception?

10 MR. SCOTT: I don't see ---

11 THE COURT: Lay a foundation.

12 MR. SCOTT: I'll lay a foundation.

13 Q Did you look at the guest books, I guess, to see who
14 the room was, I guess, reserved under?

15 A Had information that may have been staying in -- at
16 that hotel and a room number. And as of that, we checked
17 with the guest and that was the name that that room was
18 under.

19 Q You checked with the who?

20 A The hotel, and that's the name the room was under,
21 Kenneth Sanders.

22 Q Okay. They were both there together?

23 A Yes, sir.

24 Q Gary Jackson and Keaston Kinard?

25 A Yes.

DIRECT EXAMINATION BY MR. SCOTT - TYRONE GOGGINS 109

1 Q And they were taken into custody?

2 A Yes, sir.

3 Q Did you speak with Gary Jacks again that day?

4 A I did.

5 Q And was he Mirandized? He was read his *Miranda*
6 rights?

7 A He was.

8 Q And what are those -- just the right to remain
9 silent? the right to a lawyer?

10 A Yes, sir.

11 Q After receiving his *Miranda* rights, did he agree to
12 speak with you?

13 A He did.

14 Q Okay. And did he write a statement?

15 A He verbally give -- give me a statement at that
16 time.

17 Q Did he later write a statement for you?

18 A Yes. I asked, when he was transported to Laurens
19 County jail on that date of the 8th and on the 10th, I
20 had him picked back up from the Laurens County jail to
21 come to Clinton City Police Department, and he provided
22 me with the -- a written statement.

23 Q Okay. Were you able to identify anybody else that
24 you would later arrest for the burglary at the Thornwell
25 address?

CROSS-EXAMINATION BY MR. BROOME - TYRONE GOGGINS 110

1 A Yes. I was able to identify a Corey Willis and a
2 Michael Lemon, as well as Keaston Kinard and Gary Jacks.

3 Q Okay. Thank you. Tyrone, answer any questions that
4 Mr. Broome has for you, please.

5 A Thank you, sir.

6 CROSS-EXAMINATION

7 BY MR. BROOME:

8 Q Investigator Goggins, you testified that you did not
9 respond to the scene on June 23rd, 2012, correct?

10 A I did not respond to the scene.

11 Q Okay. And your first involvement in the case is
12 when you met with Mr. Poole?

13 A I did talk with Mr. Poole, but I talked to Gary
14 Jacks as well.

15 Q You met -- so did you meet with Gary Jacks first?

16 A No. I met -- talked with Mr. Poole first.

17 Q Okay. Talked to Mr. Poole first, and the purpose of
18 that meeting was to inventory items of his?

19 A I was talking back and forth to officer to let Mr.
20 Poole know I would be the investigator assigned to the
21 case, as well as reading the incident report that I knew
22 he was gathering the list for the officers to get -- add
23 to his inventory.

24 Q And so he was telling you what was in the gun safe?

25 A He actually provided a list of what was in his gun

CROSS-EXAMINATION BY MR. BROOME - TYRONE GOGGINS 111

1 safe that I provided to the officers that responded that
2 day.

3 Q And that list had makes and models of the guns?

4 A Yes, that I can recall. And some other items as I
5 recall, some knives, stamp collection, coin collection,
6 personal items.

7 Q Do you have that list? Did you bring your file with
8 you to court today?

9 A I don't have the list. I provided that to the road
10 officers that responded that day.

11 Q Okay. But you took notes of your meetings with
12 Mr. Poole? Did you take notes of your meetings with
13 Mr. Poole?

14 A I don't recall if I did.

15 Q Okay. He provided the list? You didn't write them
16 down?

17 A No, he had them written down. And I provided that
18 list to the road officer that responded that day.

19 Q Okay. And when you took over this case, you --
20 Officer Wicker had written a report, correct?

21 A That's right.

22 Q And you read over the incident report?

23 A I did, yes, sir.

24 Q Okay. And at that time, my client, Mr. Kinard's
25 name was not mentioned?

CROSS-EXAMINATION BY MR. BROOME - TYRONE GOGGINS 112

1 A No, sir. No, sir.

2 Q And in fact, the first time his name was brought up
3 was August 8th when you arrested -- when you spoke with
4 Gary Jacks?

5 A Actually, his name was brought up -- had to be July
6 the 19th or the 20th and his name was brought up with
7 Gary Jacks.

8 Q So you met with Gary Jacks on July the 19th?

9 A Yes. It was July 19th or July 20th at Clinton Manor
10 Apartments. That's where I located him.

11 Q Did you make any written reports on that case?

12 A I did not make any written reports in reference to
13 that meeting, but I did make written reports in reference
14 to providing a *Miranda* to Gary Jacks and a statement from
15 Gary Jacks, a memorandum from Gary Jacks, provided a
16 *Miranda* to Corey Willis, received a written statement
17 from Corey Willis, and also advised Keaston Kinard of his
18 *Miranda* warnings as well.

19 Q So no written reports, no incident reports that you
20 created?

21 A No incident reports, no, sir.

22 Q No documentation what you did prior -- before
23 August 18th, correct?

24 A Prior to August 8th, not that I can recall.

25 Q And incident reports can be important as a law

CROSS-EXAMINATION BY MR. BROOME - TYRONE GOGGINS 113

1 enforcement, correct, or an investigator?

2 A Yes, sir.

3 Q Okay. And they help you document facts, correct?

4 A They do.

5 Q During the course of your investigation?

6 A They do, yes.

7 Q And oftentimes, there's a significant lapse in time

8 from the date of incident until the time you may get

9 additional information, correct?

10 A That's fair.

11 Q And also there's a significant lapse in time between

12 the incident date and when time for trial had come up,

13 correct?

14 A Correct.

15 Q Okay. For example, 4 1/2 years, correct? That

16 could be a long period of time, correct?

17 A Yes, sir.

18 Q So -- and you're also a busy investigator? You're a

19 busy investigator?

20 A At times, yes, sir.

21 Q At times, right? You work more than one case at a

22 time?

23 A Definitely. Yes, sir.

24 Q And sometimes you will work hundreds of cases

25 between the time of incident and the time of trial?

CROSS-EXAMINATION BY MR. BROOME - TYRONE GOGGINS 114

1 A That's fair. Yes, sir.

2 Q And so during the course of investigation, a lot of
3 facts are being collected, right?

4 A Right.

5 Q And to keep track, it helps to write them down,
6 correct?

7 A It does.

8 Q That way, you can review your reports and you can
9 review your notes prior to coming into court and
10 testifying to this jury, right?

11 A Yes, sir.

12 Q You need to review your notes if you bring them to
13 trial, correct?

14 A Yes, sir.

15 Q It helps you remember events during your testimony,
16 correct?

17 A Your notes help you remember what you do. Yes, sir.

18 Q Okay. If there's no report, you may not remember
19 certain things, correct?

20 A It's possible.

21 Q And it's probably happened before, right?

22 A I usually remember most of the things that I do
23 because I'm involved with it, but it's possible that you
24 could forget something. Yes, sir.

25 Q You would agree with me that your memory probably

CROSS-EXAMINATION BY MR. BROOME - TYRONE GOGGINS 115

1 doesn't get better over time, right?

2 A That's fair.

3 Q Okay. So therefore, the report must be accurate,
4 right? You need to have the report to be accurate so you
5 remember things?

6 A As best you can. Yes.

7 Q And so that enables you to testify truthfully, right
8 before --

9 A To enable to -- repeat the question, please?

10 Q Your report must be accurate. This gives you the
11 ability to testify truthfully in court, correct?

12 A The report is one form. You also have your memory..
13 You also have the statements that you take. You also
14 have the conversations with the other individuals that
15 are involved also. But not just solely on an incident
16 report.

17 Q Okay. So in this case, again, you never wrote a
18 report, correct?

19 A I never took an incident report. I took several
20 written statements from the subjects involved.

21 Q And you took a written statement -- you made
22 documentation of everything you did in the case?

23 A Yes. I have copies of the written statements and
24 the *Miranda* warnings. That's in the file.

25 Q Okay.

CROSS-EXAMINATION BY MR. BROOME - TYRONE GOGGINS 116

1 MR. BROOME: Beg the Court's indulgence.

2 (Whereupon, Mr. Broome and Mr. Howe conferred.)

3 Q So you met -- you arrested Mr. Jacks on August 8th?

4 A That's correct.

5 Q 2012?

6 A Yes, sir.

7 Q Brought him to the detention center?

8 A It was the Clinton city jail.

9 Q You booked him in?

10 A He was booked in.

11 Q And you made a typewritten report of that -- or let
12 me back up. You spoke to him that day?

13 A Yes, I spoke to him on August 8th. Yes, sir.

14 Q He gave you a statement about -- an oral statement?

15 A He did give -- there was a second oral statement.

16 Q Okay. You typed that up on August -- that the first
17 time that Mr. Kinard's name came up?

18 A No, sir.

19 Q Did you Mirandize Mr. Jacks?

20 A Yes, sir.

21 Q On August the 8th?

22 A Yes, sir.

23 Q Okay. So you would have a written *Miranda* waiver
24 form of that?

25 A Yes.

CROSS-EXAMINATION BY MR. BROOME - TYRONE GOGGINS 117

1 Q Okay. Did you bring that with you to court today?

2 A It should have been.

3 Q Okay. And I have -- you've given everything you
4 have to the solicitor's office in this case?

5 A That I'm aware of, yes, sir.

6 Q But you didn't bring your file so you can't produce
7 this *Miranda* -- this waiver form for Mr. Jacks on August
8 the 8th?

9 A I do have a file -- a copy of a file.

10 Q Okay. Did you document -- did you document at all
11 the interview you had with Mr. Jacks on July 19th or
12 20th?

13 A No, sir. I didn't have a -- I didn't have any
14 evidence at the time. I was just working off a tip and
15 at that time, hoping that Gary Jacks would give me
16 information related to this case. And so that's the
17 reason for me talking to Gary Jacks, which he did.

18 Q Okay. You met with him -- no documentation and you
19 would have provided that to the solicitor's office had
20 you done that?

21 A Other than talking with the municipal judge to
22 obtain an arrest warrant for Gary Jackson and Keaston
23 Kinard.

24 Q Based on the information that Mr. Jacks told you on
25 the 9th -- on the 19th, you went and got an arrest

CROSS-EXAMINATION BY MR. BROOME - TYRONE GOGGINS 118

1 warrant on the 21st?

2 A Yes, sir.

3 Q For him?

4 A Yes, sir. And Keaston Kinard.

5 Q But importantly for Mr. Jacks, correct?

6 A Yes. Yes, sir. For both of them. Yes, sir.

7 Q Did you Mirandize Mr. Jacks at that point?

8 A Yes, sir.

9 Q Okay. Did you have a *Miranda* waiver form?

10 A No, I didn't.

11 Q Y'all have a standard *Miranda* waiver form, do you
12 not, in your police department?

13 A Do we have one? Yes, sir.

14 Q Okay. Okay. And there was -- was testified earlier
15 you interviewed Mr. Jacks a second time, correct?

16 A Yes.

17 Q August the 10th?

18 A August the 8th and August the 10th.

19 Q And on August the 10th you didn't sign a *Miranda*
20 waiver form?

21 A Yes, I did.

22 Q Okay. But we don't have the August 8th *Miranda*
23 form?

24 A I'm not sure what you got in your file, sir.

25 Q Well, I get my file from y'all.

CROSS-EXAMINATION BY MR. BROOME - TYRONE GOGGINS 119

1 A Okay.

2 Q You would have provided that to the solicitor's
3 office, right?

4 A Yes.

5 Q Okay.

6 A If you're speaking that it didn't have a date on it,
7 the date wasn't filled out, but it was for August the
8 8th.

9 Q When you met with Mr. Jacks on August -- let me --
10 on August 8th. You said you Mirandized, but we don't
11 have the report. Did you record this interview
12 electronically?

13 A No, I didn't.

14 Q Did you have access to, say, a body camera?

15 A I'm not sure if we even had body cameras in 2012.
16 But if so, I wouldn't have been issued a body camera.

17 Q Did you have access to, say, an iPhone or cell phone
18 that had video capabilities on it?

19 A I may have had a cell phone. I think a Blackberry.
20 I'm not for sure. I didn't record the conversation.

21 Q Didn't record it at all?

22 A No, sir.

23 Q Your department has electronic capabilities? You
24 can videotape an interview?

25 A We do now. We, within the last year, set up an

CROSS-EXAMINATION BY MR. BROOME - TYRONE GOGGINS 120

1 interview room that has audio and video recording. At
2 the time, we didn't have the location that we interview
3 from out there that it would be recorded, unless you just
4 have pocket recorder or something on your own.

5 Q And on August the 8th, do you have -- you didn't
6 bring your file. Do you have a copy of that ---

7 A Do I have a copy of the statement? It would be in
8 the file, sir.

9 Q Okay.

10 MR. BROOME: Your Honor, may I approach the witness?

11 THE COURT: Sure.

12 Q Investigator Goggins, I'm going to provide you with
13 a -- says memorandum of interview. Memorandum of
14 interview?

15 A Yes, sir.

16 Q Can you take a look at that and see if that
17 refreshes your recollection?

18 A Yes, sir. This is dated for August the 8th, and
19 it's a memorandum of interview that I typed up in
20 reference to the conversation that myself and Gary Jacks
21 had.

22 Q Is there any -- is there a -- his signature on that
23 at all?

24 A No. This is what I typed up in reference to what he
25 stated to me.

CROSS-EXAMINATION BY MR. BROOME - TYRONE GOGGINS 121

1 Q Is there a time on there where the interview
2 started?

3 A No, sir. It's just the date of August the 8th,
4 2012.

5 Q So we have no time of day it started or ended?

6 A No, sir. We don't have it on this, no, sir.

7 Q And if you look on the bottom of that, Mr. Jacks
8 provided you a cell phone number?

9 A Yes, sir.

10 Q And an address?

11 A Yes, sir.

12 Q Cell phone was for Mr. Jacks?

13 A As far as I recall.

14 Q From what you recall from what he told you?

15 A As far as I can recall, yes, sir.

16 Q All right. And I'll let you keep that. Again, on
17 the 10th, you said that you met with him, Mr. Jacks, on
18 the 19th, correct?

19 A The 19th or the 20th. Yes, sir.

20 Q And we don't have any of that information, correct?

21 A No, sir.

22 Q And August the 8th, met with him again?

23 A That's correct.

24 Q And August the 10th, you met with him again?

25 A That's correct.

CROSS-EXAMINATION BY MR. BROOME - TYRONE GOGGINS 122

1 Q And on that date, you Mirandized him, correct?

2 A On July 19th or 20th. I verbally Mirandized him on
3 August the 8th. I Mirandized him and on August the 10th
4 that he was given this *Miranda*.

5 Q Okay. Was there anyone else in the room -- on
6 July 19th, was there anyone else with you, any law
7 enforcement officers with you when you spoke to
8 Mr. Jacks?

9 A No. July the 19th, I knew I was by myself. August
10 the 8th, I don't recall if someone was in the office or
11 not. That was after he was arrested.

12 Q Okay. And when you met with him, he was in custody
13 at that point?

14 A Yes, sir.

15 Q He was handcuffed?

16 A Yes, sir.

17 Q And you took him to the Clinton Police Department?

18 A Not in particular. When I say "I," I didn't
19 transport him to Clinton Police Department. That's where
20 he was taken to, and that's where I interviewed him at,
21 at Clinton city police department.

22 Q Okay. And you went through with him -- you're
23 asking questions, open-ended questions, correct?

24 A Yes.

25 Q You let him take his time and he answered your

CROSS-EXAMINATION BY MR. BROOME - TYRONE GOGGINS 123

1 questions?

2 A I asked him to tell me what took place on the day of
3 the burglary, and he explained to me what happened.

4 Q Okay. And you told him to be complete, tell him
5 everything that -- you asked him to tell everything that
6 he knew?

7 A Actually, are you speaking of August the 8th?

8 Q Yes.

9 A Actually, on August the 8th, I let him tell me what
10 took place, and it was something else that came up where
11 I had to leave. And I told him that I would take him
12 back to Laurens County, I would come back and pick him up
13 later and get a written statement from him.

14 Q Okay. And ---

15 A As a result of it, this is what I did. I did a
16 synopsis of what he told me on August the 8th.

17 Q Okay. And he gave you this information about
18 whereabouts on where he had gone on June 23rd, his
19 involvement in this case?

20 A Yes, he did.

21 Q Okay. And that was on August the 8th that he
22 mentioned that?

23 A He also told me that on July 19th or 20th of '12.

24 Q Okay. And one of the things was that him and
25 Mr. Willis had gone to McDonalds?

CROSS-EXAMINATION BY MR. BROOME - TYRONE GOGGINS 124

1 A Yes, sir. I can read this to you if you'd like to.

2 Q No, that's okay. If you want to read the report and
3 take a second.

4 A Okay. He stated that they went to -- on Thornwell
5 Street, and then he and Corey Willis met up as well and
6 they rode through McDonalds through the parking lot
7 before they went back to their assigned residence.

8 Q Okay. Now, tell the jury how you went to McDonalds
9 later and checked on their surveillance footage.

10 A I didn't go to McDonalds and check on the
11 surveillance footage.

12 Q Okay. You had Mr. Jacks' number, correct? It was
13 at the bottom of that statement?

14 A Yes, sir.

15 Q And he mentioned to you both on August the 8th and
16 August the 10th that he had used his phone on June 23rd
17 in connection with this incident, isn't that true?

18 A Yes. He called Keaston Kinard that was already at
19 the residence.

20 Q Okay.

21 A At where the burglary took
22 place.

23 Q Can you tell the jury what day you went and got a
24 search warrant for his phone?

25 A I never got a search warrant for his phone records.

CROSS-EXAMINATION BY MR. BROOME - TYRONE GOGGINS 125

1 Q Okay. So didn't at all want to check his cell phone
2 records?

3 A No. I didn't check his phone records because Gary
4 Jacks admitted to me of his involvement as well as
5 Keaston Kinard's involvement. He actually put the puzzle
6 together.

7 Q At some point, Mr. Poole -- y'all -- I think called
8 you about finding his truck?

9 A Yes, sir. That's correct.

10 Q Okay. Did you respond to that area to find the
11 truck?

12 A I did.

13 Q Any other officers with you?

14 A No, sir.

15 Q Did you call Sergeant Jones?

16 A No, sir. I'm not sure if he was even working that
17 day.

18 Q Did you process the inside of the truck, and I
19 believe it's -- I believe the truck picture is in
20 evidence. I'm going to show you a picture of the truck
21 that's already in evidence. Right there. You familiar
22 with that?

23 A Yes, sir.

24 Q Okay. And that's Mr. Poole's truck?

25 A That's correct.

CROSS-EXAMINATION BY MR. BROOME - TYRONE GOGGINS 126

1 Q And were you able to get the doors closed when you
2 found the truck?

3 A Yes, they were.

4 Q Mr. Poole let you inside of the truck?

5 A The door -- to the truck was on -- off.

6 Q Did you process the inside of that truck for
7 fingerprints?

8 A I attempted to process the inside for fingerprints,
9 did not retrieve any fingerprints inside.

10 Q So you attempted -- is that documented anywhere?

11 A Is it documented -- no, sir.

12 Q Okay.

13 A I didn't recover any evidence from it.

14 Q Okay. So we don't have any report or any statement
15 from you or your office that you attempted to process
16 those fingerprints from the truck?

17 A No, sir. No, sir.

18 MR. BROOME: Beg the Court's indulgence.

19 (Whereupon, Mr. Broome and Mr. Howe conferred.)

20 Q And so Mr. Willis -- you also spoke with Corey
21 Willis?

22 A I did.

23 Q And the first time you spoke to him was after he was
24 arrested?

25 A That I can recall, the first time I spoke with him

CROSS-EXAMINATION BY MR. BROOME - TYRONE GOGGINS 127

1 was October the 3rd.

2 Q Uh-huh. And one of the things he mentioned to you
3 is that he'd gone to KFC and Citgo that night, the night
4 in question?

5 A He stated to me that he went to KFC and that Keaston
6 stated to him he was going to meet up with some girls at
7 the apartments right besides . He
8 said he was going to get him something to eat from KFC
9 but then he drove down to the apartments.

10 Q Well, did -- he told you he was going to go to KFC
11 and Citgo, correct? That's all the question was.

12 A That was part of the statement that he told me.

13 Q Did you go to Citgo gas station and try to check
14 their surveillance footage?

15 A No, sir. I believed him that he went to the Citgo
16 and McDonalds.

17 MR. BROOME: Beg the Court's . . .

18 (Whereupon, Mr. Broome and Mr. Howe conferred.)

19 Q And during the course of investigation, you got some
20 additional information from Mr. Jacks, correct, as far as
21 specifically additional names?

22 A Yes, I did.

23 Q Okay. And it was important to have those -- it was
24 important to -- let me rephrase. It was important to
25 have those names so you could kind of develop leads and

1 corroboration in your investigation?

2 A Yes.

3 Q Okay. One of those names was Michael Lemon?

4 A Yes, Michael Lemon.

5 Q And you wanted to get those names from -- you told
6 Gary, this is important. This would be beneficial for
7 him to give you those names?

8 A I told Gary to tell me how this event took place.
9 And he started to explain how the whole event of the
10 burglary took place and it started from Michael Lemon.

11 Q And when you met with Gary, you knew the information
12 you had, this was not a one-man job?

13 A I didn't know how many was involved. I would have
14 expect it would have took more than one person to load
15 this safe up on the truck.

16 Q Okay. And that's why you further questions him
17 about those additional names, correct?

18 A He provided those names to me as the events that
19 took place, what led to the burglary.

20 Q Okay. You didn't ask him any leading questions
21 about that? He provided them on his own?

22 A No, sir. I didn't know who was involved. I wasn't
23 there. The only way I could get the information is from
24 somebody else to tell me.

25 Q Okay. Back to Mr. Jacks' first statement, one of

CROSS-EXAMINATION BY MR. BROOME - TYRONE GOGGINS 129

1 the things he told you was that on August the 8th was
2 that he walked to the location? He walked from Clinton
3 Manor on this date?

4 A That was his second statement. His first statement
5 was on July the 19th or 20th. His second statement he
6 verbally told me that he walked from Clinton Manor to the
7 location of to meet Keaston Kinard,
8 who was already inside of the residence.

9 Q Okay. On the -- hard to keep track because I've
10 only got to two statements, but now the third statement
11 ---

12 A Yes, sir. I'll make sure you get it right.

13 Q --- that we don't have -- that I don't have, but on
14 the August the 8th statement, he mentioned walking to the
15 apartment or walking to the house, correct?

16 A Yes, sir. He stated he walked from Clinton Manor
17 apartments to Thornwell Street.

18 Q And when you met with him two days later, you went
19 over the same version of events again, correct?

20 A Two days later, he stated that he rode -- bicycled
21 from Clinton Manor to .

22 Q Okay. And you went over with him -- let me get out
23 this written statement. And you wrote his written
24 statement out for him on the 10th, did you not?

25 A That's right. It's recorded, yes, sir.

CROSS-EXAMINATION BY MR. BROOME - TYRONE GOGGINS 130

1 Q And did you ask him if he could read?

2 A Yes.

3 Q Did you ask if he could write?

4 A Yes, sir. I actually -- once we do that, we provide
5 them with their *Miranda* warnings and then we also ask
6 them to read the part of the *Miranda* warning out loud so
7 we can hear it just to make sure they can read.

8 MR. BROOME: Your Honor, may I approach the witness?

9 THE COURT: Yes, sir.

10 Q If you can look over that, tell the jury what that
11 is.

12 A This is a *Miranda* warning that provides Gary Jacks
13 with his rights, which he signed and stated that he
14 didn't want an attorney present and agreed to talk to me
15 as well. He signed it at the bottom.

16 Q Okay.

17 A And this is a written statement that Gary Jacks
18 provided of the events that took place of the burglary.

19 Q Okay. And when you met with him, you asked him --
20 you told him it would be beneficial for him to tell you
21 everything he knew?

22 A I wanted him to tell me what took place as far as
23 the burglary.

24 Q You tell him that you could -- by him cooperating,
25 you would help him out down the road?

CROSS-EXAMINATION BY MR. BROOME - TYRONE GOGGINS 131

1 A I always tell people that I can't make them promises
2 because we make charges and the solicitor's office
3 prosecute the case. So I can't promise anybody, but what
4 I do tell them I can give a recommendation to the
5 solicitor's office to say you told us what took place and
6 we didn't have to dig for it.

7 Q Okay. He told you a number of things that happened
8 with the guns that were in the safe on both August the
9 8th and August the 10th?

10 A Yes, he did.

11 Q One of the things he mentioned is that -- let me get
12 this. On August the 10th, in that statement you have
13 there, he mentioned that he gave one of the guns to a
14 Michael Lemon?

15 A He did.

16 Q Okay?

17 A As I recall, without finding it, I think he stated
18 that he stated he gave Michael Lemon one of the .45
19 caliber pistols for his share.

20 Q Did he mention that to you on August the 8th?

21 A This was a more detailed statement. I'm not sure.
22 I can read the statement and tell you. On the synopsis
23 of the events that took place on August 8th, it's not in
24 here that he ---

25 Q Okay.

CROSS-EXAMINATION BY MR. BROOME - TYRONE GOGGINS 132

1 A Gave Michael Lemon the .45 caliber.

2 Q And looking back on the August 10th statement that
3 you took from Mr. Jacks?

4 A Yes, sir.

5 Q He gave you some additional names other than Mr.
6 Kinard, other than Mr. Willis, other than Mr. Lemon,
7 correct?

8 A He give me a name of an individual that drove him
9 to -- I think his grandmother's house and he give me the
10 name of a cousin that stayed at the house, and that he
11 states his cousin told him he took the guns off and
12 somebody robbed him.

13 Q His cousin, Chris Payne?

14 A Yes.

15 Q He also mentioned a guy named Terrence Watson?

16 A That's who drove him to his grandmother's house.

17 Q Was that in the first report or the July 19th or the
18 August 8th statement?

19 A No, sir. This was the more detailed report that he
20 did. This is a synopsis of what he told me.

21 Q My question was: Was it in -- did he tell you that
22 on the 19th or did he tell you that on the August the
23 8th?

24 A My answer was no, sir.

25 Q Okay.

CROSS-EXAMINATION BY MR. BROOME - TYRONE GOGGINS 133

1 A This is a synopsis and this is a more detailed
2 report.

3 Q You discussed the same events each time you met with
4 him, correct?

5 A It's not in the synopsis whether he did or not.

6 Q If he had told you, it would be in the synopsis,
7 correct?

8 A I can't say one way or other because it's just a --
9 it's a collective -- I wrote the synopsis out of what I
10 remembered that he told me.

11 Q So you didn't write the synopsis on August the 8th?

12 A That's what I'm saying. The synopsis on August 8th,
13 I typed it up of what I remembered that he told me. On
14 August the 10th, it was a meeting with him that he told
15 me from word to word that we written down on this written
16 statement.

17 Q I understand that. But on August the 8th, because
18 we don't have a -- the synopsis is dated August the 8th.
19 So my question to you: Is that the date you wrote that
20 synopsis?

21 A Yes, sir.

22 Q And ---

23 A Yes, sir.

24 Q And were you not typing out his answers as he was
25 giving them to you on August the 8th?

CROSS-EXAMINATION BY MR. BROOME - TYRONE GOGGINS 134

1 A No, sir. We was sitting in the office, just me and
2 him. I didn't have any equipment that I typed out at
3 that time. I went back and typed out the synopsis after.

4 Q Okay. You didn't find it important to try and
5 record what he was telling you?

6 A I didn't record it.

7 Q At the time?

8 A No, sir.

9 Q Or take notes at that time?

10 A No, sir. The synopsis was basically for the
11 information that he and Keaston Kinard and Corey Willis
12 broke inside this house.

13 Q I'm -- my question was if you found it important to
14 take any notes of the August 8th -- as you were
15 interviewing him.

16 A Not as I was interviewing him, but afterwards, I
17 typed out the synopsis.

18 Q Okay. Afterwards, that same day, or afterwards
19 later that week?

20 A That same day the synopsis would have been typed,
21 yes, sir.

22 Q Okay. Do you remember what date you provided that
23 synopsis to the solicitor's office?

24 A No, sir. I can't tell you the date.

25 Q Okay. Would it have been back in 2012?

CROSS-EXAMINATION BY MR. BROOME - TYRONE GOGGINS 135

- 1 A I don't know, sir.
- 2 Q Okay. Would it have been in 2016?
- 3 A I can't answer that question, sir.
- 4 Q You have no recollection?
- 5 A No, sir. I don't submit the files to solicitor's
- 6 office.
- 7 Q So the solicitor's office comes and gets the file
- 8 from you?
- 9 A No, we have a court officer that submits the files.
- 10 So I can't answer it, what date they sent it to them.
- 11 Q And you don't have your file with you today to
- 12 testify?
- 13 A I -- in my file, I would note what day the court
- 14 officer would have sent the files to the Solicitor's
- 15 Office because I don't handle that.
- 16 Q Who was the court officer who gives information to
- 17 the solicitor's office?
- 18 A 2012, I -- honestly I wouldn't be able to tell you
- 19 that either, sir.
- 20 Q That's not documented anywhere?
- 21 A No, sir, not in my file, it wouldn't have been.
- 22 Q Okay. Did you follow up with the Terrence Watson
- 23 name at all? Did you try to talk to Mr. Watson?
- 24 A About taking him to the house?
- 25 Q Uh-huh.

CROSS-EXAMINATION BY MR. BROOME - TYRONE GOGGINS 136

1 A No, sir.

2 Q Okay. Did you try to follow up with -- one of the
3 names that Gary Jacks told you was Chris Payne?

4 A Christopher Payne -- I did see Christopher Payne and
5 I briefly asked him if he knew about any guns, which he
6 didn't know anything about.

7 Q So you met with Christopher Payne as part of your
8 investigation?

9 A I ran across Christopher Payne somewhere, and I
10 asked him did he -- did he know about any belongings that
11 Gary Jacks may have placed up at his grandmother's house,
12 and he just stated to me no.

13 Q Okay. Is that documented anywhere?

14 A No.

15 Q Your conversation with Mr. Payne?

16 A No, sir.

17 Q Okay. And you never recovered any of these guns?

18 A No, sir.

19 Q On August the 10th -- well, back up. On July 19th,
20 did Mr. Jacks tell you what he did with these guns at
21 this time?

22 A No, sir.

23 Q Okay. Did he tell you what he did with the safe?

24 A He stated to me that they drove the vehicle with the
25 safe on it to some apartments by Renfro.

CROSS-EXAMINATION BY MR. BROOME - TYRONE GOGGINS 137

1 Q So on the 19th, when you met with Mr. Jacks, which
2 we don't have a report of, he didn't mention anything to
3 you about the handguns or the long guns?

4 A Yes, sir.

5 Q That's correct?

6 A He did mention those.

7 Q He -- on the 19th, he did?

8 A He did mention about long guns and handguns.

9 Q Oh. I thought I just asked and he didn't mention
10 anything about the guns on the 19th.

11 A No, sir. I think your question was did he tell you
12 where the safe was.

13 Q I did ask you that. Okay. So on the 19th, he did
14 tell you where the guns were?

15 A No. He didn't -- he never told me where the guns
16 were.

17 Q What he had done with the guns?

18 A Right. No, sir.

19 Q He did not tell you what he had done with the guns
20 on the 19th?

21 A On the 19th, right.

22 Q So he did not. And then on the 8th, he did tell you
23 what he did with the guns?

24 A Yes. He did with the guns that he had.

25 Q Okay. And on the 8th, you mentioned that he took

1 four of the long guns?

2 A Not sure that . . .

3 Q You want to read the synopsis?

4 A Gary Lee Jacks was interviewed on August the 8th,
5 2012, regarding the Case Number 201206175. Gary provided
6 the following information. Gary stated prior to --

7 Q Hold on. I just wanted you to read over that and
8 see based on -- reading that report without reading out
9 loud --

10 A Oh, you don't want all of the information?

11 Q I asked specifically about the guns?

12 A Okay.

13 Q And if he told you anything about long guns, and did
14 he tell you that on August the 8th . . .

15 A Just the specifically about the guns and not the
16 break-in or anything.

17 Q Correct.

18 A Gary stated when they got the safe open, he took
19 four long guns and one .40-caliber pistol. Gary stated
20 that Keaston ---

21 Q I'm sorry. One concern with what he took, and he
22 told you he took the four long guns. Okay. If you would
23 look over the August 10th statement now, which would be
24 his handwritten statement. Didn't he later tell you on
25 the 10th that he made -- he actually took five long guns?

CROSS-EXAMINATION BY MR. BROOME - TYRONE GOGGINS 139

1 A I'm sorry. I was still reading the synopsis ---

2 Q I'm sorry. Take your time.

3 A --- to make sure that he -- that I did cover
4 everything he said about the guns. There's also
5 something additional about the guns. Do you want me to
6 read that?

7 Q No. Did you -- and part of what you're trying to do
8 is track down these guns for -- correct?

9 A Yes. That was part of the conversation with Gary
10 Jacks on the 19th that I was hoping to get the guns back
11 to the victim because, from talking to the victim, they
12 had sentimental value to him.

13 Q Okay. And when you met with Gary on August the 8th,
14 did he provide you a description of the guns that were
15 taken?

16 A He stated that he took four long guns, one
17 .40-caliber pistol. He described that Keaston took a
18 .40-caliber pistol that was shiny. He stated that ---

19 Q Did he ask -- "did he describe those guns?" was the
20 question..

21 A Yes, sir. He stated that Keaston took a .45-caliber
22 pistol that was shiny. And Gary stated that a .40-
23 caliber was chrome with pearl handles. Gary also stated
24 that Corey took a .380-caliber pistol. And Gary stated
25 that Keaston had some big knives also.

CROSS-EXAMINATION BY MR. BROOME - TYRONE GOGGINS 140

1 Q At this time, was he able to -- when he said he took
2 on the August the 10th just so we're clear ---

3 A You want August the 10th now?

4 Q Sorry, August the 8th. My apologies. So many times
5 that Gary Jacks spoke. Hard to keep track of this.

6 A Like I said, I'll help you keep it straight.

7 Q He said -- I think if you go to the middle of the
8 second page, said he took four long guns? This is
9 Mr. Jacks, August 8th?

10 A August 8th? Gary's?

11 Q Gary's?

12 A Gary stated when they opened the safe, he took four
13 long guns and one .40-caliber pistol.

14 Q Okay. Did he ---

15 A Also ---

16 Q I'm sorry.

17 A Also, here Gary stated sometime after, which he took
18 the long guns to a relative house and Gary stated at this
19 time, he kept the .40-caliber pistol with him.

20 Q Did he provide you the makes and models of those
21 guns?

22 A No, sir. Not according to this synopsis. I don't
23 have it on there.

24 Q Did he describe them to you at all in any great
25 detail?

CROSS-EXAMINATION BY MR. BROOME - TYRONE GOGGINS 141

1 A He stated a .45-caliber pistol that Keaston took was
2 shiny, and he stated that another .45-caliber was chrome
3 with pearl handles.

4 Q The long guns is my question. Did he specifically
5 describe the long guns to you on August the 8th?

6 A The long guns? No. I don't have what caliber or
7 what make of them.

8 Q Okay. Now, on August the 10th, two days later,
9 you're meeting with Mr. Jacks again, correct?

10 A Yes, sir.

11 Q Okay. Even though he's already made two statements
12 to you about this, right?

13 A Yes, sir.

14 Q Okay. You need information about -- I'm going to
15 look at about what he did with the long guns. This is
16 on -- look at page three of the August 10th statement.
17 and when you're writing this statement, you're writing
18 the statement for him, correct?

19 A Yes, sir.

20 Q You're writing his words verbatim?

21 A As he tell me, I would write it down. Yes, sir.

22 Q Okay. Everything he said and you had him initial
23 making sure there were no corrections and everything was
24 okay?

25 A Right.

CROSS-EXAMINATION BY MR. BROOME - TYRONE GOGGINS 142

1 Q But those were his words exactly, right?

2 A Yes, sir.

3 Q If you look at the top of page 3, second sentence,
4 on August 10th, two days later, isn't it true that Gary
5 told you that he took five long guns?

6 A Stated .40-caliber pistol and five long guns.

7 Q And right after the long guns, he said or you wrote
8 out for him, his words were five long guns and then
9 parentheses he wrote out SK-7?

10 A SKS.

11 Q SKS. Sorry.

12 A Uh-huh.

13 Q Hard to read from here.

14 A .303.

15 Q Uh-huh.

16 A .308.

17 Q Uh-huh.

18 A .22.

19 Q Uh-huh.

20 A A .410.

21 Q That 12-gauge that was struck out?

22 A Yes.

23 Q Okay. But those are -- he gave you those
24 descriptors, correct?

25 A Yes, so as long as -- he also gave me descriptions

CROSS-EXAMINATION BY MR. BROOME - TYRONE GOGGINS 143

1 of the other pistols that was taken.

2 Q But specifically the long guns?

3 A Just with the long guns, yes.

4 Q What he calls long guns?

5 A Yes, sir.

6 Q Okay. And just so we're clear, I'm going to wrap
7 this up here about the guns. On the August the 10th
8 statement for Mr. Jacks, he mentioned -- he told you that
9 he gave Michael Lemon a .45-caliber gun? It's about
10 page 3.

11 A Stated (As read): "I also had a Haskell .45-caliber
12 that I gave to Michael Lemon for his share."

13 Q Uh-huh. And he told you Michael sold his to a guy
14 named Chris, correct?

15 A Yes. He stated and Michael stated that he sold his
16 to a guy named Chris.

17 Q Did Gary mention that on August the 8th?

18 A I can't recall. This is a synopsis on August the
19 8th of what he told me. It's a packed in statement of
20 what he may have told me. It's not in this synopsis.

21 Q It's not in the August 8th in -- from what you
22 recall, you don't know whether or not he told you that on
23 July 19th?

24 A I didn't put it in the synopsis on the 8th.

25 Q What about July the 19th?

REDIRECT EXAMINATION BY MR. SCOTT - TYRONE GOGGINS 144

1 A He told me that -- how to -- how they orchestrated
2 this and whose idea was it and Michael Lemon's role,
3 Keaston Kinard's role, Corey Willis' role, as well as his
4 role in the burglary.

5 Q On July 19th, did he tell you he gave Michael Lemon
6 a .45-caliber Haskell or Husky?

7 A I'm not sure if he did or not.

8 MR. BROOME: Beg the Court's indulgence.

9 (Whereupon, Mr. Broome and Mr. Howe conferred.)

10 MR. BROOME: No further questions, Your Honor.

11 THE COURT: Redirect?

12 MR. SCOTT: Yes, sir.

13 REDIRECT EXAMINATION

14 BY MR. SCOTT:

15 Q Sir, Gary Jacks puts himself at the scene of the
16 crime?

17 A Yes, sir.

18 Q He told you he -- his involvement in the crime?

19 A Yes.

20 Q Is that consistent throughout these statements?

21 A Yes, sir.

22 Q So he always admitted that he helped break in to the
23 house?

24 A Yes, sir.

25 Q Now, were you concerned that any crimes that would

REDIRECT EXAMINATION BY MR. SCOTT - TYRONE GOGGINS 145

1 have taken place at Citgo or KFC or McDonalds that night?

2 A No, sir. That was just -- for me, it was able to
3 verify that Gary Jacks was telling the truth and Corey
4 Willis was telling the truth. They both had similar
5 statements to the same.

6 Q Okay. Both Corey and Gary admitted to being at the
7 break-in at .

8 A Yes.

9 Q And that's what you were concerned with, the
10 break-in at ?

11 A Yes.

12 Q Okay. Truck that was taken that night as well from
13 ?

14 A Yes.

15 Q And how far away was it found?

16 A Approximately 3 miles.

17 Q Okay. Do you even have an idea of the value of that
18 truck?

19 A According to the report, I think it may have been
20 listed 1900 or 1500, something -- where in that range.

21 Q And you said under cross-examination you did dust
22 the inside for fingerprints?

23 A Yes.

24 Q And you were unable to lift any fingerprints?

25 A That's correct.

REDIRECT EXAMINATION BY MR. SCOTT - TYRONE GOGGINS 146

1 Q What about -- what about the safe that was found in
2 the back? Were you able to obtain any kind of latent
3 prints or any kind of evidence from that?

4 A No, sir. The safe was on the back of the truck. It
5 was open, and it was saturated with water and you could
6 see rain drops on top of the door that's open.
7 Everything was wet inside of the safe.

8 Q Does that have an effect on your ability to lift
9 fingerprints?

10 A Yes.

11 Q Okay. Can't do it, can you?

12 A No, sir.

13 Q All right. So you interviewed Jacks -- Gary Jacks.
14 You also interviewed Corey Willis?

15 A Yes.

16 Q And under cross-examination, you talked about what
17 Gary said in his statement. And he says Keaston Kinard
18 was there with him?

19 A Yes, sir.

20 Q Do you know what this is, State's No. 16?

21 A Yeah. It's a fingerprint.

22 Q Do you know where that was found?

23 A From my understanding, it was found on a glass that
24 was broken to the residence that was broken -- that was
25 burglarized.

REDIRECT EXAMINATION BY MR. SCOTT - TYRONE GOGGINS 147

1 Q When you spoke to Gary Jacks and he talked about
2 Keaston Kinard, did you have the SLED results of who this
3 fingerprint belonged to at that time?

4 A No, sir.

5 Q So Gary Jacks, August 10th, is saying I broke into
6 that house and Keaston Kinard and Corey Willis were with
7 me?

8 A Yes, sir.

9 Q And you didn't yet know whose fingerprints those
10 belong to?

11 A No, sir.

12 Q Did you find out later?

13 A Yes.

14 Q This is premarked as State's Exhibit No. 18. Do you
15 recognize that?

16 A This is the written statement that Gary Jacks
17 provided August 10th, 2012.

18 Q Okay. It's got some different information in it,
19 and the defense lawyer was asking you to read a lot of
20 it. Is that the document he was showing you?

21 A Yes, sir, appears to be.

22 Q Was that the same document he was asking you to read
23 parts of?

24 A Yes, sir.

25 MR. SCOTT: If there's no objection, I'm just going

REDIRECT EXAMINATION BY MR. SCOTT - TYRONE GOGGINS 148

1 to go ahead and introduce the statement, Your Honor.

2 MR. BROOME: Object to some of the hearsay -- can we
3 approach, Your Honor?

4 THE COURT: Let me suggest we handle it this way. I
5 assume Mr. Jacks will be testifying at some point.

6 MR. SCOTT: He will.

7 THE COURT: That will afford us an opportunity to
8 redact anything we may need to redact. But certainly, if
9 he's going to testify, in all likelihood portions of that
10 statements are clearly coming into evidence, I would
11 assume.

12 MR. SCOTT: Yes, sir.

13 THE COURT: In some way, shape, or form.

14 Q What I want to be clear on, I understand at one
15 point Gary Jacks said he walked to the place; another
16 time he may have said he taken a bicycle ride. Some of
17 his details were a little different. One time he said he
18 had four long guns; another time he said he had five long
19 guns.

20 A Yes, sir.

21 Q What I'm interested in from statement to statement,
22 was he consistent of who was at the break-in at

23 ?

24 A Yes, sir. He was. He always stated he was there
25 himself, Gary Jacks did. He also stated that Keaston

REDIRECT EXAMINATION BY MR. SCOTT - TYRONE GOGGINS 149

1 Kinard was there. He always stated that C.O., which was
2 known as Corey Willis was there as well.

3 And usually, in my interviewing individuals, the
4 statement is never exactly the same. It may be four
5 guns; it may be five guns. But the details to get those
6 guns and what happened on how they was able to get those
7 guns, what took place that story is usually the same. A
8 lot of -- some people may think a .22 is a .410.

9 Q Last thing: They were asking about a Chris Payne
10 and a Terrence Watson. Were those two names ever brought
11 up, as far as being involved on the night in question,
12 the night of the burglary at ?

13 A No, sir.

14 Q These were names that came up at some time later?
15 Is that the gist of Terrence Watson and Chris Payne?

16 A Yeah.

17 Q All right. Lieutenant, answer any questions that
18 Mr. Broome has, if he has any more.

19 THE COURT: Any additional questions?

20 MR. BROOME: No, Your Honor.

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

22 (Whereupon, the witness exited the witness stand.)

23 THE COURT: Ladies and gentlemen, by my watch, we've
24 been at it for about an hour and 20/25 minutes, so we'll
25 go ahead and take a quick break at this point in time.

1 We'll be at ease for about ten minutes.

2 Of course, don't discuss the case. We'll be back on
3 the record at quarter after 11. Adjourn to the back. If
4 you need to step outside, let the bailiff know.

5 (Whereupon, the jury exited the courtroom at 11:04
6 a.m.)

7 (Off the record from 11:05 a.m. until 11:31 a.m.)

8 (Whereupon, State's Exhibit 19 was marked for
9 identification while off the record.)

10 THE COURT: We'll go back on the record if we could.

11 MR. BROOME: I have a matter of law. Your Honor, at
12 this time, we're going to -- I'm asking the Court to
13 consider dismissing this case for *Brady* violation, *Kyles*
14 *v. Whitley* violation. Specifically, the information that
15 Investigator Goggins testified to, there was information
16 that he obtained -- we started to get into about
17 individual on November -- or July sometime in 2012. More
18 importantly, this third statement from Gary Jacks that he
19 said occurred on July 19th, 2012, and that he has no
20 report of that, he didn't bring it with him to court.

21 And I've never seen this piece of paper; never heard
22 of them. Never heard anything from the solicitor's
23 office about a third statement from Mr. Gary Jacks. The
24 details, he met with him at Clinton Manor. I have no
25 recollection.

1 The only thing that we have, the only thing that I
2 have from this is August the 10th -- or August the 8th
3 synopsis from Investigator Goggins. Based on the
4 information I had, that's the first contact he had with
5 Mr. Jacks, and then Mr. -- Investigator Goggins
6 interviewed that he interviewed Mr. Jacks on August 10th,
7 and he took a handwritten statement.

8 But that July the 19th statement that I asked him
9 about at length that he said he gave information about
10 this crime, and because he couldn't recall all the
11 details. He did recall some of the details. He did
12 recall some of the details.

13 Specifically, I asked him questions about did Gary
14 tell you about if he gave Michael Lemon a handgun on July
15 the 19th. And he said -- and I cross-examined him about
16 was that statement in the August 10th? Yes, it was. Was
17 it in the August 8th statement? No, it was not. Or from
18 what I can tell, was it in -- did he tell you that on
19 July 19th? And I believe his answer was either not that
20 I recall, or no.

21 THE COURT: Solicitor, you want to speak to that?

22 MR. SCOTT: The -- I think what the July statement
23 was the one that was a verbal statement from what I
24 recollect, and that was -- if you recall Tyrone Goggins
25 was talking about a tip. They had no leads to begin

1 with. All they had was the fingerprint and that they had
2 left and that was about it that he testified to.

3 Then a tip came up. We don't have the tipster, so
4 that was not really alluded to very much. But the
5 tipster basically pointed them in the direction of Gary
6 Jacks.

7 That was the testimony that Mr. -- Lieutenant
8 Goggins found Mr. Jacks at his girlfriend's house. I
9 think he said Clinton Manor. At that point, Jacks did
10 admit to being involved. No arrests were made at that
11 point.

12 And then in July 21st, I believe, Lieutenant Goggins
13 was able to get the arrest warrants. And then it wasn't
14 until August 8th that he was able to get -- pick
15 Mr. Jackson and Mr. Kinard up at the hotel, at the Days
16 Inn.

17 There is no written account of the initial July
18 statement. But essentially, it was: Okay. I did it,
19 Keaston Kinard did it, and this is what led to the arrest
20 warrants. I don't know.

21 We've talked about this before. I recall that the
22 defense opening statement alluded to multiple statements,
23 and consistency and corroboration were main points of the
24 opening statements and did allude to the fact that the
25 jury would be hearing multiple statements from Mr. Jacks.

1 At least to me, that indicates that the defense was aware
2 there were multiple statements given. And then, in fact,
3 that was covered extensively in cross-examination.

4 It's hard to me -- I can't show receipt of notice of
5 a statement when there's no -- there's only one written
6 statement. And, of course, we've got that. I was trying
7 to introduce it just now, but I would submit that there
8 has been notice and there's no *Brady* violation in regard
9 to the statements by Mr. Jacks.

10 THE COURT: All right. I reviewed the Rule 5.
11 Obviously, the contents of what's covered by Rule 5
12 speaks for itself. Mr. Broome, I appreciate your
13 position. I'm going to deny your motion.

14 The way I took the testimony from the last witness
15 was that the conversation that took place in July was an
16 initial investigation, nothing concrete, nothing hard,
17 nothing definitive had been decided by the investigating
18 officer at that particular point in time. You made a
19 good point. You made several points about what was
20 contained in the incident report, what was documented on
21 that consistent theme on your cross, how detailed was it,
22 how much are you relying on your memory as opposed to
23 aids to that memory to review five years after the fact,
24 things of that nature.

25 I understand your position, but I -- the statement

DIRECT EXAMINATION BY MR. SCOTT - KIMBERLY MEARS 154

1 was not reduced to writing. It's not a statement made by
2 your client, so it's not coming squarely within Rule 5.

3 I take the testimony as preliminary discussion,
4 preliminary statements from Jacks to that officer, which
5 then prompted the officer to take additional action.

6 I do understand your position, but I don't think
7 that it's necessarily covered under any of the authority
8 which you cite, but your objection is noted and motion is
9 noted.

10 MR. BROOME: Thank you, Your Honor.

11 THE COURT: Let's have the jury, please.

12 (Whereupon, the jury entered the courtroom at 11:31
13 a.m.)

14 THE COURT: Jury is back and seated at this point.
15 Solicitor, call your next witness, please.

16 MR. SCOTT: Your Honor, state calls Kimberly Mears.

17 (Whereupon, the witness came forward.)

18 KIMBERLY MEARS, after having first being duly
19 sworn, testified under oath as follows:

20 DIRECT EXAMINATION

21 BY MR. SCOTT

22 Q Ms. Mears, where are you employed?

23 A South Carolina Law Enforcement Division, which is
24 commonly known as SLED.

25 Q Okay. How long have you worked with SLED?

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1 A About 9 1/2 years.

2 Q And what specific department do you work in?

3 A I'm a forensic scientist in the latent-print
4 department.

5 Q What are latent prints?

6 A If you look closely at the palm side of your hand,
7 you see tiny little raised lines. Those are what we call
8 ridges. Those ridges are lined with sweat whorls. So
9 throughout the day you exude sweat, you touch your face
10 or you eat greasy foods, moisture accumulates on those
11 ridges.

12 When you go to touch a surface, that moisture is
13 transferred to that object corresponding to the ridges on
14 your skin. That is a latent print, the word "latent"
15 meaning hidden or invisible, and it needs some form of
16 processing or development to be seen.

17 Q So that's a pretty significant portion of your
18 duties, is examining fingerprints?

19 A I examine evidence for the presence of fingerprints.

20 Q Okay. Well, tell us about the transfer of
21 fingerprints. If I'm touching things all day, am I
22 always leaving fingerprints, or how does that work?

23 A Leaving a comparison-quality fingerprint is a chance
24 event that depends on the person themselves, the object
25 being touched, and the environment it's in. If a person

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1 has too much moisture or not enough moisture on their
2 hands, that's going to affect how it's represented on the
3 surface. If the surface is this grainy-style wood versus
4 a smooth metal, it's not going to represent that moisture
5 as well. If the item is outside in the rain, that
6 moisture can get washed off versus if it's inside a
7 normal air environment, that moisture will stay longer
8 for possible development.

9 Q Okay. It's a chance event. So I could spend all
10 day in this courtroom and not even leave one fingerprint
11 in here?

12 A Possibly, yes.

13 Q Or alternatively, I could leave many, many
14 fingerprints on different surfaces. Is that what you're
15 saying?

16 A Yes.

17 Q What about like a surface like a door handle, where
18 all of us are touching it all day long? How would that
19 affect your chances of identifying one sole fingerprint?

20 A It really just depends on that particular doorknob
21 and how many times it was touched and how the people
22 touched it. If you think about how you handle objects
23 throughout the day, you're not purposefully rolling your
24 finger from side to side leaving a perfect fingerprint.
25 You -- things slide out of your hand, you grip things

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1 harder than others, so it really just depends on that
2 particular touch.

3 Q Okay.

4 MR. BROOME: Judge, can we approach on a matter of
5 law?

6 THE COURT: Please. Come on up.

7 (Whereupon, a bench conference was held off the
8 record in the presence of the jury, but out of the
9 hearing of the jury.)

10 THE COURT: Mr. Broome, based on your conversation
11 at the bench, you're willing to stipulate that Ms. Mears
12 is an expert in fingerprint analysis?

13 MR. BROOME: Yes, Your Honor.

14 THE COURT: Ladies and gentlemen, typically, when a
15 witness testifies, they have to testify about something
16 they observed with one of their five senses: they heard,
17 smell, tasted, saw, etc. And they're not allowed to give
18 opinion testimony. An exception to this rule exists,
19 though, for witnesses who are experts in some science or
20 art.

21 And in this case, the parties agree that Ms. Mears
22 is an expert in the field of fingerprint analysis. That
23 means she can give opinion testimony in that area, okay.
24 She's not limited to simply what she saw or heard. She
25 can give opinion testimony that you can use as you deem

1 appropriate. All right?

2 You may continue, solicitor.

3 Q All right. So and we were talking about different
4 things that would affect the presence or absence of
5 fingerprints. You mentioned moisture and rain would
6 potentially get rid of fingerprint evidence?

7 A It could.

8 Q Would it be possible that if you got in my car, you
9 wouldn't find one single fingerprint of mine?

10 A That's possible, yes.

11 Q So we don't find them on -- at every crime scene
12 that we investigate?

13 A Correct.

14 Q All right. Tell us about, you know, this idea of
15 fingerprints are unique to individuals. Would you
16 explain that -- how that works?

17 A The ridges that I was explaining earlier around
18 running uniformly from one side of your hands to the
19 other. On the palm, they have a general flow that is
20 specific to a certain area of the palm. On the fingers
21 they are forming three general pattern types.

22 All individuals share those pattern types and that
23 palm flow. The ridges within that flow are doing
24 specific things. A ridge can just abruptly stop, which
25 is an ending ridge. A single ridge can morph into two,

DIRECT EXAMINATION BY MR. SCOTT - KIMBERLY MEARS 159

1 which is a bifurcation. A ridge can just be a dot, which
2 represents the period at the end of a sentence.

3 These are called ridge characteristics. Now, these
4 are what makes a print able to be identified because
5 these are not shared by all individuals. An examiner
6 looks at these ridge characteristics between the latent
7 print and the known print, looking for these
8 characteristics in relationship to each other as well as
9 the overall flow of the ridges and shape of the ridges,
10 which makes the print unique. Not just to a person, but
11 to the individual finger on a person.

12 Q Okay. End line, bifurcation, and dot. Are those
13 the characteristics?

14 A Ending ridge.

15 Q Ending ridge. Those are the three categories that
16 you look for that are specific to an individual or can
17 differ from individual to individual?

18 A Right.

19 Q All right. Well, so how does it work if law
20 enforcement comes to you and they have -- we want you to
21 test this fingerprint we found here or there. What do
22 you need to test that fingerprint sample they give you in
23 order to identify some individual?

24 A I would need known fingerprints from a specific
25 individual they want me to compare the latent print to.

DIRECT EXAMINATION BY MR. SCOTT - KIMBERLY MEARS 160

1 Q So Tyrone came to this TV and pulled a fingerprint
2 off and brought it to you and said we think this is Dale
3 Scott's fingerprint. You would say: Well, I need what
4 from Dale Scott?

5 A I need the known fingerprints of Dale Scott to
6 compare that print off the TV to.

7 Q Okay. And so you've been ruled by the Court as an
8 expert in these matters, testing fingerprints. Did you
9 have an occasion to test -- I'm referring to SLED Lab No.
10 L1209066. Did you have an occasion to test one latent
11 print lifted as coming from a back door glass?

12 A Yes, I did.

13 MR. SCOTT: This is State's 16.

14 Q What are we looking at here?

15 A This is what's known as a latent lift. This dark
16 smudge as it probably looks to y'all is a latent print
17 from the back door glass that was recovered at the scene.
18 And it is marked with my SLED lab number, item number,
19 initials, showing that this is the actual lift that I
20 worked with.

21 Q Okay. I don't know if you've ever seen this,
22 State's No. 4. Can you generally describe what we're
23 looking at here?

24 A This looks like a broken pane off of a door that
25 appears to have black powder on it.

DIRECT EXAMINATION BY MR. SCOTT - KIMBERLY MEARS 161

1 Q Does that black powder look familiar to you in your
2 line of work?

3 A This is -- it's consistent with what is dusted on to
4 a surface to try to capture the latent print to make it
5 visible.

6 Q When did you test that lift that's State's No. 16?

7 A I examined this on September 24th, 2012.

8 Q At some point were you able to compare that to a
9 known sample?

10 A Yes, I was.

11 Q And who did the known sample belong to?

12 A Keaston Kinard.

13 Q So you tested a sample that you know came from
14 Keaston Kinard and you compared it to State's No. 16, the
15 print that was left at -- from the back-door glass?

16 A Correct.

17 Q What's this, State's No. 19?

18 A This is what we call a court chart. It's a visual
19 enlarged example of how I do my comparison, of what I'm
20 looking for between the known and unknown print to come
21 to my conclusions.

22 Q Okay. And are there examples of the ending ridge
23 and the bifurcation and dot characteristics in that
24 exhibit?

25 A This -- yes, there are. These red lines are

DIRECT EXAMINATION BY MR. SCOTT - KIMBERLY MEARS 162

1 pointing to either ending ridges, bifurcations, or dots.

2 Q Okay.

3 MR. SCOTT: The state would offer 19 for admission
4 into evidence.

5 THE COURT: Any objection?

6 MR. BROOME: No objection, Your Honor.

7 THE COURT: Without objection, 19 is in evidence.

8 (Whereupon, State's Exhibit 19 was entered into
9 evidence.)

10 MR. SCOTT: All right. Judge, I might, with the
11 court's permission, ask Ms. Mears to step down and I'm
12 going to demonstrate to for jury.

13 THE COURT: Sure. Please. And if you need to move
14 or -- do you have a laser pointer?

15 MR. SCOTT: I do not, but can you -- do you think
16 you can step down and show them from this?

17 (Off the record briefly.)

18 Q All right. Just come over here, Ms. Mears.

19 (Whereupon, the witness exited the witness stand.)

20 Q I know this is kind of difficult to do, but just
21 kind of walk the jury through what we're looking at here.
22 First the unknown, that would have been State's -- is
23 that a blown up version of State's Exhibit 16?

24 A Yes. That lift was scanned into a digital image and
25 then enlarged so that you could see it better.

DIRECT EXAMINATION BY MR. SCOTT - KIMBERLY MEARS 163

1 Q And then the known -- you testified it as a known
2 example of Mr. Kinard's fingerprints?

3 A Yes. The known fingerprint card was also scanned in
4 and enlarged and we're looking at the left thumb right
5 here.

6 Q Okay. Walk us through some of the comparisons you
7 made between the known and the unknown.

8 A So first of all, I look at the latent print, the
9 curvature of these dark lines, which are the ridges -- I
10 didn't mean to do that -- this is what I'm talking about
11 when I say the ridge flow. So I look at this to try to
12 figure out what part of the hand or finger did this print
13 come from.

14 Within the flow, I see where my red lines are
15 pointing to. A, for example, is an ending ridge. This
16 dark line traveling along and just stops right where the
17 red point is. Down here, we have a Point B is marking
18 where a single ridge is then morph into two. That would
19 be the bifurcation that I was speaking about.

20 And you can't see it very well on here, but there
21 are some dots within this print as well. So I look for
22 ridge characteristics in the unknown. Once I then figure
23 out this was from a finger, I look at the known finger
24 and look for the overall flow which you can see the
25 ridges are doing this overall curvature, and then I look

DIRECT EXAMINATION BY MR. SCOTT - KIMBERLY MEARS 164

1 for the characteristics, which would be the end ridges,
2 the bifurcations.

3 Here you can see a dot better. I look for these
4 within the two, looking for similarities or disagreement.

5 Q Okay, and you have seven points that you noted. Is
6 that something that you're always looking for a certain
7 amount of points that match one another?

8 A No. There is no set amount. We just -- for court-
9 chart demonstrations, we just mark a few just to give a
10 general idea of what we're talking about when we say we
11 look at the known print and the unknown print and compare
12 them, just to give a better idea of what that means.

13 Q Actually, eight points of interest is what you found
14 between the two. Okay. And then this number, State's
15 19, is basically the exhibit you're showing?

16 A Yes.

17 Q All right. You can take the stand, please.

18 (Whereupon, the witness entered the witness stand.)

19 Q All right. Ms. Mears, being an expert in latent
20 prints and fingerprint analysis, doing your comparison,
21 were you able to form an opinion, an expert opinion as to
22 whether the unknown sample found on the back glass and
23 the known sample belonging to Keaston Kinard matched one
24 another?

25 A Yes. This print is identified to Keaston Kinard.

CROSS-EXAMINATION BY MR. BROOME - KIMBERLY MEARS 165

1 Q Which print?

2 A The latent print, the unknown, which was the print
3 from the back-door glass is identified to the left
4 thumbprint on the known standard of Keaston Kinard?

5 Q Thank you, Ms. Mears. Answer any questions
6 Mr. Broome has for you.

7 THE COURT: Mr. Broome?

8 CROSS-EXAMINATION

9 BY MR. BROOME:

10 Q Good afternoon, Ms. Mears. Excuse me. Can you tell
11 the jury your highest level of education?

12 A I have a bachelor's degree in biology from Winthrop
13 University.

14 Q Do you have any -- do you hold any master's degrees
15 or doctorate degrees?

16 A I do not.

17 Q Do you have any degrees in forensic science?

18 A I do not.

19 Q Have you ever conducted any research in the area of
20 print comparisons?

21 A I'm not sure what you mean by area of print
22 comparisons.

23 Q Area on -- area where latent print is lifted?

24 A I have conducted research. It has not been
25 published, however, on how swabbing for DNA versus taking

CROSS-EXAMINATION BY MR. BROOME - KIMBERLY MEARS 166

1 processing for fingerprints, which one would come first,
2 how that might affect the development of fingerprints?

3 Q And you said you didn't -- just make sure I
4 understand. You said you didn't publish?

5 A Correct. I've done research but it has not been
6 published.

7 Q Okay. What journals, if any, do you read to stay
8 abreast of developing trends in fingerprints?

9 A It's called the Journal of Forensic Identification,
10 sponsored by the International Association for
11 Identification.

12 Q And are you aware of the error rate in the field of
13 fingerprints?

14 A There's no calculated error rate for fingerprint.

15 Q So you can't tell if there's a certain percentage or
16 not, 1 percent, 90 percent?

17 A Correct.

18 Q Okay. So you couldn't cite -- could you cite any
19 error rate studies that have been conducted in the last
20 five years or so?

21 A No, I cannot.

22 Q Okay. Are you aware -- do you know what the FBI --
23 know about the black-box study?

24 A I am.

25 Q Okay. The Miami-Dade study?

CROSS-EXAMINATION BY MR. BROOME - KIMBERLY MEARS 167

1 A No, I'm not.

2 Q Not familiar with that? What about the Langenberg
3 white-box study?

4 A I'm aware of Langenberg, not that particular study.

5 Q Langenberg study. Okay. Do those researchers find
6 errors when examiners made identification decisions?

7 A I believe those -- the studies I'm familiar with,
8 they attempted to calculate error rates; however, no
9 scientific conclusions stating this is the end-all/be-all
10 error rate could be -- could be calculated.

11 Q Are you familiar with the National Academy of
12 Sciences 2009 report, Strengthening Forensic Science?

13 A Yes.

14 Q Have you read that?

15 A It's been a while, but yes.

16 Q Eight years, and it's lengthy, right? It's about
17 350 pages.

18 A Yes.

19 Q Are you familiar with the critical issues raised
20 about fingerprints in that report?

21 A Yes.

22 Q Okay. One of those would be the claims that as you
23 mentioned earlier, claims a zero rate are not plausible,
24 correct?

25 A Correct.

CROSS-EXAMINATION BY MR. BROOME - KIMBERLY MEARS 168

1 Q Okay. And there was some issues with the ACE-5 or
2 ACE-V framework analysis?

3 A ACE-V. Yes.

4 Q ACE-V. One of the things they cited was that better
5 documentation might be needed, correct?

6 A Correct.

7 Q Okay. And that one of the -- another important
8 thing that distinguished uniqueness and persistence of
9 the friction ridge skin doesn't necessarily imply anyone
10 can, you know, reliably discern whether two impressions
11 were made by the same person or not?

12 A Correct.

13 Q Okay. Are you aware that the report raised some
14 very serious concerns about your examination methodology?

15 A Yes.

16 Q Specifically, again, that ACE-5 framework, correct?

17 A Yes.

18 Q The analysis that's done, correct?

19 A Yes.

20 Q The comparison between known and unknown prints,
21 correct?

22 A Yes.

23 Q The evaluation between known and unknowns?

24 A Correct.

25 Q Also important in the verification of examination

CROSS-EXAMINATION BY MR. BROOME - KIMBERLY MEARS 169

1 process correct?

2 A Correct.

3 Q Okay. And one of the important things there is that
4 the framework that the study concluded is that it doesn't
5 ensure against verification bias?

6 A Correct.

7 Q And it's biased in general because it's just really
8 too broad to ensure repeatability to get the same results
9 over and over again?

10 A Right.

11 Q Right? So if you -- one of the main things the
12 court said was simply follow what you've been doing, this
13 ACE framework, that this doesn't necessarily guarantee
14 that you reach the proper conclusion, according to the
15 report?

16 A Right.

17 Q And in that report, they talked about some high
18 profile cases?

19 MR. SCOTT: Judge, I think the objection -- and I'm
20 fine with questioning her on the methodology. But unless
21 there's a hearsay exception, what they talked about in a
22 report and unidentified people talked about and discussed
23 in a report, I think that's hearsay. And I'm fine with
24 him getting into her methodology and issues he sees with
25 it. But as far as eliciting hearsay, that's my

1 objection.

2 THE COURT: Okay. Well, you can question her about
3 her familiarity with the report. I don't think that you
4 need to be going into specific other -- other specific
5 cases unless a foundation has been laid that she's
6 familiar or independently investigated those or she's
7 familiar with the cases from the report you're citing.

8 So if you want to play with that a little bit, see
9 how that -- I understand what he's getting at, and I
10 think you do too.

11 MR. BROOME: I do. And we'll see how this goes.

12 Q But I was asking since you -- are you familiar with
13 specific cases cited within the 2009 report?

14 A Not offhand. I'm sorry.

15 Q Do you know what SWGFAST stands for?

16 A Yes.

17 Q Okay. And you explain to the jury what that is?

18 A SWGFAST is the Scientific Working Group for Friction
19 Ridge Analysis Science and Technician -- I'm sorry --
20 Technology. It is essentially a working group of
21 examiners in the field of latent prints that establish
22 guidelines for examiners in the field to work from.

23 Q Okay. So therefore you're familiar with their
24 guidelines, quality assurance?

25 A For the most part. Our agency does not strictly

CROSS-EXAMINATION BY MR. BROOME - KIMBERLY MEARS 171

1 follow SWGFAST guidelines. They just kind of build our
2 policy and protocol off of those guidelines.

3 Q Okay. Talk a little bit about fingerprint basics.
4 Mr. Scott asked you some questions. You talked about
5 looking at over -- looking for certain ridge
6 characteristics. You've already mentioned ridge, ridge
7 ending, bifurcation and all that. Do you know how many
8 points, characteristics the average complete fingerprint
9 may have?

10 A I -- it would depend on what you mean by complete,
11 and that would also vary from print to print as to how
12 many characteristics are within it.

13 Q I guess I mean a complete, like a full print, full
14 detail possibly.

15 A I'm not familiar with how many characteristics would
16 be in that.

17 Q Okay. So we don't -- you don't know what the
18 average complete fingerprint or how many -- the average
19 points a fingerprint may have?

20 A No, I do not.

21 Q Okay. So in the process of what you're doing is
22 you -- the print that someone has collected, in this case
23 a latent print?

24 A Correct.

25 Q Correct. and you look at a known print, correct?

1 A Yes.

2 Q And in this case, known print is Mr. Kinard's
3 correct?

4 A Correct.

5 Q And then I think you've already -- we've shown this
6 to the jury, but basically what you do is kind of look at
7 them under a microscope, correct?

8 A We have essentially it's a magnifying glass on a
9 stand so that it's hands-free. We place the unknown and
10 known prints side by side under that magnifying glass so
11 that we can look at the two enlarged. We also have the
12 ability to use comparison software, which would
13 essentially look like this. We scan them in and view
14 them on screen side by side, and we can mark up the
15 points. It's essentially a fancy version of Paint.

16 Q Okay. So you scan the latent print into the
17 computer and the known card into the computer, and like
18 you said, you're just essentially going back and forth,
19 right?

20 A Correct.

21 Q And you're looking for similarities. Sometimes you
22 have information about the case, is that true?

23 A There are times where we are provided an incident;
24 however, we do not always get that. Sometimes we just
25 get evidence and are told to look for fingerprints and

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1 identify what we can.

2 Q Okay. But at the end of the day, basically it's
3 your decision -- it's your decision on whether a
4 characteristic on the print from the crime scene or the
5 unknown is similar to the known?

6 A Yes. I analyze that. I come to a conclusion. It
7 is also verified by another examiner in my department
8 whether they agree or disagree with my findings.

9 Q So that's a peer review system y'all have?

10 A Yes.

11 Q Is it open peer review or is it blind peer review
12 that you use?

13 A It's open.

14 Q Open. Can you explain to the jury what open-peer-
15 review process is?

16 A They already know my conclusion.

17 Q So the person -- in this case, I think Ms. Belton,
18 Andrena Belton, was the verifier of the fingerprint,
19 correct?

20 A Correct.

21 Q Okay. How long has she been your supervisor?

22 A She was my training officer. At the time I worked
23 this case, I had been in training for about a year, and
24 she -- she's been there a few years longer than me. I'm
25 not sure exactly how much more experience she has.

1 Q How many times has she or any other supervisor
2 disagreed with your results?

3 A I don't have an exact number. It has happened.

4 Q It has happened? So not -- not zero?

5 A Correct.

6 Q You've made mistakes before?

7 A Yes.

8 Q Okay. That the supervisor has come back and
9 discussed with you?

10 A Correct.

11 Q Okay. And they've -- knew your results at that time
12 when they made the verification?

13 A They -- my results were open to them, meaning they
14 got my entire case file to review. Now, whether they
15 went and looked at my conclusion prior to essentially
16 working the case themselves, I don't know whether they
17 did that or not.

18 Q Okay. Kind of what this process is kind of
19 subjective, would you agree with that?

20 A Yes, it is.

21 Q And nothing very scientific necessarily about it?

22 A Not necessarily. The ACE-V methodology that he was
23 talking about earlier is based on the scientific method.

24 Q Other than any kind of -- what I mean by -- is there
25 any empirical studies done in relation to fingerprint

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1 work?

2 A Not sure what you mean by that.

3 Q Well, any kind of independent investigation,
4 independent data as far as the fingerprints other than
5 looking at the known and the unknown back and forth? Is
6 there any scientific work done on that?

7 A There are multiple, multiple studies that have been
8 done trying to prove the uniqueness of prints, the
9 permanence of prints, the error rate of our methodology.
10 So yes, there are multiple studies that have been done?

11 Q And you have what's called, I believe, the one-
12 discrepancy or one-difference rule?

13 A Correct.

14 Q Okay. So if you see one real difference between the
15 known print and the latent print, then you've got to call
16 that an exclusion?

17 A It's one unexplainable difference.

18 Q One explainable -- so one difference that couldn't
19 come from the suspect?

20 A If my training and experience leads me to not be
21 able to explain where that difference may have come from,
22 then, yes, I have to exclude that known standard.

23 Q All right. And I think you testified earlier that
24 when Mr. Scott that two latent prints from the same
25 person will never match exactly? Did you testify to

1 that?

2 A I don't believe we talked about that, but that ---

3 Q Okay.

4 A Two prints will not be identical to each other.

5 Q Okay. So the decision -- you basically decide on
6 your review of the fingerprints which discrepancies
7 matter and which discrepancies don't matter? Would that
8 be fair?

9 A Not necessarily matter versus don't matter.
10 Everything in a print matters. It's just if I can
11 determine where those differences came from versus -- or
12 meaning if I look at a print and can tell the finger was
13 moving at the time the print was made, the ridges are
14 going to look different versus if I just strictly lay my
15 hand down and picked it back up. That difference, I
16 could explain based on my training. However, if there's
17 a difference in a print that is just a difference in a
18 print that isn't based on movement or the texture of the
19 surface being touched, that would then lead me to believe
20 it's just a difference in the print, meaning it did not
21 come from that known source.

22 Q So there's no computer or machine that's making this
23 determination?

24 A Correct.

25 Q Correct? And I asked you about this earlier, I want

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1 to flesh this out a little bit more. That decision
2 isn't -- isn't based on any empirical studies. And by
3 empirical, I mean derived from any kind of experiments or
4 observations?

5 A Correct.

6 Q Okay. Rather than theory. So sometimes you call
7 these differences distortions or artifacts?

8 A Correct.

9 Q Could be a smudge, correct?

10 A Uh-huh.

11 Q Could be dust?

12 A Yes.

13 Q Maybe from the powder?

14 A Yes.

15 Q Would that explain -- how does the powder -- does
16 that cause the problems with the latent prints, that
17 causes distortions possibly?

18 A It could. If you look at the unknown print, you can
19 kind of see these white circles. Those are what we call
20 fish eyes, because it's a bubble in the latent lift taken
21 caused by a large particle of black powder. So that
22 affects how the tape actually lays down on the surface.

23 Q So things like that, particles could affect the
24 clarity?

25 A Correct.

1 Q Of it? Okay. And how the fingerprint is actually
2 placed on a card, if that's done improperly, could that
3 affect the clarity of it?

4 A Yes, it could.

5 Q Are you familiar with the fingerprint cards that law
6 enforcement use that they send to you? I think they -- I
7 think Mr. Scott ---

8 MR. BROOME: May I approach, Your Honor?

9 Q I think Mr. Scott showed you State's Exhibit -- what
10 is this?

11 MR. SCOTT: 16.

12 MR. BROOME: 16. Y'all introduced it, I didn't see
13 it marked.

14 MR. SCOTT: Yes, sir.

15 Q I think it was State's Exhibit 16. I think he
16 showed you that?

17 A Yes, he did.

18 Q Okay. Now, the print on this, is this the front or
19 the back -- let me back up. Are you familiar with the
20 card like that? Have you seen cards like that come from
21 law enforcement?

22 A Yes, I have.

23 Q Okay. And is there a significant difference between
24 the front of the card and the back of the card?

25 A The front of the card has a slightly glossier

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1 surface than the back, but they're -- there really is no
2 difference.

3 Q Okay. I'll take that. And we talked about peer
4 review and Ms. Belton checking up behind you, making sure
5 you don't make any mistakes. You testified for the
6 government a total of 13 times; is that correct?

7 A I believe it's closer to 16.

8 Q 16 times. And that would be regarding specifically
9 latent prints?

10 A Yes.

11 Q Found at crime scene?

12 A Correct.

13 Q How many times have you testified that you couldn't
14 find a match?

15 A I do not have an exact number.

16 Q Would it be -- so would it be zero or maybe you have
17 testified ---

18 A No, I have testified that a print could not be
19 identified.

20 Q Would you say -- fair to say you examined thousands
21 of prints?

22 A Yes.

23 Q And this will be a tough question to answer. Do you
24 have any idea of how many misidentifications you've made?
25 Are you aware of any that you've made?

1 A Misidentification meaning how many times have I
2 identified the wrong person?

3 Q Yes.

4 A Never.

5 Q Never?

6 A (Shook head from side to side.)

7 Q Okay. Are you aware of how many misidentifications
8 SLED has made while you've been working there?

9 A I -- since I've been in the latent-print department,
10 to my knowledge, we've not made any.

11 Q SLED has made zero mistakes in that department?

12 A Missed ---

13 Q Misidentification?

14 A Identified the wrong person, correct.

15 Q Okay. How many mistakes have you made?

16 A That ---

17 Q In fingerprint examinations where you're -- say, for
18 example, you're peer-review verified by Ms. Belton have
19 had to come back -- I may have already asked you this --
20 have come back and had to -- y'all document that?

21 A It is documented. Our cases are done via a computer
22 system. I essentially send the case to her or any of my
23 fellow examiners for review when it's done, and they send
24 it back to me. It's kind of -- I guess kind of like
25 e-mail, the assignment back to me for corrections if they

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1 do find any issues within my case. So it is documented
2 within our computer system.

3 Q Okay. And you made a -- let's see. You had some
4 bench notes. I guess you do an examination worksheet?

5 A Correct.

6 Q When you work on these things. And I think your
7 bench notes refer to 11 plus ridge characteristics?

8 A Correct.

9 Q Okay. Is there a threshold for making these
10 identifications?

11 A There is no threshold. This -- the reason that's in
12 there is at the time of this case, our policy indicated
13 that we needed to identify how many ridge characteristics
14 we saw. After multiple studies have come out saying
15 there is no scientific reason for a set number of
16 characteristics, we no longer have that requirement.

17 Q Okay. So that would have been all internal. There
18 would have been -- were there any -- let me ask this.
19 Were there any internal guidelines for the threshold --
20 7? 11? 13?

21 A No.

22 Q And you are already ahead of me a little bit as far
23 as there's been no agencies such as -- or independent
24 groups such as National Academy of Sciences that
25 establish any kind of, Hey, you need to have a minimum of

CROSS-EXAMINATION BY MR. BROOME - KIMBERLY MEARS 182

1 11 plus ridge characteristics before you can make an
2 identification, correct?

3 A Not currently. I believe there used to be in other
4 countries that have a set number. We currently -- the
5 United States currently does not.

6 Q Are you aware -- let me phrase it this way. You're
7 aware of the word identify -- well, back up again. Are
8 you aware of the U.S. Army crime lab?

9 A I know of them, yes.

10 Q Are you aware of the word "identification" is under
11 scrutiny, specifically by them because it implies an
12 absolutely link between unknown and known?

13 A Yes.

14 Q Okay. And instead, they're kind of training y'all
15 to use the word "corresponds to," as opposed to straight
16 up ID?

17 A Correct.

18 Q And that was a pretty recent study, I think?

19 A I believe so, yes.

20 Q So the reviewer, she checks your work, right?

21 A Yes.

22 Q Make sure you didn't make a mistake. And we've kind
23 of -- we've touched on that and the reason for it
24 manually is so we keep out this contextual bias?

25 A Right. It's part of the ACE-V methodology that

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1 you're talking about. The V stands for verification,
2 meaning all of our work is examined by another examiner.

3 Q Isn't it true that you can't tell how long a print
4 has been in a given location?

5 A That is correct.

6 Q No way to time stamp that?

7 A Right.

8 Q It's possible it could have been there for months --
9 probably on the rare side, but months?

10 A For the most part. If you have a car -- a print on
11 a car that's just been washed, most of the time that
12 print was there -- was deposited after the car was
13 washed. So in certain instances likes that, you can
14 guess a time, but mostly no, you cannot age a print.

15 Q Okay. So it's possible, then, that my client could
16 have touched the window on a prior occasion if he been
17 legitimate access to it?

18 A Correct.

19 Q Is it possible that a latent print belongs to
20 someone other than my client?

21 A No, it's not.

22 Q Did you look the known fingerprints of anyone else
23 in this case?

24 A No, I did not.

25 Q Okay. You didn't look at any known prints of the

REDIRECT EXAMINATION BY MR. SCOTT - KIMBERLY MEARS 184

1 Poole family?

2 A No, I did not.

3 Q Did you look at any known prints of Mr. Gary Jacks?

4 A No.

5 Q Did you look at the known prints of Corey Willis?

6 A No.

7 Q Did you look at the known prints of anyone else?

8 A No, I did not.

9 MR. BROOME: Beg the Court's indulgence.

10 (Whereupon, Mr. Broome and Mr. Howe conferred.)

11 MR. BROOME: No further questions.

12 THE COURT: Redirect?

13 MR. SCOTT: Just briefly, Your Honor.

14 REDIRECT EXAMINATION

15 BY MR. SCOTT:

16 Q Did you have any issues, clarity issues, that made
17 the unknown unsuitable for testing against the known?

18 A No, I did not.

19 Q Okay. Okay. So the fish eyes and all that, that
20 didn't render a sample that you were unable to analyze?

21 A Correct. If we determine that it's not suitable for
22 analysis, we will come to the conclusion of no value, and
23 that point, we won't even bother with known standards or
24 try to compare them.

25 Q Okay. That's what I was going to ask. Are there

REDIRECT EXAMINATION BY MR. SCOTT - KIMBERLY MEARS 185

1 some lifts that are submitted to you that you say, I'm
2 not even going to test this because it's just not a
3 proper lift?

4 A Correct. Those would be considered no value prints.

5 Q Okay. And there are times, I think you testified
6 under cross, that you'll get an unknown and then a known
7 and you'll say, "I can't come to a conclusion. I cannot
8 say whether this is a match or this is not a match."

9 A Correct.

10 Q And there are times you just rule out the known
11 sample and say these aren't the same print?

12 A Correct.

13 Q Peer review, I guess that's just some sort of a --
14 the belt-and-suspenders safety net that if you make an
15 opinion whether they match, you have a second set of eyes
16 to look at and say, I don't think there's enough there,
17 or they say they agree with you? That's the purpose of
18 that?

19 A That's correct.

20 Q Okay. There was a lot of questions about different
21 reports. Do you have an opinion as to whether
22 fingerprint analysis is reliable?

23 A My opinion is that it is reliable. No two prints in
24 the history of latent prints have found to be the same or
25 not unique.

REDIRECT EXAMINATION BY MR. SCOTT - KIMBERLY MEARS 186

1 Q Okay. And again, it's your expert opinion that
2 these two samples match one another?

3 A Yes, it is.

4 Q And they came from the same person?

5 A Correct.

6 Q Thank you.

7 THE COURT: Mr. Scott, if you would, would you hand
8 State's 19 to the court reporter, please, so she can mark
9 that in evidence. Anything on recross?

10 MR. BROOME: No, Your Honor.

11 THE COURT: Ma'am, thank you very much for coming.
12 You may step down. Enjoy your trip.

13 (Whereupon, the witness exited the witness stand.)

14 THE COURT: Solicitor, call your next witness,
15 please.

16 MR. SCOTT: Gary Jacks. Your Honor, could we take a
17 five-minute recess before Mr. Jacks?

18 THE COURT: Sure. We will -- if you need a five-
19 minute recess, we'll take a five-minute recess.

20 We'll be at ease for about five minutes, and don't
21 talk about the case. Adjourn to the back, and we'll be
22 back on the record shortly.

23 (Whereupon, the jury exited the courtroom at 12:13
24 p.m.)

25 (Off the record from 12:13 p.m. until 12:21 p.m.)

DIRECT EXAMINATION BY MR. SCOTT - COREY WILLIS 187

1 (Whereupon, the jury entered the courtroom at 12:21
2 p.m.)

3 THE COURT: Jury is back and seated. Solicitor, if
4 you'll call your next witness, please.

5 MR. SCOTT: State calls Corey Willis.

6 THE COURT: Sir, if you'll come up and be sworn,
7 please.

8 (Whereupon, the witness came forward.)

9 COREY WILLIS, after having first being duly
10 sworn, testified under oath as follows:

11 DIRECT EXAMINATION

12 BY MR. SCOTT:

13 Q Corey Willis, how old are you?

14 A 31.

15 Q June 23rd, 2012, where were you living?

16 A Westchase Apartments,

17 Q Okay. That's in Clinton?

18 A Yeah.

19 Q Is that right? Who is Gary Jacks?

20 A Somebody I know from Oakdale Acres.

21 Q Who is Keaston Kinard?

22 A Somebody I know from Oakdale Acres.

23 Q Okay. So all you guys just kind of live together or
24 near one another?

25 A Something like that.

DIRECT EXAMINATION BY MR. SCOTT - COREY WILLIS 188

1 Q Michael Lemon? Did you know him?

2 A From the area.

3 Q Okay. Did you know Bennie Poole or Reggie Poole?

4 A No, sir.

5 Q June 23rd, 2012, did you have a chance to go to
6 in Clinton?

7 A Yes, sir.

8 Q Okay. What kind of car were you driving at the
9 time?

10 A Two-door, silver Contour.

11 Q Well, tell me what led to you going to that
12 house.

13 A I had -- I was going to the store to get some chips
14 or 2-liter of Sprite. On my way there, I encounter
15 Keaston Kinard had asked to ride with me. I said yeah.

16 Q Okay. He lived how far away from you at the time?

17 A Actually, we was on different sides of the town, but
18 we was in the same area that night.

19 Q What does that mean, you were on different sides of
20 the town?

21 A 590 Phillips, Westchase, that's like more closer
22 towards the interstate.

23 Q Uh-huh.

24 A Than Oakdale Acres.

25 Q Okay.

DIRECT EXAMINATION BY MR. SCOTT - COREY WILLIS 189

- 1 A Like where the McDonalds is.
- 2 Q Okay. But what area were y'all in that were both
- 3 in?
- 4 A Oakdale Acres.
- 5 Q Okay. What were you doing over there?
- 6 A With a sister-in-law.
- 7 Q So you said you were going to the store and Keaston
- 8 Kinard asked to ride with you?
- 9 A Correct.
- 10 Q All right. Then what happened?
- 11 A Dropped him off at the four-way at the front of Taco
- 12 Bell.
- 13 Q Okay.
- 14 A And he went on the other way. I went to the store.
- 15 Q What store?
- 16 A Citgo.
- 17 Q Okay. You dropped him off at the Taco Bell, and
- 18 then where did he go?
- 19 A Towards that way.
- 20 Q Towards what way?
- 21 A
- 22 Q When's the next time you saw him?
- 23 A When I came from the store, I parked over there,
- 24 like, at the apartments.
- 25 Q Let me show you -- do you see the apartments you're

1 talking about? You do see them?

2 A Correct.

3 Q I'm going to put that picture you have up here. Is
4 that the picture you have up there with you?

5 A Correct.

6 Q All right. So the next -- I asked you -- Taco Bell
7 and all that is right up here somewhere, downtown
8 Clinton?

9 A Yeah, that's it right there.

10 Q It's up at the top of the picture somewhere, is what
11 you're saying?

12 A Yeah, right there where your hands is.

13 Q Here?

14 A Right there.

15 Q Okay. All right, sir. You dropped him off there,
16 and what did you get at Citgo? Do you remember?

17 A A 2-liter Sprite and chips.

18 Q Okay. And then the next time you saw Keaston
19 Kinard, you said, by the hotel?

20 A Correct.

21 Q You talking about this long building here?

22 A Correct.

23 Q All right. Were you in your Contour?

24 A Correct.

25 Q Where did you park it?

DIRECT EXAMINATION BY MR. SCOTT - COREY WILLIS 191

1 A I parked it on the other side where that blue car
2 is.

3 Q Let me see what you're talking about.

4 A Towards the end.

5 Q So this area is where you parked your car?

6 A Correct.

7 Q All right. And where was Keaston Kinard when you
8 parked your car there?

9 A The inside of the house.

10 Q How did you know he was inside the house?

11 A He called me.

12 Q He called you?

13 A Correct.

14 Q All right. On what, your phone?

15 A Yes, sir.

16 Q And what did you do?

17 A I was getting ready to get out my car.

18 Q Okay.

19 A To go around there. I was moving fast, so I tried
20 to get out and close the door at the same time my car was
21 running. I was locked out my car.

22 Q Uh-huh.

23 A At that time that's when Gary Jacks arrived.

24 Q Okay. How did Gary Jacks arrive?

25 A On a bike.

DIRECT EXAMINATION BY MR. SCOTT - COREY WILLIS 192

1 Q Okay. So you're parked over here. You see the
2 house that Keaston Kinard was inside there?

3 A Where the red Jeep at?

4 Q You talking about this right here?

5 A Correct.

6 Q Okay. So you're parked over here and does Gary
7 Jacks respond to where you're parked? Is that where he
8 rode his bicycle to, where your car was?

9 A His bike was towards the end of it.

10 Q Over here, towards the road?

11 A On the other side.

12 Q Okay. Where did you two meet up, you and Gary?

13 A Right where I was parked at.

14 Q Okay. So he comes to where you're parked, and you
15 got your car runs and the keys are locked inside?

16 A Correct.

17 Q Okay. What did the two of you do next?

18 A He had went over -- no, he was helping me get in my
19 car and to help me. Finally got it -- got the door
20 unlocked. Went back to the store so I can get some
21 cigarettes. Came back. I dropped him off. I parked in
22 that same spot again and he went over there in the house.

23 Q Okay. About what time was it?

24 A I would say after 1 something.

25 Q After 1 a.m.?

DIRECT EXAMINATION BY MR. SCOTT - COREY WILLIS 193

1 A Correct.

2 Q And -- well, let me ask you, Corey: What was your
3 job that night?

4 A Getaway driver.

5 Q Okay. Lookout man?

6 A Yeah.

7 Q Getaway driver? So that was an issue once you
8 locked the keys in the car. What kind of went through
9 your mind when the keys got locked in?

10 A Man, I'm stuck.

11 Q Gary, what did he use, like a coat hanger or
12 something to get in the car? How did y'all get in?

13 A Like a hanger.

14 Q So once you finally got in, was Keaston done inside
15 the house yet? You said you and Gary rode up the road
16 again and circled back to the house on Thornwell?

17 A Correct.

18 Q Where did you park the second time?

19 A Parked around that same area.

20 Q Over here?

21 A Correct.

22 Q And -- well, so how did you know the inside job was
23 done? How did you know when everything was taken from
24 inside Thornwell that needed to be taken?

25 A Gary had called me and told me to get his bike and

1 take his bike to Oakdale.

2 Q Gary went inside the house?

3 A Correct.

4 Q Did you go inside?

5 A I went to like where the back door was at?

6 Q You went to the back door? What's inside that back
7 door?

8 A Right where you pointing at?

9 Q What's inside there?

10 A I think it was a kitchen.

11 Q A kitchen? Let me see No. 2. Okay. That's the
12 back door of the house?

13 A Correct.

14 Q And once you go inside, there was a kitchen. What
15 did you do when you went inside the back door?

16 A Tell them to hurry up, hurry up.

17 Q Okay. Did you see what Gary and Keaston pulled out
18 of the house?

19 A No, sir.

20 Q Okay. But you loaded Gary's bicycle into your
21 Contour?

22 A Yes, sir.

23 Q Then where did you go next?

24 A To Oakdale.

25 Q Did Keaston and Gary show up there?

DIRECT EXAMINATION BY MR. SCOTT - COREY WILLIS 195

1 A Yes, sir. Well, I dropped his bike at his house
2 came back around the corner. That's when I met up with
3 those two.

4 Q What were they in?

5 A A truck.

6 Q All right. Let me see the truck. State's 8? Is
7 that the truck?

8 A I think that's it.

9 Q Who was driving?

10 A Gary.

11 Q Who was in the passenger seat?

12 A Keaston.

13 Q And did you look in the back of the truck?

14 A Yeah.

15 Q What was back there?

16 A Safe.

17 Q Okay. Let me see a picture of the safe. Was it
18 open when you saw it?

19 A I don't remember.

20 Q Okay. Did you see how it got opened?

21 A No, sir.

22 Q Did you see anybody working on it trying to open it?

23 A No, sir.

24 Q What was your -- what did you get out of this? What
25 did they give you?

DIRECT EXAMINATION BY MR. SCOTT - COREY WILLIS 196

1 A A .380 handgun.

2 Q That was -- I guess that was for your part, being
3 the getaway guy, the lookout? What did you do with it?

4 A By the time I got locked up, it got missing.

5 Q All right. It's gone?

6 A Yes, sir.

7 Q So you did get arrested for this?

8 A Yes, sir.

9 Q And charged with burglary-first and grand larceny?

10 A Yes, sir. Damage to malicious property.

11 Q Safecracking?

12 A Yes, sir.

13 Q Criminal conspiracy?

14 A Yes, sir.

15 Q Still got those charges you're facing?

16 A Yes, sir.

17 Q Well, I'm going to ask you because they're going to
18 ask you. Have I made any deals for you to testify here
19 today?

20 A No, sir.

21 Q Okay. And your charges are still out there, right?

22 A Yes, sir.

23 Q Okay. Has anybody promised you anything to come in
24 here and testify today?

25 A No, sir.

DIRECT EXAMINATION BY MR. SCOTT - COREY WILLIS 197

1 Q All right. Did you give a statement to law
2 enforcement on October 3rd, 2012?

3 A Yes, sir.

4 Q Did you talk about being at the scene?

5 A Yes, sir.

6 Q Okay. And you admitted to being in that house that
7 night?

8 A Yes, sir.

9 Q You talked about Gary Jacks being there?

10 A Yes, sir.

11 Q And who else was there?

12 A Keaston.

13 Q Okay. You got any reason to put him in it? I mean,
14 did you have any prior bad dealings with Keaston Kinard
15 before this?

16 A No, sir.

17 Q One second, Mr. Willis.

18 A Okay.

19 Q All right, sir. You get the .380 pistol and do you
20 remember when you were arrested? Was it October?

21 A October the third.

22 Q After that night, did you and Keaston and Gary talk
23 about this at all?

24 A Not that I can recall, no, sir.

25 Q Okay. Mr. Kinard never said anything to you about

DIRECT EXAMINATION BY MR. SCOTT - COREY WILLIS 198

1 that night, what y'all done or what you need to tell
2 anybody about what happened that night?

3 A No, sir. But we had split up after that.

4 Q Okay. All right. I think that's all. Do you see
5 Mr. Kinard here today?

6 A Yes, sir.

7 Q Where is he?

8 A Over there.

9 Q Okay. Three guys sitting at the table. Which one
10 is he?

11 A That one.

12 THE COURT: Record will reflect he's identified the
13 defendant.

14 Q Did you see what happened with the truck later that
15 night after y'all met up?

16 A From Oakdale, I don't remember nothing after that
17 with the truck.

18 Q Okay. You didn't see what Gary and Keaston did with
19 the truck?

20 A No, sir.

21 Q And you didn't see what else they pulled out of it?

22 A Unh-unh.

23 Q Okay. All right. Thank you, Mr. Willis. Answer
24 any questions Mr. Broome has for you.

25 THE COURT: Got time?

1 MR. BROOME: Depends on how the Court wants to go.
2 Could be a little bit of time.

3 THE COURT: I hate breaking up in the middle of a
4 witness, is the only thing. Go ahead proceed with your
5 cross if you're ready, and if we -- if it goes way too
6 long, then we'll take a break and let you resume if
7 that's all right. Otherwise, if you want a break now,
8 I'll break now.

9 MR. BROOME: I would like a break now to go over
10 this with my client, Your Honor.

11 THE COURT: Good enough. Ladies and gentlemen --
12 that's probably not a bad idea. My stomach is starting
13 to rumble, okay. So we're going to go ahead and take a
14 lunch break at this particular point in time.

15 If you would, please be back in the jury room --
16 let's say around 1:45. That should give y'all about an
17 hour or so to grab a bite to eat. If you go to lunch
18 with one of your fellow jurors, that's perfectly fine;
19 just don't talk about the case while we're on break.
20 I'll see y'all back at 1400. Thank you.

21 (Whereupon, the jury exited the courtroom at 12:37
22 p.m.)

23 (Off the record from 12:37 p.m. until 2:12 p.m.)

24 THE COURT: All right. We're back on the record in
25 the state v. Mr. Kinard. After a bench conference

CROSS-EXAMINATION BY MR. BROOME - COREY WILLIS 200

1 concerning possible impeachment evidence, I'm going to
2 let Mr. Broome proffer some testimony from -- from the
3 current witness, Mr. Willis. The jury is not present.

4 Mr. Willis, of course, you're still under oath.
5 Okay, sir? You may proceed.

6 MR. BROOME: Thank you.

7 CROSS-EXAMINATION

8 BY MR. BROOME:

9 Q Mr. Willis, were you born in Arkansas?

10 A Correct.

11 Q In Stamps, Arkansas?

12 A Correct.

13 Q Okay. Lafayette County, Arkansas?

14 A Correct.

15 Q Okay. You grew up there?

16 A Correct.

17 Q Okay. And you lived in -- so you lived in Arkansas
18 before you moved to Clinton ---

19 A Correct.

20 Q --- South Carolina?

21 A Correct.

22 Q Okay. Were you back -- back in 2004 were you
23 arrested for breaking and entering?

24 A Correct.

25 Q Okay. And arrested for petit larceny?

CROSS-EXAMINATION BY MR. BROOME - COREY WILLIS 201

1 A Correct.

2 Q Okay. Did you go in front of a judge and plead
3 guilty to breaking -- breaking and entering?

4 A Correct.

5 Q And petit larceny?

6 A Correct.

7 Q Okay. As a result of that conviction, were you
8 placed on probation?

9 A Correct.

10 Q Okay. And was it for three years?

11 A Three years.

12 Q Three years?

13 A (Nodded head up and down.)

14 Q While you were on probation, did you move to South
15 Carolina?

16 A Yes.

17 Q Were you monitored by the -- by a Laurens County
18 probation agent?

19 A Yes.

20 Q Okay. And you're off probation now?

21 A Yes.

22 THE COURT: Did you say you're on probation ---

23 MR. BROOME: Off.

24 THE COURT: --- now or you're off?

25 THE WITNESS: No. I'm off.

CROSS-EXAMINATION BY MR. BROOME - COREY WILLIS 202

1 THE COURT: Okay. Thank you, sir. No questions,
2 Mr. Scott?

3 MR. SCOTT: No, sir.

4 THE COURT: All right. By his own admission, he was
5 convicted in Arkansas. At the bench, Solicitor, you
6 indicated to me that you really didn't have any big
7 problem, assuming that the conviction were -- was
8 accurate -- and he's admitted that it's accurate -- so I
9 assume that we're going to allow impeachment?

10 MR. SCOTT: Yes, sir. Just the -- the only question
11 -- I'm not really prepared to fight it too much. It ---

12 THE COURT: Sure.

13 MR. SCOTT: He stands as he is. He's not hiding
14 anything. The time limit could potentially be an issue.
15 But I don't really have any law whether or not, you know,
16 being on probation counts as confinement. I'm going ---

17 THE COURT: I -- I know ---

18 MR. SCOTT: --- to allow it.

19 THE COURT: --- that at the bench it was indicated
20 to me that Judge Hocker had -- had ruled previously that
21 -- that perhaps there -- or ---

22 MR. SCOTT: Maybe so. I'm ---

23 THE COURT: --- Mr. Broome ---

24 MR. SCOTT: --- I'm fine. He -- have at it. That's
25 fine.

CROSS-EXAMINATION BY MR. BROOME - COREY WILLIS 203

1 THE COURT: Good enough. All right. Let's have the
2 jury, please.

3 (Off the record briefly.)

4 THE COURT: And, of course, Mr. Broome, you don't
5 need to ask him that many questions in front of the jury,
6 just the fact that he was convicted in Arkansas of a B&E
7 type -- type of offense will be probably sufficient.

8 (Whereupon, Mr. Broome and Mr. Howe conferred.)

9 (Whereupon, the jury entered the courtroom at 2:16
10 p.m.)

11 THE BAILIFF: All jurors present, Your Honor.

12 THE COURT: All right. Record will reflect that the
13 jury is back. At this point, ladies and gentlemen, we're
14 still taking the testimony of Mr. Willis. Mr. Broome,
15 you may proceed with your cross, sir.

16 MR. BROOME: Thank you, Your Honor.

17 CROSS-EXAMINATION

18 BY MR. BROOME:

19 Q Mr. Willis, you indicated on direct that you -- in
20 2012 you were living in Clinton, South Carolina?

21 A Correct.

22 Q Okay. Before moving to -- before moving to South
23 Carolina, you lived in Arkansas?

24 A Correct.

25 Q Okay. And back in 2004 were you convicted of

1 breaking and entering in Arkansas?

2 A Correct.

3 Q And were you convicted of petit larceny?

4 A Correct.

5 Q In Arkansas?

6 A (Nodded head up and down.)

7 Q Okay. Mr. Willis, you're here to tell the truth
8 today, correct?

9 A Correct.

10 Q Okay. And I'm sure that you've done that. You're
11 cooperating with the government in this case?

12 A No, sir.

13 Q You're not cooperating with the government in this
14 case?

15 A No, sir.

16 Q You've told the jury that there's no deal in this
17 case?

18 A Yes, sir.

19 Q Okay. The government hasn't offered you any sort of
20 reduced sentence in this case?

21 A No, sir.

22 Q Okay. And you understand, though, the government
23 has the power to dismiss your charges completely?

24 A To do what, now?

25 Q To dismiss your charges completely.

CROSS-EXAMINATION BY MR. BROOME - COREY WILLIS 205

- 1 A Do I understand that?
- 2 Q Yes.
- 3 A Yes.
- 4 Q Okay. You -- you have a lawyer, correct?
- 5 A Correct.
- 6 Q And he's advised you in this case?
- 7 A About that?
- 8 Q About your case in general.
- 9 A Yes. About what's going on. Yes.
- 10 Q Okay. And the state has -- or the government has
- 11 chosen not to make a deal with you, right?
- 12 A Correct.
- 13 Q Until after you've testified?
- 14 A Correct.
- 15 Q Okay. And after you've testified against Mr.
- 16 Kinard?
- 17 A You said after -- I mean, no. They haven't made a
- 18 deal with me.
- 19 Q Right now they're saying they haven't made a deal.
- 20 But they're waiting to hold off until after you've
- 21 testified, until you're done here today, correct?
- 22 A Correct.
- 23 Q Okay. And you're certainly hoping that if the
- 24 charges aren't completely dismissed, that they will be
- 25 reduced, correct?

1 A Correct.

2 Q Okay. And then, at a later date, the government
3 will tell the judge how cooperative you've been with
4 them, correct?

5 A Correct.

6 Q And what you told them on the stand, correct?

7 A Correct.

8 Q Okay. You're hoping your attorney will come and
9 tell the judge how cooperative you were today, right?

10 A Correct.

11 Q Correct?

12 A (Nodded head up and down.)

13 Q How much you helped out the government, correct?

14 A You said how much?

15 Q Uh-huh.

16 A I mean, I don't know, other than just -- just doing
17 my part.

18 Q Just doing -- just doing your part today?

19 A Correct.

20 Q Okay. And -- and they need you to testify against
21 Mr. Kinard, correct?

22 A Correct.

23 Q Okay. One of the -- the main thing you're probably
24 hoping for is that they either dismiss or reduce that
25 burglary-first, correct?

CROSS-EXAMINATION BY MR. BROOME - COREY WILLIS 207

1 A Correct.

2 Q And that burglary-first carries 15 years to life,
3 correct?

4 A Correct.

5 Q Okay. Your -- your lawyer has explained that to
6 you, right?

7 A Correct.

8 Q Okay. So they could dismiss that and give you, say,
9 burglary second-degree, correct?

10 A Correct.

11 Q Okay. And again, the people who decide whether or
12 not to charge you with perjury sit at the government's
13 table, correct?

14 A Correct.

15 Q Okay. People who decide whether or not you've lied
16 here today sit at the government's table, correct?

17 A Correct.

18 Q Okay. The people who determine what fate you may or
19 may not suffer sit at the government's table, correct?

20 A I think that would be the judge.

21 Q Well, they have the power to dismiss your charges.

22 A True.

23 Q Right? Your ---

24 A Correct.

25 Q --- attorney has explained this to you ---

CROSS-EXAMINATION BY MR. BROOME - COREY WILLIS 208

1 A Correct.

2 Q --- correct?

3 A Correct.

4 Q Okay. So depending on how this goes, they could
5 dismiss everything against you, right?

6 A Correct.

7 Q Okay. And one of the things that was told you was
8 that if you were convicted of the burglary-first, that
9 you would have to do at -- at least 15 years in jail,
10 correct?

11 A Correct.

12 Q Okay. And he -- your attorney has probably
13 explained to you some. ---

14 MR. LAWRYMORE: Your Honor, may it please the Court?
15 Cole Lawrimore. I represent Mr. Willis. I will object
16 to the introduction of any testimony regarding anything I
17 may have spoken with, with my client -- with my client in
18 confidence.

19 THE COURT: All right. I -- I don't know that he's
20 necessarily going into attorney-client privilege. But as
21 far as this witness's understanding of where he stands
22 today, I -- in -- in terms of his charges, what's in his
23 mind, what he believes, I think that's relevant. But we
24 need to stay away from anything that his lawyer may have
25 advised him about this sort of situation. Okay?

CROSS-EXAMINATION BY MR. BROOME - COREY WILLIS 209

1 MR. SCOTT: Yes, sir. And penalty has -- that's
2 fair game. But it's already been mentioned twice. So I
3 ---

4 THE COURT: Sure.

5 MR. SCOTT: --- I don't want it to harp on it.

6 THE COURT: Very good. Go ahead.

7 MR. BROOME: Thank you, Your Honor.

8 Q And you understand that if you're convicted of
9 burglary-first, you would have to do 85 percent of that
10 sentence before you're released, correct?

11 A Correct.

12 Q Okay. And that burglary first-degree is a -- what
13 they call a violent offense, correct?

14 A Correct.

15 Q Okay. And that determines how the Department of
16 Corrections in South Carolina classifies you, correct?

17 A Correct.

18 Q And that determines about where you're housed,
19 correct?

20 A Correct.

21 Q Right?

22 A (Nodded head up and down.)

23 Q And they put you in places with other violent
24 offenders, correct?

25 A Correct.

1 Q People that commit murder, correct?

2 A Correct.

3 Q People that commit serious rapes, correct?

4 A Correct.

5 Q People that commit armed robberies?

6 A Correct.

7 Q Okay. This is also what they call a most-serious
8 offense, correct?

9 A Correct.

10 Q Okay. So if you're charged with another most-
11 serious offense, you will automatically face life in
12 prison, correct?

13 A Correct.

14 Q Okay. Even if the original charge doesn't carry
15 life in prison; isn't that true?

16 A I wouldn't know that, sir.

17 Q Okay. They also charged you with safecracking,
18 right?

19 A Correct.

20 Q Okay. And that carries up to 30 years in jail,
21 correct?

22 A Correct.

23 Q Okay. And it's another violent offense, correct?

24 A Correct.

25 Q Okay. Same as burglary-first, you have to do 85

CROSS-EXAMINATION BY MR. BROOME - COREY WILLIS 211

1 percent of that before you're released, right?

2 A Correct.

3 Q So if you're convicted of burglary-first and
4 safecracking, you have to do approximately 13 1/2 years
5 before you could ever see the light of day, correct?

6 A Correct.

7 Q Okay. This is also a serious offense. Safecracking
8 is a serious offense, correct?

9 A Correct.

10 Q Okay. And so if you get two serious offenses and
11 you pick up a third serious offense, you could be facing
12 life in prison without the possibility of parole, right?

13 A Correct.

14 Q Okay. They've also charged you with grand larceny
15 in this case, correct?

16 A Correct.

17 Q Okay. And that carries up to 5 years, right?

18 A Correct.

19 Q Okay. So you're -- and there's no deals. But
20 you're -- you're aware that the judge can run things
21 either concurrently, at the same time, if you're
22 convicted or consecutively, right?

23 A Correct.

24 Q Consecutively means -- means -- it just means back
25 to back to back, right?

CROSS-EXAMINATION BY MR. BROOME - COREY WILLIS 212

1 A Correct.

2 Q So your exposure right now is life plus 40 years?

3 A Correct.

4 Q You were arrested back on October 3rd, 2012; is that
5 right?

6 A Correct.

7 Q Okay. That was about -- about three months after
8 this incident, correct?

9 A Correct.

10 Q Okay. Investigator Goggins arrested you?

11 A Correct.

12 Q Okay. He took you down to the Clinton Police
13 Department and booked you in?

14 A Correct.

15 Q Okay. You were in handcuffs?

16 A Correct.

17 Q He -- he take you to Laurens Detention Center first,
18 or did he leave you at the jail?

19 A Clinton.

20 Q Clinton?

21 A (Nodded head up and down.)

22 Q And that's when he came and talked to you?

23 A Correct.

24 Q Okay. So you were already in custody and
25 Investigator Goggins approached you about what you knew

CROSS-EXAMINATION BY MR. BROOME - COREY WILLIS 213

1 on 6 -- June 23rd, 2012?

2 A Correct.

3 Q Okay. He asked you to write a statement?

4 A Correct.

5 Q And you, in fact, did make a statement?

6 A Correct.

7 Q Okay. And there was no one else in that room with
8 y'all?

9 A No, sir.

10 Q Okay. It was a small room?

11 A Correct.

12 Q Were there any windows in that room?

13 A I -- no.

14 Q You could see outside?

15 A No, sir.

16 Q Oh, okay. And he asked you to write a statement
17 about your involvement. He told you to be specific?

18 A Correct.

19 Q He told you to provide all the important details?

20 A Correct.

21 Q He said -- he asked you to tell him -- or basically,
22 he told you the more information that you tell him, the
23 better, right?

24 A That what, now?

25 Q The more information that you could provide to him,

1 that would be better for you, right?

2 A I don't remember.

3 Q Okay. But you wrote your own statement back when
4 you were in custody after you'd been arrested?

5 A Correct.

6 Q Okay. And you wrote your own statement out, right?

7 A Correct.

8 Q And he did not -- he asked you questions. And while
9 he's asking you questions, you wrote them down, right?

10 A Correct.

11 Q And when you were done, you reviewed your statement
12 with him?

13 A Correct.

14 Q He asked you if you left anything out?

15 A I don't recall it.

16 Q Do you recall if he asked you anything like that, if
17 -- if you'd left anything out, now is the time to put it
18 in? Do you remember?

19 A I don't ---

20 Q Don't remember?

21 A (Shook head from side to side.)

22 Q Okay. But when you were done with the statement,
23 you signed that statement, right?

24 A Correct.

25 Q While you were sitting in -- after you were arrested

CROSS-EXAMINATION BY MR. BROOME - COREY WILLIS 215

1 and while you're sitting in jail, you were confined to
2 the Laurens Detention Center -- Laurens County Detention
3 Center, right?

4 A Correct.

5 Q You couldn't make bond, correct?

6 A Correct.

7 Q Jail is not a very pleasant place, is it?

8 A No, sir, it ain't.

9 Q Conditions at the jail were pretty terrible, right?

10 A I wouldn't say that.

11 Q They're good? Good -- good conditions?

12 A Straight.

13 Q They're straight?

14 A (Nodded head up and down.)

15 Q You spent over eight months there in these
16 conditions. And you -- you said they're straight
17 conditions?

18 A Yes, sir.

19 Q Okay. But at some point you probably sat there
20 after you were arrested and find yourself wondering if
21 you'd ever get out of there?

22 A I kind of knew.

23 Q You knew?

24 A (Nodded head up and down.)

25 Q Did Investigator Goggins tell you that you were

1 going to get out?

2 A No, sir.

3 Q Okay. You just thought that you were going to get
4 out one day?

5 A Correct.

6 Q Okay. But you wondered if you might see your
7 children again?

8 A Correct.

9 Q Or your family again?

10 A Correct.

11 Q Family back in Arkansas?

12 A Correct.

13 Q Okay. Let's talk a little bit about what life is
14 like in the jail. When you're in jail, the guards
15 control everything you do, right?

16 A Correct.

17 Q They control what time you wake up?

18 A Correct.

19 Q They control what time you go to sleep?

20 A Correct.

21 Q They control what you eat?

22 A Correct.

23 Q They tell you where you can go and when you can go
24 there?

25 MR. SCOTT: Your Honor, the state would stipulate

CROSS-EXAMINATION BY MR. BROOME - COREY WILLIS 217

1 the jail is not pleasant.

2 THE COURT: I understand. But I think he's probing
3 this witness about how pleasant he found it. So ---

4 MR. SCOTT: All right.

5 THE COURT: --- pleasant or unpleasant, you can
6 continue ---

7 MR. BROOME: Thank you, Your Honor.

8 THE COURT: --- Mr. Broome.

9 Q They control what you watch on TV or if you get to
10 watch TV, right?

11 A Correct.

12 Q Okay. They control how many visitors that you may
13 get?

14 A Correct.

15 Q They control whether or not your family gets to come
16 talk to you, correct?

17 A Correct.

18 Q They control when you can make phone calls?

19 A Correct.

20 Q They control when you get privileges?

21 A Correct.

22 Q Such as kitchen duty, right?

23 A Correct.

24 Q Okay. They can take those privileges away from you?

25 A Correct.

1 Q Right?

2 A (Nodded head up and down.)

3 Q You're essentially always on a schedule at the jail,
4 right?

5 A Correct.

6 Q Things get tough. You don't just hop off with your
7 friends and go to Hawaii for the weekend, right, and then
8 come back?

9 A Right.

10 Q Okay. And you can only spend your money on certain
11 ways at the jail, right?

12 A Right.

13 Q You got canteen, right?

14 A Correct.

15 Q You can get -- you can make certain phone calls,
16 right?

17 A Correct.

18 Q And it's really loud in there all the time, right?

19 A Correct.

20 Q Right?

21 A (Nodded head up and down.)

22 Q You don't really have any privacy?

23 A Yeah. Sometimes.

24 Q Some -- sometimes?

25 A Sometimes.

CROSS-EXAMINATION BY MR. BROOME - COREY WILLIS 219

1 Q Well, you have a cellmate when you're in there,
2 right?

3 A Correct.

4 Q And it's a tiny, little ---

5 A Small room.

6 Q --- cement cell?

7 A Correct.

8 Q With a locked door, right?

9 A Correct.

10 Q And when you try to make phone calls to people or
11 your family, sometimes you got people in the background,
12 yelling, right?

13 A Correct.

14 Q You got to go to the bathroom with your cellmate in
15 there, right?

16 A Correct.

17 Q But eventually, you bonded out of the jail, right?

18 A Correct.

19 Q Back in 2013?

20 A (Nodded head up and down.)

21 Q And you signed a bond-information sheet. But one of
22 the conditions was that you not leave the State of South
23 Carolina, right?

24 A Correct.

25 Q Okay. But you did that, didn't you?

CROSS-EXAMINATION BY MR. BROOME - COREY WILLIS 220

1 A Correct.

2 Q You went to Arkansas?

3 A Correct.

4 Q So you broke a promise to the judge, right?

5 A Correct.

6 Q And you were supposed to come back, but you didn't
7 come back to South Carolina, correct?

8 A Correct.

9 Q And they issued a bench warrant for your arrest?

10 A Correct.

11 Q And they brought you back in on that bench warrant
12 to South Carolina?

13 A Oh, I came back.

14 Q Oh, you came back?

15 A (Nodded head up and down.)

16 Q But didn't they -- but someone placed a bench
17 warrant on you?

18 A Correct.

19 Q Okay. And that's a separate offense, right, that
20 carries up to 5 years?

21 A Correct.

22 Q Okay. And again, the state has control of whether
23 or not they can dismiss those charges?

24 A I believe so.

25 Q Right? And ---

CROSS-EXAMINATION BY MR. BROOME - COREY WILLIS 221

1 A Right.

2 Q --- it's up -- okay. And it's only up to -- to them
3 whether or not they dismiss that felony charge against
4 you as well, right?

5 A Correct.

6 Q You're kind of hoping they dismiss that too, aren't
7 you?

8 A It would be nice.

9 Q It would be nice, wouldn't it?

10 A (No audible response.)

11 Q You made -- let's go back to that written statement
12 that you made.

13 MR. BROOME: Your Honor, may I approach the witness?

14 THE COURT: (Gestured.)

15 Q I'm handing you -- see if you recognize that
16 document.

17 A Correct.

18 Q You recognize that?

19 A Yes.

20 Q What is that?

21 A Statement.

22 Q Statement that you wrote?

23 A Correct.

24 Q And it's got your signature on it?

25 A Correct.

1 Q Has anyone else's signature on it?

2 A No, sir.

3 Q Have anyone else's -- let me -- Investigator
4 Goggins' name is on -- not on ---

5 A It's ---

6 Q --- on that?

7 A --- on that.

8 Q Okay. That would be the statement that you made to
9 him, correct?

10 A Correct.

11 Q Okay. Can you point to me -- can you read on that
12 statement where you told him that you went inside the
13 house that night? You can just read it out loud.

14 A It doesn't say it on there.

15 Q Okay. Can you read out loud the part where you told
16 him that you saw my client in the truck with Gary?

17 A It don't say it on here.

18 Q Not on there either?

19 A (No audible response.)

20 Q Just read out loud, then, the part about where you
21 saw the safe in the truck.

22 A Don't say it on there.

23 Q Well, can you read out the part where you said that
24 you called my client on the phone?

25 A It don't say it on there.

CROSS-EXAMINATION BY MR. BROOME - COREY WILLIS 223

1 Q It's not on there either?

2 A (No audible response.)

3 Q Can you read out the part about what you did with
4 the .380 that you got or what you did with it after you
5 got it?

6 A It's not on here.

7 Q Not on there?

8 A (No audible response.)

9 MR. BROOME: Beg the Court's indulgence?

10 THE COURT: Yes, sir.

11 (Whereupon, Mr. Broome and Mr. Howe conferred.)

12 Q Do you know Michael Lemon?

13 A Yes.

14 Q And isn't it true that Michael Lemon is the father
15 of Mr. Poole's grandson?

16 A Yes.

17 Q Okay. Have you ever seen him -- have you ever seen
18 -- have you ever been over to Mr. Poole's house?

19 A Not since that time.

20 Q Okay. But before then?

21 A No, sir.

22 Q Okay. You ever seen Mr. Lemon with his grandson --
23 with his son?

24 A Yes.

25 Q Okay. Have you seen Mr. Lemon with his son and Mr.

1 Kinard?

2 A Not that I can recall.

3 Q Okay. Mr. Willis, isn't it true -- I mean, it's
4 possible you're not going to spend another day in jail,
5 right?

6 A I couldn't tell you.

7 Q It -- it's possible -- you agree with me ---

8 A It is ---

9 Q --- it's possible ---

10 A --- possible.

11 Q --- right?

12 A Yeah.

13 Q I mean, how many times have you met with the
14 government before you came here to testify?

15 A Well, I met with my attorney.

16 Q Was -- was anyone from the government present?

17 A No, sir.

18 Q Okay. You never met with them?

19 A No, sir.

20 Q Isn't it true that in exchange for your testimony
21 today, that the government can completely dismiss all of
22 your charges?

23 A As I haven't made a deal, no, sir.

24 Q No. I -- the question was: Isn't it true, in
25 exchange for your testimony today, they could dismiss all

CROSS-EXAMINATION BY MR. BROOME - COREY WILLIS 225

1 of your charges?

2 A I guess they can.

3 Q Okay. And that's what you're hoping for, right?

4 A It would be nice.

5 Q It would be really nice, wouldn't it?

6 A (No audible response.)

7 Q The state chose not to make a deal with you until
8 after you've testified, right?

9 A I mean, well, that wasn't even told to me.

10 Q Okay. And you're going to get rid of -- when you're
11 -- if they don't dismiss it, then they can reduce that
12 burglary-first down out of that minimum -- mandatory
13 minimum of 15 years, right?

14 A Well, I'm hoping.

15 Q Yeah. Hoping that. It'd be pretty nice, wouldn't
16 it?

17 A Correct.

18 Q Okay. Can you imagine spending the rest of your
19 life in prison?

20 A No, I couldn't imagine.

21 Q Pretty scary, right?

22 A It's tough.

23 MR. BROOME: Beg the Court's indulgence.

24 (Whereupon, Mr. Broome and Mr. Howe conferred.)

25 MR. BROOME: No further questions.

REDIRECT EXAMINATION BY MR. SCOTT - COREY WILLIS 226

1 THE COURT: Redirect?

2 MR. SCOTT: Briefly.

3 REDIRECT EXAMINATION

4 BY MR. SCOTT:

5 Q I lost count. But the defense attorney referred to
6 "the government," "the government," "the government."
7 You heard him say that?

8 A Yes.

9 Q He was talking about me and solicitor's office. Did
10 you understand what he meant by that?

11 A Okay. Not at -- not at the time. You're saying
12 it's ---

13 Q Because he kept calling me ---

14 A Yeah, yeah ---

15 Q --- "the government."

16 A --- yeah.

17 Q All right. I know you don't know why he did that.
18 But you have, in fact, met with me in the ---

19 A Yes, I have.

20 Q --- solicitor's office, haven't you?

21 A Yes.

22 Q Okay. He confused you. Well, let me ask you this,
23 Mr. Willis: You met with me today, right?

24 A Correct.

25 Q What did I tell you when you took that stand and you

REDIRECT EXAMINATION BY MR. SCOTT - COREY WILLIS 227

1 swore on that bible? What did I tell you your only job
2 was?

3 A Tell the truth.

4 Q This statement he was asking you about, October 3rd,
5 2012?

6 A Correct.

7 Q That what you wrote?

8 A Correct.

9 Q Over 4 1/2 years ago or so?

10 A Correct.

11 Q Had you met me at that time?

12 A No, sir.

13 Q Did I tell you to tell the police that you were at
14 this house and committed a burglary?

15 A No, sir.

16 Q Did anybody pressure you into admitting that you
17 were there? I mean, you put yourself there, didn't you?

18 A Correct.

19 Q Do you have any reason to lie that you were involved
20 in a burglary?

21 A No, sir.

22 Q That's dumb, isn't it, to say you were committing a
23 burglary if you really weren't?

24 A Correct.

25 Q All right. But you and Gary Jacks and Keaston

REDIRECT EXAMINATION BY MR. SCOTT - COREY WILLIS 228

1 Kinard all got together and decided all three of y'all
2 knew a thing or two about burglarizing a house?

3 A Correct.

4 Q All right. I mean, because ---

5 A Correct.

6 Q --- you said you had done it before in Arkansas.

7 A (No audible response.)

8 Q Okay. And you were telling the truth back in 2012
9 when you said you were at that house and you broke in?

10 A Correct.

11 Q And you're telling the truth today?

12 A (No audible response.)

13 Q Is that right?

14 A Correct.

15 Q Okay. And -- and jail isn't nice, is it?

16 A Not at all.

17 Q I'm not going to spend 35 minutes talking about it.
18 I promise you that. But it's not nice. We -- we all --
19 I mean, everybody knows that.

20 Last question: Did you put Keaston Kinard's
21 fingerprints on that back door of that house?

22 A No, sir.

23 Q You didn't put his fingerprints back there?

24 A No, sir.

25 MR. BROOME: Objection: leading ---

RECROSS-EXAMINATION BY MR. BROOME - COREY WILLIS 229

1 Q Okay.

2 MR. BROOME: --- Your Honor.

3 THE COURT: Overruled.

4 MR. SCOTT: Nothing further.

5 THE COURT: Nothing in recross?

6 MR. BROOME: Briefly, Your Honor.

7 THE COURT: Yes, sir.

8 RECROSS-EXAMINATION

9 BY MR. BROOME:

10 Q Mr. Willis, you just -- Mr. Scott went over the
11 statement you made. And I believe what I heard you say
12 was that he asked you that he didn't -- you didn't know
13 him back in 20 -- 2012, right?

14 A Correct.

15 Q And he referred to the statement and said in the
16 statement -- you testified, actually, that you went
17 inside the house? Remember he just asked you about it?

18 A You said I wasn't inside the house?

19 Q No. He just asked you about being inside the house.
20 I thought you ---

21 A Correct.

22 Q --- that you said -- but that's not in your
23 statement, is it?

24 A No. It don't say that, but ---

25 Q It's ---

RECROSS-EXAMINATION BY MR. BROOME - COREY WILLIS 230

1 A It's not ---

2 Q --- it's not ---

3 A --- in my ---

4 Q --- in your statement. You never put yourself in
5 that house, correct?

6 A Correct.

7 Q You never put Mr. Kinard inside that house, correct?

8 A Correct.

9 Q You never put Mr. Jacks inside that house, correct?

10 A Correct.

11 Q You were just getting snacks, right?

12 A Correct.

13 (Whereupon, Mr. Broome and Mr. Howe conferred.)

14 Q The only thing you really admitted to in that
15 statement was being in possession of a gun, correct?

16 A Correct.

17 MR. BROOME: No further questions.

18 THE COURT: All right, sir. You can step down.

19 (Whereupon, the witness exited the witness stand.)

20 THE COURT: Solicitor, if you'll call your next
21 witness, please.

22 MR. SCOTT: Gary Jacks, Your Honor.

23 (Off the record briefly.)

24 THE COURT: While he's coming in, gentlemen, would
25 y'all approach real quick, please.

DIRECT EXAMINATION BY MR. SCOTT - GARY JACKS 231

1 (Whereupon, a bench conference was held off the
2 record in the presence of the jury, but out of the
3 hearing of the jury.)

4 (Whereupon, the witness came forward.)

5 GARY JACKS, having been first duly sworn,
6 testified as follows:

7 DIRECT EXAMINATION

8 BY MR. SCOTT:

9 Q All right. Mr. Jacks, where are you from?

10 A Clinton, South Carolina.

11 Q What'd you say, Clinton?

12 A Yes, sir.

13 Q All right. You live there your whole life?

14 A Yes, sir.

15 Q And how do you know Corey Willis?

16 A I know Corey Willis through the neighborhood that I
17 stayed in. He was -- he moved up there with his -- his
18 girlfriend, Shenitra Adams.

19 Q Okay.

20 A Yes, sir.

21 Q So y'all have lived in the same neighborhood?

22 A Yes, sir.

23 Q What about -- what about Keaston Kinard? How do you
24 know him?

25 A Same neighborhood.

1 Q Okay. So you -- you ---

2 A They stay ---

3 Q --- all ---

4 A --- they stay together.

5 Q Who did?

6 A Keaston and C.O. ---

7 Q Okay. So ---

8 A --- Corey.

9 Q --- they -- they lived together for a while?

10 A Yes, sir.

11 Q C.O., that's what you call Corey Willis?

12 A Yes, sir.

13 Q All right. Well, tell me about Bennie Poole. Do
14 you know Mr. Poole or Reggie, his son, Reggie Poole?

15 A I've seen him around before.

16 Q Okay. You -- they live in Clinton ---

17 A He ---

18 Q --- as well?

19 A Yes, sir.

20 Q You know the house they live in, right?

21 A Yes, sir.

22 Q And you've been to the house, correct?

23 A Yes, sir.

24 Q June 23rd, 2012, you were at that house, weren't
25 you?

DIRECT EXAMINATION BY MR. SCOTT - GARY JACKS 233

1 A Yes, sir.

2 Q How did that come to be?

3 A It come from Lemon and Keaston. And they had been

4 ---

5 Q Well ---

6 A --- trying to ---

7 Q --- hold on. Wait, wait, wait. I'm sorry. I don't
8 mean to interrupt you. She's got to hear everything you
9 say. They got to hear everything you say. Speak up into
10 the microphone.

11 A Yes, sir.

12 Q I heard Lemon and Keaston? Is that what you said?

13 A Yes, sir.

14 Q Go from there.

15 A Okay. Lemon and Keaston had been ---

16 MR. BROOME: Objection, Your Honor. Anything that
17 Mr. Lemon say is hearsay.

18 THE COURT: I -- I think he was describing action,
19 as opposed to word. But I'm -- go -- go ahead. Ask the
20 question again maybe, Solicitor, and let him go.

21 MR. SCOTT: All right.

22 Q Let me just tell you: You can't say anything that
23 Lemon said. What about Kinard? What about Keaston
24 Kinard? What did he tell you that day?

25 A Keaston Kinard told me that day that he was going

1 down there to break into the -- the Pooles' home and
2 asked a favor for -- well, I can't say that, what you
3 say. But he was supposed to been going down there,
4 robbing the house that night.

5 And later on that night, he went down there. And he
6 called me later on that night, saying he was down there
7 at the house, that he was in, and all of that.

8 Q Okay. Did you go down there too?

9 A Yes, sir, I did.

10 Q All right. What -- what was -- what were you
11 interested in doing over there? Why would you go down
12 there? Try to get some money or ---

13 A Yes, sir.

14 Q --- something that didn't belong to you?

15 A Yes, sir.

16 Q Well, what were you hoping to get?

17 A It was intending just, I guess, the guns that was in
18 the house, sir.

19 Q You knew there were guns in there?

20 A Yes, sir.

21 Q What would you do with the guns if you got some?

22 A Sell them ---

23 Q And make ---

24 A --- for cash.

25 Q --- some money?

DIRECT EXAMINATION BY MR. SCOTT - GARY JACKS 235

1 A Yes, sir.

2 Q Let's do this. This -- this is going to -- they're
3 going to do it too. Let's go ahead and do it between you
4 and me.

5 A All right.

6 Q You got a rap sheet, don't you?

7 A Yes, sir, I do.

8 Q '03, you got a simple possession of marijuana?

9 A Yes, sir.

10 Q Is that right?

11 A Yes, sir.

12 Q 2010, you got a burglary third-degree?

13 A Yes, sir.

14 Q Okay. Unlawful entry in enclosed places, so you've
15 also been in -- before this, you've been into other
16 people's property that you weren't supposed to be in; is
17 that right?

18 A Yes, sir.

19 Q 2011, entering a premises after warning?

20 A It's there.

21 Q You remember that?

22 A Yes, sir, I remember that.

23 Q Another possession of marijuana in 2015 -- February
24 2015?

25 A Yes, sir.

1 Q Okay. All right. So this wouldn't have been your
2 first time going somewhere you didn't belong ---

3 A Yes.

4 Q --- taking something that didn't belong to you?

5 A Yes, sir.

6 Q And just trust me, they're -- they're going to ask
7 too, so I just want to clear it up that that -- that's
8 your record.

9 Well, let me ask you this: You've been to jail
10 before?

11 A I've been to the county jail.

12 Q And it's not fun, right?

13 A No, sir.

14 Q And they -- what -- what -- what they -- the -- they
15 don't allow you to use the phone and they ---

16 A No.

17 Q --- don't allow you to, you know, do -- come and go
18 as you please, right?

19 A Yes, sir.

20 Q Let's get ---

21 A Right.

22 Q --- it out of the way. Jail ---

23 A It's ---

24 Q --- is not fun. We know that.

25 A It's not fun.

DIRECT EXAMINATION BY MR. SCOTT - GARY JACKS 237

1 Q And we also know burglary-first carries 15 to life.
2 You got a burglary-first charge?

3 MR. BROOME: Yeah. Objection, Your Honor, that the
4 -- the question in there and also leading.

5 THE COURT: All right. I'll sustain. You can ask
6 him if he knows what the penalty is.

7 Q Do you know what burglary carries?

8 A Yes, sir, I do.

9 Q What is it?

10 A It's 15 to life.

11 Q Okay. You know what grand larceny carries?

12 A I think that is 10 years or 10- to 15-year sentence,
13 ain't it?

14 Q Zero to 5, would that surprise you?

15 A Yes, sir.

16 Q Okay. Safecracking, you're charged with that?

17 A Yes, sir.

18 Q You know what that carries?

19 A No, sir.

20 Q Would it surprise you if it was zero to 30?

21 A Yes, sir.

22 Q Okay. It's a lot of time.

23 A Yes, sir.

24 Q Have I made any deals with you?

25 A No, sir.

1 Q All right. Have I been very clear that I'm not
2 making any deals with you?

3 A Yes, sir, you have.

4 Q And what else? The solicitor's office, do you know
5 they have the power to dismiss charges if they want?

6 A Yes, sir.

7 Q Okay. But have I made any deals with you?

8 A No, sir, you haven't.

9 Q Did you admit to the police that you were involved
10 with a burglary at ?

11 A Yes, I did, sir.

12 Q And did you write a statement?

13 A Yes, sir.

14 Q And you put yourself right there?

15 A Yes, sir.

16 Q You admitted that to the cops before -- have you --
17 did you know me at the time?

18 A No, sir.

19 Q Well, the -- I wasn't there. I don't think any of
20 the jurors were there. Tell them what happened that
21 night. Kinard calls you; tells you to come down there.
22 You were wanting to get some guns ---

23 MR. BROOME: Objection to leading.

24 THE COURT: All right.

25 Q What'd you want to get from there?

DIRECT EXAMINATION BY MR. SCOTT - GARY JACKS 239

1 A It was guns, sir.

2 Q Okay. And what did you do once he called you?

3 A Once he called me, I got up and I went down on my
4 bike. And I rode down there to the location. Keaston
5 already was in the house. And Corey was out in the -- he
6 was in the apartment complex right beside the house and
7 the car.

8 Q Okay. Have you seen this before?

9 A Yes, sir.

10 Q Speak into the microphone.

11 A Yes, sir.

12 Q All right. That's State's 15. What's this building
13 right here?

14 A That's the apartment complex.

15 Q Okay. You know what that road is?

16 A I done forgot the name of it. Thornwell -- I think
17 it's Thornwell Road ---

18 Q All right.

19 A --- though.

20 Q Okay. Did he -- you recognize this house right
21 here?

22 A Yes. That's the Pooles' house, sir.

23 Q That's Mr. Bennie Poole's house?

24 A Yes, sir.

25 Q All right. So Corey Willis you said -- where was

1 he?

2 A He was parked where you see that first car when,
3 like, you come in. That one right there, that was about
4 where he was parked at.

5 Q All right. Somewhere around on this side?

6 A Yes, sir.

7 Q By the way, what about -- what time was it?

8 A It was around 11:30 to 12, somewhere around that --
9 around that area.

10 Q Dark?

11 A Dark. Yes, sir.

12 Q Okay. But you come up on your bicycle and he is --
13 his car is parked ---

14 A It's ---

15 Q --- there. What's he doing?

16 A He was just sitting there at the time. When I
17 pulled up, he told me that Keaston was in the house. And
18 that whenever he went -- I called Keaston phone. And
19 Keaston said he was in the house too. And he told me to
20 come on in, that the door was unlocked. He had already
21 broken in and the house was already unlocked. He told me
22 to come in.

23 Q Okay. Did you go in?

24 A Yes, sir.

25 Q All right. Did you go in through the front, or did

DIRECT EXAMINATION BY MR. SCOTT - GARY JACKS 241

1 you go in through the back?

2 A It was the back way he had went in, sir. So I had
3 to go through the back.

4 Q Okay. Do you see State's No. 2.

5 A Yes, sir. That's the door.

6 Q That's the back door?

7 A Yes, sir.

8 Q And it was already unlocked. What did you -- did
9 you notice anything about the door ---

10 A Yes, sir.

11 Q --- when you ---

12 A When I walked up to the door, I noticed that the --
13 the glass window was already broken at the bottom-right
14 corner.

15 Q Okay. Like this, State's No. 3?

16 A Yes, sir.

17 Q All right. So you entered. Did you find Keaston
18 inside?

19 A Yes, sir.

20 Q Where was he?

21 A I called Keaston name. And Keaston came around the
22 corner. After the kitchen he made a right. He coming
23 around the corner with a tire iron in the hand and looked
24 like he was fixing to hit me in the face because he
25 didn't know who I was, I guess, or -- because I had just

DIRECT EXAMINATION BY MR. SCOTT - GARY JACKS 242

1 called him. And he came around the door with a tire iron
2 that he had been prying on the safe in they house with.

3 Q Okay. Did you follow him inside at that point?

4 A Yes, sir, I did.

5 Q Okay. Where'd y'all go?

6 A To that bedroom where the safe was at.

7 Q Let me show you State's No. 5.

8 A That's the room.

9 Q That's the bedroom?

10 A Yes, sir.

11 Q And so Keaston had a tire iron?

12 A Yes, sir.

13 Q And then, what did he do with the tire iron?

14 A He began to pry on the -- the door of that safe.

15 Q Okay. And this is State's No. 9. Do you recognize
16 what that is in the back of the truck?

17 A Yes, sir. That's the safe.

18 Q Okay. That's the safe that he was prying open with
19 the tire iron?

20 A Yes, sir.

21 Q Can you see -- if you look at your picture, do you
22 see this portion of the safe in your picture?

23 A Yes, sir.

24 Q What do you notice about that?

25 A That's the part that was pried on.

DIRECT EXAMINATION BY MR. SCOTT - GARY JACKS 243

1 Q That's where he's prying it?

2 A Yes, sir. That's the part that was -- that was
3 pried on. The top -- the -- the top corner is where he
4 was prying on it.

5 Q Okay. Did y'all get it open inside the house or ---

6 A No, sir.

7 Q What?

8 A No, sir.

9 Q What'd you do?

10 A Well, at this point in time, when I went into the
11 house and he started prying onto the safe, Corey came in
12 the house and said he had locked the keys up in the car.
13 So I then left from out of the house and went back out to
14 where Corey was at, which was in the complex area and ---

15 Q Uh-huh.

16 A --- help him unlock the door of the car.

17 Q Okay.

18 A He had left the car running and locked the keys up
19 in it.

20 Q Did y'all get into it?

21 A Yes, sir.

22 Q You got ---

23 A I had got a tire -- I got a clothes hanger that was
24 on the ground area of the complex. And I went and got
25 into the car with the tire -- with the -- the clothes

1 hanger that I found.

2 Q Okay. All right. So once he got back in his car,
3 what'd y'all do with his car?

4 A Well, mostly -- when we got into his car, we rode
5 around the block a few times and we went through
6 McDonalds and just ride around the block a little bit
7 while Keaston was in the house.

8 And then we came -- we pulled up back into the
9 complex and then parked. And then we went in and checked
10 on Keaston.

11 Q Okay. So Corey tells you his car is locked; you go
12 help him ---

13 A Yes, sir.

14 Q --- over here. Then y'all leave ---

15 A Yes, sir.

16 Q --- and ride around for a little bit. Come back ---

17 A Yes, sir. We ride -- we rode around in that area
18 right there.

19 Q Did you park in the same spot when y'all got back?

20 A Yes, sir.

21 Q Okay. And then you said y'all go back to check on
22 Keaston.

23 A Yes, sir.

24 Q What's he doing at this point?

25 A At this point when we walk in, that when Keaston

DIRECT EXAMINATION BY MR. SCOTT - GARY JACKS 245

1 then had told us he found the keys to the truck and that
2 he wanted me, since I had a driver license, to take the
3 truck and back it up to the door so he can get the safe.

4 Q Okay. So he gave you some keys to a truck. Where
5 was the truck parked?

6 A The truck was parked -- you see where that -- you
7 see where that -- what they call that? -- that storage
8 and the car right there? Right there, that's where the
9 truck was parked.

10 Q Okay. And let me show you State's No. 8. This is
11 State's 8.

12 A Yes, sir. That's the truck, sir.

13 Q Okay. So you got the keys to it. Keaston gave you
14 the keys. And what did you do once you got in the
15 driver's seat?

16 A I crunk it up and I backed it up to the door.

17 Q To this back door?

18 A Yes, sir.

19 Q Okay. All right.. What's Corey doing?

20 A Corey at the time -- I think Corey was just -- Corey
21 went back to the car at this time, because when I walked
22 in, it was just me and Keaston. But he was there,
23 walking up. And then he went back outside and went to
24 the car.

25 But I -- he -- Keaston gave me the keys, and I moved

1 the truck. And then when I went back to the house, after
2 I parked the truck at the door, I went in. Keaston had
3 already started trying to move the safe out of the room.
4 And he wanted me to assist him on helping him move it out
5 the room.

6 At the time, see, Corey was still over there at the
7 -- he had went to the car at that time. But me and
8 Keaston had moved the -- the safe out the back door and
9 onto the truck. And then after that we left and Corey
10 was behind us.

11 Q Okay. So Corey was back over here, with his car.
12 You backed the pickup truck up to the house.

13 A Yes, sir.

14 Q And you helped Keaston load the safe ---

15 A Safe ---

16 Q --- onto the truck?

17 A Yes, sir.

18 Q What about your bicycle? What happened with that?

19 A I left it. I had to leave it. Because we were --
20 he had got the truck. And I just left it there.

21 And then later on -- well, Corey came back -- like,
22 when -- when I left, Corey left. He followed us. And
23 then he went back, picked my bicycle up, and put it into
24 the -- the trunk of his car and met us in Oakdale.

25 Q Okay. What's in Oakdale?

DIRECT EXAMINATION BY MR. SCOTT - GARY JACKS 247

1 A Oakdale is where we drove the truck to and -- and
2 opened the safe at.

3 Q Okay. How far away is Oakdale from Thornwell?

4 A It's -- it might've be -- it might be -- I want to
5 say 3 miles maybe.

6 Q Three miles?

7 A Yeah.

8 Q All right. So you got the truck and you take it to
9 Oakdale. And is that where y'all finally got the safe
10 open?

11 A Yes, sir.

12 Q Okay. And what all did you get out of it?

13 A It just were guns and ammo and, like, quarters,
14 stuff like that, little -- little -- little -- what you
15 call those? -- quarters that you save, like you have a
16 collection of, the collection quarters?

17 Q A coin collection?

18 A Yes, sir.

19 Q Anything else you remember?

20 A That's all that I remember coming out of the safe
21 were guns, ammo, and them quarters and stuff, the quarter
22 -- the quarter collection and stuff like that, couple ---

23 Q You got ---

24 A --- knives and stuff like that too.

25 Q Knives?

1 A Knives. Yes, sir.

2 Q You know how many guns?

3 A Roughly -- I know it was five rifles and I remember
4 -- I think it was four -- four handguns too -- four or
5 five handguns too.

6 Q Okay. Something like nine guns?

7 A Yes, sir. About nine/ten ---

8 Q Coin collection.

9 A --- guns and -- about nine/ten guns. About nine or
10 ten guns.

11 Q Okay. Any cash?

12 A Nothing but the quarters collections.

13 Q Okay. Were you guys excited?.

14 A I mean, yes, sir, I guess you could say.

15 Q And y'all -- that was a lot of money -- I mean,
16 well, a lot of valuables, rather.

17 A Yeah. Yes, sir.

18 Q All right. What'd you and Keaston say to one
19 another?

20 A We were pretty much just trying to just get done, I
21 guess, and just get back to our house or whatever. But,
22 I mean, he was excited. And I can't -- I ain't going to
23 lie. I was excited too.

24 But we just -- after we got done, we left. We left
25 the car over there in College Park, and we all went home.

DIRECT EXAMINATION BY MR. SCOTT - GARY JACKS 249

- 1 Q You left the truck ---
- 2 A Yes, sir.
- 3 Q --- in College Park?
- 4 A Yes, sir.
- 5 Q Do you know if y'all left the doors locked or
- 6 unlocked?
- 7 A I think the doors was unlocked, sir.
- 8 Q Okay.
- 9 A I think the door are unlocked.
- 10 Q Let me ask you: Were y'all thinking about Mr.
- 11 Bennie Poole when y'all were doing that?
- 12 A No, sir. We couldn't. No, sir.
- 13 Q Did you even know how he came to have all those
- 14 valuables?
- 15 A No, sir.
- 16 Q You know anything about him working for all those
- 17 valuables and earning them?
- 18 A No, sir.
- 19 Q You weren't thinking about that?
- 20 A No, sir. Not at the time. No, sir.
- 21 Q And then, well, what about the truck? I-mean, you
- 22 just left it there for anybody to get to?
- 23 A Pretty much. Yes, sir.
- 24 Q Did you and Keaston talk about what y'all were going
- 25 to do so y'all didn't get caught?

1 A At the end, when we look -- when we got done
2 dropping the truck off, we -- we went back to Oakdale.
3 And that was Corey who had dropped us off at -- in
4 Oakdale. And when we -- where we all live, they went
5 they way; I went my way. It -- it wasn't pretty much no
6 conversation. It was just we were just trying to depart
7 from each other.

8 Q Okay. But you didn't want to get caught, though,
9 did you?

10 A No, sir. No, sir.

11 Q What was your share? What'd you get out of it?

12 A What I got out of it was a -- a -- a .40 -- what
13 they call that? -- Taurus PT-140 and it -- the rest of
14 the guns was stored at my home but ---

15 Q Okay. Did you get a Haskell ---

16 A Yes, sir.

17 Q --- .45?

18 A A Haskell .45 as well and a PT --- Taurus PT-140.

19 Q Okay. What'd Keaston take?

20 A Keaston took a -- a .45. He also had a -- it was 19
21 -- I remember having -- him having -- him having a 1911
22 .45. And he had another .45 as well that he had took
23 that was chrome and pearl-handle gun.

24 Q Okay. Okay. Y'all split all the guns up, though?

25 A Yes, sir, we did.

DIRECT EXAMINATION BY MR. SCOTT - GARY JACKS 251

1 Q What'd you do with the ones you got?

2 A The ones I had, I had -- I stored them at my
3 grandma's home, where my cousin stole the guns and took
4 them to Union. And he said he got robbed for the guns,
5 but he was really trying to sell the guns to somebody
6 that worked with him at his job at Inman's Mill. And he
7 ended up saying that he got robbed for the guns and he
8 had to call the police and all this stuff to get it --
9 because his car and -- and all the stuff back that he had
10 so ---

11 Q So you lost your guns? Is that what ---

12 A (Nodded head up and down.)

13 Q We don't even know how to tell Mr. Bennie Poole how
14 to get his guns back?

15 A Exactly. If I could've got them back for you, sir,
16 I would've got them back.

17 Q But you're not denying, you stole them from him?

18 A Yes, sir.

19 Q And then somebody stole them from you, from what
20 you're telling us?

21 A Yes, sir.

22 Q Okay. But you -- once y'all abandoned the truck,
23 you said Corey drove you and Keaston back to y'all's
24 house?

25 A Yes, sir. And then when -- when he got to -- when

1 we got to Oakdale, Corey left and went to his home. And
2 I ain't hear nothing from Corey for a long time after
3 that. But I seen Keaston through his neighborhood. But
4 I ain't see Corey no more like that.

5 Q Okay. Did you and Keaston talk any more about this?

6 A No, sir. Well, I mean, briefly. But he -- we
7 really wasn't trying to talk about it like that. We were
8 trying to forget it. But ---

9 Q Well, tell me what happened when you talked briefly
10 with him.

11 A Well, when -- whenever he talk -- when -- when we
12 was talking briefly, Keaston and he'll -- he'll bring it
13 up, like, around, like, different people. Like, we'll be
14 hanging around or whatever and he wanted basically to get
15 a name for hisself or whatever, trying to basically just
16 brag, like, "Yeah. We -- we did this. We did that or
17 whatever." But I wasn't looking at it like that.

18 Q All right.

19 A I mean . . .

20 Q You put yourself in that house. That's ---

21 A Yes, sir.

22 Q --- a burglary-first.

23 A Yes, sir.

24 Q You helped him get in the safe. That's
25 safecracking. You ---

DIRECT EXAMINATION BY MR. SCOTT - GARY JACKS 253

1 A Yes, sir.

2 Q --- put yourself there. You've admitted it from the
3 first time that Tyrone came to you about it?

4 A Yes, sir.

5 Q And when you first talked to Tyrone Goggins, you
6 tell him the other people involved?

7 A Yes, sir.

8 Q And who were they?

9 A It was Keaston. It was ---

10 Q Point to Keaston while you're at it.

11 A It was Keaston. It was ---

12 Q Which one ---

13 A --- Corey.

14 Q ---is he?

15 A Keaston is right there.

16 Q What -- there's three guys there.

17 A The one in the middle.

18 Q Okay. Keaston ---

19 A And ---

20 Q --- and Corey?

21 A Corey and Michael Lemon.

22 Q Okay. And Michael Lemon, was he at the house that
23 night?

24 A No. Michael Lemon was at work. He told us to ---

25 MR. BROOME: Objection, Your Honor: hearsay.

DIRECT EXAMINATION BY MR. SCOTT - GARY JACKS 254

1 MR. SCOTT: Okay.

2 THE COURT: Sustained.

3 Q They don't want you to say what Michael Lemon said.
4 But do you know Michael Lemon -- do you know if he's
5 related in any way to Bennie Poole?

6 A He have a kid by they daughter.

7 Q Okay. But just to be clear: Michael Lemon was not
8 there that night when the house was broken into?

9 A No, sir, he wasn't.

10 Q Okay. And you said, when you got there, it was
11 about -- what'd you say, 11:30 to midnight?

12 A Yes, sir.

13 Q Okay. Dark outside?

14 A Yes, sir.

15 Q I got a question. And I got to ask it to you.

16 A Okay.

17 MR. SCOTT: Walter, put up State's No. 3.

18 MR. BENTLEY: (Complied.)

19 Q Are you the one -- are you the one that put Keaston
20 Kinard's fingerprints on that broken back door?

21 A No, sir.

22 Q You didn't do that?

23 A No, sir.

24 Q You sure you didn't put his fingerprints on there?

25 A No, sir. It wasn't no -- it wasn't no way possible

DIRECT EXAMINATION BY MR. SCOTT - GARY JACKS 255

1 I could do that kind of stuff, sir.

2 Q I think that's all, Mr. Jacks. Answer any question
3 Mr. Broome has for you, okay?

4 A Yes, sir.

5 THE COURT: All right. I anticipate that this may
6 take a little while. So we're going to go ahead and take
7 about a ten-minute break, okay, so that we can pay
8 attention with fresh minds. Don't discuss the case.
9 adjourn to the back, and we'll back on the record at
10 about 20 after, okay? Thank you.

11 (Whereupon, the jury exited the courtroom at 3:07
12 p.m.)

13 THE COURT: Sir, you can step down. Just don't
14 discuss your testimony with anyone while we're on break,
15 okay?

16 THE WITNESS: Okay, sir.

17 (Off the record from 3:07 p.m. until 3:27 p.m.)

18 (Whereupon, the jury entered the courtroom at 3:27
19 p.m.)

20 THE BAILIFF: All jurors present, Your Honor.

21 THE COURT: All right. Jury is back and is seated.
22 We're continuing with the testimony of Mr. Jacks. So at
23 this point in time, Mr. Broome, your cross.

24 MR. BROOME: Thank you, Your Honor.
25

1 CROSS-EXAMINATION

2 BY MR. BROOME:

3 Q Mr. Jacks, how old are you?

4 A I'm 31.

5 Q Thirty-one?

6 A (Nodded head up and down.)

7 Q Back in 2012 you would've been about 27; is that
8 correct?

9 A Yes, sir.

10 Q Okay. You made a written statement -- let me back
11 up. You were arrested on August the 8th of 2012 for
12 burglary-first, safecracking -- everything we're here for
13 today, right?

14 A Yes, sir.

15 Q Okay. And Investigator Goggins arrested you?

16 A Yes, sir.

17 Q Okay. Okay. And that same day he met with you and
18 you gave a statement to him?19 A At that time we -- when I got arrested, he talked
20 with me at the city. And I was -- I didn't give a
21 statement then. But a couple days later, he came and got
22 me from the county and I made a statement then.

23 Q You made a second statement?

24 A No. The first statement then.

25 Q Oh, I'm sorry. The second -- your first ---

CROSS-EXAMINATION BY MR. BROOME - GARY JACKS 257

- 1 A The second ---
- 2 Q --- statement ---
- 3 A --- appearance I made a -- a statement, sir.
- 4 Q But you told Mr. -- you told Investigator Goggins
- 5 about your role in this August the 8th?
- 6 A Yes, sir.
- 7 Q Okay. And that was the first time you spoke with
- 8 him?
- 9 A Yes, sir.
- 10 Q Okay. When you met with him on the 8th, was he
- 11 taking any notes?
- 12 A Not then, sir. Not at that time. It was the next
- 13 time, the -- to the -- the second -- the second
- 14 appearance with him, that's when we wrote it down and
- 15 when he -- that was the statement that was written.
- 16 Q The written statement that -- and he wrote that
- 17 statement for you, right?
- 18 A Yes, sir.
- 19 Q And you were in jail at that time?
- 20 A Yes, sir.
- 21 Q At the Laurens County Detention Center?
- 22 A Yes, sir.
- 23 Q And he took you to the Clinton Police Department to
- 24 write that statement?
- 25 A Yes, sir.

1 Q Okay. Was there anyone else in that room with
2 y'all?

3 A No, sir. Just me and Mr. Tyrone.

4 Q Small, little room there?

5 A Yes, sir.

6 Q No windows?

7 A No, sir.

8 Q Can you read?

9 A Yes, sir.

10 Q Can you write?

11 A Yes, sir.

12 Q Okay. But -- and you chose for Investigator Goggins
13 to write down your words for you?

14 A Yes, sir.

15 Q So you made a written statement. Did -- on August
16 10th did he show you -- or review with you your -- not
17 your testimony -- but did he review with you your
18 statement from August the 8th?

19 A No. It's what -- what I said, we talked on the 8th,
20 but we did not write a statement down until the 10th.

21 Q Correct. And so my question to you was: On the
22 10th, the second time you met with him -- second time you
23 met with Goggins ---

24 A Yes, sir.

25 Q --- at that time did you review with him ---

CROSS-EXAMINATION BY MR. BROOME - GARY JACKS 259

- 1 A The stuff we had talked about ---
- 2 Q On the 8th?
- 3 A --- on the 8th. Yes, sir.
- 4 Q Did he show you a written report?
- 5 A A written report about ---
- 6 Q Did he show you a report?
- 7 A No, sir.
- 8 Q Okay. Did he take you -- did he show you any of his
9 notes then?
- 10 A No, sir.
- 11 Q Okay. But you agree that you spoke with him on the
12 8th?
- 13 A Yes, sir.
- 14 Q And that was the -- okay. Did you meet with -- how
15 many times have you met with the solicitor's office since
16 August 2012 and today?
- 17 A Around maybe -- I want to say maybe -- on this
18 particular case, maybe three times or four times.
- 19 Q Three or four times?
- 20 A Maybe.
- 21 Q And do you remember who was present with you?
- 22 A Yes, sir. It was the gentleman right here.
- 23 Q I'm sorry. I -- I -- I don't know if the court
24 reporter can ---
- 25 A The gentleman ---

1 Q --- hear you.

2 A --- the gentleman ---

3 Q Oh.

4 A --- right here.

5 Q Yeah. Can you -- there you go right there, so the
6 court reporter can hear you.

7 A Okay.

8 Q Which -- which gentleman?

9 A It's the solicitor right there, sir.

10 Q Okay.

11 A Yes, sir.

12 Q And him?

13 A Yes, sir.

14 Q And him?

15 A Yes, sir.

16 Q Anyone else?

17 A No, sir.

18 Q Your lawyer wasn't there?

19 A Oh. Well, yes, sir. My -- Mr. Rhett -- Rhett.
20 Yes, sir.

21 Q Okay. And where did -- where did they meet with
22 you? Did ---

23 A In ---

24 Q --- you meet with the solicitor's office?

25 A In the solicitor office one time. It was right

CROSS-EXAMINATION BY MR. BROOME - GARY JACKS 261

1 here. And the other times was over there.

2 Q And did they review your statements?

3 A What you mean?

4 Q Did they review your -- the statements that you made
5 on -- back in 2012 with you?

6 A I mean, they were just asking me what -- what the
7 occurrence happened that day, so basically yes.

8 Q Uh-huh. And they brought it up on direct. But
9 they've made no offers to you in this case?

10 A No, sir.

11 Q And you've explained -- you explained on direct your
12 understanding of what burglary-first carries, right?

13 A Yes, sir, I do.

14 Q And what safecracking carries, right?

15 A Yes, sir.

16 Q And grand larceny and all that, right?

17 A Yes, sir.

18 Q And you're kind of hoping, though, that they're
19 going to dismiss these charges down the road?

20 A I ain't going lie to you. I mean, if you're asking
21 -- if they're going to -- looking for help, I mean, I
22 would like for that help. But ain't nothing been
23 promised to me. And they just have -- it wasn't, sir.
24 I'm just telling you the truth and when it happened.

25 Q You -- on your written statement that Investigator

1 Goggins wrote for you on August the 10th, did you -- you
2 told him that you rode to the house -- or the Poole house
3 on a bicycle?

4 A The -- yes, sir, on a bicycle.

5 Q Okay. And you didn't tell him that back on August
6 the 8th, did you?

7 A At that time on August the 8th -- I know what you
8 talking about. You talking about the part where I
9 couldn't decide whether I did -- did I had rode -- rode a
10 bike down there or walk. I was confused about that part.
11 But ---

12 Q Okay.

13 A --- I remember I drove the bicycle because Corey
14 picked my bicycle up and brought it to Oakdale for me.

15 Q Were you under the influence of anything on August
16 the 8th?

17 A Oh, yes, sir. At that time we had -- that whole day
18 we was together all, like, just me, Keaston, and Michael
19 Lemon, we all was together the day. And we was at a
20 neighbor house in Oakdale. We was drinking all day that
21 day.

22 Q And -- and that's why you couldn't -- so it took you
23 a couple days to remember?

24 A Was I walking or was I -- yes, sir.

25 Q Uh-huh. And in your written statement on August the

CROSS-EXAMINATION BY MR. BROOME - GARY JACKS 263

1 10th, you mentioned that you and Corey drove around the
2 block and went to McDonalds?

3 A We rode through McDonalds. We didn't never get no
4 food or anything. We rode through McDonalds and we just
5 ride -- was riding around the area -- the little area
6 right there over by where Thornwell was at.

7 Q Uh-huh. Do you -- do you recall telling that to
8 Investigator Goggins back on August the 8th?

9 A Yes, sir, I do.

10 Q You do?

11 A (Nodded head up and down.)

12 Q Okay. So that would've been in his report?

13 A Yes, sir.

14 Q And on August the 10th, do you recall telling
15 Investigator Goggins that you gave a .45-caliber handgun
16 to Michael Lemon?

17 A Yes, sir.

18 Q Okay. So that would be in the August 8th report of
19 his?

20 A It would be in both. Yes, sir.

21 Q And on August the 10th, when you spoke with
22 Investigator Goggins, you mentioned something about
23 Terrence Watson?

24 A Yes, sir. That's the house where was at. That's
25 the neighbor house.

1 Q Did you tell him that on August the 8th?

2 A Yes, sir.

3 Q You did?

4 A (Nodded head up and down.)

5 Q That would be in his report?

6 A Everything I wrote was in the report.

7 Q But it would -- you would've told him that on August
8 the 8th?

9 A Yes, sir.

10 Q You've also got some pending charges currently,
11 right?

12 A Yes, sir.

13 Q One of those is a domestic violence, second-degree?

14 A Yes, sir.

15 Q Is that correct?

16 A Yes, sir.

17 Q And that carries up to 3 years in prison, correct?

18 A Yes, sir.

19 Q Do -- do you have an attorney on that?

20 A Yes, sir. But I don't know him yet because they
21 haven't contacted me. I done did the -- the paperwork
22 for the public defender. But they haven't let me know
23 yet which am I -- lawyer that's supposed to be
24 represented for on that case.

25 Q Do you understand the solicitor's office could

CROSS-EXAMINATION BY MR. BROOME - GARY JACKS 265

1 dismiss that case against you if they wanted to?

2 A Yes, sir.

3 Q Okay. And they asked you about your prior
4 convictions for burglary, right?

5 A Yes, sir.

6 Q Burglary in the third degree, right?

7 A (Nodded head up and down.)

8 Q And you got probation out of that?

9 A Yes, sir.

10 Q Told the judge that you'd never see him again,
11 right?

12 A Yes, sir.

13 Q You tell him you were done breaking into houses?

14 A Yes, sir.

15 Q And then you went and broke into this house, right?

16 A Yes, sir.

17 Q You're trying to get probation again, right?

18 A I mean, it would be nice. But ain't ---

19 Q You want ---

20 A --- nothing been ---

21 Q --- to go ---

22 A --- promised to me.

23 Q So you -- if you did this and my client didn't, then
24 you would do the 15 years to life, is what you're telling
25 the jury?

1 A Say what, sir?

2 Q You're saying nothing's been offered to you, right,
3 and that probation would be nice, right?

4 A Yes, sir.

5 Q Okay. So that means you're willing to do the 15
6 years to life on the burglary-first; is that what you're
7 telling the jury?

8 A If it comes down to it, sir, if -- if I get the 15
9 years, I have no other choice but to do the 15 years,
10 sir.

11 Q Okay.

12 A That's what I'm saying.

13 MR. BROOME: Beg the Court's indulgence.

14 THE COURT: Yes, sir.

15 (Whereupon, Mr. Broome and Mr. Howe conferred.)

16 Q So your testimony today is that -- that you've only
17 spoken to Investigator Goggins two times, correct?

18 A I think it was like maybe three. Yeah. Yes, sir.
19 It's three. But we didn't make no -- the first two times
20 was when -- August 8th and August 10th. But it was
21 another time before then that I spoke with him and let
22 him know that this what -- this had went on and that I
23 was involved in it. But we ain't never made no written
24 statement at the -- at the time because I was still --
25 still trying to get -- get Mr. Poole's stuff back.

CROSS-EXAMINATION BY MR. BROOME - GARY JACKS 267

1 Q Were you trying to get your story straight?

2 A No. Trying to get Mr. Poole -- I was trying to get
3 Mr. Poole's stuff back.

4 Q What did you do to try and get that back?

5 A Oh, I went around trying to find where the -- where
6 the weapons and all the stuff went to so I could try to
7 get it back for them.

8 Q Did Goggins tell you on the 19th that he was going
9 to arrest you?

10 A No. Not on the 19th, sir. He just -- when -- when
11 warrants came, I mean, I guess I -- I -- at the time
12 right there, I guess it was -- the time had ran out for
13 me to try to get the guns or whatever. So I guess that's
14 when it came for warrants for whatever.

15 Q He ---

16 A So ---

17 Q --- he made you a deal kind of?

18 A It wasn't no ---

19 Q Okay.

20 A --- no deal. It was just I was trying to -- I had
21 let Mr. -- Mr. Goggins know that I -- I was involved in
22 something, that I was trying to make it right, and I was
23 trying to get the guns back for him.

24 Q Did he ask you to get the guns back or ---

25 A Sir?

1 Q Did -- did Investigator Goggins ask you to get the
2 guns back on the 19th?

3 A No, sir. He had -- he told me that if I got the
4 guns back, that I -- Mr. Poole would not file no charges
5 or anything on me. But when I couldn't get the guns
6 back, that when he -- Mr. Poole had go further with the
7 charges or whatever.

8 Q So you were surprised when you were arrested on ---

9 A No, sir.

10 Q --- the 21st?

11 A No, sir. Because I knew that if I didn't -- if I
12 didn't produce what Mr. Poole was missing, I know the
13 consequences by -- of that.

14 (Whereupon, Mr. Broome and Mr. Howe conferred.)

15 Q What did you do between the 19th of July when you
16 were spoke to Investigator Goggins and you were trying to
17 get the guns? Who'd you speak to?

18 A When this was, sir?

19 Q Whenever you met with him on the 19th of July, you
20 told him that you were going to try and find the -- or
21 you told us that you were going to try and find the guns,
22 right?

23 A Yes, sir.

24 Q Who exactly -- where were the guns?

25 A The guns was scattered everywhere. I didn't even

CROSS-EXAMINATION BY MR. BROOME - GARY JACKS 269

1 find them. And I was -- the guns that I had was stolen
2 from me. And I couldn't -- I ain't have no -- no way of
3 possible of trying to get those back, because I didn't
4 even know where to begin with to start on that.

5 Q They just happened to be stolen? They went missing?

6 A Yes, sir.

7 Q Did you speak to Christopher Payne at all?

8 A Yes, sir. I -- I speak to him. And he told me that
9 he was trying to sell the guns and he ended up getting
10 robbed for the guns in Union. So when -- when he told me
11 that, I immediately knew then that the guns would
12 probably never be recovered or ever found again. And
13 then went the -- the chance of trying to get them back
14 for Mr. Poole.

15 Q Why would you -- why -- how did Chris Payne get the
16 guns? I mean, you -- you ---

17 A They were ---

18 Q --- why would ---

19 A --- stored ---

20 Q --- you call him ---

21 A --- they ---

22 Q They were stored?

23 A --- were -- yeah. They were stored there up under
24 the house of where he was lived at. And he found the
25 guns and took them and moved them and tried to sell them.

1 And next thing you know, he say he got robbed for them
2 and they're -- and next thing I know, I couldn't find
3 them. They wasn't nowhere to be found at.

4 Q Why would you call Chris Payne and tell him where
5 the guns were?

6 A Because I was letting him be aware of what was going
7 on. Just letting him know what was going on around ---

8 Q You were just calling people around town and telling
9 them ---

10 A No.

11 Q --- you had stolen guns?

12 A No, sir. I was just calling him to let him know
13 that I had stored the guns up where he lived, up under
14 the house.

15 Q He -- to tell him, "Hey, I bought some guns at a gun
16 show and I just want to put them underneath the house"?
17 That's what you were telling him ---

18 A I just ---

19 Q --- it was about?

20 A I just told him that it was guns up under there and
21 that I wanted to him to really just take them and put
22 them under the bed until I could come up with something
23 to either sell them or either see what I'm going to do
24 with it. Because I was waiting around just to see what
25 -- what was going to happen.

CROSS-EXAMINATION BY MR. BROOME - GARY JACKS 271

- 1 Q To see what would happen with what, the charges?
- 2 A I mean ---
- 3 Q See what -- or with the guns?
- 4 A With the guns. Yeah. See what was going to happen
- 5 around with that. But he ended up taking the guns and
- 6 got robbed for them.
- 7 Q How much did Chris Payne give you ---
- 8 A Nothing.
- 9 Q --- for -- from the guns he sold?
- 10 A Nothing.
- 11 Q Nothing?
- 12 A He didn't sell them. He say he got robbed for them.
- 13 Q And you told that to Investigator Goggins?
- 14 A Yes, sir.
- 15 Q And he followed up on that, to -- to your knowledge?
- 16 A Yes, sir.
- 17 Q Okay. And same thing with Terrence Watson?
- 18 A Yes, sir.
- 19 Q What's his relationship to you?
- 20 A He just a next-door neighbor, sir.
- 21 Q He -- so he's a next-door neighbor?
- 22 A (Nodded head up and down.)
- 23 Q And he's the one who took you to get this SKS -- is
- 24 it SKS?
- 25 A Yes, sir.

1 Q Are you a big gun guy?

2 A No, sir, not really.

3 Q Are you familiar with makes and models?

4 A I mean, I can remember what's on them. That's it.

5 Q Can you describe what a SKS is like for the jury?

6 A An SKS is the one that was in this case. It was a
7 rifle that got a built-in stock in it that had the -- it
8 don't have a clip, like, type thing. But the -- it's
9 like a clip on it. And this one, he had a -- I want to
10 say a marijuana symbol on the side of the -- of the --
11 the part that you put on -- this -- the -- what they call
12 that? -- the stock or something ---

13 Q I don't ---

14 A --- that they ---

15 Q Maybe the stock?

16 A --- that you put against it or to your arm. It had
17 a symbol of -- a sign on it, a little marijuana sign on
18 it.

19 Q So Mr. Poole's gun had a marijuana symbol on the
20 side of it?

21 A Yes, sir.

22 Q That was -- it was like that when you found it?

23 A Yes, sir.

24 Q Okay. What about the -- I think it was a -- you
25 said you got four long guns, right?

CROSS-EXAMINATION BY MR. BROOME - GARY JACKS 273

1 A (No audible response.)

2 Q Did any of the rest of them have marijuana symbols
3 on them?

4 A No. Just that one.

5 Q Just that one?

6 A Yes, sir.

7 Q Okay. Did you tell Investigator Goggins about the
8 marijuana symbol that was on the SKS?

9 A Yes, sir.

10 Q You did?

11 A (Nodded head up and down.)

12 Q So that would be in either your report or your
13 statement -- or his report or your statement?

14 A No, sir. It was not in there because it -- I mean,
15 it was just irrelevant of -- of the detail. It just was
16 what was stolen was what's recorded.

17 Q Well, let's back up a little bit. I mean, you're --
18 you're trying to find these guns and help them out,
19 right?

20 A Yes, sir.

21 Q And you're trying to give him information about
22 where these guns may be, right, in case someone sold them
23 to, like, a pawn shop or something, right, or in case
24 they get -- he finds them in the -- during the course of
25 another investigation, right? Wouldn't you agree it'd be

1 important to say there's a big marijuana sticker on this
2 stock of this man's gun?

3 A I mean, the ballistic -- if it was -- if -- it --
4 all guns got a serial number on it, sir. And if you
5 bought the gun out of a -- any store, it's going to come
6 back to Mr. Poole.

7 Q Well ---

8 A If the ---

9 Q --- if you ---

10 A --- gun was found -- any gun you're going to find
11 and they have a serial number, it going come up to
12 whoever it was stolen from, sir.

13 Q What about ---

14 A Plus ---

15 Q --- people ---

16 A --- they do ballistics on them guns anyway when you
17 buy a gun. So if you would've bought the gun or found)
18 the gun on the streets anywhere and you would've did the
19 ballistic on it, whether the -- the serial number was
20 filed off of it or anything, it still is going come to
21 Mr. Poole as his weapon.

22 Q Well -- well, if the serial number -- have you --
23 are you -- do you -- if someone's filed the number off of
24 the serial ---

25 A That's what ---

CROSS-EXAMINATION BY MR. BROOME - GARY JACKS 275

1 Q --- number?

2 A --- I'm saying. If that was even a case where the
3 serial number was gone on a gun, it still going come back
4 to Mr. Poole from the ballistics of the -- of the gun
5 from the -- from the bullet.

6 Q What ballistics? I mean, if it fires a ---

7 A Every gun ---

8 Q --- bullet or something?

9 A --- that's been bought have a ballistics to it. And
10 they mark it down for each serial number.

11 Q Are you an expert in any way ---

12 A No, I'm ---

13 Q --- in the ---

14 A --- not an ---

15 Q --- handguns ---

16 A --- expert. It just stuff I -- I know, little
17 simple stuff that y'all been going -- I mean, been doing
18 for years.

19 Q At the -- so it had to be just -- in your -- let me
20 -- in your opinion, that's common knowledge?

21 A Yes, sir.

22 Q Okay. It should be common knowledge to everyone
23 that if you saw a serial number filed off of a gun, that
24 the police can just find that, no big deal?

25 A Yes, sir. You will be able to find it.

1 Q Did you give Investigator Goggins Terrence Watson's
2 address or phone number or anything like that?

3 A I can't remember did I do that. Sir, I don't
4 remember if I gave him his number or the address. But
5 ---

6 THE COURT: Could -- could you speak up just a
7 little bit? Sorry. I'm ---

8 A I'm -- I don't remember if I gave Mr. Tyrone the
9 address or the number of Mr. Terrence.

10 Q You didn't file any police reports with the Union
11 Police Department involving -- about Chris Payne taking
12 the guns or anything, did you?

13 A No, sir.

14 Q You didn't file any police ---

15 A But I told ---

16 Q --- reports with ---

17 A --- the -- I told my local police ---

18 Q You told your local police?

19 A Yes. I told me local police about what was going on
20 in my statement.

21 Q Oh, in your statement?

22 A Yes, sir.

23 Q That was after you were arrested ---

24 A Yes, sir.

25 Q --- right?

CROSS-EXAMINATION BY MR. BROOME - GARY JACKS 277

1 A (Nodded head up and down.)

2 Q After you were in custody -- and did -- did
3 Investigator Goggins tell you he could help you out in
4 any way?

5 A No, sir. No ---

6 Q No?

7 A --- sir. No, sir.

8 Q You just decided to talk to him? That's when you
9 developed a conscience to kind of talk to him on August
10 the 8th, when you were locked up at jail? That's when
11 you tried to talk to him for the first time -- or make a
12 written statement?

13 A The second time was when we -- I made the written
14 statement. But the first time when I got locked up, he
15 talked to me briefly and -- and then I was sent to the
16 county, sir.

17 Q Just sat in the county?

18 A Yes, sir.

19 MR. BROOME: Beg the Court's indulgence.

20 THE COURT: Yes, sir.

21 (Whereupon, Mr. Broome and the defendant conferred.)

22 Q Mr. Jacks, let's just finish this up. I -- I -- I
23 understand what the government is trying to do, you know.
24 You haven't been offered a deal, right? But isn't it
25 true that you expect something down the road? You expect

1 some sort of deal down the road?

2 A No. I mean, like I've told you before, sir, ain't
3 nobody offered me no deal. But, I mean, if it -- if a
4 deal was throwed, it would be nice. I ain't going lie to
5 you. But ain't nothing been throwed at me. And I'm
6 doing this because I told you I want to -- the truth to
7 be out.

8 Q Well, let's talk about it a little bit and we'll end
9 up who you are, right? You're -- you're here because
10 you're a snitch, right?

11 A Sir?

12 Q A snitch?

13 A No, sir. What ---

14 Q You're ---

15 A --- you mean?

16 Q --- you're not a snitch?

17 A I'm just telling them how it is, what happened that
18 night, sir.

19 Q Okay. And we know what you kind of are -- or what
20 you are, is that you're a thief, right?

21 A Say what, sir?

22 Q Isn't it true you're a thief?

23 A I'm a thief? I mean, you can say it. I done been
24 convicted for theft. But ---

25 Q Have you not gone into ---

CROSS-EXAMINATION BY MR. BROOME - GARY JACKS 279

1 A I don't consider myself a thief because I don't --
2 that ain't my cup of tea, to be real with you. But ---

3 Q So when you ---

4 A --- I had to do what I had to do sometimes to try to
5 make my -- to get ---

6 Q You got to ---

7 A --- my family ---

8 Q --- do what you ---

9 A --- to eat.

10 Q --- got to do?

11 So when you took the guns from Mr. Poole's, you
12 weren't stealing anything? That's ---

13 A Yes, sir.

14 Q --- what you're ---

15 A I was ---

16 Q --- telling the jury?

17 A --- stealing at that time, sir.

18 Q Okay. That wouldn't make you a thief, then?

19 A Yes, it would. But I don't consider myself as a
20 thief, sir.

21 Q Let's talk about why you're here. You're here to
22 please the government, right? You're here to please
23 them. Isn't that why you're here?

24 A No, sir. I'm here to tell the truth.

25 Q Well, that's what they -- that's what they told you,

1 right? When you met with them, they said tell the truth,
2 right?

3 A That's what I'm doing.

4 Q You expect -- and what you're trying to do is really
5 minimize your time in jail, right? You're trying to
6 minimize your time in prison?

7 A What do you mean by my time in prison? I just told
8 you I don't have any deal, sir. So why would I try to --
9 I mean, that don't make sense, sir, what you trying to
10 do.

11 Q So you're -- you're not trying to minimize your time
12 in prison? That's what you're telling -- you're ready to
13 go do the 15 years today, right?

14 A If it comes down I'm on trial, sir, yes, sir, I
15 would have to do ---

16 Q You -- you ---

17 A --- my time ---

18 Q --- just admitted ---

19 A --- and get ---

20 Q --- to me ---

21 A --- it over with.

22 Q You've admitted to it, though, so ---

23 A Yes, sir. I said ---

24 Q All right.

25 A --- I would have to get it over with.

REDIRECT EXAMINATION BY MR. SCOTT - GARY JACKS 281

1 Q And you've got these pending charges here in
2 Laurens, right?

3 A Yes, sir.

4 Q And you're hoping they'll dismiss them, right?

5 A (No audible response.)

6 Q Which, again, means if my client is innocent, that
7 you would the 15 years in jail, right?

8 A But your client is not innocent, sir.

9 Q No further questions.

10 THE COURT: Anything on redirect?

11 MR. SCOTT: Yeah. Really briefly, Your Honor, two
12 questions.

13 REDIRECT EXAMINATION

14 BY MR. SCOTT:

15 Q Why did Tyrone write that statement for you? Do you
16 know why you had him write it?

17 A At the time I was going -- I was a nervous wreck.
18 So at the time I just told Mr. Tyrone -- I told him what
19 -- what happened that night. And I just let him write it
20 down for me.

21 Q Okay. But after he wrote it, did you look at it?

22 A Yes, sir, I did. And I -- I initialed it and all.

23 Q Let's admit this into evidence.

24 MR. SCOTT: This is ---

25 A Okay.

REDIRECT EXAMINATION BY MR. SCOTT - GARY JACKS 282

1 MR. SCOTT: --- State's No. 18. It's his statement.
2 I want the whole thing just to be admitting into
3 evidence.

4 THE COURT: Any ---

5 MR. BROOME: Can we approach?

6 THE COURT: Sure.

7 (Whereupon, a bench conference was held off the
8 record in the presence of the jury, but out of the
9 hearing of the jury.)

10 THE COURT: All right. The Court will make its
11 ruling clear. But State's 18 is coming into evidence.

12 A Okay.

13 Q That's your statement that you gave. And you -- you
14 put yourself in, right? You put yourself in this
15 burglary?

16 A Yes, sir.

17 Q You have to speak up.

18 A Yes, sir.

19 Q I did want to ask you. There were -- the question
20 was about when you were arrested. Do you remember who
21 you were with the day you were arrested?

22 A I was with Keaston that day.

23 Q All right.

24 A We got ---

25 Q And y'all ---

REDIRECT EXAMINATION BY MR. SCOTT - GARY JACKS 283

1 A --- arrested ---

2 Q --- were picked ---

3 A --- at the same time. We got arrested at the room
4 we was at.

5 Q What -- what were y'all doing in that hotel room
6 anyway?

7 A Me and -- that -- that day we was just at the room.
8 We had got the room earlier that afternoon, like about
9 four or five o'clock. And we just had just laid low
10 there for the morning. And in the morning that when the
11 cops had arrested us that morning.

12 Q You guys were laying low?

13 A Yes, sir. Just laying low.

14 Q Do you remember what the name y'all checked in
15 under?

16 A It was -- I don't remember his last name. But I
17 know his first name is Opie, as far -- Opie.

18 Q Okay. But neither you or Keaston wanted to use your
19 name to check into the hotel?

20 A Exactly.

21 Q Okay. Both y'all know that law enforcement was
22 looking for you?

23 A At that time, yes, sir.

24 Q Okay. Okay. That's all. Thank you, Mr. Jacks.

25 A Okay, sir.

RECROSS-EXAMINATION BY MR. BROOME - GARY JACKS 284

1 THE COURT: All right.

2 MR. BROOME: Briefly.

3 RECROSS-EXAMINATION

4 BY MR. BROOME:

5 Q If you knew Investigator Goggins was looking for
6 you, why were you on the run?

7 A I never say -- I was just laying low that day. Me
8 and Keaston, we had got the room at five or four o'clock
9 that afternoon. And we -- I guess we were just -- we
10 were just laying low, just -- I really was trying to get
11 my thoughts together, like what was going on and trying
12 to wrap my mind around all of it. And that day I was
13 just laying low at the room. But we was going turn
14 ourself in the next following morning. But the cops had
15 came to the room instead of us going to the cops.

16 Q You were just laying low in a hotel room with -- and
17 didn't want to put your name on it, right?

18 A (No audible response.)

19 Q Didn't you call Investigator Goggins and tell him
20 where you were?

21 A No. At the time we was just laying at the room. We
22 were just laying low that day.

23 Q Didn't want to turn yourself in?

24 A Not then. But morning time, we was.

25 Q Uh-huh. And after you were caught is when you made

RECROSS-EXAMINATION BY MR. BROOME - GARY JACKS 285

1 your written statement, correct?

2 A It was after that. That day right there, we just
3 got in contact -- I mean, me and Mr. Goggin [sic], me and
4 him, we were just taking that day. We didn't never write
5 no statement until when he came back and got me from the
6 county.

7 Q But you were in jail at that time, right?

8 A Yeah. I was incarcerated at the time. I ---

9 Q You didn't ---

10 A --- was at the Clinton city at that time. And then
11 he talked to me inside of the Clinton city. But we
12 didn't never make no statement and -- or nothing like
13 that at that time, like a written statement. And then
14 when I went to the county and then that when we made a
15 written statement.

16 Q Again, after -- and that was your first written
17 statement, after you were arrested, right?

18 A Yes, sir.

19 Q After you were in custody?

20 A Yes, sir.

21 Q No further questions.

22 THE COURT: All right, sir. Thank you. You can
23 step down.

24 THE WITNESS: Yes, sir.

25 (Whereupon, the witness exited the witness stand.)

1 THE COURT: Solicitor, call your next witness.

2 MR. SCOTT: Your Honor, at this time the state
3 rests.

4 THE COURT: All right. Ladies and gentlemen, I need
5 to address some motions with the attorneys. And I also
6 want to discuss with them kind of logistics going
7 forward. So I'm going to let y'all take a brief break.

8 I don't know how long this is going to take. It's
9 looking like we will not be getting this case to, but
10 we're actually ahead of schedule. I was hoping to get it
11 to you today. But let me talk to the attorneys, address
12 their motions, before we move forward further, okay?

13 So with that, adjourn to the back but don't discuss
14 the case yet. Thank you.

15 (Whereupon, the jury exited the courtroom at 4:02
16 p.m.)

17 THE COURT: All right. The jury is out. Mr.
18 Broome, I assume that you move for a directed verdict and
19 renew all prior motions, correct?

20 MR. BROOME: Yes, Your Honor. On top of that, I'd
21 move for a dismissal for lack of venue. It's not been
22 established -- our contention, it's not been established
23 that this crime ever was committed in Laurens County.

24 THE COURT: I understand your position. I'm -- the
25 part about it being Laurens County, I think, was

1 established by Casey Jones, who basically said that this
2 address was located in Laurens County. I believe that
3 was one of the first questions that was asked of him --
4 the same of Phillip Wicker -- that it took place in
5 Clinton, which I think I could take judicial notice of
6 the fact that obviously Clinton is located in Laurens.

7 As far as the directed-verdict motion, however, the
8 -- the Court finds that there is sufficient direct and
9 circumstantial evidence to warrant this matter going to
10 the jury. You had something else, sir?

11 MR. BROOME: Just -- and then, being very clear,
12 renewing my prior Rule 5 motion after Investigator
13 Goggins. Thank you, Your Honor.

14 THE COURT: Correct. Same ruling as before on that,
15 as well as all prior rulings pretrial.

16 With regard to the State's Exhibit 18, at the bench
17 the defense's primary issue with this was some hearsay
18 that's contained in the statement. Can I suggest that
19 perhaps the two of y'all could get together while we take
20 a brief break and see if you can agree on how to redact
21 State's 18.

22 What I would suggest that we do is we let one copy
23 come in as identification, just for ID so that the record
24 is complete. And then, if y'all have an additional copy,
25 we can create a duplicate 18A and let that be the

1 redacted one. And you're probably going to need to not
2 only mark through it, but make a photocopy of it. So
3 y'all get together on that if you could.

4 Is it still the defense's intention to not present a
5 case, or do I need to discuss that further with your
6 attorney or would you -- or with your client or would you
7 like for me to break and then you can tell me?

8 MR. BROOME: Let me take a short break on that, Your
9 Honor ---

10 THE COURT: We will ---

11 MR. BROOME: --- and then ---

12 THE COURT: --- do that, then.

13 MR. BROOME: --- we'll give you a decision.

14 THE COURT: Very good.

15 MR. BROOME: And we'll ---

16 THE COURT: And ---

17 MR. BROOME: --- work on those redactions too.

18 THE COURT: Very good. The -- the copy I have --
19 I'm -- if -- I assume y'all got another copy of this.

20 MR. SCOTT: Yes, sir.

21 THE COURT: Let's just ---

22 MR. SCOTT: Yes, sir.

23 THE COURT: --- let this one be 18 for ID. I'll let
24 the court reporter mark it. And we're going to come up
25 with another 18 that's actually redacted.

1 (Off the record from 4:06 p.m. until 4:23 p.m.)

2 THE COURT: Okay. We'll go back on the record. Mr.
3 Broome, have you had a chance to discuss all this with
4 your client? Where do we stand?

5 MR. BROOME: His -- I have, Your Honor. He is not
6 going to testify.

7 THE COURT: All right. I assume that you and -- and
8 Mr. Howe have reviewed with him at length his right to
9 testify, Fifth Amendment, all that stuff. Do you see any
10 particular need for me to go over it with him?

11 MR. BROOME: No, Your Honor, unless you're inclined
12 to. But Mr. Howe and I spent the majority of that
13 meeting talking about reminding him this is his -- this
14 is his choice, this is his choice, and going over what
15 that might be. And his decision at this time is not to
16 testify.

17 THE COURT: All right. Is -- is that correct, sir?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: All right. Good enough.

20 We have not had a charge conference quite yet.
21 Honestly, I'm kind of inclined, because we would be
22 sending this to the jury rather late, I would think
23 perhaps it's best to have them come back in the morning.
24 Any problem with that from anybody or y'all good with
25 that? We can argue and charge in the morning. We can

1 discuss maybe instructions.

2 Let's go ahead and have the jury out, please.

3 (Off the record briefly.)

4 (Whereupon, the jury entered the courtroom at 4:25
5 p.m.)

6 THE BAILIFF: All jurors present, Your Honor.

7 THE COURT: All right. Record should reflect that
8 the jury is back and is seated.

9 At this point, Mr. Broome?

10 MR. BROOME: Your Honor, the defense rests.

11 THE COURT: All right. Very good. Ladies and
12 gentlemen of the jury, what we're going to do now, I'm
13 going to go ahead and release y'all for the evening
14 because, under the law, I have to have a discussion with
15 the attorneys about the law and the instructions that I'm
16 going to give y'all tomorrow morning.

17 Additionally, I -- I expect that between closings
18 and my instructions, the soonest that we could get this
19 to you would probably be around six, based upon the time
20 right now. So I'd rather use the time productively,
21 discuss the instructions with the attorneys, and simply
22 ask that y'all be back tomorrow morning, okay? And that
23 way, we won't have to concern ourselves with y'all
24 missing out on something that y'all need to get done this
25 evening.

1 Overnight, of course, please don't discuss the case
2 with anyone. I will need all 12 of y'all back tomorrow
3 morning, again, at 9:30. I anticipate at that point in
4 time being able to roll straight into -- there was a
5 delay this morning. I apologize for that. It was my
6 fault.

7 But I do anticipate being able to hit the ground
8 running and go straight into this starting around 9:30,
9 okay? So do have a lovely evening. Wear those badges
10 home. Wear them back tomorrow. And I'll see you at
11 9:30. Thank you.

12 (Whereupon, the jury exited the courtroom at 4:36
13 p.m.)

14 (Off the record briefly.)

15 THE COURT: All right. The jury is out. I'm going
16 to go ahead and send my instructions to everyone. Mr.
17 Todd, I can't seem to get your e-mail to pull up. What's
18 -- what's the ---

19 MR. TODD: Jtodd@greenwoodsc.gov.

20 THE COURT: Okay. Okay. Here we are. I got you
21 now. You're just underneath Jean Toal.

22 MR. TODD: Ooh.

23 THE COURT: All right. I'm e-mailing those to you.
24 The -- at this point in time, just so that you know, in a
25 nutshell what we have so far, the -- the meat of it is --

1 I included an instruction on punishment. I've got the
2 general definition of burglary first-degree. I did not
3 include the part about asportation of property because,
4 according to the indictment, it's based solely on the
5 evening, the fact that this took place at one in the
6 morning.

7 Standard charge on safecracking. One question that
8 I had of y'all: On grand larceny charges, you know,
9 there -- there's a variance between a 2 and 10 thousand
10 dollar. And I think that that was in 2000 that they
11 changed the law, correct? So in 2012 it would've been
12 when they had the 2-to-10 range and the -- the over-10
13 range. Is the state conceding that this is below 10,000?

14 MR. SCOTT: Yes, sir.

15 THE COURT: Okay.

16 MR. SCOTT: I think the indictment -- or it should
17 relate 2 to 10 ---

18 THE COURT: Okay.

19 MR. SCOTT: --- is what it -- the CDR code should
20 ---

21 THE COURT: I don't know that -- perhaps you're
22 correct.

23 MR. SCOTT: I think the body should mention the ---

24 THE COURT: Okay. Yes. You are correct. Less than
25 10, but above 2.

1 Were there additions that the -- either the state or
2 the defense sought to those instructions? I -- I was not
3 going to -- I was thinking about hand of one, but that
4 applies more where you're dealing with somebody who's
5 aiding the principal. And the state's theory in this
6 case is ---

7 MR. SCOTT: Well ---

8 THE COURT: --- that the defendant is the principal.

9 MR. SCOTT: Yeah. That's what I was going to ask
10 about. I -- and I was going to, at the same time, say
11 I'm not really advocating hard for it. I -- I would
12 potentially explain that to some degree in my closing. I
13 don't -- I don't necessarily need that as a charge for
14 the trial of Mr. Kinard. But I will, I guess, go into
15 accomplice liability a little bit with the codefendants,
16 basically describing how even if Corey Willis didn't go
17 inside, hand of one -- you know, he's guilty of a
18 burglary-first or safecracking, even though he didn't
19 actually put the tool to the safe. So I don't need a
20 charge as relates to him. But I might go into that a
21 little bit. And I had -- that was what I was going to
22 ask if you would consider. But I would think it would
23 not be appropriate, as far as Mr. Kinard's guilt, based
24 on this -- the facts presented at trial.

25 THE COURT: The -- the instruction is just so long

1 and it really ---

2 MR. SCOTT: Right. Yeah.

3 (Whereupon, Mr. Broome and Mr. Howe conferred.)

4 THE COURT: I'm not going to charge "hand of
5 one/hand of all." I think you can argue that, certainly,
6 to the jury as it relates to the culpability of the other
7 defendants. But as it relates to Mr. Kinard's potential
8 culpability under the state's theory, I -- I don't think
9 that it's really warranted.

10 Did y'all have any requests?

11 MR. BROOME: No, Your Honor.

12 THE COURT: Okay. I -- I'd considered a mere
13 presence. And I assume that y'all had considered ---

14 MR. BROOME: Well ---

15 THE COURT: --- a mere presence.

16 MR. BROOME: Yeah.

17 THE COURT: But this -- I think that that might even
18 muddy the waters further, based upon y'all's -- what I
19 expect that you're going to argue in terms of your
20 closing. So ---

21 MR. SCOTT: Judge, I would strongly argue against
22 that. I mean, there -- it's been -- there's no consent
23 that he's in that house. He can't be merely present if
24 there's no testimony to the contrary. The testimony, in
25 fact, was that he had no consent to be there. Matter of

1 fact, they didn't even know him.

2 THE COURT: Yeah. I -- I understand. I -- I assume
3 that Mr. Broome is going to explain away the -- the --
4 well, I -- I'm -- I'm not going to -- he -- he's getting
5 last argument. So I'm not going to suggest what his
6 argument might be. But I think that there may -- may be
7 very good reasons why Mr. Broome is not looking for that
8 instruction.

9 If you need to reflect on it further, though, just
10 e-mail me this evening ---

11 MR. BROOME: Let me look ---

12 THE COURT: --- and ---

13 MR. BROOME: --- at that this -- this evening, Your
14 Honor. And I'll e-mail everyone.

15 THE COURT: That'll be -- that'll be fine. But I --
16 I'm -- at this point in time, I'm kind of not inclined
17 because I think I know what your theory is. And I -- I
18 don't know that it would necessarily apply anyway.

19 MR. SCOTT: Your Honor ---

20 THE COURT: Any other thoughts on the instructions?

21 MR. SCOTT: Well, no. But procedurally, I've got
22 the *Beaty* case here. I've tried at least one case since
23 this case came out. And we've followed the Supreme
24 Court's directive.

25 The way I understand it, Mr. -- if I make the

1 motion, Mr. Broome would be required to open fully -- or
2 close, rather, fully on the -- the law and the facts.
3 Then I would be able to respond. And thereafter, he
4 would be able to have a final argument, but only as it
5 relates to new issues I brought up.

6 This is a Supreme Court's case. I understand
7 there's a petition for rehearing. But this is their
8 directive now. I've followed it earlier this month in a
9 murder case with a Newberry trial I did. So I will bring
10 that up as an issue.

11 THE COURT: All right. The -- in the "for what it's
12 worth" category, the exact meaning of *Beatty* is being --
13 or has been debated among the circuit judges. And we've
14 been trying to reach a consensus on exactly whether it
15 means that the person who doesn't present a case gets
16 last argument and all that other stuff and the -- do you
17 have a position on this ---

18 MR. BROOME: I -- I ---

19 THE COURT: --- Mr. Broome?

20 MR. BROOME: --- do, Your Honor. I mean, we've
21 presented no evidence whatsoever, not introduced any
22 evidence whatsoever.

23 THE COURT: The -- the majority view among the
24 circuit judges seems to be that if the defense in a
25 criminal case presents no evidence, the same old rules

1 apply that we've always had, okay? That's the majority
2 position. There's some other people out there that are
3 arguing essentially what you were arguing. Judge Young
4 down in Charleston is a fierce advocate of the majority
5 position, based on his reading of *Beaty*.

6 MR. SCOTT: The -- the only issue that I bring up,
7 they refer to the party.

8 THE COURT: I know.

9 MR. SCOTT: They don't refer to the state or the
10 defense. The party.

11 THE COURT: Well ---

12 MR. SCOTT: I -- I -- but I -- look, I'm not going
13 to make ---

14 THE COURT: Right.

15 MR. SCOTT: --- it a big issue. And, in fact,
16 that's one of the issues in the petition for rehearing.
17 Let's get some clarity on that.

18 THE COURT: I -- I -- it -- it would be nice. And
19 that's probably, hopefully, why they will give a
20 rehearing on *Beaty*. Because the Court has been -- the
21 courts have been struggling with that. And I'm -- I'm
22 going to -- until I get clarification, I'm going to do
23 what Mr. Broome has suggested: follow the old rule and
24 go with the majority opinion of the current circuit
25 judges who have been debating this on our Listserv ever

1 since *Beaty* came out, okay?

2 MR. SCOTT: I like the old rule. But you -- the
3 party, that's why -- they could've been -- made it so
4 much clearer, the state, you know, and then we wouldn't
5 have had to even consider ---

6 THE COURT: I -- I'm not ---

7 MR. SCOTT: All right.

8 THE COURT: --- one to question the wisdom of the
9 Supreme Court. Any other thoughts before we break for
10 the evening, gentlemen?

11 MR. BROOME: (Shook head from side to side.)

12 THE COURT: No?

13 MR. BROOME: No, Your Honor.

14 THE COURT: All right. Y'all have a good night.

15 MR. HOWE: Thank you, Judge.

16 THE COURT: Yes, sir.

17 (Whereupon, the proceeding was adjourned at 4:36
18 p.m.)

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24

25

1 TRIAL DAY 3 - 02/01/17

2 (Whereupon, the proceeding was reconvened at 10:05
3 a.m.)

4 THE COURT: All right. Sorry for the delay. We'll
5 go back on the record in the State v. Mr. Kinard, who is
6 present, of course, with counsel. I've e-mailed the
7 instructions to everybody last night. They're along the
8 lines of what I discussed. Any suggestions/corrections?
9 I did correct the grand-larceny thing to reflect more
10 than \$2,000, as opposed to more than 1,000.

11 Any other thoughts?

12 MR. BROOME: No, Your Honor, not on that.

13 THE COURT: All right. Anything from the state?

14 MR. SCOTT: No, Your Honor.

15 THE COURT: All right. Anything?

16 MR. BROOME: Before we started and before the jury
17 comes back in, to be clear -- and I'm not sure if I
18 renewed my directed-verdict motion after I rested. So
19 I'd like to do that at this time and my -- and my
20 previous objections that are -- already been preserved.

21 THE COURT: Very good. Same ruling as before.
22 Thank you for doing that. I forgot to mention that.
23 Good point. Same rulings as before.

24 Let's have the jury, please.

25 (Off the record briefly.)

1 (Whereupon, the jury entered the courtroom at 10:07
2 a.m.)

3 THE BAILIFF: All jurors present, Your Honor.

4 THE COURT: The jury is back and seated. Ladies and
5 gentlemen of the jury, thank you for being here at 9:30.
6 I got here around 9:25, expecting to be able to hit the
7 bench and go forward straight back into this trial again.
8 And Judge Hocker informed me that there was an attorney
9 here from out of town; Judge Hocker had a conflict; and
10 I'm hearing the bond motion involving the defendant
11 because he had previously represented the defendant. And
12 he asked that I handle it, and the lawyer had to be in
13 another court here in about an hour. And so I needed to
14 go ahead and get that squared away so that we didn't
15 throw a big old monkey wrench into somebody else's court.

16 So I apologize for keeping you waiting. That's why.
17 That's why you were back there. I had to hear that case,
18 and nobody else was in a position to hear it.

19 We are, of course, resuming with the trial of *the*
20 *state v. Mr. Kinard*. And we've reached that point in the
21 trial, ladies and gentlemen, where you've received all
22 the evidence that you're going to have in order to judge
23 this case, okay?

24 Now is the time for the attorneys to give you their
25 closing summation, or their closing argument. And I'll

1 let you know that what the lawyers usually say in their
2 closing argument, they usually will refer to facts; they
3 usually will refer to testimony that -- that's been
4 elicited from the witnesses. But, of course, their
5 closing is not evidence and anything that they say about
6 the facts, if it differs from what you're recalling those
7 facts being, you -- if it -- if they say something about
8 the testimony and you recall that witness testifying to
9 something different, go with your recollection of what
10 the facts are, okay? Go with your recollection of what
11 the testimony was. Because obviously, you are the judges
12 of the facts. All right?

13 The way that we'll proceed in the order of argument
14 is the state will go first, to be followed by Mr. Broome
15 on behalf of Mr. Kinard. So at this point in time,
16 Solicitor, you are recognized for your closing argument,
17 sir.

18 MR. SCOTT: Thank you, Your Honor. May it please
19 the Court?

20 THE COURT: Yes, sir.

21 CLOSING ARGUMENT BY MR. SCOTT

22 MR. SCOTT: My home is my castle. That's what Jim
23 Todd -- Assistant Solicitor Todd said in his opening
24 statement: My home is my castle. And I like listening
25 to opening statements. And sometimes, even when the guy

1 is working with me, he does his opening statements. I
2 don't even know what he's going to say.

3 Sometimes Jim will come to me and say, "Hey, let me
4 preview this opening statement."

5 I'll say, "All right. Now, just give me the general
6 idea." I don't want to hear it, you know, because I like
7 to sit in here like you guys and hear a case that I'm
8 very familiar with, but through a different set of eyes
9 and just kind of hear their thoughts on it.

10 And I'll listen to the defense opening statement as
11 well. But my home is my castle. Y'all remember when he
12 said that in opening? It -- it's a nice thought.

13 And what it means to me is that, you know, we can
14 get up in the morning and we can go to work. And we can
15 get beat down by the things that happen during the day.
16 Maybe we have a boss that we don't get along with,
17 coworkers we don't get along with, people we see at the
18 grocery store who do things different than what we like
19 to see done. They're rude to the cashier.

20 We see a lot of ugly things on the news. But when
21 we go home, when we unlock that door, when we sit in our
22 living room, when we lie in our bed, we're safe and
23 secure. Because that's our castle. That's a little
24 something we can call our own and a little something --
25 and idea -- like my home is my castle -- it's kind of a

1 nice thing. It's a comforting thing.

2 And I think Mr. Bennie Poole, he -- he would've held
3 that sentiment. And -- and he would've thought that nice
4 thought. Mr. Poole, as you've heard, he's a veteran,
5 army vet, a hardworking man. He and his wife, Annie,
6 here lived in that home on Thornwell for 40 years; raised
7 a family there, three children. Worked his whole life:
8 aside from the army, a millworker. I remember him saying
9 he was a security guard; drove an armored truck.

10 Worked his whole life so he -- he can accumulate
11 things, things that he's earned through that hard work.
12 He can pay for that home. He can pay for that castle.
13 It might not look like much to everybody else, but that
14 was his castle. Those were his things. And he earned
15 them.

16 Heirlooms, peace of mind, valuables, they can all be
17 taken. And that castle suddenly doesn't feel so safe.
18 It suddenly doesn't feel as secure anymore.

19 And the defense, they talked about things. They --
20 they quoted: Some things are worth more than money,
21 gold, and jewels. And I think that peace of mind, that
22 sense of safety, that's one of things that's worth more
23 than money, gold, and jewels, because you can't buy that
24 back. You understand me? He can't have that back
25 because of Mr. Kinard.

1 Every night when he goes in the home, puts the key
2 in the door and walks in, what goes through his mind? Is
3 somebody in this house? Has somebody been in this house?
4 Are my things still here?

5 That peace of mind is gone. And, Mr. Poole, you
6 have Keaston Kinard to thank for that, I'm sorry to tell
7 you. And I don't think you'll ever get that peace of
8 mind fully back.

9 You can get you a security systems. You can get all
10 that. But you never really fully get them back. That's
11 just a fact.

12 And we are here to talk about June 23rd, 2012. All
13 right? I have tried my best to limit the testimony and
14 the evidence to that window of time when his home was
15 burglarized -- Mr. Poole's home was burglarized at

16 . I've tried. Okay?

17 And I've brought the only witnesses to that even
18 here before you to testify. We weren't there. If you
19 were there, you wouldn't be qualified to serve on the
20 jury. I wasn't there. If I was, I couldn't prosecute
21 the case.

22 I put up Corey Willis, and I put up Gary Jacks to
23 talk about what happened that night. Guess what? I
24 don't put them up there because they're my buddies. I
25 don't put them up there because I like them. I don't put

1 them up there because I want them to come back to my
2 office later and hang out with me.

3 I put them up there because they were there that
4 night. And they are here to tell you what happened that
5 night. And you're entitled to hear from them.

6 I didn't pick those guys. All right. Let me be
7 clear on that. I never get to really pick my witnesses
8 fully. You know, Keaston Kinard picked them.

9 And a lot was talked about -- a lot was talked about
10 with Corey Willis, for instance. The defense spent 35
11 minutes, by the way, talking about how bad jail was;
12 talking about the crimes he had.

13 And I said, Well, let's get back to June 23rd.
14 Let's talk about why we're here: the burglary that
15 happened in Mr. Poole's home. Let's talk about that.

16 We all know jail is a very unpleasant place. At one
17 point I stood up and said, "Hey, I stipulate it's bad."

18 But they -- they want to carry on because they want
19 to make this about things other than what happened June
20 23rd, 2012. If I can get that jury's eyes off what
21 happened that night and if I can make them focus on other
22 things, maybe they'll lose sight of the ball. Maybe
23 they'll kind of forget why we're here.

24 And that's -- that's all that was. That's why we
25 spent 35 minutes talking about what they were facing,

1 talking about how bad jail was. But I understand that
2 you recognize that.

3 You know, their records were discussed. I
4 understand that. Anytime you get on the stand, people
5 can ask you about your prior record. You got to take the
6 stand; you got to swear under oath to tell the truth.
7 And then, anything if fair game.

8 They can say, "Well, didn't you pick up a burglary-
9 third here?" Or, "Didn't you get a housebreaking there?"

10 I knew that when I put them up there. I know that.
11 I've been doing this long enough to know what happens
12 when I put a witness up there. And I understand that.
13 And it makes complete sense to me that these guys have
14 these prior records.

15 And they are thieves. He called them thieves. And
16 he called them snitches because they would tell what
17 happened that night and put themselves in Mr. Poole's
18 home and put Keaston Kinard in there with them.

19 But I get -- they are thieves. I don't hide that.
20 People with bad intentions, people who do bad things,
21 gravitate towards other people who do bad things.

22 You think Keaston Kinard's going to get a couple
23 teachers or nuns or clerks or -- or anybody to
24 participate in a home burglary with him? No. He's going
25 to find people who think like he does: other burglars.

1 That's why, when he decides to break in Mr. Poole's house
2 and steal all those hard-earned goods, he goes to Corey
3 Willis and he goes to Gary Jacks.

4 So that was kind of the thing: Let's make this case
5 about Gary Jacks and Corey Willis. Let's talk about the
6 deals they may or may not get. Let's don't make this
7 about Keaston Kinard's trial.

8 Keaston Kinard is entitled to his own trial. That's
9 why we're here this week. You know, Corey Willis and
10 Gary Jacks, they, too, are entitled to their own trial.
11 That'll be another week.

12 Now, let me say this, as an officer of this Court.
13 As suggested by my friend over here on the defense, their
14 charges will not be dismissed. I tell you this. They
15 will have their day in court that they will face their
16 charges. But that's not this week. This case isn't
17 about them. Case is about Keaston Kinard.

18 And that was the other thing, this idea that
19 everyone's against poor Keaston Kinard. You count -- I
20 -- oh, I didn't count. I wish I could give you the
21 number. But how many times they refer to me as "the
22 government"? "The government did this. The government
23 does that. Tyrone Goggins, the government; Crystal
24 Roberts, the government; Walter Bentley, government; Jim
25 Todd, the government."

1 There's an idea there. And I hope you understand
2 that. It's to make us look like some big, unruly machine
3 that is going down on Mr. Kinard. Make no mistake. The
4 only role we have here is justice and to see that Mr.
5 Poole gets a little bit of justice this week.

6 Let me tell you another thing. This trial is one of
7 the greatest functions of our government that we have.
8 You're in a government building. Everyone working in
9 this courthouse is a government, public employee. Mr.
10 Bolt, government employee; Ms. Victoria back there, she
11 works for the government. Tyrone Goggins you heard with
12 -- heard from, government employee; so is Commander
13 Roberts. Clerk of court, elected government official.
14 Our judge, a government official, public servant. Public
15 defender's office, government-funded agents.

16 And this is the greatest -- and we're all proud of
17 our jobs. I hope we are. I hope we're all proud to be
18 part of what I think is one of the most important
19 functions of our government.

20 But I just don't -- I don't want to be confused.
21 We're all government agents. And whenever they keep
22 calling us "the government," at one point Corey Willis
23 said, "Who you talking about?" He's talking about us,
24 Corey, the sex solicitor's office.

25 But I submit to you, again, that's to take your eyes

1 off the ball. Let's don't talk about June 23rd. Let's
2 talk about other things. But you all saw that. And I
3 watched, and you didn't take your eyes off the ball.

4 The -- I listened to Jim Todd's opening statement.
5 That's where I got the "my castle -- my home is my
6 castle." And again it's -- it is a nice idea.

7 The defense, they had an opening. They talked about
8 the three Cs. They say, "Guys, I want you to focus on
9 the three Cs." And they said, "Those are credibility,
10 consistency, and corroboration." That's what the defense
11 said they want you to focus on.

12 Let's talk about credibility. Gary Jacks, Corey
13 Willis -- they're going to tell you they have major
14 credibility issues because they are criminal history --
15 they have criminal histories and they are facing charges.

16 I submit to you, that makes them more credible. Who
17 stands up here and says, "I did a burglary. I'm involved
18 with a safecracking. I'm involved with larceny of Mr.
19 Poole's belongings."

20 Who says that if they're not -- if they didn't do
21 it? How would they have this knowledge of what happened
22 there? How could they describe these things that were
23 taken if they hadn't done it? How could they describe
24 the inside of Mr. Poole's home if they hadn't been in
25 there? Do you understand what I'm saying?

1 So yeah. They got these records. Yeah. They're
2 facing these charges. But they are wholly credible.

3 And what I want to understand is: If they're saying
4 "I did it; you got me; I was in the house; I helped load
5 the safe on the truck; we stole these things," why, just
6 out of the blue, do they put Keaston Kinard in it too, if
7 he wasn't with them? I don't understand it. What's the
8 purpose of putting him in it, unless he was there?

9 Consistency -- they're going to say, "Oh, well, you
10 know, they weren't 100 percent consistent from the very
11 beginning to the very end." And what I remember them
12 harping on a lot was, "Well, Mr. -- Mr. Jacks, your --
13 your story's changed, hadn't it?"

14 He said, "Well, what do you mean?"

15 "Oh, but here you said you walked to the house, but
16 over here you said you rode a bicycle. So we can't
17 believe a thing you said because you're inconsistent."
18 That's the inconsistency they want to talk about.

19 He has been very consistent the whole time, though.
20 He was in that house. He puts himself in there. He has
21 admitted to a burglary-first.

22 He has said the whole time, "Corey Willis was there
23 as our lookout man, our getaway driver." Locked his keys
24 in the car. I'm not telling you these guys are the
25 smartest criminals in the world. Helps load the safe on

1 the back of that truck. He puts himself in Mr. Poole's
2 truck, driving it away with Keaston in the passenger's
3 seat. He talks about the guns that were unloaded.

4 The important things he's consistent on. Okay. I'm
5 going to give it to him. Maybe on one time he said he
6 walked; on another time he said he rode a bicycle. If
7 that's enough for you to find his testimony throwaway
8 testimony, then do as you will. But that's the only
9 inconsistency I do recall them bring up.

10 Corroboration was the third C. Okay? And I'm about
11 done. Corroboration -- what -- the example -- the best
12 example -- and this is the defense saying you need these
13 three Cs. And -- and the corroboration part was -- I
14 hope this wasn't lost on you guys, okay?

15 Corey Willis and Gary Jacks separately and
16 independently tell this story that is consistent with
17 each other's stories. They put themselves there. They
18 talk about the home; they describe it.

19 Both of them independently put Keaston Kinard in
20 there with them. Did you understand that? It wasn't
21 like they were interviewed together and they both start
22 saying, "Oh, yeah, that's right. Keaston Kinard was
23 there. That's right."

24 The -- they were independently and separately
25 interviewed, and both of them told the same story. Okay.

1 Here's the corroboration part. And I hope this wasn't
2 lost on y'all.

3 They tell this story in August. They tell the cops
4 what happened in August. It isn't till September that
5 SLED comes back with that fingerprint analysis that says:
6 Oh, they were right. Keaston Kinard's fingerprint is on
7 the back door. There's your corroboration right there,
8 okay? So there's your three Cs.

9 The other thing that was striking to me: The
10 defense, in opening statement, said, "I can't get around
11 the fingerprint. I can't get around it."

12 There is a fingerprint on the back door, and it's
13 Keaston Kinard's. And it's broken glass, and it's the
14 point of entry where somebody broke into Mr. Poole's
15 home. I can't get around it. And he can't.

16 I submit to you that you don't even have to worry
17 about Gary Jacks. You don't even have to worry about
18 Corey Willis. That fingerprint alone is enough to
19 convict him via circumstantial evidence that he was in
20 that house and he is guilty of the burglary.

21 And they stipulated -- they said, "Okay. Yeah.
22 That SLED lady, Kimberly Mears, is an expert in
23 fingerprint analysis." And then, they went and
24 challenged it and said, "Well, maybe you made some
25 mistakes."

1 That's a hell of a coincidence, isn't it, these few
2 guys just independently ID Kinard being there,
3 neighborhood friends of his, and then his fingerprint
4 shows up on the back door?

5 Yeah. I would -- just briefly, the -- the charges
6 -- and the judge is going to go over them with you.
7 Grand larceny, that's the first one. It's stealing is
8 what it is. What he's been charged with -- because, you
9 know, we don't have a running tally.

10 I've got some firearms at my home as well. I
11 honestly can't tell you -- I need to go do this and maybe
12 put the serial numbers down. I need to get values for
13 them, because I hope my castle isn't violated. I hope my
14 weapons and things aren't taken.

15 But I need to get the values of them. So what I did
16 was I had Mr. Poole up here, and I had Reggie Poole. And
17 they tried to talk about, "Well, that gun was 450; that
18 one was that and that. You know, and the truck, I -- I
19 guess that was around \$2,000."

20 But what I need to do in the grand larceny is show
21 you that the value of things taken -- those nine guns,
22 that coin collection, the cash money, the -- the truck --
23 were over \$2,000. Okay? And what I've indicted was
24 grand larceny between 2,000 and 10,000 dollars. So you
25 just need to find that all that stuff was at least \$2,000

1 or more.

2 (To Mr. Bentley) Click to the next slide.

3 MR. BENTLEY: (Complied.)

4 MR. SCOTT: And you need to find that he took the
5 things away from the home where they belong at

6 and he carried them away and the intention was
7 that he was going to convert them to his own use. He was
8 going to either keep them or sell them and make money.
9 And that's what I got to show for grand larceny.

10 (To Mr. Bentley) Click the next slide.

11 MR. BENTLEY: (Complied.)

12 MR. SCOTT: And again, that it goes between 2 and 10
13 thousand dollars.

14 Safecracking is what it sounds like: breaking into
15 a safe. Can't do it. And, you know, we got the -- they
16 recovered that safe. You know, here -- here's the amount
17 of respect they got for Mr. Poole, Annie Poole, Reggie
18 Poole. They cracked the safe.

19 And if you take a look -- and you're going to have
20 all these -- you see where they bend the door open up
21 here and they pry it open with that crowbar they talked
22 about. And then they take everything they can that --
23 that's valuable to them, you know, stuff they can get
24 cash money from. They can sell the guns. They can sell
25 the coin collection.

1 And then they leave things that really only valuable
2 to Annie and Bennie -- birth certificates, family
3 documents that they can't cash in and get money for --
4 they leave them there in the rain. And just so whoever
5 can get them can get them, or they can just be ruined.
6 And that's what they do.

7 But safecracking -- two locks on the thing, Mr.
8 Poole said. It's clearly been opened. Nothing in it
9 that anybody can convert to valuable anymore -- or money
10 anymore. That's the safecracking charge. That's the
11 second charge.

12 Third is the burglary-first. That's entering the
13 home of another without consent and with the intention to
14 commit a crime once inside. The crime clearly is
15 larceny. And the crime is also safecracking.

16 So their intent was to go in the home and steal.
17 And that's what the codefendants testified do. And
18 that's what Mr. Kinard is on trial for.

19 First-degree -- there's different varieties of
20 burglary. The legislature has decided that a burglary-
21 first is one that's committed in the nighttime. That's
22 an element that you can enhance a burglary on.

23 And that's understandable. Because, you know,
24 people sleep in their homes at night. And it seems a
25 little more ominous, a little more dangerous, when

1 somebody comes in your house in the nighttime. But
2 that's an element of the crime.

3 It's been uncontradicted that this happened
4 somewhere between 11 p.m. and 1 a.m. So late night to
5 early, early morning hours/nighttime, that's the
6 burglary-first.

7 (To Mr. Bentley) Next slide.

8 MR. BENTLEY: (Complied.)

9 MR. SCOTT: I'm about to sit down. But I got to
10 tell you: I have to prove this thing. And -- and once I
11 sit down, that's why I -- I'm -- I'm trying to make sure
12 I cover everything. This is the last time I get to talk
13 with y'all.

14 The defense gets up. They get the last word. The
15 defense gets all the protections afforded to them through
16 our constitution. That -- that's how it works, and we
17 accept that. They get to speak last for you guys.

18 And so they can just -- every point I've made, they
19 can throw some more, you know, distractions to y'all and
20 y'all forget everything I said. I hope you don't.

21 But the other thing is our standard is reasonable
22 doubt. And Mr. Broome will get up there and try to
23 explain reasonable doubt to you all. But let me explain
24 it really quick; then I'm going to sit down.

25 But it's the standard I have in every case, every

1 criminal case I have. Every prosecutor from here to
2 California has the same standard of proving something.
3 You got to prove it to the jury beyond a reasonable
4 doubt.

5 And the only thing that means -- the -- the most
6 simple way I can put it -- and the judge -- it doesn't
7 really matter what I say or what Mr. Broome says.
8 Really, the law comes from the judge. But he will tell
9 you twice in his charging instructions to you guys.

10 Reasonable doubt, if you find some -- if you find
11 that he is guilty and you are firmly convinced of his
12 guilt, that is beyond a reasonable doubt. It doesn't
13 mean beyond all doubt. It means beyond doubt that you
14 have that is reasonable. Okay?

15 If -- if they get up there or one of you said,
16 "Well, what if Kinard was unconscious and they drug him
17 over there and put his fingerprints on the back glass?
18 That could've happened."

19 I guess it could've happened. But that's not
20 reasonable, okay? So that's not beyond a reasonable
21 doubt.

22 Firmly convinced is all you have to be. If you're
23 firmly convinced ---

24 (To Mr. Bentley) Go to the next slide.

25 MR. BENTLEY: (Complied.)

1 MR. SCOTT: --- of Mr. Kinard's guilt, then you must
2 find him guilty, easy as that.

3 I'm done. I thank you guys for your attention.
4 I've been watching you guys. Sometimes jurors fall
5 asleep. Can you believe that? I hadn't seen that
6 happen. But you've all been paying attention. I'm done.
7 He's going to speak.

8 But listen, after y'all get up there and go back to
9 the room and deliberate and think about this thing,
10 really, what is the only thing justice dictates? What is
11 the only thing reason dictates, logic dictates? It's
12 that he's guilty of these crimes. It's the only thing
13 that makes sense. Thank you, guys.

14 THE COURT: All right. Thank you, Mr. Scott. Mr.
15 Broome, you're recognized for your closing, sir.

16 MR. BROOME: Thank you, Your Honor.

17 CLOSING ARGUMENT BY MR. BROOME

18 MR. BROOME: Good morning, ladies and gentlemen.

19 JURORS: Good morning.

20 MR. BROOME: I always find it a -- a compliment when
21 the solicitor's office quotes me in my opening and they
22 focus on my -- my lines. But this case is about Gary
23 Jacks and Corey Willis.

24 And I -- I'm -- I'm -- I brought that up for a
25 reason. He kind of tried to twist my words a little bit.

1 And I ask you to think about what they're really here to
2 do, especially Mr. Jacks. And they're trying to buy
3 their time. And they're trying to buy their freedom.

4 And Mr. Scott talked a lot about these charges
5 aren't going to go away. But the issue is how much you
6 can believe someone whose hands are in the fate of the
7 solicitor's office. And Mr. Scott talked about how
8 everyone has different function in the government. And
9 he cited me as working for the government.

10 My clients are appointed to me. He talked about the
11 judge and the clerk and all that. The difference between
12 those people and the solicitor's office is they can't
13 dismiss Mr. Jacks' and Mr. Willis' charges. They don't
14 have that power. But he does, and the government does.

15 One of the things that Mr. Jacks testified to and
16 Mr. Willis -- Mr. Jacks was way more adamant than Mr.
17 Jack -- Mr. Jacks -- or Mr. Willis. Mr. Jacks is way
18 more adamant than Mr. Willis. But there was absolutely
19 no deal, no deal whatsoever.

20 Just think about that a little bit. He -- he got up
21 on the stand and said, "I have no deal." He told y'all
22 that on July 19th, he met with Investigator Goggins.

23 Investigator Goggins told, "We have no -- yeah. I
24 met with him on the 19th. We talked about this. I had
25 some information."

1 We had no documentation of that. For the first time
2 ever it comes up in this trial. He had no report to
3 bring in here and show this jury. He had no file to read
4 off of and tell you about the things that Gary said,
5 other than he was involved in it.

6 But what did Gary tell y'all that Goggins told him?
7 "If you can find these guns for me, Mr. Poole doesn't
8 want to prosecute against you. You won't get arrested."

9 And I don't know where y'all come from. But where I
10 come from, that's not only a deal, that's a bargain.
11 It's a heck of a bargain.

12 And think about the things that he said that he did,
13 trying to get those guns -- that Mr. Jacks did. At this
14 point he's already naming names. It's only reasonable to
15 conclude that at that point before he's arrested, the
16 lengths he's -- he will go to. Think what he'll do when
17 his back is absolutely up against the wall after he's
18 been arrested, after he's been caged, after he's been
19 caught, after he's been cornered.

20 And the government has to meet with him on the 19th.
21 Investigator Goggins -- let me be specific. Investigator
22 Goggins had to meet with him on the 19th, not recorded.
23 On August the 8th he wrote a statement -- Investigator
24 Goggins wrote a statement about what Gary Jacks has to
25 say, but not in Gary Jacks's own words.

1 They had -- for whatever reason, they had to meet
2 with him again. And then, what did Gary Jacks come up
3 here and say?

4 I said, "How many times you meet with the government
5 on this case?" And the -- talk about the government. I
6 -- specifically, who'd you meet with: these guys sitting
7 here at the table all week, all of that government?
8 Yeah. Yeah.

9 Remember he sat here, man, three times, four -- it
10 was a lot. It wasn't two; I met with him twice, you
11 know. He met with them a lot.

12 And I asked him, "What'd you talk about?"

13 "Well, they just told me I had no deal and I had to
14 tell the truth."

15 That's a lot of times to meet with someone to tell
16 him, "You know what? Hey, man, you just got to tell the
17 truth. There's no deal. See you later."

18 Couldn't they just send that through their attorney
19 and relay that message? Six times? He couldn't even
20 remember how many times he's met with them, which brings
21 it back to when he's meeting with Investigator Goggins.

22 And I asked him if he -- and it record. I mean,
23 this is 2017. And we're not recording -- he doesn't --
24 he didn't put on video his interview with Mr. Jacks or
25 Mr. Willis? Really makes you wonder what was said in

1 those meetings. Makes me wonder what was said in those
2 meetings, what he actually said, what questions were
3 asked with Investigator Goggins.

4 And there were some inconsistencies in -- in his
5 statements and Corey Willis's statements. Mr. Scott got
6 up here and talked about, "Well, it's just walking versus
7 riding a bike."

8 It's two days later. And there's some other
9 inconsistencies he said as well, things that he didn't
10 bring up the first time he met with Investigator Goggins
11 about Terrence Watson. There was nothing in the
12 statements about his -- what he tried to do to find these
13 guns, what efforts he made to find these guns through --
14 other than Christopher Payne.

15 He met with Investigator Goggins on August the 8th;
16 no mention of Terrence Watson. All of a sudden, Terrence
17 Watson comes up on August 10th. "Oh, he's the guy who
18 gave me that SKS rifle."

19 And he gets up here, talking about a weed sticker,
20 claiming that Mr. Poole has a weed sticker or something
21 on here. He knew a lot about guns. Knew a lot about
22 guns. He was talking about filing serial numbers off of
23 guns and knew about the process of how to find guns and
24 deal with guns.

25 Because that's what Mr. Jacks has -- has done. They

1 try and minimize -- the -- the reality is -- is he's a
2 convicted felon. And he is a thief. And you can't trust
3 the words of a thief. You can't trust in someone who
4 breaks in people's houses and breaks into other people's
5 houses.

6 And before they went through his record -- burglary,
7 unlawful trespass, burglary, burglary. And then I just
8 asked him, "You stole these guns. That -- you're a
9 thief, right?"

10 Just wouldn't admit to it. "Well, that's not the
11 type of person I am. I mean, I did steal for that one
12 time. But that's not who I am as a person."

13 And that's the lens that you have look at through --
14 look at it -- look at this case through.

15 Let's talk about Mr. Willis. Mr. Willis made a
16 written statement. That's in evidence. He didn't come
17 forward until October 3rd. When did he make this
18 statement? The day he was arrested. That's when they
19 developed their guilt -- their conscience. That's when
20 they feel bad, after they got caught.

21 What did he put in this statement? I came up here
22 and asked him to read out loud to y'all about on October
23 3rd how he implicated my client. He couldn't. It wasn't
24 in there.

25 Investigator Goggins gave him plenty of opportunity.

1 And the only thing he really admitted to was that he was
2 in possession of a handgun. That's the only thing. My
3 guy's name -- Mr. Kinard's name did -- was not brought up
4 by Mr. Willis.

5 Nothing about -- seeing him in a truck wasn't
6 brought up on October 3rd. First time you hear about it,
7 it's in trial yesterday. First time he saw them with a
8 safe, yesterday. He's trying to distance himself from
9 this.

10 It's the same thing for Mr. Jacks in his statement:
11 "They included me -- I was included at the last moment."
12 Distance themselves from that.

13 And yeah. Mr. Jacks can give you details about what
14 happened that night. He was there, absolutely. These
15 are grown men, by the way, at this time. Mr. Jacks is
16 31/32. Mr. Willis is 31. Four years ago they're 27. My
17 client's 19 at that time.

18 These guys have been through the system. They know
19 how it works. They don't want to go to prison. They
20 don't want to spend the rest of their life in prison.

21 And the fingerprint -- harp on -- I -- I -- I
22 brought that up to y'all in the beginning. Because my --
23 what I told you was I expected that the state would come
24 in here and say that it was his. I never told you that
25 it was his, but that's what I expected the government to

1 do.

2 And I asked her -- Ms. Mears some questions about
3 the fingerprint. A fingerprint is not DNA. What did she
4 say? I asked her, "Is it -- is -- is there any science
5 to this?"

6 "No. It's not very scientific. It's not."

7 More importantly, "Is there any way for you to time
8 stamp a fingerprint?"

9 "No. You cannot."

10 Did she look at anyone else's fingerprints to
11 exclude? No, she did not. Did she look at Mr. -- or Mr.
12 Jacks' fingerprints? No.

13 Did she compare Mr. Willis's fingerprints? "I did
14 not."

15 "Did you even exclude the homeowner's fingerprints?"

16 "No, I did not."

17 And I asked Investigator Goggins did he get, you
18 know, some questions about his investigation. There were
19 certain things that you can time stamp. One of those
20 things are cell phones, right?

21 I asked him -- I said, "In this little statement
22 here with Gary Jacks, you had a cell phone number,
23 right?" And Gary Jacks talked about how he called my
24 client.

25 He gave him the number. It was an 872 number.

1 "Here's my number. Here's my address."

2 "Did you get -- tell the jury how you got a search
3 warrant to look at the -- I didn't -- didn't need to do
4 that."

5 Cell phones ping off of cell phone towers. They
6 have time stamps of when calls are placed. Those towers
7 ping, and you can tell when someone has been in a
8 location.

9 These are independent ways to time stamp and
10 corroborate if someone is telling you something the
11 truth, if they're in the area, if they've actually placed
12 these phone calls. But they presented none of that
13 evidence to you.

14 Mr. Gary Jacks said, "Oh. We just went riding
15 around to McDonalds. Me and Corey Willis, we went to the
16 Citgo."

17 And I asked Investigator Goggins, "Did you go to
18 McDonalds and check the surveillance video?" Didn't do
19 any of that.

20 Why is that important? Because they have video
21 cameras. Gas stations have video cameras. Mr. Willis
22 talked about getting snacks. He went to the Taco Bell.
23 They could've at least looked into it. These things are
24 independent ways to corroborate their stories.

25 And I think it's reasonable to believe that

1 Investigator Goggins didn't really believe what Gary
2 Jacks was trying to tell him back on July 19th about what
3 he did with those guns and that he sold them to -- he
4 gave them to Christopher Payne -- remember that? -- and
5 Christopher Payne sold these guns -- or stole the guns
6 from him.

7 Asked Investigator Goggins, "Did you follow up on
8 that?"

9 "Yeah. I went and talked to Christopher Payne. He
10 said he didn't do it." Said he didn't do it, case
11 closed.

12 If he believed Gary Jacks at the time, he would've
13 followed up with those things. But he didn't. He didn't
14 believe Gary.

15 No deals. Mr. Willis brought it up. No deals.
16 Prior convicted felon. Breaking and entering. But he
17 told you. He -- he -- it'd be really nice -- he was
18 really -- hey, I asked him, if those charges are
19 dismissed, yeah, it'd be really nice.

20 I mean, he's saying there's no deal. His own
21 attorney was sitting in the courtroom and participated in
22 this trial. And then, when he was done testifying, they
23 walked out together.

24 These are the people you're trying to believe, the
25 people that will do anything and will lie and will lie on

1 my client to try and save themselves. I have no doubt
2 that -- that Mr. Jacks and Mr. Willis were there. But
3 they are lying.

4 And they've lied to you, and they've been
5 inconsistent. They're not credible for all the reasons
6 I've explained to y'all. Their expectation of leniency
7 from the government, this makes them biased. They can't
8 remember.

9 You know, thinking about -- Investigator Goggins
10 testified. You know, he might be the one person who his
11 memory gets better -- or -- or gets worse as -- as time
12 goes on. And he can't -- he can remember things further
13 away than the closer.

14 I asked him if, you know -- if he could remember --
15 asked about bringing the file to court. And who'd your
16 court -- "oh, I don't bring that. I can't remember when
17 I bring -- brought the file to the solicitor's office.
18 We have a court officer for that."

19 "Who's your court -- well, what's that person's
20 name?"

21 "I don't know."

22 He works for the Clinton Police Department. It is
23 not the -- the New York Police Department. There are
24 only so many officers there. He could not remember their
25 name.

1 But without a file that he did not bring to read off
2 of, without, according to him, taking any notes
3 whatsoever, he remembers the specific details of the
4 conversation that he had with Gary Jacks on July 19th,
5 2012. I don't remember what I had for breakfast last
6 week, but he remembers those specific details, without
7 any notes, without anything else.

8 These men -- and I brought this up in my opening.
9 They're desperate. They're trying to save themselves.
10 Their backs are against the wall. And it -- when it
11 comes down to it, they will lie on anyone.

12 And that's what they're doing today. That's why
13 they're not credible. Those are my three Cs that the
14 government -- Mr. Scott referenced. They are not
15 credible because of that expectation that they have.

16 I cannot go to prison. Where do I sign on that? I
17 know they said there was no deal, and that has been the
18 testimony. But it does make you wonder.

19 And there have been major inconsistencies in this
20 case with what Mr. Willis had to say, what Mr. Jacks had
21 to say. Mr. Scott told you about reasonable doubt, his
22 definition of reasonable doubt. The judge -- Judge Addy
23 is going to give you a definition of what reasonable
24 doubt looks like.

25 And that definition is: You may ask yourself -- you

1 know, maybe I watch some crime shows. What is this
2 about? In the heard -- we hear this reasonable doubt
3 language.

4 And what he's going to tell you is that it's that
5 doubt -- it's a -- it's a hesitation to act, hesitation
6 to act. If you have any hesitation, and that's -- you
7 must find my client not guilty. If you have questions
8 about Corey Willis's credibility and his inconsistencies
9 through this -- through this trial, I'd argue that's a
10 reasonable doubt.

11 Questions about Gary Jacks -- his testimony, his
12 credibility, his lies -- his slanted, biased testimony,
13 that causes you to pause. That is what reasonable doubt
14 is. It's that slight pause, that tiny, little doubt.

15 If you question what the police did or didn't do in
16 this case and their documentation in the case, that gives
17 you a hesitation to act. If you have questions of that,
18 then I submit to you that you must find my client not
19 guilty.

20 That's what reasonable doubt is all about. I've got
21 some serious reasonable doubts. And we've been through
22 them. And I'm going to -- I'm going to wrap up here.

23 I've got doubts about Gary Jacks and Corey Willis
24 and their testimony about what they expect to get and how
25 they have everything to gain. I have doubts about men

1 who are desperate not to go to prison. Despite what they
2 may say otherwise, they do not want to go spend their
3 remaining years in prison, away from their family and
4 their friends and their nice little life here in South
5 Carolina.

6 I have doubts about -- reasonable doubts about
7 witnesses whose stories get more favorable for the state
8 as they testify in court. I have doubt about witnesses
9 who will leave important details out of their statements.

10 These men have come in here, desperate, trying to
11 buy their way out. If you have any hesitation, you must
12 find my client not guilty. These men have come in here
13 and lied. They've lied on my client. And I ask you to
14 come back and find a verdict of not guilty. Thank you.

15 THE COURT: All right. Thank you, Mr. Broome.

16 CHARGE OF THE COURT

17 THE COURT: All right. Now, ladies and gentlemen,
18 now it becomes my obligation to instruct you on the law
19 that applies in this particular case. And I'll let you
20 know that when I first started practicing law 25 years
21 ago, the way that this was typically done is that the
22 judge would sit up here and basically read you roughly 19
23 pages of the applicable law and the jury is supposed to
24 just sit there, hear it, and get it on the first try.

25 Well, like most people, it took me three years to

1 get through law school. It took me three years to learn
2 what I'm about to tell you in 15 minutes. So long story
3 short, you're going to have a copy of these instructions
4 that you can refer to if you need to in the jury room,
5 okay?

6 If you have any questions about the law that
7 applies, I'm more than happy to answer any questions that
8 you have concerning the law. Just send me a note; let me
9 know it -- what it is that you're struggling with.

10 At this time, however, because the record is closed,
11 if you have any factual questions, odds are I'm not going
12 to be able to answer those for you, okay? You'll have to
13 rely upon your memory of the testimony, etc., and the
14 exhibits which have been introduced into the record.
15 When you conclude with your deliberations, please return
16 these instructions to me.

17 Ladies and gentlemen, the indictments in this case
18 charge Mr. Kinard with the offenses of burglary, grand
19 larceny, and safecracking. I remind you that the fact
20 that Mr. Kinard was arrested, charged, and indicted in
21 this case is not evidence. And it cannot be considered
22 by you as evidence of guilt, nor do the indictments
23 create any presumption or inference of guilt. Again,
24 these documents are merely the formal written instruments
25 which contain the charges made against Mr. Kinard.

1 They're the formal documents by which these cases are
2 brought into court.

3 Now, again, the indictments allege several different
4 offenses, namely burglary, grand larceny, and
5 safecracking. I instruct you that each indictment
6 charges a separate and distinct offense. You have to
7 decide each indictment separately on the evidence and the
8 law applicable to it, uninfluenced by your decision as to
9 any other indictment. The defendant may be convicted or
10 acquitted on any or all of the offenses charges. And
11 you'll be asked to write a separate verdict of guilt or
12 -- guilty or not guilty for each separate charge.

13 Now, ladies and gentlemen, the defendant has pled
14 not guilty to the indictments. And that plea puts the
15 burden on the state to prove his guilt. A person charged
16 with committing a criminal offense in this state is never
17 required to prove himself innocent.

18 I instruct you that it's an important rule of law
19 that the defendant in a criminal case, no matter what the
20 seriousness of the charge may be, will always be presumed
21 to be innocent of the crime for the indictments were
22 issued, unless guilt has been proven by evidence
23 satisfying you of his guilt beyond a reasonable doubt.
24 This presumption of innocence does not end when you begin
25 your deliberations, but it accompanies the defendant

1 throughout the trial and you -- unless you -- or until
2 you reach a verdict of guilt based on evidence satisfying
3 you of his guilt beyond a reasonable doubt.

4 The presumption of innocence is described as being
5 like a robe of righteousness. It's placed about the
6 shoulders of the defendant and remains with him unless
7 it's stripped from him by evidence satisfying you of his
8 guilt beyond a reasonable doubt.

9 Ladies and gentlemen, the presumption of innocence
10 is not merely a legal theory. It's not just a legal
11 phrase. It's a substantial right to which every citizen
12 is entitled unless you, the jury, are satisfied from the
13 evidence of his guilt beyond a reasonable doubt.

14 Well, what is a reasonable doubt in the law? A
15 reasonable doubt is the kind of doubt that would cause a
16 reasonable person to hesitate to act.

17 I instruct you that the state has the burden of
18 proving the defendant's guilt beyond a reasonable doubt.
19 And some of you may have served as jurors in civil cases,
20 where you were instructed that it's only necessary to
21 prove that a fact is more likely true than not true, such
22 as by the greater weight, or the preponderance of the
23 evidence. In criminal cases the state's proof must be
24 more powerful than that. It must be proof beyond a
25 reasonable doubt.

1 Proof beyond a reasonable doubt is proof that leaves
2 you firmly convinced of the defendant's guilt. Now,
3 there are very few things that we know in this world with
4 absolute certainty. And in criminal cases the law does
5 not require proof that overcomes every possible doubt.

6 If, based on your consideration of the evidence,
7 you're firmly convinced that the defendant is guilty of
8 the crimes charges, you should find him guilty. If, on
9 the other hand, you think there is a real possibility
10 that the defendant is not guilty, you should give him the
11 benefit of the doubt and find him not guilty.

12 Now, ladies and gentlemen, I remind you that during
13 this trial, you and I have certain duties to perform.
14 And as the trial judge, it's my responsibility to preside
15 over the trial of this case and rule on the admissibility
16 of evidence offered during the trial. You're to consider
17 only the competent evidence before you. So any testimony
18 which was ordered stricken from the record, you have to
19 disregard that testimony, because you're to consider only
20 the testimony which has been presented from the witness
21 stand, as well as any exhibits which have been made a
22 part of the record in this case, and any stipulations of
23 counsel.

24 I also have the obligation to charge you the law.
25 And as the presiding judge, I'm the sole judge of the

1 law. It's your duty to accept and apply the law as I
2 state it to you. So if you already have any idea as to
3 what the law is or what it should be and it disagrees
4 with what I now tell you the law is, you have to abandon
5 this idea, because you're sworn to accept and apply the
6 law as I state it to you now.

7 Again, in every case tried in this Court, the jury
8 is the sole and exclusive judge of the facts. A trial
9 judge cannot intimate, state, comment on, or make any
10 statement to a trial jury about the facts in a case.
11 Since you, the jury, are the sole judges of the facts,
12 you're not to infer, from what I've said during the
13 progress of this trial in ruling upon the admissibility
14 of evidence or otherwise, or anything that I say to you
15 now during the course of these instructions, that I have
16 any opinion about the facts.

17 Ladies and gentlemen, the law does not permit me to
18 have any opinion about the facts in this case. This is a
19 matter solely for you to determine. As jurors it's your
20 duty to determine the effect, value, weight, and truth of
21 the evidence presented during the trial.

22 Now, ladies and gentlemen, typically, there are two
23 types of evidence which are presented during a trial:
24 direct evidence and circumstantial evidence. Direct
25 evidence directly proves the existence of a fact and does

1 not require deduction, such as testimony by an
2 eyewitness. Circumstantial evidence is proof of a chain
3 of facts and circumstances indicating the existence of a
4 fact.

5 I instruct you that crimes may be proven by
6 circumstantial evidence. And the law makes no
7 distinction between the weight or value to be given to
8 either direct or circumstantial evidence. However, to
9 the extent the state relies upon circumstantial evidence,
10 all the circumstances must be consistent with each other
11 and, when taken together, point conclusively to the guilt
12 of the accused beyond a reasonable doubt.

13 If these circumstances merely portray the
14 defendant's behavior as suspicious, the proof has failed.
15 The state has the burden of proving the defendant guilty
16 beyond a reasonable doubt. And this burden rests with
17 the state regardless of whether the state relies upon
18 direct or -- evidence, circumstantial evidence, or some
19 combination of the two.

20 Pardon me. Now, ladies and gentlemen, necessarily,
21 you have to determine the credibility of witnesses who
22 have testified. And credibility simply means
23 believability. It becomes your duty as jurors to analyze
24 and to evaluate the evidence and determine which evidence
25 convinces you of its truth.

1 In determining the believability of witnesses who
2 have testified, you can believe one witness over several
3 witnesses or several witnesses over one witness. You may
4 believe a part of the testimony of a witness and reject
5 the remaining part of the testimony of that same witness.

6 You may believe the testimony of a witness in its
7 entirety or reject it in its entirety. You may consider
8 whether any witness has exhibited to you any interest,
9 bias, prejudice, or other motive in this case. And you
10 may also consider the appearance and manner of a witness
11 while on the witness stand.

12 Now, I instruct you that a person who has a past
13 criminal record or past criminal history is competent to
14 testify during a trial. A past record does not affect
15 the ability of that witness to testify. The past record
16 may only be considered by you, if at all, in determining
17 the witness's believability. Remember, you're the sole
18 judges of the facts in this case and on the believability
19 of any and all of the witnesses who have testified.

20 Now, as I explained yesterday, normally the rules of
21 evidence do not permit witnesses to testify as to
22 opinions or conclusions. But an exception to this rule
23 does exist for witnesses known as expert witnesses. A
24 witness who, by education and experience, has become an
25 expert in some art, science, profession, or calling may

1 state an opinion as to relevant and material matters in
2 which the witness claims to be an expert. And they may
3 also state the reasons for their opinion.

4 'You should consider any expert opinion received in
5 evidence in this case and, like any other evidence, give
6 it the weight you think it deserves. If you decide that
7 the opinion of an expert is not based on sufficient
8 education and experience, or if you conclude that the
9 reasons given in support of the opinion are not sound, or
10 that the opinion is outweighed by other evidence, you may
11 disregard the opinion entirely.

12 An expert witness's testimony is to be given no
13 greater weight than that of any other witness simply
14 because they're an expert. Further, you're not required
15 to accept their opinion, even though it's not
16 contradicted.

17 Now, ladies and gentlemen, I instruct you and
18 emphasize that the fact that the defendant did not
19 testify is not a factor to be considered by you in any
20 way in your deliberation and in your consideration on the
21 question of the guilt or the innocence of the defendant.
22 It must not be considered by you in any manner
23 whatsoever.

24 A defendant has the constitutional right to remain
25 silent. And the assertion of this right must not be

1 considered by you during your deliberations. I repeat,
2 under your oath, you're to draw no conclusion whatsoever
3 from the fact that Mr. Kinard did not testify. The fact
4 that he did not testify should not even be discussed in
5 the jury room.

6 As I've stated before, the burden of proof is on the
7 state. The defendant is not required to prove his
8 innocence. The burden of proof remains on the state
9 throughout the trial to prove guilt beyond a reasonable
10 doubt.

11 Now, additionally, ladies and gentlemen, you've
12 heard some testimony concerning the penalties a person
13 can receive for the crimes alleged in these indictments.
14 In determining the guilt or the innocence of the
15 defendant, you cannot consider any possible penalty for
16 any particular crime. The punishment for the crimes
17 charges is a matter for me the -- to determine and should
18 never be considered by you in any way whatsoever in
19 arriving at an impartial verdict as to the guilt or the
20 innocence of the defendant.

21 Excuse me. Now, ladies and gentlemen, the defendant
22 is charged with first-degree burglary. Therefore, the
23 state must first prove beyond a reasonable doubt that the
24 defendant entered a dwelling without consent.

25 Under the laws of this state, a dwelling is any

1 building or portion of a building in which a person
2 ordinarily sleeps. A building constructed as a dwelling
3 that has never been occupied, of course, is not
4 considered a dwelling for purposes of burglary. But a
5 building is a dwelling even if the residents are
6 temporarily -- temporarily absent from the building.

7 In order to prove that the defendant entered the
8 dwelling, the state does not have to show that the
9 defendant's entire body entered the dwelling. The
10 smallest entry is sufficient. It may be any part of the
11 body, such as a hand or a foot or even an instrument like
12 a hook or some other instrument. In addition, the state
13 does not have to prove that force was used to gain entry.

14 Next, the state must prove beyond a reasonable doubt
15 that the defendant intended to commit a crime, either a
16 felony or a misdemeanor, at the time of the entry. The
17 mere entry into a dwelling without consent is not
18 burglary. If the intent to commit a crime is formed
19 after the entry, it's not burglary.

20 On the other hand, if the defendant intended to
21 commit a crime at the time of the entry, it's a burglary,
22 even if the intent was abandoned after entry. It does
23 not matter that the intent -- that the intended crime was
24 not completed. Intent may be shown by acts and conduct
25 of the defendant and other circumstances from which you

1 may naturally and reasonably infer intent.

2 Finally, the state must prove beyond a reasonable
3 doubt that one of the -- that -- that the defendant
4 entered or remained in the dwelling during the nighttime.
5 Nighttime is defined as the period between sunset and
6 sunrise, during which there's not enough daylight to
7 recognize a person's face except by perhaps moonlight or
8 artificial light.

9 Now, the defendant is also charged with grand
10 larceny. The state must prove beyond a reasonable doubt
11 that the -- that the defendant took and carried away the
12 property of another against the will or without the
13 consent of the other person. The slightest removal of
14 the property or the complete possession of the property,
15 even for an instant, by the defendant is enough to show a
16 taking and carrying away of that property.

17 The state must also prove beyond a reasonable doubt
18 that the defendant intended to permanently deprive the
19 owner of that property. And finally, the state must
20 prove that the value of the things taken was \$2,000 or
21 more.

22 Finally, ladies and gentlemen, the defendant is also
23 charged with safecracking. The state must prove beyond a
24 reasonable doubt that the defendant used explosives,
25 tools, or any other implement in or about a safe used for

1 keeping money or other valuables with the intent to
2 commit larceny or any other crime. Again, intent may be
3 shown by acts and conduct of the defendant and other
4 circumstances from -- from which you may naturally and
5 reasonably infer intent.

6 Again, larceny is the taking and carrying away of
7 the goods or personal things of another with the intent
8 to permanently deprive the owner of their property and to
9 convert it to the taker's use. The defendant does not
10 have to actually succeed in breaking into the safe for
11 the conduct to be safecracking.

12 Now, Madam Forelady, ladies and gentlemen of the
13 jury, I prepared this verdict form that helps guide your
14 deliberations, okay? And this is how I would ask that
15 you return the verdict once you've completed with your
16 deliberations.

17 It gives you basically two mutually exclusive
18 options to three questions, all right? And I think it's
19 pretty simple, but I'm going to go over it with you.

20 The first statement says: "We, the jury, in the
21 above-captioned case on the charge of burglary
22 unanimously find Keaston Kinard" -- and then, there are
23 two options: either not guilty or guilty. If you find
24 that the state has failed to meet its burden of proof
25 beyond a reasonable doubt and all 12 of you agree, you

1 would initial not guilty, Madam Forelady; knock on the
2 door; let the bailiff -- well, then proceed down to the
3 next question, okay?

4 If, on the other hand, you find that the state has
5 met its burden of proving the defendant's guilt beyond a
6 reasonable doubt on the burglary charge and all 12 of you
7 agree, then initial next to guilty and keep on going
8 down. The exact same questions are asked for the grand
9 larceny charge and then, finally, for the safecracking
10 charge.

11 Once you've completed the verdict form, simply sign
12 your name as foreperson here and knock on the door,
13 letting the bailiff know that you've completed your
14 deliberations.

15 Now, ladies and gentlemen, I will tell you that in
16 this state, we do not have majority verdicts. Other
17 states do have majority verdicts. Other states are doing
18 it wrong. That means that all 12 of you have to agree on
19 the ultimate verdict, okay? So it can't be 10 to 2 or 11
20 to 1 or 5 to 7. All 12 of you have to agree on each and
21 every one of these verdicts.

22 If there's any issue or any questions about the law
23 that you need to bring to the Court's attention, Madam
24 Forelady, simply do so by writing a note. Hand it to the
25 bailiff; he'll bring it back to me. I'll go over the

1 note with the attorneys. And then, as soon as I have an
2 answer for you, I'll bring you back in here, okay?

3 If you do find it necessary to communicate with me,
4 please understand that at no point in time do I want you
5 to tell me about any kind of numerical division among the
6 jury. So I -- I don't -- I'm not interested -- and I
7 don't want to know if it's 11 to 1 or 6-6 or 7 to 5 or 8
8 to 4. Just don't give me that information at any point
9 in time while you're deliberating, please, okay?

10 Now, ladies and gentlemen, I remind you that you've
11 been chosen as fair and impartial jurors in this case.
12 In other words, you have no friends to reward. You have
13 no enemies to punish. Your job is to render a verdict
14 based solely upon the evidence presented and the law as I
15 have instructed you.

16 Now, in a moment, I'm going to ask that you return
17 to the jury room but please don't begin your
18 deliberations yet. You're cue to begin your
19 deliberations will be receipt of these instructions, the
20 verdict form, and the other items of evidence that have
21 been introduced into the record, okay? So that's when
22 you can start talking about the case. But don't start
23 until you get all of this, because I have to give the
24 lawyers a chance to object to anything I've said to you,
25 okay?

1 It's about ten after 11 right now. If you find that
2 your deliberations are kind of -- or might go into
3 lunchtime or something like that, simply let the bailiff
4 know and the clerk will order lunch for you. It is
5 typically pizza. It usually takes about 30 minutes for
6 you to grab it -- about 30 minutes.

7 So if you -- if you decide that you want some pizza,
8 it's not gourmet, okay? We're not doing that. Then --
9 then, we can order that for you.

10 If any of you do have any dietary constraints, you
11 know, whatever they are, we can try and work around that
12 and get you a salad or something, if you're low sodium or
13 whatever the case may be. All right? So if you have any
14 dietary issues or if you're diabetic and you need
15 something like a salad or something special, we can try
16 and accommodate that as best as possible, all right, if
17 you choose to order lunch.

18 With that, I'm going to ask that you return to the
19 jury room. But again, don't start talking about the case
20 until you get these instructions, the verdict form, and
21 the other items of evidence. All right?

22 Adjourn to the back. You'll have this case shortly.
23 Thank you.

24 (Whereupon, the jury exited the courtroom at 11:12
25 a.m.)

1 (Off the record briefly.)

2 THE COURT: All right. The jury is out. One
3 housekeeping matter that I forgot to bring to everyone's
4 attention was I think it was State's 18 was a statement
5 of Mr. Jacks. Did y'all successfully redact all that
6 yesterday? You're comfortable that what we're sending
7 back is good?

8 MR. SCOTT: Yes, sir.

9 THE COURT: All right. You're all right with that,
10 Mr. Broome?

11 MR. BROOME: I think -- didn't we ---

12 THE COURT: Y'all just double-check and ---

13 MR. BROOME: We'll double-check.

14 THE COURT: --- make sure that ---

15 MR. BROOME: But he ---

16 THE COURT: --- we're not sending back the
17 unredacted portion.

18 (Whereupon, Mr. Scott and Mr. Broome conferred.)

19 THE COURT: And -- and just for the record, no
20 objections from the state or the defense concerning my
21 instructions?

22 MR. SCOTT: No, Your Honor.

23 MR. BROOME: No, Your Honor.

24 THE COURT: All right.

25 (Off the record from 11:13 a.m. until 11:15 a.m.)

1 THE COURT: Okay. We'll mark it and make it
2 whatever exhibit Maryann wants it to be. It doesn't have
3 to be 18a.

4 THE COURT REPORTER: It will be Exhibit 20.

5 THE COURT: Twenty. Okay.

6 THE COURT REPORTER: Yes, Your Honor.

7 (Whereupon, State's Exhibit 20 was marked and
8 entered into evidence.)

9 (Off the record at 11:15 a.m.)

10 (Whereupon, the jury began deliberating at 11:19
11 a.m.)

12 (On the record at 12:14 p.m.)

13 THE COURT: All right. We're back on the record in
14 the case of *the State v. Mr. Kinard*. Record, of course,
15 should reflect that the defendant is present. I'm
16 informed that the jury has reached a verdict. Anything
17 from either the state or the defense prior to receiving
18 the jury?

19 MR. SCOTT: Nothing from the state.

20 MR. BROOME: No, Your Honor.

21 THE COURT: All right. Let's have the jury, please.

22 (Off the record briefly.)

23 THE COURT: Before the jury comes out, I -- I do
24 want to caution everybody that when the jury's verdict is
25 received, obviously, they've had to work hard at this.

1 We've inconvenienced them. Obviously, I ask that
2 whatever the verdict is, that people treat it with the
3 appropriate respect, okay? Please, no displays of
4 emotion, what have you.

5 (Whereupon, the jury entered the courtroom at 12:16
6 p.m.)

7 THE BAILIFF: All jury is present, Your Honor.

8 THE COURT: All right. The record will reflect that
9 all jurors are present and seated.

10 Madam Forelady, I'm told that the jury has reached a
11 verdict; is that correct?

12 THE FOREPERSON: Yes, sir, we have.

13 THE COURT: If you would, hand the verdict form,
14 please, to the bailiff. Thank you.

15 THE FOREPERSON: (Complied.)

16 THE COURT: Madam clerk, if you'll publish, please.

17 VERDICT OF THE JURY

18 CLERK OF COURT: Your Honor, (As read): In the case
19 of *the State of South Carolina v. Keaston Dahja Kinard*,
20 Case No. 2012-GS-30-1898, -1899, and -1901, we, the jury
21 in the above-captioned case, on the charge of burglary,
22 unanimously find Keaston Dahja Kinard guilty. We further
23 find that on the charge of grand larceny, unanimously
24 find Keaston Dahja Kinard guilty. We further find that
25 on the charges of safecracking, guilty. Dated February

1 1st, 2017, signed by Janice M. Owens.

2 Ladies and gentlemen, if that be your verdict,
3 please indicate by raising your right hands.

4 JURORS: (Indicated.)

5 CLERK OF COURT: Thank you.

6 THE COURT: Let the record reflect that all 12
7 jurors did, in fact, raise their right hand. Anything
8 before discharge of the jury from the state?

9 MR. SCOTT: No, Your Honor.

10 THE COURT: From the defense?

11 MR. BROOME: No, Your Honor.

12 THE COURT: All right. Ladies and gentlemen of the
13 jury, I want to thank you for your service here this
14 week, okay? First of all, this was -- the other case
15 that we had on tap for trial, that one is going to be a
16 -- a plea at some point either this afternoon or
17 tomorrow. So you are done with your jury service, okay?

18 I asked the clerk of court. She does not have your
19 checks quite ready for you. They'll probably go in the
20 mail. You'll receive them either Friday or Thursday.
21 But they'll probably go in the mail tomorrow.

22 It's \$60. Please don't accept that as -- or don't
23 consider that compensation or remuneration for your
24 service this week. Because obviously, 60 bucks ain't
25 going to cut it, okay? That's not enough.

1 Just accept it as a gift from the County of Laurens,
2 okay, as opposed to -- to actual compensation. Because
3 clearly, your efforts here and your work here is a lot
4 more valuable than the \$60 that you're going to get in
5 the mail.

6 You'll also receive a letter from me, thanking you
7 for your jury service, okay? If there are any questions
8 about jury service, any comments, anything that you
9 liked, especially if there's anything that you did not
10 like, do not hesitate to let me know. Please let me know
11 if there's anything that you did not like, because I've
12 actually changed the way that we work based upon feedback
13 from folks who have served as jurors in the -- in the
14 past.

15 At this point in time, I'm going to be at liberty to
16 discharge y'all. I'll let you know that sometimes
17 attorneys will want to speak with you after the verdict
18 has been rendered, just to kind of get feedback on how
19 they did, how their presentation went. You're at liberty
20 to speak to them; you're at liberty not to speak to them.

21 You can discuss this case with anybody that you want
22 to. As a general rule, however, kind of what happens in
23 the jury room stays in the jury room. All right? So
24 your deliberations and things that y'all spoke about,
25 that's general off limits for other people to inquire of.

1 But at the same time, if you want to give feedback to
2 anyone who asks about how they did or how their
3 presentation went, you are certainly at liberty to do
4 that, okay?

5 At this point in time, the only thing that remains
6 to be done is for sentencing by me. If you'd like to
7 stick around for sentencing, that's perfectly fine.
8 You're welcome to do so. However, for security reasons
9 I'll ask that you simply go back out the way you came and
10 then we'll have a couple of rows towards the back of the
11 courtroom for you.

12 So if you want to stick around for sentencing,
13 that's perfectly fine. If you don't want to stick around
14 for sentencing and you're hungry, go get a bite to eat,
15 okay?

16 With that you have my appreciation and my thanks.
17 And, Madam Forelady, the only other thing I need from you
18 is to actually sign the verdict on the indictments
19 themselves. The rest of you are free to go; you are free
20 to stay. And you have my thanks, okay? Y'all take care.
21 Have a wonderful week.

22 (Whereupon, the jury exited the courtroom at 12:20
23 p.m.)

24 (Off the record briefly.)

25 THE COURT: All right. Solicitor, if you can go

1 ahead and have some sentencing sheets prepared, I'll be
2 happy to entertain -- one of y'all can go do that, and I
3 can entertain any posttrial motions on behalf of the
4 defense. Of course, you renew all pretrial and posttrial
5 motions in this matter and you would ask for a new trial?

6 MR. BROOME: Yes, Your Honor. We'd motion for a new
7 trial based on what we brought up before trial: lack of
8 revealing the deal information with the -- the
9 codefendants in this case, the jury not hearing their
10 possible sentences. And I'm just asking again for you to
11 -- to retain jurisdiction on Mr. Willis and Mr. Jacks's
12 case to see the resolution through on them.

13 THE COURT: Okay. I'm somewhat hesitant to retain
14 jurisdiction explicitly. I would -- and that's simply
15 because of the logistical problems sometimes that are
16 encountered, especially because they're moving me around
17 the state a lot more frequently. To the extent possible,
18 however, if it is logistically feasible for -- for their
19 cases to be brought in front of me, I would sincerely
20 request that that be done. If at -- if, on the other
21 hand, that it -- it's just too logistically difficult,
22 then that's fine. I'm quite certain that we can get a
23 transcript and the Court can entertain any motion based
24 on after-discovered evidence, etc. ---

25 MR. BROOME: Thank you, Your Honor.

1 THE COURT: --- that you may wish to make.

2 All right. Do y'all care to approach? Or you can
3 -- you can -- you can stay right there.

4 Solicitor, did the victim care to relate anything to
5 me or ---

6 MR. SCOTT: Yes, sir.

7 THE COURT: --- his family?

8 MR. SCOTT: Yes, sir. I think at least Bennie wants
9 to. And, Bennie, can you come here to the microphone?
10 Bennie Poole, Your Honor.

11 (Whereupon, Mr. Poole came forward.)

12 (Whereupon, Mr. Scott and Mr. Poole conferred.)

13 THE COURT: And just for the record, of course, this
14 -- the Court will deny the defense motion for a new trial
15 and same rulings on all prior motions.

16 Mr. Poole, I'm happy to hear anything that you or
17 your wife may want to tell me with regard to sentencing,
18 sir.

19 MR. POOLE: Well, Your Honor, all I had -- all I had
20 to say is that, you know, I'm -- I'm pleased by the way
21 the -- by the way the Court turned out. But it affected
22 my wife and I life a lot. I'm not really the type of
23 person that's afraid of anything. You know, like, I've
24 been in the military. I worked for Department of
25 Correction.

1 But after my house was burglarized, at night when I
2 come home, I still feel -- you know, I still feel -- I
3 don't know. I still feel funny. And I still feel like
4 somebody's watching me or something.

5 But this here, it kind of helps a little. But I --
6 I hate it for Mr. Kinard. But I appreciate we got this
7 settled, Your Honor. And -- and that -- that adds
8 something. It have -- it make me have a little more
9 faith in mankind. Because at first at one time, I
10 thought it wasn't going to be anything done about it. So
11 that's all I have to say, Your Honor. My wife do or not
12 ---

13 THE COURT: Mrs. Kinard?

14 MS. POOLE: Uh-huh.

15 THE COURT: Yes, ma'am.

16 MS. POOLE: Well, all I got to say is that my mom,
17 she had a -- a birthstone ring. And she left that to me
18 when I -- when she passed. And she had a lot of coins in
19 there that she left me.

20 And I know I can't get it back. But it would be --
21 if there any way that they still had it, I would love to
22 have it back.

23 THE COURT: I understand. I think, seeing as how it
24 was five years ago, I doubt that that's feasible. But
25 perhaps -- perhaps there's some way that somebody can

1 make good on that. I am terribly sorry that this
2 happened to you, though, Mrs. Poole.

3 MS. POOLE: Yeah. Okay.

4 THE COURT: Thank you ---

5 MS. POOLE: Thank you.

6 THE COURT: --- both very much. All right, Mr.
7 Scott.

8 MR. SCOTT: Judge, as I shake Mr. Poole's hand,
9 these -- these are people that really make me proud to do
10 the job I've had. I've sat in their home with them a
11 couple times. And really, what he's telling you today is
12 what he's told me. And what I hear from burglary victims
13 is that sense of security, sense of safety, they really
14 never fully get that back.

15 I -- by way of record, I've got three counts of
16 receiving stolen goods on Mr. Kinard from 2012. He did
17 have a -- a violation -- he got a YOA, I believe, on
18 that. And he violated it with this arrest. So he has
19 been to SCDC.

20 February 2015 he has a petit larceny. And
21 interestingly, while he's been out on bond -- let's see.
22 I brought the file. He picked up a burglary-second
23 nonviolent and petit larceny December 9th, 2014. That's
24 still pending with my office.

25 So not -- not really the first time Mr. Kinard's

1 been involved with this -- this kind of thing. But
2 certainly, the first time he's really been held this
3 accountable, I would say.

4 He's got some time that I know is mandatory minimum.
5 But, Your Honor, we -- we're going to not really ask for
6 a certain amount, but just leave something in that
7 sentence range in Your Honor's discretion.

8 THE COURT: I understand, sir. Thank you.

9 All right. Mr. Broome, happy to hear anything that
10 you may want to say or that Mr. Kinard or -- I assume
11 that's his father sitting behind him -- anything that
12 anyone wants to say on his behalf, certainly.

13 MR. BROOME: Do you -- his father wishes to address
14 the Court.

15 MR. KINARD (defendant's father): I just ask you to
16 have mercy on my son, sir. That's all.

17 THE COURT: Thank you, Mr. Kinard.

18 MR. BROOME: Your Honor, my -- my client is not
19 going to speak. But I would just ask for you to take
20 into consideration his young age -- he's 23 years old --
21 and his minimal record of -- of actual convictions, Your
22 Honor.

23 THE COURT: I understand. Mr. Kinard, is it -- is
24 it true that you do not wish to say anything?

25 THE DEFENDANT: Yes, sir.

1 THE COURT: And what kind of jail -- do you have
2 what kind of jail credit he's entitled to or is -- I know
3 it's -- he was out on bond and then picked up.

4 MR. BROOME: I -- I don't have the exact date, Your
5 Honor, or the ---

6 THE COURT: Okay.

7 MR. BROOME: --- numbers with the throes of trial.
8 I will get that to the Court. In my estimation he -- he
9 was -- the -- six months or so. But I will -- I will
10 double-check that. And I will double-check that with the
11 solicitor's office.

12 THE COURT: All right. Well, Mr. Kinard, Mr. Poole,
13 I'm very sorry to make y'all's acquaintance under these
14 circumstances.

15 SENTENCE OF THE COURT

16 THE COURT: Mr. Kinard, I've -- I've taken a number
17 of things into the -- into account. And obviously, the
18 pending charge that you have against you, I'm not taking
19 that into account because you have not been convicted of
20 that burglary from December of 2014. So I'm not taking
21 that into account. But obviously, I do have to -- to
22 take into account the prior criminal charges that arose
23 in 2012 for receiving stolen goods.

24 Mr. Kinard, the Court's also taking into account --
25 and let me just ask this: Solicitor, were -- were any --

1 were any guns ever recovered out of all this? I don't
2 think ---

3 MR. SCOTT: No, sir.

4 THE COURT: --- I heard that -- okay. So ---

5 MR. SCOTT: Nothing.

6 THE COURT: --- nine guns were stolen; none of them
7 have been recovered.

8 MR. SCOTT: Nothing except for the broken safe and
9 the -- and the truck were recovered.

10 THE COURT: Mr. Kinard, and I'm just being honest
11 with you, sir. The -- the Court is always concerned
12 anytime firearms are stolen and they get out on the
13 street and then they can't be recovered, okay? Because
14 it's my experience and common sense that tells me that
15 typically, when guns make their way onto the street, Mr.
16 Kinard, they typically fall in the hands of individuals
17 who have no business having a gun, okay?

18 And that just perpetuates violence. It just
19 encourages people to use those weapons irresponsibly in
20 robberies or shootings or what have you.

21 And I understand that you are very young. I have
22 taken that into account. I've also taken into account
23 the mandatory minimum that's required under the burglary
24 charge that you're convicted of. And this is not a
25 situation in my mind where it warrants a life sentence,

1 Mr. Kinard.

2 Because obviously, you are still very young. I
3 think that you do have a great deal of potential. And
4 obviously, this is an 85 percent offense and rightfully
5 so.

6 So what I've decided to do, Mr. Kinard, in light of
7 all the factors and everything that's involved with this
8 case, on the safecracking charge and on the burglary
9 charge, I have given you a straight 15 years. However,
10 on the grand larceny charge, for the reasons that I
11 mentioned about the guns, etc., and just for the pure
12 invasion of Mr. Poole's -- the sanctity of his home, I've
13 given you an additional 5 years that will run consecutive
14 to those 15.

15 So you have 20 years to serve, Mr. Kinard. You have
16 ten days to file notice of intent to appeal this sentence
17 and this trial. And you have one year to file an
18 application for postconviction relief after all appeals
19 have been sentenced -- or have been heard.

20 Good luck to you, Mr. Kinard.

21 (Whereupon, the proceedings were concluded at 12:32 p.m.)

22 --- END OF TRANSCRIPT OF RECORD ---

23

24

25

CERTIFICATE

I, the undersigned Maryann S. Nevers, CVR-M-CM, Official Court Reporter for the Eighth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete transcript of record of all the proceedings had and evidence introduced in the hearing of the captioned cause, relative to appeal, in the Circuit Court for Laurens County, South Carolina, on the 30th and 31st days of January and 1st day of February, 2017.

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



Maryann S. Nevers, CVR-M-CM
Official Court Reporter

Columbia, South Carolina
May 11, 2017

Voluntary Statement UNDER ARREST

Page(s) 1 of 4Date of Statement: 8/10/12 Time Statement Started: 3:15 pmName: Gary Lee Jacks Address: Clinton scDate of Birth: 4 Social Security Number: 603 Phone Number(s): I completed the GED grade in school and Can ☒ / Cannot ☐ read and write.

Before answering any questions or making any statements Tyrone Goggins a person who identified himself/herself as a Police Officer with the Clinton Department of Public Safety duly warned and advised me, and I know and understand that I have the following rights: That I have the right to remain silent and I do not have to answer any questions or make any statements at all; that I have the right to consult with a lawyer of my own choice before or at any time during questioning or statements I make; that if I cannot afford to hire a lawyer, I may request and have a lawyer appointed for me by the proper authority before or at any time during any questioning or statement that I make, without cost or expense to me; that I can stop answering any questions or making any statements at any time that I choose, and call for the presence of a lawyer to advise me before continuing any more questioning or making any more statements, whether or not I have already answered some questions or made some statements.

I do not want to talk to a lawyer, and hereby knowingly and purposely waive my right to remain silent, and my right to have a lawyer present while I make the following statement to the aforesaid person, knowing that I have the right and privilege to terminate any interview at any time hereafter and have a lawyer present with me before answering any questions or making any statements, if I choose to do so.

I declare that the following statement is made of my own free will without promise or hope or reward, without fear or threat or physical harm, without coercion, favor, without leniency, by any persons whomsoever.

Q This started with Keaston Kinard and Michael Lemon who stated they been thinking of how to get into the house on Thymwell Street for about four years. Michael baby mother Angela dad stay there. Michael Lemon said since he was dating Angela that her dad showed Michael the guns in the safe. Michael said he been wanting the guns ever since. They included me in at the last movement before we went to the house. Michael said the people was go be gone the weekend. Michael said we need to do the lick while he (Michael) was at work so they wouldn't think he was involved. So Keastone called me that Friday night and said he was at the location and was about to go inside the residence. Keastone said "C.O" who is known as Corey Willis drove him to the house. I rode my bicycle to the location from Clinton Manner Apartments. When I got there I called Keaston's cell phone that belong to "C.O"; Keaston Answered Q

I have read each page of this statement consisting of 4 page(s), each page of which bears my signature, and corrections, if any, bear my initials, and I certify that the facts contained herein are true and correct. I further certify that I made no request for the advice or presence of a lawyer before or during any part of this statement, or any time before it was finished did I request that this statement be stopped. I also declare that I was not told or prompted what to say in this statement.

This statement was completed at 4:16 (time) on the 10th day of August, 2012

Witnessed: _____ Date: _____

Signature: Gary Jacks Date: _____

Supplemental Statement

Page(s) 2 of 4Statement of Garry Jacks, Continued.

GJ the phone. It was a 872 number but I dont remember the rest. I called him from 864 200 7833. Keaston told me the back door was already unlocked and for me to come on inside. I open the door and walked into the kitchen and called Keaston name. As I walked around the corner Keaston had a tire iron in his hand that he was prying on the safe with. Keaston had a corner from the top of safe open. Then Corey Willis aka 'CO' came in and said he locked the keys inside his car. I then went outside with Corey to help get inside his car. I found a hanger on the ground beside the apartments beside the house we was inside. I used the hanger and was able to get into the car in about a hour. Keaston stayd in the house the whole time still gathering stuff. Corey ^{was} parked by the apartments. Me and Corey rode off for a short while after we got into the car. We rode threw McDonalds parking lot and circled the block a few times. At this time Keastone was still in the house. When we got back Keastone said he found the keys to the truck and told me to back the truck up to the door so we could take the safe off and try to get into it. Corey was still on the outside during this. I backed the ~~car~~^{truck} up to the rear door and me and Keaston loaded the safe up on the truck and we left. I drove the truck to Oakdale Acres. We drove the truck to the back of Oakdale acres on a dirt and gravel road. Before we got to the road we picked up a crowbar from my house and Keaston still had the tire iron. We used the tire iron and crowbar and open the safe. When we open the safe and took the guns out the safe and layed them in the back of the truck. We then drove from the GJ

I have read each page of this statement consisting of 4 page(s), each page of which bears my signature, and corrections, if any, bear my initials, and I certify that the facts contained herein are true and correct. I further certify that I made no request for the advice or presence of a lawyer before or during any part of this statement, or any time before it was finished did I request that this statement be stopped. I also declare that I was not told or prompted what to say in this statement.

This statement was completed at 4:16 (time) on the 10th day of August, 2012.

Witnessed: _____ Date: _____

Signature: Garry Jacks Date: _____

Supplemental Statement

Page(s) 3 of 4Statement of Gary Juebs

Continued.

GJ location and took the crowbar back to my house and the Taurus 40 caliber pistol and 5 long guns (SKS, 303, 308, 22, ⁴¹⁰ gauge). Keaston took a pearl handle 45 caliber, a 1911 45 caliber and gave the chrome .380 caliber to Corey Willis. I also had a Haskell 45 caliber that I gave to Michael Lemon for his share. Michael said he sold his 45 to a guy name Chris. I put the guns I had got put inside a tool box at my house. A few days later Michael Lemon took me to my grandmother house on West Bluford street and I put the long guns under the house. I called Christopher Payne and told him I had the 303, 308, ~~410~~, 22, 410 under the house in a plastic bag. I didn't take the SKS to my grandmother house the first time when Michael took me. Terrence Watson took me to take the SKS on the second trip. I put the SKS under the house. It was inside a gun cover. Two days later I went back to my grandmother house and the guns was gone. I couldn't get in touch with Christopher Payne A.K.A. "Paw". For a few days, when I got in touch with him I asked him about the guns he said he sold the guns then he said he got robbed for the guns. Christopher said the girl he work with at Inman mill's son and friends robbed him for the guns in Union. Christopher said they took his jeep also so he had to call the police to get his Escalade jeep back. Christopher ~~told~~ so many lies so I don't know if he is telling the truth. The 40 caliber pistol I also took I sold it to Jimmekas Darby the day before the police arrested me. Jimmekas paid me \$170 for the gun. Keaston said he sold the 1911-45 caliber pistol and the pearl handle pistol to a guy name Thomas GJ

I have read each page of this statement consisting of 4 page(s), each page of which bears my signature, and corrections, if any, bear my initials, and I certify that the facts contained herein are true and correct. I further certify that I made no request for the advice or presence of a lawyer before or during any part of this statement, or any time before it was finished did I request that this statement be stopped. I also declare that I was not told or prompted what to say in this statement.

This statement was completed at 4:16 (time) on the 10th day of August, 20 12

Witnessed: _____ Date: _____

Signature: Gary Juebs Date: _____

Supplemental Statement

Page(s) 4 of 4Statement of Gary Jacks, Continued.

GJ Who live in Landau Apartments. Keaston said he sold the pistols for weed and money.

Back to when we got the guns out the safe, I drove the truck to College View Apartments with Keaston riding with me. I parked the truck in front of an apartment and we got out of it. Corey drove me and Keaston back home to Oakdale Acres and we all went home.

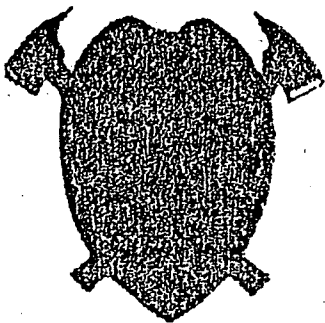
GJ This statement was written by Detective Gaggins by the request of Gary Lee Jacks. I told Detective Gaggins what to write. I have read the statement and Detective Gaggins wrote down what I stated to him. END OF STATEMENT. GJ
~~Gary Jacks~~

I have read each page of this statement consisting of 4 page(s), each page of which bears my signature, and corrections, if any, bear my initials, and I certify that the facts contained herein are true and correct. I further certify that I made no request for the advice or presence of a lawyer before or during any part of this statement, or any time before it was finished did I request that this statement be stopped. I also declare that I was not told or prompted what to say in this statement.

This statement was completed at 4:10 (time) on the 10th day of August, 2012.

Witnessed: _____ Date: _____

Signature: Gary Jacks Date: _____



City of Clinton
Department of Public Safety

Crystal Roberts

Director

404 North Broad Street, Clinton, SC 29325
864-833-7512 Fax: 864-833-7502

MIRANDA

Case Number

201206175

Name Gary Lee Jacks

Address _____

Age 27 DOB _____ Time 3:02 Phone Number: _____

Education Level: Ged Able to Read and Write? yes

Location Clinton City DR

1. You have the right to remain silent. Initial GJ
2. Anything you say may be used against you in a court of law. Initial GJ
3. You have the right to talk to a lawyer for advice before being asked any questions and to have him with you during questioning. Initial GJ
4. If you have no money to pay a lawyer's fee, the court will appoint one to represent you without cost if you wish. Initial GJ
5. If you decide to answer questions now without a lawyer present, you will still have the right to stop answering at any time. Initial GJ
6. You also have the right to stop answering questioning at any time until you talk to a lawyer. Initial GJ

Do you understand each of these rights as I have explained to you? Yes ☒ No ☐

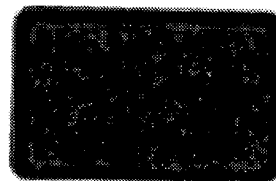
Having these rights in mind, do you wish to talk to us now without a lawyer present? Yes ☒ No ☐

WAIVER OF RIGHTS

I have read this statement of my rights and know what my rights are. I am willing to make a statement and answer questions. I do not want a lawyer at this time. I understand what I am doing. No promises or threats have been made to me and no pressure of any kind has been used against me by anyone in exchange for my statement.

Signature: Gary Jacks Date: _____

Witness Signature: Tyrene Berry Date: 8-10-12



Voluntary Statement

UNDER ARREST

Page(s) 1 of 4Date of Statement: 8/10/12 Time Statement Started: 3:15 pmName: Gary Lee Jacks Address: Clinton SC

Date of Birth: _____ Social Security Number: _____ Phone Number(s): _____

I completed the GED grade in school and Can ☒ Cannot ☐ read and write.

Before answering any questions or making any statements Tyrone Goggins a person who identified himself/herself as a Police Officer with the Clinton Department of Public Safety duly warned and advised me, and I know and understand that I have the following rights: That I have the right to remain silent and I do not have to answer any questions or make any statements at all; that I have the right to consult with a lawyer of my own choice before or at any time during questioning or statements I make; that if I cannot afford to hire a lawyer, I may request and have a lawyer appointed for me by the proper authority before or at any time during any questioning or statement that I make, without cost or expense to me; that I can stop answering any questions or making any statements at any time that I choose, and call for the presence of a lawyer to advise me before continuing any more questioning or making any more statements, whether or not I have already answered some questions or made some statements.

I do not want to talk to a lawyer, and hereby knowingly and purposely waive my right to remain silent, and my right to have a lawyer present while I make the following statement to the aforesaid person, knowing that I have the right and privilege to terminate any interview at any time hereafter and have a lawyer present with me before answering any questions or making any statements, if I choose to do so.

I declare that the following statement is made of my own free will without promise or hope or reward, without fear or threat or physical harm, without coercion, favor, without leniency, by any persons whomsoever.

Q This started with Keaston Kinard [REDACTED] stated they been thinking of how to get into the house on Thymwell Street for about four years. [REDACTED]
[REDACTED] They included me in at the last moment before we went to the house. [REDACTED]
[REDACTED]
So Keastone called me that Friday night and said he was at the location and was about to go inside the residence. Keastone said "C.O." who is known as Corey Willis drove him to the house. I rode my bicycle to the location from Clinton Manner Apartments. When I got there I called Keaston's cell phone that belong to "C.O." Keaston Answered Q

I have read each page of this statement consisting of 4 page(s), each page of which bears my signature, and corrections, if any, bear my initials, and I certify that the facts contained herein are true and correct. I further certify that I made no request for the advice or presence of a lawyer before or during any part of this statement, or any time before it was finished did I request that this statement be stopped. I also declare that I was not told or prompted what to say in this statement.

This statement was completed at 4:16 (time) on the 10th day of August, 2012

Witnessed: _____ Date: _____

Signature: Gary Lee Jacks Date: _____

Statement of Grady Jackson, Continued.

GJ the phone. It was a 872 number but I don't remember the rest. I called him from 864 200 7837. Keaston told me the back door was already unlocked and for me to come on inside. I open the door and walked into the kitchen and called Keaston name. As I walked around the corner Keaston had a tire iron in his hand that he was prying on the safe with. Keaston had a corner from the top of safe open. Then Corey Willis aka "CO" came in and said he locked the keys inside his car. I then went outside with Corey to help get inside his car. I found a hanger on the ground beside the apartments beside the house wire was inside. I used the hanger and was able to get into the car in about a hour. Keaston stayed in the house the whole time still gathering stuff. Corey ^{was} parked by the apartments. Me and Corey rode off for a short while after we got into the car. We rode threw McDonalds parking lot and circled the block a few times. At this time Keaston was still in the house. When we got back Keaston said he found the keys to the truck and told me to back the truck up to the door so we could take the safe off and try to get into it. Corey was still on the outside during this. I backed the ^{truck} car up to the rear door and me and Keaston loaded the safe up on the truck and we left. I drove the truck to Oakdale Acres. We drove the truck to the back of Oakdale Acres on a dirt and gravel road. Before we got to the road we picked up a crowbar from my house and Keaston still had the tire iron. We used the tire iron and crowbar and open the safe. When we open the safe and took the guns out the safe and layed them in the back of the truck. We then drove from the GJ

I have read each page of this statement consisting of 4 page(s), each page of which bears my signature, and corrections, if any, bear my initials, and I certify that the facts contained herein are true and correct. I further certify that I made no request for the advice or presence of a lawyer before or during any part of this statement, or any time before it was finished did I request that this statement be stopped. I also declare that I was not told or prompted what to say in this statement.

This statement was completed at 4:16 (time) on the 10th day of August, 2012

Witnessed: _____ Date: _____

Signature: Grady Jackson Date: _____

Supplemental Statement

Page(s) 3 of 4Statement of Gary Jacobs, Continued.

GJ location and took the crowbar back to my house and the Taurus 40 caliber pistol and 5 long guns (SKS, 303, 308, 22, ⁴¹⁰~~410~~ gauge). Keaston took a pearl handle 45 caliber, a 1911 45 caliber and gave the chrome .380 caliber to Corey Willis. I also had a Haskell 45 caliber that I gave to Michael Lemon for his share. Michael said he sold his 45 to a guy name Chris. I put the guns I had got put inside a tool box at my house. A few days later Michael Lemon took me to my grandmother house on West Bluford street and I put the long guns under the house. I called Christopher Payne and told him I had the 303, 308, ~~410~~⁴¹⁰, 22, 410 under the house in a plastic bag. I didn't take the SKS to my grandmother house the first time when Michael took me. Terrence Watson took me to take the SKS on the second trip. I put the SKS under the house. It was inside a gun cover. Two days later I went back to my grandmother house and the guns was gone. I couldn't get in touch with Christopher Payne A.K.A "Paw". For a few days. When I got in touch with him I asked him about the guns he said he sold the guns then he said he got robbed for the guns. Christopher said the girl he work with at Inman mill's son and friends robbed him for the guns in union. Christopher said they took his jeep also so he had to call the police to get his Escalade jeep back. Christopher told so many lies so I don't know if he is telling the truth. The 40 caliber pistol I also took I sold it to Jimmekas Darby the day before the police arrested me. Jimmekas paid me \$170 for the gun. Keaston said he sold the 1911-45 caliber pistol and the pearl handle pistol to A guy name Thomas GJ

I have read each page of this statement consisting of 4 page(s), each page of which bears my signature, and corrections, if any, bear my initials, and I certify that the facts contained herein are true and correct. I further certify that I made no request for the advice or presence of a lawyer before or during any part of this statement, or any time before it was finished did I request that this statement be stopped. I also declare that I was not told or prompted what to say in this statement.

This statement was completed at 4:16 (time) on the 10th day of August, 2012

Witnessed: _____ Date: _____

Signature: Gary Jacobs Date: _____

Statement of Gary Jacks

Continued.

GJ Who live in Landau Apartments. Keaston said he sold the pistols for weed and money.

Back to when we got the guns out the safe. I drove the truck to College View Apartments with Keaston riding with me. I parked the truck in front of an apartment and we got out of it. Corey drove me and Keaston back home to Oakdale Acres and we all went home.

GJ This statement was written by Detective Goggins by the request of Gary Lee Jacks. I told Detective Goggins what to write. I have read the statement and Detective Goggins wrote down what I stated to him. END OF STATEMENT. GJ
Mary Jacks

I have read each page of this statement consisting of 4 page(s), each page of which bears my signature, and corrections, if any, bear my initials, and I certify that the facts contained herein are true and correct. I further certify that I made no request for the advice or presence of a lawyer before or during any part of this statement, or any time before it was finished did I request that this statement be stopped. I also declare that I was not told or prompted what to say in this statement.

This statement was completed at 4:10 (time) on the 10th day of August, 2012.

Witnessed: _____ Date: _____

Signature: Mary Jacks Date: _____

WITNESSES

Tyrone Goggins
Clinton Police Department

WARRANT NUMBER

2012A3020100063

True Blue

7/1/12

Foreman of the Grand Jury

Date: *11-2-12*

VERDICT

GUILTY

James M. Owens

Foreman

2-1-17

THE STATE OF SOUTH CAROLINA

COUNTY OF LAURENS

COURT OF GENERAL SESSIONS

November Term, 2012

Indictment # 12GS30- 1898

Issued 11/14/16

THE STATE

vs.

Keaston Dahja Kinard

INDICTMENT FOR

BURGLARY

16-11-0311

THE STATE OF SOUTH CAROLINA

INDICTMENT FOR

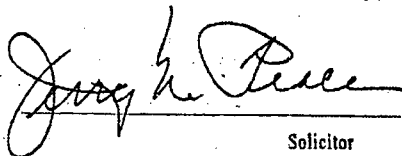
COUNTY OF LAURENS

BURGLARY
16-11-0311

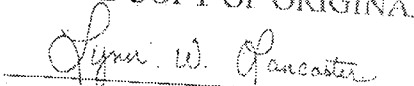
At a Court of General Sessions, convened on the 2nd day of November, 2012 the Grand Jurors of Laurens County present upon their oath:

That Keaston Dahja Kinard, did in Laurens County, state aforesaid, on or about the 23rd day of June, 2012 willfully and unlawfully enter a dwelling without consent and with intent to commit a crime therein, when such entering or remaining occurred in the nighttime, the said dwelling being owned and/or occupied by Bennie Poole, in violation of Section 16-11-311 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 cases made and provided.


Solicitor

A TRUE COPY OF ORIGINAL


Lynn W. Lancaster
Laurens County CCCP & GS

WITNESSES

Tyrone Goggins
Clinton Police Department

WARRANT NUMBER

2012A3020100065

True Bill

[Signature]

Foreman of the Grand Jury

Date: *11-2-17*

VERDICT

Guilty

[Signature]
Foreman
2-1-17

THE STATE OF SOUTH CAROLINA

COUNTY OF LAURENS

COURT OF GENERAL SESSIONS

November Term, 2012

Indictment # 12GS30- 1899

BW issued 11/14/16

THE STATE

vs.

Keaston Dahja Kinard

INDICTMENT FOR

GRAND LARCENY

16-13-0030

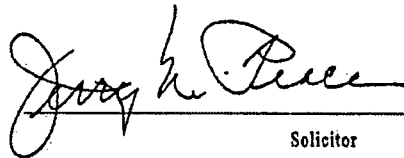
THE STATE OF SOUTH CAROLINA
COUNTY OF LAURENS

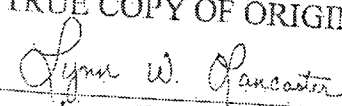
INDICTMENT FOR
GRAND LARCENY
16-13-0030

At a Court of General Sessions, convened on the 2nd day of November, 2012 the Grand Jurors of Laurens County present upon their oath:

That Keaston Dahja Kinard, did in Laurens County, state aforesaid, on or about the 23rd day of June, 2012 feloniously take and carry away the personal goods of Bennie Poole of the value of more than two thousand and NO/100 (\$2,000.00) dollars, but less than ten thousand and NO/100 (\$10,000.00) dollars described as follows: United States currency, guns, a 1999 Ford Ranger Truck with intent to deprive the owner permanently of such goods, in violation of Section 16-13-30 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 cases made and provided.


Solicitor

A TRUE COPY OF ORIGINAL

Lynn W. Lancaster
Laurens County CCCP & GS

WITNESSES

Tyrone Goggins
Clinton Police Department

WARRANT NUMBER

2012A3020100069

T. B. C.

J. H. O.

Foreman of the Grand Jury

Date: 11-2-12

VERDICT

Guilt

James M. Owens
Foreman
2-1-17

THE STATE OF SOUTH CAROLINA

COUNTY OF LAURENS

COURT OF GENERAL SESSIONS

November Term, 2012

Indictment # 12GS30- 1901

BW. issued 11/14/16

THE STATE

vs.

Keaston Dahja Kinard

INDICTMENT FOR

SAFE CRACKING
16-11-0390

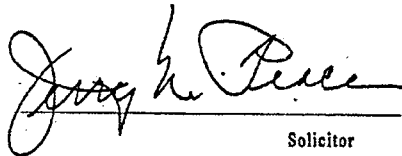
THE STATE OF SOUTH CAROLINA
COUNTY OF LAURENS

INDICTMENT FOR
SAFE cracking
16-11-0390

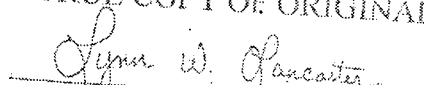
At a Court of General Sessions, convened on the 2nd day of November, 2012 the Grand Jurors of Laurens County present upon their oath:

That Keaston Dahja Kinard, did in Laurens County, state aforesaid, on or about the 23rd day of June, 2012 willfully and unlawfully use explosives, tools, or any other implement in or about a safe used for keeping money or other valuables with intent to commit larceny, or any other crime, in violation of Section 16-11-390 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 cases made and provided.


Solicitor

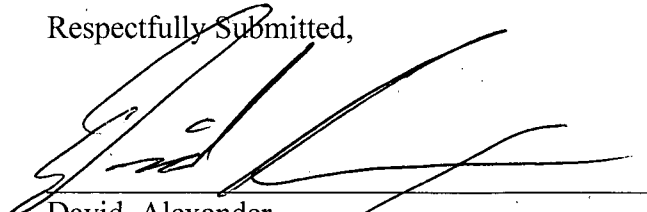
A TRUE COPY OF ORIGINAL


Lynn W. Lancaster
Laurens County CCCP & GS

CERTIFICATE OF COUNSEL FOR APPELLANT

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

Respectfully Submitted,



David Alexander
Appellate Defender

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

ATTORNEY FOR APPELLANT

This 17th day of November, 2017.

RECEIVED
NOV 17 2017
SC Court of Appeals