

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Certiorari to Saluda County
Honorable Edward W. Miller, Circuit Court Judge

VOLUME I OF II

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S.C. SUPREME COURT

VICTOR ANTHONY JONES,
PETITIONER

V.

STATE OF SOUTH CAROLINA,
RESPONDENT

APPELLATE CASE NO 2017-002239

APPENDIX

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STATE OF SOUTH CAROLINA
COUNTY OF SALUDA

IN THE FAMILY COURT

STATE OF SOUTH CAROLINA,
PLAINTIFF,

2011-GS-41-0150

-vs-

TRANSCRIPT

VICTOR ANTHONY JONES, JR.,
DEFENDANT.

OCTOBER 30-31, 2012,
& NOVEMBER 1-2, 2012.
SALUDA, S. C.

BEFORE:

HONORABLE WILLIAM P. KEESLEY, JUDGE.

APPEARANCES:

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Eleventh Judicial Circuit
Attorney for the State.

BENJAMIN A. STITELY
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Attorney for Defendant.

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1 (The following proceedings were held on October 30,
2 2012.)

3 THE COURT: Ladies and gentlemen of the jury, there's
4 a matter that I have to address outside of your presence.
5 I'm sorry. I just learned this during the break, and
6 there's no other way for me to handle it. There is no jury
7 assembly room in the building, so I just have to ask you to
8 step outside of the courtroom. Don't discuss anything
9 about any cases and stay close enough so that, when we call
10 for you to come back in, you can come back in. If you want
11 to step outside, you may; but it's pretty cool out there I
12 think. I'll get you back in here as quickly as I can.

13 (Jury venire leaves the courtroom.)

14 THE COURT: All right. All the jurors are out of the
15 courtroom. I understand that there's an issue that someone
16 wants to discuss with me on the case of State vs. Victor
17 Jones. Where is Mr. Jones?

18 MR. STITELY: Your Honor, they're going to bring him
19 out I think as soon as they clear the area. They had him
20 back on that side over there. Judge, he wants to address
21 the Court.

22 THE COURT: Don't say anything until he gets in here.

23 (Defendant enters the courtroom.)

24 THE COURT: All right. Mr. Stitely, what do I need to
25 hear?

1 MR. STITELY: Judge, my client has asked me repeatedly
2 that he wanted to speak to the Court before we did
3 anything. It's his position, of course, he doesn't want to
4 plead guilty. He's told me from the get-go that he's not
5 guilty of armed robbery very specifically. There's been no
6 other offer besides armed robbery in this case. I've tried
7 to explain to him that our options are, of course, a trial
8 or a plea. I've also explained to him that, if he did
9 not -- he can't say he's not guilty, or he can't say he's
10 not guilty during a plea. He doesn't want a trial. He's
11 told me he definitively does not want a jury trial. He's
12 asked me if he could have the opportunity to talk to the
13 Court before anything goes forward. I told him I would ask
14 the Court. I told him I don't know if there's any
15 provision for that, but that's what he'd like to do. It's
16 his position that, of course, he doesn't want to plead
17 guilty because he says he's not, in fact, guilty of what
18 he's charged with. There's been no other option. I can't
19 do an *Alford* plea because there's been no offer that even
20 would make *Alford* applicable. There's no benefit to be
21 received there, so I can't even go into that theory. But
22 he does not want a trial. He tells me he does not want a
23 jury to consider his case. We've talked about it, and I
24 told him that we have the option to ask for a bench trial
25 in which case you would be the trier of fact and law. That

1 was the only thing that he could achieve that mirrored at
2 least what he wanted. But he is still maintaining that,
3 before we start anything, he would like to address the
4 Court.

5 THE COURT: What do you want to say, Mr. Jones?

6 DEFENDANT: Your Honor, I would just like to say that
7 I'm charged with these crimes, but it's three years old.
8 And I've been in prison, and I've been back from prison.
9 I'm rehabilitated for how I used to act. And I got a
10 family. I don't want to leave my kids out there for a
11 mistake that I committed a long time ago. I just want to
12 let you know I really had a change. I don't want this to
13 be a big problem with -- I'm getting a plea offer for 10 to
14 30 years. I don't want to leave my kids out there like my
15 father left me. I just really want to go home. I done
16 changed my life.

17 THE COURT: What is it you think that I can do about
18 any of that?

19 DEFENDANT: Help me some kind of way. It seem like
20 nobody else ain't trying to help me. The Solicitor --
21 Every time I look around, my other co-defendants, they
22 getting good plea offers and stuff like that. I wasn't
23 even the one with the gun or none of this with these
24 crimes. I didn't did none of this, and it seem like I'm
25 the one that's getting all the time, like everybody

1 pointing their finger at me. And I'm the youngest one out
2 of everybody in this situation.

3 THE COURT: Well, I cannot force -- There's a
4 separation of powers. The judge is in the Judicial Branch;
5 the prosecutor's in the Executive Branch. I can't do their
6 job for them, and I can't tell them what plea offers that I
7 might think would be appropriate. That's their job. Now,
8 the things about sentencing, if you were convicted of
9 something, then the things about your family and your age
10 and how old the case is and all those things, I could take
11 it into consideration in sentencing; but, if you get
12 convicted of armed robbery, I cannot give you less than 10
13 years.

14 DEFENDANT: I understand, Your Honor. But all I'm
15 saying, sir, is I did not commit armed robbery. It might
16 have been common-law robbery or such maybe, but it's not no
17 armed robbery.

18 THE COURT: Well, the only remedy for that is a trial.

19 DEFENDANT: And, if I go to trial and I lose, then I
20 be the rest of my life gone, the rest of my life. I don't
21 want to go back to prison. I'm done with living like that.
22 I don't want to go do no 30 years, no 20 years, no 18, 19,
23 10. I done served time. I came home and did right. If my
24 parole officer was out here, he'd even let you know that I
25 came home and I did exactly right, I worked every day, I

1 paid my -- paid him and all. I did everything that was
2 right. I changed my life. I committed a crime when I was
3 19 years old. I'm 23 now. I'm done. I'm done. I just
4 need some help. I want to go home to my family. I got a
5 one-year-old --

6 THE COURT: Sure, you do. And the person, if you
7 robbed them, didn't want to be robbed. I can't help you
8 with that. I can consider that in sentencing if you get
9 convicted of something. But you want me to somehow undo
10 the whole system that the judicial system is set up on, and
11 I don't have the power to do it.

12 DEFENDANT: You're right. But I had a plea offer for
13 5 years.

14 THE COURT: Well, you should have taken it if you
15 think it was a good deal.

16 DEFENDANT: I did not say yes or no. I just said, can
17 I talk to my mother about it. And then they sent me back
18 to prison. I did not turn the plea down.

19 THE COURT: Mr. Jones, over the course of the years,
20 I've seen cases where I thought that the prosecution was
21 being too difficult. And I'm not talking about this
22 prosecutor; I'm talking about every prosecutor. I've seen
23 cases where I thought the prosecution was being way too
24 lenient. That's not my job. I have sat in the seat that
25 he's sitting in, the prosecutor. I've sat in the seat that

1 your lawyer's sitting in; I've been a public defender. I
2 stood in this very courtroom when Judge Baggett sentenced
3 one of my clients to 30 years in prison; and I thought, as
4 much as I respected and admired Judge Baggett, it's the
5 only time he did something that I thought was completely
6 unjustified. There was nothing I could do about it except
7 object. The system is set up so, when they charge
8 somebody, they have to find probable cause which they've
9 done. They go before the Grand Jury; the Grand Jury has to
10 find probable cause which they've done. The first
11 opportunity you get to really have a trial jury consider
12 anything is at this stage. The State has to prove you
13 guilty beyond a reasonable doubt to all 12 jurors, and
14 they've got to prove every essential element. And I'm not
15 naive enough to sit here and think that sometimes they let
16 people get away with things that I think they ought to nail
17 them on and sometimes they nail people on things that I
18 think aren't that significant. My power comes in the
19 sentencing, but it only occurs if you're found guilty.

20 DEFENDANT: I just need another chance. I know. I
21 understand.

22 THE COURT: I have sent people to prison that probably
23 are completely different people now. I've sent them for
24 the rest of their lives. I understand what you're saying.
25 I really -- On a human level, I have sympathy and empathy

1 for you; but I cannot undo the judicial system just because
2 you say you've changed. I cannot do it. I don't have the
3 power. You're charged with a crime. The State's got the
4 burden of proof. That's what we're here for, to see if
5 they can prove their case against you; and, if they do and
6 if it's armed robbery and if the jury finds you guilty, the
7 Legislature has taken away my discretion for below 10
8 years. I would have to give you 10 years in prison
9 minimum. Well, you can shake your head all day long.
10 There's a whole lot of things going on in government that I
11 don't like. Your case is called for trial. Are y'all
12 ready for trial?

13 DEFENDANT: I'll take the plea.

14 THE COURT: Well, you can't plead guilty if you tell
15 me you didn't do it.

16 DEFENDANT: I'm just going to go ahead and plead.

17 THE COURT: No, you're not because I have to be the
18 gate keeper. That's another part of my job. I can't let
19 somebody plead guilty who tells me they're not guilty.

20 DEFENDANT: I'm scared to go forward with this trial.
21 I do not want to lose my life over this trial. I done seen
22 too many people get found guilty and they was innocent,
23 sir. I'm not trying to be mad with the courts or nothing.
24 I just seen too much happen with situations like that.

25 THE COURT: I understand. I'm not disagreeing with

1 you on any of that. The only thing I know is he can plead
2 no contest.

3 MR. STITELY: Judge, his holdup is the gun. His
4 position is there isn't one. That's where we're running
5 afoul. And I guess, in our theory of the case, that'll
6 come out. But there's a different story out there. That's
7 really the holdup, and that's why he doesn't think he's
8 guilty of armed robbery. I mean, if Your Honor will take a
9 no-contest plea, if that's what he wants to do, of course,
10 I'm at his mercy on that call.

11 MR. MAYE: May it please the Court, Your Honor, I'm
12 compelled at this point in time -- This is such an unusual
13 circumstance. He faces two sets of armed robbery charges
14 and a drug charge. He potentially could face life without
15 parole if he's found guilty of these two armed robbery
16 cases. I've never offered him anything short of armed
17 robbery. He has consistently rejected all plea offers. My
18 offer has never been less than pleading to one count of
19 armed robbery. Like I said, he has three separate sets of
20 charges; and I have notified them that, in the event that
21 he's found guilty of this armed robbery, I would intend to
22 go forward with the second armed robbery at a later time.
23 Your Honor, there are just no plea offers on the table.
24 He's been through three attorneys. He's consistently
25 rejected every offer. We've had to bench warrant him and

1 chase him all over the State in order to try to get him to
2 this point today. There's just nothing left for us to do,
3 Your Honor, but to proceed. I wouldn't have any problem
4 with Your Honor hearing it as a bench trial; but, if he
5 pleads even straight up, it's going to be with absolutely
6 no plea negotiation. He is going to have to, at this point
7 in time -- There just ultimately has to be an end to this
8 process.

9 THE COURT: They say they've got other charges against
10 you that would subject you to life without parole if
11 everything went against you.

12 MR. STITELY: Your Honor, you've heard the
13 co-defendant of the other armed robbery.

14 THE COURT: I don't remember it honest to goodness. I
15 hear hundreds of cases.

16 MR. STITELY: Yes, sir.

17 THE COURT: Once the facts start coming out, yeah, I
18 may start remembering some of it; but I'm bad with names.
19 I'm better with faces.

20 MR. STITELY: Yes, sir.

21 THE COURT: I honestly don't remember it at this
22 point. I mean, it's a terrible situation, and it's a
23 tragedy on many levels; but I don't know anything else to
24 do except to call the case for trial. If he pleads, then
25 he sets himself up for life without parole.

1 (Mr. Stitely confers with defendant.)

2 THE COURT: Do you need to talk to your lawyer?

3 MR. STITELY: If you can give us one minute, Judge. I
4 apologize.

5 THE COURT: We'll be at ease.

6 (Brief Recess.)

7 THE COURT: Where are we, Mr. Stitely?

8 MR. STITELY: Your Honor, at this time, he would ask
9 for a trial and he would waive, at this time, his
10 constitutional right to a trial by a jury of his peers and
11 would like, rather ask, the Court to try both law and fact.

12 THE COURT: Is the State insisting on a jury trial?

13 MR. MAYE: No, sir, Your Honor. The State consents.
14 We'll be happy for Your Honor to hear it.

15 THE COURT: Mr. Jones, I have to cover some things
16 with you. It's fine with me if you sit, but I need you to
17 raise your right hand.

18 **VICTOR ANTHONY JONES, JR.,**

19 **having been duly sworn, testified as follows:**

20 THE COURT: All right. Now, Mr. Jones, your lawyer
21 advises me that you are asking the Court to conduct a bench
22 trial on indictment 2011-GS-41-0150. Is that correct?

23 DEFENDANT: Yes, sir.

24 THE COURT: You have an absolute right to have a jury
25 trial. You know that?

1 DEFENDANT: Yes, sir.

2 THE COURT: It is a fundamental constitutional right.
3 It may be the most fundamental constitutional right related
4 to the criminal justice system. Do you understand?

5 DEFENDANT: Yes, sir.

6 THE COURT: If you have a jury trial, you will help
7 select the jurors, you will have strikes. There are
8 preemptory challenges that you can use to set aside jurors
9 that may be called up to potentially serve on a jury. Do
10 you understand that?

11 DEFENDANT: Yes, sir.

12 THE COURT: So what we would do is we would go through
13 a process where I would ask questions of the jurors. I
14 would receive from your lawyers questions about what they
15 wanted to know about the individual jurors, whether they
16 have anything in their background that might affect their
17 ability to be fair and impartial in the case, whether they
18 have any connection to the case or anybody in it. And I
19 would ask all those questions. Y'all would get that
20 information. And what would happen then is that the
21 computer would randomly select a juror, and that juror
22 would come up and stand here at the bar, and you would get
23 to see them and you would get to help to decide whether
24 they would be seated on your jury or not. Do you
25 understand?

1 DEFENDANT: Yes, sir.

2 THE COURT: There are 12 jurors at this type of court,
3 and we would seat 12 jurors eventually. You would have
4 twice as many strikes as the State would have; so they
5 would have five strikes; you would have ten to set aside
6 jurors if you wish and if you felt as though a juror was
7 not qualified to serve either because of some conflict or
8 not being indifferent to the cause. Your lawyer could
9 raise that issue, and I could set that juror aside so that
10 that juror could not even be considered. Do you understand
11 all that?

12 DEFENDANT: Yes, sir.

13 THE COURT: Now, the jury would be instructed that you
14 are presumed to be innocent, that the charge that's been
15 made against you is not evidence, it's just a charging
16 paper, the indictment. The jury would be instructed that
17 you have no burden to prove anything at all and that the
18 State has the entire burden of proof and the State has to
19 prove you guilty beyond a reasonable doubt to all 12 of
20 those jurors in order for them to convict you of anything.
21 Do you understand?

22 DEFENDANT: Yes, sir.

23 THE COURT: Now, again, I don't know anything about
24 your case just off the top of my head. If I've dealt with
25 other co-defendants, it may come back to me as we go

1 through the trial. But, if there is something in your case
2 that would allow the jury to consider a lesser offense like
3 strong-arm robbery, common-law robbery, the jury would be
4 given that option and you could not be found guilty of
5 anything greater or lesser unless you've been proven guilty
6 beyond a reasonable doubt of that offense and all the
7 essential elements of it. But, if you have a jury trial
8 and there is the possibility of a lesser-included offense,
9 the jury would have that option; and so, in their
10 deliberations, they could be discussing that and they could
11 decide whether you were guilty of the greater offense, the
12 lesser offense or not guilty. Do you understand?

13 DEFENDANT: Yes, sir.

14 THE COURT: They would be told that they have to give
15 you every benefit of the doubt; so, if they've got a doubt
16 about whether you're guilty of say armed robbery versus
17 common-law robbery, they've got to resolve that doubt in
18 your favor and only find you guilty of the lesser offense
19 and then only if they're convinced that you are guilty of
20 the lesser offense beyond a reasonable doubt and the
21 State's proven that. Do you understand all that?

22 DEFENDANT: Yes, sir.

23 THE COURT: You do not have to testify in a jury trial
24 or any trial. Do you understand that?

25 DEFENDANT: Yes, sir.

1 THE COURT: And, if you were to choose not to testify,
2 I would tell that jury that they cannot hold your silence
3 against you in any way at all, that they're not to talk
4 about that, the fact that you've elected not to testify,
5 they're not to discuss it in the jury room, they're not to
6 even let it enter their minds in making their decision of
7 whether you're guilty or not guilty. Do you know all that?

8 DEFENDANT: Yes, sir.

9 THE COURT: It's a fundamental right to have a person
10 judged by his peers. And I have no way of knowing whether
11 a jury would be more sympathetic to your position or not,
12 but it is a fundamental right. If you're giving that up,
13 you're giving up something that is really one of the
14 bedrocks of the judicial system and the personal rights you
15 have. Do you understand that?

16 DEFENDANT: Yes, sir.

17 THE COURT: Are you sure you want to do this without
18 having a jury consider your case?

19 (Mr. Stitely confers with defendant.)

20 MR. STITELY: He says he thinks a jury would be
21 better.

22 THE COURT: Okay. Well, I'm going to tell you I've
23 done a few bench trials in 21 years. I hope I've been fair
24 in all of them; I've tried to be. But giving up a jury
25 trial right is a big deal. You want a trial by a jury now,

1 Mr. Jones?

2 DEFENDANT: Yes, sir.

3 THE COURT: All right. Ask the jurors to come in.

4 (Jury venire enters the courtroom.)

5 THE COURT: All right. Ladies and gentlemen of the
6 jury panel, as I mentioned to you before that break, what
7 we're going to do now is we're going to turn our attention
8 to a specific case. I'll be asking you questions. These
9 questions are designed to obtain from you information that
10 may be relevant to whether you have anything in your
11 background, in your associations, in your connections, that
12 might affect your ability to be a fair and impartial juror.
13 If you keep in mind that the goal of all of this is for us
14 to have a jury serving that's fair and impartial, I think
15 the questions will make more sense to you. So remember
16 that you're under oath; remember that you have an
17 obligation to be completely truthful and honest; remember
18 that, if you have any doubt about whether any of these
19 things apply to you, you need to discuss it with me and let
20 me resolve the doubt. Give us the information, and let us
21 decide whether it's important or not. And, if I ever ask
22 you anything you prefer to discuss more privately, you can
23 come down front and discuss it on the side. We'll follow
24 basically the same procedure that we followed this morning
25 with regard to identifying you for the record. And just

1 listen carefully to the question I ask of you and answer
2 that question. All right, Solicitor, call your case.

3 MR. MAYE: May it please the Court, Your Honor, the
4 State now calls for trial indictment 2011-GS-41-0150, the
5 State vs. Victor Anthony Jones, an indictment for armed
6 robbery. It was true billed by the Grand Jury of Saluda
7 County at the February term of 2011. The State now calls
8 this case for trial.

9 THE COURT: Mr. Stitely, your client has been
10 arraigned or waives arraignment. Is that correct?

11 MR. STITELY: That's correct, Your Honor.

12 THE COURT: Ladies and gentlemen of the jury panel,
13 please give me your attention. We're about to qualify a
14 jury to hear a case that is captioned the State of South
15 Carolina vs. Victor Anthony Jones, Jr. Mr. Jones is
16 charged in this indictment with the offense of armed
17 robbery. The indictment alleges that Victor Anthony Jones,
18 Jr., along with others, did in Saluda County on or about
19 July 9th, 2009, while armed with a pistol -- specifically,
20 it's alleged that Victor Anthony Jones, Jr., feloniously
21 took from the person or presence of Jerrell Bookman, by
22 means of force or intimidation, goods or monies of Jerrell
23 Bookman described as speakers and 750 dollars in United
24 States currency with the intent to deprive the owner
25 permanently of that property which is alleged to be in

1 violation of Section 16-11-330, Subsection A, of the South
2 Carolina Code of Laws. Now, upon his arraignment on this
3 charge, Mr. Jones has entered a plea of not guilty. He is
4 presumed to be innocent. It is incumbent upon the State of
5 South Carolina, having brought this charge against
6 Mr. Jones, to prove every essential element of the offense
7 charged against him beyond a reasonable doubt. An accused
8 has no obligation to prove anything at all. The burden's
9 entirely on the State of South Carolina to prove the guilt
10 of the defendant beyond a reasonable doubt. This
11 indictment is not evidence. An indictment is nothing more
12 than a charging paper; it's merely the formal means by
13 which someone is charged and brought to trial. You may not
14 give the charge itself, the indictment, any evidentiary
15 value whatsoever. I'll be asking you questions. If any of
16 them apply to you or you have doubt about whether they
17 apply to you, please stand and follow the procedure I
18 outlined earlier. Now, is Victor Anthony Jones, Jr., in
19 the courtroom? Mr. Jones, can you stand for me and face
20 that direction so the jury can see you? Thank you very
21 much, sir. You may be seated. Is there any member of the
22 jury panel who is related by blood or marriage or connected
23 by employment with Mr. Victor Anthony Jones, Jr.? If so,
24 please stand.

25 (There was no response.)

1 THE COURT: All right. The defendant, Mr. Jones, will
2 be represented by Mr. Ben Stitely who is with Williams,
3 Hendrix, Steigner and Brink. Thank you, sir.

4 MR. STITELY: And also, with me, this is Wade Downtin.
5 He's a lawyer in Columbia. He's not directly involved;
6 he's just watching this case. But I wanted everyone to
7 know who he is.

8 THE COURT: Thank you. Glad to have you with us.

9 MR. DOWTIN: Thank you, Your Honor.

10 THE COURT: All right. The following persons have
11 been identified as potential witnesses for the State. If
12 any of these people are present at this time, I need for
13 that person to stand as his or her name is called and face
14 the jury. Charles Holloway, Amber Salaam. Is she here?

15 MR. MAYE: She is not present in the courtroom, Your
16 Honor. She is here but not present in the courtroom.

17 THE COURT: Bring her in. Jerrell Bookman.

18 MR. MAYE: Ask Mr. Bookman to step in as well.

19 THE COURT: Toby Horne, is he here?

20 MR. MAYE: No, sir, Your Honor. Your Honor, I would
21 have one additional witness. It would potentially be
22 Acting Chief Brett Long of the Saluda Town Police
23 Department.

24 THE COURT: Brett Long? Thank you. Just stand right
25 there. Are you Amber Salaam?

1 MS. SALAAM: Yes, sir.

2 THE COURT: Would you face that way so they can see
3 you? Stop walking. Okay? Face that way so they can see
4 you. And are you Jerrell Bookman, sir?

5 MR. BOOKMAN: Yes, sir.

6 THE COURT: Would you do likewise? Would you face
7 that way so they can see you? Thank you. Y'all can leave
8 the courtroom if you like, you can stay in or leave, but
9 don't leave the courthouse.

10 (Witnesses leave the courtroom.)

11 THE COURT: All right. Is there any member of the
12 jury panel who is related by blood or marriage or connected
13 by employment with Mr. Holloway, Ms. Salaam, Mr. Bookman,
14 Mr. Horne or Mr. Long? If so, please stand.

15 (Juror stands.)

16 THE COURT: What's your name?

17 MS. WATKINS: Helen Watkins. I'm related to Mr.
18 Holloway.

19 THE COURT: Ms. Watkins is?

20 THE CLERK: 187.

21 THE COURT: 187. You're related to Mr. Holloway?

22 MS. WATKINS: Yes, sir.

23 THE COURT: What's your relationship?

24 MS. WATKINS: Third cousin.

25 THE COURT: Third cousin. I'm going to set you aside

1 on this case, Ms. Watkins. You stay with us for other
2 instructions. All right?

3 MS. WATKINS: All right, sir.

4 THE COURT: 187 is set aside on the trial of this
5 case. Anybody else?

6 (Juror stands.)

7 THE COURT: Yes, sir, what's your name?

8 MR. RIKARD: Will Rikard.

9 THE CLERK: 151.

10 THE COURT: Mr. Rikard is juror number 151. What's
11 your situation?

12 MR. RIKARD: I'm actually related to Officer Horne.
13 I'm not sure quite, you know, the closeness, but my
14 grandmother--

15 THE COURT: I can't understand him either. You're
16 related to Officer Horne?

17 MR. RIKARD: Yes, sir, but I'm not really close to
18 him. I'm just --

19 THE COURT: I'm going to set you aside on this trial.
20 Stay with us for other instructions. 151 is set aside on
21 this trial. Anybody else?

22 (There was no response.)

23 THE COURT: All right. The State will be represented
24 by Mr. Ervin Maye who is a solicitor, assistant solicitor,
25 with the Eleventh Judicial Circuit Solicitor's office.

1 Ladies and gentlemen, do any of you know anything at all
2 about the matter? Do you have any knowledge whatsoever
3 about the allegations? Have you heard, seen or read
4 anything about them through any media outlet? Have you
5 overheard anybody talking about anything at all related to
6 the underlying factual allegations or this matter at all?
7 If so, please stand.

8 (There was no response.)

9 THE COURT: Now, I've introduced to you Mr. Jones and
10 his attorney and the State's attorney, and I've read to you
11 the list of the State's witnesses and brought in the ones
12 into the courtroom who are here in the courthouse right
13 now, and I've asked you if you're related by blood or
14 marriage or connected by employment with anyone. What I
15 need for you to do now is tell us if you've got any
16 connection of any kind with anybody in this case or any
17 entity in this case. So, if you, for example, are a
18 neighbor or a friend or you attend the same civic clubs or
19 churches, if you have any connection with the lawyers or
20 anyone with whom they're affiliated -- This is a Saluda
21 Police Department case. Is that --

22 MR. MAYE: Saluda Town Police Department.

23 THE COURT: If you have any connection with the Saluda
24 Police Department, the Eleventh Circuit Solicitor's office,
25 Mr. Stitely's law firm, any connection at all with anybody

1 or any entity involved in this case currently or formerly,
2 please let us know about it.

3 (Jurors stand.)

4 THE COURT: What's your name?

5 MS. BOLAND: Lisa Boland. I'm friends with Toby
6 Horne.

7 THE CLERK: Number 16.

8 THE COURT: Ms. Boland's juror number 16. You're
9 friends with Mr. Horne?

10 MS. BOLAND: Yes, sir.

11 THE COURT: Ms. Boland, I need to ask you some
12 questions, and I need you just to answer yes or no, and I
13 just want you to be truthful.

14 MS. BOLAND: Okay.

15 THE COURT: All right. If you need to go beyond yes
16 or no to give me the proper explanation, come down front
17 and give me a full explanation. All right? Don't just
18 blurt out the answer if it's other than yes or no.

19 MS. BOLAND: Okay.

20 THE COURT: If you're a juror on this case, you will
21 have to evaluate the credibility, the believability, of
22 every witness who testifies. You understand that?

23 MS. BOLAND: Yes, sir.

24 THE COURT: So, if Mr. Horne is a witness, you have to
25 evaluate his credibility, his believability, along with all

1 the other witnesses. You understand?

2 MS. BOLAND: Yes, sir.

3 THE COURT: Have you ever formed in your own mind or
4 have you ever expressed to anyone else an opinion as to
5 whether he is believable or not?

6 MS. BOLAND: No, no, sir.

7 THE COURT: Can you decide the case without regard to
8 what he may think of your decision?

9 MS. BOLAND: Yes, sir.

10 THE COURT: So, if he gets on this stand and he gives
11 a version of the facts and you don't think that version has
12 been proven, you can decide contrary to what he testified?

13 MS. BOLAND: Yes, sir.

14 THE COURT: Any doubt at all in your mind about that?

15 MS. BOLAND: No, sir.

16 THE COURT: Okay. So do you have any doubt about your
17 ability to be a fair and impartial juror in the case?

18 MS. BOLAND: No, sir.

19 THE COURT: Thank you, ma'am. Ms. Boland is juror
20 number 16. She's eligible to serve. What's your name?

21 JUROR: Christy Derrick, number 57.

22 THE COURT: Ms. Derrick is juror number 57. What's
23 your situation, Ms. Derrick?

24 MS. DERRICK: Brett Long and I, we went to school
25 together; we graduated the same year.

1 THE COURT: All right. All of y'all are going to
2 probably have the same type of question, so it's the same
3 situation. If you need to go beyond yes or no, come down
4 front. All right?

5 MS. DERRICK: (Juror nods head.)

6 THE COURT: You need to speak your answers. If you
7 shake your head, she can't take down a shake of your head.
8 All right?

9 MS. DERRICK: Yes, sir.

10 THE COURT: Now, Ms. Derrick, if you're a juror on
11 this case, you understand you have to evaluate the
12 credibility, the believability, of every witness who
13 testifies?

14 MS. DERRICK: Yes, sir.

15 THE COURT: So, if Mr. Long is a witness in the case,
16 you have to evaluate his credibility, his believability,
17 along with all the other witnesses. You understand?

18 MS. DERRICK: Yes, sir.

19 THE COURT: Have you ever formed in your own mind or
20 have you ever expressed to anyone else an opinion as to
21 whether he's believable or not?

22 MS. DERRICK: No, sir.

23 THE COURT: Can you decide the case without regard to
24 what he may think of your decision?

25 MS. DERRICK: Yes, sir.

1 THE COURT: Are you sure?

2 MS. DERRICK: Yes, sir.

3 THE COURT: So, if you're on that jury, it's not going
4 to enter your mind to think about what he may think of your
5 decision?

6 MS. DERRICK: No, sir.

7 THE COURT: Do you have any doubt whatsoever about
8 your ability to be a fair and impartial juror in the case?

9 MS. DERRICK: Yes, sir.

10 THE COURT: You have some doubt?

11 MS. DERRICK: No, sir.

12 THE COURT: Let me ask you again. Do you have any
13 doubt at all about your ability to be a fair and impartial
14 juror in the case?

15 MS. DERRICK: No, sir.

16 THE COURT: Ms. Derrick's juror number 57. She's
17 eligible to serve. Behind her, what's your name, ma'am?

18 JUROR: Loretha Young, juror number 200.

19 THE COURT: Ms. Young is juror number 200. What's
20 your situation, ma'am?

21 MS. YOUNG: The young lady, Amber Salaam, about four
22 years ago, she used to work at Amick Farms.

23 THE COURT: Okay. So did you work with her at Amick's
24 about four years ago?

25 MS. YOUNG: Yes, sir.

1 THE COURT: Were you her supervisor there?

2 MS. YOUNG: Yes, sir.

3 THE COURT: Let me come back to you. Okay?

4 MS. YOUNG: Yes, sir.

5 THE COURT: Let me finish with the others, and I'll
6 come back to you. Okay?

7 MS. YOUNG: Yes, sir.

8 THE COURT: What's your name, sir?

9 MR. FARMER: Jeremy Farmer, juror 68.

10 THE COURT: What's your situation, Mr. Farmer?

11 MR. FARMER: Me and Toby Horne went to church
12 together. I also know the Solicitor, Mr. Ervin, and my
13 father used to be the Chief of Police in Saluda.

14 THE COURT: Let me ask the last question first and
15 then work my way back.

16 MR. FARMER: Yes, sir.

17 THE COURT: Do you have any doubt at all about your
18 ability to be a fair and impartial juror in the case?

19 MR. FARMER: No, sir.

20 THE COURT: And you go to church with Mr. Horne?

21 MR. FARMER: Yes, sir.

22 THE COURT: And you're a friend of the Solicitor?

23 MR. FARMER: Correct, sir.

24 THE COURT: And what was the other thing?

25 MR. FARMER: My father used to be the Chief of Police

1 in Saluda.

2 THE COURT: How long ago?

3 MR. FARMER: I believe he retired about five years
4 ago, sir.

5 THE COURT: That's 2009? He retired before? He
6 retired before this case was made is my question.

7 MR. MAYE: Yes, sir, he retired in 2008 is what I'm
8 informed.

9 THE COURT: All right. Mr. Farmer, you understand
10 that, if you are a juror in this case, you have to evaluate
11 the credibility, the believability, of every witness who
12 testifies?

13 MR. FARMER: I do.

14 THE COURT: Have you ever formed in your own mind or
15 expressed to anyone else an opinion as to whether Mr. Horne
16 is believable?

17 MR. FARMER: I have not.

18 THE COURT: You can decide the case without regard to
19 what he may think of your decision?

20 MR. FARMER: I can.

21 THE COURT: Do you understand that the Solicitor's
22 office is responsible for putting up the State's case?

23 MR. FARMER: I do.

24 THE COURT: Is there anything at all about your
25 friendship with Mr. Maye that would affect your ability to

1 be a fair and impartial juror in the case?

2 MR. FARMER: There is not.

3 THE COURT: You can decide the case without regard to
4 what he may think of your decision?

5 MR. FARMER: Yes, sir.

6 THE COURT: You won't be concerned about it the next
7 time y'all encounter one another?

8 MR. FARMER: No, sir.

9 THE COURT: In your relationship with the Police
10 Department, is there anything at all about that that
11 affects your ability to be a fair and impartial juror in
12 the case?

13 MR. FARMER: No, sir.

14 THE COURT: Do you have any doubt whatsoever about the
15 answers you've given me to any of these questions?

16 MR. FARMER: No, sir.

17 THE COURT: Thank you. Mr. Farmer is 68. He's
18 eligible to serve.

19 THE COURT: What's your name, ma'am?

20 MS. SANDISH: Kathleen Sandish, 159.

21 THE COURT: Ms. Sandish is juror number 159. What's
22 your situation, please?

23 MS. SANDISH: I'm not real sure because you didn't
24 list him, but he is in the courtroom. Jesse Quattlebalm is
25 my neighbor.

1 MR. MAYE: Judge, he is not involved in this case
2 beyond the selection of the jury.

3 THE COURT: He's just helping you select the jury?

4 MR. MAYE: He's not involved in this case. He's not
5 a witness. It's not his agency.

6 THE COURT: Ms. Sandish, they tell me he's assisting
7 in selecting the jury but not involved directly in the
8 case. Is there anything at all about your relationship
9 with Jesse Quattlebalm that affects your ability to be a
10 fair and impartial juror in this case?

11 MS. SANDISH: No, sir.

12 THE COURT: Any doubt in your mind?

13 MS. SANDISH: No.

14 THE COURT: Thank you. Juror number 159 is eligible
15 to serve. All right. Ms. Young, would you come up,
16 please? The lawyers may join me on the side; Mr. Jones may
17 if he likes.

18 (Bench conference on the record.)

19 THE COURT: All right. Ms. Young, was there ever any
20 difficulties between you and Ms. Salaam?

21 MS. YOUNG: No, sir.

22 THE COURT: Any problems whatsoever with her job
23 performance?

24 MS. YOUNG: No, sir.

25 THE COURT: No run-ins with you and her?

1 MS. YOUNG: No, sir.

2 THE COURT: Is there anything about your relationship
3 that affects your ability to be a fair and impartial juror
4 in the case?

5 MS. YOUNG: No, sir.

6 THE COURT: Have you ever formed in your own mind or
7 expressed to anyone else an opinion as to whether she's
8 believable or not?

9 MS. YOUNG: No, sir.

10 THE COURT: Do you understand that, if she is a
11 witness, you have to evaluate her believability?

12 MS. YOUNG: Yes, sir.

13 THE COURT: Can you decide the case without regard to
14 your prior experiences with her or your relationship with
15 her?

16 MS. YOUNG: Yes, sir.

17 THE COURT: Any doubt in your mind about your ability
18 to be fair and impartial?

19 MS. YOUNG: No, sir.

20 THE COURT: All right. Thank you, ma'am. Ms. Young
21 is juror number 200. She's eligible to serve.

22 (End of bench conference.)

23 THE COURT: Anybody else?

24 (There was no response.)

25 THE COURT: All right. I'm going to pose a multiple-

1 part question. I need you to listen carefully to all the
2 parts. We're going to talk about your responses down
3 front; we're not going to talk about them in front of the
4 whole group. Have any of you, any of your immediate family
5 members, any of your close personal friends ever been the
6 victim of any type of robbery, any type of crime of
7 violence or any offense that involves any type of firearm;
8 or have any of you, any of your immediate family members,
9 any of your close personal friends ever been accused of
10 committing any such type of offense regardless of whether
11 any charges were ever brought? If so, please stand.

12 (Jurors stand.)

13 THE COURT: If you would form a line over here by the
14 bailiff, please. We'll bring you up one by one. Just form
15 a line over here. Again, y'all may join me on the side if
16 you'd like.

17 (Bench conferences on the record.)

18 THE COURT: What's your name?

19 MS. STOUDEMAYER: Crystal Stoudemayer, number 35.

20 THE COURT: Ms. Stoudemayer is juror number 35.

21 What's your situation, ma'am?

22 MS. STOUDEMAYER: I had gotten my stuff stolen not too
23 long ago.

24 THE COURT: Got your stuff stolen?

25 MS. STOUDEMAYER: Pocketbook, cameras, all that stuff.

1 THE COURT: Did the person take it from you directly
2 or --

3 MS. STOUDEMAYER: No. It was in my vehicle.

4 THE COURT: Somebody broke in your car and took your
5 pocketbook and some other things? Was that in Saluda
6 County?

7 MS. STOUDEMAYER: Yes, sir.

8 THE COURT: What happened to the case?

9 MS. STOUDEMAYER: I'm not sure. I think they found a
10 couple of guys, but I never got -- Well, I got my
11 pocketbook back, but my camera's still missing.

12 THE COURT: Okay. You understand that this
13 gentleman's charged with armed robbery?

14 MS. STOUDEMAYER: Uh-huh.

15 THE COURT: Is that a yes?

16 MS. STOUDEMAYER: Yes, sir.

17 THE COURT: Is there anything at all about your
18 experience that affects your ability to be a fair and
19 impartial juror in this case?

20 MS. STOUDEMAYER: I don't think so.

21 THE COURT: Ma'am?

22 MS. STOUDEMAYER: No, sir.

23 THE COURT: You sure?

24 MS. STOUDEMAYER: Yeah.

25 THE COURT: Did you have to come to court at all?

1 MS. STOUDEMAYER: Huh-uh.

2 THE COURT: Say yes or no.

3 MS. STOUDEMAYER: No, sir.

4 THE COURT: Okay. Was it in the town limits?

5 MS. STOUDEMAYER: Right there at it, between Johnston
6 and Saluda.

7 THE COURT: Between Johnston and Saluda?

8 MS. STOUDEMAYER: Uh-huh.

9 THE COURT: So it would be out in the county?

10 MS. STOUDEMAYER: In the county, yeah.

11 THE COURT: So the Sheriff's Department --

12 MS. STOUDEMAYER: Uh-huh.

13 THE COURT: -- is the one that took your case?

14 MS. STOUDEMAYER: Yes, sir.

15 THE COURT: Do you have any doubt at all about your
16 ability to be fair and impartial?

17 MS. STOUDEMAYER: No, sir.

18 THE COURT: Thank you, ma'am. Ms. Stoudemayer is
19 juror number 35. She's eligible to serve. Yes, ma'am,
20 200, Ms. Young, what's your situation please?

21 MS. YOUNG: My brother and two of my nephews have been
22 accused of a crime like this.

23 THE COURT: Are their cases pending or are they over?

24 MS. YOUNG: They're pending.

25 THE COURT: In Saluda County?

1 MS. YOUNG: Yes, sir.

2 THE COURT: What's your brother's name?

3 MS. YOUNG: Freddie Roberson.

4 THE COURT: And you said your cousins, your nephews?

5 MS. YOUNG: Yes, sir.

6 THE COURT: What are their names.

7 MS. YOUNG: David Garvin.

8 THE COURT: And who else?

9 MS. YOUNG: Nikeem Roberson.

10 THE COURT: Were the charges brought by the Sheriff's
11 Department or the city police or do you know?

12 MS. YOUNG: I really don't know which one, sir.

13 THE COURT: Are you involved in the case in any way?

14 MS. YOUNG: No, sir.

15 THE COURT: Is there anything at all about your
16 relationship with them or their situation that affects your
17 ability to be a fair and impartial juror in this case?

18 MS. YOUNG: No, sir.

19 THE COURT: Any doubt in your mind?

20 MS. YOUNG: No, sir.

21 THE COURT: Do you understand that, if there are
22 charges in Saluda County, that the same people will be
23 prosecuting them that's prosecuting this gentleman? You
24 understand that?

25 MS. YOUNG: Yes, sir.

1 THE COURT: Anything about that that affects your
2 ability to be fair and impartial?

3 MS. YOUNG: No, sir.

4 THE COURT: Thank you very much. Ms. Young is juror
5 number 200, and she's eligible to serve. Yes, sir. What's
6 your name, please?

7 MR. CLARK: Sherome Clark.

8 THE COURT: Mr. Clark is juror number 44. What's your
9 situation, sir?

10 MR. CLARK: My brother, he did six years for breaking
11 and entering.

12 THE COURT: Okay. A house or a car or what?

13 MR. CLARK: In a house.

14 THE COURT: Okay. Is that in Saluda County?

15 MR. CLARK: Yes, sir.

16 THE COURT: How long ago are we talking about?

17 MR. CLARK: It was in 2000.

18 THE COURT: Okay. And were you involved in the case
19 in any way?

20 MR. CLARK: No, sir.

21 THE COURT: What's your brother's name?

22 MR. CLARK: Ricky Stevens.

23 THE COURT: Is there anything at all about your
24 relationship with him or that experience that affects your
25 ability to be a fair and impartial juror in the case?

1 MR. CLARK: No, sir.

2 THE COURT: Any doubt in your mind?

3 MR. CLARK: No, sir.

4 THE COURT: If the same people prosecuted your brother
5 that's prosecuting this man, would that affect your ability
6 to be fair and impartial?

7 MR. CLARK: No, sir.

8 THE COURT: All right. Thank you very much.
9 Mr. Clark is juror number 44. He's eligible to serve.
10 Yes, sir. What's your name?

11 MR. EDWARDS: Christopher Edwards, number 61.

12 THE COURT: Mr. Edwards is juror number 61. Yes, sir,
13 what's your situation?

14 MR. EDWARDS: My son was involved in a robbery at
15 Burger King a couple weeks ago. He worked there.

16 THE COURT: The one down here?

17 MR. EDWARDS: Yes, sir.

18 THE COURT: Okay. Have they caught -- I don't know
19 anything about that. Have they caught anybody?

20 MR. EDWARDS: I don't know.

21 THE COURT: That's in the city limits, isn't it?

22 MR. EDWARDS: Yes, sir.

23 THE COURT: I'm going to set you aside on this trial,
24 Mr. Edwards. You stay with us. 61, Mr. Edwards, is set
25 aside on this trial. Yes, sir?

1 MR. FARMER: Jeremy Farmer, juror 68.

2 THE COURT: 68, Mr. Farmer. Go ahead.

3 MR. FARMER: I was robbed approximately eight years
4 ago. There was no trial. I have no problem being
5 impartial.

6 THE COURT: Was it a robbery person to person or was
7 it --

8 MR. FARMER: House robbery, sir.

9 THE COURT: Were you in the house?

10 MR. FARMER: I was not.

11 THE COURT: What happened to the case?

12 MR. FARMER: Nothing as far as I know.

13 THE COURT: Do you know if they ever arrested anyone?

14 MR. FARMER: They think it was my cousin. He took a
15 lie detector test and failed it, but they weren't able to
16 prove anything.

17 THE COURT: Anything at all about that experience that
18 affects your ability to be a fair and impartial juror in
19 the case?

20 MR. FARMER: No, sir.

21 THE COURT: Any doubt in your mind?

22 MR. FARMER: No, sir.

23 THE COURT: Do you live in the town limits?

24 MR. FARMER: In Saluda County.

25 THE COURT: You live in Ward?

1 MR. FARMER: Yes, sir.

2 THE COURT: Okay. Thank you, sir. 68, Mr. Farmer is
3 eligible to serve. What's your name?

4 MS. BOSKET: Debbie Bosket.

5 THE CLERK: Juror number 18.

6 MS. BOSKET: 18, yes.

7 THE COURT: Ms. Bosket's juror number 18. What's your
8 situation?

9 MS. BOSKET: I have a son that was charged one time
10 for having a gun, but it was throwed out.

11 THE COURT: Charged with a gun?

12 MS. BOSKET: Yes, but it was throwed out.

13 THE COURT: What's your son's name?

14 MS. BOSKET: Thomas Tolan.

15 THE COURT: Thomas what?

16 MS. BOSKET: Tolan, T-O-L-A-N.

17 THE COURT: Was that here in Saluda?

18 MS. BOSKET: Yes, sir.

19 THE COURT: Was he charged with just possessing a gun
20 or using it or what?

21 MS. BOSKET: The last charge he had, he had had one;
22 but it was a felony. But this last time, it was the guy
23 had stole -- broke in some houses and stole stuff.

24 THE COURT: Possession of a stolen pistol?

25 MS. BOSKET: Yes, yes.

1 THE COURT: Is that the one that got dismissed?

2 MS. BOSKET: That right there, he on probation.

3 THE COURT: Is there anything about your relationship
4 with your son or his experiences that affects your ability
5 to be a fair and impartial juror in the case?

6 MS. BOSKET: No, sir, it won't. I'll be fair.

7 THE COURT: Any doubt about it?

8 MS. BOSKET: No doubt about it.

9 THE COURT: If the same people that prosecuted your
10 son are the same people prosecuting this individual, would
11 that affect your ability to be a fair and impartial juror
12 in the case?

13 MS. BOSKET: No, sir.

14 THE COURT: Any doubt in your mind?

15 MS. BOSKET: No, sir.

16 THE COURT: Thank you very much. Ms. Bosket, juror
17 18, is eligible to serve.

18 (End of bench conferences.)

19 THE COURT: Are any of you current or former employees
20 of any prosecutor's office, federal, state, local, or
21 military or law enforcement agency, federal, state, local,
22 or military? If so, please stand.

23 (Jurors stand.)

24 THE COURT: Your name, sir?

25 MR. GILLILAND: Brenton Gilliland, number 80. I was a

1 former reserve deputy for the Sheriff's Department.

2 THE COURT: Number 80, Mr. Gilliland. You were a
3 reserve deputy when?

4 MR. GILLILAND: Ten years ago, sir.

5 THE COURT: Is there anything about that relationship
6 or experiences that affects your ability to be a fair and
7 impartial juror in the case?

8 MR. GILLILAND: No, sir.

9 THE COURT: Any doubt in your mind?

10 MR. GILLILAND: None.

11 THE COURT: Thank you, sir. Juror number 80's
12 eligible. Yes, sir?

13 MR. FARMER: Jeremy Farmer, Juror 68. I worked with
14 Saluda County Detention Center for approximately three
15 months in 2007.

16 THE COURT: Anything about your relationship or that
17 experience that affects your ability to be a fair and
18 impartial juror in the case?

19 MR. FARMER: No, sir.

20 THE COURT: Any doubt in your mind?

21 MR. FARMER: No, sir.

22 THE COURT: Thank you. Juror number 68 is eligible to
23 serve. Is anybody close to you employed in any capacity in
24 the prosecution or in law enforcement -- that could be a
25 relative; that could be a very close friend -- that you

1 haven't already told us about it? If you've already told
2 us about it, you don't have to tell us.

3 (Jurors stand.)

4 THE COURT: Yes, sir?

5 MR. RIKARD: Will Rikard, 151. My brother's with the
6 South Carolina Highway Patrol.

7 THE COURT: You've been set aside. Is that right?

8 MR. RIKARD: Yes, sir.

9 THE COURT: Okay. 151 is already set aside. Your
10 name, please?

11 MS. GARDNER: Whitney Gardner, 77.

12 THE COURT: Ms. Gardner is juror number 77. What's
13 your situation?

14 MS. GARDNER: My boyfriend works at the Sheriff's
15 Office as a deputy.

16 THE COURT: All right. Is there anything at all about
17 that relationship that affects your ability to be a fair
18 and impartial juror in this case?

19 MS. GARDNER: No, sir.

20 THE COURT: Any doubt in your mind?

21 MS. GARDNER: No, sir.

22 THE COURT: Thank you very much. Ms. Gardener is
23 juror number 77. She's eligible to serve. Is there
24 anything at all about the nature of the allegation itself,
25 the nature of the allegation being that it's an allegation

1 of armed robbery, anything at all about that that affects
2 your ability to be a fair and impartial juror in this case?
3 If so, please stand.

4 (There was no response.)

5 THE COURT: Are any of you members of or financial
6 contributors to any organization that has as a primary
7 purpose the support of law enforcement or victim's rights?
8 That would include such things as Mothers Against Drunk
9 Driving, Students Against Violent Crime, working at a
10 shelter for abused persons, any kind of organization that
11 has as a primary purpose the support of law enforcement or
12 the assistance of victims. If so, please stand.

13 (There was no response.)

14 THE COURT: Have any of you formed or expressed any
15 opinions about this case? If so, please stand.

16 (There was no response.)

17 THE COURT: Are any of you aware of any interest, bias
18 or prejudice that you might have for or against the State,
19 for or against Mr. Jones, the defendant, for or against
20 anyone or any entity in the case? If so, please stand.

21 (There was no response.)

22 THE COURT: Can each of you give both the State of
23 South Carolina and the defendant, Victor Jones, a fair and
24 impartial trial? If you know of any reason why you cannot,
25 please stand now.

1 (There was no response.)

2 THE COURT: Further questions from the State?

3 MR. MAYE: Nothing from the State, Your Honor.

4 THE COURT: Further questions from the defense?

5 MR. STITELY: Nothing from the defense.

6 THE COURT: Thank you very much. The jury panel is
7 qualified. Madame Clerk, give us a jury. The strikes will
8 be five for the State, ten for the defendant. While
9 they're doing this, ladies and gentlemen, let me tell you
10 what they're doing. They use computers now. The
11 computer's going to randomly pick your names in order,
12 those of you who have not been set aside. And the Clerk
13 will start at the top of the list. She'll call a name. If
14 it's your name, you need to gather your personal
15 belongings, come the quickest route down, come down to the
16 rail right in front of Ms. Holmes, right in front of the
17 Clerk where that microphone stand is so that you're right
18 there in front of me but at the next rail. And then you
19 need to turn around and face in the direction you came from
20 so that I'm looking straight at your back. When you get
21 down here, the Clerk will ask questions of the State's
22 attorney and the defense attorney and, based on their
23 responses, you will be told whether to have a seat in the
24 jury box or return to your seat in the courtroom. So the
25 reason you need to bring your personal belongings is

1 because your next stop may be over here in the jury box.

2 THE COURT: All right. Madame Clerk, give us a jury,
3 please.

4 THE CLERK: Number 101, Quincy T. Kenley, come down
5 front, please.

6 (Whereupon, Quincy T. Kenley, a black male, was called
7 forward.)

8 THE CLERK: What say you for the State?

9 MR. MAYE: Beg the Court's indulgence.

10 (Pause.)

11 MR. MAYE: Please present the juror.

12 THE CLERK: What say you for the defense?

13 MR. STITELY: Please swear the juror.

14 THE CLERK: Please have a seat over here in the jury
15 box. Number 80, Brenton D. Gilliland.

16 (Whereupon, Brenton D. Gilliland, a white male, was
17 called forward.)

18 THE CLERK: What say you for the State?

19 MR. MAYE: Please present the juror.

20 THE CLERK: What say you for the defense?

21 MR. STITELY: Please excuse the juror from the trial
22 of the case.

23 THE CLERK: Please return to your seat. 36, Ashley W.
24 Buzhardt.

25 (Whereupon, Ashley W. Buzhardt, a white male, was

1 called forward.)

2 THE CLERK: What say you for the State?

3 MR. MAYE: Please present the juror.

4 THE CLERK: What say you for the defense?

5 MR. STITELY: Please swear the juror.

6 THE CLERK: Please have a seat in the jury box. 141,

7 Donald Ray Perry.

8 (Whereupon, Donald Ray Perry, a white male, was called
9 forward.)

10 THE CLERK: What say you for the State?

11 MR. MAYE: Please present the juror.

12 THE CLERK: What say you for the defense?

13 MR. STITELY: Please swear the juror.

14 THE CLERK: Please have a seat in the jury box. 109,

15 Billy G. Leopard.

16 (Whereupon, Billy G. Leopard, a white male, was called
17 forward.)

18 THE CLERK: What say you for the State?

19 MR. MAYE: Please present the juror.

20 THE CLERK: What say you for the defense?

21 MR. STITELY: Please excuse the juror from the trial
22 of the case.

23 THE CLERK: Please return to your seat. Number 10,
24 Logan M. Autry.

25 (Whereupon, Logan M. Autry, a white female, was called

1 forward.)

2 THE CLERK: What say you for the State?

3 MR. MAYE: Please present the juror.

4 THE CLERK: What say you for the defense?

5 MR. STITELY: Please swear the juror.

6 THE CLERK: Please have a seat in the jury box. 100,

7 Austin H. Jumper.

8 (Whereupon, Austin H. Jumper, a white male, was called
9 forward.)

10 THE CLERK: What say you for the State?

11 MR. MAYE: Please present the juror.

12 THE CLERK: What say you for the defense?

13 MR. STITELY: Please swear the juror.

14 THE CLERK: Please have a seat in the jury box. 186,

15 Langley K. Wash.

16 (Whereupon, Langley K. Wash, a white female, was
17 called forward.)

18 THE CLERK: What say you for the State?

19 MR. MAYE: Please present the juror.

20 THE CLERK: What say you for the defense?

21 MR. STITELY: Please swear the juror.

22 THE CLERK: Please have a seat in the jury box. 76,

23 Mary U. Gantt.

24 (Whereupon, Mary U. Gantt, a white female, was called
25 forward.)

1 THE CLERK: What say you for the State?

2 MR. MAYE: Please present the juror.

3 THE CLERK: What say you for the defense?

4 MR. STITELY: Please excuse the juror from the trial
5 of the case.

6 THE CLERK: Please return to your seat. 91, Phyllis
7 D. Hartley.

8 (Whereupon, Phyllis D. Hartley, a white female, was
9 called forward.)

10 THE CLERK: What say you for the State?

11 MR. MAYE: Please present the juror.

12 THE CLERK: What say you for the defense?

13 MR. STITELY: Please excuse the juror from the trial
14 of the case.

15 THE CLERK: Please return to your seat. 63, Linda L.
16 Edwards.

17 (Whereupon, Linda L. Edwards, a black female, was
18 called forward.)

19 THE CLERK: What say you for the State?

20 MR. MAYE: Please present the juror.

21 THE CLERK: What say you for the defense?

22 MR. STITELY: Please swear the juror.

23 THE CLERK: Please have a seat in the jury box. 200,
24 Loretha J. Young.

25 (Whereupon, Loretha J. Young, a black female, was

1 called forward.)

2 THE CLERK: What say you for the State?

3 MR. MAYE: Please excuse the juror from the trial of
4 this case.

5 THE CLERK: Please return to your seat. 83, Willie L.
6 Gray.

7 (Whereupon, Willie L. Gray, a black male, was called
8 forward.)

9 THE CLERK: What say you for the State?

10 MR. MAYE: Please excuse the juror from the trial of
11 this case.

12 THE CLERK: Please return to your seat. 107, Jennifer
13 L. Lake.

14 (Whereupon, Jennifer L. Lake, a white female, was
15 called forward.)

16 THE CLERK: What say you for the State?

17 MR. MAYE: Please present the juror.

18 THE CLERK: What say you for the defense?

19 MR. STITELY: Please swear the juror.

20 THE CLERK: Please have a seat in the jury box. 115,
21 Robert C. Lybrand.

22 (Whereupon, Robert C. Lybrand, a white male, was
23 called forward.)

24 THE CLERK: What say you for the State?

25 MR. MAYE: Please present the juror.

1 THE CLERK: What say you for the defense?

2 MR. STITELY: Please excuse the juror from the trial
3 of the case.

4 THE CLERK: Please return to your seat. 93, Lee H.
5 Herlong.

6 (Whereupon, Lee H. Herlong, a white male, was called
7 forward.)

8 THE CLERK: What say you for the State?

9 MR. MAYE: Beg the Court's indulgence.

10 (Pause.)

11 MR. MAYE: Please present the juror.

12 THE CLERK: What say you for the defense?

13 MR. STITELY: Please excuse the juror from the trial
14 of the case.

15 THE CLERK: Please return to your seat. 68, Jeremy D.
16 Farmer.

17 (Whereupon, Jeremy D. Farmer, a white male, was called
18 forward.)

19 THE CLERK: What say you for the State?

20 MR. MAYE: Please present the juror.

21 THE CLERK: What say you for the defense?

22 MR. STITELY: I know Your Honor is aware, but I still
23 make a motion to strike for cause because of the
24 relationships.

25 THE COURT: Granted. Just have a seat back there,

1 Mr. Farmer. The Court finds you are not indifferent to the
2 cause.

3 THE CLERK: 77, Whitney L. Gardner.

4 (Whereupon, Whitney L. Gardner, a white female, was
5 called forward.)

6 THE CLERK: What say you for the State?

7 MR. MAYE: Please present the juror.

8 THE CLERK: What say you for the defense?

9 MR. STITELY: Please excuse the juror from the trial
10 of the case.

11 THE CLERK: Please return to your seat. 159, Kathleen
12 A. Sandish.

13 (Whereupon, Kathleen A. Sandish, a white female, was
14 called forward.)

15 THE CLERK: What say you for the State?

16 MR. MAYE: Please present the juror.

17 THE CLERK: What say you for the defense?

18 MR. STITELY: Please excuse the juror from the trial
19 of the case.

20 THE CLERK: Please return to your seat. 96, Ann C.
21 Holstein.

22 (Whereupon, Ann C. Holstein, a white female, was
23 called forward.)

24 THE CLERK: What say you for the State?

25 MR. MAYE: Please present the juror.

1 THE CLERK: What say you for the defense?

2 MR. STITELY: Please seat the juror.

3 THE CLERK: Please have a seat in the jury box. 16,

4 Lisa M. Boland.

5 (Whereupon, Lisa M. Boland, a white female, was called
6 forward.)

7 THE CLERK: What say you for the State?

8 MR. MAYE: Please present the juror.

9 THE CLERK: What say you for the defense?

10 MR. STITELY: Please excuse the juror from the trial
11 of the case.

12 THE CLERK: Please return to your seat. 64, Jesse E.
13 Efird.

14 (Whereupon, Jesse E. Efird, a white male, was called
15 forward.)

16 THE CLERK: What say you for the State?

17 MR. MAYE: Please present the juror.

18 THE CLERK: What say you for the defense?

19 MR. STITELY: Please swear the juror.

20 THE CLERK: Please have a seat in the jury box. 60,
21 Freddie Dublin.

22 (Whereupon, Freddie Dublin, a black male, was called
23 forward.)

24 THE CLERK: What say you for the State?

25 MR. MAYE: Please present the juror.

1 THE CLERK: What say you for the defense?

2 MR. STITELY: Please seat the juror.

3 THE CLERK: Please have a seat in the jury box. 145,
4 Allison L. Rauton.

5 (Whereupon, Allison L. Rauton, a white female, was
6 called forward.)

7 THE CLERK: What say you for the State?

8 MR. MAYE: Please present the juror.

9 THE CLERK: What say you for the defense?

10 MR. STITELY: Please excuse the juror from the trial
11 of the case.

12 THE CLERK: Please return to your seat. 125, Michael
13 D. Miles.

14 (Whereupon, Michael D. Miles, a black male, was called
15 forward.)

16 THE CLERK: What say you for the State?

17 MR. MAYE: Please excuse the juror from the trial of
18 this case.

19 THE CLERK: Please return to your seat. 127, Johnnie
20 R. Miller.

21 (Whereupon, Johnnie R. Miller, a white male, was
22 called forward.)

23 THE CLERK: What say you for the State?

24 MR. MAYE: Please present the juror.

25 THE CLERK: What say you for the defense?

1 MR. STITELY: Please swear the juror.

2 THE CLERK: Please have a seat in the jury box.

3 THE COURT: We'll draw an alternate. Strikes are one
4 for the State, two for the defense.

5 THE CLERK: 126, James S. Miller.

6 (Whereupon, James S. Miller, a white male, was called
7 forward.)

8 THE CLERK: What say you for the State?

9 MR. MAYE: Please present the juror.

10 THE CLERK: What say you for the defense?

11 MR. STITELY: Please swear the juror.

12 THE CLERK: Please have a seat in the jury box.

13 THE COURT: We'll draw another alternate. Strikes are
14 one for the State, two for the defense.

15 THE CLERK: 79, Jeremy M. Gilliam.

16 (Whereupon, Jeremy M. Gilliam, a black male, was
17 called forward.)

18 THE CLERK: What say you for the State?

19 MR. MAYE: Begging the Court's indulgence.

20 THE COURT: Yes, sir.

21 (Pause.)

22 MR. MAYE: Please present the juror.

23 THE CLERK: What say you for the defense?

24 MR. STITELY: Please swear the juror.

25 THE CLERK: Please have a seat in the jury box.

1 THE COURT: Are there any matters to take up,
2 including composition of the jury, prior to the jury being
3 sworn from the State?

4 MR. MAYE: None from the State.

5 THE COURT: From the defense?

6 MR. STITELY: None from the defense, Your Honor.

7 THE COURT: Thank you very much. Ladies and
8 gentlemen, I'm going to have to ask you to step into the
9 jury room. I realize what time it is. We're going to let
10 you go to lunch shortly, but I have to give you some
11 instructions before I can let you go and I have to give the
12 balance of the panel some instructions too. So I'm going
13 to ask you to step into the jury room. Do not discuss this
14 case in any way at all. Don't talk about the people
15 involved in the case, the type of case it's alleged to be.
16 Don't talk about the case whatsoever. If you'll follow the
17 bailiffs, I'll get back to you momentarily.

18 (The jury retires to the jury room.)

19 THE COURT: Do y'all have any idea how long this case
20 will take?

21 MR. MAYE: Two days.

22 MR. STITELY: Judge, we have at least two pretrial
23 motions to take up after lunch.

24 THE COURT: All right. Ladies and gentlemen, those of
25 you not selected on this case, what I need to do is to put

1 you on the telephone standby system. When you leave, go
2 out this door, and the bailiff will give you a telephone
3 number. Call that number tonight after 6:00 and follow the
4 instructions. As soon as I know that I do not need a
5 jury -- in other words, we've got enough business to do
6 without a jury being involved in the case -- I promise you
7 I will tell the Clerk to cut you loose. But it's too early
8 in the week for me to cut the jury loose. If I turn you
9 loose now, everything will shut down. Now, very quickly --
10 I'm going to shorten this from what I normally do. I want
11 you to understand that this call-in system was put in place
12 primarily for your convenience because, when I was
13 practicing law, the judges brought the juries in every
14 morning and every afternoon and you just sat there a lot of
15 the times. So it works great, but make sure you call.
16 Make sure, if you have a true emergency that arises, that
17 you let us know why you're not here. Have somebody call us
18 and let us know because, if you're not here and you're
19 supposed to be, I'll have somebody looking for you. The
20 first week of court we do guilty pleas and other matters on
21 Monday, so I did that yesterday. So it's obvious the
22 second day of the week is Tuesday. We bring another jury
23 in next Monday. If this case does take two days to try,
24 that will put us into Thursday; and I don't know if they've
25 got a case short enough to start and finish this week, so I

1 don't know if I'll see you again. If I do not see you
2 again, thank you very much. I appreciate your service. If
3 you work a third-shift job or you're a long-distance truck
4 driver or something like that, I can't have you coming in
5 dead on your feet; in other words, you can't stay up all
6 night and then come in the next day to serve on a jury all
7 day. So stay and talk to me if you have one of those types
8 of occupations, and I'll tell you what we normally do with
9 folks like third-shift workers and long-distance truck
10 drivers. Any questions about what you're supposed to do?

11 (There was no response.)

12 THE COURT: Call tonight after 6:00. Follow the
13 instructions. All right? If you're here for jury duty,
14 you're free to go. Get your telephone number and call
15 tonight after 6:00. Thank you.

16 (Whereupon, the remaining jury venire was excused.)

17 (Bench conference on the record.)

18 THE COURT: What's your name, sir?

19 JUROR: Sherome Clark.

20 THE COURT: 44, Sherome Clark. You work third-shift
21 work?

22 MR. CLARK: Yes, sir.

23 THE COURT: And what's your name, sir?

24 MR. LESTER: 110, Michael Lester.

25 THE COURT: Mr. Clark, you work at Milliken?

1 MR. CLARK: No, sir. I work at Timberman; my wife
2 works at Milliken.

3 THE COURT: I'm sorry. Your wife works at Milliken.
4 And you work at Amick's, Mr. Lester?

5 MR. LESTER: That's right.

6 THE COURT: Do you get paid, Mr. Clark, when you're on
7 jury duty by your employer?

8 MR. CLARK: Yes, sir.

9 THE COURT: Do you?

10 MR. LESTER: I don't believe I do. I didn't last
11 time.

12 MR. CLARK: I think--- I had a friend that he had jury
13 duty, he got paid.

14 THE COURT: I'm just going to cut y'all loose. Is
15 that okay?

16 MR. LESTER: Just from the whole thing?

17 THE COURT: Is that okay? Or do y'all want to hang
18 on? You want to hang on?

19 MR. CLARK: I'd like to hang on.

20 THE COURT: I'll cut you loose if you want me to. 110
21 is excused from jury duty. Let me tell you what we'll do.
22 You can go; you don't have to call that number. Mr. Clark,
23 what I usually do with third-shift workers --

24 MR. CLARK: I go in at 6:00 and get off at 5:30 in the
25 morning.

1 THE COURT: Well, let me tell you what I usually do.
2 You tell me if this will work. If not, I can cut you loose
3 like I did with him because I've got plenty of jurors and I
4 don't know if we're going to reach another case or not.
5 With third-shift workers, what I typically do is I tell
6 them to tell their employer's that they have to be treated
7 as though they have to come up here every day. But you
8 don't actually come up here unless the message tells you to
9 come up here. So we would give you an excuse at the end of
10 the week for each day that you were on call; but, once I
11 turn the whole jury loose, then you don't get the excuse
12 anymore. You understand?

13 MR. CLARK: Yes, sir.

14 THE COURT: Do you want to try to do that or you want
15 to just --

16 JUROR: I'll try to do that because they won't give me
17 no vacation time.

18 THE COURT: Well, I don't blame you. Doris, 44,
19 Mr. Clark, he's a third-shift worker. So you tell them --
20 Don't go into work tonight.

21 MR. CLARK: Okay. Just call in at 6:00. Call this
22 number at 6:00.

23 THE COURT: And it's probably going to tell you not to
24 come back tomorrow. But I won't know until after I finish.
25 Things change on me so much, you know; and, if I need to

1 bring the whole jury pool back, then I'm going to have you
2 coming back in the morning. So I can't have you up all
3 night and then coming in here in the morning.

4 MR. CLARK: Yes, sir.

5 THE COURT: But, most likely, I will not have you
6 coming back. But just tell your boss you've got to be
7 available to come in tomorrow.

8 MR. CLARK: Okay.

9 THE COURT: And that you'll find out the following
10 night after 6:00. But, once I cut the pool loose now --

11 MR. CLARK: All right, sir.

12 THE COURT: -- you won't get the excuse anymore.

13 MR. CLARK: All right, sir. Thank you.

14 THE COURT: All right. Thank you, Mr. Clark.

15 (End of bench conference.)

16 THE COURT: All right. Bring the jury back in.

17 (The jury returns to the courtroom.)

18 THE COURT: All right. Ladies and gentlemen, I've
19 conferred with the attorneys, and there're always pretrial
20 matters that the judge has to take up in every case, and
21 you don't get to those until the jury gets seated. So I've
22 conferred with them about what issues I have to address
23 that don't require you to be here. After talking to them,
24 I think the earliest we could get to you will be about 4:00
25 o'clock; and I don't see any sense in making you come back

1 and sit around and wait until 4:00 o'clock. So we'll have
2 you come back in the morning. I'll stay here and work on
3 those matters; and then, if they have some other cases that
4 don't require a jury trial that I can work on, I'll do
5 those. But I expect it's going to take me at least an hour
6 to an hour and a half to get through what I need to get
7 through, and I have to let everybody go to lunch. Before I
8 let you go for the day, I have to give you some
9 instructions. When you come back tomorrow, you're going to
10 take a different oath. You're going to take an oath of a
11 trial jury; and, in that oath, you're going to promise us
12 that you're going to decide the case based on the evidence
13 and the law. And those things are going to come to you in
14 the courtroom, so I need to give you some instructions
15 about what you're not to do. Do not discuss this case in
16 any way with anybody else until this week is over and
17 you've been excused from jury duty completely. Now, you
18 have to be able to tell a spouse or a friend or an employer
19 that you're on a jury. That's perfectly fine. But you
20 cannot tell them what type of case it's alleged to be or
21 who's in it or anything like that. So don't discuss the
22 case with anybody else at all. Don't discuss the case
23 among yourselves until I tell you to. You won't have any
24 doubt about when I tell you to begin your deliberations.
25 So, during any of these breaks or when y'all are together,

1 don't discuss this case until the very end of the trial.
2 There's a process that we go through; and, as I'll explain
3 to you tomorrow, you need to wait until you've got
4 everything before you before you start talking about the
5 case among yourselves. So, if anybody should attempt to
6 contact you and discuss the case with you, report that to
7 me so that I can deal with it. Now, I don't expect media
8 coverage of this trial; but I never know what the media's
9 going to pick up on, so I have to give this instruction.
10 Do not discuss -- Do not allow yourselves to be exposed to
11 any media coverage of this trial. If you see, hear or read
12 something through the media about this trial, get away from
13 that source immediately; and then, at the first opportunity
14 you have, tell me what you may have seen, heard or read
15 through the media. You are not to do any independent
16 investigation of the case. And I have to read something to
17 you that our Supreme Court now says we have to read to
18 every jury. But I'm going to give you my kind of common
19 explanation of this, and I'll use a different context
20 altogether. I used to tell juries, for example if we were
21 in civil court and there was a case involving running a red
22 light and there was a dispute about who ran the red light,
23 you know, I would tell them, don't go out to the
24 intersection and look around. That's independent
25 investigation. There are procedures that we have to take a

1 jury to a scene if we need to; but, if a jury just goes out
2 there, individual juror or jurors on their own, we don't
3 know what they saw, we don't know if it's the same
4 situation that it was when the wreck occurred, we don't
5 know if they completely changed the intersection. You've
6 avoided all the protections that we have built into the
7 system if you do independent investigation. I used to tell
8 jurors not to look up law. Now, typically that was pretty
9 limited; but, as I'm going to explain to you in a moment,
10 with the advent of the internet, that's all changed. So
11 don't do any independent investigation. Don't go out and
12 look around once you find out where this is alleged to have
13 occurred. Don't go try to do any word searches. Don't
14 look up law. All those things will be covered in your oath
15 where you'll be promising us that you'll decide the case
16 based on the evidence and the law. And, as I mentioned to
17 you a moment ago, that comes in the courtroom and the law
18 comes from me. So I have to tell each jury at the end of
19 the case what the law is that applies to the case, and then
20 you decide how to apply the law to the facts. So don't do
21 any independent investigation. Now, I have to read to you
22 this directive from our State Supreme Court; and it kind of
23 gets redundant, but I have to do it one time. You are
24 instructed that, until your jury service is concluded,
25 you're not to discuss the case with others including other

1 jurors except as authorized by the Court; you're not to
2 read or listen to any news reports about the case; you're
3 not to use a computer, a cell phone or any other electronic
4 device with communication capabilities while attending a
5 trial or during deliberations; you may use such devices
6 during lunch breaks or extended breaks, but you cannot use
7 them to obtain or disclose information that's prohibited.
8 You're not to use a computer, a cell phone or any other
9 electronic device with communication capabilities or any
10 other method to obtain or disclose information about a case
11 when you're not in court. And information about a case
12 includes but is not limited to the following types of
13 things: Any information about a party, a witness, an
14 attorney or a court officer; any news accounts of a case;
15 any information collected through juror research on any
16 topics raised or testimony offered by a witness; any
17 information collected through juror research on any topic
18 that the juror might think would be helpful in deciding the
19 case. Basically, just use your common sense. With social
20 media now -- I told you you can't discuss the case -- you
21 can't go on Facebook and write about what's going on with
22 jury duty. The best thing to do is avoid mentioning jury
23 on any kind of social media. Now, when the case is over,
24 you can do whatever you like; but don't go on Twitter,
25 don't go on Facebook. It'd be the same thing as if you

1 walked out of the door and screamed it to the masses.
2 Don't do that. Now, folks, I want you back here tomorrow
3 at 10:00 o'clock in the jury room. When you come back,
4 don't come in the courtroom until you're sent for. When
5 you go out, when you leave in a moment, you're going to go
6 back through that door and they're going to show you the
7 other door, how to get here and where to report. When you
8 get to the courthouse tomorrow, if you're one of these
9 people that arrives early, please come on up. The bailiffs
10 will be here; they'll put you in the jury room. They'll
11 try their best to attend to your comfort. It's real
12 problematic if we have jurors just kind of standing around
13 in the hallways. It will be cool tomorrow out in the
14 parking lots, things like that. So come on up when you get
15 here. If you have some true emergency that arises that
16 prevents you from being here, please have somebody call and
17 let us know because I cannot do anything until I account
18 for all 14 of you. If you're not here, I have to stop and
19 find you. So please let somebody call us if you get sick
20 or you have some true emergency that arises. All right.
21 They told me that they expect the trial to take a couple of
22 days; so, if that is true to form, you probably will get
23 the case Thursday. I'll keep you abreast of any updates as
24 far as anticipated schedule. But, just for preliminary
25 planning, it looks like you'll probably get the case

1 Thursday. I hope you have a very pleasant evening. I need
2 you back in the jury room at 10:00 o'clock in the morning.
3 Thank you very much.

4 (Jury excused for the day.)

5 THE COURT: All right, folks, be very careful as you
6 leave that you don't have any contact with any jurors. So,
7 if you go to a local restaurant where they may go to eat,
8 make sure you don't have any contact. Don't have any
9 contact with jurors on the courthouse property. The best
10 thing to do is not talk about the case or anybody in it in
11 the hallways or out in the parking lots; and, if you go to
12 a restaurant, check around and make sure nobody's sitting
13 close to you who's on the jury. Let's start back at 2:45.
14 All right. Court's in recess until 2:45.

15 (Whereupon, there was a luncheon recess.)

16 THE COURT: All right. Y'all said we need to do a
17 *Neil v. Biggers* hearing, two *Neil v. Biggers* hearings?

18 MR. STITELY: And a *Denno* hearing.

19 THE COURT: I'm sorry?

20 MR. STITELY: And a *Jackson v. Denno* hearing, Judge.

21 THE COURT: Are the witnesses the same or different?

22 MR. STITELY: They have my client's statement, Your
23 Honor, and those two are for the ID's.

24 THE COURT: Do you want to do the *Denno* hearing
25 first?

1 MR. MAYE: Yes, sir, Your Honor, that would be my
2 preference.

3 THE COURT: Call your witness.

4 MR. MAYE: The State calls Investigator Charles
5 Holloway.

6 THE COURT: Come around, please.

7 CHARLES HOLLOWAY,
8 having been duly sworn, testified as follows:

9 DIRECT EXAMINATION

10 BY MR. MAYE:

11 Q Investigator Holloway, identify yourself for the
12 record, please.

13 A My name's Charles Holloway. I'm employed with the
14 Batesburg-Leesville Police Department.

15 Q Approximately June 10th of 2009, did you become
16 involved in this case which is now State vs. Victor Jones?

17 A Yes, sir.

18 Q What were the circumstances that involved you in this
19 case? What was the first contact you had with anyone?

20 A Jerrell Bookman and his grandmother came to the Police
21 Department on June 10th. He advised me that he had came to
22 Saluda to buy some rims from someone that Amber Salaam
23 knew. And he advised that, while he was up here, they
24 robbed him at gun point, took his money and his speakers
25 from him.

1 Q Okay. Were you able to develop Victor Jones as a
2 suspect, Tony or Victor Jones, T.J.?

3 A Yes, sir.

4 Q Okay. Based on that, were there arrest warrants
5 obtained for Victor Jones?

6 A Yes, sir.

7 Q Okay. Were those served on him and was he
8 subsequently incarcerated in the Saluda Detention Center?

9 A Yes, sir.

10 Q Okay. Let me ask you this. Did you subsequently
11 receive word from the jail that Victor Jones wanted to
12 speak with you or wanted to contact you?

13 A Yes, sir.

14 Q Okay. Had, prior to that time -- About how long after
15 his arrest was that?

16 A I can't even remember when he was arrested, but it was
17 in July when the Detention Center contacted me. Virginia
18 Burn contacted me stating he wanted to talk to me about his
19 charges.

20 Q Prior to that time, he had been in jail. Had you
21 attempted to go talk to him or interview him or anything
22 prior to that time?

23 A No, sir.

24 Q Okay. So you received word. And, on July 24th of
25 2009 based on basically a summons from the jail indicating

1 that he wanted to speak with you, did you go and talk with
2 him at the jail?

3 A Yeah, I went to the jail; and, due to the privacy up
4 there, I transported him back to the Police Department.

5 Q Did he indicate -- When you went up there, did he
6 indicate that he wanted to speak to you? Did he make
7 contact with you and indicate that he wished to speak with
8 you?

9 A Yes, sir.

10 Q Did you subsequently then take him back to the jail?

11 A Yes, sir.

12 Q Okay. Who initiated the contact though? Did you
13 attempt to question him or did he advise you that he wanted
14 to speak with you?

15 A He advised that he wanted to speak to me.

16 Q Okay. On July 24th of 2009 prior to speaking with
17 him, did you execute a written waiver of rights with Victor
18 Jones?

19 A Yes, sir.

20 Q Okay. Is Victor Jones here in the courtroom? Could
21 you point him out if he's present?

22 A Yes, sir. He's sitting right there at the defense
23 table with the blue shirt (indicating).

24 Q Okay. Please go through the written waiver of rights
25 and indicate to the Court exactly the procedure that you

1 used in advising him of his rights on the 24th.

2 A Basically on the 24th, I picked him up, brought him
3 back to the Police Department to my office. I got the
4 waiver of rights form, placed it in front of him, and I had
5 one. And, as I started off, you know, I filled in the top
6 of the form, his name; and I read one through six to him.
7 And, as I read them out loud to him, I told him, if he
8 understood them, to put his initials there; if he had any
9 questions, to ask. As you can see, he initialed one
10 through six. I read the little bold paragraph underneath
11 it, and it's another paragraph I read to him; and he signed
12 it.

13 Q Okay. Go through everything that's on that written
14 waiver of rights and everything that he initialed if you
15 will.

16 A The first one is, I have the right to remain silent,
17 that means I do not have to say anything or answer any
18 questions. He's got his initials.

19 Q Did he indicate that he understood that?

20 A Yes, sir.

21 Q Okay.

22 A He initialed.

23 Q What was the next thing that you advised him of?

24 A Anything I say can be used against me in court. He
25 initiated that.

1 Q You witnessed him initial that and he understood it?

2 A Yes, sir.

3 Q What else?

4 A The third one is, I have the right to talk to a lawyer
5 and to have a lawyer here with me now to advise and help me
6 before and during questioning. He initialed that one.

7 Q Okay.

8 A The next one, number four, if I want to have a lawyer
9 with me before and during questioning but cannot afford to
10 pay a lawyer, one will be provided to me at no cost. He
11 initialed that one.

12 Q Okay.

13 A Number five, if I decide to answer questions now
14 without a lawyer here, I still have the right to stop
15 answering questions whenever I want to. He initialed that
16 one.

17 Q Okay.

18 A Number six, I also have the right to stop answering
19 questions until I have talked to a lawyer. He initiated
20 that one.

21 Q Okay.

22 A I read, I understand my rights as explained to me by
23 the officer; I now state that I do wish to answer questions
24 at this time and I do not wish to have a lawyer here before
25 or during questioning; my decision to answer questions now,

1 without a lawyer, is made freely and is my own choice; no
2 one has threatened or coerced me in any way or promised me
3 special treatment; to show my decision, I am signing my
4 name in the space below. He signed his name, dated it, put
5 the time; and I signed as a witness.

6 Q You witnessed that at that time?

7 A Yes, sir.

8 Q Okay. What's the date and time of his signature that
9 you witnessed?

10 A July 24th, 2009, at 1:00 p.m.

11 Q Okay. Do you have the original of that?

12 A Yes, sir.

13 MR. MAYE: Your Honor, at this time, I'm just going to
14 move to mark this just for identification.

15 THE COURT: Yes, sir.

16 (State's Exhibit 1 marked for identification.)

17 BY MR. MAYE:

18 Q Investigator Holloway, again, I show you State's 1 for
19 ID. Please publish the first part of that statement where
20 he identifies himself and gives his address and
21 information. Did you get that from him?

22 A Yes, sir.

23 Q Please publish that.

24 A I, Victor Anthony Jones, am 20 years old, my address
25 is St. Andrews Road, Columbia, South Carolina.

1 Q Okay. Did he indicate that he could read there? Did
2 he underline that he could read?

3 A Yeah, he said that he could read.

4 Q Investigator Holloway, you went through all of those
5 rights with him in writing. He initialed them, and he
6 indicated that he understood them. Is that correct?

7 A Correct.

8 Q Okay. Outside of this written document, did you make
9 any threats to him?

10 A No, sir.

11 Q Did you attempt to coerce him to give you a statement?

12 A No, sir.

13 Q Okay. Did you promise him anything in exchange for
14 him making a statement to you?

15 A No, sir.

16 Q Did you do anything at all to influence his decision
17 of whether or not he waived his rights and gave a statement
18 to you?

19 A No, sir.

20 Q Okay. Did he subsequently execute a written
21 statement? Did he talk with you then and execute a written
22 statement?

23 A Yes, sir.

24 Q Okay. Do you have the original of that statement?

25 A Yes, sir.

1 MR. MAYE: I'd like to mark this as State's 2 for ID.

2 (State's Exhibit 2 marked for identification.)

3 BY MR. MAYE:

4 Q I'm going to show you State's 2, and I ask you is that
5 the original of the written statement that Victor Jones
6 gave you on July 24th of 2009?

7 A Yes, sir.

8 Q Okay. Would you please publish that to the Court?

9 A On July 9th Amber Salaam text my phone do I have some
10 rims; I text her back yah; then she said she have a lick;
11 so she said he's pussy; and then she said its going to be
12 easy; then she text me back she's on Newberry Highway; then
13 she text back met her at the Burger King; then Carlos told
14 me to text her back follow us and I did; so we when [sic]
15 on a dirt road and stop; Lil Tim jumped out the car and
16 went to the drivers door and got the money and Carlos took
17 the speaker, and Lil Tim told them to ride off and they did
18 and we left.

19 Q Did you witness that at that time?

20 A I was present when he wrote it. Officer Horne
21 witnessed it.

22 Q Okay. But you were present. Did you watch him write
23 it?

24 A Yes, sir.

25 Q Is that his signature? Did you watch him sign this?

1 A Yes, sir.

2 Q Okay. Publish the upper part of that statement where
3 he went through the information filled in with his name and
4 information.

5 A The statement of Victor Jones, date 7/24/2009, address
6 St. Andrews Road, Columbia South Carolina, officer
7 taking the statement Commander Holloway, case number
8 090700419-T, I, Victor Anthony Jones, am 20 years old; my
9 date of birth is /1989; I have finished the ninth grade
10 in school and can read or write; I freely choose to write
11 this statement myself or I elect to have myself write this
12 statement; I have not been forced or coerced to write this
13 statement and declare that this statement is true to the
14 best of my knowledge.

15 Q Okay. And that's the statement that he gave you
16 chronicling his involvement in the robbery of Jerrell
17 Bookman?

18 A Yes, sir.

19 Q Okay. At that time, did he give you any details on
20 who these supposed other individuals -- How many
21 individuals did he tell you that were there?

22 A He said there was himself and two other individuals
23 that were from Columbia. He called them Carlos, Little Tim
24 and Carlos from the St. Andrews area in Columbia.

25 Q Did you inquire of him any information or identifying

1 anything trying to find out who they were? Did he give you
2 any information in that regard?

3 A The individual by the name of Carlos, he was telling
4 me that he had some tattoos and he should be on probation
5 in Richland County. I contacted Richland County's
6 probation. They had numerous Carlos' in there, and it was
7 just too many in the database to narrow it down.

8 Q But you never were able to develop anything else based
9 on what he told you?

10 A No, sir.

11 Q Did he tell you anything else there outside of what's
12 in this written statement?

13 A That's pretty much it. He just gave me details of the
14 robbery that only someone involved would know.

15 Q What details are you talking about that only someone
16 involved in the robbery would know that he provided to you?

17 A Well, the information that he provided me was Amber
18 texting him about making a lick and the individuals, Little
19 Tim and Carlos.

20 Q Okay. But did he go through a full summary of what
21 had transpired? Did he tell you where they had gone and
22 where they had --

23 A Yes, sir.

24 Q What all information did he relay to you? What did he
25 tell you?

1 A He pretty much said that, after they made their lick,
2 they went back to Columbia and divided the money up and
3 Amber received two hundred dollars from the robbery is what
4 he told me.

5 Q Did he confirm that they were there? Did he talk
6 about the arrangement between them and getting the rims and
7 that's what they lured the victim there for?

8 A Yes, sir.

9 Q Okay. And did he confirm that?

10 A Yes, sir.

11 Q Can you think of anything else he told you after being
12 advised of his rights?

13 A No, sir. Just pretty much what's on the statement is
14 what he told me.

15 Q Okay. Again, did you threaten him, coerce him,
16 promise him anything in order to get him to give the
17 statement?

18 A No, sir.

19 Q Who initiated the contact and began -- Who let you
20 know that he wanted to speak with you?

21 A The jail contacted me.

22 Q Okay. And, when you arrived there, did he confirm
23 that---

24 A Yes, sir.

25 Q ---he wished to make contact with you?

1 A Yes, sir.

2 Q Answer any questions that Mr. Stitely has for you.

3 THE COURT: Cross?

4 MR. STITELY: Yes, sir.

5 **CROSS-EXAMINATION**

6 BY MR. STITELY:

7 Q Detective Holloway, when did you leave the employment
8 of Saluda Police Department?

9 A August 27th.

10 Q Of this year?

11 A Yes, sir.

12 Q What was your title back July 10th of 2009 when this
13 investigation went on?

14 A Commander.

15 Q Like a detective, or were you a road officer?

16 A No, sir. I investigated and had administrative
17 duties.

18 Q Do you have the warrant for Mr. Jones by chance?

19 A No, sir.

20 Q Do you know what day the warrant was actually sought?

21 A Hold on one second. That would've --

22 Q I'm sorry?

23 A It would've had to have been around July 15th, 16th,
24 along in that timeframe.

25 Q At what point did you develop Mr. Jones as a suspect?

1 A Based on the description that I was given by the
2 victim, Jerrell Bookman, I contacted Officer Long. I gave
3 him the description that was given to me, and he provided
4 me with the name Victor Jones.

5 Q So that didn't come from Ms. Amber?

6 A No, sir.

7 Q Okay. And you took Mr. Jones from the jail to the
8 Saluda Police Department?

9 A Yes, sir.

10 Q Is the Saluda Police Department equipped with
11 videotaping or audiotaping equipment?

12 A No, sir, we don't have any. We have recorders, but we
13 didn't use any.

14 Q Do you have a room that you typically use for
15 interrogations or questioning?

16 A Either we go in the conference room, squad room or
17 office.

18 Q None of those are specifically wired for sound
19 recording?

20 A No, sir.

21 Q But y'all do have, as one of your standard issue
22 items, a recorder?

23 A Yes, sir.

24 Q Was a recorder utilized in this case when you talked
25 with Mr. Jones?

1 A No, sir.

2 Q What is the standard operating procedure for the Town
3 of Saluda Police Department regarding an interview of an
4 individual in custody? How many officers are typically
5 present?

6 A Two.

7 Q Okay. Who else was there the day you interviewed
8 Mr. Jones?

9 A Toby Horne.

10 Q Did you have a copy of the front page of the witness'
11 statement? I think it was exhibit number 1.

12 MR. STITELY: May I approach, Your Honor?

13 THE COURT: Yes, sir.

14 BY MR. STITELY:

15 Q Does that indicate anyone witnessed that statement
16 besides yourself?

17 A No, sir.

18 Q Would it be standard operating procedure to have
19 Mr. Horne identify himself as a witness if he was actually
20 there for the interview?

21 A Yes, sir.

22 Q Is Officer Horne still with the Saluda Police
23 Department to your knowledge?

24 A No, sir.

25 Q Do you know where he works?

1 A EMS.

2 Q Is he in Saluda County?

3 A Yes, sir.

4 Q Okay. You said that you did a follow-up with Richland
5 County on the name of Carlos. Is that correct?

6 A Yes, sir.

7 Q Is there any reason why none of that appears in any of
8 the discovery materials, your reports or anything else
9 along those lines?

10 A I don't control discovery. I give the case file to
11 the Solicitor's office, and whatever you get is what you
12 have.

13 Q Are there notes somewhere of yours about this
14 interview that includes items that aren't specifically on
15 the statement, like an incident report or supplemental
16 report that talks about other details that you claim he
17 made statements as to?

18 A You should have everything except for, if you want to
19 look at these two pieces of paper that I got handwritten
20 notes on, you're more than welcome to look at them.

21 Q Now, his statement that you took, the written
22 statement which is State's Number 2, doesn't talk about
23 these details involving going to Columbia, Amber getting
24 two hundred dollars, texting after the fact or anything
25 like that. Is that correct?

1 A No, sir.

2 Q And it doesn't appear anywhere in the supplemental
3 incident report or the original Saluda Police Department
4 incident report that he made any of these statements. Is
5 that correct?

6 A Say that again, please?

7 Q It doesn't appear anywhere in the actual incident
8 report by the Saluda Police Department and/or the
9 supplemental incident report by the Saluda Police
10 Department that he made any of these statements outside of
11 what was written in that written document?

12 A No, sir.

13 Q Is there anywhere else that would be recorded or was
14 it just your recollection of things he talked about after
15 his statement?

16 A Yes, sir.

17 Q Is it your standard operating procedure to stop a
18 statement before you get all the details, a written
19 statement?

20 A He wrote it and said, that's basically all I can tell
21 you about the incident.

22 MR. STITELY: Beg the Court's indulgence one moment.

23 THE COURT: Yes, sir.

24 (Pause.)

25 MR. STITELY: I have no other questions for --

BRETT LONG: IN-CAMERA DIRECT EXAMINATION BY MR. STITELY

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1 Q I don't want to misstate your rank. Is it patrolman
2 now?

3 A Just call me Charles.

4 MR. STITELY: No other questions, Your Honor.

5 THE COURT: Redirect?

6 MR. MAYE: Nothing else, Your Honor.

7 THE COURT: Thank you, sir. You may step down. Do
8 you have any other witnesses on *Denno*?

9 MR. MAYE: No, sir, Your Honor, we don't have anything
10 else, just the officer's testimony about the written
11 statement and waiver.

12 THE COURT: Do you have any witnesses on the *Denno*
13 hearing?

14 MR. STITELY: Your Honor, I would call Chief Long
15 actually to the stand.

16 THE COURT: Okay. Come around, please.

17 BRETT LONG,

18 having been duly sworn, testified as follows:

19 DIRECT EXAMINATION

20 BY MR. STITELY:

21 Q How are you, Chief Long?

22 A Good.

23 Q He said Sergeant Long. I'm sorry. Mr. Holloway said
24 Sergeant Long earlier. Would that be you back then?

25 A Yes.

1 Q Okay. How long have you been with the Saluda Police
2 Department?

3 A I have been with the Saluda Police Department since
4 August of 2000.

5 Q For a good amount of years?

6 A Yes.

7 Q Working in the capacity as a road officer, detective,
8 now chief, all the above?

9 A Yes.

10 Q Okay. You're relatively familiar with the policies
11 and procedures of the Saluda Police Department?

12 A Yes.

13 Q Especially so as acting chief?

14 A Yes.

15 Q Are there any specific differences today from 2009
16 regarding the questioning and/or interrogation of
17 individuals charged or suspected of crimes?

18 A No.

19 Q What is the standard operating procedure involving
20 officers taking the statement of an individual who's either
21 charged or, you know, a suspect in regards to officers
22 being present at the time of the questioning?

23 A You would normally have two officers there. You would
24 mirandize the person; and, you know, you would basically
25 take that written statement if they would give a written

1 statement; and, if you have the capability, you would use a
2 recorder if you have it there with you at the time.

3 Q Is there any reason why, if two officers were there,
4 only one of them would sign as a witness?

5 A I can't answer for someone else's actions.

6 Q Would standard procedure in your Department be, if you
7 were there to witness a statement, you would sign off as a
8 witness to the statement?

9 A Most of the times, yes.

10 Q Okay. To your knowledge as acting chief and as
11 sergeant back then, were individuals equipped with the
12 ability to record conferences?

13 A In 2009 -- I can't answer for every officer. I can
14 say for myself. I had a digital recorder at the time.

15 Q And did most of the detectives? Do you know?

16 A I was just a road sergeant. So the capabilities that
17 Mr. Holloway had at the time, he was above me in rank so I
18 can't answer.

19 Q Okay. Would it have been possible to ask say someone
20 for a recording device? So there were some within the
21 Department?

22 A Yeah, there was some within the Department; but who
23 was there I don't know because I wasn't there.

24 Q Okay. Your name was brought up as the individual who
25 made Victor Jones as a suspect. Were you given specific

1 information on this case that brought him to your
2 attention?

3 A We had talked about it. The description of the
4 subject was given; and I had dealt with Mr. Jones since he
5 was a juvenile, and that was the first person that came to
6 mind.

7 Q Is there like squad meetings or whatever where you
8 would talk about cases to try to formulate, you know, where
9 do we go from here?

10 A If somebody's working a case, then they may come to
11 another officer, hey, can you help me with this, do you
12 know anything about this or whatever, but nothing in
13 particular where we all meet together and discuss
14 everything, no.

15 Q Specific to this case, do you remember how you got
16 brought in to identify Mr. Jones as a potential suspect?

17 A I don't remember exactly how I was approached with it.

18 Q You don't recall making the incident reports or
19 supplemental incident reports from your hand or that you
20 penned regarding this investigation. Correct?

21 A I can't remember if I did anything. Not to my
22 knowledge.

23 Q Do you know if they had video or audio recording
24 capabilities at the rooms at the jail?

25 A I don't know about the jail.

1 MR. STITELY: I have no other questions for the acting
2 chief. Thank you, sir.

3 THE COURT: Any questions of the witness from the
4 State?

5 MR. MAYE: Nothing from the State. Thank you.

6 THE COURT: Thank you, sir. You may step down. Any
7 other witnesses on *Jackson v. Denno* from the defense?

8 MR. STITELY: Not from the defense, Your Honor.

9 THE COURT: Any argument or position?

10 MR. STITELY: Yes, sir.

11 THE COURT: Go ahead.

12 MR. STITELY: Your Honor, I actually don't have a
13 specific objection to the written item, Exhibit Number 2.
14 I would object to the use of any alleged statements outside
15 that document. It's pretty clear what's detailed in there.
16 I can make it part of the court record by specifically
17 saying nowhere in the incident reports, supplemental
18 incident reports, is there ever any mention of any alleged
19 oral statements outside the scope of what is in this
20 written statement. There's been no other testimony to show
21 that anything other than this written statement was what
22 they have. It's never showed up before today. There's not
23 been any talk about these other extraneous statements. I
24 would argue that the only thing we can get into at this
25 point is the specific written statement that's Court's

1 Exhibit Number 2. And I guess I would follow that up with
2 maybe a Rule 5 backed-up motion along with *Jackson v. Denno*
3 as to any other statements allegedly being either
4 inculpatory or exculpatory that I didn't have before at
5 this point.

6 THE COURT: All right, sir. What's the difference
7 between the written statement which I have not seen and the
8 oral portions that you're trying to exclude?

9 MR. STITELY: Judge, I have no problem I suppose with
10 what's written in the statement by Mr. Jones. The officer
11 then testified that, after they were done making this
12 statement, he went on to ask him a bunch more questions.
13 But, as far as the context of this document being his
14 statement, if this is all they intend to offer as a
15 statement of Mr. Jones, we don't have a specific objection
16 to it, and that would be the written form of the document.
17 And, Your Honor, I don't know if you've had a chance to see
18 it. I think he published the entirety to the Court.

19 THE COURT: What I'm asking you is, what did he
20 testify about that was given as a statement by Mr. Jones
21 that is not on the written statement?

22 MR. STITELY: He said that he went ahead and got into
23 it about where these other people came from, where they
24 went after, what happened afterwards, something about money
25 being exchanged with Ms. Amber. None of that's contained

1 in this statement; none of it was contained in any of the
2 incident reports, supplemental reports, the notes that I
3 received on the file. All that I had is this document. So
4 I would object to anything they're alleging he now said
5 outside the four corners of this document as being his
6 statement in this case.

7 THE COURT: Solicitor?

8 MR. MAYE: Your Honor, I have page 11 of the discovery
9 materials that were provided to them on July 24th, 2009.
10 Commander Holloway, along with Officer Horne and V.A.
11 Romero, interviewed suspect Jones and provided the
12 arresting officers with details of the robbery; he
13 implicated others involved with the robbery; he also
14 advised that Amber Salaam contacted him, Little Tim and
15 Carlos to rob Bookman, warrants will be obtained for their
16 arrest. Your Honor, they were placed on notice here that
17 he gave them details involving the robbery. He gave a
18 written statement in this case, Your Honor, but he also
19 gave other information which we submit to you, Your Honor,
20 they were advised that he gave details of the robbery.
21 That's all Officer Holloway testified to were the details
22 surrounding the robbery in this case. I don't think that
23 we've got to write verbatim every single word that he said,
24 but we did apprise them that he gave them details
25 surrounding the robbery and we did provide them with a

1 written statement in this case, Your Honor.

2 THE COURT: Mr. Stitely, anything else?

3 MR. STITELY: No, Judge. I'm not sure what page 11 --
4 My page 11 is just a single sheet by Amber Salaam.

5 THE COURT: Well, look at what he's talking about.

6 MR. STITELY: I have no problem --

7 MR. MAYE: That's the last one?

8 MR. STITELY: Yeah. It alleges this written
9 statement. I don't have a specific problem with the
10 written statement, but it's the extraneous oral remarks
11 that I would be objecting to at this point.

12 MR. MAYE: Your Honor, this statement specifically
13 references that he interviewed him and he provided the
14 arresting officer with details of the robbery. He
15 implicated others involved with the robbery. He also
16 advised that Amber Salaam contacted him, Little Tim and
17 Carlos to rob Bookman. And it is basically a summary of
18 exactly what he said in this case, Your Honor. He provided
19 them with details of the robbery, and I also gave them the
20 written statement in this case, Your Honor. So they
21 certainly were apprised that he had given this interview
22 and that he gave them details involving the robbery.

23 THE COURT: Let me see those exhibits.

24 (Pause.)

25 THE COURT: Let me see the discovery response.

1 MR. MAYE: I don't have the entire discovery response,
2 but I do have the page that I made.

3 THE COURT: Well, I'm only interested in this portion
4 as far as I know.

5 MR. STITELY: You want the statement?

6 THE COURT: I want to know what he claims --

7 MR. STITELY: May I approach?

8 THE COURT: -- what the Solicitor claims was
9 responsive under Rule 5.

10 MR. STITELY: I'm looking at what he had. That's the
11 paragraph that he referred to.

12 (Pause.)

13 THE COURT: All right. We need to make a copy of this
14 and put it in the record. Put it as a court's exhibit.
15 Rule 5 provides, under subsection A-1-a, that, upon
16 request, the State has to provide defense with the
17 substance of any oral statement which the prosecution
18 intends to offer in evidence at the trial made by the
19 defendant whether before or after arrest in response to
20 interrogation by any person then known to the defendant to
21 be a prosecution agent. The written statement is dated
22 July 24th, 2009; the oral statement that has been testified
23 about is the same date. The response that I've been handed
24 is a supplemental incident report narrative. It reads on
25 November -- I'm sorry -- on July 24th, 2009, Commander

1 Holloway, along with Officer Horne and V.A. Romero,
2 interviewed him, suspect Jones, and provided R.O. with
3 details of the robbery; he implicated others involved with
4 the robbery; he also advised that Amber Salaam contacted
5 him, Little Tim and Carlos to rob Bookman; warrants will be
6 obtained for their arrest. That description is also a
7 description of what's contained in the written statement.
8 I don't know how that puts anybody on notice that there
9 were other oral statements. The objection is sustained.
10 The motion is granted. Now, with regards to the *Denno*
11 matter itself, the Court has carefully considered all the
12 evidence that's been offered by the State and by the
13 defense; and the Court finds that the State has met, by the
14 requisite degree of proof, establishment of the following
15 things: That, before the alleged incriminating statement
16 or confession was obtained from the defendant, he was fully
17 advised of his rights under the Fifth and Sixth Amendments
18 to the Constitution of the United States and advised of his
19 constitutional safeguards required under *Miranda v.*
20 *Arizona*; specifically, he was advised of the substantial
21 warnings, if not the exact warnings, in *Miranda*: That he
22 had the right to remain silent; that he had the right to an
23 attorney; if he waived his right to silence, that any
24 statement that he made could be used against him in court;
25 that, if he wanted an attorney prior to interrogation, he

1 could have one; he could have an attorney present with him
2 at all times; if he did not have the money to hire an
3 attorney, then one will be appointed for him; that he had
4 the right to have the attorney present specifically during
5 the interviews and interrogations; that he had the right to
6 consult with his attorney prior to any interrogations and
7 during any interrogation; that he had the right to stop
8 answering questions at any time, stop the interrogation at
9 any time; he had the right to ask for an attorney at any
10 time. The State has proven that the defendant knowingly
11 and intelligently waived his rights under the Fifth and
12 Sixth Amendments and the *Miranda* safeguards and that the
13 alleged incriminating statement or confession was obtained
14 from the defendant freely and voluntarily without duress,
15 without coercion, without undue influence, without reward
16 or promise or hope of reward or leniency, without the
17 threat of any injury or compulsion or inducement of any
18 kind that would be improper, and that the statement was the
19 voluntary product of the free and unconstrained will of the
20 defendant. The written statement is admissible in
21 evidence. The jury will be instructed that they have to
22 make the findings necessary beyond a reasonable doubt. The
23 motion, as previously stated, related to the matters which
24 are not contained in the written statement is granted.
25 That does not mean that the State is not allowed to testify

1 about matters necessary to establish the voluntariness of
2 the statement and those sorts of things and being
3 contacted. It just relates to details about the alleged
4 crime and the aftermath of the alleged crime that were
5 given orally and not in writing. It also does not preclude
6 the introduction of any statement which might come in
7 through opening the door. All right. Let's make a copy of
8 this. Madame Court Reporter, would you mark that as a
9 Court's exhibit?

10 (Court's Exhibit 1 marked for the record.)

11 THE COURT: All right. Now, there's identification
12 issues?

13 MR. MAYE: Yes, sir.

14 THE COURT: Are you ready to proceed on that?

15 MR. MAYE: I am. The State would call Charles
16 Holloway again to the stand.

17 THE COURT: All right. Mr. Holloway, you're still
18 under oath. Just have a seat up here, please.

19 **CHARLES HOLLOWAY,**

20 **having been previously sworn, testified as follows:**

21 **DIRECT EXAMINATION**

22 BY MR. MAYE:

23 Q Investigator Holloway, in your interview of Jerrell
24 Bookman in this case prior to getting warrants, did he give
25 you a description of the individual that came and robbed

1 him at gun point, an individual that was armed with a gun
2 that came there actually to rob him on that date in Saluda
3 that he reported?

4 A Yes, sir, he did.

5 Q What description? Give the details of the description
6 that he gave to you.

7 A He described the suspect as being a light-skinned
8 black male. He advised that he had a white tank top on, a
9 red hat and some tattoos around his chest and collarbone
10 area.

11 Q Okay. Did he give the description of the vehicle that
12 he was driving?

13 A Yes, he advised that he was driving a four-door faded
14 gold in color vehicle with no hub caps.

15 Q Okay. Based on that information, did you then talk
16 with then Sergeant Long in regard to any possible suspect
17 that might potentially fit that description?

18 A Yes, sir, I did.

19 Q Okay. What information did he give you in that regard
20 as a suspect, a potential suspect?

21 A He advised me that Victor Jones -- Sergeant Long
22 advised me that Victor Jones drove a gold in color car with
23 no hub caps on it. He also told me that he normally wears
24 the white tank tops, the wifebeaters, and a red ball cap.

25 Q Okay. Let me ask you this. Did you then subsequently

1 prepare a photographic lineup or did you -- What steps did
2 you go through in order to prepare a photographic lineup?

3 A Based on the information that Sergeant Long gave me, I
4 contacted SLED via email sending -- I sent them Victor
5 Jones's characteristics, driver's license number, birth
6 date; and they compiled a photo lineup from that
7 information and emailed it back to me.

8 Q Okay. Do you have a copy of that photographic lineup?

9 A Yes, sir.

10 MR. MAYE: I'd ask that this be marked as State's
11 exhibit for ID.

12 (State's Exhibit 3 marked for identification.)

13 BY MR. MAYE:

14 Q Let me show you State's 3 for ID at this point in
15 time. Is that a photographic lineup or is that the
16 photograph lineup that was generated by SLED in response to
17 your request?

18 A Yes, sir.

19 Q Okay. Is there anything that emphasizes one
20 photograph over another there or the background? Are there
21 booking photograph information or anything that
22 distinguishes one photograph from another?

23 A No, sir.

24 Q Okay. Did you ask them to prepare them in any
25 particular order, or did you do anything controlling the

1 way that that was generated, or is that what they generated
2 and sent back to you?

3 A Yes, sir.

4 THE COURT: Wait a minute. That was a multiple-part
5 question.

6 Q Did you direct --

7 THE COURT: You asked him if he did anything improper,
8 and he answered it.

9 MR. MAYE: I'm sorry, Your Honor.

10 THE COURT: He said, yes, sir. I don't know what he
11 meant.

12 MR. MAYE: Excuse me.

13 BY MR. MAYE:

14 Q Did you direct how they prepared the lineup?

15 A No, sir.

16 Q Okay. Did you ask them to put them in any particular
17 order or do anything in particular in generating that
18 lineup at all?

19 A No, sir.

20 Q On June 14th of 2009, did you bring the victim in this
21 case, Mr. Bookman, back in to talk with him?

22 A I talked to him, but I actually went to his residence
23 in Newberry.

24 Q You went to his residence in Newberry?

25 A Yes, sir.

1 Q Okay. Did you take with you a copy of that lineup
2 there that is State's 3? Did you take that? Is this the
3 actual one that you took with you --

4 A Yes, sir.

5 Q -- when you went to see him?

6 A Yes, sir.

7 Q Okay. Did you ask him to view the lineup? What
8 procedure did you go through in asking him to look at the
9 lineup?

10 A I called him that morning and just advised him that I
11 was going to come over to his house to show him a photo
12 lineup.

13 Q Okay.

14 A And he said he would be home. I went to his
15 residence, showed him the lineup. I said, can you identify
16 anyone on this piece of paper as being someone that robbed
17 you.

18 Q Okay.

19 A He looked at it, and immediately he pointed at number
20 three.

21 Q Okay. Who is number three or who is number three a
22 photograph of?

23 A Victor Jones.

24 Q The defendant in this case?

25 A Yes, sir.

1 Q Okay. Did you do anything to indicate to him that any
2 particular person's picture was contained in the lineup?

3 Did you give him any information at all as to any of the
4 individuals that were contained in the lineup?

5 A No, sir.

6 Q Did you tell him in any regard that someone that was a
7 suspect was in that lineup?

8 A Yes. Say that again now?

9 Q Did you inform him that anyone that was even a suspect
10 was in that lineup?

11 A No, no, sir.

12 Q Did you give him any information?

13 A No, sir.

14 Q Okay. You just simply handed him the photo array and
15 he identified --

16 A Yes, sir.

17 Q -- number three, Victor Jones?

18 A Yes, sir.

19 Q Did he have any hesitation in picking him out?

20 A No, sir. It was immediately.

21 Q Okay. Investigator Holloway, let me ask you this.

22 Did you also have an occasion to show a photographic lineup
23 to an individual that was charged in this case, Amber

24 Salaam, a photo lineup?

25 A Yes, sir.

1 Q Okay. What were the circumstances involving showing a
2 lineup to her? What happened?

3 A At the time, she was listed as a victim.

4 Q Okay.

5 A And she didn't know any -- She didn't know any names,
6 so the same lineup that I showed Mr. Bookman I showed her.

7 Q Okay. Do you have a copy of the lineup that you
8 showed her initially?

9 A Initially, that's the one I showed her.

10 MR. MAYE: Let me mark this for identification.

11 (State's 4 marked for identification.)

12 Q I'm going to show you State's 4. Did you show her
13 that photographic lineup initially in this case?

14 A Yes, sir.

15 Q Could she identify or did she tell you that she could
16 identify anybody at that time?

17 A On the date in July, she didn't identify anyone.

18 Q Okay. After you had interviewed -- Did she give you
19 any information initially, Amber Salaam? She said that she
20 couldn't identify anybody there initially. Correct?

21 A Yes, sir.

22 Q Okay. Did she tell you any details or that she knew
23 anyone that was involved in the robbery --

24 A No, sir.

25 Q -- initially?

1 A Not in July she didn't. She just said that, hey, I
2 don't recognize anyone. And that was pretty much it.

3 Q Okay. And she did not indicate that she was in any
4 way involved in this and didn't give you any information?

5 A Right.

6 Q After Victor Jones implicated Amber Salaam,
7 afterwards, did you obtain arrest warrants for Amber Salaam
8 as being a principal, an individual that was involved in
9 this armed robbery afterwards?

10 A Yes, sir, I did.

11 Q Okay. What were the circumstances? Did you go back
12 to her after she was placed into custody and did you speak
13 with her?

14 A Yes. I had to go to the Orangeburg County Detention
15 Center to pick her up.

16 Q Okay.

17 A We got back to the jail in Saluda, and she told me
18 that she wanted to come clean about the incident.

19 Q She advised you that she wanted to come clean?

20 A Yes, sir.

21 Q Okay. What did you do in regard -- Did you again show
22 her a photographic array or did you show her the
23 photographic array that's marked as State's 4 in this case?

24 A Yes, sir.

25 Q Who did she identify at that time?

1 A She identified number three whom was Victor Jones.

2 Q Is that the same lineup that you had showed her
3 earlier?

4 A Yes, sir.

5 Q Okay. Did she hesitate any at all when she gave you
6 information in that regard?

7 A No, sir.

8 Q Okay. Did she basically relate to you the details of
9 the robbery and how it took place at that point in time?

10 A Yes, sir.

11 Q Okay. She had initially given you a name I believe,
12 Brian --

13 A Yes, sir.

14 Q -- during the first round of it, basically when she
15 indicated to you later that she was not telling the truth,
16 that she was shielding. Is that correct?

17 A Yes, sir.

18 Q Okay. But, when you showed her the lineup during the
19 second time when she again -- when she identified Victor
20 Jones -- did she have any hesitation in picking him out of
21 that lineup?

22 A No, sir.

23 Q Prior to her doing that or picking him out of that
24 lineup on the second occasion, did you give her any
25 information indicating that Victor Jones had implicated

1 her? Did you tell her anything at all about that?

2 A No, sir.

3 Q Okay. She just told you that she wanted to come
4 clean --

5 A Yes, sir.

6 Q -- and gave you and related to you details involving
7 the robbery?

8 A Yes, sir.

9 Q Who did she indicate was involved in the robbery and
10 what details did she give you?

11 A Victor Jones. She referred to him as T.J. Tony Jones
12 is what she knew him by.

13 Q Okay.

14 A She knew that he was involved in it and she didn't
15 know -- She advised she didn't know the other two gentlemen
16 but she knew that Victor Jones was one of them.

17 Q What information did she give you at that time?

18 A She provided another statement.

19 Q Okay. Did she then detail her involvement and Victor
20 Jones's involvement at that point in time?

21 A Yes, sir.

22 Q Okay. But, again, when she did the subsequent
23 identification, did you do anything to emphasize one
24 photograph over another or do anything in order to
25 influence anything about her pick?

1 A No, sir.

2 MR. MAYE: Nothing else. Answer any questions the
3 defense has.

4 THE COURT: Cross?

5 **CROSS-EXAMINATION**

6 BY MR. STITELY:

7 Q Do you have any documentation where you requested the
8 photo lineup from SLED?

9 A I don't have it with me.

10 Q Do you know if anyone from SLED is coming to testify
11 as to how they made up that lineup?

12 A I have no knowledge of that, if anyone's coming from
13 SLED.

14 Q Do you have the actual information that you sent along
15 with SLED to request that Mr. Jones be placed in a lineup
16 that's been marked as State Exhibit No. 3?

17 A You're talking about the request form?

18 Q Uh-huh.

19 A No, sir, I don't have that.

20 MR. STITELY: Your Honor, may I approach?

21 THE COURT: Yes, sir.

22 BY MR. STITELY:

23 Q And that was -- The color pictures is number 3?

24 A Yes, sir.

25 Q Do you have the correspondence that came from SLED as

1 to how this lineup was generated?

2 A No, sir.

3 Q Okay. Do you know if that's going to be offered with
4 this today?

5 A Excuse me now?

6 Q Do you know if any of that is going to be offered with
7 this today?

8 A No, sir. You'll have to speak with the Solicitor
9 about that.

10 Q All right. When you said that you talked to
11 Mr. Bookman, you said that was on 7/14 of 12. Correct?

12 A Correct.

13 Q And that's when you say you received this back from
14 SLED. Correct?

15 A Correct.

16 Q Now -- And I want to ask you because I think phrasing
17 is very specifically important here. What exactly did you
18 tell him when you told him you wanted to come and see him?

19 A I just told him I had a lineup and I needed him to
20 look at it.

21 Q Okay. Did you tell him it was a lineup of what?

22 A He and I had been talking back and forth, and I
23 advised him that I would get a photo lineup matching the
24 description that he gave me of the suspects.

25 Q All right. At any point, did you tell him about the

1 conversation you had had with another officer, that you
2 thought you may have someone?

3 A No, sir.

4 Q Okay. When he pointed out the picture that he later
5 -- I guess that's his initials on here?

6 A Yes, sir.

7 Q What, if anything, did he tell you or did you ask him
8 specifically about what this individual's having to do with
9 the robbery was?

10 A I just told him to look at it and, if any individual's
11 on here that had robbed him, pick him out. He looked at
12 it, and he immediately pointed to number three.

13 Q Did he say what number three's involvement was?

14 A He said, that's the guy that robbed me.

15 Q Okay. And did he indicate that there were other
16 individuals there that weren't in that lineup?

17 A He said it was two other individuals that he didn't
18 know, he didn't get a good look at them because Victor had
19 walked to his side specifically and put a gun to his head.

20 Q Okay. So that's the position, that that gentleman
21 got out the car and walked to the side of the car that Mr.
22 Bookman was on?

23 A Right.

24 Q Okay. Where did you interview -- I guess they were
25 both done at the same time. Where did you interview

1 Ms. Salaam on 7/14?

2 A On 7/14, I went to her house. I think it was Ola
3 Street.

4 Q Okay. And then she told you definitively that she
5 didn't know anyone in that lineup. Correct?

6 A Correct.

7 Q And so it's essentially the same lineup card even
8 though it's just the black and white?

9 A Yes, sir.

10 Q Number 4, State's Number 4 versus State's Number 3,
11 it's the same thing, just not a color picture?

12 A Correct.

13 Q Okay. And she said she didn't know anybody in that
14 one?

15 A Yes, sir.

16 Q Okay. But later in August she does identify Mr. Jones
17 as being number three. Correct?

18 A Yes, sir.

19 Q What does she indicate his involvement being at that
20 point?

21 A What does she indicate?

22 Q Correct.

23 A (Witness viewing document.)

24 Q In your initial investigation -- Maybe I can clear
25 this up. In your initial investigation, she says that the

1 gentleman that she saw conducting the armed robbery was a
2 man that had gold teeth. Correct?

3 A Correct.

4 Q Brown-skinned black man with gold in his mouth and a
5 mouth crooked --

6 A Right.

7 Q -- and couldn't talk right?

8 A Right.

9 Q Okay. Is that the individual that she was later
10 identifying as my client?

11 A No, sir.

12 Q Okay.

13 A She published in her statement that the side Jerrell
14 drove up on, on the side of them, T.J. and another dude
15 jumped out with guns asking for cash, the other dude told
16 Jerrell to pop the truck, he took the speakers and they
17 left.

18 Q And you're talking about her statement that she makes
19 to you the second time around --

20 A Correct.

21 Q -- not the one that she made the first time around
22 when y'all interview her on 7/10 of 2009 --

23 A Yes, sir.

24 Q -- where she talks about two dudes getting out of the
25 car, not three?

1 A All right. In the first statement, she lists three
2 dudes; the one in July she lists three dudes.

3 Q Uh-huh. On the top of page two, she says, two dudes
4 hopped out with guns.

5 A Which statement are you referring to? I'm looking at
6 the July 10th one now.

7 Q Right, and I'm looking at page two of two where she
8 says, two dudes hopped out with guns and rushed the car
9 telling us not to move.

10 A Okay. I got you.

11 Q Okay. She didn't identify my client as one of those
12 two dudes when you showed her the photo lineup. Correct?

13 A Correct.

14 Q Okay. And Mr. Bookman, you said later he said that
15 three guys got out of the car. But, in his statement, he
16 talks about two guys as well. Correct? I'll refer you
17 straight to it. It's on his statement, likewise on page
18 two, eight lines down, that two guys got out of the car.

19 A Yes, sir.

20 Q And it's your position today that on the 14th he
21 pointed out Mr. Jones as being one of those guys who got
22 out of the car and specifically came to his window?

23 A Yes, sir.

24 MR. STITELY: I have no other questions at this time,
25 Judge.

1 THE COURT: Redirect?

2 MR. MAYE: Nothing else, Your Honor. Thank you.

3 THE COURT: Thank you, sir. You may step down. Call
4 your next witness.

5 MR. MAYE: The State calls Jerrell Bookman.

6 THE COURT: Mr. Bookman, come up here, please, to the
7 Clerk.

8 JERRELL BOOKMAN,

9 having been duly sworn, testified as follows:

10 THE COURT: Have a seat up here. State your name,
11 sir?

12 MR. BOOKMAN: Jerrell Bookman.

13 THE COURT: Spell your first name.

14 MR. BOOKMAN: J-E-R-R-E-L-L.

15 THE COURT: Answer Mr. Maye's questions, please.

16 DIRECT EXAMINATION

17 BY MR. MAYE:

18 Q Mr. Bookman, let me ask you this. Any investigation,
19 ensuing investigation that Sergeant Holloway was conducting
20 involving the armed robbery that you were the victim of,
21 did he bring you a photographic array or a lineup to take a
22 look at?

23 A Yes, sir.

24 Q Okay. I'm going to show you State's Exhibit 3 for
25 identification in this case. Is that the photographic

1 lineup or the photo array that he brought to you?

2 A Yes, sir.

3 Q Okay. Did Investigator Holloway do anything to
4 indicate any information about that lineup prior to showing
5 it to you or did he just hand you a photo array and ask you
6 if anyone that participated in the robbery or robbed you
7 was in that photo array?

8 A Yes, sir.

9 Q Okay. He just told you that, if there was anyone in
10 the photo array that participated in the robbery --

11 A Yeah, he just told me --

12 THE COURT: You've got to quit asking multiple-part
13 questions and getting a yes or no answer and expect me to
14 know what the witness means. Ask him a question that I can
15 understand, please. You asked him both sides of the
16 questions, and he says yes.

17 BY MR. MAYE:

18 Q Did Investigator Holloway ask you to look at that
19 lineup?

20 A Yes, sir.

21 Q Okay. Did he ask you to identify anyone that robbed
22 you if you saw them?

23 A Yes, sir.

24 Q Okay. Which individual did you identify or which
25 number on there did you identify as being the individual

1 that robbed you?

2 A Number three.

3 Q Okay. At the time of the robbery when you were robbed
4 on June 9th of 2009, was it daytime or was it nighttime?

5 A Daytime.

6 Q Okay. Was there sufficient light for you to be able
7 to see what was going on at that time?

8 A Yes, sir.

9 Q Okay. The individual that came and put a gun to your
10 head, did they have your full attention at that time?

11 A Yes, sir.

12 Q Okay. Did you give Investigator Holloway on the 10th,
13 the next day, a description of the individual that robbed
14 you?

15 A Yes, sir.

16 Q Okay. What did you tell him involving the description
17 of the person that robbed you?

18 A It was a light-skinned black male with a red cap,
19 white tank top with like tattoos on his neck and --

20 THE COURT: Tattoos on what?

21 A On his neck and his body, like his chest.

22 Q On his neck and his chest?

23 A Yes, sir.

24 Q Is that correct?

25 A (Witness nodded head.)

1 Q Did you give him any information involving what kind
2 of vehicle he was in or got out of?

3 A Yes, sir.

4 Q What was that? What did you tell him?

5 A It was a gold faded car with no hub caps.

6 Q Gold faded car with no hub caps?

7 A Yes, sir.

8 Q Okay. When you picked out number three out of the
9 lineup in there, were you absolutely certain that that was
10 the individual that robbed you?

11 A Yes, sir.

12 Q How many days after the robbery did you do that lineup
13 identification? How many days afterwards was it?

14 A Five.

15 Q About five days?

16 A It was about five.

17 Q Okay. You're absolutely certain the person that is
18 number three in that photograph is the individual that
19 robbed you?

20 A Yes, sir.

21 Q Okay. Did Investigator Holloway do anything to
22 influence the pick, of who you picked out in the lineup?

23 A No, sir.

24 Q Okay. Did you pick that out based on your
25 observations of the person that robbed you at the scene of

1 the robbery?

2 A Yes, sir.

3 MR. MAYE: Answer any questions the defense has for
4 you.

5 THE COURT: All right. Cross?

6 **CROSS-EXAMINATION**

7 BY MR. STITELY:

8 Q Mr. Bookman, I don't have one, and I apologize if you
9 don't. But do you have any criminal history? Do you have
10 a criminal history?

11 A No, sir.

12 Q No convictions?

13 A No, sir.

14 Q I guess I'll get to that in one second. Your
15 identification of the individual in the robbery, it's your
16 position that the individual, number three on that picture
17 card, was the one who came to your window?

18 A Yes, sir.

19 Q And he wasn't one of the three dudes. He was
20 specifically the one who came to your window?

21 A Yes, sir.

22 Q How far away was he from you?

23 A I want to say from right here to right there
24 (indicating).

25 Q Like right at the car window?

1 A Yeah, right there.

2 Q You looked up at him I'm taking it?

3 A Yes, sir.

4 Q Okay. You said he had neck tattoos?

5 A Yeah, like right there (indicating).

6 Q Okay.

7 THE COURT: Speak up. What was your answer? She's
8 taking down everything we say, so you've got to speak up.

9 A Oh, yes, sir.

10 THE COURT: You didn't say yes a minute ago.

11 MR. STITELY: I'll re-ask the question.

12 THE COURT: Ask the question again.

13 BY MR. STITELY:

14 Q And you said specifically he had neck tattoos.
15 Correct?

16 A Yes, sir.

17 Q Okay. And you got a pretty good look?

18 A Not exactly.

19 Q Okay. There wasn't anything specific about the tattoo
20 on his neck that would have jumped out to you that you
21 could have used to describe him?

22 A No, sir.

23 Q Okay. How about the gun? Could you describe it?

24 A It was all chrome.

25 Q Did you describe it to the officer?

1 A Yes, sir.

2 Q Okay. In detail?

3 A Yes, sir. It was like all chrome.

4 Q You have to speak loud if you're going to say
5 something.

6 A Yeah. It was like all chrome, sort of like a, I think
7 -- I want to say a 45.

8 Q Okay. Had you discussed the events of that day with
9 Ms. Amber after it happened?

10 A Can you repeat that?

11 Q Did you discuss the events of July 9th with Amber
12 after July 9th?

13 A No, sir.

14 Q You never talked to her again?

15 A Oh, yes, sir. I had asked her did she know who had
16 robbed me, and she said no.

17 Q She said?

18 A She said no.

19 Q Okay. Did y'all compare notes, like talk about what I
20 saw, what you saw?

21 A No, sir.

22 Q Okay. Did you ask -- Did you get any further
23 descriptions from her about, you know, what the people
24 looked like, or did you tell her what you thought they
25 looked like?

1 A No, sir.

2 Q Did you talk to anyone else about the individuals
3 involved?

4 A No, sir.

5 Q Could you describe the other two gentlemen at all?

6 A Not exactly, no, sir.

7 Q Who did you talk to at the Burger King? Was it the
8 individual you marked as number three or was it someone
9 else?

10 A I didn't talk to them.

11 Q Okay. Do you remember giving a written statement on
12 July 10th?

13 A Yes, sir.

14 Q Okay. And you said two guys got out of the car at
15 that time?

16 A It was three.

17 Q Okay.

18 MR. STITELY: May I approach, Your Honor?

19 THE COURT: Yes.

20 BY MR. STITELY:

21 Q Do you remember giving this statement? Is this your
22 handwriting?

23 A Yes, sir.

24 Q Okay. And, on the second page, you said, and two of
25 the guys got out of the car. Is that correct?

- 1 A Yes, sir.
- 2 Q Okay. You said, one took my things?
- 3 A Yes, sir.
- 4 Q What stuff? Did he take your money?
- 5 A Yes, sir.
- 6 Q Okay. Where did the money come from when you were --
- 7 if you were only looking at the one gentleman?
- 8 A It came out my wallet.
- 9 Q Okay. So did both individuals come to your window?
- 10 A Yes, sir.
- 11 Q Okay. So which individual went to the window of the
- 12 other side of the car?
- 13 A I ain't really get a look at him.
- 14 Q Okay. When you said the tattoo across his neck, show
- 15 me the part of your anatomy you're referring to as your
- 16 neck.
- 17 A I'm going to say right there (indicating).
- 18 Q Okay. Visible above like your shirt line --
- 19 A Yes, sir.
- 20 Q -- like you could see it if you were wearing a Polo
- 21 shirt?
- 22 A A little bit.
- 23 Q Okay. And you're absolutely positive the individual
- 24 had tattoos up above his shirt right here in the front?
- 25 A Yes, sir, right there (indicating).

1 MR. STITELY: I actually have no other questions,
2 Judge.

3 THE COURT: Let the record reflect that he was
4 pointing to the left side of his neck. Anything else?

5 MR. MAYE: Nothing else. Thank you.

6 THE COURT: Thank you, sir. You may step down. Call
7 your next witness.

8 MR. MAYE: The State calls Amber Salaam.

9 **AMBER SALAAM,**

10 **having been duly sworn, testified as follows:**

11 THE COURT: What's your name?

12 MS. SALAAM: Amber.

13 THE COURT: Your last name?

14 MS. SALAAM: Salaam.

15 THE COURT: Spell your last name.

16 MS. SALAAM: S-A-L-A-A-M.

17 THE COURT: Thank you.

18 **DIRECT EXAMINATION**

19 BY MR. MAYE:

20 Q Ms. Salaam, let me ask you this. In July of 2009, did
21 Investigator Holloway talk with you about the robbery that
22 took place on June 9th of 2009 here in Saluda?

23 A Yes, sir.

24 Q Were you present in the vehicle with the victim in
25 this case, Mr. Bookman, on July -- or excuse me -- on June

1 the 9th of 2009 when y'all got robbed here in Saluda?

2 A Yes, sir.

3 Q Okay. When Investigator Holloway talked with you in
4 July, you initially gave him false information involving
5 this crime, did you not?

6 A Yes, sir.

7 Q You identified a person named as Brian as being
8 involved in this, didn't you?

9 A Yes, sir.

10 Q And, when Investigator Holloway showed you the
11 photographic lineup, State's 4 in this case, you indicated
12 that you did not know anybody that was in there. Is that
13 correct?

14 A Yes, sir.

15 Q Okay. But you did, in fact, know an individual that
16 was in that lineup photograph, did you not?

17 A Yes, sir.

18 Q Okay. When you saw it at that time, did you recognize
19 the defendant in this case, Victor Jones, as being subject
20 number three?

21 A Yes, sir.

22 Q How long prior to June 9th of 2009 had you known
23 Victor Jones or how did you know -- What name did you know
24 him by?

25 A T.J.

1 Q You knew him as T.J.?

2 A Yes, sir.

3 Q Okay. How long had you known him?

4 A About eight, nine months.

5 Q Had you seen him on multiple occasions?

6 A Yes, sir.

7 Q Okay. Did you have discussions with him prior to June
8 9th of 2009 about him having some rims? Tell the Court or
9 testify as to what he told you about having some rims?

10 A He just told me he had some rims he had got and, if I
11 knew somebody wanted to buy some rims, to let him know and
12 he was going to look out for me, he was going to give me
13 half.

14 THE COURT: He was going to do what?

15 A He was going to give me --

16 THE COURT: Can you get closer to that microphone?

17 Say that again what you said.

18 A He said he had some rims he had got from next door and
19 he told me, if I knew somebody wanted to buy some rims, to
20 get at him and he was going to split the money with me.

21 So --

22 Q So he told you that he had some rims and that he was
23 going to give you some money if you could get them sold for
24 him. Is that correct?

25 A Correct.

1 Q Okay. Did you have communications on the day that
2 this robbery took place with the defendant in this case,
3 Victor Jones, about coming to Saluda to buy rims?

4 A After Jerrell had got there, I showed him a picture of
5 the rims Tony had sent to me and I ask him did he want to
6 buy those rims, and those was the rims he want to buy. He
7 came to buy my rims.

8 Q Did you have some rims to sell at that point in time?

9 A Yes, I did.

10 Q Okay. When we're talking about rims, what kind of
11 rims are we talking about? Car rims?

12 A Car rims.

13 Q Okay. What was specific about these rims? Were they
14 big rims?

15 A Mine's was 22's and the other ones was supposed to
16 been like 23's, 24's.

17 Q Okay. The ones that Victor told you that he had were
18 like 23's?

19 A Yeah. They was a size bigger.

20 Q So you came with the victim, Mr. Bookman, in this case
21 the day the robbery took place. Correct?

22 A I came because he asked me to come; yes, I did.

23 Q Okay. And when the robbery went down in this case,
24 after that fact, when Investigator Holloway initially
25 approached you, you lied about who was involved or whether

1 or not you knew anybody. Right?

2 A Correct.

3 Q Okay. On the day that you were initially shown this
4 lineup, you knew T.J. or Victor Jones and had known him for
5 a long time?

6 A Correct.

7 Q But you lied to Investigator Holloway initially?

8 A Correct.

9 Q Okay. After you got charged and Investigator Holloway
10 came back to you, did you tell him that you wanted to come
11 clean on the robbery?

12 A Yes, sir.

13 Q Okay. Did Investigator Holloway subsequently show you
14 the same photographic lineup at that time?

15 A Yes, sir.

16 Q Okay. Who did you pick out?

17 A Number three.

18 Q Who is number three?

19 A T.J.

20 Q Okay. And that's someone that you knew previously.

21 Correct?

22 A Correct.

23 Q Okay. Let me ask you this. The day that the robbery
24 took place, the individual that came around with a gun and
25 stuck the gun on Mr. Bookman, did you have an opportunity

1 to see him that day, the individual that came around?

2 A Yes, sir.

3 Q Who was that individual?

4 A Tony.

5 Q T.J.?

6 A (Witness nodded head.)

7 Q Okay. Was there sufficient light for you to see that
8 day when you met him? Was it daylight?

9 A Yes, sir.

10 Q Okay. Did you have your attention focused on the
11 defendant in this case when he came around the car to rob
12 Mr. Bookman?

13 A No, sir.

14 Q Did you see him?

15 A Yeah, I seen him but -- Yeah.

16 Q All right. Are you absolutely certain that T.J. is
17 the individual that did that robbery that day with the gun?

18 A Yes, sir.

19 Q Okay. When you were shown the lineup the second time
20 and you picked out number three as being T.J. or Victor
21 Jones, about how long afterwards was that?

22 A I'd say like 20 to 30 days afterwards.

23 Q Okay. You're absolutely certain that number three in
24 there is T.J.; it's the same person that committed the
25 robbery on that day armed with a gun. Is that correct?

1 A Yes, sir.

2 Q Is there anything about him showing you that lineup
3 the first time when you lied, is there anything about you
4 seeing it then that made any difference about you picking
5 him out the second time?

6 A No, I just -- I just -- I just lied. I ain't want to
7 be no snitch and I ain't -- I just lied. I knew who he was
8 the whole time, but I lied.

9 Q Okay. The second time when Investigator Holloway
10 showed you this lineup, did he do anything to suggest one
11 photo over another?

12 A No, sir.

13 Q Okay. Did he just ask you to pick out the person that
14 had committed the crime that day if you saw anybody?

15 A No. He was just like, I'm going to show you this
16 again, can you point whoever out. And I was like, yes,
17 sir.

18 MR. MAYE: Answer any questions the defense has for
19 you.

20 THE COURT: Cross?

21 MR. STITELY: Yes, sir, Your Honor.

22 **CROSS-EXAMINATION**

23 BY MR. STITELY:

24 Q Ms. Solomon --

25 A Salaam, sir.

1 Q Salaam. I'm so sorry. Ms. Salaam, tell me a little
2 bit about your record. What's on your record?

3 A I got a couple drug charges.

4 Q Just drug charges?

5 A And I got a burglary charge.

6 Q And a burglary. What else?

7 A Drug charges.

8 Q Why were you in Orangeburg County when they went
9 looking for you for this case?

10 A Drug charges.

11 Q Why were you in Lexington County and we sent a hold to
12 Lexington County that same month?

13 A Drug charges.

14 Q Selling drugs?

15 A Yes, sir.

16 Q Okay. Isn't it true that this whole deal was about
17 drugs, not rims?

18 A No, sir.

19 Q Okay. How do you know T.J.? How did you know him?

20 MR. MAYE: Your Honor, I want to put one thing on the
21 record at this time. I'm going to object to impeaching.
22 I'm not going to -- I know we're in camera here; but, as to
23 impeaching her with anything, it wouldn't be subject to
24 impeachment in this case as to her record. So I would
25 object to that, Your Honor. She doesn't have convictions

1 of any of these things if she has charges in there, but I'm
2 going to preserve my objection to that until the
3 appropriate time.

4 THE COURT: Well, there's nothing for me to rule on.
5 I'll rule at the appropriate time if I need to, if y'all
6 need to address this issue in camera. But, if the
7 defense's position is that this is something other than
8 what it's being purported to be, if she admits she's a drug
9 dealer, he can ask her that. Go ahead.

10 BY MR. STITELY:

11 Q How did you know T.J.?

12 A I met him through my cousin.

13 Q Drug dealers. Correct?

14 A I don't know nothing about him being no drug dealer,
15 but I met him through my cousin.

16 Q Did you know about drugs in that relationship?

17 A Me and Tony ain't never talked about no drugs.

18 Q You never had any drug dealings with T.J., the
19 defendant?

20 A No, sir.

21 Q Did you have an intimate relationship?

22 A No, sir.

23 Q No intimate relationship?

24 A No, sir.

25 Q Okay. How did you know Mr. Bookman?

1 A I don't.

2 Q How did you just randomly come about some guy and tell
3 him that you knew somebody who could get him some rims?

4 A Because I was sitting outside in Prosperity, South
5 Carolina; he rode through. I told him I had some rims for
6 sale because he ain't have no rims on his car, and I
7 already knew he wanted some rims. And he was asking me how
8 much they was, and I told him how much they was.

9 Q So you were just randomly sitting on a corner in
10 Prosperity, and you told that guy you can go get him some
11 rims if he follows you to Saluda?

12 A That ain't what I said, sir. I said I have some rims.
13 I ask him did he want to buy some rims. I have some rims
14 on my car, and I ask him did he want to buy my rims. And,
15 when he came to meet me to buy my rims, Tony had sent me a
16 picture of some bigger rims, so I asked him which pair of
17 rims did he want. He wanted the bigger rims. Everybody
18 wanted to ride bigger. He wanted the bigger rims.

19 Q When was this initial interaction with Mr. Bookman
20 about these rims?

21 A I don't remember that, sir.

22 Q What's his phone number?

23 A I don't know that, sir.

24 Q Did you just find him again randomly in Prosperity?

25 A No. I gave him my number, and he hit me up, he text

1 me.

2 Q What was your number at the time?

3 A I don't remember.

4 Q How many cell phones did you have?

5 A Plenty.

6 Q Plenty. Good to have them as a drug dealer, to have
7 multiple cell phones?

8 A Yeah, if that's what you want to say.

9 Q Okay.

10 THE COURT: I didn't understand. What's your answer?
11 What was your answer?

12 A I'm telling -- Yes, sir. I'm telling him, yes, sir.

13 BY MR. STITELY:

14 Q There's no question that you sell drugs. Right?

15 A I mean, if you --

16 Q So the day -- Did you pick Mr. Bookman up or did he
17 pick you up?

18 A The day of?

19 Q Uh-huh, on July 9th?

20 A He came to my house to get my rims.

21 Q Okay. And then, at that time, you changed the plan to
22 bring him down to Saluda?

23 A At that time he came to get the rims, my car was
24 jacked up. My brother had just ran back across the street
25 to get the tools to take the rims off with, and he pulled

1 up. And I was like, oh, my homeboy got some rims for sale
2 too. He ask me what size they was, and I told him. I
3 showed him a picture. He said he didn't want my rims no
4 more, he wanted the bigger rims. So I gave him Tony
5 number. But I guess he ain't know his way around, so he
6 ask me to ride with him, so I jumped in the car with him
7 and rode with him.

8 Q Okay. So you didn't know anything about a robbery?

9 A Exactly.

10 Q Did you, at that point, call Victor, Tony, T.J.,
11 whatever you call him?

12 A Yes, sir. Me and him called him together in front of
13 him.

14 Q Okay. And what was this deal that was negotiated?

15 A He was going to get some rims.

16 Q How much?

17 A I don't even remember the price.

18 Q How big are these things?

19 A 23's, 24's.

20 Q For the Court's edification, can you easily fit one
21 rim in the back of a car or could you put all four like in
22 your trunk?

23 A Yes, you can; you can put them in the trunk and the
24 back seat --

25 Q Okay. So --

1 A -- two and two.

2 Q All right. And you were supposed to pick these up at
3 the Burger King in Saluda?

4 A Yes, sir. No. We was supposed to stop at the store
5 before we got to Burger King; and, when we got at the
6 store, it was a change of plans; it was to come to Burger
7 King. So we gets to Burger King, and it's still a change
8 of plans.

9 Q And it's your position that my client was in some car.
10 Correct?

11 A Correct.

12 Q Whose car?

13 A I don't know. I have no idea.

14 Q It wasn't his car?

15 A I have no idea.

16 Q You have to speak in the mike.

17 A I have no idea.

18 Q Were there other individuals in the car?

19 A Yes, it was.

20 Q How many?

21 A Two more.

22 Q Okay. Did you know them?

23 A No, I didn't.

24 Q Okay. And you said, the initial time you talked to
25 the police, that they jumped out of the car. How many

1 people jumped out of the car did you initially tell the
2 police?

3 A It was two.

4 Q Just two? Okay. Where did they go from there?

5 A One went to Jerrell's side, and one came to my side.

6 Q Jerrell is Mr. Bookman?

7 A Yes.

8 Q And who took the money allegedly from what you saw?

9 A Tony.

10 Q Okay. So he was on the left side of the car,
11 Mr. Bookman's side of the car, the driver's side?

12 A Uh-huh, yes, sir.

13 Q Okay. You didn't see the individual that went to the
14 right side?

15 A He was at my side with a gun at my head, with my head
16 down, telling me not to look up. I didn't see him. I just
17 know he was dark-skinned, real dark.

18 Q Okay. What about the other guy?

19 A I don't think he ever got out.

20 Q So you disagree with Mr. Bookman's recitation that two
21 gentlemen approached his window and one approached yours?

22 A Yes, I do.

23 Q So we should believe you though?

24 A I mean, it's on you.

25 Q Okay. Did you see the guns?

1 A Yes, I did.

2 Q Okay. Did you describe them to the police?

3 A I don't remember.

4 Q Okay. In pretty clear detail you could have told the
5 police though?

6 A Yes, I could've.

7 Q Okay. Now, you got charged eventually with this armed
8 robbery. Correct?

9 A Exactly.

10 Q What happened to your charges?

11 A They still there.

12 Q Okay. You're not just charged with armed robbery,
13 you're charged with a bunch of stuff from this. Right?

14 A Exactly.

15 Q What have you been told regarding your testimony
16 today?

17 A I haven't been told nothing.

18 Q You understand that you get a mandatory minimum of ten
19 years if you're convicted of armed robbery. Correct?

20 A Exactly.

21 Q Okay.

22 THE COURT: Do you have a lawyer?

23 A Yes, sir.

24 THE COURT: Who's your lawyer?

25 MR. MAYE: Mr. Casto's her attorney.

1 THE COURT: Where is he?

2 MR. MAYE: Mr. Casto is not here right now. He went
3 back to Lexington. He spoke with her beforehand, Your
4 Honor, but he is not present right now.

5 THE COURT: Ms. Salaam, you understand that everything
6 you're saying is being taken down?

7 A Yes, sir.

8 THE COURT: You understand, based on what you've told
9 me -- I wasn't sure about your status before now -- you've
10 got criminal charges, serious criminal charges pending
11 against you?

12 A Yes, sir.

13 THE COURT: You have the right not to answer these
14 questions, to assert your Fifth Amendment privilege against
15 self-incrimination if you wish. You understand that?

16 A Yes, sir.

17 THE COURT: So do you want to give up your right to
18 remain silent and answer these questions?

19 A No, sir.

20 THE COURT: You want to talk to your attorney?

21 A No, sir.

22 THE COURT: Do you understand my question about
23 whether you want to -- Do you want to testify or not?

24 A Yes, sir.

25 THE COURT: Which is it?

1 A Yes, sir, testify.

2 THE COURT: And you understand that what you're saying
3 can be used against you?

4 A Yes, sir.

5 THE COURT: You understand you have an absolute right
6 to remain silent and nobody can make you answer these
7 questions?

8 A Yes, sir.

9 THE COURT: You have the right to have your attorney
10 present with you at all times. Do you understand that?

11 A Yes, sir.

12 THE COURT: You have a right to ask your attorney and
13 consult with your attorney at any time you wish. Do you
14 understand that?

15 A Yes, sir.

16 THE COURT: Do you want your lawyer here when you're
17 testifying?

18 A No, sir. He ain't doing nothing.

19 THE COURT: I'm sorry?

20 A No, sir.

21 THE COURT: How old are you?

22 A Twenty-four.

23 THE COURT: How far did you go in school?

24 A The 11th.

25 THE COURT: Are you in jail now?

1 A No, sir.

2 THE COURT: Does your lawyer know you were going to be
3 testifying today?

4 A Yes, sir.

5 THE COURT: Did you talk to him about this?

6 A Yes, sir.

7 THE COURT: This decision about testifying, is that
8 your own decision made of your own free will?

9 A Yes, sir.

10 THE COURT: Has anybody exercised any type of improper
11 influence over you to get you to testify against your will?

12 A No, sir.

13 THE COURT: Anybody promised you anything?

14 A No, sir.

15 THE COURT: Threatened you in any way?

16 A No, sir.

17 THE COURT: Are you under the influence of any kind of
18 substance that adversely affects your thinking today?

19 A No, sir.

20 THE COURT: Do you suffer from any physical or mental
21 problems that affect your thinking?

22 A No, sir.

23 THE COURT: If you want to stop, I'll make sure
24 Mr. Casto has to be here and we'll start back in the
25 morning. Do you understand that?

1 A Yes, sir.

2 THE COURT: Do you want to stop or do you want to
3 continue on?

4 A Continue.

5 THE COURT: Are you sure?

6 A Yes, sir.

7 THE COURT: She appears to be freely and voluntarily
8 waiving her right to have counsel present and her right to
9 silence. Go ahead with your cross.

10 BY MR. STITELY:

11 Q What the Judge asked you, has anyone promised you
12 anything, what do you hope to gain from testifying?

13 A I'm just telling the truth. That's all.

14 Q Is it the truth that you knew about an armed robbery
15 or is it the truth that you had no idea?

16 A It's the truth that I had no idea.

17 Q So this wasn't a premeditated situation. This wasn't
18 a plan?

19 A No it was not. The plan was he was going to get some
20 stolen rims. That's the only plan it was.

21 THE COURT: The plan was he was going to get some, did
22 you say stolen rims?

23 A Some stolen rims. That's the -- That's the whole
24 plan.

25 Q Mr. Bookman knew these were stolen rims?

1 A He didn't know they was stolen, but I knew they was
2 supposed to been stolen.

3 Q So you're brokering deals for stolen rims to someone
4 you just met in Prosperity one day?

5 A See, you're not --

6 Q I mean, am I wrong?

7 A That wasn't the plan. The plan was for him to buy my
8 rims; but, when he came, he seen some bigger rims. He
9 didn't have to get the rims. That was his choice. His
10 choice was to go bigger. His choice was wanting those rims
11 that Tony sent me a picture of. That was his choice.

12 Q Okay. How did Tony get in contact with Mr. Bookman
13 then to show him these other rims? I guess I'm -- And I
14 apologize. I'm just trying to figure out --

15 A Can I wait till my lawyer get here because he ain't
16 here?

17 THE COURT: Call Mr. Casto. Have him here in the
18 morning at 9:00 o'clock. You're out on bond?

19 A Yes, sir.

20 THE COURT: Until your lawyer gets to talk to you, I
21 don't want you talking to anybody about this.

22 A Yes, sir.

23 THE COURT: You understand me?

24 A (Witness nodded head.)

25 THE COURT: All right. Thank you. Don't talk to

1 anybody about your testimony except your lawyer.

2 A Yes, sir.

3 THE COURT: Court's in recess until 9:00 a.m.

4 (Whereupon, the proceedings were concluded for October
5 30, 2012.)

6 (The following proceedings were held on October 31,
7 2012.)

8 THE COURT: Let the record reflect that I was on the
9 bench at 9:00 o'clock, that the court reporter was present,
10 the staff was present. I don't know where everybody else
11 is. I'm fed up with this mess. They don't have the
12 defendant here. They didn't have him here yesterday
13 dressed out. I don't understand unless there's some crisis
14 going on at the jail. Why are we doing this? We're at
15 ease.

16 (Brief Recess.)

17 THE COURT: All right. It's 9:30, 30 minutes past the
18 designated time. Mr. Jones is in the courtroom, has just
19 been brought in. The Court's been provided no explanation
20 as to why they weren't here and ready to go at 9:00
21 o'clock. All right. Where is the witness, Ms. Salaam?

22 MR. MAYE: She's here. Your Honor.

23 THE COURT: Come back up here, please. You're still
24 under oath.

25 (Witness resumes the witness stand.)

1 THE COURT: Did you talk with your attorney?

2 A Yes, sir.

3 THE COURT: What do you want to do?

4 A Continue on.

5 THE COURT: Mr. Casto?

6 MR. CASTO: That's correct, Your Honor.

7 THE COURT: Solicitor, you may continue.

8 MR. MAYE: Your Honor, she was on cross examination.

9 I apologize.

10 THE COURT: I apologize to you.

11 MR. STITELY: If it please the Court.

12 THE COURT: Yes.

13 BY MR. STITELY:

14 Q Ms. Salaam, when we left off, we were talking about
15 wheels and I had asked about them being stolen. What was
16 your knowledge about the wheels being stolen?

17 A Tony told me he had a pair of rims he was going to get
18 from the neighbor that was outside in the yard, the back of
19 a house.

20 THE COURT: I can't understand you. What did you say?

21 A He said he was going to get some rims from the back of
22 a house, from a neighbor.

23 Q Okay. The wheels, the rims that you had, were those
24 stolen as well?

25 A No, sir.

1 Q Okay. I guess my biggest question -- and we were
2 trying to get to it earlier -- is how it transitioned from
3 a gentleman that you just met and you didn't know, from
4 selling him your wheels to taking him to Saluda to get
5 someone else's wheels where you obviously aren't getting
6 the money. How did we get from you meeting Mr. Bookman to
7 try to sell him your wheels to you randomly taking him to
8 meet someone else in Saluda to get some other wheels that
9 weren't yours?

10 A When Mr. Bookman came to my house, Tony had already
11 sent me a picture and told me, if I find somebody that
12 wanted to buy the rims, he was going to give me half. When
13 Bookman came to the crypt, to the house, I showed him the
14 picture of the rims Tony sent me. He said he didn't want
15 my rims no more, he wanted the bigger rims.

16 Q Okay. Did you live in Newberry or Saluda?

17 A Newberry.

18 Q I guess it's the last thing that we kind of covered.
19 I just want to make sure I'm still straight. The first
20 time the police came and talked to you and you gave a
21 statement, all of that was lies?

22 A Correct.

23 Q When you said that you didn't know anybody, that was
24 all lies?

25 A Yes, sir.

1 Q And, as far as you know, the only thing that was going
2 to happen that day was to sell some wheels?

3 A Yes, sir.

4 Q T.J. told you that you were going to get some wheels?

5 A He ain't told me I was going to get some rims. He
6 told me he had some rims for sale, that he was going to
7 give me half if I find somebody wanted to buy them --

8 Q And you rode --

9 A -- and that's what I did.

10 Q And you rode with Mr. Bookman instead of just telling
11 him to meet him at the Burger King in Saluda?

12 A I rode with Mr. Bookman because he ask me to. That
13 wasn't my plans to ride with him. He ask me to ride with
14 him.

15 Q Anybody else ride with y'all?

16 A No, sir.

17 Q And you're pretty sure it was only two gentlemen that
18 got out of the car when y'all were robbed?

19 A Yes, sir.

20 Q Not three?

21 A Yes, sir.

22 Q Definitely two?

23 A Yes, sir.

24 Q Is that the truth?

25 A It was three altogether, but two got out the car.

1 Q So Mr. Bookman's wrong in saying there were three that
2 got out of the car?

3 A Yes, sir.

4 MR. STITELY: I have no other questions at this time.

5 THE COURT: Redirect?

6 MR. MAYE: Nothing else, Your Honor. Thank you.

7 THE COURT: You may step down. Thank you. Call your
8 next witness on the *Biggers* hearing.

9 MR. MAYE: Your Honor, that's all we have. We had the
10 officer and the witness and the victim in this case, Your
11 Honor. And that's all we have as to *Neil v. Biggers*.

12 THE COURT: Do you have any evidence to present on the
13 identification?

14 MR. STITELY: Just argument, Judge, no evidence.

15 THE COURT: Go ahead.

16 MR. STITELY: Your Honor, I'm going to object to both
17 photo lineups, the first one on the grounds that I asked
18 Officer Holloway about the process and procedure in
19 creating this lineup and there's no documentation showing
20 how he did it. I asked specifically, can you show me the
21 stuff you sent over to SLED -- I don't have that -- can you
22 show me what the requirements were for the individuals to
23 go over to SLED -- no, I don't have any of that -- could
24 you somehow give me the documentation of what went in this
25 lineup -- no, I can't give you any of that. I have a

1 serious foundation problem with the creation of this
2 lineup, and they haven't detailed specifically what went
3 into its creation for it to be fair and impartial and to
4 get it in. Secondly, I would object to that same
5 lineup. There's been a lot of mistruths on the stand. We
6 have three witnesses all telling different things, two of
7 them are saying that the other one has to be lying.
8 There's great question in whether the identifications were
9 truly made freely without any hints, suggestions or
10 whatnot. Ms. Salaam testified that her and Bookman talked
11 about the robbery after the fact, after she initially had
12 lied and said she didn't know anybody. He shows him a
13 lineup card. They had more conversations about what
14 happened. She can't pick anyone out, but he can. He
15 definitively says three people got out of car. She says
16 that's not true, it was two. And they had corroboration
17 with each other after the fact. There's questions about
18 the makeup of the lineup. I don't believe that there's
19 been a fair and impartial standard established here and a
20 proper foundation for the lineup itself. So I'd object to
21 that as far as Mr. Bookman's. As far as the second lineup
22 shown to Ms. Salaam, I don't think any of that testimony's
23 been credible whatsoever, Your Honor; and I'd ask that you
24 suppress that lineup. I don't believe that it was achieved
25 in a fair and impartial manner.

1 THE COURT: Yes, sir?

2 MR. MAYE: Your Honor, I don't think there's any
3 evidence in the record -- Ultimately with a *Neil v. Biggers*
4 hearing, it's whether or not there was any suggestion,
5 anything that would amount to it being suggestive in regard
6 to the out-of-court identification. In this case, Your
7 Honor, there's no evidence that there was anything done by
8 the police, that there was any suggestiveness in this case,
9 Your Honor. And, as to Amber Salaam, I know that the
10 recent South Carolina cases have addressed the U.S. Supreme
11 Court case about the extension of whether or not, if
12 someone knew someone ahead of time, whether or not that a
13 *Neil v. Biggers* hearing was even appropriate. But we've
14 certainly done so in this case, Your Honor, out of an
15 abundance of caution. And, in this case, Ms. Salaam
16 testified that she knew him, had known him for a
17 substantial period of time, had basically repeated contact
18 with him prior to that time, Your Honor. So the threshold
19 certainly with Ms. Salaam where she knew him ahead of time,
20 this out-of-court identification, Your Honor, we would
21 certainly maintain that there's no evidence in the record
22 in this case that there was any suggestiveness or anything
23 done on the part of the police to suggest one witness over
24 another. And, although Ms. Salaam's first
25 misidentification was brought out in this case, she at no

1 time indicated that her subsequent identification of him
2 was brought about by any kind of suggestiveness or seeing
3 the photo before but that any identification that she made
4 was based on the fact that she knew this individual ahead
5 of time and that she viewed that lineup and picked him out,
6 Your Honor. We would certainly suggest in this case that
7 there's nothing that was suggestive in the lineup procedure
8 that would prohibit the State being able to go into that
9 out-of-court identification.

10 MR. STITELY: Judge, and I apologize. I did intend to
11 bring this in, and I don't know if it's appropriate now
12 based on it being a fact question. But the one thing about
13 Mr. Bookman additionally -- and I apologize for not saying
14 this -- on the stand, he specifically told the Court when I
15 asked him, tattoos front neck, above the collarbone on the
16 left side; and he said, yes. Your Honor, I can ask the
17 Court to take judicial notice, if they want to look at my
18 client, he does not have any tattoos on the front of his
19 neck, above his collarbone, clearly visible above his Polo.
20 I think, when you add that in, the fact that he just
21 doesn't have any tattoos --

22 THE COURT: Hold on just a second.

23 (Pause.)

24 THE COURT: Go ahead.

25 MR. STITELY: I apologize. And he was very specific,

1 and I made him lay out where the tattoos on the individual,
2 number three, was supposed to be -- on his neck, above his
3 collarbone, in the front and on the left side -- because he
4 obviously saw him out of the window. Mr. Jones doesn't
5 have any. I think that further gives weight to the lack of
6 credibility of any testimony. Additionally, the
7 corroboration between the two, Ms. Salaam and Mr. Bookman,
8 after the fact talking about it, the way she doesn't
9 identify anyone -- The same pictures were used in the same
10 order for both of them. She says she doesn't know anyone.
11 She's talking to Mr. Bookman. They miraculously pick out
12 number three. Mr. Jones doesn't even match the
13 descriptions as given on the stand that the individual had
14 a front neck tattoo above his collarbone clearly visible on
15 the left side. Thank you.

16 THE COURT: Anything else from the State?

17 SOLICITOR: Nothing from the State, Your Honor. Thank
18 you.

19 THE COURT: I need to see the exhibits.

20 (Pause.)

21 THE COURT: The issue before the Court relates to the
22 hearing concerning identification testimony under *Neil v.*
23 *Biggers*. That case stands for the proposition that, if
24 identification of an accused was the product of unnecessary
25 suggestiveness on the part of law enforcement, perhaps

1 other sources, as to give rise to a likelihood of
2 misidentification, then it's to be excluded. The Court is
3 supposed to do a two-part analysis in evaluating out-of-
4 court identification. The two-part procedure is that the
5 Court first determines whether the out-of-court
6 identification process was unduly suggestive; if so, then
7 the question is whether the identification nevertheless was
8 so reliable that no substantial likelihood of
9 misidentification existed. The factor that's focused upon
10 is reliability. If it gets to that second prong, then
11 there are five elements that the Court considers concerning
12 reliability: The witness' opportunity to view the offender
13 at the time of the crime; the witness' degree of attention;
14 the accuracy of the witness' prior description of the
15 offender; the witness' level of certainty at the
16 confrontation; and the time between the crime and the
17 confrontation or identification. *Neil v. Biggers* does not
18 apply to in-court identifications that occur without a
19 pretrial identification. The remedy for suggestiveness of
20 an in-court identification is a cross examination argument.
21 The only person that I recall who made an in-court
22 identification was Mr. Holloway. I don't remember the
23 other two witnesses ever identifying the defendant in
24 court. The Court finds that the State has established that
25 the procedure to obtain the out-of-court identification was

1 not unduly suggestive. The argument made by the defense is
2 that there's not documentation to back up the testimony.
3 It's certainly being considered, but there was testimony
4 from Mr. Holloway. He asked for an array, a lineup to be
5 prepared by SLED. He did not ask for any particular order
6 or direct a presentation of the array in any way except to
7 notify SLED of the one picture of the defendant who was
8 placed in the lineup. The testimony from all of the
9 witnesses was that, when the lineup was presented to the
10 witnesses, that no one suggested anything. There was no
11 indication that there was even a suspect in the lineup.
12 The lineup was presented to the witnesses. The witnesses
13 were asked if they saw anyone who robbed -- was involved in
14 the robbery. The testimony was that Mr. Bookman
15 immediately pointed to number three on the lineup that's
16 marked State's Exhibit 3 for identification, that
17 Ms. Salaam initially was lying. And, while I have serious
18 issues with her credibility on certain matters, she knew
19 Mr. Jones before the incident, and I find that her
20 testimony about identifying him in the lineup was credible.
21 There is no indication that there was any kind of improper
22 police conduct or any impropriety or any suggestiveness
23 related to the presentation of the lineup, preparation of
24 the lineup or the obtaining of the identification. So,
25 there being no evidence of suggestiveness, the Court would

1 find that the State has established clearly that the
2 identification was properly done. The Court has not
3 reached the second issue of whether the matter was -- the
4 identification was nonetheless so reliable that it should
5 be admitted despite any suggestiveness. Now, I don't know
6 what y'all want to do about whether we need to have another
7 *Neil v. Biggers* hearing because nobody identified him in
8 court except Mr. Holloway or, if y'all don't think that's
9 necessary before, I'm going to take a short break.

10 MR. MAYE: Your Honor, I thought we did cover that
11 with at least one of the other witnesses. If it would save
12 time, we will have an in-court identification if there's
13 any issue of that. I'd recall Ms. Salaam and Mr. Bookman
14 because they are going to additionally do in-court
15 identification.

16 MR. STITELY: I'm going to object to Mr. Bookman doing
17 an in-court identification at this point. I mean, I think
18 he's sat through too much testimony and heard all the other
19 things. If Ms. Salaam said she knew him previously, that's
20 one thing. Mr. Bookman -- There was no ID there; he relied
21 on the lineup. It's been a misidentification thus far. I
22 think it would be improper to allow him to correct it at
23 this point and make an in-court identification of an
24 individual sitting here charged with a crime. It could
25 have been done beforehand; it was not. I don't think it

1 would be proper at this time.

2 THE COURT: Well, I can't swear to you that he didn't
3 do an in-court identification. I just -- I wrote down and
4 noted -- I remembered that Mr. Holloway did. I'm not sure
5 if he did it in this hearing or in the *Denno* hearing, but
6 they were all one behind the other. Y'all can check with
7 the court reporter. We're going to take a brief break.
8 But the objection is overruled. Now, I'm going to take a
9 short recess. Yesterday, there was a lot of discussion.
10 Mr. Jones wanted to talk to the Court. I was happy to try
11 to talk to Mr. Jones although that's very, very unusual.
12 And he was asking me a whole lot of things, basically
13 asking me to intervene. Now, you all said you had pretrial
14 matters. I don't know what they are, but I didn't try to
15 go into with him about discussing things like prosecutorial
16 misconduct. And I'm not trying to suggest there is any;
17 I'm just saying he was saying he was wanting me to
18 intervene. Well, I don't just intervene. I rule on
19 motions that are brought before the Court. And he
20 mentioned a plea agreement. I have no idea if he has any
21 proper claim to any type of motion to insist upon the
22 enforcement of a plea agreement. I mean, there are things
23 that a court can do if there's some impropriety on the part
24 of the State; but, fortunately, that's rare. And I didn't
25 want anybody to be misled, nor did I want the record to be

1 devoid of the fact that I know that. So, when I told him
2 that it's not my job to decide what case is called, it's
3 not my job to decide what charges to pursue, that sort of
4 thing -- And I explained the separation of powers and
5 explained to him how the Judicial Branch deals with part of
6 it and then, as far as sentencing, the Court does sentence
7 but it's limited by the Legislative Branch which, in this
8 instance, is a ten-year mandatory minimum for armed
9 robbery. I just want, before I take a break, to make sure
10 that, if there's any issue that you all wanted to raise
11 that would be proper for the Court to intervene to dismiss
12 a claim, I'd be happy to entertain it. I'm just -- I'm not
13 saying there is; I have no idea. As I told y'all
14 yesterday, I don't recall this case; and, having heard the
15 testimony, I still don't recall it. I'm sorry. I'm
16 supposed to be neutral and detached. And I hear, like I
17 told you, hundreds of cases; and this just doesn't ring a
18 bell. I'm sorry. That doesn't mean I'm not focused on it;
19 I am. I certainly know how serious it is for everybody.
20 We'll take a break for five minutes.

21 (Brief Recess.)

22 THE COURT: All right. Yes, sir?

23 MR. STITELY: Judge, since my involvement in August of
24 this year when I got this file, there's not been an offer
25 ever aside from the armed robbery. As Mr. Maye said, he

1 told him he could plead straight to it. That's pretty much
2 been all we've had. So I'm not in a position to say there
3 were any other deals that were out there along those lines.
4 During my representation, during my time, we don't have any
5 specific documentation or proof of any other offers ever
6 out there, so I'm not in a position at this time to make
7 any kind of motion or request any specific relief on that
8 part. I spoke to my client; he understands that. And he's
9 prepared to go forward today with a jury trial.

10 THE COURT: Well, the only way the Court can get
11 involved -- And this is off the top of my head; I haven't
12 done any research because I had no indication there was any
13 kind of impropriety. But, usually when there's a plea
14 offer and the defendant changes his position, in other
15 words, the best is for a plea offer and then they yanked
16 the plea away from him. But I have no indication that
17 anything like that is going on and no indication of
18 anything else. I just want to make sure that the record is
19 clear. If there's some sort of due process violation or
20 some problem, then, yes, the Court can step in; but that's
21 very rare like I said earlier. And yesterday I was talking
22 more in generalities and cannot get into specifics because
23 I don't know anything about the case. All right. Are you
24 ready to call your next witness?

25 MR. MAYE: The State's ready, Your Honor. That's all

1 we have on the issue --

2 THE COURT: I thought y'all wanted to do an in-court
3 identification.

4 MR. MAYE: Oh, we can do an in-court identification
5 now, Your Honor, if that's the appropriate time.
6 Mr. Bookman, would you come around?

7 THE COURT: Come back up, please. You're still under
8 oath, Mr. Bookman. You understand that?

9 MR. BOOKMAN: Yes, sir.

10 JERRELL BOOKMAN,

11 having been previously duly sworn, testified as follows:

12 DIRECT EXAMINATION

13 BY MR. MAYE:

14 Q Mr. Bookman, let me ask you this. At the time that
15 you were robbed at gun point, did you have adequate
16 opportunity to view the person that robbed you?

17 A Yes, sir.

18 Q Okay. Was there sufficient light there for you to see
19 him?

20 A Yes, sir.

21 Q Was there daytime? Was it daytime?

22 A Yes, sir.

23 Q Okay. Did you have your attention focused on him at
24 that time? Were you looking at his face?

25 A Yes, sir.

1 Q Okay. Did you describe his appearance in detail at
2 that time or when you went back in the next day to the
3 police? Were you able to give a detailed description of
4 him at that time?

5 A Yes, sir.

6 Q Okay. Let me ask you this. Is the person that robbed
7 you at gun point, is he present here in the courtroom
8 today?

9 MR. STITELY: Judge, the jury door was open when he
10 was asking those questions.

11 THE COURT: It was open for a few seconds for one part
12 of that last question. What do you need to put on the
13 record?

14 MR. STITELY: Your Honor, I just wanted to make sure
15 we were careful because he's asking for an ID, and the jury
16 could have heard what he was asking.

17 THE COURT: I saw the bailiff come out and open the
18 door. I can't say exactly what part of that last question
19 was being asked, but it was only a few seconds; and I don't
20 see any reason to do any kind of inquiry. Go ahead.

21 BY MR. MAYE:

22 Q Is the person that robbed you at gun point here in
23 Saluda on June 9th of 2009, is he present here in the
24 courtroom today?

25 A Yes, sir.

1 Q Okay. Could you point him out and describe what
2 clothing he's wearing and where he's sitting?

3 A (Indicating.) In the front with a white, like a white
4 and gray shirt on, light skin.

5 MR. MAYE: Your Honor, I'd just like the record to
6 reflect for the purposes of the court reporter that he's
7 identified the defendant, Victor Jones, in this case.

8 THE COURT: It's so noted.

9 BY MR. MAYE:

10 Q Mr. Bookman, is that identification here today based
11 on your observations of him there at the scene the day of
12 the robbery?

13 A Yes, sir.

14 Q You're absolutely certain that that's the person that
15 robbed you?

16 A Yes, sir.

17 Q And you're absolutely certain that your identification
18 here today is based on you viewing him and seeing him
19 during the commission of the armed robbery?

20 A Yes, sir.

21 MR. MAYE: Answer any questions the defense has.

22 THE COURT: Cross?

23 MR. STITELY: Just briefly, Your Honor.

24 **CROSS EXAMINATION**

25 BY MR. STITELY:

1 Q Mr. Bookman, you said there were two people who came
2 up to your window?

3 A Yes, sir.

4 Q Which of the two individuals was allegedly Mr. Jones
5 that you're pointing out today?

6 A (Indicating).

7 Q Which of the two came to your window?

8 A All I know is just him. I don't really know the other
9 person.

10 Q Okay. Describe him. Can you describe the other
11 person?

12 A Not exactly. I didn't really see him.

13 Q I'm sorry?

14 A Not exactly because I really didn't see him.

15 Q And the description you gave the police was limited to
16 a light-skinned black man wearing a white shirt and a red
17 hat?

18 A Yes, sir.

19 Q And you told them that he had front neck tattoos up
20 above his collarbone?

21 A Yes, sir, like somewhere up around his neck.

22 THE COURT: Somewhere around what?

23 A His neck, like collarbone right there (indicating).

24 BY MR. STITELY:

25 Q And I asked you yesterday, like above where you would

1 see on his Polo shirt?

2 A You can see it a little bit. I can't really tell if
3 he ain't got no tank top on.

4 Q Well, I guess it's important because you're
5 identifying him in this courtroom today, but now you're
6 saying you're not sure. How close were you again?

7 A What you mean?

8 Q To the individual who allegedly robbed you. I mean,
9 visually, I mean, was he right at your window, like as
10 close as we are?

11 A Yes, sir.

12 Q And you're not sure what he had in his facial area?

13 A I wasn't paying attention. I just know he had
14 tattoos. I wasn't looking at the tattoos. I was looking
15 at his face.

16 Q Did it help you yesterday to remember what Mr. Jones
17 may have looked like while you were watching him in the
18 courtroom?

19 A Say that again?

20 Q Did it help that he'd been sitting in the courtroom
21 accused of the crime and you remembered what he looked
22 like?

23 A Yes, sir.

24 Q So it's not that you remember it specifically from
25 that incident, but you were using your visual sight of the

1 gentleman sitting in that seat in the courtroom yesterday
2 to form an opinion as to who may have robbed you on the 9th
3 of July, 2009?

4 A No, sir.

5 Q Well, which way is it?

6 A What you just say?

7 Q You said that it helped significantly in you figuring
8 out who may have robbed you on July 9th by sitting in the
9 courtroom yesterday looking at Mr. Jones. Correct?

10 MR. MAYE: Your Honor, I object to that. He didn't
11 say it helped him significantly. He's putting words in the
12 witness' mouth, and I would object to that. That's an
13 incorrect statement of what he said. That was a cross
14 examination question, not his words.

15 Q You agree with that though?

16 A No, sir.

17 Q Were there any other descriptors you could give of the
18 individual who allegedly robbed you on July 9th, 2009 --

19 A No, sir.

20 Q -- besides a light-skinned black man?

21 A No, sir.

22 Q Eye color?

23 A No, sir.

24 Q Crop of his hair?

25 A No, sir.

1 Q Facial hair?

2 A No, sir.

3 Q Body build, like was he a big guy, small guy?

4 A I don't really know because I didn't really pay
5 attention.

6 Q Well, it's important because the identification comes
7 in key here. So you don't remember any of that stuff. How
8 tall was he?

9 A I don't really know because I didn't really see him.

10 Q What about teeth? Did he have a grill?

11 A I don't really know.

12 Q Did he say any words to you?

13 A No, sir.

14 Q So no one said anything to you?

15 A Victor.

16 THE COURT: I didn't understand what you said.

17 A Victor, he said -- He was doing all the talking.

18 Q Who is Victor?

19 A Victor. That's him right there (indicating).

20 THE COURT: He said Victor.

21 A Victor.

22 MR. STITELY: And then he said something else.

23 Q What did you say after that?

24 A Nothing.

25 Q Okay. Did you describe his voice to the police?

1 A No, sir.

2 MR. STITELY: That's all questions I have, Judge.

3 Thank you.

4 THE COURT: Redirect?

5 MR. MAYE: Nothing else, Your Honor. Thank you.

6 THE COURT: Thank you, sir. You may step down. Call
7 your next witness.

8 MR. MAYE: Amber Salaam.

9 THE COURT: Come around, please. You're still under
10 oath. You understand that, ma'am?

11 MS. SALAAM: Yes, sir.

12 **AMBER SALAAM,**

13 **having been previously duly sworn, testified as follows:**

14 **REDIRECT EXAMINATION**

15 BY MR. MAYE:

16 Q Ms. Salaam, let me ask you this. Do you know the
17 defendant in this case, Victor Jones? You knew him as
18 T.J., but do you know the individual known as Victor Jones?

19 A Yes, sir.

20 Q Okay. How long before June the 9th of 2009, the date
21 of this armed robbery, how long before then did you know
22 him?

23 A Like eight or nine months.

24 Q You saw him multiple times --

25 A Yes, sir.

1 Q -- during that eight or nine-month time period?

2 A Yes, sir.

3 Q And interacted with him and had conversations with
4 him?

5 A Yes, sir.

6 Q Okay. Prior to June 9th of 2009, you had had
7 conversations with him and phone, telephone communications
8 regarding these rims, these 23-inch rims. Is that correct?

9 A Yes, sir.

10 Q Okay. So, before June 9th of 2009, you knew T.J. or
11 Victor Jones. Correct?

12 A Yes, sir.

13 Q Okay. Let me ask you this. On the day that you came
14 to Saluda on June 9th of 2009 and the victim in this case,
15 Mr. Bookman, was the subject of an armed robbery, did you
16 see Victor Jones there that day or T.J.?

17 A Yes, sir.

18 Q Okay. Did you get a good look at him?

19 A Yes, sir.

20 Q Okay. Was your attention focused on him?

21 A When he got out the car.

22 Q Okay. Was there adequate light for you to be able to
23 see him?

24 A Yes, sir.

25 Q Are you absolutely certain that you saw Victor Jones,

1 or T.J. as you know him, there at the scene of the armed
2 robbery?

3 A Yes, sir.

4 Q Did he have a gun?

5 A Yes, sir.

6 Q Okay. Let me ask you this. Is that same person that
7 you knew and the same person that you saw there carrying
8 out that armed robbery, is he present here in the courtroom
9 today?

10 A Yes, sir.

11 Q Could you point him out and describe where he's
12 sitting and how he's dressed?

13 A He's sitting right there (indicating) with a blue
14 and gold color shirt on.

15 MR. MAYE: Your Honor, I would just like for the
16 court reporter to take down she's identified the defendant
17 that we have indicted as Victor Jones, that she knows as
18 T.J.

19 THE COURT: Where do you see blue? I don't see blue.

20 MR. STITELY: Stand up, Judge?

21 THE COURT: No. I'm asking. She's saying blue. She
22 pointed in that general direction and said that he was
23 sitting over there with a blue and gold color shirt on.
24 I don't see any blue on his shirt.

25 A His shirt blue.

1 Q Okay. Well, let me ask you this. Describe that
2 shirt. Is it a solid color shirt? Is it a striped shirt?
3 Describe it.

4 A Striped shirt.

5 Q Okay. With the three individuals that are seated
6 there at that table, is he the one on either ends or in the
7 middle?

8 A In the middle.

9 Q Okay.

10 MR. MAYE: Your Honor, I would just like for the
11 record to reflect that she's identified the defendant in
12 this case, Victor Jones.

13 THE COURT: So noted.

14 MR. MAYE: Thank you.

15 MR. STITELY: Briefly, Your Honor?

16 THE COURT: Yes.

17 **CROSS-EXAMINATION**

18 BY MR. STITELY:

19 Q Ms. Salaam, you said that you clearly saw Victor
20 Jones, who you've identified in the courtroom today, there
21 that day. Correct?

22 A Yes, sir.

23 Q You said you got him out of the car -- you saw him
24 when he got out the car?

25 A Yes, sir.

1 Q Do you remember in your statement when you said you
2 didn't see anything because you were looking down at your
3 lap because -- I don't know why, but that's what you said
4 in your statement.

5 A Yes, sir.

6 Q So was that a lie?

7 A No, sir.

8 Q Okay.

9 A He asked me did I know the guy that had a gun pointed
10 at him, and I said I didn't see him because I was looking
11 down.

12 Q Well, I guess it's kind of important if you were
13 looking down. Were you looking over at who you say was
14 there, at Mr. Jones, or were you looking down? Which one
15 was it?

16 A Before Tony came to the car, he had to get out the car
17 to come around the car. And, when he got out, I seen Tony
18 Jones get out the car.

19 Q Did you ever see him approach Mr. Bookman's window?

20 A No, sir.

21 Q So, as far as you know, you can't say who approached
22 Mr. Bookman's window?

23 A I just know he was over there. I didn't see him, but
24 I heard his voice. I know he was there. And, like I said,
25 I had my head down.

1 Q So you didn't actually see him do a robbery though?

2 A Yes, sir.

3 Q Did you see him or not?

4 A Sir, I seen him when he got out the car. He came
5 around the car to the driver's side. And, by the time he
6 got to the driver's side, the other dude had done hopped
7 out the car, put a gun to my head and told me to put my
8 head down, I better not look up.

9 Q But you never saw Mr. Jones approach Mr. Bookman's
10 window and put a gun to his head because you were looking
11 the other way?

12 A Exactly..

13 Q Was the car running?

14 A Yes, sir.

15 MR. STITELY: I have no other questions. Thank you.

16 THE COURT: Redirect?

17 MR. MAYE: Nothing else. Thank you.

18 THE COURT: You may step down. Any other evidence
19 from the State?

20 MR. MAYE: Nothing else, Your Honor. Thank you.

21 THE COURT: From the defense?

22 MR. STITELY: Just argument, Judge.

23 THE COURT: Go ahead.

24 MR. STITELY: Judge, I would again object to the
25 in-court identification by Mr. Bookman. I don't

1 necessarily have a problem with Ms. Salaam because she said
2 she knew him before. I think her in-court identification
3 can be justified. But Mr. Bookman said clearly on his
4 first day of testimony -- I guess it wasn't today -- he
5 said he didn't know Mr. Jones, he just was getting some
6 wheels. And, when I asked him, he made it pretty clear
7 that it helped that he saw someone sitting here in the
8 courtroom yesterday charged with a crime. I asked him some
9 very simple questions, what color eyes did he have, how was
10 his hair, what were his teeth like, you know, was he tall,
11 was he short, what was his body build -- I didn't see any
12 of that. I think it does not establish enough to move
13 forward with in-court identification when he can't provide
14 simple details and he admitted that he was definitely aided
15 by seeing Mr. Jones sitting in the courtroom yesterday as
16 far as his identification.

17 THE COURT: All right. Anything else from the State?

18 MR. MAYE: Nothing from the State, Your Honor. Thank
19 you.

20 THE COURT: With regard to Ms. Salaam, the evidence is
21 clear and convincing that she had a prior personal
22 knowledge and relationship with the accused; and there's,
23 again, no evidence of any type of suggestiveness that
24 affects her identification of the accused in court. Now,
25 the focus of the due-process challenge related to

1 identification, while the courts typically get involved in
2 a hearing outside the presence of a jury where the court
3 has to make a determination that the State has established
4 by at least clear and convincing evidence that the
5 identification is not tainted, but the primary purpose of
6 that was to avoid improper conduct by police or
7 governmental authorities. I'm not saying that's an
8 absolute. I think that the Court can consider all the
9 factors including anything that is suggestive. As I
10 previously ruled, there is no indication that the State has
11 done anything improper with regard to suggestiveness
12 pretrial, and now there's none that the State has done
13 during the trial. And I find that the State has
14 established by clear and convincing evidence that there is
15 no improper suggestiveness on the part of the State or any
16 of its agencies that would affect an in-court
17 identification. There's a case, *State v. Tisdale*,
18 T-I-S-D-A-L-E, a 2000 case, Court of Appeals of South
19 Carolina, that reads that, when the source of the
20 suggestiveness is nongovernmental, the typical two-step
21 procedure is inapplicable because the purpose of a strict
22 rule barring evidence of unnecessary or suggestive
23 confrontation is to deter the police from using a less
24 reliable procedure where a more reliable one may be
25 available. There's a 2012 case which the Solicitor I

1 think was alluding to about where the unnecessary
2 suggestiveness -- suggestive circumstances relating to the
3 identification where not procured by the government in a
4 judicial inquiry on a preliminary basis into the
5 reliability of the identification is not even required.
6 That's *Perry v. New Hampshire*, a 2009 case. A hearing is
7 not required where there was sufficient evidence of the
8 witness' prior knowledge of the defendant, *State v.*
9 *Liverman*, L-I-V-E-R-M-A-N. That may be up on cert; I'm not
10 sure. So there's no evidence that the State has done
11 anything to taint in any way the in-court identification.
12 Now, Mr. Bookman did testify that he was assisted in making
13 his identification by the fact that the defendant is
14 sitting at the defense table in a trial in a courtroom.
15 And, while that is somewhat troubling, I don't know
16 anything under the progeny of *Neil v. Biggers* that would
17 allow the Court to exclude the in-court identification. It
18 would seem to me that the analysis would be more akin to
19 those where there is no pretrial identification and the
20 remedy is said to be cross examination. I think cross
21 examination is the primary remedy. Even if I were to
22 consider it differently than that, there's nothing that I
23 see under *Biggers* that would exclude the in-court
24 identification in this circumstance. I know there are
25 situations where there's a lot of media coverage and

1 photographs are put out there on the media and then the
2 witnesses can see those and that can affect somebody's
3 identification. But, again, the ruling of the Court is
4 that it's admissible assuming a proper foundation is
5 established both under *Jackson v. Denno* matters and as to
6 *Neil v. Biggers* matters. Now, the jury's going to have to
7 find beyond a reasonable doubt. They've got a different
8 standard than I've got. And the jury will be charged that
9 the State has the burden of proving the identity of the
10 defendant as the perpetrator of the crime beyond a
11 reasonable doubt. Also, the jury's going to be charged in
12 the *Denno* hearing about the statement, all those things
13 that are required to consider a statement and that the
14 State has to prove all those matters satisfactorily beyond
15 a reasonable doubt. Is the State ready for the jury?

16 MR. MAYE: One moment, Your Honor.

17 THE COURT: And I want Mr. Casto here. I need for you
18 to stay.

19 MR. CASTO: I will. I promise, Judge, I will.

20 THE COURT: I'm going to bring the jury out, and then
21 I'm going to send them back in. I'm going to tell them to
22 select a foreman. I've never done that before. In 21
23 years, I've never done that. I'm going to do it today.
24 Bring the jury in.

25 (The jury returns to the courtroom at 10:25 a.m.)

1 THE COURT: All right, ladies and gentlemen of the
2 jury, I apologize for your delay. It took me longer this
3 morning than we had planned. We did stay yesterday and
4 went as long as we could go. It's going to be a few more
5 minutes before we get you out here and start into the trial
6 in earnest. I wanted to bring you out though and ask you,
7 if you would, to select a foreperson. I want you to go
8 back in the jury room. And don't discuss the case now in
9 any way, but just pick somebody to represent you as the
10 foreperson. It's not anything that anybody should be
11 concerned about having the ability to do. All of you I'm
12 convinced could easily serve in that capacity. But I'd
13 rather for you to pick the foreperson. So just, when
14 you've got that selected, that person selected, if you'll
15 knock on the door and tell the bailiff who it is; shortly
16 after that, I'll get you out here. There is one matter
17 that's completely unrelated to this case that we tried to
18 do this morning. We had a problem with it. I'm going to
19 try to do it again, so there may be a little bit more
20 delay. It won't be because of anything related to this
21 case; it's just we had scheduled something, we've got
22 people here, and I want to try to accommodate everybody I
23 can. All right. Everybody understand? One person. Thank
24 you.

25 (The jury retires to the jury room.)

1 THE COURT: Mr. Bailiff, tell them it cannot be one
2 of the alternates.

3 (Brief recess.)

4 THE COURT: Is the State ready for the jury?

5 MR. MAYE: The State's ready, Your Honor. Thank you.

6 THE COURT: Defense?

7 MR. STITELY: Just very quickly, I would request
8 sequestration of the witnesses during the time the jury's
9 out here. And one thing I wanted to take up prior to
10 taking a lunch break, I had subpoenaed a personnel record,
11 and I just haven't received it yet.

12 THE COURT: Well, Mr. Bookman can stay in because he's
13 the victim allegedly, and the chief investigating officer
14 can stay. Ms. Salaam would have to leave I think.

15 MR. STITELY: And I believe Acting Chief Long as well.

16 THE COURT: Well, y'all can designate one or the
17 other. It's up to you.

18 MR. MAYE: That's fine.

19 THE COURT: The jury has selected Dr. Ashley W.
20 Buzhardt, juror number 36, as the foreman. Does he know
21 where to sit?

22 BAILIFF: Yes, sir.

23 THE COURT: All right. Bring them in, please.

24 (The jury returns to the courtroom.)

25 THE COURT: All right. I understand the jury selected

1 juror number 36, Dr. Ashley W. Buzhardt, as foreman. If
2 you'll just stay in that chair throughout the trial,
3 please; and the two alternates, y'all just stay in one of
4 those chairs on the back row unless you're substituted.
5 Folks, it took a lot longer today than I expected. Some
6 days I plan right, and some days I don't do such a good
7 job. So I apologize that you had to wait on us, but we're
8 ready to start now. And the first thing that has to be
9 done is the Clerk has to place you under the oath of a
10 trial jury. So please stand and raise your right hands and
11 the Clerk will administer your oath.

12 (The jury was duly sworn by the Clerk of Court at
13 10:55 a.m.)

14 THE COURT: Thank you. Be seated, please. All right,
15 folks, I'm going to start out by explaining to you
16 generally how the case will begin. I'm not going to go
17 through all the steps, but I'll tell you how we'll get
18 started, and then I'm going to give you some instructions
19 you'll have to follow throughout the trial. The first
20 thing that's going to happen is that you're going to hear
21 the attorneys make their opening statements to you. In
22 opening statements, the attorneys are not permitted to
23 engage in what we call argument. An opening statement is
24 an introduction, an outline, an overview. Once the
25 attorneys finish with their opening statements, then I will

1 recognize the Solicitor to present the case for the State.
2 The State brought this charge against Mr. Jones; and, as I
3 told you, he is presumed innocent and the State has the
4 entire burden of proof. The State has to prove every
5 essential element of the offense charged beyond a
6 reasonable doubt. So I'll recognize the State to present
7 evidence in an attempt to meet that burden. When the State
8 finishes with its case in chief, the Solicitor will inform
9 me that the State rests. At that point, regardless of how
10 long you may have been out here, whether you've been out
11 here an hour at that point or just a few minutes from a
12 break, I have to send you back out of the courtroom and I
13 have to discuss legal issues with the attorneys. After I
14 get through discussing those legal issues with the
15 attorneys, I'll tell you where we go from there. But those
16 are sort of the landmarks you can look for as we get
17 started. Now, it's really important that you understand a
18 few things. First, that oath that you just took was one in
19 which you've promised us that you're going to decide this
20 case based on the evidence and the law, so you need to know
21 where those things come from. As I mentioned to you
22 yesterday, the law comes from me. It's my job in every
23 trial to decide what law applies to a case and to instruct
24 the jury on the law. The evidence comes from the
25 witnesses; it comes from the sworn testimony of witnesses.

1 Evidence can also come in the form of exhibits. An exhibit
2 can be anything tangible marked in the record; it can be a
3 photograph, a map, a chart, a record, anything tangible.
4 If something is an exhibit, you will have it with you in
5 the jury room when you decide the case. Now, what the
6 lawyers say is not evidence. I want you to pay attention
7 to the attorneys because they facilitate the introduction
8 of the evidence, but what comes out of their mouths is not
9 evidence. The evidence comes from the witnesses and the
10 exhibits. Now, there is one exception to the rule about
11 what the lawyers' saying not being evidence and, if we come
12 upon it, I'll tell you about it; otherwise, I'm not going
13 to burden you with it. It's also really important that you
14 understand that there are two judges in the courtroom. I'm
15 the judge of the law. As I've mentioned now twice, it's my
16 job to tell you the law at the end of the trial. It's also
17 my job to rule on legal issues as they come up during the
18 trial and to maintain order, to preside over the trial.
19 You're the other judge, and you must understand that you're
20 the only judge of the facts. So only you are going to get
21 to decide such things as whether evidence is believable or
22 not; that's entirely your prerogative. Only you get to
23 decide what weight, if any, to put on evidence, entirely
24 your prerogative. I'm not going to invade your province.
25 You're the sole judges of the facts. Now, to give you an

1 illustration of kind of our different roles here, from time
2 to time during a trial, one side or the other may feel that
3 the other side is trying to put something up before the
4 jury that's not within the rules for the jury to consider.
5 And these attorneys have taken an oath just like you've
6 taken an oath and I've taken an oath to do our respective
7 job. And, if the attorney feels that the other side is
8 trying to put something up before the jury that is improper
9 for the jury to consider, that attorney has an obligation
10 to raise an objection. So the attorney stands up and
11 raises an objection. I may send you out of the courtroom.
12 If I do, it's because I can handle it quicker if I do it
13 that way. So just let me do my job. All right? Now, if I
14 overrule the objection, I allow that thing to come before
15 you for consideration. If I sustain the objection, then I
16 do not allow it to come before you and you just ignore it
17 because it's not proper evidence. But the point of all
18 that discussion is so you understand that, when I'm making
19 that decision about whether I overrule an objection or
20 sustain an objection, whether I let it come before the jury
21 or not, it will not cross my mind to think about whether
22 that thing is believable or not because that's not my job.
23 I will not give one second's thought as to whether the jury
24 should give that thing any weight because that's not my
25 job. All I do is I look very narrowly with tunnel vision

1 to try to determine whether I think that thing fits within
2 the rules for the jury to consider; and, if I do, I let it
3 come before you and you decide whether it's believable and
4 you decide what weight, if any, to put on the evidence. So
5 you understand, you and I have different roles and I'm not
6 going to invade your province. Now, while you've promised
7 us that you're going to decide the case based on the
8 evidence and the law -- and you must do that -- I am not
9 telling you to leave your common sense at home. We want
10 you to use your common sense. We want you to use your
11 sense of logic and reason and your good judgment. It just
12 makes good common sense that you keep an open mind about
13 the case and you don't make up your mind until you've heard
14 all the evidence and you know what the law is that applies
15 to the case. So there's a rule that I've already mentioned
16 to you -- but I have to repeat it now again -- that's hard
17 to follow; and that rule is that you are not to discuss
18 this case in any way among yourselves until I tell you to.
19 That's hard to follow because you 14 folks may feel you
20 have little in common except you all live in Saluda County
21 and you all got picked on this case. So the logical thing
22 you're going to want to talk about during any breaks is
23 what you just saw in the courtroom or what you just heard.
24 You have to resist that temptation and not talk about the
25 case until you've got everything, all the information, and

1 then I'll tell you you can start your deliberations. And
2 we'll wait on you. But don't discuss the case among
3 yourselves until I tell you to. And, again, to reiterate
4 what I told you yesterday, don't discuss the case with
5 anybody else until this week is over and you've been
6 discharged from your jury duty. Don't. If you're exposed
7 to any media coverage of the trial, get away from it,
8 report to me what you saw, heard or read through the media
9 at the first opportunity that you have to do that. Don't
10 do any independent investigation. If anybody attempts to
11 contact you and discuss the case with you, report that to
12 me so that I can deal with it. Now, the last thing I want
13 to say before I turn it over to the lawyers is I want to
14 thank you. Folks, I'm not going to sit up here and
15 repeatedly thank you. I think that cheapens it when I do.
16 You've all got other places to be; you've all got other
17 things to do; and I promise you I am constantly mindful of
18 that. It drives me nuts when I've got a jury waiting. I
19 have not been real pleasant this morning with some of these
20 folks because y'all were back there waiting. We're
21 inconveniencing you. I realize that. You may not ever do
22 anything in your life more important than what you're about
23 to do. So, while I cannot promise you that you will avoid
24 hurry-up-and-wait -- you already have experienced it --
25 what I can promise you is that, if you're waiting, we're

1 working. There's never going to be a situation where we're
2 out here goofing off and y'all are back there waiting on
3 us. We got here at 9:00 o'clock this morning; and, as fast
4 as we could, we got you out here. So to honor my
5 commitment to you, folks, I'll be quiet now. I invite your
6 close attention. Oh, I left one thing out. I told you
7 yesterday that I will try to keep you abreast for planning
8 purposes, and there is one matter and I really don't know
9 how exactly it's going to work out. One of the deputies in
10 Saluda passed away on Monday -- he had a heart attack I
11 think -- and his funeral arrangements have been made now
12 and the funeral is tomorrow at 11:00. But it's out near
13 Green Pond, out near I-20. And, of course, a lot of people
14 -- He worked a lot in the courtroom security years ago, and
15 I'm going to give everybody who wants to go an opportunity
16 to go to the funeral. So I'll try not to inconvenience you
17 folks, but that may cause some delay. But we're going to
18 do that. Now, I'll be quiet. Solicitor, you're recognized
19 for your opening statements.

20 MR. MAYE: May it please the Court, Your Honor.

21 THE COURT: Yes, sir.

22 **OPENING STATEMENTS**

23 MR. MAYE: Ladies and gentlemen, my name is Ervin
24 Maye, and I'm an assistant solicitor and I work for your
25 elected Solicitor, Mr. Donnie Myers who's out of Lexington;

1 he's got the 11th Circuit. I typically help him take care
2 of McCormick, Edgefield and Saluda counties. It's my
3 privilege to be here today representing the State of South
4 Carolina. I recognize, now that I look at my clock and see
5 that it's 11:00 o'clock, that y'all have been sitting there
6 since y'all were summoned; and I'm certainly cognizant of
7 the fact that all of you have been taken away from what you
8 would've normally been doing this week, whether it was
9 going to work, being with your family. Wherever you would
10 have normally been this week, you've been compelled to come
11 up here. I don't think anybody leapt for joy when they got
12 the letter from Ms. Doris here saying, I've been summoned
13 to come down here for General Sessions court for jury duty.
14 I don't think anybody leapt for joy. A lot of people in
15 this courtroom are probably tired of hearing me say this,
16 but I can't think of anything that's more appropriate for
17 this. Winston Churchill once said that the highest duty
18 that a citizen has during peacetime is service on the jury.
19 They say, back in the old days, people used to have to
20 either go out and work on the roads or pay a tax to have
21 somebody else work in their place. All these memorials
22 that are out here on the grounds at this very courthouse
23 are people that were compelled, because of the military
24 draft, to go overseas; some of them lost their lives. I
25 know it's an inconvenience for each of you, but this is the

1 highest duty that a citizen has during peacetime. I
2 appreciate your service, and I'm certainly cognizant of the
3 fact that you've been taken away from what you would have
4 normally been doing. But this is vitally important for
5 everyone here in Saluda County. The 12 of you that go back
6 in that jury room to deliberate in this case are the judges
7 of the facts in this case, and the facts are going to come
8 right here from this witness stand from witnesses under
9 oath. What we're about -- The business that's before us
10 here today is extremely serious. Victor Anthony Jones, the
11 defendant in this case that's seated over here with the
12 striped shirt on, is charged with armed robbery. Now, the
13 Judge, at the conclusion of all the evidence in this case,
14 is going to charge you with what the law is in this case
15 for certain crimes, and it's very detailed instructions as
16 to what the crime is. But, when we're talking about armed
17 robbery, everybody knows exactly what we're talking about.
18 It's taking up a gun and robbing somebody, taking something
19 from someone else at the point of a barrel of a gun. It
20 doesn't need much explanation beyond that. This is going
21 to sound like going off on a tangent, but they tell me
22 that, back in the 30's, people used to take the fenders off
23 of A-Model cars and run around and make roadsters out of
24 them; in the 70's, people would take Chevelles and put
25 little skinny tires on the front end and great big tires on

1 the back and take air shocks and bolt them up and jack them
2 up so you looked like you had a nose bleed going down the
3 street. Nowadays, you see these Crown Victorias and the
4 Caprices sitting up on these big 22, 23, 26-inch rims. The
5 car is sitting so high in the air it looks like it's riding
6 down the road on a trailer when you meet it and you see it.
7 That's just a fad; that modifying cars like this, that's
8 all a part of our American culture. I'm going to introduce
9 you to a young man seated over here behind the State's
10 table; his name is Jerrell Bookman. Mr. Bookman lives over
11 in Newberry County. He was 20 years old when this happened
12 on July 9th of 2009; he was working at Wal-Mart; he was
13 saving his money; he was buying -- At that time, he was
14 driving a 2000 Crown Victoria. But you know, when the kids
15 get those cars, they want the big rims for them and that's
16 an appeal to them. You're going to hear the facts unfold
17 from what you hear up here on the stand in this case, that
18 the victim in this case, Mr. Bookman, was driving that
19 Crown Victoria and he ran into a young lady named Amber
20 Salaam. And you're going to hear from Ms. Salaam up here.
21 I submit to you the State's not going to hold out any false
22 pretense that she's a good person; she's a thug; she's a
23 thug. But she encountered Mr. Bookman and basically asked
24 him -- She sees him with the right car. He's got the Crown
25 Victoria; he's driving it down the street. And she asks

1 him, you want some big rims for that thing, would you like
2 to buy big rims. Of course, he's interested; in fact, he's
3 been saving his money to do that. She talks to him and
4 tells him basically, you know, I've got a big set of rims,
5 22-inch rims, that you can put on this car and I'll sell
6 them to you. I think they go back and forth with the
7 price, something about 750 dollars. Well, he's got to wait
8 until the next week which is coming up, July 9th of 2009.
9 He gets paid at Wal-Mart in the interim, and he'll have the
10 money at this point in time or enough money to get this 750
11 dollar set of rims. He texts her, gets back up with her on
12 July 9th of 2009 over in Newberry. She tells him at that
13 time, yeah, I got a set of 22-inch rims but I know a guy
14 over in Saluda that's got 23-inch rims, you want to go big,
15 you want to go bigger. She sets up the deal that they're
16 supposed to come over here to Saluda to get the 23-inch
17 rims. So he loads her up in the car, in his Crown
18 Victoria, and drives from over in Newberry uptown here into
19 Saluda. They're supposed to meet over at the Caper House
20 uptown here; but, when they get over there, they get some
21 kind of message indicating they need to go over to Burger
22 King. Now, when they get up there to Burger King -- Now,
23 he's got Ms. Salaam up in the car with him. Unbeknownst to
24 him, Ms. Salaam's been communicating ahead of time with
25 Victor Jones who's going to meet them there, telling him,

1 answering questions like, does this guy have a gun, what
2 does he look like, beforehand. Well, they roll up over
3 there to Burger King and, rather than doing any transaction
4 or trading or doing any sale of the rims there, the people
5 in a car, a little gold four-door car with no hub caps,
6 motion for them to come on, to follow them. So he does.
7 He's got Ms. Salaam in the car, and they drive out just to
8 the edge of town here to a dirt road that's out of the way;
9 it's not a very heavily traveled place like it is at Burger
10 King. But, when Mr. Bookman pulls up there in his Crown
11 Victoria behind them, when they get off in this secluded
12 spot, low and behold, there are three guys in the car. Two
13 of them jump out, among them, the defendant in this case.
14 You're going to hear that he's ID'd, picked out of a
15 lineup. You'll hear more identifications of him. You'll
16 hear Mr. Bookman say one of the two guys who jumped out,
17 both armed with guns, was Victor Jones. And Victor Jones
18 comes around, and you know what happens in this case; he's
19 been set up and he gets robbed. He puts a gun to his head,
20 where is the money; he strikes him with the gun. They
21 commit an armed robbery on the victim in this case,
22 Mr. Bookman. He doesn't come over to Saluda and get those
23 23-inch rims he wants; what he gets is cleaned out. Not
24 only do they take the money out of his pocket, but they
25 steal one of those boxes in the back, I guess one of those

1 things like a boom-boom stereo, 15-inch speakers in a big
2 box, and an amp; they rip that off too and take it from
3 him. So he comes over here expecting to get rims; and,
4 instead, he gets ripped off and robbed. Now, Amber Salaam,
5 she's going to testify in this case; she tells him at the
6 outset that the person that she's supposed to meet, his
7 name is Brian, giving false information to him and a false
8 name, Brian. Well, he realizes when he gets over here that
9 they don't take a thing from Ms. Salaam. She's sitting
10 there; she doesn't get robbed of anything. All the money
11 in his pocket is gone; the speakers, the amp of out his car
12 are gone. And there sits Ms. Salaam, and she doesn't get
13 robbed of a thing. So he takes her back over to Newberry
14 because he knows she's in the midst of it; he figures he's
15 been set up at that point in time. He comes back over the
16 very next day with his grandma to the Saluda Town Police
17 Department because that's where it took place, right here
18 in the city limits of the Town of Saluda, and tells the
19 tale, this is what happened, tells the whole thing, I
20 hooked up with this girl, Amber Salaam, we come over here,
21 we get to Burger King, goes through and tells the police
22 everything. He doesn't know Victor Jones, the person that
23 Amber's thrown out as being Brian; he doesn't know him.
24 He's not from Saluda; he doesn't know this young man, but
25 he does give a description. He says he was driving a

1 faded-out gold four-door car missing the hub caps, the
2 guy's got some tattoos around the neck area, wearing what
3 they call a wifebeater, I guess one of those white tank top
4 shirts that they wear, he's got a red hat on, and gives a
5 description of him. Well, when he comes up to the Town
6 Police Department, he talks to a seasoned investigator,
7 Charles Holloway, who takes the information about the
8 description. And you know Saluda's a small town. And he
9 goes around, and he talks to some of the other officers
10 that are on road patrol. Based on that conversation that
11 he has with them -- Now, at this point in time, we're on
12 beyond July 10th. Mr. Bookman's come up and made that
13 report. But Mr. Holloway's working on it trying to solve
14 this case, doing his job. He goes back a few days later, a
15 few weeks later, armed with a photographic lineup based on
16 the intelligence that he's developed. He puts in this
17 lineup -- There's six pictures, and you'll see the lineup
18 in this case. He has the South Carolina Law Enforcement
19 Division make up a lineup of guys that look somewhat
20 similar, somewhat about the same age, six photographs on a
21 big eight and a half by eleven piece of paper, a colored
22 photograph, and, among them, Victor Jones, the defendant in
23 this case. His photograph's in there. And he takes it
24 back about five days afterwards, five days afterwards, and
25 he shows it to the victim in this case, Mr. Bookman. He

1 says, anybody that participated and did this armed robbery,
2 do you see him in the photograph, is there anybody you
3 know. And immediately, boom, he picks out number three,
4 Victor Jones, the defendant in this case; without
5 hesitation, he picks him out, that's the man. And you're
6 going to hear, I submit to you, from the stand, he's going
7 to point the finger at him right here and say, that's the
8 man that got out of the car here in Saluda County, put a
9 gun to my head, hit me in the face with the gun, ripped me
10 off of my 750 dollars and took the cell phone in my car.
11 That's the evidence, I submit to you, that you're going to
12 hear from the stand from Mr. Bookman in this case. He
13 doesn't -- It doesn't stop there. Investigator Holloway's
14 work doesn't stop because, after Victor Jones gets charged
15 in this case, he sends word to Investigator Holloway in
16 this case wanting to talk with him. So Investigator
17 Holloway, he goes, he gets him, he advises him of his
18 rights in writing, takes a statement from him. In the
19 statement, Mr. Jones admits, oh, yeah, I was there, I was
20 there, there were two other dudes, Carlos and Little Tim,
21 that were there, and I wasn't the one that got out of the
22 car, I was just there, these other two dudes got out of the
23 car, and Amber Salaam was the one that set this whole thing
24 up, Amber's the one, she's the ring leader, she's the
25 master mind in this case. That's what the statement says.

1 He points the finger at Amber Salaam. Now, Investigator
2 Holloway has followed up with that picture that he had
3 initially, and he gets an initial statement from Amber
4 Salaam. Amber doesn't know anything about anything; she
5 doesn't know who this person is; she just knows it's
6 somebody named Brian. He shows her that lineup. Oh, no --
7 it's got Victor Jones' picture in the same lineup -- she
8 says, I don't see anybody in there I know, tells a
9 convoluted tale about what happened, that she's just riding
10 along with him and, low and behold, they get robbed. Well,
11 after Investigator Holloway gets that initial information
12 from Victor Jones, he goes and picks up Amber Salaam. And
13 Amber knows that it's up at that point in time. She says,
14 I'm going to come clean. She takes that same photograph of
15 the six individuals -- she knows him as T.J., Victor
16 Anthony Jones, she knows him as T.J. though -- number
17 three, Victor Jones, it was him, he was the person that we
18 were supposed to meet up there, the deal was I was going to
19 sell him my rims. And she's going to get up here. Who
20 knows what she's going to say? But I suspect some of the
21 version you're going to hear is, well, I was going to sell
22 him some 22-inch rims, Victor Jones had some 23-inch rims,
23 he sent me a picture of them, told me I'd get a cut off of
24 them if I could arrange a sale. Maybe she was involved in
25 it; maybe not. Maybe she knew what was going to go down;

1 maybe not. We know enough to know that she gave him a
2 false name from the get-go. Use your common sense. And
3 she didn't get robbed of a thing while she was out there.
4 But you're going to hear that she subsequently gives a
5 statement, ID's Victor Jones, tells the officer what
6 happens in this case, gives a subsequent statement, admits
7 that she lied initially. And she's going to come up here
8 and testify as a witness for the State -- same thing --
9 she's going to identify Victor Anthony Jones in this case.
10 She's charged with armed robbery as well. Ladies and
11 gentlemen, as I said, all the evidence is going to come
12 from the stand up here. You're going to sit as the judge
13 of all that. All that I can ask that you do -- I can't
14 tell you anything about what you should or shouldn't do --
15 I want you to come back with a verdict that speaks the
16 truth and does justice for everybody here in Saluda County
17 and for the victim in this case. I appreciate your close
18 attention.

19 THE COURT: Thank you, Solicitor. Mr. Stitely, you're
20 recognized for your opening statement.

21 MR. STITELY: Thank you, Your Honor. May it please
22 the Court.

23 THE COURT: Yes, sir.

24 MR. STITELY: Hi, my name is Ben Stitely. I'm a
25 lawyer over in Lexington -- my office is Hendrix, Williams,

1 Steigner and Brink -- and I represent Victor Jones. You've
2 already heard from the Solicitor how thankful we are that
3 y'all are here; and that, of course, goes for me too. I'm
4 not going to say it again, but I will remind you how
5 serious it is that we're here. The Solicitor told you that
6 this is very serious. Someone is charged with armed
7 robbery, and we all know what that is -- pointing a gun at
8 someone and taking their money. That's what they say my
9 client, Victor Jones, did that day. It's extremely
10 serious. The Solicitor kind of told you a story, and all
11 we're going to ask as the defense is that you listen to
12 these witnesses. He told you about Amber Salaam being a
13 thug. She's not a thug; she's a drug dealer. She'll tell
14 you that. And let's see the story as it pans out. The
15 Solicitor told you they randomly meet; her and someone,
16 Mr. Bookman who she's never met before, randomly meet, and
17 she takes him down to Saluda to buy some rims randomly,
18 with no knowledge; she takes him down to meet some people
19 that she says she doesn't even know. Magically, she's
20 going to take someone who she just met randomly -- she'll
21 tell you she met him on a corner in Prosperity -- down to
22 Saluda to buy some rims. It's already starting to sound a
23 little fishy. They get down there; he doesn't ask to see
24 the rims. It's kind of weird. Just think about it. As
25 you're listening to this case, think about it; say, is

1 there something else going on, because I'm going to tell
2 you I'm going to ask a lot of questions and show you what I
3 think is going on. But let's get there. You heard the
4 description from the Solicitor. They take him out on this
5 dirt road, three guys, two jump out, one strikes him in the
6 mouth. I hope you hold the Solicitor to that. I'll tell
7 you that's the first I've heard of it. Mr. Bookman writes
8 a statement, doesn't write anything about anyone striking
9 him. The police officer does an investigation, doesn't
10 note anyone striking him. Listen, see where these details
11 come from, see what you think, see what makes sense and
12 what doesn't make sense. You heard they're going to base
13 their story on what Amber told us, a drug dealer who he
14 said, the Solicitor, Ervin Maye, told you, we don't know
15 what she's going to say this time. But that's what their
16 case is based on. He says that the individual great
17 descriptor of how they know it's my client, Victor Jones,
18 he drives a gold car, no hub caps. During this case,
19 you'll hear nothing about a gold car, no DMV reports,
20 nothing showing Victor owned a gold car, no one's going to
21 come up and say he drove a gold car, nothing showing what
22 his license -- that he had it registered to him. You heard
23 about a white T-shirt and a red hat. There's not going to
24 be any white T-shirt; there's not going to be any red hat;
25 they don't have that; that's not going to come up in trial.

1 You heard about a gun. There's no gun. The police do
2 searches; they find no guns. Mr. Jones doesn't have a gun.
3 There's no gun. Where is it? This is the burden you hold
4 the State to when they want to prove their case. Where's
5 the car? Where's the shirt? Where's the hat? Where's the
6 gun? Where's the DMV records showing Mr. Jones owned this
7 stuff? Where is the proof that he had a gun, registered or
8 unregistered? When they do a search of his house, where's
9 all that? They got all these communications between Ms.
10 Amber and Mr. Bookman. Where is that? Where is the proof
11 of that? I'm going to ask her a question about what is her
12 cell phone number. She can't tell you. Why? I had so
13 many because I'm a drug dealer is what she's going to tell
14 you. It sounds like something else is going on. And then
15 what you're going to hear when Mr. Bookman takes the stand,
16 he's going to tell you he was standing as close as we are,
17 out your window; and you're going to hear his description
18 that he gives the police of the man who allegedly assaulted
19 him, who allegedly robbed him and now, apparently, although
20 he's never said it before, striking him -- I was two feet
21 away from him, all I could tell you is he's a light-skinned
22 black man, don't know what color eyes he had, don't know
23 what color hair he had, don't know what kind of hair cut he
24 had, don't know if he's tall, don't know if he's short,
25 don't know if he's heavy, don't know if he's skinny, but

1 know if he's skinny, but I'm going to tell you that he has
2 on his neck, on the front of his neck above his collarbone
3 clear, if you were wearing a Polo shirt, a tattoo. I'm
4 going to have Victor Jones stand up in front of you. Do
5 you know what he doesn't have? A tattoo across his neck
6 above his collarbone. That's the one descriptor that Mr.
7 Bookman gives of his assailant to the police of his alleged
8 assailant. He does a lineup. From what I can prove
9 today -- It's difficult for a defense attorney to try to
10 prove a negative. I'm trying to prove something didn't
11 happen, but that's not what I have to do. The State has to
12 prove to you beyond a reasonable doubt this is what
13 happened. It's an incredibly high standard. You'll learn
14 about it; the Judge will tell you about it. It's not, do I
15 think it happened; it's not, yeah, that probably happened,
16 I'm fairly certain that happened. No. It's beyond a
17 reasonable doubt. As you listen to this case, it doesn't
18 add up. It is clear when you listen to the facts as to how
19 it comes to law enforcement's attention. Use your common
20 sense as a juror. If you just got robbed at gun point, you
21 call the police. Mr. Bookman doesn't call the police; he
22 doesn't even go to the police that day. Sometime a day
23 later, he comes in and says, oh, I was robbed, they took my
24 money, I was going to buy some rims with this drug dealer I
25 randomly met on the corner, I didn't bother calling the

1 law, I was going to have my cousin, Duke, take care of it.
2 That's what he said, my cousin, Duke, will take care of it.
3 Does it sound like an armed robbery or does it sound like
4 someone who is trying to do something else with a known
5 drug dealer who's going to tell you that's what she is?
6 Beyond a reasonable doubt is a high standard to get to.
7 All I can ask y'all to do is to sit and listen. If you
8 don't like me and you don't like what I've said, please
9 don't hold that against Victor; it's not his fault. What I
10 say isn't the facts that come from that stand. You can
11 believe or disbelieve any witness. The Judge will tell you
12 that. Every word out of their mouth you can think it's not
13 true or you can think it's all true; you can think one word
14 out of their mouth is true and the rest is fake. Beyond a
15 reasonable doubt. Someone's life's at stake; it's very
16 serious as the Solicitor told you. Please listen to the
17 witnesses. Thank you.

18 THE COURT: Thank you, Mr. Stitely. Call your first
19 witness, Solicitor.

20 MR. MAYE: The State calls Jerrell Bookman.

21 THE COURT: Mr. Bookman, I need you to come up to the
22 Clerk, please, and let her swear you in.

23 THE COURT: Have a seat up here, please.

24 JERRELL BOOKMAN,

25 having been duly sworn, testified as follows:

3 Q Mr. Bookman, do this for me. Tell the ladies and
4 gentlemen where you're from. Just go on and tell them for
5 the record. State your name, and tell them where you're
6 from.

9 Q Mr. Bookman, how old are you now?

11 Q So, back on July 9th, 2009, were you about 20?

13 Q Okay. What were you doing at that time? Where did
14 you go to high school?

16 Q Okay. You got family over in Newberry?

18 Q Okay. Let's talk about back in July of 2009. Where
19 were you working?

21 | 0 Okay. What kind of car were you driving?

23	0	2000 Crown Victoria?

25 Q Kind of like the police cars?

1 A Yes, sir.

2 Q All right. Tell the ladies and gentlemen of the jury
3 about running into Amber Salaam, what y'all's conversation
4 was, how you got hooked up with Amber, what happened. Lay
5 that out for them.

6 A I was riding through Prosperity in an apartment
7 complex, and she had flagged me down and she ask me did I
8 want some rims for my car.

9 Q Okay. Did you have any of those big rims on your car
10 at that time?

11 A No, sir.

12 Q You didn't have any? Was that something that you
13 wanted?

14 A Yes, sir.

15 Q Okay. Had you ever met Amber Salaam before? Did you
16 know her before then?

17 A No, sir. I just saw her around.

18 Q You had seen her around, but had you ever talked to
19 her ---

20 A No, sir.

21 Q ---to know her name or anything?

22 A No, sir.

23 Q Okay. Tell the ladies and gentlemen of the jury how
24 you describe her and what did she tell you about the rims.
25 Once she flagged you down and asked you about it, what did

1 she tell you?

2 A She had some 22's for sale.

3 Q Okay. 22's. Now, help me with this. What are 22's?

4 A Repeat yourself?

5 Q What are 22's? What does that mean?

6 A Oh, the size of the rims.

7 Q Okay. Those are the big tires, big wheels?

8 A Yes, sir.

9 Q Okay. And then you get the profile tires and put on
10 there. Right?

11 A Yes, sir.

12 Q Okay. You were working at Wal-Mart at the time, you
13 testified. Right?

14 A Yes, sir.

15 Q Okay. What did she talk with you about the price that
16 she wanted for the 22-inch rims that she had? What did she
17 tell you?

18 A Eight fifty.

19 Q Eight fifty? You think that's what she told you?

20 A Yeah, eight or 850.

21 Q Okay. When did you next get paid at Wal-Mart?

22 A The week after I had talked to her.

23 Q Okay. Now, the robbery, when you got ripped off July
24 9th, was this, what, about a week before --

25 A Yes, sir.

1 Q -- that you first talked to Amber?

2 A Yes, sir.

3 Q Okay. When you got paid, how did you get in touch
4 with Amber to let her know that you wanted to get the rims
5 that she said she had?

6 A I had text her.

7 Q You texted her?

8 A Yes, sir.

9 Q Okay. Where did you hook up with Amber on July 9th of
10 2009? Where did you get back up with her to supposedly do
11 this deal with the rims?

12 A I had went to her house.

13 Q You went to her house?

14 A Yes, sir.

15 Q Did you pick her up?

16 A Yes, sir.

17 Q Okay. Who was driving?

18 A I was.

19 Q Okay. What were you driving?

20 A My Crown Victoria.

21 Q Okay. When you got there, did y'all actually do the
22 transaction for the 22-inch rims?

23 A Yes, sir, and then she had showed me a picture of the
24 other rims.

25 Q Okay. Before y'all did that, did she show you the

1 picture of the other rims?

2 A Yes, sir.

3 Q Okay. What did she tell you about this other set of
4 rims and what information did she give to you?

5 A She said the other rims was 750 but they was bigger
6 than her 22's, that they was 23's.

7 Q Okay. And so I guess as a status symbol, if you're
8 rolling on 23's, that's better than rolling on 22's. Is
9 that right?

10 A Yes, sir.

11 Q Okay. And they were cheaper?

12 A Yes, sir.

13 Q Okay. Where were you supposed to go and how was this
14 going to go down? Did you see a picture of the rims? What
15 happened?

16 A Yeah, I had saw the pictures of the rims.

17 Q How did she give you pictures of the rims? How did
18 you see that?

19 A She showed me on her cell phone.

20 Q Okay. All right. So what happens next after you
21 decide you want the 23's that are cheaper? What happens
22 next?

23 A I told her I'd get the 23's, they can meet me
24 somewhere in Saluda. So we had rode to Saluda.

25 Q Okay. You're not from Saluda. Right?

1 A No, sir.

2 Q Okay. So you've got Amber in the car with you and
3 y'all make y'all's way. What happens when you get over
4 here into town in Saluda on July 9th?

5 A We had went to Burger King.

6 Q Okay. What happens when you get to Burger King?

7 A We had followed a goldish, a goldish car with no hub
8 caps.

9 Q Okay. Where do you go next after you catch up with
10 her? Where do y'all go? At the store first, at the Caper
11 House?

12 A No. We went to the -- Before we came to Saluda, we
13 went to the store first so I could get some gas and on up
14 the road, and then we went to Burger King.

15 Q Okay. And then you went to Burger King?

16 A Yes, sir.

17 Q What happens when you get to Burger King? What
18 happens?

19 A The car -- Somebody was in the window of the car and
20 waving their hand, and Amber told us to follow that car.

21 Q Amber told you to follow the car, and the person in
22 the window was waving for you to come on?

23 A Yes, sir.

24 Q Okay. So I don't know if you know the road names in
25 Saluda or anything else, but tell me -- Describe where you

1 went. What kind of location was it? Did you follow the
2 car or how did you go?

3 A I had followed the car.

4 Q Okay. You were driving your Crown Vic?

5 A Yes, sir.

6 Q And you followed the car. What was the location like
7 that you went to?

8 A What you mean?

9 Q Just describe it. Was it uptown? Was it downtown?
10 Was it a dirt road, a paved road? What was it?

11 A It was like a dirt road.

12 Q Okay. Were there as many people around there, or was
13 that a secluded spot?

14 A Like a secluded spot.

15 Q Okay. When they stop the car, where are you? What
16 happens when they stop the car? Tell the ladies and
17 gentlemen of the jury everything that happened.

18 A When they stopped the car, I had stopped the car. And
19 so two guys had got out. One came on my side, and the
20 other one came on Amber's side. And so me and Victor had a
21 conversation. He ask me did I have my money; and I said,
22 yeah. And that's when they had robbed me. He told me to
23 give him everything, and he had told me to pop my trunk.
24 And it's the other dude that was getting my speakers and my
25 amp. Then they all left, and he told me to drive off.

1 Q Okay. Let's kind of go through that step by step.

2 The location that you were at and the time that you went,
3 was it daytime or was it nighttime?

4 A It was daytime.

5 Q All right. Did you have an opportunity to see the
6 person that came around and did the armed robbery on you?
7 Did you see him?

8 A Yes, sir.

9 Q Was your attention focused on him? Did he have your
10 full attention as he got out with a gun?

11 A Yes, sir.

12 Q Okay. Could you see his face? How far apart was he
13 from you at the time that he pointed the gun at you there
14 at the scene?

15 A To right here, to about right there (indicating).

16 Q Okay. You were driving?

17 A Yeah, I was driving.

18 Q Okay. Did you get a good look at his face?

19 A Yes, sir.

20 Q Okay. Did you later describe to the police the
21 details about him? Tell the ladies and gentlemen of the
22 jury how you told the police, how you described the person
23 that robbed you? What were the details that you gave them?

24 A It was a light-skinned black male with a red hat and
25 he had tattoos somewhere around his neck and on his body

1 and a wifebeater.

2 Q Okay. What did you tell them about the car that he
3 was driving?

4 A It was a faded goldish four-door car with no hub caps.
5 I really don't know what the name of the car though.

6 Q Okay. Let me ask you this. Are you absolutely
7 certain of the identity of the person that came around and
8 pointed that gun at you and robbed you there that day?

9 A Yes, sir.

10 Q Is he present here in the courtroom today?

11 A Yes, sir.

12 Q Could you point him out?

13 A Yes, sir (indicating).

14 Q Describe him. Where is he sitting and what's he
15 wearing?

16 A He's sitting in the front seat, light-skinned, like a
17 grayish-white shirt, low cut.

18 Q Of the three guys sitting at the table, is he on
19 either end or is he in the middle?

20 A He in the middle.

21 MR. MAYE: Your Honor, I'd just like for the record to
22 reflect that the defendant, Victor Jones, has been
23 identified.

24 THE COURT: So noted.

25 BY MR. MAYE:

1 Q You said Victor Jones got out and he had a gun. How
2 many people were in the other car altogether?

3 A It was three.

4 Q Okay. How many of them got out of the car?

5 A I saw two get out the car.

6 Q Okay. Did they both have guns?

7 A Yes, sir.

8 Q Okay. The second guy, did you get as good a look at
9 him? Who was talking to you and running the show? Who was
10 talking to you?

11 A Victor.

12 Q Okay. The other dude, did you get as good a look at
13 him?

14 A No, sir.

15 Q Did you know any of these guys? Had you ever seen any
16 of them before then?

17 A No, sir.

18 Q Okay. What was the name that Amber gave you initially
19 as to the person that you were going to be going over there
20 to meet?

21 A Brian.

22 Q Okay. That was the dude that supposedly had the 23's,
23 some guy named Brian?

24 A Yes, sir.

25 Q Okay. He points the gun at you and what happens next?

1 Where do you have the money on you?

2 A It was in my wallet.

3 Q Okay. What did you do and what did he tell you to do
4 then as you were getting robbed?

5 A He had told me to give him everything I got. And I
6 had gave him my money. And he had told me to pop my trunk.

7 Q Okay. What else? Now, how much money was stolen from
8 you? What was taken?

9 A Seven fifty.

10 Q Seven hundred and 50 dollars?

11 A Seven hundred and 50 dollars.

12 Q In cash?

13 A In cash.

14 Q Okay. What else got ripped off from you there?

15 A My speakers and my amp.

16 Q What kind of speakers? Describe how those are. What
17 are you talking about?

18 A Like Quantums with orange --

19 Q Okay. Are these speakers that go up in the back deck?

20 Do they go on the sides of the car? Where do they go?

21 Where were they?

22 A In the trunk, they's in a big box.

23 Q In the trunk?

24 A Yes, sir.

25 Q How did you open the trunk in the car?

1 A I got a like an electric --

2 Q Crown Vic's have got an electric release?

3 A Yes, sir.

4 Q Okay. So you pop the trunk, and they ripped off your
5 speakers and what else?

6 A And my money.

7 Q Did anything else get taken from the car?

8 A My cell phone.

9 Q What else?

10 A That's about it.

11 Q Okay. Your speakers got ripped off? Did any other
12 audio equipment get taken out of the car?

13 A No, sir, just the speakers and my amp.

14 Q And your amp?

15 A Yes, sir.

16 Q To make the stereo be loud?

17 A Yes, sir.

18 Q Seven hundred and 50 bucks, your big speakers in the
19 box --

20 A Yes, sir.

21 Q -- your amp and your cell phone?

22 A Yes, sir.

23 Q Did they take anything from Amber Salaam?

24 A No, sir.

25 Q Anybody tell her to empty her pockets?

1 A No, sir.

2 Q Anybody get any money or anything else off of her?

3 A No, sir.

4 Q Okay. Anybody -- Did you even hear anybody ask her
5 for anything?

6 A No, sir.

7 Q But you got ripped off?

8 A Yes, sir.

9 Q Why didn't you go straight to the Police Department at
10 that point in time?

11 A Because I was kind of nervous to go because I felt
12 like she was involved with it, so I felt comfortable with
13 my family going with me.

14 Q So you thought she was in on it?

15 A Yes, sir.

16 Q So where did you take her?

17 A I took her back home.

18 Q Okay. You didn't know any of the people that had
19 robbed you, did you?

20 A No, sir.

21 Q Okay. You had a description though, and you had the
22 car. Is that correct?

23 A Yes, sir.

24 Q Okay. Who were you going to ask if they knew anybody
25 here in Saluda?

1 A I was going to ask my cousin, Duke, since he -- He
2 from Saluda and everybody know him and he know everybody.

3 Q And you thought he might know who that was?

4 A Yes, sir.

5 Q Okay. When did you go to the Police Department? Now,
6 you took Amber back and dumped her off. Right?

7 A Yes, sir.

8 Q Okay. When did you come back to the Saluda Town
9 Police Department?

10 A The next day.

11 Q The very next day you came back?

12 A Yes, sir.

13 Q Who did you bring with you?

14 A My grandmother and my mother.

15 Q You're 20 years old. You brought your grandma and
16 your mother, and y'all came to the Police Department.
17 Right?

18 A Yes, sir.

19 Q Okay. Did you talk to Investigator Holloway at that
20 point in time?

21 A Yes, sir.

22 Q Did you tell him all the details that you knew at that
23 time?

24 A Yes, sir.

25 Q Did you give him the description of the individual

1 that robbed you?

2 A Yes, sir.

3 Q Did you tell him about Amber Salaam? Did you tell him
4 about the wheels and all of that?

5 A Yes, sir.

6 Q Okay. Did you tell him about where you were supposed
7 to meet and follow in the car out to the dirt road?

8 A Yes, sir.

9 Q Okay. After you gave Investigator Holloway all of
10 that information -- let's go to five days later -- did
11 Investigator Holloway show back up with something for you
12 to look at?

13 A Yes, sir.

14 Q I'm going to show you what's been marked State's 3 for
15 identification at this point in time. Let me ask you if
16 you recognize that.

17 A Yes, sir.

18 Q Okay. Is this a photo array that was brought to you
19 by Investigator Charles Holloway of the Saluda Town Police
20 Department five days after this occurred?

21 A Yes, sir.

22 Q Okay. Prior to him showing you anything about this,
23 did he tell you anything about it or did he just ask you if
24 you could pick out anybody that was involved in the
25 robbery?

1 A He just ask me can I pick out the person that was
2 involved in the robbery.

3 Q Did you select anybody out of this?

4 MR. STITELY: Your Honor --

5 A Yes, sir.

6 MR. STITELY: -- I'm going to object to foundation at
7 this point.

8 THE COURT: Hold on, Mr. Maye.

9 MR. STITELY: Your Honor, I'm going to object to
10 foundation. I don't think a specific foundation has been
11 laid for this piece of evidence, and he's asking that he
12 publish it for the jury.

13 THE COURT: He can't publish it to the jury yet, but I
14 think he can do what he's doing now. Go ahead. Overruled.
15 BY MR. MAYE:

16 Q Did he show you this photo array?

17 A Yes, sir.

18 Q Were you able to identify one of the persons that was
19 involved in the robbery and pick him out of this photo
20 array?

21 A Yes, sir.

22 Q Which number did you pick out?

23 A I picked out number three.

24 Q You picked out number three. The person that's number
25 three in this case, is that the same person that you just

1 identified in this case, Victor Jones, the defendant in
2 this case?

3 A Yes, sir.

4 Q You're absolutely certain that that is the same person
5 in this photograph and that is the same person that robbed
6 you at gun point here in Saluda?

7 A Yes, sir.

8 Q Okay. Is there anything that Investigator Holloway
9 did ahead of time to suggest one of these photographs over
10 another to you?

11 A No, sir.

12 Q Okay. Are you making that identification based on
13 this picture and this courtroom identification based on
14 your observations there when you got robbed?

15 A Yes, sir.

16 Q Did you have any difficulty picking him out or were
17 you able to pick him out immediately?

18 A I picked him out immediately.

19 Q Okay. Are you absolutely certain that Victor Jones,
20 the defendant in this case, is the person that robbed you
21 at gun point?

22 A Yes, sir.

23 Q Okay. Mr. Jones pointed a gun at you. What else did
24 he do with the gun? Did you get struck?

25 A Yes, sir.

1 Q Okay. Where?

2 A On the side of my head, on my forehead (indicating).

3 Q Okay. What did they tell you to do once they got the
4 money and they got the rims and all? What instructions did
5 Victor Jones give you at that point in time?

6 A He told me to drive off.

7 Q Is that what you did? Did you follow the
8 instructions?

9 A Yes, sir.

10 Q Let me ask you this. That location that you got
11 robbed, what county was that in?

12 A Saluda, South Carolina.

13 Q In Saluda County?

14 A Yes, sir.

15 MR. MAYE: Begging the Court's indulgence.

16 THE COURT: Yes, sir.

17 (Pause.)

18 MR. MAYE: Answer any questions the defense has for
19 you.

20 THE COURT: Cross examination?

21 MR. STITELY: If it please the Court.

22 THE COURT: Yes, sir.

23 **CROSS-EXAMINATION**

24 BY MR. STITELY:

25 Q Good morning, Mr. Bookman. Did you speak to anyone

1 before today about your testimony on the stand?

2 A No, sir.

3 Q You've never talked to the Solicitor and gone through
4 what you were going to testify to in this trial?

5 A No, sir.

6 Q No? I'm sorry. No, sir?

7 A Say that again?

8 Q Have you ever gone through the questions and answers
9 that you'll be doing today with Mr. Maye or anyone from his
10 office before today?

11 A Oh, yes, sir.

12 Q Okay. How many times?

13 A Probably once.

14 Q Just once?

15 A Yeah.

16 Q Okay. Have you talked to Mr. Holloway at all about
17 the trial, Mr. Holloway being the police officer in the
18 gray shirt sitting right here?

19 A Yes, sir.

20 Q Okay. How many times?

21 A I want to say once.

22 Q Let me ask you a couple questions, and I'm going to go
23 kind of backwards and go to the front. The last question
24 that the Solicitor asked you was the location in Saluda
25 County. Where was it?

1 A I don't really know. I don't really know my way
2 around.

3 Q Is it possible that it wasn't in Saluda?

4 A Yeah, it was in Saluda.

5 Q How do you know?

6 A Because --

7 Q Because they told you?

8 A No, sir.

9 Q Then how did you know?

10 A Amber had told me.

11 Q Okay. Back it up. So Amber told you you were in
12 Saluda? When did she tell you you were in Saluda on this
13 dirt road when this alleged robbery happened?

14 A She had told me the rims was in Saluda so --

15 Q But you don't know where the dirt road was?

16 A Huh-uh.

17 Q It could've been back in Newberry County. Right?

18 A Yes, sir.

19 Q It could've been over in Lexington County?

20 A Yes, sir.

21 Q It could've been in Aiken County, any of the counties
22 that touch here because you didn't know where it was?

23 A No, sir.

24 Q Okay. What do you drive now, Mr. Bookman?

25 A The same Crown Victoria.

1 Q What does it look like?

2 A It's gray and black two-tone with 26's on it.

3 Q 26-inch wheels?

4 A Yes, sir.

5 Q Okay. The same car?

6 A Same car.

7 Q How much did you pay for your 26-inch wheels?

8 A Eighteen hundred.

9 Q Eighteen hundred. What's the paint scheme on your
10 car? Does it have any specific theme to it?

11 A It got two rider stripes at the back and a crown on
12 the hood.

13 Q Okay. Any logos?

14 A On the window.

15 Q What do you have on the window?

16 A My car club.

17 Q What's that?

18 A Unlawful Intention.

19 Q Unlawful Intention is your car club? Tell me what
20 Unlawful Intention is.

21 A I don't know. I just joined the club, and we just
22 have our car shows and go to car shows.

23 Q It's called Unlawful Intention?

24 A Yes, sir.

25 Q Okay. Is there any significance to that, to the paint

1 scheme on your car that identifies you in any way to any
2 other groups?

3 A No, sir.

4 Q Okay. You said you were working at Wal-Mart back in
5 2009. How much did you make an hour?

6 A I'm not there no more.

7 Q Back in 2009.

8 A I was making I want to say eight -- it was eight
9 something.

10 Q Okay. What did you do? Check-out man, bagger,
11 stocker?

12 A I was stocker.

13 Q Stocker. How many hours a week?

14 A At least 40.

15 Q Good. What kind of paycheck would you get every two
16 weeks? How much money?

17 A Six hundred every two weeks.

18 Q Okay. So you were going to use -- Were you living on
19 your own?

20 A No, sir.

21 Q Living at your mom's house?

22 A Yes, sir.

23 Q Any other sources of income?

24 A Can you repeat yourself?

25 Q Did you have any other sources of income?

1 A No, sir.

2 Q You do your taxes and all that?

3 A Yes, sir.

4 Q Okay. Now, you said when you met Ms. Salaam for the
5 first time you were in Prosperity. Correct?

6 A Yes, sir.

7 Q And that's in Newberry County?

8 A Yes, sir.

9 Q And she just randomly flags you down?

10 A Yes, sir.

11 Q But you said you'd seen her around and you knew her
12 around but you didn't know her?

13 A I didn't know her. I just saw her around.

14 Q What was her reputation in the community?

15 MR. MAYE: Your Honor, objection. There's no
16 foundation for that, asking for her reputation. I would
17 object.

18 MR. STITELY: Judge, if he doesn't know, he can
19 answer; but he said he knew her around and had seen her
20 around.

21 A I just saw her at the games.

22 THE COURT: Hold on just a second. Do you want me to
23 send the jury out?

24 MR. STITELY: I'm just asking. If he doesn't know, he
25 can say he doesn't know; but I was -- I think you're

1 allowed to ask reputation of individuals in the community.

2 THE COURT: The objection's overruled. You may answer
3 the question. Do you know her reputation in the community?

4 A I just saw her around at games, football games and
5 stuff like that.

6 BY MR. STITELY:

7 Q Did you know what she was involved in
8 extracurricularly as we put it?

9 A No, sir.

10 Q Do you know what she did for a living?

11 A No, sir.

12 Q Do you know what she did to get her money?

13 A No, sir.

14 Q Okay. You said you went to her house one day. What
15 day was that?

16 A I don't really know what day it was.

17 Q Okay. And Mr. Maye had asked you -- and I apologize
18 if I'm being nitpicky here, but I think the details are
19 important to the jury -- he had asked you if you had
20 completed the deal, and you said you got there with your
21 850 bucks to buy her 22's. Right?

22 A Yes, sir.

23 Q Okay. You had 850 bucks in your wallet. Right?

24 A Not in my wallet.

25 Q Okay. You had 850 bucks on you?

- 1 A Yeah, I had it -- Not on me. I had 850 hid somewhere
2 in my car.
- 3 Q Okay. And this was the money you had gotten from your
4 job at Wal-Mart?
- 5 A Yes, sir.
- 6 Q The 600 bucks every other week that you got?
- 7 A I had some saved up.
- 8 Q Okay. Did you give her the money?
- 9 A No, sir.
- 10 Q Okay. And so, when you're at her house, did you ask
11 her if she had better wheels available?
- 12 A No, sir.
- 13 Q She just proffered to you that she could get you 23's
14 instead?
- 15 A Yes, sir.
- 16 Q At this point, would you say you had established any
17 kind of relationship with her or just still -- you just
18 knew her as some lady?
- 19 A I just knew her as some lady.
- 20 Q Okay. But you asked her to get in your car?
- 21 A Repeat?
- 22 Q You asked her to go ahead and get in your car and take
23 you down to Saluda?
- 24 A Yes, sir, I ask her.
- 25 Q Okay. Tell me about the wheels you were going to buy.

1 They were 23's?

2 A Yeah, they was 23's.

3 Q What was the lug pattern on the wheels?

4 A Five lugs.

5 Q Five lugs. Are you sure about that?

6 A I ain't really for sure. I just saw the rims. I
7 wasn't really paying attention to the lugs pattern.

8 Q Well, I mean, this is kind of an important question.
9 What kind of lug patterns are there out there? I mean,
10 obviously, you know about wheels.

11 A I can get adapters for them.

12 Q One more time?

13 A Repeat? If they would've never fit, I would've got
14 adapters for them.

15 Q How much does that cost?

16 A What? Adapters? That was about 200.

17 Q Okay. But you were going to go buy these wheels any
18 way. Correct?

19 A Yes, sir.

20 Q So you drove down to Saluda?

21 A Yes, sir.

22 Q And you said someone in a gold car, four doors, but
23 you don't know what it was?

24 A No, sir.

25 Q What kind of car was it then?

1 A I really don't know.

2 Q How close did you see it?

3 A I saw it pretty close.

4 Q Okay. You just told me you were in a car club and go
5 to all these car shows. You can't tell the jury anything
6 about this car?

7 A That was before. I just joined the car club this
8 year.

9 Q Were you driving behind the car or in front of the
10 car?

11 A I was driving behind the car.

12 Q Did it have a license plate on it?

13 A Yes, sir.

14 Q And you were sitting there? How long were you behind
15 this car?

16 A I parked where he parked. I had pulled beside him.
17 We were beside each other.

18 Q Okay. So you --

19 A I was driving behind him though.

20 Q Okay. So your car wasn't behind it on this dirt road
21 which we don't know where it was?

22 A No, sir, it was beside it.

23 Q Did you turn your car off?

24 A No, sir.

25 Q The car was running?

- 1 A Yes, sir.
- 2 Q Keys were still in the ignition?
- 3 A Yes, sir.
- 4 Q You were in the driver's seat?
- 5 A I was in the driver's seat.
- 6 Q Okay. You said that two guys got out of the car?
- 7 A Yes, sir.
- 8 Q Where did these gentlemen have their hands when they
- 9 got out of the car? Were they carrying weapons?
- 10 A No, sir.
- 11 Q Okay. So there were no guns initially that you saw?
- 12 A No, sir.
- 13 Q All right. And they get out of the car. What side of
- 14 the car was the goldish four-door one parked on, your
- 15 passenger side or your driver's side?
- 16 A Like my driver's side.
- 17 Q Your driver's side?
- 18 A I mean, the passenger side.
- 19 Q Okay. So let me just make sure. And I'm going to
- 20 stand kind of like this so you're looking at me.
- 21 A Uh-huh.
- 22 Q You're here on the left side and they park next to you
- 23 on the right?
- 24 A Yeah, they was on my right side.
- 25 Q So you had to look out your passenger window to see

1 that car at that point?

2 A Yes, sir.

3 Q Okay. Where did the individual who you claim to be my
4 client come from?

5 A I didn't really pay attention. I just saw him come
6 behind on my side. I ain't really see him get out the car.

7 Q What about the other guy? Where did he come from?

8 A I really don't know.

9 Q How far away were these cars, Mr. Bookman?

10 A I'm going to say from here (indicating) --

11 Q I mean, were they right next to you? Could you open
12 your door?

13 A Not right -- Say that again?

14 Q Could you open your doors --

15 A Oh, yeah.

16 Q -- or would they have banged into each other?

17 A Yeah, I could open my doors and all that.

18 Q Okay. But you're sure they didn't have guns, at least
19 that you could see, when they got out of the car?

20 A No, sir, I ain't see no guns.

21 Q So, at some point, how many people come to your
22 window?

23 A One came to my window.

24 Q Do you remember talking to me yesterday and I asked
25 you specifically and you told me two people came to your

1 window?

2 A To my window, one came to my window; but on the other
3 side one came to hers.

4 Q So you didn't tell me yesterday that two people came
5 to your window, your window, and one went to the other
6 window?

7 A Repeat yourself?

8 Q Did you not say yesterday that two people came to your
9 window and one went to the other?

10 A No, I didn't say that.

11 Q Do you remember when you said that, well, one person
12 held a gun while the other asked for my money?

13 A No, I didn't say that. I don't remember it.

14 Q Okay. But that's not what happened?

15 A What?

16 Q Two people never came to your window is your story
17 today as you're sitting on that stand?

18 A Yeah, two of them ain't come to my window.

19 Q Okay. And you said that you had a conversation with
20 the gentleman who came to your window for a while. Right?

21 A Yes, sir.

22 Q And y'all talked about money?

23 A Yes, sir.

24 Q Talked about the rims?

25 A Yes, sir.

1 Q At what point does the gun show up?

2 A After we was done talking, after he said did I have
3 the money.

4 Q Okay. Do you remember going and giving a statement, a
5 written documentary statement, to Officer Holloway at the
6 Batesburg or at the Saluda Police Department?

7 A Yes, sir.

8 Q And I just want to make sure, when we're telling the
9 jury, we're very certain of how things happened. You said,
10 when they got out of the car, they didn't have any guns
11 that you saw?

12 A Yes, sir.

13 Q And you talked for a while?

14 A Yes, sir.

15 Q Where did he draw the gun from?

16 A I really can't say because he just drew it at me
17 (indicating). I don't remember which side.

18 Q Okay. But y'all talked for a while?

19 A Yes, sir.

20 Q Okay. And then you said he struck you?

21 A Yes, sir.

22 MR. STITELY: May I approach the witness, Your Honor?

23 THE COURT: Yes, sir.

24 BY MR. STITELY:

25 Q I'm going to show you something and ask if you

1 remember writing it.

2 A (Witness reviewing document.) Yes, sir.

3 Q You wrote that?

4 A Yes, sir.

5 Q Okay. Do you remember telling the officer in your
6 written statement that this was your best recollection of
7 what happened?

8 A Yes, sir.

9 Q And this was done back on July 10th of 2009. Correct?

10 A Yes, sir.

11 Q Things were probably fresh in your mind?

12 A Yes, sir.

13 Q At what point in your statement did you write down
14 these things about being struck?

15 A Can you repeat that again?

16 Q At what point in your statement did you write down
17 about being struck?

18 A Like what day it was?

19 Q No. At what point in giving your statement did you
20 write down that you were struck? I'll let you look at it
21 again if you'd like.

22 MR. MAYE: To speed things up, I'd submit to put it in
23 evidence, Your Honor, the whole statement.

24 MR. STITELY: I'm not opposed to that.

25 THE COURT: State's exhibit or defense exhibit?

1 MR. MAYE: It doesn't matter to me, Your Honor. I'll
2 put it in as a State's exhibit if they want to put it in.
3 If it'll speed things up, I'd submit to put that statement
4 into evidence.

5 (State's Exhibit 5 admitted.)

6 THE COURT: All right. Mr. Stitely, let me know when
7 you get to a good stopping point.

8 MR. STITELY: I can stop now if you'd like, Judge.

9 THE COURT: All right. Folks, I know y'all have been
10 waiting on us for a while. I think you've been out here a
11 little over an hour. We need a break. So we're going to
12 take a ten-minute break. And I'll get you back out here
13 and continue with the cross examination of this witness.
14 Don't discuss the case. Please step in the jury room.
15 I'll get back to you in ten minutes.

16 (The jury retires to the jury room.)

17 THE COURT: Mr. Bookman, during the break, you can
18 step down if you like, but you cannot discuss your
19 testimony with anybody. You understand?

20 A Yes, sir.

21 THE COURT: You can stay there if you want or you can
22 step down if you want. It's up to you.

23 A I'll step down.

24 THE COURT: Court's in recess for ten minutes.

25 (Brief Recess.)

1 THE COURT: Mr. Bookman, I need you back up here.
2 You're still under oath. Are you ready to proceed, Mr.
3 Stitely?

4 MR. STITELY: I am, Your Honor.

5 THE COURT: Bring in the jury.

6 (The jury returns to the courtroom.)

7 THE COURT: You may continue, Mr. Stitely.

8 MR. STITELY: Thank you, Judge. If it please the
9 Court.

10 THE COURT: Yes, sir.

11 BY MR. STITELY:

12 Q Mr. Bookman, when we left off, I was --

13 MR. STITELY: May I approach again, Your Honor?

14 THE COURT: Yes, sir.

15 Q I was asking you some questions about the statement
16 that you wrote to Officer Holloway and you did agree that
17 this was your statement that you wrote?

18 A Yes, sir.

19 Q This is Exhibit Number 5, State's Exhibit Number 5.
20 It's in evidence; the jury will be able to look at it. At
21 what point in your written statement do you talk about the
22 individual striking you?

23 THE COURT: Mr. Stitely, I'd prefer if you stand in
24 front of him --

25 MR. STITELY: I apologize, Judge.

1 THE COURT: -- and not block the jury.

2 MR. STITELY: Sorry.

3 BY MR. STITELY:

4 Q It's fair to say it's not there. Correct?

5 A Yes, sir.

6 Q Yes, sir, it's not in there or --

7 A Yes, sir, it's not in there.

8 Q Not in there. Okay. And when you talk about it --

9 Let's go ahead and read it to the jury if you don't mind.

10 We'll look on page two of two. Okay? You've got page two
11 of two in front of you. Yeah, right there. Let's start at
12 the line that says, and -- right here (indicating). Okay?
13 Go ahead and read to the end?

14 A And two of the guys got out and the one had took my
15 things had a gun pointed to my head --

16 THE COURT: Speak up, please. I'm having trouble
17 understanding you. Start over if you would.

18 A And two of the guys got out and the one had took my
19 things had a gun pointed to my head and took my money and
20 speakers and my phone and the boy who robbed me told me to
21 take off.

22 Q And the last line? And, so I did, is what you said?

23 A Oh, yeah.

24 Q All right. Let me clarify a couple things. You said
25 that two of the guys got out and the one had took my things

1 had a gun pointed to my head?

2 A Yes, sir.

3 Q Okay. And took my money and speakers and my phones,
4 plural. Correct?

5 A Repeat that?

6 Q And my phones, plural, third line up -- P-H-O-N-E-S?

7 A Yes, sir.

8 Q How many phones did you have on you?

9 A I only had one.

10 MR. STITELY: May I publish, Your Honor?

11 THE COURT: Yes, sir. He wants y'all to circulate
12 that around.

13 MR. STITELY: I'm sorry.

14 BY MR. STITELY:

15 Q Okay. And this was the statement you gave the next
16 day?

17 A Yes, sir.

18 Q Do you talk about -- Or actually I should ask it this
19 way. Isn't it true you don't mention anything about having
20 a conversation about the money in your statement? Correct?

21 A (No response.)

22 Q I'll give you my copy again. I don't want to be
23 unfair.

24 A Can you repeat yourself?

25 Q Isn't it true that nowhere in your statement you say

1 y'all had a conversation about the money?

2 A Yes, sir.

3 Q Isn't it true you don't say anything about when the
4 gun came out or that you had a conversation before the gun
5 came out?

6 A Yes, sir.

7 Q Isn't it true that, in your statement, it indicates
8 that the individuals got out, put a gun to your head and
9 took your stuff, in that order?

10 A Yes, sir.

11 Q Okay. That's a little bit different than what we're
12 going through today, and I just want to make sure we go
13 through what you've said today. Correct me if I'm wrong.

14 A Yes, sir.

15 Q You pulled up next to a car?

16 A Yes, sir.

17 Q They were on your passenger side?

18 A Yes, sir.

19 Q You don't know where people got out of that car?

20 A No, sir.

21 Q You are pretty sure they didn't have guns when they
22 got out?

23 A I ain't really know they had guns.

24 Q Okay. At some point, the person you claim to be
25 Mr. Jones walks around to your window?

1 A Yes, sir.

2 Q Your car's still running; the keys are in the
3 ignition?

4 A Yes, sir.

5 Q He asks you some questions?

6 A Who, Mr. Victor?

7 Q Whoever.

8 A Yeah, he ask me did I have my money for the rims. I
9 said, yes.

10 Q Okay. And, at that point, you don't really know how,
11 but a gun materializes?

12 A Yes, sir.

13 Q And now you say he then pointed it at you?

14 A Yes, sir, he pointed it at me.

15 Q How did the money come out of your pocket, your
16 wallet? You said it was in your wallet. How does the
17 money get out of your wallet?

18 A I took it out of my pocket.

19 Q Okay. And you hand it to him?

20 A No, sir.

21 Q Okay. Where did the money go?

22 A I gave it to him after he told me to give him
23 everything I got.

24 Q I guess I'm confused. I'm just asking. So you gave
25 him the money?

- 1 A Not then. After he told me to give him everything. I
2 showed him the money before everything.
- 3 Q Okay. And then you put it back in your wallet?
- 4 A No, sir.
- 5 Q I'm sorry, Mr. Bookman, I'm just a little confused.
6 You talked to him, and he asked you did you have the money?
- 7 A Yes, sir.
- 8 Q You say you showed it to him?
- 9 A Yes, I took it out of my pocket and I showed it to
10 him.
- 11 Q Okay. Where did the money go then?
- 12 A To him.
- 13 Q Okay. You gave it to him?
- 14 A Not then. After he said give him everything I got.
- 15 Q Okay. So is it some point between when you show him
16 the money then a gun comes out?
- 17 A Yes, sir.
- 18 Q Okay. And then you give him the money?
- 19 A After he pointed the gun at me.
- 20 Q Okay. What kind of denominations was the money in?
- 21 A Say that -- Repeat?
- 22 Q Was it 5's, 10's, 20's, 50's, hundreds?
- 23 A Twenties and a hundred.
- 24 Q One hundred?
- 25 A I think it was 20's and like two hundred dollar --

1 Q And this was 750 dollars --

2 A Yes, sir.

3 Q -- even though you came that day with 850 to give to
4 Ms. Amber. Correct?

5 A Yeah. I was going to try to talk her down for the
6 other 22's.

7 Q So did you not really have the 850?

8 A Repeat?

9 Q Did you not really have the 850 then?

10 A Yeah, I had it so I can have some to last me till the
11 next week when I get paid, about two weeks.

12 Q When you showed up at her house though, did you have
13 850 dollars?

14 A Yes, sir.

15 Q Okay. Where did you put the other hundred that wasn't
16 included in the 750 that allegedly got taken?

17 A I put it on top of my little sun --

18 Q The visor?

19 A Yeah, the sun visor.

20 Q So that money wasn't taken?

21 A No.

22 Q So, when he said, give me everything, that wasn't part
23 of the everything?

24 A What? That 150?

25 Q Yes.

1 A Yeah, huh-uh, it wasn't.

2 Q Okay. Now, you said that they took your speakers?

3 A Yes, sir.

4 Q Now, I've had speakers. I don't know if any of the
5 jury has. But you said they were in a box. What were
6 they?

7 A What? The speakers or the box?

8 Q The speakers first?

9 A They Quantum, two 15's.

10 Q Two 15's. How big is the box for two 15's? Use your
11 hands and show the jury.

12 A Right here to I want to say about (indicating) --

13 Q A good four feet probably?

14 A Probably so.

15 Q At least?

16 A Yeah.

17 Q Okay. I've never had 15's, but I've had 10's and
18 12's. How much does a 15 weigh?

19 A I don't know.

20 Q They're pretty heavy?

21 A Yes, sir.

22 Q All right. Let's talk about -- And there's two of
23 them?

24 A What? Two boxes?

25 Q Two 15's.

1 A Two 15 speakers --

2 Q Okay.

3 A -- but not box.

4 Q And, just -- I want to clarify this for the jury if
5 they haven't seen it. Now, a 15 means the actual cone of
6 the speaker is 15 inches, a foot and three inches, the part
7 that you see?

8 A Yes, sir.

9 Q Okay. And behind it there's a big 'ol metal magnet.
10 Right?

11 A It ain't really that big. It's about --

12 Q All right. You ever pick up a 15?

13 A Yes, sir.

14 Q It's heavy?

15 A It ain't really that heavy. It's all right.

16 Q How much do you think it weighs?

17 A Probably about -- I want to say about 30 pounds, 35.

18 Q Thirty, 35 pounds for one. There's two. Right?

19 A Yeah, there's about two.

20 Q Okay. Tell me about your box. Was it just an 'ol --
21 an 'ol cheap wood box or was it a fancy fiberglass box?

22 A It was an 'ol cheap one.

23 Q Made of wood?

24 A Yeah, made of wood.

25 Q And they do that with inch-thick plywood, don't they?

1 A I don't know.

2 Q Okay. Was it wrapped in like carpet or something or
3 was it just wood, plain wood?

4 A Wrapped in carpet.

5 Q Okay. And that's tacked onto that wood. Right?

6 A What? The speakers? Yes, sir.

7 Q Okay. So it's in a big wooden box at least four feet
8 wide and how deep? Probably at least two to three feet
9 deep. Right?

10 A What? The speaker?

11 Q The box.

12 A The box? I don't really know.

13 Q How much of your trunk did that box take up?

14 A About --

15 Q Most of it?

16 A Not most. But it was -- I can't explain. It was
17 like --

18 Q Could you fit golf clubs in there with your box or you
19 weren't fitting golf clubs in there?

20 A Yeah, you can put some golf clubs.

21 Q All right. So this box -- Now, talk to me about the
22 speakers here. And I know this doesn't sound important to
23 you, but it's important when we get to what's going on
24 here. How do they get electricity in your car?

25 A What you mean?

1 Q How do you get power to these speakers to make them
2 work?

3 A The battery.

4 Q Right. Are you familiar with the cable that connects
5 amps to batteries? Have you ever seen it?

6 A I saw it, but I don't really know.

7 Q Okay. Did you have a big amp on these?

8 A About two thousand.

9 THE COURT: Hold on.

10 (Pause.)

11 THE COURT: If you want to back up to your question
12 too, you can.

13 MR. STITELY: Thank you, Judge.

14 Q You said you had a big amp. Right? 2000 watt?

15 A Yeah, 2000 watt.

16 Q Okay. Is it as big -- The jury hasn't seen it. How
17 big is a 2000-watt amp, about 2 feet long, 3 feet long?

18 A About that long (indicating).

19 Q So 18 inches to 2 feet?

20 A Probably so.

21 Q Okay. They're heavy too, aren't they?

22 A Not really.

23 Q Okay. They're made of solid metal?

24 A Yes, sir.

25 Q Okay. You ever seen the cable that connects them to

1 your battery?

2 A You talking about the one that connects --

3 Q The red cord that goes from your battery to your amp?

4 A Oh, yes, sir.

5 Q Okay. And it's a big cord, pretty thick, huh?

6 A Not that pretty thick. It was about that thick

7 (indicating).

8 Q Like a zero-gauge wire? Do you know anything about
9 speakers?

10 A I don't really know too much about speakers.

11 Q Okay. But, nonetheless, you had a big cord that's red
12 going from your battery to the speakers, to the amp?

13 A Yes, sir.

14 Q What kind of cable goes from the amp to the speakers?

15 A I really don't know.

16 Q You're in a car club. Right? That goes to car shows
17 and all that? Right?

18 A Yes, sir.

19 Q You've seen cars with speakers in the back?

20 A Yes, sir.

21 Q You saw yours, of course. Right?

22 A I saw my speakers, but I ain't really see the wire.

23 Q All right. If I want to take your box and your amp, I
24 can just stick it in the back of my trunk and turn it on
25 and it'll work. Right? That's not right, is it?

1 A No, sir.

2 Q No. It has to be all kind of wired in. Right?

3 A Yes, sir.

4 Q Wired to the battery?

5 A Yes, sir.

6 Q Wired to your head unit?

7 A Yes, sir.

8 Q Grounded into the truck with a green cord. Right?

9 A I guess.

10 Q Okay. Wired into your car pretty heavily though so it
11 works. Right?

12 A Yes, sir.

13 Q Okay. Do you have a capacitor on there?

14 A What you mean?

15 Q It's a little tube with two antennas. It's a 1-Farad
16 capacitor so your headlights don't turn on and off when
17 your speakers do.

18 A I didn't have that.

19 Q So you didn't have one of those. Did you have other
20 speakers in your car?

21 A No, sir.

22 Q You didn't have six by nines or six and a half's?

23 A Well, I had factory speakers.

24 Q Okay. So the only additional things was these two
25 15's in a wood box --

1 A Yes, sir.

2 Q -- and a 2000-watt amp?

3 A Yes, sir.

4 Q How about your head unit? Was that custom? The
5 stereo that you turn on, put the CD's in, they call that a
6 head unit.

7 A Oh, yes, sir.

8 Q Okay. So who's taking this out of the back of your
9 car?

10 A I don't really know.

11 Q Okay. Where was the amp mounted?

12 A Like, you know, like -- You ever seen the back of a
13 Crown Vic?

14 Q Oh, yeah.

15 A You know the --

16 Q The back seats. Right? They have ---

17 A Yeah.

18 Q And you mount it right to them?

19 A No, it wasn't on the back seat. It was just on the
20 floor --

21 Q Okay.

22 A -- not on the deep floor, on the top floor.

23 Q Oh, up on the deck?

24 A Yeah, on the deck.

25 Q Was it mounted to the deck?

1 A No. It was just sitting there.

2 Q Okay. So it wasn't fastened in so, if you went around
3 a corner, it would slide around?

4 A Yes, sir.

5 Q Okay. So at some point -- How long did the alleged
6 armed robbery take place from the time he pulls the gun on
7 you till the time you drove away?

8 A I want to say a good 10 minutes or 15 minutes.

9 Q Are you talking about from when you pulled up or from
10 when he's standing at your window?

11 A Well, from when I pulled up until the end when I drove
12 off, I want to say a good 15 minutes.

13 Q And what else happened during this time then? Were
14 y'all just shooting the breeze?

15 A What you mean shooting the breeze?

16 Q You said it was 15 minutes.

17 A About 10, 15.

18 Q If he asked you about the money, you showed him the
19 money and he took it, then what?

20 A It took -- Can you repeat?

21 Q I'm asking you. I wasn't there. You gave him the
22 money. He said, drive on?

23 A No. Then he asked me to -- Then he told me to pop my
24 trunk.

25 Q Okay. And where did the individuals go at that point?

- 1 A They stayed. I guess the third guy had got out.
- 2 Q You guess or you know?
- 3 A I know.
- 4 Q Okay. What did he look like?
- 5 A I don't really know.
- 6 Q Where did he come from in the other car?
- 7 A I don't know.
- 8 Q Okay. And how long did this all take place?
- 9 A Talking about to rob?
- 10 Q Yeah. After you popped the trunk, how long before you
- 11 drive away?
- 12 A I want to say a good -- You said how far I drove?
- 13 Q No. How long? How long a time?
- 14 A It wasn't that long.
- 15 Q Wasn't that long?
- 16 A Not more than a minute.
- 17 Q Not more than a minute. That makes a lot of sense.
- 18 Okay. Let's move forward. You went immediately then and
- 19 called the police. Right?
- 20 A When you talking --
- 21 Q After the robbery?
- 22 A After the robbery, no, sir. I just --
- 23 Q Rode back to Newberry?
- 24 A Yes, sir.
- 25 Q Okay. What time of day was the alleged robbery?

1 A It was daylight.

2 Q Morning, afternoon?

3 A Afternoon, around about 7:00, 6:00 or so.

4 Q Seven o'clock in the evening?

5 A In the evening, right.

6 Q All right. And you go back to Newberry?

7 A Yes, sir.

8 Q Did you call the law?

9 A Yes, sir.

10 Q When?

11 A After I had dropped Amber off, I had called Newberry;
12 but they told me that I should talk to Saluda County about
13 the situation.

14 Q You called Newberry?

15 A Yeah.

16 Q Did you tell the police officers that you called
17 Newberry?

18 A No, sir.

19 Q Okay. All right. And they said to go ahead and call
20 Saluda. So did you call Saluda right away?

21 A I went the next day.

22 Q Okay. How many gas stations, convenience stores,
23 anything, did you pass on your way from Saluda to Newberry
24 that day on your way home or wherever you were? Do you
25 know? Do you remember?

- 1 A I don't remember.
- 2 Q At least one somewhere with a pay phone?
- 3 A I didn't even see -- No, I don't really know.
- 4 Q Did Amber have a phone on her?
- 5 A Yeah, she had a cell phone.
- 6 Q And they didn't take her stuff?
- 7 A No, sir.
- 8 Q Did you say, hey, Amber, call the cops?
- 9 A No, sir.
- 10 Q Did Amber dial 9-1-1?
- 11 A No, sir.
- 12 Q When you're driving out, Amber definitely had a cell
13 phone?
- 14 A Yes, sir.
- 15 Q But didn't you think it would be important to tell the
16 cops that you were just robbed?
- 17 A Because I felt like she was trying to -- she had
18 something to do with it, so I just felt nervous and scared
19 and I wanted my mom --
- 20 Q Okay. So you felt she had something to do with it?
- 21 A Yes, sir.
- 22 Q So you told the police that when they interviewed you.
23 Right?
- 24 A Yes, sir.
- 25 Q You told the police you thought Amber had something to

1 do with it?

2 A Yeah, I said -- I told him I think she had something
3 to do with it.

4 Q Where in your statement do you make any mention of
5 anything along those lines? Isn't it true you don't say
6 anything like that?

7 A No, sir.

8 Q And isn't it true you hung out with Amber in the days
9 following the armed robbery?

10 A Did I hang out with her? No, sir.

11 Q Okay. So, if she gets up there and says that y'all
12 hung out and talked after the armed robbery, she'd be
13 lying?

14 A Yes, sir.

15 Q Did you ever see her again?

16 A You talking about after the robbery?

17 Q Uh-huh?

18 A Well, I saw her the next day when she came to the jail
19 station.

20 Q Okay. And, at that point, you told the police, hey, I
21 think she's in on it?

22 A I just told them that she might have something to do
23 with it.

24 Q You're sure? Did you tell this officer right here
25 that?

- 1 A Yes, sir.
- 2 Q So, if he has nothing in his report, he must have just
3 omitted that?
- 4 A I guess.
- 5 Q Okay. Who's Duke? What's his full name?
- 6 A I know his last name Thomas.
- 7 Q His last name is Thomas?
- 8 A Yeah.
- 9 Q What do you think his name is?
- 10 A I don't really know his real name.
- 11 Q Okay. But you said that this was a man that could
12 solve your armed robbery problems. You don't even know his
13 name?
- 14 A Yeah, that's my cousin.
- 15 Q Where can I find Duke?
- 16 A In Saluda. I don't know where. He be everywhere
17 so --
- 18 Q He be everywhere?
- 19 A Yeah, in Saluda.
- 20 Q Got an address or a phone number I could call him?
- 21 A No, sir.
- 22 Q Do you know his address or phone number?
- 23 A Me?
- 24 Q Uh-huh.
- 25 A No, sir.

1 Q So how were you going to get with Duke about solving
2 your armed robbery?

3 A Because I had it then, but I ain't got it now.

4 Q Did you give it to law enforcement?

5 A His phone number?

6 Q Uh-huh.

7 A I didn't. Probably my grandma or somebody did.

8 Q Is your grandma here today?

9 A No, sir.

10 Q What's your grandma's name?

11 A Virginia Metts.

12 Q Virginia?

13 A Metts.

14 Q I can't hear you?

15 A Metts.

16 Q Metts, M-E-T-T-S?

17 A M-E-T-T, yeah.

18 Q M-E-T-T or M-E-T-T-S?

19 A M-E-T-T-S.

20 Q And she would've given them Duke's phone number? Do
21 you remember that or are you just guessing?

22 A I'm just guessing. I don't know.

23 Q Okay. I don't want you to have to guess if you don't
24 know the answer. So that was just a guess that she
25 would've told him who Duke was?

1 A Yeah.

2 Q Okay. Whose idea was it to call your cousin to get to
3 the bottom of it? Was that your idea or somebody else's?

4 A My idea.

5 Q Why would Duke know?

6 A Because he from Saluda and he know everybody from
7 Saluda and everybody know him.

8 Q Okay. He knows everybody?

9 A Yeah, he been in Saluda his whole life.

10 Q Okay. But we don't know his name?

11 A Who? Duke?

12 Q Uh-huh.

13 A I don't know his real name. I just know his -- I just
14 call him Duke. I been calling him Duke his whole life.

15 Q And, I'm sorry, Mr. Bookman. I'm really not trying to
16 confuse you. I'm just trying to find out who people are so
17 I can potentially get in touch with them if I need to or to
18 ask why they weren't contacted later. All right. So you
19 go in and you give your statement which the jury has now
20 taken a look at?

21 A Yes, sir.

22 Q You don't say anything in there about being struck?

23 A No, sir.

24 Q You don't say anything in there about Amber being
25 involved?

1 A No, sir.

2 Q You're positive though that you told Mr. Holloway that
3 Amber, you thought she was involved?

4 A Yes, sir.

5 Q Okay. And it's kind of like towards the end of what I
6 have to ask you for right now. Let's talk about the
7 individual at your window. Okay? You're sure that only
8 one person came to your window?

9 A Yes, sir.

10 Q And you didn't say yesterday, two people came to my
11 window?

12 A I don't remember me saying that.

13 Q Well, we'll take that up in a minute. And you said a
14 third person went to the other window. But that's not
15 right. There were only two people that got out of the car?

16 A Yes, sir.

17 Q The individual who came to your window, you were 2
18 feet away from him?

19 MR. STITELY: May I approach, Your Honor?

20 THE COURT: Yes, sir.

21 BY MR. STITELY:

22 A Yes, sir.

23 Q As close as we are now?

24 A What you talking about?

25 Q The gentleman who came to your window.

1 A Yes, sir.

2 Q Okay. And you told the police he was a light-skinned
3 black male?

4 A Yes, sir.

5 Q Could you tell him what color his eyes were?

6 A I ain't really -- I couldn't --

7 MR. MAYE: Your Honor, asked and answered.

8 MR. STITELY: Judge, I haven't asked this during --

9 THE COURT: Overruled.

10 BY MR. STITELY:

11 Q Could you tell him what color his eyes were?

12 A No, sir.

13 Q Could you tell him what color his hair was?

14 A No, sir.

15 Q Could you tell him how he wore his hair?

16 A No, sir.

17 Q Did you tell him he had a buzz cut or dreadlocks? You
18 didn't tell him any of that?

19 A No, sir.

20 Q Did you tell him if he was tall?

21 A No, sir.

22 Q Did you tell him if he was short?

23 A No, sir.

24 Q Did you tell him if he was fat?

25 A No, sir.

- 1 Q How about skinny?
- 2 A No, sir.
- 3 Q If he was muscular?
- 4 A Which one are we talking about?
- 5 Q The gentleman who walked to your window?
- 6 A Yeah, I told him he was kind of about my height.
- 7 Q Okay. How tall are you?
- 8 A I'm about five seven.
- 9 Q All right. Did you tell them anything about his
- 10 teeth?
- 11 A No, sir.
- 12 Q Did you tell him anything about the way he spoke?
- 13 A No, sir.
- 14 Q Did you tell him anything about his mannerisms,
- 15 anything else you observed?
- 16 A No, sir.
- 17 Q You did say he had a tattoo?
- 18 A Yes, sir.
- 19 Q Where was his tattoo?
- 20 A It was like somewhere around his neck.
- 21 Q Okay. Do you remember yesterday I asked you
- 22 specifically did he have a tattoo above his collarbone on
- 23 the front of his neck where you could see it above a Polo
- 24 shirt? Do you remember me asking you that and you said
- 25 yes?

1 A Yes, sir.

2 Q And that holds true today. You're not changing that.
3 The man who came to your window had a neck tattoo in the
4 front of his neck above his collarbones above where a
5 collared shirt was?

6 A I couldn't really tell because he had on a tank top.
7 I don't know. I couldn't really tell.

8 Q So you couldn't see his neck because he had on a tank
9 top?

10 A I could see his neck. I just can't picture him while
11 he got on a collared shirt.

12 Q I mean, but it was up on his neck?

13 A It was like somewhere like not on top of his neck,
14 like somewhere --

15 Q About like his Adam's apple?

16 A Yeah, something like there.

17 MR. STITELY: Let the record reflect that he's
18 indicating his neck above his shirt line where his Adams
19 apple is.

20 THE COURT: So noted.

21 BY MR. STITELY:

22 Q And that holds true today. You're not changing that
23 position. Correct? That's the man you saw?

24 A Yes, sir.

25 Q Okay. Tell me about the gun. What did the gun look

1 like?

2 A It was all chrome.

3 Q Did you tell that to the cops?

4 A Yes, sir.

5 Q Did you write it in your statement?

6 A No, sir.

7 Q What kind of gun was it?

8 A I don't really know.

9 Q Did you tell me yesterday you thought -- you knew it
10 was a 45?

11 A I didn't say I knew. I said it was sort of, kind of
12 like one. I don't really know.

13 Q Sort of, kind of.

14 A Yeah.

15 Q Well, describe it. Describe it to the jury.

16 A All I know it was all chrome.

17 Q All chrome. How big was it? Was it as big as my
18 hand? Was it like a big 'ol gun? What was it?

19 A It wasn't no big gun. It was like a -- I can't
20 explain it. It was --

21 Q I mean, you saw it though. Right?

22 A I saw it saw it. I just -- I saw it, but I just
23 remember the color. I don't know how long it was.

24 Q How close was it to your head?

25 A Close. He had it up to my head.

1 Q Okay. Have you ever seen a 45?

2 A Yes, sir.

3 Q What does a 45 look like?

4 A A 45's a big gun.

5 Q It's a big gun, isn't it?

6 A Yeah.

7 Q And it's a 45 caliber round. Point 45 is the caliber
8 of that round?

9 A I don't really know.

10 Q But it's a big gun?

11 A It was -- I can't explain it.

12 Q Did you tell the cops about it?

13 A What? The gun? I told them it was all chrome.

14 Q You definitely told them that it was all chrome. You
15 told that man, Mr. Holloway (indicating)?

16 A Yes, sir.

17 Q You're a hundred percent?

18 MR. STITELY: Beg the Court's indulgence. One moment,
19 Judge. I'm sorry.

20 THE COURT: Yes, sir.

21 (Pause.)

22 MR. STITELY: Judge, there are the items I wanted to
23 show him from the transcript for use of impeachment. I
24 think I'm up to that point where there's nothing else that
25 I can really ask him at this point.

1 THE COURT: All right.

2 MR. STITELY: And I believe I spoke to the Court. I
3 think we can do it relatively quickly if we can have a few
4 extra minutes during the lunch break.

5 THE COURT: All right. Ladies and gentlemen, an issue
6 has come up. I'll tell you what. Would you step down?

7 MR. BOOKMAN: Yes, sir.

8 THE COURT: Just have a seat on the bench over there
9 for me.

10 (Witness leaves the witness stand.)

11 THE COURT: An issue has come up that's going to
12 require me to give a little bit longer break for lunch than
13 normal, about 30 minutes more than normal, so I'm going to
14 ask you folks to be back here at 2:30. Now, I have always
15 on Halloween tried to break court about 4:00 because some
16 of you may have plans for the evening and I don't want to
17 interfere with that. If none of you have plans and you
18 want to go past 4:00, you can send me a note; but,
19 otherwise, I'm going to try to break around 4:00 today so
20 everybody can do what they need to do for Halloween. As
21 you can tell by my white hair, I don't have any plans for
22 Halloween except maybe to scare a few people at the gas
23 station. I need you back in the jury room at 2:30. Thank
24 you. Don't discuss the case.

25 (Jury excused for lunch.)

1 THE COURT: All right, Mr. Bookman, we're under the
2 same rules. Since you're on the stand, you can't talk
3 about your testimony with anybody during the break.

4 MR. BOOKMAN: Yes, sir.

5 THE COURT: I need -- I would like for y'all to be
6 back here at 2:15 or so in case there's any issues. Be
7 careful. Remember all those admonitions I've been saying
8 about, when you leave here, don't assume the jurors have
9 cleared out. They may still be in the hallways; they
10 certainly may be in a restaurant that you might intend to
11 go to for lunch. So be careful that you don't have contact
12 with a juror. Okay? Court's in recess until 2:15.

13 (Whereupon there was a luncheon recess.)

14 THE COURT: All right. I asked y'all to come back at
15 2:15 so we could see if we had any issues. Did you get
16 what you needed, Mr. Stitely?

17 MR. STITELY: I did, Your Honor. Thank you.

18 THE COURT: Are there any issues I need to address
19 about this?

20 MR. STITELY: Judge, I have a printed-out copy. I can
21 give one to the Solicitor of the portion of the transcript
22 from yesterday that I intend to question him about. It's
23 the standard form, as you can see, of a transcribed court
24 document, question, answer.

25 THE COURT: Okay. Any issues I need to address that

1 y'all anticipate?

2 MR. STITELY: The only other thing is still that
3 subpoena from yesterday. I haven't received anything back
4 from the Town.

5 THE COURT: What is that?

6 MR. STITELY: It was just employee records.

7 THE COURT: For who?

8 MR. STITELY: Mr. Holloway.

9 THE COURT: Is there a problem with that?

10 MR. MAYE: Your Honor, I think they're asking for
11 records that they don't have. I think that they tried to
12 subpoena them. I'm not a party to that. They apparently
13 tried to subpoena Mr. Holloway's personnel records. I
14 don't know what the relevance is to this case other than
15 just a fishing expedition, but I think they're trying to
16 subpoena Mr. Holloway's personnel records from the Town
17 Police Department. I'm informed that the Town Police
18 Department doesn't keep or maintain those records, and I
19 think that he'd have to take that up with the Town of
20 Saluda.

21 THE COURT: You're telling me that the Town of Saluda
22 does not keep personnel records?

23 MR. MAYE: No. The Police Department does not have
24 them. They served it on the Police Chief, and he says that
25 the Mayor, the Town Council -- that Town Hall keeps all

1 those, that he doesn't have access. And he tells me that
2 he doesn't think that there's anything there. I don't even
3 know the relevance, Your Honor.

4 THE COURT: I don't let them get to decide whether
5 there's anything there.

6 MR. MAYE: I don't know the answer, Your Honor.

7 THE COURT: Where is the Chief?

8 MR. MAYE: He is --

9 THE COURT: I would appreciate some degree of help.
10 Would you please talk to him and find out if y'all can
11 resolve this without involving the Court. If you cannot,
12 please bring him in here or arrange to bring the Mayor and
13 the Town Council in here. The degree of disrespect that I
14 feel I cannot communicate to you all. It's like my time is
15 irrelevant, the jury's time is irrelevant. Y'all just
16 wander around and do things whenever we start asking you,
17 has this been done, has that been done. I am tired of
18 this. We're at ease.

19 (Brief Recess.)

20 THE COURT: Mr. Bookman, I need you back on the stand.
21 You're still under oath.

22 (Witness resumes the witness stand.)

23 THE COURT: Bring in the jury.

24 (The jury returns to the courtroom.)

25 THE COURT: You may continue, Mr. Stitely.

1 MR. STITELY: Thank you, Your Honor. May I approach
2 the witness?

3 THE COURT: Yes, sir.

4 BY MR. STITELY:

5 Q Mr. Bookman, before we broke for lunch, I'd been
6 asking you a couple questions about some testimony today
7 and I asked you about some inconsistent statements. I want
8 you to take a look at what I just handed you and see if
9 that refreshes your memory at all about what we were
10 talking about. Don't read it. Just -- Read it to
11 yourself; don't read it out loud. Just see if it refreshes
12 your recollection.

13 A (Witness complies.)

14 Q It's a two-page summation -- or not summation -- but
15 the exact conversation we had. Correct?

16 A Yes, sir.

17 Q Okay. Now, the first page, you remember I asked you,
18 so did both individuals come to your window; and you said,
19 yes, sir. That's the fourth and third to the last lines on
20 the first page. Do you remember saying that now?

21 A You can repeat that?

22 Q The third and fourth to the last -- it's at the very
23 bottom -- the fourth to the last and the third to the last.
24 I asked you, so did both -- so did both individuals come to
25 your window; and you said, yes, sir. Do you remember

1 saying that now?

2 A Yes, sir, but I meant like, yeah, they came to my
3 window, to my car, but I thought you was talking about like
4 coming to my windows of my car. I ain't thought you was
5 talking about coming to my window.

6 Q So, when I said, did both individuals come to your
7 window, you just meant they came to your car?

8 A Yeah, my car windows.

9 Q Okay. And you do remember now saying, upon looking at
10 that last page, that there was a tattoo on the front of his
11 neck above his shirt, and I asked you to show me where, and
12 you had a description of this area (indicating)?

13 A Like somewhere in that area (indicating).

14 Q Okay. What does the name Hookdaddy mean to you?

15 A It's just a club name I made up.

16 Q Okay. And that's your nickname?

17 A Yes, sir.

18 Q Do you have a Facebook page?

19 MR. MAYE: Your Honor, at this point in time, I have a
20 matter to take up outside the presence of the jury.

21 THE COURT: All right. Ladies and gentlemen of the
22 jury, please step into the jury room. Don't discuss the
23 case.

24 (The jury retires to the jury room.)

25 THE COURT: Yes, sir.

1 MR. MAYE: Your Honor, I was handed some photographs
2 here of the vehicle that the victim in this case currently
3 drives -- and I guess they were photographs taken out here
4 in the parking lot -- and another photograph, a picture,
5 Your Honor, of individuals that I guess he's purporting are
6 on the Facebook page. I'm going to hand these up to Court.
7 I'd just -- It's up to the Court to decide what relevant
8 evidence is in this case. I guess this is some attempt on
9 the part of the defense to somehow impeach the victim in
10 this case on some collateral matter. I don't know what
11 relevance this would have to this trial other than some
12 attempt to impugn this individual's reputation or impeach
13 him in some regard. I would object to that being relevant
14 evidence in this trial, Your Honor. He has no criminal
15 convictions. He's been asked. It's been asked and
16 answered if he has any criminal convictions. I would
17 maintain that this is more probative -- this is more
18 prejudicial than probative and that it is not relevant
19 evidence in this case. And I would object to it, Your
20 Honor, unless he can somehow lay some foundation as to how
21 it relates to this case.

22 THE COURT: All right. Would you mark each of those
23 for identification as defense exhibits?

24 (Defendant's exhibit 1 through 8 marked for
25 identification.)

1 THE COURT: Make your proffer so I can understand
2 where you're going with this.

3 MR. STITELY: You want me to ask him some questions?

4 THE COURT: Yes.

5 BY MR. STITELY:

6 Q Mr. Bookman, do you have a Facebook page?

7 A Yes, sir.

8 Q Is it public access so that anyone can go on and look
9 at your pictures?

10 A I don't really know.

11 Q Okay. Before we broke, at the beginning of your
12 testimony, you told me about Unlawful Intention. What was
13 that again?

14 A It's a car club.

15 Q Your car club?

16 A Yes, sir.

17 Q They have a Facebook page too, don't they?

18 A Yes, sir.

19 Q You're involved in it and a member of it?

20 A Of the car club, yes, sir.

21 Q And the Facebook page?

22 A You talking about my picture and stuff?

23 Q Uh-huh.

24 A I don't think my picture but my car on there.

25 THE COURT: I didn't understand. What did you say?

1 A I don't think my face on there, but my car on there.

2 Q The pictures of your car are in this Facebook group?

3 A Yes, sir.

4 Q Okay. Public access I can get to just by going
5 online?

6 A You talking about which?

7 Q The group, Unlawful Intentions?

8 A I don't really know.

9 Q Okay. How do you have your moniker on Facebook? What
10 is your Facebook page called? It's called Hook Doctor.

11 Right? Or Hookdaddy? Excuse me.

12 A Yes, sir.

13 Q Okay. So, if you were to link off of your car club as
14 you keep calling it, it's a picture of you -- and I'll show
15 it to you in a second -- to Hookdaddy, that would be your
16 page. Right?

17 A Yes, sir.

18 Q And included on your profile picture is a picture of
19 several firearms. Correct? A Mossberg 12-gauge that looks
20 to be about a High Point 40?

21 A Yes, sir.

22 Q And that's your profile picture to Hookdaddy on your
23 Facebook page?

24 A It ain't my profile picture.

25 Q Okay. So you're saying that you don't have a link on

1 your profile pictures on this, specifically a picture of
2 couple of firearms and ammunition?

3 A It ain't in my profile picture.

4 Q In the album titled profile pictures, is there a
5 couple firearms?

6 A I don't know. I thought it was --

7 Q Okay. Nonetheless, in your public shared pictures for
8 everyone in the world to see, there's firearms. Correct?

9 A Yes, sir.

10 Q And earlier you told us you don't know nothing about
11 guns though?

12 A I ain't really tell you about that.

13 Q Okay.

14 A I know --

15 Q I'm going to show you a picture.

16 MR. STITLEY: May I approach, Your Honor?

17 THE COURT: Yes.

18 BY MR. STITLEY:

19 Q To lay a foundation, do you know where I got that
20 picture?

21 A Yes, on Facebook.

22 Q Okay. Are you in that picture?

23 A No, sir.

24 Q So, if it's tagged as Hookdaddy, Hookdaddy's not in
25 this picture?

1 A I ain't in that picture, but they tagged me in it
2 because I'm in the group, and I ain't go with them that day
3 to the club.

4 Q What kind of club?

5 A Car club. But I ain't go though to that party.

6 Q Where do y'all meet?

7 A What you mean?

8 Q Where does the club meet?

9 A At the president house.

10 Q Okay. Who's that? What's his legal name?

11 A I call him Roth. I don't really know his real name.

12 THE COURT: You call him what?

13 A Country.

14 THE COURT: You call him Country?

15 A Yeah, he got two names, Roth and Country.

16 Q Roth?

17 A Yeah, Roth, R-O-T-H.

18 Q What's his -- You don't know his name?

19 A I don't know his real name.

20 Q Okay. Do the letters G-K-B mean anything to you?

21 A I don't know what that is.

22 Q Okay. How about 9-7-4?

23 A I don't know what that is.

24 Q Do you know what these signals these gentlemen have up
25 on their fingers is? Is that part of your car club?

1 A I don't know.

2 Q But these are the people that you hang out with on a
3 regular basis?

4 A Not on a regular -- Like every other -- I ain't even
5 been with them. Just the only time we meet up is when we
6 have a meeting and when we go to places.

7 MR. STITELY: May I approach, Your Honor?

8 THE COURT: Yes.

9 Q But this is your car with Hookdaddy and Unlawful
10 Intentions stamped all over it. Correct?

11 A Yes, sir.

12 Q And on the second picture on their web site is
13 Hookdaddy and his car. Correct? This car?

14 A Yes, sir.

15 Q And there's pictures of firearms as one of your former
16 profile pictures on your web site, on your Facebook site?

17 A I know it ain't on my profile though.

18 Q Okay. We'll get a computer and we'll verify that.

19 And this is the same car that was involved in that alleged
20 robbery?

21 A Same car but different color. It was all silver when
22 involved in that, when I was getting robbed.

23 Q And when did you start affiliating with these people?

24 A This year.

25 Q So you put all these stickers all over your car this

1 year?

2 A Yes, sir.

3 Q What do they mean? What does the Crown on the front
4 mean? Look at number four. What does that mean?

5 A Because it's a Crown Vic, and I put a crown on it.

6 Q No other significance than that?

7 A Nope.

8 Q What is the significance of the Unlawful Intentions
9 insignia?

10 A I don't really know.

11 Q Would it surprise you to see there are other firearms
12 depicted in the pictures of your club members?

13 A I don't know.

14 Q How about Ms. Salaam? Is she in Unlawful Intentions?

15 A Huh-uh.

16 Q Do you know what car gang or car group she's with?

17 A Huh-uh.

18 Q Do you know what she drives now?

19 A It's that black -- I don't know what kind of car that
20 is.

21 Q So you know her car?

22 A Yeah, she driving it. I just -- She driving it. I
23 don't know if it's hers or not, but I just seen her when
24 she driving it.

25 Q Recently?

1 A Not too long ago.

2 Q So you're still in contact with Ms. Salaam?

3 A No. I just seen her driving a car.

4 MR. STITELY: Judge, it would be along those lines. I
5 additionally would intend to impeach him. Earlier he talks
6 about he didn't know anything about guns. His Facebook
7 page is easily accessible as Hookdaddy. The only reason I
8 got to it is because I went on Unlawful Intentions'
9 Facebook group during lunch because he told me about it.
10 There's a Hook -- There's a link to it. We saw his car; it
11 said Hook all over it, Hookdaddy. We linked to it. If you
12 open it up, under his pictures, you go to albums, you go to
13 profile pictures. There are guns and ammunition. I think
14 it directly impeaches his credibility when he says he
15 doesn't know anything about guns, he doesn't deal with
16 that. It's absolutely not what he's testified to so far.
17 I think it creates questions with his credibility, bias.
18 It's extrinsic and direct evidence of impeachment. And
19 these individuals -- I'll later ask questions of the
20 officers about what these symbols littered throughout the
21 pictures mean.

22 THE COURT: What pictures are there of him?

23 MR. STITELY: Your Honor, on the Facebook page, he is
24 linked as being Hookdaddy, and his name floats over this
25 gentleman in the back. I can't really tell if it's him or

1 not. May I approach, Your Honor? He is -- As you tag
2 people in a picture, he is tagged in that picture as being
3 Hookdaddy who he has now said is him. You can't really
4 tell. It's not the best picture. That's, unfortunately,
5 the best I could get off Facebook.

6 THE COURT: You're going to try to say that these are
7 gang signs or that Latin King is the crown or what? What
8 is it you're saying?

9 MR. STITELY: Well, one of them actually is a G-K-B
10 symbol, the one on the far left, which is Gang Killer
11 Blood; and the one on the right is 9-7-4 which is Gangsters
12 Disciples. I took some classes about gangs, but that's
13 what those symbols mean.

14 THE COURT: I'm not saying that you might not be able
15 to get some -- If he's saying he doesn't know anything
16 about guns and you've got information that he knew
17 something about guns in 2009, I'm not saying you might not
18 be able to get that in. These are photographs that are
19 posted on Facebook now?

20 MR. STITELY: Correct, Your Honor.

21 THE COURT: In my knowledge of Facebook, somebody can
22 tag a photograph and have a name that's not the person in
23 the photograph. There're different levels of controls that
24 a person can operate over their Facebook accounts but --
25 And I don't -- You're going to -- It's too inflammatory;

1 and, even if it's relevant, which I don't think it is, it's
2 so inflammatory I would have to exclude it under Rule 403
3 unless you can tie those loose ends up. Now, the car, I
4 have no idea why you want to introduce a picture of the
5 car.

6 MR. STITELY: It is the first picture on the Facebook
7 page for Unlawful Intentions. This car which he said is
8 him, tagging him. The same way you link, if you click on
9 his name, you get that picture, you get a picture of guns
10 and a picture of a small kid, I guess maybe his son.

11 THE COURT: What is Unlawful Intentions? I mean, he
12 said it's just a car club. If you've got some information
13 that it's something other than a car club that you can put
14 in, that's fine. If it's just pure speculation -- I mean,
15 I don't know if it was on the Spanky and Our Gang -- I'm
16 guess I'm showing my age -- years ago where they had the
17 Woman Haters club. I mean, just because some group gets
18 together and picks up some braggadocio name, unless you've
19 got a link or some evidence to establish that this ties
20 into this crime, I'd have to exclude it under 403 as being
21 irrelevant. My ruling is it's not relevant.

22 MR. STITELY: Judge, the one other thing I would add
23 to that -- I wasn't going to get into it -- but even the
24 jacket that he wears, I'm going to ask the officers about a
25 symbol meaning from the jacket he's wearing today,

1 specifically the relevance of that jacket. I know he's
2 just going to say it's a Budweiser jacket, but I'm going to
3 ask Officer Holloway through his experience and training
4 what it really is about because it has the exact same
5 meaning as the symbols thrown in that picture.

6 THE COURT: Well, I will rule on things as they arise
7 I guess.

8 MR. MAYE: Your Honor, I would object directly to
9 that. He's -- I think we can cut to the chase. He's
10 trying to paint this young man as a gang member, a criminal
11 gang member, and he's trying to say that he went to gang
12 classes and he knows. He's not an expert, been qualified
13 as an expert witness in any regard as to gang symbols
14 or anything else; and he's going to attempt to get up here
15 in front of this jury and paint this young man as a member
16 of some gang and take this -- Like he said, that's a
17 Budweiser jacket over there. He's going to ask him if
18 some symbol on that is associated with some gang. It is
19 rank speculation. He's trying to use Facebook pictures off
20 some other group's web site. I've been a member of the
21 American Motorcycle Association at times. That'd be like
22 trying to say that I'm a member of the Hells Angels
23 because, at an AMA event, the Hells Angels are pictured on
24 their web site. Mr. Maye, weren't you, at one time, a
25 member of the American Motorcycle Association? Your Honor,

1 it's just -- It is clearly an attempt to impeach his
2 credibility through trying to paint him as a criminal gang
3 member, and we're talking about now what his car looks like
4 now versus what was going on in 2009. Your Honor, I just
5 don't think -- I know that the Court is a gate keeper as to
6 what's relevant evidence. I maintain that none of that is
7 relevant in this case. And, in the event that it does, it
8 is relevant evidence or it has any semblance of relevance,
9 the prejudicial value greatly out strips any probative
10 value. This young man has no criminal convictions.
11 There's no evidence anywhere that he's involved in criminal
12 activity. He's trying to paint him as a gang member and
13 it's just to impeach him indirectly, a lot of which is
14 through information on some -- whatever this club's web
15 site is. It's not even his web site. He's directly said,
16 this is not my photograph in here. Your Honor, I would
17 just ask that all of that be excluded unless he's got some
18 evidence that this young man has committed some crime or
19 something that would be impeachable evidence. Anything
20 else is just a collateral attack on his credibility or his
21 character, and I just don't think it's relevant evidence in
22 this case and would object to it, including any reference
23 to having a commercial Budweiser jacket or whether or not
24 some symbol's used that could conceivably be some gang
25 symbol.

1 MR. STITELY: And it's not just one of the club
2 pictures. He is tagged.

3 THE COURT: Yeah, but you don't have any information.
4 It's just rank -- I've already ruled in favor of the State,
5 and I'm happy to let them specifically say what their
6 argument is. I'm not saying to you that, if there were
7 evidence that he is a member of a rival gang, that there
8 might be some motivation, some bias, something related to
9 his testimony. But somebody can go in -- I have a Facebook
10 account. I frequently get notifications that somebody is
11 tagged in a picture. I go to the picture. It's not the
12 person. It's somebody that has listed somebody's name, not
13 the person who is my Facebook friend, but some third person
14 has said my Facebook friend is in this picture. And then
15 I'll look in the picture, and they're not in that picture.
16 It's -- You -- You're on cross examination; you're given
17 very wide latitude. But you've got to tie this together
18 not only as to something that relates to credibility,
19 motive, bias, intent to deceive, something like that -- And
20 it's 2012. This event is alleged to have occurred in 2009.
21 And, I mean, it would be the same thing as if I've got a
22 group of friends that, you know -- I'm not going there.

23 MR. STITELY: Judge, may I ask --

24 THE COURT: I was going to say, you know, people might
25 think something of a certain type of symbol that they don't

1 think anything's wrong with it. You'd never see me put it
2 on My Space, on Facebook or in my house or anywhere else.
3 If one of my -- Now, I've got my settings where nobody's
4 going in and tag me in a picture. But, if they did --
5 Stacy tagged me one time in a picture, and I emailed her
6 and said, don't tag me in anymore pictures. What I'm
7 saying is, if somebody wanted to put a picture of that on
8 there and say, Judge Keesley's in this picture, and I'm not
9 even in the picture and there's this symbol that offends
10 people, and you're going to say I can let that come into a
11 court of law and let somebody, if I'm on the stand, say,
12 aren't you a member of this group that advocates this
13 symbol? That's craziness. No. Go ahead.

14 MR. STITELY: Your Honor, about his page specifically
15 where he does admit to having, on his pictures that he put
16 up there, pictures of firearms, specifically handguns and
17 shotguns, he said that those were his, he put those up. I
18 think he's already said he didn't know nothing about guns
19 or he didn't know about guns when I was crossing him
20 earlier. And he admitted that he put those pictures up of
21 guns.

22 THE COURT: What are the pictures on of the guns?

23 MR. STITELY: They're on his profile pictures, Judge.

24 THE COURT: I haven't seen it.

25 MR. STITELY: I didn't get a chance to print -- I

1 mean, we were late getting through and trying to get all
2 these pictures rounded up, but it is his Facebook page and
3 he's admitted to it. I can ask him about it, do you have
4 pictures of guns as one of your pictures that was a former
5 profile picture on your album that you put up there, you
6 did it. I'm not saying his club, but he did it.

7 THE COURT: When you were asking him about the 45, is
8 that what you're talking about?

9 MR. STITELY: Yes, sir. When he said, well, I don't
10 really know much about guns. I said, how big was it; he
11 kind of says, well, I mean, it was kind of big, but I don't
12 know much. That's what he said, I don't know much about
13 guns. Unfortunately, I couldn't get all the pictures
14 printed. I'm working in a limited capacity here. But it's
15 his picture on his page, not anyone else's. That's in his
16 albums; that's in his profile pictures between one of I
17 think -- I can ask.

18 BY MR. STITELY:

19 Q Is it your son?

20 A What you mean?

21 Q There's a little boy riding a motorcycle and a little
22 boy riding in a car with giant rims.

23 A Oh, yeah, that's my son.

24 MR. STITELY: It's stacked in between two pictures of
25 his son, a picture of several firearms and ammunition.

1 It's his picture, not someone else's.

2 THE COURT: Well, I'm going to need the court reporter
3 to go back, and I need to see what exactly it is you want
4 to use to impeach him. And, again, we've still got the
5 issue about the lapse in time. But go ahead while we're
6 out and ask him specifically what it is you would intend to
7 ask him about the guns if you haven't already done so.

8 MR. STITELY: Yes, sir.

9 BY MR. STITELY:

10 Q Mr. Bookman, when did you upload that picture of
11 firearms to your Facebook page?

12 A It was this year.

13 Q When did you buy those guns?

14 A Sometime this year.

15 Q Did you have any guns or similar guns to them back in
16 2009?

17 A No, sir.

18 Q Did you have any guns back in 2009?

19 A Huh-uh.

20 THE COURT: Say yes or no.

21 A No, sir.

22 MR. MAYE: Your Honor, briefly, I have a nephew that's
23 autistic and he loves trains and he posts pictures of
24 trains on his Facebook page; but, if you were to ask him
25 about a diesel electric engine and a General Electric

1 locomotive that he had in there, there's not a snowball's
2 chance that he could tell you anything about the inner
3 workings of a locomotive. He just likes train pictures.
4 Your Honor, again he wants to paint this guy as somebody
5 that's a thug. And it's not even a valid attempt to do so.
6 He wants to paint him as a gang member and a thug with
7 guns. It doesn't have anything to do with whether or not
8 he could identify the gun back in 2009 which is what he's
9 attempting to bootstrap and link this to, Your Honor, that
10 somehow he was a gun expert because he's got pictures of
11 guns posted on a Facebook page in 2012. He's already
12 testified he didn't own any guns back then. There's no
13 allegation in this case at all that he was armed with any
14 kind of weapon. It's just an attempt to impugn this young
15 man's character and to paint him as a thug and a gang
16 member and somehow somebody that loves guns, bad guns.
17 And, like I said, there are plenty of people across South
18 Carolina, sportsmen, that have firearm pictures on their
19 web site. That alone does not make somebody a criminal.
20 He has stated -- I mean, he has said for the record that he
21 had no criminal convictions whatsoever, Your Honor. And,
22 like I said, it is far more prejudicial than probative in
23 this case and any attempt to link this somehow back to this
24 crime we would maintain is purely spurious.

25 MR. STITELY: Well, Judge, the link comes through

1 their next witness who says she is a drug dealer. She
2 starts talking about stolen rims, the facts and
3 circumstances around how they meet, how they make it here.
4 And I'm going to ask him outright. One of my questions
5 coming down the line is, are you a member of a gang. I
6 think it's a relevant question.

7 THE COURT: Who?

8 MR. STITELY: This gentleman. I just haven't gotten
9 there yet. I'm going to ask him that question on cross
10 examination. I think that the facts and circumstances of
11 that, when we ask Ms. Amber about her affiliations, it's
12 all going to line up.

13 MR. MAYE: All that I would ask is that he proffer
14 that question now; and, if the answer is no, that he not be
15 allowed to ask that in front of the jury because the
16 intent, if he answers no, the intent is just for the jury
17 to hear the question. If he's going to deny it now, let
18 him ask that now and proffer it. But if he says no, I
19 would object to him asking that question, to be rewarded
20 with a no response in front of the jury. It's just a back
21 door attempt to impeach this guy's credibility. And, like
22 I said, I would object. If he's going to do so, I would
23 ask that he do so now. Any questions that he would have
24 along the lines of, are you a gang member, and anything
25 that he's going to use to try to attack his credibility on

1 that basis, I would ask for him to proffer it now and for
2 us to get the answers to those questions. If they're
3 negative and the Court deems that they're not either
4 relevant evidence or it's more prejudicial, that he not be
5 allowed to ask it in front of the jury.

6 THE COURT: I am not going to let you just throw out a
7 question, are you a member of a gang. Now, I've got to go
8 back I guess and repeat myself. I'm not saying there could
9 not be a scenario. I've had trials before where the
10 motive, the *res gestae*, to understand the thing itself,
11 people had to understand that there were assertions that
12 the differing parties were in rival gangs. Now, I'm going
13 to tell you, thankfully, most of the actual trials I have
14 done where this has come up, they were more gang want-
15 to-be's than real gang members. Now, they were doing some
16 bad things, but I think they like the idea -- The trials
17 I'm talking about were in different counties. They seemed
18 to like the idea of being associated with some sort of gang
19 enterprise. But they didn't do the same kind of things
20 that the folks in Los Angeles, for example, would do. They
21 sort of do the trappings of the gangs. But then some of
22 them were friends with each other. I mean it was
23 preposterous to listen to. It is too inflammatory. The
24 assertion that somebody is in a gang is too inflammatory.
25 It brings in a whole nother element. If you have any

1 information that this event had anything to do with gangs,
2 I'll hear you out and I may well let it in. But, unless
3 you have some information, I am not going to allow just
4 throwing gasoline on a fire to hope that people get singed
5 and quit listening to what's going on in the actual
6 transaction. I know I'm not saying this stuff very
7 clearly, and I apologize to y'all. But, if it's relevant,
8 which it is not, for the fifth time, it is excluded under
9 Rule 403. If you can link it, I'll be happy to hear it.

10 MR. STITELY: And, Judge, I'm just piggybacking off of
11 what the Solicitor opened with and asked him on direct. He
12 says, nowadays, it's a bigger status symbol as to where you
13 fall, the bigger wheels you got on your car. I want to know
14 what status symbol and what world he's trying to achieve
15 higher up by the way he comports himself. I mean, he asked
16 that in opening. He said, this man was just trying to
17 improve his status. That was his opening statement. And
18 then he asked him on direct, well, you're a bigger man if
19 you got bigger wheels. Bigger than what? And they've
20 opened that up. They started asking the questions.

21 THE COURT: Well, when I was doing the things that he
22 was talking about with the Chevelle, I was trying to
23 impress girls. You can't make a leap that, because
24 somebody puts 23-inch rims on a Crown Victoria, that
25 they're a member of the Bloods or Folk Nation or the Crips.

1 You can't do it; it's just too far afield. I'm sorry.
2 I'll let you make any proffer you want to. If I'm off on
3 this, I apologize to you and your client profusely. If the
4 Supreme Court reverses me because of this, I'll eat my
5 humble pie. But I don't think it's even a close
6 question. You can't go throw crap all over the walls.
7 It's got to be relevant. Now, as I said to you earlier in
8 one of my rulings -- not today -- when I ruled saying I may
9 well let something in if this -- This whole equation is
10 suspect. You may have reasonable doubt going around big
11 time. I don't know. I've been impressed with the
12 presentation by both attorneys. It seems that there's a
13 real strong argument that can be made. Now, I don't know
14 if it's true, sir; don't take it wrong. I'm not commenting
15 on the facts. But there's a real strong argument that can
16 be made that, at best, this guy was going to buy stolen
17 rims and it went south. And I haven't stopped you from
18 being able to go down that line.

19 MR. STITELY: Yes, sir.

20 THE COURT: Do you need any more proffer? I've made
21 the rulings. I haven't changed the rules from the get-go.
22 And, as far as the photograph with the weapons, I haven't
23 seen it, so I don't know how I'm supposed to rule on it.

24 MR. STITELY: Yes, sir. Your Honor, I've made all the
25 proffer I need.

1 THE COURT: Bring in the jury.

2 (The jury returns to the courtroom.)

3 THE COURT: The objection's sustained. Pose your next
4 question, please.

5 MR. STITELY: Your Honor, that's all the questions I
6 have for this witness.

7 THE COURT: Redirect?

8 MR. MAYE: Nothing, Your Honor. Thank you.

9 THE COURT: Thank you, sir. You may step down. Call
10 your next witness.

11 MR. MAYE: The State would call Amber Salaam.

12 THE COURT: Ms. Salaam, I need you to come around to
13 the Clerk, please, and let her swear you in.

14 **AMBER SALAAM,**

15 **having been duly sworn, testified as follows:**

16 **DIRECT EXAMINATION**

17 BY MR. MAYE:

18 Q Ms. Salaam, would just state your name for the record?

19 A Amber Salaam.

20 Q Okay. Amber, tell the ladies and gentlemen of the
21 jury where you're from. Where did you grow up?

22 A Newberry, South Carolina.

23 Q Okay. Where do you live now?

24 A Columbia, South Carolina.

25 Q Okay. Where are you currently employed? Where do you

1 work now?

2 A Carolina Bingo.

3 Q Carolina Bingo. Okay. You got family over in
4 Newberry?

5 A Yes, sir.

6 Q Did you grow up and went to school there?

7 A Yes, sir.

8 Q Okay. How long before July 9th of 2009 did you know
9 the defendant in this case, Victor Jones or T.J.? How long
10 did you know him?

11 A Eight or nine months.

12 Q Eight or nine months. Did you see him on multiple
13 occasions in the eight or nine months prior to that time?

14 A Yes, sir.

15 Q Did y'all have communications? Did you call each
16 other back and forth?

17 A Yes, sir.

18 Q Okay. I want to direct your attention to about a week
19 before the date of this robbery, July 9th of 2009. When
20 was the first time that you had an occasion to encounter
21 the victim in this case, Mr. Bookman over here? What was
22 the circumstance? Where were you?

23 A In Prosperity, South Carolina.

24 Q Where?

25 A In some apartments sitting outside.

1 Q Okay. You were sitting outside of an apartment?

2 A Yes, sir.

3 Q Tell them what brought him to your attention and how
4 you got started talking to him. What happened?

5 A I had some rims for sale; and me and my homegirl, we
6 was outside. And she was like, he probably want to buy
7 your rims; and I said, ask him. She had ask him. When he
8 was pulling out, he had stopped where I was, and I told him
9 I had some rims for sale. He got my number.

10 Q This was a guy driving what?

11 A He was driving a -- I think he had a Crown Vic with
12 some all black color caps, ties.

13 Q And you thought perhaps that he might be a willing
14 customer to buy your rims --

15 A Yes, sir.

16 Q -- because he didn't have any rims on his Crown Vic?

17 A Yes, sir.

18 Q Okay. So what conversation did you have with him
19 based on that?

20 A That was it. He told me he was going to call me when
21 he get paid Friday.

22 Q When was the next time that you heard from him and in
23 what fashion did you hear from him?

24 A A text message.

25 Q Text message. Okay. So what was the message you got

1 or what happened as a result of that text message?

2 A He just said he ready, he got the money, he ready.

3 Q Okay. So what happens next after you get the text
4 message saying he's ready?

5 A I told him where I stayed at.

6 Q Okay. What happened next?

7 A He came to my house, and I had the carjacked up
8 waiting on my brother to come back to take the rims off.
9 By then, I had already got a text message for some other
10 rims, and I showed him a picture of some bigger rims that
11 was like some 23's or some 24's.

12 Q Who did you get that message from in regard to the
13 bigger rims?

14 A I got a text message from T.J.

15 Q Okay. If you already had your carjacked up to sell
16 him some rims, why were you wanting to sell some rims for
17 T.J. or Victor Jones?

18 A He told me he was going to give me half, and I ask
19 him -- I showed Mr. Bookman a picture. I said, you want
20 these rims or my rims. He wanted the bigger rims. He
21 ain't want my rims. I had some 22's. So the other ones,
22 they was just a couple inches bigger, and those the rims he
23 wanted. So I called T.J.

24 Q And you were going to get a cut --

25 A Yes, sir.

1 Q -- off of the sale of the other ones?

2 A Yes, sir.

3 Q And didn't even have to sell yours?

4 A Yes, sir.

5 Q Okay. So where do y'all go then once he decides he
6 wants the other rims? You showed him the picture. Is that
7 correct?

8 A Yes, sir.

9 Q Okay. Where do you go next?

10 A Well, I called T.J. back. We called T.J.

11 Q Okay.

12 A He told us to meet him at the first store coming off
13 Newberry Highway.

14 Q Who's driving?

15 A Mr. Bookman.

16 Q Okay.

17 A But, before we even got in the car, I wasn't even
18 going to ride. He asked me to ride because I guess he
19 didn't know where he was going or -- I don't know. He just
20 ask me to ride, so I went and ask my sister could I ride,
21 could she babysit for me while I ride with him.

22 Q Okay.

23 A On the way there, we stopped at a store and called
24 T.J. We told him we was there; and he said, meet us at
25 Burger King.

1 Q Okay.

2 A So we went in the store, got back out, went to Burger
3 King; and, as we was pulling beside the car T.J. was in,
4 they put their hands out the window like, follow me
5 (indicating).

6 Q What kind of car was it?

7 A It was like a four-door goldish color car.

8 Q How many people were in the car? Could you tell?

9 A It was three people.

10 Q Three people total in the gold car?

11 A Yes, sir.

12 Q Okay. So they waved y'all on. After they waved y'all
13 on to follow them, where did y'all go?

14 A We went on a dirt road. They pull up --

15 Q Here in Saluda?

16 A Yes, sir.

17 Q Let me ask you this. I'm going to show you --

18 MR. MAYE: I'm going to mark for identification at
19 this point in time these two photographs.

20 (State's Exhibit 6 and 7 marked for identification.)

21 BY MR. MAYE:

22 Q I'm going to show you two photographs marked State's 6
23 and 7 right now. Take a look at those pictures.

24 A (Witness complies.)

25 Q Have you had a chance to see them both?

1 A Yes, sir.

2 Q Do those pictures fairly and accurately reflect the
3 location where this armed robbery took place?

4 A Yes, sir.

5 Q Okay.

6 MR. MAYE: Your Honor, I move to admit these in
7 evidence at this time. I previously provided them copies.

8 MR. STITELY: I'm going to object to the foundation.
9 I mean, it's a picture of her standing outside. I mean,
10 we're going to need more about the location other than just
11 him saying this accurately reflects the location. I don't
12 know who took it. It's just a picture of her standing
13 outside. There's no context as to when it was taken, where
14 it was taken.

15 THE COURT: I think we do need a little bit more
16 foundation about what it depicts related to 2009.

17 BY MR. MAYE:

18 Q Let me show you State's 6, this photograph. Does
19 that -- Did you go with Investigator Charles Holloway and
20 show him the location where the robbery took place?

21 A Yes, sir.

22 Q Did he take your picture at the location where you
23 took him to to show him where the robbery took place?

24 A Yes, sir.

25 Q Same thing as to State's 7. Did you go with

1 Investigator Charles Holloway to the location where the
2 armed robbery occurred and did he take that picture of you
3 standing there?

4 A Yes, sir.

5 Q Is that the same dirt road here in Saluda where the
6 armed robbery took place?

7 A Yes, sir.

8 Q Does that picture fairly and accurately reflect it?

9 A Yes, sir.

10 Q Were both of these photographs of you taken by
11 Investigator Charles Holloway after you took him out there?

12 A Yes, sir.

13 MR. MAYE: Your Honor, I move to admit these two in
14 evidence.

15 MR. STITELY: I'm going to object. I may have a
16 matter to take up outside the presence of the jury.

17 THE COURT: Ladies and gentlemen of the jury, I need
18 you to step in the jury room. Do not discuss the case,
19 please.

20 (The jury retires to the jury room.)

21 THE COURT: Yes, sir.

22 MR. STITELY: Your Honor, I did receive the pictures
23 in discovery, so I want to clarify. I received the
24 pictures; I've seen them before the trial; they were given
25 to me in the original packet and in a supplemental email to

1 me, so that's not where I'm going with this. Your Honor,
2 I've already talked about it once with the incident reports
3 and supplemental reports. It's four pages in total that I
4 received by way of discovery. Nowhere anywhere does it
5 detail Officer Holloway going out to a scene. There's
6 nothing that even gave me any notice as to what the scene
7 could possibly be so I can make a determination as to go
8 look at it to find out. Nowhere in the notes was I
9 provided that he even went with a witness to the scene. I
10 intended it to be part of my defense from the get-go.
11 That's why I asked Mr. Bookman questions. Nowhere have
12 they provided me a location besides saying a dirt road.
13 There's been no mention of it anywhere in the reports.

14 THE COURT: What requires him to do that? Go ahead,
15 Solicitor.

16 MR. MAYE: I'm sorry. Page one of the incident report
17 says West Utah Street, Saluda, South Carolina. This is
18 West Utah Street. He could've driven right out there
19 looking at a Saluda map. It turns into a dirt road. It is
20 West Utah Street here in Saluda, Your Honor. The incident
21 location is right on page one, the first document that he
22 would've seen. I don't know if there's any requirement
23 either, but I just -- To refute that, I was bringing that
24 up. The incident location is there; and this is the
25 incident location, West Utah Street.

1 THE COURT: Anything else?

2 MR. STITELY: Judge, I think that it's not fair to try
3 to prepare a defense. Nowhere in the officer's
4 investigative notes does he talk about taking a witness out
5 to ID a scene. These pictures came with no additional
6 context. For all I knew, they were taking a picture of a
7 woman who may be the accused in this case or the victim in
8 this case. There was no context, nothing aside from
9 pictures. Nowhere in the officer's reports does it say
10 where they went, how they got there. And I see where he's
11 saying it says there's an event on West Utah Street, but
12 there's nothing. There's nothing in here that he talked to
13 a witness who told him how to get there. There's nothing
14 that he took this individual out there. There's nothing in
15 any of this about pictures taken. There's nothing to back
16 up the details of those pictures. All I knew was they were
17 pictures of her. I mean, that's -- And you can look at
18 them, Judge, number 6 and 7. They've got no context.
19 They're just pictures of a young woman, no road signs, no
20 maps.

21 THE COURT: I'm struggling to understand where you
22 think they have to tell you that.

23 MR. STITELY: I think they have a duty to tell me
24 where they're alleging this crime happened and at least
25 provide something in discovery as to how they got there or

1 how, you know, how we prove it's in Saluda County. And all
2 they've offered through these pictures is they're trying to
3 say this picture proves where it happened. That's not what
4 this picture is. It's a picture of her. And he's saying
5 this is the location where it happened.

6 THE COURT: Well, she's not floating in mid-air.

7 MR. STITELY: But there are no pictures that are
8 mentioned.

9 THE COURT: Well, I saw it. I saw it, and it was
10 somebody standing by a gravel road.

11 MR. STITELY: It's not even a dirt road. That's the
12 problem. I mean, it does not meet the description that
13 anyone's given so far. It's just a woman standing on the
14 side of a road.

15 THE COURT: If you've got Rule 5 in front of you,
16 please show me where in the world they have to tell you
17 that.

18 MR. STITELY: I just think it's just due process in
19 general to prepare a defense. I've got -- I mean, I've got
20 no notice as to where they were going with this. There was
21 no statement from Mr. Bookman or her about where it
22 happened, so I was coming in planning on arguing whether
23 they were going to prove jurisdiction.

24 THE COURT: You lost me.

25 MR. STITELY: There's nothing in either her statement,

1 Mr. Bookman's statements, the officer's notes, that talk
2 about where about this happened.

3 THE COURT: It says West Utah Street.

4 MR. MAYE: It says incident location, West Utah
5 Street, Saluda, South Carolina. It's all but the zip code.
6 Anybody -- I know that he's proficient with Facebook.
7 Anybody with half a brain can look at Google maps and go to
8 West Utah Street. That's what I did. When I went to see
9 where the location was myself, I went and looked at where
10 West Utah Street was in Saluda County -- I mean, in Saluda,
11 South Carolina, in the town limits. This is the Saluda
12 Town Police Department. They certainly were on notice
13 where the incident location was.

14 THE COURT: What else do y'all need to put on the
15 record?

16 MR. STITELY: Nothing, Judge.

17 THE COURT: There is no violation. Now, just to
18 shortcut things -- I'm not trying to inject myself in the
19 trial -- I still haven't heard a link between what this is
20 in this picture and anything about what it looked like in
21 2009. Nobody has said when the pictures were taken,
22 whether there's been any changes out in the area. You
23 asked if it fairly and accurately depicted the location,
24 but it doesn't say when. We're talking three years back.
25 My head's about to split wide open; I've got to go get some

1 aspirin. You can step down if you like, but you can't
2 discuss your testimony with anyone. If you want to stay
3 there, that's fine. We're going to take a break. We'll be
4 right back. Thank you.

5 (Brief Recess.)

6 THE COURT: I need you back up here, ma'am.

7 (Witness resumes the witness stand.)

8 THE COURT: All right. This is going to be real
9 technical. I've reviewed Rule 5. And, if the photographs
10 were turned over, I think that's sufficient. It doesn't
11 indicate anything in the testimony about this being some
12 sort of test that was performed or examination requiring
13 further disclosure under subsection A-1-d. There's no
14 information that it's exculpatory in any way or anything
15 that was not disclosed to be exculpatory in any way that
16 would require a *Brady* problem to be considered. And
17 there's a duty of inquiry. I think it's pretty common to
18 have sent to somebody who's going to know where it
19 occurred. All right. Bring in the jury.

20 MR. MAYE: Your Honor, I just have one matter that's
21 totally unrelated. In efforts -- Like I said, I didn't
22 interject myself in this until now; and, like I said,
23 possibly I should have. It's my understanding that
24 yesterday morning the defense served on the Chief or the
25 Acting Chief of the Saluda Town Police Department a

1 subpoena for Investigator Charles Holloway's personnel
2 records. He had asked that the Town turn them over. It's
3 not something that he personally possessed as Acting Chief.
4 He went over and asked the Town Clerk to get any personnel
5 records they had for Investigator Holloway. He has brought
6 them here to the courtroom. I'm turning them over to the
7 Court in this case. I would ask the Court to review them
8 and to see if there are any relevant evidence in regard to
9 this case; and, if there are, I'll leave it to the Court to
10 make a determination. You can review those at your
11 leisure. And, if there are relevant evidence in this case,
12 I would ask that the Court make a determination as to
13 whether or not they should be provided to the defense.

14 THE COURT: What does the defense need to put on the
15 record about this?

16 MR. STITELY: That's fine, Judge, if you want to
17 review them first.

18 THE COURT: What is it that you think I should be
19 looking for?

20 MR. STITELY: For what it's worth, Your Honor, I
21 relied, you know, on conversations with my client. In
22 talking to him, there's been a lot of speculation as to the
23 reasons why Mr. Holloway is no longer at the Saluda Police
24 Department. There's a lot of chatter over at the Detention
25 Center where my client has been living for the past year or

1 so. And, on his request, we went ahead and subpoenaed it
2 to see if there was any harassing or any other comments as
3 to possible dealings that led to him no longer being
4 employed with the Town of Saluda. I don't know what's in
5 there, Judge. I was just told about the rumors that he
6 heard, so I went ahead and filed the request. If Your
7 Honor wants to take a look at them first, I'm perfectly
8 fine with that. And I don't need to see it if the Court
9 doesn't see anything it needs.

10 THE COURT: All right. Thank you. Bring in the jury.

11 (The jury returns to the courtroom.)

12 THE COURT: Yes, sir.

13 MR. MAYE: Again, for the record, I would offer the
14 State's 6 and 7 into evidence at this time.

15 MR. STITELY: I would still raise the foundation
16 problem that we talked about.

17 THE COURT: All right. I told y'all during the break
18 what my issue was. The objection's sustained at this
19 point. You can ask more questions.

20 BY MR. MAYE:

21 Q Let me ask you this. Please look at State's 6 and
22 State's 7. Was the area in substantially the same
23 condition back on the day of this robbery? Was it a wooded
24 area and a gravel road? Is this substantially in the same
25 condition that it was in back then during the time that

1 this armed robbery occurred, July 9, 2009?

2 A Yes, sir.

3 MR. MAYE: Your Honor, at this point in time, I move
4 to admit them into evidence.

5 THE COURT: Any objection?

6 MR. STITELY: Judge, I just want to know when the
7 pictures were taken. I mean --

8 THE COURT: Okay. I understand. That's your
9 objection?

10 MR. STITELY: Yes, sir.

11 THE COURT: The objection's overruled subject to
12 cross. You can cross examine her about that.

13 MR. STITELY: Yes, sir.

14 THE COURT: Mark them in evidence, please, ma'am.

15 (State's Exhibit 6 and 7 admitted.)

16 BY MR. MAYE:

17 Q Amber, I'm going to show you State's 7. This is a
18 wooded area and a dirt road. Correct?

19 A Yes, sir.

20 Q Y'all followed that car away from Burger King up here
21 in the middle of town in Saluda out to that location here
22 in Saluda on this dirt road. Right?

23 A Yes, sir.

24 Q That area where this took place, is that in Saluda
25 County?

1 A Yes, sir.

2 Q Amber, let me back up just a little bit. Now, when
3 y'all went, the identifier of the information that you gave
4 to Mr. Bookman in this case is y'all were going to deal
5 with somebody named Brian. Right?

6 A No, sir, I never told him that. He never ask for a
7 name.

8 Q When did you identify him as Brian?

9 A Once I got to the police station.

10 Q So you gave some false information to the police about
11 this afterwards and you falsely identified somebody as
12 Brian. Correct?

13 A Yes, sir.

14 Q All right. Because Mr. Bookman, almost immediately,
15 was giving the name of Brian to the police. Is that
16 correct?

17 A I'm not sure, sir.

18 Q Okay. Y'all go out there to the dirt road that's in
19 those pictures. What happens when you get out there?
20 Who's leading the way when you go?

21 A The gold color car was in front of us and we was
22 behind, and they pulled off to the side right there and --

23 Q What happened?

24 A We pulled over to the other side of them, and two
25 people hopped out the car. One went around to

1 Mr. Bookman's side, and the other one came around to my
2 side.

3 Q Okay. Let me ask you this. Was the defendant in this
4 case, T.J. or Victor Jones, one of the two individuals that
5 came around and went up to the car?

6 A Yes, sir.

7 Q Did you get a chance to see him?

8 A Yes, sir.

9 Q At the time that this happened was it daytime or was
10 it nighttime?

11 A Daytime.

12 Q Okay. Were you paying attention? Were you looking
13 when this was going on?

14 A Yes, sir.

15 Q Okay. Are you absolutely certain that the individual
16 that you saw get out in this case was Victor Jones, the
17 defendant in this case?

18 A Yes, sir.

19 Q Okay. Is Victor Jones present today here in the
20 courtroom?

21 A Yes, sir.

22 Q Could you point him out and describe what he's wearing
23 and where he's sitting?

24 A Sitting right here in the front row (indicating).

25 Q What's he got on?

1 A A blue and gold color striped shirt?

2 Q Okay. The two guys sitting at the table, is he on the
3 right side or the left side?

4 A He's on my right side.

5 Q On your right side. Okay.

6 MR. MAYE: Your Honor, I'd just ask that the record
7 reflect she's identified the defendant in this case.

8 THE COURT: So noted.

9 BY MR. MAYE:

10 Q Once you saw Victor get out, how about the other
11 people there? You said there were two others. Did one
12 stay in the car?

13 A Yes, sir.

14 Q How about the other two dudes? Did you know them?

15 A No, sir.

16 Q Had you ever seen them before?

17 A No, sir.

18 Q Okay. But you did know Victor Jones and had been
19 hanging with him for what, eight months?

20 A Yes, sir.

21 Q Okay. What happened next?

22 A Well, both of them got out the car. One of them
23 came -- Tony came to Mr. Bookman's side, and the other
24 dude, he came my side.

25 Q Who came to Bookman's side?

1 A Tony Jones.

2 Q Tony. You know him as Tony. Okay. So what happened
3 next?

4 A Both of them had pistols, and both of them told us to
5 put our head down, don't look. And, after that, they asked
6 for the money and told him to pop the trunk for the
7 speakers. They got the speakers and money. They pulled
8 off, and we pulled off after.

9 Q Okay. Let me ask you this. Did you hear Victor Jones
10 talking? Could you hear his voice during that time?

11 A Yes, sir.

12 Q What all did you hear him saying at that time?

13 A Where the money at, pop the trunk.

14 Q Who was he asking where the money was?

15 A Mr. Bookman.

16 Q Okay. You're positive Victor Jones had a gun?

17 A Yes, sir.

18 Q Okay. What all -- Did you see what they took out of
19 the trunk of the car?

20 A No, sir. I just know he said he had speakers.

21 Q Okay. You didn't see? You kept your head down?

22 A Yes, sir.

23 Q Okay. Amber, did they take anything from you?

24 A No, sir.

25 Q Did they ask you for anything?

- 1 A No, sir. He just told me not to look at them.
- 2 Q They didn't try to get anything from you during this
3 robbery?
- 4 A No, sir.
- 5 Q Do you know why they didn't try to rob you too?
- 6 A No, sir.
- 7 Q What happened next?
- 8 A We both drove off.
- 9 Q Okay. Where did y'all go?
- 10 A He went to a store on the strip looking for his
11 cousin.
- 12 Q Okay. What was the next thing that happened?
- 13 A He dropped me off at home.
- 14 Q He dropped you off.
- 15 A Mr. Bookman --
- 16 Q. Took you back?
- 17 A -- took me back home.
- 18 Q Okay. Now, a few days later you talked to the Saluda
19 Town Police Department. You talked to Investigator
20 Holloway, did you not?
- 21 A Yes, sir.
- 22 Q Okay. And you started telling lies in this case,
23 didn't you?
- 24 A Yes, sir.
- 25 Q In fact, you told Investigator Holloway you

1 misidentified the person that y'all were going there to
2 meet as somebody named Brian. Isn't that right?

3 A Yes, sir.

4 Q I'm going to show you what's been marked State's
5 Exhibit 4 for ID Take a look at that.

6 A (Witness complies.)

7 Q You see that?

8 A Yes, sir.

9 Q You looked at this photo array at that time too,
10 didn't you?

11 A Yes, sir.

12 Q You said there wasn't anybody on there that you knew.
13 Isn't that right?

14 A Yes, sir.

15 Q That wasn't true, was it?

16 A No, sir.

17 Q You did know somebody on there, didn't you?

18 A Yes, sir.

19 Q Why did you lie?

20 A I ain't want to be a snitch. I was scared.

21 THE COURT: Say that again.

22 A I ain't want to be a snitch. I was scared.

23 Q Now, Amber, did you know that they were going to rip
24 him off when y'all set sail over there from Newberry?

25 A No, sir.

1 Q But, yet, you have no explanation as to why you didn't
2 get robbed, only he got robbed?

3 A No, sir.

4 Q Okay. What, specifically, did Victor Jones ask you
5 about who this person was that you were bringing? What did
6 he ask you?

7 A He ask me -- He sent me a text and ask me, was he
8 strapped.

9 Q Was he strapped. What does that mean?

10 A Did he have a pistol.

11 Q He wanted to know if he was armed before y'all came
12 over there. Right?

13 A Yes, sir.

14 Q What did you tell him?

15 A I don't know.

16 Q Did it make any sense --

17 THE COURT: Wait a minute. You told him you don't
18 know, or you don't know what you told him?

19 A I told him I didn't know.

20 Q You told him you didn't know whether or not he had a
21 gun or not?

22 A Correct.

23 Q Did it not give you some pause that he was asking you
24 whether or not this guy was armed or whether or not he had
25 a gun or not?

1 A I thought about it but, when he said meet him at
2 Burger King, I knew nothing like that was going to go down
3 at Burger King.

4 Q And you're telling this jury you had no idea he was
5 going to get robbed even though Victor Jones was asking you
6 ahead of time, does this guy have some kind of gun?

7 A Yes, sir.

8 Q Okay. There later came a time that you got charged
9 with the armed robbery yourself. Isn't that right?

10 A Yes, sir.

11 Q When Officer Charles Holloway came to get you, you
12 told him that you wanted to come clean. Is that right?

13 A Yes, sir.

14 Q Did he give you any information that anybody else had
15 told on you or anything else before then?

16 A No, sir.

17 Q When he came to get you, you just told him that you
18 wanted to come clean?

19 A Yes, sir.

20 Q Ms. Salaam, at the point in time that you went and
21 talked to him, who did you tell him was involved that you
22 had omitted the first go round?

23 A Tony, T.J.

24 Q T.J. Let me ask you this again. I'm going to show
25 you State's 4 for identification, and you can look at the

1 writing on there. Is that the photo array that
2 Investigator Charles Holloway showed you on 8/5 of 2009?

3 A Yes, sir.

4 Q Is that your initials there --

5 A Yes, sir.

6 Q -- on the photograph?

7 A Yes, sir.

8 Q This is the original, and that's your initials?

9 A Yes, sir.

10 Q Were you able to identify anybody as being involved in
11 the robbery out of that photo array?

12 A No, sir.

13 Q Not the first go round, but the second time that you
14 went back?

15 A Yes, sir.

16 Q Who did you identify?

17 A Number three, T.J.

18 Q T.J. And that's a picture of T.J.?

19 MR. MAYE: Your Honor, at this time, I'm going to move
20 to admit this into evidence.

21 MR. STITELY: I'm going to object to foundation, the
22 same objection I had last time it was brought before you.

23 THE COURT: I don't think you can get it in yet.

24 MR. MAYE: I'll leave it as ID at this point in time.

25 Q Amber, let me ask you this. Are you absolutely

1 certain that the person that's depicted in number three⁴
2 here is the person that did the armed robbery there?

3 A Yes, sir.

4 Q You're certain you saw him with a gun?

5 A Yes, sir.

6 Q And you're certain that it was Victor Jones or T.J. as
7 you know him?

8 A Yes, sir.

9 Q And that's the same person that's sitting here in the
10 courtroom today?

11 A Yes, sir.

12 Q Amber, let me ask you this. Prior to looking at that
13 photo array, did anybody do anything or did Investigator
14 Holloway or anybody in law enforcement do anything to
15 suggest one of these pictures over another?

16 A No, sir.

17 Q Okay. Did he tell you anything about any of the
18 individuals in this photo lineup prior to you looking at
19 it?

20 A No, sir.

21 Q Did he just ask you, if anybody was involved in the
22 armed robbery the second time you made the ID, to pick him
23 out?

24 A Yes, sir.

25 Q Amber, let me ask you this. You know you're charged

AMBER SALAAM: DIRECT EXAMINATION BY MR. MAYE

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1 with armed robbery in this case; you face that now.

2 Correct?

3 A Yes, sir.

4 Q Has anybody made you any promises as to what will
5 happen to your charges based on your cooperation?

6 A No, sir.

7 Q Do you know, in fact, at this point in time, what will
8 happen in this case?

9 A No, sir.

10 MR. MAYE: Your Honor, can we take a brief recess
11 prior to cross examination? I don't have any further
12 questions for her at this time; but, prior to cross
13 examination, I have one matter that I would like to take up
14 outside the presence of the jury. Beg the Court's
15 indulgence.

16 THE COURT: Sure. Folks, I haven't talked to the
17 lawyers, but my expectation is that the cross examination
18 of this witness is probably going to be fairly --

19 MR. STITELY: It's going to take at least more than an
20 hour, Judge.

21 THE COURT: -- fairly lengthy. So I told y'all about
22 what I usually do on Halloween, and I told you usually
23 about 4:00 o'clock, unless y'all send me a note saying you
24 want to press on past 4:00, I'm going to break at 4:00.
25 All right? And, if you do, send me a note. So talk about

1 it. You can't talk about the case now in any way. All
2 right. If you'll step back in the jury room. I'll get
3 back to you as quickly as I can. Thank you.

4 (The jury retires to the jury room.)

5 THE COURT: Yes, sir.

6 MR. MAYE: Your Honor, the only thing I would have
7 is -- and I brought this up during the in-camera hearing
8 that we had initially to begin with -- the only criminal
9 record that I reflect that Amber Salaam has is she had a
10 burglary second nonviolent conviction in 2006, Your Honor.
11 I don't show her having any other criminal charges in this
12 case. That's all that she's got pending with us. I know
13 certainly there was a lot of questions about whether or not
14 she was a dope dealer, about basically the same kind of
15 gang line of questioning. I know that this is different
16 than the victim in the case, Your Honor; but I would object
17 to them going any further into her criminal history in this
18 case. I would think that it's more prejudicial than
19 probative in this case and would leave that to the Court's
20 determination in this case. But I did want to bring that
21 up. That's all that I reflect that she's gotten any
22 convictions for, and I don't show her as having -- I'm
23 unaware that she's got any pending charges in any other
24 places or anything else that would subject her to claims of
25 bias other than that charge that she currently faces.

1 THE COURT: Ms. Salaam, where did they have you
2 waiting before you came in?

3 MS. SALAAM: In the hall.

4 THE COURT: All right. I'm going to ask you to step
5 back in the hall. Don't discuss anything about your
6 testimony. We're probably going to break after I finish
7 this, so you need to be back here tomorrow. Make sure you
8 know what time to be back before you leave.

9 MS. SALAAM: Yes, sir.

10 THE COURT: And don't talk to anybody about your
11 testimony at all. You need to come back on the stand
12 without having talked to anybody. Now, if you want to talk
13 to Mr. Casto, you can.

14 MS. SALAAM: Yes, sir.

15 THE COURT: I'm sorry. I didn't mean to imply that
16 you can't talk to your lawyer, but don't talk to anybody
17 else about your testimony. Okay?

18 MS. SALAAM: Yes, sir.

19 THE COURT: Thank you.

20 (Witness leaves the courtroom.)

21 THE COURT: They want to stop at 4:00. Mark that as a
22 Court's exhibit.

23 (Court's Exhibit Number 2 marked for identification.)

24 THE COURT: All right. Here's the difficulty that I
25 have. Again, I'm going to preface everything by saying I

1 wasn't there and I don't know much about this case. All I
2 know is what I'm hearing as it develops. There is a strong
3 argument that this testimony doesn't really add up and that
4 there is something that's being concealed or minimized, and
5 I don't know if an assertion can be made that this lady is
6 playing one off on the other. I'm not real comfortable
7 with saying that a lot of evidence or much, if any, can
8 come in about the drug situation. But you've got just a
9 lot of strange things. You've got somebody come in here;
10 there's evidence. And, again, I'm not saying what's true
11 and what's not true. I don't know. That's not my job.
12 Like I told the jury, I don't really think much about that.
13 But you have evidence that could certainly be construed
14 that Mr. Bookman came to Saluda County to buy stolen rims.
15 And it hasn't come out in front of the jury yet. There's
16 also this question about why he didn't go straight to law
17 enforcement. Now, he's given an explanation that the jury
18 may well accept, but it is suspicious that somebody's a
19 victim of an armed robbery and they decide to go back and
20 let some relative work this out. Work it out how? I mean,
21 there's things that just don't make any sense; they don't
22 add up. Now, they may add up in one version that the jury
23 completely accepts. But a man's on trial for a minimum of
24 25 years -- I mean, a minimum of 10 years -- I apologize --
25 and I've been told that, if he's convicted, they're going

1 to attempt to use this to establish a life without parole
2 sentence. I've already told y'all that's not my call to
3 make. And I've been around the criminal justice system
4 long enough to know that you don't usually have the local
5 Baptist league coming in to testify. It's usually the
6 folks that are involved in these matters, that are skirting
7 society; so you have to make some arrangements with some
8 folks. Sometimes you just would prefer you had a different
9 person testifying. But, having said that, I can certainly
10 see how the jury would perhaps have some reasonable doubt
11 about whether they can believe Ms. Salaam who admits that
12 she lied and they can have a reasonable doubt about whether
13 Mr. Bookman's telling the whole truth in which, if they did
14 or they decide to minimize or give the benefit of the doubt
15 to the defendant, they can minimize the testimony of
16 Mr. Bookman's explanation, give the benefit of the doubt to
17 the defendant and just say, it just doesn't add up. And I
18 don't know if there's going to be an assertion that there
19 was no gun that's going to go before the jury, but that
20 could even get more significant if there's a question about
21 whether there's a lesser-included offense charge. I mean,
22 I can go through an in-camera hearing; I can hear it. But
23 I'm going to tell you I'm probably going to be lenient and
24 let all that stuff in. Now, again, I'm uncomfortable with
25 the drug dealing because I haven't heard anything about

1 drugs. Now, I'm not telling you that you don't have carte
2 blanche to go into it, Mr. Stitely, if at all. You're
3 going to be able to ask her about her convictions. Yes?
4 What do you need to put on the record?

5 MR. STITELY: Judge, I don't intend to ask her about
6 specific instances of when she sold drugs. And she
7 admitted to it yesterday, and it comes into play with my
8 line of questioning about why they can't even give us a
9 cell phone to show this. And, Judge, I can go through a
10 long proffer and tell you where I'm going. But she admits
11 that she's a drug dealer, she has tons of cell phones,
12 she's brokering deals about what she claims she knows to be
13 stolen goods with an individual who they keep saying they
14 met each other a week before, they randomly get in a car
15 together, she doesn't lose her cell phone, they don't call
16 law enforcement. And I think I would have a right to ask
17 her about it. When they go looking for her, they have to
18 go through two different counties and break drug detainers.
19 And I haven't received an updated record for the past three
20 years, so I don't know what happened to those charges.
21 But, I mean, Judge -- And you don't have to rely strictly
22 on convictions here when we're talking about impeachable
23 relevant evidence. It starts with larcenies in 2006,
24 burglaries in 2006, drugs, assaults, disorderlies in 07,
25 breach of peace, manufacturings, other possessions, another

1 manufacturing, another possession that was dismissed at
2 prelim, another breach of peace, all in 07, in 07 another
3 burglary. It says non-conviction. I don't know what the
4 disposition was on that. But, even the fact that it wasn't
5 a conviction, it's still a prior bad act that could be used
6 potentially for impeachment; it doesn't have to be a
7 conviction. In 07, she has -- I'm sorry -- 08, she has a
8 pair of criminal conspiracies. I mean, and I don't know
9 what the drug charges were when she was in Lexington and
10 Orangeburg before because I don't have -- I mean, they're
11 not on the records that I received. But I have copies of
12 the detainers; I have copies of the letters from the two
13 departments' jails. And she --

14 THE COURT: Well, if she's got pending charges, you
15 may be able to go into those when you normally wouldn't to
16 question whether she's really telling the truth about what
17 she expects to gain from her testimony.

18 MR. STITELY: Yes, sir.

19 THE COURT: Now, old charges that she was never
20 convicted of I don't know that you're going to be able to
21 go into any of that.

22 MR. STITELY: And I don't intend to specifically ask
23 her about anything. I'm just asking. And I'll leave it to
24 the question, you have crimes' convictions for burglary --
25 which she does -- and breaches of peace which are crimes of

1 moral turpitude, and you, in fact, made a living selling
2 drugs or you sold drugs. She admitted that she did that.
3 She did it in multiple counties because she even said
4 yesterday that she had selling drug charges from Orangeburg
5 and Lexington.

6 THE COURT: Well, the only other issue that you
7 mentioned are the telephones. If I were sitting on the
8 jury -- and, again, I'm not trying to inject myself in the
9 case; I hope I'm not -- when that statement comes into
10 evidence and there's all this stuff about texting back and
11 forth, I'm going to want to know where are the text
12 messages.

13 MR. STITELY: They're not here.

14 THE COURT: Well, I understand they're not here. I'm
15 assuming that they're not here. And, if I were on the
16 jury, I would want to know why they're not here when she
17 said she had multiple telephones. Now, that might be for
18 any number of reasons, one of which might be that she's
19 involved in all kind of different criminal enterprises and
20 she's trying to save her skin. So I don't know. I'm going
21 to have to rule on the various facts, specific facts. I
22 have to rule on what comes up in front of me. I don't get
23 to guess what to do. Go ahead, Solicitor.

24 MR. MAYE: Your Honor, I have her criminal record
25 here. I'll run it again. She's got no convictions.

1 Breach of peace is disorderly conduct in magistrate's
2 court. And he says he's going to attempt to ask her about
3 her charges like -- These things were dismissed at the
4 preliminary. The only thing that I show that she's got on
5 her record is burglary second.

6 THE COURT: How old were the charges that were
7 dismissed?

8 MR. MAYE: 2007, and they were dismissed. One of
9 these charges was dismissed 5/20 of 2008, Your Honor,
10 before this even occurred. Those charges were dismissed at
11 a preliminary hearing. The only conviction that I show
12 that she's got on her record is burglary second. And,
13 again, I'll run an updated copy of her record. And she's
14 got a breach of peace in 2008. She's got no other
15 convictions. She went to R&E in 07 when he's talking about
16 two burglaries. A lot of times people misread rap sheets.
17 One is the charge and the conviction; and then it later
18 shows where she went to R&E, the same charge. The only
19 thing that she's got on her record are convictions for
20 burglary second nonviolent and a breach of peace which is a
21 magistrate's court offense. She got a fine in 2008.
22 That's not a crime of moral turpitude; that's like saying
23 disorderly conduct is a crime of moral turpitude. And,
24 Your Honor, she was asked those other things about her drug
25 dealing and all that in camera and I objected

1 contemporaneous with that. And, again, Your Honor, it's an
2 attempt to impeach her and make her out as a drug dealer.
3 She's got no drug convictions of any drug charges that I
4 see on her record, Your Honor, absolutely none. And,
5 again, I'll run it to see, I don't show any. Now, he
6 basically says, well, I want to ask her about her charges.
7 I mean, that's --

8 THE COURT: Let me try it one more time.

9 MR. MAYE: Yes, sir.

10 THE COURT: The conviction for burglary, okay.

11 MR. MAYE: Yes, sir, I concede that.

12 THE COURT: Disorderly conduct is not going to come
13 in. Old charges that were dismissed are not going to come
14 in.

15 MR. MAYE: Thank you.

16 THE COURT: But, if she's got pending charges that
17 she's got holds on her for, whether she's convicted or not,
18 that goes to the issue of whether she's really expecting to
19 get some benefit from her testimony or not. So I think he
20 can ask her about that, not under the same rule about it
21 being a conviction, but just the general rules about being
22 able to impeach somebody based on bias, prejudice,
23 motivation to lie, interest, things like that. That's what
24 I'm trying to say and I'm -- The drug dealing stuff, I
25 don't know. It kind of depends on how she responds. The

1 one thing that concerns me, like I mentioned -- and the
2 reason I brought it up is the use of multiple phones -- I
3 mean, it bothers my mind that you've got -- And it may be
4 that the text messages were not available. I know that
5 that statement did not come until later. When the
6 defendant gave a statement, it was later in the process; it
7 wasn't early on. So I don't know what efforts were made.
8 I'm not being critical here. I'm just saying, if I were on
9 that jury and that statement comes in and it talks about
10 setting up this robbery, I'd want to know where those text
11 messages are.

12 MR. MAYE: Your Honor, they attempted to obtain text
13 messages. They weren't able to do so. That's only
14 available for just a matter of days. The only thing
15 they've got are phone calls between the two of them. They
16 don't have anything involving text messages. But the
17 officers did do their jobs; they did get that. It's my
18 understanding that Ms. Salaam does not have any pending
19 charges for which she has a hold. I'm going to run another
20 updated copy of her rap sheet. But, from the rap sheet
21 that I have, that I hold in my hand, she's got no criminal
22 charges. I've asked Mr. Casto specifically if he was aware
23 that she had charges pending in any other places. I'm
24 going to find that out definitively. I'm going to ask him
25 to run her rap sheet right now.

1 THE COURT: All right.

2 MR. MAYE: But it's my understanding that she only has
3 old things and nothing new. Thank you, Your Honor.

4 THE COURT: I'll let you put what you want to on the
5 record.

6 MR. STITELY: Yes, sir.

7 THE COURT: But let me say this. I've read everything
8 that's in this file that was handed to me. I've read it
9 twice. There's nothing in here that's relevant.

10 MR. STITELY: Thank you, Judge.

11 THE COURT: There's nothing that relates to anything
12 concerning money or setting anybody up or just any kind of
13 dishonesty as far as any type of moral turpitude type
14 things. There's nothing in there. There are matters in
15 there, and I've read them; and I've read them again to make
16 sure I follow them. But I'm going to seal this and make it
17 part of the record so, if it goes up on appeal, the Supreme
18 Court can look at it and see if they agree or disagree.
19 But there's nothing in here that would subject Mr. Holloway
20 to impeachment in this trial.

21 MR. STITELY: Yes, sir.

22 THE COURT: All right. Bring the jury in, please.

23 (The jury returns to the courtroom.)

24 THE COURT: Let me see the lawyers over here.

25 (Whereupon, a bench conference was held off the

1 record, in the presence of the jury, but out of the hearing
2 of the jury.)

3 THE COURT: All right, ladies and gentlemen, we're
4 going to break with y'all for the day. We've got a few
5 more things we're going to stay and work on; but, because
6 of the location of that funeral, where they're having it
7 and when they're having it, I tried to figure out some way
8 to bring y'all in at 9:00 and start and do a little bit and
9 then come back. It's not going to work. Two o'clock, I
10 need y'all here at 2:00 o'clock tomorrow. Now, you're
11 going to hear the cross examination which I told y'all I
12 anticipate will be somewhat lengthy; then the State can
13 reply, I mean, ask reply questions if they wish. I think
14 the State has two other witnesses, perhaps only one, but
15 probably two; but I don't expect them to be as long as the
16 two that you've heard. So I think it now is unlikely
17 you're going to get the case tomorrow. There's still a
18 possibility, but maybe it's going to go Friday morning.
19 All right? We'll work as hard as we can. I hope you have
20 a pleasant evening and everything goes well. Two o'clock,
21 I need you in the jury room at 2:00 o'clock tomorrow.
22 Thank you.

23 (Jury excused for the day.)

24 THE COURT: All right. Is there anything that we need
25 to put on the record now?

1 MR. STITELY: Judge, if we could just -- If I could
2 get an updated copy of her record when I get here tomorrow,
3 we can go through it. I don't intend to ask her about
4 specific convictions other than her actual convictions.
5 There are several conspiracies and other things that don't
6 show any disposition. I don't intend to ask her about the
7 specifics of it; I just intend to ask her about her general
8 criminal background. Specifically, she's already mentioned
9 she's a drug dealer. That's why she was in Orangeburg when
10 he went to get her and then goes to Lexington. So I'm not
11 going to ask her about specifics. But he writes phones,
12 plural, in his statement; she talks about multiple phones.
13 I think that -- And that's why I asked her that question,
14 Judge. I haven't been doing this as long as you have. But
15 one thing that drug cases have in common is no one has a
16 phone attached to their name, they use multiple phones.
17 That's a very common trend. And it is going to be our
18 position that this was absolutely something other than what
19 it's been made out to be, an armed robbery. That's all I
20 have on that. I do have one other issue real quick, and
21 then I'll be done. Mr. Maye has said he will get an
22 updated one; but, if I can see her record tomorrow, maybe
23 we can hammer it out before we talk to you.

24 THE COURT: All right. Mr. Maye, do you know when
25 you're going to have the record?

1 MR. MAYE: I will ask him to run it right now, Your
2 Honor. Your Honor, just as soon as I stop here, I'll ask
3 him to get the record.

4 THE COURT: All right. Don't leave until you get the
5 record tonight.

6 MR. STITELY: That's fine, Judge.

7 THE COURT: All right.

8 MR. STITELY: One other thing, and it's kind of a
9 weird situation. Your Honor, I'm going to ask for an order
10 of protection, or I guess it would be almost like a
11 restraining order, to have him not destroy or modify any of
12 his My Space or Facebook accounts. As you asked, Judge,
13 you asked me to find those dates. I have pictures of him
14 from 2009 -- I'll get full details -- him this time, his
15 web site, one holding a gang symbol, one specifically,
16 another one of him holding a gang symbol, Bloods
17 specifically, another holding a gang symbol, Bloods
18 specifically, dated 2009. I have one in 2009 before the
19 incident, another one. I have a picture of him carrying a
20 shotgun loaded; it says, blood, blood, blood, blood, blood;
21 that's 2010. I have another one from 2009 him holding a
22 gang symbol up with four other people, and I have another
23 one also from the beginning of 2010, same wording in it
24 about gang affiliations. I just ask for some kind of order
25 that he doesn't modify those so I can print out full pages

1 tonight. I don't have that availability while I'm in
2 trial, but I'll be happy to print out full pages. I'd like
3 to recall him and ask him specifically if this is his My
4 Space page, his pictures, his comments.

5 THE COURT: My Space or Facebook?

6 MR. STITELY: This is My Space, and I'll print out the
7 guns on Facebook as well when I have access to it. I'd ask
8 him not to destroy any of those, Twitter, any other social
9 media. I'll look into it tonight. So these are
10 specifically of him, pictures of Mr. Bookman. And I'll
11 approach, Your Honor, just --

12 THE COURT: No. That's fine. I'll be happy to look
13 at them when I get a chance to. The thing is, you know,
14 I've already beat this dead horse to a pulp. Even if he's
15 a bad guy, I don't know that it comes in. I'm not saying
16 it doesn't; I'm not saying it does. It has to be, in some
17 way, made to be relevant to what we're talking about in
18 this case. Like I told you earlier, I have done several
19 trials where there was an assertion that it was basically a
20 gang issue, and I let it in even though one side was
21 saying, Judge, this is nothing connected with a gang, it
22 doesn't have anything to do with a gang. But, unless
23 there's some evidence of that that in some way affects this
24 trial, the witnesses, their testimony, the events, I mean,
25 it just doesn't come in. It just confuses the issues, and

1 it's not relevant. The other thing is about the guns --
2 same situation. I mean, if he's the President of the NRA,
3 he's probably got pictures all over the place of him with
4 guns. That doesn't necessarily mean anything. Now, if you
5 can get with the court reporter and show me where he said
6 he didn't know much about guns, then that might be enough
7 to get it in. The third thing is I'm a country boy, and I
8 don't know a Blood from a Crip from anything. I try to
9 watch those shows that come on TV on the history channel
10 and the things that I think would help me with my job, but
11 you're going to have to have somebody not only explain
12 those things, but explain them in a way that is admissible;
13 and, again, that's assuming, first of all, that there is
14 some relevancy to it.

15 MR. STITELY: And what I intend to ask Ms. Salaam
16 is -- and it's going to be our position when we get there
17 that this had nothing to do with rims one way or another --
18 she had set up a drug transaction with someone else. It
19 wasn't my client. My client is the one she knew. She
20 calls him. I'm going to ask her this and see if she
21 answers it. She went to pick someone up to get some drugs
22 and the drug, whatever the deal, didn't go down the way
23 they thought it would. It had nothing to do with rims,
24 never any of that. It was a drug transaction, not an armed
25 robbery. He had some buyer's remorse -- that's why there

1 was no call to law enforcement -- or he thought he could
2 get him lined up, so he wanted to hook him up for some
3 reason or another. It adds perfectly in with the details
4 that he have his cousin deal with it. Ms. Salaam, once
5 again, just said, instead of going to Newberry like he
6 said, they went to Saluda and went downtown to look for his
7 cousin and have his cousin get on it. It does not sound
8 anything like an armed robbery; and I think, through their
9 testimony, it doesn't. It flushes out completely different
10 than what it's been made out to be, Judge.

11 MR. MAYE: Your Honor, the only thing I've got to say
12 is I want him to ask those questions to her outside the
13 presence of the jury. His client was there; he's got a
14 right to testify. If he was there and there was a drug
15 deal gone bad, he can get on the stand and testify to that,
16 Your Honor. But to have him ask rank speculation questions
17 about what his theory of the case is, he's got nothing to
18 base this on. There's nothing in the record about any of
19 this. To allow -- For him to say, for example, he went
20 along with some prostitution deal gone bad, isn't that
21 right, just to be rewarded with her saying, no, to try to
22 plant that seed in the jury's mind, Your Honor, it's highly
23 objectionable. It's the same thing as trying to take
24 Facebook pictures now all these years later. He wants to
25 paint this as something else. Well, he's got an eyewitness

1 to it, and he can call -- They have the ability to call
2 witnesses to the stand to put up any defense that they want
3 to in this case. But, to allow him to go and ask Ms.
4 Salaam, isn't the real truth of it that you're a dope
5 dealer -- she's got no drug convictions; she's got no
6 pending drug charges -- you're a dope dealer -- and, to
7 basically play this out through cross examination, this
8 theory of the case when they've got eyewitnesses there that
9 can testify if he chooses to or some alternative, like I
10 said, Your Honor, I think that it's more prejudicial than
11 probative. It just allows them to be rewarded with a no
12 answer to put this up in front of the jury. It's a back-
13 handed impeachment of her. And, like I said, the same
14 thing with the Facebook stuff and asking her if she's a
15 dope dealer. I objected when that was done in camera about
16 her being a dope dealer. She has no drug convictions; and
17 him trying to characterize her as such, again, I think it's
18 more prejudicial than probative. There's no possible way
19 that the State would be allowed to ask any witness these
20 lines of questions. And I understand that's somewhat
21 different with witnesses; but, ultimately, the Court is the
22 gate keeper of what's relevant evidence in this case. And
23 I only ask that they proffer that outside the presence of
24 the jury. And, if she says no, then that's the end of it
25 because his questions are not evidence in this case. It's

1 just trying to plant that seed with the jury and then get
2 up and argue it to the jury when there's nothing in the
3 record to support that. I would object to him arguing that
4 to the jury if they ask her, wasn't this, in fact, a dope
5 deal gone bad, and they don't put up any evidence about
6 that. And then to get up and try to argue that to the jury
7 that she says no and they don't have anything to support
8 that, I would object to that, Your Honor. I would just ask
9 that that be proffered outside the presence of the jury.
10 I'll hand up these photographs that were handed to me for
11 the court to review.

12 THE COURT: I don't need to see them --

13 MR. MAYE: Thank you.

14 THE COURT: -- yet.

15 MR. STITELY: And I'll get the full pages with the
16 dates and everything because our initial argument before --
17 He said he had started this organization in 2012, and we've
18 now got pictures of him doing the same thing in 09 when he
19 said he wasn't doing it. So he was either lying again when
20 he was sitting up there --

21 THE COURT: Well, you may have information from which
22 you can make that leap. I don't know. If he belongs to
23 the Augusta Corvette Club and he belongs to Folk Nation,
24 you've got to tie those two together.

25 MR. STITELY: Yes, sir.

1 THE COURT: I don't know. He's got on a bright red.
2 jacket, but it's a Budweiser jacket. I wouldn't know if
3 there's a gang symbol on it. And your questions -- You
4 said you had studied this and you understand it, and I'm
5 talking to you out of ignorance. I don't know, and the
6 jury hopefully is not going to know. So there's got to be
7 evidence, not just questions, but evidence that links these
8 things --

9 MR. STITELY: Yes, sir.

10 THE COURT: -- and doesn't just let -- Like I said,
11 we're talking about some really inflammatory stuff. I'm
12 willing to allow a great deal of latitude. Now, the thing
13 is you've got to make a tactical decision even at that as
14 to how much all of that washes over on your client.

15 MR. STITELY: Yes, sir.

16 THE COURT: I don't think there's anything else I can
17 do today. I need y'all here at 2:00 o'clock prompt. Now,
18 who's responsible for having him here?

19 MR. MAYE: Who? The Sheriff's Department's going to
20 make sure that he's here or I'll get him myself, Your
21 Honor, although that's not my role.

22 THE COURT: Well, here's the thing. Tomorrow I expect
23 it to be worse from a personnel standpoint because I don't
24 know how many people have to go to Bobby Jones' funeral or
25 want to go to Bobby Jones' funeral. They may have a

1 skeleton staff down there. But, to make sure he's here at
2 2:00, if y'all have to have somebody bring him over here at
3 9:00 before they go to the funeral, I mean, just do
4 whatever you have to to have him here and dressed out.
5 Now, we've wasted an hour just sitting here waiting on him
6 to be brought two blocks. Thank you.

7 MR. MAYE: Thank you, Judge.

8 MR. STITELY: Will you order they not be destroyed?

9 THE COURT: Oh, I'm sorry. Mr. Bookman, don't go on
10 your Facebook site. Don't change anything on it. Don't
11 you go on any My Space or any other social media and change
12 anything on it. If you do, you're going to be subject to
13 tampering with evidence, you're going to be subject to
14 contempt of court, you're going to be subject to
15 obstruction of justice and all kinds of other things. Now,
16 I'm not suggesting you'd do any of that, but don't even log
17 on.

18 MR. BOOKMAN: All right.

19 THE COURT: You understand?

20 MR. BOOKMAN: Yes, sir.

21 THE COURT: Matter of fact, I'm telling you don't go
22 on the internet between now and the time you come back to
23 court. Don't you go on the internet. All right?

24 MR. BOOKMAN: Yes, sir.

25 THE COURT: Thank you.

1 (The following proceedings were concluded for October
2 31, 2012.)

3 (The following proceedings were held on November 1,
4 2012.)

5 THE COURT: Ms. Salaam, I need you back up here,
6 please.

7 (Witness resumes the witness stand.)

8 THE COURT: Is the defense ready for the jury?

9 MR. STITELY: Your Honor, I am ready. I don't know if
10 we wanted to go into any questions that we'd be asking
11 about on the record before we bring them out.

12 MR. MAYE: Your Honor, I would. I would like to have
13 that inquiry. It's my understanding that she has a
14 burglary second nonviolent, she has a shoplifting
15 conviction in 08, she has a simple possession conviction in
16 09 of marijuana which we would maintain would not be -- she
17 would not be subject to cross examination on -- she's got a
18 distribution of marijuana in proximity in December of 09
19 out of Newberry County. I'd leave that to the Court's
20 discretion. I'd just like for us to establish exactly what
21 he's going to ask her about. I am informed by the
22 defendant's lawyer in this case that he wants to ask her
23 about traffic tickets and charges that were *nol-prossed* and
24 all sorts of other things, Your Honor. And I'd like for
25 him to go through and do that. The only other thing that I

1 would like to go into, Your Honor -- and we can take this
2 up with the record now --- but I do have one other matter
3 that I'd like to go into prior to her testimony. If you
4 would like for me to do that now, I will or --

5 THE COURT: What is it?

6 MR. MAYE: To keep the record straight, I can do that
7 now.

8 THE COURT: What is it?

9 MR. MAYE: Basically, Your Honor, I'm informed that
10 the defense in this case intends to ask this witness
11 basically that, wasn't this a drug deal gone bad. There's
12 nothing in the record to suggest that at all, Your Honor;
13 and I'm understanding that, from information provided by
14 the defendant in this case, that he wants to ask her,
15 wasn't this a failed or drug deal gone bad. Your Honor,
16 that basically would allow the defendant to insert his
17 exculpatory statements. I think that -- I went back and
18 looked one of the cases up, *State v. Gary Terry*, back in
19 2000. If the defendant wants to get the exculpatory
20 statements or exculpatory information before the Court or
21 out into the trial, they must face cross in order to do so.
22 It said, to do otherwise would permit the criminally
23 accused to set out all the facts which fall in his favor
24 without laying himself open to cross examination. Your
25 Honor, if he's going to ask her if this was a drug deal

1 that went bad, there's absolutely no basis for that based
2 on what she testified to in direct. To try to do that
3 would allow the defendant to exert or insert into this, if
4 that's what he says that this was, that information without
5 being subject to cross. I would maintain that he needs to
6 ask her out here in camera; and, if she says, no, that's
7 not the case, that should end it because I don't think that
8 they should be able to just go on a wild fishing
9 expedition. I looked at Rule 608, Your Honor, and it said
10 that basically there are limitations, you cannot allow a
11 cross examiner to go on a fishing expedition in the hopes
12 of finding some misconduct. Your Honor, I just think that
13 it would be fundamentally unfair under Rule 403. I think
14 it amounts to unfair prejudice to allow the defendant to
15 basically just impeach her with some wild -- It could even
16 be, wasn't it true that you went to Saluda because you're a
17 child molester and you wanted to scout out kids, just to be
18 rewarded with her saying, no. There's absolutely no
19 foundation for any cross examination in that regard. And I
20 think, Your Honor, it's fundamentally unfair. If they've
21 got evidence in this case that this was a drug deal gone
22 bad, the defendant was there and he can testify. Whoever
23 these other witnesses are that were there, Carlos or Little
24 Tim, if they're known to him, they can testify. But to
25 percurely let this person get up or to let the defense get

1 up and ask these speculative questions with no foundation,
2 we would maintain that it's fundamentally unfair and would
3 amount to unfair prejudice. I'm already told that the
4 defendant in this case or the defense in this case intends
5 to argue to the jury that this was a failed drug deal or a
6 drug deal that went bad when there's absolutely, unless
7 they interject something in their case -- Like I said, he
8 can ask her; if she says that's the case, there would be
9 some evidence as a result of cross. But to allow the
10 defense to cross her and say, wasn't this some drug deal
11 gone bad or not exactly what you say it is, to have her say
12 no, his cross examination questions would not be evidence
13 in this case. And absent some witness coming up, if they
14 put up a case, and then putting forth direct testimony in
15 front of the jury in this case, it would be the State's
16 position that they would be precluded from arguing that to
17 the jury as there would be no evidence because a question
18 on cross examination to which the response is no is not
19 evidence in the record and it would be outside of a
20 permissible argument. We would basically maintain, Your
21 Honor, if they're going to put forth this story that this
22 was a failed drug deal, they're going to have to put up
23 some evidence to do so. To blindly put in this
24 self-serving hearsay from the defendant without subjecting
25 him to cross examination we would maintain is fundamentally

1 unfair and would not survive a 403 balancing test, Your
2 Honor. We would maintain it's unfair prejudice and would
3 also potentially result in confusion of the issues and/or
4 misleading the jury. I just don't think it's proper. I'm
5 not speculating on this because the defense directly
6 yesterday said that's what they intended to do. So I'll
7 leave it to the Court's discretion, Your Honor.

8 THE COURT: Mr. Stitely?

9 MR. STITELY: Judge, I actually have some foundation I
10 can quickly proffer, and then we can ask her questions.
11 But I'll tell you where I'm going if you want before we
12 have an actual hearing. The entire time, through their
13 first witness and through Ms. Salaam and Mr. Maye's opening
14 statement, they said that one week before the alleged armed
15 robbery on July 9th of 2009 Ms. Salaam randomly met
16 Mr. Bookman in Prosperity. One week before would be July
17 2nd of 2009. Assuming they met July 1st of 2009, I can ask
18 her where she was on those days, and the answer's going to
19 be the Newberry County Detention Center for distribution of
20 cocaine and distribution of marijuana. I have her arrest
21 date as July 1st, 2009, when she was booked and being held
22 in the Newberry County Jail at the exact same time that
23 both of their witnesses testified they met. She was there
24 on drug charges which she ultimately got convicted of six
25 months later, distribution charges. The day both State's

1 witnesses say they met, she was in the County Detention
2 Center in Newberry. I have the dates of her charges and
3 her convictions. It's direct -- It's not just using it to
4 impeach her credibility. I'm impeaching the actual facts
5 of the case as being stated through their two witnesses on
6 direct examination. They say she meets one week before in
7 Prosperity. She's in the jail on these distribution
8 charges. There's a drug dealing undertone throughout all
9 of this, not just pure speculation. And we can ask her if
10 she's going to deny that she was in jail. I've got the
11 records. So if that's what --

12 MR. MAYE: I've not seen any records saying she was
13 incarcerated.

14 MR. STITELY: I mean, I've got the arrest records.
15 I've got articles from newspapers, booking photos. I've
16 got everything.

17 THE COURT: What do y'all want me to rule on?

18 MR. STITELY: Judge, as a clarification, what I intend
19 to do is, one of the first things I'm going to attack her
20 on is her history.

21 THE COURT: Well, let me see if I can cut this a
22 little bit short. I can go through the Rule 609 analysis
23 of the case, of the convictions that this witness has.
24 That's the first thing y'all talked to me about. Then I
25 hear this all-over-the-place discussion about prior bad

1 acts and drug deal gone bad. Now, the rule is -- and
2 everybody in this courtroom who's trained in the law knows
3 it -- you can't argue anything to a jury that's not in the
4 record or some reasonable extrapolation from it. You can't
5 just -- If somebody's in jail for jaywalking and they
6 cannot be somewhere else, it's irrelevant whether they're
7 in there for jaywalking or for murder or for drugs or for
8 child molestation. They're in jail in Newberry; they can't
9 be in Prosperity unless they're out on work release or
10 something. So there's nothing wrong with asking somebody
11 if it's impossible that their version of what happened
12 happened. How you get into all the drug stuff is
13 problematic, and you're going to have to have -- I mean,
14 I'm going to have to hear some testimony from some witness.
15 Now, if your side has got some people that are going to
16 come up and say, this was a drug deal gone bad and it
17 wasn't anything like what they're portraying, it's not an
18 armed robbery, you know, you can recall her if you want to.

19 MR. STITELY: Yes, sir.

20 THE COURT: You can impeach her. You can impeach your
21 own witness anymore. So I'm really -- I'm willing to hear
22 whatever it is y'all want to tell me.

23 MR. STITELY: I would like to just be able to ask her
24 the question.

25 THE COURT: Go ahead.

1 MR. STITELY: And, unless she answers it, I think this
2 is all premature until we know what she's going to say. I
3 mean, we don't know what she's going to say from the
4 witness stand. If she admits, yes, I was in jail in
5 Newberry because I got arrested on 7/1 of 2009, yes, I
6 stayed in jail, yes, I pled guilty, I got 18 months credit
7 for time served -- I mean, I have to ask her and hear what
8 she's going to say before I even need these to impeach her.
9 If she's going to admit to it, what I'm saying is I have
10 the ability to impeach her. I'm not just guessing. I
11 think I have the right to ask her; and, if she denies it, I
12 can back it up with the court records to show --

13 MR. MAYE: Your Honor, I'm not going to submit to any
14 record that he's got, that he printed out and brought in
15 here. Without the custodian of records or jail records
16 from some custodian, I'm not going to submit to any of
17 that. They're just doing this on the fly, and I'm not
18 going to stipulate to any of that. I mean, I'm going to
19 challenge that. They're going to have to bring in some
20 custodian records from the jail if they're going to
21 maintain --

22 THE COURT: Mr. Maye, listen. When I said my prayers
23 last night, I said I was going to be nice to everybody.
24 I'm going to try my best to be nice to everybody, but
25 please don't tell me the same thing ten times. I don't

1 disagree; but, for you to go into a whole bunch of stuff
2 about drugs, I may agree with Mr. Maye.

3 MR. STITELY: Yes, sir.

4 THE COURT: What is it y'all need me to hear?

5 MR. STITELY: Would you like me to ask the questions?

6 THE COURT: I don't know.

7 MR. STITELY: I just wanted -- I just want to make
8 sure it's okay that I ask.

9 THE COURT: Court's in recess. We're outside the
10 presence of the jury. You can ask her if she killed
11 Kennedy. I mean, just tell me what y'all want me to do?

12 (Brief Recess.)

13 THE COURT: All right. Mr. Casto, do you want to be
14 up here with her?

15 MR. CASTO: No, sir, Your Honor.

16 THE COURT: Ma'am, if you want to talk to your
17 attorney at any time, you let me know. All right? Because
18 I have no idea what they're going to ask you about.

19 MS. SALAAM: Yes.

20 THE COURT: And, Mr. Casto, if you want to stop at any
21 time, you stand up and get my attention if I'm looking
22 down. All right?

23 MR. CASTO: Yes, sir.

24 THE COURT: Go ahead, Mr. Stitely.

25

CROSS EXAMINATION

1
2 BY MR. STITELY:

3 Q Ms. Salaam, I just want to confirm with you what your
4 prior convictions are. What's on your record conviction
5 wise?

6 A PWID marijuana.

7 Q Okay. What else?

8 A Simple assault.

9 Q Okay. What else?

10 A Simple possession.

11 Q Okay. What else?

12 A And I have a burglary charge.

13 Q Burglary second nonviolent?

14 A Correct.

15 Q That was back in 2006?

16 A Correct.

17 Q And you talked about this, the marijuana charge. You
18 obviously have a distribution in proximity of schools too.

19 Correct?

20 A Correct.

21 Q Okay. When were you charged with that?

22 A In 09.

23 Q Were you arrested on July 1st, 2009?

24 A I don't remember.

25 Q Okay. Was it the summer of 2009?

- 1 A I don't remember.
- 2 Q Okay. Did you go to jail on it?
- 3 A Yes, sir.
- 4 Q Did you have to stay in jail before you made bond?
- 5 A Maybe a day, a couple hours.
- 6 Q Okay. Were you later convicted the same year?
- 7 A Yes, sir. I pled guilty.
- 8 Q Okay. In 2009, December?
- 9 A Yes, sir.
- 10 Q It wasn't just marijuana though. You were also
- 11 charged with distribution in proximity of cocaine.
- 12 Correct?
- 13 A No, sir.
- 14 Q You were not charged with that?
- 15 A No, sir, never.
- 16 Q There's not a *nol-pros* of a PWID cocaine charge as
- 17 part of your plea on that same day, 12/1 of 2009?
- 18 A Cocaine?
- 19 Q Yes, ma'am.
- 20 A No, sir. I had a charge for some ecstasy pills, but
- 21 all that got dropped.
- 22 Q Okay. So it's ecstasy, not cocaine?
- 23 A Correct. And all that got dropped.
- 24 Q That was part of --
- 25 A Illegal search.

1 Q Well, they were dismissed on the same day as your plea
2 to the marijuana charge?

3 A No. That was in Columbia, South Carolina. That ain't
4 got nothing to do with Newberry, South Carolina.

5 Q Okay. Well, what about this PWID case from --

6 MR. STITELY: May I approach, Your Honor?

7 THE COURT: Sure.

8 Q What about this PWID -- it says cocaine, first
9 offense, that you were charged with on July 1st, 2009 --
10 that went to the Clerk of Court in Newberry County, South
11 Carolina, against an Amber Bonnett Salaam --

12 A Bonet.

13 Q Bonet. I'm sorry. -- that was *nol-prossed* on 12/1/09?
14 That's not you?

15 A Yeah, that's my name, but it ain't right. I ain't
16 never had no cocaine charge, ever, because I ain't never
17 sold no cocaine, ever.

18 Q Okay. So what were you -- What was dismissed as part
19 of that plea though?

20 A Which plea you talking about?

21 Q The plea on December 1st of 2009. What charges were
22 dismissed as part of your plea or did you plead to
23 everything?

24 A I don't remember. I was already incarcerated. They
25 brought me from the prison, and I took a plea.

1 Q What were you in prison for?

2 A Violation of probation on those charges.

3 Q Okay. What were you on probation for?

4 A Burglary second degree nonviolent.

5 Q From 06?

6 A Yeah, yes, sir.

7 Q Okay. If you were in jail on your probation
8 violation, when did you get arrested on that?

9 A If I was in jail?

10 Q When did you get arrested in 2009 for your probation
11 violation?

12 A I was out, but -- I don't understand what you saying.

13 Q Well, you just -- And I'm sorry, but I can't get your
14 timeline without you telling me. You said that, when you
15 went to plead December 1st of 2009 in front of Judge
16 Griffith -- You remember that?

17 A Yes, sir.

18 Q Okay. You pled to a PWID marijuana and a distribution
19 prox marijuana. Correct?

20 A Yes, sir.

21 Q Okay. You got an 18-month sentence?

22 A Yes, sir.

23 Q You said you were already in prison when they brought
24 you over?

25 A Yes, sir.

1 Q When did you go to prison?

2 A I don't remember the date.

3 Q Okay. Was it --

4 A I had 90 days.

5 Q So the 90 days before December?

6 A I'm just -- I'm not understanding what you saying. I
7 hear what you're saying, but I'm just saying I had 90 days
8 shock, and they came and got me from prison to do those
9 charges.

10 Q When did a judge sentence you to shock?

11 A Sir, I don't remember.

12 Q I'm sorry. But the reason I'm asking is because it's
13 important to me because this is all the same time when you
14 allegedly were setting up this transaction with
15 Mr. Bookman. That's why I'm asking. You don't remember
16 when you got taken to prison?

17 A No, sir. It ain't on my paperwork?

18 Q The probation violation, I couldn't find it. See,
19 that's news to me. I didn't know about that.

20 A I don't know, sir.

21 Q Okay. But you do remember getting arrested for the
22 distribution cases --

23 A Yes, sir.

24 Q -- in the summer of 2009, July 1st of 2009?

25 A Yes, sir.

1 Q And you still maintain that, one week before July 9th,
2 2009, that you randomly met Mr. Bookman up in Prosperity?

3 A I never stated that it was a week before.

4 Q How long before was it?

5 A Sir, I don't remember. This been -- I don't remember
6 how long it was, but I was sitting outside and I seen him.

7 Q You don't remember talking to the Solicitor and
8 saying, a week later he text me and said he had his money,
9 or, I had to wait until he got his check that Friday?

10 A Uh-huh.

11 Q Okay. Was it before or after you went to jail that
12 week?

13 A I don't remember. I really don't.

14 MR. STITELY: Those are the only questions I have
15 about her record and about that specific incident, Judge.
16 Of course, I have other cross questions; but, as far as
17 that goes, that's all I have for her.

18 MR. MAYE: Your Honor, all that I would argue on that
19 is he can certainly ask her about her convictions; but, as
20 to the details about the convictions and asking her about
21 probation violation and all, I would object to that. I
22 think that all he's attempting to do is impeach her
23 credibility, and I think all that would be admissible on
24 that would be the evidence of the convictions in this case.
25 Now, if he wants to ask her if she got arrested and what

1 she was in jail -- whether or not she got arrested and what
2 she was arrested for, if she doesn't have convictions, we
3 would maintain it would be outside of what would be
4 permissible in an attempt to impeach her on her character,
5 Your Honor.

6 MR. STITELY: And, Judge, I'm okay with that. All I'd
7 like to ask her about is the distribution of the prox
8 marijuana. I think it's relevant that I get to ask her
9 about the day it happened because it's exactly during that
10 week that they say this happened whether or not her answers
11 to any other questions would open the door if I put up a
12 witness about a drug deal gone bad. But, specifically, I
13 think I should be able to ask her about that week getting
14 arrested because it pokes a direct hole in the testimony of
15 the State's witnesses about how these two met and the day
16 they met and where they met. I'm arguing physical
17 impossibility. And they have testified through two
18 witnesses they met a week before, and she's in jail on the
19 1st in Newberry on distribution charges and then she
20 goes --

21 THE COURT: Anything else?

22 MR. STITELY: I'm sorry. And then she goes, at some
23 point in that close interim, to prison. So I don't know at
24 what point --

25 THE COURT: All you got to do is ask David. He could

1 tell you off the computer probably in 15 seconds.

2 MR. STITELY: Okay. And I apologize. The probation
3 violation doesn't come up on the Newberry Clerk's web site,
4 and that's where I get these from.

5 THE COURT: Yes, sir. Anything else?

6 MR. STITELY: Nothing, Your Honor. I won't ask her
7 what she was convicted of, but I did want to use those days
8 because I think they're relevant to the correct testimony
9 of both witnesses.

10 MR. MAYE: Your Honor, the only other thing that I
11 would request is that, if he's going to ask her this
12 question about some drug deal gone bad, I would like for
13 him to do it outside -- I would like for him to do it
14 outside the presence of the jury and get her response. As
15 I said, I would object to that if the answer is no. Like I
16 said, there's no basis, and we would maintain it's self-
17 serving hearsay and would be interjecting the statements of
18 the defendant without him being subject to cross.

19 MR. STITELY: I'll do that, Judge.

20 THE COURT: All right. Go ahead.

21 BY MR. STITELY:

22 Q Ms. Salaam, did the transaction that led to November
23 9th -- sorry -- July 9th, 2009, did it have anything to do
24 with drugs?

25 A No, sir, it did not.

1 Q Did it have something to do with stolen wheels?

2 A Yes, sir.

3 MR. STITELY: Okay. I won't ask her anything else
4 about that directly as far as pointing to it being an
5 unlawful drug deal that day.

6 MR. MAYE: Your Honor, there's no evidence in the
7 record that it had anything to do with drugs. I would
8 object to him asking her. If they're going to put up
9 witnesses about --

10 THE COURT: I thought he just said he was not going to
11 do it.

12 MR. MAYE: He said that he was going to ask her, was
13 this a drug deal or a wheel deal. I would object to him
14 asking her if it was a drug deal. There's no evidence of
15 that. There's nothing in her direct testimony, and
16 anything would have to come from the defendant in this case
17 if it was a drug deal. And, like I said, Your Honor, I
18 know he's trying to paint her as a drug dealer and argue to
19 the jury that this was a drug transaction, but we would
20 maintain there's nothing in the record to support that that
21 was testified to on the record, and I would object to him
22 asking her about that.

23 THE COURT: Did you not say you're not going to ask
24 her?

25 MR. STITELY: I said I'd just ask her about the stolen

1 wheels. I won't ask that question in front of the jury.

2 MR. MAYE: Okay. I heard the question that he asked,
3 and the first part of it involved, was this a drug deal or
4 wheel. But, if he's not going to ask her whether or not it
5 was a drug deal, I'm fine, Your Honor.

6 THE COURT: Anything else?

7 MR. STITELY: It has nothing to do with Ms. Salaam's
8 testimony; it's about the questions we had yesterday
9 dealing with the gang stuff. It will come up later today.

10 THE COURT: Through this witness?

11 MR. STITELY: No. Well, I intend to ask her if she
12 has any affiliations. I have two experts on subpoena now
13 as well as I have a Federal case talking about, if anyone
14 can present any kind of proof or even hearsay testimony by
15 way of a gang expert that they have affiliations with a
16 gang, it can be brought up. It's a Supreme Court case
17 that -- I have it right here, Judge; I'm sorry. It's the
18 *United States v. Hankey*; and it says that, as a rule,
19 anyone who can be established to be a member of a gang or
20 suspected of a gang through the use of a gang expert's
21 testimony is inherently untruthful and you may impeach
22 their credibility simply on the fact that they're a member
23 of a gang. It's a United States Supreme Court case out of
24 the Ninth circuit, *United States v. Hankey*, 203 F.3d 1160,
25 filed February 18th, 2000. And I do have two experts now

1 on subpoena. I have all the stuff that I told you I'd
2 procure yesterday. With him making references, I intend to
3 put Mr. Bookman up later and ask him the same question. If
4 she answers, no -- she has a bunch of tattoos on her arm --
5 I intend to ask my expert to look at her arm, see if he
6 identifies any kind of gang tattoos. I think Hankey says I
7 have the right, if it shows up, that I can ask the
8 questions.

9 THE COURT: I just want to know about this witness so
10 I can get the jury out here.

11 MR. STITELY: I will ask her if she has any gang
12 affiliations or any tattoos that would be related to a
13 gang. I'd ask her outside the presence of the jury first;
14 and, if she says no --

15 THE COURT: I need to know what the Solicitor's
16 position is.

17 MR. MAYE: Your Honor, I would object to that. Like I
18 said, this is just trying to impeach her character. This
19 is clearly trying to impeach her character. If he wants to
20 ask her if she's a member of a gang, I'd ask that it be
21 proffered outside of the presence of the jury. If she says
22 no, I think that ends the inquiry. I don't think that it
23 can just be a fishing expedition to ask if she's a gang
24 member somehow. That's nothing but pure impeachment
25 evidence. And so I would ask that he ask her that and let

1 her give her answer if she's a member of a gang or is
2 affiliated with a gang.

3 THE COURT: Well, the only issue with any witness is
4 credibility. When you get to an accused being a witness,
5 you've got some other rule. So the fact that it's
6 impeachment is neither here nor there. Whether it's proper
7 or not is a different matter. Ask her your question.

8 BY MR. STITELY:

9 Q Ms. Salaam, do you have any affiliations with any
10 gangs?

11 A No, sir.

12 Q Do you have any tattoos on your arm?

13 A Yes, sir.

14 Q Do they have any affiliations with any gangs?

15 A No, sir.

16 MR. STITELY: I have no other questions I would ask
17 her in front of the jury. Now that she's at least on the
18 record with that, I would potentially have a motion later
19 on to have my expert look at her tattoos to see if he says
20 anything different to impeach her, but I won't ask her in
21 front of the jury at this point.

22 MR. MAYE: So, Your Honor, I'm hearing from the
23 defense that they do not intend to ask her about that
24 question, about whether or not she's in a gang or whether
25 she has gang tattoos. And they're telling me that they

1 are not.

2 THE COURT: Rule 608 deals with character, evidence of
3 character. There's different subsections of it. As I was
4 mentioning yesterday, under Rule 608, Subsection C,
5 evidence of bias, prejudice or any motive to misrepresent
6 may be shown to impeach a witness by examination of the
7 witness or by evidence otherwise produced. Now, Rule 609
8 deals with these criminal convictions. And I think what
9 I've been asked to do is to settle the record with
10 relationship to whether this witness can be asked about her
11 prior criminal record under Rule 609. Rule 609-A-1 reads
12 that, for the purpose of attacking the credibility of a
13 witness, evidence that a witness other than an accused has
14 been convicted of a crime shall be admitted subject to Rule
15 403 if the evidence -- I'm sorry -- if the crime was
16 punishable by death or imprisonment in excess of one year
17 under the law which the witness was convicted. Subsection
18 2, evidence that any witness has been convicted of a crime
19 shall be admitted if it involved dishonesty or false
20 statement regardless of punishment. Subsection B, 609-B,
21 is the time limit which is generally ten years from the
22 time of the offense or when the person was last subject to
23 the conviction either by being incarcerated or on probation
24 or parole. What I believe I heard was that she has a
25 burglary second degree conviction nonviolent from 2006.

1 It's within the ten-year time period; it carries more than
2 a year as a possible punishment. She has a shoplifting
3 conviction from 2008; it is within the ten-year time limit;
4 it involves dishonesty so, even if it does not carry more
5 than a year, it involves dishonesty. Simple possession of
6 marijuana in 2009 is within ten years, but it does not
7 involve dishonesty and it does not carry more than a year
8 in prison as possible punishment. Distribution of
9 marijuana and distribution of marijuana within proximity of
10 a school both carry more than a year as possible
11 punishment; they do not involve dishonesty or false
12 statement; they -- I assume they carry more than a year in
13 prison. So, just purely on a Rule 609 analysis which also
14 involves consideration of Rule 403 which deals with the
15 danger of unfair prejudice, confusion of issues,
16 duplication of the evidence, things of that nature, the
17 witness would be subject to being asked if she was
18 convicted of burglary in the second degree nonviolent, if
19 she was convicted of shoplifting, if she was convicted of
20 distribution of marijuana and distribution of marijuana
21 within proximity of a school or a playground. Now, the 609
22 analysis is completely separate and distinct from cross
23 examination related to the version of events that the
24 witness gave. And, if there is evidence that goes to the
25 issue of whether she was telling the truth about her prior

1 contact with Mr. Bookman, that's admissible. I am not, in
2 any way, ruling anything about a drug deal gone bad, but
3 she can be asked about if she was locked up at a certain
4 point in time. She's not the accused; she's not the one on
5 trial. This is supposed to be a search for the truth, and
6 the protections that would be afforded to the accused don't
7 really apply to this lady right now. Now, I still have --
8 and I don't want anybody to be misled. I still have
9 serious 403 issues as I mentioned yesterday repeatedly.
10 And this trial can't become a maybe it's such and such,
11 maybe it's such and such and just throwing stuff all over
12 the walls. Mr. Maye's right about the citation that he
13 gave; there has to be some evidence, some indication other
14 than just absolute rank speculation that it might have
15 happened some other way. Do y'all have the rulings you
16 need from me?

17 MR. MAYE: Yes, sir, Your Honor; and I think, Your
18 Honor, the only thing that I wanted to say just for the
19 Court's benefit -- I know the Court has concerns about what
20 the Court went into at great length yesterday talking about
21 the concerns about the defendant potentially facing life
22 without parole -- I offered an armed robbery plea in this
23 case. I offered, on the other charge that he had, a
24 strong-arm robbery rather than an armed robbery charge. He
25 was a co-defendant of the defendant that Mr. Joel Collins

1 represented earlier this week on that charge, Your Honor,
2 and he got six years. And I've offered him exactly the
3 same thing on that. I did not want the Court to think that
4 we were trying to railroad somebody on a life without
5 parole case without making offers. I did; I made this
6 offer. They were rejected. This defendant has
7 consistently rejected any offers. But I made an offer of
8 armed robbery on this case and a strong-arm for six on the
9 other case, Your Honor. And he also has drug charges.
10 I've offered to drop or *nol-pros* those. The only other
11 thing that I had in that regard is from the discussion that
12 the Court expressed some concern about yesterday. The
13 victim in this case never had indicated anything to us
14 about having any knowledge about the rims being stolen.
15 Ms. Salaam has indicated to us that she never shared with
16 him anything about the rims being stolen. I couldn't bring
17 that up in my cross examination or my direct examination of
18 either of these witnesses, Your Honor, because it basically
19 goes into bad acts of the defendant and I did not want to
20 approach that. And, like I said, that was brought up in
21 camera earlier, you know, with Ms. Salaam; and I just did
22 not feel it was appropriate to broach that, so I did not
23 touch that on my direct examination, anything about the
24 rims being stolen.

25 THE COURT: If I gave the impression that I was making

1 comments on the record about the plea bargain process and
2 disagreeing with it, I never intended that. The only point
3 I was trying to make when I was discussing it on the record
4 was it's very serious and, not only is it serious in the
5 context of this particular trial, it's serious as to the
6 consequences of any other trial. That's all I was trying
7 to say. Now, I'm hearing something I think different than
8 what I heard yesterday because I asked about plea bargains
9 and I was told there weren't any.

10 MR. STITELY: Judge, this came up yesterday at a
11 break. It was before -- It was after that conversation.
12 And, just to clarify, it was six consecutive that was
13 offered.

14 MR. MAYE: That's correct. And I offered that during
15 the trial here. There were no plea bargains prior to
16 the trial, but I did offer that yesterday during the
17 trial, Your Honor. And, like I said, this defendant has
18 rejected --

19 THE COURT: It doesn't matter. It's not --

20 MR. MAYE: I understand.

21 THE COURT: Just like he was arguing with me, for you
22 to say it, y'all are just wasting time. I cannot do
23 anything about it. I had an attorney general that got real
24 mad at me last week because I continued a case in Lexington
25 on Monday. They've offered the guy PTI; he won't take it.

1 You can't offer anybody anything any better than PTI; but,
2 by God, he says he's innocent and he didn't do it and he
3 ain't doing 40 hours of public service and he's not going
4 to go through PTI. And that's his call and the
5 prosecutor's call and not the judge's call. All right.
6 Are we ready?

7 MR. MAYE: Yes, sir. Thank you. Your Honor.

8 THE COURT: We're at ease for a couple minutes.

9 (Brief Recess.)

10 THE COURT: All right. Ms. Salaam, I have no idea
11 what they might ask you and, if you want to talk to your
12 lawyer -- I noticed you were talking to him during the
13 break -- you just let me know. All right?

14 MS. SALAAM: Yes, sir.

15 THE COURT: Are you okay?

16 MS. SALAAM: Yes, sir.

17 THE COURT: Why are you shaking?

18 MS. SALAAM: I'm cold.

19 THE COURT: You're cold?

20 MS. SALAAM: Yes, sir.

21 THE COURT: All right. You're cold too? All right.

22 Well, I don't think there's a whole lot I can do about
23 that. Bring in the jury.

24 (The jury returns to the courtroom at 2:44 p.m.)

25 THE COURT: All right. Ladies and gentlemen, again, I

1 misjudged the time. It's not because we weren't here and
2 ready to go, but some issues came up that we did not
3 anticipate and I had to deal with them. All right. Cross
4 examination.

5 MR. STITELY: If it please the Court.

6 THE COURT: Yes.

7 **CROSS EXAMINATION**

8 BY MR. STITELY:

9 Q Good morning, Ms. Salaam, or afternoon.

10 A Good morning.

11 Q How old are you?

12 A Twenty-four.

13 Q You're 24. Before I get to my other questions, I
14 guess I've got some specific ones for you. Where do you
15 live now? What city? You don't have to tell me exactly
16 where.

17 A Irmo.

18 Q Irmo? Okay. Before that, you lived in Newberry?

19 A Yes, sir.

20 Q That's where you grew up?

21 A Yes, sir.

22 Q Okay. I'm going to ask you a couple questions about
23 some trouble you've been in in the past. Isn't it true
24 that, in 2006, you were convicted of a burglary second
25 degree?

1 A Yes, sir.

2 Q And you had a shoplifting the next year or two years
3 later?

4 A No, sir.

5 Q Do you have a conviction for shoplifting?

6 A Yes, sir.

7 Q Sometime after the burglary?

8 A Before.

9 Q Before the burglary? I apologize. Were you also
10 convicted in 2009 of a possession with intent to distribute
11 marijuana and a distribution of marijuana in proximity of a
12 school?

13 A Yes, sir.

14 Q Okay. I'm going to ask you about that. It was in
15 2009. Were you arrested on that charge on July 1st of
16 2009?

17 A I'm not sure what date it was; but, yes, sir.

18 Q And you were taken to jail when you were arrested?

19 A Yes, sir.

20 Q And you eventually got out?

21 A Yes, sir.

22 Q And you entered a plea later that year?

23 A Yes, sir.

24 Q The events in question in this armed robbery, what was
25 the day of the alleged armed robbery? Do you remember?

1 A The 9th.

2 Q The 9th of July. And you said about a week before,
3 when you were talking to the Solicitor, you met Mr. Bookman
4 in Prosperity?

5 A Yes, sir.

6 Q Okay. Was this before or after the arrest on July 1st
7 of 2009 when you were taken to the Newberry County
8 Detention Center?

9 A I really can't remember.

10 Q I'm only asking because, you know, you said earlier it
11 was a week before and he had to wait until he got his
12 paycheck on Friday. I just want to make sure the dates,
13 the jury understands them. It was a week before the 9th?

14 A I said it was a couple days I met him, but he told me
15 he was going to call me when he get paid that Friday, so I
16 don't remember what day it was -- what day it was.

17 Q Okay. So, if it was just a couple days before, that
18 would have been after the arrest?

19 A I guess.

20 Q Okay. Let me talk to you about that, Ms. Salaam. Do
21 you know another Bookman by chance, a Derrick Sandtel
22 Bookman?

23 A Derrick?

24 Q Sandtel Bookman also from Newberry?

25 A I may do by another name.

1 MR. STITELY: May I approach?

2 THE COURT: Yes.

3 (Pause.)

4 MR. STITELY: Approach, Your Honor?

5 THE COURT: Sure.

6 MR. MAYE: Your Honor, I have a matter to take up
7 outside the presence of the jury.

8 THE COURT: Ladies and gentlemen of the jury, I need
9 you to step in the jury room. Don't discuss the case.

10 (The jury retires to the jury room.)

11 THE COURT: Yes, sir.

12 MR. MAYE: Your Honor, if he has a picture of someone
13 that he tells me is named Bookman, I don't know what the
14 foundation for this is at all. If someone -- He asked her
15 if she knows someone. He's just got a photograph, and I
16 would object to the relevance unless they can establish
17 some foundation as to identifying some other person.

18 THE COURT: How is it relevant?

19 MR. STITELY: Judge, this is her co-defendant in the
20 marijuana distribution case. I've also pulled and cross
21 referenced the friends' names that the two of them list as
22 their friends. This name flies up along with a Rarshell
23 Bookman. I'm directly impeaching her testimony that these
24 two just met. They appear to have common -- I'm just
25 asking. I was going to ask if these are common friends of

1 theirs. One of them is her co-defendant with the same
2 name, same city, as the other gentleman, Mr. Bookman, the
3 victim. This is another Mr. Bookman who's her co-defendant
4 out of Newberry. They both live -- both of them are on
5 Facebook -- in Newberry. They've maintained, both of them,
6 that this was just -- He said he knew her around but he
7 didn't really know her, and she said she just met him. I'm
8 just asking if she -- I mean, it appears to me, Judge, in
9 just looking at it -- And I can ask her. This might help
10 too.

11 BY MR. STITELY:

12 Q Do you know a Rarshell Bookman, R-A-R-S-H-E-L-L?

13 A No, sir.

14 Q You don't have a friend named Rarshell or Rarshell
15 Bookman?

16 A Rarshell Bookman?

17 Q Uh-huh, from Newberry?

18 A No, sir. He might be my friend on Facebook, but you
19 got many friends on Facebook that you don't know.

20 MR. STITELY: I'll leave it alone, Judge. That's
21 fine.

22 MR. MAYE: Your Honor, again, I would object on the
23 grounds that this is a fishing expedition under Rule 608,
24 Your Honor. He doesn't know the answer to that; he just
25 hopes that maybe that's somebody that she knows and can

1 somehow link it in. I just think it's not relevant, so I
2 object.

3 MR. STITELY: Both her and the victim have the same
4 friends on Facebook, both tagging them in Newberry with the
5 same last name. She's arrested with him for selling
6 marijuana. There's just too many similarities not to be
7 able to ask the question, Judge.

8 THE COURT: I've apparently forgotten the English
9 language somewhere between Edgefield and Saluda today. You
10 just said, I'll leave it alone, which I took to mean you
11 weren't going to go into it. Now, do you want me to rule?

12 MR. STITELY: Yes, sir, Your Honor. I'm sorry.

13 THE COURT: Overruled. Bring the jury in.

14 (The jury returns to the courtroom.)

15 THE COURT: The objection's overruled. You may show
16 her the photograph.

17 BY MR. STITELY:

18 Q Do you recognize this gentleman?

19 A Yes, sir.

20 Q Who is he?

21 A Deuce Bookman.

22 Q Deuce Bookman?

23 A Yes, sir.

24 Q What's his legal name?

25 A I know him as Deuce.

1 Q You don't know his legal name?

2 A Deuce. I know him as Deuce.

3 Q Okay. Do you know if he's any kin to Mr. Jerrell

4 Bookman?

5 A No, sir, I don't.

6 Q You don't know or you know he's not?

7 A I don't know if they any kin, sir.

8 Q Okay. Does he live in Newberry?

9 A Yes, sir.

10 Q A friend of yours from Newberry?

11 A He stay in Newberry, yes, sir.

12 Q Okay. How about a Rarshell Bookman, R-A-R-S-H-E-L-L?

13 A I don't know who that is, sir.

14 Q Okay. You don't identify that name as someone you've

15 been friends with?

16 A No, sir.

17 Q Okay. So the original deal is that you met

18 Mr. Bookman somewhere in Prosperity. Correct?

19 A Yes, sir.

20 Q You said your friend pointed him out?

21 A Yes, sir.

22 Q And you approached him and said, you want to buy some

23 rims?

24 A Yes, sir.

25 Q He tells you he's got to get some more money together

1 that week, get his paycheck?

2 A Yes, sir.

3 Q Okay. Did you give him your phone number?

4 A Yes, sir.

5 Q What was your phone number?

6 A Sir, I don't remember.

7 Q Why don't you remember?

8 A Sir, I done had millions of phones. This been back in
9 09. I had changed numbers and all of that. I don't
10 remember.

11 Q I think you might be exaggerating when you say
12 millions of phones, but how many cell phones did you have?

13 A I'm not sure, sir.

14 Q How many did you have back in 09? Just one or did you
15 have a couple phones?

16 A A couple.

17 Q Good habit to have a couple phones?

18 A I just had a couple phones.

19 Q All in your name?

20 A No, sir.

21 Q Why not?

22 A Because I bought them from people.

23 Q They all worked?

24 A Yes, sir.

25 Q Did you pay their phone bills?

1 A It was prepaid.

2 Q You just carried around a bunch of cell phones on you
3 at any given time?

4 A Yes, sir.

5 Q Always?

6 A Yes, sir.

7 Q At least a couple?

8 A Yes, sir.

9 Q Who would call you on these different numbers?

10 A People.

11 Q Great. Did you use certain phones for certain people?

12 A No.

13 Q Okay. If I asked for your phone number, how would you
14 pick which number of your phones to give me?

15 A Just give you a phone number and answer your phone.

16 Q Okay. So you give him one of your phone numbers that
17 you can't remember and you invite him over to your house on
18 July 9th. Correct?

19 A Yes, sir.

20 Q To buy your rims?

21 A Yes, sir.

22 Q What kind of rims were they?

23 A They was some 22 rims.

24 Q Be a little bit more specific. What kind of rims were
25 they? Who made them?

- 1 A I don't know who made them, sir.
- 2 Q What kind of car do you drive now?
- 3 A A Grand Marquis.
- 4 Q A Grand Marquis, pretty much the same car as a Crown
- 5 Vic?
- 6 A Yeah, yes, sir.
- 7 Q Basically the exact same car, just made by Mercury
- 8 instead?
- 9 A. I guess.
- 10 Q Okay. What kind of wheels have you got on it now?
- 11 A 22's.
- 12 Q Are they the 22's in question?
- 13 A No, sir.
- 14 Q Different 22's. What was the lug pattern of the 22's
- 15 that you were going to sell to Mr. Bookman? Do you know
- 16 what that means?
- 17 A Yes, I do, sir.
- 18 Q And what was the lug pattern of the 22's that you were
- 19 going to sell to Mr. Bookman?
- 20 A They was universal.
- 21 Q Universal. How does that work?
- 22 A. It mean it go on anything. It can go on anything.
- 23 Q All right. Maybe you can kind of help educate me.
- 24 Now, I've looked at a wheel when I've gotten my tires
- 25 rotated and they have little pegs that come out. Right?

1 That they go on?

2 A Yes, sir.

3 Q Some cars have four. Right?

4 A Yes, sir.

5 Q Some have five. Right?

6 A Yes, sir.

7 Q And some have six?

8 A Yes, sir.

9 Q Okay. How did your rims fit on any car?

10 A Because they was universal.

11 Q How does that work? I just want to know.

12 A I mean, I can't tell you. It's universal. They made
13 to go on anything basically.

14 Q Okay. So they're different 22's. And you were going
15 to sell them for how much?

16 A I was going to sell them for a thousand at first; and
17 then I had seen some rims that was 24's, and they was
18 selling them for a thousand. So I knew I couldn't get a
19 thousand, so I took them down to 750, 800.

20 Q 750, 800?

21 A Yes, sir.

22 Q Are you sure?

23 A Yes, sir.

24 Q It wasn't 850?

25 A No, sir.

1 Q So, if Mr. Bookman said it was 850 that he was coming
2 to pay you, he would be wrong?

3 A Yes, sir.

4 Q Okay. So this deal was complete for your rims for
5 750?

6 A Or 800. I don't know. One of those numbers.

7 Q Either way, definitely not 850?

8 A Yes, sir.

9 Q Okay. So you got a text with some other rims.
10 Correct?

11 A Correct.

12 Q On one of your many phones. Correct?

13 A Correct.

14 Q And there was a picture. Correct?

15 A Correct.

16 Q So was it like a smart phone, like a Droid, iPhone,
17 something like that?

18 A No, I ain't had -- I ain't had no phone like that.

19 Q Okay. But it was a picture that you could look at the
20 wheels --

21 A Yes, sir.

22 Q -- the rims? And I apologize. I keep calling them
23 the wrong thing. All right. And you said that that
24 picture came from my client?

25 A Yes, sir.

1 Q Okay. And it was a picture like, you know, if you
2 opened up your phone, and you can just, you know, pull up
3 the screen and look at it?

4 A Say that again?

5 Q If they were on the phone, like you could hand him the
6 phone so he could look at them?

7 A Yes, sir.

8 Q Okay. It definitely had that picture on your phone?

9 A Yes, sir.

10 Q Okay. I'm going to jump forward and ask a question
11 now I just forgot. And you also showed the detective that
12 picture on your cell phone of these alleged rims. Right?
13 To corroborate your story?

14 A Yes, sir, I think so.

15 Q You definitely showed him a picture on your phone?

16 A I think so.

17 Q How sure are you?

18 A Thirty percent. I don't remember.

19 Q Well, that's less than -- That's less than even
20 halfway sure. So you don't --

21 A I don't remember. That's what I'm saying.

22 Q So you maybe did?

23 A Maybe did, maybe didn't. I don't remember.

24 Q Ms. Salaam, you understand how important this is
25 today. Correct?

1 A Yes, sir.

2 Q Okay. But you don't remember whether or not you
3 showed the police detective the rims on the phone and all
4 the information that you had because, at this point, you're
5 telling him you're innocent. Correct?

6 A No, I never told him that.

7 Q You didn't write a statement saying you had nothing to
8 do with it?

9 A I had nothing to do with the robbery, no, sir, I did
10 not.

11 Q Okay. The first statement you give, you played off
12 any involvement of knowing anybody. Correct?

13 A Correct.

14 Q Okay. So why would you have shown him the pictures of
15 the rims from your friend if you were telling him that you
16 didn't know anybody?

17 A Say that again?

18 Q Why would you want to show the detective the picture
19 on your cell phone records when you wanted to pretend you
20 didn't know anybody?

21 A That goes back to -- I don't know if I showed him the
22 picture or not.

23 Q Well, you can't have it both ways. Either you wanted
24 to cooperate and say, look, this bad thing happened to me
25 and I can show you these pictures to prove that I'm

1 innocent.

2 A I met with Mr. Holloway several times. I don't know
3 if I showed him -- I know the first time when I met with
4 him, when I denied anything, knowing anybody, I know I
5 didn't show him nothing then.

6 Q Okay. So that's on the 10th, the next day?

7 A I don't know the date, sir.

8 Q The first time you know you showed him nothing?

9 A Correct.

10 Q Did he ask you to see the cell phone from the story?

11 A No, sir.

12 Q And you pretty much lied up and down the first time
13 you talked to him?

14 A No. I just lied about not knowing anybody.

15 Q That's a pretty big detail, isn't it?

16 A Yes, sir.

17 Q That's not the only time you lied to him. You lied to
18 him another time. You said you talked to him a bunch of
19 times. Correct?

20 A (No response.)

21 Q When did you finally come up with your story that --

22 THE COURT: Has she answered the question?

23 A I talked to him a couple times, sir.

24 Q When did you finally come up with the story that you
25 want this jury to believe is the real story? After how

1 many lies?

2 A One.

3 Q Only one lie?

4 A Yes, sir.

5 Q And the story you're telling him now is that you still
6 had nothing to do with an armed robbery?

7 A Yes, sir.

8 Q There wasn't supposed to be an armed robbery?

9 A Correct.

10 Q Just some rims --

11 A Correct.

12 Q -- that you don't have a picture -- Do you have a
13 picture of them now?

14 A No, sir.

15 Q Do you know -- You don't know if you have a picture
16 of -- I'm sorry. I withdraw that. Okay. So how many
17 times had you seen Mr. Bookman before you get in a car with
18 a man in Prosperity?

19 A How many times have I saw him before then?

20 Q Yeah.

21 A Just that one time.

22 Q And you just hop in the car with him?

23 A Yes, sir.

24 Q A strange guy you'd never met before but one time
25 about some rims?

- 1 A Yes, sir.
- 2 Q Okay. And y'all rode to Saluda?
- 3 A Yes, sir.
- 4 Q Okay. What kind of car was he driving?
- 5 A He was in his Crown Vic.
- 6 Q Okay. Had you seen the car before?
- 7 A No, sir. In Prosperity, yes, sir.
- 8 Q That one time?
- 9 A Yes, sir.
- 10 Q Okay. What kind of wheels was it rolling on then?
- 11 A All black.
- 12 Q All black. How big?
- 13 A It was just some original tires.
- 14 Q Okay. And you come to Saluda. Correct?
- 15 A Correct.
- 16 Q And you eventually get to a Burger King?
- 17 A Correct.
- 18 Q Okay. And that's the Burger King right over in
- 19 downtown Saluda?
- 20 A Yes, sir.
- 21 Q Okay. Over by where the road that comes in from
- 22 Lexington and the road that comes in from Greenwood and the
- 23 road that comes in from Newberry all meet, over there.
- 24 Right?
- 25 A Yes, sir.

- 1 Q All right. Where did you go from there?
- 2 A To a dirt road.
- 3 Q Where? How did you get there?
- 4 A Followed them in the car.
- 5 Q Okay. Let's tell the jury how we get there. We're at
- 6 Burger King. Where are we going next?
- 7 A We at Burger King. They tell us to follow them.
- 8 Q Okay. Where did you go?
- 9 A On the dirt road. We go through a light, keep going
- 10 straight --
- 11 Q Okay.
- 12 A -- and made a left.
- 13 Q Let me -- All right. We're at Burger King. Which way
- 14 do we come out of the parking lot, onto what road?
- 15 A I don't know the roads. I'm not from Saluda, South
- 16 Carolina, so I can't tell you the name of the roads.
- 17 Q Which direction were you going, towards which town
- 18 when you left out of Burger King, Greenwood, Lexington,
- 19 Batesburg or Newberry?
- 20 A Sir, I don't know nothing about Saluda, so I couldn't
- 21 tell you. I just know we left out the parking lot, we made
- 22 a right, we passed a new gas station.
- 23 Q Okay. You passed a new gas station.
- 24 A And we just kept straight.
- 25 Q And you kept straight. Did you ever turn?

1 A Yes, sir.

2 Q Where did you turn?

3 A We made a left on a road.

4 Q You made a left on a road. A hundred percent?

5 A Yes, sir, I guess.

6 Q Okay. Do you know -- You drove to this courthouse
7 today?

8 A Yes, sir.

9 Q Utah Street's actually right over there on the other
10 side of this courthouse, isn't it?

11 A Sir, I don't know.

12 Q And you've got to take a right onto Utah Street from
13 the courthouse. Coming from the Burger King, you would
14 have to make a right onto Utah Street, wouldn't you?

15 A Sir, I don't know.

16 Q So you don't know if it was Utah Street that you were
17 on because you definitely make a right to go onto Utah
18 Street.

19 A Sir, I don't know no street. I don't know no Utah
20 Street. I don't know what you saying.

21 Q Is it possible that you made a right turn or you
22 definitely made a left? You said left.

23 A Coming out the Burger King?

24 Q No. Once you're on that road, you said you passed a
25 new gas station and you're absolutely positive --

- 1 A The new gas station is on my right-hand side --
- 2 Q Okay.
- 3 A -- and we kept going straight.
- 4 Q And then you turned left you said?
- 5 A Yes, sir.
- 6 Q Okay. How long did it take you to get from the Burger
- 7 King to this dirt road?
- 8 A Sir, I don't remember that.
- 9 Q A mile, two miles, five miles?
- 10 A I'm going to say about four, five minutes from the
- 11 Burger King.
- 12 Q Okay. How far out of town?
- 13 A Sir, I don't know that.
- 14 Q Okay. Did you recognize any other really big
- 15 buildings that you drove past on your way out to this dirt
- 16 road?
- 17 A No, sir --
- 18 Q Mainly the one --
- 19 A -- not that I can remember.
- 20 Q -- the one that we're at right now that you would have
- 21 to pass between Burger King and Utah Street?
- 22 A We didn't pass this building right here, sir.
- 23 Q Okay. Fair enough. All right. So you get onto Utah
- 24 Street or whatever. You don't know. Describe the dirt
- 25 road to me. We've got State's Number 6 and 7. I'll show

1 them to you.

2 MR. STITELY: May I approach, Your Honor?

3 THE COURT: Yes, sir.

4 BY MR. STITELY:

5 Q Describe the dirt road to me?

6 A Rocks, a lot of trees, a couple houses.

7 Q How wide was it, like big enough that two cars could
8 have passed each other?

9 A You can, yes, sir.

10 Q Okay. Would it surprise you if I told you Utah Street
11 is a one-lane road when it turns to gravel or does it not
12 sound like where this happened?

13 A That's where it happened, sir.

14 Q On a one-lane road?

15 A Where this picture's at.

16 Q How do we get to where that picture's at?

17 MR. MAYE: Your Honor, at this time, I'm going to
18 object. She's already said that she doesn't know. She
19 said she does not know, and I would object. That's asked
20 and answered.

21 THE COURT: What did she say yesterday?

22 MR. MAYE: She said that the spot that she was at was
23 the same one that was in the photograph, but she's
24 testified up here today she doesn't know the exact route on
25 how to get there. That's what she's testified to today.

1 THE COURT: Overruled.

2 BY MR. STITELY:

3 Q How do we get there?

4 A Sir, I don't know how to get there.

5 Q Okay. When was this picture taken, these two
6 pictures?

7 A The date?

8 Q Sure.

9 A I don't remember the date, sir.

10 Q This year? 2009? I'm only asking --

11 A No, it was this year.

12 Q This year? And they say 5/4/2011. Maybe then?

13 A Yes, sir.

14 Q Okay. Not in 2009?

15 A No, sir.

16 Q When did you take Officer Holloway out to this
17 location?

18 A On 5/4/2011.

19 Q And you remembered how to get there then, but you've
20 forgotten since?

21 A Yes, sir. I was in a car riding.

22 Q So two years later you could remember how to get
23 there; but now, miraculously, you can't tell me how to get
24 there?

25 A If you put me in your car, I can show you how to get

1 there.

2 Q All right. So how wide was the dirt road?

3 A It was wide enough for two cars. They pulled over to
4 the side, and he pulled on the side of them. So it was two
5 cars right beside each other on the dirt road.

6 Q So it was wide enough for two. What was the other
7 car? What kind of car?

8 A A small four-door car.

9 Q You were in a full-size car though?

10 A Yes, sir.

11 Q Okay. So this road --

12 THE COURT: Wait a minute. What did you say? Did you
13 say a small little four-door car? What did you say?

14 A Yes, sir.

15 THE COURT: I'm sorry. Go ahead. I just wanted to
16 make sure I understood what she said.

17 BY MR. STITELY:

18 Q But you're -- Again, it's important. You're sure that
19 this gravel road that you were on out there with all these
20 trees that we see was wide enough for two four-door cars to
21 pull up next to each other?

22 A Yes, sir. We pulled up next to each other.

23 Q Okay. And it was far enough apart -- Could the car
24 doors open or would they have hit each other, like the
25 passenger side and the driver's side?

- 1 A They'd probably hit each other.
- 2 Q Okay. All right. How many individuals were in the
- 3 other car?
- 4 A Three.
- 5 Q Okay. Where were they sitting?
- 6 A Driver, passenger and in the back seat.
- 7 Q Passenger, in the passenger front seat?
- 8 A Yes, sir.
- 9 Q What side of the back seat?
- 10 A The driver.
- 11 Q The driver's back seat?
- 12 A (Witness nodded head.)
- 13 Q Okay. Use my hands. I'm going to ask you. Y'all's
- 14 car, my left hand or my right hand (indicating)?
- 15 A Left.
- 16 Q Okay. So y'all are on the left side of the road. The
- 17 other car pulls up or you pull up next to them on their
- 18 left side. So they would have been like my right hand.
- 19 Correct?
- 20 A Correct.
- 21 Q Okay. And you said the doors would have banged
- 22 together if they were opened?
- 23 A I said probably would have.
- 24 Q Okay. So how close were they? Give me an
- 25 approximation. I'm going to come stand by you. Pretend

1 this wall right here -- I'm using the side of the jury box
2 or the witness box as the side of the car. Okay? How far
3 away is the other car?

4 A It wasn't that far away.

5 Q Back?

6 A I can't really tell you how far it was because I
7 really don't remember.

8 Q Okay. It's important because you're going to tell --
9 You told the Solicitor people got out of the car. I want
10 to know how they got out of the car. How far apart were
11 the cars?

12 A They was far enough to open the door.

13 Q Okay. Both cars could open the door or just one car?

14 A Just one car -- no, two cars.

15 Q All right. So three or four feet maybe, the size of a
16 door?

17 A I guess so.

18 Q Okay. And these cars were both on the dirt road next
19 to each other?

20 A Yes, sir.

21 Q All right. Who gets out of the driver's side?

22 A I don't know who he was.

23 Q Okay. Who gets out of the passenger side?

24 A Tony.

25 Q Okay. Who gets out of the back door?

- 1 A I ain't never seen him get out.
- 2 Q Okay. So how many people got out of the car?
- 3 A Two.
- 4 Q Okay. Did they have guns when they got out of the
- 5 car?
- 6 A Yes, sir.
- 7 Q Obviously?
- 8 A Yes, sir.
- 9 Q Clear and apparent?
- 10 A Yes, sir.
- 11 Q Came around with their guns brandished? Brandished is
- 12 a fancy word. They were pointing their guns?
- 13 A No, sir.
- 14 Q But they had them out?
- 15 A Yes, sir.
- 16 Q In their hands?
- 17 A Yes, sir.
- 18 Q So, if Mr. Bookman says they didn't have guns when
- 19 they got out of the car, he'd be wrong?
- 20 A Yes, sir.
- 21 Q Okay. So they get out of the car, they've already got
- 22 their guns in their hands. What happens next?
- 23 A One of them had the gun like this (indicating); the
- 24 other one that had got out the driver's side --
- 25 THE COURT: Hold on a second. The jury can't see when

1 you're holding your hands below that rail. If you want to
2 show something, stand up. Okay?

3 A Tony had his gun like this (indicating).

4 THE COURT: Okay. Wait a minute. You can't brush
5 against the microphone. I'm sorry.

6 A He had his gun like this (indicating).

7 MR. STITELY: Let the record reflect she's got her
8 hand pointing down towards the ground near her belt.

9 A And the other one, he just jumped out with a gun.

10 Q Okay. How did he have it? Was he like this, arm up,
11 arm out (indicating).

12 A Just like this (indicating).

13 Q Two hands?

14 A Just like this (indicating).

15 Q All right. Clearly visible though to you?

16 A Yes, sir.

17 Q Okay. Where did the guys go?

18 A One came to my side and one went to his side.

19 Q Okay. Who went to which side?

20 A Tony went to Mr. Bookman's side.

21 Q Okay. Where was the gun at this point?

22 A I don't know.

23 Q All right. Did they have a conversation or was it
24 pretty much, give me your money?

25 A Just, give me the money.

1 Q So, if Mr. Bookman says they had a conversation ahead
2 of time about, do you have the money, let me see the money,
3 that never happened?

4 A It was just like, where the money, give me the money.

5 Q Okay. This is important because it's a little
6 different. Where is the money, give me the money? Or did
7 they have a discussion about, hey, do you have the money
8 for the rims?

9 A Where the money, give me the money.

10 Q Okay. So, if Mr. Bookman says they first had a
11 conversation about, do you have the money for the rims --

12 MR. MAYE: Your Honor, objection to trying to pit
13 witnesses.

14 THE COURT: You're pitting one witness against
15 another. You can argue it to the jury --

16 MR. STITELY: Yes, sir.

17 THE COURT: -- but you can't ask one witness about
18 another witness' testimony.

19 MR. STITELY: That's fine.

20 BY MR. STITELY:

21 Q How long between when the individuals got out of the
22 car and came around to the car you were in before they
23 started pointing guns in the window?

24 A Say that again?

25 Q How long in time after the gentlemen get out of the

1 one car, they come around to that car, did they point guns
2 in the window? Was it right away or was there a time
3 lapse?

4 A It was right away.

5 Q Okay. No conversations before? It was right away?

6 A Right away.

7 Q Did you see Mr. Bookman take his money out of his
8 wallet at some point?

9 A I seen him doing something.

10 Q Okay. Did you see him put money --

11 THE COURT: You saw what?

12 A I seen him doing something.

13 BY MR. STITELY:

14 Q Did you see him put his money back away then?

15 A Did I see him put it back away?

16 Q Uh-huh, yes.

17 A No, sir.

18 Q Okay. What did he do next, Mr. Bookman? Did he give
19 him the money?

20 A Yes, sir.

21 Q Okay. And you were watching this?

22 A No, sir.

23 Q Okay. What were you watching?

24 A I was looking down like I was told to.

25 Q That was by the other gentleman?

- 1 A Yes, sir.
- 2 Q Okay. What did they take from you?
- 3 A Nothing.
- 4 Q Okay. Did you have any money on you?
- 5 A No, sir.
- 6 Q Did you have all your cell phones?
- 7 A I had one phone.
- 8 Q You had a phone on you?
- 9 A Yes, sir.
- 10 Q Did it work?
- 11 A Yes, sir.
- 12 Q Okay. Did you have any jewelry?
- 13 A No, sir. Tank top and some basketball shorts.
- 14 Q Your earrings?
- 15 A No, sir.
- 16 Q Okay. Is that piercing there?
- 17 A No, sir. I just got that.
- 18 Q Okay. Did they even ask you if you had anything?
- 19 A I don't remember.
- 20 Q Okay. So what happens next?
- 21 A They said, pop the trunk --
- 22 Q Okay.
- 23 A -- pop the trunk.
- 24 Q All right. How did Mr. Bookman pop the trunk or did
- 25 you pop the trunk?

1 A He popped the trunk.

2 Q All right. What happened next?

3 A He popped the trunk, they took the speakers, put them
4 in the car and left.

5 Q All right. How long between when they popped the
6 trunk and them leaving?

7 A It was quick.

8 Q Real quick?

9 A It was quick.

10 Q Like a couple seconds?

11 A It was quick.

12 Q Okay. Who took the speakers?

13 A I don't remember.

14 Q Okay. Do you know what kind of speakers they were?

15 A No, sir.

16 Q All right. Did you know he had speakers back there?

17 A Yes, sir.

18 Q Okay. When you were talking about these rim deals,
19 did you guys talk about the speakers too?

20 A No, sir.

21 Q So randomly these guys just knew to go get his
22 speakers?

23 A I guess so.

24 Q Okay. You never mentioned speakers in the back of the
25 car?

- 1 A No, sir.
- 2 Q Okay. That wasn't part of the deal?
- 3 A No, sir.
- 4 Q All right. So overall, amount of time, from the time
5 you pull up next to them to the time -- Who left first?
- 6 A They did.
- 7 Q From the time you pull up next to them till the time
8 they leave, how long?
- 9 A Sir, everything was quick. I don't know.
- 10 Q Super quick?
- 11 A I don't know a time limit, nothing.
- 12 Q A minute or 15 minutes?
- 13 A It wasn't no 15 minutes.
- 14 Q Definitely not 15 minutes?
- 15 A It was quick, sir. That's all I can tell you.
- 16 Q Okay. Did you look at your watch?
- 17 A I ain't have on no watch, sir.
- 18 Q But it definitely, absolutely in your mind, could not
19 have possibly taken any significant amount of time?
- 20 A I mean, I don't know.
- 21 Q Was Mr. Bookman's car running at the time?
- 22 A I don't remember.
- 23 Q Okay. The keys were still in the ignition?
- 24 A Yes, sir, yes, sir.
- 25 Q Y'all were listening to music or whatever?

1 A On the way up there, yes, sir. I don't really
2 remember.

3 Q Okay. Did they block you in?

4 A No, sir.

5 Q All right. So did one individual take the speakers or
6 did all three of them allegedly get involved in that?

7 A Sir, I don't know who took the speakers and how many
8 it was that took the speakers. I just know the speakers
9 was gone.

10 Q Okay. Earlier you described the car that the other
11 individuals were in as being small. Correct?

12 A Uh-huh, yes, sir.

13 Q How small, I mean compared to like your Grand Marquis?

14 A It was small.

15 Q Okay. Real small?

16 A Not real small like you can pick up small, but it was
17 small.

18 Q All right. Like a compact car, like a Caprice or
19 something like that -- or not a big Caprice, but the little
20 ones, the Cavaliers or something like that rather than the
21 size of a Grand Marquis -- a Ford escort or something like
22 that?

23 A It was like the size of like a Maurich (phonetic), or
24 whatever you call it, Myrich (phonetic), something like
25 that.

- 1 Q Myrich? I don't know what that one is. I'm sorry. I
2 don't know what that one is. Okay. But it was smaller?
- 3 A Yes, sir.
- 4 Q Okay. Probably didn't have that huge of a trunk.
5 Right?
- 6 A I don't know, sir.
- 7 Q Okay. What kind of speakers were in the car? Do you
8 have any idea?
- 9 A No, sir.
- 10 Q Were they loud?
- 11 A He ain't have it up loud, but you can hear it booming,
12 but it wasn't like --
- 13 Q All right. You can hear it booming?
- 14 A Uh-huh, yes, sir.
- 15 Q Do you know anything about speakers?
- 16 A No, sir, not really.
- 17 Q You got a box in your car?
- 18 A Yes, sir.
- 19 Q What do you got in your car?
- 20 A Two 12's.
- 21 Q Two 12's? What kind of 12's?
- 22 A Two 12's. I don't know.
- 23 Q You don't know what they are?
- 24 A I don't know.
- 25 Q What kind of box are they in?

- 1 A I don't know.
- 2 Q Is it plastic, fiberglass, wood with carpet on it?
- 3 A Yeah, it got carpet on it.
- 4 Q How big is it?
- 5 A About this size (indicating).
- 6 Q About three feet? You went like this (indicating).
- 7 About three feet?
- 8 A Yeah, about this size (indicating).
- 9 Q Okay. How deep?
- 10 A How deep?
- 11 Q Yeah.
- 12 A I mean, it ain't big.
- 13 Q Okay. Because they're just 12's?
- 14 A Yes, sir.
- 15 Q You ever seen 15's?
- 16 A Yes, sir.
- 17 Q Fifteens are pretty big?
- 18 A It all depends on what kind.
- 19 Q You ever seen 15's in a box?
- 20 A Yes, sir.
- 21 Q With 2000 watts on them?
- 22 A I don't know about all that.
- 23 Q Okay. A big box though with 15's?
- 24 A Yes, sir.
- 25 Q You need a big car like yours to fit them in?

- 1 A No, sir.
- 2 Q Okay. Is your box heavy?
- 3 A I can pick it up.
- 4 Q Is it heavy though?
- 5 A No, sir.
- 6 Q Okay. Do you have an amp?
- 7 A Yes, sir.
- 8 Q What kind of amp do you have?
- 9 A I don't know, sir.
- 10 Q Okay. How is your amp hooked to your speakers?
- 11 A How is it hooked?
- 12 Q With wires?
- 13 A Yes, sir.
- 14 Q You ever looked at it?
- 15 A Yes, sir.
- 16 Q All right. Are there -- Is there a red wire that
- 17 comes somewhere from your battery to the amp?
- 18 A I don't know, sir.
- 19 Q Okay. You ever opened -- popped the hood of your car?
- 20 A Yes, sir.
- 21 Q You ever noticed there's a little thing on your
- 22 battery that has a little red wire that comes out from it
- 23 that goes right where you connect your battery to your car?
- 24 You ever seen that before?
- 25 A No, sir.

1 Q How is your sub, your speakers and your amp connected
2 to your CD player? There's wires?

3 A Yes, sir.

4 Q Okay. And then do you know if it's grounded? It's a
5 green wire that attaches to the frame of your car so that
6 you don't get electrocuted.

7 A I don't know about that, sir.

8 Q Okay. So, after the individuals leave, what did you
9 do next?

10 A Went on the strip.

11 Q Okay. What's the strip?

12 A It's in Saluda.

13 Q Where is that?

14 A On the strip. That's all I can tell you, sir. I
15 don't know all the names.

16 Q Well, what does it look like? What businesses are
17 there? What houses are there?

18 A Just a bunch of houses, and I think it's a store on
19 it --

20 Q Okay.

21 A -- by the baseball field I think, I guess.

22 Q How far away is the strip from this dirt road?

23 A Maybe four or five minutes.

24 Q All right. What do you find on the strip? What were
25 you looking for?

1 A He was looking for his cousin.

2 Q Who's his cousin?

3 A I'm not sure. I'm not sure.

4 Q I'm sorry. The mike just didn't pick that up. Do you
5 remember telling the officers the guy's name was Duke?

6 A Duke?

7 Q Duke.

8 A I think that's what he said his cousin name was.

9 Q Why were you looking for Duke?

10 A That's not a question I can answer. He was --

11 Mr. Bookman was looking for Duke, sir.

12 Q Did he tell you why?

13 A No, sir.

14 Q All right. Is Duke a cop?

15 A No, sir, I don't think so.

16 Q They didn't take your cell phone, did they?

17 A No, sir.

18 Q So the first thing you guys did after you got robbed
19 is you went ahead and dialed 9-1-1 because you said there
20 was a robbery. Right?

21 A I told him to do that, but he wanted to find his
22 cousin.

23 Q So he didn't even want you to call the law?

24 A No. He wanted to call -- He wanted to get his cousin.

25 Q What was his cousin going to do?

1 A That ain't a question I can answer, sir.

2 Q What was the body of that conversation? What was his
3 attitude?

4 MR. MAYE: Your Honor, objection. She can't testify
5 as to what his attitude was. That's outside the scope of
6 her knowledge. I would object to that.

7 MR. STITELY: It's a personal observation, Judge, of
8 his demeanor.

9 THE COURT: Overruled. You may answer the question if
10 you're able, ma'am.

11 A Say that again?

12 Q What was Mr. Bookman's attitude?

13 A He was mad.

14 Q He was mad? Was he scared or mad?

15 A He probably was both of them, scared and mad.

16 Q But he didn't want to call the police?

17 A He wanted his cousin.

18 Q He wanted his cousin. He didn't want you to call the
19 police?

20 A He wanted his cousin.

21 Q He didn't want the police to have anything to do with
22 this?

23 A I don't know about all that.

24 Q So, when you got home and you were out of the presence
25 of Mr. Bookman -- Actually that's a good question. Where

1 did you guys go after the strip?

2 A We went to Newberry. He dropped me off.

3 Q Okay. Where did he drop you off?

4 A On Shaw Street.

5 Q Is that where you lived?

6 A Newberry, yes.

7 Q And you called the police then?

8 A No, sir.

9 Q No. Okay. So you were just going to let Duke take
10 care of it?

11 A Yes, sir. He didn't want to call the police when I
12 told him to.

13 THE COURT: What did you say?

14 MR. STITELY: He didn't want to call the police when
15 she told him to.

16 BY MR. STITELY:

17 Q So you didn't think your job as a citizen was to
18 report this alleged armed robbery?

19 A No, sir.

20 Q You didn't think that was important?

21 A I mean, if he ain't think it was important, why should
22 I think it was important?

23 Q So maybe it wasn't a big deal to him?

24 A Exactly.

25 Q Like it wasn't really an armed robbery. Come on. You

1 can say it.

2 A That's what you say. No, sir.

3 Q Okay. It wasn't an armed robbery. That's what I
4 thought.

5 MR. MAYE: Objection, Your Honor. That's not a
6 question; that's a statement from him. That's not a
7 question, Your Honor. I object to that.

8 THE COURT: He can ask her questions but, ladies and
9 gentlemen, as I told you, what the lawyers say is not
10 evidence, so disregard the statement of the attorney. You
11 may consider the questions asked and the responses given,
12 the responses of the witness or the evidence.

13 MR. STITELY: Sorry, Judge. I'll ask it again.

14 THE COURT: Go ahead.

15 BY MR. STITELY:

16 Q So Mr. Bookman wasn't treating this like an armed
17 robbery?

18 A He just wanted to get his cousin.

19 Q Didn't want the police?

20 A I guess he didn't. He wanted his cousin.

21 Q It's possible this wasn't an armed robbery, isn't it?

22 A It was an armed robbery, sir; yes, it was.

23 Q Of you?

24 A Of me what?

25 Q Were you robbed?

1 A I wasn't robbed because nothing got taken from me. I
2 just had a gun to my head. That's all.

3 Q What kind of gun was to your head?

4 A I don't know about guns, sir.

5 Q You don't know anything about guns or you don't know
6 about --

7 A I know they shoot. That's it.

8 Q Okay. What about the gun on the other side of the
9 car?

10 A I don't know what it was.

11 Q You don't know what it was. Did Mr. Bookman talk more
12 about the events while you guys are driving from Saluda to
13 Newberry?

14 A No, he was just mad.

15 THE COURT: He was just what.

16 A He was just mad.

17 BY MR. STITELY:

18 Q Had y'all found Duke?

19 A He got out the car and talked to somebody, but I don't
20 know who it was.

21 Q What did they look like?

22 A I can't even tell you, sir. I don't remember.

23 Q What time was it? Daytime?

24 A It was right after the robbery.

25 Q Daytime or nighttime?

1 A It was daytime.

2 Q So what did the guy look like that he got out and
3 talked to?

4 A I don't remember. I don't.

5 Q Did you tell Officer Holloway about this guy that
6 y'all found out there on the strip in Saluda?

7 A I told him that we met somebody on the strip, his
8 cousin on the strip, yes, sir, I did.

9 Q You definitely told Officer Holloway that you met
10 somebody named Duke?

11 A Yes, sir. Not Duke, but I told him somebody.

12 Q Did you write that in your statement?

13 A I don't remember.

14 Q But you definitely told Mr. Holloway all that?

15 A Yes, sir, if I remember correctly.

16 Q Okay. So he dropped you off at your house. You
17 didn't call the police at that point?

18 A No, sir.

19 Q Okay. When was the next time you saw Mr. Bookman?

20 A Next time we had to come to court.

21 Q So you didn't ever see him after that?

22 A No, sir.

23 Q Y'all didn't talk about the armed robbery a little bit
24 later?

25 A No, sir. He was beefing with me.

1 Q He was beefing with you?

2 A Yeah.

3 Q What does that mean?

4 A Like we had an altercation --

5 Q Okay.

6 A -- like wanting to fight.

7 Q So when was that?

8 A This was after the robbery.

9 Q Okay. You just said you didn't see him after the
10 robbery.

11 A No. I'm just saying he had some words on Facebook,
12 like he was saying -- you know what I'm saying -- like I
13 said something on Facebook, and he responded back like --
14 you know what I'm saying?

15 Q No, I don't. I'd love to hear it?

16 A He was just talking junk. We was talking junk back to
17 each other on Facebook.

18 Q Slow down. I want to know what this junk is. What
19 did he say to you?

20 A I don't know, just being mean. We was talking junk
21 back and forth to each other.

22 Q I'm going to need more. Was it bad words?

23 A I don't remember.

24 Q Profane language?

25 A Yeah.

1 Q Cussing at you?

2 A We both was cussing at each other.

3 Q Why? You guys were victims together in a crime. Why
4 were you cussing at each other?

5 A I guess he was mad, angry. I don't know.

6 Q Did you ever feel threatened by those words?

7 A No, sir.

8 Q Did you tell the Solicitor about the beefing you guys
9 had?

10 A No, sir.

11 Q Did you tell Mr. Holloway about the beefing you guys
12 had?

13 A No, sir.

14 Q Did you go back and delete all those threats from
15 Facebook?

16 A I don't remember, sir.

17 Q So you guys are Facebook friends?

18 A No, we're not.

19 Q So how were y'all hollering at each other, just on
20 each other's walls?

21 A He was on somebody else's page, and I -- He was on
22 somebody else's page, and I commented on somebody else's
23 page, and he said something, and I said something. That
24 was it.

25 Q You don't remember any of the context of any of those

1 conversations?

2 A No, sir.

3 Q Whose page was he on?

4 A I don't remember whose page he was on.

5 Q Whose page were you on?

6 A I don't remember whose page we were on, we were on.

7 Q So how did you know that Mr. Bookman was swearing at
8 you and beefing with you?

9 A Because I commented and he commented right up under
10 me, and I came back and said something else and he said
11 something else. And somebody sent a message saying, chill
12 out.

13 Q Who did that?

14 THE COURT: Somebody said what?

15 MR. STITELY: Chill out.

16 A Chill out.

17 THE COURT: Before that, what did you say? Before
18 they said chill out, what did you say?

19 A I sent a message, and he sent a message back.

20 THE COURT: Turn to the microphone.

21 A I sent a message, and he sent a message back.

22 MR. STITELY: And then someone else came in and told
23 her to chill out.

24 THE COURT: Thank you.

25 BY MR. STITELY:

1 Q Who was that?

2 A I don't remember, sir.

3 Q How long after the robbery was this conversation?

4 A It's been a long time ago; it's been a while back.

5 Q Was it the next day, the next month, the next week,
6 the next year? How long?

7 A Sir, I don't remember the date. I'm not good at
8 remembering dates and time and things.

9 Q I don't need a date or time. I just need a general
10 reference so we can tell the jury.

11 A It was maybe eight months after, nine months after. I
12 don't remember. I don't remember.

13 Q Eight months after the robbery, y'all were still
14 jacking back and forth about it?

15 A Maybe eight months or nine months after, maybe. I
16 don't remember.

17 Q Had you been charged with armed robbery by then?

18 A Yes, sir.

19 Q Conspiracy?

20 A Yes, sir.

21 Q And giving false information to the police?

22 A Yes, sir.

23 Q And y'all were still jaw jacking?

24 A Yes, sir.

25 Q What happened to those charges, your charges?

1 A They still here.

2 Q How many different statements did you give to law
3 enforcement in writing?

4 A Two.

5 Q Okay. How many oral statements did you give to law
6 enforcement?

7 A None.

8 Q You didn't tell them what happened? I guess people
9 get confused when I ask that question. An oral statement
10 is any time you talk to the police. It doesn't necessarily
11 have to be like, this is my statement; but it's when you
12 tell the police what happened. How many times did you do
13 that?

14 A When I wrote the statements.

15 Q Okay. And you lied?

16 A Yes, sir.

17 Q And that generated the charges for giving false
18 information to the police?

19 A Yes, sir.

20 Q Okay. And, miraculously, you then changed your mind.
21 You wanted to come here and testify today --

22 A Yes, sir.

23 Q -- to tell these jurors something different?

24 A To tell the truth, yes, sir.

25 Q What do you get for it?

1 A I don't get nothing, but I'm telling the truth.

2 That's all.

3 Q You don't hope to get anything from being here

4 testifying?

5 A No, sir.

6 Q After the jacking on the internet, the beefing as

7 you called it, did you have any other contact with

8 Mr. Bookman?

9 A No, sir.

10 Q Do you know if he had any other family or friends? Do

11 y'all have mutual friends?

12 A No, sir.

13 MR. STITELY: Just a second, Your Honor.

14 THE COURT: Yes, sir.

15 (Pause.)

16 Q What was the time of day of the robbery?

17 A The time?

18 Q Morning, afternoon, evening?

19 A It was afternoon, evening.

20 Q Still sunny?

21 A Yes, sir.

22 Q When you described the individuals involved, how did

23 you describe them?

24 A A dark-skinned dude.

25 Q Was that him?

1 A No, sir.

2 Q Okay. The other guy?

3 A He was just dark-skinned.

4 Q Anything else?

5 A Grill in his mouth.

6 Q Grill, like fake teeth?

7 A Uh-huh.

8 Q Yes?

9 A Like gold teeth.

10 Q Okay. How tall was he?

11 A I don't know.

12 Q Big, little, muscles, skinny, any of that?

13 A No, sir.

14 Q And it's your position you didn't know that
15 individual?

16 A Yes, sir.

17 MR. STITELY: Your Honor, one second.

18 THE COURT: Yes.

19 (Pause.)

20 MR. STITELY: I'm sorry. I do have one or two other
21 questions. I apologize.

22 Q Who is Brian?

23 A Nobody.

24 Q Did you make that name up or did Mr. Bookman?

25 A I made the name up.

1 Q Do you remember how long the dirt road was?

2 A How long?

3 Q Yes.

4 A No, sir.

5 Q Like how long you were on it before y'all stopped?

6 Like did you just get on a dirt road or did you go for like
7 a mile or two on a dirt road?

8 A Yeah, we rode down it for a little minute.

9 Q You love the expression a minute. A minute in
10 realtime, a minute as in --

11 A A minute as in we passed a couple houses. Once we got
12 past the houses and couldn't see a house, we pulled off the
13 side of the road.

14 Q You definitely passed a couple houses?

15 A Yes, sir.

16 Q Have you been out back to this place --

17 A No, sir, I have not.

18 Q -- in number 6 and number 7?

19 A Not since then.

20 Q And you didn't take Mr. Holloway out there until last
21 year?

22 A Yes, sir.

23 MR. STITELY: I have no other questions, Judge.

24 THE COURT: Redirect?

25 MR. MAYE: Just briefly.

REDIRECT EXAMINATION

1
2 BY MR. MAYE:

3 Q Amber, you were asked something about going to jail
4 sometime before the robbery. How long did you stay when
5 you went?

6 A Not long.

7 Q What do you mean not long? Did you stay overnight?
8 Did you stay hours? What did you stay?

9 A I think I stayed a day or a couple hours.

10 Q Okay.

11 A Either a couple hours or a day.

12 Q But you didn't stay for an extended period of time?

13 A No, sir.

14 MR. MAYE: Okay. Nothing else. Thank you.

15 THE COURT: Recross?

16 MR. STITELY: Nothing from that, Judge. Thank you.

17 THE COURT: Thank you, ma'am. You may step down. Do
18 you have other witnesses, Solicitor?

19 MR. MAYE: Yes, I do.

20 THE COURT: Ladies and gentlemen, we'll take a ten-
21 minute break. Do not discuss the case. I'll get you back
22 out here in about ten minutes. Thank you.

23 (The jury retires to the jury room.)

24 THE COURT: Court's in recess for ten minutes.

25 (Brief Recess.)

1 THE COURT: Is the State ready for the jury?

2 MR. MAYE: The State's ready, Your Honor.

3 THE COURT: Defense ready?

4 MR. STITELY: Yes, sir.

5 THE COURT: Bring in the jury.

6 (The jury returns to the courtroom.)

7 THE COURT: Call your next witness.

8 MR. MAYE: State calls Investigator Charles Holloway.

9 THE COURT: Come around, please.

10 **CHARLES HOLLOWAY,**

11 **having been duly sworn, testified as follows:**

12 **DIRECT EXAMINATION**

13 BY MR. MAYE:

14 Q Investigator Holloway, just state your name for the
15 record, please.

16 A Charles Holloway.

17 Q Investigator Holloway, how many years have you been in
18 law enforcement now?

19 A About 17.

20 Q How many years have you worked as an investigator
21 during that time?

22 A Twelve.

23 Q Twelve and 17. Let me direct your attention back to
24 July of 2009. What was your first involvement in the case
25 that led to the armed robbery charges against the defendant

1 in this case, Victor Jones?

2 A On July 10th of 2009, Jerrell Bookman and his
3 grandmother and his mother came to the Police Department,
4 and he advised me that he needed to file a complaint. And
5 I asked him what was the nature of it, and he stated that
6 he had came to Saluda to purchase some rims and he had got
7 robbed.

8 Q Okay. What all did you do in order to respond to that
9 complaint, Investigator Holloway?

10 A I began to interview the victim, Mr. Bookman, in the
11 case. He advised me that he had met a female at Newberry
12 by the name of Amber Salaam and she advised him that she
13 had some rims, he went to her house, he looked at the rims,
14 he was kind of hesitant about buying them, she showed him a
15 picture of some rims on her phone that belonged to her
16 friend, Brian, he wanted those rims because they were 24-
17 inch rims, he wanted the bigger rims, so she contacted --

18 Q You sure about the rim size? Do you know were they
19 22's, 23's?

20 A Somewhere between a 23 and 24-inch rim.

21 Q Okay.

22 A But he just wanted the bigger rims.

23 Q Okay. What else were you advised at that time?

24 A He basically told me that she made a phone call to
25 Brian and he more or less said like, hey, come on to

1 Saluda, we'll meet at Burger King and you can get the rims.

2 Q Okay.

3 A He didn't know anything about Saluda, so he asked her
4 to ride with him.

5 Q Okay.

6 A So they proceeded on to Saluda, they went to Burger
7 King to meet him, and he said they were advised to follow
8 them and he did so.

9 Q Okay. Did he advise you further that he was a victim
10 of an armed robbery? What circumstances did he give you?

11 A He basically stated that they went to Burger King and
12 it was three guys in a gold color car had that no hub caps
13 and the paint was kind of faded on it. He said it was
14 three black men in the vehicle and, as he pulled up beside
15 them, they kind of motioned at them and said, hey, follow
16 us. He proceeded to follow them through Saluda. He said
17 they were on a little paved road and it turned into dirt.

18 Q Okay.

19 A He said that car pulled over. He said, when the car
20 pulled over, he pulled his car over and he was just kind of
21 sitting there. And he told me that a light-skinned black
22 male that had on red hat and a white wifebeater, had
23 tattoos, came to his side of the vehicle and put a gun to
24 his head and said, give me everything you got.

25 Q Okay.

1 A He advised me that he complied with it, and he told
2 him to open his trunk, he opened his trunk, they took his
3 speakers and told him -- they were told to leave.

4 Q Okay.

5 A He left the area, went down Bouknight Ferry to try to
6 find his cousin, Duke, because Duke knew everybody in
7 Saluda and he was going to give a description to Duke
8 hoping that Duke could get a name.

9 Q Okay. Because he did not know the individual that had
10 robbed him?

11 A Yes, he didn't know the individual that robbed him.

12 Q All right. Let me ask you this, Investigator
13 Holloway. Let me show you what's State's 6 and 7 in
14 evidence in this case. What are those photographs?

15 A These are two photographs of Amber Salaam standing on
16 Utah Street --

17 Q Okay.

18 A -- West Utah Street.

19 Q Okay. How were you able to establish that as the
20 incident location that the crime took place?

21 A When I was talking to Mr. Bookman, you know, I just
22 told him to come outside. I put him in my vehicle. We
23 went back to Burger King.

24 Q This is the next day? This is --

25 A Right, this is on the 10th.

1 Q The very next day?

2 A Right.

3 Q Okay.

4 A I went back to Burger King, and I just told him, I
5 said, point to the direction you went.

6 Q Yes, sir.

7 A So we left Burger King; we made a right onto Travis
8 Avenue --

9 Q Okay.

10 A -- heading towards the red light at Greenwood Highway
11 and Travis.

12 Q Okay.

13 A I said, where did you go here. He said, we went
14 through the light.

15 Q Okay.

16 A So I continued to go through the light. And I said,
17 okay. He said, no, we kept going and kept going and kept
18 going. So we proceeded on up Greenwood Highway.

19 Q Okay.

20 A He pointed and said, we made a left turn on that road
21 right there. That's Wise Road.

22 Q Okay.

23 A We made a left turn on Wise Road, and I just drove.
24 We got to the stop sign. He said, we crossed over. We
25 crossed over 378 and continued on South Wise Road.

1 Q Okay.

2 A We proceeded on maybe five-tenths of a mile. He said,
3 we made a right turn right here. That's Utah Street.

4 Q Okay.

5 A We rode on it momentarily, then it turns into dirt.
6 And he said, this is the place, this is right where it
7 happened at, right here.

8 Q So he took you the very next day?

9 A Yes, sir.

10 Q Is that in Saluda County?

11 A Yes, sir. It was in the City of Saluda.

12 Q It's in the city limits?

13 A Yes, sir.

14 Q Okay. If it would have been outside, then it would
15 have been the jurisdiction of the Sheriff's Department?

16 A Yes, sir.

17 Q Okay. Did you later have an opportunity to be guided
18 to that same location by Amber Salaam, the person that you
19 developed as a co-defendant in this case?

20 A Yes, sir.

21 Q Okay. Did she independently take you to the same
22 spot?

23 A Yes, sir.

24 Q Okay. A similar procedure?

25 A Yes.

1 Q Did you begin back at Burger King?

2 A Yes, sir.

3 Q Okay. Did she know the road names and directions and
4 all that or was she able to just show you where it was?

5 A She was just able to point and show me where it was.

6 Neither one of them knew the road names or anything.

7 Q Okay. But both of them were able to take you
8 independently to the same locale?

9 A Yes, sir.

10 Q Okay. Were they together during that time period or
11 did you do that separately with each one of them?

12 A No. I did it separately.

13 Q Okay. Based on the description that you had of the
14 individual, the wifebeater, the light skin, the tattoo,
15 driving the gold four-door car faded out with no hub caps,
16 did you subsequently take that identifying information out
17 to the road deputies?

18 A Yes, sir. I asked some of the road officers --

19 MR. STITELY: I would object to any hearsay at this
20 point.

21 Q Don't say what they said, but let me ask you. Did you
22 take the description of that vehicle, the light skin, the
23 tattoo, the clothing that the individual had on, did you
24 take that out to all the road deputies?

25 A Yes, sir.

CHARLES HOLLOWAY: DIRECT EXAMINATION BY MR. MAYE

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1 Q Okay. Based on that, did you develop a lineup or ask
2 that a lineup be generated with a picture of the defendant,
3 Victor Jones, in it?

4 A Yes.

5 MR. STITELY: I'm going to object to the leading. The
6 only way he can come to this is through hearsay. He's
7 trying to ask him a question -- He's specifically asking,
8 someone must have told you something to get him in that
9 lineup. He's trying to get around the hearsay rule.

10 THE COURT: Overruled.

11 BY MR. MAYE:

12 Q What did you do as a result of that? What did you do
13 to prepare a lineup and whose picture did you put in it?

14 A I contacted SLED. I provided them with Victor Jones'
15 information --

16 Q Okay.

17 A. -- to provide a photo lineup --

18 Q Okay.

19 A -- for purposes of identification.

20 Q All right. At that point in time from your interview
21 of the victim in this case, had he indicated that he had
22 gotten a good look at the person --

23 A Yes, sir.

24 Q -- that robbed him, that did the armed robbery?

25 A Yes, sir.

1 Q Okay. I'm going to show you State's 3 for
2 identification at this point in time. I'll ask you is that
3 the photo array that the South Carolina Law Enforcement
4 Division generated for you as a result of a request on your
5 part?

6 A Yes, sir.

7 MR. STITELY: Judge, I'm going to object again to the
8 foundation of this document citing my previous objections
9 about the documentation present and not present.

10 THE COURT: All right. The objection is noted.
11 Overruled.

12 BY MR. MAYE:

13 Q Investigator Holloway, did you direct that the South
14 Carolina Law Enforcement Division put the photos in any
15 order? Did you direct how they made up that lineup?

16 A No, sir.

17 Q Okay. Is there anything in that lineup that points to
18 one particular photo over the others? Is there anything in
19 the background or anything that points to one picture over
20 another?

21 A No, sir.

22 Q Okay. Did you have any hand in what order or anything
23 else that the lineup was generated in?

24 A No, sir.

25 Q Okay. Once you obtained a lineup with Victor Jones',

1 the defendant in this case, photograph in it, what did you
2 do with that?

3 A Once I got the photo lineup back from SLED, I
4 contacted both victims, Jerrell Bookman and Amber Salaam,
5 and I advised them I was going to bring them a lineup to
6 view.

7 Q Okay. Where did you go? Who did you go see first?

8 A I went to Jerrell Bookman's house first to allow him
9 to view the lineup. That was on -- That was around July
10 14th, 2009.

11 Q On the 14th of 2009. Okay. What did you tell him or
12 what did you do once you went out there with that lineup
13 with Victor's picture in it?

14 A I just basically gave him the lineup and asked him
15 were there any individuals that was on the piece of paper,
16 did any of them rob him.

17 Q Okay.

18 A And he took it and he immediately pointed at number 3.

19 Q He picked him out without hesitation?

20 A Yes, sir.

21 Q Is number 3 a photograph of the defendant in this
22 case, Victor Jones?

23 A Yes, sir.

24 Q Okay. Did you do anything to influence how he picked?

25 A No, sir.

1 Q Did you do anything to point out one photograph or
2 attempt to direct him as to one photograph rather than
3 another?

4 A No, sir.

5 Q You just handed it to him and asked him, if anybody
6 was involved in the armed robbery, to pick him out?

7 A Yes, sir.

8 Q And he picked out Victor Jones without hesitation?

9 A Yes, sir.

10 Q Okay. Based on the identification out of the lineup
11 and your investigation up to that point in time, what did
12 you do?

13 A When Mr. Bookman picked out Mr. Jones out of the
14 lineup, then I knew I had -- that he was a suspect. So I
15 proceeded to meet with Ms. Salaam to see if she could pick
16 anyone out of the lineup.

17 Q Okay. What did Ms. Salaam do when you showed her?
18 Did you show her a photographic lineup?

19 A Yes, sir, I did.

20 MR. MAYE: Your Honor, at this time let me --

21 Q Investigator Holloway, as to State's 3 that was marked
22 previously for ID, is that the original of the photo array
23 that you had the South Carolina Law Enforcement Division
24 prepare and is that the array that you took to the victim
25 in this case, Mr. Bookman, where he identified the

1 defendant? Is that it?

2 A Yes, sir, it is.

3 MR. MAYE: Your Honor, I move to admit it into
4 evidence at this time.

5 THE COURT: Subject to the previous objection?

6 MR. STITELY: Yes, sir.

7 THE COURT: Overruled. Mark that in evidence, please.

8 (State's Exhibit 3 admitted.)

9 BY MR. MAYE:

10 Q You said that the next thing you did was you went to
11 see Amber?

12 A Yes, sir.

13 Q Okay. What did you do when you went to see Amber?

14 A I provided her with a photo lineup.

15 Q Okay. I'm going to show you what's been marked as
16 State's 4 for ID at this point in time. Is that the
17 photographic array that you showed her the first time?

18 A Yes, sir.

19 Q Okay. Did you have that prepared in the same fashion
20 that you did the original one here, the previous one that's
21 already into evidence as State's 3 --

22 A Yes, sir.

23 Q -- by the South Carolina Law Enforcement Division?

24 A Yes, sir.

25 Q You didn't do anything to direct how the order or

1 anything else in that one was done?

2 A No, sir.

3 Q Okay. When you showed her the lineup that you took
4 for her, was she able to identify anybody?

5 A No, sir.

6 Q Okay. What information did Ms. Salaam provide to you
7 at that time?

8 A She just said there wasn't anyone in the lineup that
9 robbed them.

10 Q Okay. How about the information that she gave you at
11 that point in time? What did she tell you initially, the
12 first go round when you talked to her? What information
13 did she provide you?

14 A The first go round, she basically told me that Jerrell
15 had wanted some rims and she had a friend over here named
16 Brian that had some.

17 Q Okay.

18 A His was bigger and, if she sold the rims, then he
19 agreed to split the proceeds with her.

20 Q Okay.

21 A So, if she sold her rims, she would have money; and,
22 if she sold the other ones, she would gain some money.

23 Q Okay. She related to you a similar series of events
24 but gave you the name of Brian there. Correct?

25 A Yes, sir.

1 Q And did not identify the defendant in this case out of
2 the lineup --

3 A No, sir.

4 Q -- initially?

5 A Correct.

6 Q Okay. Did you seek, based on the information that you
7 had about cell phone calls going back and forth, did you
8 seek to try to get the text messages and any photographs
9 that may have been sent?

10 A Yes, sir.

11 Q Did you issue subpoenas in that case in order to do
12 so?

13 A Yes, sir.

14 Q Okay. Were you able to obtain any photographs or
15 texts or was it beyond the time period for which the phone
16 company could comply with that?

17 A It was beyond the time period. The only thing that
18 was submitted back to me was just call logs.

19 MR. STITELY: Your Honor, I'm going to object to any
20 of this. There's no foundation --

21 THE COURT: Sustained.

22 Q Don't go into anything in the record --

23 THE COURT: Hold on a second. Disregard that, ladies
24 and gentlemen; it's hearsay.

25 BY MR. MAYE:

1 Q Investigator Holloway, based on your investigation up
2 to that point in time, did you obtain an arrest warrant for
3 the defendant in this case, Victor Jones?

4 A Yes, sir, I did.

5 Q Okay. For armed robbery?

6 A Yes, sir.

7 Q Okay. Was that warrant subsequently served on the
8 defendant in this case, Victor Jones?

9 A Yes, sir.

10 Q Okay. Sometime after then, did you receive
11 information that Victor Jones, the defendant in this case,
12 wanted to make contact with you?

13 A Yes, sir.

14 Q Okay.

15 A Captain Burton from the Detention Center --

16 MR. STITELY: Objection.

17 BY MR. MAYE:

18 Q Wait a second. Don't go into what anybody else said.
19 But, as a result of you being contacted, did you go and
20 talk with the defendant in this case, Victor Jones?

21 A Yes, sir, I did.

22 Q Did he tell you that he wished to speak with you?

23 A Yes, sir.

24 Q Okay. Based on that, did you talk with him based on
25 his request to talk to you?

1 A Yes, sir, I did.

2 Q Okay. Did he subsequently provide you with a written
3 statement?

4 A Yes, sir.

5 Q Okay. Investigator Holloway, you've already testified
6 in this case that he initiated the communication with you
7 that he wanted to talk. Correct?

8 A Yes, sir.

9 Q Prior to talking with him, did you go through and
10 advise him of his rights?

11 A Yes, sir.

12 Q Okay. I'm going to show you what's marked as State's
13 1 for ID at this point in time. I'm going to ask you if
14 you can identify that document.

15 A Yes, sir. This is Victor Jones' waiver of rights.

16 Q Victor Jones' waiver of rights?

17 A Yes, sir.

18 Q Okay. Go through with the jury everything that you
19 told him in regard to advising him of his rights and
20 exactly the procedure that you went through in advising him
21 of his rights, how you conducted that written waiver of
22 rights.

23 A Yes, sir. Can I step down, Judge?

24 THE COURT: You want to step down?

25 A Yes, sir.

1 THE COURT: Do you want him to stand down?

2 MR. MAY: No, sir.

3 BY MR. MAYE:

4 Q Just do it from the stand. Just go through
5 everything. Read it and basically just go through the
6 procedure and everything that was told to him and
7 everything that was done?

8 MR. STITELY: Judge, for the record, I'd object to him
9 reading it. He can go through the procedure; but, if he
10 reads it, he's publishing it. I don't know if we're going
11 to have an objection at the end if he goes through the
12 procedures. But reading it out loud is publishing it
13 without it being in evidence.

14 THE COURT: Do you wish to be heard?

15 MR. MAYE: No, sir, Your Honor.

16 THE COURT: Sustained.

17 BY MR. MAYE:

18 Q Investigator Holloway, without reading that document,
19 go through and tell everything that you did in order to
20 advise him of his rights.

21 A You know, to start off, you fill out the top part with
22 his name, his age, his address --

23 Q Okay.

24 A -- and whether or not he can read or write.

25 Q Okay.

CHARLES HOLLOWAY: DIRECT EXAMINATION BY MR. MAYE

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1 A Then it drops down to six individual sentences giving
2 him his *Miranda* warning. If he understands it and complies
3 with it, he puts his initials in it.

4 Q Okay. Go through each of the things that you told him
5 and indicate to the jury how, if he did, he acknowledged
6 that he understood it.

7 A Number one is, I have the right to remain silent, this
8 means I do not have to say anything or answer any
9 questions. He put his initials, V.J., in the block which
10 meant he understood that.

11 Q Okay.

12 A Number two, anything I say can be used against me in
13 court. His initials are in block number two, V.J. The
14 third one, I have a right to talk to a lawyer and to have a
15 lawyer here with me now to advise and help me before and
16 during questioning. His initials, V.J., are in that block.
17 Number 4, if I want to have a lawyer with me before and
18 during questioning and I cannot afford to pay a lawyer, one
19 will be provided to me at no cost. His initials are in
20 that block. Number 5, if I decide to answer questions now
21 without a lawyer here, I still have the right to stop
22 answering questions whenever I want to. He initialed that
23 box, V.J. Number six, I also have the right to stop
24 answering questions until I have talked to a lawyer. His
25 initials are in that box, V.J.

1 Q You went through each of his rights with him, and he
2 initialed indicating he understood it?

3 A Yes, sir.

4 Q Did he also advise you that he could read and he
5 understood English?

6 A Yes, sir.

7 Q Okay. After you went through all of those rights and
8 he initialed it, did you ask him to sign it?

9 A Yes, sir.

10 Q Did Victor Jones, the defendant in this case, sign
11 that written waiver of rights in your presence?

12 A Yes, sir.

13 Q Is the document that you have in your hand that's
14 previously marked as State's Exhibit 1 for ID, is that, in
15 fact, the written waiver of rights signed by the defendant
16 and witnessed by you?

17 A Yes, sir.

18 MR. MAYE: Your Honor, I move to admit it into
19 evidence at this time.

20 MR. STITELY: No additional objections.

21 THE COURT: Subject to previous objections, mark it
22 into evidence, please.

23 (State's Exhibit 1 admitted.)

24 BY MR. MAYE:

25 Q Investigator Holloway, I'm going to show you what's

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1 marked State's 2 for identification. Can you identify that
2 document?

3 A This is the statement that Victor Jones provided after
4 he received this *Miranda* warning on July 24th of 2009.

5 Q Okay. Did you watch him write that statement in your
6 presence?

7 A Yes, sir, I did.

8 Q Okay. Did you see him sign it?

9 A Yes, sir.

10 Q Does his signature appear on the document that you
11 have for ID there and is that, in fact, the original of the
12 document that he prepared, his written statement?

13 A Yes, sir.

14 MR. MAYE: Your Honor, at this time, I would move to
15 admit it into evidence.

16 MR. STITELY: No new objections.

17 THE COURT: Subject to previous objections, mark it in
18 the record, please, as evidence.

19 (State's Exhibit 2 admitted.)

20 Q Investigator Holloway, publish his statement, exactly
21 what he wrote in his written statement after being advised
22 of his rights?

23 A On July the 9th Amber Salaam text my phone do I have
24 some rims; I text her back yah; then she said she have a
25 lick; so she said --

- 1 Q Read that again? Then she said she had a what?
- 2 A She have a lick.
- 3 Q A lick?
- 4 A Yes, sir.
- 5 Q How do you spell that?
- 6 A L-I-C-K.
- 7 Q Okay. Go ahead?
- 8 A She have a lick; so she said he's pussy and then she
- 9 said its going to be easy; then she text me back she's on
- 10 Newberry Highway; then she text back met her at the Burger
- 11 King; then Carlos told me to text her back follow us and I
- 12 did; so we when on a dirt road and stop; Lil Tim jumped out
- 13 the car and went to the drivers door and got the money and
- 14 Carlos took the speaker, and Lil Tim told them to ride off
- 15 and they did and we left.
- 16 Q Ant that's from Victor Jones --
- 17 A Yes, sir.
- 18 Q -- the defendant in this case?
- 19 A Yes, sir.
- 20 Q Okay. So Victor Jones, the defendant in this case,
- 21 admitted that he was there at the scene of this armed
- 22 robbery. He just said two other guys were the ones that
- 23 got out of the car?
- 24 A Yes, sir, with this statement, he admitted that he was
- 25 there at the armed robbery, at the scene.

1 Q Okay. Let me ask you this. Don't go into anything
2 that he said. Were you ever able to make any progress in
3 identifying any of these individuals known as Carlos or
4 Little Tim?

5 A No, sir.

6 Q You never made any progress at that?

7 A No, sir.

8 Q None whatsoever?

9 A No, sir.

10 Q Did you make attempts to do so?

11 A Yes, sir.

12 Q But could not?

13 A Yes, sir, could not.

14 Q Investigator Holloway, did you threaten him in order
15 to take that written statement from him?

16 A No, sir.

17 Q Did you do anything to try to coerce him into making
18 this statement?

19 A No, sir.

20 Q Did you promise him anything in exchange for him
21 giving you this statement?

22 A No, sir.

23 Q Now, Investigator Holloway, initially you had
24 interviewed Amber Salaam as a supposed victim in this case.
25 Correct?

1 A Yes, sir.

2 Q Did that redirect the focus of your investigation once
3 you received this confession from the defendant in this
4 case?

5 A Yes, sir. Once he provided that statement to me, I
6 obtained arrest warrants for Amber Salaam for filing a
7 false police report, armed robbery, conspiracy.

8 Q Okay. Did you subsequently have that carried out, the
9 arrest warrant carried out on Amber Salaam?

10 A Yes, sir.

11 Q Okay. Once you carried out that arrest warrant on
12 Amber Salaam, did there come a time that she made contact
13 with you?

14 A Yes, sir.

15 Q Okay. What did she relate to you in regard to wanting
16 to talk with you? What did she relate to you when you went
17 to talk to her?

18 A I had to pick her up from the Orangeburg County
19 Detention Center; and, when we arrived back to the jail in
20 Saluda, she advised me she wanted to come clean about the
21 situation.

22 Q She said she wanted to come clean?

23 A Yes, sir.

24 Q Okay. So what did she do as a result of her telling
25 you that she wanted to come clean?

1 A She was mirandized, and she provided a statement.

2 Q She gave you a subsequent written statement?

3 A Yes, sir.

4 Q Okay. Did she identify someone else in regard to who
5 had carried out or who was the perpetrator of this armed
6 robbery other than the individual known as Brian that she
7 had previously tried to tell you was the perpetrator?

8 A Yes, sir. She advised me that Brian was -- she knew
9 him by T.J.

10 Q Okay. Did she admit to you that she had lied
11 initially?

12 A Yes, sir, because she didn't want to be a snitch and
13 she just had lied about it.

14 Q Okay. Investigator Holloway, I'm going to again show
15 you State's 4 for identification. Did you again show her
16 that lineup photograph?

17 A Yes, sir.

18 Q Okay. Was she able to make an identification of the
19 individual known to her as T.J.?

20 A Yes, sir.

21 Q Okay. Which one did she pick out?

22 A She picked out number three.

23 Q Okay. Is that -- Number three, is that the defendant
24 in this case, Victor Jones?

25 A Yes, sir, it is.

1 Q Okay. What is Victor Jones' name? What is his full
2 name as you have it?

3 A His name is Victor Anthony Jones.

4 Q Victor Anthony Jones?

5 A Yes, sir.

6 Q She indicated that she knew him as T.J.?

7 A Yes, sir.

8 Q Okay. Investigator Holloway, let me see this.
9 State's 4 for ID, is this the photo array in which Amber
10 Salaam picked out the defendant in this case, Victor Jones?

11 A Yes, sir, it is.

12 Q That is the actual document? Is it initialed by her
13 and did she do so in your presence?

14 A Yes, sir.

15 MR. MAYE: I move to admit this into evidence at this
16 time.

17 MR. STITELY: I thought it was, Judge, but previous
18 objections is all I have. Nothing additional.

19 THE COURT: Subject to previous objections, mark it in
20 evidence.

21 (State's Exhibit 4 admitted.)

22 BY MR. MAYE:

23 Q Investigator Holloway, based on your investigation,
24 did you get an arrest warrant for armed robbery and charge
25 Victor Jones, the defendant in this case?

1 A Yes, sir, I did.

2 Q Did you subsequently obtain his confession?

3 A Yes, sir.

4 Q You are certain that the spot that is depicted in
5 these photographs is the spot that is in Saluda County?

6 A Yes, sir.

7 Q And it's the same spot that each of the two, what you
8 thought were victims initially, took you to independently?

9 A Yes, sir.

10 MR. MAYE: Answer any questions that the defense has
11 for you.

12 THE COURT: Cross?

13 MR. STITELY: Thank you, Judge.

14 **CROSS EXAMINATION**

15 BY MR. STITELY:

16 Q Investigator Holloway, how are you?

17 A Doing good. Yourself, sir?

18 Q I'm good. You've been in law enforcement you said
19 going on 17 years?

20 A Yes, sir.

21 Q At least 12 years in the capacity of an investigator
22 of some kind?

23 A Yes, sir.

24 Q Working all kinds of cases?

25 A Yes, sir.

1 Q And over the other years I take it you were doing road
2 stuff --

3 A Yes, sir.

4 Q --or whatever else?

5 A Yes, sir.

6 Q This is not your first case?

7 A No, sir.

8 Q Won't be your last case?

9 A I wish it was, but, no, sir.

10 Q I got you. When you do a case, do you take notes when
11 you're investigating a case? Do you have like a note pad
12 that you keep notes?

13 A Yes, sir.

14 Q Okay. And eventually is there a protocol in place for
15 law enforcement officers to create what's called an
16 incident report?

17 A Yes, sir.

18 Q Okay. And that's pretty much an official filing of
19 what you found out. Correct?

20 A Yes, sir.

21 Q And, if you have any additional information, you'll
22 typically file something called a supplemental incident
23 report?

24 A Yes, sir.

25 Q Okay. Is this case any different than a normal case

1 in that regard?

2 A No, sir.

3 Q Okay. So let me start with your involvement. At any
4 point on July 9th of 2009, to your knowledge, did the
5 Saluda Police Department receive any kind of 9-1-1 call or
6 distress call about an armed robbery?

7 A No, sir.

8 Q How about that evening?

9 A No, sir.

10 Q The morning of the 10th?

11 A No, sir. I want to say that Mr. Bookman and his
12 mother came maybe middayish.

13 Q Okay. And that's when they actually just drove into
14 the police station and you happened to be the lucky man on
15 duty?

16 A I was the luck of the draw, yes, sir.

17 Q Fair enough. All right. So they arrived, and he said
18 he wanted to fill out a complaint. Correct? That's how
19 you phrased it earlier?

20 A Yes, sir.

21 Q Okay. Describe his demeanor at this time.

22 A You know, he came in. As he talked, he was kind of
23 hesitant about, you know, telling what had happened. I
24 guess he was, you know, still nervous about the situation.

25 Q I got you. But did he come in and was it like right

1 off the bat, I was robbed at gun point? Did he come in --
2 Was he crying, was he yelling, was he screaming, anything
3 like that, or just casually walked in with his mother and
4 his grandmother and said, I'd like to file a complaint?

5 A No, sir. He was -- I could tell he was upset.

6 Q Sure. Okay. All right. Now, do you have your notes
7 about y'all's first conversation?

8 A Just briefly, I just -- Yes, sir.

9 Q All right. And do you have your police incident
10 report for case 9070419T? That's 090700419T.

11 A Yes, sir.

12 Q All right. And these are just your investigative
13 notes?

14 A. Uh-huh.

15 Q And I apologize. I don't want to block the jury.
16 All right. Do you recall the first time he came in saying
17 that -- He advised that he had wanted to get some rims.
18 Okay. Correct?

19 A Repeat yourself now?

20 Q What did he tell you about the rims? How did he tell
21 you about how that deal went down? Did he explain it to
22 you about how he came to -- who was going to get the rims
23 or why he was going to get rims or anything like that?

24 A He just basically said that he had met a female by the
25 name of Amber.

1 Q Okay.

2 A And she was going to sell him some rims that she had.

3 Q Uh-huh.

4 A He went and looked at the rims but, you know, he
5 didn't really want her rims; and she told him, hey, I got a
6 friend that has some bigger wheels, and showed him the
7 picture on the cell phone; and those are the rims that he
8 wanted.

9 Q Okay. So he says that's what happens and then they go
10 to Saluda?

11 A Yes, sir.

12 Q Did he give you any background as to how he knew her
13 at that time?

14 A Ms. Salaam?

15 Q Yes. Sorry.

16 A No, sir.

17 Q So he rode with her to Saluda. Okay. And he says
18 they met at a Burger King. Correct?

19 A Correct.

20 Q How did he describe the other vehicle to you that
21 first time you talked to him?

22 A He just said that it was a small four-door gold in
23 color car, no hub caps.

24 Q Okay. You keep saying small. When you think small
25 four-door car, did he put any kind of comparison to it or

1 anything like that that you can quantify that?

2 A No, sir.

3 Q All right. So they follow some gentlemen from Burger
4 King. Correct?

5 A Yes, sir.

6 Q To a location which you later describe as what?

7 A West Utah Street?

8 Q West Utah Street. And is West Utah Street that road
9 that starts right out there on the other side of the
10 courthouse like across from where Subway is?

11 A Yes. It runs between Lunch 'n -- It runs right beside
12 Lunch 'n Treats.

13 Q Lunch 'n Treats. That's that country restaurant right
14 down there. Right?

15 A Yes, sir.

16 Q And the Burger King -- I don't remember which way the
17 courtroom's facing but --

18 A The Burger King is that way (indicating).

19 Q Okay. So let's pretend that Lunch 'n Treats is back
20 over there. Correct?

21 A Yes, sir.

22 Q As I'm pointing, back behind the jury's head on a
23 diagonal like that. Right that way (indicating).

24 A Uh-huh.

25 Q. Burger King is over there (indicating) --

1 A Yes, sir.

2 Q -- behind the courtroom, back of the courtroom and
3 downtown?

4 A Yes, sir.

5 Q Okay. So, to get to Burger King, you have to come I
6 guess towards Batesburg or towards 20 to get down to where
7 Utah Street is. Correct?

8 A No, sir.

9 Q Which direction is it from downtown over to the
10 courthouse?

11 A You could get to Utah Street -- There's a couple
12 different ways you can get to Utah Street.

13 Q Okay.

14 A You can leave out of Burger King, make a right, get to
15 the red light. You can make a left.

16 Q Okay.

17 A You can turn on -- You can come all the way down Main
18 and turn right and go up. Or you can --

19 Q And Main would be the road that runs right next to the
20 courthouse down --

21 A Yes, sir.

22 Q You turn right, and Lunch 'n Treats is right down
23 there on your left?

24 A Yes, sir.

25 Q Okay. How far onto Utah Street did they say they

1 went? When you took Mr. Bookman first, how far did he say
2 they went onto Utah Street after it turned into a gravel
3 road?

4 A It turns into dirt maybe -- because there's a house
5 directly at the end of it on the right, so they probably
6 went maybe possibly a tenth of a mile.

7 Q Okay. Once it turns into dirt?

8 A Yes, sir.

9 Q All right. You heard -- You were in the courtroom
10 earlier when Ms. Salaam was testifying. Correct?

11 A Correct.

12 Q And she said they passed a couple houses on the dirt
13 road. Are you familiar with that area from your time as a
14 Saluda town deputy?

15 A Yes, sir. I think she said that it was a couple
16 houses on the road going down Utah Street. There's houses
17 on both sides of the road.

18 Q Okay. Once it turns into a dirt road, how many houses
19 are there?

20 A Once it turns into dirt, you've got one that's on the
21 right.

22 Q And it's an old house?

23 A No, sir, it's -- The house is not ten years old.

24 Q Okay. I just -- I drove down Utah Street this morning
25 because I'd never been out that way. All right. And

1 eventually Utah Street wraps back around to a paved road?

2 A Bonham Road.

3 Q It's kind of a -- I don't want to make an elbow -- but
4 an elbow shape that comes back around. Correct?

5 A Correct.

6 Q Like a U almost?

7 A Correct.

8 Q How wide is Utah Street?

9 A You can have two cars on it. Two cars can pass by on
10 it.

11 Q Would you -- As a law enforcement officer, would you
12 describe it as a two-lane road once it turns to gravel or
13 kind of a one-lane road?

14 A I would describe it as a two-lane road because two
15 cars can pass going in opposite directions. We've had to
16 work accidents down there, and that's how we classify it.

17 Q So you're saying it's definitely a two-lane road?

18 A Yes, sir.

19 Q Wide enough that two cars, without having their wheels
20 go on the grass, could pass each other?

21 A Well, if the wheels went in the grass, they would be
22 in the -- would be in the -- It's kind of like you got the
23 road, then you got the ditches up here (indicating). So if
24 the wheels -- If they went off the road, then they would
25 hit the ditch. You could get two cars by very easily.

1 Q Okay. All right. So I guess I'm going to draw back
2 to talking about Mr. Bookman. I apologize. I got a little
3 bit somewhere else on that one. All right. He says that,
4 at that time -- What did he tell you happened when they
5 pull over next to the other car?

6 A He said, when they pulled over to the other car, he
7 stated that three black males jumped out of the car and
8 drew guns on him and Amber Salaam.

9 Q Three black men jump out of the car. Correct? That's
10 what he told you?

11 A Yes, sir.

12 Q And I have no reason to believe -- You don't have any
13 idea or bias or you don't want to create or put anything
14 into your report that wasn't said by Mr. Bookman, do you?

15 A That's correct.

16 Q And you would tell it as they tell you because that's
17 your job?

18 A Correct.

19 Q You weren't there.

20 A Correct.

21 Q So you're relying on what Mr. Bookman told you at this
22 point?

23 A Yes, sir.

24 Q So, if you wrote on your incident report that he told
25 you three black men jumped out of their car with guns --

1 A Yes, sir.

2 Q -- that's what he would have told you that day?

3 A Yes, sir.

4 Q You were sitting in the courtroom earlier when Mr.

5 Bookman testified. Correct?

6 A Correct.

7 Q And you heard him --

8 MR. MAYE: Your Honor, again, I'm going to object to
9 the pitting of witnesses.

10 MR. STITELY: It's a prior statement at this point,
11 Judge.

12 THE COURT: What do you want to ask him? I haven't
13 heard the question.

14 MR. STITELY: I'm just going to ask him if that --

15 THE COURT: Ask him the question. Don't answer it
16 until I rule.

17 Q You were sitting in the courtroom earlier today when
18 Mr. Bookman testified. Correct?

19 A Correct.

20 Q That may have been yesterday. I apologize. And he
21 definitively said on the stand that two black males got out
22 of the car. Correct?

23 A Yes, sir.

24 Q That would be inconsistent from what he told you --

25 THE COURT: Do you want to withdraw your objection or

1 do you want me to rule?

2 MR. MAYE: I want you to rule, Your Honor.

3 THE COURT: Sustained. You can ask it a different
4 way.

5 MR. STITELY: Yes, sir.

6 BY MR. STITELY:

7 Q Is that inconsistent from what your report indicates
8 he told you and your recollection of what he told you the
9 first time he talked to you?

10 A Yes, sir.

11 Q Okay. All right. So after the -- At that time, he
12 said three black men got out of the car with guns. Did he
13 make any indication to you the first time you talked that
14 there was some kind of repartee or conversation with one of
15 the individuals about the actual transaction of the rims?

16 A No, sir.

17 Q Didn't mention that. Okay. Didn't say if they talked
18 first. Now, I'm asking. When you talked to him back in
19 July of 09, he didn't tell you that they talked first?

20 A No, sir.

21 Q He didn't tell you that he showed him the money?

22 A No, sir.

23 Q And, at that point, an individual drew a gun?

24 A I mean, he didn't tell me any of that if that's what
25 you're asking me.

1 Q Right. He didn't tell you that. And he wrote a
2 written statement?

3 A Yes, sir, he did.

4 Q And that's already into evidence as number 5 I
5 believe.

6 A Yes, sir. I've got a copy of it.

7 Q He didn't put it that way then either. Correct?

8 A Correct.

9 Q All right. And he said, from there, they -- Yesterday
10 it came up, and he said they struck him. Did he write in
11 either his statement or the statement he gave you on the
12 9th or the 10th -- excuse me -- that he was struck?

13 A No, sir.

14 Q Is that a kind of detail that, as a police officer
15 with 17 years of experience, you would note in your report?

16 A Yes, sir.

17 Q Okay. You're certain that that's an important detail?

18 A Yes, sir.

19 Q Okay. He said yesterday that it was a chromed-out
20 gun, maybe a 45. Did he tell you that?

21 A No, sir. He just said there was a gun.

22 Q Is that the kind of detail that, as a police officer
23 in making a case, you would typically ask about, could you
24 describe the gun?

25 A Yes, sir.

1 Q And, in your experience, that's something you would
2 have liked to have had and, if you knew that information,
3 you would have put it in your report. Correct?

4 A Yes, sir.

5 Q Additionally, when you have an individual write a
6 statement, a victim, suspect, witness or anything, do you
7 typically try to ask them to put important details in it?

8 A To the best of their knowledge.

9 Q Sure, like being struck in a case that's a robbery
10 type thing. Is that an important detail?

11 A Yes, sir.

12 Q Okay. Because there are different kinds of charges
13 that can be made. Correct?

14 A Correct.

15 Q Depending on what the incident actually was?

16 A Correct.

17 Q Things like the descriptor of the gun would important.
18 Correct?

19 A Yes, sir.

20 Q And that definitely was not present at this time?

21 A Correct.

22 Q Okay. Did he give you any indicia -- indication -
23 sorry; wrong word -- about how long the robbery took place,
24 like the amount of time?

25 A No, sir.

1 Q Okay. From his first telling of the detailed facts to
2 you, Mr. Bookman -- I guess it's a good question. Has he
3 ever told you the story again or is that one interaction
4 all y'all have had?

5 A Just that one interaction we had about it.

6 Q Okay. So I won't say the first time. The time y'all
7 talked about it, he didn't say how long it took place?

8 A No, sir.

9 Q Okay. Did he go into any details about his speakers
10 at that time? Did he tell you about them?

11 A Other than they took his, you know, the money and his
12 speakers.

13 Q Did he show you the car when he came up that day? Do
14 you remember?

15 A No, sir, he wasn't in his car. I want to say that he
16 was with his grandmother. I think it was in a, like a
17 minivan or something like that.

18 Q So you didn't see his car that next day when you were
19 speaking to him?

20 A No, sir.

21 Q Through your time and investigations, have you
22 conducted traffic stops?

23 A Yes, sir.

24 Q Done searches on cars?

25 A Yes, sir.

1 Q Have you ever particularly looked in cars that have
2 things like systems in them, sound systems?

3 A Yes, sir.

4 Q How many times have you -- if you don't know an exact
5 number, you know, just give me a ballpark -- when you
6 searched a car, stopped a car, looked in the trunk of a car
7 that had speakers? More than a handful?

8 A Quite a few.

9 Q Quite a few?

10 A Yes, sir.

11 Q A common thing you see?

12 A Uh-huh.

13 Q All right. Are you familiar at all with how that
14 works?

15 A How what works?

16 Q Electricity, speakers, hookups?

17 A Yeah.

18 Q Okay. Good. How do you connect an amplifier to a car
19 battery?

20 A With cables.

21 Q Right. Typically when you have a hot wire -- Have you
22 ever seen any of that electricity stuff?

23 A Uh-huh.

24 Q Typically a hot wire is what color?

25 A Red.

1 Q Red. And have you ever seen someone with these 15-
2 inch subwoofers before?

3 A Yes, sir.

4 Q Have you seen how big that red cable typically is that
5 goes from their amp to their battery?

6 A Yes, sir.

7 Q If you had to say, you know, the size of a dime, a
8 nickel or a quarter, what would you say?

9 A Maybe the size of probably about a nickel.

10 Q Okay. Big though?

11 A Uh-huh.

12 Q So a substantial cable. How is it usually connected
13 to an amplifier? They're bolted in. Right? They have
14 like these fancy brackets. Right?

15 A Correct.

16 Q And you actually have to have a special wrench to put
17 them on. Right?

18 A Correct.

19 Q Okay. And that's a hot wire is what it's called.
20 Right?

21 A Right.

22 Q Like, if you were to touch it, you would get
23 electrocuted?

24 A Not really.

25 Q Okay. But it's connected to the car's battery?

1 A Correct.

2 Q And connected to the stereo system?

3 A Yes, sir.

4 Q Additionally, those subwoofer speakers, are they
5 typically wired up to amplifiers?

6 A Yes, sir.

7 Q How does that happen? A bunch of cords?

8 A You may have two to four wires.

9 Q Two to four wires. And, typically when they go into
10 an amplifier, the same thing? They're kind of bolted in
11 and screwed with these big, these bindings, these clips.
12 Right?

13 A Actually it's Phillip-head screws that are used.

14 Q On those?

15 A Yes, sir.

16 Q Okay. So those are Phillip-head screws. Fine. And
17 the speakers themselves, have you ever had to take one out
18 of a car?

19 A No, sir.

20 Q Never had to do that in your job?

21 A. No.

22 Q. Have you ever had a chance to pick up a box?

23 A Other than maybe just lifting up a box to let another
24 officer look underneath it.

25 Q When you've done that before, have the wires got in

1 the way?

2 A It depends on who put the speakers in the car. I
3 mean, if you got somebody that did it neatly, you don't see
4 any wires. If you got somebody that's just --

5 Q Sure.

6 A -- a shot-of-the-mill guy, then you're going to have
7 wires everywhere.

8 Q How about someone that doesn't even bolt it in and
9 just has their amp sitting there in the back of the car?
10 Does that sound like a neat job with everything nicely
11 tucked away or there's things laying around everywhere?

12 A I mean, if he's comfortable with it, he's --

13 Q Got you.

14 A -- that's his prerogative.

15 Q And the final thing that usually goes from an amp,
16 there's a third wire that's usually a green wire. Right?

17 A Yes, sir.

18 Q And what's that for?

19 A The ground.

20 Q And why is that important?

21 A To keep the car from shorting, shorting out.

22 Q Right, because if you play with the electricity, with
23 the amps and the speakers, the car will short out.

24 A Correct.

25 Q Okay. So Mr. Bookman, when he originally talked to

1 you, didn't tell you about being hit. Correct?

2 A Correct.

3 Q Didn't tell you about the gun described as a chromed-
4 out 45, maybe a 45. Correct?

5 A Correct.

6 Q And said that, you know, the guy got out of the car
7 immediately and came around and tried to take his money.
8 Correct?

9 A Correct.

10 Q And then took his speakers?

11 A Correct.

12 Q Okay. Did he explain to you why he didn't call the
13 police?

14 A He just said that he was -- that he went to find his
15 cousin, Duke, because Duke knew everybody in Saluda and he
16 was going to give a description to Duke to see if he could
17 put a name with the person, persons.

18 Q And do you know Duke?

19 A Yes, sir.

20 Q Okay. What's Duke's legal name?

21 A Octavious Thomas.

22 Q And he's kin to Mr. Bookman?

23 A I don't know the relationship. I can only say that
24 he's some kin to him from the information that Mr. Bookman
25 has provided us. I don't know his family tree.

CHARLES HOLLOWAY: CROSS EXAMINATION BY MR. STITELY

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1 Q I got you. Mr. Bookman said that the man that you
2 know as Octavious Thomas or Duke is his kin?

3 A Uh-huh.

4 Q Do you know a Mr. Octavious Thomas' reputation in the
5 community?

6 MR. MAYE: Your Honor, objection to relevance.

7 MR. STITELY: Judge, specifically in this situation --

8 THE COURT: Ladies and gentlemen, please step in the
9 jury room. Don't discuss the case.

10 (The jury retires to the jury room.)

11 THE COURT: What do you want to ask him.

12 MR. STITELY: You want me, Judge, to ask him?

13 THE COURT: Yes.

14 BY MR. STITELY:

15 Q Mr. Holloway, what is, to your knowledge, the
16 reputation of Mr. Octavious Thomas or Duke in the
17 community?

18 A I mean, he's not a bad person. I mean, we've had just
19 one dealing with him. That's pretty much it.

20 Q I don't want to know about specifics about your
21 dealings, but just does he have any reputation in the
22 community as a whole?

23 A No. I mean, he's no gang banger or nothing like that.
24 He's just an individual that goes out and plays a little
25 basketball, and that's pretty much it.

1 Q Do you know why Mr. Bookman would be looking for his
2 cousin to get information?

3 A I have no idea. That would be something you'd have to
4 ask Mr. Bookman. I can't answer for somebody else.

5 Q Okay.

6 MR. STITELY: Then, Judge, I'll withdraw that line of
7 questioning if that's the answer that he has.

8 THE COURT: Bring in the jury.

9 (The jury returns to the courtroom.)

10 THE COURT: The question's withdrawn. Ask your next
11 question.

12 MR. STITELY: Thank you, Judge.

13 BY MR. STITELY:

14 Q And pretty much that concluded your dealings with
15 Mr. Bookman at that time?

16 A Yes, sir.

17 Q Okay. Did you next, on the 10th, interview Ms. Salaam?

18 A Yes, sir.

19 Q Okay. How did -- Did she come down to the police
20 station or did you go talk to her?

21 A On the 10th, I was in Newberry because that's when I
22 took the photo lineup over there -- no, no -- Ms. Salaam, I
23 called her. Mr. Bookman gave me her phone number. I
24 contacted her. She was somewhere in Columbia; and, within
25 the hour, she was at the Police Department.

- 1 Q Okay. And you talked to her at that time, and it
2 would be fair to say that the information she gave you was
3 unreliable?
- 4 A Yes, sir.
- 5 Q She was lying?
- 6 A Yes, sir.
- 7 Q And she later said as much?
- 8 A Yes, sir.
- 9 Q She didn't identify anyone at that time as being
10 involved or anything like that?
- 11 A No, sir.
- 12 Q And after you, I guess -- And that's the end of it
13 pretty much with her. There's nothing really you gained at
14 that point in your investigation with Ms. Salaam?
- 15 A Correct.
- 16 Q Okay. So the next thing you do in the progression of
17 your timeline is you take the photo lineup to Mr. Bookman?
- 18 A Yes, sir.
- 19 Q And he selects number three on it which is Mr. Jones?
- 20 A Yes, sir.
- 21 Q Okay. Do you have your initial incident report as how
22 Mr. Bookman described Mr. Jones or the assailant allegedly
23 at that point?
- 24 A Yes, it's on page three of four.
- 25 Q He describes a light-skinned black male, wifebeater,

1 red hat, four-door goldish color car?

2 A Uh-huh.

3 Q Okay. You were here again when Mr. Bookman testified
4 as to the descriptors, description of what he saw of his
5 assailant that day. Correct?

6 A Correct.

7 Q And he testified that the person who assaulted him had
8 neck tattoos above his collarbone on the front of his neck,
9 around his Adam's apple, above where you could see on a
10 collared shirt. Correct?

11 A Yes, sir.

12 Q And he told you he was in close proximity of him?

13 A Yes, sir.

14 Q Okay. You had talked to my client, Mr. Jones, before.
15 Correct?

16 A Correct.

17 Q You've been in close proximity of Mr. Jones?

18 A Yes, sir.

19 Q Does he have any tattoos above his collar clearly
20 visible on the front of his neck, around his Adam's apple?

21 A No, sir.

22 Q Not matching the description Mr. Bookman gave.
23 Correct?

24 A Correct.

25 Q So the next part of your investigation leads you to --

1 Eventually you get -- After the lineup and Mr. Jones is
2 picked out, you get a warrant for his arrest. Correct?

3 A Yes, sir.

4 Q And you arrest him. Correct?

5 A Yes, sir.

6 Q And he's being held over at the County Detention
7 Center. Correct?

8 A Yes, sir.

9 Q Do you know if bond had been set at that point?

10 A I think his bond was -- may have been denied due to
11 the nature of the charges --

12 Q Okay.

13 A -- or it was possibly set high where he couldn't make
14 bond. I don't know.

15 Q But he wasn't out out. He was in the Detention Center
16 when y'all met?

17 A Yes.

18 Q Okay. And, as you put it, he wasn't going anywhere at
19 that time. Correct?

20 A Correct.

21 Q All right. Now, when he came down to the Police
22 Department to speak with you, you actually brought him from
23 the jail to the Saluda County Police Department?

24 A Yes, sir.

25 Q You didn't, by chance, audio record that, did you?

1 A No, sir.

2 Q Okay. But you did get him to give a written
3 statement?

4 A Yes, sir.

5 Q Do you have a copy in front of you?

6 A No, sir. You have the original.

7 Q I have the original.

8 MR. STITELY: Your Honor, I'm going to hand him number
9 2 again.

10 Q I'm going to get my copy so we can go through it.

11 A Sure.

12 Q In this statement, does Mr. Jones say that he got out
13 of the car with a gun to rob Mr. Bookman?

14 A No, sir, he didn't.

15 Q Now, Mr. Maye kept calling it his confession.

16 Anywhere in here does Mr. Jones indicate he had a gun?

17 A No, sir.

18 Q Anywhere in here does he indicate that he got out of
19 the car at all?

20 A No, sir.

21 Q Does he do anything more than saying he knew Ms. Amber
22 Salaam? Correct? And that they had some kind of deal?

23 A Correct, and he was present at the robbery.

24 Q He was present at the location. Does he ever say that
25 a robbery took place in this statement or does he just say

1 that someone got their money, got his money?

2 A He just basically said that someone got the money and
3 speakers.

4 Q Got money and speakers, but he doesn't say anything
5 about a robbery in this statement. He just indicates that
6 two guys had a conversation, money exchanged hands and he
7 took a speaker and they left. Correct?

8 A Correct.

9 Q Subsequent to that, you eventually go back and talk to
10 Ms. Salaam again. Correct?

11 A No, sir. I got arrest warrants. After Mr. Jones
12 provided me with this statement, I got arrest warrants on
13 Amber Salaam.

14 Q Okay. And you said you had to go pick her up from the
15 Orangeburg County Jail?

16 A Yes, sir.

17 Q What was she doing down there?

18 A All I can say is she was in the jail.

19 Q Okay. Not the Newberry Jail though?

20 A No, sir, not the Newberry Jail.

21 Q What day did you go get her from the Orangeburg Jail?

22 A August 5th.

23 Q Okay. So this allegedly happened on July 9th, and
24 she's for some reason down at the Orangeburg Jail less than
25 a month later?

1 A Yes, sir.

2 Q Okay. And you brought her up to the station?

3 A No, sir. We got to the jail in Saluda, pulled up to
4 the sally port. As they're lifting up the doors, she told
5 me, hey, I want to come clean with you.

6 Q By coming clean, does she admit that she did an armed
7 robbery? She never admits that in her statement, does she?

8 A No, sir.

9 Q She actually, in fact, deflects more saying that she
10 didn't really know anything about it. Correct? Just that
11 she knew Victor was there?

12 A Give me one second. Okay?

13 Q Sure. And let's get a copy of her statement. Do you
14 have a copy in front of you?

15 A Sure, somewhere. I got it.

16 Q And this is a statement that you took from her on
17 August 5th of 2009 at 5:10 p.m.?

18 A Yes, sir.

19 Q Okay. And this was her coming clean as she told you.
20 Right?

21 A Yes, sir.

22 Q And she told you some friend told her that Jerrell was
23 getting with her to buy some rims. Correct?

24 A Correct.

25 Q Not that she approached Mr. Jerrell and asked if he

1 wanted some rims but someone came to her saying that he was
2 looking?

3 A Correct.

4 Q Okay. And that T.J. had called her telling her about
5 some 23's. Correct?

6 A Yes, sir.

7 Q And, the first time she had told you about it, did she
8 mention these phone calls or these texts with the 23's? Do
9 you remember? Either in the statement or in your report?
10 Or did Mr. Bookman tell you about the original deal with
11 these 23's?

12 A Mr. Bookman had originally told me he was going to buy
13 Ms. Salaam rims but, once she showed him the picture of the
14 bigger wheels, that's what he wanted.

15 Q Did you ask Ms. Salaam to see a picture on her cell
16 phone the day after of the wheels?

17 A No, sir.

18 Q Did she have a couple cell phones on her when you
19 talked to her? Do you know? Would you've even known?

20 A No. I mean, she just provided me with the one number.

21 Q All right. And then she said that she showed him a
22 picture of the 23's. We never saw that picture. Did you?
23 You didn't see it?

24 A No, sir.

25 Q No one in law enforcement ever saw it. Okay. And

1 then she said that they were going to go down there and
2 meet at Burger King. Right?

3 A Correct.

4 Q And, when they got down there, she said they go off
5 onto the dirt road. Correct? They follow him out to the
6 dirt road?

7 A Which statement are you reading, the 5th or --

8 Q I'm just asking. What did she tell you happened next
9 the second time you talked to her? You don't have to rely
10 on the statement. Just, generally, what did she tell you
11 happened next? Not specifically her statement, but, when
12 you interviewed her, what was the next thing after they met
13 at Burger King?

14 A They met at Burger King and they was told to follow
15 them --

16 Q Down to a dirt road?

17 A -- down to the -- They followed the people down to the
18 dirt road.

19 Q And then she tells you that two of the three
20 individuals got out of the car?

21 A She said two guys got out of the car.

22 Q And, this time, she tells you that Victor Jones got
23 out and went to Mr. Bookman's door?

24 A Yes, sir.

25 Q This is the first time she said that?

1 A Yes, sir.

2 Q And this further led to her getting charged with armed
3 robbery. I mean, at what point do we charge her with armed
4 robbery?

5 A I charged her once I talked to Mr. Jones.

6 Q Okay. So her warrants were drawn before you went and
7 got her from Orangeburg?

8 A Yes, sir.

9 Q Okay.

10 MR. STITELY: Beg the Court's indulgence a second. I
11 lost my train of thought.

12 THE COURT: Yes, sir.

13 (Pause.)

14 MR. STITELY: I'm ready. I'm sorry.

15 BY MR. STITELY:

16 Q Did you ever look at Mr. Bookman's car, take pictures
17 of the back of it, take pictures of the front of it?

18 A No, sir.

19 Q Did you guys ever like go and look for fingerprints in
20 the trunk area, the speakers, driver door or anything like
21 that?

22 A No, sir. I mean, he didn't come back in his car; and,
23 when I went to Newberry, so much time had passed you had
24 probably hundreds of fingerprints on the car.

25 Q Okay. But it wasn't something done that day?

1 A No, sir.

2 Q Okay. He didn't bring it to you and say, look, this
3 is what they did?

4 A No, sir.

5 Q Did he ask for a police report so he could file his
6 insurance?

7 A No, sir. I mean, I made a report for him and gave him
8 a copy of it that day.

9 Q Okay.

10 MR. STITELY: One second, Your Honor. I'm sorry.
11 It's been a long day already.

12 (Pause.)

13 BY MR. STITELY:

14 Q Did he indicate to you, he being Mr. Bookman, that,
15 when they stopped, his car was still on or off?

16 A No, sir.

17 Q Y'all didn't talk about that specifically?

18 A No, sir.

19 Q Did you ever pull any DMV records about my client?

20 A Just his driving record.

21 Q Okay. Did anything from the DMV indicate that he
22 owned a four-door gold car?

23 A I don't think he owns a vehicle. Maybe one of his
24 family members.

25 Q Did you find anything to say that him or anyone he's

1 directly in access to has a four-door gold car?

2 A No, sir.

3 Q Did you ever recover any guns in this case?

4 A No, sir.

5 Q How about a white wifebeater and red hat from my
6 client?

7 A No, sir.

8 MR. STITELY: Judge, we have one thing that we may
9 want to take up outside the presence of the jury that we
10 can take up real quickly before I get to this next line of
11 questioning.

12 THE COURT: Ladies and gentlemen, step into the jury
13 room. Don't discuss the case.

14 (The jury retires to the jury room.)

15 THE COURT: Yes, sir.

16 BY MR. STITELY:

17 Q Officer Holloway, in your time, have you ever had
18 any background or training in gang-related oriented
19 activities?

20 A I had some gang training, not a whole lot. Another
21 officer at the Department handled the gang stuff, so I
22 didn't have a whole lot of --

23 Q That's Officer Clark?

24 A Correct.

25 Q Okay. And he's I guess y'all's resident in-house guy?

1 A Yes, sir.

2 Q Okay. Has something in your line of duties -- Have
3 you ever been called into question, as being an officer, to
4 identify individuals or hand signals or anything like that
5 associated with gang activity?

6 A Whenever it was gang questions, we referred everything
7 to him.

8 Q So you've never been called to answer any of those
9 questions?

10 A No, sir.

11 MR. STITELY: I won't ask him that. That was one of
12 the questions that I had for him.

13 MR. MAYE: As long as we're not getting into any gang
14 stuff or collateral stuff about gangs, if he's not going to
15 ask him, then I don't have anything else to go through.

16 MR. STITELY: My secondary line of questioning, Judge.

17 Q Officer, in your job as a police officer, is one of
18 the things you frequently do is look into the people
19 involved with crimes?

20 A Correct.

21 Q Both those who are accused and even those who bring
22 accusations?

23 A Correct.

24 Q Have you ever, in your duties, used things like social
25 media references to look into individuals?

1 A Our Agency, the Saluda Police Department, did not have
2 access to a Facebook, so --

3 Q As a common tool of law enforcement, is it something
4 that's frequently used?

5 A Yes, sir.

6 Q Routinely, you'll go online, as an example, maybe
7 after a schoolhouse fight, and see what people are saying
8 about it?

9 A Yeah, but we didn't have it at the --

10 Q I understand that.

11 A -- Police Department.

12 Q But is it a routine police exercise?

13 A Some agencies maybe; some not.

14 Q Okay.

15 A. You know, I wasn't going to go home and see what
16 somebody put on their Facebook page.

17 Q Sure. You can identify pictures of Mr. Bookman if you
18 saw them. Correct?

19 A Yes, sir.

20 MR. STITELY: May I approach?

21 THE COURT: Yes, sir.

22 BY MR. STITELY:

23 Q The individual in this picture, can you identify him?

24 A It appears to be Mr. Bookman.

25 Q Okay. Have you ever heard Mr. Bookman go by any

1 monikers, aliases, nicknames or anything like that?

2 A The only thing that he was referred to by Ms. Salaam
3 in her statement was Hook.

4 Q Hook. Right. And you were here yesterday when he
5 admitted that his nickname was Hookdaddy?

6 A Yes, sir.

7 Q All right. How about this individual in this picture?

8 A Mr. Bookman.

9 Q Okay. Have you ever seen a My Space page before?

10 A Yes, sir.

11 Q Okay. Are you familiar with how the web site works to
12 an extent?

13 A To an extent, yes, sir.

14 Q How about that individual?

15 A That's Mr. Bookman.

16 Q Same picture, different angle?

17 A Yes, sir. Yes, sir.

18 Q How about that individual?

19 A That's Mr. Bookman.

20 Q Does anything he's doing in that picture have any
21 significance to you as a law enforcement officer?

22 A I mean, not really.

23 Q You don't know what that hand motion is?

24 A (Witness shook head.)

25 Q Okay. If I were to show you this -- you've seen a My

1 Space page -- what appears to be the name of the individual
2 of the My Space page?

3 A Hook.

4 Q Hook?

5 A. Uh-huh.

6 Q And these are all pages of Mr. Bookman --

7 A Yes, sir.

8 Q -- Jerrell Bookman. 10/19/12 is the last time he was
9 on. In fact, on the side over here, it has a little blurb
10 that says, about me, where it says, my name is Jerrell
11 Devon Bookman. Is that the defendant or the victim in this
12 case?

13 A Yes, sir.

14 Q And he goes on to describe himself, where he lives.
15 What does he say is his hometown?

16 A Hometown, blood town in Newberry.

17 Q And these were all pictures of him that I've showed
18 you so far, at least the ones you can clearly make out?

19 A Yes, sir.

20 Q Some are kind of small?

21 A Yes, sir.

22 Q And none of these pictures that I showed you so far --
23 They all have this same picture of a guy, kind of just the
24 front of a body without a head?

25 A Yeah.

1 Q How about in this picture? What kind of items can you
2 identify in that picture located on Mr. Hook's My Space
3 page specifically on the right side of the picture?

4 MR. MAYE: Your Honor, I'm going to object at this
5 point in time and just take this matter up. He's going
6 through picture after picture. Nothing's marked for ID We
7 have no reference on this. I would object to any line of
8 testimony in this regard going before the jury. I think
9 it's more prejudicial than probative. I think he's
10 attempting --

11 THE COURT: No, no, no, no. Please wait until he
12 makes his proffer.

13 MR. MAYE: That's fine, Your Honor.

14 THE COURT: I agree with you that there's no way to
15 know, by reading the record, what he's talking about.

16 MR. MAYE: Yes, sir.

17 MR. STITELY: And I was going to make a proffer first.
18 I'll have to go through it, and I'll make them out --

19 THE COURT: What he's saying is that none of these are
20 marked so, when you're saying look at this picture --

21 MR. STITELY: Okay.

22 THE COURT: -- anybody reading the record has no
23 earthly idea what picture he's looking at.

24 MR. STITELY: I'm sorry, Judge. I'll mark them. I
25 apologize.

1 THE COURT: Court's in recess while he's marking them.
2 You cannot discuss your testimony with anybody during the
3 break.

4 (Brief Recess.)

5 (Defendant's exhibits 9 through 24 marked for
6 identification.)

7 THE COURT: You may continue.

8 BY MR. STITELY:

9 Q I'm going to ask you some of the same questions again,
10 Officer?

11 A Yes, sir.

12 Q Referring to what's been marked for identification
13 purposes as exhibit number 9, what does it appear to be?

14 A That's a My Space page.

15 Q The home page for who?

16 A Hook, Jerrell Bookman, is at the top of the page.

17 Q Okay. And it says Jerrell Bookman specifically?

18 A Yes, sir.

19 Q Okay. And, on this page, it's pretty much just a
20 general description of the individual?

21 A Yes, sir.

22 Q And it has a blurb about who he is?

23 A Yes, sir.

24 Q Where does it say he lives?

25 A Hometown, blood town in Newberry.

1 Q All right. I'm going to show you another series of
2 pictures. Defendant's ID number 10, can you identify the
3 individual in that picture? Not too well?

4 A Not too well.

5 Q Does it appear to be off the same My Space page of the
6 same individual at the top?

7 A Yes, sir.

8 Q Okay. But it's Hook or Jerrell Bookman?

9 A Yes, sir.

10 Q I'm going to show you what's number 12. It's a
11 closer-up. Can you identify that one?

12 A That's Mr. Bookman.

13 Q Okay. It's got something going on with his hands
14 there?

15 A Yes, sir.

16 Q Okay. All right. I'm going to show you number 13.
17 It appears to be another picture in the same shirt as
18 number 12. Can you identify him?

19 A That's Mr. Bookman.

20 Q All right. And defendant's number 15, how about this
21 individual?

22 A Mr. Bookman.

23 Q And defendant's number 16?

24 A Mr. Bookman.

25 Q In fact, that picture has a tag. What does it say?

- 1 A Yeah, that's Hookdaddy.
- 2 Q Okay. Defendant's number 17?
- 3 A Mr. Bookman.
- 4 Q Okay. Defendant's number 18?
- 5 A Mr. Bookman.
- 6 Q Defendant's number 21, it's kind of a small picture;
- 7 but do you recognize that shirt and the chain on the
- 8 individual in the front as being similar to the ones
- 9 before?
- 10 A I really can't see it.
- 11 Q No problem. What is the My Space page that comes off
- 12 of though?
- 13 A Jerrell Bookman.
- 14 Q And what's the tag under the photo?
- 15 A Me and some more of my goons, I told y'all we taken
- 16 over.
- 17 Q Okay. I'm going to show you defendant's number 22.
- 18 Can you identify that?
- 19 A It is a Crown Vic, silver and black, with some rims on
- 20 there.
- 21 Q All right. And what My Space page is it coming off
- 22 of?
- 23 A It doesn't say. It just says -- There's no name on
- 24 it.
- 25 Q Does it have the same picture that all the other ones

1 have of the gentleman in front of the mirror?

2 A Yes, sir.

3 Q Okay. What's the tag under that picture?

4 A Carolina Kingz.

5 Q Does that mean anything to you?

6 A No.

7 Q Okay.

8 THE COURT: What was the answer?

9 MR. STITELY: No. I'm sorry, Judge.

10 A No. I'm sorry. No.

11 Q Number 10, can you identify that gentleman?

12 A It's kind of blurry.

13 Q Is that the same look and chains and striped white or

14 brown and yellow shirt that the one you identified as

15 Mr. Bookman had on in number 12?

16 A Same shirt. I really can't see the chain in there.

17 Q Fair enough. All right. I'm going to show you what's

18 been marked as defendant's ID number 11. Does it indicate

19 what My Space page that came off of?

20 A Jerrell Bookman.

21 Q Same picture of a man, kind of half of it, you know,

22 taken from the picture -- from a camera?

23 A Yes.

24 Q Specifically in that picture, defense number 11 for

25 ID, what is on the right side of that picture?

1 A It appears to be a handgun.

2 Q Would you say it kind of looks like a chromed-out gun?

3 A Yes, sir.

4 Q On Mr. Bookman's web site -- Well, actually, there are
5 some comments made on there. How long ago were those
6 comments made?

7 A Three, from four to three years ago.

8 Q So, if it's 2012 now, three to four years ago would be
9 what kind of timeframe?

10 A 2009, 2008.

11 Q Okay. And Mr. Bookman has on his My Space page a
12 picture of a chromed-out handgun along with some cell
13 phones. Does that chain look a lot like the other, the
14 chain he's wearing in all those other pictures --

15 A Yes, sir.

16 Q -- on his page?

17 A Yes, sir.

18 Q Let me show you defendant's number 14. Does it tell
19 you whose My Space page that is?

20 A Jerrell Bookman.

21 Q On the same picture, the same guy?

22 A Yes, sir.

23 Q And what is that a picture of?

24 A Some cell phones, rings.

25 Q Several cell phones?

1 A Yes, sir.

2 Q I'm going to show you defendant's ID 22. Same My
3 Space page?

4 A Yes, sir.

5 Q What is it a picture of?

6 A Some money, chains, earrings, a Visa card.

7 Q We see that same gold necklace kind of theme --

8 A Yes, sir.

9 Q -- silver and gold?

10 A Uh-huh.

11 Q And there's a comment on it. How many years ago?

12 A Three years ago.

13 Q What's the tag on that picture?

14 A This what I wear when I'm going out, you know I gotta
15 swagg it out.

16 Q Okay. Defendant's ID number 20. Same My Space page?

17 A Yes, sir.

18 Q A picture of a bunch of individuals. Can you identify
19 Mr. Bookman in there by chance? It's kind of hard.

20 A I really can't.

21 Q There's three posts on it tagging it. What's the
22 first one about?

23 A The first one says, Jerrell Bookman, me and my goons
24 in the berry, we don't play. The next one, Jerrell
25 Bookman, me and my goons in the berry, we don't play.

1 Q Okay. That's fine. And the last one I have for you
2 is defendant's ID number 19. What is it a picture of?

3 A It's somebody dressed in red holding, I guess, it
4 looks like a shotgun.

5 Q Whose My Space page is it?

6 A Mr. Bookman.

7 Q What is the tag under it?

8 A Blood in, blood in, blood out, blood out, gucci.

9 Q What does it say in the comments? How long ago were
10 they?

11 A From two to three years.

12 Q 2009 timeframe, 2010, 2009?

13 A 2010, yes, sir; 2009, 2010, yes, sir.

14 Q You hadn't seen these before, had you?

15 A No, sir.

16 Q Because you said you guys didn't have the ability with
17 Saluda County or Saluda Town to do this kind of research?

18 A Correct.

19 Q In your job as a police officer, through your training
20 classes you've gone to at SLED, are these the kind of items
21 that law enforcement would use in looking into an
22 individual's background?

23 A Yes, sir, at times, uh-huh.

24 Q Let me ask it this way. Had you seen these pictures
25 three, two to three years ago, three to four years ago as

1 tagged, would you have taken your investigation in a
2 different direction?

3 A No, sir, because he was a victim.

4 MR. STITELY: Those are the questions I have for this
5 officer.

6 THE COURT: Do you want to ask him any questions, Mr.
7 Maye.

8 MR. MAYE: No, sir, Your Honor, just argument at the
9 appropriate time.

10 THE COURT: What is it you want me to decide?

11 MR. STITELY: I want to know if I can ask the officer
12 these questions, Judge, specifically about the victim. I'm
13 just asking him to identify the pictures. He's said he's
14 had personal contact with him, he's seen him, he's familiar
15 with a My Space page. I think he can lay a sufficient
16 foundation. They're self-identifying to the extent that an
17 officer can say, I can identify them. I think they're
18 relevant to the case. This officer doesn't have the
19 necessary expertise to talk about the additional piers of
20 relevance; but I think, through this officer, he can
21 publish the importance of it, specifically number 11 which
22 is a chromed-out gun on Mr. Bookman's page which is what he
23 said someone else used to rob him. It's very creative. At
24 the same time he says he has a robbery against him with a
25 chromed-out 45 -- and, Judge, I'll let you look at these

1 pictures while I'm talking -- he has it on his My Space
2 page as his stuff. Additionally, Your Honor, that case
3 that I passed up -- and I have my experts available -- says
4 that, even with 403, specifically by definition, testimony
5 regarding gang membership through an expert in gang theory
6 is relevant because inherently any testimony given by a
7 member of a gang cannot be considered to not have bias and
8 untruthfulness in it because the moniker of gangs is to
9 disrespect the law and to not tell the truth and to be
10 uncooperative to the government in general. It's their
11 general moniker. I think that this officer can establish
12 these pictures; he can point out who they are. They're not
13 subject to any additional privacy concerns. These are out
14 there on the internet for everyone to have. He can
15 identify them. They're relevant. And then I'll have a
16 witness tomorrow who can come and specifically say what the
17 hand gestures are all about. As if the words in the
18 pictures aren't enough, I'll have people that will tell us
19 about the other stuff. And where I'm citing that case,
20 Judge, is the *Supreme Court of the United States v. Abel*.
21 It also addressed the unfair prejudice issue in *Abel*. The
22 government sought to prove the bias of the defense witness
23 through cross examination and extrinsic evidence, and this
24 is what this is showing. The defendant and the defendant's
25 witnesses were members of a prison gang and the tenets of

1 the gang members were to lie, cheat, steal, and kill to
2 protect. The court's witness had a common membership in
3 the organization. Even without proof that the witness or
4 the party was personally adopted into these tenets, there's
5 a certain probative of bias. The court also rejected the
6 argument that the district court should cut off the
7 description of the type of gang because evidence of the
8 gang's tenets was unfairly prejudicial. And it keeps on
9 going on. If I can put an expert up who says that
10 something in these pictures indicates he's a gang member,
11 his entire testimony is impeachable specifically on that.

12 THE COURT: Do you want to be heard, Solicitor?

13 MR. MAYE: Yes, sir, Your Honor. Your Honor, what
14 he's talking about is anybody that has anything -- And,
15 like I said, I've got a case right now where someone was
16 charged with trying to force somebody to be in a criminal
17 gang, Your Honor. It would basically say that all of the
18 protections about impeachment and bias would totally go out
19 the window with that individual. Your Honor, there's no
20 proof that this individual is in any gang; in fact, he's
21 testified that he wasn't under oath. They have no proof
22 that he's in any gang. This is an attempt through Officer
23 Holloway to impeach the character and credibility of a
24 witness that's already testified and has been subject to
25 cross examination by the defendant. They run out at the

1 11th hour and print out Facebook pictures, Your Honor, and
2 it's nothing more. Like I said, I can't imagine anything
3 that's more prejudicial, and certainly it's not relevant in
4 this case. There's been no tie to say that there was any
5 rivalry between gangs, that there was anything involving a
6 gang. He wants to basically say, because this guy had
7 some -- as I think the Court put it the other day -- some
8 macho or bravado or having some type of name, that this guy
9 is definitively in a criminal, an organized criminal gang,
10 this 20-year-old kid from Newberry who happens to be a
11 victim in an armed robbery case. And Investigator
12 Holloway, he's not a gang expert. He's testified, I don't
13 know about gangs. There's certainly no foundation to admit
14 all this and to put all this in through Officer Holloway on
15 direct. When you start going to a balancing test on this,
16 this is certainly highly, highly prejudicial and not at all
17 probative in this case, Your Honor. There's absolutely no
18 link between this crime and any type of gang activity, Your
19 Honor. And to just base it on a bunch of Facebook
20 pictures, to go through -- and I assume that he wants to
21 admit these photographs through Officer Holloway in an
22 attempt to impeach the credibility of another witness, Your
23 Honor -- I just -- I think it's outrageous to try to
24 proffer and put those photographs in in this armed robbery
25 case where he was a victim, Your Honor, with no link.

1 MR. STITELY: Judge, I have to at least establish --
2 Mr. Holloway says he's had close contact with Mr. Bookman,
3 so he can identify the individual in the pictures. That's
4 enough to make them admissible as relevant evidence and
5 it -- And the Solicitor didn't read the *Hankey* case, and it
6 says 403 gets pushed to the side when you're dealing with
7 gang testimony, specifically, if there's any link, the
8 entire testimony of that individual is biased. That's what
9 it says; it says, despite 403. That's where we're at.
10 And, if we can bring someone up -- Detective Holloway knows
11 the individual; he can testify that that's him in those
12 pictures; he can testify with sufficient background that
13 he's seen a My Space page; he can testify as to what's on
14 the page. I'm not asking him what it means; I'm going to
15 ask a different witness that. I'm not asking this witness
16 to go outside of his expertise. I can ask a different
17 witness that. But this is the proper witness to lay the
18 foundation for the pictures though because he's the one
19 that knows the individual and he's the one that
20 investigated the case.

21 THE COURT: You think you can introduce these pictures
22 through this witness?

23 MR. STITELY: Yes, sir.

24 THE COURT: How?

25 MR. STITELY: I can ask him specifically, can you

1 identify the individual in these pictures, is it a fair and
2 accurate depiction of the individual, have you seen a My
3 Space page before, does this specific My Space page have an
4 identifier as to who is the owner of the page.

5 THE COURT: Yeah, and someone may counterfeit one. I
6 mean, how do you get this -- I'm not suggesting they're
7 counterfeit; I'm just talking about the rules of evidence.
8 If you ask Mr. Bookman this stuff, I might could
9 understand. How do you get this officer to introduce these
10 photographs and these things on a My Space page? How is it
11 not just rank hearsay? How is it authenticated?

12 MR. STITELY: To lay a foundation for a picture. It's
13 not statements out of court. I'm just asking could he
14 identify individuals in the pictures.

15 THE COURT: There's all kinds of stuff on here that
16 are words and not pictures.

17 MR. STITELY: Yes, Your Honor.

18 THE COURT: There's one -- The big thing up at the top
19 says, I'm that -- I'm not going to say that word --
20 everybody want to rob.

21 MR. STITELY: Yes, sir.

22 THE COURT: It's a My Space page that somebody has
23 printed out, not him.

24 MR. STITELY: Yes, sir.

25 THE COURT: He hasn't gone and looked on My Space. He

1 hasn't gotten a subpoena from anybody who -- I have no idea
2 who owns My Space. You just came in with a whole bunch of
3 pages and said, authenticate this. How in the world can he
4 authenticate it?

5 MR. STITELY: I've asked, through his duties as a law
6 enforcement officer, if it's a tool they use. I'll call
7 Mr. Bookman in my case in chief if necessary.

8 THE COURT: No. You misunderstand me. I'm not saying
9 that an authenticated My Space page is not a valuable law
10 enforcement tool. I didn't even know anybody used My Space
11 anymore. But let's skip that. My question is how is it
12 authenticated and then how is all this stuff on here not
13 just rank hearsay?

14 MR. STITELY: I can call the defendant during -- or
15 I'll call the victim during my case in chief then, Judge.
16 I mean, I can ask him if it's him. Your Honor stopped me
17 yesterday from doing that when I was trying to. And it
18 wasn't your fault. He objected to it.

19 THE COURT: Oh, yeah, I haven't let y'all go at all.

20 MR. STITELY: No, Judge. But, I mean, when I asked
21 him about this, he admitted to owning these pages yesterday
22 before we broke, so he's already admitted to --

23 THE COURT: I haven't seen these before. They haven't
24 been marked until today.

25 MR. STITELY: The defendant yesterday -- or the victim

1 yesterday, when he was on the stand, admitted to being the
2 owner of pages.

3 THE COURT: What do you mean?

4 MR. STITELY: He admitted he had a Facebook page and a
5 My Space page. If Your Honor -- To make it clear, I will
6 ask Officer Holloway --

7 THE COURT: You don't even have the person who printed
8 these out on the stand.

9 MR. STITELY: No, sir.

10 THE COURT: I guess I'm just not making any sense.
11 You're asking somebody who didn't go on My Space, didn't
12 look anything up, didn't try to authenticate anything,
13 you're handing him a stack of papers and you're saying,
14 now, is this his My Space page. How does he know?

15 MR. STITELY: My --

16 THE COURT: Number one, that's authentication. Number
17 two, if you can get them authenticated, which I think you
18 can, then you can ask if he recognizes a person in a
19 picture. Rule 901 deals with authentication; it deals
20 with -- It states that the requirement of authentication or
21 identification as a condition precedent to admissibility is
22 satisfied by evidence sufficient to support a finding that
23 the matter in question is what its proponent claims.
24 Now -- Bring the jury in.

25 (The jury returns to the courtroom.)

1 THE COURT: Ladies and gentlemen, y'all have been back
2 there over 30 minutes and we've got more stuff to do. So
3 I'm going to let you go home for the day. I need you back
4 here tomorrow. I would start earlier; but, unfortunately,
5 I have been trying for some time to get some trees planted
6 in my yard, palmetto trees; and they're bringing them
7 tomorrow, and I have to meet the guy. He said he cannot be
8 there until 9:00. I have to meet him at 9:00. It won't
9 take but five minutes for me to show him where to put them;
10 I'm going to mark them; I'm going to try to leave as much
11 information. I should be here at 9:30. I promise you I'll
12 come straight here. I need you here at 9:30 tomorrow
13 morning, and we're going to go as long as it takes. And I
14 don't know how long it's going to be right now, but I
15 apologize to y'all. He says they can't be transported
16 until it's 40 degrees or something like that, so I don't
17 know. So 9:30 in the morning. I hope you have a pleasant
18 evening. Don't discuss the case. Thank you.

19 (Jury excused for the day.)

20 THE COURT: All right. I may be going beyond my role
21 because the only thing y'all have talked about is the issue
22 about the gang membership. So I don't even know if I've
23 got an objection to authenticity; I don't know if I've got
24 an objection to hearsay. I don't know what objections I've
25 got except as to the issue about gang membership. So I'll

1 just step back. Y'all can tell me what your objections
2 are. I'll rule. I think we were talking about -- My
3 initial question I think, without going back and looking,
4 was you were trying to get these documents admitted through
5 this witness. I think that's what I was trying to ask, and
6 I may have gotten a little side tracked. We were talking
7 about exhibits -- what was it, 10, 11? I mean some of
8 these things are just -- Like, me and my goons, how in the
9 world can I let that kind of stuff go in front of the jury?
10 It's just a picture of a guy saying, me and my goons.

11 There's nothing there except an insinuation of a blatant
12 character attack, and I can't see the relevancy of it. Go
13 ahead. Y'all do your job; I'll try to do mine.

14 MR. MAYE: Your Honor, at this point in time, the
15 State would object to anything that he's attempting to
16 proffer. A, they don't have a foundation on it. If he's
17 going to attempt to introduce records from a corporation or
18 an entity that maintains a web site, I would demand that he
19 have a custodian of the records to validate and
20 authenticate them. I think that it's rank hearsay in this
21 case; it's self-serving hearsay. On a social media site,
22 anybody can go online and print anything. We would have no
23 idea as to know who any of those individuals were that
24 posted any of those documents. The authenticity of all of
25 it, the authorship of all of it would be in question.

1 Aside from all of those issues, Your Honor, I think that
2 under -- It's not relevant evidence in this case. It is
3 certainly, even if it would be deemed I think to be
4 relevant evidence in this case, I can't imagine a situation
5 where there would be more unfair prejudice in admitting
6 those. In doing a balancing test on these, Your Honor, it
7 is just clearly an attempt to impeach a witness under Rule
8 608. It is basically just trying to attack the character
9 of the victim in this case, Your Honor, and not even done
10 through cross examination of the victim. There are so many
11 different objections; there are multiple different
12 objections that the State would have in this, Your Honor.
13 But we maintain that this officer's not an expert and would
14 not be entitled to give any testimony involving gangs or
15 even the identification of some of these individuals. I've
16 seen some of these photographs, and I even talked with the
17 victim in this case. Some of these photographs are not
18 even him. And, when you're starting to talk about gang
19 affiliation, I think that, if the victim was put on the
20 spot on these things and even if he was called to the
21 stand, I think he could take the Fifth Amendment on all of
22 this if he's trying to talk about making him a member of a
23 criminal gang of which there would be criminal
24 ramifications, that an individual could refuse to answer
25 any questions in that regard. I would certainly advise

1 someone not to answer any questions in that regard. The
2 case that he's talking about basically would strip away
3 someone's constitutional rights in their entirety if they
4 were tried. If someone was to be a gang member, they
5 wouldn't have any of the protections of the rules of
6 evidence under this case because they're somehow, I guess,
7 almost like enemy combatants and they don't have
8 constitutional rights. We're talking about a victim of an
9 armed robbery in this case, Your Honor. I think I've
10 stated sufficient basis for my objection; but, as to any of
11 these types of Facebook photographs or information, we
12 would object on those grounds.

13 THE COURT: Yes, sir?

14 MR. STITELY: Judge, at this time, all I was doing
15 through Officer Holloway was asking him to identify the
16 individual in the pictures as someone he has said he has
17 seen multiple times close up. I haven't, at this point,
18 tried to move them into evidence. I said that I'm not
19 going to ask him specifically gang questions because he
20 said that he doesn't have the expertise about it. I'm
21 going to ask --

22 THE COURT: I thought my question to you was, are you
23 going to try to admit these through this witness.

24 MR. STITELY: I said I'd have to lay a foundation of
25 who it was and have my next witness talk about what they

1 are. Judge, I apologize. I need him to say this is
2 Mr. Bookman.

3 THE COURT: Where did it start, Stacy? Do you know
4 where when I asked the question?

5 (Pause.)

6 THE COURT: My question was, do you think you can
7 introduce these pictures through this witness; and your
8 answer was, yes, sir. Now, if that's changed, tell me what
9 it is you want. Can you show somebody a photograph and ask
10 if you recognize the person in that photograph? In almost
11 every case, yes. If that were what you were trying to do,
12 we wouldn't have had all this discussion. That's not just
13 photographs --

14 MR. STITELY: Yes, Your Honor.

15 THE COURT: -- that's photographs replete with
16 comments. The photographs are put on there to encourage
17 comments. They -- And they did.

18 MR. STITELY: Yes, sir.

19 THE COURT: And the comments are about all sorts of
20 macho-type activity. Whether it means anything or it's
21 just somebody running their mouth, I've got no idea.

22 MR. STITELY: Yes, sir.

23 THE COURT: You're showing a bunch of chains, a bunch
24 of cell phones, a credit card, which why anybody would take
25 a picture of his credit card and put it on the internet is

1 beyond me. That means I can go look on the picture and get
2 his credit card number. All these sorts of things about --
3 You say something about a gun, which that may be relevant.
4 I'll have to see about that. But you're -- I need to know
5 exactly what it is you're trying to do --

6 MR. STITELY: Yes, sir.

7 THE COURT: -- and who you're trying to do it through.
8 If you call an expert and you bring an expert in here and
9 he says, we researched My Space, an expert can use hearsay.
10 You know that.

11 MR. STITELY: Yes, sir.

12 THE COURT: You and Mr. Maye know that. An expert can
13 rely on hearsay where a lay witness can't rely on hearsay.
14 So an expert can say somebody got this off his My Space
15 page, I trust it, it's the kind of thing they run, I've
16 looked at it and this is what this means and that's what
17 that means. It's a whole different analysis than my
18 question which was, do you think you can introduce these
19 pictures through this witness.

20 MR. STITELY: Yes, sir. And I apologize. The reason
21 I wanted the officer to look at the pictures specifically
22 -- and it harps back to our arguments yesterday -- is, when
23 I had just the pictures, the objection from Mr. Maye was,
24 we don't know where these came from. And the Court backed
25 it up saying, we need some context, we don't know when they

1 were posted or, you know, anything like that. So that's
2 why I printed them with the threads to show the years
3 because the argument the Solicitor made yesterday about my
4 pictures was this could have been yesterday and this was
5 back in 2009, how do we know. Those are simply being
6 utilized, not for the hearsay contained within them, but
7 the time in relevance to this case as to when those
8 pictures were taken or when those comments were made or
9 when the pictures were posted because they put a year stamp
10 on it, not specifically what the statements are. That's
11 why I asked what the year was on them, how long ago.

12 THE COURT: Mr. Stitely, I don't question your
13 motives; I question your methodology.

14 MR. STITELY: I'm okay just asking the officer if he
15 can identify the individual in the pictures and then
16 relying -- and then I can call Mr. Bookman and ask him
17 during my case in chief if that's him in these pictures and
18 let him back it up.

19 THE COURT: Now, when I mention Mr. Bookman, I'm not
20 saying that's the only way you can get this stuff in.

21 MR. STITELY: Yes, sir.

22 THE COURT: I'm not saying you can get it in at all.

23 MR. STITELY: My goal -- and I'll lay it out here. I
24 was going to have him identify the individual so I have the
25 picture and then, when I show it to an expert, I can say,

1 this person who you don't know from Adam, what are they
2 doing with their hands, and they're going to tell me. I
3 need this officer to identify the picture as being
4 Mr. Bookman, and I need a second witness to say what it
5 means. I'm not asking Mr. Holloway what it means. And Mr.
6 Maye's argument on that point was that, forget this silly
7 case -- It's the Supreme Court of the United States, but --

8 THE COURT: That's the Ninth Circuit Court of Appeals,
9 isn't it?

10 MR. STITELY: That's the Supreme Court. It goes up,
11 Judge.

12 THE COURT: It's the United States Court of Appeals,
13 Ninth Circuit, is what you handed me. Is that just where
14 it came from?

15 MR. STITELY: Yes, sir. I apologize. It goes up.

16 THE COURT: Well, the Ninth Circuit and the Fourth
17 Circuit -- We're in the Fourth Circuit; the Ninth Circuit
18 is out in San Francisco, in that area. I don't know how
19 much congruity there is between the precedents; but, if
20 you've got a U.S. Supreme Court case, I mean, I'll look at
21 any precedent.

22 MR. STITELY: Yes, sir.

23 THE COURT: That's awfully hard for me to swallow that
24 you have a blanket rule that anybody in a gang is
25 automatically subject to being called a liar.

1 MR. STITELY: And I apologize. The case they cite is
2 *United States v. Abel*. That's the case that dicta talks
3 about -- not dicta, but -- and I can pass that one up --
4 but I'll give it to you so you can look at it, Judge. And
5 this is the case that he references and --

6 THE COURT: But you'd have to have an expert to
7 testify about all of that and about the particular gang
8 and --

9 MR. STITELY: Yes, sir. I have both the individual
10 who runs the Saluda County Sheriff's and the head of
11 Lexington County's Gang Task Forces under subpoena.

12 THE COURT: Again --

13 MR. STITELY: Yes, sir.

14 THE COURT: -- my quarrel is not with your thought
15 process but your methodology. You have to put certain
16 things in a certain order, and I don't know how you get
17 this in through him other than what we talked about.

18 MR. STITELY: My -- I will limit it to just asking him
19 about --

20 THE COURT: Don't tell me the same thing again. I
21 promise y'all I'm not as dumb as I look. Y'all don't have
22 to tell me the same thing ten times.

23 MR. MAYE: Your Honor, the only thing that I would say
24 -- and I hope I'm not repeating anything; I don't think
25 so -- I would not want them to make any reference to