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S.C. SUPREME COURT

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Certiorari to Charleston County

Honorable Brooks P. Goldsmith, Circuit Court Judge

SASHA GASKINS,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO 2017-002554

APPENDIX

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COUNTY OF CHARLESTON

COURT OF GENERAL SESSIONS
2010-GS-10-04793
2010-GS-10-04794
2010-GS-10-04738
2010-GS-10-04761

STATE OF SOUTH CAROLINA
Plaintiff

V.

SASHA A. GASKINS,

Defendant.

TRANSCRIPT OF RECORD

FEBRUARY 28 - MARCH 4, 2011
CHARLESTON, SOUTH CAROLINA

B E F O R E:

THE HONORABLE DEADRA L. JEFFERSON, JUDGE

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

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MR. DALE SAVAGE, ASSISTANT SOLICITOR
REPRESENTING THE STATE

MR. KENNETH SOWELL, ESQUIRE
REPRESENTING THE DEFENDANT

ANNE BOULEY MEYER, RPR
CIRCUIT COURT REPORTER

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1 THE COURT: Who is it that you would have to
2 evaluate your client?

3 MR. SOWELL: Your Honor, this is the
4 last-second deal, I just got retained last week.

5 THE COURT: Yeah, but when I signed the
6 substitution there was a long history of prior
7 counsel who was ready to go forward. And I
8 specifically, at the request of the solicitor, there
9 is an addendum on the order that says the trial will
10 not be delayed due to a change in counsel.

11 And it was my understanding that you
12 represented to the solicitor at the time that you
13 substituted in that there would be no delay and that
14 you were ready.

15 MR. SOWELL: That is correct.

16 THE COURT: That's the only reason I signed
17 the order.

18 MR. SOWELL: I have not retained a
19 psychiatrist at this point, and there was information
20 presented to us Thursday -- Friday afternoon that
21 some of the witnesses have changed their story, and I
22 have not had time to prepare for that.

23 THE COURT: You mean changed their story how,
24 since they gave their original statement?

25 MR. SOWELL: Yes, ma'am. I don't know when

1 this was given to the solicitor's office, it may have
2 been -- I think there is some issue about whether the
3 prior attorney had those or not, it was not turned
4 over to me.

5 THE COURT: Did you get the entire file from
6 Mr. Butler?

7 MR. SOWELL: I thought it was, but apparently
8 it wasn't.

9 THE COURT: What is it that you all provided
10 to him on Friday?

11 MR. KIDD: Your Honor, it was the -- we had
12 brought the codefendants back into our office to
13 basically trial prep them. In doing so there was
14 some inconsistencies in their statements or they
15 basically changed their story a little bit.

16 And we summarized that and emailed it to
17 Beattie on January 31st.

18 THE COURT: So that should have been forwarded
19 along with Mr. Butler's file.

20 MR. KIDD: It should have been.

21 THE COURT: So why did you all send it on
22 Friday? I'm confused.

23 MR. KIDD: Well because then Mr. Sowell
24 claimed that he didn't know about that, so then we
25 gave it to him right away --

1 THE COURT: Again is what you are saying?

2 MR. KIDD: Correct.

3 THE COURT: I guess I'm sort of backtracking a
4 little. I'm not aware of any defense that a
5 psychiatric evaluation would be -- I guess I'm trying
6 to figure out, is there some defense that I'm unaware
7 of that her seeing a psychiatrist would be relevant
8 to in South Carolina?

9 MR. SOWELL: The necessity defense requires
10 her to be unable to -- requires her to be unable to
11 withstand the pressure of threats and the fear of her
12 life.

13 I talked to a psychiatrist last night, he
14 wasn't able to come. But he confirmed to me that I
15 was correct, that a psychiatrist would then be able
16 to give additional information to the jury.

17 THE COURT: Does your client plan to testify?

18 MR. SOWELL: Yes, ma'am.

19 That's psychiatrist I talked to last night at
20 10 o'clock was my brother.

21 THE COURT: You don't have somebody in town
22 that can evaluate her?

23 MR. SOWELL: I don't, but I will.

24 THE COURT: I'm trying to figure out -- I
25 guess I'm trying to figure out why you didn't do this

1 before now? This case has been set for trial.

2 MR. SOWELL: Yes, ma'am. I have been working
3 on this case every day since 10 days ago.

4 The reason for the change in attorney was that
5 she was very unhappy about the trial preparation
6 being done by the previous attorney. I don't have
7 anything to dispute or corroborate that, but.

8 THE COURT: I can tell you based on my
9 involvement with the case that he was well-prepared.
10 I think they may have come to -- the rub with them is
11 that an offer was communicated to her and she really
12 didn't want to hear the truth of the offer.

13 And he was required to make sure she fully
14 understood it before she rejected it. And I feel
15 certain he told her he thought she was acting adverse
16 to her best interest. That's probably where the rub
17 came.

18 And hindsight is always 20/20, so I want to
19 make sure you fully advised her of the offer too.

20 MR. SOWELL: Yes, ma'am. At this point there
21 is no offer.

22 THE COURT: Yeah, but I'm going to make sure
23 she knew about it before she rejected it. Because
24 again hindsight is always 20/20.

25 MR. SOWELL: Yes, ma'am.

1 THE COURT: What emergency would your client
2 be contending took place that would trigger a
3 necessity defense?

4 MR. SOWELL: They met on Tuesday, and there
5 was just a bunch of marijuana, shooting the breeze.
6 And the two major defendants said what they were
7 going to do. And everybody thought they couldn't
8 possibly be serious, they had no idea they were being
9 serious. Everybody went home.

10 Two days later my client rode to a restaurant
11 to eat with them, planning on going to a party later
12 after they finished eating. After they finished
13 eating she got in the car with them and they drove
14 and she thought they were going to the party.

15 They pulled over, opened the trunk, got the
16 gun out, opened the door and pointed it at her head
17 and said, get out and knock on the door.

18 Obviously the other defendants were then
19 exhibiting those guns to the victims, didn't even
20 point, figure to be shot. The two major defendants
21 told the victims, if you report this we are going to
22 kill you. For that reason the defendant did not even
23 report it for an extend period time.

24 They also told another defendant, if you don't
25 help us we are going to come kill your parents, you

1 know, I know where you live.

2 MR. KIDD: Your Honor, I would just for the
3 state say if threats were that direct and that
4 obvious I don't see what a psychiatrist has to offer.

5 MR. SOWELL: The Defendant is an 18-year-old,
6 never been in trouble, straight A student, wonderful
7 little girl. She got involved with these guys that
8 threatened to kill her. She didn't know what to do;
9 necessity defense.

10 THE COURT: The reason I asked that question
11 is I'm not aware of the necessity defense being
12 implied in any circumstance such as this. They have
13 been applied in prison escape cases, it has been
14 applied in unlawful possession of a pistol case, it
15 has been applied in a DUS or DUI case, but I have
16 never heard about it being applied in an armed
17 robbery or burglary case. It certainly would be
18 novel.

19 And I need to do a little bit of quick
20 research. But I guess the real bottom line is
21 whether it is applicable at all. You certainly could
22 have her evaluated, and it does not take that long to
23 have her evaluated.

24 And if it is your intention to have a
25 psychiatrist testify as to the effects of fear on her

1 or threats on her, they should be able to do that in
2 very short order. You should be able to have
3 somebody evaluate her today or tomorrow, and be ready
4 to testify.

5 If you have someone here -- I don't know that
6 you necessarily have to have somebody here in town.

7 MR. KIDD: Your Honor, I don't know if it
8 makes things any clearer. I have always interpreted
9 this notice of the necessity defense as a duress
10 defense.

11 MR. SOWELL: Necessity and duress defenses are
12 closely related but they're separate.

13 THE COURT: They are separate, duress and
14 necessity are different.

15 It's usually driving under a suspended license
16 case. That's when you have an emergency that arises
17 and a person drives because they don't have any other
18 choice because the person is in grave situation where
19 they felt they needed to drive to get the person
20 medical attention.

21 MR. SOWELL: I believe that DUS defense,
22 necessity defense was the case of first impression
23 which was 1991. That was the first time that DUS had
24 been applied to the necessity defense in South
25 Carolina. It's been 20 years so it's not a first

1 impression anymore.

2 But it was an old defense in '91. It was a
3 common law offense even before crimes in South
4 Carolina became statutory.

5 THE COURT: When did you give him notice you
6 were going to rely on the defense of necessity?

7 MR. SOWELL: Your Honor, I did not find -- the
8 motion for discovery and notice from the solicitor's
9 office that they sought advance notice of the defense
10 of necessity was discovered by my office on February
11 21st.

12 When I found out that the public defender had
13 not given notice of that defense, I immediately
14 emailed to the solicitor's office notice of the
15 defense and intent to raise the defense.

16 What I understand is that the solicitor's
17 office and public defender had discussed this case
18 all along. And the necessity defense is the only
19 defense she would have available to her. So without
20 the necessity defense, we have nothing. Of course
21 the self-defense and defense of necessity.

22 THE COURT: I have never heard that. And
23 necessity really would not apply in this case, there
24 is no emergency. This does not fit the definition of
25 emergency.

1 If she wants to -- duress is more of her
2 defense, not necessity. Necessity is when an
3 emergency arises over which you have absolutely no
4 control, and it has never been applied in this type
5 case.

6 Factually it's not supported. That does not
7 mean she could not argue a defense of duress. And
8 duress is when you -- and of course it's an
9 affirmative defense that arises out of common law
10 which you would have the burden of proof.

11 But you would have to prove that there was a
12 degree of coercion which was present and imminent
13 such that would induce a well-grounded apprehension
14 of death or serious bodily harm if the act is not
15 done.

16 Of course there is no defense if there was any
17 reasonable way other than committing the crime to
18 escape the threat harm. There has to be a fear of
19 injury -- the fear of injury must be reasonable.

20 Necessity is when again there is an emergency
21 that arises, and I've looked again, I was just
22 researching it, I'm not aware of any case in South
23 Carolina that has applied the defense of necessity to
24 a burglary or armed robbery.

25 It doesn't mean it couldn't be, but I would be

1 hard-pressed to see how what you just described to me
2 is an emergency that arose outside her control. Her
3 going with them and then thinking she is going to a
4 party and then saying somebody held a gun to her head
5 and forced her to do something, that's coercion
6 that's not necessity.

7 So if she wants to assert the defense of
8 coercion or duress, which those terms are used
9 interchangeably as well, even in the case law they
10 are, that's fine. But the case law is very clear
11 that necessity and coercion or duress are not the
12 same thing.

13 Although the line has often been blurred, they
14 are not the same defense. And there are three
15 separate elements that are required of necessity,
16 which factually are not applicable to this case.

17 The first element of which you could not prove
18 which is, there is a present and imminent emergency
19 arising without fault on the part of the actor
20 concerned.

21 Somebody saying, we are going to commit a
22 robbery, is not an emergency. However saying that
23 she went along to do something and then suddenly was
24 faced with a situation where someone threatened her
25 life unless she did a particular act, that's duress

1 or coercion, but certainly not necessity.

2 Now getting back to the matter at hand which
3 is who is it that you want to have evaluate her and
4 how long will that take?

5 MR. SOWELL: At least a week, Your Honor.

6 THE COURT: It doesn't take a week for a
7 psychiatrist to evaluate somebody. I have them come
8 over here and evaluate people all the time in a
9 couple hours.

10 MR. SOWELL: I would love to have Your Honor.

11 THE COURT: Well you have to have somebody
12 identified to come over and do it.

13 MR. SOWELL: I'm not familiar with the doctors
14 here in town, Your Honor.

15 THE COURT: Who did you plan to have evaluate
16 her?

17 MR. SOWELL: My first step is going to go down
18 to Medical University and talk to somebody at the
19 psychiatric department and see who they suggest.

20 THE COURT: Mr. Grimes, Ms. Proctor, who could
21 you all recommend over there that would be able to
22 evaluate somebody in short order? Because it's a
23 limited scope of what you are looking at, which is
24 the effect of this particular event on someone.

25 And I wouldn't even know that they would need

1 to evaluate her to testify to that, that's just
2 general expert testimony.

3 MR. GRIMES: We use Dr. Susan Knight at MUSC,
4 along with there are several other doctors at MUSC
5 who do evaluations.

6 There is one who she may be -- she may be a
7 potential witness for a colleagues of mine. I don't
8 know if she is out of town, I know she is going to
9 move to Tennessee.

10 I'm not sure about Dr. Randy Wade.

11 THE COURT: He is a psychologist. Do you have
12 to have a psychiatrist? I don't know that it really
13 makes any difference.

14 MR. SOWELL: That's Your Honor's decision.

15 THE COURT: It's not my decision, it's yours.
16 I'm not trying this case.

17 MR. SOWELL: I would rather have a
18 psychiatrist, Your Honor.

19 MR. GRIMES: Those are the ones that jump out
20 at me.

21 THE COURT: Do you happen to have their
22 numbers offhand?

23 MR. GRIMES: Not offhand, Your Honor. I could
24 go up to the office and get them if you'd like me to.

25 THE COURT: Did you need me for the docket or

1 are you here observing?

2 MR. GRIMES: We are here observing the docket.

3 THE COURT: Not a problem. Do you think you
4 can text somebody or email somebody to ask them for
5 that phone number?

6 MR. GRIMES: Yes, ma'am.

7 THE COURT: Thank you, I appreciate it.

8 MR. KIDD: Your Honor, our position would be
9 that under the duress defense it's an objective or
10 reasonable person standard. I don't think expert
11 testimony --

12 THE COURT: It is, but she wanted to have an
13 expert testify to the effect of duress or stress on
14 the average person. I don't know, I have to cross
15 that bridge when I come to it.

16 The person would only be able -- see that's
17 where I get, the reason why I am seeming tentative,
18 Mr. Sowell, is that your expert would be able to talk
19 about the effects of it in general, but that expert
20 would not be able to say that on this particular
21 event that's how your client would have reacted.

22 MR. SOWELL: I understand, Your Honor.

23 THE COURT: So I don't know that you
24 necessarily need somebody to evaluate her. I think
25 you just need somebody that can come in to testify as

1 to the effect of stress, duress or threats on a
2 person.

3 MR. SOWELL: That's exactly what --

4 THE COURT: Because they would only be able to
5 talk about it in general. So they really don't need
6 to evaluate her to accomplish that.

7 So you probably just need to get the number of
8 -- actually you might want to avail yourself of Dr.
9 Wade because he does this quite a bit. This is I
10 think one of his areas, I wouldn't say specialty, I
11 don't want to speak for him, but I think when you are
12 talking about the effects of stress on someone, I
13 don't know that there really is any great difference
14 between a clinical psychologist or a psychiatrist.

15 The only difference between a psychologist and
16 a psychiatrist is one is a medical doctor. And most
17 psychiatrists will tell you the only difference is
18 that we get to prescribe medication and that's the
19 way we look at it. We look at it from the
20 perspective of prescribing medication to assist a
21 person, and to fix whatever their malady is, versus a
22 clinical psychologist who is more from the
23 perspective of counseling to -- I don't know any
24 clinical psychologists who prescribe meds, I think
25 only psychiatrists can prescribe medication.

1 I just have never heard a psychiatrist testify
2 as to that. I think you might be more -- for what
3 you are trying to accomplish, Dr. Wade -- I am trying
4 to think of the other person that does that. So you
5 may want to get Dr. Wade's -- is he at MUSC?

6 MR. GRIMES: Maybe he's adjunct.

7 THE COURT: That's what I thought. He
8 testified a few weeks ago and I cannot remember what
9 he said -- he indicated he was doing something in
10 some capacity at MUSC.

11 MR. SOWELL: Your Honor.

12 THE COURT: Yes, sir.

13 MR. SOWELL: I also need to approach the issue
14 of my client being able to pay the psychologist.

15 THE COURT: You were not appointed, correct?

16 MR. SOWELL: That's correct.

17 THE COURT: Has she paid you?

18 MR. SOWELL: She paid me.

19 THE COURT: Then she took herself out of the
20 ambit of anybody else picking up the tab. When she
21 was with the public defender's office I would have
22 been able -- she would have been able to go through
23 indigent defense, but I'm not aware of anything -- by
24 virtue of having paid your retain, she's no longer
25 indigent.

1 MR. SOWELL: She didn't pay me, someone else.

2 THE COURT: That means she has resources.

3 That's sort of a double-edge sword. I'm not aware of
4 anything in the statute that would say that I could
5 allocate the resources of indigent defense now that
6 she is technically no longer indigent.

7 How much is Dr. Wade's standard bill that I
8 usually sign? I can't remember. Do you know offhand
9 how much he charges an hour?

10 MR. GRIMES: Not offhand, Your Honor.

11 THE COURT: I think the median is 250.

12 So that's probably -- I don't know how long it
13 would take him to probably -- I think somewhere
14 around \$1,500 at the most.

15 MR. SOWELL: I could disperse some of my funds
16 for that.

17 THE COURT: Or less. He doesn't have to
18 evaluate her, he is just going to come in and testify
19 about a very specific category of behavior or the
20 effects on behavior.

21 So I would think you would talk to him and
22 find out exactly how much that he would -- and what
23 his schedule is for this week.

24 MR. KIDD: Your Honor, I believe we would
25 probably object to that testimony as being outside

1 the realm of what a juror --

2 THE COURT: I think if she wants to testify
3 that she was under duress and she wants to have
4 somebody come in and say the effects of threats on a
5 person in general, and it's not applied to her, I
6 think it's permissible.

7 It's no different than delayed reporting, all
8 of that kind of stuff that experts come in and
9 testify about. Because the expert is not saying that
10 she was under duress that day. The expert is not
11 saying the effects that it would have had on her on
12 that particular day because he can't.

13 He can't go back and say what somebody would
14 have done or the propensity for behavior. He can
15 simply say in general, like any other expert, the
16 effects certain things would have on behavior.

17 No different than someone -- I was trying to
18 think of that case. It was with Dr. Wade, wasn't it,
19 and I limited his testimony to -- the case was with
20 Ms. Herring-Lash I think. I limited it to he
21 couldn't talk about past behavior or propensity -- it
22 might have been with Ms. Herring-Lash.

23 Here is the number for Dr. Wade. You need to
24 call him and see what his availability is, but I'm
25 not inclined to delay the trial for that purpose. I

1 think you can make him available.

2 The issue at this point, however, is not the
3 admissability of the evidence, it's making it
4 available to her if she feels that she needs it.
5 Then we will cross the admissability threshold when
6 appropriate.

7 But what is before the Court at this point is
8 a motion to continue based on giving her access to
9 the witness. And I am inclined to give her the
10 ability to do that, but I don't think it's a basis
11 for a continuance because I think her lawyer can
12 figure out when that witness would be made available.

13 How many witnesses does the state have? I see
14 21, do you plan to call all 21?

15 MR. KIDD: We do not, Your Honor, although I
16 would like to add one witness to that list, Jerry
17 Roberts with CPD. I imagine we are probably going to
18 call 12 to 13 witnesses off that list.

19 THE COURT: Do you plans to call all these
20 witnesses, Mr. Sowell?

21 MR. SOWELL: No, ma'am, Your Honor. Those are
22 character witnesses.

23 THE COURT: So at some point they would be
24 cumulative?

25 MR. SOWELL: Yes, Your Honor. Plus we don't

1 know how many people are going to be able to come
2 down from Greenville.

3 THE COURT: I understand.

4 What was the previous offer made to Ms.
5 Gaskins?

6 MR. KIDD: The previous offer was to plead to
7 two counts of armed robbery, two counts of burglary
8 second with a 10 to 30 range.

9 THE COURT: That's what she is charged with,
10 isn't it? That's straight up.

11 MR. KIDD: She's charged with two counts of
12 burglary first degree, the reduction was --

13 THE COURT: Two counts of armed robbery and
14 two counts of burglary what?

15 MR. KIDD: Second degree, which was the
16 original offer which was revoked as of Friday before
17 last.

18 THE COURT: Tell me what that date was.

19 MR. KIDD: That date was on February 19th.

20 THE COURT: 18th, okay.

21 And, Mr. Sowell, did Mr. Butler fully
22 communicate to you that offer that was made by the
23 state?

24 MR. SOWELL: Yes, ma'am.

25 THE COURT: And it was your understanding that

1 your client rejected that offer?

2 MR. SOWELL: That's correct, Your Honor.

3 THE COURT: What did the other codefendants
4 plead to.

5 MR. KIDD: I want to clarify this, it was
6 revoke on the 11th of February.

7 THE COURT: I knew it had been continued and
8 the offer had been extended.

9 MR. KIDD: To the Friday of the week of the
10 7th, which would have been Friday the 11th.

11 The prior codefendants. First Miguel Starks,
12 he plead to two counts of kidnapping, two counts of
13 burglary first, two counts of armed robbery and a
14 criminal sexual conduct and possession of a gun
15 during a violent crime.

16 Then you have Steven Francois who pled to all
17 of the same except for the sexual assault. And the
18 same for Reginald Rice. All the same.

19 THE COURT: What did the other young lady plea
20 to?

21 MR. KIDD: She pled to two counts of armed
22 robbery and she is getting a recommendation of 10.

23 THE COURT: What is her name?

24 MR. KIDD: Breanna Bruster.

25 THE COURT: B-R-U-S-T-E-R?

1 MR. KIDD: Yes, ma'am.

2 THE COURT: And have any of them -- their
3 sentencing has been held in abeyance, correct?

4 MR. KIDD: They are all planning to testify in
5 this trial, and we have deferred all their sentencing
6 until Ms. Gaskins' charges are resolved.

7 THE COURT: And then on armed robbery that's
8 10 to 30, and then burg second is what?

9 MR. KIDD: Zero to 15.

10 THE COURT: Are there going to be any
11 recommendations made for Mr. Starks, Mr. Francois or
12 Mr. Rice?

13 MR. KIDD: No, ma'am, there are not.

14 THE COURT: And I assume some of their charges
15 -- were any of their charges reduced or did they
16 plead straight up?

17 MR. KIDD: All three males pled straight up.

18 THE COURT: Okay.

19 Mr. Sowell, as I have asked, to your knowledge
20 Mr. Butler fully communicated the previous offer to
21 your client?

22 MR. SOWELL: That's correct, ma'am.

23 THE COURT: Ma'am, stand for me please and
24 raise your right hand to be sworn.

25 (Whereupon, the defendant is placed under

1 oath.)

2 THE COURT: State your full name for the
3 record.

4 THE DEFENDANT: Sasha Alajawon Gaskins.

5 THE COURT: Ms. Gaskin, is it correct that Mr.
6 Butler communicated the offer that the state made to
7 you of two counts of armed robbery and two counts of
8 burglary second, which is a reduction from the
9 burglary first degree indictments?

10 THE DEFENDANT: Yes, ma'am.

11 THE COURT: And did you fully understand the
12 offer?

13 THE DEFENDANT: Yes, ma'am.

14 THE COURT: And did you in fact reject that
15 offer which had a deadline of February 11, 2011?

16 THE DEFENDANT: From my understanding it was
17 the 18th. But, yes, ma'am.

18 THE COURT: But you rejected it, correct?

19 THE DEFENDANT: Yes, ma'am.

20 THE COURT: And did you do that freely,
21 voluntarily and of your own will?

22 THE DEFENDANT: Yes, ma'am.

23 THE COURT: Did you understand the
24 consequences of rejecting that offer?

25 THE DEFENDANT: Yes, ma'am.

1 THE COURT: All right. Were you suffering
2 from any mental disabilities, or under the influence
3 of any drugs or alcohol?

4 THE DEFENDANT: No, ma'am.

5 THE COURT: You may take your seat.

6 All right. I'm going to give you, Mr. Sowell,
7 a moment to call Dr. Wade and see what his
8 availability is. Then we will resume in a few
9 moments. I would imagine the state will not finish
10 their case until Wednesday? Thursday?

11 MR. KIDD: Wednesday, Thursday morning.

12 THE COURT: So you need to see about his
13 availability for Wednesday or Thursday.

14 MR. SOWELL: If he becomes available in a
15 short period, can we put him out of order?

16 THE COURT: We will have to cross that bridge,
17 let's see about his availability. Right now we are
18 talking about Wednesday or Thursday.

19 (Whereupon, Mr. Sowell exits the courtroom.)

20 THE COURT: I assume there was no objection to
21 sequestering witnesses as has been requested?

22 MR. KIDD: Other than our --

23 THE COURT: Case agent and the victims.

24 Are there going to be any other pretrial
25 motions?

1 MR. KIDD: I believe Mr. Sowell is making that
2 call.

3 THE COURT: Yeah I know, but you would be able
4 to tell me if there are any statements or Biggers
5 issues?

6 MR. KIDD: Biggers, I anticipate a Biggers
7 motion, Your Honor.

8 THE COURT: Are there any statements?

9 MR. KIDD: There are statements but we don't
10 plan on introducing them.

11 THE COURT: All right.

12 (Whereupon, Mr. Sowell is present.)

13 MR. KIDD: Your Honor, the only other issue
14 we'd like to bring to the Court's attention is I
15 submitted a motion on -- a memo toward joinder for
16 his motion to sever.

17 THE COURT: Is there a motion to sever, Mr.
18 Sowell?

19 MR. SOWELL: No, ma'am.

20 THE COURT: Okay.

21 Mr. Kidd indicated that there is a Neil versus
22 Bigger issue, but no Jackson versus Denno; is that
23 correct?

24 MR. SOWELL: Yes, ma'am.

25 THE COURT: Okay. We are going to go ahead an

1 pick the jury --

2 MR. SOWELL: This phone --

3 THE COURT: Put it on vibrate, that's fine.

4 Bring the jury upstairs for me. We are going
5 to go ahead and pick the jury and then we will go
6 from there.

7 (Whereupon, the following discussion was held
8 at the bench.)

9 MR. SOWELL: I gave her the strongest advice I
10 could give her, she wouldn't take it.

11 THE COURT: Well, some things just have to
12 play out unfortunately. I think the hardest part is
13 all of these young people find themselves in is they
14 made a left turn that was such a hard left, it wasn't
15 like incremental.

16 It was like, I'm a straight A student getting
17 good grades, and then I get hooked up with this boy,
18 who for all intents and purposes is decent, who
19 commits an aberrant act, and I'm along for the ride.
20 And now the consequences are so dire.

21 I mean is the state really adverse to
22 re-offering what they had before?

23 MR. KIDD: We are, Your Honor. I have been
24 told that there is no re-extending the offer.

25 MR. SOWELL: My understanding is she wouldn't

1 even take it if it was.

2 THE COURT: The place that you are at, Mr.
3 Sowell, unfortunately is that you have the benefit of
4 wisdom and she doesn't. She is young and she is
5 still hoping -- I don't know, the jury might believe
6 her. I have no idea.

7 MR. KIDD: She's got jury nullification.

8 THE COURT: The jury might believe that she
9 was a young girl that got -- I don't know. But the
10 other side of the coin is it's such a hard-knock
11 offer.

12 I don't want you in a bad position for PCR
13 that you are darned if you do and darned if you
14 don't.

15 MR. SOWELL: I have done everything possible.

16 THE COURT: I think you're going to have to
17 try it. And we will wait for Dr. Wade to call back.

18 (In open court.)

19 THE COURT: Ladies and gentlemen, we
20 appreciate your patience. We are going to select a
21 jury for the case of the State of South Carolina
22 versus Sasha Alajawon Gaskins on the following
23 indictments.

24 Indictment 2010-GS-10-4738, the State of South
25 Carolina versus Sasha Alajawon Gaskins, an indictment

1 for burglary in the first degree. And that
2 indictment alleges that in Charleston County, South
3 Carolina, on or about February 27, 2010 in concert
4 with others, the defendant, Sasha Alajawon Gaskins,
5 did enter the dwelling of Joshua Heart, located at

6 Ashley Crossing Lane, Apartment F, during the
7 nighttime, without consent and with the intent to
8 commit a crime therein, alleging a violation of code
9 section 16-11-311 of the code of laws as amended, and
10 alleging those actions to be against the peace and
11 dignity of the State of South Carolina.

12 And indictment 2010-GS-10-4761, an indictment
13 for armed robbery. And that indictment alleges that
14 on February 27th, 2010 in Charleston County, South
15 Carolina at Unit Ashley Crossing Drive,
16 Charleston, in concert with others, by use of force,
17 threats or intimidation, and while armed with a
18 deadly weapon, to wit: a handgun, the defendant,
19 Sasha Alajawon Gaskins, did take and carry away the
20 goods and/or monies from the person or immediate
21 presence of Joshua Heart, with the intent to
22 permanently deprive him of possession thereof,
23 alleging a violation of code section 16-11-338 of the
24 code of laws as amended.

25 And indictment 2010-GS-10-4793, an indictment

1 for armed robbery, which alleges that on February 24,
2 2010, in Charleston County, South Carolina, at
3 Woodland Shores Road, in concert with others, by use
4 of force, threats or intimidation, and while armed
5 with a deadly weapon, to wit: a handgun, the
6 defendant, Sasha Alajawon Gaskins, did take and carry
7 away goods and/or monies from the person or immediate
8 presence of Herbert Butler the III, with the intent
9 to permanently deprive him of the possession thereof,
10 alleging a violation of code section 16-11-338 of the
11 code of laws as amended.

12 And indictment 2010-GS-10-4794, an indictment
13 for burglary in the first degree. And that
14 indictment alleges that in Charleston County, South
15 Carolina, on or about February 24, 2010, in concert
16 with others, the defendant, Sasha Alajawon Gaskins,
17 did enter the dwelling of Herbert Butler the III,
18 located at Woodland Shores Road, during the
19 nighttime, without consent, and with the intent to
20 commit a crime therein, alleging a violation of code
21 section 16-11-311 of the code of laws as amended.

22 We are going to go through a process which is
23 called voir-dire, which is just again as we have
24 selected a civil case, it is just a legal term that
25 is used that means that we will ask you some

1 questions so that the attorneys can more effectively
2 exercise their preemptory challenges in the jury
3 selection process.

4 If a question applies to you, please stand and
5 in a loud and clear voice give us your name, your
6 juror number and an answer to the question if
7 applicable, and remain standing until the court has
8 completed questioning you.

9 If counsel for the state would introduce
10 themselves as well as any members of their office and
11 anyone who will be assisting them in the trial of the
12 case. And then if counsel for the defense will also
13 provide us with the same information.

14 You may proceed.

15 MR. KIDD: Thank you, Your Honor.

16 My name Culver Kidd, I'm an assistant
17 solicitor for the 9th Circuit. Scarlet Wilson is the
18 head solicitor. Trying this case with me is Dale
19 Savage, also with our office.

20 I'm going to run down the other assistant
21 solicitors in our office. There is Marian Askins,
22 Jessica Baldwin, Spencer Compton, Julie Cardillo,
23 Natasha Chisolm, Rutledge Durant, Shannon Elliot,
24 Timmy Finch, Elizabeth Gordon, Meg Haley, Amy
25 Harrell, Debbie Herring-Lash, Jennifer Gnizer,

1 Stephanie Linder, Lindsey McClain, Michael Nelson,
2 Michael Sahn, Jennifer Shealy, Benjamin Chad Simpson,
3 Jim Stack, Greg Voigt, Burns Wetmore, Tyler Whitaker
4 and Adam Young.

5 THE COURT: Thank you.

6 Mr. Sowell, if you would provide us with the
7 same information.

8 MR. SOWELL: I'm Ken Sowell, I'm an attorney,
9 my office is in Greenville. I spent the summer in
10 Charleston one summer, spent a period of time here so
11 I feel like I'm back home. Ken Sowell, thank you.

12 THE COURT: If you would introduce your client
13 to the panel.

14 MR. SOWELL: This is Sasha Gaskins.

15 THE COURT: Ms. Gaskins, if you would stand
16 up, please.

17 Thank you, you may take your seats.

18 Again, ladies and gentlemen, if a question
19 applies, please stand and in a loud and clear voice
20 give us your name, your juror number and an answer to
21 the question if applicable, and remain standing until
22 the court has completed questioning you.

23 Is there any member of the panel related by
24 blood or marriage to Sasha Alajawon Gaskins, Joshua
25 Heart, or Herbert Butler, the III, if so please stand

1 at this time.

2 (No response.)

3 THE COURT: Does any member of the panel have
4 a close personal, social or business relationship
5 with Sasha Alajawon Gaskins, Joshua Heart, or Herbert
6 Butler the III, if so please stand at this time.

7 (No response.)

8 THE COURT: The following are a list of
9 potential witnesses in this case, I would ask that
10 you listen very carefully. Officer Melanie Donald,
11 officer Nicholas Juskin. Crime Scene Technician
12 Henry Middleton. Crime Scene Technician Randy
13 Unterbrink. Detective Tim Dasher, Detective Richard
14 Holmes, all of the Charleston Police Department, and
15 Jerry Roberts of the Charleston Police Department.

16 Deputy William Muirhead of the Charleston
17 County Sheriff's Office. Emily Michalak. Herbert
18 Butler. Joshua Harpe. Detective Nick Wagner.
19 Detective Sheri Church. Detective Kathy Kjellman.
20 Detective Dustin Turner. Lauren Wilson. Erica
21 Adamson.

22 Miguel Starks. Reginald Rice. Stephen
23 Francois. Breanna Bruster. Gail Heath of the South
24 Carolina Law Enforcement Division.

25 Sa'datrius Alston. David Schoolfield. Rita

1 Henderson. Wanda Delaine. Roseitta Nance. Richard
2 Nance. Shirley Nance. Chris Wofford. Mrs. Dailey.
3 Athena Barksdale. Bill Mayor. William Delaine. And
4 L. Randolph Wade, Ph.D.

5 Is there any member of the panel related by
6 blood or marriage to any of the people that I have
7 just listed, or does anyone have a close personal or
8 social relationship with any of these individuals, if
9 so please stand at this time.

10 Yes, sir.

11 A JUROR: My name is Bo Wilson, Number 243.
12 Herb Butler, I knew his father. If I recall, what
13 you said Junior would have been --

14 THE COURT: It's the III, he works at the
15 Citadel, or previously worked at the Citadel in their
16 athletic department.

17 A JUROR: Herb Butler.

18 MR. KIDD: That wasn't accurate.

19 THE COURT: I'm sorry.

20 MR. KIDD: He used to be a student at the
21 Citadel, ex-student at the Citadel. He is about 21
22 years old.

23 THE COURT: So we are talking about the son
24 not the father.

25 MR. KIDD: Correct.

1 A JUROR: I know his parents.

2 THE COURT: Okay. Tell me your name and your
3 juror number and remain standing.

4 A JUROR: My name is Bonum Wilson, Juror
5 Number 243.

6 THE COURT: Yes, ma'am.

7 A JUROR: My name is Kathryn Coons, Juror 41.
8 I know Sheri Church, although I haven't really spoken
9 to her in about ten years.

10 THE COURT: As a result these acquaintances,
11 do you both feel that you can remain fair and
12 impartial, and render a fair and impartial decision
13 in this case based solely on the evidence as it will
14 be presented and on the law as the Court will
15 instruct?

16 If your answer is yes please take your seats.

17 Let the record reflect that both answered yes.

18 Has any member of the panel ever been
19 represented by any of the attorneys involved in this
20 case or anyone in their offices? If so please stand
21 at this time.

22 Does any member of the panel have a close
23 personal, social or business relationship, or is
24 related by blood or marriage to any of the attorneys
25 involved or anyone in their offices? If so please

1 stand at this time.

2 Yes, ma'am?

3 A JUROR: Timmy Finch from our office is
4 founded, co-founded the Have Nots, and that's my
5 daughter-in-law's troop.

6 THE COURT: And your name and juror number.

7 A JUROR: Elizabeth Godow, Juror 69.

8 THE COURT: As a result of this experience, do
9 you feel that you can remain and impartial, and
10 render a fair and impartial decision in this case
11 based solely on the evidence as it will be presented
12 and on the law as the Court will instruct?

13 A JUROR: Sure.

14 THE COURT: Thank you, ma'am, you may take
15 your seat.

16 Has any member of the panel formed or
17 expressed any opinion about any issue or matter
18 involved in this case? If so, please stand at this
19 time.

20 Is there any member of the panel aware of any
21 bias or prejudice toward either the state or the
22 defense in this case? If so, please stand.

23 Is there any member of the panel who was a
24 member of the grand jury which issued the indictments
25 in this case? If so, please stand at this time.

1 Is there any member of the panel who is a
2 member of or contributor to any group which has as
3 its primary concern the enforcement or promotion of
4 victim's rights or law enforcement? These groups
5 would include, but are not limited to, Mother's
6 Against Drunk Driving, Student's Against Drunk
7 Driving, Citizens Against Violent Crime, People
8 Against Rape, Citizens Advocating a Return to Decency
9 and Ethics, and Parents Empowered to Save Teens, or
10 any type of community watch or advocacy group? If
11 so, please stand at this time.

12 Is there any member of the panel who has any
13 religious, moral, philosophical positions, or
14 feelings or experiences concerning the crime of
15 burglary or armed robbery or kidnapping, which would
16 affect your ability to be fair and impartial? If so,
17 please stand at this time.

18 Is there any member of the panel who has heard
19 any media accounts about this case, that includes
20 anything that could have been on TV, radio, newspaper
21 or Internet? If so, please stand at this time.

22 Yes, sir, if you would tell me your name and
23 juror number.

24 A JUROR: Bonum Wilson, 243.

25 THE COURT: And what media outlet was that?

1 A JUROR: Newspaper. Plus, like I said, I
2 know the father, Herb Butler.

3 THE COURT: Was that this morning or some
4 other time?

5 A JUROR: A long time ago.

6 THE COURT: Let me ask you, as a result of
7 what you've read, have you formed any fixed opinion
8 about the facts and circumstances of this case?

9 A JUROR: No.

10 THE COURT: Do you feel that you can be fair
11 and impartial?

12 A JUROR: Yes.

13 THE COURT: Do you feel that you can render a
14 fair and impartial decision in this case based solely
15 on the evidence as it will be presented and on the
16 law as the Court will instruct?

17 A JUROR: I do.

18 THE COURT: Thank you, you may take your seat.
19 Yes, ma'am, in the blue.

20 A JUROR: Juror 236, Heidi Whaley. And I do
21 recall reading about it in the paper.

22 THE COURT: How long ago was that?

23 A JUROR: Sometime ago.

24 THE COURT: As a result of what you've read,
25 have you formed any fixed opinion about the facts of

1 this case?

2 A JUROR: No.

3 THE COURT: Do you feel you can remain fair
4 and impartial?

5 A JUROR: Yes.

6 THE COURT: Do you feel you can render a fair
7 and impartial decision in this case based solely on
8 the evidence as it will be presented and on the law
9 as the Court will instruct?

10 A JUROR: Yes.

11 THE COURT: Thank you, ma'am, you may take
12 your seat.

13 Yes, ma'am.

14 A JUROR: Mary Altman, Juror Number 5.

15 THE COURT: And what media outlet was it?

16 A JUROR: I believe the newspaper and the
17 news.

18 THE COURT: And about how long ago was that?

19 A JUROR: Probably when this happened.

20 THE COURT: Okay. As a result of what you may
21 have read or heard, have you formed any fixed opinion
22 about the facts of this case?

23 A JUROR: No, ma'am.

24 THE COURT: Do you feel that you can remain
25 fair and impartial?

1 A JUROR: Yes, ma'am.

2 THE COURT: Do you feel that you can render a
3 fair and impartial decision based solely on the
4 evidence as it will be presented and on the law as
5 the Court will instruct?

6 A JUROR: Yes, ma'am.

7 THE COURT: Thank you, ma'am, you may take
8 your seat.

9 Is there any member of the panel who feels
10 they have any personal knowledge of the alleged facts
11 and circumstances of this case? If so, please stand
12 at this time.

13 Is there any member of the panel that has
14 overheard any discussions in any public form or any
15 private discussions regarding the alleged facts and
16 circumstances of this case? If so, please stand at
17 this time.

18 Is there any member of the panel who attended
19 the Citadel or the College of Charleston? If so,
20 please stand at this time.

21 Then also I'm going to -- well I'm going to do
22 this in two parts. I need you to tell me your name
23 and your juror number, whether it was the Citadel or
24 the College of Charleston and remain standing.

25 Yes, ma'am.

1 A JUROR: Donna Poulnot, 174. Citadel.

2 A JUROR: Jenny Mishkin, Juror 149. Citadel.

3 THE COURT: Yes, sir.

4 A JUROR: Charles Hamrick, Juror Number 82.
5 College of Charleston.

6 THE COURT: Yes, ma'am.

7 A JUROR: Juror 118, Latoya Kelly. College of
8 Charleston.

9 THE COURT: And the second part of this
10 question, is there any member of the panel who has
11 had any adverse experiences with the Citadel or a
12 College of Charleston student? If so, please stand
13 at this time.

14 As a result of your experiences, do you feel
15 that you can remain fair and impartial, and render a
16 fair and impartial decision in this case, based
17 solely on the evidence as it will be presented and on
18 the law as the Court will instruct? If your answer
19 is yes, please take your seat.

20 Let the record reflect that all answered yes.

21 Is there any member of the panel who has had
22 what they would consider an unpleasant experience
23 with law enforcement? If so, please stand at this
24 time.

25 Is there any member of the panel who has any

1 moral, religious or philosophical beliefs that make
2 them feel that they cannot sit in judgment of a
3 fellow human being? If so, please stand at this
4 time.

5 Is there any member of the panel who feels
6 they have been negatively affected by the effects of
7 alcohol or drugs and feels that impairs their ability
8 to be fair and impartial? If so, please stand at
9 this time.

10 Does any member of the panel know of any
11 reason whatsoever why he or she should not serve as a
12 juror in this case, with particular emphasis being
13 placed on your ability to be fair and impartial to
14 both the state and the defense? If so, please stand
15 at this time.

16 Are there any additional questions from the
17 state?

18 MR. KIDD: None from the state, Your Honor.

19 THE COURT: From the defense?

20 MR. SOWELL: I'd like to ask about victims of
21 violent crime.

22 THE COURT: Is there any member of the panel
23 who has ever been the victim of a violent crime? If
24 so, please stand at this time.

25 Yes, sir, tell me your name and your juror

1 number.

2 A JUROR: Bal Nelson, 158.

3 THE COURT: Do you mind telling me what the
4 crime was, sir?

5 A JUROR: Armed robbery.

6 THE COURT: How long ago was that, sir?

7 A JUROR: Seven years ago.

8 THE COURT: As a result of that experience, do
9 you feel you can remain fair and impartial?

10 A JUROR: Yes, ma'am.

11 THE COURT: Do you feel you can render a fair
12 and impartial decision in this case?

13 A JUROR: Yes, ma'am.

14 THE COURT: Do you feel that decision would be
15 based solely on the evidence as it is presented and
16 on the law as the Court will instruct?

17 A JUROR: Yes, ma'am.

18 THE COURT: Thank you, sir, you may take your
19 seat.

20 Any additional questions from the state.

21 MR. KIDD: No, Your Honor.

22 THE COURT: From the defense?

23 MR. SOWELL: No, ma'am.

24 THE COURT: Strikes are ten and five. Who's
25 going to demonstrate for me? Mr. Major.

1 Ladies and gentlemen, if your name is called
2 please come forward, just as Mr. Major is doing,
3 bring all of your personal belongings and stand
4 exactly where he is standing. And turn back facing
5 the panel until we either seat or excuse you as a
6 juror. We appreciate your patience.

7 Mr. Clerk, you may proceed when you are ready.
8 Bear with us one moment.

9 Ladies and gentlemen, please listen carefully.
10 If your name is called, please come forward with all
11 of your personal belongings as we previously
12 instructed.

13 Mr. Clerk, you may proceed when you're ready.

14 THE CLERK: Yes, Your Honor.

15 Juror Number 204, Robert Smith.

16 What say you for the State?

17 MR. KIDD: Please excuse the juror.

18 THE CLERK: Mr. Smith, please have a seat back
19 in the audience, you have been excused from the trial
20 of this case.

21 Juror Number 174, Donna Poulnot.

22 What say you for the State?

23 MR. KIDD: Please seat this juror.

24 THE CLERK: What say you for the defendant.

25 MR. SOWELL: Please excuse the juror.

1 THE CLERK: Ms. Poulnot, please have a seat
2 back in the audience, you have been excused from the
3 trial of this case.

4 Juror number 244, Carol Wilson.

5 What say you for the State?

6 MR. KIDD: Please excuse the juror.

7 THE CLERK: Ms. Wilson, please have a seat
8 back in the audience, you have been excused from the
9 trial of this case.

10 Juror Number 140, Edward Marshall.

11 What say you for the State?

12 MR. KIDD: Please seat this juror.

13 THE CLERK: What say you for the defendant?

14 MR. SOWELL: Please excuse the juror.

15 THE CLERK: Mr. Marshall, have a seat back in
16 the audience, you have been excused from the trial of
17 this case.

18 Juror Number 138, Robert Mantini.

19 What say you for the State?

20 MR. KIDD: Please seat this juror.

21 THE CLERK: What say you for the defendant?

22 MR. SOWELL: Please seat this juror.

23 THE CLERK: Mr. Mantini, have a seat in the
24 jury box, you have been selected as a juror in this
25 case.

1 Juror Number 118, Latoya Kelly.

2 What say you for the State?

3 MR. KIDD: Please seat this juror.

4 THE CLERK: What say you for the defendant?

5 MR. SOWELL: Please seat this juror.

6 THE CLERK: Ms. Kelly, please have a seat in
7 the jury box, you have been selected as a juror in
8 this case.

9 Juror Number 221, Joseph Walker.

10 What say you for the State?

11 MR. KIDD: Please seat this juror.

12 THE CLERK: What say you for the defendant?

13 MR. SOWELL: Please seat this juror.

14 THE CLERK: Mr. Walker, please have a seat in
15 the jury box, you have been selected as a juror in
16 this case.

17 Juror Number 243, Bonum Wilson.

18 MR. SOWELL: Move to strike, Your Honor.

19 MR. KIDD: No objection.

20 THE COURT: Mr. Wilson, you are struck for
21 cause.

22 THE CLERK: Juror Number 212, Jacqueline
23 Thames.

24 What say you for the State?

25 MR. KIDD: Please seat this juror.

1 THE CLERK: What say you for the defendant?

2 MR. SOWELL: Please seat this juror.

3 THE CLERK: Ms. Thames, please have a seat in
4 the jury box, you have been selected as a juror in
5 this case.

6 Juror Number 165, Paul Osbun.

7 What say you for the State?

8 MR. KIDD: Please seat this juror.

9 THE CLERK: What say you for the defendant?

10 MR. SOWELL: Please seat this juror.

11 THE CLERK: Mr. Osbun, please have a seat in
12 the jury box, you have been selected as a juror in
13 this case.

14 Juror Number 117, Nicholas Kass.

15 What say you for the State?

16 MR. KIDD: Please seat this juror.

17 THE CLERK: What say you for the defendant?

18 MR. SOWELL: Please seat this juror.

19 THE CLERK: Mr. Kass, please have a seat in
20 the jury box, you have been selected as a juror in
21 this case.

22 Juror Number 125, Sarah Liebendorfer.

23 What say you for the State?

24 MR. KIDD: Please seat this juror.

25 THE CLERK: What say you for the defendant?

1 MR. SOWELL: Please seat this juror.

2 THE CLERK: Ms. Liebendorfer, please have a
3 seat in the jury box, you have been selected as a
4 juror in this case.

5 Juror Number 236, Heidi Whaley.

6 What say you for the State?

7 MR. KIDD: Please seat this juror.

8 THE CLERK: What say you for the defendant?

9 MR. SOWELL: Please excuse the juror.

10 THE CLERK: Ms. Whaley, please have a seat
11 back in the audience, you have been excused from the
12 trial of this case.

13 Juror Number 31, Michael Campbell.

14 What say you for the State?

15 MR. KIDD: Please seat this juror.

16 THE CLERK: What say you for the defendant?

17 MR. SOWELL: Please seat this juror.

18 THE CLERK: Mr. Campbell, please have a seat
19 in the jury box, you have been selected as a juror in
20 this case.

21 Juror Number 46, Grace Davis.

22 What say you for the State?

23 MR. KIDD: Please seat this juror.

24 THE CLERK: What say you for the defendant?

25 MR. SOWELL: Please excuse the juror.

1 THE CLERK: Ms. Davis, please have a seat back
2 in the audience, you have been excused from the trial
3 of this case.

4 Juror Number 205, William Sorokach.

5 What say you for the State?

6 MR. KIDD: Please seat this juror.

7 THE CLERK: What say you for the defendant?

8 MR. SOWELL: Please seat this juror.

9 THE CLERK: Mr. Sorokach, have a seat in the
10 jury box, you have been selected as a juror in this
11 case.

12 Juror Number 55, John Etheridge.

13 What say you for the State?

14 MR. KIDD: Please seat this juror.

15 THE CLERK: What say you for the defendant?

16 MR. SOWELL: Please excuse the juror.

17 THE CLERK: Mr. Etheridge, please have a seat
18 back in the audience, you have been excused from the
19 trial of this case.

20 Juror Number 69, Elizabeth Godow.

21 What say you for the State?

22 MR. KIDD: Please seat this juror.

23 THE CLERK: What say you for the defendant?

24 MR. SOWELL: Your Honor, strike the juror for
25 cause.

1 THE COURT: No speaking. Please approach.

2 (Whereupon, the following discussion was held
3 at the bench.)

4 THE COURT: She has indicated she can remain
5 fair and impartial. If you'd like to use a
6 preemptory challenge you can.

7 (In open court.)

8 THE COURT: Denied.

9 MR. SOWELL: Please excuse the juror.

10 THE CLERK: Ms. Godow, please have a seat back
11 in the audience, you have been excused from the trial
12 of this case. That is six strikes for the defendant.

13 Jury Number 247, Jerome Wylym.

14 What say you for the State?

15 MR. KIDD: Court's indulgence.

16 Please seat this juror.

17 THE CLERK: What say you for the defendant?

18 MR. SOWELL: Please seat this juror.

19 THE CLERK: Mr. Wylym, please have a seat in
20 the jury box, you have been selected as a juror in
21 this case.

22 Juror Number 2, Martha Adams.

23 What say you for the State?

24 MR. KIDD: Please seat this juror.

25 THE CLERK: What say you for the defendant?

1 MR. SOWELL: Please seat this juror.

2 THE CLERK: Ms. Adams, please have a seat in
3 the jury box, you have been selected as a juror in
4 this case.

5 Juror Number 40, Clarence Cone.

6 What say you for the State?

7 MR. KIDD: Please seat this juror.

8 THE CLERK: What say you for the defendant?

9 MR. SOWELL: Please excuse the juror.

10 THE CLERK: Mr. Cone, please have a seat back
11 in the audience, you have been excused from the trial
12 of this case.

13 Juror Number 148, Matthew Miller.

14 What say you for the State?

15 MR. KIDD: Please seat this juror.

16 THE CLERK: What say you for the defendant?

17 MR. SOWELL: Please excuse the juror.

18 THE CLERK: Mr. Miller, please have a seat
19 back in the audience, you have been excused from the
20 trial of this case. That's eight strikes for the
21 defendant.

22 Juror Number 95, Eric Holland.

23 What say you for the State?

24 MR. KIDD: Please seat this juror.

25 THE CLERK: What say you for the defendant?

1 MR. SOWELL: Please excuse the juror.

2 THE CLERK: Mr. Holland, please have a seat
3 back in the audience, you have been excused from the
4 trial of this case.

5 Juror Number 134, Christopher Malanuk.

6 What say you for the state?

7 MR. KIDD: Please seat this juror.

8 THE COURT: What say you for the defendant?

9 MR. SOWELL: Please seat this juror.

10 THE CLERK: Mr. Malanuk, have a seat in the
11 jury box, you have been selected as a juror in this
12 case.

13 Your Honor, how many alternates?

14 THE COURT: Is one alternate sufficient from
15 the state.

16 MR. KIDD: Judge, with the length of the trial
17 we might need two.

18 THE COURT: Any exception from the defense?

19 MR. SOWELL: No, ma'am.

20 THE COURT: Strikes are one and two for each
21 alternate. You may proceed.

22 THE CLERK: Picking the first alternate.

23 Juror Number 149, Jenny Mishkin.

24 What say you for the State?

25 MR. KIDD: Please excuse the juror.

1 THE CLERK: Ms. Mishkin, please have a seat
2 back in the audience, you have been excused from the
3 trial of this case.

4 Juror Number 102, Sheila Hutto.

5 Any challenge from the State?

6 MR. KIDD: No challenge.

7 THE CLERK: What say you for the defendant?

8 MR. SOWELL: Please seat this juror.

9 THE CLERK: Ms. Hutto, please have a seat in
10 the jury box, you have been selected as a juror in
11 this case.

12 Juror Number 78, Richard Grooms.

13 What say you for the State?

14 MR. KIDD: No challenge.

15 THE CLERK: What say you for the defendant?

16 MR. SOWELL: Please excuse the juror.

17 THE CLERK: Mr. Grooms, please have a seat
18 back in the audience, you have been excused from the
19 trial of this case.

20 Juror Number 188, Helen Saulsberry.

21 What say you for the State.

22 MR. KIDD: No challenge.

23 THE CLERK: What say you for the defendant.

24 MR. SOWELL: Please seat the juror.

25 THE CLERK: Ms. Saulsberry, please have a seat

1 in the jury box, you have been selected as a juror in
2 this case.

3 Your Honor, the jury has been selected and are
4 seated.

5 THE COURT: Any motions regarding the
6 selection of the jury from the State?

7 MR. KIDD: No, Your Honor.

8 THE COURT: From the defense?

9 MR. SOWELL: No, Your Honor.

10 THE COURT: Ladies and gentlemen, we thank you
11 for your time and your attention. You are excused
12 for the remainder of the day.

13 Please call the jury information line after 6
14 o'clock this evening. Have a great day.

15 (Whereupon, the prospective jurors exit the
16 courtroom.)

17 THE COURT: Can counsel approach for me,
18 please.

19 (Whereupon, the following discussion was held
20 at the bench.)

21 THE COURT: Is there any exception to us
22 taking an hour and a half for lunch? Did you all
23 need that? I was thinking between an hour and 15 and
24 an hour 30.

25 MR. KIDD: Whatever you prefer, Your Honor.

1 We are doing the Biggers hearing.

2 THE COURT: We will do that. We will do it
3 in-camera.

4 MR. KIDD: We can do an hour and a half break.

5 THE COURT: No, we are doing after you seek to
6 introduce testimony.

7 MR. SAVAGE: Sure.

8 THE COURT: Any how long do you need for
9 lunch.

10 MR. SOWELL: Hour and a half is okay.

11 THE COURT: What I anticipate us doing is to
12 start with opening arguments. How many witnesses do
13 you think you can get in two hours?

14 MR. KIDD: We will probably get to two
15 officers. I think probably that would be --

16 THE COURT: Take us to 5:00, 5:30.

17 MR. KIDD: I can do as many as we need. I
18 have three codefendants that were transported
19 downstairs. I've got plenty of witnesses.

20 THE COURT: I'm planning to go to about 5:30.

21 MR. KIDD: So, Your Honor, any codefendant is
22 going to be 3 or 4 hours. It's going to be long
23 testimony out of the codefendants.

24 THE COURT: Okay.

25 (In open court.)

1 THE COURT: Ladies and gentlemen, we are going
2 to take advantage of this break to take our lunch
3 recess. We appreciate you all letting us go so far
4 beyond 1 o'clock to complete the jury selection
5 process.

6 Please know that we do not take your time for
7 granted. We generally take an hour and a half for
8 lunch, but we are going to do a little abbreviated
9 hour and 15 minutes today for lunch. I have 1:20, we
10 are going to break until 2:45, which gives you an
11 hour and 15 minutes, give or take.

12 I know that may seem like a long time but it's
13 really not by the time you have to come back through
14 security and otherwise and then come back to your
15 jury room. You are going to report directly to your
16 jury room at quarter to 3:00. The bailiffs are going
17 to show you how to do that.

18 During this break, please do not discuss the
19 case. Please don't speculate about what you think it
20 may or could be about. Please don't do any Internet
21 searches, word searches or otherwise to obtain any
22 information outside of the evidence, that would be
23 improper.

24 It is essential that you remain fair and
25 impartial, that you develop no opinions about the

1 facts and circumstances of this case until you've
2 heard all of the evidence, the Court's instructions
3 on the law and the parties' closing arguments.

4 Again please don't have any contact with
5 anyone in or about the courthouse unless they have a
6 juror sticker on. There are lots of witnesses in
7 this case. I would not want you to be having an
8 innocent conversation about the weather or sports or
9 something and someone think you are talking about the
10 facts and circumstances of this case. So I would ask
11 that you strictly abide by my instructions.

12 If you see the lawyers or otherwise and they
13 don't speak to you, they're not being unfriendly,
14 again we would not want an innocent conversation to
15 be misinterpreted.

16 The bailiffs are going to show you how to come
17 directly to your jury room, and at a quarter to 3:00
18 we anticipate that we will promptly begin with the
19 Court's opening instructions, opening arguments, and
20 I think we will get through three witnesses today.
21 We will go to about 5:15, 5:30 just for your planning
22 purposes. Have a great lunch and we will see you
23 then.

24 (Whereupon, the jurors exit the courtroom.)

25 THE COURT: See you all at a quarter to 3:00.

1 MR. SOWELL: Your Honor, I was not daydreaming
2 but I may have missed this part of your instruction.
3 Did you advise them not to discuss this case at all?

4 THE COURT: Yes. See you all at quarter to
5 3:00. Have a good lunch.

6 (Whereupon, a recess was taken.)

7 THE COURT: As I understand you all were
8 marking exhibits at this time?

9 MR. SAVAGE: Yes, Your honor.

10 THE COURT: Did you all agree to 1-21 or did
11 you simply mark them for ID only?

12 MR. SAVAGE: They are basically marked for ID
13 only.

14 THE COURT: Okay.

15 MR. SOWELL: Your Honor, I could probably
16 stipulate to those, I couldn't stipulate to them
17 until my client was present.

18 THE COURT: Well or you can just wait until
19 they actually introduce them. I thought that maybe
20 you all had -- I delayed starting because my law
21 clerk told me you all were marking exhibits. And I
22 didn't know whether you all had agreed to them. If
23 you hadn't and if you haven't, we will just take them
24 up as they introduce them.

25 MR. SOWELL: I will probably agree to them,

1 Your Honor.

2 THE COURT: Did you want a chance to go over
3 them with her, is that what you are saying?

4 MR. SOWELL: Might speed things up.

5 THE COURT: Okay.

6 MR. KIDD: And, Judge, and just for one other
7 point of clarification. Just when the jury comes
8 back in, can you just briefly ask them if they heard
9 anything pertaining to the case over the lunch break?

10 THE COURT: Any exception?

11 MR. SOWELL: No, ma'am.

12 THE COURT: Okay.

13 MR. KIDD: Thank you, Your Honor.

14 MR. SAVAGE: Your Honor, I have one thing I'd
15 like take up with the Court. I'd like to amend
16 indictment 2010-GS-10-4738, that's the burg first
17 indictment. There is a scriveners's error in that
18 indictment. The address in there is incorrect.
19 It's got listed Ashley Crossing Lane, it should
20 read Ashley Crossing Lane, Unit

21 THE COURT: Any --

22 MR. SAVAGE: Unit I'm sorry.

23 THE COURT: Any exception from the defense?

24 MR. SOWELL: No, ma'am

25 THE COURT: And what's the amendment again?

1 MR. SAVAGE: It's to amend the address. The
2 address listed on that indictment has

3 THE COURT: Uh-hum.

4 MR. SAVAGE: It should read Ashley
5 Crossing Lane, Unit You'll see the same address
6 in the corresponding number on the charge. is
7 actually Miguel Starks' apartment address, not the
8 victim's.

9 MR. SOWELL: We were not surprised by the
10 error.

11 THE COURT: Yes, it's correct in the other
12 indictment. And incorrect, yeah. It will be amended
13 without objection.

14 Mr. Sowell, this copy that you gave us that
15 was filed of your voir dire witness list and your
16 motion, is this, this is not your original is it that
17 you gave us?

18 MR. SOWELL: Yes, they all were originals.

19 THE COURT: I know, I just want to make sure.
20 Because I just want to make sure it got in the file
21 so your original is in the clerk's files.

22 MR. SOWELL: Yes, ma'am.

23 THE COURT: Okay, perfect. I just want to
24 make sure.

25 Did you go over them? Did you show the

1 exhibits to your client?

2 MR. SOWELL: We were not able to stipulate to
3 them, Your Honor

4 THE COURT: Okay. Is the State ready to
5 proceed?

6 MR. KIDD: We are, Your Honor.

7 THE COURT: Is the defense ready to proceed?

8 MR. SOWELL: Yes, ma'am.

9 THE COURT: Mr. Robinson, have Number 165
10 come in last as the foreperson, Mr. Osbun.

11 (Whereupon, the jurors enter the courtroom.)

12 THE COURT: Thank you, you may take your
13 seats. Ladies and gentlemen, please stand and raise
14 your right hands so that the clerk can administer the
15 oath to you. And once he is done, please answer
16 loudly and clearly for the record, you may proceed.

17 (Whereupon, the clerk swears in the jury
18 panel.)

19 THE COURT: You make take your seats. Ladies
20 and gentlemen, the case that we are about to try is
21 the case of the State of South Carolina versus Sasha
22 Alajawon Gaskins. What I will now say is intended to
23 serve as an introduction to the trial of this case.

24 These remarks are not a charge on the law.
25 And so that you will know, charge is a term of art, a

1 legal term of art that simply means instructions. So
2 when you hear me use the word charge that simply
3 means instructions.

4 As I have indicated, these remarks are not a
5 charge on the law. I will instruct on the law
6 applicable to this case at the end of trial before
7 you retire to the consider your verdict. This is
8 merely an explanation of the procedure that we will
9 follow in the trial of this case so that you may
10 better understand what is happening.

11 During the course of this trial you will be
12 given the opportunity to take notes. And, Mr.
13 Robinson, if you would pass the notebooks out for me.
14 Each notebook has a white sticker on the front. If
15 you would put your juror number on that sticker so
16 that you will be able to identify which notebook
17 belongs to you.

18 Rest assured that during breaks and recesses
19 your notes will be secured so that no one will read
20 your notes. And I will give you further instructions
21 regard note-taking at the conclusion of this
22 instruction.

23 The defendant is charged by four indictments.
24 with two counts of armed robbery and two counts of
25 burglary in the first degree, the elements of which I

1 will explain to you at the conclusion of the case.
2 The indictments are simply the charges by which the
3 cases are brought into court, and they are not, in
4 any sense, evidence of any of the allegations they
5 contain.

6 The defendant has pled not guilty to these
7 indictments. The State, therefore, has the burden of
8 proving each of the elements of the offenses beyond a
9 reasonable doubt. And it will be your duty, ladies
10 and gentlemen, to determine if the State has met that
11 burden or not.

12 Your purpose as jurors is to find and
13 determine the facts. You are the sole judges of the
14 facts. If, at any time, I make any comment regarding
15 the facts, you must disregard it. You are to
16 determine the facts from the testimony you hear and
17 the other evidence introduced in court. It is up to
18 you to determine which -- to determine the inferences
19 which you feel may be properly drawn from the
20 evidence. It is especially important that you
21 perform your duty of determining the facts diligently
22 and contentiously. Because ordinarily, there is no
23 way to correct an erroneous determination of facts
24 made by a trial jury.

25 On the other hand, and with equal emphasis,

1 the same law that makes you the judges of the facts,
2 makes me the judge of the law. The law, as given by
3 the Court, is the only law you may consider. You
4 must accept and follow it, even though you may
5 disagree with me as to the what the law is or what
6 the law should be.

7 The Court cannot tell you what the facts are,
8 and you cannot disagree with the Court about what the
9 law is or what the law should be. Your
10 responsibility, ladies and gentlemen, is to take the
11 law as it is instructed, and to apply it to the facts
12 as you find them from the testimony of the sworn
13 witnesses and any other evidence that is introduced.
14 After doing that, you will render your verdict. A
15 true and just verdict under the solemn oath that you
16 have just taken as jurors in this case.

17 Until I advise you to begin deliberations, you
18 must not discuss this case with anyone. That
19 includes your fellow jurors, your friends, family
20 members or anyone involved in the case. After the
21 case is submitted to you, you must discuss it only in
22 the jury room among your fellow jurors.

23 The attorneys and the parties have been
24 advised that they are not to speak with you at all.
25 So as I instructed before lunch, if you should see

1 any of them in the hallway, even in the garage or
2 the elevator or otherwise, and they don't speak with
3 you, please don't think that they are being
4 unfriendly, they are simply following the Court's
5 instructions. Again, we would hate for an innocent
6 conversation to be observed by a third party and
7 misinterpreted.

8 During the trial you are not to read, watch or
9 listen to any media accounts about this case. That
10 includes anything that could be found in the
11 newspaper, Internet, radio or television. In
12 addition, you are not to do any independent research
13 of any type. That includes anything that could be
14 Googled or any other -- using any other search engine
15 on the Internet, archiving, looking at old newspaper
16 articles or otherwise, or going to any other media
17 sites such as the television and looking at old
18 archived articles as well.

19 In addition to that, you are not to discuss
20 your jury service on any social media site. That
21 includes Facebook, My Space, You Tube -- I'm trying
22 to think of them all -- Linked In or otherwise. This
23 would, also, likewise be inappropriate.

24 It is essential that you keep an open mind and
25 you maintain your impartiality until you've heard the

1 entire case, you've heard the parties arguments, and
2 the Court's instructions.

3 You must not consider anything that you may
4 have read or heard outside of the evidence of this
5 case, outside of the courtroom, whether before or
6 during course of the trial. It is important and
7 essential that you keep an open mind and not decide
8 any issue in this case until all of the evidence has
9 been presented, the parties have made their closing
10 arguments, and I have instructed you on the law
11 applicable to this case.

12 It is your solemn responsibility to determine
13 the guilt or innocence of the defendant. And you're
14 verdict must be based solely on the evidence as it is
15 presented to you in this trial, and on the law as I
16 will instruct you during and at the close of the
17 trial.

18 In just a moment the solicitor will make an
19 opening statement in which he will outline to you
20 what he believes the issues to be in this case, or
21 what he believes the evidence will show in this case.
22 The attorney for the defendant can make an opening
23 statement, although he is not required to do so.

24 Ladies and gentlemen, what the attorneys tell
25 you during their opening statements is not evidence

1 in this case. It is only their contention as to what
2 they believe the evidence will show. The evidence in
3 this case will be presented to you by the testimony
4 of sworn witnesses from the witness stand, and/or by
5 exhibits that will be introduced into the record.

6 From time to time during the trial you may
7 hear one of the attorneys say, Your Honor, I object.
8 Just as in sports, business, or any other structured
9 activity, there are certain rules that we must obey
10 in the presentation of evidence. These rules ensure
11 that you receive the most trustworthy and reliable
12 evidence available.

13 An objection is the procedure that an attorney
14 uses to call a possible violation of these rules to
15 my attention as the judge of this court. And for
16 this reason, you should never hold an attorney's
17 objection against them. Nor should you conclude from
18 the Court overruling or sustaining an objection that
19 I favor one side or the other.

20 Also, from time to time you may hear one of
21 the attorneys say, Your Honor, we have a matter of
22 law, or they may ask to approach the bench, or I may
23 ask them to approach the bench, or it might be
24 necessary for us to exclude you from the courtroom
25 for a short while while we discuss matters of law.

1 The reason we do this, as I've explained, you
2 are the finders of the facts. And sometimes when I'm
3 discussing matters of law with the attorneys it might
4 be necessary for me to make some comment about the
5 facts in connection with ruling whether a particular
6 statute, evidentiary rule, or rule of evidence
7 applies.

8 And for this reason, we exclude from you from
9 the courtroom so that in no way will you be
10 influenced by anything that the Court may say or do
11 in connection with the facts of this case.

12 Also, during those conferences, you will hear
13 this noise. And it is directly over your heads. It
14 is like white noise which you'd hear on the radio or
15 otherwise. And it is designed so that you can't hear
16 us. And I sort of smile when I think about that and
17 I put this into my instruction because at one time we
18 were having a bench conference and I had a juror
19 raise his hand. And I asked him -- I let him speak
20 and he said, we can't hear you. And I told him,
21 well, you are not supposed to. That means it's doing
22 its job.

23 So I tell you that to let you know that it is
24 designed so that you cannot hear what we are saying.
25 Again so you might not be influenced by anything the

1 Court may say or do in connection with the facts of
2 this case.

3 In determining what the true facts are in this
4 case, you must decide whether or not the testimony of
5 a witness or witnesses is believable. It will be my
6 responsibility to rule, as a matter of law, as to
7 whether certain testimony is admissible at all or
8 not. But once the testimony is admitted, whether or
9 not you believe it is a matter solely for you to
10 determine.

11 In deciding whether to believe a witness you
12 have the right to consider the interest of any
13 witness; the bias of any witness; the prejudice of
14 any witness; the opportunity for the witness to have
15 seen the matters and things about which the witness
16 may testify; and the way the witness acts on the
17 witness stand, something we commonly refer to as
18 demeanor.

19 You have a right to consider anything that is
20 in the record that will help you evaluate the
21 testimony of the witnesses. That means, ladies and
22 gentlemen, that it is your duty to pay close
23 attention to the witnesses, to observe them, to
24 listen to them, and to pay close attention to the
25 attorneys and the Court.

1 I know it is very difficult in a room without
2 windows not to allow your thoughts to wander, but I
3 ask that you give strict attention to the testimony
4 so that at the end of testimony, after the arguments
5 of the attorneys, and the instructions on the law as
6 given by the Court, you will then be in a position to
7 determine what the true facts are and apply the law
8 to those facts and thus render a true and just
9 verdict.

10 During the course of this trial, you will be
11 given the opportunity to take notes. Note-taking is
12 a privilege that you may choose to exercise or choose
13 not to exercise. Please do not feel compelled to
14 take notes. Not everyone finds note-taking helpful
15 to them.

16 If you should decide to take notes, please
17 don't try to record everything that is said. It's
18 physically impossible. Even a person of moderate
19 speaking tones speaks at about 200 words a minute.
20 So it really, although you might think you're taking
21 something down verbatim, I'm always amazed when I go
22 back and listen, sometimes we put the end of a
23 sentence at the beginning, we will invert words, it
24 is funny how the mind hears things and as you write
25 them down.

1 So I ask that you try not to record everything
2 verbatim. And the only reason the court reporter can
3 do that is because she is trained in a very
4 sophisticated and highly specialized, it's a
5 complicated form of shorthand that allows her take
6 down things very quickly, almost phonetically.

7 So and even with that, she still goes back and
8 listens to the backup tape to make sure she has
9 gotten it correct as she transcribes a proceeding.

10 So again, please do not try to record
11 everything that is said. And again, as I have
12 emphasized, you are the finders of the facts, which
13 means you must rely on your powers of observation.
14 And if you become preoccupied with note-taking, that
15 dilutes that ability of yours to observe the
16 witnesses. So please do not allow note-taking to
17 become a distraction to you.

18 You might want to keep an outline of the main
19 points that are being made and the main arguments
20 that are being made. So that at the end of the case,
21 when you are sent to deliberate, you can allow these
22 notes to refresh your memory of the general arguments
23 and testimony that has been presented.

24 During breaks and recesses, your notes will be
25 left in your seats. And that's to make sure that

1 there is no temptation to prematurely deliberate
2 about anything you may have heard during a break, or
3 prior to a break or recess.

4 Again I would remind you, ladies and
5 gentlemen, that your notes are for your specific and
6 for your individual purposes. They're to be used for
7 the purpose of refreshing your own memory. They are
8 not to be shared with anyone else.

9 And I would remind you that your notes should
10 not be considered anymore reliable than someone
11 else's memory. Their memory should be considered
12 just as reliable as notes that may have been taken by
13 another juror.

14 It is your added duty, Mr. Foreman, to fill
15 out the verdict form and to write out any questions
16 that the jury may have during deliberations. But I
17 will give you further instructions regarding that at
18 the conclusion of the case.

19 Ladies and gentlemen, the foreperson is an
20 administrative function. That person does not have
21 any greater vote or voice than you do. The Court
22 employs a completely random process in selecting
23 forepeople. And it is aimed at getting a
24 cross-section, male, female, you know, different
25 backgrounds and otherwise in that function.

1 So there is really no scientific process. It
2 is completely random. And again, that person does
3 not have any greater voice or vote than you do. It's
4 simply an administrative function. They fill out the
5 verdict form and then write out any questions that
6 you may have during deliberations.

7 In order to preserve everyone's rights, the
8 Court is going to give the parties the opportunity to
9 take exception to anything that the Court has said by
10 way of opening instructions.

11 Are there any exceptions from the state?

12 MR. SAVAGE: None from the state, Your Honor.

13 THE COURT: From the defense?

14 MR. SOWELL: No, ma'am.

15 THE COURT: Ladies and gentlemen, you were
16 instructed not to expose yourself to any media
17 coverage regarding this case. Was anyone exposed to
18 any media coverage; that is anything on the radio,
19 television, Internet, or newspaper during the lunch
20 recess, if so, raise your right hand.

21 Let the record reflect there was a negative
22 response.

23 The state may proceed. Ladies and gentlemen,
24 I ask that you give the attorneys your undivided
25 attention.

1 MR. SAVAGE: Thank you, Your Honor. May it
2 please the court.

3 THE COURT: Yes, sir.

4 MR. SAVAGE: Ladies and gentlemen of the jury,
5 this case is about taking. It's about five people
6 working together, and how this defendant, Sasha
7 Gaskins, setup the victims in two home invasions so a
8 codefendant could force their way in, tie them up
9 with duct tape, and then rob them at gunpoint.

10 The codefendants will have their day in court,
11 but today is Sasha Gaskins' trial. More importantly
12 than money and the items she took, she took away the
13 sense of security and their right to be safe in their
14 own homes.

15 To understand how we got here, it helps to
16 know who's involved. The four codefendants are
17 Breanna Bruster, Stephen Francois, Miguel Starks, and
18 Reggie Rice. The defendant was dating Stephen
19 Francois at the time of the crimes, and she was
20 friends with Breanna Bruster.

21 All three of them were attending the College
22 of Charleston when this happened. Stephen Francois
23 and Miguel Starks grew up together in Georgia just
24 outside of Atlanta. Miguel Starks went to the
25 citadel and played football with Reggie Rice. The

1 five of them came up with a plan to do a home
2 invasion.

3 The first one they selected was Mr. Butler,
4 Herbert Butler, who had a home on James Island. They
5 discussed the plan and they executed it. Before the
6 home invasion, they met in Miguel Starks' apartment
7 and then went over the plan.

8 All five of them got in the same car and they
9 went to Mr. Butler's home. They drove past and
10 scoped it out. They stopped the vehicle down the
11 street.

12 And this defendant, along with Miguel Starks
13 and Reggie Rice, got out and walked over to Mr.
14 Butler's home. Miguel and Reggie hid as this
15 defendant knocked on the door. It wasn't Mr. Butler
16 that answered the door, it was his girlfriend Emily
17 Michalak.

18 This defendant still went on with the plan,
19 and she tricked Ms. Michalak into giving her her cell
20 phone. That provided the opening for Reggie and
21 Miguel to force their way in.

22 Once they went in, they tied up the two
23 victims with duct tape and robbed them at gunpoint.
24 This defendant went back out and waited in the car
25 where Breanna Bruster and Stephen Francois were

1 waiting. They waited out there and then they came
2 back to the house.

3 And when they came back to Mr. Butler's house,
4 they picked up Miguel Stark. All four of them then
5 went to an ATM machine with Herbert Butler's debit
6 cards and tried to drain his bank account of money.

7 Unfortunately, Mr. Butler was broke and didn't
8 have any money in his account. They returned back to
9 the house and this time they were going to take --
10 get something for their work. They all went in there
11 and took what they thought was valuable. They took
12 his TVs, game systems, and electronic equipment.

13 They loaded it back up into the car, then they
14 went back to Miguel Starks' place and unloaded it
15 inside.

16 Not satisfied with what they got in this
17 robbery, they came up with a plan to do it again.
18 This time the victim was an assistant coach at the
19 Citadel, Joshua Harpe. The plan had to be a little
20 different this time because Mr. Harpe lived in an
21 apartment complex that had a security barrier, you
22 had to use a little security fob to get access inside
23 the apartment.

24 Instead of knocking on the
25 door this time, this defendant went to a pay phone
and called Mr. Harpe. She tricked him into coming

1 down to the garage down below his apartment. And
2 when he got down there, the three male codefendants
3 were waiting for him. They grabbed him, forced him
4 back up to the apartment and then duct-taped him up
5 and then they held a gun to his head and they robbed
6 him.

7 While inside, Miguel Starks grabbed his car
8 keys, took the victim's car and went and picked up
9 this defendant and Breanna Bruster. The three of
10 them then went to an ATM machine with Mr. Harpe's
11 debit card.

12 This time they were able to get money out.
13 They went to another ATM machine and did it again.
14 Having got the money, they all went back to Mr.
15 Harpe's place and went inside. This defendant, along
16 with the rest of the codefendants, did the same thing
17 again; took his TVs, electronics, some of his
18 personal items.

19 They loaded it back up into the car. All of
20 them got in that car and went back to Miguel's house.
21 Once they got back there, they loaded the robbery
22 goods back inside the apartment.

23 A short time after they got back that night,
24 two of the codefendants, Reggie Rice and Stephen
25 Francois, decided they were going to go to Walmart.

1 They're driving out of the apartment complex of
2 Miguel Starks' place and they were stopped by police.
3 The police responded to the area because of Joshua
4 Harpe's 911 call.

5 As the police started talking to them, they
6 conducted their investigation. During that
7 investigation they learned of the two home invasions
8 and the roles that all five codefendants placed in
9 doing it.

10 Because of what happened, this defendant is
11 charged with two counts of armed robbery and two
12 counts of burglary in the first degree. She is
13 guilty of those crimes under the legal theory of the
14 hand of one is the hand of all.

15 During this trial, you will hear from the
16 victims in this case, some of the codefendants, and
17 the police involved. They will tell you about what
18 happened that night and how the case was made.

19 Once you've heard the testimony and seen the
20 evidence, we will return and ask you to find the
21 defendant guilty of the crimes charged in the
22 indictments. Thank you.

23 THE COURT: Mr. Sowell.

24 MR. SOWELL: May it please the Court, Your
25 Honor.

1 THE COURT: Yes, sir, you may proceed.

2 MR. SOWELL: Ladies and gentlemen, you've
3 heard a basic outline of what happened, but you did
4 not hear why it happened. This case started when
5 this little 18-year-old girl, never been in trouble
6 in her life, never had a criminal record, never did
7 anything wrong, A+ student, a wonderful student, a
8 wonderful person, moves to Charleston and meets this
9 guy named Stephen. Stephen takes her over to
10 a buddy's house and they all start smoking a little
11 marijuana, and shooting a little pool, and talking
12 and laughing and joking.

13 And one of the new guys says, hey, we are
14 going to go rob a drug dealer. And Sasha says, no,
15 no, you can't be serious. Who could get away with
16 robbing a drug dealer? He is going to recognize your
17 voice. It's just crazy. So they broke up the little
18 party and she went home.

19 Two days later, she and her boyfriend are
20 meeting the other three and they went out to dinner.
21 And they all piled in and rode in the car, they were
22 going to a party later that night.

23 On the way to the party, one of the bad guys
24 stops the car somewhere, she has no idea where she
25 was, gets out of the car, opens the trunk and takes a

1 gun out of the trunk, takes two guns out of the
2 trunk. Goes and yanks her door, yanks her out of the
3 car, puts a gun to her head and says, go knock on the
4 door.

5 You'll hear a lot more about that, but that's
6 basically what happened. The guy wanted to rob his
7 own drug dealer. How do you rob a drug dealer and
8 him not recognize your voice? She had no idea this
9 was going to happen.

10 Then he tells her, if you tell I'm going to
11 kill you. I know where you live. And this little
12 18-year-old girl is sitting there, shaking in her
13 boots, did not know what to do.

14 A couple of days later they said, okay, we are
15 going to go over to coach's house. We all go. His
16 coach was also his drug dealer. How could a
17 quarterback rob his coach and expect to get away with
18 it? Well, surely the coach would recognize the
19 quarterback's voice.

20 She had no idea what was going on. Why would
21 they do this? This is ridiculous. So anyway, about
22 the same thing that happened the first night, that
23 happened the second night. She is sitting there
24 shaking. They threatened to kill her. They
25 threatened to kill her parents. We know where you

1 live. You can't tell anybody about this, we are
2 going to kill you.

3 These guys pointed guns all over Charleston.
4 They robbed their own coach. They robbed two of
5 their own drug dealers, and she didn't know what to
6 do. She doesn't hurt anybody. She didn't point a
7 gun at anybody. She didn't do anything to threaten
8 anybody. All she did was try to stay alive.

9 Now this is the most important thing, the most
10 important week you are ever going to have. 12 people
11 here are going to decide the life of that little
12 girl.

13 Now her criminal buddies, if you want call
14 them that, they call themselves the drug buddies. I
15 think everybody else calls them -- in the department
16 calls them the drug buddies.

17 But anyway, her drug buddies had found out
18 that they could cooperate with the solicitor's
19 office. They are looking at two counts of burglary
20 one, armed robbery, and they have been told by law
21 enforcement if you will testify against Sasha, we'll
22 go easy on you.

23 MR. SAVAGE: Objection, Your Honor.

24 THE COURT: Basis?

25 MR. SOWELL: It's in the record, Your Honor

1 THE COURT: No speaking objections, approach.
2 (Whereupon, the following discussion was held
3 at the bench.)

4 MR. SAVAGE: Your Honor, we have not told them
5 that. If he wants to go ahead and do that, he's
6 going to need to put someone on the stand to verify
7 that. No one has said --

8 THE COURT: It's what he believes the evidence
9 will show. So he can question them about whether
10 even though they pled straight-up on this, it's a
11 downward departure.

12 MR. SAVAGE: But no one from law enforcement
13 told them they were going to go easy on them.

14 THE COURT: I'm going to give him a little
15 latitude. Be very careful, stay within the evidence,
16 Mr. Sowell, and no speaking objections.

17 (In open court.)

18 THE COURT: You may proceed.

19 MR. SOWELL: They not only told these bad
20 guys, you are looking at a life in prison sentence,
21 but if you'll work with the solicitor we won't give
22 it to you, we'll just give it to the little girl.

23 It's your job to listen to this whole story.
24 When the solicitor puts his case up, you are going to
25 say, oh, this girl is a bad girl, she's a bad girl.

1 when you hear the whole story, you'll see what
2 happened. You'll see why these bad guys turned their
3 story.

4 One of them, during his cross-examination of
5 the solicitor, even says, I'm a liar, you can't trust
6 me, I'm a liar. Said that on a written statement
7 after they offered him a deal to testify against
8 Sasha.

9 I don't know why they're going after Sasha,
10 she is the sweetest, nicest, little girl in town and
11 this is your chance to give her the benefit of the
12 doubt. I hope you will pay attention. I hope when
13 the case is over you will realize what happened.
14 Thank you.

15 THE COURT: You may proceed.

16 MR. KIDD: State calls Sheri Church.

17 After having first been duly sworn to state
18 the truth, the whole truth and nothing but the
19 truth, Sherry Church testified on her oath as
20 follows:

21 MS. SHERI CHURCH,
22 after having first been duly sworn to state the
23 truth, the whole truth and nothing but the truth,
24 testified on her oath as follows:

25 THE COURT: You may proceed.

1 MR. KIDD: Thank you, Your Honor.

2 DIRECT EXAMINATION

3 BY MR. KIDD:

4 Q Good afternoon, Ms. Church.

5 Could you tell the jury where it is that you are
6 employed?

7 A I work for the Charleston County Sheriff's
8 Office.

9 Q And about how long have you worked for the
10 sheriff's office?

11 A About seven years.

12 Q Do you have a specific title at the sheriff's
13 office?

14 A Currently, I'm a detective and I handle mostly
15 child abuse and sexual assault cases.

16 Q In February of 2010, did you have that same
17 title?

18 A I was a detective, yes.

19 Q Did you work that specific case load then as
20 well?

21 A At that time I was doing property crimes and
22 some persons, a little bit of both.

23 Q So you were doing the sexual assault cases and
24 property crimes?

25 A And the property.

1 Q Okay. In executing your duties with the
2 sheriff's office, did you have an opportunity to
3 become involved with an incident that took place on
4 February 24, 2010?

5 A I did.

6 Q What was your first involvement with that
7 incident?

8 A I was contacted by my supervisor and told to
9 meet a deputy at Roper Hospital in downtown
10 Charleston.

11 Q And did you do that?

12 A I did.

13 Q And what was taking place at Roper?

14 A When I arrived, Deputy Muirhead took me to the
15 room where two victims were located, Emily Michalak
16 And Herbert Butler.

17 Q Can you tell me what day is this?

18 A I believe it was the next day after the
19 incident, or the 25th around noontime. Emily had
20 gone to the hospital to be evaluated for a sexual
21 assault.

22 MR. SOWELL: Your Honor, objection, Your
23 Honor.

24 THE COURT: Basis?

25 MR. SOWELL: Hearsay.

1 THE COURT: You need to establish that she
2 knew that of her own personal knowledge. In other
3 words, that she accompanied her there and not that
4 someone told her that.

5 MR. KIDD: I'm confused, I thought she said
6 she was there.

7 THE COURT: Approach.

8 (Whereupon, the following discussion was held
9 at the bench.)

10 MR. KIDD: Objected to the time?

11 THE COURT: She said that she was told that
12 she was evaluated for a sexual assault. You need to
13 establish that she accompanied her for the sexual
14 assault.

15 MR. KIDD: No, she sent her there to be
16 evaluated.

17 THE COURT: She didn't know when she got
18 there. She said she was sent there for it, but she
19 wasn't there, she didn't know what happened. She has
20 to perceived it.

21 MR. KIDD: Is that what you're objecting to?

22 MR. SOWELL: (Affirmative head shake.)

23 MR. KIDD: Okay.

24 (In open court.)

25 THE COURT: Sustained, proceed.

1 Q (By Mr. Kidd) What time was this?

2 A It was around lunchtime, probably around noon.

3 Q On the 25th?

4 A On the 25th.

5 Q Okay. Did you -- what did you do with Ms.
6 Michalak Mahaloc and Mr. Butler?

7 A When I arrived at the hospital I spoke to Ms.
8 Michalak, who was in the hospital room as a patient,
9 and I obtained a statement.

10 MR. SOWELL: Your Honor.

11 THE COURT: Is there an objection?

12 MR. SOWELL: She's leading into hearsay.

13 THE COURT: So far not to. She hasn't told me
14 what somebody said. She cannot tell me what somebody
15 said.

16 Q (By Mr. Kidd) So you took Ms. Michalak's
17 statement?

18 A I did. I took a written statement from Ms.
19 Michalak.

20 Q Did you take one from Mr. Butler?

21 A I began a statement with Mr. Butler which he
22 completed at the detective office with Detective
23 Smith, I believe.

24 MR. SOWELL: Your Honor, she didn't see that.

25 THE COURT: No speaking objections. Is there

1 an objection?

2 MR. SOWELL: Yes, ma'am.

3 THE COURT: What's the basis of the objection?

4 MR. SOWELL: Hearsay.

5 THE COURT: Overruled.

6 MR. KIDD: Thank you, Your Honor.

7 Q (By Mr. Kidd) Following your meeting with Ms.
8 Michalak at Roper, what was the next thing you did on
9 this case?

10 A I contacted two detectives in the office and
11 asked them to execute a search warrant for the
12 victim's home, Herbert Butler.

13 Q Do you remember the address of that home?

14 A I believe it was Woodland Shores.

15 Q Are you familiar with that area?

16 A I am. It's on James Island.

17 Q Is that in Charleston County?

18 A It is in Charleston County.

19 Q And so after that, did you have anymore
20 involvement with the case that day?

21 A I don't believe so, not on that day.

22 Q At some point, were you able to develop
23 suspects in this case?

24 A I was.

25 Q And how did that take place?

1 A A couple of days later, over the weekend of
2 the 27th or the 28th, I'm not exactly sure of the
3 date, I saw on the news where Charleston City had
4 made some arrests in a home invasion that occurred in
5 the city. And the details of that case matched very
6 closely with the details that I was given from the
7 victims in my case.

8 Q And just so we can maybe clarify a little bit
9 for the jury, Charleston County Sheriff's Office and
10 Charleston Police Department, are they related, are
11 they separate entities?

12 A Two separate entities. And Charleston City
13 would handle incidents that occurred within the city
14 limits, and Charleston County would handle incidents
15 that occur in the county but outside of the city
16 limits.

17 Q And so you work for the County?

18 A I work for the County.

19 Q And over the weekend you realized that the
20 city had a similar case?

21 A Yes.

22 Q Can you tell the jury what some of the
23 similarities were?

24 A The similarities were the way that the case
25 unfolded. A female, a young black female, was

1 responsible for getting the victim to the door.

2 MR. SOWELL: objection, Your Honor.

3 THE COURT: Sustained, hearsay.

4 MR. KIDD: Court's indulgence.

5 Q (By Mr. Kidd) In developing those suspects,
6 did you execute a search warrant with the city on
7 that case?

8 A Yes.

9 Q Where was that search warrant executed?

10 A That search warrant was executed in the city
11 in an apartment complex. I don't remember name of
12 it, but it was Miguel Starks' apartment.

13 Q And what did you find, or what was discovered
14 in that apartment?

15 A We found --

16 MR. SOWELL: Your Honor, foundation. Was she
17 present?

18 THE COURT: No speaking objections. Do not
19 respond. Approach.

20 (Whereupon, the following discussion was held
21 at the bench.)

22 THE COURT: Mr. Sowell, I don't take speaking
23 objection. You need to say, objection. I will ask
24 you the basis of the objection. I need you to tell
25 me succinctly, without getting into it, whether it's

1 leading, relevance, lack if foundation, speculation.

2 MR. KIDD: She was present at the executed
3 search warrant.

4 THE COURT: You need to lay the appropriate
5 foundation that she was present when they executed
6 it. Lay the particulars then.

7 MR. KIDD: I'm not going to enter evidence,
8 I'm just going to have her testimony.

9 THE COURT: You testified -- you have to
10 establish the foundation.

11 (In open court.)

12 THE COURT: Proceed.

13 Q (By Mr. Kidd) Detective Church, do you
14 remember what day you executed that search warrant?

15 A I believe it was March 8th. I did the search
16 warrant return, and the date would be on the return
17 that I filled out. There is a copy

18 Q Are we referring to the search warrant on
19 Miguel Starks' apartment?

20 A Yes.

21 Q And you were there for that search warrant?

22 A I was there. I completed the search warrant
23 return.

24 Q And did you take any items into evidence?

25 A I did.

1 Q And when you take items into evidence, what do
2 you do with them?

3 A We take items into evidence. Before we remove
4 anything from the property, we document on a log
5 exactly what the item is that we are taking, and we
6 had actually our lab technician, our investigator was
7 there from our lab, who took custody of all those
8 items and logged them into our evidence compound.

9 Q And were photographs taken during the
10 execution of the search?

11 A Photographs were taken, but not by me.

12 Q When you execute a search warrant, do you take
13 photographs before disturbing the scene?

14 A Yes. The investigator from our crime scene,
15 who was on scene, photographed the entire apartment
16 prior to us moving anything.

17 Q And then do you zero in on items of interest?

18 A Yes. As we locate items, before we touch them
19 or move them, typically what happens is we notify the
20 investigator, they'll photograph the item, and then
21 we pick the item up and move it.

22 MR. KIDD: No further questions, Your Honor.

23 THE COURT: Any questions for the witness?

24 MR. SOWELL: No, ma'am.

25 THE COURT: Any objection to the witness being

1 excused, from the State?

2 MR. KIDD: None from the state.

3 THE COURT: From the defense?

4 MR. SOWELL: No, ma'am.

5 THE COURT: Ma'am, you are excused.

6 You may call your next witness.

7 MR. SAVAGE: State calls Detective Holmes.

8 MR. RICHARD J. HOLMES,

9 after having first been duly sworn to state the
10 truth, the whole truth and nothing but the truth,
11 testified on his oath as follows:

12 THE COURT: You may proceed.

13 MR. SAVAGE: Thank you, Your Honor, may it
14 please the court.

15 THE COURT: Yes, sir.

16 DIRECT EXAMINATION

17 BY MR. SAVAGE:

18 Q Good afternoon, Detective Holmes.

19 A Good afternoon.

20 Q Where do you work?

21 A With the Charleston City Police Department.

22 Q And how long have you worked there for?

23 A 22-plus years.

24 Q Could you briefly describe your duties at the
25 Charleston Police Department?

1 A I'm presently assigned to the Violent Crimes
2 Task Force which we investigate armed robberies and
3 crimes that are violent in nature that come to our
4 agency.

5 Q Did you become involved in this case back in
6 February, 2010?

7 A Yes, sir, I did.

8 Q How did you become involved?

9 A On the night in question, I was the duty
10 detective for the City of Charleston Police
11 Department.

12 Q And where -- what was the nature of the call?

13 A The nature of the call came out in reference
14 to an armed robbery home invasion that happened in
15 the area about Ashley Crossing Drive, and
16 instructing me to go to the area behind Walmart, west
17 of the Ashley.

18 Q Is that address located in Charleston County?

19 A Yes, sir, it is.

20 Q Did you respond to that location?

21 A Yes, sir, I did.

22 Q Could you tell the jury what you saw when you
23 arrived at that location?

24 A Upon arrival at the incident location, I spoke
25 with the supervisor who was in charge that night and

1 he advised me that they had --

2 MR. SOWELL: Objection.

3 THE COURT: Basis?

4 MR. SOWELL: Hearsay.

5 THE COURT: Overruled. It's not offered for
6 its truth. And it's within the gambit of the
7 investigation.

8 Q (By Mr. Savage) Continue.

9 A I spoke with the supervisor who was in charge
10 that night. He advised me that they had at the
11 scene, that we had an armed robbery home invasion
12 that had just occurred at this apartment complex.

13 MR. SOWELL: Objection.

14 THE COURT: Overruled.

15 A And the victim was at that apartment complex
16 and I needed to interview the victim in reference to
17 the case.

18 Q (By Mr. Savage) Did you go up to the victim's
19 apartment?

20 A Yes, sir, I did.

21 Q Did you walk inside?

22 A Yes, sir, I did.

23 MR. SAVAGE: Your Honor, may I approach?

24 THE COURT: Uh-hum.

25 Q (By Mr. Savage) Detective Holmes, I'm showing

1 you what has been marked as State's Exhibits 1
2 through 4 for identification purposes. Could you
3 look at those for me, please.

4 A Yes, sir.

5 Q Do you recognize those?

6 A Yes, sir.

7 Q What are they?

8 A These are the pictures that was taken by our
9 crime scene technician that I asked to respond to the
10 scene of the apartment that I responded to.

11 Q And is that how it looked that night?

12 A Yes, sir, it did.

13 MR. SAVAGE: Your Honor, the State moves to
14 admit State's Exhibits 1 through 4 into evidence

15 THE COURT: Any objection?

16 MR. SOWELL: No objection.

17 THE COURT: Marked and admitted without
18 objection.

19 (Whereupon, State's Exhibit Nos. 1, 2, 3 and 4
20 are admitted into evidence.)

21 Q (By Mr. Savage) Detective Holmes, I'm going
22 to put these up on the ELMO for you to have a look at
23 and let me know if you can see that or if you need to
24 step down from the witness chair up there.

25 What is that that we are looking at there?

1 A This is the kitchen area of the victim's
2 residence.

3 Q And just for the record that is State's
4 Exhibit 1.

5 I am now showing you what has been marked into
6 evidence as State's Exhibit 2. And what is that we
7 are looking at there?

8 A This is the living room area of the apartment
9 that I was in of the victim's residence.

10 Q I'm now showing you what has been marked as
11 State's Exhibit 3. Could you please tell the jury
12 what we are looking at there?

13 A This is also the living room area of the
14 victim's apartment.

15 Q And finally State's Exhibit 4?

16 A This is the victim's bedroom of the apartment.

17 Q Did you meet with the victim at the location?

18 A Yes, sir, I did.

19 Q Could you describe his appearance when you
20 first came across him?

21 A When I had first gotten there he was very
22 upset, very scared of what had just happened in his
23 apartment. When I first started speaking with him he
24 was very upset, he told me that he needed to get in
25 touch with his parents, who were out of town, and he

1 asked me could he use my phone to get in touch with
2 them.

3 Q And did you ask him what happened?

4 A Yes, sir, I did.

5 Q And during the investigation, your
6 investigation, did you learn of any other suspects
7 involved in this case?

8 A Yes, sir, I did. At the time in question he
9 advised me that he could specifically remember the
10 voice inside his apartment as being one Miguel Starks
11 inside the apartment where this incident had took
12 place at.

13 Q And from the victim's apartment there, where
14 did you go from there?

15 A From the apartment, I left after the
16 investigation was finished, I went back to our
17 headquarters located at Lockwood Boulevard.

18 Q And why did you go back to headquarters?

19 A Because we had -- uniformed officers had
20 detained two parties that were in a car identified as
21 possible suspects on this case.

22 Q And who were those parties?

23 A One was Miguel Starks and the other was
24 Stephen Francois.

25 Q And did you talk to those two parties?

1 A I'm sorry, sir?

2 Q Did you talk to those two parties?

3 A Yes, sir, I did. Yes, sir, I did. I went
4 back and conducted an interview.

5 Q Did you talk to any other parties during your
6 investigation that day?

7 A Yes, sir, I did. Through subsequent
8 investigation on this case there was a Stephen
9 Francois, Miguel Starks, Reggie Rice, and we were --
10 we also gathered the names of Breanna Bruster and
11 Sasha Gaskins.

12 MR. SOWELL: Your Honor, I am going to object
13 to hearsay.

14 THE COURT: I'm sorry, I can't hear you.

15 MR. SOWELL: Objection.

16 THE COURT: Basis?

17 MR. SOWELL: Hearsay.

18 THE COURT: Overruled. But be careful.

19 MR. SAVAGE: Yes, Your Honor.

20 Q (By Mr. Savage) During your investigation,
21 the suspects that you just talked about in
22 relationship to this crime, Joshua Harpe's residence,
23 did you learn of them being involved in any other
24 crimes?

25 A Yes sir. Through subsequent investigation, we

1 learned that an incident had taken place on James
2 Island area, which for us would be the Team 3 area.
3 But it was not in our jurisdiction at the time.

4 Q And was that similar to this incident?

5 A Yes, sir, it was. It was the exact same
6 style of home invasion and robbery that had taken
7 place in that jurisdiction over there.

8 Q How long -- did that happen before --
9 obviously that happened before this incident?

10 A Yes, sir, it did.

11 Q Roughly how long before the incident at Joshua
12 Harpe's place did he, I guess, did the first incident
13 occur?

14 A Roughly a day or so I think it was. Maybe one
15 or two days in between these two incidents.

16 Q Did it involve the same suspects in this case
17 or different suspects?

18 A Same suspects, sir.

19 MR. SAVAGE: Court's indulgence, Your Honor.

20 THE COURT: Uh-hum.

21 MR. SAVAGE: Nothing further, Your Honor.

22 THE COURT: Any questions for the witness?

23 MR. SOWELL: Nothing.

24 THE COURT: Any objection to the witness being
25 excused, from the State?

1 MR. SAVAGE: No, ma'am.

2 THE COURT: From the defense?

3 MR. SOWELL: No, Your Honor.

4 THE COURT: Sir, you are excused.

5 You may proceed.

6 MR. SAVAGE: Your Honor, State calls Stephen
7 Francois.

8 THE COURT: Could counsel approach for me,
9 please.

10 MR. SAVAGE: Yes, Your Honor.

11 (Whereupon, the following discussion was held
12 at the bench.)

13 THE COURT: Who represents Mr. Francois?

14 MR. SAVAGE: Peter Brown.

15 THE COURT: Where is he?

16 (In open court.)

17 THE COURT: Mr Foreman, ladies and gentlemen,
18 I have a very brief matter of law to take up, it will
19 be brief. During the break, please do not discuss
20 the case and please leave your notepads in your
21 seats.

22 If you would go with the bailiff.

23 (Whereupon, the jurors exit the courtroom.)

24 MR. SAVAGE: Your Honor, I was going to say
25 Mr. Brown is on his way.

1 THE COURT: My office is the one that called
2 him.

3 Mr. Francois, do you want your attorney here
4 while you are testifying?

5 MR. FRANCOIS: Yes, ma'am, that would be
6 nice.

7 THE COURT: Do we have a witness we can call
8 in the interim, because he is in Mount Pleasant.
9 It's going to take him 30 minutes to get here.

10 Is Mr. Skipper outside?

11 MR. KIDD: He is. Let me grab him.

12 THE COURT: And who is his client?

13 MR. KIDD: Miguel Starks.

14 THE COURT: Sir, we are going to have them
15 take you back in lockup. And then we are going to
16 wait until Mr. Brown arrives.

17 THE WITNESS: Yes, ma'am. Thank you.

18 THE COURT: You are welcome.

19 MR. KIDD: Your Honor, if I may talk with Mr.
20 Skipper real quick. I think he might have a federal
21 court in the morning, and I'm not sure we can finish
22 Mr. Starks' testimony today.

23 Let me talk to Mr. Skipper real fast.

24 MR. SAVAGE: I apologize, Your Honor, we
25 actually met on Friday with him and I thought he was

1 going to be here.

2 THE COURT: Who is your next witness?

3 MR. KIDD: We will call the victim out of
4 order, Judge.

5 THE COURT: Please get the jury.

6 (Whereupon, the jurors enter the courtroom.)

7 THE COURT: You may be seated.

8 You may call your next witness.

9 MR. KIDD: State calls Herbert Butler.

10 MR. HERBERT JOSEPH BUTLER, III,
11 after having first been duly sworn to state the
12 truth, the whole truth and nothing but the truth,
13 testified on his oath as follows:

14 THE COURT: You may proceed.

15 MR. KIDD: Thank you, Your Honor.

16 DIRECT EXAMINATION

17 BY MR. KIDD:

18 Q Good afternoon, Mr. Butler.

19 A Good afternoon.

20 Q I want to start by a little background
21 information. Can you tell the jury how it is you
22 know Emily Michalak?

23 A Emily Michalak is my ex-girlfriend. We dated
24 for two years. That's about it.

25 Q When did you all first start dating?

1 A I would say February of two years go.

2 Q So February, 09?

3 A Yes, sir.

4 Q Do you know Miguel Starks?

5 A I've never met Miguel Starks.

6 Q Do you know Reggie Rice?

7 A Yes, sir.

8 Q How do you know Reggie Rice?

9 A I know Reggie Rice. We were classmates at the
10 Citadel. I dropped out and then lost touch with
11 Reggie. He would come into town, you know, every now
12 and then. He would call me and see if we wanted to
13 smoke together, smoke weed.

14 Q So you went to the Citadel?

15 A Yes, sir.

16 Q When did you go to the Citadel?

17 A I went to the Citadel my freshman and
18 sophomore year, that would be '06 and '07. Excuse
19 me, '06 and '07.

20 Q How old are you?

21 A I'm 22, sir.

22 Q 22. And you left the Citadel. And you met
23 Reggie Rice at the Citadel?

24 A Yes, sir.

25 Q And you said you all were smoking buddies?

1 A Yes, sir.

2 Q Did you sell marijuana?

3 A Yes, sir.

4 Q Were you a big drug dealer?

5 A No, sir. I sold maybe an ounce here and there
6 trying to get by.

7 Q Who did you sell to?

8 A Associated people through the Citadel. Random
9 people through Charleston. But I had definitely sold
10 to Reggie. And I'm not certain if Miguel Starks came
11 over with Reggie, and I may have sold to him.

12 Q Did you sell anything besides marijuana?

13 A No, sir.

14 Q Did you make a lot of money selling marijuana?

15 A Not at all.

16 Q Did you smoke a lot of marijuana?

17 A Yes, sir. I was basically selling just to
18 smoke for free, I guess.

19 Q And in February of 2010, I guess that was just
20 about a year ago, you would have been 21?

21 A Yes, sir.

22 Q Have you ever met Sasha Gaskins before?

23 A Not at all.

24 Q Do you know anyone by the name of Breanna
25 Bruster?

1 A No, sir.

2 Q Okay. I want to -- what happened at the
3 Citadel? Why did you leave the Citadel?

4 A Originally my Dad wanted me to go to the
5 Citadel. I thought it was a good idea. I was into
6 it at first, and then I got tired of it and decided
7 to drop out and transfer over to Trident Tech,
8 downtown campus. The Citadel's meant for some, but
9 not for everyone, you know.

10 Q I want to go to February 24th, 2010. Can you
11 tell the jury what happened on that date?

12 A Emily and I had decided to go to my house
13 after staying at her house for an extended period of
14 time.

15 Q Just let me stop you real quick. Where was
16 your house?

17 A My house was on Woodland Shores, on James
18 Island. I was renting it with a roommate and he
19 wasn't --

20 Q Who was your roommate?

21 A My roommate was Andy Koontz, Andrew
22 K-O-O-N-T-Z. He wasn't around that evening. We
23 decided to cook some steaks.

24 I was in the backyard when Emily heard a knock
25 on the door. Next thing you know, I'm hearing a

1 scream through the screen door being opened in the
2 back.

3 Q What did you do when you heard that?

4 A I believe I dropped the steaks out of shock.
5 I can't exactly remember, but I immediately was
6 scared out of my mind. People with guns coming in my
7 face with masks on.

8 Q Well let's slow down a little bit. What's the
9 first thing you saw?

10 A I saw Emily's face as total shock. And then I
11 saw two black males with masks on them, coming into
12 my house with guns pointed at us and telling us to
13 get on the ground, telling us to be quiet.

14 Q Can you tell me what they looked like?

15 A They were well-built, definitely athletic
16 build. I would say at least 6 feet.

17 Q Can you describe them? You said they had
18 masks on?

19 A They were black masks and black gloves and I
20 think it was gray attire with gray shoes for one of
21 them.

22 Q Could you see the firearms they were carrying?

23 A One of them was a snub-nosed revolver, a short
24 pistol. And the other one I'm not certain of.

25 Q Okay. And what happened -- so they told you

1 to get on the ground. What happened next?

2 A They confiscated our cell phones. They
3 duct-taped us up, bound us by the hand.

4 Q How did they duct-tape you, your hands in
5 front, behind?

6 A In front. And then my legs were duct-taped
7 together to where I was sitting sort of like this, so
8 to say. My neck was bent down for a number of hours.
9 They didn't leave the house for almost four hours I
10 would say.

11 Q Did they duct-tape your face at all?

12 A Yes, sir. They duct-taped my eyes at first.
13 And then after asking them questions and, you know,
14 wondering what in the world is going on, they ended
15 up duct-taping a sock in my mouth to keep me quiet.

16 And at that point, later on in the night, they
17 shoved me in a closet and.

18 Q Let's slow down a little bit and go one step
19 at a time. So they have got you and Emily duct-taped
20 on the floor. What room were you all in?

21 A We were in the living room. It's a one bed --
22 you know, it's one big room that goes into the
23 kitchen in my house. Then there is a hallway as you
24 walk in on the left that goes into two bedrooms and a
25 bathroom.

1 MR. KIDD: Beg the Court's indulgence.

2 THE COURT: Uh-hum.

3 Q (By Mr. Kidd) All right. Herbert, I'm going
4 to show you what has been marked for identification
5 purposes as State's Exhibit Nos. 12, 13, 14, 15 and
6 16.

7 Can you tell me if you recognize those
8 photographs?

9 A Yes, sir, I recognize all of these.

10 Q What are those photographs of?

11 A These are photographs of my house, the inside,
12 the backyard, the front yard, the kitchen, et cetera.

13 Q Do they, those photographs, accurately depict
14 how that residence looked in February of 2010?

15 A Yes, sir.

16 MR. KIDD: Your Honor, at this time State
17 would like to move Exhibits 12 through 16 into
18 evidence.

19 THE COURT: Any objection?

20 MR. SOWELL: No, ma'am.

21 THE COURT: Marked and admitted without
22 objection.

23 (Whereupon, State's Exhibit Nos. 12, 13, 14,
24 15 and 16 are admitted into evidence.)

25 Q (By Mr. Kidd) All right, Mr. Butler. First I

1 am going to show you what has been entered into
2 evidence as State's Exhibit No. 12. Can you tell the
3 jury what that's a photograph of?

4 A That's a photograph of the front walkway to my
5 house where I used to live on Woodland Shores.

6 Q So that's the residence we are discussing?

7 A Yes, sir.

8 Q I'm going to show you State's Exhibit No. 13.

9 A That's the driveway, and another side view of
10 the house.

11 Q That's of the same residence?

12 A It is the same residence, yes, sir.

13 Q I am going to show you State's Exhibit 14?

14 A Same residence, the backdoor behind the
15 driveway with the deputy car in front.

16 Q All right. I'm going to show you State's
17 Exhibit No. 15?

18 A That's the kitchen area, thrown around in
19 bedlam after they left.

20 Q All those -- were those cabinets open, did you
21 open those cabinets?

22 A No, sir.

23 Q Was the place in disarray like that, did you
24 make the place in a disarray like that?

25 A No, sir. I got out of my blindfold and woke

1 up or, you know, looked around to a total tornado in
2 my house so to speak.

3 Q Now I'm going to show you State's Exhibit No.
4 16.

5 A That's the kitchen, looking into the living
6 room.

7 Q So kind of underneath that?

8 A Drape.

9 Q What is that hanging over the --

10 A That's just a curtain to separate the two
11 rooms because there wasn't a door there; the kitchen
12 and the living room.

13 Q All right. So see if we can't get back on
14 track a little bit.

15 A Sure.

16 Q So your last testimony was you and Emily were
17 duct-taped up in the living room. Could you tell the
18 jury what happened to you all next?

19 A Absolutely. As painful as it is to think
20 about it. We were interrogated, we were beaten,
21 pistol whipped, kicked.

22 Q Let's slow down a little bit. Why were they
23 -- were they asking you for something specific?

24 A They were asking us for money, where is your
25 money, and give me your debit cards and all that kind

1 of thing.

2 Q Did you give them a debit card?

3 A Yes, sir. I gave them up willingly, and I
4 even told them there wasn't any money on the card but
5 they didn't believe me and went to the ATM.

6 MR. SOWELL: Objection.

7 THE COURT: Basis?

8 MR. SOWELL: Hearsay.

9 THE COURT: Foundation, sustained.

10 You have to be able to establish that he knows
11 that of his own personal knowledge, that he wasn't
12 told that by someone else.

13 If someone told him his card was used, it's
14 hearsay. He was not there, he did not see it.

15 MR. KIDD: Thank you.

16 Q (By Mr. Kidd) Did you give the intruders your
17 PIN numbers?

18 A Yes, sir. Willingly.

19 Q Did they every separate you and Emily?

20 A Yes, sir.

21 Q How did that happen?

22 A I believe at one point I was running my mouth,
23 trying to figure out what was going on, who they
24 were, what they wanted, et cetera.

25 And after a while they threw me in my room

1 down the hall. Put me in a closet, you know, put a
2 sock in my mouth, duct-taped that around my mouth.
3 Does that answer your question?

4 Q Before you had tape over your eyes, were you
5 able to see Emily getting taped up?

6 A I don't remember.

7 Q Did you hear Emily saying anything?

8 A I remember Emily asking us, or asking them
9 what they were there for. Are you asking me in
10 reference to the sexual assault or just in general?

11 Q Just in general.

12 A I remember she was in a panic, you know, as
13 anyone would be. It was pretty brutal and we got
14 beaten around and all that kind of stuff. So she was
15 asking them to stop, you know, hitting her and all
16 that kind of stuff.

17 Q Do you remember about what time of night this
18 took place?

19 A If I'm not mistaken, my memory wants to tell
20 me that it was around 10:00, all the way through at
21 least 1:00, if I'm not mistaken.

22 Q So 10:00 p.m.?

23 A Yes, sir.

24 Q Was it dark outside?

25 A Yes, sir.

1 Q Once you had been separated in your bedroom,
2 what happened to you then?

3 A They continued to ask me where my money was.
4 You know, give up the money. You know, we are going
5 to beat you around a little bit if you keep telling
6 us you don't have any money.

7 I told them, you know, I was a broke college
8 kid living on my own, selling a little bit of weed,
9 being without a job, and I didn't have any money for
10 them.

11 And then next thing you know, I believe one
12 more defendant came in and threatened that if I did
13 not give him some money that he was going to cut off
14 my penis. He actually pulled my pants down and
15 grabbed my penis and put a knife up to it.

16 And I still, you know, told him I did not have
17 any money. And then after a while they left with me
18 with my pants down. That being said, I was pretty
19 shaken up. And I believe towards the end, you know,
20 they left.

21 Q And I just wanted to kind of go back through
22 few more things.

23 A Sure.

24 Q Where -- how many voices could you hear?

25 A I heard two at first, then I heard a third

1 once somebody came in and threatened me to cut off my
2 penis. I recognized Reggie's voice because we had,
3 you know, been associates, smoking buddies, whatever
4 you want to call it.

5 We didn't really hang outside when we were
6 smoking weed, so I know his jokes and, you know, his
7 gimmicks, his dialects or whatever.

8 Q Was he trying to -- were all them trying to
9 disguise their voices?

10 A Yes, sir. They were all using a form of
11 Gullah or Geechee or Jamaican or something like that.
12 And I recognized Reggie's voice and actually asked
13 him at one point if this is Reggie, what the hell are
14 you doing, what the hell are you thinking, you know,
15 excuse my language. Are you out of your mind?

16 So then he goes into his pocket and grabs my
17 phone and says, oh, we are going to call Reggie. I
18 bet your boy Reggie has some money, too. Why don't
19 you call him over here and to come chill. And the
20 next thing you know, we are going to jack his behind,
21 we're going to jack him up, too.

22 I called Reggie from my phone, I'm assuming
23 that his phone is either in the car or on him on
24 silent. And after I called him out on who it was, he
25 decided to kick me in the face and then pistol whip

1 me next to that just to kind shut me up. And that
2 was enough evidence to tell me that, oh, that really
3 was Reggie. Like he wouldn't kick me if it wasn't,
4 you know. So does that answer your question?

5 Q Yeah. Did you ever hear any female voices?

6 A No, sir. I was outside during the time
7 walking into the door. And she -- I don't think she
8 was speaking when I saw her. Sasha, I meant.

9 Q After this whole ordeal took place, how did
10 you get free?

11 A They cut Emily free by the hand. Emily came
12 to my rescue and, you know, unduct-taped me. We left
13 the duct tape behind, it's probably in evidence by
14 now. Does that answer your question?

15 Q And where did you all go? What did you all
16 do?

17 A We went directly to her house just out of fear
18 and out of exhaustion and decided to go to sleep. We
19 just wanted to be at home, safe, and deal with it.
20 By this point in time it was so late we wanted to
21 deal with it in the morning. Like we hadn't been to
22 sleep yet.

23 So we went down there to get little bit of,
24 you know, comfort and safety on Hester Street
25 downtown.

1 Q And that was Emily's residence?

2 A Her previous residence.

3 Q What all did they take from your house?

4 A They confiscated a flat screen television, A
5 pile of DVD's, a VCR, VHS. I believe they
6 confiscated my Nintendo, just a couple of electronic
7 things like that.

8 Q Did they get any money?

9 A No, sir.

10 Q Did they get any drugs?

11 A I believe they confiscated of jar of sticks,
12 stems, and seeds and crap like that, that had been
13 stored up. They confiscated about an eighth of an
14 ounce off the counter or table.

15 Q Just for the jury, is an eighth a lot of
16 marijuana?

17 A An eighth is probably, you know, three or four
18 pieces of marijuana like this.

19 Q How much does an eighth cost?

20 A That costs about \$50. And that's probably the
21 smallest you can get besides, you know, something
22 20-bag or whatever.

23 Q So you go back to Emily's house. What did you
24 all do in the morning?

25 A We wake up and, you know, try to -- I think we

1 took some Tylenol PM to go to sleep or something like
2 that. And we woke up and went to the hospital
3 immediately to get her checked out after the assault.

4 And then we were confronted by Detective
5 Church and Detective Wagoner and their crew. They
6 started to interrogate us and interview us.

7 Q And this was at Roper?

8 A Roper Hospital, yes.

9 Q And why did you all go to Roper?

10 A Emily needed to get checked out, I believe.
11 She was worried about, you know, STD's and things
12 like that.

13 MR. SOWELL: Your Honor, I object.

14 THE COURT: Sustained. Hearsay.

15 Q (By Mr. Kidd) After you reported to Roper,
16 when did you tell the officers who was involved or
17 who you recognized was involved in the --

18 A I'm sorry?

19 Q When did you tell officers that you recognized
20 a voice that was involved in the situation?

21 A I told the officers, I want to say, my first
22 or second interview at the station in North
23 Charleston.

24 Q Okay.

25 A I wanted to back up a second. Emily also had

1 to go to Roper to get off work. She was in shock,
2 she could not work.

3 Q She worked at Roper?

4 A She still does, yes, sir.

5 Q And I want to talk to you a little bit, and
6 just so everyone knows exactly what is going on.
7 Have you ever been in trouble with the law before?

8 A Yes, sir.

9 Q Can you tell the jury what kind of charges
10 you've had in the past?

11 A I had a simple possession charge at age 17,
12 possession of marijuana, and underage drinking
13 charge. I have had PTI. I have been arrested in
14 Florida for sale of marijuana to an officer.

15 Since then, I have gotten my act together.
16 I'm back in school.

17 Q What kind of sentence did you get for that
18 sale of marijuana charge in Florida?

19 A The sale of marijuana charge was 90 days in
20 the county jail in Live Oak, Florida. You know, I
21 was young, young and dumb. And now that I'm back in
22 school --

23 MR. SOWELL: Your Honor.

24 THE COURT: Yes, sir?

25 MR. SOWELL: He is supposed to respond to the

1 question, not ramble.

2 THE COURT: Is there a basis of the objection?

3 MR. SOWELL: Non-responsive to the question,
4 Your Honor.

5 THE COURT: Please approach.

6 (Whereupon, the following discussion was held
7 at the bench.)

8 THE COURT: I guess I'm trying to figure out
9 how it's non-responsive. He asked him a question
10 about being charged with other offenses, what the
11 penalty was and he answered that. How is it
12 non-responsive?

13 MR. SOWELL: He keeps rambling on.

14 THE COURT: Well the objection would be
15 relevance, not non-responsive. How is it relevant?

16 MR. KIDD: He characterized him as a big drug
17 dealer in his opening, and I think I have leeway to
18 say that's not the case.

19 THE COURT: He is entitled rehabilitate his
20 witness. I'm going to give him some latitude.

21 (In open court.)

22 THE COURT: You may proceed.

23 MR. KIDD: Thank you, Your Honor.

24 Q (By Mr. Kidd) Mr. Butler, what kind of
25 sentence did you get on -- you said you got a 90-day

1 sentence on the distribution of marijuana charge in
2 Florida?

3 A Yes, sir.

4 Q And when did you serve that sentence?

5 A I served that sentence from March of last year
6 up until June 2nd of last year.

7 Q So --

8 A I served 68 days out of 70. So -- I mean out
9 of 90, excuse me.

10 Q That was right after this happened?

11 A Right after this happened. Basically about
12 half a month.

13 Q So about two weeks?

14 A Two weeks, yeah. Maybe even shorter than
15 that.

16 Q So this took place on the 24th. And when did
17 you -- when did it take place in Florida?

18 A I want to say March the 6th, but I'm not
19 certain though. Relatively soon.

20 Q And what do you do now?

21 A I now currently work at an Italian restaurant
22 downtown. It's called Il Porchli Del Ray. I have
23 been working there for seven months roughly. I'm a
24 server's assistant.

25 I go to Trident Tech, downtown campus, taking

1 two classes. I have been already accepted to the
2 College of Charleston for next semester as long as I
3 can pay them. You know, I'm saving up money for my
4 education as it is now.

5 I can get back and forth to work on a moped to
6 save more money. You know, I live at my parents'
7 house on James Island. Fairway.

8 Basically, I have been trying to get my act
9 together. Live a responsible, respectable lifestyle.
10 Everyone's been there, done that.

11 Q Have you stayed in touch with Emily since
12 then?

13 A Yes, sir.

14 Q Did Emily know that you were dealing with
15 marijuana when you all were dating?

16 A Previously, but not at the time, no.

17 Q Why is that?

18 A She threatened to break up with me if I hadn't
19 stopped selling marijuana. I didn't want to loose
20 her and I had one month on my lease, so I figured if
21 I could just get rid of a couple more, you know,
22 bags, I would get out of there and go back home.

23 So I did not tell her that I had been selling.
24 And that's part of the response, you know, I have to
25 take responsibility for that, for sure.

1 Q So how long did that go on?

2 A About a month and a half.

3 Q Did you receive any injuries from this?

4 A I had some bruises, stiff neck, you know,
5 those kind of things, cuts.

6 Q Anything real serious, any broken bones or
7 anything like that?

8 A No, sir. Just kind of abrasions.

9 MR. KIDD: I don't have further questions.
10 Please answer any questions Mr. Sowell has.

11 THE COURT: You may proceed.

12 MR. SOWELL: Thank you, Your Honor. May it
13 please the Court.

14 THE COURT: Yes, sir.

15 CROSS-EXAMINATION

16 BY MR. SOWELL:

17 Q Herbert, I believe that you told the police
18 that Emily had left the house before you came in and
19 saw what was going on?

20 A I'm sorry, could you speak up?

21 Q Did you tell the police you already left Emily
22 -- you only saw the two black males, you didn't see
23 anyone else?

24 A I believe I saw Sasha Gaskins out of the
25 corner of my eye as I entered the room.

1 Q Did you ever tell the police that?

2 A Pretty sure I did, sir, yeah.

3 Q Wonder why they didn't put it in their report?

4 Wonder why they put the exact opposite in the
5 report?

6 A Well then, I suppose if their report says what
7 it is, their report's correct. I gave them that
8 information.

9 Q If you told them you never saw or heard any
10 female then that would have been correct; is that
11 right?

12 A That's right, sir.

13 Q Okay. And you told them you didn't report it
14 because you were scared; would that be pretty well
15 correct?

16 A Yes, sir.

17 Q Why were you scared of these guys?

18 A Because they were big and they had guns. Why?
19 Does that answer your question?

20 Q Yes, sir. Did you think you had reason to be
21 afraid of them?

22 A Absolutely.

23 Q Do you think they would have come back?

24 A Yes, sir, I did.

25 Q Do you think they were mean enough to hold a

1 vengeance to come back and see you if you had
2 reported that to the police?

3 A Yes, sir, I do.

4 Q Is that one of the reasons you didn't do
5 anything because you were afraid they were going to
6 come back and kill you?

7 A Yes, sir.

8 Q Did they threaten to do that?

9 A Yes, sir.

10 Q And you are bigger than Sasha, aren't you?

11 A I don't know how tall she is, sir.

12 Q No question you were afraid you would be
13 killed if you reported this?

14 A I'm sorry?

15 Q You were afraid you would be killed if you
16 reported this to the police?

17 A I was afraid that they were going to come
18 back, nonetheless. I mean, they knew where I lived.
19 It wasn't an issue of if I reported it or not, it was
20 an issue of they knew where I lived.

21 Q I believe you told the jury you heard no
22 female voices except for Emily's?

23 A Yes, sir, that's correct.

24 Q And did you see two black males, and a third
25 came in, or you thought you heard a new voice?

1 A I'm positive I heard a third voice.

2 Q The one that tied you up was Reggie; is that
3 correct?

4 A I think they were both involved. I was kind
5 of, I was kind of feisty, you know. I did not want
6 to be tied down by any means. I tried to stop them
7 at first, you know.

8 Q No question it's Reggie?

9 A I'm sorry?

10 Q No question it's Reggie that did that?

11 A He was involved, I'm sure, yes, sir.

12 Q How big is Reggie?

13 A A fair guess, he is 6 feet tall, probably 200,
14 200-plus pounds. I mean, I don't know, he's a
15 football player. I couldn't tell you exactly.

16 Q Big enough to be afraid?

17 A Absolutely.

18 Q You said you served PTI?

19 A Yes, sir.

20 Q What was that offense?

21 A My old roommate and I, we got into some
22 trouble at Harris Teeter and did some shoplifting two
23 years ago.

24 Q And did you steal food?

25 A Yes, sir. We were pretty broke at the time.

1 Q I'm trying to figure out when the Florida
2 offense occurred. Were you convicted the week after
3 this break-in at your house or were I arrested?

4 A I was arrested in November of 2009, if I'm not
5 mistaken. Then went to court in 2010, in March,
6 right after this incident happened.

7 Q So you had a bad month?

8 A Yes, sir.

9 Q When did you and Emily break up?

10 A We broke up right after the incident.

11 Q When did they tape your face?

12 A I'm sorry?

13 Q Did they tape your face the same time they
14 taped the rest of you?

15 A They taped my eyes after they taped my arms
16 and legs. Then after awhile they taped my mouth.

17 Q Where were you when they taped you?

18 A They began to tape me in the living room. And
19 then they moved me and proceeded to tape my face more
20 in my bedroom.

21 Q And when was your first interview with the
22 police?

23 A In the hospital, the next day.

24 Q About what time?

25 A About noontime.

1 Q And when was the second interview?

2 A The following day.

3 Q Okay. And the first interview, you didn't
4 tell them about Reggie?

5 A I'm sorry?

6 Q The first interview you didn't tell the police
7 about Reggie?

8 A You're right, sir.

9 Q And then the next day, the third day after all
10 this happened, you felt safe enough to tell them
11 about Reggie?

12 A I wasn't certain at first, and they always ask
13 you to write more than one interview because in the
14 first couple of days it's hard to remember after
15 being shook up so much.

16 So it came back to my memory, you know, the
17 second or third interview.

18 Q Well did you not tell them earlier because you
19 were afraid of him?

20 A I just had trouble remembering it, to be
21 honest. I was so worn out with the whole incident.

22 Q Didn't you tell the jury earlier that you were
23 afraid because of the guns, of threats, kicking you,
24 and everything, you were afraid to tell them about
25 Reggie?

1 A Yeah. I have been afraid of Reggie the entire
2 time I have known him. I don't know how this is
3 relevant.

4 Q And if the police reports show that you told
5 them that you didn't see anybody except the two
6 males, that would be accurate?

7 A Could you repeat that?

8 Q If the police report showed that you told them
9 you did not see anybody except the two males.

10 MR. KIDD: Objection, Your Honor.

11 THE COURT: Basis?

12 MR. KIDD: It's hearsay and pitting.

13 THE COURT: I haven't heard the whole
14 question. Please state the whole question.

15 A Could you speak up, sir?

16 Q (By Mr. Sowell) If you told the police that,
17 I didn't tell you earlier about Reggie, I didn't
18 report this crime because you were afraid, would that
19 be accurate?

20 THE COURT: Overruled.

21 THE WITNESS: Do I have to answer that if it's
22 overruled, Your Honor?

23 THE COURT: You may answer the question, sir.

24 A I mean, I was always afraid of Reggie, you
25 know, the entire time that I knew him. I thought he

1 was a liar the entire time I knew him. You know, I
2 have always been afraid of Reggie.

3 MR. SOWELL: Nothing further, Your Honor.

4 THE COURT: Any redirect of the witness?

5 MR. KIDD: Briefly, Your Honor

6 THE COURT: You may proceed.

7 REDIRECT EXAMINATION

8 BY MR. KIDD:

9 Q How long after you all freed -- what time did
10 you all free yourself?

11 A At least midnight, you know. They left, I'm
12 not certain around what time they left, but it was at
13 least three hours that they were there for.

14 Q And what time did it start?

15 A Probably around 10:00.

16 Q Okay. So reasonable to say that it would be
17 around 1 o'clock, then?

18 A Right.

19 Q Okay. And when did you all go to the hospital
20 to report it?

21 A The next morning.

22 MR. SOWELL: Your Honor, I object.

23 THE COURT: Basis?

24 MR. SOWELL: Wasn't brought up on cross.

25 THE COURT: I'm going to give him a little

1 latitude.

2 Sir, you may answer the question?

3 A What was the question?

4 Q (By Mr. Kidd) What time did you report it the
5 next morning at the hospital?

6 A Anywhere from 10:00 to noon.

7 Q So we are talking how many hours between 10:00
8 and noon from the time you all were freed, or were
9 able to get free from the residence?

10 A Tried to get a good night's sleep for what, 4
11 to 6 hours.

12 Q So you reported it about six hours after it
13 happened?

14 A Right, after we woke up.

15 MR. KIDD: Beg the Court's indulgence.

16 THE COURT: Uh-hum.

17 Q (By Mr. Kidd) Did anything occur over that
18 weekend that made you think Reggie was involved?

19 A I had a premonition the entire time. Since I
20 had heard about the other incident in the paper and
21 saw that it matched up with our scenario. It
22 definitely had positive, you know, almost 90 percent
23 sure guess that it was Reggie.

24 Q And after that, is that when you made the
25 report to police?

1 A That was before.

2 Q You saw the report before, but after seeing
3 that report, is that when you told the police about
4 Reggie?

5 A I believe so, yes, sir.

6 MR. KIDD: I have no further questions.

7 THE COURT: Any objection to the witness being
8 excused, from the State?

9 MR. KIDD: No --

10 MR. SOWELL: Your Honor, I'm trying to
11 determine if I have any recross.

12 RECROSS-EXAMINATION

13 BY MR. SOWELL:

14 Q So you didn't tell the police that you
15 recognized Reggie's voice until Saturday, and your
16 break-in was on Wednesday night?

17 A I'm having trouble remembering to be honest.
18 The days are blurred together.

19 Q Well no question that I think you just told
20 the prosecutor that you didn't report it as Reggie
21 until after you saw the other robbery on television?

22 A I don't know what day that was, sir. I can't
23 remember.

24 Q I'm not asking you what day. You didn't
25 report to the police that it was Reggie until after

1 you saw the TV episode about the second robbery?

2 A Yes, sir. That's correct.

3 Q Okay. So that would have been three days
4 later?

5 A If that's what the date says.

6 MR. SOWELL: Thank you.

7 THE COURT: Anything further?

8 MR. KIDD: Let me ask one question, Your
9 Honor.

10 THE COURT: Uh-hum.

11 REDIRECT EXAMINATION

12 BY MR. KIDD:

13 Q Do you remember handwriting a statement?

14 A Yes, sir, I do, multiple statements.

15 MR. KIDD: May I approach the witness, Your
16 Honor?

17 THE COURT: Uh-hum.

18 Q (By Mr. Kidd) This might help refresh your
19 recollection. Do you recognize this?

20 A Absolutely. This was one of my statements
21 made on February 27th '09.

22 Q And is that the statement that you are
23 referring to in which you first mentioned recognizing
24 Reggie's voice?

25 A Yes, sir. It says right here.

1 Q You don't have to read it.

2 A Okay.

3 Q So that was made on February 27th of '09.

4 A Yes, sir, the statement.

5 Q Thank you, nothing further.

6 MR. SOWELL: Your Honor, may I see what date
7 that was?

8 THE COURT: Uh-hum.

9 Any objection to the witness being excused,
10 from the State?

11 MR. KIDD: None from the State.

12 THE COURT: From the defense.

13 MR. SOWELL: No, ma'am.

14 THE COURT: Sir, you are excused.

15 THE WITNESS: Thank you, Your Honor.

16 THE COURT: You're welcome.

17 Ladies and gentlemen, if you would indulge us,
18 we are going to go until about 5:30. Does anybody
19 need to go to the restroom? We will take a very
20 brief restroom break.

21 During the break, please do not discuss the
22 case. As soon as you're done, please knock on the
23 door and the bailiffs will bring you right back to
24 the courtroom.

25 (Whereupon, the jurors exit the courtroom.)

1 (Whereupon, a recess was taken.)

2 (Whereupon, the jurors enter the courtroom.)

3 THE COURT: Thank you, state may proceed.

4 MR. SAVAGE: Thank you, Your Honor, may it
5 please the Court.

6 THE COURT: You need to call your witness.

7 MR. SAVAGE: State calls Stephen Francois.

8 THE COURT: Sir, you need to stand for me
9 please to be sworn.

10 MR. STEPHEN FRANCOIS,

11 after having first been duly sworn to state the
12 truth, the whole truth and nothing but the truth,
13 testified on his oath as follows:

14 THE COURT: You may proceed.

15 MR. SAVAGE: Thank you, Your Honor.

16 THE COURT: You're welcome.

17 DIRECT EXAMINATION

18 BY MR. SAVAGE:

19 Q Mr. Francois, how old are you?

20 A I'm 21.

21 Q And where did you grow up at?

22 A I grew up in Atlanta, Georgia.

23 Q Did you go to school there?

24 A Yes, sir.

25 Q Where did you go to school?

1 A I went to Mundy's Mill High School in Clayton
2 County, Georgia.

3 Q And what about the -- did you go to school in
4 Charleston?

5 A Yes, sir, I did.

6 Q And where did you go to school in Charleston?

7 A I went to Charleston Southern University. And
8 I also went to the College of Charleston University.

9 Q Where did you live when you were at the
10 College of Charleston?

11 A When I lived at -- when I was attending
12 College of Charleston, I was living in George Street
13 Apartments.

14 Q In one of the dorm rooms?

15 A Yes, sir.

16 Q Was anyone, did anyone stay with you from time
17 to time in that dorm room?

18 A Yes, sir. Ms. Gaskins used to stay with me
19 from time to time.

20 Q And is that Ms. Gaskins, the defendant in this
21 case, Shasha Gaskins?

22 A Yes, Your Honor. I mean, yes, sir.

23 Q Let's talk a little bit about why you're here.
24 Did you plead guilty to charges in this case?

25 A Yes, sir, I did.

1 Q And were those charges that you pled guilty to
2 two counts of armed robbery, two counts of burglary,
3 kidnapping, and some gun charges?

4 A Yes, sir.

5 Q Have you been sentenced yet?

6 A No, sir.

7 Q Have you been promised anything from me or
8 from anyone in the solicitor's office?

9 A No, sir.

10 Q And why are you here testifying today?

11 A I'm here testifying today hoping for some
12 mercy from the Court upon sentencing.

13 Q Okay. We touched on this a little bit. Who
14 is Sasha Gaskins?

15 A Shasha Gaskins was my ex-girlfriend.

16 Q Your ex-girlfriend?

17 A Yes, sir.

18 Q Where did you meet?

19 A We met last September at a club.

20 Q And when you say last September, you are
21 talking about 2010, 2009?

22 A 2010.

23 Q 2010?

24 A Yes, sir.

25 Q When did these crimes occur?

1 A February.

2 Q Of what year?

3 A 2010.

4 Q 2010. And so, did you know Ms. Gaskins at
5 that point?

6 A Yes, sir.

7 Q So you met her before, I guess, September of
8 2010?

9 A Right, September, 2009.

10 Q September, 2009?

11 A Yes, sir.

12 Q When you first met her were you dating, were
13 you friends, what was the nature of your
14 relationship?

15 A When we first met we were just friends again.
16 We a little later it led on to dating.

17 Q And so you were dating. Were you dating at
18 the time of these crimes?

19 A Yes, sir.

20 Q Could you point out Ms. Gaskins and describe
21 to the Court what she is wearing?

22 A Ms. Gaskins is sitting at the defendant's
23 stand. She has on a cream, a creamish color suit.

24 MR. SAVAGE: Your Honor, let the record
25 reflect that the witness has identified the

1 defendant, Shasha Gaskins.

2 THE COURT: Let the record so indicate.

3 You may you proceed.

4 MR. SAVAGE: Thank you.

5 THE COURT: You are welcome.

6 Q (By Mr. Savage) who is Breanna Bruster?

7 A Breanna Bruster was one of our mutual friends
8 that I met through Ms. Gaskins.

9 Q And how long did you know her for?

10 A Roughly a couple of months, 4 or 5 months.

11 Q What about Miguel Starks, who is he?

12 A Miguel Starks was a friend of mine who I went
13 to school with, attended school with in Georgia. We
14 have known each other for the past seven years.

15 Q Did you know him growing up in Georgia?

16 A For the most part, yes. Throughout our high
17 school career we had bonded and gained a
18 relationship. And we played against each other in
19 our high school years.

20 Q When you say played against each other, what
21 do you mean by that?

22 A We played against each other in baseball, we
23 both played travel baseball.

24 Q Did Miguel Starks go to college?

25 A Yes, sir, he did.

1 Q Where did he go to college?

2 A He went to the Citadel University.

3 Q And did you know him while he was at the
4 Citadel?

5 A Yes, sir.

6 Q And who is Reginald Rice?

7 A That was one of Miguel Starks' friends that I
8 met right before these robberies happened.

9 Q And how did you meet Mr. Rice?

10 A Mr. Rice was bought over to my dorm room the
11 day of one of the robberies. And that's when I met
12 Mr. Rice.

13 Q And who brought him over?

14 A Mr. Starks.

15 Q So you met Mr. Rice through Mr. Starks?

16 A Yes, sir.

17 Q Okay. I'm going to turn your attention back
18 to February, 2010. Were you a student then?

19 A Yes, sir.

20 Q And I know you've kind of mentioned two
21 colleges that you were attending. Where were you
22 attending back in February of 2010?

23 A In February I had already transferred to the
24 College of Charleston. So I was attending the
25 College of Charleston at that time.

1 Q And do you remember Monday, February 22nd of
2 2010?

3 A Yes, sir.

4 Q Did you talk to Miguel Starks that day?

5 A Yes, sir.

6 Q Where did you talk to Mr. Starks?

7 A First I talked to Mr. Starks on my cellular
8 phone, and then he came over to my dorm and we had a
9 conversation.

10 Q And what were you talking about?

11 A At first we were talking about his transfer
12 from the Citadel to Appalachian State. He was
13 talking about how unhappy he was at the Citadel.

14 And then from there he started about hitting a
15 lick, which is a robbery.

16 Q Okay. And where did this conversation take
17 place?

18 A It took place in my dorm room.

19 Q And who else was there? Or was anyone else
20 there?

21 A Ms. Gaskins was there.

22 Q The defendant?

23 A Yes.

24 Q And was she present when the discussion about
25 hitting a lick or doing a robbery?

1 A Yes, she was.

2 Q What was the plan at this point about the
3 robbery? What was he telling you?

4 A At this point Mr. Starks was saying that he
5 had a lick to do, and it was his coach. And it was
6 going to be something easy, and he just needed my
7 help.

8 At the time I thought he was just blowing
9 smoke, but later I found out he was serious.

10 Q Okay. You mention he was wanting your help..
11 Was he wanting Ms. Gaskins' help at that point?

12 A He mentioned Ms. Gaskins at that point in
13 time, yes. He said that, you know, he referred, he's
14 like, we need a female just to call him out of the
15 house. And then he asked Ms. Gaskins, sure, it
16 sounds easy, yeah.

17 Q Why a female? What was significant about
18 that?

19 A He said if it was a guy then he wouldn't --

20 MR. SOWELL: Objection. Hearsay, Your Honor.

21 THE COURT: Basis? Unless you can link it, it
22 is hearsay.

23 MR. SAVAGE: It's a coconspirator's statement,
24 Your Honor

25 THE COURT: It has to be in furtherance of a

1 conspiracy.

2 MR. SAVAGE: This is.

3 THE COURT: I going to give you a little
4 latitude. Don't go too far.

5 MR. SAVAGE: Yes, Your Honor.

6 Q (By Mr. Savage) why, why a female? what was
7 significant about that?

8 A Mr. Starks felt if a female was to call the
9 coach -- later that I found out was Mr. Harpe -- if a
10 female was to call Harpe, that she would be able to
11 lure him out of the house easier than a male calling
12 the coach.

13 Q Okay. Moving on from that, when was the next
14 time that you talked to Mr. Starks?

15 A The next day.

16 Q And what was that in reference to?

17 A The robbery.

18 Q Where did that conversation take place?

19 A That -- that conversation took place first on
20 my cell phone when he called and said he was coming
21 over to my apartment. And then from there he came
22 over with Mr. Rice.

23 Q And once he got to you, when you say your
24 apartment, is it an apartment or a dorm?

25 A Yes, sir.

1 Q Which one?

2 A It's a dorm but it's considered apartment
3 style living.

4 Q Okay. And so he came over with Mr. Rice?

5 A Yes, sir.

6 Q Is that the first time that you met Mr. Rice?

7 A Yes, sir.

8 Q And so when they both get to your dorm room
9 there, what's he talk about?

10 A He talks about pretty much, he pretty much --

11 MR. SOWELL: I object. Hearsay, Your Honor.

12 THE COURT: Approach.

13 (whereupon, the following discussion was held
14 at the bench.)

15 THE COURT: How is this in furtherance of a
16 conspiracy?

17 MR. SAVAGE: Because he is talking about doing
18 robbery on the coach, and then he talks about
19 changing the plan. And they're going into doing a
20 robbery. And they're going in further.

21 He doesn't talk about furthering the plan, and
22 developed the home invasion.

23 THE COURT: I'm go to give you a little
24 latitude. Make sure it's all connected to these
25 events, two events.

1 MR. SAVAGE: Yeah, I'm not going into anything
2 else.

3 (In open court.)

4 THE COURT: You may continue.

5 Q (By Mr. Savage) What was he talking about,
6 what was the plan?

7 A The plan was to go to Mr. Harpe's house, and
8 after a female was to lure him out, to go into the
9 house and take goods from Mr. Harpe.

10 Q And who was there when this conversation took
11 place? I know you mentioned -- was anyone else there
12 apart from you, Miguel and Mr. Rice?

13 A Yes, sir.

14 Q Who?

15 A Ms. Gaskins was there.

16 Q And was she involved in this conversation
17 about the robbery at this point as well?

18 A Yes, sir.

19 Q What was Ms. Gaskins' response to her being
20 involved in this?

21 A Her initial response, the first night when Mr.
22 Starks came over by his-self was, he's not really
23 serious. But she was willing as long as nobody got
24 hurt and nobody got caught and she didn't get caught.

25 And then the second response was pretty much

1 the same response, but none of us really thought, me
2 nor her, really thought Mr. Starks was serious at the
3 time.

4 Q Okay. At this point were you forced to be
5 involved in this plan?

6 A No, sir.

7 Q Do you know whether Ms. Gaskins was forced to
8 be in this plan?

9 A She wasn't.

10 Q Say that again, sir?

11 A She wasn't, she wasn't forced.

12 Q And so what happened next?

13 A After that I went off to class. Me and Ms.
14 Gaskins actually had class. I had a scholarship
15 meeting first, and then I had to go to class.

16 We went to class. We went to our statistics
17 class and then we had Gospel Choir class. And after
18 that, Mr. Starks was calling again after we got out
19 of class. And that's when we met up with Mr. Starks,
20 Mr. Rice, and Ms. Bruster.

21 Q And where did you meet up with them?

22 A Outside of my dorm.

23 Q And you mentioned Ms. Bruster, how did she get
24 there?

25 A From how I understand, Ms. Gaskins

1 Introduced --

2 MR. SOWELL: Your Honor, I object to hearsay.

3 THE COURT: Basis? Basis of the objection?

4 MR. SOWELL: Hearsay, Your Honor.

5 THE COURT: Overruled.

6 Q (By Mr. Savage) How did Ms. Bruster get
7 there?

8 A Ms. Bruster came with Mr. Starks.

9 Q Okay. And so who's there now? I know you
10 mentioned, but let's go through their names one by
11 one. You, obviously?

12 A Yes, sir.

13 Q Ms. Bruster?

14 A Yes, sir.

15 Q Miguel Starks?

16 A Yes, sir.

17 Q Who else?

18 A Reginald Rice.

19 Q Anyone else?

20 A And Sasha Gaskins.

21 Q Sasha Gaskins. Anyone else apart from those
22 five?

23 A No, sir.

24 Q And so you were at the front of -- I guess you
25 were at the campus, the College of Charleston campus?

1 A Yes, sir.

2 Q Where did you go from there?

3 A From there we go to the gas, to a gas station.

4 Mr. Starks picks up some blunts and something to

5 drink. And then from there we go to the Kickin'

6 Chicken in West Ashley.

7 Q And whose car do you go in?

8 A We go in a blue Toyota Yaris.

9 Q Do you all get in that car or do you take
10 separate vehicles? What happens then?

11 A We all get into that car.

12 MR. SAVAGE: Your Honor, may I approach?

13 THE COURT: Uh-hum.

14 Q (By Mr. Savage) Mr. Francois, I'm showing you
15 what has been marked as State's Exhibit 11.

16 Do you recognize that?

17 A Yes, sir.

18 Q What is that?

19 A That's the blue Yaris that we were riding in.

20 MR. SAVAGE: Your Honor, the State moves to
21 enter State's Exhibit 11 into evidence.

22 THE COURT: Any objection?

23 MR. SOWELL: No, ma'am.

24 THE COURT: Marked and admitted without
25 objection.

1 (Whereupon, State's Exhibit No. 11 is admitted
2 into evidence.)

3 Q (By Mr. Savage) Mr. Francois, if you could
4 just turn around, there is a screen behind you there.
5 Let me know if you can see it or if whether you maybe
6 need to step to the side. Can you see that?

7 A Yes, sir.

8 Q Is that the vehicle that you went to, I guess,
9 the Kickin' Chicken that night?

10 A Yes, sir.

11 Q And all five of you were in that vehicle?

12 A Yes, sir.

13 Q Thank you, you can turn around. Thanks.
14 Okay. So you go to the Kickin' Chicken?

15 A Yes, sir.

16 Q What happens there?

17 A At the Kickin' Chicken we proceed to eat
18 dinner. We have a minor conversations, nothing about
19 the robbery really. After we leave the Kickin'
20 Chicken, we go to Mr. Starks' apartment.

21 Q Okay. Had you been to Mr. Starks' apartment
22 before?

23 A No, sir. That was my first time going to Mr.
24 Starks' apartment.

25 MR. SAVAGE: Your Honor, may I approach?

1 THE COURT: Uh-hum.

2 Q (By Mr. Savage) Mr. Francois, I'm showing you
3 what has been marked as State's Exhibits 9 and 10.

4 Do you recognize those?

5 A Yes, sir, I do.

6 Q What are they?

7 A Those are pictures outside of Mr. Starks'
8 apartment.

9 Q And that's the apartment you went to that
10 night after the Kickin' Chicken?

11 A Yes, sir.

12 MR. SAVAGE: Your Honor, State moves to admit
13 Exhibits 9 and 10.

14 THE COURT: Any objection?

15 MR. SOWELL: No, ma'am.

16 THE COURT: Marked and admitted without
17 objection.

18 (Whereupon, State's Exhibit Nos. 9 and 10 are
19 admitted into evidence.)

20 Q (By Mr. Savage) Again, Mr. Francois, I will
21 ask you if you can turn around and look at the screen
22 behind you there.

23 What are we looking at? What's the jury
24 looking at there?

25 A Mr. Starks' apartment right there.

1 Q And that's the door to it, I guess, the first,
2 second floor I guess?

3 A Yes, sir. Second floor apartment.

4 Q And one more. Is that the same door there?

5 A Yes, sir, it's the side view.

6 Q I want to backtrack up just a little bit.

7 The conversations that you had with Mr. Starks in
8 your dorm, at any point did he have a firearm on him
9 that you know of?

10 A Yes, sir, he did.

11 Q How do you know?

12 A He had took the firearm out when he was inside
13 my dorm. And when he took it out I told him he needs
14 to put it up. I don't allow firearms in my dorm.

15 Q So you saw the gun?

16 A Yes, sir, I did.

17 Q Could you describe it?

18 A It was a small hand -- small caliber silver,
19 more of a nickel-plated and black handgun. Small.

20 Q Do you know whether it was a revolver or a
21 semiautomatic pistol?

22 A It was a semiautomatic pistol.

23 Q Do you know whether Ms. Gaskins saw that
24 pistol?

25 A I believe she did. I can't be 100% sure.

1 Q Was she in the room when you saw that?

2 A Yes, sir.

3 Q Did he threaten you with that gun at any point
4 in your dorm?

5 A No, sir, he didn't.

6 Q Did he threaten anyone in your presence with
7 that gun in your room?

8 A No, sir, he didn't.

9 Q Okay. You go back past the Kickin' Chicken,
10 you go back to Miguel's place. Do you go inside?

11 A Yes, sir, we do.

12 Q And what happens when you get inside?

13 A Once we get inside Mr. Starks' apartment, we
14 sit down, we are talking, laughing, joking, watching
15 TV. Mr. Starks and Mr. Rice start rolling up blunts
16 and people are smoking. Everybody's smoking beside
17 Ms. Bruster.

18 Q You smoking?

19 A Yes, sir.

20 Q Let's go through who's smoking. Obviously Ms.
21 Bruster is not, but you are?

22 A Yes, sir, I am.

23 Q Who else?

24 A Mr. Rice, Mr. Starks and Ms. Gaskins.

25 Q Okay. And what are you talking about?

1 A Just general conversations at first. You
2 know, sports, transfers, school. And then from there
3 Mr. Starks and Mr. Rice divert the conversations from
4 the regular conversation we were having to the
5 robbery.

6 Q And tell me about what are they talking about
7 the robbery?

8 A Mr. Starks and Mr. Rice start talking about
9 the robbery. Then they say that they have another
10 robbery besides the coach. And from there he says
11 it's going to be easy.

12 We are just going to have to -- you are going
13 to have to drive. He was telling me I just have to
14 drive. And then he told Ms. Gaskins and Ms. Bruster
15 that one of them would just have to go knock on the
16 door to get the person to open the door. And from
17 there they would handle everything else; they being
18 Mr. Starks and Mr. Rice.

19 Q So now we are talking about a second robbery?

20 A Yes, sir, we are.

21 Q What did you have going on that night,
22 anything?

23 A Yes, sir. I was supposed to be going to a
24 party promoting a party.

25 Q And did you go to that party?

1 A No, sir. I never made it.

2 Q Why not?

3 A Because of the robbery.

4 Q Okay. And so -- so let's go through it, sir.

5 So what was the plan? What was your specific role?

6 A I was supposed to be just driving.

7 Q So you are driving the vehicle is that the
8 blue Yaris that we saw?

9 A Yes, sir.

10 Q And the two girls, what -- one of those two
11 was going to do exactly what?

12 A One of the two girls were supposed to knock on
13 the door to lure the person to open the door.

14 Q And again, why a girl? Anything significant
15 about that?

16 A Mr. Starks just felt a girl would be more
17 liable than having a male go knock on the door.

18 Q Why is that?

19 A I guess he felt like a female, a damsel in
20 distress. It felt -- it seemed a better plot than a
21 male going up, a strange male going up and knocking
22 on somebody's door.

23 Q Like a decoy?

24 A Exactly.

25 Q Tell me about the preparations for the

1 robbery. What were you going to use?

2 A Mr. Starks and Mr. Rice had firearms by that
3 time, so. And he also had a small sword, a small
4 weapon that looked like a sword, looked like a
5 Japanese Samaria sword.

6 It was small, about that long, and it was
7 black. (Whereupon, the witness indicates.)

8 Q What were you going to do with the victims
9 once they got inside?

10 A He never said what he was going to do with the
11 victims at that point in time. But he did have the
12 sword, the pistols, and I did see grey duct tape.

13 Q At some point do you leave your apartment and
14 go out to the car?

15 A No, sir, I don't.

16 Q No, at some point did you leave the apartment
17 and then go out to the car?

18 A Oh, yes, sir. Like when we got ready to go to
19 the robbery.

20 Q And who gets in the car with you?

21 A Mr. Starks gets in, Mr. Rice gets in, Ms.
22 Gaskins gets in, I get in, and Ms. Bruster gets in.

23 Q And do you get in the driver's seat?

24 A No, sir, not at that point in time. Mr.
25 Starks is driving, Mr. Rice is in the passenger

1 seat, and me and Ms. Gaskins and Ms. Bruster are
2 sitting in the backseat.

3 Q Now before you left the apartment, you
4 mentioned there were two firearms and a sword. At
5 any point in that apartment were you threatened?

6 A No, sir, I wasn't.

7 Q Were you forced to do anything you didn't want
8 to do?

9 A No, sir, I wasn't.

10 Q How about anyone else inside that apartment?
11 Did you see anybody get threatened?

12 A No, sir.

13 Q Did you see or hear anyone get forced to do
14 something they didn't want to do?

15 A No, sir, I did not.

16 Q Was everyone in that apartment willing to go
17 along with the robbery that night?

18 A Yes, sir, everybody. They leave the apartment
19 on their free will and get in the car. So I took it
20 as everybody knew exactly what they were doing.

21 Q Okay. So you get in the car, where do you go?

22 A From there we go to James Island.

23 Q And what happens once you get to James Island?

24 A Once we get to the house where Mr. Starks had
25 plotted out, he drives past the house and he shows me

1 the house and he shows everybody the house and the
2 car.

3 And then he drives down to the end of the
4 street. And then we switch seats and he tells me to
5 drop him, Ms. Gaskins and Mr. Rice off right there
6 and they were going to go into the house. And Ms.
7 Gaskins was going to meet me at the stop sign.

8 Q Okay. Let just slow it down just a little.
9 On the way from Mr. Starks' house to get to the house
10 on James Island, any further discussions about the
11 robbery?

12 A He just -- Mr. Starks keeps saying how easy
13 the robbery will be. And just everybody be like
14 saying this, that, and a third. But nobody -- I
15 personally still wasn't thinking Mr. Starks was
16 serious until I saw him in action.

17 Q Okay. Was anyone threatened in that car?

18 A No, sir. Nobody was threatened.

19 Q Anybody ask to get out of it, didn't want to
20 go?

21 A No, sir.

22 Q Had you ever been to that house before?

23 A No, sir.

24 MR. SAVAGE: Your Honor, may I approach?

25 THE COURT: Uh-hum.

1 Q (By Mr. Savage) Mr. Francois, I'm showing you
2 what has already been entered into evidence as
3 State's Exhibit 12. Do you recognize that?

4 A Yes, sir.

5 Q What is that?

6 A That's the house he told me that they were
7 going to be going into.

8 Q Okay. On that night?

9 A Yes, sir.

10 Q I'm now showing you what is marked as State's
11 Exhibit 13. Do you recognize that?

12 A Yes, sir. That is the same house on a
13 different angle.

14 Q State's Exhibit 14 that has been entered into
15 evidence.

16 A Yes, sir. That's the backside picture of the
17 house.

18 Q Okay. Thank you. If you could just turn
19 around behind you. And that's the house you drove
20 past?

21 A Yes, sir, it is.

22 Q And when you drove past it, roughly what time
23 of day was it?

24 A It was around midnight.

25 Q Midnight?

1 A Yes, sir.

2 Q And so you drove past that house?

3 A Yes, sir.

4 Q And where did you go once you drove by it?

5 A We go down the street, and the street has a
6 culdesac, and we turned around.

7 Q And what happens when you turn around?

8 A when I turn around, I drive back down the
9 street. Right before the house, that's when Mr.
10 Starks, Mr. Rice, and Ms. Gaskins gets out of the
11 car.

12 Q When you drove by the house the first time,
13 why did you do that? What are you doing?

14 A I guess Mr. Starks was driving past the house
15 to make sure somebody was home. And the light was on
16 in the house.

17 Q Coming from inside the house or outside, an
18 outside light?

19 A It was coming from inside the house. One of
20 the two windows in the front the light was on. I
21 believe it was the one on the right side looking at
22 the house.

23 Q So this window here?

24 A I believe so.

25 Q Okay. So you said you are now driving; is

1 that right?

2 A Yes, sir.

3 Q Explain to me how did you -- because Mr.
4 Starks drove over there, how does it come about that
5 you got to be in the driver's seat?

6 A He told me I was going to be driving. So once
7 he showed me the house and he turned the car around,
8 I got out and he got out and we switched seats.

9 Q Okay. And then what happens from there?

10 A We drive up to the house. That's when Mr.
11 Starks, Mr. Rice, Ms. Gaskins -- not directly in
12 front of the house, right before the house -- and
13 that's when Mr. Starks, Mr. Rice and Ms. Gaskins gets
14 out.

15 Q So those three get out?

16 A Yes, sir.

17 Q Before they get out, is anyone threatened at
18 this point?

19 A No, sir. Nobody's threatened.

20 Q Were you threatened?

21 A No, sir.

22 Q Anyone pull a gun on someone?

23 A No, sir.

24 Q Anyone say anything threatening to anyone?

25 A No, sir.

1 Q When they get out of that car, where are they
2 going? What are they going to do?

3 A The plan is for when they get out of the car
4 for Mr. Starks and Mr. Rice to have Ms. Gaskins lure
5 the gentleman to open a door, and for Mr. Starks and
6 Mr. Rice to then rush in.

7 Q So once they get of the car, do you see where
8 they go?

9 A No, sir. Once they get out of the car, I
10 drive off.

11 Q And who's in the car with you now when you
12 drive off?

13 A At the time I drive off it's just me and Ms.
14 Bruster.

15 Q And where did you drive off to?

16 A I drive off down the street. And then I drive
17 off down to the stop sign, waiting at the stop sign.
18 That's when Ms. Gaskins comes running to the car.

19 Q And what happens next? Do you drive up to her
20 or she walk to you? What happens?

21 A I'm waiting at the stop sign. She comes up to
22 the car, she gets in the car. And from there we
23 drive -- we drive past the house again. We go wait
24 in a culdesac then until Mr. Starks calls.

25 Q Okay. Before we get to that, when Ms.

1 Gaskins, the defendant, first gets into the car when
2 you were driving, what does she say?

3 A Her initial reaction is, your brother -- she
4 used to call Mr. Starks my brother -- she says Mr.
5 Starks and Mr. Rice, they're crazy, they just
6 bum-rushed into the house. She doesn't say anything
7 that she saw, or anything. She just says how Mr.
8 Rice and Mr. Starks bum-rushed into the house.

9 MR. SOWELL: I cannot understand what he's
10 saying.

11 THE COURT: Sir, can you repeat your answer?

12 A At the time of the incident once Mr. Starks --
13 I mean once Ms. Gaskins gets back into the car, she
14 says that Mr. Starks and Mr. Rice are crazy and that
15 they just bum-rushed into the house. They made --
16 they forced their way into the house after the
17 gentleman opened the door.

18 Q Was she crying?

19 A No, sir.

20 Q Was she frightened?

21 A She was a little excited. I won't say she was
22 hysterical, but.

23 Q She was excited?

24 A Yes, sir.

25 Q About what just happened?

1 A Yes, sir.

2 Q And so what are the three of you now doing?

3 A We are waiting in the car for Mr. Starks or
4 Mr. Rice to call.

5 Q And is that part of the plan?

6 A Yes, sir.

7 Q Does one of those two call you?

8 A Yes, sir. Mr. Starks calls me.

9 Q Calls you?

10 A Yes, sir.

11 Q What happens when he calls you?

12 A I go back to the house. I tell him I'm
13 outside, to come on. He says to pull around to the
14 back. I pull around to the back and he comes out by
15 himself.

16 Q And why does he tell you to come back? What
17 are you doing?

18 A I'm picking him and Mr. Rice up.

19 Q I'm now showing you what has been marked as
20 State's Exhibit 14. If you just look behind you
21 there, Mr. Francois. What is that that we are
22 looking at?

23 A That's the backside of the house. When I
24 pulled it around to the back, there is a gravel
25 driveway that comes down, it turns, it makes an L.

1 There was a silver Toyota 4-Runner parked roughly
2 here. And I pulled on the side of it.

3 Q And did you see Mr. Starks back there?

4 A When I pulled up I saw the two cars were
5 parked. You could see the backdoor, and Mr. Starks
6 walks out the backdoor.

7 Q And once he walks out that backdoor, where
8 does he go?

9 A He comes to the car.

10 Q And once he gets to the car, what does he say?

11 A He says we got to go to the ATM.

12 Q Why?

13 A I presumed that he had took credit cards from
14 whoever was in the house and that's what his plan was
15 to do, to get the money out of the ATM.

16 Q Before Mr. Starks got into the car and before
17 you got back to Herbert Butler's house, does anyone
18 ask to get out of the car to leave?

19 A No, sir, nobody does.

20 Q Were you driving at this point?

21 A No, sir. Me and Mr. Starks switched seats.
22 He knew that area better than I did.

23 Q Before Mr. Starks got in the car, were you
24 driving?

25 A Yes, sir, I was.

1 Q Did anyone ask you, let's get out of here,
2 let's go, I want to leave?

3 A No, sir, nobody did.

4 Q So Mr. Starks gets in the car, where did you
5 go to?

6 A We went to an ATM.

7 Q And what happens at the ATM?

8 A Mr. Starks, once he gets to the ATM, he parks
9 next to the ATM. And he tries to get money out of
10 the ATM.

11 Q Did he get any money out?

12 A No, sir, he doesn't.

13 Q Does anyone say anything to him while he is at
14 the ATM?

15 A Yes. Breanna makes a comment saying he was
16 dumb, and you just -- we just need to go, this is
17 stupid.

18 Q Why is she saying that, what's stupid, what's
19 dumb?

20 A Because Mr. Starks' gets upset he doesn't get
21 anything out of the ATM. He's going to another ATM.

22 Q Is Ms. Gaskins saying anything?

23 A She is agreeing with Ms. Bruster. So am I at
24 the time, this is a stupid idea.

25 Q So he didn't get any money?

1 MR. SOWELL: Your Honor, objection.

2 THE COURT: Basis?

3 MR. SOWELL: I object.

4 THE COURT: Basis?

5 MR. SOWELL: He hasn't laid any foundation of
6 what she said.

7 THE COURT: Overruled. Overruled. The
8 statement is made in furtherance of the conspiracy.

9 MR. SOWELL: He didn't make a statement.

10 THE COURT: It's an admission against
11 interest. He indicated what she said. Overruled.

12 Q (By Mr. Savage) Does he get back in the car?

13 A Yes, sir, he does.

14 Q What happens next?

15 A He goes to another ATM.

16 Q What happens at that ATM?

17 A At that ATM we park in the parking lot. He
18 walks up to the ATM, it's a little further distance
19 he has to walk, and when he gets to the ATM, me, Ms.
20 Gaskins and Ms. Bruster are saying, this is dumb, we
21 need hurry up. This is stupid.

22 At that point in time, Mr. Starks, again, is
23 upset because he gets nothing out of the ATM. He
24 comes back to the car. Once he comes back to the car
25 I tell Mr. Starks, this is dumb. We need to hurry

1 up. And where is Reggie anyways?

2 From there we go to a gas station because the
3 car needed gas. That's when Ms. Gaskins put gas in
4 the car, she had put \$5 of gas in the car and had
5 bought herself a Black and Mild.

6 A You said Ms. Gaskins put gas in the car. Did
7 she physically get out and put gas in the car like at
8 the pump, or what do you mean by that?

9 A No, sir. She had just used her card because
10 she did not have any cash at that point in time. She
11 used her card.

12 Q Like a bank card?

13 A Yes, sir.

14 Q Did she get out and do that or did she give it
15 to someone?

16 A She gave it to Mr. Starks.

17 Q Did she volunteer to give him that card or
18 did he demand it from her?

19 A She volunteered.

20 Q And so once Mr. Starks got that card he put
21 gas in the car?

22 A Uh-hum.

23 Q How much gas, do you know?

24 A It's like \$5 or \$10.

25 Q And you mentioned a Black and Mild?

1 A Yes, sir.

2 Q What is a Black and Mild?

3 A It's similar to a cigarette but it's a
4 filtered, it's a filtered cigar with a tip; with a
5 wooden tip or a plastic tip on it.

6 Q What does she want the cigar for?

7 A She and I used to smoke Black and Mild's. She
8 smoked Black and Mild's. Everybody that was with us
9 that night smoked Black and Mild's. So it was just.

10 Q You were just smoking cigars with that or were
11 you putting something else with that?

12 A Just cigars.

13 Q Just cigars.

14 A Tobacco.

15 Q And so you get gas in the car, you get the
16 cigar. Where did you go next?

17 A From there we go back to the house on the
18 island.

19 Q And what happens once you get back to the
20 house?

21 A Once we get back to the house on the island,
22 Mr. Starks hops out of the car he goes back inside.
23 After about five minutes, Ms. Gaskins says she needs
24 a light.

25 So I call Mr. Starks. I tell Mr. Starks,

1 hurry up, what's taking you so long, and bring me a
2 lighter. So he says come in and get one. I tell him
3 I'm not coming into the house.

4 Q Why aren't you coming into the house?

5 A I didn't want to go into the house. I really
6 didn't want to be there. By that time I was already
7 frustrated. I was already missing out on a party
8 that I was supposed to be helping promote, helping
9 plan. And I was missing out on a way to make money
10 for myself.

11 Q What happens next?

12 A At that point in time, Ms. Gaskins said that
13 she was worried about her fingerprints being on the
14 front door, to tell Mr. Starks to wipe her prints off
15 the door.

16 Q Why would her fingerprints be on the front
17 door?

18 A I guess when she went and knocked on the door.

19 Q And so what was she going to do about that?
20 What did she do about that?

21 A First she told me to tell Mr. Starks to wipe
22 her prints off the door.

23 Q Did you do that?

24 A Yes, sir.

25 Q What happened next?

1 A Mr. Starks kept shooting me the plan saying,
2 all right, we are coming, we are coming. All right,
3 I'm going to do it. Come inside, come inside, I need
4 your help, come inside. I keep telling him no.

5 Another ten minutes passed. We still didn't
6 have a lighter. Mr. Starks still didn't come out.
7 So then Ms. Gaskins says she's going to go wipe her
8 prints off the door. So she goes into the house.

9 When she goes into the house, I already went
10 to the door to tell Mr. Starks to give me a lighter
11 so that I can light the Black and Mild. At that
12 point in time, Ms. Gaskins goes through the house,
13 I'm standing in the back of the house. If you have
14 the exhibit, I can show you where I was standing.

15 Q Mr. Francois, I'm showing you what has been
16 marked as State's Exhibit 15. What is that that we
17 are looking at?

18 A That's kitchen area where we were standing, me
19 and Mr. Starks were standing, when we were having
20 this conversation.

21 Q Is that the front of the house or the back of
22 the house?

23 A That's the back of the house.

24 Q I am now showing you what has been marked as
25 State's Exhibit 16, what has been entered as State's

1 Exhibit 16. What is that?

2 A That's another picture of the kitchen looking
3 into the other rooms of the house.

4 Q And when you were inside the house, could you
5 see through there, I guess, that doorway there into
6 that other room?

7 A You can vaguely see. At the time there was
8 like a curtain hanging more down, further down than
9 it is in that picture. But you can see pretty much
10 the same view.

11 Q You mentioned Ms. Gaskins went to wipe off
12 prints. Where did she go once she was inside the
13 kitchen?

14 A I just saw her walk through that corridor
15 right there. At that point in time, that's when me
16 and Mr. Starks proceeded to argue about he needs to
17 hurry up, he and Mr. Rice.

18 Q And did you see anything else? Did you see
19 anyone inside, I guess, that living room there?

20 A No, sir. I did not see anybody there.

21 Q And what happens once you were inside? You
22 were arguing with Mr. Starks. Did you see Ms.
23 Gaskins again at any point?

24 A Well, Ms. Gaskins comes straight back after
25 that. And Mr. Starks starts handing her items to

1 bring to the car.

2 Q What kind of items?

3 A He hands her a box. It was like a box of
4 DVD's or games.

5 Q And where did they came from?

6 A They came from out of the house.

7 Q And what does Ms. Gaskins do with that box of
8 DVD's?

9 A She brings it to the car and along does Ms.
10 Bruster bring items to the car.

11 Q Did you take anything to the car?

12 A Yes, sir.

13 Q What did you take to the car?

14 A I take -- I get the lighter from Mr. Starks,
15 and I also take something else from Mr. Starks, go to
16 the car and I tell him to hurry up. At that point in
17 time, Mr. Rice walks out with a television, and Mr.
18 Starks walks out with another box.

19 We get in the car. Ms. Bruster is driving at
20 this point in time, and Ms. Gaskins is sitting in the
21 front seat. And me and Mr. Rice and Mr. Starks are
22 sitting in the backseat.

23 Q And once you get in the car, where did you go
24 from there?

25 A From there we go to Mr. Starks -- back to Mr.

1 Starks' apartment. At Mr. Starks' apartment we
2 unload all of the items and we bring it upstairs into
3 his apartment.

4 Q Do you all go into his apartment?

5 A Yes, sir, we do.

6 Q What do you do once you go inside the
7 apartment?

8 A Once we get inside the apartment we are
9 talking, keep telling Mr. Starks what took them so
10 long. I asked him, you know, why are you all
11 laughing? What were those comments about he made
12 about in the car?

13 On the way back to his apartment he makes
14 comments such as Mr. Rice says, man you're dirty, you
15 know, you're wrong for what you did. And Mr. Starks
16 said, well at least I apologized, what about you?
17 And Then I asked them, at that point in time, what
18 are you all talking about?

19 And Mr. Starks and -- Mr. Starks tells me,
20 I'll tell you later, don't worry about it, I will
21 tell you later.

22 Q Let's talk about that just a little bit. When
23 you got, when Mr. Starks got in the car back at Mr.
24 Butler's house, did he threaten you when he got back
25 in?

1 A No, sir, he didn't.

2 Q Point a gun at you?

3 A No, sir, he didn't.

4 Q Did you see him threaten anyone in that car
5 when he got in?

6 A No, sir, he didn't.

7 Q Did you see him point a gun at anyone when he
8 got back in the car?

9 A No, sir, he didn't.

10 Q Did you see anyone point a gun at anyone
11 inside that car?

12 A No, sir, he didn't.

13 Q Did you hear or see anyone get threatened
14 inside that car?

15 A Not to my knowledge.

16 MR. SAVAGE: Your Honor, may we approach?

17 THE COURT: Um-hum.

18 (Whereupon, the following discussion was held
19 at the bench.)

20 MR. SAVAGE: It's 530. I didn't know --

21 THE COURT: It's 5:25.

22 MR. SAVAGE: I didn't know whether you wanted
23 to take a break. Here's where I am in the testimony,
24 why I'm offering maybe do it now.

25 I just finished the first, now I'm going to

1 start to get into the second home invasion. So I
2 didn't know whether you wanted to stop today and pick
3 it up fresh where we start talking about the second
4 one tomorrow, or do you want me to continue?

5 THE COURT: Next one it happened on the?

6 MR. SAVAGE: On the 27th. The one involving
7 Joshua Harpe.

8 THE COURT: Ask three or four more questions
9 and then we will break.

10 MR. SAVAGE: Sure, thank you.

11 THE COURT: You're welcome.

12 (In open court.)

13 THE COURT: You may proceed.

14 MR. SAVAGE: Thank you, Your Honor.

15 Q (By Mr. Savage) So all five of you were back
16 inside Miguel Starks' apartment. What are you
17 talking about now?

18 A Once we were back in Mr. Starks' apartment, we
19 were all -- when I say we were all, me, Ms. Gaskins,
20 and Ms Bruster -- are talking about how that took too
21 long. And Mr. Starks and Mr. Rice, we just, we had a
22 little bit of a conflict at the time.

23 Q How long did it take? What are we talking
24 about here?

25 A A couple of hours.

1 Q Okay. Tell me about your relationship with
2 Mr. Starks. Are you scared of him?

3 A No, sir.

4 Q Were you ever scared of him?

5 A No, sir.

6 Q How about Mr. Rice, were you scared him?

7 A I really didn't know Mr. Rice. I didn't get a
8 real good vibe from Mr. Rice. And I think that's why
9 I went along with Mr. Starks because I didn't really
10 trust Mr. Rice. I didn't want -- I looked at Mr.
11 Starks at the time as a little brother. I didn't
12 want to let him go down the wrong path.

13 But at the same time, I had been warned not to
14 mess with Mr. Starks.

15 Q Okay. And so you were inside the apartment.
16 What are you guys talking about now?

17 A Inside the apartment Mr. Starks starts saying,
18 oh, the next one won't be that long, and it will go a
19 lot smoother, and this was just a dry run.

20 And how Mr. Rice started saying the same
21 thing, everything will be smooth, smooth sailing next
22 time.

23 Q Are all five of you present when you are
24 talking about the next one?

25 A Yes, sir, we are. We are all in Mr. Starks'

1 apartment.

2 Q And just so we are clear, when you say the
3 next one, what exactly are you talking about?

4 A At that point in time I started realizing he
5 was talking about the original robbery he brought up
6 to me, the robbery of the coach.

7 Q Do you spend night at Mr. Starks' apartment?

8 A No, sir. No, sir, that was not the night we
9 spent the night at Mr. Starks' apartment. It was the
10 next night that we spent the night at Mr. Starks'
11 apartment.

12 Q Where did you spend the night that night?

13 A That night I went back to campus.

14 Q How did you get back to campus?

15 A Mr. Starks.

16 Q Was that again in the blue Toyota Yaris?

17 A Yes, sir, it was.

18 Q Who went with you?

19 A Ms. Gaskins went back to campus. Also Ms.
20 Bruster, I understand, went back to campus.

21 Q How about Mr. Rice, where did he go?

22 A Mr. Rice was staying with Mr. Starks at that
23 point in time.

24 MR. SAVAGE: Your Honor, do you want to stop?

25 THE COURT: Mr. Foreman, ladies and gentlemen,

1 we are going to take advantage of this break in
2 testimony to take our evening recess. During the
3 break, please do not discuss the case among
4 yourselves or with anyone else.

5 Again, please do not allow yourselves to be
6 exposed to any media coverage about this case. That
7 includes anything on the radio, newspaper,
8 television, or Internet. Do not do any independent
9 research of any type on the Internet. And again,
10 please do not discuss your jury service on any social
11 networking sites as that would be inappropriate.

12 We will resume in the morning at 9:30. You'll
13 come directly to your jury room just as you did after
14 lunch today. And again, please don't have any
15 contact with anyone in or about the Courthouse.

16 Please leave your notepads in your seats, we
17 will secure them during the recess. And we will see
18 you in the morning at 9:30. Have a great evening.

19 (Whereupon, the jurors exit the courtroom.)

20 THE COURT: We will be at ease until 9:30.

21 MR. SAVAGE: Thank you, Your Honor.

22 THE COURT: Sir, if you would just remember do
23 not discuss your testimony with anyone.

24 MR. FRANCOIS: Yes, ma'am.

25 THE COURT: We will see you in the morning.

1 MR. FRANCOIS: Yes, ma'am.

2 (Whereupon, the proceedings in this matter
3 before the Court were adjourned for the evening.)

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1 THE COURT: Is the state ready to proceed?

2 MR. SAVAGE: Yes, Your Honor.

3 THE COURT: Defense ready to proceed?

4 MR. SOWELL: Yes, Your Honor.

5 MR. KIDD: Judge, can we approach on one
6 issue?

7 (Whereupon, the following discussion was held
8 at the bench.)

9 MR. KIDD: There is the presence of cameras in
10 the courtroom today. I wanted to ensure that my
11 sexual assault victim's face, or anything like that,
12 wasn't put on there.

13 THE COURT: They're only concerned about the
14 witnesses. They never show anyone in the gallery.

15 Is she going to testify?

16 MR. KIDD: Not today.

17 THE COURT: I think they know what the rules
18 are. They're only interested in the salacious part
19 of it.

20 (In open court.)

21 THE COURT: All right, sir, I will remind you
22 that you are still under oath.

23 Good morning, Mr. Brown.

24 I have already had the jury brought down the
25 hall.

1 Is there anything else we need to do before we
2 proceed?

3 MR. KIDD: No, Your Honor.

4 THE COURT: From the defense?

5 MR. SOWELL: No, ma'am.

6 THE COURT: Please bring in the jury.

7 (Whereupon, the jurors enter the courtroom.)

8 THE COURT: Ladies and gentlemen, I hope that
9 you all had a peaceful evening. We will now resume
10 with the witness' testimony.

11 I will ask, however, was anyone exposed to any
12 media coverage about this case, that includes
13 anything that could have been found on the radio,
14 television, newspaper or Internet? If you have,
15 please raise your right hand.

16 (No response.)

17 THE COURT: Let the record reflect there was a
18 negative response.

19 You may proceed.

20 MR. SAVAGE: Thank you, Your Honor, may it
21 please the Court.

22 THE COURT: Yes, sir.

23 CONTINUED DIRECT EXAMINATION

24 BY MR. SAVAGE:

25 Q Mr. Francois, when you got back to your dorm

1 room after the first home invasion, I want to talk a
2 little bit about what you were doing in school.

3 what was your major, what were you studying?

4 A My major was political science and business.

5 Q So you were doing a double major?

6 A Yes, sir.

7 Q Tell me about your grades. How were you doing
8 in school?

9 A I had a 3.2 GPA at the time.

10 Q Were you on the Dean's list at all?

11 A No, sir. At CSU I was.

12 Q At CSU you were?

13 A Yes, sir. But I hadn't finished the full
14 semester at College of Charleston yet.

15 Q What were you studying at Charleston Southern?

16 A At Charleston Southern, criminal justice and
17 political science.

18 Q Have you ever been convicted of a crime
19 before?

20 A Back in Georgia a misdemeanor of accident, car
21 accident.

22 MR SOWELL: I'm sorry, I couldn't understand
23 that.

24 THE COURT: Could you repeat the answer, sir?

25 A Yes, Your Honor. I was convicted of a

1 misdemeanor during a car accident in Georgia when I
2 was a minor.

3 Q (By Mr. Savage) As a juvenile?

4 A Yes, sir.

5 Q That night when you got back to your dorm, did
6 anyone stay with you that night?

7 A Yes, sir, Ms. Gaskins did.

8 Q The defendant. Did you talk about the robbery
9 that night?

10 A Not really. We really didn't talk too much
11 about the robbery. Only thing we pretty much had a
12 brief conversation about it was she was a little bit
13 nervous about it. And I was, you know, saying we
14 won't do another one, this, that, and a third.

15 But I let Mr. Starks, you know, talk me into
16 another one, talk both of us into another one.

17 Q Let's move forward to Friday, February 26th
18 which is a day or two past, I guess, the first home
19 invasion?

20 A Right.

21 Q Did you talk to Mr. Starks on that day?

22 A Yes, sir, I did.

23 Q What was that about?

24 A He was talking about going through with the
25 second robbery. And at that point in time I was

1 telling him that we were supposed to be going out of
2 town. Me, Ms. Gaskins, Ms. Bruster and some other
3 neutral friends from College of Charleston for the
4 CIAA tournament.

5 Q And did you go out of town?

6 A No, sir, we didn't.

7 Q Where were you having these conversations with
8 Mr. Starks?

9 A Initially I had the conversation on my
10 cellular phone at the time. And then Mr. Starks
11 later came over to my campus.

12 Q And when he came over to your campus, what was
13 he driving at this point?

14 A At that point in time he drove his black Nitro
15 over to the campus.

16 Q Okay. And once he got there, what happened
17 when he got to the campus?

18 A When he got to the campus, me and him had a
19 brief conversation before he left. It was just about
20 what I was going to do later on that night. And I
21 told him, like I told him, we were supposed to go out
22 of town, and then I had to go to class.

23 And then later on that day me and Mr. Starks
24 had more conversations.

25 Q The first one, when he came over and you

1 talked to him and he came over in his Nitro, that
2 brief conversation about what you were doing that
3 night, were you talking about the robbery or just in
4 general?

5 A He was asking me to assist with the robbery.
6 And I was like, I told him I was supposed to be going
7 out of town because that was the plan.

8 Q Now who else -- was anyone else there when you
9 were talking to him?

10 A Not during that time.

11 Q Just you two?

12 A Yes, sir.

13 Q And you mentioned later on you have a
14 following conversation?

15 A Yes, sir.

16 Q Where does that take place?

17 A That takes place first on my cell phone, and
18 then he comes over to my campus again.

19 Q Okay. Is that outside your dorm room, in your
20 dorm room?

21 A That was outside. It started outside and then
22 we went into my dorm, and then we eventually went
23 back to Mr. Starks' place.

24 Q Okay. When you were in your dorm room and you
25 were talking to Mr. Starks about the robbery, who is

1 there?

2 A Ms. Gaskins and Mr. Rice.

3 Q Okay. So there is four of you there?

4 A Yes, sir.

5 Q Is Ms. Bruster there at this point?

6 A Not at that point in time. She later comes.

7 Q When you were inside your dorm talking about
8 the robbery --

9 MR. SOWELL: Your Honor.

10 THE COURT: Yes?

11 MR. SOWELL: I object.

12 THE COURT: Is there an objection?

13 MR. SOWELL: Yes, ma'am.

14 THE COURT: Basis of the objection?

15 MR. SOWELL: He is leading the witness.

16 THE COURT: Sustained, leading. Rephrase.

17 MR. SAVAGE: Yes, Your Honor.

18 Q (By Mr. Savage) Were you threatened by anyone
19 inside the dorm room when you were talking about the
20 robbery?

21 A Not physical threats. Just Mr. Starks at that
22 point in time was like, come on, I need you. And it
23 was more peer pressure.

24 Q Did he ever point a gun at you?

25 A No, sir. He never pointed a firearm at me.

1 Q Did you see him threaten anyone else in your
2 dorm room?

3 A No. He just kept, you know, asking Ms.
4 Gaskins to make the call for him. And then by that
5 time Ms. Bruster was there and he was talking to Ms.
6 Bruster trying to coerce Ms. Bruster and Ms. Gaskins
7 into the robbery.

8 Q Okay. And so Ms. Gaskins knew she was going
9 to be making a phone call at this point?

10 A At that point she pretty much, she or Ms.
11 Bruster had an idea one of them would be making a
12 call.

13 Q Okay. From your dorm room, where do you go
14 from there?

15 A From my door room we actually go back to Mr.
16 Starks' apartment.

17 Q And how do you get back to there?

18 A He was driving the blue Yaris at that point in
19 time. So we all rode in the blue Yaris to his
20 apartment.

21 Q And when you go back, do you go inside Mr.
22 Starks' apartment?

23 A Yes, sir, we do.

24 Q What happens when you get inside?

25 A Once we get inside Mr. Starks' apartment,

1 we're all sitting down watching TV, we are eating,
2 and Mr. Starks starts talking about the robbery
3 again.

4 Mr. Rice was kind of under the weather, he was
5 in his room. Well in Mr. Starks' roommate's room.
6 Then he comes out and they start talking about the
7 robbery again. That's when me and Mr. Starks leaves
8 and go to Walmart.

9 Q Okay. Let's just kind of slow it down a
10 little bit. Talking about the robbery plan. What is
11 -- is there a plan discussed?

12 A At that point in time, Mr. Starks is saying
13 the coach is going to be easy, he just needs one of
14 the females to make a call.

15 Q Who's coach?

16 A His coach at the Citadel.

17 Q What's his name?

18 A At that point in time I did not know his name.
19 Now I know it's Harpe, if I'm not mistaken.

20 Q So you knew you were going to be robbing a
21 coach at the Citadel?

22 A Yes, sir. That was what Mr. Starks kept
23 telling me. He said it was -- he was a student
24 coach.

25 Q A student coach?

1 A Yes, sir.

2 Q So he knew who he was?

3 A Yes, sir.

4 Q Did you know where he lived at this point?

5 A No, sir, I didn't. I just knew he stayed
6 relatively close to Mr. Starks' because that's what
7 he kept saying. It's right around the corner from my
8 house.

9 Q Who else was there in your presence when
10 you're having this conversation about robbing the
11 coach?

12 A At that point in time Ms. Bruster, Mr. Rice
13 and Ms. Gaskins.

14 Q So all of you were there?

15 A Yes, sir, we were.

16 Q You mentioned you left and went somewhere.
17 Where did you go?

18 A We went to Walmart.

19 Q Why did you go there?

20 A We went to Walmart because Mr. Starks said he
21 needed to get some materials.

22 Q What materials?

23 A Mr. Starks wanted to get some black duct tape
24 and some more gloves.

25 Q Why?

1 A He said he needed those for the robbery that
2 night.

3 Q Why? What was he going to do with that?

4 A At that point in time I didn't know. I just
5 rode along with him.

6 Q Who else went?

7 A No one. It was just me and Mr. Starks.

8 Q And where did you go?

9 A We went to Walmart.

10 Q And what happened when you were inside
11 Walmart?

12 A When we were in Walmart, Mr. Starks -- I
13 bought a pack of Black and Mild's and Mr. Starks
14 proceeded to steal a roll of duct tape and some
15 batting gloves.

16 Q And what color duct tape was it?

17 A It was black duct tape.

18 MR. SAVAGE: Your Honor, may I approach?

19 THE COURT: You may.

20 (Whereupon, State's Exhibit No. 35 is marked
21 for identification.)

22 Q (By Mr. Savage) Mr. Francois, I'm showing you
23 what has been marked as State's Exhibits 27 and 35.
24 Do you recognize those?

25 A Yes, sir.

1 Q What are they?

2 A That's the black duct tape Mr. Starks got from
3 Walmart that evening.

4 MR. SAVAGE: Your Honor, the state moves
5 Exhibits 27 and 35 into evidence.

6 THE COURT: Any objection?

7 MR. SOWELL: Is his comment that both of them
8 were purchased by Mr. Starks?

9 THE COURT: Yes.

10 MR. SOWELL: No objection.

11 THE COURT: Marked and admitted without
12 object.

13 (Whereupon, State's Exhibit Nos. 27 and 35 are
14 admitted into evidence.)

15 Q (By Mr. Savage) Did you talk to anyone inside
16 Walmart?

17 A No, sir. Mr. Starks stopped and had a
18 conversation with one of his old coaches from what I
19 presumed it was. But when he was having a
20 conversation, I actually went back outside to the car
21 and proceeded to smoke a Black and Mild.

22 Q Where did you go after Walmart?

23 A After Walmart we rode past Harpe's apartment.
24 And Starks said this is where it's going to be. And
25 at that point in time I told Mr. Starks I really

1 wasn't feeling comfortable with the situation.

2 He was like, come on, man, it's going to be
3 easy. It's just that third, you know, we grew up
4 together, come on, do this for me. And from there I
5 was like, all right.

6 Q Tell me a little bit about Harpe's apartment
7 or Harpe's place. Is it an apartment house? What
8 did you see?

9 A From -- Mr. Starks drove by the apartment, it
10 looked like a gated apartment complex. Couldn't see
11 too much. Just, he just pointed out that's where it
12 is. And he looked to see if Harpe's car was there.

13 Q How far was it from Mr. Starks' apartment?

14 A Literally, pretty much, right across the
15 street from Mr. Starks' apartment. You can walk.

16 Q Okay. Where did you go once you drive past
17 Mr. Harpe's apartment?

18 A We go back to Mr. Starks' apartment.

19 Q And do you go inside?

20 A Not immediately. Me and Mr. Starks have some
21 more conversations outside of his apartment. I tell
22 him how I'm really not -- I really don't feel
23 comfortable with the situation.

24 And then he was like, you -- the only thing
25 you are going to do is come with me and Reggie

1 because, you know, we might need a little backup,
2 man. It's going to be easy. It's going to be quick.
3 We are going to get in and we are going to get out.

4 Q Backup for what?

5 A I didn't know why he needed backup. And I
6 asked him, if it's just one person why do you need me
7 to come in. Then he said, I just need you to come
8 in.

9 And then from there, me and Mr. Starks went
10 inside his apartment. Once we got inside the
11 apartment, Mr. Rice was sitting at the table, Ms.
12 Gaskins was sitting at the table, and Ms. Bruster was
13 sitting at the table.

14 Q And what happens at that table?

15 A They were talking, laughing and joking.
16 Reggie is saying he is under the weather. He doesn't
17 -- he starts feeling bad about the robbery. He
18 doesn't have a good feeling about the robbery,
19 either.

20 Ms. Gaskins and Ms. Bruster are pretty much
21 saying the same thing. Mr. Starks is still
22 persistent about it. Mr. Rice goes to lay down,
23 wakes back up, and then Mr. Rice is all for it again.

24 Q Okay. Inside the apartment, do you talk about
25 the plan again?

1 A Mr. Starks just keeps saying he needs one of
2 the females to make a phone call for him.

3 Q Why one of the females?

4 A He feels it's better if one of the females was
5 to lure Mr. Harpe out apartment, more like a damsel
6 in distress.

7 Q Why a phone call? The last time it was a
8 knock on the door, so why a phone call, why the
9 change in plans?

10 A Mr Starks, that was the original plan he
11 brought to me and Ms. Gaskins in the first place was
12 just a phone call. And then, I guess Mr. Starks
13 didn't have a way for a female to knock on Mr.
14 Harpe's door.

15 He said it would be easier to just have a
16 female call Mr. Harpe and say that she was one of
17 Harpe's old roommate's girlfriend. And from there,
18 Harpe would come out his apartment, and he would be
19 able to go right in.

20 Q And so Mr. Starks told this to you?

21 A He told this to all of us.

22 Q And was Ms. Gaskins, the defendant, willing to
23 go along with it?

24 A She was -- she was willing but she had -- she
25 was willing, but she wasn't all for it. She and Ms.

1 Bruster were going back and forth, I don't want to
2 call, how about you call. And it was just going back
3 and forth. It was tit for tat.

4 Q So those two were sort of arguing about who
5 was going to make the call?

6 A Exactly.

7 Q Did Mr. Starks threaten them at all or are
8 they just trying to figure out who was going to make
9 the call?

10 A Mr. Starks didn't threaten anybody in my
11 presence. The only person he really, he just kept
12 persisting and pushing towards it. He just kept
13 asking me to do it, asking me to do it, asking Ms.
14 Gaskins.

15 It was basically like he was just, you know,
16 peer pressure. There was a whole lot of peer
17 pressure. Come on, man, come on, come on, please,
18 please.

19 Q And at this point are you still sitting around
20 the table, all five sitting around the table?

21 Q At that time point in time, Mr. Rice had --
22 had -- was back and forth in and out of the room.
23 Because, like I said, he was kind of under the
24 weather. Mr. Rice had even started pulling off of
25 the plan.

1 Q Do you see -- what else do you see? What is
2 going on there, any weapons?

3 A Mr. Starks has a small caliber handgun, like I
4 described yesterday. And Mr. Rice has the revolver
5 handgun, has a revolver handgun.

6 Q Anything else?

7 A And the sword they have.

8 Q Who had the sword?

9 A Mr. Starks.

10 Q Describe that?

11 A It's black, about that long. (Whereupon, the
12 witness indicates.) Has a slip cover over it. Looks
13 like a little Japanese samurai sword.

14 MR. SAVAGE: Courts indulgence, Your Honor.

15 THE COURT: Un-hum.

16 MR. SAVAGE: May I approach, Your Honor?

17 THE COURT: You may.

18 Q (By Mr. Savage) Mr. Francois, I'm showing you
19 what has been marked as State's Exhibit 26. Do you
20 recognize that?

21 A Yes, sir.

22 Q What is that?

23 A That's the sword Mr. Starks has.

24 MR. SAVAGE: Your Honor, the State moves
25 Exhibit 26 into evidence.

1 THE COURT: Any objection?

2 MR. SOWELL: No objection.

3 THE COURT: Marked and admitted without
4 objection.

5 (Whereupon, State's Exhibit No. 26 is admitted
6 into evidence.)

7 Q (By Mr. Savage) What else is going on there?
8 What other items do you see? What are you going to
9 wear during the robbery?

10 A At that point in time I had on a grey Nike
11 sweat pants and a black thermal and a white hoodie.
12 Mr. Starks told me I needed something for my face, so
13 he gave me a white towel to put over my face.

14 Q Why did you need something for your face?

15 A He said so Harpe wouldn't be able to identify
16 any of us.

17 Q What about Mr. Starks, was he going to use
18 anything for his face?

19 A Mr. Starks had a red bandana for his face.

20 Q What about Mr. Rice?

21 A Mr. Rice had a mask, like a skully type mask.

22 Q Were you going to use anything else, any other
23 clothing?

24 A Mr. Starks gave me a pair of batting gloves,
25 and he and Mr. Rice had a pair of batting gloves.

1 Q And why did you need gloves?

2 A He said so nobody would leave fingerprints
3 behind.

4 Q What happens next?

5 A After we get all of that together, Ms.

6 Gaskins, Ms. Ruster, me, Mr. Starks and Mr. Rice, we
7 go downstairs and we get in the car.

8 Q Whose car did you get in?

9 A We get into the blue Yaris.

10 Q Okay. And where are you going?

11 A We go to a parking lot right beside Mr.

12 Harpe's apartment. We get out of the car. Me, Mr.

13 Starks and Mr. Rice get out of the car.

14 Q Why do you go to that parking lot?

15 A It's right there next to Harpe's apartment so
16 we can walk, you know, through the back side of
17 Harpe's apartment.

18 Q Okay. And so the three males get out?

19 A Yes, sir.

20 Q And where do you go?

21 A We -- from there we go to Mr. Harpe's. We go
22 to Mr. Harpe's parking garage.

23 Q And I'm going to back up just a little bit
24 before we get there. How did you know Mr. Harpe --
25 or did you know Mr. Harpe was going to be home that

1 night?

2 A Mr. Starks made a call while we were in his
3 apartment to make sure Mr. Harpe was home.

4 Q Who did he call?

5 A He called Mr. Harpe.

6 Q Were you there when he made the call?

7 A Yes, sir, I was.

8 Q Did you hear him?

9 A I heard him talking to Mr. Harpe on the phone.

10 Q What was he saying?

11 A He was asking Mr. Harpe about the scrimmage
12 and practice that the Citadel cadets were supposed to
13 have the following morning.

14 Q How does that, how do you know he was going to
15 be home based on that?

16 A Mr. Starks just basically asked him about how
17 practice and everything was going to go. And he
18 asked was he at home, and Mr. Harpe had told him he
19 must have just --

20 MR. SOWELL: Your Honor, I object, hearsay.

21 THE COURT: Overruled. Statement is in
22 furtherance of the conspiracy.

23 MR. SOWELL: Not of the victim.

24 THE COURT: He repeated what Mr. Starks said,
25 not what the victim said.

1 Q (By Mr. Savage) Continue.

2 A Mr. Starks had said that Mr. Harpe was at
3 home after that, after he got off the phone with him.
4 He waited a couple of minutes, and that's when we
5 started to proceed to move out.

6 Q Okay. Back to the parking lot. Where do the
7 girls go? What are they supposed to be doing once
8 you go over to Harpe's apartment?

9 A After they drop us off, one of the girls is
10 supposed to make a phone call to Harpe.

11 Q And what phone were they going to use?

12 A From my understanding, they were supposed to
13 just use a pay phone.

14 Q Why a pay phone?

15 A So it couldn't be traced back to nobody's
16 number.

17 Q Do you know whether they made that call?

18 A I believe it was at the Little Cricket Gas
19 Station. I'm not sure because I wasn't there.

20 Q Okay. So you go -- let's talk about, do you
21 go to Harpe's apartment?

22 A We were standing in the parking garage and, in
23 the parking garage. From then Ms. Bruster calls Mr.
24 Starks and says that they have made the call and that
25 Harpe should be coming out.

1 Q Did Harpe come out?

2 A Yes, sir, he did.

3 Q What happened when he came out?

4 A When Mr. Harpe came out, Mr. Starks and Mr.
5 Rice bum-rushed Mr. Harpe. Mr. Harpe got on the
6 ground, dropped his wallet and everything, and said,
7 please don't kill me, please don't hurt me, take all
8 my money, take my car, just let me go.

9 Q When this is going on, what are you wearing?

10 A I'm wearing a white hoodie, grey sweat pants.

11 Q Do you have on the gloves?

12 A Yes, sir, I do.

13 Q Do you have on that T-shirt or something you
14 talked about?

15 A Yes, sir, I have on the towel.

16 Q What is Mr. Starks wearing?

17 A Mr. Starks is wearing a black hoodie, I
18 believe blue jeans, and the red bandana.

19 Q Is he wearing gloves?

20 A Yes, sir.

21 Q What about Mr. Rice?

22 A Mr. Rice is wearing gloves.

23 Q Does he have anything covering his face?

24 A Yes, sir. He has on a black hoodie, the
25 skully mask and black pants.

1 A Anyone have guns out?

2 A Mr. Starks and Mr. Rice.

3 Q Where do they point them?

4 A They point them at Mr. Harpe.

5 MR. SAVAGE: Your Honor, may I approach?

6 THE COURT: You may.

7 Q (By Mr. Savage) Mr. Francois, I'm showing you
8 what has been marked for identification as State's
9 Exhibit 17, 18 and 19. Can you take a look at those,
10 please.

11 Do you recognize those?

12 A Yes, sir, I do.

13 Q What are they?

14 A These are photographs from outside of Mr.
15 Harpe's apartment; inside the parking garage; and the
16 door leading to Mr. Harpe's apartment.

17 Q And is that the parking garage where you were
18 waiting when Mr. Harpe came out that night?

19 A Yes sir, it is.

20 MR. SAVAGE: Your Honor, the State moves
21 Exhibits 17, 18 and 19 into evidence

22 THE COURT: Any objection?

23 MR. SOWELL: No, ma'am.

24 THE COURT: Without objection, marked and
25 admitted.

1 (Whereupon, State's Exhibit Nos. 17, 18 and 19
2 are admitted into evidence.)

3 Q (By Mr. Savage) Mr. Francois, I'm going to
4 put this up on the projector behind you. This is
5 state's Exhibit 17.

6 could you tell the jury what they're looking
7 at there?

8 A From there, this is the side view, outside
9 view of how we walked into Mr. Harpe's apartment. To
10 his parking garage, we walked in from the lot behind
11 that, and we walked under, into that parking garage.

12 Q I've got a laser pointer here. Can you see
13 that dot?

14 A Yes, sir.

15 Q What is this sort of breezeway here between
16 those two cars?

17 A That's the parking garage.

18 Q Okay. I'm now showing you what has been
19 marked as State's Exhibit 18.

20 What are we looking at there?

21 A Right there you are looking at the parking
22 garage where Mr. Harpe came out and where me and Mr.
23 Rice and Mr. Starks were standing.

24 MR. SAVAGE: Your Honor, may I approach?

25 THE COURT: You may.

1 Q (By Mr. Savage) Mr. Francois, I'm going to
2 hand you this laser pointer. If you press that red
3 button there, it comes up.

4 Could you -- maybe if you want to just step to
5 the side a little there. Could you just show the
6 jury where you were standing when Mr. Harpe came out?

7 A When Mr. Harpe came out, I was standing in
8 this corner over here. Behind -- there was some cars
9 parked over here. I was standing behind a vehicle
10 over here.

11 Mr. Starks was a little bit in front of me,
12 and Mr. Rice was on this side. Mr. Harpe came out of
13 the door right here. Once Mr. Harpe came out the
14 door, he started walking, proceeding to walk this
15 way.

16 Once Mr. Starks and Mr. Rice saw Mr. Harpe
17 come out, Mr. Rice came here from this direction.
18 Mr. Starks came from this direction. I was standing
19 back here behind Mr. Starks. Once Mr. Harpe came
20 out, Mr. Rice took a firearm and put it to Mr. Harpe
21 -- Mr. Starks took a firearm and put it to Mr. Harpe.

22 Mr. Harpe fell on the ground right about in
23 this area. Once Mr. Harpe laid on the ground, he
24 gave up his wallet and everything. He just said,
25 please don't kill me, please don't hurt me.

1 At that point in time I was still standing
2 back here. Mr. Starks proceeded to turn around and
3 tell me to come on and he and Mr. Rice made Mr. Harpe
4 stand up. Once Mr. Harpe stood up, they gathered his
5 belongings off the ground. Mr. Starks took Mr.
6 Harpe's keys and we went to this door.

7 To get in this door, you have to use a fob to
8 open the door, which was on Mr. Harpe's key chain.

9 Q Okay, just hold up there for a second. Stay
10 there. I'm now showing you what has been marked
11 State's Exhibit 19.

12 What is that we are looking at?

13 A You are looking at the door of Mr. Harpe that
14 Mr. Harpe led us to, to go to his apartment.

15 Q You mentioned a fob on the key ring. How is
16 that significant in that photo?

17 A Right there, this little box right there -- if
18 the jury can see -- is where you have to put a little
19 like piece -- a little plastic piece that's on his
20 key ring.

21 You have to put that up to that little plastic
22 piece right there to make this door open.

23 Q Okay. Please have a seat again. What was
24 that door to? What was behind it?

25 A Behind that door was an elevator. Once you

1 get on the elevator, it leads you up to Mr. Harpe's
2 apartment.

3 Q Did you go up to Mr. Harpe's apartment?

4 A Yes, sir, we did.

5 Q We did? Who's we? Did you all go, did
6 someone stay behind?

7 A Me, Mr. Starks and Mr. Rice and Harpe of
8 course.

9 Q What happens once you got up there?

10 A Once we got into Mr. Harpe's apartment, Mr.
11 Starks made Mr. Harpe put his dog in the bathroom.
12 Once Mr. Harpe -- once he -- Mr. Harpe put his dog in
13 the bathroom, Mr. Starks told me and Mr. Rice to go
14 through the house.

15 Then I started to go through the house. I
16 went to the back, to the back room. Mr. Starks --

17 Q What are you doing? Why are you going through
18 the house?

19 A Mr. Starks told us to look for anything
20 valuable. At that point in time Mr. Starks and Mr.
21 Rice proceeded to duct tape Mr. Harpe.

22 Q You saw them duct-tape him?

23 A Yes, sir, I did.

24 Q How do they do it?

25 A They duct-tape Mr. Harpe's legs, his hands,

1 and his eyes.

2 Q And what happens next?

3 A After that, Mr. Starks gets Mr. Harpe's
4 credits cards. He asked for Mr. Harpe's ATM PIN
5 numbers. Mr. Harpe --

6 Q Does Mr. Harpe give that to him?

7 A Yes, sir, he does. He, well, he, Mr. Harpe,
8 didn't put up no fight. He willingly cooperated with
9 Mr. Starks.

10 A Now when you say he willingly did that, he
11 willing did that while he was duct-taped and
12 blindfolded?

13 A Yes, sir.

14 Q Okay. Then what happened?

15 A Then Mr. Starks left the apartment and told me
16 and Mr. Rice to find all the valuables.

17 Q Where was he going?

18 A We thought Mr. Starks was going to the ATM.

19 Q And how was he going to get to the ATM?

20 A He took Mr. Harpe's keys, so we figured he
21 took Mr. Harpe's car.

22 Q Okay. While he was gone, what were you and
23 Mr. Rice doing?

24 A Me and Mr. Rice were -- Mr. Rice was taking
25 electronic devices and jewelry, same thing, he -- Mr.

1 Rice was looking for drugs as well.

2 And he found some marijuana and some other
3 paraphernalia. Some cigars and everything. And
4 taking a-loose electronic equipment and we were
5 setting it all in one room.

6 Q Why were you doing that?

7 A Mr. Rice said that's what we came in here for.

8 Q Okay. Where was Mr. Harpe when all this was
9 going on?

10 A Mr. Harpe was on the ground. Me and Mr. Rice
11 felt sorry for Mr. Harpe, and we moved him to a
12 bedroom so that he could sit on the bed.

13 He was laying face down on the ground at
14 first.

15 Q So you felt sorry for him. Did you
16 unduct-tape him, untie him?

17 A No, sir, we didn't.

18 Q Did you let him go?

19 A No, sir.

20 Q Did you put the stuff back and leave?

21 A No, sir, we didn't.

22 Q Did you stay there?

23 A Yes, sir. We had to stay until Mr. Starks got
24 there.

25 Q Did Mr. Starks come back at some point?

1 A Yes, sir, he did.

2 Q What happened when he came back?

3 A When Mr. Starks came back, he came back and
4 said he only had \$200 in the -- in his bank account.

5 Q So he got some money out?

6 A Yes, sir, he did.

7 Q Did he come back with anyone?

8 A He came back. And then shortly after Mr.
9 Starks had walked through the door, Ms. Bruster and
10 Ms. Gaskins walked through the door after.

11 Q And so they walked into the apartment?

12 A Yes, sir, they did.

13 MR. SAVAGE: Your Honor, may I approach?

14 THE COURT: You may.

15 Q (By Mr. Savage) Mr. Francois, I'm going to
16 put this back up on the projector again.

17 What is that we are looking at? This is
18 State's Exhibit 1. What is that?

19 A That's Mr. Harpe's apartment.

20 Q Is that how it looked like that night of the
21 home invasion?

22 A Yes, sir.

23 Q I'm now showing you what is State's Exhibit 2.
24 What is that?

25 A Another photograph of Mr. Harpe's apartment.

1 Q This is State's Exhibit 3. What is that?

2 A Mr. Harpe's apartment again.

3 Q Tell me, tell the jury what you see in there?

4 A I see a TV stand where Mr. Harpe had his
5 entertainment unit. A table where Mr. Harpe had some
6 other belongings.

7 where Mr. Harpe was laid down on the ground at
8 first where Mr. Rice and Mr. Starks duct-taped him.
9 And a table his dog is fed.

10 Q You mentioned the TV stand there, is there a
11 TV on there?

12 A No, sir, it's not.

13 Q Was there one on there when you went inside?

14 A Yes, there was.

15 Q What happened to it?

16 A We took it out of his house during the
17 invasion.

18 Q I also noticed in that photograph it looks
19 like there is broken glass on the ground. Was that
20 there when you went inside house?

21 A No, sir, It wasn't.

22 Q That happened as part of the home invasion?

23 A Yes, sir, it did.

24 Q I'm now showing you what is State's Exhibit 4.
25 What is that we are looking at?

1 A You are looking at Mr. Harpe's bedroom.

2 Q Is that how it looked when you first got
3 there?

4 A Not entirely, no, sir.

5 Q Let's talk a little bit about that. All the
6 drawers that are sort of on the bed there, were they
7 there when you got there?

8 A No, sir, the drawers weren't.

9 Q Now, how did they get to be on the bed and on
10 the floor?

11 A When me and Mr. Rice went through the room, we
12 proceeded to go through everything.

13 Q So it's part of what you were doing?

14 A Yes, sir.

15 Q Okay. In between the period when you first
16 walked into Mr. Harpe's apartment -- sorry, in that
17 period where Mr. Starks left the apartment and you
18 assumed he went to the ATM machine, did you ever
19 leave the apartment?

20 A No, sir. I didn't.

21 Q Did anyone stop you from leaving?

22 A No, sir.

23 Q Did you ever try to leave?

24 A No, sir.

25 Q Did you call anyone?

1 A No, sir.

2 Q So when Mr. Starks got back, now all five of
3 you are in the apartment?

4 A Yes, sir.

5 Q When all five of you are in there, what is
6 going on now?

7 A Mr. Starks said we need to start moving things
8 downstairs and get out of here. So from there me,
9 Mr. Rice, Mr. Starks, Ms. Bruster and Ms. Gaskins, we
10 take some of the items downstairs and we leave.
11 Everything is done.

12 Q So everyone carries something out of that
13 apartment?

14 A Yes, sir.

15 Q Tell me exactly what is being carried?

16 A Two televisions, a Wii, a Play Station Three,
17 an entertainment system, alcohol, marijuana, a
18 computer, and some other electronical devices.

19 Q You see this defendant, Sasha Gaskins, carry
20 stuff out of that apartment?

21 A Yes, sir. She carried a small item like, it
22 was, Mr. Rice had put things in plastic bags Mr Rice
23 had. When Ms. Bruster and Ms. Gaskins were standing
24 up there Mr. Rice gave them bags and said come on,
25 come on, come on.

1 And Mr. Starks and Mr. Rice were giving up
2 everybody stuff. And from there everybody carried
3 things downstairs. From there, everything was taken
4 down in one trip.

5 Q What did you put it into?

6 A We put it into the blue Toyota Yaris.

7 Q And that's the Yaris that we saw the other
8 day, the same car?

9 A Yes, sir.

10 Q After you put it into the blue Toyota, where
11 did you go from there?

12 A We went to Mr. Starks' apartment.

13 Q Did all five of you get into that car and
14 leave?

15 A Yes, we did.

16 Q Before you left, what did you do with Mr.
17 Harpe?

18 A We left Mr. Harpe in the apartment. Mr.
19 Starks left Mr. Harpe's keys in the apartment.

20 Q Was he still duct-taped?

21 A Yes, sir, he was.

22 Q What about his dog?

23 A His dog, at that point, by that point in time,
24 me and Mr. Rice had put Harpe's dog in the room with
25 him. And from there we left Mr. Harpe and his dog in

1 the apartment.

2 Q You mentioned a little earlier about the
3 security fob. Were you concerned about security in
4 the apartment at all?

5 A No, sir.

6 Q Why not?

7 A Mr. Starks kept saying there was no security
8 around the apartment.

9 Q Do you know if there is any cameras in the
10 apartment complex?

11 A No, sir, I didn't.

12 Q Did you see any?

13 A No, sir, I didn't.

14 Q Did you hear anyone ask about any security
15 cameras?

16 A I asked, actually.

17 Q You asked?

18 A And Ms. Gaskins.

19 Q Tell me about that. Who did you ask?

20 A Mr. Starks, because Mr. Starks said he had
21 been over to the apartment numerous of times to smoke
22 marijuana.

23 Q What exactly did you ask him?

24 A I asked Mr. Starks where there cameras. If
25 you are going to do this, how are you going to do

1 this if they have cameras. If it's an apartment like
2 this with a gate and everything, there's going to be
3 cameras. And he said there is no cameras around.

4 Q Why are you asking about cameras?

5 A Because I was worried, like I said.

6 Q Worried about what?

7 A I was worried about getting caught.

8 Q What about Ms. Gaskins, what did she ask?

9 A Ms. Gaskins was -- had the same feelings as I
10 had.

11 MR. SOWELL: Your Honor, I object.

12 THE COURT: Basis?

13 MR. SOWELL: Her feelings, he had no idea what
14 her feelings are.

15 THE COURT: You need to lay the appropriate
16 foundation as to a particular conversation to bring
17 it within the admission against interest, or based on
18 his rational perception of her behavior, which also
19 comes under the nature.

20 MR. SAVAGE: I just asked what did she ask.

21 THE COURT: You need to follow the
22 instructions.

23 MR. SAVAGE: Yes, Your Honor.

24 Q (By Mr. Savage) When you asked about the
25 security cameras, did you hear Ms. Gaskins ask about

1 security cameras?

2 A Not at the same time I asked. But she, at one
3 point in time, she did ask Mr. Starks about security
4 cameras.

5 Q Tell me about that time. Where did that
6 occur?

7 A That occurred in Mr. Starks' apartment.

8 Q Before or after the home invasion?

9 A That was before the home invasions. Because
10 Ms. Bruster and Ms. Gaskins were both concerned about
11 it.

12 Q Okay. Were you present when that conversation
13 took place?

14 A Yes, sir, I was.

15 Q And what did she, the defendant, ask Mr.
16 Starks?

17 A The defendant asked Mr. Starks, you know, how
18 do you know there is no cameras and everything
19 around?

20 Q And how did he respond?

21 A He said, I've been over there before. You all
22 got to stop worrying. I have this under control.
23 It's going to be easy. Just stop worrying. I have
24 this, I have this. I just need you to stop -- stop
25 worrying, stop being scared. Little comments like

1 that. He used profanity but I prefer not to.

2 Q Okay. When -- before you leave the
3 apartment, all five of you are inside Mr. Harpe's
4 apartment, in particular I'm talking -- I'm referring
5 to the defendant and Ms. Bruster, is the defendant
6 wearing a mask of any kind to disguise her face?

7 A No, sir.

8 Q Is she wearing any gloves?

9 A No, sir.

10 Q Where is Mr. Harpe at this point when she was
11 in there?

12 A Mr. Harpe is in the guest bedroom, I presume
13 that's what it was. Mr. Starks said it was the
14 guest bedroom, so I would say it's the guest bedroom.

15 Q When the defendant was inside the apartment,
16 was Mr. Harpe still duct-taped up?

17 A Yes, sir, He was.

18 Q Were his eyes still covered up with duct tape?

19 A Yes, sir, it was.

20 Q Was Ms. Bruster -- was Ms. Gaskins wearing any
21 gloves?

22 A No, sir, she wasn't.

23 Q Was Ms. Bruster wearing any gloves?

24 A No, sir, she wasn't.

25 Q Was she wearing anything to cover her face?

1 A No, sir.

2 Q When she was in the apartment complex or
3 inside Mr. Harpe's apartment, was Mr. Harpe
4 duct-taped up a well?

5 A Yes, sir.

6 Q And his eyes were covered?

7 A Yes, sir.

8 Q Once you left the apartment complex, where do
9 you go from there?

10 A We went back to Mr. Starks' apartment.

11 Q Was that part of the plan?

12 A Yes, sir, it was.

13 Q What happens when you get back to Mr. Starks'
14 apartment?

15 A We unload everything out of the car. And from
16 there --

17 Q Where did you take it?

18 A We take it upstairs into Mr. Starks'
19 apartment.

20 Q What happens next?

21 A Me and Mr. Rice, from thereafter we bring
22 everything upstairs. Me and Mr. Rice leave to go to
23 Walmart. After that --

24 Q Okay. Before you leave to go to Walmart, all
25 five of you are inside the apartment?

1 A Yes, sir, we are.

2 Q What do you do with the items?

3 A We just set them in the living room.

4 Q Anyone talking about the robbery?

5 A Yes. Me and Mr. Starks, Mr. Rice, Ms. Bruster
6 and Ms. Gaskins. We were saying -- Ms. Bruster and
7 Ms. Gaskins were saying how dumb Mr. Starks was and
8 everything. And Mr. Starks was saying, it's over, I
9 got away with it. It was easy. It was quick, easy.

10 Mr. Rice and me are pretty much not really
11 saying too much. Me and Mr. Starks start talking.
12 And then I say I need to go back to campus. Mr. Rice
13 says he needs to go get some medication from Walmart.

14 MR. SAVAGE: Your Honor, may I approach?

15 THE COURT: You may.

16 Q (By Mr. Savage) Mr. Francois, I'm showing you
17 what has been marked as State's Exhibit 20 and 21 for
18 identification purposes.

19 Do you recognize those two?

20 A Yes, sir.

21 Q What are they?

22 A Pictures from Mr. Starks' apartment.

23 Q And what's in them?

24 A Merchandise from the two robberies.

25 Q The robberies that you were involved in?

1 A Yes, sir.

2 Q And that's the stuff that was there that night
3 after the second home invasion?

4 A Yes, sir.

5 MR. SAVAGE: Thank you. Your Honor, at this
6 point State moves Exhibits 20 and 21 into evidence.

7 THE COURT: Any objection?

8 MR. SOWELL: Those pictures?

9 THE COURT: Yes, sir.

10 MR. SOWELL: No objection.

11 THE COURT: Marked and admitted without
12 objection.

13 (Whereupon, State's Exhibit Nos. 20 and 21 are
14 admitted into evidence.)

15 Q (By Mr. Savage) Mr. Francois, I'm showing you
16 what has been marked as State's Exhibit 21.

17 MR. SAVAGE: Your Honor, may I approach again?

18 THE COURT: You may.

19 Q (By Mr. Savage) I'm going to hand you this
20 laser pointer again. You want to just step to the
21 side for me, please, sir?

22 A Yes, sir.

23 Q Could you point out to the jury what we're
24 looking at there?

25 A All of that is merchandise from the robbery of

1 Mr. Harpe's apartment. The two televisions; the
2 entertainment system; the plastic bags that Mr. Rice
3 and Mr. Starks were passing to Ms. Gaskins, Ms.
4 Bruster and myself.

5 Q Where did those plastic bags come from, white
6 plastic bags like trash bags?

7 A Yes sir, they were trash bags.

8 Q Where did they come from?

9 A Mr. Harpe's apartment as well.

10 Q Okay. What's inside those?

11 A DVD's, Games, electronical items.

12 Q I noticed down at the bottom of that picture,
13 sort of the middle there, right there, what is that?

14 A I'm not quite sure what that is. I can't
15 really make out what that is.

16 MR. SAVAGE: Your Honor, may I approach?

17 THE COURT: You may.

18 Q (By Mr. Savage) Sorry, it's a little fuzzy.
19 Take a look at that, do you recognize what that is?

20 A Yes, sir.

21 Q What is that?

22 A Those are batting gloves and a controller.

23 Q Okay. Are they the gloves that were used, you
24 used in part of the robbery, in the robbery?

25 A Yes, sir. Those look like a pair of the

1 gloves that I had. Right there are the gloves, four
2 sets of gloves. Probably one of those are mine.

3 Q Is that similar type of gloves that your
4 codefendants, Mr. Starks and Mr. Rice, were wearing?

5 A Yes, sir. Everybody had the same style
6 batting gloves.

7 Q I'm now showing you what is marked as State's
8 Exhibit 20. Could you tell the jury what they're
9 looking at there?

10 A Yes, sir. They're looking at the red bandana
11 Mr. Starks had on his face, an Under Armor drawstring
12 bag, an X-Box.

13 Q Tell me about the Under Armor bag. What's
14 significant about that?

15 A The Under Armor bag is what Mr. Starks put
16 his firearm in and the duct tape and the sword, which
17 is not in that picture. But he put the sword also
18 in that bag.

19 He also had a extra shirt, right there, which
20 was tied around his head at one point in time.

21 Q Who had that tied around his head?

22 A Mr. Starks.

23 Q Okay.

24 A And the, like, the red bandana, like I said
25 before, that was tied around his face.

1 Q The sword that we talked about before, do you
2 see that?

3 A If I'm not mistaken, it's right there. But I
4 can't be too sure, the picture is blurry.

5 Q Okay. What else do you see?

6 A Mr. Starks' key chain, and then that was it.

7 Q Okay.

8 MR. SAVAGE: Your Honor, may I approach?

9 THE COURT: You may.

10 Q (By Mr. Savage) Mr. Francois, I'm showing you
11 what has been marked as State's Exhibit 28. Do you
12 recognize that?

13 A Yes, sir. That's the Under Armor drawstring
14 bag that was in the picture right there.

15 Q That's what was used in the robbery?

16 A Yes, sir.

17 MR. SAVAGE: Your Honor, at this point the
18 State moves to admit State's Exhibit 28 into
19 evidence.

20 THE COURT: Any objection?

21 MR. SOWELL: No, ma'am.

22 THE COURT: Marked and admitted without
23 objection.

24 (Whereupon, State's Exhibit No. 28 is admitted
25 into evidence.)

1 MR. SAVAGE: Your Honor, defense has no
2 objection to admitting State's Exhibit 24 into
3 evidence.

4 THE COURT: Marked and admitted without
5 objection.

6 (Whereupon, State's Exhibit No. 24 is admitted
7 into evidence.)

8 Q (By Mr. Savage) Mr. Francois, I'm showing you
9 what has been admitted into evidence as State's 24.
10 What are they?

11 A These are batting gloves.

12 Q And when were those batting gloves used?

13 A In the robbery on Friday night.

14 MR. SAVAGE: Your Honor, the State is also
15 admitting, per agreement with the defense counsel,
16 State's Exhibit 25, which is another pair of batting
17 gloves.

18 THE COURT: Marked and admitted without
19 objection.

20 (Whereupon, State's Exhibit No. 25 is admitted
21 into evidence.)

22 Q (By Mr. Savage) Mr Francois, I'm showing you
23 what has been marked as State's Exhibit 25. Do you
24 recognize those?

25 A Another set of batting gloves that was used by

1 either me, Mr. Starks or Mr. Rice on that evening.

2 MR. SAVAGE: Beg the Court's indulgence, Your
3 Honor.

4 Your Honor, may I approach?

5 THE COURT: You may.

6 MR. SAVAGE: Could we mark this? I'm sorry.
7 (Whereupon, State's Exhibit No. 36 is marked
8 for identification.)

9 MR. SAVAGE: Your Honor, may I approach?

10 THE COURT: You may.

11 Q (By Mr. Savage) Mr. Francois, I'm showing you
12 what has been marked as State's Exhibit 36. Do you
13 recognize that?

14 A It looks like the black T-shirt from the
15 picture that I was saying Mr. Starks had tied around
16 his head.

17 MR. SAVAGE: Your Honor, at this point state
18 moves State's Exhibit 36 into evidence.

19 THE COURT: Any objection?

20 MR. SOWELL: No, ma'am.

21 THE COURT: Marked and admitted without
22 objection.

23 (Whereupon, State's Exhibit No. 36 is admitted
24 into evidence.)

25 Q (By Mr. Savage) What's going on once you are

1 inside in the apartment after the robbery? Is anyone
2 talking about whose getting what?

3 A Mr. Starks said he is about to start dividing
4 things up. I tell Mr. Starks I don't want anything
5 out of it. Ms. Gaskins and Ms. Bruster are saying
6 the same thing. Mr. Rice is talking about, well, he
7 knows someone who they can sell everything to and get
8 cash for it.

9 Q And do you stay there that night?

10 A No, sir.

11 Q Where do you go?

12 A We start -- me and Mr. Rice leave to go to
13 Walmart. Mr. Rice says he needs some medication.

14 Ms. Gaskins, Ms. Bruster and Mr. Starks are
15 still at the apartment.

16 Q Do you leave?

17 A Yes, sir.

18 Q Approximately how long after you got back to
19 the apartment was it until you left?

20 A About 10, 15 minutes. I had to work the next
21 morning so I was going to go with Mr. Rice to
22 Walmart, and then I was going to proceed to head back
23 to campus after that because I had to work the next
24 morning.

25 Q What happened when you left?

1 A When I left we were turning out of Mr. Starks'
2 apartment complex. That's when I was blue-lighted
3 and the West Ashley police pulled us over.

4 Q Let's talk about that. What car were you in?

5 A We were in the blue Toyota Yaris.

6 Q And who was driving?

7 A I was driving.

8 Q And who was in there with you?

9 A Mr. Rice.

10 Q None of the other codefendants?

11 A No, sir.

12 Q And what happened when you were stopped?

13 A Once we were stopped, the police ran my
14 license and everything. He was about to let us go,
15 he asked us about do we know anything about a
16 robbery. We told him no. He told us he was
17 looking for three or four males, African-American
18 males. He proceeded to question us a little bit
19 more.

20 Q So you lied to the police?

21 A Yes, sir.

22 Q Why?

23 A I was afraid.

24 Q Afraid of what?

25 A Being caught, going to jail.

1 Q Did anyone else come to where you were when
2 you were stopped by police?

3 A Not to my knowledge, no, sir.

4 Q Do you know whether anyone was identified at
5 that point?

6 A Later another police car had came on to site.

7 Q Was that the same site where you were stopped
8 or did you go to another location?

9 A Same site where we were stopped.

10 Q What happened when another police car came?

11 A They separated me and Mr. Rice.

12 Q Why?

13 A They said we were suspects after they saw Mr.
14 Rice was wearing Mr. Harpe's Citadel ring.

15 Q And when you were separated, where did you get
16 separated to?

17 A I went to one car and Mr. Rice went to another
18 car.

19 Q Do you have a cell phone on you at this point?

20 A Yes, sir, I do.

21 Q And so you are in the back of the patrol car?

22 A Yes, sir, I am.

23 Q Is it a patrol car, like a black and white
24 car?

25 A Yes, sir, it is.

1 Q And what do you do when you are in the back of
2 the patrol car?

3 A When I'm in the back of the patrol car, I call
4 Ms. Gaskins and I call Mr. Starks.

5 Q Why?

6 A I tell them we had just been blue-lighted and
7 that they had us as suspects for the robbery.

8 Q Why did you call them?

9 A To let them know what is going on.

10 Q Why?

11 A Because I was afraid of what we had just did,
12 and I knew that we were wrong. But I called them to
13 give them forewarning of what was going on.

14 Q Forewarning about what?

15 A That we had just got pulled over.

16 Q What did you tell them to do?

17 A I told them, actually I told them to leave the
18 apartment.

19 Q Why?

20 A Because I felt that it was the smartest thing
21 to do at that point in time.

22 Q Why?

23 A I had poor character judgment.

24 Q No. Why did you want them to leave the
25 apartment?

1 A Because I did not want anybody else to get
2 into trouble.

3 Q Okay. Now you mentioned another police car
4 came to where you were and you were separated. What
5 happened then?

6 A Once the other police car came and we were
7 separated, another squad car came. They took me out
8 of the car first. They put a spot light on me. The
9 officers told me it was a negative description.

10 Q Did you see anyone?

11 A I saw somebody sitting in the back of the
12 other squad car.

13 Q Did you know who that was?

14 A No, sir, I did not.

15 Q Okay, and so what happened then? Where did
16 you go from there?

17 A I was standing outside the squad car. At
18 that point in time the officer had gave me back my
19 license and everything. Then Mr. Rice -- he had
20 walked me to the side -- Mr. Rice had got out of his
21 squad car. They put the spotlight on him, told him
22 positive.

23 Q Were you still standing outside when Mr. Rice
24 got out?

25 A Yes, sir. I was still standing outside.

1 Q So you could see him?

2 A Yes, sir.

3 Q What happened then?

4 A They put a spotlight on Mr. Rice. At that
5 point in time they said positive identification.
6 They put Mr. Rice in handcuffs.

7 They told me because me and Mr. Rice was
8 together, they had to detain me as well. They put
9 me in handcuffs. And from there, they drove us over
10 to Mr. Harpe's apartment.

11 Then we then get out at Mr. Harpe's apartment,
12 get out of the squad car. We sat at Mr. Harpe's
13 apartment for about five minutes. Then they took us
14 to West Ashley Police Station, I believe.

15 Q So from there, were you placed under arrest
16 then?

17 A Yes, sir, I was.

18 MR. SAVAGE: Court's indulgence.

19 Q (By Mr. Savage) Mr. Francois, you talked about
20 on the second home invasion you didn't take anything
21 from it after you got back from Mr. Starks'
22 apartment; is that correct?

23 A That's correct.

24 Q Let's talk about the first home invasion. Did
25 you take any property out of Mr. Starks' apartment

1 somewhere?

2 A I did not take it out of Mr. Starks'
3 apartment, it was already in the Toyota Yaris. I
4 didn't take it that night either. The next day,
5 Thursday, Mr. Starks and Mr. Rice brought it over to
6 my apartment. It was a television.

7 They brought the television over to my
8 apartment at College of Charleston. I told them I
9 did not want it, but I knew somebody that might want
10 it.

11 Q Who did you know that might want it?

12 A It was a mutual friend of me, Ms. Gaskins and
13 Ms. Bruster, Erica.

14 Q Did you tell them about your mutual friend?

15 A Yes, sir.

16 Q Who was that mutual friend?

17 A Erica Octavia.

18 Q Who is she?

19 A She is a friend, a mutual friend of me, Ms.
20 Gaskins and Ms. Bruster. She goes to college of
21 Charleston as well.

22 Q Okay. So what did you do from there?

23 A From there, they took the television over to
24 Erica's apartment.

25 Q Did you go with them?

1 A Yes, sir, I did.

2 Q So all three of you went?

3 A Yes, sir.

4 Q Did they call and let her know of did you call
5 her?

6 A Erica was with me currently that day on
7 campus. Mr. Starks told her it was a TV that he
8 wasn't using anymore.

9 MR. SOWELL: I'm sorry?

10 A Mr. Starks told Miss, Ms. Octavia that it was
11 a television that he wasn't using anymore and he was
12 giving it to her because Erica didn't have a
13 television at that point in time in her apartment,
14 so.

15 Q (By Mr. Savage) Did you arrange for that TV
16 to be put in her apartment then?

17 A Mr. Starks asked Ms. Octavia did she want it
18 then.

19 MR. SAVAGE: Court's indulgence, Your Honor.

20 THE COURT: Yes, sir.

21 Q (By Mr. Savage) Tell me about, a little bit
22 about your relationship with Erica. You did not live
23 with her at the time, did you?

24 A No, sir.

25 Q Were you going to?

1 A Yes, sir. Me, Erica, and another mutual
2 friend were planning on, for the next semester,
3 getting an apartment off campus because it was
4 cheaper than staying on campus.

5 Q So you were going to be roommates?

6 A Yes, sir.

7 Q And the TV that you described, was that going
8 to be part of that situation?

9 A That's a fair assumption to say, yes, sir.

10 MR. SAVAGE: Nothing further at this point,
11 Your Honor.

12 THE COURT: Any cross-examination of the
13 witness?

14 CROSS-EXAMINATION

15 BY MR. SOWELL:

16 Q You just mentioned two different times,
17 Octavia. Who's Octavia?

18 A I believe that's Erica's last name, Erica
19 Octavia.

20 Q Now do you go by Stephen?

21 A I go by Stephen.

22 Q Stephen?

23 A Yes, sir.

24 Q Stephen, what arrangements do you have with
25 the law enforcement to testify today?

1 A I have no arrangements. I'm hoping for mercy
2 upon the court, but I know the only person that can
3 really give me mercy is the Lord. But I'm hoping for
4 mercy upon sentencing.

5 Q I'm sorry?

6 A I am hoping for mercy upon sentencing. I have
7 no true arrangements with the court. Nothing is set
8 in stone and promised.

9 Q I'm not understanding what you are saying.
10 You are hoping for mercy?

11 A I'm hoping for mercy from the court, from the
12 Judge upon sentencing. I have no arrangements with
13 the court set in stone.

14 Q Now did you think your agreement, your
15 arrangement with the law enforcement would be
16 violated --

17 MR. SAVAGE: Objection, Your Honor.

18 THE COURT: I haven't heard the whole
19 question. Complete your question.

20 Q (By Mr. Sowell) Do you think your arrangement
21 with the solicitor would be voided by, if you were to
22 testify that Ms. Gaskins was threatened?

23 A If I had an arrangement, I would believe it
24 would be. But I don't have an arrangement with the
25 solicitor's office or with the court.

1 Q So you think if you were to testify that she
2 was threatened and did this because she was
3 threatened, then you think you would not have any
4 arrangement for leniency?

5 MR. SAVAGE: Objection, vague.

6 THE COURT: Rephrase. And keep it within the
7 evidence.

8 Q (By Mr. Sowell) You just testified that you
9 are seeking mercy. And you just testified that you
10 thought that if you testified that Ms. Gaskins was
11 threatened, your arrangement would be threatened?

12 MR. SAVAGE: Objection, misstating the facts
13 in evidence.

14 THE COURT: Sustained, rephrase. There is no
15 testimony to an arrangement. You can question his
16 motivation, credibility or otherwise by rephrasing
17 the question within the evidence.

18 Q (By Mr. Sowell) You're seeking mercy?

19 A Yes, sir, I am.

20 Q And you're seeking leniency in the sentencing?

21 A Yes, sir, I am.

22 Q And do you think your leniency that you could
23 expect would be endangered if you were to testify
24 that Ms. Gaskins was threatened?

25 A Like I said before in my testimony, Ms.

1 Gaskins never was physically threatened. I said
2 there was pressure from Mr. Starks.

3 I'm hoping for leniency. I'm praying for
4 mercy. That is all I can hope for at this point in
5 time. But nobody, to my personal knowledge, was
6 physically threatened; not me, nor Ms. Gaskins. Not
7 in my presence, at least.

8 I don't know what happened on the James Island
9 incident before they went into the house. Ms.
10 Gaskins came back hysterical, like I said, she was
11 frightened. But she never told me she was physically
12 threatened.

13 If she would have, I would have handled the
14 situation in a different manner. I feel very bad for
15 the situation, but at the same time, yes, I am
16 seeking mercy, yes, I am seeking leniency. But, no,
17 there is no arrangements. And, no, she was not
18 physically threatened in my presence.

19 Verbally, from Mr. Starks, it could be, he
20 could have been badgering her. Yes, it could have
21 went differently. But, no, I did not handle the
22 situation like I should have at that point in time.

23 Q You said when she came back to the car on the
24 James Island incident, that's the first one?

25 A Yes, sir, that is.

1 Q She was hysterical?

2 A She was frightened, she was excited.

3 Q Do you remember an interview you had with
4 Detective Holmes and Detective Dasher?

5 A Vaguely.

6 Q During that interview, didn't you tell them
7 that Reggie pulled a pistol out on you?

8 A Yes, sir. That was before I seek legal
9 counsel.

10 Q And you looked at him and you said, for real?
11 Is that what you said?

12 A Sir?

13 Q And did you tell those detectives when Reggie
14 pulled a gun on you you said, is this for real?

15 A I have no clear recollection of that.

16 Q If I show you a copy of the transcript, would
17 that help?

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

19 THE COURT: Yes, sir.

20 Q (By Mr. Sowell) This is your interview you
21 had with Detective Holmes and Detective Dasher. And
22 I ask that you read the first five lines.

23 THE COURT: He can only use it to refresh his
24 recollection.

25 MR. SOWELL: Yes, ma'am.

1 THE COURT: He can read it to himself

2 Q (By Mr. Sowell) Read it to yourself. See if
3 you remember.

4 A Yes, sir.

5 Q Did you tell the officers that Reggie pulled a
6 gun on you?

7 A Yes, sir. I did tell the officers, at that
8 point in time, that Reggie did pull a pistol out on
9 me.

10 Q And did you further tell them that you said,
11 are you for real? You'd really pull a pistol on me?
12 Did you say that to the officers?

13 A Yes, sir, I did say that to the officers.

14 Q And did you tell the officers that you tell
15 Mr. Starks, man, I'm not doing it?

16 A Yes, sir. I did tell Mr. Starks that I wasn't
17 doing it. Most of that statement was true. I did
18 tell Mr. Starks we weren't -- I wasn't going to do it
19 and Ms. Gaskins wasn't going to do it.

20 He did not pull a pistol or firearm out on me.
21 I never saw him pull a firearm out on Ms. Gaskins. I
22 don't know what happened when I wasn't present. But,
23 at the same time, I did falsify some statements in
24 that statement.

25 I'm telling the truth now. And I was telling

1 the truth since I have been seeking legal counsel.

2 Q Let me get this straight. You lied one time,
3 you told the truth one time. What are you telling
4 now?

5 A I'm telling the truth now.

6 Q Why didn't you tell the truth then?

7 A Because at that point in time I was scared. I
8 was frightened. I was under pressure. They, at that
9 point in time, Detective Dasher and Detective Holmes
10 were telling me they were going pull my scholarship
11 and they were going to give me a life sentence and
12 they were going to put all of this on me and I had
13 tell them what happened.

14 At that point in time Detective Dasher and
15 Detective Holmes did not let me seek legal counsel.
16 And then, at that point in time, I was just rambling.
17 I was saying what came to my head first before I had
18 time to get my thoughts together.

19 So, yes, at that point in time, I did falsify
20 statements. Now I am telling the truth.

21 Q How do I know when you are telling the truth
22 and when are lying?

23 A The only way you can know is if were you to
24 put me on a lie detector test or go off of my word as
25 a man.

1 Q How good is your word? How can we believe you
2 when we don't know when you are lying about -- when
3 you are going to lie or when you are going to tell
4 the truth?

5 MR. SAVAGE: Objection. Is there a question
6 in there? He is just testifying.

7 THE COURT: No speaking objections.

8 MR. SOWELL: I'll rephrase.

9 THE COURT: What was the last question in that
10 line.

11 Sir, you may answer the question.

12 A Could you repeat the question, please?

13 Q (By Mr. Sowell) How do I know when you are
14 going to go lie or when you are going to tell the
15 truth?

16 A The only way you would know if I am going to
17 lie or if I am going to tell the truth is if you
18 trust my word as a man.

19 Q So I've got to trust you. How do I know I can
20 trust you?

21 A The only way you can know if you can trust me
22 is if to have trust in yourself, to go off your
23 faith.

24 Q So why don't we do a little code here. If you
25 are going lie, you hold up your left hand. If you

1 are going to tell the truth, you hold up your right
2 hand, okay?

3 A Okay.

4 Q That sounds like a good deal. Did you refuse
5 to carry the television out of the condo?

6 A Sir?

7 MR. SAVAGE: Objection.

8 THE COURT: Basis? I haven't heard the whole
9 question.

10 Sir, could you the state question.

11 Q (By Mr. Sowell) Did he refuse to take -- did
12 you refuse to take the television out of the condo?

13 A (Whereupon, the witness raises his right
14 hand.) Yes, sir, I did refuse to take the television
15 out of the condo. But later on I did take the
16 television out of the condo.

17 Q Now when the officers were talking to you and
18 you were lying to them, did they tell you you'd done
19 real good to get it off your chest?

20 A (Whereupon, the witness raises his right
21 hand.) Yes, sir. I believe that the officers did
22 tell me that I was doing real good, get it off my
23 chest.

24 Q Did they tell you that if you talked to the
25 solicitor and tell him everything you know, then we

1 will tell the solicitor you cooperated?

2 MR. SAVAGE: Objection, Your Honor. May we
3 approach?

4 THE COURT: You may.

5 (Whereupon, the following discussion was held
6 at the bench.)

7 THE COURT: What is the basis of the
8 objection?

9 MR. SAVAGE: I'm going to object to the form
10 of the questions. And here is why. What he's doing
11 is he's asking him to put up his hand to say whether
12 he's telling the truth, or whether he's telling a
13 lie.

14 When I'm concerned about is for appeal basis
15 later on, the court reporter is not going to be able
16 to take down hands up or hands down. He is not
17 indicating in his question --

18 THE COURT: She indicates, she knows what his
19 left and right hand are. She makes a notation.

20 MR. SAVAGE: Is she indicating whether he's
21 telling a lie or the truth?

22 THE COURT: She is indicating which hand is
23 being raised.

24 MR. SAVAGE: Is she indicating whether that's
25 a lie or the truth?

1 THE COURT: He already asked within the
2 context of the question which hand to raise and she
3 notates that.

4 MR. SAVAGE: Okay, all right. I'm just trying
5 to preserve the record, that's all.

6 THE COURT: Believe me, she does what she does
7 very well.

8 MR. SAVAGE: Thank you, Judge.

9 (In open court.)

10 THE COURT: You may proceed.

11 Q (By Mr. Sowell) Did the officer tell you if
12 you testified for him, he'll tell the solicitor you
13 cooperated?

14 A (Whereupon, the witness raises his right
15 hand.) I have no clue. I have no clear recollection
16 of that.

17 Q I show you Page 20 of the interview when you
18 and Officer Holmes and Officer Dasher -- I will show
19 you Page 20 and 21. Ask you to read the bottom three
20 lines of Page 20, and the top three lines of Page 21
21 and ask you read those to yourself, please?

22 A Okay.

23 Q Did the officer tell you if you cooperated
24 with him he would tell the solicitor you did a good
25 job and you cooperated?

1 A (Whereupon, the witness raises his right
2 hand.) Yes, sir, he did.

3 Q And did he tell you that we can make a
4 recommendation to the solicitor's office and let them
5 know you did cooperate with us?

6 A (Whereupon, the witness raises his right
7 hand.) Yes, sir, he did.

8 Q And did you think that cooperating with him
9 meant testifying against your codefendants?

10 A (Whereupon, the witness raises his right
11 hand.) At that point in time I did not know what
12 that meant. At first I thought, from what I recall
13 from the conversation, he was saying he was going to
14 talk to the solicitor about me cooperating and
15 everything. That way I will be able to get a
16 reasonable bond and hopefully some leniency.

17 (Whereupon, the witness raises his right
18 hand.) And at that point in time, if I recall
19 correctly, I did not even mention Ms. Gaskins at all.
20 So I wasn't fully cooperating. That's how I know,
21 from that report, I was telling a lie. Now I'm
22 telling the truth.

23 Q And so you are saying that was it Reggie or
24 Mr. Starns (sic) that pulled a gun on you?

25 A (Whereupon, the witness raises his right

1 hand.) I don't recall from that statement. It was
2 vague.

3 Q But in actuality did you see them pull a gun
4 on anybody?

5 A (Whereupon, the witness raises his right
6 hand.) In actuality, Mr. Starks or Mr. Rice only
7 pulled -- I only saw them pull a gun out on Mr.
8 Harpe.

9 Q Did the officers tell you that if you don't
10 cooperate, and you are convicted of murder one, you
11 would spend life in jail?

12 MR. SAVAGE: Objection, Your Honor, misstating
13 the facts in evidence.

14 THE COURT: Restate the question, please.

15 MR. SOWELL: Your Honor, this is
16 cross-examination.

17 THE COURT: I said restate the question,
18 please.

19 Q (By Mr. Sowell) Did the officer tell you that
20 if you failed to cooperate, you will spend life in
21 prison for burglary?

22 THE COURT: Overruled. You may answer the
23 question.

24 A (Whereupon, the witness raises his right
25 hand.) Yes, sir. He said it's a possibility that I

1 could spend life in prison if convicted of burglary
2 first.

3 Q But if you cooperate, he'll tell the solicitor
4 you cooperated?

5 A (Whereupon, the witness raises his right
6 hand.) He told me if I cooperate that he would let
7 the solicitor know, and that with my background that
8 it would be highly unlikely that I would, excuse me,
9 spend life in prison for the offense.

10 Q That is if you cooperate?

11 A (Whereupon, the witness raises his right
12 hand.) Yes, that is if I cooperate with him. Which,
13 at that point in time I didn't.

14 Q Now when you were in the condo talking to
15 Reggie and Ms. Gaskins and Mr. Starns (sic), did you
16 think they were telling the truth or were they
17 joking?

18 MR. SAVAGE: Objection, vague. We are talking
19 about two home invasions.

20 THE COURT: Overruled. It goes to his
21 rational perceptions and he has already established a
22 foundation that he was present with them during the
23 conspiracy. Overruled.

24 Sir, do you need the question repeated?

25 THE WITNESS: No, ma'am.

1 THE COURT: You may answer the question.

2 THE WITNESS: Yes, ma'am.

3 A What time in the condo and what conversation
4 are you referring to at that point in time?

5 Q When you all discussed breaking into his drug
6 dealer's house.

7 A (Whereupon, the witness raises his right
8 hand.) I never took Mr. Starks seriously, from when
9 we were younger, til now I did not take him
10 seriously.

11 Mr. Starks was the type of person that would
12 say he was going to do something and wouldn't do it.
13 He would say he wanted to do something and wouldn't
14 do it. So I never really took Mr. Starks really
15 seriously. I took Mr. Rice more seriously than Mr.
16 Starks.

17 Q So did anybody have any idea that you all
18 could break into your drug dealer's house and he
19 wouldn't recognize your voice?

20 MR. SAVAGE: Objection, Your Honor,
21 misstating facts in evidence.

22 THE COURT: Please restate the question for
23 me.

24 Q (By Mr. Sowell) Did anyone have any idea that
25 you don't break into your drug dealer's house and he

1 wouldn't recognize your voice?

2 MR. SAVAGE: Objection, speculation.

3 THE COURT: Sustained. You need to lay the
4 appropriate foundation for that question.

5 Even though wide latitude is given in
6 cross-examination, and it is a bit vague and hard to
7 follow. Please restate.

8 Q (By Mr. Sowell) When you all planned the
9 first robbery, or when you all were now talking about
10 it, you thought he was joking, did anyone think that
11 Mr. Starns (sic) could rob his drug dealer without
12 being recognized?

13 A (Whereupon, the witness raises his right
14 hand.) At that point in time Ms. Gaskins and myself
15 said, how do you know he is not going to recognize
16 you? Mr. Rice and Mr. Starks said they had it
17 covered.

18 So from there I didn't worry about it because
19 he told me I didn't have to go into the house on the
20 first robbery. And Ms. Gaskins wasn't going to have
21 to go into the house on the first robbery.

22 So from there I didn't really think too much
23 of it.

24 Q Now during your review of the second incident,
25 earlier today, you didn't mention going out to eat.

1 before you went to the apartment. Did you all go out
2 to eat?

3 A (Whereupon, the witness raises his right
4 hand.) We went to Zaxby's before the second event.

5 Q Had you all planned to go to a party after you
6 ate?

7 A (Whereupon, the witness raises his right
8 hand.) That was during the first event, not the
9 second event, if you are referring to the time we
10 went to Kickin' Chicken. That was during the first
11 event not the second.

12 Q So you all were going out to eat and then
13 going to a party?

14 A (Whereupon, the witness raises his right
15 hand.) Correct.

16 Q Who was driving when you left Kickin' Chicken?

17 A Kickin Chicken?

18 Q Yes. When you left that place, who was
19 driving?

20 A Mr. Starks was driving to his apartment. I
21 had never been to the apartment before, and that was
22 the first time me, Ms. Gaskins and Ms. Bruster were
23 going to Mr. Starks' apartment.

24 Q And so Mr. Starks -- now Mr. Starks pulled up
25 to Harm's (sic) apartment and got out of the car; is

1 that correct?

2 MR. SAVAGE: Objection, misstating the facts
3 in evidence.

4 THE COURT: Please repeat the question.

5 Q (By Mr. Sowell) When you left the Kickin'
6 Chicken restaurant, where did you go?

7 A (Whereupon, the witness raises his right
8 hand.) When we left Kickin' Chicken we went to Mr.
9 Starks' apartment?

10 Q When you left his apartment, were you going to
11 a party?

12 A (Whereupon, the witness raises his right
13 hand.) We were supposed to go to a party. We never
14 made it to the party.

15 Q And he was driving?

16 A (Whereupon, the witness raises his right
17 hand.) Yes, sir, he was.

18 Q And where was the party?

19 A (Whereupon, the witness raises his right
20 hand.) The party was supposed to be downtown on East
21 Bay Street at a club called Toucan Reef.

22 Q And so Mr. Starks was driving?

23 A (Whereupon, the witness raises his right
24 hand.) Yes, sir. Yes, sir, he was.

25 Q And he pulled up in front of the -- Mr. Harm's

1 (sic) apartment? Herb's apartment?

2 A (Whereupon, the witness raises his right
3 hand.) No. He went straight his apartment, as I
4 recall.

5 Q When you left his apartment, who was driving?

6 A When we left Mr. Starks' apartment?

7 Q Yes.

8 A (Whereupon, the witness raises his right
9 hand.) When we left Mr. Starks' apartment, Mr.
10 Starks was driving. And then from there we went to
11 Herb's house on Johns Island, or James Island.

12 Q Now did you, when you got to Herb's apartment,
13 was all this paraphernalia in the trunk of the car?

14 MR. SAVAGE: Objection, vague.

15 THE COURT: Please restate the question.

16 Q (By Mr. Sowell) When you got to Herb's house,
17 were the gloves, the hoods, the guns, and the tape in
18 the trunk of the car?

19 A (Whereupon, the witness raises his right
20 hand.) No, sir. Mr. Starks had that bag during the
21 first robbery as well.

22 Q I'm getting confused. Whose -- at the first
23 robbery, at Mr. Butler's apartment, who drove to Mr.
24 Butler's apartment?

25 MR. SAVAGE: Objection, asked and answered.

1 THE COURT: Overruled.

2 A (Whereupon, the witness raises his right
3 hand.) Mr. Starks drove to Mr. Butler's house.

4 Q And where were the gloves and the guns and
5 duct tape?

6 A (Whereupon, the witness raises his right
7 hand.) The gloves, gun and duct tape were in Mr.
8 Starks' possession. He had a black bag. Mr. Rice
9 might have been holding it, I can't clearly remember
10 at that point in time.

11 Q So you were going to a party, but Mr. Starns
12 (sic) drove by Mr. Butler's house?

13 A (Whereupon, the witness raises his right
14 hand.) At that point in time we weren't going to the
15 party, we were going to the robbery. After the
16 robbery, we were supposed to go to the party.

17 Q And when did you discuss the robbery?

18 A (Whereupon, the witness raises his right
19 hand.) Like I said in earlier testimony that we
20 discussed the robbery before when we were at Mr.
21 Starks' house. Before we were at Mr. Starks' house,
22 we discussed the robbery at my dorm on George Street
23 Apartments. And before that, the day before, day
24 prior to that, on Tuesday, in my apartment.

25 Q Now you just told me that you and the two

1 girls didn't think they were serious?

2 A (Whereupon, the witness raises his right
3 hand.) We didn't think they were serious. If -- if
4 you had a friend who always told you that he was
5 going to do something but never did it; if he always
6 went wolf, the boy that cried wolf, the boy that
7 cried wolf, once he finally did, once the wolf came,
8 nobody believed him.

9 That was kind of like Mr. Starks. That was
10 Mr. Starks' character. I never really took Mr.
11 Starks seriously about certain situations.

12 If it didn't have to do with sports, or if it
13 didn't have to do with sports, I really didn't take
14 Mr. Starks seriously. And that's the honest truth.

15 Q So you did not take him seriously. Should Ms.
16 Gaskins also not have taken him seriously?

17 A (Whereupon, the witness raises his right
18 hand.) Me and Ms. Gaskins had a conversation,
19 neither one of us took him seriously. That's why I
20 said I feel like it was my fault that this all
21 happened because I told her not to really worry about
22 Mr. Starks because I didn't take Mr. Starks
23 seriously.

24 Q At any time before he pulled into Mr. Butler's
25 house, did Mr. Starks do anything to make you think

1 he was -- this guy is really serious?

2 A (Whereupon, the witness raises his right
3 hand.) At that point in time nothing really stood
4 out that made me think, okay, Miguel is serious. I
5 didn't realize Miguel was serious really, honestly
6 until we got to Herb's house.

7 And then I still didn't think he was going to
8 go through with it, I thought he was going to play a
9 joke on Mr. Herb. And then when Ms. Gaskins came
10 back to the car, that's when I realized, all right,
11 Starks is really being serious.

12 Q Now when Mr. Starns (sic) pulled up, this is
13 the first incident, when Mr. Starns (sic) pulled up
14 into Mr. Butler's house, Mr. Starns (sic) got out of
15 the car, Mr. Rice got out of the car and they told
16 Ms. Gaskins to get out of the car; is that correct?

17 A (Whereupon, the witness raises his right
18 hand.) That's correct.

19 Q Now when they got out of the -- before she got
20 out of the car, did she say anything?

21 A (Whereupon, the witness raises his right
22 hand.) Not that I can remember.

23 Q Okay. So nobody thought they were serious.
24 Starns (sic) pulls up, puts the car in park, he and
25 Rice got out of the car, and they open the door and

1 tell Ms. Gaskins to get out of the car?

2 A It didn't exactly happened like that. Mr.
3 Starks rode past the house the first time. We
4 switched -- he rode to the end and showed me where
5 the house was. He rode to the end of the street. He
6 told me to get in the driver's seat.

7 I drove back halfway down the street. He told
8 me to stop. That's when Mr. Starks, Mr. Rice and Ms.
9 Gaskins got out of the car. He and Mr. Rice told Ms.
10 Gaskins to get out of the car. Me and Ms. Bruster
11 stayed in the car.

12 Once they got out of the car, they proceeded
13 to walk towards the house. I did not see what
14 happened once they got to the house because me and
15 Ms. Bruster rode to the end of the street not to stay
16 parked in the middle of the road.

17 Q So when Mr. Starns (sic) told Ms. Gaskins to
18 get out of the car, that's when you first began to
19 realize this guy is serious?

20 A (Whereupon, the witness raises his right
21 hand.) No. I still wasn't thinking he was serious.
22 Like I said before, you couldn't take Mr. Starks
23 seriously about anything if it didn't have anything
24 to do with sports.

25 So I didn't take him seriously until when Ms.

1 Gaskins came back to the car and said, your brother
2 is crazy -- because they used to call me and Mr.
3 Starks brothers.

4 Q So she didn't realize he was serious either
5 until she got back, did she?

6 A Exactly.

7 Q Now did you -- when they got out of the car,
8 Mr. Starks told Ms. Gaskins to get out of the car,
9 and you drove down the street, is that right?

10 A (Whereupon, the witness raises his right
11 hand.) Yes, sir, that is correct.

12 Q So you did not see what Mr. Starks told to Ms.
13 Gaskins when he made her get out car?

14 A (Whereupon, the witness raises his right
15 hand.) After she got out of the car, I did not hear
16 anymore conversations because the doors were closed
17 and I drove off.

18 That's why I said, I can't testify to what
19 happened when she wasn't in my presence. The only
20 thing I can testify to is what happened when she was
21 in my presence.

22 Q So you don't know if Mr. Starks, Starns (sic)
23 pulled a gun on Ms. Gaskins and insisted she do that,
24 did you?

25 A (Whereupon, the witness raises his right

1 hand.) That's what I said before, I do not know.
2 she never told me that. If she would have, I would
3 have handled the whole situation a lot differently.

4 Q If you had known he was serious, you wouldn't
5 have gone to his house, would you?

6 A (Whereupon, the witness raises his right
7 hand.) If I had known he was serious, I would have
8 never even put me or Ms. Gaskins or Ms. Bruster in
9 this situation by introducing them to Mr. Starks.

10 If I had known Mr. Starks was capable of these
11 kind of things, I would have listened to my mother
12 and to other counsel, other people around me saying
13 to stop hanging around with Mr. Starks.

14 (Whereupon, the witness raises his right
15 hand.) Like I said, I had poor character judgment at
16 that point in time.

17 Q I believe during direct examination yesterday
18 you told this jury that Ms. Gaskins was forced to do
19 this. What did you mean by that?

20 A I said --

21 MR. SAVAGE: Objection, misstating the facts
22 in evidence.

23 THE COURT: Overruled.

24 Sir, you may answer the question.

25 THE WITNESS: Yes, Your Honor.

1 A (Whereupon, the witness raises his right
2 hand.) I never said she was forced to do it. I said
3 there was peer pressure, but it was never forced.
4 She was never forced into anything.

5 Q Well you don't know what happened after Starns
6 (sic) told her get out of the car, do you?

7 A (Whereupon, the witness raises his right
8 hand.) No, sir, I do not.

9 Q And before that point in time, everybody
10 thought Starns (sic) was some kind of idiot and was
11 just joking; isn't that correct?

12 A (Whereupon, the witness raises his right
13 hand.) Yes, sir. We used to refer to Miguel as the
14 dumb jock.

15 Q He was a quarterback for Citadel?

16 A Yes, sir.

17 Q And he was buying marijuana from a Citadel
18 coach?

19 A (Whereupon, the witness raises his right
20 hand.) From my understanding, yes, sir.

21 Q And he was also buying marijuana from Mr.
22 Butler?

23 A (Whereupon, the witness raises his right
24 hand.) From my understanding, yes, sir.

25 Q And he had talked to Mr. Butler earlier that

1 day; is that correct?

2 A (Whereupon, the witness raises his right
3 hand.) Mr. Rice talked to Mr. Butler earlier that
4 day, not Mr. Starks.

5 Q And the incident involving the coach, either
6 Rice or Starks had also talked to the coach earlier
7 that day?

8 A (Whereupon, the witness raises his right
9 hand.) Mr. Rice talked -- I mean Mr. Starks talked
10 to the coach earlier that day.

11 Q So first incident, Rice talked to the victim
12 earlier that day?

13 A Correct.

14 Q And the second incident, Mr. Starks talked to
15 the victim earlier that day?

16 A (Whereupon, the witness raises his right
17 hand.) Correct. At one point in time all four of
18 the people, Mr. Rice, Mr. Starks, Mr. Butler and Mr.
19 Harpe were all Citadel cadets together from my
20 understanding.

21 Q And how did anybody have any idea that these
22 victims wouldn't recognize those perpetrators?

23 A (Whereupon, the witness raises his right
24 hand.) I have no idea how they didn't know. I
25 thought they would, but it wasn't -- Mr. Starks

1 wasn't taking my advice anyways. And I still didn't
2 think he was serious.

3 Q Well tell me about the second case. Well let
4 me backup. When you testified that Ms. Gaskins saw
5 the pistol, the pistol wasn't pointed at her, you
6 really don't know what happened after Starns (sic),
7 Starks made her get out of the car, do you?

8 MR. SAVAGE: Objection, asked and answered.

9 THE COURT: Overruled.

10 A (Whereupon, the witness raises his right
11 hand.) Like I said before, I don't know what
12 happened once she got out of the car. I only know
13 and only can testify to what happened in my presence.

14 Q After all of this plans and talks and jokes
15 and shooting the bull and smoking marijuana, and you
16 all talked about this crazy little idea, did -- would
17 you have allow Ms. Gaskins to get involved in that
18 situation?

19 A (Whereupon, the witness raises his right
20 hand.) No, sir. I would not have allowed her,
21 myself, nor Ms. Bruster to get involved into the
22 situation. I never thought, a day in my life, that
23 this would have escalated to this. I never would
24 have thought Mr. Starks would have put me in a
25 situation like this. And I sure wouldn't have put

1 Ms. Gaskins, somebody I care about, and/or Ms.
2 Bruster, a mutual friend that I called a sister, into
3 a situation like this.

4 Like I said, I am sincerely sorry for putting
5 us into this situation like this. I had poor
6 character judgment at that point in time.

7 Q How long have you known Ms. Gaskins?

8 A A little over a year now.

9 Q How long did you know her before this
10 incident?

11 A Roughly six to seven months.

12 Q So it has been year and a half since you met
13 her, then?

14 A (Whereupon, the witness raises his right
15 hand.) Yes, sir.

16 Q And you saw her a lot the first six months?

17 A (Whereupon, the witness raises his right
18 hand.) Yes, sir. Daily basis.

19 Q Can you tell me anything about her character?

20 A (Whereupon, the witness raises his right
21 hand.) Ms. Gaskins has good character judgment. She
22 hangs out with a selected few. She is smart. She is
23 very intelligent. And she is to herself, unlike me,
24 I'm more of an outgoing person, and I have lot of
25 friends.

1 Ms. Gaskins has a lot friends too, but she
2 sticks with a selected few. She has a better
3 character judgment than I do, I must say, because she
4 doesn't put herself around -- how can I -- idiots,
5 like I put myself around Mr. Starks.

6 Q Do you think she would ever do anything to
7 hurt anybody?

8 A No, sir. I can't say she would do anything to
9 hurt anybody.

10 Q Do you know her family?

11 A (Whereupon, the witness raises his right
12 hand.) Yes, sir.

13 Q And have you met her dad and mother?

14 A (Whereupon, the witness raises his right
15 hand.) Yes, sir. I have the utmost respect for her
16 mother and her father.

17 Q When all -- of course, when you all were
18 approaching the first incident, Mr. Brewster's (sic),
19 did either Starns (sic) or Rice get out of the car
20 and open the trunk?

21 A (Whereupon, the witness raises his right
22 hand.) I don't recall.

23 Q Who got out of the car first?

24 A (Whereupon, the witness raises his right
25 hand.) I believe Mr. Starks, but I could be wrong.

1 Like I say, it was so long ago I don't recall exactly
2 who got out of the car first, the little details like
3 that.

4 Q It would have been either Rice or Starns
5 (sic)?

6 A (Whereupon, the witness raises his right
7 hand.) Yes, sir. Either Rice or Starks was the
8 first out of the car.

9 Q And it was Starns (sic), I believe, that
10 opened the car door and told Ms. Gaskins to get out?

11 MR. SAVAGE: Objection, hypothetical.

12 THE COURT: Overruled.

13 Sir, you may answer the question. Do you need
14 it repeated?

15 THE WITNESS: Yes, Your Honor, please, repeat
16 it.

17 Q (By Mr. Sowell) It was Starns (sic) who
18 opened the car door and ordered Ms. Gaskins to get
19 out; is that correct?

20 A (Whereupon, the witness raises his right
21 hand.) I believe so.

22 Q And at that point you didn't see them anymore.
23 You didn't know what they were doing until she came
24 back?

25 A (Whereupon, the witness raises his right

1 hand.) Correct.

2 Q When she came back she said, that guy's crazy?

3 A (Whereupon, the witness raises his right
4 hand.) Correct.

5 Q Did she want anything out of that house?

6 A (Whereupon, the witness raises his right
7 hand.) No, sir.

8 Q Did she take anything out of that house?

9 A (Whereupon, the witness raises his right
10 hand.) At that point in time, she only took out of
11 the house what was given to her when Mr. Starks put a
12 box in her hand, when Mr. Starks put a box in Ms.
13 Bruster's hand, and Mr. Starks gave me a box to put
14 in the car.

15 Q Did she take anything home with her?

16 A (Whereupon, the witness raises his right
17 hand.) No, sir. She did not bring anything back to
18 campus with her, neither did I.

19 Q Did she ever benefit from Mr. Brewster's (sic)
20 house?

21 A (Whereupon, the witness raises his right
22 hand.) No, sir.

23 Q Did she ever want to benefit from Mr.
24 Brewster's (sic) house?

25 A (Whereupon, the witness raises his right

1 hand.) Not to my personal knowledge, no, sir.

2 Q You told us yesterday -- let me back up. I
3 believe you said yesterday that Ms. Gaskins came back
4 to the car after her trip into the front porch of Mr.
5 Brewster's (sic) and she said, Starns (sic) and Rice
6 are crazy; is that correct?

7 MR. SAVAGE: Objection, asked and answered
8 multiple times.

9 THE COURT: Overruled.

10 A Yes, she did say that. She did say at Herb
11 Butler's house that Mr. Starks and Mr. Rice are
12 crazy. They bombarded into the house. And when they
13 bombarded into the house, I ran away and came back
14 here.

15 Like I said, she was excited, hysterical. You
16 know, she was out of her normal character.

17 Q Did she say, they forced their way into the
18 house?

19 A (Whereupon, the witness raises his right
20 hand.) Yes. She said they forced -- they forced
21 their way into the house. They bombarded the door.
22 She said, if I'm recalling exactly correctly, she
23 said that she knocked on the door, somebody answered
24 the door, and as soon as somebody answered the door,
25 they bum-rushed their way into the house.

1 And from there, she ran away and she came to
2 the car.

3 Q After you all went to the Kickin' Chicken, I
4 said that right, didn't I? After you all went there
5 to eat, I think planned to go to a party?

6 A (Whereupon, the witness raises his right
7 hand.) Yes, sir. Before we even went to the Kickin'
8 Chicken the plan was -- I promote for one of the
9 groups that throw parties, Fan Club and Thunder Cat
10 DJ's. We had a party that night at Toucan Reef.
11 We were supposed to go --

12 Q You can drop your arm down.

13 A Okay.

14 We were supposed to go to Toucan Reef that
15 night. And for a friend of ours, it was her
16 birthday, plus I was promoting a party. I had told
17 Mr. Rice and Mr. Starks about that earlier that day
18 when they came to our campus before me and Ms.
19 Gaskins went to class, before my scholarship meeting,
20 I told them about the party. So that was the plan
21 for that night.

22 Mr. Starks kept insisting on the robbery at
23 that point in time.

24 Q But you didn't take him seriously?

25 A No, sir, I didn't. I was planning on being at

1 the party by 12:30, 1:00 at the latest.

2 Q Did you have some kind -- I didn't understand
3 what you said about the party. Did you have
4 something to do with the organization of the party?

5 A Yes, sir, I did.

6 Q Did you chip in money for the party favors or
7 to lease the place or anything like that?

8 A No, sir. Through our organization now that we
9 don't have the put up money to throw a party anymore,
10 like out of our pockets through Fan Club and Thunder
11 Cat.

12 Q What kind of organization is this?

13 A It's just a group, just a little college --
14 couple of college kids we have from CSU, we promote
15 parties. It's a little extra pocket change when we
16 throw a successful party.

17 And a couple of the guys DJ. And we just
18 print flyers and everything, and pass them out. We
19 have our little Thunder Cat DJ badges.

20 Q When people come to the party, do they pay to
21 get in?

22 A Yes, sir.

23 Q Okay. So you were one of the organizers of
24 the party. You wanted everybody to go to the party
25 because you were going to get money out of it and you

1 were partying too?

2 A Yes, sir.

3 Q And is there any possible reason that you
4 would give up money that you were going to make off
5 this party endeavor to go help Starns (sic) rob a
6 house you wanted nothing to do with, and got nothing
7 out of?

8 A Like I said, at that point in time I wasn't
9 taking Mr. Starks seriously. He told me we were
10 going to make the party.

11 When I saw we weren't going to make the party,
12 me and Mr. Starks had got into. Like, man, look I
13 need to go on, I'm trying to get back downtown. I
14 wasn't even familiar with that side of town anyways.
15 So I was really out of my bearings.

16 If I had a car, it would have been different.
17 If I had my own personal car, it would have been
18 different. We would not have been there.

19 Q So you gave up money from the party and you
20 got nothing out of the robbery, wanted nothing out
21 robbery, and didn't even know you were going to the
22 robbery?

23 MR. SAVAGE: Objection, misstatement of the
24 facts in evidence. He did get something out of the
25 robbery.

1 THE COURT: You can clean that up on redirect.
2 Wide latitude in cross. Overruled.

3 A For the most part, yes.

4 Q (By Mr. Sowell) Did Ms. Bruster get anything
5 out of the robbery?

6 A No, sir. Not of my personal knowledge.

7 Q Did Ms. Gaskins get anything out of the
8 robbery?

9 A No, sir.

10 Q Did they miss the party they wanted to go to?

11 A Yes, they did miss the party. And one of
12 their mutual friends, our mutual friend, Cheyenne,
13 it was her birthday party. Yes, they did miss the
14 party.

15 Q I believe you told us that Ms. Starns (sic)
16 was really nervous and hysterical when she came back
17 to the car after the first robbery?

18 MR. SAVAGE: Objection, misstatement of
19 testimony.

20 THE COURT: Overruled.

21 A Yes, sir. Ms. Gaskins was excited after she
22 came back to the car, to the vehicle, she was.

23 Q After the first robbery, who brought up -- did
24 anyone -- did you hear anyone threaten to kill the
25 parents of one of the girls if she didn't cooperate?

1 A (Whereupon, the witness raises his right
2 hand.) No, sir.

3 Q You don't have to raise your hand.

4 A No, sir.

5 Q All right. Were there any times that you and
6 one of the two thugs, meaning Rice and James --

7 MR. SAVAGE: Objection, Your Honor.

8 THE COURT: Be careful of the
9 characterizations, Mr. Sowell.

10 Q (By Mr. Sowell) Well so that I won't have to
11 mispronounce Reggie Rice and Miguel Starns (sic), I
12 will call them two big boys?

13 A Okay.

14 MR. SAVAGE: Objection, Your Honor.

15 THE COURT: Characterization. Refer to them
16 by their name or either as some other terminology but
17 not any characterizations. Sustained.

18 MR. SOWELL: Sorry, Your Honor.

19 Q (By Mr. Sowell) Were there times that Ms.
20 Gaskins was alone with either Starks or Reggie or the
21 two of them after the first robbery, before the
22 second?

23 MR. SAVAGE: Objection, Your Honor, vague.

24 Q (By Mr. Sowell) In between the two --

25 MR. SOWELL: I will rephrase, Your Honor.

1 Q (By Mr. Sowell) In between the two robberies
2 was there anytime when the girls, or one or two of
3 the two girls, were present with the Reggie and
4 Starns (sic) when you were not there?

5 MR. SAVAGE: Objection, speculation.

6 THE COURT: Overruled.

7 A Yes. There was a time, if I'm not mistaken,
8 that Ms. Bruster was alone with Mr. Starks and Mr.
9 Rice. And it's pretty much sure Ms. Gaskins was
10 alone with Mr. Starks and Mr. Rice at one point in
11 time. I could have been in class or anywhere.

12 Q So you don't know what those two did to her,
13 or threatened her, or her said to her when you
14 weren't there in between these two robberies?

15 MR. SAVAGE: Objection, Your Honor.

16 THE COURT: Basis?

17 MR. SAVAGE: Form.

18 THE COURT: Overruled.

19 A No, I do not know what happened during that
20 time period. I cannot testify to that because I
21 wasn't there at that point in time.

22 Q (By Mr. Sowell) Did you ever see Ms. Gaskins
23 crying?

24 A No, sir, not during that time. Not that I can
25 recall.

1 Q Reggie used to be a football player at the
2 Citadel; is that correct?

3 A That was my understanding, yes, sir.

4 Q What position did he play?

5 A I believe he played receiver. I'm not quite
6 sure.

7 Q And Mr. Starns (sic) played quarterback?

8 A Yes, sir.

9 Q And quarterbacks are the guys who talk to the
10 coaches all the time, aren't they?

11 A Yes, sir. Quarterbacks are typically leaders
12 of the team, the head of the football team.

13 Q They are the one always talking to the coach?

14 A Pretty much.

15 Q Now listen, if a coach is going to recognize
16 anybody's voice, it's going to be the quarterback's
17 voice, isn't it?

18 A Yes, sir. The quarterback has a distinct
19 voice. He calls cadences, he runs the team, he runs
20 the offense. So, yes, it's fair to say that the
21 quarterback's voice is very distinguishable.

22 Everybody in the school, from high school to
23 college, knows the quarterback.

24 Q And Reggie used to buy marijuana from Mr.
25 Butler?

1 A That is my understanding. Yes, sir.

2 Q And do you know how many times Reggie did buy
3 marijuana from the Mr. Butler?

4 A I honestly can't say because, like I said
5 before, I had just met Reggie. I did not know Mr.
6 Butler or Mr. Harpe, so I just know he said he and
7 Mr. Starks said they used to buy marijuana and other
8 narcotics from Mr. Butler and from Mr. Harpe.

9 Q Now I believe it was Mr. Rice who called Mr.
10 Butler before the first incident; is that correct?

11 A Yes, sir. That's correct.

12 Q Did you overhear that conversation?

13 A Yes, sir.

14 Q Did Mr. Butler sound like he would recognize
15 Mr. Reggie's voice when he answered the phone?

16 A I can't testify to what Mr. Butler said
17 because he didn't -- Mr. Rice didn't have it on
18 speaker phone. But Mr. Rice and Mr. Butler had a
19 conversation, yes.

20 Q And do you remember what the terms of the
21 conversation were?

22 A Mr. Rice was asking Mr. Butler about buying
23 narcotics.

24 Q Did they sound like they'd had a long-term
25 relationship?

1 MR. SAVAGE: Objection.

2 A Yes.

3 MR. SAVAGE: Speculation.

4 THE COURT: I'm going to him a little
5 latitude based on his present-sense impression.

6 A Yes. Mr. Rice was -- Mr. Rice was telling Mr.
7 Butler he was back in town and he was looking to buy
8 some -- some weed and some, some, the term he used
9 was, I'm trying to buy wild, you know, a nice bit of
10 wild.

11 And Mr. Butler said, well, he didn't have
12 none. He was about to re-up and everything. And
13 that's from what Mr. Rice told us after he had gotten
14 off the phone.

15 Q Did Mr. Butler have anything to do with the
16 football team?

17 A I'm not quite sure. I just know at one point
18 in time he was a cadet. That's what Mr. Rice and Mr.
19 Starks told me. I don't know if he was an athlete at
20 the 'del.

21 Q Mr. Starns (sic), I believe had already been
22 kicked off the football team; is that correct?

23 A From my knowledge, Mr. Starks had told me that
24 he had been having problems on the team, that he had
25 quit the team, and that he was transferring to

1 Appalachian State University. He was supposed to
2 have a meeting with the Appalachian State coach.

3 This was on Tuesday that he told me this, and
4 we talked more briefly about it Wednesday. On
5 Thursday is when he told me, he came to me and he
6 told me that he had talked with the coach, his
7 transfer was in order, and this is going to be his
8 last semester at the Citadel.

9 He was happy because he was going to transfer
10 to a program where he was going to get to run the
11 style of offense he wanted to run. And he said the
12 schoolwork was going to be easier. And he was going
13 to get to play baseball as well.

14 Q Now do you know who pulled guns on Mr. Butler?

15 A No, sir, I do not.

16 Q Do you know who pulled guns on Mr. Butler's
17 girlfriend?

18 A No, sir, I do not. I did not even know at the
19 time that Mr. Butler's girlfriend was inside the
20 apartment, the house. Mr. Starks never told me a
21 female was in there.

22 Q Did you see either Rice or Starns (sic)
23 exhibit a gun to anyone at Mr. Butler's home?

24 A No, sir. I knew they had the pistols, but I
25 didn't not see them pull the pistols on anybody.

1 Q And you do know that Mr. Butler did not call
2 the police until several hours after this incident?

3 A I'm not fully aware of that. I didn't know
4 that either.

5 Q Did you think that Mr. Butler had reason to be
6 afraid for his life when he saw Rice and Starns (sic)
7 wielding guns?

8 MR. SAVAGE: Objection, Your Honor.

9 THE COURT: Sustained. Speculation.

10 Q (By Mr. Sowell) If you had been in Mr.
11 Butler's shoes, would you have been afraid for your
12 life?

13 MR. SAVAGE: Objection, vague.

14 THE COURT: Sustained, speculation. Move
15 along.

16 Q (By Mr. Sowell) I think that you did testify
17 that you heard Mr. Butler say, please don't kill me?

18 A That was Mr. Harpe who said that.

19 Q I'm sorry. Did you see either Rice or Starns
20 (sic) pull guns at Mr. -- the coach's house?

21 A Yes, sir, I did.

22 Q And did the coach appear to be afraid for his
23 life?

24 A Yes, sir, he was.

25 Q And he had reason to be afraid for his life?

1 A At that point in time I was afraid, so yes.

2 Q Do you know why the two girls came back into
3 the coach's apartment?

4 A No, sir, I don't.

5 Q Were they trying to get you all to leave?

6 A I believe so. Because Ms. Gaskins had texted
7 me, hurry up, you all need to come on, what's taking
8 you all so long?

9 From my understanding, Ms. Gaskins and Ms.
10 Bruster was never supposed to come into the
11 apartment. I was never supposed to go into the
12 apartment. Mr. Starks persuaded me and he kept
13 asking me to go in the apartment, that's why I went
14 the second time. He said they needed back up.

15 But I never thought Ms. Gaskins and Ms.
16 Bruster were going to come to the apartment, let
17 alone come in the apartment. That wasn't part of the
18 plan.

19 Q What is the issue about a Citadel ring?

20 MR. SAVAGE: Objection, Your Honor.

21 THE COURT: Basis?

22 MR. SAVAGE: Facts not in evidence.

23 THE COURT: Overruled. The testimony is Mr.
24 Rice had on a ring at the time of the arrest.

25 A The ring, from what I understand through a

1 couple of people that I know --

2 Q (By Mr. Sowell) Don't tell me what somebody
3 else told you. Tell me what you know about the
4 police officers -- you testified that police officers
5 stopped you two, Rice and you, and discussed it with
6 you, and they were going to leave, let you all leave
7 before the ring showed up. What was that issue?

8 A Once we were pulled over, the police ran my
9 license and everything, all the registration on the
10 car. When he noticed Mr. Rice had on a Citadel ring,
11 he said, oh, you are a graduate of the Citadel.

12 And Rice said, yeah, I graduated and this,
13 that and the third. So Mr. Rice, he -- that's when
14 he proceeded to say, well, we gear, and this, that
15 and the third, and then he separated us after that.

16 Q I'm sorry, I couldn't understand what you
17 said. You said that he said, I went to the Citadel
18 and?

19 A He told the officer that he had graduated from
20 the Citadel, that's why he had on the ring. The
21 Citadel ring is a sign that you are a graduate of the
22 school.

23 A lot of Citadel graduates take pride in their
24 ring. It's kind of like when you win a national
25 championship. People take pride in their ring. It's

1 a pride thing.

2 The officer noticed it on Mr. Rice's finger
3 and that's what triggered him to ask questions about
4 the Citadel. I guess because Mr. Harpe had already
5 got in contact with the police and said it was a
6 robbery and he's a Citadel graduate and coach. So
7 one thing lead to -- this, lead to the third.

8 Q Did the ring ever show up that you know of?

9 A Not to my personal knowledge. I mean Mr. Rice
10 had it on his finger, so. I know Mr. Rice had it on,
11 so.

12 Q Do you know where he got it?

13 A He had to get it from Mr. Harpe's apartment.

14 Q So he is stupid enough to rob somebody with
15 the ring and wear it out the door?

16 MR. SAVAGE: Objection.

17 THE COURT: Sustained.

18 Q (By Mr. Sowell) After the first robbery, did
19 Ms. Gaskins tell you about her fear of Starns (sic)
20 or Reggie Rice?

21 A She -- after she said Mr. Starks was crazy and
22 Mr. Rice was crazy, we really didn't go into detail
23 about it anymore because I had told her we weren't
24 going to go through with the next one.

25 You know, Mr. Starks was still talking about

1 another one. I was like, it's not going to happen.
2 That was what I told her. It wasn't going to happen.
3 That next robbery wasn't going to go down.

4 Because I didn't think Mr. Starks was serious,
5 and then when I saw he was, I said it wasn't going to
6 happen again. You know, I wasn't going to put myself
7 or her back into that situation.

8 Q How did it happen?

9 A Mr. Starks just kept peer pressure.

10 Q I believe you said that Ms. Gaskins was alone
11 with Rice and Starns (sic) after the first robbery?

12 A I said it was a possibility that she was
13 alone. I know for a fact Ms. Bruster was alone
14 there. It's a possibility Ms. Gaskins was alone.

15 Like I said, being in college you have
16 classes. Mr. Rice and Mr. Starks used to come over
17 to College of Charleston. They could have met up at
18 any point in time. So, yes it's possible, it's
19 highly possible.

20 Q So you don't know if Starns (sic) or Rice
21 pulled a gun on her after she got out of the car in
22 the first incident?

23 A No, sir, I do not.

24 Q And you don't know if they pulled a gun on her
25 after the first incident, before the second incident?

1 A No, sir. I do not.

2 Q By incident, I'm talking about the robberies?

3 A Yes, sir, I understand.

4 Q So you don't know -- when Starns (sic) ordered
5 her out of the car, you don't know what threats he
6 made to her?

7 A No, sir, I do not.

8 Q And after the first robbery, you don't know
9 what threats Starns (sic) or Rice made to her before
10 the second robbery?

11 A No, sir, I do not.

12 Q But you do know these two guys have a gun and
13 a sword and they were wielding them and threatening
14 people with them?

15 A Yes, sir. I do know they were brandishing two
16 firearms and another weapon in both. It's possible.
17 I have seen them brandish and pull a firearm on
18 somebody before. So, yes, it is possible.

19 Q In your statement, on your second statement,
20 all these talks you had with the police officers, you
21 told them that Ms. Gaskins was cooperative and she
22 was willing to cooperate with Starns (sic) and Rice;
23 is that correct?

24 A Yes, sir.

25 Q Did you really mean it appeared that she was

1 trying to cooperate, but you don't know what threats
2 they made on her life?

3 A Yes, sir.

4 MR. SAVAGE: Objection, Your Honor, to the
5 form.

6 THE COURT: I'm going to give you a little
7 latitude, but be very careful of the form, Mr.
8 Sowell.

9 MR. SOWELL: Yes, ma'am.

10 Q (By Mr. Sowell) The question I just asked
11 you, what was that answer?

12 A Yes, sir, that is possible. She -- it's
13 possible that she didn't tell me. She was saying she
14 was willing, but she didn't tell me if they made
15 threats or posed threats to her. So if she didn't
16 tell me, I wouldn't know.

17 Q Did she say to you, I'm willing, or did she
18 say, yeah, I'll do it?

19 A She said, I'll do it.

20 Q You don't know what prompted that decision, do
21 you?

22 A No. I just remember her saying, I'll do it as
23 long as nobody gets hurt and nobody gets in trouble.
24 Like I said before, Ms. Gaskins is a caring person.
25 She cares about others. She only messes with a

1 selected few.

2 MR. SOWELL: Nothing further, Your Honor.

3 THE COURT: Any redirect?

4 MR. SAVAGE: Yes, Your Honor.

5 THE COURT: You may proceed.

6 MR. SAVAGE: Court's indulgence.

7 REDIRECT EXAMINATION

8 BY MR. SAVAGE:

9 Q Mr. Francois, let's see if we can clarify a
10 couple of things up to begin with?

11 A Yes, sir.

12 Q When you first spoke with Detectives Dasher
13 and Holmes, were you given Miranda warnings?

14 MR. SOWELL: Your Honor, that wasn't brought
15 up on cross-examination. I didn't --

16 MR. SAVAGE: Absolutely.

17 THE COURT: Do not speak to one another and no
18 speaking objections.

19 The objection is overruled. It's responsive
20 to cross.

21 Sir, you may answer the question. Do you need
22 it repeated?

23 THE WITNESS: No, ma'am.

24 THE COURT: You may answer.

25 THE CLERK: Okay, thank you.

1 A I believe I was given my Miranda warnings,
2 rights.

3 Q (By Mr. Savage) And as part of those
4 warnings, were you asked if you wanted to speak to a
5 lawyer?

6 A Yes, sir.

7 Q And did you tell them when you heard those
8 warnings whether you wanted to speak to lawyer or
9 not?

10 A I can't remember, but I knew better, studying
11 law.

12 Q What did you know?

13 A I knew I should have asked for an attorney at
14 that point in time.

15 Q Did you ask for an attorney at that point in
16 time?

17 A I don't believe I did.

18 Q Okay. So you were, weren't forced to talk to
19 them without legal counsel at that point?

20 A When I met with Detective Dasher and Detective
21 Holmes they questioned me at first. And at first I
22 wasn't cooperating. Then we left the room, they took
23 me to go get some water.

24 And I was talking to some other detectives,
25 and that's when they really said, you know, you need

1 to do this, you need to do this, you need to do this,
2 you need to do this, for about an hour. And then me,
3 Detective Holmes and Detective Dasher went back into
4 the room.

5 And then Detective Holmes and Detective Dasher
6 was like, you know, you'll get life for this. And
7 then that's when I started really just going on and
8 telling Detective Holmes and Detective Dasher what
9 had happened that evening, to a certain extent.

10 Q Okay. But that wasn't my question. My
11 question was, when you were given your Miranda
12 warnings, you weren't forced to talk to them without
13 a lawyer?

14 A No, sir, I was not forced.

15 Q You knew you were allowed to speak to a lawyer
16 at that point if you wanted to?

17 A Yes, sir, I was.

18 Q At any time when you were talking to them,
19 Detective Dasher and Detective Holmes, did you tell
20 them you wanted to speak to a lawyer?

21 A I don't believe I did, no, sir.

22 Q You mentioned in your cross-examination there
23 that Miguel Starks bought, purchased marijuana from
24 both of the victims here, Herbert Butler and Josh
25 Harpe. Did you ever see Miguel Starks purchase

1 marijuana from Mr. Harpe?

2 A No, sir.

3 Q Did you ever hear him talk to him about doing
4 a drug deal with Mr. Harpe?

5 A With Mr. Harpe, no, sir.

6 Q Let's go back and talk about the first home
7 invasion of Herbert Butler's place. You mentioned
8 you thought this was joke on Herb. When did you
9 first talk to Mr. Starks about the first home
10 invasion?

11 A That was on Tuesday.

12 Q And when you spoke to him, did he have any
13 weapons with him?

14 A Yes, sir, he did.

15 Q What did he have?

16 A The little, small caliber black and nickel
17 plated handgun.

18 Q And at that point did you think -- what was he
19 talking to you about there?

20 A He was talking to me, first he was talking
21 about his transfer to Appalachian State. Then he
22 started talking about the robbery of the coach.

23 Q And did you ever talk about the robbery at
24 that point?

25 A Yes.

1 Q And that conversation, he had that gun with
2 him?

3 A Yes, sir, he did.

4 Q And at that point did you think it was joke?

5 A Yes, sir, I did.

6 Q Has anyone in the past talked to you about a
7 robbery with a gun and you thought it was a joke?

8 A Nobody in the past has ever talked to me
9 about a robbery.

10 Q When you went -- let's talk about the first
11 robbery. You drive over there to Herbert Butler's
12 place. And at some point you get in the car; is that
13 correct?

14 A Yes, sir.

15 Q When you were in the car, who gets out of the
16 car at that point?

17 A Mr. Starks, Mr. Rice and Ms. Gaskins gets out
18 of the car.

19 Q Where are you?

20 A I, when Mr. Starks gets out of the car, I was
21 in the backseat. When he gets out of the car, I get
22 into the front seat.

23 Q And at this point, when they get out of the
24 car, what do they get out of the car with?

25 A They get out of the car with both firearms,

1 the sword, Ms. Gaskins and whatever Mr. Starks had in
2 that bag which I believe was duct tape.

3 Q And did you see those items before you drove
4 over there?

5 A Yes, sir. I saw the items at Mr. Starks'
6 apartment.

7 Q So you saw them before you left?

8 A Yes, sir.

9 Q And before you left, you saw those items go
10 down into the car?

11 A Yes, sir.

12 Q And at that point, did you think it was a
13 joke?

14 A Yes, sir. Like I said before, you can't take
15 Mr. Starks seriously. Mr. Starks talks about doing a
16 lot of reckless things. Never have I seen Mr. Starks
17 talk about doing something reckless before doing it
18 that he actually went through.

19 I've seen the pranks and things of other natures.
20 He never went through with them. Smaller things. I
21 never thought he would go through with something as
22 big as this.

23 Q And when Mr. Starks, Mr. Rice and the
24 defendant got out of the vehicle, where did they go?

25 A From my knowledge, they went to the house.

1 Q And at this point, did you think it was a
2 joke?

3 A Yes, sir. Like I said before, I thought they
4 could have been just been playing a joke on her
5 because they knew them.

6 Q Where did you go once they got out of the car?

7 A I drove down the street.

8 Q Why didn't you stick around if this was a
9 joke?

10 A Because Mr. Starks told me to drive down the
11 street.

12 Q Why?

13 A Because he told me not to park in front of the
14 house, that they were about to go in the house.

15 Q To play a joke?

16 A No. He said to rob.

17 Q So at what point did this become a joke to
18 robbing someone?

19 A I never really deciphered it to being a real
20 robbery. I never -- I never took initiative to say
21 he's serious.

22 Q That wasn't my question. My question to you
23 is, at what point did this come from being a joke to
24 being a robbery?

25 A When Mr. Starks and Mr. Rice went into the

1 house.

2 Q Did you see them go into the house?

3 A No, sir.

4 Q Then how did you get to that conclusion?

5 A Because that's when the robbery occurred.

6 Q How do you know that?

7 A Because of the facts that has been laid.

8 Q You didn't see them go in the house, did you?

9 A No, sir.

10 Q So at what point did this turn from being a
11 joke to being a robbery?

12 A When Mr. Starks brought it up to me.

13 Q When?

14 A Tuesday.

15 Q Tuesday. So you knew on Tuesday that it
16 wasn't a joke, you knew it was a robbery?

17 A That's when Mr. Starks says yes.

18 Q And exactly when on Tuesday?

19 A Tuesday when he came over to my dorm and
20 talked to me and Ms. Gaskins.

21 Q Did you ever see what the inside of Mr.
22 Butler's house looked like?

23 A To a certain extent, yes.

24 Q How did that occur?

25 A When I went to get a lighter from Mr. Starks.

1 Q Did you ever see, have an idea of what it
2 looked like before that?

3 A No, sir.

4 Q Anyone ever draw a diagram of the house?

5 A Yes, sir.

6 Q Who?

7 A Mr. Starks drew a diagram on how the house sat
8 on the street.

9 Q And when did he do that?

10 A In my dorm.

11 Q When?

12 A Tuesday -- no Wednesday. Wednesday, the night
13 of the robbery. The day of the robbery, earlier that
14 day.

15 Q The robbery happened Tuesday night, going into
16 Wednesday morning. When did he do it?

17 A The robbery happened Wednesday night.

18 Q Okay. So he did it day of the robbery?

19 A Yes, sir.

20 Q After the first home invasion, this discussion
21 about the second one, did you think the second one
22 was a joke?

23 A At that point in time I knew Mr. Starks was
24 more serious.

25 Q My question was, did you think the second one

1 was a joke?

2 A No, sir.. Not entirely, no.

3 Q Not entirely?

4 A No.

5 Q Why not entirely? What do you mean by that?

6 A Part of me wanted to think that Mr. Starks
7 was doing it, but part of me knew that Mr. Starks was
8 serious.

9 Q What made you think Mr. Starks was serious?

10 A Because of what he had did the two days
11 before, on Wednesday.

12 Q Had anyone else done anything?

13 A Sir?

14 Q Had anyone else done anything?

15 A What do you mean by that?

16 Q You said partly because of what he had done
17 the day before?

18 A I mean, from what we had done a couple of days
19 before.

20 Q So it is what all of you had done?

21 A Yes, sir.

22 Q In that first home invasion, when the
23 defendant, Mr. Starks and Mr. Rice got out of the
24 vehicle, you're in the driver's seat of that blue
25 car?

1 A Yes, sir, I am.

2 Q Did you leave the area?

3 A Yes, sir.

4 Q Did you drive away from the crime scene in it
5 and flee?

6 A No, sir.

7 Q Why not?

8 A I don't know.

9 Q Could you have done that if you wanted to?

10 A Yes, sir, I could have.

11 Q You chose not to?

12 A Yes, sir.

13 Q Did you choose to stay?

14 A Yes, sir.

15 Q And did you make the decision to go back and
16 pick up Mr. Starks?

17 A Yes, sir.

18 Q And when you picked up Mr. Starks, did you
19 know that you were going to an ATM machine?

20 A Yes, sir. When I picked up Mr. Starks, he got
21 in the driver's seat and I got into the passenger
22 seat. So he drove to an ATM machine.

23 Q You mentioned on cross-examination after the
24 first home invasion, you stated you never would have
25 allowed this situation to happen if you had known

1 what was going on.

2 why did you allow the second one to happen?

3 A Peer pressure, just talking to Mr. Starks, you
4 know, Mr. Starks saying come on, man, we grew up
5 together. You know, thought you always had my back.
6 Stuff like that, comments like that from Mr. Starks.

7 Not having the willpower to tell him, no, that
8 it was wrong.

9 Q So how is it that you would never allow it to
10 have this situation occur then, explain that?

11 A I would have just not answered Mr. Starks'
12 phone calls if I would have known it was going to end
13 up like this. If I would have known that this could
14 have been as bad as it is now.

15 I would have just listened and took a heed to
16 what everybody else had been telling me from the
17 beginning.

18 Q What do you mean as bad as what it is now,
19 because you are in jail?

20 A Because I've lost everything.

21 Q Because you got caught?

22 A Yes, sir.

23 Q Not because of what you did to the victims?

24 A Yes, sir.

25 Q It is?

1 A Yes. I feel bad for the victims.

2 Q And you knew this prior to going into the
3 second one, correct?

4 A No, sir. I did not know what happened to the
5 victims in the first one.

6 Q But you knew there were going to be victims in
7 the second one?

8 A Yes, sir.

9 Q And you knew you were going to do a robbery?

10 A Yes, sir.

11 Q And you went ahead and did it anyway?

12 A Yes, sir.

13 Q And you chose to do that?

14 A Yes, sir.

15 Q And you profited from that second robbery?

16 A Not from second one, no, sir.

17 Q You profited from the first one?

18 A Yes, sir. A friend of mine received a TV
19 because it was my friend, I profited from it. Yes,
20 sir.

21 Q A friend you were going to share a room, was
22 going to be your roommate in the future.

23 MR. SOWELL: Your Honor --

24 THE COURT: Watch the leading. He is your
25 witness.

1 MR. SAVAGE: Yes, Your Honor.

2 Q (By Mr. Savage) In the first home invasion,
3 was the plan for any of the girls to go inside the
4 apartment or the house?

5 A No, sir.

6 Q Did any of the girls go inside the house?

7 A Yes, sir.

8 Q And that was against the plan?

9 A Yes, sir.

10 Q The second home invasion, was the plan for any
11 of the girls to go inside the apartment?

12 A No, sir.

13 Q Based on those two occurrences then, did you
14 think it was possible they could go in?

15 A In the second one I didn't really think it was
16 possible because they weren't even there.

17 Q Were they there in the first one?

18 A Yes, sir.

19 Q Did you think they were going in on the first
20 one?

21 A No, sir.

22 Q Would it be possible they could go in on the
23 second one?

24 A Yes, sir.

25 MR. SOWELL: Your Honor.

1 THE COURT: Yes, sir.

2 MR. SOWELL: I object to this line of
3 questioning.

4 THE COURT: Please approach.

5 (Whereupon, the following discussion was held
6 at the bench.)

7 THE COURT: I understand you may want to be
8 responsive to cross-examination, but don't rehash
9 your direct examination which is what you are doing.

10 MR. SAVAGE: Okay.

11 THE COURT: You need to be responsive to his
12 cross-examination.

13 MR. SAVAGE: These are all questions that came
14 up in his cross.

15 THE COURT: They all came up but you have to
16 elicit something additional to it or clarify it.

17 MR. SAVAGE: I am.

18 THE COURT: You are not, you are simply just
19 repeating again what you did in direct, and now
20 repeating what he did in cross.

21 MR. SAVAGE: Not so much. What I am doing
22 is --

23 THE COURT: I can hear better than you because
24 I'm objective and I know what I'm hearing. I'm not
25 going to restrict you, but you need to have it

1 responsive to cross-examination. And watch out for
2 the leading.

3 MR. SAVAGE: I am, Your Honor, but here's what
4 he said. He said he didn't think the girls were
5 going to go in in either one of them. He didn't
6 think it on the first one, and they did go in.

7 For him to think that they weren't possibly
8 going to go in the second one, that wasn't going to
9 be the plan --

10 THE COURT: I understand that. But it's still
11 you haven't drawn a distinction. You are simply
12 repeating what he said before.

13 MR. SOWELL: I also object to the leading.

14 THE COURT: I've already dealt with that.

15 MR. SAVAGE: Okay, Your Honor.

16 (In open court.)

17 THE COURT: Ladies and gentlemen, I'm going to
18 give you a brief restroom break. During the break,
19 please do not discuss the case. And I apologize for
20 not giving you a break.

21 I intent to finish this witness and then break
22 for lunch, so I apologize. If you would go with the
23 bailiffs. Please leave your notepads in your seats
24 and do not discuss the testimony in any fashion.

25 (Whereupon, the jurors exit the courtroom.)

1 (Whereupon, a recess was taken.)

2 THE COURT: Is the state ready to proceed?

3 MR. SAVAGE: Yes, Your Honor.

4 THE COURT: Defense ready to proceed?

5 MR. SOWELL: Yes, ma'am.

6 THE COURT: Please bring in the jury.

7 (Whereupon, the jurors enter the courtroom.)

8 THE COURT: You may proceed.

9 MR. SAVAGE: Thank you, Your Honor, may it
10 please the Court.

11 THE COURT: Yes, sir.

12 Q (By Mr. Savage) Mr. Francois, did the
13 defendant ever tell you she was threatened?

14 A No, sir, she didn't.

15 Q If she had told you that, what would you have
16 done?

17 MR. SOWELL: Leading, Your Honor.

18 THE COURT: I'm going give him a little
19 latitude.

20 A If she had would have told me that, then I
21 would have made sure that this whole situation
22 wouldn't have happened.

23 Q (By Mr. Savage) How?

24 A I would have just cut Mr. Starks off, period.

25 Q What do you mean by cut Mr. Starks off?

1 A I would have just stopped answering his phone
2 calls, ignoring him, not hung around him, not showed
3 him any attention. Like I should have in the first
4 place.

5 MR. SAVAGE: Court's indulgence, Your Honor.

6 I have nothing further, Your Honor.

7 THE COURT: Any objection to the witness being
8 excused, from the state?

9 MR. SOWELL: Your Honor?

10 MR. SAVAGE: No, Your Honor.

11 THE COURT: I am going to give you very brief
12 latitude. You may proceed.

13 RE CROSS-EXAMINATION

14 BY MR. SOWELL:

15 Q I believe you used the expression Mr. Rice and
16 Mr. Starns (sic) pulled Sasha out of the car before
17 they went into the house. Is that a good
18 characterization of how she got out of the car?

19 A I won't say she pulled -- they pulled her out
20 of the car, but they opened the door and told her to
21 get out.

22 MR. SOWELL: Nothing further, Your Honor.

23 THE COURT: Anything further from the state?

24 MR. SAVAGE: No, Your Honor.

25 THE COURT: Any objection to the witness being

1 excused from the State?

2 MR. SAVAGE: No, Your Honor.

3 THE COURT: From the defense?

4 MR. SOWELL: No, ma'am.

5 THE COURT: Sir, you are excused.

6 THE WITNESS: Thank you, Your Honor.

7 THE COURT: You are welcome.

8 Mr. Foreman, ladies and gentlemen, we are
9 going to take advantage of this break in testimony to
10 take our luncheon recess. We are going break for an
11 hour and fifteen minutes, which means you will return
12 at 1:45.

13 During the break, please do not discuss the
14 case among yourselves or with anyone else. Please do
15 not allow yourselves to be exposed to any media
16 coverage regarding this case. Do not have any
17 contact with anyone in or about the courthouse. And
18 please leave your notepads in your seats.

19 You'll return directly to your jury room at
20 quarter of two, which is -- gives you a little less
21 than an hour and 15 minutes. But I have 12:37, so it
22 is just a little less than an hour and 15 minutes.
23 But that should give adequate time to refresh
24 yourselves and return for testimony.

25 Have wonderful lunch. See you then.

1 (Whereupon, the jurors exit the courtroom.)

2 THE COURT: You can take your seats. Who is
3 the state's next witness?

4 MR. KIDD: Reggie Rice, he is another
5 codefendant.

6 THE COURT: And his lawyer is Ms. Williams; is
7 that correct?

8 MS. WILLIAMS: I'm here.

9 THE COURT: Ms, Williams, I assume you want to
10 be here for your client's testimony?

11 MS. WILLIAMS: Yes, ma'am, I will be here.

12 THE COURT: We are going to start promptly at
13 1:45. And when you come in, just go on ahead and
14 have the bailiff seat you with the deputy so your
15 client will have access to you.

16 MS. WILLIAMS: Will do, Your Honor. Thank
17 you.

18 THE COURT: Thank you very much for your
19 patience. I will see you all at 1:45.

20 MR. SAVAGE: Thank you, Judge.

21 (Whereupon, a recess was taken.)

22 THE COURT: State ready to proceed?

23 MR. KIDD: We are.

24 THE COURT: Defense ready to proceed?

25 MR. SOWELL: Yes, ma'am.

1 (Whereupon, the jurors enter the courtroom.)

2 THE COURT: You may be seated.

3 Ladies and gentlemen, I hope you had a
4 pleasant luncheon recess. We will now resume with
5 the testimony.

6 You may call your next witness.

7 MR. KIDD: Thank you, Your Honor.

8 State calls Reginald Rice.

9 MR. REGINALD RICE;

10 after having first been duly sworn to state the
11 truth, the whole truth and nothing but the truth,
12 testified on his oath as follows:

13 THE COURT: You may proceed.

14 MR. KIDD: Thank you, Your Honor, may it
15 please the Court.

16 THE COURT: You're welcome.

17 DIRECT EXAMINATION

18 BY MR. KIDD:

19 Q Good afternoon, Mr. Rice.

20 A Good afternoon.

21 Q I want to start out by saying, Mr. Rice, have
22 you met with me or anyone in my office before?

23 A Yes, I have.

24 Q On how many occasions?

25 A I think two times.

1 Q On two separate occasions you have been
2 brought over to the solicitors office?

3 A I have been brought over three times. One was
4 with the head solicitor, and twice with you.

5 Q Okay. So you met with our office on three
6 separate occasions. During those three meetings that
7 you had with us, have we made any promises to you or
8 any -- or entered into any sort of deals in exchange
9 for your testimony here today?

10 A No.

11 Q And have you been -- have you pled guilty to
12 any offenses relating to the incident which we're
13 here for today?

14 A Yes, sir.

15 Q What have you pled guilty to?

16 A The first degree burglary and the kidnapping
17 charges and the armed robbery charges and the violent
18 crime with the commission of gun.

19 Q And have you been sentenced?

20 A No, sir.

21 Q I want to go through a little background
22 information just so we can get a clear idea of who
23 all the parties are here today. Do you know Miguel
24 Starks?

25 A Yes, I do.

1 Q How do you know Mr. Starks?

2 A We started going to school together I think in
3 -- think it was '07 or '08 when he started.

4 Q And where did you go to the school?

5 A At the Citadel.

6 Q At the Citadel.

7 MR. KIDD: Your Honor, may I approach the
8 witness and the blackboard?

9 THE COURT: Uh-hum.

10 Q (By Mr. Kidd) I'm going to write these parties
11 names on the board just to try to keep everything
12 clear, all right?

13 So you said you know Miguel Starks and you
14 went to the Citadel with him; is that correct?

15 A Yes, sir.

16 Q All right. Did you know Stephen Francois?

17 A Not prior to the day that Starks introduced me
18 to him. Introduced me to the --

19 Q When was the first time you met Francois?

20 A The day of the robbery of Herbert Butler.

21 Q Is that the first robbery?

22 A Yes, sir.

23 Q All right. Do you know the defendant Sasha
24 Gaskins?

25 A No. I knew her the same amount of time that I

1 knew Francois.

2 Q You met her at the same time as Francois?

3 A Yes, sir.

4 Q Okay. And so the first time -- do you
5 remember when it was the first time you met her?

6 A It was the day of the robbery.

7 Q Do you know what day it was by any chance?

8 A I think that was the 24th.

9 Q Okay. So you met Francois and Gaskins on
10 February 24th?

11 A Yes, sir.

12 Q And that was the date of the first robbery?

13 A Yes.

14 Q Do you remember what day of the week that was
15 by any chance?

16 A Wednesday.

17 Q That was a Wednesday, all right. And how long
18 had you known Starks again?

19 A I think he had started going to the Citadel,
20 he either started going the year of '07 or '08. I
21 know I started going in '06. And I was two years,
22 about a year or two grade levels above him.

23 Q So you were a year or two older than he was or
24 ahead of him at the Citadel?

25 A Yes.

1 Q All right. So you met him in what year? You
2 think it was '07 or '08?

3 A Yeah, I say '08.

4 Q '08, all right. And you said you were playing
5 football with Starks?

6 A Yes, sir.

7 Q Okay. What position did Miguel Starks play?

8 A He played quarterback.

9 Q What position did you play?

10 A Originally, I originally played running back,
11 and then they switched me over to linebacker.

12 Q Okay. And in February 2010, were you still at
13 the Citadel?

14 A No, I wasn't.

15 Q Why did you leave the Citadel?

16 A Just didn't really like the school anymore. I
17 wasn't on the football team anymore, and I didn't
18 really see any need for me to stay in Charleston.

19 I had a child back in Augusta, and I was on
20 child support and I wasn't making any money going to
21 school. So I just wanted to do something to help my
22 children's mother money-wise with my child.

23 Q Before I get too ahead of myself, do you know
24 Breanna Bruster?

25 A I met her a little bit after I met Francois

1 and Gaskins, probably about.

2 Q Was it the same day or was it --

3 A Same day, but it probably was -- it wasn't at
4 the initial meeting that I met them. It was probably
5 about an hour later after I first met, after Starks
6 introduced me to them two.

7 Q But on the same day?

8 A Yep.

9 Q Okay. Do you know Herb Butler?

10 A Yes, I did.

11 Q And how did you know Herbert Butler?

12 A Me and him came in at the Citadel in the same
13 year..

14 Q So you knew Herbert Butler from the Citadel as
15 well?

16 A Yes.

17 Q All right. When did you first meet Herbert
18 Butler?

19 A Probably a little, it was 2006 when we both
20 came in. Probably sometime midway through the year,
21 or a couple of months after the year started.

22 Q So you met Butler in '06?

23 A Yes.

24 Q All right. Did you know Josh Harpe?

25 A Yes, I did.

1 Q Okay. When did you first meet Harpe?

2 A At the beginning of my school year of '06.

3 Q And what was Harpe doing at that time?

4 A At that time I think he was a senior and he
5 was, think he was --he -- when I first came in he was
6 like training us freshmen to basically be cadets.
7 And he was kind of helping out with the team, I guess
8 it was, like a type of student, like a trainer kind
9 of type thing.

10 Q Like a student coach or?

11 A Yeah, he wasn't really a coach, though. He
12 just, you know, helped around whenever the coaches
13 needed something done, he helped around and he was on
14 the staff.

15 When you come in at the Citadel as a freshman,
16 you, all the freshmen get trained by the seniors and
17 the juniors on what they are supposed to be, the
18 guidelines, what they are supposed to follow
19 throughout the entire year. And he was on that
20 particular staff that trained me and all the other
21 freshman athletes.

22 Q So he was a few years ahead of you at the
23 Citadel?

24 A Yes, I believe he was a senior.

25 Q And Butler, was he your age?

1 A Butler was my class.

2 Q He was in your class. So you all were pleeb's
3 -- what are you called?

4 A Knobs.

5 Q You all were knobs together at the Citadel,
6 you and Butler?

7 A Yes, sir.

8 Q All right. Can you tell the jury a little bit
9 about yours and Butler's relationship?

10 A We met through mutual friends. I had a
11 couple of friends with him. We both was in the first
12 battalion, and the battalion was broken up into
13 different companies; Alpha, Bravo, and Charlie and
14 Delta.

15 And in my company, I pretty much migrated
16 around the type of people that did the same type of
17 things I did, like smoke and drink and go out and
18 party.

19 And a couple of my friends that I was starting
20 to hang out with in Alpha, in my company, were real
21 good friends with Butler. I think they grew up with
22 him or something like that.

23 So we kind of got introduced mutually through
24 mutual friends. And, you know, that's how we started
25 hanging out. And, you know, we just would basically

1 hang out and smoke weed. And, you know, on the
2 weekends we might go to bars. And that's basically
3 what our relationship was.

4 Q Did you buy marijuana from Butler?

5 A I have in the past.

6 Q Was it like something you did all time of just
7 occasion or what was --

8 MR. SOWELL: Objection.

9 THE COURT: Basis?

10 MR. SOWELL: Leading.

11 THE COURT: Sustained, leading.

12 Q (By Mr. Kidd) Did you buy marijuana from
13 Herbert Butler?

14 A Yes, I did.

15 Q How was that arranged?

16 A Whenever he had weed, if I was looking for
17 weed and I couldn't find it anywhere else, you know,
18 I would ask him. He was one of the persons that I
19 would buy marijuana from.

20 Q Was that something that happened frequently?

21 A I wouldn't say I went to him every single time
22 I got reefer, but I did go to him a good amount of
23 times to get marijuana.

24 Lots of times, you know, it wasn't just always
25 me going to him buying weed. Lots of times I would

1 have weed and, you know, it wasn't just buyer-seller
2 type of relationship. If I had weed and he didn't
3 have any, a lot of times just the smoking would be on
4 me. And if I didn't have any and he had some, the
5 smoking, you know, would be on him.

6 Q Got you. Could you tell the jury a little bit
7 about you and Mr. Harpe's relationship?

8 A He was, like I said, he trained all of us
9 freshmen in that class basically to be cadets. And
10 he taught us the ins-and-outs of what being a cadet
11 was for the Citadel and.

12 Q Did you ever do any drugs with Mr. Harpe?

13 A I have smoked weed with him before.

14 Q Did you ever buy weed from him?

15 A No, I never bought weed from him.

16 Q I'm going to get to what we are here for. Do
17 you remember the day that you met Francois and
18 Gaskins?

19 A Yes, I do.

20 Q Where did that take place?

21 A I believe it took place at the George Street
22 Apartments. I think that was Francois' dorm, or it
23 might have been Gaskins' dorm. I wasn't too sure
24 about whose dorm it was.

25 Q And actually I'm going to backup just a little

1 bit to clarify. Where are you living at this time in
2 February of 2010?

3 A In Georgia.

4 Q In Georgia. How did you, what were you doing
5 in Charleston at this time?

6 A Couple weeks prior, Miguel was --

7 Q When you say Miguel, you are talking about
8 Starks?

9 A Yes. Starks would call me and he was going
10 back and forth from Charleston to Atlanta. And
11 Augusta is pretty much the midway point.

12 And he would call me and, you know, he would
13 say, you know, just basically tell me he was going to
14 Atlanta and ask me would I want to come. And so the
15 past couple of weekends before that weekend I had
16 been going back and forth with him to Atlanta
17 basically just partying and hanging out in Atlanta.

18 And then that weekend in particular, he
19 basically did the same thing, you know, he told me he
20 was going to Atlanta to pick up this girl he was
21 trying to make his girlfriend. Asked me did I want a
22 ride to stay in Atlanta and I said, cool, that's fine
23 with me.

24 And then when we was coming back from Atlanta,
25 he asked me did I want to come to Charleston. He

1 said, you know, I hadn't been back to Charleston
2 since I left at the end of '09. And, you know,
3 seemed like a good idea.

4 Q Where were you staying in Charleston?

5 A You mean In Georgia?

6 Q No, no, in Charleston. No, like when you came
7 back during February of 2010, that week, where were
8 you staying?

9 A I was staying with Miguel. And I was staying
10 with a couple of other teammates, but mostly with
11 Miguel.

12 Q Okay. And now I'm going to get to that
13 February 24th, that first meeting you were just
14 talking about at the apartment on George Street.
15 Could you tell the jury what happened at that
16 meeting?

17 A Basically, well the whole reason why we were
18 meeting was because we were going to inform Gaskins
19 and Francois about the robbery that we had in mind.

20 Q So let me stop you real quick. So you all,
21 before that meeting, you all had had a robbery in
22 mind?

23 A Yeah.

24 Q What, what was that plan?

25 A We basically -- it wasn't really -- at that

1 time it wasn't really motioned into a full-out plan,
2 we just, you know, we had in mind to rob Butler
3 because we figured that he probably would have a
4 whole bunch of drugs and money.

5 And, you know, we just basically was
6 brainstorming. Was like, well, you know, we can't
7 just not go up to his door and, you know, knock on
8 the door and expect him to come or not. I mean, of
9 course, he would come to the door. But, you know, we
10 can't be that stupid, you know, to knock on the door
11 and he come to the door and he knows us and then rob
12 him. And he knows that it's us.

13 So, you know, that's when we started thinking,
14 well, we need to have somebody else that could --
15 that he doesn't know that could basically, you know,
16 knock on the door or get him to come outside or, you
17 know, allow us to have a way to come in without
18 basically having our faces being seen.

19 Q So when you all realized you needed someone
20 else in order to do the robbery, what did you all do?

21 A At first we just started thinking about
22 different people. I started thinking about people
23 back home that I could trust. And I couldn't really
24 come up with anybody that I thought would either do
25 it or that I could trust to do it.

1 And that's when Starks was like, you know,
2 well I have, you know, after awhile of thinking he
3 was like, well, I have my friend here who I grew up
4 with since I was little. And he has a girlfriend
5 who's pretty cool And I think she would be down.

6 That's when he started telling me about
7 Gaskins and Francois.

8 Q What was Starks' and Francois' relationship
9 like?

10 A He had just told me that they grew up
11 together, they went to high school together. That
12 they -- he had told me they went to middle school
13 together. Basically just told me they grew up from
14 kids to now, and it just happened to be that Francois
15 was going to school at Charleston Southern and, you
16 know, by coincidence.

17 Q Did it appear to you that they were pretty
18 close?

19 A Yes. When we all met, it appeared that all of
20 them was real close.

21 Q All right. So, and I apologize for keep
22 backing it up, so now we are at the meeting at George
23 Street Apartments on the 24th. Can you tell jury
24 what takes place in that apartment?

25 A Okay. We go to the apartment. We go inside

1 the room and there was a couple of other people
2 there, I guess they're roommates.

3 And we go back into Francois' and Gaskins'
4 room. And basically Starks introduces me to them.
5 And he's like, you know, this is my homeboy that I
6 grew up with that I was telling you about. This is
7 his girlfriend. And, you know, he introduces us.

8 And then, you know, he basically jumps into
9 the plan like before, before we even went over there,
10 when me and Starks was thinking about doing it. I
11 had known about Butler and where he was staying at,
12 because when I left he was staying with his mother.
13 And I didn't know that he had moved into his own
14 house.

15 And so before we even went over there, Starks
16 had drew up pretty much the landscape of Butler's
17 house to me when it was just me and him alone. He
18 drew it up, and then he drew up, you know, where the
19 house was, how the trees were aligned to the house,
20 how the street was. And, you know, how it was you
21 know -- at the time we did not know it was a house.

22 But he said it was like a storage room in the
23 back. He drew everything up pretty much to the T.
24 So when we get to the apartment and started going
25 over the plan, you know, they was asking a lot of

1 different questions, you know.

2 And then, you know, I was just like, well go
3 ahead and just draw it up for them. So then, you
4 know, Starks draws up the same layout on a napkin and
5 basically just showing them and telling them what
6 each one of their parts would be.

7 Q What were their parts to be?

8 A Gaskins would have to go and knock on the door
9 and say she needed to use the phone or her car is
10 broken or something like that. And she would
11 basically be the, I guess, the bait, I guess, for
12 Butler coming to the door and opening up the door.

13 And then, you know, after she did that, that
14 basically would leave us to come in and rob him
15 basically, rob Butler.

16 Q What was Francois supposed to do?

17 A Francois, he didn't really have an initial
18 planning, initial thing to do. It just was, you
19 know, he was going to be there to help. And, you
20 know, if we needed an extra man, if we needed help
21 tying up or if we needed him to come in and help
22 unload stuff or pack up stuff. That's pretty much
23 what he was going to do.

24 And, you know, after we pretty much went over
25 the whole plan and went over the landscape of the

1 house and everything, they both agreed. They both
2 said they wanted to do it.

3 Gaskins said that she wanted to do it because
4 she had some new payments on a car or something. She
5 had a new car she was trying to get. And she wanted
6 to make sure she had some money to secure those
7 payments.

8 And apparently they both was moving into an
9 apartment and, you know, Francois was saying that he
10 wanted to do it to help have some payments for his
11 new apartment. And she was also saying the same
12 thing about paying for an apartment and paying for
13 some new car.

14 Q So it's safe to say they were willing
15 participants at this point?

16 MR. SOWELL: Objection, Your Honor.

17 THE COURT: Sustained, leading.

18 Q (By Mr. Kidd) At any point in that dorm room
19 was anyone threatened?

20 A No, sir.

21 Q When did you meet Bruster for the first time?

22 A Right after we -- right after everybody was
23 pretty much in agreement to do it. You know, we told
24 them that, you know, basically still we're just
25 talking about everything. And, you know, everybody

1 was in the agreement to do it.

2 After that, they said that they needed to
3 leave because they had to go to class, something like
4 that. One of them had to go to class, one had to go
5 to a study meeting.

6 And I guess Gaskins had been trying to hook
7 Starks up with one of her friends, hook him up with
8 Breanna Bruster specifically, I guess. And so
9 Gaskins was like, well look, we are going to class
10 but you all can walk with us and I know that Bruster
11 is at the cafeteria.

12 So -- and the cafeteria is not too far from
13 where you all parked, so you all can just walk with
14 us and then, when we go to the cafeteria, I can call
15 her out and she can come and you can meet her then.

16 And so then we left and then we walked to the
17 cafeteria and then we get to the cafeteria she calls
18 Breanna out and then Breanna and, I think, two of her
19 friends come out and basically that's just when her
20 and Starks introduces and they exchange numbers and
21 I'm introduced to Breanna too.

22 Q So you and Starks met Bruster for the first
23 time on the 24th?

24 A Yep.

25 Q And at that meeting, was anything talked about

1 the robbery?

2 A When we first met?

3 Q Yeah, outside, in front of the cafeteria?

4 A No. That was just Starks, I guess, you know,
5 Gaskins playing the middleman, and hooking them up
6 for like a relationship type thing or something.

7 They switched numbers. That was just, you
8 know, they just did a little quick small talk. And
9 we was out in the open, out in it, you know, it was
10 lunchtime so there was a lot of people around. So we
11 didn't talk about anything.

12 Q Was there any intent to use Bruster in the
13 robbery at that point?

14 A No.

15 Q Where did you go after that meeting?

16 A Me -- we all split ways. Me and Starks went
17 back to his apartment and we just smoked and just
18 basically just hung out at his apartment the rest of
19 the day.

20 Q Okay. When was next time you saw Bruster or
21 Gaskins or Francois?

22 A Later on that day towards nighttime. We --
23 after we got done hanging out, you know, we called up
24 -- well he calls up Breanna and asks her does she
25 wants to go out to eat.

1 And, you know, I think it's either, one, I'm
2 going way downtown to get her, or where we actually
3 pick her up that I think either Sasha or Francois
4 calls Starks and tells him, you know, we want to come
5 out to eat with you all too, so you all might as well
6 pick us up too.

7 So that's when we all pretty much get up
8 together.

9 Q Okay. This is still on the 24th?

10 A Yep.

11 Q Okay. Where did you all go eat?

12 A The Kickin' Chicken.

13 Q At that Kickin' Chicken. Is anything about
14 the robbery discussed?

15 A At first, no. You know, sort of just like a
16 double date thing for them two. And I'm sort of like
17 a fifth wheel, I guess. And everybody's just
18 talking.

19 But, you know, while we are eating, you know,
20 we were saying little tips and stuff. Well, not
21 really tips but just saying little stuff that Breanna
22 is picking up on that, you know, we are talking in
23 code.

24 We are not really talking in code, but, you
25 know, like just little stuff saying like, you know, I

1 think Gaskins says one time, you know, I cannot
2 believe we are going to do this tonight, or
3 something. And, you know, we all just saying little
4 stuff like that that, you know, she is picking up on.

5 She's like, what are you all talking about,
6 what are you all talking about? You know, that goes
7 on for about 5 or 10 minutes finally and Gaskins is
8 like, well, you might as well just tell her. She is
9 not going to trip. She is cool. Might as well just
10 go ahead and tell her.

11 And that's when --

12 Q Did you all tell her there at the restaurant?

13 A Yeah. We tell her at the restaurant, but we
14 don't go into any detail. You know, just like, you
15 know, thinking about robbing somebody tonight. And
16 it's looking like that we are going to do it.

17 Q Okay. Where do you all go from the Kickin'
18 Chicken?

19 A Back to Starks' house, to his apartment.

20 Q Back to Starks' apartment. Do you know, in
21 a ballpark, about what time this is?

22 A Probably I would say around 7:00 or 8:00
23 maybe. Something like that.

24 Q Okay. Can you tell the jury what's being
25 talked about. What is going on at Starks' apartment

1 when you all came back?

2 A Basically the same things, basically. Just
3 another run through of what happened when we met
4 Francois and Gaskins at her apartment or his
5 apartment.

6 Basically just going over the plan again, you
7 know, and going over the layout of everything again.
8 I think he draws up the landscape of butler's house
9 again. And, you know, basically just going over
10 everything again.

11 Q Where are the guns at this point?

12 A They are out in the open.

13 Q Does -- are they out where everyone who's in
14 Starks' apartment at that point could see them?

15 A I'm pretty sure. We weren't concealing them
16 like, you know, we was at Starks' apartment. Nobody
17 was there but us. And we weren't concealing them on
18 ourselves. We just had them out.

19 I cannot remember if they was on the table or
20 on -- if they was out on the counter. But I just
21 know they was out in broad.

22 Q What were you going to wear to the robbery?

23 A Just some jogging pants and a ski mask and
24 just dark clothing.

25 MR. KIDD: May I approach the witness, Your

1 Honor?

2 THE COURT: Uh-hum.

3 Q (By Mr. Kidd) Mr. Rice, I'm going to show you
4 what has been marked as State's Exhibit Nos. 23 and
5 24. Do you recognize those?

6 A Yes.

7 Q Could you tell jury what those are?

8 A Those are the ski masks that we made to secure
9 our faces.

10 Q Okay. Which one did you wear?

11 A I'm pretty sure I wore this one.

12 Q Okay. And did you cut --

13 THE COURT: Identify that number for the
14 record.

15 MR. KIDD: I'm sorry, Your Honor. This is
16 State's Exhibit Nos. 23 and 22, at this time, Your
17 Honor.

18 THE COURT: The one that he identified?

19 MR. KIDD: Is No. 23.

20 THE COURT: Any objection?

21 MR. SOWELL: No, ma'am.

22 THE COURT: Marked and admitted without
23 objection.

24 MR. KIDD: Thank you.

25 (Whereupon, State's Exhibit No. 23 is admitted

1 into evidence.)

2 Q (By Mr. Kidd) I'm going to show you what you
3 just identified as the one you were wearing which is
4 State's Exhibit 23. Did you cut the holes in that
5 mask?

6 A Yes, sir.

7 Q And that was obviously for you to see through?

8 A Yes, sir.

9 Q What was Starks wearing?

10 A I think he was wearing that other one, but I'm
11 not too positive about that because I know for the
12 second robbery we didn't both use ski masks.

13 I think one of us had used a T-shirt and like
14 just a hoodie. Just to make sure that all that, only
15 that was revealed. And for the first one, well,
16 Francois didn't use anything. Before the second one,
17 he did use a ski mask.

18 Q Okay. Were you all, when you were in Starks'
19 apartment after the Kickin' Chicken, were you all
20 getting these things ready to go?

21 A Yeah, yeah, we were.

22 Q I'm going to show you what has been entered
23 into evidence as State's Exhibit No. 26. Do you
24 recognize that?

25 A Yes, sir.

1 Q What is that?

2 A That's a sword. That's Starks' sword.

3 Q I'm going to show you what has been marked as
4 State's Exhibit 24 and 25. Do you recognize those?

5 A Yes, sir.

6 Q What are those?

7 A The gloves that we used.

8 Q And were you wearing gloves?

9 A Yes, sir.

10 Q And was Starks wearing gloves?

11 A Yes, sir.

12 Q And on the second robbery, was Francois
13 wearing gloves?

14 A Yes, sir.

15 Q So when you all are at Starks' apartment, are
16 there any threats?

17 A No, sir.

18 Q Is anyone forced to do anything?

19 A No, sir.

20 Q Do you ever threaten anyone's family?

21 A No, sir. When we are at the apartment we are
22 pretty much just going over the plan, smoking,
23 laughing and just carrying on.

24 Q Was there any doubt in your mind that this
25 robbery was going to take place?

1 A No.

2 Q When you left Starks' apartment, what car were
3 you riding in?

4 A A Toyota Yaris. It was one of Starks'
5 classmate's cars. Apparently they used to always
6 switch cars because Starks would drive a Nitro and
7 the Toyota Yaris took only something like \$18 or \$20
8 or something to fill the tank. And Starks' car took
9 a whole --

10 MR. SOWELL: Your Honor, I object.

11 THE COURT: Basis?

12 MR. SOWELL: Hearsay.

13 THE COURT: Overruled.

14 Q (By Mr. Kidd) Go ahead. You can finish.

15 A Starks' car took a whole bunch of money to
16 fill the tank. So they used to always switch cars.

17 MR. SOWELL: Hearsay.

18 THE COURT: Overruled. He's established that
19 in terms of them traveling together, their habits,
20 and their being around one another.

21 It's based on his present-sense impression.

22 Q (By Mr. Kidd) So when you leave Starks'
23 apartment and you get in the Yaris, whose with you?

24 A Everyone.

25 Q Everyone would be?

1 A Everyone that's on board, including myself.

2 Q Except for the two victims?

3 A Yes, yes, sir.

4 Q So it would be you, Starks, Gaskins and
5 Bruster?

6 A Yes, sir.

7 Q So there would be five of you all in the
8 Yaris?

9 A Yes, sir.

10 Q Okay. And who's driving, if you remember?

11 A Starks was driving.

12 Q All right. And where did you all go?

13 A We start to go towards the direction of
14 Butlers's house which was in James Island.

15 Q What is the -- let me backup just a little
16 bit. What is being told to Bruster at this point?

17 A Well basically after we go over -- over the
18 entire plan, this time Bruster being present,
19 basically at this time, you know, we are asking
20 Bruster if she is all right with everything.

21 And, you know, I know that, you know, we are
22 all saying, you know, we know that we pretty much
23 sprung this on you out of nowhere. But this is what
24 we plan on doing. And, you know, she is just saying,
25 you know, she's cool. She is not, you know, she's

1 not freaked out or nothing.

2 And right before we leave I think Ms. Gaskins
3 -- well I think Starks asked her first if she wants
4 to just stay at the apartment while we go do it. And
5 she said she don't want to stay at the apartment.

6 And then, you know, before we leave, I'm
7 pretty sure Gaskins asked her, you know, you can just
8 stay here if you want while we go and do this. And
9 she says, no. She declines and says she'd rather
10 come with us.

11 So, you know, we get in the car and we are
12 driving over -- we are driving to James Island from
13 West Ashley.

14 Q Let me stop you one second. Let me show you
15 what has been marked and entered into evidence as
16 State's Exhibit 28. Do you recognize that?

17 A Yes, I do.

18 Q And what is that?

19 A That's a little, like, sports bag that Starks
20 had where he carried the sword in and all of the duct
21 tape that we used.

22 Q And so you are on the way now? You are
23 leaving?

24 A We are leaving.

25 Q You're leaving Starks' house?

1 A Yep.

2 Q What is the mood like in the car?

3 A It's pretty high spirits. Everybody is pretty
4 amped up and just, you know, ready to do what we'd
5 been planning all day pretty much.

6 And we are on the way over there, on the way
7 to James Island. Starks asks Breanna if she wants us
8 to just take her to the dorm before we go and do it,
9 and she denies. She says she is all right. She
10 would just rather just come with us.

11 Then once when we get -- when you are going
12 from West Ashley to James Island, it's a stoplight
13 right before you crossover and actually get into
14 James Island. And at that stoplight you can take the
15 connection to go back downtown, to downtown
16 Charleston. And while we come to that stoplight and
17 it's a red light, and Starks asks her again, like two
18 times, are you sure you want to come, you know, we
19 are right here at the connector. We can get off and
20 take you downtown and drop you off at your dorm.

21 And, you know, it's not a big deal. We are
22 right here. And she says, no, she'd rather come, and
23 so.

24 Q And that's Bruster we are talking about?

25 A That's Bruster. So then we drive on and we go

1 to James Island.

2 Q Is there any question about what is going to
3 take place?

4 A No. Everybody knows what's going on at this
5 point.

6 Q All right. Tell the jury about -- about what
7 time of night is this?

8 A I would say this was around 10:30 or 11:00.

9 Q 11:00 at night?

10 A Yep.

11 Q It's dark outside?

12 A Yep.

13 Q Tell the jury what happens when you get there?

14 A We get on the street that Herbert Butler stays
15 on. And we drive up and down the street. And
16 everything is pretty much the exact way that Starks
17 had drawn it out on the piece of paper.

18 And we drive up and down the street probably
19 about three times. And, you know, Starks is
20 basically pointing everything out to us. And we were
21 getting familiar with the surroundings.

22 Then we drive to the end of the road. I think
23 at the end of the road there is an elementary school,
24 some type of school or day care or something at the
25 end of the road.

1 We all switch spots. Well, not all of us. I
2 believe Starks and Bruster switch spots. Bruster
3 takes over the driving, driver's seat, and Starks
4 gets in the passenger seat and we drive back up the
5 road again. And then when we get to the top of the
6 road, Bruster stops the car and she let's me, Starks,
7 and Gaskins out.

8 Q I'm going to stop you there for a minute.

9 Q All right. In just a few seconds I'm going to
10 show some photographs to you. And they're going to
11 appear right behind you.

12 First, I'm going to show you what has been
13 marked and entered into evidence as State's Exhibit
14 No. 12. Do you recognize that?

15 A Yes, sir. That is Butler's house.

16 Q And that's where you all went that you were
17 just talking about?

18 A Yes, sir.

19 Q All right. So let's just keep going through
20 the story and I will show you photographs as we go
21 along. So you, Starks, and Gaskins get out of the
22 car?

23 A Yes, sir.

24 Q Does anybody force Gaskins out of the car?

25 A No, sir.

1 Q Are any threats made to her?

2 A No, sir.

3 Q Anyone point a gun at anyone?

4 A No, sir. At this point we have our guns
5 concealed pretty much.

6 Q Like in your waistband?

7 MR. SOWELL: Your Honor, I object to the
8 leading.

9 THE COURT: Sustained, leading.

10 MR. KIDD: I apologize, Your Honor.

11 THE COURT: Uh-hum.

12 Q (By Mr. Kidd) where are the guns concealed?

13 A In our pants.

14 Q And that's both you and Starks?

15 A Yes, sir.

16 Q What happens next?

17 A We walk up the street and then we come to the
18 house.

19 Q So how far off from the house do you all get
20 dropped off?

21 A Probably -- it wasn't too far. It was a nice
22 little walk. Maybe a hundred meters, maybe,
23 something like that. Maybe not even that far.

24 Q All right. I'm going to give you this little
25 laser pointer right here. Just press that top red

1 button.

2 And I want you to point towards the house
3 where you were positioned at the house?

4 A We walk up and I was in this area right here.

5 Q Next to that bush?

6 A Yes, sir.

7 Q Where was Starks?

8 A Starks was in this area.

9 Q Was he on the porch or before the porch?

10 A He was on the porch.

11 Q What did Gaskins do?

12 A Gaskins kind of went to the door and knocked
13 on the door. And that's when Michalak came to the
14 door.

15 Q Hold on a second. When you walk up to the
16 house, do you have your mask on?

17 A No, we didn't have them on. We just had them
18 on our head like they were like skull caps.

19 Q Okay. At what point did you pull them down?

20 A Right when we were pretty much at the house.

21 Q Okay. You got your gloves on?

22 A Yes.

23 Q Who's carrying the bag?

24 A Starks is.

25 Q And so Gaskins knocks on the door. What

1 happens next?

2 A When Michalak comes to the door, and just like
3 we planned Gaskins says, my car's broke down, can I
4 please use your phone? And Michalak says yes, and
5 she turns around to start walking inside.

6 And then Gaskins walks in behind her, and
7 that's when I run up the steps and Starks, he comes
8 in. And we both come in right behind her with our
9 guns out.

10 Q What are you saying?

11 A Just telling them to be quiet and, you know,
12 get on the floor. You know, shut up. Just telling
13 them to be quiet.

14 And, you know, when we first come in Butler's
15 not even in the room. And he comes in from the
16 kitchen carrying some food. And he's asking a whole
17 bunch of questions. And we are just like telling him
18 to basically be quiet, and, you know, shut up and to
19 get down on the floor.

20 Q Do they do what you're telling them to?

21 A Yes, they do.

22 Q And what's Sasha doing at this point? Or
23 Gaskins doing at this point?

24 A She is just there, you know. At that point
25 I'm pretty much -- I'm not really too much focused on

1 her. I know she was there while we were telling them
2 to get on their knees. And pretty positive she was
3 there while we duct-taped them.

4 But then, you know, it came a point in time
5 where I looked up and she was gone.

6 Q So tell the jury about duct-taping up Emily
7 and Herb. How did that take place?

8 A I duct-taped up Butler and Starks duct-taped
9 up Michalak.

10 Q How do you tape them?

11 A Taped their legs, their hands, and the front
12 of their body. And duct-taped their eyes.

13 Q I'm going to show you what has been marked
14 for identification purposes as State's Exhibit Nos.
15 31, 32, 33 and 34. See if you can recognize those.

16 A This is -- this looks like the living area,
17 the living room of Butler's apartment, Butler's
18 house.

19 This is, 34, is the front door into the living
20 room. And basically this is like the living room and
21 the chairs and the duct tape.

22 MR. KIDD: Your Honor, at this time the state
23 would offer Exhibits 31, 32, 33 and 34 into
24 evidence.

25 THE COURT: Any objection?

1 MR. SOWELL: No, ma'am

2 THE COURT: Without objection, marked and
3 admitted.

4 (Whereupon, State's Exhibit Nos. 31, 32, 33
5 and 34 are admitted into evidence.)

6 Q (By Mr. Kidd) The first photograph I'm going
7 to show you is what you were just looking at, State's
8 Exhibit 34. Can you tell the jury what we are
9 looking at here?

10 A That's the front door, and this is pretty much
11 the living room area. There was a TV over here, but
12 we had took that.

13 Q See the couch cushions on the floor, how did
14 they get that way?

15 A Basically when we weren't really having any
16 luck finding anything, we started going through the
17 whole house trying to find anything that we could.

18 Q I'm going to show you what is marked as
19 State's Exhibit No. 31.

20 Is that the same area?

21 A Yes, this -- yep, this is. Not the exact same
22 area, but that's like going into the kitchen.

23 Q You see that kind of air conditioning intake?

24 A Yes.

25 Q Did you all open that?

1 A I don't remember opening that. But I wouldn't
2 be surprise if we didn't. We pretty much tried to go
3 through the entire house.

4 Q Showing you what has been marked as State's
5 Exhibit No. 32. Different angle of the same room?

6 A Yep.

7 Q This is a little closer up of that picture,
8 State's Exhibit No. 33?

9 MR. SOWELL: Your Honor.

10 THE COURT: Basis?

11 MR. SOWELL: I don't think opposing counsel
12 should be telling the witness.

13 THE COURT: Is there an objection?

14 MR. SOWELL: Yes, ma'am. I object.

15 THE COURT: What is the basis of the
16 objection?

17 MR. SOWELL: Leading.

18 THE COURT: You need to stand when you address
19 the Court.

20 Sustained, leading.

21 MR. KIDD: I apologize, Your Honor.

22 Q (By Mr. Kidd) Can you tell the jury what is
23 State's Exhibit No. 33?

24 A That looks like the duct tape that we used,
25 knocked-over chair.

1 Q Thank you. I get -- I will show you what has
2 been marked and entered into evidence as State's
3 Exhibit 15. Do you recognize that photo?

4 A Looks like the kitchen.

5 Q Was that how the kitchen looked when you all
6 first got there?

7 MR. SOWELL: Your Honor.

8 THE COURT: What is the basis?

9 MR. SOWELL: Object, leading.

10 THE COURT: Sustained, leading. Rephrase.

11 Q (By Mr. Kidd) Is this photograph how the
12 kitchen looked when you all first arrived?

13 THE COURT: Sustained, leading. Rephrase.

14 Q (By Mr. Kidd) Did you manipulate anything in
15 this photograph?

16 A Yes. We opened up the cabinets and the
17 drawers looking for stuff. And we went into the
18 little pantry.

19 Q All right. So when we get kind of back on the
20 story now. So, Mr. Butler and Ms. Michalak are
21 duct-taped up on the floor in the living room, can
22 you tell the jury what happens next.

23 Q We made Butler crawl into the next room, I
24 think it's the guest room. He crawls to the guest
25 room -- but no no I think it was his room.

1 And, well, basically we are in there just
2 trying to get Butler to tell us where everything is
3 at, where the drugs is at, where his money is at, and
4 he is not telling us anything. He is saying that he
5 doesn't have anything and saying he is dead broke and
6 he didn't do drugs. And, you know, he's basically
7 denying everything that we asked him.

8 So then Starks comes in the room and we are
9 both just yelling at him, telling him; you know, we
10 know you got stuff, we know you got weed, we know you
11 got pills, we know you got something, and we know you
12 got money. So you just need to give it up so we can
13 get it and leave and no harm will be done to you.

14 And, you know, he's still denying it, he's
15 still denying it. So then Starks kicks him in the
16 head. And I punch him in the head. And Starks kicks
17 him in the head again. And I punch him in the head.
18 And he still is not wanting to give anything up, and
19 he is still saying that he doesn't have anything.

20 So that's when Starks pulls the sword out
21 and --

22 Q And just let me stop you, that's -- when you
23 say sword, is State's Exhibit No. 26 what you are
24 referring to?

25 A Yes, sir.

1 Q All right. Go ahead.

2 A Starks pulls the sword out and starts to
3 threaten Butler to caught off his fingers or cut
4 anything off if he doesn't tell us. And Butler is
5 still saying that he doesn't have anything and he
6 doesn't know who would have told us that he does have
7 anything.

8 So then Starks pulls his pants down and puts
9 the sword up against to Butler's penis and tells him
10 that he was going to cut it off if he doesn't come
11 out clean and tell us the truth where he is hiding
12 everything at.

13 And so then, you know, Butler still denies.
14 And he's saying he doesn't have any money, all he has
15 is some credit cards that don't have any money on it.

16 He is telling us that we need to go and ask
17 his girlfriend, she has credit cards and he doesn't
18 have anything. So, you know, then, you know, I'm
19 basically like, chill out, man, you know, we haven't
20 even been through the house.

21 At this point we haven't searched through
22 anything. We just was basically trying to get him to
23 tell us where everything was at to save us all the
24 time from ransacking the house.

25 And so, you know, I'm like, you know, we just

1 need to go through and search everything. Go in the
2 other room and we'll start looking for stuff.

3 So then I am in the room with Butler, and
4 Starks is in the living room with Michalak. And I'm
5 still, you know, questioning Butler and telling him
6 to just to come clean because we know he has it and
7 we know that he deals drugs.

8 And he is still denying. And so, you know, I
9 kind of like, not in depth, but sort of start looking
10 around his room. And that's when I go into the
11 living room and I see Starks standing over Emily
12 Michalak with his penis out and he is erect and he is
13 standing over her and she is on her knees.

14 And, you know, I tell him, I tell him that he
15 needs to stop. I say, you know, that's not what we
16 came here for, what are you doing. He gestures like
17 he is about to put it up, so I thought that he was
18 done. I go back into the room with Butler and then
19 that's when Butler he calls out my name, and.

20 Q What do you mean, what do you mean he calls
21 out your name?

22 A He says, Reggie, is that you?

23 Q And what did you do?

24 A I kind of just pause. And then I try to --
25 try to play it off like I, you know, act like I'm

1 not. I'm like, who is Reggie? who is Reggie? You
2 know. Is that one of your friends that has the
3 drugs? And is that somebody that has money? Is that
4 somebody else that we need to call here so we can rob
5 him?

6 And he is like, you know, he is denying. He
7 is like, no, no I thought you were somebody I knew.
8 I thought you was playing a joke on us.

9 And so then, I get the phone, I get his phone
10 and, you know, I'm looking through the phone and I'm
11 like, who's name do you have Reggie up under? And he
12 tells me. And I call the number and I tell him to
13 tell Reggie to come over so that we can rob -- no, I
14 tell him to tell him to come over so we can get up
15 and hang out and smoke and to try and invite him over
16 to your house so we can rob him too.

17 And so he goes -- it goes to my voicemail when
18 he calls me. Then he leaves a message basically just
19 saying that he has some weed and he wants to get up
20 and smoke and hang out and catch up. And then he
21 hangs up.

22 Q How was he able to tell who you were?

23 A I'm guessing he heard me when I went in the
24 room and yelled at Starks. Up until then, we had
25 been trying to disguise our voices.

1 And when I went in the room and saw that, I
2 kind of just, you know, like, what the hell are you
3 doing. You know, we, you know, I basically just
4 didn't disguise my voice when I came back. That's
5 the only thing I can think. Because right when I
6 came back from yelling at Starks, that's when he
7 yells my name.

8 So I leave the room to go back into the room
9 with Starks. And Starks still has his thing out. So
10 he still has his penis out and, you know, I
11 basically, you know, said the same thing again. And,
12 you know, basically just saying, you know, we ain't
13 come here for that, what are you doing. You know,
14 you know what we came here for. What is wrong with
15 you?

16 And, you know, he is just looking at me. And,
17 you know, he said, you know, he says all right, I'm
18 not going to do it -- well, he does not say I'm not
19 going to do anymore. Because he is like, all right,
20 you know, makes a motion like, you know, he is not
21 going to do it anymore.

22 So I turn around to go back into the room with
23 Butler, but I take like a couple of steps and look
24 back and he still standing there with his penis out.
25 So that's when I come back into the living room, I

1 pull him into kitchen and, you know, I basically just
2 cuss him out. And, you know, basically just tap him
3 on his chest and stuff. And, you know, tell him, you
4 know, you really acting crazy right now.

5 And we didn't even expect for her to be here.
6 we definitely was not, this was definitely not
7 anything that we had planned. You know, we are here
8 for money and for drugs you are acting stupid. You
9 know, if you acting real stupid right now because if
10 you ejaculate, or if any of your hair fell out, you
11 will be officially dead and we all will be dead.

12 And I don't know, I'm basically just telling
13 him that, you know, he is messing up right now. I
14 don't know what in the world he is doing. So then he
15 finally put his thing up.

16 The whole time I'm yelling at him in the
17 kitchen, he has his thing out. And he finally puts it
18 up. And he was like, all right, man, stop whatever.

19 So then that's when, we still haven't went
20 through the house throughly. And that's when --

21 Q Let me stop you, one moment. You testified
22 earlier you got some credit cards or ATM cards from
23 Butler?

24 A Yes.

25 Q What happened to those?

1 A That's right. Then that's when he calls up
2 Breanna, Sasha and Francois and tells them that to
3 come and pick him up so that they can go to the ATM
4 to see if there is any money on the credit cards.

5 Q And does he do that?

6 A Yes, he does. They come about five minutes
7 after the phone call. Maybe not even that long. He
8 gets in the car with them and they go to the ATM and
9 they leave me at the house.

10 Q So you are at the house now by yourself?

11 A Yeah, with Emily and Herbert Butler.

12 Q About -- do you know about how long they were
13 gone?

14 A Maybe 30 minutes. 30, 45 minutes, maybe.

15 Q What are you doing while they're gone?

16 A I'm in the living room with Emily. And
17 basically just apologizing and telling her that I'm
18 sorry for my friend and we didn't, we definitely
19 didn't intend for her to be there. We definitely
20 didn't know that she was going to be there. And just
21 telling her I'm sorry that she had to go through
22 that.

23 And at that point she thought, you know, she
24 is asking me why did I do that. And I am like, that
25 wasn't me, you cannot tell by my voice but I'm -- I

1 guess I was disguising my voice when I was talking to
2 her, so I guess whatever voice he was using was the
3 same type of voice that I was using.

4 And, you know, and she is just, you know, kind
5 of hysterical. And I'm telling her that I'm sorry
6 that all that happened. And then a little while
7 after that --

8 Q What, what's Butler doing at this time?

9 A Butler is in his room just tied up.

10 Q All right. What happens next?

11 A Everybody comes back to the house.

12 Q You say everybody comes back, how does that
13 happen?

14 A They come back from the ATM. And then
15 Starks --

16 Q What door do they come in?

17 A They come in through the backdoor. The door
18 that was -- the door that was in there on the kitchen
19 picture.

20 Q Showing you State's Exhibit No. 15?

21 A Yeah, that door.

22 Q Who comes in?

23 A Everyone comes in. Starks comes in, Francois
24 comes in, Gaskins comes in, and Bruster comes in.

25 Q Do they come in all at the same time?

1 A I mean they come in right after each other.

2 Q What did you all start doing then?

3 A They come in and they pretty much said, you
4 know, didn't really have any luck with the ATM cards.
5 I don't think they got any money out of the ATM. So
6 then we are like, well, let's go through this house,
7 we haven't searched anything at this point.

8 I mean, I looked around in his room, but we
9 didn't, at that point, we hadn't been in any
10 cabinets, we hadn't been up in the attic, we hadn't
11 been in the closet, we hadn't looked through
12 anything.

13 So like, well, let's start looking. And, you
14 know, that's when we started ransacking the house and
15 just going through every drawer, every crevice,
16 everything that we could find.

17 Q What is Starks doing?

18 A He is looking, he is going through stuff and
19 he is trying to just going -- we are all basically
20 just searching for anything that we could find that
21 would be valuable. Looking for some money. We are
22 mainly looking for any drugs that Butler might have.

23 And that's when we all noticed that there was
24 an attic in the hallway. And we hadn't been up
25 there. So that's when Starks pulls it down and he

1 goes in the attic and he is searched around in the
2 attic for maybe 5 or 10 minutes, and that's when he
3 finds a big mason jar full of marijuana.

4 And he, you know, he is like, I finally found
5 it, you know, found something. And so he brings, he
6 comes to the edge of the attic and shows the mason
7 jar. Then he hands it down to us. And he goes back
8 searching through the attic. And I think he finds
9 like two or three other game systems. I think there
10 was a TV up there. Just think that was it.

11 Q What is Francois doing?

12 A He is looking through the house.

13 Q Does he say anything to anyone?

14 A I think he says some stuff, but he doesn't --
15 I'm not too sure what he said in particular.

16 Q What is Gaskins doing?

17 A She is looking through the house.

18 Q What is Bruster doing?

19 A Looking through the house. And also while
20 Starks was up in the attic, he also found like a
21 whole bunch of crates, like milk crates. And, like,
22 little boxes. So he starts bringing those down.
23 And, at that point, you know, we start putting stuff
24 into the crates, anything that will fit; the game
25 systems, games, jewelry, anything that is small that

1 will fit into the crates.

2 And we start packing up crates. Everybody is
3 packing up the crates. And we, when it gets around
4 the time we pretty much think that we have got
5 everything that is valuable, we tell Breanna and
6 Sasha to carry out all the small stuff to the car
7 while me, Francois and Starks carry the big stuff out
8 to the car.

9 So that's when Breanna and Sasha start taking
10 the small crates with the little stuff in it, and
11 taking that out and putting that in the trunk of the
12 Yaris. And me and Francois and Starks, we take the
13 big screen -- the big plasma screen TV, one other big
14 TV, and like the surround system and we put that in
15 the car, too. And.

16 Q About how long has it been from the time you
17 all first got there until you all start loading the
18 car?

19 A I would say anywhere from two to three hours.
20 So then we pack everything in the car. We are about
21 to leave and Starks wants to -- we go through the
22 house one more time. And then Starks, he says that
23 he want to cut one of Emily Michalak's arm's free so
24 that she can have an easier way to get free when we
25 leave.

1 And I tell him I really don't think that was a
2 good idea. And, you know, he is like, it's not a bad
3 idea. So we kind of go back and forth with that for
4 about two minutes, two or three minutes. Him saying
5 that, you know, he wants to cut the tape off to fully
6 remove her arm. And I'm saying, you know, she is
7 already free enough, you know. If we do that, you
8 know, she is going to be out in five seconds calling
9 the cops and we are not even going to be off the
10 street yet.

11 And so finally, you know, you know, he just,
12 he goes ahead and cuts it free. And it's like, no,
13 she's not going to get out that quick. So he cuts
14 one of her arms free so that she can get out more
15 easier. And then we get in the car and we head back
16 to Starks' apartment. Then when we get to Starks'
17 apartment.

18 Q Slow down a little bit. Let's talk about the
19 drive to Starks' apartment. Is anything said or
20 what's going on in the car on the way?

21 A Basically we just, you know, basically just
22 high spirits, I guess. We all, you know, I guess you
23 could say excited that we completed everything and
24 everything went to plan.

25 And we, at first we was getting kind of, I

1 guess, disappointed because we wasn't really having
2 any luck finding anything. But we ended up there
3 finding a good bit of weed and, you know, got some
4 electronics that looked like they might have been
5 worth some stuff.

6 And so, you know, we just, you know, all just
7 pretty much, you know, talking about what just
8 happened. We were like, you know, all of us saying,
9 you know, we did it, we can't believe we did it, and
10 stuff like that. And just conversation like that.

11 Q And then so you go back to Starks' apartment?

12 A Yeah. We get to Starks' apartment.

13 Q What do you do with all stuff?

14 A We start taking everything up to Starks'
15 apartment, and in the same way we took everything out
16 of Butler's house. The girls taking all the small
17 stuff, and us three boys taking all the big stuff
18 that's too heavy for them to take up there.

19 We get it in to Butler's house -- I mean, not
20 Butler's house, we get it into Starks' apartment.
21 And then we just start unloading everything from the
22 crates and spreading everything out in the living
23 room. Spread everything out that we had got.

24 And we basically, you know, we started smoking
25 and smoking the weed that we got. And we start, you

1 know, talking about basically who is going to get
2 what. And who is going to get what that we stole or
3 whatever.

4 Q How did that go?

5 A Basically Gaskins and Francois was sort of
6 like one person, I guess you could say, because
7 Francois initially said he wanted to take the TV
8 because he knew somebody that could fix it. The TV
9 was broke or something on the corner, and he said he
10 knew somebody that could fix TVs.

11 And so him and Gaskins both agreed that they
12 would take the TV and the surround systems and, I
13 think, one of the games systems. And they both were
14 saying, you know, we could put this in our new
15 apartment. All you do is get the TV fixed. And this
16 will go nice in our new apartment that we are going
17 into and everything else.

18 I don't think Breanna had got anything at that
19 robbery. I don't think she got anything. But the
20 rest of the stuff was just like game systems and the
21 weed and, you know, the rest was basically just left
22 up to me and Starks.

23 I really didn't want any of the game systems
24 to take back. I was really just looking for money
25 and drugs. And we really didn't come off, we didn't

1 come -- we didn't get any money. All we got was the
2 weed, so that's pretty much what I was focused on,
3 anything I could make money back and take back to
4 Georgia.

5 Q So what happens next? Where did you stay that
6 night?

7 A I stayed at Starks' apartment.

8 Q Did Starks stay at his apartment that night?

9 A Yes, he did.

10 Q Anyone else stay there with you?

11 A No. He -- we smoked and we hung out for a
12 couple more hours. Then, you know, he takes them
13 back to their place downtown.

14 But before he leaves he is like, you know,
15 that's when Starks tells them, you know, you know, I
16 got another robbery in mind. And it probably will be
17 just as easy or easier. And probably come up with
18 even more electronics or more money or some more weed
19 if we do it.

20 And so that's when Harpe's name gets thrown
21 into the category. That is that same night.

22 Q Is a plan developed that night?

23 A No. Not -- no just, you know, it's thrown out
24 there. He is just more like just saying, you know,
25 if we can do this again, if everybody wants to do it

1 again, we can do it again.

2 Q What was the consensus?

3 A Everybody was like, that's fine. Everybody,
4 you know, said that that was okay. So then --

5 Q Other than Emily and Butler, did you threaten
6 anybody during that first robbery?

7 A No.

8 Q All right. So that kind raps up that
9 Wednesday the 24th?

10 A Yeah.

11 Q On Thursday, what happens on Thursday?

12 A I believe that Starks had got up with Bruster
13 to hang out. I'm not too sure about all of the
14 details of that day.

15 Q You got a robbery on that day?

16 A No, we didn't.

17 Q Where did you spend the night Thursday night?

18 A At Starks' apartment.

19 Q Who was there with you Thursday night?

20 A Starks, Breanna, I believe they spent the
21 night together.

22 Q Okay. Now we are on Friday which would be the
23 26th. What happened on Friday?

24 A Starks calls them sometime I guess, I'd say
25 midday or in the afternoon. And, you know, he is,

1 you know, basically he is like, you know, are you all
2 ready to do this again? And everybody, everybody
3 says yes.

4 Q Where did you all -- where did you and Starks
5 meet them first?

6 A We go downtown and pick everybody up, like we
7 did the Wednesday. From their apartments and their
8 dorms.

9 Q And where did you all go from there?

10 A We go back to West Ashley. And we stop at
11 Zaxby's and get some food through the drive-thru.
12 And then we go back to Starks' apartment to discuss
13 the plan again. Well, to discuss the plan pretty
14 much for the first time.

15 Q And tell the jury what that plan is?

16 A This time the plan wasn't too much in detail
17 because Starks really didn't know the layout of
18 Harpe's house. He just knew the vicinity of where
19 the apartment was. He didn't know which actual
20 apartment that Harpe stayed in.

21 All he pretty much knew was we are going to
22 need somebody else again in order to get Harpe to
23 come outside, because he said how the apartments were
24 set up, you can't -- it's a door and the elevator.

25 You need whoever actually stays in the

1 apartment to be with you, or you need the code or the
2 key to get into the place. So you can't just, it's
3 not like how it was at Butler's where you can go and
4 knock up on the door, because the elevator leads to a
5 whole bunch of different apartments. So then --

6 Q Have you ever been to Harpe's place before?

7 A No, I haven't.

8 And, like I said, he did not even know which
9 exact apartment it was at. He just knew that --
10 where the complex was at.

11 So the plan wasn't in detail. We pretty much
12 all just figured we was going to go along the same
13 type of scenario we did with Butler's house. And
14 then, you know, basically, it was pretty much going
15 over what all Starks was going over with Francois. I
16 mean not Francois, with Gaskins and with Bruster, is
17 that they would have to be the ones to call Harpe
18 and.

19 Q What were they supposed to tell Harpe?

20 A Call Harpe and pretty much say the same thing
21 they said in the first one; that they was in a car
22 wreck or a car jam and they needed somebody to come
23 get them.

24 And, you know, that's when Gaskins asked
25 Starks, you know, what I am going -- he is just going

1 to come and pick up a random girl? Who am I going to
2 -- how is he going to, you know, how am I going to
3 get his number out of the blue and call him?

4 And, you know, and he agrees to come get me
5 and he doesn't even know me. So then so Starks is
6 like, well, Dwight, you can say that you are Dwight's
7 girlfriend.

8 Q Who is Dwight?

9 A He used to be on the team when I first came
10 in. I think he was a junior or a sophomore. He was
11 a junior when I first came in, I think, or a
12 red-shirt sophomore.

13 And I didn't know this but Starks said, you
14 know, let me know that they had been roommates;
15 either they were still roommates, or they had been
16 roommates in the past year or something.

17 And so Starks was like, you can just say you
18 are Dwight's girlfriend and you are in town and your
19 car broke down; and you are trying to surprise
20 Dwight; but you are stranded and you don't know where
21 you are at and you need help.

22 And so basically that's pretty much all the
23 planning was for that. He is just telling them, you
24 got to go to the pay phone at the gas station and
25 make this call so Harpe can come out and we can get

1 him, and go get him to take us up to his apartment
2 and do it like that.

3 Q What is Francois supposed to be doing during
4 this?

5 A Francois was going to be with us and he just
6 was going to be an extra man around. Extra man to
7 help us with anything.

8 Q About what time -- well let me backup a little
9 bit. At some point before you all left Starks'
10 place, did Starks and Francois go anywhere?

11 A Yeah. They, I believe they went to Walmart to
12 get some -- it was either to get some more gloves or
13 to get some more duct tape. Sometime around that
14 time, I was feeling real sick and I went into the
15 next room and laid down.

16 So I'm really not too sure what happened while
17 I was laying down. I know they went to Walmart or
18 Lowes or something to get more duct tape. But I was
19 in the next room asleep.

20 Q When you all were at Starks' apartment and
21 discussing kind of this plan for Harpe's place, who
22 all was there?

23 A Everyone, me, Breanna Bruster, Sasha Gaskins,
24 Francois and Starks.

25 Q Where were you all in the apartment?

1 A In the living room.

2 Q And where were the guns?

3 A I'm not too positive where the guns was at. I
4 think they were out in the open again.

5 Q What about the duct tape?

6 A Where was, what did you say?

7 Q The duct tape?

8 A Oh, I can't remember if that was in the bag or
9 if it was out in the open.

10 Q What -- what are you wearing this night?

11 A I think I wore the same thing.

12 Q What about Starks?

13 A I think he wore the same thing, too.

14 Q What about Francois?

15 A I think he wore the same thing except he put
16 on something to conceal his face.

17 Q About what time was it when you all leave
18 Starks' apartment?

19 A It's late. It's probably around 11:00 or
20 12:00 again, I'm not too sure. I was asleep for a
21 couple of hours and they had just woke me up. While
22 I was asleep, Sasha came in and brought me some tea.
23 And then, you know.

24 Q What did she bring tea for?

25 A An hour after, because I was feeling real sick

1 and my throat was real, hurting real bad. And I felt
2 like I had a fever or something. I was just
3 shivering all over and I just wasn't really felling
4 good.

5 She brought me some tea and I remember I went
6 back to sleep. And maybe 30 minutes to an hour after
7 that, Starks came in the room and was like, you know,
8 wake up, man, get ready. Think it's a good time for
9 us to go and do it.

10 And so I got up and I started to get ready and
11 we left. I would say it had to be around 11:00 or
12 12:00 again.

13 A It was dark outside?

14 A Yes, it was dark.

15 Q So 11:00 or 12:00 at night?

16 A Yes.

17 Q Before you all left, were any phone calls
18 made?

19 A I didn't make any phone calls.

20 Q Okay. So when you all leave Starks'
21 apartment, where do you all go?

22 A We go to the apartment complex and we drive
23 around the apartment complex. We go into the garage
24 and we were basically looking for Harpe's car.

25 Q Do you know what kind car Harpe drove?

1 A I remembered from the last time that I was
2 here that he had drove a Mustang. But I was looking
3 for the wrong color Mustang. Because when we got
4 into the garage, the Mustang was right there and I
5 thought it was the wrong Mustang. I thought we was
6 looking for a black Mustang or some off-color that it
7 wasn't.

8 Q Did you all find his car?

9 A Yes, we do.

10 Q What do you all do after that?

11 A Starks points the car out and he says, well,
12 this must be the area. This must be the elevator in
13 the area to where Harpe's apartment is.

14 So then we drive out of the apartment complex.
15 And at this point Breanna is driving and Starks is
16 like giving her directions from Starks' house to
17 Harpe's apartment.

18 Breanna is driving and Starks is giving her
19 directions to where to go. So then we leave the
20 apartment, and we leave the apartment complex and we
21 drive out and sort of in the area where Josh's
22 apartments is at. There's like a shopping center or
23 something right on the corner kind of across the
24 street. And it's like a road behind the apartment --
25 I mean not apartment, the road behind the shopping

1 center, plaza whatever it is. And we drive behind
2 it, and that's where Breanna drops me, Francois and
3 Starks off.

4 Q Let me stop you for minute.

5 (Whereupon, State's Exhibit No. 37 is marked
6 for identification.)

7 Q (By Mr. Kidd) Let me show you what has been
8 marked as State's No. 37 for identification purposes
9 only. State's Exhibit No. 37. Do you recognize that
10 car?

11 A It looks like it's Harp's car. I'm not too
12 positive of this, if that's his car or not. I know
13 that's the garage.

14 Q Okay. Thank you. I will just leave it for ID
15 purposes for now. I'm going to show you on the big
16 screen what has been marked and admitted into
17 evidence as State's Exhibit 17.

18 Do you recognize that photograph?

19 A Yes. That's one of the apartment steps.
20 That's not the entrance to the garage area, but
21 that's like the way that we had walked in.

22 I guess it's sort of like the back of the --
23 the back part is like a little sidewalk right there,
24 or something. But the entrance is on the other --

25 Q That kind of hole in the bottom, what is that

1 down there?

2 A That hole on the opposite side is the
3 entrance. And this hole is --

4 Q The entrance to what?

5 A To the garage. And this hole, I really don't
6 know what this hole is for. I just know that because
7 you can't go in, because there is a drive right there
8 you can't drive into it.

9 But that's way we entered into the garage. We
10 didn't go in through the actual garage entrance.

11 Q All right. I'm going to show you what's been
12 marked as State's No. 18. Do you recognize that?

13 A Yes. That's the garage, looks like that is
14 the door in the corner, one door in the corner.

15 Q All right. So let's kind of get back to the
16 story a little bit. So you all drive to the
17 apartment building, you find Harpe's car.

18 I'm sorry, I got a little bit distracted while
19 you were continuing your story. So where did you all
20 go after that?

21 A We go to the shop -- we drive behind the
22 shopping -- little plaza. It's like a little
23 shopping area where I think it's like three or four
24 different stores in a strip hooked into one building.

25 And we drive behind it. Behind it is like a

1 road and then the woods. And all this is like kind
2 of across the street from the -- from Harpe's
3 apartment complex.

4 And Breanna drops me, Francois and Starks off
5 on this road. And then they go to a pay phone, a gas
6 station.

7 Q And where did you three go?

8 A We start walking towards the apartment
9 complex. We walk to the apartment complex. On the
10 way there, I think it was on the way to the
11 apartment, Starks calls and sees whether or not they
12 have made it to a pay phone yet. We go -- they say
13 no.

14 We walk to the garage. We go in through that
15 area that I said, and to the exact spot where Harpe's
16 car is at. And we all pretty much hide ourselves
17 behind separate cars. There is a whole bunch of cars
18 in there.

19 And right in front of the door, it's like a
20 SUV, it's like an SUV in front of the door that I
21 hide in front of. And then the next car over, Starks
22 hides behind that car. And a car on the opposite
23 parking row is where Francois hides.

24 So. We are all basically just hiding, waiting
25 for Gaskins to call or Breanna to call and say that

1 they've made the call and they have called him.

2 Q Did that happen?

3 A Yes. Gaskins calls Starks and she says, I
4 have made the call, he said he's coming to get me and
5 he should be coming out any second now, so.

6 Q What happens next?

7 A They hang up. And probably not even two
8 minutes after Starks gets that call, Harpe comes out
9 of the elevator.

10 He comes out of the elevator. He kind of like
11 -- basically when he walks out of the elevator he
12 kind of like basically walks right into me. And he
13 walks dead into me and which is basically dead into
14 Starks because Starks is in the next car over.

15 And so we all kind of converge on him and
16 circle him. And we got our guns out and we tell him
17 to get on his knees and to give us his wallet and
18 everything.

19 Q What does he do?

20 A He gets on his knees, he throws his wallet and
21 his phone to the side and he said he doesn't have
22 anything. He says this is all he has. And, you
23 know, he gives it up to us.

24 And then, you know, we ask him is there any
25 cameras in the building, in the elevator, and he says

1 no. So then we tell him to stand up. He stands up
2 and we tell him to take us into the -- to his
3 apartment.

4 Q And what are you wearing right now? You got a
5 mask on?

6 A Yeah, I have a mask on. We all got masks on.

7 Q What about gloves?

8 A We got gloves on.

9 Q All right. So where do you all go next?

10 A We go inside the door and we go to the
11 elevator. We go up to Josh's apartment, and he opens
12 door, we go in.

13 And his dog is in there. His dog is barking,
14 and he is trying to calm his dog down. And so we
15 basically tell him to get on his knees, and he gets
16 on his knees. That's when Francois and Starks begins
17 duct-taping him up; duct-taping up his knees and his
18 arms and his eyes the same way we did with Butler.

19 And he gets -- they finish duct-taping him up,
20 then me and Francois pick him up and take him to his
21 guest room and lay him on the bed. And then we asked
22 him, you know, is his dog going to try to attack us.
23 He said, no, his dog is a nice dog and won't do that.
24 So then we leave the dog in there with him.

25 We go in the living room and I see a leash

1 right on the table or on the floor or something. And
2 I take the leash in and give it to Harpe and tell him
3 to put the leash on the dog. So then he puts the
4 leash on the dog.

5 And then we take the dog. And in Harpe's
6 place there is sort of like two separate living rooms
7 and we -- I tied the dog up to one of the doors so
8 the dog won't be running around and barking and just
9 acting crazy. So the dog is tied up to the door.

10 Then we pretty much start ransacking the house
11 looking for anything that we could find that's
12 valuable. We already had the credit, his credit
13 cards from his wallet that he gave us down in the
14 garage. So we basically just started looking for
15 stuff.

16 Then, you know, Starks says, all right, I'm
17 about to go check these credits card. So he takes
18 Harpe's keys and he goes in Harpe's car and goes to a
19 ATM and he goes -- he checks the credit cards. And
20 while me and Francois at the house were basically
21 just going through everything, going through all of
22 the drawers and everything, just looking for anything
23 that we could find, we find some trash bags up under
24 the kitchen sink.

25 So that's when, while everybody's gone, that's

1 when me and Francois pretty much starts putting
2 everything inside the trash bags that will fit, or
3 anything that will fit that won't break the trash
4 bags. And, you know, while we are in the middle of
5 doing that, Starks comes back with Breanna and Sasha
6 Gaskins, and all three of them come in.

7 And at this point me and Francois pretty much
8 had half of everything.

9 Q So backup one second. So when Starks comes
10 back from the ATM, who comes inside?

11 A He comes in, and then following him is Sasha
12 and Breanna.

13 Q So now, once again, all five of you all are
14 inside?

15 A Yep.

16 Q And what are you all doing, the five of you
17 all?

18 A Me and Francois pretty much already thoroughly
19 went through everything. But then, you know, they
20 start going through stuff too, anything that we might
21 have missed. And then we all pretty much just hop on
22 the packing stuff up and putting stuff in the plastic
23 bags.

24 Like I said, me and Francois pretty much had
25 everything -- not everything -- but we had probably

1 half of it or three-quarters of everything put in the
2 trash bags already that we thought was valuable.
3 They just came, helped finish up packing up
4 everything.

5 Then that's when we did the same thing like we
6 did with Butler. We started giving the girls
7 everything that's small to take down. Everything
8 that's small in the bags, but that's small and
9 carryable like the Play Station, the game systems,
10 and, you know, just small speaker boxes and like the
11 laptop, everything that they can carry.

12 And, you know, we pretty much focus everything
13 that was too big for them to carry like the big
14 screen TV and the speakers for the surround system
15 and everything. We basically did the same scenario
16 that we did with Butler pretty much and load it.

17 We then load up everything into the car again.
18 We come back up to -- to the house, to the apartment
19 and we go through it maybe one or two more times.
20 Then we, you know, pretty much satisfied with
21 everything we got, so we go back down, we get in the
22 car, and then we drive back to Starks' place. And we
23 do the same scenario.

24 Q Let me stop you for a second.

25 THE COURT: Let me interrupt you.

1 MR. KIDD: Do you want to stop for the record?

2 THE COURT: Sir, have you completed your
3 answer to the question?

4 THE WITNESS: I just was going to finish up
5 the story.

6 THE COURT: You may continue your answer.
7 Complete your answer.

8 A Then we pack up in the car, we drive back to
9 Starks' apartment, we unload everything the same way
10 that we loaded everything up. The girls taking
11 everything small up to Starks' apartment, we taking
12 everything big.

13 Then we basically just place everything out in
14 the living room like we did before. And, you know,
15 we start talking about what we're going to split up,
16 but we don't really -- we don't go into detail as
17 quickly as we did with the other -- with Butler's
18 robbery.

19 And, you know, we pour some drinks and we
20 start drinking and we start smoking. And that's
21 when, you know, me and Francois is like, well, I want
22 to go to the gas station and try to get more beer
23 because we only had some liquor. And Francois says
24 he'll come with me.

25 Me and him both get in the car. And before we

1 even leave the apartment complex, there's a police
2 car right there. And the cop pulls us over and
3 that's how we get apprehended.

4 THE COURT: Mr Foreman, ladies and gentlemen,
5 we are going to take a short restroom break. During
6 the break, please do not discuss the case and please
7 leave your notepads in your seats.

8 (Whereupon, the jurors exit the courtroom.)

9 (Whereupon, a recess was taken.)

10 THE COURT: Is the State ready to proceed?

11 MR. KIDD: Yes, Your Honor.

12 THE COURT: Is the defense ready to proceed?

13 MR. SOWELL: Yes, Your Honor.

14 (Whereupon, the jurors enter the courtroom.)

15 THE COURT: State may proceed. Resume your
16 examination of the witness.

17 MR. KIDD: Thank you, Your Honor.

18 THE COURT: You're welcome.

19 Q (By Mr. Kidd) All right, try to pick up a
20 little bit where we left off and what happened.

21 So where we kind of left off was you all
22 leaving Harpe's apartment.

23 THE COURT: Actually you left off with him
24 being picked up after they went to the convenience
25 store. The police had just picked them up.

1 MR. KIDD: Right. I just had a couple of
2 backup questions.

3 THE COURT: Okay.

4 MR. KIDD: Not much though, I promise.

5 Q (By Mr. Kidd) All right, Mr. Rice, I'm going
6 to show you what has been marked as State's Exhibit
7 No. 4. Do you recognize that photo?

8 A Yes. That's one of Harpe's room.

9 Q Is that the way you found it?

10 A No, that's not the way we found it. That's
11 after we had went through everything trying to find
12 stuff.

13 Q State's Exhibit No. 1. Do you recognize that?

14 A Yes, that's his kitchen. That's the cabinet
15 where we got the trash bags out of.

16 Q State's Exhibit No. 2?

17 A That's the living room area.

18 Q State's Exhibit No. 3?

19 A That's the living room area.

20 Q All right. So after you all left Harpe's
21 apartment, or any time at Harpe's apartment, was
22 anyone ever threatened?

23 Q No, sir.

24 Q Did you hear Starks threaten anyone?

25 A No.

1 Q Did you threaten anyone?

2 A No.

3 Q Specifically, did you threaten Gaskins?

4 A No. No, sir.

5 Q Did you hear Starks threaten Gaskins?

6 A No, sir.

7 Q Francois?

8 A No, sir.

9 Q All right. So you all get back to Starks'
10 apartment after leaving Harpe's place, carry
11 everything inside, you and Francois leave?

12 A Yes, sir.

13 Q What happens?

14 A We don't even make it to the -- past the exit
15 of Starks' apartment and there is cop car waiting
16 there and pull us over.

17 Q And what happens when he pulls you over?

18 A He basically just asked for IDs. He tells us
19 that we are being pulled over because we are -- there
20 was just a home invasion a little far -- little ways
21 up the road. And he says that we fit the description
22 which is pretty much all he says.

23 Q Did you he arrest you at that point, or did
24 anything else happen first?

25 A Yes. He puts us into cop cars.

1 Q Are you and Francois together or separate?

2 A Together.

3 Q Okay.

4 A Then we are in the same cop car for a good
5 while. And then a whole bunch of cop cars show up.
6 Then they eventually split us up into separate cop
7 cars. And then they bring Harpe on the scene and
8 they pull each one of us out separate for him to
9 identify us.

10 Q Do you know if he identified you?

11 A From what I heard over the radio, yes.

12 Q Where did they take you after that?

13 A They take me to Starks' apartment where --
14 because they kept asking why were me and Francois in
15 the neighbor if neither one of us lived there.

16 So they took us to Starks' apartment. They go
17 into Starks' apartment. And they bring me back up to
18 Starks' apartment, and they ask me why is Starks'
19 door locked. And I tell them I don't know why it's
20 locked. I don't live here and I'm pretty sure I
21 don't really got the authority to be letting you all
22 into the house anyway.

23 But they, you know, they still just asking me
24 why's the door locked. And so I'm like, look, the
25 door -- his door wasn't like one of those locks where

1 you need a key to get in, it's like one of those
2 locks where you can stick your fingernail in and turn
3 it and it will open.

4 so I'm like, you know, if you want you can
5 uncuff me and I can unlock it with my finger if you
6 want. You know, it's one of those simple locks. And
7 the cop says, no, uh-uh. I will do it myself.

8 And he pulls out like some little key or
9 something and he unlocks it. And he goes in Starks'
10 room and he searches the room. And he comes back
11 out. He says something to the other cop. And they
12 take me back down and put me in the cop car and they
13 drive me to Harpe's apartment complex.

14 They kind of like drive around the apartment
15 complex. And then they drive me downtown to the
16 investigator's office.

17 Q What happens at the investigator's officer?

18 A They question Francois for, seemed like it was
19 two or three hours. And then they finally get to me.
20 They asked me what was I doing, and I tell them the
21 same thing I told them when I got picked up.

22 I say, when you stopped us we were on the way
23 to the gas station to get beer. And, you know, they
24 tell me, you know, they know I'm lying and that's not
25 what they want to hear. And I'm like, we were on the

1 way to the gas station to get beer.

2 And like, well, they say, well, your partner
3 that you were riding with has already done told us
4 everything so you might as well come clean. So
5 that's when I say, well, you know, I don't know about
6 my story matches his story. I'd rather just talk to
7 my lawyer right now. And that's when they cut the
8 whole interview short.

9 Q When you asked for a lawyer, they quit asking
10 questions?

11 A Yeah, they stopped asking questions and they
12 told me, you know, okay you -- they say, okay, you
13 don't want to cooperate. Well you're going downtown
14 and booking you on burglary and all the other
15 charges, kidnapping and robbery.

16 MR. KIDD: Court's indulgence.

17 THE COURT: Uh-hum.

18 Q (By Mr. Kidd) When you were in the interview
19 room, did anything prompt you to ask for an attorney?

20 A No. I just felt like they was trying to force
21 me into giving a statement and admitting to some
22 stuff.

23 Just by, they didn't full come out and, you
24 know, say we want you to admit to this. But how they
25 were asking questions to me, I just felt like, you

1 know, if I said anything at that moment I would be
2 shooting myself in my own foot. Especially if I
3 don't have an attorney here that could, you know,
4 give me some counsel and let me know, you know, what
5 to say and, you know, or what not to say or.

6 Q At some point did you learn what Stephen
7 Francois had told them?

8 A Yes, I did.

9 Q How did that happen?

10 A The investigator left all his notes in the
11 room with me. And the notes was right on the desk in
12 front of me. And so I reached over, I looked at
13 notes. And I didn't sit there and read them all
14 because I didn't have that much time, but he left me
15 in the room a long enough time for me to see that,
16 you know, that's all my name, Sasha's name,
17 everybody's name that was involved on the paper.

18 And, you know, a whole bunch of stuff saying
19 robbery and, you know, stolen goods, and stuff like
20 TVs and stuff like that. So it was enough for me to
21 put together that, you know, that's what he was
22 saying, that my story wasn't matching up to my
23 friend's story. That's when he wanted my story to
24 match up to, me telling him everything about the
25 robbery that my friend -- that Francois had just told

1 him.

2 Q You asked for an attorney after that?

3 A Yep.

4 MR. KIDD: No further questions, Your Honor.

5 THE COURT: Any cross-examination of the
6 witness?

7 MR. SOWELL: Yes, ma'am. May it please the
8 Court.

9 THE COURT: Yes, sir. You may proceed.

10 CROSS-EXAMINATION

11 BY MR. SOWELL:

12 Q Let me see, I think you said you wanted to
13 talk to an attorney so you'd know what to say or not
14 to say?

15 A Yes, sir.

16 Q Okay. And you've talked to that attorney now;
17 is that correct?

18 A Yes, sir.

19 Q Okay. You've had extensive trial experience,
20 have you not?

21 A No, I haven't had extensive trial. I have got
22 in trouble before as a juvenile.

23 Q As a juvenile?

24 A Yes, sir.

25 Q Weren't you convicted of contributing to the

1 delinquency of a minor?

2 A No, sir. That's one of the charges I was
3 originally charged with. I was charged with a whole
4 bunch of charges, and they dropped them all down to
5 juvenile -- they dropped -- at first me and one of my
6 codefendants was tried in adult court because we had
7 just turned -- I had just turned 18.

8 And then they dropped everything down to
9 Juvenile Court because I was only 18, I wasn't 18
10 while what they was accusing me of happening. And
11 they dropped all the charges down to statutory rape.

12 Q So you were 18 years old, they tried you in
13 family court?

14 A Yes.

15 Q And you went to trial on that issue?

16 A No.

17 Q You said you did?

18 A We came to a -- I think it is called a
19 pretrial intervention.

20 Q Did you ever go in front of a judge?

21 A Yes.

22 Q And I believe -- I think you pled guilty to
23 aggravated child molestation?

24 A No. I pled guilty to statutory rape. And
25 that's where the party involved is the age difference.

1 of more than a year and a half or two years. They
2 charged everyone involved with underage sexual
3 activities.

4 Q Didn't they charge you with rape?

5 A That was one of the initial charges, but that
6 wasn't -- that's not what I got found guilty of.

7 Q So you know how to work out a deal with the
8 police then?

9 A No, that wasn't with the police. That was my
10 lawyer and the judge was working that together.

11 Q So you know how to work deals with law
12 enforcement then?

13 A No, I don't.

14 Q You don't?

15 A No, sir.

16 Q What kind of deal have you worked out with the
17 Charleston County Police and Charleston City law
18 enforcement?

19 A I haven't worked out any deals.

20 Q Have you worked out any kind of expectation?

21 A No, sir.

22 Q You've never been told you need to cooperate
23 or we will give you a good deal?

24 A No, sir. Only thing I signed was a proffer
25 agreement. And from what I was informed, a proffer

1 agreement is where you basically tell the whole
2 truth, tell your story, and throw yourself at the
3 mercy of the Court. That's what I was informed it
4 is.

5 Q Do you expect to get mercy from the Court?

6 A I don't deserve it, but I'm praying and hoping
7 that I do.

8 Q And if you were testifying to anything that
9 would prove that Ms. Gaskins didn't know what was
10 going on, you would lose your mercy, wouldn't you?

11 A If I didn't?

12 Q Yes.

13 A I don't understand what you are asking me.

14 Q If you were to testify that Ms. Gaskins didn't
15 understand that you all were really serious about
16 this, you all threatened her at the very last second,
17 you all threatened her, if you were to testify to
18 that, you would lose your plan for mercy, wouldn't
19 you?

20 A Yes because I would be lying. And in the
21 proffer agreement, it says in the proffer agreement
22 that if you lie and everything -- I think it says
23 everything could be used against you. And the whole
24 proffer agreement is null and void because you
25 basically lied in the beginning.

1 Q Well you did lie in the beginning, didn't you?

2 A No, I didn't.

3 Q You didn't. Well when you came to Charleston
4 from your home, you were visiting and staying with
5 Miguel Starks?

6 A Yes. Back and forth with him and a couple of
7 other teammates.

8 Q Didn't you tell them that you have been pretty
9 much a zombie, laying around the house, you didn't go
10 anywhere, you stayed in the apartment and chilled?

11 A When?

12 Q The night that this happened?

13 A No. I believe I told them that we were going
14 to get beers from the gas station when they pulled us
15 over. They kept asking why were we in the
16 neighborhood, and why we were leaving.

17 Q But didn't you tell them you had been in the
18 apartment all night?

19 A I don't remember if I told them that or not.
20 I just remember telling them that I was going to get
21 beers, and eventually told them that I wanted to see
22 my lawyer.

23 Q All right. I will show you an interview you
24 conducted with Detective Holmes and Detective Dasher.
25 I ask you to read the top two paragraphs.

1 Now don't read them out loud, just read them
2 over, and I ask you to read the top three lines on
3 page six and ask if that refreshes your memory about
4 when you lied to the officers.

5 Now do you remember telling the officers you
6 had been at his apartment, you were sick and you
7 chilled all day?

8 A I don't remember that. I see that on the
9 paper. I gave those statements a year ago. If
10 that's what is written down, I had to say that. But
11 according to that, I said I had been taking a nap all
12 night, which I was. I woke up to commit the
13 robberies.

14 But the whole night, like I said, it says in
15 there I took a nap all the way up to I think it says
16 8 o'clock or 9 o'clock. That's true. I was asleep
17 and -- because I was feeling real sick and that's
18 true, too.

19 Q I show you the same document, page nine, and
20 ask you to read these lines highlighted in yellow,
21 see if that refreshes your memory.

22 Do you remember that?

23 A Yes.

24 Q Were you telling the truth then?

25 A Yes.

1 Q So you didn't go to Herb's house and break in
2 that evening?

3 A That's not what that says. That says I have
4 been at the apartment for the past two to three days,
5 which was true. I had been staying at his apartment
6 the past two to three days.

7 Q I show you line nine and ask you read on line
8 -- highlighted yellow the pages on that page?

9 A I been at the apartment all these past two
10 days. I even go so far as to say these past three
11 days. I might even go from -- I mean I might have
12 gone to get something to eat, I mean I don't -- well,
13 that's not highlighted.

14 Q Now did you lie when you said that?

15 A No. I had been staying at his house for the
16 past two to three days.

17 Q Says -- and you told them this after you were
18 arrested didn't you?

19 A Yes, sir.

20 Q And you told them you didn't go to Herb's.
21 You had been at Miguel's house for three days, and
22 you might have gone somewhere to eat and that's all
23 you went?

24 A That's not what I said. I said I have been
25 staying at the apartment the past two to three days

1 and might -- I said I have been staying at the
2 apartment the past two days. And I would go so far
3 as to say even the past three days, which is true.

4 I did not say that, no, I didn't go to
5 Herbert's house. Didn't say, no, I did not go rob
6 Harpe. What I just read was, I have been staying at
7 the apartment the past two to three days.

8 Q Then it says, I might have gone to get
9 something to eat, doesn't it?

10 A Yep.

11 Q Are you still going to stick to your story
12 that you didn't lie to the police?

13 A Say it again?

14 Q Are you still going to stick to your story
15 that you didn't lie to the police?

16 A In my opinion, I didn't lie to the police. I
17 might have withheld the full truth. But everything I
18 just read was the truth. I did stay at Miguel's
19 house. I did --

20 Q I want you to leave out the expletives. Not
21 only do you leave out the expletives, don't read this
22 out loud. But read this last paragraph on that page
23 and tell me if you told the truth.

24 MR. KIDD: Objection. Can we get a direct
25 question? Maybe something --

1 MR. SOWELL: I will rephrase

2 THE COURT: Rephrase the question.

3 MR. SOWELL: I'm sorry?

4 THE COURT: Rephrase the question.

5 Q (By Mr. Sowell) When you told them what is
6 transcribed there on the bottom paragraph on page
7 ten, did you lie to the police?

8 THE COURT: Mr. Sowell, you need to ask him a
9 question, give him the opportunity to admit or deny,
10 and then allow him to use it to refresh his
11 recollection and the re-ask the question.

12 MR. SOWELL: Thank you.

13 Q (By Mr. Sowell) Did you say, I ain't a
14 explicative, I ain't no damn robber. I have been in
15 the house asleep. Did you tell them that?

16 A That's not the full truth. Where it says, I
17 have been in the house asleep, that's the truth.
18 Where it says I have been -- I'm not an explicative
19 robber, that's not the truth.

20 But I wasn't really viewing myself as a
21 robber. This is my first time committing a crime
22 that's hideous and like this. And I was in a state
23 of denial.

24 And I definitely wasn't trying to admit to
25 anything that, you know, just because my friend or my

1 codefendant was admitting to everything and saying
2 that we did everything. I definitely wasn't trying
3 to admit to anything without having my lawyer or
4 anybody present.

5 Q So you lied to the police officer because you
6 did not have your lawyer present?

7 A I would not say it like that, that I lied
8 because my lawyer wasn't present. I just wasn't
9 trying to admit and incriminate myself in a crime.

10 Q But you did lie to the police officer?

11 A I lied when I said I'm not a F-robber because
12 obviously I am a robber and I committed those crimes.

13 Q Do you expect leniency based on your testimony
14 that you give today here?

15 A I don't expect it.

16 Q Are you hoping for it?

17 A I am not hoping that I receive leniency on my
18 testimony. From what the proffer agreement says, by
19 coming clean and telling the truth, you throw
20 yourself at the mercy of the Court. So I am hoping
21 that by me coming clean with my actions and what I
22 have done, I will have mercy with the Court.

23 Q Now did the police officers tell you that you
24 would receive leniency if you cooperate?

25 A No, they didn't.

1 Q They didn't? Are you sure?

2 A Yes, I am positive.

3 Q We will come back to that issue.

4 Mr. Starks, you've known him all your life?

5 A No, sir.

6 Q How long have you known him?

7 A Since '08 or '07, maybe.

8 Q Is he kind of a crazy person?

9 A I would say yes.

10 Q Is he the type of person who jokes and laughs
11 and plays tricks all the time?

12 A Yes. But I think we all pretty much were like
13 that.

14 Q And sometimes when he plays tricks on people,
15 do they not understand it's a joke?

16 A I'm not too sure about the answer to that.

17 Q Well even when you robbed Herb, he thought you
18 were joking, didn't he?

19 A Yeah.

20 Q So even after you broke into his house and did
21 all -- and showed up with all these guns and all, he
22 still thought you were joking with him, didn't he?

23 A Yes, sir.

24 Q Okay. And after you pulled out all the guns
25 and started beating on everybody, they got afraid,

1 didn't they?

2 A Yes, sir.

3 Q Did you pull out guns on anybody?

4 A Yes.

5 Q Did you -- did the people you pulled guns out
6 on think, when they saw the guns and started beating
7 people with the guns, did they think you were
8 serious?

9 A Yes.

10 Q Did they think he was were dangerous?

11 A Yes.

12 Q Did they think they better obey him?

13 A Yes.

14 Q Did they think he knew where they lived?

15 A Yes.

16 MR. KIDD: Objection, Your Honor.

17 THE COURT: Basis?

18 MR. KIDD: Vague.

19 THE COURT: Overruled.

20 Q (By Mr. Sowell) Did he threaten to come back
21 if they reported it to the police?

22 A Nope.

23 Q He did not threaten Herb that if you report
24 this, I'm going to come back and get you?

25 A No, sir. I did not hear him say that. I know

1 I didn't say that.

2 Q Did Herb report that robbery in the first 12
3 hours after it happened?

4 MR. KIDD: Objection, Your Honor.

5 THE COURT: Basis?

6 MR. KIDD: Speculation.

7 THE COURT: You have to lay the -- establish
8 the appropriate foundation, Mr. Sowell. Sustained.
9 His knowledge.

10 Q (By Mr. Sowell) Did you find out when Herb
11 reported this incident?

12 MR. KIDD: Objection, hearsay.

13 THE COURT: Overruled. All he has to answer
14 is yes or no. It does not call for him saying what
15 someone told him.

16 A Can you repeat the question?

17 Q (By Mr. Sowell) Did you find out when Herb
18 reported this incident?

19 A Yes.

20 Q And that was a long time after it happened,
21 wasn't it?

22 A Yes.

23 Q And the reason they waited so long is they
24 were afraid; is that correct?

25 MR. KIDD: Objection, speculation.

1 A I don't know.

2 THE COURT: Overruled. He was there. He saw
3 their -- it's based on his present-sense impression.

4 MR. KIDD: When he reported it.

5 THE COURT: Within close proximity of why they
6 didn't report it immediately. Overruled.

7 A Can you repeat?

8 Q (By Mr. Sowell) The reason Herb didn't report
9 this --

10 THE COURT: You need to rephrase it the way
11 you stated it originally. The way you are stating it
12 now is speculative. He doesn't know what was in
13 Herb's mind.

14 Q (By Mr. Sowell) Do you know whether or not
15 Herb and Emily had been threatened?

16 A No, sir. I didn't hear anyone threaten them.
17 And I know that I did not threaten them not to tell.

18 Q Well did you kick them in the head?

19 A I didn't kick them, I punched Herbert in the
20 head.

21 Q I'm sorry?

22 A I punched Herbert in the head. Starks was the
23 one who kicked him.

24 Q Did you punch him with a gun?

25 A No. With my hand, my fist.

1 Q Did you have a gun in your hand when you did
2 it?

3 A Not at that time.

4 Q Where was the gun?

5 A Right next to me.

6 Q So you had two victims that you were
7 manhandling, and you laid your gun down beside your
8 -- beside you?

9 A No. We had already secured -- they were
10 securely taped and they was in separate rooms.

11 Q Now you said that Sasha stayed in the room
12 until after everybody was taped and blindfolded?

13 A That's what I'm pretty positive about.

14 Q Well was Herb one of those people who got
15 taped and blindfolded?

16 A Yes, sir.

17 Q I wonder why he never saw her.

18 MR. KIDD: Objection, Your Honor.

19 THE COURT: Basis?

20 MR. KIDD: Pitting.

21 MR. SOWELL: I'll rephrase, Your Honor.

22 THE COURT: Rephrase the question.

23 Q (By Mr. Sowell) Can you tell me why Herb
24 never saw Emily if Herb was in the room with her?

25 A I couldn't tell you.

1 MR. KIDD: Same objection, Your Honor.

2 THE COURT: Sustained, It's speculative. You
3 need to rephrase the question based on his
4 present-sense impression.

5 Q (By Mr. Sowell) Did Herb have the opportunity
6 to see Sasha in the room before his eyes were taped?

7 A He should have. But the only thing I can say
8 is, you know, we was in his face with guns. And I'm
9 pretty sure he was a whole lot more focused on us and
10 guns in his face than anything else. But pretty sure
11 he should have.

12 Q But if he didn't, do you have any explanation
13 as to why he didn't?

14 MR. KIDD: Objection, Your Honor.

15 THE COURT: Sustained, speculation. Unless
16 you can lay the appropriate foundation.

17 MR. SOWELL: Yes, Your Honor.

18 Q (By Mr. Sowell) When you all were in these
19 different apartments and you all were joking and
20 talking and making your plans, was everybody smoking
21 marijuana and drinking beer and liquor?

22 A Everybody was except for Breanna. She wasn't
23 smoking.

24 Q Now were you smoking?

25 A Yes, sir.

1 Q Was anybody smoking to excess?

2 A We all were smoking pretty heavily.

3 Q And do you think that would have any impact on
4 someone to believe that something was a joke or not?

5 A I don't think so.

6 Q If you are --

7 A I mean definitely being intoxicated should
8 have some type of impairment on your judgment, I
9 guess.

10 Q Now you knew that coach was Mr. Starks'
11 football coach, did you not?

12 A Yeah. But I didn't know that he was an actual
13 -- he had moved up, I guess, in ranks and became an
14 actual coach coach. From what I have heard.

15 Q But you knew that Mr. Starks was a
16 quarterback?

17 A Yes.

18 Q And quarterbacks deal with coaches every three
19 minutes through the whole day, don't they?

20 A Yes.

21 Q They talk to them constantly, don't they?

22 A Yes.

23 Q How did you have any idea that you could break
24 into the coach's house, talk to him and tie him up
25 and threaten him and ask him for the cash and ask him

1 for credit cards and all that, after you have been
2 spending several hours, eight months a year with this
3 coach and the coach not recognize his voice?

4 Q Well from my point of view, I just would say
5 that I was being real stupid and nonchalant. And
6 from my standing, I hadn't been in Charleston in more
7 than a year. So I definitely didn't think he would
8 recognize my voice.

9 And I just, you know, I was down and out and,
10 you know, anything that sounded like getting money
11 and getting drugs sounded good to me. I could have
12 -- we could have came up with an idea to rob the
13 mayor for money, that would have sounded good to me.

14 I just wanted money. I had a new child that
15 was supposed to be born in a couple months, and
16 that's all I was looking for was money or something I
17 could exchange for money and.

18 Q Do you think that Sasha knew there was no way
19 possible to get away with this?

20 A I don't know what she thought.

21 Q And if she thought that you're crazy, you are
22 just talking through the marijuana, she really didn't
23 think or have any idea that you were going to really
24 do this, did she?

25 MR. KIDD: Objection, Your Honor, speculation.

1 He doesn't know what she thinks.

2 A I think that --

3 THE COURT: I'm going allow him to answer the
4 question. overruled.

5 A I think that she did know because when we
6 first -- when we first ever discussed the plan at
7 Francois' or her apartment, or whoever's apartment it
8 was downtown, there was no drugs involved then.
9 Everybody was sober-minded.

10 This is the first time we discuss it, when
11 it's just us four and Breanna's not in the picture.
12 Everybody's sober-minded. We are serious. We go
13 over the plan two or three times. Starks draws the
14 layout out. They're asking questions.

15 You know, we are serious. They even come up
16 with their reasons why they want to partake in it.
17 They say that they want money for a car, for an
18 apartment, and, you know, I needed money. I was
19 under the impression that Starks needed money. I
20 found out later that he really didn't but.

21 Q Did you think that Sasha owned a car with no
22 mortgage on it?

23 A I don't know. I don't know what she owned, I
24 just know what she said.

25 Q She had told you --

1 A I don't even know if she had a car or not. I
2 just know that's what she said.

3 Q But you are saying that she wanted to do this
4 because she wanted money for a car, although she had
5 a car that had been fully paid for by her dad?

6 MR. KIDD: Objection, Your Honor.

7 A I don't know.

8 THE COURT: Basis?

9 MR. KIDD: He is entering evidence.

10 THE COURT: You need to lay the appropriate
11 foundation of knowledge of that fact.

12 Sustained, foundation.

13 Q (By Mr. Sowell) Why is it that you testified
14 that she wanted money for a car but Mr. Starns (sic)
15 said she wanted money for a hairstyle?

16 MR. KIDD: Objection.

17 THE COURT: Pitting, sustained. Rephrase.

18 Q (By Mr. Sowell) You have no doubt that she
19 wanted to buy a car?

20 A I don't know if she wanted to buy a car, but I
21 remember her saying that she needed money for some
22 type of payment, either the first payments for a car.
23 And I remember her and Francois both saying they were
24 moving into a new apartment and some extra money
25 would be nice for a payment on the new apartment.

1 Or I don't know if they was buying an
2 apartment. I don't know if she already had a car. I
3 just know those were the two statements that were
4 said.

5 Q Now you've told us that on the 24th when you
6 met with them, there was no really plan. You just
7 wanted to know if they would be involved with it?

8 A No. On the 24th it was planned. On the
9 second robbery, it wasn't really any planning. It
10 was just more Starks telling Breanna and Gaskins that
11 they needed to make a phone call because we didn't
12 really know anything about Harpe's apartment.

13 Q Didn't you tell this jury on February 24th,
14 2010, when you met with Sasha and her boyfriend
15 Stephen, that you had no real plan at that time?

16 A No.

17 Q You didn't tell them that?

18 A I said that there was planning. That the
19 house and the landscape was drawn out. I might have
20 said when we went to Kickin' Chicken that there
21 wasn't really any plans being talked or discussed
22 then.

23 But when we initially met, it was for Starks
24 to introduce me to them two, and to go over the plan
25 to them.

1 Q Now when you said that Sasha and Stephen were
2 going to move in with Erika?

3 A I don't know who they was going to move into.
4 I just know they said something about a new
5 apartment. I really barely even knew their names. I
6 was introduced to Francois as Frenchie and.

7 Q Didn't Sasha tell you that she already been
8 accepted into the Air Force and had her papers to
9 appear at the Air Force?

10 A I do remember her saying something about, I
11 didn't remember if it was the Air Force or the Army
12 or something about being deployed sometime soon.

13 Q So how was she going to move in with Stephen
14 and Erika?

15 A I don't know. And I didn't even know that
16 Erika was somebody that they were trying to move in
17 with.

18 Q How was she going to move in with anyone if
19 she was taking off for the Air Force next month?

20 A I don't know. And I don't remember her giving
21 me an exact date. I just remember her saying
22 something about, like I said, either the Air Force or
23 the Army, saying that she had been accepted and.

24 Q I'm having a hard time wondering when you're
25 going to start telling the truth. At one voice you

1 say, she is moving in with Stephen; in another you
2 admit she is taking off for the Air Force. How do I
3 know when you're telling the truth and when you are
4 not?

5 A All that's the truth. That's what she told
6 me, that they were moving into a new apartment. And
7 she did vaguely state something about being accepted
8 into the military.

9 But I didn't know when she was leaving. I
10 didn't know if she was leaving that next week or
11 whether she was leaving the next year. I only know
12 what they was telling me.

13 Q The first robbery, the first break-in, where
14 were the guns when you all pulled up to the house?

15 A We didn't pull up right to the house. We
16 pulled up down the road.

17 Q When you did pull up to the house, where were
18 the guns?

19 A Like when we walked up on the house?

20 Q Yes, sir.

21 A We had the guns in our pants, in our
22 waistline.

23 Q And did you have a gun?

24 A Yes, sir.

25 Q Did anyone else have gun?

1 A Yes, sir. Starks had a gun.

2 Q Starks had a gun?

3 A Yes, sir.

4 Q And he was one that opened Sasha's car door
5 and told her get out, wasn't he?

6 A No. He didn't tell her to get out, and I
7 don't remember him opening her door. I just remember
8 us all getting out collectively. Breanna dropped us
9 off at the top of the road.

10 Q Where were you sitting in the car?

11 A I was sitting in the backseat.

12 Q In the middle or on the side?

13 A If I remember correctly, I was on the side.
14 And Sasha was in the middle and Francois was on the
15 other side of her and Starks was in the front seat,
16 in the passenger seat.

17 Q And when did you put the guns in your
18 waistband?

19 A I can't remember if it was as soon as I got
20 out of the car or when I was in the car. I just know
21 while we was walking up the street, we wasn't walking
22 with the guns out, they were concealed.

23 Q When did Starks (sic) -- Starks put his in
24 his?

25 A I don't remember. I just know we weren't

1 walking up and down the street with our guns out.

2 Q And did you have any idea that you could do
3 all of this in Herb's house and him not recognize
4 you?

5 A Yes. I was confident that he wouldn't
6 recognize me. Like I said, I was nonchalant and.

7 Q Did you call him four times a day?

8 A No. I hadn't called him at all. He called me
9 earlier that day once.

10 Q He called you? So he must have known you
11 pretty well then, didn't he?

12 A We knew each other pretty good. We used to
13 get up together and smoke and hang out through mutual
14 friends.

15 Q And when he recognized your voice, you beat
16 him up?

17 A No, I didn't beat him up. I tried to play it
18 off because I was shocked and I tried to tell him.

19 Q When did you start kicking him and hitting
20 him?

21 A That was before, that was before he called my
22 name.

23 Q So you had already beat him up when he called
24 your name?

25 A Yeah. That was before he called my name.

1 Q Why did you start beating him up?

2 A Because he wasn't telling us where any of the
3 drugs or any of the money was at. He was basically
4 just telling us that he didn't have anything and.

5 Q Did you ever find any money?

6 A We didn't find any money.

7 Q Did you ever find any drugs?

8 A Yes. We did find some.

9 Q What drugs did you find?

10 A We found like a mason jar full of weed.

11 A And was it usable, or was it just stems?

12 Q It was marijuana. When we got back --

13 Q Was it stems or was it leaves?

14 A It was marijuana. When we got back to the
15 apartment we rolled it up and we smoked about four or
16 five cigarillo blunts of it. I was under the
17 impression that it was real marijuana.

18 Q Was it?

19 A I thought it was, to me it was.

20 Q Did you get high on it?

21 A Yes.

22 Q Now I'm sorry that she has to relive this, but
23 where was Sasha when either you or Starns (sic) stuck
24 your private parts into her mouth?

25 A Sasha wasn't in the house.

1 Q Okay. Was Sasha in the house when you all
2 started beating up the two guys -- beating up Emily
3 and Herb?

4 A No, she wasn't.

5 Q You went back into the living room three times
6 and Starns (sic) was still molesting Emily every
7 time, wasn't he?

8 A Yeah. It was two times. And the second time
9 I like turned around and didn't even make it out of
10 the room and looked back and he was still -- he still
11 had his thing up.

12 Q That was the second time?

13 A Yep.

14 Q And you went back the third time and he was
15 finally zipping his pants?

16 Q No, no. This was all basically the second
17 time. I went in the first time and I told him -- I
18 yelled at him, what are you doing, why. We didn't
19 come here for that and cussed at him.

20 And then I went back into the room, Butler
21 calls out my name. Then I have that ordeal with
22 Butler for about five or ten minutes trying to get
23 him to call me and make it seem like he is trying to
24 invite me over to get robbed.

25 And then I come back out, after that's over

1 with, I come back out the second time and he is still
2 there. And he makes gestures like he's going to
3 stop.

4 I turn around, don't even leave the room, I
5 turn around and look back and he is still standing
6 there with his penis out.

7 Q How do you make gestures that you are going to
8 stop concerning your private parts in the girl's
9 mouth? How do you make gestures you are going to
10 stop that?

11 A The whole time I never saw him with his penis
12 in her mouth. I just assumed because his penis was
13 hard and he's standing over her and she's on her
14 knees, so I was just assuming.

15 And when I say he made gestures, he would,
16 you know, he had his thing out and we all had on like
17 jogging pants and he made it look like he was about
18 to put his thing in his jogging pants, you know,
19 lifting up his pants like he is about to.

20 But I turned back around and he is still
21 standing there with it out. I took two steps --

22 Q Was he high? Was he high on marijuana at the
23 time?

24 MR. KIDD: Objection, Your Honor.

25 THE COURT: I haven't heard the whole

1 question.

2 MR. KIDD: Objection to if he could finish
3 answering his question.

4 THE COURT: I think he finished.

5 MR. SOWELL: Your Honor, I'm having a
6 difficult time while asking a question.

7 THE COURT: No speaking objections.

8 MR. SOWELL: I'm sorry.

9 THE COURT: Sir, answer the question yes or no
10 you and then you may explain your answer.

11 Ask a cogent question, please.

12 Q (By Mr. Sowell) You said that Starns (sic)
13 was acting crazy. What do you mean by that?

14 A I mean none of that was really in any of our
15 plans. We didn't, we didn't expect for a female to
16 be at Butler's house so we definitely -- it wasn't in
17 our planning to go there and rape somebody or force
18 somebody to give sexual, oral sex.

19 So that, for one, was major, me thinking
20 that's crazy. And we definitely didn't plan on
21 threatening anybody to cut off anybody's penis with a
22 sword. So all that -- again I mean, everything we
23 was doing was crazy. But that's why I would say that
24 appeared to be even more crazy, I guess.

25 Q When you all got back to Starns' (sic)

1 apartment, condo, you all put everything on the floor
2 and divided it up?

3 A Yes.

4 Q How much jewelry was in that?

5 A I can't remember how much jewelry we had
6 found. I know, if I remember correctly, we had found
7 more jewelry on the second robbery, but I'm still not
8 sure.

9 I know we had found jewelry, I think, on the
10 first robbery. It was more we found more like
11 smoking pipes and more stuff like that.

12 Q You found marijuana scales too, didn't you?

13 A Yes.

14 Q And marijuana scales are postal scales that
15 people use to weigh the marijuana when they sell it;
16 is that correct?

17 A Yes, sir. Then jewelry scales, jewelry
18 scales, people use them to wear -- weigh jewelry. I
19 think that's what they're originally meant for.

20 Q And had you ever bought any marijuana from
21 Herb?

22 A Yes, I have.

23 Q When was the last time, before this incident,
24 that you bought marijuana from Herb?

25 A It had to be back in '09. Early '09, maybe.

1 Q Back when you were living here, how often did
2 you buy marijuana from Herb?

3 A Like I said earlier, I bought from him a lot.
4 But I definitely wouldn't say he was my main
5 supplier. And, you know, I definitely don't want to
6 put it all on Herb, you know.

7 A lot of times it was a group type things, you
8 know. Sometimes I would have weed and Herbert
9 wouldn't have weed. And/or him and our mutual
10 friends wouldn't have weed and I would supply the
11 weed for all of us to get high on.

12 We would just have a big smoking party, or
13 whatever you want to call it. Or it would be
14 vice-versa. Or if, you know, if I didn't want to
15 have a smoking party, I would buy weed from him and
16 go with -- go wherever I intended to smoke, or if I
17 intended to save the weed, or whatever the case might
18 have been.

19 Q Now at some point you all taped up Herb and
20 Emily?

21 A Yes, sir.

22 Q And I believe you said after you all taped him
23 up, Herb asked you, is this a joke? What are you all
24 doing?

25 A It wasn't, I can't remember if it -- what I

1 remember was he was asking it throughout the time.
2 Like, when we first came in and we had our guns out
3 he was, you know, asking, you know, what are you all
4 doing? What? Is this a joke? What's going on? Do
5 I know you? It's different questions like that.

6 I don't necessarily remember after we taped
7 him up him asking was it a joke.

8 Q What point did he realize this was a real
9 robbery?

10 A Probably when Starks was kicking him and I was
11 punching him.

12 Q And Emily wasn't in the house at that time?

13 A Who? Emily?

14 Q I'm sorry, Sasha?

15 A No, she wasn't.

16 Q Sasha didn't see all you all do anything
17 harmful to anybody, did she?

18 A No. When she came back in, everybody was just
19 taped up and that was -- all the punching and kicking
20 had already been done and Starks had already did that
21 and.

22 Q You said -- now I believe after you all taped
23 everybody up and did all this other bad stuff, then
24 Starns (sic) called the girls and told them to come
25 in, back in the house?

1 A No. Right after I pulled Starks into the
2 kitchen and basically cussed him out for what was
3 going on, that's when we both pretty much come to the
4 conclusion that we needed to search the house because
5 we hadn't searched the house at all, really.

6 And that's when Starks calls the girls, and
7 I'm not too sure if he actually called Sasha or if he
8 called Francois, I just know he called one of them.

9 And he said, come pick me up so we can go to
10 the ATM and I can check these credit cards. And when
11 they come and get him, at that point they don't come
12 back in the house. They just call and say, we are
13 outside. And he walks out and leaves and they go to
14 the ATM.

15 Q I'm trying to figure out when the girls took
16 this crate out to the car?

17 A That was after they returned from -- when they
18 returned from checking the credit cards, everybody
19 enters in.

20 Q Okay. Now when -- what was the first night
21 that Breanna slept with Starns (sic)?

22 A I believe it was Thursday, the next night.
23 But that night, I really, to tell you the truth, that
24 night is just a blur. To me, when I look back on my
25 memory, I just remember the robbery and then I

1 remember the next robbery and then now I'm in jail.

2 Q Breanna met Starns (sic) on a Wednesday?

3 A Yep.

4 Q Where did she sleep that night?

5 A That night they all went back to their dorms
6 and their apartments.

7 Q And the next night she slept with Starns
8 (sic)?

9 A I believe so.

10 Q Who did you point guns at?

11 A Butler and Emily when we first came into the
12 house. And then Harpe, pointed them at Harpe when we
13 robbed his apartment.

14 Q I think you said they had a reason to be
15 afraid of you and Starks?

16 A Yeah. I wouldn't see why not. We had guns at
17 them, pointed at them, telling them to get down.
18 And, I mean, at first Butler didn't really seem
19 afraid because, I guess, he thought that some of his
20 friends was playing a prank on him.

21 But then after, you know, we kicked him and
22 punched him, I'm pretty sure that he realized that it
23 wasn't a prank no more.

24 Q Who was it that told Detective Wagner that
25 Sasha ran out of the house as soon you and Starns

1 (sic) came in?

2 MR. KIDD: Objection.

3 THE COURT: Basis?

4 MR. KIDD: Speculation. Lack of foundation.

5 THE COURT: Rephrase. Unless you can lay an
6 appropriate foundation that is within his knowledge.

7 MR. SOWELL: I will wait until after Office
8 Wagner testifies, Your Honor, then I will have to
9 recall this witness

10 THE COURT: You can lay the -- you have to
11 base it on his presence sense impression. As you
12 stated the question, it's speculation. There would
13 be no foundation for his knowledge. So you need to
14 rephrase the question.

15 Q (By Mr. Sowell) Did you ever meet Detective
16 Wagoner?

17 A Yes.

18 Q And did you tell him -- did you have an
19 interview with him?

20 A Yes.

21 Q And did he prepare an affidavit?

22 A Are you talking about the initial interview or
23 the --

24 Q The interview that supported the affidavit?

25 A Repeat -- can you repeat that, please?

1 Q Did you have an interview with Detective
2 Wagoner to support an affidavit for a warrant?

3 A I'm not sure what you are -- I had an
4 interview with him.

5 Q Did you tell them that Sasha ran out of the
6 house as soon as you and Starns (sic) came in?

7 A I don't -- I did not tell him that.

8 Q How long was Sasha in the house after you all
9 first went in?

10 A From what I'm pretty positive about, she was
11 there when we -- when Butler came out with the plate
12 in his hand and.

13 Q I'm sorry?

14 A When Butler came out of the kitchen with the
15 plate in his hand, and we had the guns up to them.
16 And we told them get down, and we started duct-taping
17 them.

18 Q Did you see her leave?

19 A No. I just remember at some point I looked up
20 and she was gone. I did not remember her leaving. I
21 did not remember seeing her leave or run out.

22 Q So you did not know when she left?

23 A I don't know when she left there. I just know
24 that she was there. I was so focused on what I was
25 trying to do, and I looked up at some -- I think when

1 I actually realized that she was gone was when that
2 -- when we already had Butler and Emily Michalak
3 separated. I think I came back into the living room
4 and just noticed that she was gone.

5 Q But you did not see her leave?

6 A No.

7 Q You don't know when she left?

8 A No. For all I know she could have left when I
9 was in the room with Butler. Because the room is,
10 you can't see the living room and the front door from
11 his room.

12 Q What was she doing when you saw her last?

13 A She was just standing there. She was behind
14 us. She wasn't doing anything. She wasn't saying
15 anything.

16 Q So when you came in, she was behind you?

17 A No. When we came in, she was in front of us
18 first. She like walked in kind of behind Emily
19 Michalak. And then we came in the house behind her
20 and got in front of -- when we were in the house, in
21 the living room, we kind of like walked around each
22 side and got in front of her.

23 Q You got in front of her and you spent all your
24 attention on Herb and Emily and you didn't see her
25 leave?

1 A Nope.

2 Q So you don't know when she left?

3 A I don't know exactly at what point she left.

4 Q And after you've circled around her to start
5 dealing with the two victims, you did not see her
6 after that?

7 A No. When we was around her and when the guns
8 was there I could see her and, like I said, I was
9 focused on what I was doing. I wasn't, you know,
10 looking at her and pointing my gun at them.

11 I was real focused on them, and I notice she
12 was there. I could see her and, you know, all I know
13 is we began taping them up. And, you know, and made
14 them separate. Then I looked up again and she was
15 gone.

16 Q Did you see -- ever see Starns (sic) point a
17 gun in the direction of Sasha?

18 A No, I didn't.

19 Q Did you ever lose sight of him after you got
20 out of the car?

21 A When we got in the car to walk to the
22 apartment?

23 Q Yes, sir.

24 A No. We was all pretty much walking together,
25 side by side. Maybe he might have been a little -- a

1 step or two ahead of us, but we was all pretty much
2 together.

3 Q No question that anybody -- Starns (sic) was
4 acting crazy; is that correct?

5 A Yes.

6 Q And he was -- had a gun and he was threatening
7 to kill people; is that correct?

8 A I don't remember him actually threatening to
9 kill anybody. I just remember, you know, we got our
10 guns out and that's pretty much an implied threat, I
11 guess. I don't remember him actually saying, I'm
12 about to kill you or anything like that, or I'm about
13 to.

14 Q Well he threatened to cut off his penis if he
15 didn't show him where the marijuana was?

16 A I don't know what he said with that. I just
17 know from what I saw when I came into the room.

18 Q You did not hear him threaten to cut off any
19 member of?

20 A Oh, yes. He did threaten to cut off Herbert's
21 penis with the sword. But I did not hear him, with
22 the guns, I did not hear him say, you know, I'm going
23 to kill you over this. I never heard him say that.

24 Q Did you hear him say anything about Herb's
25 parents?

1 A No. I didn't hear him say anything to them.

2 Q But anybody who was threatened by Starns (sic)
3 would have good reason to fear; is that correct?

4 A Yeah, and by me too. I'm definitely not
5 trying to put everything on Starks. I had my gun out
6 too. And I was yelling and saying, get on the floor,
7 just as much as he was.

8 Q Tell me about the dog?

9 A The dog?

10 Q Who had a dog?

11 A Josh Harpe. Harpe.

12 Q What kind of dog was it?

13 A I don't remember what type of dog it was.

14 Q Was it a big dog or a little dog?

15 A Miniature size dog. Came up probably to my
16 knees, I guess.

17 Q Did -- who threatened Herb?

18 I'm sorry, who threatened coach?

19 A No one really threatened Harpe. He just -- he
20 was cooperative as soon as he saw us. We really
21 didn't even have to tell him to get down. He had got
22 down and he had thrown his stuff to the side.

23 And it really was no threats. We just asked
24 him was there any cameras, he said no. And he pretty
25 much complied with everything that we said. And I

1 guess he would have had the same implied impression
2 that we would shoot him or kill him because we had
3 guns pointed at him and it was all three of us
4 surrounding him.

5 But we didn't -- I don't remember anyone
6 saying any threats. Just remember us approaching --
7 well, he come out of the elevator and pretty much
8 running up on, he pretty much walking right up on me
9 and then all of us surrounding him and telling him to
10 get down. And that was pretty much it with that
11 robbery.

12 Q Now after the first incident -- withdraw that.

13 MR. SOWELL: Nothing further.

14 THE COURT: Any redirect?

15 MR. KIDD: Very, very briefly, Your Honor.

16 THE COURT: You may proceed.

17 REDIRECT EXAMINATION

18 BY MR. KIDD:

19 Q When you got arrested and got taken to the
20 police station, were you scared?

21 A Yes, I was scared.

22 Q Were you trying to say things to keep your
23 self out of trouble?

24 A Pretty much. I didn't want to say anything
25 that would get me in trouble. And I definitely was

1 trying to watch anything that I did say that might
2 get me in trouble.

3 Q When you said Herbert thought you were joking,
4 that was -- when, in the time span of that robbery,
5 did he think you were joking?

6 A The very beginning.

7 Q When did he realize it wasn't a joke?

8 A I mean, I would say it was pretty obvious once
9 they were taped up. But I think that it became even
10 more apparent when, like I said, Starks had kicked
11 him and I punched him. And Starks kicked him again
12 and I punched him again.

13 Q When -- after they get back from the ATM and
14 everybody comes inside, where is Emily at?

15 A She is still in the living room.

16 Q And where is Herbert at?

17 A He is still in his room.

18 Q And everybody comes inside, right?

19 A Yep.

20 Q Did they come, mill about throughout the
21 house?

22 A Yes. At that point, we start ransacking the
23 house, pretty much, looking for anything.

24 Q Was Sasha able to see Emily?

25 A Yes.

1 Q And she is taped up?

2 A Yes.

3 MR. KIDD: No further questions.

4 THE COURT: Any objection to the witness being
5 excused from the State?

6 MR. SOWELL: I have got one.

7 THE COURT: You may proceed.

8 RECROSS-EXAMINATION

9 BY MR. SOWELL:

10 Q Was Sasha ever, from Tuesday when you all met
11 at Stephen's apartment until the time that you all
12 were arrested by the police officers, was there any
13 time ever that Sasha was with Miguel Starns (sic), at
14 any time when you were not there?

15 MR. KIDD: Objection, Your Honor. Outside the
16 scope of recross.

17 THE COURT: I'm going to give him a little
18 latitude. Overruled.

19 THE WITNESS: Answer?

20 THE COURT: Yes, sir, you may answer the
21 question.

22 A Not that I'm aware of. We all pretty much was
23 together. Except for the night when, the night of
24 Harpe's robbery and I went into the room to, pretty
25 much, sleep.

1 But for the most part, we were all together
2 when we went over the plan, and going over the call
3 situation. Her and Starks was engaged in back and
4 forth on what to say, what not to stay, what to use,
5 the pay phone and, you know, and then I --

6 Q How do you know all this if you were asleep?

7 A This is before I went to sleep they were
8 discussing this.

9 Q Tell me this, when you went to sleep, was she
10 there with him when you were not there with him?

11 A Yeah, I wasn't in the room. It was her,
12 Francois --

13 MR. SOWELL: Thank you.

14 THE COURT: Any objection to the witness being
15 excused from the State?

16 MR. KIDD: No, Your Honor.

17 THE COURT: Did you have any further
18 questions?

19 MR. KIDD: Well.

20 REDIRECT EXAMINATION

21 BY MR. KIDD:

22 Q When you were in the room asleep, who else was
23 there?

24 A When I was in the room asleep, all four of
25 them was there. It was Starks, Bruster, Francois and

1 Gaskins. To my recollection, Starks and Bruster went
2 into Starks' room, and Francois and Gaskins stayed in
3 the living room.

4 MR. KIDD: No further questions.

5 MR. SOWELL: Your Honor, before this witness
6 is released, is there anyway possible to keep him
7 and --

8 THE COURT: We will deal with that outside the
9 jury's presence.

10 MR. KIDD: It's taken care of.

11 THE COURT: We will deal with that outside the
12 jury's presence.

13 Is there any objection to the witness being
14 excused, subject to recall, from the State?

15 MR. KID: No, Your Honor.

16 THE COURT: From the defense?

17 MR. SOWELL: No, ma'am.

18 THE COURT: Sir, you are excused subject to
19 being recalled.

20 MR. SOWELL: Your Honor, may we approach?

21 THE COURT: Mr Foreman, ladies and gentlemen,
22 I'm going to take a brief recess to determine how we
23 are going proceed for the remainder of the afternoon.
24 We are going to be going a little later every evening
25 because I need to make sure that we finish this trial

1 by Friday. I don't want to go into next week.

2 So I appreciate you all indulging us. And I
3 know that it may inconvenience you, and I apologize
4 in advance. If you would go with the bailiffs.

5 Please do not discuss the case and please
6 leave your notepads in your seats. And I will let
7 you know how we will be proceeding for the remainder
8 of the afternoon.

9 (Whereupon, the jurors exit the courtroom.)

10 THE COURT: Yes, sir, Mr. Sowell.

11 MR. SOWELL: I think Your Honor answered my
12 question about I'm not real sure that I phrased it
13 like I should have. I was trying to make sure that
14 the remaining witnesses are not allowed to talk to
15 the witness who left the witness stand when they're
16 in jail.

17 THE COURT: I would imagine they're
18 segregated.

19 MR. KIDD: I've asked for them to be
20 segregated for the past -- anytime they have been in
21 transported or even at the jail.

22 MR. SOWELL: Thank you, sir.. Thank you, Your
23 Honor.

24 THE COURT: Who's the State's next witness?

25 MR. KIDD: Next witness is Miguel Starks.

1 THE COURT: Who is long.

2 MR. KIDD: Will be as long as.

3 THE COURT: We are going to get him started
4 because I can't run the risk of being here next week.

5 Go ahead and get the jury for me, please. Go
6 ahead and bring out Mr. Starks.

7 (Whereupon, the jurors enter the courtroom.)

8 THE COURT: Ladies and gentlemen, we will now
9 resume with the testimony.

10 You may proceed.

11 MR. KIDD: Thank you, Your Honor. State calls
12 Miguel Starks.

13 THE COURT: Sir, if you would stand to be
14 sworn.

15 THE WITNESS: Yes, ma'am.

16 MR. MIGUEL DOMINIC STARKS,
17 after having first been duly sworn to state the
18 truth, the whole truth and nothing but the truth,
19 testified on his oath as follows:

20 THE COURT: You may proceed.

21 MR. KIDD: Thank you, Your Honor.

22 THE COURT: You're welcome.

23 DIRECT EXAMINATION

24 BY MR. KIDD:

25 Q Good afternoon, Mr. Starks.

1 A How are you doing, sir.

2 Q I want to start off by saying, have you ever
3 met with me or anyone from the solicitor's office
4 before?

5 A Yes, sir.

6 Q About how many times?

7 A About three times, sir.

8 Q Three times. How many times have you met with
9 me?

10 A Once, sir.

11 Q Once. And in our -- in any meetings you've
12 had with me or the solicitor's office, have any
13 promises been made to you regarding sentencing?

14 A No, sir.

15 Q Have we exchanged any promises in exchange for
16 your testimony today?

17 A No, sir.

18 Q What have you pled guilty to with regards to
19 this incident?

20 A I pled guilty to first degree burglary,
21 kidnapping, armed robbery, possession of a firearm
22 during a violent crime, and first degree CSC.

23 Q And CSC is criminal sexual conduct?

24 A Yes, sir.

25 Q And have you been sentenced on any of those

1 crimes?

2 A No, sir.

3 Q Okay. Just would get a little background
4 information first. How do you know Reginald Rice?

5 A I met Reginald Rice at the Citadel in 2009,
6 2008.

7 Q And did you go to the Citadel?

8 A Yes, sir.

9 Q How did you meet him at the Citadel?

10 A Reginald Rice was in my company; I was a
11 freshman, he was a junior. We went out for company
12 together.

13 He also played on the football team, and
14 that's one of my reasons for going to the Citadel,
15 to play football.

16 Q You played on the football team as well?

17 A Yes, sir.

18 Q Did you know Steven or Stephen Francois?

19 A Yes, sir. I knew him in high school. We went
20 to high school together ever since my sophomore year.

21 Q Where did you all go to high school together?

22 A Mundy's Mill High School down in Clayton
23 County, Georgia.

24 Q Is that -- where is Clayton County?

25 A That's in Jonesboro, Jonesboro, Georgia.

1 Q Okay. And so about how old were you when you
2 met Francois?

3 A Sixteen years old.

4 Q Sixteen. When did you first meet Sasha
5 Gaskins?

6 A If I not mistaken, my real first conversation
7 with her was the week of all this happening. But I
8 think I might have seen her before, but I can't give
9 you an exact date. But it was probably sometime
10 early January. Early January.

11 Q Can you tell the jury a little bit about your
12 relationship with Francois. Were you all pretty
13 close, or could you describe that relationship?

14 A Like I said, me and Stephen went to school
15 together for three years, high school together. His
16 Mom and my Mom was pretty close because of us
17 athletics, we played together.

18 So we kind of developed a relationship. We
19 were pretty close. We went out a couple of times.
20 Just played ball together. I spent the night over at
21 his house one time. He spent the night over at my
22 house one time. But other than that, that was about
23 it.

24 Q All right. When did you first meet Bruster,
25 Breanna Bruster?

1 A I met her Tuesday. Tuesday -- no, Wednesday.
2 Wednesday before this happened.

3 Q Was that the same day of the first robbery?

4 A Yes, sir.

5 Q What was your relationship with Ms. Bruster
6 like?

7 A It was a girl that Stephen had introduced me
8 to, to talk to.

9 MR. SOWELL: Your Honor, I cannot understand
10 him.

11 THE COURT: Sir, I need you speak up a little
12 more clearly for me, please.

13 A Breanna Bruster was a girl that Stephen
14 Francois introduced me to to basically talk to, to
15 get to know as far as girlfriend purposes.

16 Q (By Mr. Kidd) All right. I'm going to kind
17 of get right to what we are here for. So that we
18 talk about, you know, what happened with these two
19 home invasions.

20 So that first day that you met Ms. Bruster,
21 and you said that was a Wednesday, can you tell the
22 jury a little bit about what happened that day and
23 what led up to the meeting of Ms. Bruster?

24 A Well --

25 Q Actually I'm sorry, let me stop, let me take a

1 step back.

2 When did Mr. Rice first come to Charleston?

3 A He came to Charleston Friday.

4 Q Friday. And what had you all been up to since
5 that Friday?

6 A Partying, clubbing, smoking, doing drugs.

7 Q When was that first time that you all had the
8 idea to do a robbery?

9 A That was -- that was, I think, Friday. Coming
10 back from Augusta. I mean coming back from Atlanta.

11 Q So you -- and so let me just get this
12 straight. You and Rice came back from Atlanta
13 together on that Friday?

14 A Yes, sir.

15 Q Okay. And on the way back, that's when you
16 all first kind of came up with the idea you all were
17 going to do a robbery?

18 A Yes, sir. But robbery wasn't planned for the
19 first home invasion.

20 MR. SOWELL: Your Honor, I can't understand
21 him. Can we put a microphone near him?

22 THE COURT: He has a microphone. Sir, I need
23 you to speak directly into the microphone.

24 A But the robbery wasn't planned for the home
25 invasion that happened on Wednesday night.

1 Q (By Mr. Kidd) What was the original plan?

2 A It was Josh Harpe.

3 Q So the original plan was for Harpe, but it
4 ended up -- you all ended up.

5 MR. SOWELL: Your Honor, I object.

6 THE COURT: I have not heard the whole
7 question. Let him finish the question then make the
8 objection.

9 Q (By Mr. Kidd) So you just testified that the
10 original plan was to rob Harpe. What did you all end
11 up doing instead?

12 A Robbing Herbert Butler.

13 Q When was the first time you all discussed
14 robbing Mr. Butler?

15 A I think it might have been Tuesday, after
16 Reggie had ran into someone who has purchased some
17 marijuana from Herbert Butler.

18 Q When was the first time you discussed robbing
19 Mr. Butler with the other people that we just talked
20 about?

21 A It was discussed with Stephen Francois Tuesday
22 night over the phone. But it was more discussion
23 with them Wednesday, when I got to their dorm room.

24 Q Why did you bring in Francois?

25 A Because we needed a female to basically knock

1 on the door.

2 Q Okay. You just said you all discussed it in
3 more detail on Wednesday. Can you tell the jury a
4 little bit about what happened there?

5 A Basically I just, me and Reggie, went to Sasha
6 Gaskins' dorm room. And we went in there and we just
7 talked to them basically about the plan about robbing
8 Herbert.

9 And basically about how it would be done and
10 described and house and stuff. And basically asked
11 if there was any problems with this, if anybody had
12 any objections to it.

13 Q Did anybody have any objections to it?

14 A No, sir.

15 Q Did you ever threaten anyone?

16 A No, sir.

17 Q Tell them they had to do it?

18 A No, sir.

19 Q So after that Wednesday meeting, what did you
20 do next?

21 A I left because Sasha Gaskins and Stephen had
22 to go to class. But Sasha took me to meet Breanna.
23 Stephen went to his class. And me and Sasha and
24 Reggie walked over to the cafeteria. And that's
25 where we met Breanna and she came outside.

1 Q Okay. And what did you and Breanna talk
2 about?

3 A Nothing. Just, I think it was some party or
4 some club that they were supposed to be going that
5 night. And I basically just asked her if she was
6 going to go. If she could go, I would be there and
7 get to know her and talk to her and stuff.

8 But Sasha said she had to go to class, so I
9 went ahead and left too.

10 Q Where did you go after that meeting with
11 Breanna?

12 A Me and Reggie went to get some money from, for
13 another friend from an ATM machine.

14 MR. SOWELL: Your Honor, I can't hear.

15 THE COURT: I can hear him, clearly. I'm
16 sorry, he is speaking directly into the microphone.
17 I will ask him to speak a little more slowly if that
18 will assist you, or do you want to get a little more
19 closer? Or if you want to get closer, that's fine.

20 MR. SOWELL: I will stand up.

21 THE COURT: That's fine.

22 THE COURT: Did you need the last answer
23 repeated?

24 MR. SOWELL: Yes, ma'am.

25 THE COURT: Sir, could you repeat your last

1 answer, please. And please make sure you speak
2 directly into the microphone.

3 A All right. I said me and Mr. Rice, we went
4 and got some money from our friend, from an ATM
5 machine.

6 Q Did that have anything to do with these
7 robberies?

8 A No, sir.

9 Q Okay. After you helped that friend out, what
10 did you do from then?

11 A I called Breanna. I kind of kept texting her.
12 I was texting her basically the whole time, really.
13 Asking her basically what's she was doing, and asked
14 her if she wanted to get something to eat. And she
15 said yes, so I went and picked her up from the dorm
16 room.

17 Q And where were you all going to eat?

18 A Kickin' Chicken.

19 Q Did you end up eating at the Kickin' Chicken?

20 A Yes, sir. But after we went and picked up,
21 after we waited on Stephen and Sasha to get out of
22 class.

23 Q So who all's getting together at the Kickin'
24 Chicken?

25 A Me, Reginald Rice, Sasha Gaskins, Stephen

1 Francois, and Breanna Bruster.

2 Q Does Breanna know anything about the upcoming
3 robbery yet?

4 A Not at the time.

5 Q Does Sasha?

6 A Yes, sir.

7 Q Does Reggie?

8 A Yes, sir.

9 Q Does Francois?

10 A Yes, sir.

11 Q At the Kickin' Chicken, do you all talk about
12 the robbery?

13 A It was mentioned, but not really because we
14 were around a whole bunch of people.

15 Q Where do you all go when you leave the Kickin'
16 Chicken?

17 A Back to my apartment.

18 Q On that car ride, is the robbery discussed?

19 A Yes, sir.

20 Q What is said about that in there?

21 A Just basically that we had to hurry up because
22 if they were going to make their party we had to go
23 ahead and do what we had to do.

24 And that's when Breanna kind of found out what
25 was going on. And we gave her the option of staying

1 in my apartment or going with us, and she chose --
2 she said she wasn't going to stay in my apartment
3 that she didn't know, so she chose to ride with us.

4 Q Okay. Let me slow it down just a little bit.
5 so you leave Kickin' Chicken, where do you all go to
6 from the Kickin' Chicken?

7 A To my apartment.

8 Q You go back to your place. What's happening
9 at your place?

10 A Basically me and Reginald just basically
11 change clothes, Stephen changes his clothes, puts his
12 black clothes on. Me and Reggie put our black
13 clothes on.

14 Q Why were you putting on black clothes?

15 A To get ready to do a home invasion.

16 Q You got any guns on you at this point?

17 A Not at this point, sir.

18 Q Are they in your apartment?

19 A Yes, sir.

20 Q Showing you what is --

21 MR. KIDD: If I may approach the witness, Your
22 Honor?

23 THE COURT: You may.

24 Q (By Mr. Kidd) -- marked as State's Exhibit No.

25 26. Do you recognize that?

1 A Yes, sir.

2 Q What is that?

3 A It's a sword.

4 Q Did you carry this on the home invasion?

5 A Yes, sir.

6 Q And that's State's Exhibit No. 26 for the
7 record.

8 Showing you what has been marked as State's
9 Exhibit No. 28. Do you recognize that?

10 A Yes, sir.

11 Q What is that?

12 A Under Armor bag.

13 Q Is that carried on that home invasion?

14 A Yes, sir.

15 Q Showing you what has been marked as State's
16 Exhibit No. 25 and 24. Do you recognize those?

17 A Yes, sir.

18 Q What are those?

19 A Gloves that we used.

20 Q Were you wearing gloves?

21 A Yes, sir.

22 Q Showing you what has been marked State's
23 Exhibit No. 23 and 22. Do you recognize those?

24 A Yes, sir.

25 Q What are those?

1 A Ski masks that we poked holes in.

2 Q Were those some of the things that you were
3 gathering before you went to this home invasion?

4 A Yes, sir.

5 Q Take any duct tape with you?

6 A Yes, sir.

7 Q Was, what was -- when you were at your
8 apartment, or in any event, that Wednesday meeting in
9 Ms. Gaskins' dorm room, what was the plan?

10 A Just for Sasha to knock on the door to get the
11 door open, and me and Reggie would come in and --

12 Q Was she supposed to say anything specific when
13 she knocked on the door?

14 A Yes, sir. Let them know that her car had
15 broken down and she needed to use the phone.

16 Q Okay. And what was Francois supposed to do?

17 A Nothing. Just ride around and wait until we
18 called him to bring the car back to get us.

19 Q Did Breanna have anything she was supposed to
20 do?

21 A No, sir.

22 Q So when you were on the way or -- can you tell
23 the jury what happens when you are kind of riding up
24 to Butler's house?

25 A We kind of, we get to the street, we go by his

1 house and see if anybody's there, see that the
2 lights was on. We drive by. We turn down the dirt
3 road. I was driving at the time.

4 I get out of the driver's seat and let
5 Francois drive, I get behind him. He drives back
6 down, goes past Herbert's house real slow, then goes
7 across the intersection. We stop. Me, Sasha, and
8 Reggie get out of the car.

9 Q Let me stop you there right quick. Did you
10 know Herbert Butler?

11 A I have meet Herbert three times.

12 Q What do you know of Herbert Butler at that
13 point?

14 A Nothing. I just purchased weed from him three
15 times, marijuana from him three times.

16 Q So you purchased marijuana from him three
17 times in the past?

18 A Yes, sir.

19 Q Had you been to his house before?

20 A Yes, sir.

21 Q All right. So you get to that intersection.
22 You just testified that yourself, Mr. Rice and Ms.
23 Gaskins get out.

24 Do you force Ms. Gaskins out of car?

25 A No, sir.

1 Q Did you ever point the gun at her?

2 A No, sir.

3 Q Did you make any threats towards her?

4 A No, sir.

5 Q What happens next?

6 A Me and Ms. Gaskins and Rice, we all walk down
7 the street to Herb's house. Me and Reggie, while we
8 are walking down the street, pull our guns out and
9 basically put our ski masks on.

10 At that, we get up to the door, I go to the
11 door. I'm standing on the right side of the door and
12 Reggie is standing behind the bush and Sasha is in
13 front of the door.

14 Q And what happens then?

15 A She knocked on the door. And when she comes
16 to the door.

17 Q I'm sorry, I didn't hear you.

18 A I said she knocks on the door, and Ms.
19 Michalak comes to the door. She opens the door.
20 Sasha asks to use the phone but tells her her car is
21 broke down and she needs to use the phone.

22 She says, hold on. And then like that, I come
23 in behind. I come in, basically move Sasha out of
24 the way, and I come in and basically point my gun and
25 tell her to get down.

1 Reggie comes in behind. Herbert comes through
2 the kitchen area. And he is wondering what is going
3 on. Basically tell him to get down and everybody
4 gets down.

5 Q Is Sasha in the house at this point, or is she
6 still on the porch, where is she at?

7 A She is in the house.

8 Q Okay. Once you get them on the ground, what
9 do you do next?

10 A Duct-tape them, basically.

11 Q Who duct tapes them up?

12 A Me and Reggie duct-tape them up mutually.

13 Q And what happens next?

14 A Basically go through the house looking for
15 certain things. Sasha ends up leaving. She goes
16 back and, I guess, goes back and find Francois
17 whenever he's at.

18 She ended up letting the dog out. Other than
19 that, we just go through house rummaging for stuff.
20 Herbert was asking a lot of questions. Reggie was
21 just trying to get him to be quiet. Emily was just
22 crying.

23 We just asking for the money and the
24 marijuana. And Herb keep telling us there is nothing
25 in there. Then he tells us Emily has the money so,

1 asked for her keys and go to her truck, searching her
2 truck to see if she has any money in there. There
3 wasn't any money found.

4 Q You searched the car outside?

5 A Yes, sir.

6 Q At some point, did you sexually assault Emily?

7 A Yes, sir.

8 Q Do you ever leave the apartment or the house
9 at some point?

10 A We do.

11 Q Where do you go?

12 A Go to the ATM machine.

13 Q You have ATM cards with you?

14 A Yes, sir.

15 Q Whose are those?

16 A I think they were Herbert's.

17 Q Did you have PIN numbers for them?

18 A Yes, sir.

19 Q Where did you get those?

20 A From Herbert.

21 Q Were you able to get any money out?

22 A No, sir.

23 Q Did you go anywhere else before you went back
24 to Butler's house?

25 A Yes, sir. We went to the gas station.

1 Q What for?

2 A Buy Black and Mild and put some gas in the
3 car.

4 Q Who paid for that?

5 A Sasha Gaskins.

6 Q She paid for the Black and Mild's?

7 A She paid for the gas and the Black and Mild's.

8 Q And when you get back to -- when you get back
9 to Butler's house what happens then?

10 A We go back in, basically continue to ramble
11 through. I go up in the attic to see if anything is
12 in there.

13 Q Who is we go back in?

14 A Me, Francois and Rice. Well Rice was already
15 in there. Me and Francois.

16 Q So it is just you 3 guys in there right now?

17 A At that time, yes, sir.

18 Q Do the girls ever come in? Did the girls ever
19 come inside?

20 A Yes, sir.

21 Q At what point do they come inside?

22 A Sasha comes in and asks us -- tells us to wipe
23 her fingerprints off the doorknob, her fingerprints
24 would be on the doorknob. And she also comes in, if
25 I'm not mistaken, to get a lighter or something.

1 And also at that time that's how she comes in,
2 she came in twice. That's why she came in the first
3 time. The second time she came in was to help us
4 move stuff out of the house.

5 Q I want to take one step back, I'm trying to
6 move through this a little quickly.

7 But at the ATM when you're trying to get money
8 out of those cards, does Ms. Gaskins say anything?

9 A Yes, sir.

10 Q What did she say?

11 A She said check the savings account, because
12 that's where some people put their money in.

13 MR. KIDD: Court's indulgence.

14 Q (By Mr. Kidd) Okay. So you went back, let's
15 go a little slower. When you get back from the ATM,
16 where is Mr. Butler at?

17 A In his room.

18 Q Where is Emily at?

19 A Still in the main living room area.

20 Q Was Mr. Butler ever threatened?

21 A Yes, sir.

22 Q Tell the jury about how that took place?

23 A Basically told him, Mr. Rice told him if he
24 didn't shut up he would cut his genitals off.

25 Q Did anyone punch or kick Mr. Butler?

1 A Yes, sir.

2 Q Did you?

3 A Rice punched Mr. Butler a couple of times, and
4 I kicked Mr. Butler a couple of times.

5 Q After you got back from the ATM, you testified
6 that that's when you all started searching the house?

7 A Yes, sir.

8 Q Did you find anything?

9 A X-Box 360 in the attic; a type of substance
10 that looked like marijuana, but I think it was just
11 marijuana shavings; TVs; 360 board; different games.
12 Other than that, that's about it.

13 Q And what did you all do with that stuff you
14 got?

15 A We took some of it back to my house. We also
16 took some of it to I think a girl, I forget her name.
17 I knew she lived down Bee Street. She was Sasha
18 Gaskins and Francois' friend.

19 MR. SOWELL: Your Honor, he is mumbling so
20 bad, I can't understand what he is saying.

21 THE COURT: Sir, could you slow down a little
22 bit for me and make sure you speak clearly.

23 A We took it to an apartment on Bee Street that
24 was a friend of Sasha Gaskins and Stephen Francois.

25 Q Was there any significance to that apartment

1 other than it was just a friend's?

2 A It was supposed to be an apartment that
3 Stephen Francois was supposed to be moving into.

4 Q When did you take that stuff to that
5 apartment?

6 A The next day.

7 Q Okay. So but this night, Wednesday night,
8 where did you all -- you said, well, let's not leave
9 the house just yet.

10 So you just testified everybody comes in and
11 helps carry stuff to the car?

12 A Not Breanna.

13 Q Not Breanna?

14 A No, sir.

15 Q Okay. So do you help carry stuff to the car?

16 A Yes, sir.

17 Q Does Francois?

18 A Yes, sir.

19 Q Does Rice?

20 A Yes, sir.

21 Q Does Gaskins?

22 A Yes, sir.

23 Q But Breanna didn't?

24 A No, sir.

25 Q Did she ever come inside?

1 A No, sir.

2 Q And after you get the car loaded, where do you
3 all go next?

4 A Go straight right to my house.

5 Q Go back to your house?

6 A Yes, sir.

7 Q What do you all do when you go there?

8 A Basically dump all that stuff out on the
9 floor. Explain that it took a long time, but
10 basically just separate stuff and who getting what
11 and what going.

12 Q Who was getting what?

13 A Stephen and Ms. Gaskins wanted a TV. And they
14 also got the stereo system, surround sound system
15 that we got from there. But other than that,
16 everything else stayed at my house.

17 Q And what was Ms. Gaskins' and Francois'
18 relationship like?

19 A You said what was it like?

20 Q Yeah. I mean were they couple, were they
21 friends?

22 A They were a couple.

23 Q There were a couple?

24 A Yes, sir.

25 Q How long did you all stay at your apartment

1 after that first robbery?

2 A Probably about 30 minutes to an hour before I
3 took them back to school.

4 Q And who did you take back to school?

5 A Sasha Gaskins, Breanna Bruster and Stephen
6 Francois.

7 Q And where was Rice?

8 A At my house.

9 Q And where did you stay that night?

10 A At my house.

11 Q Okay. What happens on the following day, I
12 guess it would be Thursday?

13 A Thursday is when we moved those items to the
14 apartment on Bee Street because they were still in
15 the trunk of the car that I used.

16 Q And tell the jury what car were you all in?

17 A Daquan (phonetic) Coles' car. A Toyota Yaris.

18 Q Who is Daquan Coles?

19 A He is a teammate of ours, and a teammate of
20 mine.

21 Q When do you start discussing the next robbery?

22 A Thursday, at my house.

23 Q And whose there for that discussion?

24 A Sasha Gaskins, Breanna Bruster, Stephen
25 Francois, and Reginald Rice.

1 Q And what's the plan for -- who is the intended
2 victim of that one?

3 A Joshua Harpe.

4 Q And who's Joshua Harpe?

5 A Assistant coach at the Citadel.

6 Q Was he your coach?

7 A Yes, sir.

8 Q Will you tell the jury a little bit about what
9 kind of relationship you had with Mr. Harpe?

10 A I mean we had pretty much a regular
11 relationship. My head coach used to have him follow
12 me around school as far as checking up on whether I
13 going to class or doing my work.

14 But other than that, we had a pretty regular
15 relationship.

16 Q You ever do drugs with Mr. Harpe?

17 A No, sir.

18 Q He ever sell drugs?

19 A Not to me, sir.

20 Q Had you ever been to his apartment before?

21 A Yes, sir.

22 Q When, and can you tell the jury about the
23 circumstances of that?

24 A I went to his apartment my freshman year
25 because my mother would have me park my car over at

1 his house. So the one particular time I took my car
2 over there, Daquan Coles and another teammate of mine
3 by the name of Kevin Hardy accompanied me over there
4 and I had dropped my car off at his house.

5 Q Why were you having to drop your car off at
6 his house?

7 A To keep me from leaving school during the
8 week.

9 Q Is that something the Citadel made you do, or
10 the football team, what was that all about?

11 A A mutual agreement between my coach and my
12 parents.

13 THE COURT: I'm going to interrupt you.

14 Mr. Foreman, ladies and gentlemen, we are going
15 to take advantage of this break in testimony to take
16 our evening recess.

17 During the break, please do not discuss the
18 case among yourselves. Please do not do any research
19 regarding this matter on the Internet or otherwise.
20 And again, please do not watch, read or listen to
21 anything that might be on radio, television, Internet
22 or in the newspaper.

23 We will resume in the morning at 9:30. You
24 will return directly to your jury room, and we will
25 follow the same procedure. Please do not have any

1 MR. SOWELL: No, ma'am.

2 THE COURT: Have a good evening. See you at
3 9:30.

4 (Whereupon, the proceedings in this matter
5 before the Court were adjourned for the evening.)

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1 THE COURT: Is there a particular reason?
2 They going to see him in his stuff. It doesn't
3 prejudice him, it's not his case.

4 MR. SKIPPER: I understand, Judge. I would
5 have brought it to your yesterday if I thought it
6 would have been an issue. Certainly I --

7 THE COURT: It just takes a lot of time and
8 coordination.

9 MR. SKIPPER: Judge, that's why I was here
10 with his clothes at 9 o'clock and --

11 THE COURT: You would have had to have been
12 here at 8:00 for them to have gotten him dressed out.

13 MR. SKIPPER: Judge, I was told yesterday they
14 wouldn't even open until 8:30. His clothes were on
15 his way to him at 9 o'clock before one of the court
16 deputies told me that they wouldn't dress him.

17 I've spoken with the prosecutors about this
18 prior thereto. They certainly were aware I was
19 bringing clothes for him, Your Honor.

20 THE COURT: Nobody told me. You should have
21 told me at the beginning. I guess my position at
22 this point is that -- well I don't have a position on
23 it, I don't know if that's the right word -- if it
24 was his trial I would dress him out, but it's not and
25 there is no prejudice to him.

1 It's not like he is -- this is not his
2 sentencing or anything. Even if it were, him being
3 -- I mean everybody knows he is in jail, they know
4 he's pled guilty, it does not prejudice him in any
5 way.

6 MR. SKIPPER: Certainly, Judge, they can ask
7 that question.

8 THE COURT: Who can ask that question?

9 MR. SKIPPER: Both of the parties.

10 THE COURT: They know he's in jail. The other
11 two witnesses are in jail. They have all testified.

12 MR. SKIPPER: I understand, Judge, but
13 yesterday yet we didn't have a TV camera in here and
14 today we do. And that is a big difference and that
15 is a prejudice to my client.

16 And it's going to take five minutes for him to
17 put his clothes on.

18 THE COURT: Prejudices him in the community
19 how?

20 MR. SKIPPER: Judge, he is going to be shown,
21 as I'm sure Your Honor saw --

22 THE COURT: No, I never watch the news for
23 that particular reason.

24 MR. SKIPPER: That's why I didn't bring it to
25 the Court's attention yesterday afternoon is --

1 THE COURT: Well, no, I don't read it because
2 I don't want to become predisposed to anything.

3 MR. SKIPPER: I understand. What I'm saying
4 why I didn't bring this up about dressing him out
5 yesterday afternoon is because there were no
6 television cameras in the courtroom at that time.
7 There are television cameras in the courtroom this
8 morning. They were gone by the time he took the
9 stand yesterday afternoon.

10 what I told the prosecutors, that's fine, I
11 didn't want to delay the Court. I knew that you were
12 aware and wanted to move the case along. That's why
13 I allowed him to go ahead and not bring it to your
14 attention because the cameras weren't here.

15 The cameras are here today. I was here at 9
16 o'clock with his clothes.

17 THE COURT: I guess I'm trying to figure out
18 what prejudice you are talking about. Your client is
19 going to prison for a significant amount of time. I
20 don't think anybody is going to remember years from
21 now whether he was dressed out or not.

22 MR. SKIPPER: Judge, if that's the Court's
23 ruling that's the Court's ruling. By the time that
24 we have taken to talk about it, he could have been
25 dressed.

1 THE COURT: I don't think right now I'm
2 appreciating your demeanor or your disposition with
3 the Court. You and I are not on parity. And what
4 you feel really is of no consequence to me at this
5 point. You might really want to modulate your tone.

6 MR. SKIPPER: I understand, Judge. And I
7 don't mean disrespect to the Court.

8 THE COURT: And so you and I are not in a
9 colloquy. What was represented to me is that Mr.
10 Sowell was asking that he be dressed out.

11 I have been here. I ignored it, quite
12 frankly, because Mr. Sowell didn't have any standing
13 to ask that he be dressed out. Everybody else wasn't
14 dressed out, and I just didn't see the necessity of
15 it.

16 Now it has come to my attention that you're
17 asking that, but I really don't see any basis for it.
18 He has already started testifying.

19 And it also -- I don't know what your all's
20 posture is on it, is there a particular reason?

21 THE DEPUTY: Safety matter, Judge. He's
22 already incarcerated. If we put him in civilian
23 clothes, if he decides to run, now he's mixed in with
24 the public.

25 THE COURT: And that's the other -- I knew

1 there was a reason, I just couldn't remember what it
2 was. It's part of the standard operating procedure.

3 My posture of having been a part of the
4 committee -- well the judges had to sign off on the
5 SOP, it's signed by the Chief Justice -- it is my
6 posture that they're the experts in security, I don't
7 question that. They do what they do well, I do what
8 I do well.

9 They take care of our security, I trust that.
10 So if they tell me that that is their standard
11 operating procedure, which I know it to be, and there
12 is a particular public policy for that reasoning,
13 then I stand by that and I'm not going to interfere
14 with it. So he will be dressed as he is for the
15 safety policies.

16 Now I will ask the media if they can --
17 actually, I think I did see a clip of the witness
18 prior to this one and I think they only showed
19 basically about from here up as he testified and it
20 was really a clip.

21 And I just don't see any prejudice to him.
22 The judge that is going to sentence him, whether it's
23 me or Judge Dennis, knows he is in jail. It doesn't
24 make a difference to us. What makes a difference is
25 the facts and circumstances of the case, the factual

1 posture of the case.

2 And the public has no vote in that process.
3 And they have no involvement in what happens to him.
4 And frankly, the public's memory is very short.
5 That's why politicians and other public officials
6 loves news cycles. Because while you may be getting
7 written in this one, tomorrow there's going to be
8 another one.

9 So we really don't care. Because we know that
10 if you are talking about us today, you are going to
11 be talking about somebody else tomorrow. So, you
12 know, news cycles come and go.

13 And I really doubt anybody is going to -- any
14 statement that is attached to your client is going to
15 be because of the facts and circumstances of this
16 case, not because he has had on prison garb, so to
17 speak.

18 So I can discern no prejudice to him. And
19 it's not as if this jury has to judge his guilt or
20 innocence. He has already pled guilty. And at this
21 point, I'm deferring to the security policy. So he
22 will not be dressed out.

23 Okay, is the State ready to proceed?

24 MR. KIDD: We are, Your Honor.

25 THE COURT: Defense ready to proceed?

1 MR. SOWELL: Yes.

2 THE COURT: I assume you all agree with my --
3 you all have no dog in the fight?

4 MR. KIDD: State takes no position.

5 THE COURT: You can put him on the stand. Mr.
6 skipper, your may take your seat by the bailiffs. I
7 will be right back. I want to make sure all the
8 jurors are here.

9 (Whereupon, a recess was taken.)

10 THE COURT: State ready to proceed?

11 MR. KIDD: We are, Your Honor.

12 THE COURT: Is the defense ready to proceed?

13 MR. SOWELL: Yes, ma'am. Your Honor?

14 THE COURT: Yes, sir.

15 MR. SOWELL: I was shown some pictures of my
16 client. It looks likes the state is obviously trying
17 to prejudice the jury with the tatoos and stuff.

18 THE COURT: I need you to be very clear to me
19 about what it is you say they want to show to the
20 jury because I'm not clear right now.

21 MR. SOWELL: They're trying to show a picture
22 of her body with tatoos on it and it's completely
23 irrelevant.

24 THE COURT: Is that correct?

25 MR. KIDD: Well it's correct that we are going

1 to attempt to show a picture of a tatoo. I don't
2 think it's irrelevant.

3 THE COURT: Let's start over. I need to know
4 what it is you are referring to, Mr. Sowell, because
5 I have no idea.

6 MR. KIDD: Your Honor, may I approach and show
7 you the photograph?

8 THE COURT: Yes.

9 MR. SOWELL: What it is, it's a tatoo and I
10 think a tatoo in and of itself would be irrelevant.
11 Mr. Gaskins goes by the nickname of untouchable. I
12 think Mr. Sowell has opened the door to character
13 evidence. And I think that the tatoo showing that
14 she has the nickname untouchable, he characterized --

15 THE COURT: Until it's in contest that that is
16 in fact her nickname, it would not be relevant.

17 MR. KIDD: It's not relevant yet, but I think
18 we have -- not this witness --

19 THE COURT: I have to cross that bridge when I
20 come to it. But there is nobody that has denied that
21 that's her nickname. Until somebody denies it, that
22 isn't relevant.

23 MR. KIDD: Thank you, Your Honor.

24 THE COURT: You're welcome.

25 Are we ready?

1 MR. SOWELL: Yes, ma'am.

2 THE COURT: Ready, Mr. Kidd?

3 MR. KIDD: Yes, ma'am.

4 THE COURT: Please bring in the jury.

5 (Whereupon, the jurors enter the courtroom.)

6 THE COURT: Good morning, ladies and
7 gentlemen. We will now resume the testimony of the
8 witness.

9 Before we get started I need to ask; is there
10 any member of the panel that has seen, read or
11 watched any media accounts about this case, that
12 includes anything on the radio, television, newspaper
13 or Internet? If so, please raise your right hand.

14 (No response.)

15 THE COURT: Let the record reflect there is a
16 negative indication.

17 You may resume the testimony of the witness.

18 Sir, I will remind you that you are still
19 under oath. And I need you to speak directly into
20 the microphone, and speak as clearly for me as
21 possible as you can.

22 You may proceed, Mr. Kidd.

23 MR. KIDD: Thank you, Your Honor.

24 THE COURT: You're welcome.

25 CONTINUED DIRECT EXAMINATION

1 BY MR. KIDD:

2 Q Good morning, Mr. Starks?

3 A Good morning, sir.

4 Q I'm going to try to pick up as close to where
5 we left off as I can. As I recall we left off after
6 talking about the Butler invasion and kind of leading
7 up to your relationship Josh Harpe.

8 If you could just kind of recount your
9 relationship with Josh Harpe for the jury, please.

10 A Like I said once before, Joshua was an
11 assistance coach at the Citadel. Really he was, I
12 guess you can kind of say, a watcher over me because
13 of my academic problems.

14 So Coach Higgins, the head coach, had him kind
15 of supervise me as of going to class or showing up
16 for formation and things like that. But as far as
17 any problems between me and him, there were not any.

18 Q Okay. You said you were having problems with
19 the Citadel, what sort of problems were you having?

20 A Academic problems as far as keeping my grades
21 up. Problems with core, you know, just being away
22 from home.

23 Q Were you active on the football team at the
24 time of these incidents?

25 A No, sir. I was suspended from the football

1 team.

2 Q What was the basis of that suspension?

3 A When I was coming back from Augusta on Monday
4 morning, or Tuesday morning, I got pulled over for
5 driving without a license for running through a stop
6 sign. And my head coach found out.

7 So the police basically told the Citadel that

8 --

9 MR. SOWELL: Your Honor, I object to hearsay.

10 THE COURT: Sustained, hearsay.

11 Sir, you can't say what someone told you but
12 you can say what you did as a result of the
13 conversation.

14 A Well I was basically suspended off the
15 football team for being off campus after lock-in
16 time.

17 Q (By Mr. Kidd) Did Josh Harpe have anything to
18 do with that suspension?

19 A No, sir.

20 Q So after the first home invasion, after that
21 wednesday home invasion, what took place on Thursday,
22 the next day?

23 A Like I said, Thursday we dropped the stuff off
24 that we had gotten from Herbert Butler's place at an
25 apartment on Bee Street, to an apartment that Stephen

1 Francois was supposed to be moving into I think the
2 following semester.

3 Sasha Gaskins, Breanna Bruster and Stephen
4 Francois all came over to my apartment with me and
5 Reginald Rice that night. And we basically laid
6 around. Me and Breanna kind of spent time together.

7 Q What do you mean by that?

8 A We had sexual intercourse.

9 Q Was that the first time?

10 A Yes, sir.

11 Q Who stayed at your house that night?

12 A All of them.

13 Q All five of you?

14 A Yes, sir.

15 Q Was there any point during that day or that
16 night that you were alone with Ms. Gaskins?

17 A No, sir.

18 Q Tell the jury what took place on Friday
19 morning and throughout the day Friday?

20 A Friday morning Reginald took them back to
21 school. I attended class. I got out of class around
22 about 3:00. I went back to my apartment where
23 Reginald Rice was at.

24 Me, him and another teammate of mine by the
25 name of Ryan Jones all did drugs, smoked some

1 marijuana, just conversated a little bit. I got in
2 touch with Breanna, and was trying to find out what
3 she was doing. She wasn't doing too much.

4 And I called Stephen and Sasha and asked them
5 what time they was getting out of class. Stephen
6 told me I think like 7:00 or 8:00 or something like
7 that. So during that time me and Reginald Rice went
8 to eat up in North Charleston at Texas Roadhouse.

9 We ate. And after we finished eating, we went
10 to go pick up Sasha Gaskins, Breanna Bruster and
11 Stephen Francois and we went back to my house.

12 Q Throughout that day had you already had this
13 Josh Harpe robbery in mind?

14 A Yes, sir. That was actually discussed on
15 Thursday. It was actually supposed to be done on
16 Thursday. But we discussed it Thursday at my
17 apartment, but it wasn't able to be done because Josh
18 wasn't home at the time.

19 Q How do you know that Josh wasn't home on
20 Thursday?

21 A Because we drove by his apartment to see if
22 his car was in the garage and it wasn't there.

23 MR. KIDD: May I approach the witness, Your
24 Honor?

25 THE COURT: You may.

1 Q (By Mr. Kidd) I'm going to show you what has
2 been marked for identification purposes as State's
3 Exhibit No. 37. Do you recognize that vehicle?

4 A Yes, sir.

5 Q What is that?

6 A That's Joshua Harpe's Mustang.

7 MR. KIDD: Your Honor, at this time that State
8 would move Exhibit No. 37 into evidence.

9 THE COURT: Any objection from the defense?

10 MR. SOWELL: No, ma'am.

11 THE COURT: Marked and admitted without
12 objection.

13 (Whereupon, State's Exhibit No. 37 is admitted
14 into evidence.)

15 Q (By Mr. Kidd) Who was with you when you went
16 by his apartment on Thursday to see if his car was
17 there?

18 A Me and Reginald Rice.

19 Q And I believe you testified yesterday that you
20 had been to Harpe's apartment maybe one time before?

21 A Yes, sir.

22 Q And how did you know what kind of car he
23 drove?

24 A I know because I've seen it plenty of times at
25 the school.

1 Q All right. If you can look behind you there
2 is a photograph on that screen. For the record,
3 that's State's Exhibit No. 37. Is that the
4 photograph I just showed you?

5 A Yes, sir.

6 Q What is that?

7 A That's Joshua Harpe's Mustang.

8 Q Do you recognize where it's located?

9 A In his garage.

10 Q Where is that garage?

11 A Right up under his apartment.

12 Q So everyone stays at your house on Thursday.
13 You get out of classes and everything on Friday. You
14 just testified you picked everybody else up. What
15 happens after you all get back together at your
16 place?

17 A We go back to my place. Me and Stephen, we go
18 to Walmart and get duct-tape and the gloves.

19 Q How does that go down?

20 A Really because on the first robbery Stephen
21 Francois didn't have any gloves. So me and Reginald
22 were the only ones with gloves. So he basically
23 asked did I have another pair and I said no. So we
24 went to the Walmart and stole a pair of gloves, and
25 stole some duct-tape, and bought some Black and

1 Milds.

2 Q And it was just the two of you all that went
3 to Walmart?

4 A Yes, sir.

5 Q What happened when you got back from Walmart?

6 A Basically sat down. Reginald was, I guess you
7 could say, he was running a fever or something and he
8 was sleeping in my roommate's bedroom or laying down.
9 Sasha made up some tea. But basically I was going in
10 and out of the room either checking on him or
11 basically asking, you know, what is going on.

12 And eventually asked me have I went by
13 Joshua's apartment, did I see his car there. I went
14 by coming back from Walmart it wasn't there. And I
15 let him know that. So when I told him that I called
16 -- he told me to call Josh. I called Josh and Josh
17 said he was at the Citadel at a basketball game.

18 Q Why did you call Josh?

19 A To see where he was at and because Reginald
20 Rice asked me to.

21 Q About what time of the day is this on Friday?

22 A This was at night, probably around 10:30, 10
23 o'clock.

24 Q And after you made that phone call, or
25 throughout that day, was there talk of that robbery

1 at your apartment?

2 A Yes, sir, when they came over.

3 Q Where were the two firearms at this point?

4 A One of them was on the table, and the loaded
5 one was in a bag.

6 Q Where was the duct-tape at?

7 A We hadn't got it yet. I mean the gray
8 duct-tape that we had used in the first robbery was
9 in my room. But the black duct-tape wasn't retrieved
10 until I went to Walmart and I retrieved it, put it in
11 the bag.

12 Q What about the gloves and the masks?

13 A Table.

14 Q Table. What was the plan for the Harpe
15 robbery?

16 A Really it was, it wasn't a sure-fire plan, but
17 we was just hoping that we could get in. We could
18 get one of the girls to call, say their car had broke
19 down in the parking lot, and that he would come and
20 pick them up. And that we would be waiting out in
21 his garage for him when he come out.

22 Q When do you leave your apartment that night?

23 A As far as going to Josh's house?

24 Q Correct. After you get back from Walmart,
25 when is the next time you leave the apartment?

1 A To go do a robbery. And that was around 1:00
2 or 12:00.

3 Q 1:00 or 2:00 a.m.?

4 A 12:00 or 1:00.

5 Q 12:00 to 1:00?

6 A Yes, sir.

7 Q So it's late at night?

8 A Yes, sir.

9 Q Tell the jury about how that takes place?

10 A We basically drive out of my apartment. Go to
11 the parking lot --

12 Q First of all, what car are you in?

13 A In the Yaris.

14 Q Who is driving?

15 A I want to say Breanna. Breanna was driving.

16 Q Okay. Who all is in the car?

17 A All five of us.

18 Q All five of you?

19 A Yes, sir.

20 Q I want to back up one second. Why did you
21 think Harpe would come outside and help someone?

22 A Because he is just a nice guy. Me and
23 Reginald both knew that. Josh had a big heart and he
24 would pretty much help anybody.

25 Q So you are all five in the car, and where did

1 you go?

2 A We go to the O'Charlie's across the street
3 from the McDonald's up Ashley River.

4 Q And how far is Harpe's apartment from your
5 apartment?

6 A Not far. Walking distance.

7 Q And so you go to the parking lot across from
8 McDonald's. Then what happens then?

9 A Me, Reginald, and Stephen all got out of the
10 car. Breanna and Sasha go to a nearby gas station
11 and make the phone call.

12 Q At this point have you made any threats
13 towards Ms. Gaskins or Ms. Bruster?

14 A No, sir.

15 Q Where did you go after being dropped off?

16 A We all walked down the street, and we walked
17 behind the old Walmart, Food Lion and old Walmart,
18 all three of us together. And Sasha makes a call to
19 Stephen.

20 Q How do you know that Sasha makes a call?

21 A No, I'm saying she calls Stephen's cell phone
22 and asked him where we at. And we basically said we
23 are behind old Walmart, we haven't gotten there yet
24 so give us a little bit more time.

25 Q Okay. And what happens next?

1 A We get a little bit farther and let her know
2 she can go ahead and make the call. She makes the
3 call and calls us back. By the time she calls us
4 back, we are basically already in Josh's garage
5 waiting for him to come out.

6 Q Is --

7 MR. KIDD: Court's indulgence.

8 Q (By Mr. Kidd) I'm going to show you what has
9 been marked and admitted into evidence as State's
10 Exhibit No. 17. Do you recognize that photograph?

11 A Yes, sir.

12 Q What is that?

13 A That's the entrance of the side of Josh
14 Harpe's garage.

15 Q Is that what you were referring to where you
16 all walked to?

17 A Yes, sir.

18 Q Show you State's Exhibit No. 18. Do you
19 recognize that photograph?

20 A Yes, sir.

21 Q What is that?

22 A That's the inside of the garage.

23 Q I'm going to give you this little laser
24 pointer right here. You can press that top button,
25 get a red dot.

1 Can you show the jury where you, Mr. Rice and
2 Mr. Francois were located in that garage while you
3 were waiting for Mr. Harpe?

4 A Yes, sir. Mr. Rice was located on that side.
5 Mr. Francois was located behind the car right here.
6 And I was located behind another car next to Mr.
7 Francois' car.

8 Q So you and Mr. Francois were on one side, and
9 Mr. Rice was on the other?

10 A Yes, sir.

11 Q Okay. What happened when Mr. Harpe came out?

12 A He came out. He ran into Reginald first, and
13 me and Mr. Francois came out after that. He dropped
14 everything, threw his cell phone.

15 Q What did you all say to him?

16 A Just get down.

17 Q Did you have your guns out?

18 A Yes, sir.

19 Q Have your masks on?

20 A Yes, sir.

21 Q Gloves on?

22 A Yes, sir.

23 Q What did Harpe do?

24 A He put his hands up. He dropped down. He
25 laid his phone out, laid his wallet out, and just

1 begged us not to hurt him.

2 Q What did you all do next?

3 A Got him up, took him upstairs to his
4 apartment.

5 Q Then what happened?

6 A We got him in the house, put him on the floor,
7 duct-tape.

8 Q Who duct-taped him up?

9 A All three of us.

10 Q What was that?

11 A All three of us.

12 Q All three of you. And once you got him
13 duct-taped up, what did you do next?

14 A Basically went through the house, sort of the
15 same thing we did in the first home invasion. Went
16 through the house looking for the marijuana, money,
17 electronics, put it all in one spot where it would be
18 easy to move it.

19 After that I think either Reginald or Stephen
20 got the PIN numbers.

21 Q PIN numbers for what?

22 A For his credit cards.

23 Q What did you all do with the credit card?

24 A They gave me the credit cards. And like I did
25 in the first robbery, I went to the ATM using Mr.

1 Harper's car.

2 Q So you took Mr. Harpe's car to the ATM?

3 A Yes, sir.

4 Q Did you go straight to the ATM?

5 A No, sir. I stopped by my apartment to pick up
6 Sasha Gaskins and Breanna Bruster.

7 Q So you went by your apartment to pick up Sasha
8 Gaskins and Breanna?

9 A Yes, sir.

10 Q What car did you all get in?

11 A We got in Mr. Harpe's Mustang.

12 Q So it's three of you all -- three of you,
13 yourself, Ms. Gaskins and Ms. Bruster are in Harpe's
14 Mustang?

15 A Yes, sir.

16 Q Where do you all go from there?

17 A We go to the ATM. I don't know that road, but
18 it's by Eckert's I think.

19 Q At any point have you threatened Ms. Gaskins
20 or Ms. Bruster?

21 A No, sir.

22 Q Are you able to get money out of the ATM?

23 A Yes, sir.

24 Q How much money did you get.

25 A \$220.

1 Q What do you do with that money?

2 A At that time nothing. But toward the end when
3 everything done close, I end up giving I think about
4 40 of it to Sasha Gaskins' friend who came to pick me
5 up, I bought a Black and Mild, put some gas in my
6 car, and I end up leaving the rest of it to Breanna
7 Bruster.

8 THE COURT: Please repeat that answer, sir.

9 A I said I end up giving \$40 to a young man who
10 is friends with Sasha Gaskins who came to pick me up
11 the night that the police raided my house. And spent
12 some more on a box of Black and Mild's. And put a
13 little bit of gas in my car. And I left the rest of
14 it with Ms. Bruster.

15 Q (By Mr. Kidd) And I'm going to show you what
16 has been marked for identification purposes as
17 State's 38 and 39. Do you recognize those
18 photographs?

19 A Yes, sir.

20 Q What are those photographs of?

21 A My car.

22 MR. KIDD: Your Honor, at this time I'd like
23 to introduce State's 38 and 39 into evidence.

24 THE COURT: Any objection?

25 MR. SOWELL: No, ma'am.

1 THE COURT: Marked and admitted without
2 objection.

3 (Whereupon, State's Exhibit Nos. 38 and 39 are
4 admitted into evidence.)

5 Q (By Mr. Kidd) For jury the, Mr. Starks, I'm
6 going to show you again what has just been admitted
7 as State's Exhibit No. 38. Can you tell the jury
8 what that is?

9 A It's my car.

10 Q What kind of car that?

11 A 2008 Dodge Nitro.

12 Q State's Exhibit No. 39. What is that?

13 A The front of my car.

14 Q After you get the money out of the ATM, is
15 anybody saying anything at that point? What is going
16 on?

17 A Nothing. I don't really think that Sasha
18 Gaskins and Breanna knew that I had got money out
19 because I didn't let them know. But they knew I went
20 to the ATM. I parked away from them, the ATM, and
21 walked up to it.

22 Q Did you go to more than one ATM?

23 A Yes, sir. I did three different ATM's because
24 Mr. Harpe had three different cards.

25 Q why did you park away from the ATM and walk

1 up?

2 A Just for camera purposes.

3 Q So when you were at the ATM where were Sasha
4 and Bruster?

5 A Sitting in the car.

6 Q They were in the car by themselves?

7 A Yes, sir.

8 Q When you are done with the ATM's, where do you
9 go next?

10 A We go back to my apartment. I go to my
11 apartment, I drop them off so that they can get the
12 Toyota Yaris and bring it back so that we can start
13 loading things in the car and move stuff out.

14 Q Where do you go after that?

15 A I go back to Harpe's house, back to the
16 apartment.

17 Q So when you drop Sasha and Bruster off at your
18 apartment, did you make any threats to them then?

19 A No, sir.

20 Q Then you return to Harpe's apartment in
21 Harper's car; is that right?

22 A Yes, sir.

23 Q What do you do then?

24 A Go back upstairs, basically see what is going
25 on. I see that Mr. Harpe had been moved off the

1 floor. So I stuck my head in the room that he was at
2 and asked him if he was all right. He said he was
3 doing fine.

4 Basically everything that was basically chosen
5 to be taken was all in the main room of his house.
6 And after that we just started moving stuff.

7 Q When you say we started moving stuff, who do
8 you mean?

9 A All five of us.

10 Q So at some point Sasha and Breanna come up to
11 Harpe's apartment?

12 A Yes, sir.

13 Q How does that happen?

14 A I pretty much waited on them to get there.
15 They had to follow me there because they didn't know
16 exactly where the house was at.

17 Q Okay. So when you were at -- dropped them
18 back off at your apartment to get the Yaris, they
19 followed you up to Harpe's apartment?

20 A Yes, sir.

21 Q Then when you went upstairs, they went up with
22 you?

23 A Yes, sir.

24 Q What -- were they saying or doing anything
25 when they got to Harpe's apartment?

1 A No, sir.

2 Q How much stuff was there that was already kind
3 of bagged up?

4 A Really I can't tell you what was in the white
5 trash bags. I mean, when it was dumped out on the
6 floor in my main room in my apartment it was mostly
7 electronics like Play Station 3, wii games and that
8 type of stuff.

9 But as far as big items it was two flat-screen
10 TVs, a couple of pictures.

11 Q Did you all find any drugs at Mr. Harpe's
12 apartment?

13 A Found a couple sacks of weed, couple sacks of
14 marijuana.

15 Q Was it a lot?

16 A No, sir.

17 Q Who carried this stuff from Harpe's apartment
18 to the Yaris?

19 A We all do.

20 Q How many trips does it take?

21 A About two or three.

22 Q Where do you all go from there?

23 A Go straight back to my apartment.

24 Q And what did you do when you get to your
25 apartment?

1 A Dump everything out on the floor.

2 Q How does the stuff get from your car to your
3 apartment?

4 A We all, everybody who was in the car basically
5 took something up into the apartment.

6 Q I'm going to show you what has been entered
7 into evidence as State's Exhibit No. 21. Does that
8 look familiar to you?

9 A Yes, sir.

10 Q What is in that photograph?

11 A TVs, gloves, white trash bags that we got from
12 Josh Harpe's house.

13 Q Where did all -- where did all the stuff in
14 that photograph come from?

15 A All of it except the Nintendo 64 came from
16 Josh Harpe's house.

17 Q Where did the Nintendo 64 come from?

18 A Butler's house.

19 Q When you get back to your apartment and
20 everything is there on the floor, what happens then?

21 A We have some drinks. And basically Reggie is
22 trying to figure out where did I get any money out of
23 the ATM. I told him -- he said, was that all on the
24 card? I said, none of the rest of the cards worked.
25 We end up finding out that one of the cards was a

1 debit card, I guess a card that you can only buy
2 stuff on.

3 So him and Stephen Francois decided to go to
4 Walmart. We kind of got in an altercation, a
5 discussion as far as going to Walmart and buying
6 stuff up as far as with his credit card.

7 Q Why were you getting into an altercation slash
8 discussion about that?

9 A First off because the original plan was to get
10 all his stuff and leave and get out of town and
11 leave. And being that they was trying to go to
12 Walmart get at least -- like I told you, we're only
13 walking distance to Mr. Harper's house so I believed
14 that area would be surrounded with police.

15 Q Did you split up everything that was taken?

16 A No, sir. Everything stayed in the pile.

17 Q Did Mr. Francois and Mr. Rice go to Walmart?

18 A Yes, sir.

19 Q When was the next time you heard from them?

20 A Probably about 15 minutes later saying that
21 they had got pulled over by the cops.

22 Q Did they call you or how did that happen?

23 A I think Stephen called Sasha's phone, and
24 Reggie texted my phone and let me know that they got
25 pulled over by the cops.

1 Q What did you do when you found that out?

2 A I moved all of the items to my closet with the
3 help of Breanna Bruster and Sasha Gaskins. Put some
4 items in the washing machine, some items in the
5 dryer, and I got out of the house.

6 Q How did you leave the house?

7 A You mean as far as getting out of my apartment
8 complex?

9 Q What car did Francois and Rice take to
10 Walmart?

11 A The Toyota Yaris.

12 Q So how did you -- did you take your car when
13 you left your house?

14 A I didn't drive my car.

15 Q Tell the jury just how it came about that you
16 left your apartment?

17 A Breanna Bruster and Sasha Gaskins drove my car
18 -- well when we was informed that the cops were
19 coming to the house, we got out of the house.
20 Breanna Bruster and Sasha Gaskins, we all went in my
21 car, I hid in the backseat.

22 And basically I told them that if they knew
23 where my house was at I'm pretty much sure they knew
24 what my car looked like. So leaving in my car
25 probably wouldn't have been a good idea.

1 So Sasha decided to call her friend Lauren.
2 And Lauren and her boyfriend, I think his name is
3 Chris or something, came and picked me up. And I got
4 in the car with them. And I left with them, and
5 Sasha and them followed us.

6 Q So you left with Lauren and her boyfriend in a
7 separate car?

8 A Yes, sir.

9 Q And Sasha and Breanna, or Ms. Bruster, were in
10 your car?

11 A Yes, sir.

12 Q Where do you all go from there?

13 A We went to the Shell gas station right there
14 by Sam Rittenburg.

15 Q Did Lauren and her boyfriend at this point
16 know what was going on?

17 A No, sir, they had no idea. But when they
18 found out she was pretty upset and I think either her
19 -- her and Ms. Gaskins got into an argument about it
20 and she kind of drove off.

21 Because when her boyfriend pulled up in my
22 apartment complex he got stopped by the cops, the
23 cops searched his car and basically looking for me.
24 so they had no clue what was going on.

25 And when they got to the Shell gas station and

1 when they were informed --

2 MR. SOWELL: Your Honor, I object to hearsay.

3 THE COURT: The statements of a coconspirator,
4 overruled. I believe he was repeating what the
5 people who were with him said.

6 MR. SOWELL: Permission to approach..

7 (Whereupon, the following discussion was held
8 at the bench.)

9 THE COURT: I think he said -- wasn't what
10 anybody said to him, the gentleman was upset. He was
11 -- well said he had been stopped and searched by the
12 cops.

13 What are you alleging is hearsay?

14 MR. SOWELL: He got stopped by the cops.

15 THE COURT: It's not offered for its truth,
16 it's about the res jecti of what happened. There is
17 -- to some extent they're coconspirators. They're
18 now harboring fugitives. That might be a leap, it's
19 really not offered for its truth.

20 MR. KIDD: I will try to stay away from it,
21 Your Honor.

22 THE COURT: Do that, please.

23 (In open court.)

24 THE COURT: Overruled.

25 Q (By Mr. Kidd) So you get dropped off at the

1 gas station. Why do you give them \$40?

2 A Basically because I felt like out of respect
3 because the man really didn't know what was going on.
4 If the man would have go caught with me in his car,
5 he would have been basically in trouble for evasion
6 of a fugitive.

7 Q Where are Ms. Gaskins and Ms. Bruster when you
8 get dropped off at the gas station?

9 A They're at the pump right next to the pump
10 we're at.

11 Q What do you do then?

12 A After giving him the \$40, I go into the store.
13 Basically pay for gas, buy a pack of Black and
14 Mild's. After that I drive to Breanna Bruster's dorm
15 room.

16 At first I was going to drop Sasha Gaskins off
17 at her dorm room, but when Stephen got arrested he
18 had the keys so she couldn't get in her dorm room.
19 So I decided to stay with Breanna Bruster. And I let
20 Sasha Gaskins hold my car to try to go find out where
21 Stephen Francois was at being held.

22 Q So basically then Ms. Gaskins drops you and
23 Ms. Bruster off at Ms. Bruster's dorm room?

24 A Yes, sir.

25 Q And Ms. Gaskins takes your car?

1 A Yes, sir.

2 Q Have you threatened her at that point?

3 A No, sir.

4 Q Where do you spend the night that night?

5 A With Breanna Bruster.

6 Q What happens the following day?

7 A I wake up the next morning. I check the
8 Internet to see if anything had been put out on me.
9 Wasn't nothing. So I called Sasha to see where she
10 was at. And her and her friend were -- she was -- I
11 think she was at a friend's house. They were
12 somewhere. Basically I told her to come get me. She
13 came to get me.

14 I was going back to my house to retrieve some
15 items. But by the time I crossed the bridge I got a
16 phone call from my head coach saying I need to come
17 back to the school and turn myself in for armed
18 robbery.

19 Q So when you wake up in the morning, Ms.
20 Gaskins comes and picks you up from Ms. Bruster's
21 house?

22 A Not directly when I wake up. But, yes, sir,
23 probably about an hour, hour and 30 minutes after I
24 woke up.

25 Q At some point that morning?

1 A Yes, sir.

2 Q And is she with you when you are driving back
3 to your house and get that phone call?

4 A Yes, sir.

5 Q And does she go with you back to the Citadel,
6 or what happens there?

7 A Yes, sir. She goes back to the Citadel and
8 she drops me off and then she takes my car.

9 Q And then so she has your car again. What do
10 you do next?

11 A I go up and speak with a lady by the name of
12 Noel. And she basically walks me over to the campus
13 police place. And I wait until the detective gets
14 there and he brings me down to the place to be
15 interrogated.

16 Q Are you arrested at that point?

17 A Yes, sir.

18 Q Do you know what happened to the firearms?

19 A No, sir. I know that I put them in the slit
20 of my mattress. But other than that, no, sir.

21 Q Where was the last place that you put those
22 firearms?

23 A In the slit of my mattress.

24 Q In the what of your mattress?

25 A I cut a slit in my mattress and I put the

1 firearms in there.

2 Q So they are actually inside of your mattress?

3 A Yes, sir.

4 Q Did Ms. Gaskins know where they were?

5 A Not to my knowledge.

6 MR. KIDD: Court's indulgence.

7 THE COURT: Uh-hum.

8 Q (By Mr. Kidd) Couple more questions. Were
9 you concerned during the Harpe invasion whether he
10 would be able to recognize your voice or identify
11 you?

12 A Yes, sir.

13 Q Did you do anything to conceal that?

14 A Try to stay as quite as possible.

15 Q When you were alone with Ms. Gaskins in the
16 car riding to the Citadel and to your apartment, did
17 you ever threaten her then?

18 A I wasn't alone with her, her friend was in the
19 car too.

20 Q Who was her friend?

21 A The same girl who's apartment was at Bee
22 Street that we dropped the first items off to.

23 Q So the three of you all were together?

24 A Yes, sir.

25 Q Did you ever threaten her?

1 A No, sir. The only thing I asked Ms. Gaskins
2 to do was clean my car before she -- whatever she
3 decided to do, I asked her to clean it up.

4 Q Did you know Ms. Gaskins' family at all?

5 A No, sir.

6 Q Have you ever met her parents?

7 A No, sir.

8 Q Know where they live?

9 A No, sir.

10 Q Did you ever threatened her family?

11 A No, sir.

12 MR. KIDD: No further questions.

13 THE COURT: Any cross-examination of the
14 witness?

15 MR. SOWELL: Yes, ma'am.

16 THE COURT: You may proceed.

17 MR. SOWELL: Thank you.

18 CROSS-EXAMINATION

19 BY MR. SOWELL:

20 Q Mr. Starks, what benefit do you expect to get
21 from testifying?

22 A None whatsoever, sir.

23 Q You don't expect any kind of favor from the
24 solicitor's office or anything?

25 A No, sir.

1 Q Did the police officer ever tell you you'll
2 get favors?

3 A No, sir.

4 Q He didn't? Didn't the police officer tell
5 you, talk to me and tell me about it before I fill
6 out these blanks. You are looking at life in prison
7 if you don't help me.

8 A That was the day that I was interrogated, sir.

9 Q I asked you, didn't the police officer tell
10 you you'd get favors if you cooperated and you said
11 no.

12 A I'm sorry, sir, I thought you were speaking of
13 what was going on on this day, as far as testifying
14 against Ms. Sasha Gaskins, sir.

15 Q No question the officer told you if you would
16 help him you won't get life in prison?

17 A Yes, sir.

18 Q I believe he said, you tell me what I want to
19 know and you won't get life in prison.

20 A Yes, sir, that's what the police officer that
21 arrested me on February 27th told me, sir.

22 Q So tell me again what would you expect to get
23 from coming up here and testifying today?

24 A I don't really know, sir. I pleaded guilty to
25 all of my charges so, I mean, I don't have any

1 benefit out of this.

2 Q I am trying to understand this. The police
3 officer told you if you cooperated and tell him what
4 he wants to know, you will not get life in prison?

5 A Yes, sir.

6 Q I asked you why you are here today and you
7 said no reason?

8 A I can't answer that, sir. I know I wasn't
9 promised anything by testifying against Ms. Gaskins,
10 I mean.

11 Q But the police officer did tell you that if
12 you tell him what he wants to know you won't get life
13 in prison, otherwise you'll get life in prison?

14 A Right. Ms. Gaskins wasn't even in this case
15 when he asked me that, sir.

16 Q So by telling the officer what he wanted to
17 know, do you expect not to get life in prison?

18 A Yes, sir.

19 Q Did the officer tell you, don't sweat this, I
20 still have some technical things to work out, just
21 work with me. I'm not going to forget about you, I
22 will give you my business card.

23 Did he tell you that?

24 A Yes, sir.

25 Q He said, work with me and you'll avoid life in

1 prison?

2 A Yes, sir.

3 Q He says, if you don't work with him you'll get
4 life in prison?

5 A Yes, sir.

6 Q Now you have a reputation for being a little
7 bit crazy; is that correct?

8 A No, sir.

9 Q You don't?

10 A No, sir.

11 Q Do you have reputation for being a jokester?

12 A No, sir.

13 Q Now you weren't here yesterday when Reggie
14 testified to that, were you?

15 A I was not present.

16 MR. KIDD: Objection, Your Honor, pitting.

17 (Whereupon, the following discussion was held
18 at the bench.)

19 THE COURT: He simply asked the question if he
20 was here.

21 MR. KIDD: He asked a follow-up question.

22 THE COURT: He does not ask a follow-up
23 question. All he asked him was, now, you weren't
24 here yesterday --

25 MR. KIDD: And then he asked a follow-up

1 question.

2 THE COURT: No. He simply said I was not, and
3 you objected.

4 MR. KIDD: I'm 100 percent sure he asked a
5 follow-up question.

6 THE COURT: It's not in the transcript, he
7 didn't ask it. That's all he said, were you here
8 when he testified. That's permissible. He does not
9 ask the next question.

10 MR. KIDD: But there was a next question.

11 THE COURT: No, there's not. It's not in the
12 transcript. It does not count if it's not there.
13 End of discussion.

14 (In open court.)

15 THE COURT: Be careful, Mr. Sowell.

16 You may proceed.

17 Q (By Mr. Sowell) Now you know Reggie testified
18 yesterday?

19 A Yes, sir.

20 Q How do you know that?

21 A Because I was told that, sir.

22 Q Pardon me?

23 A Because I was informed of that.

24 Q Who informed you of that?

25 A My lawyer.

1 MR. KIDD: Objection, Your Honor.

2 THE COURT: Basis of the object.

3 MR. KIDD: Hearsay, attorney/client privilege.

4 THE COURT: He hasn't asked him what he said.

5 He simply asked him if his lawyer told him that.

6 That's a yes or no question.

7 He cannot, of course, repeat what his lawyer
8 said to him. He can say what he did as a result.

9 Q (By Mr. Sowell) And was your lawyer here when
10 Reggie testified yesterday?

11 A Yes, sir.

12 Q Did your lawyer tell you -- don't tell me what
13 he said -- but did your lawyer discuss Reggie's
14 testimony of yesterday?

15 A Not really, sir.

16 Q What do you mean by not really?

17 A All he told me was he did okay.

18 MR. KIDD: Objection, Your Honor.

19 THE COURT: He can't say what he said, that
20 would be hearsay. It's a very fine line.

21 MR. SOWELL: Your Honor, may we approach?

22 THE COURT: Yes.

23 (Whereupon, the following discussion was held
24 at the bench.)

25 THE COURT: It's a fine line because if he

1 discussed with him what was said it goes to any
2 prejudice, motive, fabrication, et cetera.

3 I think, though, what he is going to say is he
4 just told me he did okay. I don't think that that
5 goes into any kind of motivation or anyway that his
6 testimony was colored in any way.

7 Now if he told him exactly what Reggie said
8 that would be different. But so far the testimony
9 hasn't develop that.

10 MR. KIDD: My main concern, Your Honor, is
11 it's getting really close to making Chris Skipper a
12 witness.

13 MR. SOWELL: Should we go ahead and have an
14 in-camera hearing before we go any further in front
15 of the jury?

16 THE COURT: It's an issue of prejudice, it's
17 an issue of bias, and it's an issue of the
18 sequestration order, and so far he hasn't gone too
19 far. You are about to go too far.

20 MR. KIDD: I agree. I understand. One or two
21 more questions --

22 THE COURT: Mr. Skipper told his client that
23 Mr. Rice did okay, that's fair game.

24 MR. SOWELL: I don't know what he is going to
25 say.